

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 WELLINGTON WATER LIMITED
(ENV-2019-WLG-000123)

Appellant

AND WELLINGTON REGIONAL
COUNCIL

Respondent

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

Date of Order: 11 June 2021

Date of Issue: 11 June 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 parts of the appeal relating to Part 8 of the Proposed Plan 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 memoranda of the parties received 8 April 2021 and 10 June 2021.

Other relevant matters

[2] The Minister of Conservation and Royal Forest and Bird Protection Society of New Zealand Inc gave notice of an intention to become parties to the appeal under s 274 of the Act, and have signed the consent memoranda setting out the relief sought.

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



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 24

TOPIC 24 WORDING CHANGES

Policy WH.P2: Core allocation in the Wellington Harbour and Hutt Valley Whaitua

The maximum amount of water available for allocation from rivers (and **tributaries**) and groundwater in the Te Awa Kairangi/Hutt River, Wainuiomata River catchment and Orongorongo River catchments, at the time an application is made for resource consent to take and use water, shall not exceed whichever is the greater of:

- (a) the total amount allocated by resource consents, or
- (b) the allocation amounts identified in Tables 8.2-8.3

except for the taking and use of water identified in Policy P117 at flows above the **median flow**.

Where the total amount allocated by resource consents exceeds the allocation amounts in Tables 8.2 and 8.3 that does not imply that an existing consented **community drinking water supply** is an over allocation, which will be a matter considered through the **Whaitua Implementation Programme**.

Rule WH.R2: Take and use of water in the Wellington Harbour and Hutt Valley Whaitua – discretionary activity

The take and use of water that is not provided for in Rules R136, R137, R138, R139, R140, R140A or R141 in the Wellington Harbour and Hutt Valley Whaitua ~~from~~:

- (a) ~~from~~ any river or groundwater not in Table 8.2 and Table 8.3, and
- (b) ~~from~~ any lake other than an outstanding lake identified in Schedule A2 (outstanding lakes), and
- (c) ~~from~~ any river at flows above the **median flow** that does not meet condition (c) of Rule WH.R1, and
- (d) where not provided for in WH.R1, from Te Awa Kairangi/Hutt River (including **tributaries**) below **minimum flows** in Table 8.1 down to 400L/s at the Kaitoke water supply intake for:

- i. maintenance of the community drinking water supply between October and March, in the event that one or more of the storage lakes at Te Marua is not operating due to necessary maintenance work, or
- ii. emergency works

is a discretionary activity.

Rule WH.R4: Take and use of water exceeding minimum flows or core allocation – prohibited activity

The take and use of water from a river (including **tributaries**) or groundwater in the Wellington Harbour and Hutt Valley Whaitua in Tables 8.2 and 8.3 that does not meet conditions (a) or (b) of Rule WH.R1 or WH.R2(d) is a prohibited activity.

Table 8.3: Groundwater allocation amounts for Category B groundwater and Category C groundwater not directly connected to surface water in the Wellington Harbour and Hutt Valley Whaitua

Catchment management units for the Te Awa Kairangi/Hutt River catchment (shown in Figures 8.1 and 8.2)	Allocation amount (m ³ /year)
Upper Hutt category B groundwater (not directly connected) and Upper Hutt category C groundwater	770,000
Lower Hutt category B groundwater (not directly connected)	36,500,000 [Waiwhetu Aquifer and Taita Alluvium] ¹

Note:

Groundwater and surface water connectivity is managed by Policy P108. Allocation of groundwater amounts specified in Table 8.3 may be constrained by corresponding surface water allocation amounts in connected catchment management units. For Category B groundwater ~~Where category B groundwater is referred to in Table 8.3, the calculated stream depleting~~ depletion effect (described in Table 4.1) is included in the surface water allocation in Table 8.2 for the relevant catchment management unit, while the remainder is included in the groundwater allocation in Table 8.3 for the relevant catchment management unit.

Method M19: Water management

The Wellington Regional Council will work with city and district councils, water users and industry groups to encourage the efficient use of water, including by:

¹ This allocation volume includes depletion equating to 600 L/sec from the Te Awa Kairangi/Hutt River

- (a) establishing, operating, and making publicly available a freshwater accounting system for the region, and
- (b) promoting and providing advice on measuring and reporting of water permits, including the use of real-time, telemetered water measuring systems compatible with Wellington Regional Council's water use data management system, and
- (c) promoting and providing advice on suitable models that consider land use, crop use and other site physical factors that will meet the efficient use criteria in Schedule Q (efficient use) of the Plan, and
- (d) ~~promoting~~ exploring alternatives to the use of water races, and
- (e) exploring alternative management options for water races, and
- (f) assisting landowners, communities and organisations to conserve water and use it efficiently, and
- (g) promoting water storage outside river beds.

Note:

The community drinking water supplier for the Wellington Harbour and Hutt Valley Whaitua may seek a plan change to maintain security of the **community drinking water supply** in the future, in the event that the community drinking water supplier considers it is necessary.