

BEFORE THE ENVIRONMENT COURT  
I MUA I TE KOOTI TAIAO O AOTEAROA

IN THE MATTER of the Resource Management Act 1991

AND of appeals under Clause 14 of Schedule 1  
of the Act in relation to the Proposed  
Regional Plan for Northland

BETWEEN

PUBLIC AND POPULATION HEALTH  
UNIT OF THE NORTHLAND DISTRICT  
HEALTH BOARD

(ENV-2019-AKL-000126)

ROYAL FOREST AND BIRD  
PROTECTION SOCIETY OF NEW  
ZEALAND INCORPORATED

(ENV-2019-AKL-000127)

Appellants

AND

NORTHLAND REGIONAL COUNCIL

Respondent

Environment Judge J A Smith sitting alone pursuant to s 279 of the Act  
In Chambers at Auckland

---

**CONSENT ORDER**

---

[A] Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:



- (1) the appeals are allowed in part subject to the amendments set out in **Annexure A** to this order.
- (2) This order resolves the appeals as they relate to Rule C.5.1.8.
- (3) The outstanding appeal points relate to Rules C.5.1.1, C.5.1.10, C.5.1.13 and C.5.1.14. The Council will continue to engage with the appellants, and associated s274 parties, to resolve the appeals on the other provisions.

[B] Under s 285 of the Resource Management Act 1991, there is no order as to costs.

## REASONS

### Introduction

- [1] These appeals are against Northland Regional Council's decision on the Proposed Regional Plan for Northland. This consent order resolves these appeals as they relate to Rule C.5.1.8 ("Replacement water permits for registered drinking water supplies – controlled activity").
- [2] The Royal Forest and Bird Protection Society of New Zealand Incorporated's appeal sought the inclusion of "*effects on indigenous biodiversity*" as a new matter of control in Rule C.5.1.8.
- [3] The parties have agreed to make this amendment and consider that it clarifies that a broader assessment is required and that conditions may be required to address indigenous biodiversity (in addition to ecosystem health in general).
- [4] The parties are satisfied that the amendment helps to achieve the objectives and policies of the Proposed Plan (including Objective F.1.3, Policy D.2.16 3 and other related provisions). It also gives effect to the National Policy Statement for Freshwater Management 2017 (principally Objective B1) and the Regional Policy Statement for Northland (including Objective 3.4 and Policy 4.4.1).
- [5] Northland District Health Board's appeal sought the inclusion of a new condition in Rule C.5.1.8 that states: "*...the application includes contingency plans for the supply of water during drought periods when the required volume of water cannot be taken from the consented source*".

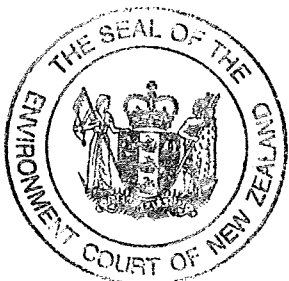


- [6] The parties have agreed that the new condition is not required because C.5.1.8 has a matter of control on measures to ensure the reasonable and efficient use of water, and Policy D.4.14 of the Proposed Plan provides guidance about the reasonable and efficient use of water for group or community supplies. Policy D.4.14 directs that resource consent applications are accompanied by water management plans, which address (among other things) how water will be managed in summer flow or drought conditions.
- [7] As a result, the parties agreed that it would be useful to amend Rule C.5.1.8 by providing a reference to Policy D.4.14.
- [8] In making this order the Court has read and considered the memorandum of the parties dated 13 March 2020 in support of this consent order.
- [9] Patuharakeke Te Iwi Trust Board gave notice of an intention to become a party to the Royal Forest and Bird Protection Society of New Zealand's appeal under s 274 of the Act, and has signed the memorandum of the parties seeking this order.
- [10] The Court is making this order under s 279(1)(b) 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 that have an interest in the matters to be resolved by this order have executed the memorandum requesting this order;
  - (b) All parties are satisfied that all matters proposed for the Court's endorsement are within the scope of submissions and appeals, fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Resource Management Act 1991, including in particular Part 2.

### Order

[11] Therefore, the Court orders, by consent, that the Proposed Regional Plan for Northland is amended as set out in **Annexure A** to this Order.

[12] This order resolves the appeals as they relate to Rule C.5.1.8.



[13] The outstanding appeal points relate to Rules C.5.1.1, C.5.1.10, C.5.1.13 and C.5.1.14. The Council will continue to engage with the appellants, and associated s274 parties, to resolve the appeals on the other provisions.

[14] There is no order as to costs.

DATED at Auckland this 20<sup>th</sup> day of May, 2020



---

J A Smith  
Environment Judge



## Annexure A

### C.5.1.8 Replacement water permits for registered drinking water supplies – controlled activity

An application for a resource consent to take and use water from a river, lake or aquifer that will replace an existing resource consent for a **registered drinking water supply** for the health needs of people is a controlled activity, provided:

- 1) the existing water take and use is **authorised** at the time of the resource consent application, and
- 2) there is no increase in the rate or volume of the take.

**Matters of control:**

- 1) The timing, rate and volume of the take.
- 2) Measures to ensure the reasonable and efficient use of water that address the matters in D.4.14.
- 3) Effects on:
  - a) aquatic ecosystems health and indigenous biodiversity, and
  - b) **mahinga kai** and access to **mahinga kai**, and
  - c) indigenous biodiversity in the bed of a water body where it affects tangata whenua ability to carry out cultural and traditional activities, and
  - d) **wāhi tapu**, and
  - e) the identified values of mapped Sites and Areas of Significance to tangata whenua (refer **Maps | Ngā mahere matawhenua**).

**For the avoidance of doubt this rule covers the following RMA activities:**

- Taking and use of fresh water for a **registered drinking water supply** from a river, lake or aquifer (s14(2)).

