

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

AND

IN THE MATTER of a submission pursuant to
Clause 6 of Schedule 1, of the
Act in respect of the **Proposed**
Kaipara District Plan

SUBMISSION ON THE PROPOSED KAIPARA DISTRICT PLAN

To: District Plan Team
Kaipara District Council
Private Bag 1001
DARGAVILLE 0340

Email: districtplanreview@kaipara.govt.nz

1. Details of persons making the submission

Blue Sky Land Company Ltd (the submitter)

Ref: 18266

C/- Reyburn and Bryant

Attention: Brett Hood

PO Box 191

WHANGAREI

brett@reyburnandbryant.co.nz

2. General statement

- 2.1 The submitter cannot gain an advantage in trade competition through this submission. They are directly affected by the proposed plan change. The effects are not related to trade competition.

3. The specific provisions of the Kaipara District Plan that this submission related to are:

- 3.1 The subdivision and land use provisions, and related definitions.

4. The submitter seeks the following relief:

- 4.1 The submitter seeks the following relief, or alternative relief with similar effect:

(1) Amend SUB-R1 as detailed in Paragraph 5.11.

(2) Change the date in Sub-R4 to the operative date of the PKDP.

(3) Amend SUB-R6 as detailed in paragraph 5.15, and replacement all references to “allotment” with “site” in SUB-S1-SUB-S7, and in the subdivision rules in all zones.

(2) Delete SUB-P7.

(3) Amend SUB-P8(2) as detailed in paragraph 5.20.

5. The main submission points are as follows:

General statement

5.1 At a general level, the submitter supports the approach taken to rural subdivision and development in the Proposed Kaipara District Plan (PKDP). However, there are some issues with the rules and related terminologies that will frustrate the enabling intent of the provisions. This submission focuses on these matters with the overall intention of removing ambiguities and making the plan more user friendly.

Reference to “allotment” throughout the GRUZ subdivision rules

5.2 The various subdivision rules refer to both minimum “allotment” area and “net site area”, sometimes in the same provision. However, these terms have fundamentally different meanings, as confirmed in the definitions section of the PKDP.¹

¹ Definition of **allotment** in the Proposed Kaipara District Plan (same as s218 RMA):

2. The term allotment means –
 - a. any parcel of land under the Land Transfer Act 2017 that is a continuous area and whose boundaries are shown separately on a survey plan, whether or not—
 - i. the subdivision shown on the survey plan has been allowed, or subdivision approval has been granted, under another Act; or
 - ii. a subdivision consent for the subdivision shown on the survey plan has been granted under this Act; or
 - b. any parcel of land or building or part of a building that is shown or identified separately—
 - i. on a survey plan; or
 - ii. on a licence within the meaning of subpart 6 of Part 3 of the Land Transfer Act 2017; or
 - c. any unit on a unit plan; or
 - d. any parcel of land not subject to the Land Transfer Act 2017.
3. For the purposes of subsection (2), an allotment that is—
 - a. shall be deemed to be a continuous area of land notwithstanding that part of it is physically separated from any other part by a road or in any other manner whatsoever, unless the division of the allotment into such parts has been allowed by a subdivision consent granted under this Act or by a subdivisional approval under any former enactment relating to the subdivision of land.
 - b. For the purposes of subsection (2), the balance of any land from which any allotment is being or has been subdivided is deemed to be an allotment.

Definition of **net site area** in the Proposed Kaipara District Plan:

means the total area of the [site](#), but excludes:

- a. any part of the [site](#) that provides legal access to another [site](#);
- b. any part of a rear [site](#) that provides legal access to that [site](#);

- 5.3 By way of example, SUB-S1 entitled “Minimum allotment sizes” specifies the following for the GRUZ:

8. Allotments must have a minimum net site area of 12ha.

- 5.4 While the intent is understood, the conflating of terminology is confusing. The recently completed amendments to the Whangarei District Plan recognise this with the rules referring to minimum “site” areas and not “allotments” (see examples below).

SUB-R16 Subdivision in the Rural Production Zone

1. Activity Status: Controlled

Where:

- a. Every site has a minimum net site area of 20ha.
- b. Every site can accommodate an identified building area of at least 100m² on which a residential unit can be built so that there is compliance as a permitted activity with the relevant rules in the District Plan.

SUB-R15 Boundary Relocation Subdivision in the Rural Production Zone

Activity Status: Restricted Discretionary

Where:

1. All sites:
 - a. Are able to accommodate a minimum 100m² building area on which a residential unit can be built so that there is compliance as a permitted activity with all zone, overlay, and district-wide rules.
 - b. Have a minimum net site area of at least 2,000m².

- 5.5 The reference to “allotments” in relation to other subdivision rules in the PKDP has flow on implications for those rules, including (but not limited to) the “Boundary Adjustment” rule referred to below. Accordingly, the submitter requests that all of the subdivision rules (including GRUZ) be amended to refer to sites rather than allotments.

SUB-R1 ‘Boundary adjustments’

- 5.6 SUB-R1 provides for ‘Boundary Adjustments’ where:

-
- c. any part of the [site](#) used for access to the [site](#);
any part of the [site](#) subject to a designation that may be taken or acquired under the Public Works Act 1981.

Definition of **site** in the Proposed Kaipara District Plan:
means:

- a. an area of [land](#) comprised in a single record of title as per Land Transfer Act 2017; or
- b. an area of [land](#) which comprises two or more adjoining legally defined [allotments](#) in such a way that the [allotments](#) cannot be dealt with separately without the prior consent of the [council](#); or
- c. the [land](#) comprised in a single [allotment](#) or balance area on an approved survey plan of [subdivision](#) for which a separate record of title as per Land Transfer Act 2017 could be issued without further consent of the [Council](#); or
- d. except that in relation to each of sub clauses a. to c., in the case of [land](#) subdivided under the Unit Title Act 1972 or 2010 or a [cross lease](#) system, a [site](#) is the whole of the [land](#) subject to the unit [development](#) or [cross lease](#).

- a. The degree of non-compliance with any [land](#) use standards is not increased; and
 - b. [Boundary](#) adjustments comply with [SUB-S1 to SUB-S7](#).
- 5.7 Boundary Adjustment is defined in the PKDP as:
- means a [subdivision](#) that alters the existing [boundaries](#) between joining [allotments](#), without altering the number of [allotments](#).*
- 5.8 It is acknowledged that this definition has been taken from the National Planning Standards. However, the problem with this definition is the reference to “*without altering the number of allotments*” which is often not able to be achieved, particularly in rural areas.
- 5.9 Many rural “[sites](#)” are made up of multiple “[allotments](#)”, often held together by an amalgamation condition(s). When part of one of these allotments is subdivided and transferred to an adjoining site (such is the nature of a boundary adjustment subdivision), this more often than not results in the number of allotments being altered relative to the status quo, sometimes resulting in more lots, and sometimes less (see examples in **Attachment 1**).
- 5.10 As currently drafted the proposed rule SUB-R1 ‘Boundary Adjustment’ rule can only be used if a subdivision complies with the definition of “[Boundary Adjustment](#)”. If a subdivision is unable to comply with the definition because the number of “allotments” is being altered, the ‘Boundary Adjustment’ rule cannot be used and it will default to non-complying activity status – even though there is no ability to comply due to the specific make-up of the titles involved, and no difference in effects. This is a perverse outcome based on a surveying technicality and is not founded in any real-world effects on the environment or coherent development philosophy.
- 5.11 Given the flawed definition of boundary adjustment, the submitter seeks the following:
- (1) Delete the definition of “Boundary Adjustment” from the PKDP.
 - (2) Change the name of SUB-R1 to “Adjustment of existing sites”.
 - (3) Alter the rule as follows (alterations shown in red):

[SUB-R1 Adjustment of existing sites](#)

1. Activity status: Controlled

Where:

- a. No new **sites** are created.
- b. The degree of non-compliance with any land use standards is not increased;
and
- c. Boundary adjustments comply with SUB-S1 to SUB-S7.

3. Matters over which discretion is restricted:

- a. The matters of control listed in SUB-R1.2; and
- b. Any adverse effects on existing buildings resulting from the new **site** boundaries.

(4) Replace references to allotment with site in SUB-S1 to SUB-S7.

SUB-R4 'Small lot subdivision'

5.12 SUB-R4 provides for small lot subdivision where, amongst other things:

- a. The record of title to be subdivided must be dated prior to 28 April 2025.

5.13 The submitter requests that the date in Clause a. be changed to refer to the operative date of the PKDP instead of the current notification date. The PKDP rules do not have legal effect at the notification date, and so the restriction on the use of the small lot subdivision rule SUB-R4 should not apply until (at the earliest) the rules have legal effect, and more appropriately at the date the PKDP becomes operative.

SUB-R6 'Environmental benefit subdivision'

5.14 SUB-R6 provides for environmental benefit subdivision where (amongst other things):

- f. All proposed new environmental allotments are to have a minimum net site area (excluding access legs) of 4,000m².
- g. The record of title to be subdivided must be dated prior to 28 April 2025.

5.15 For the same reasons identified above, the submitter requests the following amendments:

- f. All proposed new environmental **benefit sites** are to have a minimum net site area (excluding access legs) of 4,000m².
- g. The record of title to be subdivided must be dated prior to **[insert operative date]**.

- 5.16 Consequential amendments are also required to SUB-S1-SUB-S16 to replace references to “allotment” with “site”.

SUB-P7 ‘Subdivision in the Rural Lifestyle Zone’

- 5.17 SUB-P7(3) is:

3. Avoiding the creation of undersized lots in the Rural Lifestyle Zone to ensure function and desired outcomes for the zone are not undermined.

- 5.18 Caselaw has established that the word “avoid” requires complete avoidance (no flexibility). In the case of Rural Lifestyle Subdivision, it is conceivable that some new sites may be slightly under the 4,000m² for a range of reasons including topographical constraints. In such cases a smaller lot might have a better environmental outcome than adhering to a blunt 4,000m² minimum lot size, but the application of SUB-P7(3) could prevent this. Accordingly, the submitter suggests SUB-P7(3) be deleted.

SUB-P8 ‘Subdivision in the General Rural Zone outside the Mangawhai/Hakaru Managed Growth Area

- 5.19 SUB-P8(2) is:

2. Avoids reverse sensitivity effects on primary production activities.

- 5.20 The submitter considers that absolute avoidance of reverse sensitivity effects will be difficult in some instances, particularly given the enabling provisions in the GRUZ. Accordingly, the submitter suggests that SUB-P8(2) be amended as follows:

*2. **Avoids, remedies or mitigates** reverse sensitivity effects on primary production activities to the greatest extent practicable.*

6.0 Relief sought:

- 6.1 The submitter requests the following relief, or alternative relief with similar effect:

(1) Amend SUB-R1 as detailed in Paragraph 5.11.

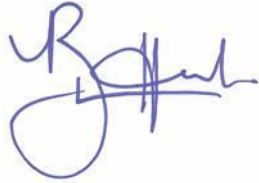
(2) Change the date in Sub-R4 to the operative date of the PKDP.

(3) Amend SUB-R6 as detailed in paragraph 5.15, and replacement all references to “allotment” with “site” in SUB-S1-SUB-S7, and in the subdivision rules in all zones.

(2) Delete SUB-P7.

(3) Amend SUB-P8(2) as detailed in paragraph 5.20.

7.0 The submitter wishes to be heard in support of their submission at a hearing.



Brett Hood

Planning Consultant

Dated this 27th day of June 2025.

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8. BOUNDARIES SOURCED FROM QUICKMAP. COORDINATES IN TERMS OF MOUNT EISEN 2000.
- 9.

TOTAL AREA: 8.9481 Ha
COMPRISED IN: RST N4782/237 &
N41608/49 (ALL)

THE SITE IS ZONED 'RURAL PRODUCTION' AND THE BUILDING SETBACKS ARE THUS SET FROM ALL BOUNDARIES.

NOTE:
- WHOLE SITE IS IN HIGH INSTABILITY ZONE

B	B.13.24	BOLINDARY AMENDMENT - BUI AA
A	C.13.24	THEFT 237 & N41608
REV	DATE	DESCRIPTION
REV	DATE	DESCRIPTION

**reyburn
&bryant**

Ph: 09 139 3563 PO Box 191, Whangarei 0140
7 Selwyn Ave, Whangarei www.reyburnandbryant.co.nz

CLIENT

LOGAN RULE
46 & 48 ARARUA ROAD,
WAIOTIRA

FILE

PROPOSED SUBDIVISION OF
LOTS 2 & 3 DP 25152
& LOT 1 DP 30591

DATE	NOV 2024	SCALE	1:2000 @A3	SHEET	1/1	REV	B
DRAWING REF	S18230						





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- REVENUE ROAD AERIAL SOURCED FROM COGOLU LANE 11.
- BOUNDARIES SOURCED FROM GULLY CAMP COORDINATES IN TERMS OF CLIENT BEEN EXAM.

PROPOSED EASEMENT SCHEDULE			
PURPOSE	SHOWN	SERVITUTE (BURDENED)	DOWNTOWN
RIGHT OF WAY	(M)	LOT 1 DP 548891	LOTS 1 & 2 HEREON
RIGHT OF WAY	(O)	LOT 1 DP 548891	LOT 2 HEREON

EXISTING LAND COVENANTS

- LOTS 1 & 2 HERON (FORMERLY LOT 21 DP 465611) ARE SUBJECT TO A LAND COVENANT IN L.L. 238/4028, WHICH IS TO BE REMAINED.
- LOT 1 & 2 HERON ARE BENEFITTED BY LAND COVENANTS IN L.L. 74569/4 & 80745/6 WHICH ARE TO BE REMAINED.

PROPOSED AMALGAMATION CONDITION

PURSUANT TO SECTION 220 (1)(b)(ii) OF THE RMA 1991 THAT LOT 2 HEREON AND LOT 1 DP 548891 (RT 941728), BE HELD IN THE SAME RECORD OF TITLE.

SUB'D AREA: 4.0050Ha
TOTAL AREA: 8.0506 Ha
COMPRISED IN: RST 620663 & 941728
(AMALG ONLY)

THIS SITE IS ZONED 'RURAL PRODUCTION' AND THE BUILDING SETBACKS ARE THUS BOUND BY ALL BOUNDARIES.			
REV	DATE	DESCRIPTION	BY
1	5/3/22	ADD USER TO M - AT PO	
2	30/09/22	ADD LAYMENT - ALWAY	
3	03/01/22	POST HOLE IN NW	

reyburn & bryant

Ph: 09 438 3563
PO Box 191, Whangarei 0140
www.reyburnandbryant.co.nz

CLIENT
TOTAL GOLD LTD
HORSESHOE LANE
RUATANGATA

PROPOSED SUBDIVISION OF LOT 21 DP 465611

DATE	OCTOBER 2022	SCALE	1:3000 (A3)
NO.	S16808	SHEET	1/2
		REV.	H



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8. CMTL 2014-2015 RURAL AERIAL SOURCED FROM AERIAL SURVEYS LTD.
9. INFORMATION AVAILABLE ON LNZ DATA SERVICE.
10. COORDINATES FROM NZLMAP. COORDINATES IN TERMS OF MOUNT EDEN 2000.

PROPOSED CANCELLATION OF AMALGAMATION CONDITION PURSUANT TO SECTION 241 (3) OF THE RMA 1991

THE WHANGAREI DISTRICT COUNCIL RESOLVES TO CANCEL THE AMALGAMATION CONDITION REQUIRING TO LOT 1 DP 384267 (RT336984) & PT PUHIPUHI NO 4B NORTH NO 2 BLOCK (RT336984) TO BE HELD IN THE SAME RECORD OF TITLE.

PROPOSED AMALGAMATION

PURSUANT TO SECTION 220 (1)(b)(i) OF THE RMA 1991 THAT PT PUHIPUHI 4B NORTH 2 (RESIDED TITLE 336984), LOT 1 DP 384267, AND LOT 2 DP 406756 BE HELD IN THE SAME RECORD OF TITLE.

TOTAL AREA: 93.9624Ha

COMPRISED IN: RT 336984 & 424753

THIS SITE IS ZONED 'RURAL PRODUCTION' AND THE BUILDING SETBACKS ARE THUS RPT FROM ALL BOUNDARIES.

A	DATE	REV	DATE	DESCRIPTION
1				INITIALS, REV, DATE

reyburn & bryant

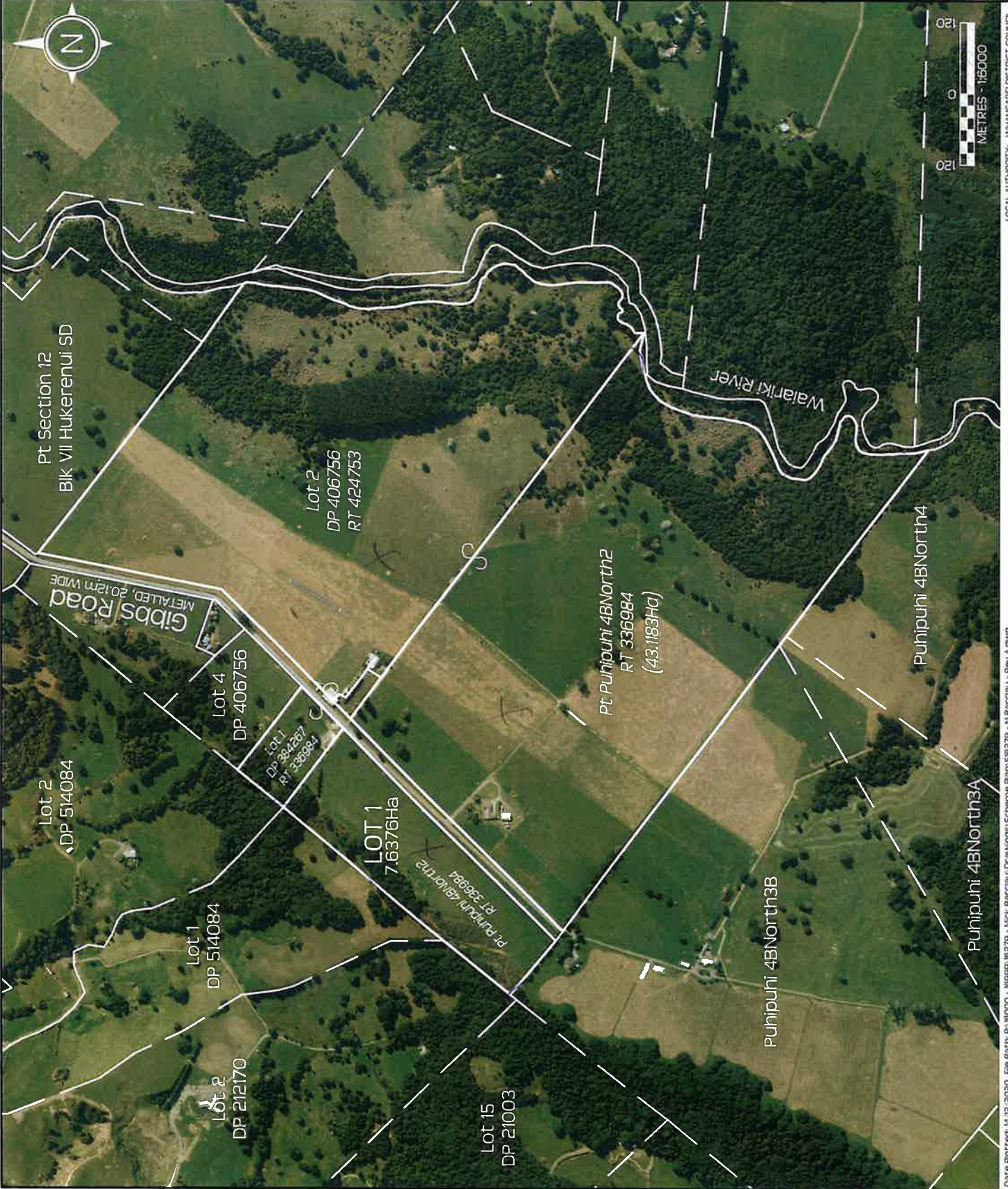
PH: 09 438 3563
PO Box 191, Whangarei 0140
7 Selwyn Ave, Whangarei
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N BARCLAY
GIBBS RD
WHAKAPARA HIKURANGI

TITLE

PROPOSED SUBDIVISION OF
LOT 2 DP 406756, LOT 1 DP
384267 & PT PUHIPUHI NO
4B NORTH NO 2 BLOCK

DATE	REVISION	SCALE	SHEET	REV.	A
DECEMBER 2020		1:5000 (9A3)	1/1		



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9. BOUNDARIES SOURCED FROM GUTENMAP - COORDINATES IN TERMS OF MOUNT EDEN 2000.

TOTAL AREA: 78.7095 Ha
 COMPRISED IN: RT NA93D/165 &
 NA50C/1470 (ALL)
 THIS SITE IS ZONED "RURAL PRODUCTION" AND THE BUILDING SETBACKS ARE THUS BORN FROM ALL BOUNDARIES.

REV	DATE	DESCRIPTION
A	10/10/18	FINAL SCALE - 1:5000
B	10/10/18	1:5000
C	10/10/18	1:5000
D	10/10/18	1:5000
E	10/10/18	1:5000
F	10/10/18	1:5000
G	10/10/18	1:5000
H	10/10/18	1:5000
I	10/10/18	1:5000
J	10/10/18	1:5000
K	10/10/18	1:5000
L	10/10/18	1:5000
M	10/10/18	1:5000
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O	10/10/18	1:5000
P	10/10/18	1:5000
Q	10/10/18	1:5000
R	10/10/18	1:5000
S	10/10/18	1:5000
T	10/10/18	1:5000
U	10/10/18	1:5000
V	10/10/18	1:5000
W	10/10/18	1:5000
X	10/10/18	1:5000
Y	10/10/18	1:5000
Z	10/10/18	1:5000

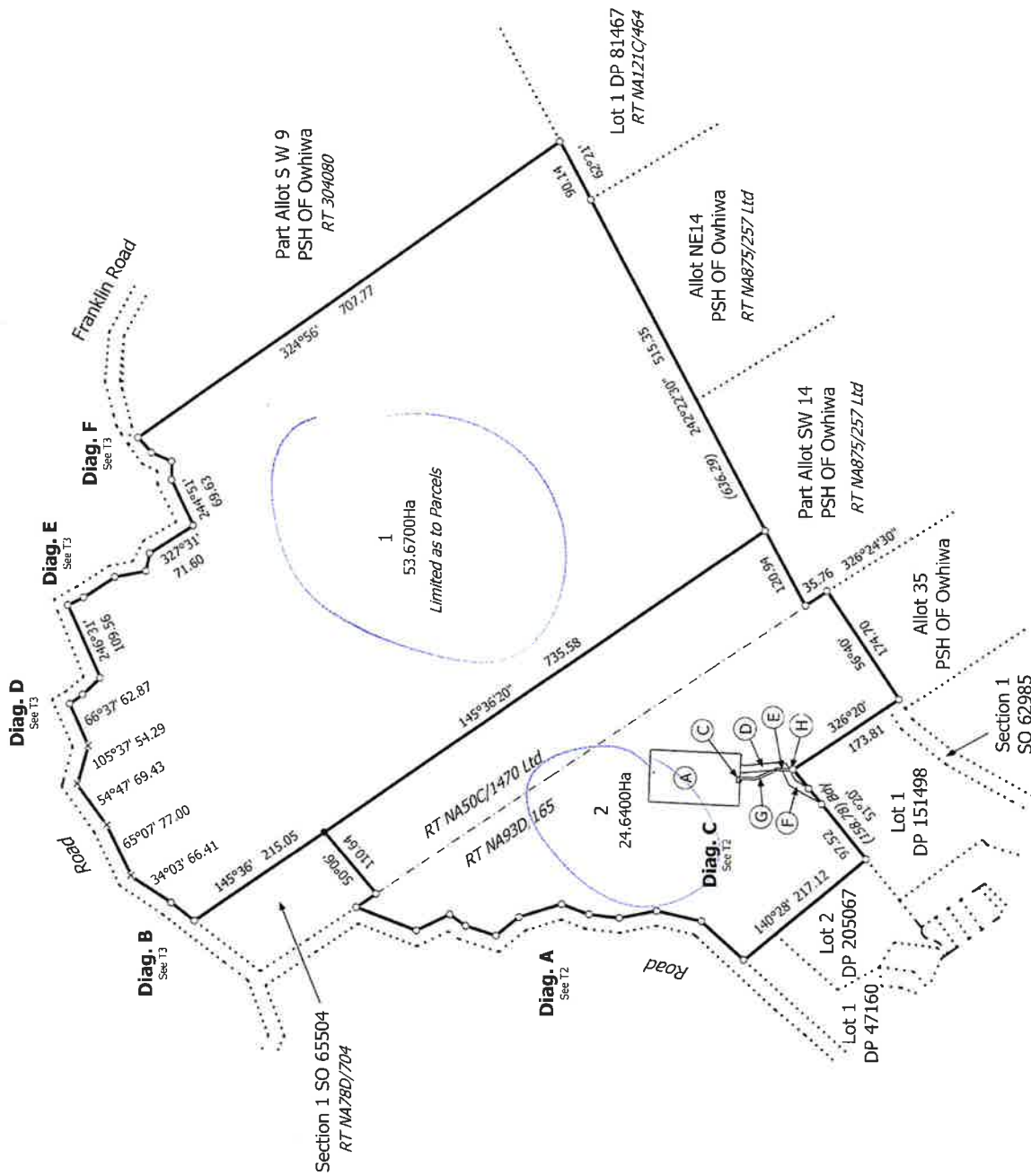
revelburn & bryant
 PO Box 191, Whangarei 0140
 7 Welwyn Ave, Whangarei
 www.revelburnandbryant.co.nz
 PH: 09 418 1561

CLIENT
 AKERS HOLDINGS LTD
 WHANGAREI HEADS ROAD,
 WHANGAREI

TITLE
 PROPOSED SITUATION OF
 ALLOT. 37, 39, 40, 41 & PT
 ALLOT. NE 10 PSH OF OWHIWA

DATE	SCALE	SHEET	REV
OCTOBER 2019	1:5000 @A3	1/1	A





15701 Akers bp/jg

Land District: North Auckland

Digitally Generated Plan

Generated on: 15/07/2020 07:51am Page 3 of 5

Lots 1 7 2 being a subdivision of Allotments 37, 39, 40 & 41 and Part Allotment
NE 10 Parish of Owhiwa

Surveyor: Phillip John Lash
Firm: Reyburn & Bryant 1999 Ltd

Title Plan
LT 547323
DRAFT



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**PROPOSED CANCELLATION OF
AMALGAMATION CONDITION**

PURSUANT TO SECTION 241(3) OF THE RMA 1991
THE WHANGAREI DISTRICT COUNCIL RESOLVES TO
CANCEL THE AMALGAMATION CONDITION REQUIRING
TO LOT 4 DP 535919, SECTION 1 SO 413748 &
LOT 3 DP 178255 (RT 887817) TO BE HELD IN THE
SAME RECORD OF TITLE.

TOTAL AREA: 61.8655 Ha
**COMPRISED IN: RT NA109D/777 (ALL) &
RT 887817 (ALL)**

THIS SITE IS ZONED 'RURAL PRODUCTION' AND THE SETBACKS ARE THUS:
8m FROM ALL BOUNDARIES.

- EXISTING UNDEVELOPED LAND COVENANTS AS DESCRIBED IN E18281671,
E18281672 & E18281673 ARE TO REMAIN.
- EXISTING RESTRICTIVE LAND COVENANT AS DESCRIBED IN E18553486 &
& MARKED A ON DP 3720262 (NOT SHOWN ON THIS PLAN) IS TO REMAIN.
- EXISTING LAND COVENANT (IN GRASS) IN FAVOUR OF NORTHPOWDER LTD
AS DESCRIBED IN C18763934 IS TO REMAIN.
- RT 887817 IS SUBJECT TO S182099 OF THE PUBLIC WORKS ACT 1987.

D	03/12/21	AMALGAMATION	ALL	JH
E	20/07/21	AMALGAMATION	ALL	JH
F	20/07/21	AMALGAMATION	ALL	JH
G	20/07/21	AMALGAMATION	ALL	JH
H	20/07/21	AMALGAMATION	ALL	JH
I	20/07/21	AMALGAMATION	ALL	JH
J	20/07/21	AMALGAMATION	ALL	JH
K	20/07/21	AMALGAMATION	ALL	JH
L	20/07/21	AMALGAMATION	ALL	JH
M	20/07/21	AMALGAMATION	ALL	JH
N	20/07/21	AMALGAMATION	ALL	JH
O	20/07/21	AMALGAMATION	ALL	JH
P	20/07/21	AMALGAMATION	ALL	JH
Q	20/07/21	AMALGAMATION	ALL	JH
R	20/07/21	AMALGAMATION	ALL	JH
S	20/07/21	AMALGAMATION	ALL	JH
T	20/07/21	AMALGAMATION	ALL	JH
U	20/07/21	AMALGAMATION	ALL	JH
V	20/07/21	AMALGAMATION	ALL	JH
W	20/07/21	AMALGAMATION	ALL	JH
X	20/07/21	AMALGAMATION	ALL	JH
Y	20/07/21	AMALGAMATION	ALL	JH
Z	20/07/21	AMALGAMATION	ALL	JH

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&bryant**

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Ph: 09 538 3563
Cell: 0274 123 123

TITLE
**BARRY JONES FT &
CHRISTINE JONES FT**
JAMES ROAD, WHANGAREI

**PROPOSED SUBDIVISION
OF LOTS 3 & 4 DP 178255
AND LOT 4 DP 535191**

DATE	DECEMBER 2021	SCALE	1:5000 @A3
NO	S16625	SHEET	1/2
REV			D

[illegible]

PURSUANT TO SECTION 220 (1)(b)(iii) OF THE RMA 1991
THAT LOT 2 HEREON & LOT 1 DP 147713 (RT NAB7D/973)
BE HELD IN THE SAME RECORD OF TITLE.

THIS SITE IS ZONED 'RURAL AWW' AND THE BUILDING SUEAKS ARE THE SAME FROM ALL SITE LOCATIONS.

REF DATA:		NO. 1-89-2530
W	DATE	W1-0401 - 37554 T-0404

Ph: 09 438 3563
7 Selwyn Ave, Whangarei
PO Box 191, Whangarei 0140
www.reyburnandbryant.co.nz

7710

AMALGAMATED WITH LOT 1 DP 147713

DATE	MAY 2023	SCALE	1:3000	REV	01A3
NO.	S17583	SHEET	1/1		A

Date Plotted: 19/05/2023 File Path: P:\7000 - 17999\17583 - Sue and Simon Mehrrens Drawings\Scheme Plan-S17533 - Mehrrens - Rev A.dwg

