



Our Reference: 10490.1 (FNDC)

13 April 2026

Resource Consents Department
Far North District Council
JB Centre
KERIKERI

Dear Sir/Madam

RE: Proposed Subdivision by way of conversion from cross lease to fee simple, 61 Hone Hene Road, Estate of Susan Dyson

I am pleased to submit application on behalf of Estate of Susan Dyson, for a proposed subdivision by way of cross lease conversion to fee simple, on land known at 61 Hone Heke Road, Kerikeri, zoned Residential. The application is a controlled activity.

The application fee of \$3,044 has been paid separately via direct credit.

Regards

Lynley Newport
Senior Planner
THOMSON SURVEY LTD

315 Kerikeri Road, Kerikeri
P.O. Box 372, Kerikeri 0245, New Zealand.

Telephone:
Facsimile:
After Hours: Director: Denis Thomson
After Hours: Office Manager: Sam Lee

Background picture represents a New Zealand surveying trig station, used to beacon control survey marks

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):

- | | |
|---|---|
| <input type="radio"/> Land Use | <input type="radio"/> Discharge |
| <input type="radio"/> Fast Track Land Use* | <input type="radio"/> Change of Consent Notice (s.221(3)) |
| <input checked="" type="radio"/> Subdivision | <input type="radio"/> Extension of time (s.125) |
| <input type="radio"/> Consent under National Environmental Standard
(e.g. Assessing and Managing Contaminants in Soil) | |
| <input type="radio"/> Other (please specify) _____ | |

**The fast track is for simple land use consents and is restricted to consents with a controlled activity status.*

3. Would you like to opt out of the fast track process?

Yes No

4. Consultation

Have you consulted with Iwi/Hapū? Yes No

If yes, which groups have you consulted with?

Who else have you consulted with?

For any questions or information regarding iwi/hapū consultation, please contact Te Hono at Far North District Council, tehonosupport@fndc.govt.nz

5. Applicant details

Name/s:

Michael Dyson (Estate of Susan Dyson)

Email:

Phone number:

Postal address:

(or alternative method of service under section 352 of the act)

Postcode 245

Have you been the subject of abatement notices, enforcement orders, infringement notices and/or convictions under the Resource Management Act 1991? Yes No

If yes, please provide details.

6. Address for correspondence

Name and address for service and correspondence (if using an Agent write their details here)

Name/s:

Lynley Newport

Email:

Phone number:

Postal address:

(or alternative method of service under section 352 of the act)

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

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7. 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:

as per item 5 above

Property address/
location:

Postcode

8. Application site details

Location and/or property street address of the proposed activity:

Name/s:	Michael Dyson + Lindsay Walker		
Site address/ location:	61 Hone Heke Road + 63 Hone Heke Rd		
	KERIKERI		
	Postcode		
Legal description:	Lot DP 106009	Val Number:	215/12707 B.
Certificate of title:	NA102C/372 + NA102C/373		

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.

9. Description of the proposal

Please enter a brief description of the proposal here. Please refer to Chapter 4 of the *District Plan, and Guidance Notes*, for further details of information requirements.

To subdivide land currently subject to a cross lease arrangement, to create two fee simple titles, on land zoned Residential.

If this is an application for a 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), with reasons for requesting them.

10. Would you like to request public notification?

Yes No

11. Other consent required/being applied for under different legislation

(more than one circle can be ticked):

<input type="radio"/> Building Consent	Enter BC ref # here (if known)
<input type="radio"/> Regional Council Consent (ref # if known)	Ref # here (if known)
<input type="radio"/> National Environmental Standard Consent	Consent here (if known)
<input type="radio"/> Other (please specify)	Specify 'other' here

12. 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:

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? Please tick if any of the following apply to your proposal, as the NESCS may apply as a result? Yes No Don't know

Subdividing land

Disturbing, removing or sampling soil

Changing the use of a piece of land

Removing or replacing a fuel storage system

13. 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.

Your AEE is attached to this application Yes

14. Draft conditions:

Do you wish to see the draft conditions prior to the release of the resource consent decision? Yes No

If yes, please be advised that the timeframe will be suspended for 5 working days as per s107G of the RMA to enable consideration for the draft conditions.

15. 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 in full)

Lindsay Waller

Email:

Phone number:

Postal address:

(or alternative method of service under section 352 of the act)

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.

15. Billing details continued...

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: (please write in full)

Lindsay Waller

Signature:

(signature of bill payer)

[Signature]

Date 30/03/2026

MANDATORY

16. 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.

17. Declaration

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

Name (please write in full)

Michael Dyson

Signature

[Signature]

Date 30/3/26

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

See overleaf for a checklist of your information...

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)
- Details of your consultation with Iwi and hapū
- 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.

Estate of Susan Dyson
PROPOSED SUBDIVISION –
Convert Cross Lease to Fee simple
61 & 63 Hone Heke Road, Kerikeri
PLANNER'S REPORT &
ASSESSMENT OF ENVIRONMENTAL EFFECTS
Thomson Survey Ltd
Kerikeri

1.0 THE PROPOSAL

The applicant proposes to convert an existing cross lease (with two 'flats') to two fee simple titles. The property is fully developed with two residential units already established, with services. The two residences have two separate physical access points as well. In essence the two residential units are completely independent and it makes sense to move away from the cross lease situation to separate fee simple titles.

The proposal results in no additional demand for services as connections to each dwelling already exist. There is no need to create/upgrade any access as the two cross lease areas each have existing access, already formed.

A scheme plan is attached in Appendix 1. This shows proposed Lot 1, the equivalent of NA102C/372, with area 822m² and existing access directly off Hone Heke Road; and proposed Lot 2, the equivalent of NA102C/373 with an area of 1646m², with access via Lot 6 DP 106009, where the application site owns a portion of Lot 6 DP 106009.

It is proposed that two amalgamation conditions be imposed, as shown on the scheme plan in Appendix 1, whereby Lot 1 will retain a 1/9th share of Lot 6 DP 106009 and Lot 2 will take 2/9th share, just as the existing titles do.

The site is zoned Residential in the ODP. This provides for up to 50% total site area to be in impermeable surface, and up to 45% of total site area to be in buildings. Impermeable surface coverage has been calculated at 29% for Lot 1 and 26% for Lot 2. Adding in the shares of Lot 6 DP 106009 does not bring the total impermeable surface coverage above 50%.

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 land by way of converting an existing cross lease to fee simple title, as a controlled activity application. 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: 61 & 63 Hone Heke Road, Kerikeri. Location map attached in Appendix 2.

Legal description: Lot 1 DP 106009

Records of Title: NA102C/372 and NA102C/373. Copies of titles attached in Appendix 3.

3.0 SITE DESCRIPTION

3.1 Physical & Mapped characteristics

The properties are accessed off Hone Heke Road, just beyond Kerikeri High School if driving north. There are two existing residential dwellings, both serviced with connections to power, water, wastewater and stormwater.



Dwelling on Lot 1 at right of picture and dwelling on Lot 2 at left of picture.

The house on Lot 1, whilst owning a share of Lot 6 DP 106009, has its own metal driveway access directly off Hone Heke Road. The house on Lot 2 is accessed over sealed Lot 6 DP 106009 shared driveway, and then concrete driveway to the garage within Lot 2.

The site is level across its southern extent of both lots. It then slopes downwards in a northerly direction, culminating in the access lot and road reserve. The site features well established mixed species vegetation, particularly on its northern slopes (of both lots), with lawns.



Looking north down proposed new boundary line between lots

The site is not mapped as being subject to any natural hazard, with residential dwellings already in existence in any event.

3.2 Legal Interests on Titles

The cross lease arrangement sees Lot 2 having the majority of the land area (2/3rd share) of Lot 1 DP 106009. Lot 1 has the remaining 1/3rd share. As with all cross leases, each portion is subject to Land Covenants in Lease documentation because of sharing an underlying property.

Both existing titles are subject to, and have appurtenant right of way, over Lot 6 DP 106009 (access lot).

3.3 Consent History

The cross lease was created by RC 1950574, issued in 1995. The consent included Flat Plans (buildings already in existence).

Building consent history found on the property file shows BP1065060, for the dwelling on Lot 1. Lot 2's property file lists the following building consents:

- BP6070601, 1988 – dwelling and garage;
- BP2625, 1988 – garage;

BP6007569, 1992 – swimming pool;
BC-2003-1339, 2003 – carport;
BC-2005-1018, 2005, install septic tank;
EXM-2020-1023-, 2020 Notice of Exemption for building work – decommissioning of septic system (with property instead connecting up to Council's system).

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 Sections 3 and 5 of this Planning Report for existing activities within the site. The application is for subdivision only.
<i>(e) a description of any other resource consents required for the proposal to which the application relates:</i>	No other consents are required other than that being applied for 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.

Subdivision- convert cross lease to fee simple

<p>(3) An application must also include any of the following that apply:</p>	
<p>(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)):</p>	<p>Refer sections 3 and 5.</p>
<p>(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)):</p>	<p>There is no existing resource consent. Not applicable.</p>
<p>(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 of section 104(2B)).</p>	<p>The site is not within an area subject to a customary marine title group. Not applicable.</p>

Clause 4: Additional information required in application for subdivision consent

<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 5: Additional information required for application for reclamation – not applicable.

Clause 6: Information required in assessment of environmental effects

<i>(1) An assessment of the activity's effects on the environment must include the following information:</i>	
<i>(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:</i>	Refer to Section 6 of this planning report. The activity will not result in any significant adverse effect on the environment.
<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>(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:</i>	Not applicable as the application does not involve hazardous installations.
<i>(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:</i>	The subdivision does not involve any discharge of contaminant.
<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.
<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 effects does not warrant any.
<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</i>	No protected customary right is affected.

<i>(unless written approval for the activity is given by the protected customary rights group).</i>	
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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 7. The proposed activity will have no adverse effects on the physical environment and landscape and visual amenity 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 7. The proposal will result in no adverse effects in regard to habitat and ecosystems.
<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 7, and above comments
<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>	The subdivision site is not subject to natural hazards and does not involve hazardous installations.

5.0 ACTIVITY STATUS

5.1 Operative Far North District Plan

The site is zoned Residential, is a sewerred site, and has no resource features.

Subdivision Minimum Lot Sizes:

Table 13.7.2.1: Minimum Lot Sizes

(v) RESIDENTIAL ZONE

Controlled Activity Status (Refer also to 13.7.3)	Restricted Discretionary Activity Status (Refer also to 13.8)	Discretionary Activity Status (Refer also to 13.9)
The minimum lot sizes are 3,000m ² (unsewered) and 600m ²		The minimum lot sizes are 2,000m ² (unsewered) and 300m ²

(sewered).		(sewered)
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Both lots are in excess of 600m². The subdivision is a **controlled** subdivision activity.

Land Use – Zone Rules:

There is existing development within both lots. All buildings can comply with the 1.2m internal boundary setback, and 3m road setback. There is no breach of the Sunlight plane. There is no breach of impermeable or building coverage rules.

I have not identified any zone rule breaches resulting from the proposed subdivision.

District Wide Rules:

The site is not subject to rules in Chapter 12.1 (outstanding landscapes and features). No indigenous vegetation clearance is proposed or necessary so Chapter 12.2 is not relevant. On site earthworks related to giving effect to the subdivision are minimal as access already exists to the proposed new lot boundary. Compliance with Chapter 12.3 is assured.

Chapter 12.4 addresses coastal hazard in specific coastal communities, none of which are relevant to the application site. It also contains a rule requiring a 20m buffer setback distance from any residential unit and the dripline of any area of bush or scrubland. Both lots have existing residential dwellings (existing use rights).

The site does not contain any resources to which Chapter 12.5 (Heritage) applies.

Rule in Chapter 12.7 do not apply as there is no nearby water body.

There is no change to access as a result of the proposal and no breach of access rules accordingly.

I have not identified any land use consent requirement. Overall, therefore, the application remains a controlled activity.

5.2 Proposed Far North District Plan

The Proposed District Plan (PDP) was publicly notified on 27th July 2022. Whilst the majority of the PDP is yet to have legal effect, there are some rules that were given immediate legal effect at time of notification of the PDP.

In regard to district wide considerations in the PDP, the only rules in the Subdivision chapter that are marked as having immediate legal effect are those pertaining to Environmental Benefit Subdivisions (not applicable in this instance); Subdivision of a site within a heritage area overlay (again not applicable); Subdivision of a site that contains a scheduled heritage resource (again not applicable); Subdivision of a site containing a scheduled site and area

of significance to Maori (not applicable); and Subdivision of a site containing a scheduled SNA (not applicable).

There are two earthworks rules and associated standards in the PDP that have legal effect. However, no earthworks is required to give effect to this simple conversion from cross lease to fee simple.

In summary, I have not identified any rules in the PDP that have immediate legal effect and must therefore be considered in determining activity status for this proposal.

6.0 ASSESSMENT OF ENVIRONMENTAL EFFECTS

6.1 Allotment Sizes and Dimensions

The property is zoned Residential and is a sewerred site. The minimum lot size provided for in the ODP is 600m². In the case of this application, both lots are in excess of 600m² and both already built on. The lot sizes and dimensions are suitable for continued residential use.

6.2 Natural and Other Hazards

The site is not subject to any natural hazards and both proposed lots are already built on in any event.

6.3 Water Supply

The site is within a public water supply area and both houses are connected.

6.4 Energy Supply & Telecommunications

The sites have existing power supply.

6.5 Stormwater Disposal

The proposed development does not result in any breach of the zone's permitted impermeable surface coverage (50% total site area). Stormwater management relating to each stand alone dwelling and their access will continue to operate as it does now.

6.6 Sanitary Sewage Disposal

The site is within the Area of Benefit and has existing connections to Council's system.

6.7 Easements for any purpose

No easements are proposed for access or services and both lots have separate direct road frontage and services for each dwelling do not cross the other.

6.8 Property Access

Access to each dwelling will remain as is. Lot 1's house gets its access directly off Hone Heke Road via a metal driveway. Lot 2's dwelling utilises Lot 6 DP 106009 from Hone Heke Road and then has an already formed concrete driveway coming off the access lot to the house. This will remain the same.



Lot 1's driveway access to Hone Heke Road



Lot 2's concrete driveway where it meets the shared access lot that then leads out to Hone Heke Road

6.9 Building Locations

Buildings are existing on both proposed lots.

6.10 Preservation and enhancement of heritage resources (including cultural), vegetation, fauna and landscape, and land set aside for conservation purposes

The site is zoned Residential with no resource feature overlays. It contains no high or outstanding landscape or natural values, and no areas of significant indigenous vegetation or habitat. There is no land set aside for conservation purposes within the application site.

There are no listed or mapped Sites of Significance to Maori on the application site, nor any historic buildings, sites, notable trees or archaeological sites as mapped and/or listed in the District Plan or Far North Maps.

6.11 Soil

The site is residential with existing development. The proposal does not adversely impact on the life supporting capacity of soils.

6.12 Access to, and protection of, waterbodies

There are no qualifying water bodies to which access is required to be provided.

6.13 Land use compatibility (reverse sensitivity)

The site is zoned Residential and contains residential development, in an area dominated by that same land use. The proposal does not pose any risk of reverse sensitivity issues arising.

6.14 Proximity to Airports

The site is outside of any identified buffer area associated with the Bay of Islands Airport.

6.15 Natural Character of the Coastal Environment

The site is not within the Coastal Environment.

6.16 Energy Efficiency and renewable Energy Development/Use

Individual future lot owners may take the opportunity to install energy efficiency devices when they build.

6.17 National Grid Corridor

The National Grid does not run through the application site.

6.18 Effects on Character and Amenity

Both sites are already developed and the proposal has nil adverse effect on character and amenity.

7.0 STATUTORY ASSESSMENT

7.1 Weighting assessment

The Operative District Plan is the only plan with legal effect at time of lodgement of this application. However, the Council has indicated that it will soon be notifying its decisions on submissions to the PDP and recommends that applications include a weighting assessment in regard to the two district plans with legal effect.

In this instance this weighting assessment need not be comprehensive given that:

- (a) The ODP's Residential Zone and provisions and PDP's proposed General Residential Zone and provisions are very similar; and
- (b) The proposal is a conversion from cross lease to fee simple, with both proposed lots already fully developed and serviced.

Given the relative simplicity of the proposal I believe it highly likely to be issued prior to the PDP taking legal effect.

7.2 Far North District Plan Objectives and Policies

Objectives and policies relevant to this proposal are considered to be primarily those listed in Chapters 7.6 (Residential Zone); and 13 (Subdivision), of the District Plan. As a controlled activity, the proposed conversion from cross lease to fee simple is deemed to be entirely consistent with the relevant objectives and policies of the Operative District Plan (ODP).

Subdivision Objectives & Policies

Objective 13.3.1 is an enabling providing for "*the development of residential areas where the effects of activities permitted in the zone are compatible with sustainable development and with the existing character and amenity which is typically medium density residential living*". I consider the proposal to be consistent with the purpose of the zone and one that will promote sustainable development consistent with the existing character and amenity.

The proposal is appropriate for the site and does not adversely affect any of the matters listed in Objective 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. By proposing development on residential zoned land that is none of these things, the proposal is consistent with these objectives as it will not create any adverse effects on the values and character outlined in the two objectives.

Development is existing and the site is connected to the Council's reticulated water supply (Objective 13.3.5).

Subdivision- convert cross lease to fee simple

The site is not known to contain any sites of cultural significance to Maori, or wahi tapu (Objective 13.3.7 and Policy 13.4.11).

The site has existing power connections (13.3.8).

The subdivision makes efficient use of existing services (13.3.10).

The proposal has had regard to the matters listed in Policy 13.4.1, where relevant.

Access to the site is off existing public roads via existing driveways (13.4.2 and 13.4.5).

The site is not subject to any significant hazard (13.4.3).

The site is not known to contain any heritage resources and is not in the coastal environment. It does not contain any outstanding landscape of natural features (13.4.6).

The property is connected to Council's reticulated water supply (13.4.8).

S6 matters (National Importance) have been adequately considered. The proposal is an appropriate use of the site (13.4.13).

The subdivision has had regard to the underlying zone's objectives and policies, where relevant (13.4.14).

In summary, I believe the proposal to be consistent with the above Objectives and Policies.

Residential Zone Objectives and Policies

Objective 7.6.3.1 is not overly relevant as the proposed subdivision is within an established residential area. The subdivision is of a type, scale and intensity in keeping with the character and amenity of the area (7.6.3.2).

Policies 7.6.4.5 and 7.6.4.6 are relevant to land uses other than residential. The subdivision does not dictate future use of the site and the policies are therefore not relevant to the subdivision.

Policy 7.6.4.7 requires sufficient land to be available for a household unit and that unit's outdoor space, planting, parking and manoeuvring. Both lots contain existing built development.

Policy 7.6.4.8 requires that building and other impermeable surfaces only take up a limited portion of the site so as to provide for open space around buildings, and to provide for planting and to reduce adverse hydrological, ecological and amenity effects. Existing development on the lots already achieves this.

Policy 7.6.4.9 requires adequate access to sunlight and daylight. There are no breaches of the sunlight or setback rules as a result of this proposal. Policy 7.6.4.10 requires that provision be made to ensure a reasonable level of privacy for inhabitants of buildings. This is already

achieved to the degree it can be with an urban site. There is currently no boundary fence erected between dwellings, but one can be erected if residents desire.

7.3 Proposed District Plan (PDP)

The proposed lot sizes also comply with the PDP's controlled activity minimum lot size and as such the proposal is deemed consistent with the PDP's subdivision objectives and policies, especially given that both proposed lots support existing built development and sites are already serviced.

The site is zoned General Residential in the Proposed District Plan. Again, with no rule breaches, controlled activity status, and development already existing and serviced, the proposal is considered consistent with any relevant PDP General Residential Zone's objectives and policies.

7.4 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:*

Subdivision- convert cross lease to fee simple

- (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 s6 Matter of National Importance. The sites exist already and are fully developed.

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.*

Development is existing with two residential units already established on the site. Amenity values are maintained.

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.

7.5 National and Regional Policy Statements & Environmental Standards

I have not identified any relevant National Policy Statement of National Environmental Standard that is relevant to the proposal.

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.

8.0 CONSULTATION & S95 ASSESSMENT

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. None of these circumstances exist. Step 2 of s95A specifies the circumstances that preclude public notification. No such circumstance exists. Step 3 of s95A must therefore be considered. The application is not subject to a rule or national environmental standard that requires public notification. This report and AEE concludes that the activity will not have, nor is it likely to have, adverse effects on the environment that are more than minor. In summary public notification is not required pursuant to Step 3 of s95A.

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. No affected group of persons as listed in s95B exist in this instance. Step 2 of s95B specifies the circumstances that preclude limited notification. Neither circumstance exists and Step 3 of s95B must be considered. The application is not for a boundary activity. The s95E assessment below concludes that there are no affected persons to be notified.

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. No Written Approvals have been obtained from any adjacent property owner, and none are considered necessary given that this is basically a 'no change' situation. The proposal simply converts an existing cross lease development into a fee simple development, with no additional development.

9.0 CONCLUSION

The site is considered suitable for the proposed subdivision. Effects on the wider environment are, I believe, capable of remedy and mitigation through conditions of consent, such that they will be no more than minor. The proposal is considered consistent with the relevant objectives and policies of the Operative and Proposed District Plans, and relevant objectives and policies of the Regional Policy Statement, and consistent with Part 2 of the Resource Management. There is no District Plan rule or national environmental standard that requires the proposal to be publicly notified. I have not identified any affected persons.

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



Signed
Lynley Newport,
Senior Planner
Thomson Survey Ltd

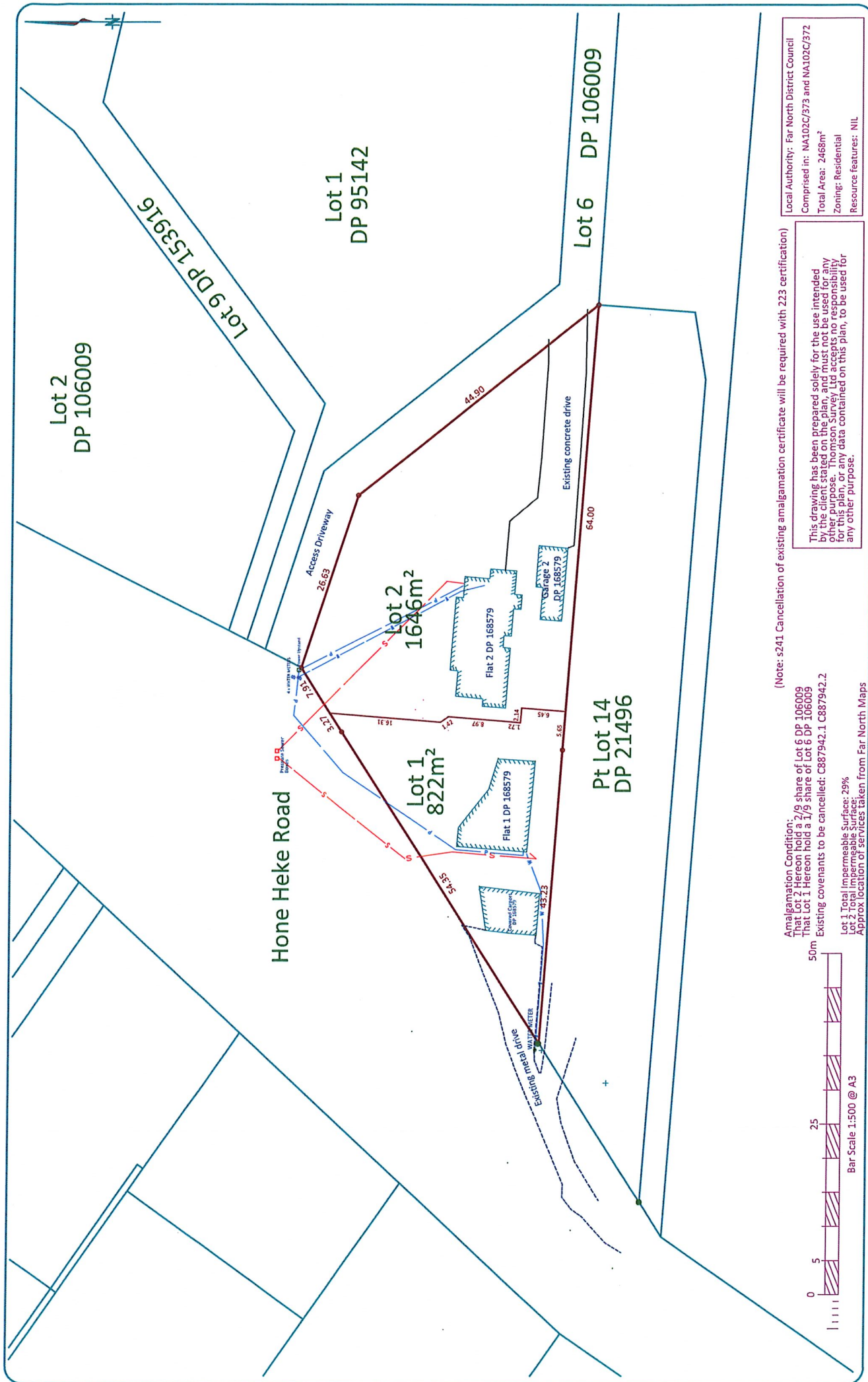
Dated 13 April 2026

10.0 LIST OF APPENDICES

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

Appendix 1

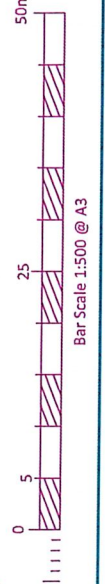
Scheme Plan(s)



(Note: s241 Cancellation of existing amalgamation certificate will be required with 223 certification)

Amalgamation Condition:
 That Lot 2 Hereon hold a 2/9 share of Lot 6 DP 106009
 That Lot 1 Hereon hold a 1/9 share of Lot 6 DP 106009
 Existing covenants to be cancelled: C887942.1 C887942.2

Lot 1 Total Impermeable Surface: 29%
 Lot 2 Total Impermeable Surface: 29%
 APPROX location of services taken from Far North Maps



Local Authority: Far North District Council
 Comprised in: NA102C/373 and NA102C/372
 Total Area: 2468m²
 Zoning: Residential
 Resource features: NIL

This drawing has been prepared solely for the use intended by the client stated on the plan, and must not be used for any other purpose. Thomson Survey Ltd accepts no responsibility for any data contained on this plan, to be used for any other purpose.

THOMSON SURVEY
 LIMITED
 Registered Land Surveyors, Planners & Land Development Consultants

315 Kerikeri Rd
 P.O. Box 372 Kerikeri
 Email: kerikeri@survey.co.nz
 Ph: (09) 4077360 Fax (09) 4077322

PROPOSED LEASEHOLD TO FREEHOLD TITLE SUBDIVISION OF LOT 1 DP 106009

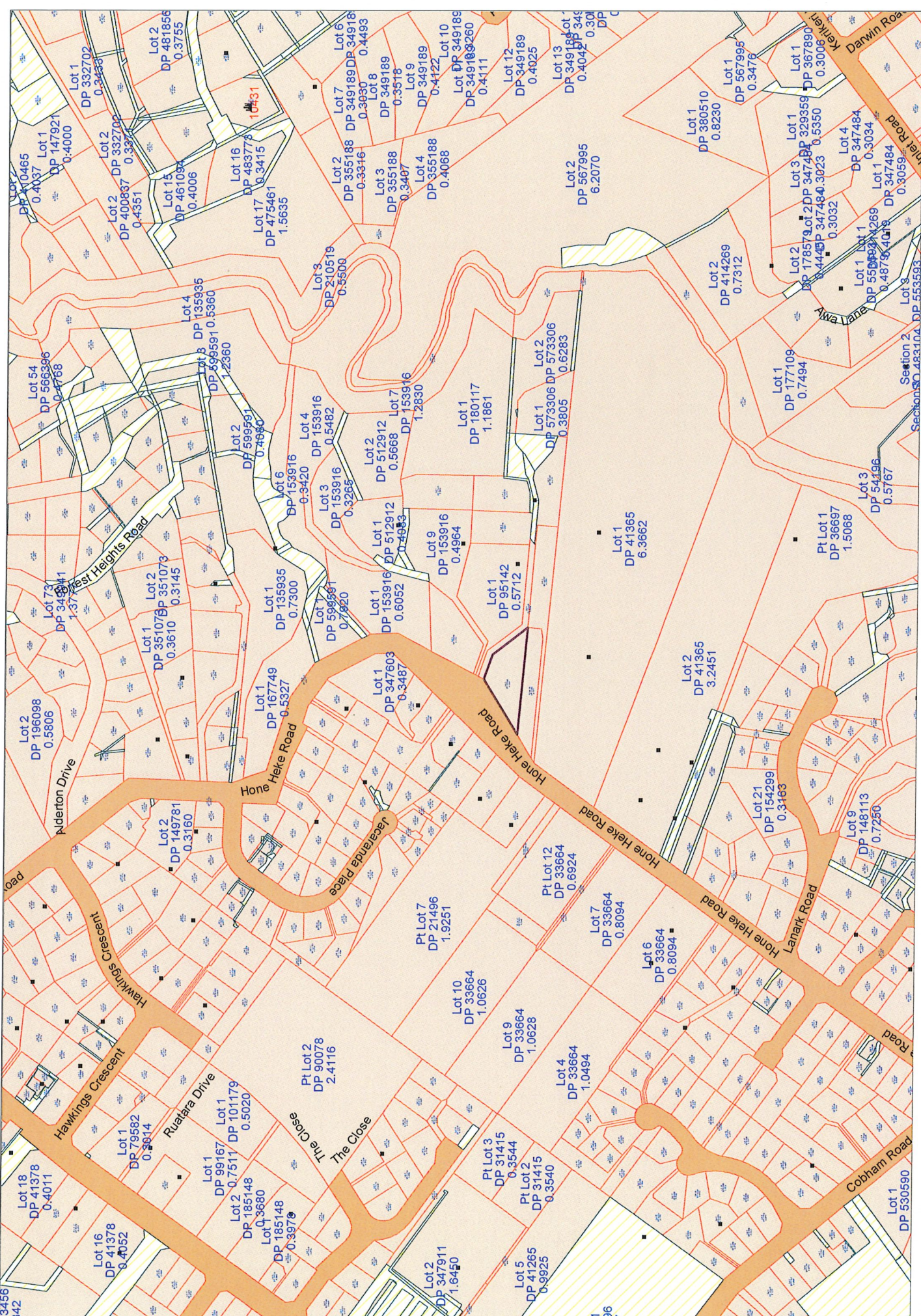
PREPARED FOR: DYSON

Survey	Name	Date	ORIGINAL
Design	MD	27/11/25	SCALE
Approved	MD	10/04/26	SHEET SIZE
Rev A	MD	10/04/26	1:500 A3

Surveyors Ref. No: 10490
 Series 10490
 Sheet of

Appendix 2

Location Plan



Any person wishing to rely on the information shown on this map must independently verify the information
Scale 1:5000 Topographical and Cadastral map derived from LINZ data. Printed: 20-Mar-2026 01:36.

Appendix 3

Record of Title & Relevant Instruments



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
CROSS LEASE**

Search Copy




R.W. Muir
Registrar-General
of Land

Identifier NA102C/372
Land Registration District North Auckland
Date Issued 30 August 1995

Prior References
NA59A/1018

Estate Fee Simple - 1/3 share
Area 2468 square metres more or less
Legal Description Lot 1 Deposited Plan 106009
Registered Owners
Michael Joe Dyson as Executor

Estate	Leasehold	Instrument	L C887942.1
		Term	999 years commencing on the 5th August 1995
Legal Description	Flat 1 Deposited Plan 168579 and Garage 1 Deposited Plan 168579		

Registered Owners
Michael Joe Dyson as Executor

Estate Fee Simple - 1/9 share
Area 942 square metres more or less
Legal Description Lot 6 Deposited Plan 106009
Registered Owners
Michael Joe Dyson as Executor

Interests

Subject to Section 308 (4) Local Government Act 1974 (Affects Fee Simple)

Subject to a right of way over part marked E on DP 106009 specified in Easement Certificate B083565.1 (Affects Lot 6 DP 106009) (Affects Fee Simple)

The easements specified in Easement Certificate 441969.3 are subject to Section 37 (1) (a) Counties Amendment Act 1961 Appurtenant hereto is a right of way specified in Easement Certificate B061336.2 (Affects Fee Simple)

Subject to a right of way over part marked E on DP 106009 specified in Easement Certificate B061336.2 (Affects Lot 6 DP 106009)(Affects Fee Simple)

The easements specified in Easement Certificate B061336.2 are subject to Section 309 (1) (a) Local Government Act 1974 B083565.1 Variation of the conditions of the easement specified in Easement Certificate 441969.3 (Affects Fee Simple)

B426544.2 Certificate pursuant to Section 321(3)(c) Local Government Act 1974) - 20.6.1985 at 9.07 am (Affects Fee Simple)

Subject to a right of way over part marked E on DP 106009 specified in Easement Certificate B426544.4 (Affects Lot 6 DP 106009) (Affects Fee Simple)

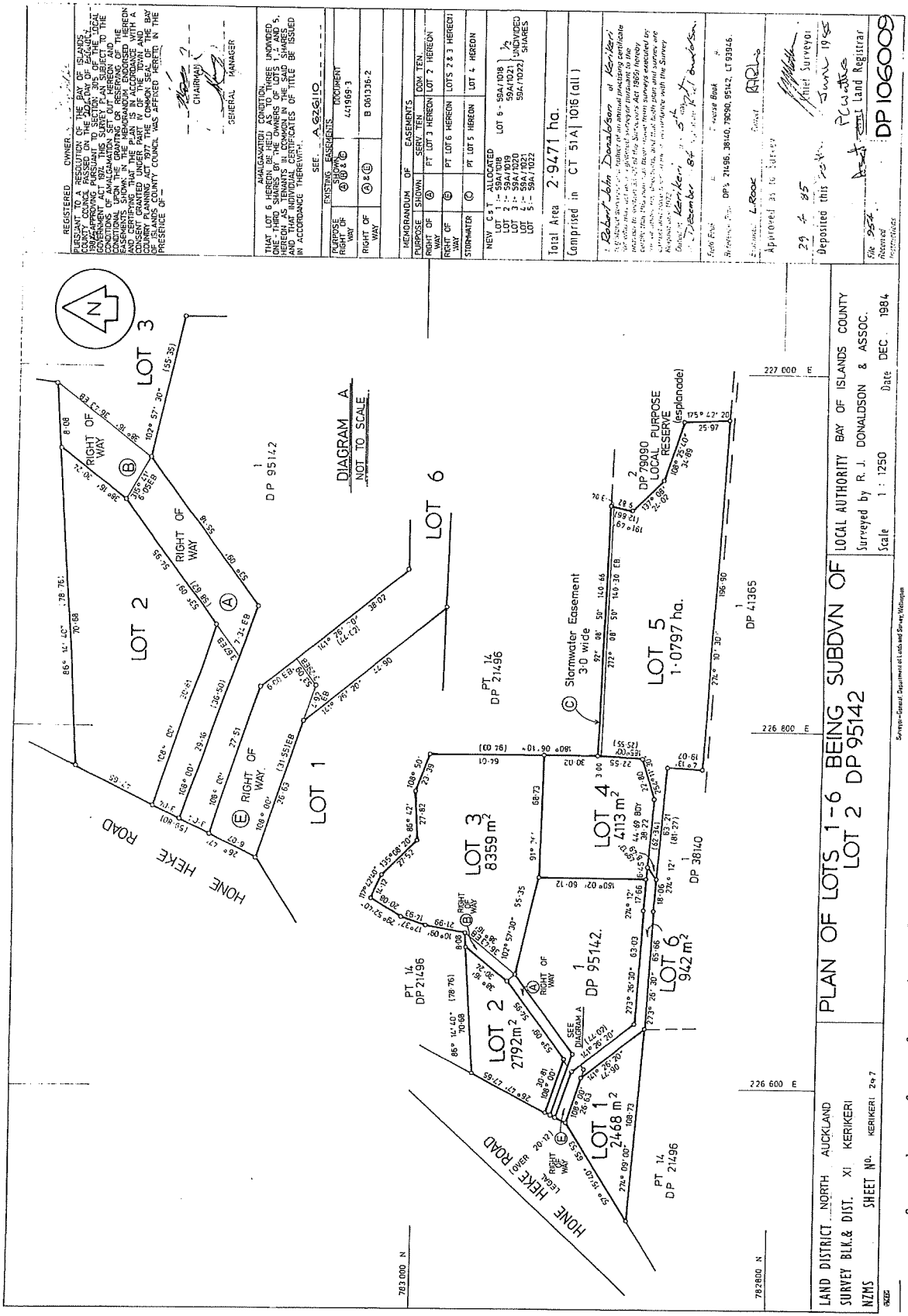
The easements specified in Easement Certificate B426544.4 are subject to Section 309 (1) (a) Local Government Act 1974 C887942.1 Lease of Flat 1 and Garage 1 DP 168579 Term 999 years commencing on the 5th August 1995 Composite CT NA102C/372 issued - 30.8.1995 (Affects Fee Simple)

Land Covenant in Lease C887942.1 - 30.8.1995 (Affects Fee Simple)

C887942.2 Lease of Flat 2 Composite CT NA102C/373 issued - 30.8.1995 (Affects Fee Simple)

Land Covenant in Lease C887942.2 - 30.8.1995 (Affects Fee Simple)

10823620.1 CAVEAT BY ANDREW DYSON - 21.6.2017 at 1:31 pm



REGISTERED OWNER: *[Signature]*
 CHAIRMAN
 GENERAL MANAGER

AMALGAMATED CONDITION THAT LOT 6 HEREON BE HELD AS TO THREE UNDIVIDED SHARES BY THE OWNERS OF LOTS 1, 2 & 3 HEREON AS TENANTS IN COMMON THE SAID SHARES AND THAT INDIVIDUAL CERTIFICATES OF TITLE BE ISSUED IN ACCORDANCE THEREWITH.

PURPOSE	EXISTING EASEMENTS	PROVISION
RIGHT OF WAY	(A) (B) (C) (D) (E)	44198-3
RIGHT OF WAY	(A) (B) (C)	B 001316-2

MEMORANDUM OF EASEMENTS	PURPOSE	SECTION	SERV TEN	DOM TEN
RIGHT OF WAY	(A)	PT LOT 3 HEREON	LOT 2 HEREON	
RIGHT OF WAY	(B)	PT LOT 6 HEREON	LOTS 2 & 3 HEREON	
STORMWATER	(C)	PT LOT 5 HEREON	LOT 4 HEREON	

NEW C S T ALLOCATED
 LOT 1 - 59A1108
 LOT 2 - 59A1109
 LOT 3 - 59A1120
 LOT 4 - 59A1102
 LOT 5 - 59A1103
 LOT 6 - 59A1104

Total Area 2.9471 ha.
 Comprised in CT 51A | 1016 (all)

Robert John Donaldson of Kerikeri
 Surveyor
 Approved as to Survey
 29 4 85
 Deposited this 24th June 1985
 R. J. Donaldson
 Land Registrar
 DP 106009

INCHES 0 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20
 CENTIMETRES 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
CROSS LEASE**

Search Copy




R.W. Muir
Registrar-General
of Land

Identifier NA102C/373
Land Registration District North Auckland
Date Issued 30 August 1995

Prior References
NA59A/1018

Estate Fee Simple - 2/3 share
Area 2468 square metres more or less
Legal Description Lot 1 Deposited Plan 106009
Registered Owners
Lindsay John Waller and Bernadette Therese Waller

Estate	Leasehold	Instrument	L C887942.2
		Term	999 years commencing on the 5th August 1995
Legal Description	Flat 2 Deposited Plan 168579 and Garage 2 Deposited Plan 168579		

Registered Owners
Lindsay John Waller and Bernadette Therese Waller

Estate Fee Simple - 2/9 share
Area 942 square metres more or less
Legal Description Lot 6 Deposited Plan 106009
Registered Owners
Lindsay John Waller and Bernadette Therese Waller

Interests

Subject to Section 308 (4) Local Government Act 1974 (Affects Fee Simple)

Subject to a right of way over part marked E on DP 106009 specified in Easement Certificate 441969.3 (Affects Lot 6 DP 106009) (Affects Fee Simple)

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B426544.2 Certificate pursuant to Section 321(3)(c) Local Government Act 1974 - 20.6.1985 at 9.07 am (Affects Fee Simple)

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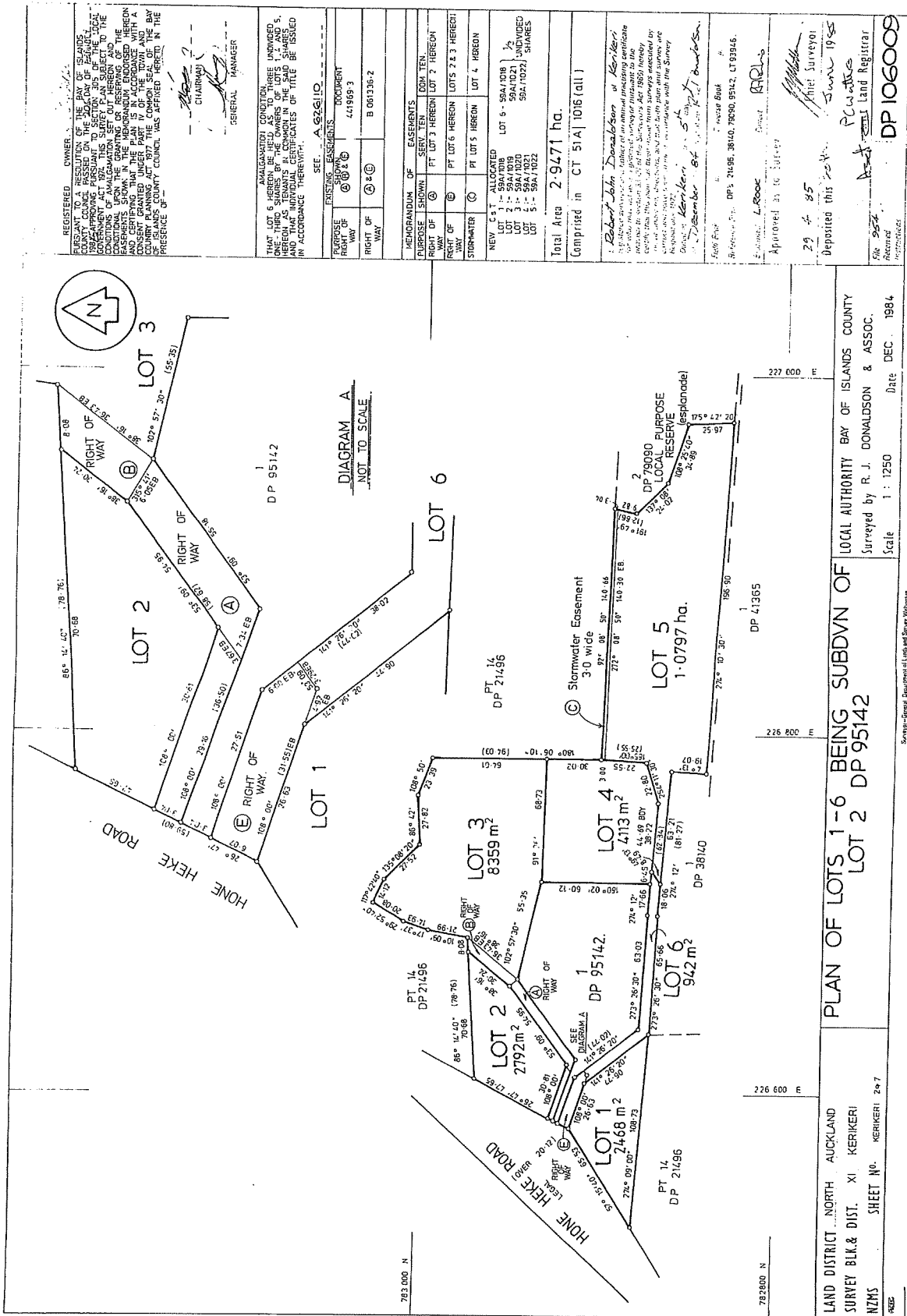
Land Covenant in Lease C887942.1 - 30.8.1995 (Affects Fee Simple)

Land Covenant in Lease C887942.2 - 30.8.1995 (Affects Fee Simple)

C887942.2 Lease of Flat 2 and Garage 2 DP 168579 Term 999 years commencing on the 5th August 1995 Composite CT NA102C/373 issued - 30.8.1995 (Affects Fee Simple)

10048394.1 Mortgage to Westpac New Zealand Limited - 5.5.2015 at 9:52 am

10925617.5 Variation of Mortgage 10048394.1 - 9.10.2017 at 2:52 pm



REGISTERED OWNER: THE BAY OF ISLANDS COUNTY COUNCIL PASSED ON THE 20th DAY OF SEPTEMBER 1984 RESOLUTION NO. 100 APPROVING PURSUANT TO SECTION 105 OF THE LOCAL GOVERNMENT ACT 1974 THE SUBDIVISION OF THE LOCAL AUTHORITY BAY OF ISLANDS COUNTY SURVEYED BY R. J. DONALDSON & ASSOC. INTO SIX LOTS IN ACCORDANCE WITH THE CONDITIONS OF AMALGAMATION SET OUT HEREON AND THE MEMORANDUM OF AGREEMENT AND CERTIFYING THAT THE PLAN IS IN ACCORDANCE WITH A COUNTY PLANNING ACT 1977 THE LOCAL GOVERNMENT ACT 1974 AND THE LAND ACT 1980. THE LOCAL GOVERNMENT ACT 1977 THE LOCAL GOVERNMENT ACT 1974 AND THE LAND ACT 1980. THE LOCAL GOVERNMENT ACT 1977 THE LOCAL GOVERNMENT ACT 1974 AND THE LAND ACT 1980.

AMALGAMATION CONDITION THAT LOT 5 HEREON BE HELD AS TO THREE UNDIVIDED SHARES IN COMMON BY THE REGISTERED OWNERS OF LOTS 2, 3 AND 4 HEREON AND THAT INDIVIDUAL CERTIFICATES OF TITLE BE ISSUED IN ACCORDANCE THEREWITH.

SEE: A 925/10

EXISTING EASEMENTS: 441909 3

RIGHT OF WAY: 4 & 5 B 061336 2

MEMORANDUM OF AGREEMENTS	
PURPOSE SHOWN	SEVEN TEN DOM TEN
RIGHT OF WAY	PT LOT 3 HEREON LOT 2 HEREON
STOPWATER	PT LOTS 6 HEREON LOTS 2 & 3 HEREON
NEW C&T ALLOCATED	LOT 5 - 584/1018 1/2
	LOT 2 - 584/1018 1/2
	LOT 3 - 584/1020 1/2
	LOT 4 - 584/1021 1/2
	LOT 5 - 584/1022 1/2
	LOT 6 - 584/1023 1/2
	UNDIVIDED SHARES
Total Area	2.9471 ha.
Comprised in	CT 51A 1016 (all)

APPROVED BY: R. J. DONALDSON & ASSOC. (Signature)

DATE: 29.4.85

DEPOSITED THIS 29th DAY OF APRIL 1985

FILE NO. 584/1018

REGISTERED BY: R. J. DONALDSON & ASSOC.

DP 106009

LAND DISTRICT NORTH AUCKLAND SURVEY BLK & DIST. XI KERIKERI NZMS SHEET NO. KERIKERI 297

PLAN OF LOTS 1-6 BEING SUBDIVN OF LOCAL AUTHORITY BAY OF ISLANDS COUNTY SURVEYED BY R. J. DONALDSON & ASSOC. Scale 1:1250 Date DEC. 1984

INCHES 0 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20

CENTIMETRES 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20

B083565.1 VE
ANZ BANKING GROUP (NEW ZEALAND) LIMITED
CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

DEREK ROBERT ENGLAND

AUCKLAND

I, of in

New Zealand, **AREA MANAGER** for ANZ Banking Group
(New Zealand) Limited, hereby certify:—

1. THAT by deed dated the 13th day of November, 1979 copies of which are deposited in the Land Transfer Offices at:—

AUCKLAND	AS No.	696757	HOKITIKA	AS No.	057010
BLenheim		96972	INVERCARGILL		052479.1
CHRISTCHURCH		251971.1	NAPIER		372018.1
DUNEDIN		526566	NELSON		200451
GISBORNE		133407.1	NEW PLYMOUTH		263122
HAMILTON		H262523	WELLINGTON		293856.1


I was appointed Area Attorney of ANZ Banking Group (New Zealand) Limited incorporated in New Zealand and having its head office at Wellington, Bankers, on the terms and subject to the conditions set out in the said deed.

2. THAT at the date hereof I have not received any notice or information of the revocation of that appointment by the winding up or dissolution of the said ANZ Banking Group (New Zealand) Limited or otherwise.

SIGNED at **AUCKLAND**this

day of

18 JUN 1982


AREA MANAGER

19

*Form Approved
 Phil M. Phil
 2-4-82*

MEMORANDUM OF VARIATION OF EASEMENT

The terms, covenants and conditions contained or implied in the Easement created by Memorandum of Transfer No. 362184.1 are hereby varied as follows:

i) The exercise of the right of way set forth herein by the registered proprietors of the dominant tenement for the time being shall be conditional upon the cost of maintaining and repairing the carriageway marked A on Lot 1 D.P. 79090 being borne by the said registered proprietors ~~in a share as~~ shall be reasonable having regard to the usage by the registered proprietors their tenants servants agents and visitors

AND

any dispute as to the liability of the registered proprietors of the dominant and servient tenements under this easement shall be determined by arbitration under the provisions of the Arbitration Act 1908 or any statutory modification thereof for the time being in force.

SIGNED by)
 WILLIAM OSWALD HAIGH and)
 DENISE WINIFRED HAIGH)
 as registered proprietors)
 of the dominant tenement)
 in the presence of)

*W. Oswald Haigh
 Denise Winifred Haigh J.P.
 Access Road KOKIKIARI
 dated 25/5/82*

SIGNED by)
 DONALD CLIFFORD FASHER)
 and JOYCE IDA FASHER)
 as registered proprietors)
 of the servient tenement)
 in the presence of)

*D. C. Fasher
 J. S. Fasher J.P.
 Pot. 6. 12/5/82*

on the 27th day of May 1982

I, ELAINE CECELIA HAIGH the mortgagee under and by virtue of memorandum of Mortgage No. 927507.3 (North Auckland Registry) do hereby consent to the within Variation of Easement but without prejudice to my rights and remedies under the said mortgage

SIGNED by ELAINE CECELIA HAIGH)
 as mortgagee in the presence of:)

*Elaine C. Haigh
 on the 27th day of May 1982*

11.13

11.13 09 JUL 82 B083565
PARTICULARS ENTERED IN REGISTER
LAND REGISTRY AUCKLAND
ASSI. LAND REGISTRAR

WE, IVAN BERTRAM JURISS and SONIA ELIZABETH JURISS
the mortgagees under and by virtue of memorandum of
Mortgage No. 927507.2 (North Auckland Registry) do
hereby consent to the within Variation of Easement but
without prejudice to my rights and remedies under the
said mortgage

SIGNED by IVAN BERTRAM JURISS
and SONIA ELIZABETH JURISS
as Mortgagees in the presence of:)

I. B. Juriss
Sonia Elizabeth Juriss
S. E. Juriss

[Signature]
Remuera Post Office
dated 8th June, 1982.

SUPERVISOR, POST OFFICE, REMUERA.
(AN OFFICER AUTHORISED TO TAKE AND
RECEIVE STATUTORY DECLARATIONS).

SIGNED by PETER JAMES PEDLEY GEORGETTI)
and JENNIFER ACTON GEORGETTI as)
registered proprietors of the servient)
tenement in the presence of:)

P. Pedley
J. Acton

[Signature]
Postmaster
20 Neville St
Warkworth



ANZ Banking Group (New Zealand) Limited the Mortgagee under and by virtue of Memorandum of Mortgage No. B061336/F (North Auckland Registry) do hereby consent to the within Variation of Easement but without prejudice to its rights and remedies under the said Mortgage.

Signed by
ANZ BANKING GROUP (NEW ZEALAND) LIMITED
by its Attorney **DEREK ROBERT ENGLAND** on the 18th day of June 1982
in the presence of

Macmoran
Bank Officer
Auckland

ANZ Banking Group (New Zealand) Limited
By its Attorney

[Signature]

AREA MANAGER

11:13
9 July 82
Asst. Land Registrar
[Signature]
DISTRICT LAND REGISTRY
8083565.1F



B061336.2 EC

Approved by the District Land Registrars: North Auckland 4221/75, South Auckland H.008116/1974, Canterbury 957768, Marlborough 75776, Gisborne 112239.9, Hawkes Bay 303051, Taranaki 217464.1, Wellington A038045, Westland 45629.

M/C

EASEMENT CERTIFICATE

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

K WE, DONALD CLIFFORD FASHER of Kerikeri Boundary and 48 No. 1 *****\$0.00
JOYCE IDA FASHER his wife NEW ZEALAND STAMP DUTY AKS

being the registered proprietor 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 Auckland on the day of 19 under No. 95142 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.**

N.B. On no account should this margin be used

N.B. On no account should this margin be used

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	Lot 2 DP 95142 C/T 51A/1016	Marked A	Lot 1 DP 95142	51A/1015
Right of Way	Lot 1 DP 95142 C/T 51A/1015	Marked C	Lot 2 DP 95142	51A/1016
Right of Way	Lot 1 DP 95142 C/T 51A/1015	Marked D	Lot 2 DP 95142	51A/1016
Right of Way	Lot 2 DP 95142 C/T 51A/1016	Marked E	Lot 1 DP 95142	51A/1015
LOTS 1 AND 2 DP 95142 BEING HERETOFORE ALL CERTIFICATE OF TITLE VOLUME 35A FOLIO 146				

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:

N.B. On no account should this margin be used

N.B. On no account should this margin be used

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

(i) The exercise of the rights of way set forth herein by the registered proprietors of the dominant tenements for the time being shall be conditional upon the cost of maintaining and repairing the carriage way marked A, C, D, and E on Deposited Plan 95142 being borne by the said registered proprietors in such shares as shall be reasonable having regard to the usage by the respective registered proprietors their tenants servants agents and visitors

AND

Any dispute as to the liability of the parties under this covenant shall be determined by arbitration under the provisions of the Arbitration Act 1908 or any statutory modification thereof for the time being in force

(ii) no power is implied in respect of the easements herein mentioned for the registered proprietors of the servient tenements to determine those easements for any breach of covenant or condition (whether expressed or implied) or for any other cause whatsoever it being the intention of the parties that the easements shall subsist unless surrendered with the prior consent of the Bay of Islands County Council in terms of the Local Government Act 1974

N.B. On no account should this margin be used

N.B. On no account should this margin be used

Dated this 14th day of April 19 82

Signed by the above-named

DONALD CLIFFORD FASHER

and JOYCE IDA FASHER

in the presence of

Witness

Occupation

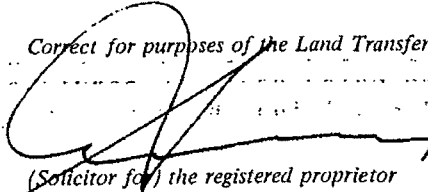
Address

223 TAUPETI RD.
TURANGI.

EASEMENT CERTIFICATE

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

Correct for purposes of the Land Transfer Act



(Solicitor for) the registered proprietor

N.B. On no account should this margin be used

N.B. On no account should this margin be used

Particulars entered in the Register as shown in the schedule of land herein on the date and at the time stamped below

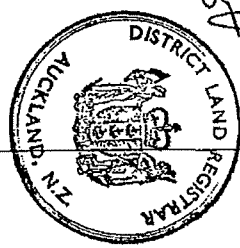
District Land Registrar
Assistant
of the District of



11 10 02 04 MAY 82 B 061336.20
PARTICULARS ENTERED IN REGISTER
LAND REGISTRY AUCKLAND

ASST. LAND REGISTRAR

SIR 10/16/82/15



B426544.4 EC

Approved by the District Land Registrar, South Auckland No. 351560
Approved by the District Land Registrar, North Auckland, No. 4380/81
Approved by the Registrar-General of Land, Wellington, No. 436748.1/81

EASEMENT CERTIFICATE

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

XXWe DONALD CLIFFORD FASHER of Kerikeri, Builder and
JOYCE IDA FASHER his wife

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 North Auckland on the day of 19 85 under No. 106009 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.

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	Part Lot 3 Plan 106009	"A"	Lot 2 Plan 106009	59A/1019
Right of Way	Part Lot 6 Plan 106009	"E"	Lots 2 and 3 Plan 106009	59A/1019 59A/1020
Right to Drain Water	Part Lot 5 Plan 106009	"C"	Lot 4 Plan 106009	59A/1021

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:

Nil

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

Nil

Dated this 31st day of May 19 85
Signed by the above-named
DONALD CLIFFORD FASHER and
JOYCE IDA FASHER

in the presence of

Witness
Occupation
Address

[Handwritten signature]
[Handwritten signature]
[Handwritten signature]

[Handwritten signature]
[Handwritten signature]

EASEMENT CERTIFICATE

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

Correct for the purposes of the Land Transfer Act

Solicitor for the registered proprietor

The within easements will, when created, ~~not~~ be subject to Section 309(1)(a) local Government act 1974

*P Watters
ALD
20/6/1985*

9.07 20 JUN 85 B 226544 4
PARTICULARS ENTERED IN REGISTER
LAND REGISTRY AUCKLAND
ASST. LAND REGISTRAR *P Watters*

170 copy.



HIBBITT ELLIOTT,
SOLICITORS, TAUPO.

MEMORANDUM OF LEASE

IN CONSIDERATION of payment of the rent the Lessors lease to the Lessee and the Lessee accepts on lease the flat to be held by the Lessee as lessee and subject to the restrictions conditions and covenants set out in this Lease.

Any term which corresponds to a heading in Schedule A shall where the context requires or admits mean and include the information and particulars which are inserted against that heading in Schedule A.

CONDITIONS

The parties agree that:

- I The covenants conditions and agreements as set out in Schedules A, B, C and D inclusive form part of this Lease.
- II If the heading "staged development area" in Schedule A has been completed then the covenants conditions and agreements set out in Schedule E form part of this Lease.
- III If neither sub-clause (a) nor sub-clause (b) has been deleted in clauses 6, 12, 19 and 22, then sub-clause (a) of such clauses shall form part of this Lease and sub-clause (b) shall not.
- IV If the Lessors are proprietors of a leasehold estate in the land then the covenants conditions and agreements set out in Schedule F shall form part of this Lease.
- V In this lease except where the context does not permit:
 - (a) The expression "the Lessors" shall include and bind:
 - (i) the persons executing this lease as Lessors; and
 - (ii) all the Lessors for the time being under it; and
 - (iii) all the respective executors, administrators, successors, assigns and successors in title of each Lessor and if more than one jointly and severally.
 - (b) The expression "the Lessee" shall include and bind:
 - (i) the person executing this lease as Lessee; and
 - (ii) all the Lessees for the time being under it; and
 - (iii) all the respective executors, administrators, successors, assigns and successors in title of each Lessee and if more than one jointly and severally.
 - (c) The expression "a majority of the Lessors" means any number of Lessors for the time being who together own more than an undivided one-half share in the land.
 - (d) The expression "any building on the Land" means each and every building for the time being erected on the Land.
 - (e) The expression "development work" means all or any of the following:
 - (i) the erection of any new dwelling unit or units on the staged development area;
 - (ii) the erection of any garage and any other buildings normally appurtenant to or associated with any dwelling unit on the staged development area;
 - (iii) installation on the common area of any services required for any of the foregoing;
 - (iv) installation on any restricted area of any services required for any of the foregoing.
 - (v) any activities required for the carrying out of the foregoing including the passage of contractors, motor vehicles, machinery and equipment along the common area and the use of motor vehicles, machinery and equipment on the common area, and where necessary, any restricted area.
 - (f) Words importing one gender shall include the other gender.
 - (g) Words importing the singular or plural number shall include the plural or singular number respectively.
 - (h) The clause headings shall not form part of this lease and shall have no bearing on the construction or interpretation of it.
 - (i) All covenants are joint and several.

SCHEDULE B (LESSEES COVENANTS)

THE LESSEE COVENANTS WITH THE LESSORS:

1. **PAYMENT OF RENT**
To pay the rent in the manner and at the times provided.
2. **PAYMENT OF EXPENSES**
Upon demand in writing by the Lessors or their agents to pay to the Lessors or a person nominated by them or a majority of them:
 - (a) The whole of the costs and expenses properly incurred by the Lessors in respect of the flat.
 - (b) A land share of all costs and expenses properly incurred by the Lessor in respect of the land including any costs and expenses incurred pursuant to clauses 16(a) and 16(b) hereof.
 - (c) The whole of the cost of any repairs or work to any part of any building on the land, the electrical and plumbing equipment, drains or other amenities serving it or in respect of any part of the land if the repairs or work are necessary or required as a result of any wilful or negligent act of the Lessee or the Lessee's servant, agents or invitees or any person residing in the flat.
3. **RESTRICTIONS ON USE**
 - (a) To use the flat for residential purposes only. The Lessee will not do or suffer to be done any act, matter or thing which is or may be an annoyance, nuisance, grievance or disturbance to the other lessees or occupants of any building on the land.
 - (b) Not to bring into or keep on the land or in the flat any pet or animal which may unreasonably interfere with the quiet enjoyment of the other lessees or occupants of any building or which may create a nuisance.
4. **NOT TO CREATE FIRE OR OTHER HAZARDS**
 - (a) Not to bring into or keep in the flat any goods or any substance of a dangerous or combustible nature.
 - (b) Not to do or permit to be done anything (including the unauthorised use of light or power fittings) which may render an increased premium payable for any insurance cover on any part of any building on the land or which may make void or voidable any insurance cover.
5. **TO COMPLY WITH STATUTES**
Not to use the flat for any illegal purposes and to comply with all statutes, regulations and by-laws of any local authority in so far as they affect the flat.
6. **MAINTENANCE OF EXTERIOR AND INTERIOR BY LESSEE**
 - (a) At the Lessee's own cost and expense to keep and maintain in good order, condition and repair both the interior and exterior of the flat including any electrical and plumbing equipment, drains, roof, spouting, downpipes and other amenities exclusively serving the flat. Where any part of the flat or the electrical and plumbing equipment, drains, or other amenities serving the flat also relate to or serve any other flat erected on the land then they shall be maintained in good order condition and repair by the lessee together with the lessees of the other flats to which they relate or which are served by them and the cost of so doing shall be borne by the lessee and the lessees of such other flats in such shares as may be fair and reasonable having regard to the use and benefit derived from that equipment, drain or amenity.

OR

 - (b) At the Lessee's own cost and expense to keep and maintain in good order, condition and repair the interior of the flat (including the doors, windows and fittings of any kind but not any part of the structure, framework or foundations) together with any electrical and plumbing, equipment and any drains exclusively relating to or serving the flat.
7. **TO KEEP COMMON AREAS CLEAR AND TIDY**
 - (a) Not to leave or place in the passageways or stairways (if any) of any buildings on the land or in any parking area, driveway, turning area or in the grounds surrounding any building on the land, any obstructions of any kind.
 - (b) Not to deposit any refuse or rubbish on any part of any buildings on the land or grounds except in proper containers and in the area set aside for that purpose by the Lessors.
 - (c) Not to park or leave any vehicle or other thing on any part of the land so as unreasonably to obstruct its use by any other lessee or persons lawfully entitled to use it and not to permit or suffer any servant, agent or visitor of the Lessee to do so.
8. **TO PAY FOR SERVICES TO FLAT**
Duly and punctually to pay all charges for water, electricity, gas or other supplies or services relating solely to the flat.
9. **NOT TO MAKE ANY STRUCTURAL ALTERATIONS OR ADDITIONS TO THE FLAT**
 - (a) Not to erect on any part of the land any building, structure or fence, nor to alter, add to or extend any existing building on the land without the prior written consent of the Lessors. Such consent shall not be unreasonably or arbitrarily withheld.
 - (b) If any addition or alteration proposed by the Lessee shall have the effect of altering the external dimensions of the flat, the Lessee shall upon receiving the Lessors' consent prepare and have deposited in the Land Transfer Office at the Lessee's own cost a flat plan of the alterations or additions and upon deposit of the plan, surrender this lease and execute a new lease in substitution therefore. The Lessors shall at the Lessee's cost execute such surrender of lease and the new lease in substitution therefore and the Lessee shall thereupon forthwith register the same. The cost of obtaining any necessary mortgagees' consents shall be borne by the Lessee.
10. **USE OF RESTRICTED AND COMMON AREAS**
Not without the written consent of the Lessors to use or enjoy, in any way, any part of the said land except:
 - (a) the flat,
 - (b) that part of the land relating to the flat marked or shown as restricted area,
 - (c) that part of the land marked or shown as common area on the flat Deposited Plan, but only for the purposes of access for vehicles or pedestrians.
11. **PRESERVATION OF LESSEES RESTRICTED AREA**
To keep, at all times all that part of the said land and all amenities thereon relating to the flat marked or shown as restricted area, in a neat and tidy condition and in good repair.
12. **SEPARATE INSURANCE EFFECTED BY LESSEE**
 - (a) To effect and at all times keep current, in the joint names of the Lessors and Lessee for their respective rights and interests, a separate replacement insurance policy (including fire, earthquake and flood risks) for the flat and its appurtenant amenities.

OR

 - (b) To pay to the Lessors or a person nominated by them or by a majority of them a land share of the premium and other moneys payable in respect of the policy of insurance to be affected by the Lessors under Clause 19. In any case where by arrangement between the Lessors and the insurance company the premium in respect of each flat on the land is assessed and payable separately, to pay the separate premium whenever it is due direct to the insurance company and if and whenever required by the the Lessors to produce to the Lessors the receipt for that premium.
13. **PAYMENT OF RATES**
To pay all charges and rates separately levied in respect of the flat and the Lessee's undivided share in the fee simple of the land provided that if no separate charges or rates are so charged or levied then the Lessee will pay to the Lessors a land share of the charges and rates charged or levied in respect of the whole of the said land, and any buildings on the land.
14. **LESSEE'S OWNERSHIP OF SHARE IN THE LAND**
To remain the owner of the land share in land while the Lessee continues to be a Lessee under this Lease. If the Lessee (unless expressly authorised to do so) deals with either the Lessee's interest in the flat or his interest in the land in such a manner that the flat and the land are not owned by the same person then this Lease shall immediately determine but without discharging the Lessee from payment of any moneys owing by the lessee or releasing the lessee from any liability arising from any breach previously committed by the lessee. This clause does not apply to the first Lessee under this Lease.

SCHEDULE C (LESSORS COVENANTS)

THE LESSORS COVENANT WITH THE LESSEE:

15. **QUIET ENJOYMENT**
Provided that the Lessee shall perform and observe all and singular the covenants and conditions on the lessee part contained and implied in this lease the Lessee shall quietly hold and enjoy the flat without any interruption by the Lessors or any person claiming under them.
16. **MAINTENANCE BY THE LESSORS**
 - (a) To keep in good order, repair and condition:
 - (i) Such part of any buildings on the land including the electrical and plumbing equipment, drains, roofs, spouting, downpipes and other amenities as are not the responsibility of any lessee, under any of the leases granted in respect of any flat on the land.
 - (ii) Such parts of the land including the grounds, paths, driveways, fences, swimming pools and other common amenities as are not the responsibility of any lessee, under any of the leases granted in respect of any flat on the land.
 - (b) And to manage and maintain to a high standard all those parts of any buildings and land which are not the responsibility of any lessee. In the performance of this covenant, the Lessors or their agents have the right if necessary to enter any flat or any part of the said land to carry out any work upon giving reasonable notice to the Lessee.
17. **LEASE OF OTHER FLATS**
 - (a) To lease any other flats on the land only on terms similar mutatis mutandis to those set forth in this lease.
 - (b) Whenever called upon by the Lessee to do so, to enforce the due performance and observance by the Lessee of any other flat of all obligations cast on that lessee by the lease of that other flat. For that purpose, the Lessors irrevocably appoint the Lessee for the time being their attorney and in their name to do all such acts and things and in particular but not in limitation to serve notices and institute proceedings necessary for the proper compliance by the Lessors with the obligations cast on them by this clause.

SCHEDULE D

(MUTUAL COVENANTS)

AND IT IS HEREBY COVENANTED AND AGREED BY AND BETWEEN THE LESSORS AND EACH OF THEM AND BY AND BETWEEN THE LESSORS AND THE LESSEE:

18. DETERMINATION OF LEASE FOR DEFAULT

If and whenever the Lessee commits any breach or makes any default in the observance or performance of any of the covenants, conditions and restrictions contained in this Lease and does not remedy that breach or default in all respects within two months of the date of receipt by the Lessee of written notice from the Lessors (other than the Lessee) specifying such breach or default then it shall be lawful for the Lessors to re-enter the flat or any part of it in the name of the whole and to determine this lease and the estate and interest of the Lessee under it and to expel and remove the Lessee but without releasing him from any liability for any previous breach, non-observance or non-performance of any of the covenants, conditions and restrictions contained or implied in the lease. Any forfeiture or determination shall be void and of no effect unless a copy of the notice specifying the breach or default by the Lessee has been served on every mortgagee of this Lease if the Lessors have actual notice of the address of the mortgagee before or within seven days after the date of service of the notice on the Lessee.

19. REINSTATEMENT BY LESSEE (where Clause 12(a) applies)

(a) if the flat is destroyed by any cause whatsoever during the term of the lease the Lessee shall with all reasonable despatch repair and make good that destruction or damage to the reasonable satisfaction of the Lessors, or any majority of them. The cost of so doing shall be borne by the Lessee. If any part of any building on the land not held by a lessee pursuant to any lease is damaged or destroyed then the Lessors shall with all reasonable despatch repair and make good such damage or destruction. The Lessee shall bear a land share of the cost thereof.

(b) REINSTATEMENT BY THE LESSORS (where Clause 12(b) applies)

The Lessors shall in the name of the Lessors and the Lessee for their respective rights and interests insure and keep insured all buildings on the land against fire, flood and earthquake and such other risks as are normally covered by a prudent owner for the full amount available under a replacement policy and (subject to reimbursement by the Lessee as set forth in Clause 12(b)) shall pay the premiums on that policy as they become due. If any of the buildings are damaged or destroyed from any cause whatever the Lessors shall with all reasonable despatch repair and make good any damage or destruction. If the moneys received under any policy or insurance are insufficient to repair and reinstate the buildings then the Lessee will bear a land share of the insufficiency unless the damage or destruction was caused by the negligence of one or more of the Lessors in which case the insufficiency shall be borne by that party or parties.

20. RESTRICTION ON LESSORS' USE

The Lessors, other than the Lessee, will not during the term hereby created be entitled to use occupy or enjoy the restricted area TO THE INTENT that the foregoing restrictive covenant will at all times during the term of this lease remain appurtenant to the estate and interest of the Lessee in the flat for all purposes connected with the use occupation and enjoyment of the Flat and the Lessee shall at all times keep the restricted area in a neat and tidy condition and in good repair PROVIDED HOWEVER that the Lessors will be entitled to enter upon the restricted area to the extent that may be necessary in order to effect repairs and maintenance to the flat or to any buildings on the land or to any services to such flat or building PROVIDED HOWEVER that nothing hereinbefore contained shall prevent the Lessors or the Head Lessors for the time being from exercising all or any of their rights and powers of re-entry into possession and all or any other rights or powers conferred upon them as Lessors or Head Lessors hereunder.

21. LESSORS NOT LIABLE FOR WATER DAMAGE

The Lessors shall not be liable to the Lessee or any other person for any water damage caused either by the overflow of the water supply to any buildings on the land or the flat or by rainwater entering the flat.

22. SUBLETTING BY LESSEE

(a) The Lessee shall be entitled to let the flat only to a reputable and solvent sublessee. The Lessee shall ensure that any sublessee first enters into a tenancy agreement with the Lessee whereby the sublessee covenants not to do or permit anything to be done in upon or around the flat which if done or permitted to be done by the Lessee would constitute a breach of any of the covenants conditions and restrictions of this lease.

OR

RESTRICTED SUBLETTING BY LESSEE

(b) The Lessee shall not without the prior consent in writing of the Lessors or a majority of the Lessors first had and obtained for that purpose on every occasion sublet or part with the possession or occupation of the flat or any part of it but such consent shall not be unreasonably or arbitrarily withheld in any case where:

- (i) The proposed subletting is for a term not exceeding one year during which period the Lessee is unable to personally occupy the flat, and,
- (ii) The proposed subletting is to a reputable and solvent person who first enters into a Deed of Covenant with the Lessors to observe, perform and fulfill all the obligations of the Lessee under the lease and to be bound by the provisions of this present clause such Deed of Covenant to be prepared by the solicitor for the Lessors at the cost and expense of the Lessee.

Any underletting within the meaning of Sub-section (2) of Section 109 of the Property Law Act 1952 without consent shall constitute a breach of this clause.

23. PERFORMANCE OF LESSEE'S COVENANTS BY LESSORS

(a) If the Lessee at any time fails to perform or observe any covenant, condition or restriction contained or implied in this lease the Lessors may but are not bound to:

- (i) Pay any moneys which the Lessee ought to have paid.
- (ii) Do all or any acts or things which the Lessee ought to have done.
- (iii) Enter into the flat or any part of it if reasonably necessary for the purpose of this clause.

The Lessors may exercise any powers contained in this clause by their agents, servants, contractors or workmen.

(b) The Lessee shall in such event immediately on demand pay to the Lessors:

- (i) All moneys so paid by the Lessors; and
- (ii) The costs, charges and expenses of each performance and observance by the Lessors.

(c) Until such payment is made by the Lessee any amount paid by the Lessors shall be treated as an advance to the Lessee by the Lessors and shall bear interest at the rate of the average of the overdraft interest rate from any three Trading Banks computed from the date or respective dates of the moneys being expended until payment to the Lessors.

(d) For the purposes of this clause the word "Lessors" shall be deemed to mean Lessors other than the Lessee. The powers conferred by this clause may be exercised by a majority of the Lessors. The powers of this clause are without prejudice to the Lessors' other powers if any.

24. POWER OF SALE OF LESSEE'S INTEREST BY LESSORS

(a) If this lease is determined in any manner then:

- (i) The Lessee shall at the direction of the Lessors sell the Lessee's share in the land to such person and at such consideration as may be nominated by the Lessors and shall execute all documents required to complete any sale; and
- (ii) The Lessors shall use reasonable endeavours to obtain a fair market price for the Lessee's share in the land but shall not be liable to the Lessee in respect of any loss however incurred; and
- (iii) The proceeds of the sale shall be paid to the Lessors who shall be entitled to deduct from the proceeds:
 - (1) All moneys owing by the Lessee to the Lessors; and
 - (2) All expenses and costs incurred by the Lessors in connection with the arranging of the sale and the completion of it; and
 - (3) All rates, charges and outgoings due and owing by the Lessee; and
 - (4) All mortgages, charges and encumbrances on the Lessee's interest in the land and flat and any other buildings on the land.

The balance of the proceeds shall be paid to the Lessee by the Lessors.

(b) The Lessee irrevocably appoints the Lessors to be the Lessee's attorneys for the purpose of doing any act, matter or thing or executing any document required in connection with the sale of the Lessee's share in the land.

(c) No person shall be concerned to see or enquire as to the propriety or expediency of any act, matter or thing done or agreed to be done by the Lessors pursuant to this clause. The Lessee agrees to allow, ratify and confirm whatever the Lessors do or agree to do by virtue of any of the powers conferred on them.

(d) For the purposes of this clause the word "Lessors" means Lessors other than the Lessee.

25. NON-MERGER

There shall be no merger of this lease with the Lessee's fee simple estate in the land.

26. ARBITRATION

If any dispute or question or difference arises between:

- (a) The parties to this lease; or
- (b) Their respective representatives or assigns; or
- (c) One of the parties and the representatives of any other;

and the dispute relates to:

- (i) This lease; or
- (ii) Any clause or thing contained or implied in it; or
- (iii) The construction of this lease; or
- (iv) The duties or liabilities of any party in connection with the land, or the flat, or any other buildings on the land; or
- (v) The use or occupation of the land, or the flat, or any other buildings on the land;

then and in every such case the matter in difference shall be referred to the arbitration of two or more arbitrators and their umpire (one arbitrator to be appointed by each party to the dispute) in accordance with the Arbitration Act 1908 and its amendments or any Act in substitution for it.

27. PROCEDURE FOR DECISIONS

If the Lessee or any of the Lessors require any matter or thing to be done by the Lessors which the Lessors are empowered to do under this lease or by their rights and powers as owners of the land, the flat or any other buildings on the land or which may be desirable for the efficient and harmonious administration of the land, the flat and any other buildings on the land the following procedure shall be carried out:

(a) That Lessee or Lessors shall give notice in writing setting out the proposed action.

(b) Notice to the Lessors shall be served upon each Lessor other than the Lessee. Notice to the Lessee shall be served on the Lessee and if there is more than one Lessee notice to one shall be notice to all. Service may be made either personally or by leaving it at or posting it to the last known respective place of abode or address of the other Lessors or the Lessee as the case may be. If service is effected by post it shall be sent by registered letter and service shall be deemed to have been effected on the day after posting. Where two or more parties are to be served, the date of service shall be the date the last notice is deemed to have been served under this sub-clause.

(c) The parties shall be bound by any decision arrived at under the provisions of this clause and shall give all reasonable assistance in the carrying out and implementation of that decision.

(d) If the proposed action is not agreed to unanimously within fourteen (14) days after the date of service of the notices that matter shall be deemed to be a question to be arbitrated under clause 26.

28. **NON-DEVOLUTION OF LIABILITY**

Without negating the provisions of Sections 97 and 98 of the Land Transfer Act 1952, upon registration of a memorandum of transfer of the Lessee's interests both as Lessee and as Lessor to any Transferee, the Transferor shall thenceforth be released from all future liability whatsoever under the covenants and agreements expressed or implied in the lease but without releasing the Transferor from any liability which may have arisen prior to the registration of the Memorandum of Transfer. After the registration of any Memorandum of Transfer the obligations expressed or implied on the part of the Lessee shall in all respects devolve upon and be observed and performed by the Transferee and the Lessors shall have no recourse to the Transferee's antecedents in title.

SCHEDULE E

(SPECIAL COVENANTS FOR STAGED DEVELOPMENT)

IT IS HEREBY COVENANTED AND AGREED BY AND BETWEEN THE LESSORS AND THE LESSEE AS FOLLOWS:

29. **INTERPRETATION**

In the following clauses in this Schedule of this Lease and subject to the provisions of Clause 34(a) the expression "the Developing Owners" shall mean (to the exclusion of any other person or persons) those Lessors who are the registered proprietors of an undivided share in the fee simple estate in the land which exceeds the aggregate of the Land Shares set forth in Schedule A of the lease or leases under which those persons are the Lessees (if any).

30. **DEVELOPMENT OF AREA FOR STAGED DEVELOPMENTS**

The Developing Owners shall be entitled at any time to carry out on the staged development area any development work and in respect of all the development work so carried out the following provisions shall apply:

- (a) the development work shall comply at all times with the statutory and local authority requirements; and
- (b) the Developing Owners after commencing the development work shall continue with all reasonable speed, shall take all reasonable steps to minimize any inconvenience to the Lessee, and any damage or disruption to the common area and the restricted area.
- (c) the development work shall conform in all respects to the requirements set forth in any agreement for the time being in force between the Developing Owners and the Lessee; and
- (d) the Developing Owners and their respective agents workmen contractors and employees, and other persons authorised on behalf of the Developing Owners may enter on and remain on the common area the restricted area and the staged development area at all reasonable times with or without machinery motor vehicles and equipment necessary or desirable to carry out the development work provided that the Developing Owners shall enter on to the restricted area only to the extent that is reasonably necessary to enable the Developing Owners to carry out the development work; and
- (e) as soon as reasonably practicable, the common area and any restricted areas shall be reinstated to the same condition as they were prior to the development work; and
- (f) the development work and reinstatement shall be carried out at the expense in all things of the Developing Owners; and
- (g) the number of dwelling units comprised in the development work on the staged development area shall not exceed the Maximum Number set forth in Schedule A.

31. **NEW LEASE AND COMPOSITE CERTIFICATES OF TITLE FOR DEVELOPMENT WORK**

In relation to the development work, the Lessee shall as co-lessor at the expense of the Developing Owners when requested to do so by the Developing Owners, do all things properly required by the Developing Owners to enable the Developing Owners to carry on the development work, and obtain the issue of a separate composite Certificate of Title for each new dwelling unit and its associated buildings erected on the staged development area as a result of the development work and in particular, but without limiting the generality of the foregoing the Lessee shall:

- (a) execute and obtain any consents required for such development work; and
- (b) execute any plans and obtain any consents as shall be required to enable the deposit of a flats plan for such development work; and
- (c) execute any documents and leases in respect of the buildings erected on the staged development area as a result of the development work so as to create a leasehold estate for a term corresponding with the unexpired period of this lease, in respect of each new dwelling unit and its appurtenant or associated buildings erected as a result of the development work; and
- (d) Arrange for the production of the Lessee's composite Certificate of Title and obtain the consent to the lease of any mortgagee of the Lessee's fee simple estate;

PROVIDED HOWEVER THAT:

- (i) any new lease or leases so created shall otherwise contain the same terms and conditions mutatis mutandis as are contained in this lease; and
- (ii) the costs herein before referred to in this lease shall be the reasonable costs of the Lessee's solicitor having regard to the lease being in the form referred to in paragraph (i); and
- (iii) the lease shall be prepared by the Developing Owners solicitor.

32. **POWER OF ATTORNEY FROM LESSEE**

In consideration of the granting to the Lessee of this Lease the Lessee doth hereby irrevocably nominate constitute and appoint the Developing Owners and any nominee of the Developing Owners to be the true and lawful attorneys and attorney of the Lessee both as Lessee and as registered proprietor of any interest in the fee simple of the said land and on behalf of the Lessee as Lessee and/or as such registered proprietor and as fully and effectively as the Lessee either as a Lessee and/or as such registered proprietor could do if personally present to execute for the Lessee in any capacity the lease referred to in Clause 31 and to sign and use the name of the Lessee in any capacity to such lease and to do all such other acts and things (including signing any new flat plan) as shall be necessary or desirable to effect registration of the lease or leases.

33. **POWER OF ATTORNEY ON TRANSFER BY EITHER DEVELOPING OWNER OR LESSEE**

In the event of the Lessee or the Developing Owners transferring or otherwise disposing of the whole or any part of their respective share in the fee simple estate in the said land, then on the occasion of each such transfer or other disposition:

- (a) A power of attorney shall be executed whereby the Lessee or the Lessee's transferee or disposee as the case may be, appoints the Developing Owners' or the Developing Owners transferee or disposee as the case may be the attorney of this Lessee or Lessee's transferee or disposee on the same basis and with the same powers as are set forth in Clause 32 of this lease.
 - (b) The power of attorney shall be prepared by the solicitors for the Developing Owners and shall be given and executed prior to the registration of the transfer or other disposition. A copy of the power of attorney shall forthwith thereafter be deposited in the Land Transfer Office.
 - (c) The costs of preparation stamping and registration of the power of attorney shall be borne by the person transferring the interest in the fee simple estate in the land.
 - (d) The reference in this clause to a transfer or other disposition by the Lessee or the Developing Owners of the whole or any part of their respective share in the fee simple estate in the land shall extend to and include the exercise by any mortgagee or other person of a power of sale in respect of a share in the fee simple estate in the land.
- Nothing contained in this clause shall prejudice or affect in any manner the generality operation or subsistence of Clause 32 of this Lease.

34. **TERMINATION OF STAGED DEVELOPMENT CLAUSES**

- (a) Once the leases of all the dwelling units to be comprised in the development work are registered Clauses 31, 32, and 33 shall have no further force or effect, and thereafter for the purpose of construing or interpreting Clause 30 the expression "the Developing Owners" shall mean the person or persons who carried out the development or the relevant part thereof.
- (b) Once the development work in relation to all the dwelling units to be comprised in the development work is completed, Clause 30 shall have no further force or effect except in respect of the Developing Owners' obligations thereunder.

SCHEDULE F

(SPECIAL COVENANTS FOR LEASEHOLD ESTATES)

IT IS HEREBY COVENANTED AND AGREED BY AND BETWEEN THE LESSORS AND THE LESSEE AS FOLLOWS:

35. **INTERPRETATION**

In this schedule where the context permits:

- (i) the expression "Head Lease" means the Head Lease referred to in Schedule A.
- (ii) the expression "Fee simple" where they occur in Schedules A, B, C, D and E shall unless inconsistent with the context refer to and include the leasehold estate, created by the Head Lease.

36. **LESSEE TO PAY SHARE OF HEAD LEASE RENT**

The Lessee will upon demand in writing by the Lessors pay to the Lessors or to any person nominated by the Lessors or a majority of the Lessors a land share of the rent from time to time payable under the Head Lease and any other moneys expended by the Lessors in the performance of their obligations under it or in or about any renewal of it as provided in this lease.

37. **LESSEE TO OBSERVE TERMS OF HEAD LEASE**

The Lessee will from time to time and at all times observe perform and keep all and singular the covenants agreements and conditions contained and implied in the Head Lease so far as they affect the flat and will save and keep harmless and indemnified the Lessors from and against all costs claims damages expenses actions and proceedings for or on account of breach of covenant or otherwise under the Head Lease as shall be occasioned by breach by the Lessee of any covenant condition or agreement contained or implied in this Lease and on his part to be observed performed or fulfilled.

38. **LESSORS TO PAY RENT AND OBSERVE COVENANTS**

The Lessors will throughout the term of this lease pay the rent reserved by and duly and punctually perform and observe all and singular the covenants and provisions expressed or implied in the Head Lease and on the part of the Lessee to be performed and observed under it and will not do omit or suffer any act or thing whereby or in consequence of which the power of re-entry into possession or any of the incidental ancillary or subsidiary powers vested in the Head Lessor by the Head Lease shall or may become exercisable.

39. **RIGHTS OF RENEWAL**

The Lessors will from time to time and so often as required and at all proper times for so doing give all notices, do all things, execute all documents and pay all costs, charges and expenses as shall or may be necessary or desirable to procure from the Head Lessor a renewal of the Head Lease. Whenever a new Head Lease is procured the Lessors will at the cost and expense of the Lessee deliver to the Lessee and the Lessee shall accept and take in substitution for this present sublease or (as the case may be) for the then last preceding sublease of the flat a sublease for the term of the newly granted Head Lease less the last day at the same land share of rent and upon with and subject to the same covenants, agreements, conditions and provisions as are contained and implied in this lease including this clause. For the better enabling the Lessee to secure and enjoy the benefit of this clause the Lessors for the time being JOINTLY AND SEVERALLY IRREVOCABLY NOMINATE CONSTITUTE AND APPOINT the Lessee for the time being the Attorney of them and each of them and in their name and in the name of each of them to give all notices and to do all acts matters and things and to make all appointments and to pay all costs charges and expenses and to give, make execute and deliver all documents and paper writings as shall be desirable necessary or expedient for the purpose of this or the Head Lease.

REGISTERED IN DUPLICATE

Correct for the purposes of the Land Transfer Act 1952

[Signature]
.....
Solicitor for the Lessee

To the District Land Registrar

1. It is requested that you note the Lessors' Land Covenant contained in Clause 20 of the within lease against the fee simple title to the land.
2. Please issue a composite Certificate of Title for the share in the fee simple and leasehold interest of
Flat 1
Certificate of Title 102C/372
having been allocated.
3. I hereby certify, for the purposes of the Stamp and Cheque Duties Act 1971, that no lease duty is payable on this instrument by reason of the application of section 35(1) of the Act, and that the provisions of subsection (2) of that section do not apply.

[Signature]
.....
Solicitor for the Lessee

Particulars entered in the Register as shown herein on the date and at the time endorsed below.

.....
Assistant/District Land Registrar

of the District of

Composite C.T. 102C/372 based
includes a 1/3 share in fee simple

[Signature]
A.L.P.

**MEMORANDUM
OF
LEASE**

SOLICITOR PREPARING LEASE:

2.38 30.AUG.95 C887942.1

PARTICULARS ENTERED IN REGISTER
LAND REGISTRY AUCKLAND
ASST. LAND REGISTRAR

5941015

NORTH AUCKLAND NEW ZEALAND

[Circular Stamp]

[Small square symbol]

C887942.2L

Approved by the Registrar-General of Land, Wellington, No. B050536.1/89

MEMORANDUM OF LEASE

IN CONSIDERATION of payment of the rent the Lessors lease to the Lessee and the Lessee accepts on lease the flat to be held by the Lessee as lessee and subject to the restrictions conditions and covenants set out in this Lease.

Any term which corresponds to a heading in Schedule A shall where the context requires or admits mean and include the information and particulars which are inserted against that heading in Schedule A.

CONDITIONS

The parties agree that:

- I The covenants conditions and agreements as set out in Schedules A, B, C and D inclusive form part of this Lease.
- II If the heading "staged development area" in Schedule A has been completed then the covenants conditions and agreements set out in Schedule E form part of this Lease.
- III If neither sub-clause (a) nor sub-clause (b) has been deleted in clauses 6, 12, 19 and 22, then sub-clause (a) of such clauses shall form part of this Lease and sub-clause (b) shall not.
- IV If the Lessors are proprietors of a leasehold estate in the land then the covenants conditions and agreements set out in Schedule F shall form part of this Lease.
- V In this lease except where the context does not permit:
 - (a) The expression "the Lessors" shall include and bind:
 - (i) the persons executing this lease as Lessors; and
 - (ii) all the Lessors for the time being under it; and
 - (iii) all the respective executors, administrators, successors, assigns and successors in title of each Lessor and if more than one jointly and severally.
 - (b) The expression "the Lessee" shall include and bind:
 - (i) the person executing this lease as Lessee; and
 - (ii) all the Lessees for the time being under it; and
 - (iii) all the respective executors, administrators, successors, assigns and successors in title of each Lessee and if more than one jointly and severally.
 - (c) The expression "a majority of the Lessors" means any number of Lessors for the time being who together own more than an undivided one-half share in the land.
 - (d) The expression "any building on the Land" means each and every building for the time being erected on the Land.
 - (e) The expression "development work" means all or any of the following:
 - (i) the erection of any new dwelling unit or units on the staged development area;
 - (ii) the erection of any garage and any other buildings normally appurtenant to or associated with any dwelling unit on the staged development area;
 - (iii) installation on the common area of any services required for any of the foregoing;
 - (iv) installation on any restricted area of any services required for any of the foregoing;
 - (v) any activities required for the carrying out of the foregoing including the passage of contractors, motor vehicles, machinery and equipment along the common area and the use of motor vehicles, machinery and equipment on the common area, and where necessary, any restricted area.
 - (f) Words importing one gender shall include the other gender.
 - (g) Words importing the singular or plural number shall include the plural or singular number respectively.
 - (h) The clause headings shall not form part of this lease and shall have no bearing on the construction or interpretation of it.
 - (i) All covenants are joint and several.

SCHEDULE A

LESSORS: CLARE WHITE of Auckland, Retired

LESSEE: CLARE WHITE of Auckland, Retired

LESSORS' ESTATE: fee simple

LAND REGISTRY: North Auckland

~~HEAD LEASE~~

LAND: All that parcel of land containing 2,468 square metres more or less being Lot 1 Deposited Plan 106009 and being part of Land Claim No. 39 situated in Block XI Kerikeri Survey District together with an estate in fee simple as to an undivided one third share in all that parcel of land containing 942 square metres more or less being Lot 6 Deposited Plan 106009 and being part of Land Claim No. 39 and being all of that land comprised and described in Certificate of Title Volume 59A Folio 1018

DESCRIPTION OF FLAT: Flat 2 ⁰² Garage 2 ^{05 05} on D.P. 168579

TERM OF LEASE 999 years commencing on the 5th day of August 19 95

RENT: 10 cents per annum payable yearly in advance if demanded in writing by the Lessors before the commencement of the year for which it is payable.

RESTRICTED AREA: That part of the land on D.P. 168579 marked " B "

~~STANDARD DEVELOPMENT AREA~~

~~COMMON AREA~~

LAND SHARE: A undivided share.

MAXIMUM NUMBER OF DWELLING UNITS: two thirds

~~DWELLING UNITS~~

~~STANDARD DEVELOPMENT AREA~~

LEASE executed this 9 day of August 1995

EXECUTED by the LESSORS)
(by the affixing of its Common Seal) in the presence of:

Clare
Clare
Justin Kenkeni

EXECUTED BY THE LESSEE)
(by the affixing of its Common Seal) in the presence of:

Clare
Clare
Justin Kenkeni

SCHEDULE B (LESSEES COVENANTS)

THE LESSEE COVENANTS WITH THE LESSORS:

1. **PAYMENT OF RENT**
To pay the rent in the manner and at the times provided.
2. **PAYMENT OF EXPENSES**
Upon demand in writing by the Lessors or their agents to pay to the Lessors or a person nominated by them or a majority of them:
 - (a) The whole of the costs and expenses properly incurred by the Lessors in respect of the flat.
 - (b) A land share of all costs and expenses properly incurred by the Lessor in respect of the land including any costs and expenses incurred pursuant to clauses 16(a) and 16(b) hereof.
 - (c) The whole of the cost of any repairs or work to any part of any building on the land, the electrical and plumbing equipment, drains or other amenities serving it or in respect of any part of the land if the repairs or work are necessary or required as a result of any wilful or negligent act of the Lessee or the Lessee's servant, agents or invitees or any person residing in the flat.
3. **RESTRICTIONS ON USE**
 - (a) To use the flat for residential purposes only. The Lessee will not do or suffer to be done any act, matter or thing which is or may be an annoyance, nuisance, grievance or disturbance to the other lessees or occupants of any building on the land.
 - (b) Not to bring into or keep on the land or in the flat any pet or animal which may unreasonably interfere with the quiet enjoyment of the other lessees or occupants of any building or which may create a nuisance.
4. **NOT TO CREATE FIRE OR OTHER HAZARDS**
 - (a) Not to bring into or keep in the flat any goods or any substance of a dangerous or combustible nature.
 - (b) Not to do or permit to be done anything (including the unauthorised use of light or power fittings) which may render an increased premium payable for any insurance cover on any part of any building on the land or which may make void or voidable any insurance cover.
5. **TO COMPLY WITH STATUTES**
Not to use the flat for any illegal purposes and to comply with all statutes, regulations and by-laws of any local authority in so far as they affect the flat.
6. **MAINTENANCE OF EXTERIOR AND INTERIOR BY LESSEE**
 - (a) At the Lessee's own cost and expense to keep and maintain in good order, condition and repair both the interior and exterior of the flat including any electrical and plumbing equipment, drains, roof, spouting, downpipes and other amenities exclusively serving the flat. Where any part of the flat or the electrical and plumbing equipment, drains, or other amenities serving the flat also relate to or serve any other flat erected on the land then they shall be maintained in good order condition and repair by the lessee together with the lessees of the other flats to which they relate or which are served by them and the cost of so doing shall be borne by the lessee and the lessees of such other flats in such shares as may be fair and reasonable having regard to the use and benefit derived from that equipment, drain or amenity.

OR

 - (b) At the Lessee's own cost and expense to keep and maintain in good order, condition and repair the interior of the flat (including the doors, windows and fittings of any kind but not any part of the structure, framework or foundations) together with any electrical and plumbing, equipment and any drains exclusively relating to or serving the flat.
7. **TO KEEP COMMON AREAS CLEAR AND TIDY**
 - (a) Not to leave or place in the passageways or stairways (if any) of any buildings on the land or in any parking area, driveway, turning area or in the grounds surrounding any building on the land, any obstructions of any kind.
 - (b) Not to deposit any refuse or rubbish on any part of any buildings on the land or grounds except in proper containers and in the area set aside for that purpose by the Lessors.
 - (c) Not to park or leave any vehicle or other thing on any part of the land so as unreasonably to obstruct its use by any other lessee or persons lawfully entitled to use it and not to permit or suffer any servant, agent or visitor of the Lessee to do so.
8. **TO PAY FOR SERVICES TO FLAT**
Duty and punctually to pay all charges for water, electricity, gas or other supplies or services relating solely to the flat.
9. **NOT TO MAKE ANY STRUCTURAL ALTERATIONS OR ADDITIONS TO THE FLAT**
 - (a) Not to erect on any part of the land any building, structure or fence, nor to alter, add to or extend any existing building on the land without the prior written consent of the Lessors. Such consent shall not be unreasonably or arbitrarily withheld.
 - (b) If any addition or alteration proposed by the Lessee shall have the effect of altering the external dimensions of the flat, the Lessee shall upon receiving the Lessors' consent prepare and have deposited in the Land Transfer Office at the Lessee's own cost a flat plan of the alterations or additions and upon deposit of the plan, surrender this lease and execute a new lease in substitution therefore. The Lessors shall at the Lessee's cost execute such surrender of lease and the new lease in substitution therefore and the Lessee shall thereupon forthwith register the same. The cost of obtaining any necessary mortgagees' consents shall be borne by the Lessee.
10. **USE OF RESTRICTED AND COMMON AREAS**
Not without the written consent of the Lessors to use or enjoy, in any way, any part of the said land except:
 - (a) the flat,
 - (b) that part of the land relating to the flat marked or shown as restricted area,
 - (c) that part of the land marked or shown as common area on the flat Deposited Plan, but only for the purposes of access for vehicles or pedestrians.
11. **PRESERVATION OF LESSEES RESTRICTED AREA**
To keep, at all times all that part of the said land and all amenities thereon relating to the flat marked or shown as restricted area, in a neat and tidy condition and in good repair.
12. **SEPARATE INSURANCE EFFECTED BY LESSEE**
 - (a) To effect and at all times keep current, in the joint names of the Lessors and Lessee for their respective rights and interests, a separate replacement insurance policy (including fire, earthquake and flood risks) for the flat and its appurtenant amenities.

OR

 - (b) **PAYMENT OF PREMIUM ON REPLACEMENT POLICY EFFECTED BY LESSORS**
To pay to the Lessors or a person nominated by them or by a majority of them a land share of the premium and other moneys payable in respect of the policy of insurance to be affected by the Lessors under Clause 19. In any case where by arrangement between the Lessors and the insurance company the premium in respect of each flat on the land is assessed and payable separately, to pay the separate premium whenever it is due direct to the insurance company and if and whenever required by the the Lessors to produce to the Lessors the receipt for that premium.
13. **PAYMENT OF RATES**
To pay all charges and rates separately levied in respect of the flat and the Lessee's undivided share in the fee simple of the land provided that if no separate charges or rates are so charged or levied then the Lessee will pay to the Lessors a land share of the charges and rates charged or levied in respect of the whole of the said land, and any buildings on the land.
14. **LESSEE'S OWNERSHIP OF SHARE IN THE LAND**
To remain the owner of the land share in land while the Lessee continues to be a Lessee under this Lease. If the Lessee (unless expressly authorised to do so) deals with either the Lessee's interest in the flat or his interest in the land in such a manner that the flat and the land are not owned by the same person then this Lease shall immediately determine but without discharging the Lessee from payment of any moneys owing by the lessee or releasing the lessee from any liability arising from any breach previously committed by the lessee. This clause does not apply to the first Lessee under this Lease.

SCHEDULE C (LESSORS COVENANTS)

THE LESSORS COVENANT WITH THE LESSEE:

15. **QUIET ENJOYMENT**
Provided that the Lessee shall perform and observe all and singular the covenants and conditions on the lessee part contained and implied in this lease the Lessee shall quietly hold and enjoy the flat without any interruption by the Lessors or any person claiming under them.
16. **MAINTENANCE BY THE LESSORS**
 - (a) To keep in good order, repair and condition:
 - (i) Such part of any buildings on the land including the electrical and plumbing equipment, drains, roofs, spouting, downpipes and other amenities as are not the responsibility of any lessee, under any of the leases granted in respect of any flat on the land.
 - (ii) Such parts of the land including the grounds, paths, driveways, fences, swimming pools and other common amenities as are not the responsibility of any lessee, under any of the leases granted in respect of any flat on the land.
 - (b) And to manage and maintain to a high standard all those parts of any buildings and land which are not the responsibility of any lessee. In the performance of this covenant, the Lessors or their agents have the right if necessary to enter any flat or any part of the said land to carry out any work upon giving reasonable notice to the Lessee.
17. **LEASE OF OTHER FLATS**
 - (a) To lease any other flats on the land only on terms similar mutatis mutandis to those set forth in this lease.
 - (b) Whenever called upon by the Lessee to do so, to enforce the due performance and observance by the Lessee of any other flat of all obligations cast on that lessee by the lease of that other flat. For that purpose, the Lessors irrevocably appoint the Lessee for the time being their attorney and in their name to do all such acts and things and in particular but not in limitation to serve notices and institute proceedings necessary for the proper compliance by the Lessors with the obligations cast on them by this clause.

SCHEDULE D

(MUTUAL COVENANTS)

AND IT IS HEREBY COVENANTED AND AGREED BY AND BETWEEN THE LESSORS AND EACH OF THEM AND BY AND BETWEEN THE LESSORS AND THE LESSEE:

18. **DETERMINATION OF LEASE FOR DEFAULT**
If and whenever the Lessee commits any breach or makes any default in the observance or performance of any of the covenants, conditions and restrictions contained in this Lease and does not remedy that breach or default in all respects within two months of the date of receipt by the Lessee of written notice from the Lessors (other than the Lessee) specifying such breach or default then it shall be lawful for the Lessors to re-enter the flat or any part of it in the name of the whole and to determine this lease and the estate and interest of the Lessee under it and to expel and remove the Lessee but without releasing him from any liability for any previous breach, non-observance or non-performance of any of the covenants, conditions and restrictions contained or implied in the lease. Any forfeiture or determination shall be void and of no effect unless a copy of the notice specifying the breach or default by the Lessee has been served on every mortgagee of this Lease if the Lessors have actual notice of the address of the mortgagee before or within seven days after the date of service of the notice on the Lessee.
19. **REINSTATEMENT BY LESSEE** (where Clause 12(a) applies)
(a) if the flat is destroyed by any cause whatsoever during the term of the lease the Lessee shall with all reasonable despatch repair and make good that destruction or damage to the reasonable satisfaction of the Lessors, or any majority of them. The cost of so doing shall be borne by the Lessee. If any part of any building on the land not held by a lessee pursuant to any lease is damaged or destroyed then the Lessors shall with all reasonable despatch repair and make good such damage or destruction. The Lessee shall bear a land share of the cost thereof.
(b) **REINSTATEMENT BY THE LESSORS** (where Clause 12(b) applies)
The Lessors shall in the name of the Lessors and the Lessee for their respective rights and interests insure and keep insured all buildings on the land against fire, flood and earthquake and such other risks as are normally covered by a prudent owner for the full amount available under a replacement policy and (subject to reimbursement by the Lessee as set forth in Clause 12(b)) shall pay the premiums on that policy as they become due. If any of the buildings are damaged or destroyed from any cause whatever the Lessors shall with all reasonable despatch repair and make good any damage or destruction. If the moneys received under any policy or insurance are insufficient to repair and reinstate the buildings then the Lessee will bear a land share of the insufficiency unless the damage or destruction was caused by the negligence of one or more of the Lessors in which case the insufficiency shall be borne by that party or parties.
20. **RESTRICTION ON LESSORS' USE**
The Lessors, other than the Lessee, will not during the term hereby created be entitled to use occupy or enjoy the restricted area TO THE INTENT that the foregoing restrictive covenant will at all times during the term of this lease remain appurtenant to the estate and interest of the Lessee in the flat for all purposes connected with the use occupation and enjoyment of the Flat and the Lessee shall at all times keep the restricted area in a neat and tidy condition and in good repair PROVIDED HOWEVER that the Lessors will be entitled to enter upon the restricted area to the extent that may be necessary in order to effect repairs and maintenance to the flat or to any buildings on the land or to any services to such flat or building PROVIDED HOWEVER that nothing hereinbefore contained shall prevent the Lessors or the Head Lessors for the time being from exercising all or any of their rights and powers of re-entry into possession and all or any other rights or powers conferred upon them as Lessors or Head Lessors hereunder.
21. **LESSORS NOT LIABLE FOR WATER DAMAGE**
The Lessors shall not be liable to the Lessee or any other person for any water damage caused either by the overflow of the water supply to any buildings on the land or the flat or by rainwater entering the flat.
22. **SUBLETTING BY LESSEE**
(a) The Lessee shall be entitled to let the flat only to a reputable and solvent sublessee. The Lessee shall ensure that any sublessee first enters into a tenancy agreement with the Lessee whereby the sublessee covenants not to do or permit anything to be done in upon or around the flat which if done or permitted to be done by the Lessee would constitute a breach of any of the covenants conditions and restrictions of this lease.
- OR**
- RESTRICTED SUBLETTING BY LESSEE**
(b) The Lessee shall not without the prior consent in writing of the Lessors or a majority of the Lessors first had and obtained for that purpose on every occasion sublet or part with the possession or occupation of the flat or any part of it but such consent shall not be unreasonably or arbitrarily withheld in any case where:
(i) The proposed subletting is for a term not exceeding one year during which period the Lessee is unable to personally occupy the flat, and,
(ii) The proposed subletting is to a reputable and solvent person who first enters into a Deed of Covenant with the Lessors to observe, perform and fulfill all the obligations of the Lessee under the lease and to be bound by the provisions of this present clause such Deed of Covenant to be prepared by the solicitor for the Lessors at the cost and expense of the Lessee.
- Any underletting within the meaning of Sub-section (2) of Section 109 of the Property Law Act 1952 without consent shall constitute a breach of this clause.
23. **PERFORMANCE OF LESSEE'S COVENANTS BY LESSORS**
(a) If the Lessee at any time fails to perform or observe any covenant, condition or restriction contained or implied in this lease the Lessors may but are not bound to:
(i) Pay any moneys which the Lessee ought to have paid.
(ii) Do all or any acts or things which the Lessee ought to have done.
(iii) Enter into the flat or any part of it if reasonably necessary for the purpose of this clause.
The Lessors may exercise any powers contained in this clause by their agents, servants, contractors or workmen.
(b) The Lessee shall in such event immediately on demand pay to the Lessors:
(i) All moneys so paid by the Lessors; and
(ii) The costs, charges and expenses of each performance and observance by the Lessors.
(c) Until such payment is made by the Lessee any amount paid by the Lessors shall be treated as an advance to the Lessee by the Lessors and shall bear interest at the rate of the average of the overdraft interest rate from any three Trading Banks computed from the date or respective dates of the moneys being expended until payment to the Lessors.
(d) For the purposes of this clause the word "Lessors" shall be deemed to mean Lessors other than the Lessee. The powers conferred by this clause may be exercised by a majority of the Lessors. The powers of this clause are without prejudice to the Lessors' other powers if any.
24. **POWER OF SALE OF LESSEE'S INTEREST BY LESSORS**
(a) If this lease is determined in any manner then:
(i) The Lessee shall at the direction of the Lessors sell the Lessee's share in the land to such person and at such consideration as may be nominated by the Lessors and shall execute all documents required to complete any sale; and
(ii) The Lessors shall use reasonable endeavours to obtain a fair market price for the Lessee's share in the land but shall not be liable to the Lessee in respect of any loss however incurred; and
(iii) The proceeds of the sale shall be paid to the Lessors who shall be entitled to deduct from the proceeds:
(1) All moneys owing by the Lessee to the Lessors; and
(2) All expenses and costs incurred by the Lessors in connection with the arranging of the sale and the completion of it; and
(3) All rates, charges and outgoings due and owing by the Lessee; and
(4) All mortgages, charges and encumbrances on the Lessee's interest in the land and flat and any other buildings on the land.
The balance of the proceeds shall be paid to the Lessee by the Lessors.
(b) The Lessee irrevocably appoints the Lessors to be the Lessee's attorneys for the purpose of doing any act, matter or thing or executing any document required in connection with the sale of the Lessee's share in the land.
(c) No person shall be concerned to see or enquire as to the propriety or expediency of any act, matter or thing done or agreed to be done by the Lessors pursuant to this clause. The Lessee agrees to allow, ratify and confirm whatever the Lessors do or agree to do by virtue of any of the powers conferred on them.
(d) For the purposes of this clause the word "Lessors" means Lessors other than the Lessee.
25. **NON-MERGER**
There shall be no merger of this lease with the Lessee's fee simple estate in the land.
26. **ARBITRATION**
If any dispute or question or difference arises between:
(a) The parties to this lease; or
(b) Their respective representatives or assigns; or
(c) One of the parties and the representatives of any other;
and the dispute relates to:
(i) This lease; or
(ii) Any clause or thing contained or implied in it; or
(iii) The construction of this lease; or
(iv) The duties or liabilities of any party in connection with the land, or the flat, or any other buildings on the land; or
(v) The use or occupation of the land, or the flat, or any other buildings on the land;
then and in every such case the matter in difference shall be referred to the arbitration of two or more arbitrators and their umpire (one arbitrator to be appointed by each party to the dispute) in accordance with the Arbitration Act 1908 and its amendments or any Act in substitution for it.
27. **PROCEDURE FOR DECISIONS**
If the Lessee or any of the Lessors require any matter or thing to be done by the Lessors which the Lessors are empowered to do under this lease or by their rights and powers as owners of the land, the flat or any other buildings on the land or which may be desirable for the efficient and harmonious administration of the land, the flat and any other buildings on the land the following procedure shall be carried out:
(a) That Lessee or Lessors shall give notice in writing setting out the proposed action.
(b) Notice to the Lessors shall be served upon each Lessor other than the Lessee. Notice to the Lessee shall be served on the Lessee and if there is more than one Lessee notice to one Lessee shall be notice to all. Service may be made either personally or by leaving it at or posting it to the last known respective place of abode or address of the other Lessors or the Lessee as the case may be. If service is effected by post it shall be sent by registered letter and service shall be deemed to have been effected on the day after posting. Where two or more parties are to be served, the date of service shall be the date the last notice is deemed to have been served under this sub-clause.
(c) The parties shall be bound by any decision arrived at under the provisions of this clause and shall give all reasonable assistance in the carrying out and implementation of that decision.
(d) If the proposed action is not agreed to unanimously within fourteen (14) days after the date of service of the notices that matter shall be deemed to be a question to be arbitrated under clause 26.

28. **NON-DEVOLUTION OF LIABILITY**

Without negating the provisions of Sections 97 and 98 of the Land Transfer Act 1952, upon registration of a memorandum of transfer of the Lessee's interests both as Lessee and as Lessor to any Transferee, the Transferor shall thenceforth be released from all future liability whatsoever under the covenants and agreements expressed or implied in the lease but without releasing the Transferor from any liability which may have arisen prior to the registration of the Memorandum of Transfer. After the registration of any Memorandum of Transfer the obligations expressed or implied on the part of the Lessee shall in all respects devolve upon and be observed and performed by the Transferee and the Lessors shall have no recourse to the Transferee's antecedents in title.

SCHEDULE E

(SPECIAL COVENANTS FOR STAGED DEVELOPMENT)

IT IS HEREBY COVENANTED AND AGREED BY AND BETWEEN THE LESSORS AND THE LESSEE AS FOLLOWS:

29. **INTERPRETATION**

In the following clauses in this Schedule of this Lease and subject to the provisions of Clause 34(a) the expression "the Developing Owners" shall mean (to the exclusion of any other person or persons) those Lessors who are the registered proprietors of an undivided share in the fee simple estate in the land which exceeds the aggregate of the Land Shares set forth in Schedule A of the lease or leases under which those persons are the Lessees (if any).

30. **DEVELOPMENT OF AREA FOR STAGED DEVELOPMENTS**

The Developing Owners shall be entitled at any time to carry out on the staged development area any development work and in respect of all the development work so carried out the following provisions shall apply:

- (a) the development work shall comply at all times with the statutory and local authority requirements; and
- (b) the Developing Owners after commencing the development work shall continue with all reasonable speed, shall take all reasonable steps to minimize any inconvenience to the Lessee, and any damage or disruption to the common area and the restricted area.
- (c) the development work shall conform in all respects to the requirements set forth in any agreement for the time being in force between the Developing Owners and the Lessee; and
- (d) the Developing Owners and their respective agents workmen contractors and employees, and other persons authorised on behalf of the Developing Owners may enter on and remain on the common area the restricted area and the staged development area at all reasonable times with or without machinery motor vehicles and equipment necessary or desirable to carry out the development work provided that the Developing Owners shall enter on to the restricted area only to the extent that is reasonably necessary to enable the Developing Owners to carry out the development work; and
- (e) as soon as reasonably practicable, the common area and any restricted areas shall be reinstated to the same condition as they were prior to the development work; and
- (f) the development work and reinstatement shall be carried out at the expense in all things of the Developing Owners; and
- (g) the number of dwelling units comprised in the development work on the staged development area shall not exceed the Maximum Number set forth in Schedule A.

31. **NEW LEASE AND COMPOSITE CERTIFICATES OF TITLE FOR DEVELOPMENT WORK**

In relation to the development work, the Lessee shall as co-lessor at the expense of the Developing Owners when requested to do so by the Developing Owners, do all things properly required by the Developing Owners to enable the Developing Owners to carry on the development work, and obtain the issue of a separate composite Certificate of Title for each new dwelling unit and its associated buildings erected on the staged development area as a result of the development work and in particular, but without limiting the generality of the foregoing the Lessee shall:

- (a) execute and obtain any consents required for such development work; and
- (b) execute any plans and obtain any consents as shall be required to enable the deposit of a flats plan for such development work; and
- (c) execute any documents and leases in respect of the buildings erected on the staged development area as a result of the development work so as to create a leasehold estate for a term corresponding with the unexpired period of this lease, in respect of each new dwelling unit and its appurtenant or associated buildings erected as a result of the development work; and
- (d) Arrange for the production of the Lessee's composite Certificate of Title and obtain the consent to the lease of any mortgagee of the Lessee's fee simple estate;

PROVIDED HOWEVER THAT:

- (i) any new lease or leases so created shall otherwise contain the same terms and conditions mutatis mutandis as are contained in this lease; and
- (ii) the costs herein before referred to in this lease shall be the reasonable costs of the Lessee's solicitor having regard to the lease being in the form referred to in paragraph (i); and
- (iii) the lease shall be prepared by the Developing Owners' solicitor.

32. **POWER OF ATTORNEY FROM LESSEE**

In consideration of the granting to the Lessee of this Lease the Lessee doth hereby irrevocably nominate constitute and appoint the Developing Owners and any nominee of the Developing Owners to be the true and lawful attorneys and attorney of the Lessee both as Lessee and as registered proprietor of any interest in the fee simple of the said land and on behalf of the Lessee as Lessee and/or as such registered proprietor and as fully and effectively as the Lessee either as a Lessee and/or as such registered proprietor could do if personally present to execute for the Lessee in any capacity the lease referred to in Clause 31 and to sign and use the name of the Lessee in any capacity to such lease and to do all such other acts and things (including signing any new flat plan) as shall be necessary or desirable to effect registration of the lease or leases.

33. **POWER OF ATTORNEY ON TRANSFER BY EITHER DEVELOPING OWNER OR LESSEE**

In the event of the Lessee or the Developing Owners transferring or otherwise disposing of the whole or any part of their respective share in the fee simple estate in the said land, then on the occasion of each such transfer or other disposition:

- (a) A power of attorney shall be executed whereby the Lessee or the Lessee's transferee or dispossesee as the case may be, appoints the Developing Owners' or the Developing Owners transferee or dispossesee as the case may be the attorney of this Lessee or Lessee's transferee or dispossesee on the same basis and with the same powers as are set forth in Clause 32 of this lease.
- (b) The power of attorney shall be prepared by the solicitors for the Developing Owners and shall be given and executed prior to the registration of the transfer or other disposition. A copy of the power of attorney shall forthwith thereafter be deposited in the Land Transfer Office.
- (c) The costs of preparation stamping and registration of the power of attorney shall be borne by the person transferring the interest in the fee simple estate in the land.
- (d) The reference in this clause to a transfer or other disposition by the Lessee or the Developing Owners of the whole or any part of their respective share in the fee simple estate in the land shall extend to and include the exercise by any mortgagee or other person of a power of sale in respect of a share in the fee simple estate in the land. Nothing contained in this clause shall prejudice or affect in any manner the generality operation or subsistence of Clause 32 of this Lease.

34. **TERMINATION OF STAGED DEVELOPMENT CLAUSES**

- (a) Once the leases of all the dwelling units to be comprised in the development work are registered Clauses 31, 32, and 33 shall have no further force or effect, and thereafter for the purpose of construing or interpreting Clause 30 the expression "the Developing Owners" shall mean the person or persons who carried out the development or the relevant part thereof.
- (b) Once the development work in relation to all the dwelling units to be comprised in the development work is completed, Clause 30 shall have no further force or effect except in respect of the Developing Owners' obligations thereunder.

SCHEDULE F

(SPECIAL COVENANTS FOR LEASEHOLD ESTATES)

IT IS HEREBY COVENANTED AND AGREED BY AND BETWEEN THE LESSORS AND THE LESSEE AS FOLLOWS:

35. **INTERPRETATION**

In this schedule where the context permits:

- (i) the expression "Head Lease" means the Head Lease referred to in Schedule A.
- (ii) the expression "Fee simple" where they occur in Schedules A, B, C, D and E shall unless inconsistent with the context refer to and include the leasehold estate, created by the Head Lease.

36. **LESSEE TO PAY SHARE OF HEAD LEASE RENT**

The Lessee will upon demand in writing by the Lessors pay to the Lessors or to any person nominated by the Lessors or a majority of the Lessors a land share of the rent from time to time payable under the Head Lease and any other moneys expended by the Lessors in the performance of their obligations under it or in or about any renewal of it as provided in this lease.

37. **LESSEE TO OBSERVE TERMS OF HEAD LEASE**

The Lessee will from time to time and at all times observe perform and keep all and singular the covenants agreements and conditions contained and implied in the Head Lease so far as they affect the flat and will save and keep harmless and indemnified the Lessors from and against all costs claims damages expenses actions and proceedings for or on account of breach of covenant or otherwise under the Head Lease as shall be occasioned by breach by the Lessee of any covenant condition or agreement contained or implied in this Lease and on his part to be observed performed or fulfilled.

38. **LESSORS TO PAY RENT AND OBSERVE COVENANTS**

The Lessors will throughout the term of this lease pay the rent reserved by and duly and punctually perform and observe all and singular the covenants and provisions expressed or implied in the Head Lease and on the part of the Lessee to be performed and observed under it and will not do omit or suffer any act or thing whereby or in consequence of which the power of re-entry into possession or any of the incidental ancillary or subsidiary powers vested in the Head Lessor by the Head Lease shall or may become exercisable.

39. **RIGHTS OF RENEWAL**

The Lessors will from time to time and so often as required and at all proper times for so doing give all notices, do all things, execute all documents and pay all costs, charges and expenses as shall or may be necessary or desirable to procure from the Head Lessor a renewal of the Head Lease. Whenever a new Head Lease is procured the Lessors will at the cost and expense of the Lessee deliver to the Lessee and the Lessee shall accept and take in substitution for this present sublease or (as the case may be) for the then last preceding sublease of the flat a sublease for the term of the newly granted Head Lease less the last day at the same land share of rent and upon with and subject to the same covenants, agreements, conditions and provisions as are contained and implied in this lease including this clause. For the better enabling the Lessee to secure and enjoy the benefit of this clause the Lessors for the time being JOINTLY AND SEVERALLY IRREVOCABLY NOMINATE CONSTITUTE AND APPOINT the Lessee for the time being the Attorney of them and each of them and in their name and in the name of each of them to give all notices and to do all acts matters and things and to make all appointments and to pay all cost charges and expenses and to give, make execute and deliver all documents and paper writings as shall be desirable necessary or expedient for the purpose of this or the Head Lease.

REGISTERED IN DUPLICATE

Correct for the purposes of the Land Transfer Act 1952

[Handwritten signature]

Solicitor for the Lessee

To the District Land Registrar

1. It is requested that you note the Lessors' Land Covenant contained in Clause 20 of the within lease against the fee simple title to the land.

2. Please issue a composite Certificate of Title for the share in the fee simple and leasehold interest of

Flat 2

Certificate of Title 102C/373

having been allocated.

3. I hereby certify, for the purposes of the Stamp and Cheque Duties Act 1971, that no lease duty is payable on this instrument by reason of the application of section 35(1) of the Act, and that the provisions of subsection (2) of that section do not apply.

[Handwritten signature]

Solicitor for the Lessee

Particulars entered in the Register as shown herein on the date and at the time endorsed below.

Assistant/District Land Registrar

of the District of

Composite C.T. 102C/373 Issued
includes a 2/3 share in fee simple

[Handwritten signature]
A.L.P.

MEMORANDUM
OF
LEASE

SOLICITOR PREPARING LEASE:

[Handwritten initials]

PARTICULARS ENTERED IN REGISTER
LAND REGISTRY AUCKL
ASST. LAND REGISTRAR
[Handwritten signature]
5/19/1018

2.38 30.AUG.95 C887942.2

