

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under clause 14 of the First
Schedule to the Act

BETWEEN HORTICULTURE NEW ZEALAND
(ENV-2013-WLG-000089)

Appellant

AND HOROWHENUA DISTRICT COUNCIL
Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge BP Dwyer sitting alone pursuant to section 279 of the Act.

IN CHAMBERS

CONSENT ORDER

Introduction

[1] The Court has read and considered the appeal and the parties' draft consent order received 2 July 2014.

[2] Federated Farmers of New Zealand, Higgins Group Holdings Ltd and Transpower New Zealand Ltd gave notice of an intention to become parties under s274 to the aspects of the appeal resolved by this consent order, and have signed the memorandum setting out the relief sought.

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

- (a) All parties to the proceedings have executed the memorandum requesting this order; and
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Act, including in particular Part 2.

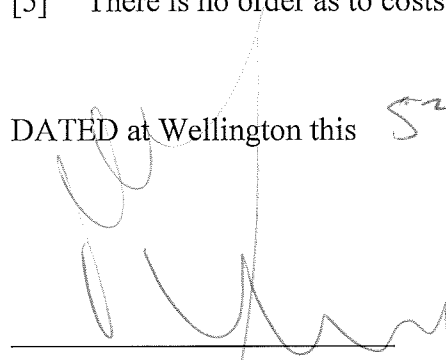


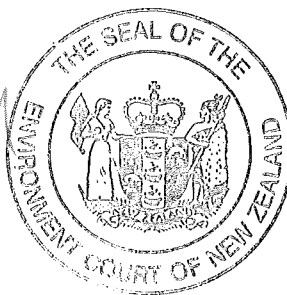
Order

[4] The Court orders, by consent, that the appeal is allowed to the extent that the Proposed Horowhenua District Plan be amended as set out in Appendix A to this order.

[5] There is no order as to costs.

DATED at Wellington this 5th day of August 2014


B P Dwyer
Environment Judge



Appendix A

(additions shown in **bold** and agreed deletions shown in ~~striketrough~~):

1. Amend the definition of "Earthworks" in Chapter 26 as follows:

"Earthworks means any alteration to the existing natural ground level including re-shaping, re-contouring, excavation, backfilling, compaction, stripping or vegetation and top soil and depositing of clean fill. **In particular, Earthworks does not include:**

- a. Aggregate Extraction;-
- b. **activities such as cultivation and harvesting of crops, planting trees, removal of trees and horticultural root ripping, where these activities do not reshape or recontour the land;**
- c. **digging post holes;**
- d. **drilling bores, digging offal pits, and burials of dead stock and plant waste and installation of services except for the application of Rule 19.6.14(b) National Grid Corridor."**

2. Amend Note 1 of Rule 19.6.12 in Chapter 19 as follows:

"19.6.12 Earthworks – Specific Landscape Domains

- (a) Earthworks, other than cut for a building platform, on land that is not an Outstanding Natural Landscape and Feature, shall not exceed the following:

- (i) Coastal Environment and Coastal Lakes Landscape Domains

- 2.5 metres (cut or fill) measured vertically
- Where earthworks exceed 2.5 metres (cut or fill) measured vertically, those earthworks shall not exceed 3.5 metres (cut or fill) measured vertically and shall not exceed a distance of 50 metres in continuous horizontal length.
- Where earthworks are to be undertaken on a dune, the vertical height of the dune, or any part of that dune, prior to the earthworks shall be no greater at any point than 10 metres from toe to summit.

Exception:

Earthworks provisions shall not apply to production forestry harvesting on a dune 10 metres in height or lower.

- (ii) Hill Country Landscape Domain

- 3 metres (cut or fill) measured vertically
- Where earthworks exceed 3 metres (cut or fill) measured vertically, those earthworks shall not exceed 5 metres (cut or fill) measured vertically and shall not exceed a distance of 100 metres in continuous horizontal length.

Exception:



Earthworks provisions shall not apply to production forestry harvesting.

(iii) Foxton Dunefields Landscape Domain

- 3 metres (cut or fill) measured vertically
- Where earthworks exceed 3 metres (cut or fill) measured vertically, those earthworks shall not exceed 5 metres (cut or fill) measured vertically and shall not exceed a distance of 50 metres in continuous horizontal length.
- Where earthworks are to be undertaken on a dune, the vertical height of the dune, or any part of that dune, prior to the earthworks shall be no greater at any point than 10 metres from toe to summit.

Exception:

Earthworks provisions shall not apply to production forestry harvesting on a dune 10 metres in height or lower.

- (b) All disturbed surfaces shall be revegetated within 6 months of the completion of the earthworks.

Note 1: **When used in Rule 19.6.12, the term earthworks does not include Aggregate Extraction, activities such as cultivation and harvesting of crops, planting trees, removal of trees and horticultural root ripping digging post holes, cultivation of crops, planting trees, burials, drilling bores, digging offal pits and installation of services where these activities do not reshape or recontour the land, digging post holes or drilling bores, digging offal pits, burials of dead stock and plant waste and installation of services, notwithstanding anything in the definition of earthworks to the contrary.**"

Note 2: Earthworks does not include gravel extraction and other works within the bed of a waterbody. This is managed by the Regional Council."

3. Consequential amendments to Rule 19.6.14(b)(i) and amend the "Exceptions" in Rule 19.6.14(b) in Chapter 19 as follows:

"19.6.14 National Grid Corridor

- (a) No building or sensitive activity shall be located closer than:
- (i) 10 metres either side of the centreline of any high voltage (110kV) transmission line shown on the Planning Maps.
 - (ii) 12 metres either side of the centreline of any high voltage (220kV or more) transmission line shown on the Planning Maps.
 - (iii) 12 metres from the outer edge of any support structure of any high voltage transmission line shown on the Planning Maps.

Note: The requirements of New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001) also need to be met and contact should be made with the line owner.



Exceptions:

The following are exempt from the setback requirements in Rule 19.6.14(a):

- Fences up to 2.5 metres in height
- Mobile machinery and equipment
- Utilities within a road or rail corridor and electricity infrastructure
- Crop support structures and crop protection structures that meet the requirements of New Zealand Electrical Code of Practice of Electrical Safety Distances (NZECP 34:2001) for minimum distance beneath conductors and are 12 metres from the support structure of high voltage transmission lines.
- Crop support structures and crop protection structures (including any connected catenary or support cables or wires) that are at least 8 metres from the outer edge of a pole (not tower) support structure of high voltage transmission line and that:
 - Meet the requirements of New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) for minimum distance beneath conductors; and
 - Are no more than 2.5 metres high; and
 - Are removable or temporary, to allow a clear working space 12 metres from the pole when necessary for maintenance purposes; and
 - Allow all weather access to the pole and a sufficient area for maintenance equipment, including a crane.
- Non-habitable buildings associated with primary production activities (excluding milking sheds) that meet the requirements of New Zealand Electrical Code of Practice of Electrical Safety Distances (NZECP 34:2001) for minimum distance beneath conductors and are 12 metres from the support structure of high voltage transmission lines.
- Recreation activities and facilities.

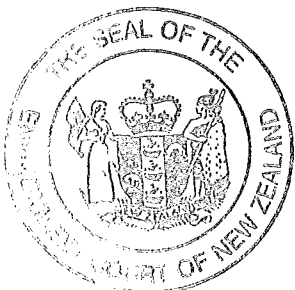
(b) Earthworks

(i) Earthworks around Poles shall be:

- No deeper than 300mm within 2.2 metres of a transmission pole support structure or stay wire; and
- No deeper than 750mm between 2.2 to 5 metres from a transmission pole support structure or stay wire.

Except that:

Vertical holes not exceeding 500mm diameter beyond 1.5 metres from the outer edge of a pole support structure or stay wire are exempt from 19.6.14



~~(eb)(i)(a)~~ and ~~(eb)(i)(b)~~ above.

(ii) Earthworks around Towers shall be:

- No deeper than 300mm within 6 metres of the outer visible edge of a transmission tower support structure; and
- No deeper than 3 metres between 6 to 12 metres from the outer visible edge of a transmission tower support structure.

(iii) Earthworks 12 metres either side of a high voltage transmission line shall not:

- Create an unstable batter that will affect a transmission support structure; and/or
- Result in a reduction of the existing conductor clearance distances as required by NZECP34:2001.

Exceptions:

The following activities are exempt from 19.6.14 ~~(eb)(i)~~, ~~(eb)(ii)~~ and ~~(eb)(iii)~~ above:

- Earthworks undertaken by a Network Utility operator; or
- Earthworks undertaken as part of agricultural or domestic cultivation, or repair, sealing or resealing of a road, footpath or driveway. **For the purposes of clarification, this does not include drilling bores, digging offal pits, and burials of dead stock and plant waste and installation of services."**

