

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 Limited for a new zone at Matauri Bay, Northland.

BRIEF OF EVIDENCE FROM ROB MIHALJEVICH

Dated: 28 November 2024

MAY IT PLEASE THE COMMISSIONERS:

1. My name is Robert Mihaljevich.
2. I am a director of the submitter Cavalli Properties Limited (**Cavalli**) having been appointed on 1 June 2021. I am authorised to provide this evidence on behalf of Cavalli.
3. This evidence is to be read in conjunction with the evidence of Pat Durham and Brian Putt which sets out the unfortunate background about why Cavalli is now seeking a general residential zone in respect of land at Matauri Bay.
4. I fully support that relief. The purpose of this evidence is twofold. First to assist the Panel to understand the very serious impact on Cavalli, and the Matauri X beneficiaries from Far North District Council (**Council**) refusing to accept its obligations under the 2009 Agreement to commission and operate the Innoflow wastewater system (**System**) referred to by Mr Durham and Mr Putt.
5. Secondly, to explain that there has not been any impediment for reasons of cost to the Council commissioning and operating the System, for the simple reason that Cavalli has offered to cover that cost for the reasonable period that it would take for a targeted rate to be applied to meet the ongoing costs. Cavalli never had the skills nor the inclination to operate the System and purchased the land at Matauri Bay based on its understanding of the 2009 Agreement that the

Council owned the System and would commission and operate it. That is precisely why it was sold the Council for \$1. In the normal way with core infrastructure (and particularly given the 2009 Agreement) Cavalli simply expected the System would vest in Council as a Council asset and Council would assume all obligations in respect of that infrastructure.

6. I should also say that the serious issues Cavalli has had with the Council arose because of personal actions by the CEO particularly in the 2019 – 2022 period and other staff who have now left the Council. The new Council governance team and staff have been very helpful in having the Council finally accept its obligations in respect of the System under the 2009 Agreement and to try and get development underway at Matauri Bay.

Impact on Cavalli

7. As explained by Mr Durham and Mr Putt Cavalli became involved at Matauri Bay in 2015. I was not a director of Cavalli at that point, however, I was engaged by Cavalli in a management role to oversee Cavalli's interests in Matauri Bay.
8. There have not been any changes in ownership of the development land at Matauri Bay since 2015.
9. I want to also make it quite clear that Cavalli's involvement at Matauri Bay is well outside its normal operations. Cavalli only became involved at Matauri Bay because a director had a family connection with Matauri X personnel. Cavalli had the wherewithal and financial resources to negotiate and finalise an agreement with the liquidators of the finance company to ensure the land was not lost forever. Cavalli agreed to then assist with the implementation of the resource consent granted in 2006 to develop that land. That has not been a straightforward process.
10. Cavalli's involvement in 2015 was underpinned by the fact of the 2009 Agreement i.e. on the understanding that the Council would agree to commission and operate the System so that new dwellings could be connected and sold without any further resource consent being required. This was reinforced by the fact the Easements (discussed by Mr Durham) had already having been registered against the land.
11. Cavalli's role was then to ensure that all other requirements of the subdivision consent including the requirements of the consent notice to be registered against each title would be met. In addition, Cavalli has remained a conscientious owner of the land maintaining it to a very high standard since 2015. This has come at a significant cost to Cavalli.

12. As also explained, because the land was Maori freehold land, there are in-built protections to ensure the land is still not lost to Matauri X because any land (sections) for sale must first be offered to Matauri X.
13. I should also note that Cavalli's collaboration with Matauri X supports Matauri X's long term strategic plan for the design, building and funding of community wide cycle tracks and walkways. Cavalli has also had significant engagement with the community native plant nursery thus creating employment opportunities that previously did not exist.
14. Cavalli perceived that the Council always saw Cavalli's involvement as extremely positive. I'm not surprised as it enabled resolution of ongoing wastewater disposal issues at Matauri Bay for the creation of further dwellings, so that the development anticipated and approved by the Council could be brought to fruition.
15. The Council had already imposed strict conditions on that resource consent to ensure that once the foundation requirements as to size of sections, house design and environmental protection and enhancement (all embedded in the consent notices) were met, then the construction and sale of dwellings could proceed smoothly and without additional control or cost.
16. However, since 2015 at least, the Council has simply failed to meet its obligations under the 2009 Agreement. I am still completely mystified as to why that change in attitude occurred. It must have had something to do with an internal direction to prevent development at Matauri Bay, despite all the building blocks having been carefully put in place.
17. 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
 - (b) The area of benefit for this rate has been known since the Northland Regional Council wastewater discharge consent was granted.
18. The costs to Cavalli from delays caused by the Council are significant. Globally and depending on how they are calculated, Cavalli has incurred unnecessary costs approximately \$5,000,000 from the delays.

19. It is beyond frustrating as there has never been any rational or legal reason for the Council to act this way.

Implementation Costs

20. Therefore, out of sheer frustration Cavalli offered to meet the commissioning and operating costs for the System for the period it took the Council to implement a targeted rate for the System.
21. So, while it is technically correct for the Council to claim no rate has been struck yet to cover the operating costs of the System, there is also no blockage that I have been made aware of for the Council to have already done so. Further, the whole point of the targeted rate is to provide income to cover costs, and Cavalli now offered to do that at least 18 months ago. There would have been ample time for the Council to amend its Long-Term Plan to include the targeted rate since then in conjunction with this district plan review.
22. It has been brought to my attention that the *Overview* of the Settlement zone states at the last paragraph before the Objectives that:

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.

23. I agree. In my very strong view, the time for the re-zoning to an urban zone is right now. Cavalli should not have reached this point only to be told for a further plan change for the urban zone to be imposed, particularly in the circumstances described above. There are simply no reasons for that not to occur.
24. Mr Putt carefully explains why and how that should occur and what the appropriate urban zone is.

Dated: 28 November 2024

Rob Mihaljevich
Cavalli Properties Limited