

1st May 2025

Resource Consents Team
Far North District Council
Private Bag 752
Kaikohe 0440

Attention Team Leader Resource Consents

**RESOURCE CONSENT APPLICATION BY DENNIS AND SANDY MCBREARTY FOR
SELECTED TREE REMOVAL WITHIN A CONSERVATION COVENANT AREA LOCATED
AT 70A SCHOOL ROAD, PAIHIA.**

Zenith Planning Consultants have been engaged by Dennis and Sandy McBrearty to prepare a resource consent application relating to removal of seven existing trees within a Conservation Covenant. The covenant document instructs a landowner seeking to remove trees to apply to Council for resource consent approval. The proposed tree removal complies with the usual permitted standards for vegetation removal based on the reasons for the removal request.

I have attached the following information in support of the application:

- Completed Application Form
- Planning Report and Assessment of Effects
- Aerial photo illustrating the trees for removal
- Current Certificates of Title and relevant legal instruments.

The has already paid the application fee online.

Should you have any queries in respect to this application please contact me.

Yours faithfully



Wayne Smith

Zenith Planning Consultants Ltd

Principal | Director

BPlan | BSocSci | MNZPI

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Application for resource consent or fast-track resource consent

(Or Associated Consent Pursuant to the Resource Management Act 1991 (RMA)) (If applying for a Resource Consent pursuant to Section 87AAC or 88 of the RMA, this form can be used to satisfy the requirements of Schedule 4). Prior to, and during, completion of this application form, please refer to Resource Consent Guidance Notes and Schedule of Fees and Charges — [both available on the Council's web page](#).

1. Pre-Lodgement Meeting

Have you met with a council Resource Consent representative to discuss this application prior to lodgement? ☐ Yes ☐ No

2. Type of Consent being applied for

(more than one circle can be ticked):

- | | |
|---|---|
| <input type="radio"/> Land Use | <input type="radio"/> Discharge |
| <input type="radio"/> Fast Track Land Use* | <input type="radio"/> Change of Consent Notice (s.221(3)) |
| <input type="radio"/> Subdivision | <input type="radio"/> Extension of time (s.125) |
| <input type="radio"/> Consent under National Environmental Standard
(e.g. Assessing and Managing Contaminants in Soil) | |
| <input type="radio"/> Other (please specify) _____ | |

* The fast track is for simple land use consents and is restricted to consents with a controlled activity status.

3. Would you like to opt out of the Fast Track Process?

☐ Yes ☐ No

4. Consultation

Have you consulted with Iwi/Hapū? ☐ Yes ☐ No

If yes, which groups have you consulted with?

Who else have you consulted with?

For any questions or information regarding iwi/hapū consultation, please contact Te Hono at Far North District Council tehonosupport@fndc.govt.nz

5. Applicant Details

Name/s:

Dennis & Sandy McBrearty

Email:

Phone number:

Postal address:

(or alternative method of service under section 352 of the act)

6. Address for Correspondence

Name and address for service and correspondence (if using an Agent write their details here)

Name/s:

Zenith Planning Consultants - Att. Wayne Smith

Email:

Phone number:

Postal address:

(or alternative method of service under section 352 of the act)

** All correspondence will be sent by email in the first instance. Please advise us if you would prefer an alternative means of communication.*

7. Details of Property Owner/s and Occupier/s

Name and Address of the Owner/Occupiers of the land to which this application relates (where there are multiple owners or occupiers please list on a separate sheet if required)

Name/s:

Dennis & Sandy McBrearty

**Property Address/
Location:**

70a School Road

Paihia

Postcode

8. Application Site Details

Location and/or property street address of the proposed activity:

Name/s:

**Site Address/
Location:**

 Postcode

Legal Description:

Val Number:

Certificate of title:

Please remember to attach a copy of your Certificate of Title to the application, along with relevant consent notices and/or easements and encumbrances (search copy must be less than 6 months old)

Site visit requirements:

Is there a locked gate or security system restricting access by Council staff? ☐ Yes ☐ No

Is there a dog on the property? ☐ Yes ☐ No

Please provide details of any other entry restrictions that Council staff should be aware of, e.g. health and safety, caretaker's details. This is important to avoid a wasted trip and having to re-arrange a second visit.

9. Description of the Proposal:

Please enter a brief description of the proposal here. Please refer to Chapter 4 of the District Plan, and Guidance Notes, for further details of information requirements.

If this is an application for a Change or Cancellation of Consent Notice conditions (s.221(3)), please quote relevant existing Resource Consents and Consent Notice identifiers and provide details of the change(s), with reasons for requesting them.

10. Would you like to request Public Notification?

☐ Yes ☐ No

11. Other Consent required/being applied for under different legislation

(more than one circle can be ticked):

- ☐ Building Consent
- ☐ Regional Council Consent (ref # if known)
- ☐ National Environmental Standard consent
- ☐ Other (please specify)

12. National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health:

The site and proposal may be subject to the above NES. In order to determine whether regard needs to be had to the NES please answer the following:

Is the piece of land currently being used or has it historically ever been used for an activity or industry on the Hazardous Industries and Activities List (HAIL) ☐ Yes ☐ No ☐ Don't know

Is the proposed activity an activity covered by the NES? Please tick if any of the following apply to your proposal, as the NESCS may apply as a result. ☐ Yes ☐ No ☐ Don't know

- | | |
|---|---|
| <input type="radio"/> Subdividing land | <input type="radio"/> Disturbing, removing or sampling soil |
| <input type="radio"/> Changing the use of a piece of land | <input type="radio"/> Removing or replacing a fuel storage system |

13. Assessment of Environmental Effects:

Every application for resource consent must be accompanied by an Assessment of Environmental Effects (AEE). This is a requirement of Schedule 4 of the Resource Management Act 1991 and an application can be rejected if an adequate AEE is not provided. The information in an AEE must be specified in sufficient detail to satisfy the purpose for which it is required. Your AEE may include additional information such as Written Approvals from adjoining property owners, or affected parties.

Your AEE is attached to this application ☐ Yes

13. Draft Conditions:

Do you wish to see the draft conditions prior to the release of the resource consent decision? ☐ Yes ☐ No

If yes, do you agree to extend the processing timeframe pursuant to Section 37 of the Resource Management Act by 5 working days? ☐ Yes ☐ No

14. Billing Details:

This identifies the person or entity that will be responsible for paying any invoices or receiving any refunds associated with processing this resource consent. Please also refer to Council's Fees and Charges Schedule.

Name/s: (please write in full)

Email:

Phone number:

Work

Home

Postal address:

(or alternative method of service under section 352 of the act)

Postcode

Fees Information

An instalment fee for processing this application is payable at the time of lodgement and must accompany your application in order for it to be lodged. Please note that if the instalment fee is insufficient to cover the actual and reasonable costs of work undertaken to process the application you will be required to pay any additional costs. Invoiced amounts are payable by the 20th of the month following invoice date. You may also be required to make additional payments if your application requires notification.

Declaration concerning Payment of Fees

I/we understand that the Council may charge me/us for all costs actually and reasonably incurred in processing this application. Subject to my/our rights under Sections 357B and 358 of the RMA, to object to any costs, I/we undertake to pay all and future processing costs incurred by the Council. Without limiting the Far North District Council's legal rights if any steps (including the use of debt collection agencies) are necessary to recover unpaid processing costs I/we agree to pay all costs of recovering those processing costs. If this application is made on behalf of a trust (private or family), a society (incorporated or unincorporated) or a company in signing this application I/we are binding the trust, society or company to pay all the above costs and guaranteeing to pay all the above costs in my/our personal capacity.

Name: (please write in full)

Signature:

(signature of bill payer)

Date

MANDATORY

15. Important Information:

Note to applicant

You must include all information required by this form. The information must be specified in sufficient detail to satisfy the purpose for which it is required.

You may apply for 2 or more resource consents that are needed for the same activity on the same form. You must pay the charge payable to the consent authority for the resource consent application under the Resource Management Act 1991.

Fast-track application

Under the fast-track resource consent process, notice of the decision must be given within 10 working days after the date the application was first lodged with the authority, unless the applicant opts out of that process at the time of lodgement. A fast-track application may cease to be a fast-track application under section 87AAC(2) of the RMA.

Privacy Information:

Once this application is lodged with the Council it becomes public information. Please advise Council if there is sensitive information in the proposal. The information you have provided on this form is required so that your application for consent pursuant to the Resource Management Act 1991 can be processed under that Act. The information will be stored on a public register and held by the Far North District Council. The details of your application may also be made available to the public on the Council's website, www.fndc.govt.nz. These details are collected to inform the general public and community groups about all consents which have been issued through the Far North District Council.

15. Important information continued...

Declaration

The information I have supplied with this application is true and complete to the best of my knowledge.

Name: (please write in full)

Signature:

Date

A signature is not required if the application is made by electronic means

Checklist (please tick if information is provided)

- ☐ Payment (cheques payable to Far North District Council)
- ☐ A current Certificate of Title (Search Copy not more than 6 months old)
- ☐ Details of your consultation with Iwi and hapū
- ☐ Copies of any listed encumbrances, easements and/or consent notices relevant to the application
- ☐ Applicant / Agent / Property Owner / Bill Payer details provided
- ☐ Location of property and description of proposal
- ☐ Assessment of Environmental Effects
- ☐ Written Approvals / correspondence from consulted parties
- ☐ Reports from technical experts (if required)
- ☐ Copies of other relevant consents associated with this application
- ☐ Location and Site plans (land use) AND/OR
- ☐ Location and Scheme Plan (subdivision)
- ☐ Elevations / Floor plans
- ☐ Topographical / contour plans

Please refer to Chapter 4 of the District Plan for details of the information that must be provided with an application. Please also refer to the RC Checklist available on the Council's website. This contains more helpful hints as to what information needs to be shown on plans.

14. Billing Details:

This identifies the person or entity that will be responsible for paying any invoices or receiving any refunds associated with processing this resource consent. Please also refer to Council's Fees and Charges Schedule.

Name/s: (please write in full)

DEANUS JOHN MCBRIDE

Email:

Phone number:

Postal address:

(or alternative method of service under section 352 of the act)

Fees Information

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Name: (please write in full)

DEANUS JOHN MCBRIDE

Signature:

(signature of bill payer)

Date 23-4-2025

MANDATORY

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Planning Report and Assessment of Effects

**Dennis & Sandy
McBrearty**

**A Proposal to Undertake Selected
Tree Removal from a
Conservation Covenant Area**

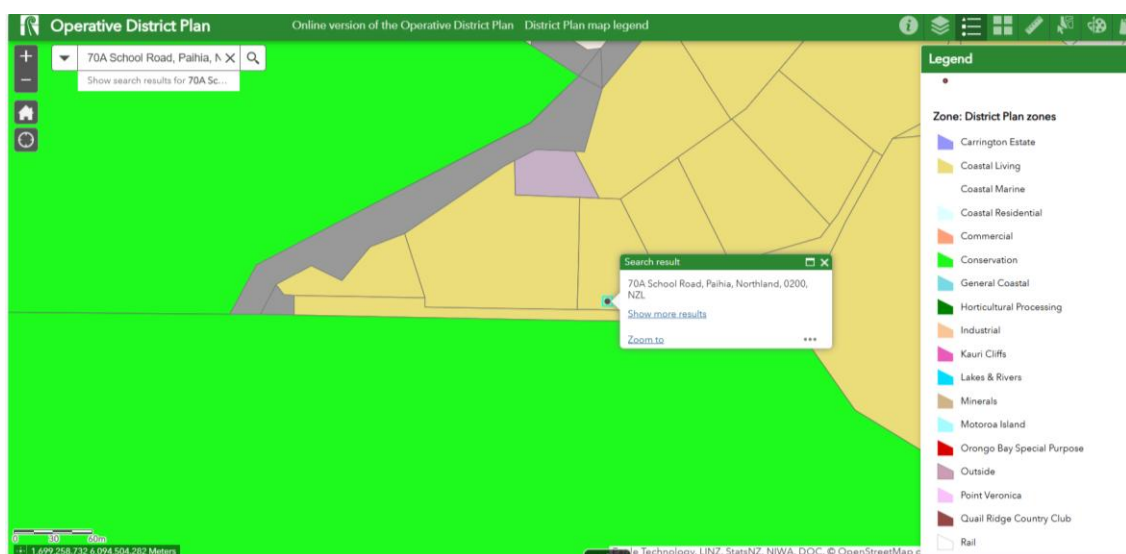
70a School Road, Paihia

- 1.03 The following portion of the instrument details the conditions which apply to the Conservation Covenant. Condition 1(a) requires a resource consent to be applied for if vegetation is to be removed.

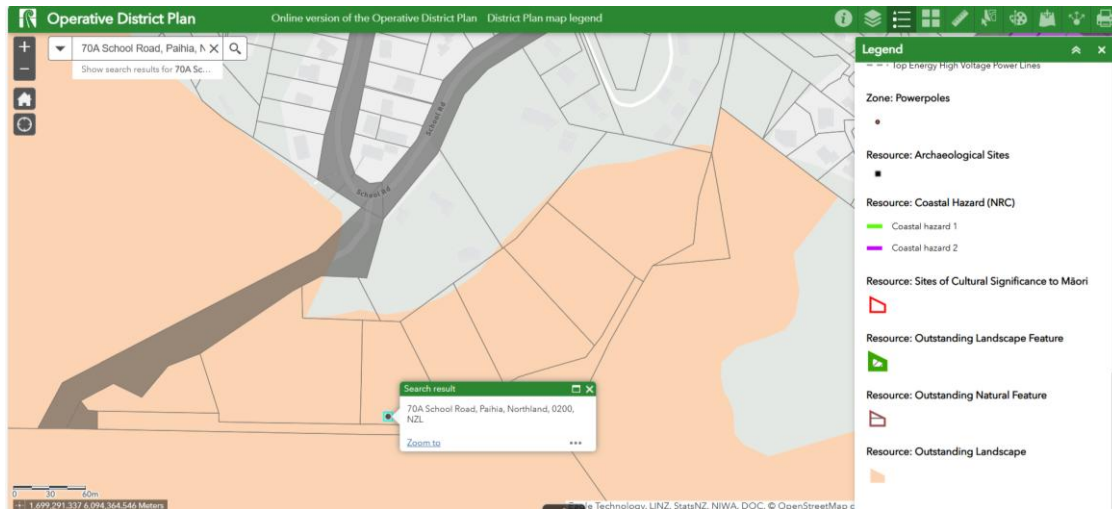
NOW THEREFORE THIS DEED WITNESSES that in accordance with Section 77 of the Conservation Act 1977 the landowner and the Council **MUTUALLY COVENANT** that the land shall be managed for the purpose and objective listed in recital C and in particular on the following conditions:

1. The landowner covenants that:
 - (a) The living indigenous vegetation on the land within those areas shown C and D on Deposited Plan 458135 shall not be cut down, damaged or destroyed without prior written consent of the Council. Such consent may be given in the form of a resource consent. The landowner shall be deemed not to be in breach of this prohibition if any such vegetation dies from natural causes which are not attributable to any act or default by or on behalf of the owner or for which the owner is responsible.
 - (b) There shall be no intrusion of grazing stock (including cows, sheep, goats and pigs) into any areas of indigenous vegetation on the land.
 - (c) Exotic vegetation which could adversely affect natural regeneration or local forest health is not to be introduced to the land. This includes the introduction of invasive plant species, including those currently listed on the nationally-banned-for-sale list (see Northland Regional Pest Management Strategy).
 - (d) Dead wood and vegetation may be removed by the Grantor for the Grantor's own use on the land.
2. The landowner shall pay the costs of preparation and registration of this Covenant.
3. The duration of this covenant is in perpetuity.

- 1.04 The application has a legal description of Lot 1 DP 211891 and is zoned Coastal Living under the operative Far North District Plan. The site also has an Outstanding Landscape notation which applies to the site. As part of this application, it is necessary to consider the proposal against rules around vegetation removal within both the Coastal Living Zone and for properties with an Outstanding Landscape notation.

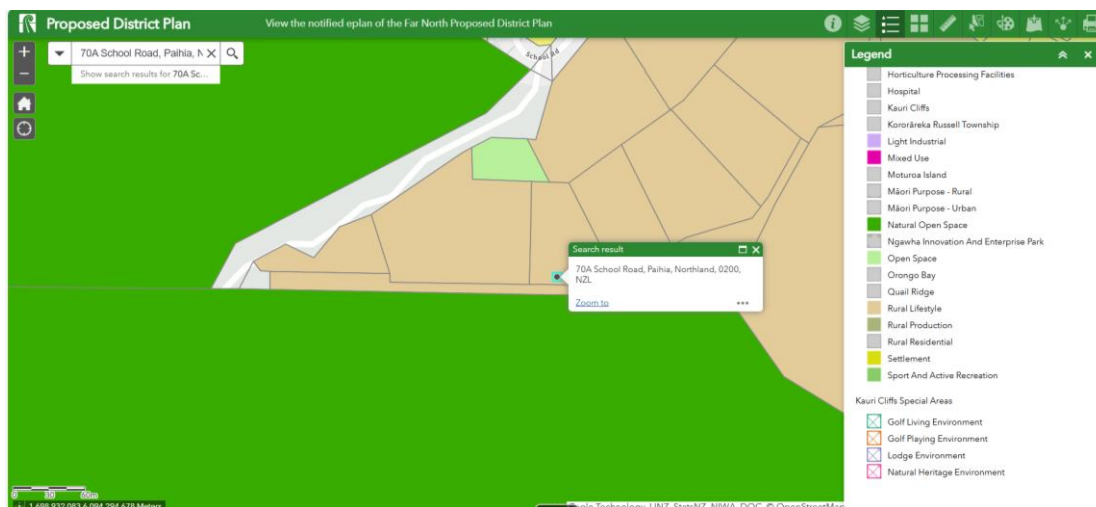


The property is zoned Coastal Living Zone under the Operative District Plan

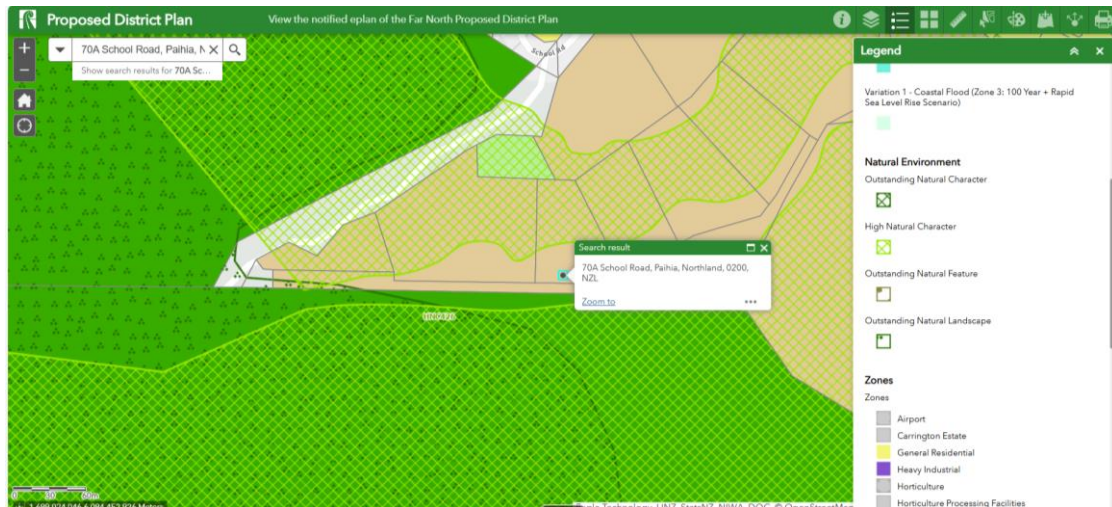


The site has an Outstanding Landscape notation applicable to the entire property.

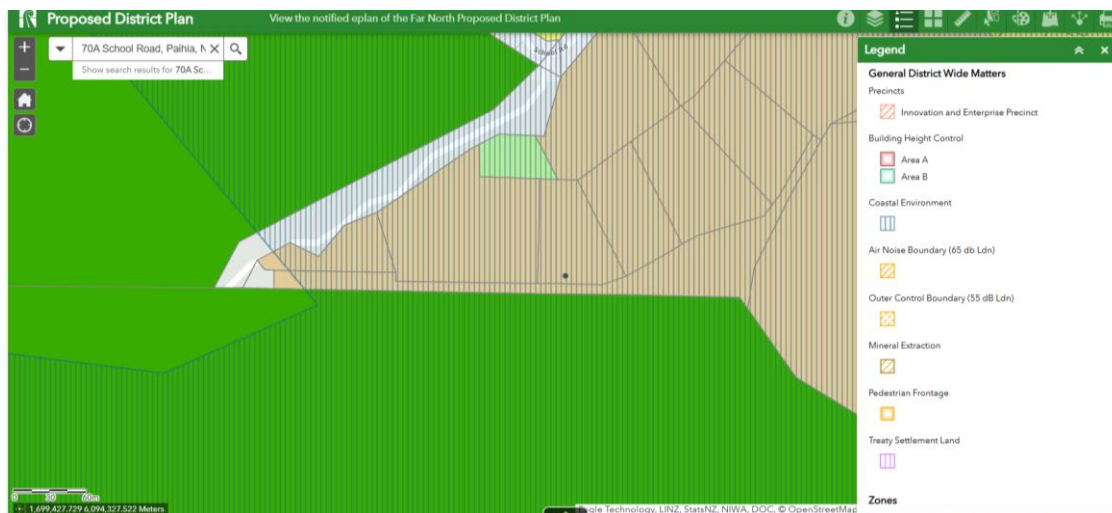
- 1.05 The application site is also subject to the Proposed Far North District Plan which was publicly notified on the 27th July 2022 with submissions having closed on the 21st October 2022. Further submissions were sought and all submissions summarised. The proposed plan has progressed to the point of hearings which are currently being held and which are expected to be completed in late 2025. The majority of rules within in the Proposed District Plan do not have any legal effect until such time as Council publicly notifies its decisions on submissions. To date, there have been no interim decisions made on the relevant matters heard and which have any influence on resource consent applications.
- 1.06 There are however certain rules that have been identified within the proposed plan which have immediate legal effect and that need to be considered in assessing all applications. Such rules may affect the activity status of the required application. These will be detailed later within this report.



The property is zoned Rural Lifestyle under the Proposed District Plan



High Natural Character on the non-built area



The Coastal Environment notation applies to the whole site and all neighbouring properties as well.

- 1.07 A portion of the application site has High Natural Character and the site is wholly within the Coastal Environment overlay.
- 1.08 A quick perusal of the submissions received for the Proposed District Plan suggested that there were no submissions which applied directly to the application site.
- 1.09 There have been submissions made to several of the zoning rules will ultimately be determined following the hearings process, deliberations, and then decisions. The notations applicable will likely remain with the rule thresholds for these overlays and the zone rules themselves still to be considered as part of the future district plan process.
- 1.10 The following aerial picture shows the seven(7) trees to be removed which comprise the following species:
 - Rimu x3
 - Kahikatea x2

- Rewarewa x1
- Manuka x1

1.11 The applicant had considered the possibility of topping the trees to reduce the risk and improve the accessibility to sunlight. However while this would provide temporary relief the extent of growth would require regular topping. This would not be ideal from a tree health perspective and reduce the high degree of natural character with topped trees. This option has been discounted for these reasons and does not alleviate the issues over the long term.



2 ASSESSMENT OF RULES UNDER THE FAR NORTH DISTRICT PLAN

2.01 The Conservation Covenants states that resource consent is required to be applied for and approved if trees are to be removed within the (conservation covenant) area. It is assumed that the removal of the seven trees would have a Discretionary Activity status as the consent falls outside of the rules of the plan and is at Council's discretion. It is on this basis that the application is lodged.

- 2.02 It is necessary to consider the proposal against the respective rules of the Operative District Plan to ensure that there is also no breach of the district plan rules as they apply. There are no rules regarding vegetation clearance within the individual zone rules. The district wide provisions do have general vegetation clearance rules for sites, and there are additional provisions for those sites which are located within an Outstanding Landscape.

DISTRICT WIDE PROVISIONS – OPERATIVE DISTRICT PLAN

LANDSCAPE AND NATURAL FEATURES – CHAPTER 12.1

<p>12.1.6.1.2 INDIGENOUS VEGETATION CLEARANCE IN OUTSTANDING LANDSCAPES Notwithstanding any rule in the Plan to the contrary but subject to Rules 12.5.6.1.1, 12.5.6.1.3 and 12.5.6.2.2 in the Heritage section of this Plan, indigenous vegetation clearance is a permitted activity in an Outstanding Landscape, as shown on the Resource Maps, where the clearance is for any of the following purposes:</p> <ul style="list-style-type: none"> (a) to provide for a building platform for a building (where a rule in the Plan provides for this as a permitted activity), and/or access and/or construction of a boundary fence so long as the area cleared for that purpose is no more than 1,000m² per site; or (b) clearance arising from plantation forestry or the cultivation or harvesting of a plantations or crops including: <ul style="list-style-type: none"> (i) vegetation that has grown under and/or may have overtopped the plantation species; or (ii) areas of failed planting within the plantation forest in areas that have been cleared and planted within the past 30 years; or (iii) incidental damage and disturbance to indigenous vegetation adjacent to the crop where forestry best practice is followed; or (iv) clearance within 20m of river associated with a river crossing that is provided for by a rule in the Regional Plan for Northland or by a resource consent granted by the Northland Regional Council, provided that the clearance is less than 500m² in any one instance; provided that no clearance is permitted of indigenous vegetation more than 10 years old to establish new exotic plantation forest; (c) to provide clearance for existing overhead power and telephone lines, provided that no more vegetation is cleared or trimmed than is necessary for the safe operation of the utility service; or (d) the removal of trees and other vegetation which, as a result of old age or a natural event such as a storm or erosion, are a risk to the safety of people or property; or 	<p>The trees to be removed are not located within the building envelope and are not associated with plantation forestry.</p> <p>The trees in question are however getting very tall and now pose a threat to the existing dwelling from a fire risk perspective. Each of the trees proposed to be removed are well within 20m of the dwelling.</p> <p>In the near future, there is likely to be an increased safety risk for the dwelling and the owners with several of these trees already starting to dominate the site.</p> <p>The trees additionally cast significant shadow over the dwelling at each end of the day and which reduces the natural light to the dwelling and the occupiers.</p> <p>On this basis the clearance if for a listed allowance and for this reason is considered to be a permitted activity.</p>
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<ul style="list-style-type: none"> (e) the maintenance of existing roads, and private accessways and walkways including for the purposes of visibility and road safety; or (f) the formation and maintenance of walking tracks less than 1.2m wide using manual methods which do not require the removal of any tree over 300mm in girth; or (g) the maintenance of existing open space within 20m of an existing building; or (h) the removal of dead trees, provided that no more vegetation is cleared or trimmed than is necessary for safe removal; or (i) the sustainable harvest of plant material for rongoa Maori (customary medicine); or (j) the maintenance of existing fence lines, provided that the clearance does not exceed 3.5m in width either side of the fence line; or (k) normal gardening activities which result from the maintenance of lawn and gardens; or (l) the removal is in accordance with an existing use right; or (m) the removal is for a new fence where the purpose of the new fence is to exclude stock and/or pests from the area provided that the clearance does not exceed 3.5m in width either side of the fence line; or (n) creation and maintenance of firebreaks provided that no more vegetation is cleared than is necessary to achieve the practical purpose of the firebreak; or (o) the harvesting of indigenous timber under the Forests Act 1949 via either a Sustainable Management Plan, permit or approved for personal use (50m³ over a 10 year period) from the Ministry of Agriculture and Forestry; or (p) vegetation clearance of land which has been previously cleared and where the vegetation to be cleared is less than 10 years old; or (q) for the maintenance and replacement of existing water supply facilities, including reservoirs, dams, water treatment plants and pipelines, provided that no more vegetation is cleared or trimmed than is necessary for the efficient operation of those facilities. 	
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INDIGENOUS FLORA AND FAUNA CHAPTER – 12.2

<p>12.2.6.1.1 INDIGENOUS VEGETATION CLEARANCE PERMITTED THROUGHOUT THE DISTRICT</p> <p>Notwithstanding any rule in the Plan to the contrary but subject to Rules 12.5.6.1.1, 12.5.6.1.3 and 12.5.6.2.2 in the Heritage section of this Plan, indigenous vegetation clearance is permitted throughout the District where the clearance is for any of the following purposes:</p> <ul style="list-style-type: none"> (a) clearance of indigenous vegetation 10 years old or less to establish new exotic plantation forest; (b) to provide clearance for existing overhead power and telephone lines, provided that no 	<p>The trees to be removed are not less than 10 years old and they are not proposed to be removed for overhead lines.</p> <p>The trees in question (as noted earlier) are however getting very tall and now pose a threat to the existing dwelling from a fire risk perspective. Each of the trees are well within 20m of the dwelling.</p> <p>In the near future, there is likely to be an increased safety risk in relation to the dwelling and the owners with several of these trees already starting to dominate the site.</p>
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<p>more vegetation is cleared or trimmed than is necessary for the safe operation of the utility service; or</p> <p>(c) the removal of trees and other vegetation which, as a result of old age or a natural event such as a storm or erosion, are a risk to the safety of people or property; or</p> <p>(d) the maintenance of existing roads, and private accessways and walkways including for the purposes of visibility and road safety; or</p> <p>(e) the formation and maintenance of walking tracks less than 1.2m wide using manual methods which do not require the removal of any tree over 300mm in girth; or</p> <p>(f) the maintenance of existing open space within 20m of an existing building; or</p> <p>(g) the removal of dead trees, provided that no more vegetation is cleared or trimmed than is necessary for safe removal; or</p> <p>(h) the sustainable harvest of plant material for rongoa Maori (customary medicine); or</p> <p>(i) the maintenance of existing fence lines, provided that the clearance does not exceed 3.5m in width either side of the fence line; or</p> <p>(j) normal gardening activities which result from the maintenance of lawn and gardens; or</p> <p>(k) the removal is in accordance with an existing use right; or</p> <p>(l) the removal is for a new fence where the purpose of the new fence is to exclude stock and/or pests from the area provided that the clearance does not exceed 3.5m in width either side of the fence line; or</p> <p>(m) creation and maintenance of firebreaks provided that no more vegetation is cleared than is necessary to achieve the practical purpose of the firebreak; or</p> <p>(n) vegetation clearance of land which has been previously cleared and where the vegetation to be cleared is less than 10 years old.</p> <p>(o) it involves the felling, trimming, damaging or removal of a tree or group of trees in an urban environment unless the tree or group of trees is—</p> <p>(A) specifically identified in the plan (refer to Chapter 12.5 and Appendix 1D); or</p> <p>(B) located within an area in the district that—</p> <p>(i) is a reserve (within the meaning of section 2(1) of the Reserves Act 1977); or</p> <p>(ii) is subject to a conservation management plan or conservation management strategy prepared in accordance with the Conservation Act 1987 or the Reserves Act 1977. Where urban environment means an allotment no greater than 4000 m² —</p> <p>(a) that is connected to a reticulated water supply system and a reticulated sewerage system; and</p>	<p>The trees also cast a significant shadow over the dwelling at each end of the day which reduces access to natural light for the dwelling and the occupiers.</p> <p>On this basis the clearance is for a listed allowance and for this reason is a permitted activity.</p>
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(b) on which is a building used for industrial or commercial purposes, or a dwellinghouse.	
<p>12.2.6.2.2 INDIGENOUS VEGETATION CLEARANCE IN OTHER ZONES In all zones other than Rural Production, Minerals and General Coastal, the felling, injuring or removal of indigenous vegetation is a restricted discretionary activity if it does not comply with Rules 12.2.6.1.1 or 12.2.6.1.4. The Council will restrict the exercise of its discretion to:</p> <ul style="list-style-type: none"> (a) the significance of the area assessed using the criteria listed in Method 12.2.5.6; and (b) the extent to which adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided, remedied or mitigated; and (c) the extent to which any proposed measures will result in the protection and enhancement of the ecological values of the area; and (d) the extent to which the activity may adversely impact on visual and amenity values; and (e) the extent to which the activity may restrict the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, other taonga and the exercise of kaitiakitanga over these. 	Compliance with the permitted allowances for tree removal is achieved and this provision does not therefore apply.

2.03 The proposed tree removal does not breach rules associated with general vegetation clearance provisions or for the site being within an Outstanding Landscape notation. In normal circumstances, the removal of the seven trees as proposed would be permitted and no resource consent application would be required. However, the Conservation Covenant requires that a resource consent be applied for and approved prior to their removal.

The application is assessed as being a **Discretionary Activity**.

PROPOSED DISTRICT PLAN

2.04 As previously noted, the majority of rules within the Proposed District Plan do not have legal effect until such time as Council publicly notifies its decisions on submissions following hearings and deliberations. There are however certain rules that have been identified in the proposed plan which have immediate legal effect and that may therefore apply. These rules are clearly identified and need to be considered in assessing this application. Such rules may affect the activity status of the application.

2.05 The rules with immediate legal effect related to hazardous substances, scheduled sites or areas of significance to Maori, significant natural areas, and a scheduled heritage resource. None of these apply as none of these aspects are applicable to the location or the activity proposed. Additionally, Heritage Area Overlays, historic heritage rules, Excavation and Filling, and Notable Trees are also not applicable.

2.06 On this basis no resource consent is required under the Proposed District Plan.

3.0 APPLICATION SITE

- 3.01 The site is a lifestyle property within the coastal environment which overlooks parts of central Paihia with a narrow view of the inner Bay of Islands. The site as noted earlier is occupied by a dwelling and has substantial landscaping and indigenous vegetation planted over the majority of the site.
- 3.02 The site is sloping downwards from south to north with the access ROW and driveway located above the dwelling. The dwelling is set down from the ridgeline and as expected blends into the receiving environment with sympathetic colours and appropriate design.

The Existing Environment

- 3.03 The existing environment is a large lot residential properties on the vegetated hillsides above the township. On the opposite side of School Road are regular residential sized properties. Further away (and distantly viewed) is the Paihia Primary School and the town centre for Paihia which services the local population and tourists visiting the wider Bay of Islands area. There are distant views of the water and a small viewing corridor to the water from the existing upper level deck of the dwelling.
- 3.04 The site is well vegetated with the dwelling nestled into the hillside. All lots fronting School Road directly property addresses - 70a-d inclusive, have a building envelope and conservation Covenanted areas. Recently, construction of a dwelling at 70d has been completed while a new dwelling is under construction at 70c. These sites are not visible from the application site. Existing vegetation within the covenanted areas ensures that dwellings on adjoining and adjacent properties are not visible to each other.
- 3.05 The existing environment is an important consideration because of the potential effects that the removal of seven trees could have on local amenity.

Permitted Baseline

- 3.06 Pursuant to section 104(2), when forming an opinion for the purposes of section 104(1)(a) a council may disregard an adverse effect of the activity on the environment if the plan or a NES permits an activity with that effect (i.e. a council may consider the "permitted baseline").
- 3.07 The permitted baseline refers to permitted activities on the subject site and the existing environment for which resource consent has been secured. The extent of permitted activities includes the removal of the trees as proposed. It is therefore important to note that the permitted thresholds are important for the proposal and if it were not for the Conservation Covenant and its requirement for any vegetation removal to require a resource consent, the proposed removal of these trees would be permitted. It is further acknowledged that the trees formed part of the wider landscaping proposed for the site.

It is contended that these trees do not screen the building from any particular area such as a public vantage point or from neighbours.

3.08 The Permitted Baseline is an important and relevant consideration in this context.

ASSESSMENT OF EFFECTS

4.01 The application is required to be considered as a Discretionary Activity in the absence of any definitive activity status provided by rule breaches. For this purpose, the general vegetation clearance rule assessment criteria for a restricted discretionary activity has been used as the basis for this assessment of effects because the proposal is restricted solely to the removal of seven (7) trees and no other related activities. The Discretionary provisions are too wide in scope and cover matters not relevant to the proposal. The discretionary provisions also infer there is a development proposed which is not applicable in this situation.

4.02 The following is the criteria for general vegetation clearance with a commentary after each matter:

(a) the significance of the area assessed using the criteria listed in Method 12.2.5.6; and

4.03 The immediate area is part of the wider vegetated slopes located on the hill sides which overlook the Paihia township. The vegetation within the site forms part of a continuous vegetated area interrupted with pockets of development allowed through the present zoning and which provides for both residential and residential lifestyle properties to be established. This provision requires the consideration of Method 12.2.5.6 in assessing the appropriateness of the proposal and the importance of the vegetation being removed. The property is noted as being within an Outstanding Landscape and plays a role on the scale of appropriate development, but rules focus on built development and excavation/ filling rather than vegetation removal.

4.04 The proposed district plan has recently reviewed the immediate area for the purposes of the proposed overlays which could apply to the property. The Outstanding Landscape which currently covers the entire property is now redefined to be identified as High Natural Character and has been reduced to exclude the building platform areas. This denotes that it is more the combined area that has the importance rather than the site itself and the individual trees.

4.05 The application for subdivision which created the application site identified building envelopes and the shape of them. The development area could have been anywhere within the site and could have included the location for the trees to be removed and this would have meant that no consent would be required. The location of the envelopment could have been anywhere along the ROW access frontage. The trees to be removed under this application were not highlighted for individual protection as they were young at the time of the sites' establishment.

4.06 The wider area is what has the key value rather than the individual trees and this is evident by compliance with the district plan rules for tree removal but not the

conservation covenant. The covenant provides for some vegetation clearance and this selected removal will overcome the potential risk to life and property and also improve natural light to the existing dwelling.

- 4.07 The removal of the seven trees does not impact on the significance of the area as the trees will be selectively removed and will not be noticeable when the work is completed. The proposal is assessed to be generally consistent with this consideration.

(b) the extent to which adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided, remedied or mitigated; and

- 4.08 The importance of the wider vegetated area will not be compromised nor will the proposed tree removal result in adverse effects on the immediate environment. Ordinarily, the requested removal of these seven trees would be a permitted activity as previously assessed. The trees and the reasons for their removal fall within the scope of allowances for vegetation clearance as detailed within the rules.

- 4.09 The trees are to be felled but will not be fully removed due to site access difficulties and the associated costs of removing the trees. They will be felled and tidied up with potential for replacement (but more suitable trees) to be planted in these locations. The additional light provided will enable additional growth for small trees within the area.

(c) the extent to which any proposed measures will result in the protection and enhancement of the ecological values of the area; and

- 4.10 The proposal sees the removal of seven trees which are a potential risk to life and property and which is casting a significant shadow over the dwelling at each end of the day. The area in which the trees are located will continue to be protected by the conservation covenant with this legal instrument registered on the title providing the necessary protection in perpetuity but also providing the ability to remove vegetation upon application for the reasons noted above.

- 4.11 The site cannot be further developed with the operative district planning rules limiting not only the size of proposed lots but also residential intensity which is considered appropriate for this location. This will not likely change under the proposed plan with similar rules proposed although these new rules have yet to be confirmed.

(d) the extent to which the activity may adversely impact on visual and amenity values; and

- 4.12 The site will continue to blend into the existing environment and while the tree removal will bring more light to the dwelling it will not result in any additional visual impact with the view from public spaces not changing. The depth and extent of vegetation means that the tree removal will not be visible to public vantage points and the proposal will not affect, but rather maintain, the high amenity values afforded to the site and the surrounding area.

- 4.13 The proposed tree removal does not increase any views of the water from the existing dwelling with adjacent vegetation providing the view shaft available to the sea. Only wholesale clearance of the site would achieve this which is not proposed under this application.

- (e) the extent to which the activity may restrict the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, other taonga and the exercise of kaitiakitanga over these.

4.14 The proposed removal of seven trees does not restrict Maori and their cultural and traditions with their ancestral lands. The selected tree removal proposed under this application will not alter or change the present situation for this consideration. There are no known sites, waahi tapu or other toanga within the site.

CONCLUSION

4.15 The potential effects of the proposed modular home construction facility is considered to be less than minor.

5.0 OPERATIVE DISTRICT PLAN OBJECTIVES AND POLICIES

5.01 As a Discretionary Activity the proposal is assessed in accordance with the objectives and policies of the district plan.

5.02 The following objectives are considered to be the most relevant to the proposed operation.

INDIGENOUS FLORA AND FAUNA

5.03 The following objective and policies are considered to be the most appropriate for the proposal and the most relevant to the application site.

12.2.3 OBJECTIVES

12.2.3.1 To maintain and enhance the life supporting capacity of ecosystems and the extent and representativeness of the District's indigenous biological diversity.

12.2.3.3 To recognise issues of wellbeing including equity for landowners in selecting methods of implementation.

12.2.3.4 To promote an ethic of stewardship.

5.04 The proposed removal of seven trees is not considered to result in any conflict with these key objectives. The proposal will not affect the overall life supporting capacity of the immediate ecosystem and will ensure that the well being of landowners is improved. The well being achieved relates to reducing the potential risk to life and property through reduced fire risk and improvements around living conditions with improved access to natural sunlight at each end of the day. The removal as noted previously falls within the permitted allowances.

5.05 The existing conservation covenant promotes the ethic of stewardship which has been embraced by the landowner. This is evident with much of the building envelope not covered in buildings having amenity plantings which complement the covenanted areas. The selected removal of trees achieves only two things – reduced risk to life and property and improved access to natural sunlight.

12.2.4 POLICIES

- 12.2.4.4 That clearance of limited areas of indigenous vegetation is provided for.
- 12.2.4.5 That the contribution of areas of indigenous vegetation and habitats of indigenous fauna to the overall biodiversity and amenity of the District be taken into account in evaluating applications for resource consents.
- 12.2.4.6 That support is given to programmes for weed and pest control, including support for community pest control areas established by the Northland Regional Council under the Regional Pest Management Strategies, in areas of significant indigenous vegetation and significant habitats of indigenous fauna and surrounding lands.
- 12.2.4.8 That restoration and enhancement of indigenous ecosystems is based on plants that would have occurred naturally in the locality and is sourced from local genetic stock where practicable.
- 12.2.4.9 That the Council will work with landowners and communities to ensure outcomes are achieved in an effective and equitable manner.
- 12.2.4.12 That habitat restoration be promoted.

5.06 The above policies are considered to be the most relevant to the proposed removal of seven trees. Given the permitted nature is usual circumstances the proposal is considered to be generally consistent with the intent and requirements of these policies.

5.07 The applicant is intending to leave the trees as they are felled and to tidy up the removal area. This may mean that some parts of the felled trees will be removed but there is no intent to remove all of them from the site. Accessibility and cost of removal are the two drivers to leave the trees as they fall. The vacant space could be replanted with more suitable trees that do not grow to the same size as those to be removed and ultimately result in the same issues sought to be addressed by this application.

5.08 The proposal is considered to be consistent with the relevant objectives and policies.

PROPOSED DISTRICT PLAN – OBJECTIVES AND POLICIES

5.09 With the proposal being a Discretionary activity, the consideration of the Proposed Plan Objectives and Policies is required. This is particularly relevant as there are no rules which have immediate legal effect which apply to the proposed activity.

5.10 Notwithstanding the proposal's compliance with rules which have "immediate legal effect", the application can be also considered to be generally consistent with the relevant objectives and policies.

5.11 It is considered that the proposal is consistent with the objectives and policies of the Proposed District Plan.

6.0 REGIONAL POLICY STATEMENT CONSIDERATIONS

6.01 The development has been reviewed in relation to key objectives and policies of the Northland Regional Policy Statement. There are no relevant sections to the proposed

activity with there being an expectation that selected removal of trees could occur as required to ensure life and property is safe and to avoid overshadowing which could affect the well being of the landowner/ occupier.

- 6.02 The proposal is generally consistent with objective and policy considerations from the Regional Policy Statement.

7.0 PART 2 CONSIDERATIONS

- 7.01 The application does not conflict with any matter or consideration under Part 2 of the Act. The proposal provides for the well-being of the landowner with the potential effects of the proposal being considered to be less than minor.

- 7.02 It is therefore contended that the application is appropriate and consistent with the intent and purpose of the Act.

8.0 NOTIFICATION ASSESSMENT S95A TO 95G OF THE ACT

- 8.01 Sections 95A to 95G require Council to follow specific steps in determining whether to notify an application. In considering the conclusions findings within this report are relied upon.

- 8.02 Public Notification section 95A

Step 1

Mandatory public notification in certain circumstances

- (a) the applicant has requested that the application be publicly notified:
- (b) public notification is required under section 95C:
- (c) the application is made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977.

The applicant has not requested public notification and none of the remaining matters as described are applicable.

Step 2 Public Notification precluded in certain circumstances

The criteria for step 2 are as follows:

- (a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification:
- (b) the application is for a resource consent for 1 or more of the following, but no other, activities:
 - (i) a controlled activity:
 - (ii) a restricted discretionary or discretionary activity, but only if the activity is a subdivision of land or a residential activity:
 - (iii) a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity:
 - (iv) a prescribed activity (see section 360H(1)(a)(i)).

The activity is not precluded from public notification. Even though the application is a Discretionary Activity it is not a residential activity - as defined in section 95A(6). It has however been concluded that the effects on the wider environment are considered to be less than minor.

Step 3 – Public Notification required in certain circumstances

The criteria for Step 3 are as follows:

- (a) the application is for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification:
- (b) the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.

The NES Regulation is not relevant to this application.

8.03 Affected Persons Assessment – Limited Notification Section 95B

If the application is not required to be publicly notified, a Council must follow the steps of section 95B to determine whether to limited notify the application.

Step 1: certain affected groups and affected persons must be notified

- (2) Determine whether there are any—
 - (a) affected protected customary rights groups; or
 - (b) affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity).

There are no protected customary rights or customary marine titles which apply to the application site.

Step 2: if not required by step 1, limited notification precluded in certain circumstances
The criteria for step 2 are as follows:

- (a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes limited notification:
- (b) the application is for a resource consent for either or both of the following, but no other, activities:
 - (i) a controlled activity that requires consent under a district plan (other than a subdivision of land):
 - (ii) a prescribed activity (see section 360H(1)(a)(ii)).

The application is not precluded from Limited Notification as neither of the exemptions as described above apply to the application.

Step 3: if not precluded by step 2, certain other affected persons must be notified

- (7) Determine whether, in accordance with section 95E, the following persons are affected persons:
- (a) in the case of a boundary activity, an owner of an allotment with an infringed boundary; and
 - (b) in the case of any activity prescribed under section 360H(1)(b), a prescribed person in respect of the proposed activity.

The immediate neighbours to the application site cannot see the trees to be removed with only the landowner having full view of the trees. The remaining vegetation will continue to be protected by the conservation covenant which effectively only allows trees to be removed in the circumstances proposed. No adjoining or adjacent properties could be considered to be potentially affected by the application.

No other persons from surrounding properties are considered to be affected by the application proposal.

8.04 Notification Assessment Conclusion

Pursuant to sections 95A to 95G it is recommended that the Council determine that the application can be processed non-notified for the following reasons:

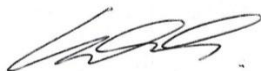
- In accordance with section 95A, public notification is not required, and in particular adverse effects are considered to be less than minor;
- In accordance with section 95B, written approval has been provided by those persons deemed to be affected by the proposal; and,
- In accordance with section 95A(9) and 95B(10), there are no special circumstances to require public or limited notification.

9.0 SUMMARY

- 9.01 The application is for the removal of seven trees within an existing Conservation Covenant area denoted on the property title. The trees to be removed have become an issue with life and property at risk (through their size and fire risk potential) and the inadequate access to natural light from tree shading particularly at each end of the day. The conservation covenant instructs that if the removal of any tree is proposed that an application for resource consent shall be applied for and determined by Council. On this basis all matters applicable to a Discretionary application can be considered with discretion of approval being with Council.
- 9.02 An assessment of the proposed tree removal has been completed against the general vegetation clearance rules and further considerations under the Outstanding Landscape notation which applies to the site. The proposal is considered to fall within permitted allowances with removal acceptable where there is a danger to life or property and or where there are issues around landowner well-being. The shadowing effects at each end of the day leaves the dwelling in shadow except for the peak of day. If not for the conservation covenant, the proposal would have been permitted.
- 9.03 The tree removal is modest in scale and nature and does not result in any adverse effects. Other than addressing the primary concerns there is no additional view which results or other benefits which could be reasons to decline the proposal. The effects are less than minor and there is considered to be general consistency with relevant objectives and policies.
- 9.04 The proposal offers an opportunity for the landowner to improve their well being as noted above.
- 9.05 The proposal is not contrary to relevant objectives and policies of the Operative or Proposed District Plans or to the Regional Policy Statement.
- 9.06 In respect to conditions of consent. If any conditions are to be imposed, then a draft set of conditions would be appreciated with timely comments to be provided back to Council.

Should you have any queries in respect to this application please contact me.

Yours faithfully



Wayne Smith

Zenith Planning Consultants Ltd

Principal | Director

BPlan | BSocSci | MNZPI

wayne@zenithplanning.co.nz

mob: +64 (0) 21 202 3898



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**




R.W. Muir
Registrar-General
of Land

Identifier **NA139D/440**
Land Registration District **North Auckland**
Date Issued 05 September 2002

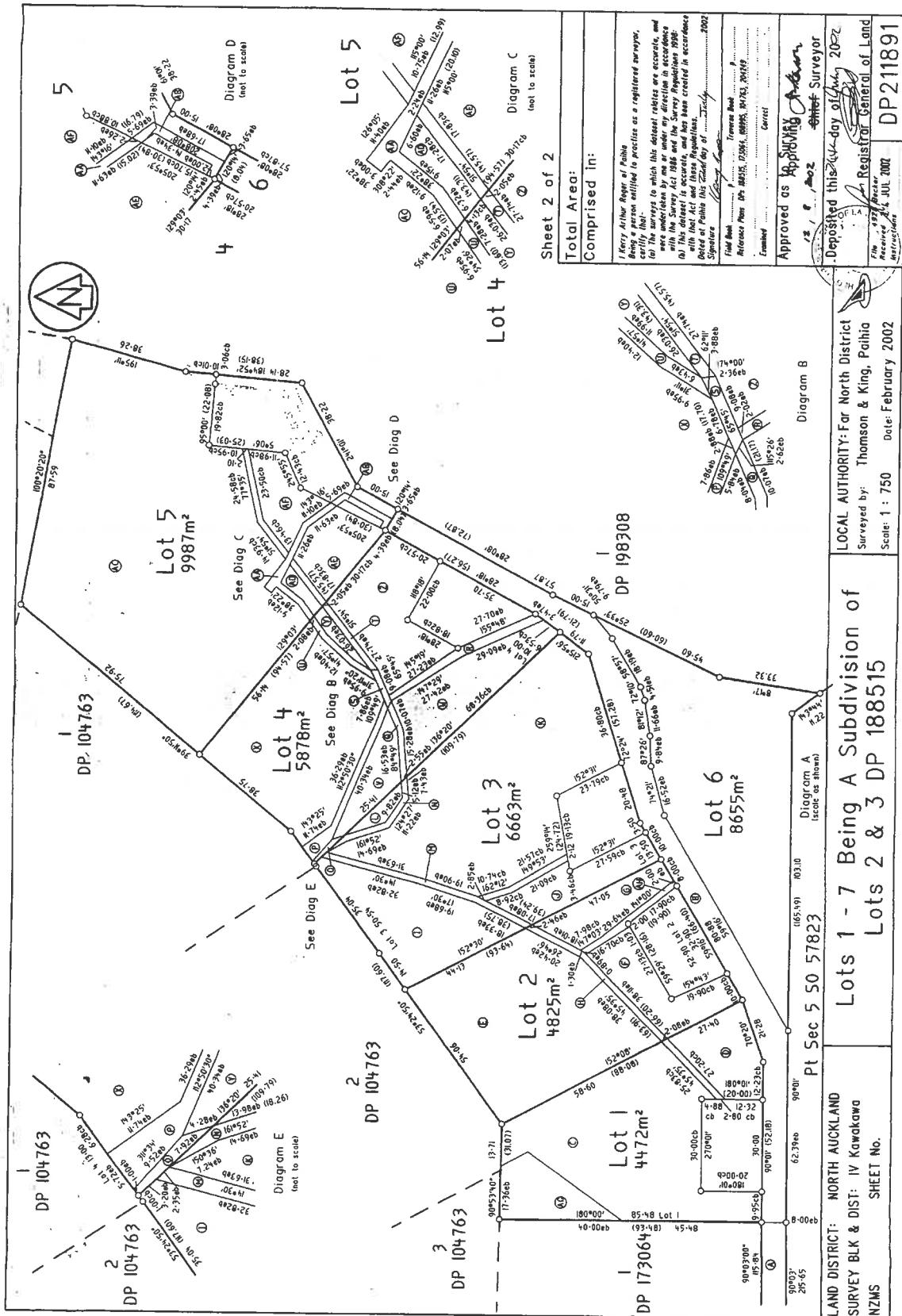
Prior References
NA118C/357

Estate Fee Simple
Area 4472 square metres more or less
Legal Description Lot 1 Deposited Plan 211891
Registered Owners
Helen Patricia McBrearty, Richard Adrian Ayton and Dennis John McBrearty

Interests

Appurtenant hereto are drainage, electricity supply and telephone rights specified in Easement Certificate B420302.5
The easements specified in Easement Certificate B420302.5 are subject to Section 309 (1) (a) Local Government Act 1974
Appurtenant hereto is a water supply right created by Transfer C847379.2 - 30.5.1995 at 9.41 am
Subject to drainage, power, water supply and telecommunications rights over part marked AG on DP 211891 specified in Easement Certificate D413660.8 - 27.7.1999 at 9.47 am
The easements specified in Easement Certificate D413660.8 are subject to Section 243 (a) Resource Management Act 1991
5293687.1 Consent Notice pursuant to Section 221 Resource Management Act 1991 - Produced 24.7.2002 at 10.10 am and entered 5.9.2002 at 3:30 pm
Appurtenant hereto are right of way, right to convey telecommunications, electricity, water supply, right to convey stormwater & sewage easements specified in Easement Certificate 5293687.7 - Produced 24.7.2002 at 10.10 am and entered 5.9.2002 at 3:30 pm
The easements specified in Easement Certificate 5293687.7 are subject to Section 243 (a) Resource Management Act 1991
7387475.3 Mortgage to ASB Bank Limited - 31.5.2007 at 3:02 pm
9454717.3 Conservation Covenant pursuant to Section 77 Reserves Act 1977 - 15.7.2013 at 3:11 pm
9454717.4 Variation of Consent Notice 5293687.1 pursuant to Section 221(5) Resource Management Act 1991 - 15.7.2013 at 3:11 pm

Search Copy Dated 26/02/25 9:57 am, Page 2 of 3
Register Only



Sheet 2 of 2

Total Area:

Comprised in:

I, **Arthur Roger of Paia**, being a person entitled to practise as a registered surveyor, certify that:

(a) The survey to which this detail relates is accurate, and

(b) This detail is in accordance with the Survey Act 1986 and the Survey Regulations 1996.

(c) This detail is accurate, and has been created in accordance with that Act and those Regulations.

Dated at Paia this **12th** day of **February** 2002.

Signature: **Arthur Roger**

Field Book: **TP 1000**

Reference Plan: **DP 188515, DP 188516, DP 188517, DP 188518, DP 188519**

Examined: **Correct**

Approved as **Surveyor**

12 / **02**

Deposited this **12th** day of **February** 2002

By: **Registrar General of Land**

File: **1000**

Received: **12 JUL 2002**

DP211891

View Instrument Details



Instrument No	9454717.4
Status	Registered
Date & Time Lodged	15 July 2013 15:11
Lodged By	Curran, Jeanette Marie
Instrument Type	Variation of Consent Notice Condition under s221(5) Resource Management Act 1991



Toitū Te Whenua
Land Information
New Zealand

Affected Computer Registers	Land District
NA139D/440	North Auckland

Affected Instrument	Consent Notice under s221(4)(a) Resource Management Act 1991 5293687.1
----------------------------	--

Annexure Schedule: Contains 3 Pages.

Signature

Signed by Dennis John McBrearty as Territorial Authority Representative on 25/06/2013 04:13 PM

*** End of Report ***



**Far North
District Council**

Private Bag 752, Memorial Ave

Kaikohe 0440, New Zealand

Freephone: 0800 920 029

Phone: (09) 401 5200

Fax: (09) 401 2137

Email: ask.us@fndc.govt.nz

Website: www.fndc.govt.nz

THE RESOURCE MANAGEMENT ACT 1991

Te Kaunihera o Tai Tokerau Ki Te Raki

SECTION 221(3) VARIATION OF CONSENT NOTICE

PURSUANT to Section 221(3) of the Resource Management Act 1991, the **FAR NORTH DISTRICT COUNCIL** hereby consents to vary Condition 1 of Consent Notice 5293687.1 as registered on the title to Lot 1 Deposited Plan 211891 (CFR NA139D/440).

The consent notice condition shall be varied to read:

Lot 1

1. Any building shall be designed to satisfy the architectural considerations contained in Section 5.7 of the Hawthorn Visual Assessment Report dated December 2000 except for the following elements:
 - i. a protrusion by 300mm above the height limit described in the Hawthorn Visual Assessment Report dated December 2000; and
 - ii. the placement of a boat parking deck as represented in the drawings prepared by Arcline, dated 13 March 2008, which would protrude approximately 2 metres beyond the extent of the building envelope prescribed in Section 5.7 of the Hawthorn Visual Assessment Report dated December 2000

Building consent applications shall be accompanied by a statement from a suitably qualified landscape architect that the proposed building is in accordance with these considerations.

SIGNED:

W D Edmunds

William David Edmunds

By the FAR NORTH DISTRICT COUNCIL
Under delegated authority:
CHIEF EXECUTIVE OFFICER

DATED at *Kaikohe* this *9th* day of *May*

2013

ANNEXURE SCHEDULE - CONSENT FORM¹

Land Transfer Act 1952 section 238(2)

Person giving consent
Surname must be underlined

Capacity and Interest of Person giving consent
(eg. Mortgagee under Mortgage no.)

ASB Bank Limited

Mortgagee under Mortgage no.
~~7487475.3~~ 7387475.3

Consent
Delete words in [] if inconsistent with the consent
State full details of the matter for which consent is required

[Without prejudice to the rights and powers existing under the interest of the person giving consent,]


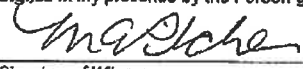
the Person giving consent hereby consents to:

Registration of a Surrender of Conservation Covenant 5372038.1 as it relates to Computer Freehold Register NA139D/440, and registration of an Easement Instrument to create Conservation Covenant and Variation of Consent Notice over Computer Freehold Register NA139D/440

but without releasing or discharging the Mortgagor or any other person or persons or any other security or securities for the time being held by the Mortgagee from payment of any monies whatsoever remaining owing to it under the within obligation or any collateral instrument or otherwise

Dated this 25th day of June 2013

Attestation

 Craig Anthony Muir	Signed in my presence by the Person giving consent 
	Signature of Witness Witness to complete in BLOCK letters (unless legibly printed): Witness name - Margaret Anne Pilcher Occupation - Bank Officer Address - Auckland
Signature [Common seal] of Person giving consent	

¹ An Annexure Schedule in this form may be attached to the relevant instrument, where consent is required to enable registration under the Land Transfer Act 1952, or other enactments, under which no form is prescribed.



CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I Craig Anthony Muir of Auckland, New Zealand, hereby certify:

- 1 THAT by a Deed dated **26 October 2011** and deposited with Land Information New Zealand and registered number **8911871.2** ASB Bank Limited appointed the persons holding, or from time to time acting in, the following ASB Bank offices as its attorneys on the terms and subject to the conditions set out in the said Deed:

General Manager, Lending Operations
Head of Lending Operations
Manager Lending Operations
Legal Executive, Lending Operations
General Manager, Retail Credit
Head of Financial Help and Recoveries
Senior Credit Recoveries Manager
Credit Recoveries Manager
Manager Business Risk

2. THAT I hold the appointment of Manager, Lending Operations with ASB Bank Limited
3. THAT at the date of signing I have not received any notice of or information of the revocation of that appointment by the winding up of the said company or otherwise.



Craig Anthony Muir

SIGNED at Auckland this 25 day of June 2013

V 2011.12

ASB BANK LIMITED A MEMBER OF THE COMMONWEALTH BANK OF AUSTRALIA GROUP

Telephone (+649) 377 8930 Facsimile (+649) 830 5918. Lending Operations, ASB Support Centre, 360 Dominion Road, Mt Eden,
P O Box 35, Shortland Street, Auckland 1140, New Zealand www.asb.co.nz



DocID: 310481360

11 JUL 2002

Ref: Sec221/4928

THE RESOURCE MANAGEMENT ACT 1991

SECTION 221: CONSENT NOTICE

REGARDING:

Lots 1-5 DP211891 being a Subdivision
of Lots 2 & 3 DP188515, Blk IV,
Kawakawa Survey District, North
Auckland Land Registry.

PURSUANT to Section 221 and for the purposes of Section 224 of the Resource Management Act 1991, this Consent Notice is issued by the **FAR NORTH DISTRICT COUNCIL** to the effect that conditions described in the Schedule below are to be complied with on a continuing basis by the subdividing owner and the subsequent owners after the deposit of the survey plan, and is to be registered on the appropriate new titles.

SCHEDULE

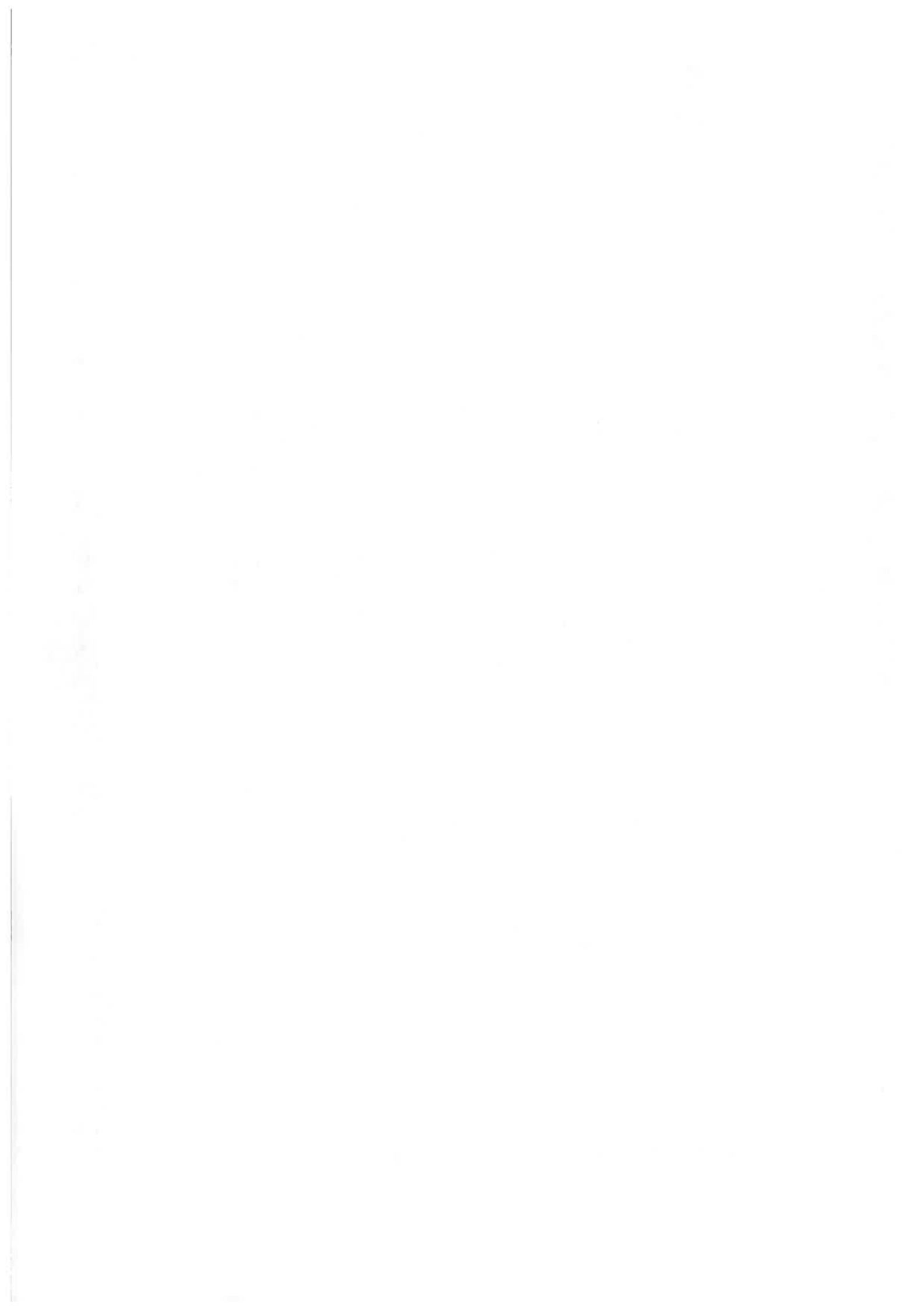
1. Any building shall be designed to satisfy the architectural considerations contained in Section 5.7 of the Hawthorn visual assessment report dated December 2000. This includes the use of exterior colours that are recessive and harmonise with the surrounding vegetation for the duration of the consent. Building Consent applications shall be accompanied by a statement from a suitably qualified landscape architect that the proposed building is in accordance with these considerations.
2. All foundations shall be designed by a suitably qualified and experienced Registered Engineer. Such design details shall accompany any building consent application.
3. All collected roof water or water tank overflow shall be reticulated into the stormwater system.
4. A maximum of one dwelling per site shall be erected.

SIGNED

By the FAR NORTH DISTRICT COUNCIL
under delegated authority:
RESOURCE CONSENTS MANAGER

DATE

9th July 2002



View Instrument Details



Instrument No	9454717.3
Status	Registered
Date & Time Lodged	15 July 2013 15:11
Lodged By	Curran, Jeanette Marie
Instrument Type	Covenant (All types except Land covenants)



Toitū Te Whenua
Land Information
New Zealand

Affected Computer Registers	Land District
NA139D/440	North Auckland

Annexure Schedule: Contains 6 Pages.

Signature

Signed by Dennis John McBrearty as Grantor/Grantee Representative on 15/07/2013 03:02 PM

***** End of Report *****

Form B**Easement instrument to grant easement or *profit à prendre*, or create land covenant**

(Sections 90A and 90F Land Transfer Act 1952)

Grantor

HELEN PATRICIA McBREARTY, RICHARD ADRIAN AYTON and DENNIS JOHN McBREARTY

Grantee

THE FAR NORTH DISTRICT COUNCIL

Grant of Easement or *Profit à prendre* or Creation of Covenant

The Grantor being the registered proprietor of the servient tenement(s) set out in Schedule A grants to the Grantee (and, if so stated, in gross) the easement(s) or *profit(s) à prendre* set out in Schedule A, or creates the covenant(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

Schedule A*Continue in additional Annexure Schedule, if required*

Purpose (Nature and extent) of easement; <i>profit</i> or covenant	Shown (plan reference)	Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross
Conservation Covenant	C & D on Deposited Plan 458135	NA139D/440	In gross

Form B - continued

Easements or profits à prendre rights and powers (including terms, covenants and conditions)

Delete phrases in [] and insert memorandum number as required; continue in additional Annexure Schedule, if required

Unless otherwise provided below, the rights and powers implied in specified classes of easement are those prescribed by the Land Transfer Regulations 2002 and/or Schedule Five of the Property Law Act 2007

The implied rights and powers are hereby [varied] [negatived] [added to] or [substituted] by:

[Memorandum number _____, registered under section 155A of the Land Transfer Act 1952]

[the provisions set out in Annexure Schedule _____]

Covenant provisions

Delete phrases in [] and insert Memorandum number as require; continue in additional Annexure Schedule, if required

The provisions applying to the specified covenants are those set out in:

[Memorandum number _____, registered under section 155A of the Land Transfer Act 1952]

[Annexure Schedule _____]

Form L

Annexure Schedule

Page 3 of 4 Pages

*Insert instrument type***Easement Instrument to grant easement or profit a prendre, or create land covenant***Continue in additional Annexure Schedule, if required***WHEREAS:**

- A. Section 77 of the Reserves Act 1977 provides that if the Minister of Conservation, any local authority, or any other body approved by the Minister, is satisfied that any private land or any Crown land held under Crown lease should be managed so as to preserve the natural environment or landscape amenity, or wildlife or freshwater-life or marine-life habitat, and that the particular purpose or purposes can be achieved without acquiring the ownership of the land, or, as the case may be, of the lessee's interest in the land, for a reserve, may treat and agree with the owner or lessee for a covenant to provide for the management of that land in a manner that will achieve the particular purpose or purposes of conservation.

Any covenant under section 77 may be in perpetuity or for any specific term.

- B. The Grantor is registered as proprietor of the land described in the schedule hereto ("the land") consisting partly of native vegetation.
- C. The Grantor and the Far North District Council ("the Council") have agreed that the land be managed to preserve the native vegetation.

NOW THEREFORE THIS DEED WITNESSES that in accordance with Section 77 of the Conservation Act 1977 the landowner and the Council **MUTUALLY COVENANT** that the land shall be managed for the purpose and objective listed in recital C and in particular on the following conditions:

1. The landowner covenants that:

- (a) The living indigenous vegetation on the land within those areas shown C and D on Deposited Plan 458135 shall not be cut down, damaged or destroyed without prior written consent of the Council. Such consent may be given in the form of a resource consent. The landowner shall be deemed not to be in breach of this prohibition if any such vegetation dies from natural causes which are not attributable to any act or default by or on behalf of the owner or for which the owner is responsible.
- (b) There shall be no intrusion of grazing stock (including cows, sheep, goats and pigs) into any areas of indigenous vegetation on the land.
- (c) Exotic vegetation which could adversely affect natural regeneration or local forest health is not to be introduced to the land. This includes the introduction of invasive plant species, including those currently listed on the nationally-banned-for-sale list (see Northland Regional Pest Management Strategy).

Form L

Annexure Schedule

Page 4 of 4 Pages

Insert instrument type

Easement Instrument to grant easement or profit a prendre, or create land covenant

Continue in additional Annexure Schedule, if required

- (d) Dead wood and vegetation may be removed by the Grantor for the Grantor's own use on the land.
2. The landowner shall pay the costs of preparation and registration of this Covenant.
 3. The duration of this covenant is in perpetuity.

ANNEXURE SCHEDULE - CONSENT FORM¹

Land Transfer Act 1952 section 238(2)

Person giving consent <i>Surname must be underlined</i>	Capacity and Interest of Person giving consent <i>(eg. Mortgagee under Mortgage no.)</i>
ASB Bank Limited	Mortgagee under Mortgage no. 7487475.3 7387475.3

Consent
Delete words in [] if inconsistent with the consent
State full details of the matter for which consent is required

[Without prejudice to the rights and powers existing under the interest of the person giving consent,]



the Person giving consent hereby consents to:

Registration of a Surrender of Conservation Covenant 5372038.1 as it relates to Computer Freehold Register NA139D/440, and registration of an Easement Instrument to create Conservation Covenant and Variation of Consent Notice over Computer Freehold Register NA139D/440

but without releasing or discharging the Mortgagor or any other person or persons or any other security or securities for the time being held by the Mortgagee from payment of any monies whatsoever remaining owing to it under the within obligation or any collateral instrument or otherwise

Dated this 25th day of June 2013

Attestation

 Craig Anthony Muir	Signed in my presence by the Person giving consent 
	Signature of Witness Witness to complete in BLOCK letters (unless legibly printed): Witness name – Margaret Anne Pilcher Occupation – Bank Officer Address – Auckland
Signature [Common seal] of Person giving consent	

¹ An Annexure Schedule in this form may be attached to the relevant instrument, where consent is required to enable registration under the Land Transfer Act 1952, or other enactments, under which no form is prescribed.



CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I Craig Anthony Muir of Auckland, New Zealand, hereby certify:

- 1 THAT by a Deed dated **26 October 2011** and deposited with Land Information New Zealand and registered number **8911871.2** ASB Bank Limited appointed the persons holding, or from time to time acting in, the following ASB Bank offices as its attorneys on the terms and subject to the conditions set out in the said Deed:

General Manager, Lending Operations
Head of Lending Operations
Manager Lending Operations
Legal Executive, Lending Operations
General Manager, Retail Credit
Head of Financial Help and Recoveries
Senior Credit Recoveries Manager
Credit Recoveries Manager
Manager Business Risk

2. THAT I hold the appointment of Manager, Lending Operations with ASB Bank Limited
3. THAT at the date of signing I have not received any notice of or information of the revocation of that appointment by the winding up of the said company or otherwise.

Craig Anthony Muir

SIGNED at Auckland this 25 day of June 2013

V 2011.12

ASB BANK LIMITED A MEMBER OF THE COMMONWEALTH BANK OF AUSTRALIA GROUP

Telephone (+649) 377 8930 Facsimile (+649) 630 3918 Lending Operations, ASB Support Centre, 360 Dominion Road, Mt Eden,
P O Box 35, Shortland Street, Auckland 1140, New Zealand www.asb.co.nz



Title Plan - DP 458135

Survey Number	DP 458135
Surveyor Reference	21056 McBREARTY
Surveyor	Kurt Eric Watson
Survey Firm	Survey & Planning Solutions (2010) Limited
Surveyor Declaration	I Kurt Eric Watson, being a licensed cadastral surveyor, certify that: (a) this dataset provided by me and its related survey are accurate, correct and in accordance with the Cadastral Survey Act 2002 and the Rules for Cadastral Survey 2010, and (b) the survey was undertaken by me or under my personal direction. Declared on 15 Oct 2012 10:02 AM

Survey Details

Dataset Description	CONSERVATION COVENANT OVER LOT 1 DP 211891		
Status	Deposited		
Land District	North Auckland	Survey Class	Class B
Submitted Date	15/10/2012	Survey Approval Date	15/10/2012
		Deposit Date	15/07/2013

Territorial Authorities

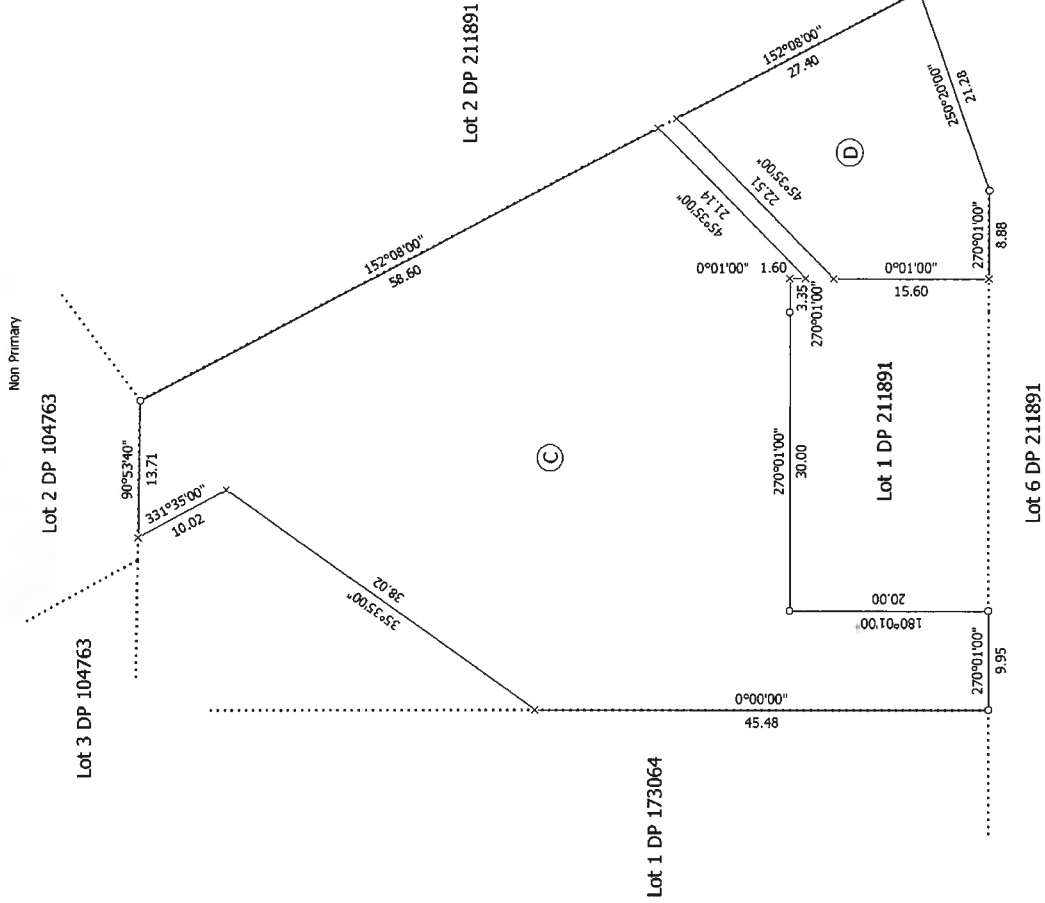
Far North District

Comprised In

CT NA139D/440

Created Parcels

Parcels	Parcel Intent	Area	CT Reference
Area C Deposited Plan 458135	Land Covenant		
Area D Deposited Plan 458135	Land Covenant		
Total Area		0.0000 Ha	



T 1/1

WILLIAMS & KING

Surveyor: Kurt Eric Watson
Firm: Survey & Planning Solutions (2010) L

Title Plan
DP 458135

Deposited on: 15/07/2013

Part Section 5 Block VIII Kawakawa SD

CONSERVATION COVENANT OVER LOT 1 DP 211891

AREAS MARKED C & D ARE TO BE SUBJECT TO A LAND COVENANT

Land District: North Auckland
Dataset Type: Parcels without Survey Information
Digitally Generated Plan
Generated on: 08/09/2013 08:13am Page 2 of 2

Rimu # 2

Rimu # 3

Rimu # 1

Rewarawa

KAHIKATEA

KAHIKATEA

MANUKA

