



Office Use Only  
Application Number:

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 Form 9)

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):

- Land Use
- Extension of time (s.125)
- Consent under National Environmental Standard (e.g. Assessing and Managing Contaminants in Soil)
- Other (please specify) \_\_\_\_\_
- Fast Track Land Use\*
- Change of conditions (s.127)
- Subdivision
- Change of Consent Notice (s.221(3))
- Discharge

\*The fast track for simple land use consents is restricted to consents with a controlled activity status and requires you provide an electronic address for service.

3. Would you like to opt out of the Fast Track Process? Yes  No

4. Applicant Details:

Name/s: Far North District Council

Electronic Address for Service (E-mail):

Phone Numbers:

Postal Address: (or alternative method of service under section 352 of the Act)

Post Code:

5. Address for Correspondence: Name and address for service and correspondence (if using an Agent write their details here).

Name/s: Jessica Meyst

Electronic Address for Service (E-mail): Jessie.hayburnandbryant.co.nz

Phone Numbers: Work: 09 438 3563 Home: \_\_\_\_\_

Postal Address: (or alternative method of service under section 352 of the Act) PO Box 191  
Whangarei

Post Code: 0140

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

6. 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: Far North District Council  
The Salvation Army New Zealand  
DI & JC Foster  
Property Address/ Location: North Park Drive and Donald Road, Kaitiaki  
36 North Park Drive, Kaitiaki  
39 North Road, Kaitiaki

7. Application Site Details:

Location and/or Property Street Address of the proposed activity:

Site Address/ Location: Donald Road and North Park Drive, Kaitiaki  
36 North Park Drive & 39 North Road, Kaitiaki

Legal Description: Lot 16 DP 398149 Val Number: Lot 1 DP 17972

Certificate of Title: RT 391745 & RT NA709/11  
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.

8. Description of the Proposal:

Please enter a brief description of the proposal here. Attach a detailed description of the proposed activity and drawings (to a recognized scale, e.g. 1:100) to illustrate your proposal. Please refer to Chapter 4 of the District Plan, and Guidance Notes, for further details of information requirements.

To undertake earthworks associated with replacing existing wastewater infrastructure and the installation of two wastewater storage tanks

If this is an application for an Extension of Time (s.125); Change of Consent Conditions (s.127) or 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) or extension being sought, with reasons for requesting them.

9. Would you like to request Public Notification Yes/No

10. Other Consent required/being applied for under different legislation (more than one circle can be ticked):

Building Consent (BC ref # if known)  Regional Council Consent (ref # if known)

National Environmental Standard consent  Other (please specify)

11. 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 (further information in regard to this NES is available on the Council's planning web pages):

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? (If the activity is any of the activities listed below, then you need to tick the 'yes' circle).  yes  no  don't know

- Subdividing land  Changing the use of a piece of land
- Disturbing, removing or sampling soil  Removing or replacing a fuel storage system

12. 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.

Please attach your AEE to this application.

13. 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 all names in full) \_\_\_\_\_

Email: \_\_\_\_\_

Postal Address: \_\_\_\_\_

Post Code: \_\_\_\_\_

Phone Numbers: Work: \_\_\_\_\_ Home: \_\_\_\_\_ Fax: \_\_\_\_\_

**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 20<sup>th</sup> 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 print)

Signature: \_\_\_\_\_ (signature of bill payer – mandatory) Date: 16/11/23

#### 14. 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](http://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.

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

Name: \_\_\_\_\_ (please print)

Signature: \_\_\_\_\_ (signature)

Date: 16/11/2023

(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)
- 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.*

**Only one copy of an application is required, but please note for copying and scanning purposes, documentation should be:**

**UNBOUND**

**SINGLE SIDED**

**NO LARGER THAN A3 in SIZE**

Land Use Consent Application - Earthworks

**FAR NORTH DISTRICT  
COUNCIL**

North Park Drive and Donald Road, Kaitaia

A topographic map with contour lines and a grid, rendered in white lines on a dark background, occupies the bottom portion of the page.

**reyburn  
& bryant**

PLANNERS • SURVEYORS

Land Use Consent Application - Earthworks

# FAR NORTH DISTRICT COUNCIL

North Park Drive and Donald Road, Kaitaia

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Report prepared for:	Far North District Council
Author	Jessica Meyst, Planner
Reviewed by:	Joseph Henehan, Senior Planner
Consent authority:	Far North District Council
Report reference:	17746
Report Status:	Final
Date:	November 2023

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## FORM 9

### APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991

To: Far North District Council  
Memorial Avenue  
Private Bag 752  
Kaikohe 0440

1. **Far North District Council** applies for resource consent to undertake approximately 2,858m<sup>3</sup> of earthworks (cut and fill) over an area of approximately 38,931m<sup>2</sup>.
2. The locations of the proposed activity are:
  - North Park Drive and Donald Road, Kaitaia
  - 36 North Park Drive, Kaitaia
  - 39 North Road, Kaitaia
3. The owners of the subject sites are:
  - Far North District Council
  - The Salvation Army New Zealand
  - D I & J G Foster
4. There are no other activities to which this application relates.
5. Resource consent is also required from the NRC. No additional resource consents or statutory approvals are needed for the activity to which this application relates that have not yet been applied for.
6. We attach an assessment of effects on the environment that:
  - (a) includes the information required by clause 6 of Schedule 4 of the Resource Management Act 1991; and
  - (b) addresses the matters specified in clause 7 of Schedule 4 of the Resource Management Act 1991; and
  - (c) includes such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.

7. We attach an assessment of the proposed activity against the matters set out in Part 2 of the Resource Management Act 1991.
8. We attach an assessment of the proposed activity against any relevant provisions of a document referred to in section 104(1)(b) of the Resource Management Act 1991, including information required by clause 2(2) of Schedule 4 of that Act.
9. No other information is required to be included in the district or regional plan(s) or regulations.

  
a Meyst

16 November 2023

Date

Address for service:

Reyburn and Bryant 1999 Ltd  
PO Box 191, Whangarei

Telephone:

(09) 438 3563

Email:

jess@reyburnandbryant.co.nz

Contact person:

Jessica Meyst



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## ABBREVIATIONS

AEE	Assessment of Environmental Effects
ESCP	Earthworks Sediment Control Plan
FNDC	Far North District Council
FNDP	Operative Far North District Plan
HAIL	Hazardous Activities and Industries List
NES-SC	National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health
NRC	Northland Regional Council
NTA	Northland Transport Alliance
PDP	Proposed Far North District Plan
RMA	Resource Management Act, 1991

# 1. INTRODUCTION

## 1.1 Report basis

This report has been prepared for Far North District Council (FNDC) in support of a resource consent application to undertake approximately 2,858m<sup>3</sup> of earthworks (cut and fill) across an area of 38,931m<sup>2</sup>.

The application has been prepared in accordance with Section 88 and the Fourth Schedule of the Resource Management Act, 1991 (RMA). Section 88 of the RMA requires that resource consent applications be accompanied by an Assessment of Environmental Effects (AEE) in accordance with the Fourth Schedule.

The report also includes an analysis of the relevant provisions of the district, regional and national planning documents that are pertinent to the assessment and decision required under s104 of the RMA.

## 1.2 Proposal summary

This application is seeking to undertake earthworks associated with replacing existing wastewater infrastructure and the installation of two wastewater storage tanks.

The proposal is to undertake approximately 2,858m<sup>3</sup> of earthworks (cut and fill) over an area of 38,931m<sup>2</sup>. The proposed earthworks will not result in a change to the existing ground level.

The majority of the earthworks will take place along Donald Road and a portion of North Park Drive. The wastewater storage tanks will be installed within two vacant sites (RT 391745 and RT NA709/11).

The location and extent of the proposed earthworks is shown on the Concept Plan attached in **Appendix 1**. Erosion and Sediment Control measures will be employed in accordance with AC GD05.

The subject sites are zoned as a 'Road' (Donald Road and North Park Drive) and 'Residential' (RT 391745 and RT NA709/11) under the Operative Far North District Plan (FNDP).

The FNDC notified the Proposed District Plan (PDP) on 27 July 2022. The subject sites are zoned as 'Road', 'Rural Production' and 'Residential' in this plan.

The proposed activity requires consent as a **discretionary activity** under Rule 12.3.6.3(a) of the FDNP due to non-compliance with 12.3.6.2.2(a).

### 1.3 Property details

<b>Applicant</b>	Far North District Council
<b>Landowners</b>	<ul style="list-style-type: none"> <li>▪ Far North District Council</li> <li>▪ The Salvation Army New Zealand</li> <li>▪ D I &amp; J G Foster</li> </ul>
<b>Site locations</b>	<ul style="list-style-type: none"> <li>▪ North Park Drive and Donald Road, Kaitaia</li> <li>▪ 36 North Park Drive, Kaitaia – RT 391745</li> <li>▪ 39 North Road, Kaitaia – RT NA709/11</li> </ul>
<b>Total site area</b>	38,931m <sup>2</sup>
<b>Records of title</b>	<ul style="list-style-type: none"> <li>▪ RT 391745</li> <li>▪ RT NA709/11</li> </ul>
<b>Legal descriptions</b>	<ul style="list-style-type: none"> <li>▪ Lot 16 DP 398149</li> <li>▪ Lot 1 DP 17972</li> </ul>
<b>District Plan</b>	Far North District Plan
<b>Operative District Plan Zones</b>	<ul style="list-style-type: none"> <li>▪ Industrial and Residential<sup>1</sup> – North Park Drive</li> <li>▪ Residential, Conservation, Rural Production and Rural Living – Donald Road</li> <li>▪ Residential – RT 391745 and RT NA709/11</li> </ul>
<b>Operative District Plan Notations</b>	<ul style="list-style-type: none"> <li>▪ Flood Susceptible Area</li> </ul>
<b>Proposed District Plan Zones</b>	<ul style="list-style-type: none"> <li>▪ Mixed Use, General Residential and Natural Open Space – North Park Drive</li> <li>▪ General Residential, Natural Open Space, Open Space, Light Industrial, Rural Production and Horticulture – Donald Road</li> <li>▪ General Residential – RT 391745</li> <li>▪ Rural Production – RT NA709/11</li> </ul>
<b>Proposed District Plan Notations</b>	<ul style="list-style-type: none"> <li>▪ River Flood Hazard Areas (1 in 100 &amp; 1 in 10 Year ARI Event)</li> <li>▪ Treaty Settlement Area of Interest</li> <li>▪ Treaty Settlement Land</li> </ul>

Table 1: Property Details.

<sup>1</sup> As defined under the FNDP, if the boundary between zones follows a road, the zone boundary is located in the centreline of the formed road.

## 1.4 Relevant title memorials

The majority of the proposed works will take place within FNDC road reserves. However, two wastewater storage are proposed to be established on two privately owned properties. The two records of title which are subject to the proposed earthworks are RT 391745 and RT NA709/11. RT NA709/11 is not subject to any relevant memorials other than an easement in gross (wastewater and stormwater). This will have no effect on the proposal.

RT 391745 is subject to various easements and a consent notice with conditions relating to future development. These instruments will have no effect on the proposal.

The titles and relevant memorials are attached in **Appendix 2**.

## 1.5 Other approvals required

Consent is required from NRC (earthworks) which will be applied for in due course.

No other approvals are required to give effect to this proposal.

## 1.6 Processing requests

Prior to the issue of any decision for this consent, please forward the draft conditions to the agent for review and comment.

## 1.7 Statutory context

Section 104B of the RMA sets out specific requirements for the determination of discretionary and non-complying activities.

*104B Determination of applications for discretionary or non-complying activities*

*After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—*

*(a) may grant or refuse the application; and*

*(b) if it grants the application, may impose conditions under section 108.*

Section 104(1) of the RMA sets out the matters that a consent authority must, subject to Part 2, have regard to when considering an application for resource consent.

*104 Consideration of applications*

*(1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to [Part 2](#) and [section 77M](#), have regard to—*

*(a) any actual and potential effects on the environment of allowing the activity; and*

(ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and

(b) any relevant provisions of—

(i) a national environmental standard:

(ii) other regulations:

(iii) a national policy statement:

(iv) a New Zealand coastal policy statement:

(v) a regional policy statement or proposed regional policy statement:

(vi) a plan or proposed plan; and

(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

(2) When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.

(2A) When considering an application affected by [section 124](#) or [165ZH\(1\)\(c\)](#), the consent authority must have regard to the value of the investment of the existing consent holder.

(2B) When considering a resource consent application for an activity in an area within the scope of a planning document prepared by a customary marine title group under [section 85](#) of the Marine and Coastal Area (Takutai Moana) Act 2011, a consent authority must have regard to any resource management matters set out in that planning document.

(2C) Subsection (2B) applies until such time as the regional council, in the case of a consent authority that is a regional council, has completed its obligations in relation to its regional planning documents under [section 93](#) of the Marine and Coastal Area (Takutai Moana) Act 2011.

(2D) When considering a resource consent application that relates to a wastewater network, as defined in [section 5](#) of the Water Services Act 2021, a consent authority—

(a) must not grant the consent contrary to a wastewater environmental performance standard made under [section 138](#) of that Act; and

(b) must include, as a condition of granting the consent, requirements that are no less restrictive than is necessary to give effect to the wastewater environmental performance standard.

(3) A consent authority must not,—

(a) when considering an application, have regard to—

(i) trade competition or the effects of trade competition; or

(ii) any effect on a person who has given written approval to the application:

(b) [Repealed]

(c) grant a resource consent contrary to—

(i) [section 107](#), [107A](#), or [217](#):

(ii) an Order in Council in force under [section 152](#):

- (iii) any regulations:*
- (iv) wāhi tapu conditions included in a customary marine title order or agreement:*
- (v) [section 55\(2\)](#) of the Marine and Coastal Area (Takutai Moana) Act 2011:*
- (d) grant a resource consent if the application should have been notified and was not.*
- (3A) See also [section 103\(3\)](#) of the Urban Development Act 2020 (which relates to resource consents in project areas in transitional periods for specified development projects (as those terms are defined in [section 9](#) of that Act)).*
- (4) A consent authority considering an application must ignore subsection (3)(a)(ii) if the person withdraws the approval in a written notice received by the consent authority before the date of the hearing, if there is one, or, if there is not, before the application is determined.*
- (5) A consent authority may grant a resource consent on the basis that the activity is a controlled activity, a restricted discretionary activity, a discretionary activity, or a non-complying activity, regardless of what type of activity the application was expressed to be for.*
- (6) A consent authority may decline an application for a resource consent on the grounds that it has inadequate information to determine the application.*
- (7) In making an assessment on the adequacy of the information, the consent authority must have regard to whether any request made of the applicant for further information or reports resulted in further information or any report being available.*

This report focuses on the relevant matters in s104(1), and specifically:

- The actual and potential environmental effects (s104(1)).
- The relevant provisions of the NES-SC (s104(1)(b)(i)).
- The relevant provisions of the FNDP (s104(1)(b)(vi)).

## 2. THE SITES AND SURROUNDING ENVIRONMENT

### 2.1 The sites

#### Location

The subject sites consist of two vacant titles (being RT 391745 and RT NA709/11), Donald Road and a portion of North Park Drive. The total area of the sites is 38,931m<sup>2</sup>.

Figures 1 and 2 identify the sites in the wider locality:



Figure 1: Location map (Source: FNDC GIS).



Figure 2: Location map (Source: FNDC GIS).



### Built form and ground cover

North Park Drive and Donald Road are sealed roads.

RT 391745 and RT NA709/11 are vacant titles. The ground cover is lawn.

### Topography

Donald Road is generally flat with a gentle to moderate rise towards the east.

The portion of North Park Drive which is subject to the works is entirely flat.

RT 391745 and RT NA709/11 are entirely flat.

### River/watercourse

A portion of Donald Road extends over the Pairatahi River. This is shown in [Figure 3](#) below.



*Figure 3: Donald Road. (Source: Google Earth).*

## **2.2 The surrounding environment**

The surrounding environment consists of Kaitia CBD which is located to the north west of Donald Road, North Park Drive and RT 391745.

Kaitia Intermediate School is located directly to the north of RT NA709/11.

Residential development exists along Donald Road and North Road.

## 3. THE PROPOSAL

### 3.1 General

The application proposes to undertake approximately 2,858m<sup>3</sup> of earthworks (cut and fill) across an approximate area of 38,931m<sup>2</sup>.

### 3.2 Earthwork details

#### Purpose

The proposed earthworks are necessary to facilitate the upgrading of existing wastewater infrastructure in Kaitaia. The works include the replacement of the existing wastewater pipes and the installation of two new wastewater storage tanks.

A concept plan of the proposed earthworks is attached at **Appendix 1**.

#### Area and quantity

The proposed earthworks area will be 38,931m<sup>2</sup>. The total earthworks volumes are approximately 2,858m<sup>3</sup>.

The proposed earthworks will be undertaken within land identified as being susceptible to flooding.

#### Methods

The proposed earthworks will consist of the excavation of trenches ranging between 150m<sup>3</sup> to 1,470m<sup>3</sup> for the replacement of existing wastewater infrastructure. The proposed earthworks will take place along Donald Road and along a portion of North Park Drive.

It is also proposed to install two underground wastewater storage tanks which will require the excavation of up to 400m<sup>3</sup> of soil in each case. These will be installed within RT 391745 and RT NA709/11.

Given the extensive geographical spread of the proposed works, a site specific erosion and sediment control plan has not been prepared. Rather, a condition of consent is expected which will require the proposed earthworks to be undertaken in accordance with best practice guidelines, and erosion and sediment control measures to be implemented in accordance with AC GD05.

Despite the earthworks taking place within the River Flood Hazard Zone, a flood assessment has not been undertaken as there will be no change to the existing ground level following the completion of the works. The soil/cut will be

reinstated into the trenches and any minor cut that is not reinstated will be disposed of appropriately.

#### Treatment of completed works areas

The areas subject to the earthworks will be resown with grass or re-sealed with concrete/asphalt immediately following completion of the works.

### **3.3 Roding**

The method for earthworks undertaken within the road will be decided at a later stage. This will be undertaken in accordance with best practice and NTA design standards. Corridor access requests will be lodged with NTA for approval as needed (prior to the implementation of works).

## 4. RULE ASSESSMENT

### 4.1 Relevant planning notations

The sites are zoned as 'Industrial', 'Residential', 'Conservation', 'Rural Production' and 'Rural Living' under the FNDC. RT 391745, Donald Road and North Park Drive are subject to flood susceptible area overlays.

The FNDC notified the PDP on 27 July 2022. The properties are zoned as 'Mixed Use', 'General Residential', 'Natural Open Space', 'Light Industrial', 'Rural Production' and 'Horticulture' in this plan. The sites are also located in the 'River Flood Hazard Zone', 'Treaty Settlement Area of Interest' and 'Treaty Settlement Area Land'.

The relevant planning maps are attached in **Appendix 3**.

### 4.2 FNDC rule assessment

The proposal cannot comply with Rule 12.3.6.2.2 as the proposed earthworks will exceed 500m<sup>3</sup> per site in a 12-month period. Accordingly, the proposal is a **discretionary activity** under Rule 12.3.6.3(a).

A full assessment of the rules is attached in **Appendix 4**.

### 4.3 PDP rule assessment

The FNDC notified on the PDP on 27 July 2022. A full assessment of the proposal against the PDP rules has been undertaken and is attached in **Appendix 4**. In this case, it is assessed that restricted discretionary activity consent would be required under Rule EW-R8 – '*Earthworks for new infrastructure or repair and upgrades of existing infrastructure owned by network utility providers or requiring authority*' where the proposed earthworks volumes do not comply with the limits set out in EW-S1. However, due to the fact that the PDP is still in a relatively early stage of the plan change process, this rule does not currently have legal effect under s86B of the RMA. As such, consent under this rule is not required. Notwithstanding this, the objectives and policies of the PDP do have legal weight, and consequentially have been assessed in section 6.2 of this report.

It is noted that Rules EW-R12 and R13 have immediate legal effect under s86B(3) of the RMA. It is confirmed that the proposal is a permitted activity under these rules as the proposal complies with EW-S3 and S5, where:

- The proposed earthworks will be undertaken in accordance with the accidental discovery protocol.
- The proposed earthworks will comply with the Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016.

#### **4.4 Overall activity status**

The proposal is a **discretionary activity** overall.

## 5. ASSESSMENT OF ENVIRONMENTAL EFFECTS

### 5.1 Permitted baseline

The permitted baseline for earthworks is 200m<sup>3</sup> per site in a 12-month period. As such, it is only the extent of the earthworks over and above what is permitted that will be assessed in the following assessment of environmental effects.

### 5.2 Positive effects

The proposal will allow the upgrade of key infrastructure (wastewater). The proposal therefore provides for the social, cultural and economic needs of the wider community.

### 5.3 Assessment criteria for earthworks

While the proposal is classified as a discretionary activity overall, it is considered appropriate in this case to assess the potential adverse effects of the proposal against the assessment criteria for earthworks in 12.3.7 of the FNDP. These matters are addressed as follows:

- a) the degree to which the activity may cause or exacerbate erosion and/or other natural hazards on the site or in the vicinity of the site, particularly lakes, rivers, wetlands and the coastline;***

The proposed earthworks will consist of the excavation of trenches where there will be no change to the existing ground level following the completion of the works as the soil/cut will be reinstated into the ground.

As stated in section 3.2 of this report, a condition of consent is expected which will require the proposed earthworks to be undertaken in accordance with best practice guidelines, and erosion and sediment control measures to be implemented in accordance with AC GD05.

- b) any effects on the life supporting capacity of the soil;***

The proposed earthworks will be undertaken in accordance with best practice. Sediment and erosion controls will be undertaken in accordance with AC GD05.

In addition to this, once the cut material has been reinstated into the trenches, the topsoil will also be reinstated and re-grassed/re-sealed. As such, there will be no exposed earth as a result of the earthworks.

- c) any adverse effects on stormwater flow within the site, and stormwater flow to or from other properties in the vicinity of the site including public roads;***

The proposed earthworks will not result in a change to the existing ground level as environment will be returned to its existing state following the completion of the works. As such, the proposed earthworks will have no adverse effects on stormwater flow and will not exacerbate flooding hazard risk on surrounding properties.

***d) any reduction in water quality;***

As discussed above, the proposed works will be undertaken in accordance with best practice guidelines, and erosion and sediment control measures to be implemented in accordance with AC GD05.

As such, any adverse effects on water quality will be less than minor.

***e) any loss of visual amenity or loss of natural character of the coastal environment;***

The subject sites are not within the Coastal Environment and all areas subject to earthworks will re-grassed once the works have been completed and there will be no exposed earth.

As such, any adverse effects of the earthworks on visual and amenity values will be negligible.

***f) effects on Outstanding Landscape Features and Outstanding Natural Features (refer to Appendices 1A and 1B in Part 4, and Resource Maps);***

The proposed earthworks will not occur within an Outstanding Natural Feature.

***g) the extent to which the activity may adversely affect areas of significant indigenous vegetation or significant habitats of indigenous fauna;***

The proposed earthworks will not occur within a vegetated area and will therefore not result in the removal of significant indigenous vegetation.

***h) the extent to which the activity may adversely affect heritage resources, especially archaeological sites;***

There are no heritage resources or archaeological sites mapped on the site.

Notwithstanding the above, the applicant will adhere to an accidental discovery protocol in the unlikely event that currently unrecorded sites are discovered during the proposed works.

***i) the extent to which the activity may adversely affect the cultural and spiritual values of Maori, especially Sites of Cultural Significance to Maori and waahi tapu (as listed in Appendix 1F in Part 4, and shown on the Resource Maps);***

Te Rarawa have been consulted regarding the proposal and have confirmed that they are supportive of the proposed activity. Evidence of this consultation is attached in **Appendix 5**. Therefore, there are no adverse effects on cultural or spiritual values of Māori.

***j) any cumulative adverse effects on the environment arising from the activity;***

It is expected that the proposed earthworks will take place in a single construction season (October-April) and will be completed as quickly as practically possible. As a result, there will be no cumulative adverse effects on the environment.

***k) the effectiveness of any proposals to avoid, remedy or mitigate any adverse effects arising from the activity;***

As discussed above, the proposed works will be undertaken in accordance with best practice guidelines, and erosion and sediment control measures to be implemented in accordance with AC GD05. As such, any adverse effects from the proposed earthworks will be less than minor.

***l) the ability to monitor the activity and to take remedial action if necessary;***

The effects of the proposed works can be easily monitored, and remedial action taken if required.

***m) the criteria in Section 11.20 Development Plans in Part 2.***

The proposed earthworks will be in accordance with the relevant criteria under 11.20. Specifically, hours of operation and noise generation will be complied with.

***n) the criteria in Section 17.2.7 National Grid Yard***

Not applicable.

## 5.4 Cultural effects

Te Rarawa have been consulted regarding the proposal and have confirmed that they are supportive of the proposed activity. Evidence of this consultation is attached in **Appendix 5**.

As such, the potential cultural effects of the proposal will be less than minor.

## 5.5 Effects conclusion

Overall, the proposal will result in significant positive effects on the environment. Through adherence to proposed conditions of consent, any adverse effects are able to be mitigated to be less than minor.



## 6. PLANNING ASSESSMENT

### 6.1 FNDP objectives and policies assessment

The relevant objectives and policies of Chapter 12 – Soils and Minerals seek to protect the soil resources including soil quality and reducing degradation. The following objectives and policies are particularly relevant to this proposal:

***Objective 12.3.3.1** To achieve an integrated approach to the responsibilities of the Northland Regional Council and Far North District Council in respect to the management of adverse effects arising from soil excavation and filling, and minerals extraction.*

***Objective 12.3.3.3** To avoid, remedy or mitigate adverse effects associated with soil excavation or filling.*

***Policy 12.3.4.1** That the adverse effects of soil erosion are avoided, remedied or mitigated.*

***Policy 12.3.4.4** That soil excavation and filling, and mineral extraction activities be designed, constructed and operated to avoid, remedy or mitigate adverse effects on people and the environment.*

#### Assessment

- To ensure that there will be no adverse effects as a result of the earthworks, the environment will be returned to its existing state. Specifically, the soil/cut will be reinstated back into the ground and re-grassed/re-sealed.
- In addition to this, there will be no change to the existing ground level which will prevent exacerbation of flood hazard risk. As such, there will be no adverse effect on the surrounding properties.
- The proposed earthworks will be in accordance with best practice guidelines, and erosion and sediment control measures to be implemented in accordance with AC GD05.

For the above reasons, the proposed cottage is consistent with the relevant objectives and policies of Chapter 12 – Soils and Minerals.

### 6.2 PDP objectives and policies assessment

The following PDP objectives and policies are particularly relevant to this proposal:

***Objective EW-02** Earthworks are appropriately designed, located and managed to protect historical and cultural values, natural environmental values, preserve amenity and safeguard the life-supporting capacity of soils.*

***Objective EW-03** Earthworks are undertaken in a manner which does not compromise the stability of land, infrastructure and public safety.*

***Policy EW-P1** Enable earthworks necessary to provide for the District's social, economic and cultural well-being, and their health and safety where they provide for:*

- a. urban land uses and development within urban zones;
- b. rural land uses and development including, farm tracks, land drainage, and other farming activities within the Rural zones;

- c. *conservation and recreation activities;*
- d. *land drainage and flood control works; and*
- e. *installation, upgrade and maintenance of infrastructure*

### Assessment

The proposed works will be consistent with the policy direction through adherence to erosion and sediment control guidelines.

As discussed in Section 5.1 of this report, the proposed earthworks will result in positive effects by allowing the upgrade of key infrastructure (wastewater). This will provide for the social and economic needs of the community.

For the above reasons, the proposal aligns with the relevant objectives and policies of the PDP.

## **6.3 NES – Soil Contamination**

All applications that involve subdivision, an activity that changes the use of a piece of land, or earthworks are subject to the provisions of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 (NES). The regulation sets out the requirements for considering the potential for soil contamination, based on the HAIL (Hazardous Activities and Industries List) and the risk that this may pose to human health as a result of the proposed land use.

It is clear in this instance that no current or previous activities listed on the HAIL occur (or have occurred) on this piece of land (see NRC Selected Land Use Register in **Appendix 6**). The NES therefore has no relevance to this application.

## **6.4 Part 2 assessment**

In accordance with s104(1), this application is subject to Part 2 of the Resource Management Act. However, an assessment of Part 2 is however not required unless there are issues of invalidity, incomplete coverage, or uncertainty in the planning provisions.<sup>2</sup>

With respect to this application and the relevant statutory documents, there is no invalidity, incomplete coverage, or uncertainty. In that regard, no assessment of the application is required under Part 2 of the RMA.

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<sup>2</sup> R J Davidson Family Trust v Marlborough District Council [2017] NZHC 52.

## 7. NOTIFICATION

### Public notification

Pursuant to s 95A of the RMA, the assessment completed in section 5 of this report confirms that any adverse effects associated with the proposed earthworks will be avoided, remedied or mitigated to be less than minor. Furthermore, no special circumstances exist in relation to the application, the applicant has not requested that the application be publicly notified, and there is no rule or national environmental standard that requires public notification of the application. The proposal can therefore proceed without public notification.

### Limited notification

In accordance with s95B of the RMA, and having considered the requirements of s95E-G, section 5 of this report confirms that there are no adversely affected parties. Specifically, the proposed earthworks are appropriate in scale and will be undertaken in general accordance with an ESCP which will be provided following the issue of the consent. The proposal can therefore proceed without limited notification.

### Conclusion

Having considered the above, the proposal can proceed on a **non-notified** basis.

## 8. CONCLUSION

The proposal seeks to undertake approximately 2,858m<sup>3</sup> of earthworks (cut and fill) across an approximate area of 38,931m<sup>2</sup>.

The proposal requires consent as a discretionary activity under the provisions of the FNDP.

The environmental effects associated with the proposal have been assessed in Section 5 of this report. Overall, the effects have been determined to be less than minor. Consequently, appropriate regard has been given to s104(1)(a) of the RMA.

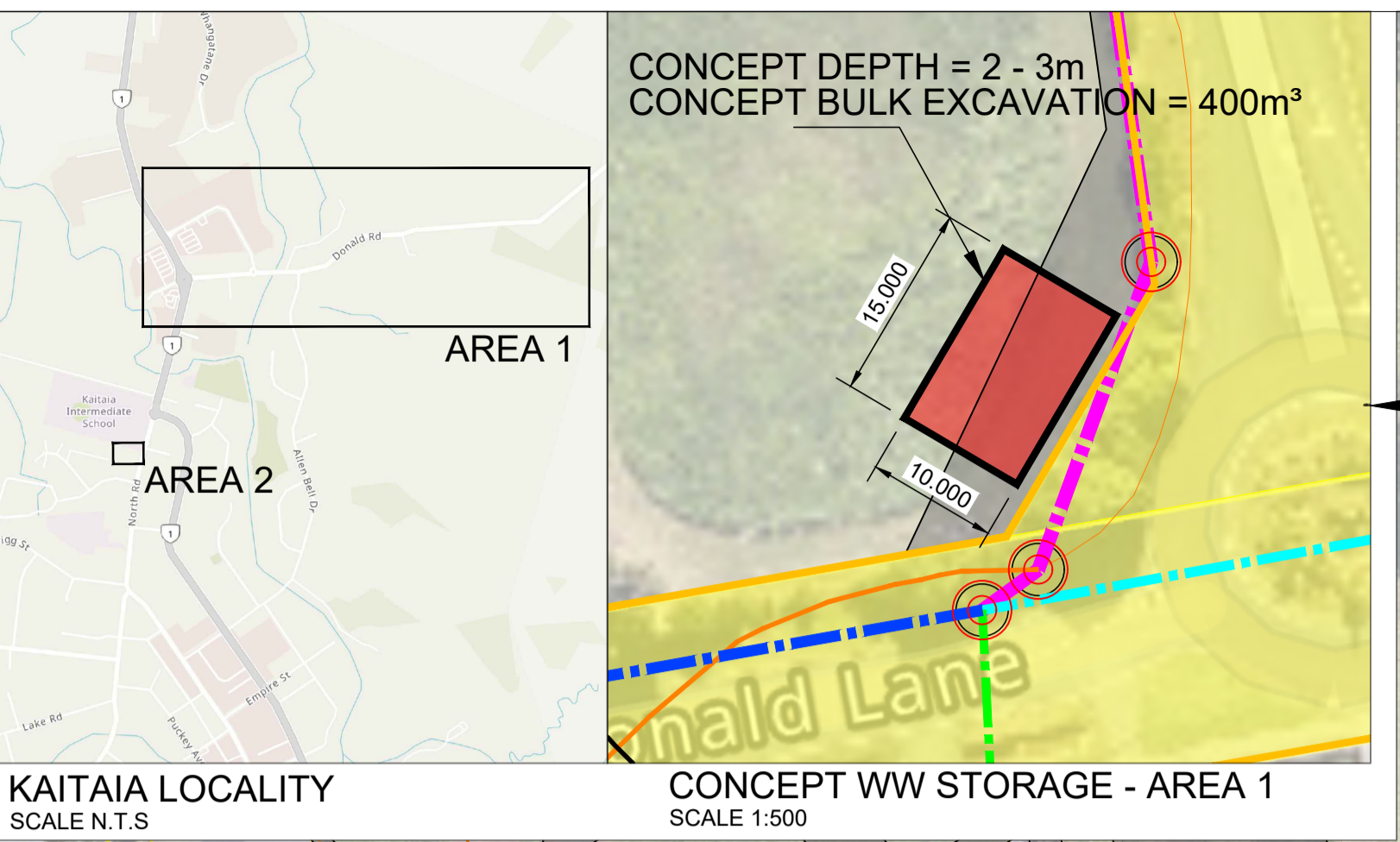
The proposal is consistent with the objectives and policies of the Chapter 12 – Soils and Minerals in the FNDP. It is also consistent with the objectives and policies of the EW Chapter of the PDP. Furthermore, Section 6.3 of this report confirms that the NES-SC regulations are not relevant. Accordingly, appropriate regard has been given to s104(1)(b)(i) and s104(1)(b)(vi) of the RMA.

Having regard to the relevant matters in s104(1) and s104B of the RMA, the proposal can be approved subject to appropriate conditions of consent.

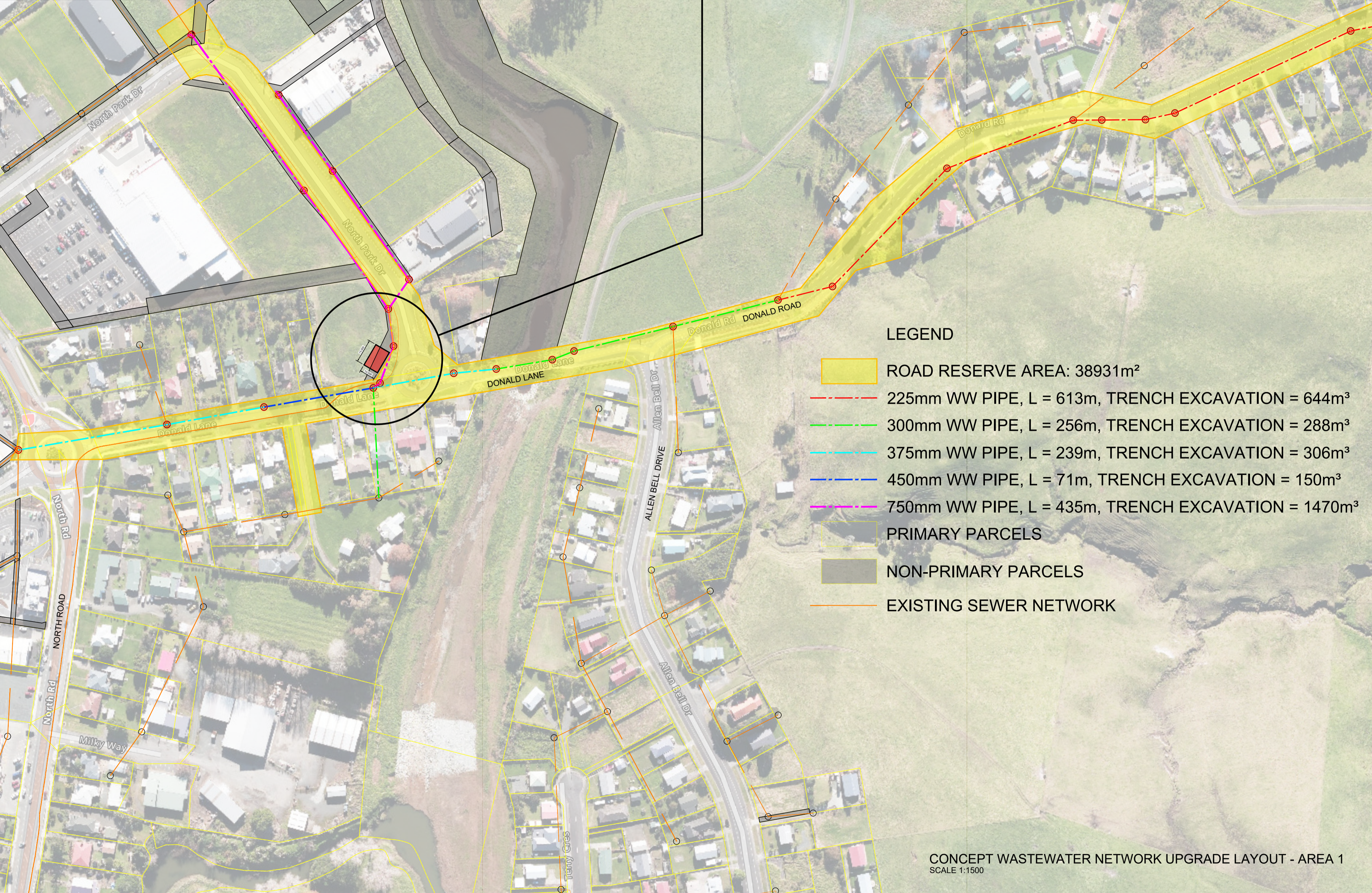
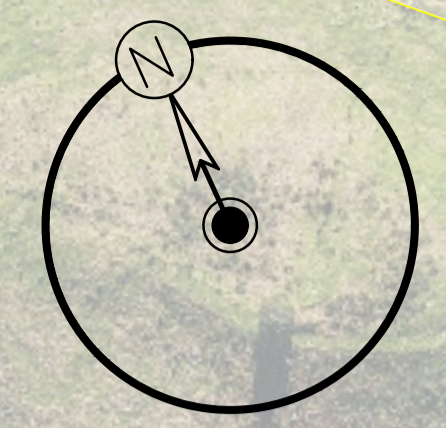
# APPENDIX 1

## CONCEPT PLAN [TRINE KEL]

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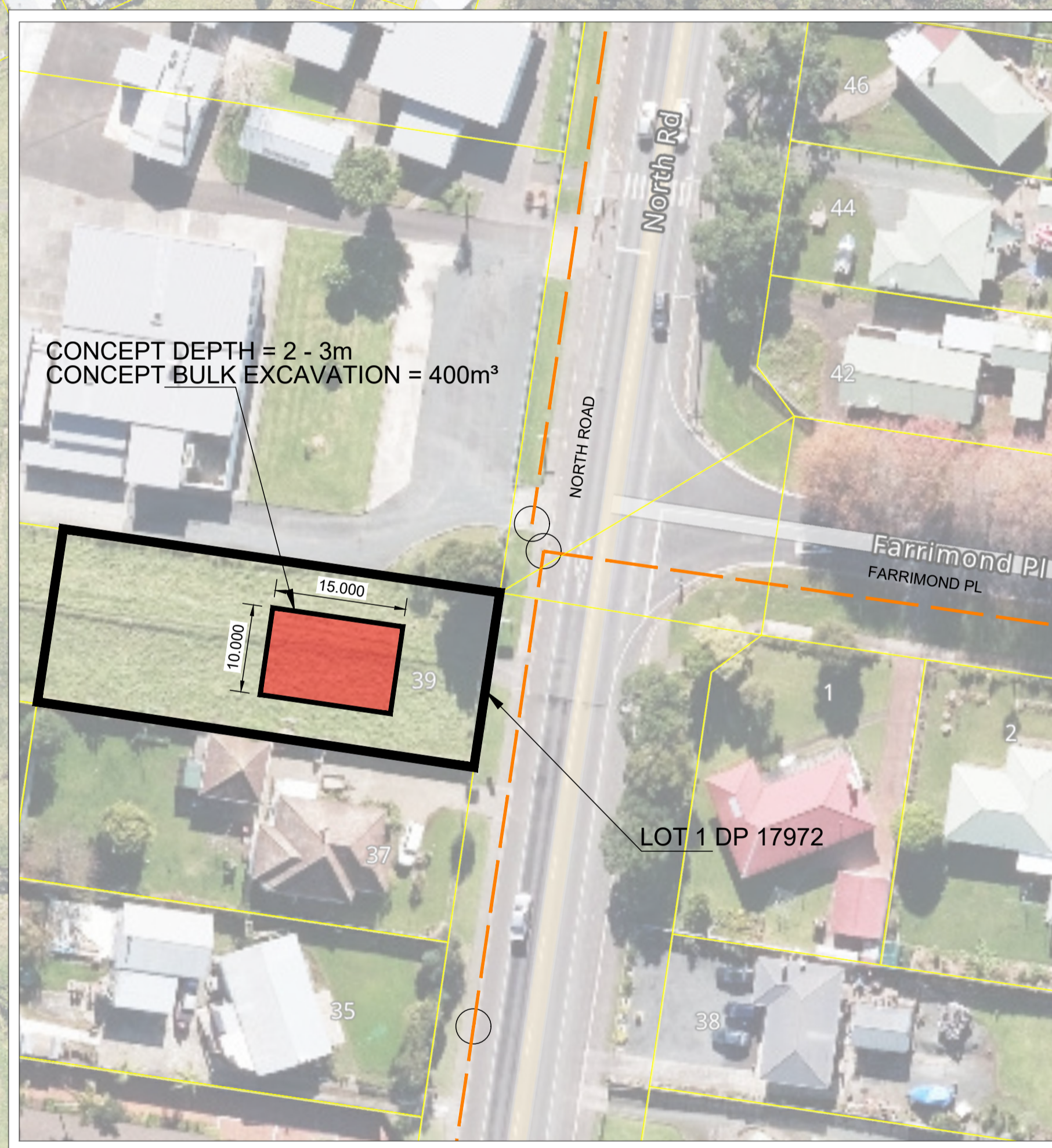


ISSUE FOR INFORMATION ONLY



LEGEND

- ROAD RESERVE AREA: 38931m<sup>2</sup>
- 225mm WW PIPE, L = 613m, TRENCH EXCAVATION = 644m<sup>3</sup>
- 300mm WW PIPE, L = 256m, TRENCH EXCAVATION = 288m<sup>3</sup>
- 375mm WW PIPE, L = 239m, TRENCH EXCAVATION = 306m<sup>3</sup>
- 450mm WW PIPE, L = 71m, TRENCH EXCAVATION = 150m<sup>3</sup>
- 750mm WW PIPE, L = 435m, TRENCH EXCAVATION = 1470m<sup>3</sup>
- PRIMARY PARCELS
- NON-PRIMARY PARCELS
- EXISTING SEWER NETWORK



CONCEPT WASTEWATER NETWORK UPGRADE LAYOUT - AREA 1  
SCALE 1:1500

CONCEPT WASTEWATER LINE LAYOUT - AREA 2  
SCALE 1:500

<small>COPYRIGHT: THIS DRAWING IS THE PROPERTY OF TRINE KEL LIMITED AND SHALL NOT BE COPIED OR USED WHOLLY OR IN PART WITHOUT PRIOR WRITTEN CONSENT OF TRINE KEL LIMITED.</small>					
DRAWN	KK	24/08/2023	CLIENT	FAR NORTH DISTRICT COUNCIL	
CHECKED	KK	24/08/2023	PROJECT	DONALD ROAD CATCHMENT WASTEWATER NETWORK, KAITIAKI	
RESPONSIBLE ENGINEER	KK	24/08/2023	TITLE:	<b>A1</b> WASTEWATER PIPELINE AND MANHOLE LAYOUT AREA 1 AND 2 - CONCEPT INFORMATION PLANNING ASSESSMENT	
LEAD DISCIPLINE ENGINEER					
PROCESS ENGINEER					
ENGINEERING MANAGER					
PROFESSIONAL DISC. ENGINEER	KK	24/08/2023	REGISTRATION NUMBER		
SCALE	1:500		PROJECT	DOC	AREA
			DISC	SEQUENCE	REVISION
			0	0	1
			9	0	0
			1	0	0
			W	W	C
			0	0	0
			1	0	1
			P	1	

NO	DATE	DESCRIPTION	BY	CHK	RESP ENG	LD ENG	PRO ENG	ENG MAN	PROF ENG
P1	24/08/23	ISSUED FOR INFORMATION	KK	KK					

# APPENDIX 2

## RECORDS OF TITLE AND RELEVANT MEMORIALS

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



  
R. W. Muir  
Registrar-General  
of Land

**Identifier** **391745**  
**Land Registration District** **North Auckland**  
**Date Issued** 17 June 2008

**Prior References**  
351467

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**Estate** Fee Simple  
**Area** 3055 square metres more or less  
**Legal Description** Lot 16 Deposited Plan 398149

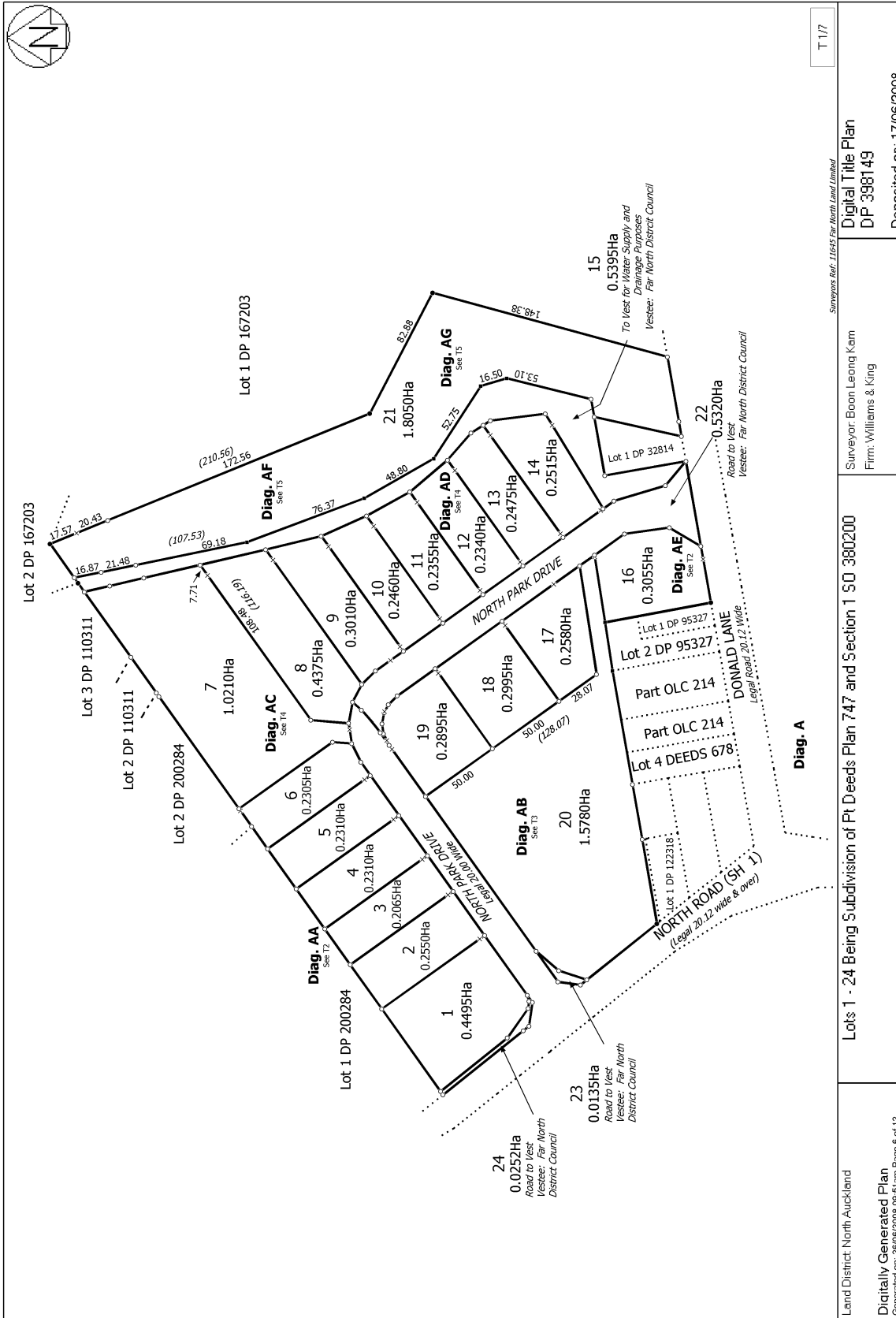
**Registered Owners**  
The Salvation Army New Zealand Trust

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**Interests**

7849446.4 Consent Notice pursuant to Section 221 Resource Management Act 1991 - 17.6.2008 at 9:00 am  
Subject to a right (in gross) to drain sewerage and to drain stormwater over part marked W on DP 398149 in favour of Far North District Council created by Easement Instrument 7849446.7 - 17.6.2008 at 9:00 am  
The easements created by Easement Instrument 7849446.7 are subject to Section 243 (a) Resource Management Act 1991  
Land Covenant in Easement Instrument 7849446.8 - 17.6.2008 at 9:00 am  
Fencing Covenant in Easement Instrument 7849446.9 - 17.6.2008 at 9:00 am  
Subject to Section 6(2) Fencing Act 1978  
7849446.10 Variation of Covenant 7849446.8 - 17.6.2008 at 9:00 am





T 17

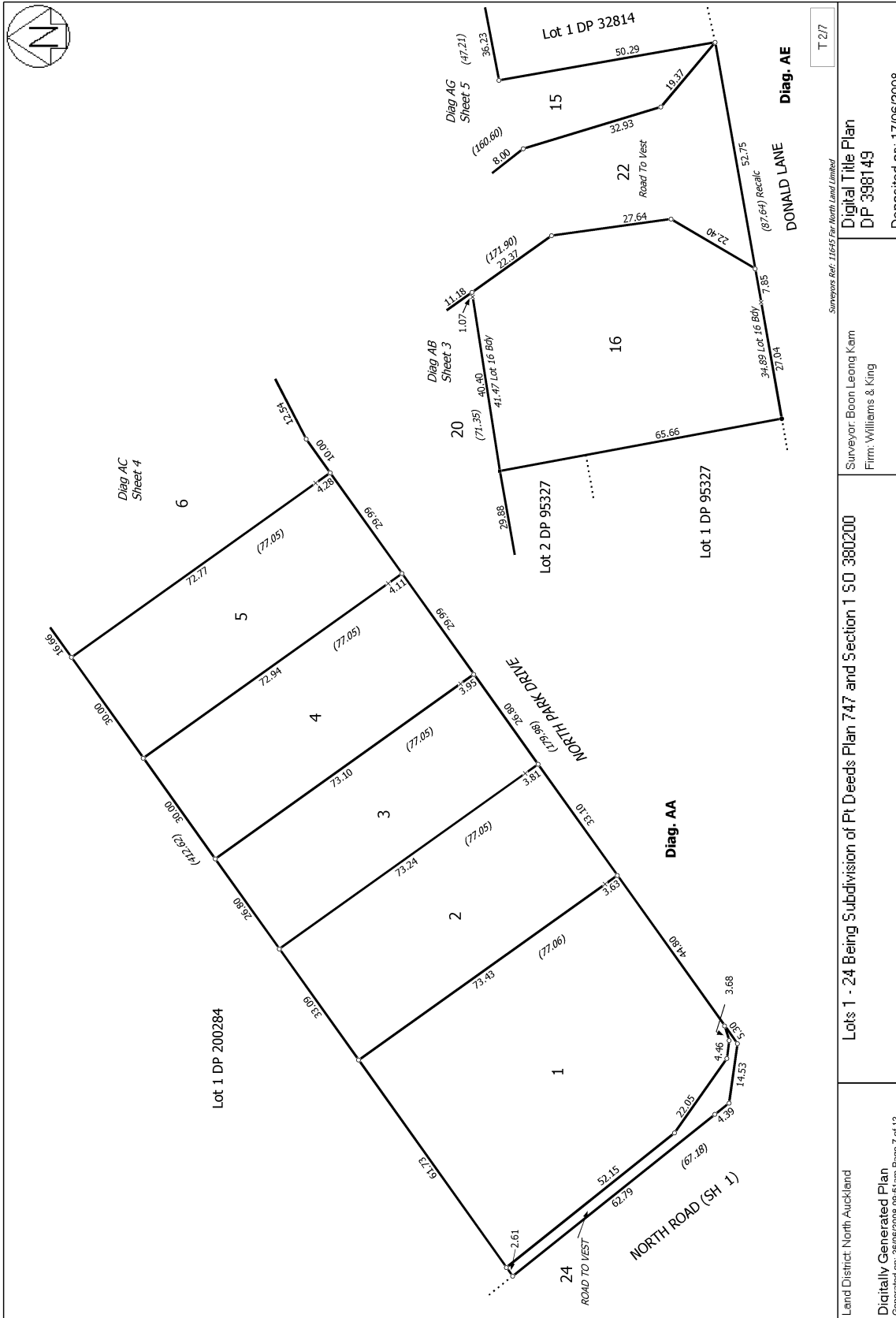
Surveyors Ref. 11655 Fair North Land Limited

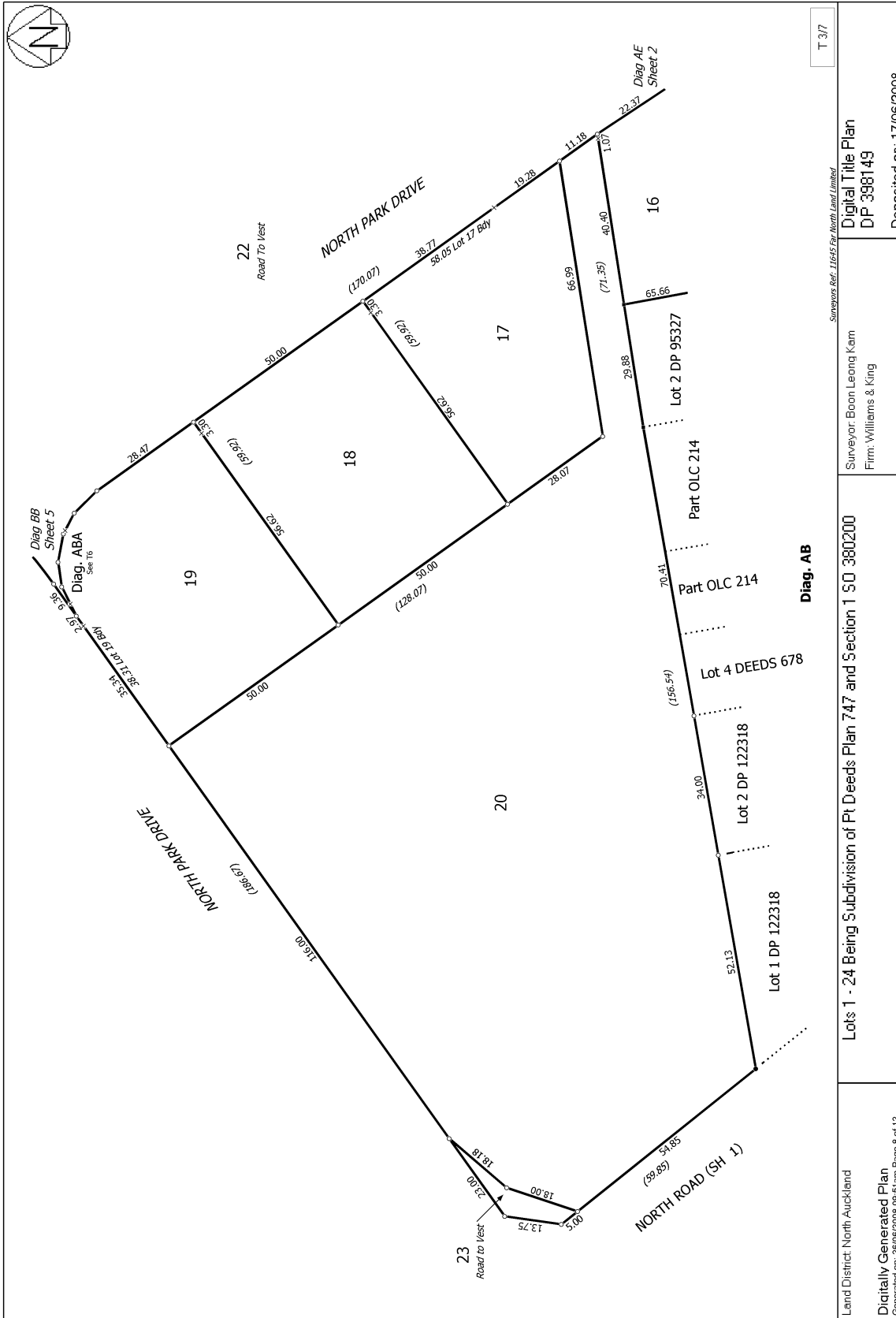
Surveyor: Boon Leong Kam  
Firm: Williams & King

Lots 1 - 24 Being Subdivision of Pt Deeds Plan 747 and Section 1 50 380200

Land District: North Auckland  
Digitally Generated Plan  
Generated on: 26/06/2008 09:51 am Page 6 of 12

Digital Title Plan  
DP 398149  
Deposited on: 17/06/2008





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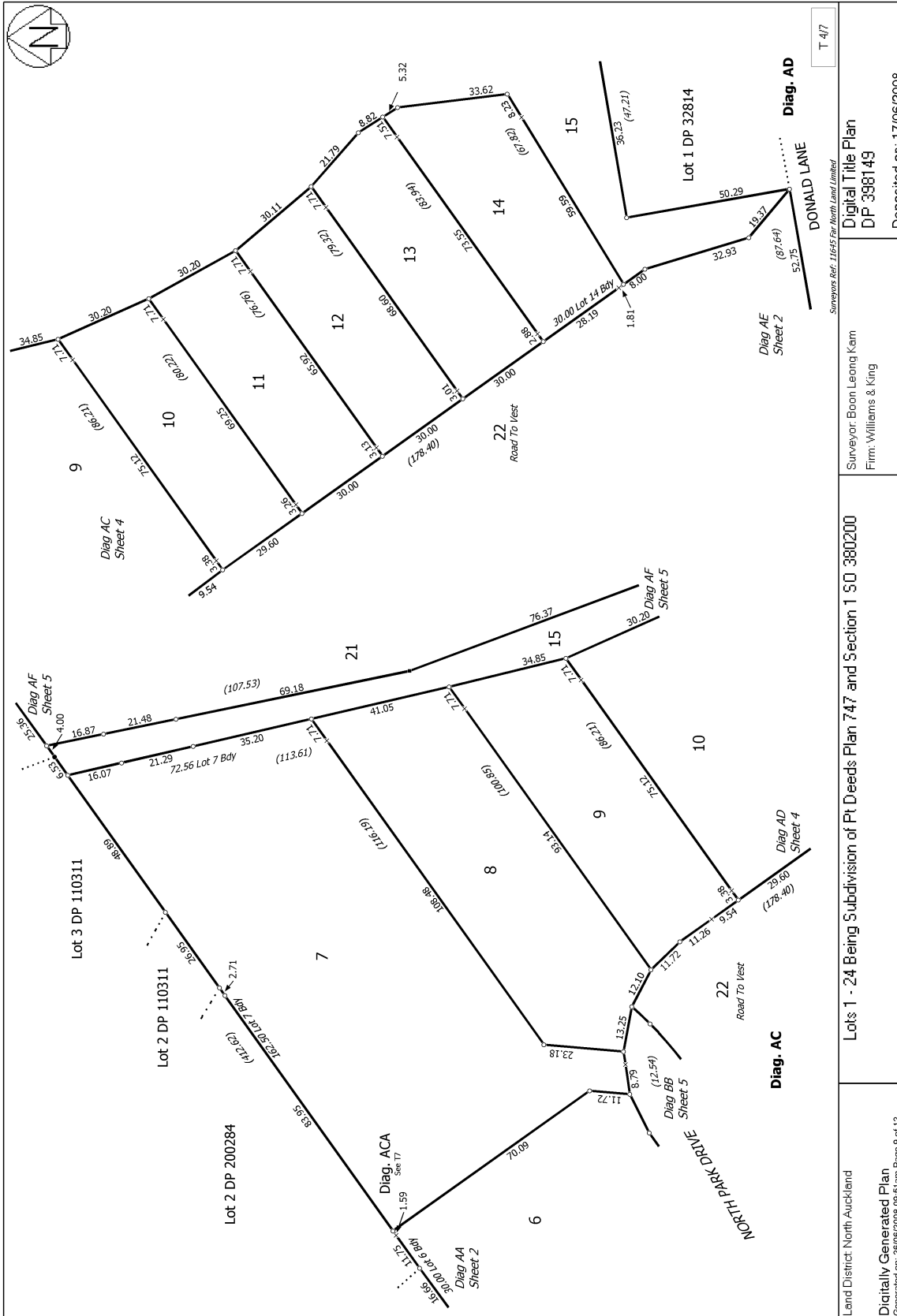
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DP 398149  
Deposited on: 17/06/2008

Surveyor: Boon Leong Kam  
Firm: Williams & King

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Land District: North Auckland  
Digitally Generated Plan  
Generated on: 26/06/2008 09:51 am Page 8 of 12



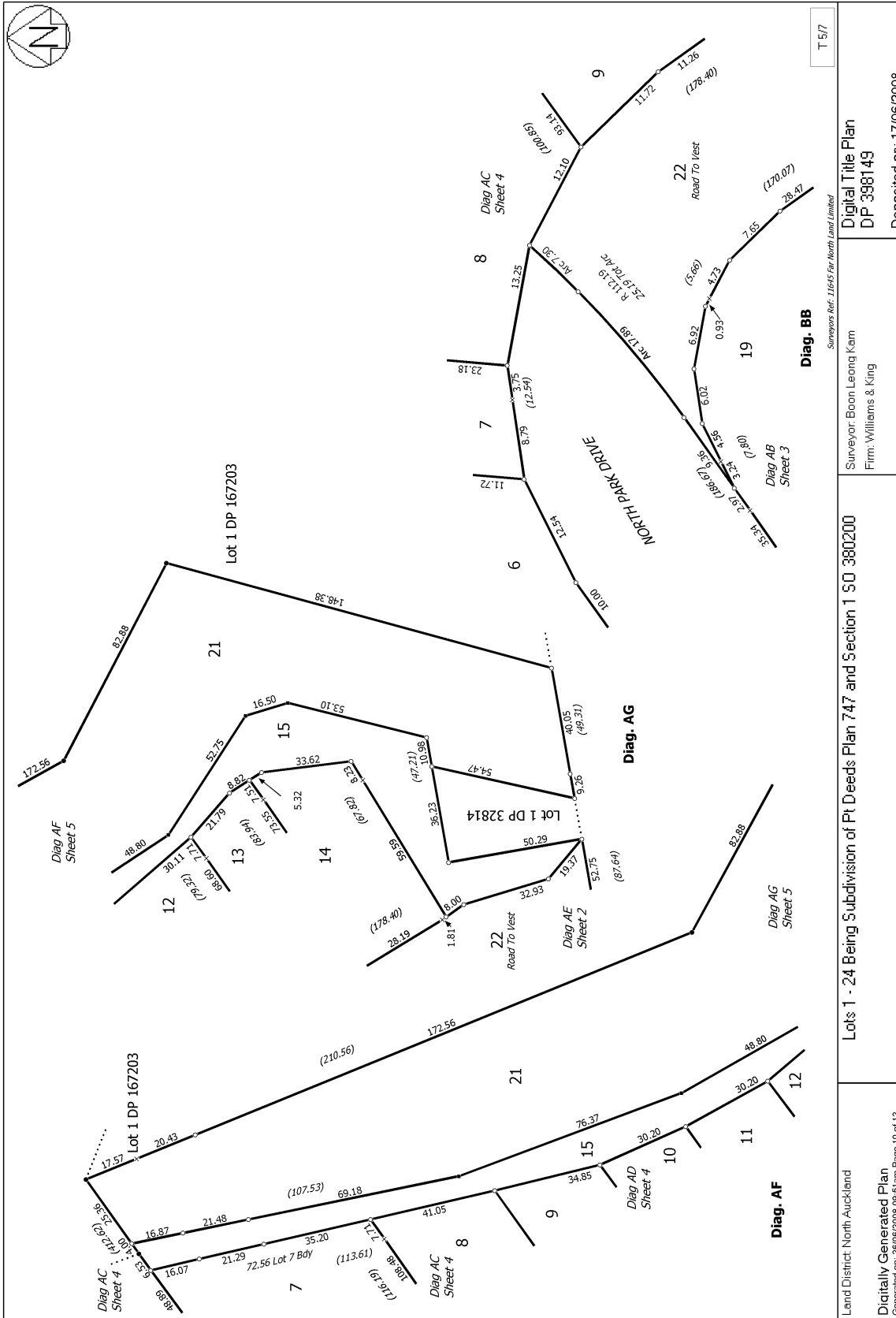
T 4/7

Surveyors Ref. 11655 For North Land Limited  
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 DP 398149

Surveyor: Boon Leong Kam  
 Firm: Williams & King  
 Deposited on: 17/06/2008

Lots 1 - 24 Being Subdivision of Pt Deeds Plan 747 and Section 1 50 380200

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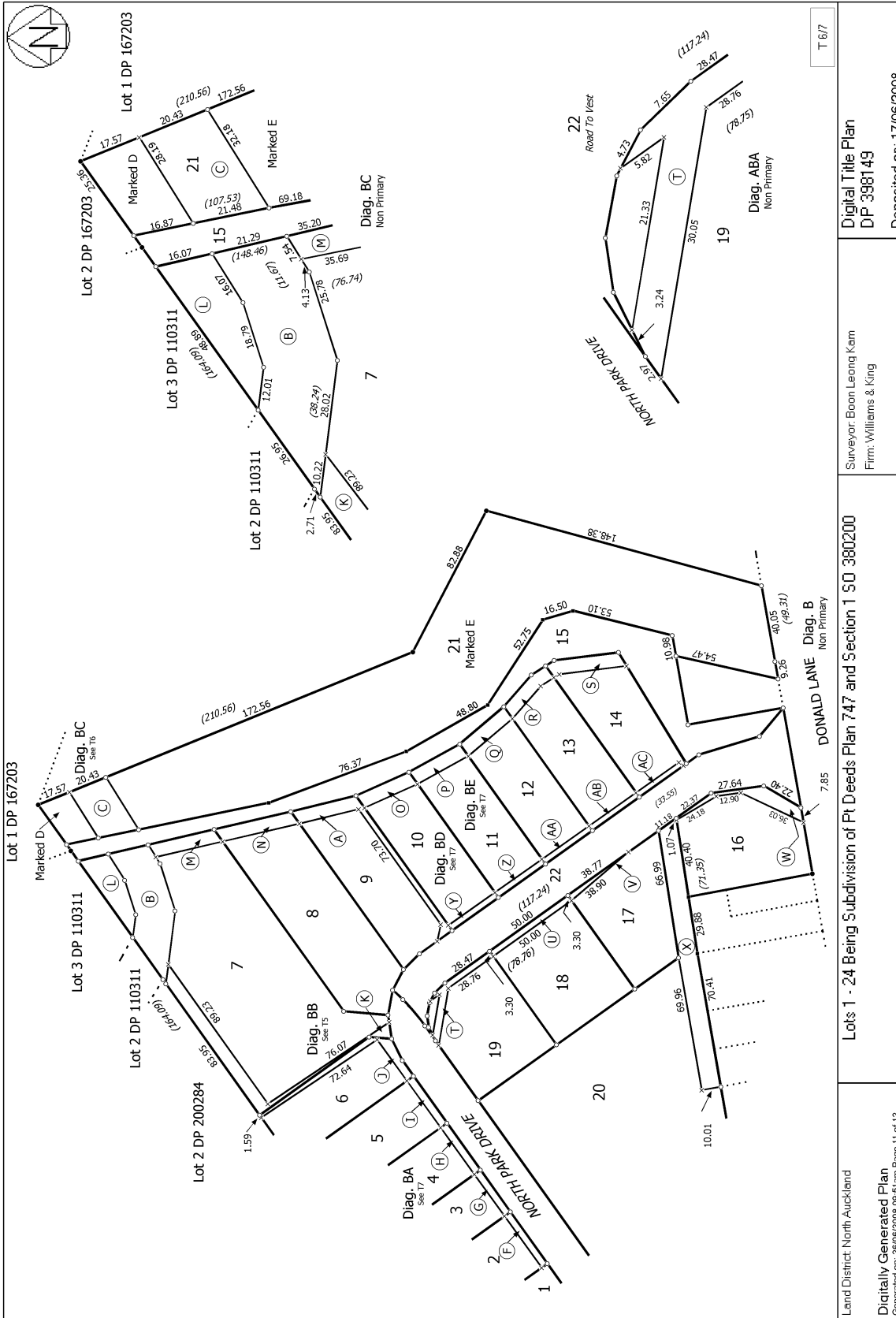
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DP 398149

Surveyor: Boon Leong Kam  
Firm: Williams & King

Lots 1 - 24 Being Subdivision of Pt Deeds Plan 747 and Section 1 50 380200

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Deposited on: 17/06/2008



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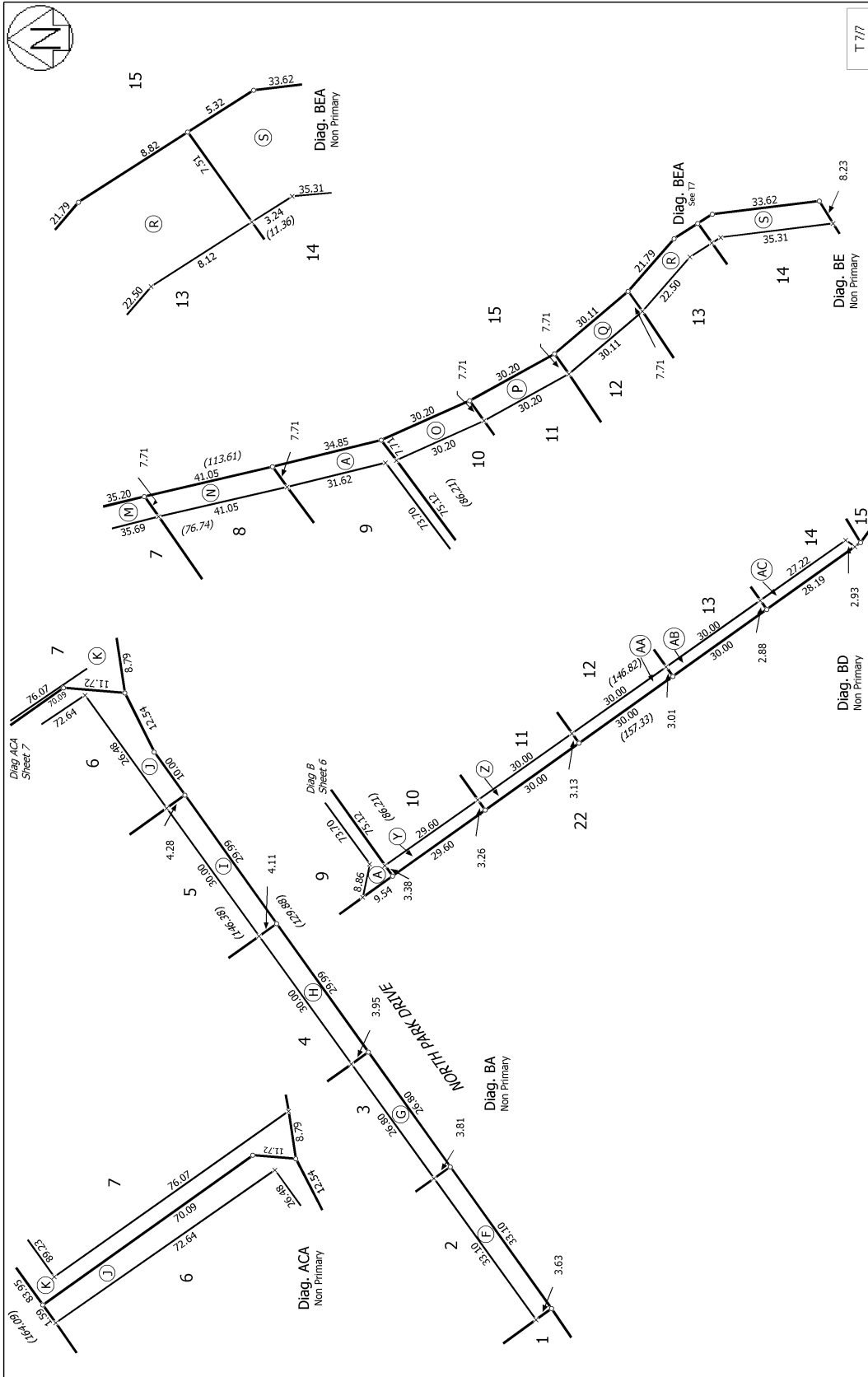
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DP 398149

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Firm: Williams & King

Lots 1 - 24 Being Subdivision of Pt Deeds Plan 747 and Section 1 50 380200

Land District: North Auckland  
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Generated on: 26/06/2008 09:51:am Page 11 of 12

Deposited on: 17/06/2008



Land District: North Auckland  
Digitally Generated Plan  
Generated on: 26/06/2008 09:51 am Page 12 of 12

Lots 1 - 24 Being Subdivision of Pt Deeds Plan 747 and Section 1 50 380200

Surveyor: Boon Leong Kam  
Firm: Williams & King

Digital Title Plan  
DP 398149

Deposited on: 17/06/2008



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



  
R. W. Muir  
Registrar-General  
of Land

**Identifier** **NA709/11**  
**Land Registration District** **North Auckland**  
**Date Issued** 26 January 1939

**Prior References**  
NA452/128

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**Estate** Fee Simple  
**Area** 26.1042 hectares more or less  
**Legal Description** Lot 1 Deposited Plan 17972 and Lot 1-2  
Deposited Plan 19912

**Registered Owners**  
David Ivan Foster and Jillian Glennis Foster

---

**Interests**  
Subject to a right of way and rights to convey sewage and storm water (in gross) over part in favour of the Kaitaia Borough Council created by Transfer 585620 - 21.3.1967 at 11.20 am (affects Lot 1 DP 19912)



EQUIVALENT METRIC

AREA IS 26.1042 ha  
26.1042 ha

2 }  
3.01 }

0.0 398.8

8600.2

3285.9

1059.0

2988.8  
(3104.6)

61.1.0

3655.6

Avenue River

D.P. 12051

PT 2

D.P. 15045

Mortgage No. 2  
George Arthur  
12.46 o'clock

Increase  
to 24131  
Mortgages  
produced  
transfer  
in gross  
sewage  
lot of pla  
another



Far North  
District Council

CONO 7849446.4 Consen

Cpy - 01/01, Pgs - 006, 17/06/08, 08:26



DocID: 313134366

Private Bag 752, Memorial Ave

Kaikohe 0400, New Zealand

Freephone: 0800 920 029

Phone: (09) 405 2750

Fax: (09) 401 2137

Email: ask.us@fndc.govt.nz

Website: www.fndc.govt.nz

## THE RESOURCE MANAGEMENT ACT 1991

### SECTION 221 : CONSENT NOTICE

Regarding the Subdivision of:  
Pt OLC 214 (Deeds Plan 747) and  
Section 1, Blk I Takahue SD  
North Auckland Registry

PURSUANT to Section 221 and for the purpose of Section 224(c)(ii) of the Resource Management Act 1991, this Consent Notice is issued by the **FAR NORTH DISTRICT COUNCIL** to the effect that the 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 these are to be registered on the titles of the allotments specified under each condition below.

#### SCHEDULE

1. Without the prior approval of the Council, no building shall be erected, nor any works which increase impermeable surfaces be undertaken, nor any planting or structure placed which may create a flow obstruction, on any area of the site which has been proposed as a secondary/overland (ARI<sub>100</sub>) flow path, shown as easements on the survey (title) plan, and on the attached Flood Datum plan. **[all lots]**
2. Without the prior approval of the Council, no building shall be erected, nor any other work (including planting) which decreases access to the reticulation under-taken, on an area which is within 2 metres either side of the centreline of any public (ie serving more than a single title) sewer or stormwater pipe within this subdivision [as shown on the attached as-built drawing mark-up]. **[all lots]**
3. A goods vehicle or omnibus (as defined in the Land Transport Rules) which exceeds a gross vehicle mass of 2.5 tonnes is not permitted to exit on to Donald Lane from the roundabout at the end of Peter Jones Drive. **[all lots]**
4. Any building consent application for a commercial or industrial activity is to be accompanied by a list of all the types and the approximate quantities of all hazardous substances intended to be used and/or stored in conjunction with that activity. **[Lots 1 – 14 and 16 – 20]**
5. All stormwater from buildings, overflows and paved areas on each site is to be discharged to the stormwater system's connection point for that lot. **[all lots]**
6. No building shall be erected, nor earthworks greater than 150 m<sup>3</sup> undertaken, without the prior approval of the Council to specific designs for foundations, or the proposed earthworks, prepared by a Chartered Professional Engineer with geotechnical competence.

An exception to this requirement will be where the building platform has been previously certified by an engineer to the Council's satisfaction as having the load capacity for the type of building proposed (this was sought under Condition (3)(e) of the subdivision consent). **[Lots 1 – 14 and 16 – 20]**

7. No building shall be erected without the prior approval of the Council where the minimum floor level is below flood datum set for that building's site (this floodability information was sought under Condition (3)(c) of the Council's subdivision consent and is indicated for each site on the attached Flood Datum plan). **[Lots 1 – 14 and 16 – 20]**
8. No site access, without the Council's approval, is to be formed within 15m of that portion of a corner site frontage which is on a radius curve or an inter-section splay. **[Lots 16 and 19]**
9. No site access is to be formed directly from the State Highway. **[Lots 1 and 20]**
10. The Body Corporate is to provide to the Council, within three months following the issue of the s224 (c) certificate, the minutes of its first meeting; and these are to indicate how the Body Corporate is to be set up and how it proposes to meet its responsibilities as set out in the rules and procedures document.  
Progress in meeting these objectives, following these procedures, any problems encountered and solutions acted upon are to be reported in writing to the Council every six months following the submittal of the first minutes; with a review of this process to be undertaken by the Council in consultation with the Body Corporate after three years.  
**[all lots]**

SIGNED:

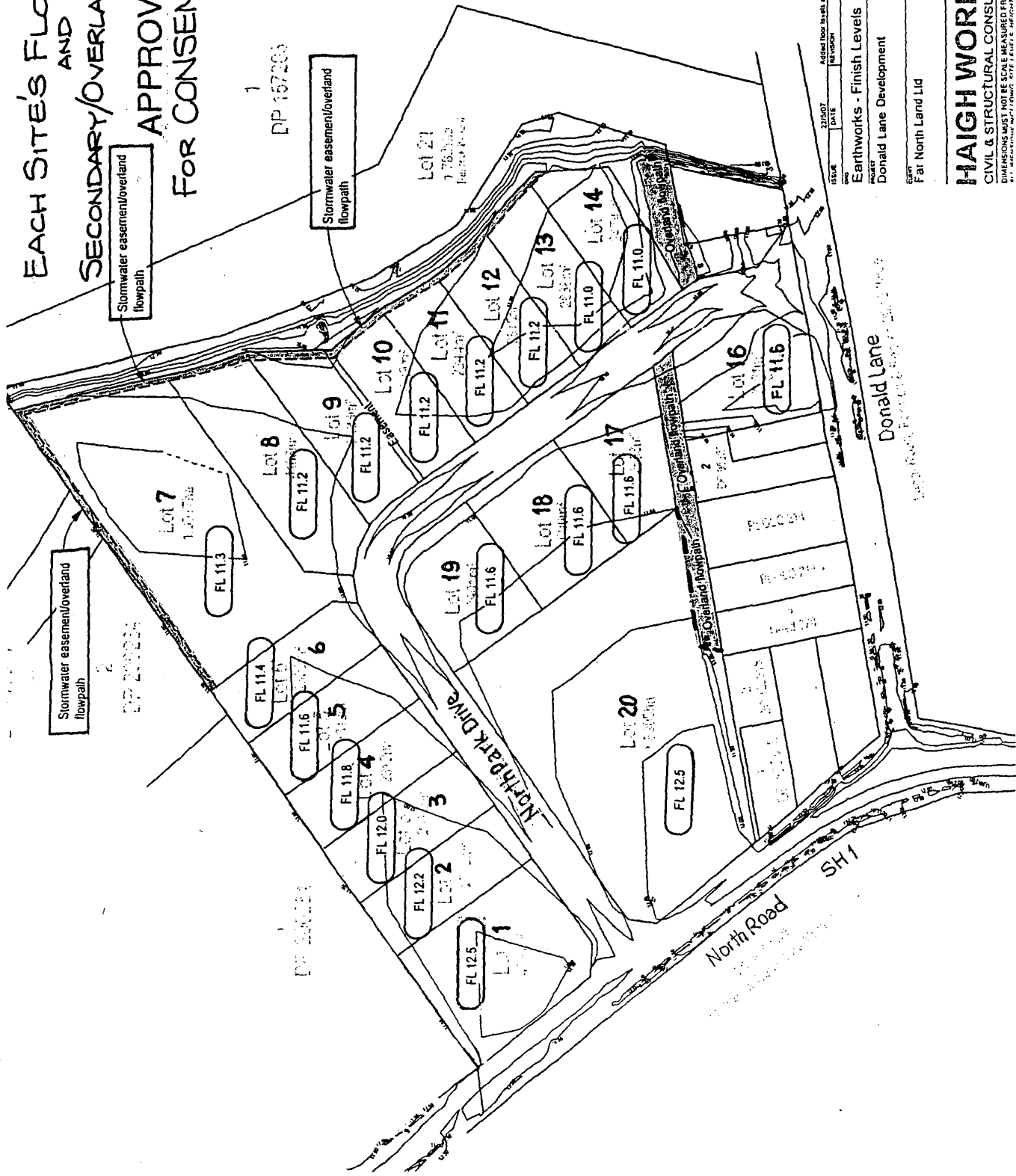
  
by the FAR NORTH DISTRICT COUNCIL  
Under delegated authority:  
RESOURCE CONSENTS MANAGER

Pat Killalea

DATED at **KAIKOHE** this *6th* day of *June* 2008



**EACH SITE'S FLOOD DATUM  
AND  
SECONDARY/OVERLAND (AR<sub>100</sub>) FLOW PATHS  
APPROVED PLAN  
FOR CONSENT NOTICE**



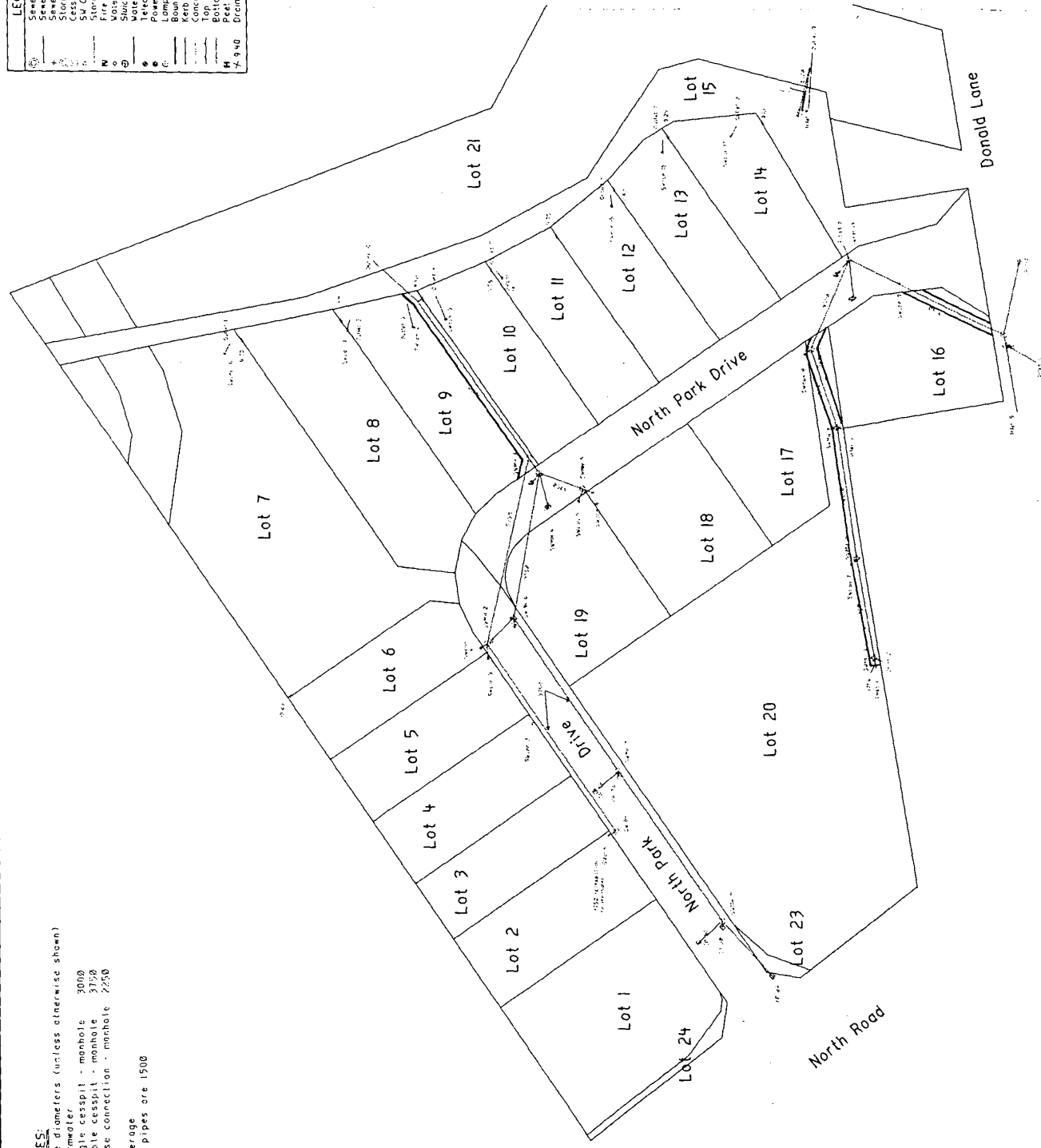
ISSUE	DATE	22/07/07	Added floor levels and easements
PROJECT	06 104		
PROJECT T	2000000		
SCALE	1:1000@A		
DATE	06 104		
PROJECT	06 104		
PROJECT T	2000000		
SCALE	1:1000@A		
DATE	06 104		
PROJECT	06 104		
PROJECT T	2000000		
SCALE	1:1000@A		
DATE	06 104		


**HAIH WORKMAN**  
 CIVIL & STRUCTURAL CONSULTANTS LTD.  
 12 Butler Road  
 Keston, BC  
 T: 08 407 831  
 F: 08 407 831  
 E: info@hwm.co.nz  
 ALL DIMENSIONS UNLESS OTHERWISE SPECIFIED ARE IN METERS. ALL DIMENSIONS SHOWN ARE APPROXIMATE AND SHOULD BE CHECKED ON SITE.

**LEGEND**

○	Sewerage manhole
—	Sewerage pipe
—	Stormwater connection
—	Stormwater manhole
—	Cesspit
—	SW Connection
—	Stormwater pipe
—	Fire Hydrant
—	Shut-off valve
—	Water pipe
—	Telecom upstand
—	Power upstand
—	Boundary
—	Concrete
—	Top of bank
—	Bottom of bank
—	Foot valve
—	Drain level
—	Boundary
—	9 x 40

**NOTES:**  
 Pipe diameters (unless otherwise shown)  
 Stormwater  
 single cesspit - manhole 3000  
 double cesspit - manhole 3150  
 house connection - manhole 2250  
 Sewerage  
 All pipes are 1500



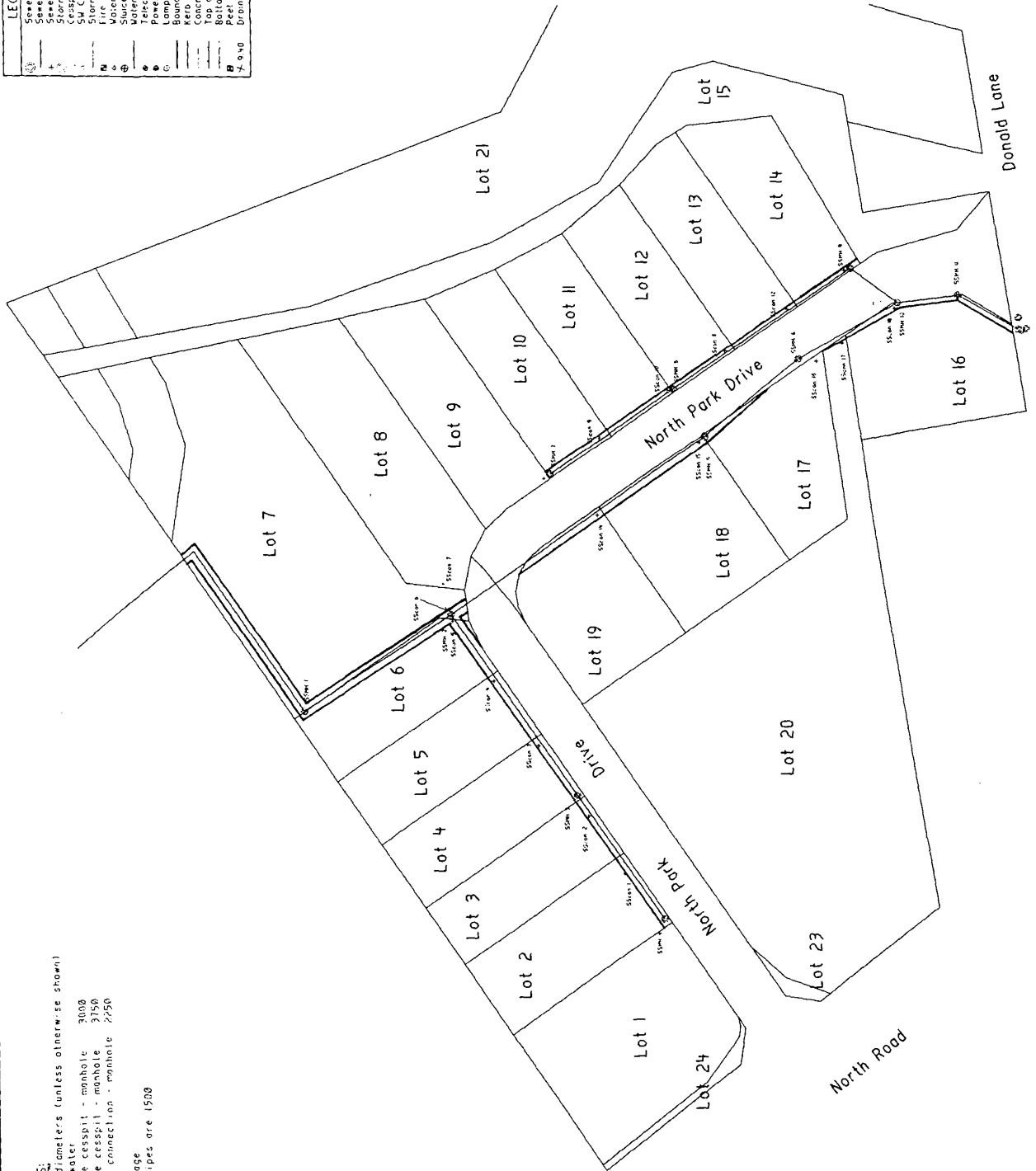
<b>GENERAL NOTES</b>	
1. Coordinates in terms of NZTM, Mount Egon Circuit	
2. Levels in terms of I. & S datum Geodetic Code: GMSD PL-1180m (MSL)	
<b>AMENDMENTS</b>	
revised 02 April 2008 - SH	
revised water line added 7 May 2008 - SH	
<b>STORMWATER</b>	
Name	Date
Survived	Nov 07
ERK	2007
Designed	2007
Drawn	Nov 07
JOB/CLIENT:	
FAR NORTH LAND LIMITED	
SUBDIVISION	
KAITIATA	
SHEET TITLE:	
ASBUILT PLANS	
FOR LOTS 1 - 22	
DP 398149	
 Williams & King Registered Land Surveyors, Planners & Land Development Consultants PO Box 937, Kaitiaki Tel: 09-407 6030 Fax: 09-407 6032 Email: kaitiaki@surreyandking.co.nz Job No: 20275 File: 20275 FULL Asbuilts	
SCALE @ A1	SHEET NO
1:750	1/2

**NOTES:**

- Pipe diameters (unless otherwise shown)
- Stormwater 3000
- single cesspit - manhole 3750
- double cesspit - manhole 4250
- house connection - manhole 2250
- Sewerage
- All pipes are 1500

**LEGEND**

○	Sewerage manhole
—	Sewerage pipe
—	Sewerage connection
—	Water main
—	Water main connection
—	Stormwater pipe
—	SM connection
—	Fire Hydrant
—	Water valve
—	Water pipe
—	Telecom upstand
—	Power upstand
—	Comp post
—	Electricity
—	Concrete
—	Top of bank
—	Bottom of bank
—	Proposed
—	Existing
—	9-10
—	Drain level
—	Boundary



**GENERAL NOTES**

1. Constructed in terms of NZTM, Mount Eford Curvicut
2. Levels in terms of I & S datum  
Gondet's Code 6850  
PL=1135.0 (MSL)

**AMENDMENTS**

revised: 02 April 2008 - SH  
revised: water line added 7 May 2008 - SH

**SANITARY SEWER**

Home	Date
ER	Nov 07
Designed	2007
Drawn	SH
	Nov 07

JOB/CLIENT:

FAR NORTH LAND LIMITED  
SUBDIVISION  
KAITIARA

SHEET TITLE:

ASBUILT PLANS  
FOR LOTS 1 - 22  
DP 398149

**Williams & King**  
Registered Land Surveyors, Planners &  
Land Development Consultants

PO Box 937, Kaitiaki  
Tel: 09-407 8030 Fax: 09-407 8032  
Email: kaiti@williamsking.co.nz

Job No: 20275

File: 20275 FNLL A 5buills

SCALE: A1 1:750 SHEET No 1/2

Approved by Registrar-General of Land under No. 2007/6225

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

Sections 90A and 90F, Land Transfer Act 1952

**EI 7849446.8 Easement I**

Copy - 01/01, Pgs - 016, 17/06/08, 08:32



DocID: 318134372

Land registration district

**NORTH AUCKLAND**

Grantor

Surname(s) must be underlined or in CAPITALS.

**Far North Land Limited**

Grantee

Surname(s) must be underlined or in CAPITALS.

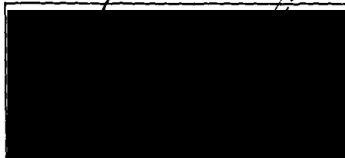
**Far North Land Limited**


**Grant\* of easement or profit à prendre or creation of covenant**

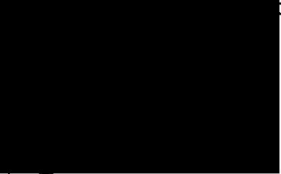
The Grantor, being the registered proprietor of the servient tenement(s) set out in Schedule A, grants to the Grantee (and, if so stated, in gross) the easement(s) or profit(s) à prendre set out in Schedule A, or creates the covenant(s) set out in Schedule A, with the rights and powers or provisions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


Dated this 13 day of June 2008

Attestation

  
  
**B. CONE - DIRECTOR**  
Signature [common seal] of Grantor

Signed in my presence by the Grantor  
  
Signature of witness  
Witness to complete in BLOCK letters (unless legibly printed)  
Witness name LISA ANNE BAKER  
Occupation LEGAL EXECUTIVE  
Address KERIKERI

  
  
**B. CONE - DIRECTOR**  
Signature [common seal] of Grantee

Signed in my presence by the Grantee  
  
Signature of witness  
Witness to complete in BLOCK letters (unless legibly printed)  
Witness name LISA ANNE BAKER  
Occupation LEGAL EXECUTIVE  
Address KERIKERI

Certified correct for the purposes of the Land Transfer Act 1952



[Solicitor for] the Grantee

\*If the consent of any person is required for the grant, the s. 113 form must be used.

**Annexure Schedule 1**



Easement instrument

Dated

13 June 2008

Page

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of

2

pages

**Schedule A**

(Continue in additional Annexure Schedule if required.)

Purpose (nature and extent) of easement, profit, or covenant	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant tenement (Identifier/CT or in gross)
Land Covenant		Lots 1-14 (CTs 391731 to 391744) inclusive and Lots 16-20 (CTs 391746 to <del>391748</del> 391749) inclusive on DP 398149	Lots 1-14 (CTs 391731 to 391744) inclusive and Lots 16-20 (CTs 391746 to <del>391748</del> 391749) inclusive on DP 398149
Land Covenant		Lot 21 on DP 398149 (CT <del>391745</del> 391750)	

Delete phrases in [ ] and insert memorandum number as required.

Continue in additional Annexure Schedule if required.

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

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

The implied rights and powers are **[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 2].~~

**Covenant provisions**

Delete phrases in [ ] and insert memorandum number as required. 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 2].

All signatories or solicitors must sign or initial in this box





**Annexure Schedule**



Insert type of instrument  
 "Mortgage", "Transfer", "Lease" etc

Easement

Dated

13 June

Page

2

of

3

Pages

(Continue in additional Annexure Schedule, if required.)

**Membership of North Park Body Corp Ltd ("the Company"):**

1. The registered proprietor must be a shareholder of the Company and must remain a shareholder of the Company while the registered proprietor is registered as proprietor of an estate of freehold in fee simple in any of Lots 1-14 DP 398149 or Lots 16 - 20 DP 398149 or any part of those lots. The registered proprietor must transfer any shares of the Company on the sale of the registered proprietor's interest in a lot as required by the constitution of the Company.
2. The registered proprietor must observe and perform all the obligations of shareholders of the Company as provided in the Company's constitution for the time being and as provided in Resource Consent 2061144 and any variations to it.
3. The registered proprietor as shareholder in the Company shall not make any changes to the Constitution as annexed to this instrument ("the Constitution") without the prior written approval of the Far North District Council.
4. The registered proprietor must observe the rules and regulations governing the use of the Company's equipment and must not hinder the Company maintaining and managing the Company's equipment.
5. The registered proprietor must pay all charges of whatsoever nature due from time to time to the Company as provided in the Company's constitution.
6. In the event that any shareholder of the Company is in default of its obligations under the Constitution, all individual registered proprietors of Lots 1-14 DP 398149 and Lots 16-20 DP 398149 and the registered proprietors of any Lots further subdivided from those Lots, shall be jointly and severally liable to ensure full compliance with the obligations set out in the Constitution of the Company (as approved by the Far North District Council).
7. Should any registered proprietor as a shareholder of the Company be in default of its obligations under the Constitution requiring any other registered proprietors as shareholders of the Company to ensure full compliance with those obligations, those other registered proprietors as shareholders shall have a right of redress against the defaulting shareholder or shareholders and shall be entitled to place a charge ("the Shareholder's Charge") against the defaulting shareholder's or shareholders' land.
8. Sections 185 and 203 - 205 Property Law Act 2007 apply to this land covenant, but otherwise (and without prejudice to the chargeholder's right of action pursuant to the Constitution or otherwise):
  - a) the chargeholder will be entitled to none of the powers and remedies given to encumbrancees by the Land Transfer Act 1952 and the Property Law Act 2007; and
  - b) no covenants on the part of the defaulting shareholder or defaulting shareholders are implied in this covenant, other than the covenants for further assurance implied by s.154 Land Transfer Act 1952.
9. No building or structure may be erected or established (whether or not it requires a building consent) and no earthworks or any works or activity which may increase impermeable surfaces may be undertaken, nor may any vegetation be removed which may disturb the soil (mowing or grazing established grass excepted) and no structure may be placed or established which may create a flow obstruction on any part of Lot 21 DP398149 without the written consent of the Far North District Council or any successors.

If this Annexure Schedule is used, the registered proprietor and solicitors must sign or initial in the presence of

all signing parties and either their witnesses or

The Companies Act 1993  
**Constitution**  
of  
**NORTH PARK BODY CORP LTD**

**1. Definitions**

**1.1** In this constitution unless the context otherwise requires the following words and expressions have the meanings given to them in this clause:

"Act" means the Companies Act 1993.

"board" means the board of directors of the Company

"Company" means **NORTH PARK BODY CORP LTD**

"Equipment" means all equipment and infrastructure located on Lot 15 to be owned and maintained by North Park Body Corp Limited ("the Company") including (but not limited to:

Q2085 Broadcrown BCJD150S open generating set;

John Deere 6068H Diesel engine;

2 x AFP 3003 ABS submersible pumps and associated pipework;

2.4m x 2.4m x2.0m sump;

4.2 x 4.2x 2.2 concrete tiltslab shed;

electrical switchboard;

such other items, such as control systems, as may be required to provide a complete and operative emergency flooding alleviation system; and

any upgrade or replacement of the above approved by the Far North District Council

which Equipment is to be at all times maintained to the standard required by Resource Consent 2061144 (and any amendments thereto), and all Health and Safety and Engineering legislation, regulations and standards from time to time in force.

"Lots" means Lots 1 – 14 and 16 – 20 on DP 398149 or any further Lots created from those Lots.

"Lot 15" means Lot 15 on DP 398149 and any further lots created from Lot 15

"Landscaping" means all landscaping on Lot 15 shown on the landscaping plan dated 1 November 2007 (copy attached) and all hedges and fencing within Lot 15 and any further fencing as may required to prevent any person entering onto parts of Lot 15 where potentially dangerous parts of Equipment are kept.

"Owner" means the owners at any time, of Lots in the North Park Subdivision other than the areas currently described as Lots 15, 22, 23 and 24.

"Subdivision" means the subdivision of all of the land within Part Old Land Claim 214 (Deeds Plan 747) Blk I Takahue SD , Certificate of Title 777/13, North Auckland Registry at Peter Jones Drive, Kaitaia plus a realigned legal access road (now described as Part Deeds Plan 747 and Section 1 survey office plan 380200, Certificate of Title 351467, North Auckland Registry at North Park Drive, Kaitaia), as specified in Resource Consent No. 2061144 and any amendment thereto including the changes provided for in RC 2080379 copies of which are attached

"writing" includes all modes of representing or reproducing words, figures or symbols in a visible form including reproduction by facsimile machine.

- 1.2 Words importing the singular number only include the plural number and vice versa.
- 1.3 A reference to a person includes any firm, Company or other body corporate.
- 1.4 Subject to the above, expressions contained in this constitution bear the same meaning as in the Act at the date on which this constitution becomes binding on the Company.
- 1.5 This constitution has no effect to the extent it contravenes the Act.
- 1.6 A reference to a clause means a clause of this constitution.
- 1.7 The clause headings are included for the purposes of convenience and do not affect the construction of this constitution.
- 1.8 A reference to the subdivision or a lot is a reference to the Subdivision and Lots defined in 1.1 above and any subsequent lots created from land held in that deposited plan.

## **2. Purpose of the Company**

The reason for the Company's existence is to provide a vehicle for the maintenance of Equipment contained within the Subdivision, which is commonly owned by, and for the benefit of all of the Lots within the Subdivision.

- 2.1 In order to satisfy the obligations of the Company in its role as the Owners' representative in terms of the jointly managed assets of the Subdivision and the satisfaction of local body commitments the Company shall:
  - a) maintain the operation and maintenance of the flooding mitigation pumps that are situated in the Subdivision;
  - b) be responsible for the operational and maintenance requirements of the Equipment, the continuation of serviceability of the Equipment, be responsible for the payment of power supply and costs thereto and will ensure that the Equipment will work when required to;
  - c) be responsible for the maintenance of landscaping on Lot 15 until such time as Council assume responsibility for this maintenance.

- d) regularly report the Far North District Council the outcomes of complying with the obligations created by this constitution including the regular supply of an engineer's certificate setting out the maintenance and repairs undertaken on all Equipment, pumps and back ups.

### **3. Obligations and duties of the Company**

#### **3.1 Lot 15**

Lot 15 shall be used as a Council utility site, a ponding area, and for the placement of the Equipment.

- 3.2 The company shall not make any changes to the constitution without the prior written approval of the Far North District Council.

- 3.3 The registered proprietors of Lots 1-14 DP 398149 and Lots 16-20 DP 398149 and the registered proprietors of any Lots further subdivided from those Lots, are required to be shareholders of the company, and shall pay all levies imposed by the company and transfer any shares in the company on the sale of their land as required by the constitution.

#### **3.4 Maintenance and the costs thereof**

- a The Company shall maintain the flood mitigation system, Landscaping and Equipment on Lot 15.
- b The costs of maintenance, asset replacement reserves, and any other outgoings, including the cost of running the Company, will be passed on to the shareholders in the form of an annual levy.
- c The amount of levy and the time and manner of their payment shall be fixed by the Company annually at its annual general meeting. Each shareholder shall contribute equally to the annual levy provided that where any cost or expense incurred by the Company predominantly benefits a particular shareholder, the board shall, unless unreasonable in the circumstances, levy that cost or expense to the benefiting shareholder. In particular any cost or expense incurred by the Company in respect of:
  - (i) the maintenance of a Lot (other than Lots 15, 22, 23 and 24) shall be levied to the shareholder who owns that Lot; and
  - (ii) fencing between Far North District Council owned land and other Lots in the Subdivision shall be levied to the shareholder who owns that other Lot.

#### **3.5 Damage by shareholders**

If any of the improvements or landscaping on Lot 15, or anywhere else within the Subdivision is damaged by a shareholder or a shareholder's invitee or agent then that shareholder shall meet the costs of making good that damage.

#### **3.6 Shareholder Default**

- a. If any shareholder is in default of its obligations under this constitution, ("Defaulting Shareholder") each shareholder shall be liable in

proportion to its shareholding under this constitution to ensure full compliance with the obligations set out in the constitution.

- b. The Defaulting Shareholder will indemnify the company and each shareholder for any cost, loss or damage suffered by the company or that shareholder ("Complying Shareholder") in performing the obligations of the Defaulting Shareholder pursuant to clause 3.6(a).
- c. A Complying Shareholder may assign its rights to indemnification pursuant to clause 3.6(b) to the company. The company must, on receipt of written notice from a Complying Shareholder ("Request Notice") give notice to the Defaulting Shareholder ("Enforcement Notice") requiring the Defaulting Shareholder to pay to the company all sums due pursuant to clause 3.6(b)("the Default Sum").
- d. The company will have a first and continuing lien on its shares for any amounts payable by a Defaulting Shareholder. The lien will extend to all dividends and distributions from time to time declared with respect to those shares.
- e. So long as an amount is presently payable to the company on those shares, or by the holder of those shares, whether with respect to the issue of a Request Notice or Enforcement Notice, or for any other reason, the company will refuse to transfer the shares of a Defaulting Shareholder pursuant to clause 8.4.

#### **4. Rules**

The Company will be responsible to set out the Rules for the operation of Lot 15. The initial rules shall be contained within and / or attached to this Constitution.

#### **5. Shares**

##### **5.1 Number of shares.**

- (a) At the date of registration, there shall be 19 shares in the Company.
- (b) Every owner of any Lot within the Subdivision shall be required to take up a shareholding in the Company.
- (c) In the event that there is further Subdivision of any Lots within the Subdivision the Owners of the new Lots created shall be entitled to a shareholding and the Company is empowered to create further shares to ensure that each Lot owner has a shareholding. The original owner of each Lot shall receive the shareholding allocated to that Lot.
- (d) On the sale of any Lot the registered proprietor (and shareholder) shall transfer the share to the new registered proprietor on settlement for \$1.00 (one dollar).

##### **5.2 Restriction on share ownership.**

No person or entity may hold shares in the Company unless that person or entity is also the registered proprietor of at least one Lot in the Subdivision. Any person or entity who is the registered proprietor of any Lot shall be deemed to be the holder of the share attaching to that Lot.

Except as otherwise provided the Company shall be entitled to treat the registered holder of any share as the absolute owner and accordingly shall not be bound (except as ordered by a court of competent jurisdiction or as by statute required) to recognise any trust charge encumbrance lien or other claim to or interest in such share on the part of any other person.

**5.3** If the Developer is a shareholder, its voting rights shall be deemed to be the lesser of 49% or the voting rights otherwise calculated under this document. In this clause, the 'Developer' means any of the following:

- (i) Far North Land Limited;
- (ii) any related person (as defined in the Companies Act 1993) to Far North Land Limited;
- (iii) any shareholder or director of Far North Land Limited; or
- (iv) any Company, trust or other entity which has a director, shareholder, trustee or beneficiary who is or has been a director or shareholder of Far North Land Limited.

**6. Annual Budget**

The operating costs of the Company shall be provided for by way of an annual budget which must be approved by 75 percent of the shareholders subject to mandatory obligation to comply with the resource consent conditions of the Subdivision which shall also be binding on the Company.

**7. Transmission of Shares**

**7.1 Recognition on death of shareholder**

- a If a shareholder dies, then the survivor [where the deceased was a joint holder] or the legal personal representatives of the deceased shareholder [where the shareholder was a sole holder] are the only persons recognised by the Company as having any title to the deceased shareholder's interest in the shares;
- b This clause shall not release the estate of a deceased joint holder from any liability in respect of any share held jointly by the deceased with any other person or persons.

**8. Transfer of shares**

**8.1 Entry in register.** Shares may be transferred by entry of the name of the transferee on the register, following receipt of a transfer in accordance with clause 8.2.

**8.2 Signed transfer.** For the purpose of transferring shares a form of transfer signed by the present holder of the shares or the holder's personal representative must be delivered to the Company or to the agent of the Company who maintains the register.

**8.3 Form of transfer**

- a The form of transfer may be in the form set out in the First Schedule to the Securities Transfer Act 1991 or in any usual or common form, or any other form approved by the board.
- b The form of transfer must be accompanied by evidence which satisfies the directors of the contemporaneous transfer to the transferee of the Lot to which that share attaches, and such other evidence as the directors may require to prove the title of the transferor or his or her right to transfer the share or shares.

**8.4 Board's rights to refuse registration of transfer**

- a The board shall, within 30 working days of the receipt of a transfer of shares, resolve to refuse or delay the registration of the transfer if:
- i the holder of the shares has failed to pay an amount due to the Company in respect of those shares; or
  - ii the board considers that to effect the transfer would result in a breach of the law; or
  - iii the share transfer has not been properly executed; or
  - iv the share to be transferred or the relevant Lot is subject to any mortgage or charge or lien, unless the directors are satisfied on reasonable grounds that such mortgage charge or lien will be discharged upon the transfer of the share and the relevant Lot or that the holder of such mortgage charge or lien consents to the transfer of the share and the relevant Lot.
- b A resolution of the board to refuse or delay a transfer of shares must set out in full the reasons for doing so and must be sent to the transferor and transferee within 5 working days of the date of the resolution.

**8.5 Registration of transfer.** On receipt of a duly completed form of transfer, the Company must enter the name of the transferee on the register as holder of the shares, unless the board has resolved in accordance with clause 8.4 to refuse or delay the transfer of the shares.

**8.6 Compulsory transfer of shares.** If any shareholder has ceased to hold the relevant Lot as registered proprietor and has not contemporaneously transferred his or her share to the new owner of the relevant Lot, the former shareholder shall be deemed to have appointed the Company as the shareholder's agent for the transfer of the share to the person entitled to hold it.

The consideration (if any) for the share shall be as the directors in their absolute discretion determine and in particular for a consideration which will wholly or partly satisfy any indebtedness of the former shareholder to the Company. The directors shall be under no duty fiduciary or otherwise to any shareholder to obtain the best or any price for the share upon its transfer.

Upon the Company selling any share the Company may receive the purchase price (if any) and any director may execute a transfer of the share on behalf of the former shareholder. The Company shall then register the transfer and shall hold the purchase money (if any) in trust for the former shareholder but subject to a right of set off which the Company shall have in respect of any monies owing to the Company by the former shareholder however arising.

The receipt of the Company for the purchase monies shall be a good discharge to the transferee and after the transferee's name has been entered in the register in exercise of the powers contained in this clause the validity of the proceedings may not be questioned by any person. This clause shall apply to the holder(s) of any interest as tenants in common in a share.

## **9. Indemnity and Insurance**

### **9.1 Indemnity of directors and employees.**

- a The board may cause the Company to indemnify a director or employee of the Company or a related Company for costs incurred by him or her in any proceeding;
  - i that relates to liability for any act or omission in his or her capacity as a director or employee; and
  - ii in which judgment is given in his or her favour or in which he or she is acquitted, or which is discontinued.
- b The board may cause the Company to indemnify a director or an employee of the Company or a related Company in respect of:
  - i liability to any person other than the Company or a related Company for any act or omission in his or her capacity as a director or employee; or
  - ii costs incurred by the director or employee in defending or settling any claim or proceeding [relating to or any liability under paragraph 9.1 b i].

not being a criminal liability or liability in respect of a breach, in the case of a director, of the duty specified in section 131 of the Act (duty to act in good faith and in the best interests of the Company) or, in the case of an employee, of any fiduciary duty owed to the Company or related Company.
- c The board must ensure that particulars of any indemnity given to any director or employee of the Company or related Company are forthwith entered in the interests register.

### **9.2. Insurance of directors and employees.**

- a The board may, subject to section 162 of the Act, cause the Company to effect and pay for insurance for a director or employee of the Company or a related Company in respect of:
  - i liability, not being criminal liability, for any act or omission in his or her capacity as a director or employee; or
  - ii costs incurred by such directors or employees in defending or settling any claim or proceeding relating to any such liability; or
  - iii costs incurred by a director or employee in defending any criminal proceedings in which he or she is acquitted.
- b The directors who vote in favour of authorising the effecting of insurance under clause 9.2 must sign a certificate stating that, in their opinion, the cost of effecting the insurance is fair to the Company.
- c The board must ensure that particulars of any insurance effected for any director or employee of the Company or related Company are forthwith entered in the interests register.



9.3. **Definitions.** For the purpose of this clause "director" includes a former director and "employee" includes a former employee.

10. **Appointment and removal of directors**

10.1 **Appointment.** The Company shall from time to time determine the number of directors, but there shall always be at least one and not more than four directors.

a All directors shall be appointed only by ordinary resolution of the shareholders. At least one of those directors shall be a nominee of the shareholders in the Company.

b Each director holds office until his or her retirement, disqualification or removal in accordance with this constitution.

10.2 **Disqualification and removal.** The office of director shall be vacated if the director:

a resigns in writing; or

b becomes incapacitated as defined in section 6 1 a and b of the Protection of Personal and Property Rights Act 1988; or

c becomes disqualified from being a director pursuant to section 151 of the Act; or

d is absent from more than three successive board meetings without the permission of the other directors; or

e is removed by ordinary resolution of the shareholders.

11. **Proceedings at Meetings of Shareholders.**

11.1 **First Schedule Modified.** The First Schedule to the Act is modified as follows.

11.2 **Chairperson.** Subclause 1(2) of the First Schedule to the Act is deleted and replaced with the following:

"1(2) If no chairperson of the board has been elected, or if at any meeting of shareholders the chairperson of the board is not present within 15 minutes of the time appointed for the commencement of the meeting, the directors present shall elect one of their number to be chairperson of the meeting. If at any meeting no director is willing to act as chairperson, or if no director is present within 15 minutes of the time appointed for holding the meeting, the shareholders present shall choose one of their number to be chairperson of the meeting."

11.3 **Notice of Meetings.** Clause 2 of the First Schedule to the Act is amended as follows:

a by deleting subclause 4 and replacing it with the following:  
"4 The chairperson may, and if so directed by the meeting shall, adjourn the meeting from time to time and place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment

took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of any adjournment of the business to be transacted at an adjourned meeting."

b by adding the following subclause:

"5 The accidental omission to give a notice of meeting to, or the non-receipt of a notice of a meeting by, any person entitled to receive notice thereof shall not invalidate the proceedings at that meeting."

**11.4 Voting.** Clause 5 of the First Schedule to the Act is amended as follows:

a by deleting subclause 7 and replacing it with the following:

"7 In the case of an equality of votes, whether voting is by voice or show of hands or poll, the chairperson of the meeting shall not be entitled to a second or casting vote";

b by adding the following subclauses:

"9 Subject to any right or restrictions for the time being attached to any class of shares, every shareholder present in person or by proxy and voting by voice or on a show of hands shall have one vote per share registered in the name of that shareholder or his / her appointee."

"10 The chairperson may demand a poll on a resolution either before or after a vote thereon by voice or on show of hands."

"11 The demand for a poll may be withdrawn."

"12 Except as provided in subclause 13, if a poll is duly demanded it shall be taken in such manner as the chairperson directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded."

"13 A poll demanded on the election of a chairperson or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time and place as the chairperson of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll."

**11.5 Proxies.** Clause 6 of the First Schedule to the Act is amended by adding to it the following subclauses:

"6 A proxy form shall be sent with each notice calling a meeting of the Company."

"7 An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances permit:

*NORTH PARK BODY CORP LTD  
INSTRUMENT APPOINTING A PROXY*

I/We of being a shareholder of North Park body Corp Ltd hereby appoint [print name of proxy] of or failing him/her, of as my/our proxy to vote for me/us on my/our behalf at the Annual/Special Meeting of the Company to be held at on commencing at am/pm [or all meetings of the Company held within 12 months of the date hereof] and at any adjournment of any such meeting.

Signed this day of 20  
[Usual signature/s]"

"8 Where it is desired to afford shareholders an opportunity of voting for or against a resolution, the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:

NORTH PARK BODY CORP LTD  
INSTRUMENT APPOINTING A PROXY

I/We of being a shareholder of North Park body Corp Ltd hereby appoint [print name of proxy] of or failing him/her of as my/our proxy to vote for me/us on my/our behalf at the Annual/Special Meeting of the Company to be held at on commencing at am/pm and at any adjournment thereof.

I/We direct my/our proxy to vote in the following manner:

Resolutions	Vote with a Tick	
	For	Against
1.		
2.		

Signed this day of 20  
[Usual Signature/s]"

"9 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the appointor or revocation of the proxy or revocation of the authority under which the proxy was executed, or the transfer of any share in respect of which the proxy is given, if no intimation in writing of such death, insanity, revocation or transfer as aforesaid has been received by the Company before the start of the meeting or adjourned meeting at which the proxy is used."

"10 The instrument appointing a proxy and a power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the Company or at such other place within New Zealand as is specified for that purpose in the notice convening the meeting not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote or, in the case of a poll, not less than 24 hours before the time

appointed for the taking of the poll, and in default, the instrument of proxy shall be treated as invalid.”

- 11.6 Postal Votes.** Clause 7 of the First Schedule to the Act providing for postal votes is deleted.
- 11.7 Resolutions in Lieu of Meeting.** A shareholders’ resolution in lieu of meeting authorised by section 122 of the Act may consist of several documents in like form, each signed by one or more shareholders. A facsimile of any such signed resolutions shall be as valid and effectual as the original signed document with effect from completion of its transmission.
- 12 Proceedings of the board**
- 12.1 Regulation of meetings, quorum and convening.** The directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. The quorum necessary for the transaction of business by the directors may be fixed by the directors and, unless so fixed, shall be the majority of the directors. A director may, and an employee at the request of the director shall, at any time, by any means of communication, summon a meeting of directors. It shall not be necessary to give notice of a meeting of directors to any director for the time being absent from New Zealand.
- 12.2 Voting.** Questions arising at any meeting of directors shall be decided by a majority of votes. In cases of an equality of votes the chairperson shall not have a second or casting vote. No business shall be transacted when a quorum is not present.
- 12.3 Vacancies.** The continuing directors may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the number necessary for a quorum, the continuing directors or director may act only for the purpose of increasing the number of directors to the number necessary for a quorum or for the purpose of summoning a special meeting of the Company.
- 12.4 Chairperson.** The directors may elect a chairperson of their meetings and determine the period for which he or she is to hold office; but if no such chairperson is elected, or if at any meeting the chairperson is not present within five minutes after the time appointed for the meeting, the directors present may choose one of their member to be chairperson of the meeting.
- 12.5 Resolution in writing.** A resolution in writing, signed by all the directors for the time being entitled to receive notice of a meeting of the directors, shall be as valid and effectual as if it had been passed at a meeting of directors duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more directors. A facsimile of any such signed resolution shall be as valid and effectual as the original signed document with effect from completion of its transmission.
- 12.6 Method of meeting.** A meeting of the directors may be held either:
- a by a number of the directors who constitute a quorum being assembled together at the place, date and time appointed for the meeting; or

- b by means of audio, or audio and visual, communication by which all directors participating and constituting a quorum can simultaneously hear each other throughout the meeting.

**12.7 Minutes.** The directors shall ensure that minutes are kept of all proceedings at meetings of the directors.

**13 Directors' Remuneration.**

Section 161 of the Act shall not apply. The remuneration of the directors shall from time to time be determined by the shareholders in general meeting and shall be divided amongst the directors as they shall agree or failing agreement, equally.


**14 Amendment to the constitution and rules**

**14.1** Any change to the constitution of the Company will require the approval of 75% of the shareholders.

**14.2** Any changes to the rules for the operation of the North Park property (**Lot 15**) must be supported by 75% of the shareholders.

**14.3** Any change to the constitution of the Company or to the rules for the operation of the North Park property (Lot 15) must receive the prior written approval of the Far North District Council.

**14.5** The Company must not enter into any arrangement for voluntary winding up without the prior written consent of the Far North District Council or any successor.

Certified  on of the Company

\_\_\_\_\_  
Director

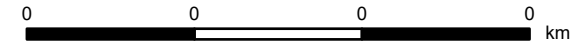
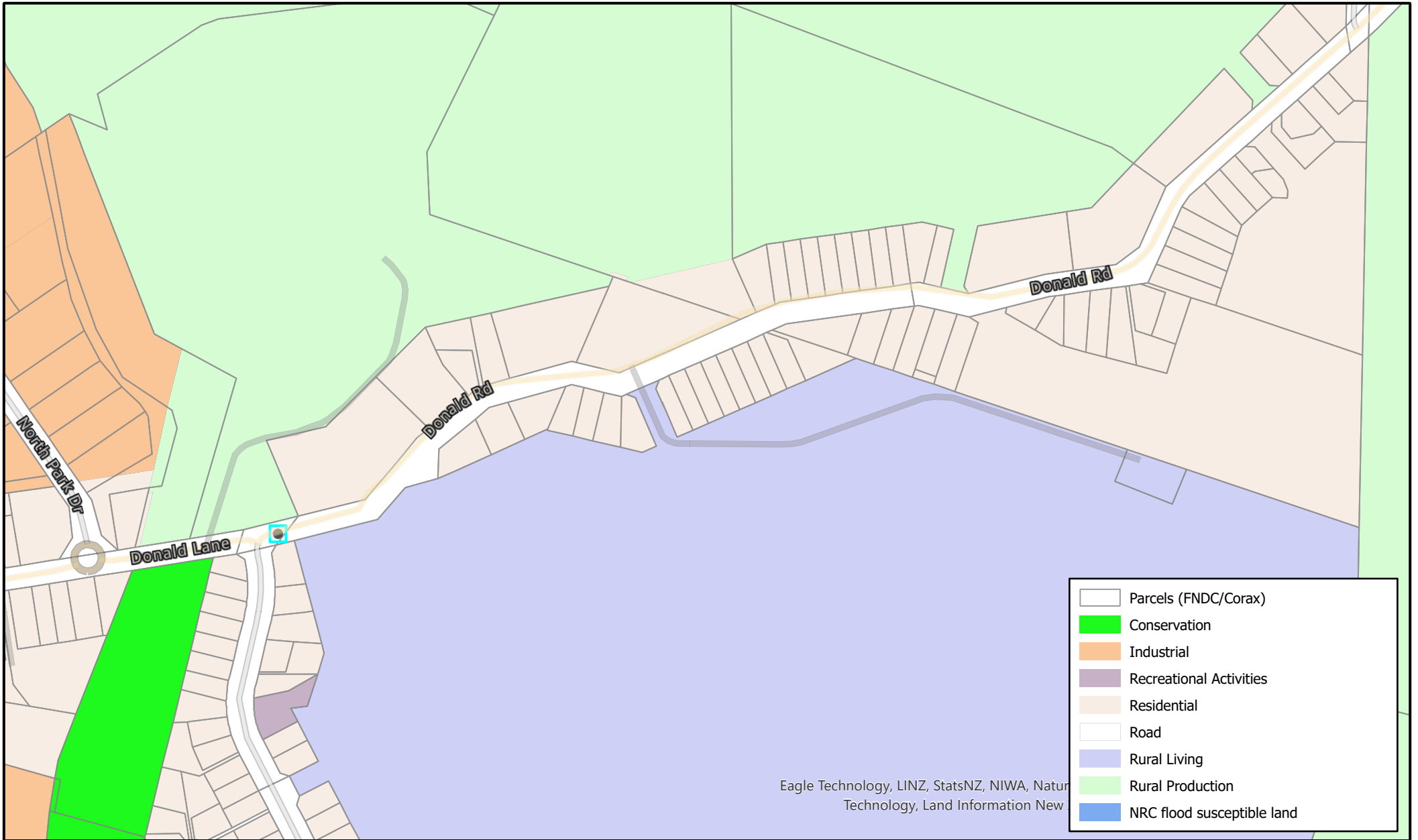
**NORTH PARK BODY CORP LTD  
RULES FOR CONTROL AND MANAGEMENT OF PROPERTY**

1. The provisions in the Company constitution shall apply.

# APPENDIX 3

## PLANNING MAPS

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# APPENDIX 4

## RULE ASSESSMENT

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## Operative District Plan Provisions

Chapter 12 – Natural and Physical Resources Section 3 – Soils and Minerals		
Rule	Status	Comment
<b>12.3.6.3 Discretionary Activities</b>		
<i>12.3.6.3 Discretionary activities</i>	Discretionary activity	The proposal cannot comply with 12.3.6.2.2(a) as the proposed earthworks will exceed 500m <sup>3</sup> per site in a 12 month period and therefore defaults to a discretionary activity under 12.3.6.3.

## Proposed District Plan Provisions

Earthworks (EW)		
Rule	Status	Comment
<i>EW-R1 – Earthworks or buildings or structures, and extensions to existing buildings or structures</i>	N/A	Not proposed
<i>EW-R2 – Earthworks for creating fence lines, poles, piles and service connections</i>	N/A	Not proposed.
<i>EW-R3 – Earthworks for rural industry activity</i>	NA	Not proposed.
<i>EW-R4 – Earthworks for a farming activity where sites are 8ha or over</i>	N/A	Not proposed.
<i>EW-R5 – Earthworks for a farming activity where sites are less than 8ha and for sites in zones not listed in EW-R4</i>	N/A	Not proposed.
<i>EW-R6 – Earthworks for the formation of unformed roads and the formation or upgrade of private roads and private accessways</i>	N/A	Not proposed.
<i>EW-R7 – Earthworks for new infrastructure or repair or upgrades</i>	N/A	Not proposed.
<i>EW-R8 – Earthworks for new infrastructure or repair and upgrades of existing infrastructure owned by network utility providers or requiring authority</i>	Restricted discretionary	The proposed earthworks cannot comply with EW-S1.
<i>EW-R9 – Earthworks for sport and recreation activity</i>	N/A	Not proposed.
<i>EW-R10 – Earthworks for construction, or upgrade of walkways, cycle tracks and leisure activity</i>	N/A	Not proposed.

<i><b>EW-R11</b> – Earthworks for conservation activity</i>	N/A	Not proposed.
<i><b>EW-12</b> – Earthworks and the discovery of suspected sensitive material</i>	N/A	Not proposed.
<i><b>EW-13</b> – Earthworks and erosion and sediment control</i>	Permitted	The proposed earthworks will comply with the Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016.
<b>Overall Status</b>	<b>Permitted activity</b>	

# APPENDIX 5

## EVIDENCE OF IWI ENGAGEMENT

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## Reyburn and Bryant

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**From:** [REDACTED]  
**Sent:** Tuesday, 14 November 2023 8:58 AM  
**To:** Joseph Henehan; Kelvin Kapp  
**Subject:** FW: Consent Application Feedback: DONALD ROAD CATCHMENT WASTEWATER NETWORK UPGRADE

Morning Joe,

Is the below enough from Te Rarawa?

Hopefully

Cheers

Blair

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**From:** [REDACTED]  
**Sent:** Monday, November 13, 2023 9:16 PM  
**To:** [REDACTED]  
**Subject:** RE: Consent Application Feedback: DONALD ROAD CATCHMENT WASTEWATER NETWORK UPGRADE

Kia ora Blair,

I have reviewed this with our Te Rarawa PCG team and I can confirm Te Rarawa's support of this RC application.

Nga mihi

Tyrone



Tyrone Newson – Director Property & Construction  
**Te Waka Pupuri Putea**  
+64 21 1949084  
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16 Matthews Ave, Kaitaia, New Zealand 0410  
[www.terarawa.iwi.nz](http://www.terarawa.iwi.nz)

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**From:** [REDACTED]  
**Sent:** Monday, November 6, 2023 9:46 AM  
**To:** [REDACTED]  
**Subject:** RE: Consent Application Feedback: DONALD ROAD CATCHMENT WASTEWATER NETWORK UPGRADE

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Morning,

Thanks for the quick response.

I have attached an overview of the route and concept.

To date changes from the concept are as follows:

- The 750mm Pipe storage within North Park Drive is replaced by a storage chamber at the Donald Road pumpstation. (In the current easement)
- The total wastewater line up until the far end, east within Donald Road could be replaced because of CCTV footage showing poor condition. (no change to route)

There is potential for some changes in the final design detail due to further investigation of modelled wet weather flow and recent rain events, but it is not expected to change the overall concept.

Hopefully, this helps but also happy to discuss any details further.

Regards

Blair

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**From:** [REDACTED]  
**Sent:** Sunday, November 5, 2023 10:06 PM  
**To:** [REDACTED]  
**Subject:** RE: Consent Application Feedback: DONALD ROAD CATCHMENT WASTEWATER NETWORK UPGRADE

Kia ora Blair,

I have checked with our team and our only comments at this stage are:

- 1) can you confirm on a plan that this is the same route and concept design that was originally proposed? or
- 2) if there are any variations how it has differed?

Nga mihi



Tyrone Newson – Director Property & Construction  
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**From:** [REDACTED]  
**Sent:** Thursday, November 2, 2023 5:02 PM  
**To:** [REDACTED]  
**Subject:** Consent Application Feedback: DONALD ROAD CATCHMENT WASTEWATER NETWORK UPGRADE

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Afternoon Tyrone,

Hope all is well,

As we discussed yesterday things are progressing.

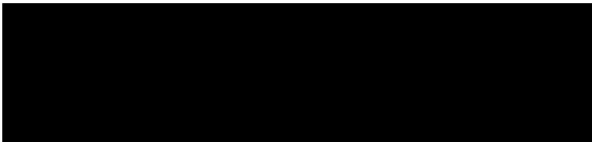
We hope to lodge the consents soon and require your feedback. Any questions please let me know and I will facilitate introductions to our planner.

Please see attached the following planning application documentation for review.

- Transmittal 2 - 02112023
- 019-TM-0WWC-00-RevP1: INITIAL PLANNING ADVICE – DONALD ROAD CATCHMENT WASTEWATER NETWORK UPGRADE
- 019-PAR-0WWC-00-RevP1: NRC - Land Use Consent Application - Earthworks
- 019-PAR-0WWC-01-RevP1: FNDC - Land Use Consent Application - Earthworks

Kind Regards

Blair



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# APPENDIX 6

## NRC SELECTED LAND USE REGISTER

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