

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

Decision No. [2019] NZEnvC 183

IN THE MATTER of the Resource Management Act
1991

AND of an appeal under Clause 14 of the
First Schedule to the Act

BETWEEN MAYPOLE ENVIRONMENTAL
LIMITED
(ENV-2018-WLG-00008)
Appellant

AND KAPITI COAST DISTRICT
COUNCIL
Respondent

Court: Environment Judge B P Dwyer
Environment Commissioner D J Bunting
Environment Commissioner I M Buchanan

Hearing: in Wellington on 30 October 2019

Date of Decision: 13 November 2019

Date of Issue: 13 November 2019

DIRECTIONS ON SECTION 293 APPLICATION

REASONS

Introduction

- [1] The Court, having:
- (a) received a request for it to exercise its discretion under s 293 of the Resource Management Act 1991 in relation to amendments



to the proposed Kapiti Coast District Plan that have been agreed between the parties to this appeal;

- (b) heard from the parties to the appeal on 30 October 2019;
- (c) considered s 293, the joint legal submissions of the appellant and respondent and affidavit of Mr Hansen filed in support of the request;

makes the following directions.

Directions

[2] The Court considers that the following persons are potentially affected by the amendments agreed between the parties for the reasons set out below¹:

Person/address	Reasons
Greater Wellington Regional Council	GWRC may be potentially affected due to the wetland and their involvement in earlier plan changes, consents and other appeals on the PDP.
Department of Conservation	Section 274 party to the Appeal.
Mr and Mrs Hall (owner-occupiers at 99 Te Moana Road)	Unknown effects of commercial or other non-residential development adjoining the property boundary proposed (within Lot 504 DP 513188). Activity status is proposed to move from Discretionary to Controlled as a result of the amendments. Controlled activity status means effects on the adjoining landowner from future commercial development will not generally be considered. The Council must grant controlled activity consents, and notification on adjoining landowners is precluded by RMA s 95B(6)(b)(i).



¹ Table provided by Council.

Person/address	Reasons
Waikanae Golf Club	<p>Golf club land adjoins undeveloped (and not yet subdivided) Waimeha Stage 2 and beyond.</p> <p>Considering the golf-course design issues which needed to be resolved as part of the Waimeha Stage 1 consents, it is reasonable to anticipate potential adverse effects on the golf club land could arise from future subdivision and development of this scale.</p> <p>Future subdivision is proposed to be moved from Discretionary to a Controlled activity. The Council must grant controlled activity consents, and notification on adjoining landowners is precluded by RMA s 95B(6)(b)(i).</p>
First Gas Limited	<p>First Gas is an affected party due to its infrastructure through the site, and the proposed change in status from full Discretionary to Controlled for subdivision within the Ngarara Zone provisions.</p> <p>The Council must grant controlled activity consents, and notification on adjoining landowners is precluded by RMA s 95B(6)(b)(i).</p>
TeAtiawa ki Whakarongotai (TAKW)	<p>TAKW has cultural interests in significant wetlands and any development that might affect them.</p> <p>Potentially affected by the proposed changes to the wording relating to wetland buffers and the change to require all buildings to be located a minimum width of 50m from any wetland or site identified in Schedule 3.1 (ecological sites) as a permitted activity standard (Rule SC.1.2). Permitted activity status as opposed to the current restricted discretionary activity status (Rule SC.3.1) would exclude lwi from any future consideration of this issue.</p>

[3] Within 10 working days of the issue of the Court's directions, the Council is to prepare documents showing the proposed amendments to the provisions and provide those documents to the persons identified above, accompanied by an information letter that:

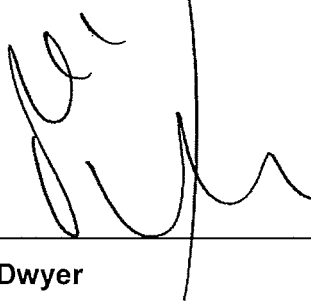
- (a) explains that the amended provisions have been agreed by the parties;
- (b) advises each person as to the reason why the Court considered them to be potentially affected by the proposed provisions, as reflected in the table above;




- (c) records where other relevant documents (such as the original PC80 provisions) are available or may be requested; and
- (d) invites any written comments on the proposed provisions to be provided to the Council within 20 working days.

[4] Within 5 working days after the close of that 20 working day period, the Council is to submit the amended provisions to the Court for confirmation, along with any comments received from the persons identified above, a summary of those comments, and a summary of any additional amendments made to the provisions as a consequence of any comments received.

[5] The Court will then make directions as to next steps, including whether the Court wishes to hear from any person.



B P Dwyer
Environment Judge



The seal of the Environment Court of New Zealand is circular. It features the text 'THE SEAL OF THE ENVIRONMENT COURT OF NEW ZEALAND' around the perimeter. In the center is the coat of arms of New Zealand, which includes a shield with a cross, a crown on top, and two figures holding a shield. Below the shield is a scroll with the motto 'EUREKA'.