

IN THE MATTER

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

AND

IN THE MATTER

of an appeal under Clause 14 of the First Schedule to the Act in relation to Proposed Plan Change 9 to the Western Bay of Plenty District Plan

BETWEEN

**THE TRUSTEES OF THE
STEWART FAMILY TRUST**
ENV-2012-AKL-000150

Appellant

AND

**WESTERN BAY OF PLENTY
DISTRICT 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 appeal relates to the Western Bay of Plenty District Council Plan Review – Proposed Plan Changes 9 and 10. This consent order resolves this appeal in its entirety and specifically resolves the relief sought by the appellant in relation to setbacks for rural buildings from any boundary.
2. In making this consent order the Court has read and considered the appeal and the memorandum of the parties dated 30 July 2013.
3. Horticulture New Zealand and NZ Kiwifruit Growers Inc. and Federated Farmers of New Zealand have given notices of intention to become parties to these proceedings pursuant to s.274 of the Act and have signed the memorandum setting out the relief sought.

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 the Trustees of the Stewart Family Trust is allowed to the extent that the decisions version of Plan Change 9 to the Western Bay of Plenty District Plan First Review is amended as set out below (underline):

Rule 18.4.1 (n)

Accessory Buildings

- (i) Maximum *gross floor area* of 200m² when within a *lot* of two hectares or less.
- (ii) No maximum *gross floor area* when on *lots* over two hectares.

Provided that:

- Any accessory buildings greater than 200m² in gross floor area on lots over two hectares shall have a side yard and rear yard of 30m.

Except that:

- An accessory building may be located within a side yard and / or rear yard up to 5m of a side and / or rear boundary where it is not located any closer than 35m to any existing dwelling, minor dwelling, accommodation facility, education facility, approved building site – natural hazards, and / or approved building site in accordance with Rule 12.4.1 (b), that is located on a title separate to that of the subject site.
- An accessory building may be located within a side yard and / or rear yard up to a side and / or rear boundary where the written approval of the owner of the immediately adjoining property to a specified lesser distance is obtained.
- As provided for in Rule 18.4.1(c)(iii)-(vi).

6. The appeal is otherwise dismissed.



7. There will be no order for costs.

DATED at Auckland this

8th

day of

August

2013



J A Smith
Environment Judge

