

In the Environment Court of New Zealand
at Wellington
I Mua i Te Kōti Taiau o Aotearoa
Te Whanganui a Tara Rohe

ENV-2019-WLG-000130

under: the Resource Management Act 1991

in the matter of: an application under section 274 of the Act

between: **Royal Forest and Bird Protection Society of New Zealand Incorporated**
Appellant

and: **Wellington Regional Council**
Respondent

Notice of the New Zealand Transport Agency's wish to be party to proceeding

Dated: 9 October 2019

REFERENCE: Paula Brosnahan (Paula.Brosnahan@chapmantripp.com)

Rebecca Tompkins (Rebecca.Tompkins@chapmantripp.com)

Chapman Tripp
T: +64 9 357 9000
F: +64 9 357 9099

23 Albert Street
PO Box 2206, Auckland 1140
New Zealand

www.chapmantripp.com
Auckland, Wellington,
Christchurch



Form 33**NOTICE OF THE NEW ZEALAND TRANSPORT AGENCY'S WISH TO BE PARTY TO PROCEEDINGS**

Section 274, Resource Management Act 1991

To The Registrar
Environment Court
Wellington

1 The New Zealand Transport Agency (*Transport Agency*) wishes to be a party to the appeal by Royal Forest and Bird Protection Society of New Zealand Incorporated (*Appellant*) on the decision of an independent hearing panel on behalf of the Wellington Regional Council (*Council*) on the Proposed Natural Resources Plan (*Proposed Plan*) (*Decision*).

The Transport Agency's interest in these proceedings

- 2 The Transport Agency made a submission about the subject matter of the proceedings.
- 3 The Transport Agency is a person who has an interest in the proceedings that is greater than the interest of the general public. Under the Land Transport Management Act 2003, the Transport Agency must undertake its functions in a way that contributes to an effective, efficient and safe land transport system in the public interest.
- 4 The Transport Agency is not a trade competitor for the purpose of section 308C of the Resource Management Act 1991 (*RMA*).
- 5 The Transport Agency is interested in parts of the proceedings that may affect its ability to construct, operate, maintain and upgrade its infrastructure, including in particular, the following parts of the proceedings:
- 5.1 Objective 5;
 - 5.2 Objective 20;
 - 5.3 Objective 22;
 - 5.4 Objective 40;
 - 5.5 Objective 46;
 - 5.6 Objective 47;
 - 5.7 Objective 48;

- 5.8 Policy 13;
- 5.9 Policy 30;
- 5.10 Policy 31;
- 5.11 Policy 32;
- 5.12 Policy 37;
- 5.13 Policy 41;
- 5.14 Policy 49;
- 5.15 Policy 62;
- 5.16 Policy 66;
- 5.17 Policy 67;
- 5.18 Policy 78;
- 5.19 Policy 95;
- 5.20 Policy 102;
- 5.21 Policy 138;
- 5.22 Rule 107; and
- 5.23 Rule 127.

Relief opposed by the Transport Agency

- 6 The Transport Agency opposes the relief sought by the Appellant because it:
 - 6.1 Does not promote the sustainable management of natural and physical resources;
 - 6.2 Does not promote the efficient use and development of natural and physical resources;
 - 6.3 Does not result in the most appropriate plan provisions in terms of section 32 of the RMA;
 - 6.4 Does not implement the Council's functions under section 30 of the RMA;
 - 6.5 Does not give effect to higher order planning documents under section 67(3) of the RMA; and

- 6.6 Is contrary to good resource management practice.
- 7 Without limiting the generality of the reasons outlined above, the specific reasons for the Transport Agency's opposition to the relief sought include:
- 7.1 The Proposed Plan must give effect to the Wellington Regional Policy Statement¹, the National Policy Statement for Freshwater Management² and the New Zealand Coastal Policy Statement³ as higher order documents under section 67(3) of the RMA;
- 7.2 These higher order planning documents require the Proposed Plan to:
- (a) recognise and protect the social, economic, cultural and environmental benefits of Regionally Significant Infrastructure;
 - (b) protect and safeguard identified significant environmental values through maintenance of values where those values are provided for, or through improvement or restoration where those values are degraded; and
 - (c) provide for "competing considerations" of benefits of adverse effects of Regionally Significant Infrastructure to "be weighed on a case-by-case basis to determine what is appropriate in the circumstances."
- 7.3 The Proposed Plan must provide a policy framework that recognises and provides for new and upgraded Regionally Significant Infrastructure in all environments where there is a functional need or operational requirement, including the presence of existing infrastructure; and
- 7.4 The use of absolute terms such as "avoid" and unclear terms such as "minimise" in the objectives and policies framework of the Proposed Plan is inconsistent with effects based planning, especially in the context of linear Regionally Significant Infrastructure.
- 7.5 The use of absolute terms such as "avoid" and unclear terms such as "minimise" in the objectives and policies framework of the Proposed Plan is inconsistent with effects based

¹ Objectives 3, 7, 13 and 16 and policies 18, 19 and 24.

² Objectives A1 and A2.

³ Objective 1.

planning, especially in the context of linear Regionally Significant Infrastructure; and

- 7.6 Non-complying activity status is not an appropriate method for managing the effects of Regionally Significant Infrastructure.

Relief sought

- 8 The Transport Agency seeks that the relief sought by the Appellant is rejected.

Mediation

- 9 The Transport Agency agrees to participate in mediation or other alternative dispute resolution of the proceedings.

Signed for and on behalf of New Zealand Transport Agency by its solicitors and authorised agents Chapman Tripp



Paula Brosnahan / Rebecca Tompkins
Partner / Senior Associate

9 October 2019

Address for service of person:

New Zealand Transport Agency
c/- Rebecca Tompkins / Charlotte Aspin
Chapman Tripp
Level 38
23 Albert Street
PO Box 2206
Auckland 1140
Email address: Rebecca.Tompkins@chapmantripp.com /
charlotte.aspin@chapmantripp.com

Advice

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