

DRAFT *The Applicant*

EVIDENCE WRC.

DEPARTMENT OF CONSERVATION

("DOC")

and

TOPIC PC 113

SUB# 26

DATE 20 Nov 2013.

WHANGAREI RACING CLUB (INC)

("WRC")

MEMORANDUM OF UNDERSTANDING

Prepared by:
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Amend A

THIS DOCUMENT is made this _____ day of _____ 2013

PARTIES:

BETWEEN **DEPARTMENT OF CONSERVATION** ("DOC")

A N D **WHANGAREI RACING CLUB (INC)** ("WRC")

BACKGROUND

- A. Whangarei Racing Club (Inc) ("WRC") is the registered proprietor of an estate in fee simple in that piece of land comprised and described in Certificate of Title NA80D/713 (hereinafter called "the WRC land").
- B. DEPARTMENT OF CONSERVATION ("DOC") is a Crown agency who owns adjoining property comprised in Certificate of Title (hereinafter called "the DOC land").
- C. WRC is proposing to have the WRC land made the subject of a plan change so as to permit a development of its land to include its current equine activities as well as residential developments of up to 350 separate units.
- D. DOC is authorised to enter into memorandums of understanding with private landowners for purposes of ensuring that developments conducted on the land of private landowners does not diminish the natural environment, or landscape amenity, or wildlife or fresh water life or marine life habitat or historical value of land owned by DOC.
- E. The WRC has agreed to enter into a Memorandum of Understanding with DOC for the purpose and intent of preserving the natural environment of the DOC land and all its associated characteristics to ensure that any adverse effects on the DOC land are suitably avoided or mitigated.
- F. In consideration of this Memorandum of Understanding, DOC agrees to

NOW THEREFORE WRC and DOC hereby agree to enter into a Memorandum of Understanding so as to achieve the objectives of both parties as set out in the preamble.

TERMS AND CONDITIONS

1. In this Document unless the context otherwise requires:
 - (a) a reference to a party is a reference to a party to this Document and includes that party's successors in title;
 - (b) schedules and annexures form part of this Document and have effect accordingly;
 - (c) words appearing in this Document which also appear in Schedule 1 mean and include the details appearing after them in that Schedule;
 - (d) a provision of this Document to be performed by two or more persons binds those persons jointly and severally;
 - (e) a reference to a person includes an individual, a body corporate, an association of persons (whether corporate or not), a trust, or an agency of State or of the Crown (in each case whether or not having separate legal personality);
 - (f) words in a singular number include the plural and vice versa;
 - (g) words importing a gender include all other genders;
 - (h) references to a statute or statutory provision, or order or regulation made under it, include that statute, provision, or regulation as amended, modified, re-enacted or replaced from time to time whether before or after the date of this Document;
 - (i) where DOC's consent or approval is expressly required under a provision of this Document, the WRC must seek the consent or approval of DOC for each separate occasion it is required notwithstanding that DOC has granted consent or approval for a like purpose on a prior occasion.

WHEREAS THE PARTIES AGREE:

2. WRC will construct an access ("the Access") at its sole cost over the DOC land to the beach through public conservation land for the use of the residents of the Subdivision and their invited guests ("the residents"). The residents shall have exclusive use of the Access situated on WRC land. The public shall have use of the Access situated on public conservation land.
3. DOC agrees to grant the Access, to be formalised by way of this Memorandum of Understanding.

4. WRC agrees to the following terms and conditions:

4.1 WRC agrees, if so requested by DOC, to:

- i. Fence the Access to a standard acceptable to DOC;
- ii. Construct on public conservation land a Wild Life viewing hide ("the hide") and extension of the Access leading to the hide. The hide and Access shall be constructed in accordance with building consents, requirements and specifications;
- iii. Erect suitable signs at all entry points to the access educating the public as to the importance of protecting the conservation aspects and natural characteristics of the DOC land as well as describing the ecological values and sensitivities of the DOC land, the signs will provide information on ecological systems and processes and the likely flora and fauna to be encountered in specific habitats. Signage will also include way-finding and explicitly state prohibited areas and activities within the development.

4.2 WRC agrees that in contemplating the design of the Access they shall have special regard to:

- i. The protection of breeding shorebirds and roosting waders
- ii. Dune re-vegetation programme
- iii. Predator control programme
- iv. Best practice design and construction of
 - (a) sand ladder;
 - (b) boardwalk; and
 - (c) track crossing of dune land area.

4.3 WRC agrees that any design for the Access along with the name of the contractor who will construct the Access is to be provided to DOC for their approval before any such construction may commence.

4.4 In addition and if so required by DOC, DOC agrees to appoint a DOC representative to manage the contract for construction of the part of the Access that is to be situated on public conservation land. The DOC representative shall be involved in all dealings and

It will be the responsibility of the contractor

shall have access to all communications and correspondence pertaining to the construction of the Access situated on public conservation land.

5. In order to construct the Access the Parties agree to establish and maintain a good working relationship. Any dispute concerning the subject matter of this Memorandum of Understanding shall be settled by full and frank discussion and negotiation between the Parties. Should the dispute not be resolved satisfactorily by these means, the Parties agree that they will engage in mediation conducted in accordance with the terms of the LEADR New Zealand Inc Standard Mediation Agreement.

COVENANTS

6. The WRC also covenants with DOC to:

- 6.1 Implement the weed and pest management requirements of the landscape management plan prepared in relation to the conservation areas such as detailed in the report entitled "Ecological Review of the Ruakaka Racecourse Plan Change" dated November 2012 prepared by Wildlands, a copy of which is attached hereto in Schedule 1.
- 6.2 Undertake restoration and/or enhancement and/or pruning of vegetation cover in the conservation areas should the need arise provided prior approval has been obtained from the Council's Park's Division.
- 6.3 Undertake by way of ensuring covenant(s) are placed on that land which is part of the residential development ensuring that such lands will be pet free, including domestic cats and dogs, or any other animal that may potentially endanger or disturb wildlife. Furthermore, signs will be placed at all appropriate places within the residential development explaining the reasons for the prohibition of dogs and the consequences for ignoring any covenant entered into with DOC.
- 6.4 Undertake by way of ensuring covenant(s) are placed on that land which is part of the residential development to ensure predator and pest controls within the area used for any residential development it being acknowledged that such controls will be undertaken by a licensed practitioner, aimed at controlling rats, hedgehogs, feral cats, mustelids and possums, with the costs and all things being

1 92 noted

met by the registered proprietors of the sections which form part of the residential development.

6.5 Undertake by way of ensuring covenant(s) are placed on that land which is part of the residential development to ensure every landowner on any title that arises out of any such development (excluding the WRC) shall pay the sum of \$50.00 per annum into a fund which shall be used solely in consultation with DOC for the purposes of preserving the natural characteristics of the DOC land. To that extent it is proposed that a public-private partnership be created between the landowners, DOC, the Whangarei District Council and Northland Regional Council. Furthermore, the covenant(s) will ensure that all purchasers of an allotment by virtue of sale and purchase contracts would become part of this residents association and therefore be cognisant of compulsory rules and practices.

6.6 Undertake by way of ensuring covenant(s) are placed on that land which is part of the residential development to ensure that a residents association will be established who will undertake the necessary measures to ensure the performance of the covenant(s) given as part of this Memorandum of Understanding including updating the Ruakaka community on conservation measures within the environs of the DOC land and energise the community around weed and pest controls, wildlife protection, and wildlife monitoring.

Signed this day of 2013

SIGNED by the Department of Conservation)
in the presence of:)

Witness

Signature:

Occupation:

Address:

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THE COMMON SEAL of WHANGAREI)
RACING CLUB INCORPORATED was)
hereunto affixed pursuant to a resolution of)
the committee in the presence of:)

_____ President

_____ Secretary