

*James*



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

**THE DIRECTOR-GENERAL OF  
CONSERVATION**

ENV-2011-AKL-000231

AND

**ROYAL FOREST AND BIRD  
PROTECTION SOCIETY  
INCORPORATED**

ENV-2011-AKL-000245

AND

**FEDERATED FARMERS OF  
NEW ZEALAND  
(INCORPORATED)**

ENV-2011-AKL-000221

AND

**DUCK NOMINEES LIMITED**

ENV-2011-AKL-000244

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. These appeals relate to the Proposed Kaipara District Plan. This consent order resolves the relief sought in these appeals as it relates to topic ENV-2012-349-000004 vegetation clearance.
2. In making this consent order the Court has read and considered the appeals and the memorandum of the parties dated 10 July 2013.
3. Federated Farmers of New Zealand (Incorporated), Meridian Energy Limited, Department of Conservation (Northland Conservancy), and Northpower Limited have given notice of an intention to become parties to the appeals under section 274 and have signed the memorandum setting out the relief sought.
4. The Court is making this order under section 279(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 with an interest in these proceedings 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

5. Therefore the Court orders, by consent, that the appeals are allowed to the extent that the Kaipara District Council is directed to amend the following sections of the Proposed Kaipara District Plan as shown in Annexure A to this Order, noting that amendments shaded in grey have been made as a result of mediation outcomes on other topics and are included for context and information purposes:

- Rule 12.10.2, Vegetation Clearance in Chapter 12, Rural;



- Rule 15B.10.2, Vegetation Clearance in Chapter 15B, Maori Purposes – Treaty Settlement Land;
- Rule 15A.10.2, Vegetation Clearance in Chapter 15A, Maori Purposes – Maori Land;
- Rule 13.10.2, Vegetation Clearance in Chapter 13, Residential; and
- Rule 14.10.2, Vegetation Clearance in Chapter 14, Business.

6. This consent order resolves the appeals by the Department of Conservation (Northland Conservancy), Royal Forest and Bird Protection Society Incorporated, Federated Farmers of New Zealand (Incorporated) and Duck Nominees Limited on this topic (ENV-2012-349-00004) in their entirety.

7. There is no order as to costs in relation to this consent order.

DATED at Auckland this 25<sup>th</sup> day of July 2013



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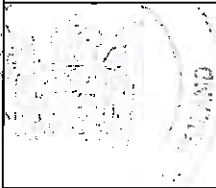
L J Newhook  
Acting Principal Environment Judge



ANNEXURE A



<p><b>12.10.2</b></p> <p><b>Vegetation Clearance</b></p> <p>Subject to the exceptions provided in <del>44(5)</del> below, clearance or removal of indigenous vegetation outside an overlay area is a Permitted Activity if:</p> <p>(1) Rural Zone</p> <p>a) It is not located within an indigenous wetland; and</p> <p>b) It is not part of:</p> <p><del>i. a continuous area of predominantly indigenous vegetation over 5 hectares in area; or</del></p> <p><del>ii. a continuous area of predominantly indigenous vegetation greater than 6m in height and over 1 hectare in area; and</del></p> <p>c) It is not located within a site identified in Appendix F (Kiwi Density) of the District Plan.</p> <p>(2) East Coast and West Coast and Kaipara Harbours (Mangawhai and Kaipara) Overlays</p> <p>a) It is not located within an indigenous wetland; and</p> <p>b) It is not part of:</p> <p><del>i. a continuous area of predominantly indigenous vegetation over 1 hectare in area; or</del></p> <p><del>ii. a continuous area of predominantly indigenous vegetation greater than 6m in height and greater than 1,000m<sup>2</sup> in area and is not located within 100m of the Coastal Marine Area; and</del></p> <p>c) It is not located within a site identified in Appendix F (Kiwi Density) of the District Plan.</p> <p>(3) Mangawhai Harbour Overlay<sup>2</sup>:</p> <p>a) <del>It is not located within an indigenous wetland; and</del></p> <p>b) <del>It is not part of:</del></p> <p><del>i. a continuous area of predominantly indigenous vegetation over 1 hectare in area; or</del></p> <p><del>ii. a continuous area of predominantly indigenous vegetation greater than 3m in height and greater than 500m<sup>2</sup> in area; and</del></p> <p>c) <del>It is not located within a site identified in Appendix F (Kiwi Density) of the District Plan.</del></p> <p>(4) <del>Valued Natural Environments of Mangawhai and Kai Iwi Lakes Overlay Areas</del></p> <p>a) It is not located within an indigenous wetland; and</p> <p>b) It is not part of:</p> <p><del>i. a continuous area of predominantly indigenous vegetation over 1 hectare in area; or</del></p> <p><del>ii. a continuous area of predominantly indigenous vegetation greater than 6m in height and greater than 500m<sup>2</sup> in area and is not located within 100m of the Coastal Marine Area; and</del></p> <p>c) It is not located within a site identified in Appendix F (Kiwi Density) of the District Plan.</p> <p>(5) <del>Except that the following are Permitted Activities throughout the Rural Zone, including the Overlays, and are excluded from the Standards of 12.10.2(1), 12.10.2(2), and 12.10.1(3) and 12.10.1(4):</del></p> <p>a) The removal is in accordance with an existing use right (Note: this would include activities such as vegetation clearance associated with the maintenance of existing drainage channels); or</p> <p>b) The total clearance within a site is no more than 500m<sup>2</sup> where the clearance is for the express purpose of providing a house site and / or access to a house site, or is to provide access to existing farming or forestry activities; or</p> <p>c) The clearance is for the maintenance of any open or clear space within an area defined by 20m of an existing dwelling or building; or</p> <p>d) The removal is of trees that are a danger to human life or existing structures (including network utilities); or</p> <p>e) The removal is for the formation and maintenance of walking tracks less than 1.5 metres in width; or</p> <p>f) The clearance is for maintenance of existing fence lines or for a new fence where the purpose of the new fence is to exclude stock and/or pests from an area which is to be</p>	<p>Restricted Discretionary Activity</p>	<p>Where an activity is a Restricted Discretionary Activity under this Rule, Council has restricted its discretion over the following matters when considering and determining an application for Resource Consent<sup>5</sup>:</p> <p>i) Extent of vegetation clearance proposed relative to total vegetated area;</p> <p>ii) Whether any affected area of indigenous vegetation is naturally occurring or has been artificially created;</p> <p>iii) Whether and the extent to which revegetation using eco-sourcing of native plants is proposed as part of the development;</p> <p>iv) Effects on the locality, particularly the rural character and amenity values, <del>and if within an Overlay those values associated with Overlay areas</del>;</p> <p>v) Effects on ecological values and in particular any <del>its significance as a particular any Site of Ecological Significance or</del> by reference to the criteria listed in Appendix 25G;</p> <p>vi) Effects on landscape and heritage values <del>in particular any site identified in the District Plan or an amenity landscape identified in Council's Landscape Technical Report (2011)</del>;</p> <p>vii) Effects on water bodies, including wetlands and particularly sensitive receiving environments of the harbours and lakes;</p> <p>viii) The ecological significance of the indigenous vegetation or individual indigenous tree and associated presence of rare or endangered flora and fauna including kwi as shown in Appendix F to the District Plan Maps;</p> <p>ix) The extent to which the activity may adversely affect cultural and spiritual values;</p> <p>x) The form and ecological value of remaining vegetation, including edge effects, retention of corridors and relationship to the natural landform;</p> <p>xi) The extent to which any proposed measures will result in the protection and enhancement of the ecological values of the area;</p> <p>xii) The relationship of the vegetation to any adjacent conservation covenant and whether it contributes to an ecological corridor;</p> <p>xiii) The relevant provisions of the Kaipara District Council Reserves and Open Space Strategy;</p> <p>xiv) In Overlays, how the proposal contributes to the Objectives <del>and Outcomes</del> for the relevant Overlay, as set out in Chapter 4 (Section 4.4 and 4.7);</p> <p>xv) The consistency of the proposal with the relevant Objectives and Policies contained in Part A and Part C of the Plan managing the values of the District including but not limited to Chapters 2, 3, 6, 7, 8 and 17.</p> <p><del>In addition, Council will restrict its discretion to the following matters when considering an application for Resource Consent in the Valued Natural Environments of Mangawhai Overlay:</del></p> <p><del>ix) The extent to which the vegetation contributes to the values of the Valued Natural Environments of Mangawhai Overlay, as defined in the Conservation Policy Area of the Mangawhai Structure Plan<sup>6</sup>.</del></p>
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		<p>protected for ecological or soil conservation purposes, provided that the clearance does not exceed a width of 3.5m either side of the fence line; using manual methods that do not require the removal of any indigenous tree over 300mm girth; or</p> <p>g) It is part of the operation and maintenance of network utilities, or is necessary to protect electrical lines required to meeting the Electricity (Hazards from Trees) Regulations 2003;</p> <p>h) The clearance is for the creation and maintenance of firebreaks; or</p> <p>i) The vegetation or tree comprises the understory directly beneath exotic or native plantation forest and the activity is carried out as part of forestry operations; or</p> <p>j) It is in accordance with the terms of a Queen Elizabeth II National Trust or other covenant or a sustainable management permit or personal use approval, or permanent forest sink, specifically under the Forests Amendment Act 1949, or the trees have been planted wind thrown trees, or with forestry operations, if the company has Forest Stewardship Council certification or another third party certified environmental management system, the forestry company is a signatory to the New Zealand Forest Accord; or</p> <p>k) The vegetation clearance is on land which has been previously cleared and where the indigenous vegetation to be cleared is less than 10 years old.</p> <p><b>Note 1:</b> The <i>Regional Water and Soil Plan for Northland</i> contain minimum standards for erosion and sediment control resulting from land disturbance. Vegetation clearance activities may require a Resource Consent from the Northland Regional Council under those provisions. Applicants should contact the Northland Regional Council to confirm whether or not a Consent is required.</p> <p><b>Note 2:</b> Where parallel Resource Consent for vegetation removal is required from the Northland Regional Council, Kaipara District Council will seek to undertake joint processing of both applications, e.g. via delegated authority from the Northland Regional Council.</p> <p><b>Note 3:</b> For the purpose of clarity the standards of this Rule for the Rural Zone apply to Overlays unless alternative standards are explicitly stated.</p> <p><b>Note 4:</b> An area of predominantly indigenous is an area where the vegetation cover is at least 75% indigenous.</p>	
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[<sup>1</sup>] This amendment is an outcome of Overlay Topic mediation, included for context only.]

[<sup>2</sup>] This amendment is an outcome of Overlay Topic mediation, included for context only.]

[<sup>3</sup>] This amendment is an outcome of Overlay Topic mediation, included for context only.]

[<sup>4</sup>] Consequential amendment from outcome of Excavation and Fill Topic mediation, included for context only.]

[<sup>5</sup>] As agreed by Consent Order resolving Appeal ENV-2011-AK-000250, dated 7<sup>th</sup> August 2012.]

[<sup>6</sup>] This amendment is an outcome of Overlay Topic mediation, included for context only.]

[<sup>7</sup>] This amendment is a change from the Natural Environment Topic mediation and is included for context only.]

[<sup>8</sup>] This amendment is a change from the Natural Environment Topic mediation and is included for context only.]

[<sup>9</sup>] This amendment is an outcome of Natural Environments Topic mediation, included for context only.]

[<sup>10</sup>] This amendment is an outcome of Overlay Topic mediation, included for context only.]

15B.10.2 Vegetation Clearance	Restricted Discretionary Activity	Where an activity is a Restricted Discretionary Activity under this Rule, Council has restricted its discretion over the following matters when considering and determining an application for Resource Consent: <sup>5</sup>
<p>Subject to the exceptions provided in (4)(b) below, clearance or removal of indigenous vegetation is a Permitted Activity if:</p> <p>(1) <b>Maori Purposes:</b> Treaty Settlement Land Zone</p> <p>a) It is not located within an indigenous wetland, and</p> <p>b) It is not part of:</p> <p>i) a continuous area of predominantly indigenous vegetation over 5 hectares in area, or</p> <p>ii) a continuous area of predominantly indigenous vegetation greater than 6m in height and over 1 hectare in area; and</p> <p>c) It is not located within a site identified in Appendix F (Kiwi Density) of the District Plan.</p> <p>(2) <b>East Coast and West Coast and Kaipara Harbours (Mangawhai and Kaipara) Overlays</b></p> <p>a) It is not located within an indigenous wetland; and</p> <p>b) It is not part of:</p> <p>i) a continuous area of predominantly indigenous vegetation over 1 hectare in area, or</p> <p>ii) a continuous area of predominantly indigenous vegetation greater than 6m in height and greater than 1,000m<sup>2</sup> in area and is not located within 100m of the Coastal Marine Area; and</p> <p>c) It is not located within a site identified in Appendix F (Kiwi Density) of the District Plan is not located within an indigenous wetland.</p> <p>(3) <b>Mangawhai Harbour Overlay:</b></p> <p>a) It is not located within an indigenous wetland, and</p> <p>b) It is not part of:</p> <p>i) a continuous area of predominantly indigenous vegetation over 1 hectare in area, or</p> <p>ii) a continuous area of predominantly indigenous vegetation greater than 3m in height and greater than 500m<sup>2</sup> in area; and</p> <p>c) It is not located within a site identified in Appendix F (Kiwi Density) of the District Plan.</p> <p>(4) <b>Valued Natural Environments of Mangawhai and Kaipara Lakes Overlay Areas<sup>6</sup></b></p> <p>a) It is not located within an indigenous wetland; and</p> <p>b) It is not part of:</p> <p>i) a continuous area of predominantly indigenous vegetation over 1 hectare in area, or</p> <p>ii) a continuous area of predominantly indigenous vegetation greater than 6m in height and greater than 500m<sup>2</sup> in area and is not located within 100m of the Coastal Marine Area; and</p> <p>c) It is not located within a site identified in Appendix F (Kiwi Density) of the District Plan.</p> <p>(5) <b>Except that the following are Permitted Activities throughout the Treaty Settlement Zone, including the Overlays, and are excluded from the Standards of 15B.10.2(1), 15B.10.2(2), and 15B.10.1(3) and 15B.10.1(4):</b></p> <p>a) The removal is in accordance with an existing use right</p> <p>(Note: this would include activities such as vegetation clearance associated with the maintenance of existing drainage channels); or</p> <p>b) The total clearance within a site is no more than 500m<sup>2</sup> where the clearance is for the express purpose of providing a house site and / or access to a house site, or is to provide access to existing farming or forestry activities; or</p> <p>c) The clearance is for the maintenance of any open or clear space within an area defined by 20m of an existing dwelling or building; or</p> <p>d) The removal is of trees that are a danger to human life or existing structures (including network utilities); or</p> <p>e) The removal is for the formation and maintenance of walking tracks less than 1.5 metres in width; or</p> <p>f) The clearance is for maintenance of existing fence lines or for a new fence where the</p>	<p>Where an activity is a Restricted Discretionary Activity under this Rule, Council has restricted its discretion over the following matters when considering and determining an application for Resource Consent:<sup>5</sup></p> <p>i) Extent of vegetation clearance proposed relative to total vegetated area;</p> <p>ii) Whether any affected area of indigenous vegetation is naturally occurring or has been artificially created;</p> <p>iii) Effects on the locality, particularly the rural character and amenity values. and if within an Overlay, those values associated with overlay areas;</p> <p>iv) Whether and the extent to which revegetation using eco-sourcing of native plants is proposed as part of the development;</p> <p>v) Effects on ecological values and in particular any its significance as a particular site of Ecological Significance of reference to the criteria listed in Appendix 25G;</p> <p>vi) Effects on landscape and heritage values, in particular any site identified in the District Plan or an amenity landscape identified in Council's Landscape Technical Report (2011);</p> <p>vii) Effects on water bodies, including wetlands and particularly sensitive receiving environments of the harbours and lakes;</p> <p>viii) The ecological significance of the indigenous vegetation or individual indigenous tree and associated presence of rare or endangered flora and fauna including kwhi as shown in Appendix F to the District Plan Maps;</p> <p>ix) The extent to which the activity may adversely affect cultural and spiritual values;</p> <p>x) The form and ecological value of remaining vegetation, including edge effects, retention of corridors and relationship to the natural landform;</p> <p>xi) The extent to which any proposed measures will result in the protection and enhancement of the ecological values of the area;</p> <p>xii) The relationship of the vegetation to any adjacent conservation covenant and whether it contributes to an ecological corridor;</p> <p>xiii) The relevant provisions of the Kaipara District Council Reserves and Open Space Strategy;</p> <p>xiv) In Overlays, how the proposal contributes to the Objectives and Outcomes for the relevant Overlay, as set out in Chapter 4 (Section 4.4 and 4.7);</p> <p>xv) Whether and what extent provision has been made for the exercise of matauranga maori and tikanga;</p> <p>xvi) The relationship of the vegetation to any adjacent conservation covenant and whether it contributes to an ecological corridor;</p> <p>xvii) The consistency of the proposal with the relevant Objectives and Policies contained in Part A and Part C of the Plan managing the values of the District including but not limited to Chapters 2, 3, 6, 7, 8 and 17.</p> <p>In addition, Council will restrict its discretion to the following matters when considering an application for Resource Consent in the Valued Natural Environments of Mangawhai Overlay:</p> <p>i) The extent to which the vegetation contributes to the values of the Valued Natural Environments of Mangawhai Overlay, as defined in the Conservation Policy Area of the Mangawhai Structure Plan;<sup>10</sup></p>	<p>Where an activity is a Restricted Discretionary Activity under this Rule, Council has restricted its discretion over the following matters when considering and determining an application for Resource Consent:<sup>5</sup></p> <p>i) Extent of vegetation clearance proposed relative to total vegetated area;</p> <p>ii) Whether any affected area of indigenous vegetation is naturally occurring or has been artificially created;</p> <p>iii) Effects on the locality, particularly the rural character and amenity values. and if within an Overlay, those values associated with overlay areas;</p> <p>iv) Whether and the extent to which revegetation using eco-sourcing of native plants is proposed as part of the development;</p> <p>v) Effects on ecological values and in particular any its significance as a particular site of Ecological Significance of reference to the criteria listed in Appendix 25G;</p> <p>vi) Effects on landscape and heritage values, in particular any site identified in the District Plan or an amenity landscape identified in Council's Landscape Technical Report (2011);</p> <p>vii) Effects on water bodies, including wetlands and particularly sensitive receiving environments of the harbours and lakes;</p> <p>viii) The ecological significance of the indigenous vegetation or individual indigenous tree and associated presence of rare or endangered flora and fauna including kwhi as shown in Appendix F to the District Plan Maps;</p> <p>ix) The extent to which the activity may adversely affect cultural and spiritual values;</p> <p>x) The form and ecological value of remaining vegetation, including edge effects, retention of corridors and relationship to the natural landform;</p> <p>xi) The extent to which any proposed measures will result in the protection and enhancement of the ecological values of the area;</p> <p>xii) The relationship of the vegetation to any adjacent conservation covenant and whether it contributes to an ecological corridor;</p> <p>xiii) The relevant provisions of the Kaipara District Council Reserves and Open Space Strategy;</p> <p>xiv) In Overlays, how the proposal contributes to the Objectives and Outcomes for the relevant Overlay, as set out in Chapter 4 (Section 4.4 and 4.7);</p> <p>xv) Whether and what extent provision has been made for the exercise of matauranga maori and tikanga;</p> <p>xvi) The relationship of the vegetation to any adjacent conservation covenant and whether it contributes to an ecological corridor;</p> <p>xvii) The consistency of the proposal with the relevant Objectives and Policies contained in Part A and Part C of the Plan managing the values of the District including but not limited to Chapters 2, 3, 6, 7, 8 and 17.</p> <p>In addition, Council will restrict its discretion to the following matters when considering an application for Resource Consent in the Valued Natural Environments of Mangawhai Overlay:</p> <p>i) The extent to which the vegetation contributes to the values of the Valued Natural Environments of Mangawhai Overlay, as defined in the Conservation Policy Area of the Mangawhai Structure Plan;<sup>10</sup></p>

	<p>purpose of the new fence is to exclude stock and/or pests from an area which is to be protected for ecological or soil conservation purposes, provided that the clearance does not exceed a width of 3.5m either side of the fence line; using manual methods that do not require the removal of any indigenous tree over 300mm girth; or</p> <p>g) It is part of the operation and maintenance of network utilities, or is necessary to protect electrical lines required to meeting the Electricity (Hazards from Trees) Regulations 2003;</p> <p>h) The clearance is for the creation and maintenance of firebreaks; or</p> <p>i) The vegetation or tree comprises the understorey directly beneath exotic or native plantation forest and the activity is carried out as part of forestry operations; or</p> <p>j) It is in accordance with the terms of a Queen Elizabeth II National Trust or other covenant or a sustainable-management permit or personal-use approval, or permanent forest sink covenant under the Forests Amendment Act 1949, or the trees have been planted specifically for forestry or cropping purposes or the removal is limited to naturally dead or wind thrown trees, or with forestry operations, if the company has Forest Stewardship Council certification or another third party certified environmental management system, the forestry company is a signatory to the New Zealand Forest Accord<sup>1</sup>; or</p> <p>k) The vegetation clearance is on land which has been previously cleared and where the indigenous vegetation to be cleared is less than 10 years old.</p> <p>Note 1: The Regional Water and Soil Plan for Northland contain minimum standards for erosion and sediment control resulting from land disturbance. Vegetation clearance activities may require a Resource Consent from the Northland Regional Council under those provisions. Applicants should contact the Northland Regional Council to confirm whether or not a Consent is required.</p> <p>Note 2: Where parallel Resource Consent for vegetation removal is required from the Northland Regional Council, Kaipara District Council will seek to undertake joint processing of both applications, e.g. via delegated authority from the Northland Regional Council.</p> <p>Note 3: For the purpose of clarity the standards of this Rule for the Treaty Settlement Zone apply to Overlays unless alternative standards are explicitly stated.</p> <p>Note 4: An area of predominantly indigenous is an area where the vegetation cover is at least 75% indigenous.</p>	

- <sup>1</sup> This amendment is an outcome of Overlay Topic mediation, included for context only.]
- <sup>2</sup> This amendment is an outcome of Overlay Topic mediation, included for context only.]
- <sup>3</sup> This amendment is an outcome of Overlay Topic mediation, included for context only.]
- <sup>4</sup> This amendment is a consequential amendment from the Excavation and Fill Topic mediation, included for context only.]
- <sup>5</sup> As agreed by Consent Order resolving Appeal ENV-2011-AKI-000250, dated 7<sup>th</sup> August 2012.]
- <sup>6</sup> This amendment is an outcome of Overlay Topic mediation, included for context only.]
- <sup>7</sup> This amendment is an outcome of Natural Environments Topic mediation, included for context only.]
- <sup>8</sup> This amendment is an outcome of Natural Environments Topic mediation, included for context only.]
- <sup>9</sup> This amendment is an outcome of Natural Environments Topic mediation, included for context only.]
- <sup>10</sup> This amendment is an outcome of Overlays Topic mediation, included for context only.]

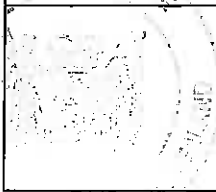


15A.10.2 Vegetation Clearance	<p><u>Indigenous Vegetation Clearance</u> (as defined in Chapter 24. Definitions) is a Permitted Activity if: Subject to the exceptions provided in (5) below, clearance or removal of indigenous vegetation outside an overlay area is a Permitted Activity if:</p> <p>(1) <b>Maori Purposes: Maori Land Zone</b></p> <p>a) it is not located within an indigenous wetland; and</p> <p>b) it is not part of:</p> <p>i) a continuous area of predominantly indigenous vegetation over 5 hectares in area; or</p> <p>ii) a continuous area of predominantly indigenous vegetation greater than 6m in height and over 1 hectare in area; and</p> <p>c) it is not located within a site identified in Appendix F (Kiwi Density) of the District Plan.</p> <p>(2) <b>East Coast and West Coast and Kaipara Harbours (Mangawhai and Kaipara) Overlays</b></p> <p>a) it is not located within an indigenous wetland; and</p> <p>b) it is not part of:</p> <p>i) a continuous area of predominantly indigenous vegetation over 1 hectare in area; or</p> <p>ii) a continuous area of predominantly indigenous vegetation greater than 6m in height and greater than 1,000m<sup>2</sup> in area and is not located within 100m of the Coastal Marine Area; and</p> <p>c) it is not located within a site identified in Appendix F (Kiwi Density) of the District Plan is not located within an indigenous wetland.</p> <p>(3) <b>Mangawhai Harbour Overlay<sup>2</sup>:</b></p> <p>a) it is not located within an indigenous wetland; and</p> <p>b) it is not part of:</p> <p>i) a continuous area of predominantly indigenous vegetation over 1 hectare in area; or</p> <p>ii) a continuous area of predominantly indigenous vegetation greater than 3m in height and greater than 500m<sup>2</sup> in area; and</p> <p>c) it is not located within a site identified in Appendix F (Kiwi Density) of the District Plan.</p> <p>(4) <b>Valued Natural Environments of Mangawhai and Kai Iwi Lakes Overlay Areas<sup>3</sup></b></p> <p>a) it is not located within an indigenous wetland; and</p> <p>b) it is not part of:</p> <p>i) a continuous area of predominantly indigenous vegetation over 1 hectare in area; or</p> <p>ii) a continuous area of predominantly indigenous vegetation greater than 6m in height and greater than 500m<sup>2</sup> in area and is not located within 100m of the Coastal Marine Area; and</p> <p>c) it is not located within a site identified in Appendix F (Kiwi Density) of the District Plan.</p> <p>(5) <del>(4)</del> Except that the following are Permitted Activities throughout the Maori Land Zone, including the Overlays, and are excluded from the Standards of 15A.10.2(1), 15A.10.2(2), <del>and</del> 15A.10.1(3) and 15A.10.1(4):</p> <p>a) The removal is in accordance with an existing use right</p> <p>(Note: this would include activities such as vegetation clearance associated with the maintenance of existing drainage channels); or</p> <p>b) The total clearance within a site is no more than 500m<sup>2</sup> where the clearance is for the express purpose of providing a house site and / or access to a house site, or is to provide access to existing farming or forestry activities; or</p> <p>c) The clearance is for the maintenance of any open or clear space within an area defined by 20m of an existing dwelling or building; or</p> <p>d) The removal is of trees that are a danger to human life or existing structures (including network utilities); or</p> <p>e) The removal is for the formation and maintenance of walking tracks less than 1.5 metres in width; or</p>	Restricted Discretionary Activity	<p>Where an activity is a Restricted Discretionary Activity under this Rule, Council has restricted its discretion over the following matters when considering and determining an application for Resource Consent<sup>5</sup>:</p> <p>i) Extent of vegetation clearance proposed relative to total vegetated area;</p> <p>ii) Whether any affected area of indigenous vegetation is naturally occurring or has been artificially created;</p> <p>iii) Whether and the extent to which revegetation using eco-sourcing of native plants is proposed as part of the development;</p> <p>iv) <del>Overlays whose values associated with overlay areas;</del> Effects on the locality, particularly the rural character and amenity values, and if within an Overlay, effects on ecological values and in particular any <del>its significance as a</del> in particular any site of Ecological Significance or by reference to the criteria listed in Appendix 25G;</p> <p>v) <del>Effects on landscape and heritage values, in particular any site identified in the District Plan or an amenity landscape identified in Council's Landscape Technical Report (2011);</del> Effects on water bodies, including wetlands and particularly sensitive receiving environments of the harbours and lakes;</p> <p>vi) The ecological significance of the indigenous vegetation or individual indigenous tree and associated presence of rare or endangered flora and fauna including Kīwi as shown in Appendix F to the District Plan Maps;</p> <p>vii) The extent to which the activity may adversely affect cultural and spiritual values;</p> <p>viii) The form and ecological value of remaining vegetation, including edge effects, retention of corridors and relationship to the natural landform;</p> <p>ix) The extent to which any proposed measures will result in the protection and enhancement of the ecological values of the area;</p> <p>x) The relationship of the vegetation to any adjacent conservation covenant and whether it contributes to an ecological corridor;</p> <p>xi) The relevant provisions of the Kaipara District Council Reserves and Open Space Strategy;</p> <p>xii) In Overlays, how the proposal contributes to the Objectives and Outcomes for the relevant Overlay, as set out in Chapter 4 (Sections 4.4.6.6.4-7);</p> <p>xiii) The consistency of the proposal with the relevant Objectives and Policies contained in Part A and Part C of the Plan managing the values of the District including but not limited to Chapters 2, 3, 6, 7, 8 and 17.</p> <p><del>In addition, Council will restrict its discretion to the following matters when considering an application for Resource Consent in the Valued Natural Environments of Mangawhai Overlay:</del></p> <p>i) <del>The extent to which the vegetation contributes to the values of the Valued Natural Environments of Mangawhai Overlay, as defined in the Conservation Policy Area of the Mangawhai Structure Plan; or</del></p>
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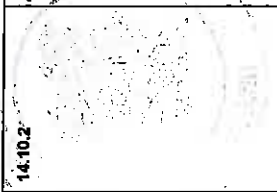
		<p>f) The clearance is for maintenance of existing fence lines or for a new fence where the purpose of the new fence is to exclude stock and/or pests from an area which is to be protected for ecological or soil conservation purposes, provided that the clearance does not exceed a width of 3.5m either side of the fence line; using manual methods that do not require the removal of any indigenous tree over 300mm girth; or</p> <p>g) It is part of the operation and maintenance of network utilities, or is necessary to protect electrical lines required to meeting the Electricity (Hazards from Trees) Regulations 2003;</p> <p>h) The clearance is for the creation and maintenance of firebreaks; or</p> <p>i) The vegetation or tree comprises the understorey directly beneath exotic or native plantation forest and the activity is carried out as part of forestry operations; or</p> <p>j) It is in accordance with the terms of a Queen Elizabeth II National Trust or other covenant or a sustainable management permit or personal-use approval, or permanent forest sink covenant under the Forests Amendment Act 1949, or the trees have been planted specifically for forestry or cropping purposes, or the removal is limited to naturally dead or wind thrown trees, or with forestry operations, if the company has Forest Stewardship Council certification or another third party certified environmental management system the forestry company is a signatory to the New Zealand Forest Accord; or</p> <p>k) The vegetation clearance is on land which has been previously cleared and where the indigenous vegetation to be cleared is less than 10 years old.</p> <p><b>Note 1:</b> The Regional Water and Soil Plan for Northland contain minimum standards for erosion and sediment control resulting from land disturbance. Vegetation clearance activities may require a Resource Consent from the Northland Regional Council under those provisions. Applicants should contact the Northland Regional Council to confirm whether or not a Consent is required.</p> <p><b>Note 2:</b> Where parallel Resource Consent for vegetation removal is required from the Northland Regional Council, Kaipara District Council will seek to undertake joint processing of both applications, e.g. via delegated authority from the Northland Regional Council.</p> <p><b>Note 3:</b> For the purpose of clarity, the standards of this Rule for the Maori Land Zone apply to Overlays unless alternative standards are explicitly stated.</p> <p><b>Note 4:</b> An area of predominantly indigenous is an area where the vegetation cover is at least 75% indigenous.</p>
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- [1] This amendment is an outcome of Overlay Topic mediation, included for context only.]
- [2] This amendment is an outcome of Overlay Topic mediation, included for context only.]
- [3] This amendment is an outcome of Overlay Topic mediation, included for context only.]
- [4] This amendment is a consequential amendment from the Excavation and Fill mediation, included for context only.]
- [5] As agreed by Consent Order resolving Appeal ENV-2011-AK-000250, dated 7<sup>th</sup> August 2012.]
- [6] This amendment is an outcome of Overlay Topic mediation, included for context only.]
- [7] This amendment is an outcome of Natural Environments mediation, included for context only.]
- [8] This amendment is an outcome of Natural Environments Topic mediation, included for context only.]
- [9] This amendment is an outcome of Overlay Topic mediation, included for context only.]
- [10] This amendment is an outcome of Overlay Topic mediation, included for context only.]

13.10.2 Vegetation Clearance	Subject to the exceptions provided in (4) below, clearance or removal of indigenous vegetation is a Permitted Activity if:	Restricted Discretionary Activity	Where an activity is a Restricted Discretionary Activity under this Rule, Council has restricted its discretion over the following matters when considering and determining an application for Resource Consent: <sup>5</sup>
<p>(1) Residential Zone</p> <p>a) It is not located within an <i>Indigenous wetland</i>; and</p> <p>b) It is not part of:</p> <p>i. <u>a continuous area of predominantly indigenous vegetation over 5 hectares in area; or</u></p> <p>ii. a continuous area of predominantly indigenous vegetation greater than 6m in height and over 200m<sup>2</sup> in area.</p> <p>(2) East Coast and West Coast and <b>Kaipara Harbours (Mangawhai and Kaipara)</b><sup>1</sup> Overlays</p> <p>a) It is not located within an indigenous wetland; and</p> <p>b) It is not part of:</p> <p>i. <u>a continuous area of predominantly indigenous vegetation over 1 hectare in area; or</u></p> <p>ii. a continuous area of predominantly indigenous vegetation greater than 6m in height and greater than 100m<sup>2</sup> in area <u>and is not located within 100m of the Coastal Marine Area.</u></p> <p>(3) <b>Valued Natural Environments of Mangawhai and Kai-Iwi Lakes Overlays- Mangawhai Harbour Overlay<sup>2</sup>.</b></p> <p>a) It is not located within an indigenous wetland; and</p> <p>b) It is not part of:</p> <p>i. <u>a continuous area of predominantly indigenous vegetation over 1 hectare in area; or</u></p> <p>ii. <u>a continuous area of predominantly indigenous vegetation greater than 3m in height and greater than 50m<sup>2</sup> in area and is not located within 100m of the Coastal Marine Area.</u></p> <p>(4) Except that the following are Permitted Activities throughout the Residential Zone, including the Overlays, and are excluded from the Standards of 13.10.2(1), 13.10.2(2) and 13.10.4(3):</p> <p>a) The removal is in accordance with an existing use right; (Note: this would include activities such as vegetation clearance associated with the maintenance of existing drainage channels); or</p> <p>b) The total clearance within a site is no more than 200m<sup>2</sup> where the clearance is for the express purpose of providing a house site and / or access to a house site, or is to provide access to existing farming or forestry activities; or</p> <p>c) The removal is of trees that are a danger to human life or existing structures (including network utilities); or</p> <p>d) The removal is for the formation and maintenance of walking tracks less than 1.5 metres in width; or</p> <p>e) The clearance is for maintenance of existing fence lines or for a new fence where the purpose of the new fence is to exclude stock and/or pests from an area which is to be protected for ecological or soil conservation purposes, provided that the clearance does not exceed a width of 3.5m either side of the fence line; using manual methods that do not require the removal of any indigenous trees over 300mm girth; or</p> <p>f) It is part of the operation and maintenance of network utilities, or is necessary to protect electrical lines required to meeting the Electricity (Hazards from Trees) Regulations 2003;</p> <p>g) The removal is for the construction of a fire break by a fire authority; or</p> <p>h) It is necessary for the purposes of fencing and excluding stock from an area which is to be protected permanently for ecological and / or soil conservation purposes; or</p> <p>i) The vegetation or trees comprises the understory directly beneath exotic or native plantation forest and the activity is carried out as part of forestry operations; or</p> <p>j) It is <u>carried out</u> in accordance with the terms of a Queen Elizabeth II National Trust or other covenant; <u>or a Sustainable Management Permit or plan, personal-use approval, or permanent-forest sink covenant</u> under the Forests Amendment Act 1949, or the trees have been planted specifically for forestry or cropping purposes, or the removal is limited to naturally dead or wind thrown trees, or <u>with forestry operations, if the company has</u></p>			<p>i) Extent of <i>vegetation clearance</i> proposed relative to total vegetated area;</p> <p>ii) Whether any affected area of <i>indigenous vegetation</i> is naturally occurring or has been artificially created;</p> <p>iii) Whether and the extent to which revegetation using <i>eco-sourcing</i> of native plants is proposed as part of the development;</p> <p>iv) Effects on the locality;</p> <p>v) Effects on ecological values and in particular any <i>its significance as a riparian-ecological Site of Ecological Significance</i> <del>or<sup>2</sup></del> by reference to the criteria listed in Appendix 25G;</p> <p>vi) Effects on landscape and heritage values <del>in particular any site identified in the District Plan or an amenity-landscape identified in Council's Landscape Technical Report (2011)</del>;</p> <p>vii) Effects on water bodies, including <i>wetlands</i> and particularly sensitive <i>receiving environments</i> of the harbours and lakes;</p> <p>viii) The ecological significance of the indigenous vegetation or individual indigenous tree and associated presence of rare or endangered flora and fauna including kōwhiri as shown in Appendix F to the District Plan Maps ;</p> <p>ix) The extent to which the activity may adversely affect cultural and spiritual values;</p> <p>x) The form and ecological value of remaining vegetation, including edge effects, retention of corridors and relationship to the natural landscape;</p> <p>xi) The extent to which any proposed measures will result in the protection and enhancement of the ecological values of the area;</p> <p>xii) The relationship of the vegetation to any adjacent conservation covenant and whether it contributes to an ecological corridor;</p> <p>xiii) The relevant provisions of the Kaipara District Council Reserves and Open Space Strategy;</p> <p>xiv) In Overlays, how the proposal contributes to the Objectives <del>and Outcomes</del> for the relevant Overlay, as set out in Chapter 4 (<del>Section 4.4 and 4.7</del>);</p> <p>xv) The consistency of the proposal with the relevant Objectives and Policies contained in Part A and Part C of the Plan managing the values of the District including but not limited to Chapters 2, 3, 6, 7, 8 and 17.</p> <p><del>In addition, Council will restrict its discretion to the following matters when considering an application for Resource Consent to the Valued Natural Environments of Mangawhai Overlay:</del></p> <p><del>i) The extent to which the vegetation contributes to the values of the Valued Natural Environments of Mangawhai Overlay, as defined in the Conservation Policy Area of the Mangawhai Structure Plan<sup>3</sup>.</del></p>

		<p><b>Forest Stewardship Council certification of another third party certified environmental management system, the forestry company is a signatory to the New Zealand Forest Accord, or</b></p> <p>k) The vegetation clearance is on land which has been previously cleared and where the indigenous vegetation to be cleared is less than 10 years old.</p> <p><b>Note 1:</b> The Regional Water and Soil Plan for Northland contain minimum standards for erosion and sediment control resulting from land disturbance. Vegetation clearance activities may require a Resource Consent from the Northland Regional Council under those provisions. Applicants should contact the Northland Regional Council to confirm whether or not a Consent is required.</p> <p><b>Note 2:</b> Where parallel Resource Consent for vegetation removal is required from the Northland Regional Council, Kaipara District Council will seek to undertake joint processing of both applications, e.g. via delegated authority from the Northland Regional Council.</p> <p><b>Note 3:</b> For the purpose of clarity, the standards of this Rule for the Residential Zones apply to Overlays unless alternative standards are explicitly stated.</p> <p><b>Note 4:</b> An area of predominantly indigenous is an area where the vegetation cover is at least 75% indigenous.</p>	
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- 1 This amendment is an outcome of Overlay Topic mediation, included for context only.]
- 2 This amendment is an outcome of Overlay Topic mediation, included for context only.]
- 3 For completeness, this revision has been shown, it is a consequential amendment to the Plan resulting from mediation on the Earthworks Appeal Topic, Hancock Appeal]
- 4 This amendment is a consequential amendment from the Excavation and Fill Topic mediation, included for context only.]
- 5 As agreed by Consent Order resolving Appeal ENV-2011-AK-000250, dated 7<sup>th</sup> August 2012.]
- 6 This amendment is an outcome of the Natural Environments Topic mediation, included for context only.]
- 7 This amendment is an outcome of the Natural Environments Topic mediation, included for context only.]
- 8 This amendment is an outcome of Overlay Topic mediation, included for context only.]
- 9 This amendment is an outcome of Overlay Topic mediation, included for context only.]

<p>14.10.2</p> 	<p><b>Vegetation Clearance</b></p>	<p>Subject to the exceptions provided in (3) below the clearance or removal of indigenous vegetation within all Overlay Areas (excluding <u>Kai-Iwi-Lakes and Valued-Natural-Environments of Mangawhai Overlay</u>) areas is a Permitted Activity if:</p> <p>(1) All Overlay Areas (excluding <u>Kai-Iwi-Lakes and Valued-Natural-Environments of Mangawhai</u>)</p> <p>a) It is not located within an indigenous wetland; and</p> <p>b) It is not part of:</p> <p>i) <u>a continuous area of predominantly indigenous vegetation over 5 hectares in area; or</u></p> <p>ii) <u>a continuous area of predominantly indigenous vegetation greater than 8m in height and greater than 200m<sup>2</sup> in area and is not located within 100m of the Coastal Marine Area.</u></p> <p>(2) <u>Valued-Natural-Environments of Mangawhai and Kai-Iwi-Lakes Overlay-Mangawhai Harbour Overlay</u>;</p> <p>a) It is not located within an indigenous wetland; and</p> <p>b) It is not part of:</p> <p><u>i) a continuous area of predominantly indigenous vegetation over 1 hectare in area; or</u></p> <p><u>ii) a continuous area of predominantly indigenous vegetation greater than 3m in height and greater than 50m<sup>2</sup> in area and is not located within 100m of the Coastal Marine Area.</u></p> <p>(3) Except that the following are Permitted Activities throughout the Business (Industrial and Commercial) Zone, including the Overlays, and are excluded from the Standards of 14.10.2(1), 14.10.2(2) and 14.10.1(3):</p> <p>a) The removal is in accordance with an existing use right;</p> <p>(Note: this would include activities such as vegetation clearance associated with the maintenance of existing drainage channels); or</p> <p>b) The removal is of trees that are a danger to human life or existing structures (including network utilities); or</p> <p>c) The removal is for the construction of a fire break by a fire authority; or</p> <p>d) The clearance is for maintenance of existing fence lines or for a new fence where the purpose of the new fence is to exclude stock and/or pests from an area which is to be protected for ecological or soil conservation purposes, provided that the clearance does not exceed a width of 3.5m either side of the fence line; using manual methods that do not require the removal of any indigenous tree over 300mm girth; or</p> <p>e) It is part of the operation and maintenance of network utilities, or is necessary to protect electrical lines required to meeting the Electricity (Hazards from Trees) Regulations 2003;</p> <p><b>Note 1:</b> The <i>Regional Water and Soil Plan for Northland</i> contain minimum standards for erosion and sediment control resulting from land disturbance. Vegetation clearance activities may require a Resource Consent from the Northland Regional Council under those provisions. Applicants should contact the Northland Regional Council to confirm whether or not a Consent is required.</p> <p><b>Note 2:</b> Where parallel Resource Consent for vegetation removal is required from the Northland Regional Council, Kaipara District Council will seek to undertake joint processing of both applications, e.g. via delegated authority from the Northland Regional Council.</p> <p><b>Note 3:</b> <u>An area of predominantly indigenous is an area where the vegetation cover is at least 75% indigenous.</u></p>	<p>Restricted Discretionary Activity</p>	<p>Where an activity is a Restricted Discretionary Activity under this Rule, Council has restricted its discretion over the following matters when considering and determining an application for Resource Consent:</p> <p>i) Extent of vegetation clearance proposed relative to total vegetated area;</p> <p>ii) Whether and the extent to which revegetation using eco-sourcing of native plants is proposed as part of the development;</p> <p>iii) Effects on the locality, particularly the character and amenity values of adjoining sites / land uses, <u>and those values associated with Overlay Areas</u>;</p> <p>iv) Effects on ecological values and in particular any <u>its significance as a particular-any Site of Ecological Significance</u> or<sup>1</sup> by reference to the criteria listed in Appendix 25G;</p> <p>v) Effects on landscape and heritage values <u>in particular any site identified in the District Plan or an amenity-landscape identified in Councils-Landscape-Technical-Report (2011)</u>;</p> <p>vi) Effects on water bodies, including <u>wetlands</u> and particularly sensitive <u>receiving environments</u> of the harbours and lakes;</p> <p>vii) The ecological significance of the indigenous vegetation or individual indigenous tree and associated presence of rare or endangered flora and fauna including kīwi as shown in Appendix F to the District Plan Maps ;</p> <p>viii) The extent to which the activity may adversely affect cultural and spiritual values;</p> <p>ix) The form and ecological value of remaining vegetation, including edge effects, retention of corridors and relationship to the natural landform;</p> <p>x) The extent to which any proposed measures will result in the protection and enhancement of the ecological values of the area;</p> <p>xi) The relevant provisions of the Kaipara District Council Reserves and Open Space Strategy;</p> <p>xii) In Overlays, how the proposal contributes to the Objectives <u>and Outcomes</u> for the relevant Overlay, as set out in Chapter 4 (<u>Section 4.4 and 4.7</u>);</p> <p>xiii) The relationship of the vegetation to any adjacent conservation covenant and whether it contributes to an ecological corridor;</p> <p>xiv) The consistency of the proposal with the relevant Objectives and Policies contained in Part A and Part C of the Plan managing the values of the District including but not limited to Chapters 2, 3, 6, 7, 8 and 17.</p> <p><u>In addition, Council will restrict its discretion to the following matters when considering an application for Resource Consent in the Valued-Natural-Environments of Mangawhai Overlay:</u></p> <p><u>i) The extent to which the vegetation contributes to the values of the Valued-Natural-Environments of Mangawhai Overlay, as defined in the Conservation Policy Area of the Mangawhai-Structure Plan</u>;</p>
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[<sup>1</sup>] This amendment is an outcome of Overlay Topic mediation, included for context only.]  
 [<sup>2</sup>] This amendment is an outcome of Overlay Topic mediation, included for context only.]  
 [<sup>3</sup>] This amendment is an outcome of Overlay Topic mediation, included for context only.]  
 [<sup>4</sup>] As agreed by Consent Order resolving Appeal ENV-2011-AKI-000250, dated 7<sup>th</sup> August 2012.]  
 [<sup>5</sup>] This amendment is an outcome of Overlay Topic mediation, included for context only.]

[<sup>6</sup> This amendment is an outcome of the Natural Environments Topic mediation, included for context only.]

[<sup>7</sup> This amendment is an outcome of the Natural Environments Topic mediation, included for context only.]

[<sup>8</sup> This amendment is an outcome of Overlay Topic mediation, included for context only.]

[<sup>9</sup> This amendment is an outcome of Overlay Topic mediation, included for context only.]