

**IN THE ENVIRONMENT COURT  
AT AUCKLAND**

**ENV-2019-AKL-**

**IN THE MATTER**

of the Resource Management Act 1991 ("**RMA**")

**AND**

**IN THE MATTER**

of an appeal under clause 14(1) of Schedule 1 of  
the RMA

**BETWEEN**

**HANCOCK FOREST MANAGEMENT NZ LTD**

**Appellant**

**AND**

**NORTHLAND REGIONAL COUNCIL**

**Respondent**

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**NOTICE OF APPEAL ON BEHALF OF  
HANCOCK FOREST MANAGEMENT NZ LTD  
AGAINST DECISIONS ON PROPOSED REGIONAL PLAN FOR NORTHLAND**

**29 MAY 2019**

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**G K Chappell  
Barrister**

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**TO: THE REGISTRAR  
ENVIRONMENT COURT  
AUCKLAND**

## **1. INTRODUCTION**

- 1.1 Hancock Forest Management NZ Ltd (“HFM NZ”) appeals against the decisions of the Northland Regional Council on the Proposed Regional Plan for Northland (“**the Decisions**”).
- 1.2 HFM NZ made submissions and was heard at the hearing.
- 1.3 HFM NZ is not a trade competitor for the purposes of section 308D of the RMA.
- 1.4 HFM NZ received notice of the Decisions on 3 May 2019.
- 1.5 The Decisions adopted recommendations made to the Respondent on 16 April 2019 by Hearings Commissioners (“**the Hearings Panel**”).
- 1.6 A copy of the relevant parts of the Decisions is attached as **Annexure 2**.

## **2. BACKGROUND**

- 2.1 HFM NZ is the manager of approximately 250,000 hectares of planted production forest of which 45,000 hectares are in the Northland region. Timber is processed and transported to the North Port or to 10 domestic mills throughout Northland. Following harvest and prior to replanting HFM NZ undertakes agrichemical spraying of the cutover.

### **Parts of the decision being appealed**

- 2.2 The specific parts of the Decisions that HFM NZ is appealing are Rules C.6.5.1 1)c) and C.6.5.2 5) a) of the Proposed Plan.

## **3. REASONS FOR APPEAL**

### **Specific reasons for appeal**

- 3.1 Without limiting the following general reasons for the appeal HFM NZ appeals the Decisions for the specific reasons outlined below.
- 3.2 The Proposed Plan included rules governing the application of agrichemicals and classified the activity as permitted subject to standards about (*inter alia*) notice requirements to neighbouring properties: (Refer Rules C.6.5.1 and Rule C.6.5.2).
- 3.3 The relevant standards in the Proposed Plan as notified permitted the discharge of an agrichemical provided:

For Rule C.6.5.1 (1) c) neighboring properties receive notification no less than 24 hours and no more than two weeks before the spraying activity is to take place, as set out in Table 6 “Spraying notification requirements”; and ...

For Rule C.6.5.2 (5) the following notification takes place: a) every person taking water for potable supply within one kilometre downstream of the proposed discharge no less than 24 hours and no more than two weeks prior to the proposed commencement of any spraying, and ...

3.4 HFM NZ submitted in support of the standards but sought some amendments to the standards. In particular it sought to increase the timeframe for notification from between 24 hours and two weeks to between 24 hours and one month.

3.5 The Decisions amended the standards in Rule C.6.5.1 1) c) and Rule C.6.5.2 5) a) as underlined or ~~struck through~~ as follows:

C.6.5.1 1) c) Other than for spraying in plantation forestry where notification must be given at least 20 and no more than 60 working days before spraying commences, neighbouring properties receive notification no less than 24 hours and no more than ~~two~~ three weeks before the spraying activity is to take place, as set out in Table 6 'Spraying notification requirements', and

C.6.5.2 5) a). Other than for spraying in plantation forestry where notification must be given at least 20 and no more than 60 working days before spraying commences, every person taking water for potable supply within one kilometre downstream of the proposed discharge is notified no less than 24 hours and no more than two weeks prior to the proposed commencement of any spraying, and

3.6 Current general practice is that neighbours are contacted approximately one month prior to spraying occurring and this is followed up with a call 24 hours before the spraying event. However, there are times when spraying is carried out with shorter notice due to weather conditions. HFM NZ frequently sprays up to 2000 hectares in a season in preparation for planting. Including the reference to 60 working days provides time to notify all affected persons and allows for flexibility as to which block is sprayed based on weather conditions.

3.7 The requirement to provide a minimum of 20 days' notice, as opposed to 24 hours notice, is not practicable and is not consistent with spraying requirements for other activities in the region.

#### **General reasons for appeal**

3.8 HFM NZ appeals Rule C.6.5.1 and Rule C.6.5.2 for the following general reasons:

- (a) The Decision will not promote the sustainable management of resources, will not achieve the purpose of the RMA and is contrary to Part 2 and other provisions of the RMA;
- (b) The Decision does not represent the most appropriate means of exercising the Respondent's functions and achieving the purpose of the RMA.

#### 4. RELIEF SOUGHT

##### 4.1 HFM NZ seeks:

- (a) That Rule C.6.5.1 1) c) and Rule C.6.5.2 5) a) be amended as follows:

C.6.5.1 1) c) Other than for spraying in plantation forestry where notification must be given at least ~~20~~ 24 hours and no more than 60 working days before spraying commences, neighbouring properties receive notification no less than 24 hours and no more than three weeks before the spraying activity is to take place, as set out in Table 6 'Spraying notification requirements', and

C.6.5.2 5) a). Other than for spraying in plantation forestry where notification must be given at least ~~20~~ 24 hours and no more than 60 working days before spraying commences, every person taking water for potable supply within one kilometre downstream of the proposed discharge is notified no less than 24 hours and no more than two weeks prior to the proposed commencement of any spraying, and ...

- (b) Such consequential or related relief as may be necessary to give effect to its concerns; and
- (c) Costs.

#### 5. ATTACHMENTS

##### 5.1 The following documents are attached to this notice:

- (a) a copy of HFM NZs' submissions on PC13 in **Annexure 1**;
- (b) a copy of the relevant part of the Decision appealed in **Annexure 2**; and
- (c) a list of names and addresses of persons to be served with a copy of this notice at **Annexure 3**.

**DATED** this 29<sup>th</sup> day of May 2019



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G K Chappell

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Ltd

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### **Advice to recipients of copy of notice of appeal**

*How to become a party to proceedings: If you wish 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 an appeal ends, serve copies of your notice on all other parties.

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

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.

#### *Advice*

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