

IN THE MATTER of the Resource Management Act 1991 ('the Act')

AND

IN THE MATTER of an appeal under Clause 14(1) of First Schedule to the Act

BETWEEN **BLAKELY PACIFIC LIMITED, RAYONIER NEW ZEALAND LIMITED,
CITY FORESTS LIMITED, WENITA FOREST PRODUCTS LIMITED
AND ERNSLAW ONE LIMITED COLLECTIVELY KNOWN AS THE
'OTAGO FORESTRY GROUP'**

Appellants

AND

OTAGO REGIONAL COUNCIL

Respondent

NOTICE OF APPEAL

ON DECISION ON PROPOSED PLAN CHANGE 6A TO THE OTAGO REGIONAL WATER PLAN

Date: 4 June 2013

TO: The Registrar
Environment Court
DX: WX11113
Christchurch

Name of Appellant/s and details of decision

- 1 The Appellants are Blakely Pacific Limited, Rayonier New Zealand Limited, City Forests Limited, Wenita Forest Products Limited and Ernslaw One Limited collectively known as the 'Otago Forestry Group' (OFG).
- 2 This appeal is against part of a decision of the Otago Regional Council on Proposed Plan Change 6A to the Otago Regional Water Plan (PC6A).
- 3 The Appellants individually made a submission on PC6A.

Trade Competition

- 4 The Appellants are not trade competitors for the purposes of section 308D of the Resource management Act.

Date of receipt of decision

- 5 The Appellants received notice of the decision on or about 20 April 2013.

Name of decision maker

- 6 The decision was made by the Otago Regional Council (the Council) following recommendations received from Commissioners appointed by the Council.

Decision (or part) being appealed

- 7 Those parts of the decision that relate to management of sediment discharges, including relevant policies, rules, schedules, and definitions of PC6A.

Reasons for the appeal

- 8 The reasons for the appeal include, but are not limited to, the following:
 - 8.1 The decision provides insufficient reasons to justify rejection of amendment to PC6A policies, rules, schedules and definitions relating to management of water quality requested by the Appellants and fails to address the concerns raised in the Appellants' submissions.
 - 8.2 In particular, the decision fails to take proper account of:
 - (a) the spatial and temporal scale of plantation forestry activities;

- (b) the unique sediment discharge effects profile of plantation forestry which is quite different from other rural land uses;
 - (c) the location of plantation forestry within the Otago region, being almost entirely within low to moderate areas of mapped erosion susceptibility;
 - (d) the forestry sector's use of good practice guidelines, erosion sediment control plans, and harvest plans; and
 - (e) the social, economic, and ecosystem benefits provided by plantation forestry.
- 8.3 The decision imposes unnecessary and unjustified compliance on plantation forest owners in respect of PC6A provisions relating to management of sediment discharge.
- 8.4 Overall, the decision to reject the relief requested by the Appellants:
- (a) Is not the most effective way of achieving the objectives and policies of the Otago Regional Water Plan;
 - (b) Is not the most appropriate outcome under s32, taking into account relative costs, benefits and risks;
 - (c) Will not enable integrated management of natural and physical resources; and
 - (d) Fails to achieve the sustainable management purpose of the Act.

Relief sought

- 9 The Appellants seek the following relief:
- 9.1 Amend the policies, rules, schedules and definitions of PC6A to take proper account of the factors mentioned at clause 8.2 above including for the temporal and spatial scale of plantation forestry activities and the unique sediment effects profile of this activity;
- 9.2 In the alternative and without prejudice to the relief requested at clause 9.1 above:
- (a) amend Policy 7.D.2 to provide that the sediment contaminant limits at Rule 12.C.1.1(d)(2) shall apply based on median flows.
 - (b) amend Rule 12.C.1.1(d) by inserting new sub-clause (3) as follows-

"for the period commencing 2 years prior to harvesting and ceasing 12 months after harvesting is completed in any plantation forestry block, compartment or woodlot, the discharge does not contain sediment that results in

a. A visual change in colour or clarity; or

b. Noticeable local sedimentation,

after reasonable mixing in the receiving waters when the water flow is at or below the median flow".

- (c) amend Rule 13.2.1.7B(b) by replacing the numeral "2" with "3.5" and inserting after "...is located" the words "...with a maximum culvert size of 1.5m diameter..." as follows

"The top of the crossing is no higher than 3.5 metres above the lowest part of the bed where it is located with a maximum culvert size of 1.5m diameter; and..."

- (d) amend Table 15.2 of Schedule 15 by deleting the words "80th percentile" and inserting the word "median" so that it reads as follows:

"The standards for Groups 1, 2, and 3 are 5-year median values when water flow is at or below median."

- 9.3 All consequential, additional and other amendments to PC6A to give effect to the intent of this appeal and satisfactorily address the concerns of the Appellants.

Mediation

- 10 Pursuant to section 268 of the Act the Appellants consider that the topics of this appeal are amendable to mediation and seek the assistance of an Environment Court appointed Commissioner in that regard.

Attached documents

- 11 The following documents are attached to this notice of appeal:
- 11.1 A copy of the submissions made by the Appellants.
- 11.2 A copy of the relevant part of the decision.
- 11.3 A list of names and addresses of persons to be served with a copy of this notice.

12 Recipients of this notice may obtain a copy of the above documents, on request, from the Appellants.

DATED at Christchurch this 4th day of June 2013



Chris Fowler
Counsel for the Appellant

ADDRESS FOR SERVICE OF THE APPELLANTS:

This Notice of Appeal is issued by Chris Fowler, Solicitor for the abovenamed Appellant of the firm of Adderley Head. The address for service of the abovenamed Appellant is at the offices of Adderley Head, 15 Worcester Boulevard, Christchurch 8013.

Documents for service on the above-named Appellant may be left at the address for service or may be:

- (a) Posted to the Solicitor at PO Box 16, Christchurch 8140; or
- (b) Faxed to (03) 353 1340.

ADVICE TO RECIPIENTS OF NOTICE

How to become party to proceedings

You may be a party to the appeal if you made a submission or 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 or inquiry

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

Advice

If you have any questions about this notice, contact the Environment Court Unit of the Department of Courts in Christchurch.

Contact details of Environment Court for lodging documents

Documents may be lodged with the Environment Court by lodging them with the Registrar.

The Christchurch address of the Environment Court is:

99-101 Cambridge Terrace
CHRISTCHURCH 8013

Its postal address is:

Environment Court
DX:WX11113
Christchurch

[Please note: You can use a normal post office box and stamped envelopes to send to a DX address]

Telephone: (03) 365 0905 or (03) 353 8546
Fax: (03) 365 1740

Attachment 1 – Copies of the Appellants submissions

Attachment 2 – A copy of the relevant part of the decision

Attachment 3 – A list of names and addresses of persons to be served with a copy of this notice