

BEFORE THE FAR NORTH DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991 (“Act”)

AND

IN THE MATTER of an application by Cavalli Properties Limited for a new zone at Matauri Bay, Northland.

SYNOPSIS OF SUBMISSIONS

Dated: 2 December 2024

MAY IT PLEASE THE COMMISSIONERS:

1. These submissions are made on behalf Cavalli Properties Limited (**Cavalli**) – submission #177, for consideration at Hearing 9 on Tuesday 3 December 2024. Cavalli once again thanks the Panel for rescheduling this matter.
2. A memorandum was filed on Friday 22 November in advance of this hearing and Cavalli thanks the Panel for its urgent consideration of the issues raised, and for the Minute dated 25 November 2024. These submissions are presented with the Panel’s Minute in mind.

Cavalli’s Submission

3. Cavalli’s submission #177 seeks two categories of relief:
 - (a) Zoning relief – to zone the development land at Matauri Bay shown at Annexure 1 of submission #177 (**Development Land**) *General Residential* (**General Residential zone**); and
 - (b) Coastal overlay relief – to make targeted amendments to the *Coastal Overlay* (**CO**) provisions.
4. Cavalli has filed evidence in support of its relief from Mr Putt (expert planning evidence), Pat Durham, Rob Mihaljevich both having integral roles for Cavalli and Shelby Young, the Chairperson of Matauri X Corporation (**Matauri X**).

Zoning Relief

5. Upon reading the evidence, the Panel will now understand that there is an important and extensive background to Cavalli's request for the zoning relief.
6. Cavalli's strong position is that it is only in a position where it needs to seek the zoning relief because of its treatment by (since departed) staff at the Far North District Council (**Council**).
7. The evidence explains the historical problems, and it is submitted that the factual accuracy of Cavalli's position is verified by the 3 key documents which have been provided with these submissions at Appendix 1:
 - (a) Land use consent granted in 2006;
 - (b) Easements created in 2008; and
 - (c) Agreement to Acquire and Effluent System dated 2009.
8. The key passages from these documents are explained by Mr Durham in their proper context. I will therefore only refer to them as needs be.
9. Cavalli's zoning relief seeks to change the *Settlement* zone proposed over the Development Land to the *General Residential* zone. Cavalli says, that in the light of the background matters set out in the evidence, the General Residential zone is the only appropriate zone for that land.
10. The evidence traverses (in a summary way) the history of the Development Land since 2005 until now.
11. A convenient starting point is the resource consent granted to Matauri Bay Properties Limited (**MPL**) in 2006 (**2006 Consent**). This was the time the Council decided that urban development should be approved at Matauri Bay. This decision was supported for many reasons, but of particular relevance, was the installation by MPL of a state-of-the-art wastewater treatment system (**System**) developed by Innoflow Technologies Limited NZ (**Innoflow**).
12. As the evidence records, this was a significant gesture by MPL as it enabled wastewater connections for all the sections approved by the 2006 Consent, and for existing developments, and for still further development should it occur. This would resolve a looming crisis at Matauri Bay. The existing wastewater solutions (oxidation ponds,

soakage pits and the like) were close to capacity and the Council had no ready solution.

13. The System cost MPL \$1,100,000 to construct and install and, as set out below, by written agreement, it was transferred to the Council for \$1 to commission and operate.
14. But before that, a comprehensive environmental assessment was undertaken at Matauri Bay to support the proposed urban development. As explained by Mr Putt:¹

... between October 2005 to March 2006 a team of experts put extensive effort into the preparation of the necessary applications for the subdivision consent. This involved civil engineering design work, geotechnical engineering assessments, survey, archaeology, landscape architecture and traffic engineering. It had been decided that a standalone wastewater plant would be provided for the subdivision using a new technology developed in the USA by Innoflow Technologies Ltd. The technology was beginning to be used in locations around New Zealand with great success.

15. Mr Putt then says:²

The hearing of the application was held in September 2006. On 4 September 2006 I received the draft conditions of consent which the FNDC reporting planner had prepared and circulated. Included was Condition 15 which required the Applicant to provide two future connection points to be placed in the public road to service the campgrounds and the Roto as well as providing the full reticulation service to the public amenity building in the carpark which was also to be constructed by the Applicant. This condition reflected the discussions which the Applicant's representatives had conducted with FNDC officers since early 2005.

16. As the Panel can see, the 2006 Consent decision includes condition 15 in these terms.
17. Mr Putt then explains that easements were created in 2008 as follows:³

As part of the survey required to create and finalise the new lots in the consented subdivision, a series of easements were prepared to ensure that the Council, as owner and operator of the Innoflow plant, would have access to all the land where the Innoflow plant was located or was

¹ Putt evidence 18 November 2024 at paragraph 5.

² fn1 above at paragraph 12.

³ fn1 above at paragraph 17.

required for discharge and related maintenance services. These easement arrangements were concluded as part of the subdivision survey scheme plan and were approved through the RMA provisions of ss223 and 224c. The easements became part of the discussions and arrangements for the transfer and vesting of the Innoflow plant to the Council. Mr Durham's evidence sets out these details.

18. Mr Durham then picks up the narrative regarding the easements.⁴ Put shortly, the Society created by the 2006 Consent, granted the Council an easement in 2008 (**Easement**) giving it the right to discharge treated wastewater over land controlled by the Society. The Easement expressly states that the treatment of wastewater would occur via the System.
19. Mr Durham then explains that the mechanism for the transfer of the System to the Council was negotiated and then recorded in an Agreement executed by MPL, Matauri X and the Council in May 2009 (**2009 Agreement**).
20. In other words, at least since 2009, everything was in place for the 2006 Consent to be implemented including the support from the Council.
21. Mr Putt explains that he dropped out of the picture around 2009, but his clear understanding in the light of the above was that the Council agreed that the *Coastal Residential* zone was the appropriate zone to be imposed to support the development. Mr Putt says:⁵

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 as a plan change to 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 by the 2009 Agreement.

22. This is supported by the conditions of the 2006 Consent that aligned with the permitted activity standards for the Coastal Residential zone, in that the consent notice conditions controlled development to the same or a lesser standard. For example:
 - (a) 10.8.5.1.2 – sewered sites of 800m²;
 - (b) 10.8.5.1.4 – maximum height of 8m; and

⁴ Durham evidence generally between paragraphs 21 – 38.

⁵ Putt evidence 29 October at paragraph 2.1.

(c) Maximum building coverage of 900m².

23. Mr Putt's evidence is that unfortunately, the Council failed to follow through with its plan change commitment. On the other side, the development impetus slowed for MPL while it focussed on resolving the final financial issues affecting the Development Land. All this was occurring while still coming out of the global financial crisis.
24. The development impetus lacuna was resolved for MPL in 2015, when Cavalli became involved. Cavalli had the resources to bring the financial issues to an end to finally make the Development Land unencumbered and to start the implementation process again.
25. However, in the meantime, the Council had instead zoned the Development Land *General Coastal* (instead of Coastal Residential) in the currently operative plan. There was no justification for this, and it produced the very odd result that, despite the 2006 Consent granting development rights over the Development Land, a new consent would be required each time a section was proposed for sale.
26. Cavalli quickly came to understand this, and Mr Putt was re-engaged in around 2017 to assist to get the planning support in the district plan back on track.
27. However, by this time, the current plan review process was already underway. Mr Putt says:⁶

Consequently, when I was re-engaged to assist in 2017, 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 again took the initiative to represent the Cavalli and Matauri X 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 with no distinction for coastal locations. The subject land at Matauri Bay fitted that expectation exactly. In the discussions I had with the Council planning team, I therefore requested the General Residential Zone be placed over the Cavalli subdivision and other adjacent land owned by Matauri X Corporation which was to be serviced by the

⁶ fn 5 above at paragraph 2.2.

Matauri wastewater treatment plant installed for the Cavalli subdivision.

28. In other words, a General Residential zone is proposed to replace the old Coastal Residential zone. That is precisely why Cavalli seeks the zoning relief. The General Coastal zone was never the appropriate zone for the Development Land and should never have been imposed. The same applies for the proposed *Settlement* zone. The zoning relief is to reinstate what was originally agreed with the Council and planned for back in 2009.
29. It is extremely frustrating for Cavalli therefore that the Council have proposed a rural Settlement zone for the Development Land.
30. The key reason for this appears in Appendix Two to the s 32⁷ report for the Settlement zone that the System is:

... not activated nor is it listed in the Long-Term Plan or Infrastructure strategy as programmed for use. No rates yet struck to fund it either.
31. But the key documents above and the evidence clearly establish that the System is there, connections have been provided for all the sections, it is owned by the Council and the Council is contractually bound to commission and operate it.
32. It is respectfully submitted that the Council can't rationally propose a Settlement zone in these circumstances, when the only reason for it, is Council's own failure to register the asset and provide a targeted rate in the Long-Term Plan.
33. As Mr Mihaljevich as director of Cavalli puts it:⁸

I find it ridiculous for the Council to now propose a Settlement zone over the development land on grounds that there is no connection to a wastewater system. The only reason for that is that the Council has not implemented a targeted rate in its Long-Term Plan to ensure those costs are covered (if that is the blockage). There is simply no other reason for this connection not to already have occurred. For example:

- (a) The System has been regularly audited and confirmed as ready for immediate operation; and

⁷ See s 32 Report for Settlement Zone at Appendix Two top of page of page 2.

⁸ At paragraph 17.

- (b) The area of benefit for this rate has been known since the Northland Regional Council wastewater discharge consent was granted.
34. Moreover, out of sheer frustration, Cavalli has now agreed to meet the operating costs of the System for the reasonable period would take any *reasonable* council to levy a targeted rate. Frankly however that should already have occurred.
35. Mr Putt also makes the very strong point that there is simply no s 32 RMA support for either the Settlement zone or the other proposed zones being imposed over the Development Land, nor the balance land. But the s 32 report for the General Residential zone supports completely, the zoning relief in that location.⁹
36. I also remind the Panel of the passages in Mr Putt's evidence which record events around 2012:¹⁰

A letter dated 26 April 2012 was sent to FNDC from Mike Elrick, surveyor and engineer of Lands and Survey Ltd, the lead design team for the subdivision. This letter is important because it concludes and confirms that the subdivision vesting arrangements that were imposed through the conditions of consent have been implemented. Within the letter under the heading *Section 7 - Effluent Disposal Manual* - it states - "The effluent treatment plant has now been transferred to FNDC who have accepted on-going responsibility for the plant...."

This letter confirms the completion of the project and the transfer and vesting of assets to the Council as required under the conditions of consent. It also confirms that the s.224c RMA certification has completed and the titles for all lots with their various Consent Notices attached, have been issued. This process confirms that FNDC as consent authority, is satisfied that the consent holder has met all obligations, which included the provision of the required wastewater infrastructure and the means to connect other parts of the Matauri Bay residential and summertime camping activities to the Innoflow system, as well as confirming the completion and operational status of the Innoflow system and the certification of the wastewater infrastructure within the new public roads serving the individual new titles. The vesting of the new public roads and the completed hill access road upgrading were included in the s224c certification.

⁹ fn 5 above at paragraph 2.6.

¹⁰ fn 1 above at paragraph 18.

37. In my submission, and with respect, Cavalli has every right to expect this zoning change to be endorsed. As the final section of the Settlement zone *Introduction* records:

Council has a responsibility under the RMA, the NPS-UD and the Northland Regional Policy Statement to ensure that there is sufficient land, integrated with infrastructure networks, for housing and business to meet the expected demands of the district. If land in the Settlement zone is connected to a Council reticulated wastewater network system in the future, then a plan change will be undertaken at that time to determine if the settlement should be rezoned as an urban environment.

38. We are right now in the plan review process, and this is the time for the Development Land to be rezoned as an urban environment.
39. As controversial as it may be to say, Cavalli's evidence (even in summary form) overwhelmingly demonstrates that the Council has not fulfilled its responsibilities under the RMA to ensure there is sufficient land, integrated with infrastructure networks for housing to meet the expected demands of the district.
40. As Shelby Young's evidence states:

Over the last three years Matauri X has been actively pursuing appropriate housing solutions for descendants of our founding shareholders. This need is great and whilst we have shifted the dial for some, it feels more like a drop in the ocean. We have provided affordable rentals, six completed in July 2024 and a further two to be completed early 2025. There are so many barriers to achieving suitable housing solutions in the Far North not just for our whanau directly but for our wider community.

41. It is respectfully submitted that there can be no debate that the General Residential zone is the appropriate zone for the Development Land.

Coastal Overlay Relief

42. Submission #177 sought:
- (a) Where there is no ONC, ONL or ONF within the Coastal Environment Overlay, there is no requirement to restrict development to any extent greater than provided by the rules of the underlying zone. In the case of the Matauri subdivision the underlying zone should be *General Residential*.
 - (b) Rules CE-R1 to CE R9 and Standards CE-S1 to CE S3 are an unnecessary constraint on permitted development under the *General Residential* zone and are inconsistent with the Northern Regional Policy Statement provisions for the Coastal Environment. It is

requested these rules and standards only apply where ONC, ONL or ONF are extant.

43. Therefore, as a) above makes clear, whether the CO relief is even required, depends on what zoning is recommended for the Development Land.
44. For example, under the proposed Coastal Environment rules CE-R1 PER-1 a building in an urban zone is permitted if it is no greater than 300m² and located outside high or outstanding natural character areas. So that even if the relief in b) is not granted, buildings could be erected in the General Residential zone as a permitted activity.
45. Conversely this permitted activity status only applies to urban zones, not rural zones which the Settlement zone is. Therefore, once again, if the General Residential zone is not recommended, it would continue the odd result produced by the operative Coastal Environment zoning.
46. Moreover, as explained by Mr Putt, the 2006 Consent required consent notices on all titles¹¹ to address:
 - (a) Design guidelines and design approvals processes for dwellings;
 - (b) Detailed landscape provisions;
 - (c) Details about re-vegetation and planting; and
 - (d) Height restrictions.
47. Yet none of this was considered in the s 42A report on the *Coastal Environment*. The relevant passage records:¹²

I also do not recommend that the rules are amended to only apply in ONC, ONL or ONF overlays, as requested by Suzanne Ashmore and Cavalli Properties. In my view, the activities listed in CE-R8 and CE-R9 are inappropriate in all areas of the coastal environment, not just those areas with outstanding values and a prohibited activity status for these activities is appropriate. I also consider that a discretionary activity status is appropriate under CE-R7 for the extension of a lawfully established mineral extraction activity. This recognises the existing nature of the activity but still allows for proposals to be declined when it would result in adverse effects that need to be avoided under CE-P2 and CE-P3.

¹¹ The 2006 Consent was approved using the management plan technique set out at Rule 12.9.2 of the then proposed (now operative) district plan.

¹² At pages 108 – 109.

48. In other words, the Council's decision for declining the CO relief in respect of the Development Land (in the absence of an urban zone) which is outside any ONC, ONL or ONF completely overlooks the protections already in place via the 2006 Consent.
49. That analysis suffers as a result, and at this stage must carry little weight.
50. It is also to be recalled that the Regional Council fully supported the 2006 Consent being granted on these conditions, as did the Environmental Defence Society.

Conclusion

51. It is submitted that there is strong evidence to support the zoning relief for the General Residential zone over the Development Land. Cavalli has suffered extreme prejudice since 2015 from the Council's actions. The costs alone are estimated by Mr to be in the region of \$500,000. Shelby Young's evidence outlines the prejudice to the people.
52. Further, the requirement to obtain resource consent to erect a building on site seriously impacts saleability because future costs/delays are unknown. The price point is therefore greatly reduced – all for no substantive reason.
53. It is strongly submitted that this urgently needs to be brought to an end. Therefore, in relation to the zoning relief, Cavalli would be supported by knowing the Panel's recommendation on this relief as soon as possible.
54. Cavalli understands that the Panel must hear from the Council in reply, but frankly, the reason so far expressed for the Settlement zone, no longer exists, so that zone is simply not appropriate. It is submitted that the General Residential zone is the only rational option supported by the Council's own s 32 analysis.
55. It is also submitted that there is also strong support for the CO relief to be granted.

56. The only real issue in my submission in respect of this relief, is how to make the General Residential zone operative as soon as possible. In accordance with the Panel's Minute Cavalli will consider what further directions might be appropriate at the hearing. Certainly however, a strong recommendation from the Panel about the suitability of the General Residential zone over the Development Land would put Cavalli in the best position possible to seek urgent operative zoning to enable the 2006 Consent to be implemented.

Dated: 2 December 2024



Alan G W Webb
Cavalli Properties Limited

KELLY KOMENE, KARLA LYNCH, LUANA HERBERT, AMY LYNCH, MEGAN LYNCH, BRUCE SAMUELS, LUCY DUNN, CHANELLE JOLLY, KARL HAITANA, COLLEEN GREENWAY, DWAYNE MAPP, JAMES HOUSTON, CHERIE HOUSTON-TAI-RAKENA, GERALD KOMENE, DIANE DURHAM, TEMEPARA EPIHA, DAWN EPIHA, KATHLEEN ELLIS AND MICHAEL HARRIS.

Reasons for the Decision

1. No unreasonable delay will be introduced to the process especially as all the late submissions are identical to numerous submissions already lodged in time, in support of the proposal.
2. No persons, including the applicant, are considered to be prejudiced by the acceptance of these late submissions as the subject matter is the same as other submissions already lodged within the time period.

PURSUANT TO Section 37(1) of the Resource Management Act 1991, the Far North District Council extends the period for notification of the decision to 12 October 2006, being 25 working days after the conclusion of the Hearing.

Reasons for the Decision

1. Additional time has been needed to take account of the complex nature of the application, including the nature of the environment and the mitigation measures included in the application and to be considered by way of conditions.
2. Additional time has been needed to co-ordinate matters being jointly considered with the Northland Regional Council.
3. The interests of no persons are, in the opinion of the Council, adversely affected by the extension.
4. The Council has given due regard to its duty to avoid unreasonable delay in the notification of the decision.

PURSUANT TO Sections 104, 104B, 104D, 108 and 220 of the Resource Management Act 1991, the Far North District Council grants consent to the notified application (being RC 2060901) for resource consent by Matauri Bay Properties Ltd to:

- subdivide the land being Matauri X Residue ML 16006 to include 139 sections based on a 2 X 26 years (52 years) leasehold tenure, and associated vehicular access by private roadways,
- establish a public road to vest, a car park for 100 spaces, and legal easement access to the foreshore,
- carry out earthworks of up to 40,000 m³,

- provide a community effluent treatment system,
- create an enhanced wetland system,
- create open space,
- remove existing roads along foreshore dunes, and
- protect indigenous forest by way of covenants

in accordance with the Plan reference being "M" in the Appendix document to the Assessment of Effects on the Environment report by Lands and Survey, Plan 7331, Sheet 1 dated November 2005 as amended by deletion of Lots 140-188, and being part of the application.

This decision is subject to the following conditions:

ONGOING CONDITIONS

1. That the proposal proceeds in general accordance with the details, technical reports and plans submitted with this application including the Assessment of Environmental Effects (AEE) and subsequent evidence as presented by the applicant/Consent Holder at the Hearing on 30th August 2006.
2. No building, or part thereof, excavation or other work shall be left unfinished, or shall be allowed to fall into such a condition; and no land shall be allowed to deteriorate or to remain in such a condition that it would, in the opinion of the Council, visually detract from the amenities of the property, or adjoining properties, or the neighbourhood.
3. 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 the conditions of this resource consent annually during the month of October of any land use activities covered by this consent. 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 and which are appropriate to be dealt with at a later stage, or to deal with any such effects following assessment of the results of the monitoring of the consent and/or as a result of the Far North District Council monitoring of the state of the environment in the area.
 - b. To require the adoption of the best practicable option to remove or reduce any adverse effect on the environment.
 - c. To provide for compliance (consistency) with rules in any District Plan that has been made operative since the commencement of the consent.
 - d. To deal with any inadequacies or inconsistencies the Far North District Council considers there to be, in the conditions of the consent, following the establishment of the activity the subject of this consent.

- e. 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)
- f. The Consent Holder shall meet all reasonable costs of any such review.

General Conditions to be completed in the first instance:

- 4. Prior to any work commencing on the site, and prior to obtaining a Certificate under section 223 of the Resource Management Act for the proposed subdivision, that:
 - a. The Consent Holder submit to the Council a detailed report from an appropriately qualified and experienced geotechnical professional that demonstrates, to the satisfaction of the Council:
 - i. The suitability of the land for the construction of the proposed road to vest in Council,
 - ii. The stability of land that is required for carriageway widening along Matauri Bay Road (being the road leading down the hill to the bay).
 - iii. The proposed detailed design for both the widening of the Matauri Bay Road carriageway and the formation of the extension to that road which in the opinion of the geotechnical professional are appropriate.
 - b. Provide to the Council a stormwater management report prepared by a Chartered Professional Engineer (CPEng) or an approved Independent Qualified Person (IQP), addressing the means of controlling and disposing of stormwater from the development site, including any water received from upstream catchments.
 - c. Provide to the Council evidence that a Body Corporate will be formed to oversee the management of the settlement, its utilities, and the requirements and on-going implementation of the approved Management Plan.
 - d. That a comprehensive stand-alone Final Management Plan be prepared and submitted to the Council that:
 - i. Covers all the matters required under Rule 12.9.2 of the Far North Proposed District Plan,
 - ii. Incorporates detailed Design Guidelines based on the information provided in the Assessment of Environmental Effects and other information included in the technical appendixes lodged with the application,
 - iii. Provides further details on the design approval process including how the guidelines comply with the objectives and policies, assessment criteria and rules of the District Plan, how the Design Guidelines will be enforced and by whom, and monitoring of structures and their compliance with the Design Guidelines'

- iv. Provides detailed landscape provisions (including materials for roads, driveways, footpaths and road crossings), maintenance replenishment and controls for each proposed allotment, rights of way and balance allotment 190, in accordance with the Landscape Strategy detailed in Plan "I" and Appendix J of the application documentation, including the proposed wetland. These provisions shall ensure impermeable surfaces are dark coloured consistent with the colour range set out under Condition 30. These provisions shall also indicate how the community will be involved in the design and implementation of the planting.
- v. Provides details of how the Body Corporate will manage the development including utilities, and demonstrate that financial arrangements are in place to cover the ongoing maintenance and repair of, and any improvements to; the rights-of-way, sewage treatment plant, sewage reticulation and sewage disposal fields, lighting, fire fighting water supply any other utility services landscape planting, open spaces and car park.
- vi. Provides details of the management of the revegetation and planting proposed including; plant sizes, planting programme, maintenance of the revegetation, replenishment (in the case of plants dying) of planting, pest and weed management and how the community will be involved in the design and implementation of the planting.
- vii. Provides a plan detailing the location of the areas with 5 m and 8 m building height restrictions, and plant height restrictions of 1.2 m as referred to in paragraph 4.2.1.1-1.2 page 39 of the AEE submitted.
- viii. Provides details of the proposed landscaping for that land formerly covered by the (now deleted) Stage 2 phase of the project.
- ix. Provide design details for the construction of the 100 car park and access to it from the road to vest.

Note: This Final Management Plan shall be to the satisfaction of the Council and may be altered or amended from time to time with the written approval of Council's Chief Executive Officer or nominated representative.

Construction Management Conditions

- 5. All earthworks to be undertaken on the site are to be supervised by a Chartered Professional Engineer (CPEng), to be engaged by the Consent Holder. Council is to be advised in writing of the appointment of the engineer, and notified when work is to commence, and when it has been completed.
- 6. All earthworks shall be undertaken such that the camber or gradient of accessways does not result in stormwater ponding or scouring.

7. Prior to the commencement of any earthworks in the immediate vicinity of any registered archaeological sites, such archaeological sites are to be temporarily fenced off to protect them.
8. All earthworks within a 10 m radius of any archaeological site shall be monitored by an appropriately qualified archaeologist.
9. That if subsurface archaeological remains (eg intact shell midden, hangi, storage pits relating to Maori occupation, or building foundations and rubbish pits relating to 19th century occupation) are unearthed during construction or landscaping, work shall cease in the immediate vicinity of the remains and a representative of the local Iwi, a suitably qualified archaeologist and the New Zealand Historic Places Trust shall be advised.
10. Where the modification or destruction of recorded archaeological sites cannot be avoided an application under Section 11 of the Historic Places Act 1993 shall be lodged with the NZ Historic Places Trust seeking the appropriate approvals.
11. If, during earthworks any koiwi or human remains are uncovered, work shall cease, the area shall be temporarily fenced off and the NZ Police, Iwi and the New Zealand Historic Places Trust shall be advised immediately.
12. To ensure the performance of Conditions 5 – 11, the Consent Holder shall pay a bond to the sum of 1.5 times the total estimated cost for the earthworks required to Council, to be held under the following conditions:
 - a. This bond shall be paid prior to the commencement of construction work on the site and shall be either cash or guaranteed in accordance with Council's Bonds and Undertakings Policy # 3102.
 - b. The bond shall be held for a minimum period of 3 months for the earthworks under Conditions 5, - 11 from the date of receipt, and shall be released when in the opinion of Council's Monitoring Officer the said conditions have been satisfied.
 - c. Any costs incurred in the preparing, checking, monitoring and release of the bond are to be met by the Consent Holder.

Construction Management Plans

13. Prior to the commencement of the road/civil construction the Consent Holder is to submit to Council for its approval.
 - a. A traffic management plan;
 - b. Plans and details of all work to be carried out on public land
 - c. Details of the successful roading contractor;
 - d. Details of the planned start date and duration of contract;
 - e. Details of the supervising Engineer or Independent Qualified Person.
 - f. Plans and details of all works to be carried out on public land.

14. Five working days before the commencement of any physical work on the site, the Consent Holder shall provide a Construction Management Plan from a suitably qualified project manager for approval by the Council. The Plan is to contain information on, and site management procedures for, the following matters relating to the proposed development:
- a. The timing of civil engineering, building construction and any demolition works, including hours of operation and key project and site management personnel and their contact details;
 - b. The provision of a detailed photographic record of the land and buildings which adjoin and surround the construction site and its access(es), for the purpose of ascertaining the pre-construction condition of such land, buildings, ancillary structures and landscaping which may possibly become damaged during the course of the construction works. This record and any explanatory report or diagrams required are to be submitted to the Council with the management plan documents;
 - c. The transportation of demolition, construction and waste materials to and from the site, the loading and unloading of materials and the 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. An Erosion and Sediment Control Plan for all earthworks;
 - f. Control of dust and on-site noise (including compliance with construction noise standards) and any appropriate avoidance or remedial measures;
 - g. Prevention of earth, mud, gravel or other material being deposited on adjoining roads by vehicles exiting the site, and proposing remedial measures should that occur;
 - h. A Traffic Management Plan in accordance with Transit New Zealand Code of Practice for Temporary Traffic Management (Low Use Roads) and application for Temporary Speed Restriction for any construction activity on a public road;
 - i. Identification measures, including signage, to inform adjacent landowners, occupiers, pedestrians and other users of Matauri Bay Road.

Utilities

15. All electricity, telecommunications, sewer and other utility services shall be underground except where a building site is adjacent to an existing overhead supply. The sewerage reticulation system shall include the provision of two future connection points in the public road, and provide a connection for, and full reticulation service to, the future public amenity building in the car park. The applicant/Consent Holder agreed to, and shall, maintain a separation distance of at least 50 metres between the boundary of the adjoining Matauri Trust property (Pt Matauri 2H Block, C/T NA51B/1352), and the closest point of discharge from the waste treatment irrigation system.

Vegetation and Enhancement

16. Within 6 months of the consent being granted, a Revegetation Plan in accordance with the Landscape Strategy contained in the AEE (Appendix J Plans H & I) and a detailed Wetland Plan shall be submitted to the satisfaction of Council's Chief Executive Officer or nominated representative, such Plan shall include:
 - a. The ongoing landscape planting and maintenance programme,
 - b. The ongoing pest and weed management programme,
 - c. Details of plant species, size and distribution,
 - d. Details on the maintenance and enhancement of vegetated areas,
 - e. Details of the construction methodology, programme and maintenance of the Duneland and Wetland areas,
 - f. Identification of who is responsible for the initial and ongoing maintenance and replenishment of dead plants within the first five years of establishment.

Engineering – Compliance

17. Unless otherwise specifically designed and specified to the satisfaction of the Council or in accordance with any other condition of this consent, all work shall be carried out in accordance with the "*Far North District Council Engineering Standards and Guidelines 2006*" [referred to subsequently as "**the Standards**"]. The Standards are to be read in conjunction with NZS4404:2004 Land Development and Subdivision Engineering [referred to subsequently as "**NZS 4404**"].
18. The preparation of designs including, drawings, specifications and calculations, and the inspection of work on site shall be the responsibility of an Independent Qualified Person (IQP), approved by the Council. It is a requirement that the IQP shall hold on going Professional Indemnity Insurance of at least \$1,000,000.
19. The Consent Holder shall submit to the Council the drawings, specifications and calculations for all engineering works relating to stormwater, roading, water and wastewater to be undertaken in completing the work for this consent, together with a Design Certificate as set out in Schedule 1A of NZS4404. This documentation is to be approved in writing by the Council's Utilities Manager and/or Roading Manager, or their nominees, prior to the commencement of any of this work on the site.
20. The Consent Holder shall submit to the Council a report by an appropriately qualified and experienced geotechnical professional demonstrating the suitability of the land for its proposed use, prior to the commencement of any work on site. The geotechnical professional shall also provide a statement of professional opinion regarding the suitability of the completed works, as set out in Schedule 2A of NZS4404, all to the satisfaction of the Council.
21. The Consent Holder shall give at least 48 hours prior notice to the Council in respect of the following phases of the site work:
 - a. Commencement of works;
 - b. Prior to undertaking any concrete works;

- c. Prepared earthworks and subsoil drainage prior to filling;
- d. Completed earthworks and prepared sub-grade;
- e. Stormwater pipelines and manholes prior to backfilling;
- f. Sewerage and water reticulation prior to backfilling;
- g. Sewerage and water reticulation prior to pressure testing;
- h. Finished basecourse before the commencement of road sealing.

The above phases shall be inspected by the Council or by the IQP prior to the commencement of further work on the phase in question.

- 22. The Consent Holder shall submit to the Council two paper copies, plus one digital copy on CD of the construction as-built drawings and, if applicable, operations and maintenance manuals, in accordance with the requirements of the Standards, to be approved in writing by the Council's Utilities Manager and/or Roading Manager, or their nominees. Such as-built drawings shall be certified as accurate by the IQP.
- 23. On completion of any site work which includes infrastructure to be taken over by the Council, the following will be required to the satisfaction of the Council. The issue of the Certificate under Section 224(c) of the Resource Management Act 1991 will indicate acceptance by the Council of this information:
 - a. The executed Completion Certificates as set out in Schedules 1B and 1C of NZS4404. The Certificates must be signed by the Contractor's agent and the IQP respectively.
 - b. Where required, a geotechnical completion report and a statement of professional opinion regarding the completed works as set out in Schedule 2A of NZS4404 and signed by the Geotechnical Engineer.
 - c. An 'As Built' record of work, a schedule of assets to vest, a CCTV record (where applicable) and the 'Asset Attribute Data' information, as specified in Clause 1.5.2.5 of the Standards, and Clause 1.5.10 and Schedule 1D of NZS4404.
- 24. The proposal is to comply in all respects with the Building Act 2004 and its appurtenant Regulations, and with the General Bylaws of the Council and whatever consents are relevant to this activity shall be granted prior to the commencement of construction or earthworks.
- 25. No building shall be erected on any Lot without the prior approval of the Council to specific designs for foundations, prepared by a Chartered Professional Engineer (CPEng) with geotechnical expertise following appropriate geotechnical investigations and a consent notice be placed on Lots 1-139 to this effect pursuant to section 221 of the Resource Management Act.

Engineering – Services

- 26. The Consent Holder shall appoint an Owner's Representative (Independent Qualified Person) acceptable to the Council, in accordance with the provisions of Part 1, and the relevant Schedules, of the Council's "Engineering Standards and Guidelines 2006" ("**the Standards**"), who shall be responsible for such design, plans, provision of information (including as-built drawings),

applications (including to the Regional Council as appropriate), producer statements and fees as may be appropriate to the works being considered.

Consent Notices

Consent notices shall be placed on all titles which cover the following matters:

27. Further subdivision of Lots 1 – 139 and 190 is prohibited.
28. That a site-specific geotechnical investigation be carried out for each Lot of the proposed building platforms, accessways and effluent fields prior to the building consent application and earthworks commencing.
29. The imposition of Development Covenants that require adherence to Design Guidelines outlined in the approved Management Plan.
30. That the external cladding of all buildings including dwellings and accessory building shall have an exterior colour within the BS5252 standard colour palette range and a reflectance value of 30% or less or are constructed of natural materials which fall within this range.
31. The imposition of the relevant building height restrictions as referred to in part 4.2.1.1.1.2 page 39 of the Assessment of Environmental Effects with the application.
32. Notification of the archaeological records affecting the Lot purchased by each owner. A prohibition on the destruction of any archaeological site in contravention of the Historic Places Act 1993. A requirement to carry out an archaeological assessment prior to undertaking any earthworks near a recorded site.
33. A prohibition on the keeping or bringing of rodents, possums, rabbits, dogs, cats and mustelids to all Lots within the proposed subdivision including balance Lot 190.
34. That one dwelling house together with one accessory building not exceeding 50% of the house gross floor area, including water storage facilities, may only be established on each Lot in the subdivision, except as may be provided by a subsequent resource consent or by the District Plan as a permitted activity.
35. Prior to occupancy on each of Lots 1 to 139, the lessee of each lot shall install an Orenco interceptor / primary treatment wastewater tank incorporating flow-modulating Biotube effluent filter, and remote telemetry in accordance with the InnoFlow wastewater treatment system approved under condition 46(h). Effluent from the primary treatment system shall be pumped to the communal wastewater collection and treatment system approved under condition 46(h).
36. All electricity, telecommunication, sewer and other utility services shall be underground.
37. Any earthworks including those required to construct accessways to building sites shall be so designed to cause minimal impacts on the landscape and any exposed cuts shall be re-grassed or planted in native vegetation.
38. Any ongoing requirements specified in the approved stormwater management plan.

Lots 1-139, Lot 189 and Lot 190

Prior to the granting of section 223 RMA survey plan approval:

39. The rights-of-way easement shown as easements A and B on the subdivision plan 7331 by Lands and Survey dated November 2005 to be duly granted or reserved.
40. The Survey Plan to show the public road to vest in Council.
41. The Survey Plan to show an easement for the public access from the proposed car park to the beach area, both the car park and access being within the section 439 Reserve (created under the former Maori Land Act 1953), with the access having a minimum width of 4.5m.
42. The Survey Plan to show the section 439 Maori reservation (formerly created under the Maori Land Act 1953 Court reference Minute Book 20 KH 54-57 Application NO 55, Monday 27 July 1992 Spencer J, ["Mangawhai Ki Putataua"]) as approved by the Maori Land Court for public access, for the benefit of all the people of New Zealand, and legal access to this reserve from the proposed road to vest to provide for public access.

Advice Note in relation to condition 42:

The section 439 Maori reservation shall include the area required for the car park, for any future public amenity building(s) and all access required to link these areas to the public road to vest as indicated on the plans submitted with the application and in the evidence of Mr DJ Scott, for the applicant/Consent Holder.

43. That each residential Lot shall show a buildable area of 15m X 15m exclusive of easements and the setbacks of the Coastal Residential Zone which shall apply to each residential Lot.
44. Drainage easements or other legal protection for stormwater pipelines and overland flow paths as identified the design submitted in accordance with condition 19 pursuant to Section 220(1)(f) of the Resource Management Act 1991, shall be endorsed on the survey plan under a Schedule of Memorandum of Easements and shall be duly granted or reserved.
45. A detailed Landscape Plan shall be provided for the proposed 100 space car park consistent with the details provided in Exhibit 14 as submitted by Mr DJ Scott, for the applicant/Consent Holder, at the Hearing on 30th August 2006. Such a Plan will detail:
 - a. Plants species, the PB size and height at planting and height at maturity,
 - b. The planting programme,
 - c. Maintenance and weed control,
 - d. Replenishment management, and
 - e. The 4.5 m wide accessway from the car park to the foreshore.
46. Submit the detailed designs, drawings, specifications and calculations for the following works (in accordance with the Standards or an alternative low impact design agreed by the Council) for the approval of the Council; and no work is to

commence until the plans signed by the Council have been returned to the Consent Holder or his agent:

- a. Earthworks [Part 2 of the Standards] with a separate Producer Statement (works design) which also describes the testing/inspection regime and including retaining structures where required;
- b. Roothing [Part 3 of the Standards] within the subdivision to the Type A Urban Road standard, including concrete edge strips on each side, roadside drainage as required and footpath on one side (including pram crossings)
- c. Roothing [Part 3 of the Standards] on the new public road to the Type B Rural Road standard, including concrete edge strips on each side, roadside drainage as required and footpath on one side (including pram crossings)
- d. Roothing Improvements on Matauri Bay Road [Part 3 of the Standards]. The Consent Holder shall carry out a survey of Matauri Bay Road from Tapui Road to the start of the new public road (a distance of approximately 2.0km) to compare the existing seal width with the following standard: 6.5m minimum seal width with widening on curves as necessary to provide for the swept path of an 8.0m long rigid vehicle within its own lane.
- e. The public car park and access to it from the road to vest.

Where the existing seal width is more than 0.5 m narrower than the above seal width standard, the Consent Holder shall upgrade that section of Matauri Bay Road (being the road leading down the hill to the bay) to the Type B Rural Road standard, including the following specific requirements:

- (i) 6.5m minimum seal width with 1.0m wide concrete dish channel and subsoil drain on one side and 1.5m wide unsealed shoulder or concrete edge strip on the other;
 - (ii) widening on curves to provide for the swept path of an 8.0m long rigid vehicle within its own lane
 - (iii) the centreline radius on the hairpin bend at 1000m to be increased to at least 12.5m
 - (iv) guard-railing as appropriate
 - (v) stormwater as appropriate
- e. The Consent Holder shall implement intersection improvements and signage at Tapui Road as detailed in the Engineering Equilibrium report submitted with the application.
 - f. Pavement designs for all roads to provide for a minimum 25 year pavement life.
 - g. A fire fighting water supply [Part 6 and Clause 6.5 of the Standards], including evidence of consultation with/approval of the NZ Fire Service;
 - h. Wastewater collection, treatment and disposal system in accordance with the Innoflow Orenco system design by Innoflow Technologies NZ Ltd submitted with the application.

- i. Stormwater reticulation and a pegged connection to each new allotment [Part 4 of the Standards], including detailing of the new connection to the Council system, and including an indication of and provision for secondary (ARI₁₀₀) overland flow paths.
- j. Detailed design and calculations are to be prepared such as required to satisfy the Council that there is to be no increased run-off (in respect of the current level) under any conditions generated by way of additional impermeability arising from the subdivision (and assess this by way of allowing for 50% impermeability from each new allotment, plus that of the roading and footpath). Such design shall take into consideration the principles of Auckland Regional Council TP124 Low Impact Design Manual for the Auckland Region.
- k. Street lighting, reticulated by underground means, in accordance with Clause 3.3 of the Standards at each road intersection within the subdivision, on the proposed public road and at the intersection with Matauri Bay Road adjacent to the church. A minimum of 8 street lights are to be provided and installed
- l. Power and telephone services.
- n. Details of any stream crossings.

Prior to the issue of a section 224 RMA Certificate:

- 47. The Consent Holder shall provide suitable evidence, by way of certification from a Chartered Professional Engineer or another suitably qualified person (IQP), to verify that the following works have been completed in general accordance with the Council's Engineering Standards and Guidelines 2006, and other specified standards as may be required:
 - a. Provide sewer & storm water connections to the proposed Lots;
 - b. Form and complete the legal road and private rights of way accessed to the Council standard;
 - c. Provide power and telephone services to the boundary of each lot and to the proposed public car park.
 - d. Undertake all earthworks, stability works, and construction of retaining structures as necessary.
- 48. The Consent Holder shall provide suitable evidence to the Council by way of as-built plans and certification from a Chartered Professional Engineer (CPEng) or an approved suitably-qualified person (IQP), to illustrate that all services and access have been completed in accordance with the approved plans, to the satisfaction of the Council.
- 49. Upon completion of the development work, the Consent Holder shall provide to the Council, certification from a Chartered Professional Engineer (CPEng) or an approved Independent Qualified Person (IQP) to show that all civil construction works specified have been completed in full accordance with the approved plans.
- 50. The Consent Holder shall demonstrate to the Council that any works required by the Stormwater Catchment Management Plan has been undertaken by the

Consent Holder (including any on-going recommendations, which are to be incorporated into a consent notice as required by condition 38) with works certification and as-built plans to be submitted on completion of the necessary works, to the satisfaction of the Council.

51. The Consent Holder shall provide, to the Council, three copies of all relevant as-built plans, which are to include the following information:
 - a. Drawings showing the location of all underground services, including the co-ordinates of hydrants, valves and manhole lids and levels of manhole inverts and lids to the LINZ datum. This information is also to be provided in a digital format to enable it to be added to the Council's GIS database;
 - b. Stormwater overland flow paths including the extent and level of the 1:50 year ARI;
 - c. The area and extent of any fill material placed on the site;
 - d. A schedule of assets, which are to vest in the Council, listing the quantity, the unit rate, and the value of the components (this information is required for valuation purposes);
 - e. Information for the RAMM database:
 - f. Subgrade depth, aggregate type and source;
 - g. Base course depth, aggregate type and source;
 - h. Lime or cement stabilisation details;
 - i. Seal coat details including binder type / grade and residual application rate;
 - j. Details of asphaltic concrete (where used).
52. The constructed public road shall be vested in the Far North District Council as road and provide evidence of a maintenance contract for a period of 12 month from the issue of the 224(c) RMA Certificate.
53. The 100 space car park is to be constructed in accordance with approved plans under condition 46 as shown on Exhibit 14 in the evidence of Mr DJ Scott as submitted at the Hearing on 30th August 2006, being an exhibit of witness Mr DJ Scott, for the applicant/Consent Holder.
54. Provide evidence that the existing foreshore road formation has been blocked off to preclude vehicular access and reinstated as beach dune and that application has been made to revoke its existing roadway status.
55. Undertake the landscape planning as detailed in the approved Management Plan and conditions 16 (a) – (e).
56. To ensure the performance of Condition 16, Vegetation and Enhancement, the Consent Holder shall pay a bond to the sum of 1.5 times the total costs of undertaking the proposed planting programme (excl. GST) to Council, to be held under the following conditions:
 - a. This bond shall be paid prior to the issue of the s.224(c) RMA Certificate and prior to the approval of both the Landscape Plan and any building

- consent for any allotment and shall be either cash or guaranteed in accordance with Council's Bonds and Undertakings Policy # 3102.
- b. The bond shall be held for a minimum period of 60 months for the landscaping under Condition 16 from the date of receipt, and shall be released when in the opinion of Council's Monitoring Officer the said conditions have been satisfied. The landscaping bond shall be reviewed on an annual basis and if satisfactory progress has been made the bond will be refunded on the following basis:
 - i. 50% after planting
 - ii. 20% after plants have been planted (and survived) after 1 year
 - iii. 20% after plants have been planted (and survived for 3 years.
 - iv. 10% after plants have been planted (and survived) for 5 years
 - c. Any costs incurred in the preparing, checking, monitoring and release of the bond are to be met by the Consent Holder.
56. The Consent Holder shall provide for the Council's approval the documentation for the covenants required to protect the native vegetation throughout the subdivision and the covenants prohibiting development on Lot 190 and details of the manner in which the land zoned Coastal Living at Orokaraka Bay has been set aside under a covenant arrangement provided under Te Ture Whenua Maori Act 1993 or similar, for the purpose of protecting the area from future development for the period of the covenant. Note, this is in accordance with the advice received from the applicant/Consent Holder at the Hearing.
57. The Consent Holder shall provide evidence to the Council that the approved covenants will be registered against the titles of the appropriate Lots by providing a letter of undertaking from a Solicitor.
58. The Consent Holder shall provide evidence to the Council that power and telephone services have been reticulated to the boundary of each Lot and to the proposed public car park.
59. The Consent Holder shall provide all necessary street signage and signage for the public car park to the satisfaction of Council's Chief Executive Officer or nominated representative.

Advice Notes:

1. The Consent Holder is advised that an invoice will follow this decision being additional to the costs incurred in the processing of this consent.
 2. Development contributions may be payable for this proposal. This will be advised under separate cover.
 3. Compliance with the provisions of the NZ Historic Places Act is required.
 4. Buildings over 50m² may require a resource consent from the Far North District Council.
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B. Northland Regional Council Consent

PURSUANT TO Section 37(1) of the Resource Management Act 1991, the Northland Regional Council extends the period for notification of the decision to 12 October 2006, being 25 working days after the conclusion of the Hearing.

Reasons for the Decision

1. Additional time has been needed to take account of the complex nature of the application, including the nature of the environment and the mitigation measures included in the application and to be considered by way of conditions.
2. Additional time has been needed to co-ordinate matters being jointly considered with the Far North District Council.
3. The interests of no persons are, in the opinion of the Council, adversely affected by the extension.
4. The Council has given due regard to its duty to avoid unreasonable delay in the notification of the decision.

That pursuant to Sections 104, 104A and 104B of the Resource Management Act 1991, the Northland Regional Council grants consent to:

MATAURI BAY PROPERTIES LIMITED, C/O LIZ CULPAN, PRINCE AND PARTNERS, P O BOX 3685, SHORTLAND STREET, AUCKLAND 1140

to undertake the following activities associated with the development of a 139 Lot residential subdivision at Matauri Bay on lot Pt Matauri X and Legal Road Blk XIII Whakarara SD, within the catchment of Matauri Creek, at or about location co-ordinates 1682550E 6123150N

(Note: all locations referred to in this document are expressed as Geodetic Datum 2000, New Zealand Transverse Mercator Projection):

- 01 Discharge secondary treated domestic wastewater from a communal wastewater treatment and disposal system to land.
- 02 Discharge to air contaminants (primarily odour) from a communal wastewater treatment and disposal system.
- 03 To place and use a wastewater pipeline in, on, under or over the bed of an unnamed tributary of Matauri Creek.
- 04 Undertake approximately 40,000 cubic metres of earthworks.
- 05 To divert stormwater from earthworks.
- 06 To discharge stormwater to water from earthworks.

Subject to the following conditions:

01 Discharge to Land

- 1 The quantity discharged shall not exceed 203 cubic metres during any consecutive 24-hour period.
- 2 The Consent Holder shall ensure that the domestic sewage effluent from every residential dwelling that is part of the subdivision receives treatment within the wastewater treatment and disposal system specified in Condition 3, prior to it being discharged to land.
- 3 The wastewater treatment and disposal system, including the reticulation network and the septic tank for each individual lot, shall be constructed generally in accordance with the Innoflow Technologies Limited report entitled "Proposed Wastewater Treatment and Land Application Scheme for Matauri Bay Subdivision Matauri Bay, Northland", Report Reference L4723, Dated 6 March 2006, and the attached drawing entitled "Matauri Bay Subdivision", Reference 0510745-1, Dated 18 February 2006. However, if there are any differences or apparent conflict between these documents and any conditions of this consent, then the conditions of consent shall prevail.
- 4 The treated wastewater shall be discharged to land via pressure compensating dripper irrigation line that has at least one metre horizontal separation distance between each lateral irrigation line and no greater than one metre separation distance between each pressure compensating drip emitter installed along the irrigation line.
- 5 The treated wastewater shall not be discharged to land at an areal loading rate greater than 3 litres per square metre per day nor discharged to land that has a slope greater than 30 degrees.
- 6 The irrigation lines within the disposal area labelled "Land Treatment Area 67,700 m²" on the attached Innoflow Technologies Limited drawing, Reference 0510745-1, Dated 18 February 2006, shall, at all times, be securely fixed to the surface of the soil to prevent, as far as is practicable, their displacement. In addition, no wastewater within this area shall be discharged within 15 metres of any watercourse, including any identifiable stormwater flow path, nor within 50 metres of the legal property boundary of Pt 2H Blk XIII Whakapara SD.
- 7 The irrigation lines within all other disposal areas, labelled either "land treatment area" or a "reserve area" on the attached Innoflow Technologies Limited drawing, Reference 0510745-1, Dated 18 February 2006, shall, at all times, be either:
 - (a) Securely fixed to the surface of the soil to prevent, as far as is practicable, their displacement, or
 - (b) Placed at least 100 millimetres below the natural soil surface of the disposal area.
 - i. If the irrigation line is fixed to the surface, then no wastewater shall be discharged within 15 metres of a property boundary of any disposal area that is at a lower elevation than the irrigation line, or any watercourse, including any identifiable stormwater flow path, within the disposal area.

- ii. If the irrigation line is installed below the natural soil surface of the disposal area, then no wastewater shall be discharged within 5 metres of a property boundary of any disposal area that is at a lower elevation than the irrigation line, or any watercourse, including any identifiable stormwater flow path, within the disposal area.
- 8 To minimise the risk of surface run off of contaminants occurring, stormwater run-off from the surrounding areas shall, as far as practicable, be prevented from entering any disposal area. This requirement does not apply to the disposal area labelled "Land Treatment Area 67,700 m²", as shown on the attached Innoflow Technologies Limited drawing, Reference 0510745-1, Dated 18 February 2006.
- 9 The central secondary wastewater treatment system shall be installed in such a manner that stormwater run-off from the surrounding area is prevented from entering any tank.
- 10 To enable the collection of treated wastewater samples, easy and safe access shall be provided and maintained to a sampling point immediately after the outlet from the central secondary wastewater treatment system to the disposal area.
- 11 A meter with an accuracy of $\pm 5\%$ shall be installed and maintained on the outlet from the central secondary wastewater treatment system to the disposal area. The meter shall be used to measure the volume of wastewater discharged to land.
- 12 To prevent overflows, an alarm system shall be installed and maintained within the central secondary wastewater treatment system and any septic tank installed on a residential lot that has a wastewater pump, which is activated when high wastewater levels and/or wastewater pump failures occur. This alarm system shall have audible and visual alarm mechanisms and shall, at all times, be connected by electronic link to a 24 hour remote monitoring system. The remote monitoring system shall be utilised to immediately notify the appropriate maintenance person(s) when an alarm is activated.
- 13 Innoflow Technologies Limited, or its authorised agent, shall supervise the installation of the wastewater treatment and disposal system, including the reticulation network, remote monitoring network and septic tanks installed on each residential lot.
- 14 The Consent Holder shall notify the Northland Regional Council in writing of the proposed date that construction of the first stage of the central wastewater treatment and disposal system is intended to commence, at least two weeks beforehand.
- 15 The Consent Holder shall notify the Northland Regional Council in writing of the proposed date that the first stage of the central wastewater treatment and disposal system will be commissioned, at least two weeks beforehand.
- 16 The Consent Holder shall, within one month of the installation of the first stage of the central secondary wastewater treatment and disposal system being completed, submit to the Northland Regional Council:
 - (a) A certificate of compliance or a statement from Innoflow Technologies Limited, or its authorised agent, which provides sufficient details and information to

- enable the Northland Regional Council to determine compliance with Conditions 3–12;
- (b) Final “as built” plans that show the location of all components of the central secondary wastewater treatment and disposal system, including the reticulation network. For the purpose of this Condition, the Consent Holder should ensure that the “as built” plans are drawn to scale and provide sufficient detail for a Northland Regional Council monitoring officer to locate all components identified on the plans.
- 17 The Consent Holder shall notify the Northland Regional Council in writing of any change to the central wastewater treatment and/or disposal system that is required as a result of a proposed increase in the number of connections to the treatment system, at least one month prior to the change being made.
- 18 The Consent Holder shall, within one month of the installation of the change to the central wastewater treatment and/or disposal system that is undertaken in accordance with Condition 17 being completed, submit to the Northland Regional Council:
- (a) Details on the additional wastewater volume that the change has been designed for and the length of additional irrigation line that has been installed;
- (b) A certificate of compliance or a statement from Innoflow Technologies Limited, or its authorised agent, which provides sufficient details and information to enable the Northland Regional Council to determine compliance with Conditions 3–9;
- (c) Final “as built” plans that show the location of all components of the change to the central wastewater treatment and disposal system. For the purpose of this Condition, the Consent Holder should ensure that the “as built” plans are drawn to scale and provide sufficient detail for a Northland Regional Council monitoring officer to locate all components identified on the plans.
- 19 Neither the five day biochemical oxygen demand (BOD5) nor the total suspended solids (TSS) concentration in the treated wastewater shall exceed 15 grams per cubic metre, as measured in any single wastewater sample taken from the sampling point located immediately after the outlet from the central secondary wastewater treatment system.
- 20 The Consent Holder shall, at all times, ensure that the central secondary wastewater treatment area is adequately fenced to restrict access by unauthorised persons and that appropriate signs are placed, and maintained, adjacent to the treatment area advising the use of the area and unauthorised persons not to enter.
- 21 The Consent Holder shall ensure that appropriate signs are placed, and maintained, at approximately 50 metre intervals around the lower perimeter of the disposal area labelled “*Land Treatment Area 67,700 m²*” on the attached Innoflow Technologies Limited drawing Reference 0510745-1, Dated 18 February 2006, advising the use of the area and unauthorised persons to not enter, prior to any wastewater being discharged to the disposal area.

- 22 The Consent Holder shall ensure that all other disposal areas, labelled either a land treatment area or a reserve area on the attached Innoflow Technologies Limited drawing, Reference 0510745-1, Dated 18 February 2006, are adequately fenced to prevent access by unauthorised persons and that appropriate signs are placed, and maintained, adjacent to the area advising the use of the area and unauthorised persons not to enter, prior to any wastewater being discharged to the disposal area.
- 23 The Consent Holder shall ensure that all disposal areas, excluding "Land Treatment Area 67,700 m²" as shown on the attached Innoflow Technologies Limited drawing Reference 0510745-1, Dated 18 February 2006, are planted with appropriate plant species that maximise evapotranspiration. This planting shall be completed within one month of irrigation line having been installed within the disposal area. At least one month prior to the irrigation line being installed, the Consent Holder shall forward to the Northland Regional Council a copy of a planting plan for the disposal area that has been prepared by a suitably qualified and experienced person. This plan shall include, but not be limited to, details of the plant species to be utilised, the spacing between the plants, and the maintenance requirements for the plants within the planted disposal area. The planted area shall extend to the property boundaries of the disposal area. The Consent Holder shall, at all times, adequately maintain the plants within the planted disposal area.
- 24 There shall be no surface ponding of any contaminants from any treatment and disposal area as a result of the exercise of this consent.
- 25 The Consent Holder shall ensure that stormwater from all roofed and paved areas shall be prevented from entering any wastewater tank installed on a residential lot. In addition, stormwater from surrounding areas shall be prevented, as far as is practicable, from entering any wastewater tank installed on a residential lot.
- 26 Innoflow Technologies Limited, or its authorised agent, shall maintain the wastewater treatment system, including the reticulation network, remote monitoring network and septic tanks installed on each residential lot, so that it operates effectively at all times. The maintenance undertaken shall, as a minimum, be in accordance with Section 9 "*Scheme Management and Monitoring*" of the Innoflow Technologies Limited report entitled "Proposed Wastewater Treatment and Land Application Scheme for Matauri Bay Subdivision Matauri Bay, Northland", Report Reference L4723, Dated 6 March 2006.
- 27 The Consent Holder shall keep a written record of all maintenance undertaken on the wastewater treatment and disposal system and the daily quantity of wastewater discharged to land. A copy of these records for the previous year (1 April to 31 March) shall be forwarded to the Northland Regional Council by 1 May each year, and also immediately upon written request by the Northland Regional Council.
- 02 Discharge to Air**
- 28 To minimise the likelihood of undesirable odours being emitted, the Consent Holder shall install activated carbon filters (or equivalent) on all air discharge vents from any wastewater tank.

29 The Consent Holder's operations shall not give rise to any discharge of contaminants at or beyond the legal boundary of the area occupied by either the central wastewater treatment system or the wastewater disposal areas, which is deemed by a suitably trained and experienced Enforcement Officer of the Northland Regional Council to be noxious, dangerous, offensive or objectionable to such an extent that it has, or is likely to have, an adverse effect on the environment.

03 Wastewater Pipeline

30 The Consent Holder shall, within one month after the placement of a wastewater pipeline on, over or under the bed of any watercourse, submit to the Northland Regional Council final "as built" plans showing the location and construction details of the wastewater pipeline installed. For the purpose of this Condition, the Consent Holder should ensure that the "as built" plans are drawn to scale and provide sufficient detail for a Northland Regional Council monitoring officer to locate all components identified on the plans.

04–06 Earthworks

- 31 The Consent Holder shall ensure that the works are constructed generally in accordance with the Lands and Survey plans entitled: "*Proposed Development of Matauri X Blk – Earthworks and Wetland Development Plan*"; Ref 7331, Sheet 4, dated December 2005 (attached), and the Erosion and Sediment Control Plan (ESCP) required to be prepared in accordance with Condition 34.
- 32 The Consent Holder shall notify the Northland Regional Council in writing of the date that earthworks are intended to commence, at least two weeks beforehand.
- 33 No earthworks shall be carried out between 1 May and 1 October in any year without the prior written approval of the Northland Regional Council.
- 34 The Consent Holder shall, at least one month prior to the commencement of any earthworks, lodge with the Northland Regional Council, an Erosion and Sediment Control Plan (ESCP) for both the proposed subdivision area, and the hill section of Matauri Bay Road, which sets out the practices and procedures to be adopted in order that compliance with the conditions of these consents are achieved. The ESCP shall include, but not be limited to, the following:
- (a) The expected duration (timing and staging) of the proposed earthworks;
 - (b) Erosion and sediment control measures;
 - (c) Catchment boundaries for the sediment control structures;
 - (d) The commencement and completion dates for the implementation of the proposed erosion and sediment controls;
 - (e) Diagrams and/or plans, of a scale suitable for on-site reference, showing the locations of the major cut and fill operations, disposal sites for any unsuitable materials, erosion and silt control structures/measures, and water quality sampling sites;
 - (f) Measures to control the effects of dust during construction;
 - (g) Measures to prevent spillage of fuel, oil and similar contaminants;

- (h) Surface revegetation measures of all disturbed sites, to minimise sediment runoff following construction;
- (i) The name and contact telephone number of the person responsible for monitoring and maintaining all silt detention structures; and
- (j) Contingency provisions for the potential effects of large/high intensity rain storm events.

The Consent Holder shall undertake the activities authorised by these consents in accordance with the ESCP.

- 35 The Consent Holder may review and amend the ESCP in consultation with the Northland Regional Council, at any time during the term of these consents.
- 36 Earthworks related to the activities authorised by these consents, and associated sediment control measures, shall be constructed and carried out in accordance with the principles and practises contained within the document entitled "*Erosion and Sediment Control – Guidelines for Land Disturbing Activities*", Auckland Regional Council Technical Publication No. 90, dated March 1999.
- 37 All earthworks operations authorised by these consents shall be carried out in a manner which does not create nor worsen slope instability, and which minimises the potential for soil erosion and sediment loss.
- 38 The Consent Holder shall minimise contamination of surface water by ensuring that slash, soil, debris and detritus is not placed in a position where it may enter any waterbody.
- 39 Notwithstanding any other conditions of these consents, the discharge of stormwater shall not cause the following effects on the water quality of Matauri Creek, as measured at the existing bridge, compared to the water quality immediately upstream of all earthworks activities:
 - (a) The level of suspended solids to exceed 100 grams per cubic metre;
 - (b) The visual clarity of the water to be reduced by more than 20%; and
 - (c) There shall be no conspicuous oil or grease films, scums or foams, floatable or suspended materials, nor emissions of objectionable odour, nor any significant adverse effects on aquatic life.
- 40 To minimise sediment loss, all areas of bare land created by the exercise of these consents shall be topsoiled and established with suitable vegetation to achieve not less than an 80% ground cover by 31 May immediately following each earthworks season, or in accordance with any concessions granted in relation to Condition 33. Temporary mulching or other suitable ground cover shall be applied to achieve total ground cover of any areas left bare or unprotected for more than three months.
- 41 The Consent Holder's operations shall not give rise to any dust nuisance that is offensive or objectionable to neighbouring landowners/occupiers, including their properties.
- 42 Refuelling and servicing of machinery shall not be carried out in such a way that soil or water at the site is contaminated. Where an accidental spillage to land occurs all contaminated soil shall be collected and removed to a suitable

disposal site. Where an accidental spillage to water occurs, the Consent Holder shall:

- (a) Immediately take such action, or execute such work as may be necessary, to stop and/or contain such escape; and
- (b) Immediately notify the Northland Regional Council by telephone of an escape of contaminant; and
- (c) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and
- (d) Report to the Northland Regional Council in writing within one week on the cause of the escape of the contaminant and the steps taken or being taken to effectively control or prevent such escape.

43 In the event of unknown or known archaeological sites or koiwi being uncovered or proposed to be disturbed, activities in the vicinity of the discovery shall cease or not commence. The Consent Holder shall consult with local iwi and the New Zealand Historic Places Trust, and shall not commence or recommence works in the area of the proposed works or discovery until the relevant Historic Places Trust approvals have been obtained.

General Conditions (01)–(06)

44 The Consent Holder shall, for the purposes of adequately monitoring the consents as required under Section 35 of the Act, on becoming aware of any contaminant associated with the Consent Holder's operations escaping otherwise than in conformity with these consents:

- (a) Immediately take such action, or execute such work as may be necessary, to stop and/or contain such escape; and
- (b) Immediately notify the Northland Regional Council by telephone of an escape of contaminant; and
- (c) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and
- (d) Report to the Northland Regional Council in writing within one week on the cause of the escape of the contaminant and the steps taken or being taken to effectively control or prevent such escape.

45 The Northland Regional Council may, in accordance with Section 128 of the Resource Management Act 1991, serve notice on the Consent Holder of its intention to review the conditions of this consent annually during the month of May. The review may be initiated for any one or more of the following purposes:

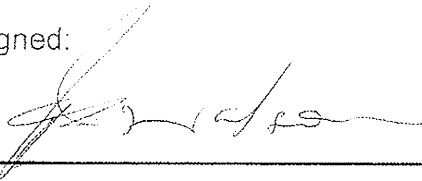
- (a) To deal with any adverse effects on the environment that may arise from the exercise of the consent and which it is appropriate to deal with at a later stage, or to deal with any such effects following assessment of the results of the monitoring of the consent and/or as a result of the Northland Regional Council's monitoring of the state of the environment in the area.
- (b) To require the adoption of the best practicable option to remove or reduce any adverse effect on the environment.

- (c) To provide for compliance with rules in any regional plan that has been made operative since the commencement of the consent.
- (d) To deal with any inadequacies or inconsistencies the Northland Regional Council considers there to be in the conditions of the consent, following the establishment of the activity the subject of the consent.
- (e) 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 Consent Holder shall meet all reasonable costs of any such review.

EXPIRY DATE: 31 October 2016

Signed:



AR Watson

Chair, Joint Hearings Committee

Date: 11 October 2006



Annexure Schedule 1



Easement instrument

Dated 18/11/2008

Page 1 of 6 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)
Effluent Treatment and Disposal	"E", "G", "I" and "M" on DP393664	Lot 191 DP393665 (Identifier 374814)	In gross

Delete phrases in [] and insert memorandum number as required.

Continue in additional Annexure Schedule if required.

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

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 Fifth Schedule of the Property Law Act 2007.

The implied rights and powers are ~~varied~~ ~~negated~~ ~~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

Approved by Registrar-General of Land under No. 2007/6225

Easement instrument to grant easement or profit à prendre, or create land covenant
Sections 90A and 90F, Land Transfer Act 1952

EI 8039834.90 Easement

Land registration district

NORTH AUCKLAND



Cpy - 01/01, Pgs - 007, 24/12/08, 11:39



DocID: 611965974

Grantor

Surname(s) must be underlined or in CAPITALS.

MATAURI BAY RESIDENTS SOCIETY INCORPORATED

Grantee

Surname(s) must be underlined or in CAPITALS.

FAR NORTH DISTRICT COUNCIL

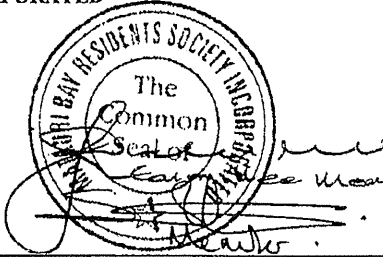
Grant* of easement or profit à prendre or creation or covenant

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 18th day of November 2008

Attestation

MATAURI BAY RESIDENTS SOCIETY INCORPORATED



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

Address

FAR NORTH DISTRICT COUNCIL



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

Occupation

Address

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

Solicitor for the Grantee

374814
90
ET
60-

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

REF: 7003 - AUCKLAND DISTRICT LAW SOCIETY

Annexure Schedule



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

Easement

Dated 18/11/2008

Page 2 of 6 Pages

(Continue in additional Annexure Schedule, if required.)

Annexure Schedule 2

Continuation of "Easement or Profit a Prendre Rights and Powers (including terms, covenants and conditions)"

1. Operation of Rights and Powers

1.1 Notwithstanding that the Grantor and the Grantee have entered into this Instrument and notwithstanding the registration of this Instrument against the computer leasehold register identifier for the Servient Land the terms of this Instrument, including the Rights hereby granted to the Grantee, shall not become operative unless the Grantee has first acquired and become the owner of the Easement Systems from the Grantor.

2. Right to Dispose of Effluent

2.1 Each right to Dispose of Effluent will include the right for the Grantee and Other Authorised Persons to drain, discharge and convey effluent and other waste material and fluid in any quantities through the Effluent Disposal System laid or to be laid on or under the surface of and through the soil of the Effluent Disposal Area.

2.2 The Grantee will be responsible for the operation, repair, maintenance, modification and replacement whenever necessary of the Effluent Disposal System within that Effluent Disposal Area so as to keep the same in good order, repair, operation and condition and to prevent the same becoming a nuisance.

3. Right to Treat Effluent

3.1 Each Right to Treat Effluent will include the right for the Grantee and Other Authorised Persons to store, treat and process wastewater and other waste material and fluid in any quantities in the Effluent Treatment System on, under or above the surface of the Effluent Treatment Area.

3.2 The Grantee will be responsible for the repair, maintenance, modification and replacement whenever necessary of the Effluent Treatment System and everything else that forms part of the Effluent Treatment Area so as to keep the same in good order, repair, operation and condition and to prevent the same becoming a nuisance.

4. General

4.1 Except where inconsistent with this Instrument, the Grantee and Other Authorised Persons will in addition to the Rights have the rights set out in Schedule 4 of the Land Transfer Regulations 2002 provided that the Grantor and the Grantee agree that clauses 5(2), 12(5) and 12(6) of the Land Transfer Regulations 2002 are negatived. The Grantor and the Grantee further agree that clause 10(3) of the Land Transfer Regulations 2002 is amended by omitting the words "dominant land or the" from that clause.

4.2 Subject to clause 1.1, all Easement Systems will at all times remain under the ownership and control of the Grantee.

4.3 The Rights and associated obligations granted by this Instrument will be in common with any rights and obligations for the Grantors and Other Authorised Persons and Other Grantees.

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

Easement

Dated 18 11 2008

Page 3 of 6 Pages

(Continue in additional Annexure Schedule, if required.)

4.4 The Grantor may grant Other Rights in respect of the Servient Land for the benefit of Other Grantees, provide they do not materially diminish the Rights.

4.5 Each right:

- (a) May be exercised at all times, repeated any number of times and will be for all time from the date of this Instrument ("the Term").
- (b) Includes (without limitation) the right to use any Easement System already situated in the Servient Land for the purpose of that Right.
- (c) Includes (without limitation) the right to lay, install and construct an Easement System and any replacement Easement System of any kind (even if of a different nature from the existing Easement System provided it is for the purpose contemplated by the relevant Right) reasonably required by the Grantee (including (without limitation) the right to reasonably excavate the land for the purpose of that construction).

4.6 No power is implied in respect of any Right for the Grantor to determine the Right for breach of any provision in this Instrument (whether express or implied) or for any other cause, it being the intention of the parties that each Right will subsist for the Term unless it is surrendered.

4.7 The Grantor (without limitation) covenants:

- (a) not to do anything which impedes, interferes with or restricts the rights for the Grantee and Other Authorised Persons;
- (b) not to permit:
 - (i) the growth of any trees, shrubs or other vegetation; nor
 - (ii) the erection or establishment of any structure;

on the Servient Land which may hamper the exercise of the Rights or endanger or cause nuisance to the Grantee and Other Authorised Persons during the exercise of the Rights.

4.8 The Grantee may for the purpose of exercising any Right or complying with any obligation of the Grantee under this Instrument in relation to any Right:

- (a) enter the Servient Land with or without agents, servants, contractors and workmen with any necessary tools, implements, machinery, vehicles of any kind and equipment of any kind;
- (b) remain on the Servient Land for such time as is reasonable for the purpose of performing such Rights or obligations.

4.9 In exercising any rights under subclause 4.8 the Grantee will:

- (a) cause as little damage, disturbance, inconvenience and interruption to the Servient Land and to the use of the Servient Land as is reasonably necessary; and
- (b) forthwith make good any damage done to the Servient Land and to the occupier of the Servient Land caused in carrying out any works on the Servient Land and the Grantee shall be required only to restore the surface soil and grass as nearly as possible to its former condition.

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

Easement

Dated 18/11/2008

Page 4 of 6 Pages

(Continue in additional Annexure Schedule, if required.)

4.10 If any party ("the Defaulting Party") neglects or refuses to perform or join with another party ("the Other Party") in performing any obligation under this Instrument the following provisions will apply:

- (a) the Other Party may serve upon the Defaulting Party a written notice ("a Default Notice") requiring the Defaulting Party to perform or to join in performing such obligation and stating that, after expiration of the 7 days from service of the Default Notice the Other Party may perform such obligation;
- (b) if at the expiry of the Default Notice the Defaulting Party still neglects or refuses to perform or join in performing the obligation the Other Party may:
 - (i) perform such obligation; and
 - (ii) for that purpose enter the relevant Servient Land and carry out any work; and
 - (iii) the Defaulting will be liable to pay to the Other Party the costs of the Default Notice and the costs incurred in performing such obligation; and
 - (iv) the Other Party may recover from the Defaulting Party as a liquidated debt any moneys payable pursuant to this subclause.

5. Arbitration

5.1 If a party has any dispute with any other party in connection with this Instrument:

- (a) that party will promptly give full written particulars of the dispute to the other;
- (b) the parties will promptly meet together and in good faith try and resolve the dispute.

5.2 If the dispute is not resolved within 14 days of written particulars being given (or any longer period agreed to by the parties) the dispute will be referred to arbitration.

5.3 The arbitration will be conducted by one arbitrator appointed by the parties involved.

5.4 If the parties cannot agree on an arbitrator within 14 days the appointment will be made by the President of the New Zealand Law Society or the President's nominee.

5.5 The arbitration will be conducted in accordance with the Rules in Schedules 2 and 2 of the Arbitration Act 1996.

5.6 No party will unreasonably delay the dispute resolution procedures in this clause.

5.7 This clause does not apply to an application by any party for urgent interlocutory relief.

5.8 Any matter requiring the agreement, approval or consent of another party to this Instrument will not be the subject of arbitration under this clause 5.

6. Interpretation

6.1 In this Instrument unless the context otherwise requires:

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

Easement

Dated 18/11/2008

Page 5 of 6 Pages

(Continue in additional Annexure Schedule, if required.)

"Default Notice" has the meaning given to those words in clause 4.10.

"Defaulting Party" has the meaning given to those words in clause 4.10.

"Easement Area" means that part of the Servient Land described in Annexure Schedule 1 as being subject to a Right.

"Easement System":

- (a) In the case of a Right to Treat Effluent, means the Effluent Treatment System.
- (b) In the case of a Right to Dispose Effluent, means the Effluent Disposal System.

"Effluent Disposal Area" means that part of the Servient Land described in Annexure Schedule 1 as being subject to a Right to Treat Effluent.

"Effluent Disposal System" means the system under, on or above the Effluent Treatment Areas used by the Users to drain effluent and includes (without limitation) all pumps, pipes, dripper lines, conduits, tanks, electrical installations and effluent drainage or disposal equipment. A reference to the Effluent Disposal System specifically in respect of one or more of the Effluent Disposal Areas means that part of the Effluent Disposal System that is contained within those Effluent Disposal Areas.

"Effluent Treatment Area" means that part of the Servient Land described in Annexure Schedule 1 as being subject to a Right to Treat Effluent.

"Effluent Treatment System" means the system used to treat effluent under, on or above the surface of the Effluent Treatment Area and includes without limitation all pumps, pipes, conduits, tanks, electrical installation and effluent treatment equipment.

"Grantee" means the Far North District Council and its successors.

"Grantee and Other Authorised Persons" in relation to any Right means:

- (a) the Grantee;
- (b) the agents, servants, workmen, tenants, licensees and invitees of the Grantee; and
- (c) where the context so admits, means any of such persons.

"Grantor" in relation to any Right means the registered proprietors from time to time of the Servient Land that is subject to the relevant Right.

"Grantor and Other Authorised Persons" in relation to any Right means:

- (a) the Grantor;
- (b) the agents, servants, workmen, tenants, licensees and invitees of the Grantor; and
- (c) where the context so admits, means any of such persons.

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

Easement

Dated 18/11/2008

Page 6 of 6 Pages

(Continue in additional Annexure Schedule, if required.)

"Instrument" means this instrument as it may be varied from time to time.

"Other Party" has the meaning given to those words in clause 4.10.

"Other Grantee" means any person (other than the Grantee and Other Authorised Persons) who is granted Other Rights by the Grantor.

"Other Rights" means rights granted by the Grantor to Other Grantees in respect of the Servient Land provided that such rights shall not include a right to dispose of effluent or a right to treat effluent.

"Right" means any right granted by this Instrument.

"Right to Dispose Effluent" means the rights recorded by this Instrument in relation to each Effluent Disposal Area.

"Right to Treat Effluent" means the rights recorded by this Instrument in relation to each Effluent Treatment Area.

"Servient Land" in relation to any Right means the land described in Annexure Schedule 1 as the servient tenement which is subject to the relevant Right.

"Term" has the meaning given to that word in clause 4.5.

"Users" means such of the Grantor, the Grantee and the Other Grantees who have the benefit of the relevant Right.

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.



FAR NORTH DISTRICT COUNCIL

MATAURI BAY PROPERTIES LIMITED

MATAURI X INCORPORATION

**AGREEMENT TO ACQUIRE AN EFFLUENT
TREATMENT SCHEME AT MATAURI BAY**

AGREEMENT dated

21st day of May

2009

PARTIES:

1. FAR NORTH DISTRICT COUNCIL ("Council")
2. MATAURI BAY PROPERTIES LIMITED ("MBPL")
3. MATAURI X INCORPORATION ("MX")

BACKGROUND

- A. MX is the beneficial owner of the MX Land situated at Matauri Bay, Northland. The MX Land is held by Public Trust in its capacity as trustee for MX pursuant to a certain deed of trust dated 18 April 2008. MX is entitled to receive the net rents from the leases of the land comprising the Development (via the Public Trust) to MBPL and its successors in title.
- B. MX has granted to MBPL a leasehold interest in the MX Land to enable MBPL to undertake the Development.
- C. The Council is the territorial local authority for the district within which the MX Land and the Development are located.
- D. MBPL has obtained from the Council and Northland Regional Council the Consents for the Development including the provision of a Scheme to service the Development.
- E. The Council proposes to purchase the Scheme to service the Development as well as other properties and facilities at Matauri Bay adjoining or proximate to the Development.
- F. MX acting through its trustee Public Trust as lessor of the MX Land is responsible for maintenance and repair of the Scheme and for that purpose will set aside a proportion of the rent it receives in respect of the Development for the purpose of contributing to the maintenance of the Scheme.
- G. The parties enter into this agreement to record their agreement in respect of the acquisition by the Council of the Scheme including contributions by MX to the shortfall in maintenance costs.

AGREEMENT

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this agreement and its background unless the context otherwise requires:

"Cavalli Land" means the land being developed by Cavalli Coastal Villas Limited into fifteen (15) residential lots as contemplated by Digital Title Plan [T.B.A] being the lands currently comprised in Identifiers 34025 and 34026 (North Auckland Land District).

"Consents" means the resource consents for the Development granted by the Council under reference RC2060901, RC2080257 and RC2080881, and Northland Regional Council under reference CON20061596701 and includes any variations to such consents.

"Contribution Period" means the period of fifteen (15) years from the Settlement Date.

"Development" means the 139 leasehold residential lot subdivision at Matauri Bay being carried out by MBPL in two (2) stages on the MX Land and more particularly identified in the Consents.

"Easements" means all those areas of land subject to easements in gross marked with the letters "E", "G", "I" and "M" on DP393664 over Lot 191 DP393665 and with the letter marked "H" on DP393664 over Lot 192 DP393664 in favour of the Council and includes any other easements granted in addition to or in substitution therefor.

"Financial Year" means each twelve (12) month period commencing on 1 July in one year and ending on 30 June in the following year.

"Further Purchase Price" means the sum of four thousand dollars (\$4,000.00) plus GST subject to adjustment in accordance with clause 6.4 payable for each and every household unit equivalent connected to the Scheme but excluding:

- (i) the 139 residential lots comprising the Development;
- (ii) the public toilets located within the carpark area shown on Lot 189 Deposited Plan 393664; and
- (iii) up to fifteen (15) household unit equivalents located on the Cavalli Land.

Such sum shall be paid by the Council to MBPL within twenty (20) Working Days of the relevant household unit equivalent being connected to the Scheme.

"GST" means Goods and Services Tax arising pursuant to the Goods and Services Tax Act 1985.

"Initial Purchase Price" means the sum of one dollar (\$1.00) plus GST payable (if demanded by MBPL) on the Settlement Date.

"MX Land" means the freehold interest in Lots 191 and 192 on Deposited Plan 393664, Identifier 374727 upon which the Development has been, or is being, carried out, such freehold land being held by Public Trust in its capacity as trustee for MX.

"Net Costs" means:

- (a) all costs of operating and maintaining the Scheme including without limitation the costs of power supply to the Scheme and the depreciation amount that Council is required to set aside each Financial Year for the future replacement of the Scheme; less
- (b) all income received by Council in respect of the Scheme.

"Scheme" means the community effluent treatment system provided by MBPL at Matauri Bay to service the Development, such effluent treatment system being located on the Society Land, and includes the wastewater reticulation network servicing the Development, the benefit of the Easements, all irrigation lines, pipelines and pipes making up the scheme but excluding individual septic tanks located on private land and connections from septic tanks to the boundary of the lot on which such septic tanks are located which tanks and pipes are the property of the individual lot owner.

"Settlement Date" means the date of this agreement.

"Society" means the Matauri Bay Residents Society Incorporated.

"Society Land" means Lot 191 on Deposited Plan 393665 comprised in Identifier 374814 (North Auckland Land District) together with any future land within the Development transferred to the Society;

"Working Day" has the same meaning as in the Property Law Act 2007.

2. **SALE AND PURCHASE OF SCHEME**

- 2.1 In consideration of the Initial Purchase Price to be paid by the Council to MBPL on the Settlement Date MBPL agrees to sell and the Council agrees to acquire the Scheme on the terms set out in this agreement.
- 2.2 MBPL will at all times up to the Settlement Date maintain the Scheme to the highest possible standards and in particular will comply with the conditions of the Consents.

3. **PROCESS OF ACQUISITION**

- 3.1 The parties acknowledge that:
- (a) this agreement is an agreement for the purposes of section 17 of the Public Works Act 1981;
 - (b) the Council will acquire the Scheme by transfer from MBPL or by declaration pursuant to section 20 of the Public Works Act 1981;
 - (c) the Council, having complied with the provisions, of section 462 of the Local Government Act 1974, may declare any specified part of parts of the Scheme to be a public drain or public drain and
 - (d) MBPL shall execute such documents and do such things as may be required to enable the Council to acquire full and unencumbered ownership of every part of the Scheme.

4. **USE OF SCHEME**

- 4.1 Upon the Settlement Date and subject to payment of the Initial Purchase Price MBPL shall transfer the Scheme to the Council and shall assign, novate or transfer the benefit of all warranties and guarantees it holds in respect of the Scheme to the Council provided that where any warranty or guarantee is not

capable of assignment, novation or transfer, MBPL shall hold the same on trust for the benefit of the Council.

- 4.2 From and including the Settlement Date the Council shall operate and maintain the Scheme for the benefit of the Development, the Cavalli Land, the public toilets located within the carpark area shown on Lot 189 Deposited Plan 393664, and for any other land connected to the Scheme from time to time and the Council shall receive the benefit of the Easements for the treatment and disposal of effluent from the Scheme.

5. OPERATION AND MAINTENANCE OF SCHEME

- 5.1 In consideration of the Council purchasing the Scheme pursuant to this agreement, MX agrees to contribute to the operation and maintenance of the Scheme throughout the Contribution Period to cover the Net Costs incurred by the Council provided that MX's liability for such Net Costs shall, subject to clause 5.4, be limited to a maximum of fifty-five thousand dollars (\$55,000.00) plus GST in any Financial Year during the Contribution Period.
- 5.2 Within twenty (20) Working Days of the end of each Financial Year the Council shall provide MBPL and MX with a detailed statement of the Net Costs in respect of the Scheme and a GST invoice in respect of the contribution payable by MX pursuant to clause 5.1 of this agreement. MX shall pay such Net Costs to the Council within twenty (20) Working Days of receiving an invoice from the Council.
- 5.3 Except as provided in clause 5.1 and for the avoidance of doubt, MX will not be liable for any costs in connection with the replacement or renewal of the Scheme, such costs to be borne by the Council.
- 5.4 The maximum contribution payable by MX pursuant to clause 5.2 shall be subject to review on each anniversary of the Settlement Date as follows:
- (a) The maximum contribution payable by MX shall be reviewed to an amount equal to the maximum contribution payable during the twelve (12) month period immediately prior to the date of review increased by a percentage equal to the aggregate percentage increase (if any) in the Consumer Price Index (all groups) over the period from the Settlement Date or the last review date as the case may be to the date of review.
 - (b) For the purposes of clause 5.4(a) the aggregate percentage increase in the Consumer Price Index (as published from time to time by Statistics New Zealand) or as substituted in accordance with clause 5.4(d) shall be calculated as follows:
 - (i) by determining the last one (1) year period commencing with the last appropriate quarterly date preceding the last review date prior to the current review date or the Settlement Date as the case may be and ending with the last appropriate quarterly date preceding the current review date.
 - (ii) by determining in respect of each of those quarterly periods making up the one (1) year period so ascertained the percentage

increase in the Consumer Price Index (or equivalent) for that period; and

- (iii) by adding together each of the aggregate percentage increases in the Consumer Price Index (as so determined) for each of those quarterly periods making up the one (1) year period.
- (c) For the purpose of this clause "last appropriate quarterly date" means the 31st day of March, the 30th day of June, the 30th day of September or the 31st day of December or such other quarterly dates upon which the Consumer Price Index may be published by the Statistics New Zealand, and in each case whichever of those immediately precedes the relevant review date or the Settlement Date as the case may be.
- (d) If Statistics New Zealand ceases for any reason to publish the Consumer Price Index (all groups) for any quarterly period, then the Council may at its option apply an appropriate alternative price increase index and all references to the Consumer Price Index in this agreement shall be deemed to be references to the alternative price increase index as so determined in accordance with this clause.

5.5 In order to better secure MX's obligations pursuant to this clause 5 MX shall enter into and execute a separate bond in its own capacity, such bond to be in the form annexed to this agreement as Schedule 1.

6. FUTURE CONNECTIONS TO SCHEME AND FURTHER PURCHASE PRICE

- 6.1 MBPL and MX acknowledge that upon the Council acquiring the Scheme pursuant to this agreement the Council may at any time thereafter and subject to payment of the Further Purchase Price and obtaining all necessary consents connect additional household unit equivalents to the Scheme.
- 6.2 For the avoidance of doubt the initial connection of the Cavalli Land to the Scheme is on the basis that the Cavalli Land comprises fifteen (15) household unit equivalents. In the event that at any time the Cavalli Land comprises more than fifteen (15) household unit equivalents the Further Purchase Price shall be payable for each household unit equivalent on the Cavalli Land in excess of the fifteen (15) household unit equivalents contemplated by this agreement.
- 6.3 The Council acknowledges that the Scheme has been established primarily for the benefit of the Development but has sufficient capacity to connect to the fifteen (15) household unit equivalents on the Cavalli Land and to the public toilets located within the carpark area as shown on Lot 189 Deposited Plan 393664. The Council further acknowledges that in the event that the Council wishes to provide future connections to the Scheme this may require an upgrade of the Scheme to provide additional capacity. The Council will be liable for payment of all costs incurred in connection with any upgrade of the Scheme required as a result of such further connections including any operation and maintenance costs attributable to such further connections. For the avoidance of doubt, MX and MBPL shall not be liable for any such costs pursuant to clause 5.1 or otherwise.
- 6.4 The Further Purchase Price shall be subject to review on each anniversary of the Settlement Date as follows:

- (a) The Further Purchase Price shall be reviewed to an amount equal to the Further Purchase Price payable during the twelve (12) month period immediately prior to the date of review increased by a percentage equal to the aggregate percentage increase (if any) in the Consumer Price Index (all groups) over the period from the Settlement Date or the last review date as the case may be to the date of review.
- (b) For the purposes of clause 6.4(a) the aggregate percentage increase in the Consumer Price Index (as published from time to time by Statistics New Zealand) or as substituted in accordance with clause 6.4(d) shall be calculated as follows:
- (i) by determining the last one (1) year period commencing with the last appropriate quarterly date preceding the last review date prior to the current review date or the Settlement Date as the case may be and ending with the last appropriate quarterly date preceding the current review date.
 - (ii) by determining in respect of each of those quarterly periods making up the one (1) year period so ascertained the percentage increase in the Consumer Price Index (or equivalent) for that period; and
 - (iii) by adding together each of the aggregate percentage increases in the Consumer Price Index (as so determined) for each of those quarterly periods making up the one (1) year period.
- (c) For the purpose of this clause "last appropriate quarterly date" means the 31st day of March, the 30th day of June, the 30th day of September or the 31st day of December or such other quarterly dates upon which the Consumer Price Index may be published by the Statistics New Zealand, and in each case whichever of those immediately precedes the relevant review date or the Settlement Date as the case may be.
- (d) If Statistics New Zealand ceases for any reason to publish the Consumer Price Index (all groups) for any quarterly period, then MBPL may at its option apply an appropriate alternative price increase index and all references to the Consumer Price Index in this agreement shall be deemed to be references to the alternative price increase index as so determined in accordance with this clause.

7. COUNCIL'S CAPACITY

- 7.1 MBPL and MX acknowledge that nothing in this agreement is to be construed as constituting a fetter or limitation on the exercise of any discretion or power of decision by the Council in its capacity as a consent authority or any other regulatory capacity which the Council occupies in connection with the Scheme or the Development.
- 7.2 MBPL and MX further acknowledge that if the Council, in properly carrying out its duties as a consent authority or in any regulatory capacity acts in a manner which is contrary to the interests of MBPL or MX under this agreement, MBPL and MX will not seek to recover any losses or damages or seek an injunction against the Council under this agreement.

8. ASSIGNMENT

- 8.1 MBPL and MX may not assign their respective interests under this agreement without first obtaining the consent in writing of the Council which consent shall not be unreasonably or arbitrarily withheld. The Council as a condition of its consent to assignment may require that any assignee enter into a deed of accession covenanting with the Council to be bound by complying with the assignor's obligations under this agreement. For the purposes of this clause a change in the effective control of MBPL amounts to an assignment of this agreement and requires compliance with the requirements of this clause.
- 8.2 Other than by an assignment under this clause, MBPL and MX shall not assign this agreement.

9. ANNOUNCEMENTS

- 9.1 Except as may be required by law neither party to this agreement will make any announcements or disclosures as to the subject matter of this agreement, but shall be entitled to make all disclosures, including to professional advisors, for the purposes of implementing and administering this agreement.

10. FURTHER ASSURANCE

- 10.1 Each party will do all things and execute all documents reasonably required in order to give effect to the provision and intent of this agreement.

11. DISPUTES

Reference to Alternative Dispute Resolution

- 11.1 Unless a party has first complied with clauses 11.1 to 11.4 (inclusive) that party may not commence court proceedings or arbitration relating to any dispute arising from this agreement (except where the party seeks urgent interlocutory relief, in which case that party need not comply with this clause before seeking such relief) and where that party fails to so comply with those clauses, the other party need not comply with those clauses before referring the dispute to arbitration or commencing court proceedings relating to that dispute.

Parties to Designate Representatives

- 11.2 Either party (referred to in this clause as "**First Party**") claiming that a dispute has arisen under this agreement between the parties shall give written notice to the other party (referred to in this clause as "**Second Party**") designating as its representative in negotiations relating to the dispute a person with authority to settle the dispute. The Second Party shall, within five (5) Working Days after receipt of the First Party's notice, give written notice to the First Party, designating as its representative in negotiations relating to the dispute, a person with similar authority.

Attempt to Resolve Dispute

- 11.3 The parties shall use their reasonable endeavours to procure that the persons designated under clause 11.2 shall, within ten (10) Working Days after the last designation required by clause 11.2, make whatever investigations each such person deems appropriate and seek to resolve the dispute.

Failure to Resolve Disputes

- 11.4 If the dispute is not resolved within the period referred to in clause 11.3 (or within such longer period as the parties' respective representatives may agree is appropriate) the parties shall within a further period of ten (10) Working Days (or such longer period as the representatives may agree is appropriate) use their reasonable endeavours to agree, in good faith, on a process for resolving the whole or part of the dispute through means other than litigation or arbitration (including, without limitation, further negotiations, mediation, conciliation, or independent expert determination) and on:

- (a) the procedure and timetable for any exchange of documents and other Information relating to the dispute;
- (b) procedural rules and a timetable for the conduct of the selected mode of proceedings;
- (c) a procedure for selection and compensation of any neutral person who may be engaged by the parties in relation to the dispute;
- (d) whether the parties should seek the assistance of a dispute resolution organisation.

Reference to Court Proceedings/Arbitration

- 11.5 After the expiry of the time established by or agreed under clause 11.4 for agreement on a dispute resolution process, a party which has complied with the provisions of clauses 11.1 to 11.4 (inclusive) may, by written notice to the other party, terminate the dispute resolution process provided for in those clauses and may then require that such dispute be submitted for determination by arbitration pursuant to clause 11.6 or resolved by litigation. Once any such notice has been given, both parties shall do all things reasonably possible to comply with that notice at the earliest available opportunity, and neither party shall have the right to give any subsequent notice under this clause 11.5.

Conduct of Arbitration

- 11.6 In the event of a submission to arbitration pursuant to clause 11.5 the arbitration shall be conducted by a single arbitrator, pursuant to the Arbitration Act 1996 (referred to in this clause as the "**Arbitration Act**") provided that:
- (a) for the purposes of the following articles in the First Schedule to the Arbitration Act:
 - (i) **Article 11(2):** The arbitrator shall be such person as may be agreed upon in writing by the parties within three (3) Working Days after the expiry of any notice given pursuant to clause 11.5 or, failing such agreement being reached within that three (3)

Working Day period, shall be the person appointed, at the request of either party as arbitrator by the President for the time being of The Arbitrators' and Mediators' Institute of New Zealand Incorporated (referred to in this clause as "**President**") following such consultation with the parties as the President considers appropriate;

- (ii) **Article 20(1):** The place of arbitration shall be Kaikohe, New Zealand;
 - (iii) **Article 21:** The date on which the arbitral proceedings shall commence shall be the date on which the dispute between the parties is submitted to arbitration in accordance with clause 11.5;
 - (iv) **Article 22(1):** The language used in the arbitral proceedings shall be English;
 - (v) **Article 28(1):** The law applicable to the substance of the dispute shall be New Zealand law;
- (b) such arbitration shall be deemed to not be an international arbitration for the purposes of the Arbitration Act;
 - (c) for the purposes of clause 5 of the Second Schedule to the Arbitration Act, either party may appeal to the High Court on any question of law arising out of an award of the arbitrator.

12. NOTICES

- 12.1 Any written notice required to be given pursuant to this agreement shall (without limitation) be deemed validly given if:
- (a) signed by the party giving that notice; and
 - (b) delivered by hand or sent by facsimile transmission (provided that the sender's facsimile machine confirms transmission to the intended recipient) to the intended recipient's physical address or facsimile number, as set out in schedule 1 (or to such other physical address or facsimile number as the intended recipient shall notify to the other party by written notice from time to time):
- 12.2 For the purposes of this agreement, any notice transmitted by facsimile or delivered after 5.00pm on a Working Day, or at any time on a non Working Day, shall be deemed received at 9.00am on the next Working Day.

13. GENERAL

Expenses

- 13.1 Each party will pay its own costs and expenses (including legal expenses) sustained or incurred in connection with the preparation and execution of this agreement.

Enforcement and Costs

- 13.2 Where one party ("**Defaulting Party**") has committed a default under this agreement the other party ("**Non Defaulting Party**") may, subject to clause 11.0, enforce this agreement by such action including an action for specific performance as it sees fit and the Defaulting Party shall pay all costs and expenses (including legal expenses on a solicitor and own client basis) sustained or incurred by the Non Defaulting Party in connection with the exercise of, or in protecting or enforcing or otherwise in connection with, the Non Defaulting Party's rights under this agreement. Payment will be on demand and on a full indemnity basis.

Amendments

- 13.3 No amendment to this agreement will be effective unless it is in writing signed by both parties.

Partial Invalidity

- 13.4 The illegality, invalidity or unenforceability of a provision of this agreement under any law will not affect the legality, validity or enforceability of that provision under another law or the legality, validity or enforceability of another provision.

No Merger

- 13.5 The obligations of the parties to this agreement shall not merge insofar as they have not been fulfilled as at the Settlement Date but shall remain in full force and effect.

Entire Agreement

- 13.6 This agreement contain all the terms of the agreement between the parties and supersede all prior discussions and arrangements in relation to the subject of this agreement.

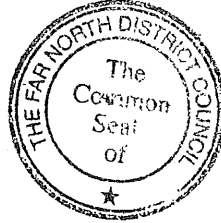
Governing Law

- 13.7 This agreement is governed by the laws of New Zealand and the parties submit to the non exclusive jurisdiction of the New Zealand courts in respect of all matters relating to this agreement.

EXECUTION

THE COMMON SEAL of FAR NORTH DISTRICT COUNCIL was affixed in the presence of:

W D Edmunds



SIGNED for and on behalf of MATAURI BAY PROPERTIES LIMITED by:

[Signature]

Director

[Signature]

Director/Authorised Signatory

Witness signature _____
Witness name _____
Occupation _____
Address _____

Note: If two directors sign, no witness is necessary. If a director and authorised signatory sign, both signatures are to be witnessed. If the director and authorised signatory are not signing together, a separate witness will be necessary for each signature.

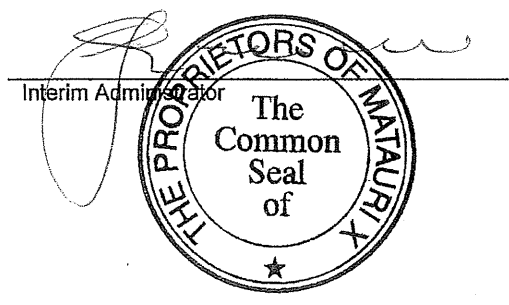
SIGNED for and on behalf of **MATAURI X INCORPORATION** by its interim administrator affixing its common seal in the presence of:

Witness signature

Witness name
Simon J.O. Jones
Solicitor

Occupation
Auckland

Address



SCHEDULE 1
Form of Bond