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

A N D

IN THE MATTER of a subdivision consent as evidenced by Land Transfer Plan No. 391213

A N D

IN THE MATTER of a Consent Notice issued pursuant to Section 221 of the Act by FAR NORTH DISTRICT COUNCIL ("the Council")

IT IS HEREBY CERTIFIED that the following conditions to be complied with on a continuing basis by the subdividing owner and subsequent owners were imposed by the Council as conditions of approval for the subdivision as effected by Land Transfer Plan No. 391213 ("the plan")

1. Further subdivision of lots 1 through 12, 14 through 17, 19, 20, 21 and 25 on the plan is prohibited.
2. The maximum rolling height above ground level (using the definition in the district plan as at the 30<sup>th</sup> of May 2005) of each building on lots 7, 11 and 12 on the plan shall be no more than 4 metres above ground level.
3. No buildings shall be erected on lot 7 on the plan until such time as the native screen planting backdrop has reached a height of 4 metres when viewed from a position no closer than 500 metres offshore with such backdrop planting to be maintained at a height of no less than the building thereafter.
4. The maximum rolling height above ground level (using the definition in the district plan as at the 30<sup>th</sup> of May 2005) of any building on lots 1, 2, 4, 6, 8, 9 and 10 on the plan shall be no more than 5 metres above ground level.
5. The maximum rolling height above ground level (using the definition in the district plan as at 30 May 2005) of any building on lot 5 on the plan shall be no more than 6 metres.
6. The maximum rolling height above ground level (using the definition in the district plan as at the 30<sup>th</sup> of May 2005) of any building on lot 3 on the plan shall be:

(i) No more than 6 metres if the structure or any part thereof is located above a topographical line that is 16 metres or more above mean high water springs; or

(ii) No more than 8 metres if the structure or any part thereof is located below a topographical line that is 16 metres or more above mean high water springs.

7. Buildings are prohibited on lots 19, 20 and 21 on the plan.

8. The external cladding of all buildings constructed on all lots on the plan shall be in accordance with the management plan as approved for the subdivision evidenced by the plan such management plan being entitled "Omarino Residents Association Management Plan dated October 2007" ("the management plan").

9. The revegetation of those parts of lots 1 through 12, 14 through 17 and 19, 20, 21 and 25 on the plan that are outside of the curtilage areas of each of such lots such being

- that part of lot 1 on the plan as is shown marked with the letter "Z"
  - those parts of lot 2 on the plan as are shown marked with the letters "AA", "AV", "P", "Q" and "T"
  - that part of lot 3 on the plan as is shown marked with the letters "AB"
  - those parts of lot 4 on the plan as are shown marked with the letters "AC", "AK" and "AS"
  - that part of lot 5 on the plan as is shown marked with the letters "AP"
  - that part of lot 6 on the plan as is shown marked with the letters "AO"
  - that part of lot 7 on the plan as is shown marked with the letters "AD"
  - that part of lot 8 on the plan as is shown marked with the letters "AJ"
  - that part of lot 9 on the plan as is shown marked with the letters "AE"
  - that part of lot 10 on the plan as is shown marked with the letters "AF"
  - that part of lot 11 on the plan as is shown marked with the letters "AG"
  - that part of lot 12 on the plan as is shown marked with the letters "AI"
  - that part of lot 14 on the plan as is shown marked with the letters "BD"
  - that part of lot 15 on the plan as is shown marked with the letters "BA"
  - that part of lot 16 on the plan as is shown marked with the letters "BB"
  - that part of lot 17 on the plan as is shown marked with the letters "AQ"
  - that part of lot 25 on the plan as is shown marked with the letters "BC"
- shall be maintained in perpetuity.

10. All the archaeological sites ("the archaeological sites") located within Lots 1 through 12, 14 through 21 and 25 on the plan shall remain undisturbed.

11. Access to the heritage covenant areas being:

- (a) That part of lot 3 on the plan as is shown marked thereon with the letters "AL", and
- (b) That part of lot 10 on the plan as is shown marked thereon with the letter "E".

and access to the archaeological sites and other waahi tapu shall be provided to members of Patukeha Hapu, Ngati Kuta Hapu, and other tangata whenua for the purposes of enabling tangata whenua to conduct their kaitiaki responsibilities provided always that:

(i) Such access is to be on 48 hours notice to the Lot owner (or agent) and for such period and frequency to be agreed upon by the Lot owner (or agent) and tangata whenua, and that access to the archaeological sites be provided to tangata whenua on such terms as may be agreed between the Lot owner and tangata whenua following them having given 48 hours notice to the Lot owner;

(ii) Access shall be limited to the hours of daylight and the frequency of visits and the number of visitors (being tangata whenua) shall be such that they do not cause a nuisance or disturbance to the archaeological sites, other waahi tapu and heritage covenant areas or to the vegetation or improvements on the lots, or other activities;

(iii) The tangata whenua that visit the archaeological sites, other waahi tapu and heritage covenant areas shall ensure that the sites are protected and remain undisturbed with any other members of the public, being those that have not sought, or been provided with permission from the Lot owner, being trespassers in the context of this condition of consent; and

(iv) A lot owner shall not unreasonably withhold or decline consent and if there is any dispute as to the interpretation of this condition or as to the exercise by the Lot owner or tangata whenua of their respective entitlements or obligations under this condition then before the Lot owner may deny access to the sites or before members of the public visit the sites pursuant to this condition, the dispute shall be referred to the President of the Auckland District Law Society whose decision shall be binding on all parties.

12. The registered proprietors for the time being of the properties being lots 1 through 12, 14 through 17, 19, 20, 21 and 25 on the plan shall ensure that the approved landscaping planting for each lot is commenced within 12 months of the landscape plan being approved and is maintained for the duration of the consent with any plants that are removed or damaged to be replaced as soon as possible or within the next planting season (being 1 May to 30 September in each calendar year).

13. The registered proprietors for the time being of the properties being lots 1 through 12, 14 through 21 and 25 on the plan shall adhere to the management plan and ensure:

(i) The ongoing management of the revegetation, archaeological, heritage utility and recreational areas shown on the plan;

(ii) Compliance with the design guidelines for buildings on the lots; and

(iii) All revegetation requirements of the revegetation plan approved by the Council applicable to each lot is undertaken.

14. The registered proprietors for the time being of the properties being lots 1 through 12 on the plan will not for the duration of the consent granted by Northland Regional Council under Consent No. CON20041055810 authorising the alterations to a jetty at Waipiro Bay at location co ordinates 1712030E 6098240N:

- (a) Erect, place, use or keep on any of such lots nor permit any other person or organisation of any kind to erect, place, use or keep on such lot any building, wharf, jetty, marina, boat ramp or facility associated with access to and across the coastal marine area boundary within a setback of 20 metres inland from the mean high water mark of each lot; and
- (b) Erect, place, use or keep on any of such lots nor permit any other person or organisation of any kind to erect, place, use or keep on such lot any building, wharf, jetty, marina, boat ramp or facility associated with access to and across and use of the coastal marine area which is 50 metres seaward of the mean high water springs boundary of their property.
15. The registered proprietors for the time being of the properties being lots 1 through 12, 14 through 21 and 25 on the plan shall in constructing any new buildings thereon adhere to the design guidelines as were outlined in the Assessment of Environmental Effects lodged with the application for the consent evidenced by the deposit of the plan (Council reference RC2050363) and the management plan.
16. No cats and no mustelids shall be kept on or brought onto any of the lots on the plan.
17. Unless authorised by a resource consent or by the district plan as a permitted activity buildings on each lot in the plan shall be restricted to:
- (i) One residential unit;
  - (ii) One caretaker's residential unit not more than 125m<sup>2</sup> in gross floor area;
  - (iii) One non-residential building; and
  - (iv) Water storage facilities
- with the combined size of any caretaker's unit and non-residential building not exceeding 50% of the residential unit's gross floor area.
18. The external appearance of all buildings constructed on lots 1 through 12, 14, 15, 16 and 25 on the plan shall be in accordance with the design details contained in the management plan and shall in the case of buildings on lots 17 and 18 on the plan be traditional cladding and colours.
19. All electricity, telecommunication and other utility services shall be laid underground.
20. All earthworks including those required to construct accessways to building sites shall be so designed to cause minimal impacts on the landscape and any exposed cuts shall be regrassed or planted in native vegetation.
21. The keeping of dogs on each lot is limited to a maximum of two per lot with all dogs to be:
- (i) Confined to the registered proprietors' curtilage area when in the company of that registered proprietor or their invitees, or otherwise enclosed in an escape proof enclosure; or
  - (ii) If outside the registered proprietors curtilage area then secured by way of a hand held leash.

22. The development of each buildable area on each lot is to proceed in accordance with the recommendations contained within the geotechnical report prepared by Tonkin & Taylor Limited dated September 2004 (Job No. 21778) and submitted with the application for consent such specifically requiring that a site specific geotechnical investigation be carried out for all of the proposed building platforms, accessways and effluent fields prior to any building consent application and earthworks commencing.
23. None of the non-residential ancillary buildings and water storage facilities on lots 1 through 12, 14 through 17 and 25 on the plan shall be used for residential purposes without the prior written consent of the Council and no cooking or food preparation facilities are to be installed in these non-residential buildings or water storage facilities.
24. No part of the recreation facility on lot 18 on the plan is to be used as a licensed restaurant/hotel/bar without further written consent from the Council.
25. Effluent disposal on each lot shall be allocated in accordance with the recommendations contained in the Richardson Stevens Consultants (1996) Limited report dated 28 September 2004 as submitted with the assessment of Environmental Effects lodged with the application for the consent evidenced by the deposit of the plan (Council reference RC2050363) with each effluent disposal field on lots 1 through 12, 17 and 18 on the plan to be located at least 30 metres from mean high water springs with the ongoing operation and maintenance of each system to be covered by a maintenance agreement undertaken by the system supplier or its authorised agent.
26. The registered proprietor(s) of each of the lots on the plan shall implement and continue to maintain and replant revegetation on each lot in terms of the relevant revegetation plan approved for each lot outside of the curtilage area including the first 20 metres landward of mean high water springs.
27. The registered proprietor(s) of each of the lots on the plan shall implement and continue to maintain and replant revegetation landscape planting as provided for in the management plan of all covenanted areas and maintain or repair any stock exclusion structures.
28. The registered proprietors for the time being of the properties being lots 1 through 12, 14 through 21 and 25 on the plan acknowledge the archaeological records affecting the lots and as detailed in the report prepared by Clough & Associates Limited dated September 2004 and acknowledge that:
  - (i) There is a prohibition on the destruction on any archaeological site such being in contravention of the New Zealand Historic Places Act 1993; and
  - (ii) There is a requirement to carry out an archaeological assessment prior to undertaking any earthworks near a recorded site.
29. All building platforms on lot 7 on the plan shall be located below the dominant ridgeline and no building consent will be granted for this lot until such time as a backdrop of native vegetation reaches 4 metres above ground height.
30. All buildings on lots 1 through 12, 14 through 16, 19 through 21 and 25 on the plan and any new buildings on lots 17 and 18 on the plan erected after June 2005 shall be located at least 30 metres landward of mean high water springs.

31. No construction of buildings or construction activity shall be located on any of the lots on the plan within 10 metres of the outer edge of any archaeological site protected by the NZ Historic Places Act 1993 in the absence of an authority to modify or destroy that site protected by the NZ Historic Places Act 1993.
32. The registered proprietors for the time being of the properties being lots 14, 15, 16 and 25 on the plan shall in constructing any buildings thereon adhere to the design guidelines outlined in the Assessment of Environmental Effects submitted with the application for the consent for the subdivision as evidenced by the plan, the draft management plan submitted to the Council on 30 May 2005 at the hearing of the application for consent, (which will include conditions that reflectivity will not exceed a maximum of 30%), and the management plan all as amended by:
- (i) the details and plans submitted with resource consent application RC2070967 – RMAVAR; and
  - (ii) the details and plan submitted with the resource consent application RC2080375 – RMAVAR including the Section 127 application dated 14 March 2008 and the Omarino Management Plan (September 2007).
33. The maximum rolling height above ground level (as defined in the Council's district plan as at 30 May 2005) of each building on lots 14, 15, 16 and 25 shall be as follows:
- (a) on lot 14 no more than 4.5 metres above ground level with a maximum RL of 83 metres ASL;
  - (b) on lot 15 no more than 5 metres above ground level providing that the eastern end of the buildable area a maximum RL of 122 metres ASL applies and for the remainder of the buildable area a maximum RL of 123 metres ASL applies;
  - (c) on lot 16 no more than 4.5 metres above ground level with a maximum RL of 118 metres ASL; and
  - (d) on lot 25 no more than 5 metres above ground level
- with these rolling heights being defined within the Omarino Property Architectural design guidelines (dated 2 October 2007).
34. No building shall be erected on lot 15 on the plan until such time as the proposed amenity tree planting as illustrated on Figure 5 of the Boffa Miskell folio drawing dated October 2007, or native screen planting backdrop/foreground to the south east and the south west of the proposed dwelling has achieved a height of RL 124.0m ASL with this planting to be maintained at a height of no less than this level.
35. Prior to any development occurring on lots 14, 15 and 16 on the plan a full assessment of visual and landscaping effects is to be undertaken by a qualified and experienced landscape architect as part of any future resource consent application to the Council such to include the provision of a landscape planting plan and specifications to be provided at the building resource consent stage

for approval by the Council. This is to include all areas within these allotments not covered by the actual building and accessways.

36. Effluent disposal on lots 14, 15, 16 and 25 on the plan shall be allocated in accordance with the recommendations contained in the Soil and Rock report dated 5 September 2007 as submitted in the Assessment of Environmental Effects (RC 2080375 RMAVAR) with each effluent disposal field on lots 14, 15, 16 and 25 to be located at least 30 metres from mean high water springs and with the ongoing operation and maintenance of each system to be covered by a maintenance agreement undertaken by the system supplier or its authorised agent.

37. The development of each buildable area on lots 14, 15, 16 and 25 on the plan is to proceed in accordance with the recommendations contained within the geotechnical report prepared by Soil and Rock Consultants entitled "Geotechnical Appraisal For Additional Development Sites Benitzen Farm, Te Awhi Awhi, Bay of Islands" and dated 5 November 2007 and specifically with a site-specific geotechnical investigation to be carried out for all of the proposed building platforms, accessways and effluent fields prior to the building consent application and earthworks commencing.

DATED at Kerikeri this 4<sup>th</sup> day of July 2008

SIGNED for FAR NORTH DISTRICT COUNCIL  
pursuant to the authority of the Council given pursuant  
to the Local Government Act 2002 and the Resource  
Management Act 1991

  
Authorised Signatory