

Peter. Malcolm
P.O. Box 596
Kenikeri 0245
14.10.25

To Nicola Cowley.
Principal Planner
FNDC.
Kaikohe

Dear Nicola,

Attached please find my submission/response.
to FNDC S42A report re. Nagshead subdivision.

The first 4 pages is my submission, while the
remaining pages consist of supporting evidence/documents
such as Certificate of Titles etc.

Regards, Peter. Malcolm.

P.Malcolm
PO Box 596
Kerikeri 0245
13.10.25

Malcolm response to FNDC S42A report re RC 2250414 RMACOM

Synopsis

Malcolm and the neighbours (Houry) have legal Easements and entitlements over the access to the property that Nagshead is proposing to subdivide.

The easements set out the legal entitlement regarding the number of lots that each party can use the easement for. Combined, these easements restrict Nagshead's ability to subdivide. Hence the need for Nagshead to negate the restrictions imposed by Easement EC871824.6.

Malcolm and the other entitled users (Houry) have for the last 18 months, through our legal representatives (Law North & McDonald Lewis Law), tried to resolve the issue / dispute with Nagshead over Easement entitlements and associated matters such as the reinstatement of the access road, partitioning of access reinstatement costs etc.

The access Easement issues are an impediment to Nagshead subdividing their land. This can only be resolved either through negotiation or litigation and the FNDC council planning decision needs to take this into account (Please see attached note from Richard Ayton, Lawyer, Law North) .

Malcolm is concerned by the Nagshead suggestion of the granting of dispensation to allow the accessway / bridge to be 4m wide rather than the required 5m – currently there are 3 lots which have legal access and potentially another 3 will bring the total to 6. The current upper threshold for a 4m width access / bridge is 4 lots.

Ideally Malcolm would like to see on this particular title, provision made for Public access to the foreshore for picnics and other recreational activities. Also a similar scenario for the lake, the distinctive feature of the area.

Malcolm's main concern is not the subdivision as such, but the over riding / loss of personal property / access rights by the potential granting of approval for this subdivision.

Malcolm therefore requests that the application be denied until the issue of Easement entitlements is resolved either through negotiation or litigation.

Background / Malcolm position

Malcolm rejects the suggestion, that because of the omission of any reference to EC 871824.6 on Nagshead's title, it is not bound by the conditions of that easement. Nagsheads (Good Move) original title NA101C/993 shows NA101B/256 as its predecessor. Because Nagshead NA 101C/993 title is the product of the subdivision of title NA 101B/256, which was subject to EC871824.6, that easement has priority ahead of EC871824.10.

Easement C871824.6 apportioned access rights between NA101B/256 (Fenton) and NA101B/255 (Malcolm). The (mistaken) omission of any reference to EC871824.6 on the Nagshead title does not invalidate the terms and conditions of that easement.

Malcolm also rejects the claim that because EC871824.6_and EC871824.10 were filed at the same

PT 1/26

time that one does not take precedence over the other – that ignores the history prior to and, the context of the creation of EC 871824.6. Note that EC871824.6 was deliberately placed ahead of EC871824.10 on Fentons NA101C/994 servient title.

History and context of the creation of EC 871824.6

Malcolm bought the Inlet Rd farm (NA 72B/680) 36years ago. At the time of purchase the area of the farm was 54.6870ha.

Bruce and Pam Fenton bought the neighbouring farm (NA 61A/710) of about 56.8889ha from Ian and Beren Knox about the same time. Shortly after purchase, Fentons thought about subdividing their property.

In the early 1990's, FNDC rules required a 20ha minimum area for subdivision in that part of Kerikeri Inlet Rd. Also at that time, the maximum number of users of a ROW before its required conversion to a Public Rd, was five.

Malcolm was approached by Mr Fenton regarding a boundary change whereby they would gain an additional 3.5ha which would increase their land holding to just over 60ha thus allowing the subdivision of their property into 3 rather than just 2 titles.

Malcolm agreed to donate (yes, donate for \$0) via a boundary change, a net 3.5ha to Fentons provided Malcolm was granted an easement allowing his title 40% of the total potential access easements via Fentons woolshed entrance from Kerikeri Inlet Rd. In the event of a future subdivision Fentons would also make the lake a wildlife sanctuary on a separate title which would be jointly owned by the 3 neighbouring properties. It was also agreed that in the event of changed FNDC regulations regarding the number of ROW users, that the apportioned ROW access ratio would remain 60/40.

Informal discussions with FNDC indicated that they would look favourably on a subdivision proposal whereby the lake would be a wildlife sanctuary on separate title jointly owned by 3 neighbouring properties.

In the first step in the process, in October 1994, Donaldson Surveyors prepared DP166944 whereby a portion of Malcolm's title was transferred to Fentons and a portion of Fentons land was transferred to Malcolm. New CsT were allocated, namely 101B/255 (Malcolm) and 101B/256 (Fenton). This plan (along with easements marked C and B on DP166944) was approved by the Chief Surveyor on **10.05.95**. Note that Easements marked C and B were to become easement EC871824.6

For the Fentons, the net result was that the area of their new title increased to a little over 60ha . This fulfilled the FNDC area requirement which then allowed Fentons to subdivide into 3 titles rather than 2. Fentons new title (101B/256) also showed the existence of EC871824.6 which gave them 60% of the access rights from Kerikeri Inlet Rd. NA 101C/993

For Malcolm the net result was that the area of his new title (101B/255) was reduced to 51.2230ha but it now showed the existence of EC871824.6 giving him 40% of the accessways from Kerikeri Inlet Rd,

Having the Chief Surveyor's approval for DP 166944 (dated 10.05.95) and the required 60ha for subdivision into 3 titles, Fentons then proceeded to subdivide their new larger property.

Donaldson Surveyors prepared DP 167657 which showed 4 titles. One of those titles was the

sanctuary lake which was jointly owned by the other 3 proposed titles. It also showed easements C, D & J which would eventually become EC871824.10

DP 167657 permitting Fentons subdivision of NA101B/256, which included the land donated by Malcolm, was approved by the Chief Surveyor on 29.06.25, some 7 weeks after approval was granted for DP 166944.

On 31st July 1995, 6 new titles plus 2 easements were issued simultaneously. Two of the titles and one easement namely, **NA101B/256** (Fenton), NA101B/255 (Malcolm) & EC871824.6 resulted from the initial boundary change associated with DP166944.

Subsequent subdivision of the prior newly approved **NA101B/256** (DP166944) resulted in the creation of four of those titles and one easement: namely NA101C/992, NA101C/993, NA101C/994, NA101C/995 & EC871824.10. On each of those four newly created titles (NA101C/992, NA101C/993, NA101C/994, NA101C/995), **NA101B/256** is acknowledged as the prior CT.

The point is that Fentons enlarged new title (NA101B/256), which included the 3.5ha donated by Malcolm, had to be approved / created before it could be subdivided. That title, NA 101B/256, shows the presence of / is burdened by EC871824.6 which apportioned access rights between Malcolm and Fenton's neighbouring properties. Those access rights cannot be denied / invalidated because of the (mistaken) omission of any reference to EC871824.6 on NagsHead title. Note that on Nagsheads original title (NA101C/993) that the prior CT is acknowledged as NA101B/256.

Fentons new title (NA101B/256), the predecessor of Nagshead original title (NA101C/993), was burdened by EC871824.6 which prescribes the splitting of access rights 60/40 between Fenton and Malcolm's titles.

Effectively EC871824.6 creates a parcel of access rights (40% ie. 3.2 of 8) which are unavailable to the beneficiaries of EC871824.10 as well as the servient title. The beneficiaries of EC871824.10, Nagshead (CT552855; Lot2, DP442820) and Malcolm [Lot 1, DP 442820 and Lot 2, DP550862 : Identifier 950630] who along with the servient title (NA138C/239) owned by Mrs Houry, are collectively only entitled to 60% (4.8 of 8) of the easements from Kerikeri Inlet Rd.

Summary

Following an agreed boundary change between Malcolm and Fenton, Fentons land area increased from 56.69ha to 60.3ha. This enabled Fentons to subdivide their property into four titles, one of which was the jointly owned ~ 5ha sanctuary lake.

Initial step was the approval of the creation of two new titles owned respectively by Malcolm (NA101B/255; DP166944) and Fentons (NA101B/256; DP166944) as well as the creation of a controlled easement (EC871824.6) defining access rights from Kerikeri Inlet Rd.

Fenton's new title (NA101B/256), which was entitled to only 60% (4.8) of the potential 8 Kerikeri Inlet Rd accessways, was subsequently subdivided.

One of the titles derived from the subdivision of Fenton's NA101B/256 title was bought by Good Move / Nagshead (NA101C/993: DP 167657).

Access to NagsHeads property is via easement EC871824.10 which overlaps / coincides with easement EC871824.6 for the first approximately 150 m from Kerikeri Inlet Rd. Because of the limitations imposed by EC871824.6, NagsHead is only entitled to a portion of the 60% (4.8) of the

total 8 accessways from Kerikeri Inlet Rd.

As there are 3 entities (Nagshead, Houry & Malcolm) entitled to use the available 4.8, there are insufficient available accessways to allow NagsHead to subdivide its title into 4 lots.

Attachments

Attachment 1. Copy of note from Law North

Attachment 2. Copy of Fenton's original title NA61A/710 showing total area of 56.89 ha

Attachment 3. Copy of Malcolm's original title NA72B/680 showing a total area of 54.68 ha

Attachment 4. Copy of Fenton's new title NA101B/256 after the boundary change and now showing its area has increased to approximately 60.3ha as well as the presence of Easement C871824.6. It also shows the area donated by Malcolm to Fenton

Attachment 5. Copy of Malcolm's new title NA101B/255 showing a reduction in area from 54.68ha to 51.22ha after donating ~ 3.5ha to Fenton. It also shows the presence of Easement C871824.6.

Attachment 6. Copy of NA101C/993, the predecessor of Nagshead current title showing the prior Certificate of title as NA101B/256.

Attachment 7. Copy of Easement C871824.6 showing the 60% / 40% access division between NA101B/256 (Fenton) and NA101B/255 (Malcolm)

Fwd: Nags Head Application. Kerikeri Inlet Rd

From Peter Malcolm <pmalcolm178@gmail.com>

Date Mon 13/10/2025 3:49 PM

To Peter Malcolm <peter.malcolm@tangfresh.co.nz>

peter.malcolm@tangfresh.co.nz

On Mon, 13 Oct 2025, 9:15 am Richard Ayton, <richard@lawnorth.co.nz> wrote:

Attachment 1
pp1/1

Morning Peter.

Attachment 1 - pp1/1

There are legal issues in addition to the Resource Consent issues.

1. You and the neighbours (Houry) have legal Easements over the property that Nagshead is proposing to subdivide in this application.
2. The access Easements set out the legal entitlement regarding the number of Lots that each party can use the Easement for. You and a neighbour have a legal entitlement that prevents Nagshead utilising the access for all the Lots proposed. The applicant does not have exclusive use.
3. You and the other entitled user (Houry) have, for the past 18 months through your legal representatives tried to resolve the Easement entitlements and associated matters such as access road reinstatement costings and how the use rights should be allocated. The Applicant (Nagshead) has failed to reach agreement.
4. The access Easement issues are an impediment to Nagshead subdividing the land. Your position should be that the Easement issues need to be resolved either by negotiation or litigation and the Council Planning decision should take that into account.

Kind Regards

Richard Ayton

Lawyer

~~7/28~~ 5/26

References

Prior C/T 58B/885 & 59D/432

Transfer No.

N/C. Order No. B.578021.3

Land and Deeds 69



REGISTER

CERTIFICATE OF TITLE UNDER LAND TRANSFER ACT

This Certificate dated the 8th day of September one thousand nine hundred and eighty-six under the seal of the District Land Registrar of the Land Registration District of NORTH AUCKLAND

WITNESSETH that IAN CECIL KNOX of Kerikeri real estate manager and BEREN MARGARET KNOX his wife are seised of an estate in fee simple as tenants in common in equal shares

Attachment 2 - pp 1/4
Attachment 2 - pp 1/4
~~is seised of an estate in fee simple~~ (subject to such reservations, restrictions, encumbrances, liens, and interests as are notified by memorial underwritten or endorsed hereon) in the land hereinafter described, delineated with bold black lines on the plan hereon, be the several admeasurements a little more or less, that is to say: All the parcel of land containing those parcels of land together containing ~~56.8889~~ ^{56.8889} hectares more or less being Section 68 and part Sections 26, 42 and 44 Block XI and part Section 14 Block XII Kerikeri Survey District the said part Sections 14 and 42 being more particularly described as part Lot 1 Deposited Plan 107204 and the said part Sections 26 and 44 being more particularly described as Lot 1 Deposited Plan 102078 saving and excepting from the said parts Section 14, 42 and 44 all minerals within the meaning of the Land Act 1924 on or under the Land and reserving always to Her Majesty the Queen and all persons lawfully entitled to work the said minerals a right of ingress, egress and regress over the said land



W. K. Kain
Assistant Land Registrar

Interests at Date of Issue:

Subject to a right of way over the part herein marked A Plan 107204 appurtenant to

- (1) Section 36 Block XII Kerikeri Survey District (CT 31D/424)
- (2) Lots 2 & 3 Western Suburbs of Kerikeri Township (CT 778/115)
(See Easement Certificate B.442108.5)

The above easement is subject to Section 309(1)(a) Local Government Act 1974

B.457053.2 Mortgage of part to Anthony Alexander Thomson Edgar and Rosemary Ann Gretton Egan and Coresti - 10.9.1985 at 9.01 o/c

B.457053.3 Mortgage of part to The National Bank of New Zealand Limited - 10.9.1985 at 9.01 o/c

B.578021.4 Easement Certificate affecting Lots on Plan 109734

B.332879.1 Notice of Intention pursuant to Section 18 Public Works Act 1981 (affects part) - 26.9.1984 at 9.00 o/c

B.454301.3 Mortgage of part to Albert Ernest Voight and Mary Jane Voight (jointly inter se) and to Richard William Oakley Stubbs and Joan Stubbs (jointly inter se) and to Boswell Thomas Mitchell and to Islay John Shirley and to Wendy Elizabeth Atkinson in shares - 2.9.1985 at 1.43 o/c

Nature	Servient land	Dominant Land
Electricity Supply	part Lot 1 marked B (61C/1152)	part Lot 1 Plan 107204 (herein)

Nature	Servient land	Dominant Land
R.O.W.	part Lot 1 Plan 107204 (herein) marked A.	Lot 1 (CT 61C/1152)

Measurements are Metric

OVER

No. 61A / 710

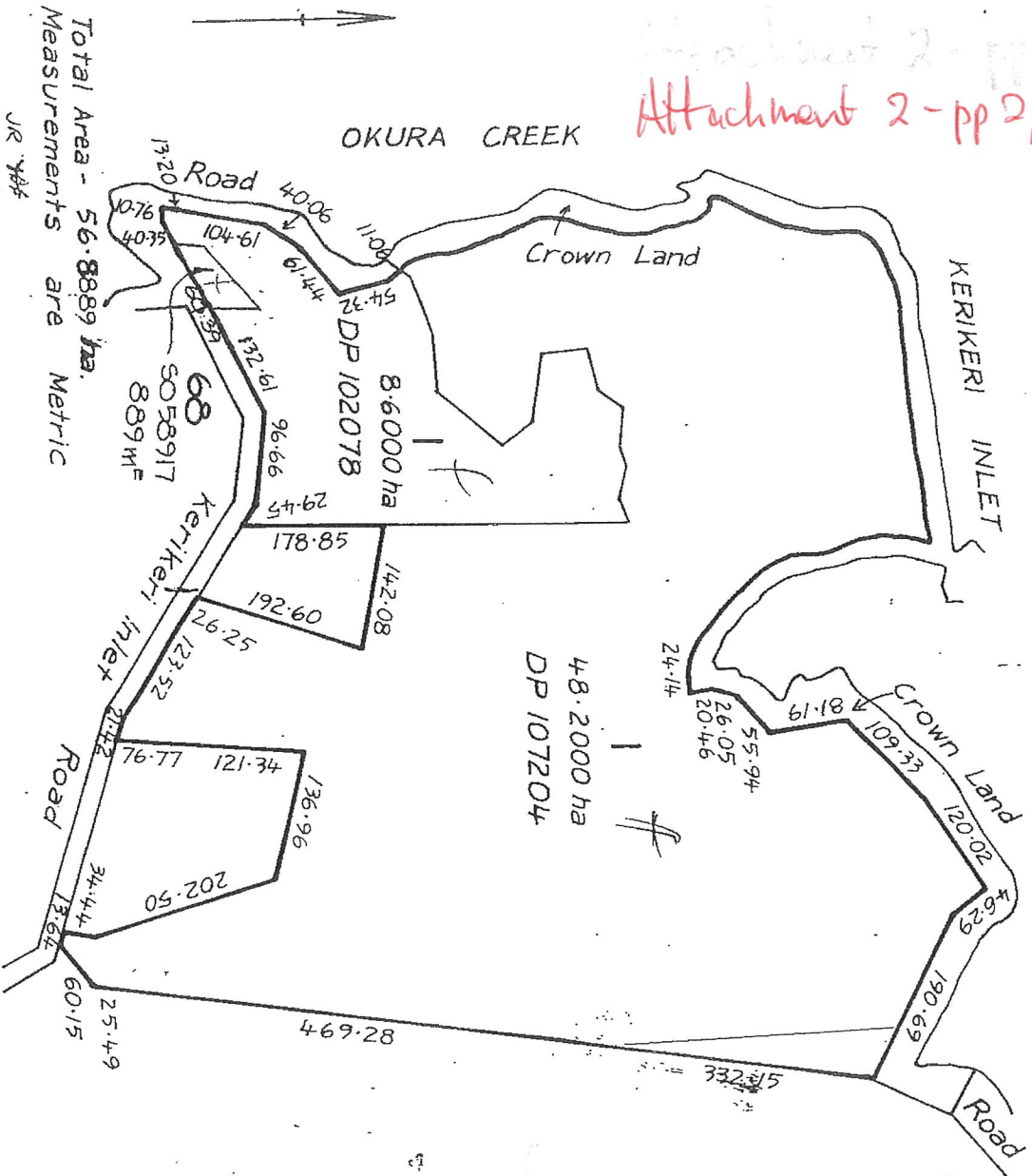
No. 61A / 710

6/26

7813/235 & 237

Bay of Islands County

Attachment 2 - pp 2/4



Area of Bruce & Paws
Original title
48.2000 ha
8.6000 ha
0889 ha
56.8889

7/26



CERTIFICATE OF TITLE No. /

The above right of way easement when created will be subject to Section 309(1)(a) Local Government Act 1974

C431368 1 Mortgage to The National Bank of New Zealand Limited - 16.11.1992 at 10.55 o'clock

CK

William Lamb A.L.R.

B.606652.6 Mortgage to Richard Lambert Oakley Stubbs and Joan Stubbs (jointly) and to George Hinves Beissel and Tui Sylvia Beissel (jointly) and to Brian Vivian Bowden and Susan Rosemary Corrie (jointly) and to Dennis Ivor Horne and Kathleen Horne (jointly) and to Helen Hilton Soundy and to Janet Gillen Stinton and to Steven Hemi Admas and to Michael Rothwell Bowden and to Lorna Mabel Bowden in shares - 4.12.1986 at 9.01 o'clock

C.053055-7

B.606652.7 Mortgage to Rosemary Ann Gretton Cofman-Nicoresti and to Joanna Helen McKegg in shares - 4.12.1986 at 9.01 o'clock

C.053055-8

B.606652.8 Mortgage to The National Bank of New Zealand Limited - 4.12.1986 at 9.01 o'clock

C.053055-1

B.906356.1 Transmission of the joint share of Joan Stubbs and Richard Lambert Oakley Stubbs in Mortgage B.606652.6 to Richard Lambert Oakley Stubbs as survivor - 21.10.1988 at 1.59 o'clock

C.053055.3 Transmission of the share of Lorna Mabel Bowden in Mortgage B.606652.6 to Brian Vivian Bowden and Susan Rosemary Corrie as executors - 11.10.1989 at 11.04 o'clock

C.084799.1 Transfer to Bruce Gordon Fenton of Auckland manager and Pamela Frances Fenton his wife - 21.12.1989 at 11.11 o'clock

C.103353.2 Transfer surrendering the Right of Way created by Transfer B.948217.2 in so far as it affects part Section 36 Block XII Kerikeri Survey District (C.T.31D/421) now known as part Lot 2 DP 124059 (C.T. 72B/680) - 12.2.1990 at 2.20 o'clock

Application under Section 220 Resource Management Act 1991 on File A 630376

Rec'd

Application under Section 220 Resource Management Act 1991

630469

C.670452.1 Transfer to Bruce Gordon Fenton and Pamela Frances Fenton both abovenamed as tenants in common in equal shares - 27.10.1994 at 2.13 o'clock

A.L.R.

C.871824.3 Certificate of Conditions pursuant to Section 224(c) Resource Management Act 1991 (affects Plan 166944) - 31.7.1995 at 2.34 o'clock

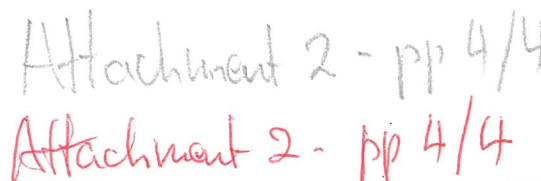
C.871824.4 Transfer of Lot 1 Plan 166944 to Peter John Malcolm of Kerikeri horticultural consultant - 31.7.1995 at 2.34 o'clock
CT 101B/255 issued

C.871824.5) Cancelled as to the residue Transfer) and new CT issued 31.7.1995) 101B/256

CANCELLED
DUPLICATE DESTROYED

Attachment 2 - pp 3/4
Attachment 3 - pp 3/4

8/26



9/26

CENTIMETRES

References

Prior C/T 31D/421, 59D/433

Transfer No.

N/C. Order No. B.948217.4

Land and Deeds 69



REGISTER

No. 72B / 680

CERTIFICATE OF TITLE UNDER LAND TRANSFER ACT

This Certificate dated the 2nd day of February one thousand nine hundred and eighty nine under the seal of the District Land Registrar of the Land Registration District of NORTH AUCKLAND

WITNESSETH that ANTHONY ALEXANDER THOMAS EDGAR of Auckland company director and JOANNA HELEN McKEGG of Auckland married woman and ROSEMARY ANN GREYTON COFMAN-NICORESTI of Hamilton widow are seised of an estate in fee simple as tenants in common in equal shares

Attachment 3 - pp 1/3 - Attachment 3 - pp 1/3.
~~subject to such reservations, restrictions, encumbrances, liens, and interests as are notified by memorial underwritten or endorsed hereon~~ (subject to such reservations, restrictions, encumbrances, liens, and interests as are notified by memorial underwritten or endorsed hereon) in the land hereinafter described, delineated with bold black lines on the plan hereon, be the several admeasurements a little more or less, that is to say: All that parcel of land containing 54.6870 hectares more or less being Lot 2 Deposited Plan 124059 and being part Section 14, Block XII Kerikeri Survey District



Assistant Land Registrar

Interests at Date of Issue:

Appurtenant to part herein (formerly CT 31D/421) is a right of way over:

(a) part Lot 1 Plan 107204 marked "A" (CT 61A/710)

(b) part herein marked "A" on Plan 124059 See Easement Certificate B.442108.5

Subject to a right of way over part herein marked "A" on Plan 124059 appurtenant to:

(a) Lots 2 and 3 Western Suburbs of Kerikeri Township (CT 978/115)

(b) Part Section 36 Block XII Kerikeri Survey District (Part CT 72B/679) See Easement Certificate B.442108.5

The above easements are subject to Section 309(1) (a) Local Government Act 1974

C.011672.1 CAVEAT BY PETER JOHN MALCOLM and ANITA MARIA MALCOLM - 14.7.1989 AT 9.15 o'clock

C.013980.1 CAVEAT BY PETER JOHN MALCOLM AND ANITA MARIA MALCOLM - 7.7.1989 at 2.52 o'clock

C.103353.3 Transfer granting a right of way over the part herein marked "C" and "D" on Plan 111326 appurtenant to Lot 3 Plan 107204 (C.T. 59D/434) - 12.2.1990 at 2.20 oc.

C.103353.4 Transfer to Peter John Malcolm of Kerikeri horticultural consultant and Anita Maria Malcolm his wife - 12.2.1990 at 2.20 oc.

C.103353.5 Mortgage to Bank of New Zealand - 12.2.1990 at 2.20 oc.

C.510578.1 Court Order vesting the within land in Peter John Malcolm abovenamed - 25.8.1993 at 2.45 o'clock

A.L.R.

Applied for by Peter John Malcolm
 Received 14/8/1994
 on File 630376

Rec'd

SEE OVER .../

Measurements are Metric

10/26

No. 72B / 680



C.871824.3 Certificate of Conditions
pursuant to Section 224(c) Resource
Management Act 1991 (affects Plan 166944)
- 31.7.1995 at 2.34 o'clock

P. Aiyem
~~A.L.R.~~

C.871824.5 Transfer of Lot 2 Plan 166944
to Bruce Gordon Fenton of Kerikeri farmer
and Pamela Frances Fenton his wife as
tenants in common in equal shares -
31.7.1995 at 2.34 o'clock
CT 101B/256 issued

P. Aiyem
~~A.L.R.~~

C.871824.4) Cancelled as to the residue
Transfer) and new CT issued
31.7.1995) 101B/255 issued

P. Aiyem
~~A.L.R.~~

CANCELLED
DUPLICATE DESTROYED

Attachment 3 - pp 3/3
Attachment 3 - pp 3/3

12/26 (12/26)



References

Prior C/T 72B/680, 61A/710

Transfer No. C.871824.5

N/C. Order No.

Land and Deeds 69



REGISTER

REGISTER ONLY

CERTIFICATE OF TITLE UNDER LAND TRANSFER ACT

This Certificate dated the 31st day of July one thousand nine hundred and ninety five under the seal of the District Land Registrar of the Land Registration District of NORTH AUCKLAND

WITNESSETH that BRUCE GORDON FENTON of Kerikeri farmer and PAMELA FRANCES FENTON his wife are seised of an estate in fee simple as tenants in common in equal shares

Attachment 4 - pp 1/3 - Attachment 4 - pp 1/3

~~is seised of an estate in fee simple~~ (subject to such reservations, restrictions, encumbrances, liens, and interests as are notified by memorial underwritten or endorsed hereon) in the land hereinafter described, delineated with bold black lines on the plan hereon, be the several admeasurements a little more or less, that is to say: ~~All that parcel of land containing~~ All those parcels of land together containing 55.7839 hectares more or less being Section 68 and part Sections 26, 42 and 44 Block XI and part Section 14 Block XII Kerikeri Survey District the said part Section 14 and 42 being more particularly described as part Lot 1 Deposited Plan 107204 the said part Section 26 and 44 being more particularly described as Lot 1 Deposited Plan 102078 the said part Section 14 being more particularly described as Lot 2 Deposited Plan 166944 saving and excepting from the said part Sections 14, 42 and 44 all minerals within the meaning of the Land Act 1924 on or under the land and reserving always to Her Majesty the Queen and all persons lawfully entitled to work the said minerals a right of ingress, egress and regress over the said land

Fentons New Area $\Rightarrow$ 60.35ha $\Rightarrow$ P.T.O.
after donation
from Malcolm



Assistant Land Registrar

Interests at date of issue:

Subject to Section 241(2) Resource Management Act 1991

Appurtenant to Lot 1 Plan 107204 herein is a electricity supply easement over the part Lot 1 Plan 109734 (CT 61C/1152) marked 'B' on Plan 109734

See Easement Certificate B.578021.4

Subject to a right of way over the parts marked 'A' on Plan 107204 appurtenant to part Lots 1 and 4 Plan 132850 (CsT 78B/235 and 78B/237) and to Lot 1 Plan 143682 (CT 85B/465)

See Easement Certificate B.442108.5

Subject to a right of way over the part marked 'A' on Plan 109734 appurtenant to Lot 1 Plan 109734 (CT 61C/1152)

See Easement Certificate B.578021.4

Measurements are Metric

The above easements are subject to Section 309(1)(a) Local Government Act 1974

A.L.R.

C.871824.6 Easement Certificate affecting lots on Plan 166944

Nature	Servient Land	Dominant Land
Right of Way, electricity	part Lot 1 Plan 107204	Lot 1 Plan 166944
telecommunications	herein	and part Lot 2 Plan 124059
stormwater	marked 'C'	(CT 101B/255)
sewage and water		
Right of Way, electricity	part Lot 2 Plan 166944	Lot 1 Plan 166944
telecommunications	herein	and part Lot 2 Plan 124059
stormwater	marked 'B'	(CT 101B/255)
sewage and water		
- 31.7.1995 at 2.34 o'clock		

P. Chapman
M.L.R.

101B 256
No.

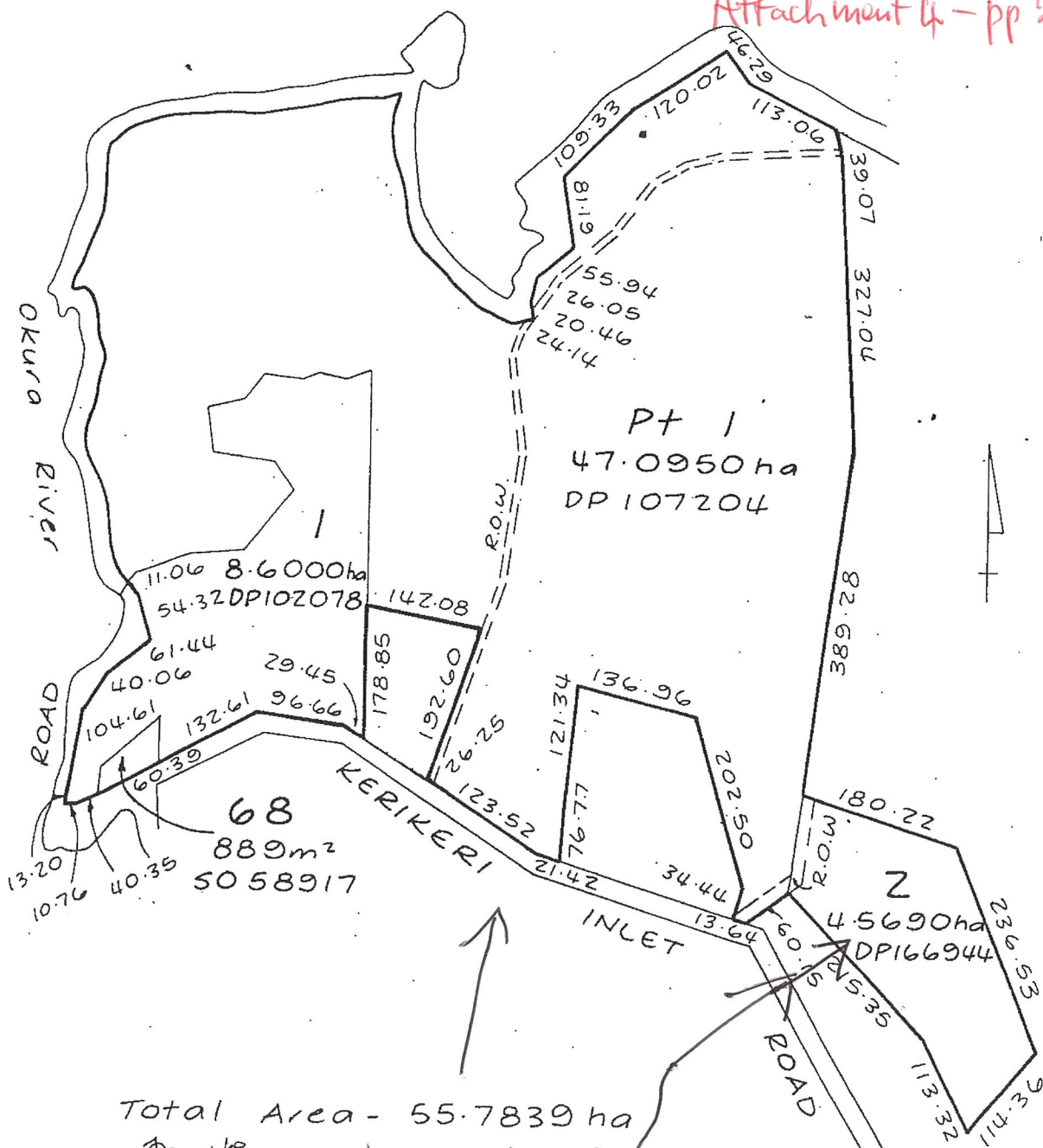
18/26 (13/26)

No. 101B 256

FAR NORTH DISTRICT

Kerikeri Inlet

Attachment 4 - pp 2/3
Attachment 4 - pp 2/3



Total Area - 55.7839 ha
plus 4.5690 ha

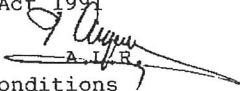
New Total Total Area - 60.3529 ha

14/26

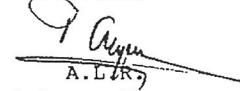


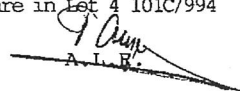
CERTIFICATE OF TITLE No. 1

The above right of way, electricity and telecommunications easements when created will be subject to Section 243(a) Resource Management Act 1991


C.871824.7 Certificate of Conditions pursuant to Section 224(c) Resource Management Act 1991 (affects Plan 167657) - 31.7.1995 at 2.34 o'c


C.871824.8 Resolution pursuant to Section 321(3)(c) Local Government Act 1974 (affects Plan 167657) - 31.7.1995 at 2.34 o'c


C.871824.9) Cancelled as to Lots on Plan ONCT) 167657 and new CsT issued 31.7.1995) Lot 1 and a 1/3 share in Lot 4 101/992
Lot 2 and a 1/3 share in Lot 4 101C/993
Lot 3 and a 1/3 share in Lot 4 101C/994


CANCELLED

Attachment 4 - pp 3/3
Attachment 4 - pp 3/3

15/26 (15/26)



COMPUTER FREEHOLD REGISTER UNDER LAND TRANSFER ACT 1952

Historical Search Copy



R.W. Muir
Registrar-General
of Land

Identifier NA101B/255
Land Registration District North Auckland
Date Issued 31 July 1995

Cancelled

Prior References
NA61A/710 NA72B/680

Attachment 5 - pp 1/3
Attachment 5 - pp 1/3

Estate Fee Simple
Area 51.2230 hectares more or less
Legal Description Part Lot 2 Deposited Plan 124059 and Lot 1 Deposited Plan 166944
Original Proprietors
Peter John Malcolm

Copy of Malcolm new title (reduced area)
after donation of 3.5 has to
Fenton

Interests

Saving and excepting from the said Lot 1 DP 166944 all minerals within the meaning of the Land Act 1924 on or under the land and reserving always to Her Majesty the Queen and all persons lawfully entitled to work the said minerals a right of ingress egress and regress over the said land

Subject to Section 241(2) Resource Management Act 1991

Subject to a right of way over part marked A on DP 166944 specified in Easement Certificate B442108.5 (affects Lot 1 DP 166944)

The easements specified in Easement Certificate B442108.5 are subject to Section 309 (1) (a) Local Government Act 1974 Appurtenant hereto is an electricity supply right specified in Easement Certificate B578021.4 (affect Lot 1 DP 166944)

The easements specified in Easement Certificate B578021.4 are subject to Section 309 (1) (a) Local Government Act 1974 Subject to a right of way over parts marked C and D on Plan 111326 created by Transfer C103353.3

Appurtenant hereto are rights of way and electricity, telecommunications, stormwater, sewage and water rights specified in Easement Certificate C871824.6 - 31.7.1995 at 2.34 pm

Some of the easements specified in Easement Certificate C871824.6 are subject to Section 243 (a) Resource Management Act 1991 (see DP 166944)

6222309.1 Certificate pursuant to Section 224(c) Resource Management Act 1991 (affects DP 342025) - 19.11.2004 at 9:00 am

6222309.2 CTs issued - 19.11.2004 at 9:00 am

Legal Description	Title
Lot 1 Deposited Plan 342025	172790
Lot 2 Deposited Plan 342025	172791

CANCELLED

16/26 (16/26)

References

Prior C/T 72B/680, 61A/710

Land and Deeds 69

Transfer No. C.871824.4

N/C. Order No.



REGISTER

No. 101B/255

CERTIFICATE OF TITLE UNDER LAND TRANSFER ACT

This Certificate dated the 31st day of July one thousand nine hundred and ninety five under the seal of the District Land Registrar of the Land Registration District of NORTH AUCKLAND

WITNESSETH that PETER JOHN MALCOLM of Kerikeri horticultural consultant

is seized of an estate in fee-simple (subject to such reservations, restrictions, encumbrances, liens, and interests as are notified by memorial underwritten or endorsed hereon) in the land hereinafter described, delineated with bold black lines on the plan hereon, be the several admeasurements a little more or less, that is to say: All that parcel of land containing All those parcels of land together containing 51.2230 hectares more or less being part Lot 2 Deposited Plan 124059 and Lot 1 Deposited Plan 166944 and being part Sections 26, 42, and 44 Block XI and part Section 14 Block XII Kerikeri Survey District saving and excepting from the said Lot 1 all minerals within the meaning of the Land Act 1924 on or under the land and reserving always to Her Majesty the Queen and all person lawfully entitled to work the said minerals a right of ingress, egress and regress over the said land

Attachment 5 - pp 2/3
Attachment 5 - pp 2/3



Assistant Land Registrar

Interests at date of issue:

Subject to Section 241(2) Resource Management Act 1991

Appurtenant to Lot 1 Plan 166944 herein is electricity supply easement over the part Lot 1 Plan 107204 (CT 61C/1152) marked 'B' on Plan 107204

See Easement Certificate B.578021.4

Subject to a right of way over the parts Lot 1 Plan 166944 herein marked 'A' on Plan 166944 appurtenant to part Lots 1 and 4 Plan 132850 (Cst 78B/235 and 78B/237) and to Lot 1 Plan 143682 (CT 85B/465) See Easement Certificate B.442108.5

The above easements are subject to Section 309(1)(a) Local Government Act 1974

Subject to a right of way over the part marked 'C' and 'D' on Plan 111326 appurtenant to Lots 3 and 4 Plan 141363 (CT 83D/611-612) and Lots 1 and 2 Plan 150742 (89D/790-791) created by Transfer C.103353.3

Measurements are Metric

C.871824.6 Easement Certificate affecting lots on Plan 166944

Nature	Servient Land	Dominant Land
Right of Way, electricity	part Lot 1 Plan 107204	Herein
Telecommunications (CT 101B/256)	marked 'C'	
stormwater	marked 'C'	
sewage and water		
Right of Way, electricity	part Lot 2 Plan 166944	Herein
Telecommunications (CT 101B/256)	marked 'B'	
stormwater	marked 'B'	
sewage and water		
- 31.7.1995 at 2.34 o'clock		

The above rights of way, electricity and telecommunications easements when created will be subject to Section 243(a) Resource Management Act 1991

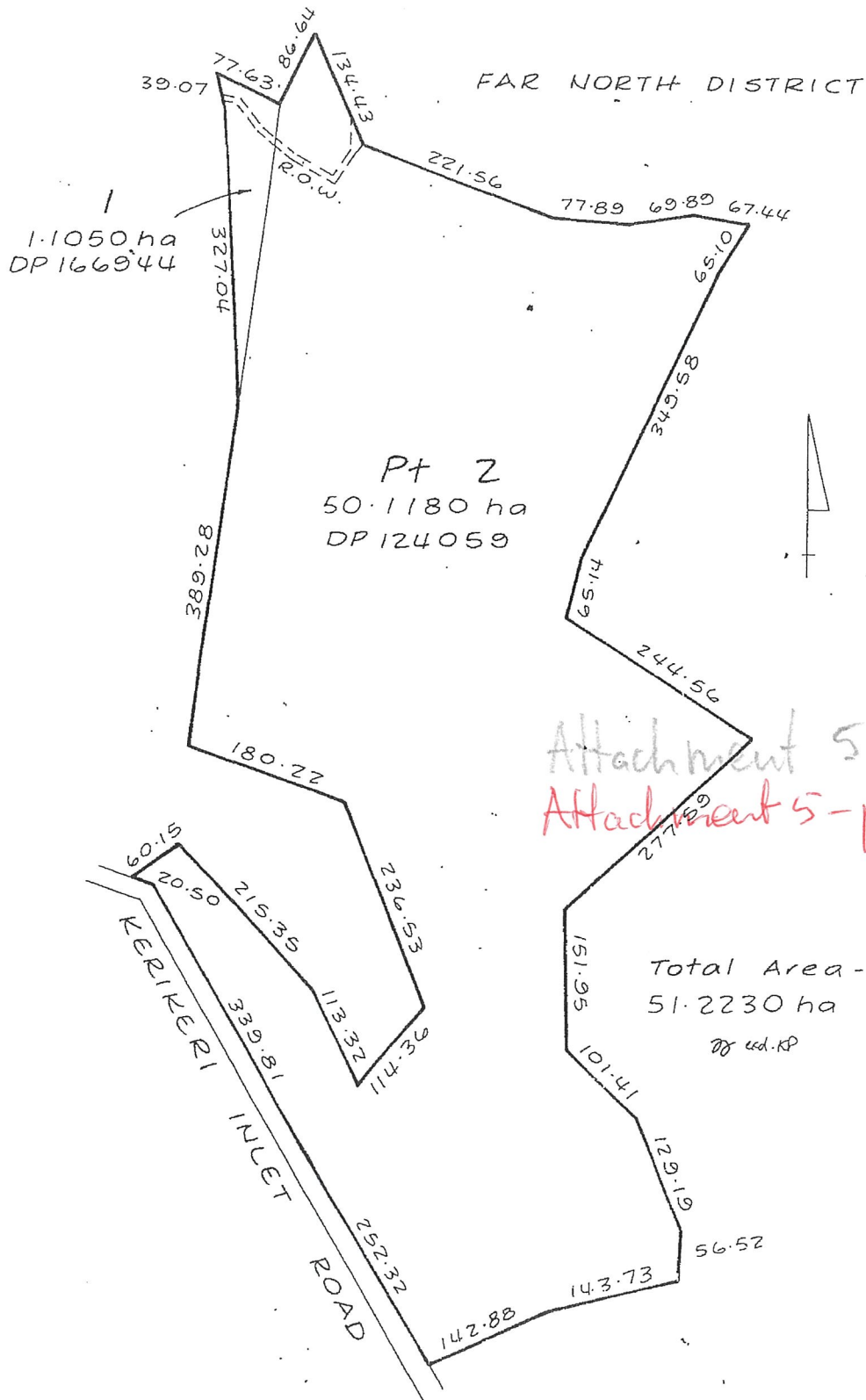
2a
DH

No. 101B 255

No.

17/26 (17/26)

CERTIFICATE OF TITLE No. /



78/26 (18/26)

References

Prior C/T

101B/256

Prior CT 101B/256 (CT 101B/256)

Land and Deeds 69

Transfer No.

N/C. Order No. C.871824.9



REGISTER

No. 101C 993

CERTIFICATE OF TITLE UNDER LAND TRANSFER ACT

This Certificate dated the 31st day of July one thousand nine hundred and ninety five under the seal of the District Land Registrar of the Land Registration District of NORTH AUCKLAND

WITNESSETH that BRUCE GORDON FENTON of Kerikeri farmer and PAMELA FRANCES FENTON his wife are seised of an estate in fee simple as to an tenants in common in equal shares

(This title is predecessor of Nagshead Current title)

is seised of an estate in fee simple (subject to such reservations, restrictions, encumbrances, liens, and interests as are notified by memorial underwritten or endorsed hereon) in the land hereinafter described, delineated with bold black lines on the plan hereon, be the several admeasurements a little more or less, that is to say: All that parcel of land containing 15.4770

hectares more or less being Lot 2 Deposited Plan 167657 and being part Sections 26, 42 and 44 Block XI and part Section 14 Block XII Kerikeri Survey District AND

THIS CERTIFICATE FURTHER WITNESSETH that the aforementioned BRUCE GORDON FENTON and PAMELA FRANCES FENTON are seised of an estate in fee simple as to an undivided one-third share as tenants in common in equal shares in the land hereinafter described. All that parcel of land containing 5.2350 hectares more or less being Lot 4 Deposited Plan 167657 and being part Allotments 26, 42 and 44 Block XI and part Section 14 Block XII Kerikeri Survey District saving and excepting from the land formerly described as part Sections 14, 42 and 44 all minerals within the meaning of the Land Act 1924 on or under the land and reserving always to Her Majesty the Queen and all persons lawfully entitled to work the said minerals a right of ingress, egress and regress over the said land

Attachment 6 - pp 1/5
Attachment 6 - pp 1/5



Assistant Land Registrar

Interests at date of issue:

Subject to Section 241(2) Resource Management Act 1991

Appurtenant to part herein is an electricity easement over the part Lot 1 Plan 109734 (CT 61C/1152) marked 'B' on Plan 109734

See Easement Certificate B.578021.4

Subject to a right of way over the parts marked 'H' and 'I' on Plan 167657 appurtenant to parts Lot 1 and 4 Plan 132850 (Cst 78B/235 and 78B/237) and to Lot 1 Plan 143682 (CT 85B/465)

See Easement Certificate B.442108.5

The above easements are subject to Section 309(1)(a) Local Government Act 1974

C.871824.8 Resolution pursuant to Section 321(3)(c) Local Government Act 1974

C.871824.10 Easement Certificate affecting lots on Plan 167657

Nature	Servient Land	Dominant Land
Right of Way,	part Lot 3	Herein
electricity	(CT 101C/994)	
and	marked 'C', 'D', 'J'	
Telecommunications		
- 31.7.1995 at 2.34 o'clock		

Measurements are Metric

1/2c
DH

19/26

Attachment 6 - pp 2/5 - Attachment 6 - pp 2/5

20/26

CERTIFICATE OF TITLE No. 101C/993

The above easement when created will be subject to Section 243(a) Resource Management Act 1991

C.874249.1 Transfer granting a telecommunications easement in gross over the parts marked 'H' and 'I' on Plan 167657 in favour of Telecom New Zealand Limited - 4.8.1995 at 2.65 o'c

D.088754.3 Deed of Land Covenant - 20.1.1997 at 1.26 o'c

D.088754.4 Variation of Easement Certificate C.871824.10 - 20.1.1997 at 1.26 o'c

D.088754.5 Transfer to Valdir Holdings Limited at Auckland - 20.1.1997 at 1.26 o'c

D587086.1 Change of name of the registered proprietor to Good Move NZ Property Co Limited

Appurtenant hereto is a right of way and an electricity and telecommunications easement over part Lot 2 marked 2 DP 203088 CT 131A/353 created by Transfer D587086.3

Land covenant in Transfer D587086.3

All 14.3.2001 at 11.04.

V Mchke
for RGL

Attachment 6 - pp 3/5
Attachment 6 - pp 3/5

21
26



COMPUTER FREEHOLD REGISTER UNDER LAND TRANSFER ACT 1952

Historical Search Copy




R.W. Muir
Registrar-General
of Land

Identifier **NA101C/993** **Cancelled**

Land Registration District **North Auckland**

Date Issued 31 July 1995

Prior References

NA101B/256

Estate Fee Simple
Area 15.4770 hectares more or less
Legal Description Lot 2 Deposited Plan 167657
Original Proprietors
Good Move NZ Property Co Limited

Estate Fee Simple - 1/3 share
Area 5.2350 hectares more or less
Legal Description Lot 4 Deposited Plan 167657
Original Proprietors
Good Move NZ Property Co Limited

Attachment 6 - pp 4/5

Interests

Attachment 6 - pp 4/5

Subject to Section 241(2) Resource Management Act 1991

Saving and excepting from the land formerly described as part Sections 14, 42 and 44 all minerals within the meaning of the Land Act 1924 on or under the land and reserving always to Her Majesty the Queen and all persons lawfully entitled to work the said minerals a right of ingress egress and regress over the said land

Subject to a right of way over parts marked H and I on DP 167657 specified in Easement Certificate B442108.5

The easements specified in Easement Certificate B442108.5 are subject to Section 309 (1) (a) Local Government Act 1974

Appurtenant hereto is an electricity right specified in Easement Certificate B578021.4 (affects part)

C871824.8 Resolution pursuant to Section 321(3)(c) Local Government Act 1974 - 31.7.1995 at 2.34 pm

Appurtenant hereto is a right of way and telecommunications and electricity rights specified in Easement Certificate C871824.10 - 31.7.1995 at 2.34 pm

The easements specified in Easement Certificate C871824.10 are subject to Section 243 (a) Resource Management Act 1991

Subject to a telecommunications right (in gross) over parts marked H and I on DP 167657 in favour of Telecom New Zealand Limited created by Transfer C874249.1 - 4.8.1995 at 2.55 pm

D088754.3 Deed of Land Covenant - 20.1.1997 at 1.26 pm

D088754.4 Variation of Easement Certificate C871824.10 - 20.1.1997 at 1.26 pm

Appurtenant hereto is a right of way and an electricity and telecommunications right created by Transfer D587086.3 - 14.3.2001 at 11.04 am

Land Covenant in Transfer D587086.3 - 14.3.2001 at 11.04 am

8817934.1 Change of Name of Good Move NZ Property Co Limited to Nags Head Horse Hotel Limited - 1.8.2012 at 12:53 pm

9315062.1 Surrender of Land Covenant D088754.3 as to the benefit of Part Lot 1 DP 442820 - 8.3.2013 at 11:39 am

9315062.2 Transfer of Part Lot 1 DP 442820 to Peter John Malcolm - 8.3.2013 at 11:39 am

9315062.3 CTs issued - 8.3.2013 at 11:39 am

Legal Description**Title**

Lot 2 Deposited Plan 442820 and 1/3 share 552855

in Lot 4 Deposited Plan 167657

Part Lot 1 Deposited Plan 442820 552856

CANCELLED

Attachment 6 - pp 5/5
Attachment 6 - pp 5/5

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).

WE, BRUCE GORDON FENTON of Auckland, Manager and PAMELA FRANCES FENTON, His Wife being registered as proprietors of Lot 2 on Deposited Plan 166944 and the residue of the land in Certificate of Title 61A/710 as tenants in common in equal shares and PETER JOHN MALCOLM of Kerikeri, Horticultural Consultant being registered as proprietor of Lot 1 on Deposited Plan 166944 and the residue of the land comprised in Certificate of Title 72B/680

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 Auckland on the _____ day of _____ 19____ under No. 166944 are the easements which it is intended shall be created by the operation of section 90A of the Land Transfer Act 1952.

Attachment 7 - pp 1/3

SCHEDULE

DEPOSITED PLAN NO. 166944

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 1 DP 107204	C	Part Lot 2 DP 124059 and Lot 1 DP 166944	101B/255
Right of way	Lot 2 DP 166944	B	Part Lot 2 DP 124059 and Lot 1 DP 166944	101B/255
Right to convey electricity	Part Lot 1 DP 107204	C	Part Lot 2 DP 124059 and Lot 1 DP 166944	101B/255
Right to convey electricity	Lot 2 DP 166944	B	Part Lot 2 DP 124059 and Lot 1 DP 166944	101B/255
Right to convey telecommunications	Part Lot 1 DP 107204	C	Part Lot 2 DP 124059 and Lot 1 DP 166944	101B/255
Right to convey telecommunications	Lot 2 DP 166944	B	Part Lot 2 DP 124059 and Lot 1 DP 166944	101B/255
Right to drain stormwater	Lot 2 DP 166944	B	Part Lot 2 DP 124059 and Lot 1 DP 166944	101B/255
Right to drain stormwater	Part Lot 1 DP 107204	C	Part Lot 2 DP 124059 and Lot 1 DP 166944	101B/255
Right to drain sewage	Lot 2 DP 166944	B	Part Lot 2 DP 124059 and Lot 1 DP 166944	101B/255
Right to drain sewage	Part Lot 1 DP 107204	C	Part Lot 2 DP 124059 and Lot 1 DP 166944	101B/255
Right to convey water	Lot 2 DP 166944	B	Part Lot 2 DP 124059 and Lot 1 DP 166944	101B/255
Right to convey water	Part Lot 1 DP 107204	C	Part Lot 2 DP 124059 and Lot 1 DP 166944	101B/255

PTO. - To see 60/40% split allocation.

Attachment 7 - pp 1/3

24/26

uninterrupted and
to convey
all of

Rights and Powers:

1. In addition to the rights and powers set out in the Seventh Schedule to the Land Transfer Act 1952 the following rights and powers shall apply to the right of way marked "C" on Deposited Plan 166944:

- (a) The costs of formation of the right of way marked "C" will be borne equally by the registered proprietors of the servient and dominant tenements. The right of way will be formed to whatever standard is necessary at the time of formation in accordance with the then prevailing local authority or territorial requirements to provide approved access to five separate Lots. A cattle stop will be provided at the Inlet Road entrance to the right of way.

- (b) After the initial formation of the right of way marked "C" either the registered proprietor of the servient tenement or the registered proprietor of the dominant tenement may further upgrade the right of way marked "C" provided that if the other party does not require the upgrading the costs thereof will be paid solely by the party desiring the upgrade.

- (c) While the local authority planning requirements restrict to five the number of rear allotments that may be served from any right of way the registered proprietor of the servient tenement will be entitled to subdivide his property to a maximum of three allotments serviced by the right of way marked "C" and the registered proprietor of the dominant tenement will be entitled to subdivide his property to a maximum of two allotments serviced by the right of way marked "C". Should the local authority requirements alter at any time in the future to increase or further restrict the number of rear allotments which may be served by a right of way each parties entitlement to further subdivision shall reciprocally increase or reduce on the same pro-rata share of three-fifths to the registered proprietor of the servient tenement and two-fifths of the registered proprietor of the dominant tenement.

60/40%
Split/
allocation.

⇒

2. In addition to the rights and powers set out in the Seventh Schedule to the Land Transfer Act 1952 the following rights and powers shall apply to the right of way marked "B" on Deposited Plan 166944:

- (a) The registered proprietor of the dominant tenement will be solely responsible for the formation and maintenance of the right of way marked "B". At the time of formation gates or cattle stops approved by the registered proprietor of the servient tenement will be provided at the junction between the right of ways marked "C" and "B" and the junction between the right of way marked "B" and part Lot 2 DP 124059.

Attachment 7 - PP 2/3 - Attachment 7 pp 2/3

25/26 (25/26)

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

Dated this 24th day of July

19 95

Signed by the above-named
BRUCE GORDON FENTON and
PAMELA FRANCES FENTON

*Bruce
P & Pamela Fenton*

in the presence of

Witness *Tam*

Occupation *Solicitor*

Address *Amthor*

Signed by the above-named
PETER JOHN MALCOLM
in the presence of:-

Pg. Malcolm

Witness *Peter John Malcolm*

Occupation *Notary Public*

Address *238 George St. WINDSOR
NSW 4000*

Notary Public

Attachment 7 pp 3/3.

26/26.