

BEFORE THE ENVIRONMENT COURT

Decision No. [2014] NZEnvC 164

IN THE MATTER of a direct referral under Section 87G of the Resource Management Act 1991 (**the Act**) and an appeal under Clause 14 of the First Schedule to the Act

BETWEEN TE ARAI COASTAL LANDS LIMITED
(ENV-2013-AKL-000104)

Applicant

AND TE ARAI BEACH PRESERVATION SOCIETY AND THE NEW ZEALAND FAIRY TERN CHARITABLE TRUST

(ENV-2014-AKL-000009)

AND AUCKLAND COUNCIL

Respondent

Hearing on the Papers.

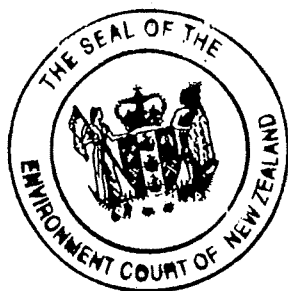
Court: Environment Judge J A Smith

Submissions: Kitt Littlejohn on behalf of New Zealand Fairy Tern Charitable Trust and Te Arai Beach Preservation Society Incorporated

Heather Rogan on behalf of New Zealand Fairy Tern Charitable Trust

Marie Alpe on behalf of Te Arai Beach Preservation Society Incorporated

Simon Reeves on behalf of himself



FINAL DECISION

- A. The proceedings relating to PC166 is resolved and the plan provisions are amended as set out in Appendix A to this decision.**
- B. The direct referral proceedings is resolved and resource consent is granted subject to the conditions set out in Appendix B to this decision.**

REASONS

Introduction

[1] The direct referral proceedings relates to a portion of land vested in Te Uri o Hau as part of their Treaty settlement. There have been many consents concerning this land granted on a non-notified basis by the Council. The ultimate purpose of this myriad of consents is to establish a golf course. The applications for consent directly referred to the Court only relate to water take and earthworks.

[2] On 29 April 2014 the Court granted the following consents, but directed that further amendments be made to give effect to the Court's concerns raised in its decision¹ before the consents were finalised:

- (a) Water permit to take up to 795m³/day of groundwater from five bores on the site (MA1(P), MA2(P), MA4(P), MA5(P), MA6(P)) and to store and use that water for:
- i. The establishment and maintenance of vegetative cover (predominantly grass) on areas shown as "Extent of Irrigation Areas"



on Plan EC-001 prepared by Darby Partners, titled Te Arai 795 Hearing- Area of Water Use, dated 22/10/13; and

- ii. Potable water (no more than 10m³/day) for the clubhouse and the house site "HSO1" shown on the above plan.
- (b) Land use consent to undertake the following earthworks associated with shaping of areas (cut areas and fill areas B, C, D, F, G, H, I and J) shown on plan EC-002A prepared by Darby Partners, titled Te Arai 795 Hearing- Earthworks and Trenching, dated 22/10/13
- i. Land use consent to undertake the following additional earthworks:
 - ii. The excavation of trenches for reticulating irrigation water supply, power and telecommunication cables, and for drainage (all as shown on Plan EC-002A prepared by Darby Partners, titled Te Arai 795 Hearing- Earthworks and Trenching, dated 22/10/13.
 - iii. Construction of the water storage reservoir (shown on Plan EC-003 prepared by Darby Partners, titled Te Arai 795 Hearing- Reservoir, dated 22/10/13.

[3] At the same time Plan Change 166 (PC166) to the Auckland Council District Plan: Operative Rodney Section 2011, a private plan change initiated by Te Arai Coastal Lands Trust, was appealed to this Court. Consent documents were subsequently filed resolving this appeal.

[4] On considering the draft consent order the Court noted that PC166 addresses environmental management of the entire area of Te Arai North. The direct referral sets conditions for environmental management of that part of the site to be used as a golf course and in turn specific groundwater take and earthworks consents. Therefore the two matters are interconnected and overlap.

[5] As a result, the Court held a pre-hearing conference on 14 May 2014. The parties were required to liaise and make changes to the conditions of consent as part of the direct referral proceedings and the provisions of PC166 to ensure that they are consistent. The



Court noted that the direction did not intend to open up the settlement of PC166 and the direct referral to general debate.

[6] The parties have now filed their amendments to the consent conditions as part of the direct referral proceedings and amendments to PC166 with the purpose of achieving a holistic approach between the two matters.

Resource Consent – Direct Referral

[7] In its decision the Court made the following suggested amendments. The parties have adopted these amendments and have updated the conditions of consent. Accordingly, the following conditions are amended as set out below. A copy of the finalised consent conditions are attached to this decision as **Appendix B**.

[8] Condition 73 is amended to read:

That the conditions of this consent may be reviewed by the Council pursuant to section 128 of the Resource Management Act 1991, by giving notice pursuant to section 128 of the Act in June 2014 and at yearly intervals thereafter in order:

- (a) In relation to the water take and use, to vary the quantities, monitoring and reporting requirements and performance standards in order to take account of information, including the results of previous monitoring and changed environmental knowledge on:
 - (i) Water availability, including alternative water sources;
 - (ii) Actual and potential water use;
 - (iii) Conservation lake water levels;
 - (iv) Groundwater levels; and
 - (v) Groundwater quality.
- (b) To deal with any adverse effect on the environment arising for the exercise of this consent including land outside of the Auckland region.

Note: This may include varying the quality of the water take to ensure sufficient use of the resource.

[9] Condition 33 is amended to read:

(earthworks location) No earthworks shall occur seaward of the Golf Course (Stage 2) area shown on Darby Partners' Plan EC-002A titled "Te Arai 795 hearing – Earthworks and Trenching, dated 22/10/2013" now within 10m of any water courses or seeps.

[10] Condition 23 is amended to include: "At least 15 working days prior to commencement of this consent."



[11] The Court sought the amendment of condition 21 to make it clear that planting indicated on the large dune mounds shown on Annexure C must be undertaken. The parties have amended the condition to read:

21. (ERMP Details for pine removal and transition to native vegetation) The pines surrounding the reservoir identified on the plan provided by Darby Partners Limited titled "795 Hearing – Reservoir: Vegetation Management Plan" TA_11_2EC-004 dated 8/5/14 shall be retained until a detailed planting and pine management plan is approved outlining the transition from pine to predominantly native species. At least 20 working days prior to any removal of the pines referred to above a detailed planting and management plan from a suitably qualified and professional landscape architect (including input from consent holders appointed ecologist regarding appropriate species) including an implementation and maintenance programme for a minimum of seven years, shall be submitted to and approved by the Team Leader – Resource Consents.

[12] The following Advice Note is added to Condition 1:

Should visitor or other accommodation be proposed for the site, the taking and using of water for such facilities will require separate resource consent.

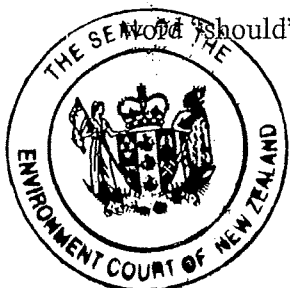
[13] Condition 11 of the direct referral has been amended to read:

(Community Liaison Group) The consent holder shall establish a Community Liaison Group (CLG) within 2 months of the date of the grant of this consent. The purpose of the CLG is to provide a formal mechanism for sharing knowledge and assisting with monitoring of species identified in the Ecological Management Plan (where such monitoring is appropriate and acceptable to all CLG members and the Council). The CLG shall consist of Auckland Council, Department of Conservation, the Environmental Defence Society, the Royal Forest and Bird Protection Society of New Zealand, Te Uri o Hau, Te Arai Beach Preservation Society, the Ornithological Society of New Zealand and New Zealand Fairy Tern Charitable Trust.

[14] In Condition 11(c) the reference to 6 weeks is changed to 2 months.

[15] Condition 11(g) is deleted.

[16] Condition 16 is amended so that the words "within 500m" are removed and the words "within 50m of the northern, southern and eastern boundary of" are replaced with "on". The word "should" is also changed to "shall" in the first sentence of the second paragraph.



[17] Condition 17A is amended to read: "At least 15 working days prior to works commencing the consent holder shall submit..."

[18] Condition 22 is deleted.

[19] Condition 43 is amended to correct the entries in Schedule A for MB1 and MB2.

[20] Condition 46 is amended so the penultimate paragraph reads: "Please note the requirements of the New Zealand Historic Places trust and Historic Place Act in this regard must be met."

[21] The Court commented in relation to condition 70B that is the Marsden Road and Harbour Road Wetlands are on the site they must be identified on Annexure A. If they are not on the site but adjacent to the site they must be removed from condition 70B to condition 70C. The parties have made this amendment, and moved Marsden Road and Harbour Road wetlands to condition 70C.

[22] As a result the words "including the golf course" are removed from condition 70(a), (b) and (c).

[23] "Mangawhai Wildlife Refuge" is changed to "Mangawhai Wildlife Reserve" in Condition 70.

[24] The Court sought amendment to the conditions so that it recorded that fencing should be constructed on the northern boundary and the length of the fence should be clarified.

[25] As a result the parties have added the following to condition 70(c):

Subject to obtaining agreement with the department of conservation, the northern boundary of Lot 2 DP 453130 shall be fenced and planted in accordance with the Plan Change 166 Reserve Plan to achieve a 60m corridor that connects the foreshore reserve with the Marsden Road wetland. Such planting may be provided on either side of the boundary.

[26] The Court sought that condition 20(d) be amended so that it refers to the trench lines and the remainder of the site where works have not occurred or perhaps to specific nominated portions of the site.

[27] The parties have amended condition 20(d) so that it reads as follows:



(d) To plant in appropriate native species on the balance of the land disturbed by activities authorised by this consent (including within 10m of any seep) where works that are the subject of this consent occur in order to maintain and enhance the natural character and indigenous biodiversity of the area.

PC166

[28] Following the Court's direction, the parties have made the following amendments to PC166 to make it consistent with the consent conditions granted as part of the direct referral proceedings:

[29] Rule (g) now includes:

The CSMP shall include the management plans below to achieve its purpose, and the CSMP and other management plans below shall take into account and be consistent with the management plans prepared in accordance with conditions of resource consents relating to the golf course:

[30] Rule (g)(i) is amended to read:

A "Shorebird Management Plan" as detailed below consistent with the ecological management plan and conservation management plan required for the golf course under conditions of its resource consent.

[31] Rule (g)(iii) is amended to read:

A "Conservation Management Plan" that includes methods to protect and enhance ecological values consistent with the ecological management plan and conservation management plan required for the golf course under conditions of its resource consent and as detailed below.

[32] The finalised version of PC166 is attached to this decision as **Appendix A**.

Matters still in contention between the parties.

[33] The parties submissions also proposed further amendments that were not agreed on and remained in contention.

[34] The Court reminds the parties that the purpose of making the amendments was to achieve consistency between the resolutions reached in the direct referral proceedings and the PC166 proceedings, and was not about re-hashing the resolutions already reached.



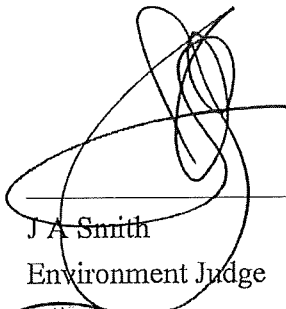
[35] As a result, the Court acknowledges that there were a number of further amendments sought and that many of them were not agreed on between the parties. The Court is satisfied that the amendments made are sufficient to ensure the consistency sought, and will not go any further in imposing any further amendments.

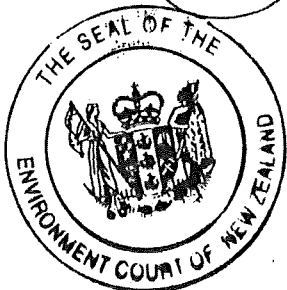
Decision

- A. The proceedings relating to PC166 is resolved and the plan provisions are amended as set out in Appendix A to this decision.**

- B. The direct referral proceedings is resolved and resource consent is granted subject to the conditions set out in Appendix B to this decision.**

DATED at Auckland this 26^L day of July 2014

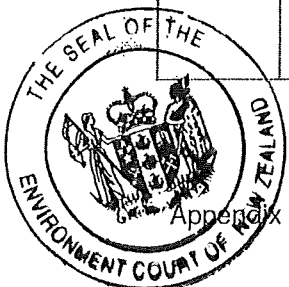

J A Smith
Environment Judge



**APPENDIX A: COPY OF APPROVED PLAN CHANGE AND APPENDIX 14L
(APPROVED PLANNING MAP)**

Add the following Scheduled Activity to Rule 14.8.2, and amend Planning Map 2 by adding the symbol for Scheduled activity number 213 to the land described in the scheduled activity."

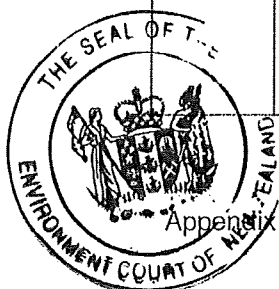
Activity Number	Details	
213	Map Reference	2
	Location	Lot 1 DP 453130 (ID 581090), Lot 2 DP 453130 (ID 581091), Lots 3-5 DP 453130 (ID 581092)
	Activity Status	<p>Subdivision for the Creation of Additional Public Reserve for a maximum of both 43 new sites and 3 balance area sites (total 46 sites) complying with the standards in this rule shall be a restricted discretionary activity.</p> <p>Subdivision that is not in accordance with this rule shall be a non complying activity.</p>
	Rules	<p>Subdivision for creation of up to 43 new sites in addition to the 3 existing sites shall comply with the following rules:</p> <p>(a) The identified house sites associated with the 43 new sites created under this rule shall be located in the areas marked "A", "B" and "C" and identified on the plan in Appendix 14AL: 'Scheduled Activity 213 and Restricted Activity 352' ("<u>Reserve Plan</u>") as "Areas In Which New House Sites Can Be Created In Accordance With Rule 14.8.2" in the following manner:</p> <p>(i) No more than <u>54</u> new house sites shall be located in the area marked "A" <u>of which no more than 1 new house site shall be located in the Area marked "A1"</u>;</p> <p>(ii) No more than 38 new house sites shall be located in the area marked "B" <u>of which no more than 5 new house sites shall be located in the Area marked "B1"</u>;</p> <p>(iii) No more than 4 new house sites shall be located in the area marked "C".</p>



Activity Number	Details
	<p><u>Provided that:</u></p> <ul style="list-style-type: none"> • <u>There shall be no more than 43 new house sites created under this rule in Areas "A", "B" and "C".</u> • <u>Residential buildings in areas "A1" and "B1" shall be set back 50 metres from that part of the reserve boundary shown on the Reserve Plan as "reserve boundary setback"; and</u> • <u>Up to 3 house sites provided by existing entitlements may be located outside of Areas "A", "B" and "C", but not in Area D or the proposed reserve.</u> <p>(b) <u>No buildings shall be erected in the area shown on the Reserve Plan as Area D apart from buildings associated with land management or water storage facilities (eg fencing, pipelines, reservoirs, etc).</u></p> <p>(b) Prior to the creation of any sites under (a) above, a Vegetation Management Plan shall be submitted to the Council for approval to ensure that:</p> <p>i) there is adequate vegetative screening or back-drop associated with any subdivision to protect or enhance the high landscape values of the area and the subdivision will not adversely affect these values in more than a minor way having regard to the landscape's ability to absorb change in respect of other factors, including the nature and variability of local terrain and the extent and distribution of vegetation cover, and</p> <p>ii) the subdivision, including the location of building platforms, will not adversely affect the natural character of the coastal environment, and the degree to which development associated with the subdivision would affect the natural landforms and vegetation cover that affects such character and values is minimised having regard to:</p> <ul style="list-style-type: none"> • current levels of naturalness of the area in the Scheduled Activity and adjoining areas and the integrity of that part of



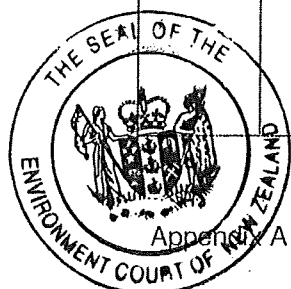
Activity Number	Details
	<p>the coastal environment; and</p> <ul style="list-style-type: none"> • screening and integration potential afforded by natural landforms and existing vegetation. <p>iii) an appropriate staging of pine removal and its replacement with native vegetation in the areas identified in the second and third bullet points of rule (c)(iii) and in the area marked "Northern Boundary Planting" on the plan in 'Appendix 14AL: Scheduled Activity 213 and Restricted Activity 352.</p> <p>(c) Subdivision in accordance with this rule is subject to the following:</p> <ul style="list-style-type: none"> i) <u>At no cost to the administering body, t</u>The full area of public reserve, of no less than a minimum of 172 hectares <u>and generally as shown on the Reserve Plan</u>, shall be vested or taken prior to issuing the Section 224(c) certificate for the first site created under rule 14.8.2, <u>and be subject to any fencing requirements by the administering body;</u> ii) The final surveyed boundaries of the Additional Public Reserve Land shall be generally in accordance with the area identified on the plan in 'Appendix 14AL: Scheduled Activity 213 and Restricted Activity 352 <u>Reserve Plan</u>, and subject to: <ul style="list-style-type: none"> • The reserve shall have sufficient width to allow for a public <u>walking access</u> trail along the back of the foredunes in Lot 1 DP 453130; • The inland reserve boundary in Lot 1 DP 453130 shown on the Reserve Plan shall be a minimum of 200m wide from Mean High Water Springs with the exception of the transitional area shown near the northern boundary of Lot 1 DP 453130, and located to respect both the physical topography of the land and provide for a <u>walking public access</u> trail alignment that: <ul style="list-style-type: none"> o protects ecological values and revegetation of the foredunes and the buffer areas referred to below;



Activity Number	Details
	<ul style="list-style-type: none"> o provides a buffer between the foredunes and the walking trail to protect the foredune structure; and o provides a buffer between the <u>walking public access</u> trail and the adjacent boundary of a site created under these rules. <ul style="list-style-type: none"> • <u>At no cost of the administering body, Additional reserve may be provided in Lot 1 DP 453130 in the blue hatched area shown on the Reserve Plan where such reserve is required to meet the objectives above.</u> • <u>At no cost to the administering body, additional reserve may also be provided on Lot 3 DP453130 in the blue hatched area shown on the Reserve Plan where such reserve is required by the administrating body to provide better connections to the existing reserve at Te Arai Point Road.</u> <p>iii) The following shall be undertaken in the reserve:</p> <ul style="list-style-type: none"> • A public <u>walking access</u> trail alignment shall be provided for by the <u>Applicant</u> along the back of the foredunes from the public beach access point at the Pacific Road car park, northwards to a beach access point in the reserve near the northern boundary of Lot 1 DP 453130, and southwards to a beach access point at least 500m north of the Te Arai Stream mouth; • Production forest shall be removed from the entire coastal section of the reserve, including the area of the reserve abutting the Te Arai stream up to a line 500 metres inland from and perpendicular to Mean High Water Springs, and this area revegetated in native dune species; • Production forest shall be removed from the riparian edge, being a 50m corridor to both sides of the Te Arai stream, and this area revegetated in native species to provide for a connection from the Coal Hill Road Wetland to the coastal environment; • The above work may be undertaken in a staged manner aligned to any staging of titles, provided that the work shall be completed within five years of vesting the reserve. <p>iv) The minimum width of the riparian reserve along the Te Arai stream shall be 50m (including the marginal strip).</p> <p>v) In Lot 1, the existing public easement over Pacific Road shall</p>



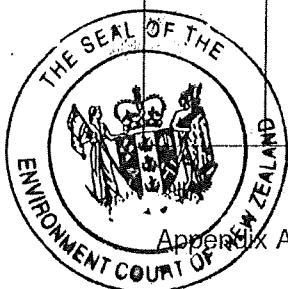
Activity Number	Details
	<p>be widened to an average width of at least 50 metres to provide for safe pedestrian, cycle and equestrian use. The widened public easement may be subject to realignment for better integration with the existing landform. At the Council's election, the widened public easement on Pacific Road may be vested as public road.</p> <p>vi) — The area proposed to be vested as reserve shall be subject to an easement in favour of Lot 3 of up to 25m wide that provides ongoing legal access to Lot 3 from Te Arai Point Road as generally shown on Appendix 14AL: Scheduled Activity 213 and Restricted Activity 352.</p> <p>vii) Easements of sufficient width and practically located shall be provided over the reserve for conveying water, telecommunications and power, including over parts of Lot 1 and 3 as generally shown on Appendix 14AL: Scheduled Activity 213 and Restricted Activity 352.</p> <p>vii) A public access easement of up to 30m in width generally as shown on the Reserve Plan or otherwise agreed with Council or other administering body, shall be provided over Lot 3 DP 453130 to connect the existing reserve on Te Arai Point Road with that part of the new reserve created on the southern side of the Te Arai Stream.</p> <p>(cc) All titles created under this rule (excluding the reserve area but including any balance title) shall include covenants or consent notices which prohibit in perpetuity further subdivision for creation of residential or rural residential sites other than the maximum 46 sites. All titles created under this rule, (excluding the reserve area but including any balance title), shall include covenants which require compliance with conditions of consent which provide for ongoing land management in accordance with the CSMP and other land management plans required under these rules. The covenants shall include a prohibition of domestic pets (including, but not limited to, cats, mustelids, dogs, goats,</p>



Activity Number	Details
	<p><u>rabbits and rodents) on the sites created and balance land. The Queen Elizabeth The Second National Trust and the Department of Conservation shall be invited to be parties to and beneficiaries of such covenants in respect of the balance land inside and outside Areas A, B, C and D.</u></p> <p>(d) The following rules from rule 7.14.7 Subdivision for the Creation of Additional Public Reserve Land: Specific Subdivision Requirements shall apply:</p> <p style="padding-left: 40px;">7.14.7.1: General Requirements</p> <p style="padding-left: 40px;">7.14.7.2 (c) – (d): Design of Subdivision – Area for Incorporation into Public Reserve</p> <p style="padding-left: 40px;">7.14.7.3 (b) – (f): Design of Subdivision – Site for Rural Residential Purposes</p> <p style="padding-left: 40px;">7.14.7.5 – Minimum Frontage and Access.</p> <p>(e) Domestic pets (including, but not limited to, cats, mustelids, dogs, goats, rabbits and rodents) are not permitted on any site created under this rule <u>including any balance titles that are on any land included in Scheduled Activity 213 Area.</u></p> <p>(f) Prior to creation of any sites under this rule, a minimum of 4.26 hectares of wetland plus a minimum 1.4 ha buffer area as identified on the plan in Appendix 14AL: Chapter 14: 'Scheduled Activity 213 and Restricted Activity 352' as "Potential Protected Wetland Area" shall be protected in accordance with the following:</p> <p style="padding-left: 40px;">(i) The applicant shall provide a Comprehensive Weed and Animal Pest Control Plan. The plan shall demonstrate how weeds and invasive plants (including climbing asparagus) and pest animals (including pest fish, feral pigs, rats, possums and mice) are to be eradicated or controlled in the protected area(s) on an on-going basis. Any chemical control to be used must be suitable for the purpose and for the environment in which it is to be used.</p> <p style="padding-left: 40px;">(ii) The applicant shall clearly and accurately provide a Planting Plan for the 1.4 ha wetland buffer area identified on the plan in Appendix 14AL: 'Scheduled Activity 213 and Restricted Activity 352'.</p> <p style="padding-left: 40px;">(iii) A stockproof fence as specified in one of clauses 6, 7 or 8 of the Second Schedule of the Fencing Act 1978 shall be constructed around the perimeter of the wetland and buffer to be protected. The fence shall</p>



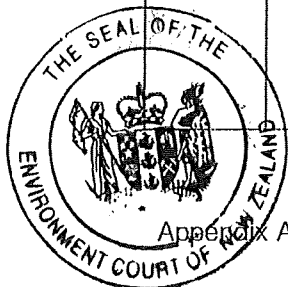
Activity Number	Details
	<p>be a minimum of 10 metres from the wet area (except where constrained by property boundaries). No gates shall be installed in the fence.</p> <p>(iv) <u>Completion Certificate Requirement</u></p> <p>All weed and pest control, planting and fencing required by (f) (i)–(iii) shall be completed prior to issuing the Section 224(c) certificate for the first rural residential site. For the purpose of this rule "control" means weed populations are reduced to a level whereby the landowner may remove re-infestations by using chemical or non-chemical control up to three times a year.</p> <p>(v) <u>Protection of Wetland and Buffer Area</u></p> <p>All conditions for protection of the wetland and buffer area shall be complied with on a continuing basis by the subdividing owners and all subsequent owners and shall be the subject of consent notices to be registered under the Land Transfer Act 1952.</p> <p>(vi) The wetland shall be protected in perpetuity through a covenant.</p> <p>(g) Prior to creation of any site under this rule, and in consultation with the Auckland Council, the Department of Conservation, the Environmental Defence Society, the Royal Forest & Bird Protection Society of NZ, and Te Uri o Hau, the applicant shall prepare for Council's approval a Shorebird Management Plan Comprehensive Site Management Plan ("CSMP") for the Scheduled Activity 213 area. In preparing the CSMP the applicant shall consult a Community Liaison Group established for Te Arai comprising Auckland Council, the Department of Conservation, the Environmental Defence Society, the Royal Forest & Bird Protection Society of NZ, Te Uri o Hau, Te Arai Beach Preservation Society, the Ornithological Society of New Zealand and New Zealand Fairy Tern Charitable Trust.</p> <p><u>The CSMP shall provide for management of the Scheduled Activity 213 area (with the exception of the reserve post vesting);</u></p> <p><u>The purpose of the CSMP is to manage the use and development of the rural residential sites and balance area to ensure, over the site as a whole, the protection and enhancement of archaeological, landscape and amenity</u></p>



Activity Number	Details
	<p><u>values, ecological values including indigenous biota, soil conservation and reinstatement of sustainable native cover having regard to biota habitat requirements. Any vegetation removal within the proposed reserve area shall be in accordance with the approved CSMP, or as otherwise required to comply with conditions of vesting of the proposed reserve.</u></p> <p><u>The CSMP shall include the following management plans below to achieve its purpose, and the CSMP and other management plans below shall take into account and be consistent with the management plans prepared in accordance with conditions of resource consents relating to the golf course:</u></p> <p>i) <u>A "Shorebird Management Plan" as detailed below consistent with the ecological management plan and conservation management plan required for the golf course under conditions of its resource consent.</u></p> <p>ii) <u>A "Vegetation Management Plan" as detailed below.</u></p> <p>iii) <u>A "Conservation Management Plan" that includes methods to protect and enhance ecological values consistent with the ecological management plan and conservation management plan required for the golf course under conditions of its resource consent and as detailed below.</u></p> <p>iv) <u>Methods to ensure that earthworks undertaken are appropriately managed and, where necessary planted in native species, to control erosion.</u></p> <p>v) <u>A plan for the management of earthworks to minimise and control sand, dust and sediment run-off from the works and ensure compliance with the Soil Conservation Covenant on the land under the Crown Forests Assets Act 1989.</u></p> <p>vi) <u>Methods to protect and manage archaeological sites during construction and thereafter, including accidental discovery</u></p>



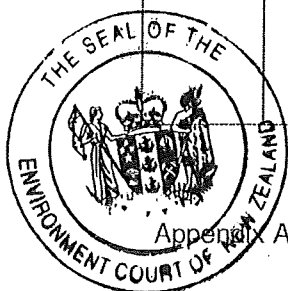
Activity Number	Details
	<p><u>protocols, and the protection of sites of significance to iwi.</u></p> <p><u>vii) Measures to manage that part of lot 3 adjoining the public access easement to ensure a rural and remote walking experience is maintained.</u></p> <p><u>viii) A Community Consultation Plan to provide for ongoing consultation with the Community Liaison Group on the use and management of the land in accordance with the CSMP.</u></p> <p><u>The CSMP shall contain the following information, in addition to any information required in the constituent plans below:</u></p> <p><u>i) Identify the areas of the site to be developed for rural residential, including a landscape and visual assessment of the effects on outstanding landscape values and rural character and amenity.</u></p> <p><u>ii) Identify the location of sites and associated building platforms, including geotechnical information demonstrating the stability of any proposed building site.</u></p> <p><u>iii) Identify the location of any archaeological sites.</u></p> <p><u>iv) Identify the areas of the site to be vegetated or managed to transition from pine to native cover, and how this will be achieved.</u></p> <p><u>v) Specify the proposed staging of the subdivision and associated vegetation management.</u></p> <p><u>vi) Detail the legal mechanisms for achieving the purpose of the CSMP.</u></p> <p><u>vii) Identify the location of any fencing, as required.</u></p> <p><u>The Shorebird Management Plan shall recognise the critically</u></p>



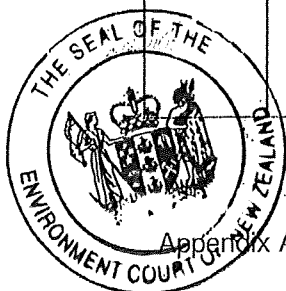
Activity Number	Details
	<p><u>endangered status of the New Zealand Fairy Tern/Tara Iti, and the endangered status of the Northern New Zealand Dotterel</u> and include the following methods to protect shorebirds:</p> <p>i) pest and predator control and monitoring, including establishment of buffer zones on the site to protect shorebird habitats;</p> <p>ii) management of people to avoid shorebird habitats, particularly during breeding;</p> <p>iii) management of earthworks and construction activities to avoid shorebird habitats, particularly during breeding;</p> <p>iv) management and protection of threatened plant species and associated shorebird habitat;</p> <p>v) mechanisms to ensure that the Shorebird Management Plan and its requirements are binding on and funded by future landowners;</p> <p>vi) conservation management including pest control, protection of shorebirds from disturbance and habitat restoration;</p> <p>vii) long term monitoring and reporting on shorebird habitat;</p> <p>viii) a full time equivalent conservation ranger shall be appointed and permanently employed by the future landowners to implement the Shorebird Management Plan;</p> <p>ix) The Shorebird Management Plan shall contain the following information:</p> <ul style="list-style-type: none"> • A review of current information on the status of all shorebird species in the area; • Survey methodologies to gather baseline information on species present, the size of populations and the state of



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	<p>their habitats;</p> <ul style="list-style-type: none"> • Identification of the threats to local shorebird populations; • Proposed methods for conservation management including pest control, protection from disturbance and habitat restoration; • Proposed methods for long term monitoring and reporting; • Details of how the conservation ranger and other costs will be funded; • Communication and public education plans. <p>x) The Shorebird Management Plan shall be submitted for approval to the Council's reserve administrator prior to subdivision. When the reserve is vested with the public body that will administer it, the Shorebird Management Plan may then be amended by that body's reserve administrator without the need to consult with the other parties.</p> <p><u>The Vegetation Management Plan shall include the following methods to manage vegetation on the land:</u></p> <p>i) <u>The maintenance of adequate vegetative screening or land form back-drop associated with any subdivision to protect or enhance the high landscape values of the area.</u></p> <p>ii) <u>Methods to ensure that the degree to which development associated with the subdivision would affect the natural landforms and vegetation cover that affects such character and values is minimised having regard to:</u></p> <ul style="list-style-type: none"> • <u>current levels of naturalness of the area in the Scheduled Activity and adjoining areas and the integrity of that part of the coastal environment; and</u> • <u>screening and integration potential afforded by natural landforms and existing vegetation.</u> <p>iii) <u>Revegetation of the area marked "Northern Boundary Planting" on the Reserve Plan in 'Appendix 14AL: Scheduled Activity 213 and Restricted Activity 352. Subject to obtaining agreement with the Department of</u></p>



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	<p><u>Conservation, the Northern Boundary shall be fenced and planted in accordance with Reserve Plan to achieve a 60m corridor that connects the foreshore reserve with the wetland. Such planting may be provided on either side of the boundary.</u></p> <p><u>iv) The staged removal of pine trees and their replacement with native vegetation in the areas identified below:</u></p> <ol style="list-style-type: none"> <u>1. The entire coastal section of the reserve, including the area of the reserve abutting the Te Arai stream up to a line 500 metres inland from and perpendicular to Mean High Water Springs;</u> <u>2. The riparian edge, being a 50m corridor to both sides of the Te Arai stream.</u> <p><u>The work shall be completed within five years of the vesting of the reserve.</u></p> <p><u>The Conservation Management Plan and ecological management component of such plan shall include the following methods to protect and enhance the ecological values of the Scheduled Activity 213 area:</u></p> <ol style="list-style-type: none"> <u>i) An assessment of ecological values, a detailed scheme of protection for habitats and species of ecological significance covering all of the land, including mitigation measures, a programme for implementing such measures and methods for monitoring the impacts of any works. In particular methods to protect and enhance the following areas:</u> <ul style="list-style-type: none"> <u>• The coastal dunes and beach on the site between the site and mean high water springs;</u> <u>• Marsden Road Wetland;</u> <u>• Harbour Road Wetland;</u> <u>• The boundary with the Mangawhai Wildlife Refuge; and</u> <u>• The Te Arai Stream Mouth</u> <u>ii) Methods to control invasive weed species and animal</u>



Activity Number	Details
	<p><u>pest control on in the site including methods to manage the use of pesticides.</u></p> <p><u>iii) The demarcation and protection of the areas of ecological value on the site.</u></p> <p><u>iv) Identification and protection of any nests of Threatened or At-Risk shorebirds.</u></p> <p>(h) Plants listed in the Auckland Regional Pest Management Strategy (including the research list) are not permitted in the development in private gardens or any amenity plantings.</p>
Matters for Discretion and Assessment Criteria	<p>The Council will have regard to the Matters for Discretion in section 7.15.1 and the Assessment Criteria in section 7.15.2 of Chapter 7 – Rural.</p> <p>In addition to the criteria in 7.15.2, the Council will also have regard to the following criteria:</p> <p><u>Additional Criteria for Subdivision at Te Arai</u></p> <p>(a) The adequacy of measures proposed such as covenants or consent notices to ensure that no further subdivision for creation of residential or rural residential sites lots or sites occurs in perpetuity.</p> <p>(ab) The adequacy of measures proposed to ban cats and dogs and other inappropriate domestic pets.</p> <p>(be) The adequacy of measures to protect shorebirds and threatened plant species, during earthworks and the construction period and thereafter.</p> <p>Where the measures in (a) – (be) are not provided, the subdivision will be considered to be inappropriate.</p> <p>(cd) Whether the subdivision maintains the special character and amenity described in the zone description for the Landscape Protection Rural Zone (7.8.3.3) including whether the subdivision will avoid adverse effects, including cumulative effects, on the rural character anticipated in the Landscape Protection Rural Zone.</p>



Activity Number	Details
	<p>(de) Whether the subdivision, including provision for access and utilities, would require extensive landform modification and whether the adverse effects on the landscape and amenity values of the particular area are avoided or appropriately mitigated. Where this is not achievable, the subdivision will be considered to be inappropriate.</p> <p>(ef) Whether the subdivision and site development, including provisions for access and utilities, uses the existing landform as a basis as far as is practicable so that adverse effects on the landscape and discharge of silt are avoided or appropriately mitigated.</p> <p>(fg) Whether the subdivision and associated works will have adverse effects on the natural quality of any waterbodies, including streams flowing to the sea and the sea itself.</p> <p>(gh) Whether the building platform/s identified in the subdivision allow for any house or structure to be built below the brow of any ridge or hill on which it would be sited so that the highest point of any building or structure is below the landform or any existing trees or bush screening the building site, when the site (or sites) is viewed from any public road or public land including any beach, the sea or regional park. Where this is not achievable, the building platform/s will be considered inappropriate.</p> <p>(hi) Whether the building platforms on the proposed site(s) would allow development that would adversely affect stands of mature native forest that can be seen from any public road or public land including any beach, the sea or reserve area. Where this occurs, the building platform/s will be considered inappropriate.</p> <p>(ij) Whether exterior lighting, including any street lighting, will be provided in such a way as to not be prominent, particularly against a dark background, when viewed from any public place including the coast, <u>and not adversely affect nesting shorebirds.</u></p> <p>(jk) Whether the subdivision protects or enhances the high landscape values of the area having regard to the local landscape's ability to absorb change in respect of other factors, including the nature and variability of local terrain, the extent and distribution of vegetation cover, and the</p>

