

**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 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)

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: 8 December 2021

Date of Issue: 8 December 2021

CONSENT ORDER



WELLINGTON WATER LIMITED v WELLINGTON REGIONAL COUNCIL (Topic

37)

- 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 37 – Discharges to land - balance of discharges to land: Policy P94, Rules R82, R83 and R85, and a proposed new rule, 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 12 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:

- A & J Boyne;
- Regional Public Health; and
- Horticulture New Zealand.

[3] Kāinga Ora-Homes and Communities, Wellington Water Ltd, Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa Inc Society, Federated Farmers of New Zealand Inc, Wellington Fish and Game Council and the Minister of Conservation 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. Kāpiti Coast District Council and Porirua City Council advised they were not interested in this Topic.

[4] The Regional Council advised that s 274 parties CentrePort Ltd and CentrePort Properties Ltd, Fire and Emergency New Zealand, A and B Mathewson, Beef and Lamb New Zealand, Kahungunu ki Wairarapa, N and D Diederich, S Beveridge and E Cates, and P and C Cutfield were supplied with the consent order in accordance with the Court's 4 June 2021 direction. CentrePort Ltd and CentrePort Properties Ltd and Fire and Emergency New Zealand confirmed they have no interest in the matter. The other parties did not reply, and it is assumed they have no interest in the matter. In addition, the Regional Council sent s 274 parties K Reedy and D Riddiford the consent memorandum. They did not respond, and 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



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 37

TOPIC 37 WORDING CHANGES

Policy P94: Discharge of collected animal effluent

Any system to store, treat or discharge collected **animal effluent** to land shall be designed, constructed and maintained so that:

- (a) the collection, storage and distribution systems are sealed to prevent discharge of effluent outside the intended discharge area, and
- (b) the discharge is to land, and:
 - (i) effluent is discharged at a rate that can be absorbed and treated by the soil and plants, to minimise ponding, and prevent surface runoff and direct discharge to groundwater or to surface water through tile drains, and
 - (ii) sufficient storage is provided so that effluent can be stored when weather or soil conditions are unsuitable for irrigation, and
 - (iii) discharges avoid adverse effects on water quality including any **community drinking water supply**.

Rule R82: Discharge of fertiliser from ground-based or aerial discharge – permitted activity

The discharge of **fertiliser** onto or into land where a contaminant may enter water, or into air is a permitted activity, provided the following conditions are met:

- (a) the discharge from ground-based application is not directly onto or into a **surface water body**, and
- (b) **all reasonably practicable steps must be taken to prevent** the discharge by a commercial operator **undertaking from** aerial application **is not directly** onto or into a **surface water body river with an active bed, lake, natural wetland, water race or an estuary outside the coastal marine area**, and
- (c) the discharge does not cause an offensive or objectionable effect beyond the boundary of the **property**, and



- (d) the discharge by a commercial operator is in accordance with the Fertiliser Quality ~~Control~~ Council's Code of Practice for the Placement of Fertiliser in New Zealand 2018, and
- (e) the discharge by a non-commercial operator using groundspreading equipment, is in accordance with the Fertiliser Association of New Zealand's Code of Practice for Nutrient Management (With Emphasis on Fertiliser Use) 2013.

Note

The discharge of synthetic nitrogen fertiliser is also subject to Regulations 33 and 34 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020. These regulations are in effect from 3 September 2020.

Rule R83: Discharge of collected animal effluent onto or into land – controlled activity

The discharge of collected **animal effluent**, including **sludge**, onto or into land where a contaminant may enter water, and the associated discharge of odour to air from:

- (a) dairy farms,
- (b) piggeries,
- (c) poultry farms,
- (d) other premises involving the concentration of animals in a confined area

is a controlled activity, provided the following conditions are met:

- (e) the discharge is not located within:
 - (i) 20m of a **surface water body**, the coastal marine area, or **bore** used for water abstraction for potable supply, or
 - (ii) 20m of the boundary of the **property**, unless the agreement of the adjacent landowner is obtained, or
 - (iii) a **community drinking water supply protection area** as shown on Map 26, Map 27a, Map 27b or Map 27c, and

- (f) the **animal effluent** collection, storage and treatment facilities (including, sumps and ponds) are sealed. The permeability of the sealing layer shall not exceed 1×10^{-9} m/s, and
- (g) the capacity of the **animal effluent** storage and treatment facilities (including sumps and ponds) shall be sufficient to provide for deferred irrigation when the **field capacity** of the soil is exceeded, and
- (h) the discharge of odour is not offensive or objectionable beyond the boundary of the **property**.

Matters of control

1. Effluent **discharge** rates and volume, including in relation to the infiltration rate and water storage capacity of the soil
2. Maximum **effluent volume**
3. Nutrient loading rates
4. Design, volume, construction and maintenance of the collection (including **stormwater** collection), storage and discharge system
5. Effluent storage volume to allow for the deferred irrigation during periods of prolonged wet weather
6. Procedures for desludging the system and applying **sludge** to land
7. Odour mitigation methods
8. Contingency plans for prolonged wet weather, mechanical failure or other emergencies
9. Measures to avoid adverse effects on **mana whenua** values or sites of significance
10. Effects on groundwater and surface water quality

Notification

In respect of Rule R83, applications are precluded from public notification (unless special circumstances exist).

Rule R85: Discharge of compost or solid animal waste to land – permitted activity

The discharge of **compost** or **solid animal waste** onto or into land, where a contaminant may enter water, and the associated discharge of odour to air, is a permitted activity provided the following conditions are met:

- (a) the discharge **of compost or solid animal waste** is not located within 5m of a **surface water body**, coastal marine area, or **bore** used for water abstraction for potable supply, and

- (b) the discharge of **solid animal waste** is not located between 5m and 20m of a bore used for a **community drinking water supply**, or within a **community drinking water supply protection area** as shown on Map 26, Map 27a, Map 27b or Map 27c, and
- (c) the discharge shall not enter a **surface water body**, and
- (d) nitrogen loading on the discharge area from the discharge is less than 150kg N/ha/year, and
- (e) **the compost or solid animal waste** shall be spread evenly on the land, and there shall be no subsequent discharge event until **compost or solid animal waste** from a previous discharge event is not visible in the land surface, and
- (f) the discharge of odour is not offensive or objectionable beyond the boundary of the **property**.

Note

The manufacture and storage of **compost** is controlled by Rule R90.

Rule R92: Discharges to land from a new pit latrine, a new farm refuse dump, a new offal pit, or of collected animal effluent or solid animal waste within a community drinking water supply protection area – restricted discretionary activity

The discharge of a contaminant from a new **pit latrine**, a new **farm refuse dump**, or a new **offal pit**, ~~or~~ of collected **animal effluent or solid animal waste**, onto or into land where a contaminant may enter water, that occurs within a **community drinking water supply protection area**, or is a **discharge of solid animal waste** that occurs between 5m and 20m of a bore used for a **community drinking water supply** is a restricted discretionary activity provided the following conditions are met:

- (a) any new pit latrine must meet the conditions of Rule R71, except condition (a)(ii)
- (b) any discharge of contaminants from a new **farm refuse dump** must meet the conditions of Rule R89, except condition (d)(iii)
- (c) any new **offal pit** must meet the conditions of Rule R91, except condition (i)
- (d) a discharge of collected **animal effluent** must meet the conditions of Rule R83, except condition (e)(iii)
- (e) a discharge of **solid animal waste** must meet the conditions of Rule R85, except condition (b)

Matters for discretion

1. Effects on water quality including **community drinking water supply** water quality

