

**Before the Environment Court**

**ENV-2015-AKL-134**

Under the Resource Management Act 1991

In the matter of an appeal pursuant to clause 14 of the First Schedule to the Act

Between **Motiti Rohe Moana Trust**

Appellant

And **Bay of Plenty Regional Council**

Respondent

And **Lowndes and Others**

Section 274 Parties

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**Submissions on behalf of Lowndes (a s 274 party)**

Dated: 27 November 2017

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**LOWNDES**  
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**May it please the Court:**

1. Counsel appears for Lowndes (s 274 party) to support the draft consent order filed with the Court by joint memorandum of counsel, dated 27 September 2017.
2. The draft consent order reflects the outcome at Court assisted mediation on 22 August 2017. The parties at mediation reached agreement that the following text be adopted as part of any Motiti natural environment management area framework adopted through the MRMT appeal, that:

Any provisions relating to the Motiti Natural Environment Management Areas shall not apply in respect of the application for resource consents to abandon the wreck of Rena on Otaiti and the resolution of any appeals on those consents.

3. A draft consent order was filed with the Court on 27 September 2017 along with a joint memorandum of the parties.
4. The Court noted the draft consent order in its directions of 2 October 2017, and directed that it should lie in Court pending the hearing of the appeal.
5. The wording of the draft consent order has however, not flowed into the drafting pre-circulated by the planning witnesses. That appears to be an oversight.
6. It is noted that the draft consent order reflects limitations earlier agreed by the appellant to limit the scope of its appeal so as to exclude any application to the Rena consent. This was noted in:

- (a) the amended notice of appeal dated 23 November 2015 which expressly recorded that (at para 11, and at 13.2):

This Appeal expressly excludes the matters arising from the submission and further submission of Lowndes (submitter #113, and FS30) as it relates to management of maritime incidents including the wreck of the MV Rena (and its equipment and cargo and associated debris field) on Otaiti/Astrolabe Reef and any associated debris or discharge.

- (b) The Appellant's subsequent advice to the Court as recorded in the Court's minute of 20 September 2016, was that:

1. At the commencement of a hearing for an application to strike-out by the Regional Council, Mr

Enright advised the Court that the Trust and Lowndes have reached an agreement in relation to a further amendment (reduction) of the Trust appeal, to avoid impacting on the Rena application and decisions in terms of their appeal on the Regional Coastal Plan.

5. ... It reflects an agreement between the Trust and Lowndes that the relief sought under the Regional Coastal Plan is not intended to affect the Rena consent or its appeal, and it is not intended that this appeal override any consent that might be granted.
7. Lowndes understands the appellant continues to abide by and support the agreed-upon outcome from mediation. The Court is respectfully invited to adopt the wording proposed in the draft consent order of 27 September 2017.

Dated 27 November 2017.



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Matthew Casey QC  
Counsel for Lowndes