

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

IN THE MATTER of the Resource Management Act 1991
AND of an appeal under cl 14 of the First
Schedule to the Act
BETWEEN SPARK NEW ZEALAND TRADING
LIMITED
(ENV-2018-WLG-000019)
Appellant
AND KAPITI COAST DISTRICT COUNCIL
Respondent

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

In Chambers at Wellington

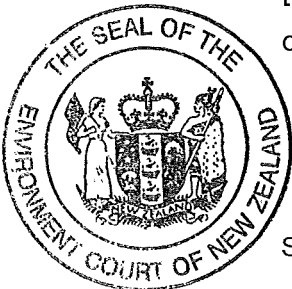
CONSENT ORDER

- [A] Under s 279(1)(b) of the Act, the Environment Court, by consent, orders that:
- (1) The Kapiti Coast Proposed District Plan is amended as set out in Appendix A to this order, using underlining and strike through.
 - (2) The appeal is otherwise dismissed.
- [B] Under s 285 of the Act, there is no order as to costs.

REASONS

Introduction

- [1] The Court has read the notice of appeal and the memoranda of the parties dated 27 April 2018 and 31 August 2018.



Other relevant matters

[2] Horticulture New Zealand, Coastlands Shoppingtown Ltd, Heritage New Zealand Pouhere Taonga and Federated Farmers of New Zealand have given notice of an intention to become parties under s 274 to the appeal and have signed the 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 4th day of December 2018



B P Dwyer
Environment Judge



APPENDIX A

Rules 3A.1.6 and 3A.1.8 Permitted Activities

Note: See Chapter 4: Coastal Environment for further rules and standards for *earthworks* in *areas of outstanding natural character*, *areas of high natural character* and on dunes in the *coastal environment*. See Chapter 9 Hazards for further rules and standards for *earthworks* in flood hazard areas and Chapter 10 Historic Heritage for further rules and standards relating to *land disturbance* on land with Scheduled *waahi tapu and other places and areas of significance to Maori*. See also Chapter 6 Working Zones, Chapter 7 Rural Zones and Chapter 8 Open Space for other *earthworks* rules relating specifically to *zones* and precincts. This note does not apply to telecommunication and radiocommunication activities.

Rule 3A.4.2 Discretionary Activities

2. *Earthworks* in a *geological feature* listed in Schedule 3.6 and *ecological sites* listed in Schedule 3.1.

Introduction: Applicability of Rules in Tables 11A.1 – 11A.5

The rules in Tables 11A.1 to 11A.5 apply to *network utilities* throughout all *zones* of the District. The underlying *zone* policies and rules do not apply to *network utilities*, including *roads*. The district-wide rules and policies for *hazards (Chapter 9) (except in relation to Telecommunication Facilities)*, *notable trees and Waahi Tapu and sites of significance to Maori* (Chapter 10), *earthworks* and *indigenous vegetation* (Chapter 3) and noise (Chapter 12) do apply. Section 1.1 in Chapter 1 sets out how to use the Plan and identify other rules that may also apply to a *site* or activity.

Note: The Natural Hazard rules in Chapter 9 do not apply to Telecommunications Facilities.

Rule 11A.3.4 Standard 2

The extension to above ground electricity or telecommunication distribution *lines* must not be located within:

- a) an *ecological site*;
- b) a *river corridor*;



- c) a *stream corridor*;
- d) an *outstanding natural feature and landscape*;
- e) an *area of outstanding natural character or high natural character*, or
- f) a *site* containing a *historic heritage area, building, structure* or place identified in Schedule 10.1 – Historic Heritage.

Note 1: Above ground telecommunication lines and electricity transmission lines 110kV and below in the Rural Zones are excluded from Standards 2 b) and c) above.

Rule 11A.4.3 Discretionary Activities

3. Any new above ground *network utility* not provided for under Rules 11A.1.56, 11A.1.8, 11A.1.9, 11A.1.10, 11A.1.11, 11A.3.2, 11A.3.3 and 11A.3.4 located within:
- a) the well-defined *fault avoidance area*;
 - b) the well-defined extension *fault avoidance area*;
 - c) an *ecological site*;
 - d) the Open Space (Conservation and Scenic) Zone;
 - e) an *outstanding natural features and landscape*;
 - f) *areas of outstanding or high natural character*;
 - g) a *stream corridor*;
 - h) a *river corridor*; or
 - i) a *site* containing a *historic heritage area, building, structure* or place identified in Schedule 10.1 – Historic Heritage.

Note 1: The Resource Management (National Environmental Standard for Telecommunication Facilities) Regulations 2016 applies to the installation and operation of telecommunication facilities in the following areas:

- a) well-defined *fault avoidance area*;
- b) well-defined extension *fault avoidance area*;
- c) a *stream corridor*, and
- d) a *river corridor*.

