

BEFORE THE ENVIRONMENT COURT  
AT WELLINGTON

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

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

BETWEEN MINISTER OF  
CONSERVATION

(ENV-2019-WLG-000106)

Appellant

AND WELLINGTON REGIONAL  
COUNCIL

Respondent

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

Date of Order: 31 March 2021

Date of Issue: 31 March 2021

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**CONSENT ORDER**

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- 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 part of the appeal seeking the inclusion of a new rule to provide for the discharge of rotenone to water is otherwise dismissed.
- C: Under s 285 of the Act, there is no order as to costs.

**REASONS**



## Introduction

[1] The Court has read the notice of appeal and the memorandum of the parties received 12 February 2021.

## Other relevant matters

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

- Royal Forest and Bird Protection Society of NZ Inc;
- Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa Inc Soc;
- Wellington Water Ltd; and
- Wellington Fish and Game Council.

## 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;
- (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



## Appendix A

### Key:

Red track – changes made by this consent order

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

<u>Rotenone</u>	<u>is a vertebrate toxic agent and means -</u> (a) <u>rotenone by itself; or</u> (b) <u>a formulation, product, bait, or delivery system that contains rotenone</u>
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### Rule R87: Land-based discharge of vertebrate toxic agents – permitted activity

The discharge of a **vertebrate toxic agents** (except rotenone), onto or into land, or onto or into land where a contaminant it may enter water, via land-based methods is a permitted activity, provided the following conditions are met:

- (a) the substance and application discharge technique or method is approved for use by the Hazardous Substances and New Organisms Act 1996 and the use and discharge of the substance is in accordance with all controls of the approval, and
- (b) the discharge is not located within 20m of a **bore** used for water abstraction for potable supply, and
- (c) where the **vertebrate toxic agent** is applied to public land, signs shall be placed for the duration of any residual effects of the pesticide at all public lines of approach to the discharge area. The signs shall identify the pesticide(s) applied, the date of application discharge and the precautions, if any, that people using the area should take.

### Note

The rule does not apply to any vertebrate toxic agent that is exempt from section 15 of the RMA under the Resource Management (Exemption) Regulations 2017.



### Rule R88: Aerial application-discharge of vertebrate toxic agents – controlled activity

The discharge of a **vertebrate toxic agent (except rotenone)** onto or into land, or onto or into land where and where it may enter water, and the associated discharge into water, by aerial application discharge is a controlled activity, provided the following conditions are met:

- (a) the substance and the application-discharge technique or method is approved for use under the Hazardous Substances and New Organisms Act 1996 and the use and discharge of the substance is in accordance with all controls of the approval, and
- (b) the discharge is not onto a roof or other structure used to collect drinking water.

#### *Matters of control*

2. Advice and information to people and authorities in and adjacent to the application-discharge area, including flight paths and accidental discharge into water
3. Application-Discharge methods, systems and management processes to prevent fugitive discharges and the recording of application-discharge areas
4. Navigational guidance systems

#### *Notification*

In respect of Rule R88, applications are precluded from public notification (unless special circumstances exist).

#### Note

The rule does not apply to any vertebrate toxic agent that is exempt from section 15 of the RMA under the Resource Management (Exemption) Regulations 2017.

### Rule R88A: Discharge of rotenone – discretionary activity

The discharge of **rotenone** into water or onto land where it may enter water, including in a site or habitat identified in Schedule A (outstanding water bodies), Schedule C (mana whenua), Schedule F1 (rivers/lakes), Schedule F3 (significant wetland), Schedule F4 (coastal sites) or Schedule H1 (contact recreation) for the control of invasive aquatic organisms by the Department of Conservation, or any person authorised in writing for that purpose by the Director-General of Conservation, is a discretionary activity.



Notification

In respect of Rule R88A, applications are precluded from public notification (unless special circumstances exist). For any applications affecting sports fish<sup>1</sup> resources the statutory manager of those resources, the Wellington Fish and Game Council shall be determined to be an affected party.

Note

The rule does not apply to a discharge of **rotenone** that is exempt from section 15 of the RMA under the Resource Management (Exemption) Regulations 2017.



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<sup>1</sup> Sports fish are defined in Schedule 1 of the Freshwater Fisheries Regulations 1983