

IN THE MATTER

of the Resource Management Act
1991

AND

IN THE MATTER

of appeals under clause 14 of the
First Schedule to the Act

BETWEEN

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

BETWEEN

KAIPARA DISTRICT COUNCIL
ENV-2011-AKL-000232

AND

ESTUARY ESTATE LAND
COMPANY LIMITED
ENV-2011-AKL-000243

AND

POUTU TOPU A TRUST,
KAIPARA CITIZENS AND
RATEPAYERS ASSOCIATION
INCORPORATED AND
FARMERS OF NEW ZEALAND
INCORPORATED
ENV-2011-AKL-000238

AND

CRAIG JEPSON, KEN
DUGDALE WILLIE HEWITT,
CRAIG MATHESON, OWEN
MC SHANE (CENTRE FOR
RESOURCE MANAGEMENT
STUDIES) TOM PETERS, ADAM
BOOTH, SHANE CULLEN AND
SUSAN ROWBOTHAN

ENV-2011-AKL-000240



Appellants

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 10 October 2012
2. Meridian Energy Limited, S Martin and S Wilde, the Director-General of Conservation (Northland Conservancy) and, Federated Farmers of New Zealand (Incorporated) gave notice of an interest in these appeals under section 274 of the Act, and have signed the memorandum setting out the relief sought.
3. No other party who gave notice under s274 has an interest in the matters to be resolved by this order.
4. 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 with an interest in these 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 appeals are allowed to the extent that the Kaipara District Council is directed to amend Rule 17.10.2 of the Proposed Kaipara District Plan ("**the Proposed Plan**") as shown in Annexure A.
5. The appeals are resolved only in so far as they relate to Rule 17.10.2.
6. There is no order as to costs.

DATED at Auckland this 19th day of November 2012



L J Newhook
Acting Principal Environment Judge



"A"



Parameter	Heritage Activity Performance Standards	Activity Status if the Activity does not meet the Performance Standard	Assessment Criteria
<p>17.10.2 Earthworks within an Area or site containing a Resource or Feature identified in Appendix 17.1 or a site of Significance to Māori identified in Appendix 17.2</p>	<p>Any activity on a site listed in Appendix 17.1 or recalled in Appendix 17.2 is permitted if:</p> <p>a) The activity does not involve earthworks within the 20m of any Category A Heritage resource or feature listed in Appendix 17.1 or a Site of Significance to Māori identified in Appendix 17.2; and</p> <p>b) Earthworks do not exceed 500mm in depth or cumulatively 100m² in area per site unless the Site Management Protocol (Rule 17.9.1) and Accidental Discovery Protocol (Rule 17.9.2) are followed; and</p> <p>a) The Accidental Discovery Protocol (Rule 17.9.2) is followed; and</p> <p>cb) It complies with the relevant Rules and Performance Standards in Part B.</p> <p>Note 1: In addition to the Standards above, any works that would modify, damage or destroy an archaeological site require approval from the New Zealand Historic Places Trust in accordance with the Historic Places Act 1993.</p>	<p>Resituated Discretionary Activity</p>	<p>The Council will restrict the exercise of its discretion to: 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> <p>i) Whether the relevant activity has been assessed, and whether the consent application supports the applicant. Whether the assessment matters for earthworks in the relevant zone have been considered;</p> <p>ii) Whether the New Zealand Historic Places Trust has been consulted and whether an Authority to Modify an archaeological site has been obtained under the Historic Places Act 1993;</p> <p>iii) The extent to which the activity may adversely affect cultural and spiritual values; and</p> <p>iv) Whether the activity will have an adverse effect on the area; and</p> <p>v) The means by which any adverse effects on cultural, spiritual and heritage values can be avoided, remedied or mitigated.</p>