

**BEFORE THE ENVIRONMENT COURT**

**IN THE MATTER** of the Resource Management Act 1991 ("**the Act**")

**AND**

**IN THE MATTER** of an appeal under clause 14 of the First Schedule to the Act on the Proposed Kaipara District Plan

**BETWEEN** **HANCOCK FOREST MANAGEMENT NZ LIMITED**

Lodgement: ENV-2011-AKL-000225

Topic: ENV-2012-349-000014

Appellant

**AND** **KAIPARA DISTRICT COUNCIL**

Respondent

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**JOINT MEMORANDUM OF THE PARTIES IN SUPPORT OF A PARTIAL  
CONSENT ORDER**

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**BROOKFIELDS  
LAWYERS**

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## MAY IT PLEASE THE COURT

### INTRODUCTION

1. This appeal by Hancock Forest Management NZ Limited ("**the Appellant**") relates to the decisions of the Kaipara District Council on submissions to its Proposed Kaipara District Plan ("**the Proposed Plan**").
2. Rayonier NZ Limited and the Director General of Conservation are parties to this appeal under section 274 of the Resource Management Act 1991 ("**the Act**").
3. The Appellant appealed provisions of the Proposed Plan relating to earthwork and transport issues. This Memorandum and the draft Partial Consent Order attached to it, are provided in relation only to those parts of the appeal relating to transport issues, those issues having been dealt with under Topic ENV-2012-349-000014 of the appeal proceedings on the Proposed Plan.

### THE APPEAL

4. The Appellant opposed Rule 12.10.18 of the Proposed Plan on the basis that the controls on traffic intensity proposed by that rule were not appropriate for seasonal activities such as forestry. The Appellant sought that temporary or seasonal traffic movements, including those from forestry activities, should be exempted from the controls on traffic intensity under Rule 12.10.18.
5. The Appellant also opposed Rule 12.10.25 controlling vehicle access and driveways. The Appellant considered this rule to be inappropriate when applied to access for forestry land or forestry roads.

### DETAILS OF PROPOSED SETTLEMENT

6. At the Court-assisted mediation on Topic ENV-2012-349-000014 held on 30 March 2012, and through subsequent correspondence between the parties, changes were agreed to Rules 12.10.18 and 12.10.25 of the Proposed Plan to address the appeal.

7. The parties agreed that the controls on traffic intensity under Rule 12.10.18 be amended to exempt existing forestry activities, including harvesting and replanting within five years, but apply to any new activities.
8. In terms of Rule 12.10.25(b) it is proposed that the rule be amended to provide that any new or upgraded vehicle crossing on to roads controlled by the Council shall be required to satisfy the Council's engineering requirements. It was also agreed, that the standards stipulated in Rule 12.10.25(d) for the formation of driveways should not be applicable in the case of internal forestry roads.
9. As a result of those agreements detailed above, the parties have agreed amendments to the text of Rules 12.10.18 and 12.10.25 of the Proposed Plan. That revised text is set out in the Annexure A to the draft Partial Consent Order attached to this Memorandum.
10. The parties are satisfied that the proposed amendments to Rules 12.10.18 and 12.10.25 of Chapter 12 of the Proposed Plan are:
  - (a) Appropriate for achieving the purpose of the Act; and
  - (b) Appropriate for achieving the objectives and implementing the policies for the Kaipara District.

#### **DRAFT PARTIAL CONSENT ORDER**

11. The parties therefore respectfully request that the Court:
  - (a) Make an order resolving this appeal in the terms of the **attached** draft Partial Consent Order, in so far as the appeal relates to Rules 12.10.18 and 12.10.25 of the Proposed Plan; and
  - (b) Makes no order as to costs.

12. For completeness, the parties record that the remainder of the appeal remains extant.

DATED the 19<sup>th</sup> of July 2012

  
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A M B Green  
Counsel for the Kaipara District Council

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G Chappell  
Counsel for Hancock Forest Management NZ Limited

 10/7/12  
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C Jones  
On behalf of Rayonier New Zealand Limited

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E Jamieson  
Counsel for the Director-General of Conservation

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~~E Jamieson~~ *Christopher M Jenkins* *Conservation*  
Counsel for the Director-General of Conservation