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

**Guaranteed Search Copy issued under Section 60 of the Land
Transfer Act 2017**




R.W. Muir
Registrar-General
of Land

Identifier 1117471
Land Registration District North Auckland
Date Issued 10 July 2023

Prior References
31375

Estate Fee Simple
Area 2482 square metres more or less
Legal Description Lot 5 Deposited Plan 588121
Registered Owners
Yaqian Zhang

Estate Fee Simple - 1/7 share
Area 1817 square metres more or less
Legal Description Lot 9 Deposited Plan 588121
Registered Owners
Yaqian Zhang

Interests

Appurtenant hereto are water rights created by Transfer 338421 - 25.9.1944 at 2:55 pm

Appurtenant hereto are rights of way and water and electricity rights specified in Easement Certificate B158809.5 - 18.3.1983 at 2.19 pm

Some of the easements specified in Easement Certificate B158809.5 are subject to Section 309 (1) (a) Local Government Act 1974 (See DP 97080)

C489733.3 Variation of the terms of the easement specified in Easement Certificate B158809.5 - 16.6.1993 at 12.57 pm

11430320.4 Resolution pursuant to Section 243(e) Resource Management Act 1991 cancelling the easement condition over Lot 1 DP 208231 imposed on DP 97080 and specified in Easement Certificate B158809.5 (See DP 534929) - Produced 1.7.2019 at 11:19 am and Entered 20.9.2019 at 1:00 pm

Subject to Section 241(2) Resource Management Act 1991 (affects DP 588121)

12704863.7 Consent Notice pursuant to Section 221 Resource Management Act 1991 - 10.7.2023 at 3:41 pm (affects Lot 5 DP 588121)

Land Covenant in Covenant Instrument 12704863.9 - 10.7.2023 at 3:41 pm (affects Lot 5 DP 588121) (Limited as to duration)

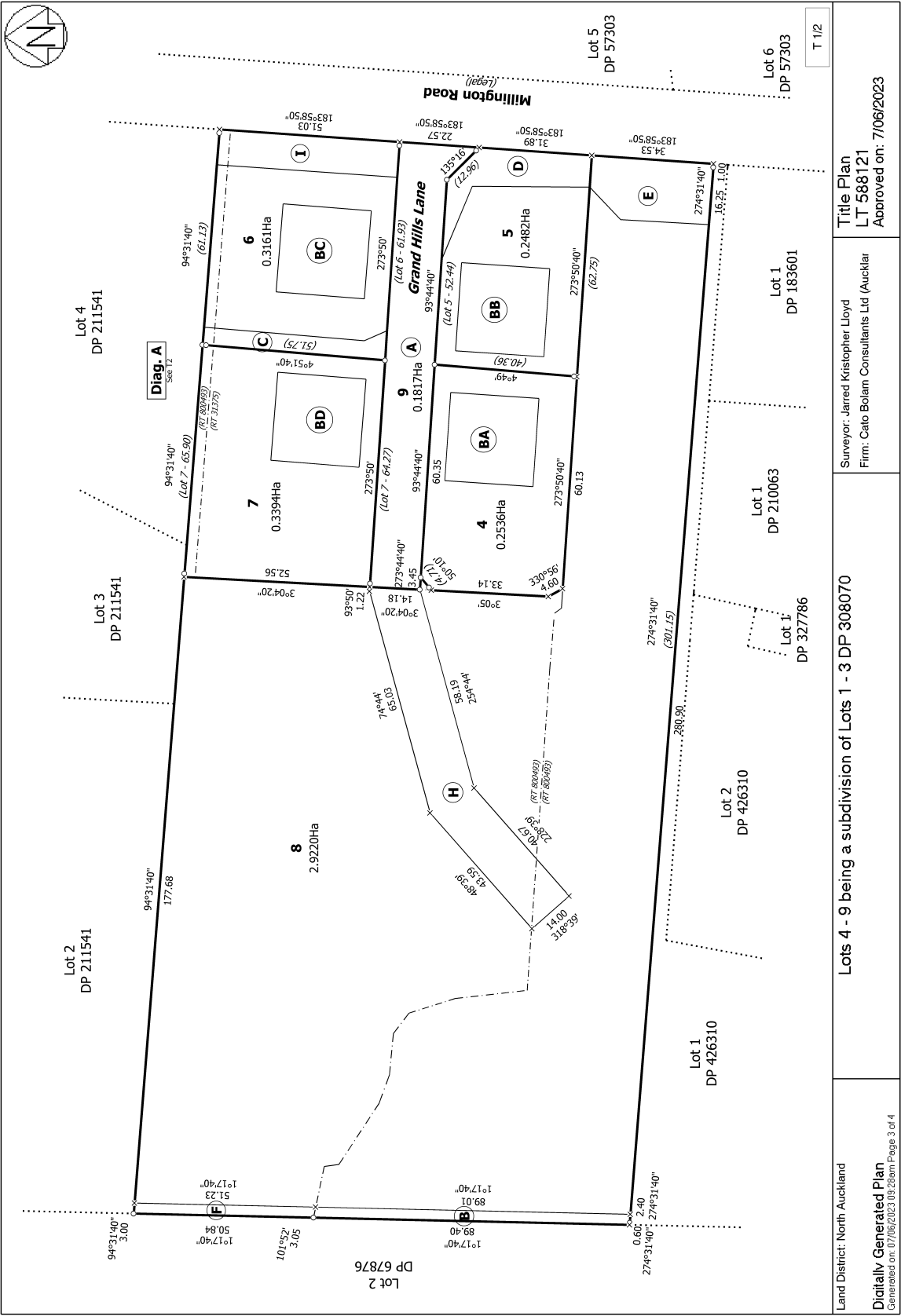
Subject to a right of way, a right to convey electricity, telecommunications and water, and a right to drain water over part Lot 9 marked A, and a right to drain water over part Lot 5 marked D all on DP 588121 created by Easement Instrument 12704863.10 - 10.7.2023 at 3:41 pm

Appurtenant hereto is a right to drain water and a right to convey telecommunications, electricity and water and appurtenant to Lot 5 DP 588121 is a right of way created by Easement Instrument 12704863.10 - 10.7.2023 at 3:41 pm

The easements created by Easement Instrument 12704863.10 are subject to Section 243 (a) Resource Management Act 1991

Subject to a right (in gross) to convey electricity and telecommunications over part Lot 9 marked A all on DP 588121 in favour of Northpower Limited and Northpower Fibre Limited created by Easement Instrument 12704863.11 - 10.7.2023 at 3:41 pm

The easements created by Easement Instrument 12704863.11 are subject to Section 243 (a) Resource Management Act 1991



View Instrument Details



Instrument No 12704863.11
Status Registered
Date & Time Lodged 10 July 2023 15:41
Lodged By Ross, Janet Mary
Instrument Type Easement Instrument



Affected Records of Title	Land District
1117470	North Auckland
1117471	North Auckland
1117472	North Auckland
1117473	North Auckland
1117474	North Auckland

Annexure Schedule Contains 6 Pages.

Grantor Certifications

I certify that I have the authority to act for the Grantor and that the party has the legal capacity to authorise me to lodge this instrument ☒

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument ☒

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply ☒

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period ☒

Signature

Signed by Vaughan Bevan Syers as Grantor Representative on 07/07/2023 03:55 PM

Grantee Certifications

I certify that I have the authority to act for the Grantee and that the party has the legal capacity to authorise me to lodge this instrument ☒

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument ☒

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply ☒

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period ☒

Signature

Signed by Vaughan Bevan Syers as Grantee Representative on 07/07/2023 03:56 PM

*** End of Report ***

Easement instrument to grant easement or *profit à prendre*

(Sections 109 Land Transfer Act 2017)

Grantor

**Bernard Wayne Hill, Peter Ralph Hill and BH Trustee Company Limited (RTs 1117470, 1117471, 1117472, 1117473)
YMH Trustees Limited (RT 1117474)**

Grantees

Northpower Limited and Northpower Fibre Limited

Grant of Easement or *Profit à prendre*

The Grantor being the registered owner of the Burdened Land set out in Schedule A **grants to the Grantees** (and, if so stated, in gross) the easement(s) or *profit(s) à prendre* set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

Schedule A*Continue in additional Annexure Schedule, if required*

Purpose Easement or <i>profit</i>	Shown (plan reference)	Burdened Land (Record of Title)	Benefited Land (Record of Title) or in gross
Right to convey electricity and telecommunications	A on DP 588121	Lot 9 DP 588121 (RTs 1117470, 1117471, 1117472, 1117473, 1117474)	In Gross
	I on DP 588121	Lot 6 DP 588121 (RT 1117472)	In Gross
	H on DP 588121	Lot 8 DP 588121 (RT 1117474)	In Gross

Easements or *profits à prendre* rights and powers (including terms, covenants and conditions)*Delete phrases in [] and insert memorandum number as required; continue in additional Annexure Schedule, if required*

Unless otherwise provided below, the rights and powers implied in specified classes of easement are those prescribed by the Land Transfer Regulations 2018 and/or Schedule Five of the Property Law Act 2007

The implied rights and powers are hereby **substituted** by: the provisions set out in the Annexure Schedule

EASEMENT INSTRUMENT ANNEXURE SCHEDULE

1. DEFINITIONS

1.1 In this instrument unless the context indicates otherwise:

"Easement Area" means those parts of the Land referred to in Schedule A as being subject to a right to convey electricity and a right to convey Telecommunications;

"Electrical Works" means the Works, Electrical Installations, Electrical Appliances, Fittings and Associated Equipment, as those terms are defined in the Electricity Act 1992, presently fixed or installed on, over or under the Easement Area, or to be fixed or installed on, over or under the Easement Area in substitution, addition or replacement for them, whether of the same, smaller or larger dimensions or capacity;

"Emergency Situation" means a situation in which there is a probable danger to life or property or immediate risk to the continuity or safety of supply or distribution of electricity or telecommunications;

"Grantees" means Northpower Limited, Northpower Fibre Limited and their successors, transferees and assigns;

"Grantees' Authorised Persons" means the Grantees' subsidiary and related companies, and the agents, employees, contractors, lessees, licensees, representatives and invitees of the Grantees and the Grantees' subsidiary and related companies;

"Grantor" means the registered owner of the Land and includes their heirs, executors, administrators and assigns;

"Land" is the land owned by the Grantor described in Schedule A;

"Burdened Land" means the Burdened Land as set out in Schedule A;

"Telecommunications" means the conveyance, transmission, emission or reception by electromagnetic means from one device to another of any encrypted or non-encrypted sign, signal, impulse, writing, image, sound, instruction, information, or intelligence of any nature, whether for the information of any person using the device or not (and for the avoidance of doubt, includes any conveyance that constitutes broadcasting);

"Telecommunications Works" means any cables, ducts, wires or conductors of any other kind (including, without limit, fibre optic cables) used or intended to be used for the transmission or reception of Telecommunications and any instrument, furniture, plant, office, building, machinery, engine, excavation, or work, of whatever description, used in relation to, or in any way connected with those cables, ducts, wires or conductors presently fixed or installed on, over or under the Easement Area, or to be fixed or installed on, over or under the Easement Area in substitution, addition or replacement for them, whether of the same smaller or larger dimensions or capacity;

"Works Owner(s)" means the Grantees, the Grantees' subsidiary and related companies, or any other person(s) the Grantees authorise to install Electrical Works or Telecommunications Works, and includes such person(s) as they may transfer ownership to.

2. GRANT OF ELECTRICITY AND TELECOMMUNICATIONS EASEMENTS

2.1 The Grantor grants to the Grantees, as easements in gross forever, the rights to:

2.1.1 convey, reticulate, convert, transform, transmit, supply and use electrical energy and power by means of the Electrical Works; and

2.1.2 convey, reticulate, convert, transform, transmit, supply and use Telecommunications, by means of the Telecommunications Works, in each case without obstruction or interruption, and in any quantity.

2.2 The Grantees and the Grantees' Authorised Persons have the right, subject to clause 3, to enter and remain on the Easement Area, and any other parts of the Land as are reasonably necessary, with or without tools, plant, equipment and vehicles to do the following work:

2.2.1 To construct, install and lay the Electrical Works and/or Telecommunications Works on, over or under the Easement Area, at a depth or height and along a line determined by the Grantees;

2.2.2 To inspect, maintain, repair, dig up, alter, upgrade, enlarge, renew, relocate, replace or remove those Electrical Works and/or Telecommunications Works; and

2.2.3 To open up the soil of the Easement Area and make any access way, cuttings, fillings, grades, batters or trenches and to re-open the same and generally to do and perform such acts or things upon the Land and/or Works Area as may be necessary or desirable (or incidental thereto) and to do anything else in the full exercise of the rights granted under this instrument.

2.2.4 For the avoidance of doubt, the Grantor's consent shall be deemed for the purposes of clause 10(1)(b) of Schedule 5 of the Land Transfer Regulations 2018 by virtue of this easement).

3. ACCESS

3.1 The Grantees must, before exercising the right of entry in clause 2.2:

3.1.1 Make reasonable efforts to identify the Grantor or the Land occupier;

3.1.2 Give reasonable notice to the Grantor or the Land occupier of the Grantees' intention to enter the Land, except in an Emergency Situation when prior notice is not required and for the avoidance of doubt, clause 12(2) of Schedule 5 the Land Transfer Regulations 2018 does not apply;

3.1.3 Identify the work they intend to carry out.

The Grantees are not required by reason of the obligations in this clause to delay entry onto the Land from the date notified.

3.2 The Grantees, in entering the Land, will take reasonable steps to minimise inconvenience to the Grantor or the Land occupier, including:

3.2.1 Liaising with the Grantor to arrange a suitable time of entry to the Easement Area (unless this is not possible due to an Emergency Situation);

3.2.2 Leaving gates as they are found (if applicable);

3.2.3 Driving in a safe manner and taking reasonable steps not to disturb stock; and

3.2.4 Avoiding access through specific areas identified by the Grantor unless necessary to access the Electrical Works and Telecommunications Works.

The Grantees are not required to delay entry onto the Land or to pay any money or other consideration to the Grantor or any occupier of the Land by reason of the obligations in this clause.

3.3 When accessing the Easement Area, the Grantees will:

- 3.3.1** Complete the Electrical Works and Telecommunications Works as soon as possible with as little damage as possible to the Land and any vegetation, fences or improvements on it; and
- 3.3.2** Use all reasonable endeavours to repair and make good all damage caused to the Land by the Grantees or the Grantees' Authorised Persons as a result of carrying out the Electrical Works and Telecommunications Works.

4. OWNERSHIP

Ownership of the Electrical Works and Telecommunications Works will at all times be vested in the Works Owner(s) and no part of the Electrical Works or Telecommunications Works will become a fixture on the Burdened Land or in any building on the Burdened Land. No person, company, or other party has an interest in the Electrical Works and Telecommunications Works by reason only of having an interest in the Land.

5. GRANTOR'S OBLIGATIONS

5.1 The Grantor will not, without the prior written permission of the Grantees (which will not be unreasonably withheld):

- 5.1.1** On the Easement Area or within the minimum distance from the Electrical Works and Telecommunications Works as advised by the Grantee from time to time (having regard to the relevant codes of practice and statutory or regulatory requirements applicable from time to time) do or allow the following:
 - (a) construction of any fencing or walls;
 - (b) placement of any buildings or structures;
 - (c) carrying out any earthworks or stockpiling;
 - (d) removal of any soil, substance or material;
 - (e) establishment of any trees, or other vegetation that can cause interference or restrict access;
- 5.1.2** Construct or permit the construction of any roads or driveways on the Easement Area except where the easement is over an access or right of way already in existence or created at the time of registration of this easement;
- 5.1.3** Do or allow anything to be done which would interrupt or restrict the transmission of electrical energy or Telecommunications or interfere with or affect the other rights of the Grantees under this easement;
- 5.1.4** Impede the Grantees' access over the Land or the Easement Area to the Electrical Works and Telecommunications Works.

5.2 The Grantor may put up fencing or gates on any part of the Easement Area as long as:

- 5.2.1** The Grantor first notifies the Grantees of this intention;
- 5.2.2** Before the Grantor erects the gates or fences, the Grantees have marked the location of the Electrical Works and Telecommunications Works; and
- 5.2.3** If in the reasonable opinion of the Grantees, the design or location of any proposed fence or gate may interfere with the operation of the Electrical Works and/or the Telecommunications Works, the Grantee may prescribe the height, material used and/or location of the fence or gate.

5.3 The Grantor must not knowingly cause or permit (or omit to do any act or thing that causes) flooding of the Easement Area.

5.4 In the event of any breach by the Grantor of its covenants under clauses 5.1, 5.2 or 5.3, the Grantees may give the Grantor written notice of any failure to comply with the requirements and specify what is required to remedy such failure and a timeframe for

doing so. If the Grantor fails to remedy such failure within the time frame specified in the notice, the Grantees may at all times at the Grantor's reasonable cost and at the Grantor's risk, remove any natural or cultivated vegetation or improvement which will interfere with the rights granted by this instrument.

6. HEALTH AND SAFETY

- 6.1** The Grantees acknowledge that they have responsibilities as a 'person conducting a business or undertaking' under the Health and Safety at Work Act 2015 (*HSAWA*), including under any applicable regulations and approved codes of practice relevant to the HSAWA.
- 6.2** When exercising its rights under this easement, the Grantees shall at all times comply with their health and safety obligations under the HSAWA and at law generally.
- 6.3** If the Grantor is also a 'person conducting a business or undertaking' because it conducts a business or undertaking on the Land, the Grantor acknowledges that it also has responsibilities under the HSAWA.
- 6.4** The parties agree that:
 - 6.4.1** the Grantor will inform the Grantees or the Grantees' Authorised Persons of the Grantor's reasonable rules or procedures regarding health and safety of persons on the Land prior to their entry;
 - 6.4.2** the Grantor shall comply with the Grantees' health and safety policies and procedures in relation to the Easement Area, the Electricity Works and Telecommunications Works; and
 - 6.4.3** the Grantor and Grantees shall comply with and use all reasonable endeavours to ensure their visitors comply with all health and safety signs, notices, policies and instructions issued or displayed on or at the Land.

7. MAINTENANCE

The Grantees are responsible for maintaining the Electrical Works and Telecommunications Works in the Easement Area so that they do not become a nuisance or a danger, provided that notwithstanding any other provision of this easement, if any maintenance, repair or replacement of the Equipment or any part of the Equipment, is necessary because of any act or omission, neglect or fault of the Grantor (including any tenant, licensee, employee, invitee, contractor or agent of the Grantor), then the Grantor shall be responsible for the whole cost of any such maintenance, repair or replacement.

8. NO POWER TO TERMINATE

There is no implied power in this instrument for the Grantor to terminate the easement rights due to the Grantees breaching any term of this instrument or for any other reason, it being the intention of the parties that the easement rights will continue forever unless surrendered.

9. LICENCE AND ASSIGNMENT

- 9.1** The Grantees may assign, transfer, lease, licence or otherwise grant or permit the use of all or any part of their rights, obligations and interests under this instrument without needing to obtain the Grantor's consent. The Grantor will if requested to do so by the Grantees sign such documents and obtain such consents as are required to enable registration of a transfer or assignment of part or all of a Grantee's interest under this instrument against the Record of Title(s) for the Land. The Grantees must reimburse the Grantor for the reasonable legal fees incurred by the Grantor when complying with the Grantor's obligations under this clause.
- 9.2** The liability of a Grantee under this instrument is limited to obligations and liabilities arising while that Grantee is the registered owner of the benefit of this easement, and ceases (except for any obligation or liability which has arisen during their time as registered Grantee) upon registration of any transfer or assignment of their interest as Grantee.
- 9.3** If at any time there is more than one Grantee, their liability to the Grantor shall be joint and several.

10. STATUTORY PROVISIONS

The easement rights are in substitution for those set out in Schedule 5 to the Land Transfer Regulations 2018, but otherwise this easement does not affect any statutory powers which the Grantees may have. The terms contained in this instrument shall be subject to and do not derogate from the rights and powers of the Grantee under any contract for the supply of electricity or the Electricity Act 1992.

11. DISPUTES

If any dispute arises between the Grantor and Grantees about the rights in this instrument which cannot be resolved by negotiation, the parties must submit at the request of either party to the arbitration of an independent arbitrator. This arbitrator is to be appointed jointly by the parties, and if they cannot agree on one within 14 days, to be appointed by the President for the time being of the branch of the New Zealand Law Society where the Land is situated. The arbitration will be determined in accordance with the Arbitration Act 1996 and its amendments or any statute which replaces it. The parties' execution of this instrument is to be treated as a submission to arbitration.

View Instrument Details



Instrument No	12704863.7
Status	Registered
Date & Time Lodged	10 July 2023 15:41
Lodged By	Ross, Janet Mary
Instrument Type	Consent Notice under s221(4)(a) Resource Management Act 1991



Affected Records of Title	Land District
1117470	North Auckland
1117471	North Auckland
1117472	North Auckland
1117473	North Auckland
1117474	North Auckland

Annexure Schedule Contains 5 Pages.

Signature

Signed by Vaughan Bevan Syers as Territorial Authority Representative on 07/07/2023 03:55 PM

*** End of Report ***

IN THE MATTER of the Resource Management Act 1991 ("**the Act**")

A N D

IN THE MATTER of a subdivision consent as evidenced by Land Transfer Plan No. 588121

A N D

IN THE MATTER of a Consent Notice issued pursuant to Section 221 of the Act by **WHANGAREI DISTRICT COUNCIL** ("**the Council**")

IT IS HEREBY CERTIFIED that the following conditions to be complied with on a continuing basis by the subdividing owner and subsequent owners were imposed by the Council as conditions of approval for the subdivision as effected by Land Transfer Plan No. 588121 ("**the plan**"), a copy of which is available at Council under file SL2200024.

A. The following conditions shall apply to Lots 4, 5, 6, 7 and Lot 8 ("the Lots") on the plan:

- (i) Any development shall comply with the restrictions and recommendations identified in the Hawthorn Geddes Engineers & Architects Limited engineering suitability report reference 12696 Rev 1 dated 24/03/2022 (a copy of which is available at Council under file SL2200024) unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by Council.
- (ii) The location and foundations of any building shall be certified by a suitably experienced Chartered Professional Engineer prior to issue of any building consent, noting the location of instability and flood susceptible areas on Council's Geographic Information Systems maps.
- (iii) Water supply will be via roof collection to tanks in respect of all the Lots. Prior to occupation of any habitable building each Lot shall provide a minimum 25,000 litre tank with 5-micron filter, with 10,000 litres set aside for firefighting purposes.
- (iv) At the time of building consent provide suitable evidence/design to illustrate that, stormwater attenuation will be provided for all impervious surfaces to ensure compliance with Chapter 4 of Council's Engineering Standards 2022, to the satisfaction of the Building Officer.
- (v) The existing overland flow paths are to be maintained by the Lot owner. No modification of the existing ground profile, plantings, fencing or buildings/structures of any kind will be permitted within

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the overland flow path unless a specific design has been done by a Chartered Professional Engineer and is approved in writing by the Council.

- (vi) No Principal Residential Unit, Minor Residential Unit, Minor Building, Building or Major Structure shall be constructed, placed or stored outside the designated building area on the Lots, as defined on the scheme plan approved by the underlying subdivision consent (Ref: SL2200024).

NOTE:

- For the purposes of this condition, all areas outside the designated building area are considered to be "no-build areas".
- For the purposes of this condition, Principal Residential Unit, Minor Residential Unit, Minor Building, Building and Major Structure shall be as defined in the Whangarei District Council District Plan.

- (vii) Any built development shall be undertaken in accordance with the the Simon Cocker Landscape Architecture Limited (SCLA) report – Ref: 22013_01 – Revision 5 and dated 26 August 2022 (a copy of which is available at Council under file SL2200024), including the following development standards:

(a) LOCATION OF BUILT FORM

- (i) Buildings and structures shall be confined to the identified building area.
- (ii) No works shall occur in the "No-Build" areas.

(b) MASSING OF BUILT FORM

- (i) Ancillary buildings shall complement the design and materials of the primary residential unit and shall be located a maximum of 10 meters from the primary residential unit.

(c) MATERIALS

The colour selection for all buildings and structures must be made from the following indicators:

- (i) Hue (Colour): All the colours from 00–24 are acceptable Reflectance Value (RV) and Greyness Groups.

The predominant wall colours, have a RV rating of no more than 30% for greyness groups A and B and no more than 30% for greyness group C.

- (ii) Roofs: A RV rating of no more than 20% within greyness groups A, B and C.

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(iii) Mirrored glazing is not permitted.

(d) FENCING

All fences shall be constructed from materials and be of a design and scale that reflects a rural character. Timber post and rail, and post, wire and batten fences are appropriate, solid screen fences are not permitted.

Fences shall be a maximum of 1.2m in height.

(e) STONE WALLS

Dry stone walls are not to be removed or damaged.

Dry stone walls on any Lot boundary and on the adjoining road berm shall be maintained to a good standard by the owner.

Any earthworks or planting shall be undertaken in a location and in a manner that does not cause harm or damage to any stone wall.

Compliance with the above requirements shall be demonstrated at part of any building consent application.

B. The following conditions shall apply to Lots 4, 5, 6 and 7 ("the 4 to 7 Lots") on the plan:

- (i) The specimen planting undertaken in accordance with the defined planting areas and specimen tree schedule shown on the plan titled "Figure 2a: The Proposal" – Drawing No. 45265-DR-C-1200 – Revision B - dated 22/08/2022 – as provided under Appendix 1 of the Simon Cocker Landscape Architecture Limited (SCLA) report – Ref: 22013_01 – Revision 5 and dated 26 August 2022. (a copy of which is available at Council under file SL2200024) shall be maintained in perpetuity. In the event of any plantings undertaken becoming diseased, or dying, they must be replaced by the same or similar species provided in the table below:

Specimen Tree Schedule			
Species	Common Name	Grade	Additional Requirements
Alectryon Excelus	Titoki	Pb40	Drip zone to be mulched
Beilschmiedia Taraire	Taraire	Pb40	Drip zone to be mulched
Podocarpus Totara	Totara	Pb40	Drip zone to be mulched
Vitex Lucens	Puriri	Pb40	Drip zone to be mulched
NOTE: Trees along main access (Lot 9) (JOAW) to be single species (Puriri)			

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Where such replacement plants are required, the planting shall occur immediately within the next available planting season and maintained in perpetuity.

- (ii) The owners of the 4 to 7 Lots shall ensure the following conditions are adhered to:
 - (a) The owners are permitted to have one (1) dog per site. The dog must be micro-chipped and registered with the Council.
 - (b) That any dog within the 4 to 7 Lots is under effective control at all times.
 - (c) No cats shall be kept, or permitted to be kept, within the 4 to 7 Lots at all times.
 - (d) The owners shall ensure that the following is adhered to at all times:
 - (i) The dog residing on the site is kept within a dog proof fence area, on a lead or under effective control at all times when outside the fenced area provided for within the subject site; and
 - (ii) Be kept under effective control at all times, day and night.
 - (e) The owners shall ensure that any visitors are made aware that no other dog(s) are allowed to visit the site, unless the following conditions are adhered to:
 - (i) The dog is kept within a dog proof fence area, on a lead or under effective control at all times when outside the fenced area provided for within the subject site.
- (iii) The owner(s) are to be advised that there may be unrecorded archaeological sites within the 4 to 7 Lots. In the event of an "accidental discovery" of archaeological material during any earthworks and/or construction phase, the following steps shall be undertaken:
 - (a) All work on the site will cease immediately. The contractor/works supervisor will shut down all equipment and activity.
 - (b) The contractor/works supervisor/owner will take immediate steps to secure the site (tape it off) to ensure the archaeological remains are undisturbed and the site is safe in terms of health and safety requirements. Work may continue outside of the site area.
 - (c) The contractor/works supervisor/owner will notify the Area Archaeologist of Heritage New Zealand - Pouhere Taonga (Northland Office), tangata whenua and any required statutory agencies, if this has not already occurred.

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KT

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154742.39 VBS:jmr

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- (d) Heritage New Zealand - Pouhere Taonga advise the use of a qualified archaeologist who will confirm the nature of the accidentally discovered material.
- (e) If the material is confirmed as being archaeological, under the terms of the Heritage New Zealand Pouhere Taonga Act 2014, the landowner will ensure that an archaeological assessment is carried out by a qualified archaeologist, and if appropriate, an archaeological authority is obtained from Heritage New Zealand - Pouhere Taonga before work resumes.

If burials, human remains/koiwi tangata are uncovered, steps (a) to (c) above must be taken and the Area Archaeologist of Heritage New Zealand -Pouhere Taonga, the New Zealand Police and the Iwi representative for the area must be contacted immediately. The area must be treated with discretion and respect and the koiwi tangata/human remains dealt with according to law and tikanga.

DATED at Whangarei this 30th day of March 2023.

SIGNED for **WHANGAREI DISTRICT COUNCIL**
pursuant to the authority of the Council given
pursuant to the Local Government Act 2002 and the
Resource Management Act 1991


KT Satherley (Mar 30, 2023 12:45 GMT+13)

Authorised Signatory
Karen Toni Satherley
Post Approval RMA Officer

View Instrument Details



Instrument No 12704863.9
Status Registered
Date & Time Lodged 10 July 2023 15:41
Lodged By Ross, Janet Mary
Instrument Type Land Covenant under s116(1)(a) or (b) Land Transfer Act 2017



Affected Records of Title	Land District
1117470	North Auckland
1117471	North Auckland
1117472	North Auckland
1117473	North Auckland

Annexure Schedule Contains 7 Pages.

Covenantor Certifications

I certify that I have the authority to act for the Covenantor and that the party has the legal capacity to authorise me to lodge this instrument ☒

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument ☒

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply ☒

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period ☒

Signature

Signed by Vaughan Bevan Syers as Covenantor Representative on 07/07/2023 03:55 PM

Covenantee Certifications

I certify that I have the authority to act for the Covenantee and that the party has the legal capacity to authorise me to lodge this instrument ☒

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument ☒

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply ☒

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period ☒

Signature

Signed by Vaughan Bevan Syers as Covenantee Representative on 07/07/2023 03:55 PM

*** End of Report ***

This approved format may be used for lodgement as an electronic instrument under the Land Transfer Act 2017

Covenant Instrument to note land covenant

(Section 116(1)(a) & (b) Land Transfer Act 2017)

Covenantor

Bernard Wayne HILL, Peter Ralph HILL and BH TRUSTEE COMPANY LIMITED

Covenantee

Bernard Wayne HILL, Peter Ralph HILL and BH TRUSTEE COMPANY LIMITED

Grant of Covenant

The Covenantor, being the registered owner of the burdened land(s) set out in Schedule A, **grants to the Covenantee** (and, if so stated, in gross) the covenant(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s).

Schedule A required

Continue in additional Annexure Schedule, if

Purpose of covenant	Shown (plan reference)	Burdened Land (Record of Title)	Benefited Land (Record of Title) or in gross
Land Covenant	Lot 4 DP 588121	Lot 4 DP 588121 (RT 1117470)	Lot 5 DP 588121 (RT 1117471), Lot 6 DP 588121 (RT 1117472), Lot 7 DP 588121 (RT 1117473)
	Lot 5 DP 588121	Lot 5 DP 588121 (RT 1117471)	Lot 4 DP 588121 (RT 1117470), Lot 6 DP 588121 (RT 1117472), Lot 7 DP 588121 (RT 1117473)
	Lot 6 DP 588121	Lot 6 DP 588121 (RT 1117472)	Lot 4 DP 588121 (RT 1117470), Lot 5 DP 588121 (RT 1117471), Lot 7 DP 588121 (RT 1117473)
	Lot 7 DP 588121	Lot 7 DP 588121 (RT 1117473)	Lot 4 DP 588121 (RT 1117470), Lot 5 DP 588121 (RT 1117471), Lot 6 DP 588121 (RT 1117472)

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Insert instrument type

Covenant Instrument to note land covenant

Covenant rights and powers (including terms, covenants and conditions)

Delete phrases in [] and insert memorandum number as required.

Continue in additional Annexure Schedule if required.

The provisions applying to the specified covenants are those set out in:

{Memorandum number _____, registered under section 209 of the Land Transfer Act 2017}.

{Annexure Schedule}.

ANNEXURE SCHEDULE

BACKGROUND

- A.** The Covenantor intends that the Burdened Land be subject to a general scheme applicable to and for the benefit of the Benefited Land ("**Scheme**") for the Term.
- B.** The Covenantor intends this Instrument shall be and remain registered against the record(s) of title to the Burdened Land to give effect to the Scheme so that for the Term:
 - (a) Owners or occupiers for the time being of the Burdened Land shall be bound by the provisions of this Instrument; and
 - (b) Owners or occupiers for the time being of the Benefited Land can enforce the observance of the provisions of this Instrument by the owners or occupiers for the time being of the Burdened Land.

1. DEFINITIONS AND INTERPRETATION

DEFINITIONS

- 1.1 In this Instrument, unless the context requires otherwise:

Benefited Land means those parcels of land so described in Schedule A of this Instrument;

Burdened Land means those parcels of land so described in Schedule A of this Instrument;

Covenantor shall (where applicable) include and bind:

- (a) The person executing this Instrument as Covenantor; and
- (b) All the Covenantors for the time being under this Instrument; and
- (c) All respective executors, administrators, successors, assigns and successors in title of each Covenantor, and if more than one jointly and severally;

Covenantor shall (where applicable) include and bind:

- (a) The person executing this Instrument as Covenantor; and
- (b) All the Covenantors for the time being under this Instrument; and
- (c) All respective executors, administrators, successors, assigns and successors in title of each Covenantor, and if more than one jointly and severally;

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Covenants means all or any of the covenants contained in this Instrument;

Developer means Bernard Wayne Hill, Peter Ralph Hill and BH Trustee Company Limited as trustee of the Wayne Hill Family Trust and includes any assignee and/or successor who is nominated as such in writing by them from time to time;

dwelling house means a single building, limited to a height of 6 metres, designed, used or intended to be used as a independent and separate household unit provided that (subject to Local Authority requirements) the building may, as an integral part, include separate self-contained living accommodation (in the nature of a flat or guest accommodation comprising a floor area of less than 70m²);

Instrument means this Instrument and includes all the annexure schedules incorporated within this Instrument;

Landscaping includes the completion on a Lot of all fences, paths, planting of trees, shrubs and plants and for any unpaved areas viewable from road frontage to be grassed or planted;

Local Authority means Whangarei District Council;

Lot means a particular parcel of land comprised in the Burdened Land;

Term means a period of twenty (20) years commencing on and from the date that this Instrument is registered;

Working Day means any day of the week other than:

- (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday and Labour Day; and
- (b) If Waitangi Day or Anzac Day fall on a Saturday or Sunday, the following Monday; and
- (c) A day in the period commencing on the 24th of December in any year and ending on the 5th of January the following year, both days inclusive;
- (d) The day observed as the anniversary Northland province; and
- (e) Matariki (Matariki Observance Day) being the public holiday observed under the Holidays Act 2003.

INTERPRETATION

1.2 In this Instrument, unless the context indicates otherwise:

- (a) All monetary amounts are stated and are payable in New Zealand dollars;
- (b) Singular words include the plural and vice versa and words importing one gender include the other gender;
- (c) References to any "**party**" mean a party to this Instrument and include the successors, executors, administrators and permitted assigns (as the case may be) of that party;
- (d) References to clauses means a clause in this Instrument (unless stated otherwise);
- (e) References to a "**person**" include an individual, firm, company, corporation or unincorporated body of persons, any public, local authority, any government and any agency of any government or of any such authority;
- (f) Headings appear as a matter of convenience and do not affect the construction of this Instrument;
- (g) A reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for them;
- (h) Any obligation on the Covenantor not to do anything shall be deemed also to be an obligation not to suffer, permit and or cause that thing to be done;

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- (i) An obligation by two or more persons binds those persons jointly and severally.

2. GENERAL COVENANTS

2.1 The Covenantor covenants and agrees:

- (a) To observe and perform all the Covenants at all times during the Term; and
- (b) The Covenants shall run and bind the Burdened Land for the benefit of the Benefited Land to the intent that each of the Covenants will be appurtenant to the Benefited Land for the Term.

2.2 The Covenantor covenants and agrees to pay the Covenantee's legal costs (as between solicitor and client) of and incidental to the enforcement or attempted enforcement of the Covenantee's rights, remedies and powers under this Instrument in relation to any breach by the Covenantor of any of its obligations set out in this Instrument.

3. COVENANTS

Building

3.1 The Covenantor covenants and agrees:

- (a) The Covenantor shall not erect, or permit to be erected or placed on the Lot:
- (i) more than one dwelling house;
 - (ii) any relocated dwelling house or any dwelling house other than one constructed on site from new, unused materials;
 - (iii) any dwelling house, which has a floor area of less than 150m² (excluding garages, decking and carports);
 - (iv) any garage or carport which is not incorporated as an integral part of the dwelling house;
 - (vi) any building other than a dwelling house provided that the Covenantor is entitled to erect, construct or place on the Lot any separate free standing garden shed or similar outbuilding constructed and completed in new materials and appropriately painted or finished so as to blend in with the dwelling house;
 - (vii) Any building within 8 metres from any road boundary or within 3 metres from any other boundaries; and
 - (viii) Any water tanks higher than 1.5 metres above the ground (including risers) and such water tanks must be planted to screen them from the views of any other Lots.
- (b) The Covenantor shall not:
- (i) use any less than two different exterior claddings (or one cladding with a gable) of any material for any dwelling house other than brick, colour steel, natural stone, textured plaster, stained timber plywood or stained timber weatherboard, surface coated concrete block, stucco, linear weatherboards, solid plaster or glazing or a combination of the above;
 - (ii) leave the outside of any dwelling house unfinished, or any exterior walls or doors unpainted or unstained except where cedar cladding or decorative brick/stone are used;
 - (iii) use as a roofing material on any dwelling house any material other than tiles, (including clay, ceramic concrete, decramastic, pre-coated or pressed steel), colour steel (including pre-painted, long-run pressed or rolled steel), wooden shingles, slate, membrane roofing or copper.
- (c) Despite the provisions of clause 3.1(b), the Developer may approve in writing the use of alternative exterior cladding and/or roof materials provided the Developer considers, in its absolute discretion, that such materials are consistent with the Developer's requirements to maintain minimum standards for a modern, well-designed residential subdivision. Any use of alternative exterior cladding or roof materials so approved shall not be in breach of clause 3.1(b).

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- (d) The Covenantor shall construct and complete:
 - (i) the dwelling house within twelve (12) months of laying down the foundations; and
 - (ii) the Landscaping within twelve (12) months of laying the foundations for the dwelling house; and
 - (iii) the driveway comprising permanent continuous surface in concrete, concrete block, tar sealing or similar within fifteen (15) months of laying down the foundations for the dwelling house.
- (e) The Covenantor shall not permit or cause the Lot to be occupied or used unless:
 - (i) the dwelling house has been substantially completed in accordance with the terms of these Covenants, and
 - (ii) the dwelling house meets the requirements of the Local Authority.

Use

3.2 The Covenantor covenants and agrees:

- (a) Not to permit the Lot to be used for any purpose other than residential purposes or as a home office, provided that use of a Lot:
 - (i) as a sales office by the Developer; or
 - (ii) as a show home by a building company with the Developer's consent, shall not be a breach of this provision;
- (b) Not to erect or place, or permit to be erected or placed on the Lot any caravan, mobile home, hut, boat or any structure (other than a dwelling house) capable of providing temporary accommodation or other vehicles provided that the storage of mobile homes, caravans, cars, boats and other such items is permitted on the Lot once the dwelling house has been constructed and completed on the Lot;
- (c) To ensure that all services and utilities are located below ground on the Lot;
- (d) To keep the Lot and the road berms, vehicle crossings, drains, swales, fences and plantings outside but adjacent to the Lot maintained to a good standard neat and tidy and free of significant noxious weeds and overgrowth, including (but not limited to) keeping all grass below 10cm in length;
- (e) Not to permit any rubbish or waste material to be or remain on the Lot other than within suitable enclosed structures or otherwise appropriately screened from view;
- (f) Not to permit the parking of trucks or any large commercial or agricultural vehicles on or adjoining the Lot or on any thoroughfare or road near the Lot, other than for temporary delivery purposes;
- (g) Not to permit parking of any vehicles which do not have a current warrant of fitness and/or registration, in view of any dwelling house on any neighbouring Lot, or in view of any thoroughfare or road near the Lot;
- (h) To ensure all heat pumps, gas cylinders and washing lines are suitably screened from the road frontage of the Lot;
- (i) Not to subdivide the Lot;
- (j) Any fencing erected on a Lot shall:
 - (i) Where the fence is within ten (10) metres of a roadside boundary be less than one (1) metre in height;
 - (ii) Where the fence is more than ten (10) metres from a roadside boundary be less than 1.2 metres in height.

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4. BREACH OF COVENANTS

- 4.1 If the Covenantor breaches or fails to observe part of or any of the Covenants, then without prejudice to any other liability which the Covenantor may have to the Covenantee or any person or persons having the benefit of the Covenants, the Covenantor, upon written demand being made by the Covenantee or any person or persons having the benefit of the Covenants will cease any activity which is in breach or non-observance of the Covenants and otherwise rectify the breach or non-observance.
- 4.2 The Covenantor will indemnify and keep indemnified the Covenantee and the Developer from and against any loss, damage, cost, expense or charge incurred or sustained at any time by the Covenantee or the Developer as a result of any failure or breach by the Covenantor in complying with any obligation imposed on the Covenantor pursuant to this Instrument.
- 4.3 Despite any other provisions of this Instrument, the Covenantor will only be liable for breaches of the Covenants which occur or exist while the Covenantor is the owner or occupier of the Lot in respect of which a breach or non-observance occurs (and will only be liable to indemnify the Covenantee accordingly) but without prejudice to any antecedent breach.

5. ENFORCEMENT

- 5.1 The Covenantor and Covenantee acknowledge and agree that:
- (a) The Covenants are intended to create obligations on the Covenantor, for the benefit of the Developer (as well as the Covenantee);
 - (b) The Developer may (but is not obliged to) facilitate the observance of this instrument by the Covenantor by taking all necessary steps to enforce its observance on behalf of any Covenantee;
 - (c) The Covenantee irrevocably appoints the Developer to be its attorney and in its name to do anything which the Developer considers necessary to enforce or attempt to enforce the Covenantee's rights or powers under this Instrument, provided that the Developer shall not be obliged to do so;
 - (d) Without limiting the appointment made in clause 5.1(c) that appointment may specifically extend to the Developer issuing proceedings in the name of any Covenantee, provided that in doing so the Developer indemnifies such Covenantee against all costs arising from or incidental to those proceedings.
- 5.2 In the event that the Covenantor breaches or fails to observe and perform part of or any of the Covenants, the Covenantee and/or the Developer shall have a right (but not an obligation) to do whatever may be reasonably required to remedy such failure on the part of the Covenantor, and the cost incurred by the Covenantee or the Developer in remedying the default shall be refunded by the Covenantor to that Covenantee or the Developer as the case may be upon demand.
- 5.3 The Covenantor acknowledges that neither the Covenantee nor the Developer shall be liable to the Covenantor for any loss, damage, claim or expense arising in relation to any matters under this Instrument (including without limitation where such loss, damage, claim or expense arises from any approval or non-approval by the Developer of an application under clause 3.1(c) or from any failure on the part of the Covenantee or the Developer to remedy a breach of the Covenants by the Covenantor or to enforce the Covenants).
- 5.4 The Developer's right to exercise any of its rights or remedies under this Instrument shall cease three (3) years after the date the Developer has subdivided and sold the last of the Lots on DP 588121 (or any subsequent plan or plans).

6. OPERATION OF COVENANTS

- 6.1 The Covenants shall expire and be of no further effect on expiry of the Term.

7. GENERAL

Waiver

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- 7.1 No exercise or failure to exercise or delay in exercising any right or remedy by a party shall constitute a waiver by that party of that or any other right or remedy available to it.

Partial Invalidity

- 7.2 If any provision of this Instrument or its application to any party or circumstance is or becomes invalid or unenforceable to any extent, the remainder of this Instrument and its application shall not be affected and shall remain enforceable to this greatest extent permitted by law.

Notices

- 7.3 Any notice required to be served on any party under this Instrument shall be served in the manner prescribed in Part 7 of the Property Law Act 2007 for the type of notice being served.

Governing Law

- 7.4 This Instrument shall be governed by New Zealand law, and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.