

Refer to Extension of Time Decision dated 26 May 2011

Ref: SLC-34743/B

Whisper Cove Heights Limited and Whisper Cove Limited and Kawau Holdings Limited
C/- Burton Consultants Limited
PO Box 33817
Takapuna
North Shore City 0740

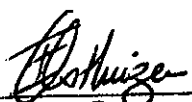
RESOURCE CONSENT SLC-34743/B Section 104 and 108 Decision

APPLICATION	Variation to RMA34743 amending Conditions 1, 1.4, 2.4, 4(c), 4B., 7A.-C., 8, 11, 13, 14, 16, 17(a), 19(a) and (b) to amend the layout of the sites and provide for alternative residential development of the sites; consent to vary Consent Notice 7394086.5 correcting the references to the covenanted area, bush protection and incorporated society; consent to vary Consent Notice 7561946.3 reflecting the amended members of the Arabella Lane Residents Society Incorporated.	
FILE NUMBER:	R34743B	
APPLICANT:	Whisper Cove Heights Limited.	
SITE ADDRESS:	Arabella Lane, Snells Beach	
LEGAL DESCRIPTION:	Lots 1 to 7 DP 398608 and Lot 5 DP 393453	
ZONING:	Rodney District Plan 2000 – Operative in Part:	Residential Medium Intensity
ACTIVITY STATUS:	S127 RMA	Discretionary

DECISION UNDER DELEGATED AUTHORITY

Pursuant to sections 104, 104B and 108 of the Resource Management Act 1991, **consent be granted**, subject to the conditions attached, to the application for a Discretionary Activity for the reasons stated.

Signed under Delegated Authority



Team Leader Resource Consents/Land
Surveyor/
Senior Planner/ Manager Resource Consents

17 AUGUST 2010
Date

REASONS FOR DECISION

1. The subject sites were previously designed for the construction of 7 residential dwellings under RMA 34743 (3.11.04). These sites were subsequently subdivided under RMA 52643 (2.11.07). As the sites themselves will not be amended under this variation it is considered that the subject sites are suitable for residential purposes, including the adequate provision of parking, and open space.
2. This variation provides for alternative development of the subject sites that is in accordance with the provisions of the District Plan and of the Design Guidelines. All new residential development will continue to be restricted in height, as will any new fence. It is considered that any future development of the site will therefore complement the existing residential character of the adjacent residential areas and that of the Whisper Cove site.
3. Council's Ecological Advisor (Rue Statham) advised that he had no concerns with the future management of the covenanted areas as it would continue to be located within a single area of ownership as part of this variation, rather than as part of the Resident's Society. It is acknowledged that adequate measures have been proposed to ensure that the area of bush and future planting associated are protected in perpetuity.
4. The sites have already been adequately serviced with water, stormwater and sanitary sewage. Council's Development Engineer has reviewed the proposal and advised that these services are adequate to serve the subject sites. On this basis there will be no adverse environmental effects arising from the servicing of these sites.
5. The subject sites are located at 4, 22, 24, 26, 28, 30, 32 and 38 Arabella Lane, Snells Beach. Arabella Lane is a Council Local Road and has been formed to single lane two-way standard. Arabella Lane intersects with Mahurangi East Road approximately 380 metres west of the vehicle crossing to proposed Lot 10. The sites have formed adequate legal and physical frontage to Arabella Lane.
6. All of the subject sites meet the minimum 6 metres frontage to Arabella Lane, as required by the Plan. The frontage to Arabella Lane will remain unchanged from the existing arrangement and therefore will have no adverse effects on the convenience and safety of users and adjoining sites. A site visit was undertaken on 10 February 2010 and it was noted that the sites have existing concrete vehicle crossings constructed to Arabella Lane.
7. It is considered that the removal of the subject sites from the Arabella Lane Resident's Society, leaving only the "Koll area" remaining as part of the Society, will have no adverse effect on the future management of the site, including the covenanted areas.
8. There are no special circumstances relevant to this application that warrants notification.
9. The proposal is not considered contrary to the relevant objectives, policies and assessment criteria of the Proposed District Plan 2000 – Operative in Part.
10. The proposal is consistent with the purpose and principles of Part II of the Resource Management Act 1991.

CONDITIONS

Failure to comply with the following conditions may result in enforcement action being taken against you. Maximum penalties for offences under the Resource Management Act 1991 include up to two years imprisonment and fines of up to \$300,000.

General

1. Except insofar as changes are required to satisfy the conditions attached to this resource consent, including to the satisfaction of Conditions 1.2 to 1.4, the proposed development on the site is to be carried out in general accordance with the following plans:

Site Plan – Master Plan – Snells Beach

DS1a – Sheet

- o Block P Elevations (x2)

DS2 – Sheet

- o Block W Perspectives
- o Block W Ground Floor Plan
- o Block W Main Floor
- o Block W Upper Floor
- o Block W West Elevation
- o Block W South Elevation

DS3 – Sheet

- o DS3 Blocks B, C, D, E, L, M, S, T (x3)

DS4 – Sheet

- o DS4 Blocks T (x3)

DS5 – Sheet

- o DS5 Blocks V, W, X, Z, AA, BB (x5)

DS6 – Sheet

- o Blocks Y, DD (X3)

~~LL2 – Sheet~~

- ~~o LL2 Elevations~~
- ~~o LL2 Floor Plans~~

~~LL3 – Sheet~~

- ~~o LL3 Elevations~~
- ~~o LL3 Floor Plans~~

~~LL4 – Sheet~~

- ~~o LL4 Elevations~~
- ~~o LL4 Floor Plans~~

~~LL5 – Sheet~~

- ~~o LL5 Elevations~~
- ~~o LL5 Floor Plans~~

~~LL6 – Sheet~~

- ~~o LL6 Elevations~~
- ~~o LL6 Floor Plans~~

Scheme Plan titled 'Proposed Subdivision of Lots 1&2, DP 356085' [Barry Satchell Consultants Limited, Drawing No. 6200-SK02 Sheet 1 Rev 11, Dated 10/09/09 and updated 03/03/10] and approved under RMA 55603.

- 1.1 Minor alterations to the façade of the buildings may be made to the satisfaction of the Manager: Resource Management.
- 1.2 The proposed development on the site is to be carried out in general accordance with the following plans:
 - Jo No 0709, 02 July, Revision A:
 - Locality Plan (Dwg No, RC01)
 - Apartment Type D, Floor Plans, Basement Level, Ground, First, and Second Floor Levels (Dwg No, RC07)

- Apartment Type D, Elevations (Dwg No, RC08)
 - Duplex Type B, Floor Plans, Ground, and First Floor Levels (Dwg No RC09)
 - Duplex Type B Elevations (Dwg No, RC10)
 - Duplex Type C, Floor Plans, Ground and First Floor Levels (Dwg No RC11)
 - Duplex Type C, Elevations, (Dwg No, RC12)
 - Comparative Site Plan, (Dwg No, RC 13)
 - Comparative Elevations (Dwg No, RC14-16)
- 1.3 The proposed development on the knoll is to be carried out in general accordance with the Scheme Plan of Lots 1-24 being a Subdivision of Lot 2 DP 393453, Barry Satchell Job No. 6042, Drawing No:SS02, Revision D.
- 1.4 The design of each of the single household units on Lots 2 – 9 (inclusive) created under RMA 55603 and as shown on Scheme Plan titled 'Proposed Subdivision of Lots 1&2, DP 356085' [Barry Satchell Consultants Limited, Drawing No. 6200-SK02 Sheet 1 Rev 11, Dated 10/09/09 and updated 03/03/10] shall be approved by the Manager: Resource Management subject to compliance with both the development standards in the underlying zoning (unless a separate resource consent is obtained) and with the principles defined in the 'Whisper Cove Beachfront Lots Design Guidelines'.
- 1.5 The design of each of the single household units on Lots 10 to 14 (inclusive) as shown on Scheme Plan Proposed Subdivision of Lots 1-6, DP 398608 and Lot 5, DP 393453, Whisper Cove [Buckton Consultants Ltd. Ref 6843, Dwg SP02a, Sht 1 of 1, Dated Dec 09] shall be approved by the Manager: Resource Management subject to compliance with both the development standards in the underlying zoning (unless a separate resource consent is obtained) and with the principles defined in the 'Whisper Cove Design Guidelines for the LL 'Executive' Lots' dated January 2010.

Staging

- 2.1 Staging of the land use activities shall be reported to the satisfaction of the Manager: Resource Management prior to the commencement of works on site, ensuring that the first stage includes completion of the boundary relocation subdivision (Plan of subdivision prepared by Reyburn & Bryant 1999 Ltd, job number S8969 and dated 27/8/2004) to s. 224(c) sign off stage and the construction and completion of all infrastructure, including roading, earthworks, walkways and landscaping to the satisfaction of the Manager: Resource Management.
- 2.2 Reporting shall be in the form of a Stage Management Plan that details the following:
- Specific works proposed, including anticipated timing of such works, and details of building consents to be obtained including the grouping of applications for building consent;
 - The detail of all parts of each stage (i.e. the sub-stages)
 - Contact details, including emergency contact details, for the Project Manager and, if different, the Project Manager on-site;
- 2.3 At least 7 days prior to the commencement of each stage, the resource consent holder shall notify the Rodney District Council's RMA Compliance Administrator by telephone (0800 426 5169) of the expected date of commencement.
- 2.4 All stages of the land use activity shall be completed to the satisfaction of the Manager: Resource Management within ten (10) years of the commencement of the consent.

Advice Note:

- Development of Lots 2 to 9 as per the Scheme Plan titled 'Proposed Subdivision of Lots 1&2, DP 356085' [Barry Satchell Consultants Limited, Drawing No. 6200-SK02 Sheet 1 Rev 11, Dated 10/09/09 and updated 03/03/10 and approved under RMA 55603] is not subject to the specific staging requirements in 2.1 – 2.4 above.
- Development of Lots 10 to 14 (inclusive) as shown on Scheme Plan Proposed Subdivision of Lots 1-6, DP 398608 and Lot 5, DP 393453, Whisper Cove [Buckton Consultants Ltd. Ref 6843, Dwg SP02a, Sht 1 of 1, Dated Dec 09] is not subject to the specific staging requirements in 2.1 – 2.4 above.

Building Matters

3. Certification from a suitably qualified engineer is to be provided to the satisfaction of the Manager: Resource Management confirming that water from a 1% AEP event will not enter any of the proposed buildings (having particular regard to the beachfront café) and that all dwellings will have a minimum building platform elevation of RL 3.5m and a minimum floor level of RL 3.7m.
- 3.1 The choice of materials and colours for all buildings shall be to the satisfaction of the Manager: Resource Management
4. (a) The height of the dwellings in Blocks A, H and P shall not exceed 9.675m, as measured from finished ground level. The height of the dwellings in Blocks F, G, J, N, O, Q, R and W shall not exceed 9.285m, as measured from finished ground level. The height of the dwellings in Blocks U, X, Z, AA and BB shall not exceed 9.862m, as measured from finished ground level.

Prior to building progressing beyond floor level the Consent Holder shall engage a registered surveyor to certify to Council in writing that based on the as built floor level and the building being completed in accordance with the approved plans buildings will comply with these height restrictions.

- (b) The height of the dwellings on Lots 2 - 9 (inclusive) as shown on Scheme Plan titled 'Proposed Subdivision of Lots 1&2, DP 356085' [Barry Satchell Consultants Limited, Drawing No. 6200-SK02 Sheet 1 Rev 11, Dated 10/09/09 and updated 03/03/10 and approved under RMA 55603] shall not exceed 9.0m.
- (c) The heights of the dwellings on Lots 10 – 14 (inclusive) as shown on Scheme Plan Proposed Subdivision of Lots 1-6, DP 398608 and Lot 5, DP 393453, Whisper Cove [Buckton Consultants Ltd. Ref 6843, Dwg SP02a, Sht 1 of 1, Dated Dec 09] shall not exceed the following, as measured from finished ground level:

- Lot 10 – 7.740m;
- Lot 11 – 7.450m;
- Lot 12 – 8.50m;
- Lot 13 – 7.00m;
- Lot 14 – 7.4m.

Note: Height shall be measured in accordance with the rolling height method described in Chapter 3 – Definitions of the Proposed District Plan 2000 and as attached as Appendix "A" to this decision.

- 4A. Fences on land in Scheme Plan titled 'Proposed Subdivision of Lots 1&2, DP 356085' [Barry Satchell Consultants Limited, Drawing No. 6200-SK02 Sheet 1 Rev 11, Dated 10/09/09 and updated 03/03/10 and approved under RMA 55603] are to be less than 1.5m high unless written authorisation from the Manager: Resource

Management has been obtained and no fences are to be erected along the esplanade reserve boundary or between the esplanade reserve and any buildings on Lots 2 – 9 under approved RMA 55603.

- 4B. All fences on land in Scheme Plan titled Proposed Subdivision of Lots 1-6, DP 398608 and Lot 5, DP 393453, Whisper Cove [Buckton Consultants Ltd. Ref 6843, Dwg SP02a, Sht 1 of 1, Dated Dec 09] shall be less than 1.5m high unless the written authorisation of the Manager: Resource Consents has been obtained.
5. Subdivision and Development on the Knoll shall be in general accordance with Resource Consent R53526.
- 5A The design of DS3, DS4 and DS6 is to be revised in order to:
- (i) achieve a greater consistency with the design of the other buildings in the development to produce a design result to the satisfaction of the Manager: Resource Management.

Foredune Works

- 6.1 Detailed design and programming (including timing and completion of) of the works proposed in the coastal margin, especially the pine covered 'foredune' and including the re-establishment of foreshore plant communities and processes and the early revegetation of the most sensitive areas (foreshore and watercourse margins) shall be submitted to the satisfaction of the Manager: Resource Management. These works shall be maintained for a period of five (5) years following their completion, to the satisfaction of the Manager: Resource Management. These works shall include the removal of the pine and macrocarpa trees and grinding of the stumps not removal of the roots.
- 6.2 The existing residential cottage on the (to be vested) esplanade reserve shall be removed / demolished within two (2) years of the date of this consent and the site reinstated to the satisfaction of the Manager: Resource Management.

Landscaping

7. Except insofar as changes are required to satisfy the conditions attached to this resource consent and with the exception of the Tree Planting Plan (5C dated Sept 04) as it applies to the Knoll and except for Lots 2 to 9 created as per Scheme Plan titled 'Proposed Subdivision of Lots 1&2, DP 356085' [Barry Satchell Consultants Limited, Drawing No. 6200-SK02 Sheet 1 Rev 11, Dated 10/09/09 and updated 03/03/10 and approved under RMA 55603], the landscaping of the site is to be carried out to the satisfaction of the Manager: Resource Management and in general accordance with the following plans:

Plan # 1732, Tim King, De-Sign:

2b.c	Veg Map	Sept. 04
5.c	Tree Planting	Sept. 04
5b.b	Existing Trees	Sept. 04
13a	Public Private	07.07.04
13b	Soft Margins	08.07.04
13c	Hard Margins	08.07.04
13d	Beachfront	08.07.04

Unless otherwise provided for in these Plans, the species mix in the areas to be planted shall be sourced from the ecological district and shall be appropriate plants for the locality having regard to the slope, characteristics of the soil, wind, aspect, degree of shading, distance from coast and wetness of the site.

General Landscape Planting

7A. The planting of Areas 10a – 15a as shown on the approved Landscape Planting Plan Buckton Consultants Limited 6843 Jan 10 shall be completed no later than 1 August 2013 and shall result in boundary screening having the following specifications:

- R/t greater than pb28 @1/m2, chip bark mulch to boundaries.

The species mix in the areas to be planted shall be appropriate plants for the locality having regard to the slope, characteristics of the soil, wind, aspect, degree of shading, distance from coast and wetness of the site.

Covenanted Area to be Planted

7B. The planting of Areas H – L as shown on Scheme Plan Proposed Subdivision of Lots 1-6, DP 398608 and Lot 5, DP 393453 Whisper Cove [Buckton Consultants Ltd. Ref 6843, Dwg SP02a, Sht 1 of 1, Dated Dec 09] shall be completed and maintained in accordance with the Whisper Cove Heights Landscape Management Plan and Revegetation Strategy, prepared by Reset Urban Design, dated April 2010.

Additional Planting Within Existing Covenanted Area

7C. Additional planting with that part of the covenant area shown as an annotation "Area of Additional Planting" within Area A on Scheme Plan Proposed Submission of Lots 1 – 6, DP 398608 and Lot 5, DP 393453 Whisper Cove [Buckton Consultants Ltd. Ref 6843, Dwg SP02a, Sht 1 of 1, Dated Dec 09] and entitled "Landscape Planting Plan II" shall be completed and maintained in accordance with the Whisper Cove Heights Landscape Management Plan and Revegetation Strategy, prepared by Reset Urban Design, dated April 2010

Note – The Reset Report requires a maintenance report to be submitted to the Rodney District Council annually for five years following the planting, in relation to all the revegetated areas. The reports need to outline the work that has been completed and the work that is required including the following:

- An outline of weed control required for the next year;
- A summary of the success of establishment of the plants through the summer; and
- A replacement plant schedule and proposed planting programme for the following planting season (where necessary).

8. i. The landscape and enhancement planting shall be carried out by experienced contractors under the supervision of a suitably qualified professional who will provide a report on planting completion (as to the final mix and number of plant species as well as plant densities across the specified area, based on a series of representative counts) within 3 months of the end of each planting season, until the development is complete. For the purposes of this condition, a planting season is identified as commencing no earlier than the 1st of May and no later than the 1st of August and ending no later than the 30th September in any year.
- ii. The enhancement planting in the area labelled as 2b on Plan # 1732, Aug 04, Tim King De-Sign, shall be undertaken within the first planting season following implementation of either the boundary relocation or the land use consent.

Note: This condition shall not apply to land in Scheme Plan titled Proposed Subdivision of Lots 1 – 6, DP 398608 and Lot 5, DP 393453, Whisper Cove [Buckton Consultants Ltd. Ref 6843, Dwg SP02a, Sht 1 of 1, Dated Dec 09], to which conditions 7A – 7C apply.

9. The transplanting of all trees from within the site to the (to be vested) esplanade reserve shall be undertaken in accordance with arboricultural best practice and under the supervision of a landscape architect, arborist or other suitably qualified person during the first stage of development.
10. The replacement tree labelled '7 Pohutukawa' on Plan #1732.5b shall be of approximately the same height, girth and, if possible, shape as the existing Pohutukawa.
11. Any landscaping that is proposed as part of any of the stages of the development shall be completed within the first planting season following the completion of external construction of each block of buildings. For the purposes of this condition, a planting season is identified as commencing no earlier than the 1st of May and no later than the 1st of August and ending no later than the 30th September in any year. This condition shall not apply to land in Scheme Plan titled Proposed Subdivision of Lots 1 – 6, DP 398608 and Lot 5, DP 393453, Whisper Cove [Buckton Consultants Ltd. Ref 6843, Dwg SP02a, Sht 1 of 1, Dated Dec 09], to which conditions 7A – 7C apply.
12. Further landscaping plans shall be produced to the satisfaction of the Manager: Resource Management which pay:
 - 12.1 Particular attention to the relationship between the road along the southern boundary of the property, building development and associated land areas, and the public walkway on the adjoining site. That landscaping plan shall ensure that neither the buildings nor the planting is dominant in relation to the public walkway and that both sunlight and daylight access are maintained. This landscaping plan shall be produced within 6 months of the date of this consent.
 - 12.2 Particular attention to:
 - a) the relationship between the public realm and the private realm,
 - b) the structure of the public and private realms
 - c) the detail of how amenity and specimen tree plantings address building frontage and the streetscape environment
 - d) providing a visual break between continuous building frontages and create visual variety.

This landscaping plan shall be produced within 12 months of the date of this consent.
13. A landscape and enhancement planting maintenance plan is to be prepared to the satisfaction of the Manager: Resource Management within six months of the date of this consent. Landscaping and areas of enhancement planting shall at all times be maintained in accordance with the landscape and enhancement planting maintenance plan, unless prior approval has been obtained from the Manager: Resource Management. This condition shall not apply to land in Scheme Plan titled Proposed Subdivision of Lots 1 – 6, DP 398608 and Lot 5, DP 393453, Whisper Cove [Buckton Consultants Ltd. Ref 6843, Dwg SP02a, Sht 1 of 1, Dated Dec 09], to which conditions 7A – 7C apply.
14. Maintenance reports shall be submitted to the Rodney District Council no later than the 31st of March and October of each year. The reports will outline the work that has been completed and the work that is required including the following;
 - An outline of weed control required for the next six months;
 - A summary of the success of establishment of the plants through the summer; and
 - A replacement plant schedule and proposed planting programme for the following planting season.

Note: This condition shall not apply to land in Scheme Plan titled Proposed Subdivision of Lots 1 – 6, DP 398608 and Lot 5, DP 393453, Whisper Cove [Buckton Consultants Ltd. Ref 6843, Dwg SP02a, Sht 1 of 1, Dated Dec 09], to which conditions 7A – 7C apply.

15. The plans required by Conditions, 7, 12 and 13 are to be revised, if and as appropriate, to the satisfaction of the Manager: Resource Management, at intervals of five (5) and (10) years from the date of this consent. The purpose of the revision of the landscape and enhancement planting maintenance plan is to make provision for the replacement of any plants that have died or failed to thrive (excluding nursery plants where expected progression of secondary plantings has occurred). Where plants have died or failed to thrive, the revisions to the landscape maintenance plan shall ensure that the mix and number of plant species schedule for replanting are optimised to take into account the specific conditions of the site including the slopes and soil types across the specified areas and the different wind and soil conditions and the location of the areas to be replanted.

Monitoring

16. Monitoring except for:
- o the land subject to the Scheme Plan titled 'Proposed Subdivision of Lots 1&2, DP 356085' [Barry Satchell Consultants Limited, Drawing No. 6200-SK02 Sheet 1 Rev 11, Dated 10/09/09 and updated 03/03/10 and approved under RMA 55603]; and
 - o the land subject to the Scheme Plan titled 'Proposed Subdivision of Lots 1 – 6, DP 398608 and Lot 5, DP 393453, Whisper Cove' [Buckton Consultants Ltd. Ref 6843, Dwg SP02a, Sht 1 of 1, Dated Dec 09] and approved under RMA 56012.

shall take place in accord with the following:

- a. Before exercising this consent, the consent holder shall appoint (and maintain until completion of the development) a Resource Consent Conditions Auditor ("Conditions Auditor") who shall be a planning consultant or other suitably qualified independent person to the satisfaction of the Manager: Resource Management.
- b. The Conditions Auditor will 3-monthly (or more often if requested by Council) in writing and at the consent holder's expense report to the Council and the consent holder on whether the consent conditions are being complied with.
- c. Should the Conditions Auditor consider there is any inconsistency between the consent conditions and the activities being carried out under this consent, he or she must in the first instance advise the consent holder and provide a reasonable opportunity for the consent-holder's response including the rectification of any non-compliance.
- d. The Conditions Auditor's reports shall include details of any advice to the consent holder under (c) and the consent-holder's response.
- e. In the event of any breach of consent conditions by the consent holder, any report or recommendation made by the Conditions Auditor shall be without prejudice to the Council's ability to take such enforcement action as it considered, in its discretion, appropriate.

Incorporated Society

17. (a) Prior to the depositing of the survey plan of boundary relocation (Plan of subdivision prepared by Reyburn & Bryant 1999 Ltd, job number S8969 and

dated 27/8/2004), or within 3 months of the date of commencement of this consent, whichever is the sooner, an Incorporated Society will be established to maintain and control all areas of the site with the exception of:

- o public road and footpath; and
- o Lots 1 to 10 (inclusive) and 14 created under RMA 55603, as per the Scheme Plan titled 'Proposed Subdivision of Lots 1&2, DP 356085' [Barry Satchell Consultants Limited, Drawing No. 6200-SK02 Sheet 1 Rev 11, Dated 10/09/09 and updated 03/03/10]; and
- o Lots 10 – 15 (inclusive) created under RMA 56012, as per the scheme plan Plan titled 'Proposed Subdivision of Lots 1 – 6, DP 398608 and Lot 5, DP 393453, Whisper Cove' [Buckton Consultants Ltd. Ref 6843, Dwg SP02a, Sht 1 of 1, Dated Dec 09].

including maintenance of the bush covenanted areas and all landscaping, and to ensure that the ongoing conditions of consent are fulfilled. In particular the constitution of the Incorporated Society shall provide for:

- Compulsory membership by every registered proprietor except the registered proprietors of:
 - Lots 1 to 10 (inclusive) and 14 created under RMA 55603, as per the Scheme Plan titled 'Proposed Subdivision of Lots 1&2, DP 356085' [Barry Satchell Consultants Limited, Drawing No. 6200-SK02 Sheet 1 Rev 11, Dated 10/09/09 and updated 03/03/10; and
 - Lots 10 – 15 (inclusive) created under RMA 56012, as per the scheme plan Plan titled 'Proposed Subdivision of Lots 1 – 6, DP 398608 and Lot 5, DP 393453, Whisper Cove' [Buckton Consultants Ltd. Ref 6843, Dwg SP02a, Sht 1 of 1, Dated Dec 09].
- Compliance by the Society with the ongoing terms of this consent ("Society Consent Conditions");
- Incorporate the method and terms of transfer to the Society of the common area/facilities in compliance with all relevant laws and regulations;
- Provide for a "step-in" and "step-out" procedure in Council's favour for it to remedy any neglect on the part of the Society to comply with the Society Consent Conditions;
- The Society having the right to levy each member that member's share of the costs the Society will incur from time to time in complying with the Society Consent Conditions ("Compliance Costs") and the Society's obligations to deposit levies so collected into the account of a stakeholder to be agreed to by the Council and the Society ("Stakeholder Account");
- In order to ensure that sufficient levies are being held in the Stakeholder Account to meet the Society's obligation to comply with the Society Consent Conditions, the Society shall provide statements of the amount of levies held in the Stakeholder Account on no less than a 6 monthly basis to the Council. Where the Council believes that the levies held in the Stakeholder Account are insufficient to meet the Society's costs of complying with the Society Consent Conditions, the Council shall be entitled to require the Society to levy further sums from each member to the intent that the levies held in the Stakeholder Account shall at all times be sufficient to meet the Society's costs of complying with the Society Consent Conditions for next 12 months;
- Where the Council has exercised its "step-in" rights, the Council shall be entitled to direct the stakeholder to pay from the Stakeholder Account the costs incurred by the Council in exercising its "step-in" rights without any further reference to the Society or to any member;

- Entrench those provisions within the constitution and rules of the Society which are sensitive to Council.
- Attach a copy of this consent and any subsequent alterations to the consent conditions and advise the Society of its obligations to comply with conditions of consent now and those that are required to be complied with on an ongoing basis.
- Advise owners, that Rodney District Council is under no obligation to make a reticulated drinking water service available in the future.
- Prohibit fences of any kind:
 - On the Southern external boundary between the roundabout and the café/general store
 - On the Eastern external boundaries of the property
 - Between either of these boundaries and the nearest buildings
- Restrict all other fences to less than 1.5m high unless written authorisation from the Manager: Resource Management has been obtained.

(b) The wording of the constitution and the consent notice referred to in condition 24 below shall be to the satisfaction of the Manager: Resource Management.

18. All documents establishing and pertaining to the constitution of and ongoing operation of the Incorporated Society, including the documents providing for the step-in and step-out of the Rodney District Council, shall be drafted to the satisfaction of the Manager: Resource Management.
19. (a) The constitution of the Incorporated Society will be attached to the titles by way of consent notice through the boundary relocation subdivision except for the Titles for Lots 1 to 10 (inclusive) and 14 created under RMA 55603, as per the Scheme Plan titled 'Proposed Subdivision of Lots 1&2, DP 356085' [Barry Satchell Consultants Limited, Drawing No. 6200-SK02 Sheet 1 Rev 11, Dated 10/09/09 and updated 03/03/10]; and Lots 10 – 15 (inclusive) created under RMA 56012, as per the scheme plan titled 'Proposed Subdivision of Lots 1 – 6, DP 398608 and Lot 5, DP 393453, Whisper Cove' [Buckton Consultants Ltd. Ref 6843, Dwg SP02a, Sht 1 of 1, Dated Dec 09].
- (b) The Society Consent Conditions shall be registered against all titles, except for the Titles for Lots 1 to 10 (inclusive) and 14 created under RMA 55603, as per the Scheme Plan titled 'Proposed Subdivision of Lots 1&2, DP 356085' [Barry Satchell Consultants Limited, Drawing No. 6200-SK02 Sheet 1 Rev 11, Dated 10/09/09 and updated 03/03/10]; and Lots 10 – 15 (inclusive) created under RMA 56012, as per the scheme plan titled 'Proposed Subdivision of Lots 1 – 6, DP 398608 and Lot 5, DP 393453, Whisper Cove' [Buckton Consultants Ltd. Ref 6843, Dwg SP02a, Sht 1 of 1, Dated Dec 09]. by way of a land covenant or Memorandum of Encumbrance, such land covenant or Memorandum of Encumbrance to be in a form acceptable to the Manager: Resource Management.
- (c) To secure the Society's compliance with the Society Consent Conditions, the Society shall provide security in favour of the Council in the form of:
 - i. A Memorandum of Encumbrance or Charge registered against the titles to the assets held by Society; or
 - ii. Where the Council has determined (in its sole discretion) that the assets of the Society do not provide sufficient security, a performance bond (on terms and conditions acceptable to the Manager: Resource Management) for an amount equal to the establishment cost of the

landscape and enhancement planting under Conditions 7 to 12 provided however that the term of the bond shall remain in force for a period expiring no later than [48] months after the date of commencement of this consent.

Earthworks

20. (i) No burning of vegetation or demolition materials is to be carried out on the site. All vegetation and demolition materials are to be removed from the site. Disposal by burying on site shall only be carried out in areas designated on the approved Engineering Plans for such disposal and not to be included within future building sites.

(ii) Any temporary stockpiling of earth on the site shall not cause damage to existing landscaping or covenanted bush areas

21. A detailed Traffic Management Plan, together with a Health and Safety Plan to the requirements of the Health and Safety in Employment Act 1992, specifically addressing control of construction access to the site and control of works on and adjacent to public land, and the protection of the public, shall be submitted to the Manager: Resource Management. Verification that it meets the Council's requirements with respect to public land and the protection of the public shall have been received in writing, prior to the commencement of any works on the site (refer to s.106 of the "Standards for Engineering Design and Construction").

The Traffic Management Plan must have incorporated within it the following conditions:

- (i) The design for the roading network within the site, including all intersections and the gradients of the roads, be subject to the approval of the Manager Roding, Rodney District Council, or his nominee. No work is to commence on site until such approval has been given.
- (ii) No dwelling units are to be occupied until the intersection of Mahurangi East Road and Arabella Lane has been undertaken. The design and funding of those works are to be subject to agreement between Rodney District Council and the applicant.
- (iii) Should construction activities commence on site prior to the intersection of Mahurangi East Road and Arabella Lane having been upgraded, the Contractor shall implement a traffic control programmed at the intersection to the approval of The manager Roding, Rodney District Council or his nominee.

A copy of the Traffic Management Plan and Health and Safety Plan together with the verification letter(s) shall be kept on the site at all times. All measures for the protection of the public and other personnel set out in the verified Plans shall be maintained and complied with at all times until such time as the works are completed.

Note: Reports and limitations on the land regarding any features or characteristics of the land or works on the land, whether the subject of specific encumbrances on the land or not shall be discoverable as part of the Council's records.

22. Bulk earthworks undertaken in that area of the site north and west of Arabella Lane and east of the existing bush covenant area, and generally containing development LL2 – LL6 as shown on the Site Plan – Master Plan – Snells Beach, shall be subject to the requirements to condition number 42 of this consent and shall be restricted to those necessary to develop LL2 – LL6 to a residential standard (including siting of

water tanks and the development of accessways) and those required to form Arabella Lane. Such works shall ensure that a ridgeline is retained in this location. The ridgeline shall continue to provide a visual screen to Arabella Lane from the existing dwellings to the west and shall continue to provide a topographical backdrop for proposed dwellings LL2 to LL6.

23. All earthworks shall be specifically designed to the "Standards for Engineering Design and Construction" and NZS 4431 by a Registered Engineer experienced in soil mechanics.
24. On completion of earthworks, an Earthworks Completion Report and a Certificate in the form of Appendix A of the "Standards for Engineering Design and Construction" signed by the Registered Engineer who designed and supervised the works shall be provided to the Manager: Resource Management. The report shall confirm that all of the proposed building sites are stable and provide a review of the anticipated proposed foundation types for the proposed buildings.
25. All necessary actions shall be taken to prevent a dust nuisance to neighbouring properties and public roads; including, but not limited to:
 - The staging of areas of the works;
 - The retention of any existing shelter belts and vegetation;
 - The installation and maintenance of wind fences and vegetated strips;
 - Watering of all haul roads and manoeuvring areas during dry periods;
 - Spraying of load dumping operations;
 - Suspension of all operations if necessitated by the prevailing conditions.
26. The site, or parts thereof as appropriate, shall be regrassed or otherwise protected from wind and water erosion immediately on the completion of bulk earthworks whether or not other works are completed.
27. All necessary measures, including, but not limited to, metalled (not lime rock) access roads and manoeuvre areas, permanent tip-heads, wheel washing facilities and high pressure hoses, shall be installed and operated to prevent the deposition of slurry, clay or other materials on the roads by vehicles leaving the site. Should material be deposited on the road it shall be removed immediately, and the site shall be closed until it can operate without material being carried onto any road, to the satisfaction of the Manager: Resource Management.
28. Before commencement of any works, adequate silt retention structures as detailed in the Auckland Regional Council Technical Publication No. 90 "Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region" or as determined by the Consents granted by the Auckland Regional Council shall be installed. Such structures shall be maintained and cleaned out as necessary until such time as complete grass cover, or other non-erodible surfacing, has been re-established over the site.

Archaeological Sites

29. A qualified archaeologist or person recognised by Ngati Manuhiri shall be on site to monitor all initial earthworks, including surface stripping of the site, to establish whether any sub surface archaeological features are present.
30. If any artefact, including human remains is exposed during any site works the following procedures shall apply:
 - (a) Immediately when an artefact has been exposed, all site works shall cease; and
 - (b) The site supervisor shall immediately secure the area in a way that ensures that any artefacts or remains are untouched; and

- (c) The site supervisor shall notify tangata whenua, the New Zealand Historic Places Trust, the Department of Conservation and the Council's RMA Compliance Administration Officer (telephone 0800 426 5169) and in the case of human remains the Police, that an archaeological site has been exposed, so that appropriate action can be taken. This includes such people being given a reasonable time as determined by the Council to record and recover the archaeological features discovered before work may recommence on the site.

Note: All necessary authorities from the Historic Places Trust shall be obtained prior to site works commencing.

Financial Contributions

31. The Applicant agrees and undertakes to pay the following financial contributions in accordance with Plan Change 62 in full mitigation of the offsite effects of the activity in respect of infrastructure and community facilities. The Applicant agrees that the figures contained in this consent are based on best available knowledge and accepts any risk associated with these figures.

The contributions shall be paid to the Council on a staged basis in accordance with condition 38.

Contribution	Unit Cost excl GST	Additional Units	Levy excl GST
Roading	907	155	\$140,585, plus the cost of any access works
Sewerage	9000	160*	\$1,440,000
Water	0 – no connection	155	0
Stormwater	\$0 – full on site mitigation	155	0
Neighbourhood Reserves	2,880	155	\$446,400 subject to land valuation
Sports Fields	\$4,800	155	\$744,000 subject to land valuation
Community Facilities	2544	155	\$394,320
Parking	Provided on site	155	0
TOTAL			\$3,165,305

The existing site being developed comprises 5 lots, which are not connected to sewerage reticulation. Therefore the number of created units for services other than sewerage is 160-5. As there is no current connection to the sewerage reticulation, the contributions for this service are assessed at 160 units.

32. RDC may review the amount of the sewerage contribution within 100 working days of the resource consent application by the Council for the Snells Beach Sewerage Treatment Plant being granted. The amount set out in the above table may be reduced, pursuant to a review under this condition,. The amount of contribution may increase, with an increase being required if, following the outcome of the ARC consent application, Rodney District Council, in its sole discretion, considers:
- more works are required,; and/or
 - works are required at an earlier time; and/or
 - the number of properties able to connect to the plant is reduced; and/or
 - any other action is necessary to comply with the ARC consents; and/or
 - The number of units requiring connection at the subject site is varied.

Any review will be in accordance with the mechanisms set out in Plan Change 62. The final amount of any review will be set by the Council, at its sole discretion, following consultation with the consent holder.

Note: These contributions (and the amount payable on any review) are based upon the financial contributions report prepared by RDC officers dated 26 August 2004 and amended on 13 October 2004. In particular the sewerage contributions in that report are based on an assumed growth of Snells Beach and associated cost of works and timing of works which will be required by the ARC under the discharge consent application for the Snells Beach Sewage Treatment Plant.

33. In accordance with condition 36 no interest or other type of additional payment shall be payable on any financial contribution refunded.
34. It is noted that the applicant undertakes to be bound by this condition and undertakes that it will secure the written agreement of any future consent holder to also be bound by this condition, prior to transferring the consent to that consent holder, so that any future consent holder shall be bound by this condition to the same extent as the original consent holder.
35. In the event that the Resource Consent Conditions Auditor (refer condition 16) determines that there has been a breach of consent conditions which has not been remedied within a timeframe acceptable either to the Resource Consent Conditions Auditor or the Council, then Council may require the consent holder to grant a Memorandum of Encumbrance in favour of the Council, such encumbrance to be registered (subject to any priority to any other previously registered securities or other registered interests) against the titles to the subject site. The encumbrance would provide for the following:
 - I That the consent holder for the time being must pay the financial contributions for each stage prior to commencement of any works for that stage and where the consent holders fails to do so, the encumbrancee (being the Council) shall be entitled to charge a rent charge against the encumbrancer;
 - II The rent charge will be an agreed daily rate having regard to the quantum of the financial contributions required to be made and the costs and losses that will be incurred by the Council if the consent holder fails to comply with the land use consent condition;
 - III The encumbrancee is not obliged to consent to any dealings with the titles (including registration of easements or deposit of any subdivision plans) where the encumbrancer is in breach of the relevant land use consent condition;
 - IV The Memorandum of Encumbrance will be discharged once the consent holder has paid all financial contributions that are due and payable under the land use consent.
 - V Pending the finalisation and registration of the Memorandum of Encumbrance, the Council will be entitled to register a caveat against the current titles to the subject site to protect its position. This caveat will be discharged upon registration of the Memorandum of Encumbrance.
36. The contributions shall be paid to the Council on a staged basis, in accordance with condition 38. Any contributions not paid by 30 March 2005 shall be inflation adjusted by the Producer Price Index - Construction but shall not be less than the amount stated in the within conditions.

These contributions shall apply (including inflation adjusted contributions) up until 30 September 2009. After this date the Council may recalculate these financial contributions under the financial contributions regime that exists at the time of building consent applications being made for any stage or part stage however the amount of financial contributions shall not be less than the inflation adjusted amount stated in the within conditions.

37. Financial contributions for neighbourhood reserves and sportsfields shall be calculated on the basis of a land valuation to be undertaken by a Registered Valuer, whose identity is approved by Council, to determine the value on a per 1 m² basis of the land to which this consent relates. The calculated amount shall then be multiplied by the number of units for which building consent is being applied for (and shall be calculated by the formula set out above). The valuation shall be for current market value as at the proposed date of payment of the financial contribution to which the valuation relates.
38. No work shall commence on any stage or part stage until all of the relevant financial contributions have been paid for that stage or part stage. Payment shall be made on the earlier of the intended date of commencement of works for each stage or part stage, or the date of issue by Council of building consent for any stage or part stage. For clarity it is confirmed that, on the date of payment, the entire amount payable for the full stage shall be made, regardless of whether the consent holder undertakes works (or intends construction) on part only of an individual stage.
39. A special valuation of market value shall be undertaken by a Registered Valuer to determine, to the satisfaction of the Consent Holder and Rodney District Council, the value of that land vested as esplanade reserve but which was not required by the provisions of the Resource Management Act to be vested as such, and the value of that land which could have been taken for esplanade reserve purposes under the provisions of the Resource Management Act but which was not vested as such. If the value of the land given exceeds the value of the land not taken, then the balance is attributable to the value of the contribution for neighbourhood reserves that is payable in accordance with condition 35 of this consent. Alternatively, if the value of the land not taken exceeds the value of the land given, then the balance is to be paid to the Council. Any balance owing to the Council is to be paid within three (3) months of agreeing the valuation. The valuation shall be for current market value as at the proposed date of payment of the financial contribution to which the valuation relates.
40. In the event that the parties cannot agree on the proposed valuations of land referred to in conditions 37A and 39 then Council shall determine the final amount of each valuation and shall notify the consent holder in writing of its determination of value. It is agreed that the consent holder may then submit a claim to the Land Valuation Tribunal if it is not satisfied with Council's determination. Any such application to the Land Valuation Tribunal shall be made by the consent holder within 15 working days of receipt Council's determination.
41. If a reticulated water supply is available and is used to service the dwellings in the development as a potable water supply or for fire fighting purposes then a financial contribution shall be paid to the Council towards the provision of this infrastructure no later than the issue of building consent for any dwelling construction.

Engineering Works

42. Unless otherwise provided for by the consents granted by the Auckland Regional Council or by a specific condition in this resource consent, the engineering works required by this consent shall comply with the Council's "Standards for Engineering Design and Construction" as may be amended from time to time. Engineering Plans, as specified in the "Standards", shall be submitted to the Manager: Resource Management and approval thereto received in writing, prior to the commencement of those particular works on the site.

The term 'engineering works' includes, but is not limited to:

- Earthworks,
- The formation of roads, the laying of pipes and other ancillary equipment to be vested in the Council for water supply, drainage or sewage disposal;
- The installation of gas, electrical or telecommunication reticulation including ancillary equipment, street lights, landscaping or structures on land vested, or to be vested, in the Council;
- Any other works required by conditions of this consent.

Note: Structures such as retaining walls, in-ground walls and bridges will require a separate Building Consent.

Note: The plans required under this condition are separate to, and do not form part of, any Building Consent that may be required on the subject site.

Note: Such works undertaken in that area of the site north and west of Arabella Lane and east of the existing bush covenant area, and generally containing development LL2 – LL6 as shown on the Site Plan – Master Plan – Snells Beach shall ensure that a ridgeline is retained in this location. The ridgeline shall continue to provide a visual screen to Arabella Lane from the existing dwellings to the west and shall continue to provide a topographical backdrop for proposed dwellings LL2 to LL6.

43. A minimum 24 hours notice shall be given to the Consents Field Supervisor prior to the installation of new connections or the construction of carriageways, or the pouring of any concrete, so that arrangements may be made for the necessary inspections.

Note: Structures such as retaining walls, in-ground walls and bridges will require a separate Building Consent.

44. As Built record plans to requirements of the Council's "Standards for Engineering Design and Construction" shall be submitted to the Manager: Resource Management, and approval thereof received in writing, within six months of completion of (each separate part of) the works.

Regional Council Consents

45. The Consent Holder shall provide evidence that all necessary discharge Consents, and any other Permits or Consents, required under the Transitional or Proposed Regional Plans for works to become part of Rodney District Council's infrastructure have been granted by the Auckland Regional Council prior to site works commencing, and that upon completion of the works that all conditions relating to construction therein have been met.

Stormwater

46. All stormwater discharges from roofs and paved areas shall be controlled and discharged through an approved system such that there is no adverse effect on adjoining public or private lands. Stormwater infrastructure shall be installed in accordance with Rodney District Councils Standards for Engineering Design and Construction.
47. Stormwater devices shall be maintained at all times in accordance with a maintenance manual drafted by the Consent Holder as part of the resource consents issued by the Auckland Regional Council. This condition may be the subject of a consent notice.

Sewerage

48. Construction of residential buildings shall not commence until the consent holder registers against Lots 1, 2, 3, 4 and 5 on the subdivision plan a covenant prohibiting occupation of any dwelling on the land comprised in those lots until they can be serviced by a fully reticulated sanitary sewerage system to the satisfaction of the Manager: Resource Management. Such covenant is to be expressed as being in favour of the Council and further granting the Council a right to protect such interest by way of caveat. The purpose of the covenant (and any caveat, if registered) is to ensure that the dwellings will not be occupied until they can be serviced by a fully reticulated sanitary sewerage system to the satisfaction of the Manager: Resource Management.

Water Supply

49. Each dwelling shall be provided with either its own water tank supply or connected to the reticulated potable water supply, if Council makes such a supply available, to the satisfaction of the Manager: Resource Management.

Note: For clarity it is noted that the Council is under no obligation to make a reticulated potable water supply available.

50. Each dwelling shall be constructed so that, in the event that refilling is required, the water tank is accessible to a water supply truck. If a reticulated public water supply is not to be made available for fire fighting purposes then provision shall be made for a water supply for fire fighting purposes to the satisfaction of the Manager: Resource Management.
- 50A Provision shall be made for a water supply for fire fighting purposes to the satisfaction of the Manager: Resource Management.

Roading and Access

51. The Consent Holder shall carry out upgrading works at the intersection of Arabella Lane and Mahurangi East Road to include provision of a right hand turning bay, subject to obtaining the prior written approval of the Manager: Resource Management to the engineering details (to be set out in approved Engineering Plans with calculations for road geometry) and contract rates for the works.
52. Flag lighting shall be installed to the intersection of Arabella Lane with Mahurangi East Road to the requirements of the Council's "Standards for Engineering Design and Construction". The type of light fittings shall be acceptable to the electricity network supplier responsible for the area.
53. (a) Subject to (b), the proposed road works and infrastructure standards to vest should be to the requirements of the "Standards for Subdivisions and Development". Detailed engineering plans are to be submitted in terms of Part 1 of the Standards to the satisfaction of the Manager: Resource Management, whose written approval shall have been obtained before construction is commenced. These engineering plans are separate to, and do not form part of, any Building Consent required under the Building Act 1991.

(b) The roads, accessways and pedestrian footpaths (both those to be vested and those not being vested) shall be developed as shown on the Site Plan – Master Plan – Snells Beach with the exception of Barrington Mews which shall be developed as shown on the Site Plan (Dwg No. RC02), Job No. 0709, Dated 02 July 2007, and the road on the Knoll which shall be developed as shown on the Scheme Plan of Lots 1-24 being a subdivision of Lots 1 and 2 DP 393453, Barry Satchell, Job No. 6042, Drawing No: SS05, Revision D and with the exception of the roads and pedestrian accessways approved under RMA 55603

and shall be constructed in accordance with the Engineering Standards, except where the particular situation requires an alternative solution and that solution is acceptable in traffic safety and amenity terms, to the satisfaction of the Manager: Resource Management.

54. All proposed accessways and the vehicle crossings thereto shall be constructed to the residential concrete standards in the Council's "Standards for Engineering Design and Construction".
55. Access to dwellings from the road shall be formed to a maximum grade of 1 vertical in 5 horizontal at any point. The works shall be metalled or grassed or otherwise protected from wind and water erosion immediately on completion.
56. All roads shall be finished in an asphalt surface incorporating, where appropriate, selected pavers or similar to satisfy urban design requirements to define public and private spaces.
57. All streets and public accessways shall be lit to the requirements of the Council's "Standards for Engineering Design and Construction". The type of light fittings shall be acceptable to the electricity network supplier responsible for the area.
58. The Consent Holder shall suggest to the Council names for the new roads shown on the Scheme Plan together with clearance from the Manager, New Zealand Post, Chief Post Office, Auckland, so that duplication of the name in any other part of the Auckland region is avoided. (Note: the Council shall determine the name having regard to any names so suggested and appropriateness to the area which the new roads will service.) When a name has been resolved by the Council the Consent Holder shall erect nameplates, in accordance with the Council's "Standards for Engineering Design and Construction".
59. Vehicular access to Lot 3 DP 203304 shall be ensured at all times.

Parking

60. All parking spaces shall be provided to the minimum dimensions required by Appendix 21 D of the Proposed District Plan 2000.
61. All parking and manoeuvring areas and vehicle crossing shall be constructed to the private way requirements of the Council's "Standards for Engineering Design and Construction".

Power and Telephone

62. Written confirmation shall be provided from the electricity network supplier responsible for the area, that provision of an electric supply has been made available by underground means from the existing services adjacent to all buildings to be constructed.
63. Written confirmation shall be provided from the telecommunications network supplier responsible for the area, that provision of telephone services has been made available by underground means from the existing services adjacent to all buildings to be constructed.

Construction

64. All construction noise shall comply with, and be assessed in accordance with, the provisions of the New Zealand Standard NZS 6803:1999 "Acoustics – Construction Noise".

65. Construction is to be limited to between 0700 hours to 1900 hours Monday – Saturday.

CONDITIONS ATTACHED TO THE BOUNDARY ADJUSTMENT AND SUBDIVISION CONSENT

General

1. Except insofar as changes are required to satisfy the conditions attached to this resource consent, the proposed boundary adjustment and subdivision is to be carried out in accordance with the Scheme Plan (Plan of subdivision prepared by Reyburn & Bryant 1999 Ltd, job number S8969 and dated 27/8/2004 – RDC file ref: R34743).

To be completed before Council approval of the Survey Plan

2. **(conditions to be shown on survey title plan)** Before the Council will approve the survey plan pursuant to s.223 of the Act, the consent holder shall:

- i. Show Lot 6 as esplanade reserve to vest in the Rodney District Council as generally depicted on survey plan described above.. The final extent of the esplanade reserve shall be to the satisfaction of the Manager: Resource Management based on independent survey obtained by the Council, at the consent holder's cost.

The purpose of the independent survey is to ensure that the survey data provided to Council regarding the width of the stream is accurate and to ensure that Council has vested in it the maximum amount of esplanade reserve permissible, namely 20m from the edge of the river. It is noted that the area to be vested excludes a small area of land at the end of the stream adjacent to proposed lot 2.

- ii. Show Lots 7 and 8 as road to vest in the Rodney District Council
- iii. Show the areas marked as A, B and C on the scheme plan prepared by Reyburn and Bryant 1999 Ltd and dated 27 August 2004 and the area identified as 2b on Plan # 1732, Aug 04, Tim King, De-Sign as areas to be subject to bush protection covenant. The covenant /s shall be prepared by the Consent Holder to the satisfaction of the Council's solicitors at the expense of the Consent Holder.

To be completed before the issue of 224(c) certificate

3. **(conditions to be carried out by developer)** Before the Council will issue a certificate pursuant to section 224(c) of the Act, the consent holder shall satisfy the following conditions at his/her/its full cost:

- i. Proposed Lot 6, Esplanade Reserve to vest in the Rodney District Council, shall be cleared of all noxious weeds and deleterious material, including all existing buildings and the pine and macrocarpa trees to the satisfaction of the Manager: Resource Management.

Engineering Works

- ii. Unless otherwise provided for by the consents granted by the Auckland Regional Council or by a specific condition in this resource consent, the engineering works required for the formation of the public roads to vest shall comply with the Council's "Standards for Engineering Design and Construction" as may be amended from time to time. Engineering Plans, as specified in the "Standards", shall be submitted to the Manager: Resource Management, and approval thereto received in writing, prior to the commencement of those particular works on the site.

The term 'engineering works' includes, but is not limited to:

- Earthworks,

- The formation of roads, the laying of pipes and other ancillary equipment to be vested in the Council for water supply, drainage or sewage disposal;
- The installation of gas, electrical or telecommunication reticulation including ancillary equipment, street lights, landscaping or structures on land vested, or to be vested, in the Council;
- Any other works required by conditions of this consent.

Note: Structures such as retaining walls, in-ground walls and bridges will require a separate Building Consent.

Note: The plans required under this condition are separate to, and do not form part of, any Building Consent that may be required on the subject site.

Note: The design and nature of earthworks and road construction shall pay particular attention to protecting the ridgeline adjacent to Arabella Lane so that the ridgeline continues to provide a visual screen to Arabella Lane from the existing dwellings to the west and shall continue to provide a topographical backdrop for proposed dwellings LL2 to LL6.

- iii. a) Subject to (b), the proposed road works required to form the public roads to vest shall be to the requirements of the "Standards for Subdivisions and Development". Detailed engineering plans are to be submitted in terms of Part 1 of the Standards to the satisfaction of the Manager: Resource Management, whose written approval shall have been obtained before construction is commenced. These engineering plans are separate to, and do not form part of, any Building Consent required under the Building Act 1991.
- b) The public roads to vest shall be constructed as shown on the site plan Site Plan – Master Plan – Snells Beach and shall be constructed in accordance with the Engineering Standards, except where the particular situation requires an alternative solution and that solution is acceptable in traffic safety and amenity terms, to the satisfaction of the Manager: Resource Management.
- iv. , All earthworks required to complete shall be specifically designed to the "Standards for Engineering Design and Construction" and NZS 4431 by a Registered Engineer experienced in soil mechanics.
- v. The predominant earthworks required to form Arabella Lane shall be restricted to those required to create safe battering and to ensure that the Road meets Council's engineering standards.
- vi. The swales within the public roads to vest shall be designed to the satisfaction of the Manager: Resource Management to ensure that there will be no damage to the road surface caused by the flow and position of stormwater within the swales.
- vii. All public roads to vest shall be finished in an Asphalt surface.
- viii. A minimum 24 hours notice shall be given to the Consents Field Supervisor prior to the construction of carriageways, or the pouring of any concrete, so that arrangements may be made for the necessary inspections.

Note: Structures such as retaining walls, in-ground walls and bridges will require a separate Building Consent.

- ix. All public roads to vest shall be lit to the requirements of the Council's "Standards for Engineering Design and Construction". The type of light fittings shall be acceptable to the Rodney District Council Consents Engineer..

- x. The Consent Holder shall request the Council to initiate a road stopping process to rationalise the current and proposed alignment of Arabella Lane, and the road to be stopped shall then be vested in the consent holder (without compensation) in consideration of the road to be vested in the Council (also without compensation) under the survey plan of boundary relocation.
- xi. The Consent Holder shall suggest to the Council names for the new roads shown on the Scheme Plan together with clearance from the Manager, New Zealand Post, Chief Post Office, Auckland, so that duplication of the name in any other part of the Auckland region is avoided. (Note: the Council shall determine the name having regard to any names so suggested and appropriateness to the area which the new roads will service.) When a name has been resolved by the Council the Consent Holder shall erect nameplates, in accordance with the Council's "Standards for Engineering Design and Construction".
- xii. Vehicular access to Lot 3 DP 203304 shall be ensured at all times.
- xiii. All parking spaces shall be provided to the minimum dimensions required by Appendix 21 D of the Proposed District Plan 2000.
- xiv. All parking and manoeuvring areas and vehicle crossing shall be constructed to the private way requirements of the Council's "Standards for Engineering Design and Construction".
- xv. On completion of earthworks an Earthworks Completion Report and a Certificate in the form of Appendix A of the "Standards for Engineering Design and Construction" signed by the Registered Engineer who designed and supervised the works shall be provided to the Manager: Resource Management. The report shall confirm that all of the proposed Lots are stable and provide a review of the anticipated proposed foundation types for the proposed building development.
- xvi. As Built record plans for the public roads to vest and to the requirements of the Council's "Standards for Engineering Design and Construction" shall be submitted to the Manager: Resource Management, and approval thereof received in writing, prior to the issue of a Section 224(c) certificate.

Dust Nuisance

- xvii. All necessary actions shall be taken to prevent a dust nuisance to neighbouring properties and public roads; including, but not limited to:
 - o The staging of areas of the works;
 - o The retention of any existing shelter belts and vegetation;
 - o The installation and maintenance of wind fences and vegetated strips;
 - o Watering of all haul roads and manoeuvring areas during dry periods;
 - o Spraying of load dumping operations;
 - o Suspension of all operations if necessitated by the prevailing conditions.
- xviii. The site, or parts thereof as appropriate, shall be regrassed or otherwise protected from wind and water erosion immediately on the completion of bulk earthworks whether or not other works are completed.
- xix. All necessary measures, including, but not limited to, metalled (not lime rocked) access roads and manoeuvre areas, permanent tip-heads, wheel washing facilities and high pressure hoses, shall be installed and operated to prevent the deposition of slurry, clay or other materials on the roads by vehicles leaving the site. Should material be deposited on the road it shall be removed immediately, and the site shall be closed until it can operate without material being carried onto any road, to the satisfaction of the Manager: Resource Management.

Archaeological Sites

- xx. A qualified archaeologist or person recognised by Ngati Manuhiri shall be on site to monitor all initial earthworks, including surface stripping of the site, to establish whether any sub surface archaeological features are present.
- xxi. If any artefact, including human remains is exposed during any site works the following procedures shall apply:
 - (a) Immediately when an artefact has been exposed, all site works shall cease; and
 - (b) The site supervisor shall immediately secure the area in a way that ensures that any artefacts or remains are untouched; and
 - (c) The site supervisor shall notify tangata whenua, the New Zealand Historic Places Trust, the Department of Conservation and the Council's RMA Compliance Administration Officer (telephone 0800 426 5169) and in the case of human remains the Police, that an archaeological site has been exposed, so that appropriate action can be taken. This includes such people being given a reasonable time as determined by the Council to record and recover the archaeological features discovered before work may recommence on the site.

Site Works

- xxii. Site works are limited to between 0700 hours to 1900 hours Monday – Saturday.

Consent Notice

- 4. The following conditions shall be complied with on a continuing basis and shall be recorded in a Consent Notice issued pursuant to s.221 of the Act. The consent holder shall satisfy the following conditions at his/her/its full cost:

Covenanted Areas

- i. The area identified as 2b.c on Plan # 1732, Sept. 04, Tim King, De-Sign is to be retained in perpetuity as an area of existing, regenerating and re-planting vegetation. The final dimensions and boundaries of this area are subject to survey at the time that the land transfer plan of subdivision/boundary alteration is prepared.
- ii. Within the existing bush covenant areas marked A, B and C on Lots 4 and 5 of the proposed boundary adjustment, and within the area of the proposed bush covenant marked 2b.c on Plan # 1732, Sept. 04, Tim King, De-Sign, the Consent Holder:
 - (i) Shall preserve the natural landscape trees, vegetation and areas of bush now thereon; and
 - (ii) Shall not (without the prior written consent of the Council and then only in strict compliance with any conditions imposed by the Council) cut down, damage or destroy, or permit the cutting down, damaging or destruction of, any of such natural landscape trees, vegetation or areas of bush; and
 - (iii) Shall not do anything that would prejudice the health of any of such natural landscape trees, vegetation or areas of bush; and
 - (iv) Shall control all noxious plants and animals; and
 - (v) Shall ensure that no stock or farm animals are kept on the properties to which this consent relates.

The consent holder shall be deemed not to be in breach of the covenant if any of such trees, vegetation or bush die from fire or natural causes not attributable to any act or default by or on behalf of the owners and for which the owners are responsible.

The consent holder shall pay to the Council the fair and reasonable costs incurred by the Council in monitoring this condition at not less than two-yearly intervals, unless required

otherwise by a legitimate complaint. The owners will be advised of the costs, assessed under the Council's Schedule of Fees and Charges, as they fall due.

iii. Incorporated Society

- (a)(1) Prior to the depositing of the survey plan of boundary relocation (Plan of subdivision prepared by Reyburn & Bryant 1999 Ltd, job number S8969 and dated 27/8/2004), or within 3 months of the date of commencement of this consent, whichever is the sooner, an Incorporated Society will be established to maintain and control all areas of the site with the exception of public road and footpath, including maintenance of the bush covenanted areas and all landscaping, and to ensure that the ongoing conditions of consent are fulfilled. In particular the constitution of the Incorporated Society shall provide for:
- Compulsory membership by every registered proprietor;
 - Compliance by the Society with the ongoing terms of this consent ("Society Consent Conditions");
 - Incorporate the method and terms of transfer to the Society of the common area/facilities in compliance with all relevant laws and regulations;
 - Provide for a "step-in" and "step-out" procedure in Council's favour for it to remedy any neglect on the part of the Society to comply with the Society Consent Conditions;
 - The Society having the right to levy each member that member's share of the costs the Society will incur from time to time in complying with the Society Consent Conditions ("Compliance Costs") and the Society's obligations to deposit levies so collected into the account of a stakeholder to be agreed to by the Council and the Society ("Stakeholder Account");
 - In order to ensure that sufficient levies are being held in the Stakeholder Account to meet the Society's obligation to comply with the Society Consent Conditions, the Society shall provide statements of the amount of levies held in the Stakeholder Account on no less than a 6 monthly basis to the Council. Where the Council believes that the levies held in the Stakeholder Account are insufficient to meet the Society's costs of complying with the Society Consent Conditions, the Council shall be entitled to require the Society to levy further sums from each member to the intent that the levies held in the Stakeholder Account shall at all times be sufficient to meet the Society's costs of complying with the Society Consent Conditions for next 12 months;
 - Where the Council has exercised its "step-in" rights, the Council shall be entitled to direct the stakeholder to pay from the Stakeholder Account the costs incurred by the Council in exercising its "step-in" rights without any further reference to the Society or to any member;
 - Entrench those provisions within the constitution and rules of the Society which are sensitive to Council.
 - Attach a copy of this consent and any subsequent alterations to the consent conditions and advise the Society of its obligations to comply with conditions of consent now and those that are required to be complied with on an ongoing basis.
- (a)(2) The wording of the constitution and the consent notice referred to in condition (a)(4) below shall be to the satisfaction of the Manager: Resource Management.
- (a)(3) All documents establishing and pertaining to the constitution of and ongoing operation of the Incorporated Society, including the documents

providing for the step-in and step-out of the Rodney District Council, shall be drafted to the satisfaction of the Manager: Resource Management.

- (a)(4) The constitution of the Incorporated Society will be attached to the titles by way of consent notice through the boundary relocation subdivision.
- (a)(5) The Society Consent Conditions shall be registered against all titles by way of a land covenant or Memorandum of Encumbrance, such land covenant or Memorandum of Encumbrance to be in a form acceptable to the Manager: Resource Management.
- (a)(6) To secure the Society's compliance with the Society Consent Conditions, the Society shall provide security in favour of the Council in the form of:
 - i. A Memorandum of Encumbrance or Charge registered against the titles to the assets held by Society; or
 - ii. Where the Council has determined (in its sole discretion) that the assets of the Society do not provide sufficient security, a performance bond (on terms and conditions acceptable to the Manager: Resource Management) for an amount equal to the establishment cost of the landscape and enhancement planting under Conditions 7 to 12 provided however that the term of the bond shall remain in force for a period expiring no later than [48] months after the date of commencement of this consent.
 - iii. Landscaping and enhancement planting
 - Landscaping and areas of enhancement planting shall at all times be maintained in accordance with the landscape and enhancement planting maintenance plan required by the conditions of the land use consent (RDC file ref: 34743), unless prior approval has been obtained from the Manager: Resource Management.

Advice Upon Issue

- 5. The Consent Holder shall, immediately upon issue, advise the Council of the number(s) allocated to the land transfer plan(s) by Land Information New Zealand.

ADVICE NOTES

A resource consent lapses on the expiry of five years after the date of commencement of the consent, or after the expiry of such shorter or longer period as is expressly provided for in the consent.

If you disagree with the decision or any condition imposed on the consent, you may either:

- *lodge an objection with the Council to review the decision/condition(s). Your objection must be in writing and lodged with the Council within 15 working days of receiving this letter. You should include with the objection reasons as to why you are seeking the review. The Council will consider the objection by way of a hearing, at which you and/or your representative may present evidence.*
- or*
- *lodge an appeal with the Environment Court. The appeal must be lodged with the Court and Council within 15 days of receiving this letter and be in the proper format. It is suggested that if you do intend to lodge an appeal, you obtain legal advice to ensure that the appeal is valid.*

Consent Notice Variation, s221 RMA

Consent Notice 7394086.5 be varied as follows (additions underlined, deletions in strike-through):

FIRST SCHEDULE

(Covenanted Area) *The area identified as 2b 2b-e on Plan #1732.2b.c, Sept 04, Tim King De-Sign (area D on Lot 5 DP 356085) is to be retained in perpetuity as an area of existing, regenerating and replanting vegetation.*

(Bush Protection) *Within the existing bush covenant areas marked A and B on Lot 5 and C on Lot 4 DP 356085 and within the area of the proposed bush covenant marked 2b 2b-e on Plan # 1732.2b.c, Sept 04, Tim King, De-Sign, the owners for the time being:*

...(responsibilities to remain unchanged)

(Incorporated Society) *The owners of ~~Lots 1 to 5~~ owner of Lot 2 DP 393453 (Computer Register 374094) shall become and remain a member of the Arabella Lane Residents Society Incorporated and comply with the Rules of the Society at all times.*

SECOND SCHEDULE

Remains unchanged

THIRD SCHEDULE

Remains unchanged

Consent Notice 7561946.3 be varied as follows (additions underlined, deletions in strike-through):

FIRST SCHEDULE

(Ownership of ~~Lots 1 and 5~~ Lot 1 DP 393453) Unless otherwise approved by Council, ~~Lots 1 and 5~~ Lot 1 DP 393453 shall be transferred to and remain in the ownership of the ~~Whisper Cove~~ Arabella Lane Residents Society Incorporated.

SECOND SCHEDULE

An estate in fee simple in 8.2623 hectares more or less being Lot 4 and 5 DP 356085 comprised in Certificate of Title 228772 and 228773.

THIRD SCHEDULE

~~Lots 1 and 5 DP 393453~~ Lot 1 DP 393453 totalling ~~3.9322~~ 0.2776 hectares in area.

