



TOWNPLANNING
GROUP

**Application for Resource
Consent to the Far North
District Council
Paroa Bay Winery Limited**

Use of Sage Restaurant for a temporary
event activity, 46 Otamarua Road, Paroa
Bay, Russell

14 July 2024





TOWNPLANNING GROUP

Our Ref: 3213-24

14 July 2024

Far North District Council
Resource Consents Unit
Memorial Avenue
KAIKOHE

VIA ONLINE LODGEMENT

APPLICATION FOR RESOURCE CONSENT | TEMPORARY EVENT AT SAGE RESTAURANT, 46 OTAMARUA ROAD, PAROA BAY, RUSSELL PAROA BAY WINERY LIMITED

In accordance with the requirements of Section 88 and 127 of, and the Fourth Schedule to, the Resource Management Act 1991 ('**RMA**'), Paroa Bay Winery Limited (the '**Applicant**') hereby submits a resource consent application and supporting documentation for a temporary event at Sage Restaurant, 46 Otamarua Road, Paroa Bay, Russell ('**the site**'). Whilst the application is focused in its scope, the resource consent application concurrently seeks a minor change to Condition 8 and 9 of 2160031-RMALUC to facilitate the temporary event.

This letter provides the information necessary for a full understanding of the site and the proposal and includes an assessment of environmental effects ('**AEE**') in such detail that corresponds with the scale and significance of the effects of the proposal.

1 INTRODUCTION

2160031-RMALUC was granted 11 May 2016, and authorised the establishment of a restaurant with wine tasting bar and associated car park and facilities at the site. The restaurant and wine tasting bar subsequently opened in October 2017 under the name 'Sage', and operates in partnership with the Applicant's existing winery and luxury accommodation development, located opposite the site at 31 Otamarua Road (collectively known as Paroa Bay

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Winery and Estate¹). The restaurant operates 11.30am – 10.00pm Wednesday to Sunday, in accord with 2160031-RMAVAR/C (enclosed as **Attachment [A]**), with single party private events or functions restricted².

The Applicant is proposing to host a private temporary event at Sage on the 24 October 2024, with this providing for no more than 100 guests. The event will feature live acoustic music, will cease by 10.00pm, with guests transported to and from the event by bus. Given the scope of 2160031-RMALUC, the Applicant is seeking a resource consent, and subsequent changes to the conditions off 21060031-RMALUC, to authorise the hosting of the event.

2 SITE DETAILS

The site is located at 46 Otamarua Road, Paroa Bay, and is legally described as Lot 14 DP 322364 and Lot 16 DP 322364 (1/7th share) as held in Record of Title 89262. The Record of Title is enclosed as **Attachment [B]**.

The site is located on the southern side of Otamarua Road (refer **Figure 1**), approximately 500m from the intersection with Paroa Bay Road. The site and building has a northerly outlook, with wide views of the coast, which at its nearest location is approximately 1km north of the site. The total area of the site is 9470m² (excluding Lot 16 DP 322364). The existing restaurant/wine tasting bar is approximately 172m² in area, plus an outdoor deck of 120m².



Figure 1 Site Aerial (Google Earth)

¹ <https://www.thelindisgroup.com/paroa-bay-winery>

² Condition 8, 2160031-RMAVAR/C – “The restaurant and wine tasting bar shall not be used for single party private events or functions”.



As noted in **SECTION 1**, Sage operates as part of the wider Paroa Bay Winery and Estate, which features three luxury villas and a boutique vineyard, both located on the northern side of Otamarua Road.

The immediately surrounding area is predominately covered in grass and slopes gently to moderately to the north and north-west. This area contains landscaping and plantings established as per the conditions of 2160031-RMALUC. There are 27 formed carparking spaces including two accessible parking spaces, with the site having multiple access points to Otamarua Road. The southern boundary is defined by a large and mature shelterbelt.

The wider environment of Paroa Bay Road to and along Otamarua Road consist of vineyards (with extensive vineyards to the west and a smaller area to the east), the Paroa Bay Chalets visitor accommodation, the Paroa Bay Winery and accommodation immediately to the north, residential buildings on rural lifestyle lots, and undeveloped rural lifestyle sites.

3 PROPOSAL

The proposal is for a private temporary event to be held at Sage on the 24 October 2024, the key details of which are as follows:

- no more than 100 guests;
- hours of 11.30am to 10.00pm (consistent with that of the restaurant);
- live acoustic music only;
- use of the restaurant and outdoor dining area only;
- food and beverage (and staffing) provided by the restaurant;
- guest transportation via bus;
- additional sanitary facilities to be provided to cater for the number of guests;
- set up the day prior and pack down (as/if required) the day following.

Whilst additional sanitary facilities are to be provided (in the form of temporary 'Luxe Loos' or similar, accommodated within the existing parking area), there are no changes proposed to the site or building to accommodate the event.

As identified in **SECTION 1**, 2160031-RMALUC restricts the use of the restaurant for single party events or functions. To this end, whilst a resource consent is sought for the activity, a corresponding variation is proposed to Condition 8 and 9 of 2160031-RMA LUC to facilitate the hosting of the event, with the following changes proposed (additions shown in underline and deletions in strikethrough):

Condition 8

Unless otherwise authorised by Council, ~~the~~ restaurant and wine tasting bar shall not be used for single party private events or functions.

Condition 9



Unless otherwise authorised by Council, ~~the~~ the maximum occupancy of the restaurant and wine tasting bar shall be restricted to 60 people.

The above changes simply have the effect of providing a means to host the event, and for the guest capacity proposed, subject to prior authorisation by Council (through the issue of a resource consent which is concurrently sought). No other changes to the conditions of 2160031-RMALUC are considered necessary.

4 STATUTORY PROVISIONS

4.1 DISTRICT PLAN REVIEW

Far North District Council is currently undertaking a review of the District Plan, with the Proposed Far North District Plan ('PDP') publicly notified on 27 July 2022. At this point in time, hearings have recently commenced and are expected to continue until August 2025 (with decisions to follow in late 2025). None of the provisions in the PDP with immediate legal effect are beached as a result of the proposal. To this end, the assessment against the relevant rules of the District Plan is limited to that of the Operative District Plan.

4.2 OPERATIVE FAR NORTH DISTRICT PLAN

The site is located within the General Coastal zone (Zone Map 36) under the Operative Far North District Plan ('District Plan'), as identified by **Figure 2**. There are no resource features affecting the site (Resource Map 36).

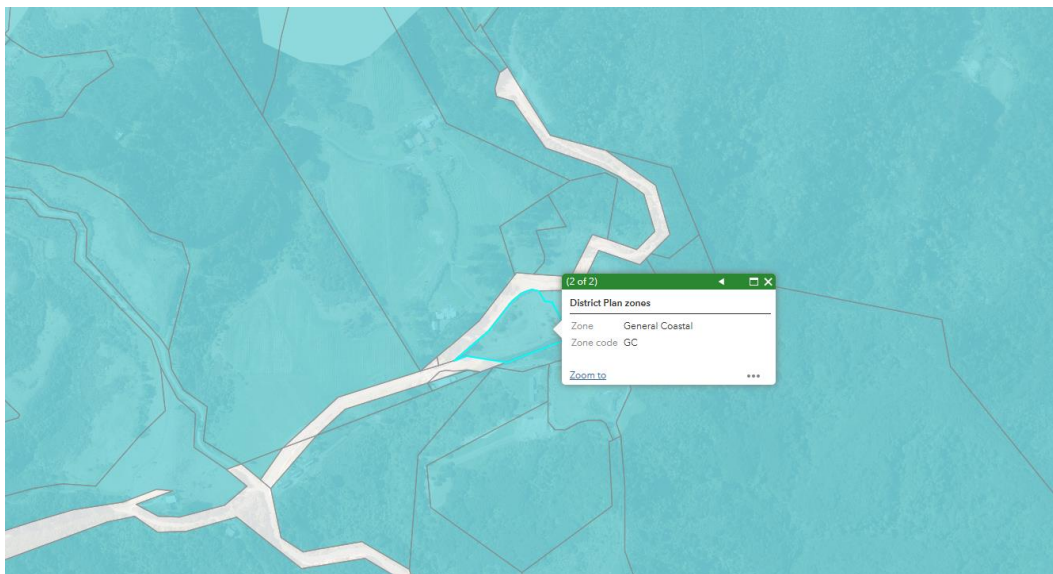


Figure 2 Operative District Plan Map – General Coastal Zoning

Whilst acknowledging that an application to vary consent conditions under Section 127 of the RMA is to be assessed as a discretionary activity, for completeness, an assessment against



the District Plan has been undertaken with respect to the proposed event, with this detailed as follows:

Rule	Explanation / Requirement	Activity Status / Compliance / Comment
Chapter 10.6 General Coastal Zone		
10.6.5.1.1	<p>VISUAL AMENITY</p> <p><i>The following are permitted activities in the General Coastal Zone:</i></p> <p><i>(a) any new building(s) not for human habitation provided that the gross floor area of any new building permitted under this rule, does not exceed 50m² or for human habitation provided that the gross floor area does not exceed 25m²; and</i></p> <p><i>(b) the exterior is coloured within the BS5252 standard colour palette range with a reflectance value of 30% or less or are constructed of natural materials which fall within this range; or</i></p> <p><i>(c) any alteration/addition to an existing building which does not exceed 50m², provided that any alteration/ addition does not exceed the height of the existing building and that any alteration/addition is to a building that existed at 28 April 2000; or</i></p> <p><i>(d) renovation or maintenance of any building.</i></p> <p><i>Note: The effect of this rule is that a resource consent is needed for any new building(s) not for human habitation with a gross floor area of greater than 50m² or any building(s) for human habitation with a gross floor area of greater than 25m²</i></p>	<p>N/A</p> <p>The temporary event does not involve any new buildings.</p>
10.6.5.1.3	<p>SCALE OF ACTIVITIES</p> <p><i>The total number of people engaged at any one period of time in activities on a site, including employees and persons making use of any facilities, but excluding people who normally reside on the site or are members of the household shall not exceed 4 persons per site or 1 person per 1ha of net site area whichever is the greater.</i></p> <p><i>Provided that:</i></p> <p><i>(a) this number may be exceeded for a period totalling not more than 60 days in any 12 month period where the increased number of persons is a direct result of activities ancillary to the primary activity on the site; and</i></p> <p><i>(b) this number may be exceeded where persons are engaged in constructing or establishing an activity (including environmental enhancement) on the site; and</i></p>	<p>Discretionary (10.6.5.4)</p> <p>The existing resource consent for Sage restaurant provides for a maximum occupancy of 60 persons, along with associated staff. The proposed temporary event will involve up to 100 persons (and associated staff), further increasing the extent of non-compliance with Rule 10.6.5.1.3.</p>



Rule	Explanation / Requirement	Activity Status / Compliance / Comment																		
	<p>(c) this number may be exceeded where persons are visiting marae.</p> <p>In determining the total number of people engaged at any one period of time, the Council will consider the maximum capacity of the facility (for instance, the number of beds in visitors accommodation, the number of seats in a restaurant or theatre), the number of staff needed to cater for the maximum number of guests, and the number and nature of the vehicles that are to be accommodated on site to cater for those engaged in the activity.</p> <p>Exemptions: The foregoing limits shall not apply to activities of a limited duration required by normal farming and plantation forestry activities, provided that the activity shall comply with the requirements of s16 of the Act.</p>																			
10.6.5.1.8	<p>TRANSPORTATION</p> <p>Refer to Chapter 15 – Transportation for Traffic, Parking and Access rules.</p>	Refer to assessment against Chapter 15 below.																		
10.6.5.4.3	<p>SCALE OF ACTIVITIES</p> <p>Where the total number of people engaged at one period of time in activities on a site, including employees and persons making use of any facilities, but excluding people who normally reside on the site or are members of the household, does not comply with Rule 10.6.5.1.3 it is a discretionary activity.</p>	<p>Discretionary</p> <p>As outlined under Rule 10.6.5.1.3, the temporary event will exceed the maximum permitted total number of people 'engaged' at the site, with up to 100 guests to be accommodated, along with additional staff.</p>																		
Chapter 15 Transportation																				
15.1.6A	<p>TRAFFIC</p> <p>Table 15.1.6A.1 MAXIMUM DAILY ONE WAY TRAFFIC MOVEMENTS</p> <p>The table below provides the Traffic Intensity threshold values and relevant classes of activity for all zones in the District Plan. This table must be used in conjunction with the permitted, controlled, restricted discretionary, discretionary and non-complying Traffic Intensity rules located in Rules 15.1.6A.2 through 15.1.6A.6.</p> <table border="1"> <thead> <tr> <th>Zone</th> <th>Permitted Activity</th> <th>Controlled Activity</th> <th>Restricted Discretionary Activity</th> <th>Discretionary Activity</th> <th>Non-Complying Activity</th> </tr> </thead> <tbody> <tr> <td colspan="6" style="text-align: center;">Coastal Environment</td> </tr> <tr> <td>General Coastal</td> <td>30</td> <td>-</td> <td>-</td> <td>120</td> <td>More than 120</td> </tr> </tbody> </table>	Zone	Permitted Activity	Controlled Activity	Restricted Discretionary Activity	Discretionary Activity	Non-Complying Activity	Coastal Environment						General Coastal	30	-	-	120	More than 120	
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15.1.6A.2.1	<p>TRAFFIC INTENSITY</p> <p>The Traffic Intensity threshold value for a site shall be determined for each zone by Table 15.1.6A.1 above. The Traffic Intensity Factor for a proposed activity (subject to the exemptions</p>	<p>Permitted</p> <p>Table 15.1.6A.1 identifies that within the General Coastal Zone, the traffic intensity threshold value is 30 one way traffic movements per day. Whilst the existing restaurant</p>																		



Rule	Explanation / Requirement	Activity Status / Compliance / Comment
	<p><i>identified below) shall be determined by reference to Appendix 3A in Part 4.</i></p> <p><i>This rule only applies when establishing a new activity or changing an activity on a site. However, when considering a new activity or changing an activity, the Traffic Intensity Factor for the existing uses (apart from those exempted above) on site need to be taken into account in order to address cumulative effects.</i></p>	<p>activities exceed this requirement (and are authorised through 2160031-RMALUC), the temporary event is considered be entirely consistent with the restaurant activity in terms of scale, intensity and character, such that there is no change in traffic intensity.</p> <p>In any event, the temporary event will be served by bus transport only, such that the event will comply with the traffic intensity threshold requirement, and/or be less than that already approved.</p>
<p>15.1.6B.1. 1</p>	<p>ON-SITE CAR PARKING SPACES</p> <p><i>Where:</i></p> <p><i>(i) an activity establishes; or</i></p> <p><i>(ii) the nature of an activity changes; or</i></p> <p><i>(ii) buildings are altered to increase the number of persons provided for on the site;</i></p> <p><i>the minimum number of on-site car parking spaces to be provided for the users of an activity shall be determined by reference to Appendix 3C, unless an activity complies with the exemptions below.</i></p>	<p>Permitted</p> <p>The temporary event is considered to be ‘most similar’ in terms of parking requirements to that of the existing restaurant activity, such that the parking requirements are considered the same. In any event, the temporary event will be served by bus transport only, such that the parking provided will be more that sufficient to meet the minimum car parking requirements.</p>

As identified above, the proposed temporary event breaches the ‘scale of activity’ provisions for the General Coastal Zone, with this assessed as a **discretionary activity** under the District Plan.

5 STATUTORY ASSESSMENT

Section 104(1) of the RMA requires that the consent authority must, subject to Part 2, have regard to a range of matters when considering an application. This section of the application considers those matters relevant under section 104(1)(a) and (b), with no other matters under Section 104(1)(c) considered relevant and reasonably necessary to determine the application.

5.1 ASSESSMENT OF ENVIRONMENTAL EFFECTS

In brief, it is considered that any actual or potential adverse effects of the proposed temporary event need to be considered in light of the existing and approved activities at Sage, authorised through 2160031-RMALUC. In this respect, the following outlines the nature and scale of the approved activities on site, with this assisting in focusing consideration of the actual effects of the temporary event activity, and the proposed changes to 2160031-RMALUC to facilitate the same:



- approved award-winning restaurant and wine bar, operating successfully on the site since 2017;
- a large well apportioned car parking area, with attractively landscaped grounds;
- safe and well-designed multiple access points to Otamarua Road;
- approved operational hours of 11.30am to 10.00pm;
- regular live music;
- approved capacity (under 2160031-RMALUC) for up to 60 guests.

It is considered that the key differences in actual or potential environmental effects between those authorised and the temporary event are those that arise from the additional 40 guests to be accommodated on site. It should be acknowledged that these effects are for a single day only (24 October 2024), with controls in place to ensure any adverse effects from the temporary event are appropriately avoided and mitigated, as outlined as follows.

The temporary event has the potential to give to adverse amenity effects arising from noise and lighting, with this to be managed through the event restrictions to live acoustic music only, the restriction on activities to within the restaurant and outdoor dining area, and the proposed hours which are the same as that authorised for the restaurant through 2160031-RMALUC. Further, there will be no adverse transportation effects arising, noting that guests are to be escorted to and from the site via managed bus transport, such that any vehicle movements from the site will be considerably less than those with the restaurant in regular operation.

Despite the guest capacity restriction under 2160031-RMALUC, the restaurant is well established and equipped to accommodate the proposed number of guests, however additional sanitary facilities will be provided on site as required, with these likely to take the form of temporary 'Luxe Loos' or similar, accommodated within the existing parking area or restaurant grounds (the specific location and requirement has yet to be determined). For the avoidance of doubt, it is noted that the maximum occupancy of Sage (as per the Building Warrant of Fitness) is 192 persons, such that there are no safety issues associated with the proposed number of guests. Further, it is noted that the Applicant holds the appropriate licences for the sale and supply of alcohol from the site.

It is noted that the restaurant operates in accord with a noise management plan, the measures within which will be maintained and implemented through the event, with this including monitoring of patron activities, and the closure of windows and doors where necessary to manage excess noise concerns. The restaurant is well known within the immediate community, with well-established communication channels should any complaints arise, allowing prompt action and response by staff.

Overall, any actual and potential adverse effects of the proposed temporary event, and the associated changes to 2160031-RMALUC to facilitate the event, are considered to be insignificant, and able to be appropriately avoided and mitigated through the event parameters proposed.



5.2 OBJECTIVES AND POLICIES

5.2.1 Operative Far North District Plan

The principal planning document is the Operative Far North District Plan. The objectives and policies for the General Coastal Zone are in broad terms, aimed at preserving natural character and protecting it from inappropriate subdivision, use and development. In broad terms, the natural character of Paroa Bay has been modified by rural lifestyle subdivision and development, with the existing restaurant forming part of this modified natural coastal environment. The most relevant objectives and policies of the District Plan are identified as follows:

Objectives

- 10.6.3.1 *To provide for appropriate subdivision, use and development consistent with the need to preserve its natural character.*
- 10.6.3.2 *To preserve the natural character of the coastal environment and protect it from inappropriate subdivision, use and development.*
- 10.6.3.3 *To manage the use of natural and physical resources (excluding minerals) in the general coastal area to meet the reasonably foreseeable needs of future generations.*

Policies

- 10.6.4.1 *That a wide range of activities be permitted in the General Coastal Zone, where their effects are compatible with the preservation of the natural character of the coastal environment.*
- 10.6.4.2 *That the visual and landscape qualities of the coastal environment in be protected from inappropriate subdivision, use and development...*
- 10.6.4.4 *That controls be imposed to ensure that the potentially adverse effects of activities are avoided, remedied or mitigated as far as practicable...*

With respect to the above, the proposal seeks to utilise the well-established restaurant for a temporary event, to be held on 24 October 2024. No changes are required to the site, grounds or building to facilitate the event, with suitable parameters proposed to avoid any adverse effects on the natural character of the coastal environment. Further, the nature of controls proposed will ensure that any actual or potential adverse effects on the immediate receiving environment are avoided or mitigated, and entirely comparable to those associated with the operations of the existing and approved restaurant. To this end, the proposal is considered to be aligned with the above objectives and policies.

5.2.2 Proposed Far North District Plan

It is noted that the PDP was publicly notified in 2022, and is presently subject to hearings, with a decision expected in 2025. Whilst there are no rules having immediate legal effect that are relevant to the proposal, regard must be given to the relevant objectives and policies. To this end, we note the following.

The site is zoned Rural Production under the PDP, and within the Coastal Environment Overlay. The objectives and policies for the Rural Production Zone are aimed at providing for primary production activities and other activities that support primary production and have a functional need to be located in a rural environment. Given the discrete nature of the proposal and utilisation of the existing restaurant, the relevant objectives and policies within the PDP are considered to be focused, with these identified and assessed as follows.

RPROZ-04 The rural character and amenity associated with a rural working environment is maintained.



RPROZ-P7 Manage land use and subdivision to address the effects of the activity requiring resource consent, including (but not limited to) consideration of the following matters where relevant to the application:

- a. whether the proposal will increase production potential in the zone;
- b. whether the activity relies on the productive nature of the soil;
- c. consistency with the scale and character of the rural environment;
- d. location, scale and design of buildings or structures;
- e. for subdivision or non-primary production activities:
- f. scale and compatibility with rural activities;
- g. potential reverse sensitivity effects on primary production activities and existing infrastructure;
- h. the potential for loss of highly productive land, land sterilisation or fragmentation
- i. at zone interfaces:
- j. any setbacks, fencing, screening or landscaping required to address potential conflicts;
- k. the extent to which adverse effects on adjoining or surrounding sites are mitigated and internalised within the site as far as practicable;
- l. the capacity of the site to cater for on-site infrastructure associated with the proposed activity, including whether the site has access to a water source such as an irrigation network supply, dam or aquifer;
- m. the adequacy of roading infrastructure to service the proposed activity;
- n. Any adverse effects on historic heritage and cultural values, natural features and landscapes or indigenous biodiversity;
- o. Any historical, spiritual, or cultural association held by tangata whenua, with regard to the matters set out in Policy TW-P6.

The proposal is for a single temporary event to be held at an existing and well-established restaurant. The event does not require any changes to the site or buildings, and rather utilises the existing infrastructure of the restaurant to facilitate the event, avoiding any adverse effects on the rural working environment. The nature of the receiving environment is largely that of a modified rural coastal environment, with numerous lifestyle properties evident, with the restaurant operating as part of the wider Paroa Bay Winery & Estate (and as an avenue to present wines grown and produced by the grounds, and locally sourced food). The event will be managed in accord with a range of controls and parameters, all of which ensure that any adverse effects on the receiving environment will be appropriately avoided and mitigated. To this end, the proposal is considered an appropriate response to the relevant objective and supporting policy of the Rural Production Zone.

6 RESOURCE MANAGEMENT ACT 1991

6.1 SECTION 95, RMA

With respect to the relevant notification requirement under Section 95 of the RMA, we note that there are no District Plan rules requiring notification, and the Applicant has not requested notification. Further, the overall conclusion from the assessment within **SECTION 5** is that any actual or potential adverse effects are less than minor, and subsequently there are no potentially affected parties. To this end, the present proposal is considered to be appropriately treated on a non-notified basis.



6.2 SECTION 104(1), RMA

Section 104(1) of the RMA requires that the consent authority must, subject to Part 2, have regard to a range of matters when considering an application. **SECTION 5** of this report addresses the matters contained in Section 104(1)(a) and (ab). There are no other matters under Section 104(1)(c) that are considered relevant and reasonably necessary to determine the application.

6.3 SECTION 127, RMA

Section 127 of the RMA sets the requirements for applications to change or cancel conditions of resource consents.

- (1) *The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent, subject to the following:*
...
(b) *no holder of any consent may apply for a change or cancellation of a condition on the duration of the consent*
...
- (3) *Sections 88 to 121 apply, with all necessary modifications, as if—*
(a) *the application were an application for a resource consent for a discretionary activity; and*
(b) *the references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.*
- (4) *For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who—*
(a) *made a submission on the original application; and*
(b) *may be affected by the change or cancellation.*

We note that in ‘Body Corporate 97019 v Auckland City Council (2000 NZRMA 202)’ it was determined that:

“In deciding whether an application for variation is in substance a new application, the consent authority should compare any differences in the adverse effects likely to follow from the varied proposal with those of the activity in its original form. Where the variation would result in a fundamentally different activity, or one having materially different adverse effects, a consent authority may decide the better course is to treat the application as a new application.”

It is considered that the proposed changes do not result in an activity that is materially different in nature to that approved by 2160031:RMALUC, and there are no significant differences in adverse effects on the environment compared to those authorised under the same. As such, it is considered the proposed changes can be treated as a variation to the original consent under Section 127 of the RMA.

Section 127(3)(a) of the RMA requires that applications for changes to resource consent conditions be presented as if the application were for a discretionary activity, and thus an assessment of any effects that the proposed changes may have on the environment in accordance with section 88 of and the Fourth Schedule to the RMA has been provided. Section 127(3)(b) stipulates that only the change of conditions and the resultant potential effects of these changes are to be considered.

Section 127(3) forms the first of two limbs of the test for the application. The second limb of the test is described in Section 127(4), where it is stated that the local authority must consider



the effects of the changes upon any affected parties. Whilst the original application for Sage was limited notified with a small number of submissions received, the nature and extent of any adverse effects arising from the proposed temporary event, and the changes proposed to 2160031-RMALUC, are considered to be insignificant. To this end, there are considered to be no potentially affected parties to the present application.

6.4 PART 2, RMA

We understand from recent case law that a consent authority is generally no longer required to consider Part 2 of the RMA beyond its expression in the relevant statutory documents. Notwithstanding this, and noting the requirements of Schedule 4 of the RMA, we provide the following assessment against Part 2 of the RMA.

The purpose of the RMA is to promote the sustainable management of natural and physical resources, and consideration needs to be given as to whether the activity is allowing people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while:

- (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) *Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

The proposal seeks to utilise the existing restaurant venue for a single temporary event, with appropriate controls in place to manage any actual or potential adverse effects, and suitable infrastructure provided on site to accommodate the event. To this end, the proposal is considered to be an efficient use of the existing natural and physical resources of the site, and able to managed so as to avoid any actual or potential adverse effects on the environment.

Given the nature of the proposal, there are no Section 6 Matters of National Importance, or Section 8 Treaty of Waitangi matters considered relevant to the application. Section 7 of the RMA requires that particular regard be given to a range of identified other matters, relevant to this application being:

- (b) *the efficient use and development of natural and physical resources:*
- (c) *the maintenance and enhancement of amenity values:*
- (f) *maintenance and enhancement of the quality of the environment:*

As identified above, the proposal is considered to represent an efficient use of the existing natural and physical resources of the site, with suitable controls in place to avoid and mitigate any adverse effects. To this end, the proposal is considered to appropriately maintain amenity values and the quality of the environment.

7 CONCLUSION

The Applicant proposes to host a single temporary event on the 24 October 2024, with associated minor changes to the conditions of 2160031-RMALUC in order to facilitate the event.



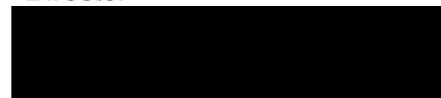
Overall, given the well-established nature of the restaurant, and the parameters and controls proposed for the event, any potential adverse effects are considered to be insignificant and temporary in nature, and there are no parties considered to be adversely affected. The proposal represents an efficient use of the natural and physical resource and will be undertaken in a manner which avoids, remedies and mitigates potential adverse effects on the environment. It is considered that the proposal is consistent with the purpose and principles of the Act and accords with the definition of sustainable management.

Please do not hesitate to contact me should you have any queries. You can contact me direct on 027 465 8099 or via email at daniel@townplanning.co.nz.

Nāku iti noa, nā,



Daniel Thorne
Director



Encl: Attachment A – 2160031-RMAVAR/C
Attachment B – Record of Title





**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD**

**Guaranteed Search Copy issued under Section 60 of the Land
Transfer Act 2017**




R.W. Muir
Registrar-General
of Land

Identifier 89262
Land Registration District North Auckland
Date Issued 17 August 2006

Prior References
NA134A/76

Estate Fee Simple
Area 9470 square metres more or less
Legal Description Lot 14 Deposited Plan 322364
Registered Owners
Paroa Bay Winery Limited

Estate Fee Simple - 1/7 share
Area 1023 square metres more or less
Legal Description Lot 16 Deposited Plan 322364
Registered Owners
Paroa Bay Winery Limited

Interests

Appurtenant hereto is a right of way created by Transfer B876712.4

Appurtenant hereto is a right of way specified in Easement Certificate C400151.1 - 31.7.1992 at 2.41 pm

Appurtenant hereto is a right of way, and rights to convey water and transmit electricity specified in Easement Certificate D644100.5 - 27.9.2001 at 2.49 pm

The easements specified in Easement Certificate D644100.5 are subject to Section 243 (a) Resource Management Act 1991 6993523.3 Consent Notice pursuant to Section 221 Resource Management Act 1991 - 17.8.2006 at 9:00 am

Subject to Section 241(2) Resource Management Act 1991 (see DP 322364)

Appurtenant hereto are right of way & right to convey water easements created by Easement Instrument 6993523.7 - 17.8.2006 at 9:00 am

The easements (excluding any appurtenancy to Lot 16) created by Easement Instrument 6993523.7 are subject to Section 243 (a) Resource Management Act 1991

Land Covenant in Transfer 7397497.1 - 31.5.2007 at 9:00 am

9830337.2 Encumbrance to Paroa Bay Management Limited - 30.9.2014 at 4:25 pm

10696222.1 Variation of Consent Notice 6993523.3 pursuant to Section 221(5) Resource Management Act 1991 - 13.2.2017 at 10:47 am

Proposed Easement

Purpose	Shown	Servient Tenement	Dominant Tenement
Right of Way	E	Lot 1/6 Heron	Lot 1/5 Heron

Memorandum of Easements in Gross

Purpose	Shown	Servient Tenement	Grantee
Right to convey Electricity	(M) (H) (A)	Lot 7 Heron	Top Energy Ltd
Right to convey Water	(B)	Lot 6 Heron	

Proposed Easement in Gross

Purpose	Shown	Servient Tenement	Grantee
Right to convey Electricity	(L) (P)	Lot 1 Heron	Top Energy Ltd

LT 329264 (Title Plan)
1:1000
Date Issued: 12/12/2006

DP 140342 Local Esplanade Reserve
Parao Bay (Tide)
Lot 24 4052m² Esplanade Reserve to Vest
Lot 18 8330m² Vestee: For North District Council
Lot 3 6653m² 5.00 Spaced Pkg - M.H.W.S.
Lot 5 4780m²
Lot 6 3.7190ha
Lot 7 5.0660ha
Lot 8 1.1340ha
Lot 9 6116m²
Lot 10 1.7240ha Road to Vest
Lot 11 1.7240ha Road to Vest
Lot 12 1023m²
Lot 13 1023m²
Lot 14 6109m²
Lot 15 5685m²
Lot 16 1023m²
Lot 17 1862m²
Lot 21 1.7240ha Road to Vest
Lot 22 6360m²
Lot 23 5577m²
Lot 24 4052m²

Approvals - Registered Owners

L Yee
J.A. Drexel Estgale

I hereby certify that this plan was approved by the For North District Council pursuant to Section 223 of the Resource Management Act 1991 on the 13th day of January 2006. The plan is subject to the conditions set out in the Memorandum hereon and, subject to the Amalgamation Conditions set out hereon.

Existing Easements

Purpose	Shown	Created By
Right of Way	(M)	0.641100.5
Right to convey Electricity & Telecommunications	(M)	
Right to convey Water	(M)	

Memorandum of Easements in Gross

Purpose	Shown	Servient Tenement	Grantee
Right of Way	(M) (A)	Lot 7 Heron	For North District Council
Access Strip	(B)	Lot 6 Heron	
Right to convey Water	(L) (R)	Lot 19 Heron	

Amalgamation Conditions
(Pursuant to Section 220 Resource Management Act 1991)
That Lots 1, 2, 3, 5 & Lot 7 DP 205585 have an undivided common in the said shares and that individual Certificates of Title be issued in accordance therewith.
That Lots 1, 2, 3, 5 & Lot 1 DP 205585 have an undivided common in the said shares and that individual Certificates of Title be issued in accordance therewith.
That Lots 4, 8, 9, 12, 14, 15 & 22 Heron have an undivided common in the said shares and that individual Certificates of Title be issued in accordance therewith.
That Lots 10, 11, 13, 16, 17, 18, 19, 20 & 23 have an undivided common in the said shares and that individual Certificates of Title be issued in accordance therewith.

Area marked (A) (B) (L) (M) (P) (R) to be subject to a Land Covenant.
Made: There is no Lot 10, 11, 13, 16, 17, 18, 19, 20 & 23
Class II Survey - All Lots except Lot 7
Class III Survey - Lot 7

Total Area 21,7057 ha
Comprised in CT NN1344/76 All

I, Trevor James Shaw of Whangarei, being a person entitled to practise as a licensed cadastral surveyor, certify that:
(a) The surveys to which this dataset relates are correct in accordance with the Cadastral Survey Act 2002 and the Survey-General's Survey Act 2002.
(b) This plan was created in accordance with that Act and those Rules Dated at Whangarei this 17th day of January 2006.
Signature: Trevor James Shaw
Field Book P. Traverse Book P.
Reference Plans Correct
Examined Correct
Approved as to Survey by Land Information NZ on 24/01/2006
Deposited by Land Information NZ on 17/01/2006
File: R5531176 - Ombudsman
Received 09 JAN 2006
Instructions: DP 322364 Approved AKLM 01/1

Sheet 1 of 2

Territorial Authority For North District
Surveyed By Simpson, Shaw & Co.
Scale 1:4000 Date Dec 2002

B876712.4 TE
Under the Land Transfer Act 1952

(4)

Memorandum of Transfer

WHEREAS

A. JACOBSEN HOLDINGS LIMITED at Auckland (hereinafter together with its successors, assigns and successors in title referred to as "the Grantor") is registered as proprietor

of an estate in fee simple

subject however to such encumbrances, liens and interests as are notified by memoranda underwritten or endorsed hereon in all that piece of land situated in the Land District of North Auckland containing 169.1400 hectares

more or less being Lot 5 Deposited Plan 85131 and being part of the Kanaerehe Block and being all of the land comprised and described in Certificate of Title Volume 41B Folio 898 (North Auckland Registry)

SUBJECT TO

1. Fencing Covenant in Transfer 462791.
2. Memorandum of Mortgage B358422.2.
3. Memorandum of Mortgage B488260.1

(hereinafter referred to as "the servient tenement")

B. JERROLD ARTHUR DREXEL of Auckland, Company Director (hereinafter together with his successor, assigns and successors in title referred to as "the Grantee") is registered as proprietor of an estate in fee simple in all that parcel of land in the Land District of North Auckland containing 50.2872 hectares more or less being Otamarua B2 Block being all of the land comprised and described in Certificate of Title Volume 35B Folio 833 (North Auckland Registry)

SUBJECT TO

1. Right-of-Way By Order in 537383.2.
 2. Right-of-Way in B234966.3.
 3. Mortgage B478816.1
- (hereinafter referred to as "the dominant tenement")

C. The Grantor has been ordered by the High Court of New Zealand pursuant to Section 129B Property Law Act 1952 to grant a Right-of-Way on the terms set out in the First Schedule hereto over that portion of the servient tenement marked "A" on the plan annexed hereto as the Second Schedule (the Right-of-Way)/*for the purposes of giving access over the Right-of-Way from the public road marked "B" on the said plan to the public road marked "C" on the said plan and vice versa.

/* which is now defined as "A" on Deposited Plan 122522 ✓

5

IN THE MATTER of The Land Transfer Act
1952

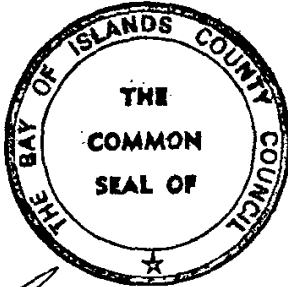
AND

IN THE MATTER of Caveat No. 568337.1
lodged by the Chairman
Councillors and Inhabitants
of the County of the Bay of
Islands (The Bay of Islands
County Council)

The abovenamed Caveator under the abovementioned Caveat No. 568337.1
affecting the land in Certificate of Title 53B/833 (North Auckland
Registry) DOES HEREBY CONSENT to the registration of a Memorandum of
Transfer creating Right of Way made between Jacobsen Holdings Limited
(as Grantor) and Jerrold Arthur Drexel (as Grantee) but without
prejudice to the rights of the Caveator under the said Caveat.

DATED this 31st day of March 1988

The COMMON SEAL of)
THE BAY OF ISLANDS)
COUNTY COUNCIL was)
hereto affixed in)
the presence of:-)



[Signature] County Chairman

[Signature] General Manager

Correct for the purposes of the
Land Transfer Act

[Signature]
Solicitor for the Caveator

IN THE MATTER of The Land Transfer
Act 1952

AND

IN THE MATTER of Caveat No. 568337
lodged by the Chairman Councillors
and Inhabitants of the County of the
Bay of Islands (The Bay of Islands
County Council)

CONSENT OF CAVEATOR

536/833

RISHWORTHS
SOLICITORS
WHANGAREI

6

IN THE MATTER of the Land Transfer Act 1952

A N D

IN THE MATTER of Caveat No. B767897.1 lodged by ANNE LOUISE NATHAN, Widow and DAVID LAWRENCE NATHAN, Company Manager both of Auckland

The abovenamed Caveators under the said Caveat No. B767897.1 affecting the land in Certificate of Title Volume 35B Folio 833 DO HEREBY CONSENT to the registration of a Memorandum of Transfer creating a right of way appurtenant to that land and made between JACOBSEN HOLDINGS LIMITED (as Grantor) and GERROLD ARTHUR DREXEL (as Grantee) but otherwise without prejudice to the rights of the Caveators under the said Caveat.

DATED the 6th day of June 1988.

SIGNED by the said ANNE LOUISE NATHAN and DAVID LAWRENCE NATHAN) Annel Nathan
) David L. Nathan
in the presence of:)

Johnstone JP
Retired
Auckland

Correct for the purpose of the Land Transfer Act

Almouy
Solicitor for the Caveators

2.11 26 JUL 88 B 856870-1

PARTICULARS ENTERED IN REGISTER
LAND REGISTRY AUCKLAND

ASST LAND REGISTRAR

Keep with B876712.4

35B/833

FIRST SCHEDULE

1. Grantee's Rights

- (a) The full free uninterrupted and unrestricted right liberty and privilege for the Grantee his servants tenants agents contractors and workmen with tools implements machinery vehicles materials and equipment of whatsoever nature necessary for the purpose to enter upon the Right-of-Way and to remain there for a reasonable time for the purpose of carrying out any necessary repairs or maintenance to the surface of the Right-of-Way provided that in doing so the Grantee will ensure that as little disturbance inconvenience and interruption to the use of the Right-of-Way as possible is caused.
- (b) The additional rights implied by the Seventh Schedule to the Land Transfer Act 1952 insofar as they have not been varied by paragraph 1(a) and 1(b) hereof.
- (c) The additional rights implied by the Ninth Schedule to the Property Law Act 1952 insofar as they have not been varied by paragraph 1(a) and 1(b) hereof.

2. Grantee's Covenants

- (a) The Grantee does covenant that it will at all times during the subsistence of the Right-of-Way hereby created at his own sole cost and expense in all things repair maintain and keep in good and substantial repair order and condition the Right-of-Way and every part thereof provided that if any maintenance or repair of the Right-of-Way has been rendered necessary by the act neglect or default of the Grantor including its servants tenants agents workmen licensees and invitees and persons authorised by the Grantor then the Grantor shall bear the full cost of such work but nothing herein shall derogate from the rights of the Grantee conferred by paragraph 2(d) Ninth Schedule Property Law Act 1952.

2.

(b) The Grantee does covenant that he will at his own cost erect a stock-proof fence along the north-western and south-eastern boundaries at the Right-of-Way such fence to incorporate a stock-proof gate along each boundary.

3. Grantor's Covenants

No power is implied in respect of the Right-of-Way for the Grantor in its capacity as registered proprietor of the servient tenement to determine the Right-of-Way for any breach of covenant or condition (whether expressed or implied) or for any cause whatsoever.

1pl.fir1

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, FINN JACOBSEN
of Auckland,
.....
in New Zealand Company Director hereby certify :-
(occupation)

1. THAT by deed dated the 27th day of April 1977
..... HAZEL JACOBSEN of Auckland
..... Married Woman appointed me ~~his~~/her
(occupation),
attorney on the terms and subject to the conditions set out in
the said deed, which deed has been deposited in the Land
Registry Office at North Auckland under No. 718840.1 .

2. THAT at the date hereof I have not received any notice or
information of the revocation of that appointment by the death
of the said HAZEL JACOBSEN or otherwise.

SIGNED at Auckland this 22nd day of December 1987

.....

.....
Signature

CERTIFICATE OF NON-REVOCAION OF POWER OF ATTORNEY

I, GARY NEIL WILSON of Auckland in New Zealand

HEREBY CERTIFY:

1. THAT I am the Assistant General Manager, Lending of NATIONAL AUSTRALIA BANK (NZ) LIMITED (formerly called Broadbank Corporation Limited)

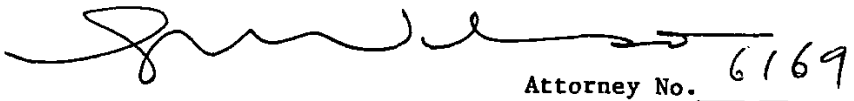
2. THAT by Power of Attorney dated the 1st of October 1987 NATIONAL AUSTRALIA BANK (NZ) LIMITED (formerly called Broadbank Corporation Limited) appointed me Attorney on the terms and subject to the conditions set out in the said Power of Attorney and that I have executed the document annexed hereto as the Attorney and in the name of the said NATIONAL AUSTRALIA BANK (NZ) LIMITED.

3. THAT the said Power of Attorney was deposited in the Land Transfer Offices at:-

Auckland	B.737253.1	Blenheim	137870
South Auckland	H.754407	Nelson	272876.1
Gisborne	G.168318	Christchurch	C705514
Napier (Hawkes Bay)	486453	Hokitika (Westland)	77481
New Plymouth	344528	Dunedin	688143
Wellington	879597.1	Invercargill	145178

4. THAT at the date hereof I have not received any notice or information of the revocation of the appointment under the said Power of Attorney by the winding up or dissolution of the said NATIONAL AUSTRALIA BANK (NZ) LIMITED or otherwise.

SIGNED at Auckland, this 7th day of March 1988.


Attorney No. 6169

NOW THEREFORE

In Consideration of the above premises and further in consideration of the sum of **SIX THOUSAND DOLLARS (\$6,000.00)**

(the receipt of which sum is hereby acknowledged) paid to the Grantor by the Grantee the Grantor

Does hereby Transfer ~~xxxxxxx~~ and grant to the Grantee the Right-of-Way to the intent and purpose that the easement hereby created shall be forever appurtenant to the dominant tenement and every part thereof.

at

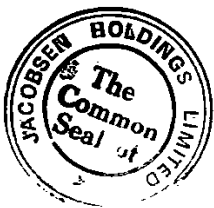
~~xxxxxxx~~

~~xxxxxxx~~

In witness whereof these presents have been executed this 22nd day of December 19 87.

Signed by the above named
JACOBSEN HOLDINGS LIMITED
as Grantor
in the presence of:—

F. Jacobsen, Director
Hazel Jacobsen, Director
by her attorney *F. Jacobsen*



Approved by the District Land Registrar, South Auckland No. 351560
Approved by the District Land Registrar, North Auckland, No. 4380/81
Approved by the Registrar-General of Land, Wellington, No. 436748.1/81

C400151.1 EC
EASEMENT CERTIFICATE

(IMPORTANT: Registration of this certificate does not of itself create any of the easements specified herein).

I/~~we~~ JERROLD ARTHUR DREXEL of Auckland, Company Director

being the registered proprietor(s) of the land described in the Schedule hereto hereby certify that the easements specified in that Schedule, the servient tenements in relation to which are shown on a plan of survey deposited in the Land Registry Office at Auckland on the 16th day of ~~April~~ 1992 under No. 140342 are the easements which it is intended shall be created by the operation of section 90A of the Land Transfer Act 1952.

SCHEDULE
DEPOSITED PLAN NO.

Nature of Easement (e.g., Right of Way, etc.)	Servient Tenement		Dominant Tenement Lot No.(s) or other Legal Description	Title Reference
	Lot No.(s) or other Legal Description	Colour, or Other Means of Identification, of Part Subject to Easement		
Right of Way	2	"B" and "E"	Lot 1	83B/476 & 83B/477
Right of Way	1	"C"	Lot 2	83B/476 & 83B/477
Right of Way	2	"E"	Lot 3	83B/477 & 83B/478

State whether any rights or powers set out here are in addition to or in substitution for those set out in the Seventh Schedule to the Land Transfer Act 1952.

1. Rights and powers:

FAR NORTH
DISTRICT COUNCIL



Our reference

MAM:GMM RC 4261

If calling, please ask for

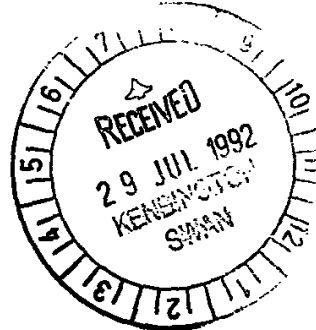
Mr McDonald

Kawakawa Service Centre
Main North Rd. P.O. Box 11, Kawakawa
Telephone: (09) 404-0371 Fax: (09) 404-1544

27 July 1992

Kensington Swan
Private Bag 92101
AUCKLAND

Attention: L S Harris



Dear Sir

RC 4261 - PROPOSED RIGHT OF WAY - J.A. DREXEL

I advise that the above referenced right-of-way has been approved by Council.

The approval is as follows:

That pursuant to the provisions of Section 348 of the Local Government Act 1974, Council permits the laying out of a private right-of-way over Otamarua B2 Block, such land being situated at Paroa Bay, Russell, subject to the following conditions:

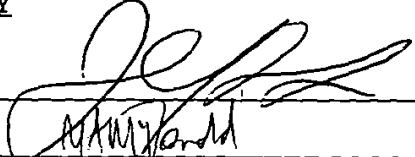
1. That Lot 2 be shown as a dominant tenement over the area shown as "C" on Plan 140342.
2. That Lot 1 be shown as a dominant tenement over the areas shown as "B" and "E" on Plan 140342.
3. That Lot 3 be shown as a dominant tenement over the area shown as "E" on Plan 140342.

APPROVED UNDER DELEGATED AUTHORITY

PLANNING MANAGER

RESOURCE PLANNER

DATE



28/7/92

mam3rc4261.let

2. Terms, conditions, covenants, or restrictions in respect of any of the above easements:

Dated this 8th day of July 1992

Signed by the above-named

JERROLD ARTHUR DREXEL

Jerrold A. Drexel

in the presence of

Witness

R. Neab

Occupation

Solicitor

Address

Auckland

EASEMENT CERTIFICATE

(IMPORTANT): Registration of this certificate does not of itself create any of the easements specified herein.

*Correct for the purposes of the
Land Transfer Act*

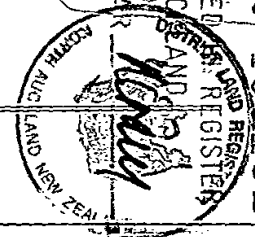
H. S. Hubbard

Solicitor for the registered proprietor

COPY

LTO

205 14 JUL 92 C 894490
241 31 JUL 92 C 400451
LAND REGISTRY AUCKLAND
ASSISTANT LAND REGISTRAR



KENSINGTON SWAN
SOLICITORS
AUCKLAND & WELLINGTON (LSH)



D 644 100.5 EC



EASEMENT CERTIFICATE

(IMPORTANT: Registration of this certificate does not of itself create any of the easements specified herein).

I/We **Jerrold Arthur DREXEL**

being the registered proprietor(s) of the land described in the Schedule hereto hereby certify that the easements specified in that Schedule, the servient tenements in relation to which are shown on a plan of survey deposited in the Land Registry Office at **NORTH AUCKLAND** on the _____ day of _____ under No. **205585** are the easements which it is intended shall be created by the operation of section 90A of the Land Transfer Act 1952.

SCHEDULE DEPOSITED PLAN NO. 205585

Nature of Easement (e.g., Right of Way, etc.)	Servient Tenement		Dominant Tenement Lot No.(s) or other Legal Description	Title Reference
	Lot No.(s) or other Legal Description	Colour, or Other Means of Identification, of Part Subject to Easement		
Right of Way, Water, Right to Transmit Electricity and Telecomm- unications	Lot 2	B & C	Lot 1	134A/76 134A/75
Right of Way and Right to Transmit Electricity	Lot 3	E	Lots 1 & 2	134A/77 134A/75 134A/76
Right to Convey Water & Right to Transmit Electricity	Lot 3	A	Lots 1 & 2	134A/77 134A/75 134A/76



State whether any rights or powers set out here are in addition to or in substitution for those set out in the Seventh Schedule to the Land Transfer Act 1952.

1. Rights and powers:



2. Terms, conditions, covenants, or restrictions in respect of any of the above easements:

Dated this 30th day of August 2001

Signed by the above-named
Jerrold Arthur DREXEL

in the presence of

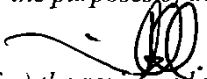
Witness 

Occupation **LINDAYEE**

Address **SOLICITOR**

AUCKLAND

Correct for the purposes of the Land Transfer Act 1952


(Solicitor for) the registered proprietor:

Approved by Registrar-General
of Land under No. 1998/6031EF



EASEMENT CERTIFICATE

Land Transfer Act 1952

See 10664100-2 for Covenants, largest

Law Firm Acting
KPMG Legal SOLICITORS AUCKLAND & WELLINGTON

Auckland District Law Society
REF 4050/4

PATRICIA R. HERRING
REGISTRAR GENERAL

1808/78-77

2009 27 SEP 01 10 06 55

LINZ COPY



This page is for Land Registry Office use only.
(except for "Law Firm Acting")



FAR NORTH DISTRICT COUNCIL

THE RESOURCE MANAGEMENT ACT 1991

SECTION 221 : CONSENT NOTICE

CONO 6993523.3 Cons

Cpy - 01/01, Pgs - 002, 18/08/06, 09:08



DocID: 312614901

REGARDING RC2020120
The subdivision of Lot 2 DP 205585
North Auckland Registry.

PURSUANT to Section 221 for the purposes of Section 224 of the Resource Management Act 1991, this Consent Notice is issued by the FAR NORTH DISTRICT COUNCIL to the effect that conditions described in the schedule below are to be complied with* on a continuing basis by the subdividing owner and the subsequent owners after the deposit of the survey plan, and is to be registered on the title of the affected allotments.

* by all lots on DP322364 with the exception of Lot 24
SCHEDULE

- A maximum of one dwelling shall be constructed on each site. No sleepouts or accessory residential units (such as caretakers cottages or family flats) shall be permitted.
- Any sewerage system and foundations for any building shall be designed by a Registered Engineer. Such details shall be submitted with any Building Consent Application.
- That any buildings shall be designed in accordance with the criteria contained in the "Mitigation Strategies" section of the landscape assessment report prepared by Paul Quinlan of Peter Rough Landscape Architects dated October 2000 and submitted as attachment 8 to the application, and in particular buildings shall be stepped and modulated as necessary to follow the natural ground levels; buildings on Lots 1-5,8,9,12,14,15 and 22 shall not exceed a height of 6.5 metres in height above natural ground level and be finished either in natural timber cladding or naturally recessive colours as per the following British Standard colours:

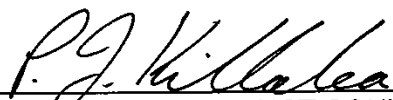
00 A 09, 00 A 11, 00 A 13
10 A 09, 10 A 11, 10 A 13
16 A 07, 16 A 11, 16 A 14
04 B 25, 04 B 27, 04 B 29
08 B 25, 08 B 27, 08 B 29
10 B 25, 10 B 27, 10 B 29
12 B 25, 12 B 27, 12 B 29

18 B 25, 18 B 27, 18 B 29
22 B 25, 22 B 27, 22 B 29
04 C 39, 04 C 40
06 C 39, 06 C 40
08 C 39, 08 C 40
10 C 39
12 C 39, 12 C 40
14 C 39, 14 C 40
16 C 39, 16 C 40
18 C 39, 18 C 40

A statement from a qualified architect or landscape architect shall accompany any building consent application outlining the design and its compliance with the design guidelines as set out in the Quinlan Report and the requirements of this condition.

- Any building consent application shall be accompanied by a landscaping plan showing proposed plantings designed to ensure that any building does not dominate the landscape. Such plans shall be based on the information contained in the "Mitigation Strategies" section of the Landscape Assessment Report prepared by Paul Quinlan of Peter Rough Landscape Architects dated October 2000 and submitted as attachment 8 to the application. Such plantings shall be undertaken within 12 months of the completion of the exterior of any building and maintained on a continuing basis thereafter.
- No building shall be erected on the area of Lot 1 322364 shown marked K or Q.
- Any building shall be so located to be at least 10 metres clear of any archaeological site.
- If archaeological remains are uncovered during earthworks (i.e. shellmidden, pits, earth ovens, defensive ditches etc) all work must stop and/or the New Zealand Historic Places Trust be notified so that the appropriate action can be taken.

SIGNED:


by the FAR NORTH DISTRICT COUNCIL
under delegated authority:
RESOURCE CONSENTS MANAGER

DATED at **KAIKOHE** this 5th day of *May* 2005.

RC2020120
4oystercove221

Approved by Registrar-General of Land under No. 2002/6055

Easement instrument to grant easement or ~~profit à prendre~~, or create land covenant

Sections 90A and 90F, Land Transfer Act 1952



EI

EI 6993523.7 Easemen

Cpy - 01/01, Pgs - 006, 18/08/06, 09:17



DocID: 312614935

Land registration district

NORTH AUCKLAND

Grantor

Surname(s) must be underlined or in CAPITALS.

Linda YEE and Warwick JONES

Grantee

Surname(s) must be underlined or in CAPITALS.

Linda YEE and Warwick JONES

Grant of easement or ~~profit à prendre~~ or creation of covenant

The Grantor, being the registered proprietor of the servient tenement(s) set out in Schedule A, **grants to the Grantee (and, if so stated, in gross) the easement(s) or ~~profit(s) à prendre~~ set out in Schedule A, or creates the covenant(s) set out in Schedule A**, with the rights and powers or provisions set out in the Annexure Schedule(s).

Dated this

28th

day of

November

2005

Attestation

ly	
WJ	
Signature [common seal] of Grantor	

Signed in my presence by the Grantor

Signature of witness

Witness to complete in BLOCK letters (unless legibly printed)

Witness name

Occupation JUDITH LOUISE SHEA

Address SOLICITOR

AUCKLAND

ly	
WJ	
Signature [common seal] of Grantee	

Signed in my presence by the Grantee

Signature of witness

Witness to complete in BLOCK letters (unless legibly printed)

Witness name JUDITH LOUISE SHEA

Occupation SOLICITOR

Address AUCKLAND

Certified correct for the purposes of the Land Transfer Act 1952.

[Solicitor for] the Grantee

*If the consent of any person is required for the grant, the specified consent form must be used.



Easement instrument

Dated 28th November 2005 Page 1 of 2 pages

Schedule A

(Continue in additional Annexure Schedule if required.)

Purpose (nature and extent) of easement, profit, or covenant	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant tenement (Identifier/CT or in gross)
Right of Way /	"M" "H" "A" on DP 322364	Lot 7 DP322364	89257, 89259 89260, 89261 89262, 89265, 89263
Right to Convey Water /	"F" on DP 322364	Lot 9 DP322364 CT 89260	89257, 89259, 89261, 89292, 89265, 89263 89262
Right to Convey Water continued on annexure	"M" "A" on DP 322364 schedule	Lot 7 DP322364	89257, 89259, 89260, 89261, 89262, 89265 & 89263

Easements or profits à prendre rights and powers (including terms, covenants, and conditions)

Delete phrases in [] and insert memorandum number as required.
 Continue in additional Annexure Schedule if required.

Unless otherwise provided below, the rights and powers implied in specific classes of easement are those prescribed by the Land Transfer Regulations 2002 and/or the Ninth Schedule of the Property Law Act 1952.

The implied rights and powers are ~~[varied]~~ ~~[negatived]~~ ~~[added to]~~ or ~~[substituted]~~ by:

~~[Memorandum number _____, registered under section 155A of the Land Transfer Act 1952].~~

~~[the provisions set out in Annexure Schedule 2].~~

Covenant provisions

Delete phrases in [] and insert memorandum number as required.
 Continue in additional Annexure Schedule if required.

The provisions applying to the specified covenants are those set out in:

~~[Memorandum number _____, registered under section 155A of the Land Transfer Act 1952].~~

~~[Annexure Schedule 2].~~

All signing parties and either their witnesses or solicitors must sign or initial in this box

(Handwritten signatures and initials)



Insert type of instrument
 "Mortgage", "Transfer", "Lease" etc

Easement

Dated 28th November 2005

Page 2 of 2 Pages

(Continue in additional Annexure Schedule, if required.)

Purpose (nature and extent) of easement, profit or covenant	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant tenement (Identifier/CT or in gross)
Right to convey water b	"B" on DP 322364	Lot 6 DP322364	89257, 89259, 89260, 89261, 89262, 89265 & 89263
Right to convey water b	"L" "R" on DP 322364	Lot 18 DP322364	89257, 89259, 89260, 89261, 89262, 89265 & 89263

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(Handwritten signatures and initials)



Insert type of instrument
"Mortgage", "Transfer", "Lease" etc

Easement

Dated 28th November 2005

Page 1 of 1 pages

(Continue in additional Annexure Schedule, if required.)

Any maintenance, repair or replacement of the Easement facility on the servient or dominant land that is necessary because of any act or omission by the owner of the servient land or the owner of the dominant land (which includes agents, employees, contractors, subcontractors and invitees of that owner) must be carried out promptly by that owner, and that owner's sole cost. Where the act or omission is the partial cause of the maintenance, repair or replacement the costs payable by that owner responsible must be in proportion to the amount attributable to that act or omission (with the balance payable in accordance with clause 11 of Schedule 4).

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ASB BANK LIMITED
CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I Mary Magdaline McCormick of Auckland, New Zealand, hereby certify:

- 1 THAT by a Deed dated **3 February 2004** and deposited in the Land Information New Zealand office as **No. 5911838** ASB Bank Limited appointed the persons holding, or from time to time acting in, the following ASB Bank offices as its attorneys on the terms and subject to the conditions set out in the said Deed:

Senior Manager Business and Rural Documentation
Senior Manager Group Retail Loan Documentation
Senior Manager Loan Security Maintenance
Manager Business and Rural Loan Documentation
Legal Executive, Lending Services
Manager Administration
Manager Security Alterations and Settlements
Manager Inward Documents and Security Filing
Manager Evening Processing Team
Manager BankDirect
Chief Manager Lending Services
Manager Debt Assessment and Recoveries
Manager Business Credit

2. THAT I hold the appointment of
Manager Security Alterations and Settlements, Lending Services, with
ASB Bank Limited
3. THAT at the date of signing I have not received any notice of or
information of the revocation of that appointment by the winding up of
the said company or otherwise.



Mary Magdaline McCormick

SIGNED at Auckland this day of **06 DEC 2005** 200

Annexure Schedule - Consent Form

Land Transfer Act 1952 section 238(2)



Insert type of instrument
"Caveat", "Mortgage" etc

Mortgage

Page **1** of **1** pages

Consentor

Surname must be underlined or in CAPITALS

Capacity and Interest of Consentor

(eg. Caveator under Caveat no./Mortgagee under Mortgage no.)

ASB BANK LIMITED

**Mortgagee under Mortgage Number
6403584.4**

Consent

Delete Land Transfer Act 1952, if inapplicable, and insert name and date of application Act.

Delete words in [] if inconsistent with the consent.

State full details of the matter for which consent is required.

Pursuant to ~~[section 238(2) of the Land Transfer Act 1952]~~

~~[section _____ of the _____ Act _____]~~

~~[Without prejudice to the rights and powers existing under the interest of the Consentor]~~

the Consentor hereby consents to:

The registration of an Easement Instrument to grant easements in the form attached.

Dated this _____ day of **06 DEC 2005** **2005**

Attestation

ASB BANK LIMITED

by its attorney

SIGNED by ASB BANK LIMITED by its Attorney

MARY MAGDALINE MCCORMICK

without prejudice to the rights and powers existing

under the interest of the Consentor

in the presence of:

Witness:

Bank Officer **Alex Aiono** AUCKLAND

Signature of Consentor

Signed in my presence by the Consentor

Signature of Witness

Witness to complete in BLOCK letters (unless legibly printed)

Witness name

Occupation

Address

An Annexure Schedule in this form may be attached to the relevant instrument, where consent is required to enable registration under the Land Transfer Act 1952, or other enactments, under which no form is prescribed.

Transfer instrument
Section 90, Land Transfer Act 1952



T 7397497.1 Transfer

Cpy - 01/04, Pgs - 029, 30/05/07, 13:49



DocID: 312900390

Land registration district

NORTH AUCKLAND

Unique identifier(s)
or C/T(s)

All/part

Area/description of part or stratum

See attached schedule

Transferor

Surname(s) must be underlined or in CAPITALS.

Linda YEE and Warwick JONES

Transferee

Surname(s) must be underlined or in CAPITALS.

Linda YEE and Warwick JONES

Estate or interest to be transferred, or easement(s) or profit(s) à prendre to be created
State if fencing covenant imposed.


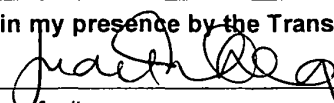
Fee simple subject to land covenant (continued on annexure schedule)

Operative clause

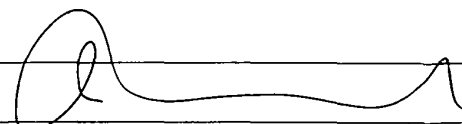
The Transferor transfers to the Transferee the above estate or interest in the land in the above certificate(s) of title or computer register(s) and, if an easement or profit à prendre is described above, that easement or profit à prendre is granted or created.

Dated this 6th day of December 2005

Attestation (If the transferee or grantee is to execute this transfer, include the attestation in an Annexure Schedule).

 Linda YEE	Signed in my presence by the Transferor  Signature of witness
	Witness to complete in BLOCK letters (unless legibly printed) Witness name J. DITTHGA Occupation Solicitor Address Auckland
Signature [common seal] of Transferor	

Certified correct for the purposes of the Land Transfer Act 1952.



[Solicitor for] the Transferee

Annexure Schedule



Insert type of instrument
"Mortgage", "Transfer", "Lease" etc

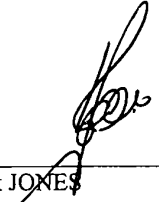
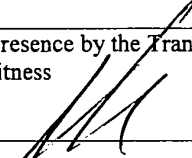
Transfer

Dated

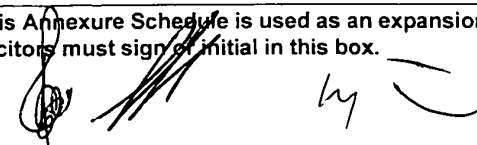
Page 1 of 24 Pages

(Continue in additional Annexure Schedule, if required.)

Continuation of Unique Identifiers Or C/T(s)	All/part
89254	All
89255	All
89256	All
89257	All
89258	All
89259	All
89260	All
89261	All
89262	All
89263	All
89265	All
89266	All

 <hr/> Warwick JONES	Signed in my presence by the Transferor Signature of witness  <hr/> <i>Witness to complete in BLOCK letters (unless legibly printed)</i> Witness name Claire Braddock Occupation Office Administrator 41 Commodore Drive Lynfield Address Auckland
--	---

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Annexure Schedule



Insert type of instrument
"Mortgage", "Transfer", "Lease" etc

Transfer

Dated

Page 2 of 24 Pages

(Continue in additional Annexure Schedule, if required.)

FORM OF LAND COVENANT AND ENCUMBRANCE

Continuation of "Estate or Easement to be created"

The Transferor when registered proprietor of the land formerly contained in Certificate of Title NA134A/76 subdivided the land into residential lots in the manner shown and defined on Deposited Plan 322364 and the Transferor is the owner of an adjoining lot in Certificate of Title NA134A/75.

AND WHEREAS the Transferor and the Transferee have agreed mutually to covenant in the manner set out in Schedule C each for the benefit of the other and their successors in title to each of the lots comprising the Dominant Tenements and Servient Tenements.

AND WHEREAS it is the Transferor's intention to create for the benefit of the land set out in Schedule A (herein referred to as the "Dominant Tenements") the land covenants set out in Schedule C over the land set out in Schedule B (herein referred to as the "Servient Tenements") **TO THE INTENT** that the Servient Tenements shall be bound by the stipulations and restrictions set out in Schedule C hereof and that the owner and occupier for the time being of the Dominant Tenements may enforce the observance of such stipulations against the owners for the time being of the Servient Tenements.

AND AS INCIDENTAL to the transfer of the fee simple so as to bind the Servient Tenements and for the benefit of the respective Dominant Tenements the Transferee **DOES HEREBY COVENANT AND AGREE** in the manner set out in the Schedule C hereto so that the covenants run with the Servient Tenements for the benefit of the respective Dominant Tenements as described in Schedule A.

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Annexure Schedule



Insert type of instrument
"Mortgage", "Transfer", "Lease" etc

Transfer

Dated

Page 3 of 24 Pages

(Continue in additional Annexure Schedule, if required.)

SCHEDULE A

SCHEDULE OF DOMINANT TENEMENTS

Unique Identifier NA89254	All
Unique Identifier NA89255	All
Unique Identifier NA89256	All
Unique Identifier NA89257	All
Unique Identifier NA89258	All
Unique Identifier NA89259	All
Unique Identifier NA89260	All
Unique Identifier NA89261	All
Unique Identifier NA89262	All
Unique Identifier NA89263	All
Unique Identifier NA89265	All
Unique Identifier NA89266	All

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[Handwritten signatures and initials]

Annexure Schedule



Insert type of instrument
"Mortgage", "Transfer", "Lease" etc

Transfer

Dated

Page 4 of 24 Pages

(Continue in additional Annexure Schedule, if required.)

SCHEDULE B

SCHEDULE OF SERVIENT TENEMENTS

Unique Identifier NA89254	All
Unique Identifier NA89255	All
Unique Identifier NA89256	All
Unique Identifier NA89257	All
Unique Identifier NA89258	All
Unique Identifier NA89259	All
Unique Identifier NA89260	All
Unique Identifier NA89261	All
Unique Identifier NA89262	All
Unique Identifier NA89263	All
Unique Identifier NA89265	All
Unique Identifier NA89266	All

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Annexure Schedule



Insert type of instrument
"Mortgage", "Transfer", "Lease" etc

Transfer

Dated []

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(Continue in additional Annexure Schedule, if required.)

SCHEDULE C

SCHEDULE OF LAND COVENANTS

To conserve and enhance the character and quality of the Servient Tenements, the Transferor and Transferee mutually covenant as follows:

1. DEFINITIONS

1.2 Defined Terms. Unless the context specifies or requires otherwise, the following words and phrases when used in this instrument shall have the meanings hereinafter specified:

"Board" shall mean the Board of Directors of the Management Company.

"Common Areas" shall mean collectively the Northern Shared Areas and the Southern Shared Lot and shall include without limitation, all private roads and easements for drainage, water supply and all fences and other Improvements situated thereon.

"Constitution" shall mean the Constitution of the Management Company as the same may be amended from time to time.

"Contribution" or "Contributions" shall mean all contributions levied by the Management Company under this Deed and the Constitution.

"Deed" means this instrument, as it is amended or varied from time to time.

"Development" shall mean the land comprising the Dominant Tenements, the Servient Tenements, the Common Areas and all Improvements thereon.

"Dominant Tenements" means the land described in Schedule A.

" Dwelling " means a Building or group of Buildings designed and occupied as a single self-contained household unit, whether by one or more persons, and includes normal accessory structures such as a garage, garden shed and glasshouse.

" Encumbrance " or " Memorandum of Encumbrance " means the Memorandum of Encumbrance to be entered into by the Transferee to secure the payment of the Contributions by the Transferee to the Management Company under the terms of this deed, (a draft of which Encumbrance is set out in Schedule D hereto).

" Homestead Area " means the Dwelling and curtilage not exceeding in all a total of 1500 m².

" Ground Level " means the finished ground level of a Lot as at the date of deposit of DP322364.

" Improvements " shall mean every structure and all improvements of every type on a Lot, or the Common Area, whether temporary or permanent, including but not limited to Dwellings, sheds, driveways, swimming pools, ponds, paths, storage buildings, footpaths, gazebos, signs, fences, gates, screening

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Annexure Schedule



Insert type of instrument
"Mortgage", "Transfer", "Lease" etc

Transfer

Dated

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of 24

Pages

(Continue in additional Annexure Schedule, if required.)

walls, retaining walls, stairs, decks, poles, letter boxes, water pump reticulation and storage fixtures or equipment, pumps, wells, tanks, reservoirs, pipes, lines, meters and other facilities used in connection with water, sewage, electric, telephone, regular or cable television, other utilities or otherwise and every earth modification or excavation.

"Lot(s)" shall mean all or any of Lots 1, 2, 3, 4, 5, 8, 9, 12, 14, 15 and 22 on DP 322364 and Lot 1 DP 205585;

"Lot Owner" means the registered proprietor(s) of a Lot and any tenant, lessee, licensee, visitor or invitee of a Lot Owner.

"Management Company" shall mean and refer to Paroa Bay Management Limited a New Zealand limited liability company.

"Management Company Property" shall mean all real or personal property now or in the future owned or leased by the Management Company.

"Management Company Restrictions" shall mean the covenants, conditions and restrictions contained in this Deed, as amended from time to time, together with the Constitution, and Management Company Rules from time to time in effect.

"Management Company Rules" shall mean the rules and regulations adopted by the Board from time to time to manage and control matters and activities which the Management Company is authorised or required to deal with.

"Member" or "Members" shall mean any person or persons or entity holding shares in the Management Company.

"Mortgage" or "Mortgages" shall mean any mortgage, deed of trust, or other security document secured over a Lot given to secure the payment of a debt or other obligation.

"Mortgagee" or "Mortgagees" shall mean the holder or holders of any Mortgage.

"Northern Lots" means Lots 1, 2, 3 and 5 on DP 322364 and Lot 1, DP205585 being the Lots that share ownership of the Northern Shared Areas.

"Northern Shared Areas" means Lots 6, 7, 17 and 18 on DP 322364.

"Property Management Activities" shall mean the repair, maintenance, keeping good or upgrading of the Common Areas and all lands, improvements, security devices and other Management Company Property, including without limitation paths, roads, gates, fences, drains, pumps, water storage facilities, pipes and cables and shall also include the provision and maintenance of communal facilities and the planting of such trees, shrubs and other vegetation as the Management Company deems suitable for the enhancement of the Common Areas together with the right to carry out activities referred to in this Deed.

"Register of Members" shall mean the book or register held by the Management Company to record the names and addresses of the current members of the Management Company.

"Relevant Authority" means the Far North District Council and each other authority having jurisdiction from time to time.

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Annexure Schedule



Insert type of instrument
 "Mortgage", "Transfer", "Lease" etc

Transfer

Dated

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(Continue in additional Annexure Schedule, if required.)

"Residential Building Platform" means the building platforms identified on a plan held by the Management Company for each Lot.

"Servient Tenement" shall mean the land described in the Schedule B hereto.

"Southern Lots" means Lots 4, 8, 9, 12, 14, 15 and 22, DP 322364 being the Lots which share ownership of the Southern Shared Lot.

"Southern Shared Lot" means Lot 16, DP 322364.

"Subdivide" has the meaning ascribed to "subdivision of land" in Section 218(1) of the Resource Management Act 1991 and includes but without limitation the creation of cross leases or units within the meaning of the Unit Titles Act 1972.

"Transferee" shall mean the registered proprietor of each and every Lot comprised in the Dominant Tenements and shall include their assigns and successors in title.

"Transferor" shall mean the registered proprietor of each and every Lot comprised in the Servient Tenements and they shall include their assigns and successors in title.

1.2 In this Deed:

- (a) the singular includes the plural, and vice versa;
- (b) "including" has no limiting effect;
- (c) references to a party approving or notifying or agreeing or objecting are to that party doing so in writing;
- (d) references to statutes include amendments or replacements or re-enactments to that statute;
- (e) references to a person include individuals, companies, all partnerships, trusts, organisations and all other entities;
- (f) the headings are inserted for ease of reference only and do not effect interpretation.

2. LIMITATIONS AND RESTRICTIONS

2.1 **Residential.** The Lots must be used solely for private residential purposes and there shall not be constructed on any of the Lots more than one detached single Dwelling unit.

2.2 Subdivision

- (a) Subject as provided in clause 2.2(b) no Lot Owner may further Subdivide any Lot without the unanimous approval of all the other Lot Owners.
- (b) Subclause 2.2(a) does not apply to a boundary adjustment between Lots which does not result in the creation of a greater number of Lots than existed prior to the boundary adjustment.

2.3 **Construction.** Construction of any Dwelling or Improvements must be strictly in accordance with the Consent Notice registered on the Servient Tenements, the requirements from time to time of each

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Annexure Schedule

Insert type of instrument
"Mortgage", "Transfer", "Lease" etc

Transfer

Dated

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(Continue in additional Annexure Schedule, if required.)

relevant authority having jurisdiction in relation to each Lot and the Design Criteria in Section 4 of this Deed. During the course of construction each Lot Owner must keep the construction site on the Lot in a tidy condition and must ensure that the construction site and the Dwelling and Improvements being erected thereon are sufficiently secure so that unauthorised persons are not permitted entry onto same.

- 2.4 **No Business.** Subject as provided in clause 2.5 no Lot may be used for the display, offering, provision, sale or hire of goods, equipment or services for payment, exchange or other consideration or for any professional business or commercial activity to which the general public is invited.
- 2.5 **No Commercial Use.** No Dwelling or Improvements on any Lot shall be used as an apartment house, flat, lodging house, hotel, bed and breakfast lodge, or for any similar purpose, but a Lot may be leased for private residential purposes, provided that any lease agreement must be in writing and must be made specifically subject to this Deed.
- 2.6 **No Aircraft.** No portion of any Lot or any part of the Common Areas may be used for the takeoff, storage, or landing of any form of aircraft (including, without limitation, motorised hang-gliders, microlight gliders and helicopters) except for medical emergencies and/or any normal farm management practices.
- 2.7 **Antennae and Solar Systems.** Except as expressly provided below, no exterior radio or television antennae or aerial or satellite dish or disc, nor any solar energy system, shall be erected, maintained or placed on any Lot without the prior written approval of the Management Company, which approval shall not be unreasonably withheld. Any antennae, aerial, satellite dish or disc or solar system, if approved, shall be entirely screened from view from adjacent Lots and roadways.
- 2.8 **Insurance Rates.** Nothing shall be done or kept on the Lots that would increase the rate of public liability insurance, or cause the cancellation of any such insurance for the Common Areas without the prior written approval of the Management Company.
- 2.9 **Signs.** No sign of any kind, including without limitation, signs advertising any Lot for sale, or lease, shall be displayed to the public view without the express prior written approval of the Management Company provided that consent may not be unreasonably withheld to "For Sale" signs. The Management Company may otherwise permit or prohibit signs of any type as it elects in its absolute sole discretion. If the Management Company elects to permit signs, it may set standards for such signs including, without limitation, maximum dimensions, style, colour, type, size, and location as it deems appropriate PROVIDED THAT such signs must comply with the requirements of the Local Authority. This provision will not apply to the Executors in the Estate of Jerrold Arthur Drexel whilst they are a Lot Owner until they have sold each of the Lots owned by them and which they wish to sell.
- 2.10 **Rubbish and Debris.** No rubbish or debris of any kind shall be placed or permitted to accumulate upon a Lot and no odours shall be permitted to arise therefrom so as to render any Lot or any portion thereof unsanitary, unsightly, offensive, or detrimental to any other Lots or to their occupants. Refuse, garbage, and rubbish shall be kept at all times in covered containers, and such containers shall be kept within enclosed structures or otherwise appropriately screened from view. No rubbish or debris permitted to be maintained on the Lots shall be burned on the Lots.
- 2.11 **Noise and Lights.** No exterior speakers, horns, whistles, bells, or other devices or flood lights or exterior lighting or mirrors (other than security devices used exclusively for security purposes) or in the case of lighting as approved by the Management Company shall be located, used, or placed on the Lots. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Lots so as to be offensive or detrimental to any other Lot or to its occupants, including without limitation, unmuffled vehicles, motorcycles and motor scooters. Without limiting the generality of the foregoing, if any noise,

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Annexure Schedule



Insert type of instrument
"Mortgage", "Transfer", "Lease" etc

Transfer

Dated

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(Continue in additional Annexure Schedule, if required.)

exterior lighting or nuisance emanates from any Lot, the Management Company may (but shall not be obligated to) enter any such Lot and take such reasonable actions as are necessary to terminate such noise, lighting or nuisance (including silencing any burglar or break-in alarm).

2.12 **Repair of Buildings.** All Dwellings and Improvements on a Lot must at all times be kept in good condition and repair and adequately maintained. The opinion of the Management Company as to condition and repair shall be final.

2.13 **Alteration or Removal of Improvements.** Any alteration, remodelling, construction or reconstruction that in any way alters or modifies the exterior appearance of any Dwelling or Improvements on any Lot, or the removal of any Dwelling or Improvements within a Lot, shall be performed only with the prior written approval of the Management Company (and where necessary the consent of the Local Authority) and must where appropriate, comply with the Design Criteria in Part 4.

2.14 **Drainage.** There must be no interference with the established drainage patterns of the Lots unless adequate provision is made for proper drainage and unless it is first approved in writing by the Management Company.

2.15 **Hazardous Activities.** No activities may be conducted on the Lots and no Dwelling or Improvements constructed on the Lots that are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no fireworks or firearms shall be discharged upon the Lots, no hazardous materials shall be disposed of on any Lot (or the Common Areas) and no open fires shall be lit or permitted except in contained cooking units which are attended while in use, for cooking purposes only.

2.16 **Temporary Structures.** No tent, shed or other temporary building, or structure shall be placed upon a Lot without the prior written approval of the Management Company, provided however, that temporary structures necessary for storage of tools and equipment during actual construction may be maintained with the prior approval of the Management Company, such approval to include the nature, size, duration, and location of such structure.

2.17 **Mining and Drilling.** No portion of a Lot shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing water, oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth provided that this clause does not apply to any communal water supply bore.

2.18 **Unightly Articles.** No article deemed to be unsightly by the Management Company shall be permitted to remain on a Lot so as to be visible from adjoining Lots or public or private thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks larger than a one ton utility, boats, tractors, semi-trailers, campers, wagons, buses, motorcycles, motor scooters, fuel storage tanks, rubbish bins, machinery, garden maintenance equipment and inoperable vehicles shall be kept at all times, except when in actual use, in enclosed structures, screened from view. Service areas, storage areas, compost heaps, and facilities for hanging, drying, or airing clothing or household fabrics (including, without limitation, clothes lines) shall be screened from view. No timber, grass, plant waste, shrub or tree clippings, metals, bulk materials, scraps, refuse, or rubbish of any kind shall be kept, stored, or allowed to accumulate on any portion of a Lot, except within enclosed structures or appropriately screened from view.

2.19 **Animals.** No kennel or other facility for raising or boarding dogs or other animals for commercial purposes shall be kept on a Lot. The keeping of ordinary household pets such as dogs, cats and birds is approved, provided however, that no breeding, raising or boarding of such pets for commercial purposes is permitted on a Lot. Farm animals, livestock, poultry or exotic animals may be kept on a Lot if properly confined. All

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Annexure Schedule



Insert type of instrument
 "Mortgage", "Transfer", "Lease" etc

Transfer

Dated

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(Continue in additional Annexure Schedule, if required.)

pets shall be kept on a Lot and shall not be allowed to roam loose, it being understood and agreed that roaming pets may seriously interfere with operations on the Common Areas and the quiet enjoyment of other Lot owners, PROVIDED THAT nothing in this clause shall prevent the Management Company from carrying out farming operations on any Common Areas.

2.20 **Camper Vans and Recreational Vehicles.** No camper vans or recreational or other vehicles may be parked on any access roads, paths or tracks within the Development.

2.21 **Owner's Responsibility for Maintenance.**

- (a) Each Lot Owner must maintain and keep in a good state of repair the exterior of each Dwelling and all Improvements on their Lot and the grounds and landscaping on their Lot must be kept trim and tidy;
- (b) Should the exterior of any Dwelling or Improvements or grounds and landscaping not be maintained in a manner that the Management Company deems necessary to preserve the appearance and value of the Development and all Lots, the Management Company may notify the Lot Owner of the work required and request that it be done within 90 days from the date of giving such notice;
- (c) In the event that such work or maintenance is not completed within the period provided for in sub-clause (b) or any extended period which may be agreed by the Management Company, the Management Company may (but is not obliged to) cause such work to be done. The Lot Owner is personally liable for the costs of such works. If the Lot Owner fails to pay those costs and expenses upon demand those costs and expenses (plus interest from the date of demand until paid at the rate of 3% per month) shall be added to the Contribution chargeable against that Lot;
- (d) Any amounts added to the Contribution chargeable to the Lot pursuant to sub-clause (c) shall be secured by the Encumbrance in relation to that Lot and may be collected by any means provided in this instrument for the collection of Contributions, including enforcement of that Encumbrance against the Lot, or any remedies as are applicable to an Encumbrance under the Land Transfer Act 1952 and to the Property Law Act 1952;

2.22 **Liability for Damage to Common Areas.** A Lot Owner must not in any way alter, modify, add to, or otherwise perform any work whatsoever upon the Common Areas, without the prior written approval of the Management Company. A Lot Owner shall be liable to the other Lot Owners or where applicable the Management Company for all damages to:

- (i) the Common Areas or any Improvements thereon; or
- (ii) To any Improvements constructed upon any Lots, the maintenance of which has been assumed by the Management Company;

which damage is caused by the neglect, misuse or negligence of that Lot Owner or any tenant or other occupant of that Lot Owner. The full cost of all repairs of such damage shall be a Contribution chargeable to that Lot Owner's Lot, secured by the Encumbrance against the Lot and collectable in the same manner as provided hereinafter for Contributions.

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Annexure Schedule



Insert type of instrument
 "Mortgage", "Transfer", "Lease" etc

Transfer

Dated []

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(Continue in additional Annexure Schedule, if required.)

- 2.23 Compliance with Management Company Restrictions**
- (a) All Lot Owners must comply strictly with the Management Company Restrictions. Failure to comply with any of the Management Company Restrictions constitutes a violation of this deed and gives rise to a cause of action to recover sums due for damages or injunctive relieve, or both, maintainable by the Management Company.
 - (b) Without limiting any rights or powers of the Management Company set out in this deed, the Management Company may (but is not obliged to) remedy or attempt to remedy any violation of any of the Management Company Restrictions. Any Lot Owner in default is personally liable to the Management Company for all costs and expenses of effecting (or attempting to effect) such remedy. If the Lot Owner fails to pay those costs and expenses upon demand, those costs and expenses (plus interest from the date of demand until paid at the rate of 2% per month) shall be added to and deemed part of the Contribution chargeable to the Lot.
- 2.24 Water Supply and Sewerage Systems.** All water supply and sewerage disposal reticulation must be constructed and maintained in strict accordance with the requirements of each Relevant Authority and of the Management Company.
- 2.25 Swimming Pools.** Any swimming pool (as defined in the Fencing of Swimming Pools Act 1987) on any Lot must comply with any applicable regulations concerning swimming pool enclosure requirements, particularly the Fencing of Swimming Pools Act 1987.
- 2.26 Fencing.** The following controls apply to fences and walls:
- (a) Fencing is permitted around the exterior boundary of the Development and within Common Areas as designated by the Management Company.
 - (b) Apart from fencing permitted pursuant to 2.26(a), no fencing shall be allowed without the consent of the Management Company and in particular no fencing shall be allowed on any part of any Lot outside the Homestead Area (other than along the boundary of the Development or as in place at the date of this deed).
 - (c) All permitted Homestead Area fencing shall be in post and wire, post and rail or a combination of stone and post and rail, or stone and post and wire.
 - (d) No fence or post and rail shall exceed a height of 1.2 metres above ground level.
 - (e) Notwithstanding the provisions of clause 2.26(b) and the general provisions hereof, the Management Company shall have the right to decline any application for the construction or erection of a fence when in the opinion of the Management Company the erection or construction of such fence would have a detrimental impact on the visual amenities of the Development.
- 2.27 Relocated Buildings.** No relocated building (including any building transported in substantially built up form) may be erected, placed or constructed on a Lot.
- 2.28 Insurance.** A Lot Owner must maintain insurance on the Dwelling and Improvements located on the Lot, providing fire and all risks cover and all other coverage in the kinds and amounts commonly required by lending institutions for improvements similar in construction, location and use. Those insurance policies must be for the full replacement value of the Dwelling and Improvements constructed upon the Lot. Payment of the premium for the insurance policies is the responsibility of the Lot Owner.

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- 2.29 **Restoration.** In the event of fire or other destruction the Lot Owner must promptly repair, restore or remove any damaged or destroyed Improvements or Dwelling.
- 2.30 **Planting.** Existing planting shall not be felled unless it is dead, diseased or dangerous as defined by a qualified arborist. Any planting that is removed shall be replaced by a native tree or bush. A Lot Owner must not allow any broom, gorse, thistles or other noxious weeds or pines or firs or other wilding trees (ie trees likely to spread naturally onto surrounding land) to grow on their Lot.
- 2.31 **Partition.** A Lot Owner shall not by way of voluntary agreement with another Lot Owner or by bringing any action apply to partition any undivided share held by a Lot Owner in the Common Areas or any of them.
- 2.32 **Noxious Weeds and Pests.** A Lot Owner must use all reasonable endeavours to ensure that the Lot does not have any noxious weeds or pests upon it.
- 3. USE OF COMMON AREAS**
- 3.1 The Lot Owners of the Southern Lots must not use the right of way over areas M, H and A on DP 322364 and must ensure that the right of way is not used by any tenant, employee, contractor or invitee of any of the Lot Owners of the Southern Lots. Provided that for so long as Lot 12 is owned by Linda Kae Trippe she and her family and invitees may use the right of way, whilst Lot 14 is owned by Lu'Anne Denice Tate she and her family and invitees may use the right of way and for so long as Lot 15 is owned by Ronald Paul Drexel he and his invitees and family may use the said of right of way but these rights will not inure to any registered proprietor requiring Lot 12, 14 or 15 from them. This prohibition will not prevent the Lot Owners of the Southern Lots from using the pedestrian access strip over areas A, B, L and M for pedestrian access purposes upon and subject to the terms of the access strip instrument in favour of Far North District Council.
- 3.2 The Lot Owners of the Southern Lots shall share the use of the Southern Shared Lot but will not be entitled to use or enjoy the Northern Shared Areas. Such use shall be subject to the terms of the Constitution, the provisions of this deed and the future resolutions and decisions of the Board of the Management Company.
- 3.3 The Lot Owners of the Northern Lots shall share the use of the Northern Shared Areas but will not be entitled to use or enjoy the Southern Shared Lot. Such use shall be subject to the terms of the Constitution, the provisions of this deed and the future resolutions and decisions of the Board of the Management Company.
- 3.4 The Northern Shared Areas are to be used for:
- (a) Providing access and services to the Northern Lots (including the installation and maintenance of a water bore, water pumps, pipes and water tanks);
 - (b) Maintenance of a storage and supply shed for use by any property manager;
 - (c) Ensuring the view protection (within reasonable parameters as determined by the Management Company) of the Lot Owners of each Northern Lot;
 - (d) Trees which die or are removed will be replaced with similar trees or native trees and the grass kept in good order and condition;

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(e) Otherwise the Northern Shared Areas will be for general recreation and use of the Northern Lots but subject to restrictions in this deed and without limitation:

- i No crops may be planted on the Northern Shared Areas other than by or with the consent of the Management Company;
- ii No stock may be grazed on the Northern Shared Areas other than by or with the consent of the Management Company;
- iii No damage may be done to any archaeological sites;
- iv No Lot Owner of a Northern Lot will prevent any other Lot Owner of any other Northern Lot, their employees, agents or invitees from using the Northern Shared Areas;
- v Otherwise the Northern Shared Areas will be managed, administered, used and improved as specified from time to time by the Management Company with the approval of a majority of the Lot Owners of the Northern Lots; and
- vi No Improvements may be made to the Northern Shared Areas without the consent of the Management Company and the approval of a majority of the Lot Owners of the Northern Lots.

3.5 The Southern Shared Lot is to be used for providing services to the Southern Lots (including the installation and maintenance of water storage, water pumps, pipes and tanks):

- (a) Trees which die or are removed will be replaced with similar trees or native trees and the grass kept in good order and condition;
- (b) Otherwise the Southern Shared Lot will be for the general recreation and use of the Southern Lots but subject to the restrictions in this deed and without limitation:

- i No crops may be planted on the Southern Shared Lot other than by or with the consent of the Management Company;
- ii No stock may be grazed on the Southern Shared Lot other than by or with the consent of the Management Company;
- iii No damage may be done to any archaeological sites;
- iv No Lot Owner of a Southern Lot will prevent any other Lot Owner of any other Southern Lot, their employees, agents or invitees from using the Southern Shared Lot;
- v Otherwise the Southern Shared Lot will be managed, administered, used and improved as specified from time to time by the Management Company with the approval of a majority of the Lot Owners of the Southern Lots; and
- vi No Improvements may be made to the Southern Shared Lot without the consent of the Management Company and the approval of a majority of the Lot Owners of the Southern Lots.

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3.6 Decisions of the Management Company in relation to the Northern Shared Areas shall be made a majority of the directors appointed by the shareholders who own the Northern Lots and decisions in relation to the Southern Shared Lot shall be made by the directors of the Management Company appointed by the shareholders who are the owners of the Southern Lots.

3.7 The Management Company may make reasonable rules and regulations regarding the use of Common Areas and facilities located on Common Areas subject as provided in this deed.

4. DESIGN CRITERIA

4.1 The construction of any Dwelling or Improvements and any reinstatement or alteration of any Dwelling or Improvements must be approved by the Management Company, must comply with the consent notice registered against each Lot and with the requirements from time to time of the Far North District Council.

4.2 Without limitation Dwellings and Improvements must be designed so as to be environmentally recessive.

4.3 The Management Company may charge a design approval fee on each occasion that its approval is required pursuant to this deed provided that such a fee will not exceed \$500.00 plus GST.

4.4 Prior to construction of a Dwelling on any Lot the Lot Owner shall submit a landscaping plan for the Homestead Area for the approval of the Management Company. The landscape plan should be designed to meet the following criteria:

- (a) illustrate compliance with fencing and planting covenants contained in this deed;
- (b) planting on ridges and skylines should be avoided as should planting which will damage the view of any other Lot Owner in an unreasonable manner;
- (c) landscaping should be utilised to provide aesthetics, shelter and screening from adjacent Lots and not to demarcate boundaries.

5. THE MANAGEMENT COMPANY

5.1 Incorporation

Paroa Bay Management Limited has been incorporated for the purpose of managing the Common Areas, for managing the Development and (where appropriate) ensuring compliance with these covenants and providing management services and facilities for the Lot Owners.

5.2 Shareholding

The shareholding of the Management Company shall comprise twelve (12) shares, all initially to be owned by the Transferor who shall transfer one (1) such share to the Transferee upon settlement of the sale of the individual Lots comprising the Dominant Tenements.

5.3 Delegation of Authority

The Management Company shall be vested with the powers prescribed by the law of New Zealand or set out in its Constitution or in this deed.

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5.4 Membership

- (a) Membership of the Management Company shall be appurtenant to and shall run with the ownership of the Lots. Membership in the Management Company may not be severed from the ownership of a Lot or in any way transferred, pledged, mortgaged or alienated except together with the title to the Lot.
- (b) Each Lot Owner shall be bound by the Constitution of the Management Company and shall when conveying title to a Lot(s) concurrently execute a share transfer of that Lot Owner's share in the Management Company. A Lot Owner must notify any transferee of the Lot of such transferee's obligation to take a transfer of the Lot Owner's share in the Management Company and be bound by the Constitution of the Management Company.

5.5 Voting Rights

The right to cast votes and the number of votes which may be cast for election of directors of the Board and on all other matters to be voted on by the Members shall be calculated as follows:

- (a) The Owner of each Lot shall have one (1) vote for each Lot so owned. In no event, shall any Lot be entitled to more than one (1) vote;
- (b) When more than one person or entity owns any Lot, all such persons or entities shall be Members. The vote of the Senior who tenders a vote shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register of Members of the Management Company, and in no event shall the vote for such Lot exceed the total share vote to which such Lot is entitled under this section;
- (c) The right of any Member to vote shall be suspended by the Management Company for any period during which any Contribution against a Member's Lot remains past due, for any period during which the Member or such Member's Lot is in violation of the Management Company Restrictions, and, as provided in this deed, for any period during which the Member has failed to execute and deliver to the Management Company a signed share transfer form.

5.6 Duties of the Management Company

Subject to and in accordance with this deed, and the Constitution the Management Company shall have and perform each of the following duties:

- (a) **Management Company Property**
 - (i) **Ownership and Control.** To operate, maintain and where applicable lease or manage all Management Company Property including all Common Areas, and all Improvements that may be located on the Common Areas, and all footpaths and private roads on the Common Areas.
 - (ii) **Water Supply.** To hold any water permit for domestic and/or irrigation water supply to the Development and to operate, manage and maintain all water supply systems to the boundary of each Lot.

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(iii) **Repair and Maintenance.** To maintain in good repair and condition the Common Areas and all Improvements and other Management Company Property owned by or leased to the Management Company, including, without limitation, all paths, private roads, security access gates (if any), on such roads, and fences located within the Common Areas.

(iv) **Rates.** To pay all rates and other taxes and charges levied upon or with respect to the Common Areas, to the extent that such taxes and charges are not levied directly upon the Lot Owners. The Management Company shall have all rights granted by law to contest the legality and the amount of such taxes and charges.

(v) **Landscape Plan.** To carry out and maintain landscaping on the Common Areas in accordance with any landscape plan approved by the Management Company.

(b) **Insurance.** To obtain and maintain in effect policies of insurance that, in the opinion of the Management Company, are reasonably necessary or appropriate to carry out the Management Company's functions and an any insurable Improvements on the Common Areas, and other insurances, including such policies of liability and property damage insurance as the Board in its discretion deems necessary. Insurance premiums for those policies are a common expense to be included in the Contributions.

(c) **Rules and Bylaws.** To make, establish, and promulgate and in its discretion, to amend or repeal and re-enact the Constitution and such Management Company Rules not in conflict with this deed, as it deems proper, covering any and all aspects of its functions.

(d) **Records.** To keep books and records of the Management Company's affairs (including a Register of Members) and to make such books and records, together with current copies of Management Company Restrictions available for inspection by the Members, Mortgagees, and insurers or guarantors of any Mortgage upon request during normal business hours.

(e) **Other.** To carry out and enforce all duties of the Management Company set forth in the Constitution and this deed.

(f) **Facilities.** Provide management facilities and services to Lot Owners under contract for the maintenance of grounds, cleaning and general services.

(g) **Legal and Accounting Services.** To retain and pay for legal and accounting services necessary or proper in the operation of the Management Company.

(h) **Services.** To manage, operate and maintain communal services to the Lots.

(i) **Other Services and Properties.** To obtain and pay for any other property and services and to pay any other taxes or assessments that the Management Company or the Board is required or permitted to secure or to pay for pursuant to applicable laws or under the terms of the Management Company Restrictions.

(j) **Common Areas.** To maintain and manage the Common Areas, including carrying out any agricultural activities and maintaining and/or constructing Improvements or additions to the Common Areas, subject to the terms of this Deed and in accordance with the requirements of each authority having jurisdiction.

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- (k) **Landscaping.** Contract with a Lot Owner to manage and maintain the landscaping of a Lot to a high standard.

5.7 Powers and Authority of the Management Company

The Management Company shall have the powers of a New Zealand limited liability company subject only to such limitations upon the exercise of such power as are expressly set forth in this deed or the Constitution. It shall further have the power to do and perform any and all acts that may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of New Zealand or by this deed. Without in any way limiting the generality of the foregoing, the Management Company shall have the power and authority at all times as follows:

- (a) **Contribution.** To levy Contributions as provided herein;
- (b) **Right of Entry and Enforcement.** At any time in an emergency without notice, or in a non-emergency after twenty-four (24) hours written notice, to enter, without being liable to the Lot Owner or any other person upon the Lots or into any Dwelling or Improvements thereon, or to enter at any time without notice onto any Common Areas, for the purpose of enforcing the Management Company Restrictions or for the purpose of maintaining or repairing any area, improvement, or other facility or services to conform to the Management Company Restrictions. The expense incurred by the Management Company in connection with the entry upon a Lot and the maintenance and repair work conducted thereon shall be a personal obligation of the Lot Owner and shall be deemed a Contribution against the Lot and to be secured by the Encumbrance (subject to any maximum sum specified) against the Lot entered upon and may be enforced in the same manner and to the same extent as provided in section 6 hereof for Contributions.
- (c) The Management Company shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of the Transferee who consents thereto, to commence and maintain legal action or to restrain and injunct any breach or threatened breach of the Management Company Restrictions. The Management Company is also authorised to settle claims, enforce each Encumbrance and take all such action as it may deem necessary or expedient to enforce the Management Company Restrictions. Notwithstanding any provision herein to the contrary, the Management Company may not alter or demolish any Dwelling or Improvements on any Lot other than on the Common Areas, in enforcing the Management Company Restrictions, before legal proceedings are instituted by the Management Company or the written consent of the Lot Owner has been obtained. Each such Lot Owner shall indemnify and hold harmless the Management Company, its officers, directors, employees and agents from any cost, loss, damage, expense, liability, claim or cause of action incurred or that may arise by reason of the Management Company's acts or activities under this clause (including any cost, loss, damage, expense, liability, claim or cause of action arising out of the Management Company's negligence in connection therewith), except for such cost, loss, damage, expense, liability, claim or cause of action arising by reason of the Management Company's gross negligence or wilful misconduct. "Gross negligence" as used herein does not include simple negligence, contributory negligence or similar negligence short of gross negligence;
- (d) **Manager.** To retain and pay for the services of a Manager to manage and operate the Management Company Property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Management Company or may be furnished by the Manager. To the extent permitted by law, the Management Company and the Board may delegate any duties, powers, and functions to the Manager. The Members of the Management

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Company hereby release the Management Company and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power, or functions so delegated.

- (e) **Access.** To grant access to the Common Areas and any part, to any person for the purpose of constructing, erecting, operating or maintaining on, in or under the Common Area, or any part:
 - i roads, streets, footpaths, streetlights, driveways, parking areas, tracks, paths and fences;
 - ii lines, cables, wires, conduits, pipelines or other devices for the supply of services;
 - iii sewerage and water supply systems, storm water drainage systems, sprinkler systems and pipelines;
 - iv ponds and water features and any other Improvements or facilities.

Nothing set out above is to be construed to permit the use or occupancy of any Common Areas or Improvements in a way that would violate the applicable use and occupancy restrictions imposed by this deed, the Management Company Restrictions or by a governmental authority.

- (f) **Management Company Property Services.** To pay for water, sewage, rubbish removal, landscaping, gardening, and all other utilities or services to, and all maintenance of, the Common Areas, including, but not limited to, any recreational facilities, to maintain and repair any recreational facilities, easements, roads, accesways, rights-of-way, parking areas, median strips, footpaths, paths, tracks, fences, ponds, lakes located within or upon the Common Areas and to maintain and repair other portions of the Common Areas.
- (g) **Construction on Management Company Property.** To construct new Improvements on or additions to Common Areas, subject to the terms hereof including the approval of the Managment Company, and strictly in accordance with the requirements of the Local Authority.
- (h) **Security Services.** To provide for and construct and maintain facilities for the provision of security regarding the Development.

5.8 Indemnification

To the fullest extent permitted by applicable law, but without duplication of (and subject to) any rights or benefits arising under the Constitution, the Management Company shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action, or legal proceedings, whether civil, criminal, administrative, or investigative, by reason of the fact that such person is or was a director, officer, committee member, employee, servant or agent of the Management Company, against expenses (including legal fees, judgments, fines, and amounts paid in settlement) actually and reasonably incurred by such person in connection with such action, or proceedings if it is found and determined by the Board or a court that such person:

- (a) Acted in good faith and in a manner which such person reasonably believed to be in, or not opposed to, the best interests of the Management Company; or
- (b) With respect to any criminal action or proceeding, had no reasonable cause to believe such conduct was unlawful.

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The termination of any action or legal proceedings by settlement, shall not of itself create a presumption that the person did not act in good faith or in a manner reasonably believed to be in, or not opposed to, the best interests of the Management Company, or, with respect to any criminal action or proceeding, had reasonable cause to believe that such conduct was unlawful. The Board may purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, servant, or agent of the Management Company, against any liability asserted against such person or incurred by such person in any such capacity, or arising out of the status of such person as such, whether or not the Management Company would have the power to indemnify such person against such liability hereunder or otherwise.

6. CONTRIBUTIONS**6.1 Contributions**

The Transferee by entering into this deed shall be deemed to covenant to pay to the Management Company such amounts as the Management Company may determine from time to time (called "Contributions"). All such Contributions shall be fixed established and collected from time to time as set out in clauses 5.2 to 5.8 hereof. For the avoidance of doubt, Contributions can only be recovered from a Member.

6.2 Use of Contributions

Contributions levied by the Management Company shall be used exclusively for the purposes of ensuring appropriate funding for any business of the Management Company (as defined by this deed or the Constitution of the Management Company), promoting the comfort, health, safety, security and welfare of the Lot Owners and the maintenance and improvement of the Management Company Property including without limitation any Common Areas and for carrying out the purposes of the Management Company as stated herein or as otherwise as provided in the Constitution.

6.3 Establishing the Contributions

Each financial year, the Company shall estimate the expenses to be incurred by the Management Company during each year in performing its functions, including without limitation a reasonable provision for contingencies and appropriate replacement reserves less any expected income and any surplus from the prior year's fund, capital costs in defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of any Improvement located upon any of the Common Areas. Contributions sufficient to pay such costs shall then be levied as herein provided. The level of Contributions set by the Company shall be final and binding. If the sums collected prove inadequate for any reason, including non payment of any individual Contributions, the Management Company may at any time, and from time to time, levy further Contributions in the same manner as aforesaid. All such regular Contributions shall be due and payable by the Lot Owner to the Management Company during the financial year in equal monthly, quarterly, semiannual, annual, or other periodic instalments, as the Board determines in its sole discretion, on or before the first day of the applicable period.

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6.4 Allocation of Contributions

All costs and expenses which the Management Company determines are incurred for the benefit of all Lot Owners shall be levied against each Lot on an equal basis. Costs and expenses which the Management Company determines are solely for the benefit of the Northern Shared Areas shall be borne equally by the Lot Owners of the Northern Lots. Costs and expenses which the Management Company determines relate exclusively to the Southern Shared Lot shall be borne equally by the Lot Owners of the Southern Lots. All other costs and expenses shall be allocated in such manner as the Management Company deems fair and reasonable.

6.5 Due Date of Contribution

The first Contribution shall become due and payable in accordance with the periodic payment schedule established by the Board in accordance with Section 5.3. Payments shall be considered in arrears if not paid within 60 days after their due date.

6.6 Late Charges

If any Contribution is in arrears the Lot Owner may be required by the Management Company to pay a late charge including interest at 2% per month or at such rate as the Board may designate from time to time, and such late charge (and any reasonable handling costs therefor) shall be a charge upon the Lot to which the Contribution relates, collectable in the same manner as herein provided for collection of Contributions.

6.7 Lot Owner's Personal Obligation for Payment of Contributions

- (a) Contributions and late charges provided for herein shall be the personal and individual debt of the Lot Owner. No diminution or abatement of Contributions shall be allowed for inconveniences arising from the making of repairs or improvements to the Common Areas, any Improvements or any Lot, and the Lot Owner is not exempted from liability for such Contributions and charges through non-use of the Lot or Common Areas or otherwise.
- (b) Subject to sub-clauses (c) and (d) below, no person is to be liable for any Contributions other than Contributions incurred for the period during which that person or body is the registered proprietor of a Lot.
- (c) The registered proprietor of a Lot is liable for any outstanding Contributions payable for any period prior to the date that person becomes a registered proprietor of a Lot, provided that this sub-clause does not apply where that registered proprietor obtains written advice from the Management Company prior to becoming a registered proprietor of a Lot that no outstanding Contribution is payable in respect of the Lot.
- (d) The registration of a transfer of a registered proprietor's interest in any Lot does not relieve the transferor from any liability arising prior to the date of registration of that transfer.

6.8 Encumbrances to Secure Contributions

All sums assessed or charged in the manner provided in this section 6 but unpaid, together with all costs and expenses of collection, including reasonable legal fees (on a solicitor and own client basis), shall be secured by the Encumbrance and shall constitute a charge on or against the Lot covered by such

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Contribution or charge, which shall bind such Lot in the hands of the Transferee, and the Transferee's executors, successors and assigns. The Lot Owner of a Lot and the Transferor whilst it remains a Lot Owner shall execute the Encumbrance (in the form referred to in Schedule D hereto) at the same time as they execute this deed. Such Encumbrance shall be in favour of the Management Company to secure the payment of Contributions and shall be superior to all other liens and charges against the Lot. The Management Company shall have the power to subordinate the Encumbrance to any other lien encumbrance or charge. Such power shall be entirely discretionary with the Board and such subordination must be signed by an officer of the Management Company.

6.9 Restrictions on Rights and Powers

The rights and powers which would normally accrue to and be enjoyed by the registered proprietor of a Lot, in relation to any share in the Common Area owned by that registered proprietor, or by the dominant tenement in relation to any easement registered against the title to a Lot, are to be restricted as specified in this deed.

7. MORTGAGE PROTECTION

7.1 Notice to Management Company. If any Lot Owner mortgages their Lot and any Improvements thereon, the Lot Owner shall notify the Board, giving the name and address of the Mortgagee. The Board may, at its election, maintain such information in a book entitled "Mortgagees of Owners".

7.2 Examination of Books. The Management Company shall permit Mortgagees to examine the books and records of the Management Company during normal business hours upon one business day's notice (not less than 24 hours).

8. GENERAL PROVISIONS

8.1 Notices. Any notice permitted or required to be given by this deed shall be in writing and may be delivered either personally or by post. If delivery is made by post, it shall be deemed to have been delivered on the third (3rd) day (other than a Saturday, Sunday, or legal holiday) after a copy of the same has been deposited in the post, postage prepaid, addressed to the person at the address given by such person in writing to the Management Company for the purpose of service of notices, or to the residence located on the Lot owned by the Lot Owner if no address has been given to the Management Company. Such address may be changed from time to time by notice in writing given by such person to the Management Company.

8.2 Construction Activities. This deed shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of a Dwelling or Improvements upon any Lot, so long as such construction is pursuant to the written approval of the Management Company and the appropriate consents of the Local Authority.

8.3 This deed is to be construed and governed under the laws of New Zealand.

9. LIABILITY

The liability of Linda Yee and Warwick Jones as Transferor and/or as Transferee shall in no case be deemed a personal liability but shall for all purposes be limited to the assets of the Estate of Jerrold Arthur Drexel in their hands from time to time and available to meet such obligations.

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10. ARBITRATION

Except where otherwise expressly provided hereunder if at any time any dispute, doubt or question shall arise between the parties hereto touching upon the construction meaning and effect of this deed or the rights and liabilities of any Lot Owner or Member then every such dispute or question shall be referred to the arbitration of a single arbitrator if one can be agreed upon or failing agreement to the arbitration of an arbitrator nominated by the President for the time being of the Auckland District Law Society and every arbitration pursuant to this clause shall be in accordance with the provisions of the Arbitration Act 1996 or any statutory modifications or re-enactment thereof.

11. REMEDY ON BREACH

11.1 If there should be any breach of any of the covenants contained in this deed, and without prejudice to any other liability which the Transferee may have to the Transferor, and any other person or persons having the benefit of such covenants, the Transferee will upon written demand being made by the Transferor, or any registered proprietors of any other Lot:

- (a) pay to the person making such demand as liquidated damages the sum of \$100.00 per day for every day that such breach or non-observance continues after the date upon which written demand has been made; and
- (b) do or cause to be done anything necessary to remedy any such breach.

11.2 In the event that the Transferee does not comply with clause 11.1 within a reasonable period of time after the demand has been made, then the Transferee hereby irrevocably authorises the Transferor or the registered proprietor making the demand together with their employees and agents, to enter and remain upon the Lot to do anything necessary to remedy any breach at the Transferee's cost and without being liable for any damage or deterioration occasioned to the Lot or any Improvement on it in exercising these powers. Provided however that the Transferor shall not be required to, or be obliged to enforce all or any of the covenants and restrictions contained in this deed, nor be liable to the Transferee for any breach thereof by any registered proprietor of any other Lot.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.

(Handwritten signatures and initials)

Annexure Schedule



Insert type of instrument
"Mortgage", "Transfer", "Lease" etc

Transfer

Dated []

Page 23 of 24 Pages

(Continue in additional Annexure Schedule, if required.)

SCHEDULE D

MEMORANDUM OF ENCUMBRANCE FOR SECURING A SUM OF MONEY
Section 101 Land Transfer Act 1952

The registered proprietor named and described in the Schedule hereto as proprietor of the land ("the land") described in the Schedule and desiring to render the land available for the purpose of securing to and for the benefit of **PAROA BAY MANAGEMENT LIMITED** at Auckland (hereinafter called "the Encumbrancee") the sum of money referred to in the Schedule ("the sum of money")

DOES HEREBY ENCUMBER the said land for the benefit of the Encumbrancee with the sum of money to be raised and paid at the times and in the manner as the Encumbrancee shall decide pursuant to a Transfer creating Land Covenants dated day of November 2005 (hereinafter called "the Land Covenants") (a copy of which is registered under No.).

PROVIDED ALWAYS that the liability of any given registered proprietor hereunder is limited to obligations and liabilities accruing during their time as registered proprietor and ceases (except for any obligation or liability which has arisen during their time as registered proprietor) upon transfer of the land.

PROVIDED ALSO that if and whenever the obligations set out in the said Land Covenants shall have been duly and wholly complied with or shall by effluxion of time or otherwise become no longer enforceable then this Memorandum of Encumbrance shall be wholly discharged by the Encumbrancee.

AND SUBJECT as aforesaid the Encumbrancee shall be entitled to all the powers and remedies given to mortgagees and rent chargees by the Land Transfer Act 1952 and the Property Law Act 1952.

IN WITNESS whereof these presents have been executed this day of 2005

EXECUTED by the registered proprietor)
named and described in the Schedule)
hereto)
)
)
(by the affixing of its seal))
in the presence of:)

Correct for the purposes of the Land Transfer Act 1952

Solicitor for the Encumbrancee

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.

Annexure Schedule



Insert type of instrument
"Mortgage", "Transfer", "Lease" etc

Transfer

Dated []

Page 24 of 24 Pages

(Continue in additional Annexure Schedule, if required.)

SCHEDULE TO MEMORANDUM OF ENCUMBRANCE

REGISTERED PROPRIETOR:

LAND:

(a) Registration District

(b) Land

Area	Description	Title Reference
------	-------------	-----------------

SUBJECT TO AND TOGETHER WITH the easements covenants restrictions and conditions as set out on the title.

The sum of money is the sum of such Contributions as shall be levied and fixed in each year during the continuance of the Land Covenants by Paroa Bay Management Limited in respect of the land together with any other charges, in relation thereto as are fixed and made by Paroa Bay Management Limited pursuant to the provisions of the Land Covenants to be raised and paid at the times and in the manner set out pursuant to the provisions of the Land Covenants and are notified by Paroa Bay Management Limited to the registered proprietor from time to time.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.

Annexure Schedule - Consent Form

Land Transfer Act 1952 section 238(2)



Insert type of instrument
"Caveat", "Mortgage" etc

Mortgage

Page **1** of **1** pages

Consentor

Surname must be underlined or in CAPITALS

Capacity and Interest of Consentor

(eg. Caveator under Caveat no./Mortgagee under Mortgage no.)

ASB BANK LIMITED

**Mortgagee under Mortgage Number
6403584.4**

Consent

Delete Land Transfer Act 1952, if inapplicable, and insert name and date of application Act.

Delete words in [] if inconsistent with the consent.

State full details of the matter for which consent is required.

Pursuant to ~~{section 238(2) of the Land Transfer Act 1952}~~

~~{section _____ of the _____ Act _____}~~

~~{Without prejudice to the rights and powers existing under the interest of the Consentor}~~

the Consentor hereby consents to:

The registration of a transfer creating land covenants in the form attached.

Dated this _____ day of **06 DEC 2005** **2005**

Attestation

ASB BANK LIMITED
by its attorney

SIGNED by ASB BANK LIMITED by its Attorney
MARY MAGDALINE MCCORMICK

without prejudice to the rights and powers existing
under the interest of the Consentor

in the presence of
Mary McCormick

Witness:
Alex Alono
AUCKLAND

Signature of Consentor

Signed in my presence by the Consentor

Signature of Witness

Witness to complete in BLOCK letters (unless legibly printed)

Witness name

Occupation

Address

An Annexure Schedule in this form may be attached to the relevant instrument, where consent is required to enable registration under the Land Transfer Act 1952, or other enactments, under which no form is prescribed.

ASB BANK LIMITED


CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I Mary Magdaline McCormick of Auckland, New Zealand, hereby certify:

- 1 THAT by a Deed dated **3 February 2004** and deposited in the Land Information New Zealand office as **No. 5911838** ASB Bank Limited appointed the persons holding, or from time to time acting in, the following ASB Bank offices as its attorneys on the terms and subject to the conditions set out in the said Deed:

Senior Manager Business and Rural Documentation
Senior Manager Group Retail Loan Documentation
Senior Manager Loan Security Maintenance
Manager Business and Rural Loan Documentation
Legal Executive, Lending Services
Manager Administration
Manager Security Alterations and Settlements
Manager Inward Documents and Security Filing
Manager Evening Processing Team
Manager BankDirect
Chief Manager Lending Services
Manager Debt Assessment and Recoveries
Manager Business Credit

2. THAT I hold the appointment of Manager Security Alterations and Settlements, Lending Services, with ASB Bank Limited
3. THAT at the date of signing I have not received any notice of or information of the revocation of that appointment by the winding up of the said company or otherwise.



Mary Magdaline McCormick

SIGNED at Auckland this day of 06 DEC 2005 200

Landonline User ID: **LAWNPKKE**

LODGING FIRM: **LAW NORTH PARTNERS**
Address: **DX AA21001, KERIKERI**

Uplifting Box Number: **N/A**
ASSOCIATED FIRM: **N/A**
Client Code / Ref: **DAP MN: 45331**

Other (state)

Rejected Dealing Number

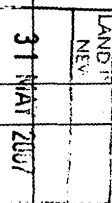
Dealing / SUD Number
(LINZ Use only)

Priority Barcode/Date Stamp
(LINZ use only)

T 7397497.1 Transfer
Copies (inc. original)
DocID: 312300390

222.00

CHEQ 11:00 0002A1865

Priority Order	CT Ref	Type of Instrument	Names of Parties	DOCUMENTOR SURVEY FEES	MULTITITLE FEES	NOTICES	ADVERTISING	NEW TITLES	OTHER	RE-SUBMISSION & PRIORITY FEE	FEES \$ GST INCLUSIVE
1	See Schedule	T	Yee and Jones/Yee and Jones	50.00	11	\$22					\$72.00
2	89260	ENC	Yee and Jones	50.00							\$50.00
3	As Above	T	Jones and Yee/ Medawar	50.00							\$50.00
4											
5											
6											
Land Information New Zealand Lodgement Form											
Annotations (LINZ use only)											
											
Original Signatures?											
Subtotal (for this page)										\$172	
Total for this dealing										\$172	
Less Fees paid on Dealing #											
Cash/Cheque enclosed for										\$17	

Fees Receipt and Tax Invoice
GST Registered Number 17-022-895
LINZ Form P005
LINZ Form P005 - PDF

TITLE SCHEDULE

Landonline User ID:

LAWNPKK

LODGING FIRM:

LAW NORTH PARTNERS

Client Code / Ref:

DAP MN: 45331

4397497

Line Number	CT Ref:
1	89254, 89255, 89256, 89257, 89258, 89259, 89260, 89261, 89262, 89263, 89265 AND 89266
2	
3	
4	

Line Number	CT Ref:
5	
6	
7	
8	

Line Number	CT Ref:
9	
10	
11	
12	

Line Number	CT Ref:
13	
14	
15	
16	

Line Number	CT Ref:
17	
18	
19	
20	



View Instrument Details

Instrument No 9830337.2
Status Registered
Date & Time Lodged 30 September 2014 16:25
Lodged By Moselen, Troy William
Instrument Type Encumbrance



Affected Computer Registers **Land District**
89262 North Auckland

Annexure Schedule: Contains 2 Pages.

Encumbrancer Certifications

I certify that I have the authority to act for the Encumbrancer and that the party has the legal capacity to authorise me to lodge this instrument

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period

Signature

Signed by James William Sherer as Encumbrancer Representative on 30/09/2014 08:45 AM

Encumbrancee Certifications

I certify that I have the authority to act for the Encumbrancee and that the party has the legal capacity to authorise me to lodge this instrument

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period

Signature

Signed by Jayne Williams as Encumbrancee Representative on 26/09/2014 09:39 AM

*** End of Report ***

Encumbrance instrument
(Section 101 Land Transfer Act 1952)

2009/6232EF
APPROVED
Registrar-General of Land

Affected instrument Identifier and type (if applicable)	All/part	Area/Description of part or stratum
89262	all	

Encumbrancer

Gregory Albert Roach

Encumbrancee

Paroa Bay Management Limited

Estate or interest to be encumbered*Insert e.g. Fee simple; Leasehold in Lease No. etc.*

Fee simple

Encumbrance Memorandum Number

N/A

Nature of security*State whether sum of money, annuity or rentcharge and amount*

Sum of money

Encumbrance*Delete words in [], as appropriate*

The Encumbrancer encumbers for the benefit of the Encumbrancee the land in the above computer register(s) with the above sum of money, annuity or rentcharge, to be raised and paid in accordance with the terms set out in the ~~[above Encumbrance Memorandum]~~ [Annexure Schedule(s)] and so as to incorporate in this Encumbrance the terms and other provisions set out in the ~~[above Encumbrance Memorandum]~~ ~~and~~ [Annexure Schedule(s)] for the better securing to the Encumbrancee the payment(s) secured by this Encumbrance, and compliance by the Encumbrancer with the terms of this encumbrance.

Terms

- 1 Length of term **999 Years**
- 2 Payment date(s) **At the time and in the manner payable under land covenant 7397497.1**
- 3 Rate(s) of interest **As provided for in land covenant 7397497.1**
- 4 Event(s) in which the sum, annuity or rent charge becomes payable
Such sums of money to be raised and paid at the times and in the manner as properly determined by the Encumbrancee in terms of the land covenant in transfer 7397497.1
- 5 Event(s) in which the sum, annuity or rent charge ceases to be payable
Whenever the obligation set out in land covenant 7397497.1 have been duly and wholly complied with or shall by affluxion of time or otherwise become no longer enforceable

Covenants and conditions*Continue in Annexure Schedule(s), if required*

"Encumbrancer" means the Encumbrancer named in this memorandum and includes the person for the time being registered as proprietor of the Land and any person claiming under the Encumbrancer but only for as long as any of them, including the Encumbrancer named in this memorandum, is the registered proprietor of the Land and subject to subclauses 6.7(c) and 6.7(d) of land covenant 7397497.1

The Encumbrancer wishes to encumber the land in certificate of title 89262 ("Land") to and for the benefit of the Encumbrancee for the sum of such Contributions (as defined in) and as shall be levied and fixed in each year during the continuance of the land covenants in transfer 7397497.1 by the Encumbrancee in respect of the Land together with any other charges in relation thereto as are fixed and made by the Encumbrancee pursuant to the provisions of the land covenant in transfer 7397497.1 to be raised and paid at the times and in the manner set out pursuant to the provisions of the said land covenant and as are notified by the Encumbrancee to the Encumbrancer from time to time (the "sum of money"). The Encumbrancee does hereby encumber the Land for the benefit of the Encumbrancer with the sum of money.

Modification of statutory provisions*Continue in Annexure Schedule(s), if required*

The Encumbrancee shall be entitled to all the powers and remedies given to mortgagees and rent chargees by the Land Transfer Act 1952 and the Property Law Act 2007.

View Instrument Details



Instrument No 10696222.1
Status Registered
Date & Time Lodged 13 February 2017 10:47
Lodged By de Koning, Diana
Instrument Type Variation of Consent Notice Condition under s221(5) Resource Management Act 1991



Affected Computer Registers	Land District
89254	North Auckland
89255	North Auckland
89256	North Auckland
89257	North Auckland
89258	North Auckland
89259	North Auckland
89260	North Auckland
89261	North Auckland
89262	North Auckland
89263	North Auckland
89265	North Auckland
89266	North Auckland

Affected Instrument Consent Notice under s221(4)(a) Resource Management Act 1991 6993523.3

Annexure Schedule: Contains 2 Pages.

Signature

Signed by Matthew John Edwards as Territorial Authority Representative on 09/02/2017 12:45 PM

*** End of Report ***



Private Bag 757, Memorial Ave
Kaitiaki 0440, New Zealand
Freephone: 0800 920 029
Phone: (09) 401 5200
Fax: (09) 401 2157
Email: ed.us@fndc.govt.nz
Website: www.fndc.govt.nz

Te Kōwhiriā; e Tai Tōkerau ki Te Raki

THE RESOURCE MANAGEMENT ACT 1991

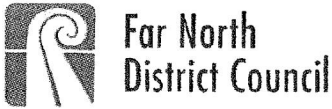
SECTION 221 (3) VARIATION OF CONSENT NOTICE

PURSUANT to section 221 (3) of the Resource Management Act 1991, the **FAR NORTH DISTRICT COUNCIL** hereby consents to the variation of Consent Notice 6993523.3 bullet point 3 insofar as it relates to Lot 14 DP 322364 CFR 89262.

3. That any building shall be designed in accordance with the criteria contained in the 'Mitigation Strategies' section of the landscape assessment report prepared by Paul Quinlan of Peter Rough Landscape Architects dated October 2000 and submitted as attachment 8 to the application, and in particular buildings shall be stepped and modulated as necessary to follow the natural ground levels, buildings on Lots 1-5, 8, 9, 12, 14, 15 and 22 shall not exceed a height of 6.5 metres in height above natural ground level and be finished either in natural timber cladding or naturally recessive colours as per the following British Standard colours:

00 A 09, 00 A 11, 00 A 13
10 A 09, 10 A 11, 10 A 13
16 A 07, 16 A 11, 16 A 14
04 B 25, 04 B 27, 04 B 29
08 B 25, 08 B 27, 08 B 29
10 B 25, 10 B 27, 10 B 29
12 B 25, 12 B 27, 12 B 29
18 B 25, 18 B 27, 18 B 29
22 B 25, 22 B 27, 22 B 29
04 C 39, 04 C 40
06 C 39, 06 C 40
08 C 39, 08 C 40
10 C 39
12 C 39, 12 C 40
14 C 39, 14 C 40






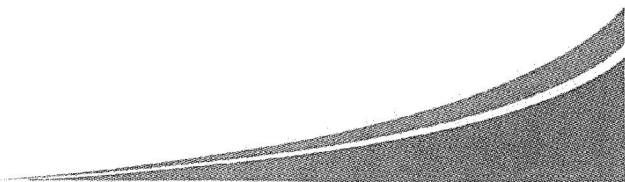
Private Bag 752, Akenual Ave
Kaikohe 0440, New Zealand
Telephone: 0800 930 029
Phone: (09) 401 5200
Fax: (09) 401 2137
Email: esi.us@fncc.govt.nz
Website: www.fncc.govt.nz

16 C 39, 16 C 40
18 C 39, 18 C 40

A statement from a qualified architect or landscape architect shall accompany any building consent application outlining the design and its compliance with the design guidelines as set out in the Quinlan Report and the requirements of this condition. Except that the building (including verandah) on Lot 14 DP 322364 as detailed in the report 'Application for Resource Consent by Paroa Bay Winery Ltd – Otamarua Road, Paroa Bay, Russell' prepared by LMD Consultancy dated 10th July 2016." for RC2160031 may be finished with the exterior colour schedule as specified by the conditions of RC2160031.

SIGNED:  Mr Pat Killalea
By the FAR NORTH DISTRICT COUNCIL
Under delegated authority:
PRINCIPAL PLANNER – RESOURCE MANAGEMENT

DATED at KERIKERI this 17th day of January 2017





**FAR NORTH OPERATIVE DISTRICT PLAN
DECISION ON APPLICATION TO CHANGE CONDITIONS OF A RESOURCE CONSENT
(Section 127)**

Resource Consent Number: 2160031-RMAVAR/C

Pursuant to section 127 of the Resource Management Act 1991 (the Act), the Far North District Council hereby grants resource consent to:

Paroa Bay Winery Limited

The activity to which this decision relates:

To change the conditions of RC 2160031, being Discretionary Activity application to construct and operate a restaurant with wine tasting bar, residential unit and associated car parking.

Subject Site Details

Address: 46 Otamarua Road, Russell 0272
Legal Description: Lot 14 DP 322364 having 1/7 SH in Lot 16 DP 322364
Certificate of Title reference: CT-89262

The following changes are made to the consent conditions:

Condition 8 (7) amended to read:

The restaurant and wine tasting bar hours of operation shall be restricted:-

- 11.30 am – 10.00pm Wednesday to Sunday, ~~during the period between the 3rd Friday in October and the last day of April and~~
- ~~11.30am – 10.00pm Friday to Sunday for the remainder of the year.~~

Condition 10 (9) amended to read:

The maximum occupancy of the restaurant and wine tasting bar shall be restricted to ~~45~~ 60 people.

Condition 18 amended to read:

The restaurant and wine tasting bar shall be managed and operated in a manner to ensure that the noise level measured at or within the notional boundary of any existing dwelling on Lot 12 DP 322364 (Lot 12 Otamarua Road), Lot 2 DP 349706 (40 Otamarua Road) and Lot 4 DP 349706 (40a Otamarua Road) shall not exceed 40 dB LA10.

For the purpose of clarity, the complete amended conditions of consent are as follows:

Decision A

Activity in Accordance with Plans

1. Subject to any changes required by the conditions of consent, the development shall be carried out in general accordance with the information and reports submitted with the application, including the approved plans attached to this consent with the Council's 'Approved Stamp' affixed to them. Specifically:

Title	Prepared By	Reference	Date
Site Plan	Martin Design (2006) Ltd	Proposed Restaurant Paroa Bay Winery Sk01-F	11/01/16 24/07/19
Part Site Plan	Martin Design (2006) Ltd	Proposed Restaurant Paroa Bay Winery Sk02-F	11/01/16
Floor Plan - Restaurant	Martin Design (2006) Ltd	Proposed Restaurant Paroa Bay Winery Sk03-F	11/01/16
Floor Plan – Residential Unit	Martin Design (2006) Ltd	Proposed Restaurant Paroa Bay Winery Sk04-F	11/01/16
Elevations	Martin Design (2006) Ltd	Proposed Restaurant Paroa Bay Winery Sk05-F	11/01/16
Landscape Plan	Simon Cocker Landscape Architecture	Proposed Restaurant/Wine Tasting Bar, Otamarua Road, Paroa Bay, Figure 6e: The Proposal – Landscape Plan from Appendix 2 of the <i>Assessment of Landscape, Natural Character and Visual Effects Report</i> dated July 2015	n.d Revised 21/05/2018
Landscape Implementation Plan	Simon Cocker Landscape Architecture	2160031_RMALUC Condition 4 compliance	21/05/2018

Visual Amenity and Landscaping

2. Prior to the issue of a Code Compliance Certificate for the building, or prior to its use and/or occupation (whichever comes first), the following schedule of colours and materials (as provided in the application) shall be utilised in the finishing of the building and must be maintained for the duration of the consent:

Title	Colour	LRV (Approx.)
Roof	Colorsteel 'Weathered Copper'	11%
Joinery	Duralloy 'Kauri'	20%

Exterior Cladding:		
<ul style="list-style-type: none"> Weatherboards (Linea 180) Trim 	Dulux 'Kauri Cliffs'	66%
	Dulux 'Black Giants'	17%

Any change to the approved colour schedule shall require the written approval of Councils duly delegated officer.

- All timber retaining walls are to be stained black within 6 months of construction or within six months of the issue of a Code Compliance Certificate (whichever comes first).
- Within six months of the issue of a Code Compliance Certificate for the building, or within six months of its occupation (whichever comes first), the landscaping/planting specified by the approved landscaping plan '*Proposed Restaurant/Wine Tasting Bar, Otamarua Road, Paroa Bay, Figure 6e: The Proposal – Landscape Plan*' – Revised 21/05/2018 prepared by Simon Cocker Landscape Architecture is to be implemented and maintained thereafter in accordance with the approved Landscape Implementation Plan – referenced 2160031 RMALUC Condition 4 compliance. Plants requiring removal due to damage, disease or other cause shall be replaced with a similar specimen before the end of the next planting season (1st May to 30th September).
- The existing mature shelterbelt on the southern boundary of the subject site (as detailed on the Site Plan) shall be retained. Should any tree that forms part of the shelterbelt die, it shall be replaced before the end of the next planting season, except that replacement shall not be required if the vegetation planting on and near the southern boundary has achieved an average similar height to that of the shelterbelt.
- That the maximum height of the mitigation planting within the site, from the southernmost point of the lot to a point 40 metres to the east along the southern boundary, shall not exceed a horizontal plane set at a height of 4 metres above the existing ground level measured at the eastern end of this line on the southern boundary of the site. The reference points of these height restrictions are shown in the approved landscape plan

Operation

- The restaurant and wine tasting bar hours of operation shall be restricted to:
 - 11.30 am – 10.00pm Wednesday to Sunday
- The restaurant and wine tasting bar shall not be used for single party private events or functions.
- The maximum occupancy of the restaurant and wine tasting bar shall be restricted to 60 people.
- All refuse collections and deliveries to the site by heavy goods vehicle shall be limited to between the hours of 8:00am to 5:00pm. Waste shall only be placed/disposed of in bins during these times as well.

11. Staff shall not begin working on site before 8:00am. No work shall be undertaken by staff outside the restaurant building after 10:00pm.

Noise

12. Prior to the Building Consent application being lodged the plans prepared by Martin Design (2006) detailed in condition 1 above shall be amended to show the following; the exterior wall extended, or an alternative acoustic barrier constructed, along the southern edge of the eastern end of the outdoor dining deck.
13. In conjunction with the Building Consent application being lodged, provide to Council, written evidence from a suitably qualified acoustic engineer that the restaurant building has been designed to incorporate sufficient acoustic treatment to the restaurant ceiling and outdoor dining area to ensure that the reverberant noise levels generated by the operation of the restaurant will be compliant with the District Plan permitted activity noise thresholds within the General Coastal Zone.

The architectural solutions shall include materials that will control reverberant noise to reduce noise levels within the restaurant and the level of breakout noise to the surrounding area as detailed in the Marshall Day Acoustics Report, dated 29/01/2016 (and submitted in support of RC2160031).

14. In conjunction with the Building Consent application being lodged provide to Council's duly delegated officer for review, a written statement from a suitably qualified acoustic engineer that the noise from mechanical services plant/equipment proposed on site has been reviewed to ensure that the cumulative noise levels from the site do not exceed the District Plan permitted activity noise thresholds within the General Coastal Zone.
15. Prior to the operation of the restaurant and wine tasting bar, provide a 'Noise Management Plan' prepared by a suitably qualified acoustic engineer for the approval of Council's Duly Delegated officer.

The 'Noise Management Plan' plan shall address the following:

- Provide details of the operation and management of the restaurant and wine tasting bar to ensure that both internal and external activities comply with the District Plan permitted activity noise thresholds within the General Coastal Zone. The report shall be in general accordance with the Marshall Day Report dated 29/01/2016, and incorporate measures to ensure that the assumed noise levels for both recorded and live music are not exceeded.
- The type of patron and staff behaviour expected by the establishment on the deck and when departing the site, including measures that will be taken to address this if behaviour does not meet expectations.
- Identification of the staff member who is responsible for noise management (i.e. duty manager, maître d')

16. The Noise Management Plan approved under condition 16 shall be adhered to on an ongoing basis and shall not be altered or amended without the written approval of Council's duly delegated officer.

17. Recorded music within the venue shall not exceed a level that enables a normal voice conversation at a distance of 600mm between two people conversing. If in doubt, the internal music noise level shall not exceed 60dB L_{Aeq} at 1 metre from any loudspeaker. Loudspeakers shall not be located outside.
18. The restaurant and wine tasting bar shall be managed and operated in a manner to ensure that the noise level measured at or within the notional boundary of any existing dwelling on Lot 12 DP 322364 (Lot 12 Otamarua Road), Lot 2 DP 349706 (40 Otamarua Road) and Lot 4 DP 349706 (40a Otamarua Road) shall not exceed 40 dB L_{A10} .

Noise levels shall be measured in accordance with NZS 6801:1991 "Measurement of Sound" and assessed in accordance with NZS 6802:1991 "Assessment of Environmental Sound".

Note: The notional boundary is defined in NZS 6802:1991 "Assessment of Environmental Sound" as a line 20m from any part of any dwelling, or the legal boundary where this is closer to the dwelling.

Signage

19. Prior to the operation of the restaurant and wine tasting bar install signage that clearly directs visitors to the restaurant entrance. The signage shall be installed to clearly indicate that the arm of Otamarua Road leading to the ROW that serves 40A-D Otamarua Road is not the entrance to the restaurant.

Parking and Access

20. Provide separate formed and sealed entry and exit vehicle crossings to the lot which complies with the Councils Engineering Standard FNDC/S/6, 6B, and section 3.3.17 of the Engineering standards and NZS4404:2004. Seal the entry and exit plus splays for a minimum distance of 5m from the existing carriageway edge.
21. Provide formed, surfaced, marked and drained access, manoeuvring, and parking for 287 vehicles including accessible carparks as detailed on the Site Plan prepared by Martin Design (2006) Ltd Dwg Sk01-F dated 11/01/16.

Plans, As-builts and Compliance

22. The consent holder shall submit plans and details of all works on legal road and works which are to vest in Council for the approval of Council's duly delegated officer prior to commencing construction. Such works shall be designed in accordance with the Council's current Engineering Standards and NZS4404:2004.

In particular the plans and details shall show:

- a) The legal road upgraded and sealed to comply with the council standard for a Type A Rural Road between the end of the existing seal and the property entrance off Otamarua Road.
- b) The upgraded section sealed with a 2 coat (grade 3 and grade 5) chip seal.

- c) Re-alignment of the Otamarua Road intersection with the arm of Otamarua Road that leads to the ROW which serves 40A-D Otamarua Road to provide a minimum intersection angle of 70° or an alternative acceptable to Council.
- d) Vegetation removal or trimming to improve sightlines for vehicles exiting the arm of Otamarua Road.
- e) Signage and road markings.
- f) The proposed stormwater control works to be in place prior to and during construction.
- g) Permanent stormwater control structures proposed
- h) Earthworks including proposed erosion and sediment control measures required to undertake the development of the site.

23. Following approval of the plans and selection of the contractor, provide to Council:

- a) Details of the successful contractor
- b) Details of the planned date and duration of the contract
- c) Details of the supervising engineer
- d) A Traffic Management Plan (TMP).

24. That at least 10 working days prior to undertaking bulk earthworks for the internal roading and site development, the consent holder shall submit for the approval of Council's duly delegated officer, an Erosion and Sediment Control Plan (ESCP). The plan is to contain information on the site management procedures for the following matters:

- a) The measures proposed to minimise silt and sediment runoff during earthworks, and location of such measures. Such mitigation measures shall include interception drains, collection drains, silt fences, settlement ponds and points of discharge to vegetated areas.
- b) The timing of civil engineering, including hours of operation and key project and site management personnel and their contact details;
- c) The transportation of materials to and from the site, loading and unloading of materials and associated controls on vehicles through sign posted site entrances and exits;
- d) The excavation and filling works, including any retaining structures and any necessary de-watering requirements/methods, to be prepared by a Chartered Professional Engineer with suitable geotechnical qualifications and expertise;
- e) Control of dust and any appropriate avoidance or remedial measures;
- f) Prevention of earth, mud, gravel or other material being deposited on adjoining roads by vehicles exiting the site; and remedial measures should that occur.

25. A copy of the approved ESCP shall be held on-site for the duration of the works and until all exposed surfaces are either revegetated or covered by an erosion resistant surface.
26. Provide to Council as-built plans complying with schedule 1D of NZS 4404:2004 and section 1.5.2.5 of Councils Engineering Standards and Guidelines.
27. Upon completion of the works specified in condition 23 above, provide certification of the work from a chartered professional engineer that all work has been completed in accordance with the approved plans.

Stormwater

28. The consent holder is to install a stormwater retention tank with a flow attenuated outflow as detailed within the *Suitability Report – 31 Otamarua Road, Russell* prepared by Richardson Stevens Consulting Engineers, dated 29 January 2016. The consent holder is to provide the final design and details of the system for the approval of Council's duly delegated officer prior to the Building Consent application being made.

Review Condition

29. In accordance with section 128 of the Resource Management Act 1991, the Far North District Council may serve notice on the consent holder of its intention to review conditions. The review may be initiated for any one or more of the following purposes:
 - a) To deal with any adverse effects on the environment that may arise from the exercise of the consent, where it is appropriate to deal with such effects at a later stage (i.e. visual amenity, noise, lighting, signage, traffic and parking).
 - b) To deal with any other adverse effects on the environment that the exercise of the consent may have an influence on.
 - c) To deal with any inadequacies or inconsistencies the Far North District Council or duly delegated Council Officer considers there to be in the conditions of the consent following the establishment of the restaurant and wine tasting bar.
 - d) To deal with any material inaccuracies that may in future be found in the information made available with the application (notice may be served at any time for this reason).

The review may occur within the first 12 months of the consent being given effect to and on an annual basis thereafter. All costs associated with the review are to be met by the consent holder.

Advice Notes

1. All archaeological sites are protected pursuant to the 'Heritage New Zealand Pouhere Taonga Act 2014'. It is an offence pursuant to the Act to modify, damage or destroy any archaeological site without an archaeological authority issued pursuant to that Act. Should any site be inadvertently uncovered, the procedure is that work should cease, with the Trust and local iwi consulted immediately. The New Zealand Police should also be consulted if the discovery includes koiwi (human remains). In relation to the site of the proposed works,

Heritage New Zealand Pouhere Taonga is satisfied that archaeological issues have been addressed and works can proceed using a standard 'Archaeological discovery protocol'.

2. The proposal is required to comply with consent notice conditions of CONO 6993523.3 registered on the Computer Freehold Register (89262) except where the wording of the consent notice has been amended by a decision of the Far North District Council in accordance with section 221(3) of the Resource Management Act 1991.
3. Council does not enforce private Land Covenants. It is the responsibility of the consent holder to address any issues relating to the establishment of the restaurant and wine tasting bar and compliance with the Land Covenants registered on the Computer Freehold Register (89262).

Reasons for the Decision

1. The Council (via an Independent Hearings Commissioner) has determined (by way of an earlier report and resolution) that the adverse environmental effects associated with the proposed changes are no more than minor and that there are no affected persons or affected order holders.
2. In particular, the restaurant and wine tasting bar and its proposed increased capacity and operating hours can operate and adequately avoid, remedy or mitigate adverse effects on the environment associated with noise, traffic, landscape, character and amenity to an acceptable level.
3. In accordance with an assessment under s104(1)(b) of the RMA the proposal is consistent with the relevant statutory documents.
 - a) New Zealand Coastal Policy Statement 2010;
 - b) The Northland Regional Policy Statement 2016;
 - c) Regional plans (including proposed);
 - d) Far North District Plan 2009.
4. In terms of the New Zealand Coastal Policy Statement, the proposal is considered to be an appropriate activity in the Coastal Environment for the following reasons:
 - a. OBJ1 – The proposal has limited impact on the integrity, form, functioning and resilience of the Coastal Environment.
 - b. OBJ2 – The proposal preserves the natural character of the Coastal Environment through various conditions of consent, such as landscaping and existing building design and finishing.
 - c. OBJ3 – The proposal has considered the role of tangata whenua who have actively commented on the various applications to Council.
 - d. OBJ4 – The application makes no provision for public space as it is not located at a location where this is required.
 - e. OBJ5 – The site is elevated above the shore away from coastal hazard risks.
 - f. OBJ6 – The proposal finds the appropriate balance for social, economic and cultural well-being, through the design of the existing proposal and consent conditions suite.
 - g. OBJ7 – This objective is not relevant.
5. The relevant policies echo the sentiments of the objectives and overall, the proposal is considered to be consistent with the New Zealand Coastal Policy Statement.

6. In terms of the Regional Policy Statement for Northland, for the following reasons the application is considered to be consistent with its Objectives and Policies:
- a) Fresh and coastal water – the amended proposal does little to impact fresh and coastal water given its location.
 - b) Indigenous ecosystems and biodiversity – although a varied approach is proposed, the amended proposal avoids effects on indigenous biodiversity as the increased occupancy and timeframes do not affect biodiversity at all.
 - c) Economic potential and social wellbeing – the amended proposal provides for economic development through potentially increased jobs. The change proposed has primarily been in relation to the COVID-19 economic effects seen for tourism type activities.
 - d) Regional form – The amended development has been designed to consider the broader activities and previous applications have provided appropriate infrastructure and servicing arrangements.
 - e) Tangata whenua – the amended proposal has been considered by Kororareka Marae and Ngāti Kuta who have raised no issues.
 - f) Natural hazards – There are no known natural hazards which affect the proposed use.
 - g) Natural character, features / landscapes and historic heritage – Landscape consent conditions remain appropriate to the development.
7. In terms of the Far North District Plan, there are no specific matters that have not already been canvassed in the higher policy documents above. The proposal is considered to meet the Environmental Outcomes Expected and not be inconsistent with the Far North District Plan Objectives and Policies.

Approved for Submission to Independent Hearings Commissioner:

This resource consent has been prepared by Steven Sanson (Sanson & Associates), and is approved for submission to the appointed Independent Hearings Commissioner from the Far North District Council by:



Pat Killalea, Principal Planner

Date: 20/08/2021

Approval

This resource consent is granted under delegated authority (pursuant to section 34A of the Act) from the Far North District Council by:



William (Bill) Smith, Independent Hearings Commissioner

Date: 23rd August 2021

Right of Objection

If you are dissatisfied with the decision or any part of it, you have the right (pursuant to section 357A of the Resource Management Act 1991) to object to the decision. The objection must be in writing, stating reasons for the objection and must be received by Council within 15 working days of the receipt of this decision.

Lapsing of Consent

You should note that the granting of this consent for a change or cancellation of conditions does not affect the lapsing date of the underlying consent for the proposed activity.