

16 March 2021

Submission to the Ōpōtiki District Council on their Statement of Proposal in response to  
Te Arawhiti and Te Whānau a Apanui joint request Ōpōtiki district reserve land (A229160)

Olga(Ollie) Immink Goldsmith

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Whakatāne 3120

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027 243 7578

I wish to be heard in support of my submission to the council.

### Submission Content

My submission is directed at three main issues associated with the Statement of Proposal. These are:

- Vehicular access to beachfront properties (Lot 66)
- Lack of consultation with the beachfront property owners as stakeholders
- Location of the wāhi tapu and coastal access.

As an overriding point, the proposal potentially has very significant impacts on the beach front community and these **are not addressed in any comprehensive way** in the reporting and background information provided to councillors to make their decisions. This is a significant oversight and inappropriate process for Ōpōtiki District Council in terms of decision-making.

### Introduction

My family have a long history with Whanarua Bay.

In the late 1960s my family began holidaying with friends at Lot 19. During the last 50 years I have had shared many wonderful holidays learning to swim, kayaking, diving, boating and fishing. It was also my chosen destination for our honeymoon. Our children have continued this tradition of seaside holidays. From the start as children we were taught to respect the Bay and its many values and has been passed on to our children and bach users.

Throughout this time vehicles have always driven to the Eastern Bay car park (Lot 66), eagerly unpacking to walk the final few hundred meters to the baches. I have had the pleasure of staying in and visiting all the baches in the eastern bay Lots 15-20.

Given our rich happy history of the Bay when the opportunity arose my husband (Allan Goldsmith) and I were delighted to investigate the purchase Lot 20 DP4651. Lot 20 was originally built in 1964 by Wally Timbrell (at the time a teacher from Te Teko School), I recall him with great fondness with many happy holidays with all the families in the eastern Whanarua Bay.

In October 2014 we undertook due diligence and procured the LIM report for the property Lot 20 DP4651 from the Ōpōtiki District Council (ODC) which clearly identified the vehicle access. (Attachment 1) Page 6

<p>regional from Council recommends you discuss this with any of the regional Councils.</p> <p><b>17. DISCRETIONARY INFORMATION</b></p> <p>In addition to the information provided, a Territorial Authority may provide in the memorandum such other information as the Authority considers, at its discretion, to be relevant.</p> <p>Opotiki District Council hereby provides the following discretionary information which it considers to be relevant in accordance with Section 44A(3) of the Local Government Official Information and Meetings Act 1987.</p> <p><b><u>ACCESS</u></b></p> <p>State Highway 35 is managed by NZ Transport Agency.</p> <p>The vehicular accessway from State Highway 35 is through Council's "Recreational Reserve". Opotiki District Council administers the reserve, however the Council did not arrange for the construction of the formed vehicle access through the reserve, nor does the Council maintain it as part of the district's roading network.</p> <p>Access through the reserve for recreational purpose, such as via a passenger car is considered by the Council as acceptable practice and is within the Council's authority to allow without conditions in terms of the Reserves Act. The use of the access for building construction traffic, if this type of work is intended, in particular for vehicles carting and/or towing large, heavy materials falls outside of such permitted activity and will require the person(s) who own the property responsible for the construction to contact the Council's Manager Parks and Reserves and obtain a <i>Reserve Access Licence: Transit For Construction Purposes</i>. This licence will require the holder, in particular, to restrict loads to an agreed maximum permitted weight, to agreed size requirements and to be responsible for all repairs necessary should the access and or associated landscape, vegetation be damaged as a result of the use of the access by the property owner or any of his contractors, agents. Notwithstanding the permitted conditions, the use of the accessway will be totally at the owner's risk; Council will not accept any responsibility for vehicle nor material damage nor recovery cost should accident, road failure or any other mishap occur in the reserve involving the licence holder, his contractors, his agents.</p> <p>Currently the accessway is restricted to weights not exceeding 5000 kg and this is sign posted at the entrance from the State Highway.</p>
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We also confirmed our understanding (As noted in LIM Page 14) that Lot 20 was part of the beach front property owners agreement (Attachment 2) with the Wi Repa Family Trust for the easement access across Lot 75. This ensured vehicle and boat access and the Eastern Bay carpark which was vital for the 5 baches Lot 16 through to Lot 20 as there is no further vehicle access to these properties. If we had not established vehicle access to this Eastern Bay carpark then we would not have proceeded with purchasing the property! Vehicle access is vital for the use the bach, so in January 2015 we were ecstatic to buy Lot 20 DP4651.

### **Vehicular Access over Lot 66**

The Council is clearly very aware of the issue of vehicle access over Lot 66.

The current vehicle access situation is NOT one of the property owners doing. Historically the bach community was a formalised and approved subdivision. It was not land taken inappropriately (see Attachment 3 - letter 13 August 1985). The original subdivision assumed access through the stream valley to the west. This access – and the coastal access strip (Lot 75) along the whole bay frontage - were not transferred out of private ownership at the time of subdivision. Access down the stream became disputed by the adjoining landowners and the alternative reserve land access was developed with the full knowledge of the then Opotiki County Council around 1980. Stream bed access would not be considered appropriate in current times. The access over the coastal access strip (Lot 75) was resolved in the Maori Land Court in November 2006 – again reinforcing the status of the subdivision. Over time commitments have been made by ODC to formalise the access over Lot 66 but these commitment have not been followed through on.

It is surprising that a recent report: ODC File ID A213766 Page 2 states “there is no legal access to Whanarua Bay over Council reserves” and yet our LIM report states that vehicle access is acceptable practice.

2020-10-06 - Ordinary Council Meeting Agenda - Reserves Management Plan 2020 Combined appendices.pdf A213766 Attachment 5

Topic number	Topic	Question/Decision requested	Applies to submission no/s:	Suggested response	Suggested decision
T12	Whanarua Bay Recreation Reserve - Access	Recommends Council does not install a gate and does not restrict access to Whanarua Bay.	2, 7	This is subject to the easement and access policy. <u>Currently, there is no legal access to Whanarua Bay over Council reserves.</u>	Decline

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T74	Whanarua Bay Recreation Reserve	Recommends that if Lot 66 does close then another access be made	10	<i>landscape plan.</i> <u>Lot 66 doesn't provide legal access to the coastal reserve</u>	Decline
T75	Whanarua Bay Recreation Reserve	Disagrees with the discussion of the possible closure of Lot 66 access to Whanarua Bay	11	Thank you for your submission	Note
T76	Whanarua Bay Recreation Reserve	Submits that the reserve category "Cultural Heritage" is incorrect, and that the category should be changed to "Recreation and Access" to reflect the primary purpose that people use the reserve for	12	Council disagrees and maintains that the primary category is Cultural Heritage	Decline
T77	Whanarua Bay Recreation Reserve	Submits that the two picnic tables (for Lot 66) be removed from the plan	12	Thank you for your submission. The concept plan has been removed from the Whanarua Bay Recreation Reserve management plan.	Accept

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Whanarua Bay residents previous submissions to the Review of the Ōpōtiki District Council Reserve Management Plan made it abundantly clear to the ODC that for the beachfront property residents there is no other vehicle access apart from the use of Lot 66. No Easement Policy has eventuated as identified as occurring in T34.

T34	Sustainability Management Policies - 9.2.9 Occupation Agreements - Easements and Encroachments	significance to tangata whenua at Whanarua Bay Reserve. <u>Objects to an illegal road</u> at Whanarua Bay Reserve that cuts through wahi tapu with an entrance way that goes over privately owned land. States that formalisation of the road encourages destruction of wahi tapu and other natural values on reserve land which goes entirely against 9.1.1.44.	5	reflect the submission. This section, in Part 1, cannot be specific to one reserve. However, the easement policy that Council is creating will ensure that access over Council reserves is consistent across the district.	Accept in principle
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It is time for the ODC to honour the commitment to ensure an easement prior to any change in ownership.

The neighbouring hapu, Te Whānau-Rangi-i-Runga submissions to the Review of the Ōpōtiki District Council Reserve Management Plan T169 clearly indicate that under their management vehicle access would be prohibited. This hapu closed the original stream access in the early 1980s.

For this reason alone I cannot support the ownership of any of the Whanarua Bay Recreation Reserves requested in the Statement of Proposal be transferred to Te Whānau a Apanui.

Topic number	Topic	Question/Decision requested	Applies to submission no/s:	Suggested response	Suggested decision
T166	Whanarua Bay cultural considerations WHBC1	The unrestricted public access to wahi tapu (urupā) sites is of significant concern to local hapū. Seek that all vehicle access to the reserve is prohibited	32	Until such time as the easement and access policy is agreed upon, Council won't be prohibiting vehicle access to the reserve. However, Council will engage with hapū when creating the easement policy to ensure that it is in accordance with the Cultural Historic category of the reserve, and that property owners have access to private properties. Treaty settlement negotiations are outside the remit of the reserve management plan.	Decline
T168	Whanarua Bay cultural considerations WHBC3	Heritage values must be improved through the identification of historic and current values and sites, protection of those values and sites from further degradation, and restoration of historic damages. This includes the exclusion of vehicles from the Reserve.	32	Council agrees that heritage values must be improved through the identification of historic and current values and sites, and this will be considered as part of the cultural impact assessment. Vehicle access will be considered as part of the easement and access policy that Council is creating.	Accept
T169	Whanarua Bay reserve issues WHBR1 and WHBR2	ODC's proposal to investigate the possibility of acquiring access over private property to provide public access to the coastal forest reserve is completely unacceptable. All of the possible access routes require going through our families' Māori land. This access way is currently not suitable for large vehicle and also crosses through wahi tapu. The priority should not be formalising access over Lot 60, but rather minimising vehicle access through our wahi tapu. All physical vehicle access through Lot 66 and Lot 80 must cease immediately until such a time that there is a legal agreement in place from the Waitangi Tribunal, this is necessary to prevent further desecration of wahi tapu and urupā.	32	Until such time as the easement and access policy is agreed upon, Council won't be prohibiting vehicle access to the reserve. However, Council will engage with hapū when creating the easement policy to ensure that it is in accordance with the Cultural Historic category of the reserve, and that property owners have access to private properties. Treaty settlement negotiations are outside the remit of the reserve management plan.	Decline

### Lack of consultation with the beachfront property owners as stakeholders

Given that it is clear that the access issue is well known - how is it that we, the Whanarua Bay DP4651 lot owners have not been acknowledged as stakeholders?


As per ODC File ID A225525: 2021-01-26 Ordinary Council Meeting below, how has there been sufficient engagement and consultation with relevant stakeholders? We, the beachfront property owners, should clearly have been considered as stakeholders rather than simply seen as being under the category of "public". I strongly disagree with the statements made in the SOP that:

Further discussions were held after the 17 December 2020 meeting, and it was determined that sufficient engagement and consultation with relevant stakeholders has taken place in order for Council to develop and adopt a Statement of Proposal for public consultation.

The Statement of Proposal being presented for adoption by Council for consultation purposes relates to the properties that are subject to the Joint Request, and the ownership and management options that have been presented to Council as part of the Joint Request.

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I do not believe that ODC has taken the time to engage properly with us as stakeholders who have a clear and obvious interest greater than the general public. It is also disingenuous to suggest that the sum total of the "Community Interest" in this issue is as stated in the Council report ODC File ID A213766 page 119 in support of the SOP:

<p>Current Community Uses</p>	<p>Note there is currently an encroachment on the eastern end of Lot 80 where the neighbour appears to have constructed their dwelling on this property.</p> 
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Clearly there are “community “ interests that are not acknowledged here. Nowhere in the Council reporting is mention made of the potentially significant impact if access to the beachfront properties was lost as a consequence of a transfer.

### Location of the wāhi tapu/urupa and coastal access

I am astounded to find that also stated in the Council report ODC File ID A213766 Page 119 is that the origins of these reserves were to provide access to significant wāhi tapu and urupā sites.

<p>Operative District Plan</p>	 <p>The land adjacent to the foreshore is zoned Coastal Settlement and the reserves located further away are zoned Coastal</p>
<p>Reserve Management Plan</p>	<p>The ODC Reserve Management Plan – Part 2 notes the following in relation to this reserve:</p> <ul style="list-style-type: none"> <li>• There has been no investment by the Council, however private residents have constructed the sealed vehicular access to their properties.</li> <li>• The origin of the reserve is to provide access to significant wāhi tapu and urupā sites. Also providing recreational access from the road to the beach at Whanarua Bay.</li> <li>• The linear reserves are located between the beach and the coastal cliffs of Whanarua Bay. The access to Whanarua Bay is obscure and therefore the reserves are mainly frequented by locals. The rocky bay</li> </ul>

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The original survey document map provided to us in our LIM report of DP4651 it states that Lots 66, 68, 69, 70,71 & 80 were vested in Crown as Recreation Res. 30/11/61. On what basis does ODC now assert that the origin of these reserves be significantly changed. Has there been cultural, historical research or an archaeological assessment by the Crown or ODC which can be provided to justify this statement?

Lot 66 and 80 is referred to in ODC File ID A213766 as being part urupā. No map is provided as to the what is considered the urupā “focal point” or of the balance of Lot 80. This makes it impossible to know what is proposed and therefore what is being consulted on.

All anecdotal history and stories refer to Lot 66 being an original pathway for horses and people since before the 1950s. As a young child when the tide was high I recall carrying the crate of glass milk bottles up this pathway to walk to the Wi Repa store (Lot 31) along State Highway 35.

ODC File ID A213766 Page 120 “Water erosion which comes from the sealed access way has caused exposure of koiwi tangata (human remains).” This accusation is not supported by any evidence of koiwi tangata being found, discovered, reported, documented or exposed by water erosion. I am deeply saddened that this statement has been made on record.

Prior to our purchase of Lot 20 we stayed at the bach and noted that there were two significant pages of information stapled to the kitchen wall. (Attachment 4) We had previously seen this information on the wall of the bach on Lot 19. *Welcome to our Holiday Home* (Attachment 5):

### **WELCOME TO OUR HOLIDAY HOME**

The metalled roadway used to access our properties is known as Lot 75 and is owned by the Wi Repa Family Trust on behalf of the Wi Repa Whanau. Access to and from our property and to and from the beachfront reserve is governed by the terms of an Easement Agreement between the parties that is summarised below.

It is a condition of staying in our bach that you recognise and observe the terms and intent of the Agreement as described in this summary

#### **Brief Summary of Easement Agreement for Access Over Lot 75**

##### **Cultural Values**

The Residents acknowledge their respect for the cultural values and sacred sites of Whanarua Bay – Wahi Tapu sites are shown on the attached plan

The attached plan (Attachment 6) outlined the wāhi tapu. Family and friends visiting the bach are informed about this site. These areas are respected by the bach community and we encourage its protection.

The suggestion that “Lot 80 (urupā)” should be transferred unencumbered could mean that there would be no community access to or along parts of the coastline of Whanarua Bay – significantly affecting the beachfront property owners. Nowhere is this significant issue discussed in Council’s reporting or SOP – and nowhere is a map provided identifying what is proposed.

I fully support the separation of the urupā on Lot 80 from the balance of Lot 80 and the unfettered transfer of what we understand to be the urupā but as no map has been provided it is not possible to agree with this aspect of the proposal.

All those who engage in seaside activities at Whanarua Bay including boat and kayak launching use Lot 80 to access the beach. DP4651 was subdivided to be a seaside beach community, and has been for over 60 years.

#### **My Submission**

That Lot 3, 66, 68, 69, 70, 71 and 80 be retained by the ODC with no transfer of ownership or management. Do not make this decision in haste due to pressures from the Crown, vehicle access must be sorted prior to any transfer of land. There are many other options for treaty settlement that have not been explored.

One of these areas I believe should be investigated by Te Arawhiti and Te Whānau a Apanui is Karirangi – the local maunga which is significant to all tangata whenua. Noted as the Whanarua Bay Reserve, under DOC Public Conservation scenic reserve.

<https://maps.walkingaccess.govt.nz/Viewer/?map=b1d1e76a6c754d11b3f3fd9dfce1eb12>



The view from Karirangi - Whanarua Bay Scenic Reserve



Yours Sincerely,

Olga Immink Goldsmith



OUR REF: 7660-373-11

13 October 2014

Olga & Allan Goldsmith  
32 Bracken Street  
Whakatane

Dear Sir/Madam

**RE: LIM Report for 8471 State Highway 35, Whanarua Bay**

Please find attached a Land Information Memorandum for the above property. The LIM was issued on 13 October 2014 and is ONLY accurate as of this date.

If you have any comments or questions in regard to this Land Information Memorandum please contact us.

Yours faithfully

  
Gill Sands  
Consents Planner



# LAND INFORMATION MEMORANDUM

Address all correspondence to: Chief Executive, Opotiki District Council, PO Box 44, Opotiki 3162   Phone 07 3153030   Fax 07 3157050			
<b>DATE OF ISSUE</b>	13 October 2014		
<b>VALUATION NUMBER</b>	7660-373-11		
<b>1. NAME OF PROPRIETOR</b>	Blair James Watson & Louise Angela Watson		
<b>2. LOCATION</b>	8471 State Highway 35, Whanarua Bay		
<b>3. LEGAL DESCRIPTION</b>	Lot 20 DP 4651		
<b>4. PHYSICAL DESCRIPTION</b>			
<b>House Number</b>	<b>8471</b>	<b>State Highway</b>	35
<b>RD Number</b>	<b>R D 3</b>	<b>Suburb / Area</b>	Whanarua Bay
<b>Town</b>	<b>Opotiki</b>	<b>Post Code</b>	3199
<b>5. AREA</b>	1312 square metres more or less		
<b>6. ZONING</b>	Coastal Settlement		
<b>ATTACHMENTS</b>			
• District Plan Zone & Map		• Maps – Various	
• Certificate of Title including MLC order creating easement		• Rates - Customer Enquiry information	
• Building Consents & Permits Information		• Copy of property file, as requested	
•		•	
<b>7. SPECIAL FEATURES</b>	<b>COMMENTS</b>		
• Potential Erosion	No information available		
• Avulsion (the sudden removal of land by the change in a river's course, or by flooding, to another person's land)	No information available		
• Falling debris	No information available		
• Subsidence	No information available		
• Alluvion (the deposit of earth, sand, etc, left during a flood)	No information available		
• Inundation	No information available		
• Wind Zone	Council has no wind zone detail for this property, please refer to NZS3604 for Building Compliance.		
• Fill (compacted / uncompacted)	No information available		
• Hazardous contaminants including dangerous goods	No information available		
• Historic/Archaeological sites	See comment below		
• Drainage restrictions	No information available		
• Reserves (existing / proposed)	No information available		
• Easements	See copy of ROW easement created by the MLC		

# LAND INFORMATION MEMORANDUM

<ul style="list-style-type: none"> <li>Other legal restrictions (e.g. building line restrictions)</li> </ul>	No information available		
<ul style="list-style-type: none"> <li>Any other special features</li> </ul>	This site is located within the Earthquake Zone "3". Any building being erected within 500m of the sea is classed as being in a High Corrosion Zone in the Building Code.		
<b>8. SERVICES</b>	<b>COMMENTS</b>		
<ul style="list-style-type: none"> <li>Stormwater</li> </ul>	No information available		
<ul style="list-style-type: none"> <li>Septic tank</li> </ul>	No information available see comment below		
<ul style="list-style-type: none"> <li>Water</li> </ul>	Private supply – no information available		
<b>9. RATES – See Customer Enquiry Form</b>	<b>COMMENTS</b>		
<ul style="list-style-type: none"> <li>Current Year's Assessed Rates ending 30.06.2015</li> </ul>	\$2424.86		
<ul style="list-style-type: none"> <li>Number of Instalments</li> </ul>	4		
<ul style="list-style-type: none"> <li>Date of Valuation @ September 2013 for rating purposes only</li> </ul>			
<ul style="list-style-type: none"> <li>Land Value</li> </ul>	\$350,000.00		
<ul style="list-style-type: none"> <li>Improvement Value</li> </ul>	\$135,000.00		
<ul style="list-style-type: none"> <li>Capital Value</li> </ul>	\$485,000.00		
<b>10. WATER – Uniform Annual Charge / Metered Supply</b>	<b>Not a Council supply</b>		
<b>11. BUILDINGS</b>			
(a) Details of Building Permits			
<b>Date</b>	<b>Permit No.</b>	<b>Project</b>	
3 July 1964	A 096684	Erect Holiday Cottage	
19 April 1966	B 045650	Boatshed	
8 January 1973		Toilet and septic tank	
(b) Details of Building Consents: None			
<b>Date</b>	<b>Consent No.</b>	<b>Project</b>	<b>Date Code Compliance Certificate Issued</b>
(c) Details of any other Certificate / Notice / Order or Requisition Affecting Buildings			
No Information Available			
(d) Certificate Issued by a Building Certifier Pursuant to the Building Act 1991 or the Building Act 2004			
No Information Available			
(e) Information Notified to the Territorial Authority under Section 124 of the Weathertight Homes Resolution Services Act			
No Information Available			
<b>12. USE OF LAND</b>			
(a) Details of Resource Consents (Subdivision / Land Use) or Certifications of Compliance Issued for this Site			
No Information Available			

# LAND INFORMATION MEMORANDUM

(b) Details of Licences Held	
No Information Available Licences under Health Legislation Licences under Sale of Liquor Act	
(c) Details of any other Certificate / Notice / Order of Requisition Affecting the Use of the Land	
No Information Available	
(d) Details of Conditions Affecting the Use of Land	
No Information Available	
<b>13. INFORMATION NOTIFIED TO COUNCIL BY A STATUTORY ORGANISATION HAVING POWER TO CLASSIFY LAND OR BUILDINGS</b>	
(a) Requiring Authority : No Information Available	
(b) Heritage Protection Authority No information available	
<b>14. INFORMATION NOTIFIED TO COUNCIL BY ANY NETWORK UTILITY OPERATION PURSUANT TO THE BUILDING ACT 1991 OR BUILDING ACT 2004</b>	
No Information Available	
<b>15. HEALTH ACT 1956 Part 2A :</b>	
<b>(ba) Any information that has been notified to the Territorial Authority by a drinking-water supplier.</b> No Information Available	
<b>(bb) Information on:</b>	
(i) whether the land is supplied with drinking water and if so, whether the supplier is the owner of the land or networked supplier	No Information available
(ii) if the land is supplied with drinking water by a networked supplier, any conditions that are applicable to that supply	No information available
(iii) if the land is supplied with water by the owner of the land, any information the territorial authority has about the supply	No information available
<b>NB: Drinking Water must comply with the requirements of the Health Act 1956, Part 2A, including the new sections as inserted by the Health (Drinking Water) amendment Act 2007.</b>	
<b>16. ANY OTHER INFORMATION CONSIDERED TO BE RELEVANT</b>	
It is recommended that you also consider the planning provisions of the Opotiki District Plan as it affects this property. A full copy of the Opotiki District Plan is available for viewing on the Council's website <a href="http://www.odc.govt.nz">www.odc.govt.nz</a> .	
<b>DEVELOPMENT CONTRIBUTIONS</b>	
The Opotiki District Council has a Development Contribution Policy which outlines contributions which are payable to the Council for new developments occurring within the Opotiki district. If you plan to develop your property further in the future, you are advised to read the Development Contributions Policy in the Long Term Council Plan.	
<b>COUNCIL BY LAWS</b>	
Bylaws are rules and regulations that are created to control specific activities within Opotiki district. Council has beach, dog and fire bylaws amongst various others. All Council bylaws are available for viewing at Council offices on the website link <a href="http://www.odc.govt.nz">www.odc.govt.nz</a> .	

# LAND INFORMATION MEMORANDUM

## FREQUENTLY ASKED QUESTIONS

### ***What if a LIM shows that no records are held by the Council but there is some works or building on the property?***

A LIM identifies the information held by the Council concerning any building consent or building permit for existing buildings or structures. In some cases however, the Council's records may be incomplete and there is a building in existence. The absence of Council records for building permits or building consents may mean any of the following:

- The building was erected without a permit or consent;
- The records were destroyed in the 1964 flood;
- The property was in the ownership of the Crown when the building was constructed and did not therefore require a permit.

### ***What if I buy a property that has an existing building without any building consent or permit?***

If building work has been carried out without a building permit or consent then there is no authority under the Building Act 2004 or any prior building legislation to retrospectively issue a building consent for the work. The Building Act 2004 provides that a Certificate of Acceptance may be issued where work has been done without a building consent. A Certificate of Acceptance will provide some verification for a building owner / future building owner that part or all of certain work carried out complies with the Building Code. A Certificate of Acceptance may only be issued in relation to building work carried out after 1 July 1992. You should contact the Building Consent Authority to discuss this further.

If buildings erected prior to 1 July 1992 without any building permit for which Council holds no records, then Council is generally unlikely to take any action against the current owners of that building unless the building is dangerous or insanitary in terms of the Building Act 2004 or the provisions of the Health Act 1956. This assumes that the building complies in all other respects with other statutory requirements.

For work undertaken after 1 July 1992 for which Council holds no record, it is likely that the building work was carried out without a building consent. If so, the property owner and the person who carried out the work may have contravened the relevant building legislation. If purchasers of properties require a report on a building they should engage a qualified builder to inspect the building and provide the report. The Council is happy to put a copy of this report on the property file but will not verify the report.

If a Building Consent was issued after 1 January 1993 and no Code Compliance Certificate has been issued, it either means that a final inspection has not been requested or that the final inspection has been undertaken and a problem was detected and the Council is waiting for notification that the outstanding work has been completed and is ready for inspection.

**Swimming/Spa Pools:** If the property contains a swimming or spa pool this must be fenced as required by the fencing or Swimming Pools Act 1987.

**Solid Fuel Heaters:** It is important that any solid fuel heater has been legally installed, either as part of the original dwelling or by way of a separate permit or consent.

### **Archaeological Sites:**

Archaeological sites are historic places as defined by the Historic Places Act 1993, and all archaeological sites are protected under the provisions of that Act regardless of whether they have previously been recorded or not. Any activity, which impacts on an archaeological site, requires the prior permission of the Historic Places Trust. If any archaeological site is uncovered during development then work must stop until the site can be assessed by a qualified archaeologist and an authority to modify, damage or destroy the site applied for under either Section 11 or 12 of the Act.

The New Zealand Historic Places Trust can be contacted at:

New Zealand Historic Places Trust, PO Box 13339, Tauranga Phone 07 578-1229

### **Other**

You are advised to contact the Bay of Plenty Regional Council to check whether there are any provisions in their plans which may affect the site in respect of the plans provided they have made the following comments:

*The map "with Coastal Plan layers" shows features identified in the Operative Bay of Plenty Regional Coastal Environment Plan:*

# LAND INFORMATION MEMORANDUM

- Light Blue area – significant Indigenous Vegetation Area SSL – 89 – Ranked National – Whanarue Kereu Corridor (part)
- Purple area – Outstanding Natural Feature – ONFL 35 – Whanarua Bay

These two areas overlap at the seaward end of the property

As this is a non sewered site the dwelling should comply with the Environment Bay of Plenty Operative On-site Effluent Treatment Regional Plan. Council recommends you discuss this with Bay of Plenty Regional Council.

## 17. DISCRETIONARY INFORMATION

In addition to the information provided, a Territorial Authority may provide in the memorandum such other information as the Authority considers, at its discretion, to be relevant.

Opotiki District Council hereby provides the following discretionary information which it considers to be relevant in accordance with Section 44A(3) of the Local Government Official Information and Meetings Act 1987.

### ACCESS

State Highway 35 is managed by NZ Transport Agency.

The vehicular accessway from State Highway 35 is through Council's "Recreational Reserve". Opotiki District Council administers the reserve, however the Council did not arrange for the construction of the formed vehicle access through the reserve, nor does the Council maintain it as part of the district's roading network.

Access through the reserve for recreational purpose, such as via a passenger car is considered by the Council as acceptable practice and is within the Council's authority to allow without conditions in terms of the Reserves Act. The use of the access for building construction traffic, if this type of work is intended, in particular for vehicles carting and/or towing large, heavy materials falls outside of such permitted activity and will require the person(s) who own the property responsible for the construction to contact the Council's Manager Parks and Reserves and obtain a *Reserve Access Licence: Transit For Construction Purposes*. This licence will require the holder, in particular, to restrict loads to an agreed maximum permitted weight, to agreed size requirements and to be responsible for all repairs necessary should the access and or associated landscape, vegetation be damaged as a result of the use of the access by the property owner or any of his contractors, agents. Notwithstanding the permitted conditions, the use of the accessway will be totally at the owner's risk; Council will not accept any responsibility for vehicle nor material damage nor recovery cost should accident, road failure or any other mishap occur in the reserve involving the licence holder, his contractors, his agents.

Currently the accessway is restricted to weights not exceeding 5000 kg and this is sign posted at the entrance from the State Highway.

### LANDSLIPS

Properties in the area have been subject to landslips during storm events. The slips and consequential damage was a result of an extreme rainfall event.

## RESOURCE MANAGEMENT DISCRETIONARY INFORMATION

The Opotiki District Council's policy on discretionary Resource Consent information in relation to Resource Consents is to provide LIM applicants with information on Resource Consents which have been approved on all sites within the last 5 years which directly adjoin the site to which the LIM application relates. If Resource Consents have been granted in this locality but are located on sites which do not directly adjoin the site of the LIM application then these will not be identified on the LIM.

- No Resource Consents have been granted on sites directly adjoining the site of the LIM.

Refuse Information Discretionary Information: see brochure attached

# LAND INFORMATION MEMORANDUM

## 18. DISCLAIMER

This Land Information Memorandum has been prepared for the purposes of Section 44A of the Local Government Official Information and Meetings Act 1987 and contains all the information known to the Opotiki District Council relevant to the land described. It is based on a search of Council records only and there may be other information relating to the land which is not known by Council. The Council has not undertaken any inspection of the land or any buildings on it for the purpose of preparing the Land Information Memorandum. Accordingly, the Council is unable to verify that the consents held in our file match the buildings on the property. You are advised to peruse our file.

No guarantee is given as to the accuracy, location and completeness of any aerial/service plans provided. Proceed with caution and verify on site. For any enquires about the boundaries/services shown on any of the plans please contact Council.

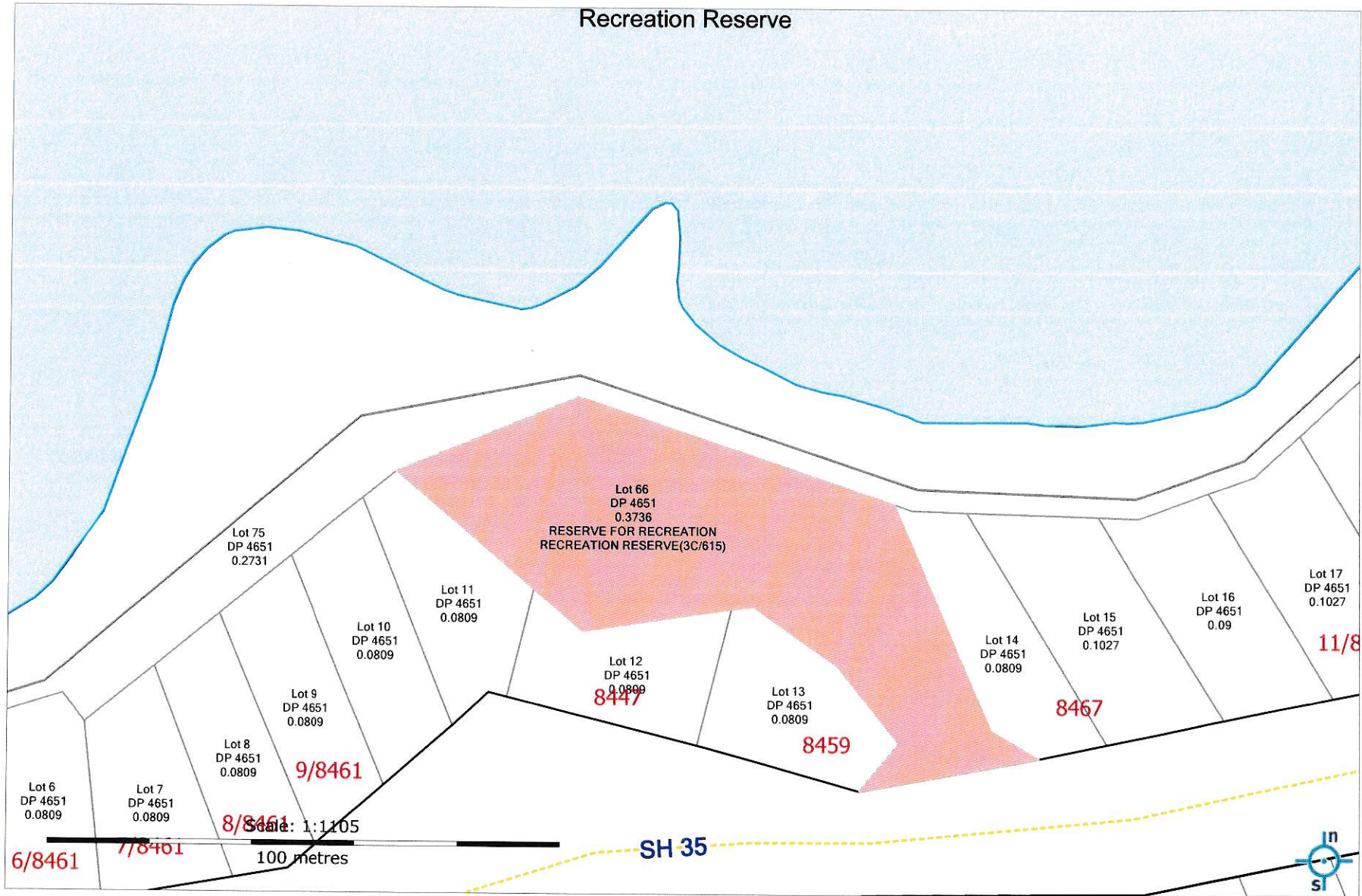
**The applicant is solely responsible for ensuring that the land is suitable for a particular purpose.**

Prepared by:

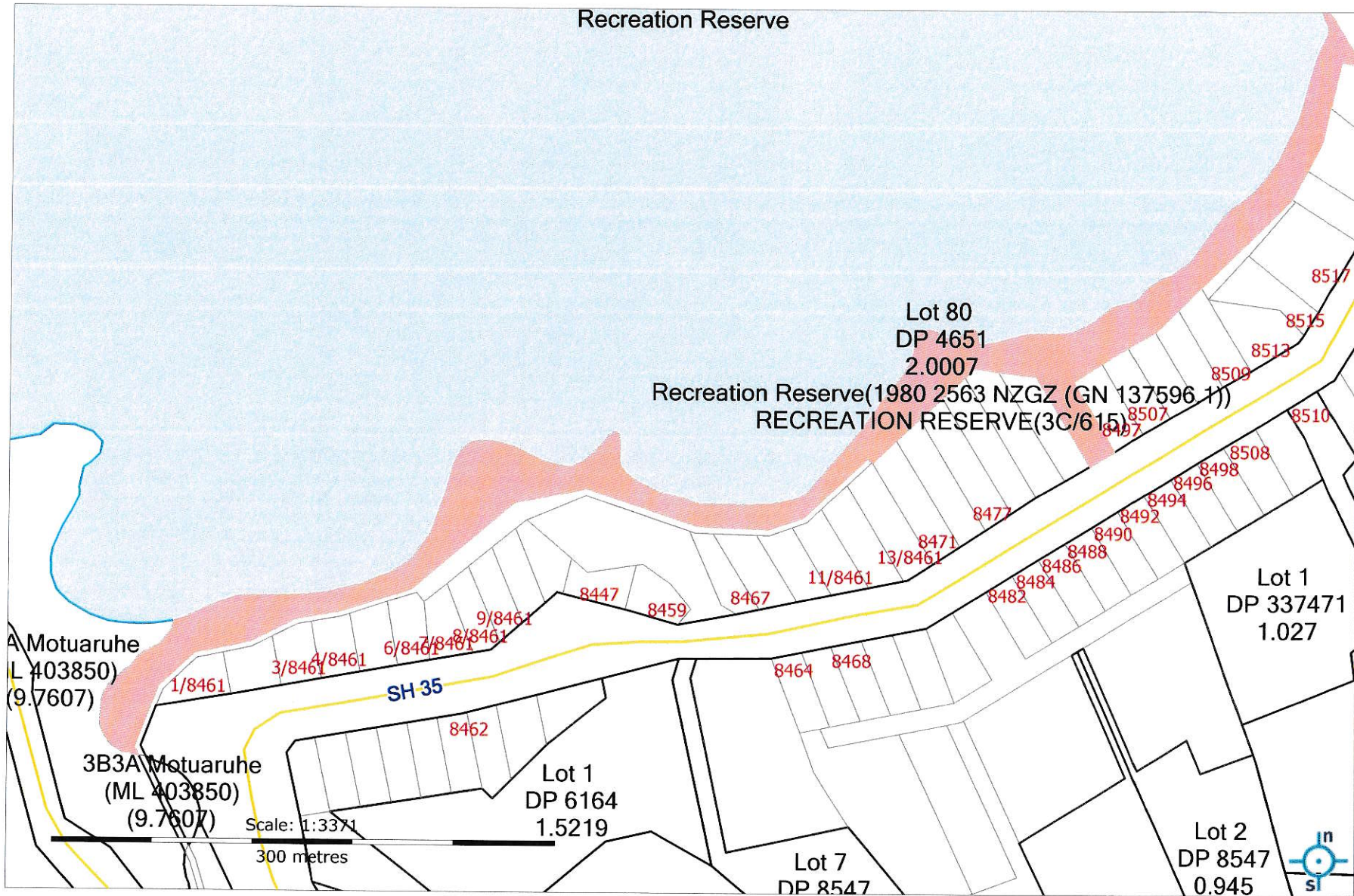
  
Gill Sands  
Consents Planner

# LIM Report - 8471 State Highway 35

Recreation Reserve

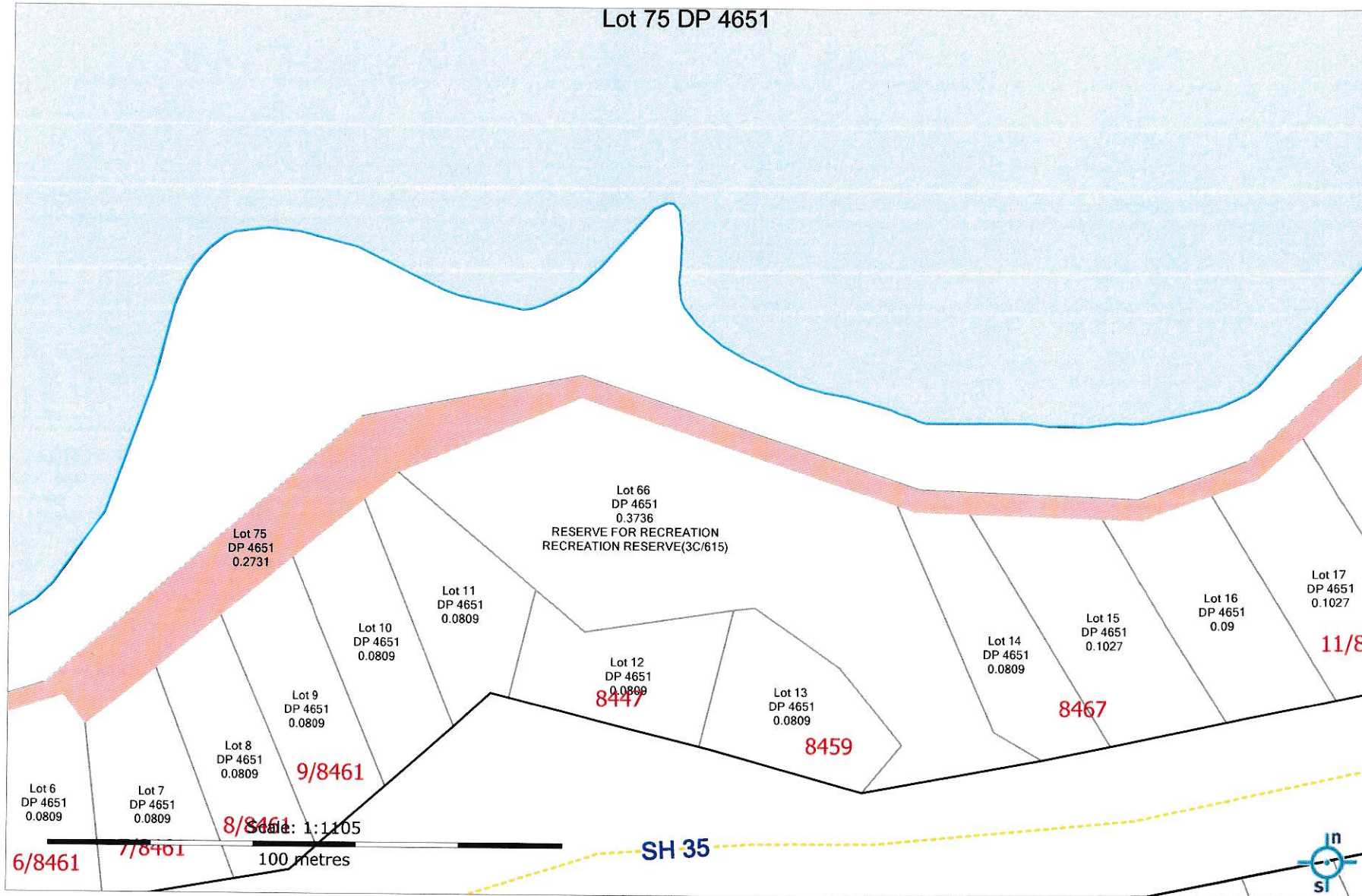


# LIM Report - 8471 State Highway 35





# LIM Report - 8471 State Highway 35



- LEGEND**
- Property Boundaries
  - RiverLine
  - State Highways & Roads
  - LIA / EP / BMP
  - LandResourceInventory\_Edition2
  - RiverPoly
  - Flood04
  - BOPRC managed drains, canals, stopbanks etc
  - ArchaeologicalSites
  - GeothermInventory
  - Regional Consent\_Current
  - SLUR - HAIL\_Sites
  - Rule11 Catchments
  - BiodiversitySites
  - WetlandExtents
  - CoastalPlan\_CoastalHabitatPreservationZone
  - CoastalPlan\_AreaSigConservationPoly
  - ErosionRisk\_WDC2007
  - InundationRisk\_WDC2007
  - CoastalHazard\_TCC
  - CoastalPlan\_AreaSensCoastHazard99
  - CoastalHazard\_WBOP
  - OportikiCoastalErosionBoundary
  - WBOPSigEcoSitesPlanChange2
  - Districts
  - Lakes
  - Region



**son property 8471 State Highway 35 Whanarua Bay – Lot 20 DP 4651 – Vln Number 7660 37311**

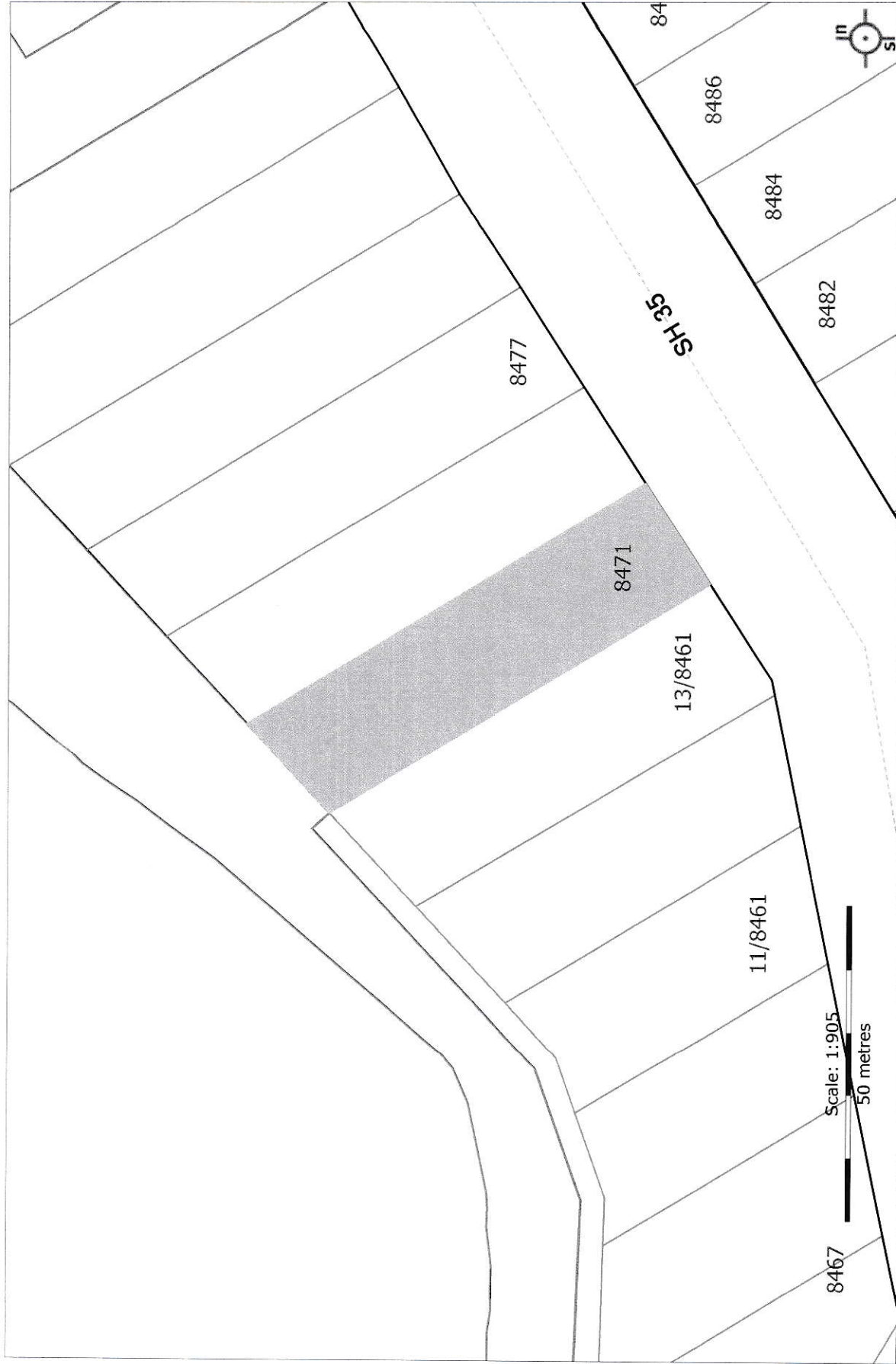
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© Bay of Plenty Regional Council



**LIM Report - 8471 State Highway 35**

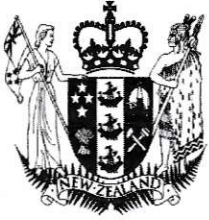


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Disclaimer: No guarantee is given as to accuracy, location and completeness. Proceed with caution and verify on site.  
For any enquiries please send a return email or phone (07) 315 3030.  
Copyright ©. This copyright work is licensed under the Creative Commons Attribution 3.0 New Zealand licence. In essence, you are free to copy, distribute and adapt the work, as long as you attribute the work to BOPLASS Limited and abide by the other licence terms. To view a copy of this licence, visit <http://creativecommons.org/licenses/by/3.0/nz/>. If you do not accept the terms of the Creative Commons Licence 3.0 BY then please delete the data





**COMPUTER FREEHOLD REGISTER  
UNDER LAND TRANSFER ACT 1952**



**Search Copy**

  
R. W. Muir  
Registrar-General  
of Land

**Identifier** **GS4B/672**  
**Land Registration District** **Gisborne**  
**Date Issued** 03 January 1979

**Prior References**

GS1A/671

---

**Estate** Fee Simple  
**Area** 1312 square metres more or less  
**Legal Description** Lot 20 Deposited Plan 4651

**Proprietors**

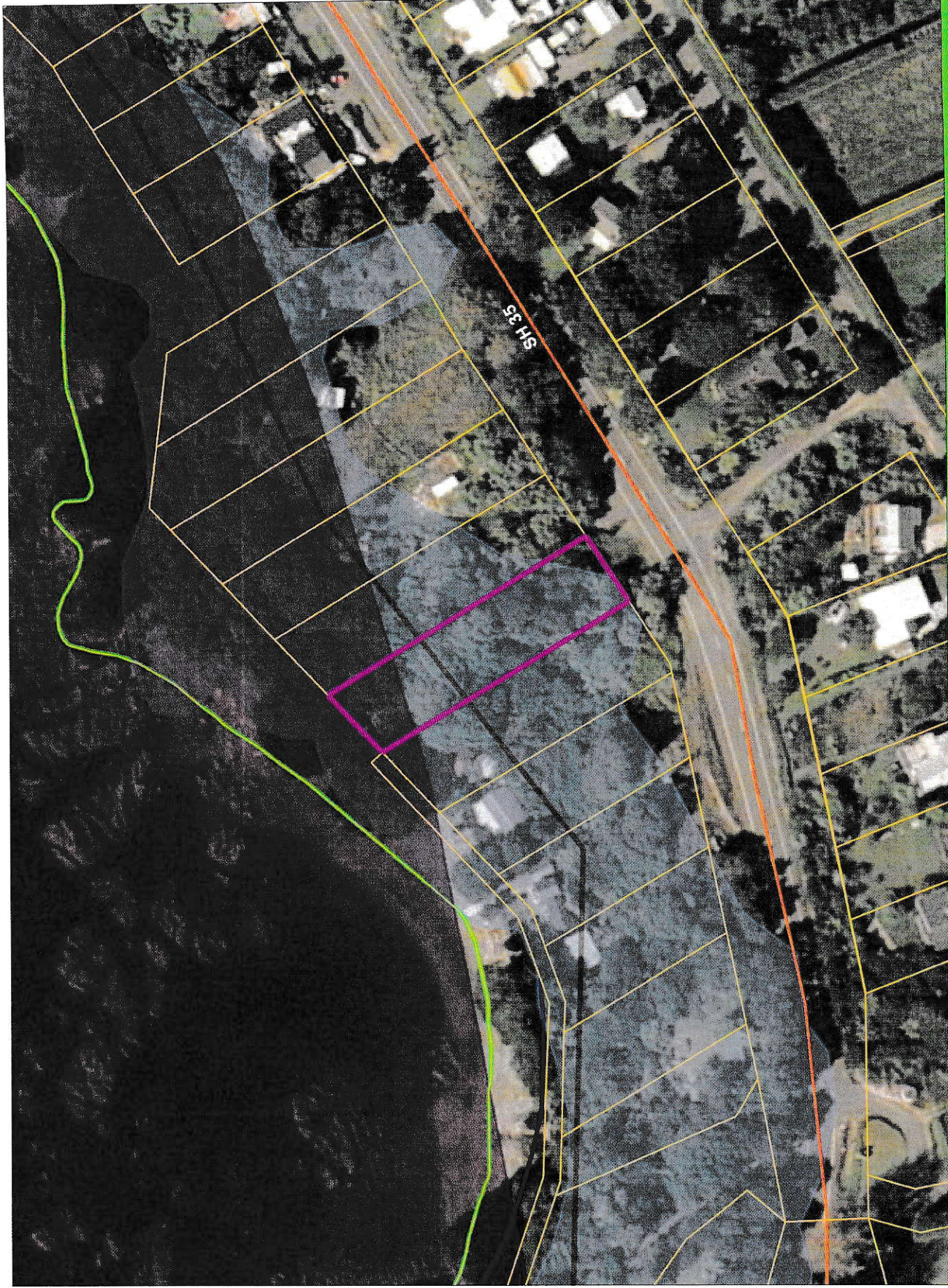
Blair James Watson and Louise Angela Watson

---

**Interests**

7131150.2 Mortgage to ANZ National Bank Limited - 1.12.2006 at 1:24 pm

Appurtenant hereto is a right of way created by Maori Land Court Order 7285984.1 - 21.3.2007 at 9:00 am



**LEGEND**

	Property Boundaries
	RiverLine
	State Highways & Roads
	LIA / EP / BMP
	LandResourceInventory_Edition2
	RiverPoly
	Flood04
	BOPRC managed drains, canals, stopbanks etc
	ArchaeologicalSites
	GeothermInventory
	Regional Consent_Current
	SLUR - HAIL_Sites
	Rule11 Catchments
	BiodiversitySites
	WetlandExtents
	CoastalPlan_OutstandLandscapesCoas2006
	CoastalPlan_CoastalHabitatPreservationZone
	CoastalPlan_AreaSigConservationPoly
	CoastalPlan_SiteSigOnLand
	ErosionRisk_WDC2007
	InundationRisk_WDC2007
	Coastal-Hazard_TCC
	CoastalPlan_AreaSensCoastHaz99
	CoastalHazard_WBOP
	OptimisedCoastalErosionBoundary
	WBOP'SigEcoSitesPlanChange2
	Districts
	Lakes
	Region



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Scale 1:1,281

# son property 8471 State Highway 35 Whanarua Bay – Lot 20 DP 4651 – Vin Number 7660 37311

© Bay of Plenty Regional Council



*Boundary lines are not accurate*

Land Transfer Office,  
 Received: 19.5.1956  
 Title Ref: 4131

**DP 4651**

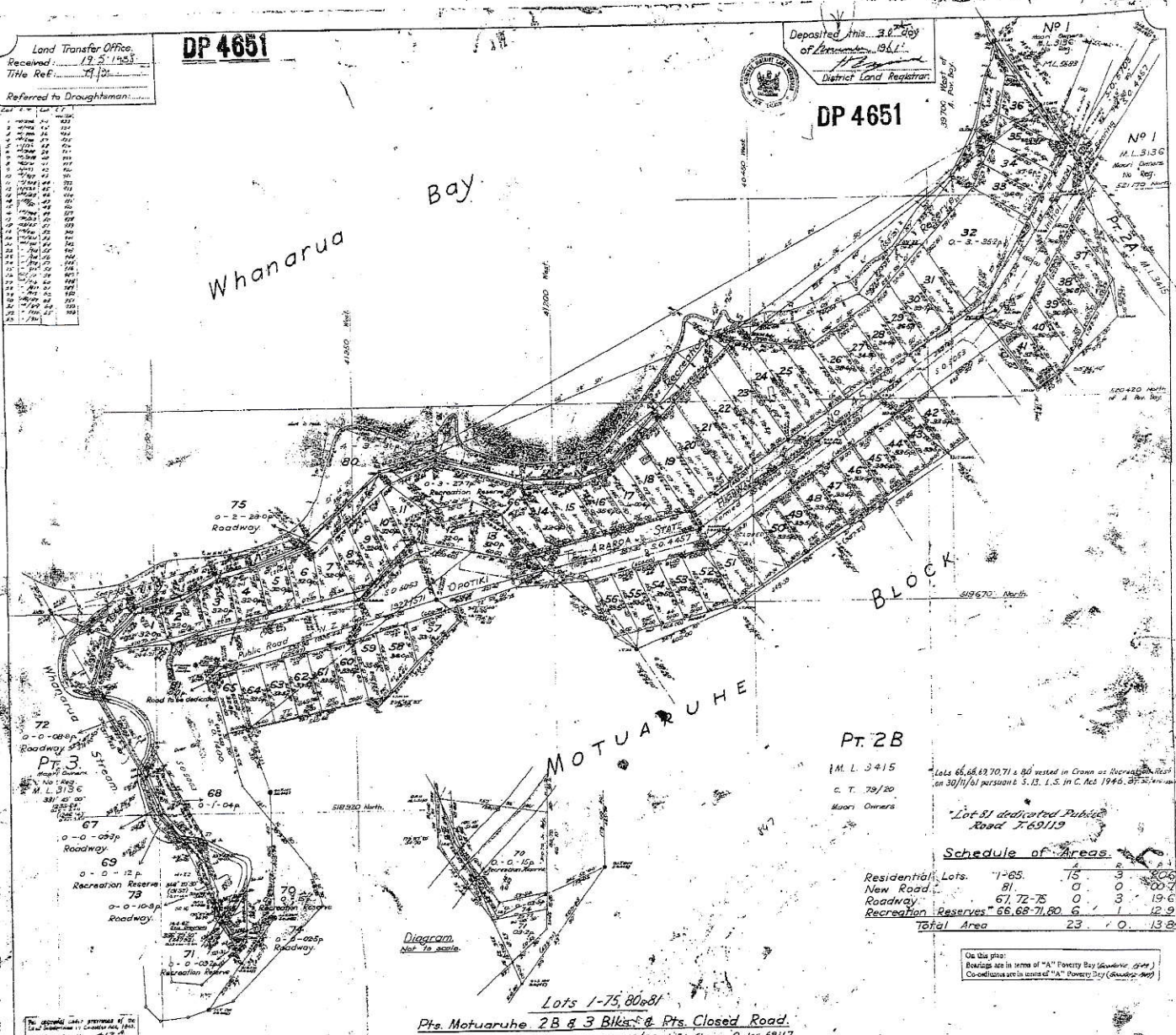
Deposited this 30<sup>th</sup> day  
 of December 1956  
 District Land Registrar

**DP 4651**

Referred to Draughtsman

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74	1/100	1/100
75	1/100	1/100

Whanarua Bay



Lot 51 dedicated Public Road F69113

Schedule of Areas

Residential Lots	1-65	75	3	206
New Road	81	0	0	00.7
Roadway	67, 72-75	0	3	19.6
Recreation Reserves	66, 68-71, 80	6	1	12.9
<b>Total Area</b>		<b>23</b>	<b>0</b>	<b>138</b>

On this plan:  
 Bookings are in terms of "A" Poverty Bay (Survey No. 1)  
 Co-ordinates are in terms of "A" Poverty Bay (Survey No. 1)

Lots 1-75, 80-81  
 Pts. Motuaruhe 2B & 3 Blks. & Pts. Closed Road  
 Comprised in C.T. 72/22 & 72/23 & 72/24

Blk. III Te Kaha S. D. Gisborne L. D. Opotiki County.  
 Surveyed by A. M. Linton Dec. 1956 & Dec. 1957.  
 Scale: 1/4 chains to an inch.

I, A. M. Linton, Registered Surveyor and a holder of an annual practicing certificate, do solemnly and sincerely declare that this plan has been made from surveys executed by me, that both plan and survey are correct, and have been made in accordance with the regulations under the Surveyors Act, 1938.  
 And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Justices of the Peace Act, 1927.  
 Declared at Whanarua this 30<sup>th</sup> day of December 1956.  
 before me, Justice of the Peace (acting as Notary Public)

Approved:  
J. A. O. P.  
 District Officer  
 Dept. of Maori Affairs for  
 Maori Trusts.

**DP 4651**

Approved as to Survey  
A. M. Linton  
 Chief Surveyor  
 Received: 19.5.56  
 Reference Plan: 201500-1467  
 Map Book: 246, 2.3.1562  
 Field Book: 226, 2.3.1562  
 Traverse Book: 24, 2.3.1562  
 Enclosed by A. M. Linton  
 Correct.  
 L. T. Draughtsman.

**DP 4651**

**ORDER CREATING EASEMENTS**

Te Ture Whenua Maori Act 1993, Section 315

In the Maori Land Court  
of New Zealand  
Waiariki District

**MLCO 7285984.1 Maori I**

Copy - 01/04, Pgs - 004, 20/03/07, 15:49



DocID: 511700407

**IN THE MATTER** Lot 67 and Lot 74-75 Deposited  
Plan 4651 (CFR GS4A/95)

AT a sitting of the Court held at Opotiki on the 17<sup>th</sup> day of November 2006 before Caren Leslie Fox, Judge.

WHEREAS application was filed by Ross Underwood (Fenton McFaddon) on behalf of Leslie Wilson Jones and 33 others to create an easement over Lot 75 Deposited Plan 4651

NOW THEREFORE the Court upon reading and hearing all evidence adduced in support thereof and being satisfied on all matters upon which it is required to be so satisfied

HEREBY ORDERS pursuant to Section 315 of Te Ture Whenua Maori Act 1993 that an easement recognising a right of way be created over the land described in the First Schedule hereto, in favour of current owners of the houses and properties immediately adjoining the said land, as set out in the Second Schedule hereto, their invitees, service people, assignees or successors subject to the terms and conditions set out in the Third Schedule hereto

AS WITNESS the hand of a Judge and the Seal of the Court.

Certified pursuant to Rule 67  
of the Māori Land Court Rules  
1994 as a correct copy for  
registration purposes.



**FIRST SCHEDULE**

Lot 75 on Deposited Plan 4651 and being part of the land contained in Computer Freehold Register GS4A/95.





**SECOND SCHEDULE**

Lot 1 Deposited Plan 4651	(CFR GS1A/272)
Lot 3 Deposited Plan 4651	(CFR GS1A/906)
Lot 4 Deposited Plan 4651	(CFR GS1A/670)
Lot 5 Deposited Plan 4651	(CFR GS1A/336)
Lot 6 Deposited Plan 4651	(CFR GS1A/288)
Lot 7 Deposited Plan 4651	(CFR GS1A/248)
Lot 8 Deposited Plan 4651	(CFR GS1A/271)
Lot 9 Deposited Plan 4651	(CFR GS1A/489)
Lot 14-15 Deposited Plan 4651	(CFR GS129/50)
Lot 16 Deposited Plan 4651	(CFR GS5B/1003)
Lot 17 Deposited Plan 4651	(CFR GS130/23)
Lot 18 Deposited Plan 4651	(CFR GS129/65)
Lot 19 Deposited Plan 4651	(CFR GS1A/910)
Lot 20 Deposited Plan 4651	(CFR GS4B/672)

**THIRD SCHEDULE**

**Terms and Conditions**

- 1 The easement will not impact in any way on other areas of land adjoining a State Highway or connecting with any public road, owned by the territorial authority.
- 2 The easement is granted on condition that the Heads of Agreement between Whanarua Bay Residents and WiRepa Family Trust dated 28 May 2003 is complied with in all respects.



*[Handwritten signature]*

Landonline User ID: HAMILTONLSHA

HEREWITH

Dealing / SUD Number:  
(LINZ Use only)

LODGING FIRM: HAMILTON LEGAL SERVICES LTD

Survey Plan (#)

Priority Barcode: Date Stamp  
(LINZ Use only)

Address: DX GP20013

Title Plan (#)

HAMILTON

Traverse Sheets (#)

PH 0800 77 66 88

Field Notes (#)

Uplifting Box Number: 19

Calc Sheets (#)

ASSOCIATED FIRM: \_\_\_\_\_

Survey Report

Plan Number Pre-Allocated or  
to be deposited

Client Code / Ref: 6366.3 WHANARUA BAY -

Rejected Dealing Number \_\_\_\_\_

79485-1278

Gisborne

Other (state)

**MLCO 7285984.1 Maori I**

Cpy - 02/04, Pgs - 004, 20/03/07, 15:49

**Copies**  
**(inc. original)**

DocID: 511700407

Priority Order	CT Ref	Type of Instrument	Name of Parties	DOCUMENT OR SURVEY FEES	MULTI TITLE FEES	NOTICES	ADVERTISING	NEW TITLES	OTHER	RESUBMISSION PRIORITY FEE	FEES \$ GST INCLUSIVE
1	See Schedule	MLCO	MAORI LAND COURT ORDER								
2											
3											
4											
5											
6											



Land Information New Zealand Lodgement Form

Annotations (LINZ use only)

Subtotal (for this page)

Total for this dealing

Less Fees paid on Dealing #

Debit my Account for

0.00

Fees Receipt and Tax Invoice

GST Registered Number 17-022-895

LINZ Form P005

Original Signatures? \_\_\_\_\_

# TITLE SCHEDULE

Landonline User ID: HAMILTONLSHA

LODGING FIRM: HAMILTON LEGAL SERVICES LTD

Client Code / Ref: 6366.3 WHANARUA BAY -

79485-1278

Line Number	CTRef
1	GS4A/95
	GS1A/272
	GS1A/906
	GS1A/670
	GS1A/336
	GS1A/288
	GS1A/248
	GS1A/271
	GS1A/489
	GS129/50
	GS5B/1003
	GS5B/1003
	GS130/23
	GS129/65
GS1A/910	
GS4B/672	
2	

Line Number	CTRef
3	
4	
5	
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Line Number	CTRef
7	
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Line Number	CTRef
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Line Number	CTRef
15	
16	
17	
18	

**HEADS OF AGREEMENT**  
**BETWEEN**  
**WHANARUA BAY RESIDENTS AND WI REPA FAMILY TRUST**

**INTRODUCTION**

- A. Whanarua Bay is located within the tribal rohe of Te Whānau a Rautao being a hapū to which the Wi Repa Whānau ("Whānau") belong. The Whānau have established a legal entity in the form of a family trust. Lot 75 (CT GS4A/59) ("Lot 75") is ancestral Māori land owned by the Trust on behalf of the Whānau.
- B. The persons listed in Schedule A are currently the registered proprietors ("Residents") of Lots 1, 3 - 9 (inclusive) and 14 - 20 (inclusive), DP 4651, Gisborne Registry ("Bach Properties").
- C. The parties have been involved in legal proceedings and held discussions to clarify the legal position on the rights and interests over Lot 75, and access to and from Lot 80, DP4651, Gisborne Registry ("Lot 80"), being a reserve administered by the Opoitiki District Council ("Council") under the Reserves Act 1977.
- D. The parties have reached agreement on the above matters which resolve the legal proceedings and rights of access over Lots 75 and 80.
- E. This agreement is for the benefit of, and is to be binding on, the respective parties' successors and assigns.

**AGREEMENT**

**Cultural values**

- 1. The Residents acknowledge their respect for the cultural values and sacred sites of Whanarua Bay, and the Whānau may, at their discretion, provide information to the Residents of these values and sites.

**Creation of easements**

- 2. In consideration of the rights and benefits agreed upon, the Residents will pay \$31,000 to the Whānau upon registration of the easements granted over Lot 75 as confirmed by the production of a Registration Confirmation Statement.
- 3. The Whānau will grant vehicular and pedestrian access for the Residents and their invitees over Lot 75 in order to access their individual properties and to gain access to Lot 80 and Whanarua Bay. The appropriate easements will be prepared by the Whānau's solicitors and be perused and approved by the Residents' solicitors. The associated reasonable legal and registration costs shall be met by the Residents.
- 4. The Residents agree that any public use of Lot 75 is for the Whānau to determine, while recognising the Residents' easement rights.

Handwritten initials and signatures: "NOW" and "AMB" with a circular stamp.

### Withdrawal of legal proceedings

5. Upon registration of the easements over Lot 75 and payment of the \$31,000 to the Whānau, the parties will withdraw, by consent, their respective proceedings in the Māori Land Court and High Court, as follows:
- High Court proceedings (M1481/DS01 - Auckland Registry).
  - Māori Land Court proceedings (A20000058354, A20010004495 - Waiariki District).

The costs of these proceedings will lie where they fall.

### Reserves management

6. The parties will participate in the preparation by the Council of a reserves management plan for Whanarua Bay on the basis of the common accord reached as set out in this agreement.

### Management Committee

7. A Management and Liaison Committee ("Committee") is to be established on the following terms:
- (a) Two nominated by the Whānau.
  - (b) Two nominated by the Residents.
  - (c) The Committee shall meet at least annually, and more frequently if agreed.
  - (d) A secretary for the Committee shall keep a record of the meetings and circulate a copy (in hard copy or by e-mail) to the members of the Committee.

### Property boundaries

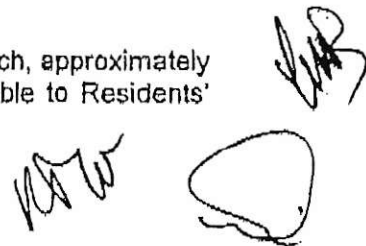
8. The survey boundary between Lot 75 and the Residents' properties is to be established, and pegs reinstated at property boundaries where necessary.
9. Where encroachment by any of the Residents onto Lot 75 exists, the individual property owners will negotiate with the Whānau over continued presence of the encroachment (if desired), and the terms on which such encroachment remains.

### Parking

10. Any parking of Residents or their visitor's vehicles on Lot 75 (apart from on any existing encroachments where the continuation of that has been agreed in accordance with clause 9 of this agreement) shall only occur with the prior agreement of the Whānau.

### Boat access

- **Western access**
11. At the western end of Whanarua Bay, only the two identified locations shall be used for the launching and retrieving of boats:
- (a) An existing "hand-launch" only access from Lot 75 to the beach, approximately opposite Lot 9, DP4651, Gisborne Registry, shall be available to Residents'



boats only, with no more than three trolleys (with or without boats) being left on the beach at that location at any time. No form of vehicle assisted launching or retrieving will occur at this location.

- (b) For launching of boats from trailers towed by tractors or 4 wheel drive vehicles, the following is agreed:
- (i) The launching and retrieval is only available by using the existing gate opposite Lot 1, DP 4651, Gisborne Registry.
  - (ii) Only Residents or those staying at their property shall use the access to launch a resident's boat.
  - (iii) The gate shall be kept padlocked at all times. Keys supplied to the Residents are for their personal use (including those staying at their property) only.
  - (iv) A maximum of four boat trailers and vehicles belonging to the Residents at any one time may be left parked parallel to and immediately seaward of the line of posts along the seaward boundary of Lot 75, on either side of the gate, clear of the dripline of any tree.
  - (v) Boats on trailers will not be left on the beach or adjoining reserve.

• **Eastern access**

12. Boat launching and retrieval at the eastern end of Whanarua Bay (by residents of Lots 14 - 20) shall be only following existing practice (ie, hand launching with or without winch assistance). At the western end of this part of the beach (adjoining the car park area), a line of posts will be established along the seaward boundary of Lot 75 to prevent boat and vehicle access, as part of the work to be carried out in accordance with clause 14.

**Maintenance and outgoings**

13. If maintenance of the existing track on Lot 75 requires employment of contractors, the parties will:
- (a) Meet and reach agreement as to the scope of the works.
  - (b) Obtain and agree on a quote for the work.
  - (c) Jointly authorise the work.
  - (d) Each party will meet 50% of the cost.
14. The parties agree that vehicle and / or boat and trailer access to Whanarua Bay shall be restricted to the access arrangements recorded in clauses 11 and 12. To that end, appropriately spaced wooden posts extending approximately 500 - 750mm above the ground (as already installed in part by the Whānau) shall be used, and where there is an existing wire fence this will be replaced. The Residents agree to assist with this work, and will supply the timber required. The posts will be aligned as closely as possible to the seaward boundary of Lot 75.
15. The Residents will pay 50% of annual rates charged by the Council on Lot 75 within 30 days of production of the rates account to the Committee.

DATED 28 May 2003

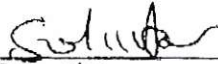
SIGNED by Rosana Wi Repa, on behalf of the Wi Repa Family Trust, in the presence of:



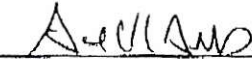
Rosana Wi Repa



Signature of witness

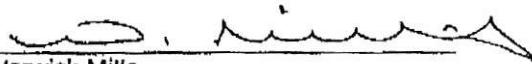


Occupation



Town of residence

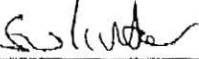
SIGNED by Warwick Mills, on behalf of and authorised by the Residents, in the presence of:



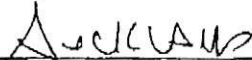
Warwick Mills



Signature of witness

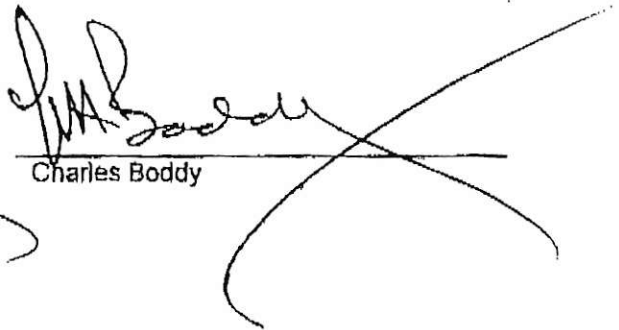


Occupation



Town of residence

SIGNED by Charles Boddy, on behalf of and authorised by the Residents, in the presence of:



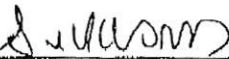
Charles Boddy



Signature of witness



Occupation



Town of residence

## SCHEDULE A

1. Mark Stephen Jarlov is the registered proprietor of Lot 1, DP 4651 (CT GS1A/272).
2. Michelle Jacqueline Vette, Andrew Derek Vette and Kirk David Vette are the registered proprietors of Lot 3, DP 4651 (CT GS1A/906).
3. Grahm Noel Kehely, Joan Grace Kehely and Disprose Miller Trustees Ltd are the registered proprietors of Lot 4 DP 4651 (CT GS1A/670).
4. Heather Jean Nelson, Wayne Victor Piper, Carol Mary Martellett, Kathleen Ann Buckborough, Patricia Joy Sutherland, Marilyn Rookes, Sally Eileen Versteegen are the registered proprietors of Lot 5, DP 4651 (CT GS1A/336).
5. John Arthur Beamish and Peter Edmond Washer are the registered proprietors of Lot 6, DP 4651 (CT GS1A/288).
6. Mark Andrew Stringfellow, Robert Lane Chappell and Diane Louise Stringfellow are the registered proprietors of Lot 7, DP 4651 (CT GS1A/248).
7. Gordon Andrew Dennis and Ian Roger Petersen are the registered proprietors of Lot 8, DP 4651 (CT GS1A/271).
8. Charles Henry Boddy is the registered proprietor of Lot 9, DP 4651 (CT GS1A/489).
9. John Hawksworth, Lynsey Grace Hawksworth and John Hawksworth are the registered proprietors of Lots 14 and 15, DP 4651 (CT GS129/50).
10. Gregory Robison is the registered proprietor of Lot 16, DP 4651 (CT GS5B/1003).
11. Warwick Allen Mills and Calderwood Trustees Ltd are the registered proprietors of Lot 17, DP 4651 (CT GS130/23).
12. Annie Beatrice Humphreys, Lynette Vale Heffernan, Robyn Mary Humphreys, Kim Phoebe Humphreys, Diane Beatrice McNamara and Warren John McNamara are the registered proprietors of Lot 18, DP 4651 (CT GS129/65).
13. Nancy Gardiner is the registered proprietor of Lot 19, DP 4651 (CT GS1A/910).
14. Robbie Kirkpatrick is the registered proprietor of Lot 20, DP 4651 (CT GS4B/672).





O'SULLIVAN, CLEMENS, BRISCOE & HUGHES

13 Aug 1985

Partners:  
G. T. O'SULLIVAN, B.A. LL.B.  
D. J. CLEMENS, LL.B.  
J. N. BRISCOE, LL.B.  
J. D. HUGHES, LL.M.  
J.W. MURRAY, LL.B.

BARRISTERS & SOLICITORS

TRINITY HOUSE,  
HAUPAPA STREET,  
ROTORUA, 3200.  
NEW ZEALAND.

TELEPHONE (073) 479-479  
P. O. BOX 646  
RDX 2

WHEN REPLYING PLEASE REFER  
TO MR D.J. Clemens  
793319

The Secretary  
H. Allen Mills & Son Ltd.  
P.O. Box 464  
ROTORUA

15 AUG 1985

13th August, 1985

FILE
Bring up
Initials
TO BE SEEN BY

Dear Sir,

Re: WHANARUA BAY

Recently the writer had a discussion with Judge Smith at the Maori Land Court of Rotorua relative to the access problem and relative to the adjourned Court hearing in the Gisborne Maori Land Court. To the writer's surprise Judge Smith knew all about the matter and without even reference to the file indicated that the matter had been disposed of in Gisborne last year. Later that morning he forwarded to our office the extract of Minutes from the Gisborne Minute Book. Herewith is a copy. Though our firm's name appears on the original Minutes that took place in the hearing at Gisborne in May 1983, we were never informed about the Gisborne hearing nor did we receive a copy of the decision.

Judge Smith indicated that he has personally been in contact with Mr. Phillips of the Opotiki County Council as late as January this year telling him that the Opotiki County Council should "live up to its responsibilities". This statement was, we understand, not put in writing by Judge Smith but told verbally to Mr. Phillips. Mr. Phillips was going to take instructions from his Council.

According to Judge Smith what should happen is that the Council should apply to the Maori Land Court for dedication of a roadway. If Judge Smith heard the matter he would grant the dedication rights immediately without compensation to the Wirepa family. According to Judge Smith the Wirepa family have made a lot of money out of the sub-division on the basis that proper access would be given. The fact that proper access was not given does not mean that the Wirepa family now should receive compensation for giving it at this late stage. He has accordingly suggested that we write to the Opotiki County Council. Herewith is a copy of our letter.

Yours faithfully,  
O'SULLIVAN CLEMENS BRISCOE & HUGHES

Per: 

D.J. Clemens

c  
a  
Lc



**WELCOME TO OUR HOLIDAY HOME**

The metalled roadway used to access our properties is known as Lot 75 and is owned by the Wī Repa Family Trust on behalf of the Wī Repa Whānau. Access to and from our property and to and from the beachfront reserve is governed by the terms of an Easement Agreement between the parties that is summarised below.

It is a condition of staying in our bach that you recognise and observe the terms and intent of the Agreement as described in this summary.

**Brief Summary of Easement Agreement for Access Over Lot 75**

**Cultural Values**  
The Residents acknowledge their respect for the cultural values and sacred sites of Whānau Bay - Wahi Tapu sites are shown on the attached plan.

**Parking**  
Any parking of Residents or their visitor's vehicles on Lot 75 shall only occur with the prior agreement of the Whānau. Refer to the attached plan for the areas that have been agreed for parking in the Eastern Bay (it except for those areas agreed in the Eastern Bay, residents and guests must not park vehicles on Lot 75).

**Boat Access - Western Bay**  
At the Western end of Whānau Bay, only the two identified locations shall be used for the launching and retrieval of boats.

Hand-launching shall be available to Resident's boats only at the "hand launch" access approximately opposite Lot 9 (Daddy's), with no more than three trailers (with or without boats) being left on the beach at that location at any time. No form of vehicle assisted launching or retrieving will occur at this location.

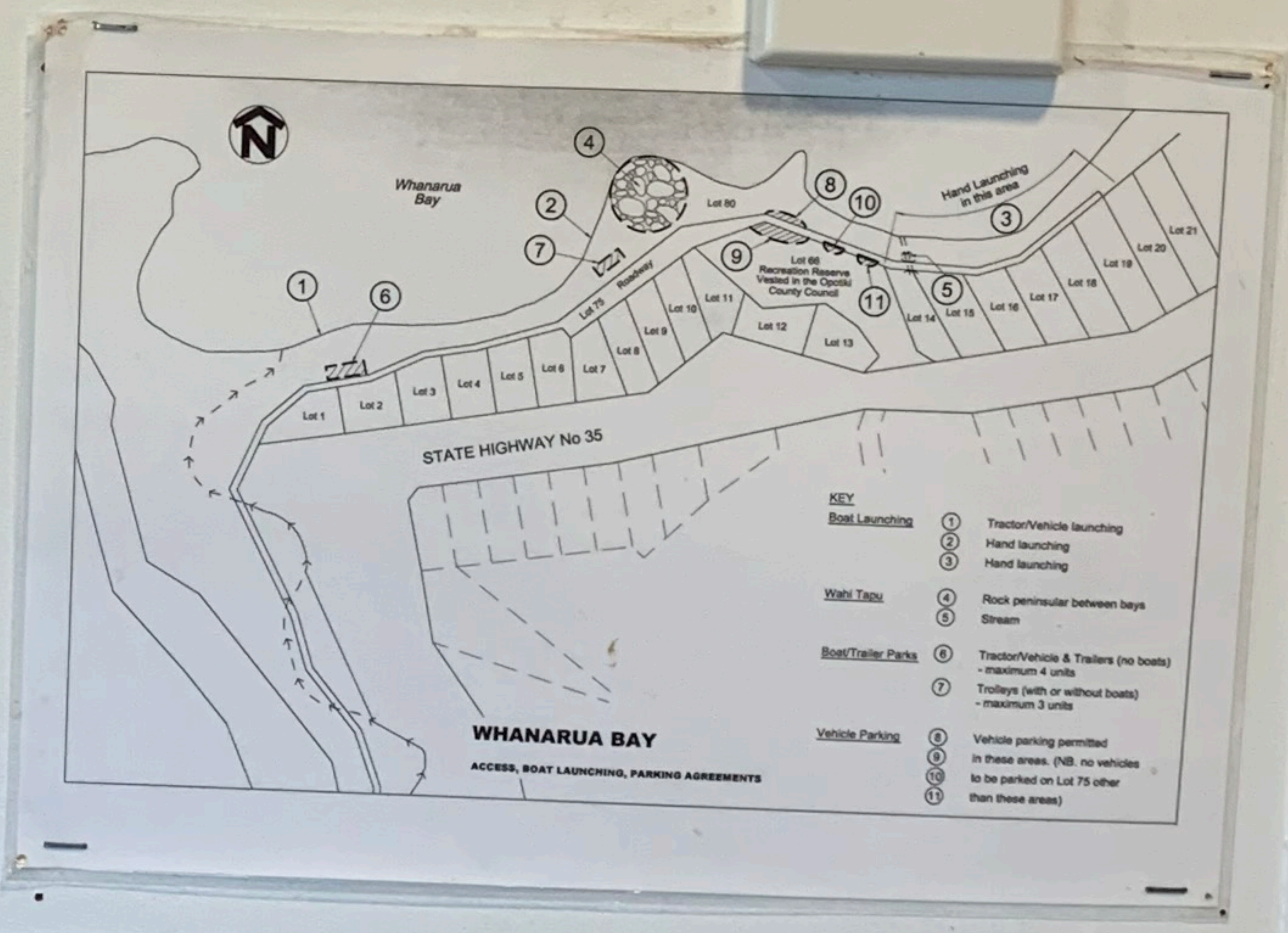
For launching of boats from trailers towed by tractors or 4 wheel drive vehicles the following is agreed:

- The launching and retrieval is only available by using the existing gate opposite Lot 1 (Jeflow's)
- Only residents or those visitors staying at their property shall use the access to launch a boat.
- The gate shall be kept padlocked at all times. Keys supplied to Residents are for their personal use (including those staying at their property) only. (Keys and launching privileges are not provided for day visitors with their own boats)
- A maximum of four boat trailer/launching vehicle combinations belonging to Residents (or their visitors) may be left parked parallel to and immediately seaward of the line of posts along the seaward boundary of Lot 75, on either side of the gate, clear of the drip line of any tree.
- Boats on trailers will not be left parked on the beach or adjoining reserve.

**Boat Access - Eastern Bay**  
Hand launching and retrieval at the Eastern end of Whānau Bay (Lots 14-20 and 3) shall be only following existing practice (i.e. hand launching with or without which necessary). No vehicle launching is permitted in this location.

**General**  
In addition to the above the Management Committee administering the Easement Agreement have agreed the following precedents and all users are asked to respect and abide by these:

- Fishing Regulations must be observed
- Any pets brought to the Bay must be controlled at all times
- Outside fires must be in accordance with local fire regulations



## **WELCOME TO OUR HOLIDAY HOME**

The metalled roadway used to access our properties is known as Lot 75 and is owned by the Wi Repa Family Trust on behalf of the Wi Repa Whanau. Access to and from our property and to and from the beachfront reserve is governed by the terms of an Easement Agreement between the parties that is summarised below.

It is a condition of staying in our bach that you recognise and observe the terms and intent of the Agreement as described in this summary

### **Brief Summary of Easement Agreement for Access Over Lot 75**

#### **Cultural Values**

The Residents acknowledge their respect for the cultural values and sacred sites of Whanarua Bay – Wahi Tapu sites are shown on the attached plan

#### **Parking**

Any parking of Residents or their visitor's vehicles on Lot 75 shall only occur with the prior agreement of the Whanau. Refer to the attached plan for the areas that have been agreed for parking in the Eastern Bay (ie except for those areas agreed in the Eastern Bay, residents and guests must not park vehicles on Lot 75)

#### **Boat Access - Western Bay**

At the Western end of Whanarua Bay, only the two identified locations shall be used for the launching and retrieval of boats:

Hand-launching shall be available to Resident's boats only at the "hand launch" access approximately opposite Lot 9 (Boddy's), with no more than three trolleys (with or without boats) being left on the beach at that location at any time. No form of vehicle assisted launching or retrieving will occur at this location.

For launching of boats from trailers towed by tractors or 4 wheel drive vehicles the following is agreed:

- The launching and retrieval is only available by using the existing gate opposite Lot 1 (Jarlov's)
- Only residents or those visitors staying at their property shall use the access to launch a boat.
- The gate shall be kept padlocked at all times. Keys supplied to Residents are for their personal use (including those staying at their property) only. (Keys and launching privileges are not provided for day visitors with their own boats)
- A maximum of four boat trailer/towing vehicle combinations belonging to Residents (or their visitors) may be left parked parallel to and immediately seaward of the line of posts along the seaward boundary of Lot 75, on either side of the gate, clear of the drip line of any tree.
- Boats on trailers will not be left parked on the beach or adjoining reserve.

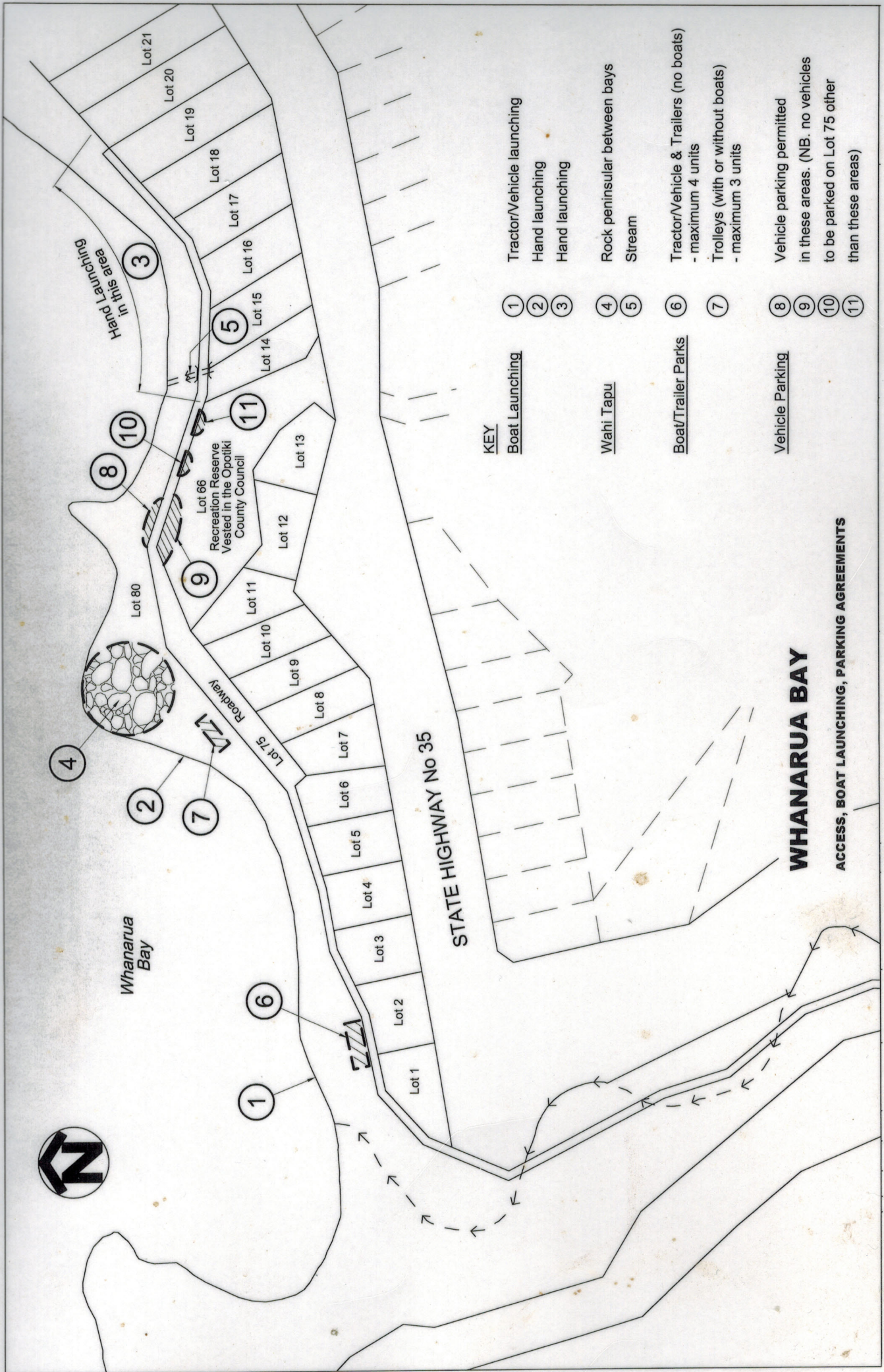
#### **Boat Access - Eastern Bay**

Boat launching and retrieval at the Eastern end of Whanarua Bay (Lots 14- 20 incl.) shall be only following existing practice (i.e. hand launching with or without winch assistance). No vehicle launching is permitted in this location

#### **General**

In addition to the above the Management Committee administering the Easement Agreement have agreed the following protocols and all users are asked to respect and abide by these

- Fishing Regulations must be observed
- Any pets brought to the Bay must be controlled at all times
- Outside fires must be in accordance with local fire regulations



Whanarua Bay

STATE HIGHWAY NO 35

**WHANARUA BAY**

ACCESS, BOAT LAUNCHING, PARKING AGREEMENTS

KEY

Boat Launching

- ① Tractor/Vehicle launching
- ② Hand launching
- ③ Hand launching

Wahi Tapu

- ④ Rock peninsular between bays
- ⑤ Stream

Boat/Trailer Parks

- ⑥ Tractor/Vehicle & Trailers (no boats) - maximum 4 units
- ⑦ Trolleys (with or without boats) - maximum 3 units

Vehicle Parking

- ⑧ Vehicle parking permitted in these areas. (NB. no vehicles to be parked on Lot 75 other than these areas)
- ⑨
- ⑩
- ⑪