

BEFORE THE ENVIRONMENT COURT
AT WELLINGTON

I MUA I TE KŌTI TAIAO O AOTEAROA
KI TE WHANGANUI-A-TARA

IN THE MATTER of appeals under cl 14 of Schedule 1 to
Resource Management Act 1991

BETWEEN HORTICULTURE NEW ZEALAND
(ENV-2019-WLG-000103)

MINISTER OF CONSERVATION
(ENV-2019-WLG-000106)

MASTERTON DISTRICT COUNCIL
(ENV-2019-WLG-000110)

FEDERATED FARMERS OF NEW
ZEALAND INC
(ENV-2019-WLG-000126)

SOUTH WAIRARAPA DISTRICT
COUNCIL
(ENV-2019-WLG-000127)

Appellants

AND WELLINGTON REGIONAL
COUNCIL

Respondent

Court: Environment Judge B P Dwyer sitting alone pursuant to s 279
of the Act

Date of Order: 1 July 2021

Date of Issue: 1 July 2021



CONSENT ORDER

- A: Under s 279(1)(b) of the Act, the Environment Court orders, by consent, that the changes set out in **Appendix A** be made to the Proposed Plan.
- B: The appeal points relating to Topic 1, Air Quality Management: Section 5.1.13 and Rules R36A and R36B, are otherwise dismissed.
- C: Under s 285 of the Act, there is no order as to costs.

REASONS

Introduction

[1] The Court has read the notices of appeal and the memorandum of the parties received 27 May 2021.

Other relevant matters

[2] The following persons gave notice of an intention to become parties to the appeals under s 274 of the Act, and have signed the consent memorandum setting out the relief sought:

- Wellington Water Ltd;
- Royal Forest and Bird Protection Society of New Zealand Inc; and
- A & J Boyne.

Kāpiti Coast District Council, Masterton District Council, South Wairarapa District Council, Wellington Fish and Game Council and Rangitāne Tū Mai Rā Trust and

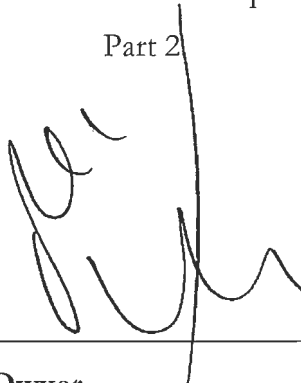
Rangitāne o Wairarapa Inc Society did not sign the consent memorandum, but in accordance with the Court's direction in its minute dated 28 April 2021, they are deemed to have accepted the consent memorandum and order.

Orders

[3] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order or are deemed to have done so in accordance with the Court's minute of 28 April 2021;
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular,

Part 2



B P Dwyer
Environment Judge



KEY:

Red track - changes made at mediation

Green track - changes in the Decisions Version of the PNRP, with clause 16 changes

APPENDIX A - RELEVANT PROVISIONS - (DECISIONS VERSION - WITH CLAUSE 16 CHANGES) - TOPIC 1

TOPIC 1 WORDING CHANGES

5.1.13 Ground-based and aerial applications-Discharge of agrichemicals

General conditions for the discharge of agrichemicals 

General conditions for the discharge of **agrichemicals** into air, or onto or into land where it may enter water, or ~~over of~~ into water are that:

- (a) the discharge shall not cause noxious, dangerous, offensive or objectionable odour, dust, particulate, smoke, vapours, droplets or ash beyond the boundary of the **property**, and
- (b) there is no discharge directly into the coastal marine area or a **surface water body**, unless the **agrichemical** is approved by the Environmental Protection Agency for use ~~over of~~ into water, and
- (c) there is no discharge ~~over of~~ into water:
 - (i) in a surface water **community drinking water supply protection area** as shown on Map 26, or
 - (ii) **two kilometres** upstream of a surface water intake for a **group drinking water supply**, and
 - (iii) ~~the applicator shall notify every person taking water for potable supply within 1km downstream of the proposed discharge 12 hours before the discharge begins, and~~
- (e)(d) the **agrichemical** is approved by the Environmental Protection Agency, and



- (d)(e) the discharge shall be undertaken in accordance with the directions on the **agricultural** product label, the manufacturer's instructions and safety data sheets, or as specifically approved by the Environmental Protection Authority, and
- (e)(f) in public places, including alongside roadways,
- (i) the discharge shall not cause noxious, dangerous, offensive or objectionable odour, dust, particulate, smoke, vapours, droplets or ash on any **property** adjacent to where the discharge originates, and
- (ii) the applicator must display prominent signage advising that **agricultural** spraying is taking place.

Note

Some substances require that a permission be sought from the Environmental Protection Authority under section 95A of the Hazardous Substances and New Organisms Act 1996.

Rule R36A: Handheld discharge of agriculturals – 
permitted activity

The discharge of **agricultural** into air, or onto or into land where it may enter water, or ~~over or~~ into water, using a handheld and hand-pumped sprayer with a capacity of 20 litres or less is a permitted activity, provided the following condition is met:

- (a) the discharge of **agricultural** shall comply with the general conditions of Section 5.1.13.

Rule R36B: Motorised and aerial discharge of agriculturals – permitted activity 

The discharge of **agricultural** into air, or onto or into land where it may enter water, or ~~into~~ water, using a motorised sprayer or aerial discharge is a permitted activity, provided the following conditions are met:

- (a) the discharge of **agricultural** shall comply with the general conditions of Section 5.1.13, and

- (b) the applicator holds a qualification in accordance with section 5.3.6 and Appendix H5 of NZS 8409: 2004 Management of Agrichemicals, and
- (bc) there is no discharge ~~into water or,~~ onto a roof used for rain water collection, and
- (ed) aerial applicators must keep GPS records of aerial discharge of **agrchemicals** for at least three years and provide these to the Wellington Regional Council on request. The records must include the spray swath and secondary flight paths, and
- (de) where the discharge is in or adjacent to a **sensitive area**, the landowner of a **property**:
- (i) shall prepare **and follow** a spray plan, and
 - (ii) shall notify **adjacent neighbours ~~all persons~~** likely to be affected by the discharge of **agrchemicals**; **and**
 - (iii) shall, where the discharge is onto or into water in a **surface water body**, notify the relevant iwi authority, and
 - (iv) **in relation to (i) to (iii) the landowner** may contract out the responsibility to the applicator, **and**
- (f) the spray plan required under condition (e) shall be prepared in accordance with Appendix M4 of NZS 8409: 2004 Management of Agrichemicals, and
- (eg) where the discharge of **agrchemicals** is in a public place the notification of all persons likely to be affected by the discharge of **agrchemicals** must be undertaken as follows:
- (i) placing a public notice in a local newspaper or letter drop in the area to be sprayed at least seven working days prior to the discharge date, or
 - (ii) placing signs in the immediate vicinity of the spraying during the spray period and any required stand-down period afterwards, or where spraying is occurring on or alongside roads, any vehicle associated with the spraying must display a sign

on the front and the rear of the vehicle advising that spraying is in occurring.

Note

A spray plan is prepared in accordance with NZS 8409: 2004 Management of Agrichemicals (section 5.3, and Appendix M4).

Note

For the purposes of (e)(iii) Wellington Regional Council maintains a list of the contact details for iwi authorities.

