

Section 49 Marine Service Zone

RULE 7 Earthworks

1. Earthworks are a **permitted activity** provided:
 - a) They are not within a kauri hygiene zone; and
 - a) i) They are for flood defences, or maintenance of those structures, commissioned by the Waikato Regional Council; or
 - b) ii) They are for drainage works installed below ground level where the ground surface is fully restored and planted within 3 months from when work started; or
 - c) iii) They are for utility installation, maintenance, upgrading and/or removal by the Council or a network utility operator; or
 - d) iv) They are part of a Beachcare activity or other beach and dune restoration activity authorised by the Council or the Waikato Regional Council; or
 - e) v) They are to establish a building platform, and the earthworks are completed, and covered by a building or stabilised, within 3 months from when work started; or
 - f) vi) They are for temporary stream and river gravel extraction and crushing facilities; or
 - g) vii) They meet the following standards:
 - i) a. The standards in Table 1; and
 - ii) b. Silt and sediment resulting from the earthworks remains within the site; and
 - iii) c. Any surplus excavated material is reused on the site or is removed from the site within 3 months from when work started; and
 - iv) d. The earthworks are stabilised within 3 months from when work started; and
 - h) viii) A flat 'terrace' between fills/cuts must have a perpendicular length that is more than twice the height of the adjoining fill/cut above the terrace in order for the fills/cuts to be separate for the purpose of the Table 1 standards. Otherwise, the earthworks are treated as one fill/cut.
2. ~~Earthworks that are not a permitted activity under Rule 7.1 are a **restricted discretionary activity**.~~
3. ~~The Council restricts its discretion to matters 1 and 7 in Table 4 at the end of Section 49.~~
2. Earthworks that are not a permitted activity under Rule 7.1 a) i) to viii) are a **restricted discretionary activity**.
3. The Council restricts its discretion for earthworks under Rule 7.2 to matters 1 and 7 in Table 4 at the end of Section 49.
4. Earthworks that are within a kauri hygiene zone are a **restricted discretionary activity** where a Kauri Dieback Disease Risk Management Plan is prepared, approved and implemented.
 - a) The requirements for a Kauri Dieback Disease Risk Management Plan are:
 - i) The purpose of a Kauri Dieback Disease Risk Management Plan is to set out the procedures that will be followed to avoid the risk of the spread of kauri dieback disease where the soil and organic matter from earthworks within the kauri hygiene zone is proposed to be confined in a larger kauri dieback disease containment zone.
 - ii) A Kauri Dieback Disease Risk Management Plan must contain:
 - a. The objectives of the management plan;
 - b. A map or maps showing:
 - i. The area that the management plan applies to;

- ii. The location of each kauri tree within that area and its associated kauri hygiene zone;
 - iii. Locations where access to the kauri hygiene zone will be prevented (e.g. by fencing off, covering the soil with a protective surface);
 - iv. The boundary of the kauri dieback disease containment zone beyond which soil and organic material from a kauri hygiene zone will not be transported;
 - v. Equipment and vehicle cleaning points (which are to be located within the kauri dieback disease containment zone); and
 - vi. Any water bodies, fences, roads, tracks or structures within the kauri dieback disease containment zone.
 - c. The method by which the boundaries of any kauri hygiene zone and kauri dieback disease containment zone will be clearly marked out;
 - d. The procedures to be followed to ensure that any vehicles, equipment and personnel are cleaned of all soil and organic material prior to entry into or exit from the kauri dieback disease containment zone;
 - e. The procedures to ensure that any soil, sludge or organic material not retained within the kauri hygiene zone is either stored within the kauri dieback disease containment zone or transported in a sealed vehicle to an approved Kauri Dieback Programme landfill;
 - f. The water management procedures to be used that:
 - i. Washdown occurs at least 30 m from a water course; and
 - ii. Water drains away from any neighbouring kauri trees; and
 - iii. If the requirement at i. and ii. above cannot be met, washdown water is contained within an impervious bund; and
 - iv. If on-site washdown is impracticable, washdown is undertaken at an identified facility where water does not drain into the stormwater system; and
 - v. Washdown of vehicles, machinery, tools and footwear used in a kauri hygiene zone occurs within the zone.
 - g. The contact details of the person responsible for the implementation of the management plan.
- b) A report must be submitted annually to the Council using templates, forms and/or checklists provided by the Council, recording all earthworks undertaken in the kauri dieback disease containment zone (including the date, type of equipment and vehicle used, the cleaning procedures followed and the disposal location of all disturbed soil and organic material).
- c) The Council will review the annual report and may require amendments to the management plan to ensure the continued effectiveness of the management plan.

- d) The consent holder's annual report shall include any proposed amendment to the management plan. (An amendment to the management plan does not take effect until the Council confirms in writing the amendment meets the requirements in a) ii) above.
- e) Up to date records of all earthworks undertaken in the kauri dieback disease containment zone, since the earthworks reported in the most recent annual report submitted to the Council, must be made available to the Council as soon as practicable after a request for them is received.
5. The Council restricts its discretion for earthworks under Rule 7.4 to:
- a) Matters 1 and 7 in Table 4 at the end of Section 49; and
- b) The extent to which the Kauri Dieback Disease Risk Management Plan is likely to be effective in avoiding the spread of kauri dieback disease.
6. Earthworks that are not a restricted discretionary activity under Rule 7.4 are a **discretionary activity**.

Table 1 – Earthworks Standards			
1.	Maximum area per site per calendar year		500 m ²
2.	Maximum volume per site per calendar year		250 m ³
3.	Maximum height of any fill and/or cut		1.5 m
4.	Maximum height of any cut or fill that is retained by a legally established retaining wall		2.5 m
5.	Maximum duration of work within any calendar year		3 months
Minimum Setback Distance of Earthworks			
6.	From a site boundary, a building foundation, or a cliff (1:2 gradient or steeper)	to the toe of a fill (without a legally established retaining wall)	Equal to the maximum height of the fill
7.		to the toe of a cut (without a legally established retaining wall)	Equal to 1.5 times the maximum depth of the cut (also see 8. below)
8.		to the crest of a cut (without a legally established retaining wall)	0.3 m (also see 7. above)
9.		to top or bottom of a legally established retaining wall supporting a cut or a fill	Equal to the maximum height of the retaining wall
NOTE			
1.	<i>For diagrams illustrating the above setback distances, refer to 'Earthworks' in Section 3 Definitions.</i>		
10.	From buried Council-owned wastewater, stormwater or water pipe		The depth of the pipe plus the pipe radius (i.e. a 45° setback zone either side of the pipe)

NOTE

1. ...
2. ...
3. ...
4. ...
5. ...

~~6. Kauri dieback disease is a significant threat to the kauri trees in the district. Refer to www.kauridieback.co.nz for more information. To protect against this disease, the Department of Conservation recommends using the following procedures for earthworks within three times the radius of the canopy dripline of a kauri tree (the potential contamination area):~~

- a) ~~Define the potential contamination areas for individual trees or a stand of trees.~~
- b) ~~Establish an entry/exit point by each potential contamination area where vehicles and equipment are cleaned of all soil and organic material when moving into, out of, and between contamination areas.~~
- c) ~~Do not transport soil or organic material from within a potential contamination area to outside a potential contamination area or vice versa, unless disposing to landfill.~~
- d) ~~Earthworks in potential contamination areas should be done during dry soil conditions. This reduces equipment contamination and makes cleaning easier.~~

OTHER METHOD: Measures to prevent the spread of kauri dieback disease

Earthworks within three times the maximum radius of the canopy dripline of a New Zealand kauri tree commenced or undertaken after this District Plan comes into effect require a restricted discretionary activity consent from the Council.

Where earthworks within three times the maximum radius of the canopy dripline have existing use rights under section 10 RMA or an Existing Use Certificate under section 139A RMA they may be continued within the limits authorised by section 10 or section 139A. Establishing whether such earthworks are authorised can be a demanding process. Landowners who intend continuing earthworks within three times the maximum radius of the canopy dripline in reliance of s 10 RMA may wish to take professional advice so they are aware of applicable parameters.

Persons undertaking earthworks within three times the maximum radius of the canopy dripline of a New Zealand kauri tree in reliance of section 10 and/or section 139A RMA are also strongly encouraged to make themselves familiar with the kauri dieback disease hygiene disposal procedures, - including information on approved disposal sites for soil and organic material – at the following websites.

- <https://www.kauridieback.co.nz/media/1462/best-practice-guidelines-land-disturbance-activities-around-kauri.pdf>
- <https://www.kauridieback.co.nz/media/1464/best-practice-guidelines-vehicles-and-heavy-machinery-hygiene.pdf>
- http://kauridieback.co.nz/media/1355/bpg-landfill-disposal-of-contaminated-material_v21_final_signed.pdf

Where persons proceed in reliance on section 10 and/or section 139A RMA they are strongly encouraged to apply the following checklist.

Table Y: Checklist for earthworks undertaken within a kauri hygiene zone

<i>Clearly define kauri hygiene zone, entry and exit points</i>	YES/NO
<i>List all vehicles, machinery and equipment to be used</i>	YES/NO
<i>Has all equipment and footwear been cleaned of soil and organic material and sprayed with Sterigene before entering the kauri hygiene zone?</i>	<u>YES/NO</u>
<i>For washdown on-site define the appropriate washdown facility</i>	YES/NO
<i>Is the washdown facility within the kauri hygiene zone?</i>	YES/NO
<i>Is the washdown facility at least 30 m away from a water course or waterbody?</i>	YES/NO
<i>Is the wash down facility draining away from any kauri trees?</i>	YES/NO
<i>Will a bund be used because drainage is not practicable?</i>	YES/NO
<i>Will all soils and mud be physically removed by brush or compressed air before washdown?</i>	<u>YES/NO</u>
<i>Will soil and organic material be left on site within the kauri hygiene zone?</i>	YES/NO
<i>For off-site washdown is the vehicle or trailer to be used to transport machinery sealed?</i>	<u>YES/NO</u>
<i>Will washdown occur in a purpose-built washdown facility?</i>	YES/NO
<i>Does the facility to be used drain its wastewater into the stormwater system?</i>	YES/NO
<i>Will a truck wash facility be used?</i>	YES/NO
<i>Will the washdown water be used to irrigate farmland?</i>	YES/NO
<i>Will a Council depot be used for washdown?</i>	YES/NO

<i>Will the truck or trailer be cleaned and sprayed with Sterigene and will liners be disposed of?</i>	<i>YES/NO</i>
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Further information on responsible management of earthworks for kauri dieback purposes may be obtained from the Thames-Coromandel District Council, Waikato Regional Council or Department of Conservation.