

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU**

Decision [2022] NZEnvC 157

IN THE MATTER OF

appeals under clause 14 of the First
Schedule of the Resource Management
Act 1991 regarding Topic 15 Mangrove
Provisions – Proposed Northland
Regional Plan

BETWEEN

MANGAWHAI HARBOUR
RESTORATION SOCIETY
INCORPORATED

(ENV-2019-AKL-110)

CEP SERVICES MATAUWHI
LIMITED

(ENV-2019-AKL-111)

BAY OF ISLANDS MARITIME
PARK INCORPORATED

(ENV-2019-AKL-0117)

ROYAL FOREST AND BIRD
PROTECTION SOCIETY OF
NEW ZEALAND
INCORPORATED

(ENV-2019-AKL-127)

Appellants

AND

NORTHLAND REGIONAL
COUNCIL

Respondent

Court: Judge J A Smith
Commissioner R M Bartlett

Hearing: On the papers
Last case event: 28 July 2022

Topic 15: Mangroves



Date of Decision: 18 August 2022

Date of Issue: 18 August 2022

DECISION OF THE ENVIRONMENT COURT

- A: The Court approves as final the provisions as set out in **Annexure B**.
- B: Costs applications were not encouraged and no application/s for costs have been filed. Accordingly, this Court makes no order as to costs.

REASONS

Introduction

[1] On 29 June 2022 the Court issued an interim decision¹ on Topic 15 – Mangrove removal of the Proposed Regional Plan for Northland.

[2] In its interim decision the Court adopted wording set out in an annexure (Annexure C) for the following provisions:

- (a) Policy D.5.26;
- (b) Policy D.5.27;
- (c) Rule C.1.4.1;
- (d) Rule C.1.4.2;
- (e) Rule C.1.4.3A;
- (f) Rule C.1.4.3;
- (g) Rule C.1.4.4;
- (h) Rule C.1.4.5A;
- (i) Rule C.1.4.5; and
- (j) Rule C.1.4.6.

[3] The following provisions were identified as being possibly subject to some final

¹ [2022] NZEnvC 114.

wording alteration:

- (a) Rule C.1.4.3A
- (b) Rule C.1.4.3;
- (c) Rule C.1.4.5; and
- (d) Rule C.1.4.6

[4] The Court directed that:

- (a) if parties cannot reach agreement on the final wording, the Council is to prepare a joint memorandum with its position stated; and
- (b) where a party disagrees with the Council's position, they are to state their alternative position and an explanation (in no more than one to two paragraphs).

Joint memorandum dated 28 July 2022

[5] A joint memorandum of counsel regarding final Topic 15 – Mangrove removal provisions was filed on 28 July 2022.

[6] The memorandum advised that agreement has been reached on many of the provisions, however, disagreement remains in respect of:

- (a) Rule C.1.4.3A Mangrove removal by statutory or incorporated bodies for conservation purposes – restricted discretionary activity;
- (b) Rule C.1.4.5 Mangrove removal – discretionary activity;
- (c) Rule C.1.4.6 Mangrove removal – non-complying activity.

[7] The Council's preferred wording and the alternative positions of the parties were provided. These are attached as **Annexure A**. The parties' reasons were included in the memorandum and are set out below.

[8] Federated Farmers maintained a watching brief and took no position on the provisions. Top Energy Limited's interest is limited to Rule C.1.4.2 which is agreed between the parties. Top Energy made no comment on the other provisions.

Agreed changes

[9] Final provisions have been prepared by the parties in accordance with the Court’s interim decision, however, some minor changes have been proposed by the parties to ensure that the provisions are clear and internally consistent.

[10] The agreed changes include:

- (a) amendments to various rules to include cross-references to Rule C.1.4.7 Mangrove removal (including seedlings) within Sites and Areas of Significance to Tangata Whenua – non-complying activity. The amendments ensure that the rules are clear that activities undertaken within Patuharakeke Te Iwi Trust Board’s (**Patuharakeke**) sites and areas of significance are non-complying activities;
- (b) an amendment to the chapeau of Policy D.5.26 Mangrove removal – purpose so that the reference to Policy D.2.16 is replaced with Policy D.2.18. Policy D.2.16 has since been renumbered as Policy D.2.18 and should be changed accordingly;
- (c) minor amendments to Rule C.1.4.2 Minor mangrove removal for specified authorised activities – permitted activity, including:
 - (i) when referring to site or area of significance to tangata whenua in (1)(e), the inclusion of the words “subject to (3) below” for clarity / consistency purposes with the cross-reference to Rule C.1.4.7.
 - (ii) an amendment to Table 3: maximum allowable area of mangrove removal to reinstate the words “that required to” in the right-hand column for “Authorised pipe outlets”. These words were not included in the Court’s final wording. The Council considers they should be included to improve clarity and readability of the rule.
- (d) an amendment to re-include the note at the end of Rule C.1.4.2, which was not included in the Court’s final wording. The note clarified that the rule does not cover activities authorised by Rule C.2.1.3 Maintenance of the free

flow of water in rivers and mitigating bank erosion – permitted activity, which the Council considers is helpful for plan users.

- (e) some minor amendments to Rule C.1.4.3A Mangrove removal by statutory or incorporated bodies for conservation purposes – restricted discretionary activity and Rule C.1.4.3 Mangrove removal for specified purposes – controlled activity, including:
 - (i) in C.1.4.3A, the inclusion of a reference to controlled activity in the chapeau of the rule and the replacement of “matters of control” with matters of discretion”, given that the rule is now a restricted discretionary activity (as opposed to a controlled activity).
 - (ii) in C.1.4.3, the addition of the words “is a controlled activity provided ... and the mangrove removal or pruning does not exceed the limits below” after clause (3).
 - (iii) other minor wording amendments for grammar / readability purposes.
- (f) an amendment to Rule C.1.4.4 Mangrove removal in the Whangārei City Centre Marine Zone and the Coastal Commercial Zone – restricted discretionary activity to delete the reference to “or the bed of a river” in matter of discretion (1). Because there are no beds of rivers in the Whangārei City Centre Marine Zone and the Coastal Commercial Zone, the Council considers that this language should be deleted.
- (g) minor amendments to Rule C.1.4.5 Mangrove removal – discretionary activity and Rule C.1.4.6 Mangrove removal – non-complying activity to include reference to restricted discretionary activity in the chapeaus of the rules, so that the rules appropriately cascade down.

[11] The Court endorses the proposed changes. The parties have clearly carefully considered the rules and worked to ensure the overall package of the provisions are consistent and readable. The changes are minor and are appropriate to ensure that the provisions are clear and internally consistent, as intended.

Rule C.1.4.7

[12] Amendments proposed by Patuharakeke and the Council to Rule C.1.4.7, include:

- (a) the deletion of “pulling, cutting or” from the chapeau and “existing” from clause (1) – the Council considers this is consistent with the Court’s findings.
- (b) the deletion of the reference to Rule C.1.4.4 in clause (2). The Whangārei City Centre Marine Zone and Coastal Commercial Zone does not fall within Patuharakeke’s sites and place of significance. Accordingly, the Council considers that the reference to Rule C.1.4.4 is not needed in the rule.
- (c) in light of the Court’s findings on Rule C.1.4.3A, the inclusion of wording that exempts the Department of Conservation’s (**DOC**) activities only from the rule. DOC and Patuharakeke have an established working relationship on DOC / kaitiaki projects undertaken within Patuharakeke’s rohe. Broadening that to other statutory bodies would introduce unknown projects without established relationships. Non-statutory (incorporated) bodies are not the Crown and are therefore not bound by the obligations of Te Tiriti partners.
- (d) if the Court is not minded to narrow Rule C.1.4.7 to exempt only DOC, Patuharakeke seeks as its secondary / fallback position that the reference to Rule C.1.4.3A is deleted from Rule C.1.4.7 (so that nothing under Rule C.1.4.3A is exempt from Rule C.1.4.7, rather than everything is). Patuharakeke considers that this is appropriate in a rule protecting Sites of Significance recognised in the Plan as mahinga mataitai sites.
- (e) other minor changes to improve the clarity and readability of the rule.

[13] In its interim decision the Court noted that the parties had agreed on wording for Rule C.1.4.7 and therefore it was not in dispute before the Court but the change was to be incorporated as part of the changes approved by the Court.² The parties

² At [42].

have since agreed further amendments.

[14] The proposed deletion of “pulling, cutting or” from the chapeau of Rule C.1.4.7 is consistent with the Court’s findings.³

[15] The Court agrees that it is sensible to remove reference to Rule C.1.4.4 given the Whangārei City Centre Marine Zone and Coastal Commercial Zone does not fall within Patuharakeke’s sites and place of significance.

[16] The Court wishes to recognise and provide for the established working relationship between DOC and Patuharakeke and therefore agree to the inclusion of wording that exempts DOC’s activities only from the rule. The Court accepts the parties reasoning for this.

[17] The Court confirms the proposed changes.

Rule C.1.8 Coastal Works General Conditions

[18] The interim decision does not directly address the Court’s preferred wording for the relevant provisions in Rule C.1.8 Coastal works general conditions. The Council prepared drafting for the parties to consider and the Bay of Islands Maritime Park Incorporated (**BOIMP**) has commented on the wording of Rule C.1.8(16).

[19] BOIMP submit the reference to “seagrass, saltmarsh or natural wetland” implies that seagrass and saltmarsh are not types of natural wetland. BOIMP considers that the references to seagrass and saltmarsh should be retained (as there is still a lack of understanding as to what constitutes a coastal wetland) but proposed that the provision should read:

C.1.8 Coastal works general conditions

16 The activity must not disturb or damage areas of seagrass, saltmarsh, or other natural wetland.

[20] The Council supports BOIMP’s proposed amendment to that rule.

[21] Forest and Bird take the same position as BOIMP.

³ See for example [2022] NZEnvC 114 at [68], [93], [135].

[22] Northport Limited supports the Council's provisions.

[23] The Court is willing to endorse the amendment proposed by BOIMP. In doing so the Court notes that there is general agreement for the position. The wording recognises that there is still a lack of understanding around wetlands but allows some clarity by making sure to give a clear example by type while recognising that seagrass and saltmarsh may be a type of natural wetland.

Outstanding provisions

[24] The Court invited parties to provide comment on:

- (a) Rule C.1.4.3A – Mangrove removal by statutory or incorporated bodies for conservation purposes – restricted discretionary activity;
- (b) Rule C.1.4.3 – Mangrove removal for specified purposes – controlled activity;
- (c) Rule C.1.4.5 Mangrove removal – discretionary activity; and
- (d) Rule C.1.4.6 Mangrove removal – non-complying activity.

Rule C.1.4.3A Mangrove removal by statutory or incorporated bodies for conservation purposes – restricted discretionary activity

[25] Some parties seek amendment to Rule C.1.4.3A including:

- (a) the Minister of Conservation, who seek to narrow the activity enabled to maintenance or enhancement of more limited habitats; and
- (b) BOIMP, which seeks to narrow the entities that can rely on the rule to those performing “statutory” powers.

Minister of Conservation's position

[26] The Minister of Conservation supports the changes sought to Rule C.1.4.3A by BOIMP.

[27] The Minister also suggests that the activity authorised by the rule in Annexure C to the interim decision (maintain and enhance biodiversity and intertidal habitats) may be broader than was intended (maintain or enhance specified sites for threatened taxa). The controlled activity version of the rule originally sought by the Minister had the broader purpose and was included in the Northland Regional Council's appendix to legal submissions on 22 April 2022. The restricted discretionary activity version set out the narrower purpose and was included in Northland Regional Council's "revised table of parties" positions for hearing 3 May 2022. The narrower purpose is for "maintaining or enhancing roosting, nesting or foraging sites of any indigenous taxa that are listed as threatened in the New Zealand Threat Classification System lists...". At the hearing, there were some discussion as to whether the purpose should extend to "at risk" taxa also. This revised restricted discretionary activity rule was also set out in a joint memorandum of counsel.⁴

[28] The Minister does not seek to re-litigate the Court's findings, but respectfully requests that a narrowing of the purpose of the rule is considered in the context of agreeing final wording between the parties and, as such, is consistent with the Court's decision.⁵

[29] The Minister's technical advice from Dr Beauchamp is that the purpose should extend to clearance for maintaining or enhancing roosting, nesting or foraging sites of "at risk" taxa as well as "threatened" taxa. This is because there may be a need to remove mangroves for roosts and foraging areas for bar-tailed godwit, lesser knot, South Island Pied oystercatchers, red-billed gulls and banded dotterels which are all "at risk declining".

⁴ Dated 23 September 2020 on behalf of CEP Services Matauwhi Limited, Bay of Island Maritime Park Incorporated, Patuharakeke Te Iwi Trust Board, Fery Tern Charitable Trust and Minister of Conservation.

⁵ [2022] NZEnvC 114 at [116].

[30] Accordingly, the Minister proposes the following amendments to Rule C.1.4.3A:

Rule C.1.4.3A Mangrove removal by statutory or incorporated bodies for specified conservation purposes – restricted discretionary activity

The removal or pruning of mangroves in the costal marine area or in the bed of a river by a statutory or incorporated body in the performance of its statutory functions or statutory powers, for the purpose of maintaining or enhancing roosting, nesting, or foraging sites of an indigenous taxa that are listed as ‘threatened’ or ‘at-risk declining’ in the New Zealand Threat Classification System lists biodiversity and intertidal habitats, and any associated damage or disturbance to the foreshore, seabed or bed of a river that is not a permitted activity in section C.1.4 of this Plan is a restricted discretionary activity.

...

Bay of Islands Maritime Park Incorporated’s position

[31] BOIMP submits that the rule should refer to “statutory functions or statutory powers”. While a range of incorporated groups have statutory powers, the concept of non-statutory “powers” is a very broad and uncertain concept. Such powers (and their exercise) may not be consistent with the RMA, including s 8 relating to the Treaty of Waitangi. Statutory powers have the benefit of having to be balanced with statutory responsibilities. BOIMP does not agree with the Council’s submission that this is a re-litigation of the Court’s interim decision. It seeks to clarify the intention of the reference to “statutory functions or powers” as proposed by the Court.

[32] BOIMP notes that the Court’s findings that Rules C.1.4.5 and C.1.4.6 should refer to identified relevant policies and objectives (including the RPS and NZCPS) so that they can bear directly upon consideration of the rules.⁶ The concern for BOIMP is that if those policies and objectives are referenced in some rules and not others, the Plan may be interpreted as not requiring consistency with those policies and objectives in the application of rules where they are not mentioned. BOIMP submits that the reference to objectives and policies should be incorporated into Rule C.1.4.3A also.

[33] Accordingly, it proposes that C.1.4.3A should read:

Rule C.1.4.3A Mangrove removal by statutory or incorporated bodies for

⁶ At [143] and [151].

conservation purposes – restricted discretionary activity

The removal or pruning of mangroves in the coastal marine area or in the bed of a river by a statutory or incorporated body in the performance of its statutory functions or statutory powers for the purpose of maintaining or enhancing biodiversity and intertidal habitats, and any associated damage or disturbance to the foreshore, seabed or bed of a river that is not a permitted or controlled activity in section C.1.4 of this Plan or a non-complying activity under rule C.1.4.7 (Mangrove removal (including seedlings) within Sites and Areas of Significance to Tangata Whenua) is a restricted discretionary activity.

Matters of ~~control~~ discretion:

- 1) Method, timing and extent of activities.
- 2) Effects on aquatic ecosystem health and indigenous biodiversity.
- 3) Navigation and safety.
- 4) Effects on the characteristics, qualities and values that contribute to make any of the following mapped (refer | Maps | Ngā mahere matawhenua) places of significance, where the removal or pruning is proposed in a location in or near any:
 - a) ~~in or near a~~ Historic Area or Site.
 - b) ~~in or near a~~ Significant Ecological Area.
 - c) ~~in or near a~~ Significant Bird Area.
 - d) ~~in or near a~~ Site or Area of Significance to tangata whenua.
- 5) Effects on the characteristics, qualities and values that make any of the following mapped (refer | Maps | Ngā mahere matawhenua) area or feature high or outstanding, where the removal or pruning is proposed in a location in or near ~~an area of any~~:
 - a) Outstanding Natural Character Area.
 - b) High Natural Character Area.
 - c) Outstanding Natural Landscape.
- 6) Effects on tangata whenua cultural values.

Applications for removal of mangroves under this Rule shall demonstrate that the activity avoids:

a) adverse effects on values of particular significance (of the types identified in Policy D.2.18(1)(a)); and

b) significant adverse effects on values of significance (of the types identified in Policy D.2.18(1)(b)).

Council position

[34] In terms of Rule C.1.4.3A, the Council supports the Court’s proposed wording, with no amendment.

[35] The Council is disappointed that, despite the Court’s clear direction that its determinations should not be re-litigated,⁷ those parties are seeking to reopen the Court’s findings. The Council considers that:

- (a) the Minister’s proposal to limited Rule C.1.4.3A to maintenance and enhancement of “roosting, nesting or foraging sites of any indigenous taxa that are listed as ‘threatened’ or ‘at-risk declining’ ...” is unnecessary. The Court’s proposed wording has a number of safeguards, including that it is undertaken by limited entities for particular purposes and subject to the scrutiny of a resource consent process with appropriately framed matters of discretion (which may result in an application being declined);
- (b) further, the Minister’s proposed wording does not reflect the language of Policy 5.26 Mangrove removal – purpose, which contemplates that mangrove removal may be appropriate to maintain, restore or improve biodiversity (generally) as well as critical habitats;
- (c) BOIMP’s proposal to limit Rule C.1.4.3A to statutory functions and statutory powers is unnecessary and inconsistent with the Court’s decision. As noted at (a) above (and paragraph [112] of the interim decision) there are appropriate safeguards in the Court’s wording of the rule;
- (d) referring only to entities exercising statutory powers would revert the rule back to “picking winners”.⁸

⁷ At [154].

⁸ At [111].

Mangawhai Harbour Restoration Society position

[36] The Mangawhai Harbour Restoration Society (**MHRS**) supports the Court’s wording of Rule C.1.4.3A, and does not agree with the amendments proposed by the Minister of Conservation to this Rule, because:

- (a) the changes sought by the Minister of Conservation would substantially limit and override the purpose of the Rule to “enhance biodiversity and intertidal habitats”, and would fundamentally change the scope of the Rule;
- (b) it is clear from the Court’s interim decision (at paragraphs [107] – [116]) that the Court specifically intended to expand the rule beyond the narrow scope contended by the Minister, because the expanded scope “better meets the goal of maintaining or enhancing biodiversity without “picking winners”;⁹ and
- (c) the change sought by the Minister effectively seeks to re-litigate Rule C.1.4.3A despite the Court’s clear cautioning against this.¹⁰

[37] For similar reasons, the MHRS does not agree with the amendments proposed by BOIMP to this Rule. Those amendments also seek to re-litigate and substantially revise Rule C.1.4.3A in a manner which also undermines the scope of the Rule (being “provisions that encourage the maintenance and protection of important ecological features and habitat”¹¹) and the environmental benefits it might deliver.

Patuharakeke’s position

[38] Patuharakeke supports BOIMP’s proposed amendment to refer to “statutory functions or statutory powers” in Rule C.1.4.3A.

⁹ At [111].

¹⁰ At [152].

¹¹ At [115].

CEP Services Matauwhi Limited's position

[39] CEP Services Matauwhi Limited (CEP Services) supports the Minister's proposed wording for Rule C.1.4.3A. If the Court does not agree to the Minister's wording, then CEP Services would support the alternative put forward by BOIMP.

New Zealand Fairy Tern Trust

[40] New Zealand Fairy Tern Trust supports CEP Services' position.

Forest and Bird's position

[41] Forest & Bird take the same position as BOIMP.

Northport Limited's position

[42] Northport Limited support's the Council's provisions.

Evaluation

[43] The Court does not consider the addition of "specified" necessary, given the activity is restricted discretionary with a comprehensive list of matters of discretion.

[44] The Court does not consider it is necessary to include the word 'statutory' before powers. As the Court set out in its interim decision there are safeguards in the wording of the rule,¹² and the wording as is also avoids picking winners.¹³

[45] The Court does not consider it is appropriate to narrow the purpose as proposed by the Minister for Conservation. The wording as is, is better in keeping with the purpose of the NZCPS, RPS and the proposed plan, particularly Policy D.5.26 of the proposed plan.

¹² At [112]

¹³ At [111].

[46] In relation to Rules C.1.4.5 and C.1.4.6 the Court found they should refer to identified relevant policies and objectives (including the RPS and NZCPS) so that they can bear directly upon consideration of the rules.¹⁴ The Court agree with BOIMP that there should be references to policies and objectives in Rule C.1.4.3A for the purposes of consistency. The Court also note that no party appeared particularly opposed to this.

Rule C.1.4.3 Mangrove removal for specified purposes – controlled activity

[47] The Council supports the Court’s wording of Rule C.1.4.3 with no amendment. No other parties made comment on the Court’s wording.

[48] As there are no further comments, the Court adopts the wording of Rule C.1.4.3 as set out in the interim decision for the reasons stated therein.

Rules C.1.4.5 Mangrove removal – discretionary activity and C.1.4.6 Mangrove removal – non-complying activity

Council’s position

[49] In terms of Rules C.1.4.5 and C.1.4.6, the Council’s primary position is that additional drafting is not required.¹⁵ This is because:

- (a) Policy D.2.18 Managing adverse effects on indigenous biodiversity addresses the issues raised by the Court.¹⁶ It directs how adverse effects of

¹⁴ At [143] and [151].

¹⁵ The Court states at paragraph [143] that Rule C.1.4.5 should identify:

- a) the it is to avoid adverse effects as matters identified in Policy 11(a) of the NZCPS, matters of areas of values of particular significance identified in the RPS or Proposed Plan;
- b) avoid significant effects on those areas under 11(b); and
- c) avoid effects on areas identified as of significance under the RPS.

The Court states at paragraph [149] that it would add the requirement for any application to demonstrate how it would achieve the policies and objectives of the plan and the NZCPS in particular.

¹⁶ It provides:

- D.2.18 Managing adverse effects on indigenous biodiversity**
Manage the adverse effects of activities on indigenous biodiversity by:

activities on indigenous biodiversity in and outside the coastal environment are to be managed. It gives effect to the NZCPS by directing that adverse effects on habitats identified in Policy 11(a) are to be avoided and by directing that significant adverse effects on habitats identified in Policy 11(b) are to be avoided and other adverse effects avoided remedied or mitigated.

- (b) the key mangrove removal policy, Policy D.5.26 Mangrove removal – purpose, addresses Policy D.2.18. It provides the circumstances where mangrove pruning or removal may be appropriate, subject to Policy D.2.18. The effect of this is that mangrove removal activities that do not give effect to Policy 11(a) and (b) of the NZCPS will be considered inappropriate under the Proposed Plan.

- (c) Appendix 5 of the RPS provides the methodology for identifying areas of significant indigenous vegetation and significant habitats of indigenous fauna in Northland’s terrestrial, freshwater and marine environments. It does not identify areas of value in and of itself. The Council has mapped Significant Ecological Areas (SEA) in the Proposed Plan using the RPS criteria.¹⁷ Accordingly, the Council does not consider that it is necessary to

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- 1) in the coastal environment:
 - a) avoiding adverse effects on:
 - i. indigenous taxa that are listed as Threatened or At Risk in the New Zealand Threat Classification System lists, and
 - ii. the values and characteristics of areas of indigenous vegetation and habitats of indigenous fauna that are assessed as significant using the assessment criteria in Appendix 5 of the Regional Policy Statement, and
 - iii. areas set aside for full or partial protection of indigenous biodiversity under other legislation, and
 - b) avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects on:
 - i. areas of predominantly indigenous vegetation, and
 - ii. habitats of indigenous species that are important for recreation, commercial, traditional or cultural purposes, and
 - iii. indigenous ecosystems and habitats that are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, intertidal zones, rocky reef systems, eelgrass, northern wet heathlands, coastal and headwater streams, spawning and nursery areas and saltmarsh, and
 - ...

¹⁷ The approach and the SEA maps were confirmed by the Court in the Topic 11 – Biodiversity and outstanding natural features / landscapes decision dated 1 April 2021 – *CEP*

refer to the RPS or the Proposed Plan in the provisions. Doing so would likely introduce uncertainty about activity status on discretionary activity consent applications.

[50] However, in the event that the Court finds that additional drafting is required, the Council's preferred wording to be included in Rule C.1.4.5 is:

...

e) Site or Area of Significance to Tangata Whenua

and provided that the activity avoids:

- a) adverse effects on values of particular significance (of the types identified in Policy D.2.18(1)(a)), including those identified in this Plan; and
- b) significant effects on values of significance (of the types identified in Policy D.2.18(1)(b)), including those identified in this Plan.

...

[51] On the same basis as Rule C.1.4.5, in the event that the Court finds that additional drafting is required, the Council's preferred wording to be included in Rule C.1.4.6 is:

...

5) Area of significance to tangata whenua.

Applications for removal of mangroves under this Rule shall demonstrate that the activity avoids:

- a) adverse effects on values of particular significance (of the types identified in Policy D.2.18(1)(a)), including those identified in this Plan; and
- b) significant effects on values of significance (of the types identified in Policy D.2.18(1)(b)), including those identified in this Plan.

Mangawai Harbour Restoration Society position

[52] On Rules C.1.4.5 and C.1.4.6, the MHRS's primary position is the same as Council's, i.e. that no additional wording is required to give effect to the matters identified by the Court.

[53] However, if further wording is preferred by the Court, then the MHRS agrees with the wording proposed by Council, with the following amendments:

C.1.4.5:

...

e) Site or Area of Significance to Tangata Whenua

and provided that the activity avoids:

- a) adverse effects ~~on~~ within areas having values of particular significance (of the types identified in Policy D.2.18(1)(a)), including those identified in this Plan; and
- b) significant effects ~~on~~ within areas having values of significance (of the types identified in Policy D.2.18(1)(b)), including those identified in this Plan.

C.1.4.6:

5) Area of significance to tangata whenua.

Applications for removal of mangroves under this Rule shall demonstrate that the activity avoids:

- a) adverse effects ~~on~~ within areas having values of particular significance (of the types identified in Policy D.2.18(1)(a)), including those identified in this Plan; and
- b) significant effects ~~on~~ within areas having values of significance (of the types identified in Policy D.2.18(1)(b)), including those identified in this Plan.

[54] MHRS's reason for this amendment is because:

- (a) the values described in the Plan's mangrove Policies need to attach to areas;
- (b) the Regional Plan mapping exercise has been intended to identify those areas (i.e. being the areas "identified in this Plan" as mentioned in the Council's proposed wording for C.1.4.5 and C.1.4.6); and
- (c) this better reflects the Court's comments regarding the need to identify such areas, as recorded in paragraphs [141] and [143] of the Court's interim

decision.¹⁸

[55] Except as described above, the MHRS supports the Court's wording of the relevant Policies and Rules.

CEP Services' position

[56] CEP Services is stronger in support of the Council's additional wording for Rules C.1.4.5 and C.1.4.6 than the Council. Rather than the Council's primary position that additional wording is not required, CEP Services' view is that the additional wording is required, and refers to paragraphs [143] and [146] of the interim decision in support of that view.

New Zealand Fairy Tern Trust

[57] New Zealand Fairy Tern Trust supports CEP Services' position.

Bay of Islands Maritime Park Incorporated's position

[58] BOIMP supports the following wording being applied to rules C.1.4.5 and C.1.4.6, i.e.:

Applications for removal of mangroves under this Rule shall demonstrate that the activity avoids:

- a) adverse effects on values of particular significance (of the types identified in Policy D.2.18((1)(a))); and
- b) significant adverse effects on values of significance (of the types identified in Policy D.2.18(1)(b)).

Forest and Bird's position

[59] Forest & Bird take the same position as BOIMP.

¹⁸ The MHRS also refers to [37], [40], [48], [122] and [146] of the Court's interim decision, which support this approach.

Northport Limited's position

[60] Northport Limited support's the Council's provisions.

Evaluation

[61] In keeping with its interim decision,¹⁹ the Court considers additional wording is required. The Court acknowledges that Policies D.2.18 gives effect to the NZCPS and is addressed by Policy D.5.26, and Appendix 5 provides a methodology. Having the additional wording in the Rules themselves ensures clarity and emphasis on the relevant policies and objectives which are to bear directly upon the consideration.

[62] The words "... including those identified in this Plan" should be included to reflect the Regional mapping exercise that has been undertaken and the methodology provided for in Appendix 5. In order to ensure consistency the words will also need to be included under Rule C.1.4.3A.

[63] The Court accepts the Council's preferred wording "adverse effects on value of significance".

Section 32 AA

[64] Section 32AA of the Resource Management Act 1991 (**RMA**) requires a further evaluation for any changes to a proposal since the initial s 32 evaluation report.

[65] The parties have negotiated through an iterative process which has sought to maximise the benefits of the provisions and minimise the costs. The Court has concluded that the agreements reached by the parties represent a level of pragmatism and have ensured consistency and clarity. The agreements reached are well considered.

[66] In relation to those matters which remained outstanding between the parties, the Court has made decisions to reflect our findings and suggestions in our interim decision.

¹⁹ At [143] and [146] and [151].

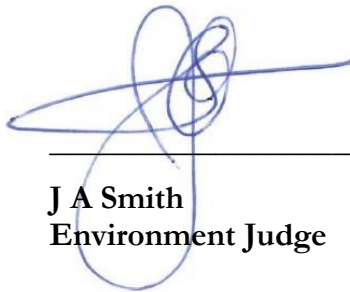
[67] The Court concludes the finalised provisions are the most appropriate way to achieve the purpose of the Act and the objectives in the Plan. Overall, we consider the sustainable management purpose and the other relevant requirements of the Act are broadly met.

Outcome

[68] The Court approves as final the provisions as set out in **Annexure B**.

[69] Costs applications were not encouraged and no application/s for costs have been filed. Accordingly, this court makes no order as to costs.

For the Court:



J A Smith
Environment Judge



Annexure A

Council's preferred wording and alternative positions of the parties

This document takes the provisions from the Court's interim decision as the base, with amendments proposed by the Council or parties shown in underline and strikethrough:

- Where amendments are agreed by all parties, they are shown in green underline and strikethrough.
- Where there is disagreement, amendments are shown in yellow underline and strikethrough, with parties' alternative provisions provided below the Council's preferred wording.

D Policies | Ngā kaupapa

D.5.26 Mangrove removal - purpose

Subject to Policy D.2.186, mangrove pruning or removal may be appropriate where:

- 1) it is demonstrated that the purpose of the mangrove removal in 2 a) – n) below can be achieved; and
- 2) it is necessary to maintain, restore or improve one or more of the following:
 - a) biodiversity, aquatic ecosystem health, natural features, or scheduled historic places, or
 - b) critical habitats that have recently been displaced by mangroves, such as seagrass meadows and shell bank roost areas; or
 - c) the removal of mangrove seedlings is in areas from within which mangroves have previously been lawfully removed; or
 - d) public recreation and walking access to, or along, the coastal marine area, or
 - e) connections with reserves or publicly owned land and the coast, or
 - f) public use and public amenity values, or
 - g) water access for vessels and navigation, or
 - h) public health and safety, including sightlines and traffic safety, or
 - i) access to the coast from marae, or to areas of traditional use, or
 - j) ongoing authorised activities, or
 - k) infrastructure, or
 - l) maintenance of drainage channels, control of flooding or erosion caused by mangroves, or
 - m) tidal flows, or
 - n) scientific research, and
- 3) its purpose is not the improvement of private views.

D.5.27 Mangrove removal – effects

When considering resource consents for mangrove removal, take into account effects specific to the removal of seedlings or of mature trees and shrubs, and have regard to a range of potential adverse effects in particular:

- 1) effects on ecological values including:
 - a) disturbance, displacement or loss of fauna and habitat, and
 - b) disturbing or displacing birds classified as Threatened or At Risk in the New Zealand Threat Classification System, particularly within [Significant Bird Areas](#), and
 - c) disturbing ecological sequences, or corridors, and
 - d) removal of a buffer to sensitive ecological areas, and
 - e) disturbance of the foreshore and seabed, including compaction, sediment redistribution, and mangrove biomass deposition, and
- 2) increased risk of coastal erosion where mangroves provide a buffer against coastal processes causing erosion, and
- 3) effects on tangata whenua cultural values, and
- 4) amenity impacts from removal and disposal including noise, smoke, odour and visual impacts, and
- 5) short and long-term effects on local sediment characteristics and hydrodynamics, and
- 6) changes to natural character.

C Rules | Ngā ture

C.1.4 Mangrove removal

C.1.4.1 Mangrove seedling removal – permitted activity

The removal of mangrove seedlings in the coastal marine area or in the bed of a river and any associated damage or disturbance to the foreshore, seabed or bed of a river are permitted activities provided:

- 1) the seedlings are less than 50 centimetres tall and unbranched, and
- 2) the seedlings are not under the canopy area of any existing mangrove, and
- 3) the removal is by hand or using hand-held tools (excluding motorised), and
- 4) any removal is not undertaken between 1 August and 31 March (inclusive) to avoid disturbance of birds during breeding, roosting and nesting periods, and
- 5) the seedlings are not within a mapped Significant Ecological Area, and
- 6) **the activity is not a non-complying activity under rule C.1.4.7, and**
- 7) the activities comply with the [C.1.8 Coastal works general conditions](#).

Note:

The use of vehicles on the foreshore associated with mangrove removal is controlled by Rule C.1.5.1 Use of vehicles on beaches and other activities that disturb the foreshore and seabed.

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removal of mangroves (s12(1)).
- Removal of mangroves in the coastal marine areas and any associated damage or disturbance of the foreshore or seabed (s12(3)).
- Disturbance of the bed of any river, associated with removal of mangroves (s13(1)).
- Damage, destruction, disturbance or removal of mangroves from the bed of a river (s13(2)).
- Discharge of sediment into water incidental to removal of mangroves (s15(1)).

C.1.4.2 Minor mangrove removal for specified authorised activities – permitted activities

The removal or pruning of mangroves in the coastal marine area or in the bed of a river necessary for the continuation of authorised activities in Table 3: Maximum allowable area of mangrove removal and any associated damage or disturbance to the foreshore, seabed or bed of a river, are permitted activities, provided:

- 1) where the activity is located within a mapped (refer | Maps | Ngā mahere matawhenua):

- a) Significant Ecological Area, or
- b) Outstanding Natural Character Area, or
- c) Outstanding Natural Landscape, or
- d) Significant Bird Area, or
- e) Site or Area of Significance to Tangata Whenua **(subject to (3) below)**

the total area of mangroves removed is less than 200 square metres in any 12-month period, and such removal or pruning is not undertaken between 1 August and 31 March (inclusive) to avoid disturbance of birds during breeding, roosting and nesting periods, and

- 2) the mangrove removal or pruning does not exceed the limits in Table 3: Maximum allowable area of mangrove removal, and
- 3) **the activity is not a non-complying activity under rule C.1.4.7, and**
- 4) the activities comply with the mangrove removal and disturbance general conditions in [C.1.8 Coastal works general conditions](#).

Table 3: Maximum allowable area of mangrove removal

Authorised activity	Maximum allowable area of mangrove removal
Boat ramps and jetties	Restricted to within: <ol style="list-style-type: none"> 1) 10 metres around the footprint of the structure, and 2) a five-metre wide access channel between the structure and the nearest permanently navigable coastal water.
Wharves, and marina berths	Restricted to: <ol style="list-style-type: none"> 1) within 10 metres around the footprint of the structure, and 2) a five-metre wide access channel between the structure and the nearest permanently navigable coastal water.
Authorised pipe outlets Also refer to: C.1.5.5 Clearing of stormwater pipe outlets – permitted activity.	Restricted to: <ol style="list-style-type: none"> 1) five metres either side of the authorised pipe outlet, and 2) the lineal extent of the removal or pruning is limited to that required to create a free-draining path from the authorised pipe outlet to coastal water.
Artificial watercourses and rivers Also refer to: C.1.5.6 Clearing artificial water courses – permitted activity, C.1.5.7 Clearing tidal stream mouths – permitted activity, and C.2.1.3 Maintenance of the free flow of water in rivers and mitigating bank erosion – permitted activity.	Restricted to: <ol style="list-style-type: none"> 1) five metres either side of the artificial watercourse, and 2) the extent of the clearance is limited to that required to create a free-draining flow path to coastal water, and 3) sites where the adjacent or upstream land or infrastructure is likely to become unsafe, flooded or damaged if the mangroves are not removed.
Roads, railway lines and bridges	Restricted to:

	<ol style="list-style-type: none"> 1) five metres either side of the edge of the formed road, railway line or bridge, or one metre from the base of the batter slope (whichever is the greater), or 2) removal or pruning of mangroves to achieve maintenance of sight clearance lines for road safety at all road intersections, roundabouts and horizontal curves is undertaken in accordance with <i>Guide to Road Design Part 3: Geometric Design. Edition 3.2 (Austroads, 2016)</i>.
Electricity transmission structures	Restricted to within four metres of the footprint of the structure.
Electricity transmission lines and cables	Restricted to within two metres either side of the vertical projection of the line on the ground.
Suspended telecommunication lines	Restricted to within four metres either side of the vertical projection of the cable on the ground.
All other structures and farm fencing	Restricted to within one metre of the footprint of the structure.

Note:

This rule does not cover activities authorised by Rule C.2.1.3 Maintenance of the free flow of water in rivers and mitigating bank erosion – permitted activity.

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removal or pruning of mangroves (s12(1)).
- Removal or pruning of mangroves in the coastal marine area (s12(3)).
- Disturbance of the bed of any river, associated with removal or pruning of mangroves (s13(1)).
- Damage, destruction, disturbance or removal of mangroves from the bed of a river (s13(2)).
- Discharge of sediment into water incidental to the activity (s15(1)).

Rule C.1.4.3A Mangrove removal by statutory or incorporated bodies for conservation purposes – restricted discretionary activity

The removal or pruning of mangroves in the coastal marine area or in the bed of a river by a statutory or incorporated body in the performance of its statutory functions or powers for the purpose of maintaining or enhancing biodiversity and intertidal habitats, and any associated damage or disturbance to the foreshore, seabed or bed of a river that is not a permitted **or controlled** activity in section C.1.4 of this Plan **or a non-complying activity under rule C.1.4.7** is a restricted discretionary activity.

Matters of control discretion:

- 1) Method, timing and extent of activities.
- 2) Effects on aquatic ecosystem health and indigenous biodiversity.
- 3) Navigation and safety.
- 4) Effects on the characteristics, qualities and values that contribute to make any of the following mapped (refer [I Maps | Ngā mahere matawhenua](#)) places significant, where the removal or pruning is proposed in a location in or near any:
 - a) in or near a Historic Area or Site.
 - b) in or near a Significant Ecological Area.
 - c) in or near a Significant Bird Area.
 - d) in or near a Site or Area of Significance to tangata whenua.
- 5) Effects on the characteristics, qualities and values that make any of the following mapped (refer [I Maps | Ngā mahere matawhenua](#)) area or feature high or outstanding, where the removal or pruning is proposed in a location in or near an area of any:
 - a) Outstanding Natural Character Area.
 - b) High Natural Character Area.
 - c) Outstanding Natural Landscape
- 6) Effects on tangata whenua cultural values.

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removing or pruning mangroves (s12(1)).
- Removing or pruning mangroves in the coastal marine area (s12(3)).
- Disturbance of the bed of any river, associated with removing or pruning mangroves (s13(1)).
- Damage, destruction, disturbance or removal of mangroves from the bed of a river (s13(2)).
- Discharge of sediment into water incidental to the activity (s15(1)).

The Minister of Conservation seeks the following amendments to Rule C.1.4.3A:

Rule C.1.4.3A Mangrove removal by statutory or incorporated bodies for specified conservation purposes – restricted discretionary activity

The removal or pruning of mangroves in the coastal marine area or in the bed of a river by a statutory or incorporated body in the performance of its statutory functions or statutory purpose, for the purpose of maintaining or enhancing roosting, nesting, or foraging sites of any indigenous taxa that are listed as 'threatened' or 'at-risk declining' in the New Zealand Threat Classification System lists biodiversity and intertidal habitats, and any

associated damage or disturbance to the foreshore, seabed or bed of a river that is not a permitted activity in section C 1.4 of this Plan is a restricted discretionary activity.

...

BOIMP seeks the following amendments to Rule C.1.4.3A:

Rule C.1.4.3A Mangrove removal by statutory or incorporated bodies for conservation purposes – restricted discretionary activity

The removal or pruning of mangroves in the coastal marine area or in the bed of a river by a statutory or incorporated body in the performance of its statutory functions or **statutory** powers for the purpose of maintaining or enhancing biodiversity and intertidal habitats, and any associated damage or disturbance to the foreshore, seabed or bed of a river that is not a permitted **or controlled** activity in section C.1.4 of this Plan **or a non-complying activity under rule C.1.4.7** is a restricted discretionary activity.

Matters of control discretion:

...

6) Effects on tangata whenua cultural values.

Applications for removal of mangroves under this Rule shall demonstrate that the activity avoids:

- a) adverse effects on values of particular significance (of the types identified in Policy D.2.18((1)(a)); and
- b) significant adverse effects on values of significance (of the types identified in Policy D.2.18(1)(b)).

...

CEP Services supports the Minister’s proposed wording for Rule C.1.4.3A. If the Court does not agree to the Minister’s wording, then CEP Services would support the alternative put forward by BOIMP.

Patuharakeke Te Iwi Trust Board supports BOIMP’s proposed amendment to refer to “statutory functions or statutory powers”.

Forest & Bird takes the same position as BOIMP.

C.1.4.3 Mangrove removal for specified purposes – controlled activity

The removal or pruning of mangroves in the coastal marine area or in the bed of a river to:

- 1) provide a single track no greater than five metres wide where no other alternative publicly accessible track exists, and only to the extent necessary to provide public access to a marae, urupā or public land located outside of the coastal marine area, or
- 2) maintain existing navigable channels present at the date this Plan becomes operative, or
- 3) improve the use of private land where the area of removal and pruning is wholly within a freehold title provided the purpose is not to improve views,

is a controlled activity provided the activity is not a non-complying activity under rule C.1.4.7, and the mangrove removal or pruning does not exceed the limits below

- 4) 200 square metres in any 12-month period if that activity is located within a mapped (refer [I Maps | Ngā mahere matawhenua](#)):
 - a) Significant Ecological Area, or
 - b) Outstanding Natural Character Area, or
 - c) Outstanding Natural Landscape, or
 - d) Significant Bird Area, or
 - e) Site or Area of Significance to Tangata Whenua, and
- 5) 500 square metres in any 12-month period in all other areas except private land, and
- 6) **in relation to private land up to** 200 square metres in any 12-month period **in relation to private land.**

Matters of control:

- 1) Method, timing and extent of activities.
- 2) Effects on aquatic ecosystem health and indigenous biodiversity.
- 3) The need for an assessment under Appendix 5 of the RPS.
- 4) Navigation and safety.
- 5) Effects on the characteristics, qualities and values that contribute to make any of the following mapped (refer [I Maps | Ngā mahere matawhenua](#)) places **of significance**, where the removal or pruning is proposed **in a location in or near any:**
 - a) **in or near a** Historic Area or Site.
 - b) **in or near a** Significant Ecological Area.
 - c) **in or near a** Significant Bird Area.
 - d) **in or near a** Site or Area of Significance to tangata whenua.
- 5) Effects on the characteristics, qualities and values that make any of the following mapped (refer [I Maps | Ngā mahere matawhenua](#)) area or feature of “high” or “outstanding” value, where the removal or pruning is proposed in a location **in or** near **any the area:**
 - a) Outstanding Natural Character Area.
 - b) High Natural Character Area.
 - c) Outstanding Natural Landscape.
- 6) Effects on tangata whenua cultural values.

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removal or pruning of mangroves (s12(1)).

- Removal or pruning of mangroves in the coastal marine area (s12(3)).
- Disturbance of the bed of any river, associated with removal or pruning of mangroves (s13(1)).
- Damage, destruction, disturbance or removal of mangroves from the bed of a river (s13(2)).
- Discharge of sediment into water incidental to the activity (s15(1)).

C.1.4.4 Mangrove removal in the Whangārei City Centre Marine Zone and the Coastal Commercial Zone – restricted discretionary activity

The removal of mangrove seedlings and removal or pruning of mangroves in the Whangārei City Centre Marine Zone or Coastal Commercial Zone, and any associated damage or disturbance to the foreshore or seabed, that is not a permitted or controlled activity in section C.1.4 of this Plan are restricted discretionary activities.

Matters of discretion:

- 1) Effects on natural systems and indigenous biodiversity in the coastal marine area **or the bed of a river.**
- 2) Effects on navigation and safety.
- 3) Effects on visual amenity values.
- 4) Effects on historic heritage in the coastal marine area.
- 5) The positive effects of the activity.
- 6) Effects on tangata whenua cultural values.
- 7) Effects on Outstanding and High Natural Character.

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removing or pruning mangroves (s12(1)).
- Removing or pruning mangroves in the coastal marine area (s12(3)).
- Discharge of sediment into water incidental to the activity (s15(1)).

C.1.4.5A Mangrove removal existing activities – discretionary activity

The removal or pruning of mangroves in the coastal marine area or in the bed of a river necessary for the continuation of authorised activities in Table 3: Maximum allowable area of mangrove removal and any associated damage or disturbance to the foreshore, seabed or bed of a river, that are not permitted by Rule C.1.4.2 Minor mangrove removal – permitted activity, **and are not a non-complying activity under rule C.1.4.7** are discretionary activities.

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removal or pruning of mangroves (s12(1)).

- Removal or pruning of mangroves in the coastal marine area (s12(3)).
- Disturbance of the bed of any river, associated with removal or pruning of mangroves (s13(1)).
- Damage, destruction, disturbance or removal of mangroves from the bed of a river (s13(2)).
- Discharge of sediment into water incidental to the activity (s15(1)).

C.1.4.5 Mangrove removal – discretionary activity

The removal of mangrove seedlings and removal or pruning of mangroves in the coastal marine area or in the bed of a river and any associated damage or disturbance to the foreshore, seabed or bed of a river that is not a permitted, or controlled or restricted discretionary activity in section C.1.4 of this Plan or a non-complying activity under rule C.1.4.7, is a discretionary activity, provided the removal is consistent with protecting the characteristics, qualities and values of the following mapped areas (Maps | Ngā mahere matawhenua):

- a) Significant Ecological Area, or
- b) Significant Bird Area, or
- c) Outstanding Natural Character Area, or
- d) Outstanding Natural Landscape, or
- e) Site or Area of Significance to Tangata Whenua

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removal or pruning of mangroves (s12(1)).
- Removal or pruning of mangroves in the coastal marine area (s12(3)).
- Disturbance of the bed of any river, associated with removal or pruning of mangroves (s13(1)).
- Damage, destruction, disturbance or removal of mangroves from the bed of a river (s13(2)).
- Discharge of sediment into water incidental to the activity (s15(1)).

The Council's alternative position is that if the Court considers that additional drafting of the nature outlined in paragraph [143] of the interim decision is required, the Council's preferred wording is to add after the list in C.1.4.5(a)-(d):

and provided that the activity avoids:

a) adverse effects on values of particular significance (of the types identified in Policy D.2.18(1)(a)), including those identified in the Regional Plan; and

b) significant adverse effects on values of significance (of the types identified in Policy D.2.18(1)(b)), including those identified in the Regional Plan.

The MHRS' primary position accords with Council's i.e. that no additional wording is necessary.

If the Court prefers to include additional wording, MHRS supports the following wording for Rule C.1.4.5 (just the difference in position from the Council is shown in yellow):

...

and provided that the activity avoids:

- a) adverse effects ~~on~~ within areas having values of particular significance (of the types identified in Policy D.2.18(1)(a)), including those identified in the Regional Plan; and
- b) significant adverse effects ~~on~~ within areas having values of significance (of the types identified in Policy D.2.18(1)(b)), including those identified in the Regional Plan.

...

CEP Services and the NZ Fairy Tern Charitable Trust support the Council's proposed drafting more strongly than the Council and consider the additional wording is required.

BOIMP supports the same wording as it has proposed for C.1.4.3A being applied after the list in C.1.4.5(a)-(d) (just the difference in position from the Council is shown in yellow:

~~and provided that the activity avoids~~Applications for removal of mangroves under this Rule shall demonstrate that the activity avoids:

- a) adverse effects on values of particular significance (of the types identified in Policy D.2.18(1)(a)); and
- b) significant adverse effects on values of significance (of the types identified in Policy D.2.18(1)(b)).

Forest & Bird supports BOIMP's position.

C.1.4.6 Mangrove removal – non-complying activity

The removal of mangrove seedlings and removing or pruning of mangroves in the coastal marine area or in the bed of a river and any associated damage or disturbance to the foreshore, seabed or bed of a river, that is not a permitted, controlled, restricted discretionary or discretionary activity in section C.1.4 of this Plan, or a non-complying activity under rule C.1.4.7, is a non-complying activity.

Note: This rule applies in the following mapped areas (refer [I Maps](#) | [Ngā mahere matawhenua](#)):

- 1) Significant Ecological Area.
- 2) Significant Bird Area.
- 3) Outstanding Natural Character Area.
- 4) Outstanding Natural Landscape, and
- 5) Area of significance to tangata whenua.

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removal or pruning of mangroves (s12(1)).
- Removal or pruning of mangroves in the coastal marine area (s12(3)).

- Disturbance of the bed of any river, associated with removal or pruning of mangroves (s13(1)).
- Damage, destruction, disturbance or removal of mangroves from the bed of a river (s13(2)).
- Discharge of sediment into water incidental to the activity (s15(1)).

The Council's alternative position is that if the Court considers that additional drafting of the nature outlined in paragraph [149] of the interim decision is required, the Council's preferred wording is to add after the list in C.1.4.6(1)-(5):

Applications for removal of mangroves under this Rule shall demonstrate that the activity avoids:

a) adverse effects on values of particular significance (of the types identified in Policy D.2.18(1)(a)), including those identified in the Regional Plan; and

b) significant adverse effects on values of significance (of the types identified in Policy D.2.18(1)(b)), including those identified in the Regional Plan.

The MHRS' primary position accords with Council's i.e. that no additional wording is necessary.

If the Court prefers to include additional wording, MHRS supports the following wording for Rule C.1.4.6 (just the difference in position is shown in yellow):

Applications for removal of mangroves under this Rule shall demonstrate that the activity avoids:

a) adverse effects ~~on~~ within areas having values of particular significance (of the types identified in Policy D.2.18(1)(a)), including those identified in the Regional Plan; and

b) significant adverse effects ~~on~~ within areas having values of significance (of the types identified in Policy D.2.18(1)(b)), including those identified in the Regional Plan.

...

CEP Services and the NZ Fairy Tern Charitable Trust support the Council's proposed drafting more strongly than the Council and consider the additional wording is required.

BOIMP supports the Council's wording being included, which is the same as BOIMP's wording for C.1.4.3A. Forest & Bird supports BOIMP's position.

C.1.4.7 Mangrove removal (including seedlings) within Sites and Areas of Significance to tangata whenua - non-complying activity

The ~~pulling, cutting or~~ removal of mangrove seedlings and removal or pruning of mangroves in the coastal marine area or in the bed of a river and any associated damage or disturbance to the foreshore, seabed or bed of a river that is not:

- 1) a permitted activity in Rule C.1.4.2 or a discretionary activity in Rule C.1.4.5A for the continuation of existing authorised: regionally significant infrastructure comprising roads, railway lines, bridges, suspended telecommunications lines, electricity transmission structures and electricity transmission lines and cables, or
 - a) regionally significant infrastructure comprising roads, railway lines, bridges, suspended telecommunications lines, electricity transmission structures and electricity transmission lines and cables; or
 - b) [electricity transmission structures and electricity transmission lines and cables that are not regionally significant infrastructure where removal is less than 200m2 in any 12 month period]; or
- 2) a restricted discretionary or discretionary activity in Rules C.1.4.3A undertaken by the Department of Conservation, C.1.4.4 or C.1.4.5A,

is a non-complying activity within the following mapped areas (refer [I Maps | Ngā mahere matawhenua](#)):

1. Sites and Areas of Significance to tangata whenua: Ruakaka
2. Sites and Areas of Significance to tangata whenua: Takahiwai
3. Sites and Areas of Significance to tangata whenua: Mangawhati

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removal or pruning of mangroves (s12(1)).
- Removal or pruning of mangroves in the coastal marine area (s12(3)).
- Disturbance of the bed of any river, associated with removal or pruning of mangroves (s13(1)).
- Damage, destruction, disturbance or removal of mangroves from the bed of a river (s13(2)).
- Discharge of sediment into water incidental to the activity (s15(1)).

Note: The removal or pruning of mangroves under Rule C.1.4.3A undertaken by a statutory body other than the Department of Conservation, or by an incorporated body, is a non-complying activity under this rule.

If the Court is not minded to narrow Rule C.1.4.7 to exempt only activities undertaken DoC, Patuharakeke supports the following wording for Rule C.1.4.7 as its secondary position:

The pulling, cutting or removal of mangrove seedlings and removal or pruning of mangroves in the coastal marine area or in the bed of a river and any associated damage or disturbance to the foreshore, seabed or bed of a river that is not a permitted activity in Rule C.1.4.2 or a discretionary activity in Rule C.1.4.5A for the continuation of existing authorised: regionally significant infrastructure comprising roads, railway lines, bridges, suspended telecommunications lines, electricity transmission structures and electricity transmission lines and cables

- a) regionally significant infrastructure comprising roads, railway lines, bridges, suspended telecommunications lines, electricity transmission structures and electricity transmission lines and cables; or

~~b) [electricity transmission structures and electricity transmission lines and cables that are not regionally significant infrastructure where removal is less than 200m2 in any 12 month period]; or~~

is a non-complying activity within the following mapped areas (refer [I Maps | Ngā mahere matawhenua](#)):

1. Sites and Areas of Significance to tangata whenua: Ruakaka
2. Sites and Areas of Significance to tangata whenua: Takahiwai
3. Sites and Areas of Significance to tangata whenua: Mangawhati

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removal or pruning of mangroves (s12(1)).
- Removal or pruning of mangroves in the coastal marine area (s12(3)).
- Disturbance of the bed of any river, associated with removal or pruning of mangroves (s13(1)).
- Damage, destruction, disturbance or removal of mangroves from the bed of a river (s13(2)).
- Discharge of sediment into water incidental to the activity (s15(1)).

~~Note: The removal or pruning of mangroves under Rule C.1.4.3A undertaken by a statutory body other than the Department of Conservation, or by an incorporated body, is a non-complying activity under this rule.~~

C.1.8 Coastal works general conditions

General conditions apply to activities, when referred to in the rules of Section C.1.1 General Structures.

...

Mangrove removal and pruning

- 14) Removed mangrove vegetation must be removed from any position where it is likely to re-enter the coastal marine area.
- 15) Mangrove ~~vegetation~~ removal must ~~avoid creating~~ **minimise the creation of** protruding stumps, by cutting mangrove trunks close to the ground.
- 16) The activity must not disturb or damage areas of seagrass, saltmarsh, or **other** natural wetland.
- ~~17) There must be no refuelling on the foreshore or river bed.~~
- 18) Chemical herbicides must not be used.
- 19) Access to removal and pruning areas must **where practicable**, use existing open areas or paths where these exist and, **where practicable**, avoid disturbance of shellfish beds, soft sand and mud.

- 20) The Regional Council's Compliance Manager must be notified (in writing or by email) of the proposed time, location and extent of removal at least 10 working days prior to the work being undertaken, when:
- a) more than 200 square metres of pruning or removal is proposed in any one year, or
 - b) the activity is located in a mapped Significant Bird Area, Significant Ecological Area, ~~or~~ Area of Outstanding Natural Character, Outstanding Natural Landscape or Sites or Areas of Significance to tangata whenua (refer [I Maps | Ngā mahere matawhenua](#)).

Annexure B

D Policies | Ngā kaupapa

D.5.26 Mangrove removal - purpose

Subject to Policy D.2.18, mangrove pruning or removal may be appropriate where:

- 1) it is demonstrated that the purpose of the mangrove removal in 2 a) – n) below can be achieved; and
- 2) it is necessary to maintain, restore or improve one or more of the following:
 - a) biodiversity, aquatic ecosystem health, natural features, or scheduled historic places, or
 - b) critical habitats that have recently been displaced by mangroves, such as seagrass meadows and shell bank roost areas; or
 - c) the removal of mangrove seedlings is in areas from within which mangroves have previously been lawfully removed; or
 - d) public recreation and walking access to, or along, the coastal marine area, or
 - e) connections with reserves or publicly owned land and the coast, or
 - f) public use and public amenity values, or
 - g) water access for [vessels](#) and navigation, or
 - h) public health and safety, including sightlines and traffic safety, or
 - i) access to the coast from marae, or to areas of traditional use, or
 - j) ongoing [authorised](#) activities, or
 - k) infrastructure, or
 - l) maintenance of drainage channels, control of flooding or erosion caused by mangroves, or
 - m) tidal flows, or
 - n) scientific research, and
- 3) its purpose is not the improvement of private views.

D.5.27 Mangrove removal – effects

When considering resource consents for mangrove removal, take into account effects specific to the removal of seedlings or of mature trees and shrubs, and have regard to a range of potential adverse effects in particular:

- 1) effects on ecological values including:
 - a) disturbance, displacement or loss of fauna and habitat, and
 - b) disturbing or displacing birds classified as Threatened or At Risk in the New Zealand Threat Classification System, particularly within [Significant Bird Areas](#), and
 - c) disturbing ecological sequences, or corridors, and
 - d) removal of a buffer to sensitive ecological areas, and
 - e) disturbance of the foreshore and seabed, including compaction, sediment redistribution, and mangrove biomass deposition, and
- 2) increased risk of coastal erosion where mangroves provide a buffer against coastal processes causing erosion, and
- 3) effects on tangata whenua cultural values, and
- 4) amenity impacts from removal and disposal including noise, smoke, odour and visual impacts, and
- 5) short and long-term effects on local sediment characteristics and hydrodynamics, and
- 6) changes to natural character.

C Rules | Ngā ture

C.1.4 Mangrove removal

C.1.4.1 Mangrove seedling removal – permitted activity

The removal of mangrove seedlings in the coastal marine area or in the bed of a river and any associated damage or disturbance to the foreshore, seabed or bed of a river are permitted activities provided:

- 1) the seedlings are less than 50 centimetres tall and unbranched, and
- 2) the seedlings are not under the canopy area of any existing mangrove, and
- 3) the removal is by hand or using hand-held tools (excluding motorised), and
- 4) any removal is not undertaken between 1 August and 31 March (inclusive) to avoid disturbance of birds during breeding, roosting and nesting periods, and
- 5) the seedlings are not within a mapped Significant Ecological Area, and
- 6) the activity is not a non-complying activity under rule C.1.4.7, and
- 7) the activities comply with the [C.1.8 Coastal works general conditions](#).

Note:

The use of vehicles on the foreshore associated with mangrove removal is controlled by Rule C.1.5.1 Use of vehicles on beaches and other activities that disturb the foreshore and seabed.

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removal of mangroves (s12(1)).
- Removal of mangroves in the coastal marine areas and any associated damage or disturbance of the foreshore or seabed (s12(3)).
- Disturbance of the bed of any river, associated with removal of mangroves (s13(1)).
- Damage, destruction, disturbance or removal of mangroves from the bed of a river (s13(2)).
- Discharge of sediment into water incidental to removal of mangroves (s15(1)).

C.1.4.2 Minor mangrove removal for specified authorised activities – permitted activities

The removal or pruning of mangroves in the coastal marine area or in the bed of a river necessary for the continuation of authorised activities in Table 3: Maximum allowable area of mangrove removal and any associated damage or disturbance to the foreshore, seabed or bed of a river, are permitted activities, provided:

- 1) where the activity is located within a mapped (refer | Maps | Ngā mahere matawhenua):
 - a) Significant Ecological Area, or
 - b) Outstanding Natural Character Area, or
 - c) Outstanding Natural Landscape, or
 - d) Significant Bird Area, or
 - e) Site or Area of Significance to Tangata Whenua (subject to (3) below)

the total area of mangroves removed is less than 200 square metres in any 12-month period, and such removal or pruning is not undertaken between 1 August and 31 March (inclusive) to avoid disturbance of birds during breeding, roosting and nesting periods, and
- 2) the mangrove removal or pruning does not exceed the limits in Table 3: Maximum allowable area of mangrove removal, and
- 3) the activity is not a non-complying activity under rule C.1.4.7, and
- 4) the activities comply with the mangrove removal and disturbance general conditions in [C.1.8 Coastal works general conditions](#).

Table 3: Maximum allowable area of mangrove removal

Authorised activity	Maximum allowable area of mangrove removal
Boat ramps and jetties	Restricted to within: <ol style="list-style-type: none"> 1) 10 metres around the footprint of the structure, and 2) a five-metre wide access channel between the structure and the nearest permanently navigable coastal water.
Wharves, and marina berths	Restricted to: <ol style="list-style-type: none"> 1) within 10 metres around the footprint of the structure, and 2) a five-metre wide access channel between the structure and the nearest permanently navigable coastal water.
Authorised pipe outlets Also refer to: C.1.5.5 Clearing of stormwater pipe outlets – permitted activity .	Restricted to: <ol style="list-style-type: none"> 1) five metres either side of the authorised pipe outlet, and 2) the lineal extent of the removal or pruning is limited to that required to create a free-draining path from the authorised pipe outlet to coastal water.

<p>Artificial watercourses and rivers</p> <p>Also refer to:</p> <p>C.1.5.6 Clearing artificial water courses – permitted activity,</p> <p>C.1.5.7 Clearing tidal stream mouths – permitted activity, and</p> <p>C.2.1.3 Maintenance of the free flow of water in rivers and mitigating bank erosion – permitted activity.</p>	<p>Restricted to:</p> <ol style="list-style-type: none"> 1) five metres either side of the artificial watercourse, and 2) the extent of the clearance is limited to that required to create a free-draining flow path to coastal water, and 3) sites where the adjacent or upstream land or infrastructure is likely to become unsafe, flooded or damaged if the mangroves are not removed.
Roads, railway lines and bridges	Restricted to:
	<ol style="list-style-type: none"> 1) five metres either side of the edge of the formed road, railway line or bridge, or one metre from the base of the batter slope (whichever is the greater), or 2) removal or pruning of mangroves to achieve maintenance of sight clearance lines for road safety at all road intersections, roundabouts and horizontal curves is undertaken in accordance with <i>Guide to Road Design Part 3: Geometric Design. Edition 3.2 (Austroads, 2016)</i>.
Electricity transmission structures	Restricted to within four metres of the footprint of the structure.
Electricity transmission lines and cables	Restricted to within two metres either side of the vertical projection of the line on the ground.
Suspended telecommunication lines	Restricted to within four metres either side of the vertical projection of the cable on the ground.
All other structures and farm fencing	Restricted to within one metre of the footprint of the structure.

Note:

*This rule does not cover activities **authorised** by Rule C.2.1.3 Maintenance of the free flow of water in rivers and mitigating bank erosion – permitted activity.*

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removal or pruning of mangroves (s12(1)).
- Removal or pruning of mangroves in the coastal marine area (s12(3)).
- Disturbance of the bed of any river, associated with removal or pruning of mangroves (s13(1)).
- Damage, destruction, disturbance or removal of mangroves from the bed of a river (s13(2)).
- Discharge of sediment into water incidental to the activity (s15(1)).

Rule C.1.4.3A Mangrove removal by statutory or incorporated bodies for conservation purposes – restricted discretionary activity

The removal or pruning of mangroves in the coastal marine area or in the bed of a river by a statutory or incorporated body in the performance of its statutory functions or powers for the purpose of maintaining or enhancing biodiversity and intertidal habitats, and any associated damage or disturbance to the foreshore, seabed or bed of a river that is not a permitted or controlled activity in section C.1.4 of this Plan or a non-complying activity under rule C.1.4.7 is a restricted discretionary activity.

Matters of discretion:

- 1) Method, timing and extent of activities.
- 2) Effects on aquatic ecosystem health and indigenous biodiversity.
- 3) Navigation and safety.
- 4) Effects on the characteristics, qualities and values that contribute to make any of the following mapped (refer [I Maps | Ngā mahere matawhenua](#)) places significant, where the removal or pruning is proposed in a location in or near any:
 - a) Historic Area or Site.
 - b) Significant Ecological Area.
 - c) Significant Bird Area.
 - d) Site or Area of Significance to tangata whenua.
- 5) Effects on the characteristics, qualities and values that make any of the following mapped (refer [I Maps | Ngā mahere matawhenua](#)) area or feature high or outstanding, where the removal or pruning is proposed in a location in or near any:
 - a) Outstanding Natural Character Area.
 - b) High Natural Character Area.
 - c) Outstanding Natural Landscape
- 6) Effects on tangata whenua cultural values.

Applications for removal of mangroves under this Rule shall demonstrate that the activity avoids:

- a) adverse effects on values of particular significance (of the types identified in Policy D.2.18(1)(a)), including those identified in this Plan; and
- b) significant adverse effects on values of significance (of the types identified in Policy D.2.18(1)(b)), including those identified in this Plan.

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removing or pruning mangroves (s12(1)).

- Removing or pruning mangroves in the coastal marine area (s12(3)).
- Disturbance of the bed of any river, associated with removing or pruning mangroves (s13(1)).
- Damage, destruction, disturbance or removal of mangroves from the bed of a river (s13(2)).
- Discharge of sediment into water incidental to the activity (s15(1)).

C.1.4.3 Mangrove removal for specified purposes – controlled activity

The removal or pruning of mangroves in the coastal marine area or in the bed of a river to:

- 1) provide a single track no greater than five metres wide where no other alternative publicly accessible track exists, and only to the extent necessary to provide public access to a marae, urupā or public land located outside of the coastal marine area, or
- 2) maintain existing navigable channels present at the date this Plan becomes operative, or
- 3) improve the use of private land where the area of removal and pruning is wholly within a freehold title provided the purpose is not to improve views,

is a controlled activity provided the activity is not a non-complying activity under rule C.1.4.7, and the mangrove removal or pruning does not exceed the limits below.

- 4) 200 square metres in any 12-month period if that activity is located within a mapped (refer [I Maps | Ngā mahere matawhenua](#)):
 - a) Significant Ecological Area, or
 - b) Outstanding Natural Character Area, or
 - c) Outstanding Natural Landscape, or
 - d) Significant Bird Area, or
 - e) Site or Area of Significance to Tangata Whenua, and
- 5) 500 square metres in any 12-month period in all other areas except private land, and
- 6) 200 square metres in any 12-month period in relation to private land.

Matters of control:

- 1) Method, timing and extent of activities.
- 2) Effects on aquatic ecosystem health and indigenous biodiversity.
- 3) The need for an assessment under Appendix 5 of the RPS.
- 4) Navigation and safety.
- 5) Effects on the characteristics, qualities and values that contribute to make any of the following mapped (refer [I Maps | Ngā mahere matawhenua](#)) places significant where the removal or pruning is proposed in a location in or near any:
 - a) Historic Area or Site.
 - b) Significant Ecological Area.
 - c) Significant Bird Area.
 - d) Site or Area of Significance to Tangata Whenua.
- 5) Effects on the characteristics, qualities and values that make any of the following mapped (refer [I Maps | Ngā mahere matawhenua](#)) area or feature of “high” or “outstanding” value, where the removal or pruning is proposed in a location in or near any:
 - a) Outstanding Natural Character Area.
 - b) High Natural Character Area.
 - c) Outstanding Natural Landscape.
- 6) Effects on tangata whenua cultural values.

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removal or pruning of mangroves (s12(1)).
- Removal or pruning of mangroves in the coastal marine area (s12(3)).
- Disturbance of the bed of any river, associated with removal or pruning of mangroves (s13(1)).
- Damage, destruction, disturbance or removal of mangroves from the bed of a river (s13(2)).
- Discharge of sediment into water incidental to the activity (s15(1)).

C.1.4.4 Mangrove removal in the Whangārei City Centre Marine Zone and the Coastal Commercial Zone – restricted discretionary activity

The removal of mangrove seedlings and removal or pruning of mangroves in the Whangārei City Centre Marine Zone or Coastal Commercial Zone, and any associated damage or disturbance to the foreshore or seabed, that is not a permitted or controlled activity in section C.1.4 of this Plan are restricted discretionary activities.

Matters of discretion:

- 1) Effects on natural systems and indigenous biodiversity in the coastal marine area.
- 2) Effects on navigation and safety.
- 3) Effects on visual amenity values.
- 4) Effects on historic heritage in the coastal marine area.
- 5) The positive effects of the activity.
- 6) Effects on tangata whenua cultural values.
- 7) Effects on Outstanding and High Natural Character.

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removing or pruning mangroves (s12(1)).
- Removing or pruning mangroves in the coastal marine area (s12(3)).
- Discharge of sediment into water incidental to the activity (s15(1)).

C.1.4.5A Mangrove removal existing activities – discretionary activity

The removal or pruning of mangroves in the coastal marine area or in the bed of a river necessary for the continuation of authorised activities in Table 3: Maximum allowable area of mangrove removal and any associated damage or disturbance to the foreshore, seabed or bed of a river, that are not permitted by Rule C.1.4.2 Minor mangrove removal – permitted activity, and are not a non-complying activity under rule C.1.4.7 are discretionary activities.

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removal or pruning of mangroves (s12(1))
- Removal or pruning of mangroves in the coastal marine area (s12(3)).
- Disturbance of the bed of any river, associated with removal or pruning of mangroves (s13(1)).
- Damage, destruction, disturbance or removal of mangroves from the bed of a river (s13(2)).
- Discharge of sediment into water incidental to the activity (s15(1)).

C.1.4.5 Mangrove removal – discretionary activity

The removal of mangrove seedlings and removal or pruning of mangroves in the coastal marine area or in the bed of a river and any associated damage or disturbance to the foreshore, seabed or bed of a river that is not a permitted, controlled or restricted discretionary activity in section C.1.4 of this Plan or a non-complying activity under rule C.1.4.7, is a discretionary activity, provided the removal is consistent with protecting the characteristics, qualities and values of the following mapped areas [Maps | Ngā mahere matawhenua](#)):

- a) Significant Ecological Area, or
- b) Significant Bird Area, or
- c) Outstanding Natural Character Area, or
- d) Outstanding Natural Landscape, or
- e) Site or Area of Significance to Tangata Whenua

Applications for removal of mangroves under this Rule shall demonstrate that the activity avoids:

- a) adverse effects on values of particular significance (of the types identified in Policy D.2.18(1)(a)), including those identified in this Plan; and
- b) significant adverse effects on values of significance (of the types identified in Policy D.2.18(1)(b)), including those identified in this Plan.

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removal or pruning of mangroves (s12(1)).
- Removal or pruning of mangroves in the coastal marine area (s12(3)).
- Disturbance of the bed of any river, associated with removal or pruning of mangroves (s13(1)).
- Damage, destruction, disturbance or removal of mangroves from the bed of a river (s13(2)).
- Discharge of sediment into water incidental to the activity (s15(1)).

C.1.4.6 Mangrove removal – non-complying activity

The removal of mangrove seedlings and removing or pruning of mangroves in the coastal marine area or in the bed of a river and any associated damage or disturbance to the foreshore, seabed or bed of a river, that is not a permitted, controlled, restricted discretionary or discretionary activity in section C.1.4 of this Plan, or a non-complying activity under rule C.1.4.7, is a non-complying activity.

Note: This rule applies in the following mapped areas (refer [I Maps | Ngā mahere matawhenua](#)):

- 1) Significant Ecological Area.
- 2) Significant Bird Area.
- 3) Outstanding Natural Character Area.
- 4) Outstanding Natural Landscape, and
- 5) Site or Area of Significance to Tangata Whenua.

Applications for removal of mangroves under this Rule shall demonstrate that the activity avoids:

- a) adverse effects on values of particular significance (of the types identified in Policy D.2.18(1)(a)), including those identified in this Plan; and
- b) significant adverse effects on values of significance (of the types identified in Policy D.2.18(1)(b)), including those identified in this Plan.

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removal or pruning of mangroves (s12(1)).
- Removal or pruning of mangroves in the coastal marine area (s12(3)).
- Disturbance of the bed of any river, associated with removal or pruning of mangroves (s13(1)).
- Damage, destruction, disturbance or removal of mangroves from the bed of a river (s13(2)).
- Discharge of sediment into water incidental to the activity (s15(1)).

C.1.4.7 Mangrove removal (including seedlings) within Sites and Areas of Significance to Tangata Whenua - non-complying activity

The removal of mangrove seedlings and removal or pruning of mangroves in the coastal marine area or in the bed of a river and any associated damage or disturbance to the foreshore, seabed or bed of a river that is not:

- 1) a permitted activity in Rule C.1.4.2 or a discretionary activity in Rule C.1.4.5A for the continuation of authorised infrastructure comprising roads, railway lines, bridges, suspended telecommunications lines, electricity transmission structures and electricity transmission lines and cables, or
- 2) a restricted discretionary activity in Rule C.1.4.3A undertaken by the Department of Conservation,

is a non-complying activity within the following mapped areas (refer [I Maps](#) | [Ngā mahere matawhenua](#)):

1. Sites and Areas of Significance to Tangata Whenua: Ruakaka
2. Sites and Areas of Significance to Tangata Whenua: Takahiwai
3. Sites and Areas of Significance to Tangata Whenua: Mangawhati

For the avoidance of doubt this rule covers the following RMA activities:

- Damage or disturbance of any foreshore or seabed associated with removal or pruning of mangroves (s12(1)).
- Removal or pruning of mangroves in the coastal marine area (s12(3)).
- Disturbance of the bed of any river, associated with removal or pruning of mangroves (s13(1)).
- Damage, destruction, disturbance or removal of mangroves from the bed of a river (s13(2)).
- Discharge of sediment into water incidental to the activity (s15(1)).

Note: The removal or pruning of mangroves under Rule C.1.4.3A undertaken by a statutory body other than the Department of Conservation, or by an incorporated body, is a non-complying activity under this rule.

C.1.8 Coastal works general conditions

General conditions apply to activities, when referred to in the rules of Section C.1.1 General Structures.

...

Mangrove removal and pruning

- 14) Removed mangrove vegetation must be removed from any position where it is likely to re-enter the coastal marine area.
- 15) Mangrove removal must minimise the creation of protruding stumps, by cutting mangrove trunks close to the ground.
- 16) The activity must not disturb or damage areas of seagrass, saltmarsh, or other [natural wetland](#).
- 17) Chemical herbicides must not be used.
- 18) Access to removal and pruning areas must where practicable, use existing open areas or paths where these exist and, avoid disturbance of shellfish beds, soft sand and mud.
- 19) The Regional Council's Compliance Manager must be notified (in writing or by email) of the proposed time, location and extent of removal at least 10 working days prior to the work being undertaken, when:
 - a) more than 200 square metres of pruning or removal is proposed in any one year, or
 - b) the activity is located in a mapped Significant Bird Area, Significant Ecological Area, Area of Outstanding Natural Character, Outstanding Natural Landscape or Sites or Areas of Significance to Tangata Whenua (refer [I Maps | Ngā mahere matawhenua](#)).