

## **Appendix 3**

# **RM05371 Decision and Environment Court Order**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under section 120 of the Act

BETWEEN SANDWAY DEVELOPMENTS LIMITED AND  
METCALF DEVELOPMENTS LIMITED

ENV-2007-AKL-000265

Appellant

AND

KAIPARA DISTRICT COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge L J Newhook sitting alone under section 279 of the Act

IN CHAMBERS at Auckland.

CONSENT ORDER

**Introduction**

1. The Court has read and considered the appeal and the joint memorandum of the parties dated 21 April 2008.
2. Mangawhai Historical Society Incorporated and Mangawhai Residents and Ratepayers Association have given notice of an intention to become parties under s274 and have signed the memorandum setting out the relief sought.

And

3. No other person has given notice of an intention to become a party under s274.
4. The Court is making this order under section 279(1)(b) of the Act by consent, rather than representing a decision or determination on the merits pursuant to section 297 of the Act.

The Court understands for present purposes that all parties in the proceedings:



- (a) have executed the memorandum requesting this order; and
- (b) are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction and conform to relevant requirements and objectives of the Act, including in particular Part II of the Act.

**Order**

5. Therefore the Court orders, by consent, that the resource consent granted by the Kaipara District Council on 14 February 2007 for the construction and operation of a service station, visitor accommodation and commercial/retail complex on a site at Molesworth Drive, Mangawhai, legally described as Lot 1, DP341981 and Lot 80 DP352077 is amended as set out in Annexure "A" to this order.
6. The appeal is otherwise dismissed.
7. There is no order as to costs.

**DATED** at Auckland this

6<sup>th</sup>

day of

May

2008



L J Newhook

Environment Judge



Annexure "A"

"(2) Before the commencement of the activity on the site, the following conditions shall be complied with:

...  
(b) All easements (or similar legal mechanisms) shall be put in place to enable the two lots comprising the site to operate independently, particularly in terms of access, parking, effluent and storm water disposal. The titles contained within the development site shall be amalgamated. Confirmation shall be provided to Council or its duly delegated officer that this requirement has been undertaken.

...  
**Roading, Access and Parking**

(p) Engineering plans, specifications and calculations relating to the formation of all roading works associated with the development including crossings shall be prepared in accordance with Council's Draft Kaipara District Council Code of Practice for Land Subdivision and Development Year 2000 and submitted to Council for approval and approved before the construction of these works commences.

The plans, specifications and calculations shall specifically address the following matters:

- i. Access geometry including longitudinal gradients and cross-falls
- ii. Parking and manoeuvring areas
- iii. Pavement design ~~to provide for a 25 year pavement life~~
- iv. Surfacing
- v. Drainage facilities
- vi. Detailed design of any necessary retaining structures or cut and fill batters

...  
(q) Specifications shall include full details of all testing and quality standards to the approval of Council and shall provide for a 12-month defects liability period. All design shall be certified as meeting the specified standards by a suitably qualified and experienced engineer to the approval of Council. The design shall provide for the following specific requirements:

i. All internal roading works and parking areas shall be constructed in general accordance with the details submitted in support of the application and in accordance with the Draft Kaipara District Council Engineering Code of Practice for Land Subdivision and Development Year 2000.

~~ii. All road intersections, including the Estuary Drive / Molesworth Drive intersection and all accesses from the development onto Estuary Drive shall be designed in accordance with "AUSTROADS Guide to Traffic Engineering Practice Part 5: Intersections at Grade", including provision of road marking, signage street lighting and auxiliary turning bays as necessary.~~

iii. The Estuary Drive entrance shall be upgraded from the intersection of Norfolk Drive to the intersection with Molesworth Drive in accordance with the following specific requirements and in general accordance with the Draft Kaipara District Council Engineering Code of Practice for Land Subdivision and Development Year 2000, the Transit New Zealand Manual of Traffic Signs and Markings (MOTSAM) and "AUSTROADS Guide to Traffic Engineering Practice Part 5: Intersections at Grade":



- Minimum carriageway width shall be ~~11.08.0~~ 11.08.0 m
- The entrance shall be formed as for a local street in accordance with the Transit New Zealand Manual of Traffic Signs and Markings Figure 3.12(b) with 10 m radius curves.
- Pavement to be reconstructed as necessary to provide appropriate shape and to provide for a 25 year life for the entire pavement.
- All necessary service relocations shall be undertaken.
- All necessary demolition and removal of existing kerb and channel and footpath as necessary to accommodate the increased carriageway width.
- Kerb and channel or flush concrete edge strips and grassed swale drains shall be provided on ~~both sides~~ the edge of the carriageway where the new pavement layout coincides with Council's long term layout for the road. At other edges, appropriate temporary edge treatments shall be provided to the satisfaction of Council Engineers.
- ~~1.8 m wide concrete footpath shall be provided on application site side of the road~~
- Street lighting to be provided in accordance with the Draft Kaipara District Council Engineering Code of Practice for Land Subdivision and Development Year 2000
- Appropriate stormwater drainage facilities to be provided.

iv.iii. The Molesworth Drive entrance shall be upgraded in accordance with the following specific requirements and in general accordance with the Draft Kaipara District Council Engineering Code of Practice for Land Subdivision and Development Year 2000, and the Transit New Zealand Manual of Traffic Signs and Markings (MOTSAM) and "AUSTROADS Guide to Traffic Engineering Practice Part 5 : Intersections at Grade":

- ~~Minimum carriageway width shall be 11.0 m between Estuary Drive and Seabreeze Road with entry taper, stacking bay and exit taper in accordance with MOTSAM beyond;~~
- ~~Right turn bays shall be provided at the intersections of Estuary Drive, the Service Station entrance and Seabreeze Road with flush median 3.0m wide between right turn bays~~
- ~~A left turn bay~~ Left and right turn bays shall be provided at the Service Station entrance
- Turning bays and tapers shall be designed for 70km/h design speed,
- Pavement to be reconstructed as necessary to provide appropriate shape and to provide for a 25 year life for the entire pavement.
- All necessary service relocations shall be undertaken.
- All necessary earthworks as necessary to accommodate the increased carriageway width
- Kerb and channel or concrete edge strip shall be provided on ~~both sides as appropriate~~ the edge of the carriageway where the new pavement layout coincides with Council's long term layout for the road. At other edges, appropriate temporary edge treatments shall be provided to the satisfaction of Council Engineers.
- 1.8 m wide concrete footpath shall be provided on the application site side of the existing Norfolk pine trees ~~the road~~ from Estuary Drive to Seabreeze Road
- Street lighting to be provided in accordance with the Draft Kaipara District Council Engineering Code of Practice for Land Subdivision and Development Year 2000
- Appropriate stormwater drainage facilities to be provided.



- iv. The Seabreeze Road entrance shall be upgraded from 30m east of the crossing centreline to the Molesworth Drive intersection, in accordance with the following specific requirements and in general accordance with the Draft Kaipara District Council Engineering Code of Practice for Land Subdivision and Development Year 2000, the Transit New Zealand Manual of Traffic Signs and Markings (MOTSAM) and "AUSTROADS Guide to Traffic Engineering Practice Part 5 : Intersections at Grade":

- Minimum carriageway width shall be 8.0m
- The entrance shall be formed as for a local street in accordance with the Transit New Zealand Manual of Traffic Signs and Markings Figure 3.12(b) with 6 m radius curves.
- Pavement to be reconstructed as necessary to provide appropriate shape and to provide for a 25 year life for the entire pavement.
- All necessary service relocations shall be undertaken.
- All necessary demolition and removal of existing kerb and channel and footpath as necessary to accommodate the increased carriageway width.
- Flush concrete edge strips and grassed swale drains shall be provided on both sides
- Street lighting to be provided in accordance with the Draft Kaipara District Council Engineering Code of Practice for Land Subdivision and Development Year 2000
- Appropriate stormwater drainage facilities to be provided.

...

- (t) As Built Plans and RAMM datasheets shall be provided for all works associated with upgrading of Estuary Drive, Molesworth Drive and Seabreeze Road, in accordance with Council's Draft Code of Practice for Land Subdivision and Development Year 2000.
- (u) The consent holder shall maintain all works associated with upgrading of Estuary Drive, and Molesworth Drive and Seabreeze Road until:
- i. At least 12 months from the date of Practical Completion of the works; and
  - ii. Until the works are accepted as being of a suitable standard to be taken over by Council.

For the purposes of this Condition, Practical Completion shall be as defined in NZS 3910:2003.

...

#### Landscape and Visual Mitigation

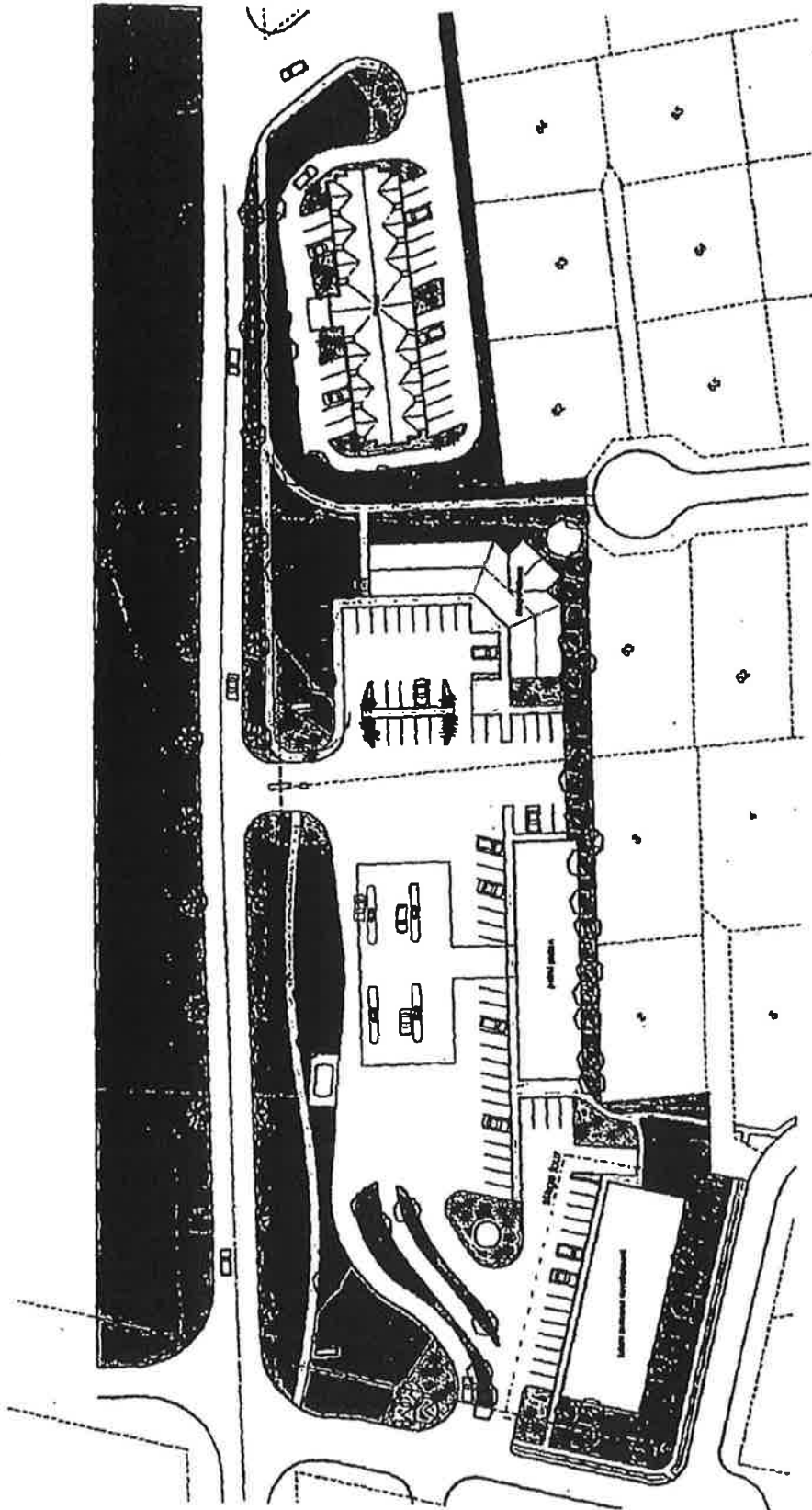
- (ff) A detailed Landscape Plan, including an implementation, staging and maintenance programme shall be submitted to the satisfaction of Council or its duly delegated officer. The Landscape Plan shall be consistent with the "Landscape Concept Plan Option B" prepared by Thresher Associates and shown in drawing P444/LCO3, and shall include the species specified in the document titled "Molesworth Drive Coastal Planting Suggestions" prepared by Thresher Associates and dated November 2007. The Landscape Plan submitted in support of the application by "Thresher Associates" and shall include the following:



- i Details of the plant sizes (grades) at the time of planting and intended species. Any plants referred to as "tall screen planting" in the "Landscape Concept Plan Option B" prepared by Thresher Associates referred to above shall be at least 1 metre in height at the time of planting;
- ii Details of the plant locations/extent, density (plant spacing) and total numbers; Appropriate measures to assist in screening the site from Molesworth Drive and Estuary Drive. (Note: The height of any screen planting shall be at least 2 metres at the time of planting);
- iii Details of replacement procedures in the instance where species die or are damaged.  
Note: As much planting as practicable, including planting adjacent to Molesworth Drive shall be implemented in Stage 1. The amount of planting required shall be at the discretion of Council or its duly delegated officer.

...  
3(i) That in accordance with Section 1235 of the Resource Management Act the consent for Stages 1 and 2 [Service Station, Retail and Professional Offices and Motel] of the development shall be given effect to within for a period of five years and the consent for Stage 3 [Future Services Businesses and Vehicle and Boat washing and grooming ] shall be given effect to within for a period of ten years.  
..."





Secondary Development  
 Land Use  
 Management  
 Plan  
 Option 2

Building  
 Footprint  
 Parking  
 Area

Landscaping  
 (Trees)  
 Landscaping  
 (Grass)

Landscaping  
 (Shrubbery)  
 Landscaping  
 (Other)

Other  
 Features

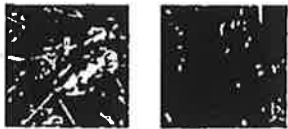




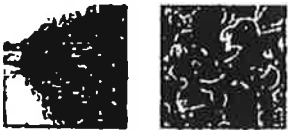
Molesworth Drive  
Coastal Planting suggestions  
November 2007  
P444



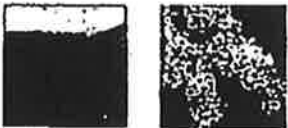
**Coprosma repens - taupata, mirror plant**  
A tough, wind hardy coastal plant with shiny green foliage. *C. repens* trims and shapes well to any size. Height 3-4m and spread of 2.5m.  
Range of *Coprosma* cultivars available.



**Dodonaea viscosa - akeake**  
A popular native used for wind break hedging, grows well in a coastal environment and is fast growing. Height 3-5m by spread of 1m.  
*Dodonaea viscosa* 'Purpurea' is a cultivar with purple foliage.



**Griselinia littoralis - broadleaf, kapuka**  
Broadleaf is an attractive dense bushy shrub with glossy deep green leaves. It will grow in a wide range of conditions and is especially good for shelter planting, hedging and coastal situations. Height 4m and spread of 1.5m.



**Kunzea ericoides - kanuka**  
A very hardy native tree with attractive white flowers; tolerating drought, frosts and poor soils. Great for coastal planting. Will reach a height of about 5-6m and spread of 4m.  
Range of kanuka cultivars available.



**Olearia paniculata - akiraho**  
A fast growing native hedging plant that grows well in coastal conditions, especially in sandy soils as it requires good drainage. Height 2-4m by spread of 2m.

**Soil Preparation**

It is important for light or sandy soil to add plenty of compost, mulch and organic material to the soil before planting. Dig the planting hole twice the width and depth of the root ball. Add Blood & Bone or Butlers Sheep Manure Pellets to the planting hole and mix in well.  
For plants to thrive in coastal situations, mulching is very important. Mulch in late winter / early spring and again in mid summer with compost, bark or other organic matter. Mulching will help keep weeds down, retains soil moisture and improves the soil structure.

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In the Matter of:      *the Resource Management Act 1991*

And

In the Matter of:      *an application under Section 88 of the  
Resource Management Act 1991 made by  
Sandways Developments / Metcalf  
Developments Limited*

File Reference:      *RM050271*

### **Summary of Evidence and Findings**

*The Hearings Committee convened to hear the application by Sandways Developments / Metcalf Developments Limited to construct and operate a service station, visitor accommodation [motel] and a commercial and retail complex on the subject site.*

**Present:**                      **Judicial Committee**

*Cr. Graham Taylor (Chairman)*

*Cr. Richard Alspach*

*Cr. Tom Smith*

*Cr. David Underwood*

**Applicant:**                      *Sandway Developments / Metcalf Developments Limited*

*Bill Naish (Sandway / Metcalf Developments Limited)*

*Russell Maloney (Sandway / Metcalf Developments Limited)*

*Andrew Cumming and Russell Mortimer (Resource Management & Assessment)*

*Will Thresher (Landscape Architect)*

*Phillip Cook, Graham Samson, and Shaun Kelly (Engineers)*

*Chick Wilson (Kauriland Petroleum Ltd)*

**Submitters:**                      *Mangawai Residents and Ratepayers Association (MRRRA) represented by  
Mr John Dickie and Mrs Helen Curreen,*

*Mrs Alison Cox*

*Ms Martina Tschirky-Constram.*

**In Attendance:**                      *Mark Vincent, Regulatory Manager*

*Kellie Røland, Consultant Planner*

*Jeff Kemp, Consultant Planner*

*Andrew Green Legal Counsel*

*Michael Winch, Consultant Engineer*

### **The Application**

*Sandways Developments / Metcalf Developments Limited has made applications pursuant to the Resource Management Act 1991 to construct and operate a service station, visitor accommodation [motel] and a commercial and retail complex on the subject site. Resource Consent is required pursuant to Rule 3.5.4 and Rule 13.2.7 of the Kaipara District Plan.*

*Stage 1 of the proposal involves the construction of a service station. Consent is sought to construct a service station consisting of a drive-through, canopy covered refuelling forecourt with 4 pump islands allowing up to 6 fill positions, including truck or boat trailer.*

*Adjoining the forecourt will be a building that will provide for sales of fuel, automotive goods and convenience goods, office and storage space as well as a small café and washroom facilities. It will only operate between the hours of 6.00am and 10.00pm seven days a week. The service station will provide facilities for washing and cleaning cars and boats and a campervan station. There will be no workshop facilities.*

*Stage 2 of the proposal involves the construction of a motel with 20 visitor accommodation units and associated facilities operating seven days a week and open all hours, which include a manager's unit, office, laundry and kitchen. Part of stage 2 is also the construction of an additional building which will provide ground floor retail space with upstairs office space. These facilities will only operate between 8.00am and 5.00pm Monday to Saturday.*

*An additional building is proposed for commercial services in Stage 3 which will also operate between 8.00am and 5.00pm Monday to Saturday. This building will occupy the area that currently houses the package sewage treatment plant servicing the adjoining residential area. The implementation of Stage 3 depends on the establishment of the Mangawhai EcoCare sewerage scheme, connection to the scheme by residential properties and the decommissioning and removal of the package plant. Vehicle washing and grooming facilities will also be constructed at Stage 3 in the area currently housing the sewerage treatment plant.*

### **Submissions Received**

*The application was notified under full public notification on the 20 May 2006. Eleven submissions were received from the following parties. All opposed the application except the Northland Regional Council which neither supported nor opposed the proposal.*

- *Mangawhai Residents and Ratepayers Association*
- *Alison Cox*
- *L & KS Weber*
- *JW Burton*
- *JEL Burton*
- *RMM Trust*

- *Pacific Family Trust.*
- *National Trading Company*
- *Matthew Morley*
- *Martina Tschirky-Constram*
- *Northland Regional Council*

*The submissions received raised the following issues:*

- *Relocation of service station from Wood Street;*
- *Site Management including: Stormwater; Wastewater; Water supply; Noise; Lighting and Design;*
- *Traffic Management;*
- *Tourism;*
- *District Plan provisions;*
- *Resource Management Act considerations;*
- *Plan Change process;*
- *Strategic Issues – Precedent effect and Mangawhai Structure Plan*

#### **Relevant Statutory Provisions Considered**

*The Committee agreed with the Council Planners recommendation that the application should be considered as a Non-Complying Activity and was assessed in terms of Sections 104, 104B, 104D and Part II of the Resource Management Act 1991.*

#### **Other Relevant Provisions Considered**

*Mangawhai Structure Plan*

#### **Principal Issues**

- *Relocation of service station from Wood Street;*
- *Site Management including: Stormwater; Wastewater; Water supply; Noise; Lighting and Design;*
- *Roading Issues*

#### **Preliminary Matters**

*As preliminary matters, Mr Jeff Kemp, Council's planner sought to bring his pre-circulated report up to date by deleting several sections of the assessment, and replacing them with sections which he circulated. Because of this, and other associated reports from the applicant which appeared not to have been circulated to all parties beforehand, an adjournment was sought. In discussion with the submitters present, the Chairman agreed to allow an extended lunch adjournment to enable them to properly consider this more recent information.*

#### **Applicant's Evidence**

*The Applicant companies, represented by Russell Maloney and Bill Naish, attended the Hearing in support of their application, along with their Agents, Andrew Cumming and Russell Mortimer. Written evidence was provided to the Committee by Mr Cumming, with comments made on the recommended conditions of consent.*

*Mr Thresher provided written evidence to the committee, focussed on landscape and visual effects of the proposal. Mr Thresher provided clarification with respect to the overall layout and amendments to the original site layout (as discussed at the pre-Hearing meeting).*

*Mr Cook also provided written evidence to the Committee, which focused on water supply for fire fighting, traffic impacts, foundation conditions of the site, and wastewater disposal.*

*Once Mr Cumming had completed his evidence, Mr Wilson gave a brief statement in support of the proposal. After a brief adjournment, Mr Cumming tabled evidence on stormwater issues prepared by Mr Kelly.*

### **Submitters**

*Mr Dickie circulated a prepared statement which he read out, then added his comments in relation to the additional information supplied from the applicants relating to landscape effects, and from Council's engineers raising issues about traffic effects.*

*Ms Curren spoke briefly, once the Chairman had clarified that the scope of her comments needed to be restricted to support of the MRRA submission, rather than simply in support of a separate submission by the Historical Society.*

*Mrs Cox next spoke in support of her submission by reading out a prepared statement which she circulated to members.*

*Ms Martina Tschirky-Constram then spoke in support of her submission.*

### **Findings**

*The Committee agreed in general with the Council Planner's report and recommended conditions of consent, subject to minor amendments. The Committee agreed that the site was suitable for the intended purpose and agreed that the recommended conditions of consent would address any potential adverse effects that might arise as a result of the proposal.*

### **Resolution**

- (a) *Pursuant to the provisions of Section 104, 104B, 104D and 108 of the Resource Management Act 1991, the Kaipara District Council grants resource consent (Landuse) to Sandways Developments Limited and Metcalf Developments Limited to establish and operate - a service station, visitor accommodation (motel) and a commercial and retail complex on the applicants properties adjoining Molesworth Drive, Mangawhai being legally described as Lot 80 DP 352077 and Lot 1 DP 341981, in accordance with the information lodged with the application and further information provided, subject to the following conditions:*

**(1) The activity shall be established in general accordance with**

- (a) *The application prepared by Resource Management and Assessment Limited, dated 31 October 2005 submitted in support of the application.*
- (b) *The further information received by Kaipara District Council dated 6 April 2006, 2 November 2006 and 28 September 2006 - Landscape and Visual Assessment.*
- (c) *The amended site layout plan, floor and elevation plan, titled "Sandway Developments / Metcalf Developments, Molesworth Drive, Mangawhai - Landscape Concept Plan Option B , dwg P444/LCO3 ; Cross Sections dwg P444/LCO6 ; Street Elevations dwg P444/LCO4 and dwg P444/LCO5 prepared by Thresher Associates, dated 28/09/06 and received by Council on 28 September 2006.*
- (d) *The further information tabled at the Hearing*

**(2) Before the commencement of the activity on the site, the following conditions shall be complied with:**

- (a) *The Consent Holder shall advise the Council or its duly delegated officer in writing 10 days prior to the commencement of any works on the site.*
- (b) *The Titles contained within the development site shall be amalgamated. Confirmation shall be provided to Council or its duly delegated officer that this requirement has been undertaken.*
- (c) *The area between Molesworth Drive and the eastern side of the footpath shall be vested with Council.*
- (d) *The Consent Holder shall provide written confirmation to Council or its duly delegated officer that all Northland Regional Council requirements have been met prior to giving effect to this consent.*
- (e) *Prior to commencement of construction, a Construction Management Plan shall be prepared and submitted to Council for approval and approved. The Construction Management Plan shall include:*
  - i. *Details of the site manager including full contact details;*
  - ii. *Construction methodology including proposed plant and machinery to be utilised;*
  - iii. *Programme of works;*
  - iv. *Proposed hours of work on the site;*
  - v. *A detailed dust mitigation plan detailing:*
    - *Maximum wind velocities during which earthworks can be undertaken*
    - *Watering requirements*
    - *Utilisation of sand fences*
    - *Utilisation of surface membranes*
    - *Monitoring and reporting requirements*
  - vi. *A detailed sedimentation control plan in general accordance with the details submitted with the application, subject to any specific requirements of the Northland Regional Council.*
  - vii. *Details of the number and timing of truck movements on the access route to the site;*
  - viii. *Details of any proposed materials storage areas;*
  - ix. *Traffic management plans;*
  - x. *Proposed communications strategy to advise members of the public of the construction works.*

- (f) *Prior to commencement of any construction work on site, the consent holder shall enter into a bond in a form to the approval of Council guaranteeing that, in the event of damage to existing Council assets or abandonment of the work by the consent holder, all existing Council assets will be returned to a condition at least equal to that which existed prior to commencement of work. The bond shall be for the sum of \$50,000 and shall remain in full force and effect until such time as all work has been completed and any necessary remedial work completed to the satisfaction of Council or the bond entered into below.*
- (g) *Prior to commencement of operation of the development, the consent holder shall enter into a bond in a form to the approval of Council guaranteeing that any defects in works to be taken over by Council will be remedied to the satisfaction of Council. The value of the bond shall be 100% of the total cost of the following works based on actual construction costs:*
- i. All road upgrading works on Estuary Drive and Molesworth Drive.*
  - ii. All stormwater drainage works associated with stormwater pipelines 300mm diameter and larger.*
- The bond shall remain in force for at least one year after completion of the works and until any defects have been remedied to the satisfaction of Council.*
- (h) *Prior to commencement of construction, the consent holder shall provide written verification that the consent holder's engineer responsible for design and supervision of the engineering works holds professional indemnity insurance to the value of \$1,000,000.00.*
- (i) *Prior to commencement of construction, the consent holder shall provide written verification that the person responsible for carrying out construction work holds public liability insurance to the value of \$1,000,000.00.*
- (j) *The consent holder shall ensure that the works are satisfactorily set out and that all works are constructed in the location indicated on the approved construction drawings.*

#### **Earthworks**

- (k) *Prior to commencement of any earthworks on the site, a full geotechnical investigation report and detailed engineering plans shall be prepared describing the volumes, locations, cuts and fills of the earthworks proposed, and any remedial measures including drainage works to be undertaken to avoid adverse effects. The report and plans shall specifically identify the location and extent of any areas of peat or other organic or soft material and detail what measures will be taken to ensure that the site is suitable for development in those areas and that any adverse effects resulting from the draining or removal of those areas are avoided. The report and engineering drawings shall be submitted to Council for approval and approved prior to any earthworks commencing on the site.*
- (l) *All earthworks shall be carried out in accordance with:*
- i. The Construction Management Plan approved above*
  - ii. The report and engineering drawings approved above*
- (m) *All earthworks and construction works shall be prohibited during public holidays and outside the hours of 7.00am to 6.00pm, Monday to Saturday.*

- (n) *All bare areas of land created by the earthworks (excluding roads, parking and building areas) shall be topsoiled and established with suitable vegetation immediately following earthworks, to achieve an 80% ground cover by the 31 October following completion of the earthworks.*
- (o) *On completion of the works, written certification from a competent Engineer to the approval of Council shall be provided to the Council that all completed earthworks have been adequately supervised during construction and comply with the appropriate construction standards.*

***Roading, Access and Parking.***

- (p) *Engineering plans, specifications and calculations relating to the formation of all roading works associated with the development including crossings shall be prepared in accordance with Council's Draft Code of Practice for Land Subdivision and Development Year 2000 and submitted to Council for approval and approved before the construction of these works commences. The plans, specifications and calculations shall specifically address the following matters:*
- i. Access geometry including longitudinal gradients and cross-falls*
  - ii. Parking and manoeuvring areas*
  - iii. Pavement design to provide for a 25 year pavement life*
  - iv. Surfacing*
  - v. Drainage facilities*
  - vi. Detailed design of any necessary retaining structures or cut and fill batters*
- (q) *Specifications shall include full details of all testing and quality standards to the approval of Council and shall provide for a 12-month defects liability period. All design shall be certified as meeting the specified standards by a suitably qualified and experienced engineer to the approval of Council. The design shall provide for the following specific requirements:*
- i. All internal roading works and parking areas shall be constructed in general accordance with the details submitted in support of the application and in accordance with the Draft Kaipara District Council Engineering Code of Practice for Land Subdivision and Development Year 2000.*
  - ii. All road intersections, including the Estuary Drive / Molesworth Drive intersection and all accesses from the development onto Estuary Drive shall be designed in accordance with "AUSTROADS Guide to Traffic Engineering Practice Part 5 : Intersections at Grade", including provision of road marking, signage street lighting and auxiliary turning bays as necessary.*
  - iii. Estuary Drive shall be upgraded from the intersection of Norfolk Drive to the intersection with Molesworth Drive in accordance with the following specific requirements and in general accordance with the Draft Kaipara District Council Engineering Code of Practice for Land Subdivision and Development Year 2000:*
    - Minimum carriageway width shall be 11.0 m*
    - Pavement to be reconstructed as necessary to provide appropriate shape and to provide for a 25 year life for the entire pavement.*
    - All necessary service relocations shall be undertaken.*
    - All necessary demolition and removal of existing kerb and channel and footpath as necessary to accommodate the increased carriageway width.*



- *Kerb and channel shall be provided on both sides*
  - *1.8 m wide concrete footpath shall be provided on application site side of the road*
  - *Street lighting to be provided in accordance with the Draft Kaipara District Council Engineering Code of Practice for Land Subdivision and Development Year 2000*
  - *Appropriate stormwater drainage facilities to be provided.*
- iv. *Molesworth Drive shall be upgraded in accordance with the following specific requirements and in general accordance with the Draft Kaipara District Council Engineering Code of Practice for Land Subdivision and Development Year 2000 and the Transit New Zealand Manual of Traffic Signs and Markings (MOTSAM):*
- *Minimum carriageway width shall be 11.0 m between Estuary Drive and Seabreeze Road with entry taper, stacking bay and exit taper in accordance with MOTSAM beyond,*
  - *Right turn bays shall be provided at the intersections of Estuary Drive, the Service Station entrance and Seabreeze Road with flush median 3.0m wide between right turn bays*
  - *A left turn bay shall be provided at the Service Station entrance*
  - *Turning bays and tapers shall be designed for 70km/h design speed,*
  - *Pavement to be reconstructed as necessary to provide appropriate shape and to provide for a 25 year life for the entire pavement.*
  - *All necessary service relocations shall be undertaken.*
  - *All necessary earthworks as necessary to accommodate the increased carriageway width*
  - *Kerb and channel or concrete edge strip shall be provided on both sides as appropriate*
  - *1.8 m wide concrete footpath shall be provided on application site side of the road from Estuary Drive to Seabreeze Road*
  - *Street lighting to be provided Draft Kaipara District Council Engineering Code of Practice for Land Subdivision and Development Year 2000*
  - *Appropriate stormwater drainage facilities to be provided.*
- (r) *All roading works shall be constructed in accordance with the designs approved in accordance with the requirements above*
- (s) *The consent holder shall ensure adequate construction monitoring of all roading construction works. This shall include as a minimum:*
- i. *Detailed day-to-day supervision and certification upon completion as complying with the required standards by the consent holder's engineer.*
  - ii. *Provision of the consent holder's engineer's site visit records.*
  - iii. *Provision of minutes of consent holder's engineer's meetings with the contractor.*
  - iv. *Provision of all contractors' quality control documentation to council's engineers for approval.*
  - v. *Council's engineers undertaking suitable inspections during construction at key hold-points to enable them to confirm that the certification provided by the consent holder's engineer matches the design submitted. As a minimum, hold points shall include:*
    - *Inspection and approval of subgrade, including review of subgrade testing*
    - *Approval of aggregate test results, prior to placement of the aggregate*
    - *Inspection and approval of compacted basecourse prior to sealing*

- *No work shall proceed beyond the above hold points until specifically approved by Council's engineers.*
- vi. *Falling Weight Deflectometer testing of the final pavement 3 months prior to the expiry of the 12-month defects liability period demonstrating a residual pavement life of at least 25 years.*
- vii. *In addition to quality control testing undertaken by the contractor and by the consent holder's Engineer, Council's Engineers will undertake random verification testing of materials and construction standards throughout the construction period.*

*The consent holder's engineer shall be a suitably qualified competent engineer with recent and ongoing experience in urban road design and construction to the specific approval of Council.*

- (t) *As Built Plans and RAMM datasheets shall be provided for all works associated with upgrading of Estuary Drive Molesworth Drive, in accordance with Council's Draft Code of Practice for Land Subdivision and Development Year 2000.*
- (u) *The consent holder shall maintain all works associated with upgrading of Estuary Drive and Molesworth Drive until:*
- i. *At least 12 months from the date of Practical Completion of the works; and*
  - ii. *Until the works are accepted as being of a suitable standard to be taken over by Council.*
- For the purposes of this Condition, Practical Completion shall be as defined in NZS 3910:2003.*

#### **Wastewater**

- (v) *Engineering calculations, plans and specifications shall be prepared and submitted to Council for approval for the proposed private wastewater treatment and disposal system to serve the development in accordance with the information submitted in support of the application and any associated Northland Regional Council approval. The design shall be prepared and certified by an appropriately qualified competent Engineer experienced in the design of urban wastewater reticulation, treatment and disposal. Pipeline sizes, gradients and maintenance access points shall generally be in accordance with NZS4404:2004.*
- (w) *The communal wastewater effluent disposal system serving the development shall be constructed, managed and maintained in accordance with the design approved in accordance with the above requirements.*
- (x) *The consent holder shall ensure adequate construction monitoring of all wastewater construction works. This shall include as a minimum:*
- i. *Detailed day to day supervision and certification upon completion as complying with the required standards by the consent holder's engineer.*
  - ii. *Provision of the consent holder's engineer's site visit records.*
  - iii. *Provision of minutes of consent holder's engineer's meetings with the contractor.*
  - iv. *Provision of all contractors' quality control documentation to council's engineers for approval.*
- As a minimum, quality assurance documentation shall include:*
- *Pressure test results*
  - *Video inspection records of all completed pipelines*
- All pipeline tests shall be witnessed by Council's engineers.*

- v. Council's engineers undertaking suitable inspections during construction at key hold-points to enable them to confirm that the certification provided by the consent holder's engineer matches the design submitted.
- vi. In addition to quality control testing undertaken by the contractor and by the consent holder's engineer, Council's engineers will undertake random verification testing of materials and construction standards throughout the construction period.

The consent holder's Engineer shall be a suitably qualified competent engineer with recent and ongoing experience in drainage construction works to the specific approval of Council.

(y) 'As-built' plans shall be provided for the works to be constructed in accordance with the above.

The 'As-built' plans shall include the following information and shall be provided in hard copy and electronic format.

- i. Details of all pipe materials, diameters and classes (to be shown on face of plan).
- ii. Locations of all maintenance shafts, junctions and connections by measurement from adjacent boundaries (to be shown on face of plan).
- iii. Coordinates of all maintenance shafts, junctions and connections (to be shown on face of plan or in tabular format)
- iv. Ground level and invert levels of all pipelines at maintenance shafts, junctions and connections in terms of Mean Sea Level (to be shown on face of plan or in tabular format)
- v. Gradients of all pipelines (to be shown on face of plan or in tabular format)

#### **Stormwater**

(z) A design for a stormwater control system to serve the development shall be prepared and submitted to Council for approval. The design shall be undertaken by an appropriately qualified engineer experienced in urban stormwater drainage, and take into account the information provided at the hearing by the applicant.

(aa) The design of the stormwater control system shall:

- i. Ensure compliance with Permitted Activity Rule 21.1.2 of the Regional Water and Soil Plan for Northland and any resource consents granted by the Northland Regional Council.
- ii. Take into consideration the principles of Auckland Regional Council TP124 Low Impact Design Manual for the Auckland Region.
- iii. Take into consideration the Draft Mangawhai Catchment Management Plan: October 2006 in respect of catchment boundaries, overland flow paths, design rainfall intensities and stormwater system design.
- iv. Take into consideration the requirements of Section 9 of the Draft Kaipara District Council Code of Practice for Land Subdivision and Development Year 2000, particularly the provisions relating to average recurrence interval standards and runoff coefficients.
- v. Identify existing and post-development drainage paths and soil conditions.
- vi. Ensure through the provision of appropriate stormwater disposal and detention systems that the post-development stormwater flows onto adjoining properties are no greater than pre-development flows for all storms of up to and including the 100 year ARI event.
- vii. Provide for all stormwater from the site to discharge to the proposed stormwater detention tanks and on site treatment systems via a piped stormwater system and overland flow paths. The proposed stormwater detention and treatment devices shall be designed to attenuate

*peak flows and provide long term water treatment in accordance with Auckland Regional Council TP10 'Stormwater Treatment Devices'.*

- viii. *Detail appropriate management and maintenance regimes to ensure that the stormwater detention and treatment devices continue to operate as designed.*
- ix. *Determine appropriate pipe sizes for the piping of primary flow paths.*
- x. *Identify the extent of secondary flow paths and associated flooding areas for the 100 year ARI flood.*
- xi. *Identify the need for any easements to enable the discharge of stormwater flows via pipelines or overland flow paths across the development. The nature and extent of proposed easements shall be specifically identified.*
- xii. *Identify the need for any restrictive covenants or easements to be imposed on any areas of land affected by secondary flow paths or flooding and recommend the extent and nature of any such restrictive covenants or easements, having regard to the requirements of the Kaipara District Council Draft Engineering Code of Practice for Land Subdivision and Development Year 2000.*
- xiii. *Identify minimum floor levels for building sites on each lot being at least 300 mm above any identified flood levels.*

*The design shall be supported by full design calculations, drawings and construction specifications for construction, management and maintenance for all recommended works. Specifications shall include full details of all testing and quality standards to the approval of Council. All designs shall be certified as meeting the specified standards by a suitably qualified competent engineer to the approval of Council.*

*(bb) Provision shall be made for the on-site treatment of wash-down water generated by the on-site car wash facility. The system shall be designed by a suitably qualified engineer and may be incorporated into the overall stormwater management system serving the site.*

*(cc) The stormwater control system for the development shall be constructed, managed and maintained in accordance with the design approved above.*

*(dd) The consent holder shall ensure adequate construction monitoring of all stormwater construction works. This shall include as a minimum:*

- i. Detailed day to day supervision and certification upon completion as complying with the required standards by the consent holder's engineer.*
- ii. Provision of the consent holder's engineer's site visit records.*
- iii. Provision of minutes of consent holder's engineer's meetings with the contractor.*
- iv. Provision of all contractors' quality control documentation to council's engineers for approval.*
- v. Council's engineers undertaking suitable inspections during construction at key hold-points to enable them to confirm that the certification provided by the consent holder's engineer matches the design submitted.*
- vi. In addition to quality control testing undertaken by the contractor and by the consent holder's engineer, Council's engineers will undertake random verification testing of materials and construction standards throughout the construction period.*

*The consent holder's Engineer shall be a suitably qualified competent engineer with recent and ongoing experience in drainage construction works to the specific approval of Council.*

(ee) 'As-built' plans shall be provided for the stormwater works to be constructed above. The 'As-built' plans shall include the following information and shall be provided in hard copy and electronic format.

- i. Details of all pipe materials, diameters and classes (to be shown on face of plan).
- ii. Locations of all manholes, junctions and connections by measurement from adjacent boundaries (to be shown on face of plan).
- iii. Coordinates of all manholes, junctions and connections (to be shown on face of plan or in tabular format)
- iv. Ground level and invert levels of all pipelines at maintenance access points, junctions and connections in terms of Mean Sea Level (to be shown on face of plan or in tabular format)
- v. Gradients of all pipelines (to be shown on face of plan or in tabular format)
- vi. Cross sections and longitudinal sections of all swale drains and secondary flow paths
- vii. Full details of all stormwater ponds
- viii. Operation and Maintenance Manuals for all stormwater ponds

**Landscape and Visual Mitigation**

(ff) A detailed Landscape Plan, including an implementation, staging and maintenance programme shall be submitted to the satisfaction of Council or its duly delegated officer. The plan shall be consistent with the landscape plan submitted in support of the application by "Thresher Associates" and shall include the following:

- i. Details of the plant sizes at the time of planting and intended species;
- ii. Appropriate measures to assist in screening the site from Molesworth Drive and Estuary Drive. (Note: The height of any screen planting shall be at least 2 metres at the time of planting);
- iii. Details of replacement procedures in the instance where species die or are damaged.

Note: As much planting as practicable, including planting adjacent to Molesworth Drive shall be implemented in Stage 1. The amount of planting required shall be at the discretion of Council or its duly delegated officer.

(gg) The Landscape Plan detailed above shall be implemented and maintained in accordance with the approved landscaping plan within the first planting season following the completion of the works on the site. The landscaping is to be maintained for the duration of this consent.

(hh) Prior to commencement of the activity, the consent holder shall enter into a bond in a form to the approval of Council guaranteeing that, in the event of the proposed landscape enhancement and screen planting failing, the vegetation will be replaced to a condition at least equal to that which existed prior. The bond shall be for equal to 50% of the value of the proposed landscape enhancement and screen planting and shall remain in full force and effect for three years from the commencement of the activity.

(ii) The colour of roof claddings shall be recessive with a reflectivity less than 35%.

(jj) The colour of wall claddings shall be recessive with a reflectivity less than 35%.

**Financial Contributions**

(kk) A cash contribution in lieu of reserves shall be paid based on 0.5% of the assessed value of the proposed accommodation component of the development, such value to be determined by a

registered valuer appointed by Council at the applicant's expense. The contribution shall be payable prior to giving effect to the consent or the issue of the Code Compliance Certificate which ever occurs first.

**General**

**(3) The following conditions shall be complied with on an ongoing basis:**

- (a) All landscaping works implemented shall be maintained on a continuing basis for the duration of this consent.
- (b) All activities on the site shall comply with the following noise limits as specified in the Kaipara District Plan.
- |  |             |
|--|-------------|
| • 7am – 7pm Monday to Saturday                     | 55 dBA L10  |
| • All other times and on public holidays           | 45 dBA L10  |
| • Any day from 10.00pm to 7.00am the following day | 70 dBA Lmax |
- (c) The total area of signs on the site shall not exceed the dimensions as sought within the resource consent application. Any further signage will require a separate resource consent application.
- (d) The service station may only operate between the hours of 6.00am and 10.00pm seven days a week. Note: Swipe card self-service is available on site 24 hours a day for non-commercial vehicles only (refer condition 3(k)).
- (e) Loading, maintenance or servicing by heavy vehicles of the service station and / or motel may only take place between the hours of 6.00am and 10.00pm of the same day.
- (f) The retail / commercial services and professional offices may only operate between the hours of 8.00am and 5.00pm (Monday – Saturday).
- (g) The Future Services Businesses building containing an area of 620m<sup>2</sup> may only be used by those activities which comply with the standards set out in NZS 9201.23:2004 (Trade Waste).
- (h) The self-cleaning and grooming centre (located within the service station complex) may only operate between the hours of 8.00am and 6.00pm (Monday – Saturday) and 9.00am -4.00pm (Sunday).
- (i) The 2.5m high close boarded wooden fence adjoining the residential sites shall be erected as part of stage 1 of the development
- (j) A spill contingency plan for the site shall be provided to the Council or its duly delegated officer for approval, prior to the commencement of activities on the site.
- (k) Heavy vehicles shall not be permitted to use the after hours fuel service. To ensure this, swipe cards shall not be issued to these users.
- (l) That in accordance with Section 123 of the Resource Management Act the consent for Stages 1 and 2 [Service Station , Retail and Professional Offices and Motel ] of the development shall be for a period of five years and the consent for Stage 3 [Future Services Businesses and Vehicle and Boat washing and grooming ] shall be for a period of ten years.
- (m) That in accordance with Section 128 of the Resource Management Act 1991, Council may undertake a review of the conditions of this consent annually from the date of this consent for any of the following purposes:
- i. To deal with any adverse effects of traffic movements, parking, or adverse effects to residential amenity (including but not limited to, noise, dust nuisance and stormwater

disposal) that may arise from the exercise of this consent and which is it appropriate to deal with at a later stage; or

- ii. To require the consent holder to adopt the best practicable option to remove or reduce any adverse effect on the environment of those nuisances listed above.

#### **Reasons for Decision**

1. The site is zoned Residential under the Kaipara District Plan where the proposed development is to be assessed as a Non Complying Activity.
2. After having regard to the relevant matters in Section 104 of the Act, Council is satisfied that consent can be granted as the application satisfies both of the "gateway tests". The application embodies operational, design and layout measures implemented through conditions of consent which avoid, remedy or mitigate the adverse effects on the environment.
3. The application reflects a comprehensive proposal which is not considered to offend the relevant Objectives and Policies of the Residential Zone in a manner which is contrary to the Plans outcomes.
4. The particular characteristics of the site in relation to its location within the wider Mangawhai setting, its size, proximity to adjoining and adjacent zonings and land uses, existing amenity and servicing capabilities are contributing factors to the suitability of the site and its location for this development.
5. The proposal is consistent with Part II of the Act as it is sustainable management of the natural and physical resources of the site whilst providing for the social and economic well being of the community. The development has the capacity to enhance the provision of services and facilities within the Mangawhai community in a manner which maintains and enhances the amenity and quality of the environment.

#### **Advice Notes**

1. With effect from 1 July 2006 Council has adopted policies on development contributions for wastewater (EcoCare) and Roading, both of which affect the proposed accommodation component of the development. The current level of charges is:
  - (a) Wastewater: \$9,831.11 + GST per additional allotment or household unit adjusted annually on 1 July in accordance with Consumer Price Index to take account for inflation. Connection to the system will be required once it is available.
  - (b) Roading: \$3,860.00 + GST per additional allotment or household unit adjusted annually on 1 July in accordance with the Construction Cost Index to take account for inflation. Note: the cost of the Molesworth Drive/Seabreeze Road right turn bay will be offset against this contribution.

Payment of these contributions is due prior to commencement of this consent, and Council is entitled to prevent the commencement of the resource consent until payment has been made. Full details of the policies are available from Council offices on request.

2. All archaeological sites are protected under the provisions of the Historic Places Act 1993. It is an offence under that act to modify, damage or destroy any archaeological site, whether the site is recorded or not. Application must be made to the New Zealand Historic Places Trust for an authority to modify, damage or destroy an archaeological site(s) where avoidance of effect cannot be practised.

3. *If subsurface archaeological evidence (shell, midden, hangi, storage pits, etc) should be unearthed during construction, work should cease in the immediate vicinity of the remains and the Historic Places Trust should be contacted.*
4. *In the event of koiwi (human remains) being uncovered, work should cease immediately and the tangata whenua of Te Uri o Hau shall be contacted so that appropriate arrangements can be made.*
5. *The consent holder shall pay all charges set by the Council under Section 36 of the Resource Management Act 1991, including any administration, monitoring and supervision charges relating to the conditions of this resource consent. The consent holder will be advised of the charges as they fall.*
6. *The consent holder is advised that the application site is located on an "at risk" aquifer. All measures should be taken to ensure that the development does not result in the lowering or contamination of the surrounding aquifer. Mitigation measures may include the return of collected or diverted stormwater to aquifer recharge, and the use of pervious surfaces for roading swale drains.*
7. *The consent holder is advised that all building foundations will require specific engineering design prior to applying for a building consent.*
8. *Council wishes to obtain a triangular portion of land approximately 150m<sup>2</sup> on the corner of Molesworth Drive and Estuary Drive for the construction (by Council) of a roundabout and associated footpath and services to facilitate upgrading of Estuary Drive to an appropriate standard. This would be at no cost to the applicant.*

**Monitoring**

1. *All conditions of consent will be monitored by Council. There will be a Council charge for this monitoring.*

Signed: .....

Mark Vincent

Regulatory Manager

**Kaipara District Council**

*This is a certified copy of the decision of the Judicial Committee of the Kaipara District Council made by resolution dated 14 February 2007.*