

**IN THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY**

ENV /

IN THE MATTER OF

An appeal to the Environment Court under clause 14 of the First Schedule to the Resource Management Act 1991

AND IN THE MATTER OF

Proposed Invercargill City Plan

BETWEEN

**ROYAL FOREST AND BIRD
PROTECTION SOCIETY OF NEW
ZEALAND INCORPORATED**

Appellant

AND

INVERCARGILL CITY COUNCIL

Respondent

NOTICE OF APPEAL ON DECISIONS ON PROPOSED SOUTHLAND DISTRICT PLAN

Clause 14(1) of First Schedule of the Resource Management Act 1991

Royal Forest and Bird Protection Society of New Zealand Inc.
PO Box 2516
Christchurch 8140
Ph 03 9405524
Solicitor acting: Peter Anderson
p.anderson@forestandbird.org.nz

To: The Registrar
Environment Court
PO Box 2069
Christchurch

Appellant

1. The Royal Forest and Bird Protection Society of New Zealand Incorporated (Forest and Bird) appeals decisions of the Invercargill City Council on the Proposed Invercargill City Plan (the Council, the Plan and the decisions).

Submission

2. Forest and Bird made a submission on the Plan.
3. Forest and Bird received notice of the decisions on or about 29 October 2016.

Respondent

4. The decisions were made by the Council.

Trade competition

5. Forest and Bird is not a trade competitor for the purposes of section 309D of the Resource Management Act 1991.

Decisions being appealed

6. The decisions being appealed is the part of the decision that relates to the definition of “areas of significant indigenous biodiversity”, which provides

Areas of Significant Indigenous Biodiversity: Means those areas identified on the District Planning Maps as areas of significant indigenous biodiversity extending where appropriate to the drip line on the ground directly below the outside edge of the canopy of any indigenous plant or group of plants.

Reasons for Appeal

7. In general terms the grounds of appeal are that the definition is unreasonable, impractical and inconsistent with the purposes and principles of the Resource Management Act 1991 (RMA) including with respect to:
 - (a) Section 5 – the Council decisions do not promote the sustainable management of natural and physical resources.
 - (b) Section 6 – the Council decisions do not recognise and provide for the protection of significant areas of indigenous vegetation and significant habitats of indigenous fauna.
 - (c) Section 7 – the Council decisions do not have particular regard to the intrinsic values of ecosystems, the maintenance and enhancement of the quality of the environment or the finite characteristics of natural and physical resources.
 - (d) Section 31 (1) (b) (iii) - the Council decisions do not contain sufficient provisions for the control of land use and development for the maintenance of indigenous biological diversity.
8. In particular, the definition is limited to sites marked on the planning maps. These maps are out of date, relying on information from 1999 and do not identify many sites which meet the criteria for significance.

Relief

9. Forest & Bird seeks that the definition of areas of significant indigenous biodiversity be replaced with the following:

Areas of Significant Indigenous Biodiversity: Means those areas of indigenous vegetation that meet the criteria in Clause 2.3(A)-(F).¹

10. Forest & Bird also seeks that the explanation to Policy 1 of Section 2.2.3 be replaced with:

¹ Forest & Bird has been served with a copy of the appeal by the Director General of Conservation and the references to the criteria in Clause 2.3(A)-(F) are the criteria sought by DOC.

Explanation: Some areas of significant indigenous biodiversity are shown on the District Planning Maps to indicate their location, identify the precise areas where some District Plan Rules apply, and provide a baseline of information of the extent of such areas in 1999. There are many other areas of significant indigenous biodiversity that are not identified on the planning maps.

11. Forest and Bird also seeks any other relief:

- (a) consequential on the above relief sought; and/or
- (b) as is necessary to give effect to the relief sought seeks the relief identified above; and/or
- (c) such other relief as may be considered appropriate by the Court and/or the parties in agreement.

Attachments

12. Forest and Bird attach the following documents to this notice:

- (a) Copy of Forest and Bird's submission;
- (b) Copy of relevant Council Decisions on submissions;
- (c) Schedule of names and addresses of persons to be served.

Dated 9 December 2016



.....
Peter Anderson
Counsel for Royal Forest and Bird Protection Society NZ Inc

Address for service:
Royal Forest and Bird Protection Society
P.O. Box 2516
Christchurch
Ph 03 9405524
Attention: Peter Anderson

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (*see form 38*)

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's submission and (*or or*) the decision (*or part of the decision*) appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.