

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 MINISTER OF CONSERVATION
(ENV-2019-WLG-000106)

TRANSPower NEW ZEALAND
LIMITED

(ENV-2019-WLG-000108)

MERIDIAN ENERGY LIMITED

(ENV-2019-WLG-000115)

PORIRUA CITY COUNCIL

(ENV-2019-WLG-000116)

WELLINGTON INTERNATIONAL
AIRPORT LIMITED

(ENV-2019-WLG-000117)

WELLINGTON FISH AND GAME
COUNCIL

(ENV-2019-WLG-000122)

WELLINGTON WATER LIMITED

(ENV-2019-WLG-000123)

RANGITĀNE TŪ MAI RĀ TRUST
and RANGITĀNE O WAIRARAPA
INC SOCIETY

(ENV-2019-WLG-000125)

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: 29 September 2021

Date of Issue: 29 September 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 Topics 7 & 8: Natural form and function: outstanding natural character and outstanding natural features and landscapes, and natural character and processes, 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 29 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:

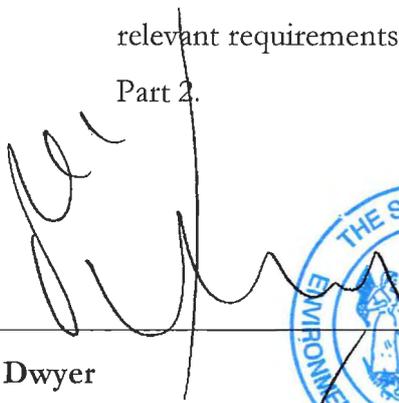
- Federated Farmers of New Zealand Inc;
- Queen Elizabeth II National Trust;
- Z Energy Limited, BP Oil New Zealand Limited and Mobil Oil New Zealand Limited;
- Kāpiti Coast District Council;
- Horticulture New Zealand;
- Beef+Lamb New Zealand;
- Masterton District Council;
- South Wairarapa District Council; and
- Powerco Ltd.

[3] Wellington Fish and Game Council 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. CentrePort Ltd and CentrePort Properties Ltd confirmed they approved the consent order. The Regional Council contacted First Gas Ltd, Royal Forest and Bird Protection Society of New Zealand Inc, Fire and Emergency New Zealand and Kahungunu ki Wairarapa seeking confirmation that they have no interest in the provisions, or agree with the consent order. The Regional Council advised Fire and Emergency New Zealand confirmed via email on 17 August 2021 that it has no interest in these provisions. No response was received from First Gas Ltd or Kahungunu ki Wairarapa, so it is assumed that they either have no interest in these provisions, or agree with the provisions. Royal Forest and Bird Protection Society of

New Zealand Inc responded that they had an interest in the topic and following discussions have provided a signature to the consent memorandum on this topic.

[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



APPENDIX A

PNRP MEDIATION VERSION OF NATURAL CHARACTER, FEATURES AND LANDSCAPES – TOPICS 7 & 8 MEDIATION WORDING

Key:

- Black - Notified version of the Plan
- Green - Decisions version of the Plan
- Red – Meditation version of the Plan

Objective O17: Natural character is preserved and protected



The natural character of the coastal marine area, natural wetlands, and rivers, lakes and their margins and natural wetlands is preserved and protected from inappropriate use and development.

~~Objective O19 Interference on natural processes is minimised~~



~~The interference from use and development on natural processes is minimised.~~

Objective O32: Outstanding natural features and landscapes



Outstanding natural features and landscapes and their values are protected from inappropriate use and development.

Policy P24: Assessing outstanding natural character



Areas of outstanding natural character in the coastal marine area, lakes and rivers and their margins and natural wetlands, will be preserved by:

~~(a) identifying areas of outstanding natural and high natural character within the region, and~~

~~(ab) avoiding adverse effects of activities on natural character in areas of the coastal marine area with outstanding natural character, and~~

~~(c) avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects of activities on all other areas of natural character.~~

- ~~(b) — requiring use and development to be of a type, scale and intensity that will maintain the natural character values of the area, and~~
- ~~(c) — requiring built elements to be subservient to the dominance of the characteristics and qualities that make up the natural character values of the area, and~~
- ~~(d) — maintaining the high levels of naturalness of these areas, and~~
- ~~(e) — avoiding the adverse effects of activities, including those located outside the area, that individually or cumulatively detract from the natural character values of the outstanding natural character area.~~

Note

Method M24(b) applies to clause (a).

Policy 24: Identification of outstanding/high natural character and outstanding natural features and landscapes

- (a) Identify in the Plan areas of outstanding and high natural character in the coastal environment (including the coastal marine area) and in wetlands, rivers, lakes and their margins.
- (b) Identify in the Plan outstanding natural features and landscapes within the coastal environment (including the coastal marine area) and in wetlands, rivers, lakes and their margins.
- (c) Until areas of high and outstanding natural character and outstanding natural features and landscapes in the coastal environment are mapped in this plan, an assessment may be required as to whether an activity is within:
 - i. An area of high or outstanding natural character
 - ii. An outstanding natural feature or landscape

The need for such an assessment will depend on the level or scale of potential effects and the sensitivity of the receiving environment and shall take into account Policies 3 and 25 of the Regional Policy Statement. Any assessment shall be commensurate with the scale and significance of the effects that of the use or development may have on the environment.

Note: Refer to Method 24A.

Policy P25: Preserving and protecting natural character from inappropriate use and development

To preserve natural character and protect it from inappropriate use and development by:

- (a) avoiding adverse effects of activities on the natural character of areas within the coastal environment that have outstanding natural character, and
- (b) avoiding significant adverse effects and avoid remedy and mitigate other adverse effects of activities on the natural character of areas within the coastal environment that do not have outstanding natural character, and
- (c) outside the coastal environment, avoiding and, where avoidance is not practicable, remedying or mitigating adverse effects of activities on the natural character of wetlands, rivers, lakes and their margins that have outstanding natural character, provided that the outstanding natural character of the area taken as a whole is retained, and
- (d) outside the coastal environment, avoiding and, where avoidance is not practicable, remedying or mitigating significant adverse effects of activities on the natural character of wetlands, rivers, lakes and their margins that have high natural character, provided that the high natural character of the area taken as a whole is retained, and
- (e) outside the coastal environment, avoiding, remedying or mitigating other adverse effects of activities on the natural character of wetlands, rivers, lakes and their margins that are not addressed under (c) or (d) of Policy P25.

**Policy P48: Protection of ~~outstanding~~ natural features and
landscapes**



The natural features and landscapes (including seascapes) of the coastal marine area, rivers, lakes and their margins and **natural wetlands** shall be protected from inappropriate use and development by:

- ~~(a) identifying outstanding natural features and landscapes within the region, and~~
- ~~(ab) avoiding adverse effects of activities on outstanding natural features and landscapes, and~~
- ~~(bc) avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects of activities on all other natural features and landscapes.~~

Note

Method M24(a) applies to clause (a).

Policy P48: Protecting natural features and landscapes from inappropriate use and development

To protect natural features and landscapes (including seascapes) of the coastal environment, rivers, lakes and their margins, and natural wetlands and their values, from inappropriate use and development by:

- (a) avoiding adverse effects of activities on the natural attributes and characteristics of outstanding natural features and landscapes in the coastal environment, and
- (b) avoiding significant adverse effects of activities on the natural attributes and characteristics of natural features and landscapes in the coastal environment and avoid remedy and mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment, and
- (c) outside the coastal environment, avoiding and, where avoidance is not practicable, remedying or mitigating adverse effects of activities on the natural attributes and characteristics of outstanding natural features and landscapes, provided that the values of the natural features or landscapes that contribute to its outstanding status are retained.

6.12 Natural features and landscapes

Method M24: Outstanding natural features and landscapes and outstanding/high natural character



Wellington Regional Council will work with city and district councils and the community to:

- (a) identify outstanding natural features and landscapes within the region, and
- (b) identify areas with outstanding/high natural character in the coastal environment and the beds of lakes and rivers, and wetlands, and
- (c) produce a regional list of these features, landscapes and areas by 2017 for inclusion in the Plan and notify a by-plan change or variation by 2023 for the coastal environment and by 2026 for natural character in the beds of lakes and rivers, and wetlands, and.
- (d) review the Plan's response to managing adverse effects on natural character, natural features and natural landscape classification outside the Coastal Environment once the Wellington Regional Council assessments under M24(a) and (b) have been completed.

Method M24A: Interim identification of outstanding natural features and landscapes and outstanding/high natural character



Until the location of areas of high and outstanding natural character and outstanding natural features and landscapes in the coastal environment and the beds of rivers, lakes and wetlands are included in the Plan, Wellington Regional Council will assist resource consent applicants in determining whether an assessment to identify the areas and features described in Policy 24 is needed.

<p>Natural processes</p>	<p>Dynamic natural, physical and ecological relationships and events that are characteristically natural in their occurrence and effects, that act to shape the natural environment, its landforms and features, such as beaches, dunes, wetlands, and rivers; and including processes of: wave formation, breaking and dissipation; swash run-up; nearshore currents; sediment transport, erosion and deposition, <u>river hydrology, (including flooding), river meandering, river form (including pool, run, riffle and riparian margins), aggradation and mass movement.</u></p>
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