

**BEFORE THE HEARINGS COMMISSIONERS
APPOINTED BY THE FAR NORTH DISTRICT COUNCIL
AT KERIKERI**

IN THE MATTER OF the Resource Management Act 1991 (RMA)

AND

IN THE MATTER OF Hearings on Submissions on the Far North Proposed
District Plan
Hearing 4 – National Environment Values and Coastal
Environment

PRESENTED ON BEHALF OF **Submitter #177 (Cavalli Properties Ltd)**

**STATEMENT OF EVIDENCE OF BRIAN WILLIAM PUTT, TOWN PLANNER
FOR AND ON BEHALF OF THE ABOVEMENTIONED SUBMITTER**

Dated: 19 July 2024

STATEMENT OF EVIDENCE OF BRIAN WILLIAM PUTT

1.0 INTRODUCTION

- 1.1 My name is Brian William Putt. I am a principal of Metro Planning Ltd. I am a qualified Town Planner with 50 years' experience in New Zealand and the United Kingdom. I hold the qualifications of Bachelor of Arts in History and Psychology and a Diploma in Town Planning, both from Auckland University. I also hold a Diploma in Accounting and Finance from Central London Polytechnic. I have been a full member of the New Zealand Planning Institute since 1977.
- 1.2 I confirm that I have read the Code of Conduct for expert witnesses contained in the Environment Court Practice Note and I have complied with it when preparing my statement of evidence. I agree to comply with it when I present this evidence before the Hearings Commissioners at Kerikeri.
- 1.3 I am experienced in all aspects of New Zealand statutory and land use planning and have specialised in recent years in development co-ordination, social and environmental reporting on major projects, due diligence analysis for development project investment purposes and the analysis and presentation of applications for resource consents. I regularly appear as an expert witness before district councils, the Environment Court and less frequently, the High Court, in matters of town planning and resource management litigation.
- 1.4 I have been a regular user of the legacy Far North District Plans and their legacy versions of district schemes. I am very familiar with Te Tai Tokerau having provided planning advice and analysis throughout the district for more than 40 years. In 2021 I was involved in a detailed level of consultation during the preparation of the Far North Proposed District Plan. I attended several consultative meetings with the FNDC planning team in respect of the Matauri Bay land use and zone selection matters which are the subject of my evidence today.

The Submitter

Submitter 177 – Cavalli Properties Ltd (Cavalli)

- 1.5 Cavalli is the successive owner of the urban subdivision at Matauri Bay. Cavalli purchased the unsold 77 titles in the Stage 1 subdivision in 2016 from the receiver of Strategic Finance Ltd. An earlier financier (Bridgecorp/Instant Finance) had funded the subdivision application in which I was involved as the planning consultant in association with my colleague, Dennis Scott – landscape architect – who undertook the design aspects of the application. The application was granted consent for a two-stage urban coastal development in 2006. Stage 1 comprised 88 lots and Stage 2 comprises 44 lots which are in the process of being completed with infrastructure and road formation planned to be implemented in spring 2024. The design and details of the coastal subdivision were heralded at the time as a good example of sustainable coastal development.
- 1.6 In the Stage 1 subdivision, which was fully completed with titles issued in 2008, 11 sections are held in private ownership and the balance 77 sections are owned by Cavalli.
- 1.7 The subdivision was constructed with a state-of-the-art wastewater treatment plant (Innoflow) installed and vested in the Council for a transaction cost of \$1.00 in 2009. The Council signed off the completion of the range of conditions of consent imposed by both the Far North District Council and the Northland Regional Council under the obligations of s224c RMA. Regional Council consents were required for the discharge of treated wastewater to land as well as earthworks and air discharges from the wastewater treatment plant.
- 1.8 I had a detailed involvement throughout these proceedings which meant that when Cavalli discovered that the Council declared it had no knowledge or involvement in the Matauri wastewater plant, Cavalli turned to me and the project manager to provide the evidence we fortunately held since that time in 2017. By 2018 Cavalli had proved to the Council that the Council was in fact the owner of the Matauri wastewater treatment plant. The Council slowly realised it needed to take responsibility for the operation of the plant and to ensure that the plant entered the Council's asset register with appropriate charges reflected in the rates policy for this area. This process has been very protracted and frustrating for Cavalli which wishes to progress the sale of the

coastal urban sections in partnership with the local hapu, Ngati Kura, which is represented in the partnership by its commercial arm, Matauri X Corporation.

- 1.9 The arrangement between Cavalli and Matauri X Corporation is that the Corporation benefits from a percentage of the sale price of all sections. In addition, beneficiaries of the Matauri X Corporation receive a discounted price if they wish to purchase one of the Cavalli titles.

2.0 LIAISON IN PREPARATION OF PROPOSED DISTRICT PLAN

- 2.1 Because the Cavalli subdivision was designed and approved as an urban coastal settlement with a self-supporting wastewater treatment plant, it had been intended for the zone of the subject land (Stages 1 & 2) to be changed to *Coastal Residential* in the Operative District Plan back in 2009. That was the essence of the agreement with the Council when the wastewater treatment plant was transferred to the Council's ownership in 2009. However, that commitment was never followed through by the Council and was lost from the focus of the landowner because of the various ownership and funding difficulties that arose between 2009 and the purchase by Cavalli in 2016.
- 2.2 Consequently, when I was re-engaged to assist the first matter on my mind was that the land use zone for the subject site had not been updated to reflect the urban subdivision consent that had been granted in 2006. My reminder to the Council of the obligation to impose the correct zone over the subject land, was met with obstruction. When the invitation was open in 2021 to liaise with the Council in preparation for the proposed district plan, I took the initiative to represent the Cavalli concerns about the inappropriateness of the *General Coastal Zone* which was imposed across the site in the operative District Plan. Through the consultation discussions it became clear that a new regime of zones was being designed for the Proposed District Plan (**PDP**), of which the *General Residential Zone* was written and designed for existing consented and infrastructure-serviced urban settlements. In the discussions I had with the Council planning team, it was the *General Residential Zone* that I requested be placed over the Cavalli subdivision and other adjacent land owned by Matauri X Corporation which was to be serviced by the Matauri wastewater treatment plant installed for the Cavalli subdivision.

- 2.3 In fact it was a condition of consent for the subdivision that trunkline services were extended along the road corridor to allow connection for wastewater at the papakāinga known as the Roto with a further extension to the Matauri Bay camping ground and the ability to link the few houses in Putataua Bay into the system. This infrastructure was put in place and certified by both the installer – Innoflow Ltd – and later by the Northland Regional Council. These connections remain in the road network awaiting appropriate connections for those settlement areas in due course.
- 2.4 In the course of my liaison with the proposed plan drafting team, they failed to accept that the Matauri Bay subdivision was supported by a Council approved and owned wastewater treatment plant. Regardless of the numerous discussions that were held and the proof that the plant was in place, certified and ready to operate, the district plan team obstinately refused to accept that this area was a legitimate and approved urban residential coastal settlement.
- 2.5 The result was that the proposed plan strangely and without any rational explanation, zoned the privately owned lots at Matauri Bay – *Maori Purposes Rural* – and the balance of the lots were zoned *Settlement Zone*. In the PDP zone structure, these zones are in the basket of rural zones regardless that the serviced urban subdivision at Matauri requires an urban zone to remain consistent with objectives and policies of the PDP aside from the obvious issue of plan integrity.

3.0 PURPOSE OF SUBMISSIONS

- 3.1 The fundamental purpose of the submission #177 is to ensure that the appropriate zone is selected for the Matauri Bay subdivision, that zone being *General Residential*. That part of the submission is to be heard later in the hearings schedule. The second issue is the request to remove the Coastal Environment overlay from Matauri Bay except in so far as it is required to cover areas with an outstanding natural character, an outstanding natural landscape or an outstanding natural feature. None of those features are apparent in the Matauri Bay subdivision. Importantly, and taking guidance from the higher order and more relevant Northland Regional Plan, it is clear that at a regional planning level the areas within the Matauri Bay coastal catchment deemed subject to either outstanding natural landscape qualities or high landscape character do not include the flat beach hinterland within the catchment close to the beach which contains the Cavalli subdivision.

- 3.2 Accordingly, submission #177, in respect of the coastal management aspect which is subject of Hearing No. 4, is a holding device until such time as the appropriate PDP zone is placed over the subject land. The appropriate zone, according to General Residential Objective 2 and Objective 4, is General Residential. Various policies support those two primary objectives. This PDP intention is without doubt.
- 3.3 If the *General Residential Zone* is placed over the subject land, the Coastal Residential reference in the submission can be set aside. In fact, the recommendations arising in the s.32 report can be supported by these submitters. This is simply because, with the *General Residential Zone* in place, a single dwelling on each of these lots becomes a permitted activity as intended by the original subdivision consent.

4.0 CONCLUSION

- 4.1 The coastal environment component of Submission #177 is a protective action by the submitter to avoid the residential urban sites from being blighted to the extent that they are unable to build a single dwelling as a permitted activity. This problem is overcome when the Cavalli subdivision is zoned appropriately as *General Residential*. That zone selection will satisfy Submission #177 in respect of the opposition to the coastal environment rules set out in the submission.
- 4.2 This matter is easily resolved, and the submitters are hopeful that the Council will issue an erratum to the district plan to rezone the Cavalli subdivision General Residential given that it was mistakenly assumed by the plan preparation team to be outside of a serviced urban area. To the contrary, the Cavalli subdivision has been properly serviced in a complying manner since the issue of titles and the certification under s.224C RMA occurred in 2009. The submitters should not be held responsible for the failure of the Council to acknowledge its ownership and operational responsibility for the Matauri Bay wastewater system as servicing urban land.
- 4.3 To assist the Council's management of the Matauri Bay wastewater system the submitter, Cavalli Properties Ltd, has recently upgraded the wastewater treatment plant infrastructure at its cost and I have arranged for the NRC discharge consent to be extended through to 2051. As these hearings take place, the Council is on the cusp of setting a wastewater rate for the Cavalli subdivision sections which will complete the

actions required to confirm that the area is a coastal **urban** settlement, fully served by a Council owned and operated high quality and consented wastewater treatment system.

Brian William Putt

Town Planner

19 July 2024