

**Before the Environment Court  
At Wellington  
I Mua I te Kōti Taiao  
Te Whanganui-a-Tara Rohe**

**ENV-2019-346-103**

**Under** Clause 14 of Schedule 1, Section 310, and Section 293 of  
the Resource Management Act 1991

**In the matter of** appeals on the Proposed Natural Resources Plan

**And**

**In the matter of** an application for a declaration under section 310 and an  
order under section 293

**Between** **Various**

**Appellants**

**ENV-2019-000103, 105-133**

**And** **Wellington Regional Council**

**Respondent**

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**Application for declaration under section 310 and an order under section  
293 in relation to the definition of river 'mouth'**

**Date:** 6 October 2021

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**To:** The Registrar  
Environment Court  
WELLINGTON

**Wellington Regional Council** applies for the following declaration under section 310 of the RMA:

**Declaration**

A When determining the location of a river mouth in the Wellington Region, not shown on Maps 42 to 48, the mouth is deemed to be a straight line representing the continuation of the line of Mean High-Water Springs on each side of the river at the river outlet.

**The grounds for this application are:**

- 1 The accompanying memorandum of counsel provides details of the grounds for the application. In summary:
  - 1.1 Through an error, the Proposed Natural Resources Plan (**PNRP**) does not identify river mouths (except for those rivers on Maps 42 to 48).
  - 1.2 This is an error that the Wellington Regional Council (**Council**) seeks to address through the declaration process. The Council relies on (b) of the definition of 'mouth', and section 310(e) of the RMA, both of which state that a declaration may declare the point at which the landward boundary of the coastal marine area crosses any river.
  - 1.3 This approach is endorsed by *Re Auckland Regional Council* Environment Court, Auckland, 3/4/1997, A046/97.
  - 1.4 The Council also relies on the affidavit of Dr Dawe, as providing support for this declaration.

**Wellington Regional Council** applies for the following orders under section 293 of the RMA:

**Orders sought**

A That the following text be inserted into the PNRP in Chapter 13 and placed immediately above Map 42 (below the heading which reads: 'Coastal marine area and river mouth boundaries'):

Maps 42 to 48 show where the Coastal Marine Area and river mouth boundaries are located. For the remaining rivers in the Wellington Region not shown on Maps 42 to 48, the mouth is deemed to be a straight line representing the continuation of the line of Mean High Water Springs on each side of the river at the river outlet.

The Coastal Marine Area means the foreshore, seabed, and coastal water, and the air space above the water—

- (a) of which the seaward boundary is the outer limits of the territorial sea:
- (b) of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of—
  - (i) 1 kilometre upstream from the mouth of the river; or
  - (ii) the point upstream that is calculated by multiplying the width of the river mouth by 5.

**The grounds for this application are:**

2 The accompanying memorandum of counsel provides details of the grounds for the application. In summary:

2.1 The Court's powers under section 310 of the RMA are declaratory in nature. They give the Court to power to determine what the appropriate location of the 'mouth' is, but arguably not the power to amend the PNRP to implement this declaration regarding location.

2.2 Given this, a direction is sought under section 293 of the RMA as consequential relief to the above declaration, to

allow for the amendment to the PNRP to give effect to the declaration.

2.3 Section 293 authorises the Environment Court to order a change to the PNRP.

2.4 The affidavit of Dr Dawe provides support for this amendment to the PNRP as being the appropriate correction to address the error.

**Date:** 6 October 2021



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Kerry M Anderson/Kate H Rogers  
Counsel for Wellington Regional  
Council

This document is filed by Kerry Murray Anderson of DLA Piper New Zealand, solicitor for Wellington Regional Council.

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