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**Simpson
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9 November 2007

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CHRISTCHURCH

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Appeal on Canterbury Natural Resources Regional Plan

1. We act for Christchurch City Council.
2. We **enclose** by way of service a copy of a notice of appeal filed by the City Council in relation to Chapter 3 of the Canterbury Natural Resources Regional Plan, relating to air quality.
3. Please contact us if you have any queries.

Yours faithfully
SIMPSON GRIERSON


Philip Milne/Matthew Conway
Partner/Associate

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BARRISTERS AND SOLICITORS

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BEFORE THE ENVIRONMENT COURT

ENV-2007-CHC-

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of an appeal pursuant
to clause 14 of
Schedule 1 of the Act

BETWEEN CHRISTCHURCH CITY
COUNCIL

Appellant

AND CANTERBURY
REGIONAL COUNCIL

Respondent

NOTICE OF APPEAL

TO: The Registrar
Environment Court
CHRISTCHURCH

1. Name of appellant:

Christchurch City Council (**City Council**), which made a submission on the
Canterbury Natural Resources Regional Plan (**Plan**).

2. Name of decision maker:

Canterbury Regional Council (**Regional Council**).

3. Date of decision being appealed:

29 September 2007.

4. Date on which notice of the decision was received by appellant:

1 October 2007.

5. Decision being appealed:

The Regional Council's decision in relation to Chapter 3 of the Plan, which relates to air quality. In particular, the City Council appeals decisions in respect of:

- (a) Rule AQL15 (*Internal combustion of diesel, petrol or gas 300kW or less in the Christchurch Clean Air Zones 1 and 2 – permitted activity*) and in particular conditions 3 and 4 of that rule.
- (b) Rule AQL16 (*External combustion of diesel and kerosene greater than 100kW to 2MW or less, gas greater than 5MW to 20MW or less and internal combustion of diesel, petrol or gas greater than 300kW in the Christchurch Clean Air Zones 1 and 2 – controlled activity*) and in particular conditions 3 and 4 of that rule.
- (c) Appendix AQL5 (*Criteria for assessing offensive or objectionable odour*).

6. Reasons for appeal

The reasons for the appeal are as follows:

Rules AQL15 and AQL16 – load shedding/distributed generation

- (a) Conditions 3 and 4 of Rules AQL15 and AQL16 unreasonably and unnecessarily restrict the environmentally responsible use of standby diesel generators for load shedding/distributed generation, and the rules are therefore not the most appropriate way to achieve the objectives of the Plan or the purpose of the Act in terms of section 32 of the Act.
- (b) In particular, condition 3 of Rules AQL15 and AQL16 ("*Internal combustion equipment used for electricity generation shall only be used for emergency electricity supply, and shall not be used for network load shedding during times of peak electricity demand*") is inherently flawed because it fails to recognise that:

- (i) Emergency generators must be started and run on a regular basis as part of their maintenance programme, so any adverse effects of the generators will occur regardless of the use to which the electricity generated is put. Condition 3 means that the electricity generated during maintenance will likely be wasted by being dissipated into the air as heat, instead of being able to be utilised in a more efficient and environmentally sustainable way by feeding it back into the national grid and thereby obtain a benefit to offset the adverse effects of running the generators.
 - (ii) Load shedding/distributed generation during times of peak electricity demand can alleviate pressure on existing generation facilities and network infrastructure. The National Energy Efficiency and Conservation Strategy recognises distributed generation as a legitimate means of dealing with peak demand, thereby deferring the need to build new power stations or network infrastructure.
- (c) Condition 4 of Rules AQL15 and AQL16 (*"The internal combustion equipment shall be operated for less than 150 hours per year. ..."*) imposes an arbitrary limit that does not serve a valid resource management purpose and fails to recognise that:
- (i) During times of controlled peak demand, Orion NZ Ltd encourages major electricity users not only to reduce their consumption but also to make their emergency generators available for distributed generation within the network. Although this peak demand period averages 60 hours per winter, it can be higher and, for example, in 2001 there were 180 hours of peak demand. If such a winter occurred again in the future, it would be unreasonable to require cessation of distributed generation at an arbitrary limit of 150 hours, especially if blackouts resulted.
 - (ii) A limit on operating hours is unnecessary because of the self-regulating nature of standby generator use. The relatively high cost of electricity produced by diesel

generators means that operators of such equipment are unlikely to run the generators for longer than is necessary to test them and (in times of peak demand) to alleviate demand.

- (iii) The adverse effects of the use of diesel generators for distributed generation are minor in the context of the overall volume of PM₁₀ emissions in Christchurch.

Appendix AQL5 – assessment criteria for odour

- (d) Appendix AQL5 reflects the approach taken in a background report for the Ministry for the Environment on assessing and managing odours. In June 2003 the Ministry published its Good Practice Guide for Assessing and Managing Odour in New Zealand (**MfE Odour Guide**), including a number of updates that need to be incorporated into the Plan in order to reflect current environmental best practice.

7. Relief sought

The City Council seeks the following relief:

- (a) Delete condition 3 of Rules AQL15 and AQL16.
- (b) If the relief in (a) above is not granted, amend condition 3 of Rules AQL15 and AQL16 to allow (as a permitted activity) load shedding/distributed generation during times of peak demand.
- (c) Delete condition 4 of Rules AQL15 and AQL16.
- (d) If the relief in (c) above is not granted, amend condition 4 of Rules AQL15 and AQL16 to allow (as a permitted activity) operation of standby generators for up to 350 hours per year.

- (e) Amend Appendix AQL5 to ensure consistency with the MfE Odour Guide. In particular:
- (i) Replace section 1 of Appendix AQL5 with sections 4.2 and 4.2.1-4.2.3 of the MfE Odour Guide.
 - (ii) Add a new table after Tables 3-5 and 3-6 to reflect a third category of activity, namely "modifications to an existing activity".
 - (iii) Update Tables 3-5 and 3-6 by separating the evaluation criteria from the ranking of assessment tools.
 - (iv) Include the evaluation criteria within the implementation notes for each of the tools in Appendix AQL5.
 - (v) Amend the Implementation Notes to ensure consistency with the MfE Odour Guide, including replacing Implementation Note 4 (Odour emissions measurement & dispersion modelling) with the relevant parts of the MfE Odour Guide.
- (f) Such further or amended relief as is necessary to give effect to this appeal and the City Council's submission.

8. Attached documents

I attach the following documents to this notice:

- (a) a copy of the City Council's submission;
- (b) a copy of the relevant part of the decision; and
- (c) a list of names and addresses of persons to be served with a copy of this notice.

DATED this 9th day of November 2007


Philip Milne / Matthew Conway
Counsel for Christchurch City Council

Address for service:

Physical

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Advice to recipients of copy of notice of appeal

How to become a party to the proceedings

If you made a submission on the matter of this appeal and wish to be a party to the appeal, you must lodge a notice in form 33 with the Environment Court within 30 working days after this notice was lodged with the Environment Court.

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).

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 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 Unit of the Department for Courts in Auckland, Wellington or Christchurch.

List of parties to be served with a copy of this notice

Party	Address for service
Air New Zealand Ltd	C/- URS New Zealand Ltd PO Box 821 Auckland
Airways Corporation of NZ	C/- Opus International Consultants Ltd PO Box 1482 Christchurch
Appleby Engineering Ltd	Unit 4 193 Waterloo Road Hornby Christchurch
Ashburton District Council	PO Box 94 Ashburton
Avon Hotel Ltd	PO Box 2726 Christchurch
BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	C/- Burton Consultants PO Box 2091 Wellington
Brian Swale	140 Panorama Road Clifton Christchurch
Bridgestone Firestone NZ Ltd.	84 Langdons Road Papanui Christchurch
Bruce Bellis	122 Park Terrace Christchurch
Canterbury Aoraki Conservation Board	C/- Department of Conservation Private Bag 4715 Christchurch
Canterbury Asthma Society	PO Box 13 091 Christchurch
Canterbury Breweries Limited	C/- Beca Carter Hollings and Ferner Limited PO Box 13 960 Christchurch
Canterbury District Health Board	C/- Connell Wagner PO Box 1061 Christchurch

Party	Address for service
Canterbury Growers Society Ltd	Secretary PO Box 35148 Shirley Christchurch
Canterbury Horticultural Society Inc	PO Box 369 Christchurch
Canterbury Meat Packers Ltd	C/- Lane Neave, Lawyers PO Box 13149 Christchurch
Carter Group Ltd	PO Box 2726 Christchurch
Carter Holt Harvey Panels MDF Ltd	PO Box 1001 Ashley Rangiora
Chequer Packaging Limited	C/- Lane Neave, Lawyers PO Box 13149 Christchurch
Christchurch City Council, Fendalton Service Centre	PO Box 29183 Christchurch
Christchurch International Airport Ltd	C/- Chapman Tripp PO Box 2510 Christchurch
Department of Corrections	C/- Opus International Consultants Ltd PO Box 1482 Christchurch
Donnelly Marketing	PO Box 30205 Lower Hutt
Energy Safety Service	PO Box 1473 Wellington
Environment Canterbury	PO Box 345 Christchurch
Federated Farmers of New Zealand	PO Box 1992 Christchurch
Federated Farmers Of New Zealand Inc, Mackenzie Branch	C/- PO Box 115 Lake Tekapo
Federated Farmers Of New Zealand Inc, North Canterbury Branch	PO Box 1992 Burnside Christchurch

Party	Address for service
Feltex Carpets Ltd	C/- Lane Neave, Lawyers PO Box 13149 Christchurch
Foodstuffs South Island Ltd	Private Bag 4705 Christchurch
Heinz Wattie's Australasia Pty Ltd	C/- Beca Carter Hollings and Ferner Limited PO Box 13960 Christchurch
Ilam & Upper Riccarton Residents Assn	C/- 3 Kelson lane Ilam Christchurch
John McSweeney	6 Factory Road Belfast Christchurch
Kennedys Bush Road Neighbourhood Association	C/- 208 Kennedys Bush Road Halswell Christchurch
Kingett Mitchell Ltd	PO Box 1762 Christchurch
Lyttelton Port Company Ltd	Private Bag 501 Lyttelton
Mainland Poultry Ltd	C/- Harrison Grierson PO Box 5760 Wellesley Street Auckland
Meridian Energy Limited	C/- Boffa Miskell Ltd PO Box 110 Christchurch
Michael Cann	12 Dublin Street Christchurch
Michael Coffey	54 Seadown Road Washdyke RD Timaru
Michael Eder	143 Broad Road RD2 Rangiora

Party	Address for service
New Zealand Institute For Crop & Food Research Ltd	C/- Opus International Consultants Ltd PO Box 1482 Christchurch
New Zealand Pork Industry Board	Massey University Private Bag 11222 Palmerston North
New Zealand Post	PO Box 3744 Christchurch
NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	PO Box 10 232 Wellington
NZMP	PO Box 33 Temuka
NZMP	C/- Bentley & Co. Ltd PO Box 4492 Shortland St Auckland
Orion New Zealand Ltd	C/- Lane Neave, Lawyers PO Box 13149 Christchurch
Pedersen Read Ltd	PO Box 13302 Christchurch
Ravensdown Fertiliser Co-Operative Ltd	PO Box 1049 Christchurch
Robert Vore	266 Barbadoes Street Christchurch
Royal Forest & Bird Protection Society Of New Zealand Inc, South Canterbury Branch	29A Nile Street Timaru
Selwyn District Council	Private Bag 1 Leeston 7656
Solid Energy New Zealand Ltd	PO Box 1303 Christchurch
Spreydon Heathcote Community Board	C/- Beckenham Service Centre PO Box 12033 Beckenham Christchurch
St George's Hospital Inc	C/- Aurora Pacific Ltd PO Box 16489 Christchurch

Party	Address for service
Styx Residents Group	C/- 21 Aylsham Lane Papanui Christchurch
Tasman Farms Limited	C/- Cubitt Consulting Limited PO Box 5006 Dunedin
Tegal Foods Ltd	C/- Harrison Grierson Consultants Limited PO Box 5760 Wellesley Street Auckland
Telecom NZ Ltd	C/- Resource Management Group Ltd PO Box 13792 Christchurch
Transit New Zealand, Christchurch	PO Box 1479 Christchurch
Waimakariri District Council	Private Bag 1005 Rangiora 7440
Westernra Trust	10 Wilmers Road Wigram Christchurch