

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 TRANSPOWER NEW ZEALAND
LIMITED

(ENV-2019-WLG-000108)

MASTERTON DISTRICT COUNCIL

(ENV-2019-WLG-000110)

WELLINGTON INTERNATIONAL
AIRPORT LIMITED

(ENV-2019-WLG-000117)

WELLINGTON WATER LIMITED

(ENV-2019-WLG-000123)

RANGITĀNE TŪ MAI RĀ TRUST
and RANGITĀNE O WAIRARAPA
INC SOCIETY

(ENV-2019-WLG-000125)

FEDERATED FARMERS OF NEW
ZEALAND INC

(ENV-2019-WLG-000126)

SOUTH WAIRARAPA DISTRICT
COUNCIL

(ENV-2019-WLG-000127)

BP OIL NEW ZEALAND LIMITED,
MOBIL OIL NEW ZEALAND
LIMITED AND Z ENERGY
LIMITED

(ENV-2019-WLG-000128)



ROYAL FOREST AND BIRD
PROTECTION SOCIETY OF NEW
ZEALAND INC

(ENV-2019-WLG-000130)

NEW ZEALAND TRANSPORT
AGENCY

(ENV-2019-WLG-000131)

Appellants

AND

WELLINGTON REGIONAL
COUNCIL

Respondent

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

Date of Order: 4 November 2021

Date of Issue: 4 November 2021

CONSENT ORDER

- 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 balance of water quality provisions – Topics 34A and 34B amendments to Policies P62, P67, P72 and P95, the definitions of surface water body and ephemeral flow path and Rule R45 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 13 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:

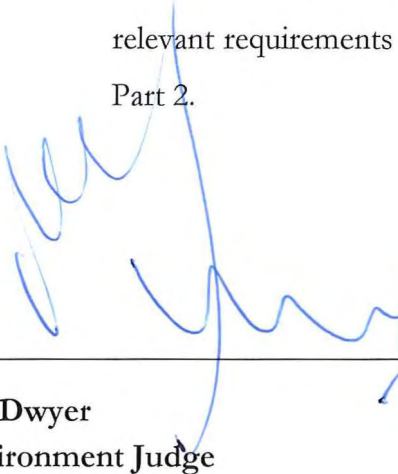
- Queen Elizabeth the Second National Trust;
- Fire and Emergency New Zealand;
- Minister of Conservation;
- Beef and Lamb New Zealand;
- CentrePort Ltd and CentrePort Properties Ltd;
- Horticulture New Zealand;
- Kāpiti Coast District Council;
- Porirua City Council; and
- Powerco Ltd.

[3] First Gas Ltd, Masterton District Council, South Wairarapa District Council and Carterton District Council, N & H Diederich, A & J Boyne and the Wellington Fish and Game Council 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. Kāinga ora – Homes and Communities and Meridian Energy Ltd confirmed they have no interest in this Topic.

[4] The Regional Council advised that s 274 parties Kahungunu Ki Wairarapa, A & B Mathewson and S Beveridge and E Cates were supplied with the consent order in accordance with the Court's 4 June 2021 direction. As there was no response, it is assumed they have no interest in the matter.

[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



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

<p>Ephemeral flow path watercourse</p>	<p>A <u>river watercourse</u> that:</p> <p>(a) does not have an active bed, or</p> <p>(b)(a) <u>has a bed that is predominantly vegetated,</u> and</p> <p>(b) only conveys <u>or temporarily retains</u> water during or immediately following heavy rainfall events, and</p> <p>(c) does not convey or retain water at other times, and</p> <p>(d) is not a wetland.</p> <p><u>Note: Ephemeral flow path watercourse is not a surface waterbody.</u></p>
<p>Surface water body</p>	<p>Any river, lake, natural wetland, estuary, <u>outside of the coastal marine area</u>, open drain or water race, and its <u>their</u> bed. For the purpose of the Plan, surface water body does not include ephemeral flow paths watercourses and bodies of water designed, installed and maintained for any of the following purposes:</p> <p>(a) water storage ponds for</p> <p style="margin-left: 20px;">(i) fire fighting or</p> <p style="margin-left: 20px;">(ii) irrigation, or</p> <p style="margin-left: 20px;">(iii) stock watering, or</p> <p>(b) water treatment ponds for</p> <p style="margin-left: 20px;">(i) wastewater, or</p> <p style="margin-left: 20px;">(ii) stormwater, or</p> <p style="margin-left: 20px;">(iii) nutrient attenuation, or</p> <p style="margin-left: 20px;">(iv) sediment control, or</p> <p style="margin-left: 20px;">(v) animal effluent, or</p> <p style="margin-left: 20px;">(vi) operating sumps, quarries and gravel pits.</p> <p>Also see definitions for Category 1, and Category 2 surface water bodies, and the definition for River class.</p>



Policy P62: Promoting discharges to land



The discharge of contaminants to land is promoted over direct discharges to water, particularly where there are adverse effects on:

- (a) aquatic ecosystem health, or and
- (b) mahinga kai, or
- (b)(c) contact recreation, or and
- (d) Māori customary use.

Policy P67: Minimising discharges to water or land



Discharges of contaminants to ~~land and~~ water or land will be minimised by adopting through the following hierarchy:

- (a) avoiding the production of the contaminant, ~~and/or~~
- (b) reducing the volume amount of contaminants, including by reusing, recovering or recycling ~~the~~ contaminants, ~~and/or~~
- (c) minimising the volume or amount of the discharge, ~~and/or~~
- (d) discharging to land is promoted over discharging direct to water, including using land-based treatment, constructed wetlands or other systems to treat contaminants prior to discharge, ~~where appropriate, and~~
- e) ~~irrespective of actions taken in accordance (a) to (d) above, where a discharge is a point source discharge to a river or stream, the discharge achieve the water quality standards in Policy P71 after reasonable mixing.~~

Note

In determining if it is appropriate to discharge to land as required by clause (d), consideration must be given to the requirements of Policy P95.

Policy P72: Zone of reasonable mixing



When a discharge to water requires resource consent, ~~Where not otherwise permitted by a rule,~~

- (a) the zone of reasonable mixing shall be minimised and will be determined on a case-by-case basis. In determining the zone of reasonable mixing, particular regard shall be given to:, including by having regard to the:
 - (i) ~~(e)~~ efficient mixing of the discharge with the receiving waters, and
 - (ii) ~~(d) avoiding a site with~~ significant mana whenua values identified in Schedule C (mana whenua), and

- (iii) ~~(e) the~~ identified values of that area of water, and
- (b) the adverse effects of the discharge, including,
 - (i) ~~(b)~~ on aquatic species migration, and
 - (ii) ~~(a) and~~ acute and chronic toxicity effects, and ~~and~~
 - (iii) on significant mana whenua values identified in Schedule C (mana whenua)

within the zone of reasonable mixing shall be minimised.

~~(f) avoiding significant adverse effects within the zone of reasonable mixing.~~

Policy P95: Discharges to land

The discharge of contaminants to land shall be managed ~~to by:~~

- (a) ~~ensuring the discharge does not result in more than minor~~ minimise adverse effects ~~to on the life-supporting capacity of soil health, and~~
- (b) ~~avoiding discharges that would not create~~ creating contaminated land, ~~and~~
- (c) not exceeding the ~~natural~~ capacity of the soil to treat, use or remove the contaminant, ~~and~~
- (d) not exceeding the available capacity of the soil to absorb ~~and infiltrate~~ the discharge, ~~and~~
- (e) ~~minimising~~ avoid significant adverse effects on public health and amenity, ~~and~~
- (f) not resulting in a discharge ~~that enters to water~~ that causes more than a minor adverse effects., ~~and~~
- (g) avoid, remedy or mitigate adverse effects on mana whenua values when considering applications for discharges to land which may adversely affect statutory acknowledgement areas, sites of significance, or Heritage New Zealand Pouhere Taonga sites, identified in this Plan, any relevant district plan, or in a planning document recognised by an iwi authority and lodged with a local authority.

Rule R45: Potable water – permitted activity



The discharge of potable water, including scouring water, into water, or onto or into land where it may enter water, for the purpose of draining pipelines or water reservoirs for inspection, repair, maintenance or ~~upgrade~~ upgrade is a permitted activity provided the following conditions are met:

- (a) if the discharge is to a tidally-influenced environment, the discharge occurs during the time between three hours before and three hours after high tide, unless the discharge occurs directly into open water without disturbing sediment, and
- (b) the discharge shall not contain backwash water from a water treatment plant, and
- (c) the concentration of free or combined residual chlorine
 - (i) in the discharge shall not exceed 0.3g/m^3 , or
 - (ii) for significant rivers (Schedule F1 rivers or streams with high macroinvertebrate health) shall not exceed 0.0004 g/m^3 , or 0.003 g/m^3 for all other fresh water bodies, after the **zone of reasonable mixing**, and
- (d) the concentration of fluoride in the discharge shall not exceed 1.5g/m^3 , and
- (e) the discharge shall not cause any conspicuous change in the colour or visual clarity in the receiving water after the **zone of reasonable mixing**, and
- (f) the discharge shall not cause any erosion of the channel or banks of the receiving water body or the coastal marine area.

