

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

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

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)

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

ROYAL FOREST AND BIRD
PROTECTION SOCIETY OF NEW
ZEALAND INC
(ENV-2019-WLG-000130)

Appellants

AND

WELLINGTON REGIONAL
COUNCIL

Respondent



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

Date of Order: 6 August 2021

Date of Issue: 6 August 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 Topic 4 - Importance of land and water – 'catchment based flood protection and erosion risk management', Objectives O2, O6, O8 and Policies P7, P8, P15 and P16 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 28 June 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:



- Kāpiti Coast District Council;
- New Zealand Transport Agency;
- BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd; and
- Federated Farmers of New Zealand.

[3] Kahungunu ki Wairarapa, Royal Forest & Bird Protection Society of New Zealand Inc, Fire and Emergency New Zealand, Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa Inc Society, Wellington Fish & Game Council, Wellington Water Limited, Kāinga Ora – Homes and Communities, Winstone Aggregates and Land Matters 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.

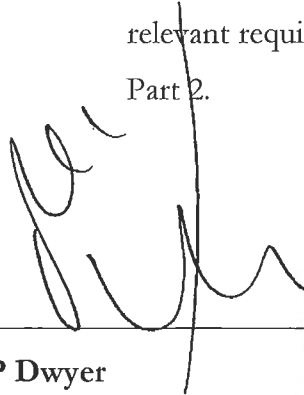
[4] The Regional Council advised that s 274 parties CentrePort Ltd and CentrePort Properties Ltd and Meridian Energy Ltd were supplied with the consent order in accordance with the Court’s 4 June 2021 direction, and both confirmed to Council that they did not have an interest in the topic. The Court directed the Regional Council to ascertain the views of First Gas Ltd and Wairarapa Water Users Inc Society, as it appeared they may have interest in Topic 4. The Council advised on 6 August 2021 these two parties agree to the wording proposed in the consent order documentation.

Orders

[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 - RELEVANT PROVISIONS - (DECISIONS VERSION - WITH CLAUSE 16 CHANGES) - TOPIC 4 IMPORTANCE OF LAND AND WATER

Objective O2



The importance and contribution of air, land, ~~and~~ water and ecosystems to the social, economic and cultural well-being and health of people and of the community are recognised in the management ~~and, where applicable,~~ allocation of those resources.

Objective O6

Sufficient fresh water of a suitable quality is available, for:

- (a) the health needs of people, and
- (b) the reasonable needs of livestock.

~~Objective O7~~

~~Fresh water is available in quantities and is of a suitable quality for the reasonable needs of livestock.~~

Objective O8

The social, economic, cultural and environmental benefits of taking and using water are recognised, when managing water and provided for within the Plan's allocation framework.

Policy P7: Uses of land and water



The cultural, social and economic benefits of using land and water for:

- ~~(a) aquaculture, and~~
- (a) treatment, dilution and disposal of **wastewater and stormwater**, and
- (b) industrial processes and commercial uses that rely on municipal water supply, and
- (c) community and domestic water supply, and
- ~~(e) electricity generation, and~~
- (d) food production and harvesting (including aquaculture), and
- (e) gravel extraction from rivers for flood protection and control purposes, and



- (f) irrigation and stock water, and
- (g) firefighting (emergency or training purposes), and
- (h) contact recreation and **Māori customary use**, and
- (i) transportation, including along, across, and access to, water bodies, and
- (j) enabling urban development where it maintains the quality of the natural environment, and
- (k) waste management facilities.

shall be recognised.

Policy P8: Beneficial activities



The following activities are recognised as beneficial and generally appropriate:

- (a) activities for the purpose of restoring natural character, **aquatic ecosystem health, mahinga kai**, outstanding water bodies, sites with significant **mana whenua** values, and sites with significant indigenous biodiversity values, and
- (b) activities that restore natural features such as beaches, dunes or wetlands that can buffer development from natural hazards, and
- (c) day-lighting of piped streams, and
- (d) removal of aquatic weeds, and pest plants and animal pests, and
- (e) the establishment of river crossings (culverts and bridges) or fences and fence structures that will result in the exclusion of regular **livestock** access from a water body, and
- (f) the retirement, fencing and planting and management of **riparian margins**, and
- (g) the retirement of **erosion prone land** from **livestock** access, and
- (h) maintenance, and use and upgrade of existing structures in the coastal marine area, **natural wetlands** and the beds of rivers and lakes (noting that Policy P35 will apply with respect to fish passage), and
- (i) removal of dangerous or derelict structures in the coastal marine area, **natural wetlands** and beds of lakes and rivers, and

- (j) structures necessary to provide for monitoring resource use or the state of the environment in the coastal marine area, **natural wetlands** and beds of lakes and rivers, and
- (k) structures necessary to maintain safe navigation, and
- (l) artworks that support and enhance public open space.

Policy P15: Flood protection activities



The use, maintenance and ongoing operation of existing **catchment based flood and erosion hazard risk management activities to which** manage the **hazard risk** of flooding to people, **property**, infrastructure and communities are ~~beneficial and generally appropriate~~ provided for.

Policy P16: New flood protection activities



The social, cultural, economic and environmental benefits of new **catchment based flood and erosion risk management activities** are recognised.

