



Our Reference: 10639.1 (FNDC)

17 July 2024

Resource Consents Department
Far North District Council
JB Centre
KERIKERI

Dear Sir/Madam

RE: Proposed Boundary Adjustment Subdivision at 552 Omaunu Road, Kaeo – Galloquine Limited (Mills)

I am pleased to submit application on behalf of Galloquine Limited, for a proposed boundary adjustment subdivision of land at Omaunu Road, Kaeo, zoned Rural Production. The application is a controlled activity.

The application fee of \$2900 has been paid separately via direct credit.

Regards

Lynley Newport
Senior Planner
THOMSON SURVEY LTD



Office Use Only

Application Number:

APPLICATION FOR RESOURCE CONSENT OR FAST-TRACK RESOURCE CONSENT

(Or Associated Consent Pursuant to the Resource Management Act 1991 (RMA))

(If applying for a Resource Consent pursuant to Section 87AAC or 88 of the RMA, this form can be used to satisfy the requirements of Form 9)

Prior to, and during, completion of this application form, please refer to Resource Consent Guidance Notes and Schedule of Fees and Charges – both available on the Council's web page.

1. Pre-Lodgement Meeting

Have you met with a Council Resource Consent representative to discuss this application prior to lodgement? Yes/No

2. Type of Consent being applied for (more than one circle can be ticked):

- Land Use, Fast Track Land Use*, Subdivision, Discharge, Extension of time (s.125), Change of conditions (s.127), Change of Consent Notice (s.221(3)), Consent under National Environmental Standard (e.g. Assessing and Managing Contaminants in Soil), Other (please specify)

*The fast track for simple land use consents is restricted to consents with a controlled activity status and requires you provide an electronic address for service.

3. Would you like to opt out of the Fast Track Process? Yes/No

4. Applicant Details:

Name/s:

Galloquine Limited

Electronic Address for Service (E-mail):

Phone Numbers:

Postal Address: (or alternative method of service under section 352 of the Act)

5. Address for Correspondence: Name and address for service and correspondence (if using an Agent write their details here).

Name/s: Lynley Newport; Thomson Survey Ltd

Electronic Address for Service (E-mail):

Phone Numbers:

Postal Address: (or alternative method of service under section 352 of the Act)

Post Code: 0245

All correspondence will be sent by email in the first instance. Please advise us if you would prefer an alternative means of communication.

6. Details of Property Owner/s and Occupier/s: Name and Address of the Owner/Occupiers of the land to which this application relates (where there are multiple owners or occupiers please list on a separate sheet if required)

Name/s: Galloquine Limited

Property Address/ Location: see Item 4

7. Application Site Details:

Location and/or Property Street Address of the proposed activity:

Site Address/ Location: 552A Omaunu Road
KAEO

Legal Description: Lot 7 DP 202221

Record of Title: NA129B/958

Please remember to attach a copy of your Certificate of Title to the application, along with relevant consent notices and/or easements and encumbrances (search copy must be less than 6 months old)

Site Visit Requirements:

Is there a locked gate or security system restricting access by Council staff? Yes / No

Is there a dog on the property? Yes / No

Please provide details of any other entry restrictions that Council staff should be aware of, e.g. health and safety, caretaker's details. **This is important to avoid a wasted trip and having to re-arrange a second visit.**

8. Description of the Proposal:

Please enter a brief description of the proposal here. Attach a detailed description of the proposed activity and drawings (to a recognized scale, e.g. 1:100) to illustrate your proposal. Please refer to Chapter 4 of the District Plan, and Guidance Notes, for further details of information requirements.

Subdivision in the Rural Production Zone by way of boundary adjustment (no additional lots)

If this is an application for an Extension of Time (s.125); Change of Consent Conditions (s.127) or Change or Cancellation of Consent Notice conditions (s.221(3)), please quote relevant existing Resource Consents and Consent Notice identifiers and provide details of the change(s) or extension being sought, with reasons for requesting them.

9. Would you like to request Public Notification? Yes/No

10. Other Consent required/being applied for under different legislation (more than one circle can be ticked):

- Building Consent (BC ref # if known) Regional Council Consent (ref # if known)
- National Environmental Standard consent Other (please specify)

11. National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health:

The site and proposal may be subject to the above NES. In order to determine whether regard needs to be had to the NES please answer the following (further information in regard to this NES is available on the Council's planning web pages):

Is the piece of land currently being used or has it historically ever been used for an activity or industry on the Hazardous Industries and Activities List (HAIL) yes no don't know

Is the proposed activity an activity covered by the NES? (If the activity is any of the activities listed below, then you need to tick the 'yes' circle). yes no don't know

- Subdividing land Changing the use of a piece of land
- Disturbing, removing or sampling soil Removing or replacing a fuel storage system

12. Assessment of Environmental Effects:

Every application for resource consent must be accompanied by an Assessment of Environmental Effects (AEE). This is a requirement of Schedule 4 of the Resource Management Act 1991 and an application can be rejected if an adequate AEE is not provided. The information in an AEE must be specified in sufficient detail to satisfy the purpose for which it is required. Your AEE may include additional information such as Written Approvals from adjoining property owners, or affected parties.

Please see attached AEE.

13. Billing Details:

This identifies the person or entity that will be responsible for paying any invoices or receiving any refunds associated with processing this resource consent. Please also refer to Council's Fees and Charges Schedule.

Name/s: (please write all names in full) Bruce & Chrissy Mills / Galloghine Ltd

Email: _____

Postal Address: _____

Phone Numbers: _____

Fees Information: An instalment fee for processing this application is payable at the time of lodgement and must accompany your application in order for it to be lodged. Please note that if the instalment fee is insufficient to cover the actual and reasonable costs of work undertaken to process the application you will be required to pay any additional costs. Invoiced amounts are payable by the 20th of the month following invoice date. You may also be required to make additional payments if your application requires notification.

Declaration concerning Payment of Fees: I/we understand that the Council may charge me/us for all costs actually and reasonably incurred in processing this application. Subject to my/our rights under Sections 357B and 358 of the RMA, to object to any costs, I/we undertake to pay all and future processing costs incurred by the Council. Without limiting the Far North District Council's legal rights if any steps (including the use of debt collection agencies) are necessary to recover unpaid processing costs I/we agree to pay all costs of recovering those processing costs. If this application is made on behalf of a trust (private or family), a society (incorporated or unincorporated) or a company in signing this application I/we are binding the trust, society or company to pay all the above costs and guaranteeing to pay all the above costs in my/our personal capacity.

Name: Bruce Mills (please print)

Signature: _____ (signature of bill payer – **mandatory**) Date: 11-7-24

14. Important Information:

Note to applicant

You must include all information required by this form. The information must be specified in sufficient detail to satisfy the purpose for which it is required.

You may apply for 2 or more resource consents that are needed for the same activity on the same form.

You must pay the charge payable to the consent authority for the resource consent application under the Resource Management Act 1991.

Fast-track application


Under the fast-track resource consent process, notice of the decision must be given within 10 working days after the date the application was first lodged with the authority, unless the applicant opts out of that process at the time of lodgement. A fast-track application may cease to be a fast-track application under section 87AAC(2) of the RMA.

Privacy Information:

Once this application is lodged with the Council it becomes public information. Please advise Council if there is sensitive information in the proposal. The information you have provided on this form is required so that your application for consent pursuant to the Resource Management Act 1991 can be processed under that Act. The information will be stored on a public register and held by the Far North District Council. The details of your application may also be made available to the public on the Council's website, www.fndc.govt.nz. These details are collected to inform the general public and community groups about all consents which have been issued through the Far North District Council.

Declaration: The information I have supplied with this application is true and complete to the best of my knowledge.

Name: Bruce W Mills (please print)

Signature  (signature)

Date: 11-7-24

(A signature is not required if the application is made by electronic means)

Checklist (please tick if information is provided)

- Payment (cheques payable to Far North District Council)
- A current Certificate of Title (Search Copy not more than 6 months old)
- Copies of any listed encumbrances, easements and/or consent notices relevant to the application
- Applicant / Agent / Property Owner / Bill Payer details provided
- Location of property and description of proposal
- Assessment of Environmental Effects
- Written Approvals / correspondence from consulted parties
- Reports from technical experts (if required)
- Copies of other relevant consents associated with this application
- Location and Site plans (land use) AND/OR
- Location and Scheme Plan (subdivision)
- Elevations / Floor plans
- Topographical / contour plans

Please refer to Chapter 4 of the District Plan for details of the information that must be provided with an application. Please also refer to the RC Checklist available on the Council's website. This contains more helpful hints as to what information needs to be shown on plans.

Digital Applications may be submitted via E- mail to: Planning.Support@fndc.govt.nz

Only one copy of an application is required, but please note for copying and scanning purposes, documentation should be:

UNBOUND

SINGLE SIDED

NO LARGER THAN A3 in SIZE

Galloquine Limited
PROPOSED BOUNDARY ADJUSTMENT
SUBDIVISION PURSUANT TO
FNDC OPERATIVE DISTRICT PLAN
552A Omaunu Road, Kaeo
PLANNER'S REPORT &
ASSESSMENT OF ENVIRONMENTAL EFFECTS

Thomson Survey Ltd
Kerikeri

1.0 THE PROPOSAL

The applicant proposes to subdivide by way of boundary adjustment. This is to enable existing farm shed buildings and plant to remain where they are currently located and be part of the applicant's house and farm title, thereby reducing the size of Lot 7 DP 202221 from 4.3955ha down to 4ha of vacant land (shown as Lot 2 on the Scheme Plan), able to be sold separately.

The 3995m² of land being removed from Lot 7 DP 202221 is to be amalgamated with the adjacent Lot 6 DP 202221, forming a new Record of Title 40.25ha. The result of the boundary adjustment will see a new vacant Lot 2 of 4ha and another new Record of Title of over 40ha in area containing all the existing built environment currently spread across two separate titles, being within a new (amalgamated) title. In effect, the proposal transfers 3995m² of land from one title to another.

Work has already been done on site to create an entrance and internal driveway within proposed Lot 2 to a potential building site within the lot's western end. No specific building plans have been made available at time of writing this report.

The proposal is a boundary adjustment only, as two titles are involved and the result will be two titles – no additional. The proposed Amalgamation Condition is shown on the face of the scheme plan and reads:

"That Lot 1 hereon and Lot 6 DP 202221 (NA129B/957) are to be held in the same Certificate of Title".

A copy of the scheme plan(s) is attached in Appendix 1 and location map in Appendix 2.

1.2 Scope of this Report

This assessment and report accompanies the Resource Consent Application made by the applicant, and is provided in accordance with Section 88 and Schedule 4 of the Resource Management Act 1991. The application seeks consent to subdivide by way of a boundary adjustment between two contiguous titles in the same ownership, as a controlled activity.

The information provided in this assessment and report is considered commensurate with the scale and intensity of the activity for which consent is being sought. Applicant details are contained within the Application Form 9.

2.0 PROPERTY DETAILS

Location:	552A Omaunu Road, Kaeo
Legal description & RT's:	Lot 7 DP 202221; held in Record of Title NA129B/958, copy attached in Appendix 3. Lot 1 on the scheme plan to be amalgamated with Lot 6 DP 202221 (NA129B/957), copy attached as part of Appendix 3.

3.0 SITE DESCRIPTION

3.1 Site Characteristics

The site is zoned Rural Production in both the Operative District Plan (ODP) and the Proposed District Plan (PDP). No resource features or overlays apply in the ODP. A watercourse bisecting Lot 2, and its immediate peripheral edges, is mapped in the PDP as being potential 'river flood hazard zone'.

The site is not shown on the Regional Council's on-line maps as containing any high or outstanding landscape or natural character values or areas, nor any biodiversity wetlands. It is mapped as being subject to the same flood hazard risk as referred to in the preceding paragraph.

The site is not mapped as being erosion prone and is not mapped by either District or Regional Councils as being a HAIL site or Selected Land use with any potential for, or known, contaminated soils.

The property is undulating pasture with a small amount of scattered vegetation. A stream bisects the property, flowing north to south down slope. Soils across the site are poorer quality being LUC class 4. There are no Sites of Cultural Significance to Maori mapped as present within the site, nor any heritage resources or archaeological sites. There are no areas mapped as PNA within the site. The site is within a 'kiwi present' area, considerable distance from the nearest high density kiwi area, 7kms to the south (direct line).

Access to the site is via Omaunu Road, 20m legal public road (metal surface), which in turn intersects with SH 10 just north of the Kaeo township, which is 6kms away.

The site supports a half round barn/shed and yards, at its north western corner.

3.2 Legal Interests on Titles

The application site is subject to an existing electricity easement in Gross in favour of Top Energy. This will carry over onto the new title. The site has an existing appurtenant right of way and rights to convey electricity and telecommunications, over the adjacent Lot 6 DP 202221. These rights will remain in favour of proposed Lot 2.

The land being subdivided, is subject to Consent Notice D552435.3 (as is the adjacent Lot 6 DP 202221). This dates back to the year 2000 and advises lot owners that "electrical supply may not be able to be provided to the additional allotments created".

3.3 Consent History

The property being subdivided was one of several created by RC 2000393, issued in 2000. This subdivision was deemed a discretionary activity subdivision. There is a single building consent relevant to the site being subdivided – BP3068363, issued 1985 for the half round barn / farm shed. This is located on that part of the title that is proposed for transfer to be held with the adjacent Lot 6 DP 202221.

Lot 6 DP 202221 has several building consents listed against its property file:

BC-2004-1804, issued in 2004 for a new cottage;
BC-2007-2535, issued in 2007 for a new dwelling; and
BC-2015-785, issued in 2015 for a 6-bay shed.

4.0 SCHEDULE 4 – INFORMATION REQUIRED IN AN APPLICATION

Clauses 2 & 3: Information required in all applications

<i>(1) An application for a resource consent for an activity must include the following:</i>	
<i>(a) a description of the activity:</i>	Refer Sections 1 and 5 of this Planning Report.
<i>(b) an assessment of the actual or potential effect on the environment of the activity:</i>	Refer to Section 6 of this Planning Report.
<i>(b) a description of the site at which the activity is to occur:</i>	Refer to Section 3 of this Planning Report.
<i>(c) the full name and address of each owner or occupier of the site:</i>	This information is contained in the Form 9 attached to the application.

<i>(d) a description of any other activities that are part of the proposal to which the application relates:</i>	Refer to Section 3 of this Planning Report for existing activities within the site. The application is for a boundary adjustment subdivision pursuant to the FNDC's ODP. No other breaches of the ODP have been identified.
<i>(e) a description of any other resource consents required for the proposal to which the application relates:</i>	Consent is being sought for subdivision, pursuant to the Far North Operative District Plan.
<i>(f) an assessment of the activity against the matters set out in Part 2:</i>	Refer to Section 7 of this Planning Report.
<i>(g) an assessment of the activity against any relevant provisions of a document referred to in section 104(1)(b), including matters in Clause (2):</i> <i>(a) any relevant objectives, policies, or rules in a document; and</i> <i>(b) any relevant requirements, conditions, or permissions in any rules in a document; and</i> <i>(c) any other relevant requirements in a document (for example, in a national environmental standard or other regulations).</i>	Refer to Sections 5 & 7 of this Planning Report.
<i>(3) An application must also include any of the following that apply:</i>	
<i>(a) if any permitted activity is part of the proposal to which the application relates, a description of the permitted activity that demonstrates that it complies with the requirements, conditions, and permissions for the permitted activity (so that a resource consent is not required for that activity under section 87A(1)):</i>	Refer to section 5.
<i>(b) if the application is affected by section 124 or 165ZH(1)(c) (which relate to existing resource consents), an assessment of the value of the investment of the existing consent holder (for the purposes of section 104(2A)):</i>	There is no existing resource consent. Not applicable.
<i>(c) if the activity is to occur in an area within the scope of a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, an assessment of the activity against any resource management matters set out in that planning document (for the purposes</i>	The site is not within an area subject to a customary marine title group. Not applicable.

<p>of section 104(2B)).</p>	
<p>(4) An application for a subdivision consent must also include information that adequately defines the following:</p>	
<p>(a) the position of all new boundaries: (b) the areas of all new allotments, unless the subdivision involves a cross lease, company lease, or unit plan: (c) the locations and areas of new reserves to be created, including any esplanade reserves and esplanade strips: (d) the locations and areas of any existing esplanade reserves, esplanade strips, and access strips: (e) the locations and areas of any part of the bed of a river or lake to be vested in a territorial authority under section 237A: (f) the locations and areas of any land within the coastal marine area (which is to become part of the common marine and coastal area under section 237A): (g) the locations and areas of land to be set aside as new roads.</p>	<p>Refer to Scheme Plans in Appendix 1.</p>

Clause 6: Information required in assessment of environmental effects

<p>(1) An assessment of the activity's effects on the environment must include the following information:</p>	
<p>(a) if it is likely that the activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity:</p>	<p>Refer to Section 6 of this planning report. The activity will not result in any significant adverse effect on the environment.</p>
<p>(b) an assessment of the actual or potential effect on the environment of the activity:</p>	<p>Refer to Section 6 of this planning report.</p>
<p>(c) if the activity includes the use of hazardous installations, an assessment of any risks to the environment that are likely to arise from such use:</p>	<p>Not applicable as the application does not involve hazardous installations.</p>
<p>(d) if the activity includes the discharge of any contaminant, a description of— (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and (ii) any possible alternative methods of discharge, including discharge into any other receiving environment:</p>	<p>The subdivision does not involve any discharge of contaminant.</p>

<i>(e) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect:</i>	Refer to Section 6 of this planning report.
<i>(f) identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted:</i>	Refer to Section 8 of this planning report. No affected persons have been identified.
<i>g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how and by whom the effects will be monitored if the activity is approved:</i>	No monitoring is required as the scale and significance of the effects do not warrant it.
<i>(h) if the activity will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right, a description of possible alternative locations or methods for the exercise of the activity (unless written approval for the activity is given by the protected customary rights group).</i>	No protected customary right is affected.

Clause 7: Matters that must be addressed by assessment of environmental effects (RMA)

<i>(1) An assessment of the activity's effects on the environment must address the following matters:</i>	
<i>(a) any effect on those in the neighbourhood and, where relevant, the wider community, including any social, economic, or cultural effects:</i>	Refer to Sections 6 and 8 of this planning report and also to the assessment of objectives and policies in Section 7.
<i>(b) any physical effect on the locality, including any landscape and visual effects:</i>	Refer to Section 6. The site has no high or outstanding landscape or natural character values.
<i>(c) any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity:</i>	Refer to Section 6. The boundary adjustment subdivision has no effect on ecosystems or habitat.
<i>(d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations:</i>	Refer to Section 6. The site has no aesthetic, recreational, scientific, historical, spiritual or cultural values that I am aware of, that will be adversely affected by the boundary adjustment.
<i>(e) any discharge of contaminants into the environment, including any unreasonable emission of noise, and options for the treatment and disposal of contaminants:</i>	The subdivision will not result in the discharge of contaminants, nor any unreasonable emission of noise.

<i>(f) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.</i>	Whilst the site has a small portion subject to flood hazard, the boundary adjustment subdivision is not affected by this. The proposal does not involve hazardous installations.
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5.0 ACTIVITY STATUS

5.1 Operative District Plan – Boundary Adjustment Rules

The site is zoned Rural Production and has no resource features.

13.7.1 BOUNDARY ADJUSTMENTS: ALL ZONES EXCEPT THE RECREATIONAL ACTIVITIES AND CONSERVATION ZONES

Boundary Adjustments Performance Standards

Boundary adjustments to lots may be carried out as a controlled (subdivision) activity provided that:

- (a) there is no change in the number and location of any access to the lots involved; and*
- (b) there is no increase in the number of certificates of title; and*
- (c) the area of each adjusted lot complies with the allowable minimum lot sizes specified for the relevant zone, as a controlled activity in all zones except for General Coastal or as a restricted discretionary activity in the General Coastal Zone (refer Table 13.7.2.1); except that where an existing lot size is already non-complying the degree of non-compliance shall not be increased as a result of the boundary adjustment; and*
- (d) the area affected by the boundary adjustment is within or contiguous with the area of the original lots; and*
- (e) all boundary adjusted sites must be capable of complying with all relevant land use rules (e.g building setbacks, effluent disposal); and*
- (f) all existing on-site drainage systems (stormwater, effluent disposal, potable water) must be wholly contained within the boundary adjusted sites.*

Part (a) is satisfied in that there is no change proposed to the number or location of any access to the lots involved. Land in Lot 2 already enjoys dominant tenement rights over A on DP 202221 and a crossing and driveway into land to be in Lot 2 is already constructed. Access to the shed buildings to be amalgamated with Lot 6 DP 202221 remains unchanged. There is no new crossing directly off public road.

Part (b) is satisfied in that there is no increase in the number of Records of Titles.

Part (c) is subject to the second part because Lot 7 DP 202221 is already smaller than the zone's controlled activity minimum lot size. This states that *except that where an existing lot size is already non-complying the degree of non-compliance shall not be increased as a result of the boundary adjustment.*

Clearly on balance (one lot decreasing in area and the other increasing by the same amount) there is no increase in the degree of non-compliance. However, the Council has

shown a reluctance to look at a proposal 'on balance' because the wording of the rule is "an existing lot size" – meaning one can only look to Lot 7 DP 202221 reducing in area from 4.3995ha to 4ha in area to ascertain whether this increases the degree of non-compliance. It is my professional opinion that it does not. Lot 7 DP 202221 was created in a subdivision in 2000 that was a *discretionary* subdivision activity. Under the ODP, 4ha lots are a discretionary subdivision activity. The slight reduction in area proposed by this boundary adjustment retains a minimum area of 4ha, therefore there is no increase in the degree of non-compliance – the lot is still discretionary activity size. In my opinion, the words "degree of non-compliance" refers to whether the change results in a lot moving out of discretionary minimum lot size to non-complying, which this proposal does not. I maintain, therefore that the proposal meets clause (c).

Part (d) is met in that the properties involved in the boundary adjustment are contiguous.

Part (e) is met in that the adjusted titles remain capable of complying with all relevant land use rules (e.g building setbacks, effluent disposal) The existing shed looks to be less than 10m from the existing title boundaries, but this is an existing situation. By creating Lot 1 around the shed and amalgamating with Lot 6 DP 202221, any existing breach is cancelled in any event. There is no effluent disposal field associated with the shed. The dwelling within Lot 6 DP 202221 is well internalised within the site's boundaries and that title's area is increasing, not decreasing. A future dwelling and associated impermeable surface can be established with the adjusted boundaries of Lot 7 DP 202221 (new Lot 2) complying with zone and district wide – refer to section 5.2 below.

Part (f) is met in that all existing on-site drainage systems (stormwater, effluent disposal, potable water) will be wholly contained within the boundary adjusted sites.

In meeting all parts of 13.7.1 (a) through (f), **the boundary adjustment is, in my opinion, a controlled activity**. It is only when a proposal cannot meet all of (a) through (f) inclusive, that the application must then be considered under the other rules in 13.7.2.

5.2 Operative District Plan – Zone and District Wide Rules

Zone Rules:

The proposal does not result in any breaches of Rural Production Zone rules. The land in the proposed 4ha lot is vacant, albeit work has begun on construction of an access driveway and potential building site. This works has not breached any zone rules.

District Wide Rules:

Chapter 12.1 Landscapes and Natural Features does not apply as there is no landscape or natural feature overlay applying to the site.

Chapter 12.2 Indigenous Flora and Fauna does not apply as no clearance of indigenous vegetation is proposed.

Chapter 12.3 Soils and Minerals does not apply/ is complied with. No subdivision earthworks will be required as there is no change to access proposed. Preparatory work has already been carried out to create a driveway access into Lot 2, and to level a potential building platform. This earthworks does not breach any part of the permitted excavation/filling threshold applying to the zone. The volume is well under the permitted threshold and there is no cut or fill face breaching the average height limit.

Chapter 12.4 Natural Hazards does not apply as the site is not subject to any coastal hazard as currently mapped in the Operative District Plan (the only hazards with rules). There are no areas of bush from which a 20m buffer is required.

Rules in Chapters 12.5, 5A and 5B Heritage do not apply as the site contains no heritage values or sites, no notable trees, no Sites of Cultural Significance to Maori and no registered archaeological sites. The site is not within any Heritage Precinct.

No rules in Chapter 12.7 Waterbodies will be breached in terms of the boundary adjustment as this does not include any buildings or other impermeable surfaces, nor on-site wastewater system, breaching the setback requirements specified in this chapter and there is no indigenous wetland within which works are being proposed.

Notwithstanding this, the applicant's attention has been drawn to the need to comply with setback requirements from the watercourse tracking down slope through Lot 2 (less than 3m average width, but nonetheless a 'minor stream' to which setback requirements apply, at time of building/ development. The boundary between Lots 1 & 2 has been located to ensure compliance is achievable. Preparatory earthworks have been carried out on site, well clear of any watercourse. The stream flowing north to south through Lot 2 is less than 3m average width, but would be subject to a setback requirement of 10-15m for any buildings or other impermeable surfaces. This is achievable. The setback requirement for on-site wastewater disposal systems does not apply to a watercourse less than 3m average width – refer definition of "river" in the ODP. In any event there is sufficient space and scope within proposed Lot 2 to achieve any required setback for any part of a wastewater system.

Chapter 12.8 Hazardous Substances does not apply as the activity being applied for is not a hazardous substances facility.

Chapter 12.9 does not apply as the activity does not involve renewable energy.

Chapter 14 Financial Contributions (esplanade reserve) is not relevant as there is no qualifying water body or lot of less than 4ha.

Chapter 15.1 Traffic, Parking and Access

Rules in Chapter 15.1.6A are not considered relevant to the proposal. Similarly rules in Chapter 15.1.6B (parking requirements) also only relate to proposed land use activities, not

subdivisions. Notwithstanding this, no breaches of either traffic intensity, or parking, rules have been identified.

Chapter 15.1.6C (access) is the only part of Chapter 15.1 relevant to a subdivision. No change to access is proposed or necessary and no additional impact or effect is envisaged given that no additional lots are being created. The proposal complies fully with 13.7.1 and regard does not therefore need to be given to other parts of 13.7.2 of the ODP, which includes compliance with 15.1.6C.1.1 through 15.1.6C.1.11.

I have not identified any breaches of district wide rules.

5.3 Proposed District Plan

The FNDC publicly notified its PDP on 27th July 2022. Whilst the majority of rules in the PDP will not have legal effect until such time as the FNDC publicly notifies its decisions on submissions, there are certain rules that have been identified in the PDP as having immediate legal effect and that may therefore need to be addressed in this application and may affect the category of activity under the Act. These include:

Rules HS-R2, R5, R6 and R9 in regard to hazardous substances on scheduled sites or areas of significance to Maori, significant natural areas or a scheduled heritage resource.

There are no scheduled sites or areas of significance to Maori, significant natural areas or any scheduled heritage resource on the site, therefore these rules are not relevant to the proposal.

Heritage Area Overlays – N/A as none apply to the application site.

Historic Heritage rules and Schedule 2 – N/A as the site does not have any identified (scheduled) historic heritage values.

Notable Trees – N/A – no notable trees on the site.

Sites and Areas of Significance to Maori – N/A – the site does not contain any site or area of significance to Maori.

Ecosystems and Indigenous Biodiversity – Rules IB-R1 to R5 inclusive.

No indigenous vegetation clearance is proposed.

Subdivision (specific parts) – only subdivision provisions relating to land containing Significant Natural Area or Heritage Resources have immediate legal effect. The site contains no scheduled or mapped Significant Natural Areas or Heritage Resources.

Activities on the surface of water – N/A as no such activities are proposed.

Earthworks – Only some rules and standards have legal effect. These are Rules EW-R12 and R13 and related standards EW-S3 and ES-S5 respectively. EW-R12 and associated EW-S3 relate to the requirement to abide by Accidental Discovery Protocol if carrying out earthworks and artefacts are discovered. EW-R13 and associated EW-S5 refer to operating under appropriate Erosion and Sediment Control measures. No earthworks are required.

Signs – N/A – signage does not form part of this application.

Orongo Bay Zone – N/A as the site is not in Oronga Bay Zone.

There are no zone rules in the PDP with immediate legal effect that affect the proposal's activity status.

6.0 ASSESSMENT OF ENVIRONMENTAL EFFECTS

The ODP does not require consideration of the other parts of 13.7.2 where a boundary adjustment meets the controlled activity (13.7.1) requirements, which this proposal is considered to do.

However, in the interests of completeness, the following brief assessment of environmental effects is offered.

6.1 Natural and Other Hazards

The site is not mapped as being subject to any hazard other than a watercourse and its immediate margins, bisecting proposed Lot 2. This does not unduly restrict future development within the lot as there remains abundant land for future development, well outside any area subject to flooding. The site is not subject to any other hazard.

6.2 Site Services

There is no reticulated water supply to the site. Any future residential development will be reliant on water storage from roof catchment. If considered necessary, the Council can impose its standard consent notice on the title for Lot 2, requiring a fire fighting water supply when a habitable dwelling is built.

Power and telecommunications are not a requirement for rural subdivision. Refer to Legal Interests section in regard to existing Consent Notice.

In regard to on site stormwater management, the land being amalgamated supports existing built environment and readily complies with the ODP's Stormwater Management thresholds. This is a boundary adjustment proposal only – no additional lots being created. The transfer of 3955m², largely associated with existing farm buildings and plant, from one title to another, does nothing to alter how stormwater is managed. Given that stormwater management is a requirement for any building consent in any event, I believe it unreasonable to impose any requirement for stormwater management to apply to Lot 2.

In regard to on-site wastewater, any habitable building requiring on-site wastewater requires consent for that system at building consent stage. The transfer of a small area of land from one title to another does nothing to change that. There is no justification for imposing any requirement for on-site wastewater for Lot 2. Refer also to commentary under section 5.2 of this report.

6.3 Easements for any purpose & Amalgamation conditions

Refer to commentary under Legal Interests. The Amalgamation wording proposed is on the face of the Scheme Plan and repeated in section 1 of this report.

6.4 Property Access

Property access is unchanged. The current Lot 7 DP 202221 has appurtenant rights over A on DP 202221 and new Lot 2 will retain this right, as well as having a lengthy frontage to Omaunu Road which may or may not be used, just as the existing title can do. Omaunu Road is legal metal road, with good and wide carriageway and good visibility in both directions at the existing entrance to the site. However, no change to existing access is proposed.

6.5 Heritage resources (including cultural), vegetation, fauna and landscape

Vegetation, fauna and landscape

The site being subdivided has no resource feature overlays. It contains no features mapped in the Regional Policy Statement as having any high or outstanding landscape or natural values and no mapped biodiversity wetlands. The site contains no areas of indigenous vegetation. There is a watercourse flowing north to south through Lot 2 and development can occur on the lot, just as it can now, without adversely impacting on that watercourse. There are no natural inland wetlands affected by the proposal.

The property is mapped as 'kiwi present' and is over 7kms (direct line) from any high density kiwi area. The area is rural and Lot 2 lacks any vegetative cover. No additional titles are created with the only change from the existing situation being 3955m² of land transferring from one title to another. I do not consider it reasonable, in these circumstances, for the Council to introduce any restrictions on the keeping of dogs and cats other than a requirement to keep any cats and dogs on the properties kept inside or tied up at nights. This can be an Advice Note.

Heritage/Cultural

The site does not contain any historic sites, nor any archaeological sites. Neither does the site contain any Sites of Cultural Significance to Maori (as scheduled in the ODP or PDP). No additional lots are being created.

6.6 Access to, and protection of, waterbodies

There is no qualifying water body and no lot of less than 4ha in area in any event. As stated earlier, development can occur within Lot 2 without adversely affecting the minor water course running through Lot 2.

6.7 Land use compatibility (reverse sensitivity)

There is no change in the number of lots or use of the land. No reverse sensitivity issues arise.

7.0 STATUTORY ASSESSMENT

7.1 Operative District Plan Objectives and Policies

Objectives and policies relevant to this proposal are considered to be primarily those listed in Chapter 8.6 (Rural Production Zone); and 13 (Subdivision), of the District Plan. These are listed and discussed below where relevant to this proposal. As a controlled activity boundary adjustment, the proposal would be considered to be entirely consistent with the objectives and policies of the ODP.

Subdivision Objectives & Policies

Objective 13.3.1 is an enabling objective. The Rural Production Zone is predominantly, but not exclusively, a working productive rural zone. No additional lots are being created and the boundary adjusted lots are very little different from the existing. The proposal is considered a sustainable use of the land.

The Assessment of Environmental Effects and supporting report conclude that the proposal is appropriate and can avoid, remedy or mitigate any potential adverse effects (13.3.2). Objectives 13.3.3 and 13.3.4 refer to outstanding landscapes or natural features; and scheduled heritage resources; and to land in the coastal environment. The site exhibits none of these features.

Both lots already are, or will be self sufficient in terms of on-site water storage and appropriate stormwater management (13.3.5). Objective 13.3.6 is intended to encourage Management Plan applications, and does not have a lot of relevance to this proposal.

The site is not known to contain any sites of cultural significance to Maori, or wahi tapu. The proposal will have minimal, if any, impact on water quality. I do not believe that the proposal adversely impacts on the ability of Maori to maintain their relationship with ancestral lands, water, sites, wahi tapu and other taonga (Objective 13.3.7 & associated Policy 13.4.11).

The subdivision is not required to provide for power, has not considered energy efficiency, and the site adjoins Council road (13.3.8-10). Objective 13.3.11 is not discussed further as there is no National Grid on or near the subject site.

The values outlined in Policy 13.4.1, where relevant to the proposal, have been discussed earlier in this report. I believe regard has been had to items (a) through (g) in the design,

which effectively takes a very small area of land from one title and adds it to another. Access is off Omaunu Road and existing. No removal of indigenous vegetation is required. On site wastewater treatment and disposal and stormwater management is achievable (Policies 13.4.2 and 13.4.5). Hazards have been taken into account (13.4.3). Power and telecommunications are not a requirement for rural allotments (13.4.4).

The site does not contain any heritage resources. There are no areas of indigenous vegetation within the site. The site is not in the coastal environment. The proposal does not adversely affect riparian margins and the site contains no outstanding landscape or natural features (Policy 13.4.6). Policy 13.4.7 is not relevant as there is no qualifying water body to which esplanade requirements apply. Lot 2 will require on-site water supply and storage (13.4.8).

Policies 13.4.9 and 13.4.10 are not discussed further. The former relates to bonus development donor and recipient areas, which are not contemplated in this proposal; whilst the latter only applies to subdivision in the Conservation Zone. The application is not lodged as a Management Plan application and 13.4.12 is therefore not relevant.

In regard to Policy 13.4.13, s6 matters (National Importance) are addressed later in this report. In addition:

- (a) The proposal does not create any additional lots and makes only a minor adjustment in size to an existing title;
- (b) The proposal provides for an appropriate type and scale of activity for the zone;
- (c) The proposal is in an area not displaying high or outstanding natural values;
- (d) The site contains no indigenous vegetation;
- (e) The site is not within the coastal environment;
- (f) The proposal enables the maintenance of amenity and rural character values;
- (g) The proposal is not believed to negatively impact on the relationship of Maori with their culture;
- (h) There are no identified heritage values within the site; and
- (i) The site is not subject to any natural hazards to a degree that affects development.

I consider the proposal to be consistent with Policy 13.4.13.

In regard to Policy 13.4.14, the proposal has had regard to the underlying zone's objectives and policies – see below.

In summary, I believe the proposal to be more consistent than not with the above Objectives and Policies.

Rural Production Zone Objectives and Policies

The proposal promotes an efficient use and development of the land (Objective 8.6.3.2). Amenity values can be maintained (8.6.3.3). Reverse sensitivity effects are not increased (Objectives 8.6.3.6-8.6.3.9 inclusive and Policies 8.6.4.8 and 8.6.4.9).

Policy 8.6.4.7 anticipates a wide range of activities that promote rural productivity, and that the underlying goal is to avoid any actual and potential adverse effects of conflicting land use activities. I believe in the case of this proposal, given the site's location, and the existing and proposed land uses around it, along with the fact that no additional lots are created, that no additional adverse reverse sensitivity effects will arise. The site does not contain any soils that meet the definition of 'highly versatile soils' or 'highly productive land'.

The proposal provides for sustainable management of natural and physical resources (8.2.4.1). Off site effects can be avoided, remedied or mitigated (8.6.4.2 and 8.6.4.3). Amenity values can be maintained and enhanced (8.6.4.4). The proposal enables the efficient use and development of natural and physical resources (8.6.4.5).

In summary, I believe the proposal to be consistent with the objectives and policies as cited above.

7.2 Proposed District Plan Objectives and Policies

An assessment against the relevant objectives and policies in the Subdivision section of the Proposed District Plan (PDP) follows:

I consider the subdivision to achieve the objectives of the relevant zone, and district wide provisions. Local character is not affected; reverse sensitivity issues will not result; risk from natural hazards will not be increased. Adverse effects on the environment are considered to be less than minor and not requiring mitigation (SUB-O1).

The site does not contain land that meets the definition of 'highly productive land'. The site contains no ONF's or ONL's, nor any areas of high or outstanding natural character. There may be areas that fall within the definition of 'natural inland wetland', however development can occur without adversely affecting such areas and without the need for consent pursuant to the NES F. There are no lakes, no Sites and Areas of Significance to Maori and no Historic Heritage. There is a stream within Lot 2, however just as is the case with the current titles, development can occur within Lot 2 without any adverse effect on that stream. There are no areas of indigenous vegetation already protected (SUB-O2).

The proposal is consistent with SUB-O3 and SUB-O4 does not apply.

SUB-P1

Enable boundary adjustments that:

a. *do not alter:*

- i. *the degree of non compliance with District Plan rules and standards;*
- ii. *the number and location of any access; and*
- iii. *the number of certificates of title; and*

b. *are in accordance with the minimum lot sizes of the zone and comply with access, infrastructure and esplanade provisions.*

The boundary adjustment meets all of (a) in that it does not alter the degree of non compliance with district plan rules and standards overall; there is no change to access; and no increase in the number of titles will result. Access, infrastructure and esplanade provisions

of the zone can be met. Whilst a 4ha property is less than the minimum lot size applying in the zone, the site is already less, therefore the degree of non compliance is unchanged.

The proposal results in a lot that does not meet the proposed controlled or discretionary minimum allotment size the Council proposes for the Zone. However, these provisions have no legal effect and are subject to considerable challenge. The lot will be consistent with the purpose, characteristics and qualities of the zone and can accommodate a building platform and has legal and physical access (SUB-P3). The proposal has had regard to all the matters listed, where relevant (SUB-P4).

The

subdivision is rural with no nearby Council administered or operated infrastructure except for the road (SUB-P6). There are no qualifying water bodies and no lot less than 4ha in area (SUB-P7).

The proposal does not create a rural lifestyle subdivision in that no additional lots are created. The change in lot size is minimal (SUB-P8). The proposal is not a Management Plan subdivision (SUB-P9).

SUB-P11 is not overly relevant given the proposal does not require resource consent under the PDP. Notwithstanding this, all of the matters in the policy have been considered to the degree necessary.

In summary I believe the proposal to be consistent with the PDP's objectives and policies in regard to subdivision.

The site is zoned Rural Production in the Proposed District Plan.

The proposal simply moves 3955m² from one title to another. It does nothing to affect productivity. The site contains no highly productive land (as defined in the NPS HPL) (RPROZ-O1). The proposal is not a land use application (RPROZ-O2). The property has no highly productive land and does not create additional reverse sensitivity effects. The property is not subject to natural hazard to the extent that future development is affected or restricted. The lot is to be serviced by on-site infrastructure (RPROZ-O3). The proposal does not adversely affect the rural character and amenity of the area (RPROZ-O4).

Policies

Primary production activities are enabled, as is a range of compatible activities that might support productive use (RPROZ-P2). The proposal provides for a slight reduction in the size of an existing rural lifestyle block, where built development can be readily internalised, achieving good setback from boundaries. I do not believe the proposal will create any additional reverse sensitivity effects on primary production activities (RPROZ-P3).

The proposal maintains rural character and amenity. It is low density, creating no additional lots, and future built development can easily comply with the zone's impermeable and building coverage permitted thresholds. Reverse sensitivity effects, or lack thereof, are discussed earlier (RPROZ-P4).

The subdivision does not result in the loss of highly productive land (no LUC 1, 2 or 3 soils exist on the site), nor fragment land parcels given that it does not create any additional lots and simply moves 3955m² from one title to another (RPROZ-P6).

The proposal does not require any consent under the PDP and RPROZ-P7 is therefore of limited relevance. I consider the subdivision to maintain rural character and amenity and the lots are suitable for their intended use.

7.3 Part 2 Matters

5 Purpose

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
 - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

The proposal provides for peoples' social and economic well being, and for their health and safety, while sustaining the potential of natural and physical resources, safeguarding the life-supporting capacity of air, water, soil and the ecosystems; and avoiding, remedying or mitigating adverse effects on the environment.

6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) *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:*
- (b) *the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) *the protection of historic heritage from inappropriate subdivision, use, and development:*
- (g) *the protection of protected customary rights:*
- (h) *the management of significant risks from natural hazards.*

The site does not exhibit any of the features listed as having 'national importance'. Whilst there is a watercourse flowing through Lot 2 it is less than 3m wide. There is a small flood hazard risk associated with the watercourse, but this is minor and is not a 'significant' risk.

7 Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (a) kaitiakitanga:*
- (aa) the ethic of stewardship:*
- (b) the efficient use and development of natural and physical resources:*
- (ba) the efficiency of the end use of energy:*
- (c) the maintenance and enhancement of amenity values:*
- (d) intrinsic values of ecosystems:*
- (e) [Repealed]*
- (f) maintenance and enhancement of the quality of the environment:*
- (g) any finite characteristics of natural and physical resources:*
- (h) the protection of the habitat of trout and salmon:*
- (i) the effects of climate change:*
- (j) the benefits to be derived from the use and development of renewable energy.*

Regard has been had to any relevant parts of Section 7 of the RMA, "Other Matters". These include 7(b), (c), (d), (f) and (g). The proposal can ensure the maintenance of amenity values and the quality of the environment. The proposal has had regard to the values of ecosystems. The proposal does not materially affect on the productive capacity of any rural zoned land.

8 Treaty of Waitangi

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

The principles of the Treaty of Waitangi have been considered and it is believed that this proposed subdivision does not offend any of those principles.

In summary, it is considered that all matters under s5-8 inclusive have been adequately taken into account.

7.4 National Policy Statements and National Environmental Standards

NES Freshwater

The site does contain a stream, flowing north to south through Lot 2. As far as I am aware, it does not contain any 'natural inland wetland' in any area likely to be utilised for future development. No subdivision site works will impact on the stream, with no consent required

pursuant to the NES-F. Future development involving earthworks or vegetation clearance on the 4ha lot can be carried out without requiring consent pursuant to the NES-F.

NPS Highly Productive Land

There is no land within the application site that meets the definition of "highly productive land". The proposal is therefore not subject to the NPS HPL.

NES Assessing and Management Contaminants in Soil to Protect Human Health

To my knowledge the land involved in the boundary adjustment has not historically supported any activity to which the NES CS applies.

NPS Indigenous Biodiversity

No clearance of indigenous vegetation is proposed. I consider the proposal is consistent with the NPS IB.

7.5 Regional Policy Statement

The Regional Policy Statement for Northland contains objectives and policies related to infrastructure and regional form and economic development. These are enabling in promoting sustainable management in a way that is attractive for business and investment. The proposal is consistent with these objectives and policies.

Policy 5.1.1 seeks to ensure that subdivision in a primary production zone does not "*materially reduce the potential for soil-based primary production on land with highly versatile soils, or if they do, the net public benefit exceeds the reduced potential for soil-based primary production activities*".

This has been discussed at length elsewhere in this planning report. The proposal does not involve highly versatile soils so cannot "*materially reduce the potential for soil-based primary production on land with highly versatile soils*".

5.1.3 Policy – Avoiding the adverse effects of new use(s) and development

Avoid the adverse effects, including reverse sensitivity effects of new subdivision, use and development, particularly residential development on the following:

(a) Primary production activities in primary production zones (including within the coastal marine area);.....

Policy 5.1.3 seeks to avoid adverse reverse sensitivity effects. In regard to this proposal, where a small area of land simply transfers from one title to another, it is considered that no additional reverse sensitivity issues arise as a result.

8.0 s95A-E ASSESSMENT & CONSULTATION

8.1 S95A Public Notification Assessment

A consent authority must follow the steps set out in s95A to determine whether to publicly notify an application for a resource consent. Step 1 specifies when public notification is mandatory in certain circumstances and Step 2 of s95A specifies the circumstances that preclude public notification. No such circumstances exist in either instance. Step 3 of s95A specifies that public notification is required where a rule or standard requires it, and where adverse effects are more than minor. Neither circumstance exists in this instance. Step 4 of s95A states that the consent authority is to determine if there are any special circumstances under which public notification may be warranted. I do not consider any such circumstances exist.

8.2 S95B Limited Notification Assessment

A consent authority must follow the steps set out in s95B to determine whether to give limited notification of an application for a resource consent, if the application is not publicly notified pursuant to s95A. Step 1 identifies certain affected groups and affected persons that must be notified. None exist in this instance. Step 2 of s95B specifies the circumstances that preclude limited notification. No such circumstance exists and Step 3 of s95B must be considered. This specifies that certain other affected persons must be notified, none of whom have been identified. Step 4 of s95B states that the consent authority is to determine if there are any special circumstances under which limited notification may be warranted. I do not consider any such circumstances exist.

8.3 S95D Level of Adverse Effects

The AEE in this report assesses effects on the environment and concludes that these will be no more than minor.

8.4 S95E Affected Persons

A person is an 'affected person' if the consent authority decides that the activity's adverse effects on the person are minor or more than minor (but are not less than minor). A person is not an affected person if they have provided written approval for the proposed activity. The activity is a controlled activity and within the expected outcomes of subdivision and development of the Rural Production Zone. No additional lots are created and the proposal simply transfers a small amount of land, containing existing built development, from one title to another. I have reached the conclusion that the proposal will not have any minor or more than minor effects on adjacent properties.

The site does not contain any heritage or cultural sites or values, nor any areas of indigenous vegetation. The site is not accessed off state highway. No pre lodgement consultation has

been considered necessary with tangata whenua, Heritage NZ, Department of Conservation or Waka Kotahi.

9.0 CONCLUSION

The site is considered suitable for the proposed subdivision. Effects on the wider environment are no more than minor. The proposal is not considered contrary to the relevant objectives and policies of the Operative and Proposed District Plans, and is considered to be consistent with relevant objectives and policies of National and Regional Policy Statements. Part 2 of the Resource Management Act has been had regard to.

There is no District Plan rule or national environmental standard that requires the proposal to be publicly notified. No affected persons have been identified.

It is requested that the Council give favourable consideration to this application and grant consent under delegated authority.



Signed
Lynley Newport,
Senior Planner
Thomson Survey Ltd

Dated 8th July 2024

10.0 LIST OF APPENDICES

- Appendix 1** Scheme Plan(s)
- Appendix 2** Location Plan
- Appendix 3** Records of Title & Relevant Instruments

Appendix 1

Scheme Plan(s)

EXISTING EASEMENTS IN GROSS			
PURPOSE	SHOWN	SERVIENT TENEMENT	CREATED BY
ELECTRICITY	(A)	LOT 2 HEREON	D552435.7

AMALGAMATION CONDITION:
 THAT LOT 1 HEREON AND LOT 6 DP 202221
 (NA 129B/957) ARE TO BE HELD IN THE SAME
 CERTIFICATE OF TITLE.



THIS DRAWING AND DESIGN REMAINS THE PROPERTY OF THOMSON SURVEY LTD AND MAY NOT BE REPRODUCED WITHOUT THE WRITTEN PERMISSION OF THOMSON SURVEY LTD
 AREAS AND MEASUREMENTS ARE SUBJECT TO FINAL SURVEY
 TOPOGRAPHICAL DETAILS APPROXIMATE ONLY AND SCALED FROM AERIAL PHOTOGRAPHY

Local Authority: Far North District Council
 Comprised in: NA129B/958
 Total Area: 4.3955ha
 Zoning: Rural Production
 Resource features: NIL

This plan and accompanying report(s) have been prepared for the purpose of obtaining a Resource Consent only and for no other purpose. Use of this plan and/or information on it for any other purpose is at the user's risk.

0 12.5 25 37.5 50 62.5 75 87.5 100 112.5 125m
 Bar Scale 1:1250 @ A3

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 Limited
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 Ph: (09) 4077360
www.tsurvey.co.nz

**PROPOSED SUBDIVISION OF
 LOT 7 DP 202221
 552A OMAUNU ROAD, KAEO**

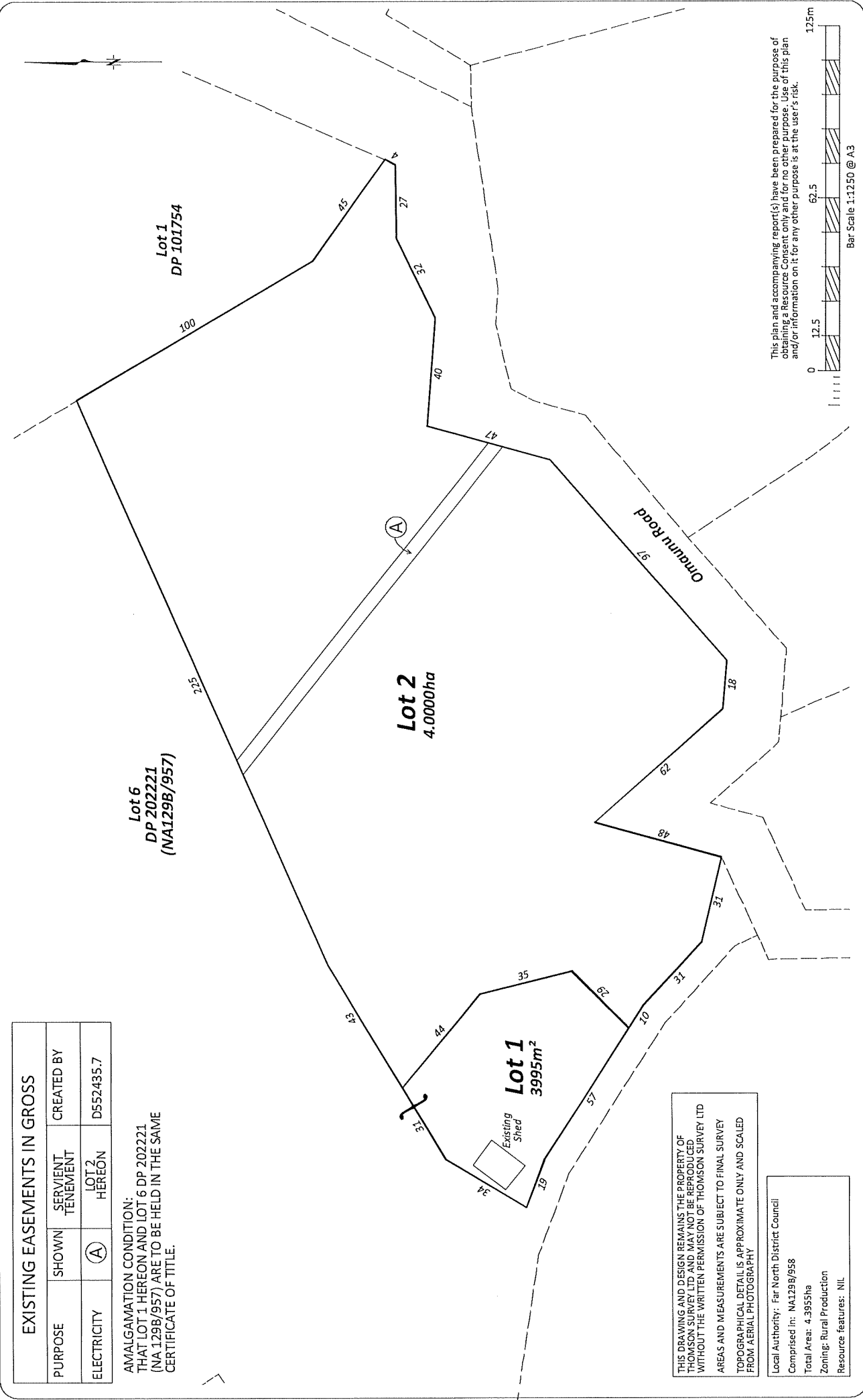
PREPARED FOR: B. MILLS

Survey	Name	Date	ORIGINAL
Design			SCALE
Drawn	KY	13.05.24	1:1250
Approved			SHEET SIZE
Rev	KY	21.06.24	A3
70639 Scheme 20240621			

Surveyors Ref. No: 10639
 Sheet 1 of 1

EXISTING EASEMENTS IN GROSS		
PURPOSE	SHOWN	SERVIENT TENEMENT
ELECTRICITY	(A)	LOT 2 HERON
		CREATED BY
		D552435.7

AMALGAMATION CONDITION:
 THAT LOT 1, HERON AND LOT 6 DP 202221
 (NA 1298/957) ARE TO BE HELD IN THE SAME
 CERTIFICATE OF TITLE.



This plan and accompanying report(s) have been prepared for the purpose of obtaining a Resource Consent only and for no other purpose. Use of this plan and/or information on it for any other purpose is at the user's risk.

Bar Scale 1:1250 @ A3

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Local Authority: Far North District Council
 Comprised in: NA1298/958
 Total Area: 4.3955ha
 Zoning: Rural Production
 Resource features: NIL

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**PROPOSED SUBDIVISION OF
 LOT 7 DP 202221
 552A OMAUNU ROAD, KAEO**

PREPARED FOR: B. MILLS

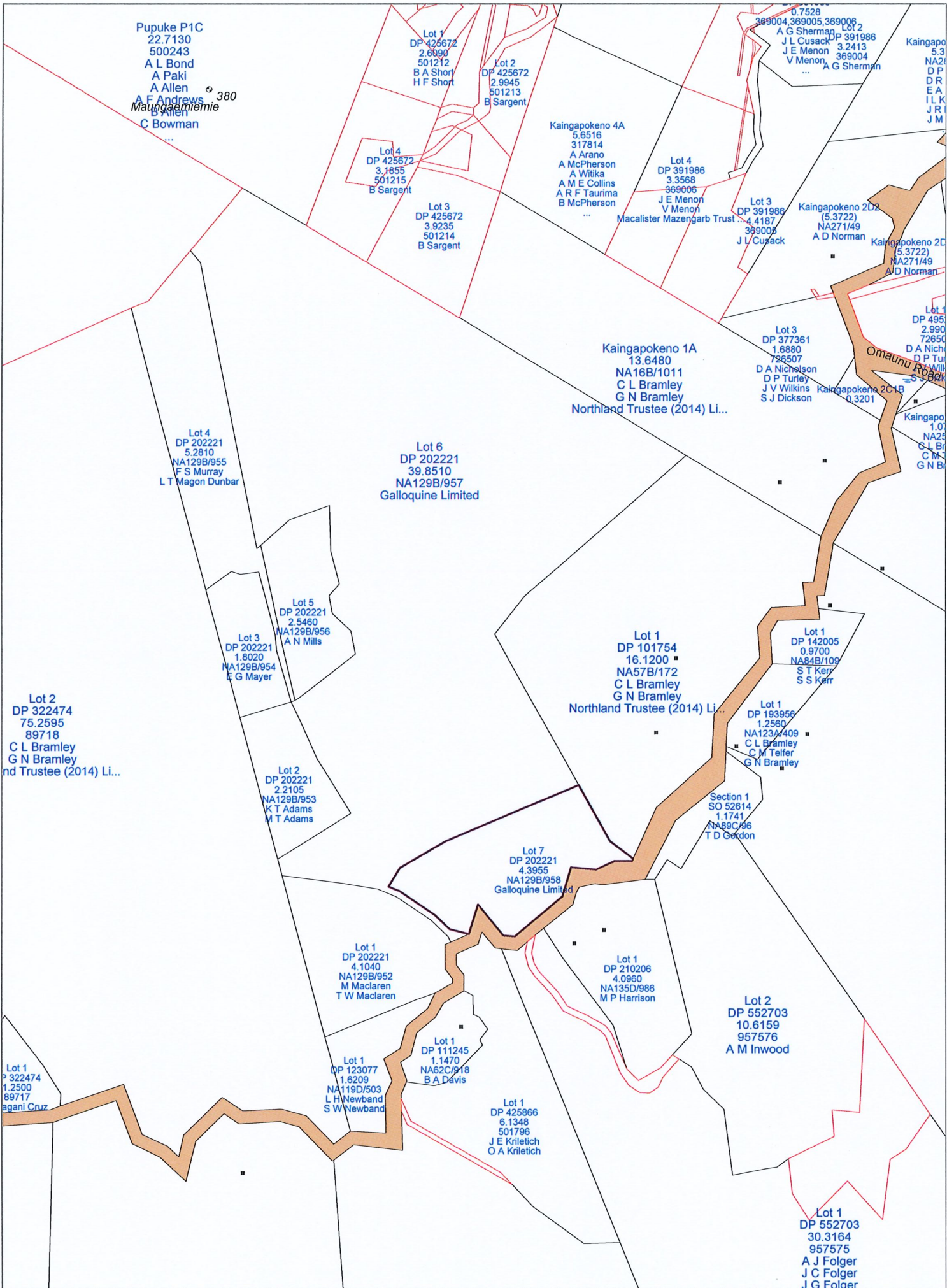
Survey	Name	Date	ORIGINAL SCALE	SHEET SIZE
Design				
Drawn	KY	13.05.24	1:1250	A3
Approved				
Rev	KY	27.06.24		

10639 Scheme 20240621

Surveyors Ref. No: 10639
 Sheet 1 of 1

Appendix 2

Location Plan



Appendix 3
Records of Title &
Relevant Instruments



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




R. W. Muir
Registrar-General
of Land

Identifier **NA129B/957**
Land Registration District **North Auckland**
Date Issued 27 October 2000

Prior References
NA88C/91

Estate Fee Simple
Area 39.8510 hectares more or less
Legal Description Lot 6 Deposited Plan 202221
Registered Owners
Galloquine Limited

Interests

D552435.3 Consent Notice pursuant to Section 221(1) Resource Management Act 1991 - 27.10.2000 at 9.00 am
Subject to rights of way and rights to convey electricity and telecommunications over parts marked A, B, C and I on DP 202221 specified in Easement Certificate D552435.5 - 27.10.2000 at 9.00 am
The easements specified in Easement Certificate D552435.5 are subject to Section 243 (a) Resource Management Act 1991
Subject to water supply rights over parts marked B, C, F and I on DP 202221 specified in Easement Certificate D552435.6 - 27.10.2000 at 9.00 am
Subject to an electricity right (in gross) over parts marked H and I on DP 202221 in favour of Top Energy Limited created by Transfer D552435.7 - 27.10.2000 at 9.00 am
The easements created by Transfer D552435.7 are subject to Section 243 (a) Resource Management Act 1991



RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy




R.W. Muir
Registrar-General
of Land

Identifier NA129B/958
Land Registration District North Auckland
Date Issued 27 October 2000

Prior References
NA88C/91

Estate Fee Simple
Area 4.3955 hectares more or less
Legal Description Lot 7 Deposited Plan 202221
Registered Owners
Galloquine Limited

Interests

D552435.3 Consent Notice pursuant to Section 221(1) Resource Management Act 1991 - 27.10.2000 at 9.00 am
Appurtenant hereto is a right of way and rights to convey electricity and telecommunications specified in Easement Certificate D552435.5 - 27.10.2000 at 9.00 am
The easements specified in Easement Certificate D552435.5 are subject to Section 243 (a) Resource Management Act 1991
Subject to an electricity right (in gross) over part marked G on DP 202221 in favour of Top Energy Limited created by Transfer D552435.7 - 27.10.2000 at 9.00 am
The easements created by Transfer D552435.7 are subject to Section 243 (a) Resource Management Act 1991

Approvals

1. This plan is submitted in accordance with the provisions of the Resource Management Act 1991 and the Resource Management Regulations 1992.

2. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

3. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

4. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

5. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

6. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

7. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

8. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

9. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

10. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

11. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

12. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

13. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

14. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

15. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

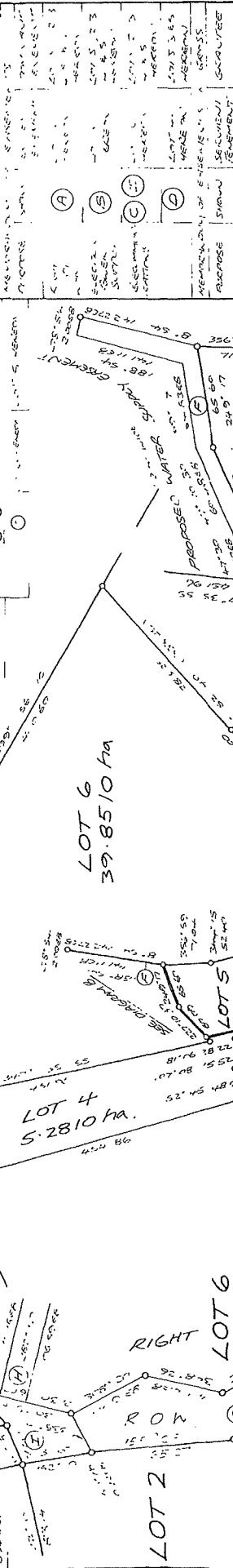
16. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

17. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

18. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

19. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.

20. The proposed subdivision complies with the Resource Management Act 1991 and the Resource Management Regulations 1992.



Lot No.	Area	Bearing	Distance
Lot 1	4,104.0 m²	165° 51'	79.87
Lot 2	2,210.5 m²	162° 25'	50.00
Lot 3	1,802.0 m²	166° 23'	50.00
Lot 4	5,281.0 m²	167° 16'	38.80
Lot 5	2,546.0 m²	167° 16'	38.80
Lot 6	3,985.10 m²	162° 25'	50.00
Lot 7	2,210.5 m²	165° 51'	79.87

NEW LOT ALLOCATED

Lot 1 1298.952 2171 S 1208.956

Lot 2 1298.953 2171 S 1208.957

Lot 3 1298.954 2171 S 1208.958

Lot 4 1298.955 2171 S 1208.959

Lot 5 1298.956 2171 S 1208.960

Lot 6 1298.957 2171 S 1208.961

Lot 7 1298.958 2171 S 1208.962

Total Area 60,190.00 m²

Comprised in CT 88C/91(ALL)

I, **[Name]**, being a person entitled to practise as a registered surveyor, certify that the surveys to which this release are applicable, and were undertaken by me or under my direction in accordance with the Survey Act 1986 and the Survey Regulations 1985.

(b) This release is accurate and has been created in accordance with the Act and these Regulations.

Signed: **[Signature]** Date: **[Date]**

Field Book: **[Book No.]** Traverse Book: **[Book No.]**

Reference Plans: **[List]**

Examined: **[Signature]** Correct: **[Signature]**

Approved as to Survey: **[Signature]**

12.5.2000 **[Signature]** Chief Surveyor

Deposited this 27th day of October 2000

[Signature] Registrar General of Land

File Received Instructions: **[Text]**

28 APR 2000 DP 202221

Scale 1:4000 Date FEBRUARY 2000

TERRITORIAL AUTHORITY: FARE NORTH DISTRICT

Surveyed by **[Name]** Date FEBRUARY 2000

Scale 1:4000

DS52435.3 @NO



FAR NORTH DISTRICT COUNCIL

THE RESOURCE MANAGEMENT ACT 1991

SECTION 221 : CONSENT NOTICE

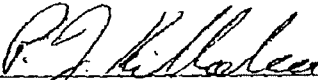
REGARDING The subdivision of
Pt Sec 50, Blk VI Kaeo SD
North Auckland Registry.

PURSUANT to Section 221 for the purposes of Section 224 of the Resource Management Act 1991, this Consent Notice is issued by the FAR NORTH DISTRICT COUNCIL to the effect that conditions described in the schedule below are to be complied with on a continuing basis by the subdividing owner and the subsequent owners after the deposit of the survey plan, and is to be registered on Lots 1-7 DP 202221.

SCHEDULE

That an electrical supply may not be able to be provided to the additional allotments created.

SIGNED:


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

DATED at KAIKOHE this 30th day of June 2000

RC: 2000393

SRM\CERT3m\lfs\221

© LINZ COPY



9.00 27.OCT.00 D 552435 3

PARTICULARS ENTERED IN REG. SITE
LAND REGISTRY NORTH
for REGISTRAR-GENERAL



D552435.5 EC

EASEMENT CERTIFICATE

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

I/We GALLOQUINE LIMITED

being the registered proprietor(s) of the land described in the Schedule hereto hereby certify that the easements specified in that Schedule, the servient tenements in relation to which are shown on a plan of survey deposited in the Land Registry Office at _____ on the _____ day of _____ under No. 202221 are the easements which it is intended shall be created by the operation of section 90A of the Land Transfer Act 1952.

SCHEDULE DEPOSITED PLAN NO. 202221

Nature of Easement (e.g., Right of Way, etc.)	Servient Tenement		Dominant Tenement Lot No.(s) or other Legal Description	Title Reference
	Lot No.(s) or other Legal Description	Colour, or Other Means of Identification, of Part Subject to Easement		
Right of Way and	Lot 6	A	Lots 1, 2, 3, 4 5 & 7	129B/952 to 129B/958
Right to convey Electricity and Telecommunications	Lot 6	B	Lots 1, 2, 3, 4 & 5	129B/952 to 129B/957
	Lot 6	C & I	Lots 2, 3, 4 & 5	129B/953 to 129B/957
	Lot 4	D	Lots 3 & 5	129B/954 to 129B/956

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

1. Rights and powers:

RIGHTS AND POWERS

That in respect of the Telecommunications and Electricity Easements referred to in the Schedule hereto, the rights and powers applicable thereto are:

- (a) The full free uninterrupted and unrestricted right liberty and privilege for the occupier and registered proprietor for the time being of the dominant tenement from time to time and at all times to take convey and lead electrical current or any other mode of transmitting telecommunications in a free and unimpeded flow (except where the flow is halted for any reasonable period necessary for essential repairs) for the purposes of telecommunications under or across the land over which the Easement is created and to erect, lay and maintain poles and cables for such purpose.

- (b) The full free uninterrupted and unrestricted right liberty and privilege for the occupier and registered proprietor for the time being of the dominant tenement from time to time and at all times to take convey and lead electricity in a free and unimpeded flow (except where the flow is halted for any reasonable period necessary for essential repairs) under or across the land over which the Easement is created and to erect, lay and maintain poles and cables for such purpose.

*Barbara
JMC*

TERMS CONDITIONS COVENANTS OR RESTRICTIONS IN RESPECT OF ABOVE EASEMENTS:

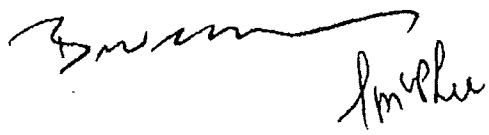
- (1) That in respect of the Electricity and Telecommunications Easements (hereinafter called "the Easements") referred to in the Schedule hereto the terms conditions covenants or restrictions applicable thereto are as follows:-
- (a) All cables placed within or such poles and cable erected upon the servient tenements shall be maintained and as required repaired to a good and serviceable condition by the registered proprietors for the time being of the dominant tenements.
- (b) All the costs and expenses of and incidental to the repairing and maintaining of the Easements herein specified shall be borne by the registered proprietor for the time being of the dominant tenements.
- (c) Any person wishing to carry out any work whatsoever on the Easements herein specified shall first give to the registered proprietor of the servient tenement thereof notice of such intention and of the nature and expense of the said work prior to any such work being commenced.
- (d) Any person carrying out any work whatsoever on the Easements herein specified shall take all reasonable and proper action and care to interfere as little as possible with the comfort and convenience of the occupier or occupiers for the time being of the dominant and servient tenements and shall carry out such work or cause the same to be carried out with the utmost expedition and in a prudent manner and in particular shall during the course of such work:
- (i) Shore up or cause to be shored up in a proper safe and workmanlike manner any part of the dominant or servient tenement affected thereby.
- (ii) Take all reasonable and proper steps to preserve the said tenements and all parts thereof and all property and goods thereon from damage.
- (e) Subject to the other terms and conditions covenants and restrictions contained in these presents any person carrying out any work as aforesaid shall have the right to enter and to bring machinery and workmen on to any part of the dominant or servient tenement as shall be necessary for the purposes of carrying out maintenance on the Easements referred to herein and shall have the right to remove all soil roading paving metalling fencing and all other things as shall be reasonably necessary to give unimpeded access to the said Easement PROVIDED HOWEVER that such soil roading paving metalling and fencing which is so removed shall be restored as nearly as possible to its original condition and that any other damage done by reason of the said maintenance is repaired and that as little disturbance as possible is caused to the surface of the land and to the enjoyment of the said tenements by the registered proprietors or occupiers.
- (f) Where the maintenance work which is required to be carried out in terms of these presents involves the total or partial replacement of any cables this work shall be deemed to be maintenance work which may be carried out in accordance with these presents.
- (2) That in respect of the right of way easement referred to in the schedule hereto the terms, conditions or restrictions applicable thereto are as follows:-
- (a) The registered proprietor of the servient tenements may construct and erect a gate or gates across the line of the easement where it passes through a fence line provided that such gate or gates shall not unreasonably interfere with the access of the users of the right of way.

Brown
Amc

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

Dated this 19th day of September 2000

Signed by the above-named
BRUCE WILLIAM MILLS and
SUSANNE JEANETTE SHIRLEE McPHEE
as Directors of GALLOQUINE LIMITED




in the presence of

Witness

Occupation

Address

Correct for the purposes of the Land Transfer Act 1952


(Solicitor for) the registered proprietor:

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

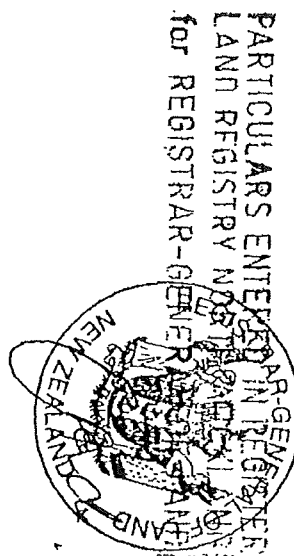
EASEMENT CERTIFICATE

Land Transfer Act 1952

Law Firm Acting
LAW NORTH PARTNERS SOLICITORS <u>KERIKERI</u>

Auckland District Law Society
REF: 4050

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



9.00 27.0CT100 D 552435.S

LINZ COPY



D552435.7 TE

TRANSFER

Land Transfer Act 1952

This page does not form part of the Transfer.



TRANSFER

Land Transfer Act 1952

If there is not enough space in any of the panels below, cross-reference to and use the approved Annexure Schedule: no other format will be received.

Land Registration District

NORTH AUCKLAND

Certificate of Title No. All or Part? Area and legal description — Insert only when part or Stratum, CT

129B	957	ALL	
129B	958	ALL	

Transferor Surnames must be underlined

GALLOQUINE LIMITED

Transferee Surnames must be underlined

TOP ENERGY LIMITED

Estate or Interest or Easement to be created: Insert e.g. Fee simple; Leasehold in Lease No.; Right of way etc.

Electricity Easement (continued on pages 2 to 10 annexure schedules)

Consideration

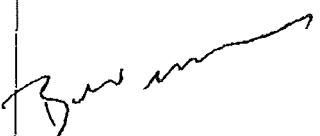
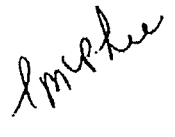
\$1.00 (ONE DOLLAR)

Operative Clause

For the above consideration (receipt of which is acknowledged) the TRANSFEROR TRANSFERS to the TRANSFEREE all the transferor's estate and interest described above in the land in the above Certificate(s) of Title and if an easement is described above such is granted or created.

Dated this 19th day of September 2000

Attestation

 	Signed in my presence by the Transferor	BRUCE WILLIAM MILLS and
	Signature of Witness	SUSANNE JEANETTE SHIRLEE MCPHEE
	Witness to complete in BLOCK letters (unless typewritten or legibly stamped)	as Directors of GALLOQUINE LIMITED
	Witness name	
	Occupation	
	Address	
Signature, or common seal of Transferor		

Certified correct for the purposes of the Land Transfer Act 1952

Certified that no conveyance duty is payable by virtue of Section 24(1) of the Stamp and Cheque Duties Act 1971.


Solicitor for the transferee

Annexure Schedule

Insert below:-

"Mortgage", "Transfer", "Lease" etc

Transfer

dated

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1. Transfer and Grant of Transmission Easement

1.1. In consideration of the covenants on the part of the Transferee contained in this Memorandum, the Transferor **TRANSFERS AND GRANTS** to the Transferee and any other persons authorised (expressly or impliedly) by the Transferee an electricity transmission in gross over Lots 6 and 7 on Deposited Plan 202221 with the following rights and interests as an easement in gross (the "Transmission Easement").

1.1. The right to survey and investigate in respect of, and to lay, construct, operate, inspect, use, cleanse, maintain, repair, renew, upgrade, change the size of and remove, the Transmission Line in, over, on, under or through that part of the Land marked "G, H and I" on Deposited Plan 202221 ("the Servient Land").


1.1.1 The right to convey, send, transmit or transport electricity and telecommunications signals, waves or impulses in, over, on, under or through the Servient Land.

1.1.2 The right with any vehicles, equipment, aircraft and materials of any kind, to enter on the Servient Land for any and all purposes necessary or convenient for the Transferee to exercise its rights and interests granted under this memorandum (including the right to extinguish fires), but subject to the conditions that as little disturbance as is reasonably possible is caused to the Transferor, the Land, and the Transferor's stock and other property in doing so and that, where applicable, all gates on the Land are left as the Transferee and those other authorised persons find them.

1.1.3 The right to construct on the Servient Land whatever roads, tracks, access ways, fences, gates and other works deemed necessary by the Transferee for it to exercise its rights and interests granted under this memorandum and which are approved by the Transferor (that approval not to be unreasonably withheld), but subject to the condition that as little disturbance as possible is caused to the Transferor, the Land, and the Transferor's stock and other property in doing so.

1.1.4 The right to keep the Servient Land cleared of all buildings or structures (including any buildings or structures which overhang the Servient Land) by any means the Transferee may consider necessary.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.



Annexure Schedule

Insert below:-

"Mortgage", "Transfer", "Lease" etc

Transfer

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1.1.5 The right to keep the Servient Land cleared of any fences or vegetation, both natural and cultivated, including trees and shrubs (including any fences, or vegetation which overhang the Servient Land) by any means which the Transferee may consider necessary where such fences or vegetation:

- (a) breach any statutory or regulatory requirements or standards or codes of practice or otherwise breach generally accepted engineering standards as to the minimum clearance of the Transmission Line;
- (b) impedes the Transferee's access over the Servient Land; or
- (c) inhibits the safe and efficient operation of the Transmission Line.

1.1.6 The right by whatever means or method as the Transferee considers necessary to level and grade any stockpiled soil, sand, gravel or other substance or any materials, walls or other earthworks that may exist on the Servient Land in order to ensure that the clearance above the ground level of the Transmission Line is maintained greater than any minimum clearance height that may exist from time to time in statute, regulations, code of practice or otherwise, subject to reasonable access being maintained through the Servient Land.

2. COVENANTS

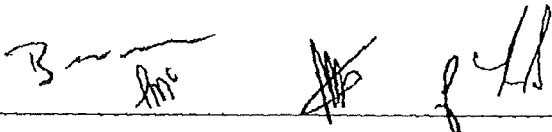
2.1 Ownership of the Transmission Line

2.1.1 The Transmission Line will become and remain the property of the Transferee.

2.2 Buildings Structures Fences and Vegetation

2.2.1 The Transferee may consent in writing to certain existing buildings, structures, fences or vegetation upon or overhanging the Servient Land at the date of this Memorandum remaining there. If the existence of those buildings, structures, fences or vegetation so consented to, or any additional buildings, structures, fences or vegetation consented to pursuant to clause 2.2.3, subsequently results in a situation described in clause 1.1.5 (a) - (c) then such consent may be revoked by the Transferee but without compensation. If such consent is revoked the cost of removal of any buildings, structures, fences or vegetation shall be borne by the Transferee.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

The block contains three handwritten signatures or initials. The first is a cursive signature that appears to be 'B...'. The second is a stylized signature or set of initials. The third is another set of initials, possibly 'JLS'.

Annexure Schedule

Insert below:-

"Mortgage", "Transfer", "Lease" etc

Transfer

dated

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Before removing any fence pursuant to this clause the Transferee shall consult with the Transferor so the Transferor is given a reasonable opportunity to co-ordinate the erection of any necessary replacement fence. The erection of any such replacement fence and the cost of it will be the Transferor's responsibility.

2.2.2 The Transferee shall be responsible for the removal of any building, structures, fences or vegetation on or overhanging the Servient Land at the date of this Memorandum in respect of which no consent in writing has been sought or obtained pursuant to clause 2.2.1.

2.2.3 The Transferee may consent in writing to the construction after the date of this Memorandum of any buildings, structures, fences or the planting or cultivation of vegetation including trees and shrubs on the Servient Land, or on the land to the extent any buildings, structures, fences or vegetation overhangs the Servient Land.

2.2.4 The Transferee shall not be responsible for or be liable to contribute to the cost of removing any buildings, structures, fences or vegetation, built or cultivated on or overhanging the Servient Land after the date of this Memorandum in respect of which no consent in writing has been sought or obtained pursuant to clause 2.2.3.

2.3 Restoration of Land

2.3.1 The Transferee will be responsible for restoring any part of the Land affected by the Transferee exercising any of its rights under this Memorandum to a condition equivalent, as far as is reasonably practicable, to that existing before the Transferee exercised those rights.

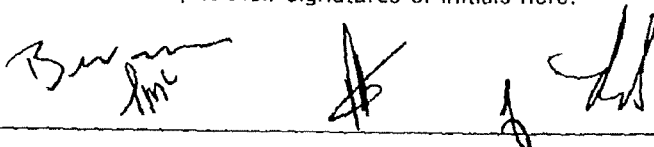
2.4 Transferor's Continued Use of Servient Land

2.4.1 The Transferor may use the Servient Land so long as that use does not unreasonably interfere with the enjoyment of the Transferee's rights and interests granted under this memorandum.

2.5 Restrictions on Transferor's Use

2.5.1 The Transferor must not at any time after the date of this memorandum, do permit or suffer to be done any act whereby the rights, powers, licences and liberties granted to

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Annexure Schedule

Insert below:-

"Mortgage", "Transfer", "Lease" etc

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the Transferee under this memorandum may be interfered with or affected in any way and, in particular, the Transferor must not, without the consent in writing of the Transferee:

- (a) make, or permit to be made, any alterations or additions to any buildings or structures existing on the Servient Land at the date of this Memorandum which affect the overall dimensions of those buildings or structures;
- (b) erect, or permit the erection, of any buildings or structures on the Servient Land;
- (c) stockpile or fill with, or permit the stockpiling of or filling with, any soil, sand, gravel or other substance or materials, or construct, or permit the construction of, any roads, dam walls or other earthworks on the Servient Land which would in any way reduce the clearance above the ground level of the Transmission Lines below the minimum clearance height that may exist, from time to time, in statute, regulations, code of practice or otherwise;
- (d) remove, or permit the removal of, any soil, sand, gravel or other substance from the Servient Land;
- (e) disturb the soil below a depth of 0.3 metres within a distance of 6 metres from the visible outer edge of any tower, pole, ground stay, support or foundation comprising part of the Transmission Line;
- (f) cause or consent to acquiesce in the inundation of the Servient Land where any existing towers, poles, ground stays or supports comprising part of the Transmission Line are erected or located, or proposed to be erected or located, from the date of this memorandum **EXCEPT HOWEVER** nothing will require the Transferor to take any steps to do or construct anything to prevent that inundation caused by events beyond the reasonable control of the Transferor;
- (g) burn off crops, trees or undergrowth within the Servient Land;

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Annexure Schedule

Insert below:-

"Mortgage", "Transfer", "Lease" etc

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- (h) operate, or permit to be operated, any machinery or equipment (including by way of example, but not in limitation, cranes, drilling-rigs, pile-drivers and excavators) in close proximity to any tower, pole, ground stay or support comprising part of the Transmission Line;
- (i) disturb any survey pegs or markers placed on the Servient Land by the Transferee; or
- (j) do anything on or in the Servient Land which would or could damage or endanger the Transmission Line.

2.5.2 The consent of the Transferee required under clause 2.5.1 will not be unreasonably withheld, but may be given subject to reasonable conditions (including the power to revoke without compensation).

2.6 Restrictions on Transferee's Use of Land

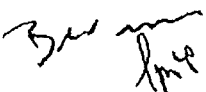
2.6.1 The Transferee will erect the Transmission Line so as not to unreasonably interfere with the ordinary cultivation of the Land and in so doing, or in laying, constructing, operating, inspecting, using, cleansing, maintaining, repairing, renewing, upgrading, replacing, changing the size of or removing the Transmission Line, will cause as little damage as is reasonably possible to the surface of the Land.

2.7 Statutes and Regulations

2.7.1 It is acknowledged by the Transferee that its rights under the Transmission Easement are subject to the provisions of all applicable statutes, ordinances, regulations and by-laws.

2.7.2 The Transferee covenants with the Transferor that it will comply with the provisions of all statutes, ordinances, regulations and by-laws in any way relation or affecting the Transmission Easement, the Transmission Line or the exercise, or the attempted or intended exercise, by it or any of its rights under this memorandum, and will also comply with the provisions of all licences, requisitions and notices issued, made or given by any competent authority in respect of the Transmission Easement, the Transmission Line or the exercise, or attempted or intended exercise, by the Transferee of any of its rights under this memorandum.

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Annexure Schedule

Insert below:-

"Mortgage", "Transfer", "Lease" etc

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2.8 Indemnity Against Third Party Claims

2.8.1 Each party will indemnify the other against all claims or demands from third parties for any loss, damage or liability in respect of, or arising out of, the use of the land by that party (or any person authorised, whether expressly or impliedly by it) **EXCEPT THAT** it will not be liable to indemnify the other party in respect of claims or demands from third parties for any loss, damage or liability caused by the actions of the other party. Where the actions of the other party contribute to that loss, damage or liability, the indemnity given by the party to that other party in respect of that loss, damage and liability will be correspondingly reduced in proportion to that contribution.

2.8.2 The quantum of damages payable by either party pursuant to clause 2.8.1 will be determined by agreement between them or, if they fail to agree, then they will submit the matter to arbitration in accordance with clause 2.11.

2.9 Licence and Assignment

2.9.1 The Transferee may grant any licence or right of all or any part of any estate or interest conferred by this memorandum and may assign all or any part of that estate or interest.

2.10 Perpetual Easement

2.10.1 No power is implied for the Transferor to determine the Transmission Easement for any breach of covenant (express or implied) or for any causes whatever. It is the intention of the parties that the Transmission Easement will subsist forever or until duly surrendered.

2.11 Arbitration

2.11.1 All differences and disputes which may arise between the parties touching, concerning or arising out of this memorandum (except for proceedings relating to any unpaid moneys due under this memorandum or as otherwise expressly provided in this memorandum) shall be submitted to arbitration in accordance with the Arbitration Act 1996 ("Act"). The following provisions shall apply:

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

Annexure Schedule

Insert below:-

"Mortgage", "Transfer", "Lease" etc

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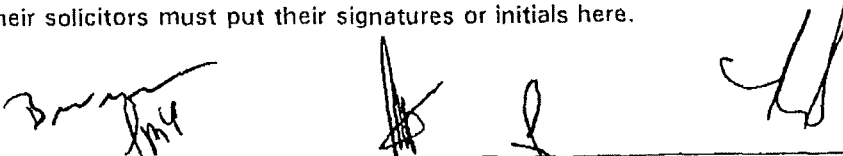
- (a) There shall be a single arbitrator agreed upon by the parties or failing agreement, two arbitrators (one to be appointed by each party) and a third arbitrator to be appointed by the arbitrators appointed by the parties or if the arbitrators appointed by the parties cannot reach agreement, the third arbitrator shall be appointed by the President for the time being of the District Law Society within which the Servient Land is situated. If any party fails to act as required under this provision, or the President for the time being of the District Law Society fails to appoint a third arbitrator then the provisions of clause 1(4)(c) of the second schedule to the Act shall apply.
- (b) Any notice to be given pursuant to the provisions of this clause may be given as provided in the first schedule to the Act.
- (c) All arbitrators shall be ordinarily resident in New Zealand and any arbitration proceedings shall be conducted in the English language.
- (d) Where three arbitrators are appointed the arbitrator not appointed by the parties shall be the presiding arbitrator.
- (e) The sole arbitrator or presiding arbitrator shall determine all questions of procedure.
- (f) Clause 5 of the second schedule to the Act shall not apply.

2.12 Interpretation

2.12.1 For the purpose of interpretation or construction of this memorandum, unless the context otherwise requires:

- (a) the term "Transmission Line" means a wire or wires or a conductor of any other kind (including a fibre optic or coaxial cable) used or intended to be used for the transmission of electricity and/or telecommunication signals, waves or impulses; and includes any insulator, tower, pole, ground stay, supporting structure, crossarm, foundation, casing, tube, tunnel, minor fixture or other item, equipment or material used or intended to be used for supporting,

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Annexure Schedule

Insert below:-

"Mortgage", "Transfer", "Lease" etc

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securing, enclosing, surrounding and protecting a Transmission Line; and also includes any building, tower or pole mounted transformers, fuses, fuse holder, automatic switches, voltage regulators, capacitors or other instrument, apparatus or device used in association with a Transmission Line for the purpose of protecting and facilitating the transmission of electricity and telecommunication signals, waves or impulses through the Transmission Line;

- (b) references to clauses or a Schedule are references to clauses of, and a Schedule to, this memorandum;
- (c) words importing the singular or plural number include the plural and singular number respectively;
- (d) headings are inserted for the sake of convenience of reference only and do not affect the interpretation of this memorandum;
- (e) reference to the parties include their respective successors and assigns; and
- (f) references to a statute or statutory provision includes references to that statute or statutory provision (as the case may be) and to any regulations made pursuant to that statute or statutory provision (as the case may be) as from time to time modified, codified or re-enacted, whether before or after the date of this memorandum, so far as that modification, codification or re-enactment applies, or is capable of applying, to this memorandum and the transfer and grant of the Transmission Easement under it.

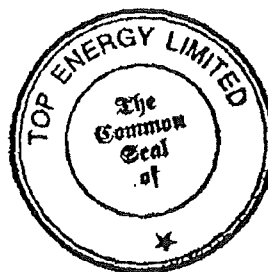
Executed as a Memorandum on 19th day of September 2000.

THE COMMON SEAL of TOP ENERGY LIMITED was hereunto affixed in the presence of:

[Handwritten signatures]

Director

Director



Witnessed by: Ian David Trethaway Financial Accountant Kaitiaki

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

[Handwritten signatures and initials]

Annexure Schedule

TRANSFER

Dated

Page

of

Pages

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If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

Approved by Registrar-General
of Land under No. 1997/1017

TRANSFER

Land Transfer Act 1952

Law Firm Acting
LAW NORTH PARTNERS SOLICITORS <u>KERIKERI</u>

N.Z. Law
REF: 002

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(except for "Law Firm Acting")



PARTICULARS ENTERED IN REGISTER
LAND REGISTRY NORTH
for REGISTRAR-GENERAL

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