

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 cl 14 of the First Schedule  
to the Act  
BETWEEN FIRE AND EMERGENCY NEW ZEALAND  
(ENV-2017-WLG-000092)  
MINISTER OF DEFENCE  
(ENV-2017-WLG-000094)  
Appellants  
AND GISBORNE DISTRICT COUNCIL  
Respondent

Environment Judge B P Dwyer sitting alone pursuant to s 279 of the Act

In Chambers at Wellington

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CONSENT ORDER

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- [A] Under s 279(1)(b) of the Act, the Environment Court, by consent, orders that:
- (1) the following provisions of, and tables in, the Freshwater Plan imposed in the decision the subject of the Appeals be amended in accordance with the provisions annexed to this order at **Appendix 1**:
    - a. Definition of "*Firefighting training*"
    - b. Rule 4.1.6 [**to become Rule 4.1.6A**]
    - c. Rule 5.1.7A [**New Rule**].
  - (2) The appeals are otherwise dismissed.
- [B] Under s 285 of the Act, there is no order as to costs.

REASONS

FIRE AND EMERGENCY NEW ZEALAND v GISBORNE DISTRICT COUNCIL



**Introduction**

[1] The Court has read the notices of appeal and the memorandum of the parties received 29 June 2018.

**Other relevant matters**

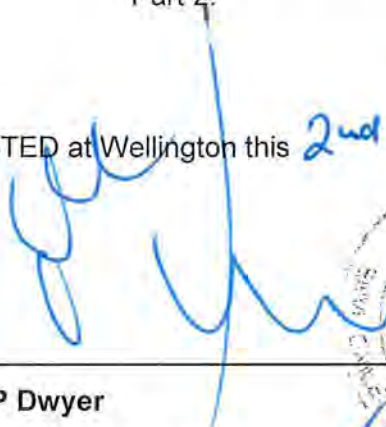
[2] The Director-General of Conservation, Federated Farmers of New Zealand Incorporated and Mr Murray Palmer gave notice of intention to become a party to the appeals under s 274, and have signed the consent memorandum setting out the relief sought.

**Orders**

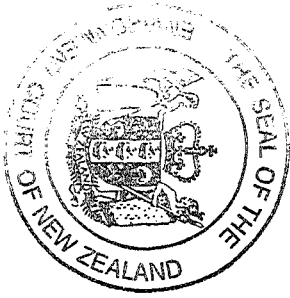
[3] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (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.

DATED at Wellington this 2<sup>nd</sup> day of November 2018

  
\_\_\_\_\_  
B P Dwyer  
Environment Judge





## Appendix 1

### Amendments to the Freshwater Plan

Amendments are shown in bold text, with additions underlined and deletions in ~~strikethrough~~

#### Amend definition of "Firefighting training"

Firefighting training	The activities that <b>Fire and Emergency New Zealand (FENZ)</b> <del>the New Zealand Fire Service, Rural Fire Authorities</del> and others <del>fire brigades</del> undertake to train their personnel for emergency preparedness. Such activities include pump training in surface waterbodies.
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#### Amend Rule 4.1.6 [to become Rule 4.1.6A]

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
Rule 4.1.6A	<p>The take and use of surface water for <del>firefighting training and</del> defence training purposes.</p> <p><u><i>Advisory note: Takes and use of water for firefighting training are generally permitted in accordance with section 14(3)(e) of the RMA.</i></u></p>	<p><b>Controlled Activity</b></p> <p><u>Permitted Activity</u></p>	<p><del>a. The location of the take and use of the water;</del></p> <p><del>b. The rate, volume and timing of the take;</del></p> <p><del>c. In-stream flow requirements;</del></p> <p><del>d. The effects the take or use has on any other authorised takes and uses; and</del></p> <p><del>e. The prevention of fish entering any intake.</del></p> <p><u>a. In respect of takes from rivers and streams, the take shall not occur when the river or stream flow is at less than 90% of MALF;</u></p>



- b. All equipment used in the waterbody shall be cleaned prior to the activity to prevent the spread of freshwater pests;
- c. The resource user shall notify Council of locations and quantity to be taken three working days before the activity.

Insert new Rule 5.1.7A [New Rule]

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
<u>Rule 5.1.7A</u>	<u>The discharge of water for firefighting training purposes, except discharges into Outstanding Waterbodies identified in Schedule 4 and Regionally Significant Wetlands identified in Schedule 3.</u>	<u>Permitted Activity</u>	<ul style="list-style-type: none"> <li><u>a. The discharge shall not contain hazardous substances;</u></li> <li><u>b. The Consent Authority is notified at least 48 hours prior to any such discharge;</u></li> <li><u>c. The discharge shall not cause any erosion at, upstream of, or downstream of, the discharge point;</u></li> <li><u>d. The discharge does not alter the natural course of the river or stream;</u></li> <li><u>e. The discharge shall not give rise to any flooding of land or assets upstream or downstream of the discharge point under any conditions.</u></li> </ul>