

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of appeals pursuant to clause 14 of the First Schedule to the Act

BETWEEN

FEDERATED FARMERS OF NEW ZEALAND INC
(ENV-2012-AKL-00182)

File No.	
File Confirmed / Amended	
BOF [unclear] incll	
Received	21 AUG 2013
ID:	
Name:	Signat:

HORTICULTURE NEW ZEALAND AND NEW ZEALAND KIWIFRUIT GROWERS
(ENV-2012-AKL-000178)

MATARIKI FORESTS
(ENV-2012-AKL-000161)

KAINGAROA TIMBERLANDS PARTNERSHIP
(ENV-2012-AKL-000163)

CARTER HOLT HARVEY
(ENV-2012-AKL-000169)

NEW ZEALAND TRANSPORT AGENCY
(ENV-2012-AKL-000172)

Appellants

AND

BAY OF PLENTY REGIONAL COUNCIL
Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge J A Smith sitting alone under section 279 of the Act
IN CHAMBERS at Auckland.

CONSENT ORDER

Introduction

1. This consent order relates to the parts of the above appeals seeking relief in respect of the Topic **ENV-2012-339-000043 "ENERGY AND INFRASTRUCTURE"** to the proposed Bay of Plenty Regional Policy Statement and resolves that topic, and those parts of the appeals in full.

In making this order the Court has read and considered the above appeals and the memorandum of the parties dated 9 August 2013.



3. The parties listed below are the section 274 to these appeals that have an interest in the topic to be resolved by this order. They have signed the memorandum of the parties setting out the relief sought.

- Federated Farmers of New Zealand Inc
- Horticulture New Zealand
- NZ Kiwifruit Growers
- Transpower New Zealand
- New Zealand Transport Agency
- Mighty River Power Ltd
- Carter Holt Harvey Ltd
- Contact Energy Ltd
- Fonterra Co-operative Group Inc
- Ford Land Holdings Pty Ltd
- Genesis Power Ltd
- Port of Tauranga Limited
- Powerco Limited
- Royal Forest and Bird Protection Society of New Zealand Inc
- Te Tumu Kaituna 11B2 Trust
- Te Tumu Kaituna 14 Trust
- Te Tumu Landowners Group
- TrustPower Ltd
- Unison Networks Ltd

4. 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 279. The Court understands for the present purposes that:

- (a) All parties to the proceedings with an interest in this Topic 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 confirm to the relevant requirements and objectives of the Resource Management Act, including in particular Part 2.

Order

5. Therefore the Court orders by consent that the Proposed Bay of Plenty Regional Policy Statement is amended as shown below in underline (for additions) and ~~strike-through~~ (for deletions).



2.3 Energy and infrastructure

2.3.1 Energy

Energy is essential to the region, in ensuring that people live in warm and healthy homes and in supporting economic growth. The Bay of Plenty region has a large and varied amount of industry, including manufacturing, commercial businesses, agriculture, horticulture, forestry and tourism. These industries rely on having a secure and consistent energy supply. The transport sector is another big user of energy, with substantial amounts of freight being transported into and out of the Port of Tauranga. For the next few decades at least it is acknowledged that some industries will continue to use and rely on traditional non-renewable energy sources such as coal. However, the national and regional priority will continue to be reducing the dependency on non-renewable fuels and increasing the development and use of renewable energy sources.

The region generates electrical energy through hydro and geothermal resources. Geothermal resources, are expected to contribute significantly to meeting New Zealand's energy demand. Supporting and facilitating the development of renewable energy sources and generation across the region is a key requirement for the Statement to address, including small-scale generation.

The main future renewable energy resources for the region are likely to be geothermal, hydro, biomass and solar (including water heating and electricity generation). Tidal and wind are not regarded as being significant renewable energy sources, due to the low wind energy environment of the Bay of Plenty. However, opportunities to develop energy from wind and tidal sources may be developed in the future or may exist in some parts of the region.

Demand for energy from more sustainable sectors is expected to grow and traditional energy sources may not meet this increasing demand. Also, the rate of population growth being projected in the western Bay of Plenty will require upgrades to electricity transmission lines and new substations to meet demand. Enabling the on-going development, operation, maintenance and upgrading of new and existing electricity generation facilities is of regional and national

significance, because of the benefits it brings to all the people of New Zealand.

The long-term challenges for the region include securing energy at affordable prices, responding to the effects of climate change, changes in supply of fossil fuels and reducing greenhouse gas emissions. National and regional priorities are developing and facilitating a more reliable security of electricity supply, reducing reliance on non-renewable energy, greater use and development of renewable energy sources including small and community-scale electricity generation and using energy more efficiently and conservatively. Regional and district planning documents must provide for renewable electricity generation activities, while also having regard to other relevant objectives and policies in this Regional Policy Statement.

The location and functional constraints associated with the development, operation, maintenance and upgrading of renewable energy electricity generation and transmission infrastructure may conflict with the protection provisions for significant ecological, landscape, and cultural values. Such conflict will necessitate the balancing of the benefits of the generation and transmission of renewable energy against the protection provisions contained within statutory planning documents.

The National Policy Statement on renewable electricity generation recognises the national significance of renewable electricity generation and promotes the development, upgrade, maintenance and operation of new and existing generation, so by 2025 90% of New Zealand's electricity will come from renewable sources. The New Zealand Energy Strategy (2011), the New Zealand Energy and Efficiency and Conservation Strategy (2011) and the New Zealand Transport Strategy (2008) set the national vision and actions for energy and climate change. This chapter assists in implementing some of these national targets, although the role of the Statement in reducing greenhouse gas emissions is limited under the Act.

The National Policy Statement on Electricity Transmission recognises the importance of secure and efficient electricity transmission for New Zealand.



2.3.2 Infrastructure

This section should be read in conjunction with the urban form and growth management chapter, particularly its provisions on the integration of land use and infrastructure, transport planning and development.

Regionally significant infrastructure is different from other infrastructure due to its scale, function, and benefits to the wider region and in some cases to the rest of the country. Some types of infrastructure are both nationally and regionally significant, for example renewable electricity generation activities and major roads such as the Tauranga Eastern Link. It is critical to the social, economic and cultural well-being of the region's communities and their health and safety.

Management of this infrastructure is spread across a number of utility operators, local authorities and Crown agencies. Examples include regional strategic transport networks, airports, ports, tele-communication facilities and other utilities (water, wastewater, stormwater, energy electricity and heat generation and transmission networks), regional parks and public hospitals. Careful planning is required to ensure adequate servicing of new developments, particularly where existing regionally significant infrastructure is already stretched or at capacity.

Some types of infrastructure can, by their very nature, produce adverse effects on existing activities, including land uses, and for the community. Infrastructure can also be adversely affected and compromised by certain developments, resulting in reverse sensitivity effects and by other events such as natural hazards or future climate change effects. Such effects need to be managed in a planned and effective manner. Local authorities will need to develop provisions to address these issues, and give effect to the National Policy Statement on electricity transmission, developed to highlight the importance of secure and efficient electricity transmission for New Zealand. There are a range of statutory and non-statutory mechanisms relevant to infrastructure (including easements).

2.3.3 Regionally significant energy and infrastructure issues

1 Reverse sensitivity effects on infrastructure

Inappropriate subdivision, use and development can result in reverse sensitivity effects on existing or planned infrastructure, as well as the maintenance and upgrade of infrastructure necessary to support the sustainable growth of the region.

2 Ineffective integration of land use, regionally significant infrastructure and transportation networks

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3 Improving security of electricity supply

...

4 Increasing the use of renewable energy sources and improving energy efficiency and conservation.

...

5 Effects of infrastructure

While infrastructure enables communities to provide for their social economic and cultural wellbeing, it can also generate adverse effects, including on existing lawfully established land uses.





Objectives	Policy titles	Page	Method titles	Implementation	Page
<p>Objective EI 6A Provide for the appropriate management of:</p> <p>(a) any adverse environmental effects <u>(including effects on existing lawfully established land uses)</u> created by the development and use of infrastructure and associated resources;</p> <p>(b) any reverse sensitivity effects on established, or consented or designated infrastructure.</p> <p>Also see:</p> <p>Objective 24: A compact, well designed urban form that effectively and efficiently accommodates the region's urban growth (Table 9).</p> <p>Objective 25: An efficient, sustainable, safe and affordable transport network, integrated with the region's land use patterns (Table 9).</p> <p>Objective 26: Subdivision use and development in the western Bay of Plenty is located and staged in a way that integrates with the long term planning and funding mechanisms of local authorities, central government agencies and network utility providers and operators <u>as-well-as-with whilst having regard to the growth plans of relevant industry sector groups</u> (Table 9).</p> <p>Objective 26A: The productive potential of the region's versatile rural land resource is sustained and the <u>growth and efficient operation of rural production activities in the rural environment is-are provided for, sustained-so-as-to-meet-the-needs-of-current-and-future-generations</u> (Table 9).</p>	<p>Policy EI 5B: Giving priority to adverse effects of regionally significant infrastructure on matters of national importance</p> <p>Policy EI 6B: On-going generation of electricity from existing power generation schemes</p> <p>Policy EI 7B: Managing the effects of infrastructure development and use</p>		<p>Method 3: Resource consents, notices of requirement and when changing, varying, reviewing or replacing plans</p> <p>Method 3: Resource consents, notices of requirement and when changing, varying, reviewing or replacing plans</p> <p>Method 3: Resource consents, notices of requirement and when changing, varying, reviewing or replacing plans</p> <p>Method 19: Identify and manage potential effects on infrastructure corridors</p>	<p>Regional council, city and district councils</p> <p>Regional council, city and district councils</p> <p>Regional council, city and district councils</p> <p>City and district councils</p>	

Energy and Infrastructure Policies

Policy EI 3B: Protecting nationally and regionally significant infrastructure

Protect the ability to develop, maintain, operate and upgrade existing, ~~and consented and~~ designated nationally and regionally significant infrastructure from incompatible subdivision, use or development. Ensure that where potentially incompatible subdivision, use or development is proposed near regionally significant infrastructure, it should be designed and located to avoid potential reverse sensitivity effects.

Explanation

Policy EI 3B addresses incompatible subdivision, use or development that is under, over or adjacent to nationally and regionally significant infrastructure. Incompatible land uses or activities are those that adversely affect the efficient operation of infrastructure or restrict its ability to be maintained or upgraded. It may also include new land uses that are sensitive to activities associated with infrastructure.

Protecting regionally significant infrastructure does not mean that all land uses or activities under, over, or adjacent are prevented.

Outstanding landscapes and significant environments are still required to be sufficiently recognised and protected. Activities provided for in a district or regional plan need to ensure they are compatible with the efficient operation and maintenance of regionally significant infrastructure and any effects that may be associated with that infrastructure.

~~The National Policy Statement on Electricity Transmission requires that electricity transmission networks are protected to ensure that operation, maintenance, upgrading and development of the national grid is not compromised, while providing for its future upgrading and development potential. To achieve this, city and district council shall consult with the national grid operator to identify appropriate buffer corridors. There will also be situations where proposals to establish buffer corridors or upgrades to regionally significant infrastructure (e.g. electricity lines) may result in constraints on existing land use activities.~~

The National Policy Statement on Electricity Transmission requires that the operation, maintenance, upgrading and development of the National Grid is not compromised. Some activities will need to be managed to achieve this. Further, city and district councils shall consult with the

national grid operator to identify appropriate buffer corridors where sensitive activities will generally be avoided. Sensitive activities (as indicated by the National Policy Statement on Electricity Transmission) are educational facilities, residential buildings (including resthomes) and hospitals.

Table reference: **Objective 6, Methods 3, 4, 8, 19, 21 and 46.**

3.2.1 Directive methods

Method 19: Identify and manage potential effects on infrastructure corridors

In consultation with relevant infrastructure owners and operators, identify infrastructure corridors (including associated buffer areas where appropriate) and establish objectives, policies and methods (~~including rules~~) to manage potential effects on the long term planning of their the maintenance, operation and upgrade of their infrastructure, as well as to encourage their its efficient use.

Vegetation to be planted around electricity lines, including within electricity transmission corridors, should be selected and/or managed so that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.

Implementation responsibility: Regional, city and district councils

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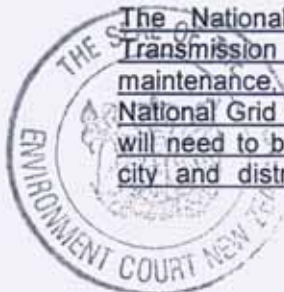
Table 15 Objectives, anticipated environmental results (AER) and monitoring indicators

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Objective EI 6A

Provide for the appropriate management of:

- any adverse environmental effects (including effects on existing lawfully established land uses) created by the development and use of infrastructure and associated resources;
- any reverse sensitivity effects on established, or consented or designated infrastructure.



6. This consent order disposes of all relief sought in the above appeals in respect of Topic ENV-2012-339-000043 "ENERGY AND INFRASTRUCTURE" and this topic is now be closed.
7. This consent order resolves the relief sought at paragraphs 9, 10 and 11 of the appeal by Federated Farmers of New Zealand ENV-2012-AKL-000182. The relief at paragraphs 5, 6, 7, 8, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26 and 27 remains extant.
8. This consent order resolves the relief sought at paragraphs 11.3, 16.3, 17.3 and 19.3 of the appeal by Horticulture New Zealand and New Zealand Kiwifruit Growers Incorporated ENV-2012-AKL-000178. The relief sought at paragraphs 4.3, 5.3, 6.3, 7.3, 8.3, 9.3, 10.3, 12.3, 13.3, 14.3, 15.3, 18.3, 20.3, 21.3, 22.3, 24.3, 25.3, 26.3, 27.3, 28.3, 29.3, 30.3, 31.3, 32.3, 33.3, 34.3 and 35.3 remains extant.
9. This consent order resolves the relief sought at paragraphs 7.2.1.6, 7.2.1.7, 7.2.1.8 of the appeal by New Zealand Transport Agency ENV-2012-AKL-000172. The relief at paragraphs 7.2.2.4, 7.2.2.5, 7.2.2.6, 7.2.2.7, 7.2.2.8, 7.2.3.6 and 7.2.3.7 remains extant.
10. This consent order resolves the relief sought at paragraphs 7.7, 7.8 and 7.9 of the appeal by Carter Holt Harvey ENV-2012-AKL-000169. The relief at paragraphs 7.15 and 7.20 remains extant.
11. This consent order resolves the relief sought at paragraphs 8(a) and (b) of the appeal by Kaingaroa Timberlands Partnership ENV-2012-AKL-000163. The relief at paragraphs 8(c), (d) and (e) remains extant.
12. This consent order resolves the relief sought at paragraphs 8(a) and (b) of the appeal by Matariki Forests ENV-2012-AKL-000161. The relief at paragraphs 8(c), (d) and (e) remains extant.
13. There is no order as to costs in relation to this order.

DATED at Auckland this

15th

day of August

2013



J.A. Smith
Environment Judge

