

9 Regional Rules

9.1 Guide to Rules

Activities under this regional plan are permitted, discretionary or prohibited. A permitted activity is allowed without a resource consent if it complies with all the conditions specified in the rule. A discretionary activity is allowed only if a resource consent is obtained for that activity. A prohibited activity will not be allowed in the region, and no resource consent will be granted in respect of that activity.

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9.2 Land and Soil Disturbance Activities

Advisory Note

- 1 Refer to section 9.10 for activities in the beds of rivers, streams, or lakes, or section 9.12 for activities in wetlands.
- 2 The discharge of dust from earthworks, and smoke and particulates from burning is addressed in the Operative Bay of Plenty Regional Air Plan.
- 3 The rules in this regional plan do not authorise the modification or disturbance of any archaeological or registered waahi tapu sites within the area of the activity. Written authority from the New Zealand Historic Places Trust is required prior to any destruction, damage or modification of an archaeological or registered waahi tapu site or an area where there is reasonable cause to suspect there is an archaeological site. Should any artefacts, bones or any other sites of archaeological or cultural significance be discovered within the area affected by the activity, written authorisation should be obtained from the Historic Places Trust before any damage, modification or destruction is undertaken.
- 4 Land disturbance activities are also controlled by provisions in district plans. City and district councils address subdivision and geotechnical aspects of earthworks, including matters relating to the Building Act 2004, land use, and such matters as landscape, natural character, amenity values, and protection of heritage sites.
- 5 Compliance with the provisions of this regional plan does not remove the need to also comply with district plan provisions.
- 6 For the avoidance of doubt, the Riparian Management Zone does not apply to areas of land adjacent to ephemeral flowpaths and artificial watercourses.

9.2.1 Earthworks and Quarries

Rule 1 Permitted – Earthworks and Quarries

The disturbance of land and soil as a result of earthworks or a quarry, where the activity does not exceed the limits in Table 28 within any 12 month period is a permitted activity subject to the following conditions:

Table 28 – Permitted Limits for Earthworks and Quarries

	General Area	Land Slope	Distance from Water Body	Permitted Limits within any 12 month period
(a)	Urban areas on Sand Dune Country, and previously developed subdivisions on Sand Dune Country	No greater than 35°	Coastal land between 50 metres landward of the Coastal Marine Area and either: (i) 150 horizontal metres landward of the Coastal Marine Area; or (ii) the point where land changes from sand dune country to another soil type; whichever is the lesser distance.	Exposed area no greater than 400 m ² and volume no greater than 200 m ³ .
(b)	Riparian Management Zone – Rotorua Lakes	0 to 15°	Between 0-20 horizontal metres from the edge of the lake	Exposed area no greater than 100 m ² and volume no greater than 50 m ³ .
		>15 to 25°	Between 0-25 horizontal metres from the edge of the lake	
		>25 to 35°	Between 0-40 horizontal metres from the edge of the lake	
(c)	Riparian Management Zone - other lake not specified in (b), wetland or the bed of any river or stream, excluding streams and rivers with Water Supply water quality classification and Schedule 1 streams	0 to 7°	Between 0-5 horizontal metres from the edge of the water body	Earthworks excluding stream crossings - Exposed area no greater than 400 m ² and volume no greater than 200 m ³
		>7 to 15°	Between 0-10 horizontal metres from the edge of the water body	Earthworks for stream crossing purposes – exposed area no greater than 1,000 m ² per crossing.
		>15 to 25°	Between 0-20 horizontal metres from the edge of the water body	
		>25 to 35°	Between 0-25 horizontal metres from the edge of the water body	
(d)	Riparian Management Zone – streams and rivers with Water Supply water quality classification	0 to 15°	Between 0-20 horizontal metres from the edge of the water body	Earthworks excluding stream crossings – Exposed area no greater than 400 m ² and volume no greater than 200 m ³ .
		>15 to 25°	Between 0-25 horizontal metres from the edge of the water body	Earthworks for stream crossing purposes – exposed area no greater than 1000 m ² per crossing.
		>25 to 35°	Between 0-40 horizontal metres from the edge of the water body	
(e)	Riparian Management Zone – Schedule 1 streams	0 to 7°	Between 0-5 horizontal metres from the edge of the water body	Earthworks excluding stream crossings - Exposed area no greater than 400 m ² and volume no greater than 200 m ³ .
		>7 to 15°	Between 0-10 horizontal metres from the edge of the water body	Earthworks for stream crossing purposes – exposed area no greater than 600m ² per crossing.
		>15 to 25°	Between 0-20 horizontal metres from the edge of the water body	
		>25 to 35°	Between 0-25 horizontal metres from the edge of the water body	

	General Area	Land Slope	Distance from Water Body	Permitted Limits within any 12 month period
(f)	Ephemeral Flowpath not in the Erosion Hazard Zone	No greater than 35°	N/A	Earthworks excluding roading crossings - Exposed area no greater than 100 m² and volume no greater than 50 m³ per individual flowpath. Earthworks outside urban areas for roading crossing purposes – exposed area no greater than 400 m² per crossing.
(g)	Coastal Margin	No greater than 35°	Land between 20-40 horizontal metres as measured from the Coastal Marine Area on the edge of an estuary, harbour, or the open rocky coast.	Exposed area no greater than 400 m² and volume no greater than 200 m³.
(h)	Land not in areas covered by (a) to (e), and not in the Erosion Hazard Zone	0 to 15°	N/A	Exposed area no greater than 1 hectare and volume no greater than 5,000 m³.
		>15 to 25°	N/A	Exposed area no greater than 5,000 m² and volume no greater than 5,000 m³.
		>25 to 35°	N/A	Exposed area no greater than 500 m² and volume no greater than 500 m³.
Notes: 1 Any earthworks: (a) In the Erosion Hazard Zone, or (b) On slopes greater than 35 degrees; or (c) On coastal land between 0-50 metres of the Coastal Marine Area on Sand Dune Country; or (d) On coastal land between 0-20 metres of the Coastal Marine Area on the Coastal Margin; are discretionary activities under Rule 1C. 2 The area covered by Table 28(a) will be interpreted to be modified or stabilised Sand Dune Country which has a vegetative cover, sealed or compacted soil, and a previously modified or flattened topography. This excludes unmodified or natural dune systems. 3 Any earthworks in the Coastal Margin between 0 to 20 horizontal metres as measured from the Coastal Marine Area on the edge of an estuary, harbour, or the open rocky coast are a discretionary activity under Rule 1C.				

- (a) There shall be no point source discharge of sediment contaminated stormwater to surface water from the activity.
- (b) The diffuse discharge of sediment contaminated stormwater to surface water from the activity shall not cause the following effects, except where a 20% AEP flood event is exceeded:
 - (i) The production of any conspicuous oil, grease films, scums or foams, or floatable or suspended solids.
 - (ii) Any conspicuous change in colour or visual clarity.
 - (iii) Any emission of objectionable odour.
 - (iv) The rendering of fresh water unsuitable for consumption by farm animals.
 - (v) Any more than minor adverse effects on aquatic life.
- (c) The activity shall not cause or induce erosion to land or to the bed or banks of any surface water body, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:

- (i) Instability of land or the banks of the surface water body.
- (ii) Scour to the bed of the surface water body.
- (d) Fill from the earthwork activity shall not be deposited in overland or secondary flow paths that convey stormwater during rainfall events.
- (e) The activity shall not obstruct or divert the flow of water in such a manner that it results in damming, flooding or erosion.
- (f) The activity shall not disturb vegetation in a wetland; or change the water flow or quantity, or water quality in a wetland.
- (g) Where an activity is a cleanfill site, the activity shall comply with the Ministry for the Environment's Cleanfill Guidelines (2001)³⁶
- (h) The activity shall not disturb an identified contaminated site.
- (i) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (j) No contaminants (including, but not limited to, oil, hydraulic fluids, petrol, diesel, other fuels, paint, solvents or anti-fouling paints), excluding sediment, shall be discharged to water, or discharged to land in circumstances where the contaminant may enter water, from the activity.
- (k) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (l) The activity shall be staged, managed and completed, and the activity site closed-off, in a manner that ensures compliance with conditions (a) to (k) inclusive.
- (m) Any stormwater from outside the exposed area shall be kept separate from the earthworks area.
- (n) Where the earthworks are for stream crossing purposes, the activity shall also comply with the following conditions:
 - (i) The crossing shall be made at, or near to, right angles to the flow of the water in the river or stream, ensuring minimal roading in the Riparian Management Zone.
 - (ii) The area shall be stabilised as soon as practicable, but no later than 3 months from the end of the activity.
 - (iii) All practicable steps shall be taken to keep stormwater away from the stream crossing approach.

Advisory Note

- 1 Cleanfill sites that do not produce leachate are included in the definition of 'earthworks'.
- 2 In relation to condition (a), where there is a point source discharge of sediment contaminated stormwater to surface water from earthworks, then a resource consent is required under Rule 37. Discharges to land soakage are permitted under Rule 31.
- 3 In relation to condition (g), the disturbance of a contaminated site is addressed by Rules 34 and 35.
- 4 Volume of earthworks is measured as the following:
 - (a) The volume as 'cut' where the material is taken away from the activity site; or
 - (b) The volume as 'fill' where the material is received from an area which is not the activity site; or
 - (c) The volume as 'cut to fill' within an activity site. This means that up to maximum permitted volume can be moved within one activity site (e.g. in relation to Table 28 (f), 5,000 m³ can be moved within an activity site).

³⁶ Ministry for the Environment, 2001. Guide to the Management of Cleanfills. Wellington, New Zealand.

- 5 Best management practices shall be used to avoid or mitigate the discharge of sediment contaminated stormwater to water. In selecting the best management practices appropriate to the activity site, the following should be considered:
- The water quality classification of the receiving water body.
 - Aquatic ecosystem values of the receiving water body.
 - Soil type and slope.
 - Proximity to surface water bodies.

Explanation/Intent of Rule

To allow earthworks and quarries that are located in low risk areas. Earthworks and quarries that do not comply with all the required conditions require consent. Refer to Flow Diagram 1 to assist reading of this rule. In relation to condition (a), it is unlikely that discharges of sediment contaminated stormwater from earthworks will meet the requirements of Rule 30 (permitted discharges of stormwater to surface water). Discharges from earthworks need to comply with Rule 30B (permitted discharge of stormwater to land).

Rule 1A

Controlled – Earthworks and Quarries

The disturbance of land and soil as a result of earthworks or a quarry, where the activity is;

- Not in the Riparian Management Zone;
- Not in the Coastal Margin;
- Not in the Erosion Hazard Zone;

and does not exceed the limits in Table 29 within any 12 month period is a controlled activity, subject to the following terms and conditions:

Table 29 – Controlled Earthworks

	General Area	Land Slope	Controlled Limits
(a)	Ephemeral Flowpath not in the Erosion Hazard Zone	0 to 25°	Exposed area no greater than 1,000 m ² and volume no greater than 500 m ³ per individual flowpath
(b)	Land not in the Riparian Management Zone, an ephemeral flowpath, the Coastal Margin, or the Erosion Hazard Zone	0 to 15°	2 hectare and 20,000 m ³
		>15 to 25°	5,000 m ² and 10,000 m ³
		>25 to 35°	1,000 m ² and 5,000 m ³

- There shall be no point source discharge of sediment contaminated stormwater to surface water from the activity.
- The diffuse discharge of sediment contaminated stormwater to surface water from the activity shall not cause the following effects, except where a 20% AEP flood event is exceeded:
 - The production of any conspicuous oil, grease films, scums or foams, or floatable or suspended solids.
 - Any conspicuous change in colour or visual clarity.
 - Any emission of objectionable odour.
 - The rendering of fresh water unsuitable for consumption by farm animals.
 - Any more than minor adverse effects on aquatic life.
- The activity shall not cause or induce erosion to land or to the bed or banks of any surface water body, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - Instability of land or the banks of the surface water body.
 - Scour to the bed of the surface water body.

- (d) Fill from the earthwork activity shall not be deposited in overland or secondary flow paths that convey stormwater during rainfall events.
- (e) The activity shall not obstruct or divert the flow of water in such a manner that it results in damming, flooding or erosion.
- (f) The activity shall not disturb vegetation in a wetland; or change the water flow or quantity, or quality in a wetland.
- (g) Where an activity is a cleanfill site, the activity shall comply with the Ministry for the Environment's Cleanfill Guidelines (2001).
- (h) The activity shall not disturb an identified contaminated site.
- (i) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (j) No contaminants (including, but not limited to, oil, hydraulic fluids, petrol, diesel, other fuels, paint, solvents or anti-fouling paints), excluding sediment, shall be discharged to water, or discharged to land in circumstances where the contaminant may enter water, from the activity.
- (k) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.

Environment Bay of Plenty reserves its control over the following matters:

- (a) Measures to manage discharges of contaminants from the activity, including discharges of sediment contaminated stormwater.
- (b) Measures to avoid, remedy or mitigate erosion.
- (c) Timing and duration of the activity.
- (d) Effect on water flows, including overland or secondary flow paths that convey stormwater during rainfall events.
- (e) Measures to avoid, remedy or mitigate adverse effects on sites of significance to tangata whenua, indigenous biodiversity, and areas of significant indigenous vegetation and significant habitats of indigenous fauna.
- (f) Measures to protect and replace topsoil where the activity is re-contouring.
- (g) Information and monitoring requirements.
- (h) The administration charges under section 36 of the Act.

Notification

Applications for controlled activities under this Rule do not require the written approval of affected persons, and shall not be publicly notified, except where Environment Bay of Plenty considers special circumstances exist in accordance with Section 94C of the Act.

Advisory Note

- 1 Volume of earthworks is measured as the following:
 - (a) The volume as 'cut' where the material is taken away from the activity site; or
 - (b) The volume as 'fill' where the material is received from an area which is not the activity site; or
 - (c) The volume as 'cut to fill' within an activity site. This means that up to maximum permitted volume can be moved within one activity site (e.g. in relation to Table 29(b) slope 0-15°, 20,000 m³ can be moved within an activity site).

Explanation/Intent of Rule

To control earthworks and quarries that present some risk to the environment, and where it is appropriate to assess the effects of the activity within the resource consent application process.

Rule 1B Restricted Discretionary – Earthworks and Quarries

The disturbance of land and soil as a result of earthworks or a quarry, where the activity does not exceed limits in Table 30 within any 12 month period is a restricted discretionary activity.

Table 30 – Restricted Discretionary Earthworks and Quarries

	General Area	Land Slope	Distance from Water body	Restricted Discretionary Limits
(a)	Riparian Management Zone – Rotorua Lakes	0 to 15°	Between 0-20 horizontal metres of the lake	500 m ² and 500 m ³
		>15 to 25°	Between 0-25 horizontal metres of the lake	
		>25 to 35°	Between 0-40 horizontal metres of the lake	
(b)	Riparian Management Zone – other lake not specified in (a), wetland or the bed of any river or stream, excluding streams and rivers with Water Supply water quality classification	0 to 7°	Between 0-5 horizontal metres of the water body	Earthworks excluding stream crossings – 500 m ² and 500 m ³
		>7 to 15°	Between 0-10 horizontal metres of the water body	Earthworks for stream crossing purposes – all earthworks not permitted by Rule 1
		>15 to 25°	Between 0-20 horizontal metres of the water body	
		>25 to 35°	Between 0-25 horizontal metres of the water body	
(c)	Riparian Management Zone – streams and rivers with Water Supply water quality classification	0 to 15°	Between 0-20 horizontal metres from the edge of the water body	Earthworks excluding stream crossings – 500 m ² and 500 m ³ .
		>15 to 25°	Between 0-25 horizontal metres from the edge of the water body	Earthworks for stream crossing purposes – all earthworks not permitted by Rule 1.
		>25 to 35°	Between 0-40 horizontal metres from the edge of the water body	
(d)	Ephemeral Flowpath not in the Erosion Hazard Zone	No greater than 35°	N/A	Any activity not otherwise permitted by Rule 1 or controlled by Rule 1A.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Measures to manage discharges of contaminants from the activity, including discharges of sediment contaminated stormwater.
- (b) Measures to avoid, remedy or mitigate erosion.
- (c) Timing and duration of the activity.
- (d) Effect on water flows, including overland or secondary flow paths that convey stormwater during rainfall events.
- (e) Measures to avoid, remedy or mitigate adverse effects on: natural character of the coastal environment, wetlands, lakes, rivers and their margins; amenity values; legal public access; sites of significance to tangata whenua; aquatic ecosystems; indigenous biodiversity; and areas of significant indigenous vegetation and significant habitats of indigenous fauna.
- (f) Measures to protect and replace topsoil where the activity is re-contouring.
- (g) Information and monitoring requirements.
- (h) The administration charges under section 36 of the Act.

Explanation/Intent of Rule

To control earthworks and quarries that present a higher risk to the environment, and where it is appropriate to assess specific adverse effects of the activity on the environment within the resource consent application process.

Rule 1C**Discretionary – Earthworks and Quarries**

The disturbance of land and soil as a result of earthworks or a quarry, where the activity:

- 1 Is not permitted by a rule in this regional plan; and
- 2 Is not a controlled activity under a rule in this regional plan, and
- 3 Is not a restricted discretionary activity under a rule in this regional plan;

Is a discretionary activity.

Assessment Criteria

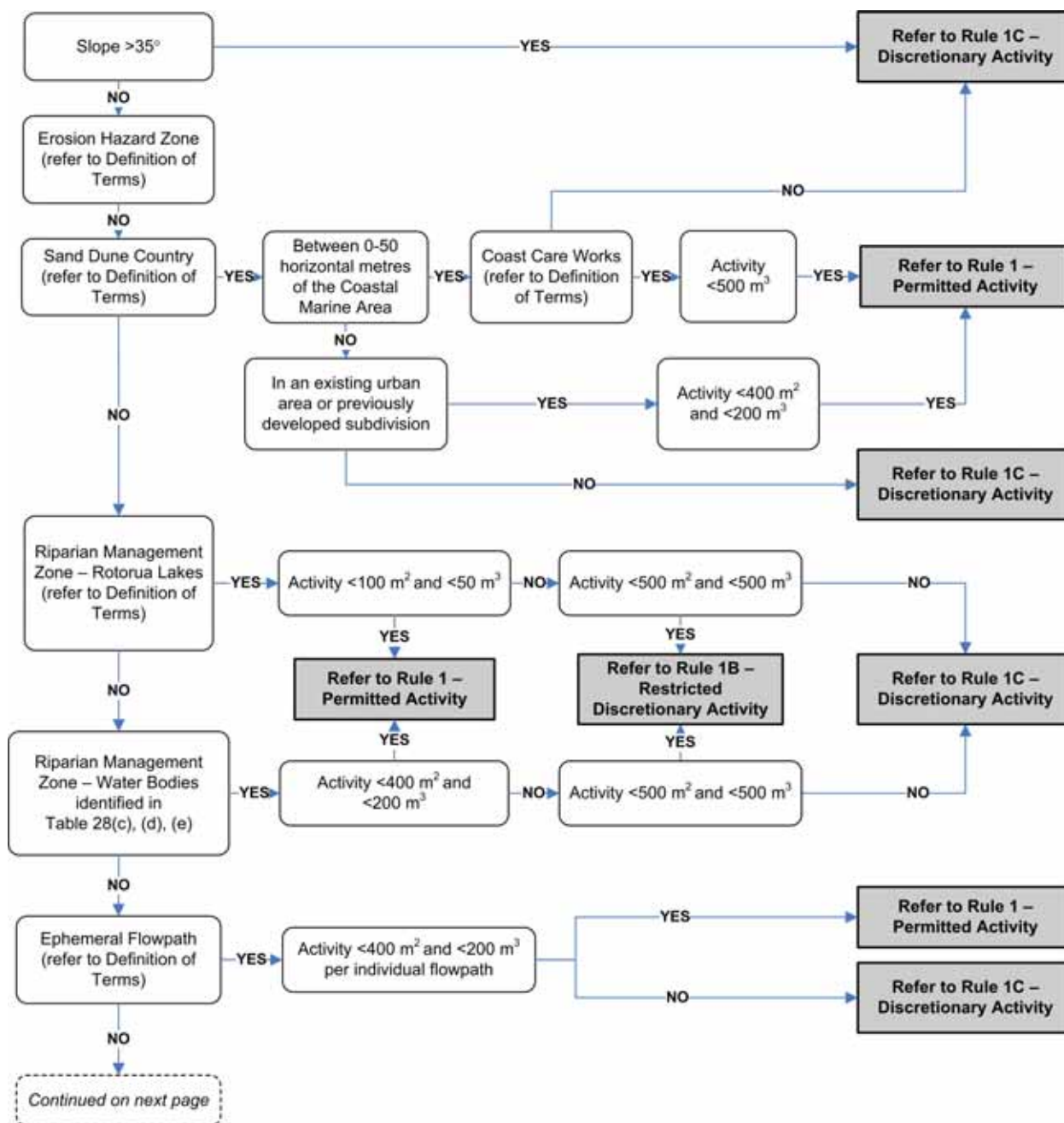
When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions:

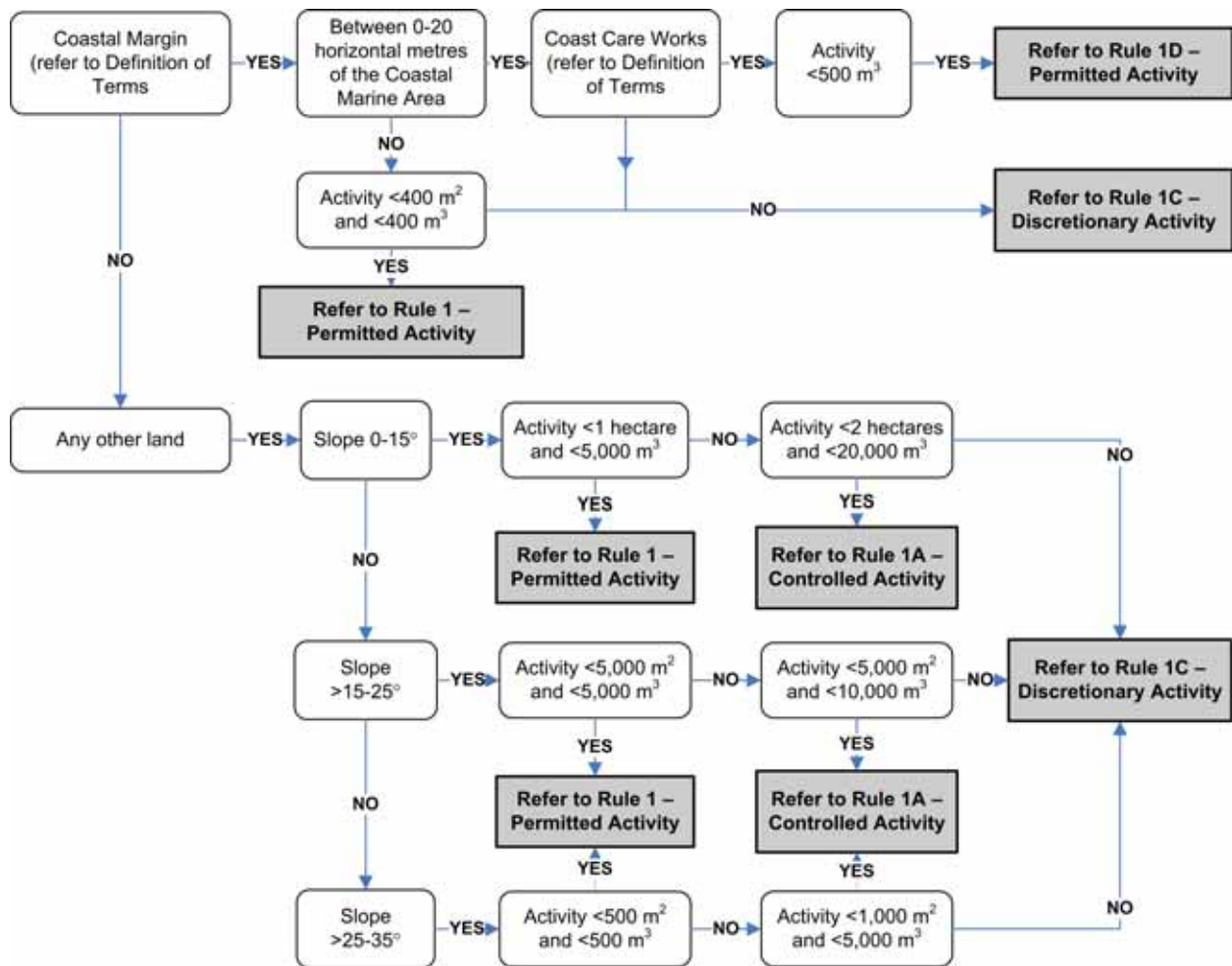
Objective 4, 5, 9, 17, 19, 21, 31, 32, 34
Policy 5, 14, 15, 17, 18, 20, 21, 51, 54
Method 12, 19, 20, 56, 60, 124

Explanation/Intent of Rule

To control earthworks and quarries that present a high risk to the environment, and where it is appropriate to assess the effects of the activity within the resource consent application process.

Flow Diagram 1 – Earthworks and Quarries





Advisory Note

- 1 This flow diagram is to assist working out which rules apply but does not constitute a part of the rules. If there is any inconsistency between the flow diagram and the rules in the regional plan it refers to, the criteria in the rules prevail.

9.2.2 Coast Care Works

Rule 1D Permitted – Earthworks and Vegetation Disturbance on Coastal Margins and Sand Dune Country for Coast Care Works

The disturbance of land and soil as a result of earthworks or vegetation disturbance carried out as part of “Coast Care” works that have been formally approved by Environment Bay of Plenty, where:

- 1 The earthworks are on land in the Coastal Margin or Sand Dune Country; and
- 2 The earthworks and vegetation disturbance are part of beach scraping (sand relocation) works and associated maintenance works; and
- 3 The volume of earthworks does not exceed 500 m³ for any one activity site within a 12 month period; and
- 4 The activity is not carried out seaward of the line of Mean High Water Springs, or the Coastal Marine Area, or involve any works in the bed of a stream or river;

Is a permitted activity subject to the following conditions:

- (a) Notification of the activity shall be given to Environment Bay of Plenty, the Department of Conservation, and the relevant district council, a minimum of 10 working days before the start of any works.
- (b) Any local sand from the beach shall only be moved from the area above the line of mean high water springs, and the works shall not weaken the protective function of any dune system.
- (c) Any sand brought in from an external source shall be free of foreign materials or plant pests, and shall be of similar characteristics (such as grain size and colour) to the existing sand on the dune at the activity site.
- (d) The relocated sand shall be placed to have a seaward slope of not greater than 10 degrees, and shall be planted with appropriate indigenous foredune species within 4 weeks of the completion of the earthworks.
- (e) The activity shall not cause or induce erosion to land or to the bed or banks of any surface water body, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
 - (iii) Damage to the margins or banks of the surface water body.
- (f) The activity shall not damage or destroy a wetland.
- (g) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body (including coastal water).
- (h) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body (including coastal water).
- (i) No contaminants (including, but not limited to, oil, hydraulic fluids, petrol, diesel, other fuels, paint, solvents or anti-fouling paints), shall be discharged to water, or discharged to land in circumstances where the contaminant may enter water, from the activity.
- (j) No works shall be carried out adjacent to the tidal reaches of rivers and streams between 1 March and 31 May.

Advisory Note

- 1 Earthworks and vegetation disturbance in the coastal environment may also be controlled by provisions in district plans. Compliance with this Rule does not remove the need to also comply with any provisions in a district plan.
- 2 The rules in this regional plan do not authorise the modification or disturbance of any archaeological or historic sites within the area of the activity. Should any artefacts, bones or any other sites of archaeological or cultural significance be discovered within the area affected by the activity, written authorisation should be obtained from the Historic Places Trust before any damage, modification or destruction is undertaken.
- 3 The Bay of Plenty Regional Coastal Environment Plan contains policies on the protection of significant sites identified in that plan. In relation to this policy and activities addressed in this rule, any "Coast Care" works will avoid adverse effects on sites identified in the Third Schedule, Fourth Schedule, Sixth Schedule, and Seventh Schedule of the Bay of Plenty Regional Coastal Environment Plan.

Explanation/Intent of Rule

To allow for Coast Care works necessary for the enhancement of coastal dune systems, while ensuring any adverse effects from the activity are avoided, remedied or mitigated.

Rule 1E Controlled – Earthworks and Vegetation Disturbance on Coastal Margins and Sand Dune Country for Coast Care Works

The disturbance of land and soil as a result of earthworks or vegetation disturbance carried out as part of “Coast Care” works that have been formally approved by Environment Bay of Plenty, where the activity is not permitted by Rule 1D, is a controlled activity.

Environment Bay of Plenty reserves its control over the following matters:

- (a) Measures to manage discharges of contaminants from the activity, including discharges of sediment contaminated stormwater.
- (b) Measures to avoid, remedy or mitigate erosion.
- (c) Timing and duration of the activity.
- (d) Measures to avoid, remedy or mitigate effects on the protective function of dune systems, natural beach processes, and coastal dynamics.
- (e) Measures to avoid, remedy or mitigate adverse effects on sites of significance to tangata whenua.
- (f) Measures to avoid, remedy or mitigate adverse effects on the natural character of the coastal environment, indigenous biodiversity, areas of significant indigenous vegetation and significant habitats of indigenous fauna.
- (g) Measures to comply with relevant provisions in the Bay of Plenty Regional Coastal Environment Plan.
- (h) Information and monitoring requirements.
- (i) The administration charges under section 36 of the Act.

Notification

Applications for controlled activities under this Rule do not require the written approval of affected persons, and shall not be publicly notified, except where Environment Bay of Plenty considers special circumstances exist in accordance with Section 94C of the Act.

Explanation/Intent of Rule

To allow Environment Bay of Plenty to assess the effects of large-scale Coast Care works to ensure any adverse effects from the activity are avoided, remedied or mitigated.

9.2.3 *Land and Soil Disturbance by Vegetation Clearance*

Advisory Note

- 1 Indigenous vegetation may be classified as significant by the relevant city or district council and protected under its district plan. Compliance with the provisions of this regional plan does not remove the need to also comply with district plan provisions.
- 2 Where vegetation clearance does not result in the disturbance of land or soil, the vegetation clearance activity is not controlled by this regional plan.

Rule 2 Permitted – Land and Soil Disturbance by Vegetation Clearance

The disturbance of land and soil resulting from vegetation clearance, where:

- 1 The activity is not:
 - (a) On land with a dominant slope greater than 35 degrees; or
 - (b) In the Erosion Hazard Zone; or
 - (c) In the Coastal Margin;

And either (2) or (3):

- 2 The activity complies with 4, 5, 6, 7 or 8 below.
- 3 The activity is on any other land not covered by 2 above.

Is a permitted activity subject to compliance with conditions (a) to (l) inclusive below.

- 4 The activity is vegetation clearance in an ephemeral flowpath (refer to definition), and either (a), (b) or (c):
 - (a) Is the harvesting of existing plantation forest tree species in an ephemeral flowpath, where the crop has been planted as of 8 July 2008; or
 - (b) Is the clearance of vegetation that is causing erosion, or is blocking water flow; or
 - (c) Is the removal of exotic weed tree species, including, but not limited to, willows and wilding pines.
- Or
- 5 The activity is the harvesting of existing exotic vegetation species where the plants were planted as of 8 July 2008, and the activity is in the Riparian Management Zone, with a dominant slope no greater than 25 degrees in relation to Table 31(a) to (c), or with a dominant slope no greater than 35 degrees in relation to Table 31(d), and the area specified in Table 31 is replanted in indigenous vegetation or allowed to re-vegetate for retirement purposes.

Table 31 – Riparian Retirement Distance

	General Area	Land Slope	Riparian Retirement Distance
(a)	Riparian Management Zone – Rotorua Lakes	0 to 25°	Between 0-10 horizontal metres from the edge of the lake
(b)	Riparian Management Zone – streams and rivers listed in Schedule 1	0 to 25°	Between 0-10 horizontal metres from the edge of the river or stream
(c)	Riparian Management Zone – streams and rivers classified as Water Supply in the Water Quality Classification Map	0 to 25°	Between 0-10 horizontal metres from the edge of the river or stream
(d)	Riparian Management Zone - All streams, rivers not other addressed by (b) or (c); wetlands; and lakes not specified in (a)	0 to 25°	Between 0-5 horizontal metres from the edge of the water body
		25-35°	Between 0-10 horizontal metres from the edge of the water body

Or

- 6 The activity is in the Riparian Management Zone with a dominant slope no greater than 25 degrees in relation to Table 31(a) to (c), or with a dominant slope no greater than 35 degrees in relation to Table 31(d), and the riparian area specified in Table 31 has previously been retired and is retained.

Or

- 7 The activity is associated with stream crossings in the Riparian Management Zone where the dominant slope is no greater than 35 degrees, and the area of vegetation clearance on the activity site is no greater than that permitted for stream crossings in Rule 1 Table 28 within any 12 month period.

Or

- 8 The activity is in the Riparian Management Zone with a dominant slope no greater than 35 degrees, and the area of vegetation clearance on the activity site is no greater than that specified in Table 32, within any 5 year period.

Table 32 – Permitted Vegetation Clearance in the Riparian Management Zone

	General Area	Land Slope	Riparian Management Zone distance	Permitted Vegetation Clearance – exposed area
(a)	Riparian Management Zone – Rotorua Lakes	0 to 15°	Between 0-10 horizontal metres from the edge of the lake	Exposed area no greater than 100 m ²
		>15 to 25°	Between 0-20 horizontal metres from the edge of the lake	
		25 to 35°	Between 0-25 horizontal metres from the edge of the lake	
(b)	Riparian Management Zone - other lake not specified in (b), wetland or the bed of any river or stream, excluding streams and rivers with Water Supply water quality classification and Schedule 1 streams	0 to 7°	Between 0-5 horizontal metres from the edge of the water body	Exposed area no greater than 400 m ²
		>7 to 15°	Between 0-5 horizontal metres from the edge of the water body	
		>15 to 25°	Between 0-20 horizontal metres from the edge of the water body	
		25 to 35°	Between 0-25 horizontal metres from the edge of the water body	
(c)	Riparian Management Zone – streams and rivers with Water Supply water quality classification	0 to 15°	Between 0-10 horizontal metres from the edge of the water body	Exposed area no greater than 400 m ²
		>15 to 25°	Between 0-20 horizontal metres from the edge of the water body	
		25 to 35°	Between 0-25 horizontal metres from the edge of the water body	
(d)	Riparian Management Zone – Schedule 1 streams	0 to 7°	Between 0-5 horizontal metres from the edge of the water body	Exposed area no greater than 400 m ²
		>7 to 15°	Between 0-5 horizontal metres from the edge of the water body	
		>15 to 25°	Between 0-20 horizontal metres from the edge of the water body	
		25 to 35°	Between 0-25 horizontal metres from the edge of the water body	

Permitted activity conditions for Rule 2:

- (a) There shall be no point source discharge of sediment contaminated stormwater to surface water from the activity.
- (b) The diffuse discharge of sediment contaminated stormwater to surface water from the activity shall not cause the following effects, except where a 20% AEP flood event is exceeded:
 - (i) The production of any conspicuous oil, grease films, scums or foams, or floatable or suspended solids.
 - (ii) Any conspicuous change in colour or visual clarity.
 - (iii) Any emission of objectionable odour.
 - (iv) The rendering of fresh water unsuitable for consumption by farm animals.
 - (v) No more than minor adverse effects on aquatic life.
- (c) The activity shall not cause or induce erosion to land or to the bed or banks of any surface water body, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (d) The activity shall not disturb vegetation in a wetland; or change the water flow of quantity, or water quality in a wetland.
- (e) The activity shall not disturb an identified contaminated land.
- (f) The activity shall not obstruct or divert the flow of water in such a manner that it results in damming, flooding or erosion.
- (g) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (h) All vegetation slash shall be managed to avoid accumulation to levels that could cause erosion or instability of land, especially around skid sites or landings.
- (i) Vegetation or debris resulting from the activity shall be removed from all permanently flowing streams where it will divert or dam the watercourse, obstruct fish passage or destroy the aquatic habitats of indigenous species or trout. The vegetation or debris shall be removed in a manner that minimises the damage or disturbance to the banks of surface water bodies.
- (j) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (k) No contaminants (including, but not limited to, oil, hydraulic fluids, petrol, diesel, other fuels, paint, solvents or anti-fouling paints), excluding sediment, shall be discharged to water, or discharged to land in circumstances where the contaminant may enter water, from the activity.
- (l) Where the activity is in an ephemeral flowpath, vegetation shall not be removed from the site by hauling along the ephemeral flowpath. This does not apply to aerial hauling.

Advisory Note

- 1 For the avoidance of doubt, vegetation clearance on slopes 0-35 degrees; and not in the Erosion Hazard Zone, Coastal Margin, Riparian Management Zone, or an ephemeral flowpath; is a permitted activity.

Explanation/Intent of Rule

To allow vegetation disturbance in low risk areas, and where there is only minor discharges of sediment contaminated stormwater off-site. This rule does not restrict the trimming of vegetation, or other vegetation disturbance activities that do not disturb land. Such activities are not addressed by this regional plan. Refer to Flow Diagram 2 to assist reading of this rule.

Rule 2A Controlled - Land and Soil Disturbance by Vegetation Clearance

The disturbance of land and soil resulting from vegetation clearance, where the activity is:

- 1 In an Ephemeral flowpath not in the Erosion Hazard Zone, where the dominant slope is no greater than 35 degrees, and where the activity does not otherwise comply with Rule 2;

Or

- 2 The activity is the harvesting of existing exotic vegetation species where the plants were planted as of 1 December 2008, and the activity is in the Coastal Margin with a dominant slope no greater than 35 degrees;

Is a controlled activity.

Environment Bay of Plenty reserves its control over the following matters:

- (a) Measures to manage discharges of contaminants from the activity, including discharges of sediment contaminated stormwater.
- (b) Measures to avoid, remedy or mitigate erosion.
- (c) Timing and duration of the activity.
- (d) Effect on water flows, including overland or secondary flow paths that convey stormwater during rainfall events.
- (e) Measures to avoid, remedy or mitigate adverse effects on sites of significance to tangata whenua, and significant habitats of indigenous flora and fauna, and significant indigenous vegetation (including geothermal vegetation).
- (f) Measures to avoid, remedy or mitigate adverse effects on wetlands, and aquatic habitats.
- (g) Measures to avoid, remedy or mitigate adverse effects on coastal hazards, natural character and amenity values of the Coastal Margin.
- (h) Information and monitoring requirements.

Advisory Note

- 1 The location of replanting boundaries in the Coastal Margin of the activity site may be considered in relation to (a) to (g) inclusive.

Explanation/Intent of Rule

To control the disturbance of land resulting from vegetation disturbance that presents some risk to the environment, and where it is appropriate to assess the effects of the activity within the resource consent application process.

Rule 2B Restricted Discretionary – Land and Soil Disturbance by Vegetation Clearance

The disturbance of land and soil resulting from vegetation clearance, where the activity is:

- 1 On land not in the Riparian Management Zone, Erosion Hazard Zone, or Coastal Margin (refer to definitions), and the dominant slope is greater than 35 degrees and the site is being replanted in tree vegetation.

Or

- 2 The harvesting of existing exotic vegetation species where the plants were planted as of 1 December 2008, on land in the Riparian Management Zone adjacent to either the Rotorua Lakes, streams and rivers listed in Schedule 1; or streams and rivers with Water Supply water quality classification; and where the dominant slope is between 25 and 35 degrees, and a riparian area is replanted or allowed to revegetate for retirement purposes in indigenous riparian vegetation.

Or

- 3 On land in the Riparian Management Zone on slopes no greater than 35 degrees, where the activity does not otherwise comply with Rule 2.

Or

- 4 The activity would otherwise be permitted by Rule 2, except for non-compliance with condition (b).

Is a restricted discretionary activity.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Measures to manage discharges of contaminants from the activity, including discharges of sediment contaminated stormwater.
- (b) Measures to avoid, remedy or mitigate erosion.
- (c) Timing and duration of the activity.
- (d) Effect on water flows, including overland or secondary flowpaths that convey stormwater during rainfall events.
- (e) Measures to avoid, remedy or mitigate adverse effects on sites of significance to tangata whenua, and significant habitats of indigenous flora and fauna, and significant indigenous vegetation (including geothermal vegetation).
- (f) Measures to avoid, remedy or mitigate adverse effects on wetlands, and aquatic habitats.
- (g) Information and monitoring requirements.

Advisory Note

- 1 The location or replanting boundaries in the riparian margin of the activity site may be considered in relation to (a) to (f) inclusive.

Explanation/Intent of Rule

To control the disturbance of land resulting from vegetation disturbance that presents a higher risk to the environment, and where it is appropriate to assess the effects of the activity within the resource consent application process.

Rule 2C

Discretionary – Land and Soil Disturbance by Vegetation Clearance

The disturbance of land and soil resulting from vegetation clearance, where the activity:

- 1 Is not permitted by a rule in this regional plan, and
- 2 Is not a controlled activity under a rule in this regional plan, and
- 3 Is not a restricted discretionary activity under a rule in this regional plan;

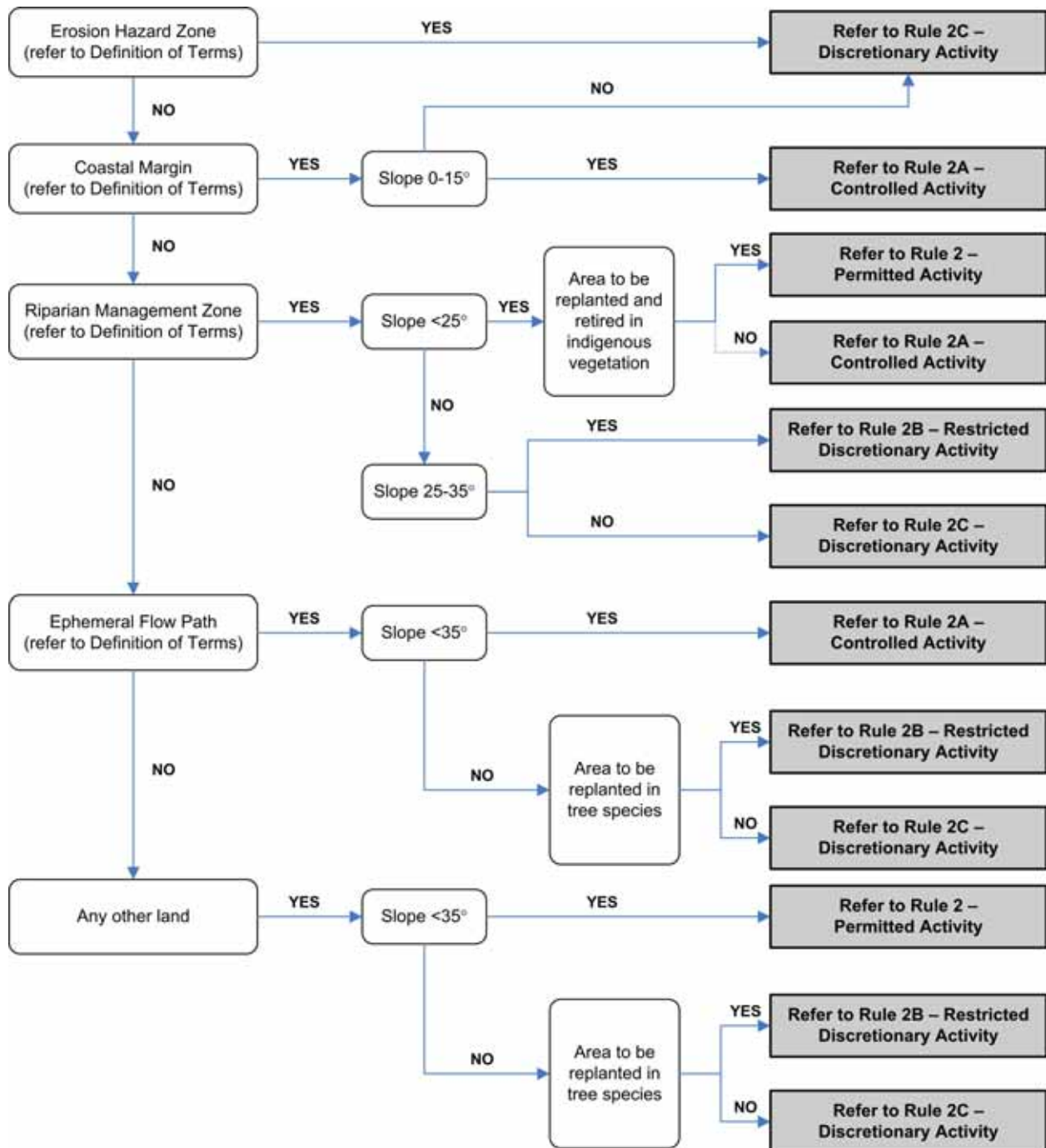
Is a discretionary activity.

Assessment Criteria

When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions:

<i>Objective</i>	4, 5, 9, 17, 19, 21, 31, 34
<i>Policy</i>	5, 14, 15, 17, 18, 20, 21, 51, 54
<i>Method</i>	13, 20, 21, 56, 60, 124

Flow Diagram 2 – Vegetation Clearance



Advisory Note

- 1 This flow diagram is to assist working out which rules apply but does not constitute a part of the rules. If there is any inconsistency between the flow diagram and the rules in the regional plan it refers to, the criteria in the rules prevail.

9.2.4 Forest Harvesting and Forestry Earthworks

Advisory Note

- Rules 3 and 3A apply to forest harvesting and forestry earthworks carried out by Accredited Forestry Operators. Rules in section 9.2.1 and 9.2.2 apply to earthworks and forest harvesting by non-accredited persons.

Rule 3 Permitted – Forest Harvesting and Forestry Earthworks by Accredited Forestry Operators

The disturbance of land resulting from:

- Vegetation disturbance for forest harvesting purposes in any location, regardless of slope.
- Earthworks associated with forestry activities that do not exceed the permitted limits stated in Table 33.

Table 33 – Permitted Threshold Limits for Forestry Earthworks by Accredited Operators

	General Area	Location	Land Slope	Riparian Management Zone – Distance from surface water body as measured from the edge of the surface water body	Permitted Limits
(a)	Riparian Management Zone	All streams, rivers, wetlands, and lakes, excluding the Rotorua Lakes	0 to 7°	Between 0-5 horizontal metres of the edge of the water body	Earthworks excluding stream crossings – 400 m ² and 200 m ³ Earthworks for stream crossing purposes – exposed area no greater than 1,000 m ² per crossing
			>7 to 15°	Between 0-10 horizontal metres of the edge of the water body	
			>15 to 25°	Between 0-20 horizontal metres of the edge of the water body	
			>25 to 35°	Between 0-25 horizontal metres of the edge of the water body	
			>35°	Between 0-40 horizontal metres of the edge of the water body	
(b)	Sand Dune Country	Refer to Definition of Terms	Any land slope	Refer to Definition of Terms	All Controlled under Rule 3A
(c)	Any other land not specified in (a) to (b).	Not in the Riparian Management Zone or Sand Dune Country	Any slope	N/A	All permitted

Is a permitted activity subject to the following conditions:

- The activity shall be carried out by an Accredited Forestry Operator (refer to Definition of Terms), and in accordance with section 3.2 of Schedule 12.
- There shall be no point source discharge of sediment contaminated stormwater to surface water from the activity.
- The diffuse discharge of sediment contaminated stormwater to surface water from the activity shall not cause the following effects, except where a 20% AEP flood event is exceeded:
 - The production of any conspicuous oil, grease films, scums or foams, or floatable or suspended solids.
 - Any conspicuous change in colour or visual clarity.

- (iii) Any emission of objectionable odour.
- (iv) The rendering of fresh water unsuitable for consumption by farm animals.
- (v) Any more than minor adverse effects on aquatic life.
- (d) The activity shall not cause or induce erosion to land or to the bed or banks of any surface water body, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (e) The activity shall not disturb vegetation in a wetland; or change the water flow or quantity or quality in a wetland.
- (f) The activity shall not obstruct or divert the flow of water in such a manner that it results in a blockage, flooding or erosion.
- (g) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (h) All vegetation slash shall be managed to avoid accumulation to levels that could cause erosion or instability of land, especially around skid sites or landings.
- (i) Vegetation or debris resulting from the activity shall be removed from all permanently flowing streams where it will divert or dam the watercourse.
- (j) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (k) No contaminants (including, but not limited to, oil, hydraulic fluids, petrol, diesel, other fuels, paint, solvents or anti-fouling paints), excluding sediment, shall be discharged to water, or discharged to land in circumstances where the contaminant may enter water, from the activity.
- (l) Where the earthworks are for stream crossing purposes, the activity shall also comply with the following conditions:
 - (i) The crossing shall be made at, or near to, right angles to the flow of water in the river or stream, ensuring minimal roading in the Riparian Management Zone.
 - (ii) The area shall be stabilised as soon as practicable, but no later than 3 months from the end of the activity.
 - (iii) All practicable steps shall be taken to keep stormwater away from the stream crossing approach.
- (m) Where practicable and safe, trees shall be directionally felled or pulled back to prevent them entering streams or from damaging wetlands.

Advisory Note

- 1 Best management practices shall be used to avoid or mitigate the discharge of sediment contaminated stormwater to water. In selecting the best management practices appropriate to the activity site, the following should be considered:
 - (a) The water quality classification of the receiving water body.
 - (b) Aquatic ecosystem values of the receiving water body.
 - (c) Soil type and slope.
 - (d) Proximity to surface water bodies.
 - (e) Environment Bay of Plenty erosion and sediment control guidelines, or forestry company Environmental Management Systems, whichever achieves a higher standard of environmental performance.
- 2 In relation to condition (e), refer to Rule 84, Rule 84A and Rule 85 for the disturbance of wetlands by forest harvesting activities.

Explanation/Intent of Rule

To allow forest harvesting, and earthworks associated with forestry activities where such activities are carried out by an Accredited Forestry Operator. Such operators have proven that they can comply with the general permitted activity conditions for land disturbance activities that would otherwise present a higher risk to the environment. Refer to Flow Diagram 3 to assist reading of this rule.

Rule 3A Controlled – Forest Harvesting and Forestry Earthworks by Accredited Forestry Operators

The disturbance of land resulting from:

- 1 Vegetation disturbance for forest harvesting purposes; or
- 2 Earthworks associated with forestry activities;

where the activity is carried out by an Accredited Forestry Operator (refer to Definition of Terms), which is not permitted by Rule 3, is a controlled activity.

Environment Bay of Plenty reserves its control over the following matters:

- (a) Measures to avoid, remedy or mitigate adverse effects on the significant habitats of indigenous fauna and significant indigenous vegetation (including geothermal vegetation).
- (b) Measures to manage discharges of contaminants from the activity, including discharges of sediment contaminated stormwater.
- (c) Measures to avoid, remedy or mitigate erosion.
- (d) Timing and duration of the activity.
- (e) Effect on water flows, including overland or secondary flow paths that convey stormwater during rainfall events.
- (f) Measures to avoid, remedy or mitigate adverse effects on wetlands, and aquatic habitats.
- (g) Information and monitoring requirements.

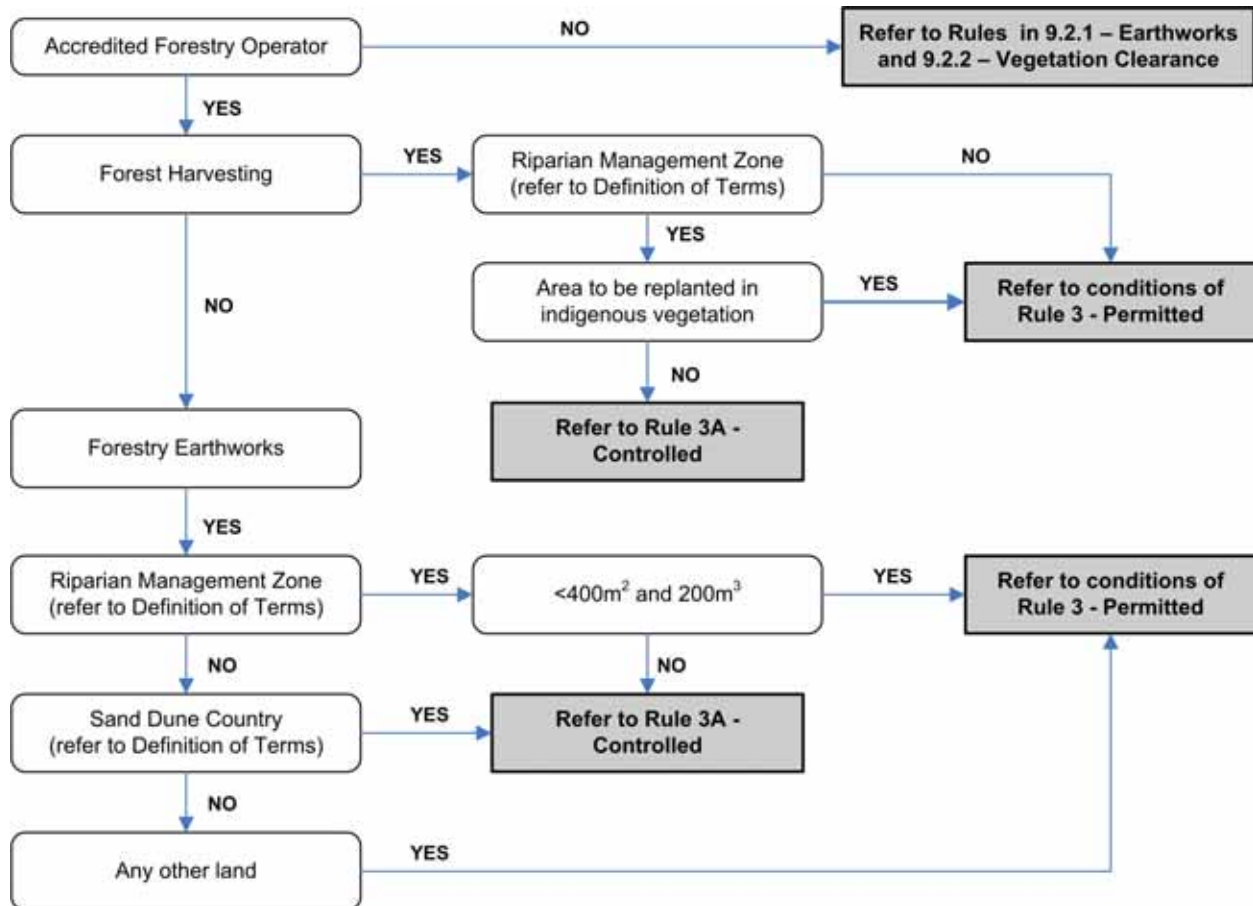
Notification

Applications for controlled activities under this Rule do not require the written approval of affected persons, and shall not be publicly notified, except where Environment Bay of Plenty considers special circumstances exist in accordance with Section 94C of the Act.

Explanation/Intent of Rule

To control the disturbance of land resulting from forestry activities that present some risk to the environment, and where it is appropriate to assess the effects of the activity within the resource consent application process. Refer to Flow Diagram 3 to assist reading of this rule.

Flow Diagram 3 – Forest Harvesting and Earthworks



Advisory Note

- 1 This flow diagram is to assist working out which rules apply but does not constitute a part of the rules. If there is any inconsistency between the flow diagram and the rules in the regional plan it refers to, the criteria in the rules prevail.

9.2.5 Clearance of Vegetation by Burning

Rule 4 Permitted – Clearance of Vegetation by Burning

The disturbance of land and soil resulting from the clearance of vegetation by burning is a permitted activity subject to the following conditions:

- (a) The activity shall not exceed the permitted limits specified in Table 34.
- (b) The activity shall be undertaken using best management practices to ensure that burns are of low intensity and avoid loss of soil structure and nutrients.
- (c) There shall be no point source discharge of sediment contaminated stormwater to surface water from the activity.
- (d) The diffuse discharge of sediment contaminated stormwater to surface water from the activity shall not cause the following effects, except where a 20% AEP flood event is exceeded:
 - (i) The production of any conspicuous oil, grease films, scums or foams, or floatable or suspended solids.
 - (ii) Any conspicuous change in colour or visual clarity.
 - (iii) Any emission of objectionable odour.
 - (iv) The rendering of fresh water unsuitable for consumption by farm animals.
 - (v) Any more than minor adverse effects on aquatic life.

- (e) The activity shall not cause or induce erosion to land or the bed or banks of any surface water body, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (f) The activity shall not disturb vegetation in a wetland; or change the water flow or quantity, or quality in a wetland.
- (g) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (h) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (i) No contaminants (including, but not limited to, oil, hydraulic fluids, petrol, diesel, other fuels, paint, solvents or anti-fouling paints), shall be discharged to water, or discharged to land in circumstances where the contaminant may enter water, from the activity.

Table 34 – Permitted Limits for Clearance of Vegetation by Burning

	General Area	Location	Land Slope	Distance from surface water body as measured from the edge of the surface water body	Permitted Burn Area
(a)	In the upper Rangitaiki River catchment above the confluence of the Otangimoana Stream and Rangitaiki River, including the Otamatea River catchment.	(i) On the margins of erosion susceptible permanent streams and rivers, or (ii) In the beds and margins of ephemeral streams and rivers, or (iii) On steep terrace edges, as shown in Environment Bay of Plenty Plan Series M1009 ¹ .	Any slope	N/A	All discretionary
(b)	Coastal margin	Refer to Definition of Terms	Any slope	0-40 metres from Coastal Marine Area	All discretionary
(c)	Sand Dune Country	Refer to Definition of Terms	Any slope	N/A	All discretionary
(d)	Riparian Management Zone – Rotorua Lakes	Rotorua Lakes (refer to Refer to Definition of Terms)	0 to 15°	Between 0-20 horizontal metres of the lake	All discretionary
			>15 to 25°	Between 0-25 horizontal metres of the lake	
			>25 to 35°	Between 0-40 horizontal metres of the lake	
			>35°	Between 0-40 horizontal metres of the lake	

	General Area	Location	Land Slope	Distance from surface water body as measured from the edge of the surface water body	Permitted Burn Area
(e)	Riparian Management Zone – excluding (d)	All streams, rivers, wetlands, and lakes not specified in (d)	0 to 7°	Between 0-5 horizontal metres of the water body	
			> 7 to 15°	Between 0-10 horizontal metres of the water body	
			> 15 to 25°	Between 0-20 horizontal metres of the water body	
			> 25 to 35°	Between 0-25 horizontal metres of the water body	
			> 35°	Between 0-40 horizontal metres of the water body	
(f)	Rangitaiki catchment southward on State Highway 38, excluding the area specified in (a), and carried out within the period of 1 March to 30 May in any year		0 to 7°	Greater than 50 metres from a surface water body	No greater than 50 hectares of logging slash from untended stands of minor species ²
			> 7 to 15°	N/A	
(g)	Not in (a) to (f)		0 to 15°	N/A	No greater than 5 hectares
			16 to 40°	N/A	Isolated burns no greater than 50 m ²

Notes:

- 1 The photomap plan series M1009 prepared by Environment Bay of Plenty at a scale of 1:25,000 shows the location of the beds and margins of the relevant land areas and ephemeral flowpaths that are covered by definition points (a)(i) to (iii) in Table 34. Copies of these maps are available from or may be viewed at any Environment Bay of Plenty office.
- 2 Minor species include all other exotic pine species except for the predominant species of *Pinus radiata* and Douglas fir. The main plantings of 'minor' species are of *P. contorta*, *P. nigra* and small areas of southern pines (i.e. *P. elliotii* and *P. carabea* etc).

Advisory Note

- 1 Refer to Flow Diagram 4 to assist reading of this rule.
- 2 Restrictions on burning are also contained in the Operative Bay of Plenty Regional Air Plan.
- 3 The burning of vegetation may also require a permit from the relevant fire control authority; and a consent from the relevant district council.

Explanation/Intent of Rule

To allow small-scale, low risk clearance of vegetation by burning subject to the general permitted activity conditions that avoid or mitigate adverse effects on soil and water resources.

Rule 4A**Discretionary – Clearance of Vegetation by Burning**

The disturbance of land and soil resulting from the clearance of vegetation by burning that is not a permitted activity in accordance with Rule 4 is a discretionary activity.

Explanation/Intent of Rule

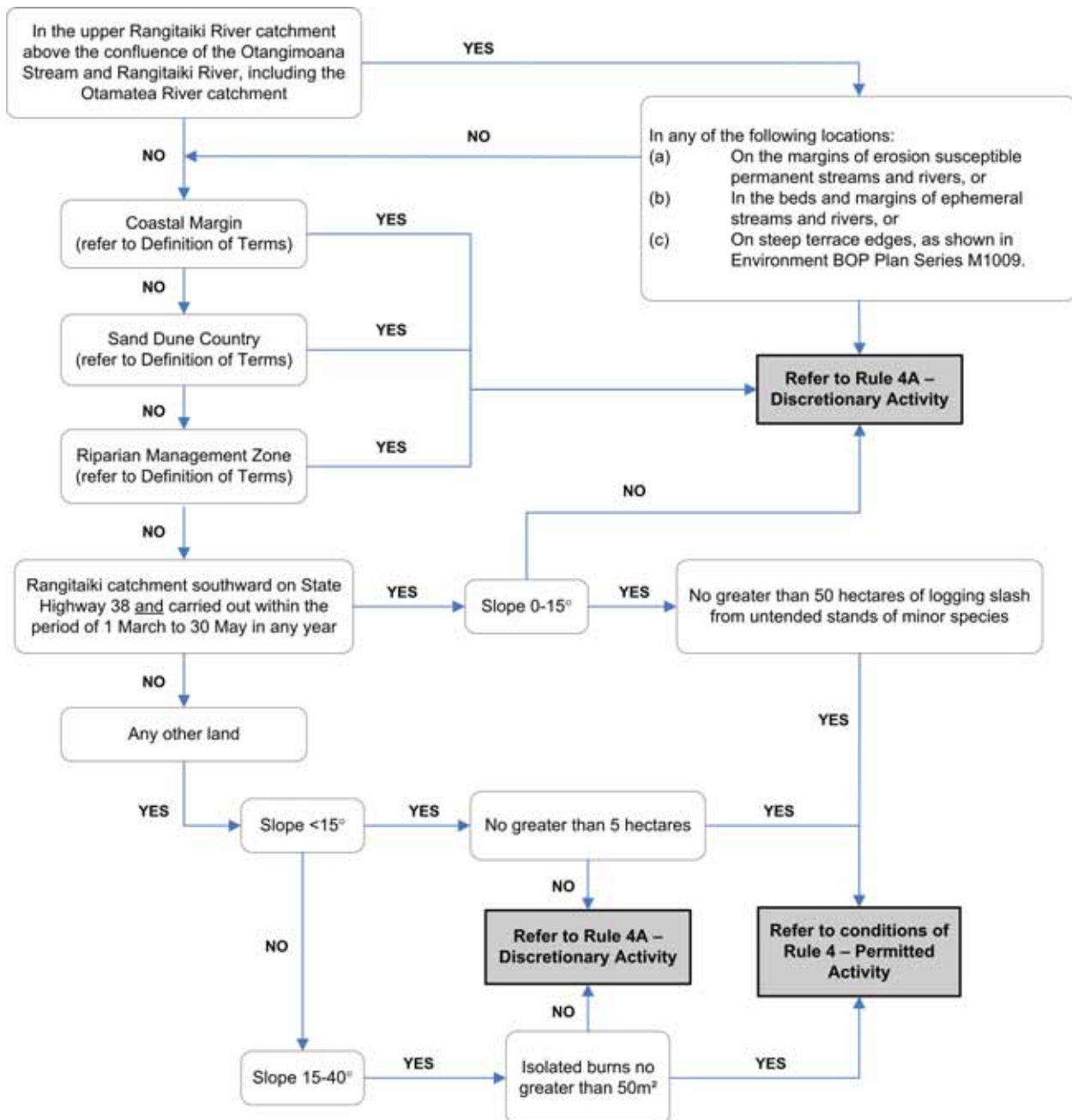
To allow Environment Bay of Plenty to assess the adverse environmental effects of land disturbance activities on a case by case basis, where the activity is likely to cause more than minor effects, including activities in high risk locations. Refer to Flow Diagram 4 to assist reading of this rule.

Assessment Criteria

When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions:

<i>Objective</i>	4, 5, 9, 17, 19, 21, 31, 34
<i>Policy</i>	5, 14, 15, 17, 18, 20, 21, 51, 54
<i>Method</i>	13, 20, 21, 56, 60, 124

Flow Diagram 4 – Clearance of Vegetation by Burning



Advisory Note

- 1 This flow diagram is to assist working out which rules apply but does not constitute a part of the rules. If there is any inconsistency between the flow diagram and the rules in the regional plan it refers to, the criteria in the rules prevail.

9.2.6 Cultivation

Rule 5 Permitted – Cultivation

The disturbance of land and soil resulting from cultivation is a permitted activity subject to the following conditions:

- (a) The activity shall not be carried out in any of the areas in Table 35:

Table 35 – Locations Where Cultivation is Not Permitted (Discretionary activity under Rule 5A)

	General Area	Location	Land Slope	Distance from surface water body as measured from the edge of the surface water body
(a)	On any land where the dominant slope is equal to or greater than 25 degrees	Land not otherwise specified in (b) to (e).	Greater than 25 degrees.	N/A
(b)	Erosion Hazard Zone	Refer to Definition of Terms	Refer to Definition of Terms	N/A
(c)	Coastal Margin	Land on the edge of an estuary, harbour, or the open rocky coast.	Greater than 25 degrees.	Between 0-10 metres horizontal distance from the Coastal Marine Area
(d)	Riparian Management Zone – Rotorua Lakes	Rotorua Lakes (refer to definition)	0 to 7°	Between 0-5 horizontal metres of the lake
			>7 to 15°	Between 0-10 horizontal metres of the lake
			>15 to 25°	Between 0-10 horizontal metres of the lake
(e)	Riparian Management Zone – Schedule 1 streams and rivers	Streams and rivers listed in Schedule 1	>0 to 7°	Between 0-5 horizontal metres of the water body
			>7 to 15°	Between 0-5 horizontal metres of the water body
			>15 to 25°	Between 0-10 horizontal metres of the water body
(f)	Riparian Management Zone - other lakes not specified in (d), wetland, stream or river not listed in Schedule 1	All streams and rivers not listed in Schedule 1, wetlands and lakes not in (d)	0 to 7°	Between 0-3 horizontal metres of the water body
			> 7 to 15°	Between 0-5 horizontal metres of the water body
			> 15 to 25°	Between 0-10 horizontal metres of the water body

- (b) There shall be no point source discharge of sediment contaminated stormwater to surface water from the activity.
- (c) The diffuse discharge of sediment contaminated stormwater to surface water from the activity shall not cause the following effects, except where a 20% AEP flood event is exceeded:
- The production of any conspicuous oil, grease films, scums or foams, or floatable or suspended solids.
 - Any conspicuous change in colour or visual clarity.
 - Any emission of objectionable odour.
 - The rendering of fresh water unsuitable for consumption by farm animals.
 - Any more than minor adverse effects on aquatic life.

- (d) The activity shall not cause or induce erosion to land or to the bed or banks of any surface water body, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks or the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (e) The activity shall not disturb vegetation in a wetland; or change the water flow or quantity, or quality in a wetland.
- (f) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (g) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (h) No contaminants (including, but not limited to, oil, hydraulic fluids, petrol, diesel, other fuels, paint, solvents or anti-fouling paints), excluding sediment, shall be discharged to water, or discharged to land in circumstances where the contaminant may enter water, from the activity.
- (i) Cultivation shall be undertaken across the contour of the land.
- (j) A permanent vegetation cover shall be retained to provide a sediment filter between the cultivation activity and the edge of the river, stream, wetland or lake.

Advisory Note

- 1 Best management practices, including appropriate cropping, silt traps, silt fences, or bunding, can be used to maintain optimal sediment filtration across the riparian strip.
- 2 Rule 5 does not regulate no-tillage cultivation practices, and direct seed drilling (refer to Definition of Terms for further exclusions).
- 3 The Riparian Management Zone in Rule 5 does not apply to artificial watercourses or ephemeral flowpaths (refer to Definition of Terms).

Explanation/Intent of Rule

To allow cultivation as part of normal farming practices in areas that do not present a high risk to the environment. Refer to Flow Diagram 5 to assist reading of this rule.

Rule 5A

Discretionary – Cultivation

The disturbance of land and soil from cultivation that is not a permitted activity in accordance with Rule 5, is a discretionary activity.

Explanation/Intent of Rule

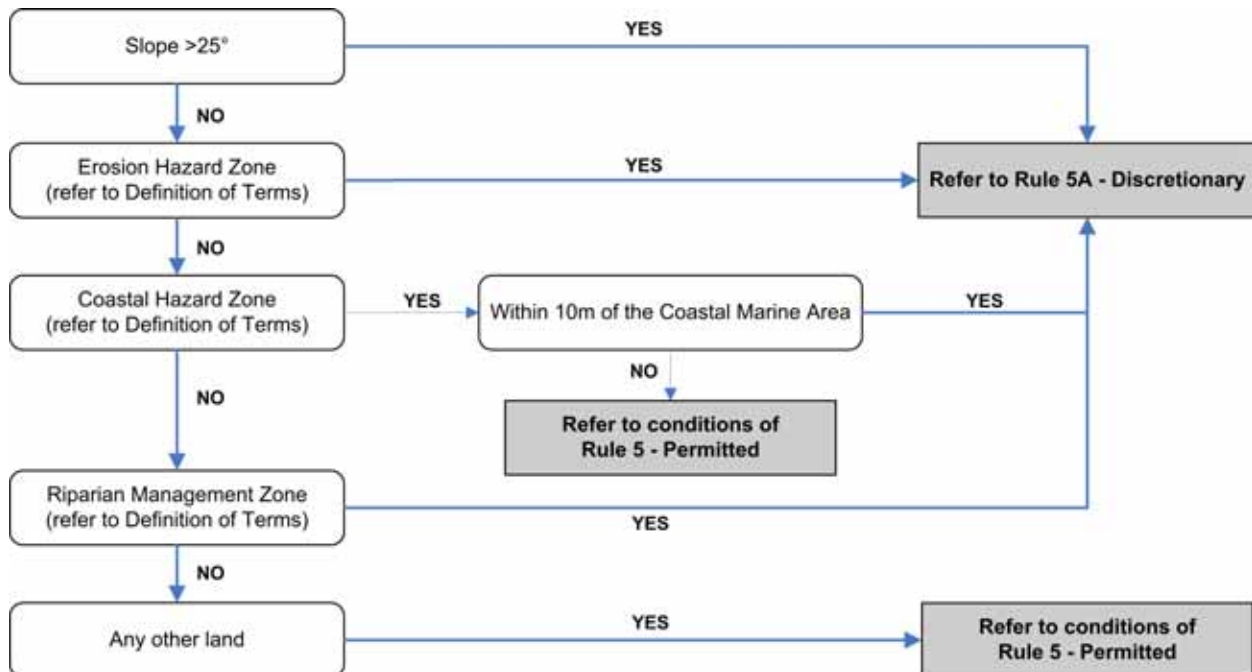
To allow Environment Bay of Plenty to assess the adverse environmental effects of land disturbance activities on a case by case basis, where the activity is likely to cause more than minor effects, including activities in high risk locations.

Assessment Criteria

When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions:

<i>Objective</i>	4, 5, 9, 17, 19, 21, 31, 34
<i>Policy</i>	5, 14, 15, 17, 18, 20, 21, 51, 54
<i>Method</i>	13, 20, 21, 56, 60, 124

Flow Diagram 5 – Cultivation



Advisory Note

- 1 This flow diagram is to assist working out which rules apply but does not constitute a part of the rules. If there is any inconsistency between the flow diagram and the rules in the regional plan it refers to, the criteria in the rules prevail.

9.3 Grazing and Stock in the Beds of Surface Water Bodies

Advisory Note

- 1 For the avoidance of doubt, Rules 6, 7, 8, and 9 do not apply to ephemeral flowpaths and artificial watercourses.

Rule 6 Permitted – Controlled Stock Crossings of the Bed of a Stream or River

The disturbance of the bed of any permanently flowing river or stream by livestock resulting from a controlled stock crossing, that is not prohibited by Rule 8, is a permitted activity subject to the following conditions:

- 1 Where the activity is in a river or stream in the catchment of the Rotorua Lakes, the activity shall be provided for by an Environment Bay of Plenty Environmental Programme or Property Plan that addresses the adverse effects of stock in surface water bodies.
- 2 Where the activity is in a river or stream where the water quality classification is Water Supply, the activity shall be provided for by an Environment Bay of Plenty Environmental Programme or Property Plan that addresses the adverse effects of stock in surface water bodies.
- 3 For any other river or stream not listed in Rule 8, or 1 or 2 above, the activity shall comply with either 4 or 5 below:

- 4 The landowner implements, maintains and complies with an active Farm Quality Programme that addresses the adverse effects of stock in the beds of surface water bodies in a manner that complies with the provisions of this regional plan. A Farm Quality Programme can be any one of the following:
 - (a) An operative Environmental Programme or Property Plan; or
 - (b) An operative Quality Assurance Programme with a robust environmental component that is operated by an appropriate sector of the farming industry that is listed in Schedule 8; or
 - (c) A specific, operative environmental management plan for an area of land, where the plan is listed in Schedule 8.
 Or
- 5 The activity complies with the following conditions:
 - (a) Where the stock crossing occurs more than twice per week on any one stream or river, the stock crossing shall not occur:
 - (i) In a river or stream in the catchment of a Rotorua Lake after 1 July 2006.
 - (ii) In a river or stream in the catchment of Tauranga Harbour after the 1 July 2007.
 - (iii) In a river or stream in the catchment of Ohiwa Harbour after 1 July 2007.
 - (iv) In a stream or river with Aquatic Ecosystem (Bay of Plenty) water quality classification, as shown on the Water Quality Classification Map, that is not otherwise in the catchments specified in (i) to (iii), after 1 July 2010.
 - (b) The stock crossing shall be made at, or near, right angles to the flow of water in the river or stream.
 - (c) The stock crossing approach shall be on a shallow slope.
 - (d) All practicable steps shall be taken to divert stormwater away from the stock crossing approach. This is to prevent stormwater from adjacent land and stock races from flowing directly into a stream or river via the stock crossing approach.
 - (e) All practicable steps shall be taken to avoid, remedy or mitigate the increase of nutrient, urine or faecal matters in water from the stock crossing.
 - (f) All practicable steps shall be taken to avoid, remedy or mitigate the release of sediment during the stock crossing, and no clearly discernable change in the visual clarity of the water shall occur beyond a distance of 100 metres downstream of the stock crossing site.
 - (g) The stock crossing shall not contaminate a bathing site listed in Schedule 10 in the period between 1 November and 30 April, inclusive.
 - (h) The stock crossing shall not cause or induce erosion to the bed or banks of the surface water body.
Erosion includes:
 - (i) Instability of the banks or channel.
 - (ii) Scour to the bed of the river or stream.
 and results in the deposition or discharge of sediment in the river or stream.
 - (i) The stock crossing shall not damage or destroy a wetland, or a whitebait spawning site identified in Schedule 1C.

Advisory Note

- 1 Landowners are advised to contact Land Resources staff at Environment Bay of Plenty for further information about Environmental Programmes or Property Plans.
- 2 Stock grazing in an ephemeral flowpath is addressed by Rule 10.
- 3 It should not be presumed that fencing is required to meet the conditions in 2 above.
- 4 Environment Bay of Plenty staff and information sheets are available to advise on appropriate best management practices to achieve the conditions in 5.

- 5 The preferred option for crossing stock over a stream or river is to install a culvert or single-span bridge.
- 6 In relation to condition 5(d), the use of cut-off drains and diversion drains can be used to achieve the requirement.
- 7 In relation to condition 5(a);
 - (a) Where a stock crossing occurs less than twice per week on any one stream or river, the activity is permitted subject to conditions (a) to (i).
 - (b) Where a stock crossing occurs more than twice per week in the areas listed in (a)(i) to (iv), the activity is not permitted after the dates specified in the Rule. Until the specified dates, the activity is permitted subject to conditions (b) to (i).
 - (c) Where the stock crossing occurs more than twice per week outside the areas listed in (a)(i) to (iv), the activity is permitted subject to conditions (b) to (i).
- 8 Stock crossings that do not comply with Rule 6, and are not prohibited activities under Rule 8, are discretionary activities under Rule 9.

Explanation/Intent of Rule

To control the adverse effects of stock crossings in the beds of flowing surface water bodies (including streams and rivers), while recognising that the provision of alternative stock crossings may not be practicable in some circumstances. Environment Bay of Plenty will encourage landowners to retire and fence riparian areas, and install single span bridges or culverts through non-regulatory methods. This rule is a means of addressing the adverse effects of the activity. Any stock crossings that are not permitted by Rule 6 or prohibited by Rule 8 are discretionary under Rule 9. Farm Quality Programmes listed in Schedule 8 comply with Method 186. Refer to Flow Diagram 7 to assist reading of this rule.

Rule 7

Permitted – Stock in the Bed of a River or Stream

The disturbance of the bed of any permanently flowing river or stream by livestock, excluding controlled stock crossings addressed by Rule 6 and stock access prohibited by Rule 8, is a permitted activity subject to the following conditions:

- 1 Where the activity is in a river or stream in the catchment of the Rotorua Lakes, the activity shall be provided for by an Environment Bay of Plenty Environmental Programme or Property Plan that addresses the adverse effects of stock in surface water bodies.
 - 2 Where the activity is in a river or stream where the water quality classification is Water Supply, the activity shall be provided for by an Environment Bay of Plenty Environmental Programme or Property Plan that addresses the adverse effects of stock in surface water bodies.
 - 3 For any other river or stream not listed in Rule 8, or 1 or 2 above, the activity shall comply with either 4 or 5 below:
 - 4 The landowner implements, maintains and complies with an active Farm Quality Programme that addresses the adverse effects of stock in the beds of surface water bodies in a manner that complies with the provision of this regional plan. A Farm Quality Programme can be any one of the following:
 - (a) An operative Environmental Programme or Property Plan; or
 - (b) An operative Quality Assurance Programme with a robust environmental component that is operated by an appropriate sector of the farming industry that is listed in Schedule 8; or
 - (c) A specific, operative environmental management plan for an area of land, where the plan is listed in Schedule 8.
- Or
- 5 The activity complies with the following conditions:
 - (a) All practicable steps shall be taken to avoid, remedy or mitigate the increase of nutrient, urine or faecal matters in water from the stock access to the surface water body.

- (b) All practicable steps shall be taken to avoid, remedy or mitigate the release of sediment during the stock access, and no clearly discernable change in the visual clarity of the water shall occur beyond a distance of 100 metres downstream of the site where stock have access to the surface water body.
- (c) The stock access shall not contaminate a bathing site listed in Schedule 10 in the period between 1 November and 30 April, inclusive.
- (d) The stock access shall not cause or induce erosion to the bed or banks of the surface water body.
Erosion includes:
 - (i) Instability of the banks or channel.
 - (ii) Scour to the bed of the river or stream.
 and results in the deposition or discharge of sediment in the river or stream.
- (e) The stock access shall not damage or destroy a wetland.
- (f) The activity shall not damage or destroy:
 - (i) Significant aquatic indigenous vegetation, or
 - (ii) Aquatic habitat or spawning areas of indigenous species, or
 - (iii) Significant habitats of trout,
 as identified in Schedule 1.

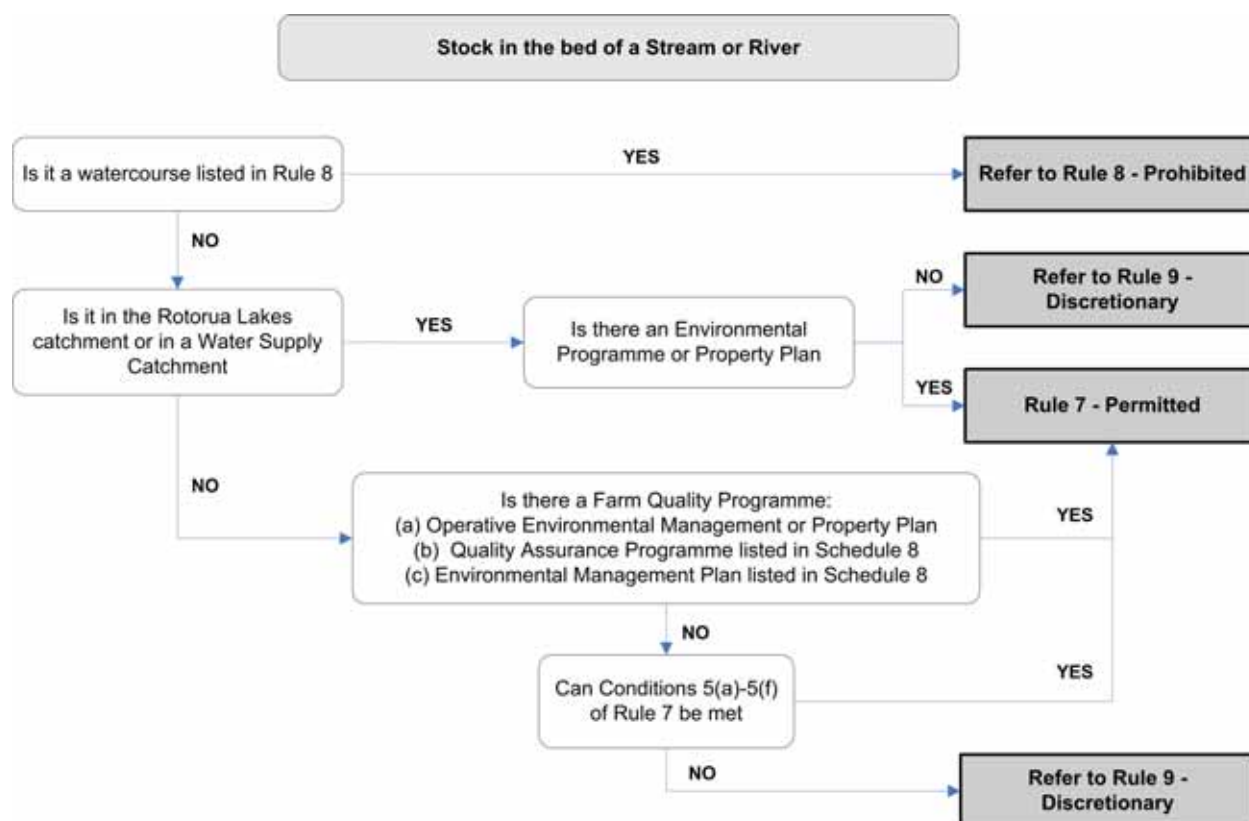
Advisory Note

- 1 Landowners are advised to contact Land Resources staff at Environment Bay of Plenty for further information about Environmental Programmes or Property Plans.
- 2 Stock grazing in an ephemeral flowpath is addressed by Rule 9.
- 3 It should not be presumed that fencing is required to meet the conditions in 5 above.
- 4 The standing of stock in rivers and streams to cool animals is unlikely to comply with the conditions of this rule. Landowners are advised to use alternative stock management measures to prevent stock overheating, including provision of shade trees.
- 5 Environment Bay of Plenty staff and information sheets are available to advise on appropriate best management practices to achieve the conditions in 5 above.
- 6 Any of the following measures are considered acceptable to achieve the retirement of riparian margins from stock grazing, however, the measures are given in order of preference:
 - (a) Permanent stock-proof fencing with adequate riparian margin distance, and appropriate riparian planting to intercept nutrients and sediment in overland flow from adjoining pastoral land. Different fence types are more appropriate for flood plain areas.
 - (b) Alternative land use, other than stock grazing, in riparian areas.
 - (c) Permanent fencing with adequate riparian margin distance that prevents stock access to streams, with no riparian planting.
 - (d) Temporary electric fences with adequate riparian margin distance, with no riparian planting, that are sufficient to contain the stock type being controlled. Temporary fences can be shifted, and reused in other areas where stock are grazing.
 - (e) Stock management practices that allow the light grazing of well-managed riparian areas, with stock excluded from the bed of a stream by a fence on the margin of the stream. Note that it is preferable that long grass is retained adjacent to streams as to buffer surface runoff.

Explanation/Intent of Rule

To control the adverse effects of stock presence in the beds of flowing surface water bodies (including streams and rivers). Environment Bay of Plenty will encourage landowners to protect and fence riparian areas, and install single span bridges or culverts through non-regulatory methods. This rule is a means of addressing the adverse effects of the activity. The disturbance of the bed of a river or stream by stock that is not permitted by Rule 6 or 7, or prohibited by Rule 8 is a discretionary activity under Rule 9. Farm Quality Programmes listed in Schedule 8 comply with Method 186. Refer to Flow Diagram 6 to assist reading of this rule.

Flow Diagram 6 – Stock in the Bed of a River or Stream



Advisory Note

- 1 This flow diagram is to assist working out which rules apply but does not constitute a part of the rules. If there is any inconsistency between the flow diagram and the rules in the regional plan it refers to, the criteria in the rules prevail.

Rule 8

Prohibited – Stock in the Beds of Rotorua Lakes and Natural State Rivers

The disturbance of the bed of a surface water body by stock, and associated discharge of contaminants (including sediment and faecal material), in:

- 1 Lakes Rotorua, Rotoiti, Rotoehu, Rotoma, Okataina, Okareka, Tikitapu, Rotokakahi, Tarawera, Okaro, Rotomahana, Rerewhakaaitu and Ohau Channel; or
- 2 A river or stream where the water quality classification is Natural State (River) (as shown on the Water Quality Classification map),

Is a prohibited activity from the date that this regional plan becomes operative.

Advisory Note

- 1 Stock presence in the Coastal Marine Area is prohibited by Rule 58 (14.2.4(K)) of the Operative Regional Coastal Environment Plan.

Explanation/Intent of Rule

To prevent the adverse effects of stock crossings, access and presence to surface water bodies where the receiving environment has been identified as of particular concern.

Rule 9**Discretionary – Stock in the Beds of Surface Water bodies**

The disturbance of the bed of a surface water body by stock access or a stock crossing that is:

- 1 In a river or stream in the catchment of the Rotorua Lakes, and not provided for by an Environment Bay of Plenty Environmental Programme or Property Plan that addresses the adverse effects of stock in surface water bodies; or
- 2 In a river or stream where the water quality classification is Water Supply, and not provided for by an Environment Bay of Plenty Environmental Programme or Property Plan that addresses the adverse effects of stock in surface water bodies; or
- 3 Not permitted by Rule 6 or Rule 7;

and the activity is not otherwise prohibited by Rule 8, is a discretionary activity.

Assessment Criteria

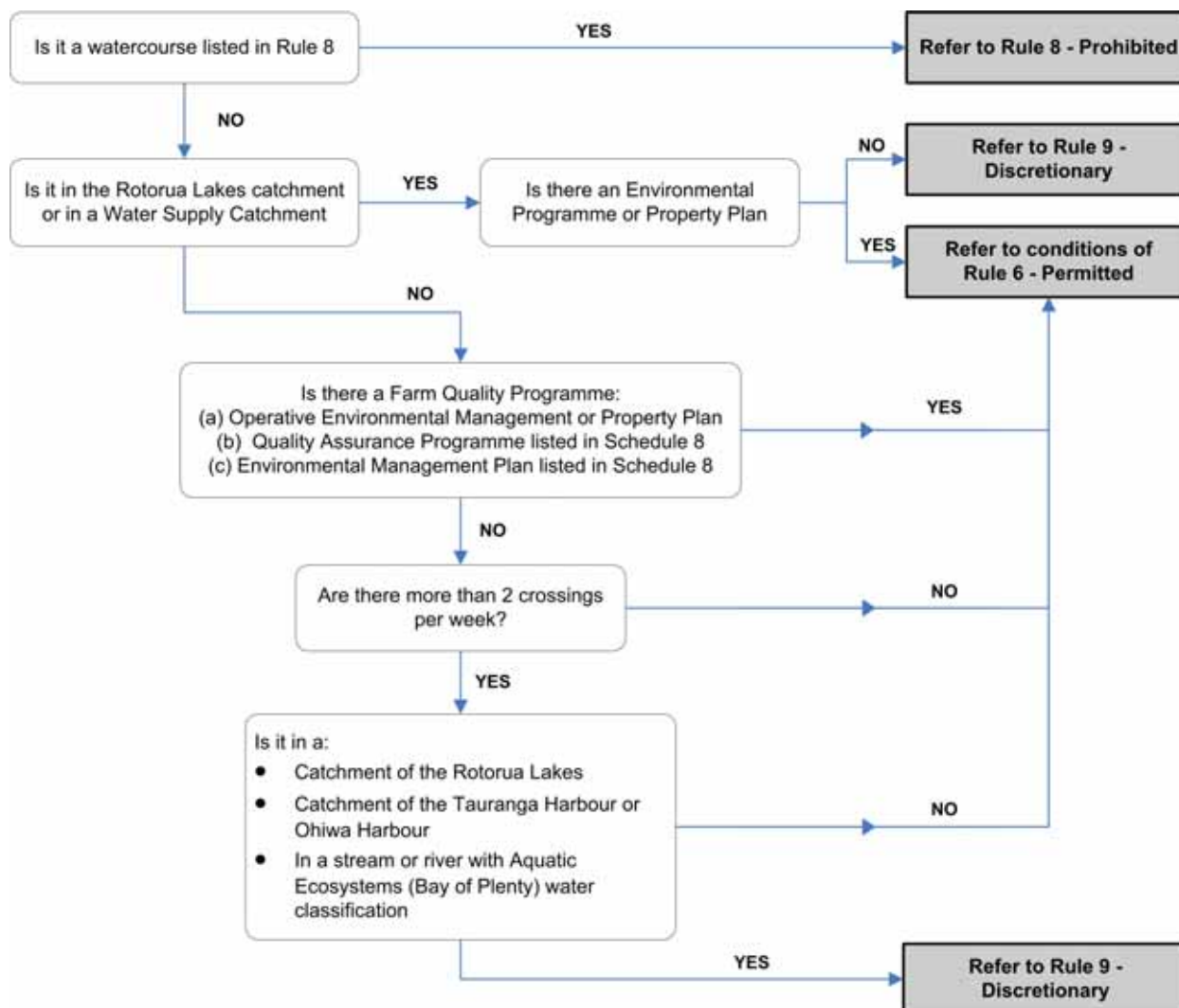
When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions:

Objective 18, 61, 62
Policy 99, 100, 112, 113
Method 235

Explanation/Intent of Rule

To allow Environment Bay of Plenty to assess the adverse environmental effects of bed disturbance activities on a case by case basis, where the activity is likely to cause more than minor effects, or there is a high risk to human health.

Flow Diagram 7 – Controlled Stock Crossings



Advisory Note

- 1 This flow diagram is to assist working out which rules apply but does not constitute a part of the rules. If there is any inconsistency between the flow diagram and the rules in the regional plan it refers to, the criteria in the rules prevail.

Rule 10

Permitted – Grazing of Land

The disturbance of land, soil and ephemeral flowpaths and artificial watercourses by the grazing of stock is a permitted activity subject to the following conditions:

- 1 The activity complies with the following standards:
 - (a) The activity shall not cause or induce erosion to land or to the banks of a surface water body where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of a river, stream, lake or wetland.
 - (ii) Scour to the bed of a river, stream, lake or wetland.
 - (b) The grazing of stock shall be managed to avoid the point source discharge of surface runoff containing accumulated stock faecal material into a stream, river, lake or wetland. This excludes dairy effluent discharges that are addressed under resource consent.

- (c) All practicable steps shall be taken to avoid, remedy or mitigate the increase of nutrient, urine or faecal matter, or sediment in water within artificial watercourses resulting from stock access or crossing of artificial watercourses.
- (d) Grazing of stock in the riparian area of a stream, river, lake or wetland shall be managed to maintain sufficient vegetation cover to provide a filter between land and the surface water body.

Or

- 2 The landowner implements, maintains and complies with an active Farm Quality Programme that addresses the adverse effects of grazing in a manner that complies with the provisions of this regional plan. A Farm Quality Programme can be any one of the following:
 - (a) An operative Environmental Programme or Property Plan; or
 - (b) An operative Quality Assurance Programme with a robust environmental component that is operated by an appropriate sector of the farming industry that is listed in Schedule 8; or
 - (c) A specific, operative environmental management plan for an area of land that is listed in Schedule 8.

Explanation/Intent of Rule

To control the adverse environmental effects of grazing. This rule is a pragmatic, equitable and practicable means of addressing the adverse effects of the activity. Environment Bay of Plenty prefers landowners to comply with the permitted rule conditions rather than having to require a resource consent. Any grazing that is not permitted by Rule 10 is a discretionary activity under Rule 10A. Farm Quality Programmes listed in Schedule 8 comply with Method 186.

Rule 10A

Discretionary – Grazing of Land

The disturbance of land, soil and ephemeral flowpaths by the grazing of stock that is not permitted by Rule 10 is a discretionary activity.

Explanation/Intent of Rule

To allow Environment Bay of Plenty to assess the adverse environmental effects of land disturbance activities on a case by case basis, where the activity is likely to cause more than minor effects.

Assessment Criteria

When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions:

Objective 17, 18, 19, 20
Policy 21

9.4

Discharges of Nitrogen or Phosphorus from Land Use and Discharge Activities in the Rotorua Lakes Catchments

Explanation/Intent of Section 9.4

Para 1

The rules in section 9.4 are necessary to achieve Objective 11 and Policy 21(a). This section should be read in conjunction with Method 41, 42, 35B, Figure 3 and section 3.5 for a full understanding of the provisions for lake water quality management in this regional plan. The intent of the rules in section 9.4 is to prevent the net increase of the export of nitrogen or phosphorus from the cumulative effects of all activities in the

catchments of degraded lakes in order to assist the recovery of lake water quality. It is recognised that past practices have, over 60 years, contributed to the present state of the lakes, and as a result lake sediments contain high levels of nitrogen and phosphorus. It should be noted that the implementation of section 9.4 and Method 41 may take decades to return lake water quality to an acceptable state.

Para 2

All land use activities in the catchments of the Rotorua Lakes contribute nutrients to the environment. To improve lake water quality it is necessary to adopt an integrated catchment management approach and address the effects of all activities in a catchment, including land use activities and point source discharges (e.g. sewage discharges, septic tanks, dairy shed effluent). It is therefore necessary to apply relevant nutrient management rules to all land use activities in the targeted catchments, which is illustrated in Table 36.

Table 36 – Rules in Rotorua Lakes

	Land Use	Applicable Environment Bay of Plenty Rules
(a)	Reticulated urban areas and lakeside settlements	<p>Rule 11 – indicates that the effects of reticulated urban areas and lakeside settlements will be addressed through the control of point source discharges.</p> <p>Rules 11F and 37 – apply to point source discharges of sewage and stormwater, which are managed by Rotorua District Council. Rule 11F restricts any increase in nitrogen or phosphorus from a point source discharge.</p> <p>Sewage – Resource consents limit the allowable nitrogen and phosphorus discharge from sewage treatment plants. Rotorua City's nutrient loading from sewage has been reduced from 130-150 tonnes nitrogen per year and 33.8 tonnes phosphorus per year (prior to land-based discharge in 1988), to less than 30 tonnes nitrogen per year and less than 3 tonne phosphorus per year (2004). Reticulation of other urban areas and lakeside settlements will reduce the nutrient loading compared to the current outputs from septic tank systems by up to 80%. Refer to the Rotorua District Council Long Term Council Community Plan ('LTCCP') for reticulation dates for other areas in the Rotorua Lakes' catchments, which will be refined in future editions of the LTCCP or as a result of community decisions.</p> <p>Urban stormwater – resource consents will require the appropriate management and treatment of urban stormwater to ensure no net increase of nitrogen or phosphorus within the lake catchment from a discharge (refer to section 4.2 of this regional plan).</p>
(b)	Non-reticulated urban areas and lakeside settlements	<p>Septic tank discharges - Refer to the On-Site Effluent Treatment Regional Plan. The rules in that plan require the nutrient loading from septic tank discharges within 200 metres of the lakeshore, or on properties less than 4 hectares within lake catchments, to be substantially reduced from 40-70 grams nitrogen per cubic metre to 15 grams nitrogen per cubic metre. This requires the installation of an advanced treatment system. Some urban areas and lakeside settlements, and small rural properties will be reticulated over time and will then be covered by Rule 11.</p> <p>Stormwater discharges – managed as per Reticulated Urban Areas (refer to (a) above).</p>
(c)	Properties <0.4 hectares (4,000 m ²) where the nitrogen output from the property is less than 10 kg per hectare per year	<p>Rule 11A – permitted providing the nutrient export levels remain below 10 kg per hectare per year (excluding the discharge from on-site effluent treatment systems).</p> <p>Recognises that low-intensity lifestyle blocks have minimal nutrient exports, while requiring landowners to retain the low intensity land use.</p>
(d)	Other land uses	<p>Rules 11B, 11C, 11D and 11E – establishes a nutrient benchmark that landowners cannot breach. Sets a cap on the level of nutrients from rural land uses within each of the targeted lake catchments.</p>

Para 3

The Rules in Section 9.4.1 are subject to a 'mandatory review clause' to clearly indicate that Environment Bay of Plenty will review the applicability of the rules to each targeted lake catchment in accordance with Method 42 and the development of Action Plans under Method 41. It is recognised that the current set of rules are 'first generation', and that the Action Plan Working Groups may identify and develop more appropriate means of controlling nitrogen and phosphorus losses from land use activities. The wording of the 'mandatory review clause' ensures that the existing rules remain enforceable until the new reviewed rules for that lake catchment become operative. However, greater weight will be given to new rules as these progress through submission and appeal processes. Environment Bay of Plenty is obligated to implement a review of the rules for each of the targeted lake catchments in accordance with the timeframes stated in Method 41.

Advisory Note

- 1 Discharges of nitrogen and phosphorus from on-site effluent treatment systems (including septic tanks) are addressed by provisions in the OSET Plan. Where an on-site effluent treatment system requires a consent under the OSET Plan, the activity will be assessed in accordance with the OSET Plan and Rule 11F.
- 2 The Rules in section 9.4 apply to the activities listed in the table below:

Table 37 – Section 9.4 Activities and Associated Rules

Activity	Catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua and Rotoiti
Urban areas, lakeside settlements and small properties connected to reticulated wastewater systems	Rule 11
Small properties (less than 0.4 hectares) not connected to reticulated wastewater systems, and nitrogen export level is less than 10 kg/ha/year	Rule 11A
Land use activities that have undergone conversion between 1 July 2001 and 30 June 2004, and subsequent modification	Rule 11B, 11C, 11D and 11E
Land use activities (not conversions) and subsequent modification	Rule 11C, 11D and 11E
Existing point source discharges of contaminants	Refer to Rules in section 9.5
Increases in the discharge of nitrogen or phosphorus from point source discharges	Activity is subject to rules in section 9.5 and Rule 11F

- 3 For Lakes Rerewhakaaitu, Tarawera, Rotoma, Okataina, Tikitapu, Rotokakahi, Rotomahana, Method 41 will be implemented to assess the risk of lake water deterioration, and to maintain water quality to meet the TLI set in Objective 11. Refer to Method 52 for the process to include rule(s) in this regional plan to regulate activities in these lake catchments. Where lake water quality breaches the TLI, Method 41 (Action Plans) and Method 52 (new regulatory rules to control nitrogen and phosphorus) will be immediately implemented.
- 4 Rules 11B, 11C, 11D and 11E control land use development, including the development of scrub or bare land, to ensure there is no net increase of the export of nitrogen and phosphorus from the proposal, or the increase can be offset on the property or within the same lake catchment. Low nutrient output land use activities are preferred.

- 5 Some land use activities in the catchments of the Rotorua Lakes may be subject to other rules in this regional plan, or rules in the Rotorua District Plan. For example, resource consents for vegetation clearance must be obtained in some areas. Land users are advised to check the relevant sections of this regional plan, or seek advice from Environment Bay of Plenty staff. Contact Rotorua District Council for advice on provisions in the Rotorua District Plan.

9.4.1 *Increases in Nitrogen and Phosphorus Exports from Non-Point Source Discharges in the Catchments of Lakes Rotorua, Rotoiti, Okareka, Rotoehu and Okaro*

Para 1 Section 9.4.1 applies to land use activities, which comprise two components;

- (a) Land use change – the change of land use from one usage to another where the nutrient export from the property is changed. For example, the conversion of forestry to grazing, the conversion of dry stock to dairying, the conversion of pastoral grazing to horticulture, or the subdivision of land for lifestyle blocks or residential development.
- (b) Land management practices – different practices within a land use type, including but not limited to, intensification of an existing land use, using a feed pad, fertiliser application rates and timing, riparian retirement, or stock management practices.

Para 2 Rules 11A, 11B, 11C, 11D and 11E do not apply to land use activities in the specified lake catchments where reviewed rules for the lake catchment are operative. The mandatory review dates for the rules in the affected lake catchments (including the dates for public notification of reviewed rules) are specified in (a) to (d) below. Rule 11 will remain in place as it is intended that lakeside properties, lake settlements, and other small rural properties (where appropriate), will be connected to reticulated sewage systems.

Table 38 – Rule 11A-11E Mandatory Review Clause

	Lake Catchments	Mandatory Review Clause for Rules 11A, 11B, 11C, 11D and 11E
(a)	Lake Okareka	A plan review must be initiated in January 2005 (refer to Method 42), and a plan change will be publicly notified by 1 July 2006.
(b)	Lake Okaro	A plan review must be initiated in January 2006 (refer to Method 42), and a plan change will be publicly notified by 31 December 2007.
(c)	Lake Rotoehu	A plan review must be initiated in January 2006 (refer to Method 42), and a plan change will be publicly notified by 31 December 2007.
(d)	Lakes Rotorua and Rotoiti	A plan review must be initiated in January 2006 (refer to Method 42), and a plan change will be publicly notified by 31 December 2007.

Plan Change 5 (Lake Ōkāreka)

Para 3 was subject to Plan Change 5 (Lake Ōkāreka). This Plan Change was withdrawn on 17 September 2009. As a result, no changes were made to the wording of this paragraph.

- Para 3 For administrative efficiency the rules in section 9.4.1 will be applied in accordance with (a) and (b) where properties cross lake catchment boundaries:
- (a) Where a property lies within two of the following lake catchments; Lakes Rotorua, Rotoiti, Rotoehu, Okareka and Okaro, information will be split to show the nutrient information for those parts of the property within each of the lake catchments.
 - (b) Where a property lies partly within the catchment of Lake Rotorua, Rotoiti, Rotoehu, Okareka or Okaro, and partly in another catchment, the rules apply only to that part of the property that is within the catchment of a specified lake, unless the area within the targeted lake catchment is less than 4,000 m² (0.4 hectares). In situations where the affected area is less than 4,000 m² (0.4 hectares), that area is exempt from the rules in Section 9.4.1.
- Para 4 Environment Bay of Plenty has functions under the Act to undertake audits of resource use activities when necessary to assess compliance with rules and consents. This includes, but is not limited to, activities permitted under Rules 11A, 11B and 11C; and activities consented under Rule 11D, 11E and 11F.
- Para 5 Environment Bay of Plenty will supply information to Rotorua District Council for inclusion on Land Information Memorandum for properties subject to section 9.4 to clearly identify the following, where applicable:
- (a) What lake catchment or catchments the property lies within.
 - (b) The part of the property that is exempt from the rules, if the part of the property within a targeted lake catchment is less than 4,000 m² (0.4 hectares).
 - (c) The rules in section 9.4.1 applicable to the property. Landowners are advised to contact Environment Bay of Plenty for further information.

Plan Changes 5 and 6 (Lake Ōkāreka and Ōkaro)

Rules 11-11E were subject to Plan Changes 5 and 6 (Lake Ōkāreka and Lake Ōkaro). These Plan Changes were withdrawn on 17 September 2009. As a result, no changes were made to the wording of these rules.

Rule 11 Permitted – Land Use Activities in the Catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua and Rotoiti where the property is connected to a reticulated wastewater (sewage) system

Any land use activity in the catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua or Rotoiti, where:

- 1 The property is connected to a reticulated wastewater (sewage) system; and either (a) or (b):
 - (a) The property is within an urban area or lakeside settlement.
 - (b) The property is in a rural area and is less than 0.4 hectares (4,000 m²).

Is a permitted activity.

Advisory Note

- 1 This rule applies to areas where there are existing reticulated wastewater (sewage) systems, and to other areas when such connections are made.
- 2 For the avoidance of doubt, this rule applies to infill housing, the development of residential subdivisions, and other land use changes (e.g. industrial or commercial operations) within reticulated areas.
- 3 Rural properties that are greater size than 0.4 hectares and connected to a reticulated sewage system are subject to Rules 11B, 11C, 11D and 11E.
- 4 Urban areas and lakeside settlements that are not reticulated are subject to Rules 11A, 11B, 11C, 11D, and 11E, whichever are relevant.

Explanation/Intent of Rule

To specifically provide for residential land use activities in the catchments of those Rotorua Lakes where water quality exceeds the TLI in Objective 11, where the effect of the activity is addressed by the control of point source discharges (e.g. sewage and stormwater discharges). Refer to Flow Diagram 8 to assist reading of this rule.

Rule 11A**Permitted – Small-scale, low nutrient Land Use Activities in the Catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua and Rotoiti**

Any land use activity in the catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua or Rotoiti, where:

- 1 The property is not connected to a reticulated wastewater (sewage) system, and
- 2 The size of the property is no greater than 0.4 hectares (4,000 square metres (m²)); and
- 3 The nitrogen export from the property is less than 10 kilograms per hectare per year, excluding the discharge from on-site effluent treatment systems on the property;

Is a permitted activity.

Advisory Note

- 1 Properties less than 0.4 hectares where the nitrogen export is greater than 10 kilograms per hectare per year are subject to Rules 11B, 11C, 11D and 11E. This applies to existing land use activities, and modification to existing land use activities that increase the nitrogen export level to greater than 10 kilograms per hectare per year.
- 2 Rule 11A applies to non-reticulated lake-side settlements.
- 3 Land use activities that cause a nitrogen loss of less than 10 kilograms per hectare per year include, but are not limited to, any ONE of the following:
 - (a) Horse, donkey or mule – maximum of 1 per property.
 - (b) Sheep or goats – maximum of 3 per property.
 - (c) Alpaca or Llama – maximum of 2 per property.
 - (d) Pigs – a maximum of 2 weaners grown through to baconer stage; or 1 sow with a litter of piglets grown to weaned stage and 1 weaned subsequently grown to baconer stage. Pigs are to be kept in a sty with occasional free range, and no continuous free range.
 - (e) A maximum fertiliser application of 10 kilograms of phosphorus per hectare per year (or 4 kilograms of phosphorus per 4,000 m² per year). This equates to 300 kilograms of Potosí Super per hectare per year (or 120 kilograms per 4,000 m² per year).

Landowners can contact Environment Bay of Plenty for free advice on other low nutrient land uses that will comply with the nutrient limit.

Explanation/Intent of Rule

To specifically provide for small-scale land use activities in the catchments of those Rotorua Lakes where water quality exceeds the Tropic Level Index in Objective 11, where the activity has a low nitrogen export level. Refer to Flow Diagram 8 to assist reading of this rule.

Rule 11B**Permitted – Land Uses on Converted Properties, in the Catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua and Rotoiti**

Any land use activity in the catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua or Rotoiti, where:

1 The land use activity is not otherwise permitted by Rule 11 or 11A;

and either 2 or 3:

- 2 The land use activity has been changed from dry stock to dairying, or pastoral grazing to horticulture; and the change commenced between 1 July 2001 and 30 June 2004.
- 3 The land use activity has been changed from forestry to dairying, forestry to pastoral grazing, or forestry to another land use; and the change commenced between 1 July 2001 and 30 June 2004.

Is a permitted activity subject to the following conditions:

- (a) Where the land use activity complies with 2 above, the information in Table 39 (as applicable) shall be supplied to Environment Bay of Plenty no later than 31 December 2005 or when the property is sold, whichever is the sooner, to register the annual average export of nitrogen and phosphorus from the property for the period 1 July 2004 to 30 June 2005. This will become the nutrient benchmark for the property.
- (b) Where the land use activity complies with 3 above, the information in Table 39 (as applicable) shall be supplied to Environment Bay of Plenty no later than 31 December 2005 or when the property is sold, whichever is the sooner, to register the annual average export of nitrogen and phosphorus from the property for the period 1 July 2004 to 30 June 2005, except where the land use change began after 1 January 2003. This will become the nutrient benchmark for the property.
- (c) Where the land use activity complies with 3 above and the land use change began after 1 January 2003, an appropriate nutrient benchmark will be set by Environment Bay of Plenty in conjunction with the landowner and an independent nutrient management adviser, to allow a fair and reasonable production level relative to the property characteristics and land use.
- (d) Any modification to the land use activity shall comply with (i), (ii) or (iii):
 - (i) The modification decreases the annual average export of nitrogen or phosphorus from the property as compared to the nutrient benchmark for the property.
 - (ii) The modification maintains the annual average export of nitrogen or phosphorus from the property at the same level to the nutrient benchmark for the property.
 - (iii) The modification is forestry harvesting where the area is replanted for forestry or permanent retirement purposes (note that forestry activities are also subject to by rules in section 9.2 of the regional plan).

Table 39 – Rule 11B Nutrient Benchmark Information Requirements

	General Information
1	Land area.
2	Soil drainage class and soil characteristics.
3	Rainfall.
4	Slope / Topography.
5	Land cover and land use on the property (including percentage of land area in different land uses).
6	Percentage of riparian areas of rivers, streams and lakeshore on the property that have been fenced, or in retirement plantings
7	Area of wetlands on the property.
8	Number of houses on the property.
9	Type of sewage treatment for the houses on the property.
10	Fertiliser application – type and amount of fertiliser, and percentage of amount applied in May, June and July.
11	Type of livestock on the property.
12	Peak number of livestock by stock type.
13	For beef properties, the percentage of female livestock.
14	Number of livestock taken off the property, or put onto a wintering pad/loafing pad/feedpad during winter.
15	Where a wintering pad/loafing pad/feedpad is used, the waste treatment and disposal system for the wintering pad/loafing pad/feedpad.
16	Crop type(s), and area in each crop. This includes forestry.
17	Volume of irrigation.
18	Supplementary stock feed purchased or sold off-farm.
19	Description of other land management practices relevant to nutrient management.
20	Annual exports from the property (e.g. crops, livestock, milk solids etc).

Advisory Note:

- 1 Rule 11B applies to land used for commercial and industrial use, agricultural, pastoral and horticultural production, lifestyle blocks, production forestry, and bare land, scrub or indigenous forest, where the land use activity is not permitted by Rule 11 or 11A.
- 2 Land use changes, including intensification of existing land uses, are addressed by Rules 11B(d), 11D and 11E.
- 3 Each property is to be managed separately. Where a landowner has multiple properties within the same lake catchment they may be managed jointly within a resource consent under Rule 11D. This would allow a landowner to increase production on one property and apply offset measures on their other property.
- 4 The process to obtain information to comply with Rule 11B will be as follows:
 - (a) Environment Bay of Plenty will send out an initial query to all landowners subject to Rule 11B and C (which excludes land uses permitted by Rule 11 and Rule 11A) to determine what land use activities are carried out on the property.

- (b) Appropriate land use activity forms will be then sent to landowners to assist them to provide the relevant information. Environment Bay of Plenty can provide information on soil drainage class and rainfall free of charge. It is the responsibility of the person using the land to provide the nutrient benchmark information. Where the property is leased, it is the responsibility of the lessee to provide the information rather than the landowner. Environment Bay of Plenty will assist people to determine the baseline output of nitrogen or phosphorus from their property or properties.
 - (c) Environment Bay of Plenty will track who has received land use activity forms and responses received. Landowners or land users (including lessees) who have not supplied information by the required date will be contacted, and if the information is not forthcoming, appropriate existing legislative options will be enacted.
- 5 In relation to Table 39, rows 11, 12, 13, 14 and 20, the type and size of stock will be used to determine the nutrient benchmark. Each stock type has a different nutrient output, for example, one sheep does not equate to one dairy cow.
- 6 In relation to Rule 11B(d), the measurement of the discharge of nitrogen and phosphorus is to be according to the following:
- (a) Use the nitrogen and phosphorus export baseline using information supplied in relation to Rule 11B(a), (b) or (c).
 - (b) Determine the annual average export of nitrogen and phosphorus from the property as a result of the proposed land use activity. The same model used in (a) is to be used in (b) to compare the baseline level and the effects of any proposed change to the activity.
 - (c) Determine appropriate nutrient management measures that can be applied on the property to fully offset any increase of nitrogen or phosphorus from the proposed land use activity. The same model used in (a) and (b) is to be used in (c) to compare the baseline level, effects of the proposed land use activity, and any effects of proposed nutrient management measures to fully offset the expected increase of nitrogen or phosphorus.
 - (d) Where appropriate nutrient management measures cannot be applied on the property to fully offset the expected increase of nitrogen or phosphorus from proposed land use activity, the activity is subject to Rule 11D or 11E.

Explanation/Intent of Rule

To allow land use activities in the catchments of those Rotorua Lakes where water quality exceeds the TLI in Objective 11, where the effect of the activity does not increase the discharge of nitrogen or phosphorus beyond an established baseline level. Refer to Flow Diagram 8 to assist reading of this rule.

Rule 11C

Permitted – Land Use Activities in the Catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua or Rotoiti – properties where land use change (conversion) has not occurred

Any land use activity in the catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua or Rotoiti, where the land use activity is not otherwise permitted by Rule 11, 11A or 11B; is a permitted activity subject to the following conditions:

- (a) The information in Table 40 (as applicable) shall be supplied to Environment Bay of Plenty no later than 31 December 2005, or when the property is sold, whichever is the sooner, to register the annual average export of nitrogen and phosphorus from the property for the period 1 July 2001 to 30 June 2004. This will become the nutrient benchmark for the property.

- (b) Any modification to the land use activity must comply with (i), (ii), or (iii):
- (i) The modification decreases the annual average export of nitrogen or phosphorus from the property as compared to the level established as the baseline at 30 June 2004 as assessed by the nutrient model allowing for statistical variation.
 - (ii) The modification maintains the annual average export of nitrogen or phosphorus from the property at the same level as established as the baseline at 30 June 2004 as assessed by the nutrient model allowing for statistical variation.
 - (iii) The modification is forestry harvesting where the area is replanted for forestry or permanent retirement purposes (note that forestry activities are also subject to by rules in section 9.2 of the regional plan).

Table 40 – Rule 11C Nutrient Benchmark Information Requirements

	General Information
1	Land area.
2	Soil drainage class and soil characteristics.
3	Rainfall.
4	Slope / Topography.
5	Land cover and land use on the property (including percentage of land area in different land uses).
6	Percentage of riparian areas of rivers, streams and lakeshore on the property that have been fenced, or in retirement plantings
7	Area of wetlands on the property.
8	Number of houses on the property.
9	Type of sewage treatment for the houses on the property.
10	Fertiliser application – type and amount of fertiliser, and percentage of amount applied in May, June and July.
11	Type of livestock on the property.
12	Peak number of livestock by stock type.
13	For beef properties, the percentage of female livestock.
14	Number of livestock units taken off the property, or put onto a wintering pad/loafing pad/feedpad during winter.
15	Where a wintering pad/loafing pad/feedpad is used, the waste treatment and disposal system for the wintering pad/loafing pad/feedpad.
16	Crop type(s), and area in each crop. This includes forestry.
17	Volume of irrigation.
18	Supplementary stock feed purchased or sold off-farm.
19	Description of other land management practices relevant to nutrient management.
20	Annual exports from the property (e.g. crops, livestock units, milk solids etc).

Advisory Note

- 1 Rule 11C applies to land used for commercial and industrial use, agricultural, pastoral and horticultural production, lifestyle blocks, production forestry, and bare land, scrub or indigenous forest, where the land use activity is not permitted by Rule 11 or 11A.
- 2 Land use changes, including intensification of existing land uses, are addressed by Rule 11C(b), 11D and 11E.

- 3 Each property is to be managed separately. Where a landowner has multiple properties within the same lake catchment they may be managed jointly within a resource consent under Rule 11D. This would allow a landowner to increase production on one property and apply offset measures on their other property.
- 4 The process to obtain information to comply with Rule 11C will be as follows:
 - (a) Environment Bay of Plenty will send out an initial query to all landowners subject to Rule 11B and C (which excludes land uses permitted by Rule 11 and Rule 11A) to determine what land use activities are carried out on the property.
 - (b) Appropriate land use activity forms will be then sent to landowners to assist them to provide the relevant information. Environment Bay of Plenty can provide information on soil drainage class and rainfall free of charge. It is the responsibility of the person using the land to provide the nutrient benchmark information. Where the property is leased, it is the responsibility of the lessee to provide the information rather than the landowner. Environment Bay of Plenty will assist people to determine the baseline output of nitrogen or phosphorus from their property or properties.
 - (c) Environment Bay of Plenty will track who has received land use activity forms and responses received. Landowners or land users (including lessees) who have not supplied information by the required date will be contacted, and if the information is not forthcoming, appropriate existing legislative options will be enacted.
- 5 For the avoidance of doubt, Rule 11B applies to properties where land use change (conversion) has occurred, and Rule 11C applies to properties where the land use has remained the same since 1 July 2001.
- 6 In relation to Table 40, rows 11, 12, 13, 14 and 20, the type and size of stock will be used to determine the nutrient benchmark. Each stock type has a different nutrient output, for example, one sheep does not equate to one dairy cow.
- 7 In relation to Rule 11C, the measurement of the discharge of nitrogen or phosphorus is to be according to the following:
 - (a) Use the nitrogen and phosphorus export baseline using information supplied in relation to Rule 11C(a).
 - (b) Determine the annual average export of nitrogen and phosphorus from the property as a result of the proposed land use activity. The same model used in (a) is to be used in (b) to compare the baseline level and the effects of any proposed change to the activity.
 - (c) Determine appropriate nutrient management measures that can be applied on the property to fully offset any increase of nitrogen or phosphorus from the proposed land use activity. The same model used in (a) and (b) is to be used in (c) to compare the baseline level, effects of the proposed land use activity, and the effects of proposed nutrient management measures to fully offset any expected increase of nitrogen or phosphorus.
 - (d) Where appropriate nutrient management measures cannot be applied on the property to fully offset the expected increase of nitrogen or phosphorus from proposed land use activity, the activity is subject to Rule 11D or 11E.
- 8 A 10% statistical variation exists in the current nutrient models.

Explanation/Intent of Rule

To allow land use activities in the catchments of those Rotorua Lakes where water quality exceeds the TLI in Objective 11, where the effect of the activity does not increase the discharge of nitrogen or phosphorus beyond an established nutrient benchmark level (+ or - 10%), or increases can be offset on the property. Refer to Flow Diagram 8 to assist reading of this rule.

Rule 11D Controlled – Land Use Activities in the Catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua and Rotoiti, where the increase in nitrogen or phosphorus exports is fully offset on land within the same lake catchment

The increase in the discharge of nitrogen or phosphorus from a land use activity in the catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua and Rotoiti, where:

- 1 The activity is not permitted by Rule 11, 11A, 11B or 11C; and
- 2 The increase in the export of nitrogen or phosphorus from the proposed land use activity will be fully offset by the use of nutrient management measures on land within the same lake catchment; and
- 3 The nutrient management offset measures are on a different property; and
- 4 The nutrient management measures used to fully offset the effects of the proposed land use activity are not on land with indigenous forest land cover, or an urban area or lakeside settlement; and
- 5 The nutrient benchmark of nitrogen or phosphorus for the property where the land use activity will occur, and the property where off-site nutrient management measures will be used, have been registered with Environment Bay of Plenty in accordance with Rule 11B or Rule 11C (whichever is applicable);

Is a controlled activity.

Environment Bay of Plenty reserves its control over the following matters:

- (a) Measures to offset adverse effects on water quality, including surface water and groundwater.
- (b) Measures to avoid, remedy or mitigate adverse effects on aquatic ecosystems in streams and rivers.
- (c) Aspects of the land use activity that cause an increase in the export of nitrogen or phosphorus from the activity.
- (d) Measures to fully offset the increase in the export of nitrogen or phosphorus from the activity within the same lake catchment.
- (e) Contractual arrangements with third parties where the offset measures are not applied on the property.
- (f) The change to the nutrient benchmark limit for both properties. The nutrient benchmark for the property where the land use activity will take place will increase, and the property where offset measures will take place will decrease accordingly.
- (g) Administration charges under section 36 of the Act.
- (h) Financial contributions under section 10 of this regional plan.
- (i) Information and monitoring requirements.

Advisory Note

- 1 Rule 11D applies to land use activities where the increase of nitrogen or phosphorus exports from the property will be fully offset by nutrient management measures are partly or entirely off the property but on land within the same lake catchment.
- 2 Where a landowner has multiple properties within the same lake catchment they may be managed jointly within a resource consent under Rule 11D. This would allow a landowner to increase production on one property and apply offset measures on their other property.

Explanation/Intent of Rule

To provide for land use activities where the effects of the activity can be offset and any increases in the export of nitrogen or phosphorus are fully offset within the same lake catchment, but not entirely on the property. Applicants will need to identify and apply measures to offset any increased nutrient export resulting from the proposed activity. The controlled activity status allows Environment Bay of Plenty to assess the suitability of offset measures, and monitor the implementation of nutrient management practices, particularly where the implementation relies on a third party. Proposed activities where measures have not been identified to offset the increase in nitrogen or

phosphorus, are restricted discretionary activities under Rule 11E. Refer to Flow Diagram 8 to assist reading of this rule.

Rule 11E Restricted Discretionary – Land Use Activities in the Catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua and Rotoiti

The discharge of nitrogen or phosphorus from a land use activity in the catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua and Rotoiti, that is;

- 1 Not a permitted activity under Rule 11, 11A, 11B or Rule 11C; and
- 2 Not a controlled activity under Rule 11D;

Is a restricted discretionary activity.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Measures to offset adverse effects on water quality, including surface water and groundwater.
- (b) Measures to avoid, remedy or mitigate adverse effects on aquatic ecosystems in streams and rivers.
- (c) Measures to fully offset the increase in the discharge of nitrogen or phosphorus from the activity within the same lake catchment.
- (d) Aspects of the land use activity that cause an increase the export of nitrogen or phosphorus from the activity.
- (e) Contractual arrangements with third parties where the offset measures are not applied on the property.
- (f) Administration charges under section 36 of the Act.
- (g) Financial contributions under section 10 of this regional plan.
- (h) Information and monitoring requirements.

Advisory Note

- 1 Any activity subject to section 9.4 must also comply with other relevant rules in this regional plan, and any relevant rules in a district plan.
- 2 Resource consent applications under Rule 11E may be granted where:
 - (a) Any increase of nitrogen or phosphorus loss from the land use activity can be fully offset within the same lake catchment; or
 - (b) Any increase of nitrogen or phosphorus is discharged outside the catchments of the Rotorua Lakes; or
 - (c) Any increased nitrogen or phosphorus is fully bound within the soil and does not reach groundwater or enter surface water bodies; or
 - (d) The purpose of the activity is for research purposes.
- 3 Resource consent applications under Rule 11E will be declined where:
 - (a) The adverse effects of the increased nitrogen or phosphorus loss from the land use activity cannot be fully offset within the same lake catchment; or the nitrogen or phosphorus cannot be taken outside the catchments of the Rotorua Lakes; or the nitrogen or phosphorus is not bound within the soil.

Assessment Criteria

When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions:

Objective 8, 9, 11, 13
Policy 21
Method 36, 63

Explanation/Intent of Rule

To allow Environment Bay of Plenty to address the effects of discharges of nitrogen and phosphorus resulting from land use activities on lake water quality. This is to minimise the input of nitrogen and phosphorus into lakes and their catchments in order to achieve the Trophic Level Indices stated in Objective 11. Applicants will need to identify and apply measures to offset any increased nutrient export resulting from the proposed activity. Resource consent applications for proposed activities that increase the nitrogen or phosphorus levels in a lake catchment, after taking into account offset measures including off-site mitigation, do not comply with the requirements of this regional plan and will be declined. Refer to Flow Diagram 8 to assist reading of this rule.

9.4.2 *Increases in Nitrogen and Phosphorus from Point source Discharges in the Catchments of Lakes Rotorua, Rotoiti, Okareka, Rotoehu and Okaro*

Plan Changes 5 and 6 (Lake Ōkāreka and Ōkaro)

Rule 11F was subject to Plan Changes 5 and 6 (Lake Ōkāreka and Lake Ōkaro). These Plan Changes were withdrawn on 17 September 2009. As a result, no changes were made to the wording of this rule.

Rule 11F **Restricted Discretionary – Increased Discharges of Nitrogen and Phosphorus from Discharge Activities in the Catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua and Rotoiti**

The increase in the discharge of nitrogen or phosphorus from a:

- 1 Point source discharge of contaminants to water; or
 - 2 Point source discharge of water to water; or
 - 3 Point source discharge of contaminants to land in circumstances where the contaminant may enter surface water or groundwater;
- in the catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua and Rotoiti,

Is a restricted discretionary activity.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Measures to offset adverse effects on water quality, including surface water and groundwater.
- (b) Measures to fully offset the increase in the discharge of nitrogen or phosphorus from the activity within the same lake catchment.
- (c) Measures to avoid, remedy or mitigate adverse effects on aquatic ecosystems in streams and rivers.
- (d) Aspects of the activity that cause an increase the export of nitrogen or phosphorus from the activity.
- (e) Administration charges under section 36 of the Act.
- (f) Financial contributions under section 10 of this regional plan.
- (g) Information and monitoring requirements.

Explanation/Intent of Rule

To allow Environment Bay of Plenty to address the effects of discharges of nitrogen and phosphorus resulting from land use activities on lake water quality. This is to minimise the input of nitrogen and phosphorus into lakes and their catchments in order to achieve the Trophic Level Indices stated in Objective 11. Applicants will need to identify and apply measures to offset any increased nutrient export resulting from the proposed activity. Resource consent applications for proposed activities that increase the nitrogen or phosphorus levels in a lake catchment, after taking into account offset measures including off-site mitigation, do not comply with the requirements of this regional plan and will be declined. Refer to Flow Diagram 8 to assist reading of this rule.

9.4.2 *Increases in Nitrogen and Phosphorus from Point source Discharges in the Catchments of Lakes Rotorua, Rotoiti, Okareka, Rotoehu and Okaro*

Plan Change 5 – Lake Okareka

Rule 11F (where Lake Okareka is referred to) are subject to Plan Change 5 – Lake Okareka, which was previously known as Proposed Variation 5 – Lake Okareka.

A copy of Plan Change 5 is appended to this Regional Plan. Refer to the Environment Bay of Plenty website for an update on the status of the Plan Change.

Plan Change 6 – Lake Okaro

Rule 11F (where Lake Okaro is referred to) are subject to Plan Change 6 – Lake Okaro, which was previously known as Proposed Variation 6 – Lake Okaro.

A copy of Plan Change 6 is appended to this Regional Plan. Refer to the Environment Bay of Plenty website for an update on the status of the Plan Change.

Rule 11F **Restricted Discretionary – Increased Discharges of Nitrogen and Phosphorus from Discharge Activities in the Catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua and Rotoiti**

The increase in the discharge of nitrogen or phosphorus from a:

- 1 Point source discharge of contaminants to water; or
 - 2 Point source discharge of water to water; or
 - 3 Point source discharge of contaminants to land in circumstances where the contaminant may enter surface water or groundwater;
- in the catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua and Rotoiti,

Is a restricted discretionary activity.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Measures to offset adverse effects on water quality, including surface water and groundwater.
- (b) Measures to fully offset the increase in the discharge of nitrogen or phosphorus from the activity within the same lake catchment.
- (c) Measures to avoid, remedy or mitigate adverse effects on aquatic ecosystems in streams and rivers.
- (d) Aspects of the activity that cause an increase the export of nitrogen or phosphorus from the activity.
- (e) Administration charges under section 36 of the Act.
- (f) Financial contributions under section 10 of this regional plan.
- (g) Information and monitoring requirements.

Advisory Note

- 1 For point source discharges of contaminants, any increase in the discharge of nitrogen or phosphorus above authorised levels, is subject to Rule 11F.
- 2 Any activity subject to Rule 11F must also comply with other relevant rules in this regional plan, and any relevant rules in a district plan.
- 3 Resource consent applications under Rule 11F may be granted where:
 - (a) Any increase of nitrogen or phosphorus from the discharge activity can be fully offset within the same lake catchment; or
 - (b) Any increase of nitrogen or phosphorus is discharged outside the catchments of the Rotorua Lakes; or
 - (c) Any increased nitrogen or phosphorus is fully bound within the soil and does not reach groundwater or enter surface water bodies; or
 - (d) The purpose of the activity is for research purposes.
- 4 Resource consent applications under Rule 11F will be declined where:
 - (a) The adverse effects of the increased nitrogen or phosphorus from the discharge cannot be fully offset within the same lake catchment; or the nitrogen or phosphorus can not be taken outside the catchments of the Rotorua Lakes; or the nitrogen or phosphorus is not bound within the soil.
- 5 The increase will be determined relative to the lesser of:
 - (a) An existing limit in an existing resource consent, or
 - (b) The actual level of performance of the discharge activity.

Assessment Criteria

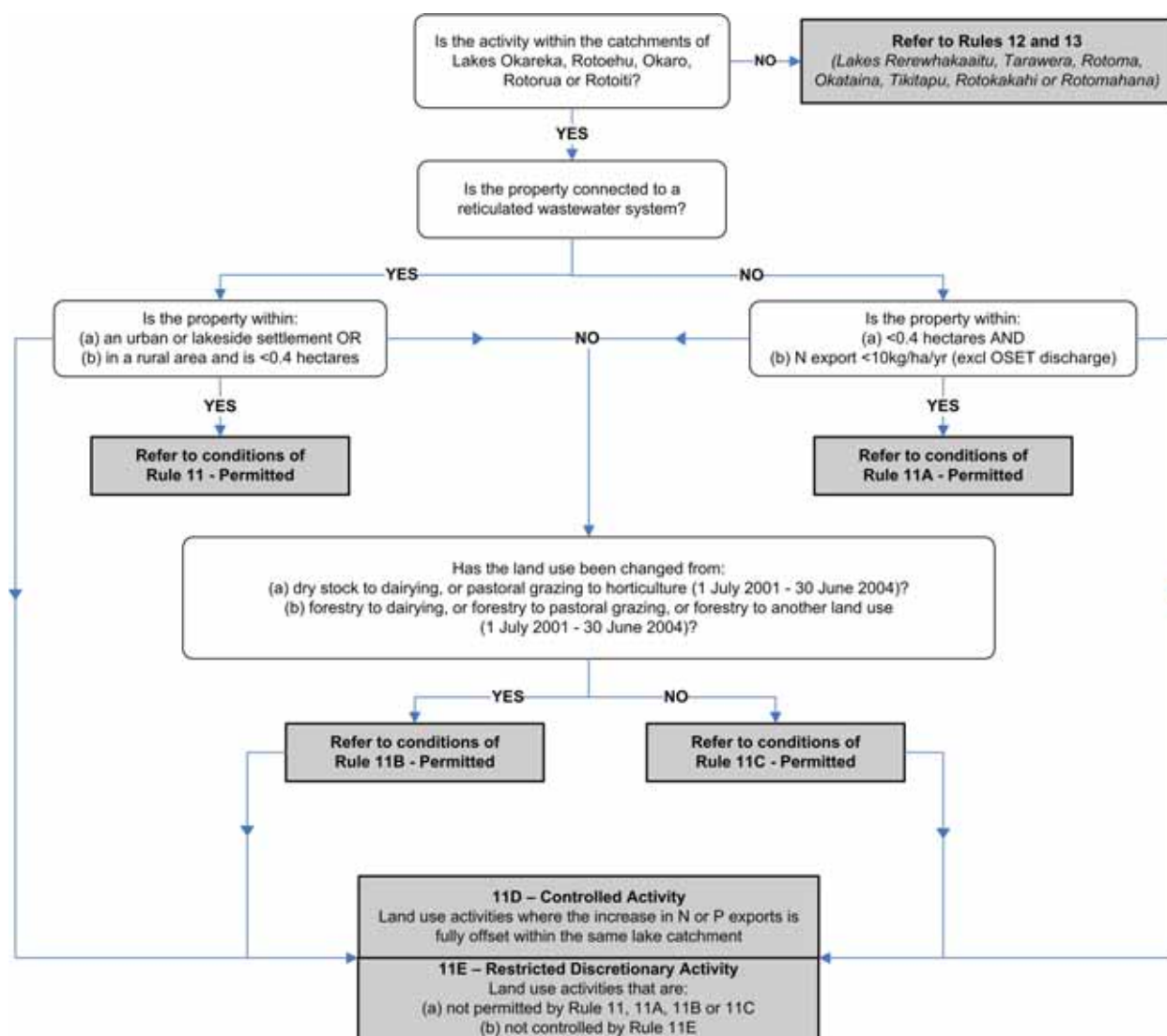
When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions:

<i>Objective</i>	8, 9, 11, 13
<i>Policy</i>	21
<i>Method</i>	36, 63

Explanation/Intent of Rule

To allow Environment Bay of Plenty to address the effects of discharges of nitrogen and phosphorus resulting from point source discharges on lake quality. This is to minimise the input of nitrogen and phosphorus into lakes and their catchments in order to achieve the Trophic Level Indices stated in Objective 11. Applicants will need to identify and apply measures to offset any increased nutrient export resulting from the proposed activity. Resource consent applications for proposed activities that increase the nitrogen or phosphorus levels in a lake catchment, after taking into account offset measures including off-site mitigation, that do not comply with the requirements of this regional plan will be declined. It is the intent of Environment Bay of Plenty that the rules in section 9.4 (including Rule 11F) will be reviewed according to Method 42. Any changes to the rules will be through a publicly notified plan change process under the Act. Refer to Flow Diagram 8 to assist reading of this rule.

Flow Diagram 8 – Discharges and Land Use Activities in the Rotorua Lakes Catchments



Advisory Note

- 1 This flow diagram is to assist working out which rules apply but does not constitute a part of the rules. If there is any inconsistency between the flow diagram and the rules in the regional plan it refers to, the criteria in the rules prevail.

9.4.3 *Increases in Nitrogen and Phosphorus Exports from Non-Point Source Discharges in the Catchments of Other Rotorua Lakes*

Rule 12 Permitted – Changes in Land Use in the Catchments of Lakes Rerewhakaaitu, Tarawera, Rotoma, Okataina, Tikitapu, Rotokakahi, and Rotomahana

Any existing land use or change to a land use activity in the catchments of Lakes Rerewhakaaitu, Tarawera, Rotoma, Okataina, Tikitapu, Rotokakahi and Rotomahana, is a permitted activity, until a plan change is initiated to include specific rules for individual lake catchments that have been identified as at risk in Method 41, or where the 3-year moving average TLI for the lake exceeds its designated TLI specified in Objective 11 by 0.2 for 2 years.

Explanation/Intent of Rule

Rule 12 is to signal the intent of the regional plan to include regulatory mechanisms where necessary to maintain or improve lake water quality in Lakes Rerewhakaaitu, Tarawera, Rotoma, Okataina, Tikitapu, Rotokakahi, and Rotomahana to meet the Trophic Level Indices set in Objective 11. Such rules will be included in this regional plan in accordance with Method 42.

Rule 13

Restricted Discretionary – Changes in Land Use in the Catchments of Lakes Rerewhakaaitu, Tarawera, Rotoma, Okataina, Tikitapu, Rotokakahi, and Rotomahana

Any change to a land use activity where the proposed activity causes an increase in the export of nitrogen or phosphorus from the property in the catchments of Lakes Rerewhakaaitu, Tarawera, Rotoma, Okataina, Tikitapu, Rotokakahi and Rotomahana, where:

- 1 The lake is identified as at risk of water quality decline in Method 41, or
- 2 The 3-year moving average TLI for the lake exceeds its designated TLI specified in Objective 11 by 0.2 for 2 years;

Is a restricted discretionary activity.

This rule is not operative until a plan change is initiated to include specific rules for individual lake catchments that have been identified as at risk in Method 41, or have declining water quality as measured by lake water quality monitoring.

Explanation/Intent of Rule

Rule 13 is to signal the intent of the regional plan to include regulatory mechanisms where necessary to maintain or improve lake water quality in Lakes Rerewhakaaitu, Tarawera, Rotoma, Okataina, Tikitapu, Rotokakahi, and Rotomahana to meet the Trophic Level Indices set in Objective 11. Such rules will be included in this regional plan in accordance with Method 42.

Plan Changes 5 and 6 (Lake Ōkāreka and Ōkaro)

Rules 14-14D and Rule 15-15B were subject to Plan Changes 5 and 6 (Lake Ōkāreka and Lake Ōkaro). These Plan Changes were withdrawn on 17 September 2009. As a result, these rules were not adopted or added to the regional plan.

9.5

Discharges to Water and Land

Advisory Note

- 1 The air-borne component of any discharge (including, but not limited to, odour, dust, particulates and the burning of waste) must comply with the Operative Bay of Plenty Regional Air Plan.

- 2 The rules in this regional plan do not authorise the modification or disturbance of any archaeological, or registered waahi tapu sites within the area of the activity. Written authority from the New Zealand Historic Places Trust is required prior to any destruction, damage or modification of an archaeological or registered waahi tapu site or an area where there is reasonable cause to suspect there is an archaeological site. Should any artefacts, bones or any other sites of archaeological or cultural significance be discovered within the area affected by the activity, written authorisation should be obtained from the Historic Places Trust before any damage, modification or destruction is undertaken.
- 3 Abrasive blasting is addressed by the provisions of the Operative Bay of Plenty Regional Air Plan, which requires the material from the activity to be collected. A resource consent is needed under this regional plan if there is a discharge of contaminants to water, or a discharge of contaminants to land where the contaminant may enter water, resulting from the activity.
- 4 For the avoidance of doubt, the Riparian Management Zone or Riparian Area in Rule 21 does not apply to areas of land adjacent to ephemeral flowpaths and artificial watercourses.
- 5 Rules 30, 30A, 30B and 30C regulate the point source discharge of stormwater to water or land.

Rule 16**Permitted – Discharge of Aquatic Herbicide Over Water for Weed Control**

The discharge of aquatic herbicide over water for the purpose of spraying emergent aquatic weeds, where the discharge is incidental to the activity,

is a permitted activity subject to the following conditions:

- (a) The application of aquatic herbicide shall only be for the purpose of controlling:
 - (i) Plant pest species listed in the 'Plant Pest Management Strategy for the Bay of Plenty Region', or the National Plant Pest Accord in rivers, streams, lakes and wetlands.
 - (ii) Any vegetation necessary for the maintenance of artificial watercourses, farm drains, roadside drains, and Land Drainage Canals.
- (b) Only aquatic herbicides that have been approved for use over water shall be used. Herbicides are approved under Section 21 of the Pesticides Act 1979, or when repealed, by the Hazardous Substances and New Organisms Act 1996 when enabled and operational.
- (c) The aquatic herbicide shall be discharged in a manner that is consistent with the manufacturer's instructions.
- (d) The discharge shall not result in any fish kills.
- (e) The discharge shall not contaminate any authorised water take.
- (f) The discharge shall not result in any harmful concentration of aquatic herbicide beyond the target area.
- (g) There shall be no discharge of aquatic herbicide in the tidal reach of any surface water body between 1 March and 31 May.
- (h) The discharge of aquatic herbicide shall comply with the requirements of the Operative Bay of Plenty Regional Air Plan.

Advisory Note

- 1 In relation to condition (b), the Pesticides Board currently retains this responsibility. However, the responsibility will be transferred to the Environmental Risk Management Authority in the near future.
- 2 Resource users must also comply with Appendix M of the NZS 8409:2004 Management of Agrichemicals, and relevant regulations of the Hazardous Substances and New Organisms Act 1996. Resource users are advised to contact Environment Bay of Plenty for more information.
- 3 Compliance with conditions (b) and (c) is expected to achieve compliance with (d). Resource users should also manage the extent of the vegetation targeted by the activity so that the amount of dead and rotting vegetation in a water body does not decrease oxygen levels in the water to a level that causes fish kills.

- 4 For other agrichemical applications (other than discharges over water), refer to Rule 21 (permitted – application of agrichemicals to land), and the Operative Bay of Plenty Regional Air Plan.

Explanation/Intent of Rule

To permit spraying of emergent weeds on the surface of water bodies. This activity should have less than minor adverse effects on the environment, including areas beyond the activity site, if carried out in compliance with the conditions. It would not be efficient to require resource consents for some plant pest or weed control activities. This rule allows the motorised and non-motorised application of agrichemicals. Condition (g) is to protect spawning areas in tidal reaches of rivers and streams. Refer to Figure 7 to explain where Rules 16 and 21 apply.

Rule 17

Permitted – Discharge of Contaminants to Land for the Purpose of Emergency Service Fire Training

The discharge of contaminants to land, or to land in circumstances where the contaminant may enter water, where the contaminant is foam used by the New Zealand Fire Service Commission to undertake fire training activities, is a permitted activity subject to the following circumstances:

- (a) There shall be no discharge of foam to a stream, river, lake or wetland.
- (b) The person discharging the foam must be either an employee or volunteer of the New Zealand Fire Service Commission who is on duty.
- (c) The New Zealand Fire Service Commission shall maintain a regional register with details of location and dates of the discharge of foam to land for fire training activities.

Advisory Note

- 1 Where the discharge of foam is made to a reticulated stormwater system, permission for the discharge must be obtained from the relevant city or district council.

Explanation/Intent of Rule

To allow the New Zealand Fire Service Commission to undertake statutory obligations by providing for the discharge of foam to land used in emergency service training. This activity should have less than minor adverse effects on the environment if carried out in compliance with the conditions. The discharge of foam resulting from extinguishing a fire (fire investigation activities) is addressed by sections 18, 330 and 341 of the Act, and is not restricted by this regional plan.

Rule 18

Permitted - Discharge of Dye or Gas Tracers

The discharge of dye or gas tracer material, excluding radioisotope tracers, to water for monitoring or research purposes is a permitted activity subject to the following conditions:

- (a) Details of the proposed discharge shall be publicly notified at least one week prior to the discharge being made by a public notice in the local newspaper and/or other recommended methods including letter drops stating:
 - (i) The area where the discharge will be made.
 - (ii) The type of discharge.
 - (iii) The reason for the discharge.
 - (iv) The duration of the discharge.
- (b) The discharge shall not contaminate any authorised water takes.
- (c) The dye or gas shall be inert, and shall be non-toxic in the concentration at which it is to be used.

- (d) Environment Bay of Plenty and the relevant city or district council shall be notified in writing of the proposed discharge, no less than 5 working days before the discharge. Such notification shall include:
 - (i) Persons responsible for the discharge including contact details,
 - (ii) Purpose of the tracer programme,
 - (iii) Description of the tracer programme,
 - (iv) Nature of the tracer (i.e. type, colour, product name/description),
 - (v) Discharge location and estimated timing; and
 - (vi) Estimated duration of discharge.

Explanation/Intent of Rule

Rule 18 is intended to allow the use of inert dye and tracers for water research, where the activity is expected to have less than minor adverse effects on the environment.

Rule 19

Permitted – Application of Compost, Wood Fibre, Animal Manure, Grade Aa Biosolids or Vermiculture Material to Land

The discharge of compost, wood fibre, animal manure, Grade Aa biosolids or vermiculture material to land where the contaminant or its by-products may enter water, is a permitted activity subject to the following conditions:

- (a) Except in relation to (b), the material shall be applied so that it acts as a soil conditioner, mulch, or has a beneficial effect on plant growth, and does not adversely affect soil health.
- (b) Where the material is from a composting toilet, the material shall be incorporated into the soil.
- (c) The compost, wood fibre, animal manure, Grade Aa biosolids or vermiculture material shall not contain any of the following substances:
 - (i) Hazardous substances and their containers.
 - (ii) Petroleum hydrocarbons (including oils and fuels) and their containers.
- (d) There shall be no direct discharge of compost, wood fibre, animal manure, Grade Aa biosolids or vermiculture product to streams, rivers, lakes or wetlands.
- (e) All practicable measures shall be taken to avoid the runoff of compost, wood fibre, animal manure, Grade Aa biosolids or vermiculture material to streams, rivers, lakes or wetlands.
- (f) The material shall be applied at an appropriate rate and volume that avoids or mitigates leaching of nutrients to groundwater.
- (g) The levels of heavy metals in the material shall be within those stated in the Guidelines for the Safe Application of Biosolids to Land in New Zealand, 2003³⁷.
- (h) Where the material is Grade Aa biosolids, the discharge shall also comply with (i) and (ii):
 - (i) The accumulation of heavy metals within the soil of the discharge area shall not exceed the soil limits as specified in Table 4.2 of the Guidelines for the Safe Application of Biosolids to Land in New Zealand, 2003.
 - (ii) Monitoring results for the verification of Grade Aa status and the results of routine sampling that complies with section 7.5 of the Guidelines for the Safe Application of Biosolids to Land in New Zealand, 2003, shall be available to Environment Bay of Plenty upon request.

This activity is also subject to the requirements of the rules in section 9.4.

³⁷ Guidelines for the Safe Application of Biosolids to Land in New Zealand, 2003. New Zealand Water and Wastes Association, Ministry for the Environment, Ministry of Health, Ministry of Agriculture and Forestry

Explanation/Intent of Rule

To allow the application of the end material of compost or vermiculture processes. Such materials include, but are not limited to, compost from composting toilets, and deep litter bedding material from intensive pig farming and poultry litter. The rule also applies to Grade Aa biosolids. The rule does not apply to industrial effluent, biosolids (including sewage sludge) that do not comply with Grade Aa rating, or wastes from trade or industrial premises. The conditions are to protect water and land resources, prevent the accumulation of contaminants on land, and ensure the discharge of high risk contaminants is controlled.

Rule 20**Permitted – Application of Fertiliser to Land**

The discharge of fertiliser to land where the contaminant or its by-products may enter water, where the fertiliser is applied using ground-based operations, is a permitted activity subject to the following conditions:

- (a) There shall be no direct discharge of fertiliser to groundwater, streams, rivers, lakes or wetlands.
- (b) All practicable measures shall be taken to avoid the runoff of fertiliser to streams, rivers, lakes or wetlands.
- (c) The fertiliser shall be applied at an appropriate time, rate and volume that avoids leaching of nutrients to groundwater.
- (d) Fertiliser must be stored and used in a manner that complies with (a) to (c) above.
- (e) Where the discharge of fertiliser is within 10 metres of a lake, river, stream or wetland, all reasonable steps shall be taken to apply the fertiliser accurately, and confine the fertiliser to the application site.

This activity is also subject to the requirements of the rules in section 9.4.

Advisory Note

- 1 The application of fertiliser by aircraft is addressed by the Operative Bay of Plenty Regional Air Plan³⁸.
- 2 The Code of Practice for Fertiliser Use (2002) published by the New Zealand Fertiliser Manufacturers' Research Association Inc, and the Code of Practice for the Placement of Fertiliser in NZ: The Spreadmark Code of Practice (2002) are means of complying with the requirements of Rule 20³⁹.
- 3 Particular care must be taken when applying fertiliser in the catchments of the Rotorua Lakes, especially those subject to the rules in section 9.4 ('Rule 11') of this regional plan.

Explanation/Intent of Rule

To allow a common activity that should have less than minor adverse effects subject to compliance with the stated conditions. It would also be inefficient to require resource consents for such activities. The conditions aim to avoid discharges of fertiliser to surface water and minimise the leaching of nutrients to groundwater.

Rule 21**Permitted – Application of Agrichemicals to Land**

The discharge of agrichemicals to land where the contaminant or its by-products may enter water, is a permitted activity subject to the following conditions:

- (a) There shall be no direct discharge of agrichemical to streams, rivers, lakes or wetlands.
- (b) The discharge of agrichemical shall comply with the requirements of the Operative Bay of Plenty Regional Air Plan⁴⁰.

³⁸ Environment Bay of Plenty, 2003. Operative Bay of Plenty Regional Air Plan.

³⁹ New Zealand Fertiliser Manufacturer's Research Association Inc, 1998. Code of Practice for Fertiliser Use.

⁴⁰ Environment Bay of Plenty, 2003. Operative Bay of Plenty Regional Air Plan.

- (c) The discharge shall not result in any harmful concentration of agrichemical beyond the target area.
- (d) The agrichemical shall be applied in a manner that is consistent with the manufacturer's instructions.
- (e) Where an agrichemical is discharged near, or adjacent to a surface water body:
 - (i) Only agrichemicals that have been approved for use or near-water shall be used. Agrichemicals are approved under Section 21 of the Pesticides Act 1979, or when repealed, by the Hazardous Substances and New Organisms Act 1996 when enabled and operational.
 - (ii) The discharge shall not result in any fish kills.
 - (iii) The discharge shall not contaminate any authorised water take.
 - (iv) There shall be no discharge of agrichemical in the tidal reach of any surface water body between 1 March and 31 May.
- (f) The discharge of agrichemicals within the Riparian Management Zone specified in Table 41 shall only be from a method that accurately applies the agrichemical to the target species or area of land. This applies to hand held and mechanical application methods.

Table 41 – Agrichemical Application in Riparian Areas

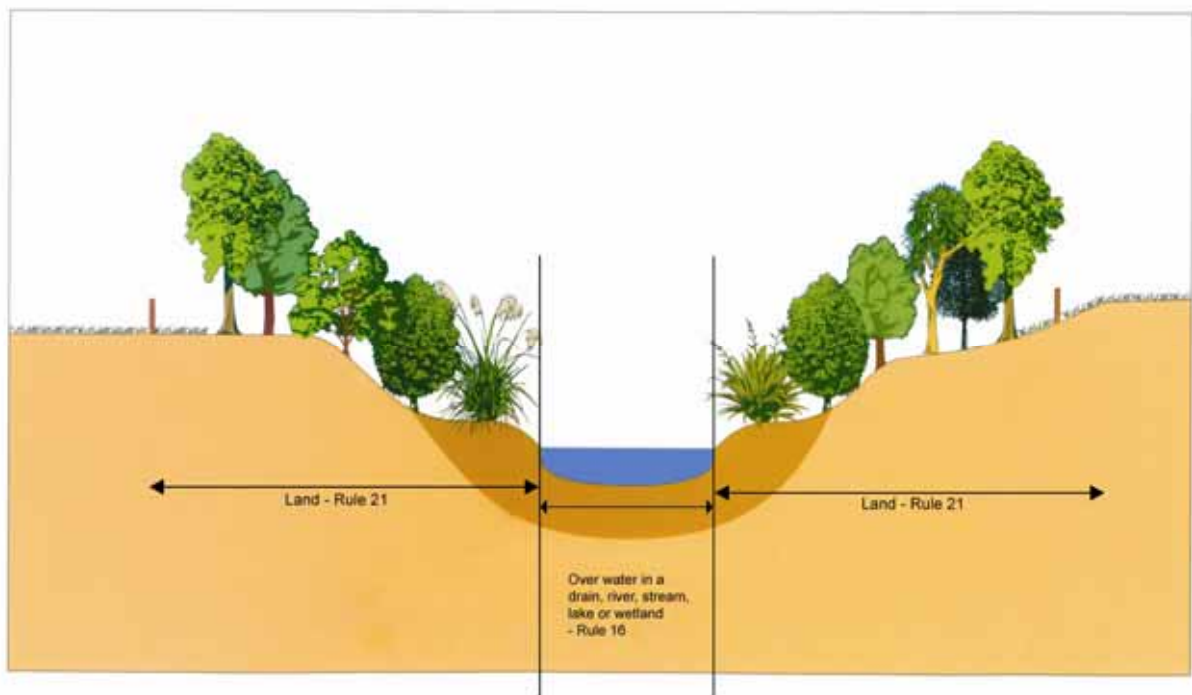
	General Area	Location	Land Slope	Distance from surface water body as measured from the edge of the surface water body
(a)	Riparian Management Zone – Rotorua Lakes	Rotorua Lakes (refer to Definition of Terms)	0 to 7°	Between 0-5 metres from the edge of the lake
			>7 to 25°	Between 0-10 metres from the edge of the lake
			>25 to 35°	Between 0-40 metres from the edge of the lake
			>35°	Between 0-40 metres from the edge of the lake
(b)	Riparian Management Zone – excluding (a)	All streams, rivers, wetlands, and lakes not specified in (a)	0 to 7°	Between 0-2 metres from the edge of the water body
			>7 to 15°	Between 0-5 metres from the edge of the water body
			>15 to 25°	Between 0-10 metres from the edge of the water body
			>25 to 35°	Between 0-25 metres from the edge of the water body
			>35°	Between 0-40 metres from the edge of the water body
Note: The Riparian Management Zone in Table 41 does not apply to artificial watercourses (including farm drains and roadside drains).				

Advisory Note

- 1 In relation to the approval of agrichemicals near water, the Environmental Risk Management Authority currently maintains a list of approved agrichemicals.
- 2 The application of agrichemicals by aircraft is addressed by the Operative Bay of Plenty Regional Air Plan.

Explanation/Intent of Rule

This rule permits a relatively common activity that should have less than minor adverse effects subject to compliance with the stated conditions. It would also be inefficient to require resource consents for such activities. The conditions aim to avoid discharges to surface water, require safe handling and use procedures to be used, and avoid effects beyond the target area. Refer to Figure 7 to explain where Rules 16 and 21 apply.

Figure 7 – Coverage of Rule 16 and 21

Adapted from Taranaki Regional Council, 2001.

Rule 22 Permitted – Take, Diversion and Discharge of Water from Existing Farm Drains and Pumped Drainage Areas

The:

- 1 Take or diversion of water for land drainage purposes resulting from farm drains and land drainage canals that existed as of 19 February 2002; and
- 2 Discharge of water to a surface water body, where the discharge is from:
 - (a) A pumped drainage area; or
 - (b) A farm drain that existed as of 19 February 2002, where the drain is for land drainage purposes and excludes drains that are part of stormwater systems for urban areas or roading,

Is a permitted activity subject to the following conditions:

- (a) The discharge shall not cause the effects listed in (i) to (v), as measured at a downstream distance of three (3) times the width of the stream or river at the point of discharge:
 - (i) The production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials.
 - (ii) Any conspicuous change in the colour or visual clarity, except where the discharge is from peat soils.
 - (iii) Any emission of objectionable odour.
 - (iv) The rendering of fresh water unsuitable for consumption by farm animals.
 - (v) Any more than minor adverse effects on aquatic life.
- (b) The discharge shall not cause or induce erosion to the bed or banks of any surface water body, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.

Advisory Note

- 1 Landowners are advised to check with the administrator of the land drainage scheme to which they connect for matters relating to compliance with (a). Land drainage canals may not be able to accept water from drains during flood events.
- 2 For any new discharges of water to water from one drain to another drain within a land drainage scheme, the approval of the administrator of that land drainage scheme must also be gained with regard to the administrator's functions under the Land Drainage Act 1908.
- 3 Modification of a wetland, including drainage, is a discretionary activity under Rule 85.
- 4 Rule 22 applies to discharges from the cleaning of farm drains. Any discharges of sediment from the activity shall comply with (a).
- 5 For the avoidance of doubt, the conditions in Rule 22 apply to discharges of water from existing farm drains and pumped drainage areas at the point at which the discharge enters a stream, Land Drainage Canal (refer to Definition of Terms), or Modified Watercourse.

Explanation/Intent of Rule

To allow the ongoing operation of existing drains and land drainage schemes, including the discharge from both pumped and gravity fed drains. The rule does not permit the discharge of contaminants to water. It is recognised that discharges of water from drains will contain diffuse source contaminants from land use activities, and discolouration from peat soils. Methods 23 and 85 will be implemented to investigate if discharges permitted under this rule compromise the water quality classification of the receiving waters. The rule covers artificial drainage and diversion activities, and excludes the flow of water within natural flow-paths. The discharge of water from any new land drainage activity to a surface water body is a discretionary activity.

Plan Change 8 (Groundwater Bores and Flooding Conditions)

Condition (b) of Rule 23 (previously known as Rule 23A) was subject to Plan Change 8 (Groundwater Bores and Flooding Conditions). Following the hearing of submissions to this plan change, the original condition wording was retained. As a result, no changes were made to the wording of this rule.

Rule 23A has been renumbered to Rule 23 in accordance with Schedule 1, clause 16 of the Act.

Rule 23**Permitted – Discharge of Water to Water between Artificial Watercourses**

The discharge of water to water where the discharge is from an artificial watercourse to water in another artificial watercourse, is a permitted activity subject to the following conditions:

- (a) The discharge shall not cause or induce erosion to land, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes instability of land.
- (b) The activity shall not cause flooding or ponding on any land or property owned or occupied by another person, where that land would not naturally carry water during storm or flood events.

Advisory Note

- 1 Where the activity is within a Land Drainage Scheme identified in Schedule 5, landowners are advised to check with the administrator of the land drainage scheme for any necessary permissions. For any new discharges of water to water from one drain to another drain within a land drainage scheme, the approval of the administrator of that land drainage scheme must also be gained with regard to the administrator's functions under the Land Drainage Act 1908.

- 2 For the avoidance of doubt, the conditions in Rule 22 apply to discharges of water from existing farm drains and pumped drainage areas at the point at which the discharge enters a stream, river, Land Drainage Canal (refer to Definition of Terms), or modified watercourse.

Explanation/Intent of Rule

To allow for the discharge of water to water where the adverse effects are likely to be no more than minor.

Plan Change 8 (Groundwater Bores and Flooding Conditions)

Condition (b) of Rule 24 was subject to Plan Change 8 (Groundwater Bores and Flooding Conditions). Following the hearing of submissions to this plan change, the original condition wording was retained. As a result, no changes were made to the wording of this rule.

Rule 24 Permitted – Salt Water Flushing of Land Drainage Canals, Artificial Watercourses, and Modified Watercourses

The discharge of salt water to water in a land drainage canal, artificial watercourse or modified watercourse where:

- 1 The canal or watercourse is otherwise controlled by flood control gates or is a pumped system, and
- 2 The activity is for the purposes of salt water flushing as part of land drainage scheme maintenance works for weed control,

Is a permitted activity subject to the following conditions:

- (a) Where the activity is within a Land Drainage Scheme identified in Schedule 5, the activity shall be carried out by the land drainage scheme administrator or its contractor.
- (b) The discharge shall not cause flooding or ponding on any land or property owned or occupied by another person, unless the written approval of the affected person(s) has been obtained.

Explanation/Intent of Rule

To allow the use of a non-mechanical method to control weeds in land drainage canals, artificial watercourses and modified watercourses where the adverse effects are likely to be less than minor, particularly in relation to other mechanical or chemical measures.

Rule 25 Permitted – Farm Dumps

The discharge of contaminants, including leachate, to land in circumstances where the contaminant or its by-products may enter water, as part of the operation of an on-farm rubbish dump, is a permitted activity subject to the following conditions:

- (a) Discharge to an on-farm rubbish dump is limited to material produced by normal farm operations or household waste from dwellings on the farm and sourced exclusively from the farm property on which the dump is sited, but excludes the discharge of substances and materials specified in (b).
- (b) The following substances and materials shall not be discharged to an on-farm rubbish dump:
 - (i) hazardous substances,
 - (ii) petroleum hydrocarbons (including oils and fuels) and their containers,
 - (iii) human sewage,
 - (iv) stock effluent,
 - (v) offal, dead stock or animals.

- (c) Where the containers of hazardous substances are disposed of in a farm dump, the disposal shall comply with Appendix Z of NZS8409:1999 Code of Practice for the Management of Agrichemicals.⁴¹
- (d) No part of the dump site shall be located within:
 - (i) 50 horizontal metres of any groundwater bore, stream, river, lake or wetland.
 - (ii) 50 horizontal metres of a geothermal surface feature.
 - (iii) 50 horizontal metres of the Coastal Marine Area.
 - (iv) An area that is flooded during storm events. This includes land that is:
 - (a) an ephemeral flowpath, or
 - (b) the berm of a river scheme identified in Schedule 5, or
 - (c) a floodway identified in Schedule 6.
 - (v) An area where the highest groundwater level is less than one (1) metre below the base of the dump site.
- (e) There shall be no surface ponding of leachate at the dump site, or overland flow of leachate from the dump site.
- (f) Stormwater shall be diverted from entering the dump site.
- (g) When no longer in use the waste in the dump site shall be covered with a minimum of 300mm of soil material substrate.

Advisory Note

- 1 As a courtesy to neighbours, operators of farm dumps should consider the proximity of the dump site to property boundaries and dwellings; control of nuisance effects such as windblown litter, flies and rats; and the visibility of the dump site.
- 2 With regards to land use restrictions, the site must comply with the provisions of a district plan.

Explanation/Intent of Rule

To allow for on-farm waste disposal sites, particularly in areas where there are no other waste disposal opportunities. This rule does not apply to dump sites where waste is accepted from other properties. The conditions are preventative measures to minimise the potential adverse environmental effects (including cumulative effects) of farm dumps in the region.

Rule 26

Permitted – Offal Holes

The discharge of contaminants, including leachate, to land in circumstances where it may enter water, as a result of the operation of an offal hole, is a permitted activity subject to the following conditions:

- (a) Discharge into an offal hole is limited to animal and vegetable material resulting from normal farm operations sourced exclusively from the farm property on which the offal hole is sited, but excludes the discharge of substances and materials specified in (b).
- (b) The following substances and materials shall not be discharged to an offal hole:
 - (i) hazardous substances and their containers,
 - (ii) petroleum hydrocarbons (including oils and fuels) and their containers,
 - (iii) human sewage,
 - (iv) stock effluent.
- (c) The offal hole shall not be located within:
 - (i) 50 horizontal metres of any groundwater bore, stream, river, lake or wetland.
 - (ii) 50 horizontal metres of a geothermal surface feature.
 - (iii) 50 horizontal metres of the Coastal Marine Area.

⁴¹ NZS8409:1999. Code of Practice for the Management of Agrichemicals. Standards New Zealand, Wellington.

- (iv) An area that is flooded during storm events. This includes land that is:
 - (a) an ephemeral flowpath, or
 - (b) the berm of a river scheme identified in Schedule 5, or
 - (c) a floodway identified in Schedule 6.
- (v) An area where the highest groundwater level is less than two (2) metres below the base of the offal hole.
- (d) There shall be no surface ponding of leachate or wastes at the offal hole site or overland flow of leachate or wastes from the offal hole site.
- (e) The offal hole shall be securely covered to prevent stormwater from entering the hole.
- (f) When no longer in use the waste in the dump site shall be covered with a minimum of 300mm of soil material substrate.

Advisory Note

- 1 As a courtesy to neighbours, operators of offal holes should consider the proximity of the dump site to property boundaries and dwellings; control of nuisance effects such as flies and rats; and the visibility of the offal hole.
- 2 With regards to land use restrictions, the site must comply with the provisions of the District Plan.
- 3 Care should be taken when developing offal holes to ensure hole sizes are not too large, or there are not too many holes in one location, to ensure the breakdown of materials and to minimise scavenging.
- 4 The disposal of animal carcasses that contain infectious diseases are subject to other provisions, and require notification to the Ministry of Agriculture and Forestry. Incineration is the preferred method of disposal in those circumstances.

Explanation/Intent of Rule

To allow for on-farm disposal of biodegradable wastes generated on the property. This rule does not apply to sites where waste is accepted from other properties. The conditions are preventative measures to minimise the potential adverse environmental effects (including cumulative effects) of offal holes in the region, while recognising that these activities are part of normal farming practices.

Rule 27

Permitted – Ensilage (Silage) Pits and Stacks

The discharge of leachate from ensilage (silage) pits and stacks to land in circumstances where the leachate or its by-products may enter water is a permitted activity, subject to the following conditions:

- (a) There shall be no discharge of leachate to a surface water body.
- (b) There shall be no surface ponding of leachate at the silage pit site or overland flow of leachate from the silage pit or stack site.
- (c) All practicable steps shall be taken to divert stormwater away from the silage pit or stack.
- (d) The silage pit or stack shall not be located within:
 - (i) 50 horizontal metres of any groundwater bore, stream, river, lake, wetland, or Land Drainage Canal.
 - (ii) 50 horizontal metres of a geothermal surface feature.
 - (iii) 50 horizontal metres of the Coastal Marine Area.
 - (iv) A gully or depression, or an area that is flooded during storm events.
 - (v) An area where the highest groundwater level is less than one (1) metre below the base of the silage pit or stack.

Advisory Note

- 1 This rule does not apply to wrapped silage bales, which are not addressed by this regional plan.
- 2 Where an ensilage (silage) pit or stack is sealed with an impermeable base and leachate is collected and discharged to an effluent treatment pond, the pit or stack is not subject to Rule 27. Any other pits and stacks are subject to Rule 27, including any sealed pit or stack that does not have a leachate collection system.
- 3 In relation to Rule 27, it is recommended that ensilage (silage) pits and stacks are covered to prevent rainwater entering the silage, and that silage is made in a manner that minimises the amount of excess moisture in the pit or stack.
- 4 In areas with high groundwater tables where the silage pit can not comply with Rule 27(d)(v), silage pits should be constructed on a sealed base, and leachate collected and discharged to an effluent treatment system.

Explanation/Intent of Rule

To allow an activity that is part of normal farming practices subject to conditions that protect water quality. It is important to note that silage leachate is on average 200 times stronger than raw sewage and can have significant adverse effects on water quality if ensilage pits or stacks are not located or managed appropriately. Any ensilage pit or stack that does not meet all the conditions of Rule 27 is a discretionary activity.

Rule 28**Permitted – Composting Operations**

The discharge of leachate from composting operations to land in circumstances where leachate may enter water is a permitted activity, subject to the following conditions:

- (a) No hazardous substances, human sewage, petroleum hydrocarbons (including oil), fats (including grease trap wastes and animal fats), offal or animal carcasses shall be composted.
- (b) There shall be no discharge of leachate to a surface water body.
- (c) There shall be no surface ponding of leachate at the composting site or overland flow of leachate from the composting site.
- (d) All practicable steps shall be taken to divert stormwater away from the pile.
- (e) The composting site shall not be located within:
 - (i) 50 horizontal metres of any groundwater bore, stream, river, lake or wetland.
 - (ii) 50 horizontal metres of a geothermal surface feature.
 - (iii) 50 horizontal metres of the Coastal Marine Area.
 - (iv) An area that is flooded during storm events. This includes land that is:
 - (a) An ephemeral flowpath, or
 - (b) The berm of a river scheme identified in Schedule 5, or
 - (c) A floodway identified in Schedule 6.
 - (vi) An area where the highest groundwater level is less than two (2) metres below the base of the composting site.

Advisory Note

- 1 Where a composting operation is an enclosed system, or the composting is carried out on a concrete pad where the leachate is recirculated into the pile, a resource consent is not required under this regional plan.
- 2 Composting operations must also comply with the requirements of the Operative Bay of Plenty Regional Air Plan.
- 3 Compliance with the provisions of this regional plan does not remove the need to also comply with district plan provisions on composting sites.

Explanation/Intent of Rule

To allow composting of greenwaste, plant and vegetable wastes, and other biodegradable materials not excluded by condition (a). Urban household compost bins are not considered to be of concern and are not controlled by this regional plan. Composting recycles biodegradable wastes into a soil conditioner product, and can significantly reduce the volume of waste disposed to landfills in the region.

Rule 28A**Controlled – Composting of Offal and Animal Carcasses**

The discharge of leachate from the composting of offal and animal carcasses to land, or to land in circumstances where the leachate may enter water, where the activity meets the following conditions is a controlled activity:

- (a) Only offal or animal carcasses sourced exclusively from the farm property on which the activity is sited shall be composted.
- (b) No hazardous substances, human sewage, petroleum hydrocarbons (including oil), or grease trap wastes shall be composted.
- (c) Leachate shall be collected and managed to comply with conditions (d) and (e).
- (d) There shall be no discharge of leachate to a surface water body.
- (e) There shall be no surface ponding of leachate at the composting site or overland flow of leachate from the composting site.
- (f) All practicable steps shall be taken to divert stormwater away from the composting site.
- (g) Offal or animal carcasses containing notifiable animal diseases, as defined in the Biosecurity Act 1993, shall not be composted. Such material should be disposed of in accordance with Ministry of Agriculture and Forestry procedures.

Environment Bay of Plenty reserves its control over the following matters:

- (a) Measures to avoid, remedy or mitigate the adverse effects of the discharge of leachate to the environment.
- (b) Location of the composting site in relation to surface water bodies (including coastal waters), groundwater bores, areas that convey water during storm events, and depth to groundwater.
- (c) The composting method, and management of the composting operation to avoid, remedy or mitigate adverse effects on the environment.
- (d) Compliance with relevant industry codes of practice that addresses the composting of offal or animal carcasses.
- (e) The administrative charges under section 36 of the Act.
- (f) Monitoring requirements.

Notification

Applications for the discharge of leachate to land, or land in circumstances where the leachate may enter water, under this Rule do not require the written approval of affected persons, and shall not be publicly notified, except where Environment Bay of Plenty considers special circumstances exist in accordance with Section 94C of the Act.

Advisory Note

- 1 Where a composting operation is an enclosed system, or the composting is carried out on a concrete pad where the leachate is recirculated into the pile, a resource consent is not required under this regional plan.
- 2 The activity must also comply with the requirements of the Operative Bay of Plenty Regional Air Plan.

Explanation/Intent of Rule

To provide for discharges of leachate from composting operations where the adverse effects are more appropriately assessed and controlled through resource consent conditions. It is recognised that composting is preferable to offal pits or burial. Matters of which Environment Bay of Plenty retains control are those relevant to effects on water quality, and administrative issues. The composting of offal or animal carcasses that does not meet the conditions of Rule 28A is a discretionary activity under Rule 37.

Rule 29 Permitted – Discharge of Bark and Wood Waste to Land (Large Disposal Sites)

The:

- 1 Discharge of bark and wood waste, to land, and
- 2 Discharge of leachate to land or to land in circumstances where the leachate or its by-products may enter water from bark and wood waste disposal sites,

Is a permitted activity, subject to the following conditions:

- (a) Only wood fibre, wood chips, sawdust, small wood off-cuts, and bark shall be disposed of at the site.
- (b) No chemically treated wood or wood waste shall be disposed of at the site.
- (c) The material shall be placed in layers, where each layer does not exceed three (3) metres in depth.
- (d) Each layer of material shall be covered with a minimum of 250mm of soil material substrate.
- (e) The disposal site shall not be located within:
 - (i) One (1) kilometre horizontal distance from any groundwater bore or stream, river, lake or wetland.
 - (ii) 300 metres horizontal distance from any geothermal surface feature.
 - (iii) 300 metres horizontal distance from the Coastal Marine Area.
 - (iv) An area that is flooded during storm events, including ephemeral flowpaths.
 - (v) An area where the highest groundwater level is less than 20 metres below the base of the disposal site.
- (f) All practicable steps shall be taken to divert stormwater away from the disposal site.
- (g) There shall be no direct discharge of leachate to surface water.
- (h) The discharge of leachate shall not cause or contribute to the discolouration of water in streams, rivers, lakes or wetlands downstream of the disposal site.
- (i) There shall be no overland flow of leachate or contaminated stormwater from the disposal site.

Explanation/Intent of Rule

To allow bark and wood waste disposal sites for the disposal of wood wastes from wood and forestry processing operations. The rule provides for the spreading of wood or bark wastes, which is unlikely to have more than minor adverse environmental effects. Rule 29 does not apply to harvesting material around landings and skid sites, but does apply to waste brought to a site from a processing operation.

Plan Change 8 (Groundwater Bores and Flooding Conditions)

Condition (g) of Rule 30 was subject to Plan Change 8 (Groundwater Bores and Flooding Conditions). Following the hearing of submissions to this plan change, the original condition wording was retained. As a result, no changes were made to the wording of this rule.

Rule 30 Permitted – Discharge of Stormwater to Surface Water

The discharge of stormwater to surface water, or to land where the discharge enters surface water, is a permitted activity, subject to the following conditions:

- (a) The suspended solids concentration of the discharge shall not be greater than 150g/m³, except where a 10 minute duration 10% AEP storm event (10 year return period storm) is exceeded.
- (b) The discharge shall not be to a surface water body in an area otherwise covered by a Comprehensive Catchment Discharge Consent.
- (c) The discharge shall not cause the production of conspicuous oil or grease films, scums or foams, or floatable materials.
- (d) The rate of discharge shall not exceed 125 litres per second for a 10 minute duration 10% AEP storm event (10 year return period storm).
- (d) The discharge shall not contain any stormwater from a timber preservation site, timber treatment site, or a site where chemically treated timber is stored.
- (f) The discharge shall not cause or induce erosion to the bed or banks of any surface water body, or to land, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
 - (iii) Damage to the margins or banks of the surface water body.
- (g) The discharge shall not cause nor contribute to flooding or ponding on any land or property owned or occupied by another person.
- (h) The discharge shall not contain hazardous substances, or substances that are toxic to aquatic ecosystems (as measured relative to the ANZECC Guidelines for Fresh and Marine Water Quality, 2000).⁴²
- (i) The discharge shall not contain any wastes (including, but not limited to, wastewater or condensates) from a trade or industrial process.
- (j) The discharge shall not cause a conspicuous change in the colour of the receiving waters.
- (k) Where the discharge is to a part of a receiving water body that is classified as Water Supply, the discharge shall not contain any substance that renders the water unsuitable for treatment (equivalent to coagulation, filtration, disinfection or micro-infiltration) for human consumption.

This activity is also subject to the requirements of the rules in section 9.4.

Advisory Note

- 1 If a resource user wishes to discharge stormwater to water at a greater rate or suspended solid concentration than permitted under Rule 30, they must apply for a resource consent and the effects of the discharge will be assessed on a case by case basis. Environment Bay of Plenty will assess the effects of a proposed higher suspended solids limit providing the results of appropriate investigations are in the Assessment of Environmental Effects for a resource consent application.
- 2 In relation to the application of condition (d), stormwater management systems for State Highways and other roads may be designed to allow multiple discharges along a length of roadway, providing each individual discharge does not exceed the stated rate.
- 3 In relation to condition (c), the term 'conspicuous' refers to a visually evident effect.

⁴² Australian and New Zealand Environment and Conservation Council, 2000. Australian and New Zealand Guidelines for Fresh and Marine Water Quality, New Zealand.

Explanation/Intent of Rule

To allow point sources discharges of clean stormwater to surface water, and to land where the discharge flows over land to surface water. The rule applies to discharges of stormwater from roofs, roads outside urban areas, and point source discharges of rural stormwater. Such discharges present a low risk to the environment, and would generally not be covered by a Comprehensive Catchment Discharge Consent. Discharges of sediment contaminated stormwater from land disturbance activities are addressed by rules in section 9.2. Any discharge of stormwater that does not comply with all conditions of Rule 30 requires a resource consent. Where the discharge of stormwater to surface water does not comply with Rule 30, and is not a restricted discretionary activity under Rule 30A, it is a discretionary activity under Rule 37. Water passing through a culvert that crosses a stream (i.e. the culvert is a stream crossing structure) is not considered to be a discharge, and is not subject to rules in section 9.5, including Rule 30. If a resource user wishes to discharge stormwater to water at a greater rate or suspended solid concentration than permitted under Rule 30, they must apply for a resource consent and the effects of the discharge will be assessed on a case by case basis. Refer to Flow Diagram 9 to assist reading of this rule.

Plan Change 8 (Groundwater Bores and Flooding Conditions)

Condition (e) of Rule 30A was subject to Plan Change 8 (Groundwater Bores and Flooding Conditions). Following the hearing of submissions to this plan change, the original condition wording was retained. As a result, no changes were made to the wording of this rule.

Rule 30A**Restricted Discretionary – Discharge of Stormwater to Surface Water**

The discharge of stormwater to surface water, or to land where the discharge enters surface water, where the rate of discharge is greater than 125 litres per second for a 10 minute duration 10% AEP storm event (10 year return period storm) is a restricted discretionary activity subject to the following conditions:

- (a) The suspended solids concentration of the discharge shall not be greater than 150g/m³, except where a 10 minute duration 10% AEP storm event (10 year return period storm) is exceeded.
- (b) The discharge shall be substantially free of grease, oil, scums and foam.
- (c) The discharge shall not contain any stormwater from a timber preservation site, timber treatment site, or a site where chemically treated timber is stored.
- (d) The discharge shall not cause or induce erosion to the bed or banks of any surface water body, or to land, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
 - (iii) Damage to the margins or banks of the surface water body.
- (e) The discharge shall not cause nor contribute to flooding or ponding on any land or property owned or occupied by another person.
- (f) The discharge shall not contain hazardous substances, or substances that are toxic to aquatic ecosystems (as measured relative to the ANZECC Guidelines for Fresh and Marine Water Quality, 2000⁴³).
- (g) The discharge shall not contain any wastes (including, but not limited to, wastewater or condensates) from a trade or industrial process.
- (h) The discharge shall not cause a conspicuous change in the colour of the receiving waters.

⁴³ Australian and New Zealand Environment and Conservation Council, 2000. Australian and New Zealand Guidelines for Fresh and Marine Water Quality. New Zealand.

- (i) Where the discharge is to a part of a receiving water body that is classified as Water Supply, the discharge shall not contain any substance that renders the water unsuitable for treatment (equivalent to coagulation, filtration, disinfection and micro-filtration) for human consumption.

This activity is also subject to the requirements of the rules in section 9.4.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Management and maintenance of the stormwater system to achieve the rule conditions.
- (b) Measures to avoid, remedy or mitigate the adverse effects of the stormwater discharge on:
 - (i) Erosion or land instability.
 - (ii) Water quality.
 - (iii) Flooding of land owned or occupied by another person.
 - (iv) Aquatic ecosystems, indigenous flora and fauna, and the migration of fish species.
 - (v) Users of the water body, including recreational use.
 - (vi) Sites of significance to tangata whenua.
- (c) The administrative charges under section 36 of the Act.
- (d) Monitoring requirements.

Explanation/Intent of Rule

To provide for discharges of stormwater to water where the volume of discharge is greater than that considered to be minor, as specified in Rule 30, but where the adverse effects are known or can be predicted, and can be controlled through appropriate resource consent conditions. Where the discharge of stormwater to surface water does not comply with Rule 30, and is not a restricted discretionary activity under Rule 30A, it is a discretionary activity under Rule 37. Refer to Flow Diagram 9 to assist reading of this rule.

Plan Change 8 (Groundwater Bores and Flooding Conditions)

Condition (f) of Rule 31 (previously known as Rule 30B) was subject to Plan Change 8 (Groundwater Bores and Flooding Conditions). Following the hearing of submissions to this plan change, the original condition wording was retained. As a result, no changes were made to the wording of this rule.

Rule 30B has been renumbered to Rule 31 in accordance with Schedule 1, clause 16 of the Act.

Rule 31

Permitted – Discharge of Stormwater to Land Soakage

The discharge of contaminated stormwater to land soakage is a permitted activity, subject to the following conditions:

- (a) The rate of discharge shall not exceed 125 litres per second for a 10 minute duration 10% AEP storm event (10 year return period storm).
- (b) The discharge shall not cause the production of conspicuous oil or grease films, scums or foams, or floatable materials.
- (c) The discharge shall not contain any wastes (including, but not limited to, wastewater or condensates) from a trade or industrial process.
- (d) The discharge shall not contain any stormwater from a timber preservation site, timber treatment site, or a site where chemically treated timber is stored.
- (e) The discharge shall not cause or induce erosion to the bed or banks of any surface water body, or to land, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
 - (iii) Damage to the margins or banks of the surface water body.
- (f) The discharge shall not cause nor contribute to flooding or ponding on any land or property owned or occupied by another person.

This activity is also subject to the requirements of the rules in section 9.4.

Explanation/Intent of Rule

To allow point sources discharges of clean stormwater and encourage the discharge to land soakage, where this is appropriate. Such discharges present a low risk to the environment. Rule 31 is consistent with Objective 35, Policy 57, and Method 140. Refer to Flow Diagram 9 to assist reading of this rule.

Plan Change 8 (Groundwater Bores and Flooding Conditions)

Condition (e) of Rule 31A (previously known as Rule 30C) was subject to Plan Change 8 (Groundwater Bores and Flooding Conditions). Following the hearing of submissions to this plan change, the original condition wording was retained. As a result, no changes were made to the wording of this rule.

Rule 30C has been renumbered to Rule 31A in accordance with Schedule 1, clause 16 of the Act.

Rule 31A

Restricted Discretionary – Discharge of Stormwater to Land Soakage

The discharge of contaminated stormwater to land soakage, where the rate of discharge is greater than 125 litres per second for a 10 minute duration 10% AEP storm event (10 year return period storm) is a restricted discretionary activity subject to the following conditions:

- (a) The discharge shall not contain any hazardous substances.
- (b) The discharge shall not contain any wastes (including, but not limited to, wastewater or condensates) from a trade or industrial process.
- (c) The discharge shall not contain any stormwater from a timber preservation site, timber treatment site, or a site where chemically treated timber is stored.
- (d) The discharge shall not cause or induce land erosion to the bed or banks of any surface water body, or to land, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
 - (iii) Damage to the margins or banks of the surface water body.
- (e) The discharge shall not cause nor contribute to flooding or ponding on any land or property owned or occupied by another person.

This activity is also subject to the requirements of the rules in section 9.4.

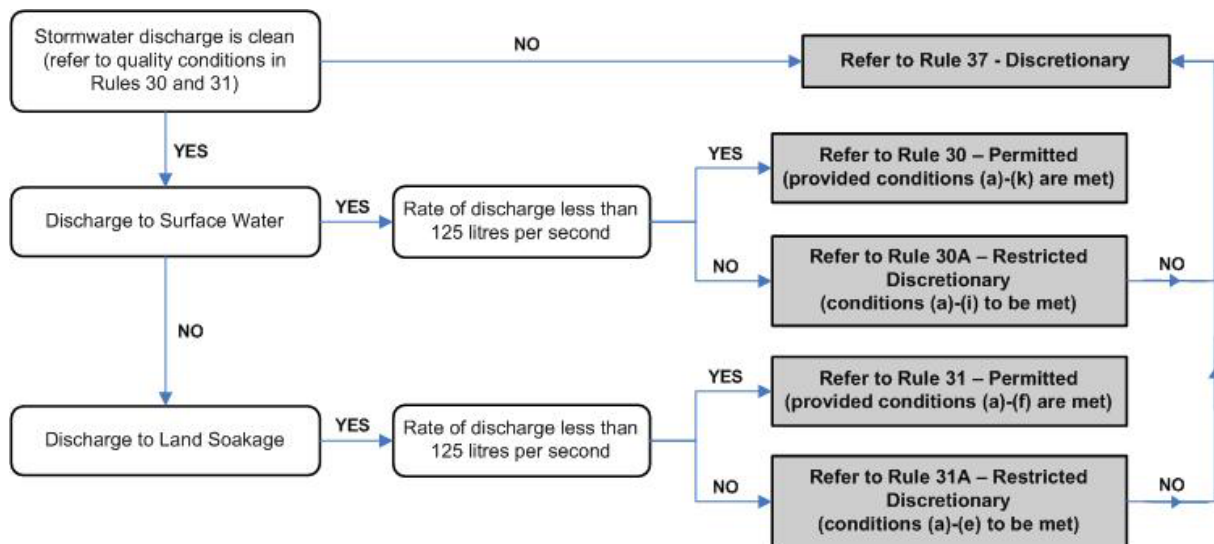
Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Management and maintenance of the stormwater system to achieve the conditions.
- (b) Measures to avoid, remedy or mitigate the adverse effects of the stormwater discharge on:
 - (i) Erosion or land instability.
 - (ii) Flooding of land owned or occupied by another person.
 - (iii) Indigenous flora and fauna.
 - (iv) Sites of significance to tangata whenua.
- (c) The administrative charges under section 36 of the Act.
- (d) Monitoring requirements.

Explanation/Intent of Rule

To provide for discharges of stormwater to land where the volume of discharge is greater than that considered to be minor, as specified in Rule 31A, but where the adverse effects are known or can be predicted, and can be controlled through appropriate resource consent conditions. Where the discharge of stormwater to land does not comply with Rule 31, and is not a restricted discretionary activity under Rule 31A, it is a discretionary activity under Rule 37. Refer to Flow Diagram 9 to assist reading of this rule.

Flow Diagram 9 – Stormwater Discharges



Advisory Note

- 1 This flow diagram is to assist working out which rules apply but does not constitute a part of the rules. If there is any inconsistency between the flow diagram and the rules in the regional plan it refers to, the criteria in the rules prevail.

Rule 32

Controlled – Discharges of Dairy Shed or Piggery Effluent to Land

The discharge of dairy shed or piggery effluent to land where the contaminant may enter water where:

- 1 The discharge is spray irrigation; or
- 2 The discharge is soil injection; or
- 3 The discharge is to land soakage and is not within the catchment of the Rotorua Lakes;

Is a controlled activity.

This activity is also subject to the requirements of the rules in section 9.4.

Environment Bay of Plenty reserves its control over the following matters:

- (a) Nitrogen application rate.
- (b) Discharge rate and volume.
- (c) Location of discharge in relation to the proximity to a surface water body or groundwater bores.
- (d) Discharge site in relation to soil type, slope, and area.
- (e) Measures to avoid, remedy or mitigate adverse effects on surface water and groundwater.
- (f) The duration of the consent.

- (g) Monitoring requirements.
- (h) The administration charges under section 36 of the Act.

Notification

Applications for the discharge of dairy shed or piggery effluent to land under this Rule do not require the written approval of affected persons, and shall not be publicly notified, except where Environment Bay of Plenty considers special circumstances exist in accordance with Section 94C of the Act.

Explanation/Intent of Rule

To encourage the discharge of dairy shed or piggery effluent to land by spray irrigation, and to land soakage in appropriate areas. Land soakage may not be appropriate in the lake catchments specified, as there may not be sufficient treatment of the effluent before it reaches groundwater in these sensitive receiving environments. Matters of which Environment Bay of Plenty retains control are those relevant to effects on water quality, and administrative issues.

Plan Change 8 (Groundwater Bores and Flooding Conditions)

Condition (b) of Rule 33 (previously known as Rule 33B) was subject to Plan Change 8 (Groundwater Bores and Flooding Conditions). Following the hearing of submissions to this plan change, the original condition wording was retained. As a result, no changes were made to the wording of this rule.

Rule 33B has been renumbered to Rule 33 in accordance with Schedule 1, clause 16 of the Act.

Rule 33 Permitted – Discharge of Water to Water

The discharge of water to water where:

- 1 The discharge is the discharge of water to the same surface water body; and
- 2 The water quality is the same as the receiving waters;

Is a permitted activity subject to the following conditions:

- (a) The discharge shall not cause or induce erosion to the bed or banks of any surface water body, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
 - (iii) Damage to the margins or banks of the surface water body.
- (b) The discharge shall not cause nor contribute to flooding or ponding on any land or property owned or occupied by another person.
- (c) The discharge shall not have an adverse effect on the water quality of the receiving water body.
- (d) The discharge shall not damage or destroy:
 - (i) Significant aquatic indigenous vegetation, or
 - (ii) Aquatic habitats of indigenous species, or
 - (iii) Spawning sites of indigenous species or trout, or
 - (iv) Significant habitats of trout.

as identified in Schedule 1.

Advisory Note

- 1 For the avoidance of doubt, Rule 33 applies to discharges of water to water, where the water is abstracted from the surface water body, then discharged back into the same surface water body. Rule 33 does not apply to the discharge of water from or within existing farm drains and pumped drainage areas, which is addressed by Rule 22 and Rule 23. Rule 23 applies to the discharge of water to water between artificial watercourses.

Explanation/Intent of Rule

To allow for the discharge of water to water where the adverse effects are likely to be no more than minor. The discharge of water to water in another catchment, or to another water body, or where the water quality is different from the receiving waters, is a discretionary activity under Rule 37.

Rule 34

Permitted – Active Remediation of Contaminated Land

The active remediation of contaminated land where:

- 1 The only hazardous substances present in soil at the site are motor vehicle or heating fuels or lubricants (e.g. mineral oils, petrol, diesel, kerosene and their constituents and breakdown products) and the total volume of contaminated soil at the site is less than 400 cubic metres,
Or
- 2 The remediation activity constitutes immediate action to address a spill of hazardous substances at a site where no previous contamination with hazardous substances existed,

Is a permitted activity subject to the following conditions:

- (a) In the case of (1) above, the remediation activity shall occur over a period not greater than two (2) consecutive months.
- (b) In the case of (2) above, the remediation activity at the site shall cease (whether or not it has been completed) no later than two (2) months after the occurrence of the event that caused the contamination, unless a resource consent to continue the remediation has been granted during that period.
- (c) Notification shall be given to Environment Bay of Plenty, no less than one week prior to the remediation commencing or, in the case of (2) above, as soon as reasonably practical.
- (d) The occupiers of adjacent properties and any other persons who may be affected by the remediation activity or the contaminants shall be notified not less than one week prior to the remediation commencing or, in the case of (2) above, as soon as reasonably practical.
- (e) All practical measures shall be taken to avoid discharges of hazardous substances to water during and following completion of the remediation activity, and to remedy or mitigate such discharges if they do occur.
- (f) Any excavated contaminated soil is disposed of to an appropriately authorised facility or site, and evidence of this provided to Environment Bay of Plenty.
- (g) Within three months of completion of the remediation, a site validation report shall be prepared in accordance with “Guidelines for Reporting on Contaminated Sites”, Ministry for the Environment, June 2001⁴⁴, and a copy provided to Environment Bay of Plenty.

⁴⁴ Ministry for the Environment, June 2001. Guidelines for reporting on Contaminated Sites. Wellington, New Zealand.

Advisory Note

- 1 This rule authorises only the remediation activity at the site, not the subsequent disposal of contaminated material. Contaminated soil, water and other material extracted or removed from the site must be treated and/or disposed of in accordance with all other relevant legal requirements, including but not limited to regional plan rules, district plan rules, trade waste bylaws and landfill resource consents. Health-related legislation such as the Health and Safety in Employment Act 1992 will also apply.
- 2 When a spill of hazardous substances occurs, Environment Bay of Plenty and the New Zealand Fire Service must be advised as soon as practical.
- 3 Condition (e) does not provide immunity from enforcement action or prosecution if discharges from the site cause significant adverse effects on the environment.
- 4 For any discharges of contaminants to air, the remediation activity shall also comply with the requirements of the Operative Bay of Plenty Regional Air Plan.
- 5 Discharges of stormwater from site remediation activities must comply with Rule 30, 30A, 31, 31A, or a resource consent must be obtained under Rule 37.

Explanation/Intent of Rule

To allow the active remediation of contaminated sites where the risk is small, or where it would be more appropriate to remedy the contamination immediately. This is an efficient and effective means of managing remediation where either the risk of adverse environmental effects is low, or the activity is necessary to prevent adverse effects from occurring or becoming significant.

Rule 35

Restricted Discretionary - Remediation or Disturbance of Contaminated Land

The:

- 1 Discharge of contaminants to water, or to land, or to land in circumstances which may result in the contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water, resulting from the remediation or other disturbance of a contaminated site;

Or

- 2 Disturbance of a contaminated site;

that is not permitted by Rule 34 is a restricted discretionary activity.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) The remediation processes to be employed.
- (b) Degree and extent of off-site discharges.
- (c) Reporting, information and monitoring requirements.
- (d) The duration of the consent.
- (e) The administration charges under section 36 of the Act.
- (f) Matters to achieve Objective 38, Policies 58 and 59, and Methods 144 and 148.

Advisory Note

- 1 Remediation and disturbance include any active modification of the site, including but not limited to earthworks, in-situ remediation and injection of liquids or gases.
- 2 Discharges to air from contaminated sites are subject to the Operative Bay of Plenty Regional Air Plan. Provisions in district plans, the Health Act 1956 and the Health and Safety in Employment Act 1992 may also apply in cases where a contaminated site affects or may affect human health.

Explanation/Intent of Rule

To allow Environment Bay of Plenty to assess the effects of any discharges of contaminants to the environment resulting from active remediation and other disturbances of contaminants on a case by case basis. Some forms of active remediation or disturbance may lead to significant adverse effects.

Rule 36**Prohibited – Dumping of Untreated Sewage and Household Wastes, and Discharge of Petroleum Hydrocarbons**

Any:

- 1 Discharge of untreated sewage to water in a stream, river or lake, from any source, including a boat.
- 2 Discharge of petroleum hydrocarbons to water, or onto or into land in circumstances where the contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) may enter water, where the discharge is a dust suppressant. This does not apply to the sealing of roads, or the extension of road sealing.
- 3 Unauthorised dumping or fly-tipping of:
 - (a) Car bodies.
 - (b) Hazardous substances and their containers that pose or are likely to pose an immediate or long term hazard to human health, ecosystems, water quality, or the life-supporting capacity of soil.
 - (c) Household, municipal, industrial, or agricultural wastes.
 - (d) Any other substance that results in the creation of a harmful by-product.
 into any surface water body (including a stream or river or lake or wetland); or the bed or riparian area of a stream, or river, or lake or wetland; or in the Coastal Margin; where the dumping or fly-tipping leads to a discharge of contaminants to water or to land where the waste or its by-products may enter water,

Is a prohibited activity.

Explanation/Intent of Rule

To discourage and avoid the discharge of untreated sewage, petroleum hydrocarbons, and fly-tipping due to adverse effects on the environment (including cumulative effects) that may be difficult to remedy. Clean-up costs of illegal rubbish dumping usually fall on the community. This activity is not acceptable to the wider community due to the risk of water and soil contamination, and concerns about the effects on human and animal health.

Rule 37**Discretionary - Discharges to Water or Land**

Any:

- 1 Discharge of a contaminant to water.
- 2 Discharge of water to water.
- 3 Discharge of a contaminant onto or into land in circumstances which may result in the contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water.
- 4 Discharge of a contaminant from any industrial or trade premises onto or into land.

That is not:

- (a) Permitted by a rule in this regional plan.
- (b) Permitted by a rule in any other Bay of Plenty regional plan.
- (c) Prohibited by a rule in this regional plan.
- (d) Restricted discretionary status by a rule in this regional plan.
- (e) Controlled status by a rule in this regional plan.

Is a discretionary activity.

This activity is also subject to the requirements of the rules in section 9.4.

All discharges to surface water that are discretionary under this rule will be assessed against the Water Quality Classification of the receiving water body (refer to Schedule 9 and the Water Classification map).

Resource consent applicants who seek to exceed the relevant Water Quality Classification standards must provide evidence in their application to demonstrate how the adverse effects of the proposed activity will be avoided, remedied or mitigated to be consistent with Objective 13.

Advisory Note

- 1 Cleanfill sites that do not discharge leachate or contaminants to land are included in the definition of 'earthworks' and addressed by rules in section 9.2 of this regional plan.
- 2 If a resource consent applicant is unable to avoid, remedy or mitigate adverse effects on the environment, and does not meet Objective 13, the resource application is likely to be publicly notified and/or consent may be declined.
- 3 The application of fertiliser is permitted under Rule 20 subject to compliance with the conditions of the Rule. If the application does not comply with Rule 20, a resource consent is required under Rule 37. Environment Bay of Plenty prefer resource users to comply with Rule 20 rather than apply for a resource consent.

Explanation/Intent of Rule

To allow Environment Bay of Plenty to assess the adverse effects of any discharge of contaminants or water to the environment that is not otherwise addressed by other regional rules. The resource consent process is an appropriate means of assessing such effects. Rule 37 applies to, but is not limited to, comprehensive catchment discharges consents for stormwater, discharges from contaminated sites, and large scale discharge of contaminants from trade and industrial premises (including waste disposal discharges).

Assessment Criteria

When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions as appropriate to the nature of the discharge:

<i>Objective</i>	4, 5, 6, 11, 13, 14, 15, 16, 20, 23, 25, 26, 27, 30, 31, 32, 33, 34
<i>Policy</i>	5, 11, 14, 15, 17, 18, 19, 20, 21, 38, 42, 44, 45, 47, 48, 50, 51, 53, 54, 55, 56
<i>Method</i>	13, 17, 18, 20, 21, 56, 60, 77, 109, 110, 111, 112, 113, 114, 118, 119, 120, 127, 135, 138, 139, <i>Water Quality Classification Map, Schedule 9</i>

9.6 Take and Use of Water

Advisory Note

- 1 Section 14(3)(e) of the Act allows the take and use of water for fire-fighting purposes. This applies to surface water, groundwater, geothermal and coastal water.
- 2 Section 14(3)(b) of the Act allows the take and use of freshwater (this excludes geothermal water [greater than 30° Celsius] and coastal water) for:
 - (a) An individual's reasonable domestic needs,
 - (b) The reasonable needs of an individual's animals for drinking water, providing the take or use does not, or is not likely to, have an adverse effect on the environment. Adverse effects include, but are not limited to, effects on other persons, abstraction (either singularly or cumulative takes within the stream) at a rate or volume that cause the water flow to fall below the instream minimum flow requirement (including the default instream minimum flow requirement).

People taking and using water may take a reasonable volume of water for the purposes of (a) and/or (b) above, plus an additional volume as permitted by Rule 38 (groundwater) or Rule 41 (surface water).

Rule 38 Permitted – Take and Use of Groundwater

The take and use of groundwater with a temperature of less than 30° Celsius, where the quantity of water taken does not exceed 35 cubic metres per day per property, is a permitted activity.

Explanation/Intent of Rule

To allow minor takes of groundwater for any purpose that are unlikely to have adverse effects on the environment, and to prevent a proliferation of small takes on a single property that may have significant cumulative effects on a groundwater system. This rule allows the take of water for the supply of the persons for their reasonable domestic needs and the needs of their animals. A greater volume is permitted for groundwater takes than for surface water takes (refer to Rule 41) to encourage people to use groundwater, and reduce abstraction pressure on surface water bodies (particularly small streams).

Plan Change 8 (Groundwater Bores and Flooding Conditions)

Rule 39 was subject to Plan Change 8 (Groundwater Bores and Flooding Conditions). Rule 39 and new Rule 39A now relate to the use, maintenance, decommissioning or reconstruction of a hole, bore, well or water infiltration gallery.

Rule 39 Permitted – Use, Maintenance, Decommissioning or Reconstruction of a Hole, Bore, Well or Water Infiltration Gallery

The use of land to use, maintain, decommission or reconstruct a hole, bore, well or water infiltration gallery is a permitted activity subject to the following conditions:

- (a) the bore design and headworks prevent:
 - i) the infiltration of contaminants; and
 - ii) the uncontrolled discharge or leakage of water to the surface.
- (b) the use and maintenance of a bore, well or infiltration gallery is carried out in accordance with Section 1 of Schedule 14 (*Standards for the Construction, Reconstruction, Maintenance or Decommissioning of Holes, Bores, Wells and Infiltration Galleries*).
- (c) the decommissioning of a hole, bore, well or infiltration gallery is carried out in accordance with Section 4 of Schedule 14 (*Standards for the Construction, Reconstruction, Maintenance or Decommissioning of Holes, Bores, Wells and Infiltration Galleries*).
- (d) the reconstruction of an existing hole, bore, well or infiltration gallery:
 - i) occurs at the same or similar location, depth, diameter and intercepts the same aquifer interval as the hole, bore, well or infiltration gallery being replaced; and,
 - ii) is of a previously authorised hole, bore, well or infiltration gallery; and
 - iii) a bore log and structural detail log for the hole, bore, well or water infiltration gallery has been previously registered with the Regional Council; and
 - iv) is carried out in accordance with Sections 2 and 3 of Schedule 14 (*Standards for the Construction, Reconstruction, Maintenance or Decommissioning of Holes, Bores, Wells and Infiltration Galleries*).

Advisory Note:

- 1 The use, maintenance, decommissioning or reconstruction of a hole, bore, well or water infiltration gallery as a permitted activity does not confer any right to take or use water.

- 2 The owner of the hole, bore, well or water infiltration gallery is responsible for the maintenance and must carry out necessary maintenance and repairs to prevent contaminants from entering groundwater or aquifers. Where the owner of the hole, bore, well or water infiltration gallery cannot be traced, then the owner of the site where the hole, bore, well or water infiltration gallery is located may be responsible for the maintenance.
- 3 For the purpose of this rule, reconstruction is defined as replacement of a previously authorised hole, bore, well or water infiltration gallery that is no longer functional, to the same or similar location, diameter, depth, and intercepting the same aquifer interval as the hole, bore, well or infiltration gallery being replaced. The same or similar location means within a 50m radius of the existing hole, bore, well or water infiltration gallery.
- 4 Bores, holes, wells or water infiltration galleries for the purpose of monitoring water levels and water sampling are permitted activities subject to the permitted activity conditions of Rule 39.

Explanation/Intent of Rule

To provide for the use, maintenance, decommissioning or reconstruction of holes, bores, wells or water infiltration galleries to prevent contaminants from entering groundwater or aquifers. It is important that holes, bores and wells are maintained and decommissioned to appropriate standards, as outlined in Schedule 14 of this regional plan.

Rule 39A

Restricted Discretionary – Use, Maintenance, Decommissioning or Reconstruction of a Hole, Bore, Well or Water Infiltration Gallery

The use of land to use, maintain, decommission or reconstruct a hole, bore, well or water infiltration gallery, where the activity does not comply with any one or more of conditions of Rule 39, is a restricted discretionary activity.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) The use and maintenance of the bore, well or infiltration gallery, which shall be in accordance with Section 1 of Schedule 14 (*Standards for the Construction, Reconstruction, Maintenance or Decommissioning of Holes, Bores, Wells and Infiltration Galleries*).
- (b) The method of decommissioning the hole, bore, well or infiltration gallery which shall be in accordance with Section 4 of Schedule 14 (*Standards for the Construction, Maintenance or Decommissioning of Holes, Bores, Wells and Infiltration Galleries*).
- (c) The method of reconstructing an existing hole, bore, well or infiltration gallery is carried out in accordance with Sections 2 and 3 of Schedule 14 (*Standards for the Construction, Reconstruction, Maintenance or Decommissioning of Holes, Bores, Wells and Infiltration Galleries*).
- (d) Measures to avoid, remedy or mitigate the adverse effects of the activity on groundwater quality.
- (e) The duration of the resource consent.
- (f) Information and monitoring requirements.
- (g) Administration charges under section 36 of the Act.

Explanation/Intent of Rule

To allow Environment Bay of Plenty to assess the potential adverse effects of holes, bores, wells and infiltration galleries that do not comply with the conditions of Rule 39 in order to ensure that contaminants are prevented from entering groundwater or aquifers.

Plan Change 8 (Groundwater Bores and Flooding Conditions)

Rule 40 was subject to Plan Change 8 (Groundwater Bores and Flooding Conditions). Rule 40 and new Rules 40A and 40B now relate to the drilling of land and the installation or alteration of a hole, bore, well or water infiltration gallery.

Rule 40 Permitted – Drilling

The drilling of land, where the activity does not intercept a water table or aquifer is a permitted activity.

Advisory Note:

- 1 The drilling of land as a permitted activity does not confer any right to take or use water.
- 2 The rules in this regional plan do not authorise the modification or disturbance of any archaeological or registered waahi tapu sites within the area of the activity. Should any artefacts, koiwi (human remains) or any other sites of archaeological or cultural significance be discovered within the area affected by the activity, written authorisation should be obtained from the Historic Places Trust before any damage, modification or destruction is undertaken.
- 3 For the purposes of this rule, drilling is the act or method of boring a cylindrical hole in the earth and excludes the installation of sub-soil drains.

Explanation/Intent of Rule

To provide for minor drilling activities that do not intercept a water table or aquifer and the risk of contaminants entering groundwater or aquifers as a result of these activities is minor.

Rule 40A Controlled – Drilling

The drilling of land, and associated discharge of drilling fluid, where the activity:

- 1 Does intercept a water table or aquifer; and,
- 2 Is not for the purpose of constructing a bore;

Is a controlled activity.

Environment Bay of Plenty reserves its control over the following matters:

- (a) Location and depth of the drilling.
- (b) The method of drilling, which shall be in accordance with Section 2 of Schedule 14 (*Standards for the Construction, Reconstruction, Maintenance or Decommissioning of Holes, Bores, Wells and Infiltration Galleries*).
- (c) Management of the drill hole on completion.
- (d) The proximity of the hole to surface water, potential sources of groundwater contamination, and existing bores.
- (e) Measures to avoid, remedy or mitigate the adverse effects of the activity on groundwater quality and quantity and pressure.
- (f) The duration of the resource consent.
- (g) Information and monitoring requirements.
- (h) Administration charges under section 36 of the Act.
- (i) Decommissioning requirements.

Notification

Applications for controlled activities under Rule 40A do not require the written approval of affected persons, and shall not be publicly notified except where Environment Bay of Plenty considers special circumstances exist in accordance with Section 94C of the Act.

Advisory Note:

- 1 The rules in this regional plan do not authorise the modification or disturbance of any archaeological or registered waahi tapu sites within the area of the activity. Should any artefacts, koiwi (human remains) or any other sites of archaeological or cultural significance be discovered within the area affected by the activity, written authorisation should be obtained from the Historic Places Trust before any damage, modification or destruction is undertaken.

Explanation/Intent of Rule

To provide for drilling activities, such as geotechnical investigations and mineral exploration, where the bore or hole intercepts a water table or aquifer. It is important that holes are drilled to appropriate standards such as that outlined in Schedule 14 of this regional plan. Such standards will therefore be used in the development of appropriate consent conditions.

Rule 40B

Controlled – Installation or Alteration of a Hole, Bore, Well or Water Infiltration Gallery

The excavation, drilling or other disturbance of land, for the purpose of:

- 1 altering an existing hole, bore, well or water infiltration gallery; or,
- 2 constructing a hole, bore, well or water infiltration gallery; or,
- 3 constructing a hole, bore, well or water infiltration gallery and, taking groundwater for aquifer or pump testing purposes and, discharging drilling or test fluids to land.

Is a controlled activity.

Environment Bay of Plenty reserves its control over the following matters:

- (a) Location, depth, diameter or screening interval of the hole, bore, well or water infiltration gallery.
- (b) Method of construction of the hole, bore, well or water infiltration gallery.
- (c) Construction and development of the hole, bore, well or water infiltration gallery which shall be in accordance with Sections 2 and 3 of Schedule 14 (*Standards for the Construction, Reconstruction, Maintenance or Decommissioning of Holes, Bores, Wells and Infiltration Galleries*).
- (d) Proximity of the hole, bore, well or water infiltration gallery to surface water, potential sources of groundwater contamination, and existing bores.
- (e) Backflow prevention measures.
- (f) Measures to avoid, remedy or mitigate the adverse effects of the activity on groundwater quality.
- (g) Amount of water taken and used for aquifer or pump testing.
- (h) Duration of testing or pumping for aquifer or pump testing
- (i) Information requirements, including bore logs.
- (j) Review of consent conditions.
- (k) The timing and method of pump testing to meet Council requirements.

Advisory Note:

- 1 For the purpose of this rule, a bore is defined as any structure or hole in the ground, which is drilled or constructed for the purpose of accessing, taking or using groundwater, or which results in groundwater being taken or used.
- 2 The granting of consent to install or alter a hole, bore, well or water infiltration gallery does not confer any right to take water. Groundwater takes, other than for aquifer or pump testing purposes, may require a resource consent, as outlined in Rule 43 of this regional plan.

- 3 The owner of the hole, bore, well or water infiltration gallery is responsible for the maintenance and must carry out necessary maintenance and repairs to prevent contaminants from entering groundwater or aquifers. Where the owner of the hole, bore, well or water infiltration gallery cannot be traced, then the owner of the site where the hole, bore, well or water infiltration gallery is located may be responsible for the maintenance.
- 4 The rules in this regional plan do not authorise the modification or disturbance of any archaeological or registered waahi tapu sites within the area of the activity. Should any artefacts, koiwi (human remains) or any other sites of archaeological or cultural significance be discovered within the area affected by the activity, written authorisation should be obtained from the Historic Places Trust before any damage, modification or destruction is undertaken.
- 5 Any alteration to the headworks of any hole, bore, well or water infiltration gallery for the purposes of installing a water meter or water measuring device are exempt from this rule and are permitted under Rule 39.

Explanation/Intent of Rule

To allow Environment Bay of Plenty to assess the potential adverse effects associated with bore and infiltration gallery construction on the environment, particularly in relation to potential effects on groundwater quality. It is important that all new bores are constructed to appropriate standards such as the NZS 4411:2001 Environmental Standard for Drilling of Soil and Rock. Such standards will therefore be used in the development of appropriate consent conditions.

Rule 41

Permitted – Take and Use of Surface Water

The take and use of water from any surface water body for any purpose, where the water has a temperature of less than 30° Celsius, is a permitted activity subject to the following conditions:

- (a) The take of water shall not be from a wetland.
- (b) The quantity of water taken shall not exceed 15 cubic metres per day per property.
- (c) Where the take is from a river or stream, the rate of abstraction shall not exceed 2.5 litres per second or 10% of the estimated five year low flow (Q_5 7 day low flow) at the point of abstraction whichever is the lesser.
- (d) Where the take is from a river or stream, the total abstraction (all users) of surface water takes shall not exceed the instream minimum flow requirement (including the default instream minimum flow requirement) for the river or stream at any point.
- (e) The intake structure shall be screened with a mesh aperture size:
 - (i) Not exceeding three (3) millimetres by 30 millimetres in the tidal areas of rivers and streams.
 - (ii) Not exceeding five (5) millimetres by 30 millimetres or five (5) mm diameter holes in any other area that is not in the tidal area of a river or stream.
- (f) The intake velocity through the screen shall not exceed 0.3 metres per second.

Advisory Note

- 1 Potential water abstractors are encouraged to seek the advice of Environment Bay of Plenty to ensure that there is sufficient flow in a water body to accommodate their water take and comply with condition (d). This is particularly relevant for small streams. Environment Bay of Plenty will take appropriate action when flows fall below the instream minimum flow requirement.
- 2 Surface water intake structures for the take and use of water under this rule must also be authorised (refer to Rule 52).

Explanation/Intent of Rule

To allow small takes of water from rivers, streams, lakes and other surface water bodies excluding wetlands, that are unlikely to cause adverse environmental effects. Conditions (c) and (d) are to avoid adverse effects on small streams, which are particularly sensitive to abstraction pressure. 15 m³ per day is a reasonable amount for small uses, such as dairy shed wash-down, small glasshouse operations, horticultural spray makeup, or irrigation of gardens (up to approximately 0.5 hectares). Condition (b) is to prevent a proliferation of small takes on a single property, which may have significant cumulative effects on streams and rivers. Intake velocity and screening conditions are to prevent adverse effects on aquatic life. This rule allows the take of water for the supply of the persons for their reasonable domestic needs and the needs of their animals.

Rule 41A**Controlled – Take and Use of Surface Water within Allocation Regime**

The take and use of surface water or groundwater that:

- 1 Is not permitted by a rule in this regional plan, and
- 2 Is not prohibited by Rule 49, and
- 3 Complies with the low flow allocation specified in Policy 66 and where an instream minimum flow requirement has been established in Schedule 7 for the stream or river reach, and
- 4 Does not have an adverse effect on downstream water users.

Is a controlled activity.

Environment Bay of Plenty reserves its control over the following matters:

- (a) Volume and rate of water take.
- (b) Measures to achieve the efficient use of water.
- (c) Measures to restrict the water take during low flow or drought events.
- (d) Measures to avoid, remedy or mitigate adverse effects on downstream water users.
- (e) Requirements to temporarily stop water takes to enable Environment Bay of Plenty water flow monitoring.
- (f) Monitoring requirements.

Explanation/Intent of Rule

To provide for the take and use of water where the activity complies with Policy 66(a), and Policy 67. Matters of which Environment Bay of Plenty retains control are those relevant to effects on water flows and administrative issues. The take and use of surface water that does not meet the conditions of Rule 41A is a discretionary activity under Rule 43.

Rule 42**Permitted – Take of Water and Discharge of Sediment Contaminated Water from the Dewatering of Building and Construction Sites**

The:

- 1 Take of water, and
- 2 Temporary discharge of sediment contaminated water to water or to land where the contaminant may enter water,

for the purposes of dewatering of building and construction sites is a permitted activity subject to compliance with the following conditions:

- (a) The discharge shall not be water taken from contaminated land (refer to Definition of Terms and Advisory Note (3), or a trade or industrial site.
- (b) There shall be no direct discharge of water to water in Lake Rotorua, Rotoiti, Rotoehu, Rotoma, Okataina, Okareka, Tikitapu, Rotokakahi, Tarawera, Okaro, Rotomahana, or Rerewhakaaitu. Discharge to these lakes shall pass through a filter system or a land soakage pond prior to overland flow, and the suspended solids concentration shall comply with condition (g).

- (c) The discharge shall not contain any wastes (including, but not limited to, wastewater or condensates) from a trade or industrial process.
- (d) The discharge shall not cause a conspicuous change in the colour of the receiving waters as measured at a downstream distance of three (3) times the width of the stream or river at the point of discharge.
- (e) Where the discharge is to a receiving water body that is classified as Water Supply, the discharge shall not contain any substance that renders the water unsuitable for treatment (equivalent to coagulation, filtration, disinfection or micro-filtration) for human consumption.
- (f) The discharge shall not contaminate an authorised water take (refer to Advisory Note 4).
- (g) Where the discharge is to a surface water body, the suspended solids concentration of the discharge shall not be greater than 80g/m³.
- (h) Where the discharge is to land soakage where there is overland flow to a surface water body, the suspended solids concentration of the discharge shall not be greater than 150g/m³.
- (i) The volume of discharge from the activity site shall not be greater than 80 litres per second.
- (j) The discharge shall not damage or destroy aquatic ecosystems. This includes, but is not limited to, the smothering of flora and fauna by sedimentation of aquatic habitats.
- (k) The take of water, or the discharge, shall not cause or induce subsidence, erosion to the bed or banks of any surface water body, or to land, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (l) The discharge shall not cause flooding or ponding on any land or property owned or occupied by another person, unless the written approval of the affected person(s) has been obtained.
- (m) Where the activity prevents the normal use of any existing bore or well in the vicinity due to draw-down, the activity shall be halted immediately.

Advisory Note

- 1 Where the discharge is made to a closed/piped stormwater system, permission for the discharge shall be obtained from the city or district council.
- 2 For the purposes of Rule 42, 'building or construction site' means an activity for the construction or maintenance of a building, structure, or infrastructure.
- 3 In relation to condition (a), contact Environment Bay of Plenty for more information on the location of contaminated land.
- 4 It is recognised that there are natural geothermal inflows or volcanic soils in the Bay of Plenty region that have high natural background levels of metals above those in New Zealand drinking water standards. These metals are part of the ambient environment, and naturally enter water bodies.

Explanation/Intent of Rule

To allow the dewatering of building and construction sites, where it may be necessary to undertake such activities at short notice. It would not be practicable or efficient to require a resource consent in these circumstances.

Rule 43

Discretionary – Take and Use of Water

The take and use of surface water or groundwater that:

- 1 Is not permitted by a rule in this regional plan, and
- 2 Is not a controlled activity under a rule in this regional plan, and,
- 3 Is not prohibited by Rule 49.

Is a discretionary activity.

In relation to this rule, Environment Bay of Plenty may review resource consents for the take and use of surface water where the total volume of water authorised to be taken from a stream or river reach is greater than that provided for in the low flow allocation specified in Policy 66 and an Instream Minimum Flow Requirement for the stream or river reach has been specified in Schedule 7.

Explanation/Intent of Rule

To allow Environment Bay of Plenty to assess the effects of water takes on the environment on a case by case basis according to the objectives, policies and methods in section 5.1 of this regional plan. This rule includes, but is not limited to municipal water supply, irrigation, non-consumptive use by human activities, and other uses.

Assessment Criteria

When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions as appropriate to the source of the proposed water take:

<i>Objective</i>	4, 5, 6, 8, 36, 39, 41, 42, 43, 45
<i>Policy</i>	5, 11, 14, 15, 17, 18, 19, 20, 21, 66, 69, 70, 71, 72, 73, 79, 80
<i>Method</i>	13, 17, 18, 20, 21, 56, 60, 66, 67, 169, 170, 172, Schedule 7

Other matters relevant to existing water takes:

- (a) Investment in existing infrastructure for the activity.
- (b) Site characteristics.
- (c) Statistical variations on water flow data.
- (d) Adverse effects of the activity on the matters listed in Method 169.
- (e) Adverse effects on existing users of the surface water body.

Other matters relevant to new water takes:

- (a) Site characteristics.
- (b) Statistical variations in water flow data.
- (c) Adverse effects of the activity on the matters listed in Method 169.
- (d) Adverse effects on existing users of the surface water body.

9.7 Damming and Diversion of Water

Advisory Note

- 1 The rules in this regional plan do not authorise the modification or disturbance of any archaeological or registered waahi tapu sites within the area of the activity. Written authority from the New Zealand Historic Places Trust is required prior to any destruction, damage or modification of an archaeological or registered waahi tapu site or an area where there is reasonable cause to suspect there is an archaeological site. Should any artefacts, bones or any other sites of archaeological or cultural significance be discovered within the area affected by the activity, written authorisation should be obtained from the Historic Places Trust before any damage, modification or destruction is undertaken.
- 2 City and district councils may also control the structural integrity of dam structures under the Building Act 2004.
- 3 It is the intent of this regional plan for all dam and diversion activities in the Bay of Plenty region to comply with the requirements of the regional plan. The damming or diversion of water for which there is an existing resource consent is not subject to the rules in Section 9.7. However, such activities will be required to comply with the requirements of this regional plan when the resource consent expires. For activities that are not otherwise covered by a resource consent, the following rules apply:

Table 42 – Rules for Damming and Diversion Activities

Activity	Permitted Activity Rule	Activities that do not comply with Permitted Activity Rules
Temporary damming of a land drainage canal or drain	Rule 44	Rule 48
Diversion of stormwater	Rule 44A	Rule 48
Damming and diversion by existing flood control structures	Rule 45	Rule 48
Damming of surface runoff	Rule 46	Rule 46A, 48
Damming of a river or stream	Rule 47	Rule 47B, 48
Lawfully established Hydroelectric Power Schemes in Schedule 11	-	Rule 47C

Plan Change 8 (Groundwater Bores and Flooding Conditions)

Condition (c) of Rule 44 was subject to Plan Change 8 (Groundwater Bores and Flooding Conditions). Following the hearing of submissions to this plan change, the original condition wording was retained. As a result, no changes were made to the wording of this rule.

Rule 44 Permitted – Temporary Damming of Water in a Land Drainage Canal or Drain

The temporary damming of water in a Land Drainage Canal or drain, including the:

- 1 Damming of water, and
- 2 Use, erection, maintenance, reconstruction, placement, alteration or extension of a dam structure, and
- 3 Disturbance of the bed of the Land Drainage Canal associated with the construction of the dam,

where:

- 4 The activity does not extend beyond a period of six (6) months, and
- 5 The dam is not located within an Urban Area or Settlement or within one (1) kilometre upstream of an Urban Area or Settlement.

Is a permitted activity subject to the following conditions:

- (a) The activity shall not change, damage or destroy a wetland.
- (b) Where the activity is in a Land Drainage Canal, the activity shall be carried out by the administrator of the Land Drainage Scheme or its contractor.
- (c) The activity shall not cause flooding or ponding on any land or property owned or occupied by another person that would not naturally carry water during storm or flood events, unless the written approval of the affected person(s) has been obtained.
- (d) Where the dam is located on a watercourse specified in Schedule 3, the dam structure shall provide for fish passage.
- (e) The activity shall not cause or induce erosion to the bed or banks of any surface water body, or to land, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
 - (iii) Damage to the margins or banks of the surface water body.
- (f) The dam does not impound more than 10,000 m³ of water and the lowest point of the dam crest does not exceed 1.5 metres vertical height relative to the land where the dam is sited, as measured from the centre line of the dam structure.

- (g) The dam shall be designed, constructed and maintained to ensure that its structural integrity is not compromised, and incorporates a spillway with a 10% AEP (1 in 10 return) event flood design standard, and erosion protection devices, to safely return surplus water to land or water where the dam is sited.
- (h) The dam shall, at all times, be maintained in a sound condition.
- (i) The dam structure shall be removed when it is no longer required, or after six (6) months, whichever is the sooner.

Explanation/Intent of Rule

Allows for the temporary damming of land drainage canals and drains, including for the purposes of reducing the shrinkage of peat soils. The rule does not allow for the diversion of water. The activity is unlikely to have more than minor adverse environmental effects.

Plan Change 8 (Groundwater Bores and Flooding Conditions)

Condition (b) of Rule 44A was subject to Plan Change 8 (Groundwater Bores and Flooding Conditions). Following the hearing of submissions to this plan change, the original condition wording was retained. As a result, no changes were made to the wording of this rule.

Rule 44A Permitted – Diversion of Stormwater (Surface Runoff)

The diversion of stormwater is a permitted activity subject to the following conditions:

- (a) The activity shall not cause or induce erosion to the bed or banks of any surface water body, or to land, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
 - (iii) Damage to the margins or banks of the surface water body.
- (b) The activity shall not cause flooding or ponding on any land or property owned or occupied by another person, where that land would not naturally carry water during storm or flood events.

Advisory Note

- 1 The discharge of stormwater to surface water, or to land soakage, must comply with the requirements of Rule 30 or Rule 31, or a resource consent must be obtained.

Explanation/Intent of Rule

To allow for the appropriate management of stormwater where it may be necessary to divert surface runoff from rain events. This may include, but is not limited to, the diversion of 'clean' stormwater away from disturbed land, waste disposal sites, or contaminated land. This rule does not permit the discharge of stormwater which is addressed by Rules 30 to 31A.

Rule 45 Permitted – Damming and Diversion of Flood Waters by Existing Flood Control Structures

The damming or diversion of surface flood waters by stopbanks and other flood control structures that existed as of 19 February 2002 (except the damming or diversion of water for the purpose of controlling natural lake levels), that are shown in 'Regional Water and Land Plan – Maps of Stopbanks and Other Flood Control Structures Permitted by Rule 45' and are operated by an organisation exercising its functions under the Soil Conservation and Rivers Control Act 1941, the Local Government Act 1974, the Land Drainage Act 1908, or the Rangitaiki Land Drainage Act 1956, is a permitted activity subject to the following conditions:

- (a) The authorised maintenance or restoration of any stopbank or other flood control structure is limited to its height and profile as at 19 February 2002, except that
- (b) Subject to the written approval of the land owner, the height and profile of a stopbank or other flood control structure that existed on that land owners property as at 19 February 2002 may be altered to achieve a new design standard established in a Floodplain Management Strategy or Asset Management Plan that has been agreed with the community through a local government public consultative process.

Explanation/Intent of Rule

To allow flood control structures and stopbanks that existed as of 19 February 2002 to continue to operate and be restored and maintained for flood hazard mitigation purposes. Stopbanks and other flood control structures protect areas by preventing (i.e. damming) flood waters from flowing into towns and farm land, and diverting floodwaters away from natural flood flow paths back into the main river channels. This rule does not permit the damming and diversion of water by stopbanks or other flood control structures installed after 19 February 2002, these will require consents. The maps 'Regional Water and Land Plan – Maps of Stopbanks and Other Flood Control Structures Permitted by Rule 45' are available from Environment Bay of Plenty“.

Plan Change 8 (Groundwater Bores and Flooding Conditions)

Condition (b) of Rule 46 was subject to Plan Change 8 (Groundwater Bores and Flooding Conditions). Following the hearing of submissions to this plan change, the original condition wording was retained. As a result, no changes were made to the wording of this rule.

Rule 46 Permitted – Damming of Surface Runoff Water

The damming of water, and associated dam structure, that:

- 1 Is in an ephemeral flowpath or gully, or
- 2 Is in an artificial watercourse, or
- 3 Is runoff from the surface of land,

Is a permitted activity, subject to the following conditions:

- (a) The activity shall not change, damage or destroy a wetland.
- (b) The activity shall not cause or increase flooding or ponding on any land or property owned or occupied by another person that would not naturally carry water during storm or flood events, unless the written approval of the affected person(s) has been obtained.
- (c) The activity shall not cause or induce erosion to the bed or banks of any surface water body, or to land, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body;
 - (ii) Scour to the bed of the surface water body;
 - (iii) Damage to the margins or banks of the surface water body.

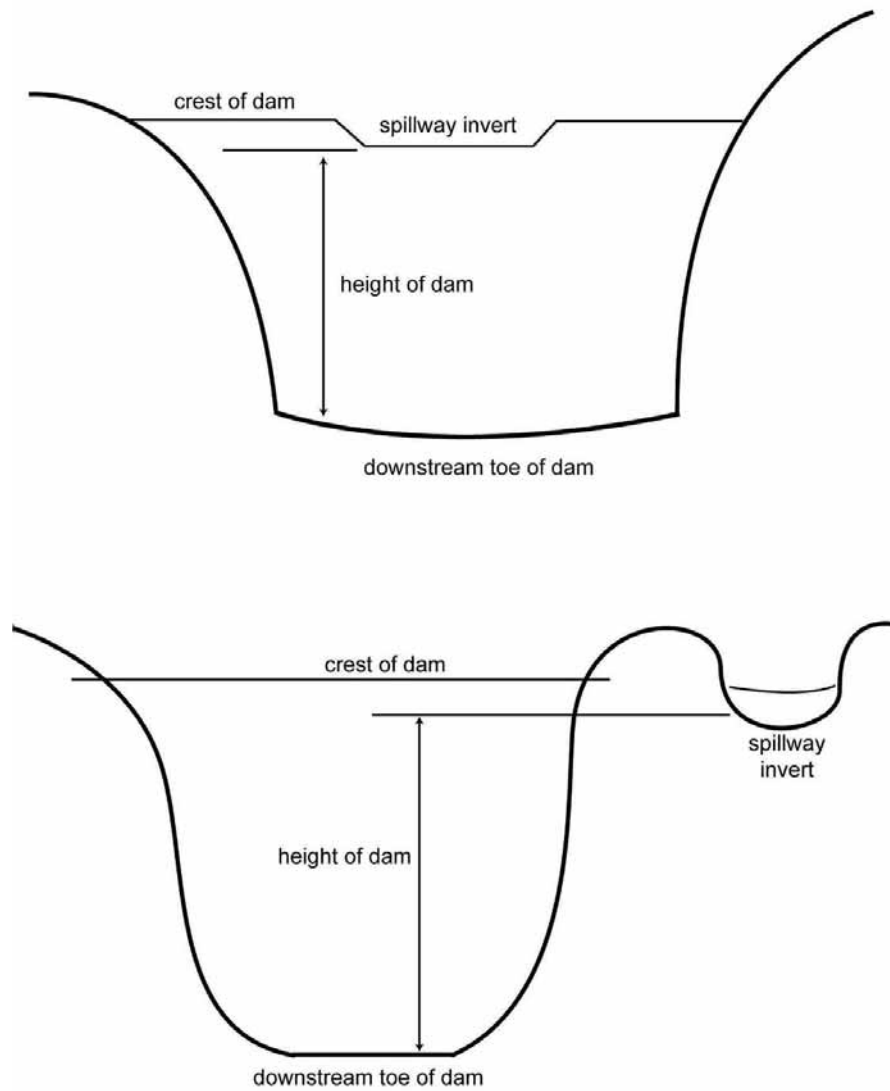
- (d) The impoundment of water and the dam structure shall comply with either (i) or (ii)
- (i) The dam shall not impound more than 5,000 m³ of water and the level of the dam spillway invert does not exceed 2.5 metres vertical height relative to the land where the dam is sited as measured from the centre line of the dam structure (refer to Figure 8).
- (ii) The dam does not impound more than 10,000 m³ of water and the level of the dam spillway invert does not exceed 1.5 metres vertical height relative to the land where the dam is sited as measured from the centre line of the dam structure (refer to Figure 8).
- (e) The structure shall be designed by, or under the guidance of, a chartered professional engineer.
- (f) The dam shall be designed, constructed and maintained to ensure that its structural integrity is not compromised, and incorporates spillway with a 1 in 100 year flood design standard, and erosion protection devices, to safely return surplus water to land where the dam is sited.
- (g) The dam shall, at all times, be maintained in a sound condition.

Explanation/Intent of Rule

To allow the minor damming of clean water that is not in the bed of a permanently flowing stream or river, or a lake or wetland. It includes, but is not limited to:

- stock water dams,
- prevention of peat shrinkage,
- coffer dams,
- detention dams for erosion control,
- dams for the creation of wetland, and
- activities relating to water harvesting

The rule does not apply to earthworks sediment retention ponds, which will be addressed in conjunction with the discharge of sediment contaminated stormwater in a resource consent under Rule 37, and does not permit the diversion of water. Note that Rule 44A addresses the diversion of stormwater.

Figure 8 – Measurement of Dam Height in Rule 46

Rule 46A Restricted Discretionary – Damming of Surface Run-off Water

The damming of water, and associated dam structure, that:

- 1 Is in an ephemeral flowpath or gully, or
- 2 Is in an artificial watercourse, or
- 3 Is runoff from the surface of land,

and is not otherwise permitted by Rule 46 is a restricted discretionary activity, subject to the following condition:

- (a) The activity shall not disturb vegetation in a wetland, or change the water flow or quantity, or water quality in a wetland.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Measures to avoid, remedy or mitigate adverse effects on:
 - (i) Water flows.
 - (ii) Land owned or occupied by another person, including flooding and ponding.
 - (iii) The stability of land.
 - (iv) Houses, assets and other activities downstream of the dam, which are at risk of the dam failure.
- (b) The structural integrity, safety issues, construction standards.
- (c) Maintenance of the dam.
- (d) Measures to avoid or mitigate vegetation, soil, slash, construction material or other debris being deposited in a surface water body, or placed in a position where it could readily enter or be carried into a water body.
- (e) Monitoring requirements.

Explanation/intent of Rule

To allow the damming of water that is not in the bed of a permanently flowing stream or river, or a lake or wetland and not otherwise permitted by Rule 46. It includes, but is not limited to:

- stock water dams,
- prevention of peat shrinkage,
- coffer dams,
- detention dams for erosion control,
- dams for the creation of wetland, and
- activities relating to water harvesting.

The rule does not apply to earthworks sediment retention ponds, which will be addressed in conjunction with the discharge of sediment contaminated stormwater in a resource consent under Rule 37, and does not permit the diversion of water. Rule 44A addresses the diversion of stormwater.

Plan Change 8 (Groundwater Bores and Flooding Conditions)

Rule 47 was subject to Plan Change 8 (Groundwater Bores and Flooding Conditions). This introduced new condition (i). Following the hearing of submissions to this plan change, new condition (i) was not adopted or added to the regional plan.

Conditions (j)-(r) have been renumbered to Conditions (i)-(q) in accordance with Schedule 1, clause 16 of the Act.

Rule 47 Permitted – Damming of Water in the Bed of a River or Stream

The:

- 1 Damming of water in the bed of a river or stream, and
- 2 Use, erection, maintenance, reconstruction, placement, alteration and extension of a dam structure in the bed of a river or stream, and
- 3 Disturbance of the bed of a river or stream associated with the activity,

are permitted activities subject to the following conditions:

- (a) The dam shall not be located in any stream or river listed in Schedule 1, or that has a water quality classification of Natural State (River).
- (b) The structure shall not prevent the passage of fish.
- (c) The mean annual daily flow of the river or stream to be dammed shall not exceed 150 litres per second.
- (d) The activity shall not cause or induce erosion of the bed or banks of any surface water body, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (e) The activity shall not disturb vegetation in a wetland; or change the water flow of quantity, or water quality in a wetland.
- (f) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (g) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (h) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (i) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body during the activity.
- (j) The structure shall at all times be maintained in a sound condition for the purpose for which it was constructed, and be kept clear of accumulated debris.
- (k) Approaches and abutments shall be stabilised, and appropriate water controls installed, to protect against erosion.
- (l) Following the completion of construction, all excess construction materials and equipment shall be removed from the bed of the stream, river or lake.
- (m) The damming of water shall not cause water flow downstream of the dam to fall below the instream minimum flow requirement or default Instream Minimum Flow Requirement for the river or stream, or adversely affect any authorised water take.
- (n) The impoundment of water and the dam structure shall not impound more than 5,000 m³ of water, and the lowest point of the dam crest shall not exceed 1.5 metres vertical height relative to the natural bed of the watercourse where the dam is sited, as measured from the centre line of the dam structure.
- (o) The structure shall be designed by, or under the guidance of, a chartered professional engineer
- (p) The dam shall be designed, constructed and maintained to ensure that its structural integrity is not compromised, and incorporates a spillway with a 1 in 100 year flood design standard, and erosion protection devices, to safely return surplus water to the natural bed of the river or stream.
- (q) All dams constructed after 23 March 2004 shall be registered with Environment Bay of Plenty by forwarding the following information:
 - (i) The location of the dam.
 - (ii) The surface water body on which the dam is located.
 - (iii) The size of the dam.

Advisory Note

- 1 In relation to condition (b), Environment Bay of Plenty has information to assist resource users to provide fish passage on dam structures.
- 2 In relation to condition (n), the community is advised to contact Environment Bay of Plenty for information regarding the instream minimum flow requirement or default instream minimum flow requirement for the river or stream.

Explanation/Intent of Rule

To permit the damming of water in small streams and rivers where the adverse environmental effects are likely to be no more than minor. The rule applies to temporary or permanent damming of water, and does not permit the diversion of water. This rule does not apply to instream stormwater treatment ponds.

Rule 47B Restricted Discretionary – Damming of Water in the Bed of a River or Stream

The:

- 1 Damming of water in the bed of a river or stream, and
- 2 Use, erection, maintenance, reconstruction, placement, alteration and extension of a dam structure in the bed of a river or stream, and
- 3 Disturbance of the bed of a river or stream associated with the activity,

that complies with the following terms and conditions is a restricted discretionary activity:

- (a) The dam shall not be located in any stream or river listed in Schedule 1.
- (b) Measures to avoid, remedy or mitigate adverse effects on:
 - (i) The passage of fish.
 - (ii) Aquatic ecosystems, including indigenous biodiversity.
- (c) The mean annual daily flow of the river or stream to be dammed shall not exceed 300 litres per second.
- (d) The activity shall not damage or destroy a wetland.
- (e) The damming of water shall not cause water flow downstream of the dam to fall below the Instream Minimum Flow Requirement or default Instream Minimum Flow Requirement for the river or stream, or adversely affect any authorised water take.
- (f) The impoundment of water and the dam structure shall comply with either (i) or (ii):
 - (i) The dam does not impound more than 5,000 m³ of water and the lowest point of the dam crest does not exceed 1.8 metres vertical height relative to the natural bed of the watercourse where the dam is sited as measured from the centre line of the dam structure.
 - (ii) The dam does not impound more than 10,000 m³ of water and the lowest point the dam crest does not exceed 1.5 metres vertical height relative to the natural bed of the watercourse where the dam is sited as measured from the centre line of the dam structure.
- (g) The structure shall be designed by, or under the guidance of, a chartered professional engineer.
- (h) The dam shall be designed, constructed and maintained to ensure that its structural integrity is not compromised, and incorporates a spillway with a 1 in 100 year flood design standard, and erosion protection devices, to safely return surplus water to the natural bed of the river or stream.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Measures to avoid, remedy or mitigate adverse effects on water quality, water flows, flooding of land owned or occupied by another person, and the stability of the beds and banks of the water body.
- (b) The structural integrity, and maintenance of the structure.
- (c) The administration charges under section 36 of the Act.

Explanation/Intent of Rule

To allow Environment Bay of Plenty to assess the adverse effects of small dams in streams listed not in Schedule 1 on a case by case basis through the resource consent process, where there is a risk that adverse effects on the environment may be more than minor, particularly in relation to fish passage and aquatic habitats.

Rule 47C Controlled – Lawfully Established Hydroelectric Power Schemes in Schedule 11

The lawfully established:

- 1 Discharge of water to water; and
- 2 Discharges of contaminants to water; and
- 3 Take and use of water (including non-consumptive use); and
- 4 Damming and diversion of water; and
- 5 Use of a structure in the bed of a stream or river;

Associated with a hydroelectric power scheme that existed on the date this regional plan becomes operative and is listed in Schedule 11, is a controlled activity.

This rule applies to applications to replace existing resource consents.

Environment Bay of Plenty reserves its control over the following matters:

- (a) Measures to provide for the passage of fish, both upstream and downstream.
- (b) Upstream and downstream water levels, residual flows and water quality.
- (c) Screening of intake and diversion structures.
- (d) Intake velocities.
- (e) Measures to manage erosion effects (including destabilisation of beds and banks or river).
- (f) Measures to identify and manage the risk of dam failure.
- (g) Stability of the land bordering the dam.
- (h) Measures to manage discharges to water from the use or alteration of the dam structure.
- (i) Measures to avoid, remedy or mitigate any adverse effect on aquatic ecosystems, areas of significant indigenous vegetation, significant habitats of indigenous fauna.
- (j) The quantity and flow rate, outstanding natural features and natural character.
- (k) Measures to avoid, remedy or mitigate any effects on other lawfully established users of the river or stream of water released from the dam.
- (l) Volume and rate of any take or diversion.
- (m) Techniques for ensuring the safe passage of flood water.
- (n) Effects on the relationship of tangata whenua and their culture and traditions with the site and any waahi tapu or other taonga affected by the activity.
- (o) Effects on the ability of tangata whenua to exercise their kaitiaki role in respect of any waahi tapu or other taonga affected by the activity.
- (p) Measures to avoid, remedy or mitigate adverse effects of the operation on downstream sediment transport processes.
- (q) Measures to avoid, remedy or mitigate adverse effects on lawfully established downstream infrastructure.
- (r) The range, or rate of change of levels or flows of water.
- (s) The structural integrity and maintenance of the structure.
- (t) Measures to avoid, remedy or mitigate adverse effects on amenity values (including recreation), and existing public access to and along the margins of rivers and lakes.
- (u) Information and monitoring requirements.
- (v) Administration charges under section 36 of the Act.

Notification

Applications for resource consents under Rule 47C will be publicly notified in accordance with the requirements of section 93(2) of the Act.

Explanation/Intent of Rule

To provide for existing, lawfully existing hydroelectric power schemes that are listed in Schedule 11, and clearly state that all aspects of the activity will be managed within one resource consent. Resource consent applicants may wish to separate ancillary activities (such as the take of water for domestic supply needs, or stormwater discharges) from the main consent for the hydroelectric scheme. Public notification of resource consents under Rule 47C is in accordance with section 94D(1) of the Act.

Rule 48 Discretionary – Damming or Diversion of Water

The damming or diversion of water that is:

- 1 Not permitted by a rule in this regional plan, and
- 2 Not restricted discretionary status under a rule in this regional plan, and
- 3 Not prohibited by Rule 49,

Is a discretionary activity.

Explanation/Intent of Rule

To allow Environment Bay of Plenty to assess any damming or diversion activity that will have greater than minor adverse effects on the environment, on a case by case basis through the resource consent process.

Assessment Criteria

When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions as appropriate to the source of the proposed water take:

Objective 4, 5, 6, 8, 42, 47, 55, 73, 75

Policy 5, 11, 14, 15, 17, 18, 19, 20, 21, 65, 81, 83, 84, 100, 133, 134

Method 13, 17, 18, 20, 21, 56, 60

9.8 Motu River and Specified Tributaries**Rule 49 Prohibited – Damming, Diversion, Take and Use of Water, and Discharges to the Motu River and Specified Tributaries**

The:

- 1 Damming or diversion of water.
- 2 Take and use of water, excluding the take and use of water for purposes of:
 - (a) An individual's reasonable domestic needs, or
 - (b) The reasonable needs of an individual's animals for drinking water, or
 - (c) Firefighting.
- 3 Discharge of water to water, contaminants to water, or contaminants onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.

Is a prohibited activity in the following rivers and streams:

- (a) Motu River, from the Motu Falls (NZMS 260 X16 123 179) to the State Highway 35 Bridge inclusive.
- (b) Waitangirua Stream.
- (c) Mangaotane Stream.
- (d) Te Kahika Stream.
- (e) Mangatutara Stream.
- (f) Takaputahi River below the confluence with the Whiti kau Stream.

Unless the activity is:

- (g) The maintenance of State Highway 35, including any bridge over the Motu River that forms part of the State Highway.
- (h) Soil conservation works and related matters undertaken in accordance with the Soil Conservation and Rivers Control Act 1941.

Explanation/Intent of Rule

This rule is consistent with the National Water Conservation (Motu River) Order 1984, and is to clarify that Environment Bay of Plenty will not consent the specified activities in the catchment. Activities excluded by conditions (g) and (h) are subject to the other rules in this regional plan.

9.9 Artificial Control of Water Levels in Natural Lakes

Rule 50 Discretionary – Artificial Control of Water Levels in Natural Lakes

The artificial control of water levels in natural lakes, including any associated activities, is a discretionary activity.

Explanation/Intent of Rule

This discretionary rule approach is consistent with the provisions in section 5.4 of this regional plan. The intent of the rule is to restrict the artificial control of water levels in natural lakes, and allow Environment Bay of Plenty to assess the adverse environmental effects of the proposed activity through a resource consent application. Specific conditions can be established to avoid, remedy or mitigate those effects.

Assessment Criteria

When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions:

Objective 4, 5, 6, 8, 52, 54

Policy 5, 11, 14, 15, 17, 18, 19, 20, 21, 92, 93, 94, 97

Method 13, 17, 18, 20, 21, 56, 198

9.10 Activities in the Beds of Rivers, Streams, and Lakes

Advisory Note

- 1 Rules 51 to 71 control activities in, on, under or over the beds of rivers, streams (including modified watercourses) and lakes. The rules do not control activities in artificial watercourses (including farm drains and roadside drains) or ephemeral flowpaths (refer to Definition of Terms). Refer to 9.13 for rules addressing the modification of wetlands, including wetlands in the beds of rivers, streams and lakes.
- 2 The extraction of river gravel is addressed in the Regional River Gravel Management Plan.
- 3 The rules in this regional plan do not authorise the modification or disturbance of any archaeological or registered waahi tapu sites within the area of the activity. Written authority from the New Zealand Historic Places Trust is required prior to any destruction, damage or modification of an archaeological or registered waahi tapu site or an area where there is reasonable cause to suspect there is an archaeological site. Should any artefacts, bones or any other sites of archaeological or cultural significance be discovered within the area affected by the activity, written authorisation should be obtained from the Historic Places Trust before any damage, modification or destruction is undertaken.
- 4 For any activities on watercourses within a land drainage scheme, the approval of the administrator of that land drainage scheme must also be gained with regard to the administrator's functions under the Land Drainage Act 1908.

- 5 For any activities on a section of a river within a River Scheme (as defined in Schedule 5), the approval of Environment Bay of Plenty is also required with regard to their functions under the Soil Conservation and Rivers Control Act 1941, and the Bay of Plenty Regional Council Floodway and Drainage Bylaw 2002.
- 6 Activities in, on, under or over the bed of a stream, river, lake or modified watercourse, for which there is an existing resource consent are not subject to the Rules in Section 9.10. However, such activities will be required to comply with the requirements of this regional plan when the resource consent expires. For activities that are not otherwise covered by a resource consent, the following rules apply:

Table 43 – Rules for Structure and Bed Disturbance Activities

Activity	Permitted Activity Rule	Activities that do not comply with Permitted Activity Rules
Existing structures	Rules 51, 51A, 51B, 51C	Rule 71
New structures	Rules 52, 53, 54, 55, 56, 57, 58, 59, 59B, 60, 60B, 61, 62, 63, 64	Rules 56A, 58A, 58B, 59A, 59C, 59D, 60A, 62A, 64A, 71
Removal of a structure	Rule 65	Rule 71
Disturbance of the bed of a surface water body (excluding disturbances associated with construction or maintenance of a structure)	Rules 66, 66A, 66B	Rule 71
Existing Reclamations	Rule 66	Rule 71
New Reclamation	There are no permitted rules for new reclamations	Rule 71
Introduction of plants	Rule 67	Rule 71
Removal of plants	Rule 68	Rule 71
Maintenance of river schemes, land drainage canals and specified streams and rivers	Rules 70, 70A, 70B	Rule 71

- 7 Structures in the beds of streams, rivers and lakes are also subject to the requirements of the Building Act 2004 and relevant building standards or building codes. A building consent from the relevant district or city council may also be required.
- 8 The piping of a stream is not necessarily a diversion under section 14 of the Act (and the rules in section 9.7 of this regional plan), and has generally been addressed as a pipe structure activity subject to section 13 of the Act and the rules in section 9.10.1 of this regional plan.
- 9 Permission from the owner of the bed of the river, stream or lake is also required for any activity in such areas.
- 10 With respect to structures in flowing water bodies, liaison with the Department of Conservation regarding the requirements of the Freshwater Fish Regulation 1993 should be undertaken when the structure is likely to have adverse effects on fish passage.

- 11 Parts of structures that are located on land not in the bed of a river, stream or lake may be controlled by city and district councils. However, if those parts of the structure will dam or divert flood waters, the structure will also require consent from Environment Bay of Plenty under Rule 48.
- 12 Earthworks on land not in the bed of a river, stream or lake, but associated with structures in the bed of a river, stream or lake, are addressed in section 9.2.
- 13 In relation to requirements for structures to be designed to specified flood flow levels, Environment Bay of Plenty has prepared Hydrological and Hydraulic Guidelines (2001) to assist the community to design and construct structures to relevant standards.
- 14 For clarification, Rule 47C provides for lawfully existing hydroelectric power schemes listed in Schedule 11 that existed on the date this regional plan becomes operative. Where activities are provided for by Rule 47C, the rules in Section 9.10 of this regional plan do not apply.

9.10.1

Structures

Rule 51

Permitted – Use of Specified Existing Lawfully Authorised Structures

The use of any existing lawfully authorised structure in, on, under or over the bed of a river, stream (including modified watercourse), where the structure existed on the date on which this rule becomes operative, and

- 1 The structure is a culvert, single span bridge, or ford that complied with section 10.5.6 of the Bay of Plenty Regional Land Management Plan and was constructed before 1 December 2008; or
- 2 The structure is an existing flood control or water level structure, except any structure associated with the control of natural lake levels, within a River Scheme Maintenance Area or a Drainage District Maintenance Area; or
- 3 The structure is an existing structure supporting a public road, state highway, or railway line;

Is a permitted activity subject the following conditions:

- (a) The structure shall not cause or induce erosion of the bed or banks of any surface water body, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (b) Environment Bay of Plenty has not identified, in accordance with Methods 226 and 227, that the structure prevents the passage of migrating fish.
- (c) The structure shall at all times be maintained in a structurally sound condition for the purpose for which it was constructed, and be kept clear of accumulated debris.
- (d) The structure shall not;
 - (i) Cause flooding or ponding on any land or property owned or occupied by another person whose land would not naturally carry water during storm of flood events.
 - (ii) Be identified by Environment Bay of Plenty in accordance with Method 215 as a structure causing more than minor adverse flooding effects on land, property owned or occupied by another person, buildings or access ways.

Advisory Note

- 1 This rule does not cover any structures in the Rotorua Lakes.
- 2 Method 215 is to develop a long-term strategic approach to identifying and upgrading structures that are causing flooding problems. A list of problem structures will be developed and updated over time as necessary.
- 3 Methods 226 and 227 seek to develop a long-term strategic approach, in consultation with relevant transport agencies, city council or district councils, to identifying and upgrading existing structures that are causing adverse effects on fish passage. A list of priority structures, based on ecological value to that catchment, will be developed and reviewed over time, as necessary. If more than one structure owned or maintained by the NZ Transport Agency ('NZTA') is identified, the replacement of structures will be prioritised based on the ecological benefits gained by their replacement.

Explanation/Intent of Rule

To allow the use of existing lawfully authorised structures that were permitted under section 10.5.6 of the Bay of Plenty Regional Land Management Plan, or are specified flood control structures, rail bridges, and bridges for public roads or state highways. It would not be efficient to require ongoing consents for structures that have an expected life-time of greater than 35 years. Reconstruction of such structures is to comply with the provisions of this regional plan.

Rule 51A

Permitted - Maintenance of Structures In, On, Under or Over the Bed of a Stream, River or Lake

The maintenance of any structure in, on, under or over the bed of a river, stream (including modified watercourse) or lake, is a permitted activity, subject to the following conditions:

- (a) No maintenance works shall be carried out in the wet part of the bed in the tidal reaches of rivers and streams, between 1 March and 31 May.
- (b) The disturbance of the water body and release of sediment resulting from the activity shall not occur for a period greater than:
 - (i) A total period of 48 consecutive hours per maintenance activity in any water body listed in Schedule 1.
 - (ii) A total period of five (5) consecutive days per maintenance activity in any water body not otherwise covered by (i).
- (c) There shall be no discharges of contaminants to water from maintenance activities.
- (d) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May and 30 August.
- (e) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.
- (f) Where maintenance works are undertaken in the bed of the river, stream or lake, all practicable steps shall be taken to avoid, remedy or mitigate the release of sediment from the activity, and no clearly discernable change in the visual clarity of the water shall occur beyond a distance of 100 metres downstream of the activity site.
- (g) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (h) The activity shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (i) The activity shall not disturb vegetation in a wetland, or change the water flow or quantity, or water quality in a wetland.
- (j) The activity shall not prevent the passage of migrating fish.
- (k) The activity shall not compromise the structural integrity or use of any other authorised structure or activity in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).

- (l) The activity shall not cause a hazard to navigation in navigable rivers and lakes.
- (m) The activity shall not alter the natural course of the river.
- (n) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (o) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (p) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried onto a water body.

Explanation/Intent of Rule

To provide for the ongoing maintenance of structures in, on, under or over the bed of a stream, river or lake, in order to comply with the general requirement to maintain structures in a structurally sound condition for the purpose for which it was constructed, and be kept clear of accumulated debris. The rule applies to the maintenance of any structure, including those permitted under rules in this regional plan, and those for which consents have been issued.

Rule 51B

Restricted Discretionary – Use of Existing Lawfully Authorised Structures in a River, Stream or Lake (excluding Rotorua Lakes)

The use of any existing lawfully authorised structure in, on, under or over the bed of a river or stream (including a modified watercourse), or Lake (excluding Rotorua Lakes) where:

- 1 The structure existed on the date on which this rule becomes operative; and
- 2 The structure is not a dam; and
- 3 The structure is not otherwise permitted by a rule in this regional plan;

Is a restricted discretionary activity.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Measures to avoid, remedy or mitigate the adverse effects of the structure on:
 - (i) Soil conservation or land stability (including the stability of the bed of the surface water body).
 - (ii) The passage of fish.
 - (iii) Aquatic ecosystems, including indigenous biodiversity.
 - (iv) Property owned or occupied by another person, including effects on flooding or ponding.
 - (v) Natural water flow and flood flows.
 - (vi) Natural character, including the cumulative effects of structures in an area.
 - (vii) Landscape character and amenity values.
 - (viii) Legal public access.
- (b) Maintenance of the structure.
- (c) Monitoring and information requirements.

Advisory Note

- 1 Rule 51B applies when consents are sought, or where the structure is not otherwise covered by a resource consent under the Act.
- 2 Rule 51B does not apply to structures in the Rotorua Lakes.

Explanation/Intent of Rule

To provide for existing lawfully authorised structures, excluding dams and structures in the Rotorua lakes, that do not otherwise comply with the permitted activity conditions in relevant rules in this regional plan, and where the adverse effects of the activity need to be assessed on a case by case basis. Dams are addressed by rules in section 9.8 of this regional plan.

Rule 51C Restricted Discretionary – Extension and Upgrade of Existing Lawfully Authorised Structures

The extension and upgrade of any existing lawfully authorised structure in, on, under or over the bed of a river, stream (including modified watercourse) or lake (excluding Rotorua Lakes) where:

- 1 The structure existed on the date on which this rule becomes operative; and
- 2 The structure is not a dam; and
- 3 The activity is not associated with the piping of a stream; and
- 4 The structure is not otherwise permitted by a rule in this regional plan;

Is a restricted discretionary activity.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Measures to avoid, remedy or mitigate the adverse effects of the structure on:
 - (i) Soil conservation or land stability (including the stability of the bed of the surface water body).
 - (ii) The passage of fish.
 - (iii) Aquatic ecosystems, including indigenous biodiversity.
 - (iv) Property owned or occupied by another person, including effects on flooding or ponding.
 - (v) Natural water flow and flood flows.
 - (vi) Natural character, including the cumulative effects of structures in the area.
 - (vii) Landscape character and amenity values.
 - (viii) Maintenance of legal public access.
- (b) Maintenance of the structure.
- (c) Monitoring and information requirements.

Advisory Note

- 1 Rule 51C does not apply to structures in the Rotorua Lakes.

Explanation/Intent of Rule

To provide for the extension and upgrade of existing lawfully authorised structures in, on, under or over the bed of a stream, river or lake (excluding Rotorua Lakes) while retaining control over matters Environment Bay of Plenty has concerns. Rule 51C applies to activities that are not otherwise related to the maintenance of a structure (refer to Definition of Terms).

Rule 52 Permitted – Surface Water Intake Structures

The use, erection, reconstruction, placement, alteration and extension of a surface water intake structure in, on, under or over the bed of a river, stream or lake, and associated bed disturbance, is a permitted activity subject to the following conditions:

- (a) The structure shall not include an infiltration gallery in the bed of a surface water body.
- (b) The structure shall not restrict the cross-sectional area by more than five square metres, or 5 percent of the width of the river, stream, or lake; whichever is the lesser.
- (c) The intake structure shall be screened with a mesh aperture size:
 - (i) Not exceeding three (3) millimetres by 30 millimetres in the tidal areas of rivers and streams.
 - (ii) Not exceeding five (5) millimetres by 30 millimetres or five (5) mm diameter holes in any other area that is not in the tidal area of a river or stream.
- (d) No works shall be carried out in the wet part of the bed in the tidal reaches of rivers and streams, between 1 March and 31 May.

- (e) The disturbance of the bed of the water body and release of sediment resulting from the construction of the structure shall not occur for a period greater than:
 - (i) A total period of 48 consecutive hours per structure in any water body listed in Schedule 1.
 - (ii) A total period of five (5) consecutive days per structure in a water body not otherwise covered by (i).
- (f) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May and 30 August.
- (g) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.
- (h) All practicable steps shall be taken to avoid, remedy or mitigate the release of sediment during construction of the structure, and no clearly discernable change in the visual clarity of the water shall occur beyond a distance of 100 metres downstream of the activity site.
- (i) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (j) The activity shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (k) The activity shall not disturb vegetation in a wetland, or change the water flow or quantity, or water quality in a wetland.
- (l) The activity shall not prevent the passage of migrating fish.
- (m) The activity shall not compromise the structural integrity of use of any other authorised structure or activity in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).
- (n) The activity shall not cause a hazard to navigation in navigable rivers and lakes.
- (o) The activity shall not alter the natural course of the river.
- (p) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (q) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (r) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (s) The structure shall at all times be maintained in a sound condition for the purpose for which it was constructed, and be kept clear of accumulated debris.
- (t) The structure shall be constructed to ensure that the structure can not break free and cause a blockage or erosion.
- (u) Approaches and abutments shall be stabilised, and appropriate water controls installed, to protect against erosion.
- (v) Structures in, on or over the beds of lakes shall be designed and constructed to account for natural lake water level fluctuations.
- (w) Following the completion of construction, all excess construction materials and equipment shall be removed from the bed of the stream, river or lake.
- (x) No contaminants (including, but not limited to, oil, hydraulic fluids, petrol, diesel, other fuels, paint, solvents, or anti-fouling paints), excluding sediment, shall be released to water from the activity.

Explanation/Intent of Rule

To allow minor structures for the take and use of surface water. This rule links to Rule 41 (permitted surface water takes), but may also be used for structures associated with consented surface water takes. A surface water intake structure is a structure specifically for the take of water from a stream, river or lake, and is not a culvert (which is a stream crossing structure). Condition (c)(i) is more restrictive to address adverse effects on whitebait.

Rule 53**Permitted – Discharge Structures**

The use, erection, reconstruction, placement, alteration and extension of a discharge structure in, on, under or over the bed of a river, stream, or lake, and associated bed disturbance, is a permitted activity subject to the following conditions:

- (a) The structure shall not restrict the cross sectional area by more than five square metres, or 5 percent of the width of the river, stream, or lake; whichever is the lesser.
- (b) No works shall be carried out in the wet part of the bed in the tidal reaches of rivers and streams, between 1 March and 31 May.
- (c) The disturbance of the bed of the water body and release of sediment resulting from the construction of the structure shall not occur for a period greater than:
 - (i) A total period of 48 consecutive hours per structure in any water body listed in Schedule 1.
 - (ii) A total period of five (5) consecutive days per structure in any water body not otherwise covered by (i).
- (d) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May and 30 August.
- (e) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.
- (f) All practicable steps shall be taken to avoid, remedy or mitigate the release of sediment during construction of the structure, and no clearly discernable change in the visual clarity of the water shall occur beyond a distance of 100 metres downstream of the activity site.
- (g) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (h) The activity shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (i) The activity shall not disturb vegetation in a wetland, or change the water flow or quantity, or water quality in a wetland.
- (j) The activity shall not prevent the passage of migrating fish.
- (k) The activity shall not compromise the structural integrity or use of any other authorised structure or activity in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).
- (l) The activity shall not cause a hazard to navigation in navigable rivers and lakes.
- (m) The activity shall not alter the natural course of the river.
- (n) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (o) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (p) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (q) The structure shall at all times be maintained in a sound condition for the purpose for which it was constructed, and be kept clear of accumulated debris.
- (r) The structure shall be constructed to ensure that the structure can not break free and cause a blockage or erosion.
- (s) Approaches and abutments shall be stabilised, and appropriate water controls installed, to protect against erosion.
- (t) Structures in, on or over the beds of lakes shall be designed and constructed to account for natural lake water level fluctuations.
- (u) Following the completion of construction, all excess construction materials and equipment shall be removed from the bed of the stream, river or lake.

Explanation/Intent of Rule

To allow minor structures for the discharge of contaminants or water to water. The rule does not permit the discharge itself. This rule may be used in conjunction with permitted activity rules for stormwater and other minor discharges, but may also be used for structures associated with consented discharges. Flumes are usually on land outside the bed of a stream or river, and not addressed by this regional plan. A discharge structure is a structure specifically for the discharge of contaminants or water to a surface water body, and is not a culvert (which is a stream crossing structure). Resource users also need to account for any conditions relating to the actual discharge of contaminants or water when designing a discharge structure. For example, the discharge conditions may require a diffuser for mixing purposes, or only allow a specific rate of discharge (which may then affect the pipe size).

Rule 54

Permitted - Navigational Markers, Signs, Ski Lane Markers and Canoe Gates

The use, erection, reconstruction, placement, alteration or extension of a navigational marker, sign, ski lane marker, or canoe gate in, on, under or over the bed of a river, stream, or lake, and associated bed disturbance, is a permitted activity subject to the following conditions:

- (a) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May and 30 August.
- (b) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.
- (c) All practicable steps shall be taken to avoid, remedy or mitigate the release of sediment during construction of the structure, and no clearly discernable change in the visual clarity of the water shall occur beyond a distance of 100 metres downstream of the activity site.
- (d) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (e) The activity shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (f) The activity shall not disturb vegetation in a wetland, or change the water flow or quantity, or water quality in a wetland.
- (g) The activity shall not prevent the passage of migrating fish.
- (h) The activity shall not compromise the structural integrity or use of any other authorised structure of activity in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).
 - (i) The activity shall not cause a hazard to navigation in navigable rivers and lakes.
 - (j) The activity shall not alter the natural course of the river.
- (k) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (l) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (m) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (n) The structure shall at all times be maintained in a sound condition for the purpose for which for which it was constructed, and be kept clear of accumulated debris.
- (o) The structure shall be constructed to ensure that the structure can not break free and cause a blockage or erosion.
- (p) Approaches and abutments shall be stabilised, and appropriate water controls installed, to protect against erosion.
- (q) Structures in, on or over the beds of lakes shall be designed and constructed to account for natural lake water level fluctuations.
- (r) Following the completion of construction, all excess construction materials and equipment shall be removed from the bed of the stream, river or lake.

- (s) No contaminants (including, but not limited to, oil, hydraulic fluids, petrol, diesel, other fuels, paints, solvents or anti-fouling paints), excluding sediment, shall be released to water from the activity.
- (t) The disturbance of the bed of the water body and release of sediment resulting from the construction of the structure shall not occur for a period greater than:
 - (i) A total period of 48 consecutive hours per structure in any water body listed in Schedule 1.
 - (ii) A total period of five (5) consecutive days per structure in any water body not otherwise covered by (i).

Advisory Note

- 1 Separate approval for the placement of navigation markers, signs, ski lane markers and canoe gates is also required from the Harbour Master with regards to navigation and safety matters.

Explanation/Intent of Rule

To allow minor structures that may be necessary for public safety, or recreational use of the water body. Such structures are not anticipated to have significant adverse environmental effects.

Rule 55

Permitted - Overhead Lines, Cables, Ropeways and Associated Structures Over the bed of a River, Stream or Lake

The use, erection, reconstruction, placement, alteration or extension of any overhead line, cable, ropeway and associated structures, including any telecommunication line as defined in section 2(1A) of the Telecommunication Act 1987, over the bed of a river, stream, or lake is a permitted activity subject to the following conditions:

- (a) No part of the structure shall be fixed to the bed of a river, stream, or lake.
- (b) Except in relation to (c), the structure shall be constructed to allow the flood flow from a 2% AEP event, plus an additional eight (8) metres.
- (c) Where the structure is an electric line crossing, the structure shall comply with the safety separation distances in the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001).
- (d) Where the structure conveys a contaminant, there shall be no discharge of contaminants from the structure.
- (e) Appropriate signage shall be used at the site to notify the community of the overhead structure in navigable areas, where there is a risk of contacting the overhead structure when navigating waterways. Except that this condition shall not apply to existing electric line crossings that comply with the safety separation distances in the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001).
- (f) The activity shall not disturb vegetation in a wetland, or change the water flow or quantity, or water quality in a wetland.
- (g) The activity shall not compromise the structural integrity or use of any other authorised structure or activity in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).
- (h) The activity shall not cause a hazard to navigation in navigable rivers and lakes.
- (i) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (j) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (k) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body during the activity.
- (l) The structure shall be maintained in a sound condition for the purpose for which it was constructed, and be kept clear of accumulated debris.
- (m) Structures in, on or over the beds of lakes shall be designed and constructed to account for natural lake water level fluctuations.

Advisory Note

- 1 Rule 55 is for structures that cross over the bed, but which are not below water level, and where no part of the structure is in, on or under the bed of stream, river or lake.
- 2 High wires that cross a water body must also comply with the requirements of the Civil Aviation Authority with regards to aerial safety matters.
- 3 Rule 55 applies to the construction and use of new overhead structures that are constructed or existing structures that are upgraded (being more than maintenance as provided for in Rule 51A, and the ongoing use of existing structures that otherwise comply with the rule conditions.
- 4 Signage on structures on, in, or over navigable water bodies is also regulated by the Maritime Safety Authority of New Zealand (MSA).

Explanation/Intent of Rule

To allow structures over the bed of a stream, river or lake that are not expected to be under water, except in extreme flood situations. The rule is consistent with section 418(3C) of the Act. Condition (d) does not apply to accumulated dust on lines or cables that is washed into water during rainfall events it has negligible effects. Rule 61 applies to any line, etc that is attached to another structure over the bed of a stream, river or lake. Logging hauler cables are included by the coverage of this rule. The temporary placement of electric fences over a water body is not subject to this rule.

Rule 56**Permitted - Lines, Cables or Pipelines Under the bed of a River, Stream or Lake**

The use, erection, reconstruction, placement, alteration or extension of any line, cable or pipeline, including any telecommunication line as defined in section 2(1A) of the Telecommunication Act 1987, under the bed of a river, stream, or lake, where the structure is installed by drilling or tunnelling (including any pipe thrusting), is a permitted activity subject the following conditions:

- (a) Any pipeline, line or cable located under the bed of a river, stream, or lake, including pipe thrusting, shall be to a minimum depth of four (4) metres under beds exceeding ten (10) metres wide, and the location identified by markers, both up and downstream, on the banks of the surface water body concerned. Where the bed does not exceed ten (10) metres wide the minimum depth shall be two (2) metres.
- (b) Where the structure conveys a contaminant, there shall be no discharge of contaminants from the structure.
- (c) Any tunnelling shall begin sufficiently far back from the bed of a river, stream, or lake so as not to be exposed by scour during a flood.
- (d) The activity shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (e) The activity shall not disturb vegetation in a wetland, or change the water flow or quantity, or water quality in a wetland.
- (f) The activity shall not compromise the structural integrity or use of any other authorised structure or activity in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).
- (g) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (h) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (i) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (j) The structure shall at all times be maintained in a sound condition for the purpose for which it was constructed.

- (k) Approaches and abutments shall be stabilised, and appropriate water controls installed, to protect against erosion.
- (l) Following the completion of construction, all excess construction materials and equipment shall be removed from the bed of the stream, river or lake.

Explanation/Intent of Rule

To allow structures under the bed of a stream, river or lake, and encourage pipe thrusting under the bed of a river, stream, or lake rather than placing it across the bed where it may have greater adverse effects on the environment. The rule is consistent with section 418(3C) of the Act.

Rule 56A

Restricted Discretionary – Lines, Cables or Pipelines Under the bed of a river, stream, lake

The use, erection, reconstruction, placement, alteration or extension of any line, cable or pipeline, including any telecommunication line as defined in section 2(1A) of the Telecommunication Act 1987, under the bed of a river, stream, or lake, where the structure is installed by drilling or tunnelling (including any pipe thrusting), where:

- 1 The structure is located below the bed of the surface water body at scour depth plus one (1) metre;

Is a restricted discretionary activity.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Matters to avoid, remedy or mitigate adverse effects on the stability of the beds and banks of streams, rivers or lakes, including erosion protection works.
- (b) Structural integrity of the structure.
- (c) Depth of the structure below the bed of the surface water body.
- (d) Where the structure conveys a contaminant, measures to ensure there is no discharge of contaminants from the structure.
- (e) Measures to ensure any tunnelling begins sufficiently far back from the bed of a river, stream, or lake so as not to be exposed by scour during a flood.
- (f) Monitoring requirements.

Explanation/Intent of Rule

To provide for structures under the bed of a stream, river or lake, where the depth of the structure does not comply with Rule 56(a).

Rule 57

Permitted - Monitoring and Sampling Structures

The use, erection, reconstruction, placement, alteration or extension of any equipment, measuring apparatus or similar device in, on, under or over the bed of a river, stream, or lake for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples, and associated bed disturbance, is a permitted activity subject the following conditions:

- (a) The structure shall not restrict the cross-sectional area by more than five square metres, or 5 percent of the width of the river, stream, or lake; whichever is the lesser.
- (b) No works shall be carried out in the wet part of the bed in the tidal reaches of rivers and streams, between 1 March and 31 May.
- (c) The disturbance of the bed of the water body and release of sediment resulting from the construction of the structure shall not occur for a period greater than:
 - (i) A total period of 48 consecutive hours per structure in any water body listed in Schedule 1.
 - (ii) A total period of five (5) consecutive days per structure in any water body not otherwise covered by (i).

- (d) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May and 30 August.
- (e) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.
- (f) All practicable steps shall be taken to avoid, remedy or mitigate the release of sediment during construction of the structure, and no clearly discernable change in the visual clarity of the water shall occur beyond a distance of 100 metres downstream of the activity site.
- (g) The structure shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (h) The activity shall not disturb vegetation in a wetland, or change the water flow or quantity, or water quality in a wetland.
- (i) The structure shall not prevent the passage of migrating fish.
- (j) The activity shall not compromise the structural integrity of any other authorised structure or activity in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).
- (k) The structures shall not cause a hazard to navigation in navigable rivers.
- (l) The structure shall not alter the natural course of the river.
- (m) All machinery shall be kept out of the bed of the stream or river where practicable.
- (n) The disturbance of the bed shall be limited to the extent necessary to install the structure.
- (o) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (p) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body during the activity.
- (q) The structure shall at all times be maintained in a sound condition for the purpose for which it was constructed, and be kept clear of accumulated debris.
- (r) The structure shall be constructed to ensure that the structure can not break free and cause a blockage or erosion.
- (s) Approaches and abutments shall be stabilised, and appropriate water controls installed, to protect against erosion.
- (t) Following the completion of construction, all excess construction materials and equipment shall be removed from the bed of the stream, river or lake.
- (u) Structures in, on or over the beds of lakes shall be designed and constructed to account for natural lake water level fluctuations.

Explanation/Intent of Rule

To allow monitoring and sampling structures necessary for water research and environmental monitoring.

Rule 58

Permitted – Culverts and Single Span Bridges Constructed by City or District Councils or NZTA within urban areas or within 1 kilometre upstream of urban areas

The use, erection, reconstruction, placement, alteration or extension of a culvert or single span bridge in, on, under or over the bed of a river, stream, or lake, where the structure:

- 1 Is constructed and maintained by a city or district council, or its contractors, exercising its functions under the Local Government Act 1974, or by NZTA or its contractors, exercising its functions under the Transit New Zealand Act 1989, and
- 2 Is located within an Urban Area or Settlement, or within one (1) kilometre upstream of any Urban Area or Settlement, and

- 3 Is not located where the adjacent land slope is greater than 35°; and
- 4 Is not located in a wetland,

Is a permitted activity subject to the following conditions:

- (a) The city or district council, or NZTA shall provide Environment Bay of Plenty with a copy of their engineering Code of Practice that shows how the district or city council or NZTA will comply with the standards (e) and (f).
- (b) The structure shall be designed by, or under the guidance of, a chartered professional engineer.
- (c) Where the structure is a culvert, the culvert shall also comply with the following conditions:
 - (i) There shall be only one culvert per crossing of the appropriate length.
 - (ii) The maximum fill height over the culvert shall be 1.5 metres.
 - (iii) Culvert inlets (entry point) and outlets (exit point) shall be protected against erosion.
 - (iv) The culvert invert shall be installed a minimum of 0.1 metres below the level of the bed of a river, stream, or lake.
 - (v) The culvert shall be constructed to allow the passage of the 1% AEP (1 in 100 year return) event by heading up to a maximum of 0.5 metres below the road surface, and the passage of the 10% AEP event without heading up.
 - (vi) No works shall be carried out in the wet part of the bed in the tidal reaches of rivers and streams, between 1 March and 31 May.
 - (vii) The disturbance of the bed of the water body shall not occur for a period greater than:
 - (i) A total period of 48 consecutive hours per structure in any water body listed in Schedule 1.
 - (ii) A total period of five (5) consecutive days per structure in any water body not otherwise covered by (i).
 - (viii) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May and 30 August.
 - (ix) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.
 - (x) All practicable steps shall be taken to avoid, remedy or mitigate the release of sediment during construction of the structure, and no clearly discernable change in the visual clarity of the water shall occur beyond a distance of 100 metres downstream of the activity site.
 - (xi) Where the culvert is in a water body listed in Schedule 1, the owner of the structure shall notify Environment Bay of Plenty of the location of the culvert at least five (5) working days prior to construction.
- (d) Where the structure is a single span bridge, the bridge shall also comply with the following conditions:
 - (i) No excavations or infilling of the banks of a river, stream, lake or wetland shall be carried out.
 - (ii) The bridge abutments or foundations shall be constructed parallel to the flow.
 - (iii) The bridge shall be constructed to allow the passage of the 1% AEP (1 in 100 year return) event with minimum clearance of 0.6 metres, or 1.2 metres where large trees can be transported by the river or stream.
 - (iv) Approaches and abutments shall be stabilised, and appropriate water controls installed, to protect against erosion.
- (e) No contaminants (including, but not limited to, oil, hydraulic fluids, petrol, diesel, other fuels, paint, solvents or anti-fouling paints), excluding sediment, shall be released to water from the activity.
- (f) The construction, installation and ongoing presence of the culvert shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.

- (g) The activity shall not prevent the passage of migrating fish.
- (h) The activity shall not compromise the structural integrity or use of any other authorised structure or activity in the bed of the stream, river or lake, including flood control works in River Scheme Works (defined in Schedule 5).
- (i) The activity shall not cause a hazard to navigation in navigable rivers and lakes.
- (j) The structure shall not alter the natural course of the river.
- (k) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (l) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (m) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (n) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (o) The structure shall be maintained in a sound condition for the purpose for which it was constructed, and be kept clear of accumulated debris.
- (p) The structure shall be constructed to ensure that the structure can not break free and cause a blockage or erosion.
- (q) Following the completion of construction, all excess construction materials and equipment shall be removed from the bed of the stream, river or lake.

Advisory Note

- 1 Refer to Rule 59 and 60 for culverts and single span bridges outside urban areas.
- 2 Rule 58 takes precedence over Rule 59B where there is a Land Drainage Canal within an urban area or settlement, or within one kilometre upstream of an urban area or settlement.
- 3 In relation to condition (c)(ii), the fill height is measured as the fill above the culvert crest.
- 4 In relation to condition 4, the modification of a wetland a discretionary activity under Rule 85.

Explanation/Intent of Rule

To allow city and district councils, or NZTA to construct, and use culverts and single span bridges within urban areas, or within one kilometre upstream of an urban area. This rule addresses structures in natural and modified streams and river, and does not apply to structures in artificial watercourses. These organisations have been permitted to construct specific structures within what would otherwise be a high risk area due to either the linkage with their functions under the Local Government Act to address potential flooding effects, or Transit Zealand Act 1989 to operate State Highways. Also city and district councils have good knowledge of urban areas where they have traditionally been focused.

Rule 58A

Controlled – Culverts Constructed by City or District Councils or NZTA within urban areas or within 1 kilometre upstream of urban areas where fill height is greater than 1.5 metres and no greater than 2.5 metres, or the crossing has multiple culverts

The use, erection, reconstruction, placement, alteration or extension of a culvert in, on, under or over the bed of a river, stream, or lake where the structure:

- 1 Is constructed and maintained by a city or district council, or its contractors, exercising its functions under the Local Government Act 1974, or by NZTA or its contractors, exercising its functions under the Transit New Zealand Act 1989, and
- 2 Is located within an urban area or settlement, or within one (1) kilometre upstream of any urban area or settlement, and

- 3 Is not located where the adjacent land slope is greater than 35°; and
- 4 Is not located in a wetland;

and either 5 or 6;

- 5 The fill height over the culvert is greater than 1.5 metres and no greater than 2.5 metres.
- 6 There is more than one culvert per crossing.

Is a controlled activity subject to the following conditions:

- (a) The culvert shall be constructed to allow the passage of the 1% AEP (1 in 100 year return) event by heading up to a maximum of 0.5 metres below the road surface, and the passage of the 10% AEP event without heading up.
- (b) The culvert embankment shall be comprised of suitable soils free of wood, humus and other organic matter. The embankment shall be well compacted in uniform layers not exceeding 300 mm loose depth to achieve a compaction of at least 95 percent of maximum dry density.
- (c) The activity shall not prevent the passage of migrating fish.
- (d) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May to 30 August.
- (e) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.

Environment Bay of Plenty reserves its control over the following matters:

- (a) Measures to avoid, remedy or mitigate the adverse effects of the structure on:
 - (i) Erosion or land instability, including erosion protection works.
 - (ii) The passage of fish.
 - (iii) Aquatic ecosystems, including indigenous biodiversity.
 - (iv) Property owned or occupied by another person, including flooding or ponding.
 - (v) Natural water flow and flood flows.
 - (vi) Other structures.
 - (vii) Navigation in navigable rivers and lakes.
 - (viii) Houses, assets and other activities downstream of the culvert, which are at risk of the culvert failure.
- (b) Measures to minimise the duration and extent of bed disturbance.
- (c) Measures to avoid or mitigate vegetation, soil, slash, construction material or other debris being deposited in the surface water body, or placed in a position where it could readily enter or be carried into a water body.
- (d) Maintenance of the culvert.
- (e) Construction standards, including ensuring the structure can not break free and cause a blockage or erosion.
- (f) Number of culverts in the cross-sectional area of the stream.
- (g) Monitoring requirements.

Explanation/Intent of Rule

To provide for culverts where the fill height or number of culverts in the crossing structure needs to be assessed by Environment Bay of Plenty as a controlled activity.

Rule 58B

Restricted Discretionary – Culverts Constructed by City or District Councils or NZTA within urban areas or within 1 kilometre upstream of urban areas where fill height is greater than 2.5 metres

The use, erection, reconstruction, placement, alteration or extension of a culvert in, on, under or over the bed of a river, stream, or lake where the structure:

- 1 Is constructed and maintained by a city or district council, or its contractors, exercising its functions under the Local Government Act 1974, or by NZTA or its contractors, exercising its functions under the Transit New Zealand Act 1989; and

- 2 Is located within an urban area or settlement, or within one (1) kilometre upstream of any urban area or settlement; and
- 3 Is not located where the adjacent land slope is greater than 35°; and
- 4 Is not located in a wetland; and
- 5 The fill height over the culvert is greater than 2.5 metres;

Is a restricted discretionary activity subject to the following conditions:

- (a) The culvert shall be constructed to allow the passage of the 1% AEP (1 in 100 year return) event by heading up to a maximum of 0.5 metres below the road surface, and the passage of the 10% AEP event without heading up.
- (b) The culvert embankment shall be comprised of suitable soils free of wood, humus and other organic matter. The embankment shall be well compacted in uniform layers not exceeding 300 mm loose depth to achieve a compaction of at least 95 percent of maximum dry density.
- (c) The activity shall not prevent the passage of migrating fish.
- (d) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May to 30 August.
- (e) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.
- (f) The resource consent applicant shall supply:
 - (i) A report confirming that the culvert embankment shall be comprised of suitable soils free of wood, humus and other organic matter; and that the embankment shall be well compacted in uniform layers not exceeding 300 mm loose depth to achieve a compaction of at least 95 percent of maximum of maximum dry density.
 - (ii) A geotechnical report affirming that the culvert embankment will be of safe batter slope, and construction to avoid failure.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Measures to avoid, remedy or mitigate the adverse effects of the structure on:
 - (i) Erosion or land instability, including erosion protection works.
 - (ii) The passage of fish.
 - (iii) Aquatic ecosystems, including indigenous biodiversity.
 - (iv) Property owned or occupied by another person, including flooding or ponding.
 - (v) Natural water flow and flood flows.
 - (vi) Other structures.
 - (vii) Navigation in navigable rivers and lakes.
 - (viii) Houses, assets and other activities downstream of the culvert, which are at risk of the culvert failure.
- (b) Measures to minimise the duration and extent of bed disturbance.
- (c) Measures to avoid or mitigate vegetation, soil, slash, construction material or other debris being deposited in the surface water body, or placed in a position where it could readily enter or be carried into a water body.
- (d) Maintenance of the culvert.
- (e) Construction standards, including ensuring the structure can not break free and cause a blockage or erosion.
- (f) Number of culverts in the cross-sectional area of the stream.
- (g) Monitoring requirements.

Explanation/Intent of Rule

To provide for culverts where the fill height in the crossing structure needs to be assessed fully by Environment Bay of Plenty as a restricted discretionary activity.

Rule 59 Permitted – Culverts and Culvert Extensions

The use, erection, reconstruction, placement, alteration or extension of a culvert in, on or under the bed of a river, stream, or lake, and associated bed disturbance, where the culvert:

- 1 Is not located where the adjacent land slope is greater than 35°, and
- 2 Is not located within any Urban Area or Settlement, or within one (1) kilometre upstream of any Urban Area or Settlement, and
- 3 Is not located in a wetland,
- 4 Is not located in a Land Drainage Canal;

Is a permitted activity subject to the following conditions:

- (a) There shall be only one culvert per crossing of the appropriate length.
- (b) The culvert shall be constructed:
 - (i) To allow the flood flow from a 5% AEP (1 in 20 year return) event with no freeboard, and
 - (ii) To allow the flood flow of a 2 year return period flood event with no heading up.
- (c) The minimum culvert diameter shall be 300 mm and the maximum culvert diameter shall be 1200 mm.
- (d) The maximum fill height over the culvert shall be 1.5 metres.
- (e) Culvert inlets (entry point) and outlets (exit point) shall be protected against erosion.
- (f) The culvert invert shall be installed a minimum of 0.1 metres below the level of the bed of a river, stream, or lake.
- (g) No works shall be carried out in the wet part of the bed in the tidal reaches of rivers and streams, between 1 March and 31 May.
- (h) The disturbance of the bed of the water body and release of sediment resulting from the construction of the structure shall not occur for a period greater than:
 - (i) A total period of 48 consecutive hours per structure in any water body listed in Schedule 1.
 - (ii) A total period of five (5) consecutive days per structure in any water body not otherwise covered by (i).
- (i) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May and 30 August.
- (j) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.
- (k) All practicable steps shall be taken to avoid, remedy or mitigate the release of sediment during construction of the structure, and no clearly discernable change in the visual clarity of the water shall occur beyond a distance of 100 metres downstream of the activity site.
- (l) No contaminants (including, but not limited to, oil, hydraulic fluids, petrol, diesel, other fuels, paint, solvents or anti-fouling paints), excluding sediment, shall be released to water from the activity.
- (m) Where the culvert is in a water body listed in Schedule 1, the owner of the structure shall notify Environment Bay of Plenty of the location of the culvert at least five (5) working days prior to construction.
- (n) The construction, installation and ongoing presence of the culvert shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (o) The activity shall not prevent the passage of migrating fish.
- (p) The activity shall not compromise the structural integrity or use of any other authorised structure or activity in the bed or the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).

- (q) The activity shall not cause a hazard to navigation in navigable rivers and lakes.
- (r) The structure shall not alter the natural course of the river.
- (s) All machinery shall be kept out of the bed of the stream, river, or lake where practicable.
- (t) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (u) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (v) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (w) The structure shall be maintained in a sound condition for the purpose for which it was constructed, and be kept clear of accumulated debris.
- (x) The structure shall be constructed to ensure that the structure can not break free and cause a blockage or erosion.
- (y) Following the completion of construction, all excess construction materials and equipment shall be removed from the bed of the stream, river or lake.

Advisory Note

- 1 Advice is available from Environment Bay of Plenty on appropriate options, design and construction of culverts.
- 2 In relation to condition (d), the fill height is measured as the fill above the culvert crest.
- 3 In relation to condition 3, the modification of a wetland is a discretionary activity under Rule 85.

Explanation/Intent of Rule

To allow culverts in low risk areas (high risk areas are identified in conditions 1 to 4 above). Culverts are generally permitted to encourage the community to install crossing structures rather than use the actual bed of a river, stream, or lake. Culvert structures with more than one culvert per crossing require a consent.

Rule 59A

Controlled – Culverts and Culvert Extensions

The use, erection, reconstruction, placement, alteration or extension of a culvert in, on or under the bed of a river, stream, or lake, and associated bed disturbance, where the culvert:

- 1 Is not located where the adjacent land slope is greater than 35°, and
- 2 Is not located within any Urban Area or Settlement, or within one (1) kilometre upstream of any Urban Area or Settlement, and
- 3 Is not located in a wetland, and
- 4 The culvert diameter is no greater than 1800 mm, and
- 5 Is not located in a Land Drainage Canal,

Is a controlled activity subject to the following conditions:

- (a) The activity shall not prevent the passage of migrating fish.
- (b) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May and 30 August.
- (c) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.
- (d) The construction, installation and ongoing presence of the culvert shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (e) The activity shall not compromise the structural integrity or use of any other authorised structure or activity in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).

- (f) The activity shall not cause a hazard to navigation in navigable rivers and lakes.
- (g) The structure shall not alter the natural course of the river.
- (h) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (i) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (j) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (k) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (l) The structure shall be maintained in a sound condition for the purpose for which it was constructed, and be kept clear of accumulated debris.
- (m) The structure shall be constructed to ensure that the structure can not break free and cause a blockage or erosion.
- (n) Following the completion of construction, all excess construction materials and equipment shall be removed from the bed of the stream, river or lake.

Environment Bay of Plenty reserves its control over the following matters:

- (a) Measures to account for prevailing ground slope.
- (b) Catchment size above the culvert.
- (c) Erosion protection works.
- (d) Maintenance of the culvert.
- (e) Fill height above the culvert.
- (f) Velocity of water from the culvert.
- (g) Construction standards.
- (h) Measures to provide for fish passage.
- (i) Location of the culvert.
- (j) Size of the culvert.
- (k) Flood design levels.
- (l) Measures to account for soil type and geology.
- (m) Number of culverts in the cross-sectional area of the stream.
- (n) Monitoring requirements.

Explanation/Intent of Rule

To provide for culverts that are not within high risk areas (specified in 1 to 5), and not in a Land Drainage Canal, but of a size and catchment area that requires the engineering design of the proposed culvert to be checked by Environment Bay of Plenty.

Rule 59B

Permitted – Culverts in Land Drainage Canals

The use, erection, reconstruction, placement, alteration or extension of a culvert in, on or under the bed of a Land Drainage Canal (refer to Definition of Terms), and associated bed disturbance, is a permitted activity subject to the following conditions:

- (a) The culvert shall be designed to a flood flow capacity that does not impede the drainage function of the land drainage scheme. The administrator of the land drainage scheme shall be consulted to determine the appropriate flood flow capacity for the site.
- (b) The maximum fill height over the culvert shall be 1.5 metres.
- (c) Culvert inlets (entry point) and outlets (exit point) shall be protected against erosion.
- (d) No works shall be carried out in the wet part of the bed in the tidal reaches of a Land Drainage Canal between 1 March and 31 May.
- (e) The disturbance of the bed of the water body and release of sediment resulting from the construction of the structure shall not occur for a period greater than:
 - (i) A total period of 48 consecutive hours per structure in any water body listed in Schedule 1.
 - (ii) A total period of five (5) consecutive days per structure in any water body not otherwise covered by (i).

- (f) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.
- (g) All practicable steps shall be taken to avoid, remedy or mitigate the release of sediment during construction of the structure, and no clearly discernable change in the visual clarity of the water shall occur beyond a distance of 100 metres downstream of the activity site.
- (h) No contaminants (including, but not limited to, oil, hydraulic fluids, petrol, diesel, other fuels, paint, solvents or anti-fouling paints), excluding sediment, shall be released to water from the activity.
- (i) The construction, installation and ongoing presence of the culvert shall not cause or induce erosion of the bed or banks or any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (j) The activity shall not prevent the passage of migrating fish.
- (k) The activity shall not compromise the structural integrity or use of any other authorised structure or activity in the in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).
- (l) The structure shall not alter the natural course of the Land Drainage Canal.
- (m) All machinery shall be kept out of the bed of the Land Drainage Canal where practicable.
- (n) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (o) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (p) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (q) The structure shall be maintained in a sound condition for the purpose for which it was constructed, and be kept clear of accumulated debris.
- (r) The structure shall be constructed to ensure that the structure can not break free and cause a blockage of erosion.
- (s) Following the completion of construction, all excess construction materials and equipment shall be removed from the bed of the Land Drainage Canal.

Advisory Note

- 1 Approval from the administrator of the land drainage scheme may also be required under the Environment Bay of Plenty Regional Council Floodway and Drainage Bylaw 2002, which applies to Land Drainage Canals administered by Environment Bay of Plenty. In the Bay of Plenty region, the land drainage scheme administrators are Environment Bay of Plenty or Western Bay of Plenty District Council.
- 2 Rule 58 takes precedence over Rule 59B where there is a Land Drainage Canal within an urban area or settlement, or within one kilometre upstream of an urban area or settlement.

Explanation/Intent of Rule

To allow culverts in Land Drainage Canals. Culverts are generally permitted to encourage the community to install crossing structures rather than use the actual bed of a waterway.

Rule 59C

Controlled – Culverts where fill height is greater than 1.5 metres and no greater than 2.5 metres, or the crossing has multiple culverts

The use, erection, reconstruction, placement, alteration or extension of a culvert in, on under or over the bed of a river, stream, or lake, where the structure:

- 1 Is not located within an Urban Area or Settlement, or within one (1) kilometre upstream of any Urban Area or Settlement; and
- 2 Is not located where the adjacent land slope is greater than 35°; and
- 3 Is not located in a wetland;

and either 4 or 5;

- 4 The fill height over the culvert is greater than 1.5 metres and no greater than 2.5 metres.
- 5 There is more than one culvert per crossing.

Is a controlled activity subject to the following conditions:

- (a) The culvert shall be constructed to allow the passage of the 1% AEP (1 in 100 year return) event by heading up to a maximum of 0.5 metres below the road surface, and the passage of the 10% AEP event without heading up.
- (b) The culvert embankment shall be comprised of suitable soils free of wood, humus and other organic matter. The embankment shall be well compacted in uniform layers not exceeding 300 mm loose depth to achieve a compaction of at least 95 percent of maximum dry density.
- (c) The activity shall not prevent the passage of migrating fish.
- (d) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May to 30 August.
- (e) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.

Environment Bay of Plenty reserves its control over the following matters:

- (a) Measures to avoid, remedy or mitigate the adverse effects of the structure on:
 - (i) Erosion or land instability, including erosion protection works.
 - (ii) The passage of fish.
 - (iii) Aquatic ecosystems, including indigenous biodiversity.
 - (iv) Property owned or occupied by another person, including flooding or ponding.
 - (v) Natural water flow and flood flows.
 - (vi) Other structures.
 - (vii) Navigation in navigable rivers and lakes.
 - (viii) Houses, assets and other activities downstream of the culvert, which are at risk of the culvert failure.
- (b) Measures to minimise the duration and extent of bed disturbance.
- (c) Measures to avoid or mitigate vegetation, soil, slash, construction material or other debris being deposited in the surface water body, or placed in a position where it could readily enter or be carried into a water body.
- (d) Maintenance of the culvert.
- (e) Construction standards, including ensuring the structure can not break free and cause a blockage or erosion.
- (f) Numbers of culverts in the cross-sectional area of the stream.
- (g) Monitoring requirements.

Explanation /intent of Rule

To provide for culverts where the fill height or number of culverts in the crossing structure needs to be assessed by Environment Bay of Plenty.

Rule 59D

Restricted Discretionary– Culverts where fill height is greater than 2.5 metres

The use, erection, reconstruction, placement, alteration or extension of a culvert in, on, under or over the bed of a river, stream, or lake where the structure:

- 1 Is not located within an urban area or settlement, or within one kilometre upstream of any urban area or settlement; and
- 2 Is not located where the adjacent land slope is greater than 35°; and
- 3 Is not located in a wetland; and
- 4 The fill height over the culvert is greater than 2.5 metres;

Is a restricted discretionary activity subject to the following conditions:

- (a) The culvert shall be constructed to allow the passage of the 1% AEP (1 in 100 year return) event by heading up to a maximum of 0.5 metres below the road surface, and the passage of the 10% AEP event without heading up.
- (b) The culvert embankment shall be comprised of suitable soils free of wood, humus and other organic matter. The embankment shall be well compacted in uniform layers not exceeding 300mm loose depth to achieve a compaction of at least 95 percent of maximum dry density.
- (c) The activity shall not prevent the passage of migrating fish.
- (d) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May to 30 August.
- (e) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.
- (f) The resource consent applicant shall supply:
 - (i) A report confirming that the culvert embankment shall be comprised of suitable soils free of wood, humus and other organic matter; and that the embankment shall be well compacted in uniform layers not exceeding 300 mm loose depth to achieve a compaction of at least 95 percent of maximum dry density.
 - (ii) A geotechnical report affirming that the culvert embankment will be of safe batter slope, and constructed to avoid failure.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Measures to avoid, remedy or mitigate the adverse effects of the structure on:
 - (i) Erosion or land instability, including erosion protection works.
 - (ii) The passage of fish.
 - (iii) Aquatic ecosystems, including indigenous biodiversity.
 - (iv) Property owned or occupied by another person, including flooding or ponding.
 - (v) Natural water flow and flood flows.
 - (vi) Other structures.
 - (vii) Navigation in navigable rivers and lakes.
 - (viii) Houses, assets and other activities downstream of the culvert, which are at risk of the culvert failure.
- (b) Measures to minimise the duration and extent of bed disturbance.
- (c) Measures to avoid or mitigate vegetation, soil, slash construction material or other debris being deposited in the surface water body, or placed in a position where it could readily enter or be carried into a water body.
- (d) Maintenance of the culvert.
- (e) Construction standards, including ensuring the structure can not break free and cause a blockage or erosion.
- (f) Number of culverts in the cross-sectional area of the stream.
- (g) Monitoring requirements.

Explanation/Intent of Rule

To provide for culverts where the fill height in the crossing structure needs to be assessed fully by Environment Bay of Plenty.

Rule 60

Permitted – Single Span Bridges, or Single Span Pipe Bridges

The use, erection, reconstruction, placement, alteration or extension of a single span bridge or single span pipe bridge over the bed of a river, stream, or lake, where the structure:

- 1 Is not located where the adjacent land slope is greater than 35°, and
- 2 Is not located within any Urban Area or Settlement, or within one (1) kilometre upstream of any Urban Area or Settlement, and
- 3 Is not located in a wetland, and
- 4 Is a bridge that crosses a waterway with a contributing catchment of no greater than 100 hectares, and
- 5 Is not located in a Land Drainage Canal;

and associated bed disturbance, is a permitted activity subject to the following conditions:

- (a) The structure shall be designed by, or under the guidance of, a chartered professional engineer, except where the length of the bridge is less than four (4) metres as measured between the banks of the surface water body.
- (b) The bridge shall be constructed to allow the flood flow from a 10% AEP (1 in 10 year return) event with a minimum clearance of 0.3 metres.
- (c) No excavations or infilling of the banks of a river, stream, lake or wetland shall be carried out.
- (d) The bridge abutments or foundations shall be constructed parallel to the flow.
- (e) Where the structure conveys a contaminant, there shall be no discharge of contaminants from the structure.
- (f) No works shall be carried out in the wet part of the bed in the tidal reaches of rivers and streams, between 1 March and 31 May.
- (g) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May and 30 August.
- (h) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.
- (i) The construction, installation and ongoing presence of the culvert shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (j) The activity shall not prevent the passage of migrating fish.
- (k) The activity shall not compromise the structural integrity or use of any other authorised structure or activity in the bed of the stream, river, or lake, including flood control works in River Scheme Works Area (defined in Schedule 5).
- (l) The activity shall not cause a hazard to navigation in navigable rivers and lakes.
- (m) The structure shall not alter the natural course of the river.
- (n) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (o) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (p) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (q) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (r) The structure shall be maintained in a sound condition for the purpose for which it was constructed, and be kept clear of accumulated debris.
- (s) The structure shall be constructed to ensure that the structure can not break free and cause a blockage or erosion.
- (t) Approaches and abutments shall be stabilised, and appropriate water controls installed, to protect against erosion.
- (u) Structures over the beds of lakes shall be designed and constructed to account for natural lake water level fluctuations.
- (v) Following the completion of construction, all excess construction materials and equipment shall be removed from the bed of the stream, river or lake.
- (w) No contaminants (including, but not limited to, oil, hydraulic fluids, petrol, diesel, other fuels, paint, solvents or anti-fouling paints), excluding sediment, shall be released to water from the activity.

Advisory Note

- 1 In relation to condition 3, the modification of a wetland is a discretionary activity under Rule 85.

Explanation/Intent of Rule

To allow small scale, single span bridges in low risk areas (high risk areas are identified in conditions (1) to (5)). Single span bridges are permitted to encourage the community to install crossing structures rather than use the bed of a river, stream or lake.

Rule 60A**Controlled – Single Span Bridges, or Single Span Pipe Bridges**

The use, erection, reconstruction, placement, alteration or extension of a single span bridge or single span pipe bridge, over the bed of a river, stream, or lake, where the structure:

- 1 Is not located where the adjacent land slope is greater than 35°, and
- 2 Is not located within any Urban Area or Settlement, or within one (1) kilometre upstream of any Urban Area or Settlement, and
- 3 Is not located in a wetland, and
- 4 The bridge crosses a waterway with a contributing catchment of greater than 100 hectares and not greater than 5,000 hectares, and
- 5 Is not located in a Land Drainage canal;

Is a controlled activity subject to the conditions:

- (a) The construction, installation and ongoing presence of the culvert shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (b) The activity shall not prevent the passage of migrating fish.
- (c) The activity shall not compromise the structural integrity or use of any other authorised structure or activity in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).
- (d) The activity shall not cause a hazard to navigation in navigable rivers and lakes.
- (e) The structure shall not alter the natural course of the river.
- (f) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (g) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (h) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (i) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (j) The structure shall be maintained in a sound condition for the purpose for which it was constructed, and be kept clear of accumulated debris.
- (k) The structure shall be constructed to ensure that the structure can not break free and cause a blockage or erosion.
- (l) Approaches and abutments shall be stabilised, and appropriate water controls installed, to protect against erosion.
- (m) Structures over the beds of lakes shall be designed and constructed to account for natural lake water level fluctuations.
- (n) Following the completion of construction, all excess construction materials and equipment shall be removed from the bed of the stream, river or lake.

Environment Bay of Plenty reserves its control over the following matters:

- (a) Measures to account for prevailing ground slope.
- (b) The timing of any disturbance of the bed of a surface water body in relation to adverse effects on aquatic ecosystems, including indigenous biodiversity.
- (c) Erosion protection works.
- (d) Maintenance of the bridge.
- (e) Soffit height above the watercourse.
- (f) Velocity of water under the bridge.

- (g) Construction standards.
- (h) Location of the bridge.
- (i) Flood design levels.
- (j) Measures to account for soil type and geology.
- (k) Monitoring requirements.

Explanation/Intent of Rule

To provide for single span bridges that are not within high risk areas (specified in 1 to 5), but of a size and catchment area that requires the engineering design of the proposed single span bridge to be assessed by Environment Bay of Plenty.

Rule 60B

Permitted – Single Span Bridges, or Single Span Pipe Bridges in Land Drainage Canals

The use, erection, reconstruction, placement, alteration or extension of a single span bridge or single span pipe bridge, over the bed of a river, stream, or lake, where the structure is located in Land Drainage Canal (refer to Definition of Terms); and associated bed disturbance, is a permitted activity subject to the following conditions:

- (a) The structure shall be designed to a flood flow capacity that does not impede the drainage function of the land drainage scheme. The administrator of the land drainage scheme shall be consulted to determine the appropriate flood flow capacity for the site.
- (b) The structure shall be designed by, or under the guidance of, a chartered professional engineer, except where the length of the bridge is less than four (4) metres as measured between the banks of the surface water body.
- (c) No excavations or infilling of the banks of a river, stream, lake or wetland shall be carried out.
- (d) The bridge abutments or foundations shall be constructed parallel to the flow.
- (e) Where the structure conveys a contaminant, there shall be no discharge of contaminants from the structure.
- (f) No works shall be carried out in the wet part of the bed in the tidal reaches of rivers and streams, between 1 March and 31 May.
- (g) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.
- (h) The construction, installation and ongoing presence of the culvert shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (i) The activity shall not prevent the passage of migrating fish.
- (j) The activity shall not compromise the structural integrity or use of any other authorised structure or activity in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).
- (k) The activity shall not cause a hazard to navigation in navigable rivers and lakes.
- (l) The structure shall not alter the natural course of the river.
- (m) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (n) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (o) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (p) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (q) The structure shall be maintained in a sound condition for the purpose for which it was constructed, and be kept clear of accumulated debris.
- (r) The structure shall be constructed to ensure that the structure can not break free and cause a blockage or erosion.

- (s) Approaches and abutments shall be stabilised and appropriate water controls installed, to protect against erosion.
- (t) Structures over the beds of lakes shall be designed and constructed to account for natural lake water level fluctuations.
- (u) Following the completion of construction, all excess construction materials and equipment shall be removed from the bed of the stream, river or lake.

Advisory Note

- 1 Approval from the administrator of the land drainage scheme may also be required under the Environment Bay of Plenty Regional Council Floodway and Drainage Bylaw 2002, which applies to Land Drainage Canals administered by Environment Bay of Plenty. In the Bay of Plenty region, the land drainage scheme administrators are Environment Bay of Plenty or Western Bay of Plenty District Council.

Explanation/Intent of Rule

To allow single span bridges in Land Drainage Canals. Single span bridges are generally permitted to encourage the community to install crossing structures rather than use the actual bed of a waterway.

Rule 61

Permitted – Service Crossings Attached to Bridges

The use, erection, reconstruction, placement, alteration or extension of a service crossing, including any telecommunication line as defined in section 2(1A) of the Telecommunication Act 1987, over the bed of a river, stream, or lake, where the service crossing is attached to an existing bridge is a permitted activity subject to the following conditions:

- (a) The existing bridge shall comply with Rule 60 or Rule 51.
- (b) Where service crossings are attached to bridges, the service crossing shall be adequately secured to the bridge to a standard that will withstand a 1% AEP flood flow event to ensure the service crossing does not break free.
- (c) Where a service crossing attached to a bridge carries contaminants, the service crossing shall be located on the downstream side of the bridge.
- (d) Where the service crossing conveys a contaminant, there shall be no discharge of contaminants from the service crossing.

Explanation/Intent of Rule

To allow service crossings attached to existing bridges that are not likely to have adverse effects on the environment. Operators of service crossings are to ensure that there are no discharges of contaminants from the structure, which may involve the development of contingency plans to address spills and leaks.

Rule 62

Permitted – Fords

The use, erection, construction, placement, alteration or extension of a ford in, or on the bed of a river, stream, or lake, where the ford:

- 1 Is not located where the adjacent land slope is greater than 35°, and
- 2 Is not located in a wetland, and
- 3 The structure is not located in a stream or river identified in Schedule 1,

and associated bed disturbance, is a permitted activity subject to the following conditions:

- (a) The ford shall be constructed in a location where there are hard and stable beds and banks.
- (b) Any concrete pouring shall be carried out so as to prevent concrete or concrete ingredients washing out into the water body.

- (c) Banks on either side of the ford shall be less than one (1) metre high.
- (d) The ford shall comply with either (i) or (ii):
 - (i) The water body in which the ford is to be constructed shall have a maximum water depth no greater than 0.6 metres, calculated with reference to the mean annual low flow of the water body.
 - (ii) The depth of flow over the ford, after construction, shall have a maximum water depth no greater than 0.3 metres calculated with reference to the mean annual low flow of the water body.
- (e) The structure shall not dam or divert water to cause flooding or ponding on any land or property owned or occupied by another person.
- (f) No works shall be carried out in the wet part of the bed in the tidal reaches of rivers and streams, between 1 March and 31 May.
- (g) The disturbance of the bed of the water body and release of sediment resulting from the construction of the structure shall not occur for a period greater than five (5) consecutive days.
- (h) The construction, installation and ongoing presence of the ford shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (i) The structure shall not prevent the passage of migrating fish.
- (j) The activity shall not compromise the structural integrity or use of any other authorised structure or activity in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).
- (k) The structures shall not alter the natural course of the river.
- (l) During construction of the ford, all machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (m) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (n) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (o) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (p) The structure shall be maintained in a sound condition for the purpose for which it was constructed, and be kept clear of accumulated debris.
- (q) Approaches and abutments shall be stabilised, and appropriate water controls, installed, to protect against erosion.
- (r) Following the completion of construction, all excess construction materials and equipment shall be removed from the bed of the stream, river or lake.

Advisory Note

- 1 In relation to condition 2, the modification of a wetland is a discretionary activity under Rule 85.

Explanation/Intent of Rule

To allow small scale fords in low risk areas (high risk areas are identified in conditions 1 and 3). This rule applies to poured concrete fords, and not multiple, immersed-pipe fords (battery culverts) or drift decks. Battery culverts are addressed by Rules 58 to 59D (inclusive).

Rule 62A

Restricted Discretionary – Fords in Schedule 1 areas

The use, erection, construction, placement, alteration or extension of a ford in, or on the bed of a river, stream, or lake, where the ford:

- 1 Is not located where the adjacent land slope is greater than 35°, and
- 2 Is not located in a wetland, and
- 3 Is located in a stream or river identified in Schedule 1, and associated bed disturbance,

Is a restricted discretionary activity subject to the following conditions:

- (a) The structure shall not dam or divert water to cause flooding or ponding on any land or property owned or occupied by another person.
- (b) No works shall be carried out in the wet part of the bed in the tidal reaches of rivers and streams, between 1 March and 31 May.
- (c) The construction, installation and ongoing presence of the ford shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (d) The activity shall provide for permanent fish passage.
- (e) The structure shall not compromise the structural integrity or use of any other authorised structure or activity in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).
- (f) The structure shall not alter the natural course of the river or stream.

Environment Bay of Plenty restricts discretion to the following matters:

- (a) Aspects of design of the ford that:
 - (i) Provide for permanent fish passage.
 - (ii) Provide for site characteristic, including slope of the bed of the water body, flow velocity, and substrate materials.
 - (iii) Provide for flood flows.
- (b) Measures to avoid, remedy or mitigate the adverse effects on:
 - (i) Aquatic ecosystems including indigenous biodiversity.
 - (ii) Erosion or land instability, including erosion protection works.
 - (iii) Property owned or occupied by another person, including flooding or ponding.
 - (iv) Water quality, including from the release of sediment from the disturbance of the bed of the river or stream, and pouring of concrete.
 - (v) Existing authorised structures in the bed of the river or stream.
- (c) Measures to minimise the disturbance of the bed of the river or stream.
- (d) Measures to avoid, or mitigate vegetation, soil, slash or debris being deposited into the river or stream.
- (e) Maintenance of the ford.
- (f) Monitoring requirements.

Explanation/Intent of Rule

To provide for fords in Schedule 1 areas that otherwise comply with the relevant standard conditions, particularly permanent fish passage. This rule applies to poured concrete fords, and not multiple, immersed-pipe fords (battery culverts) or drift decks. Battery culverts are addressed by Rules 58 to 59D (inclusive).

Rule 63

Permitted – Mai Mai, Whitebait Stands and Game Bird Shooting Structures

The use, erection, reconstruction, placement, alteration or extension of mai mai, whitebait stands and game shooting structures, in, on, under or over the bed of a river, stream, or lake, or wetland, and associated bed disturbance, is a permitted activity subject to the following conditions:

- (a) The structure shall be open piled.
- (b) No clearance of vegetation shall occur as a result of construction of the structure, other than that immediately underneath the structure and is the minimum clearance necessary to maintain single file foot access to the structure.
- (c) The structure shall be located at least 20 metres from any flood gate, culvert, bridge, stopbank or confluence.
- (d) The floor area of the structure shall not exceed 5 square metres.
- (e) No works shall be carried out in the wet part of the bed in the tidal reaches of rivers and streams, between 1 March and 31 May.

- (f) The disturbance of the bed of the water body and release of sediment resulting from the construction of the structure shall not occur for a period greater than:
 - (i) A total period of 48 consecutive hours per structure in any water body listed in Schedule 1.
 - (ii) A total period of five (5) consecutive days per structure in any water body not otherwise covered by (i).
- (g) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May and 30 August.
- (h) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.
- (i) All practicable steps shall be taken to avoid, remedy or mitigate the release of sediment during construction of the structure, and no clearly discernable change in the visual clarity of the water shall occur beyond a distance of 100 metres downstream of the activity site.
- (j) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (k) No contaminants (including, but not limited to, oil, hydraulic fluids, petrol, diesel, other fuels, paint, solvents or anti-fouling paints), excluding sediment, shall be released to water from the activity.
- (l) The activity shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (m) The activity shall not cause a hazard to navigation in navigable rivers and lakes.
- (n) All machinery shall be kept out of the bed of the stream, river, lake or wetland where practicable.
- (o) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (p) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body during the activity.
- (q) The structure shall at all times be maintained in a sound condition for the purpose for which it was constructed, and be kept clear of accumulated debris.
- (r) The structure shall be constructed to ensure that the structure can not break free and cause a blockage or erosion.
- (s) Approaches and abutments shall be stabilised, and appropriate water controls installed, to protect against erosion.
- (t) Structures in, on or over the beds of lakes shall be designed and constructed to account for natural lake water level fluctuations.
- (u) Following the completion of construction, all excess construction materials and equipment shall be removed from the bed of the stream, river, lake or wetland.

Advisory Note

- 1 Mai mai, whitebait stands and game bird shooting structures should be carefully located to avoid damage to stopbanks and other flood control structures.
- 2 Mai mai construction guidelines are available from Fish and Game New Zealand, Land Information New Zealand and Department of Conservation.

Explanation/Intent of Rule

Mai mai, whitebait stands and game bird shooting structures are common, minor structures that are not expected to have significant adverse effects on the environment.

Rule 64

Permitted – Drift Decks

The use, erection, construction, placement, alteration, extension and maintenance of a drift deck in or on the bed of a river or stream where the drift deck:

- 1 Is not located within an urban area or settlement, or within one (1) kilometre upstream of any urban area or settlement, and

- 2 Is not located where the adjacent land slope is greater than 35°; and
- 3 Is not located in a wetland; and
- 4 Is not located at a site with a contributing catchment greater than five square kilometres (5 km²);

and associated bed disturbance, is a permitted activity subject to compliance with the following conditions:

- (a) The structure shall not dam or divert water to cause flooding or ponding on any land or property owned or occupied by another person.
- (b) The construction, installation, and presence of the structure shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (c) No works shall be carried out in the wet part of the bed in the tidal reaches of rivers and streams, between 1 March and 31 May.
- (d) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May to 30 August.
- (e) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.
- (f) The structure shall not prevent the passage of migrating fish.
- (g) The inlets (entry point) and outlets (exit points) of the drift deck shall be protected against erosion with designed protection works and an upstream ramp (where the substrate of the stream or river requires such ramps). The protection works shall avoid changes to the natural flowpath of the river or stream. The upstream ramp shall mitigate the local upstream scour caused by the drift deck's obstruction of the flow, and shall be designed and installed in accordance with Figure 9.

Explanation/Intent of Rule

To provide for the installation and maintenance of drift deck structures in the beds of streams and rivers.

Rule 64A

Restricted Discretionary – Drift Decks

The use, erection, construction, placement, alteration or extension of a drift deck in or on the bed of a river or stream, where the drift deck and associated bed disturbance is not otherwise a permitted activity under Rule 64, is a restricted discretionary activity.

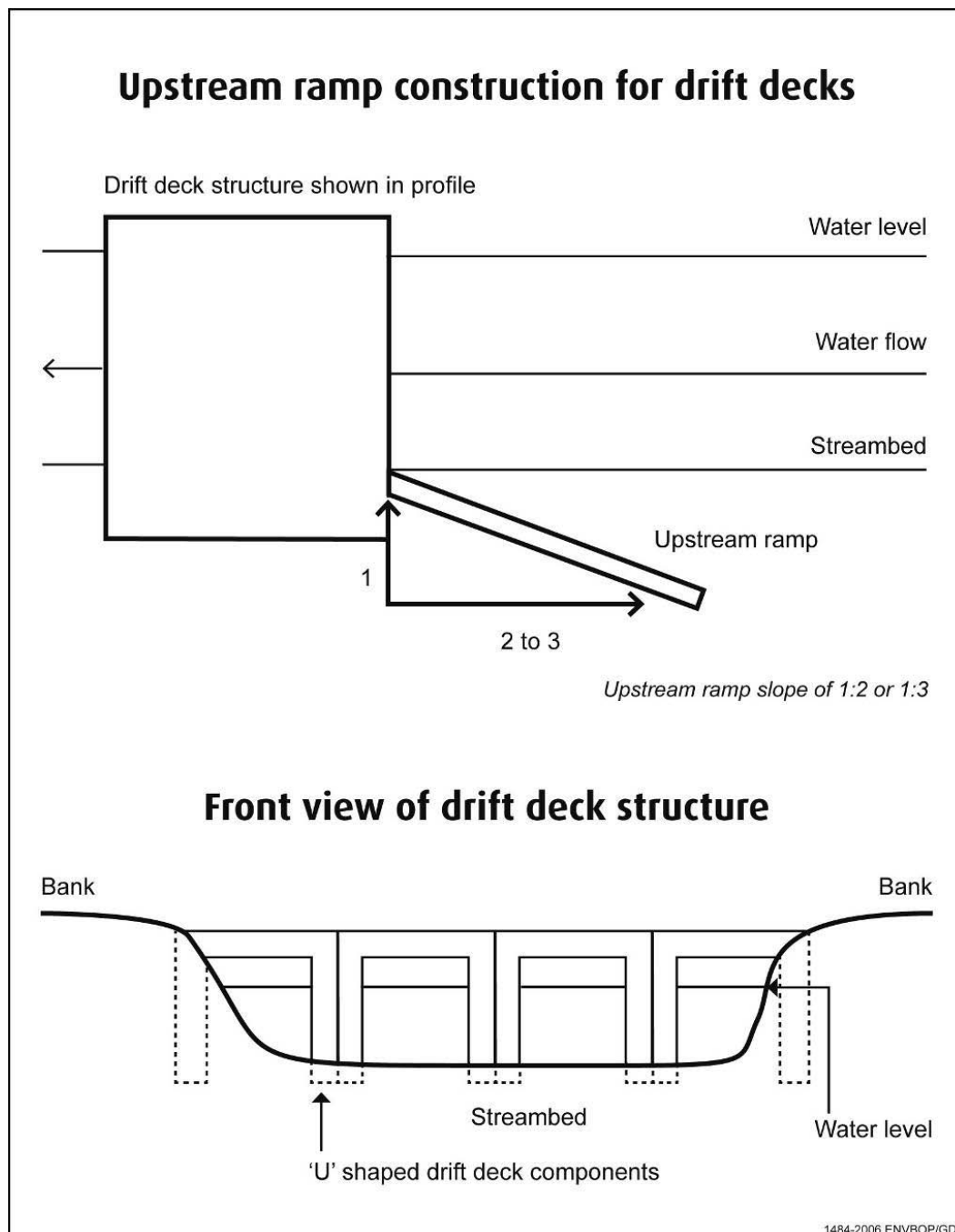
Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Measures to avoid, remedy or mitigate the adverse effects of the structure on:
 - (i) Erosion or land instability, including erosion protection works.
 - (ii) The passage of fish.
 - (iii) Aquatic ecosystems, including indigenous biodiversity.
 - (iv) Property owned or occupied by another person, including flooding or ponding.
 - (v) Natural water flow and flood flows.
 - (vi) Other structures.
 - (vii) Navigation in navigable rivers and lakes.
- (b) Measures to minimise the duration and extent of bed disturbance.
- (c) Measures to avoid or mitigate vegetation, soil, slash, construction material or other debris being deposited in the surface water body, or placed in a position where it could readily enter or be carried into a water body.
- (d) Maintenance of the structure, including removal of accumulated debris.
- (e) Construction standards, including ensuring the structure can not break free and cause a blockage or erosion.
- (f) The design of protection works and upstream ramp.
- (g) The flood design level of the structure.
- (h) Monitoring requirements.

Explanation/Intent of Rule

To provide for drift decks where the structure needs to be assessed by Environment Bay of Plenty, and where the risk of the activity is greater than those activities provided for in Rule 64. Environment Bay of Plenty may decline resource consent applications under Rule 64A where the adverse effects of the structure are not adequately avoided, remedied or mitigated in accordance with the requirements of this regional plan.

Figure 9 Upstream Ramp Design for Drift Decks



Rule 65 Permitted – Removal or Demolition of Structures in, on, under or over the Bed of a River, Stream, or Lake

The demolition or removal of any structure or part of any structure in, on, under or over the bed of a river, stream, or lake, and associated bed disturbance, is a permitted activity subject to the following conditions:

- (a) The activity shall not occur in a river, stream or lake listed in Schedule 1.
- (b) There shall be no use of explosives in the water.
- (c) The structure or part thereof being removed or demolished shall be removed from the bed of a river, stream, lake or wetland, and any material or temporary structures required to undertake the activity shall be removed.
- (d) All piles shall be removed, or taken down to at least one (1) metre below the level of the bed of the stream, river or lake.
- (e) No works shall be carried out in the wet part of the bed in the tidal reaches of rivers and streams, between 1 March and 31 May.
- (f) The disturbance of the bed of the water body shall not occur for a period greater than a total of five (5) consecutive days per structure.
- (g) All practicable steps shall be taken to avoid, remedy or mitigate the release of sediment during removal of the structure, and no clearly discernable change in the visual clarity of the water shall occur beyond a distance of 100 metres downstream of the activity site.
- (h) No contaminants (including, but not limited to, oil, hydraulic fluids, petrol, diesel, other fuels, paint, solvents or anti-fouling paints), excluding sediment, shall be released to water from the activity.
- (i) The activity shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (j) The activity shall not disturb vegetation in a wetland, or change the water flow or quantity, or water quality in a wetland.
- (k) The activity shall not prevent the passage of migrating fish.
- (l) The activity shall not compromise the structural integrity or use of any other authorised structure or activity in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).
- (m) The activity shall not cause a hazard to navigation in navigable rivers and lakes.
- (n) The structure shall not alter the natural course of the river.
- (o) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (p) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (q) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (r) All practicable measures shall be taken to avoid vegetation, soil slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.

Explanation/Intent of Rule

It is necessary to include a rule in this regional plan permitting the removal of structures from the bed of a river, stream or lake to allow the community to remove derelict or unauthorised structures which are causing significant adverse effects on the environment without the need for a resource consent, provided conditions of the rule can be met.

9.10.2 *Disturbances of the Bed*

Rule 66 **Restricted Discretionary – Disturbance of the Bed of a Stream, or River to Maintain Access to Publicly Owned Boat Ramps and Jetties administered by City and District Councils**

The disturbance of the bed of a stream or river for the purposes of maintaining access to publicly owned boat ramps and jetties administered by city and district councils in or on the bed of a surface water body, where:

- 1 The activity is to allow access to and from a boat ramp or jetty, and
- 2 The boat ramp or jetty is authorised by a resource consent, and
- 3 The activity does not disturb vegetation in a wetland, or change the water flow or quantity, or water quality in a wetland, including wetlands on the margins of streams, rivers and lakes;

Is a restricted discretionary activity.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Measures to avoid, remedy or mitigate the adverse effects of the activity on:
 - (i) Soil conservation or land stability (including the stability of the bed of the surface water body).
 - (ii) The passage of fish.
 - (iii) Aquatic ecosystems, including indigenous biodiversity.
 - (iv) Natural water flow and flood flows.
- (b) Measures to ensure dredged material, sediment or weeds removed from the water body is placed in a stable position where it will not enter any surface water body.
- (c) Timing and duration of the works relative to the spawning and migration periods of fish species present in the water body.
- (d) Volume of material removed per structure.
- (e) Monitoring and information requirements.

Explanation/Intent of Rule

To provide for the dredging of streams and rivers associated with the maintenance of authorised, publicly owned structures. This activity may be necessary where fluctuating water levels or sedimentation impede access to and use of jetties and boat ramps. City or district councils may apply for 'global' consents under Rule 66 to cover all such activities in an individual stream or river.

Rule 66A **Permitted – Disturbance of the Bed of a Stream or River, and removal of plants or Sediment by a City or District Council; NZTA; the National Rail Infrastructure Owner/Manager; a Regional Council or its contractor or a person under the direction of a Regional Council or a City or District Council - for Hazard Management purposes**

The:

- 1 Disturbance of the bed of a stream, river;
- 2 Disturbance, removal, damage or destruction of plants in, on or under the bed of a stream, river or lake;

where the activity is:

- 1 The removal of material (including sediment) plants or parts of plants from the bed of a stream, river, that constitute a flooding, blockage or erosion hazard;

is a permitted activity subject to the following conditions:

- (a) The activity shall only be undertaken by:
 - (i) A city or district council or its contractor; or
 - (ii) A regional council or its contractor; or
 - (iii) A person carrying out work under the direction of a city or district council or regional council; or
 - (iv) NZTA or its contractor; or
 - (v) The National Rail Infrastructure owner/manager or its contractor.
- (b) The activity shall not cause or induce erosion of the bed or banks of any surface water body, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (c) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (d) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (e) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (f) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body during the activity.
- (g) Except in relation to (h):
 - (i) No works shall be carried out in tidal reaches of rivers and streams between 1 March and 31 May.
 - (ii) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May and 30 August.
 - (iii) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.
- (h) Works shall only be carried out in the wet part of the bed of the stream or river during the exclusion periods specified in (g) where there is an emergency situation that is causing flooding or erosion.
- (i) Where works are carried out under (h), the person carrying out the works shall inform Environment Bay of Plenty and the Department of Conservation within 24 hours of the beginning of the works.

Advisory Note

- 1 This rule does not allow for damage, destruction or disturbance of geothermal surface features.

Explanation/Intent of Rule

To allow the disturbance of the beds of streams or rivers and removal of plants from such areas where the activity is necessary for hazard management. Nothing in Rule 66A limits activities that are otherwise covered by a resource consent. Private persons may only carry out works under Rule 66A where those works are carried out under the direction of a city or district council or Environment Bay of Plenty.

Rule 66B

Permitted – Disturbance of the Bed of a Stream, River or Lake, and Disturbance, Removal, Damage or Destruction of Plants In, On or Under the Bed of a Stream, River or Lake for specified purposes

The:

- 1 Disturbance of the bed of a stream, river or lake; and
- 2 Disturbance, removal, damage or destruction of plants in, on or under the bed of a stream, river or lake;

where the activity is:

- 1 For customary traditional and cultural purposes or use by tangata whenua, including, but not limited to the taking of paru (mud) and removal of plants for traditional medicinal or cultural purposes, where the activity is undertaken according to tikanga Maori; or
- 2 For scientific research or monitoring purposes (including the collection of plant samples);

Is a permitted activity subject to the following conditions:

- (a) The activity shall not cause or induce erosion of the bed or banks of any surface water body, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (b) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (c) The disturbance, removal, damage or destruction of plants in or on the bed of the water body shall be limited to the extent necessary to carry out the activity.
- (d) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (e) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (f) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body during the activity.
- (g) Where the activity is for scientific research or monitoring purposes, Environment Bay of Plenty shall be notified in writing, of the activity, not less than five (5) working days before the activity. The notification shall include:
 - (i) Persons responsible for the activity.
 - (ii) Location of the activity.
 - (iii) Purpose of the activity.

Advisory Note

- 1 This rule does not allow for damage, destruction or disturbance of geothermal surface features.
- 2 Compliance with the provisions of this regional rule does not remove the need to also comply with district and other regional plan provisions.

Explanation/Intent of Rule

To allow the disturbance of the beds of streams, rivers or lakes, and the disturbance or removal of plants from those areas where the adverse effects are less than minor.

9.10.3

Existing Reclamations

Advisory Note

- 1 Rules 67 and 71 do not apply to natural accretions of gravel, sand and minerals within the beds of rivers, streams or lakes.

Rule 67

Permitted – Existing, Lawfully Authorised Reclamations of the Bed of a River, Stream or Lake

Any lawfully authorised reclamation of the bed of a river, stream or lake that existed on the date on which this regional plan becomes operative is a permitted activity.

Explanation/Intent of Rule

To allow existing reclamations that comply with section 418 of the Act, where the original authorisation mechanism may expire. It would not be efficient to require resource consents for existing, authorised reclamations.

9.10.4***Introduction or Removal of Plants*****Rule 68****Permitted – The Introduction or Planting of any Plant or Part of any Plant into the Bed of a River, Stream or Lake**

The introduction or planting of any plant or part of any plant into the bed of a river, stream or lake, including the associated disturbance of the bed, is a permitted activity subject to the following conditions:

- (a) Only the following plant species shall be introduced into the water body:
 - (i) indigenous plant species; or
 - (ii) Those plant species necessary for River Scheme maintenance works within River Scheme Maintenance Areas defined in Schedule 5.
- (b) Where the activity is in relation (a)(ii), the activity shall only be carried out by a river scheme administrator or its contractor.
- (c) The plant shall not be listed in the Bay of Plenty Pest Management Strategy 2003-2008 or National Plant Pest Accord.
- (d) The activity shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (e) The activity shall not disturb vegetation in a wetland, or change the water flow or quantity, or water quality in a wetland.
- (f) The activity shall not prevent the passage of migrating fish.
- (g) The activity shall not compromise the structural integrity or use of any other authorised structure or activity in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).
- (h) The activity shall not cause a hazard to navigation in navigable rivers and lakes.
- (i) The activity shall not alter the natural course of the river.
- (j) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (k) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (l) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (m) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.

Advisory Note

- 1 This rule does not permit the introduction of plants into a floodway, wetland, or the berm of a River Scheme.
- 2 Environment Bay of Plenty can advise on appropriate indigenous species for plantings in the beds of surface water bodies.

Explanation/Intent of Rule

To encourage the appropriate re-vegetation of the beds and margins of surface streams, rivers and lakes. It is important to use indigenous species, and local sourcing of plants, where possible.

Rule 69 Permitted – Disturbance, Removal, Damage or Destruction of Plants In, On or Under the Bed of a Stream, River or Lake

The disturbance, removal, damage or destruction of plants in, on or under the bed of a stream, river or lake, including disturbance of the bed, is a permitted activity subject to the following conditions:

- (a) Only the following plant species shall be disturbed, removed, damaged or destroyed:
 - (i) Exotic plant species (including plant pests): or
 - (ii) Those necessary for River Scheme or Land Drainage Scheme maintenance works within River Scheme Maintenance Areas or Drainage Schemes defined in Schedule 5.
- (b) Where the activity is in relation to (a)(ii), the activity shall only be carried out by a river scheme administrator, or the land drainage scheme administrator, or its contractor.
- (c) Where the removal of trees from the beds of a stream, river or lake is being undertaken, trees shall only be excavated from the bed of a surface water body if they are causing obstruction and bank erosion, otherwise trees shall be cut and lifted from the bed.
- (d) Where the activity is the cutting of weeds, the cut weed material shall be removed from the stream, river or lake where practicable.
- (e) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October, except where the activity is the use of a weed-cutter boat on a Land Drainage Canal.
- (f) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May to 30 August.
- (g) Where the activity is the use of a weed-cutter boat on a Land Drainage Canal during the exclusion period in condition (e), vegetation on the margins in the Land Drainage Canal shall only be trimmed, and not removed. For the avoidance of doubt, this condition does not restrict the removal of vegetation from the channel of the Land Drainage Canal during the exclusion period in condition (e).
- (h) No works shall be carried out in tidal reaches of rivers and streams between 1 March and 31 May.
- (i) The activity shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (j) The activity shall not disturb vegetation in a wetland, or change the water flow or quantity, or water quality in a wetland.
- (k) The activity shall not prevent the passage of migrating fish.
- (l) The activity shall not compromise the structural integrity or use of any authorised structure or activity in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).
- (m) The activity shall not cause a hazard to navigation in navigable rivers and lakes.
- (n) The activity shall not alter the natural course of the river.
- (o) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (p) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (q) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (r) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.

Advisory Note

- 1 The removal of vegetation from a wetland is addressed in Section 9.12.
- 2 The removal of areas of significant indigenous vegetation may also be controlled by provisions in district plans.

- 3 For any removal of plants from the bed of a section of a river within a River Scheme (as defined in Schedule 5), the approval of Environment Bay of Plenty is also required with regard to their functions under the Soil Conservation and Rivers Control Act 1941.
- 4 Environment Bay of Plenty staff are available to advise on the removal of wilding willows.

Explanation/Intent of Rule

It is intended that the majority of plant removal or disturbance from the beds of surface water bodies will comply with this rule rather than requiring a resource consent. This rule includes the removal of weeds and other vegetation clearance necessary for the maintenance of artificial watercourses created for hydroelectric power generation.

9.10.5 Maintenance of River Schemes and Land Drainage Schemes

Advisory Note

- 1 Other maintenance activities are addressed by the following rules:
 - Use of agrichemicals for spraying weeds in or near surface water – Rule 16.
 - Removal of plants (including weed cutting boats) – Rule 69.
 - Earthworks – Rules 1 to 1C.
 - Vegetation disturbance on land – Rules 2 to 2C.
 - Maintenance of existing flood control structures – Rule 51.
- 2 This regional plan does not regulate the maintenance of artificial watercourses, except where there is a discharge from the artificial watercourse into a stream, river, lake or wetland. Rules 16 and 21 apply where aquatic herbicides or agrichemicals are used.

Rule 70

Permitted – Maintenance of River Schemes

Any disturbance of the bed of a stream, river or lake for the purpose of maintaining a River Scheme to its design standard where:

- 1 The activity is carried out by a river scheme administrator or its contractor exercising its functions under the Soil Conservation and Rivers Control Act 1941, and
- 2 The activity is within an existing River Scheme Maintenance Area as defined in Schedule 5, and
- 3 The activity is not part of new capital works,

Is a permitted activity subject to the following conditions:

- (a) Except in relation to (f), no works shall occur in the wet part of the bed of a stream or river identified in Schedule 1 during the spawning or migration periods of the species identified as present in the water body. Spawning and migration periods are identified in Schedule 2.
- (b) The activity shall comply with the principles of the Environment Bay of Plenty Environmental Code of Practice for River and Drainage Maintenance Activities (2001)⁴⁷.
- (c) The river scheme administrator shall maintain a register of all works carried out, detailing the type of works, location of the works and dates when the works were undertaken.
- (d) Any derelict structures including erosion protection works shall be removed.
- (e) Any works shall be maintained at all times in a sound condition for the purpose for which the works are designed.
- (f) Maintenance works shall only be carried out in the wet part of the bed of the river during the exclusion periods in relation to (a) where there is an emergency.

⁴⁷ Crabbe, B, and Ngapo, N, 2001. Environmental Code of Practice for Rivers and Drainage Maintenance Activities. Environment Bay of Plenty Operations Report 2001/01.

- situation that is impairing the flood control function of the scheme. The river scheme administrator shall inform Environment Bay of Plenty, and the Department of Conservation within 24 hours of the beginning of the works.
- (g) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
 - (h) The activity shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
 - (i) The activity shall not disturb vegetation in a wetland, or change the water flow or quantity, or water quality in a wetland.
 - (j) The activity shall not prevent the passage of migrating fish.
 - (k) The activity shall not compromise the structural integrity or use of any other authorised structure or activity in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).
 - (l) The activity shall not cause a hazard to navigation in navigable rivers and lakes.
 - (m) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
 - (n) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
 - (o) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.

Explanation/Intent of Rule

The coverage of this rule includes channel works and other activities in the bed of a stream, river or lake within a River Scheme Works area as defined in Schedule 5. This rule recognises that ongoing works are necessary to maintain the flood mitigation function of river schemes. Any activities associated with new capital works require a resource consent.

Plan Change 8 (Groundwater Bores and Flooding Conditions)

Condition (m) of Rule 70A was subject to Plan Change 8 (Groundwater Bores and Flooding Conditions). Following the hearing of submissions to this plan change, the original condition wording was retained. As a result, no changes were made to the wording of this rule.

Rule 70A

Permitted – Maintenance of Identified Streams and Rivers (including modified watercourses)

Any disturbance of the bed of a stream or river (including modified watercourses) that is listed below in Table 44 and the activity is necessary for the purposes of maintaining the land drainage function of the stream or river, is a permitted activity subject to the following conditions:

- (a) The activity shall be limited to the excavation of the bed of the stream or river to remove excess sediment, and removal of vegetation from the bed of the stream or river to maintain water flow.
- (b) The activity shall not widen the existing bed of the stream or river.
- (c) All practicable steps shall be taken to avoid deepening the stream or river and disturbing of the banks of the watercourse beyond the extent necessary to carry out the activity.
- (d) Where practicable, a sediment settling area that is slightly deeper than the bed of the stream or river shall be excavated at the downstream end of the work area prior to the activity occurring.
- (e) The activity shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.

- (f) The activity shall not disturb vegetation in a wetland, or change the water flow or quantity, or water quality in a wetland.
- (g) The activity shall not compromise the structural integrity or use of any other authorised structure or activity in the bed of the stream or river, including flood control works in River Scheme Works Areas (defined in Schedule 5).
- (h) The activity shall not alter the existing course of the stream or river.
- (i) All machinery shall be kept out of the bed of the stream or river where practicable.
- (j) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (k) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (l) All dredged material, sediment or plant material, shall be removed from the stream or river and placed in a stable position, and all reasonable steps shall be taken to prevent the dredged material, sediment or plant material from entering the stream or river.
- (m) The activity shall not cause flooding or ponding on any land or property owned or occupied by another person whose land would not naturally carry water during storm or flood events.
- (n) The activity shall not prevent the passage of migrating fish.
- (o) Except in relation to (p):
 - (i) No works shall be carried out in tidal reaches of rivers and streams between 1 March and 31 May.
 - (ii) No works shall be undertaken in the bed of a water body listed in Schedule 1D between 1 May and 30 August.
 - (iii) No works shall be undertaken in the bed of a water body listed in Schedule 1A between 15 August and 15 October.
- (p) Maintenance works shall only be carried out in the wet part of the bed of the stream or river during the exclusion periods specified in (p) above, where either (i) or (ii):
 - (i) There is a silt deposition in the stream or river caused by a storm or runoff from upper catchment areas that is causing flooding.
 - (ii) It is necessary to maintain the original alignment of the stream to avoid or repair erosion.
- (q) Where works are carried out under (p), the landowner shall inform Environment Bay of Plenty and the Department of Conservation 24 hours before the beginning of the works.

Table 44 – Streams and Rivers for Rule 70A

	Stream or River	Main stem or tributary	Extent - GPS Co-ordinates
	Ohiwa Harbour Catchment		
1	Tunanui Stream	Main stem	From Coastal Marine Area upstream to 2865437, 6347491
2	Waiotane Stream	Main stem	From Coastal Marine Area upstream to 2865391, 6345722
3	Waiotane Stream	Unnamed south east tributary	From 2865391, 6345722 upstream to Department of Conservation reserve boundary
4	Waiotane Stream	Unnamed north east tributary	All upstream from 2865442, 6345814
5	Unnamed tributary of Ohiwa Harbour, east of Waiotane Stream	Main stem	All upstream from Coastal Marine Area
6	Wainui Stream	Main stem	From Coastal Marine Area to 2867249, 6344757; and 2867249, 6344757 to 2867054, 6344624
7	Wainui Stream	Unnamed east tributary	All upstream of 2867249, 6344747

	Stream or River	Main stem or tributary	Extent - GPS Co-ordinates
8	Wainui Stream	Unnamed south tributary	From 2867249, 634474 to 2867311, 6344273
9	Wainui Stream	Unnamed western tributary	From 2867171, 6345558 to 2866515, 6345125
10	Wainui Stream	Tributary of Unnamed western tributary	From 2866783, 6345249 to 2866456, 6343913
11	Ouaki Creek	Main stem	From Coastal Marine Area to 2869502, 6345252
12	Unnamed tributary of Ohiwa Harbour, west of Te Awawairoa Stream	Main stem	From Coastal Marine Area to 2872235, 6343504
13	Te Awawairoa Stream	Main stem	From Coastal Marine Area to 2873062, 6342704
14	Kutarere Stream	Main stem	From Coastal Marine Area to SH 2 bridge
15	Unnamed tributary of Ohiwa Harbour, east of Kutarere Stream	Main stem	From Coastal Marine Area 2874518, 6342200
16	Te Kakaha Stream	Main stem	From Coastal Marine Area to 2874968, 6342025
17	Nukuhou River	Unnamed tributary – west	From 2872554, 6340377 to 2872266, 6340571
18	Nukuhou River	Unnamed tributary – east	From 2872554, 6340377 to 2872983, 6340242
19	Nukuhou River	Unnamed tributary – west	From 2872466, 6340112 to Kererutahi Forest Boundary
20	Nukuhou River	Unnamed tributary – east	From 2872590, 6339430 to 2872895, 6339477
21	Nukuhou River	Unnamed tributary – west	From 2872748, 6338290 to Kererutahi Forest Boundary
22	Nukuhou River	Unnamed tributary – west	From 2873066, 6337878 to Kererutahi Forest Boundary
23	Nukuhou River	Unnamed tributary – east	From 2873268, 6338231 to 2873595, 6338879, including eastern tributary starting 2873413, 6338329; and from 2873595, 6338879 to 2873724, 6338705; and all upstream of 2873777, 6339315
24	Nukuhou River	Matahaka River main stem	From 2873769, 6336800 to 2873860, 6336489; and from 2874035, 6335640 to 2874156, 6335412
25	Nukuhou River	Unnamed tributary – east	From 2873170, 6336406 to 2873132, 6335731
26	Nukuhou River	Unnamed tributary – east	From 2872563, 6334737 to 2872783, 6334365
27	Nukuhou River	Arawhatawhata stream – unnamed tributary	All upstream from 2870290, 6331188
28	Nukuhou River	stream – unnamed tributary	All upstream from 2870118, 6330618

Advisory Note

- 1 This rule does not apply to the maintenance of artificial watercourses, which are not regulated by this regional plan. People undertaking maintenance activities in artificial watercourses should consider the implications of Rule 22. It may be necessary to use appropriate measures to prevent the discharge of sediment to streams, rivers and lakes from the maintenance of artificial watercourses in order to comply with Rule 22.
- 2 Rule 70A does not apply to parts of the listed streams and rivers that are in the Coastal Marine Area.

Explanation/Intent of Rule

This rule covers the maintenance of listed streams and rivers (including modified watercourses) for channel capacity and stability purposes. This rule recognises that maintenance activities are necessary for land drainage purposes. Aquatic habitat values can be maintained where maintenance works are managed in accordance with the rule conditions.

Rule 70B**Permitted – Maintenance of Land Drainage Canals**

Any disturbance of the bed of a modified watercourse that is a land drainage canal listed below in Table 45, and the activity:

- 1 Is for the purpose of maintaining the land drainage canal to its design standard as stated in a management plan or asset management plan and are part of land drainage works, and
- 2 Is not part of new capital works,

Is a permitted activity subject to the following conditions:

- (a) The activity shall not cause or induce erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the bank of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (b) The activity shall not disturb vegetation in a wetland, or change the water flow or quantity, or water quality in a wetland.
- (c) The activity shall not prevent the passage of migrating fish.
- (d) The activity shall not compromise the structural integrity or use of any other authorised structure or activity in the bed of the stream, river or lake, including flood control works in River Scheme Works Areas (defined in Schedule 5).
- (e) The activity shall not cause a hazard to navigation in navigable rivers and lakes.
- (f) The activity shall not alter the natural course of the river.
- (g) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (h) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (i) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (j) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body during the activity.
- (k) The land drainage scheme administrator shall, within six (6) months of the date that this regional plan becomes operative, provide Environment Bay of Plenty with a copy of a management plan or asset management plan for the scheme that contains the design standards to which the land drainage canals will be maintained.
- (l) The activity shall not cause or lead to erosion in the Coastal Marine Area.
- (m) The activity shall comply with the principles of the Environment Bay of Plenty Environmental code of Practice for River and Drainage Activities (2001).

- (n) The scheme administrator shall maintain a register of all works carried out, detailing the type of works, location of the works and dates when the works were undertaken.
- (o) All dredged material, sediment or weeds, shall be removed from the water body and placed in a stable position, and all reasonable steps shall be taken to prevent the dredged material, sediment or weed from entering the canal.
- (p) No works shall be carried out in the wet part of the bed of the canal during the exclusion periods specified below in Table 45, except in relation to (q).
- (q) Maintenance works shall only be carried out in the wet part of the bed of the canal during the exclusion periods specified in Table 45 where there is a major silt deposition in the canal caused by a storm or excessive runoff from upper catchment areas that is impairing the drainage function of the scheme. The land drainage scheme administrator shall inform Environment Bay of Plenty and the Department of Conservation within 24 hours of the beginning of the works.

Table 45 – Exclusion Periods for Canal Maintenance Works

	Canal	Exclusion Period
	Rangitaiki Plains	
1	Awaiti Canal	1 June to 31 December inclusive
2	Omeheu Canal	1 February to 31 May inclusive
3	Awakaponga Canal and Drain	1 September to 31 December inclusive
4	Waikamihi Stream	1 August to 31 December inclusive
5	Mangaone Stream	1 February to 14 June <u>and</u> 1 September to 31 December inclusive
6	Western Drain	1 September to 31 December inclusive
7	Ngakauoa Drain/Stream	14 April to 14 June <u>and</u> 1 September to 31 December inclusive
8	Te Rahu Canal	1 September to 31 December inclusive
9	Otarere Drain/Stream	1 September to 31 December inclusive
10	Orini Canal	No exclusion period
11	Reid's Central Canal	1 August to 31 December inclusive
	Kaituna	
12	Kopuroa/Kopuaroa Canal	1 September to 31 December inclusive
13	Ohineangaanga Canal	1 August to 31 December inclusive
14	Raparapahoe Canal	1 September to 30 November inclusive
15	Waiari Stream	1 September to 31 December inclusive
	Little Waihi	
16	Kaikokopu Canal	1 March to 31 May inclusive <u>and</u> 14 August to 14 October inclusive
17	Pongakawa Canal	
18	Pukehina Canal	
19	Wharere Canal	
	Waioeka/Otara	
20	Kukomoa Creek	1 September to 31 December inclusive
21	Te Karaka Creek	No exclusion period
	Waihi Beach	
22	2 Mile Creek	1 February to 31 May inclusive <u>and</u> 1 August to November inclusive
23	3 Mile Creek	
	Waiotahi Drainage District	
24	Waiotahi Main Drain	No exclusion period

	Canal	Exclusion Period
	Tauranga City	
25	Kulim Ave - Bureta Rd/Golf course, Vale St-Bureta Rd	No exclusion period.
26	Rosewood Flow Channel	
27	Sherwood St	
28	Carmichael East	1 February to 15 August inclusive, and 1 September to 31 December inclusive
29	Castlewood Drive	No exclusion period.
30	Kingswood Rd	
31	Humber Cres Amenity Reserve, Road Reserve, Watling St	No exclusion period.
32	Bruce R/SH2, Mangatawa-SH2, Railway, Farmlands	
33	Pattersons	
34	Vale St	
35	Maxwells Road	
36	Solomon St	
37	Russel Pl	
38	Montgomery St	
39	Birch Ave	
40	Seventeenth Ave – Golf Range to Clark St; Historic Village/17 th Ave, Rear Historic to Kopurereua	
41	Brook St	
42	Maleme St – East to Oropi Rd and West	
43	Harrisfield Dr	
44	Owen Park	
45	Tara Rd North and South	
46	Harrisons Cut	
47	Beachwaters	
48	Southern Outlet/Te Maunga Farmland and Golf Course	
49	Christie	
50	Airport	
51	Maru St / AgriBalance	
52	Te Maire St	
53	Triton Ave	
54	Pacific Cove periphery; Pacific Cove to Domain Road	
55	Taiaho Pl	
56	Kaitemako Stream between the Welcome Bay Road bridge and Lochinvar Place	1 February to 31 May inclusive <u>and</u> 1 August to 31 December inclusive
57	Wairakei Stream	1 February to 31 May inclusive <u>and</u> 1 August to 31 December inclusive

Advisory Note

- 1 This rule does not apply to the maintenance of drains, which are not covered by this regional plan. People undertaking drain maintenance activities should consider the implications of Rule 22 – discharges from farm drains. It may be necessary to use appropriate measures to prevent the discharge of sediment to streams, rivers and lakes from drain maintenance activities in order to comply with Rule 22.

Explanation/Intent of Rule

In relation to condition (k), many if not all of the canals listed in Table 45 will already have management plans or asset management plans. Six months is a realistic period to prepare a management plan or asset management plan, for those areas where such a plan is not already in place. The coverage of this rule includes the cleaning and dredging canals, and the grading of slopes of canals. This rule recognises that canal maintenance activities are necessary to effectively operate existing land drainage schemes, and retain or improve water quality. Aquatic habitat values can be maintained where maintenance works are managed appropriately.

9.10.6 Discretionary Activities in the Beds of Streams, Rivers and Lakes**Rule 71 Discretionary – Activity in the Beds of Streams, Rivers and Lakes**

Unless provided for by another rule in this regional plan, the:

- 1 Use, erection, reconstruction, placement, alteration, extension, removal, or demolition of any structure or part of any structure in, on, under, or over the bed of a stream, river or lake,
- 2 Excavation, drilling, tunnelling or other disturbances to the bed of a stream, river or lake,
- 3 Introduction of planting of any plant or any part of any plant in, on, or under the bed of a stream, river or lake,
- 4 Disturbance, removal, damage or destruction of any plant or any part of any plant in, on, or under the bed of a stream, river or lake,
- 5 Deposition of any substance in, on, or under the bed of a stream, river or lake,
- 6 Reclamation or drainage of the bed of a stream, river or lake,

Is a discretionary activity.

Explanation/Intent of Rule

To allow Environment Bay of Plenty to assess the adverse environmental effects of activities in the bed of a stream, river or lake on a case by case basis, where the activity is likely to cause more than minor effects. In relation to deposition of substances, this rule includes, but is not limited to, gravel storage, and the deposition of debris and tree trimmings. This rule also applies to existing reclamations that are not otherwise authorised. The consent duration for reclamations of the bed of a river, stream or lake is unlimited under section 123 of the Act.

Assessment Criteria

When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions as appropriate to the type of activity:

Objective 4, 5, 6, 8, 55, 56, 58, 59, 61

Policy 5, 11, 14, 15, 17, 18, 19, 20, 21, 98, 99, 100, 101, 104, 106, 107, 108, 110

Method 13, 17, 18, 20, 21, 56, 60, 205, 206, 209, 224, Schedule 1, 2, 3

9.11 Geothermal Water, Heat or Energy

Advisory Note

- 1 The rules in section 9.11 do not apply to Geothermal Management Group 2 – Rotorua field, which is covered by provisions in the Operative Rotorua Geothermal Regional Plan⁴⁸.

9.11.1 Take and Use

Rule 72 Permitted – Take and Use of Geothermal Water, Heat or Energy in Accordance with Tikanga Maori

The take and use of geothermal water, heat or energy, where:

- 1 The geothermal water, heat or energy is taken or used in accordance with tikanga Maori for the communal benefit of tangata whenua of the area, and
- 2 The activity does not have an adverse effect on the environment,

Is a permitted activity.

Explanation/Intent of Rule

To allow the take and use of geothermal resources in accordance with tikanga Maori, which is provided for by section 14(3)(c) of the Act.

Rule 73 Discretionary – Take and Use of Geothermal Water, Heat or Energy

The take and use of geothermal water, heat or energy, that:

- (a) Is not prohibited by Rule 74 in this regional plan, or
- (b) Is not provided for under section 14(3)(c) of the Act, or
- (c) Is not otherwise regulated by the Rotorua Geothermal Regional Plan, or
- (d) Is not otherwise provided for by Rule 75A,

Is a discretionary activity.

Advisory Note

- 1 This rule includes the extraction of heat from a down hole heat abstraction system.
- 2 The take and use of geothermal water, heat or energy in Management Group 2 areas is covered by the Rotorua Geothermal Regional Plan (refer to Map 2).

⁴⁸ Environment Bay of Plenty, 1999. Operative Rotorua Geothermal Regional Plan.

Explanation/Intent of Rule

To allow Environment Bay of Plenty to assess the adverse environmental effects of the take and use of geothermal resources on a case by case basis, where the activity is likely to cause more than minor effects. There is insufficient information on geothermal resources to use less restrictive approaches. Geothermal Management Group 4 areas are included in this rule as falling aquifer levels due to over-abstraction have been evident in the past, which indicates that the effects of the take and use of warm water must be restricted to avoid adverse effects on the resource.

Assessment Criteria

When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions:

Objective 4, 5, 6, 8, 65, 68, 72

Policy 5, 11, 14, 15, 17, 18, 19, 20, 21, 119, 121, 123

Method 13, 17, 18, 20, 21, 56, 60, 241, 246, 247, 248, 249

Rule 74**Prohibited – New or Increased Take and Use of Geothermal Water, Heat or Energy in Geothermal Management Group 1 Areas**

Any new or increased take and use of geothermal water, heat or energy in Geothermal Management Group 1 area that:

- 1 Does not comply with section 14(3)(c) of the Act, or
- 2 Is not for monitoring or scientific research purposes and provided for in Rule 75A,

Is a prohibited activity.

Explanation/Intent of Rule

To prohibit new or increased takes which are not provided or in section 14(3)(c) of the Act (i.e. cultural uses of tangata whenua), or are not for monitoring and scientific purpose. Rule 74 is necessary to preserve the outstanding geothermal surface features and other values of Geothermal Management Group 1 areas. The installation and use of geothermal bores for monitoring or scientific research purposes in Geothermal Management Group 1 areas is covered by Rule 75A.

9.11.2**Geothermal Bores****Rule 75****Restricted Discretionary – Installation of Geothermal Bores in Geothermal Management Group 5, and Take and Use of Geothermal Water, Heat or Energy for Bore Testing**

The:

- 1 Drilling, construction and installation of any new bore or replacement bore for the purposes of obtaining geothermal water, heat or energy and taking of geothermal water for bore testing, or
- 2 Drilling, construction or installation of any reinjection bore,

including the take and use of water (including geothermal water), heat or energy for bore testing, and discharge of drilling fluids, where the activity is in a Geothermal Management Group 5 area, is a restricted discretionary activity.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Location of the bore.
- (b) Construction and development of the bore.
- (c) Bore log information.
- (d) Compliance with the National Drilling Standards 2001⁴⁹.
- (e) Effects on existing bores.
- (f) Pump and bore testing information.
- (g) Administration charges under section 36 of the Act.
- (h) Any financial contribution required under section 10 of this regional plan.

Advisory Note

- 1 The installation of geothermal bores must also comply with Occupational Safety and Health regulations.

Explanation/Intent of Rule

To restrict the installation of geothermal bores in Geothermal Management Group 5 areas, while restricting Environment Bay of Plenty's discretion only to those matters that are of concern in Geothermal Management Group 5 areas. It is an approach that recognises that installation of bores in warm water areas (<70 degrees Celsius) has a lower risk of causing adverse effects on the environment and affected parties than in Geothermal Management Group 1, 2, 3 and 4 areas (>70 degrees Celsius).

Rule 75A

Restricted Discretionary – Monitoring Bores in Geothermal Management Group 1 Areas

The:

- 1 Drilling, construction and installation of any new bore or replacement bore for the purposes of monitoring or scientific research purposes; and
- 2 Take and use of geothermal water, heat or energy for bore testing, and monitoring, or scientific research purposes; and
- 3 Discharge of drilling fluids; and
- 4 Discharge of geothermal fluid,

where the activity is in a Geothermal Management Group 1 area, and the purpose of the bore and take of geothermal resources is for monitoring or scientific research purposes is a restricted discretionary activity.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Location of the bore.
- (b) Construction and development of the bore.
- (c) Bore log information.
- (d) Compliance with the National Drilling Standards 2001⁵⁰.
- (e) Effects on existing bores.
- (f) Pump and bore testing information.
- (g) Measures to protect outstanding natural features, landscapes, significant indigenous vegetation and significant habitats of indigenous fauna.
- (h) The volume of geothermal resource abstracted.
- (i) Measures to protect geothermal taonga.
- (j) Measures to avoid, remedy or mitigate adverse effects from the discharge of geothermal fluid.
- (k) The rate of take of geothermal resources.
- (l) Duration of monitoring or scientific investigation.
- (m) Administration charges under section 36 of the Act.

⁴⁹ NZS 4411:2001 Environmental Standard for Drilling of Soil and Rock. Standards New Zealand, Wellington

⁵⁰ NZS 4411:2001 Environmental Standard for Drilling of Soil and Rock. Standards New Zealand, Wellington.

Explanation/Intent of Rule

To provide for the installation of geothermal bores (and associated activities) for environmental monitoring or scientific research purposes in Geothermal Management Group 1 areas. Rule 75A links to Rule 74.

Rule 75B**Restricted Discretionary – Monitoring Bores in Geothermal Management Group 3 and 4 Areas**

The:

- 1 Drilling, construction and installation of any new bore or replacement bore for monitoring purposes;
and
- 2 Take and use of geothermal water, heat or energy for monitoring purposes; and
- 3 Discharge of drilling fluids; and
- 4 Discharge of geothermal fluid,

Where the activity is in a Geothermal Management Group 3 or 4 area, and the purpose of the bore and take of geothermal resources is for monitoring purposes is a restricted discretionary activity.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Location of the bore.
- (b) Construction and development of the bore.
- (c) Bore log information.
- (d) Compliance with the New Zealand Standard: Code of Practice for Deep Geothermal Wells (NZS 2403:1991), or Health and Safety Guidelines for Shallow Geothermal Wells (Ministry of Commerce, 1996) whichever is applicable.
- (e) Effects on existing bores.
- (f) Pump and bore testing information.
- (g) Measures to protect outstanding natural features, landscapes, significant indigenous vegetation significant habitats of indigenous faunas, and geothermal surface features.
- (h) The volume of geothermal resource abstracted.
- (i) Measures to protect geothermal taonga.
- (j) Measures to avoid, remedy or mitigate adverse effects from the discharge of geothermal fluid.
- (k) The rate of take of geothermal resources.

Explanation/Intent of Rule

To provide for the installation of geothermal bores (and associated activities) for environmental monitoring purposes in Geothermal Management Group 3 and 4 areas.

Rule 75C**Discretionary – The Installation of Geothermal Bores, Excluding Monitoring Bores, in Geothermal Management Group 3 or 4, and Take and Use of Geothermal Water, Heat or Energy for Bore testing.**

The:

- 1 Drilling, construction and installation of any new bore or replacement bore for the purposes of obtaining geothermal water, heat or energy, or
- 2 Drilling, construction or installation of any reinjection bore,

including the take and use of water, heat or energy for bore testing purposes, and the discharge of drilling fluids to the environment, where the activity is in a Geothermal Management Group 3 or 4 area, and the activity is not for monitoring purposes, is a discretionary activity.

Advisory Note

- 1 The installation of geothermal bores must also comply with Occupational Safety and Health regulations.
- 2 The installation and operation of monitoring bores in a Geothermal Management Group 3 or 4 area is addressed by Rule 75B.

Explanation/Intent of Rule

To restrict the installation of geothermal bores, excluding monitoring bores, in hot water areas (>70 degrees Celsius) due to the high risk that the activity may have adverse effects on the environment. This allows Environment Bay of Plenty to assess the adverse environmental effects of the activity on a case by case basis.

Assessment Criteria

When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions:

Objective	4, 5, 6, 8, 70
Policy	5, 11, 14, 15, 17, 18, 19, 20, 21, 129, 130
Method	13, 17, 18, 20, 21, 56, 60, 249

9.11.3 *Damming and Diversion of Geothermal Water*

Rule 76 Discretionary – Damming or Diversion of Geothermal Water and Associated Structures

The:

- 1 Damming or diversion of geothermal water (including interference with the natural outflow from a geothermal surface feature), and
- 2 Associated structures,

Is a discretionary activity.

Explanation/Intent of Rule

To allow Environment Bay of Plenty to assess the adverse environmental effects of the damming or diversion of geothermal resources on a case by case basis, where the activity is likely to cause more than minor effects. There is insufficient information to predict the effects of this activity and use less restrictive approaches. This rule includes the diversion of geothermal water underground via drainage.

Assessment Criteria

When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions:

Objective	4, 5, 6, 8, 65, 68
Policy	5, 11, 14, 15, 17, 18, 19, 20, 21, 119, 127
Method	13, 17, 18, 20, 21, 56, 60

9.11.4 *Discharge of Geothermal Water*

Rule 77 Restricted Discretionary – Discharge of Geothermal Water by Reinjection

The discharge of geothermal water onto or into land in circumstances where it may enter water (including land soakage and reinjection) is a restricted discretionary activity.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) The location and depth of the discharge.
- (b) Measures to protect outstanding natural features, landscapes, significant indigenous vegetation and significant habitats of indigenous fauna, geothermal surface features.
- (c) Measures to protect geothermal taonga.
- (d) Measures to avoid, remedy or mitigate adverse effects from the discharge of geothermal fluid.
- (e) The rate and volume of geothermal discharge.
- (f) Measures to avoid, remedy or mitigate adverse effects on other lawfully established users of the field.
- (g) Measures to avoid, remedy or mitigate adverse effects on fresh water bodies.

Explanation/Intent of Rule

To provide for the reinjection of geothermal water, which is the preferred option in Policy 105(a) of this regional plan.

Rule 77A

Discretionary - Discharge of Geothermal Water

The discharge of geothermal water:

- 1 To water, or
- 2 Onto or into land (including land soakage),

Is a discretionary activity.

Advisory Note

- 1 The discharge of geothermal gases and steam to air is addressed in the Operative Bay of Plenty Regional Air Plan⁵¹.
- 2 The discharge of gas into land is not controlled by this Regional Plan.

Explanation/Intent of Rule

To allow Environment Bay of Plenty to assess the adverse environmental effects of the discharge of geothermal resources on a case by case basis, where the activity is likely to cause more than minor effects, and there is potential for significant adverse effects on the surrounding environment. There is insufficient information to predict the effects of this activity and use less restrictive approaches.

Assessment Criteria

When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions:

<i>Objective</i>	4, 5, 6, 8, 10, 11 12, 13, 14, 18, 69
<i>Policy</i>	5, 11, 14, 15, 17, 18, 19, 20, 21, 119, 124
<i>Method</i>	13, 17, 18, 20, 21, 56, 60

⁵¹ Environment Bay of Plenty, 2003. Operative Bay of Plenty Regional Air Plan.

9.12 Wetlands

Advisory Note

- 1 The creation of wetlands is provided for by Rule 1 (earthworks), Rule 2 (vegetation disturbance on land), Rule 46 (damming of surface runoff), Rule 47 (damming of water in the bed of a river or stream), and Rule 68 (introduction of plants into the bed of a river, stream or lake). The planting of vegetation on land, including land surrounding a wetland is not controlled by this regional plan.
- 2 Rules in section 9.12 of the regional plan do not supersede resource consents for activities in wetlands where the consent has already been obtained.
- 3 Rules in section 9.12 of the regional plan apply to geothermal wetlands, including geothermal wetlands in the Rotorua field.
- 4 Refer to the definition of 'wetland' in the Definition of Terms to clarify the application of rules in section 9.12 of the regional plan. For the avoidance of doubt, the term 'wetland' applies to water bodies, and intermittently wet areas. The rules in Section 9.12 do not apply to dry land that does not support a natural ecosystem of plants and animals that are adapted to wet conditions, and occurs within an area commonly referred to in its entirety as a wetland.

Rule 78

Permitted – Introduction of Indigenous Plants into a Wetland

The introduction of indigenous plant species into a wetland for the purposes of wetland enhancement is a permitted activity subject to the following conditions;

- (a) Only indigenous plant species that naturally occur (or would have likely to have naturally occurred in the past) at that locality shall be introduced into the wetland.
- (b) The disturbance of the wetland, including damage to indigenous vegetation, shall be no more than minor.

Advisory Note

- 1 Advice on appropriate indigenous plant species suitable for wetland enhancement is available from Environment Bay of Plenty.
- 2 Natural re-vegetation by local wetland species is the preferred approach to enhance wetlands.
- 3 The planting of the margin of the wetland is not controlled by this regional plan. Contact Environment Bay of Plenty staff for assistance to determine the boundary between the margin and the wetland. Environment Bay of Plenty encourages the use of indigenous species on wetland margin, especially if the margin is already vegetated by such species.
- 4 Environment Bay of Plenty can provide information on the indigenous plant species that naturally occur in different localities in the Bay of Plenty.

Explanation/Intent of Rule

To allow minor works necessary for the enhancement of a wetland. The planting of wetlands is a major part of wetland enhancement. Natural re-vegetation of wetlands after pest plant removal is also an appropriate means of enhancing a wetland.

Plan Change 8 (Groundwater Bores and Flooding Conditions)

Conditions 3(c) and 3(d)(v) of Rule 79 were subject to Plan Change 8 (Groundwater Bores and Flooding Conditions). Following the hearing of submissions to this plan change, the original condition wording was retained. As a result, no changes were made to the wording of this rule.

Rule 79**Permitted – Wetland Maintenance and Enhancement Under a Registered Management Document**

Any modification of a wetland for the purposes of wetland maintenance or enhancement where:

- 1 The activity is undertaken in accordance with:
 - (a) An Environment Bay of Plenty Environmental Programme that specifically includes the wetland works, or
 - (b) A Wetland Management Agreement with Environment Bay of Plenty, or
 - (c) A reserves management plan prepared by a district or city council, the Department of Conservation, Environment Bay of Plenty, or Fish and Game NZ; or a Conservation Management Strategy prepared by the Department of Conservation.

And

- 2 The activity is consistent with Policy 135; and
- 3 The activity is restricted to the activities in (a) to (i) inclusive:
 - (a) Where the activity is the removal of exotic plant species and rubbish using machinery, and the activity is not otherwise permitted by Rule 83, the activity shall comply with (i) and (ii):
 - (i) The machinery shall be kept out of the bed of the wetland where practicable; and
 - (ii) The disturbance of the wetland shall be limited to the extent necessary to carry out the activity.
 - (b) Where the activity is the construction and use of structures, the structures shall be for the purpose of improving amenity values, or providing access to a wetland. This includes, but is not limited to, boardwalks within a wetland. Note: Mai mai are addressed by Rule 63.
 - (c) Where the activity is the diversion of water within a wetland, the activity shall not cause flooding or ponding on any land or property owned or occupied by another person.
 - (d) Where the activity is the damming of water within a wetland, the activity shall comply with (i) to (xiii) inclusive:
 - (i) The wetland is not located in a stream or river.
 - (ii) The dam shall not be located within an Urban Area or Settlement or within one (1) kilometre upstream of an Urban Area or Settlement.
 - (iii) The dam shall not impound more than 10,000 m³ of water and the lowest point of the dam crest does not exceed 1.5 metres vertical height relative to the land where the dam is sited as measured from the centre line of the dam structure.
 - (iv) The dam shall be designed, constructed and maintained to ensure that its structural integrity is not compromised, and incorporates a spillway with a 10% AEP (1 in 10 return) event flood design standard, and erosion protection devices, to safely return surplus water to land or water where the dam is sited.
 - (v) The activity does not cause flooding or ponding on any land or property owned or occupied by another person.
 - (vi) The dam shall not cause or induce erosion of the bed of banks of any surface water body, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
 - (vii) All machinery shall be kept out of the bed of the wetland where practicable.
 - (viii) The disturbance of the wetland shall be limited to the extent necessary to carry out the activity.
 - (ix) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.

- (x) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body during the activity.
- (xi) The dam shall at all times be maintained in a sound condition.
- (xii) Approaches and abutments shall be stabilised and appropriate water controls installed, to protect against erosion.
- (xiii) Following the completion of construction, all excess construction materials and equipment shall be removed from the bed of the stream, river or lake.
- (e) Where the activity is the maintenance of water levels within a wetland, the activity shall not cause flooding or ponding on any land property owned or occupied by another person.
- (f) Where the activity is the removal or trimming of low-growing indigenous wetland vegetation (such as flax, raupo and sedges), the activity shall be for the maintenance of existing, or previously agreed, open water areas, as specified in a management document under 1(a), (b) or (c). This does not apply to the creation of new open water areas.
- (g) Where the activity is the discharge of aquatic herbicide for the purpose of removing low-growing indigenous wetland vegetation (such as flax, raupo and sedges), the activity shall be for the maintenance of existing, or previously agreed, open water areas, as specified in a management document under 1(a), (b) or (c), where the activity complies with Rule 16(b) to (h) inclusive. This does not apply to the creation of new open water areas.
- (h) Where the activity is the removal of silt necessary for the maintenance or enhancement of a wetland, the activity shall comply with (i) and (ii):
 - (i) All machinery shall be kept out of the bed of the wetland where practicable.
 - (ii) The disturbance of the wetland shall be limited to the extent necessary to carry out the activity.
- (i) Where the activity is the planting of exotic plant species in a wetland the activity shall comply with (i) to (vi) inclusive:
 - (i) The plant species is non-invasive, and not listed in the Bay of Plenty Pest Management Strategy 2003-2008; and
 - (ii) The plant species will not damage the existing biodiversity values of the wetland; and
 - (iii) The planted exotic species will not form the dominant vegetation type in the wetland; and
 - (iv) The wetland is not in the bed of a river, stream or lake except where the activity is otherwise permitted by Rule 68; and
 - (v) The wetland is not a publicly owned reserve area; and
 - (vi) The wetland has not been identified for indigenous biodiversity enhancement with the landowner.

Is a permitted activity.

Advisory Note

- 1 Wetland Management Agreements are completed by landowners in partnership with an Environment Bay of Plenty Land Management officer. Templates for Wetland Management Agreements are available from Environment Bay of Plenty, or on Council's website (www.envbop.govt.nz). Refer to section 8.1.5 Para 4 for more information on Wetland Management Agreements.
- 2 In relation to (i), Environment Bay of Plenty encourages the use of suitable indigenous wetland plant species for wetland enhancement works (refer to Method 256). Wetland enhancement plantings should avoid the use of exotic plant species that will shade out existing indigenous plant species, or dry the wetland.

Explanation/Intent of Rule

To allow minor works necessary for the enhancement of a wetland without the need for a resource consent. While retaining some overview of the process to ensure the enhancement works are appropriate to the type and values of the wetland. This includes works to protect, restore, maintain, enhance or improve the existing indigenous ecosystem values of a wetland. Refer to Method 48 for a description of Environmental Programmes, and Method 261 for a description of Wetland Management Agreements. Landowners are encouraged to contact Environment Bay of Plenty for advice and assistance with wetland enhancement works.

Rule 80**Permitted – Sustainable Use of Wetlands**

The modification of a wetland for the purposes of sustainable use of the wetland, where the use is:

- 1 Harvesting or sustainable use of wetland resources that is undertaken in accordance with;
 - (a) An Environment Bay of Plenty Environmental Programme that specifically includes the sustainable use of the wetland, or
 - (b) A Wetland Management Agreement, or
 - (c) A reserves management plan prepared by a district or city council, the Department of Conservation, or Fish and Game NZ.
- Or
- 2 Maori customary use, including, but not limited to raranga, rongoa, and mahinga kai, where the activity is undertaken according to tikanga Maori;

Is a permitted activity.

Explanation/Intent of Rule

To allow the sustainable use of wetlands, including for Maori customary uses. This is consistent with Policy 142 and the Ramsar Convention on wetlands. This rule does not allow the use of privately owned wetlands without the permission of the owner of the wetland.

Rule 81**Permitted - Maintenance or Enhancement of Certain Artificial Water Bodies**

The maintenance or enhancement of:

- 1 An artificial water body that is not in the bed of a lake, river, or stream; and is not a degraded natural wetland that has been modified; or
- 2 A 'wetland' that is otherwise excluded from the definition of wetland in this regional plan (refer to Definition of Terms);

Is a permitted activity, except where the activity is otherwise subject to:

- (a) Rule 16 (permitted – discharge of aquatic herbicide over water for weed control);
- (b) Rule 21 (permitted – application of agrichemicals to land); or
- (c) Rule 46 (permitted – damming of surface runoff water).

Explanation/Intent of Rule

To clarify the intent of this regional plan, which is to promote maintenance or enhancement activities in water bodies that are not considered 'wetland' under this regional plan. There are three other rules in the regional plan that are relevant to specific maintenance and enhancement activities. Compliance with Rules 16, 21 or 46 is required where relevant.

Rule 82**Permitted – Maintenance of Wetlands in Water bodies created for Hydroelectric Generation, and Maintenance of Network Utilities and Structures associated with hydroelectric power schemes**

The removal of weeds and other vegetation clearance within a wetland that is necessary for:

- 1 The maintenance of network utilities and structures associated with a hydroelectric power scheme: or
- 2 The maintenance of wetlands in water bodies created for hydroelectric generation;

Is a permitted activity subject to the following conditions:

- (a) The activity shall not cause or induce erosion of the bed or banks or any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (b) The activity shall not prevent in the passage of migrating fish.
- (c) All machinery shall be kept out of the bed of the stream, river or lake where practicable.
- (d) The disturbance of the bed shall be limited to the extent necessary to carry out the activity.
- (e) No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- (f) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- (g) Where the removal of trees from the wetland is being undertaken, trees shall only be excavated from the wetland if they are causing obstruction or bank erosion, otherwise trees shall be cut and lifted from the wetland.
- (h) Where the activity is the cutting of weeds, the cut weed material shall be removed from the wetland.
- (i) The removal or trimming of vegetation in a wetland for the maintenance of network utilities and structures associated with a hydroelectric power scheme shall only be undertaken where vegetation is posing a threat to the integrity of the utility or structure, or is likely to cause arcing from existing facilities.

Explanation/Principal Reasons

To provide for the ongoing maintenance of wetlands that have formed on the margins of artificial lakes as a consequence of hydroelectric generation dams, and the maintenance of existing network utilities and structures associated with a hydroelectric power scheme where they traverse wetlands.

Rule 83**Permitted – Removal of Exotic Vegetation from a Wetland by Hand or by Machinery**

The removal of exotic vegetation from a wetland for the purposes of wetland enhancement, where the removal is by hand or by machinery, is a permitted activity subject to the following conditions;

- (a) Only exotic plant species (including pest plants and weeds) shall be removed or destroyed.
- (b) The activity shall not cause or induce ongoing erosion of the bed or banks of any surface water body. Erosion includes:
 - (i) Instability of land or the banks of the surface water body.
 - (ii) Scour to the bed of the surface water body.
- (c) Where non hand-held machinery is used to remove vegetation, the machinery shall not be located within the wetland. Nothing in this rule prevents the use of cables and associated fixtures attached to machinery located outside the wetland, or the use of hand-held machinery in the wetland.

- (d) The disturbance of the wetland, including damage to indigenous vegetation, shall be no more than minor in scale, and temporary in duration.
- (e) Where tree species that re-grow from cut material (including, but not limited to willows and poplars) are to be removed, the tree is to be cut down, and removed from the wetland. Nothing in this rule prevents the use of alternative tree control methods listed in Advisory Note 4.

Advisory Note

- 1 Advice on the appropriate removal of pest plants is available from Environment Bay of Plenty.
- 2 The removal of pest plants from the margin of the wetland is not controlled by this regional plan. Contact Environment Bay of Plenty staff for assistance to determine the boundary between the margin and the wetland.
- 3 In relation to condition (e), it is necessary to remove cuttings of tree species that re-grow from cut material where these cuttings will regenerate if left within the wetland.
- 4 Methods for the removal of exotic vegetation from wetlands include injection of herbicide into standing trees, total removal, cutting the tree and treating the stump to prevent regrowth, or spraying (aerial or hand-held).

Explanation/Intent of Rule

To allow minor works necessary for the enhancement and ongoing maintenance of a wetland. Removal of pest plants or exotic plant species is a major part of a wetland enhancement.

Rule 84

Permitted – Minor Disturbance of Vegetation in Wetlands Associated with Cable Logging by Accredited Forestry Operators

The disturbance of vegetation in a wetland where the vegetation disturbance is due to cable logging of plantation forests is a permitted activity subject to the following conditions:

- (a) The activity shall be carried out by an Accredited Forestry Operator (refer to Definition of Terms), and in accordance with section 3.2 of Schedule 12.
- (b) The activity shall only cause minor and temporary disturbance (but not clearance) of vegetation in the wetland.
- (c) The activity shall be undertaken according to best management practices that minimise the area and extent of vegetation disturbance.
- (d) The activity shall not expose bare ground in the wetland, remove plants, or prevent the recovery of the function and coverage of the disturbed vegetation over the following 12 month period.
- (e) The activity shall not be carried out over a period that exceeds a consecutive period of 3 months per rotation at any site.
- (f) The activity shall not change the water quantity or flow in the wetland.

Explanation/Intent of Rule

To provide for minor and temporary disturbance of wetland vegetation by an Accredited Forestry Operator, where it is not possible to avoid adverse effects from cable logging due to terrain or access difficulties. Any non-compliance with the conditions of this rule (i.e. there is extensive damage to the wetland, or damage to the extent that the wetland can not regenerate) will be addressed through appropriate enforcement provisions in the Act, and restoration of the wetland will be required.

Rule 84A Restricted Discretionary – Minor Disturbance of Vegetation in Wetlands Associated with Cable Logging

The disturbance of vegetation in a wetland where the vegetation disturbance results from cable logging of plantation forests, because of terrain or access difficulties, require logs to be hauled across a wetland, and excluding activities permitted by Rule 84, is a restricted discretionary activity subject to the following conditions:

- (a) The activity shall only cause minor and temporary disturbance (but not clearance) of vegetation in the wetland.
- (b) The activity shall be undertaken according to practices that minimise the area and extent of vegetation disturbance.
- (c) The activity shall not expose bare ground in the wetland, remove plants, or prevent the recovery of the function and coverage of the disturbed vegetation over the following 12 month period.
- (d) The activity shall not disturb greater than 5% of the total area of the wetland over which logs are being hauled.
- (e) The activity shall not be carried out over a period that exceeds a consecutive period of 3 months per rotation at any site.
- (f) The activity shall not change the water quantity or flow in the wetland.

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) Measures to avoid, remedy or mitigate adverse effects on the water quality, water quantity, ecological values, and natural character of the wetland.
- (b) Measures to remediate, or assist the natural recovery of the wetland.

Explanation/Intent of Rule

To provide for minor and temporary disturbance of wetland vegetation, where it is not possible to avoid adverse effects from cable logging due to terrain or access difficulties. It is intended that Rule 84A will only be employed where there are no other practicable options available. Any non-compliance with the conditions of this rule (i.e. there is extensive damage to the wetland, or damage to the extent that the wetland can not regenerate) will be addressed through appropriate enforcement provisions in the Act, and restoration of the wetland will be required.

Rule 85 Discretionary – Modification of a Wetland

The:

- 1 Modification of a wetland for the maintenance or enhancement of a wetland, and where the activity is consistent with Policy 135 but does not comply with Rules 78, 79 or 83.

Or

- 2 Sustainable use of a wetland where the activity is consistent with Policy 142 but does not comply with Rule 80.

Or

- 3 Removal of weeds and other vegetation clearance necessary for the maintenance of wetlands in water bodies created for hydroelectric generation, and does not comply with Rule 82.

Or

- 4 The activity is the disturbance of vegetation in a wetland as a result of cable logging and does not comply with Rules 84 or 84A.

Or

- 5 Modification of a wetland not otherwise addressed by (1) to (4) and causes any of the following adverse effects on the wetland:
 - (a) Degradation of water quality, including through the discharge of sediment or other contaminants.
 - (b) Changes to water flow and quantity, and drainage.
 - (c) Erosion of land and soil resources where the activity causes or induces erosion that is persistent or requires active erosion control measures. Includes land instability, scour, severe pugging, and damage to margins, banks and land within the wetland.
 - (d) Where the wetland is in the bed of a stream, river or lake, the disturbance, removal, damage, or destruction of any plant or the habitats of any plants or animals in the wetland.

Is a discretionary activity.

Advisory Note

- 1 The rules in this regional plan do not authorise the modification or disturbance of any archaeological or registered waahi tapu sites within the area of the activity. Written authority from the New Zealand Historic Places Trust is required prior to any destruction, damage or modification of an archaeological or registered waahi tapu site or an area where there is reasonable cause to suspect there is an archaeological site. Should any artefacts, bones or any other sites of archaeological or cultural significance be discovered within the area affected by the activity, written authorisation should be obtained from the Historic Places Trust before any damage, modification or destruction is undertaken.
- 2 The modification of a wetland may also be controlled by provisions in district plans.
- 3 Refer to the definition of 'wetland' in the Definition of Terms of this regional plan to clarify where this rule applies.
- 4 Rule 85(5) applies to the drainage of a wetland, or activities adjacent to a wetland that causes adverse effects on a wetland. Contact Environment Bay of Plenty staff for assistance to determine if Rule 85(5) applies to a proposed activity.

Explanation/Intent of Rule

To allow Environment Bay of Plenty to assess the adverse effects on the values of wetlands on a case by case basis through a resource consent application. It is appropriate to restrict modification activities as wetlands are particularly vulnerable to adverse effects. Although it is recognised that maintenance and enhancement activities may be necessary to sustain the wetland, it is necessary to ensure that large scale enhancement activities are carried out to avoid, remedy or mitigate any adverse effects on wetland values. The rule controls effects that are Environment Bay of Plenty's responsibility in relation to section 30 of the Act.

Assessment Criteria

When assessing resource consent applications under this rule, Environment Bay of Plenty will have particular regard to, but not be limited to, the following provisions:

<i>Objective</i>	4, 5, 6, 8, 55, 73
<i>Policy</i>	5, 11, 14, 15, 17, 18, 19, 20, 21, 100, 133, 134, 135
<i>Method</i>	13, 17, 18, 20, 21, 56, 60