

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
the 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: 2 July 2021

Date of Issue: 2 July 2021

CONSENT ORDER

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 appeal points relating to Topic 26 – Rules R136, R137 and R141 are
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 28 June 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:

- Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa Incorporated Society;
- Royal Forest and Bird Society of New Zealand Inc;
- Wellington Water Ltd;
- Horticulture New Zealand; and
- Wellington Fish and Game Council.

[3] Kāinga Ora-Homes and Communities did not sign the consent memorandum, but in accordance with the Court's direction in its minute dated 28 April 2021, it is deemed to have accepted the consent memorandum and order.

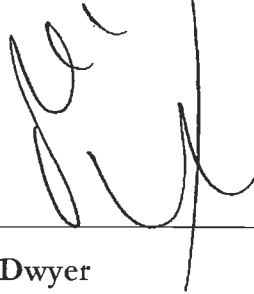
Orders

[4] 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

PNRP MEDIATION VERSION OF PROVISIONS IN TOPIC 26: WATER ALLOCATION: REGION WIDE RULES

Key:

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

Red track - mediation amendments

Rule R136: Take and use of water – permitted activity

The take and use of water from a **surface water body** (other than a **water race** that is permitted by Rule R138) or groundwater is a permitted activity, provided the following conditions are met:

- (a) The total take and use per **property** shall not exceed the following rates and volumes, and

| Property size | Rate | Volume per day |
|-------------------|--------|------------------|
| Greater than 20ha | 2.5L/s | 20m ³ |
| Less than 20ha | 2.5L/s | 10m ³ |

- (b) the take of groundwater does not adversely affect reliability of supply from properly constructed, efficient and fully functioning nearby **bores**, and

- (c) where the take and use is from **a surface water body:**

(i) a fish screen with a **minimum maximum** mesh size of 3mm shall be installed to prevent fish entering the intake ~~fish are prevented from entering the water intake~~, and

(ii) the fish screen shall be constructed of smooth material to prevent damage to any fish coming into contact with the screen; and

(iii) the fish screen shall be placed parallel to river flow and located to minimise the length of river bed affected by its placement; and

- (d) the water is not taken from a **natural wetland**, or from within 50m of a natural wetland, and

- (e) no water shall run to waste, and



- (f) at the written request of the Wellington Regional Council a water meter is installed and daily water use records are kept and provided to the Wellington Regional Council.

Note

~~Section 14(1)(b) of the Resource Management Act 1991 provides for firefighting and an individual's reasonable domestic needs and the reasonable needs of an individual's animals for drinking water. The take and use does not, or is not likely to, have an adverse effect on the environment.~~

Rule R137: Farm dairy washdown and milk-cooling water – permitted activity

The take and use of water from a **surface water body** (other than a **water race** that is permitted by Rule R138) or groundwater for the purpose of farm dairy washdown and milk cooling on a dairy milking platform is a permitted activity, provided the following conditions are met:

- (a) the take shall be for a single **property**, and
- (b) the total take shall be no more than 70L per day per head stock unit based on the maximum herd size on the **property** at any time during the three years prior to the date of public notification of the Proposed Natural Resources Plan (31.07.2015), and
- (c) the take of groundwater does not adversely affect reliability of supply from properly constructed, efficient and fully functioning nearby **bores**, and
- (d) where the take and use is from a **surface water body**:
- (i) a fish screen with a **minimum maximum** mesh size of 3mm shall be installed to prevent fish entering the intake fish are prevented from entering the water intake, and
- (ii) the fish screen shall be constructed of smooth material to prevent damage to any fish coming into contact with the screen; and
- (iii) the fish screen shall be placed parallel to river flow and located to minimise the length of river bed affected by its placement; and
- (e) the water is not taken from a **natural wetland**, or from within 50m of a **natural wetland**, and
- (f) all practicable measures for recycling of uncontaminated washdown milk-cooling water are implemented, and
- (g) at the written request of the Wellington Regional Council a water meter is installed and daily water use records are kept and provided to the Wellington Regional Council.

Note

Water taken for farm dairy washdown and cooling water may be taken in addition to water taken under Rule R136.

In respect of condition (b) the Wellington Regional Council holds a record of the maximum herd size on the **property** using information obtained from the **property** owner in compliance with a resource consent obtained under Rule R83.

Rule R141: Take and use of water – controlled activity

The take and use of water from a **surface water body** or groundwater is a controlled activity, provided the following conditions are met:

- (a) the take and use was in existence on a **property** less than 20ha in size at the date of public notification of the Proposed Natural Resources Plan (31.07.2015), and
- (b) the total take and use per **property**, in combination with permitted activity Rule R136, shall not exceed 20m³ per day at a rate of no more than 2.5L/s, and
- (c) the take of groundwater does not adversely affect reliability of supply from properly constructed, efficient and fully functioning nearby **bores**, and
- (d) where the take and use is from a surface water body:
 - (i) a fish screen with a ~~minimum~~ maximum mesh size of 3mm shall be installed to prevent fish entering the intake ~~fish are prevented from entering the water intake~~, and
 - (ii) the fish screen shall be constructed of smooth material to prevent damage to any fish coming into contact with the screen; and
 - (iii) the fish screen shall be placed parallel to river flow and located to minimise the length of river bed affected by its placement; and
- (e) the water is not taken from a **natural wetland** or within 50m of a **natural wetland**, and
- (f) no water shall run to waste.

Matters of control

1. Supply and contents of water use records

