

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

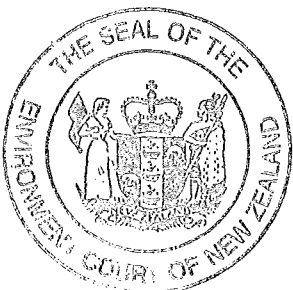
Introduction

[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 and Peter and Susan Webb 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

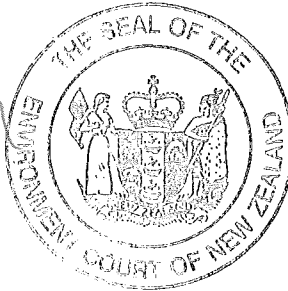
[4] The Court orders, by consent, that the appeal is allowed to the extent that the Proposed Horowhenua District Plan be amended as set out in Appendix A to this order.

[5] There is no order as to costs.

DATED at Wellington this 5 day of August 2014



B P Dwyer
Environment Judge



Appendix A

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

1. Amend Rule 19.6.7(e) (Conditions for Permitted Activities) as follows:

Audible bird-scaring devices (including firearms) shall comply with the following conditions:

- (i) Devices shall not operate between sunset and sunrise **during daylight saving time and, outside of daylight saving time, half an hour after sunset and half an hour before sunrise.**
- (ii) Devices shall not be used within 200m of a Residential ~~z~~**Zone** boundary.
- (iii) Impulsive noise from bird-scaring devices shall not exceed ASEL 65dB when assessed at any point within the notional boundary of any dwelling on any ~~other~~ site **that is not in the same ownership as the site on which the bird-scaring device is operating.**
- (iv) There shall be ~~a total of~~ no more than 12 events per hour on any site **from the aggregate of all bird-scaring devices** within 500 metres of a dwelling **on any site that is not in the same ownership as the site on which the bird-scaring devices are operating.**
- (v) For the purpose of this rule, an 'event' includes clusters of up to three shots from gas operated devices, or three multiple shots from a firearm in rapid succession.

Note 1: There is no limit on the number of events per hour on any site from a bird-scaring device not within 500 metres of a dwelling on any site that is not in the same ownership as the site on which the bird-scaring device is operating.

Note 2: Notwithstanding the above rules, Section 16 of the RMA imposes a duty on every occupier of land and any person carrying out an activity in, on, or under, a water body to adopt the best practicable option to avoid unreasonable noise.

