

APPENDIX 2

Stage 1 Resource Consent and Private Covenants

Carterton District Council

P.O. Box 9 Holloway Street Carterton New Zealand Phone: 06-379-6626 Fax: 06-379-7832

27 August 1999

S Kinnear,
S Kinnear Consultancy Ltd,
10 Waimarama Gove,
UPPER HUTT.

Dear Sir,

Application for Resource Consent pursuant to Section 88 of the Resource Management Act 1991 - Subdivision

Applicant: Glendon Trust Partnership

Location: Flat Point

At a meeting held on 18 August 1999 the Council considered an application seeking resource consent for the following activities:

- ♦ 39 lots ranging from 1200m² to 2720m² in size
- ♦ a new public reserve of 1.377 hectares at the mouth of the Te Unu Unu Stream
- ♦ a road (600m long by 15m wide) from the end of Flat Point Road to a carpark sited near the proposed public reserve and the beach
- ♦ two secondary cul de sac roads to service the individual lots (one 260m long by 10m wide and the other 115m by 10m)
- ♦ a pedestrian route through the subdivision linking Flat Point Road with the proposed reserve.

The land that is the subject of the application is located approximately 56 kilometres south east of Carterton in an area of about 25 hectares of coastal flats. The site is generally between the last 600 metres of Flat Point road and Te Unu Unu Stream.

The Council's decision is as follows:

That pursuant to Section 105 of the Resource Management Act 1991, consent to the application subject to the following conditions:

1. Subject to any amendments that result from the further conditions of this consent, the subdivision and associated works be generally in accordance with the application, the plans, the assessment of effects and the other information which accompanied and formed part of the application or which was subsequently supplied to the Council.



2. The following lots shall vest in the Carterton District Council for the purposes shown:

Lots 45, 47 and 48	Road.
Lot 46	Recreation Reserve

3. A Body Corporate shall be formed to undertake the required maintenance of the subdivision as specified in the following conditions of consent. This condition is to be secured by a consent notice pursuant to Section 221 of the Resource Management Act 1991 in respect of each title.

The Body Corporate shall make available its records to Council on an annual basis.

4. The following lots shall vest in the Body Corporate for the Purposes shown:

Lots 40 and 41	Local Purpose Reserve – Plantation
Lots 42	Local Purpose Reserve – Isolation Strip.
Lots 43 and 44	Accessway.

5. An easement of Access Strip (as defined by the Resource Management Act 1991) in favour of the Carterton District Council shall be created between the southern end of Road No.1 as shown on the proposed subdivision plan and the proposed Recreation Reserve (Lot 46). The conditions upon which the easement shall be enjoyed are to be agreed between the Applicant and the Council and shall include, in addition to the mandatory prohibitions of the Tenth Schedule, conditions:
- ♦ prohibiting the taking of any vehicle onto, or driving or having charge or control of any vehicle on, the land (whether the vehicle is motorised or non-motorised)
 - ♦ specifying the position and type of the fencing of the Access Strip
 - ♦ specifying that the Applicant is responsible for fencing the Access Strip
 - ♦ specifying that the Body Corporate is responsible for maintaining the fencing of the Access Strip.
6. Lots 29 and 30 are to share the access leg from cul de sac No 2 and a reciprocal easement of right of way is to be created over the frontage strips.
7. Flat Point Road from a point some 50 metres west of the western boundary of Lot 30 to the bridge shall be sealed to a width of 5.5 metres, except that the Council will be responsible for any widening of the pavement necessary to achieve the required seal width.
8. Road No.1 is to be formed and sealed to provide a 5.5 metre wide carriageway and an area at its southern end suitable for turning. The parts of the legal road outside the carriageway are to be suitably shaped and grassed to minimise maintenance costs.

9. A carpark is to be provided at the Applicant's expense at the end of Road No. 1. As this car park is a continuation of Road No. 1 the surface of the car park shall be sealed. The number of carparks to be provided to be agreed with Council.
10. A public toilet is to be provided at the Applicant's expense near the public carpark at the end of Road No. 1. The type of facility and the siting of the public toilet are to be agreed with Council. The maintenance of the public toilet is to be the responsibility of the Body Corporate.
11. Cul de sac No. 2 and Cul de sac No. 3 shall be formed and sealed to provide a 5.0 metre wide carriageway and suitable turning areas at their termination. The parts of the legal road outside the carriageway are to be suitably shaped and grassed to minimise maintenance costs.
12. Lots 43 and 44 (Accessways) are to be formed, drained, fenced and surfaced to provide all weather pedestrian access between Flat Point Road and Cul de sac No. 3.
13. All roads to vest shall be suitably shaped, graded and drained so that stormwater is collected and directed away from residential lots to Council approved disposal points.
14. No building consent for a dwelling on any lot in the subdivision will be issued unless and until an approved sewage disposal system and an approved water collection and storage system has been installed, or arrangements made to install, to the satisfaction of the Council and the Wellington Regional Council. This condition is to be secured by a consent notice pursuant to Section 221 of the Resource Management Act 1991 in respect of each title.
15. An approved sewage disposal system to satisfy condition 14 above will:
 - ♦ comply with the requirements of Rule 1D of the Proposed Regional Discharges to Land Plan
 - ♦ utilise a 200m² minimum soakage field with drip lines at a maximum 1 metre spacing, such field being located and determined within each lot by an appropriately qualified person
 - ♦ identify a reserve soakage field
 - ♦ be subject to an annual inspection and certificate of fitness to be provided to the Carterton District Council by a suitably qualified person, and any necessary remedial actions being carried out by the owner of the system. This condition is to be secured by a consent notice pursuant to section 221 of the resource management act 1991 in respect of each title
 - ♦ The minimum treatment performance standards for any installed system shall be

♦ Carbaneous BOD5	< 10	mg/L
♦ SS	< 10	mg/L
♦ Ammonia	< 1	mg/L
♦ Nitrates	< 20	mg/L

- ♦ The effluent shall be disinfected by an approved disinfection system prior to discharge to land.
16. An approved water and storage system to satisfy condition 10 above will:
- ♦ be self contained within the lot concerned
 - ♦ collect all roof water from a dwelling on the site
 - ♦ provide for a minimum of 22,500 litres of water storage per dwelling
 - ♦ be accessible for fire fighting purposes within the subdivision.
17. The subdivision is to be reticulated for underground supply of electricity to each residential lot.
18. Provision is to be made by way of underground ducting for telephone reticulation to each residential lot.
19. A solid waste transfer facility is to be established within the subdivision or nearby to provide:
- ♦ recycling containers for aluminium, glass and plastic
 - ♦ a suitable container for bagged solid waste.

The design and siting of the solid waste transfer facility is to be agreed with Council. The facility shall be designed, sited and operated in a manner that does not give rise to odour, vermin and vector problems. Waste shall be transferred for disposal on a regular basis and shall not be permitted to start decomposing on the site. The Applicant shall incorporate a mechanism for handling fish catch waste.

The Body Corporate is to be responsible for the collection of solid waste and transfer to a suitable disposal facility.

20. Public rubbish bins are to be provided near the public carpark at the end of Road No. 1 at the Applicant's expense. The Body Corporate shall be responsible for the collection of solid waste from the public facility and its transfer to a suitable disposal facility. Maintenance of the public rubbish bins is also the responsibility of the Body Corporate.
21. An archaeological site and waahi tapu management plan is to be developed, implemented and maintained by a Management Committee comprising equal representatives of the Applicant, tangata whenua representatives of Tumapuhiaarangi hapu and the Council. The management plan should include:
- ♦ a description of the historical, traditional and cultural importance of the area to tangata whenua;
 - ♦ identify and describe the registered archaeological sites;
 - ♦ establish protocols and procedures for ensuring the integrity of archaeological sites/waahi tapu are respected and maintained to the extent that is reasonably possible.

22. Earthworks for the subdivision are to be restricted to that necessary to construct the proposed roads, shape the adjacent frontages for access purposes, and install services and stormwater drainage.
23. A suitably qualified person/archaeologist, acceptable to representatives of Tumapuhiaarangi hapu and the Applicant, is to be appointed to monitor and oversee all earthworks. If, at any time, whether the person is present or not, any archaeological material is detected, work shall immediately cease and representatives of Tumapuhiaarangi will be immediately notified. Work shall not recommence until appropriate investigations have been carried out and a course of action has been decided upon in consultation with representatives of Tumapuhiaarangi and the Council. If agreement cannot be reached on the appointment of a suitably qualified person/archaeologist, then the Council, after consultation with both the Applicant and hapu representatives, will appoint that person. The funding of a suitably qualified person/archaeologist is to be met by the Applicant.
24. The laying of the stormwater pipe through the covenanted sand dune area shall be undertaken using trenchless technology to the satisfaction of the Council in consultation with representatives of Tumapuhiaarangi hapu.
25. Landscaping and planting shall be carried out as described and shown in the Applicant's assessment of effects. A detailed landscape design and implementation plan shall be submitted to and approved by the Council.
26. Planting or cultivating the following potential ecological weeds is prohibited anywhere within the land subject to the consent:

<u>Common name of plant</u>	<u>Scientific name of plant</u>
Banksia	Banksia sp.
Cotoneaster	Cotoneaster lacteus
Lupin	Lupinus arboreus
Boxthorn	Lycium ferocissimum
Gorse	Ulex europaeus
Boneseed	Chrysanthemoides monolifera
Cape ivy	Senecio angulatus
Marram grass	Ammophila arenaria
Ripgut brome	Bromus diandrus
Pampas grass	Cortaderia selloana
Kikuku grass	Pennisetum clandestinum
Ice plant	Carpobrotus edulis

This condition is to be secured by a consent notice pursuant to section 221 of the resource management act 1991 in respect of each title.

27. A fence be designed and erected to the satisfaction of the Council at the Applicant's expense around the proposed recreation reserve (Lot 46), the adjoining access strip and road edge. The purpose of the fence is to prevent

access by vehicles to the dunes. The maintenance of the fence is to be the responsibility of the Body Corporate.

28. An Environmental Care Code is to be developed and promoted by the Applicant in consultation with the Department of Conservation and Tumapuhiaarangi hapu to the satisfaction of the Council. The purpose of the code is to inform land owners of the vulnerability of the coastal environment (particularly the dune system) to disturbance. The Code should also include:

- ♦ a description of the ecological significance of the coastal dunes
- ♦ a description of potential threats to the dunes including biological threats posed by cats (and other animals), and invasive exotic weeds and physical threats posed by uncontrolled access, motorbikes etc
- ♦ the list of prohibited plants
- ♦ any other information likely to achieve its purpose.

The Body Corporate will be responsible for ensuring that the Environmental Care Code is updated as appropriate (in consultation with the Department of Conservation, Tumapuhiaarangi hapu and to the satisfaction of the Council). The Body Corporate shall also ensure that new owners of lots in the subdivision are informed of the existence of an Environmental Care Code and their associated responsibilities. The Body Corporate may be responsible for actions contained in this management plan.

29. Interpretative signs are to be erected at the Applicant's expense at the proposed boat launching access, at the landward entrance to the access strip to the proposed reserve, in the access strip and at the beach where vehicle access can be gained. The signs should convey information on the vulnerability of the dune system to human disturbance, behaviour around seals and nesting sea birds and the dangers of fire. The signs are to be prepared in consultation with the Department of Conservation and Tumapuhiaarangi hapu, to the satisfaction of the Council.

The Body Corporate shall ensure that the interpretative signs are maintained and updated as necessary.

30. Every lot intended for residential use shall be subject to conditions secured by consent notices under section 221 of the Resource Management Act 1991 that:

- ♦ restrict buildings, solid fencing and earthworks (except earthworks associated with the provision of vehicle access and services) to the 15 metre x 15 metre building platforms identified for each lot as shown in the Cuttriss plan 14810SC-C Sheets 1-2 dated 3/99 and Isthmus concept plan W334 dated 30 April 1999
- ♦ prohibit any fences in the area between the front of any dwelling and the road frontage boundary
- ♦ require that the roofs of buildings are painted or otherwise finished to a non-reflective, dark natural colour.

31. A Management Plan for the Dune Covenant area is to be submitted to and approved by the Council, in consultation with the Department of Conservation and Tumapuhiaarangi hapu. The management plan shall:

- ♦ prohibit earthworks or fencing within the dune area
- ♦ provide for the perimeter of the area to be identified with marker posts at lot intersections
- ♦ provide an overall strategy for the long term management of the dune area
- ♦ set out objectives and methods to maintain natural vegetation and re-vegetation of the dunes with appropriate species.

The Body Corporate shall be responsible for actions contained in this management plan. The Body Corporate will be responsible for ensuring that the Dune Management Plan is updated as appropriate (in consultation with the Department of Conservation, Tumapuhiaarangi hapu and to the satisfaction of the Council). The Body Corporate shall also ensure that new owners of lots in the subdivision are informed of the existence of a Dune Management Plan and their associated responsibilities.

32. Every lot intended for residential use which contains part of the Dune Protection Area shall be subject to a condition secured by a consent notice under section 221 of the Resource Management Act 1991 requiring adherence to and implementation of the Dune Management Plan as it relates to the particular lot.
33. All engineering works shall be designed and supervised by a professional engineer or suitably qualified and experienced person to the satisfaction of the Council. Construction plans and specifications for all engineering works shall be submitted for review by the Council before works commence.
34. The balance of CT 54A/803 (Pt Lot 3 DP 86496) (approximately 12.7000 hectares) and the balance of CT 295/294 (Pt Te Unu Unu 1a) (approximately 42.8800 hectares) shall be subject to a condition secured by a consent notice under section 221 of the Resource Management Act 1991 prohibiting further subdivision.
35. That part of the balance of CT 295/294 (Pt Te Unu Unu 1a) which lies between Road No. 1 and Te Unu Unu Stream shall be subject to a condition secured by a consent notice under section 221 of the Resource Management Act 1991 requiring it to remain open space.
36. Survey plans may be submitted for approval in stages as detailed in the application as follows:

Stage 1 - Lots 1-13
 Lots 40, 41 (Plantation Reserve)
 Lot 42 (Isolation Strip)
 Lot 45 (Road No 1)
 Lot 46 (Public Reserve)

- Stage 2 - Lots 14-20
 Lot 47 (Road No 3)
- Stage 3 - Lots 21-39
 Lot 48 (Road No 2)
 Lots 43, 44 (Accessways)

37. This consent will lapse in accordance with section 124 of the Act after 2 years for Stage 1, 4 years for Stage 2 and 6 years for Stage 3.

This decision was made following consideration of the matters listed in Section 104 of the Resource Management Act 1991.

The reasons for this decision were as follows:

- (a) When the application was considered as a whole, Council concluded that the proposal, with the imposition of conditions, is in accordance with sustainable management as it is defined in section 5 of the Resource management Act 1991.
- (b) The Council records that it is a matter of national importance that in achieving the purpose of the RMA it has a duty to recognise and provide for the 'preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use and development.
- (c) In the course of the hearing Council had regard to the New Zealand Coastal Policy Statement and the various statutory plans applicable to the Flat Point area. In the context of the coastline Council finds that Flat Point has retained a significant degree of natural character and that Flat Point in particular forms a strong part of the visual and aesthetic amenities of the immediate environs. The proposal has been designed to minimise the adverse effects on the natural character of the coastal environment and this can be provided for with the imposition of conditions.
- (d) A comprehensive, compact, well planned and constructed subdivision on part of the site is preferable in this case to the spread out form of subdivision over the entire site. Council notes that under its normal subdivision policy and rules the Applicant could apply for conditional subdivision consent for approximately 22 three-hectare lots on the site. Council would have to grant that subdivision consent (subject only to controls over lot size, water supply, sewage disposal, building platforms, access, lots off right of ways and esplanade reserves or strips).
- (e) A compact form of subdivision will, on balance, have less adverse effects than a spread out form of subdivision. This is particularly in terms of landscape, natural character and iwi values. The balance of the land will be subject to a condition prohibiting further subdivision. In addition that part of CT 295/294 (Pt Te Unu Unu 1a) which lies between Road No. 1 and Te Unu Unu Stream shall be subject

to a condition secured by a consent notice under section 221 of the Resource Management Act 1991 requiring it to remain open space.

- (f) The Council further records that it is a matter of national importance that in achieving the purpose of the RMA it has a duty to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.
- (g) Council recognises that the site of the proposed subdivision is waahi tapu and is located on the ancestral lands of the descendants of Tumapuhiaarangi hapu. Evidence was presented at the hearing by tangata whenua which indicates that the site is of particular cultural and spiritual importance to them because of whakapapa reasons, its importance as a traditional fishing ground ("He waahi a mahinga kai"), and as an historic pa site and as a site of both burials and births.
- (h) Further unchallenged evidence presented at the hearing indicated that the hapu of Tumapuhiaarangi are recognised as the appropriate tangata whenua authority for the area. Council is grateful that the appropriate tangata whenua authority has been identified for this area for the purpose of future consultation concerning this coastal subdivision.
- (i) Council considers that the relationship of Tumapuhiaarangi with their ancestral lands, water, sites, waahi tapu and other taonga can be recognised and provided for by the imposition of conditions which:
 - ◆ require the development and implementation of an archaeological site and waahi tapu management plan with the active involvement of tangata whenua
 - ◆ require that an appropriately qualified person/ archaeologist monitors all earthworks and reports to tangata whenua
 - ◆ safeguard the balance of the site from development
 - ◆ ensure the adverse effects of sewage treatment and disposal are minor.
- (j) Council notes in this regard that the landowner could, with consent for a controlled activity under the Proposed District Plan, subdivide all the land into 3 hectare parcels, each with a separate house. The adverse effects on Maori cultural and spiritual values in the area would be potentially greater from this activity than from the subdivision as proposed.
- (k) The Council must have particular regard to kaitiakitanga under s.7(a) of the RMA and acknowledge Tumapuhiaarangi as the kaitiaki of the coastal environment in the area. Council notes from the evidence that tangata whenua access to the traditional fishing grounds at Flat Point will not be compromised by the subdivision and that any future concerns over depletion of the traditional fishing resource might be addressed by tangata whenua seeking to have the area designated as a mataatai fishing reserve under the customary fishing regulations as was suggested in evidence at the hearing.
- (l) The Council considers that in providing for tangata whenua involvement in the development of an archaeological site and waahi tapu management plan and the appointment of an appropriate person to monitor site excavations, that proper

account has been had to the principles of the Treaty of Waitangi, and in particular, the principles of active protection of taonga, kaitiakitanga, consultation and partnership.

- (m) Whilst acknowledging the cultural and spiritual significance of the area to tangata whenua, the Council is aware from the evidence that the site also has special significance to the Applicant's family and the wider community in general. The Council is statutorily obliged to consider and weigh all viewpoints and interests in arriving at its decision. In this regard Council considers that the purpose of sustainable management will best be achieved by the granting of the application subject to the above conditions.
- (n) During the course of the hearing Council heard evidence from the Applicant that the sewage discharge could comply with the relevant regional council rules. Council acknowledges that this may well be the case but it takes the precautionary view that discharges may have adverse effects in the longer term. There may also be an undesirable cumulative effect from the discharges. These potential effects can be minimised by way of the conditions that have been imposed.
- (o) Approval facilitates the sustainable management of residential accommodation on the coast, providing for the wellbeing of people who wish to reside on the coast in a form that minimises the adverse environmental effects.
- (p) Subject to compliance with the above conditions, Council is satisfied that the proposed subdivision:
 - ♦ will have no more than a minor adverse effect on the environment, while contributing to the social and economic well being of the Carterton District
 - ♦ is in accordance with the purpose and principles of the Resource Management Act 1991.

Please note that the foregoing is the full text of the decision.

Your status as an applicant/ person making a submission provides you with certain legal rights with regard to the Council's decision.

For your general guidance, sections 120 and 127 of the Resource Management Act 1991 provide rights with respect to:

- ♦ Appeal (s120);
- ♦ Application for change or cancellation of consent conditions (s127) (applicant(s) only).

Section 127 involves making an application direct to the Council.

Section 120 concerning appeal, requires that a "Notice of Appeal" be lodged with the Registrar of the Environment Court and with the Council within 15 working days of your receipt (or receipt by the person who filed the application on your behalf) of the Council's formal decision.

The address of the Environment Court is District Court Building, 49 Balance Street, Wellington. An appeal must be lodged on Form 7 prescribed by the Resource Management (Forms) Regulations 1991 and must be accompanied by the appropriate filing fee of \$55.00 (GST inclusive) as specified in those Regulations under Part VI, Section 28, Sub-section (3). A copy of the above Regulations may be purchased from the Government Printing Office.

You should note that a resource consent lapses on the expiry of two years after the date of commencement of that consent, unless the consent is given effect to, or after the expiry of such shorter/ longer period as is expressly provided for in the consent. Section 125 of the Resource Management Act 1991 details matters of consent time extension.

If you are intending to exercise your legal rights regarding the council's decision and you are in any doubt as to how to proceed, it is recommended that you consult with your Agent/ Lawyer.

Yours faithfully



M F Hautler,
MANAGER PLANNING & REGULATORY.

Schedule of Conditions and Agreements

Agreements

1. No stormwater pipe will be laid through the covenanted sand dune area.
2. The reasons for the Council decision will be reworded as follows:
 - (e) A compact form of subdivision will, on balance, have less adverse effects than a spread out form of subdivision. This is particularly in terms of landscape, natural character and iwi values. That part of CT 295/294 (Pt Te Unu Unu 1a) which lies between Road No. 1 and Te Unu Unu Stream shall be subject to a condition secured by a consent notice under section 221 of the Resource Management Act 1991 preventing the erection of any building.
 - (g) Council recognises that the site of the proposed subdivision is waahi tapu and is located on the ancestral lands of the descendants of Ngai Tumapuhiaarangi, Ngati Maahu and Ngati Te Kawekairangi hapu. Evidence was presented at the hearing by tangata whenua which indicates that the site is of particular cultural and spiritual importance to them because of whakapapa reasons, its importance as a traditional fishing ground ("He waahi a mahinga kai"), and as an historic pa site and as a site of both burials and births.
 - (h) Evidence presented at the hearing indicated that the hapu of Ngai Tumapuhiaarangi, Ngati Maahu and Ngati Te Kawekairangi are recognised as the appropriate tangata whenua authority for the area.
 - (i) Council considers that the relationship of Ngai Tumapuhiaarangi, Ngati Maahu and Ngati Te Kawekairangi with their ancestral lands, water, sites, waahi tapu and other taonga can be recognised and provided for by the imposition of conditions which:
 - ♦ require the development and implementation of an archaeological site and waahi tapu management plan with the active involvement of tangata whenua
 - ♦ require that an appropriately qualified person/ archaeologist monitors all earthworks and reports to tangata whenua
 - ♦ safeguard the balance of the site from development
 - ♦ ensure the adverse effects of wastewater treatment and disposal are minor.
 - (k) The Council must have particular regard to kaitiakitanga under s.7(a) of the RMA and acknowledge Ngai Tumapuhiaarangi, Ngati Maahu and Ngati Te Kawekairangi as the kaitiaki of the coastal environment in the area. Council notes from the evidence that tangata whenua access to the traditional fishing grounds at Flat Point will not be compromised by the subdivision and that any future concerns over depletion of the traditional fishing resource might be addressed by tangata whenua seeking to have the area designated as a mataatai fishing reserve under the customary fishing regulations as was suggested in evidence at the hearing.

Conditions

1. Subject to any amendments that result from the further conditions of this consent, the subdivision and associated works be generally in accordance with the application, the plans, the assessment of effects and the other information which accompanied and formed part of the application or which was subsequently supplied to the Council.
2. The following lots shall vest in the Council for the purposes shown:

Lots 45, 47 and 48	Road
Lot 46	Recreation Reserve

3. An Incorporated Society shall be formed and maintained comprising the registered proprietors of Lots 1 - 39 to undertake the required maintenance of the subdivision as specified in the following conditions of consent. This condition is to be secured by a consent notice pursuant to Section 221 of the Resource Management Act 1991 in respect of each title.

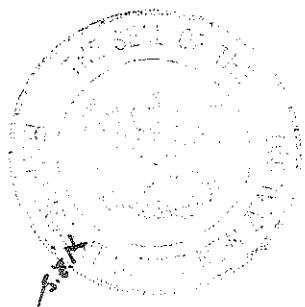
The Incorporated Society shall make available its records to Council on an annual basis.

4. The following lots shall be owned as tenants in common in equal shares by the registered proprietors of Lots 1 - 39 for the purposes shown:

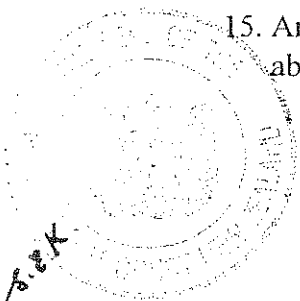
Lot Number	Purpose
Lots 40 and 41	Plantation Strip
Lots 42	Isolation Strip
Lots 43 and 44	Pedestrian Access

5. An easement of Access Strip (as defined by the Resource Management Act 1991) in favour of the Council shall be created between the southern end of Road No. 1 as shown on the proposed subdivision plan and the proposed Recreation Reserve (Lot 46). The conditions upon which the easement shall be enjoyed are to be agreed between the Applicant and the Council and shall include, in addition to the mandatory prohibitions of the Tenth Schedule, conditions:

- 5.1 prohibiting the taking of any vehicle onto, or driving or having charge or control of any vehicle on, the land (whether the vehicle is motorised or non-motorised);
- 5.2 specifying the position and type of the fencing of the Access Strip;
- 5.3 specifying that the Applicant is responsible for fencing the Access Strip;



- 5.4 specifying that the registered proprietor of the land comprising the Access Strip is responsible for maintaining the fencing of the Access Strip.
6. Lots 29 and 30 are to share the access leg from cul de sac No 2 and a reciprocal easement of right of way is to be created over the frontage strips.
7. Flat Point Road from a point some 50 metres west of the western boundary of Lot 30 to the bridge shall be sealed to a width of 5.5 metres, except that the Council will be responsible for any widening of the pavement necessary to achieve the required seal width.
8. Road No. 1 is to be formed and sealed to provide a 5.5 metre wide carriageway and an area at its southern end suitable for turning. The parts of the legal road outside the carriageway are to be suitably shaped and grassed to minimise maintenance costs.
9. A level, grassed area suitable for car parking is to be provided at the Applicant's expense at the end of Road No. 1. The number of car parks to be provided to be agreed with Council.
10. The Applicant will provide public access to toilet facilities at a suitable site within Flat Point Station within two years.
11. Cul de sac No. 2 and Cul de sac No. 3 shall be formed and sealed to provide a 5.0 metre wide carriageway and suitable turning areas at their termination. The parts of the legal road outside the carriageway are to be suitably shaped and grassed to minimise maintenance costs.
12. Lots 43 and 44 are to be formed, drained, fenced and surfaced to provide all weather pedestrian access between Flat Point Road and Cul de sac No. 3.
13. All roads to vest shall be suitably shaped, graded and drained so that stormwater is collected and directed away from residential lots to disposal points approved by the Council.
14. No building consent for a dwelling on any lot in the subdivision will be issued unless and until an approved wastewater treatment and disposal system and an approved water collection and storage system has been installed, or arrangements made to install, to the satisfaction of the Council and the Regional Council. This condition is to be secured by a consent notice pursuant to Section 221 of the Resource Management Act 1991 in respect of each title. (For the avoidance of doubt, this condition requires the approval of the Regional Council prior to installation of any wastewater treatment and disposal system, see condition 15.5.)
15. An approved wastewater treatment and disposal system to satisfy condition 14 above will comply with the following:

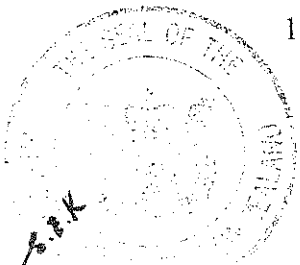


- 15.1 The system will comply with the requirements of Rules 6 and/or 7 of the Regional Plan for Discharges to Land (operative – December 1999).
- 15.2 The minimum treatment performance standards for any installed treatment system shall be:

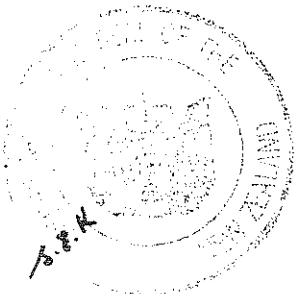
Carbaceous BOD ₅	< 10 g/m ³
Suspended Solids	< 10 g/m ³
Ammonical Nitrogen	< 2 g/m ³
Nitrate Nitrogen	< 30 g/m ³
Faecal Coliforms	< 2000 cfu/100ml,

provided that installation shall include a two-week period on start up, during which time the effluent quality for some parameters may fall outside these limits.

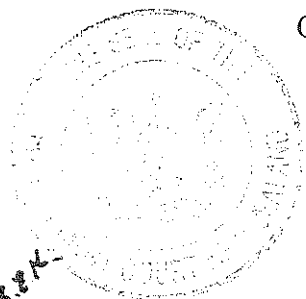
- 15.3 There shall be no wastewater or seepage from wastewater visible at the ground surface.
- 15.4 Disposal fields with sub-surface emitters to be no less than 200m², with each field being located and determined within each lot by an appropriately qualified person.
- 15.5 System design and location of disposal fields to be approved by the Regional Council prior to installation. This condition to be secured by a consent notice pursuant to section 221 of Resource Management Act 1991 in respect of each title.
16. The installation of the approved wastewater treatment and disposal systems is to include the following:
- 16.1 Treatment systems and emitter lines to be installed by an appropriately qualified person approved by the manufacturer.
- 16.2 Sub-surface emitters are to be installed and maintained between a minimum depth of 150mm, and a maximum depth of 250mm below the ground surface. Spacing between emitters and spacing between emitter lines to be no more than 1.0 metre.
- 16.3 Treatment systems and alarms are to be independently electrical wired to a master switch, as opposed to the mains switch, to ensure continuous operation.
- 16.4 A manufacturers producer statement to be supplied following satisfactory installation and commissioning to the District Council.
- 16.5 The disposal field for each lot shall be identified on the Survey Plan in such a manner that its location can be readily established on the ground with reference to the boundaries of the lot concerned.



- 16.6 The disposal field for each lot shall be identified with appropriate ground marking, which shall include at least one permanent low post, which has been concreted in place, with a metal plate showing the location of the disposal field. This condition to be secured by a consent notice pursuant to section 221 of Resource Management Act 1991 in respect of each title.
- 16.7 Appropriate measures are to be taken to prevent compaction or damage to both the treatment system and disposal field.
- 16.8 An appropriate owner's manual is to be provided to each lot owner prior to treatment system use, and thereafter retained at each dwelling. The owner's manual is to include the location of the treatment plant and disposal field and any alterations, and is to detail the treatment system and disposal field operations, maintenance, monitoring requirements, expected water quality and potential health risks. The owner's manual shall also contain a clear statement that the owner will be required to justify any performance monitoring results in excess of the stipulated levels, and undertake remedial actions to return a non-complying system to required levels. The owners manual is to meet the approval of the District Council and the Regional Council.
17. The approved wastewater treatment and disposal systems are to be operated and maintained as follows:
- 17.1 No alteration to the disposal field (including relocation or diversion) to be made without prior approval of the District Council.
- 17.2 Any approved alteration of a disposal field to be accompanied by changes to the consent notice and metal plate as provided for under condition 16.6, and the owners manual under condition 16.8.
- 17.3 Each treatment system and disposal field to be subject to an annual inspection carried out under a service contract by an appropriately qualified person approved by the manufacturer and the District Council.
- 17.4 Annual inspections to be conducted between the period 1 November to 31 March (inclusive).
- 17.5 An annual Certificate of Fitness is required for each treatment system and disposal field, certifying that the system meets the performance standards and other criteria specified under conditions 15 and 16 of this consent, including that the owner's manual is up to date and available, and the maintenance requirements specified by the manufacturer have been undertaken.
- 17.6 Maintenance and repair of the treatment system and disposal field is required prior to the Certificate of Fitness being issued.

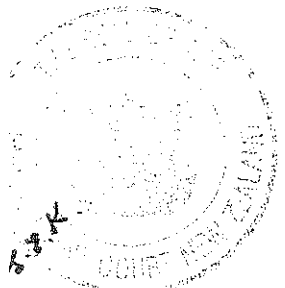


- 17.7 Each annual Certificate of Fitness to be provided by the person approved for this purpose under condition 17.3 to the District Council within two months following each annual inspection.
18. Monitoring of the Wastewater Treatment Systems is to be carried out as follows:
- 18.1 Treated wastewater quality is to be sampled at the first five wastewater treatment systems installed, one month following installation, and monthly thereafter until satisfactory performance is achieved, as gauged against the performance criteria stipulated in condition 15.2, and as determined by the District Council and Regional Council.
- 18.2 Once satisfactory performance is achieved in the first five wastewater systems, annual sampling and analyses of treated wastewater shall be undertaken in those systems as part of each annual inspection, during the period outlined in condition 17.4 (1 November to 31 March inclusive). For all other systems, annual sampling and analyses of treated wastewater shall commence in the first summer period (as outlined in condition 17.4 (1 November to 31 March inclusive) after installation and use.
- 18.3 For each wastewater treatment system, after two consecutive years of satisfactory plant performance has been established (as determined by the District Council and the Regional Council), the sampling and analyses shall reduce to once every two years.
- 18.4 Treated wastewater shall be sampled at a point in the disposal line prior to the discharge being disposed into the disposal field, and shall be analysed for the following parameters; carbaneous BOD₅, suspended solids, ammonical nitrogen, nitrate nitrogen, and faecal coliforms.
- 18.5 The results of monitoring to be supplied to the District Council and the Regional Council.
- 18.6 Following a request by either the District Council or the Regional Council, the owner will be required within two months to provide a written explanation as to the reasons why minimum treatment performance standards are being exceeded, and the remedial action to be undertaken. The remedial action will be the responsibility of the owner.
19. Environmental monitoring of the receiving environment shall be undertaken by the Applicant, eventually passing to the Incorporated Society when constituted, as detailed in a Site Monitoring Plan agreed with the District Council and the Regional Council. The Site Monitoring Plan shall include:



- 19.1 The location of the monitored positions, which shall include but may not necessarily be limited to, the six bores already installed, and two locations upstream and downstream of the site in Te Unu Unu Stream.
 - 19.2 The frequency of monitoring, and the wastewater discharge parameters to be monitored.
 - 19.3 Provision for the results of monitoring to be supplied to the District Council and the Regional Council.
 - 19.4 The obligations of the Incorporated Society.
 - 19.5 A provision that following a request by either the District Council or the Regional Council, the Incorporated Society will be required within two months to provide a written explanation as to the reasons causing elevated contamination levels, and the remedial action to be undertaken. The remedial action will be the responsibility of the Incorporated Society.
20. The District Council may review conditions relating to the treatment and disposal of wastewater subsequent to any annual inspection for the purpose of ensuring that adverse effects of the treatment and disposal of wastewater are no more than minor.
21. An approved water and storage system to satisfy condition 10 above will:
- be self contained within the lot concerned;
 - collect all roof water from a dwelling on the site;
 - provide for a minimum of 22,500 litres of water storage per dwelling;
 - be accessible for fire fighting purposes within the subdivision.
22. The subdivision is to be reticulated for underground supply of electricity to each residential lot.
23. Provision is to be made by way of underground ducting for telephone reticulation to each residential lot.
24. A solid waste transfer facility is to be established within the subdivision or nearby to provide:
- recycling containers for aluminium, glass and plastic;
 - a suitable container for bagged solid waste.

The design and siting of the solid waste transfer facility is to be agreed with Council. The facility shall be designed, sited and operated in a manner that does not give rise to odour, vermin and vector problems. Waste shall be transferred for disposal on a regular basis and shall not be permitted to start decomposing on the site.



The Incorporated Society is to be responsible for the collection of solid waste and transfer to a suitable disposal facility.

25. Signs are to be erected at the Applicant's expense at the public car park at the end of Road No. 1. The signs should convey information to the public on the necessity of removing all rubbish. The Council shall ensure that the signs are maintained and updated as necessary.
26. An archaeological site and waahi tapu management plan is to be developed, implemented and maintained by a Management Committee comprising equal representatives of the Applicant, tangata whenua representatives of Ngai Tumapuhiaarangi, Ngati Maahu and Ngati Te Kawekairangi hapu and the Council. The management plan should:
 - include a description of the historical, traditional and cultural importance of the area to tangata whenua;
 - identify and describe the registered archaeological sites;
 - establish protocols and procedures for ensuring the integrity of archaeological sites/waahi tapu are respected and maintained to the extent that is reasonably possible;
 - set out the responsibilities of the Applicant, tangata whenua representatives of Ngai Tumapuhiaarangi, Ngati Maahu and Ngati Te Kawekairangi hapu and the Council; and
 - set out a process for updating the Management Plan as appropriate (in consultation with Ngai Tumapuhiaarangi, Ngati Maahu and Ngati Te Kawekairangi hapu and to the satisfaction of the Council).
27. Earthworks for the subdivision are to be restricted to that necessary to construct the proposed roads, shape the adjacent frontages for access purposes, and install services and stormwater drainage.
28. A suitably qualified person/archaeologist, acceptable to representatives of Ngai Tumapuhiaarangi, Ngati Maahu, Ngati Te Kawekairangi hapu and the Applicant, is to be appointed to monitor and oversee all earthworks. If, at any time, whether the person is present or not, any archaeological material is detected, work shall immediately cease and representatives of Ngai Tumapuhiaarangi, Ngati Maahu and Ngati Te Kawekairangi hapu will be immediately notified. Work shall not recommence until appropriate investigations have been carried out and a course of action has been decided upon in consultation with representatives of Ngai Tumapuhiaarangi, Ngati Maahu, Ngati Te Kawekairangi hapu and the Council. If agreement cannot be reached on the appointment of a suitably qualified person/archaeologist, then the Council, after consultation with both the Applicant and hapu representatives, will appoint that person. The funding of a suitably qualified person/archaeologist is to be met by the Applicant.



29. Landscaping and planting shall be carried out as described and shown in the Applicant's assessment of effects. A detailed landscape design and implementation plan shall be submitted to and approved by the Council.
30. Planting or cultivating the following potential ecological weeds is prohibited anywhere within the land subject to the consent:

<u>Common name of plant</u>	<u>Scientific name of plant</u>
Banksia	Banksia sp.
Cotoneaster	Cotoneaster lacteus
Lupin	Lupinus arboreus
Boxthorn	Lycium ferocissimum
Gorse	Ulex europaeus
Boneseed	Chrysanthemoides monolifera
Cape ivy	Senecio angulatus
Marram grass	Ammophila arenaria
Ripgut brome	Bromus diandrus
Pampas grass	Cortaderia selloana
Kikuku grass	Pennisetum clandestinum
Ice plant	Carpobrotus edulis

This condition is to be secured by a consent notice pursuant to section 221 of the resource management act 1991 in respect of each title.

31. A fence be designed and erected to the satisfaction of the Council at the Applicant's expense around the proposed recreation reserve (Lot 46), the adjoining access strip and road edge. The purpose of the fence is to prevent access by vehicles to the dunes. The maintenance of the fence is to be the responsibility of the registered proprietor of the land concerned..
32. An Environmental Care Code is to be developed and promoted by the Applicant in consultation with the Department of Conservation and Ngai Tumapuhiaarangi, Ngati Maahu and Ngati Te Kawekairangi hapu to the satisfaction of the Council. The purpose of the code is to inform land owners of the vulnerability of the coastal environment (particularly the dune system) to disturbance. The Code should also include:
- a description of the ecological significance of the coastal dunes;
 - a description of potential threats to the dunes including biological threats posed by cats (and other animals), and invasive exotic weeds and physical threats posed by uncontrolled access, motorbikes etc;
 - the list of prohibited plants; and
 - any other information likely to achieve its purpose.



The Incorporated Society will be responsible for ensuring that the Environmental Care Code is updated as appropriate (in consultation with the Department of Conservation, Ngai Tumapuhiaarangi, Ngati Maahu, Ngati Te Kawekairangi hapu and to the satisfaction of the Council). The Incorporated Society shall also ensure that new owners of lots in the subdivision are informed of the existence of an Environmental Care Code and their associated responsibilities.

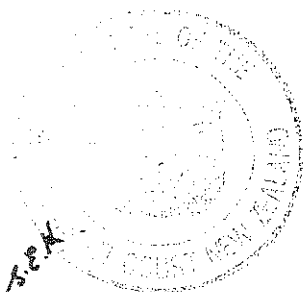
33. Interpretative signs are to be erected at the Applicant's expense at the proposed boat launching access, at the landward entrance to the access strip to the proposed reserve, in the access strip and at the beach where vehicle access can be gained. The signs should convey information on the vulnerability of the dune system to human disturbance, behaviour around seals and nesting sea birds and the dangers of fire. The signs are to be prepared in consultation with the Department of Conservation and Ngai Tumapuhiaarangi, Ngati Maahu and Ngati Te Kawekairangi hapu, to the satisfaction of the Council.

The Council shall ensure that the interpretative signs are maintained and updated as necessary.

34. Every lot intended for residential use shall be subject to conditions secured by consent notices under section 221 of the Resource Management Act 1991 that:

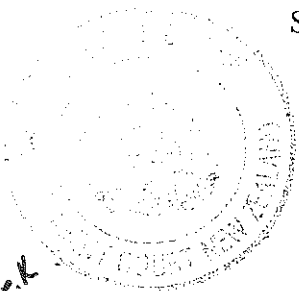
- restrict buildings, solid fencing and earthworks (except earthworks associated with the provision of vehicle access and services and the installation of tankage, drip lines and marker posts for the effluent disposal fields) to the 15 metre x 15 metre building platforms identified for each lot as shown in the Cuttriss plan 14810SC-C Sheets 1-2 dated 3/99 and Isthmus concept plan W334 dated 30 April 1999 with provision for variance of up to two metres in all directions; provided that the identified building platform for lot 34 is to be relocated 12 metres to the north (towards Flat Point Road) from the position shown on the said plan.
- prohibit any fences in the area between the front of any dwelling and the road frontage boundary;
- require that the roofs of buildings are painted or otherwise finished to a non-reflective, dark natural colour; and
- require that the maximum height of buildings not exceed 5 metres.

35. A Management Plan for the Dune Covenant area is to be submitted to and approved by the Council, in consultation with the Department of Conservation and Ngai Tumapuhiaarangi, Ngati Maahu and Ngati Te Kawekairangi hapu prior to the commencement of any construction work. The management plan shall:



- prohibit earthworks or fencing within the dune area(except the installation of drip lines for the effluent disposal fields which are to be hand dug and in such a manner as to ensure natural vegetation is maintained and the maximum protection is afforded to the dune area)
 - prohibit the taking of any vehicle onto, or driving or having charge or control of any vehicle on, the land (whether the vehicle is motorised or non-motorised)
 - provide for the perimeter of the area to be identified with marker posts at lot intersections
 - provide an overall strategy for the long term management of the dune area
 - set out objectives and methods to maintain natural vegetation and re-vegetation of the dunes with appropriate species.
 - set out the responsibilities of the Applicant and all those registered proprietors whose lot contains part of the Dune Covenant area
 - set out a process for updating the Management Plan as appropriate (in consultation with the Department of Conservation, Ngai Tumapuhiaarangi, Ngati Maahu and Ngati Te Kawekairangi hapu and to the satisfaction of the Council).
36. Every lot intended for residential use which contains part of the Dune Protection Area shall be subject to a condition secured by a consent notice under section 221 of the Resource Management Act 1991 requiring adherence to and implementation of the Dune Management Plan as it relates to the particular lot.
37. All engineering works shall be designed and supervised by a professional engineer or suitably qualified and experienced person to the satisfaction of the Council. Construction plans and specifications for all engineering works shall be submitted for review by the Council before works commence.
38. That part of the balance of CT 295/294 (Pt Te Unu Unu 1a) which lies between Road No. 1 and Te Unu Unu Stream shall be subject to a condition secured by a consent notice under section 221 of the Resource Management Act 1991 preventing the erection of any building.
39. Survey plans may be submitted for approval in stages as detailed in the application as follows:

- Stage 1 - Lots 1-13
 Lots 40, 41 (Plantation Strip)
 Lot 42 (Isolation Strip)
 Lot 45 (Road No 1)
 Lot 46 (Public Reserve)

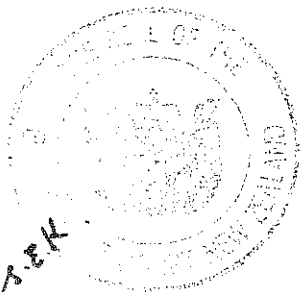


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Stage 2 - Lots 14-20
 Lot 47 (Road No 3)

Stage 3 - Lots 21-39
 Lot 48 (Road No 2)
 Lots 43, 44 (Pedestrian Access)

40. This consent will lapse in accordance with section 124 of the Act after 2 years for Stage 1, 4 years for Stage 2 and 6 years for Stage 3.



RESTRICTIVE COVENANT SCHEDULE

1. No dwelling erected on any lot shall have a gross floor area of less than 70 square metres.
2. Plans and specifications for any dwelling, building or other structure ("improvements") shall be submitted for approval to Flat Point Beach Limited (in accordance with the procedures in it's constitution). Such approval shall be granted if the plans are in accordance with all building covenants contained herein.
3. Any building of Improvements shall be completed within one year of commencement of the physical work. Any requests for an extension of time required shall be made to Flat Point Beach Limited, and may be granted at its sole discretion.
4. The exterior colour finish of all Improvements shall be complementary to those colours which are predominantly found in the surrounding natural landscape, but specifically excluding short term bright flower colours.
5. The scale, form and exterior texture of Improvements shall be such that they are integrated with the surrounding natural landscape.
6. Any extension or alteration to an existing Improvement shall comply with the covenants contained herein, and shall be complementary to the design of the existing Improvement.
7. Any alteration or extension to water storage tanks must be of natural colour concrete or timber tankage and should be buried or partially buried so as to be consistent with the original water tanks.
8. No relocated buildings shall be moved onto any lot.
9. No caravans or mobile homes shall be used as accommodation on any lot. The area reserved for camping inland of the Flat Point Road (whilst under the control of John Charles McGuinness and Edith Mary McGuinness) shall be available for use for caravan or mobile home accommodation.
10. Once construction of a dwelling on a lot has commenced, the registered proprietor and any tradespeople involved with the construction will be permitted to place and use a caravan (free of charge whilst construction is in progress) at the area reserved for camping inland of the Flat Point Road (whilst the area remains in the control of John Charles McGuinness and Edith Mary McGuinness).
11. All fencing shall be constructed of natural timber or live hedgerow and shall not to exceed 1.2 metres in height. Any fence not facing a road may exceed this height ,if necessary for reasons of neighbour privacy provided however that the increase in height does not interfere with the coastal view of any other lot owners.

12. No fencing shall be erected closer to any road than 5 metres from the edge of the nearest building site ("fencing exclusion area").
13. All radiata pines trees are to be removed by the start of the year 2010 and are to be maintained at a height not exceeding 3 metres during the intervening period. Provided however that any removal of trees or revegetation that is required within the Dune Management Area prior to the year 2010 will remain the responsibility of the subdivider of the Lots.
14. No vegetation in excess of 0.75 metres high is permitted in the fencing exclusion area. No vegetation must delineate lot boundaries in the fencing exclusion area.
15. The fencing exclusion area must be maintained in a tidy mown condition. Flat Point Beach Limited reserves the right to mow that area in the event that it is not so maintained. Any modification of the enforcement of this covenant shall be by agreement between the lot owner concerned and Flat Point Beach Limited.
16. No animals are permitted to be kept within the subdivision except for a maximum of two dogs and one neutered cat per lot, or vice versa numerically.
17. These permitted animals must be under good control and must not cause nuisance to other lot owners, or otherwise breach applicable by-laws and regulations.
18. Lot owners must at all times comply with the resource consent conditions applicable to the Flat Point Beach subdivision.
19. All exterior lighting must be directed in a manner that will not cause nuisance to any other lot owner.
20. No unsightly or oversized plant or other apparatus is to be visible on any lot.
21. No evidence of use of a Lot for commercial purposes is to be visible. This means the erection of any signs, or advertising or other use of the property for the lot owner or occupiers own commercial gain. By way of example, but without limiting the generality of this provision, evidence of use for commercial purposes includes traffic to and from any lot of a higher density than for normal use of a residential section. Use of reasonable real estate signage for the purpose of the sale of any Lot is permitted.
22. Where there is any dispute about the application or interpretation of any covenant contained herein, the matter shall be referred to Flat Point Beach Limited, and determined in accordance with the procedures set out in it's constitution.