

IN THE MATTER

of the Resource Management Act
1991

AND

IN THE MATTER

of an appeal under clause 14 of
First Schedule to the Act

BETWEEN

DIRECTOR GENERAL OF
CONSERVATION

ENV-2012-AKL-000231

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 appeal and the memorandum of the parties dated 6 November 2012.
2. Federated Farmers of New Zealand Inc gave notice of an intention to become a party to this appeal under section 274 of the Act. It has an interest in the matters to be resolved by this order, and has signed the memorandum of the parties setting out the relief sought.

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 that are interested in the part of this appeal that is to be resolved by this order 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 the relevant requirements and objectives of the Resource Management Act 1991, 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 the following rules of Proposed Kaipara District Plan ("**the Proposed Plan**") as shown in Annexure A to this Order:
 - (a) Rule 13.10.26;
 - (b) Rule 14.10.26;
 - (c) Rule 15A.10.25; and
 - (d) Rule 15B.10.25.
- 5. The remainder of the appeal is extant.
- 6. There is no order as to costs in relation to this order.

DATED at Auckland this *19th* day of *November* 2012



L J Newhook
Acting Principal Environment Judge



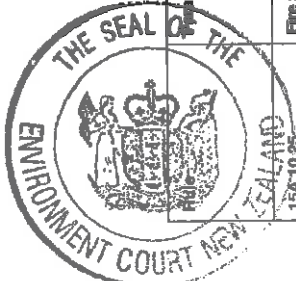


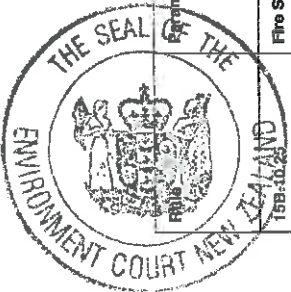
Residential Permitted Activity Performance Standard	Activity Status if the Activity does not meet the Performance Standard	Assessment Criteria
<p>Fire Safety</p> <p>Any building is permitted if:</p> <ul style="list-style-type: none"> a) It does not impede the movement of fire service vehicles or equipment or generally restrict access for fire fighting purposes; b) Water supply for fire fighting and access to this supply complies with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2006; c) The use of buildings shall at all times be in accordance with the fire safety requirements specified in New Zealand Standard NZS 9231:1971 'Model Bylaw for Fire Prevention'; and d) The building is located at least 20m away from naturally occurring or deliberately planted area of scrub or shrubland, woodlot or forest. <p>Note 1: For fire safety, the New Zealand Fire Service advises that buildings should be at least 20m from the dripline of any tree and that these setbacks are also appropriate from scrubland and other similar vegetated areas.</p>	<p>Restricted Discretionary Activity</p>	<p>Where an activity is not permitted by this Rule, Council has restricted its discretion over the following matters when considering and determining an application for Resource Consent:</p> <ul style="list-style-type: none"> i) The extent of consultation that has been undertaken with the New Zealand Fire Service and their response (or whether their written approval has been obtained); ii) Whether and the extent to which the building is assessed as a low fire hazard and risk; iii) The degree of fire risk to dwellings arising from the proximity of the woodlot or forest; iv) Any mitigation measures proposed to reduce the fire risk; v) The adequacy of the water supply; and vi) The accessibility of the water supply to fire service vehicles.

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	Business: Commercial and Industrial Permitted Activity Performance Standard	Activity Status if the Activity does not meet the Performance Standard	Assessment Criteria
<p>Fire Safety</p>	<p>Any building is permitted if:</p> <ul style="list-style-type: none"> a) It does not impede the movement of fire service vehicles or equipment or generally restrict access for fire fighting purposes; b) Water supply for fire fighting and access to this supply complies with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4809:2008; c) The use of buildings shall at all times be in accordance with the fire safety requirements specified in New Zealand Standard NZS 9231:1971 'Model Bylaw for Fire Prevention'; d) The building is located at least 20m away from naturally occurring or deliberately planted areas of scrub or shrubland, woodland or forest. <p>Note 1: For fire safety, the New Zealand Fire Service advises that buildings should be at least 20m from the drip line of any tree and that these setbacks are also appropriate from scrubland and other similar vegetated areas.</p>	<p>Restricted Discretionary Activity</p>	<p>Where an activity is not permitted by this Rule, Council has restricted its discretion over the following matters when considering and determining an application for Resource Consent:</p> <ul style="list-style-type: none"> i) The extent of consultation that has been undertaken with the NZ Fire Service and their responses (or whether their written approval has been obtained); ii) Whether and the extent to which the building is assessed as a low fire hazard and risk; iii) The degree of fire risk to dwellings arising from the proximity of the woodlot or forest; iv) Any mitigation measures proposed to reduce the fire risk; v) The adequacy of the water supply; and vi) The accessibility of the water supply to fire service vehicles.

	<p>Maori Land Permitted Activity Performance Standard</p>	<p>Activity Status if the Activity does not meet the Performance Standard</p>	<p>Assessment Criteria</p>
<p>Fire Safety</p>	<p>Any building is permitted if:</p> <ul style="list-style-type: none"> a) it does not impede the movement of fire service vehicles or equipment or generally restrict access for fire fighting purposes; b) Water supply for fire fighting and access to this supply complies with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2006; c) The use of buildings shall at all times be in accordance with the fire safety requirements specified in New Zealand Standard NZS 9231:1971 'Model Bylaw for Fire Prevention'; and d) The building is located at least 20m away from naturally occurring or deliberately planted area of scrub or shrubland, woodland, woodlot or forest. <p>Note 1: For fire safety, the New Zealand Fire Service advises that buildings should be at least 20m from the drip line of any tree and that these setbacks are also appropriate from scrubland and other similar vegetated areas.</p>	<p>Restricted Discretionary Activity</p>	<p>Where an activity is not permitted by this Rule, Council has restricted its discretion over the following matters when considering and determining an application for Resource Consent:</p> <ul style="list-style-type: none"> i) The extent of consultation that has been undertaken with the New Zealand Fire Service and their response (or whether their written approval has been obtained); ii) Whether and the extent to which the building is assessed as low fire hazard and risk; iii) The degree of risk to dwellings arising from the proximity of the woodlot or forest; iv) Any mitigation measures proposed to reduce the fire risk; v) The adequacy of the water supply; and vi) The accessibility of the water supply to fire service vehicles.



Parameter	Treaty Settlement Land Permitted Activity Performance Standard	Activity Status if the Activity does not meet the Performance Standard	Assessment Criteria
Fire Safety	<p>Any <i>building</i> is permitted if:</p> <ul style="list-style-type: none"> a) It does not impede the movement of fire service vehicles or equipment or generally restrict access for fire fighting purposes; b) Water supply for fire fighting and access to this supply complies with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008; c) The use of buildings shall at all times be in accordance with the fire safety requirements specified in New Zealand Standard NZS 9231:1971 'Model Bylaw for Fire Prevention'; and d) The building is located at least 20m away from naturally occurring or deliberately planted area of <u>scrub or shrubland</u>, woodlot or forest. <p>Note 1: For fire safety, the New Zealand Fire Service advises that buildings should be at least 20m from the <i>drip line</i> of any tree and that these setbacks are also appropriate from scrubland and other similar vegetated areas.</p>	Restricted Discretionary Activity	<p>Where an activity is not permitted by this Rule, <i>Council</i> has restricted its discretion over the following matters when considering and determining an application for Resource Consent:</p> <ul style="list-style-type: none"> i) The extent of consultation that has been undertaken with the New Zealand Fire Service and their response (or whether their written approval has been obtained); ii) The degree of fire risk to <i>dwellings</i> arising from the proximity of the woodlot or forest; iii) Any mitigation measures proposed to reduce the fire risk; iv) The adequacy of the water supply; and v) The accessibility of the water supply to fire service vehicles.