

**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 THE NEW ZEALAND REFINING COMPANY LIMITED
(ENV-2019-AKL-000121)

MINISTER OF CONSERVATION
(ENV-2019-AKL-000122)

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 under 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) This order resolves the appeals as they relate to Objective F.1.2 and the map of coastal water quality management units subject to the amendments set out in **Annexure A** to this order;
- (2) The outstanding appeal points in this topic relate to Policy D.4.1 and Policies H.3.1-H.3.4, which relate to the broader policy framework for water quality management. Those appeal points have been reported on for case management to hearing.

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

REASONS

Introduction

- [1] These appeals are against the Northland Regional Council's decision on the Proposed Regional Plan for Northland, in particular the objectives and policies relating to water quality management, including the associated map of coastal water quality management units. These appeal points have been assigned to Topic 5.
- [2] This consent order resolves the appeals as they relate to Objective F.1.2 and the map of coastal water quality management units.

Objective F.1.2

- [3] Objective F.1.2 details the outcomes sought for fresh and coastal water quality in Northland. Royal Forest & Bird Protection Society of New Zealand Inc sought that the Objective be amended to provide greater clarity about how indigenous biodiversity is maintained and protected. It sought explicit provision for the maintenance and protection of indigenous biodiversity and the deletion the word "natural" in front of the reference to wetlands. The Minister of Conservation sought the deletion of the reference to "overall" water quality in the first clause of the Objective.
- [4] The parties have agreed to resolve the relief sought by Royal Forest & Bird Protection Society of New Zealand Inc agreed by amending clause 3 of the Objective as follows:



F.1.2 Water quality

Manage the use of land and discharges of contaminants to land and water so that:

...

3) the life-supporting capacity ecosystem processes and indigenous species, including their associated ecosystems, of fresh and coastal water are safeguarded, and the health of freshwater ecosystems is maintained, and

...

- [5] The parties consider that this amendment provides greater clarity about the outcomes anticipated for freshwater ecosystem health, which will support the maintenance of indigenous biodiversity in freshwater bodies and wetlands. The amendment is also consistent with the National Policy Statement for Freshwater Management 2017 (in particular Objective A1) and the Regional Policy Statement for Northland (in particular Objectives 3.2 and 3.4 and related policies).
- [6] In respect of the Minister of Conservation’s appeal point, the parties have agreed to delete the term “overall” from clause 1 of the Objective. This amendment better reflects Objective A2 of the National Policy Statement for Freshwater Management 2017, which refers to overall freshwater quality within a freshwater management unit (as opposed to overall freshwater within a region, as was provided for in the 2014 National Policy Statement). The amendment also avoids the suggestion that the Proposed Plan supports an “overs and unders” approach to water quality management.

The New Zealand Refining Company Limited - mapping

- [7] The New Zealand Refining Company Limited appealed against the mapped boundary of the mixing zone for the stormwater and industrial wastewater discharges from the Marsden Point Refinery. It sought an amendment to correct an error in the Decisions Version of the Proposed Plan and accurately reflects the true boundary of the “Mixing Zone for major discharges”. The parties have agreed to this correction.
- [8] In making this order the Court has read and considered the memorandum of the parties dated 13 March 2020 seeking this consent order.
- [9] The following parties have given notice of their intention to become parties under s 274 of the Act and have signed the memorandum of the parties.

- (a) Federated Farmers of New Zealand;



- (b) Golden Bay Cement;
- (c) Winstone Aggregates;
- (d) Minister of Conservation
- (e) Horticulture New Zealand;
- (f) Northland Fish and Game Council;
- (g) Royal Forest and Bird Protection Society of New Zealand Incorporated;
- (h) Patuharakeke Te Iwi Trust Board; and
- (i) The New Zealand Refining Company Limited.

[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 appeal points 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.

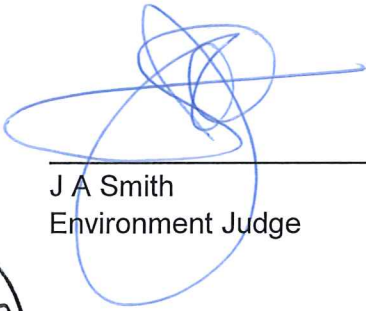
[12] This order resolves the appeals as they relate to Objective F.1.2 and the map of coastal water quality management units.

[13] The outstanding appeal points in this topic relate to Policy D.4.1 and Policies H.3.1-H.3.4, which relate to the broader policy framework for water quality management. Those appeal points have been reported on for case management to hearing.



[14] There is no order as to costs.

DATED at Auckland this 20th day of May 2020



J A Smith
Environment Judge



Annexure A

F.1.2 Water quality

Manage the use of land and discharges of contaminants to land and water so that:

- 1) existing ~~overall~~ water quality is at least maintained, and improved where it has been degraded below the river, or lake or coastal water quality standards set out in [H.3 Water quality standards and guidelines](#), and
- 2) the sedimentation of continually or [intermittently flowing rivers](#), lakes and coastal water is minimised, and
- 3) the life-supporting capacity ecosystem processes and indigenous species, including their associated ecosystems, of fresh and coastal water are safeguarded, and the health of freshwater ecosystems is maintained, and
- 4) the health of people and communities, as affected by contact with fresh and coastal water, is safeguarded, and
- 5) the health and safety of people and communities, as affected by discharges of sewage from [vessels](#), is safeguarded, and
- 6) the quality of potable drinking water sources, including aquifers used for potable supplies, is protected, and
- 7) the significant values of outstanding freshwater bodies and [natural wetlands](#) are protected, and
- 8) kai is safe to harvest and eat, and recreational, amenity and other social and cultural values are provided for.

Note:

Freshwater quality objectives required by Policy A1 of the National Policy Statement for Freshwater Management 2017 will be included in this Plan at a later date as per the Council's programme for implementing the National Policy Statement.



Replace the mapped are of the Mixing Zone for major discharges with the below:

