

BEFORE THE ENVIRONMENT COURT  
I MUA I TE KOOTI TAIAO O AOTEAROA

IN THE MATTER of the various appeals to the proposed Thames -Coromandel District Plan and Variation 1 under Clause 14 of the First Schedule of the Resource Management Act 1991 (**the Act**)

BETWEEN WHANGAPOUA BEACH RATEPAYERS ASSOCIATION INC.  
ENV-2016-AKL-000088

K & M RABARTS FAMILY TRUST  
RABARTS, K RABARTS AND TAIHARURU LIMITED  
ENV-2016-AKL-000103

PETER PRATT  
ENV-2016-AKL-000108

WAIKATO REGIONAL COUNCIL  
ENV-2016-AKL-000146

MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT  
ENV-2016-AKL-000109

NORTHERN LAND PROPERTY LIMITED  
ENV-2016-AKL-000116

NGATI MARU RUNANGA TRUST  
ENV-2016-AKL-000120

POWERCO LIMITED (OVERLAYS)  
ENV-2016-AKL-000125

M & C TOOMEY AND S NATHAN QC  
ENV-2016-AKL-000127

TRUSTEES OF THE CHEESMAN FAMILY TRUST  
ENV-2016-AKL-000128

TAIRUA ENVIRONMENT SOCIETY INC.  
ENV-2016-AKL-000131

STEVEN & ROSEMARY GARLAND  
ENV-2016-AKL-000138

CLARE WARD FAMILY TRUST & PHILLIP WARD FAMILY TRUST AND WARD  
ENV-2016-AKL-000142



ROYAL FOREST AND BIRD  
PROTECTION SOCIETY OF NEW  
ZEALAND INC.  
ENV-2016-AKL-000143

COROMANDEL WATCHDOG OF  
HAURAKI INC.  
ENV-2016-AKL-000145

ENVIRONMENTAL DEFENCE SOCIETY  
INC.  
ENV-2016-AKL-000147

COROMANDEL PROPERTY OWNERS  
ALLIANCE INC.  
ENV-2016-AKL-000148

TASMAN BUILDINGS LIMITED  
ENV-2016-AKL-000094

ALLAN AND SHIRLEY BENSON  
ENV-2016-AKL-000106

Appellants

AND

THAMES COROMANDEL DISTRICT  
COUNCIL

Respondent

Environment Judge D A Kirkpatrick sitting alone under s 279 of the Act  
In Chambers at Auckland

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**CONSENT ORDER**

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A. Under s 279(1)(b) of the Resource Management Act 1991, the Environment  
Court, by consent, orders that:

- (1) the appeals are allowed subject to the agreed amendments to the  
Proposed District Plan (PDP) set out in **Annexure A** to this order;



(2) the appeals are otherwise dismissed insofar as they seek relief with respect to provisions of the PDP relating to the Natural Character overlays (NCOs).

B. Under s 285 of the Resource Management Act 1991, there is no order as to costs.

## REASONS

### Introduction

[1] There are nineteen appeals remaining against the Thames-Coromandel District Council's (TCDC) decisions on the PDP in relation to provisions relating to the Natural Character Topic by the following parties:

- (a) Whangapoua Beach Ratepayers Association Inc.;
- (b) K & M Rabarts Family Trust & Others;
- (c) P Pratt;
- (d) Waikato Regional Council
- (e) Ministry of Business, Innovation and Employment;
- (f) Northern Land Property Limited;
- (g) Ngati Maru Runanga Trust;
- (h) PowerCo Limited (overlays);
- (i) M & C Toomey and S Nathan QC;
- (j) Trustees of the Cheesman Family Trust;
- (k) Tairua Environment Society Inc.;
- (l) S & R Garland;
- (m) Clare Ward Family Trust & Phillip Ward Family Trust and Ward;
- (n) Royal Forest and Bird Protection Society of New Zealand Inc;
- (o) Coromandel Watchdog of Hauraki Inc;



- (p) Environmental Defence Society Inc;
  - (q) Coromandel Property Owners Alliance Inc;
  - (r) Tasman Buildings Limited; and
  - (s) Allan and Shirley Benson.
- [2] These appeals are coded to the Natural Character Topic ENV-2016-341-000008. Fifty two parties remain joined to these appeals as section 274 parties.
- [3] The appeals sought wide ranging amendments to the PDP. The issues raised in the appeals can be summarised as follows:
- (a) Flexibility needs to be provided to ensure that existing farming activities can continue to be undertaken in the Natural Character overlays;
  - (b) The policy and rule framework needs to provide sufficient protection for natural character, including by giving effect to the New Zealand Coastal Policy Statement ("NZCPS");
  - (c) The PDP does not adequately address the preservation of the natural character of inland water bodies;
  - (d) The Natural Character overlays have the potential to "sterilise" Maori / Treaty Settlement land;
  - (e) Various amendments to objectives, policies and rules which apply to activities in Natural Character Overlays are required to enable people and communities to provide for their social, economic and cultural wellbeing, particularly in relation to earthworks, vegetation clearance and the construction of dwellings.
- [4] The parties engaged in three Court-assisted mediation sessions on 21 February 2017, 15 May 2017 and 2 October 2018 in an attempt to reach agreement as to how to preserve natural character within the District.
- [5] Following mediation in 2017, TCDC entered into a Court-directed section 293 process as a result of further mapping changes that were made to the NCO in the PDP. Affected landowners were notified of the mapping changes and were given the opportunity to lodge submissions on the Natural Character provisions in the proposed PDP that were already subject to appeals. Following receipt of



submissions, TCDC entered into extensive consultation with potentially affected landowners arising out of the proposed changes to the Natural Character provisions - the intention being to attempt to resolve issues which were raised without the need for a hearing.

[6] As a result, the parties and submitters have agreed on amendments which would dispose of all 19 appeals and the s 274 interests in those appeals in relation to the provisions of the PDP with respect to the Natural Character Overlays.

[7] The key elements of the agreement reached between the parties comprise:

(a) Amendments to Section 7A (objectives and policies) in order to:

- (i) Clarify that the Plan seeks to preserve the values and characteristics of an area which has been assessed as having high or outstanding natural character;
- (ii) Properly reflect the effects hierarchy established in Policy 14 of the NZCPS and therefore give effect to the NZCPS;
- (iii) Provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga;
- (iv) Require the maintenance, enhancement, restoration or rehabilitation of the values and characteristics of areas of high and outstanding natural character at the time of subdivision and development; and
- (v) Encourage opportunities to enhance, restore or rehabilitate the natural character;

(b) Amendments to Section 32A (rules) in order to:

- (i) Provide more flexibility to enable existing activities to continue to occur;
- (ii) Ensure that the actual or potential effects of permitted activities on natural character are kept to an appropriate level having regard to the policy framework and, where that is not the case, activities require assessment; and



- (iii) Provide special provision for activities on Maori / Treaty settlement land in recognition of the fact that much of that land is less developed than general land, due in some part to historical events.

[8] In making this order the Court has read and considered:

- (a) The appeals and the memorandum of the parties dated 20 December 2018;
- (b) The joint memorandum of the parties in relation to the Biodiversity, Opoutere, Landscape and Natural Character topics dated 23 March 2018; and
- (c) The joint memorandum of the parties in relation to the Natural Character, Natural Character Mapping topic dated 15 March 2019; and
- (d) The memorandum of counsel for TCDC dated 18 October 2019 addressing the revised consent orders.

[9] The Court is making this order under s 279(1)(b) of the RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) All parties to the proceedings have executed the memorandum requesting this order, withdrawn as a party to these proceedings or have otherwise failed to comply with the Court's directions dated 21 December 2019.
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the RMA, including in particular Part 2.

## 2. ORDER

[1] Therefore the Court orders, by consent, that the appeals are allowed to the extent that the Thames-Coromandel District Council is directed to amend the following sections of the proposed Thames-Coromandel District Plan as shown in **Annexure A:**

- (a) Section 7A; and
- (b) Section 32A.



[2] This order resolves the appeals which relate to the provisions of the PDP which apply to the NCOs. Those aspects of the appeals in the Natural Character topic which relate to the mapping of the overlay are not addressed by this order.

[3] There is no order as to costs.

DATED at Auckland this *28<sup>th</sup>* day of *May* 2020



A handwritten signature in cursive script, appearing to read "D Kirkpatrick", is written over a horizontal line.

D A Kirkpatrick  
Environment Judge

Annexure A



## ANNEXURE A

(Insertions are shown as underline with deletions are shown as ~~strikethrough~~)

### 1. SECTION 7A

- 1.1 Amend **Section 7A.1 – Background** by inserting the following at the end of that section:

The Values and Characteristics of each Natural Character Area are identified in Table 1 "Schedule of Natural Character Values and Characteristics".

- 1.2 Amend **Section 7A.2 – Issues** as follows:

#### **7A.2 ISSUES**

1. *Inappropriate subdivision, use and development can degrade the values and characteristics of the natural character of the coastal environment, wetlands, and rivers and their margins by:*
  - a) ~~Introducing manmade elements/structures in areas where these are absent or the natural environment dominates; and~~
  - b) ~~Damaging or removing areas of indigenous vegetation; and~~
  - c) ~~Altering landforms and natural contours; and~~
  - d) ~~Creating 'scars' on the land surface; and~~
  - e) ~~Adversely affecting the natural processes between inland water bodies, estuaries, bays, sand dunes and beaches and wetlands and their associated margins; and~~
  - f) ~~Adversely affecting people's perception and appreciation of the area's natural character.~~

- 1.3 Amend **Policy 1a** as follows:

#### **Policy 1a**

Any subdivision, use and development in an area of **High Natural Character** or **Outstanding Natural Character** in the **Coastal Environment** shall consider:

- a) *The values and characteristics of the natural character area;*
- b) *The extent of existing manmade changes to the landform, vegetation, coastal processes and water movement;*
- c) *The presence or absence of manmade elements/structures, including infrastructure;*
- d) *The vulnerability of the ecosystem and its representation in the District;*
- e) *The integrity of landforms and features including ridgelines, headlands, peninsulas, cliffs and streams, rivers and their margins;*



- f) *The natural appearance, functioning of beach and dune systems, wetlands, rivers and their margins;*
- g) *The duration and nature of adverse effects of the proposed activity;*
- h) *The physical and visual integrity of the natural character area;*
- i) *The cover, pattern, sequence and integrity of vegetation of the natural character area; and*
- j) *Whether there are reasonably practicable alternative locations outside of the overlay and the ~~The functional or operational need for necessity of the activity being to be located in this area; and where no reasonably practicable alternative locations exist.~~*
- k) *The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.*

**NOTE**

- 1. *The objectives and policies of Section 17 are also relevant to subdivision, use and development in the Natural Character overlay.*

1.4 Amend **Policy 1b** as follows:

**Policy 1b**

*In areas of **Outstanding Natural Character** in the **Coastal Environment** subdivision, use and development shall be ~~designed, located and managed to avoid~~ adverse effects on the values and characteristics of the natural character area.*

**NOTE**

- 1. *Managing the design and location of subdivision, use and development will assist with achieving this policy.*

1.5 Amend **Policy 1c** as follows:

**Policy 1c**

*In areas of **High Natural Character** in the **Coastal Environment** natural elements/influences shall remain dominant. ~~To protect it from inappropriate~~ The significant adverse effects of subdivision, use and development, significant adverse effects on the values and characteristics of the natural character area are avoided and other adverse effects are avoided, remedied or mitigated.*



1.6 Amend **Objective 2** as follows:

**Objective 2**

~~Areas of high and outstanding natural character are set aside for legal protection, and enhancement or restoration through subdivision and development.~~

Provision is made for the maintenance, enhancement, restoration or rehabilitation of the values and characteristics of areas of **High and Outstanding Natural Character** in the **Coastal Environment** at the time of subdivision and development.

1.7 Amend **Policy 2a** as follows:

**Policy 2a**

~~Subdivision and development that protects, and enhances or restores shall be managed to ensure that the values and characteristics of **High** or **Outstanding Natural Character** should be promoted are protected and maintained.~~

1.8 Insert a new **Policy 2b** as follows:

**Policy 2b**

Opportunities to enhance, restore or rehabilitate the values and characteristics of **High** or **Outstanding Natural Character** shall be promoted or encouraged.

**2. SECTION 32A**

2.1 Amend **Rule 1** as follows:

**RULE 1 Any other activity Building/s**

1. Any other activity Building/s (excluding any buildings associated with aboveground electricity or telecommunication line or facilities) that is are a permitted, controlled or restricted discretionary activity in the underlying zone and district-wide rules; and that are not otherwise listed as an activity in Section 32A.2, retains its their activity status provided that they are limited to:
  - a) For building/s other than those provided for in (b) and (c) below, one additional building with a maximum gross floor area of 50m<sup>2</sup>; and
  - b) For building/s accessory to farming operational at 29 April 2016:



- i) There is a maximum of two additional building/s per site except, for sites equal to or greater than 200ha there is a maximum of four additional buildings; and
  - ii) The combined gross floor area of the additional building/s is no more than 110m<sup>2</sup> except, for sites equal to or greater than 200ha the combined gross floor area is no more than 220m<sup>2</sup>; and
  - iii) The building/s are either located within 20m of each other and any other buildings on the site; or
  - iv) The building/s are located a minimum of 250m away from each other and any other building/s on the site; or
- c) For building/s on Maori Land or Treaty settlement land:
- v) There is a maximum of two additional building/s per site except, for sites equal to or greater than 200ha there is a maximum of four additional buildings; and
  - vi) The combined gross floor area of the additional building/s is no more than 110m<sup>2</sup> except, for sites equal to or greater than 200ha the combined gross floor area is no more than 220m<sup>2</sup>; and
  - vii) The building/s are either located within 20m of each other and any other buildings on the site; or
  - viii) The building/s are located a minimum of 250m away from each other and any other building/s on the site;

~~b) The maximum gross floor area of all buildings for any other activity (including solar panels) is no more than 50m<sup>2</sup>; and~~

~~AND~~

~~b) The maximum building height is no more than 5 m; and~~

~~d) The building is not within:~~

- ~~i) 10 m of the bed of a permanent river, lake, stream, pond or wetland (excluding farm drains); and~~

~~e) The building meets the standards in Table 1 in Section 32A.4.~~

2. ~~Any other activity Building/s that does not retain its~~their activity status under Rule 1.1 ~~is~~are a **restricted discretionary activity**.

3. Building/s which do not comply with Rule 1.1 b) or c) shall be assessed without public or limited notification under Sections 95A and 95B of the Resource Management Act unless special circumstances exist or notification is required under section 95B(2) and (3).

~~3. 4~~ The Council restricts its discretion to matters 1-3 2-6 in Table 2 in Section 32A.4.



2.2 Amend **Rule 2** as follows:

**RULE 32 Earthworks**

1. Earthworks that are a **permitted activity** in the underlying zone and district-wide rules retain their activity status provided:
  - ~~b)a) They are for ecosystem protection, rehabilitation or restoration works (e.g. beachcare, conservation covenants, works involved with pest management, riparian fencing, including crossings and their approaches consented, permitted or otherwise authorised by Waikato Regional Council); or~~
  - ~~e)b) They are required for maintenance or repair work or cultivation activities as  
part of a farming activity operational at 29 April 2016;  
or~~
  - ~~c) They are required to maintain or repair the width or function of an existing:
    - ~~i) fenceline;~~
    - ~~ii) operational legal road;~~
    - ~~iii) legal right of way;~~
    - ~~iv) road, track, driveway, or drain existing at 29 April 2016;~~~~

~~OR~~

  - ~~v) to undertake works following a natural event to restore the width or function of an existing fence line, track, driveway or drain existing at 29 April 2016; or~~  
  - ~~(b) They are required to maintain an existing fence line, or the legal width of an existing public road within the Road Zone or State Highway network, legal right of way, an operational farm, driveway or track, or is part of a plantation forestry activity; or~~
  - ~~e)d) They are required for It is for the purpose of operation, maintaining, minor upgrading, operating, or removal of an electricity or telecommunication line or facility; or~~
  - ~~d) They are part of the farming activity operational at the time Variation 1 was publicly notified (6 November 2015);~~
  - ~~e) It is required for the installation of network utilities in the Road Zone or the installation of network utility service connections within existing formed tracks and driveways; or~~
  - ~~f) It is boring or thrusting required for the installation of underground utility cables or pipes; or~~
  - ~~g) The work is authorised or undertaken by the Waikato Regional Council and occurs within 10 m of the bed of a permanent river, stream, lake or pond, more than 1 m wide; or~~
  - ~~h) They are earthworks that meet the requirements of any of i) to iv) as follows:~~



i. i) The maximum volume is 10m<sup>3</sup> per site per calendar year; or

ii. ii) The earthworks are part of the farming activity operational at 29 April 2016 and are for new tracks up to 5 m in width and meet the standards in Table 1 or for new drains; or

iii. iii) The earthworks are part of a farming activity operational at 29 April 2016 required for construction of a building permitted under Rule 1.1; or

iv. iv) The earthworks are permitted for a building permitted on Maori Land or Treaty settlement land under Rule 1.1;

**AND** Except for crossings and drain connections permitted by Rule 2.1 a) they are not within 10 m of the bed of a permanent river, lake, stream or pond or wetlands (excluding farm drains).

1. Earthworks for a building platform and any associated utility services are a **restricted discretionary activity**.
2. Earthworks that are not permitted under Rule ~~3.1~~ 2.1 excluding 2.1 h) ii) are a **restricted discretionary activity** provided:
  - a) The maximum volume is 200 m<sup>3</sup> per site per calendar year; and
  - b) The maximum face height is 1.5 m; or
  - c) They are required to establish a building platform and any associated utility services including driveways (not otherwise provided for in Rule 2.1 e), q) or h)iii) or iv)).
3. The Council restricts its discretion to matters 1, ~~3~~, 4, 6 and ~~7~~ in Table 2 in Section 32A.4.
4. Earthworks that are not permitted under Rule 2.1 h) ii) are a restricted discretionary activity.
5. The Council restricts its discretion to matters 1, 3, 4, 5, 6 and 7 in Table 2 in Section 32A.4.
6. Earthworks that are not a restricted discretionary activity under Rule 2.2 are a non-complying activity.

<u>1.</u>	<u>Maximum volume per site per calendar year</u>	<u>350 m<sup>3</sup></u>
<u>2.</u>	<u>Maximum height of any fill and cut combined</u>	<u>3 m</u>
<u>3.</u>	<u>Maximum length of fill and cut that exceeds 2m in height vertically along length of track</u>	<u>30m</u>
<u>4.</u>	<u>Reinstatement</u>	<u>All cut and fill slopes are re-grassed as soon as practicable</u>



2.3 Amend **Rule 3** as follows:

**RULE 43** **Operation, maintenance, minor upgrading or removal of an electricity or telecommunication line or facility**

1. Operation, maintenance, minor upgrading or removal of an electricity or telecommunication line or facility is a permitted activity.

2.4 Amend **Rule 5** as follows:

**RULE 65** **Solar panel**

1. A solar panel is a **permitted activity** provided:
  - a) It is attached to an existing building; or
  - b) It has a maximum building height of no more than 5 m Where a solar panel is a building the maximum area of solar panel is no more than 50 m<sup>2</sup>; and
  - c) It has a reflective value of no more than 15%.
2. A solar panel that is not permitted under Rule 65.1 is a **restricted discretionary activity**.
3. The Council restricts its discretion to matters 2 and 3 in Table 2 in Section 32A.4.
4. A resource consent application under Rule 65.2 shall be assessed without public or limited notification under sections 95, 95A and 95B of the RMA.

2.5 Amend **Rule 6** as follows:

**RULE 76** **AFFORESTATION**

1. Afforestation is a **restricted discretionary activity** provided:
  - a) The trees are not a *Pinus* species; and
  - b) The trees are not planted in lines; and
  - c) The forest is managed and operated to maintain the forest canopy at one or more levels without clear felling.
2. The Council restricts its discretion to matters 1 and 3 and 5 in Table 2 in Section 32A.4.
3. Afforestation that is not a restricted discretionary activity under Rule 76 is a **non-complying activity**.

2.6 Amend **Rule 7** as follows:

**RULE 8Z** **Dwellings**

1. Dwellings in a **High Natural Character** area are a **restricted discretionary activity** provided:
  - a) ~~there are no other viable alternative building sites elsewhere on the site; and~~
  - b)a) There is only one dwelling within the Natural Character Area on the lot; and
  - e)b) It is not within 510 m of a permanent water body the bed of a permanent river, lake, stream or pond or wetland wider than 1 m; and
  - d)c) It meets the standards 1-3 in Table 1 in Section 32A.4.
2. The Council restricts its discretion to ~~matters~~ matters 1-3, 5 and 6



in Table 2 in Section 32A.4.

3. Dwellings that are not a restricted discretionary activity under Rule 87.1 are a **noncomplying activity**, except dwellings on Maori land or Treaty settlement land that are not a restricted discretionary activity under Rule 7.1 are a **discretionary activity**.
4. Where the dwelling is the only dwelling on the lot the resource consent application under Rule 7.1 shall be assessed without public or limited notification under Sections 95A and 95B of the Resource Management Act 1991.

2.7 Amend **Rule 8** as follows:

**RULE 98 Wind turbine**

1. A wind turbine is a **restricted discretionary activity**.
2. The Council restricts its discretion to matters 2, 3 and 5 in Table 2 in Section 32A.4

2.8 Amend **Rule 9** as follows:

**RULE 109 Above ground electricity or telecommunication line**

**Amateur radio configuration**

**Electricity or telecommunication facility**

**~~Subdivision creating one or more additional lots~~**

**Telecommunication mast, tower, dish, antenna and any ancillary equipment**

**~~Underground mining (without surface expression)~~**

1. An activity listed in Rule 109 is a **discretionary activity**.

2.9 Amend **Rule 10** as follows:

**RULE 1210 ~~Any other activity~~ **Building/s****

1. ~~Any other activity~~ Building/s (excluding any buildings associated with aboveground electricity or telecommunication lines or facilities) that ~~is~~ are a permitted, controlled or restricted discretionary activity in the underlying zone and district-wide rules, and that are not otherwise listed as an activity in Section 32A.3, retains its~~their~~ activity status provided:
  - a) ~~The maximum gross floor area for other buildings- of all buildings for any other activity (including solar panels) is no more than 25 m<sup>2</sup> per site; and~~
  - b) ~~The maximum building height is no more than 5 m; and~~
  - c) ~~The building is not within 10 m:~~
    - i) ~~of the bed of a permanent river, lake, stream or pond or wetland (excluding farm drains); or~~
    - ii) ~~a wetland; and~~
  - e)d) ~~The building~~ It meets the standards in Table 1 in



Section 32A.4.

2. ~~Any other activity that does Building/s that do not retain its he activity status under Rule 1210.1 is are a discretionary activity.~~

2.10 Amend **Rule 11** as follows:

**~~RULE 1311~~ Clearing indigenous vegetation**

1. ~~Clearing indigenous vegetation is a permitted activity provided:~~
- a) ~~Where it is indigenous coastal edge escarpment forest, wetland, duneland or floodplain forest/scrub vegetation, the sum of all clearance undertaken under d) to f) below does not exceed 250 m<sup>2</sup> per site per annum;~~
  - b) ~~It is within 10m of:~~
    - i. ~~An existing dwelling; or~~
    - ii. ~~A proposed dwelling with resource consent or ;~~
  - c) ~~The area to be cleared is:~~
    - i. ~~existing domestic garden; or~~
    - ii. ~~horticulture that was established prior to 29 April 2016; or~~
    - iii. ~~for maintenance or reinstatement of pasture through the removal of regenerating manuka (leptospermum scoparium var. scoparium) or kanuka (Kunzea robusta) or tree ferns or scattered rushes in pasture on a farm established prior to 29 April 2016, and the vegetation to be cleared is less than 15 years old and 6 m in height; or~~
  - d) ~~It is for the collection of material for traditional Maori cultural practices; or~~
  - e) ~~It is for ecosystem protection, rehabilitation or restoration works (e.g. beachcare, conservation covenants, removing plant pests as identified in the Waikato Regional Pest Management Plan, riparian fencing, including crossings and their approaches that are consented, permitted or otherwise authorised by the Waikato Regional Council); or~~
  - b) ~~It is required for operation, minor upgrading or removal of an electricity or telecommunication line; or~~
  - e) ~~It is required to maintain an existing fence line, or the legal width of an existing public road within the Road Zone or State Highway network, legal right of way, an operational farm, driveway or track, or is part of a an existing plantation forestry activity; or~~
  - d) ~~It is to maintain open pasture of a farming activity operational at the time Variation 1 was publicly notified (6 November 2015)~~
  - f) ~~the work is authorised or undertaken by the Waikato Regional Council and occurs within 10 m of the bed of a permanent river, stream, lake or pond, more than 1 m wide; or~~
  - g) ~~It is either no more than 5 m either side of lawfully established network utility infrastructure (excluding an existing formed road) or in accordance with the Electricity (Hazards from Trees) Regulations 2003; and~~
    - i. ~~it is for the operation, maintenance and minor upgrading, or removal of an existing electricity or telecommunication line or facility; and~~



- ii) it is undertaken or commissioned by the network utility operator; or
- h) It is no more than 5 m wide and it is to maintain a driveway or existing track; or
- i) It is a strip of no more than 3.5 m wide for land survey work or maintaining an existing fenceline; or
- j) It is to maintain the existing width of a legal right of way or existing formed road; or
- k) It is within the building platform of a proposed dwelling with resource consent or within a building platform approved at the time of subdivision; or
- l) It is necessary to avoid loss of life, injury or serious damage to property; or
- m) It is no more than 500m<sup>2</sup>:
  - i) For clearance of manuka (*leptospermum scoparium* var. *scoparium*) or kanuka (*Kunzea robusta*) for non-commercial domestic use within 18 months of felling; and
  - ii) Except for crossings and their approaches permitted by Rule 11.1(e), it is not within 10 m of the bed of a permanent river, lake, stream or pond or wetland (excluding farm drains); and
  - iii) It is not indigenous coastal edge escarpment forest, wetland, duneland or floodplain forest/scrub vegetation.

~~2.~~ Clearing indigenous vegetation for a building platform and any associated utility services is a **discretionary activity**.

~~3.2.~~ Clearing indigenous vegetation that is not a permitted activity under Rule ~~13~~11.1 a) to l) and Rule 11.1 m) i) and ii) is a **discretionary activity**.

3. Clearing indigenous vegetation that is not a permitted activity under Rule 11.1 m) iii) is a **non-complying activity**.

2.11 Amend **Rule 12** as follows:

**RULE 1412 Earthworks**

1. Earthworks that are a **permitted activity** in the underlying zone and district-wide rules retain their activity status provided:
  - a) They are for ecosystem protection, rehabilitation or restoration works (e.g. beachcare, conservation covenants, works involved with pest management, riparian fencing, including crossings and their approaches consented, permitted or otherwise authorised by Waikato Regional Council); or
  - b) They are required to maintain an existing fence-line, or the legal width of an existing public road within the Road Zone or State Highway network, legal right of way, an operational farm, driveway or track, or is part of a plantation forestry



activity; or

- b) They are required to maintain or repair the existing width or function of a:
  - i) fence line;
  - ii) operational legal road;
  - iii) legal right of way;
  - iv) track, driveway or drain that was operational at 29 April 2016; or
- c) They are required for operation, maintenance, minor upgrading or removal of an existing electricity or telecommunication line or facility; or
- d) They are part of the farming activity operational at the time Variation 1 was publicly notified (6 November 2015).
- d) It is required for the installation of network utilities in the Road Zone or the installation of network utility service connections within existing formed tracks and driveways;  
or
- e) It is boring or thrusting required for the installation of underground utility cables or pipes.

- 2. Earthworks for a building platform and any associated utility services are a **discretionary activity**.
- 3. Earthworks that are not permitted under Rule ~~14~~12.1 are a **discretionary activity**.

2.12 Amend **Rule 13** as follows:

**RULE 1513** **Operation, maintenance, minor upgrading or removal of an electricity or telecommunication line or facility**

- 1. Operation, maintenance, minor upgrading or removal of an electricity or telecommunication line or facility is a **permitted activity**.

2.13 Amend **Rule 14** as follows:

**RULE 1614** **SIGN**

- 1. A sign is a **permitted activity** provided:
  - a) It is erected by a government organisation, network utility operator or a local authority; or
  - b) It is on a site for no more than 7 consecutive days; or
  - c) It is required by a statute or regulation; or
  - d) It is erected as part of ecological protection, rehabilitation or restoration works.

OR

- e) There is no more than one sign per site; and
  - f) The maximum area of the sign does not exceed 0.5 m<sup>2</sup>; and
  - g) Where it is freestanding, the maximum height does not exceed 1.8 m; and
  - h) It relates to a lawfully established activity on the site.
- 2. A sign that is not permitted under Rule ~~14~~6.1 is a **restricted**



**discretionary activity.**

3. The Council restricts its discretion to matters 2 and 3 in Table 2 in Section 32A.4.
4. A resource consent application under Rule ~~16~~14.2 shall be assessed without public or limited notification under sections 95, 95A and 95B of the RMA.

2.14 Amend **Rule 15** as follows:

**RULE 1715      Solar panel**

1. A solar panel is a **permitted activity** provided:
  - a) It is attached to an existing building; or
  - b) Where a solar panel is a building the maximum area of solar panel is no more than 25 m<sup>2</sup>; and
  - ~~b)c)~~ It has a maximum building height of no more than 5 m; and
  - e)d) It has a reflective value of no more than 15%.
2. A solar panel that is not permitted under Rule ~~17~~15.1 is a **discretionary activity**.

2.15 Amend **Rule 16** as follows:

**RULE 1816      Dwellings**

1. Dwellings in an **Outstanding Natural Character** area are a **discretionary activity** provided there is only one dwelling within the Outstanding Natural Character area on that lot.
2. ~~More than one d~~Dwellings that are not a discretionary activity under Rule 16.1 in an Outstanding Natural Character area is a **are a noncomplying activity**, except dwellings on Maori Land or Treaty settlement land that are not a discretionary activity under Rule 16.1 are a **discretionary activity**.

2.16 Amend **Rule 17** as follows:

**RULE 1917      Above ground electricity or telecommunication line**

**Electricity or telecommunication facility**

**Wind turbine**

**Underground mining (without surface expression)**

1. An activity listed in Rule ~~19~~17 is a **discretionary activity**.

2.17 Amend **Rule 18** as follows:

**RULE 2018      Above ground electricity or telecommunication line**

**Amateur radio configuration**

**Electricity or telecommunication facility**

**Subdivision creating one or more additional lots**

**Telecommunication mast, tower, dish, antenna and any ancillary equipment**

1. An activity listed in Rule ~~20~~18 is a **non-complying activity** provided



*that subdivision creating one or more additional lots includes an ONC area and the new lot/s created (excluding the balance lot) and/or any new house sites resulting from the subdivision are within that part of the property covered by the overlay.*

2 *Subdivision creating one or more additional lots on Maori Land or Treaty settlement land is a **discretionary activity**.*

**NOTE**

*For avoidance of doubt where the newly created lot/s (excluding the balance lot) and/or any new house sites are not within that part of the property covered by the overlay then the Rules in Section 38 Subdivision apply and those in Rule 32A.3.18 do not.*

2.18 Amend **Table 2 – Natural Character Restricted Discretionary Matters** as follows:

<b>Table 2 – Natural Character Restricted Discretionary Matters</b>	
<b>Matter</b>	<b>Assessment Criteria</b>
1. <b>Location and extent of earthworks</b>	a) <i>Whether the earthworks could be located outside of the natural character area. Whether the earthworks significantly adversely affect the values and characteristics of the natural character area identified in Table 1 in Section 7A and, if so, whether alternative locations have been considered.</i>
	b) <i>Whether they are part of the on-going nature of a farming activity or other lawfully established activity existing at 29 April 2016 the time Variation 1 was publicly notified (6 November 2015).</i>
	c) <i>The extent to which the earthworks are minimised and whether it is practicable to remedy or mitigate the adverse effects.</i>
	d) <i>Whether the effects of the earthworks on natural character values and characteristics will be temporary or permanent.</i>
	e) <i>The extent to which the earthworks will retain the natural character values and characteristics of the natural character area.</i>
	f) <i>The extent to which the earthworks are sympathetic to the natural landform and maintain natural contours.</i>
	g) <i>The extent to which a buffer or other mitigation works protect wetlands, rivers and their margins from nearby earthworks.</i>
	a) <i>Whether the design and layout of the building/structure will be visually prominent. building or structure is located away from ridgelines and prominent landforms so that it is not visible on the skyline.</i>
	b) <i>The extent to which the building or structure is designed and located to be visually unobtrusive from any public road and public place.</i>



2.	<b>Location, design and visibility of buildings/structures</b>	<p>c) Whether the building or structure is designed and sited so that values and characteristics of the natural character area are preserved.</p> <p>d) The extent to which the colours, materials and design of the building or structure blend in with the surrounding landform and vegetation and reduce reflectivity.</p> <p>e) Whether the buildings, structures and site are designed to minimise light spill at night.</p> <p>f) Whether additional measures can be taken to reduce reflectivity from the building or structure.</p> <p>g) Whether the building or structure has a functional or operational need to be in the proposed location, the extent of any social, economic or cultural benefits and the extent to which alternative locations have been considered.</p>
3.	<b>The effects of clearing indigenous vegetation on natural character values</b>	<p>a) <del>Whether vegetation clearance for the same purpose could be located outside of the natural character area.</del></p> <p>b) <del>Whether the clearance is part of the on-going nature of a farming activity or other lawfully established activity existing at the time Variation 1 was publicly notified (6 November 2015).</del></p> <p>c) <del>The extent to which removal of the vegetation retains the natural character values and characteristics of the natural character area.</del></p> <p>d) <del>Whether the indigenous vegetation has any significant biodiversity value and provides habitat for at risk or threatened species.</del></p> <p>e) <del>The extent to which the vegetation clearance is minimised and whether it is practicable to remedy or mitigate the adverse effects.</del></p> <p>f) <del>The extent to which a buffer or other mitigation works protect wetlands, rivers and their margins from nearby vegetation clearance.</del></p>



		g) <i>Whether the effects of the vegetation clearance on natural character values and characteristics will be temporary or permanent.</i>
3.	<b><u>Alternative locations of buildings/structures</u></b>	a) <i>Whether the activity needs to be located within the natural character area.</i>
		b) <i>Whether the buildings or structures significantly adversely affect the values and characteristics of the natural character area identified in Table 1 in Section 7A and, if so, whether alternative locations have been considered.</i>
		c) <i>Whether locating the activity within the natural character area is required to enable reasonable residential or farming use of the lot.</i>
		d) <i>Whether the location is on a previously approved building platform.</i>
4.	<b><u>Vegetation planting for effect mitigation purposes</u></b>	a) <i>Whether any restoration/enhancement/rehabilitation planting would mitigate earthworks required for the activity.</i>
5.	<b><u>Cumulative effects</u></b>	a) <i>Whether the effects of the activity, in combination with effects of other existing activities and/or effects likely to arise over time, degrade the natural character values and characteristics identified in Table 1 in Section 7A.</i>
6.	<b><u>Development of Maori land or Treaty settlement land</u></b>	a) <i>Whether the activity recognises and provides for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.</i>
7.	<b><u>Waterbodies and wetlands</u></b>	a) <i>The extent to which the activity has adverse effects on the quality, natural functioning and ecological values of any permanent waterbody or wetland.</i>

