

Mayor and Councillors
COUNCIL

25 OCTOBER 2018

Meeting Status: **Public**

Purpose of Report: For Decision

**PROPOSED EASEMENTS OVER LOCAL PURPOSE RESERVE,
JACKS BUSH ROAD, WAIKANAЕ**

PURPOSE OF REPORT

- 1 The purpose of this report is to seek approval for the granting of easements for two right of ways and services (proposed easements) over local purpose reserve being Lot 12 DP 344901 (the reserve), at Jacks Bush Road, Waikanae. These proposed easements are subject to section 48(1)(d) and section 48(1)(f) the Reserves Act 1977 (the Act).

DELEGATION

- 2 Council's role in this matter is as the administering body of the reserve under the Reserves Act 1977 (the Act) and where appropriate as delegate of the Minister of Conservation through the 2013 Delegation of Powers under the Act.
- 3 The Council has the authority, as a delegate of the Minister of Conservation through the 2013 Delegation of Powers under the Act, to consent or refuse consent to grant rights of way and other easements over any part of a vested reserve for any of the purposes specified in section 48(1) of the Act and impose such conditions as it thinks fit in giving the consent.

BACKGROUND

- 4 The reserve and proposed easements are located on the northern side of Waikanae, as shown in Appendix 1.
- 5 The reserve was created by Ngarara Development Partnership Limited and vested in Kāpiti Coast District Council through the 2004 subdivision of 183 Ngarara Road. The subdivision also created nine residential lots, Jacks Bush Road and Jacks Bush Reserve.
- 6 The reserve is a strip of land located between Jacks Bush Road and Lot 1 DP 82054 and Lot 2 DP 82054 to the north. The reserve is 20cm wide and 175m long with an area of 35 square metres more or less. The part of the reserve where the easements would be located is shown in Appendix 3.
- 7 The reserve was created by Ngarara Development Partnership Limited in order to place restrictions on access to Jacks Bush Road from land to the north, being Lot 1 DP 82054 and Lot 2 DP 82054.
- 8 Officers have established that the reserve was vested to safeguard the ecological values of Jacks Bush from the effects of intensive future development.
- 9 Jacks Bush Road is a public road vested in Kāpiti Coast District Council. Both Jacks Bush Road and Ngarara Road have been classified in the District Plan as

a Neighbourhood Access Route, which is a local road that carries little traffic. There are currently no trigger points with regards to vehicle movements identified for this road that would prevent further development on Jacks Bush Road.

- 10 Landlink on behalf of Guy Simpson (the Applicant) has indicated that a resource consent application for the proposed subdivision of the current Lot 1 DP 72861 and Lot 2 DP 82054, as shown in Appendix 2, will be lodged. This resource consent application would include the creation of the two new lots bordering part of the reserve.
- 11 There is no interdependence between decisions relating to the proposed easements under the Act and decisions relating to the proposed subdivision resource consent under the Resource Management Act 1991. The proposed subdivision resource consent is not considered in this report. Allowing the easements does not mean that Council will automatically approve the resource consent application. Any proposed subdivisions are considered under the Resource Management Act 1991. The resource consent application will be submitted regardless of the outcome the right of way easements but could use a different access if the easements are not allowed.

ISSUES AND OPTIONS

Issues

- 12 When contemplating whether to grant the proposed right of way and service easements, consideration should be given to whether the proposed easements would be enabling intensive development; and the effects on the ecological values of Jacks Bush if there were additional vehicles from the proposed residential lots on Jacks Bush Road.
- 13 Conditions can be put on easements. Easements are registered against the certificate of title of the subservient tenement, which in this case would be the reserve. Council officers consider that conditions attached to the proposed easements would include:
 - Each of the right of way easements restricted to one residential dwelling only.
 - Planting plan for the planting of native trees on the Applicants land to be carried out, with approvals required from Council's Programme Manager Biodiversity for plant species, and preparation, planting and maintenance methodologies.
 - No additional structures that imply private ownership of the reserve land would be allowed, such as letterboxes, fencing or gates, other than on the boundary of the reserve with the proposed private lots.
 - No cost to Council for any driveway surfacing or boundary structures.
- 14 The Applicant, on request, has supplied information on using alternative access from Ngarara Road.
- 15 The application describes the distance from Ngarara Road to the proposed Lot 3 and Lot 4 as being approximately 300m. The application considers that the alternatives are not suitable for a variety of reasons including alternatives would be considerably more costly; complicate any future development of remaining land; involve extensive earthworks through steep and undulating dune landscape that would change the natural character of the landscape; be less desirable for

the future purchasers and would not lead to a logical urban design outcome. The application considers that alternative access from the north would result in a more significant environmental impact than access via the proposed right of way easements.

- 16 Ngarara Road has a One Network Road Classification as a secondary collector and Jacks Bush Road as a local low volume access road. The roading team has advised that accessing the two lots off Jacks Bush Road is acceptable however they would prefer not to see any further lots accessed off the proposed right of ways to Jacks Bush Road at this time.
- 17 If the Council decides not to grant easements for right of ways, easements for services could still be granted.

CONSIDERATIONS

Policy considerations

- 18 There are no policy issues arising from this report.

Legal considerations

- 19 Under the Instrument of Delegation for Territorial Authorities dated 12 July 2013, the Minister of Conservation has delegated authority to the Council to grant easements over reserve land under the Act.
- 20 The Council is able to grant easements over any part of the reserve for an electrical installation or work, as defined in section 2 of the Electricity Act 1992, under section 48(1)(d) of the Act.
- 21 The Council is able to grant easements over any part of the reserve for providing or facilitating access or the supply of water to any other land not forming part of the reserve or for any other purpose connected with any such land, under section 48(1)(f) of the Act.
- 22 If the proposed easements are approved, easement documentation will be drafted and will be reviewed by the Council's legal counsel before being presented to the Applicant for their agreement.

Financial considerations

- 23 There are no financial considerations as all costs associated with right of way and services construction and remedial works will be met by the Applicant. The Applicant will also pay for all costs (survey and legal) associated with the granting of the easements.

Tāngata whenua considerations

- 24 Te Ātiawa ki Whakarongotai has advised that they are opposed to the granting of the easements until they have been able to conduct an assessment of effects of the proposed subdivision for which the easement is proposed and any alternatives. This assessment would require formal consultation by the Applicant with Te Ātiawa ki Whakarongotai. Officers have recommended to the Applicant that they work with Te Ātiawa ki Whakarongotai to achieve this.

SIGNIFICANCE AND ENGAGEMENT

Significance policy

- 25 This matter has a low level of significance under Council's Significance and Engagement Policy.

Consultation already undertaken

- 26 The Waikanae Community Board Chair has been advised of this proposal and no concerns were raised. The public notification is fully supported.
- 27 Council officers have met with several residents of Jacks Bush Road and Ngarara Road, at their request, and concerns were raised regarding access to new lots from Jacks Bush Road. The public notification process under the Act will enable submissions to be made and considered by Council in respect to whether to grant the proposed easements. Officers will ensure the local residents will be made aware of the public notification process when it commences.

Engagement planning

- 28 An engagement plan is not needed to implement this decision.

Publicity

- 29 If the Council decides to proceed to consider the granting of the easements, section 48(2) of the Act requires public notification in accordance with section 119 of the Act, for easements that will materially alter the reserve. The proposed placing of infrastructure and driveways are considered to materially alter the reserve. A period of not less than one calendar month must be provided by the Council for objections or submissions to be received. Full consideration shall be given under section 120 of the Act to all objections and submissions received in respect of the proposal by Council.

RECOMMENDATIONS

- 30 That the Kāpiti Coast District Council authorise the Chief Executive to undertake the required public notification process for two proposed right of way easements and service easements as outlined in this report (CS-18-634) over land at Jacks Bush Road, Waikanae, as shown in Appendix 3 to report CS-18-634, to two future lots created from a subdivision proposal for Lot 2 DP 82054 and Lot 1 DP 72861.
- 31 If no submissions or objections are received, that the Kāpiti Coast District Council delegates to the Chief Executive all necessary powers to agree and register the easements, provided that a resource consent for the creation of Lot 3 and Lot 4, as shown in Appendix 2 to report CS-18-634, is approved through the regulatory process, and the associated deposit of survey plans.

Report prepared by	Approved for submission	Approved for submission
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Kate Brown

Kevin Black

Sean Mallon

**Parks and Recreation
Planning Officer**

**Acting Group Manager
Strategy and Planning**

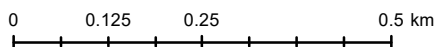
**Group Manager
Infrastructure Services**


ATTACHMENTS

- | | |
|------------|---|
| Appendix 1 | Location map of surrounding area and the Ecological Sites overlay (Proposed District Plan Appeals Version 2018) |
| Appendix 2 | Proposed subdivision (Lots 1-4) showing approximate location of easements (marked ROW) |
| Appendix 3 | Proposed easements over part of Local Purpose Reserves, Lot 12 DP 344901, Jacks Bush Road, Waikanae |



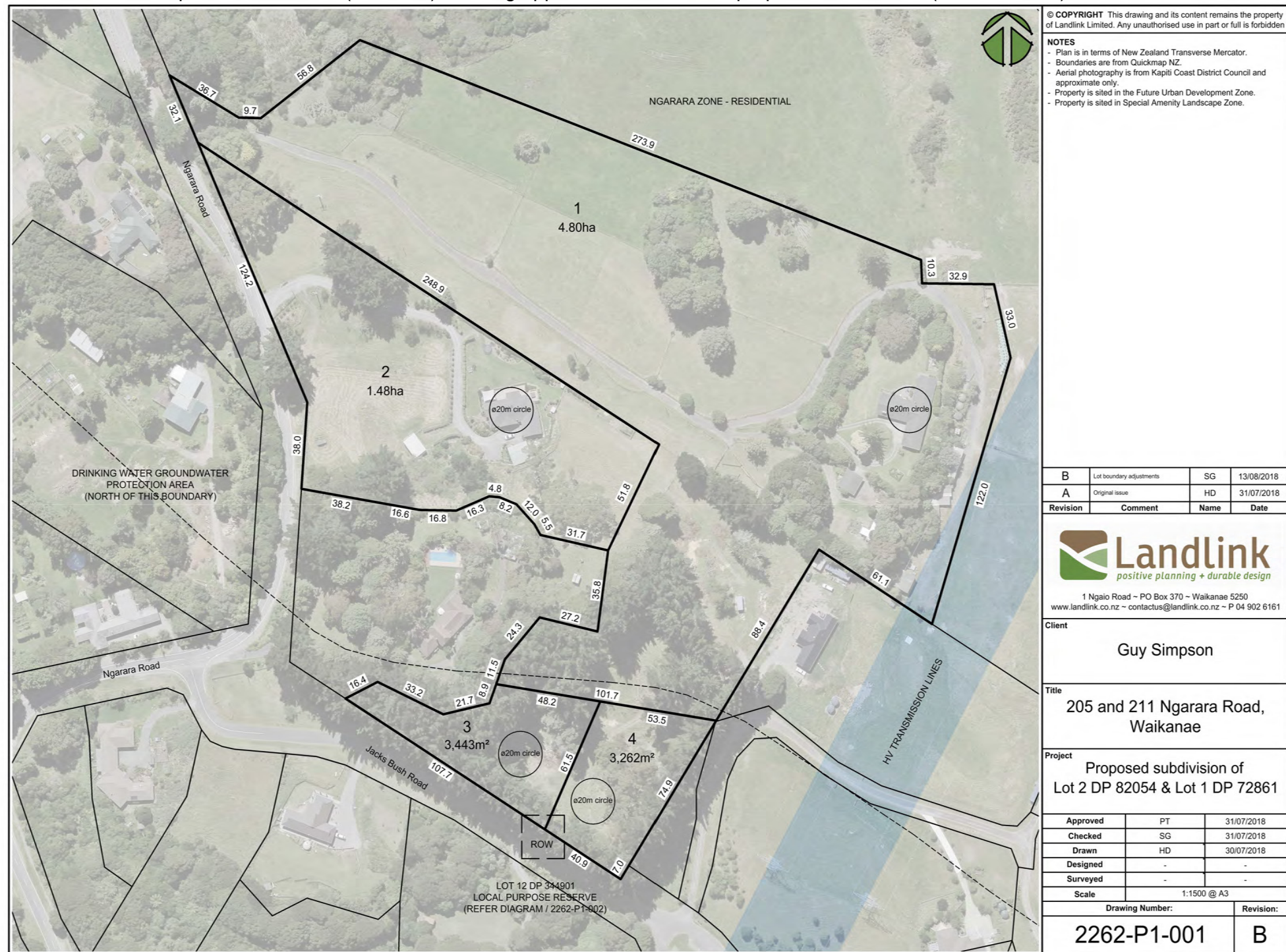
Scale @ A4 - 1:10,000



 Ecological Sites
(Proposed District
Plan Appeals
Version 2018)

Kapiti Coast District Council accepts no responsibility for incomplete or inaccurate information contained on this map. Use of this website is subject to, and constitutes acceptance of the conditions set out in our disclaimer. This publication is copyright reserved by the Kapiti Coast District Council. Cadastral and Topographic information is derived from Land Information New Zealand, CROWN COPYRIGHT RESERVED.

APPENDIX 2 - Proposed subdivision (Lots 1- 4) showing approximate location of proposed easements (marked ROW)



LOT 3

LOT 4

Jacks Bush Road
LEGAL ROAD

Local Purpose Reserve

4.0

4.0

(A)

(B)

Lot 12
DP 344901

Lot 12
DP 344901

Jacks Bush Road
LEGAL ROAD

Jacks Bush Road
LEGAL ROAD

0.2

0.2

(A)

(B)

MEMORANDUM OF EASEMENTS			
Purpose / Interest	Shown	Servient Tenement	Dominant Tenement
Right of way	A	Lot 3	Lot 12 DP 344901
Right to convey electricity Right to convey telecom and computer media	B	Lot 4	

NOTES

- Plan is in terms of New Zealand Transverse Mercator.
- Boundaries are from Quickmap NZ.
- Aerial photography is from Kapiti Coast District Council and approximate only.
- Underground services are from KCDC and indicative only.
- Property is sited in the Future Urban Development Zone.
- Property is sited in Special Amenity Landscape Zone.
- Areas labelled A and B are proposed Rights of Way over Local Purpose Reserve Lot 12 DP 344901.

C	Excellent table, CAD edit	SS	10/09/2018
B	Lot boundary adjustments	SG	13/08/2018
A	Original issue	SG	31/07/2018
Revision	Comment	Name	Date



Client	
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Guy Simpson

Guy Simpson

Title	
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205 and 211 Ngarara Road,
Waikanae

Project	Start Date	End Date	Duration	Progress	Status
Project A	2023-01-01	2023-03-31	90 Days	80%	On Track
Project B	2023-02-01	2023-05-31	120 Days	60%	At Risk
Project C	2023-03-01	2023-06-30	120 Days	40%	On Track
Project D	2023-04-01	2023-07-31	120 Days	20%	At Risk
Project E	2023-05-01	2023-08-31	120 Days	10%	On Track

Proposed Subdivision of
Lot 2 DP 82054 & Lot 1 DP 72861

Approved	PT	31/07/18
Checked	SG	31/07/18
Drawn	HD	30/07/18
Designed	-	-
Surveyed	-	-
Scale	AS PER DIAGRAM	

Drawing Number:		Revision:
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Right to convey telecom and computer media			