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8 Leyton Way

Manukau City

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12 November 2020

Urban Solutions Ltd
PO Box 5738
Victoria Street West
Auckland 1142

Attention: Lorenzo Canal

Dear Lorenzo

Land Status Investigation – Accretion to Kopu Quay.

As requested, an investigation into the status and ownership of the land located between Kopu Quay and the Waihou River has been undertaken. The details are as follows:

Legal Description:

- (i) Part Section 3, Block VII, Thames Survey District coloured yellow on SO Plan 45311.
- (ii) Part Section 3, Block VII, Thames Survey District, coloured yellow on SO Plan 46978.

Area:

- (i) 0.8195 ha (2a 0r 04p).
- (ii) 0.1973 ha (2r 38p).

Land Status:

- (i) & (ii) Accretion to Legal Road.

Owner:

- (i) & (ii) Thames-Coromandel District Council.

History:

- 1) Kopu Quay was surveyed as shown coloured yellow on SO Plan 45311 comprising 4a 3r 27p, coloured sepia on SO Plan 46978 comprising 2r 23.4p, coloured blue on SO Plan 46978 comprising 1r 12p and coloured yellow on SO Plan 46978 comprising 3a 0r 01p were taken for road vesting in the Thames County Council by GN S634122 (NZ Gazette 1973 p 2047).
- 2) Shown on SO Plans 45311 and 46978 are two further areas located along the foreshore, being areas comprising 2a 0r 04p and 2r 38p, which have never been legalised as road. In relation to these two areas the Thames County Council's solicitor stated in a letter dated 27 July 1971 that they are "really accretions to Kopu Quay". The Chief Surveyor by letter dated 29 July 1971 in response advised that "In proclamation actions the documentary titles must be respected and for the purposes of this action the information shown on the plans is correct. A claim for accretion would have to be proven by the owners of "Kopu Quay" before this area would be treated as part of their title." No further action was taken by Council to prove their claim for accretion.
- 3) On 18 April 2019, a Geotechnical Investigation Report was undertaken as part of the Proposed New Riverside Infrastructure Development Kopu by Land

Development & Exploration Ltd. Three of the bore holes are located within the accretion area, being CPTu06, CPTu08 and CPTu11. All three bore hole logs indicate the upper levels consisting mainly of clean sands, silty sands or sandy silt that is associated with accretion rather than reclamation activities.

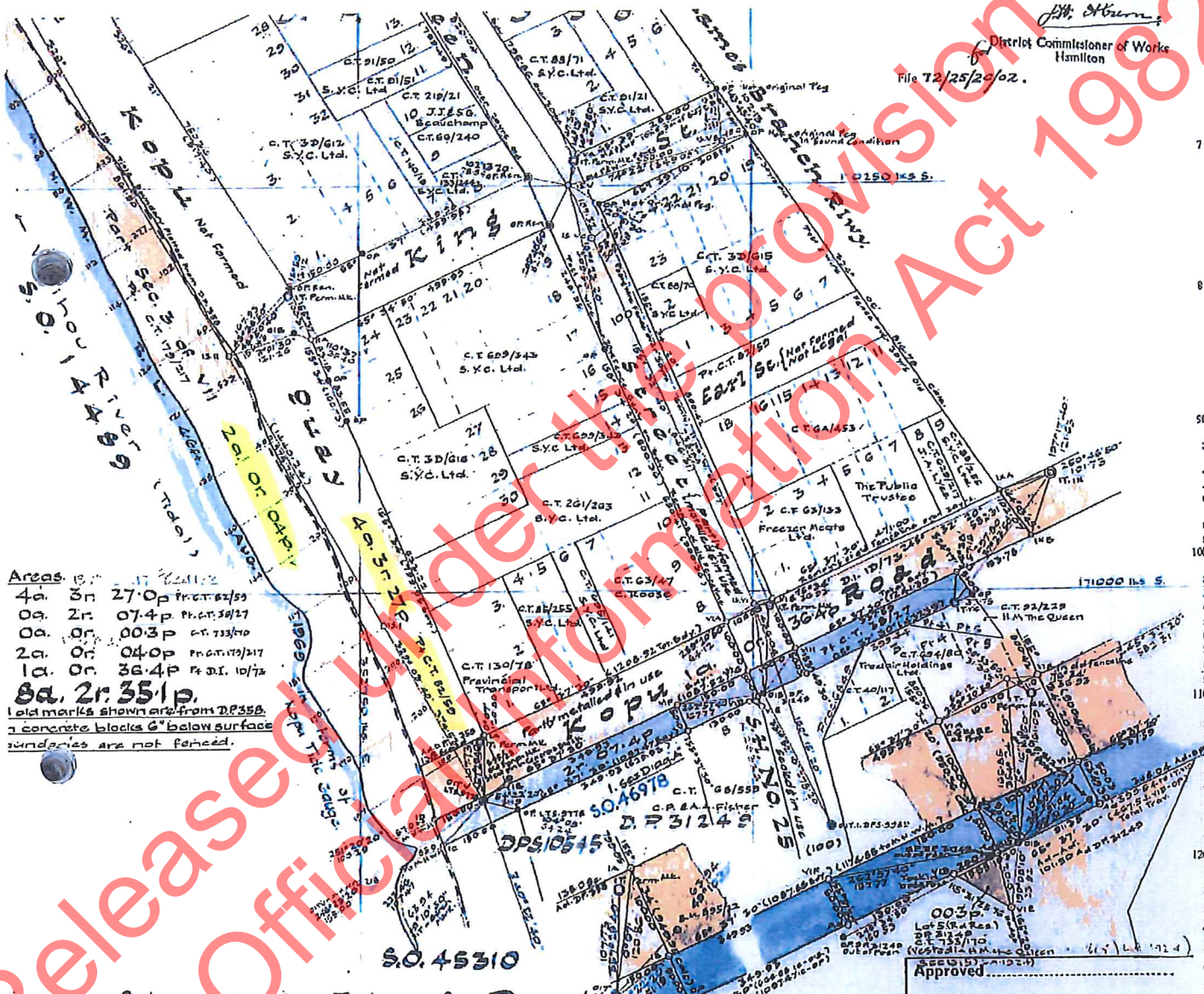
Conclusion:

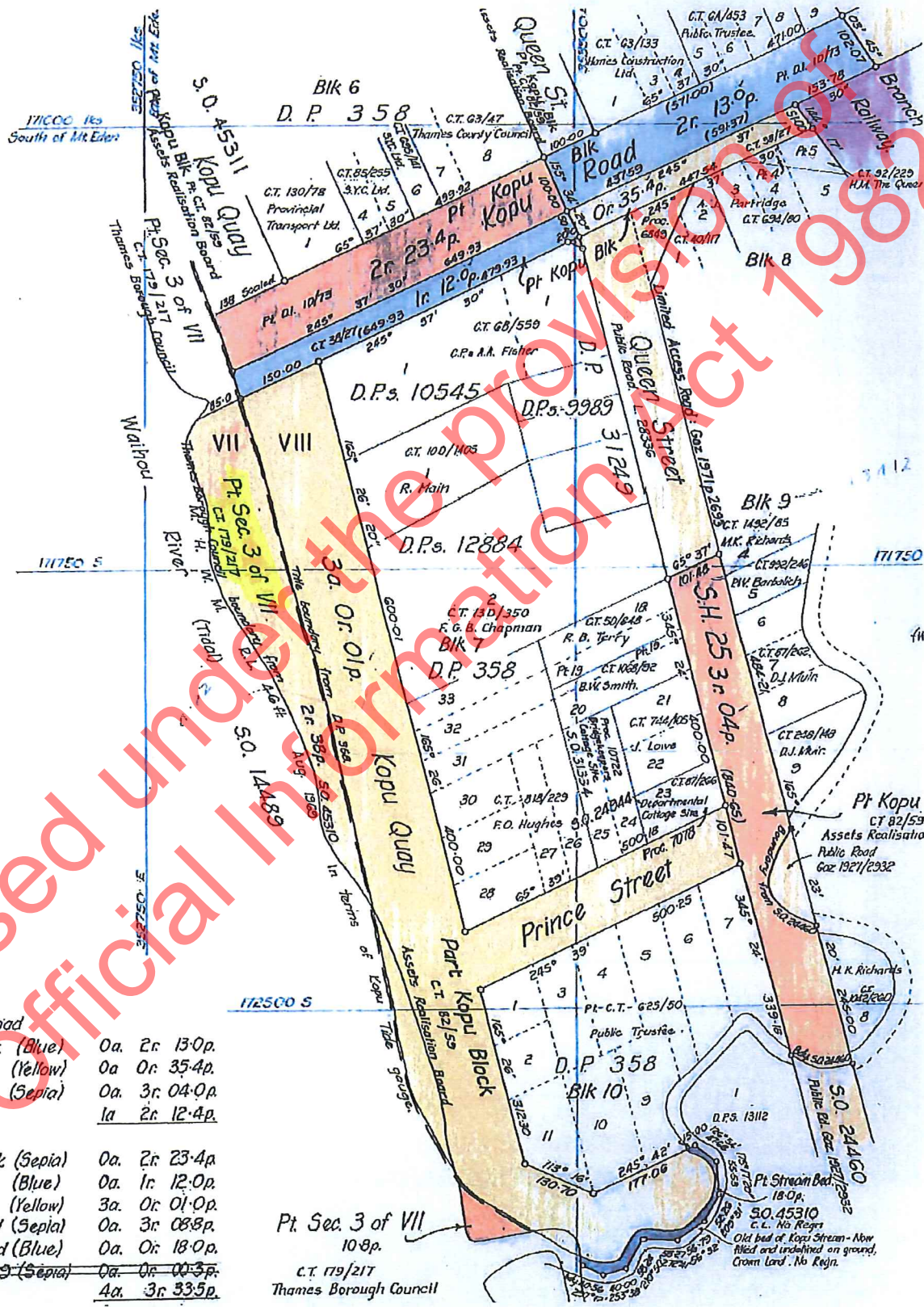
- 1) The foreshore in this vicinity was first surveyed circa mid 1850's as shown OLC Plan 356. The next time the foreshore was surveyed was by SO Plans 45310 and 45311 both dated 1969. A considerable amount of years had past between the two sets of plans with latter surveys finding the foreshore located further to the west compared with OLC Plan 356. Perusal and plotting of the foreshore shown on aerial photo SN983/7 dated 1940 indicates the foreshore was already by this time located in same position as defined by SO Plans 45310 and 45311 thus indicating that the accretion was stable land by then.
- 2) Given that the Thames County Council's solicitor stated the areas in question are accretion and together with the Geotechnical Investigation Report dated 18 April 2019 found no evidence of debris or land fill associated with reclamation activities, the two areas shown on SO Plans 45311 and 46978 comprising 2a 0r 04p and 2r 38p respectively can be considered as accretion to Kopu Quay.
- 3) The doctrine of accretion is a common law right and it needs to be noted that sections 13(1) and 13(2) of the Marine and Coastal Area (Takutai Moana) Act 2011 does not interfere with this common law right in relation to roads.
- 4) As there is no indication to suggest that any reclamation activity has occurred along the foreshore, the areas shown as 2a 0r 04p on SO Plan 45311 and 2r 38p on SO Plan 46978 can be treated as accretion to legal road and deemed road until legalised as such.

Please find attached copies of relevant documentation.

Prepared By:


Steven Schwarz
Property Consultant





Schedule of Areas.

For Limited Access Road

Through Pt. Kopu Blk (Blue)	0a. 2r. 13.0p.
" " " (Yellow)	0a. 0r. 35.4p.
" " " (Sepia)	0a. 3r. 04.0p.
	1a. 2r. 12.4p.

For Road

Through Pt. Kopu Block (Sepia)	0a. 2r. 23.4p.
" " " (Blue)	0a. 1r. 12.0p.
" " " (Yellow)	3a. 0r. 01.0p.
" Pt. Sec. 3 of VII (Sepia)	0a. 3r. 08.8p.
" Pt. Stream Bed (Blue)	0a. 0r. 18.0p.
Lot 5 D.P. 31249 (Sepia)	0a. 0r. 00.3p.
	4a. 3r. 33.5p.

Pt. Sec. 3 of VII
10.8p.
C.T. 179/217
Thames Borough Council

50 46978



*Land Taken for Road in Block VIII, Thames Survey District,
Thames County*

PURSUANT to the Public Works Act 1928, I, Sir Edward Denis Blundell, the Governor-General of New Zealand, hereby proclaim and declare that the land described in the Schedule hereto is hereby taken for road and shall vest in the Chairman, Councillors, and Inhabitants of the County of Thames as from the date hereinafter mentioned; and I also declare that this Proclamation shall take effect on and after the 29th day of October 1973.

SOUTH AUCKLAND LAND DISTRICT

A. R. P.		Being	
82/53/—	1	4 3 27	Part Kopu Block; coloured yellow on plan M.O.W. 27064 (S.O. 45311).
—	2	0 2 21.4	Part Kopu Block; coloured sepia on plan M.O.W. 27002 (S.O. 46978).
38/27/—	3	0 1 12	Part Kopu Block; coloured blue on plan M.O.W. 27002 (S.O. 46978).
82/53/—	4	3 0 1	Part Kopu Block; coloured yellow on plan M.O.W. 27002 (S.O. 46978).

Given under the hand of His Excellency the Governor-General, and issued under the Seal of New Zealand, this 4th day of October 1973.

GOD SAVE THE QUEEN!

(P.W. 72/25/2C/0; Hn. D.O. 50/0/36)

A. R. SELLERS, Government Printer, Wellington, New Zealand.

For copy of S.D. 4 8978 see S. 634121.

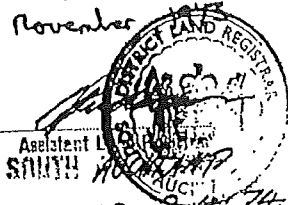
S

054122

PROCLAMATION

PARTICULARS ENTERED IN THE REGISTER BOOK
VOL 38 FOLIO 27; 82/59 *Indus*

THE 19th DAY OF November
AT 9:30 O'CLOCK.



Let 18 sent to MOW. 24/74
last Registration 38/27 29.9.1905
CT 82/59 part cancelled

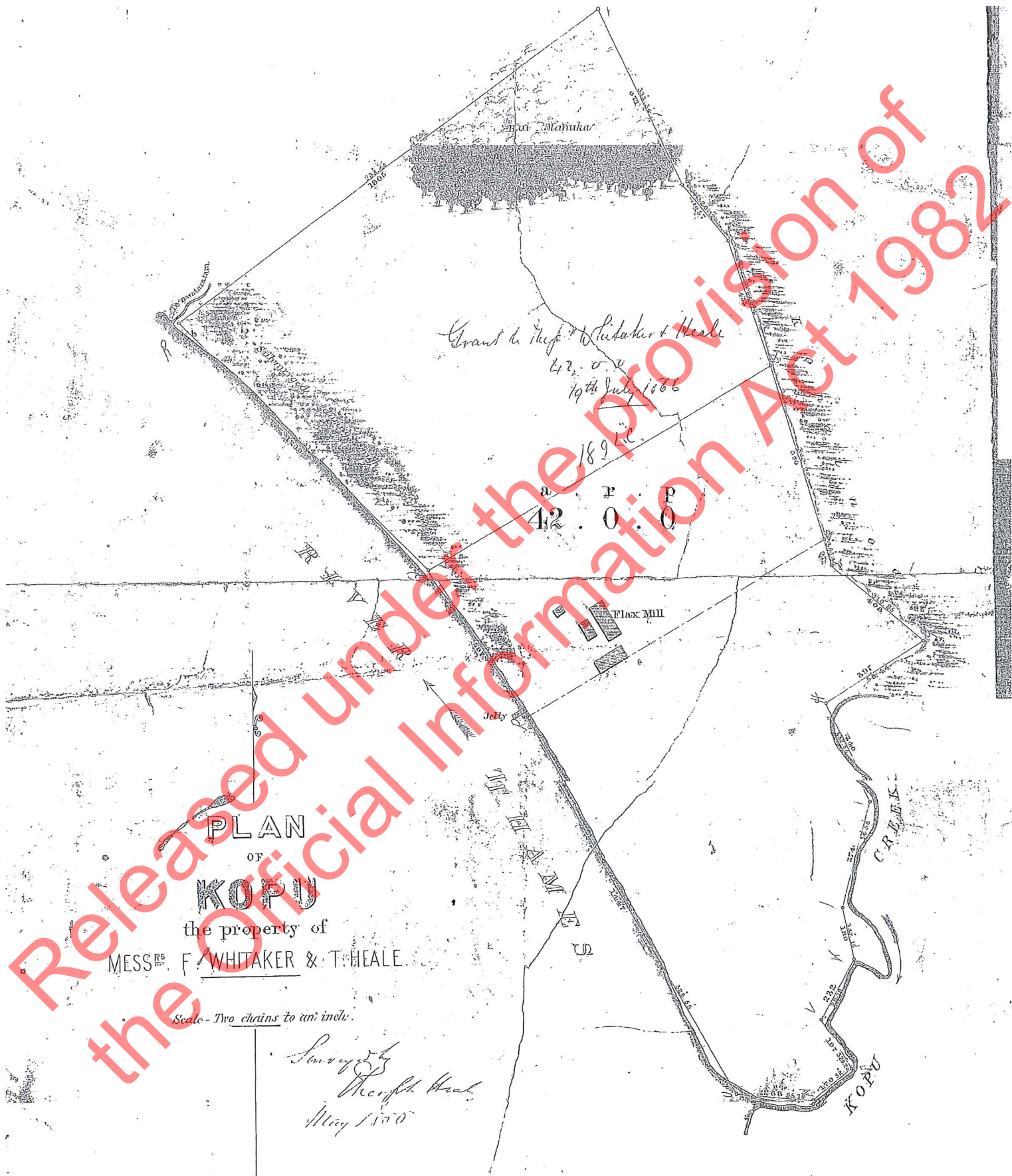
8119064.1 Gazette Notice (NZ
Gazette 26.3.2009, No 39, p. 1021)
declaring part (737m², Section 2
SO 410155) road to be stopped
and to remain vested in the Thames-
Ceromandel District Council
- 31.3.2009 at 9.00 am.
see CT 471489.

*Revised
for C.C.*

20/12
S.K. v. ...
S.G.
20/12

LAND & MORTGAGE	
Nature	GN
Fr	MOW
Vol	38/27
Page	9-36
Fee	
Abstract No	12215

9



OLC 354

Released under the provision of
the Official Information Act 1982

[illegible]

Received 12-6-70
 for 4/10/50
 (received)
 of from Don
 Bill back \$121.00 p. 81-71
 Treasury back 3972 p. 78-105
 Enriched by J. H. Hill
 Passed
 This is your for approval
 J. H. Hill

Survey Block & District.....Blk. VIII Thomas S.D.
 Land District, South Auckland.....Local Body Thomas County
 Scale 15P 1934 2866 1060 Surveyed by E.W. Millington Date August 1929
 I, Thomas Millington of Thomas District Surveyor and holder of a valid Surveyors License, hereby certify that the above is a true and correct copy of the original as the same is now on file in my office and is a true and correct copy of the original as the same is now on file in my office and is a true and correct copy of the original as the same is now on file in my office.

Chief Surveyor *Ch. 101*

4531.1

570 S.O. 45310
S.O. 45311

MILLINGTON, WILLIAMS & PARTNERS

Land and Engineering Surveyors and Town Planners

Incorporating the practice of the late
Mr M. C. Williams M.N.Z.I.S. A.R.I.C.S.
F. W. Millington M.N.Z.I.S. Registered Surveyor
H. W. Williams Surv. Tech.

In association with
Dunning Moore & Associates
Consulting Engineers
TAKAPUNA & WHANGAREI

209 Mary St.
THAMES
Telephone 1685
After hours 916

Branches at Takapuna, Whangarei, Whakatane

LEGALISATION SURVEY OF ROADS AT KOPU.....BLK.V111, THAMES S.D.

Boundary Report.

This survey is based on reliable origin and check bearings from D.P.s13112.

The portions of land taken are parts Kopu Block, parts Sec.3 of V11, Blk.V111, Thames S.D., Lot 5 (Rd.Reserve) D.P.31249, and Part Old Stream Bed. Comprised in Cs.T. 82/59(Residue), 38/27(Residue), 179/217 and 733/170. — E. Deeds 10/73 ?

Boundaries have been redefined from D.P.358 and Land above MHWM. Mean High Water Mark was established by running a level at R.L. 4.6 ft. in terms of Kopu Tide Gauge. This figure was deduced from the records of the Hauraki Catchment Board for readings at the tide gauge which is adjacent to the job. Our definition of MHWM was confirmed by observation of several high tides on the ground.

Old marks found from D.P.358 were large swamp pegs in surprisingly good condition. Old marks at I.S.VB were not original, but were accepted as boundaries due to their close agreement with title positions. All other old marks used were reliable and in good agreement.

The boundaries of the old Kopu Stream bed were reduced to right lines and pegged along the middle line of the stream as adopted from M.L.10844. There is no evidence on the ground of the old stream which has been filled and levelled.

All permanent reference marks consist of galvanised iron tubes set in concrete blocks buried 6" below ground level.

Occupation is as shown on plan and field notes.

F. W. Millington
.....
F. W. Millington,
Registered Surveyor.
4 June 1970.

POULGRAIN

& Solicitors

ALAN POULGRAIN, LL.B.

GRANDALL

MAGNUS RENNIE, LL.B.

457 Pollen Street,

THAMES

N.Z.

29 JUL 1971

RECEIVED
SURVEY DEPT
HAMILTON

27th July 1971

The Chief Surveyor,
Lands & Survey Dept.,
P.O. Box 460,
HAMILTON.

Dear Sir,

Re: S.O. PLAN 45310 & 45311

We have been handed to above plans by the Thames County Council with instructions to take the necessary steps to have the land taken for road.,

Questions have arisen regarding the land marked "Part Section 3 of VII" on the plans. As the title to part Section 3 of Block VII is vested in the Thames Borough Council as part of the afreshore we presume that this is the land below high water mark so that the area shown on the S.O. Plans is really accretions to Kopu Quay.

Would you please confirm.

Yours faithfully,
MILLER & POULGRAIN.

Per: R. Randall

RR:BJF.

662 TELEPHONE 26
P.O. BOX 411

COMPTON

Released under the Official Information Act 1982

663

9/1030

J.D.

Walsh
81-189

460,

HAMILTON

29 July 1971

Messrs Miller & Poulgrain,
Barristers & Solicitors,
P.O. Box 411,
THAMES

Dear Sirs,

S.O. PLANS 45310 AND 45311

Your letter RR:BJF of 27 July refers.

Part Section 3 Block VII Thames Survey District is contained in C.T. 179/217 as shown on S.O. 45310 and is vested in the Thames Borough Council.

In proclamation actions the documentary titles must be respected and for the purposes of this action the information shown on the plans is correct.

A claim for accretion would have to be proven by the owners of "Kopu Quay" before this area would be treated as part of their title.

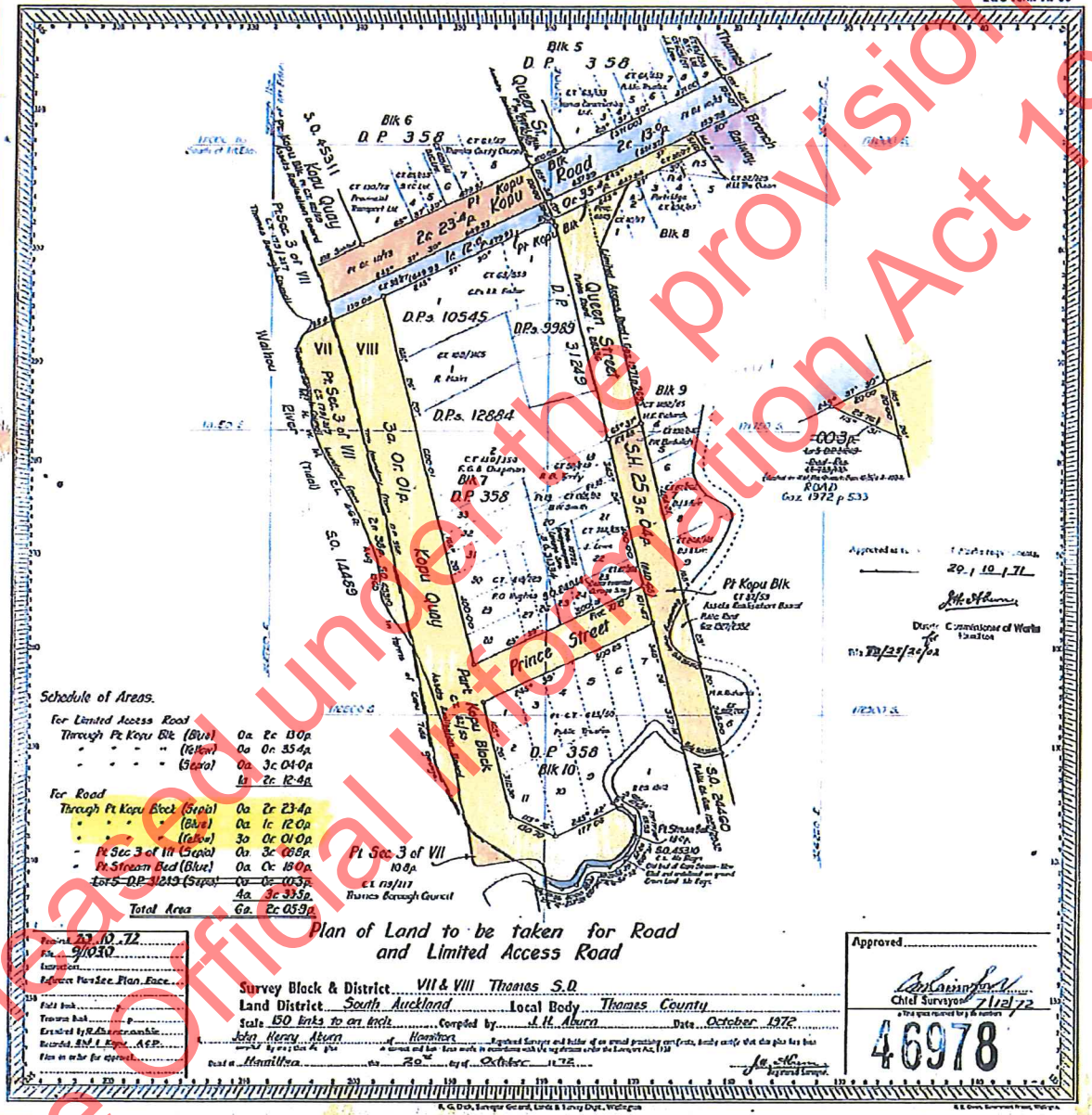
The consent of the Thames Borough Council will be required before the Parts of Section 3 can be legalised as Road.

Yours faithfully,

C.M. RAINSFORD
Chief Surveyor

Per *Rul*

29.7.71

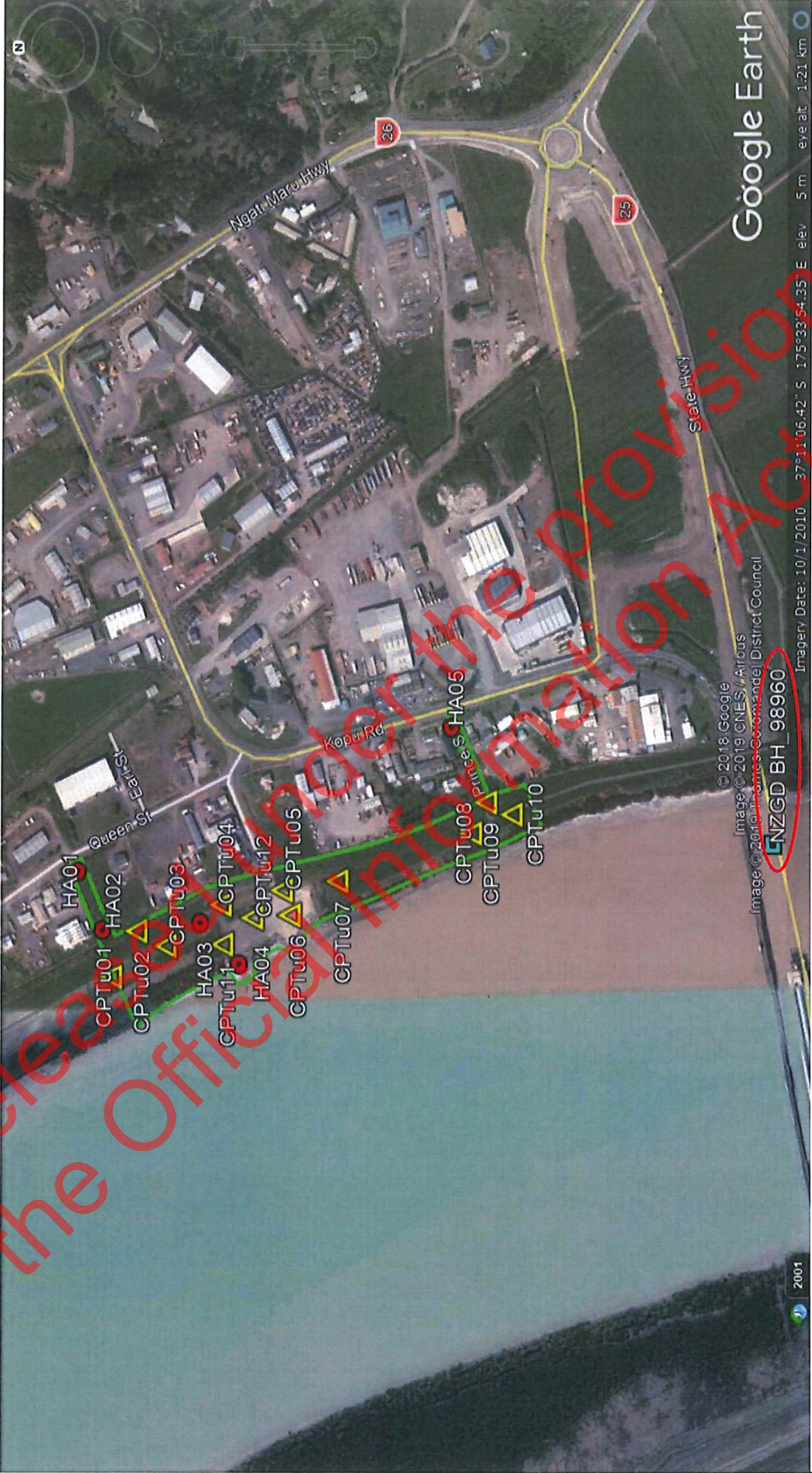


**GEOTECHNICAL INVESTIGATION REPORT FOR
PROPOSED NEW RIVERSIDE INFRASTRUCTURE DEVELOPMENT
KOPU, THAMES**

Project Reference: 15336
18 April 2019

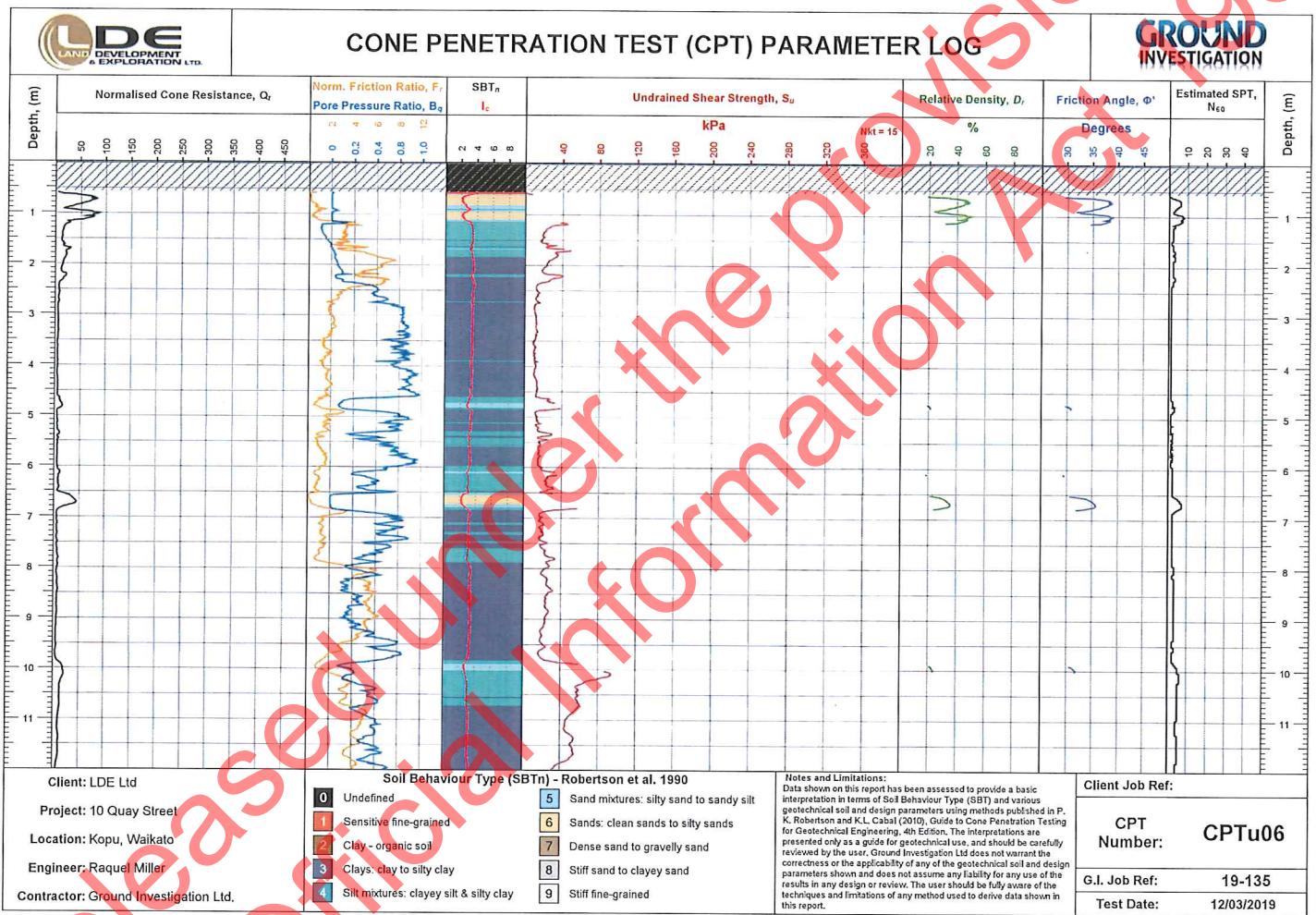


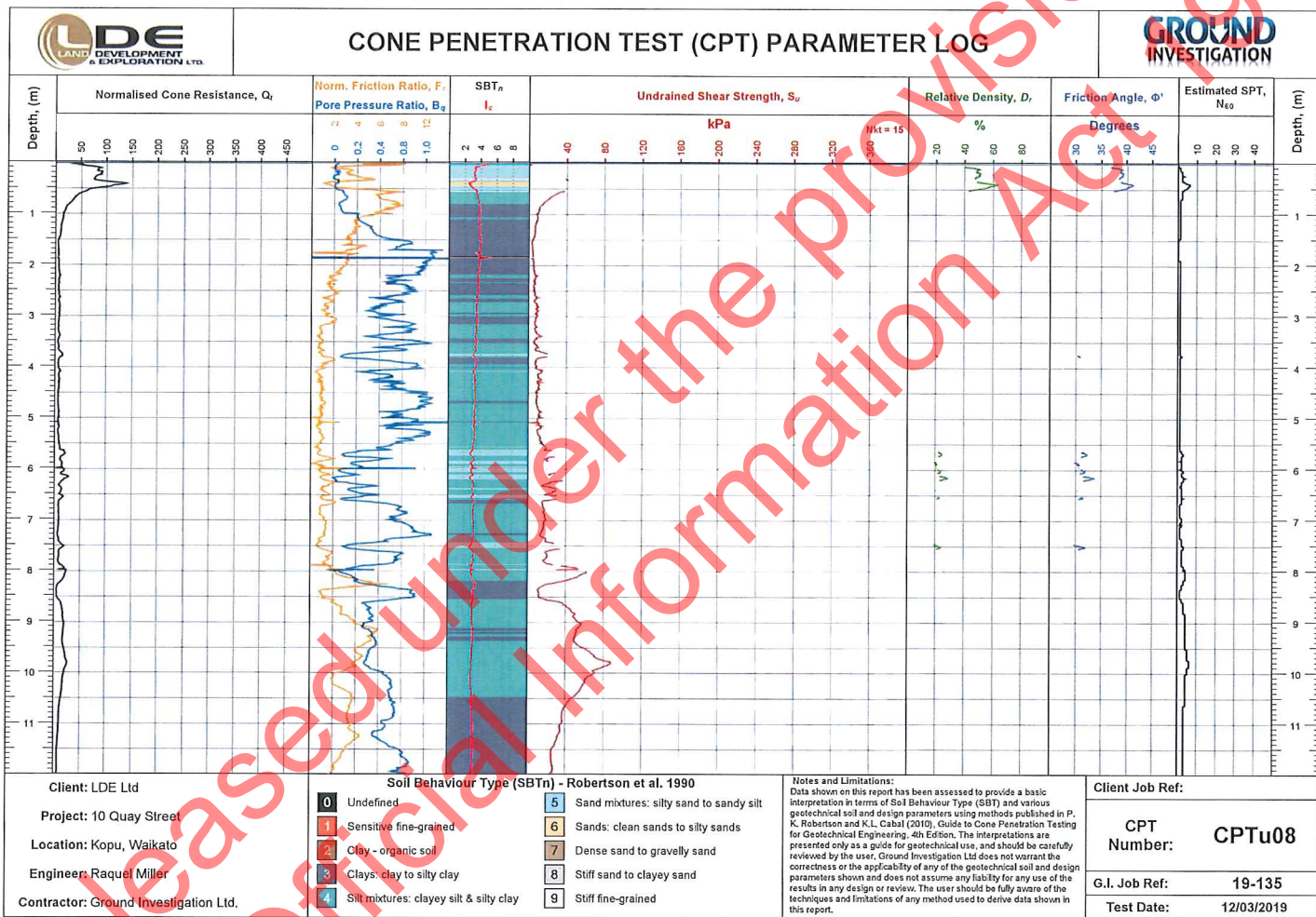
Released for the provision of information AC 1982

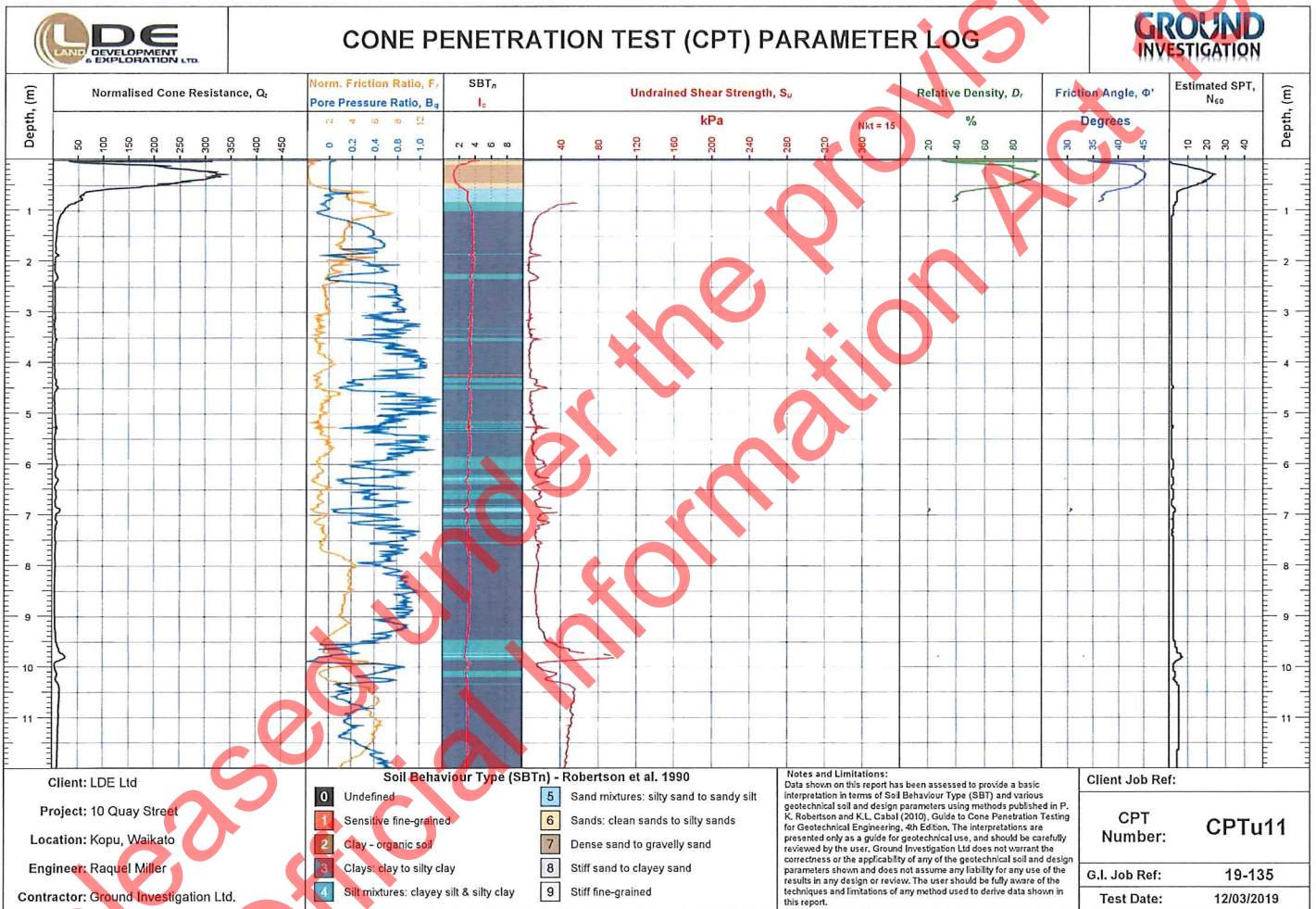


15336 - Propose Kopu River Development
Quay Street, Kopu

DRAWN	RM
CHECKED	RM
DATE	18-Apr-19
PROJECT	15336









New Zealand Legislation

Marine and Coastal Area (Takutai Moana) Act 2011

- Warning: Some amendments have not yet been incorporated
- with search matches highlighted

13 Boundary changes of marine and coastal area

- (1) This Act (other than section 11(4)) does not affect any enactment or the common law that governs accretions or erosions.
- (2) However, if, because of a change caused by a natural occurrence or process, any land, other than a road, that is owned by the Crown or a local authority becomes part of the marine and coastal area, then that land becomes part of the common marine and coastal area (even if that land consists of or is included in a piece of land defined by fixed boundaries).
- (3) If land has, because of a change caused by a natural occurrence or process, ceased to be part of the common marine and coastal area, and the title to that land is not determined by an enactment or the common law, then the land vests in the Crown as Crown land and is subject to the Land Act 1948.

Released under the Official Information Act 1982