

**IN THE ENVIRONMENT COURT
AUCKLAND REGISTRY**

ENV-2023-AKL-

**I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKAUARAU**

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 Private Plan Change 20 to the Waipā District Plan

BETWEEN

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

Appellant

AND

WAIPĀ DISTRICT COUNCIL

Respondent

**NOTICE OF APPEAL ON PROPOSED PRIVATE PLAN CHANGE 20
TO THE WAIPĀ DISTRICT PLAN**

4 AUGUST 2023

Royal Forest and Bird Protection Society of New Zealand Inc.
PO Box 631
Wellington

Ph 021866992/021 988 315

Solicitor acting: Peter Anderson/Erika Toleman

p.anderson@forestandbird.org.nz / e.toleman@forestandbird.org.nz

To: The Registrar
Environment Court
PO Box 7147
Victoria Street West
Auckland 1142

Appellant

1. The Royal Forest and Bird Protection Society of New Zealand Incorporated (Forest & Bird) appeals the decision of the Waipā District Council on Proposed Plan Change 20 to the Waipā District Plan (the Council, the Plan Change and the Decision).

Submission

2. Forest & Bird made a submission and further submission on the Plan Change.
3. Forest & Bird received notice of the Decision on 22 June 2023.

Respondent

4. The Decision was made by Hearing Commissioners, acting on delegated authority from the Waipā District Council.

Trade competition

5. Forest & Bird is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.

Decision being appealed

6. The decision being appealed is a decision by the Council to approve Private Plan Change 20 to the Waipā District Plan. The Plan Change was applied for by Titanium Park Limited and Rukuhia Properties Limited. The Plan Change extends the Airport Business Zone and Northern Precinct by approximately 90 hectares, and includes the full 130 hectares of the Northern Precinct within the Airport Business Zone Structure Plan. This will, generally, enable development of the area subject to the Plan Change.

GROUNDS OF APPEAL

7. The grounds of appeal are that the Decision 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 Decision does not promote the sustainable management of natural and physical resources;
 - (b) Section 6 – the Decision does not recognise and provide for the protection of significant areas of indigenous vegetation and significant habitats of indigenous fauna;
 - (c) Section 7 – the Decision does 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;

8. The further grounds of appeal are that:

- (a) The Plan Change does not adequately discharge Council's function of controlling the use and development of land for the maintenance of indigenous biological diversity (section 31 (1)(b)(iii));
- (b) The Plan Change does not give effect to Te Ture Whaimana o Te Awa o Waikato – Vision and Strategy for the Waikato River, which is deemed to be part of the Waikato Regional Policy Statement (section 11(1) Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 and RMA section 75(3)(c));
- (c) The Plan Change does not give effect to the National Policy Statement for Indigenous Biodiversity (NPSIB) (section 75(3)(a));
- (d) The Plan Change does not give effect to the Waikato Regional Policy Statement (RPS) (section 75(3)(c));
- (e) The Plan Change has not been demonstrated to be the most appropriate way to give effect to the purpose of the Act, and to achieve the objectives of the Waipā District Plan (section 32(1) and (3)), section 32AA((1)(b)); and
- (f) The Plan Change does not represent best resource management practice.

9. The area subject to the Plan Change is significant habitat for long-tailed bats. The Plan Change fails to appropriately address the potential effects on long-tailed bats, in accordance with the requirements of the Act and the various planning instruments listed above.

RELIEF SOUGHT

10. Forest & Bird seeks that the Plan Change is declined.

Other relief

11. Forest & 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 above; and/or
- (c) such other relief as may be considered appropriate by the Court and/or the parties in agreement; and
- (d) costs.

Attachments

12. Forest & Bird attaches the following documents to this notice:

- (a) Copies of Forest & Bird's submission and further submission;
- (b) Copy of the Council Decision on the Plan Change; and
- (c) Schedule of names and addresses of persons to be served.

Dated 4 August 2023



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Erika Toleman

Counsel for Royal Forest and Bird Protection Society NZ Inc

Address for service:

Royal Forest and Bird Protection Society

P.O. Box 631

Wellington

Ph 021 988 315

Attention: Erika Toleman

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.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33 with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

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.