

**IN THE MATTER**

of the Resource Management Act  
1991("the Act")

**AND**

**IN THE MATTER**

of five appeals pursuant to clause 14 of  
the First Schedule to the Act concerning  
integrated resource management in the  
proposed Bay of Plenty Regional Policy  
Statement

**BETWEEN:**

**FEDERATED FARMERS OF NEW  
ZEALAND**

(ENV-2012-AKL-00182)

**HORTICULTURE NEW ZEALAND AND  
ORS**

(ENV-2012-ALK-000178)

**FONTERRA COOPERATIVE GROUP  
LIMITED**

(ENV-2012-ALK-000173)

**NGATI MAKINO HERITAGE TRUST**

(ENV-2012-ALK-000170)

**WESTERN BAY OF PLENTY  
DISTRICT COUNCIL**

(ENV-2012-ALK-000175)

Appellants

**AND**

**BAY OF PLENTY REGIONAL  
COUNCIL**

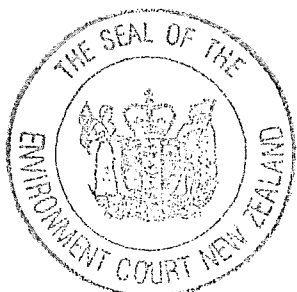
Respondent

**BEFORE THE ENVIRONMENT COURT**

Environment Judge J A Smith, sitting alone under section 279 of the Act

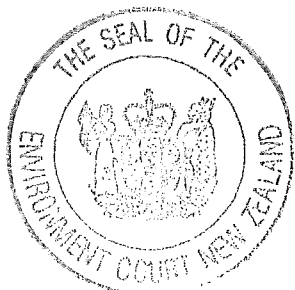
**IN CHAMBERS** at AUCKLAND

**CONSENT ORDER**



## Introduction

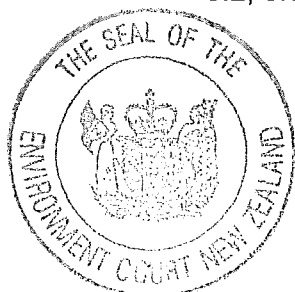
1. These five appeals relate to the Proposed Bay of Plenty Regional Policy Statement. This consent order resolves these appeals as they relate to Topic **ENV-2012-339-000045** Integrated Resource Management
2. The changes agreed to by all parties relate specifically to Policies IR 1B, 3B, 4B, 5B, Method 38A and the Appendix A definition of Policy. This is with the exception of Method 39D under Policy IR 3B, which is to be the subject of a future hearing.
3. The following parties have given notice of interest in respect of these parts of those appeals:
  - (a) Federated Farmers of New Zealand Inc.
  - (b) Horticulture New Zealand & Ors.
  - (c) Fonterra Cooperative Group Limited
  - (d) Ngati Makino Heritage Trust
  - (e) Western Bay of Plenty District Council
  - (f) Environmental Defence Society
  - (g) PowerCo Ltd
  - (h) Dairy NZ
  - (i) Carrus Corporation
  - (j) Te Tumu Landowners Group, Te Tumu Kaituna 14 Trust, Te Tumu Kaituna 11B2 Trust, and Ford Land Holdings Pty Ltd
  - (k) Transpower NZ Ltd
  - (l) Mighty River Power
  - (m) Genesis Power Limited
  - (n) Royal Forest and Bird Protection Society
  - (o) TrustPower Limited
  - (p) J. Swap Contractors Ltd



- (q) Ngāti Ranginui Iwi Society
- (r) New Zealand Transport Agency
- (s) Contact Energy

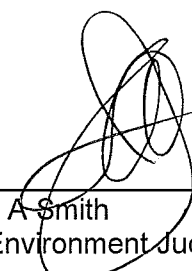
## Order

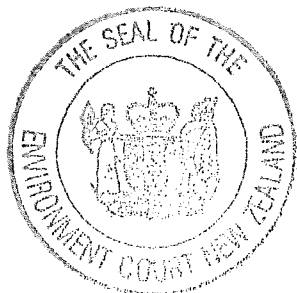
4. The Court has read and considered the appeal and the memorandum of the parties dated 16 August 2013.
5. The Court is making this order under section 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 279. The Court understands for the present purposes that:
  - (a) All parties to the proceedings with an interest in this Topic have either executed the memorandum requesting this order, or agreed to this order being made in subsequent correspondence;
  - (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.
6. Therefore the Court orders by consent that the Proposed Bay of Plenty Policy Statement be amended as shown in underline (for additions) and ~~strike-through~~ (for deletions) in annexure A
7. The consent order disposes of all relief sought in respect of Topic ENV-2012-339-000045, and that topic is now closed.
8. In appeal ENV-2012-AKL-000170, appeal point 5(d) is resolved by this order. Appeal points 5(c), (e), (f), (g) and (h) remain extant.
9. In appeal ENV-2012-AKL-000173, appeal point 9.8 is resolved by this order. Appeal points 8.8, 10.5 and 11.6 remain extant.
10. In appeal ENV-2012-AKL-000175 appeal points 8.1 is resolved by this order. Appeal points 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.9, and 8.10 remain extant.

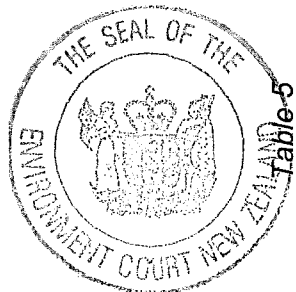


11. In appeal ENV-2012-AKL-000178 appeal points 10.3, 33.3 and 34.3 are resolved by this order. Appeal points 4.3, 6.3, 7.3, 8.3, 9.3, 13.3, 14.3, 18.3, 20.3, 21.3, 22.3, 24.3, 25.3, 26.3, 27.3, 28.3, 29.3, 30.3, 31.3, 32.3, remain extant.
12. In appeal ENV-2012-AKL-000182 appeal points 12, 13, 14 and 15 are resolved by this order. Appeal points 22, 23, 24, 25, 26 and 27 remain extant.
13. There shall be no order as to costs.

**DATED** at AUCKLAND this 13<sup>th</sup> day of September, 2013

  
\_\_\_\_\_  
J A Smith  
Environment Judge





“A”

*Integrated resource management objectives and titles of policies and methods to achieve the objectives.*

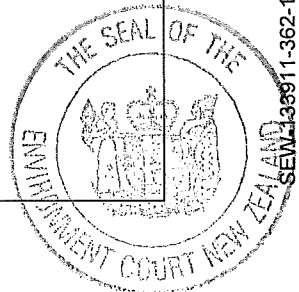
*Table 5*

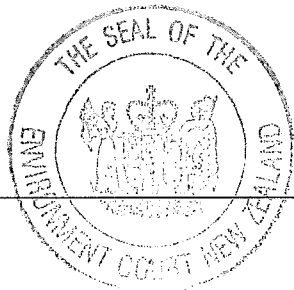
Objectives	Policy titles	Page	Method titles	Implementation
<p><b>Objective 12</b> The timely exchange, consideration of and response to relevant information by all parties with an interest in the resolution of a resource management issue.</p>	<p>Policy IR 4B: Using consultation in the identification and resolution of resource management issues</p>		<p>Method 3: Resource consents, notices of requirement and when changing, varying, reviewing or replacing plans</p> <p>Method 38A: Promote the development of a rural advisory panel</p> <p>Method 39: Consider consulting potentially affected tangata whenua</p> <p>Method 39A: Evaluate matters of significance to tangata whenua</p>	<p>Regional council, city and district councils</p> <p>Regional council</p> <p>Regional council, city and district councils</p> <p>Regional council, city and district councils</p>
	<p>Policy IW 3B: Recognising the Treaty in the exercise of functions and powers under the Act</p>		<p>Method 3: Resource consents, notices of requirement and when changing, varying, reviewing or replacing plans</p> <p>Method 9: Recognise statutory acknowledgement areas</p> <p>Method 42: Consider appointing Pūkenga to hearing committees</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>Policy IW 6B: Encouraging tangata whenua to identify measures to avoid, remedy or mitigate adverse cultural effects</p>		<p>Method 3: Resource consents, notices of requirement and when changing, varying, reviewing or replacing plans</p> <p>Method 9: Recognise statutory acknowledgement areas</p> <p>Method 10: Take into account iwi and hapū resource management plans in assessments of environmental effects</p> <p>Method 42: Consider appointing Pūkenga to hearing committees</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>Regional council, city and district councils</p>

Table 6

*Iwi resource management objectives and titles of policies and methods to achieve the objectives.*

Objectives	Policy titles	Page	Method titles	Implementation	Page
Objective 14 Partnerships between Regional Bay of Plenty Council, district and city councils and iwi authorities.	Policy IR 3B: Adopting an integrated approach		Method 3: Resource consents, notices of requirement and when changing, varying, reviewing or replacing plans  Method 9: Recognise statutory acknowledgement areas  Method 41: Collaborate on matters of shared interest	Regional council, city and district councils  Regional council, city and district councils  Regional council, city and district councils	
	Policy IR 4B: Using consultation in the identification and resolution of resource management issues		Method 3: Resource consents, notices of requirement and when changing, varying, reviewing or replacing plans  Method 38A: Promote the development of a rural advisory panel  Method 39: Consider consulting potentially affected tangata whenua  Method 39A: Evaluate matters of significance to tangata whenua  Method 40: Consider the necessity of consulting potentially affected tangata whenua during consent processing	Regional council, city and district councils  Regional council  Regional council, city and district councils  Regional council, city and district councils  Regional council, city and district councils	
	Policy IR 6B: Promoting consistent and integrated management across jurisdictional boundaries		Method 3: Resource consents, notices of requirement and when changing, varying, reviewing or replacing plans  Method 39: Consider consulting potentially affected tangata whenua  Method 39A: Evaluate matters of significance to tangata whenua	Regional council, city and district councils  Regional council, city and district councils  Regional council, city and district councils	





Objectives	Policy titles	Page	Method titles	Implementation	Page
	<p>Policy IR 7C: Allocating responsibilities for land-use controls for hazardous substances</p> <p>Policy IW 7D: Cultivating partnerships between iwi and statutory management agencies</p>		<p>Method 3: Resource consents, notices of requirement and when changing, varying, reviewing or replacing plans</p> <p>Method 7: Provide information to address matters of common interest</p> <p>Method 9: Recognise statutory acknowledgement areas</p> <p>Method 41: Collaborate on matters of shared interest</p> <p>Method 42: Consider appointing pūkenga to hearing committees</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>Regional council, city and district councils</p> <p>Regional council, city and district councils</p>	

## Integrated Resource Management Policies

### Policy IR 1B: Applying a precautionary approach to managing natural and physical resources

Apply a precautionary approach to the management of natural and physical resources, where there is scientific uncertainty and/or a threat of serious or irreversible adverse effects on the resource and the built environment. ~~Such activities should be classified as discretionary or non-complying activities in regional and district plans.~~

#### Explanation

There is a lack of complete information and understanding about some natural and physical resources, and their use and development. A precautionary approach requires that any adverse effects can be identified and understood and any activity is carried out at a level or rate that adequately considers the risk of operating with imperfect information. Where appropriate, the precautionary approach may include an adaptive management approach.

Councils are expected to apply the precautionary approach as appropriate when considering resource consents and developing district and regional plans. Where a precautionary approach is needed, such activities will be considered as part of the planning and resource consent process.

Table reference: **Objectives 11 and 10, Methods 3 and 8**

### Policy IR 2B: Having regard to the likely effects of climate change

Recognise and provide for the predicted effects of climate change having particular regard to:

- (a) Predicted increase in rainfall intensity, taking account of the most recent national guidance and assuming a minimum increase in the annual mean temperature of 2°C by 2090 (relative to 1990 levels); and
- (b) Predicted increase in sea level, taking into account the most recent national guidance and assuming a minimum increase in sea level of 0.8 m by 2090 (relative to 1990 levels).

## Explanation

Known risks associated with climate change are to be considered in association with the planning of subdivision, use and development. Climate change effects should be considered in association with resource consents and plan change processes. Adaptation and forward planning is necessary to mitigate or avoid risks associated with climate change.

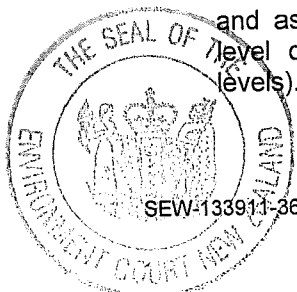
National guidance figures in Policy IR 2B are from the Ministry for the Environment guidance manual on climate change, 'Preparing for Climate Change - a guide for local government in New Zealand (2008)', from available data at the time. The 2°C increase in annual mean temperature is a mid-level projection of future temperature changes and may be refined in future.

Table reference: **Objectives 11, 2, 4, 8 and 9, Method 3**

### Policy IR 3B: Adopting an integrated approach

Adopt an integrated approach to resource management that:

- (a) Recognises the interconnected nature of natural and physical resources, including as they adjust to changes;
- (b) Recognises the multiple values of natural and physical resources;
- (c) Responds to the nature and values of the resource and the diversity of effects (including cumulative and reverse sensitivity effects) that can occur;
- (d) Seeks to maximise benefits by considering opportunities to align interventions (including regulatory and non-regulatory) and/or to achieve multiple objectives;
- (e) Encourages developments, activities or land-use changes to:
  1. Provide for the relationship between land use and water quality and quantity
  2. Recognise the advantages and constraints of land use capability;
  3. Provide for infrastructure and;
  4. Benefit the economic wellbeing of communities.
- (f) Takes a long term strategic approach which recognises the changing environment and changing resource use pressures and trends;





- (g) Applies consistent and best practice standards and processes to decision making; and
- (h) Recognises different community values and social needs;

and regards these as positive effects.

### Explanation

Integrated resource management requires a holistic view that looks beyond organisational, spatial or administrative boundaries. For integrated management to be effective and efficient it requires a coherent and consistent approach and that agencies or organisations involved in resource management work together in a collaborative manner. This is because there is overlap in the functions of local authorities and also resources and issues that cross jurisdictional boundaries.

Sustainable land management requires integrating the development and use of the land with the attributes of its wider environment: the availability of water and its capacity to receive contaminants without adverse effects, the ability of the land to retain its physical qualities while supporting the use, and recognition of and provision for the wider environment within which the activity occurs.

*Table reference: Objectives 10, 11 and 14, Methods 3, 7, 9, 41 and 60A \**

### Policy IR 4B: Using consultation in the identification and resolution of resource management issues

Encourage the timely exchange, consideration of, and response to, relevant information by all parties with an interest in the resolution of a resource management issue by:

- (a) Consulting as widely as practicable in the preparation, implementation and review of policy statements and plans.
- (b) Consulting all potentially affected parties and interest groups in the planning, implementation and review of councils' own operational activities in relation to the use, development and protection of natural and physical resources.
- (c) Encouraging all parties undertaking resource use, development and protection activities to consult with others who may be affected.

### Explanation

Consultation is the process by which those contemplating undertaking an activity, or

implementing a management regime, exchange information about the proposal and its effects with those who may be affected. An outcome of consultation is that decision-makers are able to consider all relevant factors in coming to a resource management decision. While those participating in consultation must allow other parties sufficient time to respond, they are also obliged to avoid unreasonable delay. Timely and effective consultation leads to better decisions and can result in overall efficiencies for participants.

Consultation involves a genuine invitation to give advice and a genuine consideration of that advice. Sufficient information and time should be provided for the consulted party to be adequately informed, to appraise the information and make useful responses. The party obliged to consult should keep its mind open, being ready to change.

*Table reference: Objectives 12 and 14, Methods 3, 38A, 39, 39A and 60A*

### Policy IR 5B: Assessing cumulative effects

Give regard to the cumulative effects of a proposed activity in contributing to:

- (a) Incremental degradation of values of sites identified as having high natural character (in accordance with Policies CE 2A and CE 7B);
- (aa) Incremental degradation of matters of significance to Māori including cultural effects (in accordance with Policy IW 5B);
- (b) Incremental degradation of water quality from point source and non-point source discharges including urban stormwater;
- (c) Inefficient use of space associated with sprawling or sporadic new subdivision, use or development;
- (d) Incremental degradation of scenic values, amenity, open space, recreation and the general use and enjoyment by the public;
- (e) Adverse impacts on coastal processes, resource or values, biodiversity and ecological functioning;
- (f) The availability of freshwater resources;
- (g) Increased risk from natural hazards;
- (h) The loss of versatile land for rural production activities; and
- (i) Effects on the function, efficiency and safety of infrastructure; and



(j) Social and economic wellbeing.

## Explanation

Policy IR 5B recognises that it is often the cumulative effects of individual a variety of actions, processes and activities (both natural and human induced) that have the most significant impacts on a range of regionally significant resource management issues. For example, impacts on the natural character of the coastal environment, wetlands, lakes and rivers and their margins. Also, the effects of urbanisation outside urban limits or zones can adversely impact on the ability to undertake rural production activities which should be a predominant land use in rural areas. In the case of natural character, cumulative effects should be considered when making decisions on any activity in the coastal environment, wetlands, lakes and rivers and their margins to ensure that natural character, open space and amenity values are not incrementally degraded. This will allow opportunities for restoration to be considered in places which, although compromised, are not considered to be degraded beyond repair.

Table reference: **Objectives 10 and 11,**  
Methods 3 and 8

### **Method 38A: Promote the development of a rural advisory panel**

Promote the development of a rural advisory panel to contribute to strategic resource management issues and facilitate integrated management with the rural sector and other relevant interest groups (e.g. iwi, recreation groups).

*Implementation responsibility: Regional Council*

## Appendix A – Definitions

**Policy:** Policies define the boundaries within which decision can be made, and they guide provide guidance for decision making and the development of courses of action directed towards the accomplishment of objectives. Policies are guides to action.

