

**IN THE ENVIRONMENT COURT  
AT WELLINGTON**

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

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

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

PORIRUA CITY COUNCIL  
(ENV-2019-WLG-000116)

WELLINGTON INTERNATIONAL  
AIRPORT LTD  
(ENV-2019-WLG-000117)

Z ENERGY LTD, BP OIL NEW  
ZEALAND LTD AND MOBIL OIL  
NEW ZEALAND LTD  
(ENV-2019-WLG-000128)

Appellants

AND WELLINGTON REGIONAL  
COUNCIL

Respondent

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

Date of Order: 8 December 2021

Date of Issue: 8 December 2021

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**CONSENT ORDER**

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HORTICULTURE NEW ZEALAND v WELLINGTON REGIONAL COUNCIL  
(Topic 20)

- A: Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that the changes set out in **Appendix A** be made to the Proposed Plan.
- B: The parts of the appeals concerning Topic 20 are otherwise dismissed.
- C: Under s 285 of the Resource Management Act 1991, 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 2 July 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:

- Minister of Conservation;
- Wellington Water Ltd;
- Kāpiti Coast District Council; and
- Powerco Ltd.

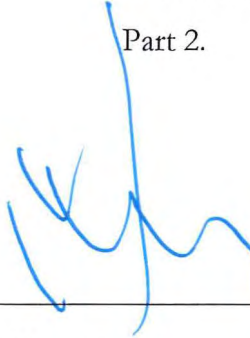
[3] Rangitāne Tū Mai Rā Trust and Rangitāne O Wairarapa Inc Society, and First Gas Ltd did not sign the consent memorandum, but in accordance with the Court's direction in its minute dated 28 April 2021, they are deemed to have accepted the consent memorandum and order.

[4] CentrePort Ltd and CentrePort Properties Ltd, Fire and Emergency New Zealand and Federated Farmers of New Zealand Inc were supplied with the consent order in accordance with the Court's 4 June 2021 direction. They have confirmed they have no interest in the matter. In addition, Wellington Fish and Game Council

and Royal Forest and Bird Protection of Society of New Zealand Inc were given an opportunity to comment on the consent memorandum. They did not respond, so they are deemed not to be interested in this Topic.

[5] 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



TOPIC 20 WORDING CHANGES (DECISIONS VERSION - WITH  
CLAUSE 16 CHANGES)

Black - Notified version

Green - Decisions version

Red - Amendments from mediation

<u>SLUR</u> <u>Category IV</u> <u>land</u>	<u>Land classified as Category IV in the Selected</u> <u>Land Use Register (SLUR) for the Wellington</u> <u>Region.</u>
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~~Objective O43~~ 

~~Contaminated land is managed to protect human health and the  
The environment is protected from more than minor adverse effects  
of discharges from contaminated land.~~

Objective O43 

Contaminated land is identified and the discharges of contaminants  
are managed to protect the environment.

Policy P69: Human drinking water supplies

The adverse effects from discharges to land and water on the quality of  
**community drinking water supplies** and **group drinking water  
supplies** shall be avoided to the extent practicable necessary to  
implement regulations for human drinking water. the National  
Environmental Standards for Sources of Human Drinking Water 2007,  
in consultation with the The drinking water supply operator will be  
consulted with as appropriate, taking into consideration emerging  
contaminants and industry best practice. Where adverse effects cannot  
be avoided, the adverse effects shall be managed having particular  
regard to:

- ~~(a) — water quality in relation to determinands, including  
aesthetic determinands, at the water supply abstraction  
point, and~~
- ~~(b) — the type and concentration of the contaminant(s) in the  
actual discharge, and~~
- ~~(e) — soil type, in the case of discharges to land, and~~
- ~~(d) — travel time and path of contaminants from source to water  
supply abstraction point, and~~



- (e) ~~treatment, design and maintenance, and~~
- (f) ~~the risk of accident or an unforeseen event causing significant adverse effects on water quality.~~

~~This shall be done in consultation with the drinking water supply operator and in accordance with the National Environmental Standards for Sources of Human Drinking Water 2007.~~

#### Policy P90: Discharges of hazardous substances

~~The adverse effects of the discharge of a hazardous substances (excluding a discharge subject to Policy P89) to land (including accidental discharges), fresh water, including groundwater, or coastal water or air from the use, storage and transport of hazardous substances shall be avoided, or mitigated or remedied where avoidance is not practicable, managed by the use of good management practices.~~

#### Chapter 5.2 and 5.3 Discharges to land and water

#### Rule R55: Discharges from contaminated land – permitted activity

~~The discharge of a contaminants from contaminated land onto or into land from **contaminated land** where a contaminant the discharge may enter water is a permitted activity provided the following conditions are met:~~


- (a) ~~a site investigation has been completed in accordance with Rule R54 with a copy of the report provided to the Wellington Regional Council within two years after the date of public notification of the Proposed Natural Resources Plan (31.07.2015), and a detailed site investigation has been undertaken, reported and provided to Wellington Regional Council in accordance with Rule R54, and~~
- (b) ~~the **results of the detailed** site investigation **report concludes indicate** that: **the discharge does not pose unacceptable risks to human health or the environment – on-site or off-site is highly unlikely to be a risk to human health or the environment at present or in the future,** or~~
  - (i) ~~the concentration of contaminants in groundwater meets the *Drinking Water Standards – New Zealand 2005 (Revised 2008)* for potable water for 90% of species, and~~

- (ii) ~~the concentration of contaminants in groundwater, at the **property** boundary, or at the location of existing **bore**s, or at any point where the groundwater exits to the surface meets the *Australian and New Zealand Environment and Conservation Council (ANZECC) Guidelines for Fresh and Marine Water Quality (2000)* for the protection of 95% of species.~~
- (c) the discharge from **SLUR Category III land** or **SLUR Category IV land** does not, or is not likely to, result in:
- (i) groundwater quality exceeding the maximum acceptable value (**MAV**) in the *Drinking-Water Standards New Zealand 2005 (Revised 2008)* or **50% of the MAV in a *community drinking water supply protection area* shown on Maps 26, 27a, 27b, or 27c, at the following locations:**
1. at the **property** boundary, or within 50m from the source of the discharge, whichever is the lesser distance; or
  2. in an existing **bore** within the **property** boundary or within 50m from the source of the discharge, whichever is the lesser distance, used to abstract water for any use other than water quality monitoring,
- (ii) water quality in a **surface water body** within the **property** boundary or within 50m from the source of the discharge, whichever is the lesser distance, exceeding a value in **Schedule W the Australian and New Zealand Environment and Conservation Council (ANZECC) Guidelines for Fresh and Marine Water Quality (2000)** for the protection of 95% of species,
- (d) the water quality exceeding 50% of the maximum acceptable value in the *Drinking-Water Standards New Zealand 2005 (Revised 2008)* where the **SLUR Category III land** is located within a **community drinking water supply protection area** shown on Maps 26, 27a, 27b, or 27c.

Rule R56: Investigation of, or ~~D~~discharges from contaminated land – discretionary activity

The use ~~the~~ of land to undertake a detailed site investigation of contaminated land ~~that is not permitted by Rule R54, and or the discharge of a contaminants onto or into land from~~ **contaminated land SLUR Category III land or SLUR Category IV land** where

~~the discharge a contaminant~~ may enter water, that is not permitted by ~~Rule R54 or~~ Rule R55 is a discretionary activity.

~~Rule R57: Discharge of hazardous substances—non-complying~~  
~~activity—~~ 

~~The discharge of a hazardous substance into water, onto land or into or onto land where it may enter water, that is not provided for as a permitted, controlled, restricted discretionary or discretionary activity is a non-complying activity.~~

