

Continuation of Estate or Interest or Easement to be created

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Continuation of Certificate of Title No:

Certificate of Title

NA139D/669	NA139D/674
NA139D/670	NA139D/675
NA139D/671	NA139D/676
NA139D/672	NA139D/677
NA139D/673	NA139D/678

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1. Definitions and Interpretations

1.1 Definitions

In this Transfer:

“the land” means all of the land contained in the above Certificates of Title

“Transferee” means Cabra Holdings Limited

“Transferor” means Cabra Holdings Limited

“All Lots” where referred to in the Schedules to this Transfer means Lots 250 – 259 inclusive on Deposited Plan 211953

1.2 Interpretation

In this Transfer:

- (a) words and expressions denoting the singular shall where the context so requires include the plural and vice versa.
- (b) the Transferor and the Transferee includes the successors and assigns of the Transferor and the Transferee.
- (c) headings have been inserted for guidance only, and shall not be deemed to form part of the context of these presents.

2. Preamble

- 2.1 The Transferor as registered proprietor of the land formerly contained in Certificate of Title NA136C/773 subdivided that land into Lots all of which are residential lots for the purposes of the sale thereof as residential lots in a residential estate ("the Lots") in the manner shown and defined on Deposited Plan 211953.
- 2.2 It is the Transferor's intention that each of the Lots be subject to a general scheme applicable to and for the benefit of All Lots in that the owner or occupier for the time being of each Lot should be bound by the covenants, stipulations and restrictions set out herein and that the respective owners and occupiers for the time being of the other Lots may be able to enforce the observance of such covenants, stipulations and restrictions against the owners or occupiers for the time being of any of the other Lots in equity or otherwise howsoever and the Transferor shall transfer each of the Lots subject to the like covenants as are contained in this Transfer.
- 2.3 The Transferor, intending pursuant to the provisions of Sections 49 and 66A of the Property Law Act 1952 to create the covenants and restrictions set out in this Transfer, will by this Transfer transfer each of the Lots comprising the land to itself.

3. Building Enhancement and Use Covenants

- 3.1 The Transferee for itself and its successors in title so as to bind all the Lots described in the First Schedule ("Covenanting Lots") HEREBY COVENANTS AND AGREES with itself as Transferor for the benefit of all the other Lots set out beside each Covenanting Lot described in the First Schedule ("the Benefiting Lots") and of each registered proprietor of the Benefiting Lots from time to time that the Transferee shall observe and perform all of the covenants set out in clause 3.2 until the 31st day of December 2050 at which time the covenants set out in clause 3.2 shall cease to apply.
- 3.2 The Transferee shall not:
- (a) commence any construction, development, earthworks or fill on any Covenanting Lot without having first obtained the written approval of the Transferor to the plans and specifications and the exterior design and appearance of the Transferee's proposed building and any proposed earthworks or fill and once approval is obtained, make any change to the plans and specifications or the exterior design and appearance of the Transferee's proposed building or proposed earthworks or fill.

As a guide houses should be designed so as to fit with the existing land contours so that limited earthworks (cutting or filling) is required. Which may necessitate part basement structures or house designs with basement garaging and which are sympathetic to and appropriate for the site.

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- (b) use or permit any Covenanting Lot to be used for:
- (i) any trading or commercial purpose other than that permitted by the local authority and which has the prior written consent of the Transferor which may be withheld at its absolute discretion or
 - (ii) display or showhomes except with the prior written consent of the Transferor which may be withheld at its absolute discretion or which may be granted subject to conditions imposed by the Transferor at its absolute discretion.
- (c) allow the duration of any building construction works on any Covenanting Lot to extend beyond the period of 12 months from the date of commencement of such works.
- (d) erect or place to be erected or placed on any Covenanting Lot anything other than a single dwelling house having closed in habitable living space (exclusive of carport or garage) with a floor area of less than the area set out beside and applicable to each Covenanting Lot shown in the Fourth Schedule and which must also have attached, closed in double car garaging or such other garaging that is approved in writing by the Transferor at its discretion provided that in the case of lot 255 the Transferee may erect two dwelling houses, but subject to the restrictions set out in this clause in respect of each dwelling and only in the event the written consent of the Transferor is first obtained, which may be withheld at the Transferor's discretion.
- (e) Incorporate into the design of the single dwelling house any ancillary accommodation in the nature of a granny flat or a self-contained flat:
- (i) unless it is permitted by the local authority; and
 - (ii) without the prior written consent of the Transferor which may be withheld at its absolute discretion; and
 - (iii) unless it is confined within the overall roofline of the single dwelling house and does not give the external appearance of comprising a separate unit
- and the Transferee shall not subdivide any such ancillary accommodation into a separate title whether fee simple, unit title, crosslease or otherwise.
- (f) use or permit or suffer to be used on any building on any Covenanting Lot any building material other than brick, stone, concrete block, insulclad, masonry, stucco, solid plaster, or approved timber weatherboard for any outer wall facing except with the written consent of the Transferor which may be withheld at its discretion.
- (g) use or permit or suffer to be used any second-hand materials in any building on the Covenanting Lot nor use any corrugated iron roofing or corrugated iron or zincalume of any description on the exterior of the building without in each case the consent in writing of the Transferor which may be withheld at its discretion.

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- (h) use or place or permit to be erected, transported or placed on any Covenanting Lot any second - hand home of any type or description.
- (i) erect or permit or suffer to be erected or placed upon any Covenanting Lot any caravan, hut or shed for any kind of permanent or temporary use except relocatable builders sheds but only during the course of construction of a dwelling house provided that the Transferee may erect one garden shed having a maximum floor area of 6m² which is clad in materials approved by the Transferor and erected in a location approved by the Transferor which approvals may be withheld at the Transferor's discretion.
- (j) erect or permit or suffer to be erected or placed upon any Covenanting Lot any building where the basement (including but not limited to basement garage) is not fully enclosed to the reasonable satisfaction of the Transferor.
- (k) allow any grass or weeds on any Covenanting Lot to grow to a height greater than 150mm and if he defaults in so doing, the Transferor may take whatever action it considers necessary to remedy the default at the expense of the Transferee and if the Transferee fails to pay the Transferor upon demand for all costs so incurred the Transferor may recover the cost thereof from the Transferee as liquidated damages in any Court of competent jurisdiction.
- (l) erect or permit to be erected on any Covenanting Lot any fence or boundary wall higher than 1.2 metres within:
- (i) five metres of any road boundary; or
 - (ii) the area between the exterior walls of the dwelling which are the closest to the road boundary (if they are less than five metres from the road boundary) and any road boundary; or
- except with the prior written approval of the Transferor which may be withheld at its absolute discretion.
- (m) permit any dwelling house on any Covenanting Lot to be occupied for more than six calendar months unless all driveways, paths and fences are completed in permanent materials and all unpaved areas are properly grassed or landscaped
- (n) allow the property to remain unlandscaped without lawns and shrubs for a period greater than six months following substantial completion or occupation of a dwelling house on the property. The transferee will ensure that a minimum of 5% of the net site area is developed with landscaped gardens and that a minimum of 5 trees or shrubs of at least 2m in height are included within the landscaped areas.
- (o) carry out any earthworks (either cutting or filling) in excess of 600mm height or depth within 2 metres of any adjoining lot boundary unless such works have been consented to in writing by the Transferor which may be withheld at its absolute discretion

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- (p) undertake any construction works on the Covenanting Lot without at all times complying with the following conditions and restrictions:
- (i) the transferee shall keep the Covenanting Lot in a tidy orderly and safe condition throughout the construction period.
 - (ii) The transferee shall maintain the Covenanting Lot at all times during the course of construction free from rubbish and excessive vegetation.
 - (iii) the transferee shall not store or dump any construction materials or debris on any adjoining lot or cross any adjoining lot for goods or vehicle access unless consent has been granted by the transferor in writing and the adjoining lot owner.
 - (iv) the transferee shall not allow major site works to commence unless a vehicle crossing and access drive for construction vehicles has been formed in metal aggregate or an alternative material as the transferor may approve at their discretion.
 - (v) the transferee shall not allow rubbish to be placed or escape onto adjoining or nearby lots or roads.
 - (vi) The transferee shall not deposit or allow any dirt gravel clay or other substance to be left on any road in the vicinity of the Covenanting Lot.
 - (vii) The transferee shall contain on the lot any silt generated during the construction of the dwelling house.
- (q) In the case of Lot 255 subdivide the lot into more than two individual lots having first obtained the consent pursuant to sub-clause (d) and not to sell either of these lots as land only without a dwelling house having first been erected thereon.

4. Height Restriction Covenants

4.1 The Transferee for itself and its successors in title so as to bind all the Height Covenanting Lots described in the Second Schedule (“Height Covenanting Lots”) HEREBY COVENANTS AND AGREES with itself as Transferor for the benefit of all the other Lots set out beside each Height Covenanting Lot described in the Second Schedule (“Benefiting Lots”) and of each registered proprietor of the Benefiting Lots from time to time that the Transferee shall always observe and perform all the covenants set out in clause 4.2 to the end and intent that each of those covenants shall forever endure for the benefit of the Benefiting Lots.

4.2

- (a) The Transferee shall not build or erect nor allow nor cause nor permit to be built or erected any building or other structure on that part of any Height Covenanting Lot identified in the Second Schedule nor will the Transferee plant, cultivate or grow nor allow nor cause nor permit to be planted, cultivated or grown any tree, plant, shrub or other growing thing on that part of any Height Covenanting Lot

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identified in the Second Schedule which in any case is of a height which exceeds the height of and protrudes or extend above a level horizontal plane which is for each Height Covenanting Lot measured at the reduced level shown beside each said Lot in the Third Schedule hereto in terms of the Lands and Survey datum so that in all cases the upper limit of height for each Height Covenanting Lot shall not exceed the reduced level shown beside each said Lot in the Third Schedule hereto in terms of the said Lands and Survey datum PROVIDED THAT the Transferee may erect one chimney or flue which forms part of the dwelling on any Height Covenanting Lot and one television aerial which exceed the upper limit of height for that Height Covenanting Lot by no more than two metres.

- (b) The Transferee shall not build or erect nor cause or permit to be built or erected any building or structure on any Height Covenanting Lot without first submitting to the Transferor plans which include elevations showing proposed heights in terms of the Lands and Survey datum referred to in clause 4.2(a) and (b) and in the event any proposed building or structure shown on those plans is within 0.60 metres of the maximum allowable height for that Height Covenanting Lot a surveyor's report must be provided to the Transferor upon completion of the final roof line for the dwelling certifying that the highest point of the dwelling does not exceed the height restriction level in respect of that Height Covenanting Lot.

5.0 View Corridor Covenants

5.1 The Transferee for itself and its successors in title so as to bind all the View Corridor Covenanting Lots described in the Fifth Schedule ("View Corridor Covenanting Lots") HEREBY COVENANTS AND AGREES with itself as Transferor in respect of the view protection areas set out beside each View Corridor Covenanting Lot and described in the Fifth Schedule ("View Protection Areas") for the benefit of the other Lots set out beside each View Corridor Covenanting Lot described in the Fifth Schedule ("Benefiting Lots") and of each registered proprietor of the Benefiting Lots from time to time that the Transferee shall always observe and perform all the covenants set out in clause 5.2 to the end and intent that each of those covenants shall forever endure for the benefit of the Benefiting Lots.

5.2 (a) The Transferee shall not erect any structure or building on the View Protection Area relating to each View Corridor Covenanting Lot PROVIDED THAT the eaves of any dwelling house erected on a View Corridor Covenanting Lot may overhang the View Protection Area relating to that View Corridor Covenanting Lot by no more than 300 millimetres and PROVIDED FURTHER that the Transferee may with the consent of the Transferor (which may be withheld at the Transferors absolute discretion) erect garden structures such as pergolas on the View Protection Areas with a height not exceeding 2.5 metres above the natural ground level of the View Protection Area taken as at the date of issue of title to each View Corridor Covenanting Lot.

(b) The Transferee shall not plant or allow to grow any tree, shrub or vegetation on the View Protection Area relating to each View Corridor Covenanting Lot which exceeds a height of 2.5 metres above the natural ground level of the View

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Protection Area, taken as at the date of issue of title to each View Corridor Covenanting Lot.

6.0 Planting Protection Covenant

- 6.1** The Transferee for itself so as to bind all of the Lots described in the Sixth Schedule (“Covenanting Lots”) covenants and agrees with itself as Transferor for the benefit of each of the lots set out beside each covenanting Lot described in the Sixth Schedule (in this clause called “the Benefiting Lots”) and each registered proprietor of the benefiting lots from time to time that the Transferee shall always observe and perform all of the covenants set out in clause 6.2 to the end and intent that the covenants shall endure for the benefit of the Benefiting lots until the 31st day of December 2050.
- 6.2**
- (a) The Transferee shall not cut, prune, damage or remove any trees or shrubs planted on the covenant area to a height below the top of the retaining wall without having first obtained the consent in writing of the Transferor.
 - (b) The Transferee will not allow the trees or shrubs planted in the covenant area to grow to a height in excess of 1.4m above the top of the retaining walls.
 - (c) The Transferee shall maintain the trees and shrubs planted in the covenant area in good order and condition and shall replace at his/her own cost, any trees or shrubs that have died, so as ensure at all times, that there is adequate screening of the retaining walls from the neighbouring land for the benefit of all the benefiting Lots shown in Schedule Six.
- 6.3** In this clause 6 the following terms have the meanings set out beside them:
- (a) “Retaining wall” means any retaining wall on or immediately adjacent to the boundary of any Covenanting Lot.
 - (b) “Covenant area” means the strip of planting within one metre of the base of any retaining wall.

7.0 Fencing

- 7.1** The Transferor shall not be required nor shall it be called upon to repair or contribute towards the cost of erection or repair of any dividing or boundary fence between any Lot and any contiguous land owned by the Transferor, but this proviso shall not enure for the benefit of any subsequent registered proprietor of such contiguous land.

8.0 Indemnity and Consequences of Breach

- 8.1** In consideration of ONE DOLLAR (\$1.00) the Transferee covenants with the Transferor that it will at all times save harmless and keep indemnified the Transferor from all proceedings, costs, claims and demands in respect of breaches by the Transferee of the

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covenants on its part contained or implied herein, and also the enforcement of such covenants by the Transferor.

8.2 The Transferee acknowledges that the value of the Lots will be affected by any non-compliance with or breach of any of the covenants contained or implied herein and the Transferee covenants for itself for the benefit of each of the Benefiting Lots and of each registered proprietor of the Benefiting Lots from time to time that should the Transferee fail to comply with, observe, perform or complete any of the covenants contained or implied herein then without prejudice to any other liability the Transferee may have to the Transferor (which includes any other person or body having the benefit of such covenants) the Transferee shall:

- (a) Pay to the Transferor as liquidated damages the sum of \$5,000.00 immediately upon receipt of a written demand for payment from the Transferor; and
- (b) immediately permanently remove or cause to be permanently removed from the Lot upon which the breach or failure has occurred any offending improvement or structure or other cause of any breach or non-observance of such covenants; and otherwise forthwith remedy the breach or non-observance thereof; and
- (c) if the breach or failure is not remedied within 60 days of the date of notice of such breach or failure then the Transferor (together with its agents, employees or contractors) shall be entitled to enter onto the Lot to arrange for rectification of the Transferee's breach or failure at the cost of the Transferee.

9.0 General

9.1 The covenants set out in clause 3.2 of this Transfer shall run with each Covenanting Lot set out in the first schedule for the benefit of all the Benefiting Lots described in the First Schedule TO THE INTENT that the Transferor and Transferee shall continue to be bound until the earlier of the 31st December 2050 or the date upon which they respectively cease to hold a fee simple estate in a Covenanting Lot but without prejudice to any liability for any breach of covenant under this Transfer arising before such date.

9.2 The covenants set out in clause 4.2 of this Transfer shall run with each Height Covenanting Lot set out in the second schedule for the benefit of all the benefiting lots described in the second schedule TO THE INTENT that the Transferor and the Transferee shall continue to be bound until they respectively cease to hold a fee simple estate in a Height Covenanting Lot but without prejudice to any liability for any breach of covenant under this Transfer arising before such date.

9.3 The covenants set out in Clause 5.2 of this transfer shall run with each View Corridor Covenanting Lot set out in the fifth schedule for the benefit of all the benefiting lots described in the fifth schedule TO THE INTENT that the Transferor and the Transferee shall continue to be bound until they respectively cease to hold a fee simple estate in a covenanting lot but without prejudice to any liability for any breach of covenant under this transfer arising before such date.

- 9.4 The covenants set out in Clause 6.2 of this transfer shall run with each Planting Covenanting Lot set out in the sixth schedule for the benefit of all the benefiting lots described in the sixth schedule TO THE INTENT that the Transferor and the Transferee shall continue to be bound until they respectively cease to hold a fee simple estate in a covenanting lot but without prejudice to any liability for any breach of covenant under this transfer arising before such date.
- 9.5 The Transferor shall not be required to nor obliged to enforce all or any of the covenants, nor be liable to the Transferee for any breach of the covenants by any of the registered proprietors of the Covenanting Lots and the Transferee shall be liable only in respect of breaches of the covenants which occur while the Transferee is the registered proprietor of any Covenanting Lot.

FIRST SCHEDULE

Covenantee Lots

Lot 250 DP 211953
Lot 251 DP 211953
Lot 252 DP 211953
Lot 253 DP 211953
Lot 254 DP 211953
Lot 255 DP 211953
Lot 256 DP 211953
Lot 257 DP 211953
Lot 258 DP 211953
Lot 259 DP 211953

Benefiting Lots

All Lots other than Lot 250 DP 211953
All Lots other than Lot 251 DP 211953
All Lots other than Lot 252 DP 211953
All Lots other than Lot 253 DP 211953
All Lots other than Lot 254 DP 211953
All Lots other than Lot 255 DP 211953
All Lots other than Lot 256 DP 211953
All Lots other than Lot 257 DP 211953
All Lots other than Lot 258 DP 211953
All Lots other than Lot 259 DP 211953

SECOND SCHEDULE

Height Covenanting Lots

Benefiting Lots

Part of Lot 252 DP 211953 marked "A"
on DP 390528
The whole of Lot 255 DP 211953

All Lots other than Lot 252 DP 211953
All Lots other than Lot 255 DP 211953

THIRD SCHEDULE

Height Covenanted Lots	Reduced Level
Part of Lot 252 DP 211953 marked "A" on DP 390528	23.0
The whole of Lot 255 DP 211953	17.0

FOURTH SCHEDULE

Covenanting Lots	Minimum Closed in Habitable Living Space
Lot 250 DP 211953	140 m ²
Lot 251 DP 211953	140 m ²
Lot 252 DP 211953	140 m ²
Lot 253 DP 211953	110 m ²
Lot 254 DP 211953	110 m ²
Lot 255 DP 211953	170 m ² if a single dwelling is erected on the Lot and 120m ² if 2 dwellings are erected on the Lot.
Lot 256 DP 211953	100 m ²
Lot 257 DP 211953	110 m ²
Lot 258 DP 211953	140 m ²
Lot 259 DP 211953	110 m ²

FIFTH SCHEDULE

View Corridor Covenantee Lots	View Protection Area	Benefiting Lots
Lot 252 DP 211953	B	All Lots other than Lot 252 DP 211953
Lot 253 DP 211953	C	All Lots other than Lot 253 DP 211953
Lot 254 DP 211953	D	All Lots other than Lot 254 DP 211953
Lot 256 DP 211953	G	All Lots other than Lot 256 DP 211953
Lot 257 DP 211953	F	All Lots other than Lot 257 DP 211953
Lot 258 DP 211953	E	All Lots other than Lot 258 DP 211953

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SIXTH SCHEDULE**

Planting Covenanting Lots

Lot 251 DP 211953
Lot 252 DP 211953
Lot 259 DP 211953

Benefiting Lots

All Lots other than Lot 251 DP 211953
All Lots other than Lot 252 DP 211953
All Lots other than Lot 259 DP 211953

Approvals

Areas A, B, C, D, E, F, G and Lot 255 to be subject to land covenants.

All boundaries adopted from DP211953

Proposed Height Restriction

Shown	Maximum Height (RL)
Lot 255 DP211953 hereon	17.00m
(A)	23.00m

Note:
Levels are in terms of Lands & Survey Auckland Datum 1948
Origin of Levels: SM5314
SOS5927
RL4.935

Bearing & Coordinate Datum: Geodetic 2000
Mt. Eden Circuit Coordinates
Origin: Mt. Eden
800 000 mN
400 000 mE

CLASS OF SURVEY: I

Total Area

Comprised in C.T.'s 139D/671, 139D/672, 139D/673, 139D/674, 139D/675, 139D/676 and 139D/677.

1. Richard Alan Bull being a person entitled to practise as a licensed cadastral surveyor, certify that—
(a) The surveys in which his depositions are accurate, and were undertaken by me or under my direction in accordance with the Cadastral Survey Act 2002 and the Surveyor-General's Rules for Cadastral Survey 2002/2,
(b) This statement is accurate, and has been created in accordance with the Act and these Rules.

Signature _____ Date _____

Field Book _____ P. _____ Traverse Book _____ P. _____

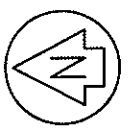
Reference Plans _____

Examined _____ Correct

Approved as to Survey by Land Information NZ on _____ / _____ / _____

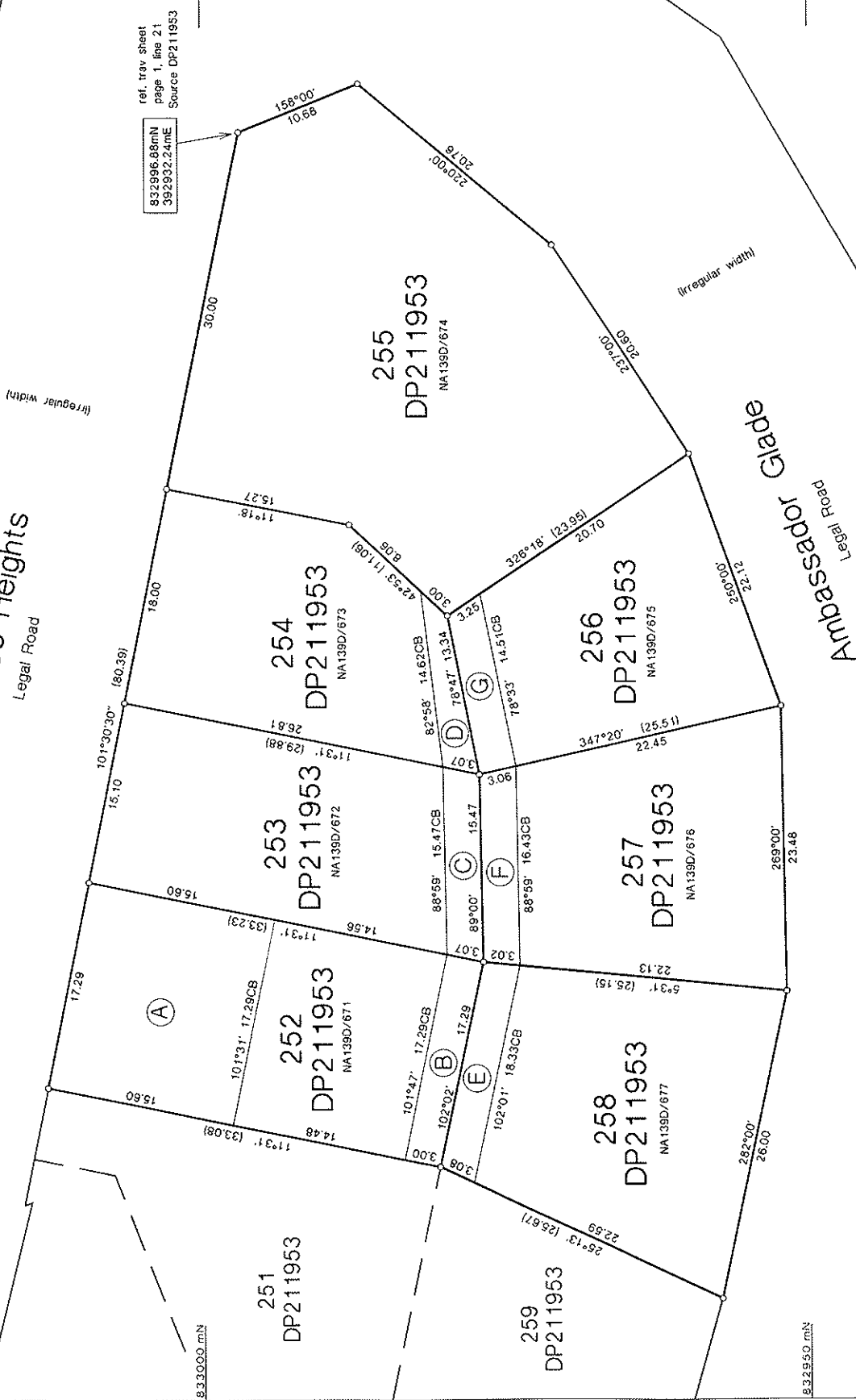
Deposited by Land Information NZ on _____ 20 _____

File 2555
Received Instructions DP390528
DWG2555T



West Hoe Heights
Legal Road

Ambassador Glap
Legal Road



Computed Plan

TERRITORIAL AUTHORITY Rodney District
Surveyed by **C & R SURVEYORS LTD**
Scale 1:250 Date June 2007

Covenants over Lots 252-258 DP211953

LAND DISTRICT North Auckland
Survey Blk. & Dist.
NZMS 261 Sheet Record Sheet No.