

In the Environment Court of New Zealand
at Auckland

I mua i te Kōti Taiao o Aotearoa
I te rohe o Tāmaki Makaurau

ENV-2019-AKL-

under: the Resource Management Act 1991

in the matter of: an appeal under clause 14 of Schedule 1 of the
Resource Management Act 1991

between: **Robinia Investments Limited**
Appellant

and: **Northland Regional Council**
Respondent

Notice of appeal by Robinia Investments Limited against decisions
on the Proposed Northland Regional Plan

Dated: 17 June 2019

REFERENCE: Catherine Somerville-Frost (catherine.somerville-frost@chapmantripp.com)
Nicola de Wit (nicola.dewit@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



**NOTICE OF APPEAL BY ROBINIA INVESTMENTS LIMITED AGAINST DECISIONS ON
THE PROPOSED NORTHLAND REGIONAL PLAN**

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

To The Registrar
Environment Court
Auckland

Introduction

- 1 Robinia Investments Limited (*Appellant*) appeals against parts of a decision of the Northland Regional Council (*Council*) on the Proposed Northland Regional Plan (*Proposed Plan*) (*Decision*).
- 2 The Appellant made a submission and further submission on the Proposed Plan.
- 3 The Appellant is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (*RMA*).
- 4 The Appellant received notice of the Decision on 3 May 2019.
- 5 The Decision was made by the Council.
- 6 The parts of the Decision that the Appellant is appealing are:
 - 6.1 Chapter C.1.3 Aquaculture, including Rules C.1.3.1, C.1.3.2, C.1.3.3, C.1.3.4, C.1.3.5, C.1.3.6, C.1.3.7, C.1.3.9, C.1.3.10, C.1.3.11, C.1.3.12, and C.1.3.14;
 - 6.2 Chapter D.5 Coastal, including policies D.5.1, D.5.2, D.5.3, D.5.4, D.5.5, D.5.6, and D.5.7, as well as Policy D.2.12;
 - 6.3 Chapter F Objectives; and
 - 6.4 Chapter I Maps – Aquaculture Exclusion Area.

Reasons for the appeal

- 7 The reasons for the appeal are as follows:
 - 7.1 The Appellant considers that those parts of the Decision referred to above do not accord with the relevant requirements of the RMA, and are contrary to Part 2 of the RMA. In particular, those parts of the Decision:
 - (a) Do not give effect to the New Zealand Coastal Policy Statement 2010, including policies 8, 11, 13 and 15;
 - (b) Do not give effect to the Northland Regional Policy Statement, including policies 4.4.1, 4.6.1 and 4.8.5;

- (c) Do not promote the sustainable management of natural and physical resources of the Northland region, and particularly those of the Bay of Islands;
- (d) Do not appropriately enable social, economic and cultural well-being, meet the reasonably foreseeable needs of future generations, or safeguard the life-supporting capacity of water and ecosystems;
- (e) Do not preserve the natural character of the coastal environment, nor protect it from inappropriate use and development (particularly aquaculture development);
- (f) Do not protect outstanding natural features and landscapes from inappropriate use and development;
- (g) Do not promote the efficient use and development of natural and physical resources, especially those within the Bay of Islands;
- (h) Do not result in the most appropriate plan provisions in terms of section 32 of the RMA;
- (i) Do not implement Council's functions under section 30 of the RMA; and
- (j) Are contrary to best resource management practice.

7.2 Without limiting the generality of the reasons at paragraph 7.1 above, the specific reasons for the appeal are:

- (a) The Bay of Islands holds intrinsic, natural, recreational, tourism and other values which would be adversely affected by the further establishment or continuation of aquaculture activities within the Bay. Aquaculture, with its high demand for space and adverse effects, conflicts with these values. The cumulative effects of aquaculture on the Bay of Islands are particularly of concern.
- (b) Given the semi-enclosed form of the Bay of Islands, there is limited open space available in the coastal marine area to effectively "absorb" the adverse effects of human-based activities. Adverse effects on landscape, natural character and amenity and general visual effects are accordingly more difficult to avoid, remedy or mitigate than they would be in more open coastal environments outside of the Bay of Islands.
- (c) The Appellant particularly opposes those parts of the Decision which relax the provisions applying to aquaculture in the Bay of Islands compared to the current Operative Plan, as established through Plan Change 4 (which was only recently concluded).
- (d) Plan Change 4 was developed with extensive stakeholder input, and was subject to a robust process at both Council and Environment Court level. Significant investment was made by all the parties in a number of Court-assisted mediations, which resulted in the provisions approved

by the Court. That planning investment should be recognised by retaining all elements of Plan Change 4 and not weakening protections.

- (e) The provisions for realignment and extensions could, over time, result in significant cumulative effects on the values of the affected areas. The provision for small scale and short duration aquaculture could similarly result in significant cumulative effects.
- (f) The additional specific reasons set out in the Appellant's submissions at Appendix A to this notice.

Relief sought

- 8 The Appellant seeks the following relief:
 - 8.1 Amendments to the aquaculture provisions in the Proposed Plan to align with aquaculture provisions in the Operative Plan, as amended by Plan Change 4;
 - 8.2 The relief set out in the Appellant's submissions at Appendix A to this notice (or relief with the same or similar effect);
 - 8.3 Such further or consequential relief as may be necessary to address the matters raised in the Appellant's submissions and this appeal; and
 - 8.4 Costs.
- 9 The following documents are attached to this notice:
 - 9.1 A copy of the Appellant's submission and further submission (**Appendix A**);
 - 9.2 A copy of the Decision (**Appendix B**); and
 - 9.3 A list of names and addresses of persons to be served with a copy of this notice (**Appendix C**).

Signed for and on behalf of Robinia Investments Limited by its solicitors and authorised agents Chapman Tripp



Catherine Somerville-Frost
Partner
17 June 2019

Address for service of person:

Robinia Investments Limited
C/- Catherine Somerville-Frost / Nicola de Wit

Chapman Tripp
Level 38
23 Albert St
PO Box 2206
Auckland 1140
Email address: Catherine.Somerville-Frost@chapmantripp.com /
Nicola.deWit@chapmantripp.com

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.