



IN THE MATTER of the Resource Management Act 1991 ('the Act')

AND

IN THE MATTER of an appeal pursuant to clause 14 of Schedule 1 to the Act

BETWEEN THE OIL COMPANIES (Z ENERGY LTD, BP OIL NEW ZEALAND LTD, MOBIL OIL NEW ZEALAND LTD AND CHEVRON NEW ZEALAND)

(ENV-2011-AKL-000095)

Appellants

AND TAURANGA CITY COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

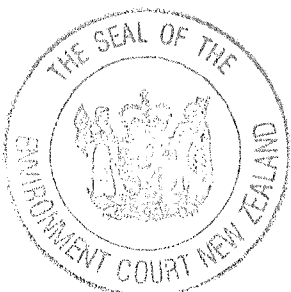
Environment Judge Smith sitting alone under section 279 of the Act

IN CHAMBERS at Auckland

CONSENT ORDER

Introduction

1. The Court has read and considered the appeal and the memorandum of the parties dated 28 October 2011.
2. The New Zealand Transport Agency has given notice of an intention to become a party under s274 and has signed the memorandum setting out the relief sought. Horticulture New Zealand and New Zealand Kiwifruit Growers Incorporated also gave notice of an intention to become a party under s274 but both have subsequently withdrawn their intention.



3. The Court is making this order under section 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for 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 Resource Management Act, including in particular Part 2.

4. Therefore, the Court orders, by consent, that the proposed Tauranga City Plan be amended as follows (with additions shown in underlining and deletions shown in ~~strikethrough~~):

- (a) Amend Policy 18A.5.3.3b) within Chapter 18 – Industrial Zones as follows:

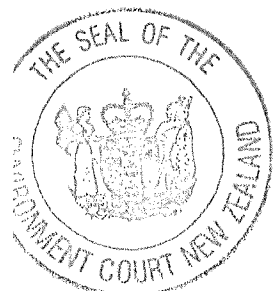
18A.5.3.3 Policy – Compatible Activities and Reverse Sensitivity

By ensuring that non-industrial activities within the Industrial Zone do not impact on the operation of industrial activities by:

- a) Limiting the scale and extent of these activities to ensure they are genuinely ancillary or complementary to industrial activity;
- b) Preventing *residential activities* and *visitor accommodation*, and ensuring that where these are established, they are designed and constructed to protect the amenity of residents through meeting the noise mitigation criteria outlined in *Rule 4E.2.3 – Noise in the Commercial and Industry Zone*, as well as providing a reasonable amenity to future residents, and ensuring that protection is provided in perpetuity for *industrial activities* against ~~the risk to, and~~ reverse sensitivity impacts of such activities;
- c) Ensuring that non-industrial activities do not impact on the present or future legitimate operation of industrial or adjacent activities through higher expectations of amenity.

- (b) Insert a new policy within Chapter 18 – Industrial Zones as follows:

18A.5.3.4 Policy – Managing Risk and Public Safety



Through managing risk and public safety, and in particular minimising those potential conflicts arising, individually or cumulatively, as a result of sensitive land use activities near hazardous facilities.

- (c) Any consequential amendments to the existing numbering within Chapter 18 – Industrial Zones as a result of the insertion of the new policy.
5. This consent order disposes of the relief at paragraphs 10.1 and 10.2 of the appeal.
 6. There shall be no order as to costs.
 7. The appeal also seeks relief in relation to hazardous substances (paragraph 10.3) and potentially contaminated land (paragraph 10.4). These parts of the appeal are related to other appeals against the proposed City Plan and will remain live.
 8. The appeal is to remain open.

DATED this

9th

day of

November

2011

J A Smith
Environment Judge

