

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

AND

IN THE MATTER of an appeal pursuant to Clause 14 of
the First Schedule to the Act in relation
to Proposed Plan Change 1 to the
Western Bay of Plenty District Plan

BETWEEN

GEORGE D'EMDEN
(ENV- 2012-AKL-000162)

Appellant

AND

**WESTERN BAY OF PLENTY
DISTRICT COUNCIL**

Respondent

BEFORE THE ENVIRONMENT COURT

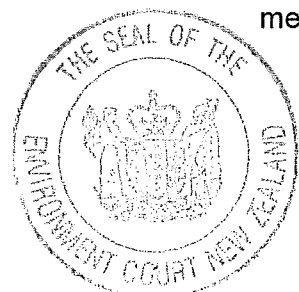
Environment Judge JA Smith sitting alone under section 279 of the Act

IN CHAMBERS at Auckland

CONSENT ORDER

Introduction

1. This appeal is the only appeal against the Western Bay of Plenty District Council's decision regarding Proposed Plan Change 1 (Rural Contractors Depots) of the Western Bay of Plenty District Plan First Review.
2. The Court has read and considered the Appeal and the joint memorandum of the parties dated 19 August 2013 (**the memorandum**)
3. Horticulture New Zealand, NZ Kiwifruit Growers Inc., Federated Farmers of New Zealand NZ and NZ Transport Agency have given notices of intention to become parties to these proceedings pursuant to s.274 of the Act and have signed the memorandum.



4. The Court is making this order under s.279(1)(b) 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 proceeding 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.

Order

5. Therefore the Court orders, by consent, that the Appeal by George D'Emden is allowed to the extent that the decisions version of Plan Change 1 to the Western Bay of Plenty District Plan First Review is amended as set out below (underline):

Section 3 – Definitions

“**Retailing**” means any activity on land and/or within a *building* or part of a *building* whereby goods and services are sold, exposed or offered for sale to the public, but does not include the sale of fuel for motor vehicles, vehicle, machinery and automotive parts sales, *restaurants, warehouses, building and construction wholesalers and retailers*, the sale of goods provided for within Rule 18.4.1 (m) (ii) in respect to *Rural Contractors Depots*, or the storage, distribution or assembly of goods.

“**Rural Contractors Depot**” means land and / or *buildings* used for the purpose of storing equipment and goods associated with a rural contracting business which wholly serves the *farming* industry.

Section 18 – Rural

18.4 Activity Performance Standards

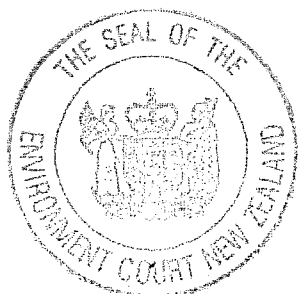
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18.4.1 General

...

(m) Standards for Rural Contractor Depots

- (i) The Rural Contractors Depot ~~Operation~~ is carried out by a maximum of five persons, a minimum of one who shall reside on site, plus a maximum of two additional persons for no more than a six month period during the period from 1 July of each year to 30 June of the following year.

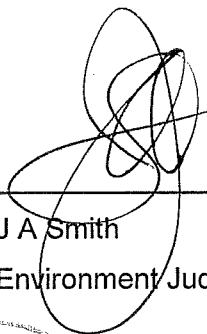


- (ii) Does not involve the sale of goods from the site, other than those that are produced on the site sold as an integral component of the rural contracting service provided to the *farming* industry, whether produced by the Rural Contractor or not.
- (iii) Does not have access within 30 metres of a State Highway or Strategic Road.
- (iv) All vehicle crossings used as access by the *Rural Contractors Depot* shall meet all of the relevant standards and standard drawings in *Council's Development Code 2009* and shall as a minimum meet standard drawing W437 Diagram B.
- (v) The *Rural Contractors Depot* operation shall not be located within 60 metres of any existing *Dwelling, Minor Dwelling, Education Facility or Accommodation Facility* that is located on a title separate to that of the subject site and in different ownership to that of the *Rural Contractors Depot* operator.

6. The Appeal is otherwise dismissed.

7. There will be no order for costs.

DATED at Auckland 23rd ~~th~~ day of August 2013



J A Smith
Environment Judge

