

IN THE MATTER

of the Resource Management Act
1991 (the Act)

AND

IN THE MATTER

of eight appeals under clause 14
of Schedule 1 to the Act
concerning Variation 1 to the
Kaipara Proposed District Plan

BETWEEN

CHRISTOPHER CALVELEY

ENV-2012-AKL-000138

ENVIRONMENTAL DEFENCE
SOCIETY INC

ENV-2012-AKL-000131

THE BREAM TAIL RESIDENTS
ASSN

ENV-2012-AKL-000135

THE WELCH INVESTMENT
TRUST

ENV-2012-AKL-000134

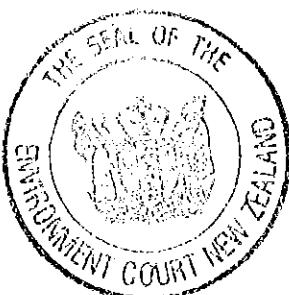
FARMERS OF NEW ZEALAND
INCORPORATED AND THOMAS
COATES ESTATE TRUSTEES

ENV-2012-AKL-000136

THE DIRECTOR GENERAL OF
CONSERVATION (NORTHLAND
CONSERVANCY)

ENV-2012-AKL-000128

MERIDIAN ENERGY LIMITED



ENV-2012-AKL-000126

**FEDERATED FARMERS OF
NEW ZEALAND**

ENV-2012-AKL-000121

Appellants

AND

KAIPARA DISTRICT COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

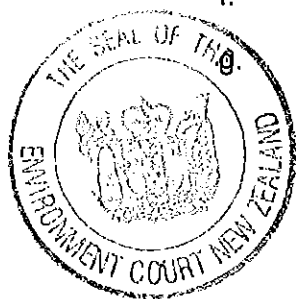
Acting Principal Environment Judge Newhook sitting alone under section 279 of the Act

IN CHAMBERS at Auckland

CONSENT ORDER

Introduction

1. The Court has read and considered the appeals and the memorandum of the parties dated 30 August 2013.
 2. The following parties have given notice of an intention to become parties to one or more of the appeals 274 of the Act:
 - a. The Director-General of Conservation
 - b. Environmental Defence Society
 - c. C & J Hawley
 - d. Mangawhai Residents & Ratepayers Association
 - e. Marunui Conservation Limited
 - f. Friends of Brynderwyns Society
- Farmers of New Zealand Incorporated



- h. Ian Stuart
- i. Federated Farmers of New Zealand
- j. Meridian Energy Limited
- k. Transpower New Zealand Limited

3. This consent order addresses the following topics:

- a. Landscape Criteria and Assessment (ENV-2012-304-000094);
- b. Bulk and Location (ENV-2012-304-000095);
- c. Rural Farming Practices (ENV-2012-304-000097);
- d. Adjacency to ONL (ENV-2012-304-000098); and
- e. Planning Approach and Process (ENV-2012-304-000106).

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. With the exception of the appellant Christopher Calveley, all parties with an interest in these proceedings have executed the memorandum requesting this order.
- b. All those 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.
- c. All those parties are aware that the consent order resolves the appeals and topics recorded in paragraphs 93 and 94 below.

5. With reference to the appeal lodged by Christopher Calveley, the relief sought by the appellant in that case has been narrowed so as to exclude the contents of this order and so his not having signed it poses no impediment. The parts of that appeal still being pursued are set out in the *Joint Memorandum of Parties Concerning Arrangements for Hearing (the memorandum)* attached hereto and marked **A**. The relevant portion of that memorandum sets out at paragraph 6(d) that the appellant

agrees:



6. not to pursue any of the other matters raised in the Variation 1 appeals;
 - d. that the appeal is now narrowed to the issues recorded above and (geographically) to the Mangawhai Heads Holdings Ltd (MHHL) land and more specifically to the 15 consented lots.
7. In the memorandum parties to Christopher Calveley and MHHL's appeals consent to this order being made.

Order

8. Therefore the Court orders, by consent, that:
 - a. the topic Rural Farming Practices (ENV-2012-304-000097) is dismissed;
 - b. the topic Planning Approach and Process (ENV-2012-304-000106) is dismissed; and
 - c. Kaipara District Council otherwise be directed to amend Variation 1 to the Kaipara Proposed District Plan as set out below:

Amendments to Chapter 12 (Rural)

9. Renumber and amend "Note 4" in rule 12.10.3a (Dwellings) as follows:

Note 4~~6~~: For dwellings within an Outstanding Natural Landscape, Rule 12.10.3~~cb~~ shall also apply.

10. Amend and renumber the following Discretionary Activity Assessment Criteria in rule 12.10.3a as shown below:

~~vi)viii)~~ ~~Whether and t~~The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 ~~and the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 1&B;~~



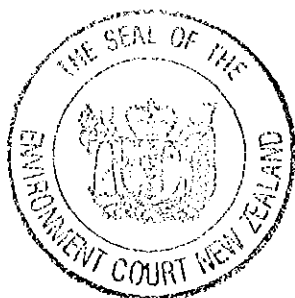
- ~~x)xi)~~ Whether and ~~the~~ the extent to which the activity will affect any heritage values identified in Appendix 17.1 and 17.2 of the Plan.

11. Amend rule 12.10.3c (Erection and alterations of buildings and structures within an Outstanding Natural Landscape) as follows:

- (1) Subject to the exclusion in (2) below, the Erection and Alteration of Buildings and Structures (including ~~D~~dwelling~~s~~) located in an Outstanding Landscape is a permitted activity if:
- a) It is no more than 8m in height; and
 - b) Does not exceed 50m² gross floor area; or any alteration / additions to the building or structure do not exceed 40% of the gross floor area of the dwelling or 40% of the volume of the structure (whichever is the smaller); and
 - c) The exterior finish of the building or structure has a reflectance value of, or less than 30% as defined within the BS5252 standard colour palette;

And if applicable:

- d) It is required for maintenance to the interior and exterior of the building or structure; or
 - e) It is required for renovations to the interior of the dwelling or structure.
- (2) Except that:
- (a) The standards of 12.10.3c(1) do not apply to the dwellings constructed within the defined Exclusive Use Areas shown on the Survey Plan for lots 1-29, 32, 34, 40, 41 and 45 DP 348513 (Bream Tail) consented by RM050086 provided that the other conditions of the Consent Notices (dated 2nd of February 2004) on these titles are complied with.



Note 1: to assist interpretation of this Rule, the following activities are permitted
subject to compliance with the following provisions:

<u>Provisions that apply</u>	<u>12.10.3c(1)(a)</u>	<u>12.10.3c(1)(b)</u>	<u>12.10.3c(1)(c)</u>	<u>12.10.3c(1)(d)</u>	<u>12.10.3c(1)(e)</u>
<u>Pump sheds</u>	<u>Applies</u>	<u>Applies</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>
<u>Water troughs</u>	<u>Applies</u>	<u>Applies</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>
<u>Water tanks</u>	<u>Applies</u>	<u>Applies</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>
<u>Irrigation systems (single rotary systems)</u>	<u>Does not apply</u>	<u>Does not apply</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>
<u>Uncovered yards (including cattle and sheep)</u>	<u>Applies</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
<u>Wind turbines for operations of agricultural equipment (e.g. for water pumps)</u>	<u>Does not apply</u>	<u>Applies</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>



<u>Replacement of existing structures in ONL (like for like replacement)</u>	<u>Does not apply</u>	<u>Does not apply</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>
<u>One new operational farm building (non-residential) per certificate of title issued on or before 2 December 2010</u>	<u>Applies</u>	<u>Does not apply</u> <u>Subject instead to 100m² gross floor area limit</u>	<u>Applies</u>	<u>n/a</u>	<u>n/a</u>

* Note: where the above provisions do not apply the general provisions of the District Plan apply.

12. Amend the Discretionary Activity Assessment Criteria at rule 12.10.3c as follows:

Where an activity is not permitted by this Rule, *Council* will have regard to the following matters when considering an application for Resource Consent: Council will exercise its discretion under section 104B of the Resource Management Act and may consider but will not be limited to the following matters when considering an application for resource consent that meets the terms of this rule:-

- i) ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.



Note 1: A description of the landscape features is provided in Appendix 18A. The values associated with the Outstanding Natural Landscapes are described in the Kaipara District Landscape Technical Report (2010).

13. In rule 12.10.4 (Commercial and Industrial Buildings), amend the cross-reference to rule "12.10.3b" in Note 2 to rule "12.10.3c".
14. Amend and renumber the following Restricted Discretionary Activity Assessment Criteria in rule 12.10.4 (Commercial and Industrial Buildings) as shown below:
 - ~~vi)~~viii) ~~Whether and if~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B;
 - ~~xiv)~~xvi) ~~Whether and if~~ The extent to which the activity will affect any heritage values identified in Appendix 17.1 and 17.2 of the Plan.
15. In rule 12.10.5 (Maximum Height), amend the cross-reference to rule "12.10.3b" in Note 1 to rule "12.10.3c".
16. Amend and renumber the following Restricted Discretionary Activity Assessment Criterion in rule 12.10.5 (Maximum Height) as shown below:
 - ~~vi)~~vii) ~~Whether and if~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.
17. Amend and renumber the following Restricted Discretionary Activity Assessment Criterion in rule 12.10.6 (Height in relation to boundary) as shown below:
 - ~~vi)~~vii) ~~Whether and if~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.



18. Amend and renumber the following Restricted Discretionary Activity Assessment Criteria in rule 12.10.7 (Setbacks) as shown below:

- ~~vi)~~xiv) ~~Whether and if applicable~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B; and
- ~~x)~~xvi) ~~Whether and if applicable~~ The extent to which the activity will affect any heritage values identified in Appendix 17.1 and 17.2 of the Plan.

19. Amend the following Restricted Discretionary Activity Assessment Criterion in rule 12.10.24 (Signage) as shown below:

- xi) ~~Whether and if applicable~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

20. Amend the following Restricted Discretionary Activity Assessment Criterion in rule 12.10.25 (Vehicle access and driveways) as shown below:

- xiii) ~~Whether and if applicable~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

21. Amend the following Restricted Discretionary Activity Assessment Criterion in rule 12.10.27 (Parking) as shown below:

- viii) ~~Whether and if applicable~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

22. Amend the following Restricted Discretionary Activity Assessment Criterion in rule 12.10.28 (Loading) as shown below:



- viii) ~~Whether and t~~The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

Rural Subdivision

23. Amend rule 12.12.1 (General Rural Subdivision) as follows:

- a. Amend and renumber the following Controlled Activity Assessment Criteria in rule 12.12.1 (General Rural Subdivision) as shown below:

~~xx)viii)~~ ~~Whether and t~~The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

- b. Renumber "Note 4" as "Note 7".

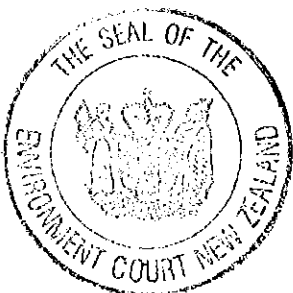
24. Amend rules 12.12.2 (Preservation of Natural and Cultural Heritage), 12.12.3 (Boundary Adjustment), 12.13.1 (Environmental Benefit), 12.13.2 (Rural Amenity Lot), 12.13.3 (Small Lot Development), and 12.13.4 (Integrated Development) as follows:

- a. In each rule, delete the following criterion:

Whether and the extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

- b. In each rule, except rule 12.13.1 (Environmental Benefit), delete the following note:

A description of the landscape features is provided in Appendix 18A. The values associated with the Outstanding Natural Landscapes are described in the Kaipara District Landscape Technical Report (2010).



25. In addition to the amendments to rule 12.13.1 noted above, amend and renumber the following Restricted Discretionary Activity Criterion in rule 12.13.1 as shown below:

~~x) v)~~ ~~Whether and~~ The extent to which the activity will affect any heritage values identified in Appendix 17.1 and 17.2 of the Plan.

26. In addition to the amendments to rule 12.13.4 noted above, insert an additional term for subdivision in rule 12.13.4 as shown below:

(4) Mangawhai Harbour Overlay

...

e) The site is not within an Outstanding Natural Landscape, as identified in Map Series 2.

27. Amend rule 12.14.1 (Small Lot Development) as follows:

If the *site* is within an Overlay Area, any *subdivision* for Small Lot *Development* is a *Discretionary Activity* if:

...

e) The site is not within an Outstanding Natural Landscape, as identified in Map Series 2.

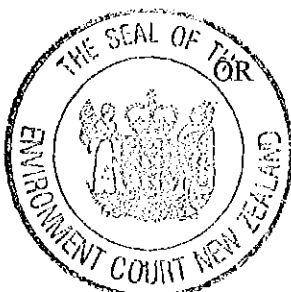
28. Amend rule 12.14.2 (Integrated Development) as follows:

If more than 10 lots are being created, Integrated *Development subdivision* is a *Discretionary Activity* where it complies with the following:

(1) Rural (excluding overlay areas)

...

b) The site is not within an Outstanding Natural Landscape, as identified in Map Series 2.



(2) Coast (East and West) and Kai Iwi Lakes Overlay Areas

...

b) The site is not within an Outstanding Natural Landscape, as identified in Map Series 2.

OR

(3) Kaipara Harbour Overlay

...

b) The site is not within an Outstanding Natural Landscape, as identified in Map Series 2.

OR

(4) Mangawhai Harbour Overlay

...

c) The site is not within an Outstanding Natural Landscape, as identified in Map Series 2.

29. Renumber rule 12.15.1 (Subdivision of a site within an Outstanding Natural Landscape) as rule "12.14.3", and amend the Matters for Discretion as follows:

Where an activity is a *Discretionary Activity* under this Rule, *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: Council will exercise its discretion under section 104B of the Resource Management Act and may consider but will not be limited to the following matters when considering an application for resource consent that meets the terms of subdivision under this rule:-

General Subdivision



The matters for control listed under Rule 12.12.1; and

- ii) ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

Note 13: A description of the landscape features is provided in Appendix 18A. The values associated with the Outstanding Natural Landscapes are described in the Kaipara District Landscape Technical Report (2010).

Amendments to Chapter 13 (Residential)

30. Amend and renumber the following "Notes" in rule 13.10.3a (Dwellings) as shown below:

Note 34: For dwellings within an Outstanding Natural Landscape, Rule 13.10.3bc shall also apply.

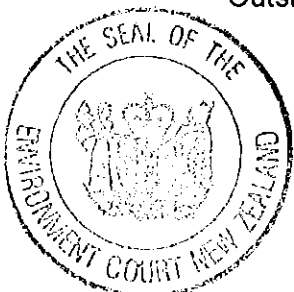
Note 45: There is an exemption for Rule 13.10.3 that applies to part of Lot 2 DP 73030 Cynthia Place (Baylys Beach). See Rule 13.10.29(4).

31. Amend and renumber the following Discretionary Activity Assessment Criteria in rule 13.10.3a (Dwellings) as shown below:

~~vi)vii)~~ ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B;

~~ix)x)~~ ~~Whether and~~ The extent to which the activity will affect any heritage values identified in Appendix 17.1 and 17.2 of the Plan.

32. Renumber rule 13.10.3b (Erection and alterations of buildings and structures within an Outstanding Natural Landscape) as rule "13.10.3c" and amend as follows:



The Erection and Alteration of Buildings and Structures (including Dwellings) located in an Outstanding Landscape is a permitted activity if:

- a) It is no more than 8m in height; and
- b) Does not exceed 50m² gross floor area; or any alteration / additions to the building or structure do not exceed 40% of the gross floor area of the dwelling or 40% of the volume of the structure (whichever is the smaller); and
- c) The exterior finish of the building or structure has a reflectance value of, or less than 30% as defined within the BS5252 standard colour palette;

And if applicable:

- d) It is required for maintenance to the interior and exterior of the building or structure; or
- e) It is required for renovations to the interior of the dwelling or structure.

33. Amend the Discretionary Activity Assessment Criteria at rule 13.10.3c as follows:

Where an activity is not permitted by this Rule, Council will have regard to the following matters when considering an application for Resource Consent: Council will exercise its discretion under section 104B of the Resource Management Act and may consider but will not be limited to the following matters when considering an application for resource consent that meets the terms of this rule:-

- i) ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

Note 1: A description of the landscape features is provided in Appendix 18A. The values associated with the Outstanding Natural Landscapes are described in the Kaipara District Landscape Technical Report (2010).



34. In rule 13.10.4 (Commercial and Industrial Buildings), amend the cross-reference to rule "13.10.3b" in Note 2 to rule "13.10.3c".

35. Amend and renumber the following Restricted Discretionary Activity Assessment Criteria in rule 13.10.4 (Commercial and Industrial Buildings) as shown below:

~~vi)~~viii) ~~Whether and~~The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B;

~~xii)~~xiv) ~~Whether and~~The extent to which the activity will affect any heritage values identified in Appendix 17.1 and 17.2 of the Plan.

36. In rule 13.10.5 (Maximum Height), amend the cross-reference to rule "13.10.3b" in Note 1 to rule "13.10.3c".

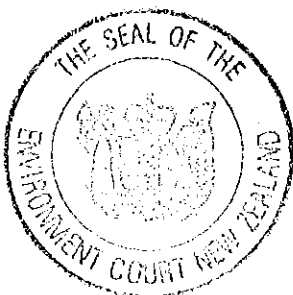
37. Amend and renumber the following Restricted Discretionary Activity Assessment Criterion in rule 13.10.5 (Maximum Height) as shown below:

~~vi)~~vii) ~~Whether and~~The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B;

38. Amend and renumber the following Restricted Discretionary Activity Assessment Criterion in rule 13.10.6 (Height in Relation to Boundary) as shown below:

~~vi)~~vii) ~~Whether and~~The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

39. Amend and renumber the following Restricted Discretionary Activity Assessment Criterion in rule 13.10.7 (Setbacks) as shown below:



- v) ~~vi)~~ ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B;

40. Amend and renumber the following Restricted Discretionary Activity Assessment Criterion in rule 13.10.8 (Separation Distance) as shown below:

- vi) ~~vii)~~ ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

41. In rule 13.10.10 (Relocation of Buildings), amend the cross-reference to rule "13.10.3b" in Note 1 to rule "13.10.3c".

42. Amend the following Restricted Discretionary Activity Assessment Criterion in rule 13.10.11 (Private Open Space) as shown below:

- iii) ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

43. In rule 13.10.13 (Building Coverage), amend the cross-reference to rule "13.10.3b" in Note 1 to rule "13.10.3c".

44. Amend the following Restricted Discretionary Activity Assessment Criterion in rule 13.10.13 (Building Coverage) as shown below:

- v) ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.



45. Amend the following Restricted Discretionary Activity Assessment Criterion in rule 13.10.24 (Signage) as shown below:

x) ~~Whether and if~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

46. Amend the following Restricted Discretionary Activity Assessment Criterion in rule 13.10.25 (Vehicle Access and Driveways) as shown below:

xiii) ~~Whether and if~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

47. Amend the following Restricted Discretionary Activity Assessment Criterion in rule 13.10.27 (Parking) as shown below:

viii) ~~Whether and if~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

48. Amend rule 13.10.29 (Special Provisions) as follows:

a. Amend rule 13.10.29(3) (Chases Gorge Camp Club, Baylys – General Development) as follows:

b) Any activity on Lot 1 DP 104410, Lot 1 DP 71221, within the areas identified as "Proposed Building Site" on the Chases Gorge Camp Club Development Plan (refer to Appendix 13.1) are exempt from the following rules:

~ Rule 13.10.3a(a) – 13.10.3a(d) Dwellings; and ...

b. Amend rule 13.10.29(4) (Bayly Town Camp – General Development) as follows:



- a) The four dwellings on the lower western portion of Lot 2 DP 73070, identified as A, B, C, and D on Cynthia Place, Baylys Development Plan (refer Appendix 13.2) are exempt from Rule 13.10.3(b)c provided they are located within the nominated building platform shown on the Cynthia Place Development Plan, and the maximum height of the dwellings is limited to a single story buildings, of the same scale, character and intensity of the dwellings is the same as that existing as on 01 December 2011.
- c. Amend Note 1 as follows:

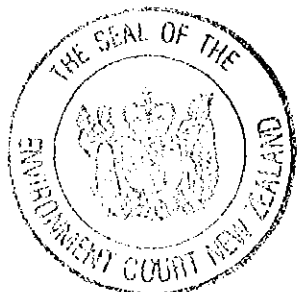
Note 1: If Rule 13.10.29(4) is not met, any proposal would be assessed against Rule 13.10.3(b)c.
- d. In the Restricted Discretionary Activity Assessment Criteria, amend the cross-reference to rule "13.10.30" to rule "13.10.29(3)(a)".

Residential Subdivision

- 49. Amend rule 13.11.1 (General Residential Subdivision) as follows:
 - a. Amend and renumber the following Controlled Activity Assessment Criteria in rule 13.11.1 (General Rural Subdivision) as shown below:

~~xx)viii)~~ Whether and ~~t~~the extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.
 - b. Renumber "Note 4" as "Note 7".
- 50. Amend rules 13.11.2 (Boundary Adjustment), 13.11.3 (Preservation of Natural and Cultural Heritage), and 13.12.1 (Integrated Development) as follows:
 - a. In each rule, delete the following criterion:

Whether and the extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and the extent to



which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

b. In each rule, delete the following note:

A description of the landscape features is provided in Appendix 18A. The values associated with the Outstanding Natural Landscapes are described in the Kaipara District Landscape Technical Report (2010).

51. Amend rule 13.13.1 (Integrated Development) as follows:

If more than 10 lots are being created, Integrated Development subdivision is a Discretionary Activity where it complies with the following:

(1) **Residential (excluding overlay areas)**

...

d) The proposed allotment is not within an Outstanding Natural Landscape, as identified in Map Series 2.

OR

(2) **All Overlays**

...

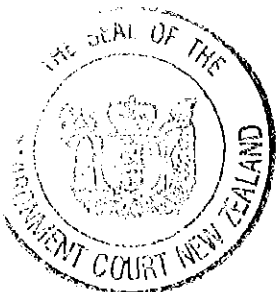
d) The proposed allotment is not within an Outstanding Natural Landscape, as identified in Map Series 2.

AND

(3) **For all Integrated Development subdivision the following terms of subdivision must be met:**

...

g) The proposed allotment is not within an Outstanding Natural Landscape, as identified in Map Series 2.



52. Renumber rule 13.13.1 (Subdivision of a site within an Outstanding Natural Landscape) as rule "13.13.2", and amend the Matters for Discretion as follows:

Where an activity is a Discretionary Activity under this Rule, 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: Council will exercise its discretion under section 104B of the Resource Management Act and may consider but will not be limited to the following matters when considering an application for resource consent that meets the terms of subdivision under this rule:-

General Subdivision

- i) The matters for control listed in Rule 13.11.1;
- ii) ~~Whether and if~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

Note 1: A description of the landscape features is provided in Appendix 18A. The values associated with the Outstanding Natural Landscapes are described in the Kaipara District Landscape Technical Report (2010).

Amendments to Chapter 15A (Maori Purposes – Maori Land)

53. Renumber and amend the following Note in rule 15A.10.3a (Dwellings, excluding Papakainga):

Note 87: For dwellings within an Outstanding Natural Landscape, Rule 15A+2.10.3bc shall also apply.



54. Amend and renumber the following Discretionary Activity Assessment Criteria in rule 15A.10.3a (Dwellings, excluding Papakainga) as shown below:

~~vi) vii)~~ ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B;

~~x) xxix)~~ ~~Whether and~~ The extent to which the activity will affect any heritage values identified in Appendix 17.1 and 17.2 of the Plan.

55. Renumber rule 15A.10.3b (Erection and alterations of buildings and structures within an Outstanding Natural Landscape) as "15A.10.3c" and amend as follows:

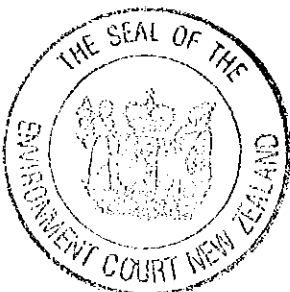
The Erection and Alteration of Buildings and Structures (including Dwellings) located in an Outstanding Landscape is a permitted activity if:

- a) It is no more than 8m in height; and
- b) Does not exceed 50m² gross floor area; or any alteration / additions to the building or structure do not exceed 40% of the gross floor area of the dwelling or 40% of the volume of the structure (whichever is the smaller); and
- c) The exterior finish of the building or structure has a reflectance value of, or less than 30% as defined within the BS5252 standard colour palette;

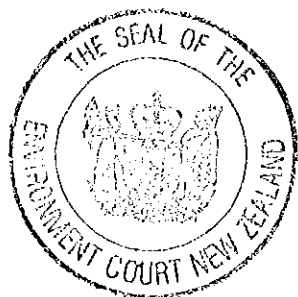
And if applicable:

- d) It is required for maintenance to the interior and exterior of the building or structure; or
- e) It is required for renovations to the interior of the dwelling or structure.

Note 1: to assist interpretation of this Rule, the following activities are permitted subject to compliance with the following provisions:



<u>Provisions that apply</u>	<u>15A.10.3c(a)</u>	<u>15A.10.3c(b)</u>	<u>15A.10.3c(c)</u>	<u>15A.10.3c(d)</u>	<u>15A.10.3c(e)</u>
<u>Pump sheds</u>	<u>Applies</u>	<u>Applies</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>
<u>Water troughs</u>	<u>Applies</u>	<u>Applies</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>
<u>Water tanks</u>	<u>Applies</u>	<u>Applies</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>
<u>Irrigation systems (single rotary systems)</u>	<u>Does not apply</u>	<u>Does not apply</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>
<u>Uncovered yards (including cattle and sheep)</u>	<u>Applies</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
<u>Wind turbines for operations of agricultural equipment (e.g. for water pumps)</u>	<u>Does not apply</u>	<u>Applies</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>



<u>Replacement of existing structures in ONL (like for like replacement)</u>	<u>Does not apply</u>	<u>Does not apply</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>
<u>One new operational farm building (non-residential) per certificate of title issued on or before 2 December 2010</u>	<u>Applies</u>	<u>Does not apply</u> <u>Subject instead to 100m² gross floor area limit</u>	<u>Applies</u>	<u>n/a</u>	<u>n/a</u>

* Note: where the above provisions do not apply the general provisions of the District Plan apply.

56. Amend the Discretionary Activity Assessment Criteria at rule 15A.10.3c as follows:

Where an activity is not permitted by this Rule, Council will have regard to the following matters when considering an application for Resource Consent: Council will exercise its discretion under section 104B of the Resource Management Act and may consider but will not be limited to the following matters when considering an application for resource consent that meets the terms of this rule:-

- i) ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.



Note 1: A description of the landscape features is provided in Appendix 18A. The values associated with the Outstanding Natural Landscapes are described in the Kaipara District Landscape Technical Report (2010).

57. Amend rule 15A.10.4 (Papakainga) as follows:

- a. Renumber and amend the following note as shown below:

Note ~~62~~: For dwellings within an Outstanding Natural Landscape, Rule 15A.10.3~~b~~c shall also apply.

- b. Amend and renumber the following Restricted Discretionary Activity Assessment Criteria as shown:

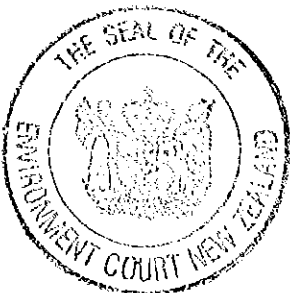
~~v)~~vii) ~~Whether and t~~The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B;

~~xxv)~~viii) ~~Whether and t~~The extent to which the activity will affect any heritage values identified in Appendix 17.1 and 17.2 of the Plan.

58. Amend rule 15A.10.5 (Commercial and Industrial Buildings) as follows:

- a. Amend the cross-reference in Note 3 (presently to rule "15A.10.3b") to rule "15A.10.3c".
- b. Amend and renumber the following Restricted Discretionary Activity Assessment Criteria as shown:

~~vi)~~vii) ~~Whether and t~~The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B;



~~xi) xiii)~~ ~~Whether and~~ The extent to which the activity will affect any heritage values identified in Appendix 17.1 and 17.2 of the Plan.

59. Amend rule 15A.10.6 (Maximum Height) as follows:

- a. Amend the cross-reference in Note 1 (presently to rule "15A.10.3b") to rule "15A.10.3c".
- b. Amend and renumber the following Restricted Discretionary Activity Assessment Criterion at as shown:

~~vi) vii)~~ ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

60. Amend and renumber the following Restricted Discretionary Activity Assessment Criterion at rule 15A.10.7 (Height in Relation to Boundary) as shown:

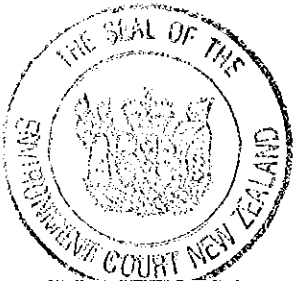
~~vi) vii)~~ ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

61. Amend and renumber the following Restricted Discretionary Activity Assessment Criterion at rule 15A.10.8 (Setbacks) as shown:

~~v) vi)~~ ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B;

62. Amend the following Restricted Discretionary Activity Assessment Criterion at rule 15A.10.23 (Signage) as shown:

x) ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable



the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B;

63. Amend the following Restricted Discretionary Activity Assessment Criterion at rule 15A.10.24 (Vehicle Access and Driveways) as shown:

xiii) ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

64. Amend the following Restricted Discretionary Activity Assessment Criterion at rule 15A.10.26 (Parking) as shown:

viii) ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

65. Amend the following Restricted Discretionary Activity Assessment Criterion at rule 15A.10.27 (Loading) as shown:

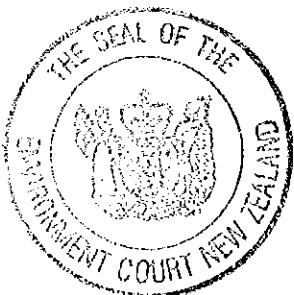
viii) ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

Amendments to Chapter 15B (Maori Purposes – Treaty Settlement Land)

66. Amend rule 15B.10.3a (Dwellings, excluding Papakainga) as follows:

- a. Renumber and amend the following Note as shown:

Note 57: For dwellings within an Outstanding Natural Landscape, Rule 15B.10.3b~~c~~ shall also apply.



- b. Amend and renumber the following Discretionary Activity Assessment Criteria as shown below:

- ~~vi)vii)~~ ~~Whether and t~~The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B;
- xi) ~~Whether and t~~The extent to which the activity will affect any heritage values identified in Appendix 17.1 and 17.2 of the Plan.

67. Renumber rule 15B.10.3b (Erection and alterations of buildings and structures within an Outstanding Natural Landscape) as "15B.10.3c" and amend as follows:

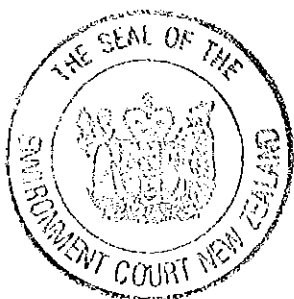
The Erection and Alteration of Buildings and Structures (including Dwellings) located in an Outstanding Landscape is a permitted activity if:

- a) It is no more than 8m in height; and
- b) Does not exceed 50m² gross floor area; or any alteration / additions to the building or structure do not exceed 40% of the gross floor area of the dwelling or 40% of the volume of the structure (whichever is the smaller); and
- c) The exterior finish of the building or structure has a reflectance value of, or less than 30% as defined within the BS5252 standard colour palette;

And if applicable:

- d) It is required for maintenance to the interior and exterior of the building or structure; or
- e) It is required for renovations to the interior of the dwelling or structure.

Note 1: to assist interpretation of this Rule, the following activities are permitted subject to compliance with the following provisions:



<u>Provisions that apply</u>	<u>15B.10.3c(a)</u>	<u>15B.10.3c(b)</u>	<u>15B.10.3c(c)</u>	<u>15B.10.3c(d)</u>	<u>15B.10.3c(e)</u>
<u>Pump sheds</u>	<u>Applies</u>	<u>Applies</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>
<u>Water troughs</u>	<u>Applies</u>	<u>Applies</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>
<u>Water tanks</u>	<u>Applies</u>	<u>Applies</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>
<u>Irrigation systems (single rotary systems)</u>	<u>Does not apply</u>	<u>Does not apply</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>
<u>Uncovered yards (including cattle and sheep)</u>	<u>Applies</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
<u>Wind turbines for operations of agricultural equipment (e.g. for water pumps)</u>	<u>Does not apply</u>	<u>Applies</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>



<u>Replacement of existing structures in ONL (like for like replacement)</u>	<u>Does not apply</u>	<u>Does not apply</u>	<u>Does not apply</u>	<u>n/a</u>	<u>n/a</u>
<u>One new operational farm building (non-residential) per certificate of title issued on or before 2 December 2010</u>	<u>Applies</u>	<u>Does not apply</u> <u>Subject instead to 100m² gross floor area limit</u>	<u>Applies</u>	<u>n/a</u>	<u>n/a</u>

* Note: where the above provisions do not apply the general provisions of the District Plan apply.

68. Amend the Discretionary Activity Assessment Criteria at rule 15B.10.3c as follows:

Where an activity is not permitted by this Rule, *Council* will have regard to the following matters when considering an application for Resource Consent; Council will exercise its discretion under section 104B of the Resource Management Act and may consider but will not be limited to the following matters when considering an application for resource consent that meets the terms of this rule:-

- i) ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.



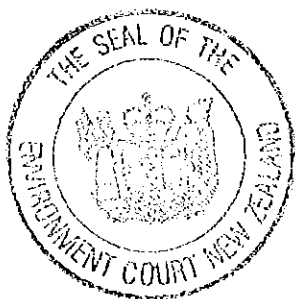
Note 1: A description of the landscape features is provided in Appendix 18A. The values associated with the Outstanding Natural Landscapes are described in the Kaipara District Landscape Technical Report (2010).

69. Amend rule 15B.10.4 (Papakainga) as follows:

- a. Amend the cross-reference in Note 2 (presently to rule "15B.10.3b") to rule "15B.10.3c".
- b. Amend and renumber the following Restricted Discretionary Activity Assessment Criteria as shown:
 - ~~v)~~vi) ~~Whether and t~~The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B;
 - ~~xi)~~xii) ~~Whether and t~~The extent to which the activity will affect any heritage values identified in Appendix 17.1 and 17.2 of the Plan.

70. Amend rule 15B.10.5 (Commercial and Industrial Buildings) as follows:

- a. Amend the cross-reference in Note 2 (presently to rule "15B.10.3b") to rule "15B.10.3c".
- b. Amend and renumber the following Restricted Discretionary Activity Assessment Criteria as shown:
 - ~~vi)~~vii) ~~Whether and t~~The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B;
 - ~~xii)~~xiv) ~~Whether and t~~The extent to which the activity will affect any heritage values identified in Appendix 17.1 and 17.2 of the Plan.



71. Amend rule 15B.10.6 (Maximum Height) as follows:

- a. Amend the cross-reference in Note 1 (presently to rule "15B.10.3b") to rule "15B.10.3c".
- b. Amend and renumber the following Restricted Discretionary Activity Assessment Criterion at as shown:

~~vi)vii)~~ ~~Whether and if applicable~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

72. Amend and renumber the following Restricted Discretionary Activity Assessment Criterion at rule 15B.10.7 (Height in Relation to Boundary) as shown:

~~vi)vii)~~ ~~Whether and if applicable~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

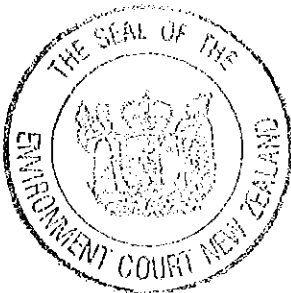
73. Amend and renumber the following Restricted Discretionary Activity Assessment Criterion at rule 15B.10.8 (Setbacks) as shown:

~~vi)~~ ~~Whether and if applicable~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B;

~~xv)xiv)~~ ~~Whether and if applicable~~ The extent to which the activity will affect any heritage values identified in Appendix 17.1 and 17.2 of the Plan.

74. Amend the following Restricted Discretionary Activity Assessment Criterion at rule 15B.10.9 (Permeable Surfaces) as shown:

~~vii)~~ ~~Whether and if applicable~~ The extent to which the activity will affect any heritage values identified in Appendix 17.1 and 17.2 of the Plan.



75. Amend the following Restricted Discretionary Activity Assessment Criterion at rule 15B.10.10 (Separation Distance for Noise Sensitive Activities) as shown:

- vi) ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B;

76. Amend the following Restricted Discretionary Activity Assessment Criterion at rule 15B.10.23 (Signage) as shown:

- x) ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B;

77. Amend the following Restricted Discretionary Activity Assessment Criterion at rule 15B.10.24 (Vehicle Access and Driveways) as shown:

- xiii) ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

78. Amend the following Restricted Discretionary Activity Assessment Criterion at rule 15B.10.26 (Parking) as shown:

- viii) ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

79. Amend the following Restricted Discretionary Activity Assessment Criterion at rule 15B.10.27 (Loading) as shown:



- viii) ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

Treaty Settlement Subdivision

80. Amend rule 15B.11.1 (Treaty Settlement Subdivision) as follows:

- a. Amend and renumber the following Controlled Activity Assessment Criteria in rule 15B.11.1 (Treaty Settlement Subdivision) as shown below:

~~xx)viii)~~ ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

- b. Renumber "Note 4" as "Note 7".

81. Amend rules 15B.11.2 (Preservation of Natural and Cultural Heritage), 15B.11.3 (Boundary Adjustment), 15B.12.1 (Environmental Benefit), 15B.12.2 (Rural Amenity Lot), 15B.12.3 (Small Lot Development), 15B.12.4 (Integrated Development – up to 10 lots), and 15B.13.1 (Integrated Development – more than 10 lots) as follows:

- a. In each rule, delete the following criterion:

Whether and the extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.

- b. In each rule, except rule 15B.12.1 (Environmental Benefit), delete the following note:



A description of the landscape features is provided in Appendix 18A. The values associated with the Outstanding Natural Landscapes are described in the Kaipara District Landscape Technical Report (2010).

82. In addition to the amendments to rule 15B.12.4 noted above, insert an additional term for subdivision in rule 15B.12.4 as shown below:

(4) Mangawhai Harbour Overlay

...

- c) The site is not within an Outstanding Natural Landscape, as identified in Map Series 2.

83. In addition to the amendments to rule 15B.13.1 noted above, insert an additional term for subdivision in rule 15B.13.1 as shown below:

(4) Mangawhai Harbour Overlay

...

- c) The site is not within an Outstanding Natural Landscape, as identified in Map Series 2.

84. Amend rule 15B.13.2 (Small Lot Development) as follows:

- a. By inserting an additional term for subdivision as shown below:

If the site is within an Overlay Area, any subdivision for Small Lot Development is a Discretionary Activity if:

...

- e) The site is not within an Outstanding Natural Landscape, as identified in Map Series 2.

- b. By amending the following Matter for Discretion as shown below:



iii) In respect of services and/or management of on-site services, ~~whether and the~~ extent to which:

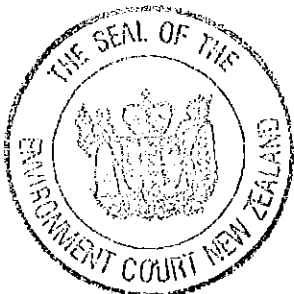
- The subdivision and development avoids cumulative effects on the environment and on the provision of infrastructure and services;
- The subdivision is located close to existing residential settlements and avoids the need for provision of new or requirement for increased capacity of Council owned infrastructure and services to meet the needs of the development. Council will give consideration to the ability of the applicant to provide for the required upgrades by way of development and/or financial contributions.

85. Renumber rule 15B.14.1 (Subdivision of a site within an Outstanding Natural Landscape) as rule "15B.13.3", and amend the Matters for Discretion as follows:

Where an activity is a Discretionary Activity under this Rule, 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: ~~Council will exercise its discretion under section 104B of the Resource Management Act and may consider but will not be limited to the following matters when considering an application for resource consent that meets the terms of subdivision under this rule:-~~

General Subdivision

- i) The matters for control listed under Rule 15B.11.1; and
- ii) ~~Whether and~~ The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B.



Note 1: A description of the landscape features is provided in Appendix 18A. The values associated with the Outstanding Natural Landscapes are described in the Kaipara District Landscape Technical Report (2010).

Amendments to Chapter 18 (Landscapes and Natural Features)

86. Amend the introductory text at 18.1 as follows:

18.1 Introduction

Section 6(b) of the Resource Management Act identifies as a matter of importance *"The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development"*.

Outstanding Natural Landscapes

Kaipara District includes a diverse range of landscapes ranging from exposed coasts, sheltered estuaries, rivers, steep bush clad hills, riverside flats and rolling farmland. Collectively these varied landscapes contribute to the character and identity of the Kaipara District and some of these landscapes have been assessed and identified as being 'Outstanding Natural Landscapes' (ONLs).

One of the distinguishing characteristics of these landscapes is their degree of naturalness. However, this does not preclude farming activities and structures such as fences, barns, farm houses or other forms of development from being within them. It is the scale and intensity of the built structures and development that determines when ~~a~~an outstanding natural landscape is no longer 'outstanding'. ...

87. Amend the explanation following Issue 18.4.1 as follows:

18.4.1 Inappropriate subdivision, use and development has the potential to threaten the values of Outstanding Natural Landscapes.

The spiritual, cultural, amenity, ecological, geological and scientific values that make individual features and landscapes outstanding, have the potential



to be adversely affected or in some cases permanently lost or degraded by inappropriate subdivision, use and development. Generally, Outstanding Natural Landscapes have little lower capacity to absorb change without their values being compromised.

88. Amend Issue 18.4.3 and its accompanying explanation as follows:

18.4.3 Inappropriate subdivision, use and development on land outside adjacent to Outstanding Natural Landscapes may adversely affect their values and characteristics of the Outstanding Natural Landscape.

Council is required to manage Outstanding Natural Landscapes in a way that identifies and protects their values from the adverse effects of inappropriate subdivision, use and development. Some activities outside an Outstanding Natural Landscape may generate effects on ~~may include use and development that is immediately adjacent to and/or extend across the boundaries of an~~ Outstanding Natural Landscape.

89. Amend the explanation following Issue 18.4.5 as follows:

18.4.5 The need to recognise and maintain a diversity of landscape types.

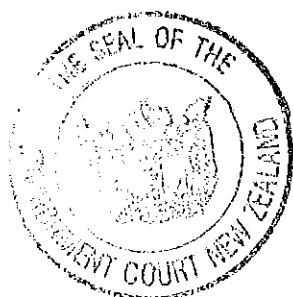
The Kaipara District contains a number of distinctive, 'iconic' and cultural landscapes contributing to amenity and the quality of the environment. Retaining the District's distinctive landscape character relies on managing landscape values (including those outside Outstanding Natural Landscapes) and maintaining strong representation of ~~each of the main~~ landscape types. It also involves maintaining and enhancing the key characteristics that define and contribute more broadly to the District's identity. However, it is important to recognise that these landscapes are often working environments undergoing change and used for a variety of purposes. ...

90. Amend Policy 18.6.1 and its accompanying explanation as follows:

18.6.1 To recognise and protect the Outstanding Natural Landscapes from inappropriate subdivision, use and development of the District by:



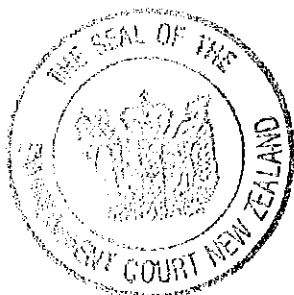
- a) Identifying and confirming the extent, values and characteristics of Outstanding Natural Landscapes;
- b) Protecting natural and physical features and natural systems (such as landforms, indigenous vegetation and watercourses) that contribute to the character and values of Outstanding Natural Landscapes;
- c) Managing the potential adverse effects of activities including earthworks, vegetation clearance and the location, scale, design and external appearance of buildings structures and accessways;
- d) Protecting the character and values of features and landscapes by managing the potential significant adverse effects of locating inappropriate significant built elements outside ~~on~~ the boundaries of Outstanding Natural Landscapes;
- e) Recognising the importance of views of Outstanding Natural Landscapes;
- f) ~~Avoiding subdivision, use and development that would have significant adverse effects on that would compromise the values and characteristics of Outstanding Natural Landscapes~~ ONFs, particularly when viewed from public places including public roads;
- g) Recognising the on-going contribution to the social and economic wellbeing of the District derived from activities ~~(including farming and forestry operations)~~ and maintaining appropriate opportunities for these within Outstanding Natural Landscapes. These activities include farming, forestry operations and renewable energy activities and associated electricity transmission activities; and
- h) Encouraging and recognising the wider benefits of sensitive development that protects Outstanding Natural Landscapes.



The Council has recognised and protected Outstanding Natural Landscapes in the District and has mapped them.

Subdivision, use and development within Outstanding Natural Landscapes will be managed so that the key physical characteristics and values character that make up each individual landscape will be protected (as identified in Appendix 18A and the worksheets of the Kaipara District Landscape Technical Report 2010) from inappropriate subdivision, use and development. The impact of different activities on Outstanding Natural Landscapes will vary depending on the sensitivity of the landscape to a proposed activity. While generally, Outstanding Natural Landscapes have lower capacity to absorb change this does not preclude built structures and elements or other land use activities where appropriate. ~~Where an Outstanding Natural Landscape has little or no capacity to absorb change or the adverse effects cannot be remedied or mitigated, subdivision, use and development will generally be considered inappropriate. However, Outstanding Natural Landscapes do not preclude built structures and elements or other land use activities and it is recognised that there are other 'competing' policy directions such as the National Policy Statement on Renewable Energy. However, The key focus is on maintaining, and where appropriate enhancing, protecting the identified values of the Outstanding Natural Landscapes. However, it is recognised that there are other 'competing' policy directions such as the National Policy Statement on Renewable Energy that also need to be taken into account.~~ When considering the effects of activities on ~~or within~~ these landscapes reference also needs to be had to Appendix 18B which contains assessment criteria.

Subdivision boundaries and the alignment and location of network utilities (including roading networks) should recognise natural topography, important natural features, views and patterns of the landscape to appropriately avoid adverse effects on landscape values. ~~This may include aligning boundaries or utilities along the edges of landforms or areas of vegetation, or where practicable, collocating or burying utilities below ground.~~



Enhancing existing environmental systems will be encouraged. For example, this may include extending areas of existing indigenous vegetation to provide ecological linkages and strengthen landscape patterns, and integrating elements such as waterways with subdivision, use and development. Activities which have the potential for adverse effects on these Outstanding Natural Landscapes will be subject to management through the Plan.

In assessing applications for resource consent for subdivision, use and development consideration will be given to the benefits of the proposal in terms of the protection and enhancement of scientific, geological and landscape values being offered. This could be by way of voluntary protection measures, covenant, consent notices or financial contributions. For example the use of covenants to control the volume and extent of land disturbance activities, protection of indigenous vegetation, design and external appearance and location of, accessways, buildings and structures including, signage, lighting and fencing.

91. Amend Policy 18.6.2 and its accompanying explanation as follows:

18.6.2 To consider, at the time of resource consent applications, the potential adverse effects of subdivision, use and development on landscape values and the diversity of landscape types ~~at the time of resource consent applications~~.

Recognising that much of the District's amenity, character and sense of place is derived from working landscapes and environments it is important to expect that there will be on-going change, use and development in these areas. The Council will consider the visual and landscape effects of those activities requiring resource consent, in particular to recognise and maintain the range and variety of distinctive landscapes (including cultural landscapes), amenity, character and sense of place.

In assessing applications for resource consent for subdivision, use and development consideration will be given to the impact that that the development may have on the diversity of landscape types within the District.



92. Amend Appendix 18B as follows:

Appendix 18B: Additional Assessment Criteria when considering the effects of activities in Outstanding Natural Landscapes within the Kaipara District

The matters set out in s104 and s105, and in Part 2 of the Act, apply to the consideration of all resource consents for land use, development and subdivision, use and development activities.

In addition to these matters and the general assessment criteria provided within the relevant chapter of the Plan, the following additional criteria shall also be considered. These ~~criteria have been~~ are cross-referenced in the Zone Chapters ~~in this Plan~~ and will be triggered where a resource consent is required.

- a) ~~Whether~~ The extent to which the proposal activity is consistent with, and not contrary to the relevant objectives and policies and outcomes contained in Part A and Part C of the Plan, including but not limited to Chapters 2, 3, 4, 5, 6, 7, 17, and in particular, Chapter 18 Landscapes;
- b) The extent to which the activity will affect the values and characteristics that make that landscape outstanding as described in Appendix 18A and the technical worksheets in the Kaipara District Landscape Technical Report 2010; The rarity of the landscape;
- c) The extent to which the activity is visible ~~visibility of the in the~~ landscape, ~~and the extent to which views from public places and public roads are maintained;~~
- d) ~~The extent to which the scientific, ecological, heritage and cultural values of the landscape are maintained and enhanced;~~
- e) ~~The elements which make up the distinctive character of the landscape;~~
- f)d) The type and effectiveness of any physical works methods proposed to avoid, remedy or mitigate the effects of the activity on ~~protect or enhance the feature or landscape, and the potential effects of any such works on the feature or~~ landscape;



Note: For example, for earthworks, the types of methods might include the profile of cut and fill batters, provisions for revegetation and the likely long term stability of the works proposed.

- ~~f) The extent to which the activity contributes to the ability of people and communities to provide for their social, and economic wellbeing;~~
- ~~h)e) The functional, technical or operational need of for the activity, building or structure to locate within the feature or landscape. In the case of electricity transmission activities, technical and operational requirements include route selection;~~
- ~~h)d) Without limiting clause 1(b) of Schedule 4 of the Resource Management Act, where it is likely that an activity will result in any significant adverse effect on the feature or landscape, the extent to which alternative locations or methods for undertaking the activity have been considered; Whether technical or operational requirements of the activity or structure means there are no practicable alternative locations or methods;~~

~~Where excavation and / or filling is proposed within a landscape the following specific criteria will also be considered:-~~

- ~~j)g) Where excavation and / or fill is proposed, the extent to which the The location, scale and alignment of the works of excavation and/or filling in relation to affect the underlying landform including ridgelines and headlands and any existing indigenous vegetation, the proportion of the feature and landscape affected; and~~
- ~~g) The nature of any avoidance, remedying or mitigation measures proposed, including consideration of alternatives, the profile of cut and fill batters, provisions for revegetation and the likely long term stability of the works proposed; and~~
- ~~h) The degree to which the landscape will retain the qualities that make it outstanding, including naturalness and visual characteristics.~~

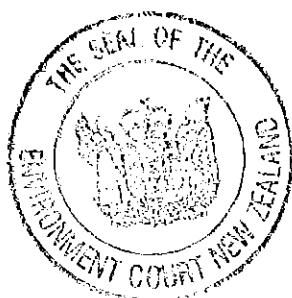


Consequential Numbering Amendments

93. Make any consequential renumbering amendments required as a consequence of the above changes.

Topics / Appeals Resolved

94. This consent order resolves the following appeals in their entirety:
- a. The appeal by Farmers of New Zealand Inc / Thomas Coates Estate Trustees (ENV- ENV-2012-AKL-000136);
 - b. The appeal by The Welch Investment Trust (ENV-2012-AKL-000134);
 - c. The appeal by Federated Farmers of New Zealand (ENV-2012-AKL-000121);
 - d. The appeal by the Director-General of Conservation (ENV-2012-AKL-000128);
 - e. The appeal by Meridian Energy Limited (ENV-2012-AKL-000126)
 - f. The appeal by the Environmental Defence Society (ENV-2012-AKL-000131).
95. This consent order resolves the following topics:
- a. Landscape Criteria and Assessment (ENV-2012-304-000094);
 - b. Bulk and Location (ENV-2012-304-000095);
 - c. Rural Farming Practices (ENV-2012-304-000097);
 - d. Adjacency to ONL (ENV-2012-304-000098); and
 - e. Planning Approach and Process (ENV-2012-304-000106).



96. There is no order as to costs.

DATED the 25th day of September 2013



LJ Newhook

Acting Principal Environment Judge



BEFORE THE ENVIRONMENT COURT

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under Clause 14 of Schedule 1 to the
Act concerning Variation 1 to the Kaipara Proposed
District Plan

BETWEEN C CALVELEY

Lodgment: ENV-2012-AKL-000138

Appellant

AND KAIPARA DISTRICT COUNCIL

Respondent

AND

IN THE MATTER of an appeal under section 120 of the Act

BETWEEN MANGAWHAI HEADS HOLDINGS LIMITED

Lodgment: ENV-2013-AKL-000012

Appellant

AND KAIPARA DISTRICT COUNCIL

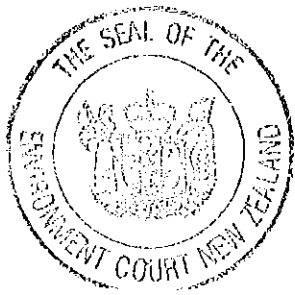
Respondent

JOINT MEMORANDUM OF PARTIES
CONCERNING ARRANGEMENTS FOR HEARING

COPY

BROOKFIELDS
LAWYERS
A M B Green / M C Allan
Telephone No. 09 379 9350
Fax No. 09 379 3224
P O Box 240
DX CP24134
AUCKLAND

31494991:828179



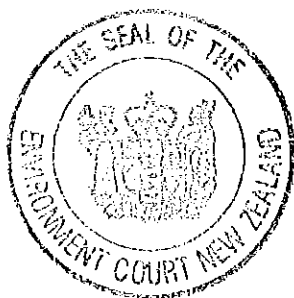
MAY IT PLEASE THE COURT:

1. This joint memorandum of the parties is filed in relation to both:
 - (a) The consent appeal by Mangawhai Heads Holdings Limited (MHHL); and
 - (b) The Variation 1 appeal by Christopher Calveley (Calveley).
2. The signatories to this memorandum are parties to one or both appeals, as detailed in Annexure A.
3. The Court has previously directed that reports be filed in respect of both appeals by 6 September 2013. However, a number of the parties were unavailable to sign this memorandum until today, 9 September 2013.

Progress Update

4. Most of the parties were able to attend a meeting in Auckland on Thursday 5 September 2013. The purpose of the meeting was primarily to discuss a settlement proposal by Calveley in respect of the Variation 1 appeal. Discussion however also turned to the MHHL consent appeal. The Court will recall from previous reports, there are links between the two appeals, and previous discussions have touched upon whether resolution of one appeal might dispose of the other either in whole or in part.
5. While Thursday's meeting did not result in a settlement of the Calveley appeal, it has led to agreement on a substantial narrowing of that appeal to focus on a single issue for hearing, affecting only MHHL's land located at Kapawiti Road, Mangawhai Heads, legally described as Lots 1 and 2 DP 316176 (the MHHL Land).
6. The narrow issue agreed upon by the parties for determination by the Court is described in more detail below:
 - (a) The issue, in essence, is whether or not, as requested by Calveley, an exemption from the effect of rule 12.10.3c(1)(b) (the Rule) should be applied in respect of the 15 lots consented by the Council on the MHHL Land in its decision of 20 December 2012 (subject to appeal ENV-2013-AKL-000012).

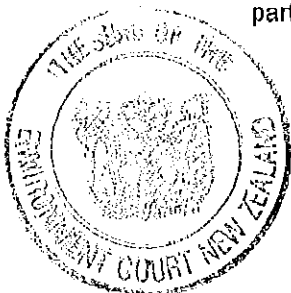
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- (b) The Rule in respect of which the appellant seeks an exemption was introduced by Variation 1, and allows dwellings in Outstanding Natural Landscapes as a permitted activity, provided that they do not exceed 50m² gross floor area.
- (c) The exemption is sought by the appellant on the basis that consent notices would be included on the titles for the 15 lots in question, securing appropriate landscape outcomes for dwellings constructed on the lots, similar to those secured by existing condition 1(r) in the Council consent (the details of which remain under discussion between the parties).
- (d) Calveley has therefore agreed:
 - (i) not to pursue any of the other matters raised in the Variation 1 appeal;
 - (ii) that the appeal is now narrowed to the issue recorded above and (geographically) to the MHHL Land and more specifically to the 15 consented lots;
 - (iii) for the avoidance of doubt, that he does not seek a similar exemption in respect of the five unconsented lots (although MHHL maintains its appeal as to the refusal of consent for those five lots).

7. As will be apparent from the above summary of the agreement reached between the parties in relation to the Calveley appeal, the Variation 1 issue to be determined by the Court is closely connected with issues concerning the consent appeal. While the parties are cognisant of the Court's previous indication of the likelihood of a short notice hearing in respect of the Calveley appeal, the parties respectfully suggest that it makes sense for the Court to determine the two appeals together. The Court's consideration of evidence and legal submissions relating to the consent appeal will inevitably inform its decision on the appellant's requested exemption and associated issues.

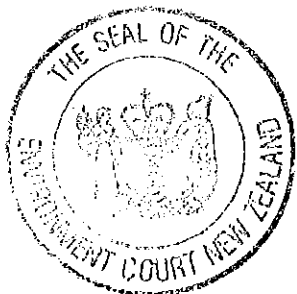
8. As to the MHHL Appeal, mediation did not result in settlement of that appeal, and the parties are agreed that arrangements should now be made for a hearing.



9. In conclusion, the parties are agreed that the Calveley appeal should be set down for hearing together with the MHHL appeal. As matters stand, there are broadly three matters to be addressed at that hearing:
- (a) Whether or not consent should be granted for the five unconsented lots (also known as the 'upper lots' – lots 15, 17, 18, 19 and 20 on the plan attached at **Annexure B**);
 - (b) Issues as to the conditions applying to the development generally; and
 - (c) The Variation 1 issue referred to above.
10. In relation to Item (b) above, the parties are still discussing the wording of conditions, and will continue to do so in the lead up to the hearing, with a view to reaching agreement on as many drafting matters as possible.

Proposed Directions

11. Subject to the matters noted in paragraphs 12 to 14 below, the parties respectfully request that the Court approve the following timetable:
- (a) All parties to confirm witnesses by Friday 13 September 2013;
 - (b) The appellants' evidence in chief to be served by Friday 11 October 2013;
 - (c) Evidence in chief from the Council to be served by Friday 1 November 2013;
 - (d) Evidence in chief from the section 274 parties to be served by Friday 8 November 2013;
 - (e) Any rebuttal evidence to be served by Wednesday 20 November 2013;
 - (f) Expert witnesses of the same discipline are to complete caucusing, and an agreed list of issues to be produced, by Wednesday 27 November 2013;



- (g) On each occasion, the party providing the evidence is to provide counsel for the Council with four additional copies of all evidence and exhibits, for the use of the Court;
- (h) The Council is to file with the Court four copies of:
 - (i) all parties' evidence and exhibits,
 - (ii) all caucusing statements, and
 - (iii) the agreed list of issues,

by Friday 29 November 2013 (in folders, appropriately indexed, tabulated and paginated).

- 12. Counsel for the appellant has requested that, as an initial step, the Council and the section 274 parties provide the appellant with a statement of all issues they intend to raise.
- 13. The Council and the section 274 parties do not consider such a statement is required, but support the jointly agreed proposal to prepare an agreed list of issues prior to the hearing (step (h)(iii) above).
- 14. From the Council's perspective, its position has been made abundantly clear:
 - (a) On conditions, a document has been circulated to all parties setting out the Council's proposed conditions, and its response to the appellant's proposed amendments. The section 274 parties have responded with a similar document. The issues relating to conditions are therefore well understood.
 - (b) The Council's position in relation to the upper lots is that consent should be refused for access/traffic engineering reasons (and associated planning reasons flowing from those access/traffic concerns)¹. The relevant issues are very well articulated in the traffic caucusing statement filed with the Court.
 - (c) The Variation 1 issue is clear.
- 15. From the perspective of the section 274 parties, they will advance the following:

¹ The Council reserves the right to respond to any matters concerning landscape and ecology (and other) effects arising from the evidence of other parties.

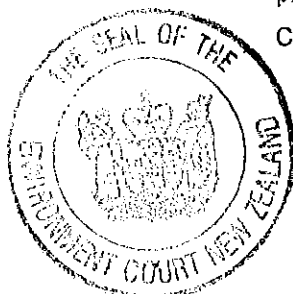


- (a) On conditions, as noted above, they have presented the revisions, amendments and additions they seek.
- (b) On the upper lots, the section 274 parties oppose the grant of consent for landscape, visual amenity, engineering, ecological and planning reasons.
- (c) On Variation 1, they oppose the exemption sought by the appellant both as being beyond the scope of the original submission and because there is no justification for a site-specific exemption in this case.

Potential Interlocutory Matters

16. The parties also wish to signal the following potential interlocutory matters:

- (a) The Council and the section 274 parties to the MHHL Appeal have previously requested certain survey data from the appellant. The traffic engineers engaged by those parties have requested the relevant information to assist them with the assessment of the access issues associated with the five unconsented lots. To date, while some information has been provided, the information appears to be incomplete. The Council and section 274 parties hope to avoid having to file a formal application for discovery, but are obliged to record this possibility. Counsel for the appellant advises that:
 - (i) Meetings with engineers will be held from Monday 16 September 2013 to obtain the relevant data for distribution to the Council and the section 274 parties as requested; and
 - (ii) The issue with the provision of data to date is due to a change in engineering firms.
- (b) MHHL wishes to signal that it is considering making an application for security for costs against the section 274 parties to the MHHL appeal. The section 274 parties wish to signal that Rule 4.20 of the District Court Rules only provides for a "defendant" to apply for security for costs, and that in these proceedings MHHL is in the position of "plaintiff" and that where, as here, the Council is defending its decision and the section 274 parties support the



position of the Council, it would be an abuse of process to seek security from section 274 parties.

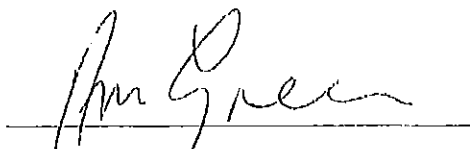
Position of Federated Farmers, Transpower, and the Department of Conservation

17. Federated Farmers, Transpower and the Department of Conservation are section 274 parties to the Calveley appeal. All three parties joined that appeal because of its broader potential implications for Variation 1. Given the narrowing of the appeal to the MHHL Land, these parties now wish to withdraw their section 274 notices.

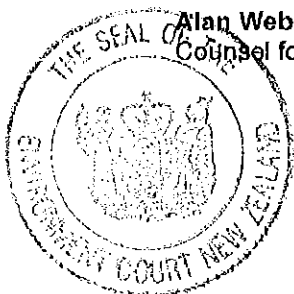
Variation 1 Consent Documents

18. Finally, an immediate benefit of narrowing the Calveley appeal to a single issue affecting only the MHHL Land, is that the Court can proceed to consider the second draft Consent Order on Variation 1, which is presently lying in Court. The parties are confident that any exemption granted by the Court, having heard the matter, will not have any impact on existing settlements, given that it is geographically limited to a single property.
19. The Court is therefore respectfully asked to proceed to consider the consent documents filed on 29 August 2013.

DATED the 9th day of September 2013



Andrew Green / Matthew Allan
Counsel for the Kaipara District Council



Alan Webb
Counsel for Calveley and MHHL

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Position of Federated Farmers, Transpower, and the Department of Conservation

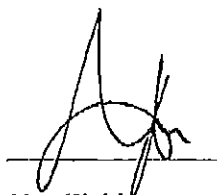
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Variation 1 Consent Documents

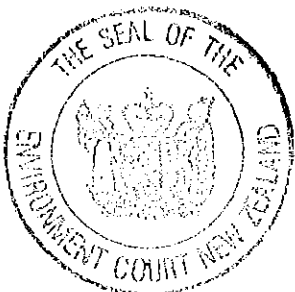
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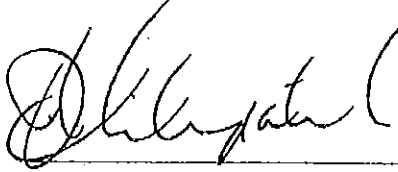
DATED the 9th day of September 2013

Andrew Green / Matthew Allan
Counsel for the Kaipara District Council


Alan Webb
Counsel for Calveley and MHHL

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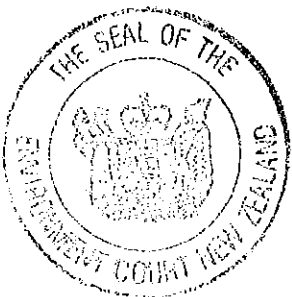
David Kirkpatrick
Counsel for the Hawleys,
Marunui Conservation Ltd, and the
Friends of the Brynderwyys Society Inc

Martina Tschirky
For the Mangawhai Residents & Ratepayers
Association

Gwyn Morgan
For Federated Farmers of NZ

Dhllum Nightingale
Counsel for Transpower New Zealand

Chris Jenkins
For the Department of Conservation



David Kirkpatrick
Counsel for the Hawleys,
Marunui Conservation Ltd, and the
Friends of the Brynderwyns Society Inc

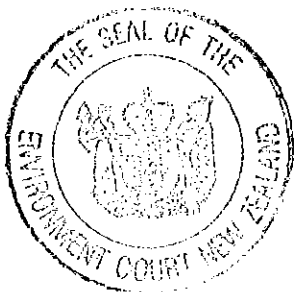
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For Federated Farmers of NZ

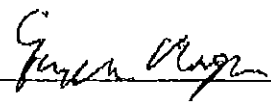
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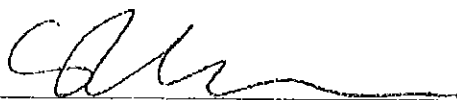
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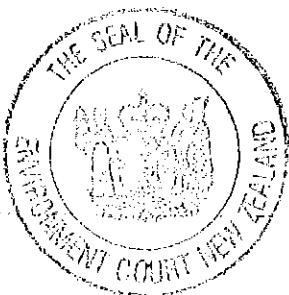
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Gwyn Morgan
For Federated Farmers of NZ


~~Dillon Nightingale~~ *Chris Browne*
Counsel for Transpower New Zealand

Chris Jenkins
For the Department of Conservation

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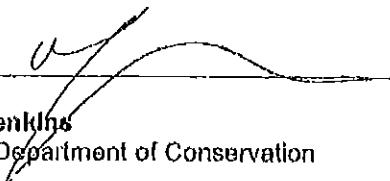


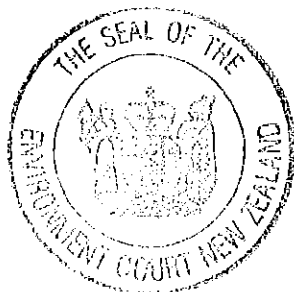
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For the Mangawhai Residents & Ratepayers
Association

Gwyn Morgan
For Federated Farmers of NZ

Dhilm Nightingale
Counsel for Transpower New Zealand


Chris Jenkins
For the Department of Conservation



ANNEXURE A

Section 274 Parties

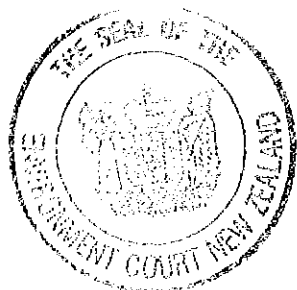
1. The section 274 parties to the Calveley appeal are:
 - (a) The Department of Conservation;
 - (b) Mr and Mrs Hawley;
 - (c) Mangawhai Residents and Ratepayers Association;
 - (d) Marunui Conservation Ltd;
 - (e) Friends of the Brynderwyns Society Inc;
 - (f) Transpower New Zealand; and
 - (g) Federated Farmers of NZ.

2. The section 274 parties to the MHHL appeal are:
 - (a) Mrs Hawley;
 - (b) Mangawhai Residents and Ratepayers Association;
 - (c) Marunui Conservation Ltd; and
 - (d) Friends of the Brynderwyns Society Inc.



ANNEXURE B

**Plan of MHHL Subdivision Proposal
(showing consented and unconsented lots)**



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OFFICE OF THE ATTORNEY GENERAL

THE UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D. C. 20535

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1. Physical Development in the third trimester of pregnancy. Fetus grows rapidly during this time as it is increased in size (weight) and length. Fetus grows from 10 inches to 16 inches (25 cm to 40 cm) and weighs 6 to 9 pounds (2.7 to 4.1 kg) at birth. Fetus is covered with fine hair called lanugo. Fetus is covered with a protective coating called vernix caseosa. Fetus is covered with a protective coating called vernix caseosa.

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DATE: 12-21-51, SUBJECT: RICHARDSON, HE HOLDING THE SAME CONTINUED OF
FILE _____

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MANGAWHAKA HEADS HOLDINGS LTD

KAPANYITI ROAD SUBDIVISION

SUBDIVISION SCHEME PLANS

DATE	NAME	ADDRESS	CITY	STATE	ZIP
1987	JOHN	12345	NEW YORK	NY	10001

120000	14500
25219	14500