Te Kaunihera o Te Hiku o te Ika
Far North District Council

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 Schedule 4). Prior to, and during, completion of this application form, please refer to Resource Consent Guidance Notes and Schedule of Fees and Charges — both available on the Council's web page.

1. Pre-Lodgement Meeting

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

2. Type of Consent being applied for

(more than one circle can be ticked):

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

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

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

○ **Yes** ○ **No**

4. Consultation

Have you consulted with Iwi/Hapū? ○ **Yes** ✔ **No**

If yes, which groups have you consulted with?	
Who else have you consulted with?	In the original consent Te Uri Karaka and Ngati Manu were consulted.

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

5. Applicant Details

Name/s: John Upperton

Email: [redacted]

Phone number:

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

6. Address for Correspondence

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

Name/s: As above

Email:

Phone number: Work | Home

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

Postcode

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

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

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

Name/s: John Upperton

Property Address/ Location: [redacted]

8. Application Site Details

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

Name/s: John Upperton

Site Address/ Location: [redacted]

Legal Description:

Certificate of title:

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

Site visit requirements:

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

Is there a dog on the property? ◯ **Yes** ✔ **No**

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

NA

9. Description of the Proposal:

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

Renewal of lapsed Consent to construct a dwelling and establish an effluent disposal system

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

10. Would you like to request Public Notification?

◯ **Yes** ✔ **No**

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

(more than one circle can be ticked):

- ◯ **Building Consent** Enter BC ref # here (if known)
- ◯ **Regional Council Consent (ref # if known)** Ref # here (if known)
- ◯ **National Environmental Standard consent** Consent here (if known)
- ◯ **Other (please specify)** Specify 'other' here

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

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

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

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

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

13. Assessment of Environmental Effects:

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

Your AEE is attached to this application ✔ **Yes**

13. Draft Conditions:

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

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

14. Billing Details:

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

Name/s: (please write in full) John upperton

Email: [redacted]

Phone number: [redacted]

Postal address:
(or alternative method of service under section 352 of the act) [redacted]

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

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

Name: (please write in full) John Kildare Upperton

Signature:
(signature of bill payer [redacted]

15. Important Information:

Note to applicant
You must include all information required by this form. The information must be specified in sufficient detail to satisfy the purpose for which it is required.
You may apply for 2 or more resource consents that are needed for the same activity on the same form.
You must pay the charge payable to the consent authority for the resource consent application under the Resource Management Act 1991.

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

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

15. Important information continued...

Declaration

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

Name: (please write in full) John Kildare Upperton

Signature: [redacted]

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

Checklist (please tick if information is provided)

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

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

RESOURCE CONSENT APPLICATION FOR

Activity A: To construct a single dwelling unit on pole foundations in the General Coastal Zone, breaching Rule 10.6.5.3.1 for visual amenity, Rule 12.2.6.2.1 for retrospective indigenous vegetation clearance in the General Coastal Zone, Rule 12.7.6.1.2 for setback from smaller lakes, rivers and wetlands, and Rule 12.7.6.1.4 for land use activities involving discharges of human sewage effluent, as a Discretionary Activity.

Activity B: Establish an Effluent Disposal System breaching rule 15.3.1(a) for the discharge of secondary treated sewage effluent (not including stormwater) into or onto land from on-site treatment and disposal systems as a Discretionary Activity.

Activity C: Establish an Effluent Disposal System breaching rule C.6.1.3 Other on-site treated domestic wastewater discharge under the Proposed Regional Plan.

ASSESSMENT OF ENVIRONMENTAL EFFECTS

PREPARED FOR

J K Upperton

REV 3.0

4/08/2025

J K UPPERTON

ASSESSMENT OF ENVIRONMENTAL EFFECTS

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Author

This report was originally prepared in 2005 by Stephen L. Westgate, Resource Management Consultant, in association with Richardson Stevens Consultants (1996) Ltd. It was updated in May 2009 to reflect the content of the Far North Partly Operative District Plan and changes to engineering standards in regard to soakage fields.

In May 2025, following legal advice and a formal position issued by the Far North District Council, it was confirmed that the land use consent (2090634-RMALUC) granted in 2015 had not been given effect to prior to its lapse date and was therefore no longer valid. In light of this, it was determined that the most appropriate course of action was to submit a new resource consent application. This version of the Assessment of Environmental Effects (AEE) has been updated by Diego Solarte Garcia to support the new application, taking into account the site history, previous implementation efforts, and relevant district and regional planning provisions.

The author of this report disclaims any responsibility to the client and others in respect to any matter outside the agreed scope of the work.

All correspondence relating to this report and applications should be addressed to:

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Ph. +64277035999

Email: johnupperton@gmail.com

1. THE APPLICANT AND PROPERTY DETAILS

Territorial Authority	Far North District Council
Site address	73, Pipiroa Road, Okiato, Russell 0272
Applicant's name	John K Upperton
Address for service	PO Box 259, Rawene 0443
Legal description	Lot 1 DP 202228 Blk V Russell SD. The property details are provided in full in the Record of Title, attached as Appendix [1] (Record of Title - NA129B_963 - John Kildare Upperton)
Site area	1.9070 hectares
Site owner/s	John Kildare Upperton
Operative District Zoning	General Coastal
Operative Overlays	-Registered archaeological site Q05/1124 is located on the eastern portion of the property, away from where the activity will take place.
Proposed District Plan Zoning	Rural Production
Proposed District Plan Overlays	High Natural Character References 439, 441 and 444 Coastal Flood (Zone 1: 50 Year Scenario) Coastal Flood (Zone 2: 100 Year Scenario) Coastal Flood (Zone 3: 100 Year + Rapid Sea Level Rise Scenario) River Flood Hazard Zone (10 Year ARI Event) River Flood Hazard Zone (100 Year ARI Event)
Description of the Proposed Activity	**Activity A:** To construct a single dwelling unit on pole foundations in the General Coastal Zone, breaching Rule 10.6.5.3.1 for visual amenity, Rule 12.2.6.2.1 for indigenous vegetation clearance in the General Coastal Zone, Rule 12.7.6.1.2 for setback from smaller lakes, rivers and wetlands, and Rule 12.7.6.1.4 for land use activities involving discharges of human sewage effluent, as a Discretionary Activity. **Activity B:** Establish an Effluent Disposal System breaching rule 15.3.1(a) for the

	discharge of secondary treated sewage effluent (not including stormwater) into or onto land from on-site treatment and disposal systems as a Discretionary Activity **Activity C:** Establish an Effluent Disposal System breaching rule C.6.1.3 Other on-site treated domestic wastewater discharge under the Proposed Regional Plan

2. DESCRIPTION OF PROPOSAL

2.1. General

The applicant is seeking re-approval of the original resource consent (RC 2090634-RMALUC), granted by the Environment Court on 21 April 2015, to construct a dwelling at Pipiroa Road, Pipiroa Bay, Okiato. FNDC has since determined that the consent lapsed five years after commencement, as construction of the dwelling did not occur within that timeframe.

While the consent was still in effect, certain activities were undertaken, including:

-Seabed reclamation and ground level fill, which was monitored by FNDC and NRC.

-Formation of an access track in accordance with FNDC requirements.

-Initial vegetation clearance.

A planting plan was also submitted to FNDC in 2017. This plan is attached as Appendix 2. Further vegetation clearance and earthworks continued after 2020. In 2024, FNDC approved a Conservation Covenant and other covenants, which were prerequisites for applying for a building consent. This Conservation Covenant (Instrument No. 12997831.1) was subsequently registered on the Record of Title (NA129B/963), attached as Appendix 1, for the property. This Conservation Covenant is also attached as Appendix 3.

This application seeks to re-authorize the original proposal, acknowledging the lapse and leveraging the progress already made to bring the project to completion. The proposed dwelling layout is shown in Appendix 4 Wastewater will be treated and discharged to land, and access will remain via Pipiroa Road, where a 100-meter low-impact accessway has already been constructed.

2.2. Proposed Dwelling

The applicant is seeking consents to construct a new dwelling on a property located at Pipiroa Road, Pipiroa Bay, Okiato. The proposed dwelling will comprise a ground floor living and accommodation area, including a garage, covering up to approximately 190m^2. This level will be encircled by a 3.5-meter-wide deck on its northern and western sides. Additionally, a smaller upper storey of 50m^2 is planned. The total footprint of the dwelling, when including the deck, is estimated to be about 300m^2. The overall height of the dwelling will not exceed 8 meters above ground level. The building is intended to be a "single dwelling unit on pole foundations". Water tanks will be placed beneath the dwelling, avoiding visual obstruction and not contributing to impervious areas.

In terms of aesthetics and environmental integration, the exterior cladding of the proposed dwelling will be weatherboard-style. The exterior, including wall cladding and the roof, will be coloured within the Resene BS5252 standard colour palette range, with a reflectance value of 30% or less or constructed from natural materials that fall within this range. Artificial lighting on the exterior will be restricted to ensure no naked (unshielded) bulbs are visible and that light sources are directed downwards and cannot be seen from outside the site. There will be no landscape lighting, including driveway and path lighting.

The plan for the dwelling is shown in Appendix 4. Domestic wastewater will undergo treatment to an acceptable standard before being discharged onto the land. Access to the property will be from Pipiroa Road. A low-impact accessway, approximately 100 meters long, was constructed along previously unformed section of Pipiroa Road. While the original consent was still current, the conditions of consent related to access were given effect to

2.3. Setback from Coastal Marine Area

As the dwelling was not constructed before the lapse of the original consent, this aspect of the proposal remains unimplemented. The applicant now seeks to proceed in accordance with the originally approved design. No changes are proposed to the previously consented setback. The dwelling is to be erected on poles at the edge of the wetland area adjoining the spit, in the upper tidal zone. To minimise potential adverse effects on the coastal marine area, the building will maintain a setback of approximately 30 metres from Mean High Water Springs (MHWS), reducing to 27 metres when the deck is included. A greater setback would require a larger footprint within the wetland area.

2.4. Retrospective Resource Consent for Vegetation Clearance.

The applicant is seeking retrospective consent for approximately 663m2 of vegetation clearance. This clearance primarily occurred on the portion of the property where the building platform will be placed (Appendix 5, Figure 4). This work took place after the original resource consent (RC 2090634-RMALUC) had, unbeknownst to the applicant at the time, lapsed. The vegetation clearance was, however, part of the activities originally consented under the initial application and was carried out under the supervision of the Council's monitoring officers. This included the initial clearing of most of the landward Riparian Management Zone (RMZ), which primarily consisted of exotic pest plants, with the intent of replacing them with native species. Specific clearance also occurred to prepare the accessway (Appendix 5, Figure 6) and the building platform (Appendix 5, Figure 4). While mangroves beneath the dwelling's

footprint are to be pruned and some at pile sites potentially removed, with those in the ramp area cleared. The total affected area of mangroves is estimated to be less than 0.1 ha, or approximately 6% of the total mangrove area and 2% of the overall wetland area. A conservative approach has been taken in assessing the cleared area due to limited information regarding the specific type of vegetation present, under which retrospective consent is being sought.

2.5. Effluent Treatment and Disposal

Domestic effluent will be treated in an aerated wastewater treatment system and dispersed through a drip-fed irrigation line extending along the spit. As the house was not constructed, this aspect of the original proposal was not given effect to.

However, a copy of Richardson Stevens' "Engineering Report on ONSITE EFFLUENT DISPOSAL" dated 5.11.99, with a May 2009 amendment, is attached in Appendix 6. This report remains relevant and outlines the design criteria to be applied to the site, confirming the viability of an adequate effluent disposal on the subject site. It includes soil tests, percolation test results, and water table measurements.

As shown in the report, onsite measurements identified that the water table is 0.8m below the surface. It is proposed that 200mm of imported topsoil, covered with 50-100mm of bark, vegetation or soil, would be placed to form a raised bed, low pressure dispersal system over an area of 70-95 m^2 with a pipeline length of 70-117 m. This has been designed assuming a load of 700-950 litres/day (5 persons @ 140-190 litres).

2.6. Riparian Management Zones (RMZ)

This aspect of the original proposal has been given effect. The Riparian Management Zone (RMZ) on the landward (eastern) side of the spit on the subject property was assessed as about 7.5 meters wide, with a total RMZ area of approximately 750 m^2. Virtually all of the landward RMZ on the property, primarily consisting of exotic pest plants, was cleared vegetation while the Resource consent was still current. Part of the RMZ was built up by 0.2m - 1m to provide the required depth for soakage above the water table for treated effluent disposal and for the ramp up to the garage and deck of the dwelling. The estimated total volume of fill placed in the RMZ was up to 300 m^3.

It is noted that additional earthworks will be required for the construction of the house's piles/foundations. These earthworks are anticipated to be minimal and well below the permitted threshold of the District Plan (DP) rules. However, due to the proximity to the coastal marine area and the adjacent wetland, erosion and sediment controls will be required in accordance with Proposed District Plan (PDP) rule EW-R13.

The management of the RMZ is further detailed in the Planting Plan & Vegetation Management Plan (Appendix 2), which outlines goals for retaining native plants, controlling weeds, and establishing a screen of native vegetation along the waterfront. This plan also provides strategies for weed control and ongoing maintenance to

ensure the planted area is sustainable. This management plan also seeks to mitigate the visual effects of the proposal by maintaining a native screening around the proposed build.

3. BACKGROUND

This section provides a timeline of key events pertinent to the assessment of this re-approval application, offering crucial context regarding the history of the proposal, previous consents, hearings, and the circumstances leading to the current application.

Timeline of Events

- **2000 (April 7):** A previous application to construct a dwelling on the spit and discharge treated wastewater was declined following a Hearing.
- **2000 (April 20):** The previous application was declined by the Commissioner, largely due to concerns regarding "cultural well-being of tangata whenua" (related to an alleged wahi tapu site) and a "perceived risk of tidal inundation and flooding".
- **Between 2000 and 2005:** Research by the applicant confirmed that an alleged sacred karaka tree, the wahi tapu site, was never on the subject property. The NZ Historic Places Trust (NZHPT) subsequently acknowledged there was no evidence to justify the registration and withdrew it, thereby removing a significant ground for the previous application's decline.
- **2009:** Mr. Upperton applied for resource consent to construct a single dwelling on the property, with associated earthworks and vegetation clearance.2013 (April): Consent was granted by a joint hearing panel.
- **2015 (April 21)**: The Environment Court dismissed an appeal, *Hamilton v Far North District Council* [2015] NZEnvC 12 , and confirmed the resource consents were granted pursuant to amended conditions, specifically *Hamilton v Far North District Council* [2015] NZEnvC 73. The Far North District Council consent (RC 2090634-RMALUC) and the wastewater discharge consent had a lapse date of 5 years from this date.
- **2016**:
    - Mr. Upperton provided Council with engineering drawings from Richardson Stevens Consulting Engineers, which were approved by Council.
    - A scope of works was undertaken on site.

    - Mr. Upperton and his contractors carried out fill and reclamation works pursuant to the resource consent.
- **2017**:
    - Vegetation clearance took place to prepare the accessway and the building platform.
    - Mr. Upperton submitted a landscape integration and ecological restoration planting plan.
- **2020 (March 17)**: A resource consents monitoring officer at Council, advised Mr. Upperton via email that he "deemed" the consent to have been "given effect to". Following this advice, Mr. Upperton did not apply for an extension of his resource consent.
- **2020 (April 21)**: The FNDC resource consent (RC 2090634-RMALUC) lapsed, as deemed by FNDC's later review.
- **2021**: Additional vegetation clearance occurred.
- **2022**: Council officers investigated an alleged breach arising from works being carried out despite a lapsed consent. Council officers concluded there was no compliance issue because the resource consent "is still current".
- **2022**: Mangroves were cleared for the house platform within the area marked by a surveyor and viewed by an FNDC Officer.
- **2024 (May)**: The Council approved a conservation covenant and other covenants that were prerequisites to applying for building consent pursuant to condition 6 of the resource consent. This Conservation Covenant (Instrument No. 12997831.1) has since been registered on the title.
- **2025 (March)**: Mr. Upperton's lawyer corresponded with FNDC seeking confirmation that the resource consent had been given effect to.
- **2025 (May)**: FNDC, through its legal counsel, informed Mr. Upperton that, upon further review, the Council's position is that the consent was not given effect to prior to its lapse date in 2020, and therefore it lapsed.

4. REASONS FOR RESOURCE CONSENT

4.1. Operative District Plan:

Resource consent is required under the following rules:

RULE 10.6.5.3.1. VISUAL AMENITY: proposed dwelling's gross floor area exceeds 25 square metres, and it does not comply with Rule 10.6.5.1.1, making it a Restricted Discretionary Activity in this respect.

RULE 12.2.6.2.1. INDIGENOUS VEGETATION CLEARANCE IN THE GENERAL COASTAL ZONE AS A DISCRETIONARY ACTIVITY: The proposal is unable to comply the performance standards for a Restricted discretionary activity making it a Discretionary activity according to rule 12.2.6.3(b). This rule applies because any clearance of vegetation in or within 20m of an indigenous wetland is a discretionary activity. The proposal requires retrospective resource consent under this rule for the vegetation clearance that took place after the original resource consent lapsed.

RULE 12.7.6.1.2 SETBACK FROM SMALLER LAKES, RIVERS AND WETLANDS: The proposed dwelling and impermeable surfaces will not meet the required 30-meter setbacks from the coastal marine area and wetlands. Therefore, resource consent is required as a Restricted discretionary activity.

RULE 12.7.6.1.4 LAND USE ACTIVITIES INVOLVING DISCHARGES OF HUMAN SEWAGE EFFLUENT AS A DISCRETIONARY ACIVITY: The effluent disposal system is proposed to be located closer than 30m from the boundary of any river, lake, wetland, or the coastal marine area, therefore unable to comply with the permitted activity standard and it doesn't fall into a specific restricted discretionary activity for this particular rule. When an activity does not comply with one or more of the permitted activity standards as set out under Rule 12.7.6.1, it defaults to a Discretionary Activity.

4.2. Proposed District Plan

The following rules from the Proposed District Plan have immediate legal effect and are relevant to this proposal. Compliance with these rules means they are considered Permitted Activities and do not trigger a separate resource consent:

EW-R12. EARTHWORKS AND THE DISCOVERY OF SUSPECTED SENSITIVE MATERIAL: The proposal will comply with Accidental Discovery Protocol and this is offered as a condition of consent.

EW-R13. EARTHWORKS AND EROSION AND SEDIMENT CONTROL: The proposal will comply with EW-S5 and during the earthworks stage, will be controlled in accordance with the *"Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016 (Auckland Council Guideline Document GD2016/005)"*

No rules regarding vegetation clearance are triggered under the Proposed District Plan (PDP) in this case because the vegetation clearance occurred prior to the notification and legal effect of the relevant provisions. As such, the activity does not fall within the scope of the PDP's vegetation clearance rules, which only apply to works carried out after the rules gained legal effect. Since the clearance was completed beforehand, it

is considered a permitted activity by virtue of existing use rights, and retrospective application of the PDP's vegetation clearance provisions is not required. Accordingly, no separate consent is triggered under the PDP for this aspect of the proposal.

4.3. Discharge consents

A discharge permit is required to discharge treated wastewater to land within 15 metres of surface water. This specific discharge consent can be processed by the Far North District Council (FNDC) because the responsibility for processing consents to discharge domestic quantities (up to 3m³/day) of treated sewage effluent into or onto land is delegated to the FNDC from the Northland Regional Council pursuant to section 33 of the RMA.

Rule 15.3.1(a) (Northland Regional Council Water and Soil Plan): A discharge permit is required for the discharge of sewage effluent into or onto land. This is because the proposal is unable to meet the conditions for permitted activities, specifically Rule 15.01.04(d) which requires that no part of the disposal area and reserve area be located within 15 metres, measured horizontally, of any surface water.

Rule C.6.2.2. Wastewater treatment plant discharge. discretionary activity (Proposed Regional Plan for Northland): The discharge of treated wastewater from a wastewater treatment plant onto land is a discretionary activity. This is because the effluent disposal system cannot meet the exclusion areas and setback distances for on-site domestic wastewater systems with a secondary and tertiary treated domestic type wastewater, meaning it cannot meet the permitted activity standard.

4.4. Overall Activity Status

Overall, the application has been assessed as a Discretionary Activity under the ODP and a Discretionary activity under the Northland Regional Council water and Soil plan and the Proposed Regional Plan for Northland.

5. SITE DESCRIPTION AND SURROUNDING ENVIRONMENT

5.1. General Description:

The subject property is low lying, with much of the site comprising a tidal wetland area below MHWS. The total site area is 1.831ha (18 310 m²). A narrow, vegetated sandspit, orientated north-south, separates the tidal wetland area from Pipiroa Bay. At the northern end of the property, between the spit and the northern headland, a small, spring-fed creek flows through the wetland and then enters Pipiroa Bay at the northern end of the spit. At a site visit on 23 October 2004, at about half tide and rising, the free-

flow outflow rate in the creek was estimated at the order of 1-2 litres/sec. On a falling tide, as the tidal compartment empties, the outflow rate would be many times greater (estimated of the order of 100 1/sec averaged over 3 hours after high tide).

Until the 1950s, the property was protected from tidal incursion by floodgates, and the property including the spit was in grazed pasture. The floodgates subsequently fell into disrepair, salt-water incursion followed, and mangroves developed on the low-lying area, along with salt marsh and freshwater marsh. A small area of wet pasture remains at the north-east corner of the property. The property was sold by tender by the Far North District Council as abandoned land in about 1995. It adjoins a Council reserve which comprises mostly wetland, both saltwater and freshwater, plus a portion of the spit. It was subsequently offered back to Council as a reserve, but no agreement could be reached.

The northern and southern boundaries of the subject property are defined by post and wire fences extending from the spit back into the wetland. The Certificate of Title shows the western boundary (on the seaward side) of the property as MHWS. A sandy backshore extends over a width of approximately 2-4 metres from MHWS to a low, grassed embankment. A post and wire fence running along the spit is set back some 2-5 metres from the backshore. This fence is residual from the days when the property was grazed and will be removed. It is intended that the sandy backshore above MHWS will be made available to provide for high tide public access along the spit. It will not be fenced off.

Access to the property is via Pipiroa Road which is formed as far as the start of the spit, where a turning circle and limited car parking are available. Pipiroa Road provides access not only to the beach in Pipiroa Bay, but also to the Council reserve, to a boardwalk around the wetland, and to a property - adjoining the carpark - of 0.3 hectare which was formed by a subdivision. The previously unformed part of Pipiroa Road extends along the spit for about 100 metres and is the legal access to the boundary of the subject property. Vehicle access to the subject site Vehicle access to the subject site has been formed by a carriageway along this previously unformed road. This low-impact, compacted shell driveway was constructed in accordance with Appendix 3B of the Partly Operative District Plan, which requires a carriageway width of 3 metres for private access to one dwelling. The access track was formed in accordance with FNDC requirements and monitored by FNDC

5.2. The Spit

From the car park, the spit extends for about 210 - 220 metres in a northerly direction. The first 100 metres (approximately) from the car park is Council-owned reserve. The next 99 metres comprises part of the subject property. The tip of the spit is part of an adjoining property but separated from it by the tidal creek. Over a distance of about 155 metres from the car park end, the spit is fronted by a clear beach. The remaining 60 metres or so is fronted by mangroves. (See Appendix 5, Figure 1&2)

The spit is largely covered in dense vegetation throughout its length, except for a small mown area about 3 metres wide extending for 15 metres from the carpark. The nature of the vegetation indicates that the ground level is above any high tide or storm surge level. The vegetated width of the spit ranges from about 4 metres where it abuts the car park at the end of the formed section of Pipiroa Road, up to about 23.5 metres in the vicinity of the proposed house site.

The soil of the spit has been investigated by Richardson Stevens (See appendix 6 Engineering Report On Onsite Effluent Disposal) It comprises a 200mm layer of black, sandy topsoil, overlaying a 400mm layer of firm coarse sand, then 1100mm of soft marine mud.

At the proposed building site, the spit width from MHWS on the seaward side to MHWS on the landward side has been surveyed (Richardson Stevens) at 23.5 metres. However, the survey plan of the property suggests that the width varies between 18m and 23.5m. A set back of between 3.5 and 9 metres beyond this point into the wetland is therefore required in order to achieve a 27 metre setback from the coastal marine area (see Site Plan) on the seaward (western) side.

5.3. The Spit Vegetation

The vegetation cover on the spit currently comprises dense exotic pest plants, predominantly sweet pea bush, black wattle, and tree privet, with smaller amounts of woolly nightshade, gorse, Taiwan cherry, lantana, and wilding pines. Ground cover includes grass (mostly kikuyu) with smilax and climbing asparagus present in small numbers. Patches of wild watsonia and onions are also found. Most of these exotic plants are listed in the Northland Regional Council's 'National Surveillance Pest Plant' handbook. Only one naturally-occurring native plant, a mapou, was observed, likely derived from a bird-carried seed. However, a line of approximately 10-12 Pohutukawa (*Metrosideros excelsa*) trees were planted by the applicant along the western fence line on the spit around 2005. These trees, which were about 2 meters high in 2005, are now providing an alternative screening should the exotic vegetation be removed. (appendix 2)

from an ecological perspective, it remains highly desirable that the entire spit be cleared of these exotic pest plant species and subsequently maintained in natives or non-invasive exotics. The present vegetation poses an ongoing threat to the adjoining Council reserve and to nearby properties where weed-eradication and native planting efforts have been undertaken. The weed eradication programme was part of the original consent and is offered as a condition of this re-approval. This program, proposed by the Applicant, would yield significant positive effects, including local environmental benefits for other property owners, and a notable enhancement of the natural character of the spit. The integration of a Landscape Integration and Ecological Restoration Planting Plan, also approved as part of the original consent, will further contribute to mitigating the visual effects aspects of the proposal by establishing appropriate native vegetation for screening and aesthetic enhancement.

5.4. Wetland

The wetland area on the spit interior has reverted from former pasture over recent decades. Mangroves extend from the wetland behind the spit, out through the creek entrance and into the bay at the northern end, then southwards along the beach in front of just over half of the subject property. (Appendix 5 Figure 2 &3)

The largest, oldest specimens are in front of the centre of the subject property, in Pipiroa Bay. These have a circumference of about 1450mm (diameter approx. 460mm). Immature specimens extend along the creek bed at the outlet and into the interior behind the spit. These interior mangroves have obviously colonised the property some time after the 1950s, up until which time the property had been grazed pasture. These mangroves are relatively young, being about 340mm circumference or 110mm in diameter, and up to about 6-8 metres high.

At the proposed house site alongside the spit, the ground is reasonably firm to walk on, having little silt cover and only being inundated at high tide. The spacing of the mangroves varies considerably, with typically 2-3 metres between the young trees. The prospective house was chosen for having a relatively low mangrove density.

The total wetland area has been assessed as about 5-6 hectares. The overall area of mangroves within the spit interior is assessed as approximately 1.25 hectares, with a further 0.25 hectare in the bay, totalling 1.5 ha. The area affected by the footprint of the proposed dwelling, surrounds and access ramp is less than 0.1 hectare, i.e. no more than about 6% of the total mangrove area and about 2% of the wetland area. There are very extensive areas of mangrove in other bays in the vicinity, particularly at Orongo Bay towards Russell.

5.5. Bird Life

Birds at the subject site include, but it's not restricted to: kingfisher, grey warbler, fantail, pukeko, tui, and Californian quail. As with many coastal wetland areas, the wetland behind the spit provides suitable habitat for banded rail and fernbird. These commonly occur in such areas and may well have re- established themselves.

5.6. Historic and Cultural Values.

In 1999, the entire property was registered in error by the NZ Historic Places Trust as a wahi tapu on the basis of a statement by a member of a local hapu. Without the prior knowledge of the property owner, it was duly recorded as such on the Proposed District Plan on the application of the NZHPT, not from local iwi. Research by the applicant has confirmed that an alleged sacred karaka tree, the wahi tapu site, was never on the subject property but was in fact situated some distance away (and has apparently been built on). The NZHPT has subsequently acknowledged that there is no evidence to justify the registration which it has withdrawn (See Appendix 7 original application documents)

The site was previously designated on FNDC Resource Map 36 as a Site of Significance to Maori (MS 10-50). However, the latest Council GIS mapping system no longer displays this object. Furthermore, the Proposed District Plan does not include a site of significance to Māori in this location. Therefore, it is assumed that no rules associated with this designation are relevant to the current proposal.

5.7. Previous Ecological Assessment

The site was originally assessed by Mark Poynter of Boffa Miskell, as detailed in a letter dated 7 December 2001. Mr. Poynter's report commented on an amended proposal to site a dwelling on a reclamation in the mangrove area, aiming for a 40-meter setback from MHWS, a suggestion from the local Ratepayers and Residents Association to address their objection to the initial 12.5-meter setback.

Mr. Poynter noted the overall wetland within the Pipiroa Bay catchment to be approximately 5-6 hectares, acknowledging historical impacts and the relatively recent development of mangroves since the removal of floodgates in the 1950s. He described the wetland vegetation as an "intact vegetation sequence or ecotone," from freshwater raupo to mangroves. He expressed concern that removing a significant part of any vegetation component would have a "significant ecological effect," while clarifying that from a jurisdictional standpoint, the area was not considered within the Coastal Marine Area (CMA).

Mr. Poynter highlighted the value of the mangroves, recognizing them as an integral part of the ecosystem, potential habitat for secretive native bird species (such as banded rail and spotless crake), and a contributor to the local marine detrital food chain.

Critically, Mr. Poynter suggested that a residential house site could be supported if the 40m setback were substantially reduced, perhaps to 15-20m, stating that the larger setback "creates rather than resolves problems." He estimated that achieving a 15-20 meter setback would require the removal of only about 35 mangrove trees from a 350m² reclamation area. He further opined that such an option, coupled with a proposal to "protect/covenant the balance of the wetland on this property and to plant the foreshore in appropriate native species," would be "sensible and ecologically defensible despite the unavoidable impact on a small area of the mangrove wetland." Mr. Poynter’s full report can be found in Appendix 7.

Mr. Upperton's subsequent proposals were developed based on Mr. Poynter's suggestions, evolving from an initial concept of a larger reclamation (up to 2800 m² with a 40m setback) to the currently proposed design of a pole-founded dwelling with a 27-30m setback and a reclamation of only 180 m².

In line with Mr. Poynter's recommendations for wetland protection, the applicant has indeed taken steps to protect the balance of the wetland. A conservation covenant has been registered on the title of the property in 2024.

Regarding the proposed clearance, the vegetation clearance required for the development has already taken place. This included the clearing of mangroves for the house platform, which was undertaken under the supervision of Council's monitoring officers. No further indigenous vegetation clearance will be needed for the proposal beyond minor ongoing maintenance, such as the removal of weed plants, which is considered a permitted activity under the relevant rules. This approach ensures the substantial preservation of wetland habitat at the site and contributes to the overall ecological defensibility of the proposal as suggested by Mr. Poynter.

5.8. Public Access and Enjoyment

There are some constraints on public access and enjoyment of the area. Nothing has changed in this regard since the original application was made. There is a restricted parking area at the end of the formed section of Pipiroa Road (which also services a public boardwalk along the edge of the wetland) and only a small area of the Council-owned, public part of the spit is maintained as mown grass. The unformed section of Pipiroa Road, measured at about 28 metres wide from cadastral plans. includes all of that part of the vegetated spit which is council-owned and also, part of the present Council-owned wetland that was presumably in pasture until the 1950s. From the car park, all of the spit beach (220 metres long approx.) can be accessed by the public via the intertidal zone below MHWS. Half of the length of the spit beach (110 metres approx.) nearest to the car park area, can be accessed by the public before reaching the subject property but little of the actual council-owned spit is accessible due to the dense vegetation. From the first boundary peg of the subject property, there is only a short distance of about 48 metres before the mangroves commence. These obviously restrict swimming and general water-based recreational activities. Of this 48 metre distance, only the last 18 metres before the start of the mangroves would front the proposed dwelling. It is apparent that the optimum stretch of beach that the public does and would enjoy is located nearer to the car park than to the proposed dwelling.

6. FAR NORTH DISTRICT COUNCIL DISTRICT PLAN ASSESSMENT

6.1. Operative District Plan

6.1.1. Coastal Environment-General Coastal zone

Rule Number and Name	Details of the rule	Assessment

10.6.5.1.1 Visual Amenity	New buildings ≤ 50m² (non-habitable) or ≤ 25m² (habitable). New buildings must use colours with reflectance ≤ 30% or natural materials within that range Alterations ≤ 50m² to buildings existing as of 28 April 2000. Renovation or maintenance of existing buildings	The proposal is unable to comply as the proposed Dwelling will be habitable and larger than 25m^2. Resource consent required as a Restricted Discretionary Activity
10.6.5.1.2 Residential Intensity	One unit per 20 ha Must have at least 3,000 m² for exclusive use Exception for existing or newly created sites under Rule 13.7.2.1	Only one residential dwelling is proposed, t. Complies.
10.6.5.1.3 Scale of Activities	≤ 4 people per site or 1 person per hectare (whichever is greater) Exceptions for short-term use (≤ 60 days/year), construction, environmental works, marae visitors Exemptions for farming/forestry if compliant with s16 RMA	Not applicable. Complies.
10.6.5.1.4 Building Height	Max height: 8m	The proposed dwelling will be less than 8m in height. Complies
10.6.5.1.5 Sunlight (Recession Plane)	45° plane from 2m above ground at site boundary Adjusted for shared/private accessways	The dwelling's design was conceived and refined to respect these recession plane requirements, thereby ensuring it does not unduly impact the sunlight access of adjoining properties. Complies.
10.6.5.1.6 Stormwater Management	Max 10% of site may be covered by buildings or impermeable surfaces	Proposed dwelling
10.6.5.1.7 Setback from Boundaries	10m setback (or 3m if site < 5,000 m²) 100m setback from Minerals Zone for residential buildings	The 18,310 m² site will have approximately 700 m² of impermeable surface (300 m² dwelling + 400 m² driveway), which is 3.82% and within the 10% limit. Complies.
10.6.5.1.8 Transportation	Must comply with Chapter 15 (Traffic, Parking, Access)	See section 6.2 below. Complies
10.6.5.1.9 Keeping of Animals	Buildings for factory farming/kennels/catteries ≥ 50m from boundary 600m setback if adjoining Residential-type zones	Not applicable.

10.6.5.1.10 Noise	7am–10pm: 55 dBA L10 10pm–7am: 45 dBA L10 and 70 dBA Lmax Measured per NZS 6801 & 6802; construction per NZS 6803P Exemption for farming/forestry activities complying with s16 RMA	On completion the proposal will be a residential dwelling and will comply with the rule. Noise during construction will be adequately managed to meet the limits of the rule. Construction will take place during standard working hours. Complies.
10.6.5.1.11 Helicopter Landing Area	Must be ≥ 200m from Residential, Coastal Residential, Russell Township or Point Veronica Zones	Not applicable.

6.1.2. District Wide matters.

12 NATURAL AND PHYSICAL RESOURCES		
Rule Number and Name	Details of the rule	Full Description
12.2.6.2.1 Indigenous Vegetation Clearance in the General Coastal Zone as a Discretionary Activity	This rule applies when indigenous vegetation clearance does not meet the standards for a permitted or restricted discretionary activity. For example, clearance within or near an indigenous wetland (within 20m) triggers discretionary consent.	The proposal is unable to comply with the performance standards for a Restricted Discretionary Activity, making it a Discretionary Activity under rule 12.2.6.3(b). This applies because clearance occurred within 20m of an indigenous wetland. Retrospective consent is required for clearance done after the original consent lapsed.
12.7.6.1.2 Setback from Smaller Lakes, Rivers and Wetlands	Buildings and impermeable surfaces must be set back at least 30 meters from rivers, lakes, and wetlands. Non-compliance with this setback makes the activity a restricted discretionary one.	The proposed dwelling and impermeable surfaces do not meet the 30m setbacks from the coastal marine area and wetlands. Therefore, the proposal requires resource consent as a Restricted Discretionary Activity.
12.7.6.1.4 Land Use Activities Involving Discharges of Human Sewage Effluent as a Discretionary Activity	Discharges of human effluent to land are a discretionary activity if they do not comply with permitted activity standards	The effluent disposal system is proposed within 30m of a river, lake, wetland, or the CMA, which does not meet permitted standards and doesn't qualify as a restricted discretionary activity. It therefore defaults to a Discretionary Activity.
15. TRANSPORTATION		
15.1.6A Traffic	A Total of 20 vehicle movements per day are a permitted activity.	The proposal complies with the number of vehicle movements.

15.1.6B.1.1. Parking	For a standard residential unit 2 carparking spaces are required.	The subject site has enough size for two vehicles. Complies
15.1.6C. Private Accessway in All zones.	The access has to comply with appendix 3B-1.	The access was constructed in accordance with appendix 3B-1 while the original resource consent was still current and it was monitored by council's monitoring team. The carriage width is of 3m. Complies
15.1.6c.1.3 Passing Bays On Private Accessways In All Zones	Passing bays are required: (i) in rural and coastal zones at spacings not exceeding 100m; (ii) on all blind corners in all zones at locations where the horizontal and vertical alignment of the private accessway restricts the visibility.	The access way is straight and flat; there are no blind corners. This aspect of the proposal was given effect to prior to RC 2090634-RMALUC lapsing. Complies

6.2. Proposed District Plan

As of Monday 30 June 2025, the further submission period on the PDP has closed. However, Council are yet to make a decision on submissions made and publicly notify this decision. Therefore, the application shall only 'have regard to' the relevant objectives and policies in the PDP. Relevant objectives and policies in the PDP are contained within the Rural Production Chapter.

The following rules from the Proposed District Plan have immediate legal effect and are relevant to this proposal. Compliance with these rules means they are considered Permitted Activities and do not trigger a separate resource consent:

> **EW-R12. EARTHWORKS AND THE DISCOVERY OF SUSPECTED SENSITIVE MATERIAL**: The proposal will comply with Accidental Discovery Protocol and this is offered as a condition of consent.
>
> **EW-R13. EARTHWORKS AND EROSION AND SEDIMENT CONTROL:** The proposal will comply with EW-S5 and during the earthworks stage, will be controlled in accordance with the *"Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016 (Auckland Council Guideline Document GD2016/005)"*

6.3. Discharge consents

A discharge permit is required to discharge treated wastewater to land within 15 metres of surface water. This specific discharge consent can be processed by the Far North District Council (FNDC) because the responsibility for processing consents to

discharge domestic quantities (up to 3m³/day) of treated sewage effluent into or onto land is delegated to the FNDC from the Northland Regional Council pursuant to section 33 of the RMA.

Rule 15.3.1(a) (Northland Regional Council Water and Soil Plan): A discharge permit is required for the discharge of sewage effluent into or onto land. This is because the proposal is unable to meet the conditions for permitted activities, specifically Rule 15.01.04(d) which requires that no part of the disposal area and reserve area be located within 15 metres, measured horizontally, of any surface water.

Rule C.6.2.2. Wastewater treatment plant discharge. discretionary activity (Proposed Regional Plan for Northland): The discharge of treated wastewater from a wastewater treatment plant onto land is a discretionary activity. This is because the effluent disposal system cannot meet the exclusion areas and setback distances for on-site domestic wastewater systems with a secondary and tertiary treated domestic type wastewater, meaning it cannot meet the permitted activity standard.

7. ASSESSMENT OF ENVIRONMENTAL EFFECTS

7.1. Operative District Plan:

7.1.1. Visual amenity effects

The visual effects of the proposed dwelling are assessed as less than minor, considering the design, proposed mitigation measures, and the existing character of the surrounding environment.

(i) the location of the building;

The building's proposed location is at the edge of the wetland area adjoining the spit, in the upper tidal zone. This strategic positioning, specifically selected for its relatively low mangrove density, aims to minimize its visual prominence within the wider landscape. The effect is less than minor as it seeks to integrate with the natural contours and existing vegetation.

(ii) the size, bulk, and height of the building in relation to ridgelines and natural features;

The proposed dwelling will comprise a ground floor of approximately 190 m^2 and a smaller upper storey of 50 m^2 with a total footprint (including deck) of about 300 m^2. The maximum height will not exceed 8 meters above ground level. The surrounding mangroves are approximately 6 meters high, meaning the ground floor will be largely screened, and only the upper storey may be visible above the mangroves from certain horizontal viewpoints. When viewed from the sea, existing ridgeline dwellings are considerably more prominent than the proposed dwelling is likely to be. The effect is

less than minor given its modest scale relative to the natural features and existing development in the wider bay.

(iii) the colour and reflectivity of the building;

The exterior cladding will be weatherboard-style, with exterior surfaces (wall cladding and roof) with a reflectance value not exceeding 30%, specifically using green-brown shades, or constructed of natural materials within this range. This condition requiring Council's approval for building materials has been offered. This low-reflectivity, natural colour palette will ensure the dwelling recedes into the landscape, minimizing visual intrusion. The effect are less than minor.

(iv) the extent to which planting can mitigate visual effects;

A Landscape Integration and Ecological Restoration Planting Plan will be submitted for re-approval (Appendix 2). This plan is designed to provide vegetation that creates an appropriate setting and foreground to the buildings, establishing a seamless and natural transition of indigenous vegetation that buffers views from the beach towards the dwelling. The strategic planting of native species will significantly mitigate any potential visual effects. The effect is less than minor.

(v) any earthworks and/or vegetation clearance associated with the building;

Earthworks have already been undertaken for reclamation (up to 180 m^2) and access track formation. Approximately 663 m^2 of vegetation, mainly exotic pest plants, has also been cleared, for which retrospective consent is sought. While associated earthworks for the construction of the house's piles/foundations will be required, these are anticipated to be minimal and well below permitted thresholds. The overall weed eradication program and native planting efforts will enhance the natural character and ultimately improve the visual amenity of the spit. The visual effect of these activities is less than minor, particularly as efforts are being made to restore and enhance the ecological values.

(vi) the location and design of associated vehicle access, manoeuvring and parking areas;

The access track on Pipiroa Road has been formed as a low-impact, compacted shell driveway, meeting FNDC requirements for a 3-meter carriageway. This access minimizes hard surfacing and integrates with the rural character. Parking associated with the dwelling will be on-site, not contributing to public parking demands. The location and design are consistent with minimizing visual impacts. The effect is less than minor.

(vii) the extent to which the building and any associated overhead utility lines will be visually obtrusive;

The proposed dwelling will be constructed on poles and set back from the MHWS. Furthermore, all utilities (electric power and telecommunications) will be extended

underground to the proposed dwelling site, eliminating any visually obtrusive overhead lines. This minimizes visual clutter and maintains the natural character of the environment. The effect is less than minor.

(viii) the cumulative visual effects of all the buildings on the site;

The proposal is for a single dwelling unit and associated ancillary structures like water tanks. The proposed building coverage is restricted to no more than 200m^2 for the dwelling and accessory building. Considering this is a single, appropriately designed dwelling within a larger site, coupled with the low-impact design and extensive planting, the cumulative visual effects are anticipated to be minimal. The effect is less than minor.

(ix) the degree to which the landscape will retain the qualities that give it its naturalness, visual and amenity values;

The proposal aims to enhance the naturalness of the spit by clearing exotic pest plants and implementing a comprehensive native planting plan. The strategic setback of the dwelling and its integrated design, along with the undergrounding of utilities, will ensure the landscape retains its key qualities. The conservation covenant registered on the title further secures the long-term protection of the wetland area, promoting overall naturalness and amenity. The effect is less than minor.

(x) the extent to which private open space can be provided for future uses;

The proposal is for a single residential dwelling on a substantial land area of 1.9070 hectares. A significant portion of the wetland area on the property is subject to a conservation covenant, ensuring its protection and availability as open space. While primarily for conservation, this also indirectly provides ample private open space on the property. The effect is less than minor.

(xi) the extent to which the siting, setback and design of building(s) avoid visual dominance on landscapes, adjacent sites and the surrounding environment; The dwelling is proposed to be elevated on poles at the edge of the wetland, with a setback of 27-30 meters from MHWS. This setback, along with the integration of low-reflectivity materials and native planting, is designed to minimize visual dominance. The property's existing vegetation, particularly the mangroves, will provide significant screening, especially for the lower levels of the dwelling. The siting and design actively avoid visual dominance. The effect is less than minor.

(xii) the extent to which non-compliance affects the privacy, outlook and enjoyment of private open spaces on adjacent sites:

The proposal is for a single dwelling on a substantial private property. Given its location at the edge of a wetland and its setbacks from boundaries and the coastal marine area, the design is not expected to significantly affect the privacy, outlook, or enjoyment of private open spaces on adjacent sites. The visual screening provided by

existing and proposed vegetation further minimizes any potential impact. The effect is assessed as less than minor.

7.1.2. Indigenous vegetation clearance effects

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

The area of vegetation clearance, approximately 663 m², primarily occurred on the portion of the property where the building envelope will be placed. The total wetland area is assessed at about 5-6 hectares, and the overall area of mangroves within the spit interior is approximately 1.25 hectares, with a further 0.25 hectare in the bay, totalling 1.5 ha. The area affected by the footprint of the proposed dwelling, surrounds and access ramp is less than 0.1 hectare, i.e., no more than about 6% of the total mangrove area and about 2% of the wetland area. While mangroves are part of the indigenous vegetation, the cleared area represents a very small proportion of the total wetland and mangrove habitat in the vicinity. The prospective house site was specifically selected as having a relatively low mangrove density. No information has been provided to suggest that the specific cleared area contains critical, endangered, vulnerable, or rare taxa, or functions as a critical ecological buffer, linkage, or corridor as per Method 12.2.5.6. Therefore, the significance of the *cleared* area is considered less than minor in the context of the larger ecosystem.

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

Adverse effects on indigenous vegetation and habitats are largely avoided due to the small scale of the clearance relative to the total wetland and mangrove area. The dwelling's design, involving pole foundations, minimizes the physical footprint on the wetland itself. For vegetation cleared, the intention, as part of the original consent and this re-approval, is to implement a weed eradication program and a Landscape Integration and Ecological Restoration Planting Plan, with efforts to replace exotic species with native ones. The conservation covenant registered on the title in 2024 further ensures the long-term protection of the majority of the wetland area. These measures actively remedy and mitigate the effects. The effects are less than minor.

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

The proposed weed eradication program, which was part of the original consent and is offered as a condition of this re-approval, will contribute to removing dense exotic pest plants that threaten the adjoining Council reserve and nearby properties. This will significantly enhance the natural character of the spit. The Landscape Integration and Ecological Restoration Planting Plan, also approved as part of the original consent,

aims to re-establish appropriate native species. Furthermore, the registration of a conservation covenant on the majority of the wetland area provides long-term legal protection, actively enhancing the ecological values by promoting native flora and fauna habitat. The overall effect is positive and results in enhancement.

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

The visual effects are assessed as less than minor. The proposed dwelling's location at the edge of the wetland and its pole foundations are designed for minimal visual impact. The use of low-reflectivity, green-brown color palettes for the building materials, offered as a condition of consent, will help the structure recede into the landscape. The Landscape Integration and Ecological Restoration Planting Plan will provide significant visual screening and enhance the aesthetic appeal of the area with native vegetation. The retrospective vegetation clearance, primarily of exotic species, when viewed in conjunction with the comprehensive planting plan, will ultimately improve the visual amenity of the spit.

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

The property was once incorrectly registered as a wahi tapu site, but research confirmed the alleged sacred site was elsewhere, and the NZHPT has withdrawn this registration. While the site remains designated on an FNDC Resource Map, the latest Council GIS mapping system no longer displays this object, and the Proposed District Plan does not include such a site. Therefore, it is assumed that no rules associated with this designation are relevant to the current proposal. Public access to the spit beach via the intertidal zone will be maintained and not restricted by the proposal. The proposal's focus on environmental enhancement through pest plant removal and native planting aligns positively with principles of kaitiakitanga. Thus, the activity is assessed as having less than minor adverse effects on the relationship of Maori with their ancestral lands and traditions.

(vi) the extent to which the activity may adversely affect the natural character of the coastal environment.

The activity involves vegetation clearance and the construction of a dwelling within the coastal environment. However, the clearance primarily targets exotic pest plants, and the dwelling is designed to minimize its footprint and visual impact through pole foundations, setback, and appropriate material choices. The significant efforts towards weed eradication, native planting, and the registration of a conservation covenant are demonstrably aimed at enhancing the natural character of the spit and the adjacent wetland. While some localized disturbance has occurred, the overall long-term effect of the proposal is to improve the natural character of this modified coastal area. The effect is assessed as less than minor.

7.1.3. Effects of Setback from smaller lakes, rivers and wetlands; and, land use activities involving discharges of human sewage effluent

(a) the extent to which the activity may adversely affect cultural and spiritual values.

The property was previously designated on FNDC Resource Map 36 as a Site of Significance to Maori (MS 10-50). However, research by the applicant confirmed that an alleged sacred karaka tree, the wahi tapu site, was never on the subject property, and the NZ Historic Places Trust (NZHPT) withdrew its registration. The latest Council GIS mapping system no longer displays this object, and the Proposed District Plan does not include a site of significance to Māori in this location, leading to the assumption that no rules associated with this designation are relevant to the current proposal. The proposal's commitment to environmental enhancement through pest plant removal and native planting aligns positively with principles of kaitiakitanga. Public access along the spit beach via the intertidal zone will be maintained. Therefore, the activity is assessed as having less than minor adverse effects on cultural and spiritual values.

(b) the extent to which the activity may adversely affect wetlands;

The dwelling is proposed to be constructed on poles at the edge of the wetland area, minimizing its direct footprint. The area affected by the dwelling, surrounds, and access ramp is less than 0.1 hectare, which is no more than about 6% of the total mangrove area and about 2% of the total wetland area. A conservation covenant has been registered on the property's title, legally protecting the majority of the wetland area. Furthermore, a weed eradication program and a Landscape Integration and Ecological Restoration Planting Plan are being implemented to enhance the ecological values of the area by replacing exotic pest plants with native species. These measures significantly mitigate potential adverse effects. The effects are considered less than minor.

(c) the extent to which the activity may exacerbate or be adversely affected by natural hazards; The property is low-lying, with much of the site comprising a tidal wetland area prone to flooding. However, the dwelling design takes this into account, with a recommended floor level of RL 3.9m, providing a significant freeboard margin above any extreme tidal event. The spit itself is at about RL 3.0m and shows no evidence of salt water intrusion or overtopping. The embayment is in a sheltered location, with low potential for wave damage or storm erosion. The proposal includes erosion and sediment controls in accordance with Proposed District Plan (PDP) rule EW-R13 to prevent sediment discharge into the wetland and coastal marine area. The proposed pole foundations and the engineered design address coastal hazard considerations. Therefore, the activity is assessed as having less than minor effects in exacerbating or being adversely affected by natural hazards.

(d) the potential effects of the activity on the natural character and amenity values of lakes, rivers, wetlands and their margins or the coastal environment; The dwelling's design, including its setback (27-30m from MHWS) , pole foundations, and selection of low-reflectivity, green-brown colors, aims to minimize visual intrusion. The existing mangroves and proposed native planting will provide significant visual screening. The weed eradication program and native planting efforts will enhance the natural character of the spit, improving overall amenity. The access track has been designed as a low-impact compacted shell driveway. The activity's potential effects on natural character and amenity values are assessed as less than minor.

(e) the history of the site and the extent to which it has been modified by human intervention; The site has a history of significant human intervention. Until the 1950s, it was protected by floodgates and used as grazed pasture. After floodgates disrepair, mangroves colonized the low-lying area. The property was sold by the Far North District Council as abandoned land in 1995. The proposed dwelling will be constructed in an area that was previously grazed pasture, and substantial preparatory works, including reclamation and vegetation clearance, have already taken place. The current proposal aims to manage and enhance a modified environment. Given this history, the additional impact of the proposal is assessed as less than minor in terms of further modification.

(f) the potential effects on the biodiversity and life supporting capacity of the water body or coastal marine area or riparian margins; The area affected by the dwelling and associated works is a small proportion of the total wetland and mangrove habitat (less than 0.1 ha, or 6% of mangroves, 2% of wetland). The approach to vegetation clearance focuses on removing exotic pest plants and promoting native species, which is beneficial for biodiversity. The registration of a conservation covenant on the majority of the wetland area provides long-term protection for the ecosystem. The proposed effluent treatment system is designed to a high standard, aiming to prevent contamination and maintain water quality. The Northland Regional Council staff previously confirmed the acceptability of the wastewater proposal. The potential effects on biodiversity and life-supporting capacity are assessed as less than minor.

(g) the potential and cumulative effects on water quality and quantity, and in particular, whether the activity is within a water catchment that serves a public water supply; The wastewater treatment system will provide tertiary treatment, including UV sterilization, and disposal via a buried dripline system on a raised bed. This system is designed to minimize contamination of ground and surface water. Stormwater from roofed and paved areas will be diverted away from disposal areas, and the system sealed to prevent groundwater and stormwater intrusion. Previous assessments by Northland Regional Council staff have confirmed the proposal's acceptability in maintaining water quality. There is no indication that the activity is within a water catchment that serves a public water supply. Additional Resource

consents for the discharge is also being sought. Therefore, the potential and cumulative effects on water quality and quantity are assessed as less than minor.

(h) the extent to which any proposed measures will mitigate adverse effects on water quality or on vegetation on riparian margins; Measures to mitigate adverse effects on water quality include the advanced wastewater treatment system, designed to prevent ponding or runoff of contaminants. Stormwater management directs runoff away from disposal areas. Mitigation on riparian margins involves the weed eradication program and the Landscape Integration and Ecological Restoration Planting Plan, which aim to replace exotic species with natives, enhancing the riparian vegetation quality. The conservation covenant protects the balance of the wetland area, which includes riparian margins, in perpetuity. These measures are extensive and effective, resulting in less than minor adverse effects.

(i) whether there are better alternatives for effluent disposal; Various treatment plants were considered, and the proposed aerated wastewater treatment system with a drip-fed irrigation line is regarded as the most appropriate for the site conditions. It provides tertiary treatment and is designed to meet required standards. The previous NRC Staff Report endorsed the preferred option as "the best practicable technical option given the site conditions". Other options like conventional septic tanks or off-site disposal were considered and deemed less suitable due to potential contamination risks or logistical issues. No better alternatives for effluent disposal have been identified that would achieve a superior environmental outcome given the site constraints.

(j) the extent to which the activity has a functional need to establish adjacent to a water body; The proposal is for a dwelling. While a dwelling does not inherently have a "functional need" to be directly adjacent to a water body in the same way a boatyard might, the site's unique geography as a narrow sandspit surrounded by a tidal wetland area inherently places any development in close proximity to water. The location on poles at the edge of the wetland minimizes direct impact while allowing for practical use of the property. The design has sought to achieve a balance between developing the property and respecting its sensitive coastal and wetland context.

(k) whether there is a need to restrict public access or the type of public access in situations where adverse safety or operational considerations could result if an esplanade reserve or strip were to vest. Public access along the spit beach via the intertidal zone below MHWS will be maintained and not restricted by the proposal. The applicant's property extends to MHWS, but public access along the sandy backshore (2-4m wide) between MHWS and the grassed area will not be fenced off, thus providing for high tide public access. The development of the accessway and removal of exotic trees along the unformed road may even facilitate public access. No adverse safety or operational considerations are expected that would necessitate restricting public access or requiring an esplanade reserve or strip to vest beyond what is already established. The effects are assessed as less than minor.

7.1.4. Earthworks effects (Proposed District Plan Rules)

The necessary earthworks associated with the proposed activity are minimal and fall within the permitted thresholds set out under both the Operative District Plan (ODP) and the Proposed District Plan (PDP). As part of the assessment, two PDP rules with immediate legal effect—EW-R12 (Earthworks and the Discovery of Suspected Sensitive Material) and EW-R13 (Earthworks and Erosion and Sediment Control)—must be acknowledged. The potential environmental effects arising from earthworks, particularly in relation to accidental discovery and sediment management, are assessed as less than minor. This conclusion is based on the applicant's commitment to implement recognised protocols and best practice guidelines, specifically the Accidental Discovery Protocol and the "Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016," both of which are offered as conditions of consent.

7.1.4.1. EW-R12. Earthworks and the Discovery of Suspected Sensitive Material:

Earthworks always carry a potential, albeit unforeseen, risk of uncovering previously unknown sensitive material, such as archaeological sites, koiwi (human remains), or other cultural heritage items. To mitigate this risk, the proposal commits to complying with an Accidental Discovery Protocol. This protocol, offered as a condition of consent, outlines a clear procedure for cessation of works, notification of relevant authorities (including Heritage New Zealand Pouhere Taonga and local iwi), and obtaining necessary approvals before recommencing work in the event of a discovery. This proactive measure ensures that any such discoveries are managed appropriately, avoiding significant adverse effects on cultural or historical values. Therefore, the potential environmental effects related to accidental discovery are considered less than minor.

7.1.4.2. EW-R13. Earthworks and Erosion and Sediment Control:

Earthworks, by their nature, can disturb soil and increase the risk of erosion and sediment discharge into waterways. To manage these potential effects, the proposal will comply with EW-S5. During the earthworks stage, control will be implemented in accordance with the "Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016 (Auckland Council Guideline Document GD2016/005)". These guidelines provide industry best practices for minimizing soil disturbance, controlling runoff, and containing sediment on-site. Effective implementation of these controls will prevent significant sedimentation of the adjacent wetland and coastal marine area, thereby protecting water quality and aquatic ecosystems. Since adherence to these well-established and comprehensive controls is offered as a condition of consent, the environmental effects associated with erosion and sediment are assessed as less than minor.

7.1.5. Effects of the secondary treated discharge to land

The proposal includes the discharge of treated domestic wastewater to land via an aerated wastewater treatment system and a drip-fed irrigation line along the spit. The viability of an adequate effluent disposal on the subject site is confirmed by the Richardson Stevens "Engineering Report on ONSITE EFFLUENT DISPOSAL" (dated 5.11.99, with a May 2009 amendment). This report outlines the design criteria, including soil tests, percolation test results, and water table measurements. The system is designed to provide tertiary treatment, including ultraviolet sterilisation, before being disposed of via a pressure compensating dripline buried under 100mm of topsoil on a prepared raised bed of 400-500mm of topsoil.

The proposed system includes an audible and visual high wastewater level alarm, and at least 24 hours emergency storage capacity. A maintenance contract with a suitably qualified person will be entered into to ensure effective operation. The quantity of wastewater discharged will not exceed 950 litres within any consecutive 24-hour period. There shall be no ponding of wastewater or surface runoff of contaminants from the treatment areas. Stormwater from roofed and paved areas will be diverted away, and the system sealed to prevent groundwater ingress.

Previous Northland Regional Council staff assessments have confirmed the acceptability of the proposal, noting that if operated and maintained properly, the system "should produce a discharge that should not result in any adverse effects on the environment". Further treatment will occur within the disposal area's soils. Given the robust design, the ongoing maintenance requirements, and the previous expert endorsements, any adverse environmental effects from wastewater discharge are anticipated to be less than minor.

7.1.6. Positive Effects

Ecological Enhancement through Weed Eradication and Native Planting: The weed eradication programme, offered as a condition of consent, will clear dense exotic pest plants (such as sweet pea bush, black wattle, and tree privet) that currently pose an ongoing threat to the adjoining Council reserve and nearby properties (Appendix 2). This program, combined with the Landscape Integration and Ecological Restoration Planting Plan, will significantly enhance the natural character of the spit by replacing these invasive species with appropriate native vegetation. This restoration also positively contributes to the ecological value of the area.

Protection of Wetland Area: The registration of a conservation covenant on the majority of the wetland area on the property provides long-term legal protection, actively enhancing its ecological values.

Minimized Visual Impact: The strategic design of the dwelling, including its pole foundations, setbacks, and the use of low-reflectivity, natural-colored materials, aims

to minimize visual intrusion. The comprehensive native planting plan will further mitigate visual effects by providing screening and aesthetic enhancement.

Effective Wastewater Management: The proposed aerated wastewater treatment system, designed to tertiary treatment standards, and its proper operation and maintenance will ensure that wastewater discharge does not compromise water quality in the bay.

Controlled Earthworks: Adherence to Erosion and Sediment Control Guidelines will minimize sediment discharge, protecting water quality and aquatic ecosystems during construction.

7.1.7. Conclusion

Overall, based on the previous assessment, it's concluded that the:

- Adverse effects on visual amenity are less than minor;
- Adverse effects on the vegetation clearance are not more than minor.
- Adverse effects on cultural and heritage values will be less than minor due to the implementation of incidental discovery protocol,
- Adverse effects due to earthworks will be less than minor due to the implementation of erosion and sediment controls,
- Adverse effects of the discharge of stormwater and wastewater are less than minor

No persons are considered to be adversely affected to a minor or more than minor degree. Overall, the adverse effects are acceptable, and the proposal will result in positive effects.

8. STATUTORY ASSESSMENT

Section 104(1)(b) of the Resource Management Act 1991 requires the consent authority to have regard to any relevant provisions of the following:

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

All applications that involve subdivision, or an activity that changes the use of a piece of land, or earthworks are subject to the provisions of the NES Contaminated Soils. 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.

Based on a search of Council records, historic aerial images, and the documentation provided in support of this application, there is no evidence to suggest that a HAIL activity is, has been, or is more than likely to not have been undertaken on any part of the site. Therefore, the NES Contaminated Soils is not applicable in this instance.

8.2. NES Freshwater (NES-FW)

While the primary resource consents for this proposal fall under the Far North District Council's jurisdiction, it's important to acknowledge the relevance of the National Environmental Standard for Freshwater (NESFW) and its implications for activities near wetlands.

The NESFW aims to protect and improve the health of freshwater and freshwater ecosystems. It sets out specific requirements for various activities that could affect freshwater bodies and wetlands, including earthworks, discharges, and structures.

For this proposal, the Northland Regional Council (NRC) previously granted resource consents for activities near the wetland, specifically:

- Land Use Consent to Reclaim the bed of a wetland.
- Land Use Consent to Place a structure (dwelling) on the bed of a wetland.
- Land Use Consent to Prune and remove vegetation from the bed of a wetland.
- Water Permit to Divert stormwater from land disturbance activities.
- Discharge Permit to Discharge stormwater from land disturbance activities to water.

These regional consents indicate that the activities near the wetland were assessed and approved by the NRC, the authority responsible for managing freshwater resources under regional plans and national environmental standards like the NESFW. The fact that these consents were granted and have expiry dates (e.g., Structure: 30 April 2048 , Reclamation: In Perpetuity) suggests that the activities were deemed to comply with relevant freshwater protection regulations at the time of their approval. This implies consistency with the objectives of instruments like the NESFW, particularly concerning the protection and management of wetlands and freshwater quality.

8.3. New Zealand Coastal Policy Statement (NZCPS)

The proposal demonstrates consistency with the New Zealand Coastal Policy Statement (NZCPS) through its design, location, and proposed mitigation measures, particularly regarding the preservation of natural character, public access, and management of adverse effects in the coastal environment. The NZCPS significantly influences the objectives, policies, and methods related to lakes, rivers, wetlands, and

the coastline within the District Plan. The proposal is consistent with the key NZCPS principles for the following reasons:

Policy 1: Extent of the coastal environment: The proposal acknowledges its location within the coastal environment, encompassing the tidal wetland area and spit.

Policy 2: The Treaty of Waitangi, Tangata Whenua and Māori coastal interests: While the site was previously incorrectly designated as a Site of Significance to Māori, this claim has been withdrawn by NZHPT, and the latest Council GIS mapping no longer shows it, nor does the Proposed District Plan. The proposal's commitment to environmental enhancement, particularly through the weed eradication and native planting program, aligns positively with principles of kaitiakitanga. Consultation with local iwi Ngati Manu has also been undertaken.

Policy 6: Activities in the coastal environment: The proposal for a single dwelling on a pole foundation, with setbacks and specific design controls, aims to ensure development is appropriate for the coastal environment. The design seeks to minimize its footprint and visual impact within this sensitive area.

Policy 11: Indigenous biological diversity (biodiversity): The proposal actively addresses biodiversity through its commitment to a weed eradication program for exotic pest plants and the implementation of a Landscape Integration and Ecological Restoration Planting Plan focusing on native species. A conservation covenant has been registered on the title to protect the majority of the wetland area in perpetuity, which is a significant measure for enhancing indigenous biodiversity within the coastal environment.

Policy 13: Preservation of natural character: The design and proposed activities aim to preserve the natural character of the coastal environment. This includes locating the dwelling to minimize visual impact, using appropriate colours and materials, undergrounding utility lines, and particularly, the removal of invasive exotic vegetation to restore native flora.

Policy 15: Access to and along the coastal marine area, lakes and rivers: Public access along the spit beach via the intertidal zone below MHWS will be maintained. The applicant intends to make the sandy backshore above MHWS available for high tide public access and will not fence it off. The formation of the access track, while serving the property, could also enhance public access along the Council-owned part of the spit.

Policy 22: Indigenous coastal vegetation and coastal ecosystems: The proposal acknowledges the presence of mangroves and wetlands and seeks to manage impacts by selecting a site with low mangrove density and ensuring minimal disturbance to the overall wetland area (less than 0.1 ha of mangroves affected, or ~6% of total mangrove area). The focus on removing exotic weeds and enhancing with native species benefits these ecosystems.

Policy 25: Subdivision, use, and development: The proposal's design has evolved to address previous concerns, incorporating features like pole foundations, an increased setback from MHWS (27-30m), and the reduction of the reclamation area. These modifications reflect an adaptive approach to minimize environmental effects, consistent with responsible coastal development.

Policy 27: Strategies for protecting the coastal environment: The long-term protection of the wetland through a covenant and the ongoing weed management and native planting program aligns with strategies for protecting and enhancing the coastal environment.

8.4. Northland Regional Water and Soil Plan (W&SP)

The proposal demonstrates consistency with the Northland Regional Water and Soil Plan (W&SP) through its adherence to policies and proposed mitigation measures, particularly concerning the use of the bed of a river, effluent treatment and disposal, and land disturbance activities.

The dwelling site is considered to be in the bed of a tidal river at its fullest flow (upper tidal area in a wetland). Measurements and areas relating to riverbed reclamation and the Riparian Management Zone (RMZ) are calculated from the Mean High Water Mark (MHWM). The RMZ is assessed at approximately 7.5m.

Water Quality Objectives and Policies: The proposal is consistent with policies aiming to maintain or enhance existing water quality. An appropriate wastewater disposal system has been proposed, and an earlier Northland Regional Council assessment confirmed its acceptability, subject to suitable maintenance.

8.5. Operative District Plan

Chapter 10: Coastal Environment – Objectives and Policies

Objective 10.3.1

"To manage coastal areas in a manner that avoids adverse effects from subdivision, use and development. Where it is not practicable to avoid adverse effects from subdivision use or development, but it is appropriate for the development to proceed, adverse effects of subdivision use or development should be remedied or mitigated."

The current proposal raises the structure on poles to minimise damage to wetlands and visual intrusion.

Setback from MHWS (Mean High Water Springs) aims to reduce ecological and visual impact.

Pipiroa Bay is already visually compromised by development, so further visual effects are of concern.

Objective 10.3.2 "To preserve and, where appropriate in relation to other objectives, to restore, rehabilitate, protect, or enhance:"

(a) natural character of the coastline and coastal environment;

(b) areas of significant indigenous vegetation and significant habitats of indigenous fauna;

(c) outstanding landscapes and natural features;

(d) the open space and amenity values of the coastal environment;

(e) water quality and soil conservation (where within the Council's jurisdiction).

The applicant proposes replacing exotic species with natives and has planted pohutukawa.

Wetland area on the property to be covenanted, with a setback of 27m from MHWS.

Numerous ridgeline dwellings exist in the area.

Effluent treatment system will protect water quality in the bay.

Objective 10.3.4 "To maintain and enhance public access to and along the coast whilst ensuring that such access does not adversely affect the natural and physical resources of the coastal environment, including Māori cultural values, and public health and safety."

Public access is maintained through a 2.4m wide esplanade reserve.

Access to the beach and bay will be facilitated by removing exotic vegetation and allowing informal road access.

Policy 10.6.4.1. "That a wide range of activities be permitted in the General Coastal zone, consistent with the need to ensure that their effects are consistent with the preservation the natural character of the coastal environment." Building a dwelling is a basic activity associated with the General Coastal zone.

Policy 10.6.4.2. "That the visual and landscape qualities of the coastal environment in be protected from inappropriate subdivision, use and development." The design and construction of the proposed dwelling is such that any potential adverse effects on the natural character of the allotment will be minimised. Exotic vegetation will be progressively cleared. There is an existing array of dwellings along the ridge line overlooking the bay.

8.6. Proposed District Plan

The proposal aligns with the Rural Production Zone objectives and policies by providing a low-density residential dwelling compatible with the rural setting (RPROZ-O2, RPROZ-P4). Situated on non-agricultural land, it avoids land fragmentation and maintains the zone's primary production focus (RPROZ-O1, RPROZ-O3, RPROZ-P5, RPROZ-P6). The project ensures on-site infrastructure is sufficient (RPROZ-O3, RPROZ-P5, RPROZ-P7). Furthermore, it contributes to environmental enhancement through a weed eradication program and a native planting plan, which also helps maintain rural character and amenity (RPROZ-O4, RPROZ-P4). This approach minimizes potential reverse sensitivity effects on primary production activities (RPROZ-O3, RPROZ-P3).

9. OTHER RELEVANT SECTIONS OF THE ACT

9.1. Section 108. Proposed conditions of consent.

Noting that the current application is for a re-approval. The following conditions of consent are proposed based on the original application, as some of the activities approved under RC 2090634-RMALUC, were already implemented the following conditions are proposed:

1) A standard condition 1 with the Plans presented in Appendix 4.

2) The applicant offers a condition of consent requiring confirmation of the colours and materials that will be used in the future dwelling on site.

3) As the final design of the dwelling has not been completed, the applicant offers for any gaps of information to be provided post approval via EPA (engineer's plan approval) the applicant also accepts a s128 condition to be included to review the conditions of consent if the final design of the dwelling requires additional conditions or refinements to the consent prior construction. In line with the original condition of consent the potential wording for the EPA reads as follows:

   Prior to any works commencing on the site, the consent holder shall supply to the Council's Resource Consents Engineer a set of engineering plans detailing the works to be undertaken on the site. The consent holder shall supply to the Council's Resource consent Engineer a set of engineering plans detailing the works to be undertaken on the site. These plans are to be approved prior to any works commencing and are to include:

a. *Details necessary to demonstrate compliance with the relevant conditions of the Northland Regional Council consent CON2004086701; and*
b. *Details of electric power and telecommunication services which are to be extended underground to the proposed dwelling site; and*
c. *Detail of an overflow device to be connected to the dwelling water tanks, enabling discharge of overflow water to the wetland through a dispersal device designed to prevent any erosion at the discharge point.*
d. *Details of the tertiary treatment, including ultraviolet sterilisation prior to being disposed of via a pressure compensating dripline buried under 100mm of topsoil on a prepared raised bed of 400-500mm of topsoil. Details of the mechanisms to avoid wave run-up erosion.*
e. *Prior to any consented works the following must be provided to and approved by Council's delegated officer:*
    i. *A report confirming all cladding, roofing, and exterior finishes (excluding joinery and glass) of the dwelling, accessory building, and water tanks have a reflectance value not exceeding 30%, with weight and hue relating to the surrounding environment.*

f. *Provide evidence that the quantity of wastewater discharged shall not exceed 950 litres within any consecutive 24 hour period.*

g. *The Consent Holder must ensure that an audible and visual high wastewater level alarm system is installed and maintained within all wastewater pump chambers. In addition, there shall be at least 24 hours emergency wastewater storage capacity within the treatment system above the level at which the high wastewater level alarm is activated.*

h. *The consent holder must provide evidence that maintenance contract with a suitably qualified and experienced person to maintain the wastewater treatment system so that it works effectively at all times. At a minimum all maintenance shall be in accordance with the recommendation of the Operation and Maintenance Manual prepared by the system supplier. A copy of this maintenance agreement shall be provided to Council prior to the occupation of the dwelling.*

i. *The Consent Holder shall ensure that the treatment and disposal system is constructed generally in accordance with the recommendation contained within the report prepared for RC 2090634 by Richardson Stevens, September 2010 update and AEE revised and updated April 2011. Ref section 2.6.*

j. *The Consent Holder must provide evidence that a Building Consent has been obtained for the installation of the wastewater treatment and buried dripline effluent disposal system. The Consent Holder shall, within two weeks of the treatment system having been installed, submit to the Council "as built" plans that show the siting of all components of the wastewater treatment and disposal system. For the purpose of this condition, the Consent Holder shall ensure that the "as built" plans are drawn to scale and provide sufficient detail for a Council Monitoring officer to locate all features identified on the plans.*

k. *There shall be no ponding of wastewater within, or surface runoff of any contaminants from the wastewater treatment areas as a result of the exercise of this consent.*

l. *The Consent Holder shall ensure that stormwater from all roofed and paved areas is diverted away from the wastewater treatment and disposal areas. In addition, the system shall be sealed so that groundwater and stormwater from surrounding areas shall be prevented from entering the treatment system.*

4) The applicant also offers a condition of consent requiring the implementation of incidental discovery protocol in line with the Proposed district plan. The potential wording of this condition reads as follows:

In the event of unknown archaeological sites or koiwi being uncovered, activities in the vicinity of the discovery shall cease. The Consent Holder shall consult with local iwi and the Heritage New Zealand Pouhere Taonga and shall not recommence works in the area of the discovery until the relevant Heritage New Zealand Pouhere Taonga approvals have been obtained.

5) *A condition under section 128 of the Resource Management Act (RMA) is proposed to allow for a review of consent conditions. This review could be triggered if the final design of the dwelling, which will be provided via an Engineer's Plan Approval (EPA) process, requires additional conditions or refinements to the consent to ensure any necessary mitigation is addressed before construction begins. The applicant accepts this condition and offers to provide any missing information post-approval:*

The Council may in accordance with Section 128 of the Resource Management Act 1991 serve notice on the Consent holder of its intention to review the conditions of this consent during the first two years following the commencement of this consent. Such notice may be served annually during the

month of July. The review may be initiated for any one or more of the following purposes:

i. To deal with any adverse effects on the environment that may arise from the exercise of the consent and which it is appropriate to deal with at a later stage, or to deal with any such effects following assessment of the results of the monitoring of the consent and/or as a result of the Far North District and/or Northland Regional Council's monitoring of the state of the environment in the area.
ii. To require the adoption of the best practicable option to remove or reduce any adverse effect on the environment.
iii. To provide for compliance with rules in any Regional Plan that have been made operative since the commencement of the consent; and/or
iv. To deal with any material inaccuracies that may in future be found in the information made available with the application. (Notice may be served at any time for this reason).
v. The Consent Holder shall meet all reasonable costs of any such review.

The applicant has requested that the draft conditions of consent, including the full set of conditions, be shared with them before a final decision is made on the application. The applicant also agrees to a 5-day time extension to discuss and finalize the wording of these conditions.

9.2. Section 125. Lapsing of consent.

Section 125 prescribes a standard consent period of five years in which all works must be undertaken, but this may be amended as deemed appropriate by the consent authority. It is requested that the standard five-year period be applied in this case.

9.3. Section 35. Monitoring charges

Under section 35, the consent authority is required to monitor the exercise of resource consents. Given the limited scale of the proposed activity, and because all mitigation measures are inherent within the application, it is considered that only a limited need for monitoring exists. The applicant accepts a reasonable monitoring fee in accordance with the consent authority’s monitoring fee system and that the consent authority may carry out its monitoring functions by way of inspections of the site during development of the proposal.

10. NOTIFICATION ASSESSMENT

10.1. Public Notification

Section 95A specifies the steps the council is to follow to determine whether an application is to be publicly notified. These are addressed in statutory order below.

Step 1: Mandatory public notification is required in certain circumstances

Under Section 95A(3) an application must be publicly notified if:

a) the applicant has requested that the application be publicly notified;

b) public notification is required under Section 95C.

The applicant is not requesting public notification under clause (a). Clause (b) provisions relate to where an applicant does not provide further information formally requested under Section 92, which is not applicable in this case.

Public notification is not required and therefore Step 2 must be considered.

Step 2: If not required by Step 1, public notification precluded in certain circumstances

Under Section 95A (4) an application must not be publicly notified if:

a) the application is for a resource consent for 1 or more activities, and each activity is subject

to a rule or national environmental standard that precludes public notification;

b) the application is for a resource consent for 1 or more of the following, but no other, activities:

i. a controlled activity;

ii. a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity:

None of the above criteria apply, therefore public notification is not precluded in this instance. Step 3 must be considered.

Step 3: If not precluded by step 2, public notification required in certain circumstances

Under Section Under Section 95A(7), public notification is required if:

a) the application is for a resource consent for 1 or more activities, and any of those activities is

subject to a rule or national environmental standard that requires public notification:

b) the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor .

Clause (a) does not apply in this situation.

An assessment of environmental effects in accordance with s95D has been undertaken which concludes that any adverse effect arising as a result of the proposed development will be less than minor. Public notification is therefore not required in this instance.

Step 4: Public notification in special circumstances

Section 95A(9) sets out that the council is required to determine whether special circumstances exist that warrant it being publicly notified.

Special circumstances are those that are:

- exceptional or unusual, but something less than extraordinary; or
- outside of the common run of applications of this nature; or
- circumstances which make notification desirable, notwithstanding the conclusion that the adverse effects will be no more than minor.

There are no special circumstances that apply to the subject site.

Public Notification Conclusion

Based on the above, it is considered that this application can be processed without public notification.

10.2. Limited Notification

Under Section 95B, if an application is not publicly notified, the Council must decide if there are any ‘affected persons’ and undertake limited notification to those persons. Under Section 95E(1) a person is considered ‘affected’ if the adverse effects of the activity on that person are ‘minor or more than minor’. If the application is not publicly notified, the consent authority must follow the following steps to determine whether to give limited notification of an application.

Step 1: Certain affected protected customary rights groups must be notified

Step 1 requires limited notification where there are any affected protected customary rights groups or customary marine title groups, or affected persons under a statutory acknowledgement affecting the land.

The above does not apply to this land.

Step 2: If not required by step 1, limited notification precluded in certain circumstances

Step 2 describes that limited notification is precluded where all applicable rules and NES preclude limited notification; or the application is for a controlled activity (other than the subdivision of land) or a prescribed activity under section 360H(1)(a)(ii).

None of the above apply in this instance.

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

In the case of a boundary activity, Council shall determine in accordance with section 95E whether an owner of an allotment with an infringed boundary is an affected person. In the case of any other activity, Council shall determine whether a person is an affected person in accordance with section 95E.

If yes to any of the above, Council shall notify each affected person identified under subsections (7) and (8) of the application.

As per the assessment of effects and the description of the proposed activity, the proposed activity is for a single residential dwelling. The courts have clarified that no cultural values will be impacted by the proposed activity. As detailed in the original application documents (Appendix 7), the Environment Court dismissed the appeal by AA Hamilton for the Te Uri Karaka Hapu and confirmed the resource consents were granted. Additionally, the proposal will take place away from the registered archaeological site at the property. Accordingly, the proposal is not expected to have any impact on Māori interests or the responsibilities of Heritage New Zealand.

The proposed activity will not have an impact upon adjacent properties or the council's reserve. As such, the adverse effects on any person are considered to be less than minor, and limited notification is not required under this step

Step 4: Further notification in special circumstances

In addition to the findings of the previous steps, the council is also required to determine whether special circumstances exist in relation to the application that warrant notification of the application to any other persons not already determined as eligible for limited notification.

Special circumstances are not considered to apply to this proposal.

Limited Notification Conclusion

Having undertaken the s95B limited notification tests, it is considered that this application can be processed without limited notification.

11. PART 2 OF THE ACT

The proposal is considered to be consistent with Part 2 of the Resource Management Act 1991. It promotes the sustainable management of natural and physical resources by enabling the use and development of land in a manner that supports the economic and social well-being of the community while avoiding, remedying, or mitigating adverse effects on the environment. There are no known impacts on areas of outstanding natural character, significant natural features, or public access to coastal or riparian areas. The proposal does not compromise the life-supporting capacity of air, water, soil, or ecosystems and is unlikely to increase risks from natural hazards. Amenity values are expected to be maintained, and the use of resources appears efficient. While no specific cultural or historic heritage sites have been identified, engagement with mana whenua and consideration of any statutory acknowledgements or sites of significance would further affirm alignment with sections 6, 7, and 8 of the RMA. Overall, the proposal achieves the purpose and principles set out in Part 2 of the Act.

12. CONCLUSION

In accordance with sections 104, 104B, and 104D of the Resource Management Act 1991, the application has been assessed as a Discretionary Activity under both the Operative Far North District Plan and relevant regional planning instruments.

The proposal is to construct a single dwelling on pole foundations within the General Coastal Zone, establish an on-site wastewater system that breaches setback requirements, and obtain retrospective consent for vegetation clearance. The activity involves minor infringements to visual amenity and wetland setback rules and seeks discharge permits for treated effluent to land.

The Assessment of Environmental Effects concludes that:

- The adverse effects of the activity on the environment will be less than minor, due to mitigation measures such as pole foundations, low-reflectivity materials, underground utilities, and a native restoration planting program.
- The proposal is consistent with the relevant objectives and policies of the Operative District Plan, the Proposed District Plan, the New Zealand Coastal Policy Statement, and the Northland Regional Policy Statement.
- No persons are considered to be adversely affected to a minor or more than minor degree.

- There are no special circumstances that warrant public or limited notification under sections 95A or 95B.

The site's sensitive coastal and wetland environment has been appropriately addressed through extensive mitigation and long-term protection measures, including a conservation covenant and ecological restoration. The proposed activity aligns with the sustainable management purpose of the RMA as defined in section 5, while giving appropriate consideration to sections 6(a), 6(c), and 7(c) relating to natural character, significant vegetation, and amenity values.

Accordingly, the proposal is consistent with Part 2 of the Act and meets the relevant statutory tests. It is therefore recommended that the application be granted resource consent, subject to appropriate conditions.

13. Appendices

13.1. Appendix 1: Record of Title (NA129B/963).

13.2. Appendix 2: Planting & Vegetation Management Plan. NA129B_963

13.3. Appendix 3: Conservation Covenant (Instrument No. 12997831.1

13.4. Appendix 4: Plans

13.5. Appendix 5 Site Photographs

13.6. Appendix 6 Engineering Report On-site Effluent Disposal

13.7. Appendix 7: Original application documents.

RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD

Search Copy

R.W. Muir
Registrar-General
of Land

Identifier	**NA129B/963**
Land Registration District	**North Auckland**
Date Issued	28 June 2002

Prior References
DI 1E/20

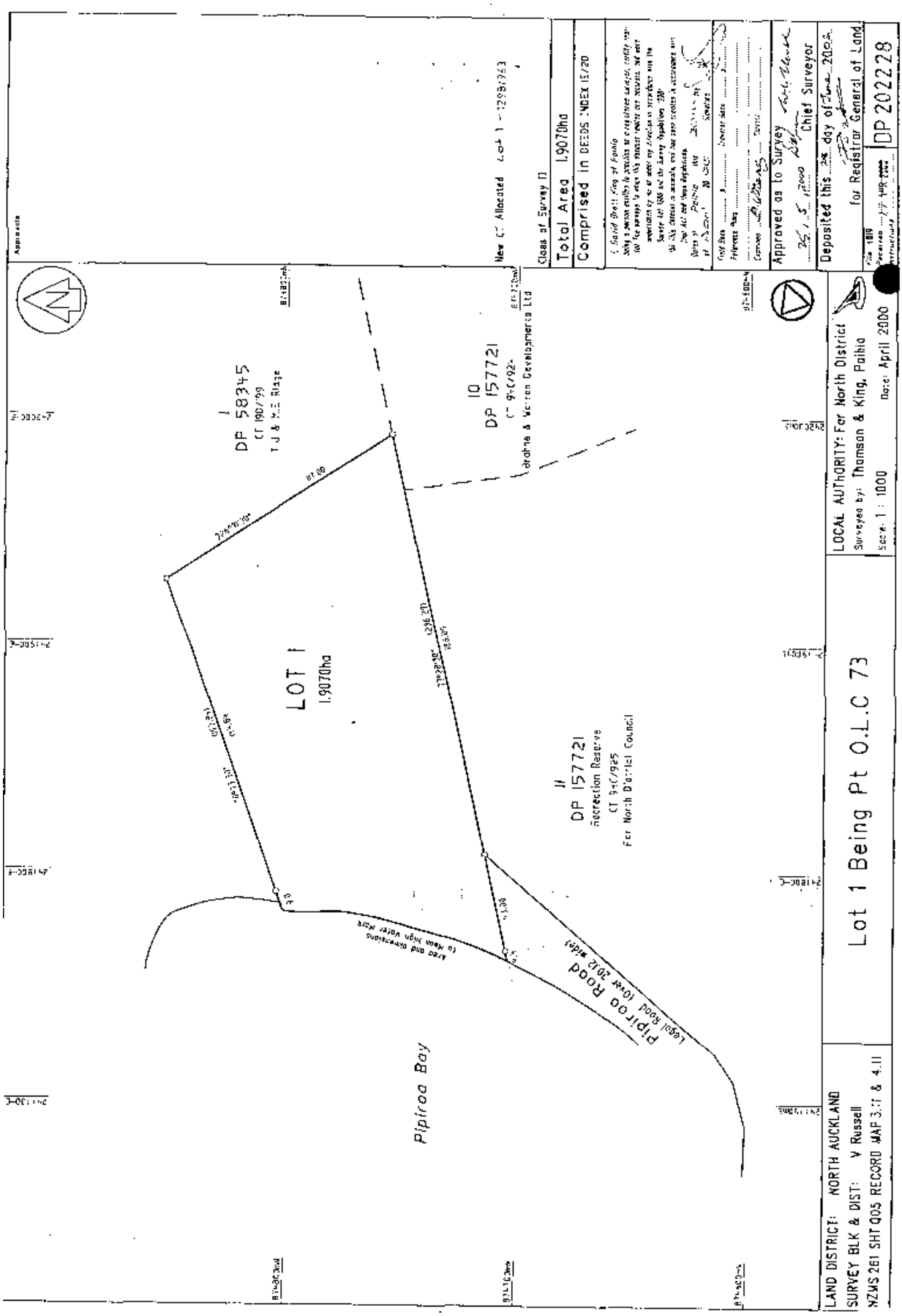
Estate	Fee Simple
Area	1.9070 hectares more or less
Legal Description	Lot 1 Deposited Plan 202228
Registered Owners	

John Kildare Upperton

Interests

10797599.4 Mortgage to The Co-operative Bank Limited - 2.6.2017 at 4:44 pm

Land Covenant (in gross) in favour of Far North District Council created by Covenant Instrument 12997831.1 - 22.5.2024 at 10:36 am


Class of Survey II
Total Area 1.9070ha
Comprised in DEEDS INDEX 15/20
Approved as to Survey
Chief Surveyor
Deposited this 26th day of June 2000.
for Registrar General of Land
DP 202228
LOT 1
1.9070ha
I
DP 58345
J
DP 157721
H
DP 157721
Recreation Reserve
CT 94C/925
For North District Council
Pipiroa Bay
Pipiroa Road
Legal Road Lower 20.12 wide
LOCAL AUTHORITY: Far North District
Surveyed by: Thomson & King, Paihia
Scale: 1 : 1000
Date: April 2000
Lot 1 Being Pt O.L.C 73
LAND DISTRICT: NORTH AUCKLAND
SURVEY BLK & DIST: V Russell
NZMS 261 SHT Q05 RECORD MAP 3.11 & 4.11

Report prepared for:

J. Upperton

March 2017

Lot 1 DP 202228, Pipiroa Road, Okiato: Planting Plan & Vegetation Management Plan



Prepared by:

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Principal Ecologist
Northland Ecology

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1. Introduction

The property at Lot 1 Pipiroa Road is situated at Okiato, about 5km from Russell (**Figure 1**). It encompasses approximately 1.9 ha of estuarine wetland and a sandspit at Pipiroa Bay. The owner has contracted Northland Ecology to prepare a planting plan and a vegetation management plan for the waterfront strip of the property.



Figure 1: The location of Lot 1 Pipiroa Road, Russell (marked with a red 'x').

This report sets out the goals of the revegetation project and describes the natural vegetation patterns and the vegetation within the planting area. It provides a planting plan which includes guidance on species selection, site preparation (with a focus on weed control) and implementation. The final section is a vegetation management plan that describes the tasks to be completed in the first five years of the revegetation project, including a management calendar.

2. Scope

Northland Ecology has been engaged to prepare a plan for revegetating and managing the part of Lot 1 Pipiroa Bay that extends along the foreshore of the bay. The planting area is approximately 100 m long and *c.*5m wide (**Figure 2**). It is beyond the scope of this report to consider other parts of the property or any areas outside of the boundaries of the property. Waipapa Tanks will be supplying and installing a wastewater treatment system and will specify planting requirements for the dripper field (J. Upperton, pers. comm.).

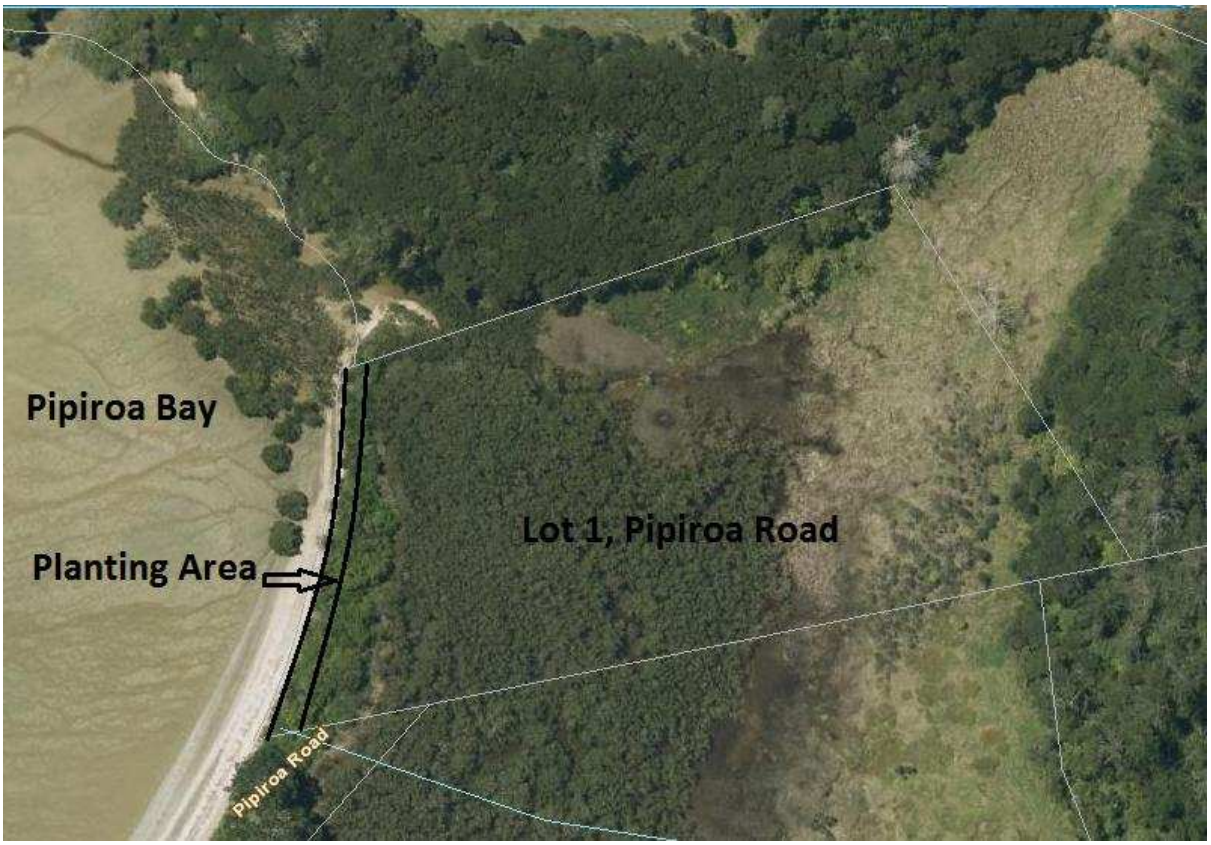


Figure 2: The property at Pipiroa Bay, showing the planting area that is the subject of this report.

3. Goals

The property is located in Whangaruru Ecological District and the aims of the revegetation project are to:

- retain as many as possible of the native plants already on the site,
- control weeds,
- plant the area using species and species assemblages that occur naturally on similar landforms in the Whangaruru Ecological District,
- provide a screen of native vegetation along the waterfront of Pipiroa Bay,
- establish plantings that will rapidly create a closed canopy that will resist weed invasion, and
- provide on-going maintenance to ensure the planted area is sustainable.

4. Historic and Current Vegetation Patterns

Historic and current vegetation provide an insight into the species and assemblages that could be expected to occur naturally within the planting area. An understanding of this is critical to achieving the stated goal of "using species and species assemblages that occur naturally on similar landforms in the Ecological District".

Booth (2005) provides an overview of the vegetation pattern within Whangaruru Ecological District. The most common vegetation type is secondary podocarp–broadleaf forest, dominated by totara (*Podocarpus totara*)[1], taraire (*Beilschmiedia tarairi*), or towai (*Weinmannia silvicola*). Stands of kanuka (*Kunzea robusta*) and/or manuka (*Leptospermum scoparium*) are also common. At inland sites, kanuka/manuka tends to be co-dominant with totara, tanekaha (*Phyllocladus trichomanoides*), towai, mamaku (black treefer; *Cyathea medullaris*) and/or rimu (*Dacrydium cupressinum*). In coastal areas, kanuka/manuka have been recorded as the sole dominant or co-dominant with totara, *Pittosporum umbellatum*, houpara (*Pseudopanax lessonii*), tanekaha, or towai. Associated species include totara, puriri (*Vitex lucens*), tanekaha, pohutukawa (*Metrosideros excelsa*), and ti kouka (cabbage tree; *Cordyline australis*). Other species which may be present include hangehange (*Geniostoma ligustrifolium*), mamangi (*Coprosma arborea*), mapou (*Myrsine australis*), mahoe (*Melicytus ramiflorus*), pate (*Schefflera digitata*), karamu (*Coprosma robusta*), kohekohe (*Dysoxylum spectabile*), akepiro (*Olearia furfuracea*), harakeke (flax; *Phormium tenax*), kowhai (*Sophora* sp.), and karo (*pittosporum crassifolium*).

Plant species present on coastal sandfields and coastal shrubland include bracken (*Pteridium esculentum*), knobby clubrush (*Ficinia nodosa*), spinifex (*Spinifex sericeus*), harakeke, pohutukawa, kanuka, kowharawhara (*Astelia banksii*) and taupata (*Coprosma repens*) (Booth 2005).

[1] When a species is first mentioned the scientific name is provided. Thereafter, common names are used.

3. Description of the Planting Area

The planting area was inspected on 9th and 14th March 2017. It comprises a narrow strip that is densely vegetated with a suite of introduced weeds and scattered native plants. The average height of this shrubland/scrub is *c.*3-4 m but the tallest trees reach *c.*6 m.

The most abundant species is tree privet (*Ligustrum lucidum*), which occurs as seedlings, saplings, and trees. Other introduced trees are flowering cherry (*Prunus* sp.) and black wattle (*Acacia mearnsii*). On the coastal edge of the revegetation area sweet pea shrub (*polygala myrtifolia*) is abundant with less frequent boneseed (*Chrysanthemoides monilifera* subsp. *monilifera*). In contrast, wild ginger (*Hedychium* sp.) is more common on the landward edge, where gorse (*Ulex europaeus*) can also be found. In addition to trees and shrubs, there are also invasive climbing plants: smilax (*Asparagus asparagoides*) and climbing asparagus (*Asparagus scandens*) are scattered throughout and there is a patch of Japanese honeysuckle (*Lonicera japonica*).



Plate 1: two views of the planting area showing dense growth of sweetpea shrub along the foreshore, in front of a shrubland of tree privet and black wattle.

There is a limited number of native plants present, including about seven pohutukawa that were planted 7-8 years ago. There is also a group of karo and mapou is scattered throughout.



Plate 2: A pohutukawa (at right of frame) and a group of mapou (at left of frame)



Plate 3: Karo emergent above dense sweetpea shrub (in the foreground). Black wattle is at the top left corner of the frame.

Four (4) native plant species and nineteen (19) introduced plant species were recorded within the planting area (refer to **Table 1**). Eleven (11) of the introduced species are invasive weeds.

The substrate along the shore is sandy and incorporates numerous shells. It is probably erosion prone but the fringing mangroves (*Avicennia marina* subsp*. australasica*) provide at least partial protection from the effects of tides and 'chop'. The landward side of the

revegetation area is clay which has been placed there as part of the site construction works, as permitted by resource consent (J. Upperton, pers. comm.).

Litter is present on the site. Some of it appears have to have washed in or blown in, but some has clearly been dumped there deliberately. There were also dog faeces on the site. It is likely that rabbits, possums and rats are present.

Table 1: A list of flora species recorded within the planting area on the foreshore of Lot 1 Pipiroa Bay.

Native species	
karamu	*Coprosma robusta*
karo	*Pittosporum crassifolium*
mapou	*Myrsine australis*
pohutukawa	*Metrosideros excelsa*
Introduced species (*invasive species)	
black nightshade	*Solanum nigrum*
*boneseed, bitou bush	*Chrysanthemoides monilifera* subsp*. monilifera*
buffalo grass	*Stenotaphrum secundatum*
Cape gooseberry	*Physalis peruviana*
*climbing asparagus	*Asparagus scandens*
fleabane	*Conyza albida*
*flowering cherry	*Prunus* sp.
gorse	*Ulex europaeus*
inkweed	*Phytolacca octandra*
*Japanese honeysuckle	*Lonicera japonica*
*lantana	*Lantana camara*
purpletop	*Verbena bonariensis*
*smilax	*Asparagus asparagoides*
*sweet pea shrub	*Polygala myrtifolia*
paspalum	*Paspalum distichum*
*tree privet	*Ligustrum lucidum*
*tuber ladder fern	*Nephrolepis cordifolia*
*wattle	*Acacia mearnsii*
*wild ginger	*Hedychium* sp.

5. Planting Plan

5.1 Weed Control

Weed control is essential because the planting area is currently dominated by invasive species (refer to **Section 3**). It will be vital to achieve control of these species prior to planting. If planting is carried out before weed control has been achieved, the planted seedlings are likely to be out-competed by weeds, with consequent high mortality rates and additional costs for further weed control and replacement seedlings.

A goal of the project is to retain as many as possible of the native plants that are already on the site. To achieve this, weed control will need to be carried out by a suitably experienced person who has the ability to distinguish between native plants and introduced species and who is familiar with a variety of weed control methods.

A combination of weed control methods will be required:

- Small plants can be pulled out, especially after rain when the ground is soft.
- A digger could be used to physically remove plants but is not recommended unless an extremely skilled operator could be found because it would cause soil disturbance, increasing the risk of erosion.
- Trees, saplings and large woody shrubs can be felled and their stumps painted with herbicide[2] to prevent them from re-sprouting. Species suitable for this treatment include tree privet, wattle and flowering cherry.
- Small, dense stands of woody seedlings and saplings can be brush cut. Then, when they begin to grow new foliage, this can be sprayed with herbicide. This method can be used in dense stands of tree privet seedlings, for example.
- Wild ginger can be controlled with foliar spray. An alternative is to cut the leaves off close to the rhizome (the large, bulbous root) and paint the cut surfaces with herbicide.

Plant waste, such as pieces of roots and fragments of climbing vines, can re-grow. Therefore, plant waste must be disposed of carefully to prevent it from re-growing. It should be disposed of on-site, where regrowth can be monitored and treated.

[2] Herbicides should only be applied following the manufacturers instructions and with specific regard to the proximity of the marine environment.

Following the initial "knock-down" follow-up treatment will be necessary to control regrowth. In addition, at least one month before planting, the area will need to be blanket-sprayed with glyphosate herbicide to kill grasses and the seeds of any invasive weeds that may have germinated.

5.2 Animal Control

Browsing animals such as rabbits and possums should be controlled before planting, to prevent them from damaging the plantings. Depending on the populations present, control is likely to need to continue until the plants are taller and well-established.

Dogs currently enter the site. They may dig or trample planted seedlings and, if this is anticipated to be a problem, signs should be erected instructing owners/walkers to keep dogs under control and off the property.

5.3 Implementation

Before preparing the planting area and ordering plants it is important for the project manager to make a decision about whether to initiate weed control and planting within the entire area in the same year or to take a staged approach. A staged approach involves, for example, dividing the area into three parts and initiating management of each part in three successive years.

By taking a staged approach, lessons learned in earlier stages can be applied to later stages to achieve improved results. It also enables costs and labour requirements to be spread over a longer time frame, which can make it easier to plan the work. In contrast, initiating weed control and planting across the entire site in the same year would enable the work to be completed in a shorter overall timeframe and could result in "economies of scale".

5.4 Species Selection

Manuka and kanuka are common and widespread in Whangaruru Ecological District (refer to **Section 4**). They are "pioneer" species that are relatively fast-growing and are tolerant of a wide range of conditions. Of the two, kanuka is slightly more tolerant of dry conditions (e.g., the eastern side of the site). Within bulk plantings of manuka and kanuka, groups or scattered individuals of other hardy, coastal species can be planted, such as pohutukawa,

karo, ti kouka, houpara, taupata and/or ngaio. Knobby club rush should only be planted along the foreshore.

Table 1. Species suitable for the planting area on the waterfront of Lot 1 Pipiroa Road, Russell.

Common Name	Scientific Name	Plant Size
knobby clubrush	*Ficinia nodosa*	root-trainer
manuka	*Leptospermum scoparium*	root-trainer
kanuka	*Kunzea robusta*	root-trainer
karamu	*Coprosma robusta*	root-trainer
houpara, coastal five finger	*Pseudopanax lessoni*	root-trainer
ngaio	*Myoporum laetum*	PB3 or root-trainer
mapou	*Myrsine australis*	root-trainer
pohutukawa	*Metrosideroa excelsa*	PB3
taupata	*Coprosma repens*	PB3 or root-trainer
ti kouka	*Cordyline australis*	PB3 or root-trainer
whaririki, coastal flax	*Phormium cookianum*	root-trainer

5.5 Ordering Plants

Eco-sourcing

Ideally, all the plants should be eco-sourced, which means they've been grown from seed collected close to the project site and from similar landforms. At the least, the seed will need to be collected from within the Whangaruru Ecological District. Eco-sourced plants will be well-adapted to the climate and soils of the project site and are more likely to establish and grow successfully. Eco-sourcing also helps to maintain genetic diversity.

Plant sizes

Most of the recommended species can be planted as root-trainer sized seedlings (refer to **Tables 1**) as long as good follow-up weed control is implemented to ensure they don't become overwhelmed by grasses and weeds.

Plant Spacings and Numbers

If plants are established at relatively close spacings of *c.*1 m, they will provide shelter and support to eachother and a closed canopy will establish more rapidly compared to wider spacings. Knobby clubrush can be planted at narrower spacings (e.g. approx 0.7m). Once a closed canopy has established, the need for weed control and plant maintenance greatly

decreases. The planting area is *c.*100m long and 5 metres wide. To achieve a finished plant spacing of *c.*1 m, 600 seedlings will be required.

Timing

Plants should be ordered as early as possible, to ensure they will be available when they're required.

5.6 Timing of planting

All of the recommended species are frost-tolerant so planting should occur in Autumn or, at the latest, in early Winter.

5.7 Planting Methods

The night before planting, all the seedlings will need to be well-watered. Holes that are slightly larger than the pots/bags should be dug at the appropriate spacings. A slow-release fertiliser can be placed in each hole but it should be mixed with loose soil to prevent it from coming into contact with the plants' roots. After loosening each plant from the pot/bag it should be placed in the hole with minimal handling of the roots and the soil gently firmed around each plant. It can be useful to stake the plants if the site proves to be very windy or to aid in relocation of small seedlings. Larger specimen trees (PB3 sized) are likely to benefit from good staking.

If mulch is available, it is recommended it be used. Mulch should be spread around the base of each plant, especially those on the foreshore where the substrate does not have good water retention properties. Any mulch that is used should be free of weed seeds or weed fragments.

6. Vegetation Management Plan

6.1 Plant Mortality

Regular inspections will be required to determine if any plants have died. Any plants that die in their first year will need to be replaced in the following planting season. If one species is over-represented amongst those that have died, they should be replaced with species that have established more successfully.

6.2 Weed Maintenance

Weed inspections will need to occur at least 3-4 times in the first year following planting and it is likely that plants will need to be 'released' from grass growth at these times. The frequency with which weed inspections are required will decrease over time because, as the plants grow, they will create a closed canopy that shades the ground and prevents most weeds from establishing. However, regular inspections will be a constant requirement because the margins of the plantings will remain vulnerable to weed invasion and some shade-tolerant species can establish beneath a closed canopy (e.g. tobacco weed).

After about five years the plantings will require less maintenance. However, the edges of the revegetation areas will continue to receive enough sunlight for a range of weeds to be able to establish.

6.3 Monitoring

Recording changes within the planting area can help inform decisions about management of the site, especially if a staged approach is being used. Monitoring requires repeated measurements to be taken using the same method. For this project, monitoring could be undertaken using photo-points. This involves establishing fixed locations from where photos are taken at regular intervals of time e.g. annually.

6.4 Annual Planning

At the beginning of each year, work will need to be planned and scheduled. Resources such as machinery, chemicals, and tools will need to be acquired or allocated and labour assigned to the year's tasks.

6.5 Vegetation Management Calendar

A Vegetation Management Calendar is presented in **Table 3**, with "Year 1" being the year in which planting is initiated. If the goal is to begin planting this year (2017) weed control will need to begin immediately in the part of the site for which planting is planned this year. However, it will be more practical to begin planting in 2018, to ensure weed control can be achieved and seedlings are available.

If planting is initiated at the same time in all of the revegetation areas, the areas will progress through the management calendar at the same pace. In contrast, if a staged approach is adopted (refer to **Section 5.2**) "Year 1" will occur in a different calendar year for each revegetation area. As the project progresses, the first revegetation area to be planted will be in "Year 4" on the management calendar while the final area to be planted will be in "Year 1".

Table 3. Vegetation Management Calendar setting out planting and maintenance schedules.

Prior to Year 1 (for parts of the site where planting begins in 2018 or later)	
Summer	Undertake an initial "knock down" of weeds e.g. cutting and pasting trees and wild ginger, brush cutting saplings.
One month after "knock down"	Undertake "follow-up" weed control e.g. apply foliar spray to areas that have been brush cut.
Year 1 (Site Preparation and Initial Planting)	
<u>If a staged approach is adopted, the part of the site where planting begins in 2017.</u>	
As soon as possible	Order plants. Establish photo monitoring. Undertake an initial "knock down" of weeds
One month after "knock down"	Undertake "follow-up" weed control.
<u>If planting begins in 2018</u>	
Any time prior to planting	Order plants. Establish photo monitoring.
February/March	Commence pest animal control. Undertake "follow-up" weed control.

April	One month before planting, blanket spray with a glyphosate herbicide.
late April - May	Plant seedlings. Stake and mulch seedlings.
June/July If planting is undertaken in 2017	Inspect for weeds and control any that are found. This additional inspection is required in case adequate control was not achieved prior to planting.
October	Inspect for weeds and control any that are found. Release the plantings from competition i.e grasses and herbs.
Year 2 (Infill Planting and Site Maintenance)	
As required	Maintain control of pest animals.
January/February	Inspect for weeds and control any that are found. Release the plantings from competition i.e grasses and herbs. Inspect for any dead plants. Order plants to replace any that have died and for infill planting.
March or April (1 year after initial monitoring)	Repeat photo-monitoring.
late April - May	Undertake infill planting and replace any dead plants.
May	Inspect for weeds and control any that are found. Release the plantings from competition i.e grasses and herbs.
September	Inspect for weeds and control any that are found. Release the plantings from competition i.e grasses and herbs.
Year 3 (Site Maintenance)	
As required	Maintain control of pest animals.
January	Inspect for weeds and control any that are found. Release the plantings from competition i.e grasses and herbs.
March or April	Repeat photo-monitoring (2 years after initial monitoring).

May	Inspect for weeds and control any that are found. Release the plantings from competition i.e grasses and herbs.
September	Inspect for weeds and control any that are found. Release the plantings from competition i.e grasses and herbs.
Year 4 (Site Maintenance)*	
As required	Maintain control of pest animals.
January	Inspect for weeds and control any that are found. Release the plantings from competition i.e grasses and herbs.
March or April	Repeat photo-monitoring.
May	Inspect for weeds and control any that are found. Release the plantings from competition i.e grasses and herbs.
September	Inspect for weeds and control any that are found. Release the plantings from competition i.e grasses and herbs.
*If the project manager's opinion (based on experience and qualifications) is that the plantings are sufficiently well-established that weed control does not need to be undertaken as frequently as 3 times per year, the schedule for Year 5 can be adopted in Year 4.	
Year 5 & Subsequent Years (Site Maintenance)	
As required	Maintain control of pest animals.
March or April	Repeat photo-monitoring. Inspect for weeds and control any that are found.
September	Inspect for weeds and control any that are found.

References

Booth A. 2005. *Natural areas of Whangaruru Ecological District: Reconnaissance Survey Report for the Protected Natural Areas Programme*. Department of Conservation, Northland Conservancy.

View Instrument Details

Instrument No	12997831.1
Status	Registered
Date & Time Lodged	22 May 2024 10:36
Lodged By	Smith, Louise Annette
Instrument Type	Land Covenant under s116(1)(a) or (b) Land Transfer Act 2017

Affected Records of Title	Land District
NA129B/963	North Auckland

Annexure Schedule Contains 4 Pages.

Covenantor Certifications

I certify that I have the authority to act for the Covenantor and that the party has the legal capacity to authorise me to lodge this instrument ☑

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument ☑

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply ☑

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period ☑

Signature

Signed by Louise Annette Smith as Covenantor Representative on 12/06/2024 08:56 AM

Covenantee Certifications

I certify that I have the authority to act for the Covenantee and that the party has the legal capacity to authorise me to lodge this instrument ☑

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument ☑

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply ☑

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period ☑

Signature

Signed by Louise Annette Smith as Covenantee Representative on 12/06/2024 08:56 AM

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

Approved for ADLS by Registrar-General of Land under No. 2018/6263

COVENANT INSTRUMENT TO NOTE LAND COVENANT

Sections 116(1)(a) & (b) Land Transfer Act 2017

Registrar-General of Land Approval 2018/6263 ADLS

Covenantor *Surname(s) must be underlined or in CAPITALS.*

John Kildare UPPERTON

Covenantee *Surname(s) must be underlined or in CAPITALS.*

FAR NORTH DISTRICT COUNCIL

Grant of Covenant

The Covenantor, being the registered owner of the burdened land(s) set out in Schedule A, **grants to the Covenantee** (and, if so stated, in gross) the covenant(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s).

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

Purpose of covenant	Shown (plan reference)	Burdened Land (Record of Title)	Benefited Land (Record of Title) or in gross
Conservation and Environmental Protection	**DP 202228**	**NA129B/963**	**In gross**

Covenant rights and powers (including terms, covenants and conditions)

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: **Schedule B**

~~[Memorandum number , registered under section 209 of the Land Transfer Act 2017.]~~

~~[Annexure Schedule].~~

REF: 7200 – © AUCKLAND DISTRICT LAW SOCIETY INC. 2018

Annexure Schedule Page 2 of 4 Pages

2015/5049
APPROVED
Registrar-General of Land

Insert instrument type

Land Covenant

Continue in additional Annexure Schedule, if required

Schedule B

1. Definitions and Interpretations

1.1 "Resource Consent" means Resource Consent 2090634 and any variations from time to time including the decision of the Environment Court [Decision No. [2015] NZEnvC 73] dated 21 April 2015 .

2. Introduction

2.1 The Resource Consent is to erect a single dwelling unit on pole foundations on the Burdened Land as set out in the Resource Consent. The Burdened Land is low-lying, with much of the site comprising a tidal wetland area below mean high water springs.

2.2 The Covenantor and Covenantee HEREBY COVENANT AND AGREE in the manner set out in the Covenants so that:

2.2.1 the Covenants run with the Burdened Land for the benefit of the Covenantee; and

2.2.2 the Covenantee and Covenantor hereby request that the Covenants be noted on the Register.

3. Covenants

3. The Covenantor covenants with the Covenantee that:

3.1 Only a single dwelling unit, accessory building and associated water tanks with a combined building coverage of no more than 200m2 shall be built on the Burdened Land and no other buildings shall be allowed. Except that the limitation on building coverage in this covenant does not include decks attached to the dwelling of no more than 3.2m in width where the floor level of the deck is no higher than the minimum floor level for habitable rooms as defined in condition 3.4 of this covenant; retaining works required as part of the reclamation works; the establishment of an effluent disposal system; and the installation of a waste water treatment and dripline effluent disposal system.

3.2 The remainder of the wetland excluding the area under and in the immediate proximity of the dwelling ("Covenanted Area") is subject to a Conservation Covenant in perpetuity in accordance with Section 77 of the Reserves Act 1977 and the Covenantor further covenants that;

3.2.1 The living indigenous vegetation on the Covenanted Area will not be cut down, damaged or destroyed without prior written consent of Council. The Covenantor shall be deemed not to be in breach of this prohibition if any such vegetation dies from natural causes, which is not attributable to any act or default by or on behalf of the Covenantor or for which the Covenantor is responsible.

3.2.2 Exotic vegetation which could adversely affect natural regeneration, local forest health or freshwater-life or marine-life habitats will not be introduced onto the Burdened Land. This includes the introduction of invasive plant species, including those currently listed on the nationally-banned-for-sale list (see Northland Regional Pest Management Strategy) and species described as 'pest plants' in the "National Pest Plant Accord (August 2001)", any Northland Regional Pest Management Strategy or in the leaflet produced jointly by the Department of Conservation and the Northland Regional Council titled "Environmental Weeds Delightful But Destructive" (1984) and any revised versions of these publications.

If this annexure schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.

Annexure Schedule

Page 3 of 4 Pages

2015/5049
APPROVED
Registrar-General of Land

Insert instrument type

Land Covenant

Continue in additional Annexure Schedule, if required

3.2.3 Any predator/pest control work on the Burdened Land will be carried out in the best possible interests of and for the protection and long-term survival of Kiwi and other indigenous fauna and flora.

3.3 The Covenantor and any visitor to the Burdened Land, will not bring onto and/or keep any cat, dog or mustelid on the Burdened Land.

3.4 The minimum floor level of the dwelling shall be RL 3.00m (above One Tree Point Datum); and the maximum height of the dwelling, shall be RL 6.55m (above One Tree Point Datum).

3.5 Installation of all utilities, both within the Burdened Land and in the legal road reserve (from the termination of the existing networks) shall be underground, with no provision for overhead telecommunications or electric power reticulation.

3.6 The surface finish of any vehicular access or manoeuvring area is to be crushed shell or similar and not sealed.

3.7 Following approval of the Covenantee, in accordance with condition 4(ii) of the Resource Consent implementation of the Landscape Integration and Ecological Restoration Plan may commence in the planting season May to August following approval of said plan (and before any other works commence on the Burdened Land) and implementation of the Landscape Integration and Ecological Restoration Plan must commence (if it has not already) in the planting season immediately following commencement of construction of the dwelling and accessway. The planting shall be completed in accordance with the time-frame approved in accordance with condition 4(ii)(g) of the Resource Consent. All native plants shall be conserved in their natural form and size in perpetuity, except where pruning is allowed for in accordnce with condition 4(ii)(c) of the Resource Consent. Any opportunity to create parts of the planted framework in advance of the dwelling construction shall be pursued. Following installation, the planting shall then be intensively maintained for the first five years and monitored and managed thereafter for plant health, weed invasion and other threats. Any dead and diseased vegetation shall be replaced in the following planting season, being May to August.

3.8 Following approval by the Covenantee in accordance with condition 4(iii) of the Resource Consent, the Weed Management Strategy, shall be implemented in accordance with the conditions of that strategy. The Covenantor will be required to provide the Covenantee with a brief annual report that is illustrated with photographs, which documents the Implementation of the Weed Management Strategy over the five to ten year period as set out in the strategy.

3.9 The Burdened Land shall not be further subdivided.

3.10 The foundations of the proposed dwelling and any retaining works on the Burdened Land shall be designed by a suitably qualified and experienced Chartered Professional Engineer.

3.11 Any building consent for any works on the Burdened Land shall be subject to section 72 of the Building Act 2004 in recognition of the flooding and erosion risk that exists on the Burdened Land.

3.12 Artificial lighting shall only be affixed to the exterior of the building. There shall be no naked (unshielded) exterior bulbs and any exterior light fittings installed shall be positioned and selected so that the light source is directed downwards and the light source cannot be seen from outside of the Burdened Land. Landscape lighting, including driveway and path lighting is expressly prohibited.

If this annexure schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.

Annexure Schedule

Page 4 of 4 Pages

2015/5049
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Registrar-General of Land

Insert instrument type

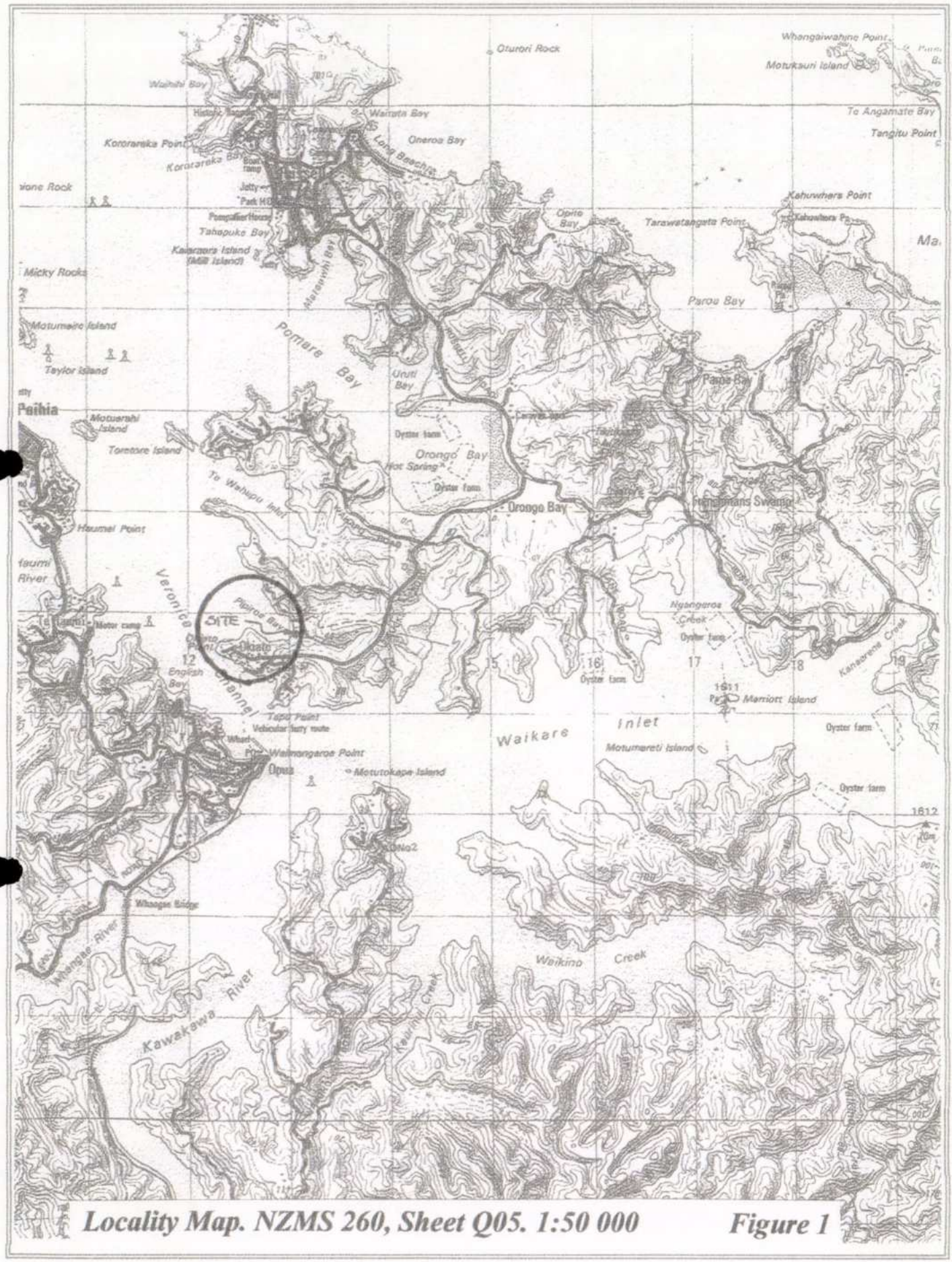
Land Covenant

Continue in additional Annexure Schedule, if required

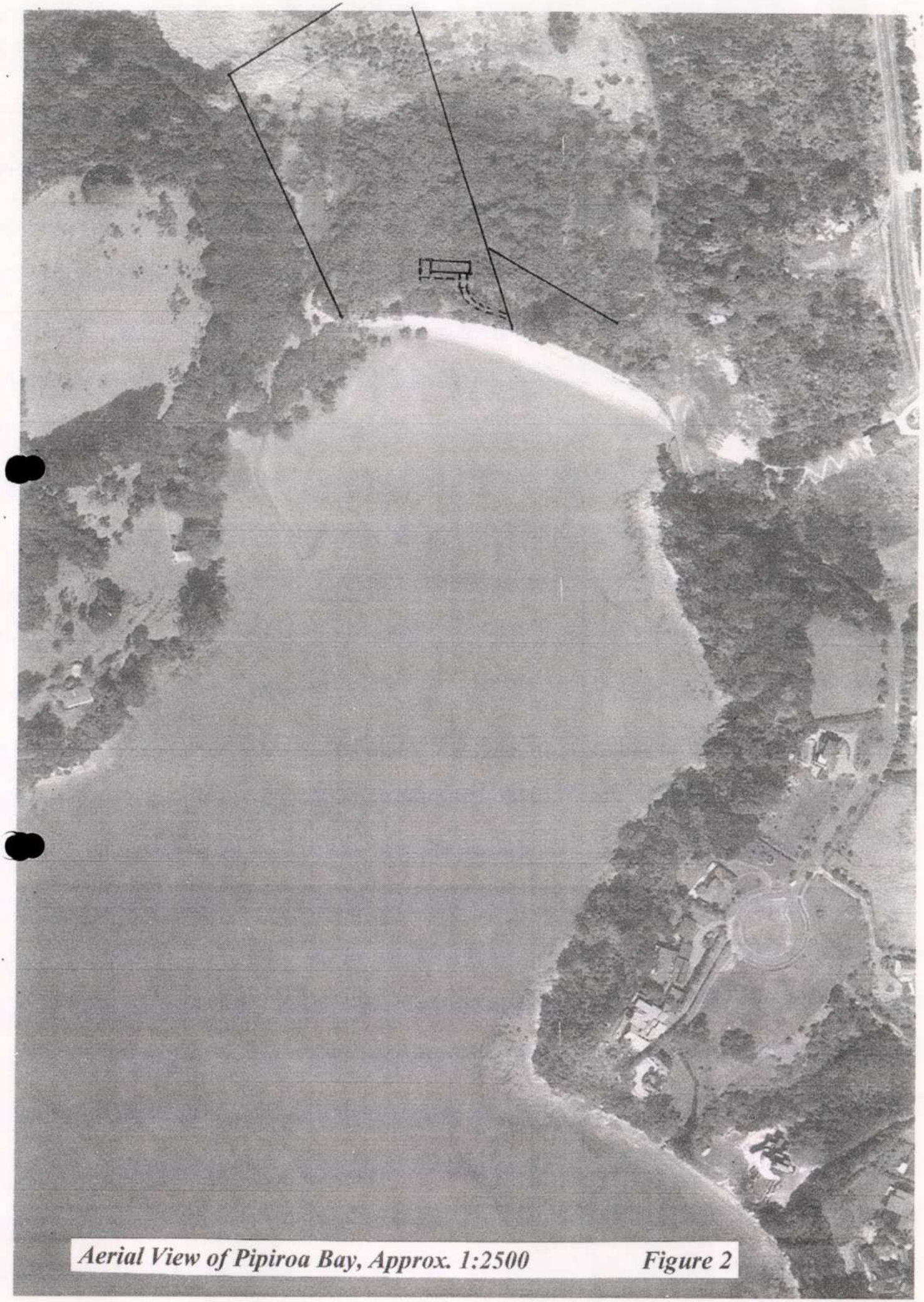
3.13 The Covenantor agrees to bound by the ongoing obligations, terms and conditions contained in the Resource Consent and is responsible to the Covenantee for any non-compliance of the Resource Consent conditions.

If this annexure schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.

POOR QUALITY

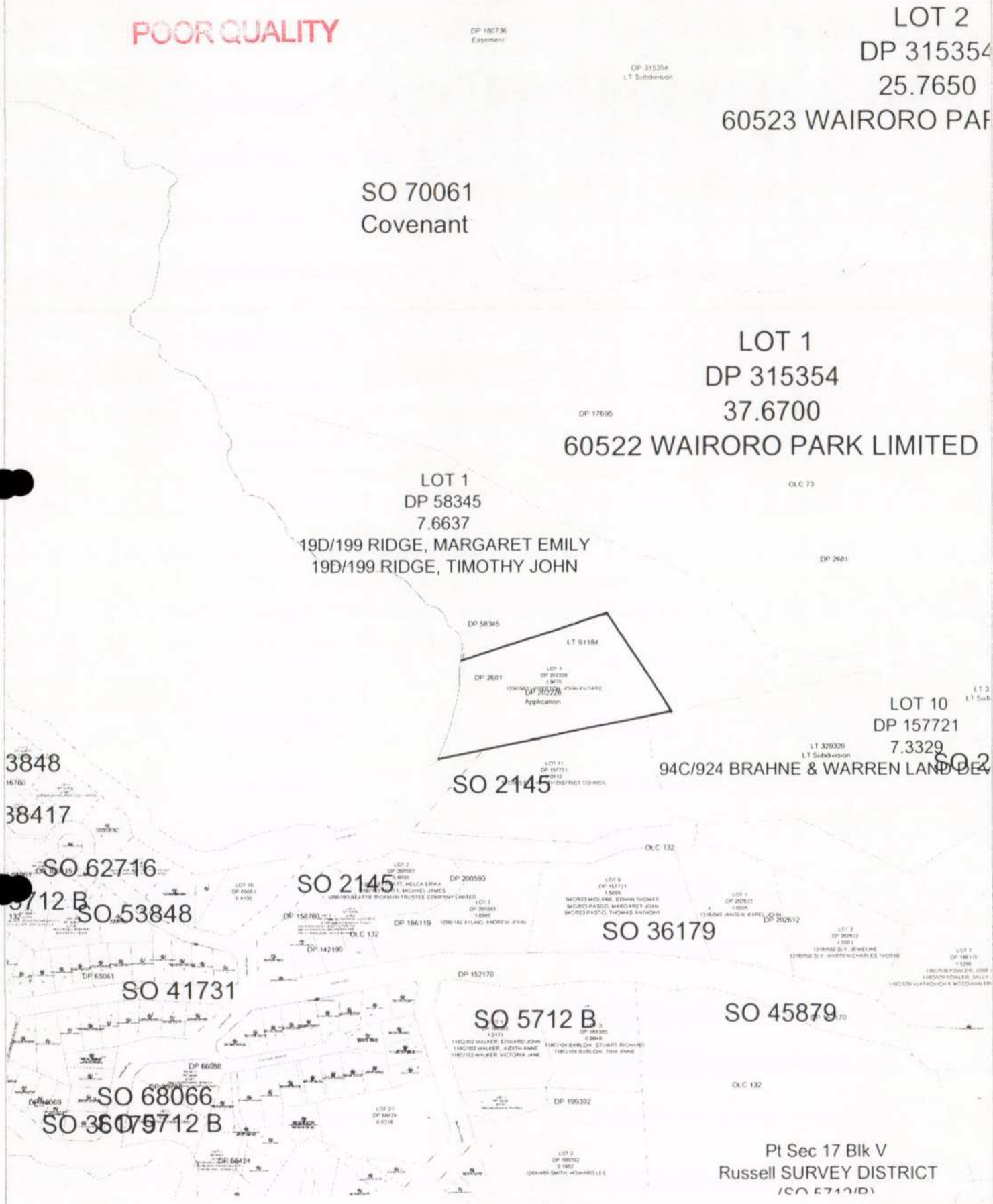


Locality Map. NZMS 260, Sheet Q05. 1:50 000 ***Figure 1***



Aerial View of Pipiroa Bay, Approx. 1:2500 **Figure 2**

POOR QUALITY



Cadastral Map of Pipiroa Bay. 1:5000

Figure 3

Scale 1:5000

0 50 100 150 200 250 300 350 400 450 500 550 600m

Pipiroa Bay

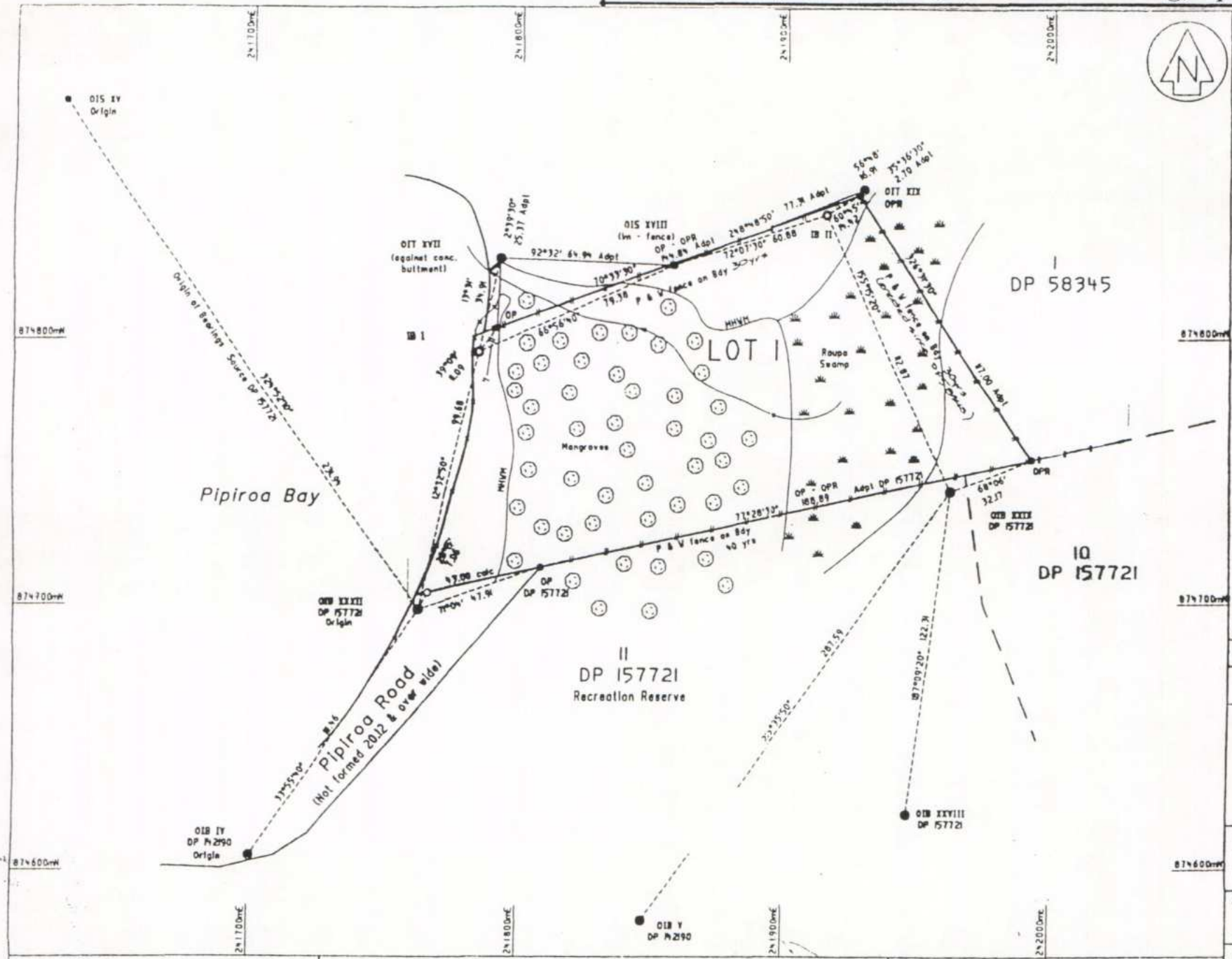
Survey and Title Data as at 1-MAY-2004, Valuation and Sales Data as at 29-APRIL-2004 and Geodetic Mark data as at 1-MAY-2004. For additonal mark data visit www.linz.govt.nz for Geodetic Database. Cadastral Information from LINZ Core Record System (



Schematic Plan of Site of Proposed Dwelling. 1:1000 Figure 4

[redacted] [redacted]

Survey Plan of the Property (Thomson & King, April 2000). *Figure 5*



Bearing and Coordinate Datum Geodetic 1949

Mt Eden Circuit Coordinates
Origin Mt Eden 700000 mN 300000 mE

Schedule of Coordinates

	mN	mE
OIB IV DP 142190	874605.84	2411700.21
SOURCE DP 157721		
OIB XXIX DP 157721	874742.85	2411962.29
OIB XXXII DP 157721	874698.31	2411762.42
IB I	874795.60	2411784.07
OIS XVIII DP 58345	874826.68	2411857.11
IB II	874845.36	2411915.05

Notes:
BEARINGS ADOPTED FROM DP 58345 HAVE BEEN ADJUSTED BY +1°30" TO BE IN TERMS OF GEODETIC 1949 DATUM (SEE DP 157721)

OLD MARKS AND ADOPTIONS ARE FROM DP 58345 UNLESS OTHERWISE SHOWN

BOUNDARIES ARE NOT OCCUPIED UNLESS OTHERWISE SHOWN

INSTRUMENT USED : TOPCON GTS 303

Fixes to M.H.W.M
From OIB XXXII
11°20' 98.55
14°11' 80.75
15°30' 66.70
15°57' 45.75
16°00' 24.60
317°30' 3.20
218°07' 14.10

From IB I
318°37' 5.20
1°13' 10.70
19°50' 17.00

Class of Survey II

Total Area

Comprised In

I, David Brett King of Paihia being a person entitled to practice as a registered surveyor, certify that (a) The surveys to which this dataset relates are accurate, and were undertaken by me or under my direction in accordance with the Survey Act 1986 and the Survey Regulations 1990 (b) This dataset is accurate, and has been created in accordance with that Act and those Regulations.

Dated at Paihia this 20th day of April 2000 Signature

Field Book ____ p ____ Traverse Book ____ p ____
Reference Plans DP 157721 DP 58345 LT 91184
Examined ____ Correct ____

Approved as to Survey

____ / ____ / ____ Chief Surveyor

Deposited this ____ day of ____ 20____

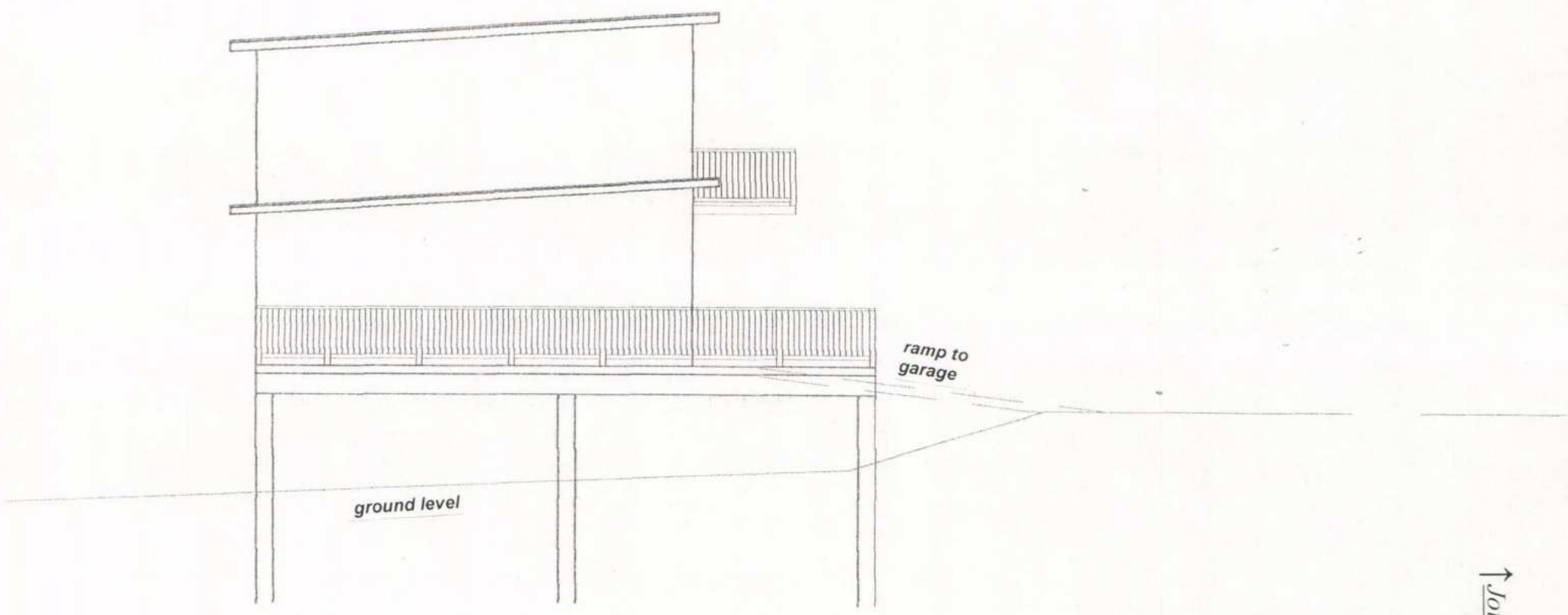
for Registrar General of Land

File 4849
Received

LAND DISTRICT: NORTH AUCKLAND
SURVEY BLK & DIST: V Russell
NZMS 261 SHT 005 RECORD MAP 3.11 & 4.11

Lot 1 Being Pt O.L.C 73

LOCAL AUTHORITY: Far North District
Surveyed by: Thomson & King, Paihia



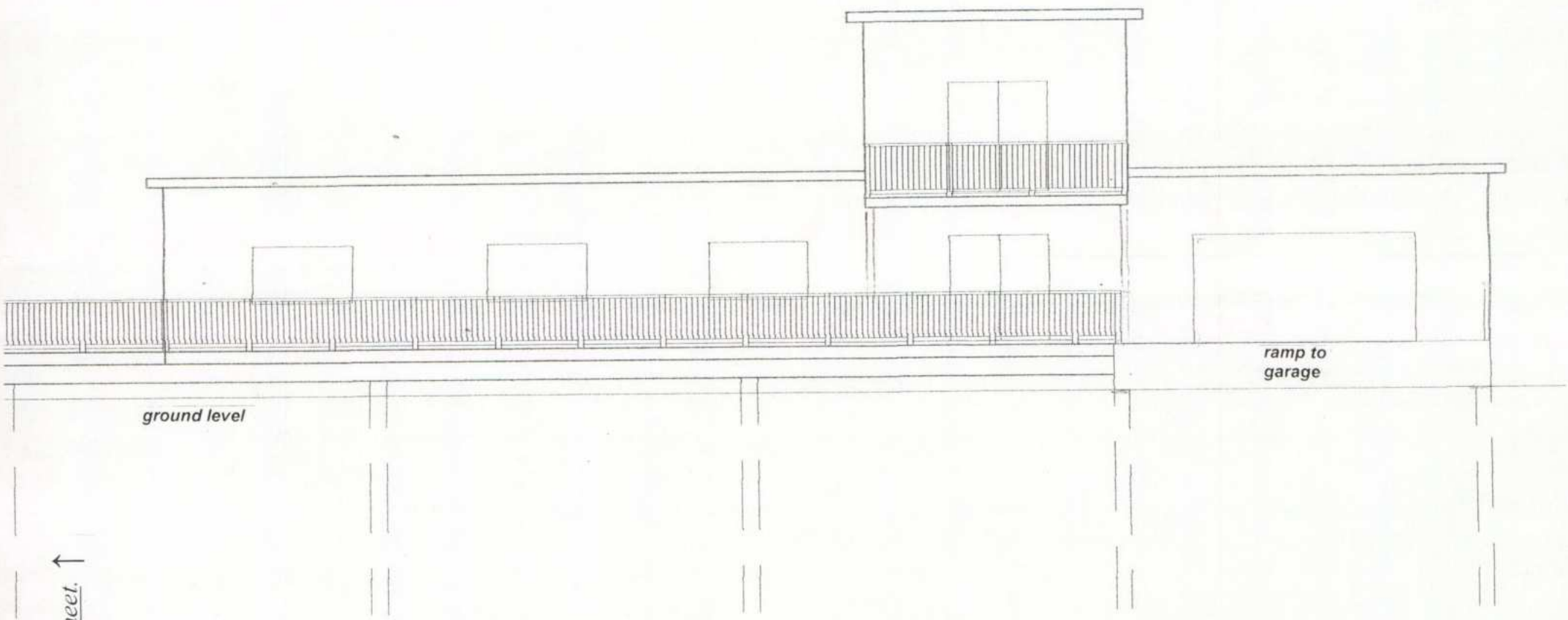
Joins Figure 6.2 to make Original A2 Sheet. →

Side Elevation of the Proposed Dwelling (1:100) ***Figure 6.1***

ACENZ
2 Seaview Road, Whangarei.
Ph. (09)4383273. Fax. (09) 4385734.
engineers@richardsonstevens.co.nz
Richardson Stevens Consultants (1996) Ltd CIVIL & STRUCTURAL ENGINEERS

JOHN UPPERTON,PIPI
PROPOSED PLATI

Tux\Jobs\files\Jobs 4001 - 4500\4463 Upperton\CAD\4463House Platform.17.10.03dwg_recover.dwg, 23/08/2004 2:33:07 p., \\TUX\designjet430



← *Joins Figure 6.1 to make Original A2 Sheet.* →

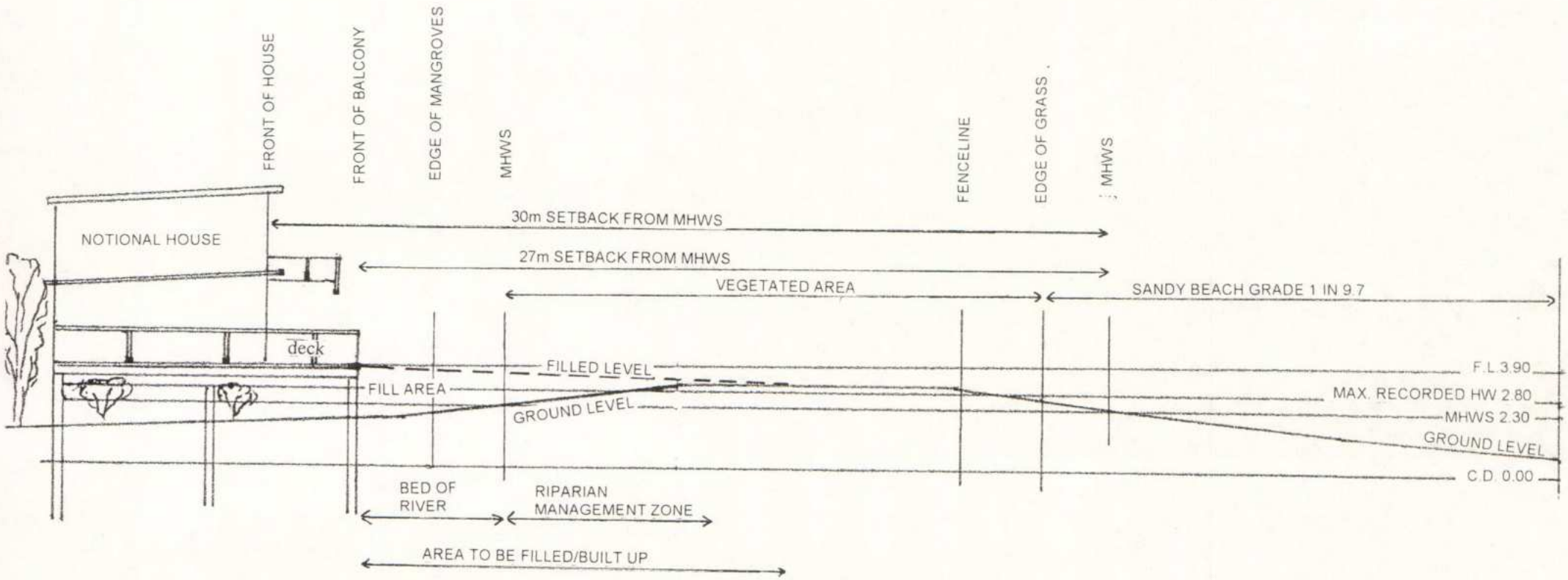
Front Elevation of the Proposed Dwelling (1:100) ***Figure 6.2***

OA ROAD, PIPIROA BAY
ORM FOR DWELLNG

STRUCTURAL DETAILS	
Date:	AMENDMENTS

Project: 4463
Drawn: MHPR
Date: OCT.2003
Scale: 1/100, ~~1/50~~

Sheet
S1



Note: Levels shown relate to Chart Datum. Chart Datum is 1.4m below L&S Datum

CROSS-SECTION THROUGH SPIT AND PROPOSED HOUSE SITE. Scale 1:200

[Derived from plans and drawings by Richardson Stevens Consultants (1996) Ltd]

JOHN UPPERTON, PIPIROA ROAD, PIPIROA BAY

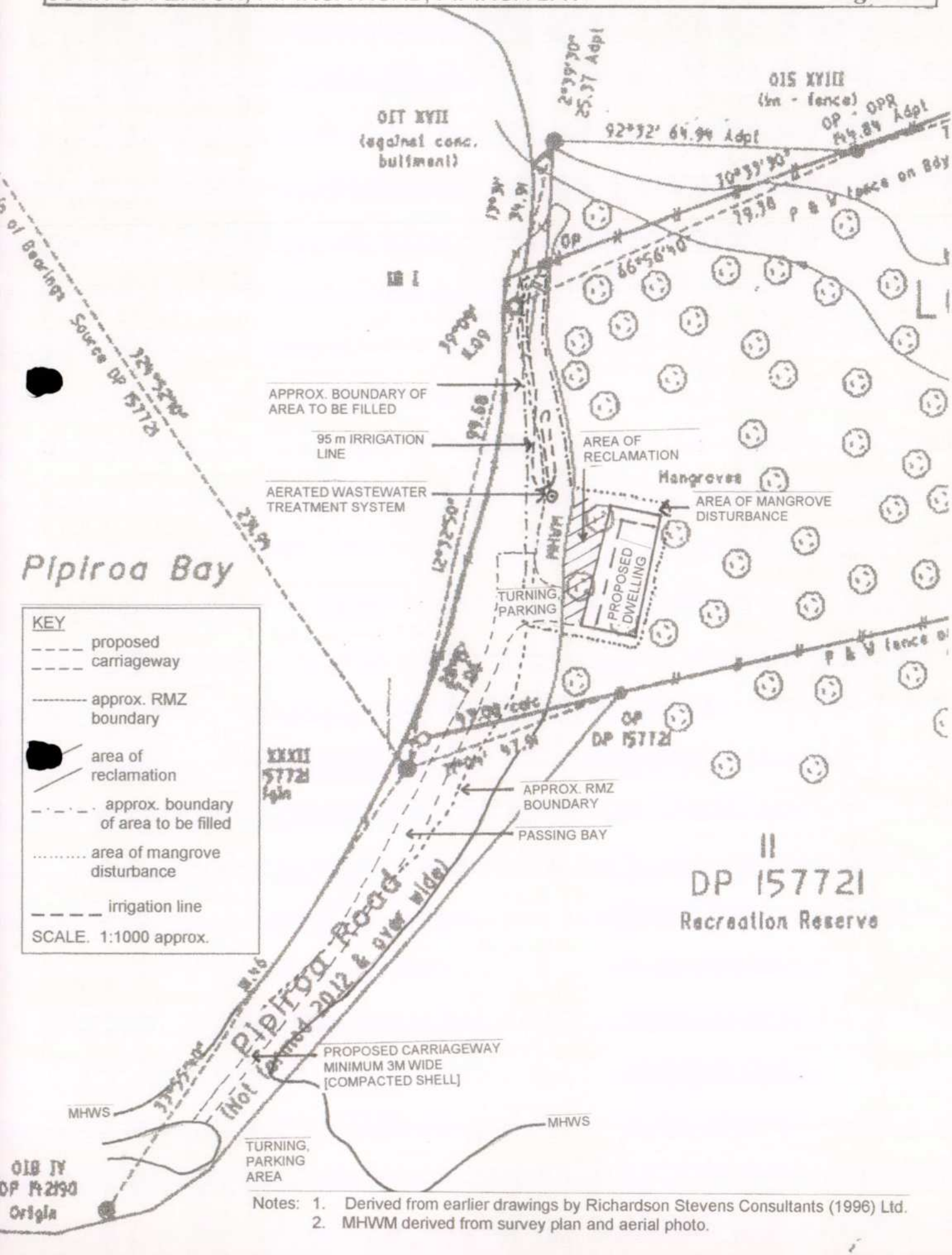
Cross-section through the Spit and Proposed House Site 1:200 (A4)

Figure 7

SCHEMATIC SITE PLAN, showing proposed carriageway, proposed dwelling, proposed irrigation area, proposed reclamation area, etc. Scale. 1:1000 approx.

JOHN UPPERTON, PIPIROA ROAD, PIPIROA BAY

Figure 8



Notes: 1. Derived from earlier drawings by Richardson Stevens Consultants (1996) Ltd.
2. MHWM derived from survey plan and aerial photo.

SCHEMATIC PLAN OF PROPERTY, showing proposed dwelling, proposed irrigation area, proposed reclamation area, etc. *Scale. 1:500 approx.*

JOHN UPPERTON, PIPIROA ROAD, PIPIROA BAY

Figure 9

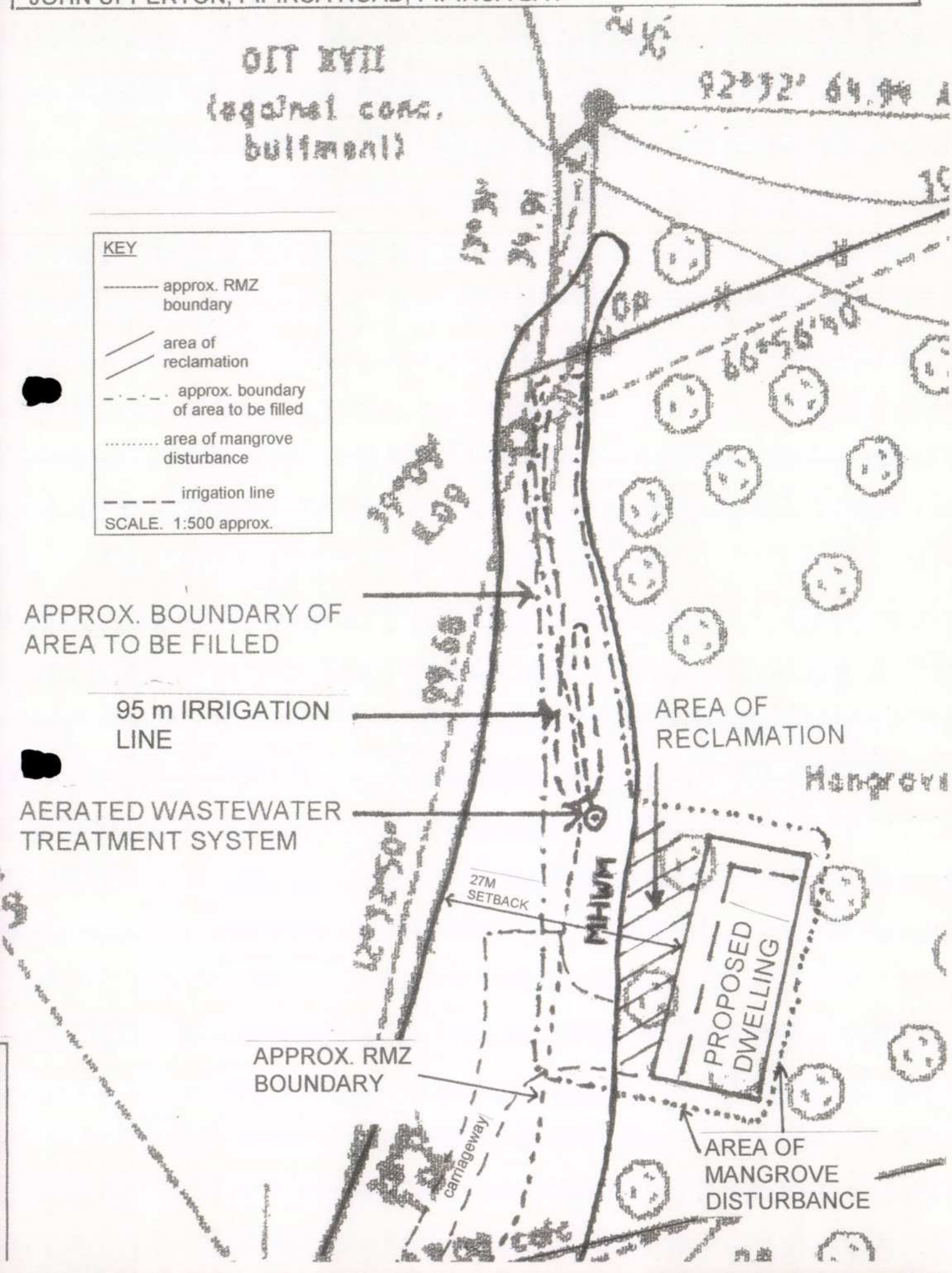




Figure 1: Locality Map from Google Maps: Subject Site (red box) and surrounding Pipiroa Bay area.



Figure 2: Aerial Image of the Subject Site, illustrating the immediate environment of the proposed dwelling and effluent disposal area. (Source: Google Maps)



Figure 3: Ground-level perspective from the beach, illustrating the dense native vegetation that provides visual screening for the future building platform.



Figure 4: The building platform area after clearing, illustrating the extent of the site preparation.



Figure 5: Ground-level view of the intended location for the effluent disposal field.



Figure 6: Overview of the site, showing part of the building platform area (left), the access pathway (middle), and existing native vegetation (right).

Appendix II.1 Engineering Report for On-Site Effluent Disposal, 5 November 1999.

ACENZ

Email: rscltd@clear.net.nz

Richardson Stevens
Consultants (1996) Ltd

Grant Stevens
B.E., M.I.P.E.N.Z.
Registered Engineer

Tim Pike
N.Z.C.E., B.E. (Hons), M.I.P.E.N.Z.
Registered Engineer

CIVIL & STRUCTURAL ENGINEERS, 2 SEAVIEW RD, WHANGAREI. PH: 09 438 3273, FAX: 09 438 5734

ENGINEERING REPORT

For

ON-SITE EFFLUENT DISPOSAL

Client Name: J. UPPERTON

Prepared for: STEPHENSON + WILLIAMS

Date: 5-11-99

File Number: AWTS 991056

Report by: COLIN BISHOP

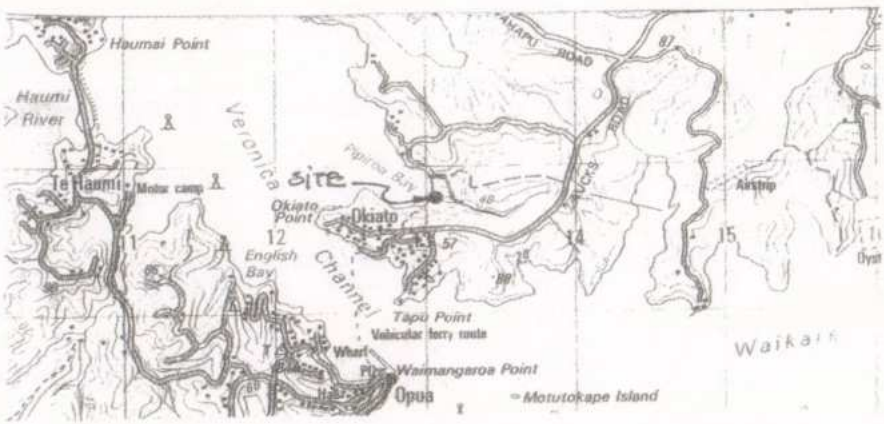
Engineering Report for On-site Effluent Disposal

Client Name:	J. Upperton
Prepared for:	Stephenson & Williams
Date:	5-11-99
File Number:	AWTS991056

Site Information

Road/Street:	Pipiroa Rd.
Locality:	Pipiroa Bay
District Council Area:	Far North
Regional Council Area:	Northland
Lot Number:	Lot 1
DP Number:	DP91184

Location Map:



Design Recommendation			Aerated Wastewater Treatment System
Resource Consent/Discharge Permit required:			yes
System Brief:			Aerated Wastewater Treatment System with surface irrigation disposal
Topography:			Slight
Available Clearances:	Boundaries:	min.	1.5
	Waterways:	min.	5
	Wells/bores/springs:	min.	20
	Buildings:	min.	3
Depth of winter watertable:			0.8 m
Depth of summer watertable:			n/a m
Need for surface water cut-off drains:			n/a
Intended water supply:			Rainwater tank
Reserve area available:			100%
Level of primary treatment:			n/a
Level of secondary treatment:			n/a
Level of tertiary treatment:			Aerated Wastewater Treatment System

Subsoil Investigation:

Hand augered bore

Bore diameter: 100 mm

Bore depth: 1.7 m

Groundwater: yes

Soil Profile:



0-200	Sandy black topsoil
200-600	Firm coarse sand
600-1700	Soft marine mud

Effluent Loading and Design

Number of bedrooms:	3
Number of persons:	5
Wastewater flow allowance:	140 litres/person/day
Total daily wastewater flows:	700 litres/day
Cover over disposal area:	grass/landscaping

Percolation testing:

A series of rapid percolation tests were carried out on site within the proposed disposal area. Percolation rates were in excess of 25mm per minute

Soil category: (In accordance with NZS 4610:1982) A

Tertiary System design

System installation type:

■ Biocycle	■ Clean Stream
■ Oasis Clearwater	■ Hynds Clearwater
■ Super Treat	■ Enviroflow

Effluent disposal design

Long term acceptance rate: 10 litres/m^2/day

Type of building: Residential

Number of bedrooms: 3

Number of persons: 5

Wastewater flow design allowances:

Flow allowance: 140 litres/person/day

Occupancy numbers: 5 persons

Total daily wastewater flows: 700 litres/day

Irrigation area required: 70.0 m^2

Use 70 metres (minimum) irrigation line to dispose of treated wastewater.

Irrigation Line

Treated wastewater to be drip irrigated into landscaped surroundings or within the topsoil layer
Distribution by pressure compensating drippers.
Drippers to be covered by 50-100mm bark, vegetation or soil.

Minimum separation distances for irrigation line:

Minimum dripper interval:		1 m
Minimum distance between irrigation lines:		1 m
Minimum distance from:	Buildings	3 m
	Waterways	20 m
	Boundaries	1.5 m

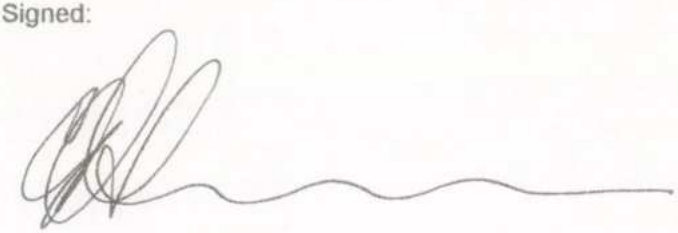
Summary:

This is a 1.6ha (approx.) site. The proposed dwelling and effluent disposal area is to be located on a narrow sandspit, which separates the main beach from a tidal wetland area. Due to the high watertable and limited disposal area we recommend an Aerated Wastewater Treatment System. These systems offer a high degree of treatment and less ground disturbance than most other disposal systems. Resource consent from the Regional Council is required due to the high ground water table.

Recommendations:

- The irrigation line is to be placed at owner's discretion around landscaping and/or through topsoil layer.
- Irrigation line to be covered by 50-100mm of bark, vegetation or soil.
- System to be installed and maintained as per manufacturers recommendations.

Signed:



Date: 5/11/99.

Registered Engineer.
RICHARDSON – STEVENS CONSULTANTS (1996) Ltd.

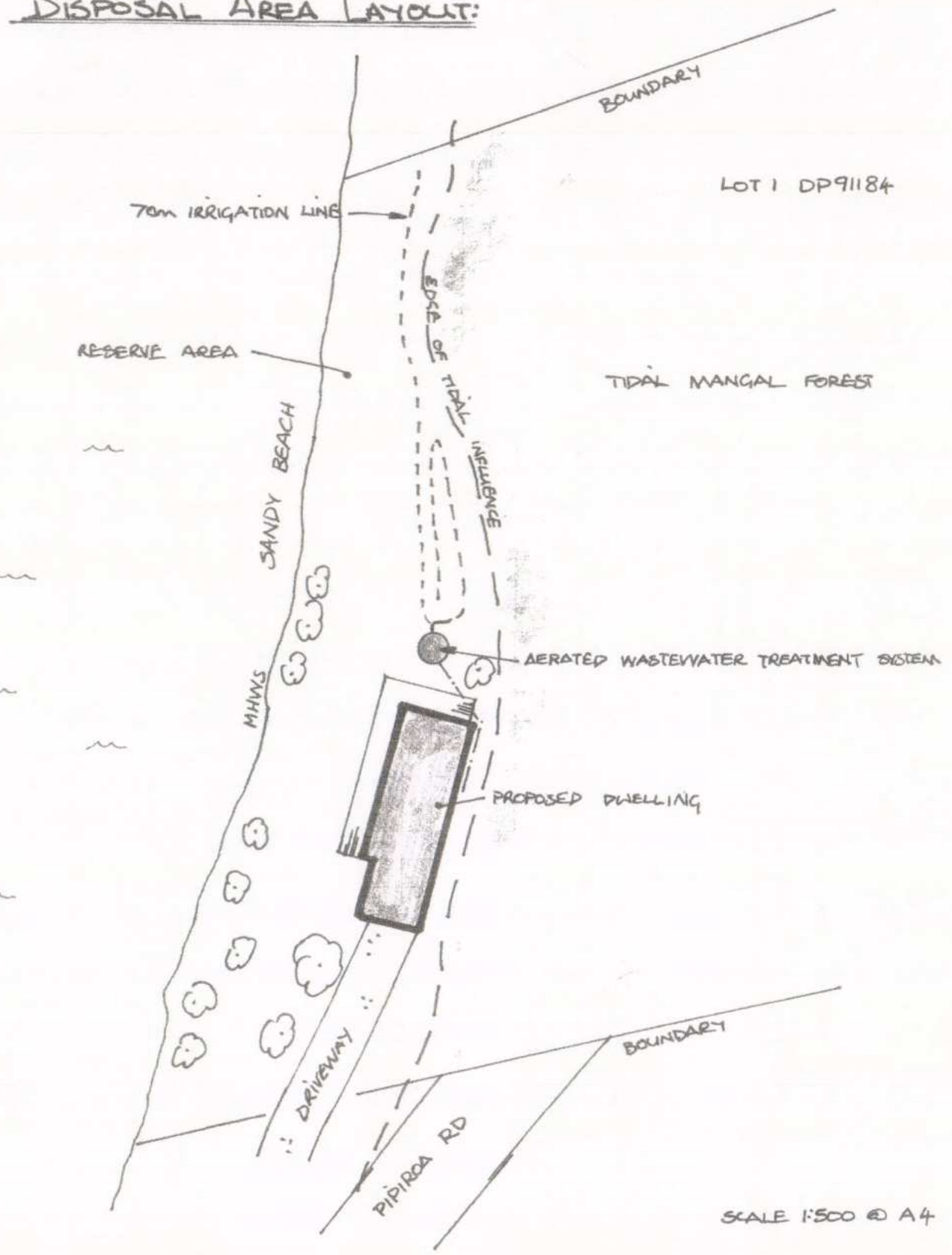
Richardson Stevens Consultants (1996) Ltd.
CONSULTING CIVIL & STRUCTURAL ENGINEERS
2 SEAVIEW ROAD, WHANGAREI. PH (09) 438 3273. FAX (09) 438 5734.
EMAIL rscltd@clear.net.nz

File No. 991056
Plan Ref. No.
Calculated by C.B
Checked by
Date 5-11-99

Refers to

Client UPPERTON

DISPOSAL AREA LAYOUT:



SCALE 1:500 @ A4

ACENZ

Email: engineers@richardsonstevens.co.nz

Richardson Stevens
Consultants (1996) Ltd

Grant Stevens
B.E., M.I.P.E.N.Z. (Civil, Structural)
Chartered Professional Engineer

Steve Turner
B.E., M.I.P.E.N.Z. (Civil, Structural)
Chartered Professional Engineer

CIVIL & STRUCTURAL ENGINEERS, 2 SEAVIEW RD, WHANGAREI 0110. PH: 09 438 3273, FAX: 09 438 5734

File: 99/1056

25 May 2009

S. Westgate

swestgate@xtra.co.nz

Dear Sir

On-site Wastewater Management – Lot 1 DP 202228

As requested, we have reviewed our earlier report for Stephenson and Williams dated 5 November 1999 (file 99/1056).

To comply with the Far North District Council design standard (Auckland Regional Council's TP58:2004), a more conservative wastewater flow allowance of 190 litres/person/day would need to be adopted. This would increase the minimum irrigation area required to 95 m² (190 x 5/10). A revised disposal area layout plan is attached.

It is our understanding the ground used for effluent management is to be raised to achieve the 1.2 metre clearance to groundwater.

We note that Resource Consent will need to be obtained from both the Far North District Council and Northland Regional Council due to the proximity of the irrigation line to water bodies.

Yours faithfully

G. Turner
Richardson Stevens Consultants (1996) Ltd

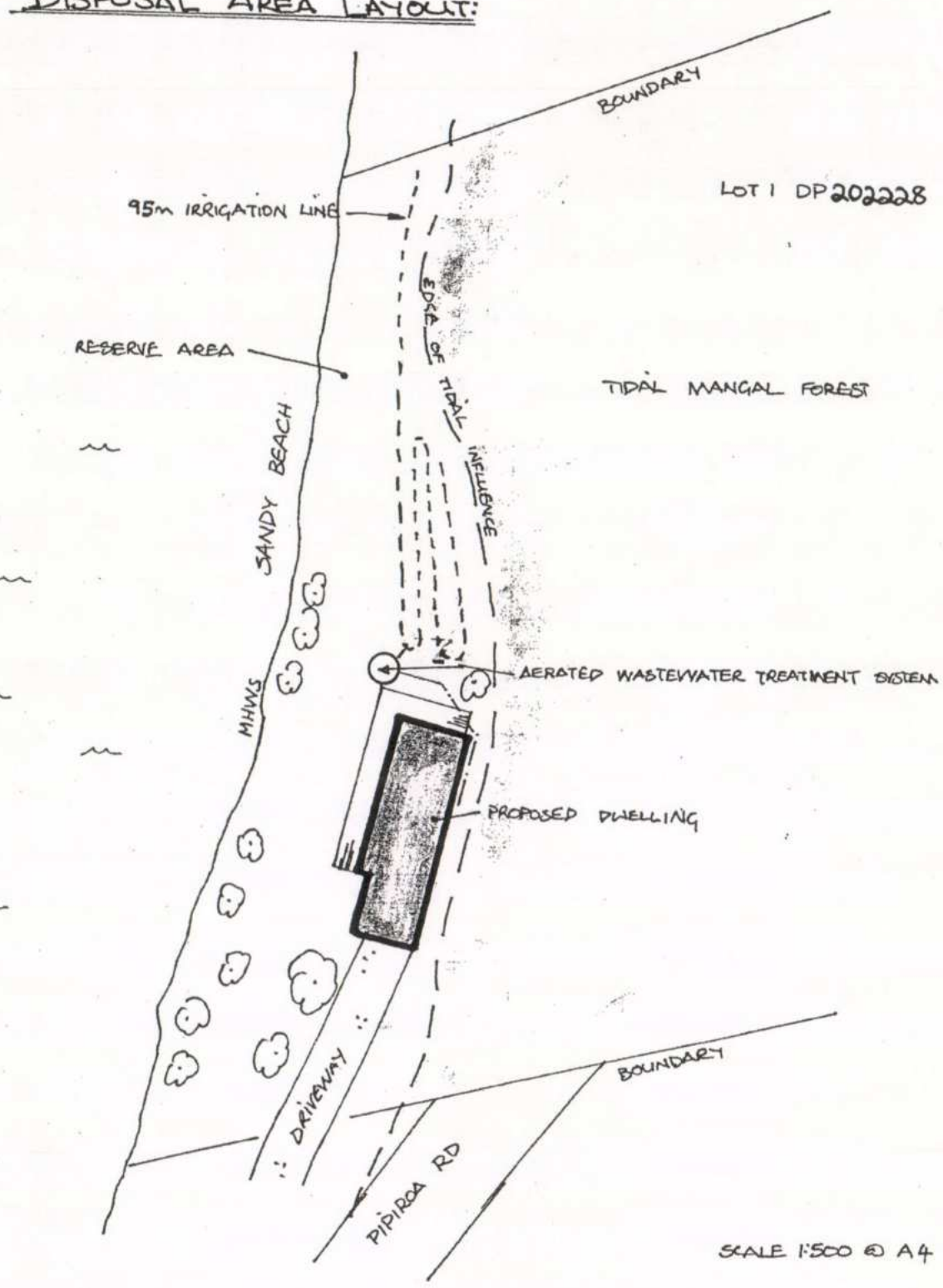
Richardson Stevens Consultants (1996) Ltd.
CONSULTING CIVIL & STRUCTURAL ENGINEERS
2 SEAVIEW ROAD, WHANGAREI. PH (09) 438 3273. FAX (09) 438 5734.
EMAIL rscltd@clear.net.nz

File No. 991056
Plan Ref. No.
Calculated by GT
Checked by
Date 25/05/09

Refers to

Client UPPERTON

DISPOSAL AREA LAYOUT:



Note: This plan of the disposal area shows the proposed dwelling in the location as originally proposed in 1999, not in the location now applied for in 2009.

STATEMENT OF EVIDENCE

IN THE MATTER	Of Joint Hearing
FOR	Resource Consent No. 2000354 (Far North District Council)
AND	Application No. 998867 (Northland Regional Council)
FOR	JOHN UPPERTON

INTRODUCTION

My name is Grant Stevens and I hold the qualification of Bachelor of Engineering. I am a registered engineer and enjoy membership of the Institute of Professional Engineers of N.Z. and the New Zealand Coastal Society. I am a director of Richardson Stevens Consultants (1996) Ltd, a company consulting in civil and structural engineering.

I am familiar with Mr Upperton's property, having visited the site on a number of occasions over the last ten years.

Prior to his making application for Resource Consent, I reported to Mr Upperton on 12 October 1999 on the suitability of the site for residential development. This report was included with the consent application. I would like to take this previous report as read but am happy to answer any questions that the Commissioner may have. Following preparation of this report, our company completed a specific On-site Effluent Disposal Design dated 5 November 1999 and an Assessment of Environmental Effects (5 November 1999) of the proposed disposal system. I would like to present further evidence on two specific areas of the development proposal as follows.

ON-SITE SEWAGE TREATMENT AND EFFLUENT DISPOSAL

The general recommendations of our report of 12 October 1999 were superceded by the specific design of 5 November 1999 and this can explain the minor inconsistencies noted by Mr Lieffering in the Northland Regional Council Staff Report. Mr Lieffering has made a very thorough review of the performance of the proposed "Clearwater" on-site sewage treatment plant and I do not wish to add to that. He has concluded, like us, that the effects of the wastewater discharge to land will be minor and will not compromise or result in a technical degradation of water quality, both surface, ground and coastal waters. The applicant has been made aware of the need for regular maintenance of the proposed wastewater treatment system and for the proposed treatment plant to be installed at a level unaffected by any possible flooding.

HAZARD ASSESSMENT

As noted in our report of 12 October 1999, given the location and elevation of the site, it could potentially be affected by the natural hazards of erosion, flooding, subsidence and sea level rise. I would like to consider erosion, flooding and sea level rise in more detail.

Coastal Erosion

Erosion hazard will arise from the combination of high tides and wave action. We have made an estimate of the likely storm waves based on the maximum fetch, which is to the northwest, and a design wind speed of 20 m/sec. (50 year return period) and 17 m/sec. (20 year return period). We predict that these storm conditions will produce waves of up to 1.0 m significant wave height. If such waves occur at extreme high tides, they can be expected to produce wave run up on to the grassed areas.

The sloping sandy beach will ensure that waves break on the shoreline and expend the bulk of their energy below the grass/sand intersection thereby minimising erosion effects. The existing grass/plant cover along the edge of the shoreline is luxuriant and on my recent site examinations I could find no signs of erosion from past flood tide/storm events. It is clear that the existing ground cover is providing an effective buffer against erosion and Mr Upperton will ensure that the existing ground cover is retained and enhanced.

Coastal engineering theory and practice recognize the potential for any sea level rise to increase erosion due to wave action on sand beaches. If sea level rise does occur and causes erosion problems at some <u>future</u> date, then the process is likely to be gradual thereby allowing the house owner to take mitigative measures. Any necessary protective measures can be constructed within the property boundary and would be designed to absorb energy and maintain existing beach profiles and composition.

Figure 1 appended to this submission shows the type of protection suitable for the Upperton site. This detail has been used successfully at Jacks Bay where, within months of completion, the seawall was no longer evident since it had been substantially covered in sand through natural wave action.

The N.Z.C.P.S. Policy 3.4.5 regarding natural hazards states *"New subdivision use and development should be so located and designed that the need for protection work is avoided."* I believe that this statement is intended to mean protection works in the <u>coastal marine area</u>. At present there is <u>no need for protective works</u>. The need may only arise if the predicted sea level rise causes erosion and, if such proves to be the case, then protective works can be located within Mr Upperton's property.

Flooding/Floor Level

The site is vulnerable to flooding due to storm wave run up. Storm wave run up is the resultant of the combination of:

- On-site sewage treatment and disposal to be by way of a Supertreat Aerated Septic Tank in accordance with our design of 5 November 1999. Any part of the sewage treatment plant below the 3.5 m level (Chart Datum) is to be an impervious sealed unit.

- Any building permit issued is to be subject to a Section 36(2) hazard notice in terms of flooding and erosion.

G.R. Stevens

7 April 2000

P3 P9 missing

APPLICATION

APPLICATION FOR LANDUSE CONSENT

APPLICATION FOR LANDUSE CONSENT

Applicant	Resource Application No.
Upperton, John	RC 2090634

Date Received		3rd June 2009 Vol I
Application Fees		$1248.00
Receipt/Number		
Type of Application		RMALUC
Zoning of Land		
Legal Description		Lot 1 DP 202228
Property Address and Location		Lot 1, Pipiroa Road, Russell 0272
Valuation Reference No./Property ID		00413-10300
Cross References Bldg		
Cross References RC		

Notes:

10.10 - 10.45, 10.45 - 11.45

66694 - 66724

Lynley Newport

Planner

PLANNING COST SHEET

PRE-APPROVAL RC 2090634

Date	Initial	Description	Time	Rate	Cost
4/06/09	MJB	Set up file	0.5	70-	
5/06/09	WES	Check/allocate	0.6		
	Admin	Photocopying 37 x 8 + 7 large envelopes			
5/06/09	MKB	Stage 2 Admin	1.25	70-	
29/06/09	LMN	$10 Ferry Ticket.			
30/5/11	RKS	Ltd Notification			
		Copying	1739	.20	
			111	.20	
		Post	26	$2.40	
		10 day Letters			
		Copy	13		2.60
		Post			7.80
		5 day Letters			
		Copy	101		20.20
		Post			7.80

RC 2090634

Stephen L. Westgate, M.A. (Camb.)
Resource Management Consultant
[290 Beach Road, Onerahi, Whangarei: Home ph./fax (manual) 09 436-0335]*
E-mail: swestgate@xtra.co.nz

27 May 2009

KAIKOHE SERVICE
02 JUN 2009
CENTRE

Resource Consents Manager
Far North District Council
Private Bag 752,
KAIKOHE 0440

REGULATORY & CUSTOMER SERVICES
03 JUN 2009
RECEIVED

Attention: Lynley Newport
Senior Resource Planner

Dear Lynley

APPLICATION FOR RESOURCE CONSENTS FOR LAND USE AND DISCHARGE:
Pipiroa Road, Okiato, Russell. (J K Upperton)

Further to our meeting at Kerikeri on 19 May, please find enclosed:

- Application for land use consents and discharge permit to construct a dwelling.
- A project description and AEE.
- A copy of the current Certificate of Title, C/T NA129B/963, dated 25/05/09.
- A cheque for non-notified land use consent and discharge application for $1248.00 (as advised at a meeting with FNDC planning personnel on 19 May).
- Copy of written approval from the Department of Conservation (Appendix II.9). A record of consultation with other parties is included in the AEE.
- Copies of plans and drawings are included in the AEE as figures 1-9. An A2 drawing showing front and side elevations of the proposed dwelling has been split into two A3's (Figures 6.1 and 6.2 at 1:100) to comply with requirements set out in Section 8 of the application form. An additional set of drawings (Figures 1-9) is also included, along with a third set containing the A2 drawing reduced to A4 (1:200) and shown as Figure 6a. The additional sets also contain a drawing and covering note from Richardson Stevens showing the proposed effluent disposal layout plan, taken from Appendix II.1.

REQUEST FOR NON-NOTIFICATION

Under s. 93(1) of the RMA, this application need not be notified if Council is satisfied that the adverse effects of the activity on the environment will be minor. The proposed dwelling and

associated development have been designed to mitigate or minimise any potential adverse effects, and to ensure that any such effects are no more than minor.

The issues surrounding the proposal have been well canvassed at an earlier hearing (ref: FNDC RC 2000354 and NRC 99-8867). The proposal has been modified to address any valid concerns that were raised at that time. A letter of approval from DoC is attached (as above).

It is suggested therefore that the criteria for non-notification have been met.

Regarding the Northland Regional Council consents, an application has been on hold at the Council since December 2005. I am advised by Geoff Heaps that he has prepared a report and is awaiting confirmation that FNDC has granted the appropriate consents before proceeding further. It may be appropriate that you liaise with Geoff (Ref: NRC CON 20040886701) in regard to the combined processing.

Yours sincerely

S. Westgate

Stephen L Westgate

*Please note that all further communication should be addressed to the applicant, Mr J K Upperton. P O Box 272. Kaikohe 0445 as I shall be overseas for several months from 3 June. I shall however be in email contact.

Far North District Council

Date Received:

Application No:

Application Form for

Resource Consent

Pursuant to section 88
The Resource Management Act 1991

REGULATORY & CUSTOMER SERVICES
03 JUN 2009
RECEIVED

Private Bag 752, Memorial Ave, Kaikohe 0440, 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

BACKGROUND

This form is based on Form 9 of the Resource Management (Forms, Fees and Procedure) Regulations 2003, which came into effect on 1 August 2003.

Privacy information

Once this application is lodged with the Council, it becomes public information. If there is sensitive information in the proposal, please let us know. The information you have provided on this form is required so that your application for a land use and/or subdivision consent can be processed under the Resource Management Act 1991. The information will be stored on a public register, and held by Far North District Council. Please contact a Duty Planner on 0800 920 029 if you have any questions.

The details of your application may also be made available to the public on the Council's website, www.fndc.govt.nz. These details are collected to inform the general public and community groups about all consents which have been issued through Far North District Council.

If you have spoken to a member of our planning staff about your proposal, please enter their name, and the date of your meeting with them, here:

Date:

PLEASE USE THE FORM 9 GUIDE WHEN COMPLETING THIS FORM

The guide explains each part of this application form. It is available from Council Service Centres or the Council website www.fndc.govt. It is important that you use the guide to help you to answer all questions fully.

1. Contact Details:

1.1. Applicant(s)(Owner, ~~Occupier, Lessee, Agent, etc.~~) name and address:

JOHN KILDARE UPPERTON

Work Phone:

Private Phone:

Mobile Phone:

Fax Number:

E-mail:

1.2.Property owner's name(s) and address; occupiers name and address (if not above):

AS ABOVE

Work Phone:

Private Phone:

Mobile Phone:

Fax Number:

E-mail:

1.3. Name & address for service and correspondence (if different to 1.1):

Work Phone:

Private Phone:

Mobile Phone:

Fax Number:

E-mail:

1.4. Name and address for all accounts (if different to 1.3):

Work Phone:

Private Phone:

Mobile Phone:

Fax Number:

E-mail:

2. Location of the Activity:

Location of the activity and/or property street address:

PIPIROA ROAD, OKIATO, RUSSELL.

RAPID Number:

Valuation Number (from your Rates Notice): 00413-10300

Legal Description (Certificate of title/Lot & DP Number): LOT 1 DP 202228 BLK V RUSSELL SD

Certificate of Title Number: NA 129B/963

(Please attach the Certificate of Title - it should not be more that 6 months old).

If there is no street or RAPID no. please describe the location in a manner which will allow the property to be readily identified (this could include e.g. a GPS grid reference, proximity to any well-known landmark, river or other water body etc.):

3. Description of the activity this application relates to:

Please attach a detailed description of the nature of the activity or the works proposed, and use drawings (to scale) to illustrate your proposal. Please use Chapter 4 of the District Plan when completing this section to ensure that all the necessary information is supplied.

- TO ERECT A DWELLING GREATER THAN 25m² IN THE GENERAL COASTAL ZONE (Rule 10.6.5.3.1); AND WITHIN A 30m SETBACK FROM THE CMA AND A WETLAND (Rules 12.7.6.1.1, 12.7.6.1.2);
- TO CLEAR INDIGENOUS VEGETATION IN A WETLAND (Rule 12.2.6.3(b)
- TO DISCHARGE SECONDARY TREATED EFFLUENT WITHIN 30m OF THE C.M.A. AND A WETLAND (Rule 12.7.6.1.4)
- TO CARRY OUT BUILDING AND ASSOCIATED ACTIVITIES IN A SITE OF SIGNIFICANCE TO MAORI (MS10-50) (Rule 12.5.6.2.2) - Note this site has been deregistered by NZHPT.

REFER TO SECTIONS 5.1 AND 6 OF AEE.

This application is for:	Please Circle:
Combined land use/subdivision consent	Combined LU/SD
Land use consent	(LU)
Subdivision consent	SD
Cross lease subdivision consent	CLSD
Unit Title subdivision consent	UTSD
Discharge consent	(DC)

This application relates to (if applicable):

Concept Development Meeting (CDM) reference number:

Resource Consent (RC) reference number:

Building Consent (BC) reference number:

NRC Ref: CON 20040867-01

4. Additional consents needed for the proposed activity (indicate as required):

Are any Resource Consents (in addition to this one) required for the proposed activity? (YES) / NO

The following additional resource consents or permits are required for the proposal, and have been applied for (please note any reference numbers already allocated to you) :

NORTHLAND REGIONAL COUNCIL: LAND USE CONSENT TO:
- ERECT A STRUCTURE OVER A WETLAND (BED OF TIDAL WATERCOURSE)
- RECLAIM PART OF A RIVER BED
- PRUNE/CLEAR VEGETATION IN A WETLAND
- PLACE FILL, CARRY OUT MINOR EARTHWORKS, CLEAR VEGETATION IN A RIPARIAN MANAGEMENT ZONE

5. Assessment of Environmental Effects:

Please detail and attach, in accordance with the Fourth Schedule of the Resource Management Act 1991, an Assessment of Environmental Effects in the detail that corresponds with the scale and significance of the effects that the proposed activity may have on the environment.

PLEASE ATTACHED AEE DATED MAY 2009

Consultation with neighbours and/or other affected parties: please use the Notice of Written Approval Form

6. Other Information Required:

Please provide information required under the relevant provisions of the District Plan, Regional Plans, Resource Management Act 1991 or any regulations made under that Act, and attach it to this form.

PLEASE SEE ATTACHED AEE, WITH SUPPORTING DOCUMENTS INCLUDING ENGINEERING REPORT (APPENDICES II.1 - II.9)

7. Signature:

I have read the guidance notes and the information I have supplied with this application is true and complete to the best of my knowledge and I undertake to pay all actual and reasonable application costs incurred by the Far North District Council

If the Owner is a Company, Trust or other Organisation, the Title or Capacity of the authorised signatory must be given.

(Signature and Title if required)

Date: 2/6/09

8. Attachments (please tick the box if information is provided):

- [x] 1. Payment (make cheques payable to "Far North District Council")
- [x] 2. A current Certificate of Title (not more than 6 months old) with any listed encumbrances (e.g. consent notices etc.)
- [x] 3. Description of the Activity (supported with sufficient information as defined in Chapter 4 of the District Plan)
- [x] 4. Drawings - signed & dated (supported with sufficient information as defined in Chapter 4 of the District Plan). **Please note** that all plans must indicate the degree of infringement and must be labelled, numbered and dated and drawn to a recognised metric scale (e.g. 1:200 for site plan. 1:100 for elevations etc)

Land use Applications:

- [x] Site plan showing all property boundaries, existing and proposed buildings, existing and proposed vegetation, any watercourses, contours, driveways and parking/manoeuvring space, and stating impermeable surface calculations
- [x] Floor Plan showing details of interior of building (area & use)
- [x] Elevations of every exterior face of the building (existing and or proposed) showing height, and height in relation to boundary : **Drawn to a recognised metric scale**

Subdivision Applications:

- [ ] The position of all new boundaries
- [ ] The areas of all new allotments
- [ ] The location and areas of land below mean high water springs of the sea or of any part of the bed of river or lake which is to be vested in the Crown under Section 235 of the Act
- [ ] The location and areas of land to be set aside as new road
- [ ] Dimension of all boundaries

Drawn to a recognised metric scale

- [x] 5. Assessment of Environmental Effects report (as explained in the Guide - also use Council pamphlets if appropriate)
- [x] 6. Notice of Written Approval Forms (I attach .....form/s)
- [x] 7. Reports from Technical Experts (if required) e.g. Geotech etc
- [ ] 8. Other (Building Consent plans, development plans - please list)

SITE PLANS, SURVEY PLAN, ELEVATIONS OF PROPOSED DWELLING, CROSS-SECTIONS (AEE Figures 1 – 9)

The completed application form and all accompanying information must be supplied (drawings should not be larger than A3; and 1 set at A4 size is required).

9. For Field Services:

For inspection purposes, please provide any information that may restrict access to your property for checking land, buildings etc to facilitate processing of your consent (livestock, alarms etc).

N/A

10. Payment:

You must pay a deposit to the Council for the application to be processed under the Resource Management Act 1991. Unless otherwise indicated, the fee charged will be a DEPOSIT only. The fees charged by the Far North District Council are outlined in the Consolidated Fees Schedule for this year. Please note that the actual costs of processing your application will be charged. Therefore you may receive additional invoices or refunds during or following the processing if your application.

11. Send your completed application to:

The Resource Consents Manager, Far North District Council, Private Bag 752, Kaikohe, 0440

Or, to avoid delays and to have your application checked for completeness call 0800 920 029 to book an appointment for an pre-application check by a Council staff member at one of the following Service Centres:

Kaikohe - the Far North District Council Offices in Memorial Avenue

Kaitaia - the Far North District Council Offices in Redan Road

Kerikeri - the Far North District Council Offices on the second floor of the John Butler Centre, Kerikeri Road

For office use only:

Date received:			
Received at:	Kaitaia	Kaikohe	Kerikeri
Name of CSO:			
Fees Receipted:			
Receipt Number:			
RC Application Number:			
Other Reference Numbers (e.g. PIM, DC or BC etc.):			
Checked by (name) when lodged with Council:			

COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952

Search Copy

R.W. Muir
Registrar-General
of Land

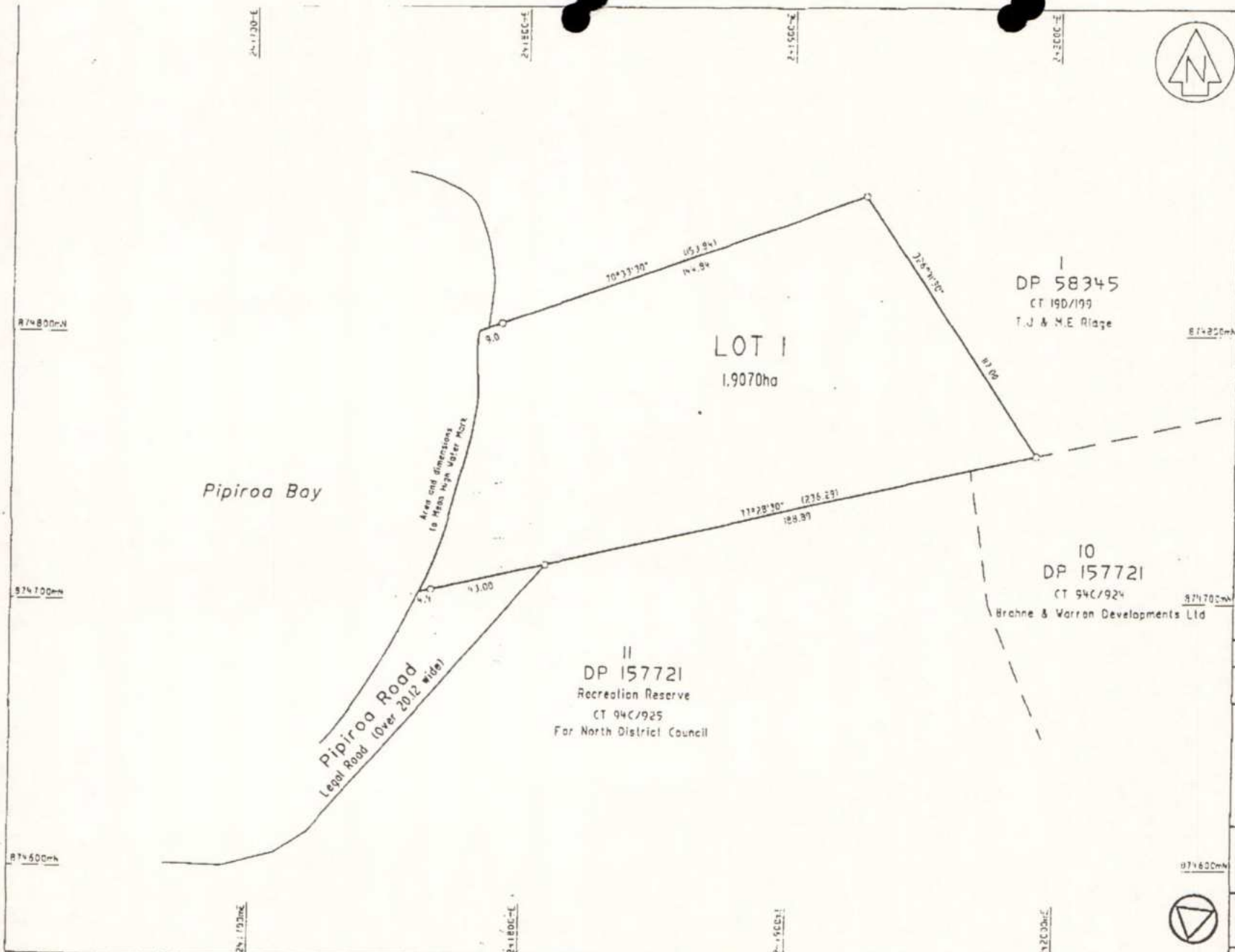
Identifier	**NA129B/963**
Land Registration District	**North Auckland**
Date Issued	28 June 2002

Prior References
DI 1E/20

Estate	Fee Simple
Area	1.9070 hectares more or less
Legal Description	Lot 1 Deposited Plan 202228

Proprietors
John Kildare Upperton

Interests
7917718.1 Mortgage to Mortgage Holding Trust Company Limited - 26.8.2008 at 10:35 am



New CT Allocated Lot 1 - 1293/153

Class of Survey II

Total Area 1.9070ha

Comprised in DEEDS INDEX IE/20

I, David Brett King of Paihia

being a person entitled to practice as a registered surveyor, certify that (a) the surveys to which this dataset relates are accurate, and were undertaken by me or under my direction in accordance with the Survey Act 1986 and the Survey Regulations 1938

(b) this dataset is accurate, and has been created in accordance with that Act and those Regulations

Dated at Paihia this 26th day of May 2000

Signature

Field Book ..... Traverse Sheet .....

Reference Plans .....

Examined D Mangs Correct .....

Approved as to Survey

26 / 5 / 2000

Chief Surveyor

Deposited this 28 day of June 2002

for Registrar General of Land

File 469

Received 27 SEP 2000

Instructions

DP 202228

LAND DISTRICT: NORTH AUCKLAND

SURVEY BLK & DIST: V Russell

NZMS 261 SHT Q05 RECORD MAP 3.11 & 4.11

Lot 1 Being Pt O.L.C 73

LOCAL AUTHORITY: Far North District

Surveyed by: Thomson & King, Paihia

Scale: 1 : 1000 Date: April 2000

J K UPPERTON

Pipiroa Road, Okiato, Bay of Islands

DESCRIPTION OF PROPOSED DWELLING AND ASSESSMENT OF ENVIRONMENTAL EFFECTS

Supporting Documentation for Application for Resource Consent under the Resource Management Act 1991

(November 2005)
Updated: May 2009

5balmath.com

J K UPPERTON

ASSESSMENT OF ENVIRONMENTAL EFFECTS

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Figure 1 Locality Map NZMS 260 Q05) 1: 50 000
Figure 2 Aerial View of Pipiroa Bay and Building Site (approx. 1: 2500)
Figure 3 Cadastral Map, with Land Ownership (1: 5000)
Figure 4 Schematic Site Plan of Proposed Dwelling. 1:1000 (A4)
Figure 5 Survey Plan of the Property (Thomson & King, April 2000)
Figure 6.1* Side Elevation of the Proposed Dwelling (1:100)
Figure 6.2* Front Elevation of the Proposed Dwelling (1:100)
Figure 7 Cross-section through the Spit and Proposed House Site (1:200 at A4)
Figure 8 Schematic Site Plan of Spit Area and Proposed Development (1:1000 at A4)
Figure 9 (Enlarged) Schematic Plan of the Property and Proposed Development (1:500)

**Note: Figures 6.1 and 6.2 together make up an A2 drawing at 1:100 scale. The drawing has been split to comply with the requirement of max. A3 size, and to retain a rational scale.*

Appendix I. Views of Pipiroa Bay and Sandspit, 11 October 2004.

Photo A. Pipiroa Bay and Wetland from Aucks Road
Photo B. Looking along the Spit from the Carpark at Pipiroa Road.
Photo C. Looking North towards Mangroves from Beach in front of House Site.
Photo D. Looking south towards Car Park from beach in front of house site.
Photo E. Clearing between Mangroves at House Site.
Photo F. Mangroves (juvenile) estimated 6 metres high at house site.
Photo G. Looking through Mature Coastal Mangroves towards House Site.
Photo H. Spit Vegetation at House Site Location viewed from the Beach.

Appendix II. Supporting Documents

II.1 Engineering Report for On-Site Effluent Disposal, 5 November 1999;
Engineering Report for On-Site Effluent Disposal, May 2009 update.

II.2 Statement of Evidence of G R Stevens, 7 April 2000.

II.3 Decision of Independent Commissioner, 20 April 2000.

II.4 Letter from NZHPT, dated 11 April 2001.

II.5 Letter from Mr Taylor, dated 16 November 2001, proposing 40m setback.

II.6 Report from Mark Poynter, dated 7 December 2001, suggesting 15-20m setback.

II.7 Letter from Mr Taylor, dated 23 January 2001, proposing 27m setback.

II.8 Letter from Mark Poynter dated 18 March 2002.

II.9 Letter of Approval from DoC dated 29 April 2005.

Author

This report has been written by Stephen L Westgate, Resource Management Consultant, in association with Richardson Stevens Consultants (1996) Ltd. The original was written in 2005 but has been updated in May 2009 to reflect the content of the Far North Partly Operative District Plan and changes to engineering standards in regard to soakage fields.
All correspondence relating to this report and applications should be addressed to:

John K Upperton
P O Box 272
KAIKOHE 0445
Ph. 09-4014840 (home),
027 2515035.
Email: castleduo@maxnet.co.nz.

It would be appreciated if copies of emails could also be forwarded to Stephen L Westgate at swestgate@xtra.co.nz.

1. SUMMARY

Applicant: John K Upperton
P O Box 272
KAIKOHE 0445
Ph: 09-401 4840; 027 2515035

Landowner: John K Upperton

Location: Lot 1 Pipiroa Road, Okiato, Russell 0272.
See Locality Map (NZMS 260, Sheet Q05) Figure 1, and Aerial View, Figure 2.

Legal description: Lot 1 DP 202228 Blk V Russell SD of 1.9070 ha., C/T NA129B/963.
(See Cadastral Map, Figure 3; and Survey Plan, April 2000, Figure 5)

Grid Reference: NZMS 260 Q05: 131 548

Zoning, Planning Map: General Coastal, FNDC Map 92. Resource Areas, Map 36: The property is incorrectly shown as a Site of Significance to Maori, site MS 10-50. (Refer to comments in 3.6).

Nature of Activity: Construction of dwelling and access.

Resource Consents Applied for:

Resource consents are required for the following purposes:

- to place a structure (dwelling), to place fill (reclamation) and to clear/prune vegetation in the bed of a river/wetland;
- to discharge treated wastewater to land at up to 950 *l*/day;
- to place fill, undertake minor earthworks and to clear vegetation in a Riparian Management Zone and a wetland.

See section 6 for more detail.

Purpose of this Report:

The purpose of this report is:-

- To describe the proposal (section 2),
- To describe the location and site (section 3),
- To describe the history of the previous application and the development of this modified proposal (section 4),
- To assess the proposal against the various district and regional planning documents (section 5),
- To summarise the resource consents required (section 6),
- To assess the environmental effects of the proposal (section 7).
- To summarise the consultation that has resulted in this revised proposal; to suggest consent conditions; and to address possible risks (sections 8, 9 & 10).

2. DESCRIPTION OF PROPOSAL

2.1 General

The applicant seeks consents to construct a new dwelling on his property at Pipiroa Road, Pipiroa Bay, Okiato (see Schematic Site Plan, Figure 4). Domestic wastewater will be processed to an acceptable standard prior to discharge to land. Access will be via Pipiroa Road. A low-impact accessway will be formed along a presently unformed section of Pipiroa Road (approximately 100 metres long).

A previous application to construct a dwelling on the spit and to discharge treated wastewater was declined following a Hearing held on 7 April 2000. The reasons for this will be discussed later in this report (see section 4 below). This application is a development of the previous proposal that seeks to address any valid concerns raised at the time and subsequently.

2.2 Proposed Dwelling

It is intended that the proposed dwelling will comprise a ground floor living and accommodation area plus garage of up to about 190 m^2, surrounded by a 3.5 metre wide deck on the northern and western sides, and a smaller upper storey of 50 m^2 (as shown in Figure 6 elevations). The total footprint of the dwelling, including the deck, will be about 300 m^2. The height of the dwelling above ground level will not exceed 8 metres.

2.3 Setback from Coastal Marine Area

Because the area of land above MHWS available for building is restricted in terms of proximity to MHWS, it is proposed that the dwelling will be erected on poles on the edge of the wetland area adjoining the spit, in the upper tidal zone. To minimise potential adverse effects on the coastal marine area, the dwelling will be set back about 30 metres from MHWS in the coastal marine area, reducing to 27 metres when the deck is taken into account. A greater setback would result in a larger footprint on the wetland area. Figure 7 shows a cross-section through the spit and the house site with this setback.

2.4 Reclamation

To provide for vehicle access to the garage from the spit, and also additional areas for planting and screening, a ramp will be built from ground level up to the level of the deck, extending along the front of the house (cross-section shown in Figure 7, plan view in Figure 8). To achieve this, fill will be placed in a narrow strip of the upper tidal area below MHWS. The affected area below MHWS is of the order of 180 m^2 (30m x 5-6m approx.). Because this is below MHWS in a tidal river, it is classed as a reclamation (see sections 5.2.1 & 5.2.4). Up to approximately 270 m^3 of fill material will be placed to an average depth of about 1.5m. The fill will be retained so as not to discharge sediment into the wetland, for example, by placing rocks with an inner lining of filter fabric. The depth of fill will range from about 1m up to 2m (as shown in Figure 7).

2.5 Effluent Treatment and Disposal

Domestic effluent will be treated in an aerated wastewater treatment system and dispersed through a drip-fed irrigation line extending along the spit. A copy of Richardson Stevens 'Engineering Report on ONSITE EFFLUENT DISPOSAL' dated 5.11.99, with a May 2009 amendment, is attached in Appendix II.1. This report sets out details of design criteria to be applied to the site. It includes soil tests, percolation test results and water table measurements.

As shown in the report, onsite measurements have identified that the water table is 0.8m below the surface. It is proposed that 200mm of imported topsoil, covered with 50-100mm of bark, vegetation or soil, would be placed to form a raised bed, low pressure dispersal system over an area of ~~70~~* 95 m^2 with a pipe line length of ~~70~~* 95 m^2. (* Note: length and area have been extended in May 2009 to reflect revised standards). This will provide a bed depth of 1metre above

the water table, providing a significant margin over the minimum requirement. Dr Rob Lieffering of the Northland Regional Council (staff report dated 7 April 2000) subsequently proposed that the irrigation area and line length should be increased from 70 to 117 m^2 and m respectively. However, this revision was based on a provisional estimate of a loading of 1000 litres/ day. The design loading has been set at ~~700~~* 950 litres/day (5 persons @ ~~140~~* 190 litres) for which ~~70~~* 95m and ~~70~~* 95m^2 respectively are appropriate. The new standard is very close to the recommendation of Dr Rob Lieffering. It is suggested that an appropriate condition would be for an aerated wastewater treatment system as proposed, or one to a similar performance standard approved by Council in writing, to be installed.

2.6 Riparian Management Zones (RMZ)

The RMZ on the landward (eastern) side of the spit on the subject property is assessed as about 7.5 metres wide as shown in Figures 8 & 9 (see sections 5.2.1 & 5.2.6 for assessment). The total RMZ area is assessed at about 750 m^2 (99m x 7.5m).

Virtually all of the landward RMZ on the property will be cleared of vegetation, comprising mostly exotic pest plants (see Section 3.3 below). Part of the RMZ will be built up by 0.2m - 1m in order to provide for (a) the required depth for soakage above the water table for treated effluent disposal as referred in 2.5 above; and (b) the ramp up to garage and the deck of the dwelling. The estimated total volume of fill to be placed in the RMZ will be up to 300m^3. Fill will be placed so that it does not enter the wetland area and will be graded and covered with mulch and/or planted to avoid runoff into the wetland.

2.7 Access

Access to the property is along Pipiroa Road, the last 100 metres of which is unformed and lies partly within the Riparian Management Zone (see Figure 8). To form a carriageway to district council standards, it will be necessary to carry out earthworks, remove vegetation and place fill (base course plus compacted shell) within this zone. Council requirements are for a minimum carriageway width of 3 metres. A passing bay may be provided, resulting in a total area of about 400 m^2, (average width of about 4 metres) that will require vegetation removal (part in RMZ) and placement of fill (compacted shell and base course).

2.8 Plans

Summarising the location, design and construction plans referred to above:

Figure 2 shows an aerial view of the site relative to some of the prominent ridgeline dwellings around Pipiroa Bay (particularly at upper right and lower right). The proposal is consistent with the pattern of development in the general locality.

Figure 4 is a schematic site plan of the proposed dwelling.

Figure 5 is a survey plan of the property showing MHWM. Comparison of the various survey and cadastral plans show little difference between MHWS, MHWM and edge of vegetation (bank). These are taken to be coincident in this AEE.

Figure 7 is a cross-section of the spit through the site of the proposed dwelling.

Figures 8 & 9 are schematic site plans showing the estimated RMZ boundary, reclamation area, access, treated wastewater disposal area, etc.

2.9 Summary of Key Parameters (indicative)

Total area of wetland	5-6 hectares.
Total area of mangroves (wetland and coastal):	1.5 ha.
Area of riverbed vegetation to be disturbed (includes pruning and removal):	less than 0.1 ha.
Footprint of proposed dwelling:	300 m^2 approx.
Proposed setback from coastal marine area:	27m to deck, 30m to walls of dwelling.
Area of riverbed (wetland) to be reclaimed:	up to 180 m^2
Volume of fill to be placed on riverbed/wetland:	up to 270 m^3
Width of Riparian Management Zone (RMZ):	approx. 7.5m
Area of RMZ (eastern side) on subject property:	approx. 750 m^2
Area of vegetation within RMZ to be cleared:	up to 750 m^2
Volume of fill to be placed in RMZ:	up to 300 m^3
Area of paper road to be upgraded (remove vegetation, place compacted shell, etc):	approx. 400 m^2
Design loading of effluent treatment system:	~~700~~* 950 *l*/day (5 persons @~~140~~* 190*l*/day)
Irrigation area/length (minimum):	~~70~~* 95m^2, ~~70~~* 95m.

(*Note: length and area have been updated in May 2009 to reflect revised standards).

3. LOCATION and SITE DESCRIPTION

(See Figure 2, Aerial Photo; and Photos in Appendix I)

3.1 General Description.

The subject property is low lying, with much of the site comprising a tidal wetland area below MHWS. The total site area is 1.831ha (18 310 m^2). A narrow, vegetated sandspit, orientated north-south, separates the tidal wetland area from Pipiroa Bay. At the northern end of the property, between the spit and the northern headland, a small, spring-fed creek flows through the wetland and then enters Pipiroa Bay at the northern end of the spit. At a site visit on 23 October 2004, at about half tide and rising, the free-flow outflow rate in the creek was estimated at the order of 1-2 litres /sec. On a falling tide, as the tidal compartment empties, the outflow rate would be many times greater (estimated of the order of 100 l/sec averaged over 3 hours after high tide).

Until the 1950s, the property was protected from tidal incursion by floodgates, and the property including the spit was in grazed pasture. The floodgates subsequently fell into disrepair, salt-water incursion followed, and mangroves developed on the low-lying area, along with salt marsh and freshwater marsh. A small area of wet pasture remains at the north-east corner of the property. The property was sold by tender by the Far North District Council as abandoned land in about 1995. It adjoins a Council reserve which comprises mostly wetland, both saltwater and freshwater, plus a portion of the spit. It was subsequently offered back to Council as a reserve but no agreement could be reached.

The northern and southern boundaries of the subject property are defined by post and wire fences extending from the spit back into the wetland. The Certificate of Title shows the western boundary (on the seaward side) of the property as MHWS. A sandy backshore extends over a width of approximately 2 – 4 metres from MHWS to a low, grassed embankment. A post and wire fence running along the spit is set back some 2-5 metres from the backshore. This fence is residual from the days when the property was grazed and will be removed. It is intended that the sandy backshore above MHWS will be made available to provide for high tide public access along the spit. It will not be fenced off.

Access to the property is via Pipiroa Road which is formed as far as the start of the spit, where a turning circle and limited car parking are available. Pipiroa Road provides access not only to the beach in Pipiroa Bay, but also to the Council reserve, to a boardwalk around the wetland, and to a property - adjoining the carpark - of 0.3 hectare which was formed by a subdivision approximately 8 years ago. It is understood that this property is intended to be built on. It has been cleared of exotic weeds and extensively planted in native trees and shrubs.

The unformed part of Pipiroa Road extends along the spit for about 100 metres and is the legal access to the boundary of the subject property. Vehicle access to the subject site would necessitate the formation of a carriageway along this unformed road. It has been previously proposed that this should be a low-impact, compacted shell driveway. Appendix 3B of the Partly Operative District Plan requires a carriageway width of 3 metres for private access to 1 dwelling. This may be sealed or unsealed but must provide for stormwater drainage.

3.2 The Spit.

From the car park, the spit extends for about 210 - 220 metres in a northerly direction. The first 100 metres (approximately) from the car park is Council-owned reserve. The next 99 metres comprises part of the subject property. The tip of the spit is part of an adjoining property but separated from it by the tidal creek. Over a distance of about 155 metres from the car park end, the spit is fronted by a clear beach. The remaining 60 metres or so is fronted by mangroves. (See Aerial view, Figure 2 and Photos in Appendix I).

The spit is largely covered in dense vegetation throughout its length, except for a small mown area about 3 metres wide extending for 15 metres from the carpark. The nature of the vegetation indicates that the ground level is above any high tide or storm surge level. The vegetated width of the spit ranges from about 4 metres where it abuts the car park at the end of the formed section of Pipiroa Road, up to about 23.5 metres in the vicinity of the proposed house site.

The soil of the spit has been investigated by Richardson Stevens (see Engineering Report, Appendix II.1). It comprises a 200mm layer of black, sandy topsoil, overlaying a 400mm layer of firm coarse sand, then 1100mm of soft marine mud.

At the proposed building site, the spit width from MHWS on the seaward side to MHWS on the landward side has been surveyed (Richardson Stevens) at 23.5 metres. However, the survey plan of the property suggests that the width varies between 18m and 23.5m. A set back of between 3.5 and 9 metres beyond this point into the wetland is therefore required in order to achieve a 27 metre setback from the coastal marine area (see Site Plan) on the seaward (western) side.

3.3 Spit Vegetation.

The vegetation cover on the spit comprises dense exotic pest plants, mostly sweet pea bush, black wattle and tree privet, with lesser amounts of woolly nightshade, gorse, Taiwan cherry, lantana and wilding pines. Ground cover is grass (mostly kikuyu) with smilax and climbing asparagus present in small numbers. Patches of wild watsonia and onions are present. Most of these exotic plants feature in the Northland Regional Council's 'National Surveillance Pest Plant' handbook! Only one naturally-occurring native plant, a mapou probably derived from a bird-carried seed, was seen. However, a line of some 10-12 pohutukawa along the western fence line on the spit were planted by the applicant some 8 years ago. These were about 2 metres high in 2005 and are starting to provide an alternative screening should the exotic vegetation be removed.

From an ecological perspective, it would be desirable that the entire spit should be cleared of the exotic pest plant species and maintained in natives or non-invasive exotics. The present vegetation presents an ongoing threat to the adjoining Council reserve and to nearby properties where weed-eradication and native planting have been undertaken. A weed eradication programme proposed by

the Applicant would have local environmental benefits for other property owners, as well as enhancing the natural character of the spit.

3.4 Wetland.

The wetland area on the spit interior has reverted from former pasture over recent decades. Mangroves extend from the wetland behind the spit, out through the creek entrance and into the bay at the northern end, then southwards along the beach in front of just over half of the subject property. (See Aerial photo in Figure 2 and Photos in Appendix I).

The largest, oldest specimens are in front of the centre of the subject property, in Pipiroa Bay. These have a circumference of about 1450mm (diameter approx. 460mm). Immature specimens extend along the creek bed at the outlet and into the interior behind the spit. These interior mangroves have obviously colonised the property some time after the 1950s, up until which time the property had been grazed pasture. These mangroves are relatively young, being about 340mm circumference or 110mm in diameter, and up to about 6 metres high.

At the proposed house site alongside the spit, the ground is reasonably firm to walk on, having little silt cover and only being inundated at high tide. The spacing of the mangroves varies considerably, with typically 2-3 metres between the young trees (see Photo 'F'). The prospective house site has been specifically selected as having a relatively low mangrove density (see assessment from Mark Poynter in 3.5 below). Included within the footprint of the house site is an area of about 10 metres by 5 metres with no mangroves other than seedlings (see Photo 'E').

The total wetland area has been assessed as about 5-6 hectares (M. Poynter). The overall area of mangroves within the spit interior is assessed as approximately 1.25 hectares, with a further 0.25 hectare in the bay, totalling 1.5 ha. The area that would be affected by the footprint of the proposed dwelling, surrounds and access ramp is less than 0.1 hectare, i.e. no more than about 6% of the total mangrove area and about 2% of the wetland area.

There are very extensive areas of mangrove in other bays in the vicinity, particularly at Orongo Bay towards Russell.

3.5 Bird Life.

Birds seen and heard during a site visit on 23 October 2004 included: kingfisher, grey warbler, fantail, pukeko, tui (on planted mountain flax at the car park), and Californian quail (also at the car park). As with many coastal wetland areas, the wetland behind the spit provides suitable habitat for banded rail and fernbird. These commonly occur in such areas and may well have re-established themselves.

3.6 Historic and Cultural Values.

In 1999, the entire property was registered in error by the NZ Historic Places Trust as a wahi tapu on the basis of a statement by a member of a local hapu. Without the prior knowledge of the property owner, it was duly recorded as such on the Proposed District Plan on the application of the NZHPT, not from local iwi. Research by the applicant has confirmed that an alleged sacred karaka tree, the wahi tapu site, was never on the subject property but was in fact situated some distance away (and has apparently been built on). The NZHPT has subsequently acknowledged that there is no evidence to justify the registration which it has withdrawn (copy of letter attached).

Since this registration has now been withdrawn by NZHPT, in recognition of their error, this particular "value" can no longer be considered to apply. However, the site remains designated on FNDC Resource Map 36 as a Site of Significance to Maori (MS 10-50), for which there is no longer any justification.

The withdrawal of the property as a site of significant Maori value from the District Plan can only be brought about by a plan change. This is proposed but has not yet been effected, it is understood.

3.7 Previous Ecological Assessment.

The site was assessed by Mark Poynter of Boffa Miskell and reported in a letter dated 7 December 2001. Mr Poynter reported as follows on an amended proposal to site a dwelling on a reclamation in the mangrove area rather than on the spit itself, in order to achieve a 40-metre setback from MHWS. This had been proposed by the local Ratepayers and Residents Association (the 'Association'), a party to the Environment Court appeal, as a means of overcoming their objection to the 12.5 metre setback as originally proposed.

"The overall wetland within the Pipiroa Bay catchment, I understand is in the order of 5-6ha. Historical impacts have obviously occurred in the area and the mangrove may have developed only over the past 40-50 years since the floodgate was removed. The wetland vegetation as it now exists, provides an intact vegetation sequence or ecotone from freshwater raupo at the head of the valley floor, though a mixture of maritime sedges and rushes then into the mangrove zone. Removing a significant part of any one of the vegetation components would, in my view, be a significant ecological effect. I am aware that from a jurisdictional point of view, the subject area is not considered to be within the CMA. This is of obvious planning significance, but at least at this point I have disregarded it in terms of an ecological overview."

"The mangrove has a value for several reasons. It is an integral part of the vegetation unit that makes up the ecotone; at this locality mangrove would almost certainly offer part of the habitat utilised by several secretive species of native bird including banded rail, spotless crake and others; the mangrove will contribute to the local marine ecosystem, and in particular the detrital food chain by way of the relatively high rate of leaf drop. While the latter may not be very important in terms of the wider ecology of this part of the Bay of Islands, it is of some local significance as there is little mangrove in Pipiroa Bay."

"In my view, one way in which a residential house site could be supported at this locality would be if the 40m setback could be substantially reduced, perhaps to 15-20m. In this instance this setback [of 40m] creates rather than resolves problems." [Mr Poynter estimated that only about 35 mangrove trees would need to be removed from a reclamation area of 350m^2 to achieve a 15-20 metre setback]

"Such an option, were it to be accompanied by a proposal to protect/covenant the balance of the wetland on this property and to plant the foreshore in appropriate native species, would be sensible and ecologically defensible despite the unavoidable impact on a small area of the mangrove wetland."

Mr Poynter's report dated 7 December 2001 is attached as Appendix II.6.

Comment on Above Assessment: Mr Upperton subsequently suggested "that this [15-20m setback suggestion] would be the basis upon which another approach would be made to the local landowners [and presumably to the Councils]." These ideas have been developed to this present proposal, from the initial amended concept of a reclamation involving up to 2800 m^2 and a dwelling with a 40m setback (as proposed by the Association), to a reclamation of only 180 m^2 with a 27-30m setback. With the proposed pole-foundations, some mangroves will be cleared (for access ramp and pole placement) but vegetation beneath and in close proximity to the dwelling will only be pruned back, substantially preserving the wetland habitat at the site. Reclamation will only involve up to 180 m^2 at the edge of the spit where a ramp up to the house will be formed. The applicant is willing to protect the majority of the balance of the wetland on his property by covenant, as proposed by Mr Poynter. This would have the effect of extending the existing

Council-owned reserve area. However, covenanting may not be necessary, for the area is already protected to a large extent by the provisions of the Partly Operative District Plan.

3.8 Public Access and Enjoyment.

As described above, there are some constraints on public access and enjoyment of the area. There is a restricted parking area at the end of the formed section of Pipiroa Road, (which also services a public boardwalk along the edge of the wetland) and only a small area of the Council-owned, public part of the spit is maintained as mown grass. The unformed section of Pipiroa Road, measured at about 28 metres wide from cadastral plans (see Figure 3), includes all of that part of the vegetated spit which is council-owned and also, part of the present Council-owned wetland that was presumably in pasture until the 1950s. From the car park, all of the spit beach (220 metres long approx.) can be accessed by the public via the intertidal zone below MHWS. Half of the length of the spit beach (110 metres approx.) nearest to the car park area, can be accessed by the public before reaching the subject property but little of the actual council-owned spit is accessible due to the dense vegetation. From the first boundary peg of the subject property, there is only a short distance of about 48 metres before the mangroves commence. These obviously restrict swimming and general water-based recreational activities. Of this 48 metre distance, only the last 18 metres before the start of the mangroves would front the proposed dwelling. It is apparent that the optimum stretch of beach that the public does and would enjoy is located nearer to the car park than to the proposed dwelling. This aspect will be discussed further under 'Effects' later in this report.

4. HISTORY OF PREVIOUS APPLICATION

4.1 Application and Decision.

A previous application for resource consents for a dwelling to be constructed on the spit with associated wastewater discharge, was heard on 7 April 2000 before an independent commissioner. (Ref. FNDC RC 2000354 & NRC 99-8867.)

The application was assessed as a non-complying activity under the Transitional District Plan.

The application was declined by the Commissioner in a decision dated 20 April 2000 (copy attached, Appendix II.3) on the following grounds:

(i) The commissioner found that the proposed effluent treatment system could be arranged to meet the statutory standards and that the discharge would not compromise water quality or the coastal environment. This part of the application has not changed – this situation is therefore unaltered. The commissioner's concern was only in regard to cultural and spiritual matters associated with a wahi tapu registration.

(ii) After consultation on the applications had commenced, the site was claimed by local tangata whenua as wahi tapu (specifically a sacred karaka tree) and registered as such by the NZHPT. There had been no consultation with the landowner in this regard. The FNDC had not been aware of such a site at the time of disposal of the land in 1995. However, the Commissioner accepted the wahi tapu claim and duly considered the proposed discharge to land was culturally inappropriate in view of the designation. As referred in 3.6 above, the NZHPT has subsequently found there is no evidence to support the wahi tapu claim and the registration has been withdrawn, removing in large part the grounds for the application being declined.

(iii) The commissioner was of the opinion that the site had the potential to be severely affected by coastal erosion and flooding and in regard to coastal hazard considerations, he found the application did not meet the requirements for a non-complying activity. However Mr Grant

Stevens of Richardson Stevens had addressed this and found no such evidence at the time of the development of the original proposal. On my site visit, I saw no evidence of foreshore erosion or saline damage to vegetation on the spit. The embayment is in a sheltered location, as evidenced by the presence of mangroves, protected to the south-west and to the east but open to north of west. The maximum fetch distance, to Haumi Point, is only a little over two kilometres and even this is not a prevailing wind direction. The potential for wave damage and storm erosion is considered to be slight, as has been previously assessed by Mr Stevens. This aspect has now been addressed by the amended proposal to site the dwelling further back from MHWS and to elevate it on poles.

(iv) In summary, the applications were declined largely because of:

(a) "particular regard to the cultural well-being of tangata whenua." The evidence of Arapeta Hamilton (Te Uri Karaka hapu) and others was accepted over that of respected Ngapuhi elder, the late Mr Graham Rankin, who gave evidence in support of the applicant. The subsequent actions of the NZHPT have supported the views of Mr Rankin and the applicant.

(b) A perceived risk of tidal inundation and flooding. This has been addressed by siting the dwelling further inland and raising it on a pole structure. (Refer also to Mr Stevens' evidence of 7 April 2000, Appendix II.2).

(v) Since the alleged 'wahi tapu' nature of the site has subsequently been withdrawn by the NZHPT, it is quite possible that the applications would have been granted if the withdrawal had come about prior to the hearing. However, although the applicant has incurred considerable cost and delay, it could be considered that the revised proposal will result in improved environmental outcomes.

4.2 Other Concerns of Submitters.

Other submitters to the applications objected mainly to concerns regarding the wastewater disposal system and the potential for contamination of water and shellfish (addressed previously); and to the proximity of the building to MHWS (visual effects). As noted above, this distance was originally set at only 12.5 metres, to enable the dwelling to be constructed on the spit itself. It should be noted that DOC's submission *"indicated visual effects were of concern and that alternative dwelling sites should be investigated"* (NRC Staff Report, 7 April 2000, p.19). It has subsequently been proposed that any adverse ecological and visual effects would be lessened if the dwelling were to be set back into the mangrove area (see 4.4 below) at about 27-30m from MHWS. The amended proposal has been accepted by the Department of Conservation.

4.3 Environment Court Appeal.

An appeal to the Environment Court against the decision was subsequently lodged. By modifying the proposal, the Applicant attempted to resolve the matters of concern of those parties who wished to be parties to the appeal. These were DOC, Mr Hamilton and the Okiato Te Wahopu & District Ratepayers & Residents Association (the "Association"), represented by planning consultant, Mr Wendell Taylor. In the course of the negotiations, Mr Taylor suggested that the Association would be satisfied if the setback from MHWS could be increased from 12.5m. The consultant's proposal was that the setback should be increased to 40m by way of reclamation of part of the mangrove area. When the Court declined a request for further adjournment, the appeal to the Environment Court was subsequently withdrawn by the applicant in favour of a new application being lodged.

4.4 Development of New Application - Summary.

(i) The local residents association objected to a setback of 12.5 metres, and proposed a setback of 40m, as noted in 4.3 above.

(ii) A reclamation with a 40-metre setback from MHWS as suggested would have resulted in the loss by reclamation of up to 2800m^2 (0.28ha) of mangroves. Environmental Consultant Mark Poynter, as referred in 3.7 above, proposed that the 40-metre setback *"creates rather than solves problems"* and suggested a reduction to 15-20 metres.

(iii) The Association's consultant advised that a setback of some 19 metres could not be supported by the Association but a setback of 27 metres *("which is the setback in the Transitional Plan")* could be supported (see attached copy of letter from Wendell Taylor, dated 23 January 2002, Appendix II.7).

(iv) Mr Poynter subsequently indicated that on environmental grounds, he could conditionally support a setback of 27 metres with a 525 m^2 fill area (letter attached dated 18 March 2002, Appendix II.8).

(v) This proposal has then been further modified, with additional environmental benefits, as a result of further consultation, particularly with the Department of Conservation. (See letter from DoC dated 29 April 2005.) It is now proposed to adopt the generally agreed setback of 27m but rather than siting the dwelling on a reclamation, to construct the dwelling on poles at the edge of the mangrove area, just off the edge of the spit, in an area where the mangroves are least dense, reducing the fill area to only 180 m^2 (approximately) and preserving the balance area of wetland habitat with only minor modification. Fewer mangroves will be removed or cleared, but those beneath the dwelling will be pruned back.

(vi) By adopting a 27m setback and setting the dwelling back into the mangroves, it will be more effectively screened from the public, particularly from beach users. Even when standing directly in front of the dwelling, vegetation will afford significant screening. This matter is addressed in more detail under "Effects". The alternative now proposed is considered to be the best option in terms of minimising environmental and visual/amenity effects (see Section 7 of this report, Assessment of Environmental Effects).

(vii) The new proposal has been shown to meet the concerns of and/or to be supported by all involved parties.

5. PLANNING ASSESSMENT

5.1 Far North Partly Operative District Plan (the 'District Plan').

5.1.1 Overview

Under the Transitional District Plan, Bay of Islands Section, (the 'TDP') the property was zoned Marine 2 but the appropriateness of this was disputed. Under the District Plan, the zoning has been General Coastal since 1996 and this is not subject to appeal.

Because of outstanding appeals in 2005/06 when this application was lodged with Northland Regional Council, it was agreed in discussions with FNDC planning personnel at the time that it would be a simpler process to postpone lodgement of the application with FNDC until the then proposed plan was finalised through the appeal process and the TDP was no longer relevant.

The District Plan has now progressed through a number of consultation and appeal stages and has been adopted as a Partly Operative District Plan. It is believed that there are no matters subject to appeal that might have a bearing on this application. Accordingly, it is understood to be the only district plan of relevance to this application. The District Plan sets out general policies and

objectives for the Coastal Environment and specific objectives, policies and rules for the General Coastal Zone. Objectives, policies and rules are assessed as follows:

5.1.2 Chapter 10: Coastal Environment – Objectives and Policies

Objective 10.3.1

The plan's objective in regard to the coastal environment is *"To manage coastal areas in a manner that avoids adverse effects from subdivision, use and development. Where it is not practicable to avoid adverse effects from subdivision use or development, but it is appropriate for the development to proceed, adverse effects of subdivision use or development should be remedied or mitigated."*

The proposal is the culmination of extensive consultation and modification of previous proposals that take account of issues previously raised by incorporating mitigating measures into the previous proposal. The current proposal is innovative in that the structure will be raised on poles to minimise damage to a wetlands area, and will be set back from MHWS as far as practicable while at the same time, minimising the extent of the footprint on the wetland. The natural character of Pipiroa Bay is considered to have been compromised by dwellings around and overlooking the bay that are of far greater visual impact than the proposed dwelling.

Objective 10.3.2

"To preserve and, where appropriate in relation to other objectives, to restore, rehabilitate protect, or enhance:
(a) the natural character of the coastline and coastal environment;
(b) areas of significant indigenous vegetation and significant habitats of indigenous fauna;
(c) outstanding landscapes and natural features;
(d) the open space and amenity values of the coastal environment;
(e) water quality and soil conservation (insofar as it is within the jurisdiction of the Council).

(a). The applicant proposes to progressively eradicate the exotic pest plants on the spit and to replant with native species, restoring the natural indigenous character. The applicant has planted a number of pohutukawa (10-12) about 2 metres back from the edge of the grass above the backshore and these are now around 3-4 metres high.
In addition, the applicant proposes to covenant the bulk of the wetland area on his property, which provides suitable habitat for fernbird.
(b) & (c). The site is not noted on the Resource Map as being of significance or outstanding values.
(d). The proposed dwelling will be set back 27m from MHWS. There are numerous ridgeline dwellings overlooking the bay.
(e). A suitably designed and maintained effluent treatment and disposal system will ensure that water quality in the bay is not adversely affected.

Objective 10.3.4

"To maintain and enhance public access to and along the coast whilst ensuring that such access does not adversely affect the natural and physical resources of the coastal environment, including Maori cultural values, and public health and safety."
Public access will be maintained. Although the applicant's property extends to MHWS, public access along the 2-4m wide backshore between MHWS and the grassed area of the property will not be restricted. In addition, public access along the spit may be facilitated by the development of the accessway and the removal of exotic and pest trees along the unformed road.

Objective 10.3.5

"To secure future public access to and along the coast, lakes and rivers (including access for Maori) through the development process and specifically in accordance with the **Esplanade Priority Areas** *mapped in the District Plan.)".*

The applicant is willing to provide for informal public access along a 2-4m wide strip of sandy backshore above MHWS, by not fencing to the MHWS boundary.

Policy 10.4.1

This policy includes *"That the Council only allows appropriate subdivision, use and development in the coastal environment. Appropriate subdivision, use and development is that where the activity generally:*

(a) recognises and provides for those features and elements that contribute to the natural character of an area that may require preservation, restoration or enhancement; and

(b) is in a location and of a scale and design that minimises adverse effects on the natural character of the coastal environment; and

(c) has adequate services provided in a manner that minimises adverse effects on the coastal environment and does not adversely affect the safety and efficiency of the roading network; and

(d) avoids, as far as is practicable, adverse effects which are more than minor on heritage features, outstanding landscapes, cultural values, significant indigenous vegetation and significant habitats of indigenous fauna, amenity values of public land and waters and the natural functions and systems of the coastal environment; and

(e) promotes the protection, and where appropriate restoration and enhancement, of areas of significant indigenous vegetation and significant habitats of indigenous fauna; and."

It will be shown that the proposal is consistent with these relevant parts of Policy 10.4.1. Effects on mangroves will be mitigated by a pole-construction and minimal setback into the wetland; there will be no adverse effect on the functioning of eco-systems – rather there will be benefits from the proposed clearance of an exotic weed "jungle" and seed bed.

5.1.3 Chapter 10.6: General Coastal Zone – Objectives and Policies

The **General Coastal Zone** allows development while preserving the natural character of the coastal environment and protecting it from inappropriate use and development.

Objective 10.6.3.1. *"To provide for appropriate ... use and development in the coastal environment, consistent with the need to preserve its natural character."*

The construction of a dwelling is considered to be an appropriate use of an allotment in the General Coastal zone. There is no restriction on the title barring the construction of a dwelling. Other dwellings are sited prominently on the ridge line around Pipiroa Bay and Okiato Point, and a section alongside the car park zoned General Coastal is expected to be built upon in the near future.

Policy 10.6.4.1. *"That a wide range of activities be permitted in the General Coastal zone, consistent with the need to ensure that their effects are consistent with the preservation the natural character of the coastal environment."*

Building a dwelling is a basic activity associated with the General Coastal zone.

Policy 10.6.4.2. *"That the visual and landscape qualities of the coastal environment in be protected from inappropriate subdivision, use and development."*

The design and construction of the proposed dwelling is such that any potential adverse effects on the natural character of the allotment will be minimised. Exotic vegetation will be progressively cleared. There is an existing array of dwellings along the ridge line overlooking the bay.

5.1.4 Section 10.6.5: General Coastal Zone Rules.

Assessment against 10.6.5.1 Permitted Activities rules is as follows:

10.6.5.1.1 Visual Amenity: The gross floor area exceeds 25 square metres. A resource consent is therefore needed. However, the exterior will be coloured within the BS5252 standard colour palette range with a reflectance value of 30% or less or will be constructed of natural materials which fall within this range;

10.6.5.1.2 Residential Intensity: Existing site – provisional compliance.

10.6.5.1.3 Scale of Activities. Not applicable.

10.6.5.1.4 Building height. The proposed building height does not exceed 8 metres above ground level. Complies.

10.6.5.1.5 Sunlight. Complies.

10.6.5.1.6 Impermeable area. Complies.

10.6.5.1.7 Set Back from Boundaries. Set back is not less than 10 metres from boundary. Complies (but note Rules in Chapter 12.7).

10.6.5.1.8 Traffic intensity. Residential dwelling will comply. (6 vehicle movements per day).

10.6.5.1.9 Animals. Not applicable.

10.6.5.1.10 Noise. Dwelling only – will comply.

Summary: Non-compliance with Rules 10.6.5 1 for area of dwelling only.

10.6.5.3 Restricted Discretionary Activities.

The proposal is assessed as a **Restricted Discretionary activity** under rule 10.6.5.3.1 in the General Coastal Zone because it does not comply with Rule 10.6.5.1.1 Visual Amenity in respect of the gross floor area, but is a permitted activity in all other respects.

5.1.5 Section 12.2.6: Natural and Physical Resources - Rules

Rule 12.2.6.1.1(f). Indigenous Vegetation Clearance to maintain open space within 20m of an existing building is a Permitted activity. Rule 12.2.6.1.1 (i) allows the clearance of indigenous vegetation for the maintenance of existing fence lines.

Rule 12.2.6.1.3. Indigenous Vegetation Clearance in the General Coastal Zone is a Permitted activity if the extent of clearance is no more than the lesser of 1 ha or 15% of the site area, the vegetation is less than 6 metres in height and 600mm in girth. The proposal complies with these requirements. Juvenile mangroves of up to 340mm girth and about 6 metres in height will be pruned and some will be cleared. The area to be disturbed by either pruning or clearing is less than 0.1 ha or 6% of the total mangrove area. However, rules 12.2.6.1.3(b) and 12.2.6.2.1(a) do not allow any clearance of vegetation in or within 20m of an indigenous wetland. The clearance of a small area of mangroves is therefore a discretionary activity under Rule 12.2.6.3(b).

5.1.6 Section 12.4: Natural Hazards.

12.4.1.6 Potential Flooding Map ***FL 5*** shows most of the subject property, except for the area of the sand spit, to be prone to flooding. Given that the area concerned is a tidal wetland, this is perhaps not surprising. The dwelling design will take this into account.

Rules 12.4.6.2.1 & 12.4.6.3.1 Coastal Hazard Areas. The subject property is not shown on any of the Coastal Hazard maps (***Maps CH 1 – 17***). However, because of its location, it is appropriate that provision be made for possible sea level rise. This has been addressed by Grant Stevens (see Attachment II:2) and the design height of floor levels.

5.1.7 Section 12.5: Heritage.

Objectives and Policies include: Objective 12.5.3.2. *"To protect waahi tapu and other sites of spiritual, cultural or historical significance to Maori from inappropriate use, development and subdivision."*

Permitted Activities12.5.6.1.3: Registered Archaeological Sites.

*"Activities involving the alteration of land, including building, excavation, filling, planting of trees and disturbance of ground, shall not disturb, modify, damage or destroy a registered archaeological site (as listed in **Appendix 1G** and shown on the **Resource Maps**), unless an Authority to Destroy, Damage or Modify an Archaeological Site has been issued by the New Zealand Historic Places Trust.*

For the purpose of this rule a registered archaeological site is one that is included on the New Zealand Historic Places Register pursuant to the Historic Places Act 1993."

The registration of the property as a wahi tapu area has been withdrawn from the NZHPT register (ref: letter from NZHPT dated 11 April 2001, copy attached as an appendix). Hence in terms of the above definition, the site is not a 'Registered Archaeological Site.'

12.5.6.2.2 Activities Which Could Affect Sites of Cultural Significance to Maori.
*"Building, excavating, filling, planting of trees or clearance of vegetation within any Site of Cultural Significance to Maori, as listed in **Appendix 1F** and shown on the **Resource Maps**, is a restricted discretionary activity, unless the activity is proposed by the requesting party, in which case this rule does not apply."*
Although the subject property is no longer registered as an archaeological site, it is still shown on the district resource map 36 and it remains incorrectly listed for the time being in Appendix 1F: Schedule of Sites of Cultural Significance to Maori. It is noted that the Schedule is supposed to only list sites on general land where there has been consultation with the affected owner. It is understood that no such consultation took place, adding to the level of injustice. It is understood that a plan change is proposed to correct this unfortunate anomaly that has caused the Applicant considerable cost and delay. For the time being however, it appears that the proposal requires a land use consent for a restricted discretionary activity in respect of the alleged site.
In regard to 12.5.7: Assessment Criteria that the Council shall apply, the response to each will in general be "Not applicable" since no such site has been shown to exist.

5.1.8 Section 12.7: Lakes, Rivers, Wetlands and the Coastline.

Rule 12.7.6.1.1, 12.7.6.1.2. Setbacks from Coastal Marine Area and Wetlands. These rules require setbacks of 30 metres, which can not be achieved. The nature of the property makes compliance unattainable. It should be noted that a key reason given in the plan for adopting the 30 m setback is to provide for a future riparian strip in the event of subdivision. There is no prospect of a future subdivision, and the applicant is willing to covenant to this effect. The proposed setback of 27 metres from MHWS is a practicable maximum consistent with minimising any possible adverse effects on the wetland area behind the spit, and has been approved by Mr Taylor and the Department of Conservation. To achieve a 30 metre setback from the MHWS would increase the size of the footprint in the wetlands with no significant benefit to be gained. However, a consent is needed in regard to these two setback rules - the coastal marine area and the wetlands.

Rule 12.7.6.1.3. Protection of Wetlands. The proposed dwelling will not change the natural range of water levels or the natural ecosystem of flora and fauna. Complies.

Rule 12.7.6.1.4. Discharge of Treated Effluent. The disposal system will be located closer than 30 metres from the Coastal Marine area and from a wetland. A resource consent is required under Rule 12.7.6.1.4.

Overall, the proposal is assessed as a: **Restricted Discretionary activity** under Rule 10.6.5.3.1 (visual amenity: area of dwelling); and a **Discretionary Activity** under Rules 12.2.6.3(b) (vegetation clearance in an indigenous wetland), 12.7.6.1.1 (setback from wetland), 12.7.6.1.2 (setback from CMA), 12.7.6.1.4 (discharge of treated effluent) and 12.7.6.3.

In terms of the Assessment Criteria of 12.7.7, the responses to each are summarised as follows:

There is a functional need to establish the disposal system at the proposed location; the proposed system is considered to be the best practicable option available; any potential adverse effects on biodiversity, wetlands, cultural values, water quality, etc. will be no more than minor. The site has previously been modified by flood gates, drainage, grazing, planting of exotic species, etc. The proposed dwelling will be constructed above flood levels. Any adverse effects will be compensated for by a number of measures including covenanting a large area of the wetland; clearance of exotic pest-plants, and re-planting with natives; improved public access.

5.2 Northland Regional Council Regional Water and Soil Plan (W&SP)

5.2.1 General. The applicant has received confirmation from the Regional Council that the proposed dwelling is not within the coastal marine area. The dwelling site is considered to be in the bed of a tidal river at its fullest flow (upper tidal area in a wetland). In assessing the extent of the Riparian Management Zone (RMZ), Figure 7B in the W&SP is considered to most closely represent the situation. The RMZ is assumed to extend back from the level of MHWM which is equated with the edge of land vegetation. Measurements and areas relating to riverbed reclamation and the RMZ are accordingly calculated from this position. The distance from MHWM to the top of the bank varies but is of the order of 2-2.5m.The slope of the land above the top of the bank is less than 8^{o} so the RMZ is assessed as 2.5m + 5m = 7.5m approximately.

5.2.2 Policies and Objectives. Reason 7.7.2 for Water Quality Objectives, etc includes:- *To ensure the existing water quality is maintained or enhanced, conditions may be placed on resource consents .....*

An appropriate wastewater disposal system has been proposed that will ensure that *water quality is maintained* to comply with this policy. An earlier Northland Regional Council assessment of the proposal (ref. Staff Report of 7.4.00 Hearing) has confirmed the acceptability of the proposal, subject to suitable maintenance.

The proposal is considered to be consistent with the policies of Section 11.5.1 of the W&SP, relating to use of the bed of a river, and is assessed as follows.

(a) The natural character of the wetland will be preserved, particularly in regard to the proposed covenanting;
(b) any adverse effects on aquatic habitat will be less than minor;
(c) adverse effects are minimised by the proposed location of the dwelling on the margin of the wetland;
(d) public access will not be adversely affected, but may be enhanced;
(e) there will be no adverse effects on the recreational value of the property; public access along the spit (amenity value) may be enhanced by the upgrading of the paper road;
(f) bed and bank stability is not affected;
(g) there will be no significant ecosystem effects, as confirmed in Mark Poynter's report;
(h) water quality will be maintained;
(i) fish access is not affected;
(j) not applicable;
(k) the design of the effluent treatment system will ensure that there are no adverse effects on public health, safety or property.

With regard to Policy 11.5.2, the proposal will ensure that water quality, and therefore kai moana, are not adversely affected. The area to be occupied by the dwelling has previously been grazed land. The previous claim of a wahi tapu site has been dismissed by NZHPT. The proposal is not inconsistent with this policy.

5.2.3 Structure in or over the Bed of a Watercourse (Wetland).

The proposal for a structure in a wetland is assessed as a **Discretionary activity** under Rule 29.3. However, it should be noted that the proposed structure will not result in any change in water levels, nor will it prevent fish passage – these being the two areas of concern.

5.2.4 Placement of Fill on Bed of Watercourse (for Formation of Ramp up to house)

The proposed formation of the ramp access and slope up to the front of the dwelling involves the placement of fill (reclamation) over an area of up to 180 square metres on the edge of the wetland below MHWS (30 m long x 5-6 metres across). This is the upper limit of the wetted intertidal area; it is not always covered at high tide, and it supports relatively little vegetation. The volume of material to be placed is assessed at up to 270 cubic metres (average depth about 1.5 metres). The placement of fill in a wetland and vegetation clearance is assessed as a **Discretionary activity** under Rule 31.3.1.

5.2.5 Clearance/Pruning of Vegetation on Bed of Watercourse (Wetland)

Mangroves beneath the dwelling's footprint will need to be pruned back. A very small number at the site of the piles may need to be removed. Those at the ramp area will be cleared. The area involved will be less than 0.1 ha. Pruning/clearing of mangroves is assessed as a **Discretionary activity** under Rule 31.3.1.

5.2.6 Earthworks and Placement of Fill in Riparian Management Zone. To complete the formation of the ramp up to the house, additional fill will be placed on the spit above MHWS. This is considered to be a Riparian Management Zone under the W&SP. Fill will also be placed for vehicle access to the dwelling from the end of the paper road; and for the soakage area for treated effluent. Earthworks and the placement of fill in the RMZ is assessed as a **Discretionary activity** under Rule 34.3.1. The total RMZ area within the subject property is assessed at 750 m^2 (99m x 7.5m approx.) with up to about 300m^3 of fill to be placed to an average depth of about 0.4 metre over any part of the RMZ.

5.2.7 Clearance of Vegetation in the Riparian Management Zone. Vegetation comprising mainly weeds, pest plants and grasses (as described in 3.3 above) will need to be cleared to form the upgraded road access, the earth ramp up to the house and the soakage area. This is also assessed as a **Discretionary Activity** under Rule 34.3.1. The area affected could be any part of the RMZ area.

5.2.8 Discharge of Secondary Treated Effluent

The discharge of secondary treated effluent onto land is a permitted activity under Rule 15.1.4 provided that (a) the lowest point of the disposal system is not less than 0.6m above the winter groundwater table; (b) the effluent is treated to a specified standard; (d) no part of the disposal area is located within 15 metres of any surface water. Design criteria are also specified, including a maintenance contract to be entered into.

Previous onsite measurements have identified that the water table is 0.8m below the surface. It is proposed that 200mm of imported topsoil covered by 50-100mm of bark, topsoil or vegetation will be placed to form a raised bed, low pressure dispersal system over an area of 95*m^2 with a pipe line length of 95*m. This will provide a bed depth of 1metre above the water table, providing a significant margin over the minimum requirement.

The proposal can meet all criteria except the requirements of Rule 15.1.4(d), Separation Distance, at high tide, because of the physical site limitations. It would probably comply at low- and mid-tide. The proposal is therefore a **Discretionary activity** in this respect only. However, it is noted that if this separation distance could be met, the criteria would then be that "*The discharge results in no more than minor contamination of ground and surface water beyond a 20-metre separation distance.*" It is considered that the proposed treatment system will ensure that the effluent is treated to the highest standard and that any adverse effects will be no worse than minor. The design acceptability has previously been confirmed by Northland Regional Council staff (see below) and by an independent consultant's review on behalf of the Health Department.

The Northland Regional Council Staff Report (dated 7.4.00) notes that: *"Studies have shown that in unstructured sandy soils, 600mm depth is effective in removing both bacteria and viruses from septic tank effluent using a loading rate of 50mm/day (Gunn, 1997)."*
and
"*The proposed wastewater discharge is proposed to be to land and will not compromise or result in a technical degradation of water quality, both surface, ground, and coastal water. Therefore, the proposal is consistent with the relevant water quality objectives and policies in the Regional Policy Statement, the Revised Regional Water & Soil Plan for Northland, and the Revised Proposed Regional Coastal Plan for Northland.*" While there have been some changes to the relevant planning documents over the past four years, it is believed that none of the changes impact on the compliance of the proposal.

5.2.9 Upgrading of Paper Road. The paper road to the property lies within the RMZ. The road has become inaccessible due to the dense growth of almost entirely exotic and pest shrubs and trees (as described in 3.3 above). Clearance of this vegetation and the placement of clean top course material (shell is proposed) will be the minimum necessary to provide access to and allow the occupation of the proposed dwelling. This is assessed as a **Permitted Activity** under Rules 34.2(c)(iii) and 34.3(b)(iii).

6. CONSENTS REQUIRED

The above assessment indicates that the following consents are required:

6.1 **Northland Regional Council.** The Applicant requires:

- a discharge permit to discharge treated wastewater to land within 15 metres of surface water;
- a consent to erect a structure in a wetland (bed of watercourse);
- a land use consent for reclamation of part of a river bed (placement of up to 270 m^3 fill over an area of up to 180 m^2);
- pruning/clearance of vegetation in a wetland over an area of up to 0.1 ha;
- placement of fill (up to 300 m^3), earthworks and vegetation clearance in a Riparian Management Zone (over an area of up to 750 m^2).

All the above are assessed as **Discretionary activities**.

The upgrading of the paper road, which involves vegetation clearance and placement of fill partially within the RMZ, to provide a carriageway to district council standards is assessed as a **Permitted activity.**

6.2 **Far North District Council.** Under the Partly Operative District Plan, the proposal will require:

- a land use consent for a dwelling in the General Coastal zone in excess of 25 square metres (**Restricted Discretionary** activity under Rule 10.6.5.3.1);
- a land use consent for vegetation clearance in an indigenous wetland (**Discretionary Activity** under Rule 12.2.6.3(b);

- a land use consent to carry out *"Building, excavating, filling, planting of trees or clearance of vegetation within any Site of Cultural Significance to Maori, as listed in **Appendix 1F** and shown on the **Resource Maps**"* (although incorrectly listed), **Restricted Discretionary activity** under Rule 12.5.6.2.2**).**
- a land use consent for a structure in a wetland and Coastal Marine Area (**Discretionary activity** under Rules 12.7.6.1.1 & 12.7.6.1.2, (setback) and 12.7.6.3;
- a permit for the discharge of treated effluent (**Discretionary activity** under Rule 12.7.6.1.4, for setback from a wetland and coastal marine area).

In addition, the approval of Council is sought to upgrade the paper road to provide vehicle access to the subject property.

7. ASSESSMENT OF ENVIRONMENTAL EFFECTS

The Fourth Schedule of the RMA sets out the matters that should be considered. Relevant matters are assessed as follow.

7.1 Effects on Neighbourhood

7.1.1 Pedestrian Access

Public access along the spit itself, other than along the beach, is restricted at present because of the dense vegetation. Formation of a carriageway along the paper road could enhance public access across that part of the spit that is council-owned. Public access along the beach will not be adversely affected.

7.1.2 Traffic

It is estimated that up to 10 vehicle movements per day (ref. Appendix 3A of District Plan) could be associated with the occupation of the proposed dwelling. This represents only a minor increase in vehicles turning off Aucks Road to access Okiato Point Road or Pipiroa Bay Road. There will be no addition to parking requirements at the public car park.

7.2 Physical Effects, including Landscape and Visual

The wetland mangroves are approximately 6 metres high. The roofline of the ground floor of the proposed dwelling is approximately 5 metres above MHWS. Hence the ground floor will be largely screened by the mangroves and could only be observed when looking down from above, or through cleared vegetation from the beach immediately in front. The one-bedroom upper storey of approximately 50 square metres (including a balcony) will be up to 7.5 metres above MHWS. The upper storey will allow for a smaller ground area. The extensive mangroves will form a significant visual screen from along the beach, from the carpark and from much of the boardwalk but if viewed horizontally from a distance, part of the upper storey may possibly be seen extending above the mangroves.

Viewed from the sea, the ridge line dwellings on Aucks Road and Okiato Point are considerably more prominent than the proposed dwelling is likely to be. From the beach, the ridgeline dwellings and the new dwelling understood to be scheduled for construction on the lot behind the carpark will be more dominant than the proposed dwelling which will be largely obscured by beach front vegetation (see view in Photo D, Appendix I).

The most direct view of the proposed dwelling is likely to be from those dwellings on Aucks Road looking directly down on the wetland area, from a distance of some 650 metres. From this perspective, the height of the building will be of less relevance than the area of the footprint and the colour of the roof. The roof area is likely to be visible but observations from the vicinity of these dwellings show that manuka, ponga, etc. provide a foreground screen that would partially

obscure any potential view (as seen in Photo A, Appendix I). Views of the roof and other partial views can be mitigated by the use of appropriate colours, such as green-brown shades. This could be a district council consent condition. The closest dwelling appears to be on the corner of Aucks Road and Okiato Point Road, at a distance of about 250 metres, although another dwelling is understood to be scheduled for construction in Pipiroa Bay itself, adjoining the carpark.

7.3 Effects on Ecosystems

7.3.1 Fauna

The proposal will have only a negligible effect on habitat and hence also on fauna. Since the general public has access to and can utilise the area with the attractions of a beach and a boardwalk, the presence of additional people at a dwelling will have no significant effect on fauna.

There is the potential for damage to wildlife from the keeping of cats and dogs, as noted in the FNDC Planning Report of 7 April 2000 to the original hearing. However, it seems there is no restriction on the public bringing dogs into the bay to run along the beach or along the Council boardwalk and the wetland area. Unless this activity is restricted, there would seem to be limited benefit in making the subject property a dog-free zone! There would however be considerable merit in a condition that bars the keeping of cats and mustelids (not only at the subject site but also at other properties in close proximity to the wetland!).

7.3.2 Flora – Land

As previously noted, the spit vegetation comprises almost exclusively exotic pest plants, apart from the pohutukawa that the applicant has planted. Eradication of these pest plants is highly desirable to prevent the spread of seeds. Progressive clearance of these and replacement with appropriate native species or non-invasive exotics, particularly those that may contribute a food resource to native birds, would be a very positive effect of the proposal.

7.3.3 Flora - Wetland

The area of wetland to be disturbed by pruning/clearing of mangroves has been shown to be less than 6% of the total mangrove area. This is not considered significant in terms of the total habitat (see Mark Poynter's report). The total area of wetland has been estimated at about 5-6 ha (M. Poynter). Hence the effect on the wetland as a whole will be even more negligible (approximately 2%).

Covenanting much of the remainder of the wetland area within the subject property has been proposed by Mark Poynter as a means of producing a positive environmental outcome. The applicant is willing to pursue this option. The net effect can only be seen as positive.

7.4 Effects on Natural & Physical Resources

7.4.1 Aesthetic, Recreational, Amenity

Recreational users of Pipiroa Bay may be aware of the dwelling if they walk about 140 metres along the beach, towards the seaward mangroves (as referred above in 7.1.1 Access), and then look inland, although vegetation should provide a significant screen. For most recreational purposes, this would be a less utilised area of the beach because it is approaching the marine mangroves and further away from the car park. It is reasonable to conclude that most users of the bay would not be aware of the dwelling.

Removal of the exotic weeds and pest plants will allow the planted pohutukawas to develop and enhance the natural resources and aesthetic qualities of the spit and hence of the embayment.

7.4.2 Cultural Effects.

All aspects of cultural relevance have been thoroughly addressed at the original hearing. The applicant previously had the support of the late respected Ngapuhi elder, Mr Graeme Rankin. It has been shown to the satisfaction of the NZHPT that the alleged wahi tapu site (a sacred karaka tree) was not on the subject property. Although the designation remains in the operative district plan, the NZHPT has removed the registration of the site because of the unreliable claim – but only after the applicant had incurred considerable expense and delays.

Given that the site of the proposed dwelling was previously grazed pasture, and that the only disturbances will be the placement of approximately seventeen poles in the wetland (having potentially less adverse effect than the supporting structure for the boardwalk constructed across the wetland in the council-owned reserve area), and the placement of fill over about 120 – 180 m^2 on the edge of the wetland, the dwelling should have no effect of any significance.

The priority issue from a cultural perspective, both Maori and pakeha, is to ensure that the effluent disposal system is designed and maintained to a standard that will avoid the lowering of the water quality standard along the adjacent shoreline.

The discharge of treated domestic wastewater was the cause of previous concern in relation to the alleged wahi tapu of the site. However, the Northland Regional Council Staff Report acknowledged that the treatment system could be designed so that it would cause no adverse effect on water quality, viz. *"The treatment and disposal system proposed, if operated and maintained properly, should produce a discharge that should not result in any adverse effects on the environment. Further treatment of the wastewater will occur within the soils of the disposal area." "The applicant proposes to plant trees and shrubs in the disposal area and that will decrease the amount of wastewater moving down the soil profile through evapotranspiration processes."*

Overall, and taking account of previous concerns and reports, there are considered to be no adverse effects that could reasonably be regarded as culturally inappropriate.

7.5 Discharge of Contaminants

7.5.1 Stormwater

Stormwater runoff from the roof will be used to fill water tanks. Any surplus will be discharged into the wetland area in such a manner as to minimise scouring. Given the very small roof area in relation to the area of the wetland, any potential effects from rainfall and runoff will be negligible.

7.5.2 Wastewater

The matter of treatment of domestic wastewater, as previously referred, has been a key issue. Suitable treatment systems are available to address the concerns associated with the proximity to surface water. It is imperative that the quality of discharged wastewater is high enough not to raise faecal coliform levels or adversely impact on shell fish (cockles and oysters) in the bay. Concerns of the public in this regard are acknowledged and assurance is essential. It would be of concern to the applicant himself if the local kai moana were rendered unfit for consumption!

Richardson Stevens have previously shown that a suitable system can be installed with an adequate soakage contained within the area of the property above MHWS (see Engineering Report, Appendix II.1). The disposal system proposed by Richardson Stevens in 1999 has been reviewed and updated by that company. A statement is attached to the original proposal in Appendix II.1.

With placement of suitable fill material to achieve the required clearance above groundwater level, expert opinion is that there is adequate available soakage, given the soil type and length available, to provide for effective treatment. However, appropriate consent conditions should be applied to

ensure adequate maintenance and monitoring of the designed system to provide the necessary public assurance.

7.5.3 Options for Treatment

Various treatment plants have been considered. The proposed option is regarded as the most appropriate for the situation. The earlier Northland Regional Council staff report has approved the preferred option as meeting the required standards, subject to regular maintenance.

Other options have been considered. These include:

(i) Conventional septic tank and shallow effluent disposal system. Rejected because it would only provide primary treatment and there would be limited separation distance between the disposal field, the groundwater and the adjoining wetland and foreshore.

(ii) There is no reticulated sewerage system to connect to.

(iii) The applicant could discharge wastewater into a large storage tank for removal and off-site disposal. However, odour generation could result.

The system proposed has been endorsed in the previous NRC Staff Report as *"considered to be the best practicable technical option given the site conditions."*

7.6 Risks, Natural Hazards

Inundation from the Sea

This matter has been previously addressed by Mr Stevens (ref. Statement of Evidence, 7.4.00, Appendix II.2). As previously described, I observed on my site visit that the vegetation on the spit shows no evidence of salt water intrusion or overtopping, nor is there any evidence of recent foreshore erosion. This is consistent with tide level recordings which show that the maximum predicted high tide level at Opua is RL 2.6m while the maximum recorded is RL2.8m. The level of the spit is about RL3.0m. The recommended floor level of any habitable room in the proposed dwelling is RL3.9m. This is considered to provide more than adequate freeboard margin above any extreme tidal event. Given the short fetch distance to the bay, wave action is very unlikely to be severe at any time, as evidenced by the presence of mangroves. This also provides a safe margin for predicted sea level rise.

Mr Stevens has noted that he "could find no signs of erosion from past flood tide/storm events. It is clear that the existing ground cover is providing an effective buffer against erosion. Mr Upperton will ensure that the existing ground cover is retained." Note however that this should be seen in the context of the removal of pest plants and weeds, with replacement by more suitable species.

8. CONSULTATION AND APPROVALS

All valid issues that have previously been raised are considered to have been addressed, both at the hearing and in the ensuing consultation process that has culminated in this amended proposal, including more recent consultation undertaken with the Department of Conservation in 2005.

Written approval from the Department of Conservation (copy attached dated 29.04.05, see Appendix II.9) has confirmed that the modified proposal has addressed the previous concerns of the Department.

Also attached in Appendix II are copies of letters from Mr Wendell Taylor, Planning Consultant for the local ratepayers association (dated 16.11.01 and 23.01.02), and from Mr Mark Poynter (dated 7.12.01 and 18.03.02), which tend to confirm acceptance of the 27m setback as the optimum solution.

The Applicant has undertaken further consultation with the local iwi Ngati Manu, and reports as follows: *"In December 2006 we were invited to address a meeting at Karetu Marae to outline what was proposed for our property at Pipiroa Bay. No cultural issues were raised in response to our presentation and certainly no one sought to revisit Arapeta Hamilton's claims [of a wahi tapu].*

We were thanked for our presentation and were told we could expect a response after they had consulted more widely within the hapu. After 18 months and numerous phone calls we still had no response but it was suggested to us that a site meeting may allay concerns of those who hadn't been present at the original meeting.

In September 2008, we met on site with 4 trustees, Sam Davis, Pae Wynyard, John Sullivan and Phillip Bristowe. After a good discussion and walk over the site, I asked them one by one if they had any concerns. All of them said they were OK with what I proposed and would not oppose it.

More recently, I have been advised that 3 of the 4 have changed their minds with drainage and sea level rise the main concerns. I still have nothing in writing 2 years after first addressing them in Karetu."

No specific cultural concerns regarding the site have been raised. It is suggested that the issues of drainage and sea level are matters that are appropriately addressed by the consent authorities.

The Applicant considers that little more can be achieved by further consultation and meetings. The issues raised have been or will be addressed during the processing of the application.

9. PROPOSED CONDITIONS

It is suggested that consent conditions (either regional council or district council) should address the following matters.

(i) The final selection and design of the effluent treatment system to be submitted to Council for approval in writing before installation commences. The design capacity and performance standards to be consistent with the May 2009 amended information from Richardson Stevens (1996) Consultants Ltd, submitted with the application.

(ii) A suitable, ongoing maintenance contract to be entered into and implemented to ensure the satisfactory performance of the effluent treatment system.

(iii) The floor level of any living area in the proposed or any future dwelling should be set at not less than 3.9 metres above Chart Datum.

(iv) The Applicant is willing to provide for the balance of the wetland area on the property not required for building purposes to be protected by covenant, apart from a 20m wide strip around the dwelling and a 3.5m wide strip along the fenceline, (to allow for open space tree trimming and fence maintenance, consistent with the Rules of 12.2.6.1.1, Indigenous Vegetation Clearance).

(v) An appropriate 'pet-free' condition should be attached. The keeping of cats and mustelids should be prohibited, but as long as dogs are allowed to run along the beach and the road reserve, it seems pointless to extend the prohibition on the property to dogs also.

(vi) A planned weed eradication and re-planting programme could be requested but as long as the weed species and seed source remain on the adjoining land areas (including the paper road), it may be more appropriate to leave this as an informal undertaking by the Applicant. Certainly, the Applicant intends that the visual screen afforded by the wattles, etc. along the beach front should be retained until planted species such as pohutukawa have gained some maturity.

(vii) Visual effects of any dwelling should be mitigated by the use of appropriate colours. The cladding of the proposed dwelling will be weatherboard-style. Accordingly, the exterior (wall cladding and roof) should be coloured within the BS5252 standard colour palette range with a reflectance value of 30% or less, using colours more specifically within the green/brown range, or be constructed of natural materials which fall within this range.

(viii) The development of the site shall be undertaken in general accordance with the proposal as set out in S L Westgate's report entitled: "J K Upperton, Pipiroa Road, Okiato, Bay Of Islands: Assessment of Environmental Effects of Proposed Dwelling," dated *(November 2005) Updated: May 2009.*

10. ASSESSMENT OF RISKS AND MITIGATION MEASURES

The adoption of appropriate consent conditions as discussed should serve to avoid or mitigate any risks or potential adverse effects. The natural character of the area should be enhanced by the proposed weed eradication and re-vegetation programme. Regular maintenance of the effluent system will maintain water quality in the coastal environment and in the wetland area. It is apparent that the applicant, as a local resident, would have a prime interest in ensuring there were no such adverse effects.

The likelihood of sea level rise has been addressed in Mr Stevens' statement of evidence of 7 April 2000 (see Appendix II.2).

11. CONCLUSIONS

The proposed development has been amended from the earlier proposal that was declined by a commissioner in April 2000. The reasons for that application being declined have been either shown to be invalid (alleged wahi tapu site) or have been addressed by the proposed amendments to the application (i.e. increased setback to address visual concerns; structure on poles) while maintaining low ecological impact. The amended proposal is consistent with the setback sought by the consultant for the local residents' association and has met with the approval of DoC.

The matter of safe on-site disposal of treated domestic wastewater was previously accepted by the regional council reporting officer. This part of the proposal has been upgraded (increased soakage area and length of irrigation line) to meet the revised engineering standards.

Appropriate conditions will allow for the applicant to construct a dwelling on his property, thereby providing for his economic and social well-being, with no adverse effects that are more than minor. A positive effect arising from the proposed covenanting of most of the wetland on the property is considered to more than compensate for any minor adverse effects.

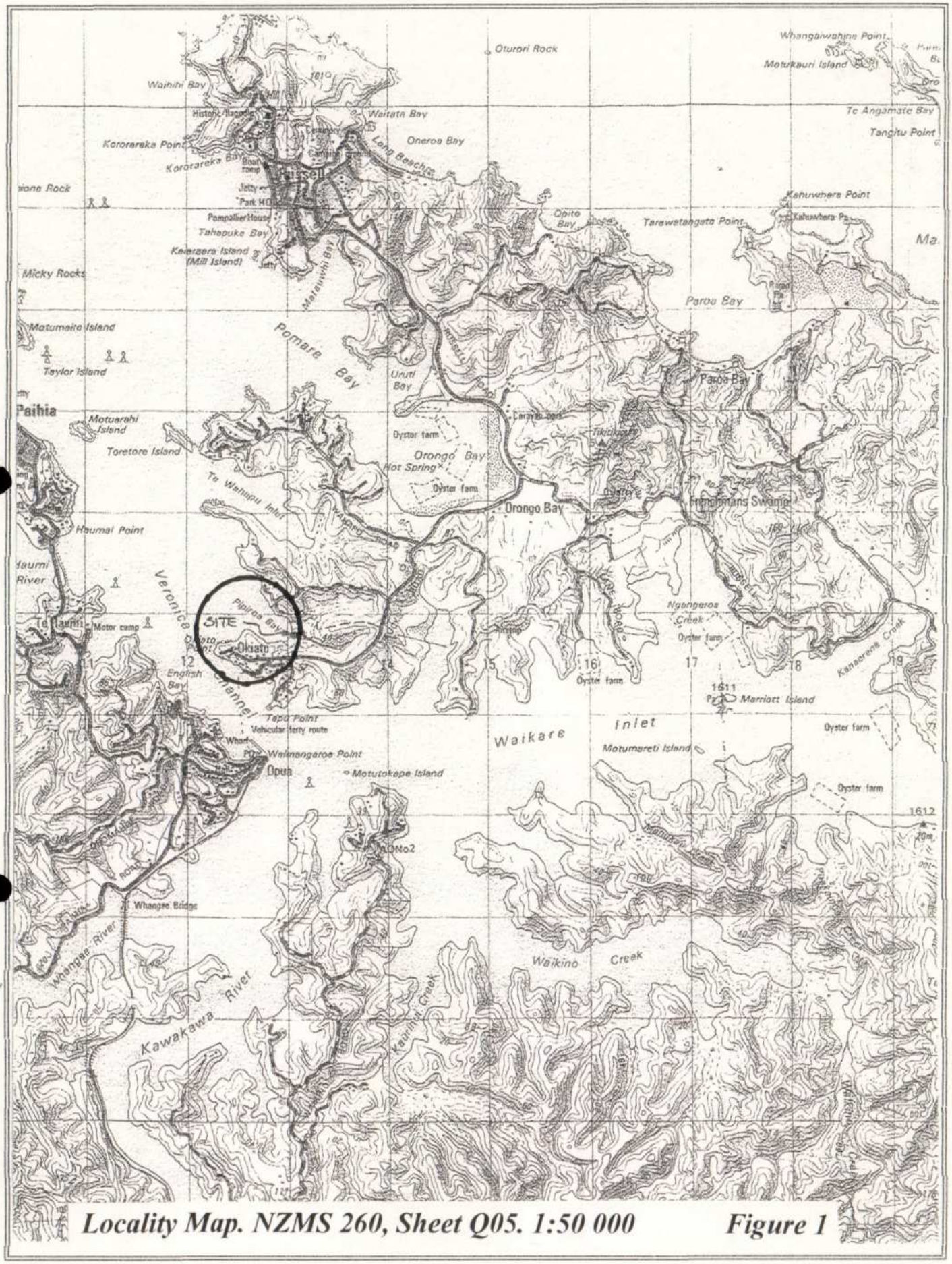
12. ACKNOWLEDGEMENTS

Thanks are expressed to all those who have contributed to the preparation of this report, particularly those whose previous work has been referred to or quoted; and to those members of the Far North District Council who have provided helpful advice.

LIST OF FIGURES

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Figure 9	(Enlarged) Schematic Plan of the Property and Proposed Development (1:500)

**Note: Figures 6.1 and 6.2 together make up an A2 drawing at 1:100 scale. The drawing has been split to comply with the requirement of max. A3 size, and to retain a rational scale.*



Locality Map. NZMS 260, Sheet Q05. 1:50 000 ***Figure 1***



Aerial View of Pipiroa Bay, Approx. 1:2500 *Figure 2*



Cadastral Map of Pipiroa Bay. 1:5000

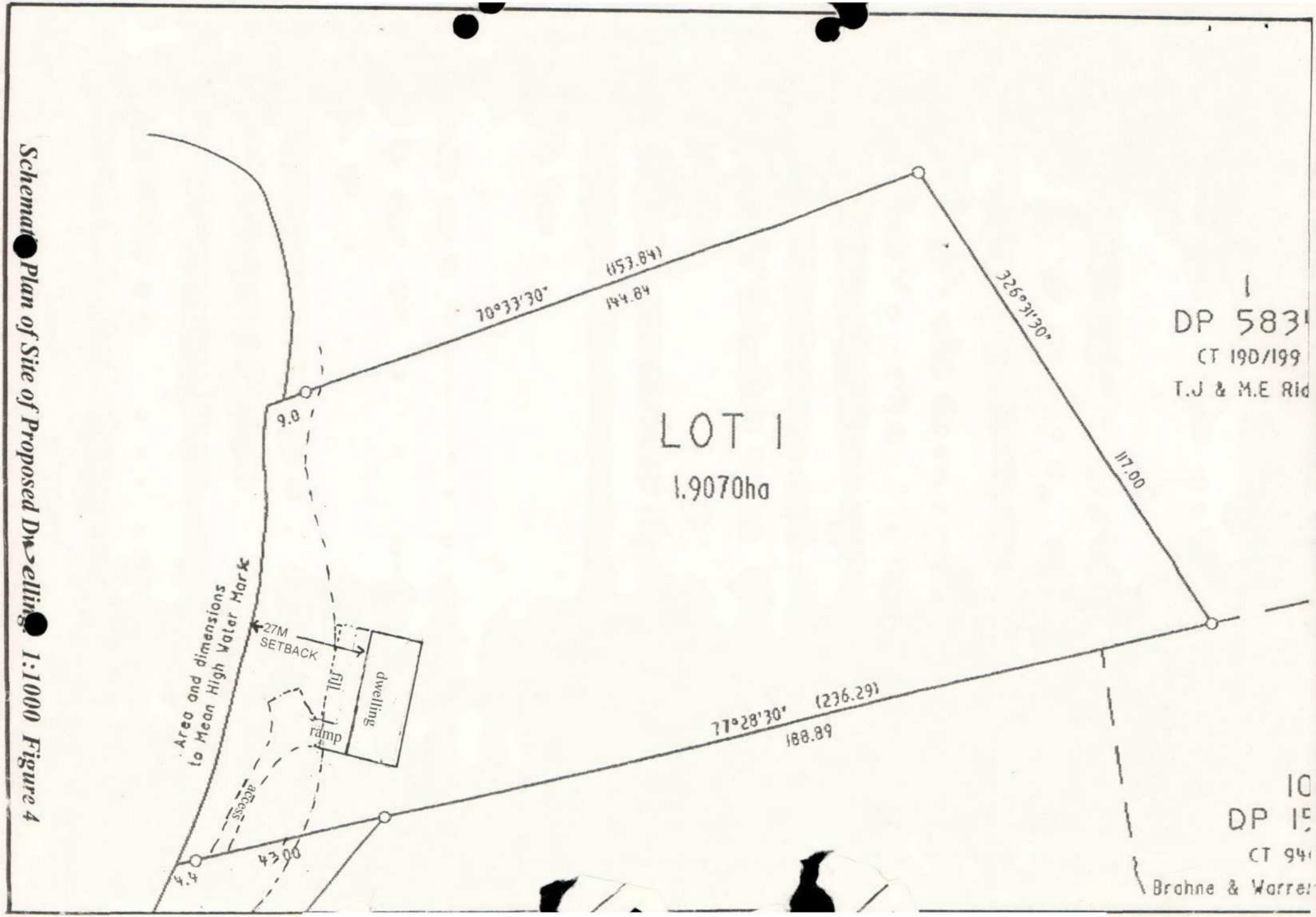
Figure 3

Scale 1:5000

0 50 100 150 200 250 300 350 400 450 500 550 600m

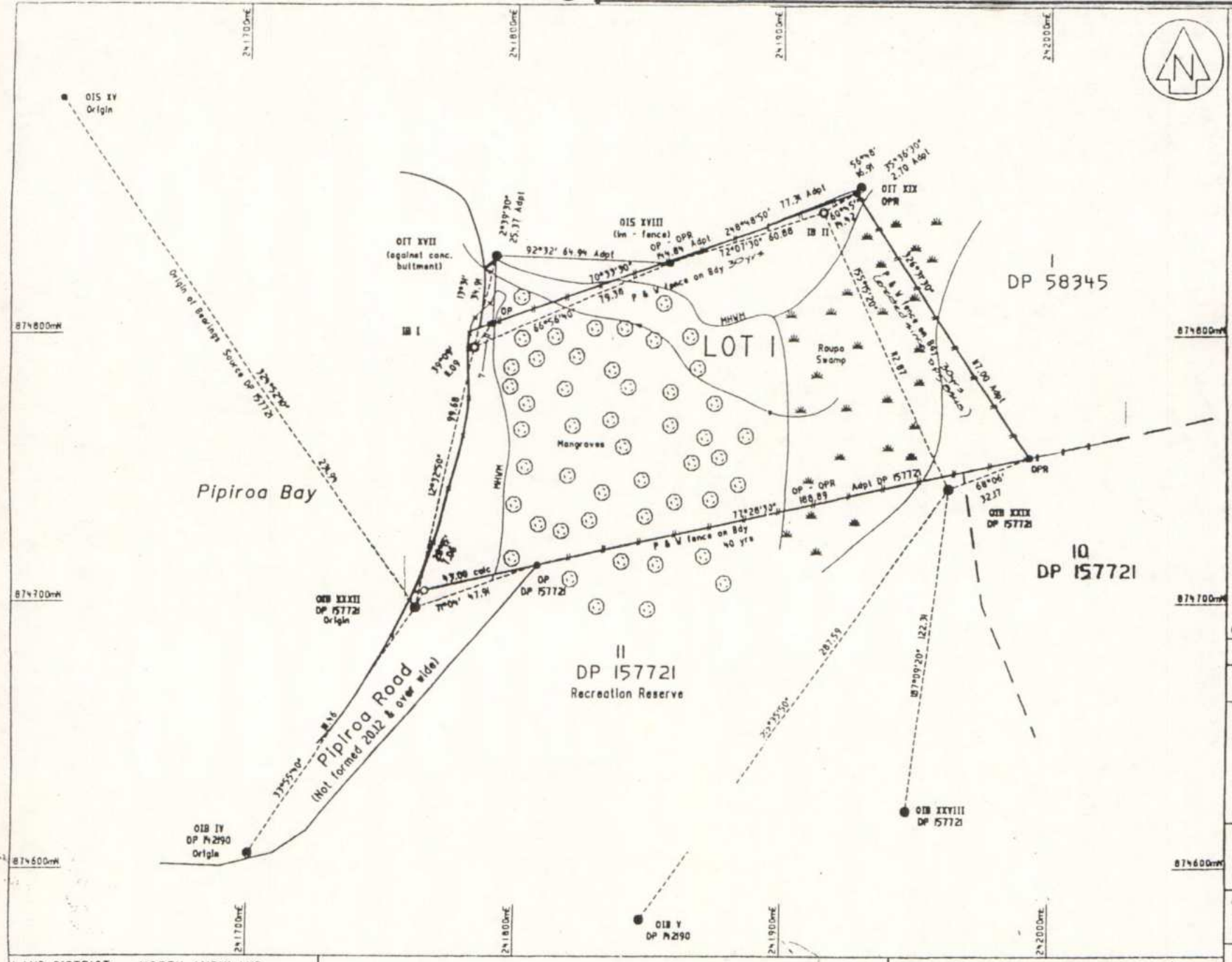
Pipiroa Bay

Survey and Title Data as at 1-MAY-2004, Valuation and Sales Data as at 29-APRIL-2004 and Geodetic Mark data as at 1-MAY-2004. For additonal mark data visit www.linz.govt.nz for Geodetic Database. Cadastral Information from LINZ Core Record System (



Schematic Plan of Site of Proposed Dwelling 1:1000 Figure 4

Survey Plan of the Property ([redacted]omson & King, April 2000). Figure 5



Bearing and Coordinate Datum Geodetic 1949

Mt Eden Circuit Coordinates
Origin Mt Eden 700000 mN
300000 mE

Schedule of Coordinates

	mN	mE
OIB IV DP 142190	874605.84	241700.21
SOURCE DP 157721		
OIB XXIX DP 157721	874742.85	241962.29
OIB XXXII DP 157721	874698.31	241762.42
IB I	874795.60	241784.07
OIS XVIII DP 58345	874826.68	241857.11
IB II	874895.36	241915.05

Notes:
BEARINGS ADOPTED FROM DP 58345 HAVE BEEN ADJUSTED BY -1°30" TO BE IN TERMS OF GEODETIC 1949 DATUM (SEE DP 157721)

OLD MARKS AND ADOPTIONS ARE FROM DP 58345 UNLESS OTHERWISE SHOWN

BOUNDARIES ARE NOT OCCUPIED UNLESS OTHERWISE SHOWN

INSTRUMENT USED : TOPCON GTS 303"

Fixes to M.H.W.M
From OIB XXXII

11°20'	98.55
14°11'	80.75
15°30'	66.70
15°57'	45.75
16°00'	24.60
317°30'	3.20
218°07'	14.10

From IB I

340°37'	5.20
1°13'	10.70
19°50'	17.00

Class of Survey II

Total Area

Comprised In

I David Brett King of Paihia
being a person entitled to practice as a registered surveyor, certify that:
(a) The surveys to which this dataset relates are accurate, and were undertaken by me or under my direction in accordance with the Survey Act 1986 and the Survey Regulations 1990
(b) This dataset is accurate, and has been created in accordance with that Act and those Regulations.

Dated at Paihia this 20th day of April 2000 Signature

Field Book ____ p ____ Traverse Book ____ p ____
Reference Plans DP 157721 DP 58345 LT 91184
Examined ____ Correct ____

Approved as to Survey

__/__/__ Chief Surveyor

Deposited this ____ day of ____ 20____

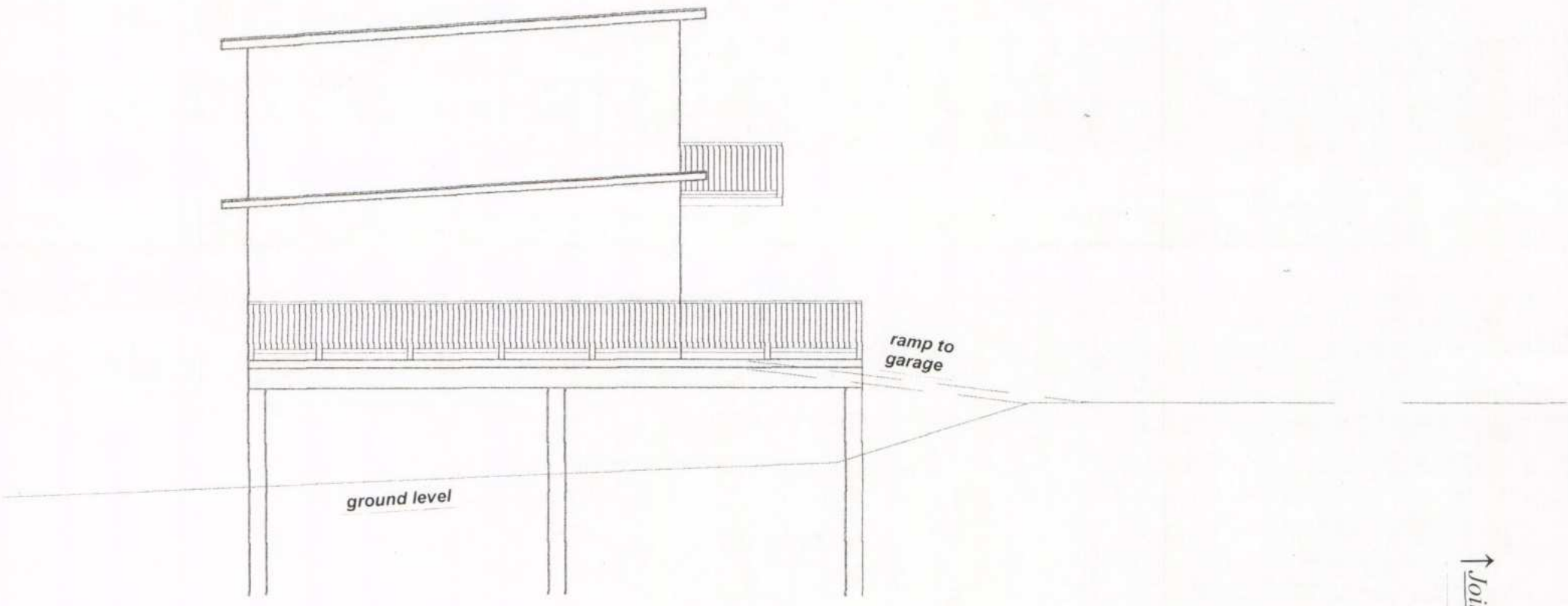
for Registrar General of Land

File 4849
Received ____

LAND DISTRICT: NORTH AUCKLAND
SURVEY BLK & DIST: V Russell
N2US 261 SHT 005 RECORD MAP 3 11 & 4 11

Lot 1 Being Pt O.L.C 73

LOCAL AUTHORITY: Far North District
Surveyed by: Thomson & King, Paihia
Scale: 1 : 1000 Date: April 2000



Joins Figure 6.2 to make Original A2 Sheet. ↑

Side Elevation of the Proposed Dwelling (1:100) ***Figure 6.1***

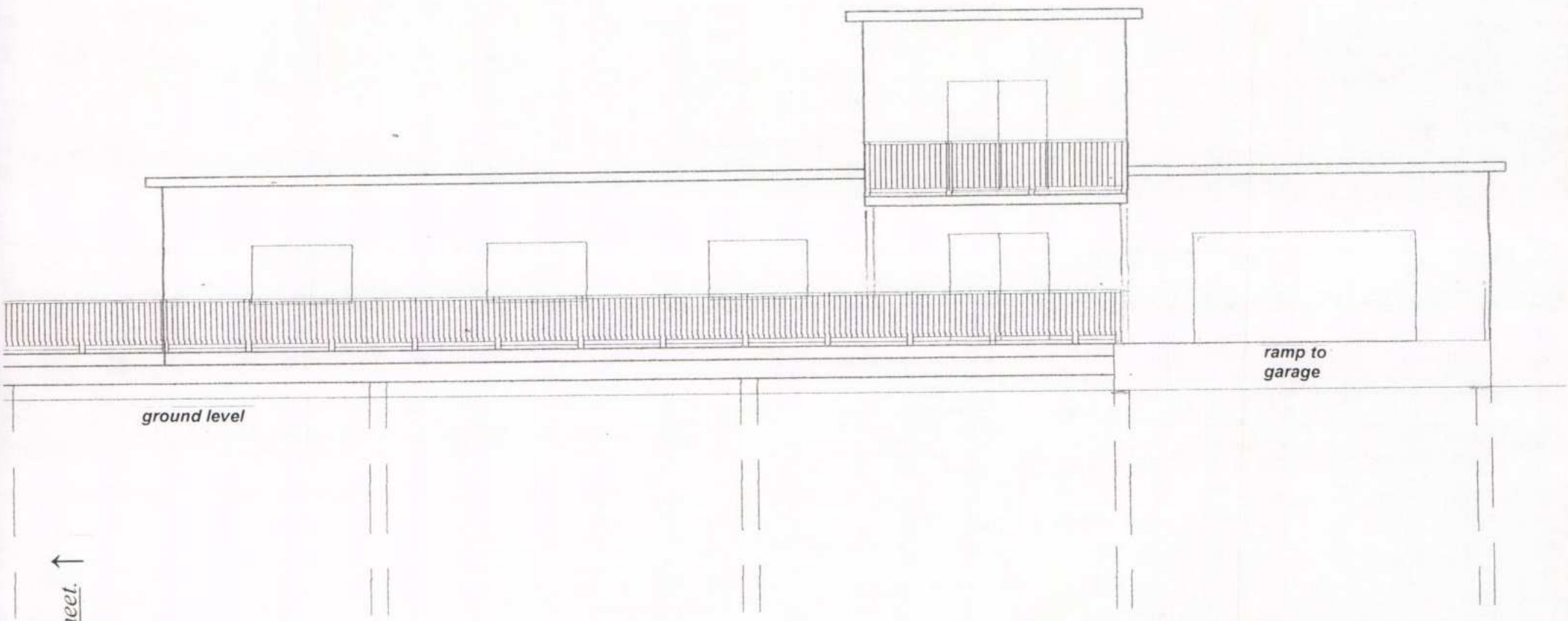
ACENZ

2 Seaview Road, Whangarei.
Ph. (09)4383273. Fax. (09) 4385734.
engineers@richardsonstevens.co.nz

JOHN UPPERTON,PIPI

PROPOSED PLATE

\files\Jobs 4001 - 4500\4463 Upperton\CAD\4463House Platform.17.10.03dwg_recover.dwg, 23/08/2004 2:33:07 p., \\TUX\designjet430



↑ *Joins Figure 6.1 to make Original A2 Sheet.* ↑

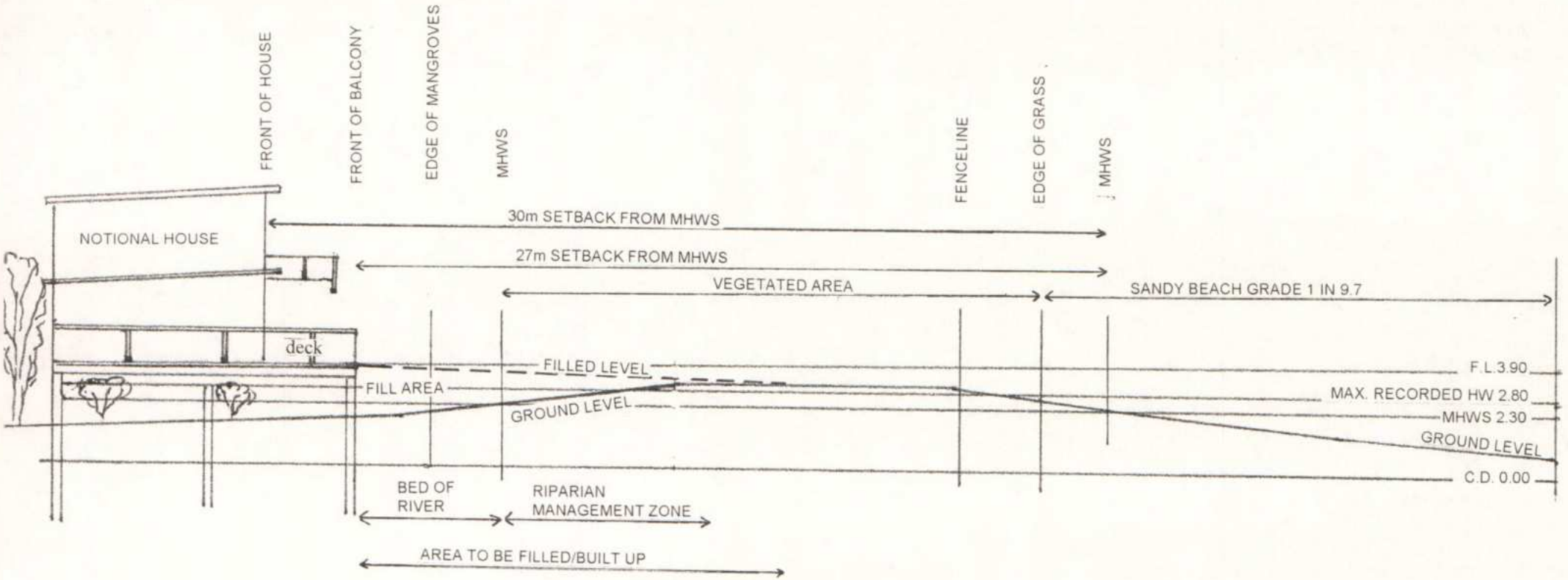
Front Elevation of the Proposed Dwelling (1:100) ***Figure 6.2***

OA ROAD, PIPIROA BAY
ORM FOR DWELLNG

STRUCTURAL DETAILS	
Date:	AMENDMENTS

Project: 4463
Drawn: MHPR
Date: OCT.2003
Scale: 1/100, ~~1/50~~

Sheet
S1



Note: Levels shown relate to Chart Datum. Chart Datum is 1.4m below L&S Datum

CROSS-SECTION THROUGH SPIT AND PROPOSED HOUSE SITE. Scale 1:200

[Derived from plans and drawings by Richardson Stevens Consultants (1996) Ltd]

JOHN UPPERTON, PIPIROA ROAD, PIPIROA BAY

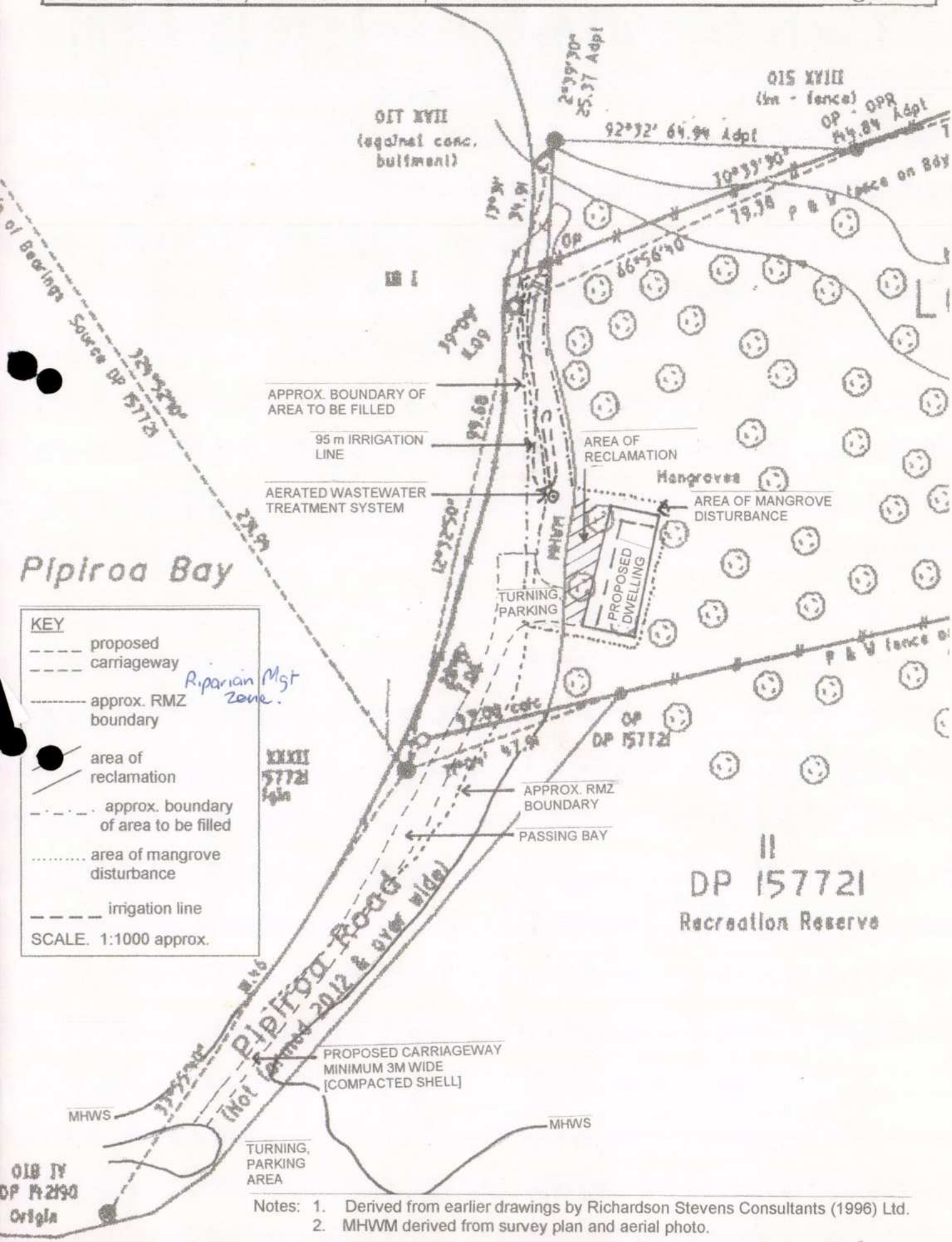
Cross-section through the Spit and Proposed House Site 1:200 (A4)

Figure 7

SCHEMATIC SITE PLAN, showing proposed carriageway, proposed dwelling, proposed irrigation area, proposed reclamation area, etc. Scale. 1:1000 approx.

JOHN UPPERTON, PIPIROA ROAD, PIPIROA BAY

Figure 8

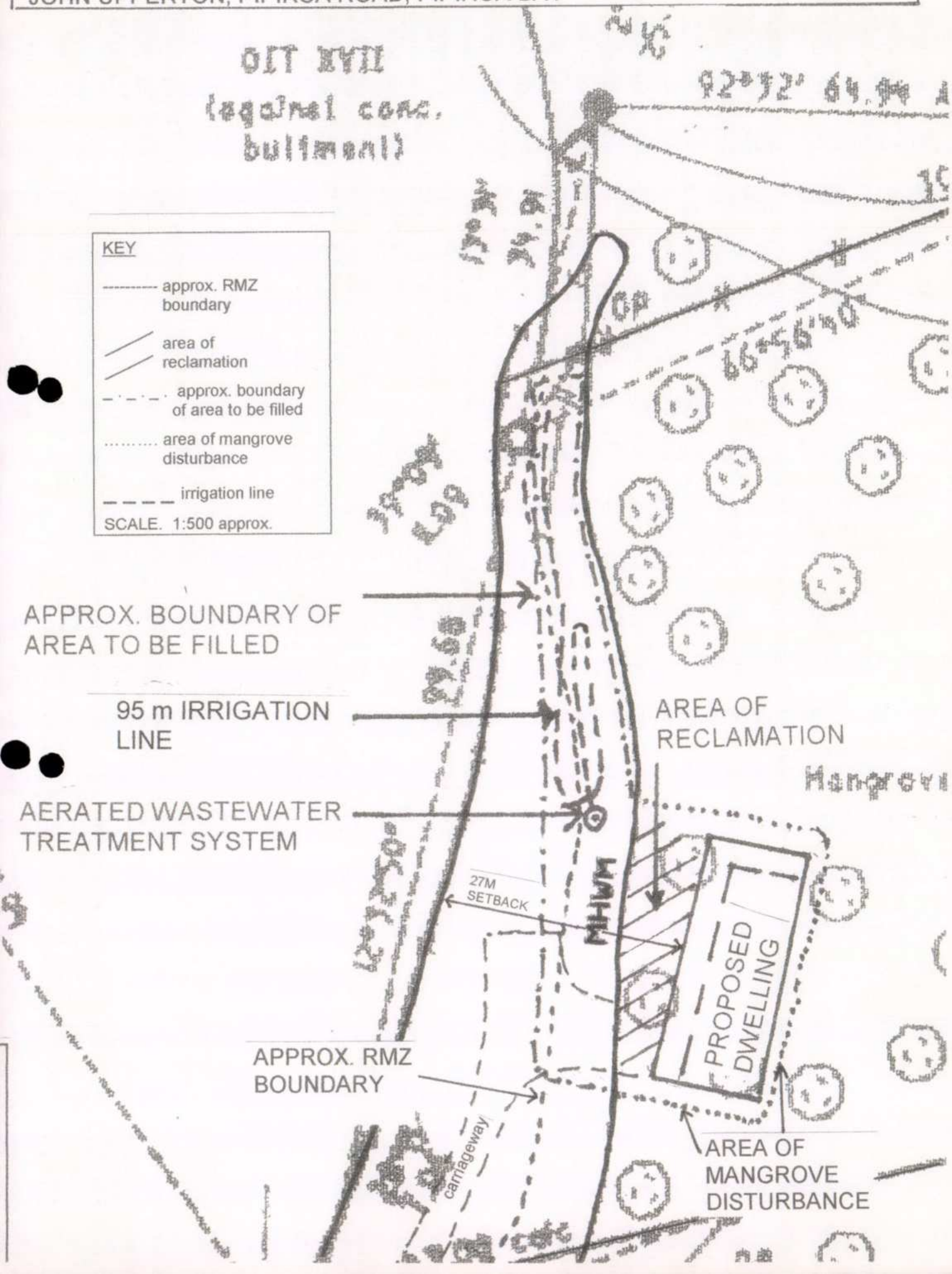


Notes: 1. Derived from earlier drawings by Richardson Stevens Consultants (1996) Ltd.
2. MHWM derived from survey plan and aerial photo.

SCHEMATIC PLAN OF PROPERTY, showing proposed dwelling, proposed irrigation area, proposed reclamation area, etc. Scale. 1:500 approx.

JOHN UPPERTON, PIPIROA ROAD, PIPIROA BAY

Figure 9



APPENDIX I. VIEWS OF PIPIROA BAY AND SPIT, 11 OCTOBER 2004.

Photo A. Pipiroa Bay and Wetland from Aucks Road

Photo B. Looking along the Spit from the Carpark at Pipiroa Road.

Photo C. Looking North towards Mangroves from Beach in front of House Site.

Photo D. Looking south towards Car Park from beach in front of house site.

Photo E. Clearing between Mangroves at House Site.

Photo F. Mangroves (juvenile) estimated 6 metres high at house site.

Photo G. Looking through Mature Coastal Mangroves towards House Site.

Photo H. Spit Vegetation at House Site Location viewed from the Beach.

APPENDIX I: VIEWS OF PIPIROA BAY and SPIT

J K Upperton 11 October 2004

Pipiroa Bay and Wetland from Aucks Road. Photo A.



Looking along the Spit from the Carpark at Pipiroa Road. Photo B.
[House site is beyond large pine tree]



Looking North towards Mangroves from Beach in front of House Site. Photo C.

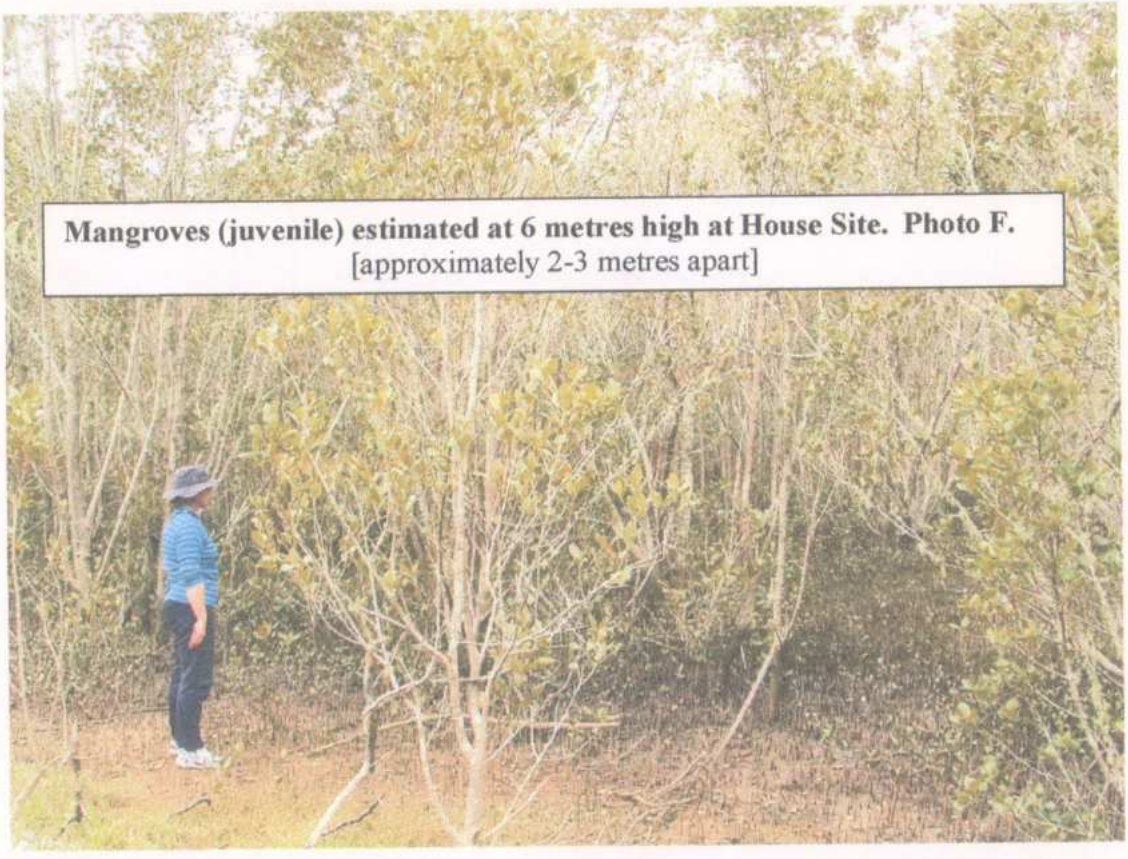




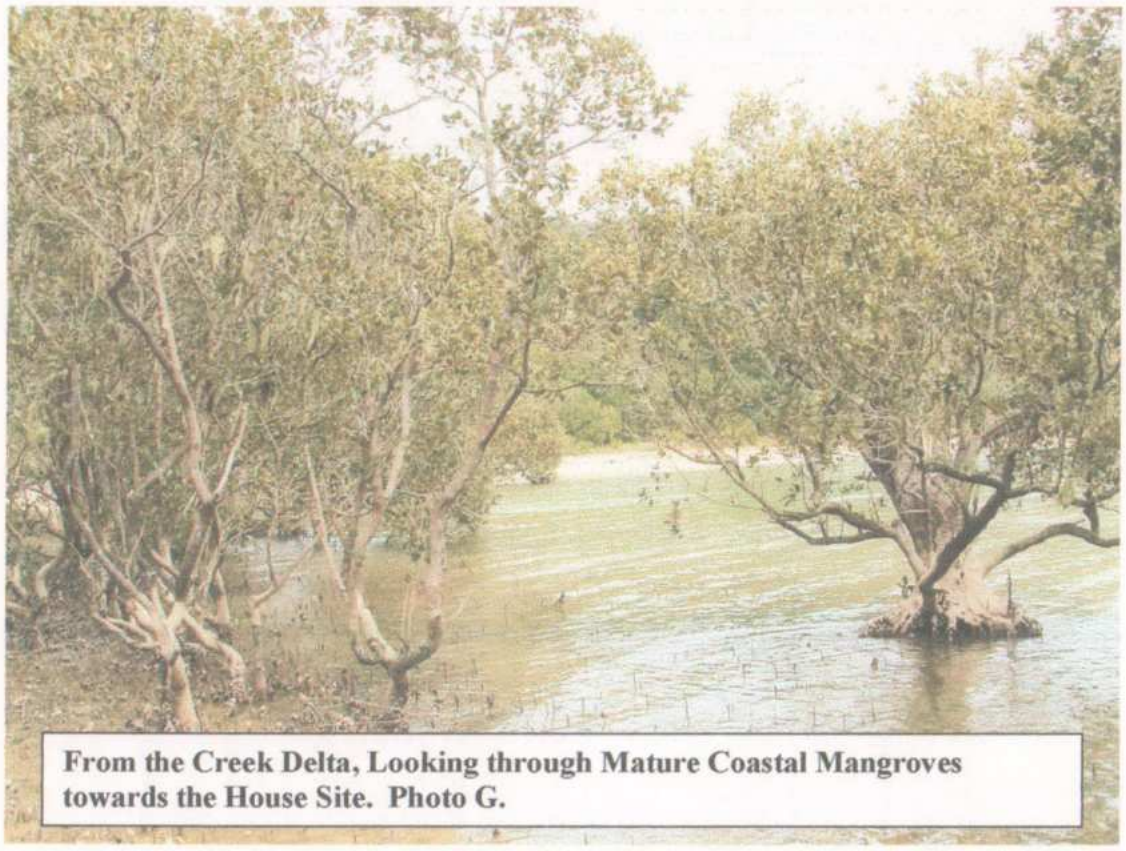
Looking south towards Car Park from Beach in front of House Site.
Photo D. [Note prominent house on ridgeline overlooking the beach. Also, new dwelling understood to be scheduled for construction on site behind carpark.]



Clearing between Mangroves at House Site. Photo E.

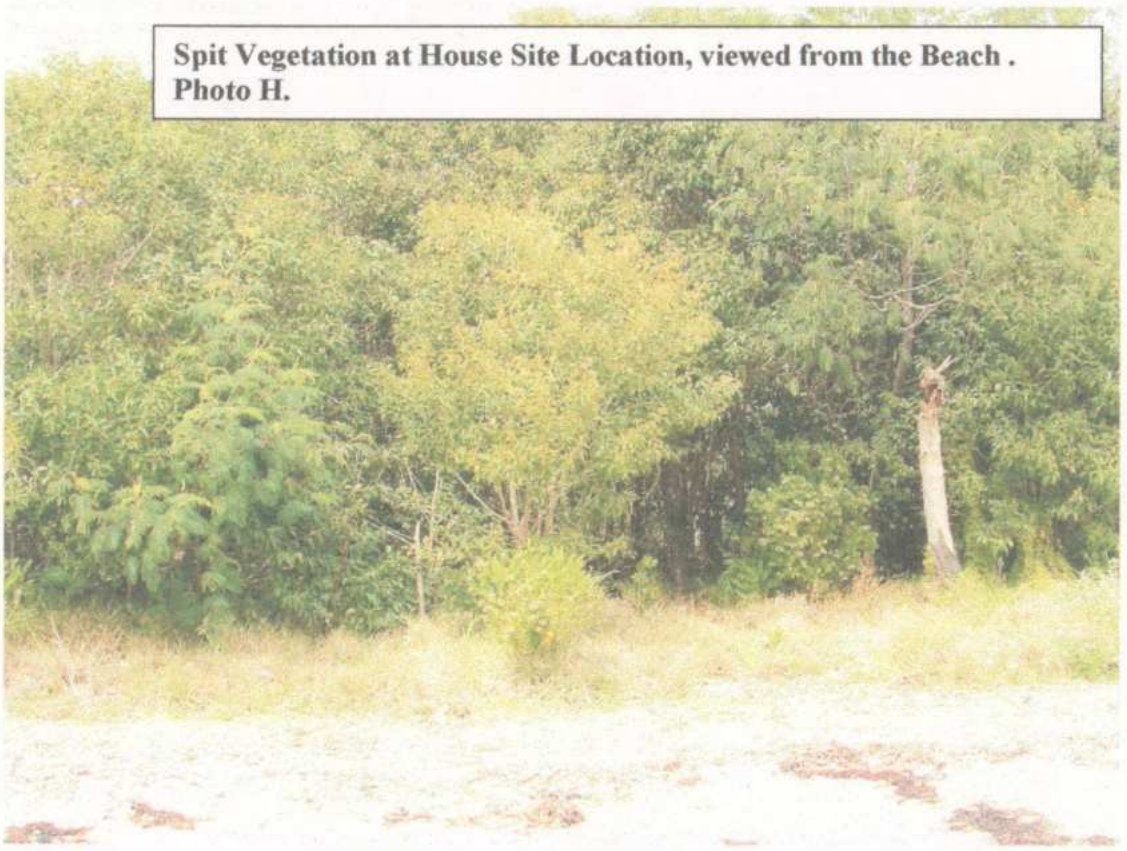


Mangroves (juvenile) estimated at 6 metres high at House Site. Photo F.
[approximately 2-3 metres apart]



From the Creek Delta, Looking through Mature Coastal Mangroves towards the House Site. Photo G.

Spit Vegetation at House Site Location, viewed from the Beach . Photo H.



APPENDIX II: SUPPORTING DOCUMENTS

II.1 Engineering Report for On-Site Effluent Disposal, 5 November 1999;
Engineering Report for On-Site Effluent Disposal, May 2009 update.

II.2 Statement of Evidence of G R Stevens, 7 April 2000.

II.3 Decision of Independent Commissioner, 20 April 2000.

II.4 Letter from NZHPT, dated 11 April 2001.

II.5 Letter from Mr Taylor, dated 16 November 2001, proposing 40m setback.

II.6 Report from Mark Poynter, dated 7 December 2001, suggesting 15-20m setback.

II.7 Letter from Mr Taylor, dated 23 January 2001, proposing 27m setback.

II.8 Letter from Mark Poynter, dated 18 March 2002.

II.9 Letter of Approval from DoC dated 29 April 2005.

Appendix II.1 Engineering Report for On-Site Effluent Disposal, 5 November 1999.

ACENZ

Email: rsctld@clear.net.nz

Richardson Stevens
Consultants (1996) Ltd

Grant Stevens
B.E., M.I.P.E.N.Z.
Registered Engineer

Tim Pike
N.Z.C.E., B.E. (Hons), M.I.P.E.N.Z.
Registered Engineer

CIVIL & STRUCTURAL ENGINEERS, 2 SEAVIEW RD, WHANGAREI. PH: 09 438 3273, FAX: 09 438 5734

ENGINEERING REPORT

For

ON-SITE EFFLUENT DISPOSAL

Client Name: J. UPPERTON

Prepared for: STEPHENSON + WILLIAMS

Date: 5-11-99

File Number: AWTS 991056

Report by: COLIN BISHOP

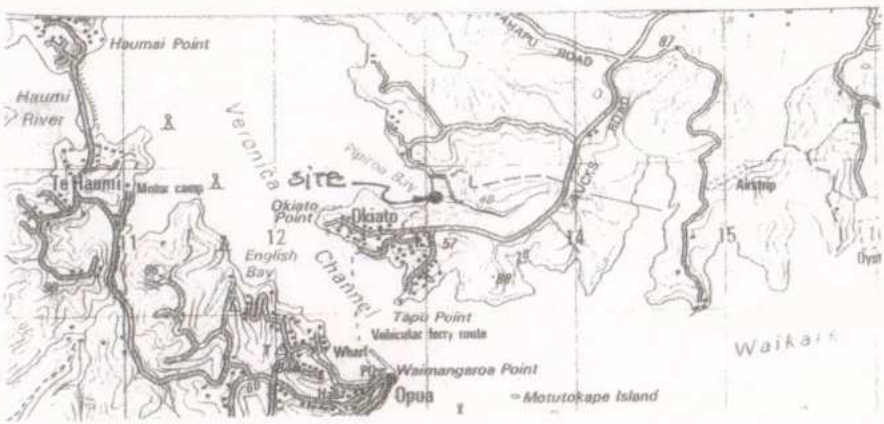
Engineering Report for On-site Effluent Disposal

Client Name:	J. Upperton
Prepared for:	Stephenson & Williams
Date:	5-11-99
File Number:	AWTS991056

Site Information

Road/Street:	Pipiroa Rd.
Locality:	Pipiroa Bay
District Council Area:	Far North
Regional Council Area:	Northland
Lot Number:	Lot 1
DP Number:	DP91184

Location Map:



Design Recommendation			Aerated Wastewater Treatment System
Resource Consent/Discharge Permit required:			yes
System Brief:			Aerated Wastewater Treatment System with surface irrigation disposal
Topography:			Slight
Available Clearances:	Boundaries:	min.	1.5
	Waterways:	min.	5
	Wells/bores/springs:	min.	20
	Buildings:	min.	3
Depth of winter watertable:			0.8 m
Depth of summer watertable:			n/a m
Need for surface water cut-off drains:			n/a
Intended water supply:			Rainwater tank
Reserve area available:			100%
Level of primary treatment:			n/a
Level of secondary treatment:			n/a
Level of tertiary treatment:			Aerated Wastewater Treatment System

Subsoil Investigation:

Hand augered bore

Bore diameter: 100 mm

Bore depth: 1.7 m

Groundwater: yes

Soil Profile:



0-200	Sandy black topsoil
200-600	Firm coarse sand
600-1700	Soft marine mud

Effluent Loading and Design

Number of bedrooms:	3
Number of persons:	5
Wastewater flow allowance:	140 litres/person/day
Total daily wastewater flows:	700 litres/day
Cover over disposal area:	grass/landscaping

Percolation testing:

A series of rapid percolation tests were carried out on site within the proposed disposal area. Percolation rates were in excess of 25mm per minute

Soil category: (In accordance with NZS 4610:1982) A

Tertiary System design

System installation type:

■ Biocycle	■ Clean Stream
■ Oasis Clearwater	■ Hynds Clearwater
■ Super Treat	■ Enviroflow

Effluent disposal design

Long term acceptance rate: 10 litres/m^2/day

Type of building: Residential

Number of bedrooms: 3

Number of persons: 5

Wastewater flow design allowances:

Flow allowance: 140 litres/person/day

Occupancy numbers: 5 persons

Total daily wastewater flows: 700 litres/day

Irrigation area required: 70.0 m^2

Use 70 metres (minimum) irrigation line to dispose of treated wastewater.

Irrigation Line

Treated wastewater to be drip irrigated into landscaped surroundings or within the topsoil layer
Distribution by pressure compensating drippers.
Drippers to be covered by 50-100mm bark, vegetation or soil.

Minimum separation distances for irrigation line:

Minimum dripper interval:		1 m
Minimum distance between irrigation lines:		1 m
Minimum distance from:	Buildings	3 m
	Waterways	20 m
	Boundaries	1.5 m

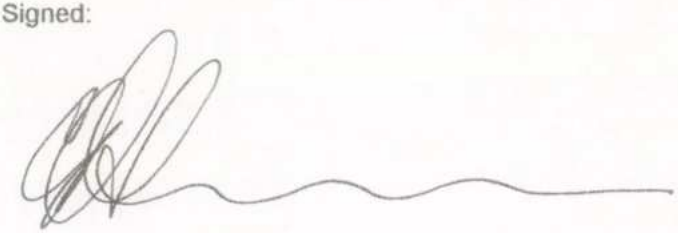
Summary:

This is a 1.6ha (approx.) site. The proposed dwelling and effluent disposal area is to be located on a narrow sandspit, which separates the main beach from a tidal wetland area. Due to the high watertable and limited disposal area we recommend an Aerated Wastewater Treatment System. These systems offer a high degree of treatment and less ground disturbance than most other disposal systems. Resource consent from the Regional Council is required due to the high ground water table.

Recommendations:

- The irrigation line is to be placed at owner's discretion around landscaping and/or through topsoil layer.
- Irrigation line to be covered by 50-100mm of bark, vegetation or soil.
- System to be installed and maintained as per manufacturers recommendations.

Signed:



Date: 5/11/99.

Registered Engineer.
RICHARDSON – STEVENS CONSULTANTS (1996) Ltd.

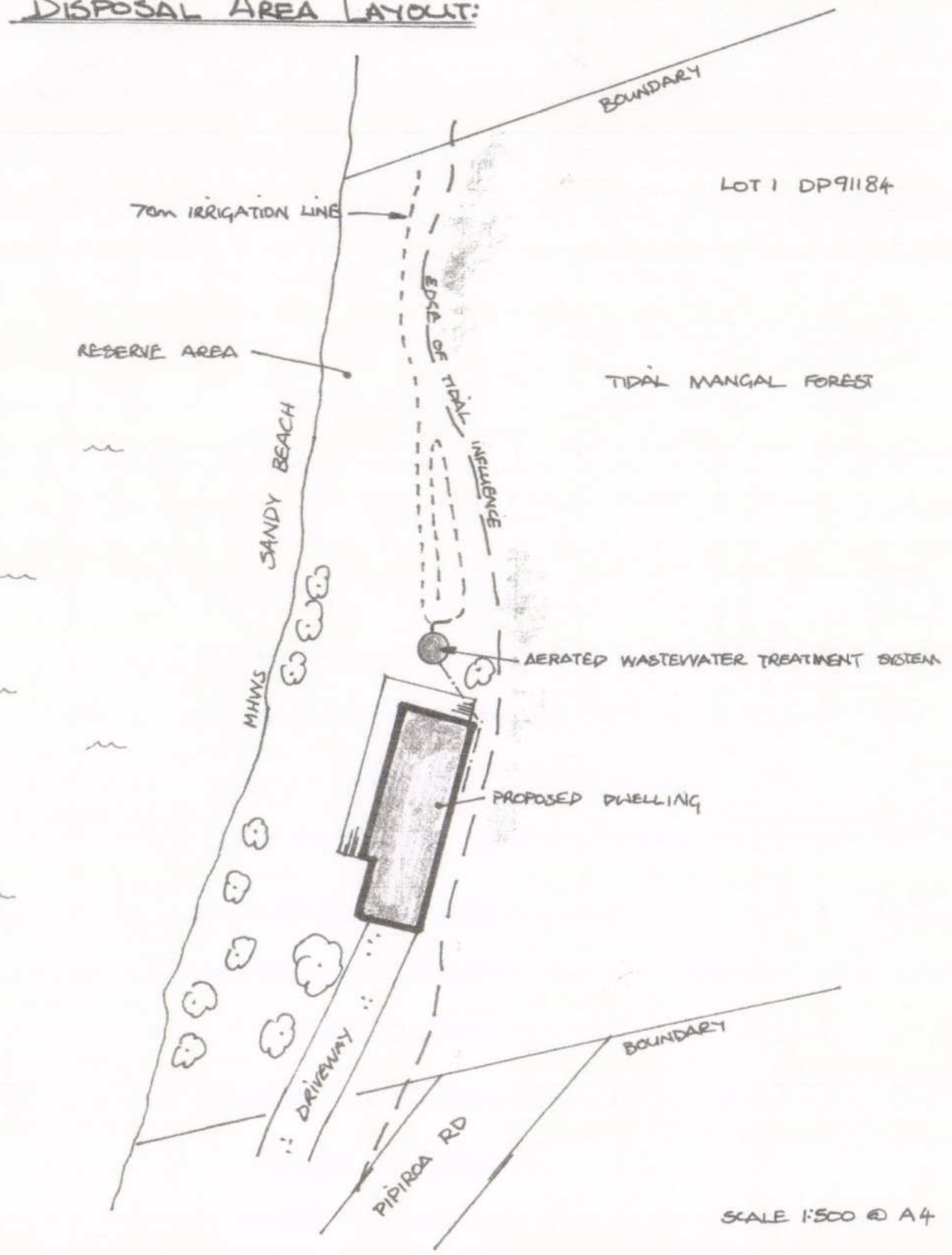
Richardson Stevens Consultants (1996) Ltd.
CONSULTING CIVIL & STRUCTURAL ENGINEERS
2 SEAVIEW ROAD, WHANGAREI. PH (09) 438 3273. FAX (09) 438 5734.
EMAIL rscltd@clear.net.nz

File No. 991056
Plan Ref. No.
Calculated by C.B
Checked by
Date 5-11-99

Refers to

Client UPPERTON

DISPOSAL AREA LAYOUT:



SCALE 1:500 @ A4

ACENZ

Email: engineers@richardsonstevens.co.nz

Richardson Stevens
Consultants (1996) Ltd

Grant Stevens
B.E., M.I.P.E.N.Z. (Civil, Structural)
Chartered Professional Engineer

Steve Turner
B.E., M.I.P.E.N.Z. (Civil, Structural)
Chartered Professional Engineer

CIVIL & STRUCTURAL ENGINEERS, 2 SEAVIEW RD, WHANGAREI 0110. PH: 09 438 3273, FAX: 09 438 5734

File: 99/1056

25 May 2009

S. Westgate

swestgate@xtra.co.nz

Dear Sir

On-site Wastewater Management – Lot 1 DP 202228

As requested, we have reviewed our earlier report for Stephenson and Williams dated 5 November 1999 (file 99/1056).

To comply with the Far North District Council design standard (Auckland Regional Council's TP58:2004), a more conservative wastewater flow allowance of 190 litres/person/day would need to be adopted. This would increase the minimum irrigation area required to 95 m² (190 x 5/10). A revised disposal area layout plan is attached.

It is our understanding the ground used for effluent management is to be raised to achieve the 1.2 metre clearance to groundwater.

We note that Resource Consent will need to be obtained from both the Far North District Council and Northland Regional Council due to the proximity of the irrigation line to water bodies.

Yours faithfully

G. Turner
Richardson Stevens Consultants (1996) Ltd

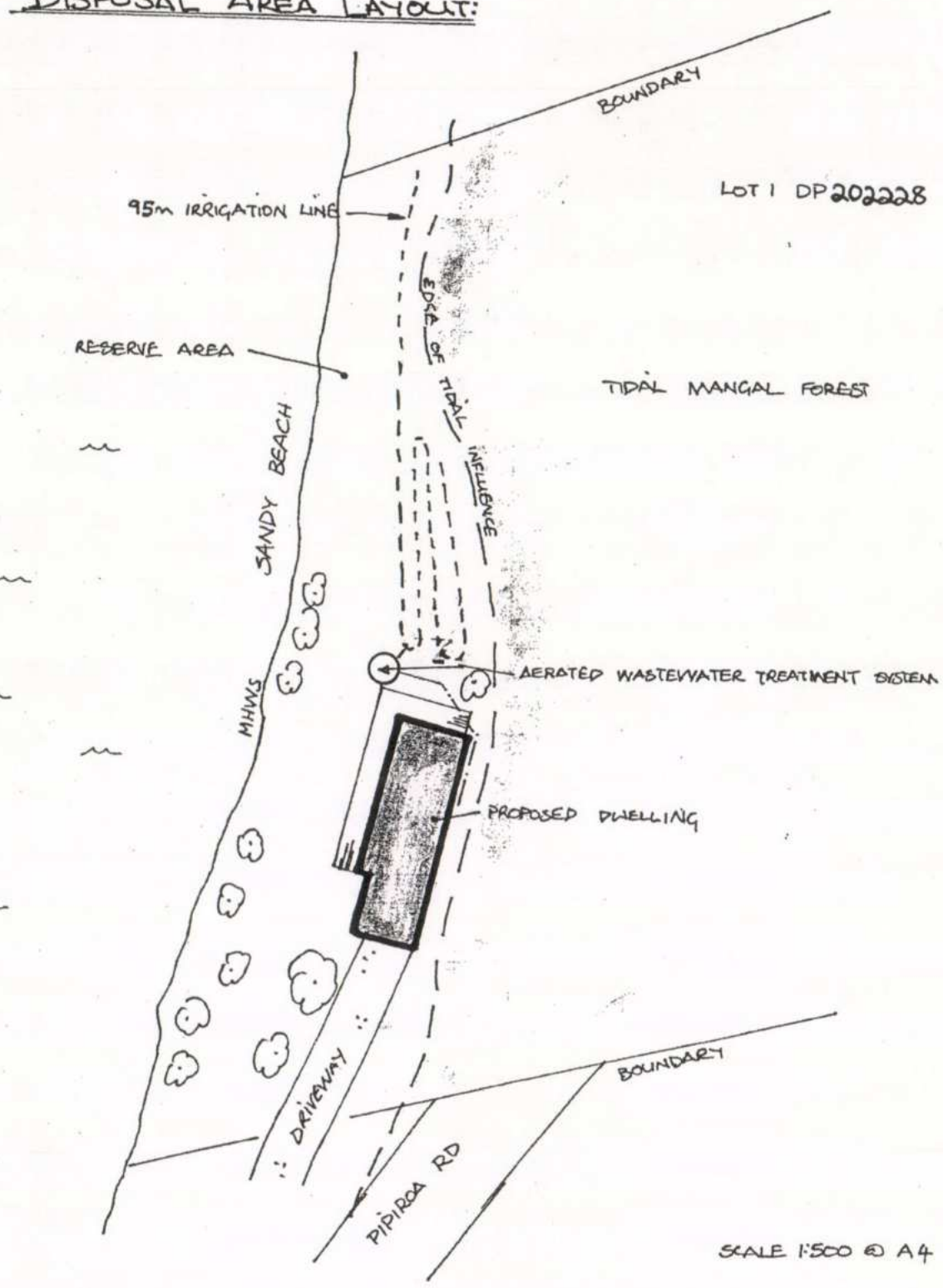
Richardson Stevens Consultants (1996) Ltd.
CONSULTING CIVIL & STRUCTURAL ENGINEERS
2 SEAVIEW ROAD, WHANGAREI. PH (09) 438 3273. FAX (09) 438 5734.
EMAIL rscltd@clear.net.nz

File No. 991056
Plan Ref. No.
Calculated by GT
Checked by
Date 25/05/09

Refers to

Client UPPERTON

DISPOSAL AREA LAYOUT:



Note: This plan of the disposal area shows the proposed dwelling in the location as originally proposed in 1999, not in the location now applied for in 2009.

STATEMENT OF EVIDENCE

IN THE MATTER	Of Joint Hearing
FOR	Resource Consent No. 2000354 (Far North District Council)
AND	Application No. 998867 (Northland Regional Council)
FOR	JOHN UPPERTON

INTRODUCTION

My name is Grant Stevens and I hold the qualification of Bachelor of Engineering. I am a registered engineer and enjoy membership of the Institute of Professional Engineers of N.Z. and the New Zealand Coastal Society. I am a director of Richardson Stevens Consultants (1996) Ltd, a company consulting in civil and structural engineering.

I am familiar with Mr Upperton's property, having visited the site on a number of occasions over the last ten years.

Prior to his making application for Resource Consent, I reported to Mr Upperton on 12 October 1999 on the suitability of the site for residential development. This report was included with the consent application. I would like to take this previous report as read but am happy to answer any questions that the Commissioner may have. Following preparation of this report, our company completed a specific On-site Effluent Disposal Design dated 5 November 1999 and an Assessment of Environmental Effects (5 November 1999) of the proposed disposal system. I would like to present further evidence on two specific areas of the development proposal as follows.

ON-SITE SEWAGE TREATMENT AND EFFLUENT DISPOSAL

The general recommendations of our report of 12 October 1999 were superceded by the specific design of 5 November 1999 and this can explain the minor inconsistencies noted by Mr Lieffering in the Northland Regional Council Staff Report. Mr Lieffering has made a very thorough review of the performance of the proposed "Clearwater" on-site sewage treatment plant and I do not wish to add to that. He has concluded, like us, that the effects of the wastewater discharge to land will be minor and will not compromise or result in a technical degradation of water quality, both surface, ground and coastal waters. The applicant has been made aware of the need for regular maintenance of the proposed wastewater treatment system and for the proposed treatment plant to be installed at a level unaffected by any possible flooding.

HAZARD ASSESSMENT

As noted in our report of 12 October 1999, given the location and elevation of the site, it could potentially be affected by the natural hazards of erosion, flooding, subsidence and sea level rise. I would like to consider erosion, flooding and sea level rise in more detail.

Coastal Erosion

Erosion hazard will arise from the combination of high tides and wave action. We have made an estimate of the likely storm waves based on the maximum fetch, which is to the northwest, and a design wind speed of 20 m/sec. (50 year return period) and 17 m/sec. (20 year return period). We predict that these storm conditions will produce waves of up to 1.0 m significant wave height. If such waves occur at extreme high tides, they can be expected to produce wave run up on to the grassed areas.

The sloping sandy beach will ensure that waves break on the shoreline and expend the bulk of their energy below the grass/sand intersection thereby minimising erosion effects. The existing grass/plant cover along the edge of the shoreline is luxuriant and on my recent site examinations I could find no signs of erosion from past flood tide/storm events. It is clear that the existing ground cover is providing an effective buffer against erosion and Mr Upperton will ensure that the existing ground cover is retained and enhanced.

Coastal engineering theory and practice recognize the potential for any sea level rise to increase erosion due to wave action on sand beaches. If sea level rise does occur and causes erosion problems at some <u>future</u> date, then the process is likely to be gradual thereby allowing the house owner to take mitigative measures. Any necessary protective measures can be constructed within the property boundary and would be designed to absorb energy and maintain existing beach profiles and composition.

Figure 1 appended to this submission shows the type of protection suitable for the Upperton site. This detail has been used successfully at Jacks Bay where, within months of completion, the seawall was no longer evident since it had been substantially covered in sand through natural wave action.

The N.Z.C.P.S. Policy 3.4.5 regarding natural hazards states *"New subdivision use and development should be so located and designed that the need for protection work is avoided."* I believe that this statement is intended to mean protection works in the <u>coastal marine area</u>. At present there is <u>no need for protective works</u>. The need may only arise if the predicted sea level rise causes erosion and, if such proves to be the case, then protective works can be located within Mr Upperton's property.

Flooding/Floor Level

The site is vulnerable to flooding due to storm wave run up. Storm wave run up is the resultant of the combination of:

- On-site sewage treatment and disposal to be by way of a Supertreat Aerated Septic Tank in accordance with our design of 5 November 1999. Any part of the sewage treatment plant below the 3.5 m level (Chart Datum) is to be an impervious sealed unit.

- Any building permit issued is to be subject to a Section 36(2) hazard notice in terms of flooding and erosion.

G.R. Stevens

7 April 2000

P3 P9 missing

Appendix II.3 Decision of Independent Commissioner, 20 April 2000

NORTHLAND REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND an application pursuant to Section 88 of the Act by **JOHN UPPERTON** for a discharge permit for an on-site wastewater disposal arrangement at Pipiroa Bay, Okiato.

DECISION BY THE INDEPENDENT COMMISSIONER APPOINTED TO HEAR AND DECIDE THE APPLICATION (99 8867)

Applicant:	John Upperton Okokako Road R D 3 Kerikeri
Site Address/Location:	Pipiroa Road, Okiato
Map Reference:	QO5 : 131-549
Legal Description:	Part OLC 73, Deeds IE 20, Block V, Russell SD.
Proposal:	To discharge up to 700 litres per day of treated wastewater to ground from a residential dwelling following treatment in an aerated wastewater treatment plant.
Hearing:	At the Paihia Auto Lodge, Paihia on Friday 7 April, 2000.

Appearances:

Commissioner:	A Watson
Applicant:	J Upperton J Kemp, Planning Consultant Ms C Hawthorn, Landscape Architect G Rankin, Ngapuhi Elder/Kaumatua G Stevens, Consultant Engineer
Submitters:	J Garnham, Northland Health Ms N Shortland, Kororareka Marae Society J Kahn, Northland Regional Council A Hamilton E Bristow A Riddell, Department of Conservation P Miller R Wood, Okiato and District Ratepayers and Residents Association T Ridge C Davenport, Waikare Inlet and Orongo Bay Delivery Centre Ltd
Council Officers:	R Lieffering, Water Management Officer, Northland Regional Council M McDonald, Consultant Planner to Far North District Council P Killalea, Resource Consents Manager, Far North District Council Ms S Bainbridge, Meeting Secretary.

DISCUSSION

The hearing of this discharge permit application to the Northland Regional Council was held jointly with the land use application to the Far North District Council for consent to erect a dwelling.

The proposal is to treat the wastewater generated from the dwelling using an aerated wastewater treatment system. The treated wastewater would be disposed to ground by way of a low pressure effluent distribution system which pumps the treated waste to raised disposal beds which would be constructed using topsoil imported to the site. The raised beds and surrounding areas would be planted with plant species that have high evapo-transpiration rates.

The proposal is to locate the wastewater treatment system alongside the site for a proposed dwelling with the disposal area extending further northward beyond it on a low lying coastal property of approximately 1.8 hectares. The proposed location of both the dwelling and the treatment system is on the seaward frontage of that property upon land which is physically a narrow sand spit separating the coastal waters from a large estuarine and wetland area which forms the major part of the site.

A report for the Council had been prepared upon the application by Mr R Leiffering, Water Management Officer and pre-circulated prior to the hearing. His report addresses the application details in the usual manner of such reports covering details of the proposal, the site and the submissions received and an analysis of the statutory considerations. It concludes with a recommendation that the Council refuse to grant resource consent to the application for the reasons stated in it. He remained of that view at the conclusion of the hearing.

The applicant and his advisors provided details of the background to the current ownership of the site and included a statement from Ngapuhi elder, Mr G. Rankin. The presentation included specialist evidence from a landscape architect, a planning consultant and an engineer who specifically referred to the details of the treatment and disposal system in the application and provided further comments in evidence. The Commissioner acknowledges the sincerity of the applicant and records that he was ably assisted by his advisors in canvassing the various considerations, but, as described below, the Commissioner concludes consent to the application should be declined.

The Commissioner also heard from the various submitters opposing the application who did so for a variety of reasons relating to the potential effects associated with on-site effluent disposal; environmental effects associated with considerations of amenity and coastal hazards; the statutory documents of relevance; and, cultural considerations. The submitters represented a range of interests and included local residents, commercial operators, Maori groups, Northland Health and the Department of Conservation.

DECISION

THAT PURSUANT to Section 104 of the Resource Management Act 1991, the **NORTHLAND REGIONAL COUNCIL REFUSES CONSENT** to the discharge permit consent application by **JOHN UPPERTON** to discharge up to 700 litres per day of treated domestic wastewater to ground from a proposed residential dwelling following treatment in an aerated wastewater treatment plant on a site situated at Pipiroa Road, Okiato and described as Part OLC 73, Deeds IE 20, Block V, Russell SD.

THAT PURSUANT to Section 113 of the Resource Management Act 1991, the reasons for refusing consent are as follows:

1. The site is identified as an area of wahi tapu by local Maori. This has recently been the subject of registration by the New Zealand Historic Places Trust. The registration relates specifically to the subject site, the details being recorded in a letter to the Far North District Council dated 20 December 1999 and an accompanying location plan.

   The evidence from local Maori was that both the proposed dwelling and the associated proposal for effluent disposal would impact in an adverse manner on the interests of tangata whenua and their cultural and spiritual values because this land had been used as a burial ground. Whilst tangata whenua are usually supportive of discharge to land, as opposed to discharge to water, this proposal is to discharge to an area of land which has been specifically identified by tangata whenua to be very important to them and it is considered inappropriate to allow such a discharge in those circumstances.

   In these respects the proposed treatment and disposal system is not in accord with Section 6 of the Act in not sufficiently recognising and providing for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wahi tapu, and other taonga which is a matter of national importance in the Act. Further, it is not in accord with Section 7 which requires particular regard to be given to kaitiakitanga .

   The Commissioner finds the reference to wahi tapu upon the application site in accordance with the submission from a local Maori representative, with this supported by recent registration of that wahi tapu by the NZ Historic Places Trust, to be a difficult hurdle to overcome in a development proposal and associated on-site wastewater disposal arrangements for the subject land. The Act requires particular consideration of such cultural concerns and the kaitiaki claimed by the Maori submitter in terms of the local area was not challenged during the hearing. The lack of definitive or tangible evidence was disputed by the applicant who also presented evidence from the Ngapuhi elder who cast some doubts over the wahi tapu status of the site. However no evidence was presented which was considered sufficient to remove the claims of wahi tapu and the associated cultural concerns of local Maori.

2. The proposal is for the wastewater treatment and disposal system to be located upon a site which is subject to various coastal hazards being principally coastal erosion and flooding as a consequence of its low lying nature adjacent to the coast. Indeed, that part of the site proposed for development is essentially a small sandspit lying between the coastal waters and an inland estuarine and wetland area which forms the major part of the site.

   However the Commissioner records he did find the treatment and disposal system could be arranged in a manner which would meet the relevant technical provisions in the

statutory documents.

The proposed location of the wastewater treatment and particularly the disposal area would be close to the coastal waters and the inland waters. Whilst concerns were expressed by submitters for the potential difficulties and associated adverse effects which could result from such an arrangement this was not supported by the evidence. The evidence was that provided the wastewater treatment and disposal system was properly operated and maintained that the effects of the discharge on the receiving environments would be no more than minor, would not compromise the water quality of any surface water body or groundwater and would not adversely affect the quality of the coastal waters. These matters, along with concerns for odour and flooding could be managed by way of conditions on a consent. The proposal is considered to be the best practicable technical option if development is to occur given the site conditions.

In these various respects the proposed discharge arrangement is considered to be in accordance with the relevant technical objectives and policies in the Regional Policy Statement for Northland, the Revised Proposed Regional Water and Soil Plan for Northland and the Revised Proposed Regional Coastal Plan for Northland and further in terms of Section 104(3) of the Act relating to discharge permits.

However it is the considerations in all these documents associated with the cultural and spiritual concerns of tangata whenua which are not considered to be met by the application.

3. The various relevant statutory documents all have objectives and policies which require special regard and recognition to the interests of tangata whenua. These are derived from the Act. The proposal will result in adverse effects upon the cultural and spiritual values of tangata whenua and accordingly the application is not in accordance with the statutory documents nor the considerations in Sections 6, 7 and 104(1) of the Act in these respects.

4. In all the circumstances applying the application is found to not be in accord with Part II of the Act relating to its overall purpose and principles insofar as it is not seen to promote the sustainable management of natural and physical resources with particular regard to the cultural wellbeing of tangata whenua, effects on their cultural and spiritual values and the other considerations in Sections 6 and 7 of this part of the Act.

THAT PURSUANT to Section 37 of the Resource Management Act 1991, the period of time in which the Northland Regional Council and the Far North District Council are to hold a hearing of the respective applications be waived and extended to the date of the joint hearing on the grounds it was necessary to do so to bring all the parties together at a suitable time and because the interests of no party is considered to be adversely affected by doing so.

THAT PURSUANT to Section 37 of the Resource Management Act 1991, the period of time for receiving submissions to the discharge permit consent application be waived and extended to allow the receiving of the late submission from Northland Health on the grounds that the submission was lodged with the Far North District Council within the allowed time period and the interests of no party is considered to be adversely affected by doing so.

A R Watson
Commissioner

20 April 2000

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FAR NORTH DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND an application pursuant to Section 88 of the Act by **JOHN UPPERTON** to erect a dwelling at Pipiroa Bay, Okiato.

DECISION BY THE INDEPENDENT COMMISSIONER APPOINTED TO HEAR AND DECIDE THE APPLICATION (RC 2000354)

Applicant: John Upperton
Okokako Road
R D 3
Kerikeri

Site Address/Location: Pipiroa Road, Okiato

Legal Description: Part OLC 73, Deeds IE 20, Block V, Russell SD.

Proposal: To erect a dwelling.

Hearing: At the Paihia Auto Lodge, Paihia on Friday 7 April, 2000.

Appearances:

Commissioner: A Watson

Applicant: J Upperton
J Kemp, Planning Consultant
Ms C Hawthorn, Landscape Architect
G Rankin, Ngapuhi Elder/Kaumatua
G Stevens, Consultant Engineer

Submitters: J Garnham, Northland Health
Ms N Shortland, Kororareka Marae Society
J Kahn, Northland Regional Council
A Hamilton
E Bristow
A Riddell, Department of Conservation

P Miller
R Wood, Okiato and District Ratepayers and Residents Association
T Ridge
C Davenport, Waikare Inlet and Orongo Bay Delivery Centre Ltd

Council Officers: M McDonald, Consultant Planner to Far North District Council.
R Lieffering, Water Management Officer, Northland Regional Council
P Killalea, Resource Consents Manager, Far North District Council
Ms S Bainbridge, Meeting Secretary.

DISCUSSION

The hearing of this land use consent application to the Far North District Council was held jointly with the application to the Northland Regional Council for a discharge permit for the disposal of wastewater associated with the proposed dwelling.

The proposal is for the erection of a dwelling on a low lying coastal property of approximately 1.8 hectares. The proposed location of the dwelling is on the seaward frontage of that property upon land which is physically a narrow sand spit separating the coastal waters from a large estuarine and wetland area which forms the major part of the site.

The evidence was that this is an area of land which was earlier sold by the Council as abandoned land under the Rating Powers Act 1988. The party who purchased the land in about late 1998 had since sold it to the applicant. The land has both a designation and zoning in the operative district planning document that does not provide for the erection of a dwelling upon it.

A planning report for the Council had been prepared upon the application by Mr M McDonald and pre-circulated prior to the hearing. His report addresses the application details in the usual manner of such reports covering details of the proposal, the site and the submissions received and an analysis of the statutory considerations. It concludes with a recommendation that the Council refuse to grant resource consent to the application for the reasons stated in it. He remained of that view at the conclusion of the hearing.

At the hearing the applicant and his advisors provided details of the background to the current ownership of the site and included a statement from Ngapuhi elder, Mr G. Rankin. The presentation included specialist evidence from a landscape architect, an engineer and a planning consultant. The Commissioner acknowledges the sincerity of the applicant and records that he was

ably assisted by his advisors in canvassing the various considerations, but, as described below, the Commissioner concludes consent to the application should be declined.

The Commissioner also heard from the various submitters opposing the application who did so for a variety of reasons relating to the potential effects associated with on-site effluent disposal; environmental effects associated with considerations of amenity and coastal hazards; the statutory documents of relevance; and, cultural considerations. The submitters represented a range of interests and included local residents, commercial operators, Maori groups, Northland Health, the Department of Conservation and the Northland Regional Council.

DECISION

THAT PURSUANT to Sections 104 and 105 of the Resource Management Act 1991, the **FAR NORTH DISTRICT COUNCIL REFUSES CONSENT** to the non-complying activity application by **JOHN UPPERTON** to erect a dwelling on a site situated at Pipiroa Road, Okiato and described as Part OLC 73, Deeds IE 20, Block V, Russell SD.

THAT PURSUANT to Section 113 of the Resource Management Act 1991, the reasons for refusing consent are as follows:

1. The site is identified as an area of wahi tapu by local Maori. This has recently been the subject of registration by the New Zealand Historic Places Trust. The registration relates specifically to the subject site, the details being recorded in a letter to the Far North District Council dated 20 December 1999 and an accompanying location plan.

   The evidence from local Maori was that the proposed dwelling, and the associated proposal for effluent disposal, would impact in an adverse manner on the interests of tangata whenua and their cultural and spiritual values because this land had been used as a burial ground. In these respects the proposal is not in accord with Section 6 of the Act in not sufficiently recognising and providing for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wahi tapu, and other taonga which is a matter of national importance in the Act. Further, it is not in accord with Section 7 which requires particular regard to be given to kaitiakitanga.

   The Commissioner finds the reference to wahi tapu upon the application site in accordance with the submission from a local Maori representative, with this supported by recent registration of that wahi tapu by the NZ Historic Places Trust, to be a difficult hurdle to overcome in a development proposal for the subject land. The Act requires particular consideration of such cultural concerns and the kaitiaki claimed by the Maori submitter in terms of the local area was not challenged during the hearing. The lack of definitive or tangible evidence was disputed by the applicant who also presented evidence

from the Ngapuhi elder who cast some doubts over the wahi tapu status of the site. However no evidence was presented which was considered sufficient to remove the claims of wahi tapu and the associated cultural concerns of local Maori.

2. The proposal is for development of a dwelling upon a site which is subject to various coastal hazards being principally coastal erosion and flooding as a consequence of its low lying nature adjacent to the coast. Indeed, that part of the site proposed for development is essentially a small sandspit lying between the coastal waters and an inland estuarine and wetland area which forms the major part of the site.

Whilst the applicant's consultant engineer reported in the application and in evidence that the site would be suitable for the proposed dwelling this includes considerations of erecting it with a minimum floor level that would provide for the site to be inundated without impacting upon the dwelling; the ability to take mitigative measures if sea level rise and/or coastal erosion problems occur at a future date; an effluent disposal arrangement involving the importing of soil to the site to form raised disposal beds and relying on regular maintenance of the treatment plant and disposal system; and, an expectation that the Council would indemnify itself from any liability of allowing the construction of buildings in such a hazard prone area by a provision in the Building Act.

However, at the conclusion of the hearing and from further consideration of all the papers involved with this application, the Commissioner is not satisfied that the site is suitable for the development proposed given its low lying location between two bodies of water in a situation where it does have the potential to be severely affected by coastal erosion and flooding. Further, there is the added concern that any failing in the proposed on-site effluent disposal system, although being of a low probability, would have the potential to impact adversely upon the adjacent waters of the Bay of Islands.

Whilst this matter of the wastewater treatment and disposal system does not in itself prevent development on the site there is clearly the potential for adverse effects associated with the low lying nature of the site which would require particular engineering solutions to allow for development upon it. Whilst the evidence was that these matters can be suitably arranged, it was also the evidence that this was a site that could potentially be inundated at various times in a manner which leads to a reasoned conclusion that it is not suitable for building development. Such a conclusion is consistent with the evidence presented by the submitters.

The Commissioner has difficulty in accepting the sense in developing such a site which has clear potential for adverse effects and which would commit the Council to an indemnity agreement, which in itself, serves to indicate the unsuitability of the site for development. The Commissioner was provided with no evidence that the Council would be happy to enter into such an agreement under the separate procedures of the Building Act.

The Commissioner is of the view that the adverse effects on the environment from the proposed development would be more than minor and in respect of these coastal hazard considerations, the application, which is for a non-complying activity, would not meet the first "limb" of the Section 105(2A) consideration of the Act relating to adverse effects.

3. The proposal is contrary to the objectives and policies of a number of the relevant statutory documents. In relation to the Operative Transitional District Plan it is not sufficiently protecting areas subject to natural hazards from inappropriate development in providing for the means by which the impact of natural hazards can be reduced; is not serving to maintain and enhance appropriate public access around the coastal edge; and, is not sufficiently providing for the relationship of the tangata whenua and their culture and traditions with their ancestral lands.

In considering the district plan the Commissioner notes the evidence of the applicant stating the view that the zoning of the site is incorrect. However the Commissioner was not convinced of that view and came to the conclusion that the zoning of the site may well reflect the limitations the site has for future development. That is a matter which may be considered at the time the district plan is reviewed by the Council. In the meantime the zone statement has an emphasis on conservation and preservation in these zoned areas together with any proposals needing to be in the public interest and avoiding environmental damage. Otherwise the Commissioner is of the view that the reserve notation currently applying to the site does indicate an appropriate function for it in all the circumstances.

In relation to the Regional Policy Statement for Northland, the application would also be contrary to objectives and policies requiring regard and recognition to the cultural and spiritual values of tangata whenua. In relation to the New Zealand Coastal Policy Statement the application further would be contrary to locating and designing new subdivision, use and development such that the need for hazard protection works is avoided and not sufficiently providing for enhancing public access to and along the Coastal Marine Area in an area where such access is desirable. In this latter respect it would also not accord with Section 6 of the Act.

The Commissioner records that whilst attention was drawn to various objectives and policies of the statutory documents concerned with preserving the natural character of the coastal environment much of that concern does not apply to this situation where in the wider locality the natural character has already been compromised and perhaps more particularly, the development proposal could be accommodated in a manner whereby that character was not impacted upon by sensitive building design and landscape planting. Whilst some reduction in amenity would result the Commissioner considered that would not be of more than a minor nature and would not conflict with national and regional concerns for preserving the natural character of the coastal environment.

However, the application is considered to be contrary to objectives and policies of the relevant statutory planning documents and in this respect it does not accord with the second "limb" of Section 105(2A) of the Act for the consideration of non-complying activity applications.

4. In all the circumstances applying the application is found to not be in accord with Part II of the Act relating to its overall purpose and principles insofar as it is not seen to promote the sustainable management of natural and physical resources with particular regard to the tangata whenua and coastal hazard considerations relating to it.

THAT PURSUANT to Section 37 of the Resource Management Act 1991, the period of time in which the Far North District Council and the Northland Regional Council are to hold a hearing of the respective applications be waived and extended to the date of the joint hearing on the grounds that it was necessary to do so to bring all the parties together at a suitable time for the hearing and because the interests of no party is considered to be adversely affected by doing so.

THAT PURSUANT to Section 37 of the Resource Management Act 1991, the period of time for receiving submissions to the land use consent application be waived and extended to allow the receiving of the late submission from A. Davies on the grounds that the interests of no party is considered to be adversely affected by doing so.

A R Watson
Commissioner

20 April 2000

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New Zealand Historic Places Trust
Pouhere Taonga

Appendix II.4 Letter from NZHPT, dated 11 April 2001

His Excellency The Right Honourable
Sir Michael Hardie Boys GNZM, GCMG.
Governor General of New Zealand

11 April 2001

John Upperton
PO Box 272
KAIKOHE

FAXED

Fax: 09-4012-398

Dear John

OPANUI WAHI TAPU AREA

As you know the Maori Heritage Council met last week and once again considered the current registration of the Opanui wahi tapu area.

The following resolution was made by a quorum of the Council after further deliberations on the day following the Council meeting.

> "The Council expresses its concern and regret that consideration of competing information in respect of this registration for over a year has led it to the conclusion that the registration cannot be justified any longer due to the insufficient certainty of the information before it at this point. The Council therefore resolves as follows:
>
> (i) That the registration be removed by virtue of section 32(6) of the Historic Places Act 1993. Should a more comprehensive proposal be put before the Council for consideration in the future there is no barrier to the area being considered for registration at that time; and
>
> (ii) To avoid the lack of clarity within the Historic Places Act 1993 as to the application of section 32(6) and section 37 that has been problematic in this case, that the Kaihautu be asked to develop an operating procedure for future reviews or reconsideration of wahi tapu areas registrations."

From the beginning of this issue there have been procedural problems. Operating procedures for registration of wahi tapu and wahi tapu areas have been established and were adopted by the Council in February this year. You will see from the above resolution that development of review procedures has been given high priority.

Yours sincerely

Peter Atkinson
Acting Chief Executive

Antrim House, 63 Boulcott Street, PO Box 2629, Wellington, New Zealand.
Ph: 64 4 472 4341, Fax: 64 4 499 0669, E-Mail: nzhistoricplaces@xtra.co.nz

Appendix II.5 Letter from Mr Taylor, dated 16 November 2001 proposing 40m setback.

Wendell Taylor & Associates Ltd.

RESOURCE MANAGEMENT AND PLANNING CONSULTANTS

Principal:- WENDELL TAYLOR DIP., T.P., M.N.Z.P.I., M.R.A.P.I.

Bank Street
P O Box 1415
Whangarei
New Zealand

Ph: 09 430 3330
Fax: 09 430 3359
Int: 64 9 430 3330
wendell@clear.net.nz

16 November 2001

Mr Mark Poynter
Boffa Miskell
P O Box 250
WHANGAREI

Dear Mark

John Upperton – Pipiroa Bay, Okiato

Mr Upperton is the owner of Pt OLC 73 Deeds IE20 Blk V Russell SD, with an area of 1.8 ha.

The land is largely a mangrove swamp behind the foredune of Pipiroa Bay, Okiato.

Mr Upperton sought consent to establish a residence on the foredune. The application was declined mainly due to the proximity of the building to MHWS. However there appears to be considerable support for the location of a building in a conforming position 40m from MHWS. The location of a building in this position would require the clearing of some mangroves and importation of fill material to provide a suitable building platform.

The area is legally defined as a "wetland" and as such it would be necessary to show that the clearing and filling of a portion of the land would not be an ecological disaster.

We would therefore be grateful if you would undertake an ecological assessment of the area outlined on the attached plan.

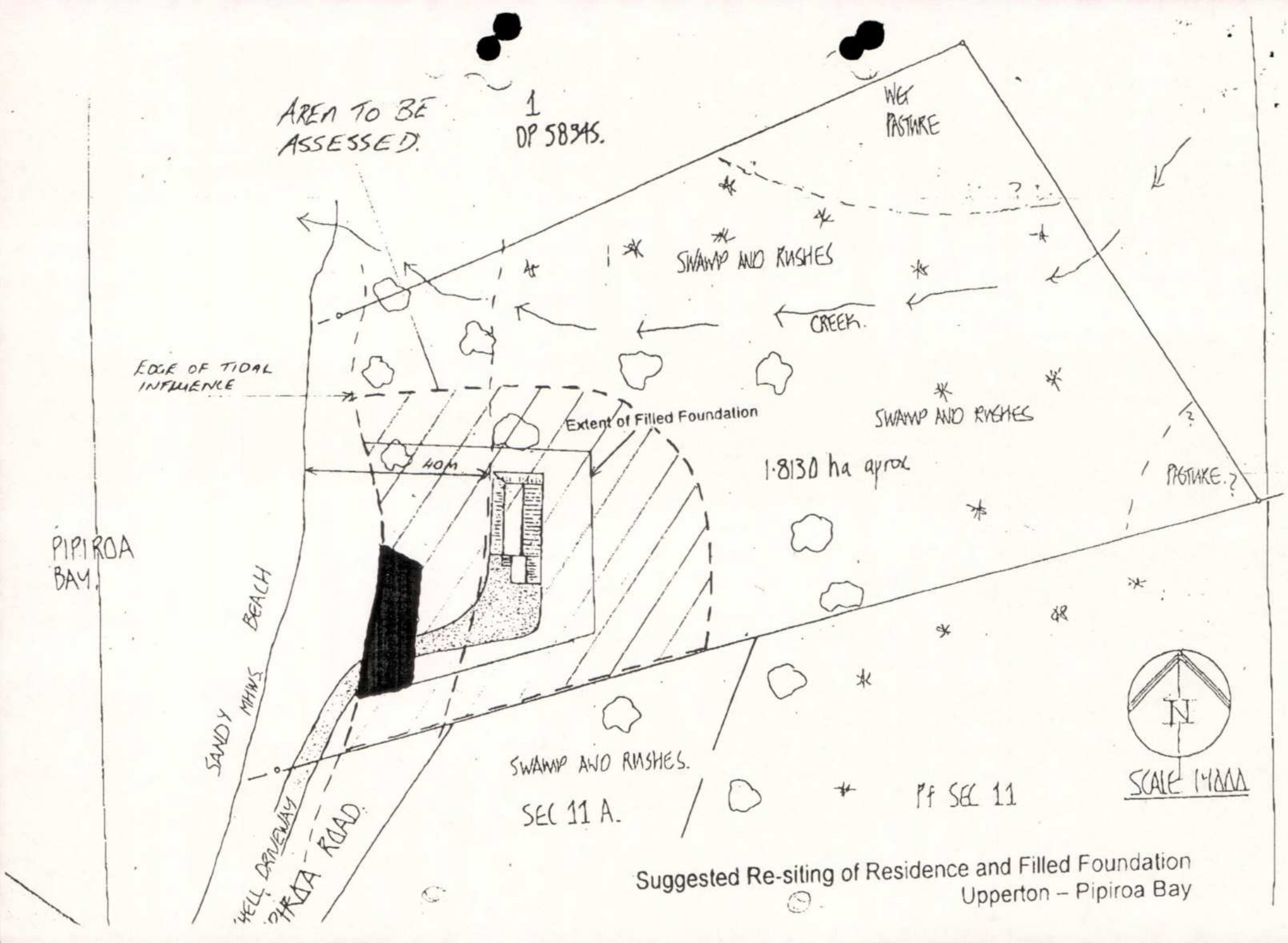
Mr Upperton would like to meet with you on site when you are undertaking the assessment. His contact phone number is: 09 401 2398.

We enclose locality and site plans, please advise if we can be of any further assistance in this matter.

Yours faithfully
Wendell Taylor & Associates

Wendell Taylor

cc: John Upperton
P O Box 272
Kaikohe



Suggested Re-siting of Residence and Filled Foundation
Upperton – Pipiroa Bay

Appendix II.6 Report from Mark Poynter, dated 7 December 2001 suggesting 15-20m setback.

BOFFA
MISKELL
planning • design • ecology

PO Box 250
112 Bank Street
Whangarei, New Zealand
Tel: 64 9 438 2533
Fax: 64 9 438 2535

7 December 2001

Wendell Taylor
Wendell Taylor & Associates
P O Box 1415
WHANGAREI

Dear Wendell

RE: UPPERTON - PIPIROA BAY, OKAITO

I inspected the site with John on Monday 03 December. It's often difficult to come to a view on ecological significance in relation to potential impacts. However the Upperton property lends itself to quite a clear view in this regard, for the following reasons:

- The overall wetland area within the Pipiroa Bay catchment, I understand is in the order of 5-6ha. Historical impacts have obviously occurred in the area and the mangrove may have developed only over the past 40-50 years since the floodgate was removed. The wetland vegetation as it now exists, provides an intact vegetation sequence or ecotone from freshwater raupo at the head of the valley floor, through a mixture of maritime sedges and rushes then into a mangrove zone. Removing a significant part of any one of the vegetation components would, in my view, be a significant ecological effect. I am aware that from a jurisdictional point of view, the subject area is not considered to be within the CMA. This is of obvious planning significance, but at least at this point I have disregarded it in terms of an ecological overview.

- If a 40m setback from MHWS is to be required, plus another 20m to accommodate the footprint of the house, an area of between 1840-2800^2 of mangrove habitat would be lost. I haven't worked out the actual percentages but this would represent a significant proportion of the mangrove that occurs.

- The mangrove has a value for several reasons. It is an integral part of the vegetation unit that makes up the ecotone; at this locality mangrove would almost certainly offer part of the habitat utilised by several secretive species of native bird including banded rail, spotless crake and others; the mangrove will contribute to the local marine ecosystem, and in particular the detrital food chain by way of the relatively high rate of leaf drop. While the latter may not be very important in terms of the wider ecology in this part of the Bay of Islands, it is of some local significance as there is little mangrove in Pipiroa Bay.

In my view, one way in which a residential house site could be supported at this locality would be if the 40m setback could be substantially reduced, perhaps to 15-20m. In this instance this setback creates rather than resolves, problems. John and I identified an area which I have marked approximately on the plan, where there is a gap in the mangrove such that a reclamation covering an area of about 350m^2 (35m north/south and $\leq$10m east/west) would result in the loss of about 35 mangrove trees being removed. The mangroves themselves are mostly single or double stemmed trees of about 6-7m height rather than heavily branched mature trees. Such an option, were it to be accompanied by a proposal to protect/covenant the balance of the wetland on this property and to plant the foreshore area in appropriate native species, would be sensible and ecologically defensible despite the unavoidable impact on a small area of the mangrove wetland.

John suggested that this be the basis upon which another approach be made to the local landowners (and presumably the Council).

If you have any queries I look forward to discussing this with you further.

Yours sincerely
BOFFA MISKELL

Mark Poynter
Principal

Encl.

Wendell Taylor & Associates Ltd.

RESOURCE MANAGEMENT AND PLANNING CONSULTANTS

146 Bank Street
P O Box 1415
Whangarei
New Zealand
Ph: 09 430 3330
Fax: 09 430 3359
Int: 64 9 430 3330
wendell@clear.net.nz

Appendix II.7 Letter from Mr Taylor, dated 23 January 2001 proposing 27m setback.

23 January 2002

COPY

Mark Poynter
Boffa Miskell
P O Box 250
WHANGAREI

Dear Mark

Upperton – Pipiroa Bay

Thank you for your advice of 7th December 2001.

The suggestion that the house be relocated some 19m from MHWS could not be supported before the Far North District Council, or argued against the Coastal Environment Groups.

The closest we could support to MHWS would be 27m which is the present setback contained in the Far North Transitional District Plan.

In assessing this distance, the indicated MHWS shown on the outline sketch has not been subject of a cadastral survey, and therefore onsite assessment should be taken into consideration.

Would you please re-assess the situation, siting the building 27m from MHWS and restricting the area to be cleared to somewhat similar to that marked on your plan as attached to your report.

In the meantime we have passed your account on to Mr Upperton for payment.

Yours faithfully
Wendell Taylor & Associates

Wendell Taylor

cc: Mr John Upperton
P O Box 272
KAIKOHE

Fax 09) 438 ~~4654~~ 9473

John, as discussed, we have requested Mr Poynter to re-assess the situation as above.
Regards, Wendell Taylor.

Appendix II.8 Letter from Mark Poynter dated 18 March 2002.

BOFFA
MISKELL
planning • design • ecology

PO Box 250
112 Bank Street
Whangarei, New Zealand
Tel: 64 9 438 2533
Fax: 64 9 438 2535

18 March 2002

Wendell Taylor
Wendell Taylor & Associates
P O Box 1415
WHANGAREI

Dear Wendell

RE: UPPERTON PROPOSAL PIPIROA BAY

To follow up on your letter dated 23/01/02 and my telephone discussion with John Upperton dated 7th December 2001.

The proposal you outline now is for a set back of 27m from MHWS. John has suggested that on this basis there would be a need to extend the footprint up to 5 metres further into the mangrove, beyond that area marked previously in my earlier correspondence.

I haven't reassessed the actual numbers of mangroves affected or the additional area of habitat lost. Based on my previous calculations, we would now be looking at a footprint within the mangrove of 35m north/south and 15m east/west = 525m^2. This would allow for a rather narrow residence serviced by a driveway. The latter could be an additional part of the reclamation or it could possibly be on piles.

I would be prepared to support this ecologically, but before I would finally commit to this, I would like another plan or preferably the proposal shown on an aerial photograph so that I can get a clear picture and be assured we are not at cross purposes, and also so that I can get a better indication of the footprint relative to the overall area of wetland in this embayment and gully.

Yours faithfully
BOFFA MISKELL

Mark Poynter
Principal

01514-002mp:jw

Appendix II.9 Letter from DoC dated 29 April 2005.

Department of Conservation
Te Papa Atawhai

Our Ref: SAR-05-15-10

29 April 2005

Stephen L Westgate
Resource Management Consultant
290 Beach Road
Onerahi
WHANGAREI

Dear Sir

House, J K Upperton, Pipiroa Bay

The Department of Conservation gives its written approval for the processing without notification of the application by J K Upperton to construct and occupy a house at Lot 1, DP 202228, Pipiroa Bay, Bay of Islands.

This particular proposal for which this approval is given is that described in *J K Upperton Pipiroa Road, Okiato, Bay of Islands Assessment of Environmental Effects of Proposed Dwelling* dated November 2004. The proposal includes the following features:

- The proposal is as shown on plans prepared by Richardson Stevens Consultants (1996) Limited titled *John Upperton, Pipiroa Bay Proposed Platform for Dwelling*, sheets 1 and 2, dated Aug. 2004.
- The proposal includes the following mitigation measures as part of the application:
    - weed and pest control in perpetuity
    - a prohibition on cats and mustelids on the property
    - the permanent protection of the mangrove/salt marsh wetland outside the area where the dwelling is located
    - a prohibition on further buildings on the property
    - the dwelling to be finished in recessive colours and materials
    - indigenous screening planting
    - an archaeological survey being undertaken of the areas that will be disturbed by earthworks, including the sewage disposal area
    - a maintenance contract for the aerated septic tank system

This approval is limited to the likely adverse effects of the proposal on the Department's interests and should not be construed as approval to effects on the proposal generally. In particular this written approval is not to be construed as approval for effects of the proposal on Maori values or on the exercise of kaitiakitanga by Te Uri Karaka or by any other iwi or hapu.

This approval is specific to the above application. It is not indicative of any associated concession or other statutory approval which may be required from the Department in regard to this proposal.

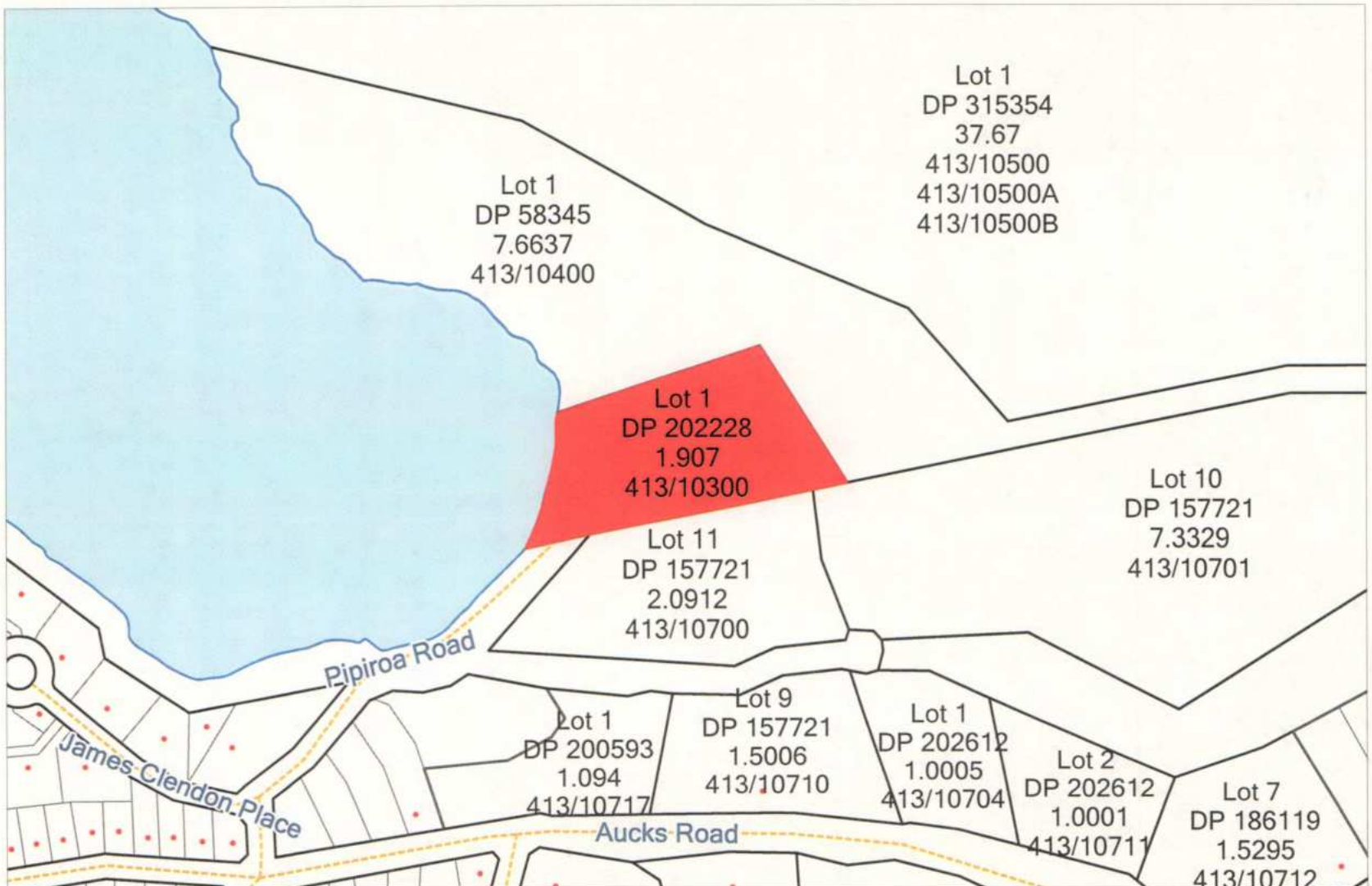
Yours faithfully

John Greswolde Beachman
Area Manager – Bay of Islands

Northland Conservancy
Kerikeri Area Office, P.O. Box 128, 34 Landing Road, Kerikeri, New Zealand
Telephone 09-407 8474, Fax 09-407 7938

RC 2090634 UPPERTON[redacted]

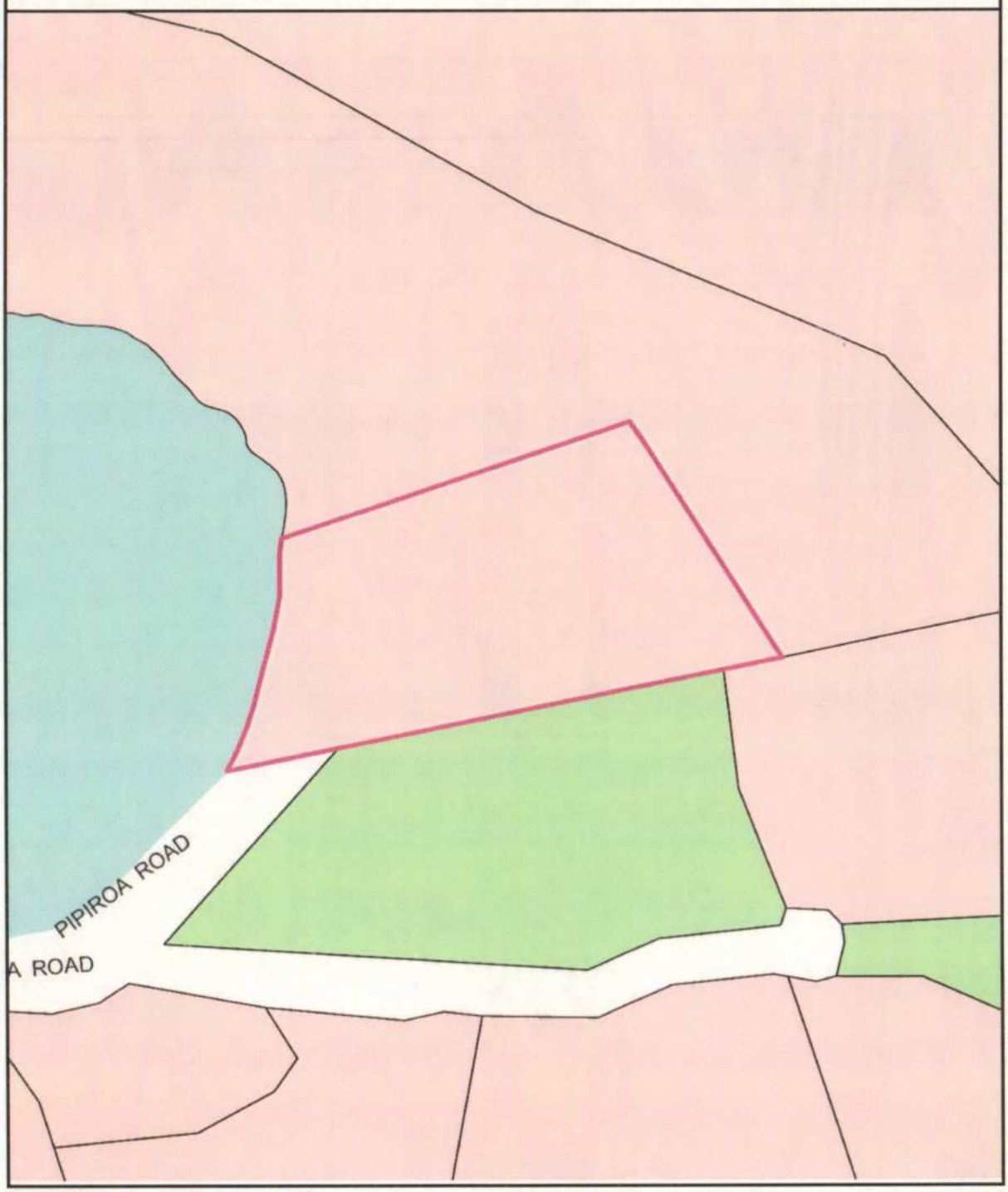
RC 2090634



RC 2090634 UPPERTON

Far North District Council

Address
Land etc



100 m 1 : 2589

This map has been provided in good faith and for information purposes only. The Far North District Council is not liable for any errors or omissions. Any persons considering purchasing property are advised to have all boundaries confirmed by a licensed Cadastral Surveyor.

Produced by the Far North District Council 08:48 6/4/2009

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J K UPPERTON

Pipiroa Road, Okiato, Bay of Islands

DESCRIPTION OF PROPOSED DWELLING AND ASSESSMENT OF ENVIRONMENTAL EFFECTS

ADDITIONAL SET OF DRAWINGS
(ref. Figures 1-9 & Appendix II.1 in AEE)
ALL TO A4 SIZE

Supporting Documentation for Application for Resource Consents under the Resource Management Act 1991

(November 2005)
Updated: May 2009

CONTENTS.

Figure 1 *Locality Map. NZMS 260, Sheet Q05. 1:50 000*

Figure 2 *Aerial View of Pipiroa Bay, Approx. 1:2500*

Figure 3 *Cadastral Map Of Pipiroa Bay, With Land Ownership. 1:5000*

Figure 4 *Schematic Site Plan of Proposed Dwelling. 1:1000 (A4)*

Figure 5 *Survey Plan of the Property (Thomson & King, April 2000).*

Figure 6 *Elevations of the Proposed Dwelling (1:200)*

Figure 7 *Cross-section through the Spit and Proposed House Site 1:200 (A4)*

Figure 8 *Schematic Site Plan of the Spit Area and Proposed Development 1:1000 (A4).*

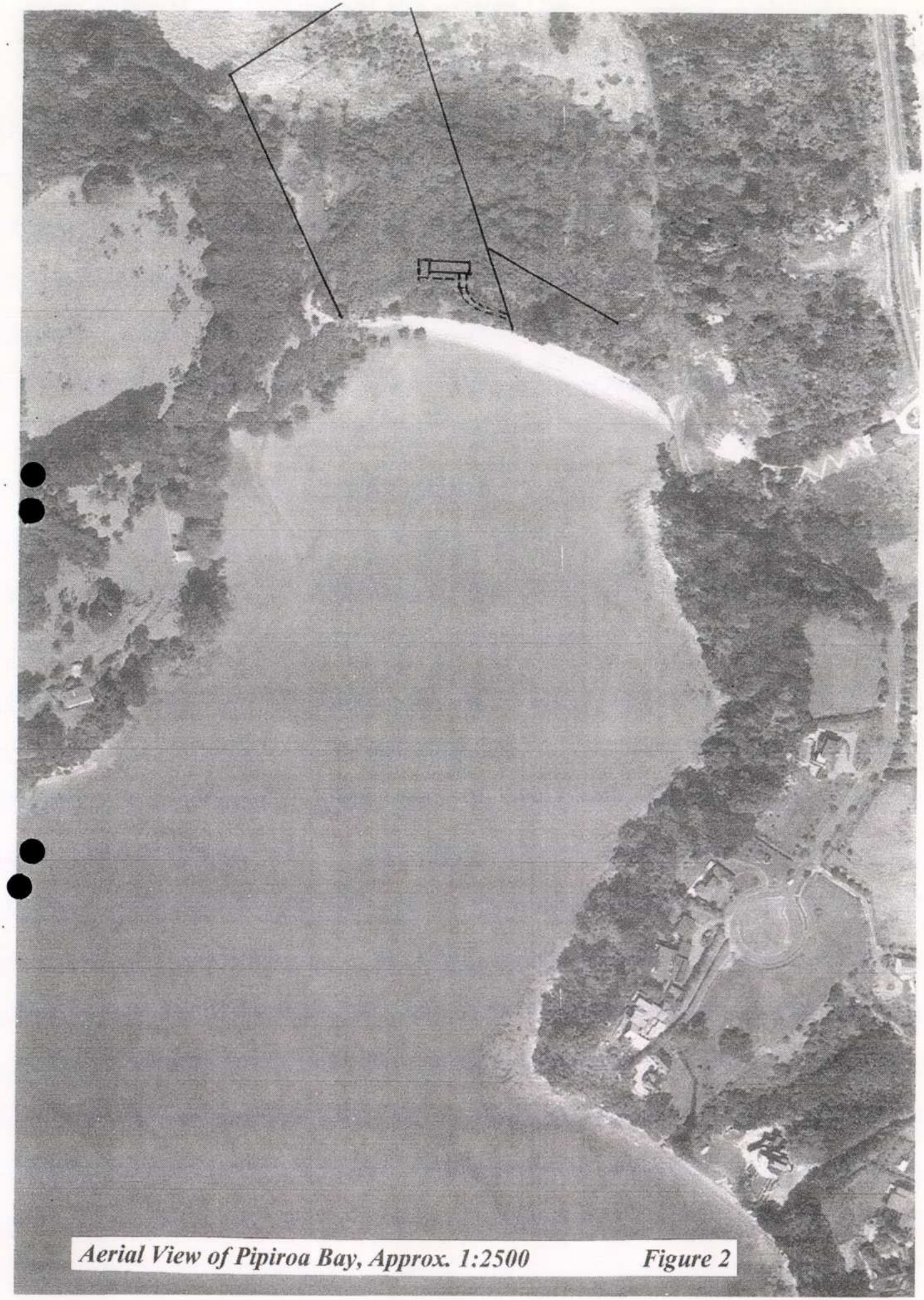
Appendix II.1. *Engineering Report for On-Site Effluent Disposal, 5 November 1999.*

Engineering Report for On-Site Effluent Disposal, updated May 2009.

POOR QUALITY

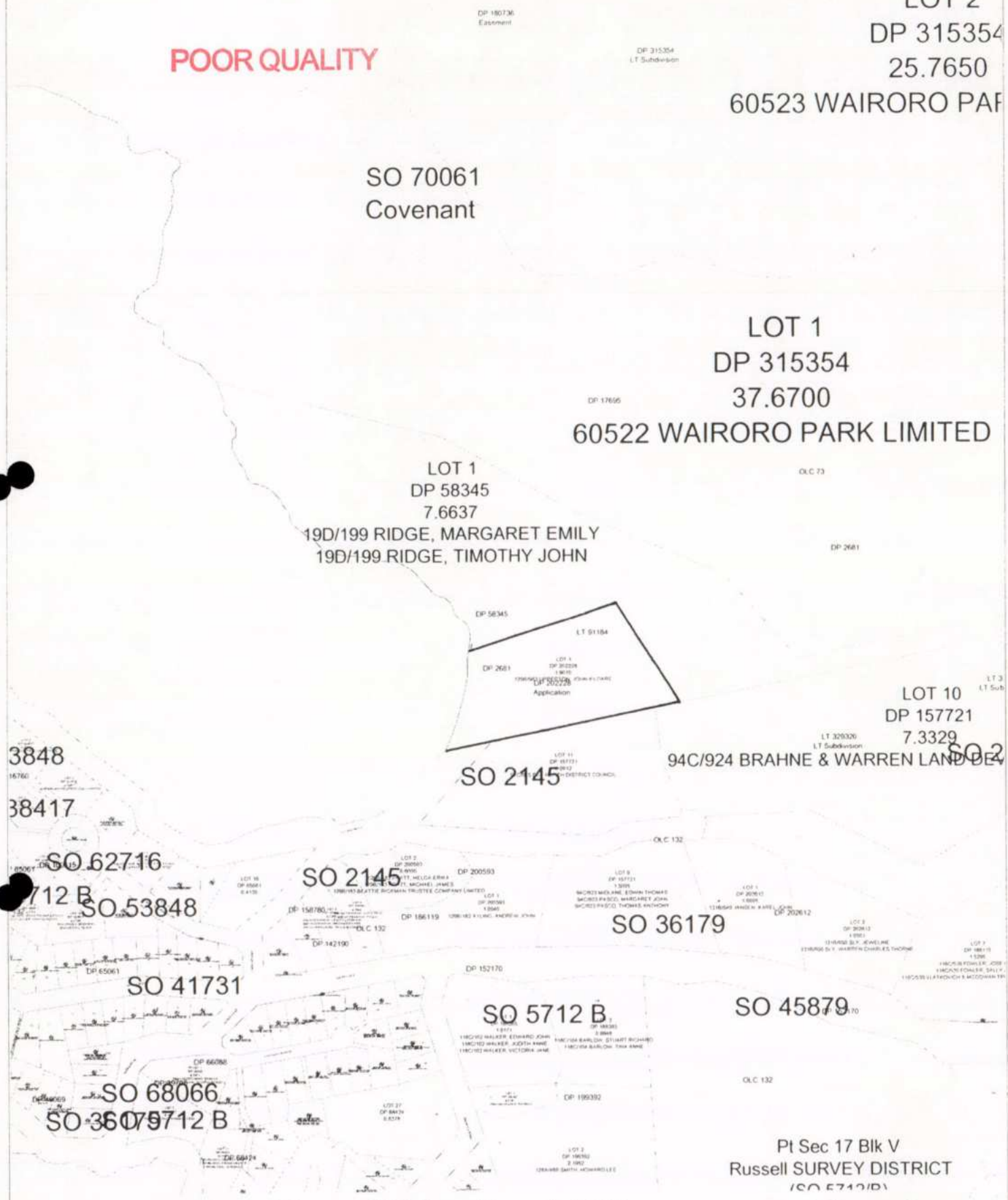


Locality Map. NZMS 260, Sheet Q05. 1:50 000 ***Figure 1***



Aerial View of Pipiroa Bay, Approx. 1:2500 *Figure 2*

POOR QUALITY



Cadastral Map of Pipiroa Bay. 1:5000

Figure 3

Scale 1:5000

0 50 100 150 200 250 300 350 400 450 500 550 600m

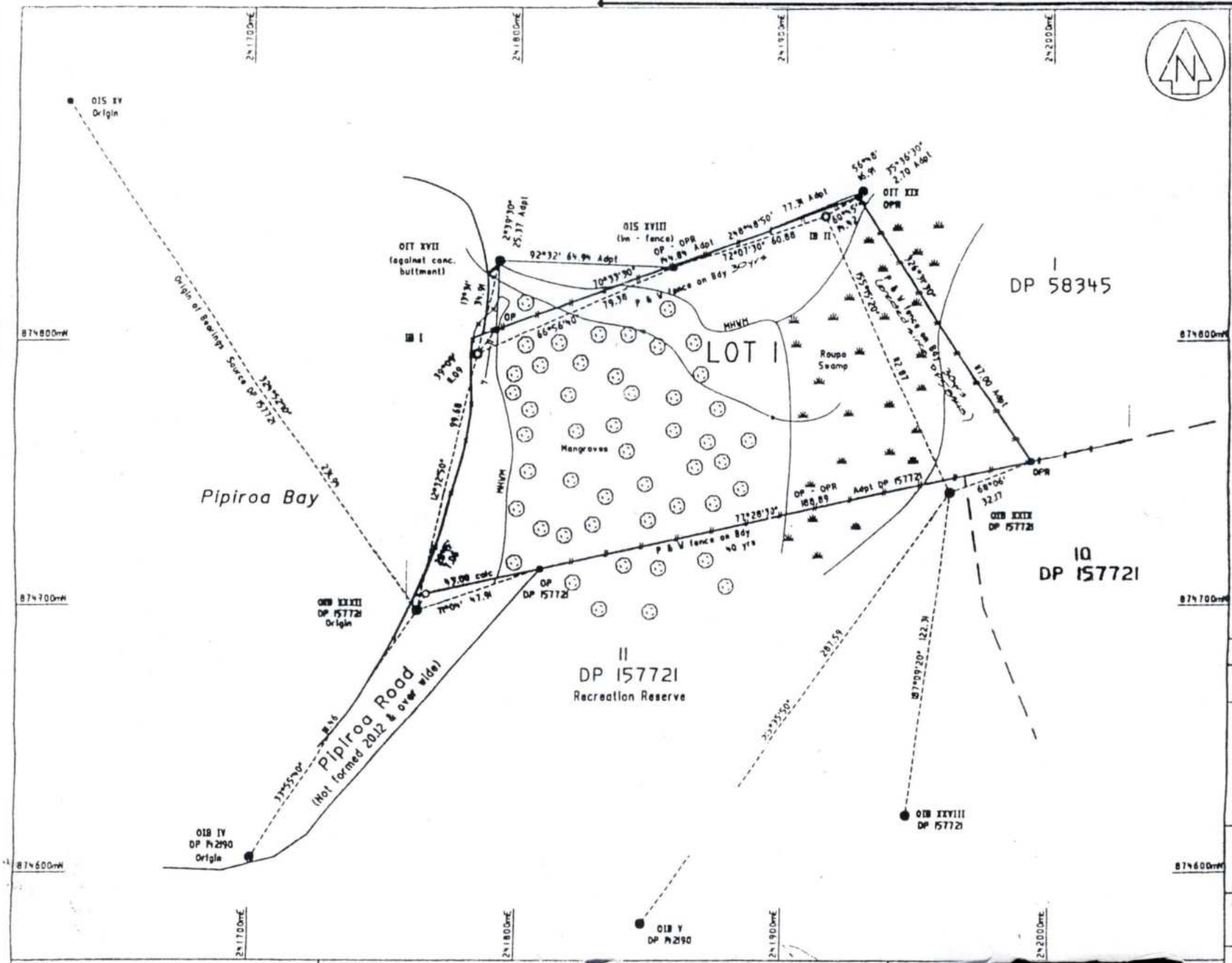
Pipiroa Bay

Survey and Title Data as at 1-MAY-2004, Valuation and Sales Data as at 29-APRIL-2004 and Geodetic Mark data as at 1-MAY-2004. For additonal mark data visit www.linz.govt.nz for Geodetic Database. Cadastral Information from LINZ Core Record System (



Schematic Plan of Site of Proposed Dwelling. 1:1000 Figure 4

Survey Plan of the Property (Thomson & King, April 2000). **Figure 5**



Approved

Bearing and Coordinate Datum Geodetic 1949

Mt Eden Circuit Coordinates
Origin Mt Eden 700000 mN
300000 mE

Schedule of Coordinates

	mN	mE
OIB IV DP 142190	874605.84	2411700.21
SOURCE DP 157721		
OIB XXIX DP 157721	874742.85	2411962.29
OIB XXXII DP 157721	874698.31	2411762.42
IB I	874795.60	2411784.07
OIS XVIII DP 58345	874826.68	2411857.11
IB II	874895.36	2411915.05

Notes:
BEARINGS ADOPTED FROM DP 58345 HAVE BEEN ADJUSTED BY -1°30" TO BE IN TERMS OF GEODETIC 1949 DATUM (SEE DP 157721)

OLD MARKS AND ADOPTIONS ARE FROM DP 58345 UNLESS OTHERWISE SHOWN

BOUNDARIES ARE NOT OCCUPIED UNLESS OTHERWISE SHOWN

INSTRUMENT USED : TOPCON GTS 303

Fixes to M.H.W.M
From OIB XXXII
11°20' 98.55
14°11' 80.75
15°30' 66.70
15°57' 45.75
16°00' 24.60
317°30' 5.20
218°07' 14.10

From IB I
348°37' 5.20
1°13' 10.70
19°50' 17.00

Class of Survey II

Total Area

Comprised In

I, David Brett King of Pukekohe being a person entitled to practise as a registered surveyor, certify that (a) The surveys to which this dataset relates are accurate, and were undertaken by me or under my direction in accordance with the Survey Act 1986 and the Survey Regulations 1990 (b) This dataset is accurate, and has been created in accordance with that Act and those Regulations.

Dated at Pukekohe this 20th day of April 2000 Signature

Field Book ____ p ____ Traverse Book ____ p ____
Reference Plans DP 157721 DP 58345 LT 91184
Examined ____ Correct ____

Approved as to Survey

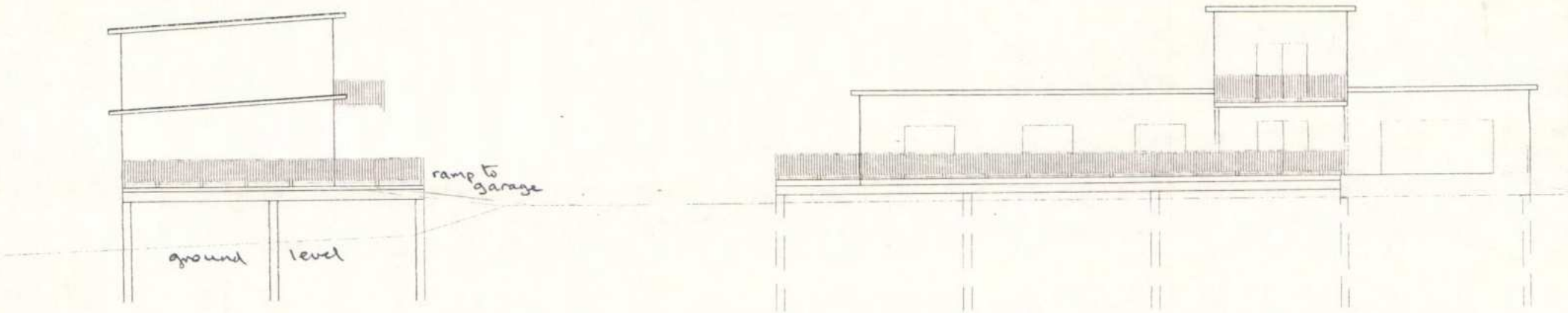
__/__/__ Chief Surveyor

Deposited this ____ day of ____ 20____

LAND DISTRICT: NORTH AUCKLAND
SURVEY BLK & DIST: V Russell
NZMS 261 SHT 005 RECORD MAP 3 11

Lot 1 Being Pt O.L.C 73

Elevations of the Proposed Dwelling 1:200 [original 1:100 A2] ***Figure 6a***



Side Elevation

Front Elevation

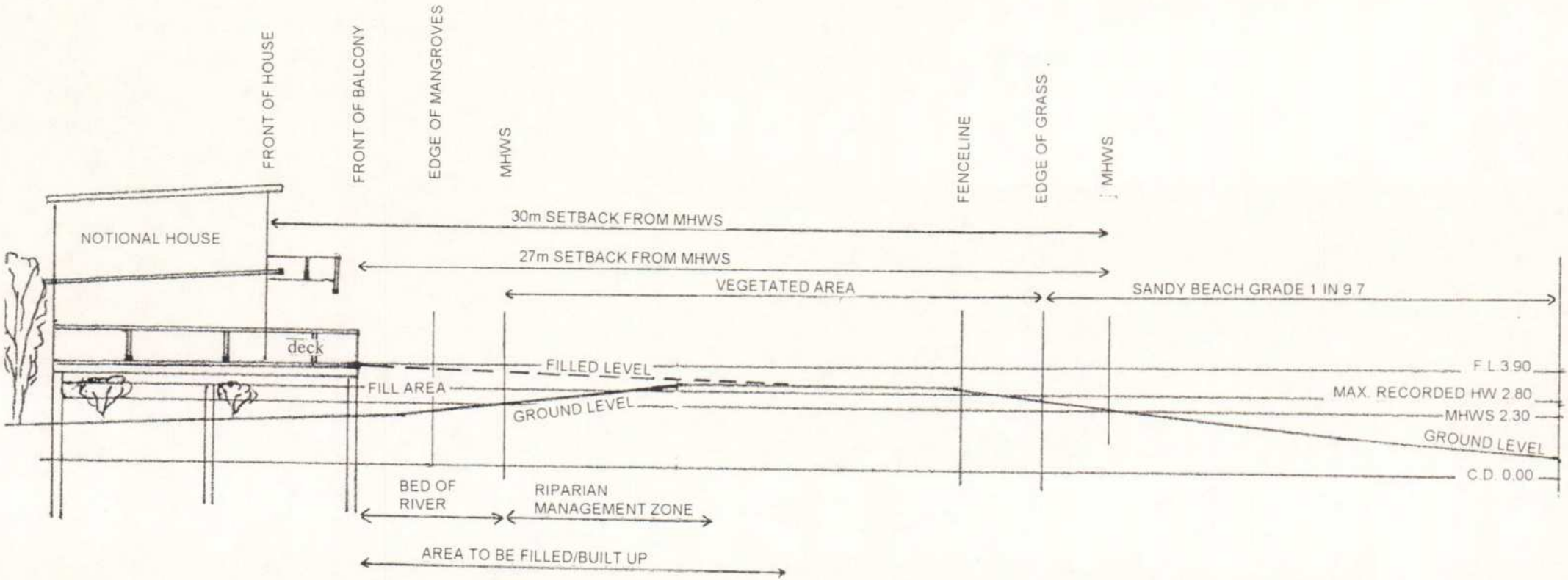
ACENZ
2 Seaview Road, Whangarei.
Ph. (09)4383273. Fax. (09) 4385734.
engineers@richardsonstevens.co.nz
Richardson Stevens Consultants (1996) Ltd CIVIL & STRUCTURAL ENGINEERS

JOHN UPPERTON,PIPIROA ROAD, PIPIROA BAY
PROPOSED PLATFORM FOR DWELLNG

STRUCTURAL DETAILS
Date | AMENDMENTS

Project: 4453
Drawn: MHPR
Date: OCT.2003
Scale: 1/100, 1/50

Sheet: S1



Note: Levels shown relate to Chart Datum. Chart Datum is 1.4m below L&S Datum

CROSS-SECTION THROUGH SPIT AND PROPOSED HOUSE SITE. Scale 1:200

[Derived from plans and drawings by Richardson Stevens Consultants (1996) Ltd]

JOHN UPPERTON, PIPIROA ROAD, PIPIROA BAY

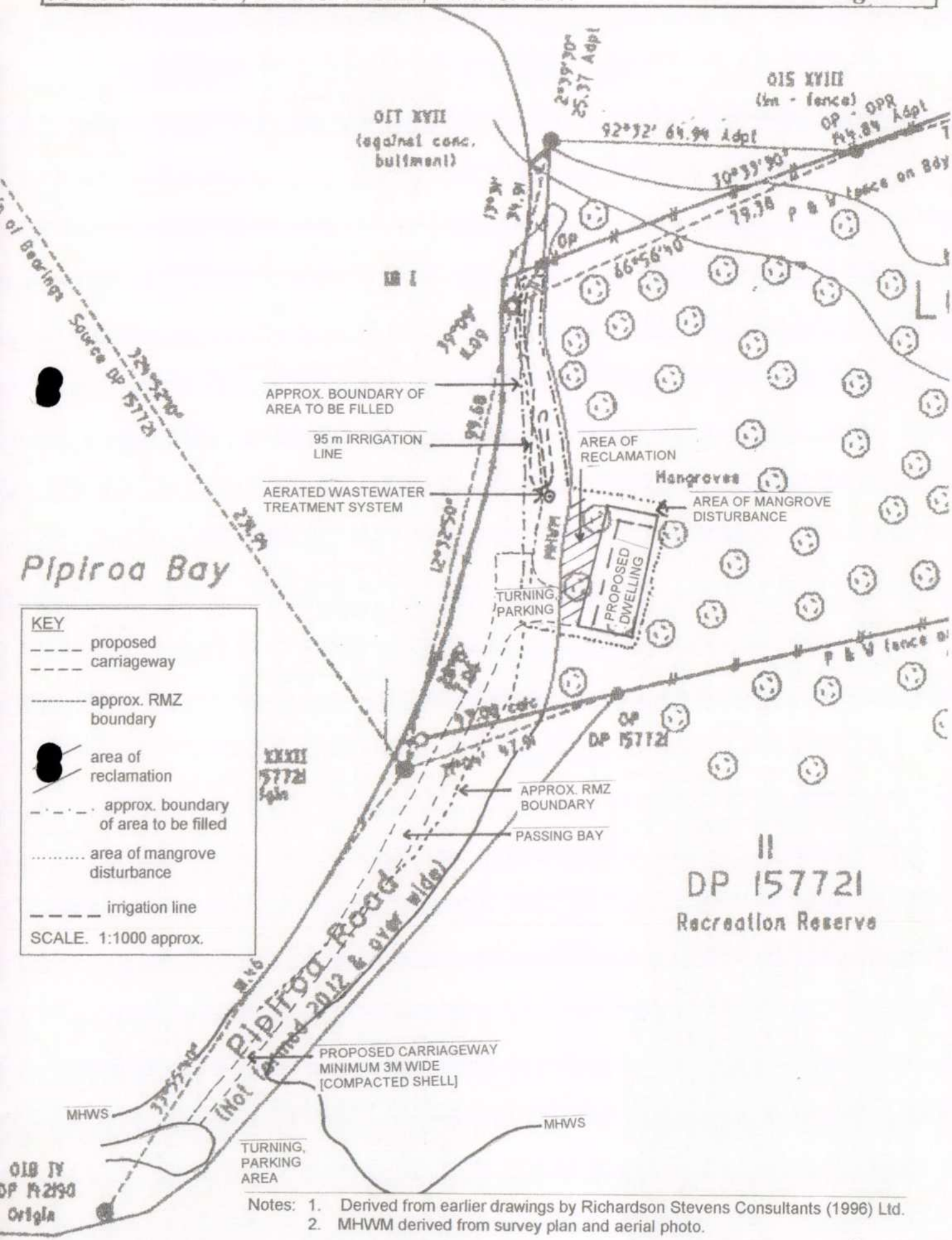
Cross-section through the Spit and Proposed House Site 1:200 (A4)

Figure 7

SCHEMATIC SITE PLAN, showing proposed carriageway, proposed dwelling, proposed irrigation area, proposed reclamation area, etc. Scale. 1:1000 approx.

JOHN UPPERTON, PIPIROA ROAD, PIPIROA BAY

Figure 8

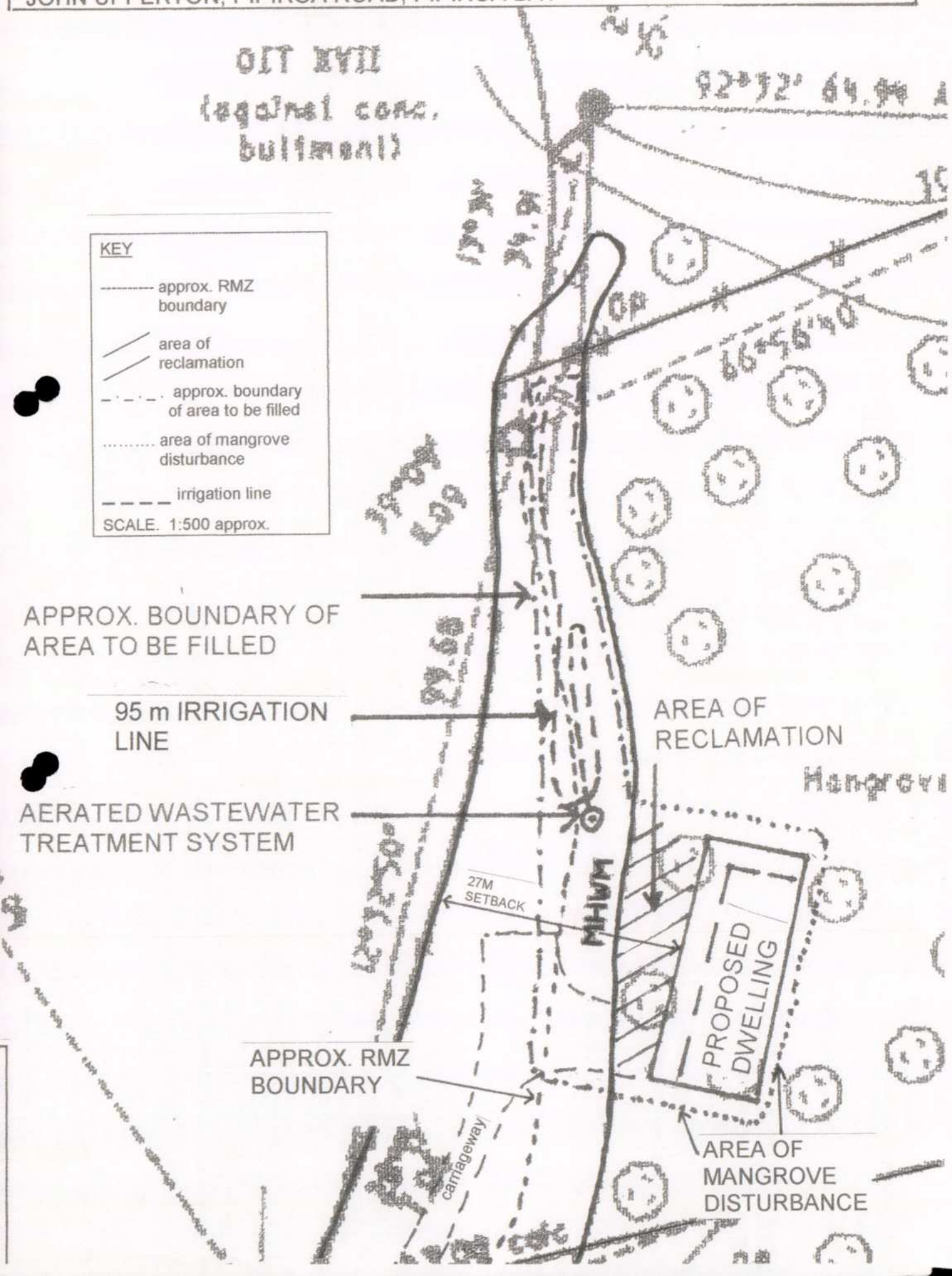


Notes: 1. Derived from earlier drawings by Richardson Stevens Consultants (1996) Ltd.
2. MHWM derived from survey plan and aerial photo.

SCHEMATIC PLAN OF PROPERTY, showing proposed dwelling, proposed irrigation area, proposed reclamation area, etc. *Scale. 1:500 approx.*

JOHN UPPERTON, PIPIROA ROAD, PIPIROA BAY

Figure 9



Appendix II.1 Engineering Report for On-Site Effluent Disposal, 5 November 1999.

ACENZ

Email: rscltd@clear.net.nz

Richardson Stevens
Consultants (1996) Ltd

Grant Stevens
B.E., M.I.P.E.N.Z.
Registered Engineer

Tim Pike
N.Z.C.E., B.E. (Hons), M.I.P.E.N.Z.
Registered Engineer

CIVIL & STRUCTURAL ENGINEERS, 2 SEAVIEW RD, WHANGAREI. PH: 09 438 3273, FAX: 09 438 5734

ENGINEERING REPORT

For

ON-SITE EFFLUENT DISPOSAL

Client Name: J. UPPERTON

Prepared for: STEPHENSON + WILLIAMS

Date: 5-11-99

File Number: AWTS 991056

Report by: COLIN BISHOP

Engineering Report for On-site Effluent Disposal

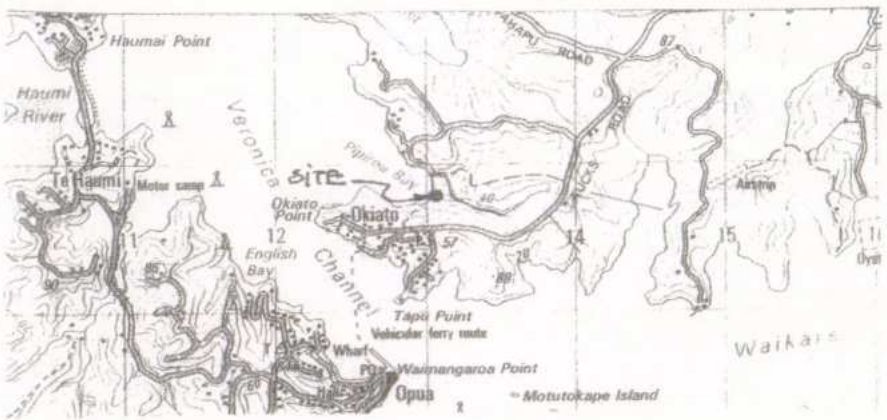
Client Name:	J. Upperton
Prepared for:	Stephenson & Williams
Date:	5-11-99
File Number:	AWTS991056

Site Information

Road/Street:	Pipiroa Rd.
Locality:	Pipiroa Bay
District Council Area:	Far North
Regional Council Area:	Northland
Lot Number:	Lot 1
DP Number:	DP91184

Location Map:

POOR QUALITY



Design Recommendation		Aerated Wastewater Treatment System
Resource Consent/Discharge Permit required:		yes
System Brief:		Aerated Wastewater Treatment System with surface irrigation disposal
Topography:		Slight
Available Clearances:	Boundaries:	min. 1.5
	Waterways:	min. 5
	Wells/bores/springs:	min. 20
	Buildings:	min. 3
Depth of winter watertable:		0.8 m
Depth of summer watertable:		n/a m
Need for surface water cut-off drains:		n/a
Intended water supply:		Rainwater tank
Reserve area available:		100%
Level of primary treatment:		n/a
Level of secondary treatment:		n/a
Level of tertiary treatment:		Aerated Wastewater Treatment System

Subsoil Investigation: Hand augered bore

Bore diameter: 100 mm

Bore depth: 1.7 m

Groundwater: yes

Soil Profile:



0-200	Sandy black topsoil
200-600	Firm coarse sand
600-1700	Soft marine mud

Effluent Loading and Design

Number of bedrooms:	3
Number of persons:	5
Wastewater flow allowance:	140 litres/person/day
Total daily wastewater flows:	700 litres/day
Cover over disposal area:	grass/landscaping

Percolation testing:

A series of rapid percolation tests were carried out on site within the proposed disposal area. Percolation rates were in excess of 25mm per minute

Soil category: (In accordance with NZS 4610:1982) A

Tertiary System design

System installation type:

- ■ Biocycle
- ■ Oasis Clearwater
- ■ Super Treat
- ■ Clean Stream
- ■ Hynds Clearwater
- ■ Enviroflow

Effluent disposal design

Long term acceptance rate:	10 litres/m^2/day
Type of building:	Residential
Number of bedrooms:	3
Number of persons:	5

Wastewater flow design allowances:

Flow allowance:	140 litres/person/day
Occupancy numbers:	5 persons
Total daily wastewater flows:	700 litres/day
Irrigation area required:	70.0 m^2

Use 70 metres (minimum) irrigation line to dispose of treated wastewater.

Irrigation Line

Treated wastewater to be drip irrigated into landscaped surroundings or within the topsoil layer
Distribution by pressure compensating drippers.
Drippers to be covered by 50-100mm bark, vegetation or soil.

Minimum separation distances for irrigation line:

Minimum dripper interval:		1 m
Minimum distance between irrigation lines:		1 m
Minimum distance from:	Buildings	3 m
	Waterways	20 m
	Boundaries	1.5 m

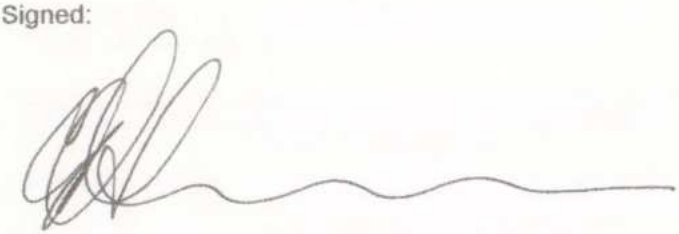
Summary:

This is a 1.6ha (approx.) site. The proposed dwelling and effluent disposal area is to be located on a narrow sandspit, which separates the main beach from a tidal wetland area. Due to the high watertable and limited disposal area we recommend an Aerated Wastewater Treatment System. These systems offer a high degree of treatment and less ground disturbance than most other disposal systems. Resource consent from the Regional Council is required due to the high ground water table.

Recommendations:

- The irrigation line is to be placed at owner's discretion around landscaping and/or through topsoil layer.
- Irrigation line to be covered by 50-100mm of bark, vegetation or soil.
- System to be installed and maintained as per manufacturers recommendations.

Signed:



Date: 5/12/99.

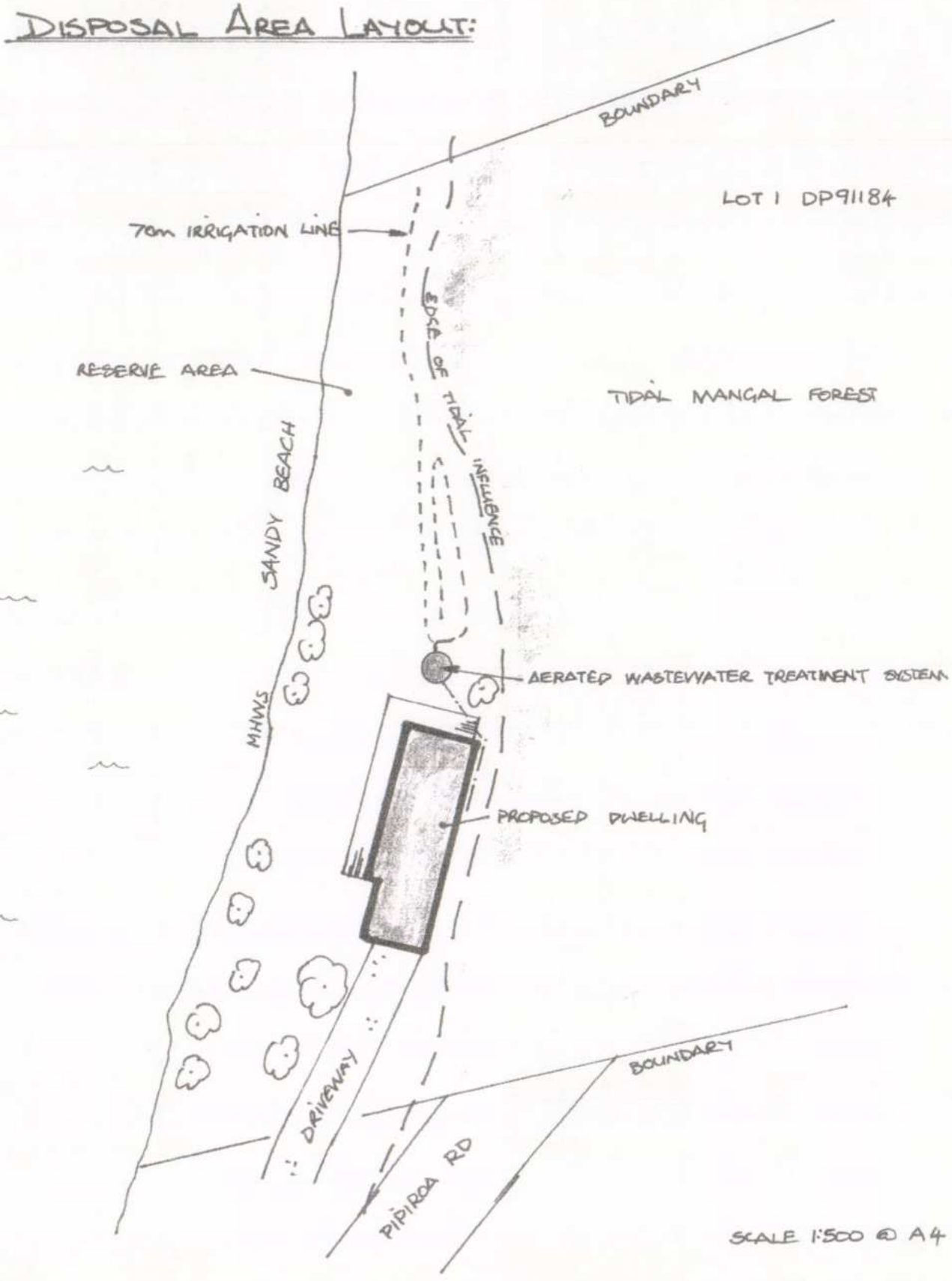
Registered Engineer.
RICHARDSON – STEVENS CONSULTANTS (1996) Ltd.

Richardson Stevens Consultants (1996) Ltd.
CONSULTING CIVIL & STRUCTURAL ENGINEERS
2 SEAVIEW ROAD, WHANGAREI. PH (09) 438 3273. FAX (09) 438 5734.
EMAIL rscltd@clear.net.nz

File No. 991056
Plan Ref. No.
Calculated by C.B
Checked by
Date 5-11-99

Refers to
Client UPPERTON

DISPOSAL AREA LAYOUT:



SCALE 1:500 @ A4

ACENZ

Richardson Stevens
Consultants (1996) Ltd

Email: engineers@richardsonstevens.co.nz

Grant Stevens
B.E., M.I.P.E.N.Z. (Civil, Structural)
Chartered Professional Engineer

Steve Turner
B.E., M.I.P.E.N.Z. (Civil, Structural)
Chartered Professional Engineer

CIVIL & STRUCTURAL ENGINEERS, 2 SEAVIEW RD, WHANGAREI 0110. PH: 09 438 3273, FAX: 09 438 5734

File: 99/1056

25 May 2009

S. Westgate

swestgate@xtra.co.nz

Dear Sir

On-site Wastewater Management – Lot 1 DP 202228

As requested, we have reviewed our earlier report for Stephenson and Williams dated 5 November 1999 (file 99/1056).

To comply with the Far North District Council design standard (Auckland Regional Council's TP58:2004), a more conservative wastewater flow allowance of 190 litres/person/day would need to be adopted. This would increase the minimum irrigation area required to 95 m² (190 x 5/10). A revised disposal area layout plan is attached.

It is our understanding the ground used for effluent management is to be raised to achieve the 1.2 metre clearance to groundwater.

We note that Resource Consent will need to be obtained from both the Far North District Council and Northland Regional Council due to the proximity of the irrigation line to water bodies.

Yours faithfully

G. Turner
Richardson Stevens Consultants (1996) Ltd

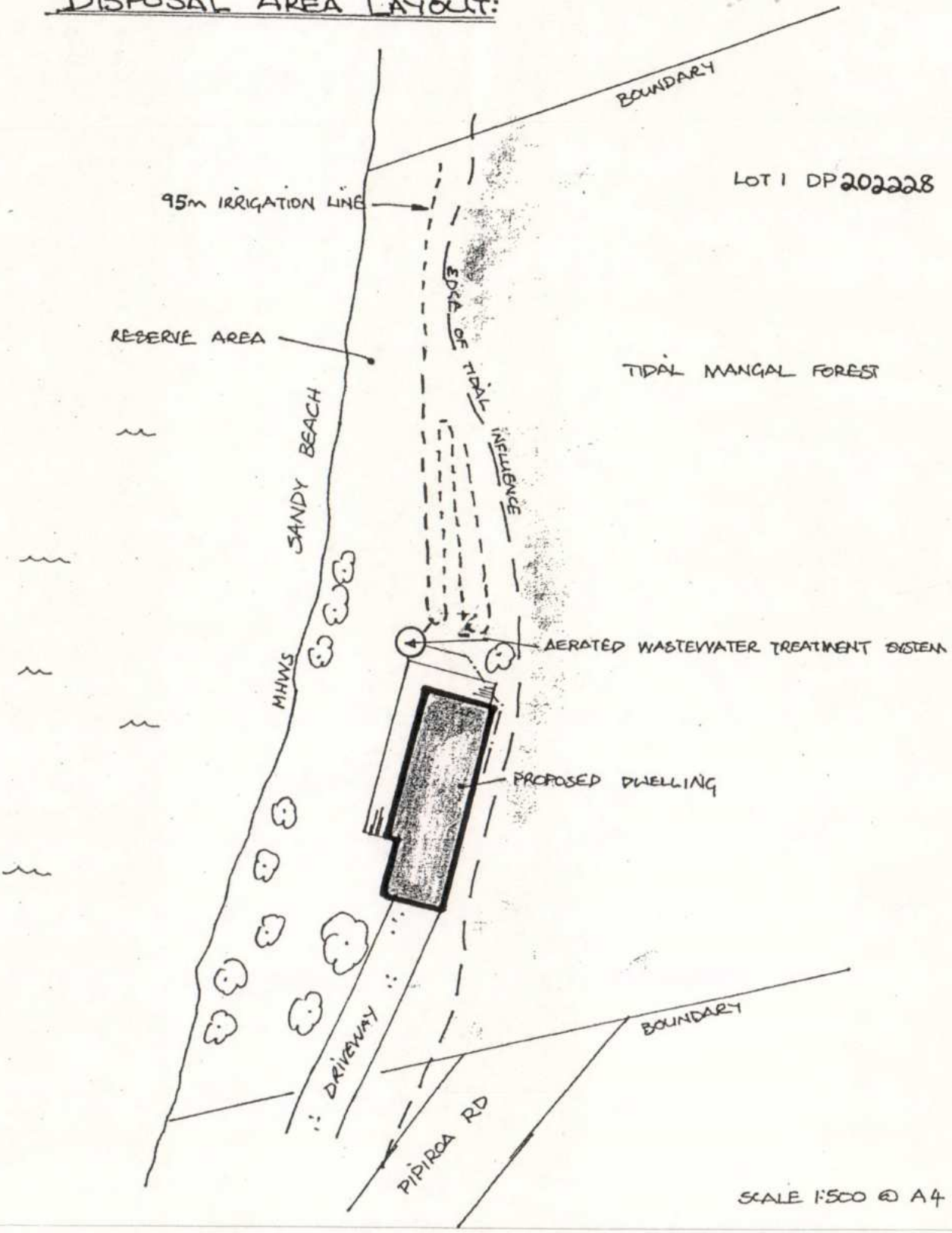
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CONSULTING CIVIL & STRUCTURAL ENGINEERS
2 SEAVIEW ROAD, WHANGAREI. PH (09) 438 3273. FAX (09) 438 5734.
EMAIL rscltd@clear.net.nz

File No. 991056
Plan Ref. No.
Calculated by G
Checked by
Date 25/05/09

Refers to

Client UPPERTON

DISPOSAL AREA LAYOUT:



Note: This plan of the disposal area shows the proposed dwelling in the location as originally proposed in 1999, not in the location now applied for in 2009.

Background e-mails

not for scanning

Lynley Newport

From: Steve Westgate [swestgate@xtra.co.nz]
Sent: Thursday, 14 May 2009 12:04 p.m.
To: Lynley Newport
Subject: Re: J Upperton; Pipiroa Bay

Hi Lynley
Dave Roke and Geoff Heaps at NRC were originally handling this application. Unfortunately, both are away until Monday. Dave's secretary has checked the file and found all the application information (AEE, figures, maps, building drawings, etc) in the file. It seems possible that no copies would have been forwarded to you, other than the actual appliocation form.
John Upperton has agreed that a meeting would be useful to get this application back on track. However, I'm planning to leave for the UK for several months in just over two weeks' time. Could a meeting be organised for early next week? I shall email you the text of the AEE without the supporting figures, etc, by way of background information that would be useful for perusal prior to any meeting.

Regards
Steve Westgate
----- Original Message -----
From: "Lynley Newport" <Lynley.Newport@fndc.govt.nz>
To: <swestgate@xtra.co.nz>
Sent: Tuesday, May 12, 2009 5:07 PM
Subject: J Upperton; Pipiroa Bay

Hi Steve

I've had the property file sent over, and found some background material, but
I cannot find the application previously lodged with the NRC in Nov 2005 (CON20040886701)and then forwarded to FNDC...although I have got the cover letter from NRC dated December 2005.

Looking at the issues, I think it would be of mutual benefit to have a Concept Development Meeting; the main purpose being to get everyone back on track with where things were, confirm the proposal and what consents are therefore required, and identify what information will need to be provided with the application. Both regional council and district council consents will be required, as you have rightly identified.

Until an application is lodged, and we have all the information that we need in front of us, it is not possible to determine what process will be followed (in terms of notification).

I think there is an application form for a Concept Development Meeting on our website. Any request for such a meeting can be attentioned to me in the first instance if you like, and then I can ensure the admin people organise things.

I think it would be of benefit to your client, and to Council, to have such a meeting.

Lynley Newport
Senior Resource Planner
Far North District Council
Private Bag 752, Memorial Avenue, Kaikohe 0440
Free Phone: 0800 920 029
Fax: 09 4070419
Email: lynley.newport@fndc.govt.nz
Website: www.fndc.govt.nz

J K UPPERTON

Pipiroa Road, Okiato, Bay of Islands

DESCRIPTION OF PROPOSED DWELLING AND ASSESSMENT OF ENVIRONMENTAL EFFECTS

ADDITIONAL SET OF DRAWINGS
(ref. Figures 1-9 & Appendix II.1 in AEE)

Supporting Documentation for Application for Resource Consents under the Resource Management Act 1991

(November 2005)
Updated: May 2009

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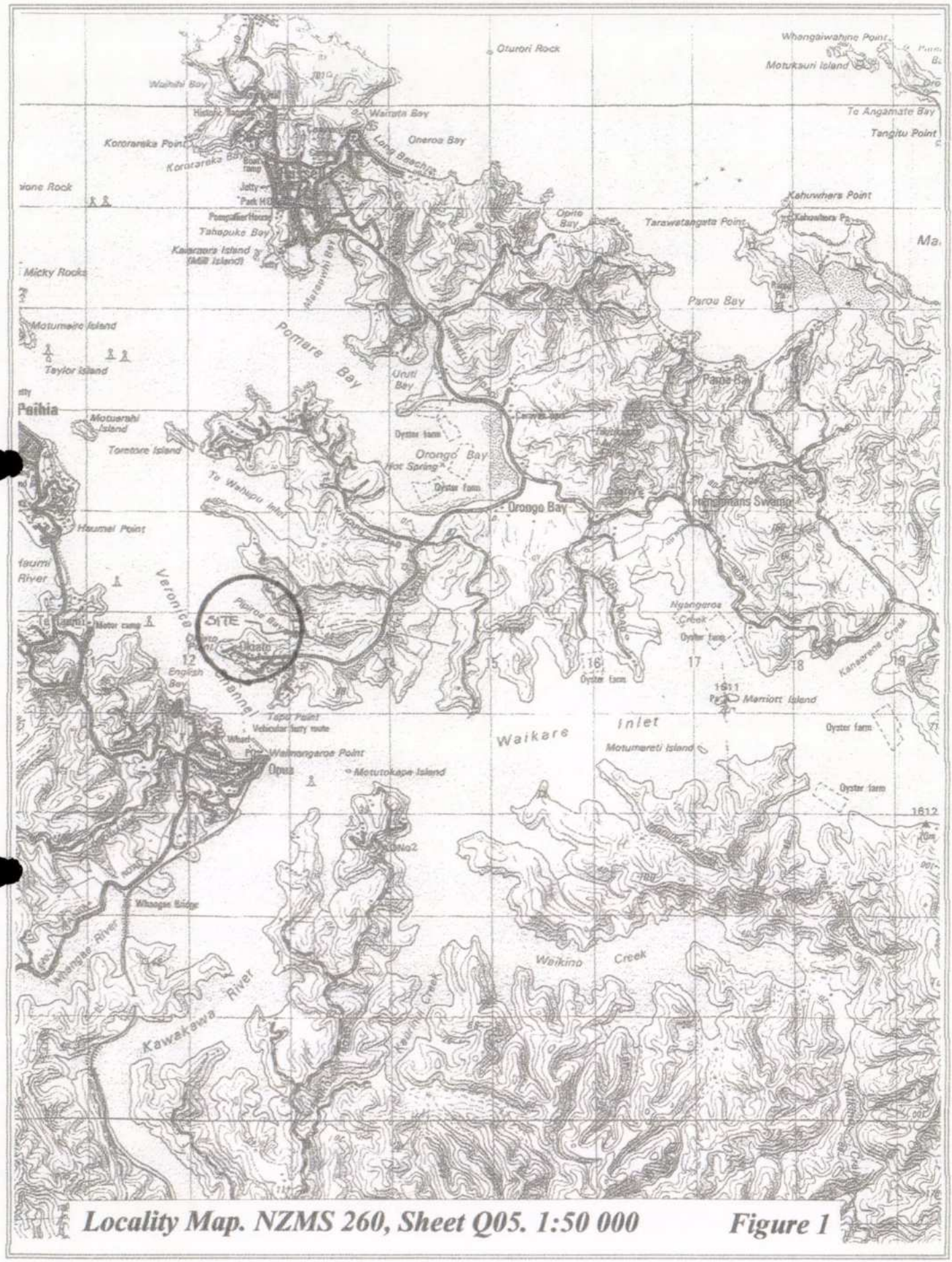
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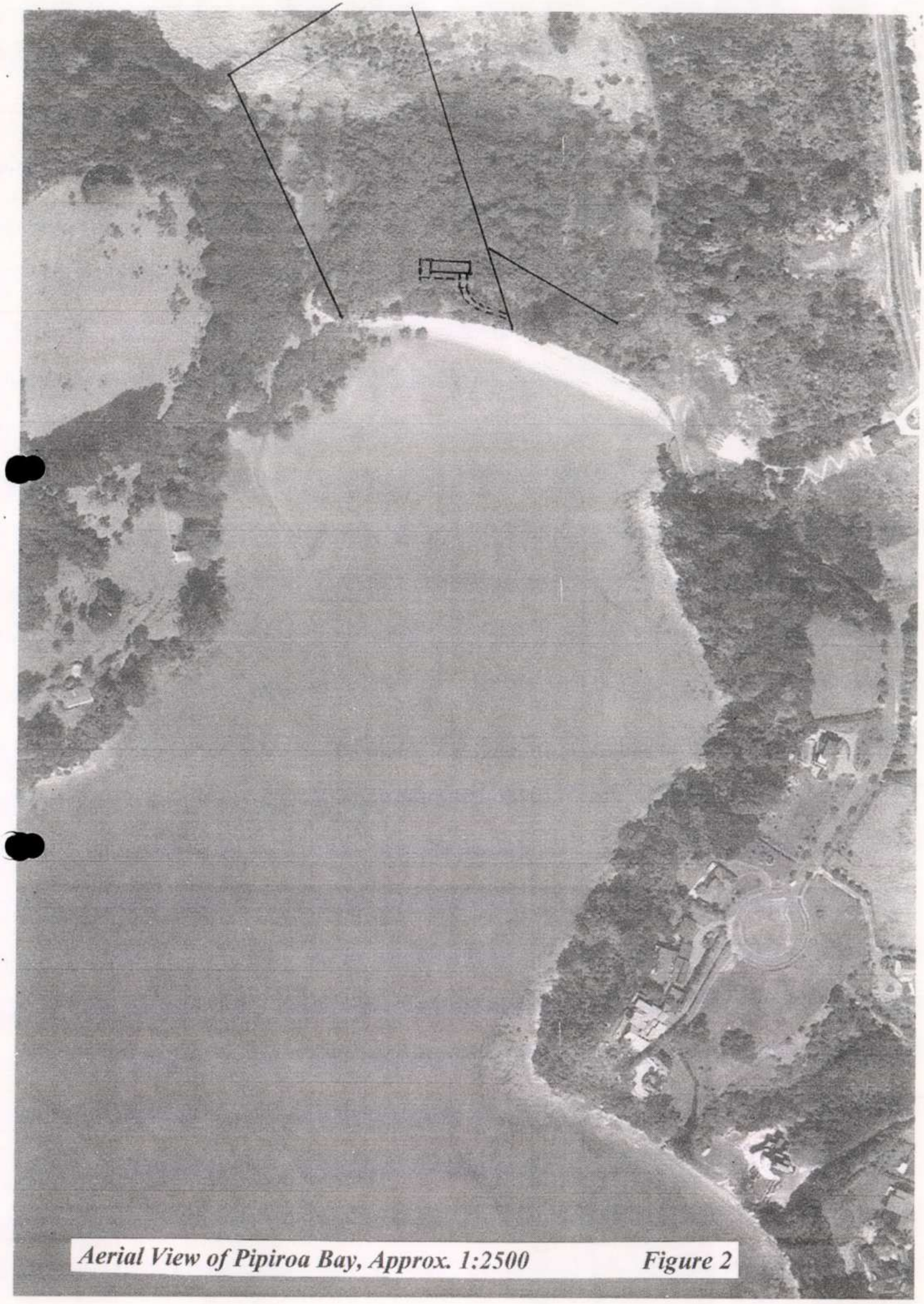
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Engineering Report for On-Site Effluent Disposal, updated May 2009.

POOR QUALITY

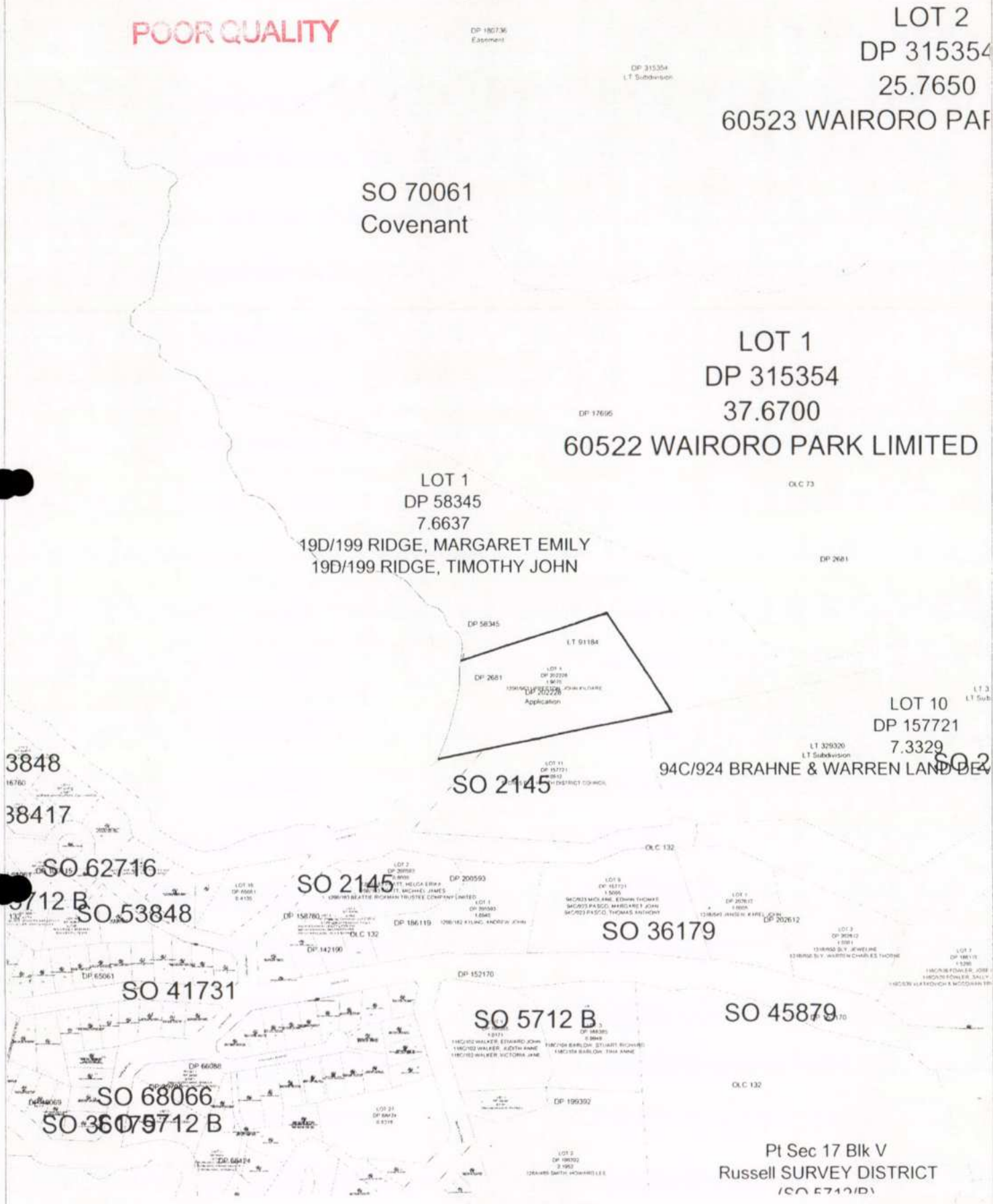


Locality Map. NZMS 260, Sheet Q05. 1:50 000 ***Figure 1***



Aerial View of Pipiroa Bay, Approx. 1:2500 **Figure 2**

POOR QUALITY



Cadastral Map of Pipiroa Bay. 1:5000

Figure 3

Scale 1:5000

0 50 100 150 200 250 300 350 400 450 500 550 600m

Pipiroa Bay

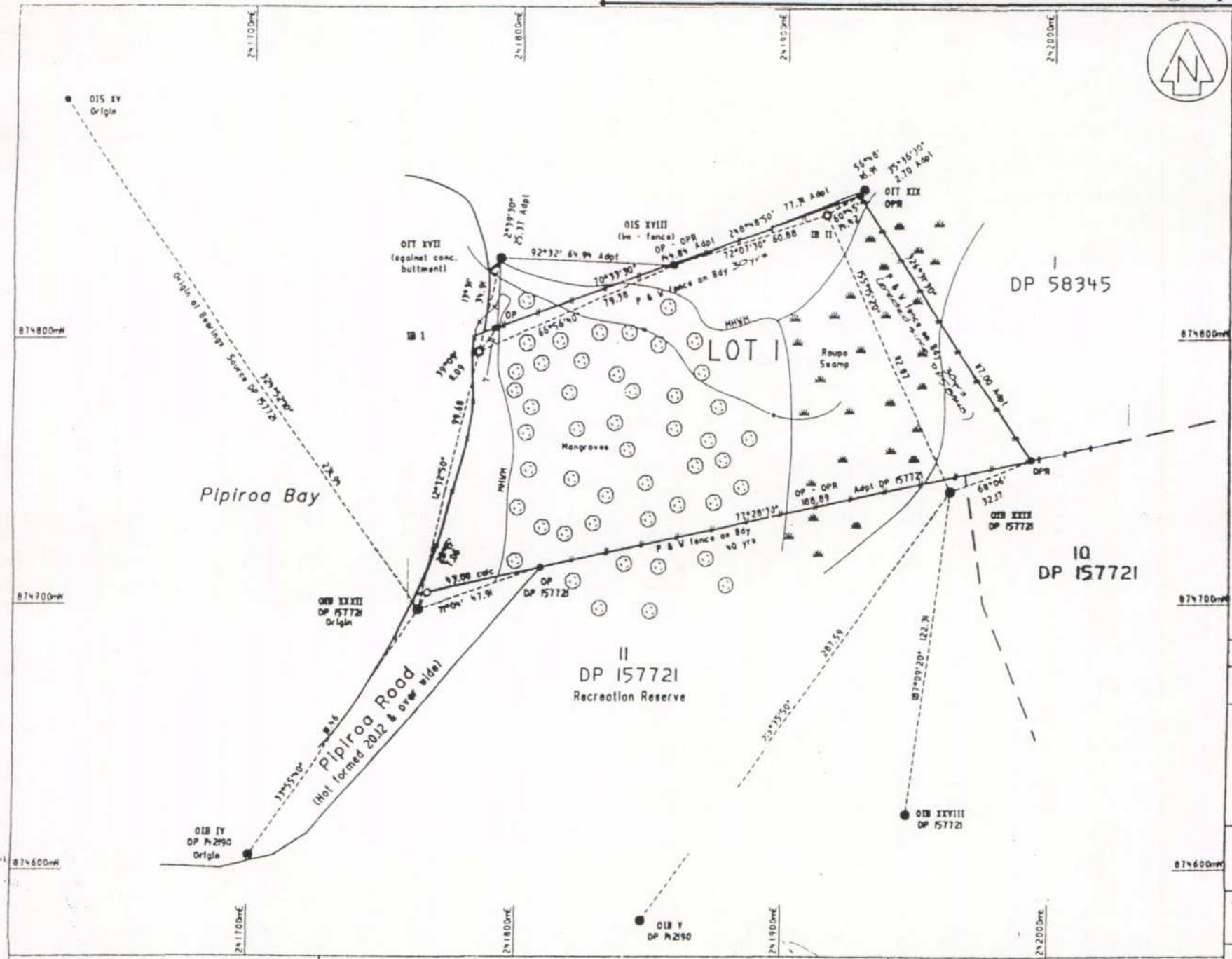
Survey and Title Data as at 1-MAY-2004, Valuation and Sales Data as at 29-APRIL-2004 and Geodetic Mark data as at 1-MAY-2004. For additonal mark data visit www.linz.govt.nz for Geodetic Database. Cadastral Information from LINZ Core Record System (



Schematic Plan of Site of Proposed Dwelling. 1:1000 Figure 4

[redacted] [redacted]

Survey Plan of the Property (Thomson & King, April 2000). *Figure 5*



Bearing and Coordinate Datum Geodetic 1949

Mt Eden Circuit Coordinates
Origin Mt Eden 700000 mN 300000 mE

Schedule of Coordinates

	mN	mE
OIB IV DP 142190	874605.84	2411700.21
SOURCE DP 157721		
OIB XXIX DP 157721	874742.85	2411962.29
OIB XXXII DP 157721	874698.31	2411762.42
IB I	874795.60	2411784.07
OIS XVIII DP 58345	874826.68	2411857.11
IB II	874845.36	2411915.05

Notes:
BEARINGS ADOPTED FROM DP 58345 HAVE BEEN ADJUSTED BY +1°30" TO BE IN TERMS OF GEODETIC 1949 DATUM (SEE DP 157721)

OLD MARKS AND ADOPTIONS ARE FROM DP 58345 UNLESS OTHERWISE SHOWN

BOUNDARIES ARE NOT OCCUPIED UNLESS OTHERWISE SHOWN

INSTRUMENT USED : TOPCON GTS 303

Fixes to M.H.W.M
From OIB XXXII
11°20' 98.55
14°11' 80.75
15°30' 66.70
15°57' 45.75
16°00' 24.60
317°30' 3.20
218°07' 14.10

From IB I
318°37' 5.20
1°13' 10.70
19°50' 17.00

Class of Survey II

Total Area

Comprised In

I, David Brett King of Paihia being a person entitled to practice as a registered surveyor, certify that (a) The surveys to which this dataset relates are accurate, and were undertaken by me or under my direction in accordance with the Survey Act 1986 and the Survey Regulations 1990 (b) This dataset is accurate, and has been created in accordance with that Act and those Regulations.

Dated at Paihia this 20th day of April 2000 Signature

Field Book ____ p ____ Traverse Book ____ p ____
Reference Plans DP 157721 DP 58345 LT 91184
Examined ____ Correct ____

Approved as to Survey

____ / ____ / ____ Chief Surveyor

Deposited this ____ day of ____ 20____

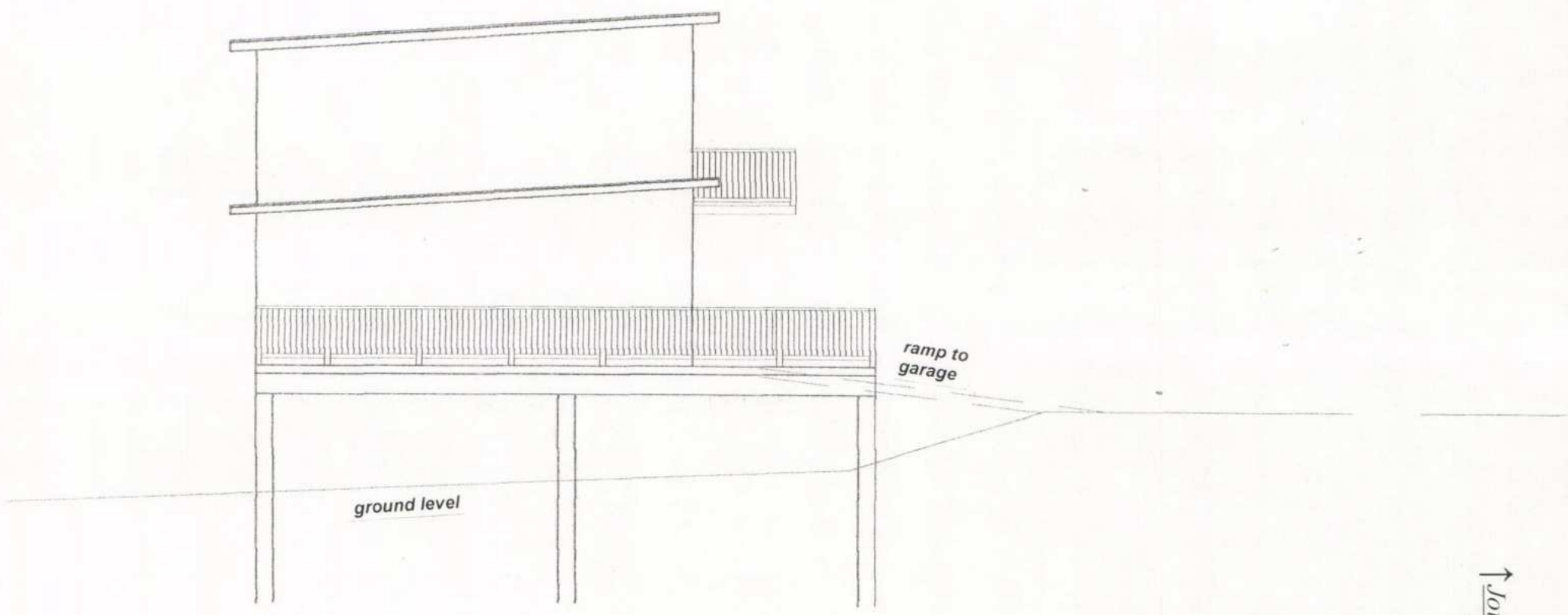
for Registrar General of Land

File 4849
Received

LAND DISTRICT: NORTH AUCKLAND
SURVEY BLK & DIST: V Russell
NZMS 261 SHT 005 RECORD MAP 3.11 & 4.11

Lot 1 Being Pt O.L.C 73

LOCAL AUTHORITY: Far North District
Surveyed by: Thomson & King, Paihia



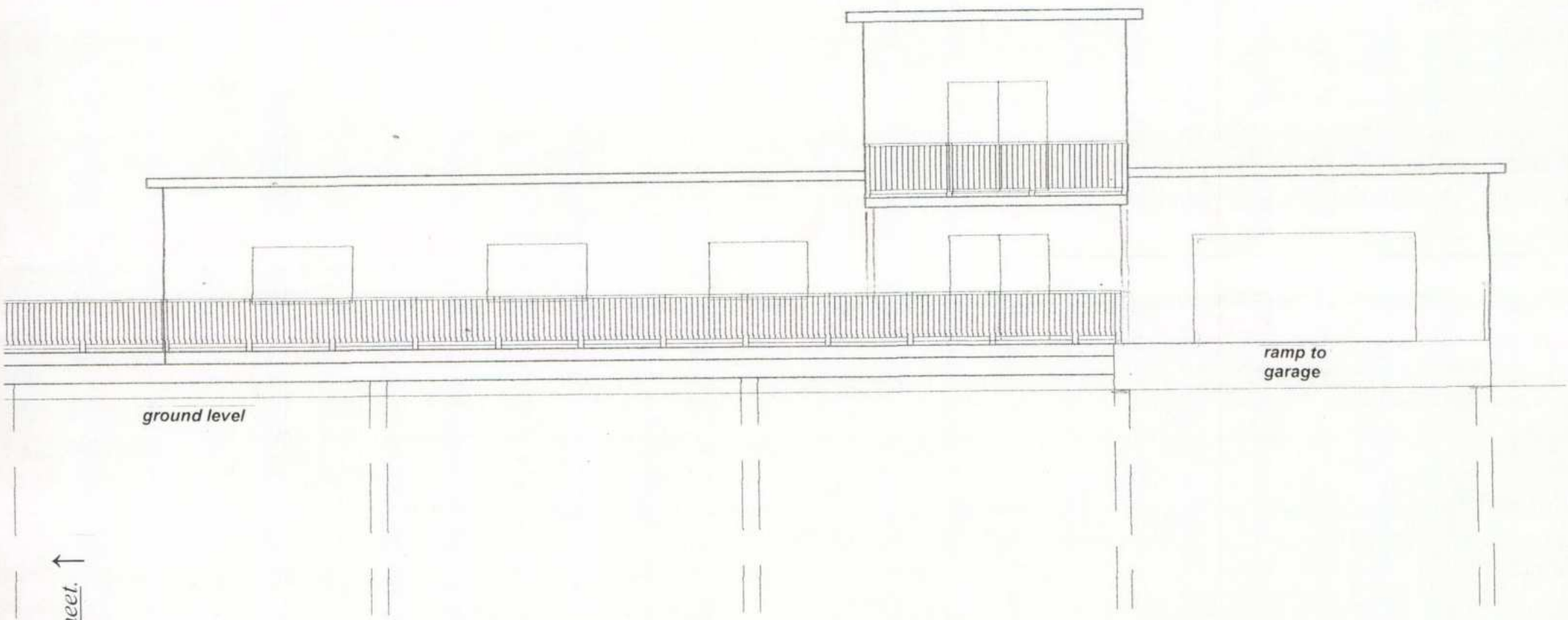
Joins Figure 6.2 to make Original A2 Sheet. →

Side Elevation of the Proposed Dwelling (1:100) ***Figure 6.1***

ACENZ
2 Seaview Road, Whangarei.
Ph. (09)4383273. Fax. (09) 4385734.
engineers@richardsonstevens.co.nz
Richardson Stevens Consultants (1996) Ltd CIVIL & STRUCTURAL ENGINEERS

JOHN UPPERTON,PIPI
PROPOSED PLATI

Tux\Jobs\files\Jobs 4001 - 4500\4463 Upperton\CAD\4463House Platform.17.10.03dwg_recover.dwg, 23/08/2004 2:33:07 p., \\TUX\designjet430



← *Joins Figure 6.1 to make Original A2 Sheet.* →

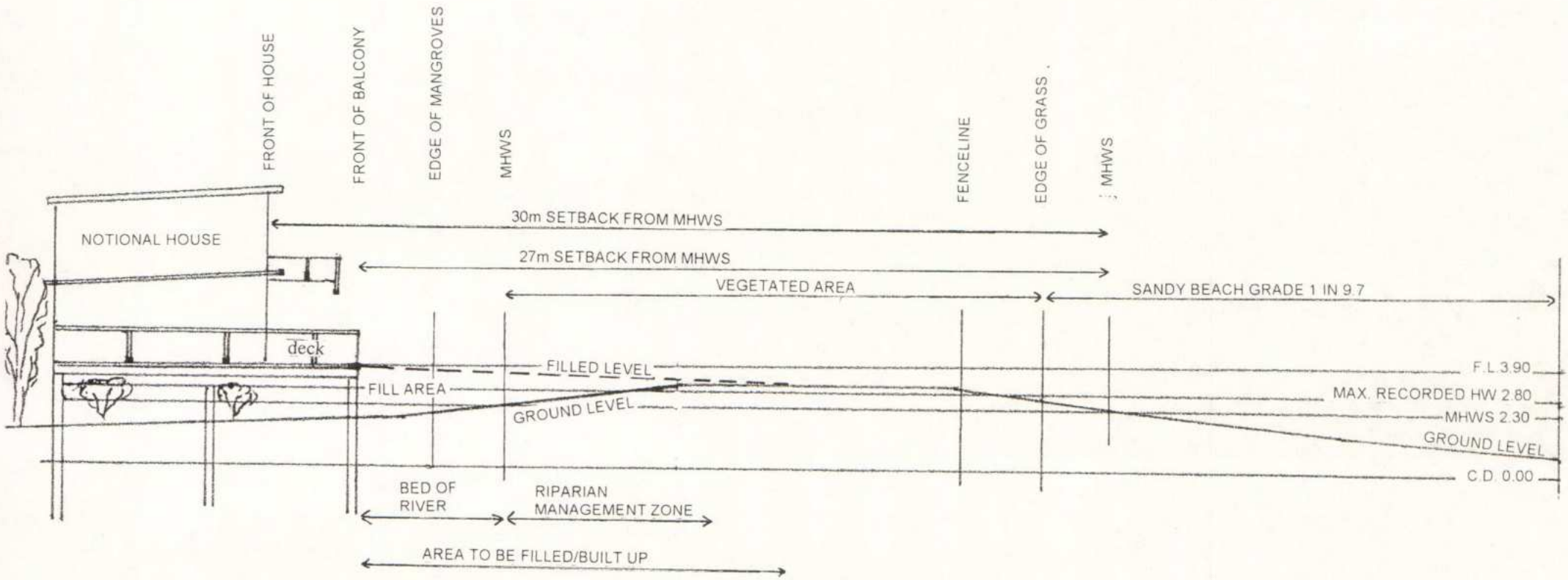
Front Elevation of the Proposed Dwelling (1:100) ***Figure 6.2***

OA ROAD, PIPIROA BAY
ORM FOR DWELLNG

STRUCTURAL DETAILS	
Date:	AMENDMENTS

Project: 4463
Drawn: MHPR
Date: OCT.2003
Scale: 1/100, ~~1/50~~

Sheet
S1



Note: Levels shown relate to Chart Datum. Chart Datum is 1.4m below L&S Datum

CROSS-SECTION THROUGH SPIT AND PROPOSED HOUSE SITE. Scale 1:200

[Derived from plans and drawings by Richardson Stevens Consultants (1996) Ltd]

JOHN UPPERTON, PIPIROA ROAD, PIPIROA BAY

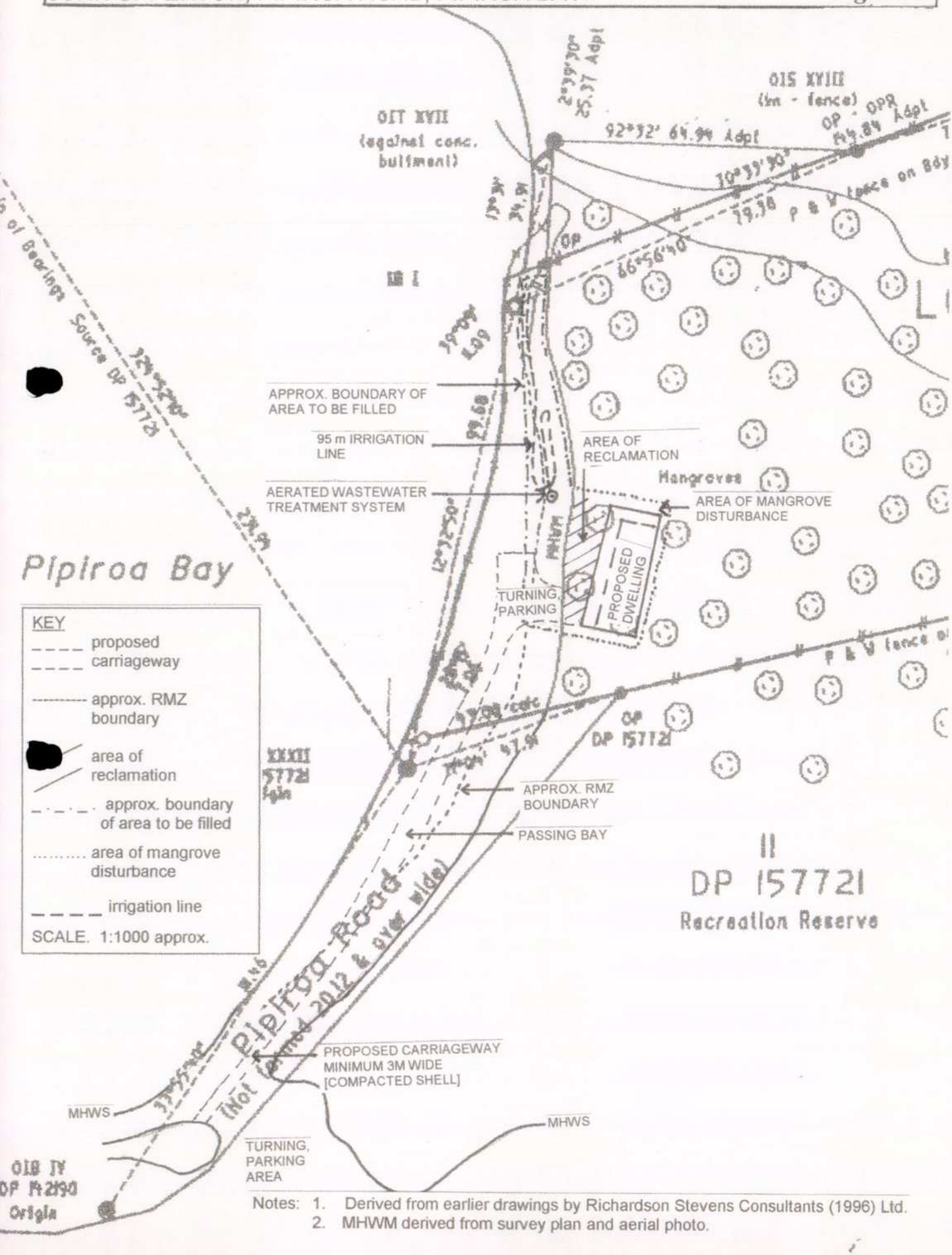
Cross-section through the Spit and Proposed House Site 1:200 (A4)

Figure 7

SCHEMATIC SITE PLAN, showing proposed carriageway, proposed dwelling, proposed irrigation area, proposed reclamation area, etc. Scale. 1:1000 approx.

JOHN UPPERTON, PIPIROA ROAD, PIPIROA BAY

Figure 8

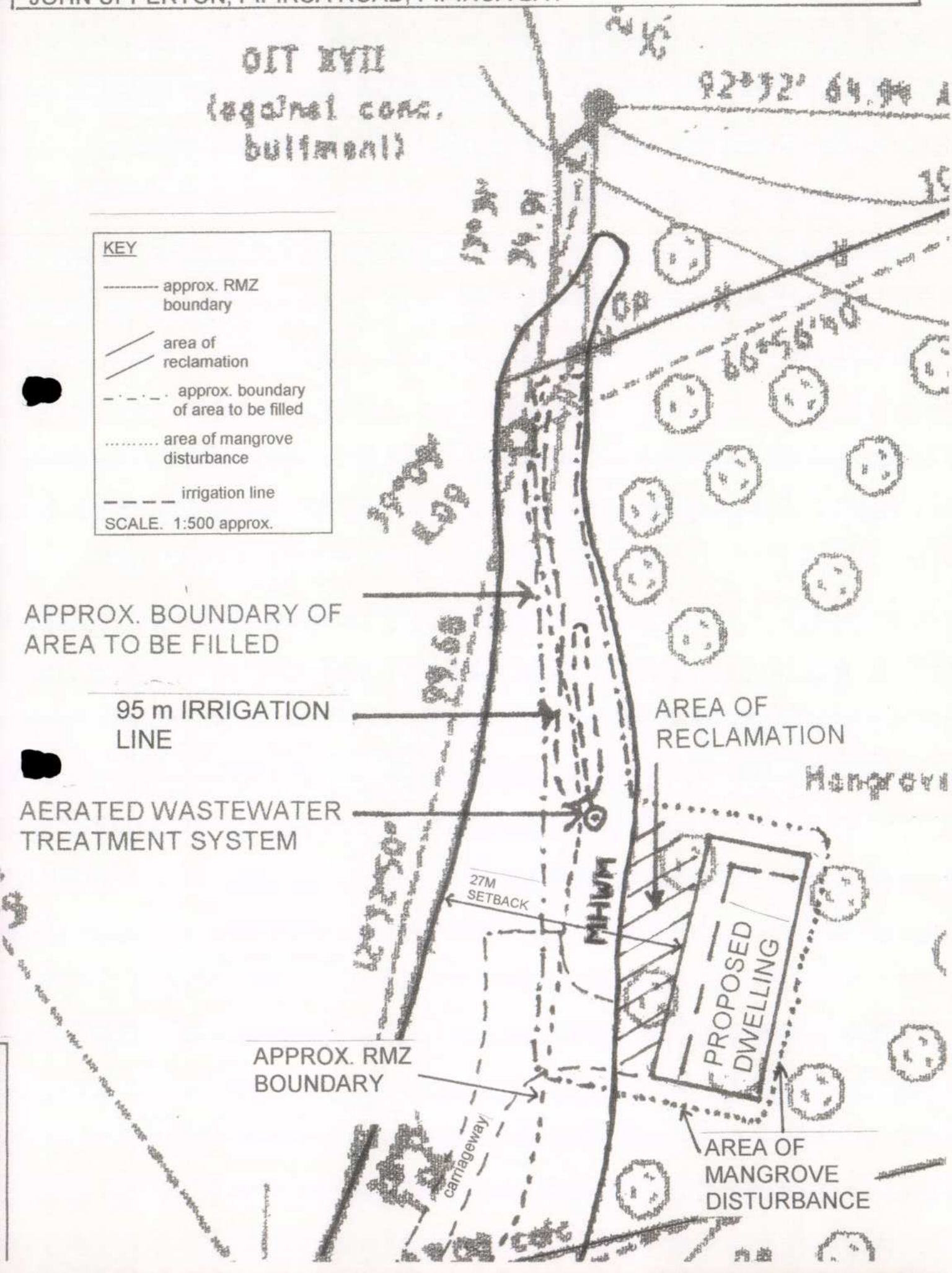


Notes: 1. Derived from earlier drawings by Richardson Stevens Consultants (1996) Ltd.
2. MHWM derived from survey plan and aerial photo.

SCHEMATIC PLAN OF PROPERTY, showing proposed dwelling, proposed irrigation area, proposed reclamation area, etc. *Scale. 1:500 approx.*

JOHN UPPERTON, PIPIROA ROAD, PIPIROA BAY

Figure 9



Appendix II.1 Engineering Report for On-Site Effluent Disposal, 5 November 1999.

ACENZ

Email: rsdltd@clear.net.nz

Richardson Stevens
Consultants (1996) Ltd

Grant Stevens
B.E., M.I.P.E.N.Z.
Registered Engineer

Tim Pike
N.Z.C.E., B.E. (Hons), M.I.P.E.N.Z.
Registered Engineer

CIVIL & STRUCTURAL ENGINEERS, 2 SEAVIEW RD, WHANGAREI. PH: 09 438 3273, FAX: 09 438 5734

ENGINEERING REPORT

For

ON-SITE EFFLUENT DISPOSAL

Client Name: J. UPPERTON

Prepared for: STEPHENSON + WILLIAMS

Date: 5-11-99

File Number: AWTS 991056

Report by: COLIN BISHOP

Engineering Report for On-site Effluent Disposal

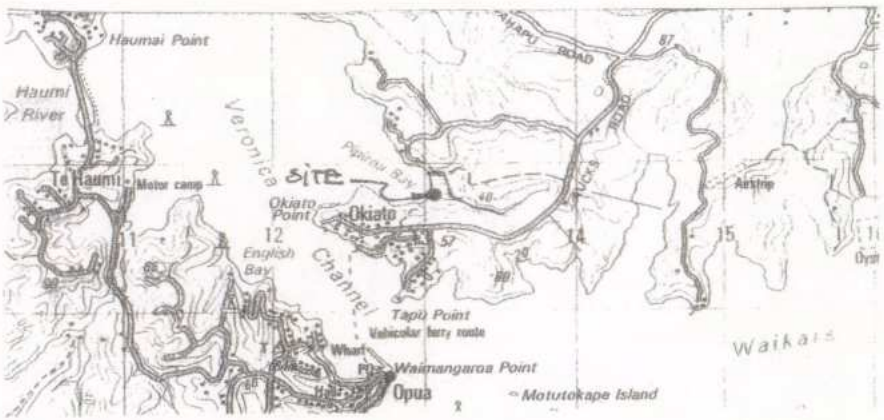
Client Name:	J. Upperton
Prepared for:	Stephenson & Williams
Date:	5-11-99
File Number:	AWTS991056

Site Information

Road/Street:	Pipiroa Rd.
Locality:	Pipiroa Bay
District Council Area:	Far North
Regional Council Area:	Northland
Lot Number:	Lot 1
DP Number:	DP91184

Location Map:

POOR QUALITY



Design Recommendation	Aerated Wastewater Treatment System
Resource Consent/Discharge Permit required:	yes
System Brief:	Aerated Wastewater Treatment System with surface irrigation disposal
Topography:	Slight

Available Clearances:

Boundaries:	min.	1.5
Waterways:	min.	5
Wells/bores/springs:	min.	20
Buildings:	min.	3

Depth of winter watertable:	0.8 m
Depth of summer watertable:	n/a m
Need for surface water cut-off drains:	n/a
Intended water supply:	Rainwater tank
Reserve area available:	100%
Level of primary treatment:	n/a
Level of secondary treatment:	n/a
Level of tertiary treatment:	Aerated Wastewater Treatment System

Subsoil Investigation: Hand augered bore

Bore diameter: 100 mm

Bore depth: 1.7 m

Groundwater: yes

Soil Profile:



0-200	Sandy black topsoil
200-600	Firm coarse sand
600-1700	Soft marine mud

[redacted]

Effluent Loading and Design

Number of bedrooms: 3

Number of persons: 5

Wastewater flow allowance: 140 litres/person/day

[redacted]

Total daily wastewater flows: 700 litres/day

Cover over disposal area: grass/landscaping

Percolation testing:

A series of rapid percolation tests were carried out on site within the proposed disposal area. Percolation rates were in excess of 25mm per minute

Soil category: (In accordance with NZS 4610:1982) A

Tertiary System design

System installation type:

- ■ Biocycle
- ■ Oasis Clearwater
- ■ Super Treat
- ■ Clean Stream
- ■ Hynds Clearwater
- ■ Enviroflow

Effluent disposal design

Long term acceptance rate: 10 litres/m^2/day

Type of building: Residential

Number of bedrooms: 3

Number of persons: 5

Wastewater flow design allowances:

Flow allowance: 140 litres/person/day

Occupancy numbers: 5 persons

Total daily wastewater flows: 700 litres/day

Irrigation area required: 70.0 m^2

Use 70 metres (minimum) irrigation line to dispose of treated wastewater.

Irrigation Line

Treated wastewater to be drip irrigated into landscaped surroundings or within the topsoil layer
Distribution by pressure compensating drippers.
Drippers to be covered by 50-100mm bark, vegetation or soil.

Minimum separation distances for irrigation line:

Minimum dripper interval:		1 m
Minimum distance between irrigation lines:		1 m
Minimum distance from:	Buildings	3 m
	Waterways	20 m
	Boundaries	1.5 m

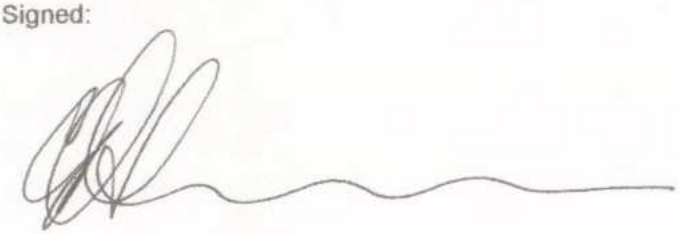
Summary:

This is a 1.6ha (approx.) site. The proposed dwelling and effluent disposal area is to be located on a narrow sandspit, which separates the main beach from a tidal wetland area. Due to the high watertable and limited disposal area we recommend an Aerated Wastewater Treatment System. These systems offer a high degree of treatment and less ground disturbance than most other disposal systems. Resource consent from the Regional Council is required due to the high ground water table.

Recommendations:

- The irrigation line is to be placed at owner's discretion around landscaping and/or through topsoil layer.
- Irrigation line to be covered by 50-100mm of bark, vegetation or soil.
- System to be installed and maintained as per manufacturers recommendations.

Signed:



Date: 5/11/99.

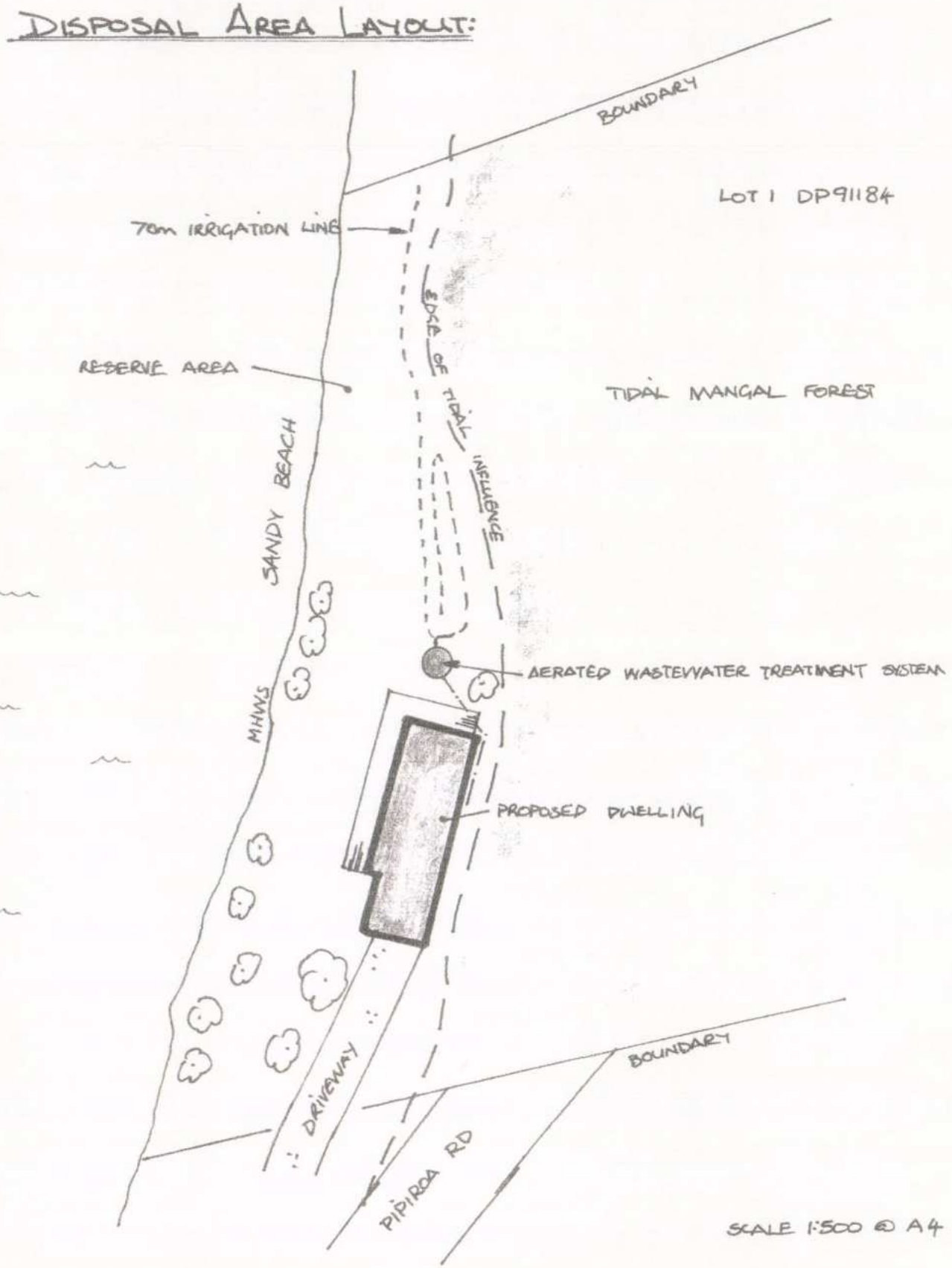
Registered Engineer.
RICHARDSON – STEVENS CONSULTANTS (1996) Ltd.

Richardson Stevens Consultants (1996) Ltd.
CONSULTING CIVIL & STRUCTURAL ENGINEERS
2 SEAVIEW ROAD, WHANGAREI. PH (09) 438 3273. FAX (09) 438 5734.
EMAIL rscltd@clear.net.nz

File No. 991056
Plan Ref. No.
Calculated by CB
Checked by
Date 5-11-99

Refers to
Client UPPERTON

DISPOSAL AREA LAYOUT:



SCALE 1:500 @ A4

Appendix II.1 Engineering Report for On-Site Effluent Disposal, (cont.) updated May 2009.

ACENZ

Richardson Stevens
Consultants (1996) Ltd

Email: engineers@richardsonstevens.co.nz

Grant Stevens
B.E., M.I.P.E.N.Z. (Civil, Structural)
Chartered Professional Engineer

Steve Turner
B.E., M.I.P.E.N.Z. (Civil, Structural)
Chartered Professional Engineer

CIVIL & STRUCTURAL ENGINEERS, 2 SEAVIEW RD, WHANGAREI 0110. PH: 09 438 3273, FAX: 09 438 5734

File: 99/1056

25 May 2009

S. Westgate

swestgate@xtra.co.nz

Dear Sir

On-site Wastewater Management – Lot 1 DP 202228

As requested, we have reviewed our earlier report for Stephenson and Williams dated 5 November 1999 (file 99/1056).

To comply with the Far North District Council design standard (Auckland Regional Council's TP58:2004), a more conservative wastewater flow allowance of 190 litres/person/day would need to be adopted. This would increase the minimum irrigation area required to 95 m² (190 x 5/10). A revised disposal area layout plan is attached.

It is our understanding the ground used for effluent management is to be raised to achieve the 1.2 metre clearance to groundwater.

We note that Resource Consent will need to be obtained from both the Far North District Council and Northland Regional Council due to the proximity of the irrigation line to water bodies.

Yours faithfully

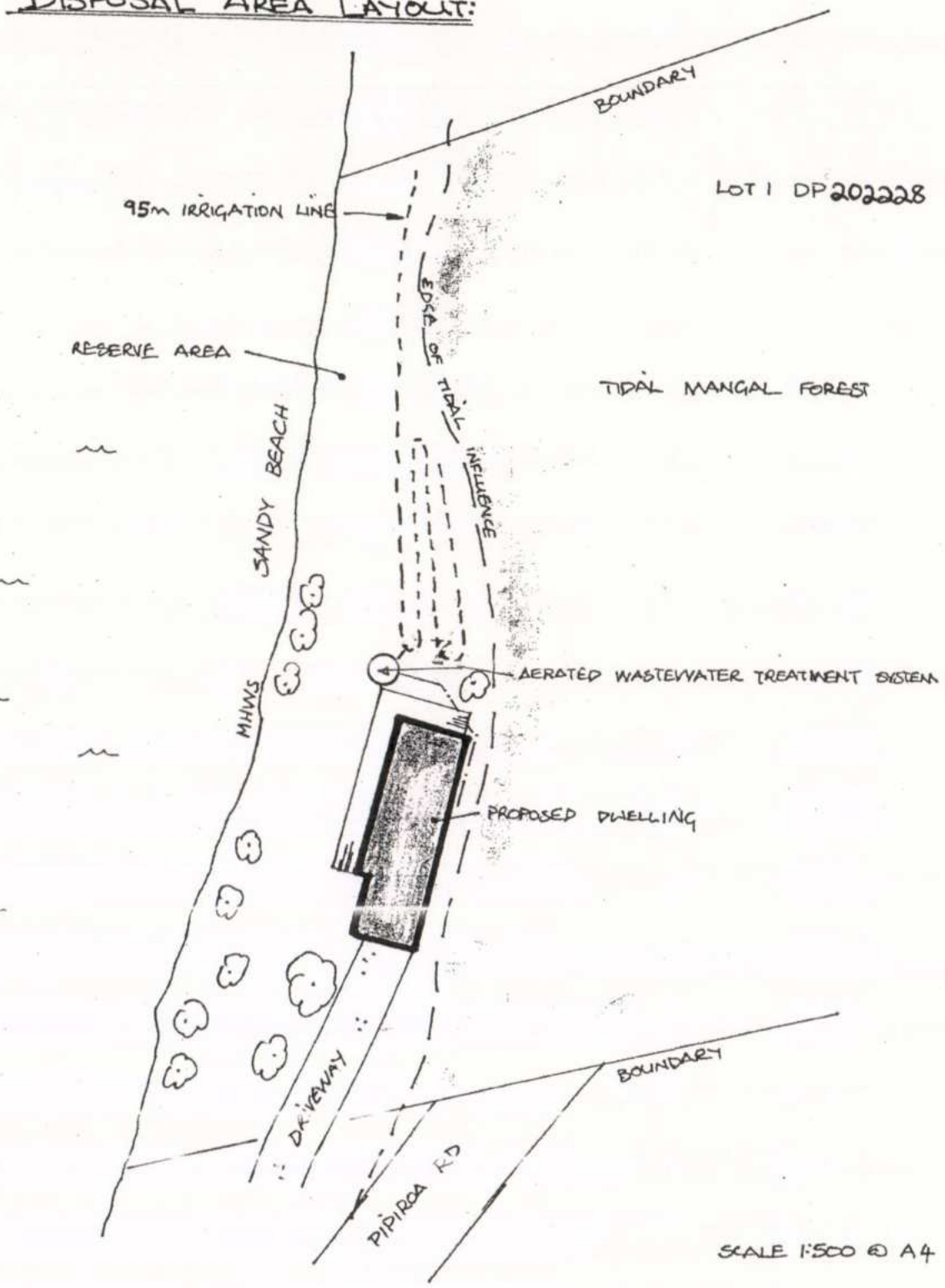
G. Turner
Richardson Stevens Consultants (1996) Ltd

Richardson Stevens Consultants (1996) Ltd.
CONSULTING CIVIL & STRUCTURAL ENGINEERS
2 SEAVIEW ROAD, WHANGAREI. PH (09) 438 3273. FAX (09) 438 5734.
EMAIL rscltd@clear.net.nz

File No. 991056
Plan Ref. No.
Calculated by G
Checked by
Date 25/05/09

Refers to
Client UPDATED

DISPOSAL AREA LAYOUT:



Note: This plan of the disposal area shows the proposed dwelling in the location as originally proposed in 1999, not in the location now applied for in 2009.

Pat Killalea

From: Steve Westgate [swestgate@xtra.co.nz]
Sent: Wednesday, 27 October 2010 11:24 a.m.
To: Pat Killalea
Subject: Re: Upperton
Attachments: Upperton ADDENDUM TO AEE v2.doc

Dear Pat
Please find enclosed Addendum to the June 2010 AEE, incorporating the significant changes and additions resulting from the McAlley report and follow up. I hope that this simplifies the presentation of the original supporting information and the subsequent amendments in my September letter.
Regards
Steve

----- Original Message -----
From: Pat Killalea
To: 'Steve Westgate'
Cc: Lynley Newport
Sent: Wednesday, October 20, 2010 2:06 PM
Subject: RE: Upperton

Steve,
We have engaged Vision Engineering (Ben Perry) to undertake a peer review of the effluent disposal system and we expect his report by the end of next week. Subject to no major issues being raised by Ben I believe we can then proceed to the limited notification phase. I will leave it to you (or John) to decide whether you want to update the AEE for notification purposes. I will contact you as soon as we receive the peer review and we can have a meeting if required!
Regards,
Pat.

From: Steve Westgate [mailto:swestgate@xtra.co.nz]
Sent: Wednesday, 20 October 2010 11:32 a.m.
To: Pat Killalea
Subject: Upperton

Hello Pat
I wonder if you could confirm, or otherwise:
1. That you now have sufficient information to address the matters raised by Ian McAlley;
2. Would it assist to have the responses to Ian McAlley incorporated into the June 2010 AEE by way of a list of Addenda? It is perhaps relevant to note that the increased volume of fill resulting from the raising of the soakage field by 300mm is only of the order of 35 cubic metres which is of little consequence within the overall stated earthworks volume of 700-800 cubic metres.
3. Are you approaching a position of being able to proceed with Limited Notification as discussed at our meeting on 31st August? It would be helpful to get the response period out of the way before Christmas, along with other progress hopefully.
Would it assist to have another brief meeting to resolve any problems that may be outstanding?
In regard to the matter of a possible land use consent for the installation of the effluent treatment plant, I discussed this with Waipapa Tanks and with Richardson Stevens. Neither considered that a land use consent was necessary in their experience. However, the installation would potentially be an ancillary part of the ultimate building permit application, I would imagine.
Regards
Steve Westgate

Get it done online at your convenience, visit our website - www.fndc.govt.nz
---
Attention: The information contained in this email (including any attachments) is intended solely for the addressee(s).
It is confidential and may be legally privileged.
If you have received this email in error you must not use, copy, disclose or distribute it or any information in it.
Please simply notify the sender and delete or destroy all copies of the email immediately.
Unless formally stated, this e-mail and any attachments do not necessarily reflect the views of the Far North District Council.
The Far North District Council accepts no responsibility for any interception of, or changes to, our email after it leaves us.

J K UPPERTON

Pipiroa Road, Okiato, Bay of Islands

ADDENDUM TO

DESCRIPTION OF PROPOSED DWELLING AND ASSESSMENT OF ENVIRONMENTAL EFFECTS (A.E.E.)

Supporting Documentation for Application to Far North District Council for Resource Consent under the Resource Management Act 1991

AEE (November 2005)
AEE (Revised: July 2009)
AEE Revised and Updated: June 2010
Addendum: 26 October 2010.

ADDENDUM TO AEE

The June 2010 submitted with the Upperton application was reviewed for FNDC by Mr Ian McAlley. As a result of a number of issues that were raised in the review (letter from Mr McAlley dated 28 July 2010), additional information supporting the application was submitted that modified or augmented information contained within the AEE.

This Addendum sets out the changes to the June 2010 AEE resulting from that additional information. Deletions are shown as 'strikethrough', while additions are shown underlined.

2.6 Effluent Treatment & Disposal, Para. 1.

Addition to Line 1 to now read:

"Domestic effluent will be treated in an aerated wastewater treatment system (an Advanced On-Site Effluent Treatment System), and dispersed through a drip-fed irrigation line extending along the spit. A copy of Richardson Stevens 'Engineering Report on ONSITE EFFLUENT DISPOSAL' dated 5.11.99, with a 25 May 2009 updated amendment, and a further amendment dated 20 September 2010, is attached in Appendix II.1, including a layout plan."

2.6 Effluent Treatment & Disposal, Para. 2.

The September 2010 revision by Richardson Stevens suggests that irrigation line separation distances of 5m and approximately 4m respectively from MHWS and the Limit of Tidal Influence can be achieved, rather than the 4m and 1m distances quoted in the June 2010 AEE. The actual soakage field will extend beyond these limits, and in particular, towards the Limit of Tidal Influence.

2.6 Effluent Treatment & Disposal, Para. 4.

This paragraph is amended to reflect the increased bed depth to guard against predicted maximum sea level rise over the next 100 years:

"As shown in the Richardson Stevens report, onsite measurements have identified that the water table is 0.8m below the surface. It is proposed that ~~200mm~~ 400-500mm of imported topsoil, covered with 50-100mm of bark, vegetation or soil, would be placed to form a raised bed, low pressure dispersal area. This will provide a bed depth of ~~+~~ 1.2-1.3metre above the water table, providing a significant margin over the minimum requirement."

2.11 Earthworks (i).

With the raised bed depth, this should now read:

(i) "Raised bed effluent disposal area. Building up a raised-bed, treated effluent disposal area by approximately ~~300mm~~ 500-600mm (soil + bark). The volume of material involved is of the order of ~~30~~ 50-60 cubic metres (95 x ~~0.3m~~ 0.5-0.6m)."

The total volume of earthworks is still within the range of 700-800 cubic metres (sections 2.11 (vii) & 2.13).

3.5 Wetland.

Add the following to para.1:

"DoC's report on 'Natural Areas of the Whangaruru Ecological District 2005' (the '2005 Whangaruru PNA Report') identifies the wetland area as a small part of the extensive Q05/004 Habitat Unit that extends across 1527ha of the Russell peninsula, most of which is privately owned. The Habitat Unit includes 44ha of wetland."

3.6 Bird Life.

Add the following to para. 1:

"DoC's 2005 Whangaruru PNA Report notes that the wetland areas of Q05/004 offer habitat to NI fernbird, banded rail and spotless crake, although the species have not been positively identified at the site."

3.9 Previous Ecological Assessment and Comment., Paras. 6 & 7.

As a result of the additional communication with Mr Poynter in August-September 2010, these paragraphs are amended to read as follows:

"~~There is no record on file of any subsequent communication from Mr Poynter. However, it~~ It can be confirmed from an aerial photo (Figure 2) and the survey plan of Figure 5 that:

(i) The total area of wetland as shown in Figure 2 is about 4 ha, with the raupo swamp extending further up the gully, as seen in Figure 5. This estimate of 5-6 ha in total appears to be reasonable.

(ii) The area of mangrove is approximately 1.25 ha in the wetland and 0.25ha in the bay, totalling 1.5 ha approx.

(iii) The reclamation area will only be about 180 m^2, significantly less than the 525 m^2 that Mr Poynter was willing to support. The footprint of the dwelling and trimmed area surrounding will be about 500 m^2 with much of the habitat preserved.

Mr Poynter was re-contacted in August 2010 and was provided with information relating to the revised proposal, including the above data. He subsequently confirmed (letter of 2 September 2010 attached as Appendix II.8) that: *"The proposal as it now stands is of even lesser order of significance than was the case upon which I based my earlier report and support."*

Comment on Above Assessment:

~~Although there is no final confirmation from Mr Poynter available, it is clear that the identified areas support or better the basis for~~ Mr Poynter's ~~conditional~~ support for the present proposal on ecological grounds is quite clear. Note also the support of DoC for the revised proposal."

7.3.1 Effects on Ecosystems, Habitat.

Add a comment from Mr Poynter so that this section will read as follows:

"It has been shown that the pole construction of the dwelling will result in the loss of only a minimal area of upper tidal wetland, and the trimming/pruning of less than 6% of the area of mangrove. Mr Poynter has confirmed that *"there will be no adverse effect on the Q05/004 habitat unit."*

7.3.4 Effects on Ecosystems, Flora – Wetland. Para. 1.

Add a sentence to Paragraph 1 so that this will now read:

"The area of wetland to be disturbed by pruning/clearing of mangroves has been shown to be less than 6% of the total mangrove area. This is not considered significant in terms of the total habitat ~~(see earlier comments by Mark Poynter)~~. The total area of wetland has been estimated at about 5-6 ha. Hence the effect on the wetland as a whole will be even more negligible (less than 2%). Mr Poynter has noted that: "*The very small area of reclamation and the piling of the house, while it will result in the loss and trimming of a small area of mangrove, will not adversely affect the wildlife, botanical sequence (ecotone) or biodiversity at the location.*"

7.6 Risks, Natural Hazards. Inundation from the Sea, Para. 2.

Given the raised bed depth of the soakage field now proposed by Richardson Stevens, an additional comment is added to paragraph 2 as follows:

"Should there appear to be any imminent risk to the treated waste water soakage field at any time in the future, this can be mitigated as noted by Grant Stevens. Such moves might be by, for example, raising the soakage bed by adding more topsoil, or by building a protecting wall around the field. The revised soakage field bed depth of 0.4-0.5m now proposed is estimated to be sufficient to protect against predicted sea level rise over the next 100 years."

8.2.1 Consultation Undertaken and Responses, Department of Conservation.

Add a section for the sake of clarity, so that this section will now read:

"A letter from the Department of Conservation, dated 29.04.05, confirmed that the modified proposal had addressed the previous concerns of the Department. It is noted that the Department was instrumental in proposing the pole construction to minimise the area of reclamation. The Department again confirmed its position in an email dated 13 April 2010, following a request made by FNDC that their position should be updated. Copies of these communications from DoC are attached, see Appendix II.9. The approval notes a number of mitigation measures that have been proposed. These have been either addressed within the text of this report or are covered in the suggested conditions of section 10 below.

The 2005 approval from DoC stated 'This particular proposal for which this approval is given is that described in *J K Upperton Pipiroa Road, Okiato, Bay of Islands. Assessment of Environmental Effects of Proposed Dwelling* dated November 2004.'

DoC's approval was not stated to be conditional but as described in the AEE.

The April 2010 request to DoC to re-confirm its approval asked that regard be given to '*any changes within the Department's procedures, plans, strategies,... that might warrant reconsideration of the previous signed conditional approval.*' It is reasonable to conclude that the Department's subsequent confirmation would have had regard to the 2005 Whangaruru PNA Report."

APPENDIX II

SUPPORTING DOCUMENTS.

Add the following:

II.1 Engineering Report for On-site Effluent Disposal, 20 September 2010.

II.8 Letter from Mark Poynter, 2 September 2010.

Stephen L Westgate

26 October 2010

II.1 Engineering Report for On-site Effluent Disposal, September 2010.

Richardson·Stevens
CONSULTING ENGINEERS

File: 9847

20 September 2010

Stephen Westgate
290 Beach Road
Onerahi
WHANGAREI 0110

Dear Sir

Upperton – Pipiroa Bay – Lot 1 DP 202228

With regard to your letter dated 23 August 2010. We can confirm our design loadings of 950 litres/day potential daily flow from the proposed dwelling. This was calculated using an occupancy of five people and 190 litres/person/day. The 95m of irrigation line laid in 95m² of grassed or planted area is based on a conservative aerial loading rate in terms of TP 58 (Far North District Council adopted design guide for on-site wastewater management) of 10mm/day.

Northland Regional Council accept designs in accordance with the principles and procedures outlined in Australian/New Zealand Standard *"On-site Domestic Wastewater Management"* (AS/NZS 1547:2000), as set out by their Water and Soil Plan, Rule 15.1.4 (f). The loading rates outlined in the standard, for the category of soil found on the sand spit range from 5 – 50mm/day for secondary treated effluent. Utilising our design the dripper line would be active for an hour or two per day, most likely made up from five to ten minute loadings each hour, depending on manufactures pump settings

Due to the width of the sand spit the drip irrigation line is unable to comply with the Northland Regional Council's permitted activity requirement of 15m separation from surface water for the discharge of secondary treated effluent. A minimum separation distance of 5m from MHWS and approximately 4m from the edge of tidal influence in the mangrove area is the best that can be achieved. As previously outlined Resource Consent will need to be obtained from Northland Regional Council and Far North District Council for this activity.

2 Seaview Rd, Whangarei 0110, Ph 09 438 3273, Fax 09 438 5734, email engineers@richardsonstevens.co.nz

It is of note that permitted activity groundwater clearances in the Northland Regional Council's Water and Soil Plan have been reduced to 0.6m. However we would still recommend raising the ground in the area of drip irrigation using top soil to guard against predicted sea level rise. Additionally, the micro organisms in this organic matter will further treat the wastewater.

With regard to sea level rise and wave action generally this was covered by Grant Stevens from this office in the 2000 hearing. We understand that a copy of his Statement of Evidence presented at that hearing has been forwarded as part of this application information. Any future predicted sea level rise has been covered in the above.

In the general locality of the proposed drip irrigation line, the existing ground level is 0.4m above the predicted maximum high water, 0.2m above the maximum recorded high tide at Opua and 0.7m above MHWS. No evidence of inundation of the sand spit was observed by Grant Stevens, or subsequently, we are advised, by S Westgate. As a general summary in regard to wastewater, any part of the treatment plant below 3.5m (chart datum) is to be an impervious sealed unit. In addition to our previous recommendations, due to recent predictions from the National Institute of Water and Atmospheric Research (NIWA) of 0.2m – 0.6m of sea level rise in the next 100yrs, we would recommend raising the ground level in the area proposed for drip irrigation lines to 3.5m chart datum, which would require the total depth of filling to be 0.4m – 0.5m. This would give a free board to the current highest recorded tide of 0.7m and 0.3m from MHWS at the higher end of the predicted 100year sea level rise data. Groundwater clearances to the proposed drip irrigation lines are in excess of 1.2m to the present winter watertable.

The nature of the irrigation line installation means in future it is relatively simple to raise the ground level and relay the irrigation lines. We can confirm that any future sea level rise is likely to be a gradual process, allowing the land owner to take mitigating measures.

It is worth noting as you have previously mentioned, the on-site wastewater management system for this site was reviewed by Northland Regional Council early in this process and they considered the effects on the receiving environments as less than minor provided the system was operated and maintained properly. It is standard practise for home owners to enter into a regular maintenance contract for package treatment plant such as that proposed for this site.

The latest design of aerated wastewater treatment systems offered by Waipapa Tanks (as selected by the property owner) incorporates a final UV treatment stage that reduces faecal coliform counts to very low levels, which are further reduced in the treatment provided by the soils. We understand that these systems have been subject to the test programme at Rotorua and have performed satisfactorily there.

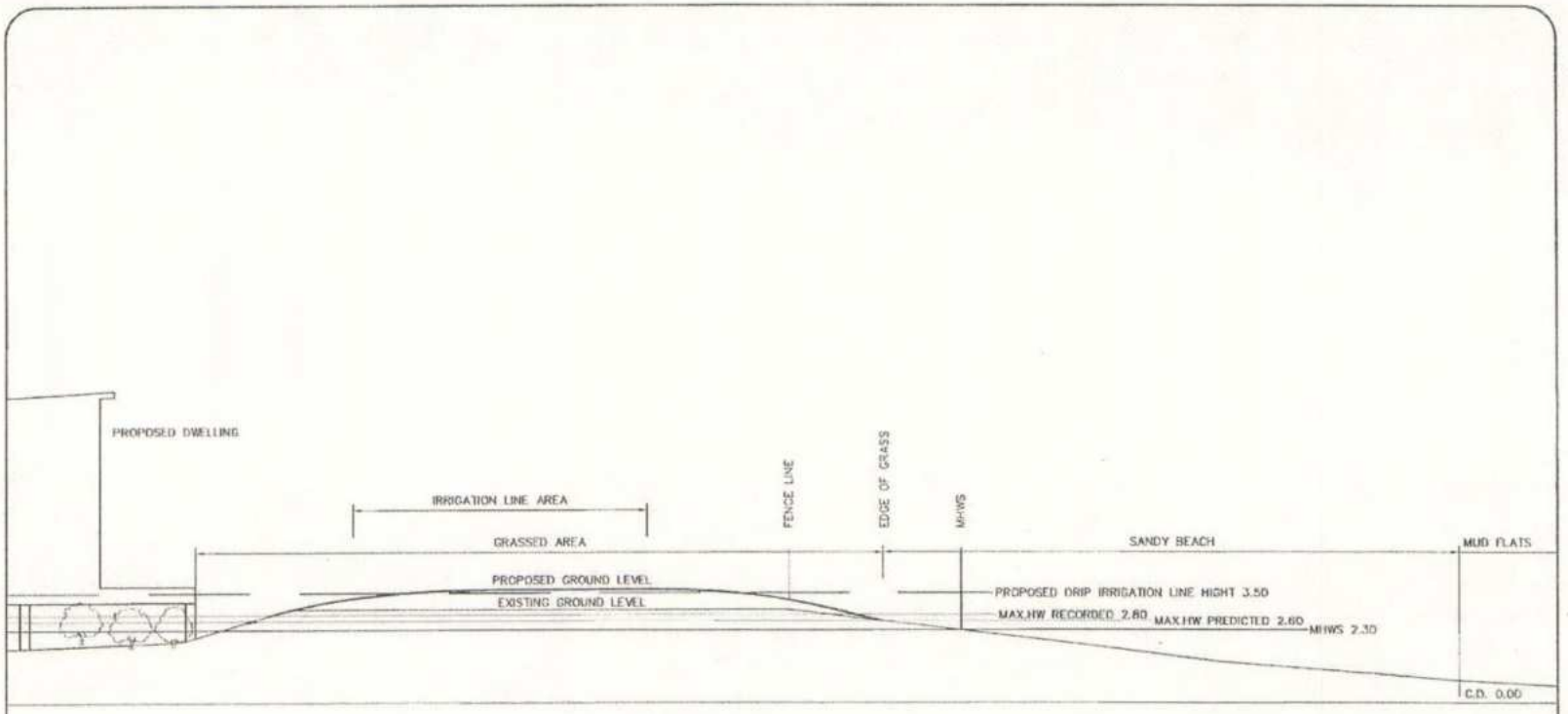
If you have any further queries please do not hesitate to contact me.

Yours faithfully



Gareth Turner
Senior Technical Engineer

Richardson Stevens Consultants (1996) Ltd



NOTE: LEVELS SHOWN RELATE TO CHART DATUM
CHART DATUM IS 1.4M BELOW L. AND S. DATUM

2 Seaview Road, Whangarei.
Ph. (09)4383273. Fax. (09) 4385734.
engineers@richardsonstevens.co.nz
Richardson Stevens Consultants (1996) Ltd CIVIL & STRUCTURAL ENGINEERS

JOHN UPPERTON, PIPIROA ROAD, PIPIROA BAY
PROPOSED IRRIGATION LINE AREA

CROSS SECTION

Date	AMENDMENTS

Project: 4463
Drawn: MHPR
Date: SPT.2010
Scale: 1/125 AT A3

Sheet 1D

II.8 Letter from Mark Poynter, 2 September 2010.

POYNTER &
ASSOCIATES ENVIRONMENTAL LTD

Shop 10, Office 1, Oceans, Marina Road
P.O. Box 402 053
Tutukaka 0153
Phone: 09 4344394
Fax: 09 4344395
Mobile: 027 4875012
Email: poynter-environmental@ihug.co.nz

Our Ref 0382

02 September 2010

Steve Westgate
290 Beach Road
Onerahi

Dear Steve,

Re: J K Upperton/Pipiroa Road, Okiato, Bay of Islands

I have reviewed all the updated information you have provided as to the revised proposal and my earlier reports and the report by Ian McAlley. I have not been back on site but have a good recollection of my earlier inspection. I have also looked at the current Google Map which provides a very good resolution aerial view of the area. I have also looked at the Whangaruru PNA report for the Q05/004 Habitat Unit. That provides a fairly broad overview in respect of the particular ecological values of this site.

I agree that the proposal as it now stands is of an even lesser order of significance than was the case upon which I based my earlier report and support. I can confirm in my view that the proposal and mitigation will result in a minor effect on ecological values. In particular I consider that there will be no adverse effect on the Q05/004 habitat unit. The very small area of reclamation and the piling of the house, while it will result in the loss and trimming of a small area of mangrove, will not adversely affect the wildlife, botanical sequence (ecotone) or biodiversity at the location.

Yours faithfully

Mark Poynter

Pat Killalea

From: Steve Westgate [swestgate@xtra.co.nz]
Sent: Tuesday, 28 September 2010 10:34 p.m.
To: Pat Killalea
Cc: castleduo@maxnet.co.nz
Subject: Fw: John Upperton
Attachments: Our Ref 0382 02092010.pdf

Attached is the original letter from Mark Poynter re-environmetal aspects raised by Mr McAlley.
Regards
Steve Westgate

----- Original Message -----
From: Poynter & Associates Environmental LTD
To: 'Steve Westgate'
Sent: Thursday, September 02, 2010 12:46 PM
Subject: RE: John Upperton

POYNTER &
ASSOCIATES ENVIRONMENTAL LTD

Shop 10, Office 1, Oceans, Marina Road
P.O. Box 402-053
Tutukaka 0153

Phone: 09 4344394
Fax: 09 4344395
Mobile: 027 4875012
Email: poynter-environmental@ihug.co.nz

Our Ref 0382

02 September 2010

Steve Westgate
290 Beach Road
Onerahi

Dear Steve,

Re: J K Upperton/Pipiroa Road, Okiato, Bay of Islands

I have reviewed all the updated information you have provided as to the revised proposal and my earlier reports and the report by Ian McAlley. I have not been back on site but have a good recollection of my earlier inspection. I have also looked at the current Google Map which provides a very good resolution aerial view of the area. I have also looked at the Whangaruru PNA report for the Q05/004 Habitat Unit. That provides a fairly broad overview in respect of the particular ecological values of this site.

I agree that the proposal as it now stands is of an even lesser order of significance than was the case upon which I based my earlier report and support. I can confirm in my view that the proposal and mitigation will result in a minor effect on ecological values. In particular I consider that there will be no adverse effect on the Q05/004 habitat unit. The very small area of reclamation and the piling of the house, while it will result in the loss and trimming of a small area of mangrove, will not adversely affect the wildlife, botanical sequence (ecotone) or biodiversity at the location.

Yours faithfully

Mark Poynter

Pat Killalea

From: Steve Westgate [swestgate@xtra.co.nz]
Sent: Tuesday, 28 September 2010 10:33 p.m.
To: Pat Killalea
Cc: castleduo@maxnet.co.nz
Subject: Fw: Upperton
Attachments: SC360 C360010092717520.pdf

----- Original Message -----
From: gareth
Hi Pat
Please find enclosed final report received yesterday from Richardson Stevens, including a cross-section through the spit and the proposed soakage area. I'll also forward the original letter from Mark Poynter, as I'll be in Sydney for another 8 days.
Regards
Steve Westgate

To: 'Steve Westgate'
Sent: Monday, September 27, 2010 5:56 PM
Subject: RE: Upperton

Hi Steve
Here are two copies on letter head one with the drawing and one with out.
Regards

Gareth Turner
DipEng(Civil)
Senior Technical Engineer

2 Seaview Rd,
Whangarei 0110.

p: (09) 438 3273
f: (09) 438 5734
m: (027) 289 6800

Richardson·Stevens
CONSULTING ENGINEERS

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From: Steve Westgate [mailto:swestgate@xtra.co.nz]
Sent: Friday, 24 September 2010 8:39 p.m.
To: gareth
Subject: Re: Upperton

Looks good, Gareth. That should stand up well to peer review!
Many thanks
Steve

----- Original Message -----

From: gareth
To: 'Steve Westgate'
Sent: Friday, September 24, 2010 4:46 PM
Subject: RE: Upperton

Try this Steve.
The Logo is part of the email signature when we have finalised the content I'll send it though on letter head for you.
Regards

Gareth Turner
DipEng(Civil)
Senior Technical Engineer

2 Seaview Rd,
Whangarei 0110.

p: (09) 438 3273
f: (09) 438 5734
m: (027) 289 6800

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From: Steve Westgate [mailto:swestgate@xtra.co.nz]
Sent: Friday, 24 September 2010 3:57 p.m.
To: gareth
Subject: Re: Upperton

I think we are almost there, gareth! Just a couple of points.

1. In para. 2, we need Rule 15.1.4 (f) inserted. Currently, the rule is not stated, probably pending?

2. Also in para. 2, are we saying that for the sandy soil on the sand spit, the loading rate can be anywhere between 5-50mm/day? Is that what " this category of soil" refers to? Perhaps we should say " The loading rates for the category of soil found on the sand spit ..." ? Should we also mention that the design loading rate of 950litres over 95 square metres equates to 10mm/day, well within the range?

3. Para 4, top of page 2, really repeats the 15m clearance already referred to on the previous page. I'm not too sure that the 0.6m clearance to ground water has been reduced since the original application? Or has it? Anyway, I would suggest this sentence be re-written along the lines of: " The NRC's Water & Soil Plan only requires a clearance to ground water of 0.6m for a permitted activity. However, we would recommend raising ...(etc) .."

4. Para.3 on page 2. Could we add a comment about the bed depth in relation to sea level rise after the last sentence? e.g. after " ... the higher end of the predicted 100year sea level rise data" add " ... and a bed depth above the present winter water table of 1.2-1.3m." This would clearly show that there is spare capacity in the bed depth to accommodate a rise in sea level, and it rounds off the comment in the first para on this page.

5. When I receive these draft letters, the RS logo comes through as a separate attachment, not on the letterhead. Can I fix that?

I hope that you can attend to this very very soon?????????
Cheers
Steve

----- Original Message -----
From: gareth
To: 'Steve Westgate'
Sent: Friday, September 24, 2010 2:09 PM
Subject: RE: Upperton

Hi Steve how does this look

Gareth Turner
DipEng(Civil)
Senior Technical Engineer

2 Seaview Rd,
Whangarei 0110.

p: (09) 438 3273
f: (09) 438 5734
m: (027) 289 6800

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From: Steve Westgate [mailto:swestgate@xtra.co.nz]
Sent: Friday, 24 September 2010 2:01 p.m.
To: gareth
Subject: Re: Upperton

Hi gareth
I'm going to Oz for a week next Tuesday morning. It's imperative to get this through by Xmas that I get everything away to FNDC before that!
Cheers
Steve

----- Original Message -----
From: gareth
To: 'Steve Westgate'
Sent: Friday, September 17, 2010 4:59 PM
Subject: RE: Upperton

Hi Steve,
Attached is the most recent draft, see what you think.
Have a good weekend

Gareth Turner
DipEng(Civil)
Senior Technical Engineer

2 Seaview Rd,
Whangarei 0110.

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From: Steve Westgate [mailto:swestgate@xtra.co.nz]
Sent: Friday, 17 September 2010 2:57 p.m.
To: gareth
Cc: castleduo@maxnet.co.nz
Subject: Re: Upperton

Hi Gareth
I'd like to give an end-of-week update to FNDC. Any progress/news to report?
Cheers
Steve

----- Original Message -----
From: gareth
To: swestgate@xtra.co.nz
Sent: Wednesday, September 15, 2010 9:15 AM
Subject: Upperton

Hi Stephen,
Please find attached the draft, we are just updating the predicted sea level rise. Also we thought it would be nice to specify a minimum height for the irrigation line and 0.6m above MHWS seems sensible, do you have any survey data for the site?

Regards

Gareth Turner
DipEng(Civil)
Senior Technical Engineer

2 Seaview Rd,
Whangarei 0110.

p: (09) 438 3273
f: (09) 438 5734
m: (027) 289 6800

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Richardson·Stevens
CONSULTING ENGINEERS

File: 9847

20 September 2010

Stephen Westgate
290 Beach Road
Onerahi
WHANGAREI 0110

Dear Sir

Upperton – Pipiroa Bay – Lot 1 DP 202228

With regard to your letter dated 23 August 2010. We can confirm our design loadings of 950 litres/day potential daily flow from the proposed dwelling. This was calculated using an occupancy of five people and 190 litres/person/day. The 95m of irrigation line laid in 95m² of grassed or planted area is based on a conservative aerial loading rate in terms of TP 58 (Far North District Council adopted design guide for on-site wastewater management) of 10mm/day.

Northland Regional Council accept designs in accordance with the principles and procedures outlined in Australian/New Zealand Standard *"On-site Domestic Wastewater Management"* (AS/NZS 1547:2000), as set out by their Water and Soil Plan, Rule 15.1.4 (f). The loading rates outlined in the standard, for the category of soil found on the sand spit range from 5 – 50mm/day for secondary treated effluent. Utilising our design the dripper line would be active for an hour or two per day, most likely made up from five to ten minute loadings each hour, depending on manufactures pump settings

Due to the width of the sand spit the drip irrigation line is unable to comply with the Northland Regional Council's permitted activity requirement of 15m separation from surface water for the discharge of secondary treated effluent. A minimum separation distance of 5m from MHWS and approximately 4m from the edge of tidal influence in the mangrove area is the best that can be achieved. As previously outlined Resource Consent will need to be obtained from Northland Regional Council and Far North District Council for this activity.

2 Seaview Rd, Whangarei 0110, Ph 09 438 3273, Fax 09 438 5734, email engineers@richardsonstevens.co.nz

ACENZ

It is of note that permitted activity groundwater clearances in the Northland Regional Council's Water and Soil Plan have been reduced to 0.6m. However we would still recommend raising the ground in the area of drip irrigation using top soil to guard against predicted sea level rise. Additionally, the micro organisms in this organic matter will further treat the wastewater.

With regard to sea level rise and wave action generally this was covered by Grant Stevens from this office in the 2000 hearing. We understand that a copy of his Statement of Evidence presented at that hearing has been forwarded as part of this application information. Any future predicted sea level rise has been covered in the above.

In the general locality of the proposed drip irrigation line, the existing ground level is 0.4m above the predicted maximum high water, 0.2m above the maximum recorded high tide at Opua and 0.7m above MHWS. No evidence of inundation of the sand spit was observed by Grant Stevens, or subsequently, we are advised, by S Westgate. As a general summary in regard to wastewater, any part of the treatment plant below 3.5m (chart datum) is to be an impervious sealed unit. In addition to our previous recommendations, due to recent predictions from the National Institute of Water and Atmospheric Research (NIWA) of 0.2m – 0.6m of sea level rise in the next 100yrs, we would recommend raising the ground level in the area proposed for drip irrigation lines to 3.5m chart datum, which would require the total depth of filling to be 0.4m – 0.5m. This would give a free board to the current highest recorded tide of 0.7m and 0.3m from MHWS at the higher end of the predicted 100year sea level rise data. Groundwater clearances to the proposed drip irrigation lines are in excess of 1.2m to the present winter watertable.

The nature of the irrigation line installation means in future it is relatively simple to raise the ground level and relay the irrigation lines. We can confirm that any future sea level rise is likely to be a gradual process, allowing the land owner to take mitigating measures.

It is worth noting as you have previously mentioned, the on-site wastewater management system for this site was reviewed by Northland Regional Council early in this process and they considered the effects on the receiving environments as less than minor provided the system was operated and maintained properly. It is standard practise for home owners to enter into a regular maintenance contract for package treatment plant such as that proposed for this site.

The latest design of aerated wastewater treatment systems offered by Waipapa Tanks (as selected by the property owner) incorporates a final UV treatment stage that reduces faecal coliform counts to very low levels, which are further reduced in the treatment provided by the soils. We understand that these systems have been subject to the test programme at Rotorua and have performed satisfactorily there.

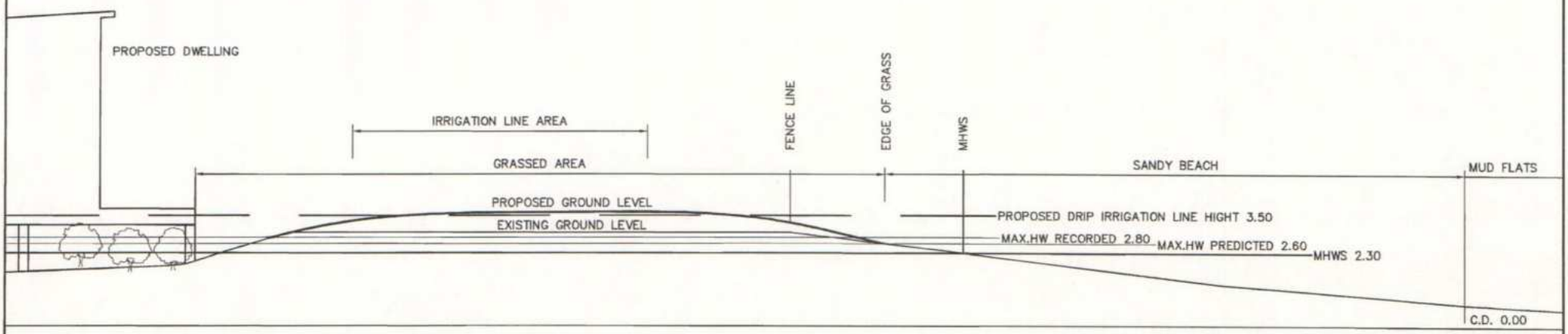
If you have any further queries please do not hesitate to contact me.

Yours faithfully



Gareth Turner
Senior Technical Engineer

Richardson Stevens Consultants (1996) Ltd



NOTE: LEVELS SHOWN RELATE TO CHART DATUM
CHART DATUM IS 1.4M BELOW L. AND S. DATUM

2 Seaview Road, Whangarei.
Ph. (09)4383273. Fax. (09) 4385734.
engineers@richardsonstevens.co.nz
Richardson Stevens Consultants (1996) Ltd CIVIL & STRUCTURAL ENGINEERS

JOHN UPPERTON, PIPIROA ROAD, PIPIROA BAY
PROPOSED IRRIGATION LINE AREA

CROSS SECTION

Date:	AMENDMENTS

Project: 4463
Drawn: MHPR
Date: SPT.2010
Scale: 1/125 AT A3

Sheet 1D

Pat Killalea

From: Steve Westgate [swestgate@xtra.co.nz]
Sent: Monday, 27 September 2010 1:44 p.m.
To: Pat Killalea
Cc: castleduo@maxnet.co.nz
Subject: Response to McAlley Review - J K Upperton
Attachments: ltr FNDC RESPONSE 27.09.10.doc

Hi Pat
Please find attached a response to the McAlley Review of John Upperton's application, having regard to our meeting of 31 August.
I regret that a final response from Richardson Stevens is not yet to hand but I don't expect any changes from the draft as attached.
I'm leaving for Australia for 1 week in about an hour's time but I shall be in email contact for most of this period if you have any urgent enquiries or comments. I'll be back on Wednesday 5 October. I'll forward you hard copies at that time - I hope that is acceptable to you.
Regards
Steve Westgate

Stephen L. Westgate, M.A. (Cantab.)
Resource Management Consultant
290 Beach Road, Onerahi, Whangarei: Home ph./fax (manual) 09 436-0335
E-mail: swestgate@xtra.co.nz

27 September 2010

Resource Consents Manager
Far North District Council
Private Bag 752,
KAIKOHE 0440

Attention: Mr P Killalea

APPLICATION FOR RESOURCE CONSENTS FOR DWELLING AT PIPIROA BAY:

Pipiroa Road, Okiato, Russell. (J K Upperton)

Ref. FNDC Application No: RC-2090634-RMALUC; For: Lot 1, Pipiroa Road, Russell 0272

Further to the report by Mr McAlley on the above application and our meeting of 31 August to discuss the report, our response is summarised as below. A more detailed consideration of the issues raised by Mr McAlley, largely prepared prior to our meeting, is attached for possible reference if required.

7. SECTION 92 INFORMATION

1. Environmental Information.

1(a). Confirmation has been received from Mark Poynter (copy of letter dated 2 September 2010 attached) that (i) *"The proposal as it now stands is of even lesser order of significance than was the case upon which I based my earlier report and support"* and (ii) *"there will be no adverse effect on the Q05/004 habitat unit."*

1(b). The previous approval from DoC dated 29 April 2005 and confirmed 13 April 2010 states that "This particular proposal for which this approval is given is that described in *J K Upperton Pipiroa Road, Okiato, Bay of Islands. Assessment of Environmental Effects of Proposed Dwelling* dated November 2004." The approval is not conditional upon other conditions that have not been covered within the report. DoC has been requested to again confirm this. To date, no response has been received. However, further conditions have been proposed relating to other buyildings and to ongoing weed and pest control.

2. Cultural Impact Assessment.

NZHPT only recommended a cultural impact assessment. The Trust did not impose this as a condition. Given the extensive consultation undertaken with local hapu Ngati Manu as detailed in the AEE, and given the previous archaeological survey undertaken by NZHPT and DoC in 2000 (ref. letter to FNDC from NZHPT dated 9 March 2000), no further consultation with iwi is proposed at this stage, although it is acknowledged that they will be advised by Council and given the opportunity to raise any issues.

3. Height of Building.

It has been confirmed that the height of the proposed dwelling can be accommodated within 8m of ground level.

4. Esplanade Area.

It is proposed that an esplanade area is neither warranted (given the proposal to allow reasonable access above high tide) nor appropriate given the site constraints. This is discussed in detail in the attached 'Detailed Consideration.'

5. Written Approvals

5(a) Approval from NZHPT is not considered to be conditional.

5(b) DoC's approval is considered to relate to the proposal as submitted and is not considered to be conditional upon further conditions not proposed in the AEE. Confirmation has been sought but no reply has yet been received.

5(c) Relevant iwi groups will be notified of the application under standard protocols.

5(d) The concerns of the Okiato Association are considered to have been previously addressed.

5(e) There is only one "immediately adjoining landowner" other than the Council, who may considered to be an affected party. Consultation with Mr Ridge has been undertaken but no approval given.

5(f) In the absence of confirmed written approvals from the above parties, the applicant agrees to the principle of limited notification to those listed.

8. PEER REVIEW

Richardson Stevens have reviewed their previously submitted information and design specifications for waste water treatment (see attached letter dated September 2010). Subject to a minor increase in soakage bed depth to accommodate a possible rise in sea level, previous data has been confirmed.

Richardson Stevens have acknowledged that a peer review is to be carried out, and the applicant has agreed to this on the basis that the Council will carry the cost of this review as offered.

9. NOTIFICATION

Limited notification to those parties identified by Mr McAlley is accepted in principle.

Yours sincerely

S L Westgate

Stephen L Westgate

(for: J K Upperton)

APPENDIX I.

Re: Upperton Application – RC 2090634-RMALUC

Detailed Response to Matters raised by Mr McAlley.

Mr McAlley has reviewed the information submitted with this application and has raised a number of points regarding perceived deficiencies in the information. Our detailed response to Mr McAlley's opinions and comments is as follows:

1. Consents Required.

Broadly speaking, Mr McAlley appears to agree with the applicant's previous assessment of consents required. Overall, the proposal is a Discretionary activity.

2. Height Above Ground Level.

It is stated in 2.3 of the AEE that the height of the dwelling above ground level will not exceed 8m (for a permitted activity). Figures 6.1 and 7 (to scale) show the height as not exceeding 8m above ground level. In 5.1.4 of Appendix III, Planning Assessment, it is stated that: "10.6.5.1.3: Building height. The proposed building height does not exceed 8 metres above ground level. Complies." A resource consent would be required to go above this height and this has specifically not been applied for.

There is clearly no confusion between ground level and sea level. However, further confirmation can be provided by reference to cross-sectional drawings provided by Richardson Stevens. These show the ground level at the proposed house site to be between 1.5m and 1.8m above CD. This is consistent with MHWS at 2.3m above CD and observed water depth at high tide. The floor level is 3.9m above CD, or 2.1 - 2.4m above ground level. This allows for a height above floor level of between 5.6m and 5.9m to comply with the overall 8m. I live in a 2-storey house with standard stud height and a shallow pitched roof that is no more than 5.4m above ground level.

Mr Upperton has intentionally had a concept design drawn that will accommodate the 8m above ground level requirement and is confident that the design proposed by Richardson Stevens will comply with this requirement.

3. Esplanade Areas.

A suggestion that an esplanade area may be required for a land use consent for other than a subdivision is somewhat surprising. My understanding is as follows:

(i) S.77 of the RMA provides for TA's to include rules relating to esplanade areas when land is subdivided.

(ii) Pt 10 of the RMA includes rules regarding esplanade areas when land is subdivided, including s.229 to which Mr McAlley refers. S.230(2) notes that s. 229-237H only apply to subdivisions (viz. "The provisions of sections 229 to 237H **shall only apply** where section 11(1)(a) applies to the **subdivision**.").

(iii) District Plan Objective 14.3.2 provides for esplanade areas to be set aside "upon subdivision."

(iv) Rule 14.6.1(a)(iii) refers to s.229, which only applies to subdivisions. There appears to be no provision for a TA to make such a rule in regard to land use consents for other than subdivisions or staged developments. In that regard, it appears that, subject to confirmation, this rule may possibly be *ultra vires*.

(v) Notwithstanding, and addressing the matters raised in s.229 which specifically pertain to subdivision of land, the creation of an esplanade area (reserve or strip) would not significantly:

(a) contribute to the protection of conservation values, maintain or enhance water quality, maintain or enhance aquatic habitats, protect the natural values associated with the esplanade reserve or esplanade strip, mitigate natural hazards; or

(b) enable public access to the sea that is not presently available along the beach or backshore. The creation of an esplanade area along the edge of the wetland would effectively split the property in two, and would not provide access beyond the property; or

(c) enable, to any significant extent, public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river, or lake, where the use is compatible with conservation values. The public already has recreational use of the foreshore, and the backshore of the adjoining council reserve.

(vii) It is further noted that: (a) the area has not been identified as an esplanade priority area, (b) any esplanade area would not link to any other area since it would only lead almost to the end of the sand spit which is in separate private ownership, (c) any esplanade area set aside would have a major impact on the area of dry land available to the owner that was not subject to tidal influence, and (c) the applicant has offered to not fence off any part of the backshore area where this may lie above MHWS and within the surveyed boundary of the subject property, in order to provide for reasonable public access above HT.

(viii) Although the legal boundary extends to MHWS, the applicant has proposed that he would not prevent reasonable public access along the backshore, allowing for dry access at high tide, viz. AEE s.3.1 "*It is intended that the sandy backshore above MHWS will be made available to provide for high tide public access along the spit. It will not be fenced off.*"

(ix) This matter of public access along the backshore appears to be adequately addressed by proposed condition 10(ix), viz. "The development of the site shall be undertaken in general accordance with the proposal as set out in S L Westgate's report entitled: "J K Upperton, Pipiroa Road, Okiato, Bay of Islands: Description of Proposed Dwelling and Assessment of Environmental Effects (A.E.E.)" dated (*November 2005, Revised and Updated: June 2010),* and associated supporting appendices." However, if this is not considered adequate and the council wishes a more prescriptive condition, Mr Upperton would be willing to accept a condition that "any fence erected along the western (coastal) boundary of the property shall not extend closer than 2 metres above MHWS, thereby providing for reasonable public access along the backshore at high tide."

4. Information Provided.

(i) Mr McAlley rightly notes that some of the information provided is dated. The reason for this is that the application has been developed from an earlier application, hearing and appeal to the Environment Court when the issues were thoroughly considered. It is appropriate to consider issues that were previously raised and addressed. Where relevant, information has been updated and/or amended, particularly in regard to revised engineering standards and to provisions of current planning documents that did not exist at the time of the original application.

(ii) The amended application as submitted has regard to the report of Mr Poynter and addresses the concerns that he raised, as can be clearly assessed from the correspondence between Mr Poynter and

Mr Taylor. Notwithstanding, Mr Poynter has been approached and has confirmed that the amended proposal is consistent with his earlier views on what can be ecologically supported. A letter from Mr Poynter dated 2 September 2010 (attached) states: *"The proposal as it now stands is of even lesser order of significance than was the case upon which I based my earlier report and support."*

(iii) Mr McAlley makes reference to the DoC Ecological Areas report of 2005. The area he refers to, Q05/004, comprises most of the Russell peninsula over an area of 1527 ha of which 338 ha is forest, 1146 ha is shrubland, and 44 ha is wetland. Seven different vegetation/habitat types are identified of which the wetland habitat "Raupo–harakeke association in swamp" is just one. Only 20.9 ha of the total 1527 ha within Q05/004 are protected; 13.9 ha by a Queen Elizabeth II National Trust covenant and 7 ha are reserves administered by the Department of Conservation. The 44 ha of various identified wetland areas within Q05/004 offer habitat to the sparsely occurring species NI fernbird, banded rail and spotless crake. These have been previously acknowledged within the AEE as being possibly present. The Ecological Areas report identifies nothing new. In his letter of 2 September 2010, Mr Poynter confirms: *"there will be no adverse effect on the Q05/004 habitat unit."*

(iv) In a letter to DoC dated 22.03.10, the specific question was asked (as requested by FNDC) *"Accordingly, ... I am requesting that you consider if there have been any changes within the Department's procedures, plans, strategies, etc. [since the 29 April 2005 approval] that might warrant reconsideration of the previous signed conditional approval (as suggested by FNDC)?"* DoC's email of 13 April 2010, as attached to the AEE, confirmed no change in DoC's position. In my opinion, this adequately covers the matter raised by Mr McAlley in regard to the 2005 Ecological Report, but Mr Poynter's letter endorses this. Notwithstanding, DoC was again contacted in writing on 20 August 2010, seeking confirmation of this. As at 20 September, no reply had been received.

5. Consultation, Written Approvals.

(i) Matters Raised by DoC.

- General Comments: The letter from DoC dated 29 April 2005 states: "This particular proposal for which this approval is given is that described in *J K Upperton Pipiroa Road, Okiato, Bay of Islands. Assessment of Environmental Effects of Proposed Dwelling* dated November 2004. The proposal includes the following features: ...
- The proposal includes the following mitigation measures as part of the application:"

The letter then lists eight matters that have been considered in the AEE.

Clearly, approval is given for the application as described, with proposed mitigation measures as noted within the AEE, but précised/paraphrased to varying degrees.

Some of these measures are appropriately included as consent conditions, as proposed. Others, such as progressive weed control and replacement of pest plant species while maintaining visual screening, can be adequately addressed by proposed condition 10(ix), viz. "The development of the site shall be undertaken in general accordance with the proposal as set out in S L Westgate's report entitled: "J K Upperton, Pipiroa Road, Okiato, Bay of Islands: Description of Proposed Dwelling and Assessment of Environmental Effects (A.E.E.)" dated *(November 2005) Revised and Updated: June 2010),* and associated supporting appendices."

Notwithstanding, DoC has again been contacted for confirmation that the previous approval is not conditional upon any new mitigation measures that have not been proposed within the AEE. The eight mitigation measures commented upon by DoC are addressed as follows:

- Weed and Pest Control in perpetuity. The AEE notes that Mr Upperton intends to progressively clear exotic species and weeds from that part of the sand spit that he owns but has no control over the actions of adjoining landowners. Other pests have not been identified but it would be normal domestic practice to control vermin. Any effective pest control measures depend on the actions of adjoining landowners to prevent ongoing re-invasion. The control of dogs on the adjoining beach and Council-owned sand spit and wetland is a matter for Council. It is considered that this measure requested by DoC has been complied with as far as is practicable (see discussion in AEE Condition 10(vii)). However, Mr Upperton is willing to accept a condition that there should be ongoing weed and pest control on his property.
- Prohibition on Cats and Mustelids. Mr Upperton has proposed a no cats or ferrets condition (10(vi)).
- Permanent Protection of Remainder of Wetland. This has been proposed (AEE 10(v)), if Council considers this appropriate, subject to provision for carrying out activities (fence line clearance/maintenance) that are permitted under the district plan.
- No further buildings. The District Plan provides for no more than one dwelling per allotment in the General Coastal zone; this has been acknowledged in the application. However, the plan does allow for a small building such as a garden shed or pump shed as a permitted activity and it is considered unreasonable to exclude such an option within the DoC consideration of "further buildings." It would be expected that if an application were to be made for any further building requiring a resource consent, then this would be declined by Council. However, Mr Upperton is willing to accept a condition that "other than small ancillary structures associated with the single dwelling, there shall be no other buildings reconstructed on the property."
- Recessive colours or materials. This has been proposed (AEE 10(viii)).
- Indigenous Screening/planting. This has been addressed in 10(vii)).
- Archaeological Survey. Archaeological values of the spit have been extensively addressed, including at the previous hearing. Surveys and walkovers have been carried out. NZHPT's letter of 2 June 2010 refers to the archaeological survey by NZHPT and DoC personnel on 7 March 2000. Mr Upperton was present at the time. A letter from NZHPT to FNDC stated: *"The Trust's archaeologist has visited the property and confirms that no archaeological evidence will be adversely affected by the proposal."* Very little excavation is required, other than for setting the wastewater treatment tanks into the ground and vegetation clearance. A condition has been proposed that any work should cease if any artifacts or koiwi should be uncovered during such operations (AEE 10(x)), and iwi and NZHPT promptly notified. I suggest that this is a practical and appropriate means of addressing DoC's concerns regarding potential archaeological sites, given the work that has previously been undertaken.
- Maintenance Contract. This has been proposed as essential (see AEE proposed condition 10(ii)).

In my opinion, the mitigation measures referred to by DoC are those that are referred to within the AEE, and which have been addressed as far as practicable and reasonable under the circumstances. However, further conditions are proposed, as above, in regard to ongoing weed and pest control, and to restrictions on buildings.

(ii) NZHPT. The cultural impact assessment is only a recommendation of NZHPT, not a required condition. It does not qualify NZHPT's position of not opposing the application. As stated

above, cultural values of the sand spit have been addressed very comprehensively. Ngati Manu have made a site visit and not raised any specific concerns. In my opinion and experience, the extent of assessment and consideration given to cultural and archaeological matters goes far beyond what is appropriate to the scale and significance of actual or potential effects. Again, it should be had regard to that the only cultural issue previously raised was one that did not exist!

(iii) Okiato Residents and Ratepayers. The key concern of the association was the setback from the c.m.a. From the correspondence submitted with the application, this has clearly been addressed, although no final sign off was given at the time (in 2002). Because of their consultant's present poor health, it is inappropriate that he be requested to confirm this. It is believed that no residents of Okiato Point have a view of Pipiroa Bay from their dwellings – a distance of about 400m - that would be adversely affected by the proposed dwelling site. In the circumstances, given that there appear to be new officers of the association (as advised by Mr Upperton) with no knowledge of the previous discussions and negotiations, and under s.95E(3)(b), it is suggested that it is unreasonable in the circumstances to require a fresh round of consultation to be undertaken to obtain a written approval. Notwithstanding, it has been agreed by the applicant that limited notification should be extended to the Association.

(iv) Iwi Groups. It has been acknowledged that correspondence with iwi groups has been inconclusive. It has also been acknowledged that under standing protocols, iwi groups will be advised by councils of the application and invited to comment, with due regard being given to such comments.

(v) Limited Notification. Mr Upperton accepts the principle of limited notification to the above groups.

6. Treated Effluent Disposal.

(i) It is acknowledged that the treatment and disposal of waste water is a critical element. The matters raised by Mr Shand have been addressed and well-canvassed at the previous hearing, and with updated information provided by Chartered Professional Engineers of Richardson Stevens in 2009 and more recently in September 2010. The performance standards and parameters required for aerated waste water treatment units and disposal systems are well documented and understood. I suggest that Richardson Stevens are well qualified to determine what is appropriate and necessary. It is understood that they are certified by FNDC to carry out peer reviews of waste water systems designed by less qualified persons.

(iii) Mr McAlley is incorrect in stating that Mr Geoff Heaps has voiced concerns about the ability to effectively provide for waste water treatment on site. I have received a communication from Mr Heaps that states: "I do not have the necessary level of expertise in this field to make an assessment on this matter, or to make those comments [attributed to Mr Heaps by Mr McAlley]. Rob Lieffering previously processed a resource consent for the disposal system, which suggested that, based on the technical information provided at the time, that there would be negligible effects on coastal water quality." Mr Lieffering's Northland Regional Council report at the 2000 hearing included: *'Studies have shown that in unstructured sandy soils, 600mm depth is effective in removing both bacteria and viruses from septic tank effluent using a loading rate of 40mm/day (Gunn 1997).By laying the irrigation lines on 200mm of imported topsoil, there will be approximately 1 metre of separation between the disposal lines and the groundwater beneath the site and faecal coliform numbers should be negligible by the time wastewater reaches groundwater."* Ian Gunn is one of the country's leading waste water treatment specialists.

(iv) Notwithstanding the above, Richardson Stevens have been asked to review and confirm their earlier data, specifications, etc. in particular, design loading, soakage bed height above water table and

predicted sea level rise. In a letter dated September 2010, they have confirmed their position on these issues, with a minor adjustment proposed to the height of the soakage bed to provide for the predicted worst-case scenario regarding predicted sea level rise. They have confirmed that the design of the proposed wastewater treatment system complies with TP90, the standard adopted by FNDC. It is noted that the latest design of aerated water treatment systems produced by Waipapa Tanks incorporates a UV unit that reduces faecal coliform counts to very low levels even before discharge to ground.

(v) An on-site wastewater treatment system must meet performance requirements for construction and operation of the NZ Building Code. If the system is designed to AS/NZS 1547 *On-site domestic-wastewater management*, the requirements of the Code will be met. A consent condition could require that the system be designed to meet or exceed the requirements of this standard. However, it is acknowledged that Council staff may feel more comfortable with an updated peer review. It is understood that the proposed peer review will be carried out by Fraser Thomas at no cost to Mr Upperton.

7. Notification. Mr Upperton accepts the principle of limited notification to those parties who may be considered to be potentially adversely affected to an extent that exceeds "less than minor", including those referred to in section 5 above.

8. SUMMARY

Response to the various matters raised by Mr McAlley is summarized as follows:

(i) The height of the proposed dwelling above ground level is confirmed as no greater than 8m.

(ii) The matter of an esplanade area is considered questionable in regard to this application, not being a subdivision, but has been addressed nonetheless. An esplanade area is not considered to be warranted or appropriate in the circumstances.

(iii) The matter of the DoC 2005 Ecological Areas report has been addressed within the earlier 2010 correspondence with DoC. Mr Poynter has confirmed that the Ecological Area Q05/004 habitat unit will not be adversely affected.

(iv) Mr Poynter has confirmed that the present proposal *"is of lesser order of significance that the case on which I based my earlier report and support."*

(v) The NZHPT approval is not conditional upon a Cultural Impact Assessment. Cultural effects have been extensively canvassed, an archaeological survey has been undertaken, iwi representatives have visited the site and made no reference to any specific values that are not generally applicable, iwi groups have been invited by NRC to comment on the application and will again be invited by FNDC under standard protocols. No further iwi consultation is proposed at this stage.

(vi) The amended proposal is consistent with the earlier requirements of the Okiato Residents and Ratepayers Association. Because of their consultant's present poor health, it is inappropriate that he be requested to confirm this.

(vii) DoC has previously stated "This particular proposal for which this approval is given is that described in *J K Upperton Pipiroa Road, Okiato, Bay of Islands. Assessment of Environmental Effects of Proposed Dwelling* dated November 2004. The proposal includes the following features: ...

The proposal includes the following mitigation measures as part of the application:"

DoC's approval was not stated to be conditional but as described in the AEE. The mitigation measures summarized are those included " as part of the application."

(viii) DoC has again been contacted, seeking confirmation that the mitigation measures proposed are consistent with their previous approvals.

(ix) It is assumed that FNDC will be notifying relevant iwi organizations according to standard protocol;

(x) Richardson Stevens have undertaken a review and confirmation of their earlier and revised engineering data. Richardson Stevens are themselves certified by FNDC to review drainage solutions proposed by uncertified or less qualified persons. A slight increase in the depth of the soakage bed has been proposed to accommodate an extreme rise in sea level over the next century.

(xi) It appears that the comments attributed to Mr Heaps of NRC have been misinterpreted.

9. SECTION 92 REQUEST.

With regard to the specific items proposed for a s.92 request:

7.1(i) The application as developed from the 2001 proposal was initially submitted to NRC in November 2005. The application contained sufficient information for NRC to assess the scale and intensity of effects pertaining to those matters relevant to that council. It was finally submitted to FNDC in June 2009, following the adoption of their Partially Operative District Plan. It was re-submitted in June 2010, following the provision of extensive additional information that was integrated within the AEE. Updated reports were provided where appropriate. Mark Poynter and DOC have been contacted to confirm what has been reported in the AEE.

7.1(ii) NZHPT recommended but did not request a Cultural Impact Assessment. No CIA is proposed as all the issues have been thoroughly researched and canvassed.

7.1(iii) The height of the proposed dwelling is confirmed as complying with the 8m requirement.

7.1(iv) The RMA does not appear to provide for TAs to require esplanade areas to be set aside for other than subdivisions. However, this has been addressed

7.1(v) - NZHPT approval is not conditional;

- DOC has been contacted for confirmation of its earlier approvals;

- iwi groups will be contacted by FNDC in the usual way;

- Okiato Residents and Ratepayers are not considered to be affected to an extent that exceeds 'less than minor';

- one adjoining landowner Mr T Ridge could be considered to be potentially, but not necessarily, affected. Mr Ridge has commented on the application by way of what he has referred to as a 'submission.' It is questionable whether he has demonstrated that he is adversely affected to an extent that exceeds 'less than minor.'

Notwithstanding, the applicant accepts the principle of limited notification to the above parties.

8.1. PEER REVIEW. Richardson Stevens are certified by FNDC to peer review drainage systems proposed by other parties. They have updated their earlier recommendations. The proposed system has

been previously assessed by NRC staff as being appropriate. However, a peer review at no cost to the applicant has been proposed by the Council and is agreed to.

10. PROPOSED CONDITIONS

1. It is suggested that consent conditions (either regional council or district council) should address the following matters.

(i) The final selection and design of the effluent treatment system to be submitted to Council for approval in writing at the time of applying for a building permit. The design capacity and performance standards to be consistent with the May 2009 and September 2010 amended information from Richardson Stevens (1996) Consultants Ltd, submitted with and after the application.

(ii) A suitable, ongoing maintenance contract to be entered into and implemented to ensure the satisfactory performance of the effluent treatment system.

(iii) The applicant is willing to plant trees and shrubs in the disposal area in order to decrease the amount of wastewater moving down the soil profile through evapotranspiration processes, consistent with avoiding root blockage of the pipes.

(iv) The floor level of any living area in the proposed dwelling should be set at not less than 3.9 metres above Chart Datum.

(v) The Applicant is willing to provide for the balance of the wetland area on the property not required for building purposes to be protected by covenant, apart from, say, a 20m wide strip around the dwelling and a 3.5m wide strip along the fenceline, (to allow for open space tree trimming and fence maintenance, consistent with the District Plan permitted activity Rules of 12.2.6.1.1, Indigenous Vegetation Clearance).

(vi) An appropriate 'pet-free' condition should be attached. The keeping of cats and mustelids should be prohibited, but as long as dogs are allowed to run along the beach and the road reserve, it seems pointless to extend the prohibition on the property to dogs also.

(vii) Although weed eradication and re-planting in non-invasive and native species is planned, since this is a permitted activity, and as long as the weed species and seed source remain on the adjoining land areas (including the unformed road), it is considered more appropriate to leave this as an informal undertaking by the Applicant. However, a condition requiring ongoing weed and pest control is acceptable, consistent with maintaining an ongoing presence of vegetative screening of the proposed dwelling from the foreshore.

(viii) Visual effects of any dwelling should be mitigated by the use of appropriate colours. The cladding of the proposed dwelling will be weatherboard-style. Although the site is not an Outstanding Landscape Area, it is proposed that the standards for such areas should be adopted and that accordingly, the exterior (wall cladding and roof) should be coloured within the BS5252 standard colour palette range with a reflectance value of 30% or less, using colours more specifically within the green/brown range, or be constructed of natural materials which fall within this range.

(ix) The development of the site shall be undertaken in general accordance with the proposal as set out in S L Westgate's report entitled: "J K Upperton, Pipiroa Road, Okiato, Bay of Islands: Description of Proposed Dwelling and Assessment of Environmental Effects (A.E.E.)" dated *(November 2005) Revised and Updated: June 2010),* and associated supporting appendices.

(x) In the event of any archaeological sites or koiwi being uncovered, activities in the vicinity of the discovery shall cease for the time being and local iwi and NZHPT shall be notified promptly.

(xi) Any building permit to be subject to a Section 36(2) hazard notice in terms of flooding and erosion (as recommended by Grant Stevens in Appendix II.2).

(xii) Other than small ancillary structures associated with the single dwelling, there shall be no other buildings reconstructed on the property.

(xiii) Any fence erected along the western (coastal) boundary of the property shall not extend closer than 2 metres above MHWS, thereby providing for reasonable public access along the backshore at high tide.

2 The Consent Holder shall, at least two weeks prior to the commencement of any earthworks, prepare a Property Management Plan (PMP) which sets out the practices and procedures to be adopted that address the following matters:

(a) Planting and Visual screening;

(b) Ongoing weed and pest control;

(c) Details of the measures to be adopted to control sediment runoff from areas of land disturbance during the period of earthworks;

(d) Monitoring procedures to ensure adverse effects on water quality in regard to faecal coliform counts in the wetland area adjoining the treated effluent discharge area are minimised;

(e) A water quality monitoring programme which identifies sampling sites, sampling methodology, and analyses details;

(f) Details of the waste water treatment plant maintenance schedule, and reporting to Council;

(g) The name and contact telephone number of the person responsible for monitoring and maintaining all erosion and sediment control measures;

(h) Contingency provisions for rising sea level.

The Consent Holder may review and amend the PMP in consultation with the Council, at any time, during the period of the consent. The Consent Holder shall undertake the activities authorised by this consent in accordance with the PMP or the amendment.

Stephen L Westgate

27 September 2010

APPENDIX II (Letter from Mark Poynter saved in Word from original PDF format)

Our Ref 0382
02 September 2010
Steve Westgate
290 Beach Road
Onerahi
Dear Steve,
Re: J K Upperton/Pipiroa Road, Okiato, Bay of Islands
I have reviewed all the updated information you have provided as to the revised proposal and my earlier reports and the report by Ian McAlley. I have not been back on site but have a good recollection of my earlier inspection. I have also looked at the current Google Map which provides a very good resolution aerial view of the area. I have also looked at the Whangaruru PNA report for the Q05/004 Habitat Unit. That provides a fairly broad overview in respect of the particular ecological values of this site.
I agree that the proposal as it now stands is of an even lesser order of significance than was the case upon which I based my earlier report and support. I can confirm in my view that the proposal and mitigation will result in a minor effect on ecological values. In particular I consider that there will be no adverse effect on the Q05/004 habitat unit. The very small area of reclamation and the piling of the house, while it will result in the loss and trimming of a small area of mangrove, will not adversely affect the wildlife, botanical sequence (ecotone) or biodiversity at the location.
Yours faithfully
Mark Poynter
POYNTER &
ASSOCIATES ENVIRONMENTAL LTD
Phone: 09 4344394
Fax: 09 4344395
Mobile: 027 4875012
Email: poynter-environmental@ihug.co.nz
Shop 10, Office 1, Oceans, Marina Road
P.O. Box 402-053
Tutukaka 0153

APPENDIX III. (Draft letter from Richardson Stevens saved in Word from original PDF format. Original hard copy to be forwarded when available)

20 September 2010
Stephen Westgate
290 Beach Road
Onerahi
WHANGAREI 0110
Dear Sir

Upperton – Pipiroa Bay – Lot 1 DP 202228

With regard to your letter dated 23 August 2010. We can confirm our design loadings of 950 litres/day potential daily flow from the proposed dwelling. This was calculated using an occupancy of five people and 190 litres/person/day. The 95m of irrigation line laid in 95m² of grassed or planted area is based on a conservative aerial loading rate in terms of TP 58 (Far North District Council adopted design guide for on-site wastewater management) of 10mm/day. Northland Regional Council accept designs in accordance with the principles and procedures outlined in Australian/New Zealand Standard "On-site Domestic Wastewater Management" (AS/NZS 1547:2000), as set out by their Water and Soil Plan, Rule 15.1.4 (f). The loading rates outlined in the standard, for the category of soil found on the sand spit range from 5 – 50mm/day for secondary treated effluent. Utilising our design the dripper line would be active for an hour or two per day, most likely made up from five to ten minute loadings each hour, depending on manufactures pump settings

Due to the width of the sand spit the drip irrigation line is unable to comply with the Northland Regional Council's permitted activity requirement of 15m separation from surface water for the discharge of secondary treated effluent. A minimum separation distance of 5m from MHWS and approximately 4m from the edge of tidal influence in the mangrove area is the best that can be achieved. As previously outlined Resource Consent will need to be obtained from Northland Regional Council and Far North District Council for this activity.

It is of note that permitted activity groundwater clearances in the Northland Regional Council's Water and Soil Plan have been reduced to 0.6m. However we would still recommend raising the ground in the area of drip irrigation using top soil to guard against predicted sea level rise, additionally the micro organisms in this organic matter will further treat the wastewater.

With regard to sea level rise and wave action generally this was covered by Grant Stevens from this office in the 2000 hearing. We understand that a copy of his Statement of Evidence presented at that hearing has been forwarded as part of this application information. Any future predicted sea level rise has been covered in the above.

In the general locality of the proposed drip irrigation line, the existing ground level is 0.4m above the predicted maximum high water, 0.2m above the maximum recorded high tide at Opua and 0.7m above MHWS. No evidence of inundation of the sand spit was observed by Grant Stevens, or subsequently, we are advised, by S Westgate. As a general summary in regard to wastewater, any part of the treatment plant below 3.5m (chart datum) is to be an impervious sealed unit. In addition to our previous recommendations, due to recent predictions from the National Institute of Water and Atmospheric Research (NIWA) of 0.2m – 0.6m of sea level rise in the next 100yrs, we would recommend raising the ground level in the area proposed

for drip irrigation lines to 3.5m chart datum, which would require the total depth of filling to be 0.4m – 0.5m. This would give a free board to the current highest recorded tide of 0.7m and 0.3m from MHWS at the higher end of the predicted 100year sea level rise data. Groundwater clearances to the proposed drip irrigation lines are in excess of 1.2m to the present winter watertable.

The nature of the irrigation line installation means in future it is relatively simple to raise the ground level and relay the irrigation lines. We can confirm that any future sea level rise is likely to be a gradual process, allowing the land owner to take mitigating measures.

It is worth noting as you have previously mentioned, the on-site wastewater management system for this site was reviewed by Northland Regional Council early in this process and they considered the effects on the receiving environments as less than minor provided the system was operated and maintained properly. It is standard practise for home owners to enter into a regular maintenance contract for package treatment plant such as that proposed for this site.

The latest design of aerated wastewater treatment systems offered by Waipapa Tanks (as selected by the property owner) incorporates a final UV treatment stage that reduces faecal coliform counts to very low levels, which are further reduced in the treatment provided by the soils. We understand that these systems have been subject to the test programme at Rotorua and have performed satisfactorily there.

If you have any further queries please do not hesitate to contact me.

Yours faithfully

Gareth Turner

Senior Technical Engineer

Richardson Stevens Consultants (1996) Ltd

II.8 Letter from Mark Poynter, 2 September 2010.

POYNTER &
ASSOCIATES ENVIRONMENTAL LTD

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Our Ref 0382

02 September 2010

Steve Westgate
290 Beach Road
Onerahi

Dear Steve,

Re: J K Upperton/Pipiroa Road, Okiato, Bay of Islands

I have reviewed all the updated information you have provided as to the revised proposal and my earlier reports and the report by Ian McAlley. I have not been back on site but have a good recollection of my earlier inspection. I have also looked at the current Google Map which provides a very good resolution aerial view of the area. I have also looked at the Whangaruru PNA report for the Q05/004 Habitat Unit. That provides a fairly broad overview in respect of the particular ecological values of this site.

I agree that the proposal as it now stands is of an even lesser order of significance than was the case upon which I based my earlier report and support. I can confirm in my view that the proposal and mitigation will result in a minor effect on ecological values. In particular I consider that there will be no adverse effect on the Q05/004 habitat unit. The very small area of reclamation and the piling of the house, while it will result in the loss and trimming of a small area of mangrove, will not adversely affect the wildlife, botanical sequence (ecotone) or biodiversity at the location.

Yours faithfully

Mark Poynter

J K UPPERTON

Pipiroa Road, Okiato, Bay of Islands

APPENDIX III

to Assessment of Environmental Effects

Ref. FNDC Application No: RC-2090634-RMALUC; For: Lot 1, Pipiroa Road, Russell 0272
NRC Application No. CON20040886701

DP 202228

PLANNING ASSESSMENT OF PROPOSED DWELLING AT PIPIROA BAY AGAINST POLICIES, OBJECTIVES AND RULES of FAR NORTH DISTRICT PLAN and REGIONAL WATER AND SOIL PLAN

Note: This Appendix comprises Sections 5 and 6 of the Assessment of Environmental Effects.

Supporting Documentation for Application for Resource Consent under the Resource Management Act 1991

Updated: June 2010

PLANNING ASSESSMENT OF PROPOSED DWELLING AT PIPIROA BAY
against POLICIES, OBJECTIVES AND RULES of
FAR NORTH DISTRICT PLAN AND REGIONAL WATER AND SOIL PLAN.

5. PLANNING ASSESSMENT

5.1 Far North District Plan (the 'District Plan').

5.1.1 Overview

5.1.2 Chapter 10: Coastal Environment – Objectives and Policies

5.1.3 Chapter 10.6: General Coastal Zone – Objectives and Policies

5.1.4 Section 10.6.5: General Coastal Zone Rules.

5.1.5 Section 12.2.6: Natural and Physical Resources - Rules

5.1.6 Section 12.4: Natural Hazards.

5.1.7 Section 12.5: Heritage.

5.1.8 Section 12.7: Lakes, Rivers, Wetlands and the Coastline.

5.1.9 Section 12.3: Soils and Minerals – Earthworks.

5.1.10 Council Bylaws – Earthworks Permit.

5.1.11 Assessment of Proposed Minor Earthworks against District Plan Objectives, Issues, etc.

5.1.12 Proposed Sediment Controls, Mitigation, etc.

5.1.13 Assessment of Proposed Earthworks against Assessment Criteria of 12.3.7.

5.2 Northland Regional Council Regional Water and Soil Plan (W&SP)

5.2.1 General.

5.2.2 Policies and Objectives.

5.2.3 Structure in or over the Bed of a Watercourse (Wetland).

5.2.4 Placement of Fill on Bed of Watercourse (for Formation of Ramp up to house)

5.2.5 Clearance/Pruning of Vegetation on Bed of Watercourse (Wetland)

5.2.6 Earthworks and Placement of Fill in Riparian Management Zone.

5.2.7 Clearance of Vegetation in the Riparian Management Zone.

5.2.8 Discharge of Secondary Treated Effluent

5.2.9 Upgrading of Unformed Road.

6. CONSENTS REQUIRED

6.1 Far North District Council

6.2 Northland Regional Council

Note: This Appendix comprises Sections 5 and 6 of the Assessment of Environmental Effects.

5. PLANNING ASSESSMENT

5.1 Far North District Plan (the 'District Plan').

5.1.1 Overview

Under the Transitional District Plan, Bay of Islands Section, (the 'TDP') the property was zoned Marine 2. Under the District Plan, the zoning is now General Coastal.

Because of outstanding appeals in 2005/06 when this application was lodged with Northland Regional Council, it was agreed in discussions with FNDC planning personnel at the time that it would be a simpler process to postpone lodgement of the application with FNDC until the then proposed plan was finalised through the appeal process and the TDP would no longer be relevant. This has taken longer than anticipated.

The District Plan has now progressed through a number of consultation and appeal stages and has been adopted by Council. The District Plan sets out general policies and objectives for the Coastal Environment and specific objectives, policies and rules for the General Coastal Zone.

Detailed consideration of the various objectives, policies and rules considered relevant to this application is shown below.

5.1.2 Chapter 10: Coastal Environment – Objectives and Policies

Objective 10.3.1

The plan's objective in regard to the coastal environment is *"To manage coastal areas in a manner that avoids adverse effects from subdivision, use and development. Where it is not practicable to avoid adverse effects from subdivision use or development, but it is appropriate for the development to proceed, adverse effects of subdivision use or development should be remedied or mitigated."*

The proposal is the culmination of extensive consultation and modification of previous proposals that take account of issues previously raised by incorporating mitigating measures into the previous proposal. The current proposal is innovative in that the structure will be raised on poles to minimise damage to a wetlands area, and will be set back from MHWS as far as practicable while at the same time, minimising the extent of the footprint on the wetland. The natural character of Pipiroa Bay is considered to have been compromised by dwellings around and overlooking the bay that are of significantly greater visual impact than the proposed dwelling.

Objective 10.3.2

"To preserve and, where appropriate in relation to other objectives, to restore, rehabilitate protect, or enhance:
(a) the natural character of the coastline and coastal environment;
(b) areas of significant indigenous vegetation and significant habitats of indigenous fauna;
(c) outstanding landscapes and natural features;
(d) the open space and amenity values of the coastal environment;
(e) water quality and soil conservation (insofar as it is within the jurisdiction of the Council).

(a). The applicant proposes to progressively eradicate the exotic pest plants within his property on the spit and to replant with native and non-invasive species, restoring in part the natural indigenous character. The applicant has planted a number of pohutukawa (10-12) about 2 metres back from the edge of the grass above the backshore and these are now around 3-4 metres high.
In addition, the applicant is willing to covenant the bulk of the wetland area on his property, which provides suitable habitat for fernbird.

It should be noted that in the original Hearing decision in 2000, the Commissioner noted that: "*in the wider locality, the natural character has already been compromised and perhaps more particularly, the development proposal could be accommodated in a manner whereby [the natural] character was not impacted upon by sensitive building design and landscape planting.*"
(b) & (c). The site is not noted on the Resource Map as being of significance or outstanding values.
(d). The proposed dwelling will be set back 27m from MHWS and is not expected to be visible from the beach. There are several ridgeline dwellings overlooking the bay.
(e). A suitably designed and maintained effluent treatment and disposal system will ensure that water quality in the bay is not adversely affected.

Objective 10.3.4

"To maintain and enhance public access to and along the coast whilst ensuring that such access does not adversely affect the natural and physical resources of the coastal environment, including Maori cultural values, and public health and safety."
Public access will be maintained. Although the applicant's property extends to MHWS, public access along the 2-4m wide backshore between MHWS and the grassed area of the property will not be restricted. In addition, public access along the spit may possibly be facilitated by the development of the accessway and the removal of exotic and pest trees along the unformed road.

Objective 10.3.5

"To secure future public access to and along the coast, lakes and rivers (including access for Maori) through the development process and specifically in accordance with the **Esplanade Priority Areas** *mapped in the District Plan.)".*
The applicant is willing to provide for informal public access along a 2-4m wide strip of sandy backshore above MHWS, by not fencing/planting to the MHWS boundary of the property.

Policy 10.4.1

This policy includes *"That the Council only allows appropriate subdivision, use and development in the coastal environment. Appropriate subdivision, use and development is that where the activity generally:*
(a) recognises and provides for those features and elements that contribute to the natural character of an area that may require preservation, restoration or enhancement; and
(b) is in a location and of a scale and design that minimises adverse effects on the natural character of the coastal environment; and
(c) has adequate services provided in a manner that minimises adverse effects on the coastal environment and does not adversely affect the safety and efficiency of the roading network; and
(d) avoids, as far as is practicable, adverse effects which are more than minor on heritage features, outstanding landscapes, cultural values, significant indigenous vegetation and significant habitats of indigenous fauna, amenity values of public land and waters and the natural functions and systems of the coastal environment; and
(e) promotes the protection, and where appropriate restoration and enhancement, of areas of significant indigenous vegetation and significant habitats of indigenous fauna; and."

It will be shown that the proposal is consistent with these relevant parts of Policy 10.4.1. Effects on mangroves will be mitigated by a pole-construction and minimal setback into the wetland; there will be no adverse effect on the functioning of eco-systems – rather there will be benefits from the proposed clearance of an exotic weed "jungle" and seed bed of pest plants on the and spit.

5.1.3 Chapter 10.6: General Coastal Zone – Objectives and Policies

The **General Coastal Zone** allows development while preserving the natural character of the coastal environment and protecting it from inappropriate use and development.

Objective 10.6.3.1. *"To provide for appropriate ... use and development in the coastal environment, consistent with the need to preserve its natural character."*

The construction of a dwelling is considered to be an appropriate use of an allotment in the General Coastal zone. There is no restriction on the title barring the construction of a dwelling. Other dwellings are sited prominently on the ridge line around Pipiroa Bay and Okiato Point, and along Pipiroa Road. These are on allotments zoned Coastal Residential, including a section alongside the car park which is not yet built on. Further along Aucks Road, properties are zoned Coastal Living.

Policy 10.6.4.1. *"That a wide range of activities be permitted in the General Coastal zone, consistent with the need to ensure that their effects are consistent with the preservation of the natural character of the coastal environment."*

Building a dwelling is a basic activity associated with the General Coastal zone.

Policy 10.6.4.2. *"That the visual and landscape qualities of the coastal environment in [the General Coastal Zone] be protected from inappropriate subdivision, use and development."*

The design, method of construction, materials and colours of the proposed dwelling is such that any potential adverse effects on the natural character of the allotment will be minimised. Exotic vegetation will be progressively cleared. There is an existing array of dwellings along the ridge line overlooking the bay.

5.1.4 Section 10.6.5: General Coastal Zone Rules.

Assessment against 10.6.5.1 Permitted Activities rules is as follows:

10.6.5.1.1 Visual Amenity: The gross floor area exceeds 25 square metres. A resource consent is therefore needed. However, the exterior will be coloured within the BS5252 standard colour palette range with a reflectance value of 30% or less or will be constructed of natural materials which fall within this range;

10.6.5.1.2 Residential Intensity: Existing site – provisional compliance.

10.6.5.1.3 Scale of Activities. Not applicable.

10.6.5.1.4 Building height. The proposed building height does not exceed 8 metres above ground level. Complies.

10.6.5.1.5 Sunlight. Complies.

10.6.5.1.6 Impermeable area. Complies.

10.6.5.1.7 Set Back from Boundaries. Set back is not less than 10 metres from boundary. Complies (but note Rules in Chapter 12.7).

10.6.5.1.8 Traffic intensity. Residential dwelling will comply. (6 vehicle movements per day).

10.6.5.1.9 Animals. Not applicable.

10.6.5.1.10 Noise. Dwelling only – will comply.

Summary: Non-compliance with Rules 10.6.5 1 for area of dwelling only.

10.6.5.3 Restricted Discretionary Activities.

The proposal is assessed as a **Restricted Discretionary activity** under rule 10.6.5.3.1 in the General Coastal Zone because it does not comply with Rule 10.6.5.1.1 Visual Amenity in respect of the gross floor area, but is a permitted activity in all other respects.

When considering an application under this provision the Council will restrict the exercise of its discretion to matters relating to:
(i) the location of the building;
(ii) the size, bulk, and height of the building in relation to ridgelines and natural features;
(iii) the colour and reflectivity of the building;
(iv) the extent to which planting can mitigate visual effects;
(v) any earthworks and/or vegetation clearance associated with the building;
(vi) the location and design of associated vehicle access, manoeuvring and parking areas;
(vii) the extent to which the building and any associated overhead utility lines will be visually obtrusive;
(viii) the cumulative visual effects of all the buildings on the site;
(ix) the degree to which the landscape will retain the qualities that give it its naturalness, visual and amenity values.

The proposal is assessed against the criteria of Rule 10.6.5.3.1 Visual Amenity in the more detailed Landscape and Visual Impact Assessment attached as Appendix IV to this AEE.

5.1.5 Section 12.2.6: Natural and Physical Resources - Rules

Rule 12.2.6.1.1(f). Indigenous Vegetation Clearance to maintain open space within 20m of an existing building is a Permitted activity. However, it is proposed that once built, mangrove clearance be restricted to no more than 3-5 metres width around the dwelling. In addition, Rule 12.2.6.1.1 (i) allows the clearance of indigenous vegetation of up to 3.5 metres for the maintenance of existing fence lines.

Rule 12.2.6.1.3. Indigenous Vegetation Clearance in the General Coastal Zone is a Permitted activity if (d) the extent of clearance is no more than the lesser of 1 ha or 15% of the site area, and (a) the vegetation is no more than 6 metres in height and 600mm in girth. The proposal complies with the area requirements and would probably comply with both vegetation dimensions. However, given that the mangroves have been estimated to be about 6 metres high, for the sake of certainty, it would be appropriate to apply for consent to clear indigenous vegetation of more than 6 metres in height.

Rules 12.2.6.1.3(b) (permitted activity) and 12.2.6.2.1(a) (restricted discretionary activity) do not allow any clearance of indigenous vegetation within 20m of an indigenous wetland or continuously flowing river. While the vegetation on the sandspit comprises almost entirely pest plants, apart from the planted pohutukawas, there is likely to be an occasional seedling native, as shown by the observation of a small mapou (matipo). Any small indigenous species will be preserved as far as practicable but they may occur where earthworks is proposed. Accordingly, for the avoidance of doubt, it is appropriate to apply for a consent for a **discretionary activity** under Rule 12.2.6.3(b) to clear indigenous vegetation within 20 metres of a wetland or river.

It is noted that under Rule 12.2.6.1.1(i), and notwithstanding any rule to the contrary, the clearance of indigenous vegetation within 3.5m of a fenceline is a permitted activity. From the aerial photograph of AEE Figure 2, the total fenceline length around the property is approximately 500m, of which at least 140m is through mangrove and 200m through marine wetland comprising mangrove and salt marsh. Thus mangrove clearance over an area of 140m x 3.5m, or 490 m^2, or wetland vegetation clearance over an area of 700 m^2 would be a permitted activity. This is significant in terms of assessing the effects of mangrove trimming / clearing for the house site.

It is not clear from the wording of Rule 12.2.6.1.3 whether the rule applies to indigenous vegetation clearance within a wetland. Section 12.7 of the Plan addresses protection of wetlands but there appears to be no specific rule in 12.7 relating to clearance of wetland vegetation (see 5.1.8 below). Accordingly, for the avoidance of doubt, consent is also sought under Rule 12.2.6.1.3 to clear mangroves of approximately 6 metres height over an area of approximately 700 m^2 (comprising dwelling footprint 300 m^2 + ramp 180 m^2 + trimming around dwelling 220 m^2)

5.1.6 Section 12.4: Natural Hazards.

12.4.1.6 Potential Flooding Map ***FL 5*** shows most of the subject property, except for the area of the sand spit, to be prone to flooding. Given that the area concerned is a tidal wetland, this is perhaps not surprising. The dwelling design will take this into account in regard to floor level height above CD.

Rules 12.4.6.2.1 & 12.4.6.3.1 Coastal Hazard Areas. The subject property is not shown on any of the Coastal Hazard maps (***Maps CH 1 – 17***). However, because of its location, it is appropriate that provision be made for possible sea level rise. This has been addressed by Grant Stevens (see Appendix II:2) and the design height of floor levels.

5.1.7 Section 12.5: Heritage.

Objectives and Policies include: Objective 12.5.3.2. *"To protect waahi tapu and other sites of spiritual, cultural or historical significance to Maori from inappropriate use, development and subdivision."*

Permitted Activities12.5.6.1.3: Registered Archaeological Sites.

*"Activities involving the alteration of land, including building, excavation, filling, planting of trees and disturbance of ground, shall not disturb, modify, damage or destroy a registered archaeological site (as listed in **Appendix 1G** and shown on the **Resource Maps**), unless an Authority to Destroy, Damage or Modify an Archaeological Site has been issued by the New Zealand Historic Places Trust.*

For the purpose of this rule a registered archaeological site is one that is included on the New Zealand Historic Places Register pursuant to the Historic Places Act 1993."

The registration of the property as a wahi tapu area has been withdrawn from the NZHPT register (ref: letter from NZHPT dated 11 April 2001, copy attached as Appendix II.4 to the AEE). Hence in terms of the above definition, the site is not a 'Registered Archaeological Site.'

12.5.6.2.2 Activities Which Could Affect Sites of Cultural Significance to Maori.
*"Building, excavating, filling, planting of trees or clearance of vegetation within any Site of Cultural Significance to Maori, as listed in **Appendix 1F** and shown on the **Resource Maps**, is a restricted discretionary activity, unless the activity is proposed by the requesting party, in which case this rule does not apply."*

Although the subject property is no longer registered as an archaeological site, it is still incorrectly shown on the district resource Map 36 and it remains incorrectly listed for the time being in Appendix 1F: Schedule of Sites of Cultural Significance to Maori. It is noted that the Schedule is supposed to only list sites on general land where there has been consultation with the affected owner. It is understood that no such consultation took place, adding to the level of injustice. It is understood that a plan change is proposed to correct this unfortunate anomaly that has caused the Applicant considerable cost and delay. For the time being however, it appears that the proposal requires a land use consent for a **restricted discretionary activity** in respect of the alleged site. Since no registered site has been shown to exist, the response to each of the three criteria of 12.5.6.2.2 is "Not applicable"

12.5.7: Assessment Criteria. In addition to the criteria of 12.5.6.2.2, the district plan also requires consideration of a list of nineteen criteria listed in 12.5.7. The response to these is summarised below:
(a) A survey has been carried out by DoC and NZHPT archaeologists. Their findings are noted in a letter from NZHPT, dated 2 June 2010 attached in Appendix II.4.
(b) Consultation and site visits have been carried out. No site of significance has been identified. Moreover, land disturbance will be minimal.
(c) General objectives of iwi in the area are concerned with protection of water quality and kai moana resources. The proposed wastewater treatment system will meet required standards.
(d) NZHPT has been consulted. See section 8 and Appendix II.4. No authority to modify is required.
(e) No sites are known to exist.
(f) As (c) above.
(g) – (k). Not applicable.
(l) No registered site.
(m) Optimum site for a dwelling on the property.
(n) – (p). Not applicable.
(q) Appropriate consent condition proposed, relating to possible discovery of site of cultural interest. (See section 8 and Appendix II.4).
(r) - (s) Not applicable.

5.1.8 Section 12.7: Lakes, Rivers, Wetlands and the Coastline.

Rule 12.7.6.1.1, 12.7.6.1.2. Setbacks from Coastal Marine Area and Wetlands. These rules require setbacks of 30 metres, which can not be achieved. The nature of the property makes compliance unattainable. It should be noted that a key reason given in the plan for adopting the 30 m setback is to provide for a future riparian strip in the event of subdivision. There is no prospect of a future subdivision, and the applicant is willing to covenant to this effect. The proposed setback of 27 metres from MHWS is a practicable maximum consistent with minimising any possible adverse effects on the wetland area behind the spit, and has been approved by the Department of Conservation, with implied support from Mr Taylor. To achieve a 30 metre setback from the MHWS would increase the size of the footprint in the wetlands with no significant benefit to be gained. However, a consent is needed in regard to these two setback rules - the coastal marine area and the wetlands.

Rule 12.7.6.1.3. Protection of Wetlands. This rule allows as a permitted activity *"Any land use activity within an indigenous wetland of 200m^2 or more that does not change the natural range of water levels or the natural ecosystem or flora and fauna it supports."* The proposed dwelling will not change the natural range of water levels or the natural ecosystem of flora and fauna. Complies. There appears to be no separate rule for vegetation clearance within a wetland.

Rule 12.7.6.1.4. Discharge of Treated Effluent. The disposal system will be located closer than 30 metres from the Coastal Marine area and from a wetland. A resource consent is required under Rule 12.7.6.1.4.

Overall, the proposal is assessed as a: **Restricted Discretionary activity** under Rule 10.6.5.3.1 (visual amenity: area of dwelling); and a **Discretionary Activity** under each of Rules 12.2.6.3(b) (vegetation clearance in an indigenous wetland); 12.7.6.1.1 (setback from wetland); 12.7.6.1.2 (setback from CMA); and 12.7.6.1.4 (discharge of treated effluent); in combination with Rule 12.7.6.3.

In terms of the Assessment Criteria of 12.7.7, the responses to each are summarised as follows:

There is a functional need to establish the disposal system at the proposed location; the proposed system is considered to be the best practicable option available; any potential adverse effects on biodiversity, wetlands, cultural values, water quality, etc. will be no more than minor. The site has

previously been modified by flood gates, drainage, grazing, planting of exotic species, etc. The proposed dwelling will be constructed above flood levels. Any adverse effects will be compensated for by a number of measures including covenanting a large area of the wetland; clearance of exotic pest-plants, and re-planting with natives; improved public access.

5.1.9 Section 12.3: Soils and Minerals – Earthworks.

The issues of concern with earthworks as identified in the district plan are as follow:

"12.3.1.1 Unless carefully managed, excavation and filling may lead to adverse effects such as erosion, loss of soil structure due to disturbance or compaction, water logging and loss of visual amenity.

12.3.1.2 Efficient mineral extraction and processing is necessary for the well-being of people and communities but has the potential to cause adverse effects on the environment."

These identified issues are considered to be of less-than-minor relevance in terms of the minimal amount of filling proposed to be undertaken. The policies and objectives set out in the plan are likewise of little or no relevance on the whole. However, the volumes and dimensions are such that they may fall within the district plan's rules, thereby requiring either a Land Use consent for Earthworks, or an Earthworks Permit under Council bylaws.

The various components of the proposed earthworks/filling are addressed as follows:

(i) Raised bed effluent disposal area. Building up a raised-bed, treated effluent disposal area by approximately 300mm. The volume of material involved is of the order of 30 cubic metres (95 x 0.3m). However, filling for drainage fields is excluded from the definition of "filling" (Ch. 3, Definitions). With regard to the earthworks component, this is therefore assessed as a permitted activity and the volume is excluded from further consideration.

(ii) Placing fill below MHWS in a tidal wetland to form part of a ramp up to the proposed dwelling. The depth of fill will range from 1m to 2m. The volume of fill is assessed as approximately 25m x 5m x (1.0+1.8)/2m = 175 cubic metres. This is considered to be a reclamation, although the site is not within the coastal marine area. A consent for a reclamation to cover the earthworks below MHWS has been applied for to the NRC. Assuming that the District Council's jurisdiction for earthworks extends only to MHWS, no district council consent would be required. However, although district councils have responsibility for effects of activities only in relation to the surface of water under the RMA, and although Objective 6.3.1 of the district plan seeks *"To avoid inefficient duplication of responsibilities between authorities"*, it may be appropriate to also apply the district council rules in relation to this component of the activity, subject to confirmation by the Council. The proposal will not comply with the maximum face height of 1.5m and an earthworks permit would be necessary under Rule 12.3.6.3 and Council bylaws.

(iii) Placing fill above MHWS to form part of a ramp up to the proposed dwelling. The depth of fill will range from 0.2 to 1m (see s.2.6 of AEE), averaging about 0.6m. The volume of fill is assessed as approximately 25m x 5m x 0.6m = 75 cubic metres. This is also covered in a regional council application for placement of fill in a RMZ.

(iv) Balance of Area in RMZ. As stated in the AEE (2.6, 2.9, 5.2.6), the applicant proposes to initially clear the existing vegetation comprising weeds and pest plants from a total estimated area of about 750 square metres within the RMZ (i.e. within about 7.5m of the MHWS on the wetland side of the spit. This includes the 95 m^2 and 150 m^2 in (i) & (ii) above. The balance area of approximately 530 m^2 will be progressively cleared, topsoil added (approx.

0.3m depth or 159 m^3) and re-planted. This will be undertaken in accordance with normal garden practice as permitted under the district plan and Council by-laws.

(v) Formation of access way within the property. The length of driveway including a turning bay will be about 50 metres. Allowing an average formed width of 4 metres, the volume of earthworks is calculated to be no more than 50m x 4m x 0.3m (60 m^3) cut, followed by 50m x 4m x 0.4m (80 m^3) fill, totalling 140m^3. Although this is minor, the district plan (12.3.6.1.2, Note 1) states that *"Any excavation and/or filling carried out within 20m of any road, private road or adjoining property requires an Earthworks Permit under Council's bylaws."* The access way will of course extend to the boundary of the unformed road (i.e. within 20n of an adjoining property and possibly also "any road") and there appear to be no exemptions for even minor access way formation, such as placement of a layer of crushed metal on a driveway. While this appears to be unduly restrictive, an earthworks permit is required nonetheless.

(vi) Upgrading of Unformed Road. (AEE 5.2.9). While it would seem that the unformed road would have provided the only vehicle access to the subject site until the 1950s (and indeed highly probable for activities such as supplying fencing materials to the site and for stock movement), the unformed road has become inaccessible due to the dense growth of almost entirely exotic and pest shrubs and trees (as described in AEE 3.3). Clearance of this vegetation and the placement of base course and clean top course material (crushed shell is proposed) will be the minimum necessary consistent with the engineering standards of the district plan, to provide access to and allow the occupation of the proposed dwelling. Allowing for a length of 100m and an average width of 4m, the volume of earthworks is calculated to be no greater than 280 m^3, i.e. 100 x 4 x 0.3m (120 m^3) cut, followed by 100 x 4 x 0.4m (160 m^3) fill. The volume and height therefore comply with the permitted activity Rule 12.3.6.1.2 of the district plan as this is a different site from the subject property. However, because part of the work will occur within 20 metres of the applicant's own property, (see reference to Rule 12.3.6.1.2 above), an earthworks permit appears to be required under council bylaws. This component of the activity has been provisionally assessed as a Permitted Activity under Northland Regional Council RW&SP. The proposed access way has been shown schematically because the Council may have some preference for the precise route across the unformed road, and there is an obvious need to link up at the common property boundary. It is expected that finalisation of this detail would be subject to discussions with, and approval of, Council staff.

(vii) Conclusions.

- The earthworks associated with building the raised bed for effluent disposal and with weed clearance as a normal garden practice are excluded from the definition of 'fill' or 'excavation.' Both are assessed as meeting the requirements for a permitted activity.

- The earthworks associated with forming the access way within the subject property plus the forming of the earth ramp above MHWS total 215 (75+140) m^3. Together, these two items would comply with district plan rules 12.3.6.1.2 as permitted activities in respect of the volume and height. If district council jurisdiction extends below the line of MHWS, and the earthworks below MHWS are included, then the total volume is approximately 390 (215+175) m^3. This could potentially be staged over 2 periods of 12 months to keep within the limit of 300 m^3 per 12 month period, but part of the earth ramp would still exceed a fill height of 1.5m, necessitating a land use consent for a discretionary activity under Rule 12.3.6.3. Notwithstanding, Council bylaws would also be contravened, requiring an earthworks permit (see 5.1.10 below). Accordingly, it is appropriate to apply for an earthworks land use consent to cover all cut and fill operations that are not otherwise permitted.

- The volume associated with the formation of an access way across the unformed road complies with district plan rules for a permitted activity in respect of volume and height. However, because part of the work will necessarily be carried out within 20 metres of the applicant's property, it is noted that an Earthworks Permit is required under Council's bylaws (see 5.1.10 below). Accordingly, application is made for this component to be included within the land use consent.

5.1.10 Council Bylaws – Earthworks Permit.

(i) Council by-laws requires that an Earthworks Permit be applied for if earthworks or fill take place:

- within 3m of any boundary or water body;
- over a surface area of more than 100 m^2;
- volume greater than 50 m^3;
- in any area identified as a site of cultural significance to Maori.

(ii) These criteria will not be met by:

- The ramp fill placed below MHWS, for proximity to a water body, for surface area and for volume;
- The ramp fill placed above MHWS for the same three reasons;
- The access way within the property for the same three reasons;
- The upgrading of the access along the unformed road for the same three reasons; and
- Possibly not by the raised bed disposal site.
- Each of the above five components will also take place within 20 metres of an adjoining property.

(iii) In addition, the subject property is currently, and erroneously, designated as a site of cultural significance.

(iv) The reason given for requiring an earthworks permit is to provide Council with control over what would otherwise be permitted activities under the RMA. Information required to be submitted for an earthworks permit appears to be similar in many respects to that required for a land use consent. In effect, the concept of a permitted land use activity is nullified in regard to most minor earthworks. Consequently, it is considered appropriate to apply for a land use consent to cover all minor earthworks activities.

5.1.11 Assessment of Proposed Minor Earthworks against District Plan Objectives, Issues, etc.

(i) Of the four objectives listed in 12.3.3 of the district plan, only Objective 12.3.3.3 is considered to be relevant. Life supporting capacity of soils, etc. are not regarded as issues in this case. Objective 12.3.3.3. *"To avoid, remedy or mitigate adverse effects associated with soil excavation or filling".*

(ii) Issues 12.3.1.1 of the district plan identifies the following potential adverse effects from excavation and filling operations: *"Unless carefully managed, excavation and filling may lead to adverse effects such as erosion, loss of soil structure due to disturbance or compaction, water logging and loss of visual amenity."* Each of these potential adverse effects and others will be addressed.

(iii) Erosion. TP 90 identifies a number of forms of erosion, generally associated with high rates of runoff on sloping land. The soil of the sandspit where the proposed earthworks will take place has been identified by Richardson Stevens (AEE Appendix II.1) as having a very high

percolation rate in excess of 25mm/minute. The ground should be able to absorb all rainfall intensities it may experience, provided it is covered with permeable material as is proposed. In addition, the ground is largely flat or very gently sloping, reducing any propensity for stormwater to accumulate along defined flow paths. Any surface water that might accumulate through non-absorption will tend to run off the disturbed area *in situ* and to be attenuated by the adjoining vegetation, with no scouring resulting.

(iv) Contaminants. Re-Rule 12.3.6.1.4, the fill material will only comprise materials such as soil, rock, stone, aggregate, gravel, clean crushed shell, with a possible bark overlayer on the soakage field as proposed by Richardson Stevens.

(v) Sedimentation.The earth ramp extending into the wetland will have a layer of rocks with filter cloth on the wetland sides in order to control possible sediment carryover into the wetland.

(vi) Visual Amenity – Access Way. From a visual perspective, the formation of the proposed right of way across the unformed road and the subject property should be viewed in the context of the car park and metalled turning bay at the end of the formed section of Pipiroa Road, and the potential visual effects of clearing the entire sandspit of the exotic pest plants and weeds as a permitted baseline activity (a principle well-established in a number of Environment Court decisions). In addition, the proposed crushed shell top layer will be visually similar to the beach sediment. In this context, the visual effects of the proposed access way formation will be less than minor.

(vii) Visual Amenity – Raised Bed Disposal Area and Balance Area to be Cleared of Weeds and Pest Plants. It is noted that normal garden practices are excluded from requiring earthworks permits. In terms of visual amenity, the proposed raised bed disposal area would be comparable to a dug over garden in terms of visual impact. The effect of this is therefore considered to be less than minor.

(viii) Visual Amenity – Earth Ramp. The earth ramp is only visible from the front of the proposed building. This is not observable from any public place and only marginally visible from a few private properties. Notwithstanding, a landscaping programme is proposed. Again, the visual effect in the short term would be comparable to a dug over garden (a permitted activity) and therefore a permitted baseline pursuant to RMA 94A(a).

(ix) Conclusion. The potential adverse effects of the proposed earthworks are considered to be less than minor and in any event, no greater than effects of comparable permitted activities.

5.1.12 Proposed Sediment Controls, Mitigation, etc.

(i) Filter fabric will be used around the fill to be placed below MHWS to contain sediment discharge into the wetlands (a Northland Regional Council consent issue, ref. RMA 30(1)(c)(ii)).

(ii) Given the high permeability rate of the soil of the spit and permeable fill material, no run off is expected to occur.

(iii) In the unlikely event that run off should occur, grassed areas alongside the filled areas and the proposed access way to be cut/filled will contain any sediment runoff.

(iv) If regular inspection after high rainfall events shows that any unforeseen run off is occurring, either hay bales will be placed or temporary low bund walls will be constructed to act as sediment traps until the problem can be permanently rectified..

5.1.13 Assessment of Proposed Earthworks against Assessment Criteria of 12.3.7.

(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 not cause any of these effects.

(b) any effects on the life supporting capacity of the soil;
The formation of the accessway will have less than a minor effect.

(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;
There will be no effect on stormwater flows.

(d) any reduction in water quality;
There will potentially be a minimal effect on water quality. This matter will be addressed by way of regional council consents and conditions.

(e) any loss of visual amenity or loss of natural character of the coastal environment;
There will be less than a minor effect from this permitted activity of weed clearance.

*(f) effects on Outstanding Landscape Features and Outstanding Natural Features (refer to **Appendices 1A** and **1B** in **Part 4**, and **Resource Maps**);*
Not applicable.

(g) the extent to which the activity may adversely affect areas of significant indigenous vegetation or significant habitats of indigenous fauna;
There will be less than a minor effect on a mangrove area.

(h) the extent to which the activity may adversely affect heritage resources, especially archaeological sites;
There are no registered sites. Any effect on resources will be less than minor.

*(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**);*
There are no registered sites, only an erroneously designated site. Any effect on cultural resources (the coastline in general) will be less than minor.

(j) any cumulative adverse effects on the environment arising from the activity;
There will be no cumulative adverse effects.

(k) the effectiveness of any proposals to avoid, remedy or mitigate any adverse effects arising from the activity;
The effluent treatment and disposal system can be designed to avoid any adverse effects. The trimming/pruning/removal of a small area of mangroves will be mitigated by covenanting a large part of the remainder of the wetland area on the subject property. The colour scheme of the proposed dwelling, particularly the roof areas, will be chosen according to district plan recommendations to blend in with the environment, i.e. shades of brown and green.

(l) the ability to monitor the activity and to take remedial action if necessary;
Monitoring the design, materials of construction, finishing colours, etc. would be a part of the normal building consent process, it is assumed. A report on required inspections of the effluent treatment system can be required to be forwarded to Council.

(m) the criteria in ***Section 11.20 Development Plans*** *in* ***Part 2****.)*
The proposed earthworks and the development of a single unit residential dwelling will have less than minor effects in respect of any of the matters of Section 11.20.

5.2 Northland Regional Council Regional Water and Soil Plan (W&SP)

5.2.1 General. The applicant has received confirmation from the Regional Council that the proposed dwelling is not within the coastal marine area. The dwelling site is considered to be in the bed of a tidal river at its fullest flow (upper tidal area in a wetland). In assessing the extent of the Riparian Management Zone (RMZ), Figure 7B in the W&SP is considered to most closely represent the situation. The RMZ is assumed to extend back from the level of MHWM which is equated with the edge of land vegetation. Measurements and areas relating to riverbed reclamation and the RMZ are accordingly calculated from this position. The distance from MHWM to the top of the bank varies but is of the order of 2-2.5m.The slope of the land above the top of the bank is less than 8^{o} so the RMZ is assessed as 2.5m + 5m = 7.5m approximately.

5.2.2 Policies and Objectives. Reason 7.7.2 for Water Quality Objectives, etc includes:- *To ensure the existing water quality is maintained or enhanced, conditions may be placed on resource consents .....*

An appropriate wastewater disposal system has been proposed that will ensure that *water quality is maintained* to comply with this policy. An earlier Northland Regional Council assessment of the proposal (ref. Staff Report of 7.4.00 Hearing) has confirmed the acceptability of the proposal, subject to suitable maintenance.

The proposal is considered to be consistent with the policies of Section 11.5.1 of the W&SP, relating to use of the bed of a river, and is assessed as follows.

(a) The natural character of the wetland will be preserved, particularly in regard to the proposed covenanting;
(b) any adverse effects on aquatic habitat will be less than minor;
(c) adverse effects are minimised by the proposed location of the dwelling on the margin of the wetland;
(d) public access will not be adversely affected, but may be enhanced;
(e) there will be no adverse effects on the recreational value of the property; public access along the spit (amenity value) may be enhanced by the upgrading of the unformed road;
(f) bed and bank stability is not affected;
(g) there will be no significant ecosystem effects, as confirmed in Mark Poynter's report;
(h) water quality will be maintained;
(i) fish access is not affected;
(j) not applicable;
(k) the design of the effluent treatment system will ensure that there are no adverse effects on public health, safety or property.

With regard to Policy 11.5.2, the proposal will ensure that water quality, and therefore kai moana, are not adversely affected. The area to be occupied by the dwelling has previously been grazed land. The

previous claim of a wahi tapu site has been dismissed by NZHPT. The proposal is not inconsistent with this policy.

5.2.3 Structure in or over the Bed of a Watercourse (Wetland).

The proposal for a structure in a wetland is assessed as a **Discretionary activity** under Rule 29.3. However, it should be noted that the proposed structure will not result in any change in water levels, nor will it prevent fish passage – these being the two areas of concern.

5.2.4 Placement of Fill on Bed of Watercourse (for Formation of Ramp up to house)

The proposed formation of the ramp access and slope up to the front of the dwelling involves the placement of fill (reclamation) over an area of up to 180 square metres on the edge of the wetland below MHWS (30 m long x 5-6 metres across). This is the upper limit of the wetted intertidal area; it is not always covered at high tide, and it supports relatively little vegetation. The volume of material to be placed is assessed at up to 270 cubic metres (average depth about 1.5 metres). The placement of fill in a wetland and vegetation clearance is assessed as a **Discretionary activity** under Rule 31.3.1.

5.2.5 Clearance/Pruning of Vegetation on Bed of Watercourse (Wetland)

Mangroves beneath the dwelling's footprint will need to be pruned back. A very small number at the site of the piles may need to be removed. Those at the ramp area will be cleared. The area involved will be less than 0.1 ha. Pruning/clearing of mangroves is assessed as a **Discretionary activity** under Rule 31.3.1.

5.2.6 Earthworks and Placement of Fill in Riparian Management Zone. To complete the formation of the ramp up to the house, additional fill will be placed on the spit above MHWS. This is considered to be a Riparian Management Zone under the W&SP. Fill will also be placed for vehicle access to the dwelling from the end of the unformed road; and for the soakage area for treated effluent. Earthworks and the placement of fill in the RMZ is assessed as a **Discretionary activity** under Rule 34.3.1. The total RMZ area within the subject property is assessed at 750 m^2 (99m x 7.5m approx.) with up to about 300m^3 of fill to be placed to an average depth of about 0.4 metre over any part of the RMZ.

5.2.7 Clearance of Vegetation in the Riparian Management Zone. Vegetation comprising mainly weeds, pest plants and grasses (as described in 3.3 above) will need to be cleared to form the upgraded road access, the earth ramp up to the house and the soakage area. This is also assessed as a **Discretionary Activity** under Rule 34.3.1. The area affected could be any part of the RMZ area.

5.2.8 Discharge of Secondary Treated Effluent

The discharge of secondary treated effluent onto land is a permitted activity under Rule 15.1.4 provided that (a) the lowest point of the disposal system is not less than 0.6m above the winter groundwater table; (b) the effluent is treated to a specified standard; (d) no part of the disposal area is located within 15 metres of any surface water. Design criteria are also specified, including a maintenance contract to be entered into.

Previous onsite measurements have identified that the water table is 0.8m below the surface. It is proposed that 200mm of imported topsoil covered by 50-100mm of bark, topsoil or vegetation will be placed to form a raised bed, low pressure dispersal system over an area of 95m^2 with a pipe line length of 95m. (Note that from 2005 to 2010, the numerical values of area and length have been increased from 70 to 95 to reflect a higher required standard.) This will provide a bed depth of 1metre above the water table, providing a significant margin over the minimum requirement. It has been suggested

The proposal can meet all criteria except the requirements of Rule 15.1.4(d), Separation Distance, at high tide, because of the physical site limitations. It would probably comply at low- and mid-tide. The proposal is therefore a **Discretionary activity** in this respect only. However, it is noted that if this separation distance could be met, the criteria would then be that "*The discharge results in no more than minor contamination of ground and surface water beyond a 20-metre separation distance.*" It is considered that the proposed treatment system will ensure that the effluent is treated to the highest standard and that any adverse effects will be less than minor. The design acceptability has previously been confirmed by Northland Regional Council staff (see below) and by an independent consultant's review on behalf of the Health Department.

The Northland Regional Council Staff Report (dated 7.4.00) notes that: *"Studies have shown that in unstructured sandy soils, 600mm depth is effective in removing both bacteria and viruses from septic tank effluent using a loading rate of 50mm/day (Gunn, 1997)."*
and
"*The proposed wastewater discharge is proposed to be to land and will not compromise or result in a technical degradation of water quality, both surface, ground, and coastal water. Therefore, the proposal is consistent with the relevant water quality objectives and policies in the Regional Policy Statement, the Revised Regional Water & Soil Plan for Northland, and the Revised Proposed Regional Coastal Plan for Northland.*" While there have been some changes to the relevant planning documents over the past ten years, it is believed that none of the changes impact on the compliance of the proposal.

5.2.9 Upgrading of Unformed Road. The unformed road to the property lies partly within the RMZ. The road which is assumed to have previously been the only access to the grazed property has become inaccessible due to the dense growth of almost entirely exotic and pest shrubs and trees (as described in AEE 3.3). Clearance of this vegetation and the placement of clean top course material (shell is proposed) will be the minimum necessary to provide access to and allow the occupation of the proposed dwelling. This is assessed as a **Permitted Activity** under Rules 34.2(c)(iii) and 34.3(b)(iii).

6. CONSENTS REQUIRED

The above assessment indicates that the following consents are required:

6.1 **Far North District Council.** Under the Far North District Plan, the proposal will require:

- a land use consent for a dwelling in the General Coastal zone in excess of 25 square metres (**Restricted Discretionary activity** under Rule 10.6.5.3.1);
- a land use consent for vegetation clearance in and within 20 metres of an indigenous wetland (**Discretionary Activity** under Rule 12.2.6.3(b), (including vegetation more than 6 metres high);
- a land use consent (in lieu of an Earthworks permit) for minor earthworks in excess of 300 m^3, in excess of 1.5m height, within 20 metres of an adjoining property, within 20 metres of a road, (**Discretionary Activity** under Rules 12.3.6.1.3 and 12.3.6.2.3);
- a land use consent for a setback of less than 30 metres from the c.m.a. (Rule 12.7.6.1.1) and from a wetland (Rule 12.7.6.1.2) (**Discretionary activity** under Rule 12.7.6.3);
- a discharge permit to discharge treated waste water to land within 30 metres of a boundary of a wetland, and within 30 metres of the c.m.a. (Rule 12.7.6.1.4) (**Discretionary activity** under Rule 12.7.6.3). Section 4.1 of the District Plan states that discharge permits are the responsibility of the regional council. For the avoidance of doubt, however, consent is sought from FNDC also;

- a land use consent to carry out *"Building, excavating, filling, planting of trees or clearance of vegetation within any Site of Cultural Significance to Maori, as listed in* ***Appendix 1F*** *and shown on the* ***Resource Maps"****, (*a **Restricted Discretionary activity** under Rule 12.5.6.2.2**).** It should be noted that the listing of such a site is the result of an NZHPT error, and the alleged site on the subject property does not exist. However, since there is a site listing (although incorrect), a land use consent must be applied for under Council rules. Effects on a site that does not exist will inevitably be nil.

6.2 **Northland Regional Council**. The Applicant requires:

- a discharge permit to discharge treated wastewater to land within 15 metres of surface water;
- a land use consent to erect a structure in a wetland (bed of watercourse);
- a land use consent for reclamation of part of a river bed (placement of approximately 270 m^3 fill over an area of up to 180 m^2);
- a land use consent for pruning/clearance of vegetation in a wetland over an area of up to 0.1 ha;
- a land use consent for placement of fill (approximately 300 m^3), earthworks and vegetation clearance in a Riparian Management Zone, over an area of up to 750 m^2.

All the above are assessed as **Discretionary activities**.

The upgrading of the unformed road, which involves vegetation clearance and placement of fill partially within the RMZ, to provide a carriageway to district council standards is assessed (subject to confirmation) as a **Permitted activity.**

Pat Killalea

From: Pat Killalea
Sent: Wednesday, 1 September 2010 4:59 p.m.
To: 'Steve Westgate'
Subject: RE: John Upperton

Steve,
That looks OK to me. A formal letter would be appreciated.
Regards,
Pat.

From: Steve Westgate [mailto:swestgate@xtra.co.nz]
Sent: Wednesday, 1 September 2010 4:51 p.m.
To: Pat Killalea
Subject: Fw: John Upperton

Hi Pat
Thanks again for your time yesterday, and for your endeavours to move this forward.
I have had a response from Mark Poynter as below. Are you happy with an email or would you prefer a more formal letter - to kick this aspect into touch!
Regards
Steve

----- Original Message -----
From: Poynter & Associates Environmental LTD
To: 'Steve Westgate'
Sent: Wednesday, September 01, 2010 3:17 PM
Subject: RE: John Upperton

Dear Steve,

I have reviewed all the updated information you have provided as to the revised proposal and my earlier reports and the report by Ian McAlley. I have not been back on site but have a good recollection of my earlier inspection. I have also looked the Google Map which provides a very good resolution aerial view of the area. I have also looked at the Whangaruru PNA report for the Q05/004 Habitat Unit. That is a fairly broad brush assessment in respect of this particular site.

I agree that the proposal as it now stands is of an even lesser order of significance than was the case upon which I based my earlier support. I can confirm in my view that the proposal and mitigation will result in a minor effect on ecological values. In particular I consider that there will be no adverse effect on the Q05/004 habitat unit. The very small area of reclamation and the piling of the house, while it will result in the loss and trimming of a small area of mangrove, will not adversely affect the wildlife, botanical sequence (ecotone) or biodiversity at the location.

If you need this formalised into a letter please let me know.

Regards

Mark

Poynter & Associates Environmental Ltd
P O Box 402-053 , Tutukaka 0153
Street Address: Office 1, Shop 10 , Oceans, Marina Rd, Tutukaka
Phones: 09 4344394; (fax)09 4344395; (Mob) 0274875012

Far North
District Council

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

Date	31 August 2010 at 11.00am
Subject	**John Kildare Upperton** **2090634-RMALUC/0** **Land Use – Notes taken at meeting**

In attendance:

Steve Westgate, John Upperton, Pat Killalea, Lynley Newport (left 11.30am).

Mr Westgate advised that Cr Byers was invited to attend the meeting as he has a lot of background knowledge regarding the application. Mr Killalea advised that Cr Byers had spoken to him and had advised that he considered that it would be inappropriate for him to attend the meeting.

Issues raised following the peer review of the application by Ian McAlley, Director, McAlley Consulting Group.

Activity Status:

2. Discretionary Activity. Mr Westgate said that he considered that the application should be assessed as Discretionary. Mr Killalea agreed with the assessment.

3. Other Issues:

   3.1 Height – the height will remain at 8m above ground level.

   3.3 Esplanade Reserve rule: Mr Westgate considered that this was ultra vires, He asked "*is building a house a development?*" Mr Westgate suggested that Council should get legal advice to ensure the district plan was correct in this regard although it was not a concern with this application.

   Mr Upperton offered continued (informal) public access along the MHW of his property. He said it was not necessary and would be impractical to fence. Mr Killalea asked if he would be prepared to keep the area open to the public by way of an easement. Mr Upperton said that an easement was not desirable but that he did not mind people transgressing along his boundary, he said there was room to walk along the beach and he would accept a condition stating that no fence could be erected within 2m of th MHWM.

   4.1 Information provided. Mr Westgate said that nothing new can be added to the information provided. The area of disturbance is very small. Dept of Conservation have not made any changes to their reports or plans. Mr Killalea said that it was required that the applicant provide new feedback from Mark Poynter advising that he is aware of the DoC report and confirming that it raised no new issues which he needed to address.

4.2 Mr Westgate said Doc commissioned the PNA report and it has been accepted by Doc and confirmed by Doc and asked why it was necessary to get Mark Poynter to review the report. Mr Killalea said that Mark Poynter needed to confirm that his AEE has not changed having regard to the DoC Ecological report.

5.4 Confirmation is required that all (8) mitigation matters have been offered by the applicant.

Other points raised:

Any further buildings, as defined in the district plan, will require a resource consent, the current application is for a single dwelling only.

Mr Westgate - Weed and pest control in perpetuity – is that reasonable?

Mr Killalea - "ongoing weed and pest control" may be appropriate wording. Management Plans have weed and pest controls in perpetuity.

Mr Westgate - Archaeological survey – how many does the applicant need to do –

- there is no digging on the site
- HPT have no interest in the site
- Rules are in place if anything is found on the site
- Auckland University did a n archaeological survey of the whole bay, nothing was found on this site.
- Clarification was sought from DoC 7/3/2000
- Mr Killalea agreed that a survey need not be undertaken at this point.

Mr Killalea said that NZHPT had stated that a Cultural assessment should be sought from Te Uri Karaka.

Mr Upperton said he is not going to consult with Te Uri Karaka as they are only a sub tribe. He will consult with Ngati Manu who have already said they have no issues.

5.3 There is a new ratepayers committee for Te Wahapu & Okiato now. They will be notified as an affected party. Mr Killalea said that Mr Westgate could provide correspondence (historical) for the notification pack. Council would not change their standard cover letter.

Limited Notification – Who will be deemed to be affected.

Adjoining neighbours, Tim Ridge, FNDC & NZHPT

Others to be determined by the processing planner

A pre-hearing option is available.

6.3 Effluent disposal – contrary to the implication in the McAlley report Mr Westgate stated that NRC issues. Mr Heaps does not have the experience and is not qualified to report on Effluent disposal systems.

8.0 Peer Review

8.1 Mr Westgate stated that Richardson Stevens are the peer reviewers. The NRC report states that the effects are less than minor. It is only the FNDC Resource Consents Engineer says who has concerns.

Mr Killalea suggested that a peer review be undertaken by Ben Perry of Fraser Thomas, This was necessary as the Council's resource consents engineer has concerns but was not an expert in this area. Council will pay for the peer review.

Mr Upperton asked if Rob Lieffering could do the peer review as he is familiar with the site. Mr Killalea said that Ben Perry was council's preference as he is an independent expert.

Points at Conclusion

- Applicant is to confirm that the 8 mitigation measures are part of the application
- M Poynter report to be added as required in view of the DoC report on PNA's.
- Richardson Stevens report is being updated.
- Maximum Height – 8 metres confirmed
- Limited Notification – Ngati Manu, Tim Ridge, Okiato/Te Wahapu ratepayer assn. HPT and others deemed affected by processing planner and Iwi Liaison Team.
- Disposal system will require a building consent need to ensure that tanks are included I application.
- Mr Westgate expected to have updated application in approximately 1 week. Council expects wastewater peer review to take approximately 2 weeks.

Meeting concluded at 12.20pm.

Pat Killalea

From: Pat Killalea
Sent: Friday, 30 July 2010 2:48 p.m.
To: 'Steve Westgate'
Cc: Lynley Newport; Murray McDonald
Subject: RE: John Upperton
Attachments: Letter FNDC 28 07 10.pdf

Steve,
We have just this morning received a report from McAlley Consulting Group which addresses the information provided and the issue of notification of the Upperton application. The information package you refer to was forwarded to the consultant. Notwithstanding the supply of that package the conclusion is that further information should be sought from the applicant pursuant to section 92 of the RMA. Further it is recommended that a peer review be undertaken of the engineering information provided with the application. A copy of the report is attached for your information.
We would expect to issue the additional information request next week and it would be helpful if you could indicate prior to your departure for Sydney how much time the applicant would need to provide this information.

Regards,

Pat Killalea.

From: Steve Westgate [mailto:swestgate@xtra.co.nz]
Sent: Friday, 30 July 2010 11:21 a.m.
To: Pat Killalea; Lynley Newport
Cc: John Upperton
Subject: John Upperton

Hi Pat / Lynley
I trust that you received the package of updated, collated information regarding John Upperton's application that was mailed to you about 4 weeks ago under the attached covering letter. I appreciate that it will be taking some time to go through everything.
I'm going to be away in Sydney from tomorrow for the next 2 weeks (expecting the arrival of our first grandchild!) but it may be appropriate to arrange for another meeting shortly after my return on the 14th, to discuss the way forward (not Tuesday 17th).
We have moved away from the idea of having a commissioner review the matter of notification but thank you for the consideration you gave to the idea.
Regards
Steve Westgate

Far North District Council
Private Bag 752
Kaikohe

Attn: Pat Killalea

28 July 2010

Re: Upperton Application – RC 2090634-RMALUC

1. BACKGROUND

1.1. With regard to the above, an application has been made to erect a dwelling at the subject site being Lot 1 DP 202228, Pipiroa Road, Russell.

1.2. As requested I have reviewed the information provided by the applicant and have assessed the information with regard to its completeness and the issue of notification.

2. ACTIVITY STATUS

2.1. The proposal requires consent under the following provisions of the District Plan: RD -

i. Rule 10.6.5.3.1 - Discretionary Activity as no building envelope is defined on the site and the proposal requires a discretionary consent under the District Wide Provisions

ii. Rule 12.2.6.3(b) - Discretionary Activity for vegetation clearance within 20m of an Indigenous Wetland

iii. Rule 12.3.6.2.3 - Discretionary Activity as the extent of earthworks required is greater than $300m^3$ in any 12 month period, but less than $2000m^3$, however the proposal does not comply with the relevant Environment Provisions or the relevant standards of the District Wide Provisions

iv. Rule 12.5.6.3 - Discretionary Activity as the site is listed as a site of Cultural Significance to Maori and the proposal does not comply with the relevant Environment Provisions or the relevant standards of the District Wide Provisions (however it is recognised that the status of the site as a site of Cultural Significance to Maori has been challenged by the applicant)

v. Rule 12.7.6.3 - Discretionary Activity as the proposal includes building within 30m of the Coastal Marine Area, undertaking a land use activity within an Indigenous Wetland and the discharge of human sewage effluent within 30m of the Coastal Marine Area

2.2. It is noted that several consents are required from the Northland Regional Council for the proposal. Overall in terms of the Far North District Plan the activity is considered to be a discretionary activity.

3. OTHER ISSUES

3.1. In the application it is stated that the proposed dwelling will comply with the 8m height limit. The definition of ground level in the District Plan reads:

> *"Shall be deemed to be the finished ground level of the site at 28 April 2000, or the finished ground level at the time of completion of the most recent subdivision of the land following 28 April 2000."*

However, I am concerned that as the proposed dwelling is a structure sitting above water, that it may be difficult for the pole foundations and two levels of building development to be accommodated under the 8 m, as my reading of the definition of ground level is that any height measurement must be taken from firm ground and not the water level.

3.2. Therefore I consider that this matter requires further clarification.

3.3. Also Rule 14.6.1(a)(iii) - Esplanade Areas states that:

> *"the council will require a financial contribution of an esplanade reserve or strip in the following circumstances, where any land use requires a resource consent for any activity or activities and the Council considers it necessary to require an esplanade reserve or strip for any of the purposes outlined in s229 of the Act, an esplanade reserve or strip may be required"*

3.4. Section 229 of the Resource Management Act states:

> *"An esplanade reserve or an esplanade strip has one or more of the following purposes:*
>
> *(a) To contribute to the protection of conservation values by, in particular,—*
> *(i) Maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or*
> *(ii) Maintaining or enhancing water quality; or*
> *(iii) Maintaining or enhancing aquatic habitats; or*
> *(iv) Protecting the natural values associated with the esplanade reserve or esplanade strip; or*
> *(v) Mitigating natural hazards; or*
> *(b) To enable public access to or along any sea, river, or lake; or*
> *(c) To enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river, or lake, where the use is compatible with conservation values"*

3.5. The application makes no assessment as to why an esplanade reserve or strip should not be provided in this instance and this is of particular concern given the proposed location of the effluent disposal field, as this would be within the area of any potential esplanade reserve or strip if such were to be taken now or in the future.

4. INFORMATION PROVIDED

4.1. I have concerns with regard to the information that has been provided with the application. In some instances this information is quite dated and does not specifically relate to the amended

application currently submitted. In particular the report of Mark Poynter should be updated as the site as shown as wetland coastal habitat Q05/004 in the DoC publication "Natural Areas of the Whangaruru Ecological District 2005" and therefore is considered to have significance in the local environment. Additionally I am concerned about the consultation/written approvals provided and will detail these concerns below.

5. CONSULTATION/WRITTEN APPROVALS

5.1. The consultation undertaken and the written approvals provided in my opinion are inconclusive.

5.2. The letter from the New Zealand Historic Places Trust (NZHPT) dated 2 June 2010 states that NZHPT believe that a cultural impact assessment should be sought from Te Uri Karaka to assist in meeting the requirements of the District Plan. NZHPT state that they do not oppose the application based on the information provided so far, but would recommend to Council that the cultural impact assessment is sought. It is my understanding that such a cultural impact assessment has not been provided, therefore I am of the opinion that the letter from NZHPT does not constitute a written approval.

Do they still exist?

5.3. With regard to the correspondence with Mr Wendell Taylor on behalf of the Okiato District Residents and Ratepayers Association, there is no correspondence provided post-2002 and I am of the opinion that such dated information cannot be relied upon as part of this application.

5.4. The letter provided from the Department of Conservation dated 29 April 2005 (and the further e-mail dated 13April 2010) is in my assessment a conditional written approval as the 2005 letter details eight specific mitigation measures that the Department considers to be part of the application. My reading of the information provided is that not all of these mitigation measures are included with the application i.e. are not offered by the applicant as conditions of approval and therefore the written approval from the Department can only be considered conditional unless the applicant offers all of the mitigation measures and supporting information detailed in the Department's letter.

5.5. The correspondence with various Iwi groups also appears to be inconclusive as none of the documentation provided results in those parties providing their unconditional written approval to the proposal.

6. EFFLUENT DISPOSAL

6.1. Having reviewed the information provided, I am of the opinion that the critical element to this project is the ability to locate an effluent disposal field on the spit. A preliminary assessment of the application and the information provided has been undertaken by Mr Rex Shand, Resource Consents Engineer. Mr Shand has a number of concerns with the proposal, particularly:

i. the degree of sea level rise anticipated; and

ii. the risk of inundation of the treatment system due to any one or a combination of: sea level rise, barometric lift, tidal lift (high tide), wave surge and/or wave run-up

6.2. Mr Shand does state that he believes that the risk of contamination of the bore on the Ridge property is "very unlikely".

6.3. I have spoken to Mr Geoff Heaps of the Northland Regional Council (NRC) about this application and he has stated that NRC have particular concerns about the ability to effectively provide for waste water treatment and disposal on the site.

7. SECTION 92

7.1. I consider that the information deficiencies in the application warrant further information being provided by way of a Section 92 request. That information would include the following:

i. An updated application specifically referring in all aspects to the current application, which would require if necessary amended reports from the likes of Mark Poynter and amendments to the application and necessary supporting information to incorporate the mitigation measures detailed by the Department of Conservation

ii. The provision of a cultural impact assessment from Te Uri Karaka (as requested by NZHPT)

iii. Confirmation that the proposed dwelling will be accommodated underneath the 8m height limit

iv. An assessment of the proposal with regard to Rule 14.6.1 Esplanade Areas of the District Plan

v. The unconditional written approval to the proposal from: the New Zealand Historic Places Trust; the Department of Conservation; relevant iwi groups as defined in the cultural impact assessment; Okiato District Residents and Ratepayers Association (or equivalent) and immediately adjoining landowners

8. PEER REVIEW

8.1. As stated, Mr Rex Shand, Resource Consents Engineer and the Northland Regional Council have concerns with regard to the ability to effectively treat and discharge waste water from the proposed development. Therefore, I propose in accordance with Section 92(2) that a peer review of the engineering information provided with the application be undertaken, specifically addressing matters related to effluent treatment and disposal and the effects of sea level rise on the proposal and given the sensitivity of the oyster farms in the Waikare Inlet.

8.2. It will be necessary for the applicant to agree to this peer review being undertaken. The peer review will be arranged by Far North District Council and the applicant will meet the cost of this review. The applicant will be informed as to who is undertaking the peer review and they will be provided with a copy of the peer review report when completed.

9. NOTIFICATION

9.1. If the applicant is unable to provide all of the information as detailed above, or refuses to provide such information, including a favourable peer review as detailed above, my opinion is that the application should be notified on a limited basis to the following parties: Department of Conservation, New Zealand Historic Places Trust, Te Uri Karaka and any other Iwi groups as

necessary, Northland Regional Council, Okiato District Residents and Ratepayers Association (or equivalent) and immediately adjoining landowners.

9.2. It should be noted that the provision of the information detailed above will not necessarily negate the requirement for notification and also notification will not necessarily limit the necessity for Council to obtain information (i.e. the peer review) in order to adequately assess and understand the potential effects of the proposal.

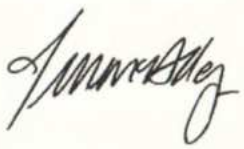
10. CONCLUSION

10.1. This application in my opinion is incomplete and relies on outdated information. There are concerns about elements of the proposal and the potential for significant adverse environmental effects to result from the proposal being implemented as currently proposed, without further information and relevant assessment.

10.2. I consider that further information is required to better understand the environmental effects of the proposal and that notification on a limited basis may be necessary to better understand those effects and ensure that potentially affected parties have the opportunity to make submissions on the proposal.

If you require any further information please do not hesitate to contact me.

Yours sincerely,



Ian McAlley
Director
McAlley Consulting Group

Far North District Council
Private Bag 752
Kaikohe

Attn: Pat Killalea

28 July 2010

Re: Upperton Application – RC 2090634-RMALUC

1. BACKGROUND

1.1. With regard to the above, an application has been made to erect a dwelling at the subject site being Lot 1 DP 202228, Pipiroa Road, Russell.

1.2. As requested I have reviewed the information provided by the applicant and have assessed the information with regard to its completeness and the issue of notification.

2. ACTIVITY STATUS

2.1. The proposal requires consent under the following provisions of the District Plan:

i. Rule 10.6.5.3.1 - Discretionary Activity as no building envelope is defined on the site and the proposal requires a discretionary consent under the District Wide Provisions

ii. Rule 12.2.6.3(b) - Discretionary Activity for vegetation clearance within 20m of an Indigenous Wetland

iii. Rule 12.3.6.2.3 - Discretionary Activity as the extent of earthworks required is greater than $300m^3$ in any 12 month period, but less than $2000m^3$, however the proposal does not comply with the relevant Environment Provisions or the relevant standards of the District Wide Provisions

iv. Rule 12.5.6.3 - Discretionary Activity as the site is listed as a site of Cultural Significance to Maori and the proposal does not comply with the relevant Environment Provisions or the relevant standards of the District Wide Provisions (however it is recognised that the status of the site as a site of Cultural Significance to Maori has been challenged by the applicant)

v. Rule 12.7.6.3 - Discretionary Activity as the proposal includes building within 30m of the Coastal Marine Area, undertaking a land use activity within an Indigenous Wetland and the discharge of human sewage effluent within 30m of the Coastal Marine Area

2.2. It is noted that several consents are required from the Northland Regional Council for the proposal. Overall in terms of the Far North District Plan the activity is considered to be a discretionary activity.

3. OTHER ISSUES

3.1. In the application it is stated that the proposed dwelling will comply with the 8m height limit. The definition of ground level in the District Plan reads:

> *"Shall be deemed to be the finished ground level of the site at 28 April 2000, or the finished ground level at the time of completion of the most recent subdivision of the land following 28 April 2000."*

However, I am concerned that as the proposed dwelling is a structure sitting above water, that it may be difficult for the pole foundations and two levels of building development to be accommodated under the 8 m, as my reading of the definition of ground level is that any height measurement must be taken from firm ground and not the water level.

3.2. Therefore I consider that this matter requires further clarification.

3.3. Also Rule 14.6.1(a)(iii) - Esplanade Areas states that:

> *"the council will require a financial contribution of an esplanade reserve or strip in the following circumstances, where any land use requires a resource consent for any activity or activities and the Council considers it necessary to require an esplanade reserve or strip for any of the purposes outlined in s229 of the Act, an esplanade reserve or strip may be required"*

3.4. Section 229 of the Resource Management Act states:

> *"An esplanade reserve or an esplanade strip has one or more of the following purposes:*
>
> *(a) To contribute to the protection of conservation values by, in particular,—*
> *(i) Maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or*
> *(ii) Maintaining or enhancing water quality; or*
> *(iii) Maintaining or enhancing aquatic habitats; or*
> *(iv) Protecting the natural values associated with the esplanade reserve or esplanade strip; or*
> *(v) Mitigating natural hazards; or*
> *(b) To enable public access to or along any sea, river, or lake; or*
> *(c) To enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river, or lake, where the use is compatible with conservation values"*

3.5. The application makes no assessment as to why an esplanade reserve or strip should not be provided in this instance and this is of particular concern given the proposed location of the effluent disposal field, as this would be within the area of any potential esplanade reserve or strip if such were to be taken now or in the future.

4. INFORMATION PROVIDED

4.1. I have concerns with regard to the information that has been provided with the application. In some instances this information is quite dated and does not specifically relate to the amended

application currently submitted. In particular the report of Mark Poynter should be updated as the site as shown as wetland coastal habitat Q05/004 in the DoC publication "Natural Areas of the Whangaruru Ecological District 2005" and therefore is considered to have significance in the local environment. Additionally I am concerned about the consultation/written approvals provided and will detail these concerns below.

5. CONSULTATION/WRITTEN APPROVALS

5.1. The consultation undertaken and the written approvals provided in my opinion are inconclusive.

5.2. The letter from the New Zealand Historic Places Trust (NZHPT) dated 2 June 2010 states that NZHPT believe that a cultural impact assessment should be sought from Te Uri Karaka to assist in meeting the requirements of the District Plan. NZHPT state that they do not oppose the application based on the information provided so far, but would recommend to Council that the cultural impact assessment is sought. It is my understanding that such a cultural impact assessment has not been provided, therefore I am of the opinion that the letter from NZHPT does not constitute a written approval.

5.3. With regard to the correspondence with Mr Wendell Taylor on behalf of the Okiato District Residents and Ratepayers Association, there is no correspondence provided post-2002 and I am of the opinion that such dated information cannot be relied upon as part of this application.

5.4. The letter provided from the Department of Conservation dated 29 April 2005 (and the further e-mail dated 13April 2010) is in my assessment a conditional written approval as the 2005 letter details eight specific mitigation measures that the Department considers to be part of the application. My reading of the information provided is that not all of these mitigation measures are included with the application i.e. are not offered by the applicant as conditions of approval and therefore the written approval from the Department can only be considered conditional unless the applicant offers all of the mitigation measures and supporting information detailed in the Department's letter.

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6. EFFLUENT DISPOSAL

6.1. Having reviewed the information provided, I am of the opinion that the critical element to this project is the ability to locate an effluent disposal field on the spit. A preliminary assessment of the application and the information provided has been undertaken by Mr Rex Shand, Resource Consents Engineer. Mr Shand has a number of concerns with the proposal, particularly:

i. the degree of sea level rise anticipated; and

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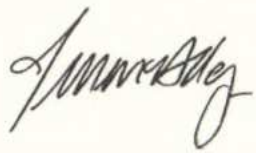
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10.1. This application in my opinion is incomplete and relies on outdated information. There are concerns about elements of the proposal and the potential for significant adverse environmental effects to result from the proposal being implemented as currently proposed, without further information and relevant assessment.

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If you require any further information please do not hesitate to contact me.

Yours sincerely,



Ian McAlley
Director
McAlley Consulting Group

J K UPPERTON

Pipiroa Road, Okiato, Bay of Islands

APPENDIX IV
to Assessment of Environmental Effects

LANDSCAPE AND VISUAL ASSESSMENT OF PROPOSED DWELLING AT PIPIROA BAY

Ref. FNDC Application No: RC-2090634-RMALUC; For: Lot 1, Pipiroa Road, Russell 0272
NRC Application No. CON20040886701

Supporting Documentation for Application for Resource Consent under the Resource Management Act 1991

May 2009
Revised and Updated: June 2010

Landscape and Visual Assessment of Proposed Dwelling at Pipiroa Bay.

Ref. FNDC Application No: RC-2090634-RMALUC; For: Lot 1, Pipiroa Road, Russell 0272
NRC Application No. CON20040886701

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Photo A. Ridgeline dwelling above car park at Pipiroa Bay, from in front of proposed building site. (Oct. '04).

Photo B. Ridgeline dwelling overlooking beach and car park at Pipiroa Bay from in front of proposed building site. (Oct. '04). (wide angle).

Photo C. Aucks Road dwelling (painted white) at about 650m, taken from near to car park at Pipiroa Bay (Oct. '04)

VIEWS OF STREAM MOUTH AT END OF SAND SPIT 13

Photo D. Remains of flood gate at stream mouth – half tide. (Oct. '04).

Photo E. Looking inland from tip of sand spit, showing posts of boundary fence crossing the creek through mangroves at centre-right.

Stephen L Westgate.
First written July 2009; revised & updated June 2010.

Landscape and Visual Assessment of Proposed Dwelling at Pipiroa Bay.

1. INTRODUCTION.

Mr John K Upperton has applied to the Northland Regional Council and the Far North District Council for appropriate consents to enable the construction of a single unit residential dwelling on his property at Pipiroa Bay. This assessment should be read in conjunction with the AEE submitted with that application, with particular regard to figures and photographs.

The subject property is somewhat unusual in that it comprises mostly wetland, including areas of mangrove, salt marsh and freshwater raupo swamp. A survey plan of the property (see AEE Figure 5) shows three areas that are located above MHWM – one in the south-east corner; one on the northern boundary, and the sand spit on the seaward side. The sand spit component is the only 'dry' area that has a legal land access, this being via an unformed section of Pipiroa Road along the sand spit, from a metalled turning bay and parking area at the end of the formed section of Pipiroa Road (see AEE Appendix I, Photo 'B').

It is understood that the property was predominantly drained grazed pasture until the 1950s, when a flood gate fell into disrepair and tidal inundation of much of the area commenced or recommenced, and colonisation by mangroves began. A small-spring fed stream flows through the wetland and around the tip of the sand spit. The tidal wetland area is inundated at high tide and drains to leave only the bed of the small stream at mid- to low tide (see attached photos D & E).

FNDC planning maps show that the subject property is not within a designated Outstanding Landscape Area.

A summary of the visual impact of the proposal has been incorporated within the AEE submitted to the Councils. The FNDC has requested a separate and more detailed assessment of landscape effects in regard to the proposed dwelling, vegetation clearance and formation of an access.

This assessment draws on information already supplied in the AEE with some additions, and is presented in a standard landscape assessment format.

Section 88(6) of the Resource Management Act 1991 requires that any assessment should be in such detail as corresponds with the scale and significance of the actual or potential effects that the activity may have on the environment. This assessment has been prepared accordingly.

2. DESCRIPTION OF THE PROPOSAL.

The owner of the subject property, Mr John K Upperton, is seeking consents to construct a single unit, residential dwelling on poles in an upper intertidal area of low density mangroves in the wetland just behind the sand spit (see AEE Figure 2 and Figure 8). The location has been chosen because of constraints to building on the narrow sand spit itself and in order to achieve close to the required setback from the coastal marine area of 30 metres for a permitted activity. The actual setback will be 27 metres to the deck of the proposed dwelling and 30 metres to the dwelling proper. A pole construction has been chosen to minimise adverse effects on the mangrove ecosystem; the footprint beneath the proposed dwelling will still be available for animals living in the upper intertidal zone. The location is an area of least dense mangrove occurrence, and includes a gap in the mangroves.

The proposed dwelling will incorporate a small upper storey that will not extend across the entire footprint. This will have the effect of reducing the area of the footprint of the dwelling and the number of mangroves to be trimmed back, but increasing the visibility of the dwelling. Elevations of the proposed dwelling have been submitted with the application.

Dimensions of Proposed Dwelling.

The footprint of the proposed dwelling will be approximately 24m x 8m with a 3.5m wide balcony on two sides – the north and the west, or almost 300 square metres overall. The upper storey will be of the order of 50 square metres.

Height.

The height of the dwelling has been kept to within the 8m height above ground level allowed as a permitted activity under Rule 10.6.5.1.4 of the District Plan. At the proposed dwelling site, the ground level is below MHWS (see AEE Figure 7). An earth ramp is proposed that will lead up from ground level above the line of tidal influence to the dwelling floor level.

Construction.

The applicant has proposed a weather-board type construction with a low-pitch roof. He has proposed that the exterior (wall cladding and roof) should be coloured from within the BS5252 standard colour palette range with a reflectance value of 30% or less. While this colour range relates to Outstanding Landscapes under Rule 12.6.1.5, it is considered appropriate that this range be adopted for this situation. More specifically, the applicant has nominated to use cladding colours within the green/brown range that will blend in with the surroundings, or to use natural materials that fall within this range.

Exotic Vegetation Clearance.

A strip of exotic vegetation – almost exclusively pest plants - will be cleared to form the access way between the end of the unformed road and the dwelling site. Exotic vegetation clearance will also be undertaken to form the raised bed effluent disposal area and the earth ramp to the dwelling. These two activities are directly related to the construction of the proposed dwelling. In the longer term, the applicant proposes to undertake progressive weed/pest plant eradication and replacement with non-invasive species and natives. Clearance of pest plants is understood to be acknowledged as a normal garden practice and therefore a permitted activity which should not require FNDC consent or assessment.

Mangrove Clearance.

The area of mangrove to be cleared / trimmed will comprise no more than the footprint of the dwelling (300 m^2) plus allowance for a 3-5 metre strip around 3 sides (approx. 220 m^2) plus the ramp below MHWS (180 m^2). The actual area will be less than this since the site is not entirely covered by mangroves; however, a total of 700 m^2 has been allowed. The visual effects of this should be considered in the context of a permitted activity of clearing a 3.5m wide strip along the boundary fenceline, (as seen in photo E). The permitted fenceline area that could be cleared of mangroves has been calculated as approximately 490 m^2, i.e. comparable to the proposed development (see 5.1.5 in Appendix III).

3. ASSESSMENT.

3.1 Site Description and Landscape Context.

Pipiroa Bay (the 'Bay') is a small west-north-west-facing bay on the western side of the Russell peninsula. It essentially comprises a narrow sand spit about 250 metres long, flanked by low headlands. The headland to the south, Okiato Point has been subdivided and developed, although it appears to be largely screened from the Bay by mature vegetation on its steep flanks (see AEE Figure 2).

The northern side of the Bay is farmland with pasture, residual native bush, scattered trees and a few buildings including, on the adjoining Ridge property, a dwelling and a boatshed near to the beach.

While the subject property is zoned General Coastal, other residential properties off Pipiroa Road are zoned Coastal Residential (high density), as are some of the properties on Aucks Road that overlook Pipiroa Bay. Okiato Point is also zoned Coastal Residential. Other properties further along Aucks Road

are zoned Coastal Living (medium density). There are in addition reserve areas off Pipiroa Road, including the Council-owned wetland area adjoining the subject property on the south side.

Aucks Road, the main road from the Opua ferry terminal to Russell, passes along a ridgeline above Pipiroa Bay. A few dwellings situated along the ridgeline on Aucks Road look out across to the Bay and down on part of the wetland area behind the sand spit, including the subject property at a viewing distance of around 650m (see attached Photos Á, B & C). The ridgeline dwellings along Aucks Road can be seen from the parking area and parts of the beach at Pipiroa Bay. The most prominent ridgeline dwelling is near the top of Pipiroa Road at a distance of about 250m (see attached photos A & B). This is clearly visible from most of the beach.

The area of mature vegetation extending to around 6 metres high, that includes the mangrove area and the sand spit vegetation, is scaled from AEE Figure 2 as around 140m across by 110m back from the coastline, of which the sand spit accounts for around 20m depth.

The aerial photograph from which Figure 2 has been cropped, was taken in October 2000. There appear to be patches of grass clearly visible between shrubs and trees on the sand spit. Apart from the area adjacent to the car park, no such grassed areas are believed to remain visible with the spread of dense pest plants. This suggests that many of the pest plants have colonised the sand spit in relatively recent times.

The original photograph more clearly shows the olive-coloured area of mangrove behind the sand spit, measuring about 140m x 90 m, surrounded by and interspersed with brown salt marsh species, with raupo swamp extending up a gully. Immediately behind the sand spit are bare upper intertidal areas. It is in this context that the preferred colours have been identified (see Section 2 above).

3.2 Site Visibility and Viewing Audience.

The proposed dwelling will be surrounded and partially screened on three sides (north, east and south) by mangroves estimated to be about 6 metres high. On the western (beach-facing) side, the site is currently screened by dense pest plants that appear to have colonised the sand spit since grazing ceased (see Appendix I, Photo H). The applicant planted a number of (10-12) pohutukawas just behind the beach area some 8-9 years ago and these are now 3-4 metres high. If all of the exotic vegetation were to be cleared and not replaced, the front of the dwelling could become partially visible from the beach and immediately offshore, through and above the pohutukawas. However, in order to maintain privacy at the dwelling site, the applicant proposes to progressively clear the pest plants from the sand spit area but only at the rate at which replacement plants can offer the same level of visual screening from the

beach. Hence the front of the proposed dwelling will continue to be largely screened from public view. A landscaping plan has been proposed for the front of the dwelling and this is likely to also assist in progressively enhancing the screening.

Elementary geometry shows that an 8 metre high dwelling sited among 6 metre high mangroves and vegetation will not be visible at ground level from nearby where the viewing angle is significantly above the horizontal. Partial visibility will increase with distance from the site as the viewing angle tends towards and below the horizontal, depending on the height and horizontal extent of the vegetation surrounding the proposed dwelling, and the distance and elevation of the viewing position. The top 2 metres of the upper storey are likely to be visible on a horizontal plane at some distance and from some elevated viewing positions where the roof is also likely to be seen.

Part of the cleared access way along the spit will be seen from the car park. However, residual vegetation alongside the access should provide lateral screening.

3.3 Representative Viewing Positions.

(i) Pipiroa Road and Car Park. Travelling down Pipiroa Road, roadside vegetation and topography screen views of the bay and wetland for the most part but emerging onto the car park, the public can look out along the vegetated sand spit and wetlands (see AEE Appendix I, Photo 'B'). A prominent dwelling at the top of Pipiroa Road looks down on the beach and car park (see attached photos A & B).

(ii) Boardwalk and Footpath. The site of the proposed dwelling will be approximately at right angles to the direction of travel of persons using the wetland boardwalk that extends from the car park and up the valley, and then slightly behind them as they start to climb away from the wetlands (see Figure 2). Persons travelling down the footpath towards the wetlands may look down on the roof and upper part of the proposed dwelling site from more distant, elevated positions, but again at an increasing angle to their direction of travel as they approach the car park. The last 150-200 metres are through the wetland area, with only a horizontal outlook to the proposed dwelling site. Other dwellings along Aucks Road and Pipiroa Road will also be visible from the footpath at various locations so the view is not totally natural.

(iii) Beach. Persons using a beach are more inclined to look to sea rather than inland. Existing vegetation will completely screen the proposed dwelling from view, except possibly from immediately adjoining the car park area where a small part of the upper storey may be visible above the vegetation. If all of the exotic vegetation were to be cleared, the front of the proposed dwelling could

become partially visible from the beach through the pohutukawas until further replacement vegetation grew. However, the applicant intends to preserve a vegetative screen.

(iv) Sea. With increasing distance away from shore, the upper 2 metres of the proposed dwelling will become increasingly visible above the vegetation as the viewing angle tends to the horizontal.

(v) Aucks Road. Some residents along Aucks Road and pedestrians on the footpath will be able to look down on the proposed dwelling from some viewing positions (see attached photo C & Appendix I, Photo 'Á') at a distance of about 650m. The site will not likely to be visible to occupants of cars travelling along Aucks Road.

3.4 Scale of Visual Effects.

The following scale has been adopted to describe the potential visual effect of the proposal.

Very High Visual Change	Where the proposal causes a highly significant effect on the existing view.
High Visual Change	Where the proposal causes a significant effect on the existing view.
Moderate Visual Change	Where the proposal causes a noticeable effect on the existing view.
Low Visual Change	Where the proposal causes a limited effect on the existing view.
Nil Visual Change	Where the proposal causes no effect on the existing view.

3.5 Viewing Position Assessment.

Boardwalk and Footpath. The lower 6 metres of the proposed dwelling will be screened by mangroves. The upper 2 metres of the top storey will become increasingly visible above the mangroves, but only at roughly right angles to the direction of walking and then behind, with increasing distance. The same upper part will be more visible to people descending down the footpath towards the boardwalk from higher up the valley, but again towards the side of their direction of travel. The roof area will be visible from more elevated positions. The mangroves and residual exotic vegetation will screen most of the cleared area from view. The visual effect is assessed as Low, provided an appropriate roof colour is selected.

Pipiroa Road and Car park. A small part of the upper storey of the proposed dwelling may be visible from the car park and approach road, although it should be largely screened by a large pine tree. The prominent ridgeline dwelling seen in Appendix I, Photo 'D' (and attached photos A & B) near the top of Pipiroa Road that looks out across the Bay can also look down and across at about 45° from the front

of the house to the dwelling site at a distance of about 250m. The southern side of the proposed dwelling will be largely screened by mangroves but part of the front, facing to the west, may possibly be seen at an acute viewing angle, depending on the extent of clearance of the exotic vegetation. A landscaping plan is proposed for the front of the dwelling and this will progressively screen the dwelling from view. The roof will be visible from elevated positions. The start of the access way will be visible from the car park.

Provided that an appropriate colour for the roof is selected, that will blend with the vegetation, i.e. natural shades of green and brown, the visual effect is assessed as Nil to Low.

Beach. The proposed dwelling, cleared areas and access will be largely screened by existing beach-front vegetation and, if cleared progressively, by proposed replacement vegetation. The visual effect is assessed as Nil to Low.

Sea. With increasing distance away from shore, the upper 2 metres of the proposed dwelling will become increasingly visible above the vegetation as the viewing angle tends to the horizontal. It is considered however that ridgeline dwellings in the locality will be more visually prominent. Cleared areas will not be visible behind the beach front vegetation. The visual effect is assessed as Nil to Low.

Aucks Road. With a viewing distance of around 650 metres, a viewing angle well below the horizontal, and with partial screening by vegetation, the roof and the upper 2 metres of the proposed dwelling will be visible but not prominent to some Aucks Road residents. Part of the bark- or soil-covered area cleared for the effluent disposal site, and the access way will be screened by mangroves but part may be partially visible until a vegetative cover forms.

Provided a colour is selected that will blend with the mangroves (e.g. green-brown), the visibility will be even less. Given the distance from the site, the visual effect is assessed as Low.

4. ASSESSMENT AGAINST 10.6.5.3.1 CRITERIA.

The proposal is assessed against the criteria of District Plan Rule 10.6.5.3.1 Visual Amenity. See Appendix A for detailed assessment.

5. CONCLUSIONS.

The general locality on Pipiroa Road and Aucks Road, zoned as Coastal Residential and Coastal Living, has been developed with medium density housing. One of several ridge line dwellings is

particularly prominent. The natural character of Pipiroa Bay is considered to have been compromised by dwellings around and overlooking the Bay that are considered to be of significantly greater visual impact than the proposed dwelling is likely to be.

The proposed development will be set among, and rise slightly above, existing vegetation, which will continue to provide significant screening on the three sides occupied by mangroves, except for the upper 2 metres of the upper storey. Planned pest plant eradication and replacement should ensure a continuing high degree of screening on the less-visible fourth (seaward) side. The roof will be visible from distant elevated dwellings at 250m to 650m.

The cleared access will be largely screened by residual exotic vegetation or planted replacements. The proposed shell cover will not be too dissimilar to the beach material. Provided that roof and cladding colours/materials are selected that will blend in with the background of natural greens and browns, in terms of (i) scale and significance of the proposal, (ii) existing ridgeline development, and (iii) location and context, the overall visual effect of the proposal is assessed as Low.

The cladding of the proposed dwelling is intended to be weatherboard-style. Accordingly, it is recommended that a consent condition require the exterior (wall cladding and roof) should be coloured within the BS5252 standard colour palette range with a reflectance value of 30% or less, using colours more specifically within the green/brown range of natural shades of green and/or brown, or be constructed of natural materials which fall within this range. This is consistent with what the applicant has proposed.

The area of mangrove to be cleared for the dwelling is comparable to the area that would be permitted to be cleared along the fenceline through the mangrove.

The applicant is allowed to clear pest plants and weeds from the property as of right. Since he wishes to maintain privacy by way of progressive clearance and replacement of pest plants over a number of years, as he has already commenced, it would seem to be neither reasonable nor appropriate to require a specific clearance and planting programme and schedule at this time.

A landscaping programme for the front of the proposed dwelling has been prepared. However, since this will be almost concealed from any viewing position, with the possible exception of a single dwelling at the top of Pipiroa Road, it would appear to be unnecessary to apply a consent condition in this regard.

APPENDIX A

ASSESSMENT AGAINST 10.6.5.3.1 VISUAL AMENITY CRITERIA

10.6.5.3.1 VISUAL AMENITY

The following are restricted discretionary activities in the General Coastal Zone:
(a) any new building(s); or
(b) alteration/addition to an existing building
that do not meet the permitted activity standards in ***Rule 10.6.5.1.1*** *where the new building or building alteration/addition is located partially or entirely outside a building envelope that has been approved under a resource consent.*
When considering an application under this provision the Council will restrict the exercise of its discretion to matters relating to:

(i) the location of the building;

The location has been determined to be the most appropriate within the boundaries of the allotment. The location is constrained by the small area of land above MHWM on the subject property. Only the sand spit component has a legal access along an unformed section of Pipiroa Road. A further constraint has been the requirement to achieve a setback from MHWS close to the permitted level in order to satisfy the concerns of a local residents' association while minimizing the area of mangrove disturbance. The proposal as presented has satisfied the Department of Conservation.

(ii) the size, bulk, and height of the building in relation to ridgelines and natural features;

There are prominent ridgeline dwellings nearby. The lower storey of the proposed dwelling will be largely screened by surrounding mangroves. Only the upper part of the upper storey will be generally visible, mainly from a few elevated locations.

(iii) the colour and reflectivity of the building;

The applicant has proposed the use of materials of construction or colours that will blend in with the natural surroundings.

(iv) the extent to which planting can mitigate visual effects;

Because of existing vegetation that will remain, particularly mangroves, adverse visual effects will be low. In the main, only the roof and the upper 2 metres of the proposed 8 metre high dwelling will be visible. Pohutukawas planted behind the foreshore will offer visual screening from the coast.

(v) any earthworks and/or vegetation clearance associated with the building;

Because the proposed dwelling is being set back in mangroves, some of these will need to be trimmed. Clearance and trimming will be minimised by: (i) locating the dwelling in an area of low mangrove density; (ii) constructing the house on poles rather than on a wetland reclamation; and (iii) only clearing back mangroves from around the house to a minimum extent (3-5 metres) rather than the 20 metres clearance allowed under the district plan around an existing dwelling. Only minor earthworks are required and these will be of low visual impact.

It is noted that clearance of indigenous vegetation within 3.5metres of a fenceline is a permitted activity under Rule

Clearance of the pest plants and weeds that appear to have taken over from pasture on the sand spit in recent decades will be progressively cleared and replaced as a permitted activity, thereby removing an unwanted source of weed seeds and to the benefit of the local ecology.

(vi) the location and design of associated vehicle access, manoeuvring and parking areas;

The proposed access will be formed along the sand spit to Council standards, by agreement with the Council. It will be largely screened by vegetation, and surfaced with a natural material (crushed shell is proposed). If required, it can be curved away from the car park at Pipiroa Road so that there is no clear visibility along its length.

(vii) the extent to which the building and any associated overhead utility lines will be visually obtrusive;

The building will be largely concealed by mangroves. Nearby ridgeline dwellings are more obtrusive in the local context. Utility lines servicing a single dwelling will not be obtrusive.

(viii) the cumulative visual effects of all the buildings on the site;

There will only be one dwelling on the site.

(ix) the degree to which the landscape will retain the qualities that give it its naturalness, visual and amenity values.

While retaining a large degree of naturalness, the wider landscape has been affected by subdivision and development, ridgeline dwellings, a sealed car park and an adjoining retaining sea wall. The proposal is not considered to be out of context with the surrounding development.

Views of Ridgeline Dwellings above Pipiroa

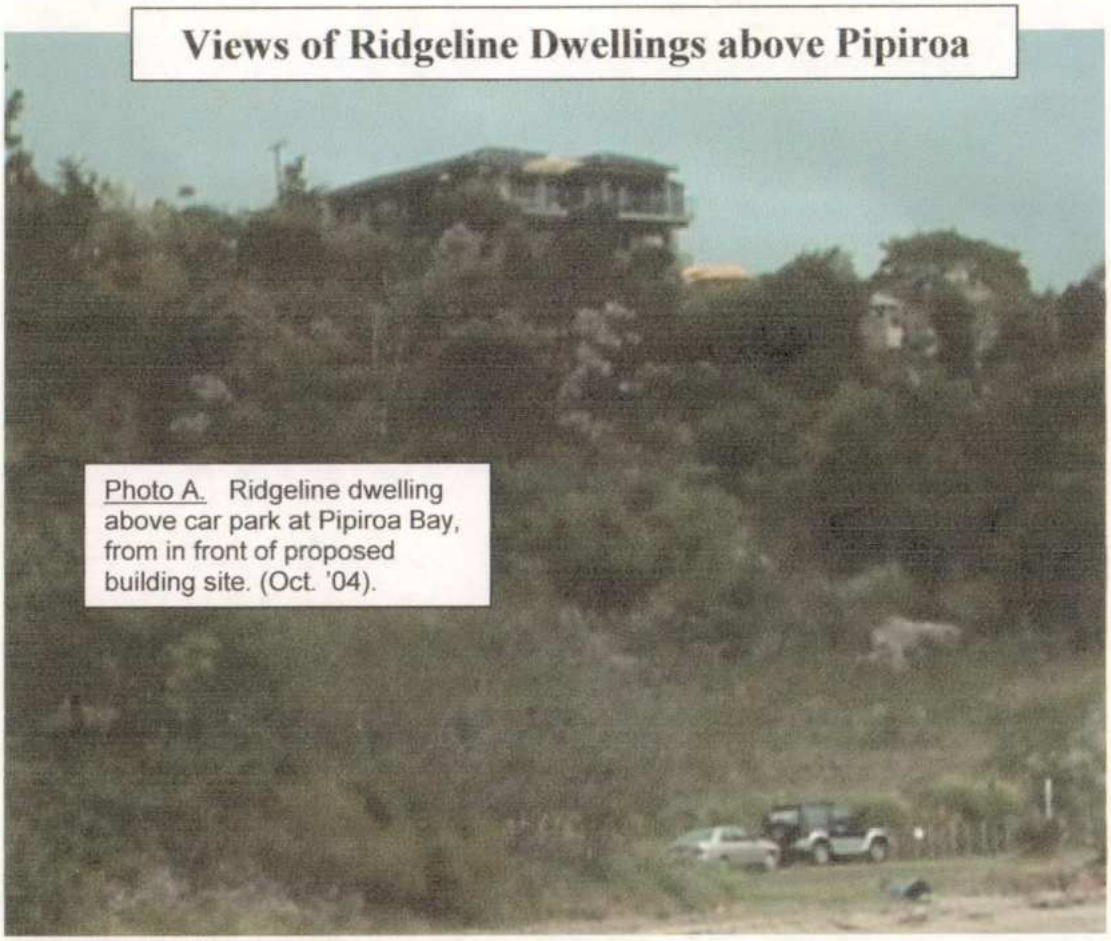


Photo A. Ridgeline dwelling above car park at Pipiroa Bay, from in front of proposed building site. (Oct. '04).

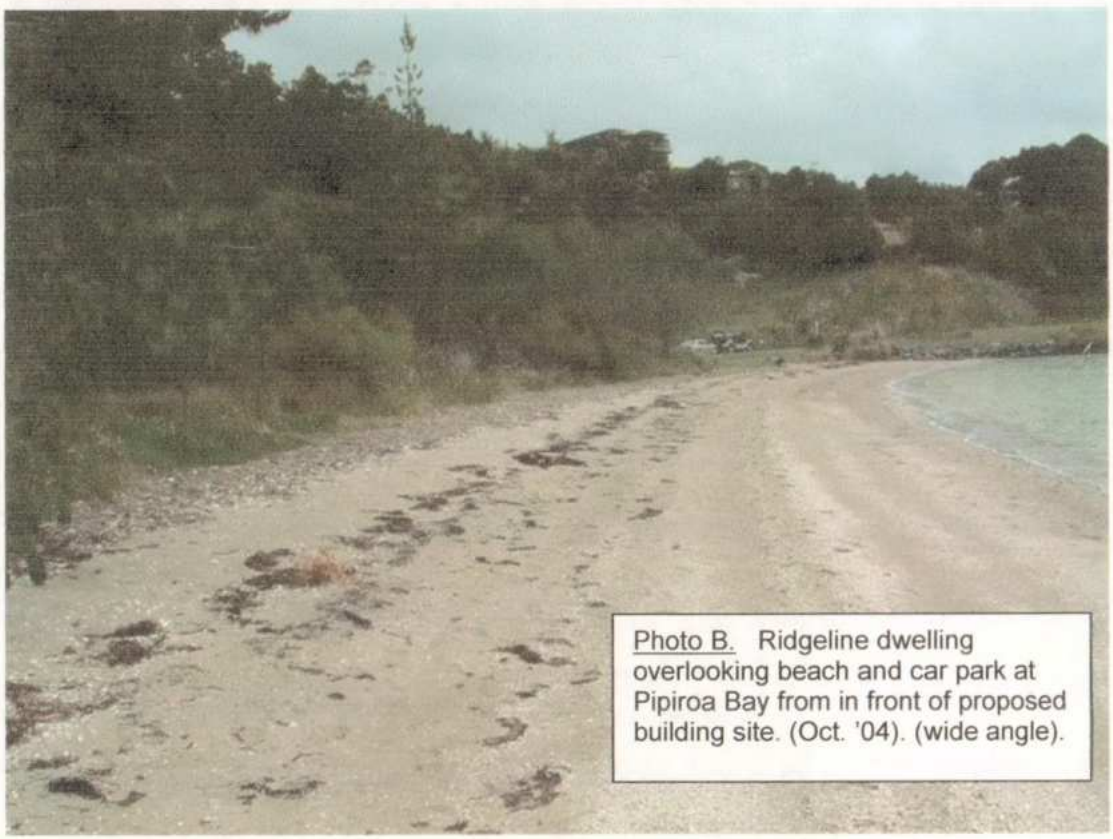
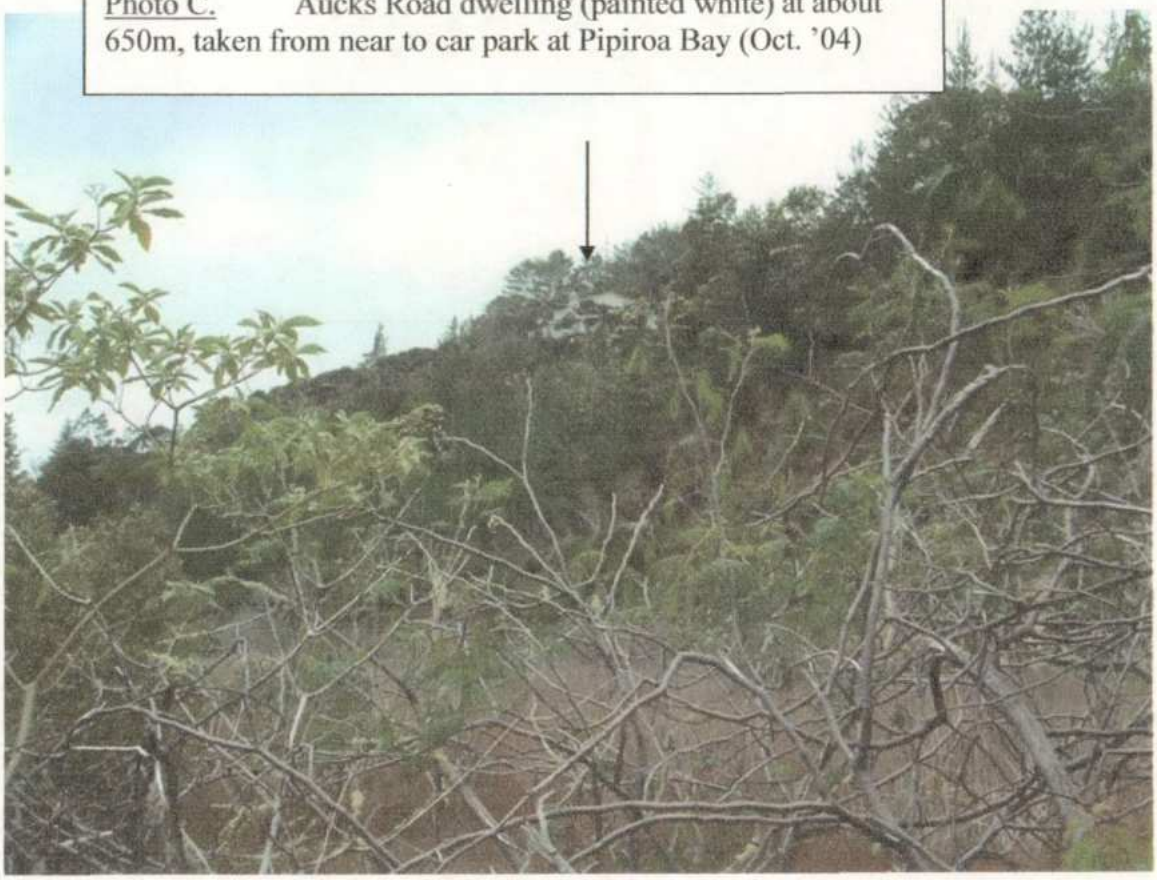


Photo B. Ridgeline dwelling overlooking beach and car park at Pipiroa Bay from in front of proposed building site. (Oct. '04). (wide angle).

Photo C. Aucks Road dwelling (painted white) at about 650m, taken from near to car park at Pipiroa Bay (Oct. '04)



VIEWS OF STREAM MOUTH AT END OF SAND SPIT

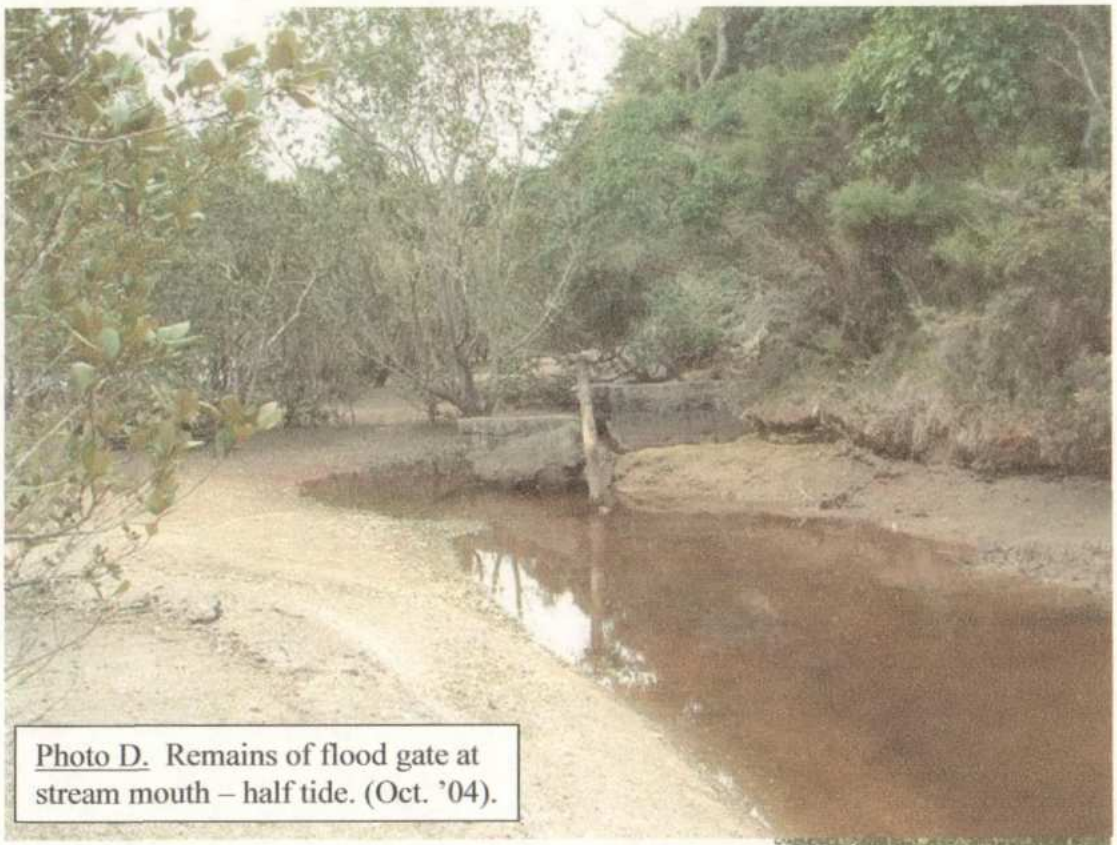


Photo D. Remains of flood gate at stream mouth – half tide. (Oct. '04).

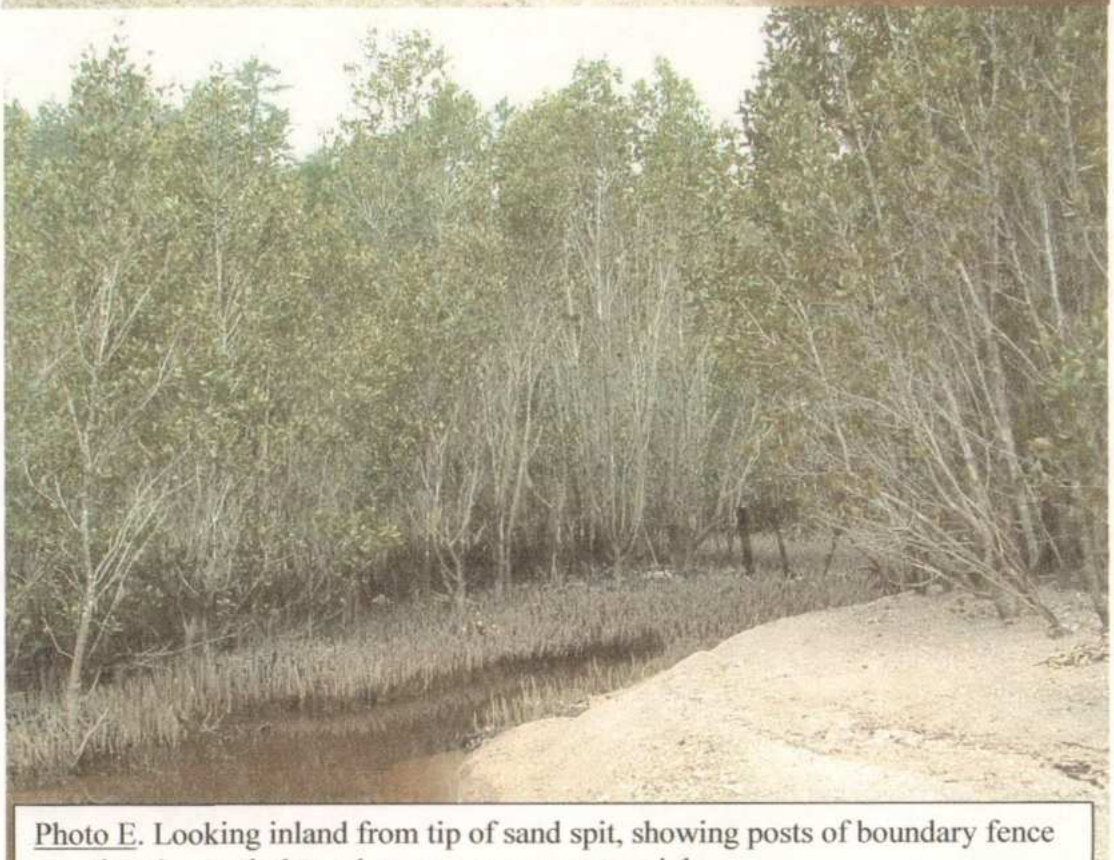


Photo E. Looking inland from tip of sand spit, showing posts of boundary fence crossing the creek through mangroves at centre-right.

Lynley Newport

From: Steve Westgate [swestgate@xtra.co.nz]
Sent: Tuesday, 1 June 2010 8:23 p.m.
To: Lynley Newport
Cc: John Upperton
Subject: Fw: John Upperton
Attachments: Response to T Ridge, 23.05.10.doc; ltr Tim Ridge 20.04.10.doc

Hi Lynley
John tells me that you don't appear to have received my response to points raised by one or other Mr Ridges. The message below was sent on 23 May but possibly the attachment may have been overlooked. I wondered if you might require any further information regarding the matters raised by Mr Ridge(s).
Since then, I have checked with NRC regarding the whereabouts of a bore on the Ridge property. I provided NRC with the relevant property and contact details. Their reponse was as below.
Also, I am assured by NZHPT that a reply to my enquiry of about 10 weeks ago is imminent!
Regards
Steve

"Ananda (our bore man) has looked into this for you and can't find anything – he did mention not all the bores are registered with us.

Hope this helps

Regards

Joy

Joy Zylstra

Consents Team Administrator - Water/Land/Air

Northland Regional Council

Te Kaunihera A Rohe O Te Tai Tokerau

Private Bag 9021

Whangarei.

----- Original Message -----
From: Steve Westgate
To: Lynley Newport
Cc: John Upperton
Sent: Sunday, May 23, 2010 9:46 PM
Subject: John Upperton

Hello Lynley
I've still not had a report from NZHPT! However, you will have received something from adjoining landowner, Mr Tim Ridge.
I have received a copy of an unsigned, undated report allegedly from his son who purports to be a consents officer with West Coast RC.
I have responded to the various points raised by Mr Tony Ridge in the attached note. Also attached is the covering letter with a note of attachments previously forwarded to Mr Ridge.
I would be grateful if you could advise whether in the matters raised in this Tony Ridge report, there are any issues for which you might require additional imformation, in particular, confirmation of any engineering issues, that I have not adequately addressed.
With thanks
Steve Westgate

Re: Application by J K Upperton.

Consideration of matters raised by Tony Ridge on behalf of landowner Tim Ridge.

In a telephone conversation with adjoining landowner, Mr Tim Ridge, John Uppeeton established that Mr Ridge's primary concern was the discharge of treated wastewater. A significant amount of information was forwarded to Tim Ridge for his consideration (see attached covering letter and list of attachments).

Tim Ridge apparently forwarded the information to his son, Tony, who purports to be a consents officer with the West Coast Regional Council. Tony Ridge has raised a number of points, largely of total irrelevance. However, I shall respond to each point.

a. CMA. Mr Ridge should refer to the Northland RCP to confirm the definition of CMA.

b. This is irrelevant.

c. The framework of the AEE used by Buller D C is irrelevant.

d. Irrelevant. Mr Ridge has not understood the proposal. No wetland draining is involved.

e. Rising sea level has been addressed by Richardson Stevens. If the water table rises, the disposal bed can be readily built up if necessary.

I. Mr Tim Ridge has never raised the issue of a bore take. Mr Tony Ridge is careful not to specify a location. He would probably be aware that TP58 and regional council standards require a separation of 20m between drip lines and any bore intake. 20m from the end of the drip line (not closer than 1.5m from the property boundary) is a point just beyond the end of the sand spit in the bed of the tidal stream. There are no bores within this 20m radius.

II. The original engineering reports were written in 1999/2000, i.e. prior to the adoption of AS/NZS 1547:2000. Compliance with TP58 as specified in the engineering reports ensures compliance with AS/NZS 1547:2000 (ref. ARC wastewater rules).

III. Evidence of what? I don't know what this sentence means.

IV. Mr Tim Ridge speculates that meeting certain criteria may be "highly unlikely" or "unlikely". This is incorrect. He would be expected to be familiar with performance standards of the Advanced On-Site Effluent Treatment Systems, as proposed.

V. The adopted treatment system could be any of those that have been tested by Environment BOP and been issued with compliance certificates as meeting the required high permitted activity standards for Rotorua lakes catchments (as referred on the Hynds information provided to Mr Tim Ridge). What is the "Ministry for the Environmental"? The Hynds system and others would meet all required quality standards.

VI. Parts of the adjoining wetland may be prone to flooding – that's the nature of wetlands. However, the sand spit is not part of that area.

VII. No discharge permit to water is either necessary, required or sought.

VIII. Both Mr Ridges should read the commissioner's report which is quite clear. Relevant parts were forwarded.

Conclusion. Mr Tony Ridge's conclusions are largely based on incorrect assumptions and irrelevancies. It would be interesting to see Mr Ridge attempt to defend and justify his statements at a hearing!

Stephen L Westgate, 23.05.10

Stephen L. Westgate, M.A. (Cantab.)
Resource Management Consultant
290 Beach Road, Onerahi, Whangarei : Ph./Fax (manual) 09 436-0335
E-mail: swestgate@xtra.co.nz

20 April 2010

Mr Tim Ridge
32 Stanley Point Road
Stanley Point
North Shore City 0624

Dear Mr Ridge

I have been asked by John Upperton to forward to you some data relating to the proposed treatment and discharge of wastewater at his Pipiroa Bay property. I can understand you having concerns as an adjoining landowner and seeking appropriate assurances. I believe that I can provide those assurances.

The attached information is summarized below and will support information that John has already sent to you.

1. Grant Stevens, of Richardson Stevens, in 1999, designed a scheme that would comply with all legislative requirements. A copy of his report is attached (Attachment 'A'), with examples of treatment systems that would comply. Basically, the treatment process involves an aerated chamber which is considerably more efficient than the older style septic tank. That sort of scheme would not be acceptable in this location.

In 2009, Grant Stevens updated the proposal to reflect a slightly higher Council standard based on increased water consumption from 140 to 190 litres per day of the assumed 5 occupants. This complies with current council requirements. A one-page update with current irrigation line maps is attached (Attachment 'B').

2. I have enclosed a page from the evidence presented by Grant Stevens at the original hearing in April 2000 (Attachment 'C'). Note that Grant and the NRC's Rob Lieffering agreed that: *"the effects of the waste water discharge to land will be minor and will not compromise or result in a technical degradation of water quality, both surface, ground and coastal waters."*

3. I have enclosed a page from the Independent Commissioner's decision which acknowledged the above conclusion (Attachment 'D'). He agreed that the proposed treatment system met the requirements of all regional plans and the RMA. The decision went against Mr Upperton solely on the grounds of cultural and spiritual concerns over an alleged wahi tapu site which, it was subsequently shown, did not exist, and never had existed.

4. I have also enclosed a page from Hynds' website (Attachment 'E') showing details of an example of an aerated treatment system as proposed. You will note that the system provides a *"clean odourless liquid suitable for sustainable irrigation of*

landscaped gardens, bushes or trees." Regular inspection and maintenance is essential and this is proposed as a consent condition.

5. The treatment and discharge system proposed is a fairly standard and effective one for environmentally sensitive areas.

6. I have thought about proposing a suitable monitoring condition but this may prove difficult since the small steam flowing through the wetland and your property will almost certainly be affected by some pollution from agricultural runoff, and possibly by the houses on the ridge line above which I suspect could be on septic tanks. I'm sure the councils will have some ideas on this based upon their experiences. They may decide on regular site inspections. As a minimum, Mr Upperton will probably be required to forward to the council or councils a copy of a regular inspection and compliance certificate. I think that as a consent condition, a copy could also be forwarded to you as an adjoining landowner, if you wish.

Please don't hesitate to contact me if you wish further clarification or information.

Yours sincerely

Stephen L Westgate

Lynley Newport

From: Geoff Heaps [Geoffh@nrc.govt.nz]
Sent: Tuesday, 1 June 2010 4:53 p.m.
To: Lynley Newport
Subject: RE: Upperton at Pipiroa Bay

Hi Lynley

Yes I received a copy of the Ridge letter. I agree there are some issues that impinge on Northland Regional Council areas of responsibility, and will need to ensure that these are adequately addressed in my assessment.

As far as affected parties are concerned, I do not consider them to be affected by the Northland Regional Council applications as the earthworks and stormwater discharges would not affect them.

I have used the definition of the COASTAL MARINE AREA in the Act to define this boundary, and because there is a 'river' shown on the topo maps the bdy is 5 x the 'river' width. There is also an agreement between Department of Conservation/ Northland Regional Council and the District Council's which further clarifies this matter. If there was no 'river' shown then the bdy would be at MHWS. Despite this the area of mangroves is defined as a significant indigenous wetland so the rules in the RWSP apply. No drainage of the wetland is proposed.

Global warming is an issue insofar as it relates to floor levels, but the relatively protected site means that coastal erosion is unlikely to be an issue. Not sure why he is raising the issue of a seawall - sounds like a bit of a non-issue to me.

Not sure where the bore is located - it is not on the Northland Regional Council database. Seperation distances for the sewage disposal system were previously assessed by Rob Lieffering, at the time of the earlier hearing, and considered not likely to create adverse effects on coastal water quality, subject to proper construction and maintenance requirements.

Some of his other comments appear dubious.

I do agree that the stance taken by iwi and the lack of results of consultation is of concern. I still await this information.

Cheers

Geoff

-----Original Message-----
From: Lynley Newport [mailto:Lynley.Newport@fndc.govt.nz]
Sent: Tuesday, 1 June 2010 12:03
To: Geoff Heaps
Cc: Pat Killalea
Subject: Upperton at Pipiroa Bay

Hi Geoff,

Did you / have you received correspondence from Tim and Margaret Ridge dated 18 May 2010 regarding the above... With 'response from Tony Ridge' - their son?

I think you had received something, and you called me about it.

Interesting points raised. In terms of this application including several NRC consent application, what would you normally do in this circumstance? i.e. how does this affect any decision on notification?

In terms of other updates provided by the Upperton's agent, he also refers to the Kororareka Marae Society's opposition, and the fact that

back in 2005 you placed the application on hold pending further consutlation by the applicant with the iwi groups, particularly Ngati Manu. It seems to me that neither Ngati Manu nor Kororareka Marae Society have provided anything resembling an 'approval'.

The agent states that consultation with the Historic Places Trust is ongoing; as is consultation with iwi and "the adjoining landowner" (presumably Ridge).

The agent also states that he is updating the AEE by integrating the 2009 AEE with additional information subsequently requested by the FNDC (and there is still some debate as to whether that information is to a satisfactory level/standard) ... But that the finalising of the amended AEE is awaiting the outcomes of the consultation being undertaken.

In summary, we're still awaiting some stuff.

I will keep you posted, but in the interim, any (informal) comment on the points raised by Mr Ridge?

Lynley

Get it done online at your convenience, visit our website - www.fndc.govt.nz

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NORTHLAND REGIONAL COUNCIL

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****

Lynley Newport

From: Lynley Newport
Sent: Tuesday, 1 June 2010 12:03 p.m.
To: 'Geoff Heaps'
Cc: Pat Killalea
Subject: Upperton at Pipiroa Bay

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In summary, we're still awaiting some stuff.

I will keep you posted, but in the interim, any (informal) comment on the points raised by Mr Ridge?

Lynley

Far North District Council

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Freephone: 0800 920 029
Phone: (09) 405 2750
Fax: (09) 401 2137
Email: ask.us@fndc.govt.nz
Website: www.fndc.govt.nz

MEMO

To:	Pat Killalea
CC:	
From:	Lynley Newport
Department	Environmental Management
Date	28 May 2010
Subject	**John Kildare Upperton** **RC-2090634-RMALUC** **Land Use**

Hi Pat,

Attached is

(a) progress update to the Council from Stephen Westgate dated 14th May 2010; and
(b) 'submission' from the Ridge family who are an adjoining property owner.

Still appears to be some outstanding matters pending.

Any further action at this point?

Lynley

Lynley - suggest you get Rex to review the matters raised by Tony Ridge - or should they be forwarded to a specialist in this area?

Pat 31/5/10.

Rex,
See attached,
I've sent e-mail
to Geoff H @
NRL - seeking some
informal comment on
issues raised.
Cynthia

Attention Lynley Newport,
Far North District Council,
Private Bag 752,
Kaikohe

FNDC ADMIN
21 MAY 2010
Emc. 66

ENVIRONMENTAL MANAGEMENT

18 May 2010

24 MAY 2010

Application 2090634, Upperton resource consent for proposed dwelling in Pipiroa Bay, Bay of Islands.

Dear Lynley,
We have been contacted by Mr Upperton regarding his revised application because we are immediate neighbours on his northern boundary. Attached is our submission.

I refer to our telephone conversation expressing surprise that the title includes an extensive mangrove area, which is for practical purposes part of the sea. In the past – perhaps 40 years ago – the opening between the north of the strand and the shoreline of our property was narrow and gated with a sluice. The area behind was in pasture and used for grazing cattle.

The sluice became dysfunctional and has disappeared. The opening is now wide and the tide moves freely around the spit, so that the mangrove area is a foreshore below MHWS.

As is pointed out in the submission consideration should be given to re-categorising the mangrove area as foreshore and for practical purposes excluded from the title for the purposes of this application.

I look forward to hearing from you regarding progress in due course

Best wishes

Tim and Margaret Ridge.

Copy to John Upperton

J K Upperton – Response by Tony Ridge to his application for resource consents to place a dwelling and associated activities at Pipiroa Road, Okiato, Bay of Islands.

I am a senior consent officer for the West Coast Regional Council. Part of my job involves the processing of resource consents for onsite sewage wastewater discharges and coastal permits. I have a degree in agricultural science and a masters in soil science from Massey University majoring in soil physics and water resource management. My parents, Tim and Margaret Ridge have asked me to review and submit in opposition to Mr Upperton's resource consent application.

Resource consents sought by applicant:

(1) To place a dwelling;
(2) To undertake earthworks and vegetation disturbance in a wetland;
(3) To undertake earthworks and vegetation disturbance in the riparian margin; and
(4) To discharge treated wastewater sewage to land in circumstances where contaminants may enter water.

Issues and further information requests regarding those resource consents pertaining to land development:

a. The application states that the set back from the mean high water springs (MHWS) and the proposed activities above to be 26 – 29 metres. Due to this area proposed for development being inundated by tidal waters, one must ask whether it is actually outside of the MHWS and thus the coastal marine area (CMA) i.e. do the Northland Regional Coastal Plans clearly identify this area as being outside of the CMA?

b. If a flaw has been made as to the correct designation for some of the development area, the applicant must apply for the necessary coastal permits associated with the development which may include the alteration of the CMA and the occupation of coastal space. If indeed these coastal permits are required then they must be accompanied by an assessment of environment

effects, which as a minimum must contain consideration of the effects on the coastal ecological community and those effects associated with the loss of coastal aesthetic values. Presumably these information requirements should be a prerequisite even if the area is deemed to be outside of the CMA. I consider that the current AEE is deficit in these areas and does not take into account Kiwi that frequent this area.

c. As noted above the AEE does not follow a recognised method (framework) to quantify the effects associated with the wetland disturbance. For example the Buller District Council using the following criteria (framework): representativeness; distinctiveness; intactness; size; protected status; connectivity; treat; migratory and scientific or cultural value.
d. Is the applicant proposing to drain the wetland and if so is a water permit required? The lost/modification of the wetland here is considered to be an unnecessary incursion to the high natural character of this area especially given that the current wetland area within Pipiroa Bay is very small and unique.

e. No assessment has been made on global warming issues associated with rising sea waters. This issue was raised by Tim Ridge in the original hearing. Is the applicant proposing to build or apply for a sea wall or other measures to prevent flooding at a later stage? It is important that the proposed development is considered in full rather than the applicant "drip feeding" the actual resource consent requirements to develop here. The information requirements for building in such close proximity to (or within) the CMA must include these considerations, and if indeed a report did indicate that some sort of sea wall structure or similar device would be required in the near future then the effects associated with this must be considered now, as any protection structure is considered to further exacerbate the diminished aesthetic value brought through the implementation of a dwelling within a coastal wetland.

Issues and further information requests regarding the resource consent application to discharge onsite sewage waste water to land from a dwelling located within a (coastal) wetland.

I. that the proposed design is in accordance with AS/NZS 1547: 2000, TP58 and also must take into consideration the report titled "Guidelines for separation distances based on virus transport between on-site domestic wastewater systems and wells". The application including the engineering report by Richardson Stevens Consultants Ltd has failed to mention or take into account the effects of the onsite sewage discharge on a nearby bore water take used by Tim and Margaret Ridge and other visitors to "Yfanwen".

II. The engineering report alludes to the New Zealand Standard NZS 4610: 1982, this has been superseded by AS/NZS 1547: 2000.

III. The applicant must provide evidence This report was initiated by the Institute of Environmental Science and Research Limited with the support of Regional Councils groundwater Forum to assist Councils in establishing separation distances for planning and consenting purposes.

IV. Due to the limited ability for the soil to provide treatment here due to the shallow groundwater depth it is highly unlikely that conventional on-site wastewater design would meet safe setback standards recommendations. It is also important to note here that aerated tanks such as those listed in the engineered report by Richardson Stevens Consultants Ltd would likely fail to meet the safe setback distances cited within the guidelines for separation distances. Aerated tanks are limited in their ability to treat faecal coliforms and virus (e.g. Rotavirus and Hepatitis A Virus). Furthermore, no discharge quality data has been provided for any of the Engineers "recommended systems". The discharge would fail to meet the Ministry for the Environmental standards for discharges in the facility of potable water takes and likewise fail to meet the requirements of Section 107 of the RMA, which restricts the issuing of discharge permits to discharges that contravene section 15A.

V. The application has stated that the area is prone to flooding, but fails to meet the recommendations contained under AS/NZS 1547: 2000 and TP58 for discharging within flood zones. These standards generally indicate that these areas are unsuitable for onsite sewage wastewater discharges and recommend containment and export as opposed to onsite treatment.

VI. If indeed the applicant is proposing to discharge during times of tidal inundation or flooding then a discharge to water permit must also be sought together with the discharge to land permit currently being sought by the applicant. Once again, the systems currently proposed by the applicant would fall well short of the design criteria and discharge standards necessary for discharging to water, especially being in such close vicinity of the CMA. Also to consider would be the potential for pollution effects within Pipiroa Bay which would not only severely compromise its aesthetic appeal but pose an abhorrent health risk on bathers and other recreational users of this beautiful bay.

VII. Of particular concern within the application was the statement suggesting that the hearing commissioner effectively approved the onsite sewage wastewater system. Tim Ridge who was present during the hearing considers this to be untrue. I will furthermore add that any processing decision based around such rubbish would be quite contestable under a judicial review in High Court.

Conclusion

Quite clearly the application is deficit in vital information and it is highly probable that other resource consents are required that to date have not been applied for. No satisfactory assessment of environmental effects associated with the wet land disturbance has been made. Some of the information within the application is misleading and untrue, it also fails to adhere to the current national standard recommendations for New Zealand. The development here contrary to Sections 6 and 107 of the Resource Management Act, which provides public protection against inappropriate subdivisions and contaminant discharges into the environment.

J K Upperton, RC-2090634-RMALUC: UPDATE TO FNDC.

A. Northland Regional Council: Following our meeting at Kerikeri on 16 March, I met with Geoff Heaps that same afternoon.

1. He confirmed that he had sufficient information for his purposes but would appreciate receiving any updated information.
2. He had previously contacted 8 iwi organizations regarding the application. Responses had been received from 2 only – Ngati Manu and Kororareka Marae Society:
3. Ngati Manu trust wrote on 5 Dec 2005, opposing the application and stating that further consultation was necessary. You have undertaken this fairly extensively, but nothing conclusive has been put in writing by them. Their letter of 29 May 2007 states amongst other things that "A final decision of the Trust has not been determined as yet" although "little reason for concern" is anticipated.
4. Kororareka Marae Society (KMS) opposed the application in 2005 on the following grounds:
   - 4.1 the environmental sensitivity of the site and cultural associations;
   - 4.2 Pipiroa Bay is a birthing bay for sting rays;
   - 4.3 Run off of stormwater and sewage;
   - 4.4 Intensified urbanization on Aucks Road;
   - 4.5 Waahi tapu site (now discredited).

   KMS requested notification and the opportunity to make a submission on the application.
5. Geoff considered that the previous archaeological and cultural evidence, etc. was adequate to address KMS concerns. However, this view needs to be endorsed by the Consents Manager. A written approval from KMS would provide a higher level of certainty in this regard.
6. Geoff had placed the application on hold back in 2005 pending further consultation by the Applicant with the iwi groups, particularly Ngati Manu.

B. Recorded Historic Sites: I have re-checked the New Zealand Historic Places Trust's Inventory of Historic Sites (Bay of Islands as at July 1988) for Pipiroa Bay and confirmed that no sites of significance are recorded.

C. Consultation.

1. Consultation with DoC and NZHPT has been undertaken. There has been a successful outcome with DoC while NZHPT are still considering the issues.
2. Further consultation with iwi organizations and with the adjoining landowner is continuing.
3. A timeline of communications with these and other parties is attached.

D. AEE Update: Preparing an updated AEE by integrating the 2009 AEE with the additional information subsequently requested (by FNDC), and duly provided, is proceeding. At this stage, finalising the amended AEE is awaiting the outcomes of the consultation being undertaken.

Stephen L Westgate, 14.05.10

J K Upperton, RC-2090634-RMALUC:

TIMELINE OF CONSULTATION WITH VARIOUS PARTIES: from March 2010.

Northland Regional Council.

March 16: Met with Geoff Heaps (NRC) to update situation. Report as above.

Department of Conservation.

March 22: Sent letter and project summary to DoC.

April 13: Received advice from DoC that their position and previous approval had not changed.

New Zealand Historic Places Trust

March 22: Sent letter and project summary to NZHPT

April 13: Received letter from NZHPT planner, (T. Pickard) requesting copy of full draft AEE. Information emailed to NZHPT same day.

April 22: Emailed NZHPT advising them of existence of letter from DoC and NZHPT archaeologists who had conducted a survey of the site in 2000/01.

April 23: Email from Tony Pickard requesting copy of letter. Phoned JU; asked him to deliver copy to Kerikeri office of NZHPT.

May 4: Phone call from Tony Pickard requesting drawings of cross-sections through sand spit and proposed house site. Scanned and emailed elevations of proposed dwelling and cross-sections the same day. Re-iterated that earthworks would be minimal because of the pole construction.

May 14: Advice from Tony Pickard that he is still assembling information to be able to "formulate an informed response."

Adjoining landowner:

April: John Upperton able to contact Tim Ridge by phone. Long discussion. Key concern appears to be satisfactory treatment of waste water.

April 20: Following request from JU to send to Tim Ridge relevant information relating to proposed water treatment and discharge, I copied a package of information and mailed to TR. Response awaited.

May 10 JU spoke to Mrs Ridge who assured me they would be responding.

May 11 JU spoke to Tim Ridge who said his son who is a planner was looking at it and hoped to have a reply in the next week.

Iwi:

April Numerous phone calls from JU to Sam Davis of Ngati Manu asking for them to put their concerns in writing.

May 10 Again phoned Sam Davis who told me he would see Toss Tetai (Chair) at Treaty hearings May 11 and obtain OK to write on their behalf.

Lynley Newport

From: Administrator
Sent: Friday, 14 May 2010 9:37 a.m.
To: Lynley Newport
Subject: Allocated: RFS 3454605 Priority 1: Planning - Resource Management Act.

Attachments: Pathway.pth



Pathway.pth (527 B)

A new Customer Request has been lodged and you have been assigned as the Actioning Officer. Please check the Customer Services system for further information.

14-May-2010 09:35:40 - Sharon Tipene
Kia ora Lynley - This RFS for your attn. Regards Sharon.

13-May-2010 12:09:48 - Anja Pohler
Notification re objection to RC 2090634 (RFS was probably not necessary)

From: ask.us@fndc.govt.nz
Sent: Thursday, 13 May 2010 12:09 p.m.
To: 'timothy_ridge@xtra.co.nz'
Cc: ask.us@fndc.govt.nz
Subject: REF RFS 3454605 EMRR Website submitted email from TIMOTHY RIDGE

Good afternoon.
Thank you for contacting us at the Far North District Council.
I have forwarded your message to Lynley Newport as requested.
Kind Regards
Anja
Ask Us Customer Services Team

From: timothy_ridge@xtra.co.nz [mailto:timothy_ridge@xtra.co.nz]
Sent: Tuesday, 11 May 2010 1:30 p.m.
To: ask.us@fndc.govt.nz
Subject: Website submitted email from TIMOTHY RIDGE

A website submitted email has been received from TIMOTHY RIDGE.

The following message has been submitted:

Your Details
Title:
Mr
Other title:

First name*:
TIMOTHY
Surname*:
RIDGE
Email address*:
timothy_ridge@xtra.co.nz
Re-enter email address*:
timothy_ridge@xtra.co.nz
Full postal address*:
32 STANLEY POINT ROAD DEVONPORT AUCKLAND
Post code:

Phone Daytime:
09 3585691

Phone Evening:
09 4451899
Mobile Phone:
021 02740760
Fax:
09 3585817
Your enquiry
Enquiry details:
To LYNLEY NEWPORT regarding UPPERTON application 2090634 for new dwelling at Pipiroa, Okiato. I am a neighbour with a potable water bore adjacent to the proposed dwelling site. This is notice that we are going to lodge an objection currently under preparation by an experienced resource consents advisor and I intend to send this to you early next week. I will confirm by telephone this week. TIM RIDGE, YFANWEN, AUCKS ROAD, OKIATO

Pat Killalea

From: Pat Killalea
Sent: Tuesday, 15 December 2009 12:58 p.m.
To: 'Steve Westgate'
Cc: John Upperton; Lynley Newport
Subject: RE: Upperton, Pipiroa

Steve,
Our record of the meeting is that the application would be put on hold until your return from overseas and that in the meantime we would review our information requirements. This review would then provide the basis of an agenda for a meeting with yourself and your client!
To progress matters we need to arrange the meeting as previously agreed.
Regards,
Pat Killalea.

From: Steve Westgate [mailto:swestgate@xtra.co.nz]
Sent: Tuesday, 8 December 2009 2:42 p.m.
To: Pat Killalea
Cc: John Upperton
Subject: Upperton, Pipiroa

Greetings Pat

Application No: RC-2090634-RMALUC
For: Lot 1, Pipiroa Road, Russell 0272

I have been back in NZ since early November and it is time to re-activate the Upperton application. You will recall that this was put on hold in early August pending my return.
Since the applicatiuon was lodged, the FNDC has been provided with more detailed information relating to engineering matters, minor earthworks, ecological matters and landscape & visual effects. I trust that Council now has sufficient information for the scale and significance of the effects of the proposal to be assessed; and for the application to proceed to be processed.
The proposal has been modified to address concerns raised by an earlier proposal that this one replaces; and the effects of the proposal have been subsequently assessed in the information provided as being no more than minor. Accordingly, it would seem appropriate for the application to be processed as non-notified or with limited notification.
My understanding is that NRC have been happy with the scope of the information initially provided; and that the effects that are of concern to them have been determined as no more than minor, given appropriate consent conditions.
Regards
Steve Westgate

Far North District Council

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

6 August 2009

UPPERTON RC-2090634-RMALUC – REQUESTS FOR FURTHER INFORMATION

At applicant's request, application to remain on hold pending Mr Westgate's (agent's) return from overseas in late September/early October. - returned in early Nov.

Council has agreed to review the application and the additional information supplied and requested, and specify what information was required and why – in order to progress the application.

This review would then form the basis of an 'agenda' for a meeting with the applicant and agent (in October).

In summary, the further information being requested is:

1. More detailed engineering information than that already provided in application, including:
   (a) Proposed on-site wastewater treatment and disposal system, including a full assessment pursuant to TP58, Appendix E (i.e. the current standard requirement).
   (b) A report by a Chartered Professional Engineer with experience in hydrology or related field (or similarly qualified person) addressing coastal processes as they may affect this property, assessment of potential effects of processes such as wave/tide surge and inundation; and proposed mitigation measures (for both building and proposed waste water system). Information provided with application is dated 1999. Ten year old assessment may well have become outdated. Perhaps a Peer Review is an option with regard to this aspect?
   (c) More detailed information on the proposed fill – including depth, compaction; source (can request a site management plan as condition of consent).
   (d) Design recommendations for the proposed dwellings – particular emphasis on foundations (poles).

   There is little point in going through a resource consent process for land use and discharge, only to have Council decline an application for building consent. This raises the question of how much building design detail needs to be provided at resource consent stage to provide confidence that building consent will be granted.

2. We have previously requested a landscape assessment and report, and have clarified the reason, particularly focusing on proposed mitigation measures. It would be preferable to see what the applicant was proposing in terms of mitigation measures and the end result, and then develop that through the consent process. There is a benefit to the applicant to prepare this in advance (as part of the application) because then they have input into an end result that they have proposed as opposed to the Council dictating an end result. And there is a benefit to the Council in enabling a more thorough assessment of effects (in terms of visual amenity and also ecological impact/enhancement). However, it may be acceptable to require a landscape planting plan and weed/pest control plan as a condition of consent.

3. We have previously requested an ecological report by a suitably qualified person. Information has already been provided in the application, but the information provided by the ecologist is quite brief and focuses mainly on mangrove clearance rather than the effect of the entire proposal on the coastal environment/habitat. Mitigation measures have been proposed and can be included as conditions of consent. With the provision of more detailed engineering information, the need for further ecological assessment may not be as great.

Lynley Newport
SENIOR RESOURCE PLANNER

RC 2090634.

19-5-09 Mtg with John Uppeton + his agent. Steve Westgate
Pat K + Lynley N in attendance.

- with a view to re-lodging application

3-6-09 Application lodged

initially assigned to Jess P

[redacted]2-6-09 S.92 issued

Mr Uppeton vong, not happy with the info being requested + seeking that it be looked at.

application re-assigned (at Jess' request) to Lynley N.

24-6-09 Follow-up letter to orginal S.92 issued.

various e-mail exchanges between Steve Westgate [redacted]in Britain until Sept) + Council

Original RC (2000) Files located + perused

Site visit by Lynley, with John U. in attendance 29-6-09.

obtained copy of NRC draft report - prepared by Geoff Heaps - re various breaches of Reg W+S Plan 9-7-09.

Mr Uppeton has requested no further action until he has met with Senior Council staff so application currently on-hold.

Power supply

✓ Hold till Steve returns + hold meeting

① Lynley - review when we are at with a view to discuss with Steve next week
- Review by Feb

② Application on hold until Steve returns

③ Engineering Review of Ethernet Digital System

STATEMENT OF EVIDENCE

IN THE MATTER	Of Joint Hearing
FOR	Resource Consent No. 2000354 (Far North District Council)
AND	Application No. 998867 (Northland Regional Council)
FOR	**JOHN UPPERTON**

INTRODUCTION

My name is Grant Stevens and I hold the qualification of Bachelor of Engineering. I am a registered engineer and enjoy membership of the Institute of Professional Engineers of N.Z. and the New Zealand Coastal Society. I am a director of Richardson Stevens Consultants (1996) Ltd, a company consulting in civil and structural engineering.

I am familiar with Mr Upperton's property, having visited the site on a number of occasions over the last ten years.

Prior to his making application for Resource Consent, I reported to Mr Upperton on 12 October 1999 on the suitability of the site for residential development. This report was included with the consent application. I would like to take this previous report as read but am happy to answer any questions that the Commissioner may have. Following preparation of this report, our company completed a specific On-site Effluent Disposal Design dated 5 November 1999 and an Assessment of Environmental Effects (5 November 1999) of the proposed disposal system. I would like to present further evidence on two specific areas of the development proposal as follows.

ON-SITE SEWAGE TREATMENT AND EFFLUENT DISPOSAL

The general recommendations of our report of 12 October 1999 were superceded by the specific design of 5 November 1999 and this can explain the minor inconsistencies noted by Mr Lieffering in the Northland Regional Council Staff Report. Mr Lieffering has made a very thorough review of the performance of the proposed "Clearwater" on-site sewage treatment plant and I do not wish to add to that. He has concluded, like us, that the effects of the wastewater discharge to land will be minor and will not compromise or result in a technical degradation of water quality, both surface, ground and coastal waters. The applicant has been made aware of the need for regular maintenance of the proposed wastewater treatment system and for the proposed treatment plant to be installed at a level unaffected by any possible flooding.

HAZARD ASSESSMENT

As noted in our report of 12 October 1999, given the location and elevation of the site, it could potentially be affected by the natural hazards of erosion, flooding, subsidence and sea level rise. I would like to consider erosion, flooding and sea level rise in more detail.

Coastal Erosion

Erosion hazard will arise from the combination of high tides and wave action. We have made an estimate of the likely storm waves based on the maximum fetch, which is to the northwest, and a design wind speed of 20 m/sec. (50 year return period) and 17 m/sec. (20 year return period). We predict that these storm conditions will produce waves of up to 1.0 m significant wave height. If such waves occur at extreme high tides, they can be expected to produce wave run up on to the grassed areas.

The sloping sandy beach will ensure that waves break on the shoreline and expend the bulk of their energy below the grass/sand intersection thereby minimising erosion effects. The existing grass/plant cover along the edge of the shoreline is luxuriant and on my recent site examinations I could find no signs of erosion from past flood tide/storm events. It is clear that the existing ground cover is providing an effective buffer against erosion and Mr Upperton will ensure that the existing ground cover is retained and enhanced.

Coastal engineering theory and practice recognize the potential for any sea level rise to increase erosion due to wave action on sand beaches. If sea level rise does occur and causes erosion problems at some <u>future</u> date, then the process is likely to be gradual thereby allowing the house owner to take mitigative measures. Any necessary protective measures can be constructed within the property boundary and would be designed to absorb energy and maintain existing beach profiles and composition.

Figure 1 appended to this submission shows the type of protection suitable for the Upperton site. This detail has been used successfully at Jacks Bay where, within months of completion, the seawall was no longer evident since it had been substantially covered in sand through natural wave action.

The N.Z.C.P.S. Policy 3.4.5 regarding natural hazards states *"New subdivision use and development should be so located and designed that the need for protection work is avoided."* I believe that this statement is intended to mean protection works in the <u>coastal marine area</u>. At present there is <u>no need for protective works</u>. The need may only arise if the predicted sea level rise causes erosion and, if such proves to be the case, then protective works can be located within Mr Upperton's property.

Flooding/Floor Level

The site is vulnerable to flooding due to storm wave run up. Storm wave run up is the resultant of the combination of:

- astronomical tides
- barometric pressure set up
- wind set up
- wave set up
- wave run up

In addition, sea level is predicted to rise by up to 0.2 m in the next 50 years to 2050 and 0.49 m by 2100 AD. The maximum predicted high water at Opua is RL 2.6, while the maximum recorded high tide level at Opua to date is RL 2.8 (Chart Datum). In considering the possible combination of circumstances producing flooding, we recommend that any house floor should be set no lower than R.L. 3.9 m (Chart Datum) (or RL 2.5 LINZ Datum). This is some 1.1 m above the maximum tide level recorded and will provide ample freeboard from extreme events.

Since the proposed house is to be constructed on piles, with the house floor some 1.2 - 2.0 m above the existing ground level, then any wave run up on to the land will not adversely affect it.

The plan as presented in the application, shows a garage on the western end of the house. This garage will be located at ground level approximately R.L. 3.0 m (Chart Datum). At such a level, wave run up could inundate the garage floor in extreme events. The garage will be constructed with concrete floor and treated timber framing with treated timber exterior cladding. This construction will be unaffected by intermittent flooding.

Mr McDonald has noted that Council's engineering staff have expressed concern at "*the wisdom of building in* (the proposed) *location when the risk from natural hazards is well known.*" Mr Upperton is well aware of the risks and the design chosen mitigates those risks. Section 36(2) of the Building Act provides for a mechanism by which Council can allow the construction of buildings in such hazard prone areas. Under this Section of the Act, Council is indemnified from any liability arising from natural hazards and a hazard notice is registered on the title to warn any future purchasers of the hazards. Should a resource consent be granted, then I would expect Council to issue any building consent under Section 36(2).

CONCLUSION

I am satisfied that on engineering grounds the site will be suitable for the proposed house and will remain so for the term of the building consent period – 50 years. Further, construction of the house and development of the property will not result in any hazard to the property or any other adjacent land.

In granting a consent, I would suggest that the following conditions are applied:

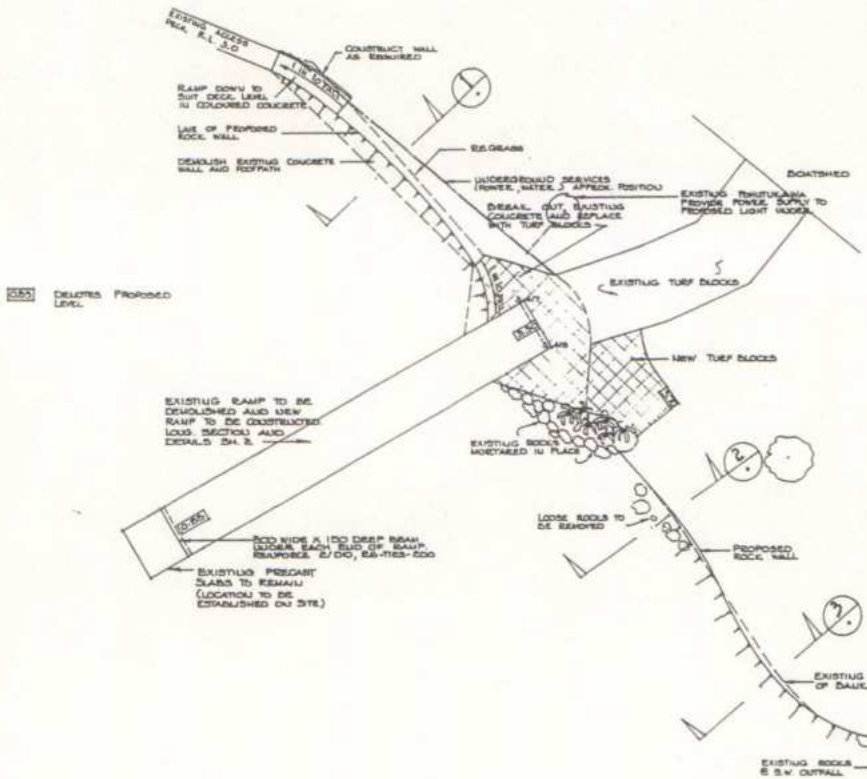
- Any house to have a minimum floor level of RL 3.9 Chart Datum in any habitable room.

- On-site sewage treatment and disposal to be by way of a Supertreat Aerated Septic Tank in accordance with our design of 5 November 1999. Any part of the sewage treatment plant below the 3.5 m level (Chart Datum) is to be an impervious sealed unit.

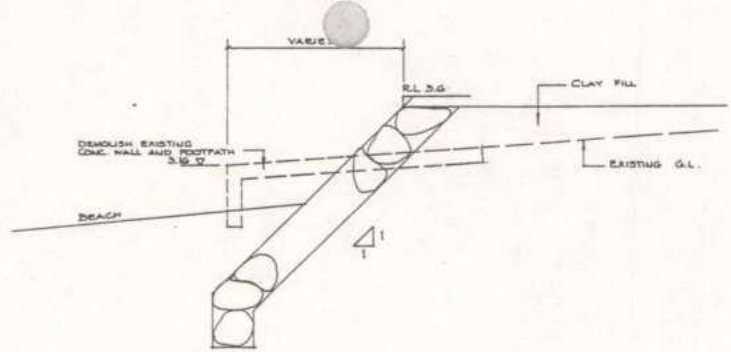
- Any building permit issued is to be subject to a Section 36(2) hazard notice in terms of flooding and erosion.

G.R. Stevens

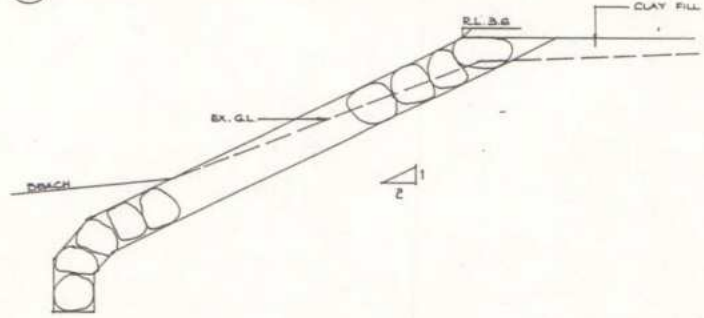
7 April 2000



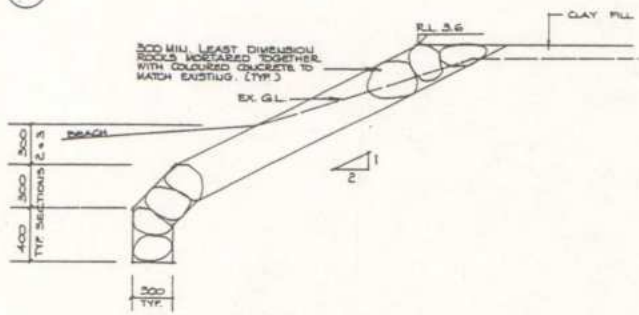
DENOTES PROPOSED LEVEL



1



2



3

RICHARDSON STEVENS CONSULTANTS LTD.
CIVIL AND STRUCTURAL ENGINEERS
2 SEAVIEW RD. WHANGAREI
PH. 4383273 FAX. 4385734

PROPOSED RE-CONSTRUCTION OF BOAT RAMP AND SEA WALLS FOR MR. T. FARMER

SITE PLAN / SEA WALL

SHEET 1

DRAWN

CHECKED

SCALES 1:200, 1:20

SERIES OF 2

DATE MAR. '94

REF M94/19

TRACED

RC 2090634 UPPERTON

Far North District Council

Address
Aerial



100 m 1 : 2589

This map has been provided in good faith and for information purposes only. The Far North District Council is not liable for any errors or omissions. Any persons considering purchasing property are advised to have all boundaries confirmed by a licensed Cadastral Surveyor.

Produced by the Far North District Council 08:48 6/4/2009

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Note for file: RC 2090634

Meeting - 4/08/2009 @ FNX Kaikohe.

Present: Mr & Mrs Upperton, From M. Kliskic, Pat Killalea.

1. Mr Upperton expressed concern at the request for additional information. He felt that his consultant had provided adequate updated application and further clarification as requested.

2. Matters raised included effluent disposal, access, landscaping, iwi consultation and natural hazards.

3. It was agreed that

(i) The application would remain on hold until Mr Westgate's return in October at which time a meeting would be arranged to discuss outstanding issues.

(ii) Council would review the application and the additional information supplied/requested and specify what information was required (and why) to progress the application.

(iii) The review would form the basis of the agenda for the meeting with Mr Westgate.

P.J. Killalea
5/08/2009



Aerial View of Pipiroa Bay, Approx. 1:2500 *Figure 2*

APPENDIX I: VIEWS OF PIPIROA BAY and SPIT

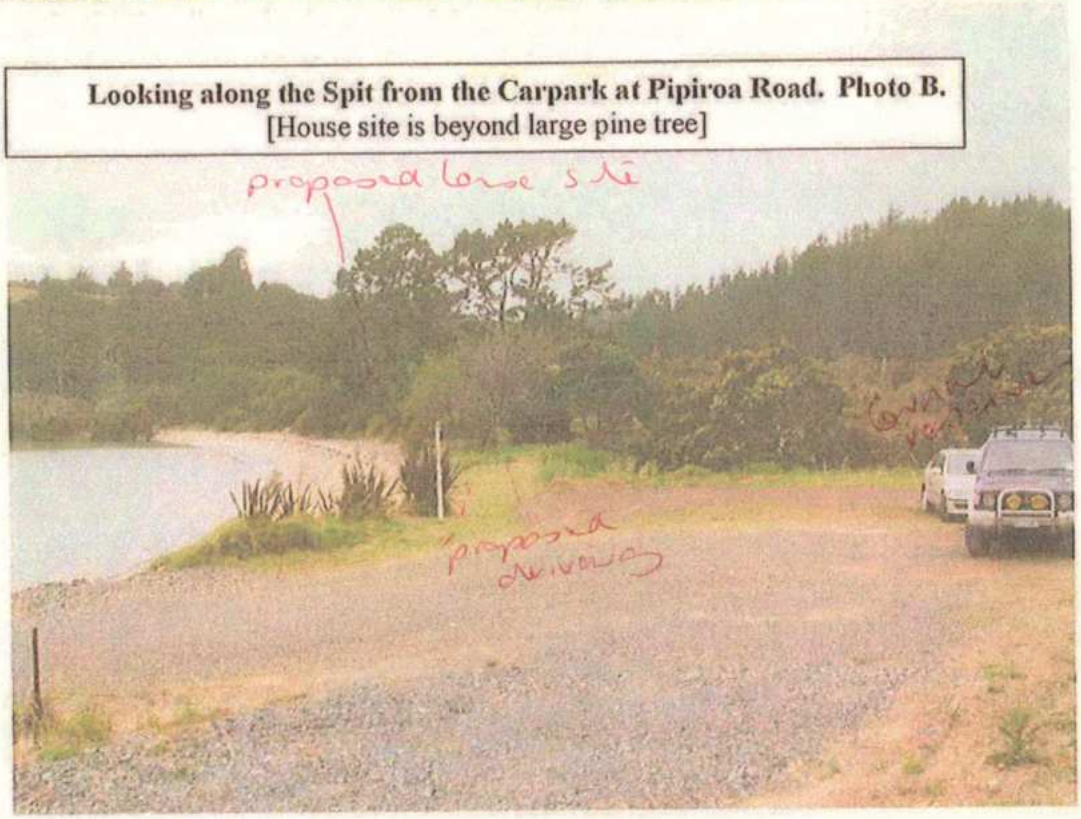
J K Upperton

11 October 2004

Pipiroa Bay and Wetland from Aucks Road. Photo A.

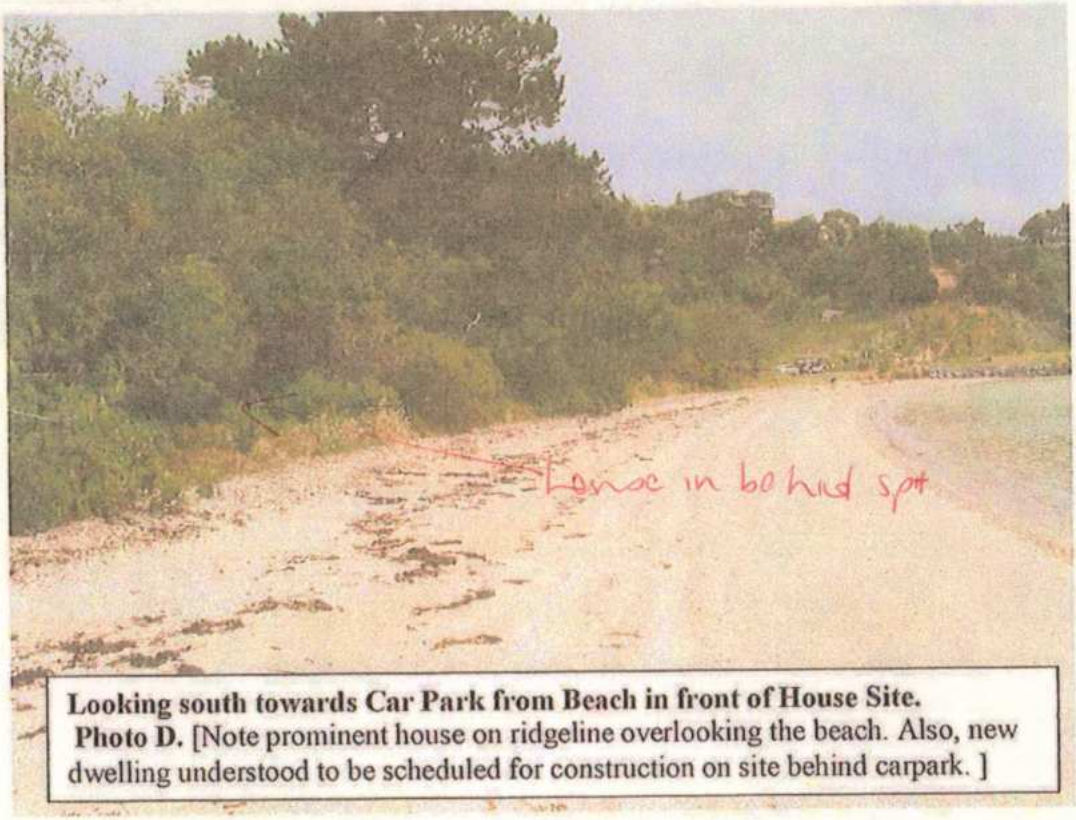


Looking along the Spit from the Carpark at Pipiroa Road. Photo B.
[House site is beyond large pine tree]



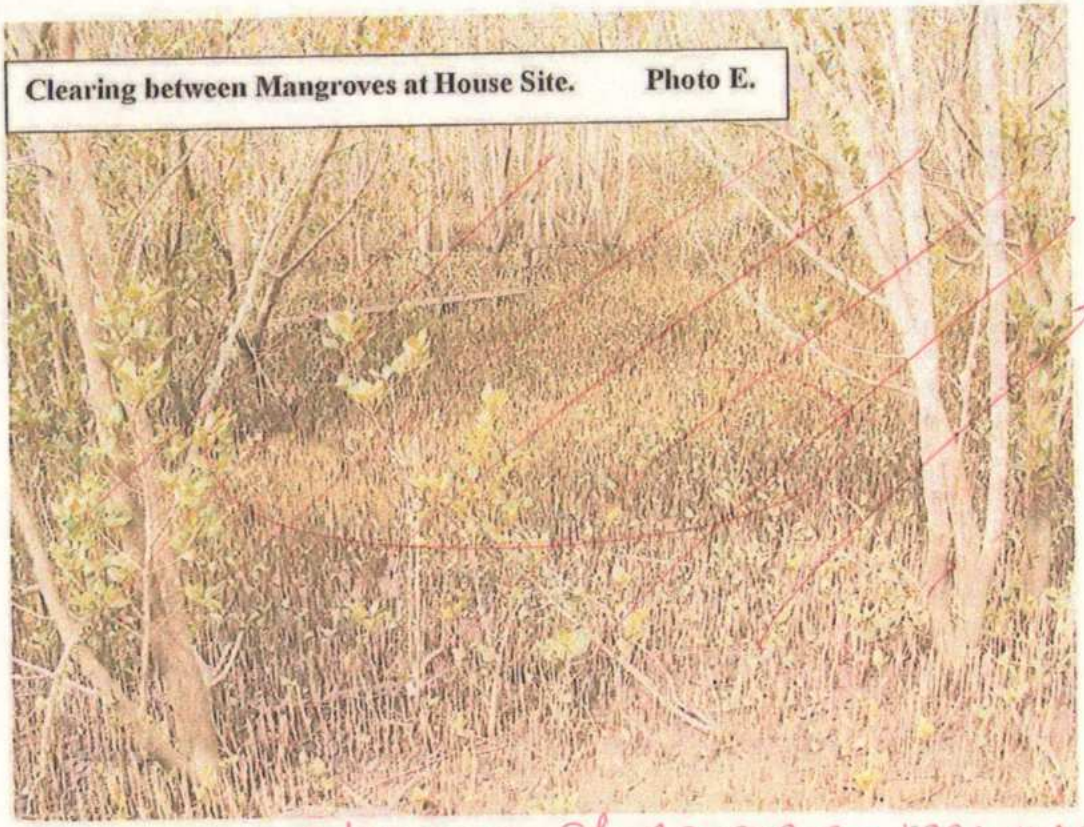
Looking North towards Mangroves from Beach in front of House Site. Photo C.





Looking south towards Car Park from Beach in front of House Site.
Photo D. [Note prominent house on ridgeline overlooking the beach. Also, new dwelling understood to be scheduled for construction on site behind carpark.]

will be building in the mangroves



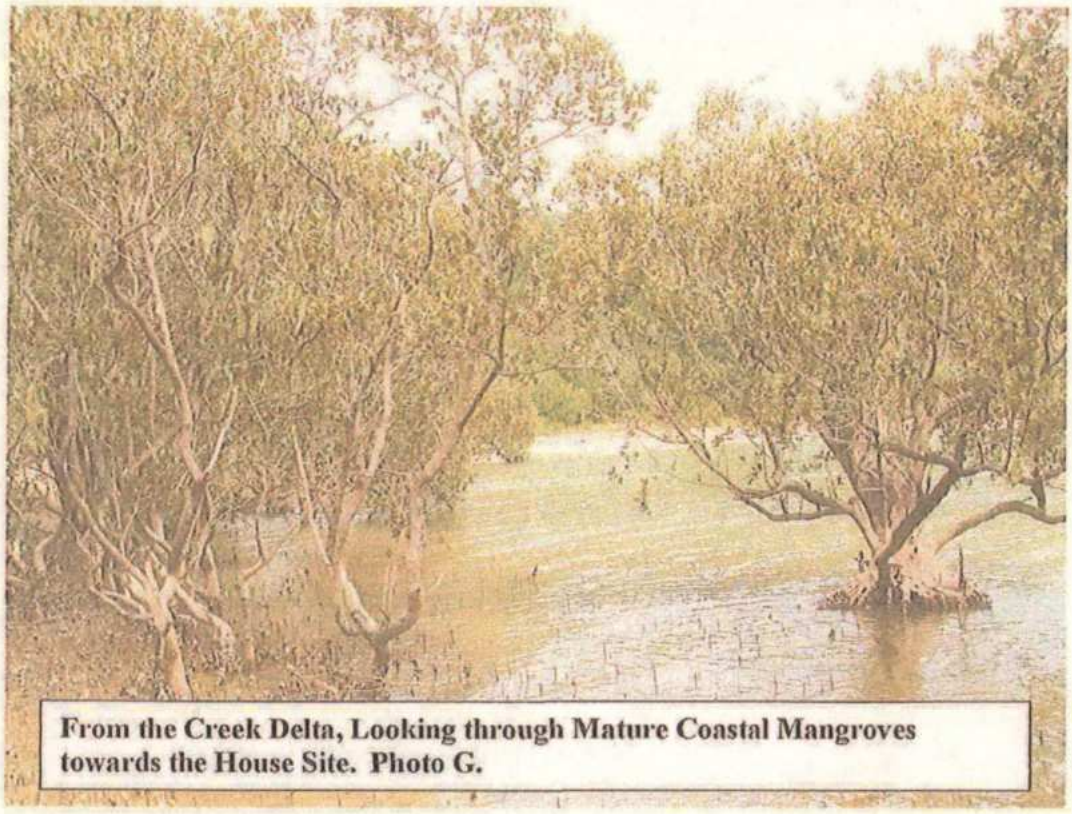
Clearing between Mangroves at House Site. Photo E.

clearance of mangroves required

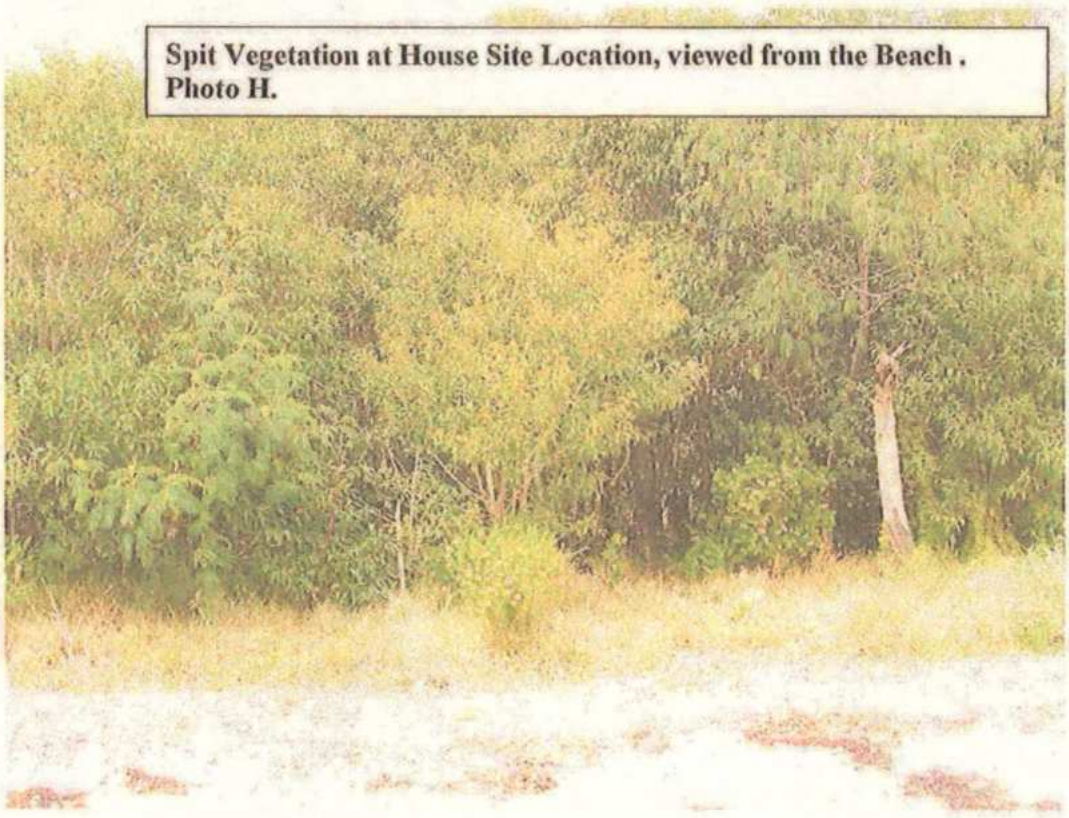


Mangroves (juvenile) estimated at 6 metres high at House Site. Photo F.
[approximately 2-3 metres apart]

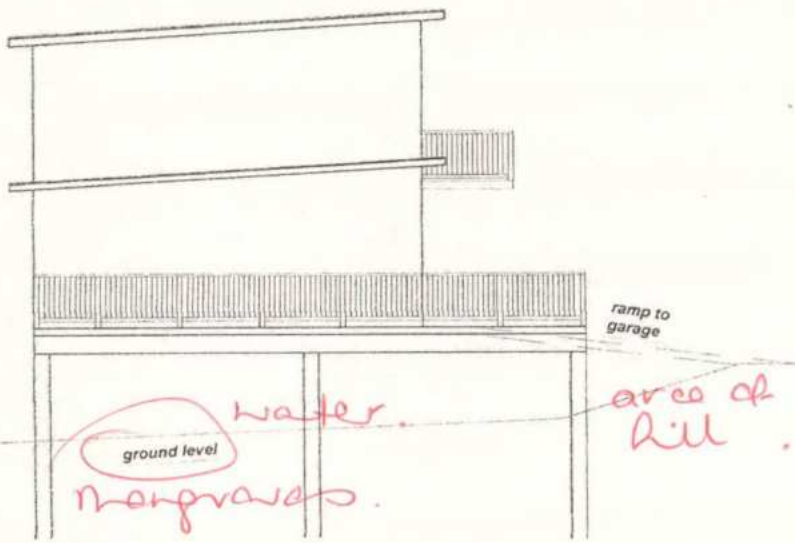
area to be filled house-site behind



From the Creek Delta, Looking through Mature Coastal Mangroves towards the House Site. Photo G.



Spit Vegetation at House Site Location, viewed from the Beach . Photo H.



Joins Figure 6.2 to make Original A2 Sheet.

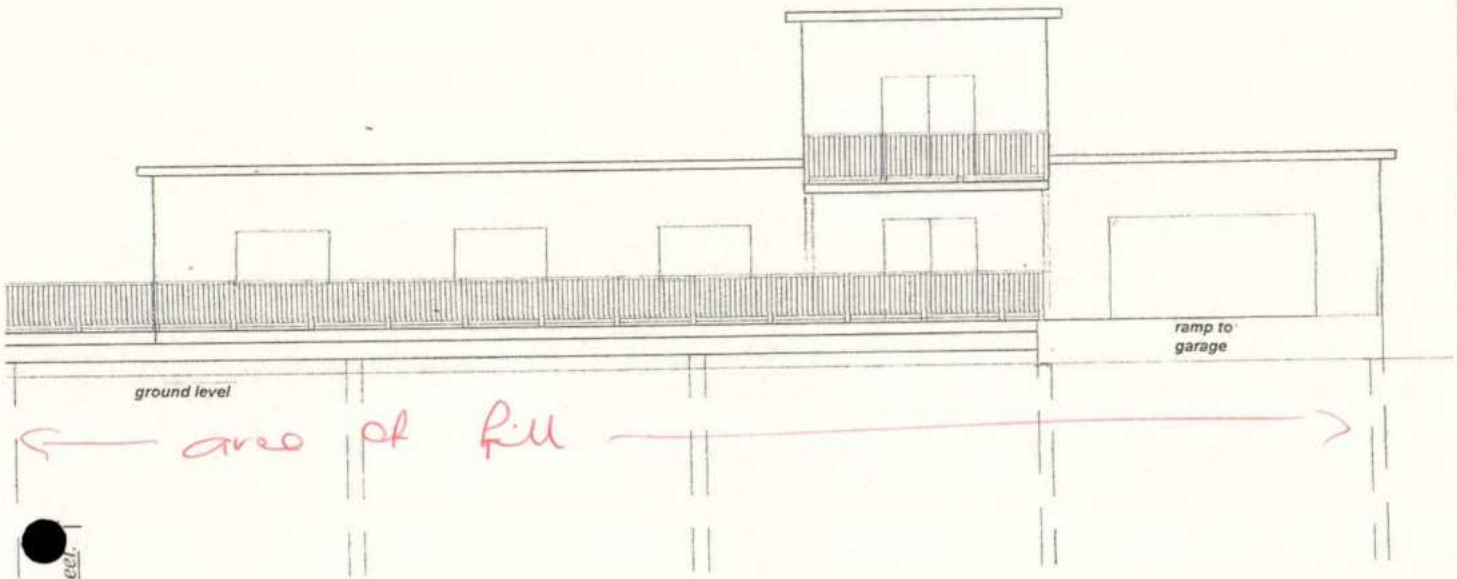
Side Elevation of the Proposed Dwelling (1:100) ***Figure 6.1***

2 Seaview Road, Whangarei.
Ph. (09)4383273. Fax. (09) 4385734.
engineers@richardsonstevens.co.nz

JOHN UPPERTON,PIPI

PROPOSED PLATE

\files\Jobs 4001 - 4500\4483 Upperton\CAD\4483House Platform.17.10.03dwg_recover.dwg, 8/2004 2:33:07 p.m. \\TUA\designjet430

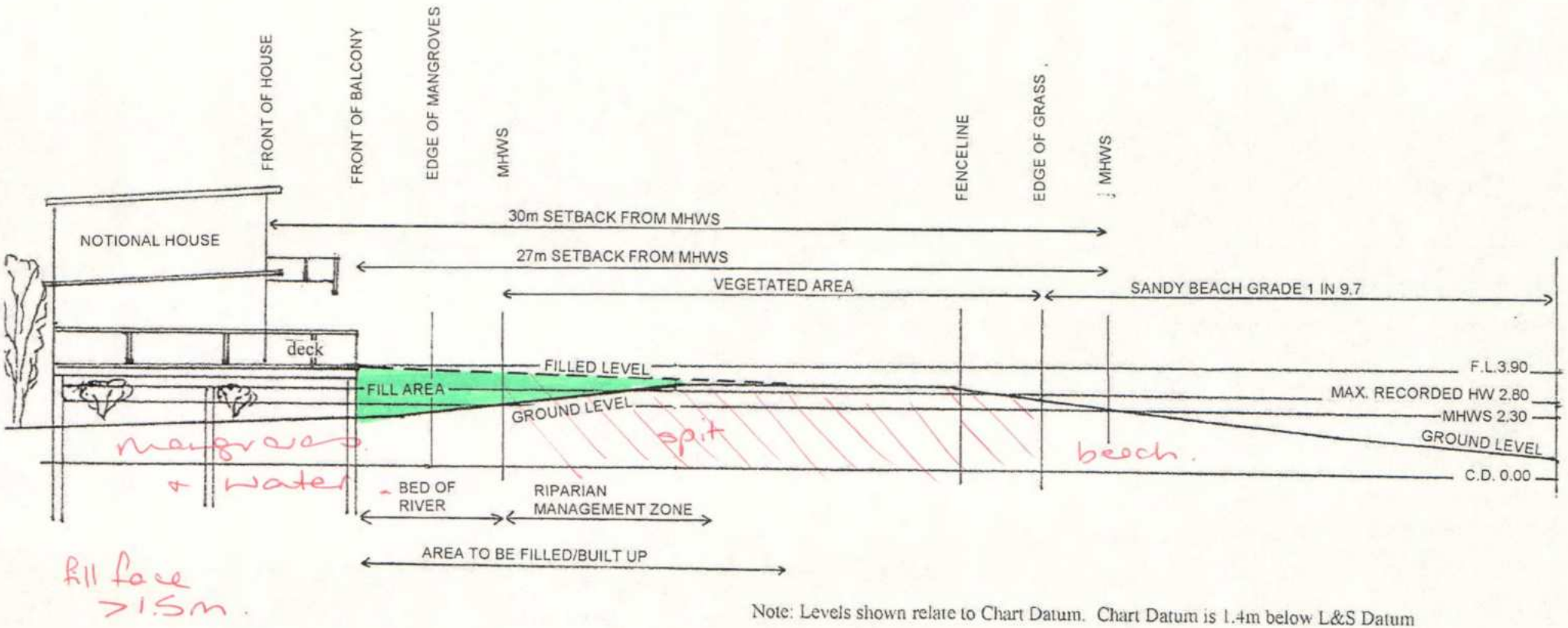


↑ Joins Figure 6.1 to make Original A2 Sheet.

Front Elevation of the Proposed Dwelling (1:100) ***Figure 6.2***

OA ROAD, PIPIROA BAY
ORM FOR DWELLNG

STRUCTURAL DETAILS		Project: 4463	Sheet
Date:	AMENDMENTS	Drawn: MHPR	S1
		Date: OCT.2003	
		Scale: 1/100, ~~1/50~~	



Note: Levels shown relate to Chart Datum. Chart Datum is 1.4m below L&S Datum

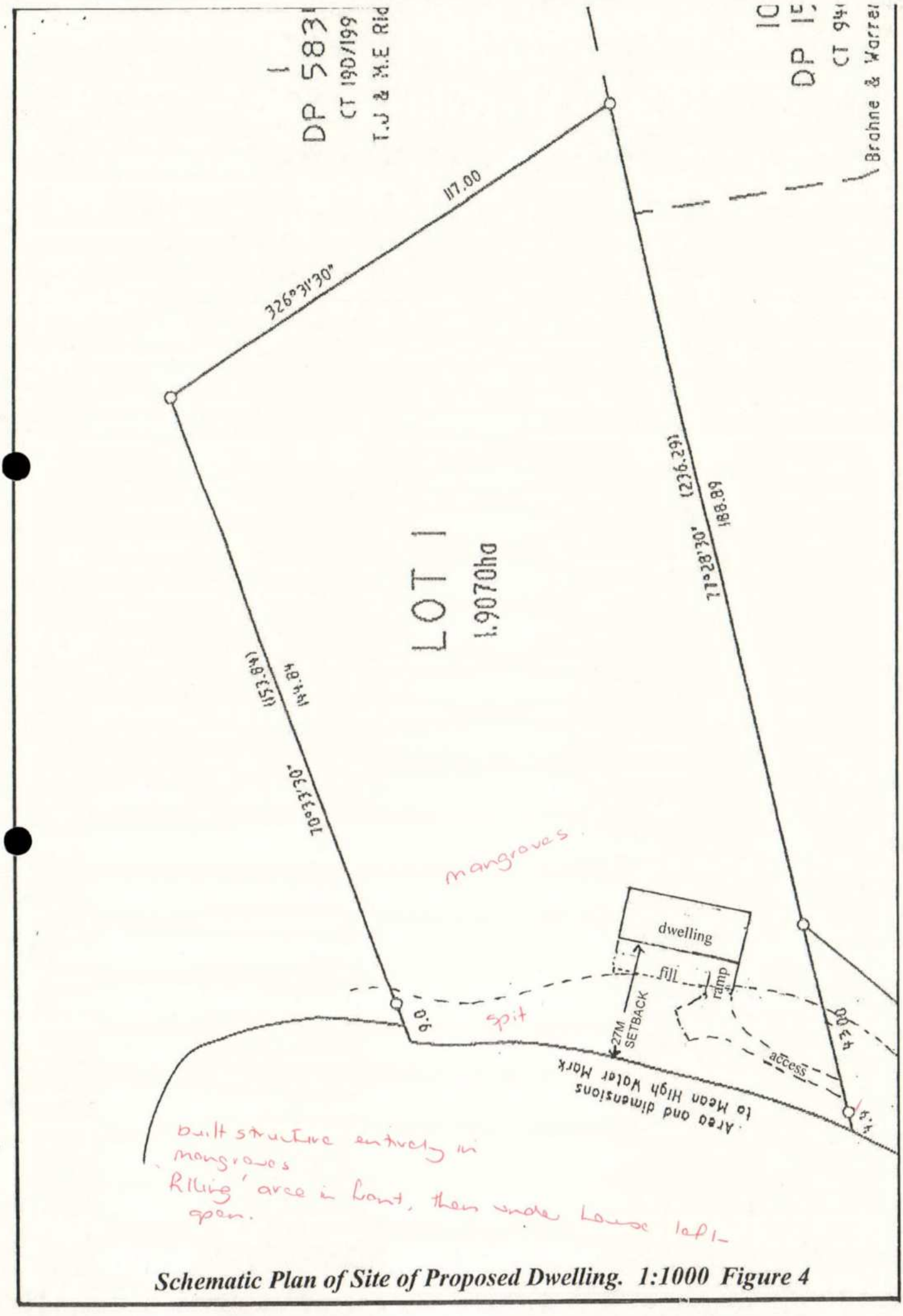
CROSS-SECTION THROUGH SPIT AND PROPOSED HOUSE SITE. Scale 1:200

[Derived from plans and drawings by Richardson Stevens Consultants (1996) Ltd]

JOHN UPPERTON, PIPIROA ROAD, PIPIROA BAY

Cross-section through the Spit and Proposed House Site 1:200 (A4)

Figure 7



Schematic Plan of Site of Proposed Dwelling. 1:1000 Figure 4

Lynley Newport

From: secretary@kororarekamarae.org.nz
Sent: Monday, 20 July 2009 1:25 p.m.
To: Lynley Newport
Subject: Re: RC-2090634 - Upperton at Pipiroa Bay, Okiato Attn: Maiki Marks

Kia ora Lynley,

We are currently carrying out on going communication with Hapu. Because our ancestors settled in this area in 10 AD.,lots and lots of consultation is necessary on our behalf.

Noho ora mai

Maiki

Kia ora Maiki
>
> I refer to an e-mail you sent to Jessica Phillips dated 16th June
> regarding the Upperton application (and RPNZ). Due to workload, I have
> taken over the Upperton application.
>
> Thank you for your comments in that e-mail. Is the Marae Society
> intending forwarding more detailed comments? And if so, when can I
> expect to receive these.
>
> Regards
>
> Lynley Newport
> Senior Resource Planner
> Far North District Council
> Private Bag 752, Memorial Avenue, Kaikohe 0440 Free Phone: 0800 920
> 029
> Fax: 09 4070419
> Email: lynley.newport@fndc.govt.nz
> Website: www.fndc.govt.nz
>

Lynley Newport

From: Steve Westgate [swestgate@xtra.co.nz]
Sent: Thursday, 16 July 2009 10:10 a.m.
To: Lynley Newport
Subject: Fw: Upperton Re: RC-2090634-RMALUC - Request for Further Information
Attachments: ltr FNDC 15.07.09.doc

Further to my email and letter of 9 July, additional comment/queries to your letter of 8 July as attached.
Steve Westgate

----- Original Message -----
From: Steve Westgate
To: Lynley Newport
Cc: John Upperton
Sent: Thursday, July 09, 2009 11:29 PM
Subject: Re: Upperton Re: RC-2090634-RMALUC - Request for Further Information

Please find my reply attached.
Steve Westgate

----- Original Message -----
From: Lynley Newport
To: Steve Westgate
Cc: castleduo@maxnet.co.nz
Sent: Wednesday, July 08, 2009 10:52 PM
Subject: RE: Upperton Re: RC-2090634-RMALUC - Request for Further Information

Steve,

Please find attached correspondence, responding to your e-mail.

Lynley

Stephen L. Westgate, M.A. (Camb.)
Resource Management Consultant
[290 Beach Road, Onerahi, Whangarei: Home ph./fax (manual) 09 436-0335]*
E-mail: swestgate@xtra.co.nz

15 July 2009

Resource Consents Manager
Far North District Council
Private Bag 752,
KAIKOHE 0440

Attention: Lynley Newport
Senior Resource Planner

Re: UPPERTON RC-2090634-RMALUC – REQUEST FOR FURTHER INFORMATION

I've had another look at two points you raised in your reply of 9 July. One concerns aspects of the Mark Poynter report to which you refer (an allegedly "important caveat") – a new issue not previously raised - and the other concerns weed clearance and landscaping. I think these can be addressed separately from the main response.

Firstly, the Mark Poynter Report. Mark has stated that "Removing a significant part of any one of the vegetation components would, in my view, be a significant ecological effect." He then goes on to discuss the local importance of mangrove in Pipiroa Bay.

From the aerial photograph, Figure 2, I have scaled off the clearly identifiable area of mangrove and reported this as 1.5ha in total (AEE 3.4) along with quite specific detail regarding the size and relative age of the mangroves (juvenile or mature). From the information provided, I have shown that no more than 6% of the area of mangrove will be affected. In my view, this cannot be regarded as a "significant part" to use Mark's term. When you consider that the tidal riverbed beneath the footprint of the house (on poles) will mostly continue to be available for benthic species (mud crabs, snapping shrimps, etc), then the effect is even less. The only mangrove area of riverbed that will actually be lost as habitat is beneath the ramp area to be filled, viz. approx. 180 square metres, or about 1% of the total mangrove area. Even this small area contains no more than small mangrove because of its proximity to MHWS, firm substrate and less frequent tidal inundation.

I have taken Mark's estimate of 5-6 hectares as the total area of wetland. This is of no great relevance since only the mangrove area will be affected. It is of little relevance to this application whether the area of *"freshwater raupo at the head of the valley floor, though a mixture of maritime sedges and rushes"* is 3ha, 4ha, 5ha or whatever. Whatever the area is, it will not be affected by this proposal. I fail to see why you should regard it as "important". I have addressed the issue of the mangrove area which may have been potentially important. I have used a figure of 2% of the total wetland area to give an indicative figure. This is a perceived maximum and is obviously arrived at by taking the maximum disturbed (affected and partially affected) area of 0.1 ha and the minimum wetland estimate of Mark Poynter of 5 ha.

To conclude on this point, the Department of Conservation have given their approval to the amended proposal. I respect their expertise in these matters and their understanding of the effects of the proposed activity.

Secondly, the matter of weed clearance. This is another aspect that seems to be getting totally out of hand in my experience. To recap:

You have confirmed that there are no restrictions in the district plan on pest plant and weed eradication and clearance. My reading of the plan is that weed eradication is encouraged. *"Normal garden and rural practices"* are also noted as not requiring resource consents or earthworks permits. Any progressive weed eradication and re-vegetation programme undertaken on the property is therefore a permitted activity. Please correct me if I have misunderstood anything but if not, can you please advise under what authority you can demand details of such a permitted programme including *"final proposed plantings; species types and numbers, and proposed ongoing pest plant control"* and seek to apparently incorporate the minutiae of such a programme as a consent condition? I've not previously encountered such an approach by any consent authority and would welcome clarification on this matter.

It has been stated that to maintain privacy, weed eradication and vegetation replacement will be a progressive and ongoing exercise, and this will probably take many years. Inevitably, landscaping plans for the whole site will probably evolve over time. Notwithstanding, a landscaping plan has been prepared for the front of the dwelling and this will be submitted as part of the proposed landscape assessment report, even though it will hardly be seen other than from the property itself.

Yours faithfully

Stephen L Westgate

For: John K Upperton

Lynley Newport

Subject: Resource Consent - John Upperton
Location: Committee Meeting Room, Kaikohe

Start: Tue 28/07/2009 1:15 p.m.
End: Tue 28/07/2009 2:30 p.m.
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Required Attendees: Pat Killalea
Optional Attendees: Lynley Newport

Hi Pat

Fran received a phone call this morning from Mr Upperton regarding a meeting request. It has been agreed that Fran will meet with Mr Upperton to discuss this consent and his concerns. Please note that Lynley is the planner on this consent, I believe that John feels there are unnecessary requests for additional information being required by Lynley to his agent Steve Westgate (Whangarei). Steve is currently in the UK for the next two months.

Mr Upperton has requested that only yourself and Fran attend this meeting, he does not wish Lynley to be in attendance. Therefore, please ask Lynley to debrief you on this matter prior to your meeting. The meeting with Mr Upperton will begin at 1:30 pm however, I have given you 15 minutes for a pre-meeting with Fran if you require this pre-time.

Lynley - Mr Upperton has asked that his consent be put on hold / suspended until this meeting occurs as I believe he doesn't wish us to action any work until the matter has been resolved.

Regards
Nicole

Lynley Newport

From: Geoff Heaps [Geoffh@nrc.govt.nz]
Sent: Thursday, 9 July 2009 4:09 p.m.
To: Lynley Newport
Subject: CON20040886701_62469.doc
Attachments: CON20040886701_62469.doc

Lynley

Attached is a copy of my draft staff report. I have checked through it and made a few further changes since it was prepared in 2005.

Micheal Day has also advised as follows:

Thanks for keeping me in the loop Geoff. I understand the land use application is still on hold with FNDC. I still haven't sent them anything from us (from a regional policy perspective) and am now thinking that I won't – unless Rob expressly wants me to…

Cheers

Geoff

****

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NORTHLAND REGIONAL COUNCIL

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****

NON NOTIFIED COUNCIL STAFF REPORT

APPLICATION NO.: CON20040886701

PREPARED BY: Geoff Heaps
Land Management Consents Officer

SUB APPLICATION NOS.:

01 **Land Use Consent:** To reclaim approximately 180 m^2 of the bed of a wetland.

02 **Land Use Consent:** To place approximately 300 m^3 of earthworks fill within a Riparian Management Zone.

03 **Land Use Consent:** To place a structure (dwelling) on the bed of a wetland.

04 **Land Use Consent:** To clear vegetation within a Riparian Management Zone.

05 **Land Use Consent:** To prune and remove vegetation from the bed of a wetland.

06 **Water Permit:** To divert stormwater from land disturbance activities.

07 **Discharge Permit:** To discharge stormwater from land disturbance activities to water.

APPLICANT(S): John Kildare Upperton

NATURE OF ACTIVITY: House site development

LEGAL DESCRIPTIONS: Lot 1 DP 202228 Blk V Russell SD

LOCATION CO-ORDINATES: At or about location co-ordinates 1702247E 6092953N

(Note: All location co-ordinates in this document refer to Geodetic Datum 2000, New Zealand Transverse Mercator Projection).

LOCALITY: Pipiroa Bay, Bay of Islands

DURATION OF CONSENT SOUGHT: Not stated in application

RELEVANT STATUTORY PLANNING INSTRUMENTS:

- Regional Policy Statement for Northland (RPS)
- Regional Water and Soil Plan for Northland (RW&SP)
- Regional Air Quality Plan for Northland (RAQP)
- Regional Coastal Plan for Northland (RCP)
- Resource Management Act 1991 (RMA)

ACTIVITY CLASSIFICATION: Discretionary

1 APPLICATION

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An application has been received to clear 750 m^2 of vegetation and place up to 300 m^3 of earthworks fill within a Riparian Management Zone, to reclaim 180 m^2 of wetland, clear vegetation, and place a dwelling structure on the bed of a wetland.

The proposed vegetation clearance and earthworks volumes exceed the permitted threshold levels (50 m^3 for earthworks), within the Riparian Management Zone, and are therefore discretionary activities according to Rule 34.3.1 of the RWSP.

Although the area of wetland is tidally affected, and contains predominantly mangrove vegetation, it is not included within the coastal marine area, according to the Regional Coastal Plan Maps or the definition provided in the RMA. This area is therefore a wetland, and the rules of the RWSP apply. According to Section 13(2) of the RMA, no person may 'damage or destroy any plant or part of any plant' in a manner that contravenes a rule in a regional plan. As the RWSP contains no rules to this effect, the activity of punning and removing mangroves is a permitted activity. The placement of fill for the purposes of reclaiming 180 m^2 of land/wetland below mean high water level is a discretionary activity according to Rule 31.3.1 of the RWSP. The construction of a dwelling structure by the use of piles is a discretionary activity according to Rule 29.3.1 of the RWSP.

Consents have also been applied for to discharge effluent to land and air from a sewage treatment and disposal system, but this function has been transferred to the Far North District Council, which will report on this matter.

Other resource consent applications have also been made to the Far North District Council, now that the existing designation on the property, as a site of significant Maori value has been removed. [The NZ Historic Places Trust registered the entire property as a wahi tapu in error, but this designation has now been removed].

2 SITE DESCRIPTION

The site is located at Pipiroa Bay, off Auks Road, Okiato in the Bay of Islands, approximately 600 m from the Opua – Russell ferry terminal. The property covers a total area of 1.8 ha, consisting of a vegetated sand spit that separates Pipiroa Bay from a 1.5 ha area of mangrove wetland, with the remainder of the property comprising wet pastures on its northeastern side. A small stream at the northern end of the property allows tidal waters to flow onto the property, to maintain the mangrove wetland. As discussed above, the mangrove wetland is outside of the coastal marine area.

The 100 m long spit of land on the property separating the wetland from Pipiroa Bay, varies in width from 18 – 23.5 m, and is largely covered with weed species including sweet pea bush, black wattle, tree privet, woody nightshade, gorse, lantana and wildling pines, plus kikuyu grass. The spit is approximately 0.6 m above MHWS, with earthworks fill proposed to create a graded access up to 1.6 m above MHWS.

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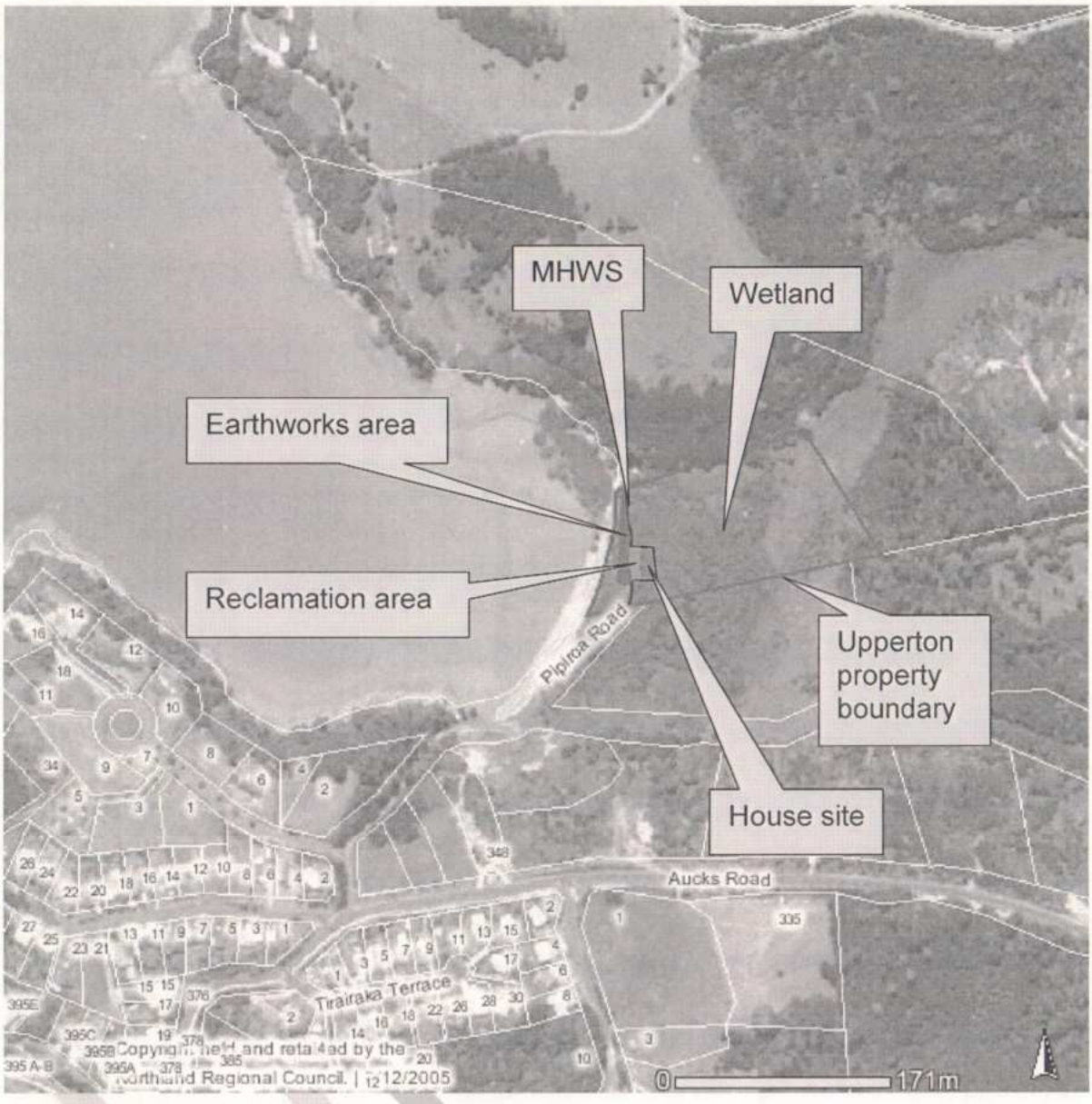


Figure 1: Site of Upperton property, Pipiroa Bay

3 CONSULTATION

The applicant has consulted with the Department of Conservation and obtained its written approval to this proposal, subject to the following:

- Weed and pest control, and a prohibition on cats and mustelids.
- Permanent protection of the area of mangroves outside of the house site.
- No further buildings, use of recessive colours and materials, and planting of indigenous screen plantings.
- An archaeological survey to be undertaken of the areas affected by earthworks.
- Maintenance contract for the effluent treatment system.

This site has been the subject of a previous application for the construction of a dwelling and disposal of sewage effluent, which was declined by a Hearings Committee (following a joint hearing with the Far North District Council), largely due to the effects that the activity would have on alleged cultural and spiritual values on the site. These decisions were appealed to

the Environment Court, but subsequently withdrawn in favour of a new application being lodged.

Since that time, the Historic Places Trust has removed the designation that it previously placed on the site, due to insufficient information to justify claims that the land was wahi tapu. According to the late Graham Rankin, a local kaumatua, who provided evidence on this matter at the hearing, there are no known wahi tapu sites associated with this property; instead the area of concern (associated with a karaka tree) is located at another property some distance away.

This revised application has been circulated by the Council to local iwi for their comments, with responses received from Ngati Maunu Trust and Kororareka Marae Society. In the case of Ngati Maunu Trust, they have raised concerns about the lack of consultation, as the application stated: ..... "it is appropriate that consultation should be undertaken with Ngati Maunu of Karetu Marae, as the kaitiaki with mana whenua and mana moana".

Kororareka Marae Society raised concerns about the potential effects of environmental degradation from stormwater and sewage runoff, including possible effects on stingrays, and effects on wahi tapu sites.

The Okiato Te Wahopu & District Ratepayers & Residents Association opposed the original application on the grounds that the setback of 12.5 m was too close to the coastal marine area. The applicant has now revised the location of the house site, and agreed to a setback of 27 m, which was accepted by the Association.

4 EFFECTS ASSESSMENT

The effects of this application include the potential effects of the vegetation clearance and earthworks upon the wetland and Riparian Management Zone for site access and eventual dwelling.

Wetland Effects

The area of wetland on the property has been assessed as covering approximately 1.25 ha, of which 640 m² would be affected by the proposed dwelling and access ramp. A further 4 – 5 ha of wetland extends beyond this property onto adjacent land, part of which is owned by the Far North District Council as a recreation and scenic reserve. The effects of both the reclamation and house footprint have been kept to the minimum necessary to achieve a 27 m setback for the proposed dwelling, and reduce the potential effects on the wetland.

The applicant describes the reclamation area of 180 m² as supporting very little vegetation, and not always covered at high tide. The house site only requires mangrove trees to be pruned back to accommodate the structure, with their removal only required at the site of the piles therefore, tidal waters would continue to enter this area. Given that the removal of plants is a permitted activity under RMA, and that only 1% of the wetland area, or 4% of the mangrove area is being affected either temporarily or permanently, the effects are considered to be relatively minor.

Mark Poynter previously undertook an ecological assessment of the effects of the proposal when an area of approximately 350 m² was to be reclaimed. At that time he considered this to be ecologically defensible, given that the applicant was to protect / covenant the remainder of the wetland, and plant native species along the foreshore. The area of reclamation has now been reduced to approximately half that size, therefore any adverse effects will also be reduced.

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Construction of the dwelling will require mangroves to be cut and may require pile driving equipment to enter the wetland. It is recommended that any mangroves required to be cut or destroyed are removed from the wetland, and that care is taken to avoid contamination of the site from oils and fuels. The house site has been chosen due to its relatively low mangrove density. This area is also described as being relatively firm to walk on. Prior to construction of the dwelling, a methodology of how the works will be carried out should be provided, including details of machinery access and damage avoidance.

Reclamation

Approximately 180 m² of land below MHWS has been classified as wetland that is proposed to be reclaimed. This extends for a distance of 30 m parallel to the spit, with a width of 5 – 6 m, and a depth of fill varying from 1 – 2 m. As there is relatively little vegetation within this area, the effects of reclamation are considered to be relatively minor, as discussed above. The effects of the earthworks to create the reclamation, and earthworks within the Riparian Management Zone are discussed below.

Riparian Management Zone

The Riparian Management Zone is described as the area of land above MHWS, and based on its slope, has been assessed as having a width of approximately 7.5 m. For the purposes of this report the assessment of effects covers the whole of the spit. As previously discussed the vegetation along this area includes a number of plant pest species, which the applicant proposes removing, and replanting with native species. The applicant also proposes that this site be managed for long-term pest control.

The effects of removing this vegetation is considered to have negligible adverse effects, provided it is not placed in a position where it may enter the coastal marine area or adjacent wetland. Replanting of the site with indigenous species, in addition to the pohutukawa trees that have already been planted by the applicant, will provide positive benefits to the environment. It will be important that a long-term pest management strategy is implemented.

Earthworks and Sediment Discharges

Earthworks are required to create suitable access to the proposed house site, and this has the potential to generate sediment discharges into both the wetland and coastal marine area. To avoid discharges into the wetland, the applicant is proposing to place rocks around the perimeter of the reclamation, and line this with a suitable filter fabric. Provided care is taken when the earthworks are carried out, it should be a relatively easy task to avoid sediment entering these water bodies. Final details of the proposed works should be provided prior to the commencement of earthworks and reclamation.

Access along the legal roadway to the site also requires a small amount of earthworks to create a suitable access. The effects of this activity are considered to be relatively minor.

Cultural and Spiritual

The proposed Far North District Plan shows this property as being a 'Site of Significance to Maori'. However, as discussed earlier in this report, this designation was placed on the property in error, and has now been withdrawn from the Historic Places Trust register of wahi tapu sites. This matter was thoroughly canvassed during and following processing of the original application, and it is now understood that the site contains no such known sites. An archaeological survey of all areas affected by the proposed earthworks has been requested by the Department of Conservation.

The application was circulated to iwi groups by the Council, with one response received from Helen Pick, representing the Kororareka Marae Society. The concerns expressed related to adverse effects of stormwater, sediment and sewage, on fisheries values in the bay,

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particularly stingrays. Mention of the wider area as a wahi tapu, and a request for this to be discussed with Mr Arapeta Hamilton. [Mr Hamilton originally suggested that this area contained a wahi tapu at the time of the original application, and this matter was thoroughly canvassed with him at that time].

Tidal Effects

Grant Stevens of Richardson Stevens Consultants provided evidence, at the time of the original hearing on the effects of storm surges on the site. Erosion of the sandspit is currently not an issue of concern, largely due to its relatively sheltered position, and provided a good vegetative cover is maintained this is considered unlikely to be an issue of concern, even during high tides combined with storm surges. The proposed earthworks would raise the height of the reclamation up to 1.6 m above MHWS, and 1.1 m above the maximum recorded high water level. A floor level of not less than 1.6 m above MHWS would also provide for possible sea level rises over the next 50 years, according to Grant Stevens. This is a matter that the applicant will need to address as part of any building permit application to the Far North District Council.

I am satisfied that the proposed earthworks and dwelling structure would not be affected by tidal storm surges, provided bare areas of land are either oversown with suitable groundcover species or roading materials, and the edging of the reclamation area is adequately protected with rock or other suitable protection measures.

5 ALTERNATIVES

Alternative setbacks have been investigated for the house site. The proposed reclamation, has been chosen as it meets the minimum 27 m setback required, with the minimum of disturbance to the wetland.

6 MITIGATION MEASURES

The applicant is proposing to implement the following mitigation measures for the vegetation clearance and earthworks:

- Protection of the remaining area of wetland by covenant, removal of pest weed species, and replanting of the area of disturbance in the RMZ with indigenous species.
- Sediment control measures during the period of earthworks, and rock protection of the reclamation area.

7 MONITORING

The Regional Council should monitor activities during the period of vegetation clearance and removal, and during earthworks to ensure sediment discharges are avoided. Following the completion of earthworks, monitoring of the establishment of vegetation cover and suitable roading materials should be undertaken.

8 NOTIFICATION ASSESSMENT

A notification/non-notification decision report has been prepared recommending that this application be processed on a non-notified basis (see file). The adverse environmental effects have been assessed to be no more than minor. The applicant has provided the written approval of all the parties who are considered to be affected by these activities. It is therefore considered that the requirements of Section 94 of the Resource Management Act 1991 have been met.

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9 ASSESSMENT OF PART II MATTERS

9.1 Section 5 – Purpose

"(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.

(2) In this Act, ``sustainable management'' means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

(a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

(c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment"

I am satisfied that the proposed activities associated with this development will result in sustainable management of natural resources, with measures being taken to avoid, remedy and mitigate any potential adverse effects on the environment.

9.2 Section 6 – Matters of National Importance

In achieving the purpose of this RMA, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

(a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:

(b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:

(c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:

(d) The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:

(e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

(f) The protection of historic heritage from inappropriate subdivision, use, and development.

(g) The protection of recognised customary activities.

The proposed development of this site is being undertaken in a manner that recognises and provides for the preservation of the coastal environment and an indigenous wetland, by ensuring that the development is setback a

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suitable distance from the coastal marine area, and encroachment into the wetland is the minimum necessary to provide a site for a future dwelling. The ongoing protection of the remaining mangrove wetland, and the removal of pest plants along the sand spit and their replacement with suitable indigenous species will ensure that these values are enhanced for future generations.

No outstanding areas of natural features or landscapes are noted for this site in the Far North District Plan, nor would they be affected by this proposed development. The site was formerly in pasture with a floodgate at the stream outlet, but when this collapsed in the 1950's the site reverted to a tidal wetland.

Mangrove trees are defined as areas of significant indigenous vegetation, in the RCP, but not in the RWSP. The RWSP also does not protect these trees by way of a rule in the plan. The ecological assessment of this site estimates that about 1% of the total mangrove area is to be removed or buried by reclamation, with the remaining area of mangroves to be protected. On balance, and taking into consideration the lack of protection given to the mangroves by the RMA and RW&SP, it is considered that no areas of significant indigenous vegetation or significant habitats of indigenous fauna would be affected.

Public access to the beach is currently impeded by the growth of vegetation along the unformed legal road. The development of this proposal would result in a road being formed, to provide improved access to the beach. No constraints are proposed that would lessen the access of public to this beach.

Evidence provided at, and following, the original hearing of this application, and the subsequent withdrawal of registration of a site of significance to Maori, by the Historic Places Trust, indicates that the site contains no known sites of cultural or spiritual significance.

The site also contains no known historic features or is the site of known customary activities.

9.3 Section 7 – Other Matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

(a) Kaitiakitanga:

(aa) The ethic of stewardship:

(b) The efficient use and development of natural and physical resources:

(c) The maintenance and enhancement of amenity values:

(d) Intrinsic values of ecosystems:

(e) Repealed.

(f) Maintenance and enhancement of the quality of the environment:

(g) Any finite characteristics of natural and physical resources:

(h) The protection of the habitat of trout and salmon:

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(i) The effects of climate change:

(j) The benefits to be derived from the use and development of renewable resources.

Apart from items (h) – (j), all of the above matters are of greater or lesser relevance to this application, and have been discussed in greater detail in the earlier sections of this staff report. I am satisfied that this proposal has had particular regard to all of the matters identified in Section 7 of the RMA, where they are of relevance to this development.

9.4 Section 8 – Treaty of Waitangi

The principles of the Treaty of Waitangi in Section 8 were also taken into account during the processing of this resource consent application, with circulation of the application to local iwi, and evidence provided regarding input by tangata whenua, during processing of the earlier application for development of this site.

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9.5 Section 104

When considering an application for resource consent, the Northland Regional Council must have regard to the matters specified in Section 104 of the RMA. The matters that are to be considered in Section 104 are subject to Part II of the RMA, which means that Part II matters have primacy in considerations.

The relevant matters of Section 104 (1) that we have had in regard to when assessing this application are:

- The actual and potential effects on the environment of allowing the activity; and
- The relevant provisions of the RPS, RW&SP, RAQP and RCP.

The actual and potential effects of the activity on the environment have been identified in Section 4.

The relevant objectives and policies of the RPS, and the relevant objectives, policies and rules of the RW&SP and RAQP are discussed in Section 10 of this report.

9.6 Section 105

In making a recommendation on this application, I have considered the provisions of Section 105 of the RMA.

Section 105(2) also requires the Council, when considering an application for a reclamation, to consider the whether an esplanade reserve or strip is appropriate. In this case the reclamation is all on the applicant's own land, and surrounded by mangrove wetland. As the public already have legal access along the beach, and possibly informal access along the sand spit, the need for further access through the applicant's property is considered unwarranted.

9.7 Section 107

"(1) *Except as provided in subsection (2), a consent authority shall not grant a discharge permit allowing—*

(a) The discharge of a contaminant or water into water; or

(b) A discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water - If, after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar, or other contaminants or water), is likely to give rise to all or any of the following effects in the receiving waters:

(c) The production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials:

(d) Any conspicuous change in the colour or visual clarity:

(e) Any emission of objectionable odour:

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(f) *The rendering of fresh water unsuitable for consumption by farm animals:*

(g) *Any significant adverse effects on aquatic life."*

The proposed activities are not considered to be contrary to the above provisions of Section 107, subject to compliance with the recommended conditions of consents.

10 ASSESSMENT OF THE OBJECTIVES AND POLICIES OF RELEVANT PLANS

I have had regard to the following relevant objectives and policies specified in the RPS, the RW&SP, RAQP and RCP.

10.1 REGIONAL POLICY STATEMENT FOR NORTHLAND

10.1.1 Community Involvement

Comments from the local community, provided at, and following the original application have been taken on board for the processing of this application, resulting in a greater setback distance for the dwelling. The application is considered to have been processed in accordance with Policy 13.4(d)1 of the RPS.

10.1.2 Involvement of Tangata Whenua

The application was circulated to all known local Iwi groups in the area at the time of notification. It is considered that Objective 14.3.1 of the RPS has been met. Processing of the consent is considered to be consistent with Policy 14.4(c)(1).

10.1.3 Monitoring and Review

The consent monitoring recommended in this report is considered to meet the requirements of Policy 15.4 (c).

10.1.4 Water Quality

The granting of resource consent for the discharge of stormwater should not result in more than minor adverse effects on the water quality of any surface waterway, therefore the activity meets Objective 17.3.1.

The setting of recommended water quality standards has taken into regard the potential effects of discharges on gathering of kaimoana and kaiawa and is hence considered consistent with Policy 17.4 (a) 2. The discharge of stormwater is consistent with Policy 17.4 (c)1.

10.1.5 Coastal Management

The proposed development preserves the natural character of the area from inappropriate development, prevents damage to fisheries values, and enhances access to the coastal environment, and therefore complies with Objectives 22.3.1, 22.3.2, and 22.3.3 of the RPS. The application is also

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considered to be consistent with the relevant matters of Policies 22.4(a)1, 22.4(a)2, 22.4(a)4, and 22.4(a)5 of the RPS.

10.1.6 Ecosystems and Biodiversity

The proposed development is being undertaken in a manner that should ensure the ongoing protection of mangroves, and if regarded as significant indigenous vegetation, complies with Objectives 23.3.2 and 23.3.3 of the RPS. The proposal is consistent with Policies 23.4.1 (maintenance of ecosystem health by avoiding adverse land use activities), and 23.4.8 (enhancement of riparian margins) of the RPS.

10.2 REGIONAL WATER AND SOIL PLAN FOR NORTHLAND

It is considered that, since all the relevant objectives and policies relating to water quality within the RPS have been met, then all the relevant objectives and policies of the RWSP regarding Discharges (Section 8) and have also been met, as they essentially the cover the same issues.

The proposed reclamation and structure on the bed of a wetland is consistent with Objective 11.4.1, and Policies 11.5.1, 11.5.7, and 11.5.11

10.3 REGIONAL COASTAL PLAN FOR NORTHLAND

The proposed activity does not encroach into the coastal marine area; therefore the provisions of the RCP do not apply.

11 CONCLUSION

Having considered the actual and potential effects associated with the proposal, it is concluded that the granting of these consents would promote the sustainable management of natural and physical resources, while enabling people and communities to provide for their social, economic and cultural wellbeing.

In respect of potential and actual adverse environmental effects associated with the proposal, relating to impacts upon the sandspit and adjacent mangrove wetland, these are considered to be no more than minor, and would be adequately controlled and mitigated by conditions set on the resource consents, if granted.

The proposal is not contrary to the objectives and policies contained in the relevant planning documents that this application has been assessed under.

Accordingly, the granting of consents would be consistent with Part 2 of the Resource Management Act 1991.

It is considered that consents should be granted subject to the conditions recommended in Section 13 below.

Term of Consent

It is the Council's practice to endeavour to have consistency of expiry dates in an area, catchment while also recognising individual circumstances such as the capital investment involved in the activity, likely environmental effects, whether during the first term of a consent the effects were as predicted, and if a structure is involved, the life of the structure.

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Consistency of expiry dates in an area or catchment enables a comprehensive review of all consents to be undertaken at the agreed time in the future.

In this case the proposal is a one off application that would not impact upon any other resource consent activities in this area, and is therefore able to be considered in isolation. In the case of the reclamation, Section 123 of the RMA states that this is unlimited, unless otherwise stated in the consent. All other consents are able to be issued for periods of up to 35 years. It is recommended that relatively short term consents of 5 years be granted for the earthworks and vegetation clearance, to enable the applicant sufficient time to undertake these works, and sufficient time to monitor the effectiveness and management of these activities. A period of 35 years is recommended for the structure. The recommended terms are consistent with the above approach, and are in keeping with the provisions of the RWSP and the RMA.

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12 RECOMMENDATION

CON20040886701 Non Notified New

JOHN KILDARE UPPERTON, P O Box 272, Kaikohe, 0400,

To undertake the following activities associated with the development of a house site at Pipiroa Road, Okiato in the catchment of Pipiroa Bay on Lot 1 DP 202228 Blk V Russell SD at about location co-ordinates 1702247E 6092953N

(Note: all locations referred to in this document are expressed as Geodetic Datum 2000, New Zealand Transverse Mercator Projection):

(01) Reclaim approximately 180 m^2 of the bed of a wetland.

(02) Place approximately 300 m^3 of earthworks fill within a Riparian Management Zone..

(03) Place a structure (dwelling) on the bed of a wetland.

(04) Clear vegetation within a Riparian Management Zone.

(05) Prune and remove vegetation from the bed of a wetland.

(06) Divert stormwater from land disturbance activities.

(07) Discharge stormwater from land disturbance activities to water.

Subject to the following conditions:

1 The Consent Holder shall ensure that the works are constructed generally in accordance with the following plans for John Upperton, Pipiroa Road, Pipiroa Bay, entitled:
- "Cross-Section through the Spit and Proposed House Site", Figure 7, (**attached**);
- "Schematic Site Plan showing proposed carriageway, proposed dwelling, proposed irrigation area, proposed reclamation area etc", Figure 8, (**attached**); and
- "Schematic Plan of Property showing proposed dwelling, proposed irrigation area, proposed reclamation area etc", Figure 9, (**attached**).

2 The Consent Holder shall notify the Northland Regional Council in writing of the date that earthworks are intended to commence, at least one week beforehand.

3 No earthworks shall be carried out between 1 May and 1 October in any year without the prior written approval of the Northland Regional Council.

4 The reclamation area shall be provided with sediment control measures to minimise the discharge of sediment laden stormwater into the wetland and/or adjacent coastal marine area. A plan detailing the proposed sediment controls and works methodology (including piling for any structure) shall be provided to the Northland Regional Council at least 2 weeks prior to the commencement of reclamation.

5 The reclamation area shall be adequately protected against erosion and sediment discharges by the use of rock or other long term protection measures.

6 The Consent Holder shall minimise contamination of surface water by ensuring that slash, debris and detritus is not placed in a position where it may enter any

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waterbody, and all mangrove trees and prunings shall be removed from the wetland area.

7 To minimise sediment loss, all areas of bare land created by the exercise of these consents, shall be topsoiled and established with suitable vegetation to achieve not less than an 80% ground cover by 31 May immediately following the earthworks season, or otherwise covered with suitable roading aggregate or mulch.

7 Notwithstanding any other conditions of these consents, the discharge of stormwater shall not cause the quality of the receiving waters, as measured 10 metres downcurrent of any discharge point, to fall below the following standards:

(a) The concentration of dissolved oxygen (daily minimum) shall not be reduced below 6 grams per cubic metre;

(b) The visual clarity of the water shall not be reduced by more than 40%;

(c) There shall be no conspicuous oil or grease films, scums or foams, floatable or suspended materials, nor emissions of objectionable odour; and

(d) There shall be no destruction of natural aquatic life by reason of a concentration of toxic substances.

8 Refuelling and servicing of machinery shall not be carried out in such a way that soil or water at the site is contaminated. Where an accidental spillage to land occurs, all contaminated soil shall be collected and removed to a suitable disposal site.

9 In the event of unknown archaeological sites or koiwi being uncovered, activities in the vicinity of the discovery shall cease. The Consent Holder shall consult with local iwi and the New Zealand Historic Places Trust, and shall not recommence works in the area of the discovery until the relevant Historic Places Trust approvals have been obtained.

10 The Council may, in accordance with Section 128 of the Resource Management Act 1991, serve notice on the Consent Holder of its intention to review the conditions of this consent annually during the month of May. The review may be initiated for any one or more of the following purposes:

(a) To deal with any adverse effects on the environment that may arise from the exercise of the consent and which it is appropriate to deal with at a later stage, or to deal with any such effects following assessment of the results of the monitoring of the consent and/or as a result of the Regional Council's monitoring of the state of the environment in the area.

(b) To require the adoption of the best practicable option to remove or reduce any adverse effect on the environment.

(c) To provide for compliance with rules in any regional plan that has been made operative since the commencement of the consent.

(d) To deal with any inadequacies or inconsistencies the Regional Council considers there to be in the conditions of the consent, following the establishment of the activity the subject of the consent.

(e) To deal with any material inaccuracies that may in future be found in the information made available with the application. (Notice may be served at any time for this reason.)

(f) To change existing, or impose new limits on total suspended solids.

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The Consent Holder shall meet all reasonable costs of any such review.

EXPIRY DATES: **(01) - Reclamation: UNLIMITED**
(03) – Structure: 30 April 2044
(02), (04) – (07): 30 APRIL 2014

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13 REASONS FOR THE RECOMMENDATION

Having considered the actual and potential effects associated with the proposal, it is concluded that the granting of these consents will promote the sustainable management of natural and physical resources. Any adverse effects will not be more than minor and will be adequately controlled and mitigated by the conditions set on the consents.

Accordingly, granting of consent is consistent with Part 2 of the Resource Management Act 1991.

DECISION ENCLOSURE CHECKLIST – *(please check the box that is relevant to this consent)*

- ☐ Looking After Your Household Sewage System
- ☐ Dam Safety
- ☐ Navigation Safety Bylaw 2001
- ☐ Your Well Water Might Be Making You Sick
- ☐ Flowing Artesian Bores
- ☐ What's Wrong With a Bit of Good Clean Dirt
- ☐ Erosion & Sediment Control on Construction Sites – Site Management for Permitted Activities
- ☐ Water Use Forms to be sent?
- ☒ Decision to be Sent to Iwi Group(s) – Refer Section 3 – *Officers please provide names and addresses.*
- ☐ No Pamphlet Required

OFFICERS – have you ticked the relevant boxes above?

REMINDER TASKS TO DO:

- GIS LINKS
- EXTRA INFORMATION DATA
- AREA CODE
- UPDATE DESCRIPTION IN DETAILS FIELD
- UPDATE CONSENT DATABASE

Report Prepared by:

Signed: .....

Date: 8 December 2005 & 9 July 2008

Geoff Heaps
Land Management Consents Officer

Lynley Newport

From: Joan Maingay [jmaingay@paradise.net.nz]
Sent: Sunday, 12 July 2009 3:43 p.m.
To: Lynley Newport
Subject: Re: Pipiroa Bay - NZAA site

also discovered more data in old files.

Hi Lynley,

Shell midden site - NZMS 260 grid ref. Easting 26 132 00, Northing 66 549 50. At northern end of Pipiroa Bay. Flat area and possible pit immediately above midden.

Hope this is adequate.

Regards - Joan
----- Original Message -----
From: "Lynley Newport" <Lynley.Newport@fndc.govt.nz>
To: "Joan Maingay" <jmaingay@paradise.net.nz>
Sent: Friday, July 03, 2009 11:07 AM
Subject: RE: Pipiroa Bay - NZAA site

[redacted]

Thanks Joan. I've identified the site as Q05-1124.
L

-----Original Message-----
From: Joan Maingay [mailto:jmaingay@paradise.net.nz]
Sent: Thursday, 2 July 2009 4:41 p.m.
To: Lynley Newport
Subject: Re: Pipiroa Bay - NZAA site

Hello Lynley,

Don't worry about emailimg me at home - everyone else does. As you are probably aware I'm no longer supposed to provide srfs given the new deal inaugurated by the NZAA Association etc. However I can supply basic informatuion and will see what I can find next wednesday.

Regards - Joan
----- Original Message -----
From: "Lynley Newport" <Lynley.Newport@fndc.govt.nz>
To: <jmaingay@paradise.net.nz>
Sent: Wednesday, July 01, 2009 3:51 PM
Subject: Pipiroa Bay - NZAA site

[redacted]

Greetings Joan,

Long time, no contact. Sorry to e-mail you at home - and I don't know if you can access any data from home? As you can see, I'm back with the Council. I'm trying to track down the background to an NZAA site showing on property at Pipiroa Bay, legally described as Lot 1 DP 202228 - property is at very end of unformed legal road along Pipiroa Bay beach frontage. There has been some confusion about whether there is anything of note on this site, or whether records are not right. A previous HPT registration for Opanui Wahi Tapu Area has been uplifted from the site because of a lack of justification and insufficient certainty. I'm trying to ascertain whether the NZAA 'site' is one and the same. If you can access records, are you able to supply me with a brief description of what the site is supposed to be?

Lynley Newport
Senior Resource Planner
Far North District Council
Private Bag 752, Memorial Avenue, Kaikohe 0440

Stephen L. Westgate, M.A. (Camb.)
Resource Management Consultant
[290 Beach Road, Onerahi, Whangarei: Home ph./fax (manual) 09 436-0335]*
E-mail: swestgate@xtra.co.nz

9 July 2009

Resource Consents Manager
Far North District Council
Private Bag 752,
KAIKOHE 0440

Attention: Lynley Newport
Senior Resource Planner

Re: UPPERTON RC-2090634-RMALUC – REQUEST FOR FURTHER INFORMATION

Thank you for your reply of 9 July to my email of 6 July. I am currently trying to collate a detailed response to your earlier letter of 24 June and that of Jessica Phillips of 12 June. However, your latest letter warrants a brief and prompt reply.

1. I acknowledge that the matter of the minor earthworks could have been addressed in greater detail and I am undertaking this.

2. I also acknowledge that it would have been helpful to have included Grant Stevens' original report that was attached to the initial application. I regret that you were obliged to research earlier files to locate this and I appreciate you endeavours in this regard.

3. I appreciate that this application must be treated as a new, stand-alone application. However, it has been developed from the earlier application and information, issues and concerns associated with that application are very relevant.

4. I recognise that planning requirements have changed and you will note that I have devoted almost 5 pages in the AEE to addressing objectives, policies and rules in the adopted district plan.

I did not say this! - see my letter

5. Thank you for providing clarification that the statement "no specialist reports have been provided to support the application" was intended to exclude the specialist report on effluent disposal provided by Richardson Stevens and submitted as an appendix, as well as a report from Mark Poynter. I trust you will appreciate the confusion that this statement caused. In addition, the statement that the 1999 waste water report was out of date also caused some confusion as it appeared to ignore the Grant Stevens confirmation and update that had been provided.

6. Unfortunately, I don't have the entire file with me in the UK so I am unable to comment on the aspect of mark Poynter's letter to which you have referred.

7. Some aspects of this application are fast approaching a level of absurdity. You have asked in your 9 July letter for further evidence in regard to Rule 12.7.6.1.3 that the proposed earthworks will not cause a change in the natural range of water levels and will not change the natural ecosystem or flora and fauna that the wetland supports. How can I explain this more clearly and in a more understandable form than I have already done? I'll try by building on what has already been stated.

(i) The wetland is a tidal wetland, connect ed to the open sea by a small stream that flows around the end of the sand spit (AEE 3.1).

(ii) The water level in the wetland is controlled by sea level and tidal flows. At low tide, the wetland empties out leaving just a small spring-fed creek bed. At high tide, the water level in the wetland approximates to high tide sea level, whatever that may be on the day.

(iii) No amount of infilling of the wetland would be likely to change the range of water levels in the remaining area given the factors that control the level. Water levels in two connected water bodies will always tend to equalise.

(iv) The area of wetland that would be affected by the footprint of the proposed dwelling, surrounds and access ramp is less than 0.1 hectare, i.e. no more than about 6% of the total mangrove area and about 2% of the wetland area of 5-6 ha (AEE 2.9 & 3.4).

(v) Most of this footprint will be occupied by the pole house. Only the pole supports will occupy the bed of the wetland. The only fill area below MHWS is over about 180 m^2 (or 0.018ha) or about 0.4% of the total wetland area or 1% of the mangrove area. Most of this fill will be above the level of MHWS in order to provide access to the elevated floor level of the dwelling.

[redacted] (vi) Of the estimated 270 m^3 to be placed beyond the horizontal limit of tidal influence, it is estimated from the drawing of Figure 7 that approximately 24 m^3 (30m x 4m x 0.2m average) will be below the vertical level of MHWS. Even if this volume were to be spread across the entire wetland area, it would raise the bed by only 0.5mm which would not be detectable.

(vii) The area selected in one of low mangrove density (AEE 3.4) in order to further minimise any adverse effects.

(viii) Given the hydrodynamic forces involved, it is reasonable to conclude that there will be no affect on the range of water levels. Given the very small area of wetland affected by the filling below MHWS, and the low mangrove density in the area, it is also reasonable to conclude that any effects on ecosystems, flora and fauna will be *de minimis*. As Mark Poynter has noted, there will be an "*unavoidable impact on a small area of the mangrove wetland*" but this is so small as to not affect the overall ecosystem, flora and fauna that the wetland supports.

8. I really did think that this would all be very obvious and be taken as a 'given.' I hope that we don't have to waste any more time arguing these points regarding Rule 12.7.6.1.3.

[redacted]

Yours faithfully

Stephen L Westgate

For: John K Upperton

So it therefore breaches the rule - but only has minor effects. Impt distinction in role that eg consent issues covers the current rules.

Lynley Newport

From: Lynley Newport
Sent: Wednesday, 8 July 2009 3:44 p.m.
To: 'geoffh@nrc.govt.nz'
Cc: 'Michael Day'
Subject: Upperton at Pipiroa Bay

Hi Geoff,

I've been doing quite a bit of historic file checking on this one, and as I said in my last e-mail, have also carried out a site visit.

I know all about maps and district boundaries etc etc, but can you advise on what basis it was ever decided the mangroves were not CMA? They're below MHWS - so as far as I'm concerned they are CMA - so was the issue simply a jurisdictional one? I'm curious as to your understanding of the matter.

Did the applicant's agent actually lodge a fresh application with NRC at the same time as they lodged land use consent application with FNDC, or are they simply asking you to continue (or resume) processing the 2005 Application? Inference in the land use [redacted]lication is the latter. In which case, what is your process? Have you already [redacted]opied the application to interested parties?

Does NRC have sufficient information to properly assess the effects of the NRC aspects of this proposal this time around? Until I went on site I didn't have a clear idea of what was being proposed. The building is totally within mangroves and will be over water; some reclamation of the mangrove area is proposed, along with clearance of mangroves; and various works (predominantly earthworks) are proposed within Riparian Management Zone. If you don't have sufficient info, have you already, or are you intending, asking applicant for additional information?

As a matter of course we have copied the land use (which will also include discharge) application to NRC (Michael Day I think) and have yet to receive any comment back. Have you discussed this between staff?

At our end we have requested additional information:

Clarification of some aspects of site plans; Specialist technical reports including - engineering - more detail than already provided - specifically updated wastewater report; plus specialist hydrological input on impact of (and on) coastal processes; engineering comment on stormwater; any particular building design requirements (if a[redacted]); more specifics on excavation and filling; plus more detail on road [redacted]mation/design - all of which I'm sure you guys would be interested in; Landscape assessment (more detail than already provided), with emphasis on proposed mitigation / enhancement measures; and Ecological Impact (more detail than already provided).

.. And you should be aware that the Kororareka Marae Society have expressed an interest in the land use application as well.

I know Rob Lieffring had lots to do with the original application - have you (or Michael) discussed this proposal with him? I note also that NRC officially opposed the original land use application in 2000.

As you can see, I have lots of questions, and no answers, and would really appreciate the opportunity to discuss this proposal in more detail with you guys.

Lynley Newport
Senior Resource Planner
Far North District Council
Private Bag 752, Memorial Avenue, Kaikohe 0440 Free Phone: 0800 920 029
Fax: 09 4070419
Email: lynley.newport@fndc.govt.nz
Website: www.fndc.govt.nz

Lynley Newport

From: Geoff Heaps [Geoffh@nrc.govt.nz]
Sent: Thursday, 9 July 2009 9:26 a.m.
To: Lynley Newport
Cc: Michael Day
Subject: RE: Upperton at Pipiroa Bay

Hi Lynley

I have added my responses to your email below.

Although I may have personal thoughts on the suitability of this site for a dwelling, I have assessed the effects insofar as they relate to NRC responsibilities in my staff report. I am reasonably comfortable with the proposed earthworks and mitigation measures to control sediment, and dont consider the small area of mangroves lost (given DOC's written approval), as being a significant adverse effect to this ecosystem.

Regards

Geoff Heaps
Land Management Consents Officer

Northland Regional Council
Private Bag 9021
Whangarei Mail Centre
Whangarei 0148

Phone: 09 4384639
DDI: 09 4701173
Fax: 09 4380012
Email: geoffh@nrc.govt.nz
Website: www.nrc.govt.nz

-----Original Message-----
From: Lynley Newport [mailto:Lynley.Newport@fndc.govt.nz]
Sent: Wednesday, 8 July 2009 15:44
To: Geoff Heaps
Cc: Michael Day
Subject: Upperton at Pipiroa Bay

Hi Geoff,

I've been doing quite a bit of historic file checking on this one, and as I said in my last e-mail, have also carried out a site visit.

I know all about maps and district boundaries etc etc, but can you advise on what basis it was ever decided the mangroves were not CMA?
They're below MHWS - so as far as I'm concerned they are CMA - so was the issue simply a jurisdictional one? I'm curious as to your understanding of the matter.
The cma is defined as the line of MHWS, **except** where it crosses a river. In this case a

river is shown as defined by a blue line on the topo map, therefore the cma is 5 times the width.

Did the applicant's agent actually lodge a fresh application with NRC at the same time as they lodged land use consent application with FNDC, or are they simply asking you to continue (or resume) processing the 2005 Application? Inference in the land use application is the latter. In which case, what is your process? Have you already copied the application to interested parties?

The application was received by NRC in 2005, and a staff report prepared. The application to NRC is currently on hold awaiting the decision from FNDC.

Does NRC have sufficient information to properly assess the effects of the NRC aspects of this proposal this time around? Until I went on site I didn't have a clear idea of what was being proposed. The building is totally within mangroves and will be over water; some reclamation of the mangrove area is proposed, along with clearance of mangroves; and various works (predominantly earthworks) are proposed within Riparian Management Zone. If you don't have sufficient info, have you already, or are you intending, asking applicant for additional information?

The written approval of DOC was deemed sufficient with respect to effects on the mangroves (probably based on the original alternative option of carrying out considerably greater reclamation). From a sediment control point of view I am satisfied that the effects are no more than minor and can be effectively mitigated. I agree that a small area of mangroves is being lost due to the house access, but the overall effects on the mangrove system in this area is deemed to be relatively minor, with only a small % of the total area lost.

As a matter of course we have copied the land use (which will also include discharge) application to NRC (Michael Day I think) and have yet to receive any comment back. Have you discussed this between staff?

I have discussed the application with both Micheal and Rob.

At our end we have requested additional information:

Clarification of some aspects of site plans; Specialist technical reports including - engineering - more detail than already provided - specifically updated wastewater report; plus specialist hydrological input on impact of (and
on) coastal processes; engineering comment on stormwater; any particular building design requirements (if any); more specifics on excavation and filling; plus more detail on road formation/design - all of which I'm sure you guys would be interested in; Landscape assessment (more detail than already provided), with emphasis on proposed mitigation / enhancement measures; and Ecological Impact (more detail than already provided).

I would be interested in receiving any further information you obtain, especially issues relating to coastal processes. However the site is relatively sheltered, so dont believe coastal erosion would be major concern in this area, compared to other more exposed sites. Climate change / rises in sea level are primarily related to floor levels, rather than the associated earthworks. As the FNDC is now processing the wastewater discharge application, most of the other matters mentioned are primarily for FNDC's consideration.

.. And you should be aware that the Kororareka Marae Society have expressed an interest

in the land use application as well.

I have received an email from Kororareka Marae Society requesting public notification, but no information on how this proposal would impact on sites of cultural or spiritual significance. I am also aware of the previous claims of an alleged wahi tapu on the site, and the subsequent removal of that designation by HPT. This matter appears to have been well canvased during and following the previous hearing.

I know Rob Lieffring had lots to do with the original application - have you (or Michael) discussed this proposal with him? I note also that NRC officially opposed the original land use application in 2000.

Rob's report related to the wastewater disposal system, and in this regard he stated that a suitable system could be designed and implemented. The recommended decline of the wastewater system was based on the alleged presence of a wahi tapu at the site - which has since proven not to be correct. I suspect that without the presence of the wahi tapu, his recommendation would have been to grant, as there is nothing in his report to suggest otherwise.

As you can see, I have lots of questions, and no answers, and would really appreciate the opportunity to discuss this proposal in more detail with you guys.

Lynley Newport
Senior Resource Planner
Far North District Council
Private Bag 752, Memorial Avenue, Kaikohe 0440 Free Phone: 0800 920 029
Fax: 09 4070419
Email: lynley.newport@fndc.govt.nz
Website: www.fndc.govt.nz

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NORTHLAND REGIONAL COUNCIL

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Far North
District Council

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Phone: (09) 405 2750
Fax: (09) 401 2137
Email: ask.us@fndc.govt.nz
Website: www.fndc.govt.nz

RC-2090634-RMALUC
For: Lot 1, Pipiroa Road, Russell 0272

9 July 2009

Stephen Westgate
Resource Management Consultant
290 Beach Road,
Onerahi,
Whangarei 0110
(swestgate@xtra.co.nz)

(Emailed)

Dear Steve

Re: UPPERTON RC-2090634-RMALUC – REQUEST FOR FURTHER INFORMATION

Thank you for your e-mail of 6th July 2009 in which you had 3 queries.

You wrote: *"the 12 June letter stated that "no special reports have been provided to support the application" Can you please confirm that the specialist reports listed as appendices to the AEE have now been located and that the 12 June statement is incorrect? If not, please advise which of the listed reports have gone missing and duplicates will be forwarded"*

The 12th June letter was not referring to the 'supporting documents' listed in your Appendix II. These supporting documents were all present, as listed, with the exception that pg 3 of the Statement of Evidence by G R Stevens dated 7 April 2000 (Appendix II.2) was missing. It would also have been more helpful if you had included the 12 October 1999 Suitability Report referred to by Mr Stevens in his evidence. I have since located these items in archived files.

The 12th June letter expressed the view that the application (including the supporting documents) did not contain sufficient specialist information/reporting to support the application and to enable a proper assessment.

This application has to be lodged and assessed as if it were a new application. Ten years have passed since the original application. The District Plan has been finalized. Council's information requirements are more stringent. There is a need (and an opportunity) to seek more up to date and detailed information on certain aspects.

The 12th June statement is not incorrect – and I repeat the confirmation in the subsequent 24th June letter that an up-to-date and more detailed Engineering Report, (covering the matters stated in the 12th June letter), is still requested. I would particularly like to emphasise the need for hydrological expertise in providing updated and detailed information on coastal hazards.

I also confirm that a more detailed landscape assessment is still requested. More details of proposed mitigation measures would be helpful - for example a proposed programme and methodology of pest plant and weed species removal and eradication, and replacement with appropriate indigenous species – including the general layout of the final proposed plantings; species types and numbers, and proposed ongoing pest plant control.

Although there is information from Mark Poynter regarding the mangrove habitat, the final paragraph of his 18th March 2002 contained an important 'caveat', namely that before he committed to supporting the proposal (the 27m setback) he would like another plan (preferably on an aerial photograph) so that he could get a clear picture and be assured he was not at cross purposes and so that he could get a better indication of the footprint relative to the overall area of wetland in this embayment and gully. There is no indication that this was ever provided to Mr Poynter or that he made any subsequent comment or report. Ecological impact and proposed enhancement and/or mitigation measures are important aspects of the proposal.

You also wrote: *"the 12 June letter states that Rule 12.7.6.1.3 is 'breached'. I have addressed this rule in the AEE, and assessed compliance as there is no change to water level in the wetland nor is there any change to the natural ecosystem or flora and fauna it supports. Can you please advise, either the basis for your assessment of non-compliance or that there is in fact compliance?"*

I rather think that the whole point of the 12 June statement is that Council is querying your assessment that there is compliance with this rule. The proposal is to construct a dwelling and carry out reclamation within an area of indigenous wetland – on what basis do you assess that such activities will not change water levels nor change the natural ecosystem or flora and fauna it supports?

Finally you asked for confirmation *"if the removal of weeds, exotic and pest plants is a permitted activity and if not, what is the relevant rule?"*

There is no rule in the plan restricting the removal of weeds, exotic and pest plants per se. However, please note Rule 12.7.6.1.3 – care would need to be taken to ensure no pest plants or exotic species are dumped or disposed of into the mangrove area, in order to avoid any adverse effect on the natural ecosystem.

If you have any further queries regarding Council's request for further information, please do not hesitate to contact me via e-mail.

Yours sincerely,

Lynley Newport
SENIOR RESOURCE PLANNER

Far North
District Council

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

MEMO

COPY

To:	Lou-Anne Ballantyne
CC:	
From:	Lynley Newport
Department	Environmental Services
Date	7 July 2009
Subject	**John Kildare Upperton** **RC-2090634-RMALUC** **Land Use**

Hi Lou-Anne,

You may recall I e-mailed you about a property at Pipiroa Bay and its District Plan listing as a Site of Significance to Maori.

I've found something on the property file, from Alison to Archives.

My e-mail, and Alison's note and correspondence are all attached to this memo. Can this be officially added into your system somewhere with regard to future changes to the District Plan.

Thanks.

Lynley

FAR NORTH DISTRICT COUNCIL
ENVIRONMENTAL SERVICES
M E M.O

18687

TO : **ARCHIVES**

CC : **CLLR LAURIE BYERS**

FROM : **ALISON NEWELL**

DATE : **27 AUGUST 2003**

SUBJECT : **PROPERTY FILE NO 3318687 413-103**

COPY

Please can you attach the following notice from NZ Historic Places Trust which removes the registration of the Opanui Wahi Tapu Area and consequentially the Site of Cultural Significance to Maori MS10-50 (as shown in the District Plan) from the property, Pipiroa Bay, Russell (currently owned by Mr John Upperton).

This information is important and MUST be provided with any LIM request.

Lynley Newport

From: Steve Westgate [swestgate@xtra.co.nz]
Sent: Monday, 6 July 2009 10:02 a.m.
To: Lynley Newport
Cc: John Upperton
Subject: Upperton Re: RC-2090634-RMALUC - Request for Further Information

Dear Lynley
A response to your letters of 12 June and confirmation letter of 24 June requires some further clarification. You have stated in your letter of 24 June that "this letter should be read in conjunction withb the 12 June letter, and should not be seen as replacing it."
You have not noted any errors in the 12 June letter.
Can you please confirm the following:
1. The 12 June letter stated that `" no specialist reports have been provided to support the application." Can you please confirm that the specialist reports listed as appendices to the AEE have now been located and that this 12 June statement is incorrect? If not, please advise which of the listed reports have gone missing and duplicates will be forwarded.

2. The 12 June letter states that Rule 12.7.6.1.3 is "breached." I have addressed this rule in the AEE, and assessed compliance as there is no change to water level in the wetland nor is there any change to the natural ecosystem or flora and fauna it supports. Can you please advise, either the basis for your assessment of non-compliance or that there is in fact compliance?

3. The district plan makes several comments about landowners' responsibility to eradicate weeds and pest plants. The plan affords protection to indigenous species. I can find no reference in the plan to the removal of weeds and pest plants (such as wattle, lantana, etc. as noted to occur on the sand spit) as requiring a resource consent. Can you please confirm if the removal of weeds, exotic and pest plants is a permitted activity? If not, what is the relevant rule?
Yours faithfully
Stephen L Westgate

Lynley Newport

From: Steve Westgate [swestgate@xtra.co.nz]
Sent: Friday, 3 July 2009 10:33 a.m.
To: Lynley Newport
Cc: John Upperton
Subject: RC 2090634-RMLUC, John Upperton

Dear Lynley
I refer to the letter from Jessica Phillips of 12 June and your follow up letter of 24 June.
I trust you will appreciate that with my being in the UK, not having my file of documents on hand (but fortunately my computer) and having to communicate with John, our response to a very exhaustive list of requests is taking a little longer to compile than would normally be the case.
In addition, a response was not commenced until you held an on-site meeting with John and confirmed Council's position in your follow up letter of 24 June.
It would appear that some of the information that you should have received with the application was either not received or not passed on to Jessica, which raises a number of issues that are not covered by s.92 or 92A. Some statements made are quite clearly incorrect while some are questionable, which raises procedural issues.
Your requests are being worked on and I expect to have a response to you by early next week.
Yours faithfully

Stephen L Westgate
MA (Cantab)

11.50 - 12.05
travel.
66724 - 66732.

12.05 - 12.30
site visit
66732 - 66770.

Upperton Site visit 29-6-09

Met John + Desiree on site which was handy because without them to indicate where house was going to go, I would not have known.

- Septic bodies located.

Tide was coming in. Clear from shell deposits that tidal intrusion from beach side does over-top grass on spit occasionally, but not the spit in its entirety.

- Spit badly overgrown with wattle, gorse, creepers. Previously planted pohutukawa doing quite well, but completely overgrown by ~~exto~~ exotics.

Complete + dense existing visual screening from CMA, + indeed most public vantage points.

Alignment of proposed driveway relatively obvious

but at carpark end, quite narrow - wave action is nibbling away at "roadway" land.

Bush reserve adjoining - not in healthy vegetative state. Public walking track on carpark side of reserve → up to Anchor Rd, & as this rises to Anchor Rd, public would have views of the site & bldg "platform".

Kiwi area sign at carpark, requesting dogs on leash. would suggest this indicates need for cats / dog ban on application site - doesn't seem to be an issue with applicants.

Entire building will be within mangrove area. Intended to fill / reclaim area adjacent to inner side of spit for "ramp" to deck & garage, & then the house itself will stand (on pole foundations) within mangroves.

Spit exhibits firm foundation, well drained (given the health of vegetation, including an olive tree). However, it is very narrow & proposed drainage (drip) lines are within 10m (+ less) of the MHWS mark.

- Applicant advises it their intention to progressively replace vegetation with attractive & landscaped indigenous species, (with the odd fruit tree)?

also advise that Steve Langstaffe will be

- responding formally to our request.

Lynley Newport

From: david@tsurvey.co.nz
Sent: Friday, 3 July 2009 9:53 a.m.
To: Lynley Newport
Subject: RE: Wee favour - NZAA database

Attachments: Okiato scale one to 10000.JPG; Okiat0 scale one to 5000.JPG


Okiato scale one to 10000.JPG ...


Okiat0 scale one to 5000.JPG (...

Hi Lynley

As requested

Am speaking with various people - re you should be using:

www.archsite.com

Any one can view the CINZAS 'Stars' - in colour at a scale at 1 to 50,000.
It is adequate for a s92 request etc

Does every planner/LIM/PIM/BC officer have www.archsite.com on their desktop by now?

FNDC should have subscribed by now to the web site - all Site Records are digitalised and available on request instantly online

This is a user's pay world. I cant see why council cannot recover the Annual fee for this service

Cheers

David Stringer
Resource Management Planner
Thomson Survey Ltd
PO Box 372 Kerikeri 0245
Office located at 315 Kerikeri Road
Phone 09 407 7360
Fax 407 7322
ah 407 6532
david@tsurvey.co.nz
www.tsurvey.co.nz

This message is for the named person's use only. It may contain confidential, proprietary or legally privileged information. No confidentiality or privilege is waived or lost by any mis-transmission. If you receive this message in error, please immediately delete it and all copies of it from your system, destroy any hard copies of it and notify the sender at Thomson Survey Ltd Kerikeri or e mail kerikeri@tsurvey.co.nz .
You must not, directly or indirectly, use, disclose, distribute, print, or copy any part of this message if you are not the intended recipient.

-----Original Message-----
From: Lynley Newport [mailto:Lynley.Newport@fndc.govt.nz]
Sent: Thursday, 2 July 2009 8:35 a.m.
To: david@tsurvey.co.nz
Subject: Wee favour - NZAA database

Good morning David,

Could you please look on your NZAA Quickmap and tell me the site record number for a recorded site showing on Lot 1 DP 202228; Pipiroa Bay, Okiato Point. Our system shows dots and location, but doesn't provide

the site record number.

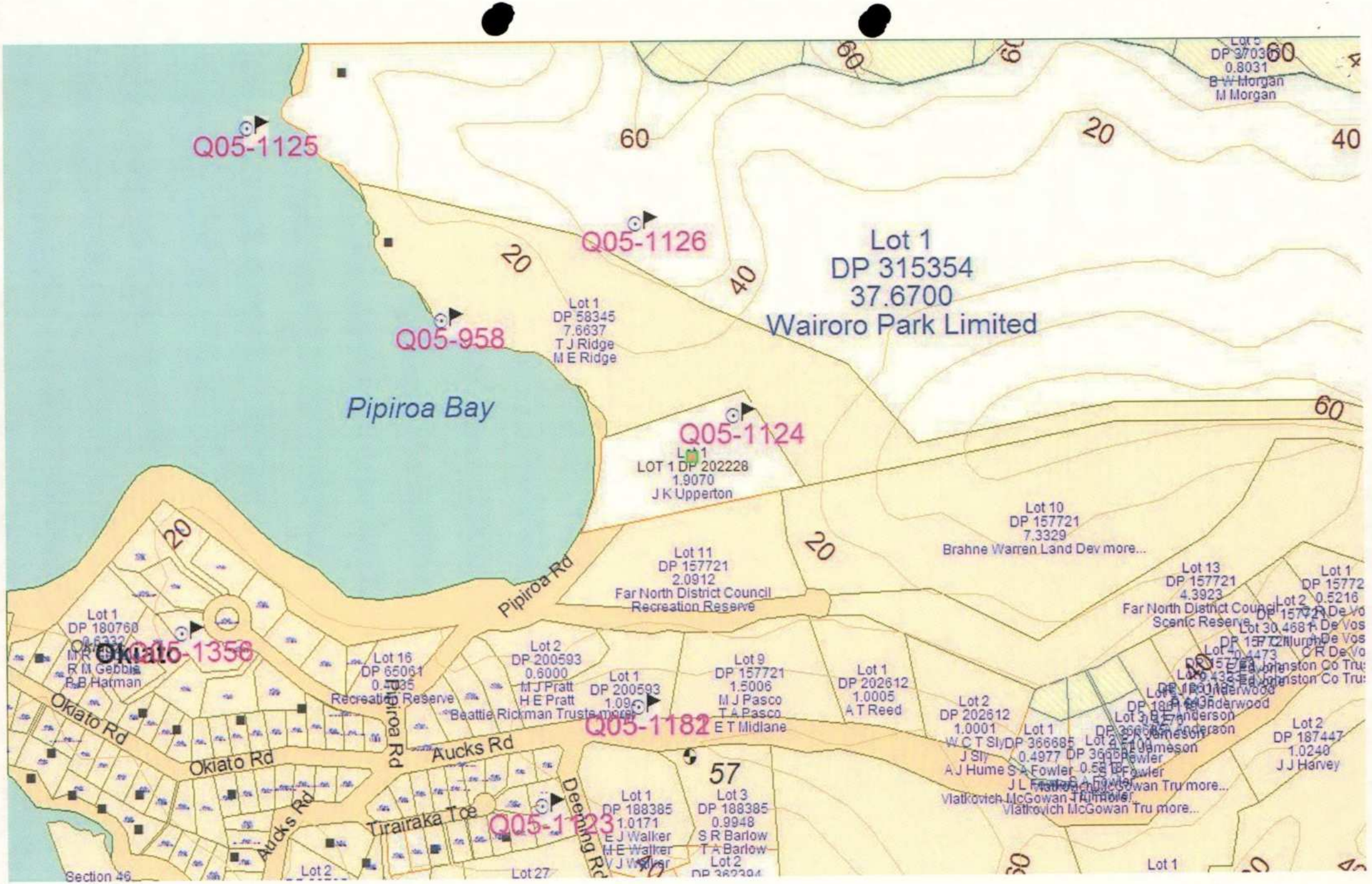
Thanks.

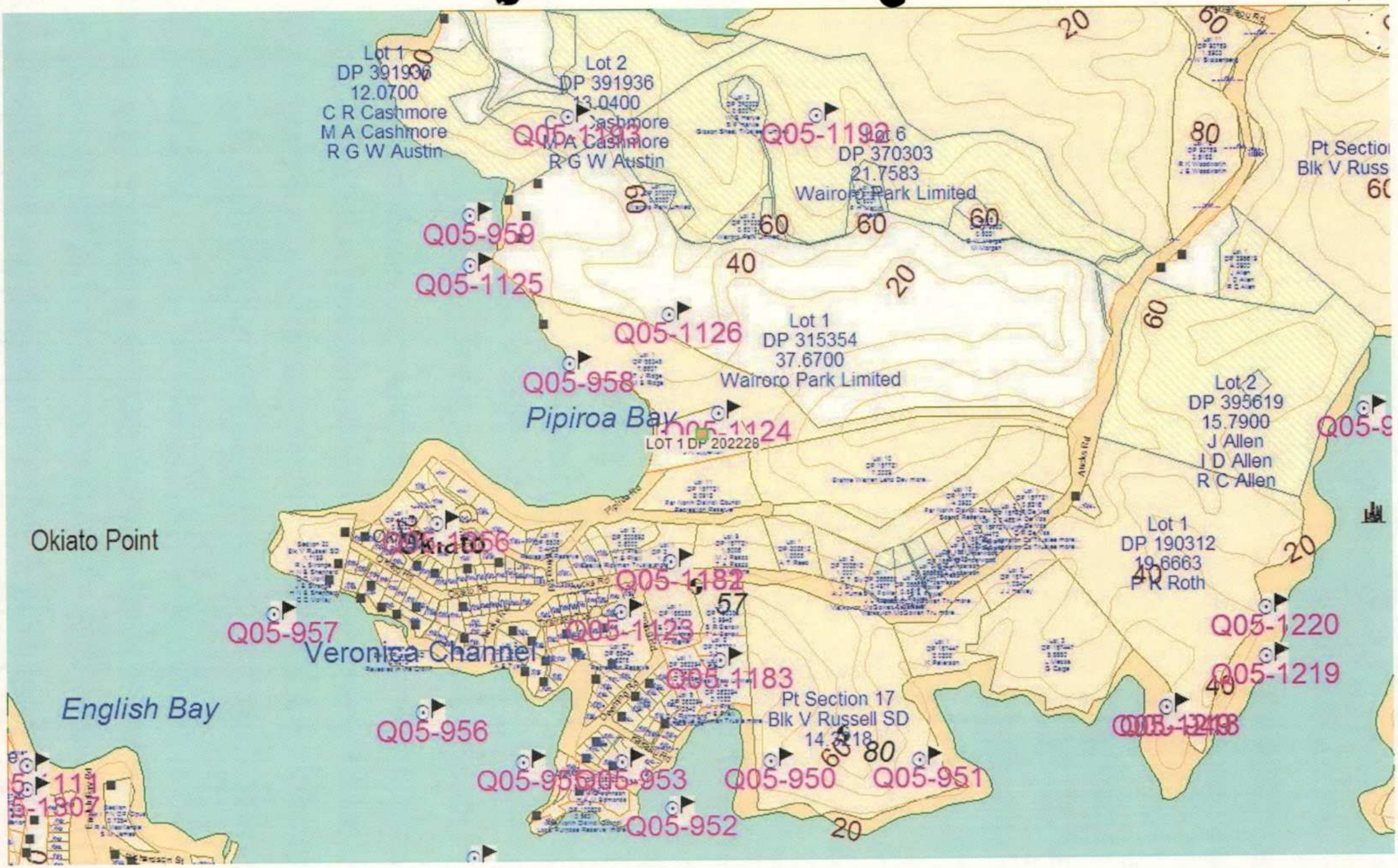
Lynley

_____ Information from ESET NOD32 Antivirus, version of virus signature database 4205 (20090701) _____

The message was checked by ESET NOD32 Antivirus.

http://www.eset.com


Q05-1125
Q05-1126
Q05-958
Q05-1124
Q05-1356
Q05-1182
Q05-1123
Lot 1
DP 315354
37.6700
Wairoro Park Limited
Pipiroa Bay
Lot 1
DP 58345
7.6637
T J Ridge
M E Ridge
Lot 1
LOT 1 DP 202228
1.9070
J K Upperton
Lot 10
DP 157721
7.3329
Brahne Warren Land Dev more...
Lot 11
DP 157721
2.0912
Far North District Council
Recreation Reserve
Lot 13
DP 157721
4.3923
Far North District Council
Scenic Reserve
Lot 1
DP 180760
R M Gebbie
P B Hatman
Okiato
Lot 16
DP 65061
Recreation Reserve
Lot 2
DP 200593
0.6000
H J Pratt
H E Pratt
Lot 1
DP 200593
1.09
Beattie Rickman Trustees more...
Lot 9
DP 157721
1.5006
M J Pasco
T A Pasco
E T Midlane
Lot 1
DP 202612
1.0005
A T Reed
Lot 2
DP 202612
1.0001
W C T Sly
J Sly
A J Hume
Lot 1
DP 366685
0.4977
S A Fowler
J L Fowler
Vlatkovich McGowan Tru more...
Lot 2
DP 187447
1.0240
J J Harvey
Okiato Rd
Aucks Rd
Pipiroa Rd
Tirairaka Tce
Deering Rd
57
Lot 1
DP 188385
1.0171
E J Walker
H E Walker
Lot 3
DP 188385
0.9948
S R Barlow
T A Barlow
Lot 2
Lot 27
Section 46
Lot 1
60
20
40


Lot 1
DP 391936
12.0700
C R Cashmore
M A Cashmore
R G W Austin
Lot 2
DP 391936
13.0400
C R Cashmore
M A Cashmore
R G W Austin
Q05-1193
Q05-1192
Lot 6
DP 370303
21.7583
Wairoro Park Limited
Pt Section
Blk V Russ
Q05-959
Q05-1125
Q05-1126
Lot 1
DP 315354
37.6700
Wairoro Park Limited
Q05-958
Pipiroa Bay
Q05-1124
LOT 1 DP 202228
Lot 2
DP 395619
15.7900
J Allen
I D Allen
R C Allen
Okiato Point
Q05-1182
Q05-957
Veronica Channel
Q05-1123
Q05-1183
Lot 1
DP 190312
19.6663
P R Roth
Q05-1220
Q05-1219
English Bay
Pt Section 17
Blk V Russell SD
14.2218
Q05-956
Q05-955
Q05-953
Q05-950
Q05-951
Q05-952

Far North District Council

FACSIMILE

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

Company:	
Attention:	Joan Maingay
Fax Number:	09 470 3301
From:	Lynley Newport
Department:	**Direct Fax No:**
Date:	01-Jul-2009
Page(s) including cover page:	2
Subject:	Re: **RC-2090634-RMALUC, John Kildare Upperton**

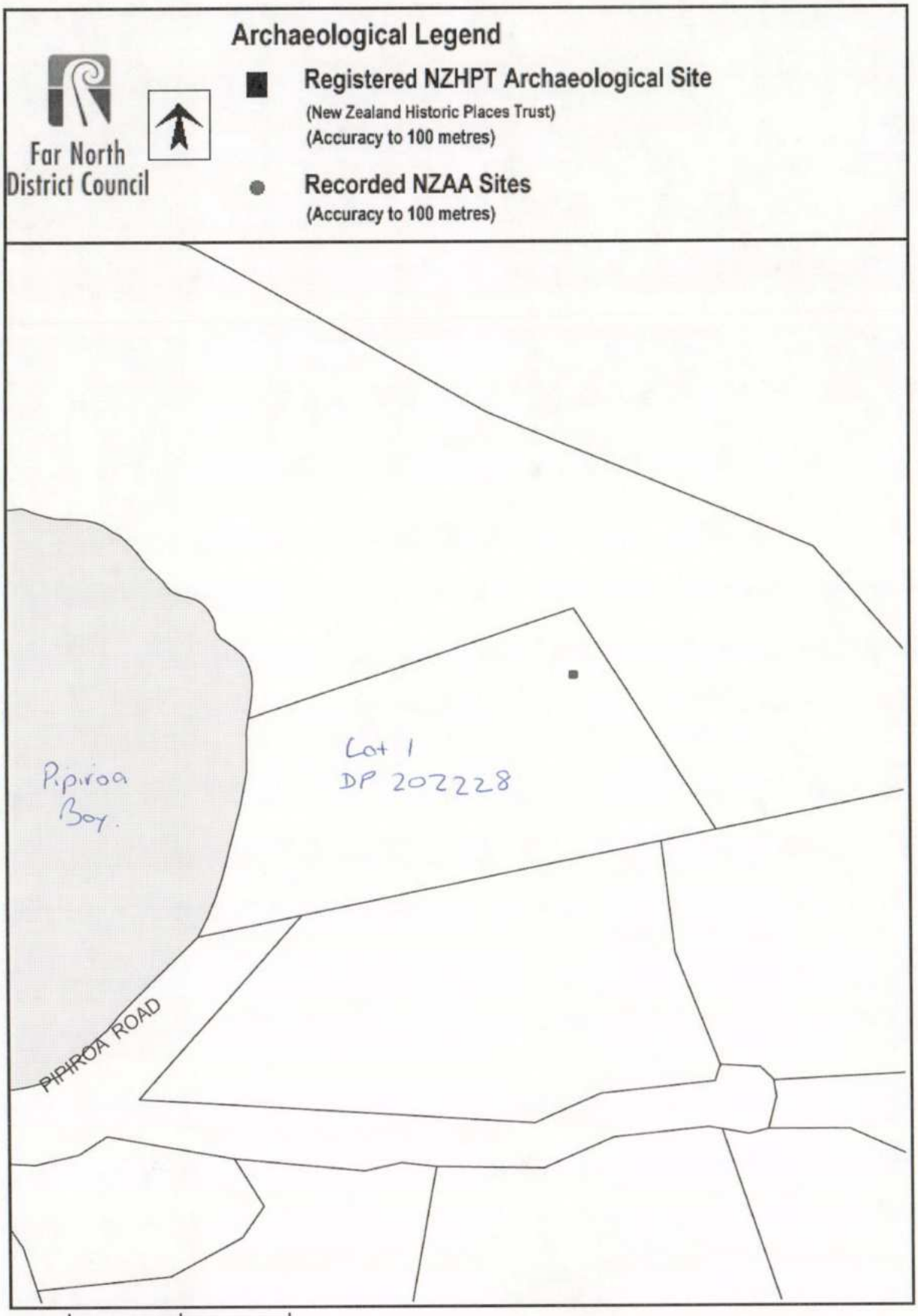
Greetings Joan,

Long time, no contact. As you can see, I'm back with the Council. I'm trying to track down the background to an NZAA site showing on property at Pipiroa Bay, legally described as Lot 1 DP 202228 (see attached). There has been some confusion about whether there is anything of note on this site, or whether records are not right. A previous HPT registration for Opanui Wahi Tapu Area has been uplifted from the site because of a lack of justification and insufficient certainty. I'm trying to ascertain whether the NZAA 'site' is one and the same. Can you perhaps ring me about it?

Lynley Newport
Senior Resource Planner

e-mailed instead.

NOTE: If this fax, and its attachments, are illegible or you do not receive the same number of pages as stated above, please telephone the writer immediately on 0800 920029



100 m 1 : 2501

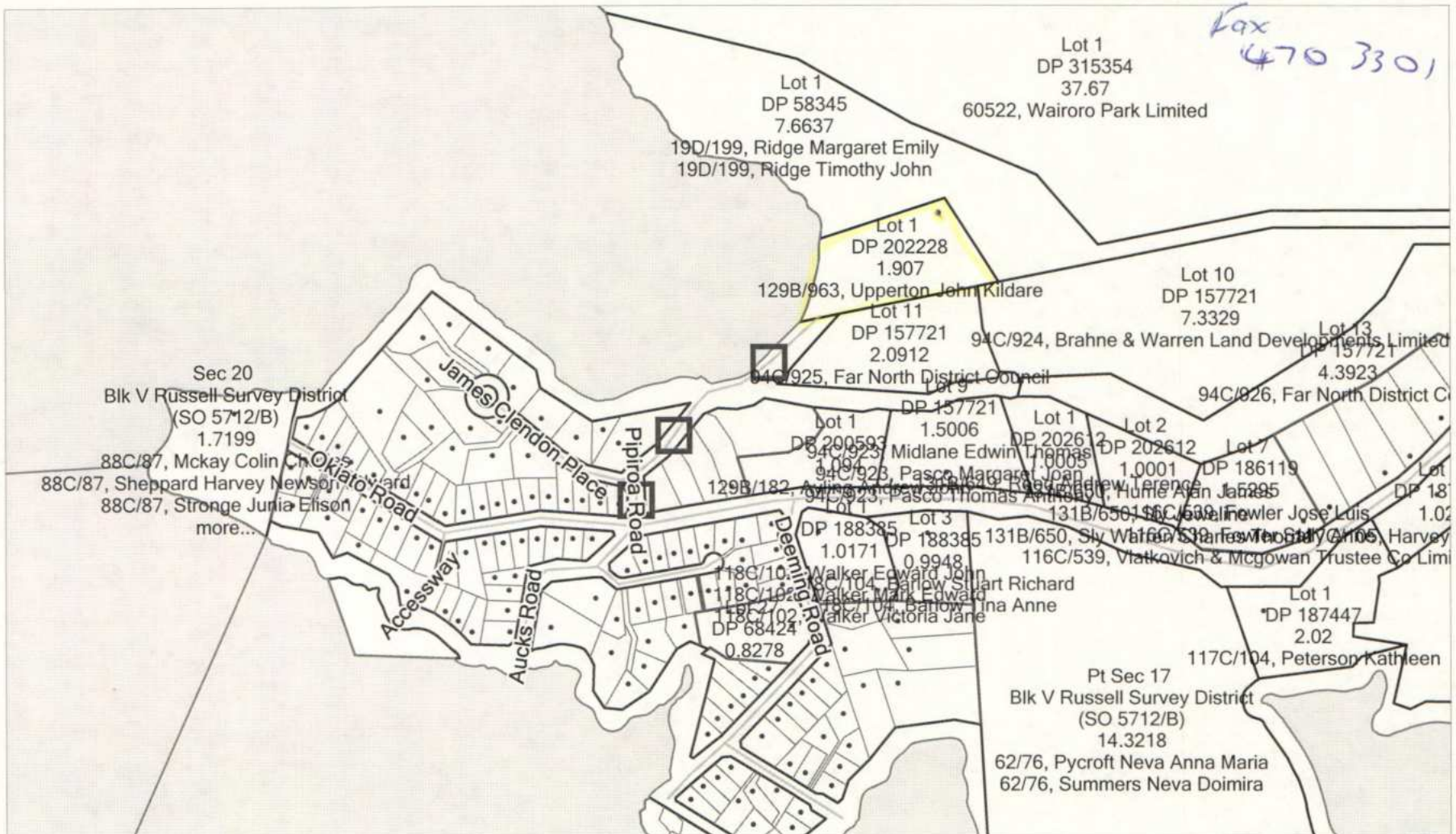
This map has been provided in good faith and for information purposes only. The Far North District Council is not liable for any errors or omissions. Any persons considering purchasing property are advised to have all boundaries confirmed by a licensed Cadastral Surveyor.

Produced by the Far North District Council 15:32 7/1/2009

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Attn: Joan Maingay
(09) 430 2479
430 2470

Fax 470 3301



jmaingay@paradise.net.nz

Lynley Newport

From: Lynley Newport
Sent: Wednesday, 1 July 2009 3:28 p.m.
To: 'Steve Westgate'
Cc: 'castleduo@maxnet.co.nz'
Subject: RE: John Upperton

Greetings Steve,

Your item 5: Short answer is none. Council has no responsibility for maintaining access to the properties served by an unformed road. The cost of constructing any accessway in the first instance will be totally on the applicant.

Your item 3 (related to above): The unformed road is technically a separate site, albeit the work is linked to development of the adjoining site. My understanding is that for the unformed road we would assume the same zoning as the immediately adjoining landward property for the purposes of applying District Plan rules - Conservation Zone in this instance, which has the same excavation/filling rules as General Coastal. No specific exclusion for forming access, therefore you'd have to go through the rules to ascertain compliance.

By the way, I would actually beg to differ in your interpretation of Rules in the regional plan - permitted activities only relate to 'maintenance' of access in the Riparian Management Zone. In this instance, the work involved is actually the 'creation / forming' of access, not maintenance.

Your item 4: the rules you refer to are intentionally different. The latter rule, applying to General Coastal & Conservation zones (amongst others) is meant to be more restrictive - so no, it does not infer an average height - straight maximum of 1.5m. Anything above that requires resource consent (discretionary activity status).

In terms of your items 1 & 2 - I need to talk further with Geoff Heaps at NRC regarding jurisdictional matters and duplication. I have to say that it is not easy to 'talk' with Geoff as he appears to be quite hard to get hold of! Your questions raise the entire issue of overall jurisdiction again.

I will let you know the outcome of any discussions I manage to have with Mr Heaps.

Lynley Newport
Senior Resource Planner
Far North District Council
Private Bag 752, Memorial Avenue, Kaikohe 0440
Free Phone: 0800 920 029
Fax: 09 4070419
Email: lynley.newport@fndc.govt.nz
Website: www.fndc.govt.nz

From: Steve Westgate [mailto:swestgate@xtra.co.nz]
Sent: Wednesday, 1 July 2009 4:53 a.m.
To: Lynley Newport
Cc: John Upperton
Subject: John Upperton

Hi Lynley
Re: RC-2090634-RMALUC, John Upperton.
I'm working my way through the Council requests for additional information. I hope that you can assist with a few queries regarding the proposed earthworks.

1. Part of the earth ramp to the proposed dwelling is below MHWS in a tidal wetland. This is considered to be a reclamation. A consent for a reclamation to cover the earthworks below MHWS has been applied for to the

NRC. District Council jurisdiction usually extends to MHWS. What is the situation here? Does FNDC jurisdiction extend only to MHWS? or beyond to include a reclamation?

2. I realise that the part of the earth ramp above MHWS will be subject to FNDC rules. Again, consent has been applied for to the NRC for placement of fill in a RMZ. This potential doubling up of consents for the same activity is an unfortunate bureaucratic nonsense that I hope an RMA amendment will address at some time!

3. I can find no reference in the district plan to accessway formation and/or maintenance involving minor excavation and placement of fill as being a permitted activity (other than generally authorised permitted earthworks), which I would logically have expected. The council has not maintained access to the subject property along the unformed road to the property. The unformed road has become virtually inaccessible due to the dense growth of almost entirely exotic and pest shrubs and trees (as described in AEE 3.3). Clearance of this vegetation and the placement of base course and clean top course material (shell is proposed) will be the minimum necessary to provide access to and allow the occupation of the proposed dwelling. This has been assessed as a **Permitted Activity** under Northland Regional Council RW&SP Rules 34.2(c)(iii) and 34.3 (b)(iii) relating to maintenance of access in the RMZ. Assuming that the district plan is consistent with the regional plan, it would be expected that this would also be a permitted activity under the district plan. Can you advise if this is correct?

4. Rule 12.3.6.1.1 specifies a maximum average cut height of 1.5m. Rule 12.3.6.1.2 specifies a maximum cut height of 1.5m. Does this infer an average height, consistent with Rule 12.3.6.1.1?

5. What responsibilities does the district council have in regard to maintaining access to properties served by an unformed road?

6. It is presumed that the question of providing access to the subject property along the unformed road would be a matter of separate negotiation with the Council? A suggested outline of the proposed access upgrade is described in the AEE. Perhaps you could comment on this?

With thanks and regards
Steve Westgate
(for John Upperton)

Lynley Newport

From: Lynley Newport
Sent: Wednesday, 1 July 2009 10:21 a.m.
To: 'geoffh@nrc.govt.nz'
Subject: FW: John Upperton

Hi Geoff

See below. This is Steve's response to a request for further information. Note his questions 1 and 2 in particular which relate to jurisdiction issues.

I've been delving into the history a bit more. And I figure there must have been some sort of 'call' made first time round that the development was not within CMA.... but with questions like 1 and 2 below - I have to wonder again about this whole jurisdiction question.

I think it would be very beneficial if we could discuss this in more detail. Have you been on site? Can we meet?

Lynley Newport
Senior Resource Planner
Far North District Council
Private Bag 752, Memorial Avenue, Kaikohe 0440
Free Phone: 0800 920 029
Fax: 09 4070419
Email: lynley.newport@fndc.govt.nz
Website: www.fndc.govt.nz

From: Steve Westgate [mailto:swestgate@xtra.co.nz]
Sent: Wednesday, 1 July 2009 4:53 a.m.
To: Lynley Newport
Cc: John Upperton
Subject: John Upperton

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3. I can find no reference in the district plan to accessway formation and/or maintenance involving minor excavation and placement of fill as being a permitted activity (other than generally authorised permitted earthworks), which I would logically have expected. The council has not maintained access to the subject property along the unformed road to the property. The unformed road has become virtually inaccessible due to the dense growth of almost entirely exotic and pest shrubs and trees (as described in AEE 3.3). Clearance of this vegetation and the placement of base course and clean top course material (shell is proposed) will be the minimum necessary to provide access to and allow the occupation of the proposed dwelling. This has been assessed as a **Permitted Activity** under Northland Regional Council RW&SP Rules 34.2(c)(iii) and 34.3 (b)(iii) relating to maintenance of access in the RMZ. Assuming that the district plan is consistent with the regional plan, it would be expected that this would also be a permitted activity under the district plan. Can you advise if this is correct?

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5. What responsibilities does the district council have in regard to maintaining access to properties served by an unformed road?

6. It is presumed that the question of providing access to the subject property along the unformed road would be a matter of separate negotiation with the Council? A suggested outline of the proposed access upgrade is described in the AEE. Perhaps you could comment on this?

With thanks and regards
Steve Westgate
(for John Upperton)

Lynley Newport

From: Steve Westgate [swestgate@xtra.co.nz]
Sent: Wednesday, 1 July 2009 4:53 a.m.
To: Lynley Newport
Cc: John Upperton
Subject: John Upperton

Castledu@xtra.net.co.nz

Hi Lynley
Re: RC-2090634-RMALUC, John Upperton.
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track & road not the same as maintenance

4. Rule 12.3.6.1.1 specifies a maximum average cut height of 1.5m. Rule 12.3.6.1.2 specifies a maximum cut height of 1.5m. Does this infer an average height, consistent with Rule 12.3.6.1.1? no - intended to be different.

5. What responsibilities does the district council have in regard to maintaining access to properties served by an unformed road? none -

6. It is presumed that the question of providing access to the subject property along the unformed road would be a matter of separate negotiation with the Council? A suggested outline of the proposed access upgrade is described in the AEE. Perhaps you could comment on this?

part of applic^n & requires rdg input.

With thanks and regards
Steve Westgate
(for John Upperton)

need to discuss with Geoff Heaps again - Suggest mtg.

old agenda from archives - go see it

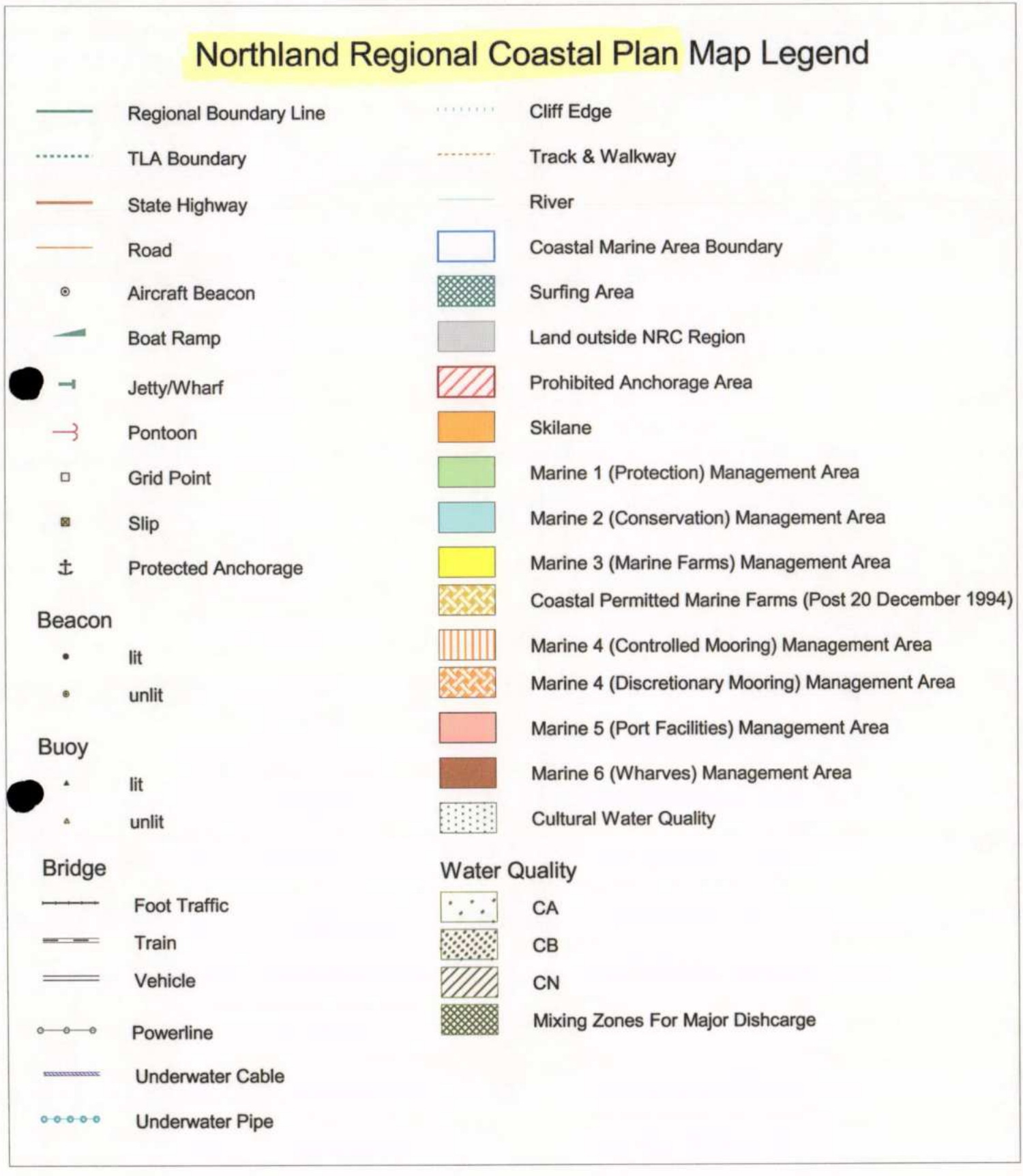
3. Walks on [illegible] land, so needs FNDC's permission. Would have to be appropriate access - might need stiles & protect. - noting edge erosion by users - other.

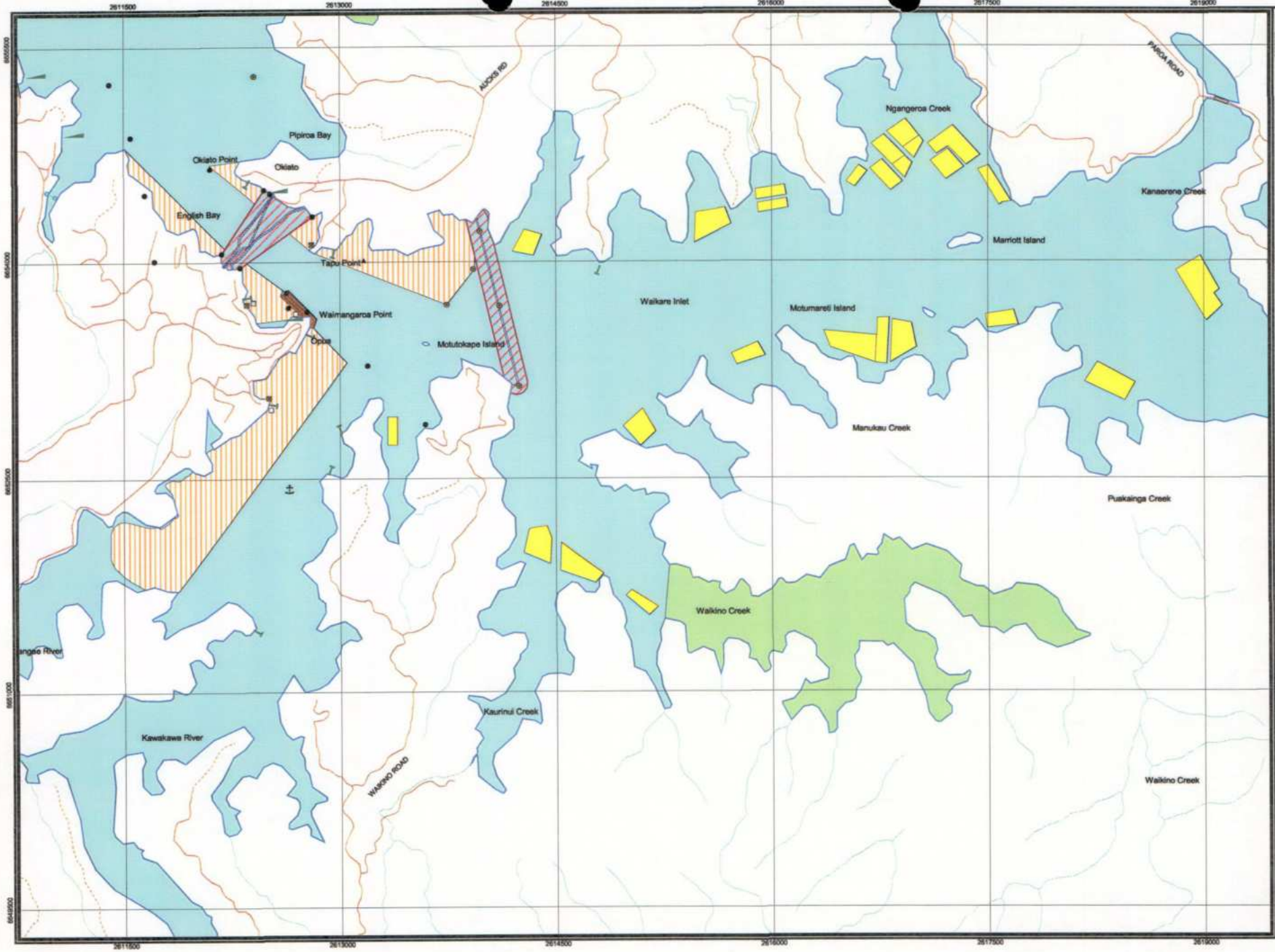
Responsible construction [illegible] yours, incl. any consents
" " maintenance " " required

If any impermeable surface - then FNDC consent required

Disagree it's permitted under R&D Plan - not track mtce its more like construction

Northland Regional Coastal Plan Map Legend





Map C8

Opua / Waikare Inlet

N

Map Scale
1 :25000

LEGEND LOCATED AT BACK OF MAP FOLDER

Topographical and Cadastral Information derived from Land Information NZ. CROWN COPYRIGHT RESERVED

Map grid values are shown in NZMG co-ordinates, GD 1949.

These maps are an indicative representation, for more specific information contact the NRC.

The RCP for Northland covers the coastal marine area which extends from the landward extent of Mean High Water Springs and the negotiated cross river mouth boundary to the 12 Nautical Mile limit.

Caution: This map should not be used for navigational purposes.

Locality Map:



NORTHLAND REGIONAL COUNCIL

CARING FOR NORTHLAND AND ITS ENVIRONMENT

Lynley Newport

From: Lynley Newport
Sent: Wednesday, 24 June 2009 11:07 a.m.
To: 'geoffh@nrc.govt.nz'
Subject: Upperton at Pipiroa Bay

Spoke with Geoff. He's compared infoⁿ he has with infoⁿ sent in with application. ~~Does~~ Doesn't seem to be a lot of difference, but he'll double-check.

Good morning Geoff,

The above application (RC-2090634) has been re-assigned to me.
I wonder if I could chat to you about this one - which I believe is referenced at NRC as CON 20040886701.

We have the land use application lodged, for breaches of:

10.6.5.3.1 Visual Amenity (general coastal zone);
12.7.6.1.1 Setback from waterbody boundary;
12.2.6.1.3 Clearance of indigenous vegetation (in this instance mangrove);
12.7.6.1.4 Discharge of effluent within setback from waterbody and associated discharge permit for on-site domestic effluent disposal;
[redacted].5.6.2.2 Development on site noted as Site of Significance to Maori;

The above being identified by the applicant;

And additionally Council has identified potential further breaches:
12.3.6.1.2 Excavation and Filling in the General Coastal Zone - dependent on quantity of excavation and filling and height of any cut face or fill (further info being requested from applicant);
12.7.6.1.3 Development that might affect the indigenous wetland (applicant maintains their activity will not, but further info being requested).

All of which results in discretionary activity status. Application currently suspended further a request for further information.Applicant has requested non-notification on the basis that effects are minor and no parties are adversely affected.

In addition to necessary FNDC consents, the applicant's agent identifies several NRC consents needed, for the reasons listed below, and suggests FNDC liaise with you in regard to joint processing.

NRC consents needed for:

Erecting a structure over a wetland (the bed of tidal watercourse) Reclamation of part [redacted] a river bed Clearance of vegetation in wetland Earthworks within Riparian Management Zone

A copy of the current application and accompanying information was forwarded to NRC (and I believe is with Michael Day).
My first question is - do you have the same background information in front of you for CON 20040886701 as we do for the current application?
My second question is - if not, do you have more information that would be relevant to FNDC consent processing, in particular regarding proposed earthworks / filling (given the consents required from NRC relating to reclamation and earthworks).

Is it possible for you to forward a copy of the application information provided to NRC for CON 20040886701? And give me an update as to where this is at.

Perhaps we can discuss. I've left a message on your phone with my DDI number.

Lynley Newport
Senior Resource Planner
Far North District Council
Private Bag 752, Memorial Avenue, Kaikohe 0440 Free Phone: 0800 920 029
Fax: 09 4070419
Email: lynley.newport@fndc.govt.nz
Website: www.fndc.govt.nz

Far North
District Council

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

RC-2090634-RMALUC
For: Lot 1, Pipiroa Road, Russell 0272

4 0148 40

24 June 2009

John Upperton
P O Box 272
Kaikohe 0445

Dear John

Re: RC-2090634-RMALUC – Request for Further Information

Thank you for your enquiry regarding correspondence dated 12 June 2009 requesting further information pursuant to Section 92.

Please note that this letter should be read in conjunction with the 12 June letter, and should not be seen as replacing that earlier letter.

Council has now carried out a review of your application and the request for further information. As part of that review historic files were also looked at.

Council's 12 June correspondence quite rightly stated that any Assessment of Environmental Effects accompanying an application must be of sufficient detail, appropriate to the scale and significance of the actual or potential effects that the activity may have on the environment – such that the Council can determine the actual and potential effects of the activity and that no persons or parties will be adversely affected.

Your application relies on supporting information and reports provided as part of the original process, most of which is several years old. The coastal environment is a dynamic one and physical characteristics of a site can alter. There is ongoing scientific work being done in terms of climate change and potential sea level rise. These matters are of relevance to your proposal.

Further points to note are that information requirements are more demanding / stringent than perhaps expected several years ago; and that in assessing the application, the Council has identified two additional potential rule breaches – but in order to ascertain whether these rules are actually breached, additional information was requested.

Since the 12 June 2009 correspondence, Council has contacted Geoff Heaps of Regional Council with a view to discussing the proposal and aspects of joint processing, but more specifically seeking a copy of the information provided to the Regional Council in lodging the application for CON 20040886701 (if any different from that provided with this current FNDC application). To date he has not responded.

Council has also received communication from the Kororareka Marae Society, advising that it has an interest in this Kaupapa. They state that Pipiroa Bay and the surrounding wetlands are of high significance to Maori.

Returning now to the request for further information, Council confirms its request for the following information:

1. Site Plans

While some information has been provided by way of site plans and cross sections, (and brief comment in the AEE), this is not considered sufficient to ascertain whether the proposal breaches the Council's **Excavation and Filling** rules and/or whether an **Earthworks Permit** is required. The original section 92 request in relation to further diagrammatic information regarding excavation and filling is confirmed. See also comments about an Engineering Report below.

Figure 9 of the application does indicate the **area to be disturbed in terms of mangroves** on the site itself. Can you confirm that this is the only area of mangroves to be disturbed (pruned or removed) on the site, and whether there are any additional areas of indigenous vegetation that it is proposed to prune, remove (or replace). Also it would be helpful if you could provide some **diagrammatic detail as to how much indigenous vegetation will need to be removed in order to provide for the access** both along the unformed legal road alignment, and internal to the site.

- very little indig veg ~ along access route.

I attach a copy of a **floor plan** that I located in the historic file. Please confirm if this floor plan is still valid and, if not, please provide an updated version. The reason for seeking a floor plan is that this will form part of any consent granted and the Council has to ensure that the proposed dwelling is for the purpose specified, e.g. single residential unit.

John confirmed the floor plan is basically unchanged from attached.

2. Engineering Report

Council confirms the need for a more up to date and comprehensive **Engineering Report**, as requested on pg 3 of the 12th June correspondence. The only engineering information provided by a Chartered Professional Engineer and supplied with the application was that relating to on-site effluent (the Stephenson & Williams report), plus a one page subsequent letter; and the Statement of Evidence from Grant Stevens presented to the original hearing – which is several years' old. It is noted that **pg 3 is missing from this evidence**. It would be appreciated if you could please provide this page.

3. Landscape Report

When a party seeks to develop and build within the General Coastal Zone, breaching the Visual Amenity rules in the District Plan, it is the norm for the application to include an assessment of effects on visual amenity (addressing the assessment criteria listed in the District Plan), and outlining proposed mitigation measures. This often includes a landscape planting plan that becomes a condition of consent.

The Assessment of Environmental Effects provided with the application, specifically section *7.2 addressing Physical Effects, including Landscape and Visual*, is not considered sufficient to enable the Council to determine whether the adverse effects on visual amenity are minor. The application does not provide specific proposed mitigation measures, or a landscape planting plan.

Council therefore **confirms its request for a Landscape Assessment and Report** in greater detail than that already provided in the application.

4. Ecological Report

It is acknowledged that there is a level of information provided with the application in terms of ecological impact. This information serves to confirm the ecological value of the mangroves in this location. It would be helpful to the Council, in assessing ecological impact, if the applicant could provide a **more detailed in-depth (and updated) ecological assessment, including proposed mitigation measures** that the applicant is prepared to undertake (it is noted that the application makes mention of a possible ban on cats and mustelids; ongoing weed and pest control; protective covenants). This report could perhaps be tied in with a landscape assessment given that mitigation measures associated with visual amenity can be strongly linked to the preservation of ecological values.

The final point raised in the original 12th June letter mentioned the registered archaeological site showing on our records as being on the property. Council will endeavour to ascertain whether the registered archaeological site showing as being located in your site is one and the same as the Historic Places Trust registration that has since been removed (refer correspondence provided with your application dated 11 April 2001).

I have spoken with the District Plan team regarding a future amendment to the planning maps and the Site of Significance to Maori 'notation' on the application site, however they do not have a record of anything regarding this. I will provide them with what information I hold, but it might be useful if you contacted the District Plan team directly with supporting information – attention Lou-Anne Ballantyne, FNDC, Private Bag 752, Kaikohe. Alternatively you could make an appointment to see Lou-Anne about this specific aspect.

In accordance with the Act, your application will be suspended until we receive the information confirmed as being required. I re-iterate the advice in the earlier 12th June letter that once we have received the information to our satisfaction, a decision can then be made regarding the further processing of the application and whether notification may be required.

Please note that under Section 92 A (1) of the Act you are required to comply with the request, but you do have the ability to refuse to provide the information or to formally object to the request, as was stated in the 12th June letter.

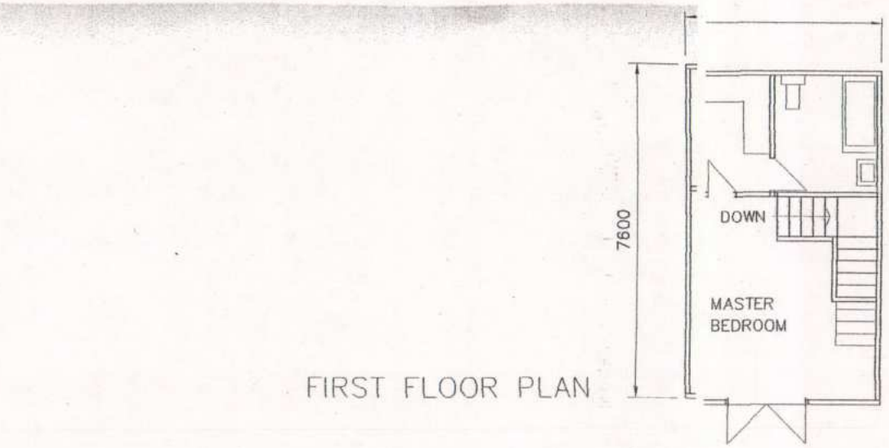
Please feel free to contact the undersigned if you have any questions or concerns.

Yours faithfully

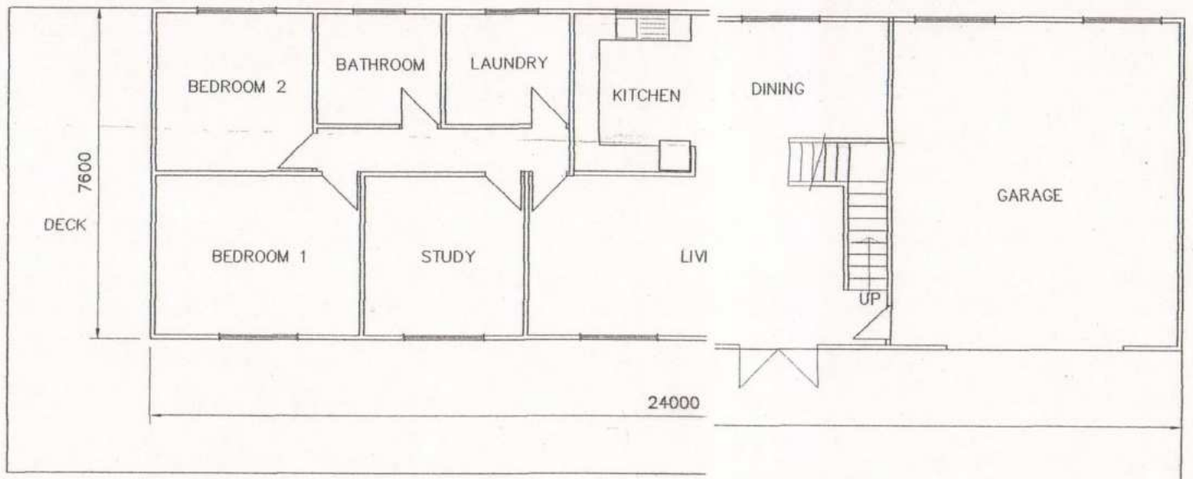
Lynley Newport
SENIOR RESOURCE PLANNER

2.00 p.m.?

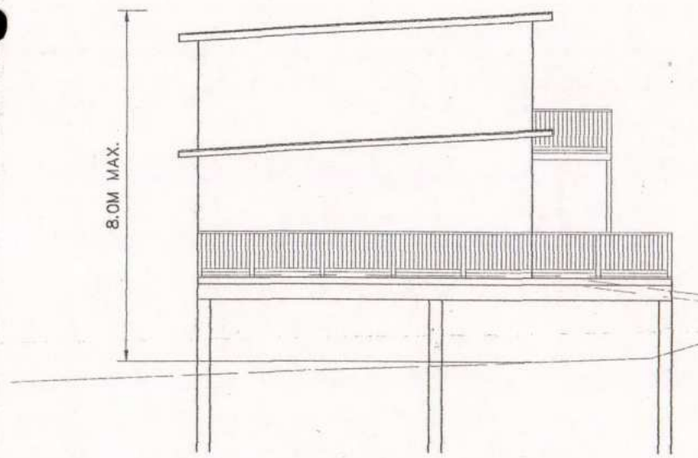
Located from old files

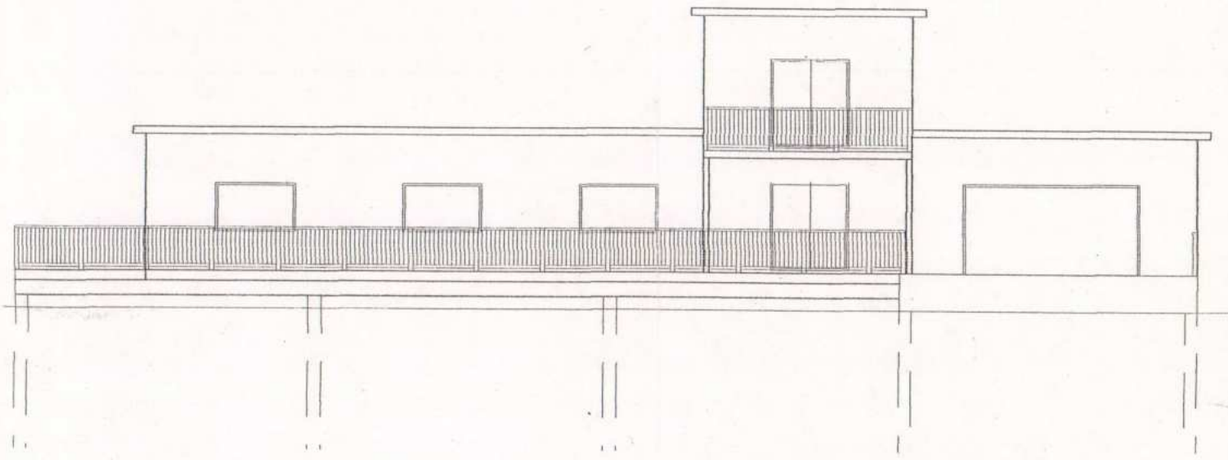


FIRST FLOOR PLAN



GROUND FLOOR PLAN





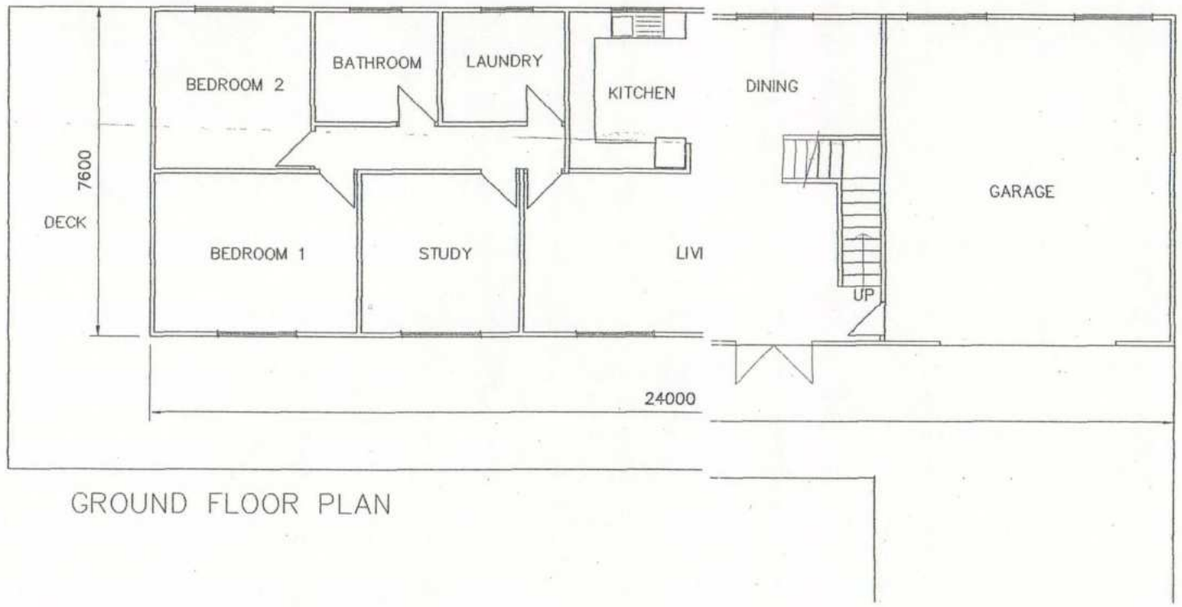
ACENZ
2 Seaview Road, Whangarei.
Ph. (09)4383273. Fax. (09) 4385734.
engineers@richardsonstevens.co.nz
Richardson Stevens Consultants (1996) Ltd CIVIL & STRUCTURAL ENGINEERS

JOHN UPPERTON,PIPIROA ROAD, PIPIROA BAY
PROPOSED PLATFORM FOR DWELLNG

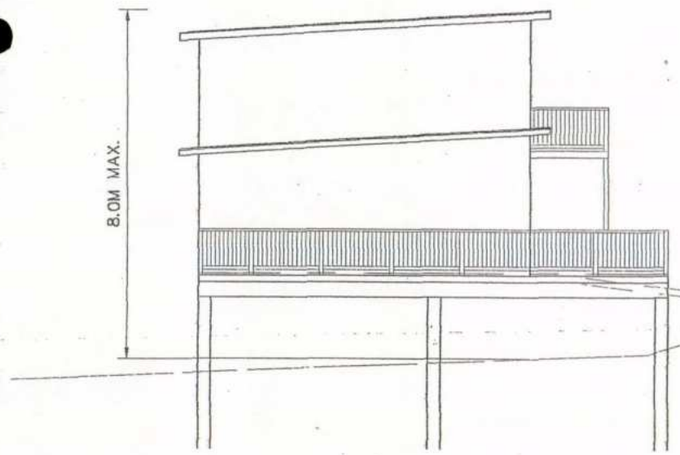
PLAN AND ELEVATIONS		Project:	4463	Sheet
Date:	AMENDMENTS	Drawn:	MHPR	1
		Date:	AUG.2004	
		Scale:	1/100	

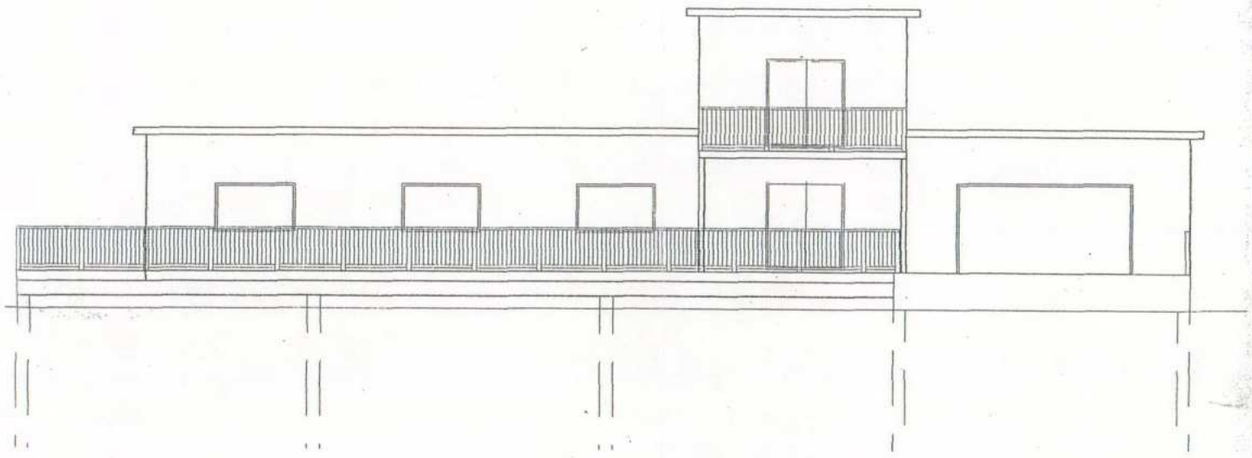


FIRST FLOOR PLAN



GROUND FLOOR PLAN





ACENZ
2 Seaview Road, Whangarei.
Ph. (09)4383273. Fax. (09) 4385734.
engineers@richardsonstevens.co.nz
Richardson Stevens Consultants (1996) Ltd CIVIL & STRUCTURAL ENGINEERS

JOHN UPPERTON,PIPIROA ROAD, PIPIROA BAY
PROPOSED PLATFORM FOR DWELLNG

PLAN AND ELEVATIONS

Date:	AMENDMENTS

Project: 4463
Drawn: MHPR
Date: AUG.2004
Scale: 1/100

Sheet 1

Jess Phillips

From: Jess Phillips
Sent: Thursday, 18 June 2009 3:59 p.m.
To: 'secretary@kororarekamarae.org.nz'
Subject: RC 2090634 Upperton, RC 2090653 RPNZ Properties Limited

Good afternoon Maiki,

Thank you very much for your emails regarding RC 2090634 Upperton and RC 2090653 RPNZ Properties Limited.

With regards to the Upperton consent I can advise that this consent has been suspended for further information, including updated plans, engineering reports, an ecological report etc

At present Council have not yet determined whether public notification is required given the insufficient information currently before us, however I shall ensure to keep you updated with the progress of this resource consent, and of course any additional comments that you may have would be greatly appreciated.

In terms of RC 2090653 RPNZ Properties Limited, your comments are also appreciated and I shall be discussing them and the application with my Team Leader either tomorrow or early next week. At the very least this consent will notified on a limited basis, and of course Kororareka Marae would be considered an affected party as a result of your comments.

If you have any further queries regarding the above mentioned applications please do not hesitate to contact me.

Kind regards,

Jessica Phillips
Resource Planner

From: Kororareka Marae [mailto:secretary@kororarekamarae.org.nz]
Sent: Tuesday, 16 June 2009 2:35 p.m.
To: ask.us@fndc.govt.nz
Subject: Resource Consent Application - John Kildare Upperton- Land Use

RC 2090634 RMA LUC
For lot one Pipiroa Road. Okiato, Russell 0272

16 June 2009

Kia ora Jessica, Thank you for sending us the above application. The Kororareka Marae Society has an interest in this Kaupapa. Pipiroa Bay and the surrounding wetlands is of high significance to Maori.

Noho ora mai

Maiki Marks
Chairperson Te Roopu Taiao

Jess Phillips

From: ask.us@fndc.govt.nz
Sent: Thursday, 18 June 2009 3:33 p.m.
To: Jess Phillips
Cc: ask.us@fndc.govt.nz
Subject: REF AP06181514 DCNR Resource Consent Application - John Kildare Upperton- Land Use

FYI - email 1
Regards
Anja

From: ask.us@fndc.govt.nz
Sent: Thursday, 18 June 2009 3:16 p.m.
To: 'secretary@kororarekamarae.org.nz'
Cc: ask.us@fndc.govt.nz
Subject: REF AP06181514 DCNR Resource Consent Application - John Kildare Upperton- Land Use

Good afternoon.

Thank you for contacting us at the Far North District Council.

I have forwarded your message to Jessica as requested.

Kind Regards
Anja

Ask Us Team
Customer Services
Far North District Council
Private Bag 752, Memorial Avenue, Kaikohe 0440
Free Phone: 0800 920-029
Email: ask.us@fndc.govt.nz
Website: www.fndc.govt.nz

"Making things easier for you, getting it right and doing what we say we will do"

Please note the reference number in the subject line of this email. If you need to contact us again regarding this request, please quote the reference number.

From: Kororareka Marae [mailto:secretary@kororarekamarae.org.nz]
Sent: Tuesday, 16 June 2009 2:35 p.m.
To: ask.us@fndc.govt.nz
Subject: Resource Consent Application - John Kildare Upperton- Land Use

RC 2090634 RMA LUC
For lot one Pipiroa Road. Okiato, Russell 0272

16 June 2009

Kia ora Jessica, Thank you for sending us the above application. The Kororareka Marae Society has an interest in this Kaupapa. Pipiroa Bay and the surrounding wetlands is of high significance to Maori.

Noho ora mai

Maiki Marks
Chairperson Te Roopu Taiao

Far North District Council

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

Application No: RC-2090634-RMALUC
For: Lot 1, Pipiroa Road, Russell 0272

12 June 2009

John Kildare Upperton
C/- S L Westgate
290 Beach Road
Onerahi
Whangarei 0110

Sent to: PO Box 272
Kaikohe 0445

Dear Sir/ Madam

Re: Resource Consent Application – Request for Further Information

A preliminary assessment of your application for a resource consent to has been made.

Under Section 92 (1) of the Resource Management Act 1991, the Council requires further information to be able to consider your proposal. This additional information will help us to better understand the proposed activity, its effects on the environment and the means by which any adverse effects on the environment may be avoided, remedied, or mitigated.

The additional information required by the Council is listed below, with further reasons as to why we need this information to be provided.

1. All resource consent applications must be accompanied by an Assessment of Environmental Effects (AEE). Any AEE should be of sufficient detail appropriate to the scale and significance of the actual or potential effects that the activity may have on the environment and must be prepared in accordance with the Fourth Schedule of the Resource Management Act 1991.

   In complying with the above requirement information at a detail sufficient for the nature and scale of the proposed application is required to be submitted with the application.

   Unfortunately the information submitted in support of the application (RC 2090634) is not adequate to determine the actual and potential effects of the activity and that no persons or parties will be adversely affected. As such please provide the following additional information:

   - An updated site plan(s) detailing the following information:
     (i) Site boundary lengths and other dimensions;
     (ii) Location with distances to site boundaries of all proposed buildings and structures (including the waste water system and disposal area);
     (iii) Proposed area of filling (including depths of any proposed filling);

(iv) Existing and proposed landscaping;
(v) Water bodies;
(vi) Area of vegetation to be cleared (including that on road reserve);
(vii) Extent and nature of natural hazards (i.e. flooding);
(viii) Location of existing and future access provisions (including that on road reserve).

Please note that the site plans provided to Council appear to be based on information obtained some time ago (pre-2000) and show discrepancies, for example the schematic plan shows the mean high water mark in a different location to what the survey plan shows. It is also considered that natural processes since 2000 may have changed the locations of the mean high water mark, wetland etc.

- A floor plan of the dwelling.

- Elevations of each building, showing existing ground level and proposed ground level.

2. In completing a full and complete AEE, the rules that are breached by the proposal must firstly be recognised. Following an assessment of the application Council consider the following rules to be breached:

10.6.5.1.1 VISUAL AMENITY

12.2.6.1.3 INDIGENOUS VEGETATION CLEARANCE IN THE GENERAL COASTAL ZONE

12.3.6.1.2 EXCAVATION AND/OR FILLING, INCLUDING OBTAINING ROADING MATERIAL BUT EXCLUDING MINING AND QUARRYING, IN THE RURAL LIVING, COASTAL LIVING, GENERAL COASTAL, RECREATIONAL ACTIVITIES, CONSERVATION, WAIMATE NORTH AND POINT VERONICA ZONES

12.5.6.2.2 ACTIVITIES WHICH COULD AFFECT SITES OF CULTURAL SIGNIFICANCE TO MAORI

(Note: Council recognise that the site was mistakenly labelled as a site of cultural significance to Maori)

12.7.6.1.1 SETBACK FROM LAKES, RIVERS AND THE COASTAL MARINE AREA

12.7.6.1.2 SETBACKS FROM SMALLER LAKES, RIVERS AND WETLANDS

12.7.6.1.3 PRESERVATION OF INDIGENOUS WETLANDS

12.7.6.1.4 LAND USE ACTIVITIES INVOLVING DISCHARGES OF HUMAN SEWAGE EFFLUENT

When considering what rules the proposal breaches under the District Plan, the District Plan provides assessment criteria which can assist in determining the effects of the proposal on the environment. Unfortunately, it appears that the assessment criteria has not been utilised in assessing the effects of the proposal and to therefore determine that the effects will be no more than minor. Additionally, no specialist reports have been provided to support the application.

As such, please provide a more detailed assessment of environmental effects that will enable the effects of the proposed building to be properly assessed. In addition please provide the following additional specialist reports:

- Engineering Report(s) to address waste water, flooding, filling and access.

  The waste water report submitted with the application was prepared in 1999, and unfortunately this report is now out of date.

  Please provide a site suitability report which includes plans and calculations which identify the minimum datum plane above which a dwelling floor level could expect to be flood-free on the basis of a 100 year return period. This report should be undertaken by a Chartered Professional Engineer (CPEng) with experience in hydrology or related field. The datum level is to be related to a readily-identifiable permanent level in the vicinity. The site suitability report should also address the feasibility of any onsite disposal of stormwater and effluent and provide recommendations on any particular design requirements for such systems.

  In addition the report or a separate site suitability report should provide in detail the extent of excavation and fill to be carried out on the subject site, and provide recommendations on any particular design recommendations for the proposed dwelling. Lastly, consideration should be given to the access to be created over legal road.

- A landscape report prepared by a suitably qualified person, which looks at the extent of vegetation to be cleared from the subject site as well as the legal road and the visual effects that will result from the proposal. The report should also provide recommendations for reducing any visual effects, e.g. landscaping, finished colours and materials for the dwelling.

- An ecological report prepared by a suitably qualified person, which looks at the potential effects of the proposal (the dwelling, vegetation clearance, earthworks, waste water and stormwater disposal) on the coastal environment (coastal marine area and wetland).

3. Lastly, while it is recognised that the site of cultural significance to Maori was incorrectly applied to the subject site, there is a registered archaeological site located on the subject site.

trying to Pollas this via the Rūnanga.

In accordance with the Act, your application will be suspended until we receive this information. Once we have received the information to our satisfaction, a decision will be made regarding the further processing of the application and whether notification may be required.

Under Section 92 A (1) of the Act you are required to comply with this request before 4 July by either:

(a) providing the requested information, or;

(b) informing the Council in writing that you accept that the information can be provided within a reasonable time period, to be set by agreement and advised by the Council, or;

(c) informing the Council in writing of your refusal to provide the information, or;

(d) making a formal objection to this request under Section 357A(1)(b) of the Act, stating your reasons why you consider that this information should not be required by the Council.

Please use the attached form when sending in your response to the Council.

Note that under Section 92A(3) of the Act, the Council may decline your application if:

(1) You do not respond to this request, or;

(2) The information is not provided by the agreed date, set as specified under (b) above, or;

(3) You refuse to provide the information, as per (c) above, and;

(4) The Council considers and concludes that it has insufficient information to enable it to determine the application.

Once the above information has been received Council will be able to determine whether any written approvals or notification is required.

Please feel free to contact (via email or phone) the undersigned if you have any questions or concerns, or alternatively come in for a meeting to discuss the above information requirements.

Yours faithfully

Jessica Phillips
RESOURCE PLANNER

jess.phillips@fndc.govt.nz

Far North
District Council

To - ***Jessica Phillips***
Resource Planner / Planning Consultant Far North District Council

From - *John Kildare Upperton*

Resource Consent RMA/ LUC/SUB/ *RC-2090634-RMALUC*

Regarding your letter dated ..... under Section 92 of the Resource Management Act:

[*Note to the Applicant* – please mark the option (s) you have taken]

☐ (1) I have provided the following information requested by the Council:

(a) .....

(b) .....

(c) .....

☐ (2) I advise that I will provide the information requested by the Council before:

.....

[*Note to the Applicant* – please indicate the date by which you are able to provide this information]

☐ (3) I refuse to provide the information requested by the Council.

☐ (4) I wish to make a formal objection, under Section 357 (1)(b) of the Act, to the request by the Council for additional information under Section 92 (1) of the Act, for the following reasons:

(a) .....

(b) .....

(c) .....

[*Note to the applicant* – Please provide detailed reasons with respect to each item of the request objected to and send in with the appropriate lodgement fee for objections]

Name of Applicant / Agent .....

Signature of Applicant / Agent .....

Date .....

Jess Phillips

From: Jess Phillips
Sent: Friday, 12 June 2009 12:13 p.m.
To: 'castleduo@maxnet.co.nz'; 'sweatgate@xtra.co.nz'
Subject: RC 2090634 Upperton
Attachments: 00859260.DOC

Good afternoon,

Please find attached a copy of a letter that will be posted out in the mail today to Mr Upperton.

Regards,

Jessica Phillips
Resource Planner

Jess Phillips

From: Jess Phillips
Sent: Friday, 12 June 2009 12:14 p.m.
To: 'Steve Westgate'
Subject: FW: RC 2090634 Upperton
Attachments: 00859260.DOC

Good afternoon,

Please find attached a copy of a letter that will be posted out in the mail today to Mr Upperton.

Regards,

Jessica Phillips
Resource Planner

RESOURCE CONSENT INFORMATION

Resource Planners

To be loaded into pathway by Technical Support Officer must be completed during initial assessment.

RC Number:	**RC-2090634-RMALUC**	**Applicant:**	**John Kildare Upperton**

RFS Type: **Land Use**

Hearing Date:

Activity (TDP/PDP)**:**

No. of lots:

Types of lots::

Zone (TDP/PDP)**:** General Coastal

Area of Site: 1.9070 ha.

Proposal: **proposed new dwelling**

RC 2000354 heard April 2000 by independent commissioner Alan Watson.

APPLICATION ASSESSMENT – RESOURCE PLANNER page 1 of 3

APPLICATION: John Kildare Upperton **RC: RC-2090634-RMALUC**

SECTION 92 CONSIDERATION

Additional Information required?

☐ No ☐ Yes – Date Sent _____

Additional Information received – Date _____

APPLICATION ASSESSMENT – LAND USE

APPLICANT: John Kildare Upperton **RC**RC-2090634-RMALUC

PROPOSAL: _____

Zoning: General coastal **Map No(s):**

Resource Features: n/a **Appendix:**

Site Area:

Floor areas: Existing -
Proposed - _____
Total -
==========

DISTRICT PLAN RULES	STANDARD	APPLICATION PROVISION	COMPLIANCE				
			P	C	RD	D	NC
Zone Rules							
Relocated Buildings	n/a						
Residential Intensity	n/a						
Scale of Activities	n/a						
Building Height 10.6.5.1.4	8m						
Sunlight 10.6.5.1.5	2m 45°						?
Impermeable Surfaces 10.6.5.1.6	10%.						
Building Scale	n/a						
Site Intensity	n/a						
Setback from Boundaries • Road boundary 10.6.5.1.7 • Other boundaries • ~~Landscaping~~ • ~~Pedestrian frontage~~	10m	10m	✓				
Screening for Neighbours	n/a						
Outdoor Activities	n/a						
Visual Amenity 10.6.5.1.1 (Coastal zones/~~Coopers Beachfront Estate~~) ~~Visual Amenity & Env. Protection~~ ~~(Commercial & Industrial)~~	< 25m² building	300m²			✓		
Traffic Intensity – for the zone for the activity(ies) 10.6.5.1.8	30 daily one way	TIF Calculation 10	✓				

Hours of Operation	n/a							
DISTRICT PLAN RULES	**STANDARD**	**APPLICATION PROVISION**	**COMPLIANCE**				
			P	C	RD	D	NC
Noise	n/a						
Noise Mitigation for Residential Activities	n/a						
Stormwater	n/a						
Helicopter Landing Area/ Helicopter Movements	n/a						
Papakainga Housing	n/a						
Integrated Development	n/a						
Blasting and Vibration	n/a						
Additional Rules for Special Areas (Chapter 18)	n/a						
District Wide Rules							
Landscape & Natural Features (OLF protection, vegetation clearance/ tree planting/ excavation/ filling/building/utility services with OL)	n/a						
Indigenous Flora & Fauna 12.2.6.1.3 (vegetation clearance)	indigenous vege^ clearance in the zone	clearance				✓	
Soils & Minerals 12.3.6.1.2 Excavation & Filling - Volume - Cut/Fill face	300m3 1.5m cut/fill face						
Natural Hazards Coastal Hazard 2 Areas & 1 Areas Fire Risk to Residential Units	issue regarding flooding						
Heritage (Notable trees/ Alteration to Historic Sites, Buildings & Objects)	12.5.6.2.2 sites of significance						
Heritage Precincts/ Paihia Mission Heritage Area (Maintenance, Alterations, New buildings , Signs, Parking, tree Planting,setback etc)	n/a						
Lakes, Rivers, Wetlands & Coastline • Setbacks • Preservation of wetlands • Discharge of sewage effluent • Motorised craft/Noise	12.7.6.1.1 30m for buildings 12.7.6.1.4 effluent 30m 12.7.6.1.3 wetland					✓ ✓	✓
Hazardous Substances	n/a						
Transportation • Parking	2/dwg	Calculation					
• Vehicle Access (Rules 15.1.6.1.2 (a) – (s) Other rules							
• Airports	n/a						

less than 20m is NC

Signs & Lighting (Light Spill & Glare, Outdoor Signs, Signs on & adjacent to State Highways)	n/a						
Designation & Utility Services • Below Ground Utilities • Above Ground Utilities (Urban)) • Electricity (Rural)/Telecommunication Substation (Rural)/ Other Utilities	n/a						
Other Specific Rules	n/a						

Overall Activity Status: .....

MATTERS TO NOTE

1 Can infrastructure cope with additional demand as a result of development?

2 Are any financial contribution payable?

3 Are any esplanade reserve or strips necessary?

4 Are any covenants/consent notices/building line restrictions existing or necessary?

5 Are any amalgamation conditions required?

6 Are any new assets to be vested to Council?

7. Coastal Access Criteria

8. On-site Sewage Treatment and Disposal Criteria

Pre 93/94 Report
Reporting Planner & Team Leader Assessment

(To be completed within 3 days of allocation)

RC RC-2090634-RMALUC Applicant: John Kildare Upperton

Responsible Planner:

Description of Activity:

Category of Activity:

Site Visit Undertaken? Yes ☐ No ☐

All written approvals provided?

Further information required?

Issues requiring consideration:

Further issues raised by Team Leader:

_____

_____

Likely processing method (non-notified, limited or full notification) & reasons:

_____

_____

_____

_____

Section 93/94 report to be prepared by: Date:_____

Decision report to be prepared by: Date:_____

20 working days: Date:_____

Planner's initials: _____ Date:_____

Team Leader's initials: _____ Date:_____

APPLICATION ASSESSMENT Resource Consents Manager page 1 of 2

This form is to be included in all consent application files received by Council.

APPLICATION: John Kildare Upperton **RC: RC-2090634-RMALUC**

ADMINISTRATION CHECKLIST – Standard letters (as advised by RCM)

☑ Application Complete ☐ Application Incomplete

☐ Time Recording ☐ Letter Required

☐ S88 Letter

☑ Planner Jessica. ☐

In Pathway
Tick "completed"
Tick "allocated to Planner"

☐ **Interested Parties List Attached - Tick off**

☑ Department of Conservation ☑ Northland RC WDE ✓ Rex ✓ TWT

☑ Community Board Easten ☐ Other _____

☐ Application advised of applicant receipt – date _____

☐ Copy of application to Engineer – date _____

- teiti waitangi iwi -
- Ngati kuta ✓
- karora reka ✓
- emma.Gibbs ✓

Complicated history
Need to review reasons for notification & refusal in the original decision
What has changed and have original issues been overcome.

Interested Parties List		
	Name	Address1
	NZ Historic Places Trust	P O Box 2629 WGTN 6015
	NZ Historic Places Trust	P O Box 836 Kerikeri
	Development Engineer- Utilities	Attention: Tanya Nowell
	Environmental Engineer (Rex Shand)	C/-FNDC
	Te Runanga a Iwi o Ngapuhi	P O Box 263 Kaikohe
	Northland Regional Council	Po Box 9021 Whangarei
	Department of Conservation	P O Box 842 Whangarei
	Te Runanga a Iwi o Ngati Kahu	P O Box 392, Kaitaia
	KeriKeri Irrigation	P O Box 343, Kerikeri
	Doubtless Bay Water Company	P O BOX 165, Kaitaia
	ANNISON, Florence	13 Kerikeri Grove Kerikeri
	Belinda Ward	P O BOX 182, Paihia
	TURNER Doug - Eastern	Rangitane R D 2, Kerikeri
	Sue Hodge - Reserves	FNDC
	Fiona King	Awanui, R D 2, Kaitaia 0500
	Willy Van der SLUIS	Harbour View Rd, Houhora
	Tony Norman	P O BOX 295, Mangonui
	Environmental Health Officer	The Professional Centre
	Transit New Zealand	P O Box 1459, Auckland
	Catterall Engineers	C/- Kta Service Centre
	The General Manager-Top Energy	P O Box 243 Kaikohe
	Legal Services FNDC	Attention: Robert Manuel
	Sally Macauley - Western	P O Box 269, Kaikohe
	BARRY WEBB	C/- FNDC
	Q E II TRUST- The Director	PO Box 3341, Wellington
	Q E II TRUST- Greg Blunden	P O Box 541, Kerikeri
	Kororareka Marae Society- Helen Pick	36 Matauuwhi rd, Russell
	GHD Management Engineering Enviroment	5 Allen Bell Drive, Kaitaia
	District Telecom Centre	P O box 442, Whangarei
	NZ RAILWAYS CORPORATION	P O Box 593, Wellington
	LIQUOR LICENSING INSPECTOR	Kerikeri Service Centre
	Win Stephens	P O Box 443, Kaikohe
	ROADING MANAGER – Greg Ingham	FNDC
	GHD Management Engineering Enviroment	P O Box 672, Kaikohe
	BOI Coastal Watchdog Inc	c/- Helen Pick
	Nora Rameka, Ngati Rehia	P O Box 49, Kerikeri
	Kohukohu Conservation & Recreation Society	P O Box 55, Kohukohu 0570
	N Z Fire Service C/o Steven Kerr, Beca Planning	P O Box 3942, Wellington

BEFORE THE ENVIRONMENT COURT

Decision No. [2015] NZEnvC 73

IN THE MATTER	of an appeal under section 120 of the Resource Management Act 1991 (**the Act**)
BETWEEN	AA HAMILTON for the TE URI KARAKA HAPU (ENV-2013-AKL-000100) Appellant
AND	FAR NORTH DISTRICT COUNCIL AND NORTHLAND REGIONAL COUNCIL Respondents

Hearing on the papers under section 279 of the Act

Court: Environment Judge D Kirkpatrick

Environment Commissioner M Oliver

Environment Deputy Commissioner C Blom

DECISION OF THE ENVIRONMENT COURT ON FINAL CONDITIONS OF CONSENT

A. The appeal by AA Hamilton for the Te Uri Karaka Hapu is dismissed.

B. The resource consents are granted subject to the conditions of consent attached to this decision as Annexures A and B.

C. There is no order as to costs.

REASONS

Introduction

[1] This appeal was against resource consents granted by the respondents for a proposed dwelling at Pipiroa Bay, Russell in the Bay of Islands primarily on the grounds the proposed site was waahi tapu.

[2] In decision [2015] NZEnvC 12 the Court confirmed that the consents were granted and that the appeal by AA Hamilton for the Te Uri Karaka Hapu was dismissed.

[3] The respondents were directed to finalise the conditions of consent which were to be based on the suggested conditions attached to the evidence of Messrs McAlley and Heaps, the additional and amended conditions recommended by Messrs Stevens and Farrow and to be amended in accordance with those matters raised by the Court.

[4] The respondents have now filed amended conditions of consent following the Court's decision.

[5] Having considered the amended conditions supplied we are satisfied that they incorporate the amendments set out in [3] above, and are appropriate. We have added appropriate references and corrected minor typographical matters.

[6] Accordingly, consent is granted subject to the conditions of consent attached to this decision as **Annexure A and B**.

[7] There is no order as to costs.

DATED at Auckland this 21st day of April 2015

D A Kirkpatrick
Environment Judge

Annexure A

Decision of the Environment Court in AA HAMILTON for the TE URI KARAKA HAPU v FAR NORTH DISTRICT COUNCIL and NORTHLAND REGIONAL COUNCIL

Decision No. [2015] NZEnvC 73 DATED 21 April 2015

Far North District Council Conditions 2090634-RMALUC

Description of Proposal

This consent is to erect a single dwelling unit on pole foundations at the subject site being Lot 1 DP 202228 being part of OLC 73, Pipiroa Road, Russell. The subject property has an area of 1.9070ha and is in the main a narrow vegetated sandspit, orientated north-south, separating a tidal wetland area from Pipiroa Bay. Access to the property is via Pipiroa Road which is formed as far as the start of the spit, where a turning circle and limited car parking is available (serving the adjacent Far North District Council reserve).

An unformed portion of Pipiroa Road extends along the spit for about 100m from the turning circle and is the legal access to the boundary of .the subject property. The vegetation cover on the spit comprises dense exotic pest plants, some pohutukawa and mangroves.

The subject property is low-lying, with much of the site comprising a tidal wetland area below mean high water springs. However the Coastal Marine Area does not extend into the tidal wetland located on the landward side of the spit.

The allowable building coverage for the proposed development is to be no more than 200m^2 and the proposal relies on reclamation of an area of 180m^2 on the landward side of the sandspit, which currently supports mangroves, to establish service areas for the proposed dwelling and includes some land based fill to facilitate access and on-site wastewater disposal. Total earthworks associated with the proposal are approximately 1,260m^3.

The deck of the dwelling and the effluent disposal field will be located within the required setbacks from the Coastal Marine Area. The height of the dwelling is to be subject to specific controls as well as conditions with respect to the external colourings used. Ecological restoration planting of indigenous species and weed management to remove exotic species is to occur and as part of the development the balance of the wetland not occupied by the dwelling is to be subject to a conservation covenant.

Consents Required

1 Discretionary Activity - Rule 10.6.5.3.1 - Restricted Discretionary Activity as no building envelope is defined on the site and the proposal requires a discretionary activity consent (overall) under the District Wide Provisions - resulting from non- compliance with Rule 10.6.5.1.1 whereby a building proposed for human habitation is greater than 25m^2;

2 Discretionary Activity - Rule 12.2.6.3(b) - for vegetation clearance within 20m of an Indigenous Wetland[1] resulting from non-compliance with Rule 12.2.6.1.3 where vegetation clearance within 20m of the Coastal Marine Area[2] and a wetland is proposed;

3 Discretionary Activity - Rule 12.3.6.2.3 - earthworks required greater than 300m^3 in any 12 month period, but less than 2000m^3 and the proposal does not comply with the relevant Environment Provisions or the relevant standards

[1] As defined in Chapter 3 - Definitions of the FNDC District Plan.
[2] As detailed in Chapter 3 - Glossary of the FNDC District Plan (and as defined in s 2 RMA including any amendments).

of the District Wide Provisions, resulting from non-compliance with Rule 12.3.6.1.2 relating to excavation and/or filling in the General Coastal Zone;

4 Discretionary Activity - Rule 12.7.6.3 - for building within 30m of the Coastal Marine Area, undertaking a land use activity within an Indigenous Wetland and the discharge of human sewage effluent within 30m of the Coastal Marine Area - resulting from non-compliance with Rule 12.7.6.1.1 requiring a 30m setback from the Coastal Marine Area, non-compliance with Rule 12.7.6.1.2 requiring a 30m setback from a wetland, non-compliance with Rule 12.7.6.1.3 for a land use activity of 200m^2 or more within an indigenous wetland and non-compliance with Rule 12.7.6.1.4 which requires that any land use activity involving discharges of human sewage effluent be located 30m from the Coastal Marine Area and a wetland; and

5 Discretionary Activity (Northland Regional Council Water and Soil Plan[3]) Rule 15.3.1(a) - for discharge of sewage effluent into or onto land in a manner outside the scope of or unable to meet the conditions pertaining to the permitted activity rules, namely Rule 15.01.04(d) that no part of the disposal area and reserve area is located within 15 metres, measured horizontally, of any surface water and (k) A reserve area equivalent to 30% of the design disposal area has been allowed for and set aside.

Conditions

1 Except where the conditions of this consent otherwise control development, the Consent Holder shall ensure that the works are constructed generally in accordance with the following plans for John Upperton, Pipiroa Road, Pipiroa Bay, entitled:

i. "Side Elevation of the Proposed Dwelling", Figure 6.1, (amended: 22 May 2013);

ii. "Front Elevation of the Proposed Dwelling", Figure 6.1, (amended: 22 May 2013);

iii. "Cross-Section through the Spit and Proposed House Site", Figure 7, (amended: 22 May 2013);

iv. "Schematic Site Plan of the Spit Area and Proposed Development showing proposed dwelling, raised area, suggested spit access, irrigation line, etc", Figure 8, (amended: 22 May 2013);

v. "Schematic Site Plan (Enlarged) of the Property and Proposed Development showing proposed dwelling, RMZ boundaries, suggested irrigation line layout, proposed raised area, carriageway with turning and parking bays, etc", Figure 9, (amended: October 2011); and

vi. "Cross-Sections through Sand Spit showing Proposed Fill Levels", Figure 10.2, (amended: 22 May 2013);

2 Prior to any works commencing on the site, including any vegetation clearance (except where that vegetation clearance is of exotic weed species and only to the extent necessary to provide pedestrian access to the site and/or undertake investigations necessary to fulfil the requirements of the conditions of this and/or the associated Northland Regional Council consents), the consent holder shall supply to the Council's Resource Consents Engineer a set of engineering plans detailing the

[3] The responsibility for processing consents to discharge domestic quantities (up to 3m^3/day) of treated sewage effluent into or onto land is delegated to the Far North District Council from the Northland Regional Council pursuant to section 33 of the RMA

works to be undertaken on the site. These plans are to be approved prior to any works commencing and are to include:

i. Details necessary to demonstrate compliance with the relevant conditions of the Northland Regional Council consent CON20040886701; and

ii. Details of electric power and telecommunication services which are to be extended underground to the proposed dwelling site; and

iii. Details of vehicle access to be provided from the end of the existing formation of Pipiroa Road to the dwelling site, where the access will be a 3m wide metalled carriageway of free draining rock, surfaced in a pervious material such as crushed shell, to ensure that stormwater run-off from the driveway is kept to a minimum; and

iv. Detail of an overflow device to be connected to the dwelling water tanks, enabling discharge of overflow water to the wetland through a dispersal device designed to prevent any erosion at the discharge point.

3 When undertaking works in relation to these consents the consent holder shall:

i. Remove all unwanted materials and refuse from the consent area as set out in Figure 8 above and dispose of these at a site that is authorised to accept such material upon the completion of the works authorised by this consent, to the satisfaction of the Council's Monitoring Officer; and

ii. Ensure that refuelling and servicing of machinery is not carried out in such a way that soil or water at the site is contaminated. Where an accidental spillage to land occurs, all contaminated soil shall be collected and disposed of at a site that is authorised to accept such material.

Landscape

4 Prior to any consented works commencing on the site, including any vegetation clearance (except as allowed for by Condition 2), the following are to be provided to and approved by Council's duly delegated officer:

i. A report from a qualified landscape architect confirming that all cladding, roofing materials and exterior finishes (excluding joinery and glass) of the dwelling, accessory building and water tanks will have a reflectance value not exceeding 30%, selected from the Resene BS5252 Total Colour Chart. The weight and hue of colour is to relate to the immediately surrounding environment, noting that this requirement does not necessarily seek to camouflage the buildings and/or water tanks.

ii. A Landscape Integration and Ecological Restoration Planting Plan, prepared by a suitably qualified and experienced landscape architect and ecologist. The plan is to:

a) Provide for vegetation of a scale and species composition that will provide an appropriate setting and foreground to the buildings when viewed from mean high water springs/Pipiroa Bay and creates a habitat which is comparable to that which would be naturally found on a narrow estuarine spit and its margin in close proximity to the site; and

b) The planting layout shall seek to create a seamless and natural transition of indigenous vegetation from the upper shoreline and running over the crest of the spit that provides an immediate buffer to any views from the beach towards the dwelling.

c) The Planting Plan shall specifically identify intended seaward view shafts from the building and those areas where vegetation is intended to buffer views into and out of the site. All trees shall be P.B. 95 (2m tall) when planted and the Planting Plan shall also stipulate any controls upon pruning that shall apply to vegetation, particularly in relation to defined view shafts.

d) Define an appropriate position for accessory buildings associated with the dwelling, along with any landscape treatment necessary to ensure the accessory buildings are screened from views obtained from mean high water springs/Pipiroa Bay; and

e) Site development shall specifically exclude any structure/s (such as fences, walls, bollards, lines of rock or the like), or planting pattern, that defines the boundaries of the title or otherwise creates a spatial division within the western 20m of the site (ie parallel to the beach) and the area within a line measured 2m landward of Mean High Water Springs shall be retained in grass only, thereby not restricting public access along the backshore at high tide; and

f) Include details of trees, shrubs or grass to be planted in and around the treated effluent disposal area in order to decrease the amount of wastewater moving down the soil profile through the evapotranspiration processes, consistent with avoiding root blockage of the pipes; and

g) Include detail of the stages that planting shall occur, the overall timeframe for planting and maintenance and therefore the required bond period (with regard to Condition 5). The plan shall also include the factors to be applied in assessing whether the planting has been successful and therefore whether the associated bond can be released in-part, or in-full.

iii. A weed management strategy, prepared in conjunction with the landscape integration and ecological restoration plan. This strategy shall demonstrate how weed control and progressive removal of exotic species is to be phased, to initially allow for existing noxious vegetation to provide visual buffering to new building and related site development, whilst indigenous planting establishes to inherit that role. It is anticipated that this process will require a minimum of 5 to 10 years to take place.

iv. Implementation of the landscape integration and ecological restoration plan may commence in the planting season May to August following approval of said plan in accordance with Condition 4(ii) (and before any other works commence on-site) and implementation of the landscape integration and ecological restoration plan must commence (if it has not already) in the planting season immediately following commencement of construction of the dwelling and accessway to the satisfaction of Council's duly delegated officer.

Annexure A

Bond

5 Pursuant to Sections 108(2)(b) and 108A of the Resource Management Act 1991 a bond shall be entered into in respect of the implementation of the landscape integration and ecological restoration planting plan (approved under Condition 4(ii)) and the weed management strategy (approved under Condition 4(iii)). The bond is to cover on-going maintenance and failed plant replacement costs of the plantings, over the planting and establishment period as defined in each approved document.

The amount of the bond shall be calculated by Council's duly delegated officer based on the information supplied in the approved landscape integration and ecological restoration planting plan and the weed management strategy. The bond will be calculated on the basis of one and one-half times the value of the works required with that value being provided in the form of a quote from a recognised provider of the particular works.

The period of the bond and the conditions for the release of the bond shall be defined under Condition 4(ii)(g).

The bond shall be prepared by the Council's solicitor at the expense of the consent holder and shall be drawn if required, by the Council in a form enabling the bond to be registered pursuant to S.109 of the Resource Management Act 1991, against the title to which the bond relates.

Performance of the bond shall be guaranteed by a guarantor acceptable to the Council. A recognised bank trading in New Zealand shall be deemed to be an acceptable guarantor. A guarantor of a bond may be substituted with a cash bond.

Covenant

6 Prior to any building consent being granted for the site a covenant is to be entered into and registered on the title of the site requiring the following:

i. That only a single dwelling unit, accessory building and associated water tanks, with a combined building coverage of no more than 200m^2 shall be built on the site and no other buildings shall be allowed. Except that the limitation on building coverage in this condition does not include: decks attached to the dwelling of no more than 3.2m in width where the floor level of the deck is no higher than the minimum floor level for habitable rooms as defined in Condition 6(iv); retaining works required as part of the reclamation works; the establishment of the effluent disposal system; and the installation of the wastewater treatment and dripline effluent disposal system.

ii. That the remainder of the wetland excluding the area under and in the immediate proximity of the dwelling be subject to a Conservation Covenant with FNDC in perpetuity. That no owner and/or visitor to the property shall be allowed to bring and/or keep any cat, dog or mustelid on the property.

iii. That the minimum floor level of the dwelling shall be RL 3.00m (above One Tree Point Datum); and the maximum height of the dwelling, shall be RL 6.55m (above One Tree Point Datum).



iv. Installation of all utilities, both within the applicant's site and in the legal road reserve (from the termination of the existing networks), shall be underground, with no provision for overhead telecommunication or electric power reticulation.

v. That the surface finish of any vehicle access or manoeuvring area is to be crushed shell or similar and not sealed.

vi. Following approval by Council, in accordance with Condition 4(ii), implementation of the landscape integration and ecological restoration plan may commence in the planting season May to August following approval of said plan (and before any other works commence on-site) and implementation of the landscape integration and ecological restoration plan must commence (if it has not already) in the planting season immediately following commencement of construction of the dwelling and accessway. The planting shall be completed in accordance with the time-frame detailed in accordance with condition 4(ii)(g). All native plants shall be conserved in their natural form and size in perpetuity, except where pruning is allowed for in accordance with condition 4(ii)(c). Any opportunity to create parts of the planted framework in advance of dwelling construction shall be pursued. Following installation, the planting shall then be intensively maintained for the first 5 years and monitored and managed thereafter for plant health, weed invasion and other threats. Any dead and diseased vegetation shall be replaced in the following planting season, being May to August.

vii. Following approval by Council, the weed management strategy, shall be implemented in accordance with the conditions of that strategy. The consent holder will be required to provide Council with a brief annual report that is illustrated with photographs, which documents the implementation of the weed management strategy over the 5-10 year period as set out in that strategy.

viii. That the property shall not be further subdivided.

ix. That the foundations of the proposed dwelling and any retaining works on site be designed by a suitably qualified and experienced Chartered Professional Engineer.

x. That any building consent for any works on the site be subject to Section 72 of the Building Act 2004 in recognition of the flooding and erosion risk that exists on the site.

xi. Artificial lighting shall only be affixed to the exterior of the building. There shall be no naked (unshielded) exterior bulbs and any exterior light fittings installed shall be positioned and selected so that the light source is directed downwards and the light source cannot be seen from outside the site. Landscape lighting, including driveway and path lighting, is expressly prohibited.

Discharge Consent

7 As a minimum all wastewater shall receive tertiary treatment, including ultraviolet sterilisation prior to being disposed of via a pressure compensating dripline buried under 100mm of topsoil on a prepared raised bed of 400-500mm of topsoil. The raised effluent disposal area shall be surrounded by rock facing to protect the bed from potential erosion from wave run-up and the erosion protection of the raised effluent disposal area shall be overlaid with sandy soil to be planted in accordance

with condition 4(f). Details of the erosion protection and rock facing shall be submitted to council in conjunction with the Building Consent Application.

8 The quantity of wastewater discharged shall not exceed 950 litres within any consecutive 24 hour period.

9 The Consent Holder shall ensure that an audible and visual high wastewater level alarm system is installed and maintained within all wastewater pump chambers. In addition, there shall be at least 24 hours emergency wastewater storage capacity within the treatment system above the level at which the high wastewater level alarm is activated.

10 The Consent Holder shall enter into a maintenance contract with a suitably qualified and experienced person to maintain the wastewater treatment system so that it works effectively at all times. At a minimum all maintenance shall be in accordance with the recommendation of the Operation and Maintenance Manual prepared by the system supplier. A copy of this maintenance agreement shall be provided to Council prior to the occupation of the dwelling.

11 The Consent Holder shall ensure that the treatment and disposal system is constructed generally in accordance with the recommendation contained within the report prepared for RC 2090634 by Richardson Stevens, September 2010 update and AEE revised and updated April 2011. Ref section 2.6.

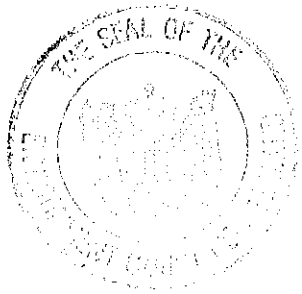
12 The Consent Holder shall provide evidence that a Building Consent has been obtained for the installation of the wastewater treatment and buried dripline effluent disposal system. The Consent Holder shall, within two weeks of the treatment system having been installed, submit to the Council "as built" plans that show the siting of all components of the wastewater treatment and disposal system. For the purpose of this condition, the Consent Holder shall ensure that the "as built" plans are drawn to scale and provide sufficient detail for a Council Monitoring officer to locate all features identified on the plans.

13 There shall be no ponding of wastewater within, or surface runoff of any contaminants from the wastewater treatment areas as a result of the exercise of this consent.

14 The Consent Holder shall ensure that stormwater from all roofed and paved areas is diverted away from the wastewater treatment and disposal areas. In addition, the system shall be sealed so that groundwater and stormwater from surrounding areas shall be prevented from entering the treatment system.

15 At intervals of 6 months, 12 months and annually thereafter, following occupation of the dwelling, the consent holder shall provide to Council written confirmation from the system supplier, certifying that the system is operating in accordance with the design criteria. In addition to this the Consent Holder shall keep a written record of all maintenance undertaken on the wastewater treatment system and forward a copy of these records to the Council immediately on written request by Council.

16 The Consent Holder shall, for the purpose of adequately monitoring the consent as required under Section 35 of the Act, on becoming aware of any containment associated with the Consent Holder's operations escaping otherwise than in conformity with the consent:



i. Immediately take such action, or execute such work as may be necessary, to stop and/or contain such escape; and

ii. Immediately notify Council by telephone of an escape of containment; and

iii. Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and

iv. Report to Council in writing within one week on the cause of the escape of the containment and the steps taken or being taken to effectively control or prevent such escape.

17 The discharge consent will have an expiry date of 30 May 2028

Archaeology

18 In the event of unknown archaeological sites or koiwi being uncovered, activities in the vicinity of the discovery shall cease. The Consent Holder shall consult with local iwi and the Heritage New Zealand Pouhere Taonga and shall not recommence works in the area of the discovery until the relevant Heritage New Zealand Pouhere Taonga approvals have been obtained.

Review

19 The Council may in accordance with Section 128 of the Resource Management Act 1991 serve notice on the Consent holder of its intention to review the conditions of this consent. Such notice may be served annually during the month of July. The review may be initiated for any one or more of the following purposes:

i. To deal with any adverse effects on the environment that may arise from the exercise of the consent and which it is appropriate to deal with at a later stage, or to deal with any such effects following assessment of the results of the monitoring of the consent and/or as a result of the Far North District and/or Northland Regional Council's monitoring of the state of the environment in the area.

ii. To require the adoption of the best practicable option to remove or reduce any adverse effect on the environment.

iii. To provide for compliance with rules in any Regional Plan that have been made operative since the commencement of the consent; and/or

iv. To deal with any material inaccuracies that may in future be found in the information made available with the application. (Notice may be served at any time for this reason).

The Consent Holder shall meet all reasonable costs of any such review.

Lapse Dates

20 These consents shall have a lapse period of 5 years from the date of issue.

Costs

21 The consent holder shall pay all charges set by Council under Section 36 of the Resource Management Act 1991, including any administration, monitoring and supervision charges relating to the conditions of this resource consent. The consent holder will be advised of the charges as they fall.

Annexure B

Decision of the Environment Court in AA HAMILTON for the TE URI KARAKA HAPU v FAR NORTH DISTRICT COUNCIL and NORTHLAND REGIONAL COUNCIL

Decision No. [2015] NZEnvC 73 DATED 21 April 2015

Northland Regional Council conditions

CON20040886701

JOHN KILDARE UPPERTON, PO BOX 272, KAIKOHE 0400

To undertake the following activities associated with the development of a house site at Pipiroa Road, Okiato in the catchment of Pipiroa Bay on Lot 1 DP 202228 Blk V Russell SO at about location co-ordinates 1702247E 6092953N

Note: All locations referred to in this document are expressed as Geodetic Datum 2000, New Zealand Transverse Mercator Projection:

(01) Land Use Consent: Reclaim approximately 180 square metres (m^2) of the bed of a wetland.

(02) Land Use Consent: Place approximately 300 cubic metres (m^3) of earthworks within a Riparian Management Zone.

(03) Land Use Consent: Place a structure (dwelling) on the bed of a wetland.

(04) Land Use Consent: Remove vegetation within a Riparian Management Zone.

(05) Land Use Consent: Prune and remove vegetation from the bed of a wetland.

(06) Water Permit: Divert stormwater from land disturbance activities.

(07) Discharge Permit: Discharge stormwater from land disturbance activities to water.

Subject to the following conditions:

1 The Consent Holder shall ensure that the works are constructed generally in accordance with the following plans for John Upperton, Pipiroa Road, Pipiroa Bay, entitled:

- *"Cross-Section through the Spit and Proposed House Site",* Figure 7, (Amended: 22 May 2013;
- *"Schematic Site Plan of the Spit Area and Proposed Development showing proposed dwelling, raised area, suggested spit access, irrigation line, etc",* Figure 8, (Amended: 22 May 2013);
- *"Schematic Site Plan (Enlarged) of the Property and Proposed Development showing proposed dwelling, RMZ boundaries, suggested irrigation line layout, proposed raised area, carriageway with turning and parking bays, etc':* Figure 9, (Amended: 22 May 2013); and
- *"Cross-Sections through Sand Spit showing Proposed Fill Levels",* Figure 10.2, dated 22 May 2013;

2 The Consent Holder shall notify the Regional Council's Monitoring Manager in writing of the date that earthworks are intended to commence, at least two weeks beforehand. The Consent Holder shall arrange for a site meeting between the Consent Holder's principal earthmoving contractor and the Council's assigned monitoring officer, which shall be held on site prior to any earthworks commencing. No works shall commence until the Council's assigned monitoring officer has completed the site meeting.

Advice Note: *Notification of the commencement of works may be made by email to mailroom@nrc.govt.nz.*

3 No earthworks shall be carried out between 1 May and 30 September in any year unless the prior written agreement of the Council's Monitoring Manager has been obtained.

4 The reclamation area and the area to be disturbed within the riparian management zone shall be provided with sediment control measures to minimise the discharge of sediment laden stormwater into the wetland and/or adjacent coastal marine area. A plan detailing the proposed sediment controls and works methodology (including piling for any structure) shall be provided to the Northland Regional Council's Monitoring Manager at least two weeks prior to the commencement of reclamation.

5 The reclamation area shall be adequately protected against erosion and sediment discharges by the use of rock or other long-term protection measures.

6 The Consent Holder shall minimise contamination of surface water by ensuring that slash, debris and detritus is not placed in a position where it may enter any waterbody, and all felled mangrove trees and prunings shall be removed from the wetland area and disposed of at a site that is authorised to accept such material.

7 To minimise sediment loss, all areas of bare land created by the exercise of these consents, shall be topsoiled and established with suitable vegetation to achieve not less than an 80% ground cover by 31 May immediately following the earthworks season, or otherwise covered with suitable reading aggregate or mulch.

8 The Consent Holder shall remove all unwanted materials and refuse from the consent area and disposed of at a site that is authorised to accept such material upon the completion of the works authorised by this consent, to the satisfaction of the Council's Monitoring Officer.

9 Refuelling and servicing of machinery shall not be carried out in such a way that soil or water at the site is contaminated. Where an accidental spillage to land occurs, all contaminated soil shall be collected and disposed of at a site that is authorised to accept such material.

10 The discharge from the land disturbance activity shall not cause any of the following effects on the water quality of the Pipiroa Bay Tributary at 10 metres downcurrent of the northern tip of the sandspit, compared to a site upstream of all land disturbance activities during the same sampling event:

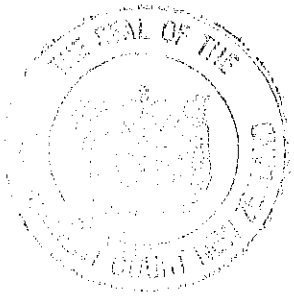
(a) The production of any conspicuous oil or grease films, scums or foams, floatable or suspended materials, or emissions of objectionable odour.

(b) An increase in suspended solids concentration greater than 100 grams per cubic metre.

(c) pH outside the range 6.5 to 9.0 units.

(d) A reduction in visual clarity of more than 40%, as measured using black disc method or a council approved alternative method.

(e) A reduction in natural hue by more than 10 Munsell units.



11 The Consent Holder shall, for the purposes of adequately monitoring the consent as required under Section 35 of the Act, on becoming aware of any contaminant associated with the Consent Holder's operations escaping otherwise than in conformity with this consent:

(a) Immediately take such action, or execute such work as may be necessary, to stop and/or contain such escape; and

(b) Immediately notify the Council by telephone of an escape of contaminant; and

(c) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and

(d) Report to the Council's Monitoring Manager in writing within one week on the cause of the escape of the contaminant and the steps taken or being taken to effectively control or prevent such escape.

With regard to telephone notification, during the Council's opening hours the Council's assigned monitoring officer for these consents shall be contacted. If that person cannot be spoken to directly, or it is outside of the Council's opening hours, then the Environmental Emergency Hotline shall be contacted.

Advice Note: *The Environmental Emergency Hotline is a 24 hour, seven day a week, service that is free to call on 0800 504 639.*

12 In the event of archaeological sites or koiwi being uncovered, activities in the vicinity of the discovery shall cease. The Consent Holder shall contact Heritage New Zealand Pouhere Taonga. Work shall not recommence in the area of the discovery until the relevant Heritage New Zealand Pouhere Taonga approvals have been obtained.

13 The Council may, in accordance with Section 128 of the Resource Management Act 1991, serve notice on the Consent Holder of its intention to review the conditions annually during the month of April for any one or more of the following purposes:

(a) To deal with any adverse effects on the environment that may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or

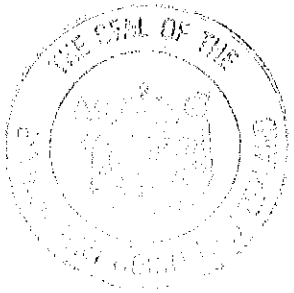
(b) To require the adoption of the best practicable option to remove or reduce any adverse effect on the environment; or

The Consent Holder shall meet all reasonable costs of any such review.

Advice Note: *The Council may, in accordance with Section 128 of the Resource Management Act 1991, serve notice on the Consent Holder of its intention to review the conditions any time for the following purposes:*

(a) To provide for compliance with rules relating to minimum standards of water quality or air quality, in any regional plan that has been made operative since the commencement of the consent; or

(b) To provide for compliance with any relevant national environmental standards that have been made; or



(c) Where there are inaccuracies in the information made available with the application that materially influenced the decision on the application and where the effects of the exercise of consent are such that it is necessary to apply more appropriate conditions.

14 These consents shall not lapse until their expiry.

EXPIRY DATES: **(01) - Reclamation:** **IN PERPETUITY**
(03) - Structure: **30 APRIL 2048**
(02), (04)-(07): **30 APRIL 2028**