

**IN THE MATTER**

of the Resource Management Act  
1991

**AND**

**IN THE MATTER**

of an appeal under clause 14 of  
the Resource Management Act  
1991

**BETWEEN**

**NEW ZEALAND HISTORIC  
PLACES TRUST**  
ENV-2011-AKL-000230  
Appellant

**AND**

**KAIPARA DISTRICT COUNCIL**  
Respondent

**BEFORE THE ENVIRONMENT COURT**

Acting Principal Environment Judge L J Newhook sitting alone under section 279 of the Act  
**IN CHAMBERS** at Auckland

**CONSENT ORDER**

**Introduction**

1. The Court has read and considered the appeals and the memorandum of the parties dated 29 October 2012.
2. No person has given notice of an intention to become a party under s274.
3. The Court is making this order under s279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:

(a) All parties to the proceedings have executed the memorandum requesting this order.

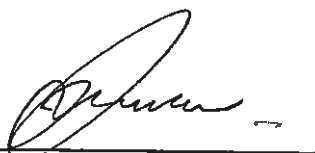


- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Resource Management Act, including in particular Part 2.

**Order**

4. Therefore the Court orders, by consent, that the appeal is allowed to the extent that the Kaipara District Council is directed to amend Chapter 17 of the Proposed Kaipara District Plan ("**the Proposed Plan**") as shown in the attachment to this order marked "**Annexure A**".
5. The appeal is resolved in its entirety.
6. There is no order as to costs.

**DATED** at Auckland this 20<sup>th</sup> day of November 2012



L J Newhook  
Acting Principal Environment Judge





17.10.1	Heritage Activity Performance Standards	Activity Status if the Activity does not meet the Performance Standard	Assessment Criteria
<p>Allocation or Maintenance of Resource or Feature of a Category A resource or feature</p>	<p>Any activity is permitted if</p> <ol style="list-style-type: none"> <li>It involves maintenance or repair of any Category A heritage resource or feature listed in Schedule 1, 2, or 3, where replacement materials match in colour, texture, form and design as the original or of either original or similar material, texture, form and design as the original if replaced, and the number of components replaced, is substantially less than the existing components; and</li> <li>It complies with the relevant Rules and Performance Standards in Part B; and</li> <li>The Site Management Protocol (Rule 17.9.1) is followed.</li> </ol> <p>For the purpose of this rule:</p> <ul style="list-style-type: none"> <li>Maintenance means the continuous protective care of the fabric of the building, structural work, and electrical work; and</li> <li>Repair means restoration or reconstruction beyond the definition of maintenance.</li> </ul>	<p>Discretionary Activity</p>	<p>The Council will consider the consent at its discretion including (but not limited to) consideration of the following matters, when considering and determining an application for resource consent, may require a Category A resource or feature consent to the application:</p> <p>The matters set out in Sections 104 and 105, and in Part 2 of the Resource Management Act 1991, apply to the consideration of all Resource Consents for Land Use Activities.</p> <p>In addition to these matters, the Council will have regard to the following matters:</p> <ol style="list-style-type: none"> <li>Whether an assessment by a qualified archaeologist has been carried out and the findings and recommendations of that assessment;</li> <li>Whether the relevant law have been consulted, and whether the consultation supports the application;</li> <li>Whether the proposal is consistent with the Objectives of any Rapanui or Māori Management Plan relating to the area;</li> <li>Whether the New Zealand Historic Places Trust has been consulted and whether an Authority to Modify, Damage or Destroy an Archaeological Site has been obtained under the Historic Places Act 1993;</li> <li>Whether the activity will have any adverse effect on an archaeological site;</li> <li>The extent to which the activity may adversely affect cultural and spiritual values;</li> <li>The extent to which the activity may adversely affect design and appearance of the building or object;</li> <li>The extent to which the activity will adversely affect any cemetery;</li> <li>The extent to which heritage values can be permanently protected and enhanced;</li> <li>The effect of the proposed activity on the integrity or heritage values associated with the resource;</li> <li>The significance of heritage values associated with the heritage resource;</li> <li>The registration and the reasons for this registration of the heritage resource under the Historic Places Act 1993;</li> <li>The purpose of the proposed activity and whether there are other means of achieving the same or similar ends;</li> <li>The policies of any Conservation Plan and heritage inventory relating to the heritage resource;</li> <li>The importance (if any) of land surrounding the heritage resource;</li> <li>The importance attributed to the heritage resource by Tangata Whenua and the wider community;</li> <li>The recommendations made by the New Zealand Historic Places Trust and any other person or organisation with recognised expertise in heritage conservation issues;</li> <li>In considering any proposal, the Council shall also have regard to the International Council on Monuments and Sites; New Zealand Charter for the Conservation of Places of Heritage Value; and</li> <li>The extent to which restoration and rehabilitation of heritage resources is likely to be achieved.</li> </ol> <p>Note 1: Under Sections 10 and 89 of the Historic Places Act 1993 it is an offence to modify, damage or destroy an archaeological site without an authority (Consent) from the New Zealand Historic Places Trust. This applies to all sites, regardless of whether Building or Resource Consents have been granted or not.</p> <p>Where an activity is not permitted by this Rule, Council will restrict its discretion over the following matters when considering and determining an application for Resource Consent:</p> <ol style="list-style-type: none"> <li>The significance of the heritage values of the resource or feature;</li> <li>The economic factors that indicate that retention of the feature or resource is not feasible;</li> <li>The extent to which the original feature or resource is recorded.</li> </ol> <p>Note 1: Under Sections 10 and 89 of the Historic Places Act 1993 it is an offence to modify, damage or destroy an archaeological site without an authority (Consent) from the New Zealand Historic Places Trust.</p>
17.10.4A	<p>Demolition or Removal of a Category B resource or feature</p>	<p>Restricted Discretionary Activity</p>	<p>Any activity is permitted if</p> <ol style="list-style-type: none"> <li>It does not involve the substantial or total demolition or removal of a Category B heritage resource or feature listed in Appendix 17.1, and</li> <li>It complies with the relevant Rules and Performance Standards in Part B.</li> </ol>

Heritage Activity Performance Standards	Assessment Criteria
<p>Development in the vicinity of a Category A resource or feature</p>	<p>This applies to all sites, regardless of whether Building or Resource Consents have been granted or not.</p> <p>Note 2. Council may seek the views of the New Zealand Historic Places Trust</p> <p>When an activity is not permitted by this Rule, Council will restrict its discretion over the following matters when considering and determining an application for Resource Consent.</p> <p>i) The effects of the Development on the heritage values of the scheduled resource or feature.</p> <p>ii) Any effects on archaeological values.</p> <p>Note 1. Under Sections 10 and 99 of the Historic Places Act 1993 it is an offence to modify, damage or destroy an archaeological site without an authority (Consent) from the New Zealand Historic Places Trust. This applies to all sites, regardless of whether Building or Resource Consents have been granted or not.</p>
<p>Development in the vicinity of a Category A resource or feature, where the development is outside of the title boundary.</p> <p>a) The development is more than 20 metres from the exterior of the building or is outside of the title boundary.</p> <p>b) It complies with the relevant Rules and Performance Standards in Part B, and</p> <p>c) The Site Management Protocol (Rule 17.9.1) is followed.</p>	<p>Activity Status if the activity does not meet the Performance Standard</p> <p>Restricted Discretionary Activity</p>





**Schedule of Heritage Resources**

Map Number	Category/Type	Resource	Location	New Historic Places Trust Reference	Zealand Places Reference	New Zealand Historic Places Trust Category
H01	A	All Saint's Church (Anglican)	3356 Midland Road, Mūitai	0425		II
H02	A	Church of Bethlehem (Anglican)	Poua Road, Repa	3953		II
H03	A	Former Post Office	6543 Poua Road, Poua	3942		II
H04	A	Former Schoolhouse	Poua Road, Poua	3943		II
H05	A	Akaiapu Hall	Heaven Road, Akaiapu	3955		II
H06	A	House (Harding Homestead)	Poua Road, Aora	0427		II
H07	A	St Peter's Church grounds	Te Kopuru	3956		II
H08	A	House (Former Wordsworth Homestead)	Poua Road, Te Kopuru	3867		II
H09	A	Marine Hall	Signal Station Road, Pouto Pt	3858		II
H10	A	School Building	Norton Street, Te Kopuru	3870		II
H11	A	Former Post Office	Norton Street, Te Kopuru	3871		II
H12	A	St Peter's Church (Anglican)	Norton Street, Te Kopuru	0428		II
H13	A	Kaahu Tavern	State Highway 12, Kaahu	3285		II
H14	A	Band Rotunda	Victoria Street, Dargaville	3651		II
H15	A	House (Former Rope Residence)	165 Victoria Street, Dargaville	3852		II
H16	A	Central Hotel	Victoria Street, Dargaville	3825		II
H17	A	Commercial Hotel	River Road, Dargaville	0471		II
H18	A	House	143 River Road, Dargaville	3653		II
H19	A	House	145 River Road, Dargaville	3654		II
H20	A	Former Goal Building Sheds (2 buildings)	River Road, Dargaville	3855		II
H21	A	Former Mount Pleasant Hospital	84 Hokiang Road, Dargaville	3839		II
H22	A	Gum Diggers Hut (Northern Wairoa Museum)	Harding Park Mt Wesley Coast Road, Dargaville	3656		II
H23	A	Holy Trinity Church (Anglican)	54-58 Hokiang Road, Dargaville	0478		II
H24	A	House (Former Hobling Residence)	48 Hokiang Road, Dargaville	3857		II
H25	A	House (Former Dunn Residence)	48 Hokiang Road, Dargaville	3858		II
H26	A	Municipal Chambers	Hokiang Road, Dargaville	3859		II
H27	A	House (Former Mairner Residence)	61 River Road, Dargaville	3940		II
H28	A	Northern Wairoa Dairy Company Store	37 Normanby Street, Dargaville	3950		II
H29	A	Northern Wairoa Old Folks Association Building (now Lions)	23 Hokiang Road, Dargaville	3860		II
H30	A	Northern Wairoa Tavern	Corner Victoria Street and Hokiang Road, Dargaville	3861		I
H31	A	Former Post Office	Corner Normanby Street and Hokiang Road, Dargaville	3827		I
H32	A	Salvation Army Building	Dargaville	3941		II
H33	A	Crump / Malich Doctor's Surgery	28 Hokiang Road, Dargaville (formerly Borough Council building)	3862		II
H34	A	Vicarage	46 Hokiang Road, Dargaville	7219		II
H35	A	Bevmar House	58 Hokiang Road, Dargaville	3904		II
H36	A	Church of St Michael and All Angels (Anglican)	Tire Road, Mangawhai	0458		II
H38	A	Church of St Michael and All Angels (Anglican)	Valley Road, Hākanu			II

Map Number	Category/Type	Resource	Location	New Historic Trust Reference	Zealand Places Reference	New Zealand Historic Places Trust Category
19.44	A	Cliff House	Franklin Road, Papanoa	3908		II
17.21, 57	A	Cottage	Merr Street, Mangawhai	2567		II
17.21	A	Former Dairy	Tara Road, Mangawhai	3907		II
19.44	A	House (Queife Cottage)	Papanoa - Oakeleigh Road	3906		II
19.44	A	Former Evans TinSmith Shop	Hook Road, Papanoa	3950		II
19.46	A	Former Kaipara Dairy Company Factory	Whakapirau Road, Whakapirau	0461		II
19.43	A	Former Post Office	Church Street, Matakohu	3911		II
24	A	Giltos House (Mission House)	Rangiora Road, Kawaka	0459		II
17.21, 57	A	Hotel	Merr Street, Mangawhai	3908		II
24	A	Kakarara Church (Giltos Merr Church Methodist)	Tanora Road, Bailey	0400		II
19.44	A	Methodist Church	Hook Road, Papanoa	3910		II
19.43	A	Pioneer Church (Interdenominational)	Church Road, Matakohu	3905		II
19	A	Ruaitime House (Former Coates Homestead)	Tinopal Road, Hukatere	0007		I
19.46	A	St Albans Church (Anglican)	Whakapirau Road, Whakapirau	0462		II
19	A	St Michael-on-the-Hill Church (Anglican)	Tinopal Road, Hukatere	3913		II
19.43	A	House (Tatara House)	Matakohu Wharf Road, Matakohu	7091		II
19.44	A	National Bank Building	State Highway 12, Papanoa	3288		I
23	A	House	Bailey Road, Bailey	7349		II
9.37	A	Dargaville Club	52-55 Victoria Street	0472		II
19	A	Haigh House (former)	493 Pitt Road	7541		II
9.37	A	River Road Historic Area	7-17 River Road	7007		Historic Area
25	A	Kaipara North Head Lighthouse	West of Poulo	7556		II
3, 4, 29	A	Kahu Catholic Church	Wood Road	-		-
4, 6	A	St Marys Anglican Church	State Highway 12, Matata	-		-
19.43	A	House (Pheasant Cottage)	Church Road, Matakohu	-		-
19.43	A	House (Devon Cottage)	Matakohu Wharf Road, Matakohu	-		-
20.50	A	Maugaturoto Hotel	State Highway 12, Maungaturoto	-		-
24, 28	A	Ratana Church	Oruanui Road, Oruanui	-		-
20	A	Coates Monument	State Highways 1 and 12	-		-
9, 33	A	Monument (French Sailors)	Seaview Road, Bays	-		-
8, 31	A	Wesleyan Mission Station Cairn	State Highway 14, Tangierona	-		-
8, 31	A	Upper Wairua Memorial Park Monument	Pukehaha Road	-		-
8	A	Orana War Memorial Monument	Orana Road	-		-
3	B	House (Former Mission Homestead)	Trounson Park Road	-		-
7	B	House (Former Berch Homestead)	State Highway 14, Tangierona	-		-
7	B	House (Cann Homestead)	State Highway 14, Kihikipi	-		-
10	B	House (Begg Homestead)	Ararua Road	-		-
9, 39	B	House (Former Methodist Mission)	Poua Road, Aoroa	-		-
9	B	House (Former Mitchell Homestead)	Poua Road, Aoroa	-		-





Map Number	Category/Type	Resource	Location	New Zealand Historic Places Trust References	New Zealand Historic Places Trust Category
13	B	House (Kidd Homestead)	Poua Road, Tairārahi	-	-
176 (177)	B	House (Kidd House)	Judd Road, Maungaturoto	-	-
20	B	House (Stewart Homestead)	State Highway 1, Pukekākāro	-	-
178	B	House (McCallie)	Matakohe West Road, Matakohe	-	-
179	B	Tara School	Tara Road, Tara	-	-
17, 21	B	House (Wharfe)	Tara Road, Tara	-	-
17, 21	B	House (Hallett)	Muir Street, Mangahāhā	-	-
17, 21, 57	B	House (Wilson Homestead)	John Wilson Road	-	-
B	B	Old Aranga Station	Aranga Station Road	-	-
3	B				

Map 2: Nohoanga Areas and Areas of Significance to Maori

Map Number	Description	Location	Legal Description	Iwi
25	Nohoanga Areas	Lake Whakaneke (Waterway) Lake Whakaneke (Nohoanga site)	3503 square metres more or less, being section 3, SO Plan 70272, situated in Block 1, North Head Survey District. Part Certificate of Title 2387105.	Te Uti o Hau
25	Nohoanga Areas	Kaipara Harbour (Waterway)	1 0000 hectares, more or less, being Section 4, SO Plan 70272, situated in Block II, Okaha Survey District	Te Uti o Hau
25	Nohoanga Areas	Te Teā Hinga (Nohoanga site)	1 0520 hectares, more or less being Section 2 SO Plan 70272, situated in Block I, North Head Survey District. Part Certificate of Title 2387105.	Te Uti o Hau
25	Statutory Acknowledgements	Pouāto Stewardship Area	SO Plan 70051	Te Uti o Hau
25	Special Areas or Kirihihi	Pouāto Stewardship Area	SO Plan 70051	Te Uti o Hau
25	Deeds of Recognition	Pouāto Stewardship Area	SO Plan 70051	Te Uti o Hau
17, 20, 21	Statutory Acknowledgements	Pukekararo Scenic Reserve	SO Plan 70042	Te Uti o Hau
17, 20, 21	Deeds of Recognition	Pukekararo Scenic Reserve	SO Plan 70042	Te Uti o Hau
18, 19, 20, 22, 23, 24, 25, 26, 42, 43, 45, 46, 48, 51, 59, 59, 60	Statutory Acknowledgements	Kaipara Harbour Coastal Area	SO Plan 70053	Te Uti o Hau
17, 21, 53, 54, 55, 56, 57	Statutory Acknowledgements	Mangawhai Harbour Coastal Area	SO Plan 70054	Te Uti o Hau
13, 14	Statutory Acknowledgements	Tokeloa Scenic Reserve	SO Plan 354587	Te Uti o Hau
13, 14	Deeds of Recognition	Tokeloa Scenic Reserve	Part Allotment 127 and Allotments 128, 129, 130 Parish of Tokeloa. All Gazette 1975 page 1091.	Te Uti o Hau
1, 2, 3	Overlay Classification or Te Terehu	The parts of Waipoua Forest that are not being transferred to iwi. The area over which Te Terehu is created is part of the area.	SO Plan 354587 Part Allotment 127 and Allotments 128, 129, 130 Parish of Tokeloa. All Gazette 1975 page 1091. Known as the Waipoua Forest as shown on SO Plan 354589.	Te Uti o Hau

Note 1. Nohoanga entitlements are granted by the Crown in the Nohoanga areas listed above and shown on Map Series 2. The entitlements are for the purpose of permitting members of Te Uti o Hau and Te Homa for access to waterways for lawful fishing and gathering of other natural resources on a non-commercial basis, for up to 210 days per year.







**Appendix 3: Heritage Orders**

1) Morion Bay Fig Tree - Paik  
Feature Protected

Morion Bay Fig Tree including all the limbs and branches and the root system

Heritage Protection Authority

Kaipara District Council

Site

Section 164 Block III Hukatere SD and Lot 1 DP62397

Location

Beech Street, Paik

Restrictive Conditions Applying To Feature

No person may trim, cut down, damage, modify or destroy any part of the Morion Bay Fig Tree including any branch or root without first obtaining the written consent of the Council.

