

**Ken Thorn Surveying**

L I C E N C E D   S U R V E Y O R S

P.O. BOX 16004

Hawkes Bay Mail Centre

NAPIER 4142

TELEPHONE 06 8439912

daggandthorn.co.nz

PRINCIPAL:

K. F. THORN M.N.Z.I.S.

PRIVATE PHONE 06 8443040

Mr. W. J. S. Bowen,  
44 Lane Road.  
MAHIA

854 Mahanga Rd.

*We have had a reply from the Wairoa Council who have supplied a set of draft conditions, which we have enclosed.*

*The only item that has to be done is upgrade your crossing to the new lot. This work must be done by an Council Approved Contractor.*

*Please advise us when this work is completed,*

*Yours faithfully,*

*K. Thorn*

.....  
Ken Thorn

## **RM200058 DRAFT CONDITIONS:**

- 1) The activity shall proceed in accordance with the submitted application received by the Wairoa District Council (Council) on the 17<sup>th</sup> of November 2020 and approved plan titled *Lot 1 & 2 formerly Lot 1 DP365160 JN 20/60*, by *Ken Thorn Surveying*, except where the following conditions take precedence.
- 2) The Consent Holder shall contact the Council's Planning Department at least three working days prior to the commencement of any physical works or activity authorised by this consent to enable monitoring to be undertaken.

### **Section 224(c) compliance conditions**

- 3) Prior to approval pursuant to Section 224 of the Resource Management Act 1991 the vehicle crossing serving lot 1 shall be and upgraded and sealed in accordance with Council's Engineering Code of Practice. The consent holder is required to have the work involved carried out by a Council Approved Contractor. The Approved Contractor will be required to make an application to the Council's Engineering Department for approval to install the vehicle crossing and be given approval including Council specification requirements prior to the construction of the vehicle crossing being undertaken.

*Note: Currently the Engineering Department uses Submitica to process all applications to use services in their road corridor. Please go to <https://www.submitica.com> to create an account and submit all applications and plans. This can be done by a contractor on behalf of the Consent Holder.*

- 1) A consent notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the new Computer Freehold Registers for Lot 1 advising the owner(s) and subsequent owner(s) of the requirement to comply with the following conditions on a continuing basis. The consent notice shall be prepared and registered at the expense of the consent holder.
  - a) Prior to the construction of habitable building(s) on Lot 1, the owner(s) of the Lot shall provide a geotechnical report prepared by a Chartered Professional Engineer experienced in geotechnical assessment to the satisfaction of the Wairoa District Council. The report shall include a statement of professional opinion as to the suitability of the intended building platform/foundation location for construction and any recommendations in respect of the intended building platform, building works (including site specific foundation design), and use of the site.
  - b) The land shall not be built on unless the Wairoa District Council is satisfied that:
    - b.i. The recommendations in the geotechnical report required by (a) above have been adopted in the design of the development, and building consent applications; and
    - b.ii. A geotechnical completion certificate prepared by a Chartered Professional Engineer experienced in geotechnical assessment has been provided to confirm (b)(i) and b(ii) above and the following:
      - Recommendations for the development of the land have been adopted (where applicable).
      - Recommendations for the disposal of stormwater and Wastewater have been adopted (where applicable).

c) The owner(s) of any dwelling on Lot 1 that is served by an individual on site wastewater treatment and land disposal system shall ensure that the system is designed, installed and maintained in accordance with the requirements of the Hawke's Bay Regional Council and Resource Consent is granted for the system if required before construction takes place.

d) At the time of building, provide a sufficient potable water supply for human consumption plus that required for firefighting purposes as set out in SNZ PAS 4509 NZ Fire Service Firefighting Water Supplies Code of Practice.

e) That prior to the issue of building consent for any habitable building on this lot the land-owner shall show how the building will be serviced with electrical power.

**Advice Notes:**

- a) The consent holder is responsible for obtaining all other required consents, permits and certifications for this work from relevant authorities prior to exercising this consent.
- b) In the event that any Koiwi (human remains) or artefacts which may be of historic or cultural importance are discovered, all work in the vicinity shall cease immediately and tangata whenua, Heritage New Zealand and the Wairoa District Council shall be immediately notified to determine any necessary protection, remediation or mitigation.
- c) This consent will lapse 5 years from the date of the Consent Authority's decision to grant the consent unless the consent is given effect to or the Consent Authority decides to grant an extension to the period before the consent lapses in accordance with section 125 of the Resource Management Act 1991.
- d) Pursuant to Section 128(1)(a) and 128(1)(c) of the Resource Management Act 1991, the Consent Authority may review any condition of this consent from the date of issue for any of the following purposes: (a) To deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or (b) To deal with inaccuracies contained in the consent application that materially influenced the decision made on the application and are such that it is necessary to apply more appropriate conditions; or (c) To assess the appropriateness of imposed compliance standards, monitoring regimes and monitoring frequencies and to alter these accordingly.

All actual and reasonable costs incurred by this Council in monitoring, enforcement and administration of this consent shall be met by the consent



Jack Bowen &lt;bowenjack1956@gmail.com&gt;

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**Estimate and timeframes for completing subdivision at**

1 message

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**Tim Grant Cooke Surveyors** <tim@grantcooke.co.nz>  
To: bowenjack1956@gmail.com

Thu, Sep 28, 2023 at 3:19 PM

Giddy Jack

Good to meet this morning.

So I've had a look at the property and survey information and come up with an estimate to complete the survey.

The costings and timeframes of what is needed to get it complete are laid out below.

**Complete legal survey and produce plans to submit for LINZ approval**

-

This involves us coming down and completing fieldwork to install the new survey pegs.

We then produce a survey and title plan to send off to LINZ to approve.

Grant and Cooke fee - \$5900+gst

LINZ fees to lodge plans - \$1095.65+gst

We would likely be able to get started in the next 3-4 weeks. Producing plans and documents for LINZ takes about a week.

LINZ are taking about 3 weeks to process plans at the moment.

**Send plans to Wairoa District Council for their approval (sec 223/224c certificates)**

In order for a solicitor to produce new titles WDC needs to sign 223/224c certificates to certify that the subdivision has been completed in accordance with the application and that any conditions have been met. It looks like the only condition you had was to form the driveway which has been done.

7. The Firm may charge the Client, generally by way of monthly progress claims, on the agreed fee basis, or if no basis of charging has been agreed, the Firm may charge the Client a fair and reasonable fee. The Firm may also render interim fee accounts.
8. **The Client shall pay the invoiced amounts in full not later than 20 days from the date on the tax invoice for the Services rendered to the Client by the Firm.** If any account is in dispute, the undisputed portion of the account shall be payable in accordance with the normal terms of payment as described herein. Payment of the disputed portion may be withheld provided the matter is brought to the Firm's attention as soon as it is discovered. A letter of explanation setting out the particulars of this dispute must be sent to the Firm within 7 days of the dispute arising.
9. **If any payment is not made as provided above, without prejudice to any other rights and remedies the Firm may have in respect of recovery of the unpaid amounts, the amount or amounts unpaid shall be liable to carry interest, from the original due date to the date of payment, at the rate equal to 2% pa above the Firm's overdraft rate.**
10. The Client shall pay all costs, expenses and charges including legal costs on a solicitor and own client basis that are incurred by the Firm in recovering any money owing to it by the Client.

#### **Liability and Insurance**

11. Limit of Liability:
  - 11.1 Notwithstanding any other provision of this agreement, the liability of the Firm for damages or losses (in contract, tort or otherwise, including negligence) in any way connected with the Services or the project is the lesser of five times the value of the fees or \$100,000. [In addition, the Firm will only be liable for direct loss or damage.]
  - 11.2 The Firm will not be liable for any damage or loss resulting from or connected with Services or the project that may be made unless proceedings are commenced within six years of the Services being performed.
  - 11.3 The Firm will not be liable for any damage or losses in any way connected with the Services or the project if the Firm stops supplying Services under clause 8 of this agreement.
  - 11.4 If the Client has engaged the Firm to perform Services which the Client has contracted to provide to a third party (the Principal) the Firm's liability to the Principal is likewise limited and the Client warrants that it is the Principal's agent for the purpose of this agreement.
12. The Firm must effect and maintain for the duration of the Services:
  - 12.1 Professional indemnity insurance for an amount of not less than the amount referred to in clause 11.1 of this agreement in respect of any single occurrence and in the aggregate for liability arising from a breach of professional duty whether owed in contract, tort or otherwise or by reason of any act or omission by the Firm; and
  - 12.2 Public liability insurance.
13. The Firm must use reasonable endeavours to keep the professional indemnity cover required by this agreement in force for six years after the termination of this agreement.
14. If required by the Client, the Firm must provide certificates evidencing the insurance cover required by this Agreement.

#### **Variations**

15. The Client may order variations to the Services in writing and may request the Firm to make proposals for variation to the Services which may include a variation to the fees for the Services, if necessary.

#### **Copyright of documents**

16. The Firm shall retain copyright of all documents it has prepared. The Client shall be entitled to use them or copy them for the purposes of the project. The ownership of data and factual information collected by the Firm and paid for by the Client, shall, after payment by the Client lie with the Client. The Client shall have no right to use any of the documents where any or all of the fees and expenses payable to the Firm have not been paid in accordance with this agreement.

#### **Consumer Guarantees Act**

## CLIENT ENGAGEMENT CONTRACT

### CLIENT DETAILS

|                                                  |                                |
|--------------------------------------------------|--------------------------------|
| Name(s):                                         | <b>Jack Bowen</b>              |
| Postal Address:                                  | <b>44 Lane Road, Mahia</b>     |
| Telephone                                        |                                |
| Mobile:                                          | <b>0276067584</b>              |
| Contact:                                         |                                |
| Email Address:                                   | <b>Bowenjack1956@gmail.com</b> |
| Solicitor:                                       |                                |
| Shareholders/Directors/Guarantors (if relevant): |                                |

### PROJECT DETAILS

|                                                  |                                              |
|--------------------------------------------------|----------------------------------------------|
| Project:                                         | <b>Subdivision – Mahanga Road</b>            |
| Ref No:                                          |                                              |
| Location:                                        | <b>806 Mahanga Road</b>                      |
| Legal description:                               | <b>Section 20 &amp; 35 SO 435757</b>         |
| Scope and nature of Services:                    | <b>Complete Legal Survey</b>                 |
| Estimated fees for Services                      | <b>As per email dated 28/09/2023</b>         |
| Services not included (if relevant):             | <b>n/a</b>                                   |
| Program for the Services:                        | <b>Start ASAP</b>                            |
| Information or Services to be provided by Client | <b>WDC Consent and Ken Thorn Scheme Plan</b> |

### CONDITIONS OF ENGAGEMENT

#### Obligations of the Firm

1. Grant & Cooke Surveyors Ltd ("the Firm") must perform the Services using reasonable skill, care and diligence subject to any financial, physical, time or other restraints imposed by the Client or necessarily resulting from the nature of the project.  
The Firm may subcontract parts of the Services with the prior written consent of the Client. The subcontracting of any parts of the Services shall not relieve the Firm from any liability or obligation under the Agreement.

#### Obligations of the Client

2. The Client shall provide to the Firm, free of cost, as soon as practicable following request, all information requested which is within the Client's power to obtain.
3. The Client must co-operate with the Firm and not obstruct the proper performance of the Services, including allowing the Firm reasonable access to the site and other locations associated with the Services.
4. As soon as the Client becomes aware of anything that will materially affect the scope or timing of the Services, the Client must inform the Firm in writing.

#### Payment

5. All fee estimates supplied to the Client by the Firm will be provided based on the request by the Client for the work carried out and as detailed within the written estimate/quote. Any work or Services provided outside the original contract or quote not originally detailed in the quote or contract will be completed and invoiced separately on discussion and agreement with the Client.
6. Upon request from the Firm the Client shall immediately pay to the Firm all disbursements and external expenses incurred, paid or payable by the Firm on behalf of the Client.

WDC fee - \$600 inc gst

We can send this off at the same time we send the plans off to LINZ.

**Send 223/224c certificates and approved survey plans to solicitor**

We then pass the 223/224c certificates and survey plans to your solicitor who will produce the new titles.

You will need to have a chat with them about cost and timeframes for this portion.

The only other thing that would be good to have is any correspondence with Ken Thorn about how they can't complete the survey. Or we can try and get hold of him. It's usually good professional ethics to have a quick chat when we take on work from other surveyors.

If you are happy with this then if you could sign the attached client engagement contract and send it back (scan or photo is fine) and we can get things rolling.

Regards

Tim Ronke

Licensed Cadastral Surveyor

**Grant & Cooke Surveyors Ltd**

Registered Professional & Licensed Cadastral Surveyors,

Land Development & Resource Management Consultants

ph +64 6 867 7244 | mob 021 0841 8550 | url [www.grantcooke.co.nz](http://www.grantcooke.co.nz)



**Client Engagement Contract.pdf**  
147K

17. If the Client is obtaining the Services for business purposes the provisions of the Consumer Guarantees Act 1993 are excluded in relation to the Services. If the Client is not obtaining the Services for business purposes then to the extent that any provision in this agreement is inconsistent with the Consumer Guarantees Act the provisions of the Act will prevail.

#### Personal Information

18. The Client authorises the Firm to collect, retain and use personal information about the Client, including the information contained in this agreement, for the purposes of assessing the Client's credit worthiness, administering the Firm's rights against the Client or marketing any Services provided by the Firm. The Client may request access to and correction of any personal information and the Firm will comply with its obligations under the Privacy Act 1993.

#### Disputes

19. If a dispute arises under this agreement or concerning its subject matter, either party may at any time give written notice to the other requesting that a meeting take place to seek to resolve the dispute. The parties will then meet within five business days of the notice and endeavour to resolve the dispute in good faith. If such meeting does not take place within five business days of the notice or if after five business days of the meeting the dispute remains unresolved, either party may pursue its rights at law.
20. Clause 19 does not restrict or limit the right of either party from taking immediate steps to obtain relief before an appropriate court, or to immediately terminate this agreement where this document provides such a right.

#### Termination and Suspension

21. The Client may suspend all or part of the Services or terminate this agreement by notice to the Firm in writing who shall immediately make arrangements to stop the Services and minimize further expenditure. Suspension or termination shall not prejudice or affect accrued rights or claims and liabilities of the parties including the payment of all fees and other costs payable to the Firm up to the effective date of suspension or termination and all further fees and costs incidental to the orderly termination of the Services.

#### Guarantee

22. The shareholders, directors and guarantors named above hereby irrevocably guarantee the due and punctual payment of all moneys owing by the Client to the Firm. It is acknowledged that the Firm is not obliged to pursue its remedies against the Client but may proceed in the first instance directly against any or all of the shareholders, directors and/or guarantors. If more than one their liability shall be joint and several.

#### Force Majeure

23. Neither the Firm nor the Client will be liable for any act, omission or failure under this agreement (except failure to meet an obligation to pay money) if that act, omission or failure arises directly from a force majeure event (being circumstances beyond the reasonable control of the party concerned, including, without limitation, extreme weather conditions, civil disruption or industry wide industrial action).

Client Name (Print) Jack Bowen

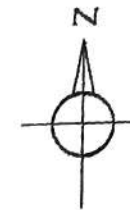
Client Signature W J Bowen 28/9 / 2023

Signed by

**Tim Ronke**  
28/09/2023

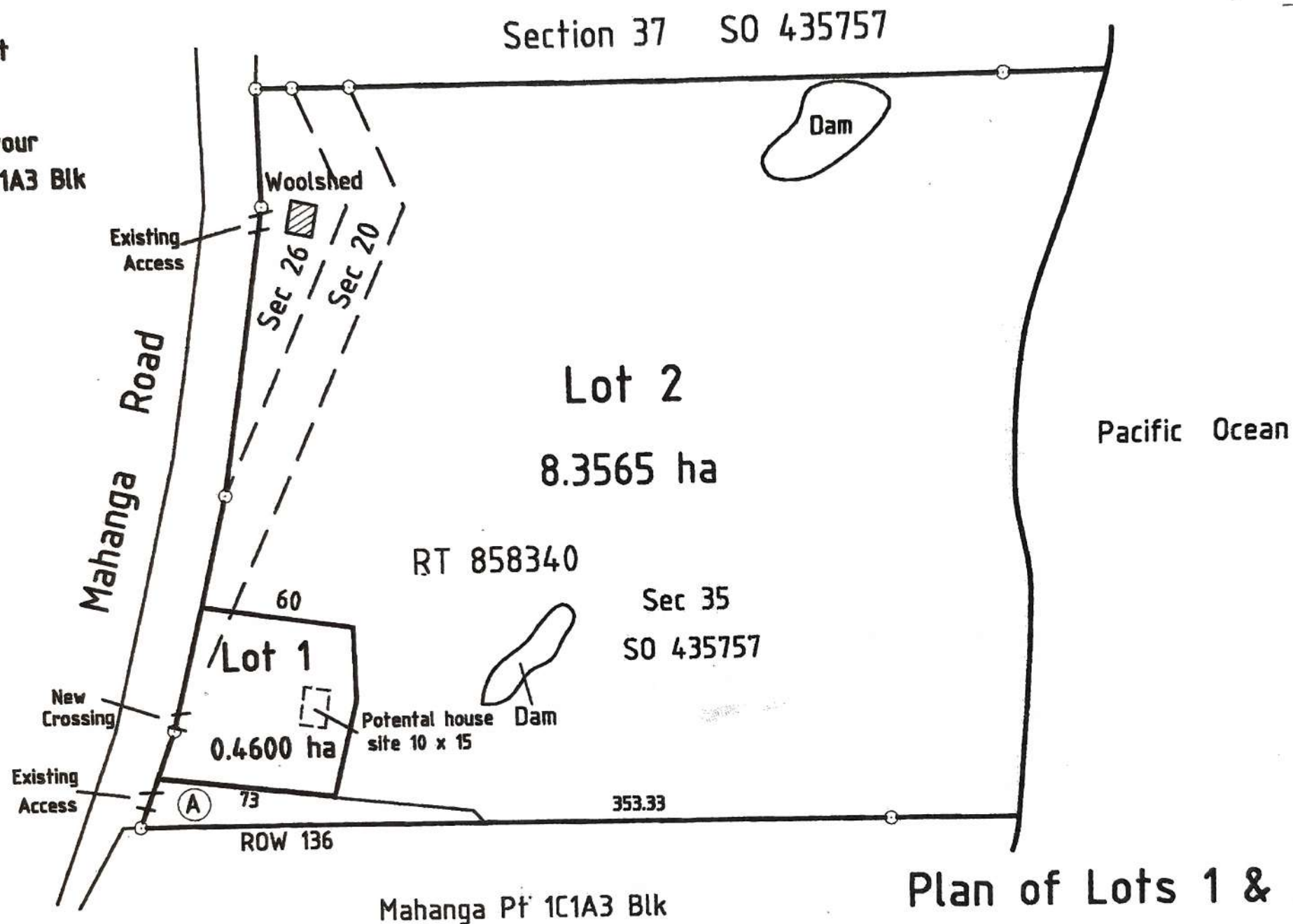
for Grant & Cooke Surveyors Ltd (The Firm)

NOTE : Dimensions & areas are subject to final survey.



Proposed Easement

Right of Way A  
Over Lot 2 in favour  
of Mahanga Pt 1C1A3 Blk



Plan of Lots 1 & 2  
Formerly Secs 20, 26 & 35 SO 435757

Ken Thorn Surveying  
NAPIER

SCALE 1:2500

JN 22/14