

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 TRANSPOWER NEW ZEALAND  
(ENV-2019-AKL-000107)

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

AND PUBLIC AND POPULATION HEALTH UNIT OF THE  
NORTHLAND DISTRICT HEALTH BOARD  
(ENV-2019-AKL-000126)

AND NORTHLAND REGIONAL COUNCIL

Respondent

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

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CONSENT ORDER

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



- (1) the appeals are resolved in part as they relate to the addition of new rules for the re-consenting of existing discharges and consenting of new discharges from the Marsden Point Refinery Site.

[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. This consent order resolves the appeals as they relate to the following plan provisions which have been assigned to Topic 7:
  - (a) the definition of industrial or trade wastewater;
  - (b) the addition of new rules for discharges from the Marsden Point Refinery Site;
  - (c) Rule C.6.6.1; and
  - (d) Rule C.6.6.3.
- [2] In its appeal the New Zealand Refining Company sought the inclusion of a new controlled activity rule for the re-consenting of an existing discharge of a contaminant (except for a contaminant entrained in stormwater) from the Marsden Point Refinery Site into water or onto or into land, and a new restricted discretionary activity rule for a new discharge (except for a contaminant entrained in stormwater) from the Marsden Point Refinery Site into water or onto or into land.
- [3] The Marsden Point Refinery is identified as regionally significant infrastructure in the Regional Policy Statement for Northland and has specific discharge requirements that are not shared by other industrial or trade premises throughout Northland. Furthermore, the Marsden Point Refinery has an existing discharge consent and a long history of appropriately managing discharges from the site.



[4] For these reasons, the parties have agreed that it is appropriate to provide for a two-tiered regime for industrial and trade discharges from the Marsden Point Refinery as follows:

- (a) a controlled activity rule for re-consenting existing discharges; and
- (b) a restricted discretionary rule for new discharges.

[5] A suite of matters of control and matters of discretion have been agreed, which ensure that the potential adverse effects of discharges are considered, and appropriate conditions of consent can be imposed. These matters include:

- (a) The timing, rate, volume and composition of the discharge;
- (b) The location and velocity of the discharge
- (c) The effects on sites and areas of significance to tangata whenua mapped in the Regional Plan;
- (d) Consideration of the treatment of the discharge prior to disposal; and
- (e) Effects on indigenous biodiversity and ecosystems.

[6] Transpower has resolved not to pursue its appeal against the definition of "industrial or trade wastewater. The Northland District Health Board has resolved not to pursue its appeal against rules C.6.6.1 and C.6.6.3 respectively.

[7] In making this order the Court has read and considered the memorandum of the parties dated 13 March 2020, which proposes to resolve the appeals that relate to provisions about industrial and trade wastewater discharges.

[8] The following people gave notice of their intention to become parties under s 274 of the Act and have signed the memorandum of the parties seeking this order:

- (a) The Royal Forest and Bird Protection Society of New Zealand;
- (b) Northport Limited; and
- (c) Patuharakeke Te Iwi Trust Board.



- [9] 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 of the parties 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

- [10] Therefore, the Court orders, by consent, that the Proposed Regional Plan for Northland is amended as set out in **Annexure A** to this Order.
- [11] This order resolves the appeals as they relate to the addition of new rules for the re-consenting of existing discharges and consenting of new discharges from the Marsden Point Refinery Site.
- [12] 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.6.6.3A Re-consenting of existing discharges from the Marsden Point Refinery Site – controlled activity

Except as provided for by Rules C.6.6.1, C.6.6.2, or C.6.6.3, the re-consenting of a discharge of a contaminant (except for a contaminant entrained in stormwater) into water, or onto or into land, from the Marsden Point Refinery Site is a controlled activity, provided:

- 1) the discharge is authorised by an existing resource consent at the time of the re-consent application, and
- 2) there is no increase in the timing, rate and volume of the discharge or change to the composition of the discharge as authorised by the current resource consent.

#### **Matters of Control:**

- 1) the timing, rate, volume and composition of the discharge, and
- 2) the location and velocity of the discharge, and
- 3) the effects on sites and areas of significance to tangata whenua mapped in the Regional Plan (refer [I Maps | Ngā mahere matawhenua](#)),
- 4) consideration of the treatment of the discharge prior to disposal, and
- 5) effects on indigenous biodiversity and ecosystems

#### **Notification:**

Resource consent applications under this rule are precluded from public notification (but are not precluded from limited notification).

### C.6.6.3B New discharges from the Marsden Point Refinery Site – restricted discretionary activity

A new discharge of a contaminant (except for a contaminant entrained in stormwater) into water, or onto or into land, from the Marsden Point Refinery Site is a restricted discretionary, provided:

- 1) the discharge complies with the coastal water quality standards in Policy H.3.3, and
- 2) the discharge does not cause any of the following effects in receiving water after reasonable mixing:
  - a) the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials, or
  - b) any conspicuous change in the colour or visual clarity, or
  - c) any emission of objectionable odour, or
  - d) any significant adverse effect on aquatic life, and
- 3) the discharge does not scour or erode the bed of any water body or the coastal marine area.

#### **Matters of discretion:**

- 1) the timing, rate, volume and composition of the discharge, and
- 2) the location and velocity of the discharge, and





- 3) the effects on sites and areas of significance to tangata whenua mapped in the Regional Plan (refer [I Maps | Ngā mahere matawhenua](#)), and
- 4) consideration of the treatment of the discharge prior to disposal, and
- 5) effects on indigenous biodiversity and ecosystems.

**Notification:**

Resource consent applications under this rule are precluded from public notification (but are not precluded from limited notification).

