



RCSGEN

JEG:JC

S.P.17

12 February 1975

Mr I.D.P. Roger,
P.O.Box 9555,
HAMILTON.

Dear Sir,

I have your letter of 6 February 1975 regarding your property at Ohope, but I am not quite sure just what you wish me to clarify. You will be liable for the normal reserve contribution that any property owner is liable for when he proposes to subdivide his land.

The subdivision will have to fit in with existing subdivisions of adjoining properties and with regard to this I suggest that your surveyor should call and discuss the proposal with Mr Willis of this office or with myself. From the file it appears that you will have to make some contribution with regard to the accessway which runs down the western boundary of your property.

I shall be pleased to discuss your proposals further with either you or your surveyor at any mutually convenient time.

Yours faithfully,

J.E.Gray
COUNTY CLERK.



I. D. P. ROGER.

Box 9555
Hamilton
6.2.75.

Attention - S. E. RAY.

The Chief Administration Officer,
Whakatane County Council,
Hamilton.

Dear Sir.

Lot 6 C/T 110/1257.

Further to our telephone conversation of 5th inst. we would be pleased if your Council would clarify the position regarding our contribution to your Council relative to the above proposed subdivision.

We have had a meeting with a surveyor & he suggests that further recreation reserve land may be available for contribution.

Yours faithfully
I. D. P. Roger.

Copy for file S.P.17

SP300

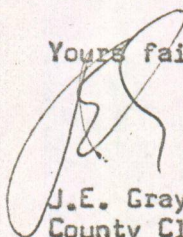
Buddle, Harvey, Ramsay & Moore,
P.O.Box 43,
WHAKATANE.

Dear Sirs,

Subdivision of Allotment 246B2B2 Waimana Parish
M.A. Rikys and Others

Your letter of 19 February 1971 has been considered by the Council which has agreed that it will meet half the cost of the construction of the accessway from Harbour Road and will recover this sum from the owners of the adjoining land, Part Allotment 6 DPS 8517, when that land is subdivided.

Yours faithfully,



J.E. Gray
County Clerk

SP17

~~SP300~~

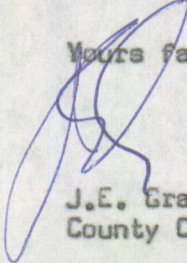
Buddle, Harvey, Ramsay & Moore,
P.O.Box 43,
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Dear Sirs,

Subdivision of Allotment 246B2B2 Waimana Parish
M.A. Rikys and Others

Your letter of 19 February 1971 has been considered by the Council which has agreed that it will meet half the cost of the construction of the accessway from Harbour Road and will recover this sum from the owners of the adjoining land, Part Allotment 6 DPS 8517, when that land is subdivided.

Yours faithfully,



J.E. Gray
County Clerk

Private Bag:

Telephone No:

DEPARTMENT OF JUSTICE

RECEIVED

23 FEB 1971

HAMILTON COUNTY

COUNCIL

LAND REGISTRY OFFICE,

Hamilton22-2-1971

Dear Sir,

PLAN No. S14918 being a subdivision ofPlan of Right of Way over Pt Lot 6, DP3 8517 being Pt Allot 246 B2 B1
Parish of Waimana CT 110/1259signed by J.D. & W.J. Roger, as the owner
was deposited on 19-2-71

Yours faithfully,

County Clerk
Whakatane County Council
P.O. Box 244
WhakataneR.R.H. Knowles
for District Land Registrar

SP17

1 December 1970

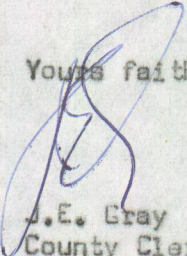
Harrison & Grierson & Partners,
P.O.Box 192,
WHAKATANE.

Dear Sirs,

Proposed Right of Way for Mr Roger

Further to my letter of 25 August 1970, I have to advise that the Council has now sealed this plan and it is available for you to collect at your convenience.

Yours faithfully,



J.E. Gray
County Clerk

to

Proposed ROW for
J & W Rogers

NOTES

RESOLVED:

(Gow Macdonald.

"THAT

the form of consent on the survey plan providing
for the ROW be executed under seal.

AFTER MEETING, ACTION REQUIRED:

FOR FINANCE

MEETING TO BE HELD ON 20/10/70

PROPOSED RIGHT OF WAY FOR I. & W. ROGER (SP17)
Hamerton & Chappell (29.9.70)

NOTES

Advising that the Council's powers relating to the control of easements of a private nature are contained in Section 198A of the Counties Act 1956 and that the wording introduced on the plan by the surveyors referring to Section 22 of the Counties Amendment Act 1956 is incorrect. The plan does not involve a subdivision but is restricted to a private way which is covered by Section 198A of the Counties Act 1956. In view of this the solicitors ask that the Council reconsider its decision.

COMMITTEE RECOMMENDATION:

"THAT ~~the Chair of Finance~~ Cllr Butler & Gow & Cllr
discuss this matter with the County Solicitor

COUNCIL DECISION 27/10/19 70 approved

~~C. H. CHAPPELL~~
R. L. CHAPPELL, LL.M.(AUCK.)
G. A. CHAPPELL, LL.B.

HAMERTON & CHAPPELL
BARRISTERS & SOLICITORS

TANEATUA OFFICE
TELEPHONE 28
48 TUHOE STREET
WHAKATANE OFFICE
TELEPHONE 6278
P.O. BOX 378

P.O. BOX 378,
WHAKATANE,
NEW ZEALAND.

29th September 1970.

The County Clerk,
P.O. Box 244,
WHAKATANE.

Dear Sir,

re Roger Bros.

Messrs. Harrison & Grierson & Partners, Registered Surveyors, Whakatane, have referred your letter to them dated the 23rd August 1970, to us for our attention as solicitors for Messrs. I. & W. Roger. Until recently Messrs. Osborne, Handley & Gray acted for them but we took over from Mr. Osborne at the time when the purchase from the Hatrick family was being completed. On perusing the file we noted that by deed of covenant dated the 2nd December 1969 certain persons who had previously lodged caveats against the title now agreed to release such caveats provided that an alternative route of access was provided from their sections on the Port Ohope Road along the eastern boundary of our clients' property, this access way to be 10' wide and to be registered as an easement appurtenant to these sections. A plan was duly prepared by Mr. Rainford in accordance with the terms of the deed of covenant and submitted to the Council for sealing.

On investigating the matters raised by Messrs. Harrison & Grierson & Partners the writer ascertained that the Council's powers relating to control of easements of a private nature are contained in Section 198 A of the Counties Act 1956. It is quite clear that the Council's powers to impose conditions are restricted to those matters mentioned in Section 198 A (1). In this respect the words "and otherwise in all respects whatsoever as the Council thinks fit" must be interpreted in accordance with rules evolved by the Courts for the construction of statutes. Where in a statute particular classes of conditions are specified, followed by general words, the meaning of the general words is cut down by reference to the particular words. This is known as the ejusdem generis rule. In the present instance the words quoted above can only refer to further conditions similar in kind to the ones specified in Section 198A. The stipulation imposed by the Council in your letter to Messrs. Harrison & Grierson & Partners is in our view ultra vires.

When later discussing the extent of the Council's powers with Mr. C.H. Chappell on one of his visits to our Whakatane office the writer discovered that Mr. Chappell Senior's views tallied with his own and that in fact an opinion had already been given to the Council setting out its powers in this very matter. The letter

subsequently written to Messrs Harrison and Grierson & Partners makes it quite clear that no notice has been taken of the opinion given by the County Solicitor.

You will appreciate that this action has placed us in an invidious position. As we are retained by the Council as its solicitors we are not prepared to advise Messrs I. & W. Roger to challenge the Council's decision but will merely suggest that they seek other legal advice. As the Whakatane County Council Solicitors, however, we feel under a duty to bring this matter to your notice because in insisting that approval will be withheld until full provision has been made for the formation and dedication of Ocean Road, the Council has clearly exceeded its powers. In this respect it is important to bear in mind that the reference on Messrs Harrison and Grierson & Partners plan to Section 22 of the Counties Amendment Act 1961 is a mistake. The plan does not involve a "subdivision" but is restricted to a "private way" which is covered by Section 198 A of the Counties Act 1956

In view of the above matters we urge the Council to reconsider its decision. Would you please place this matter before the Council at its next meeting and advise us in due course.

Mr Chappell Snr. has asked us to mention in this letter that he is concerned at the apparent tendency of the Council or its officers to disregard or override legal opinions or advice given by this firm. There have apparently been at least three instances within the last few months.

In our view if the Council asks the County Solicitor for an opinion it should either accept it or submit the opinion to another solicitor experienced enough in the particular field to assess the situation and the opinion.

Yours faithfully,
HAMERTON & CHAPPELL

Per:

R.L. Chappell

RLC:PMB

SP17

25 August 1970

Harrison and Grierson and Partners,
P.O.Box 192,
WHAKATANE.


Dear Sirs,

Proposed Right of Way for Mr Roger

The Council has given full consideration to the plan submitted by you on which is shown a proposed right of way giving access to the sea shore to Lots 1 - 4 DPS8517. However, it has decided that the plan will not be approved until full provision has been made for the formation and dedication of Ocean Road.

You will be aware that Ocean Road was shown on the original scheme plan of subdivision of this land. The road has now been formed to the eastern boundary of the property and it is about to be formed to the western boundary of the property and it is desired that the road should be formed and dedicated through the block owned by your client.

Yours faithfully,



J.E. Gray
County Clerk

5

Advising that they can find no reason why the plan providing for a right of way should not be approved and stating that the only conditions the Council can impose relate solely to the right of way itself. (See section 198A(1))

SUBDIVISION OF PART ALLOTMENT 246B2B1

PARISH OF WAIMANA (SP17)

Hamerton & Chappell (5.8.70)

They have endeavoured to ascertain from the owner Mr Rogers what future use he envisages for the land but he states that he has no fixed intentions at this stage.

NOTES

COMMITTEE RECOMMENDATION:

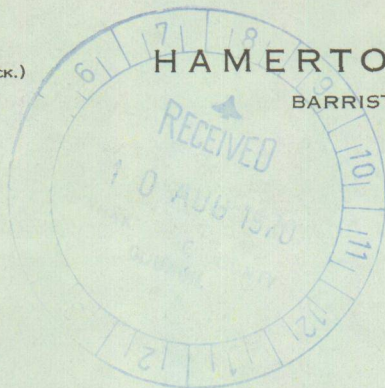
"THAT the scheme plan providing for a right of way over Lot 6 DPS 8517 be approved and that the form of consent on the survey plan be executed by the Council under seal."

That the applicant be informed that Cc will approve the scheme when Ocean Road has been fully provided for

COUNCIL DECISION 25/8/1970

Appd.

HAMERTON & CHAPPELL
BARRISTERS & SOLICITORS



48, Tuhoe Street,

Taneatua,

Bay of Plenty, N.Z.

5 August 1970

The County Clerk,
P.O. Box 244,
WHAKATANE.

Dear Sir,

re Hatrick Sub-division - Port Ohope

As requested on Friday last we have considered the position regarding the provision of part of the land being purchased by Mr Rogers for dedication as part of the proposed Ocean Road,

The plan now before the Council is merely for it to approve a right of way to be given to the owners of the sections fronting Ohiwa Road and so far as we can find there is no reason why the plan should not be approved as provided by the Counties Amendment Act 1961. The only conditions the Council can impose relate solely to the right of way itself (see Section 198A (1)).

The application now before the Council is not a sub-division as the title to the land is already in existence and the balance area has a frontage to an existing legal road.

We have endeavoured to ascertain from Mr Rogers what future use he envisages for the land but he informs us that he has no fixed intentions at this time. If in the future he attempts to sub-divide it then of course a condition relating to dedication of land for road can be imposed.

We return your file together with a note of our fee.

Yours faithfully,
HAMERTON & CHAPPELL.

Encl.
CHC:LH

per:

FOR

FINANCE

MEETING TO BE HELD ON

21/7/70

Submitting scheme plan of proposed right of way giving access to the beach to lots 1, 2, 3 and 4 DPS8517 and also submitting survey plan for sealing.

SUBDIVISION OF RIGHT OF WAY -HATRICK
BLOCK, PORT OHOE SP17
Harrison & Grierson & Partners (19.6.70)

NOTES

COMMITTEE RECOMMENDATION:

"THAT the scheme plan providing for right of way over Lot 6 DPS8517 be approved and that the form of consent on ^{the} survey plan be executed by the Council under seal."

that the mtr be referred to the Ccl & an endeavour be made to protect the Ccl as regards the proposed Ocean Rd.

COUNCIL DECISION 28/7/1970

approved

SP17

15 July 1970

Harrison and Grierson and Partners,
P.O.Box 192,
WHAKATANE.

Dear Sirs,

Proposed Right of Way for Mr Roger

The subdivision of the land in DPS 8517 was approved by the Council in 1962 on the understanding that the subdivision of the balance of the block would proceed generally in accordance with the scheme submitted by your firm. The proposal now submitted by you indicates that the new owner may have different plans for the property and before submitting the scheme plan to the Council I shall be pleased if you will advise what he proposes in connection with the property. Will you please advise also if the right of way is intended to give access to Lot 5.

Yours faithfully,

J.E. Gray
County Clerk

not sent.

Rainford referred me to Chappell.

*Phoned R Chappell. Main purpose is to enable the
uplifting of caveats (4) on title relating to provision of access
New owners do not wish to be committed as to form of
subdivision and R.O.W. Has therefore been put along boundary
Owner of lot 5 has shown no interest in R.O.W.
This is a private ROW - there appears to be no need to
provide for formation.
Should there be public foot access?*

*J.E. Gray
16/7.*

HARRISON AND GRIERSON AND PARTNERS
CONSULTING ENGINEERS • REGISTERED SURVEYORS • TOWN PLANNERS
PROFESSIONAL CHAMBERS BOON ST., WHAKATANE PHONE 6594 P.O. BOX 192

OUR REF. 1211

YOUR REF.

DATE 19 June 1970

SP 17,37

The County Clerk,
Whakatane County Council,
WHAKATANE.

Dear Sir,

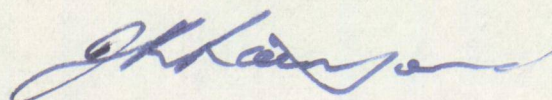
RE ROGER - OHOPE.

Please find herewith both scheme plan and Land Transfer plan for approval and sealing by your Council.

The owners of Lots 1, 2, 3 and 4 all require walking access to the beach over Lot 6.

We trust this proposal meets with your Council's approval and shall be pleased to have the Land Transfer plan returned at your convenience.

Yours faithfully,
HARRISON & GRIERSON & PARTNERS,



REGISTERED SURVEYOR.

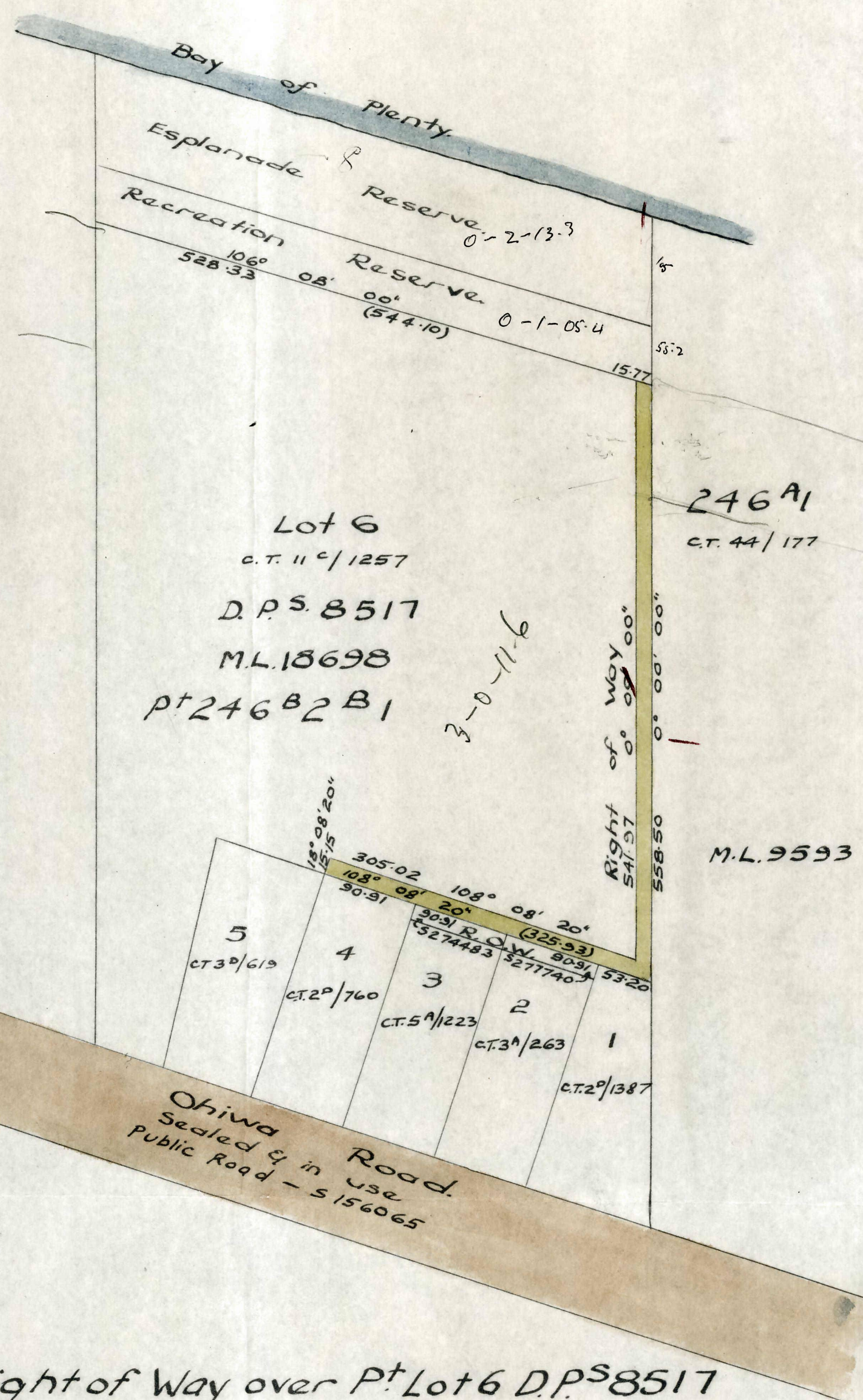
Schedule of Easements

Re: R.O.W. over	Coloured	Servient Tenement	Dominant Tenements
Pt Lot 6, D.P.S 8517	Yellow	Lot 6 D.P.S 8517	Lots 1, 2, 3, 4 D.P.S 8517

246 B2 B2

D.P.S 11502

S.O. 38128



Note: Measurements subject to check by Survey Dept.

Plan of Right of Way over Pt Lot 6 D.P.S 8517
being Pt Allot 246 B2 B1
Parish of Waimana.

Town of _____ Extn. No. _____
Comprised in C.T. 11 C/1257 (Pt), I. D. P. & W. J. Roger Registered Owner.
SURVEY DISTRICT & BLOCK 111, Whakatane S.D.
LAND DISTRICT South Auckland LOCAL BODY Whakatane County C.I.
SCALE 1 chain to an inch. Harrison & Grierson & Partners Regd. Surveyor Date June 1970
I John Richard Rainford Registered Surveyor hereby certify that this Scheme Plan has
been prepared by me in accordance with the provisions of Part II of the Counties
Amendment Act, 1961 and the First Schedule to that Act.

John Richard Rainford
REGISTERED SURVEYOR

APPROVED

OWNER

Approved by the _____
County Council under Sec 22 of
the Counties Amendment Act
1961, at a meeting held on the
_____ day of _____ 19____
subject to the conditions contained
in Resolution No. _____

COUNTY CLERK.



RCSGEN 01

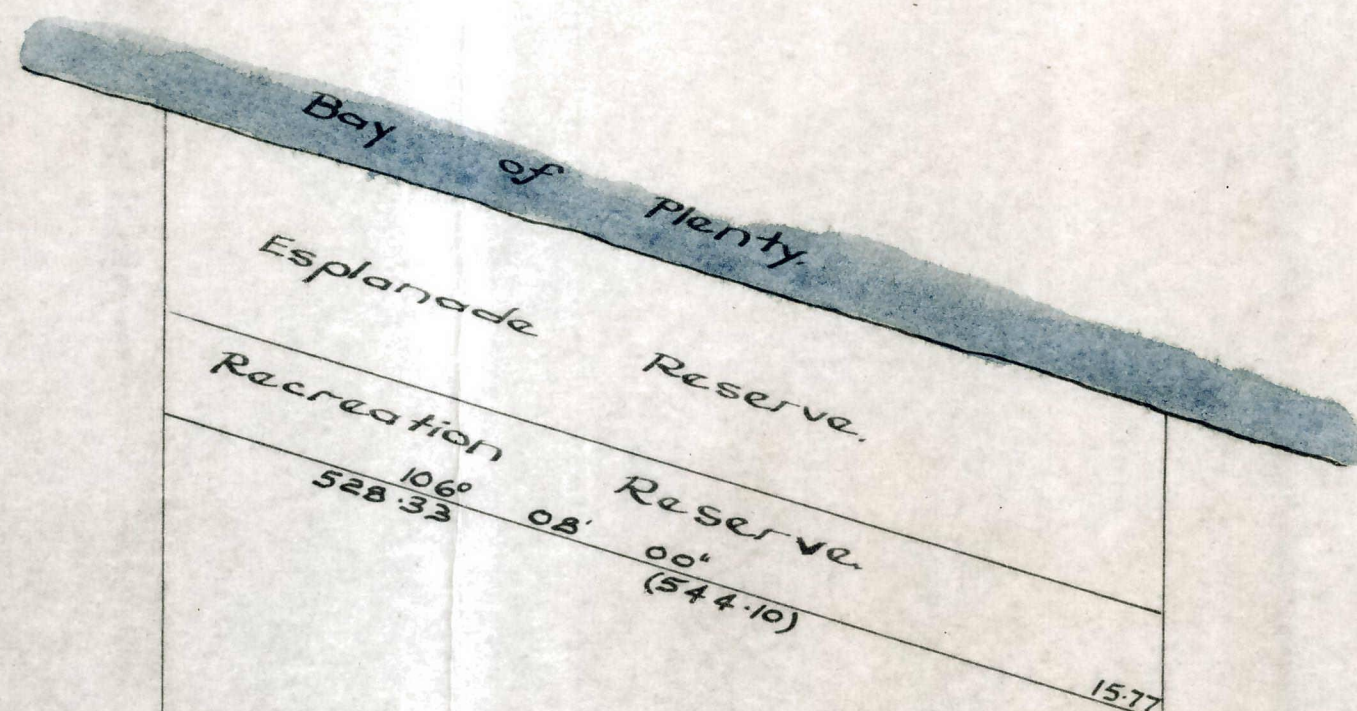
Schedule of Easements

Re: R.O.W. over	coloured	Servient Tenement	Dominant Tenements
Pt Lot 6, D.P.S 8517	Yellow	Lot 6 D.P.S 8517	Lots 1, 2, 3, 4, D.P.S 8517

246 B2 B2

D.P.S 11502

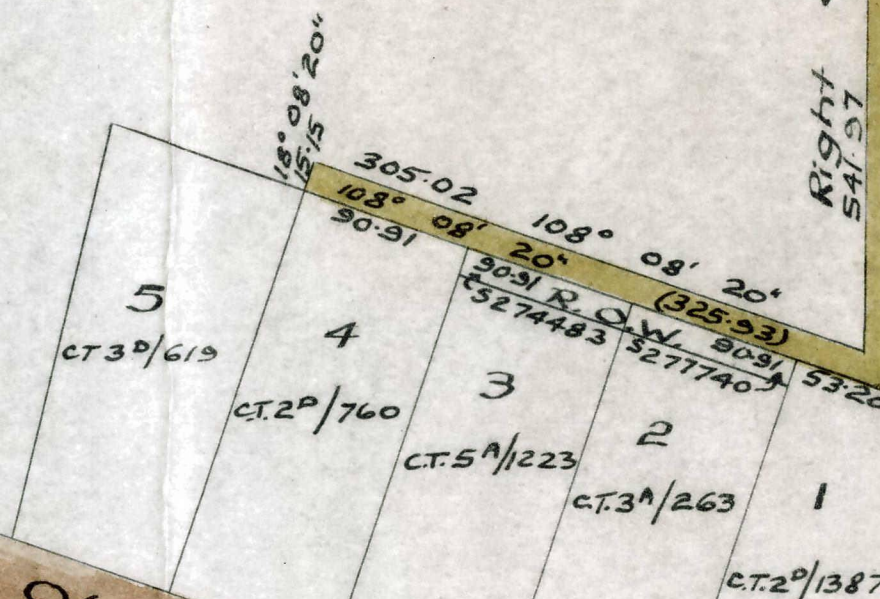
S.O. 38128



Lot 6
C.T. 11 C/1257
D.P.S. 8517
M.L. 18698
Pt 246 B2 B1

246 A1
C.T. 44/177

M.L. 9593



Ohiwa Road
Sealed & in use
Public Road - S 156065

Note: Measurements subject to check by survey Dept.

Plan of Right of Way over Pt Lot 6 D.P.S 8517
being Pt Allot 246 B2 B1
Parish of Waimana.

Town of _____ Extn. No. _____

Comprised in C.T. 11 C/1257 (Pt), I. D. P. & W. J. Roger Registered Owner.

SURVEY DISTRICT & BLOCK III, Whakatane S.D.

LAND DISTRICT South Auckland LOCAL BODY Whakatane County C.I.

SCALE 1 chain to an inch. Harrison & Grierson & Partners Regd. Surveyor Date June 1970

I, John Richard Bainford Registered Surveyor hereby certify that this Scheme Plan has been prepared by me in accordance with the provisions of Part II of the Counties Amendment Act, 1961 and the First Schedule to that Act.

REGISTERED SURVEYOR

APPROVED

OWNER

Approved by the _____
County Council under Sec 22 of
the Counties Amendment Act
1961, at a meeting held on the
_____ day of _____ 19____
subject to the conditions contained
in Resolution No. _____

COUNTY CLERK.

Schedule of Easements

Re: R.O.W. over	Coloured	Servient Tenement	Dominant Tenements
Pt Lot 6, D.P.S 8517	Yellow	Lot 6 D.P.S 8517	Lots 1, 2, 3, 4 D.P.S 8517

246 B2 B2

D.P.S 11502

S.O. 38128

Lot 6
C.T. 11 C/1257
D.P.S. 8517
M.L. 18698
Pt 246 B2 B1

246 A1
C.T. 44/177

M.L. 9593

Ohawa Road.
Sealed & in use.
Public Road - S 156065

Note: Measurements subject to check by survey Dept.

Plan of Right of Way over Pt Lot 6 D.P.S 8517
being Pt Allot 246 B2 B1
Parish of Waimana.

Town of _____ Extn. No. _____

Comprised in C.T. 11 C/1257 (Pt), I. D. P. & W. J. Roger Registered Owner.

SURVEY DISTRICT & BLOCK 111, Whakatane S.D.

LAND DISTRICT South Auckland LOCAL BODY Whakatane County C.I.

SCALE 1 chain to an inch. Harrison & Grierson & Partners Regd. Surveyor Date June 1970

I. John Richard Bainford Registered Surveyor hereby certify that this Scheme Plan has been prepared by me in accordance with the provisions of Part II of the Counties Amendment Act, 1961 and the First Schedule to that Act.

R. Bainford
REGISTERED SURVEYOR

APPROVED

OWNER

Approved by the _____ of
County Council under Sec 22 of
the Counties Amendment Act
1961, at a meeting held on the
_____ day of _____ 19____
subject to the conditions contained
in Resolution No. _____

COUNTY CLERK.

TUCKWELL & ROACHE

BARRISTERS & SOLICITORS

EVAN SINCLAIR TUCKWELL, LL.B.

VINCENT MULLINS ROACHE

OFFICE CLOSED BETWEEN 1 P.M. & 2 P.M.

P.O. Box 1942.

TELEPHONE 45-502 (2 LINES)

20/5

Brandon House, (5TH FLOOR)

*Cnr. Brandon & Featherston Sts.,
Wellington, C. 1., N. Z.*

9th June, 1965.

The County Clerk,
Whakatane County Council,
P. O. Box 244,
WHAKATANE.

HATRICK SUBDIVISION

Dear Sir,

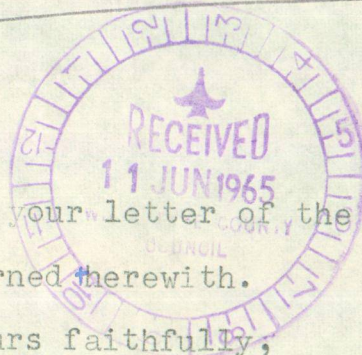
re: Mr and Mrs G. T. Austin

We acknowledge with thanks receipt of your letter of the
28th May, 1965 and the Deed of Grant returned therewith.

Yours faithfully,
TUCKWELL & ROACHE.

per:

R Hamont



TUCKWELL & ROACHE
BARRISTERS & SOLICITORS

EVAN SINCLAIR TUCKWELL, LL.B.

VINCENT MULLINS ROACHE

OFFICE CLOSED BETWEEN 1 P.M. & 2 P.M.

P.O. Box 1942.
TELEPHONE 45-502 (2 LINES)

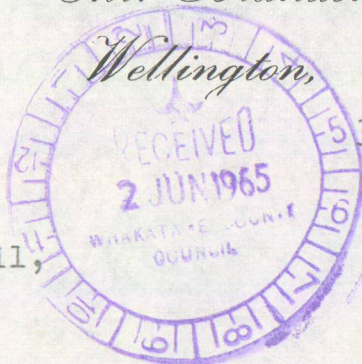
File

Brandon House, (5TH FLOOR)

Cnr. Brandon & Featherston Sts.,

Wellington, C. 1., N. Z.

31st May, 1965.



The County Clerk,
Whakatane County Council,
P. O. Box 244,
WHAKATANE.

Dear Sir,

re: Mr and Mrs G. T. Austin

Further to our letter of the 7th May, would you kindly advise us whether your Council has yet consented to the right of way granted by the Deed we forwarded to you.

Yours faithfully,
TUCKWELL & ROACHE

per:

RA Hamont

S.B. Hatnck T.O.s.
Suburban Pl. lot 246 B2B1. Pl. Ohope Ash Waimana

20/5

MP.

28 May 1965.

Messrs. Tuckwell & Roache,
Barristers and Solicitors,
P.O.Box 1942,
WELLINGTON

Dear Sirs,

re : DEED OF GRANT OF RIGHT OF WAY
MR. & MRS. G.T. AUSTIN

Thank you for your letter of 7 May 1965, requesting Council approval of the right of way which is granted in the above lease.

This letter was before Council at its meeting on 25 May 1965, when it was resolved:

"THAT approval be given."

Yours faithfully,

J.C.KOLLER
ACTING COUNTY CLERK

P.S. As requested, the Deed of Grant is returned herewith.

FOR INFORMATION

~~MR. A. CARLING~~
~~P.O.BOX 105,~~
~~WHAKATANE~~

~~MR. D.C.BUTLER~~
~~R.D.2~~
~~WHAKATANE~~

~~MR. W.D.M.STEEL~~
~~R.D.2~~
~~WHAKATANE~~

Per T. May.
TUCKWELL & ROACHE

BARRISTERS & SOLICITORS

EVAN SINCLAIR TUCKWELL, LL.B.

VINCENT MULLINS ROACHE

OFFICE CLOSED BETWEEN 1 P.M. & 2 P.M.

P.O. Box 1942.

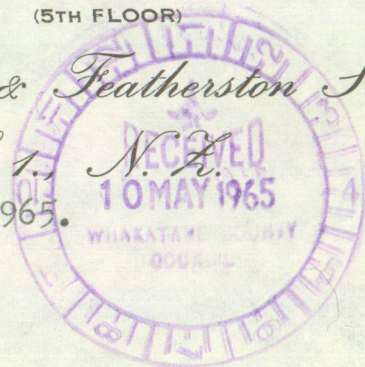
TELEPHONE 45-502 (2 LINES)

Brandon House, (5TH FLOOR)

Cnr. Brandon & Featherston Sts.,

Wellington, C. I., N. Z.

7th May, 1965.



County Clerk,
Whakatane County Council,
WHAKATANE.

Dear Sir,

re: Mr. & Mrs. G.T. Austin

We enclose herewith a Deed of Grant of Right of Way over a piece of land at Ohope Beach. The subdivision has not yet been completed, and it is probable that no subdivisional plan will be deposited for some years. This Deed is, therefore, intended to protect our clients' interest until the legal right of way can be completed.

Approved 25/5/65 | We should, therefore, appreciate it if your Council will consent to the right of way which is granted in the Deed.

Would you kindly return the Deed as soon as convenient as it has not yet been stamped.

Yours faithfully,
TUCKWELL & ROACHE.

per:

RA Hamont

P.S. Enclosed plan shows location of rt of way; please return plan in due course.

that of 1875 corresponds with the scheme plan
but it appears as if the survey plan has not been
larged. Possibly this is because the Ocean Road
cannot be legible until the line ^{is} ~~is~~ ^{is} ~~is~~
either here, or near the Ocean Road ^{or that} ~~or that~~
camp.

I enclose the correct copy

Lb 10/5/65

ELB:MP.

10 July 1964.

Mr. G. Austin,
c/- Stewart Dawson & Co Ltd.,
P.O.Box 2577,
WELLINGTON.

Dear Sir,

re : SUBDIVISION OF PT. LOT. 246B2B4

...

I am enclosing a copy of the Scheme Plan of the above subdivision which was submitted by Messrs. Harrison & Grierson and Partners, of Whakatane, on behalf of their clients, S.B. Hatrick and Others.

A letter from the Surveyors stated that provision was made for Rights-of-Way to be granted over Lots 9, 10, 14 and 15 extending to the rears of Lots 1 to 6. This is to enable the future owners of Lots 1 to 6 to have access to the Ocean Beach by the shortest route.

According to the District Land Registrar the Plan No. S.8547 being a subdivision of this area, was deposited on 30 August, 1963.

The enclosed copy of the submitted Scheme Plan shows the intention of the subdivider that there will be this private Right-of-Way serving your Lot 3 which you have recently purchased.

Yours faithfully,

E.L. Briggs.
COUNTY CLERK

P.O. Box:— 1170

Telephone No:— 31031



DEPARTMENT OF JUSTICE

[L. & D.—52

LAND REGISTRY OFFICE,

Hamilton

2nd Sept 1963

DEAR SIR,—

PLAN No.

8547

being a subdivision of

Pt. 246 B 2 B 1

signed by

S. B. Patrick & others

, as the owner,

was deposited on 30-8-63

The County Clerk.

Whakatane County Council,

Box 244

Whakatane.

Yours faithfully,

W. B. Craig
District Land Registrar.

ASH

10M/1.63/5888/WP.

Proprietor

20/5

20 December, 1962.

Messrs. Harrison and Grierson and Partners,
Registered Surveyors,
P.O. Box 192,
WHAKATANE.

Dear Sirs,

HATRICK SUBDIVISION.
PROPOSED SUBDIVISION OF WAIMANA PT. 246B2B2, 246B2B1,
246A1 and 246B1A2 BLOCKS.

I have received your letter dated 11 December, 1962, and attached plan which shows the roading layout of the possible subdivision above mentioned, which your clients have either obtained or are endeavouring to obtain.

The Council will approve of the layout of the road but, of course, the proposed road of a width of 50 ft. will be subject to a building line restriction so that, if necessary, this road could be widened to 66 ft.

Clr. D.C. Butler,
R.D.2.
WHAKATANE.

Dear Sirs, Yours faithfully,
For your information.

Mr. A.W. Tassell,
County Engineer.

E.L. BRIGGS
COUNTY CLERK.

20/5

18 December, 1962.

Messrs. Harrison and Grierson and Partners,
Registered Surveyors,
P.O. Box 192,
WHAKATANE.

Dear Sirs,

HATRICK SUBDIVISION - OHIWA.

I handed to you on Friday 14 December, 1962, the Land Transfer Plan of the Hatrick Subdivision, Ohiva, which provides for five lots fronting Ohiva Road, approval of which was indicated in the Council's letter of 12 October, 1962.

The Common Seal of the Council was affixed by resolution at its meeting on Thursday 13 December, 1962.

Yours faithfully,

E.L. BRIGGS
COUNTY CLERK.

Hand drawing 42/1
16 Section
to GB 4/9/69

C. K. GRIERSON, O.B.E., F.N.Z.I.S., A.M.N.Z.I.E. (Auckland)
R. M. GRIERSON, A.M.N.Z.I.E., M.N.Z.I.S. (Auckland)
R. F. DHAM, M.N.Z.I.S. (Takapuna)
R. L. JUD, M.N.Z.I.S. (Rotorua)

Whakatane Representative:
B. L. STONE, M.N.Z.I.S.
Phones: Res. 692-M
Bus. 625-S

HARRISON AND GRIERSON AND PARTNERS
REGISTERED SURVEYORS • CONSULTING ENGINEERS • TOWN PLANNERS
MAGNUS LENNIE BUILDINGS GEORGE ST., WHAKATANE P.O. BOX 192

11th. December 1962

The County Clerk,
Whakatane County Council,
WHAKATANE.

Dear Sir,

re: HATRICK SUBDN. - OPIWA.

Further to the writer's discussions with the County Engineer and yourself we are forwarding herewith a plan showing the possible subdivision of the blocks adjacent to our clients' subdivision. The roading pattern is designed so that an access road can serve the proposed Ocean Road about 25 chains from the entrance to the Howell subdivision. Perusal of a scheme of the Taipari Block held in your office shows that a similar distance would be between access roads to the East.

Our clients' have an option over Pt. 246B1A2, through which the proposed access road will pass. Completion of the arrangement is dependent on the property being suitable for immediate subdivision, which in turn is dependent on the location of the access road. Accordingly we should be pleased to have your Council's assurance that the location of this access road as shown on this plan will be acceptable.

Yours faithfully,
HARRISON & GRIERSON & PARTNERS.

B. L. Stone

REGISTERED SURVEYOR.

C. K. GRIERSON, O.B.E., F.N.Z.I.S., A.M.N.Z.I.E. (Auckland)
R. M. GRIERSON, A.M.N.Z.I.E., M.N.Z.I.S. (Auckland)
R. F. GRIERSON, M.N.Z.I.S. (Takapuna)
R. L. ROOD, M.N.Z.I.S. (Rotorua)

Whakatane Representative:
B. L. STONE, M.N.Z.I.S.
Phones: Res. 692-M
Bus. 625-S

HARRISON AND GRIERSON AND PARTNERS
REGISTERED SURVEYORS • CONSULTING ENGINEERS • TOWN PLANNERS
MAGNUS LENNIE BUILDINGS GEORGE ST., WHAKATANE P.O. BOX 192

10th. December 1962

The County Clerk,
Whakatane County Council
WHAKATANE.

Dear Sir,

re: HATRICK SUBDN. - OHIWA.

Please find herewith Land Transfer Plan of the above subdivision for the signing and sealing of your Council.

This plan shows five lots fronting Ohiwa Road the approval of which is indicated in your letter of 12th. October. We understand that a cheque for £450 has been deposited at your office to cover additional roading

i.e. (1) half additional formation (350)	175
(2) half footpaths, kerbing, etc. (550)	275

£450

Regarding the remainder of the subdivision, it is expected that further proposals will be put before your Council early in the new year.

Meanwhile we trust the accompanying plan may be released at an early date.

Yours faithfully,

HARRISON & GRIERSON & PARTNERS.

B. L. Stone
REGISTERED SURVEYOR.

d. Stone

1)d HATRICK SUBDIVISION, OHIWA.
Harrison and Grierson and Partners.

20/5
10/12/62

Forwarding Land Transfer Plan of the above subdivision for signing and sealing. The plan shows 5 lots fronting Ohiwa Road, the approval of which is indicated in Council's letter of 12 October, 1962.

It is understood that a cheque for £450 has been deposited at the Council's office which is half additional formation and half for paths, kerbing, etc.

"That in accordance with the conditions of Section 34 of the Counties Amendment Act 1961, the Council approves of the Survey Plan of Subdivision of Part 246B2B1 Parish of Waimana and under Section 40 the Right of Ways shown thereon, and that the Common Seal be affixed to the aforesaid survey plan."

CARRIED: Ctrs. A.L. Richardson/A. Carling.

"That the resolution to seal the survey plan be approved provided the reserve area shown on the plan is in accordance with Council's policy."

CARRIED: Ctrs. A.L. Richardson/A. Carling.

13/12/62

8 November, 1962.

Messrs. Harrison and Grierson and Partners,
Registered Surveyors,
P.O. Box 192,
WHAKATANE.

Dear Sirs,

HATRICK SUBDIVISION - OHIWA

The Council at its meeting on the 30 October, 1962, further considered your letters of the 17 August and 19 September, 1962, on the proposed subdivisions of Lot 246B2B4 fronting the Ohiwa Wharf Road.

As you are aware, The County Solicitors were asked to consider the possibilities of the Council being able to take land for a road that would enable Lot 17 on your plan to be dedicated as a road and be connected to an existing public road.

The County Solicitors have replied that in their opinion it is not possible for the Council to protect itself in the recovery of the full cost of constructing and forming the connecting road.

You requested answers to items (b) and (c) of your letter of 17 August, 1962, namely,

- (b) 'taking of land for road to enable a connection between the road on the Howell subdivision and the proposed Ocean Road.'
- (c) 'forwarding requirements and comments on the remainder of the subdivision with an indication of roading standards required.'

The Council's answer to (b) is that the Council will not take land as a connecting road because it cannot protect itself for the full recovery of the cost of constructing and forming this road, and that the reply to (c) be that when the Council does accept Lot 17 as a dedicated road, the subdivider must form ~~and metal~~ a berm of 12 ft in width of which there shall be a concrete footpath of 4' 6" in width, and on the edge of the berm concrete kerbing and channelling. This berm is to be on the land side of this road only. There is then to be formed and metalled a carriageway 42 ft. in width of which 20 ft. is to be sealed.

Mr. A.W. Tassell,
County Engineer.

Dear Sir,

Yours faithfully,

For your information.

E.L. BRIGGS
COUNTY CLERK.

20/5

12 October, 1962.

Messrs. Harrison and Grierson and Partners,
Registered Surveyors,
P.O. Box 192,
Whakatane.

Dear Sirs,

Hatrik Subdivision - Ohiwa.

You will recall that you received copy of a letter dated 2 October, 1962, addressed to Messrs. Hamerton & Chappell, Taneatua, who are the County Solicitors.

From that letter you will have noticed that the Solicitors received copy of the file dealing with your application on behalf of your clients Hatrik, for the proposed subdivision of land described as Part Allot. 246B2B1.

The County Solicitors have informed me that they have considered both your letters dated 17 August, and 19 September, 1962, and have given their opinion on legalisation of the connecting road on 246B2B2.

Their opinion is that it is not possible for the Council to protect itself from recovering the full costs of constructing and forming the road according to the normal requirements of the Council for subdivisions. This opinion has yet to be brought to the attention of the Council.

It would therefore appear that the only portion of the scheme that can be approved is that portion that fronts the Ohiwa Road, in which case as regards the additional formation for this road it would be necessary for your clients to pay half the estimated cost of additional formation which is half of £350, and the half cost of the footpaths, kerbing and channelling, that is half of £550.

Yours faithfully,

Messrs. Hamerton & Chappell,
Solicitors,
P.O. Box 39,
TANEATUA.

E.L. BRIGGS
COUNTY CLERK.

Dear Sirs,

For your information. Yours faithfully,

E.L. BRIGGS
COUNTY CLERK.

20/5

7) HATRICK SUBDIVISION. OHIWA.

It will be recalled that Messrs. Harrison and Grierson and Partners had suggested methods by which a strip of land can be dedicated as a public road, and the cost of forming the road be later recovered from the owner who will have a frontage to this connecting road.

The subdividers were anxious to have this connection road dedicated as a road so as to give a legal frontage to ten of their sections.

The County Solicitors have informed the County Clerk that they have considered letters dated 17 August, and 19 September, 1962, from Harrison and Grierson and Partners on this matter and their opinion is that it is not possible for the Council to protect itself in the recovery of the full cost of constructing and forming the connecting road.

The surveyors request answers to (b) and (c) of their letter of 17 August, 1962.

- (b) 'taking of land for road to enable a connection between the road on the Howell subdivision and the proposed Ocean Road.'
- (c) 'forwarding requirements and comments on the remainder of the subdivision with an indication of roading standards required.'

"That the answer to (b) be that the Council will not take land as a connecting road and that the reply to (c) be the normal standard roading requirements."

30/10/62

2 October, 1962.

Messrs. Hamerton & Chappell,
Solicitors,
P.O. Box 39,
TANEATUA.

Dear Sirs,

HATRICK SUBDIVISION - OHIWA.
PROPOSED SUBDIVISION OF PART ALLOTMENT 246B2B1.

I am enclosing the Council's file dealing with the above subdivision. You will notice from Messrs. Harrison and Grierson and Partners letter dated 17 August, 1962, that they would like the subdivision approved not only for the sections fronting Ohiwa Road but for the sections fronting Ocean Road. The difficulty about accepting subdivisions fronting Ocean Road is that there is, at the moment, no public road connecting to the proposed Lot 17 which is being dedicated in the scheme as a public road and will become Ocean Road.

Harrison and Grierson and Partners in a further letter dated 19 September, 1962, suggest methods by which a strip of land can be dedicated as a public road and the cost of forming the road be later recovered from the owner who will have a frontage to this connecting road.

I shall be pleased to discuss this matter with you at your convenience.

Messrs. Harrison and Grierson and Partners,
Registered Surveyors,
P.O. Box 192,
WHAKATANE.

Yours faithfully,

Dear Sirs,

E.L. BRIGGS
COUNTY CLERK.

For your information.

Yours faithfully,

E.L. BRIGGS
COUNTY CLERK.

HARRISON AND GRIERSON AND PARTNERS
REGISTERED SURVEYORS • CONSULTING ENGINEERS • TOWN PLANNERS
MAGNUS LENNIE BUILDINGS GEORGE ST., WHAKATANE P.O. BOX 192

19th. September 1962.

The County Clerk,
Whakatane County Council,
WHAKATANE.

Dear Sir,

re HATRICK SUBDIVISION OHIWA.

Further to our letter of 17th. August we have made a closer study of the Counties Amendment Act regarding the obtaining of access to the above subdivision by means of a connecting road from the Howell subdivision. In our previous letter (page 2 para. b), we have requested your Council to take land for road over the property immediately to the West of our clients'.

From conversations between yourself and the writer, it would appear that the main factor from the Council's point of view is the question of recovering any costs for road formation carried out on the connecting road when the adjoining owner subdivides.

The following points may assist your Council in its deliberations. If necessary they may require to be confirmed or otherwise by your legal adviser.

The two relevant sections of the Counties Amendment Act are Section 27 para 5 sub-para (a), and also see Section 23, (2)f which states: quote

"Approve the scheme plan subject to such other fair and reasonable conditions OF ANY KIND WHATSOEVER as the Council thinks fit." unquote.

Further Section 27(5) states: quote

"Without limiting the generality of the provisions of sub-section 2 of Section 23 of this Act, etc.," unquote.

Also Section 27 (5) a, states: quote

"Not exceeding in the case of ADDITIONAL road formation and construction or the provision of footpaths, half the estimated cost thereto." unquote

Therefore it would appear:

- (1) That if Section 23(2)f, overrides Section 27(5)a, that the Council can, when the adjoining land to the West is subdivided, insist as a condition of approval that the WHOLE cost of upgrading or forming the new road be met by the subdividor.
- (2) If this is not the case then it would appear to us that the County can proclaim this road and not form it (provided of course it still gives a means of practical access) and that they can recover the FULL cost of subsequent formation from the subdividing owners, as Section 27(5)a, limits the half cost contribution, in our opinion, ONLY TO ADDITIONAL road formation but not to new formation. Therefore, if the County does no work on the road it can recover full cost.
- (3) If the Council is concerned that neither of the above legal rulings is in fact correct, then it may be possible for our clients to Bond to the Council for half the cost of the connecting road. This is not particularly desirable from our clients' point of view, but may serve as a basis for negotiation.
- (4) Even if the Council were put in the position of meeting half the cost of the connecting road, would not they be able to obtain rates to the value of the sections fronting this road, as soon as the road is legalised? These rates would be obtained, in our opinion, at least a year before subdivision takes place, without the Council providing any real services.

"That this be referred to the County Clerk to discuss with the County Solicitors and report at the Council meeting." 21/9/62

"That subdivision be approved provided (1) that Lot 17 which is to be dedicated as a road is formed, metalled and sealed to the following standards.

That there be paid half estimated cost of additional formation for the Wharf Rd. i.e. half of £350 and the footpaths and kerbing and channelling i.e. half of £550.

25/9/62

C. K. GRIERSON, O.B.E., F.N.Z.I.S., A.M.N.Z.I.E. (Auckland)
R. M. GRIERSON, A.M.N.Z.I.E., M.N.Z.I.S. (Auckland)
R. F. GRIERSON, M.N.Z.I.S. (Takapuna)
R. L. ROUCHE, M.N.Z.I.S. (Rotorua)

Whakatane Representative:
B. L. STONE, M.N.Z.I.S.
Phones: Res. 692-M
Bus. 625-S

HARRISON AND GRIERSON AND PARTNERS
REGISTERED SURVEYORS • CONSULTING ENGINEERS • TOWN PLANNERS
MAGNUS LENNIE BUILDINGS GEORGE ST., WHAKATANE P.O. BOX 192

(2)

(5) If your Council's decision is favourable then it is considered reasonable that our clients would probably meet the costs of the Proclamation Survey and the issue of the Proclamation.

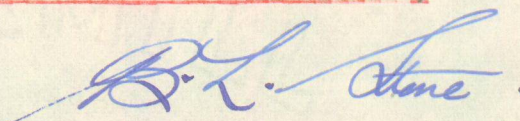
Regarding the lots with less than minimum areas, we have received notification from the Medical Officer of Health that

"This proposal has been examined and I am prepared to state that in my opinion, disposal of drainage by other than sewer drains on Lots 7, 8, 11, 12, and 13 and 16, will not be detrimental to the health or convenience of the locality.

Sgd. W.C. Davidson
Medical Officer of Health. "

We trust that the points we have raised will be of assistance to your Council and we look forward to your reply in the matter.

Yours faithfully,
HARRISON & GRIERSON & PARTNERS.


REGISTERED SURVEYOR.

Hartwell Subdivision

Lengths 5 1/2 ch.

Metal	55 yds = $\frac{1}{1}$	55. 0. 0
Staples	5 1/2 ch = $\frac{1}{7}$	38. 10. 0
Smear	850 yds = 2 ⁹	7. 1. 8
Nails & Bit	640 gals = $\frac{3}{4}$	106. 13. 4
Chips	35 yds = $\frac{1}{3}$	105. 0. 0
Roll	5 1/2 ch = 10 $\frac{1}{2}$	2. 15. 0
		<hr/> 315. 0. 0
	Cont. - Eng	$\frac{1}{35}$ 35. 0. 0
		<hr/> 350. 0. 0

Footpaths K & C

K & C

Preparations	5 1/2 ch = $\frac{1}{3}$	16. 10. 0
K & C	363 ft = 10 $\frac{1}{2}$	181. 10. 0
Smear	2 = 25	50. 0. 0
Footpaths		
Preparations	5 1/2 ch = $\frac{1}{2}$	11. 0. 0
Path	182 yds = $\frac{1}{1}$	182. 0. 0
V. Crossing	6 = 10	60. 0. 0
		<hr/> 501. 0. 0
	Cont. - Eng	$\frac{1}{49}$ 49. 0. 0
		<hr/> 550. 0. 0

Total Cost. Seal	$\frac{1}{350}$ 350. 0. 0
K & C & Footpaths	$\frac{1}{550}$ 550. 0. 0
	<hr/> 900. 0. 0

Ocean Road

Proposed Standards

Formations Width 42' feet
Width Metal 28 feet
Depth Metal 8"
Compressed of 6" of 2 1/4" crushed stone
2" " 1 1/2" " "

Batten of Curbings 1 to 1
" of Dalling 1 1/2 to 1

Allowance to be made for
adequate drainage

Size of pipes 12" diam minimum

Seal to be 20 feet wide
Compressed of 2 coats.

1st Coat Gas or MC₃ with 3/8" chips
2nd " Road Oil " 1/2" "

WHAKATANE COUNTY COUNCIL

11th September, 1962.

The County Clerk,
Whakatane County Council,
WHAKATANE.

Dear Sir,

re: HATRICK SUBDIVISION, OHIWA:

The above-mentioned proposed subdivision has been inspected with regard to suitability for residential building and for household drainage disposal only.

It is considered that the sites would be suitable for household drainage.

Yours faithfully,

L.A. Jackson

(L.A. JACKSON),
County Health & Building Inspector.

ast. I presume that the Council will agree the Ohawa to be connected to the drains. Then there will be the requirements to pay out into a binding contract to pay towards the cost of new or additional road formation and the construction of footpaths. There is also the less requirements of grading standards for Ocean Road. Will you please repeat
L.B. 12/11/62

C. K. GRIERSON, O.B.E., F.N.Z.I.S., A.M.N.Z.I.E. (Auckland)
R. M. GRIERSON, A.M.N.Z.I.E., M.N.Z.I.S. (Auckland)
R. P. DHANU, M.N.Z.I.S. (Takapuna)
R. E. LOUD, M.N.Z.I.S. (Rotorua)

Whakatane Representative:
B. L. STONE, M.N.Z.I.S.
Phones: Res. 692-M
Bus. 625-S

HARRISON AND GRIERSON AND PARTNERS
REGISTERED SURVEYORS • CONSULTING ENGINEERS • TOWN PLANNERS
MAGNUS LENNIE BUILDINGS GEORGE ST., WHAKATANE P.O. BOX 192

17 August 1962

The County Clerk,
Whakatane County Council,
WHAKATANE.

Dear Sir,

RE HATRICK SUBDIVISION - OHIWA.

Please find herewith for the consideration of your Council scheme plan of the above subdivision. This block is being purchased by our clients from the Stewart family, who recently submitted a scheme for the same block. This scheme was declined by the Chief Surveyor under the Land Subdivision in Counties Act.

The present proposal allows for six lots fronting Ohiwa Road, and six front and 4 rear lots off the proposed Ocean Road, which is to be 66 ft. wide. An Esplanade Reserve one chain wide from the Mean High Water Mark and a Recreation Reserve adjoining are provided; the southern boundary of the Recreation Reserve is to be one chain from the edge of the sand dunes along the beach.

The six lots fronting Ocean Road are slightly less than the minimum allowed under the Counties Amendment Act 1961. However, in a subdivision of this kind, in this locality it is considered that small areas are, if anything, more desirable. Accordingly, we are forwarding a plan to the Medical Officer of Health requesting his sanction to the reduced areas.

Provision is made for rights-of-way to be granted over Lots 9,10,14 and 15 extending to the rear of Lots 1 to 6. This is to enable the future owners of Lots 1-6 to have access to the Ocean Beach by the shortest route. It is felt that the extra length, over the minimum, of these rights-of-way is justified to enable these owners to reach the beach without having to travel to the nearest access road. Approaches have been made to the adjoining owners of Allot. 246B2B2 immediately to the West with a view to obtaining road access from the Howell subdivision.

Whilst these owners are desirous of subdividing, it will be some time before they are in a financial position to do so. Also, as there are many owners, the solicitor acting for them does not expect any early development. Consequently, to obtain dedication of this connecting road would take considerable time and delay our clients' subdivision.

Accordingly, our clients have requested that your Council consider taking land for road to enable this connection to be made. If this is done then roading works can proceed on the new road within the subdivision and the sections, which, we understand are all spoken for, can be subdivided with as little delay as possible. It is noted that under the Counties Amendment Act

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- 2 -

1961, it will be possible for your Council to obtain roading costs for the connecting road when the owners of 246B2B2 ultimately develop their block

We should be pleased if your Council would consider

- (a) immediate approval for the subdivision of Lots 1 to 5 plus the Esplanade and Recreation Reserve; this will enable our clients to gain a credit of reserve contribution and also obtain funds for the further development of the block
- (b) taking land for road to enable a connection between the road on the Howell subdivision and the proposed Ocean Road
- (c) forwarding your Council's requirements and comments on the remainder of the subdivision with an indication of roading standards required.

The writer will be pleased to discuss the proposal with your Council's officers if necessary.

Yours faithfully,
HARRISON & GRIERSON & PARTNERS,

B. L. Stone.

REGISTERED SURVEYOR.

COUNCIL 30/10/62

- (b) "That the answer to (b) be that the Council will not take land as a connecting road and that the reply to (c) be the normal standard roading requirements."

I, Barry Lindsay Stone, Registered Surveyor, hereby certify that this scheme plan has been prepared by me in accordance with the provisions of Part II of the Counties Amendment Act 1961 and the First Schedule to that Act.

B.L. Stone Registered Surveyor

Proposed Connecting Road

Pacific Ocean

Pacific Ocean

66' Road

Howell Subdivision

Proposed Connecting Road

246^{B2B2}

M.L. 18698

Maori Owners

246^{B2B2}

M.L. 18698

Maori Owners

246^{A1}

246^{A1}

M.L. 9593

C.T. 469/90

Maori Owners

SCHEDULE OF AREAS

	A	R.	P.
LOTS 1-16 (Residential)	3	2	06
LOT 17 (To be ded as road)	0	2	08
LOT 18 (Recreation Reserve)	0	1	08
LOT 19 (Esplanade Reserve)	0	2	09
TOTAL AREA	4	3	31

Scale: 3 chains to an inch



RCSGEN02

	NAME	DATE	FIELD BOOK	SCALE
SURVEYED				One chain to an inch
DRAWN	BLS	JULY 62	LEVEL BOOK	
TRACED				
CHECKED			CALC. BOOK	
APPROVED				

HARRISON & GRIERSON
AND PARTNERS

CONSULTING ENGINEERS
REGD. SURVEYORS TOWN PLANNERS

DATE
25 / 7 / 62

HATTRICK SUBDN - OHIWA

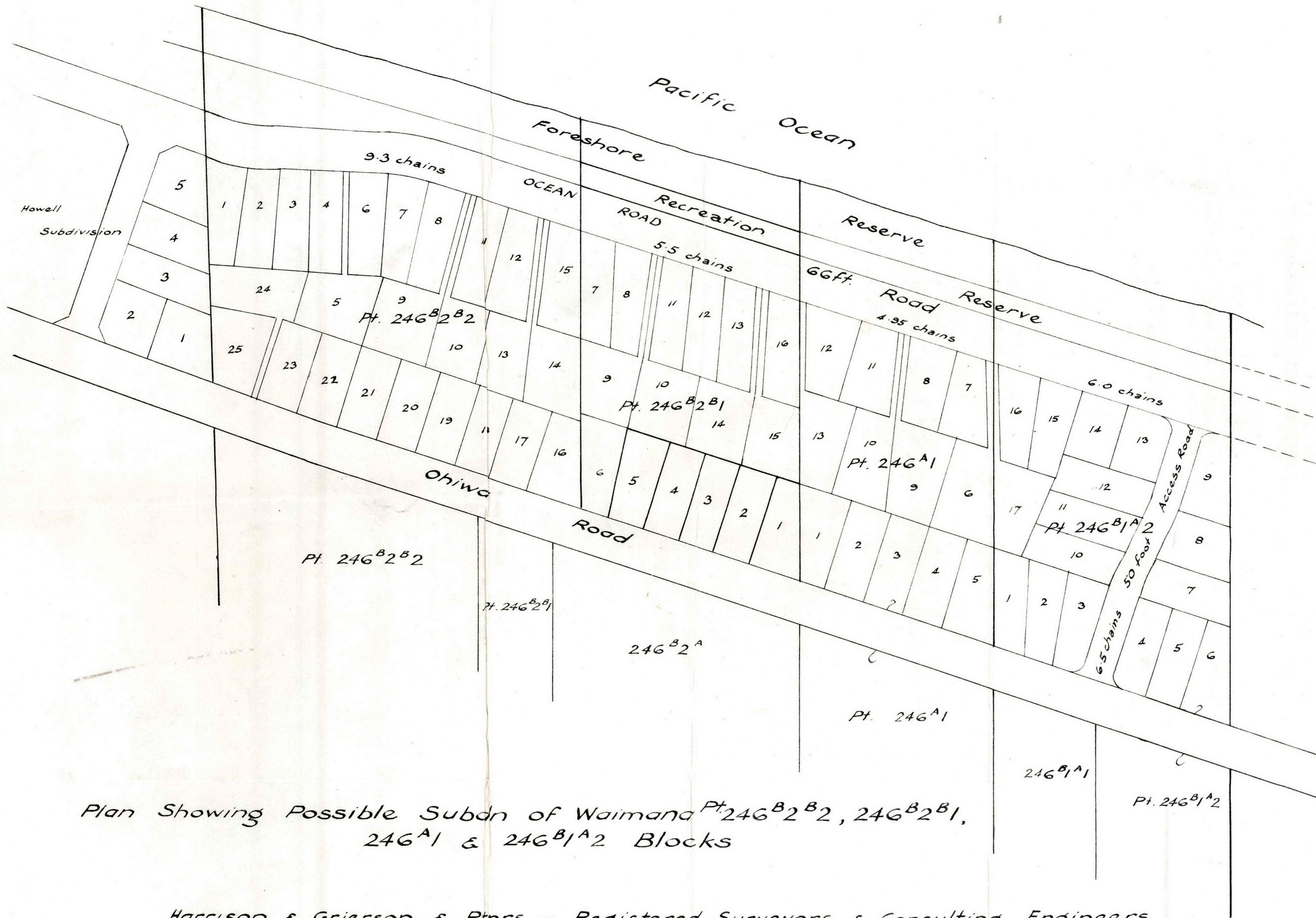
PLAN OF PROPOSED SUBDN OF PT. LOT 246^{B2B1}

PARISH OF WAIMANA
BLK III WHAKATANE S. D.

FILE No. 482

DRAWING No.

482/1



Plan Showing Possible Subdn of Waimana Pt. 246^{B2B2}, 246^{B2B1},
246^{A1} & 246^{B1A2} Blocks

Harrison & Grierson & Ptnrs - Registered Surveyors & Consulting Engineers

Scale : 2 chains to an inch.

December 1962