

Application for resource consent or fast-track resource consent

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

1. Pre-Lodgement Meeting

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

2. Type of Consent being applied for

(more than one circle can be ticked):

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

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

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

☐ Yes ☐ No

4. Consultation

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

If yes, which groups have you consulted with?

Who else have you consulted with?

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

5. Applicant Details

Name/s:

Carpenter Investments Limited

Email:

[REDACTED]

Phone number:

Work

[REDACTED]

Home

Postal address:

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

30a Umbria Lane

Auckland

Postcode

2019

6. Address for Correspondence

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

Name/s:

Zenith Planning Consultants Limited - Att. Wayne Smith

Email:

[REDACTED]

Phone number:

Work

[REDACTED]

Home

Postal address:

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

12 Halyard Loop

Watea

Haruru

Postcode

0204

** 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:

Carpenter Investments

**Property Address/
Location:**

30a Umbria Lane

Auckland

Postcode

2019

8. Application Site Details

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

Name/s:

Carpenter Investments Limited

**Site Address/
Location:**



Postcode

Legal Description:

Lot 5 DP 370303

Val Number:

Certificate of title:

Identifier 286174

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.

Please contact Lee Crown, Farm/Property Manager on 021 100 4407 to arrange a site visit time.

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.

Retrospective resource consent for building works undertaken on the application site and within the Coastal Living Zone.

To change Section 221 Consent Notice Conditions to allow buildings already constructed to be located outside of the approved building envelope.

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

10. Would you like to request Public Notification?

☐ Yes ☒ No

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

(more than one circle can be ticked):

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

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

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

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

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

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

13. Assessment of Environmental Effects:

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

Your AEE is attached to this application ☐ Yes

13. Draft Conditions:

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

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

14. Billing Details:

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

Name/s: (please write in full)

CARPENTER INVESTMENTS LTD

Email:

Phone number:

Work

Home

Postal address:

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

30a Umbria Lane
Auckland

Postcode 2019

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)

MICHAEL CARPENTER

Signature:

(signature of bill payer)

Date 18/09/2025

MANDATORY

15. Important Information:

Note to applicant

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

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

Fast-track application

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

Privacy Information:

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

15. Important information continued...

Declaration

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

Name: (please write in full)

Signature:

Date

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

Checklist (please tick if information is provided)

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

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

29th September 2025

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

Attention Team Leader Resource Consents

RETROSPECTIVE RESOURCE CONSENT APPLICATION AND CHANGE OF SECTION 221 CONSENT NOTICE CONDITIONS FOR CARPENTER INVESTMENTS AT 206A AUCKS ROAD, RUSSELL.

Zenith Planning Consultants have been engaged by Carpenter Investments to prepare a retrospective resource consent application for building works completed without consent by a former owner of the application site. The application also seeks to change conditions of a Section 221 Consent Notice registered on the title and which relates to the building works completed.

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

- Completed Application Form
- Planning Report and Assessment of Effects
- Building plans
- Current Certificate of Title
- Existing Legal Instruments
- Consultation with stakeholders

The applicant has paid the application fee online using the reference Carpenter RC 206a Aucks Road.

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

Yours faithfully



Wayne Smith

Zenith Planning Consultants Ltd

Principal | Director

BPlan | BSocSci | MNZPI

wayne@zenithplanning.co.nz

mob: +64 (0) 21 202 3898

Planning Report and Assessment of Effects for Resource Consent

Carpenter Investments Limited

Retrospective Residential Building Works

206A Aucks Road, Russell

PLANNING REPORT AND ASSESSMENT OF EFFECTS

1. Application and Site Description – Retrospective Residential Building Work

- 1.01 Our clients, Carpenter Investments Limited seek retrospective resource consent for building work undertaken at 206A Aucks Road, Russell. The building works undertaken includes converting a consented shed into a dwelling, undertaking extensions to the shed (now a residential dwelling), and the establishment of additional outdoor living space. The buildings and outdoor space are partially located outside an approved building envelope for the lot and encroaches into land which is subject to a QEII covenant. The encroached area also has related Section 221 Consent Notice conditions. This application addresses the retrospective consents for the building work and seeks to modify conditions of the Section 221 Consent Notice.
- 1.02 All works undertaken and to which this application relates were undertaken by the former owner and not Carpenter Investments. My client is also seeking to legalise the structures under Building Act (via a COA).



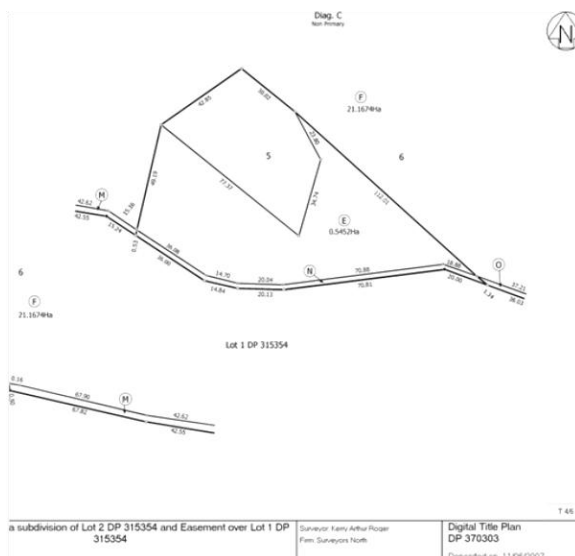
Angela Bilyard-Smith (NZCAD)
ARCHITECTURAL DESIGN
PO BOX 27 MAUNGATAPERE 0152
09 434 6170 / 021 211 1579
ambilyard@gmail.com

206A AUCKS ROAD RUSSELL BAY OF ISLANDS

The shaded portion of the above development is located outside of the approved building envelope within which all development is to be located.

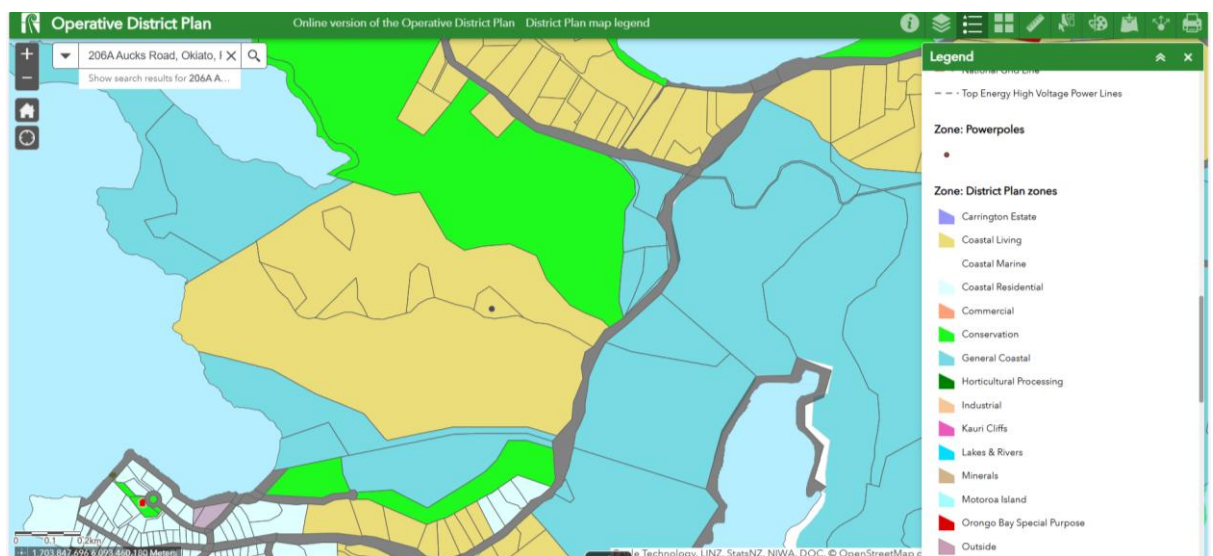
- 1.03 The legal description of the site is Lot 5 Deposited Plan 370303. As noted above, the lot is subject to Land Covenants, a s221 Consent Notice with associated conditions, and also includes ROW easement instruments for access to the property. Copies of these legal instruments are included as part of the application pack. The site is 8031m² in area

and has a variable topography. Other than the driveway, small grassed pockets adjacent to the driveway, the turning circle, and the living space the site is entirely in regenerating bush. When the subdivision which create the lot was completed, it was confirmed that the bush should be protected and relevant assessments completed to secure the QEII covenant. With assessments completed and acceptance as a QEII covenanted area, the covenant was registered on the title. The following title plan illustrates the extent of the title and the building envelope in which all built form was to be constructed.



The Building Envelope located within the application site.

- 1.04 The application site is zoned Coastal Living under the Operative District Plan. The immediate area has land zoned Conservation (lime green), General Coastal (Blue) Coastal Living (beige). The dot in the centre of the map represents the application site.



Operative District Plan (property zoned Coastal Living (beige colour))

- 1.05 Access to the site is via a ROW easement which provides access to several lots from Aucks Road and which stops at Omata Estate which is located at the end of the peninsula.
- 1.06 The following photos illustrate the extent of the dwelling constructed within the site.



The converted shed which is now a dwelling. Most of the former shed (bordered by the pergola and trellis) is within the building envelope.



Additions were made to the original shed (now dwelling) with all buildings illustrated being located within the covenanted area and outside of the building envelope.



The outdoor living space on the eastern end of the buildings. The outdoor space and building behind are all within the covenanted area.

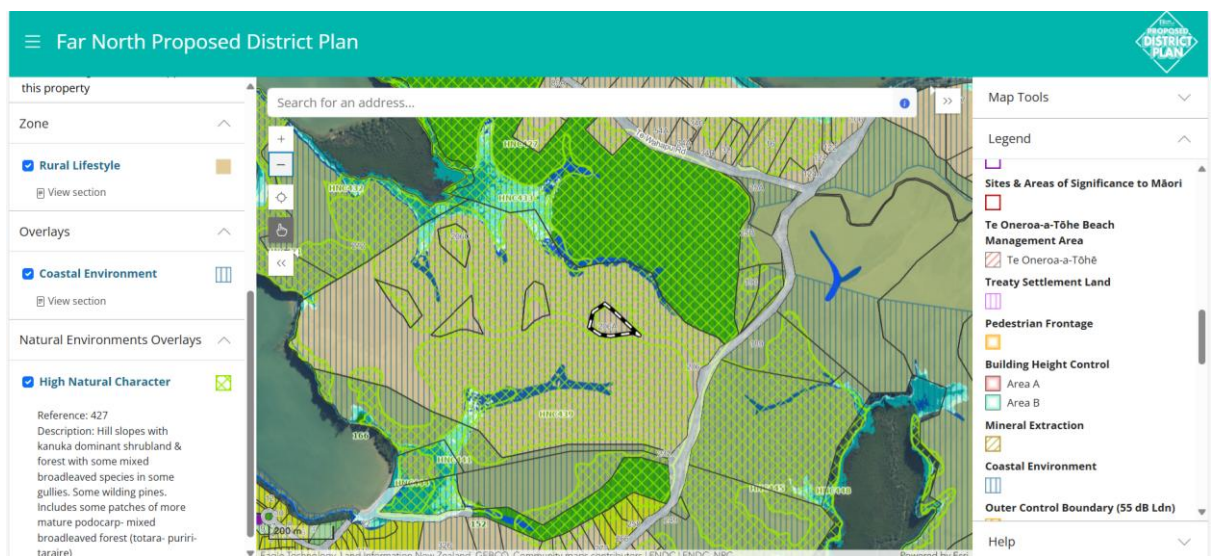


A view towards the approved building envelope area in which all buildings should have been located. This area enjoys better views of the coast that where the building work was completed.

1.07 The application site is subject to the Proposed Far North District Plan which was publicly notified on the 27th July 2022. The associated public submission period closed on the 21st October 2022 with the “Further Submission” period closing on the 4th September 2023. Since this date, the district plan hearing panel comprising appointed commissioners and councillors have heard submissions. The final hearings are scheduled for October 2025. In the following months Council will release the decisions. It is at this point in time, rules (other than those with immediate legal effect) will have legal weight. The majority of rules in the Proposed District Plan do not have any legal effect.



The application site is zoned Rural Lifestyle under the proposed plan with a Coastal Environment overlay and has part of the site identified as having High Natural Character.



The application site is noted above is located within an area which is subject to a number of different zones and overlays. The building envelope avoids most of the overlays.

- 1.08 There are certain rules that have been identified in the proposed plan and which have immediate legal effect and that may therefore apply. These matters need to be considered in assessing this application. Such rules may affect the activity status of the application. The application site is zoned Rural Lifestyle under the Proposed District Plan. There is a Coastal Environment overlay that applies to part of the site. The dwelling falls within this notation and is considered to be part of the coastal environment. There were no submissions made to the Proposed District Plan which challenged the zoning or the extent of the coastal environment and other notations within this location.

Section 221 Consent Notice Conditions

- 1.09 As briefly mentioned within this report, there are Section 221 Consent Notice Conditions which require minor changes to enable the constructed development to be legalised. While resource consent covers the district plan elements, changes are also necessary to the Consent Notice Conditions. This report and application does not address the QEII Trust elements which are progressing through their own process. What is important is that the QEII Trust is not opposed to the retention of the unconsented built development and the impacted area. There are several conditions to offset the encroachment with some additional plantings as illustrated on the site plan. The conditions noted form part of the application and where appropriate can be conditioned accordingly.
- 1.10 Changes to the conditions sought are provided within a later section of this report which focuses solely on the words to be amended, deleted or added. The changes sought will simply enable the existing development to be retained. Should there be any future development, then this will occur wholly within the approved building envelope with appropriate consents sought prior to construction occurring.

2 ASSESSMENT OF RULES UNDER THE FAR NORTH DISTRICT PLAN

- 2.01 The application seeks retrospective resource consent for a dwelling within the Coastal Living Zone. For completeness, the proposed dwelling has been assessed against all relevant development rules within the zone and relevant district wide considerations. Some rules and relevant sections of the Operative District Plan have been edited or omitted where they are not relevant to the proposal.

COASTAL LIVING

RULE	ASSESSMENT
<p>10.7.5.1.1 VISUAL AMENITY</p> <p>The following are permitted activities in the Coastal Living Zone:</p> <p>(a) any new building(s), provided that the gross floor area of any new building(s) permitted under this rule does not exceed 50m²; or</p>	<p>The retrospective building works exceed the 50m² allowance and requires resource consent.</p> <p>Resource consent required</p>

<p>10.7.5.1.2 RESIDENTIAL INTENSITY Residential development shall be limited to one unit per 4ha of land. In all cases the land shall be developed in such a way that each unit shall have at least 3,000m² for its exclusive use surrounding the unit plus a minimum of 3.7ha elsewhere on the property.</p> <p>Except that this rule shall not limit the use of an existing site or a site created pursuant to Rule 13.7.2.1 (Table 13.7.2.1) for a single residential unit for a single household.</p>	<p>The premise of a dwelling within a site is permitted with the exemption noted within the rule applicable. The site is existing and there is no other residential unit within the site.</p> <p>Permitted</p>
<p>10.7.5.1.3 SCALE OF ACTIVITIES The total number of people engaged at any one period of time in activities on a site, including employees and persons making use of any facilities, but excluding people who normally reside on the site or are members of the household shall not exceed 1 person per 2,000m² of net site area. Provided that:</p>	<p>The use of a building for residential purposes is an exempted activity under this rule and therefore this provision is not relevant.</p> <p>Not applicable</p>
<p>10.7.5.1.4 BUILDING HEIGHT The maximum height of any building shall be 8m.</p>	<p>The constructed buildings comply with the maximum height rule of 8m for the zone. All buildings are single level and well below the maximum height.</p> <p>Permitted</p>
<p>10.7.5.1.5 SUNLIGHT No part of any building shall project beyond a 45 degree recession plane as measured inwards from any point 2m vertically above ground level on any site boundary (refer to definition of Recession Plane in Chapter 3 - Definitions), except where a site boundary adjoins a legally established entrance strip, private way, access lot, or access way serving a rear site, the measurement shall be taken from the farthest boundary of the entrance strip, private way, access lot, or access way.</p>	<p>The building complies with the sunlight rule.</p> <p>Permitted</p>
<p>10.7.5.1.6 STORMWATER MANAGEMENT The maximum proportion or amount of the gross site area which may be covered by buildings and other impermeable surfaces shall be 10% or 600m² whichever is the lesser.</p>	<p>The total impermeable surfaces exceeds the 600m² allowance for the zone with an existing total impermeable surfaces being 1203m².</p> <p>Of the total impermeable surfaces on the site, the driveway and turning circle comprises a total of 875m².</p> <p>The total impermeable surfaces percentage is 14.9794% which exceeds the 10% allowance.</p> <p>Not permitted</p>
<p>10.7.5.1.7 SETBACK FROM BOUNDARIES Buildings shall be set back a minimum 10m from any site boundary, except that on any site with an area less than 5,000m² this set back shall be 3m from any site boundary. Attention is also drawn to the setback from Lakes, Rivers, Wetlands and the Coastline provisions in Chapter 12.7.</p>	<p>The buildings comply with the permitted 10m from the boundary.</p> <p>Permitted</p>
<p>10.7.5.1.8 SCREENING FOR NEIGHBOURS NON-RESIDENTIAL ACTIVITIES</p>	<p>Not applicable</p>

<p>10.7.5.1.9 TRANSPORTATION Refer to Chapter 15 – Transportation for Traffic, Parking and Access rules.</p>	<p>See below</p>
<p>10.7.5.1.10 HOURS OF OPERATION NON-RESIDENTIAL ACTIVITIES (a) The maximum number of hours the activity shall be open to visitors, clients or deliveries shall be 50 hours per week; and (b) Hours of operation shall be limited to between the hours: 0700 - 2000 Monday to Friday 0800 - 2000 Saturday, Sunday and Public Holidays</p>	<p>Not applicable as the use of the site is residential</p>
<p>10.7.5.1.11 KEEPING OF ANIMALS Any building, compound, or part of a site used for factory farming, boarding kennels or a cattery, shall be located no closer than 50m from any site boundary, except for a boundary which adjoins the Residential, Coastal Residential or Russell Township Zones, where the distance shall be a minimum of 600m.</p>	<p>Not applicable</p>
<p>10.7.5.1.12 NOISE All activities shall be so conducted as to ensure that noise from the site shall not exceed the following noise limits as measured at or within the boundary of any other site in this zone, or at any site in the Residential, Russell Township or Coastal Residential Zones, or at or within the notional boundary at any dwelling in any other rural or coastal zone: 0700 to 2200 hours 55 dBA L10 2200 to 0700 hours 45 dBA L10 and 70 dBA Lmax Construction Noise: Construction noise shall meet the limits recommended in, and shall be measured and assessed in accordance with, NZS 6803P:1984 "The Measurement and Assessment of Noise from Construction, Maintenance and Demolition Work".</p>	<p>The proposed activity will not generate any adverse noise as it is a residential activity. There is no proposed construction work.</p>
<p>10.7.5.2.2 VISUAL AMENITY Any new building(s) or alteration/additions to an existing building that does not meet the permitted activity standards in Rule 10.7.5.1.1 are a controlled activity where the new building or building alteration/addition is located entirely within a building envelope that has been approved under a resource consent.</p>	<p>The building does not meet the permitted activity rule and the building is also not fully located within the approved building envelope. With the building partly located outside the building envelope, the completed works does not meet the Controlled Activity requirements for this visual amenity rule. Is not a controlled activity</p>
<p>10.7.5.3.1 VISUAL AMENITY The following are restricted discretionary activities in the Coastal Living Zone: (a) any new building(s); or (b) any alteration/addition to an existing building that do not meet the permitted activity standards in Rule 10.7.5.1.1 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.</p>	<p>The building is located partly within and outside of the approved building envelope Restricted Discretionary</p>

<p>10.7.5.3.8 STORMWATER MANAGEMENT The maximum proportion or amount of the gross site area covered by buildings and other impermeable surfaces shall be 15% or 1,500m², whichever is the lesser.</p>	<p>The calculated impermeable surfaces are 1203m² or 14.979% and falls within the restricted discretionary allowance.</p>
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NATURAL HAZARDS

<p>12.4.6.1.2 FIRE RISK TO RESIDENTIAL UNITS (a) Residential units shall be located at least 20m away from the drip line of any trees in a naturally occurring or deliberately planted area of scrub or shrubland, woodlot or forest; (b) Any trees in a deliberately planted woodlot or forest shall be planted at least 20m away from any urban environment zone, Russell Township or Coastal Residential Zone boundary, excluding the replanting of plantation forests existing at July 2003.</p>	<p>The dwelling is located within the 20m setback requirement and cannot comply with this rule.</p> <p>The proposal is Discretionary</p>
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EXCAVATION AND FILLING – CHAPTER 12.3

<p>12.3.6.1.2 EXCAVATION AND/OR FILLING, INCLUDING OBTAINING ROADING MATERIAL BUT EXCLUDING MINING AND QUARRYING, IN THE RURAL LIVING, COASTAL LIVING, SOUTH KERIKERI INLET, GENERAL COASTAL, RECREATIONAL ACTIVITIES, CONSERVATION, WAIMATE NORTH AND POINT VERONICA ZONES</p> <p>Excavation and/or filling, excluding mining and quarrying, on any site in the Rural Living, Coastal Living, South Kerikeri Inlet Zone, General Coastal, Recreational Activities, Conservation, Waimate North and Point Veronica Zones is permitted, provided that:</p> <p>(a) it does not exceed 300m³ in any 12 month period per site; and (b) it does not involve a cut or filled face exceeding 1.5m in height i.e. the maximum permitted cut and fill height may be 3m.</p>	<p>There is no evidence of substantial earthworks undertaken. It is therefore assumed that during the construction phase that only a relatively modest amount of excavation and filling was undertaken.</p> <p>There are no exposed surfaces on the site or areas where stockpiling may have occurred.</p> <p>It is considered that for the purposes of this rule, that the proposal complies with the permitted allowance.</p> <p>Permitted</p>
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TRAFFIC AND PARKING

<p>15.1.6A.2.1 TRAFFIC INTENSITY The Traffic Intensity threshold value for a site shall be determined for each zone by Table 15.1.6A.1 above. The Traffic Intensity Factor for a proposed activity (subject to the exemptions identified below) shall be determined by reference to Appendix 3A in Part 4. This rule only applies when establishing a new activity or changing an activity on a site.</p> <p>The first residential unit on a site, farming, forestry and construction traffic (associated with the</p>	<p>The first dwelling on any site is exempt from the traffic intensity rule. Any other dwelling will generate 10 traffic movements as per Appendix 3A.</p> <p>The proposal is permitted with only one dwelling on the site and no other uses occurring.</p>
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establishment of an activity) are exempt from this rule.	
<p>15.1.6B.1.1 ON-SITE CAR PARKING SPACES</p> <p>Where:</p> <p>(i) an activity establishes; or</p> <p>The district plan requires within Appendix 3C a total of two car spaces per dwelling</p>	<p>The car parking requirement for a dwelling is two spaces which can readily be provided for on site.</p> <p>Permitted</p>

2.02 The retrospective proposal therefore breaches the following rules:

- Visual Amenity – Coastal Living Zone – Restricted Discretionary
- Impermeable surfaces – Restricted Discretionary
- Fire Risk to Residential – Discretionary

With the breach of the Fire Risk to Residential Rule being assessed as a Discretionary activity, the status of the application under the district plan is a **Discretionary Activity**.

PROPOSED DISTRICT PLAN

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

2.04 The rules for hazardous substances, scheduled sites or areas of significance to Maori, significant natural areas, or a scheduled heritage resource do not apply as none of these aspects are applicable to the site. Additionally, Heritage Area Overlays, historic heritage rules, Notable Trees, and excavation and filling are also not applicable.

2.05 On this basis there are no rules identified as relevant to the proposal which are considered to have immediate legal effect. The proposed plan is not therefore a relevant consideration from a rule perspective. No consideration of objectives and policies will be completed as the considerations are challenged. The intent is not dissimilar to the operative plan.

CHANGES SOUGHT TO SECTION 221 CONSENT NOTICE CONDITION(S)

2.06 The second component of the application is the changes required to the Section 221 Consent Notice conditions. With the buildings having been constructed partially outside the approved building envelope it is also necessary to secure a resolution which changes and modifies the existing s221 Consent Notice and related conditions. This change only relates to the application site and in particular the condition(s) which require that all buildings on the property shall be located within the approved building envelope.

2.07 The constructed development extends beyond the approved building envelope. The covenant issued and which references the QEII Trust, is subject to a separate process. The outcome is linked directly to the consent notice conditions. Consultation with QEII Trust has been positive and they support the application to legalise the existing buildings

and to modify the covenant documents and other RMA related issues. Details of the changes sought to the conditions are noted later within this report. Any consideration under Section 221(3)(c) which seeks to change conditions of consent is considered to be a Discretionary Activity.

3. APPLICATION SITE

- 3.01 The site is described in section 1 of this report and includes several photos of the site and immediate area. The application site is approximately 8031m² and is of variable contour. The majority of the site is covered in regenerating bush.

The Existing Environment

- 3.02 The Act requires the consideration of the existing environment in assessing applications. For the purposes of this application the site is considered to be vacant except for a consented shed. Since the original building was constructed, the former owners have undertaken extensive extensions and alterations without either building or resource consents. Furthermore, the buildings and outdoor living space now encroach into an area protected by a land covenant with the buildings mostly located outside of an approved building envelope. This application seeks to secure consents for the buildings and modify the consent notice conditions to enable the development to be located in its current position.
- 3.03 Other than the original shed (which is now part of the dwelling), little can be considered part of the existing environment from a built form perspective. If the buildings were extended within the approved building envelope there would be a permitted allowance before resource consent requirements were triggered.
- 3.04 The application site and wider area is considered to be coastal with the surrounding environment being bush clad slopes with pockets of pasture and several house sites located within the indigenous vegetation. The location of the constructed buildings within the site have modest views of the coast but primarily enjoy a bush outlook. In general, dwellings in coastal environments tend to be landscaped with colour palettes and designs that blend into the receiving environment. Within this application, this theme and approach is still considered to be continued as detailed within the photos. The building works completed meets this expectation.
- 3.05 The subdivision which created the application site was established to create five lifestyle lots each which were to contain a residential dwelling. This outcome has occurred on the application site but without the necessary building and resource consents, and is also positioned outside of the envelope in which the dwelling and all related buildings was to be located. This application will legalise the unconsented works and assist in meeting the original expectations of the subdivision development.

Permitted Baseline

- 3.06 Pursuant to section 104(2), when forming an opinion for the purposes of section 104(1)(a) a council may disregard an adverse effect of the activity on the environment if the plan or a NES permits an activity with that effect (i.e. a council may consider the "permitted baseline").
- 3.07 The permitted baseline refers to activities on the subject site which can be undertaken and which has been secured by consent or which could occur under the current rules. The rules for the zone are however quite restricted for built form, with limitations on what can be established before a resource consent is required.
- 3.08 The Permitted Baseline consideration is not considered to be a relevant consideration with no habitable buildings over 50m² permitted.

ASSESSMENT OF EFFECTS

- 4.01 This assessment of effects focuses on the assessed breaches as detailed earlier within the application with brief commentary provided on other matters. The s221 Consent Notice conditions which apply to the site will be discussed at the end of this section which will include modified wording to be approved. The updated wording will need to be registered on the Certificate of Title with an undertaking to complete this required and which will include an agreed timeframe.

Visual Amenity – Coastal Living Zone

- (i) the location of the building;

The location of the constructed dwelling lies partly within and partly outside of the approved building envelope as established under the original subdivision application. The original consented shed was constructed within the building envelope but was then added to periodically over the following years. The extensions were undertaken into the covenanted area and outside of the building envelope.

It is arguable that the constructed building is less visible to the coast and has primarily bush views. The approved house site is more visible to coast and so while the buildings falls outside of the building envelope, they are less visual when considering the intent and key objectives of the visual amenity rule.

There are limited views towards the coast with the turning head of the driveway access enjoying expansive (but distant) coastal and bush views.

With respect to boundaries, the structures are well clear of the property boundaries and the buildings readily comply with usual setback requirements.

Notwithstanding the building being largely outside the approved building envelope, the visual effects from a locational perspective are considered to be less than

minor. It would be highly unlikely that anyone would have known that building work was being undertaken on site given the insular nature of the building location.

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

There are no size limitations within the Section 221 Consent Notice conditions for built form and therefore reliance is placed on the rules for the zone. The extent of built form is less than 200m² and the remaining impermeable surfaces comprises access, domestic paving, and outdoor living space. It is contended that the extent of buildings constructed is appropriate for the location and is not overly large. The building is compliant with other key bulk and location requirements.

The building is located in a less visual location than the building envelope and slightly below the height which the building envelope provided.

- (iii) the colour and reflectivity of the building;

The Section 221 Consent Notice references the need to ensure colours fall within the BS5252 colour range and have a reflectance value of less than 30%.

- v. All buildings on the respective lots shall be limited to the building envelopes as referred to condition 2(b) of Resource Consent 2050477.
- vi. The colours of all buildings are to comply with British Standard Specification BS5252 colour range and have a reflectance value of 30% or less.

SIGNED:


By the FAR NORTH DISTRICT COUNCIL Mr Pat Killalea
Under delegated authority:
RESOURCE CONSENTS MANAGER

The existing colour scheme is considered to be appropriate in this instance and does not need to be repainted. In this respect a change to the consent notice condition is suggested as the colour match is difficult to estimate based on the colour charts provided within the standard. There are no details on what has been used but it is considered to be acceptable for the purposes of this consideration.

Given the insular nature of the site, the colours are considered to be appropriate in this instance. A change to the Section 221 Consent Notice condition should be considered and amended accordingly if required. The change would enable the existing colours to be retained and that any future colour changes for the buildings should be consistent with the BS5252 Standard as noted above.

The colours of the constructed buildings are considered to be acceptable and do not require any change.

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

The site is well vegetated and there are additional plantings to be undertaken to compensate for the encroachment into the covenanted area. Other than this agreed arrangement with the QEII Trust, there is no further requirements for plantings to be undertaken.

The referenced replanting areas should be conditioned to ensure that they are completed.

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

There was likely to have been some vegetation clearance and excavation and filling undertaken on the site. It is not possible to quantify the extent of either aspect based on the on-site observations. In both instances, the zone provides for both excavation and filling as well as vegetation removal allowances.

The encroachment into the covenanted area is addressed through the QEII approval and commensurate plantings to compensate for this. No further clearance of vegetation is required other than to maintain the existing fire breaks between the existing buildings and the adjacent vegetation.

Earthworks undertaken would likely to have been modest as there is no evidence of large cut or fill areas and no evidence of stockpiling of surplus materials.

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

The site is accessed via a ROW which serves several properties. The driveway off the ROW access is well established and there is a turning circle and parking area adjacent to the dwelling. The ROW access and internal driveway have existing roadside drainage and there is no further changes required for access and onsite manoeuvring.

As there is only a single dwelling on the site there is no additional loading on the ROW, which was not expected or provided for. There is more than enough parking and onsite manoeuvring.

(vii) the extent to which the building will be visually obtrusive;

The building envelope for the site was approved and is arguably more visual and prominent than the eventual location where the dwelling has been constructed. The building is not considered to result in any adverse visual effect and no further mitigation measures are required to be undertaken.

The site is very insular and the building is surrounded by regenerating vegetation. The building site location is not visible from any public road or even the ROW access which passes relatively close to the building site.

The modest single level dwelling is not considered to be visually obtrusive.

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

The cumulative effects of the proposed dwelling is considered to be less than minor when considering the location of the building notwithstanding that the buildings are not fully within the building envelope.

It is contended that the colour scheme selected is appropriate in this instance and building modest in both size and scale. All buildings on site are below 200m² which is not significant.

It is very unlikely that any part of the building could be seen from the distant coastal environment. The existing vegetation screens the building from the existing access which is below the level of the dwelling site.

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

The landscape qualities for the site have not been compromised by the dwelling's establishment. The site remains predominantly in regenerating vegetation, and this is not lost by the development which has occurred to date. Any future development will trigger a new resource consent with impermeable surfaces already exceeding the permitted allowances.

It is considered that the current dwelling blends into the receiving environment as intended, with effects being less than minor.

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

The extent of open space is not impacted on by the proposed development. Open space can consist of many forms and could include vegetated areas. The low density of development within this location affords a high degree of natural openness. There is no conflict with this consideration.

(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 approved building envelope and intended house site location is arguably more visual than where the dwelling was ultimately constructed. The encroachment into the covenanted area adds a degree of complexity but does not result in any additional effects. It is contended that there are no adversely affected persons or party.

The material selections and house design is generally consistent with the design framework which applies to the site. The proposal is considered to be acceptable within the immediate environment and does not dominate the immediate area.

The only visible portion of the site is the driveway access which leads into the bush and to where the dwelling is hidden from view. There is no visual dominance for the dwelling constructed.

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

There are no properties adjacent to the lot which can be developed as the entire adjoining lot which surrounds the application site is vegetated and has a QEII covenant attached.

The other residentially sized properties which were created as part of the subdivision are well away from the application site and also surrounded by vegetation.

Stormwater

4.02 The proposed development exceeds the 10% or 600m² (whichever is lessor) allowance afforded to development within the Coastal Living Zone. This retrospective consent has impermeable surfaces of 1203m² which equates to 14.979% for the site which is just 8031m². The built form consists of less than 200m² with the remaining impermeable surfaces primarily being access and onsite manoeuvring.

4.03 The following considerations are the extent to which Council has restricted its discretion in assessing the potential effects of the breach of impermeable surfaces.

In assessing an application under this provision the Council will restrict the exercise of its discretion to:

- (a) the extent to which building site coverage and Impermeable Surfaces contribute to total catchment impermeability and the provisions of any catchment or drainage plan for that catchment;

The extent of impermeable surfaces constructed is insignificant in the context of the overall catchment. The works undertaken on site has been completed for several years and there is no evidence which suggests that there is any impact on the receiving environment including the private access and the ROW access which serves several properties.

As with most rural properties, drainage is managed onsite and there is little to no risk from the completed development. In addition, roof water is harvested as a potable source and stored in water tanks with an additional tank proposed for fire fighting purposes.

- (b) the extent to which Low Impact Design principles have been used to reduce site impermeability;

There are no formal measures completed on site which embrace low impact design due to the insignificant scale of the impermeable surfaces presented. The retrospective nature of this application has contributed to this and it is considered unnecessary to retrofit or undertake any reactive works.

Roof harvesting as noted above reduces some of the water generated from the site but with most impermeable surfaces being driveway and onsite manoeuvring,

the surplus water is directed to natural overland flow paths. There does not appear to be any adverse effects from this approach.

In the future if further development is undertaken then Low Impact Design measures will be utilized as required.

(c) any cumulative effects on total catchment impermeability;

There are no identified cumulative effects generated by the completed development on the stormwater system. All water not harvested for a potable supply is directed to natural overland flow paths.

(d) the extent to which building site coverage and Impermeable Surfaces will alter the natural contour or drainage patterns of the site or disturb the ground and alter its ability to absorb water;

There is no evidence to suggest based on on-site observations that there are any issues with current stormwater management. There was no evidence of erosion, scouring or other typical signs of stormwater issues. There are no exposed surfaces which require attention. The effects are considered to be less than minor.

(e) the physical qualities of the soil type;

There is no additional excavation or filling proposed for the retrospective consent.

(f) any adverse effects on the life supporting capacity of soils;

The site is not used for any productive purpose with the surrounding land in indigenous regenerating bush.

(g) the availability of land for the disposal of effluent and stormwater on the site without adverse effects on the water quantity and water quality of water bodies (including groundwater and aquifers) or on adjacent sites;

The existing wastewater treatment and disposal system is being replaced as noted on the plans provided. As part of the Building Consent process, the new system will be consented and then installed. Remediation works associated with the existing system will be needed.

The location of the new system will be outside the building envelope and therefore within the covenanted area but has been agreed to by the QEII Trust.

(h) the extent to which paved, Impermeable Surfaces are necessary for the proposed activity;

The extent of impermeable surfaces is not considered to be excessive in the context in which it relates. It is probable that any future development may utilize some of the existing impermeable surfaces but until any plans are formulated the current completed works are acceptable.

- (i) the extent to which landscaping and vegetation may reduce adverse effects of run-off;

There is already significant vegetation which surrounds the site and other than the areas to be planted as part of the application, there is no further plantings required or deemed to be necessary.

- (j) any recognised standards promulgated by industry groups;

There are no works proposed with this being a retrospective application but in the event that future works are proposed, then the usual recognized standards will be employed as required.

- (k) the means and effectiveness of mitigating stormwater runoff to that expected by permitted activity threshold;

All stormwater should be managed in an effective manner. In this instance water not harvested for a potable supply is directed to natural channels. The permitted allowance for the site is half of the total impermeable surfaces which currently exist on site with all of this allowance used up by the driveway and turning circle (825m²). The measures in place as noted above are more than adequate for the development undertaken on site.

- (l) the extent to which the proposal has considered and provided for climate change.

If there are future works to be completed at some point, it will be necessary to address climate change as required.

Fire Risk to Residential

4.04 When the shed was constructed it was not considered to be a habitable building, and this provision did not apply as it was not a habitable building – simply a shed. In the following years the shed was extended as noted on the plans and converted into a residential unit. This conversion from non-habitable to habitable triggers the Fire Risk to Residential rule and the building is closer than 20m from vegetation.

4.05 Consultation with Fire & Emergency New Zealand has been completed and written support has been provided. There are several conditions which can be incorporated into the decision as required. The following criteria is to be considered in addressing the real risk to residential development.

- (j) in respect of fire risk to residential units:

- (i) the degree of fire risk to dwellings arising from the proximity of the woodlot or forest and vice versa; and
- (ii) any mitigation measures proposed to reduce the fire risk; and
- (iii) the adequacy of the water supply; and
- (iv) the accessibility of the water supply to fire service vehicles.

4.06 In providing their written approval to the development and the measures proposed, Fire and Emergency NZ have considered the above matters and concluded that the onsite provisions are acceptable or can be made to be acceptable. On this basis it is

unnecessary to address each of these matters other than to acknowledge that these issues have been considered and accepted.

4.07 The written approval of Fire and Emergency NZ is an important piece of the application.

Conclusion

- 4.08 In considering the matters above (visual effects, stormwater and Fire Risk to Residential) the assessment of potential effects conclude that such effects are less than minor. The imposition of conditions can further mitigate the less than minor effects created.
- 4.09 The current owner is resolving an existing issue which will legalise both the building and its use for residential purposes. Applications and approvals are required under the Building Act and Resource Management Act. Furthermore, the covenant which applies to the site and which involves the QEII Trust is also being resolved. Approvals from both QEII Trust and FENZ have been obtained and while there is further work to be undertaken with respect to the covenant, legal documents are being drafted by the Trust and the exemption to encroach into the area will be accepted.
- 4.10 The effects created by the constructed dwelling are now well known and it is with certainty that this development can be concluded as a proposal (while retrospective in nature) that results in less than minor effects.
- 4.11 Changes to the Section 221 Consent Notice conditions will also be required and these details will follow. These changes are necessary to not only endorse the acceptance of the covenant changes but to recognize that the completed development results in less than minor effects.

SECTION 221 CONSENT NOTICE CONDITIONS

- 5.01 As noted earlier within this report, the constructed development conflicts with several conditions imposed on the title under a Section 221 Consent Notice registered on the title. These conflicts can be addressed (where appropriate) by changes to these conditions. Changes require not only a formal resolution and decision but also an amended Section 221 Consent Notice certificate and confirmation that these changes will be registered on the title.
- 5.02 The justification and grounds for the changes sought have been previously raised and concern primarily two conditions. These conditions relate to the following matters:
- buildings being required to be located within the building envelope
 - material and colours for buildings to be within the BS5252 range and have a reflectance value of less than 30%.

The first bullet point is obvious with more than half of the unconsented buildings sought to be legalised under this application being outside of the approved building envelope. The second component is to enable the existing colour scheme to be accepted. It is unclear from a review of the colour chart as to where the present colour scheme on the building fits. It is however also acknowledged that the existing scheme is not considered to be adverse and does not conflict with the intent of the condition or the visual amenity considerations.

5.03 In both instances an exemption is therefore sought to the condition and the noted changes are as follows. These changes reinforce the conclusions reached above and to which are material considerations for the retrospective resource consent.

5.04 The changes sought are as follows:

- v. All buildings on the respective lots shall be limited to the building envelopes as referred to condition 2(b) of Resource Consent 2050447 except that in the case of Lot 5 DP 370303 the buildings and related service requirements can extend beyond the building envelop as detailed in the site plan prepared by Angela Bilyard-Smith dated 1st September 2025 and which was approved under RC xxxxx and includes buildings, outdoor living space and onsite wastewater treatment and disposal areas.
- vi. The colours of all buildings are to comply with British Standard Specification BS5252 colour range and have a reflectance value of 30% or less with the exception Lot 5 DP 370303 where the existing colour scheme for buildings approved under RC xxxxxx is acceptable.

5.05 These changes will match the retrospective resource consent but also ensure that future applications for the site are subject to the original parameters of the conditions. The effects of the changes as noted previously are less than minor and offer a practical solution to the current situation.

5.06 The applicant would welcome modifications to the above suggested changes providing the outcome falls within the scope of the retrospective consent and that there are no inconsistencies.

COASTAL LIVING ZONE – OBJECTIVES AND POLICIES

6.01 The following objectives and policies are sourced from the operative district plan and provide relevant considerations for the proposed development. A brief commentary is provided which considers the application in relation to these considerations.

COASTAL LIVING

Objectives

- 10.7.3.1 To provide for the well being of people by enabling low density residential development to locate in coastal areas where any adverse effects on the environment of such development are able to be avoided, remedied or mitigated.
- 10.7.3.2 To preserve the overall natural character of the coastal environment by providing for an appropriate level of subdivision and development in this zone.

Policies

- 10.7.4.1 That the adverse effects of subdivision, use, and development on the coastal environment are avoided, remedied or mitigated.
- 10.7.4.2 That standards be set to ensure that subdivision, use or development provides adequate infrastructure and services and maintains and enhances amenity values and the quality of the environment.

10.7.4.3 Subdivision, use and development shall preserve and where possible enhance, restore and rehabilitate the character of the zone in regards to s6 matters, and shall avoid adverse effects as far as practicable by using techniques including:

- (a) clustering or grouping development within areas where there is the least impact on natural character and its elements such as indigenous vegetation, landforms, rivers, streams and wetlands, and coherent natural patterns;
- (b) minimising the visual impact of buildings, development, and associated vegetation clearance and earthworks, particularly as seen from public land and the coastal marine area;
- (e) providing planting of indigenous vegetation in a way that links existing habitats of indigenous fauna and provides the opportunity for the extension, enhancement or creation of habitats for indigenous fauna, including mechanisms to exclude pests;

6.02 The proposed dwelling although having a coastal zoning is not immediately adjacent to the coast but is considered to be a sensitive location. The appropriateness for development was clearly established when the original subdivision was approved and the associated building envelopes created for each lot. In addition to the building envelope appropriate design controls were imposed which ensures that the receiving environment is able to absorb the development proposed. In principle, the construction of a dwelling is acceptable within these confines however with the building not being located within the envelope it is necessary to consider the effects of such an encroachment.

6.03 It is considered that the constructed dwelling achieves the outcomes sought and is consistent with the relevant objectives and policies. The effects of the encroachment into the covenanted area and the building being outside the building envelope does not result in adverse effects. The assessment considerations are more robust in this instance with the building not being fully within the building envelope but this does not mean that it is unacceptable. The conclusion reached with respect to the effects of the development is that the effects are less than minor.

PART 2 CONSIDERATIONS

7.01 The application does not conflict with any matter or consideration under Part 2 of the Act. The proposal provides for the social and economic well-being of the district by improving the environment and enabling appropriate development to be established all while resulting and ensuring the effects of the proposal are less than minor.

7.02 It is therefore contended that the residential development is appropriate and consistent with the purpose of the Act.

NOTIFICATION ASSESSMENT S95A TO 95G OF THE ACT

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

8.02 Public Notification section 95A

Step 1

Mandatory public notification in certain circumstances

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

The applicant has not requested public notification and none of other matters noted are applicable.

Step 2 Public Notification precluded in certain circumstances

The criteria for step 2 are as follows:

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

The activity is precluded from public notification because the activity is a residential activity and therefore excluded.

Step 3 – Public Notification required in certain circumstances

The criteria for Step 3 are as follows:

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

There is no rule within the NES Regulations that requires public notification of this application.

8.03 Affected Persons Assessment – Limited Notification Section 95B

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

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

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

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

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

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

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

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

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

The assessment of effects concludes that there are no persons who will be adversely affected by the proposed residential dwelling. This conclusion is reached as the effects of the proposal as noted above are less than minor.

8.04 Notification Assessment Conclusion

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

- In accordance with section 95A, public notification is not required, and in particular adverse effects are considered to be less than minor;

- In accordance with section 95B, no persons are considered to be affected by the proposal; and,
- In accordance with section 95A(9) and 95B(10), there are no special circumstances to require public or limited notification.

SUMMARY

- 9.01 The application seeks retrospective resource consent for the construction of a residential dwelling which changed from a consented shed into a dwelling and then included extensions and alterations. These changes occurred over several years and were undertaken by the former owner. The current owner and applicant is seeking to legalise the dwelling. The proposal breaches the visual amenity rule, fire risk to residential, and stormwater rules within the Coastal Living Zone. The proposal complies with all other rules within the plan does not breach any rules under the NES Regulations.
- 9.02 In addition to the above rule breaches for the zone, the building also extends beyond an approved building envelop in which are development was to occur and into an area subject to a QEII covenant. The matters relating to the encroachment and acceptance of this are separate matters in which the owner and QEII Trust are addressing.
- 9.03 The constructed building conflicts with existing Section 221 Consent Notice conditions and changes are sought to two conditions to enable the constructed dwelling to be retained as it currently exists. Changes are sought to conditions (v) & (vi) and both a resolution is required for the amended wording and then certificate issued and then registered on the title.
- 9.04 Despite the breaches of the district plan and non-compliance with the Section 221 Consent, the proposal does not result in any adverse effects that are considered to be minor or more than minor. The conclusion reached is that the effects are less than minor. No further mitigation measures are required although both FENZ and QEII Trust have requirements to be met. These requirements can be conditioned (as required) to meet their requirements. The requirements noted by both agencies form part of the application.
- 9.05 Retrospective consent for the proposal should be granted and changes as requested to the Section 221 Consent Notice conditions approved. There are no persons deemed to be affected by the development.
- 9.06 It is considered that the proposal is not contrary to the relevant objectives and policies of the district plan.
- 9.07 It is considered that the resource consent application can be approved under s104B of the Resource Management Act.

In respect to conditions for the resource consent and conditions for the Section 221 Consent Notice, please forward through draft sets for comments and consideration prior to the issuance of the decision.

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

Yours faithfully



Wayne Smith

Zenith Planning Consultants Ltd

Principal | Director

BPlan | BSocSci | MNZPI

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RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy




R.W. Muir
Registrar-General
of Land

Identifier **286174**
Land Registration District **North Auckland**
Date Issued 11 June 2007

Prior References
60523

Estate Fee Simple
Area 8031 square metres more or less
Legal Description Lot 5 Deposited Plan 370303
Registered Owners
Carpenter Investments Limited

Interests

Subject to a right of way and rights to convey power supply and convey telecommunications supply over part marked N on DP 370303 created by Transfer D491861.2 - 29.3.2000 at 2.28 pm

D610636.1 Open Space Covenant pursuant to Section 22 Queen Elizabeth the Second National Trust Act 1977 - 6.6.2001 at 3.42 pm

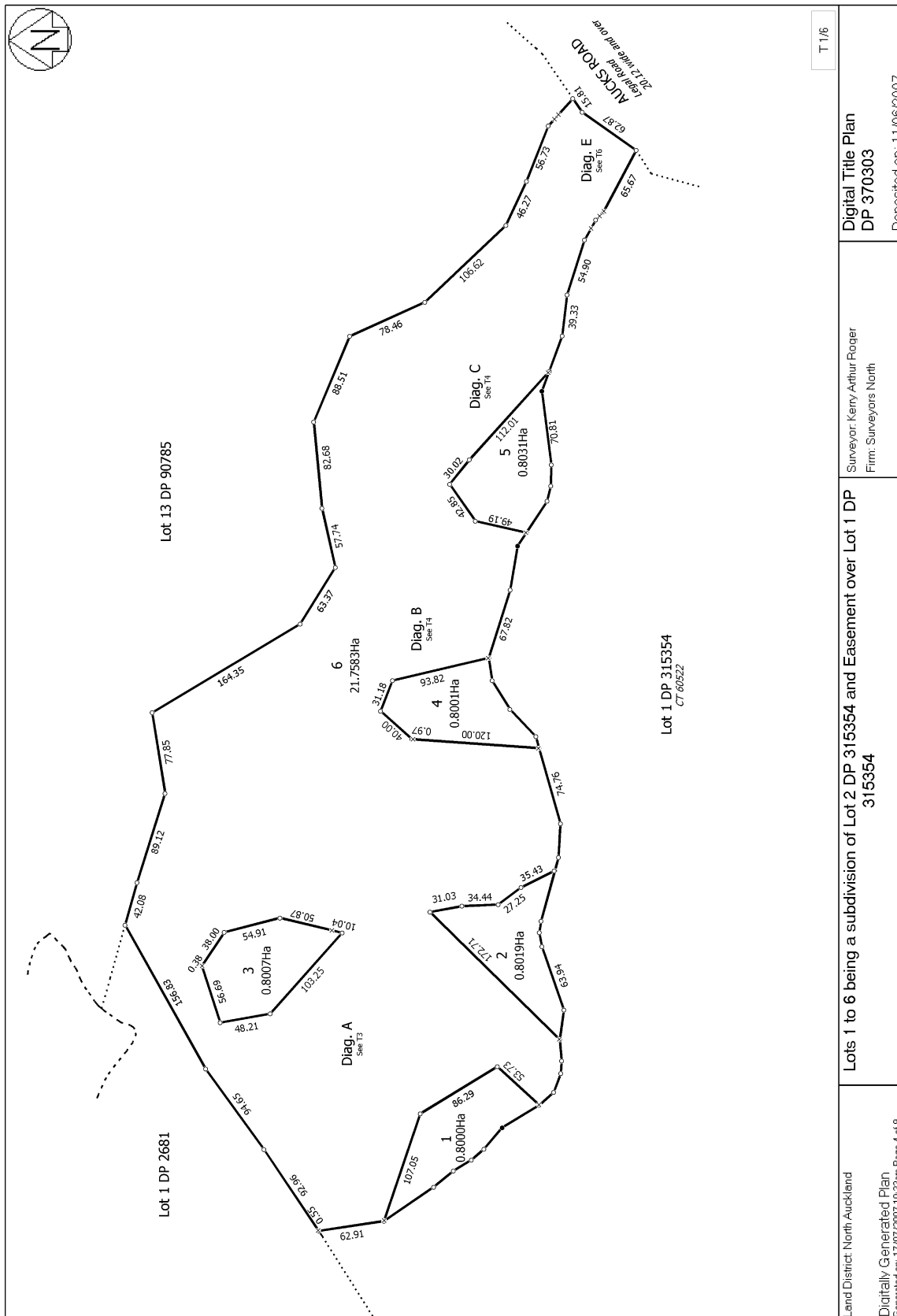
Appurtenant hereto is a right of way and rights to supply telecommunications and electricity created by Easement Instrument 5490701.3 - 17.2.2003 at 9:00 am

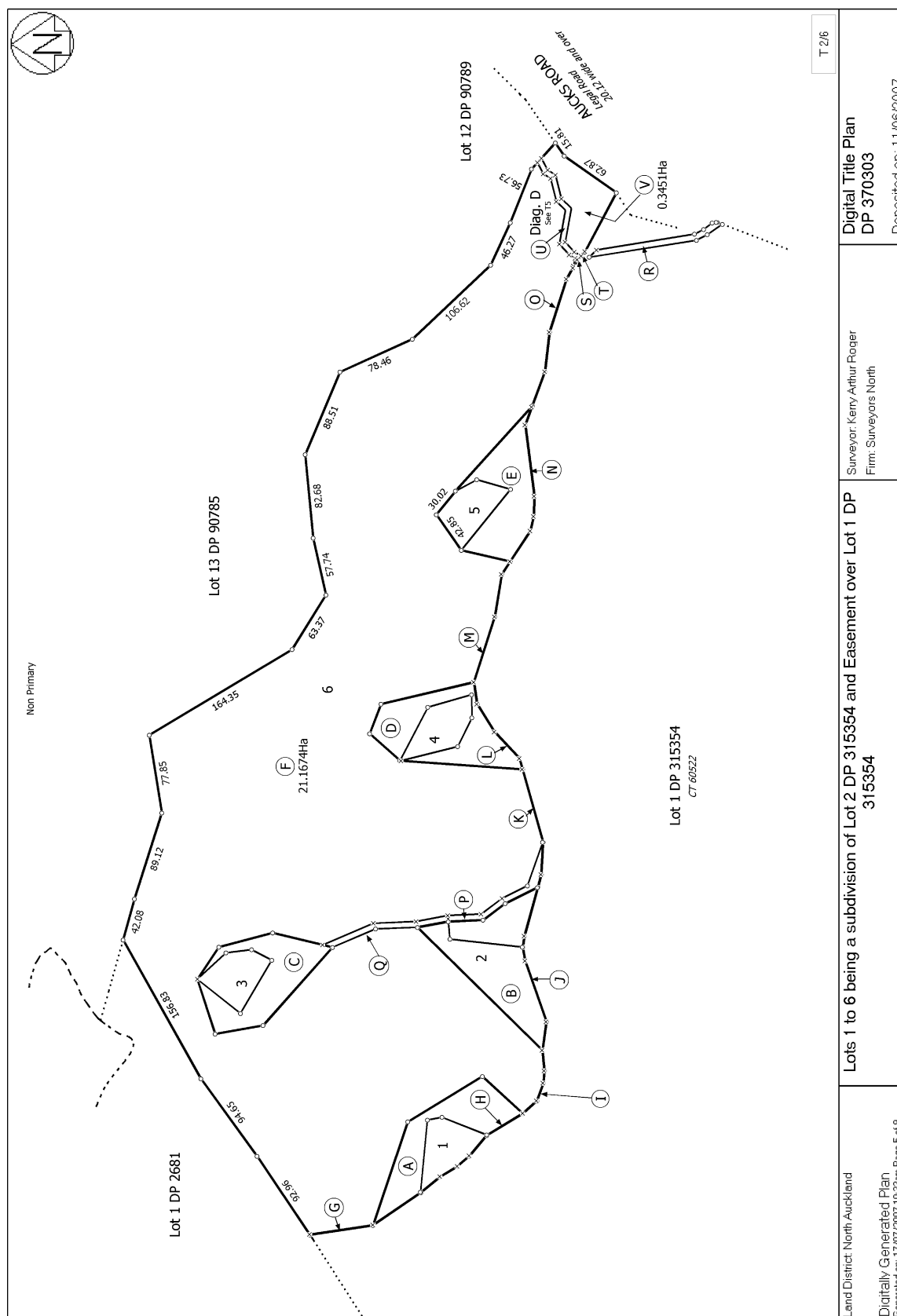
The easements created by Easement Instrument 5490701.3 are subject to Section 243 (a) Resource Management Act 1991 7411707.1 Consent Notice pursuant to Section 221 Resource Management Act 1991 - 11.6.2007 at 9:00 am

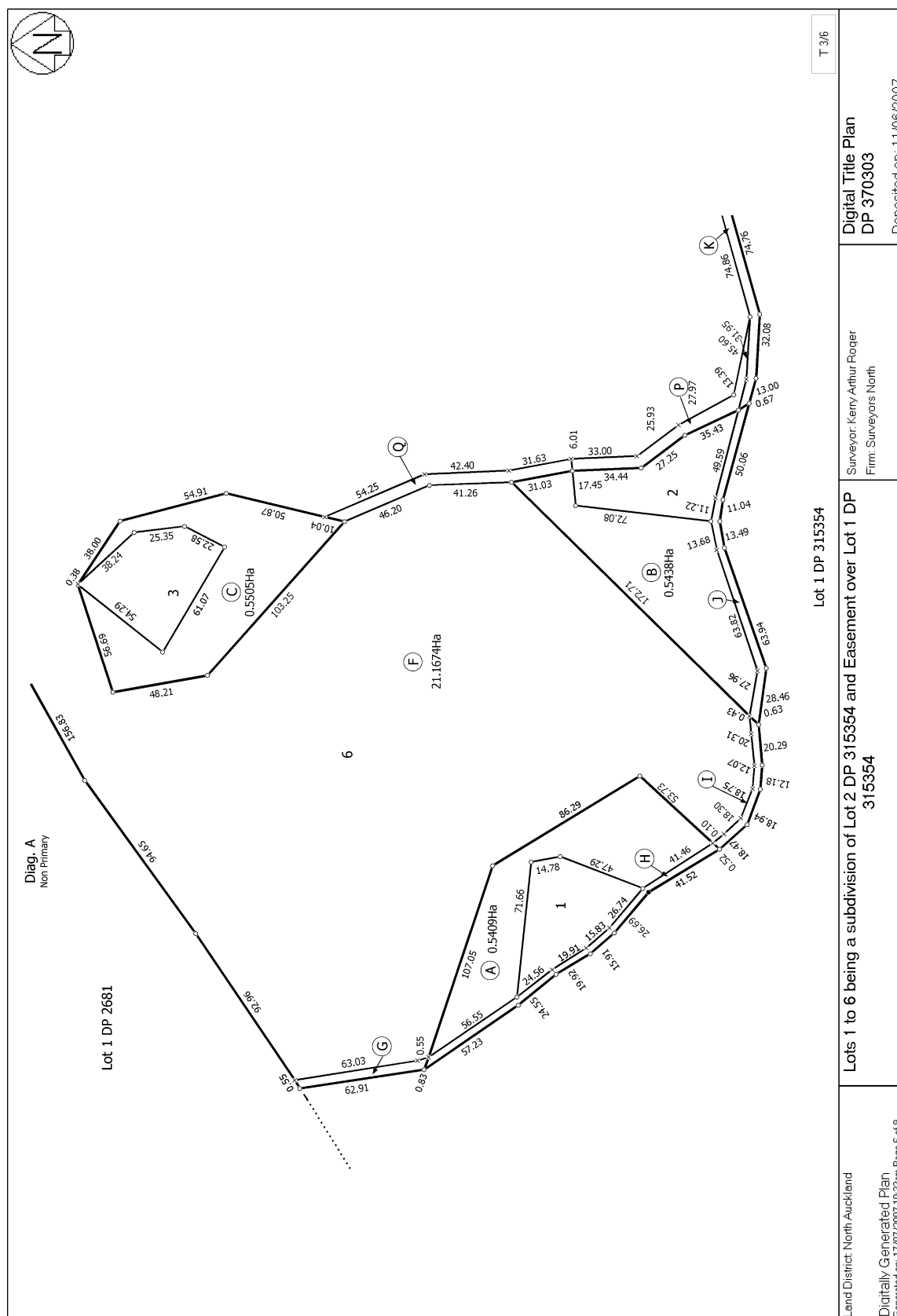
Subject to a right of way, electricity and telecommunication supply easements over part marked N on DP 370303 created by Easement Instrument 7411707.3 - 11.6.2007 at 9:00 am

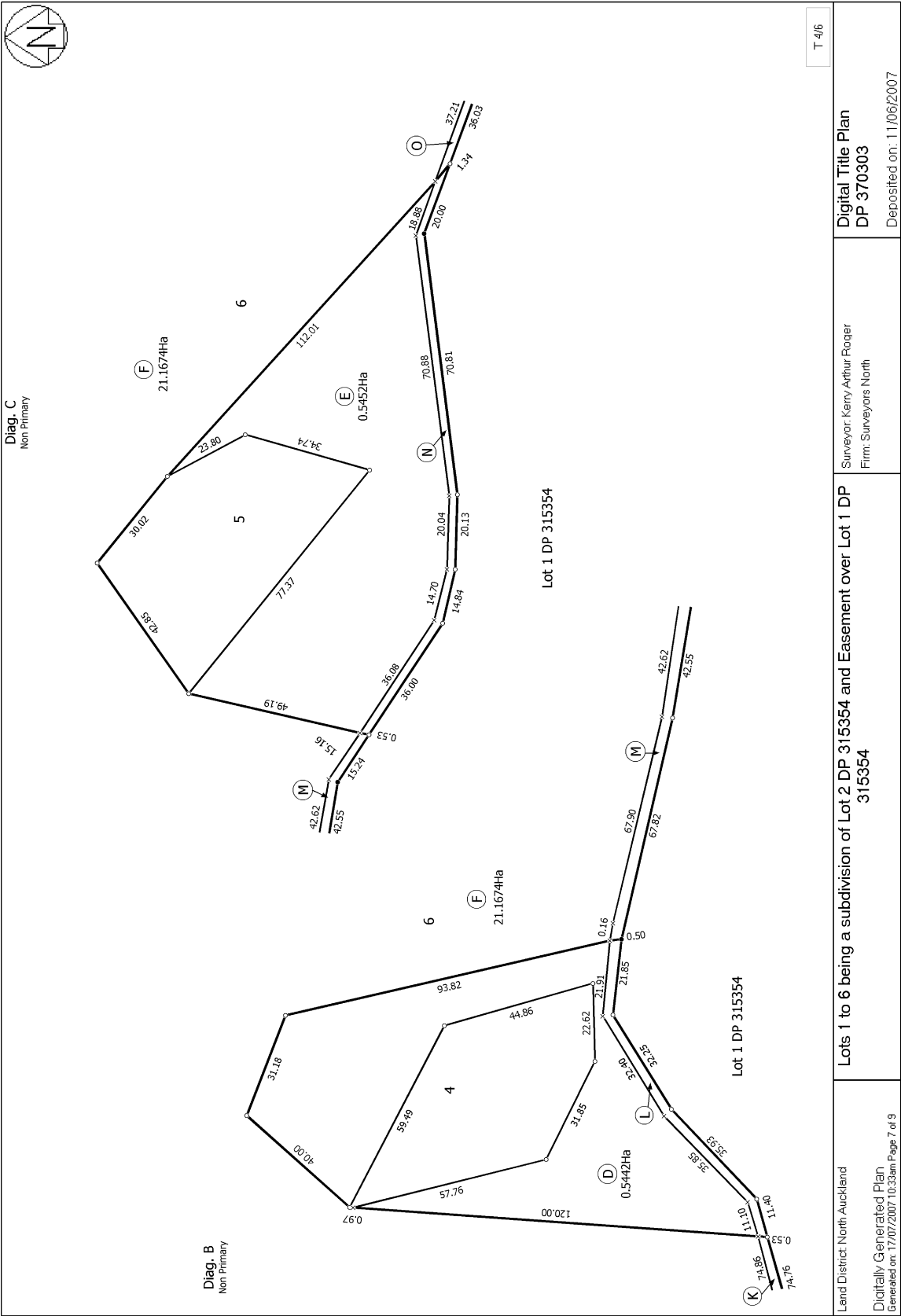
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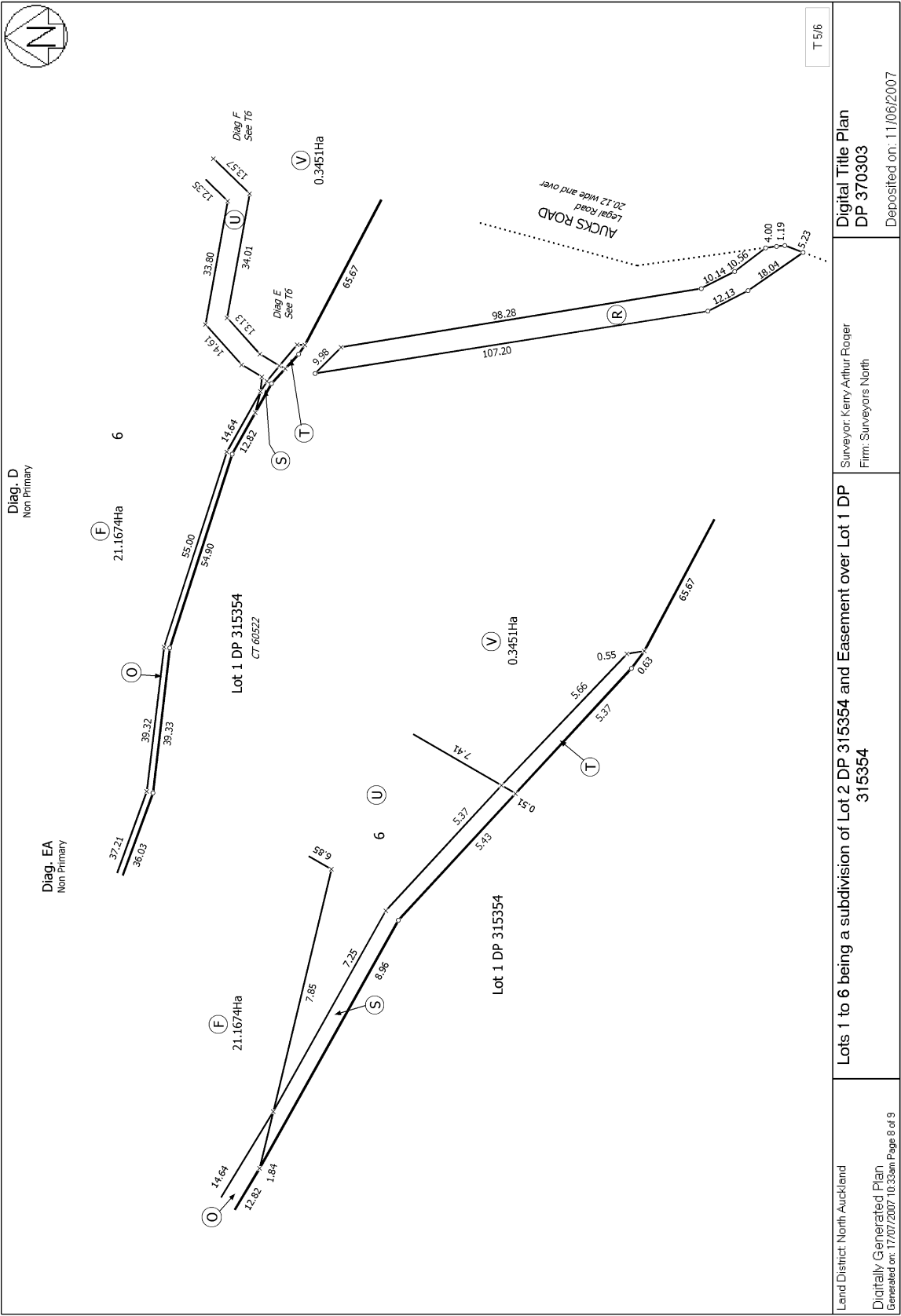
The easements created by Easement Instrument 7411707.3 are subject to Section 243 (a) Resource Management Act 1991 Fencing Covenant in Transfer 7478291.1 - 27.7.2007 at 11:08 am

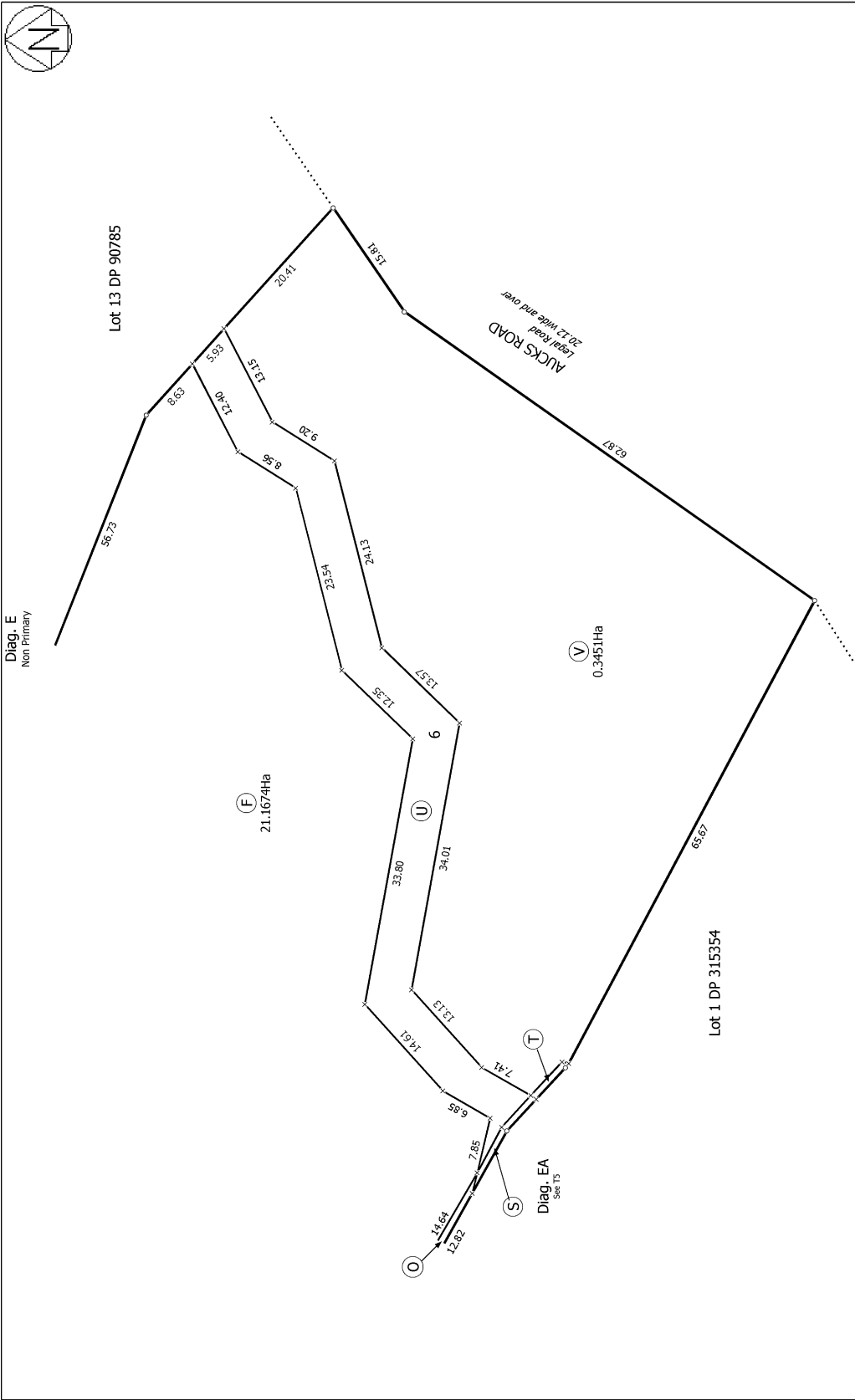




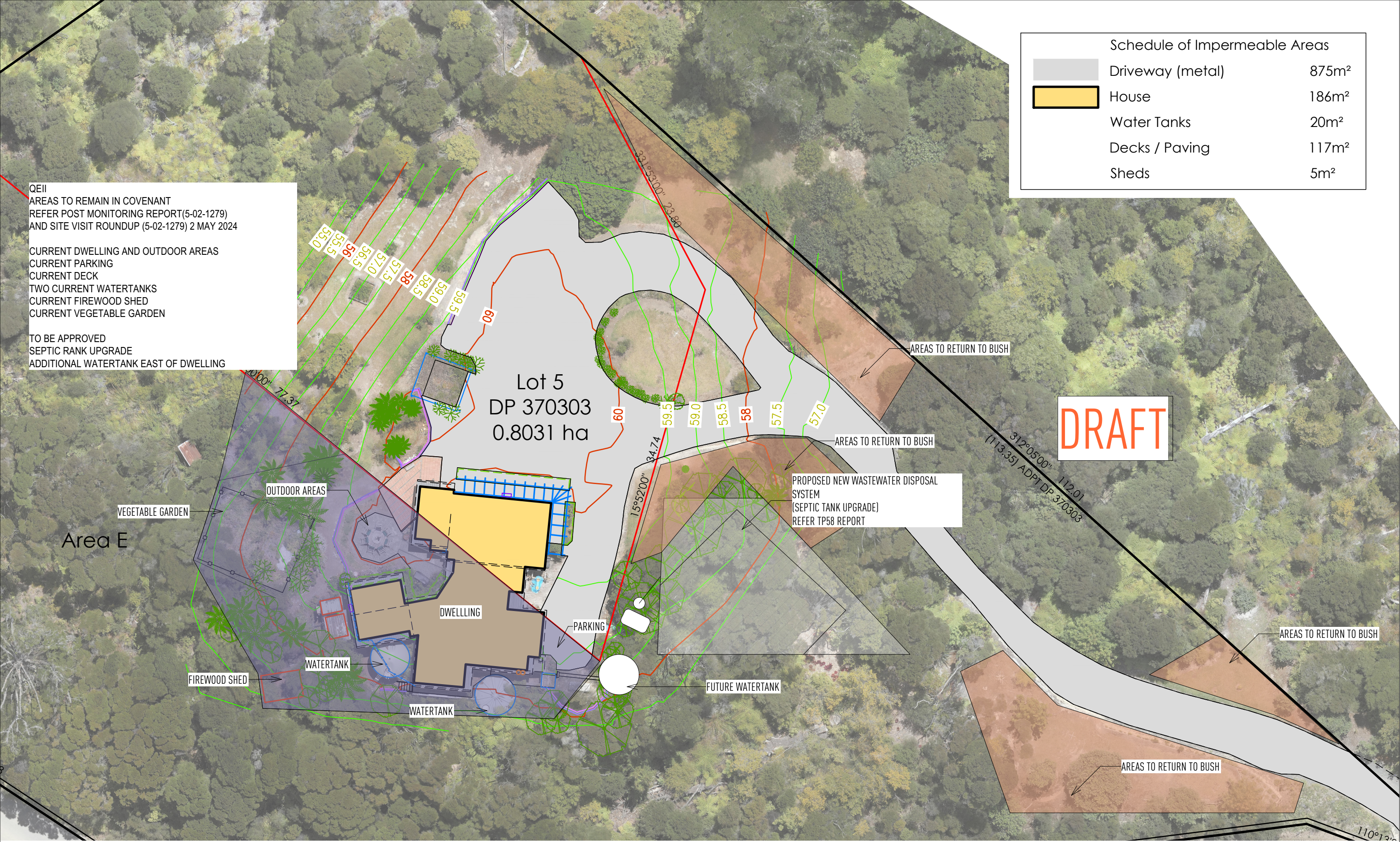








Land District: North Auckland	Lots 1 to 6 being a subdivision of Lot 2 DP 315354 and Easement over Lot 1 DP 315354	Surveyor: Kerry Arthur Rogier Firm: Surveyors North	Digital Title Plan DP 370303 Deposited on: 11/06/2007
Digitally Generated Plan Generated on: 17/07/2007 10:33am Page 9 of 9			



QEII
AREAS TO REMAIN IN COVENANT
REFER POST MONITORING REPORT(5-02-1279)
AND SITE VISIT ROUNDUP (5-02-1279) 2 MAY 2024

CURRENT DWELLING AND OUTDOOR AREAS
CURRENT PARKING
CURRENT DECK
TWO CURRENT WATERTANKS
CURRENT FIREWOOD SHED
CURRENT VEGETABLE GARDEN

TO BE APPROVED
SEPTIC RANK UPGRADE
ADDITIONAL WATERTANK EAST OF DWELLING

Schedule of Impermeable Areas		
<div></div>	Driveway (metal)	875m ²
<div></div>	House	186m ²
	Water Tanks	20m ²
	Decks / Paving	117m ²
	Sheds	5m ²

Area E

DRAFT

Angela Bilyard-Smith(NZCAD)
ARCHITECTURAL DESIGN
PO BOX 27 MAUNGATAPERE 0152
09 434 6170 / 021 211 1579
smithbilyard@gmail.com

206A AUCKS ROAD RUSSELL BAY OF ISLANDS

NOTE: ALL DESIGNS + DRAWINGS REMAIN THE COPYRIGHT OF ANGELA BILYARD-SMITH ARCHITECTURAL DESIGNER. WORK FROM FIGURED DIMENSIONS ONLY- DONOT SCALE OFF THE DRAWINGS.

DRAWING TITLE:			
SITE PLAN			
DRAFT FOR DISCUSSION QEII + CLIENT			
DRAWN: AB	SCALE: NTS	DATE: 01/09/2025	SHEET: 01-1
CHECKED: AB	REF: 2141		



Far North
District Council

CONO 7411707.1 Consen

Cpy - 01/04, Pgs - 003, 11/06/07, 10:34



DocID: 312907057

20 MAR 2007

Private Bag 752, Memorial Ave

Kaikōhe 0400, New Zealand

Freephone: 0800 920 029

Phone: (09) 405 2750

Fax: (09) 401 2137

Email: ask.us@fndc.govt.nz

Website: www.fndc.govt.nz

THE RESOURCE MANAGEMENT ACT 1991

SECTION 221 : CONSENT NOTICE

REGARDING RC 2050477
the Subdivision of Lot 2 DP 315354
North Auckland Registry

PURSUANT to Section 221 and for the purpose of Section 224 (C)(ii) of the Resource Management Act 1991, this Consent Notice is issued by the **FAR NORTH DISTRICT COUNCIL** to the effect that conditions described in the schedule below are to be complied with on a continuing basis by the subdividing owner and the subsequent owners after the deposit of the survey plan, and these are to be registered on the titles of the allotments specified under each condition below.

SCHEDULE

Lots 1 – 6 DP 370303

- i. No occupier of the land shall keep or introduce on to the site carnivorous or omnivorous exotic animals (such as ferrets and cats) which have the potential to be kiwi predators. On any site where dogs are to be kept dog proof fencing shall be erected to prevent possible uncontrolled dog intrusion into the bush on the land. All dogs on the properties outside of the dog proof areas shall be under direct control at all times (including those belonging to trade workers during the construction phase).
- ii. All buildings will require Engineer designed foundations. The details of which are to be provided with any building consent application.
- iii. Waste wastewater treatment and disposal shall be in accordance with TP 58 and specifically designed by a Chartered Professional Engineer.
- iv. All properties shall adhere to the requirements as specified in the Open Space Document variation covenant prepared through the Queen Elizabeth II National Trust dated 11th August 2003.

- v. All buildings on the respective lots shall be limited to the building envelopes as referred to condition 2(b) of Resource Consent 2050477.
- vi. The colours of all buildings are to comply with British Standard Specification BS5252 colour range and have a reflectance value of 30% or less.

SIGNED:


By the FAR NORTH DISTRICT COUNCIL Mr Pat Killalea
Under delegated authority:
RESOURCE CONSENTS MANAGER

DATED at **KAIKOHE** this *16th* day of *May* 2007

Landonline User ID: LAWFACTORLAU

LODGING FIRM: LAWFACTOR LIMITED

Address

08 / 06 / 07 (1)

Uplifting Box Number:

83

ASSOCIATED FIRM:

MCLEODS LAWYERS

Client Code / Ref:

51790/2 BOEROP

HEREWITH

Survey Plan (#)

Title Plan (#)

Traverse Sheets (#)

Field Notes (#)

Calc Sheets (#)

Survey Report

Dealing / SJD Number
(LINZ Use only)

Priority Barcode Date Stamp
(LINZ use only)



CONO 7411707.1 Consen
Cpy - 02/04, Pgs - 003, 11/06/07, 10:34

Copies
(inc. original)
DocID: 312907057

Plan Number Pre-Allocated or
to be Deposited

370303

Rejected Dealing Number:

Other (state)

Priority Order	CT Ref	Type of Instrument	Names of Parties	DOCUMENT OR SURVEY FEES	MULTITITLE FEES	NOTICES	ADVERTISING	NEW TITLES	OTHER	RE-SUBMISSION & PRIORITY FEE	FEE'S \$ GST INCLUSIVE
1	60523	CONO	FAR NORTH DISTRICT COUNCIL	50.00							\$50.00
2	AS ABOVE	OCT	WAIRORO PARK LTD					6	\$636		\$636.00
3	286170-286174 INC 342720, 60522	EI	WAIRORO PARK LTD TO WAIRORO PARK LTD	50.00	1	\$2					\$52.00
4											
5											
6											

Land Information New Zealand Lodgement Form

Anticipation LINZ Use only

Fees Receipt and Tax Invoice

GST Registered Number 17-022-895

LINZ Form P005

LINZ Form P005 - PDF

Original Signatures? _____

Subtotal (for this page)	\$738.00
Total for this dealing	\$738.00
Loss Fees paid on Dealing #	
Cash/Cheque enclosed for	\$738.00

OPEN SPACE COVENANT

(Pursuant to Section 22 of the Queen Elizabeth the Second National Trust Act 1977)

WHEREAS WAIRORO PARK LIMITED

(hereinafter called "**the Covenantor**") is registered as proprietor of an estate as set out in the Schedule of Land hereto (hereinafter called "**the land**")

AND WHEREAS the **QUEEN ELIZABETH THE SECOND NATIONAL TRUST** established by the Queen Elizabeth the Second National Trust Act 1977 (hereinafter called "**the Trust**") is authorised by that Act to obtain open space covenants over any private land

AND WHEREAS the Covenantor has agreed to enter into an open space covenant with the Trust for the purpose set forth in the First Schedule hereto

NOW THEREFORE in consideration of the covenants and conditions hereinafter contained **THESE PRESENTS WITNESS** that in pursuance of the said agreement and by virtue of Section 22 of the Act the Covenantor and the Trust with the intent and so as to bind the land into whosoever hands the same may come **MUTUALLY COVENANT** at all times to observe and perform the respective duties and obligations imposed by the restrictions, stipulations and agreements contained in the Schedules hereto to the end and intent that the same shall bind the land in perpetuity.

FIRST SCHEDULE

The Purpose of the within written open space covenant is to achieve the following open space objectives of the Covenantor and the Trust:

- a) To protect and maintain the open space values of the land.
- b) To protect and enhance the natural character of the land with particular regard to the indigenous flora and fauna.
- c) To protect the landscape amenity of the bush on the land.

SECOND SCHEDULE

Interpretations, restrictions, stipulations and agreements

1. In the Deed unless the context otherwise requires:-

"**Act**" means the Queen Elizabeth the Second National Trust Act 1977.

"**Board**" means the Board of Directors of the Queen Elizabeth the Second National Trust.

"**Covenantor**" means the "**Owner**" who entered into this covenant with the Trust.

"**Trust Manager**" means the person appointed under Section 18(1)(a) of the Act.

Handwritten signature and initials, possibly 'JAS' and 'was', with 'TRP' written below.

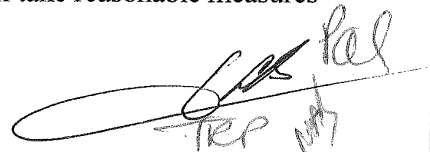
"Owner" means the person or persons who from time to time are registered as the proprietor(s) of **"the land"**.

"the land" means the property or part thereof defined as subject to this covenant and as shown on the plan annexed to this Deed.

2. No act or thing shall be done or placed or permitted to be done or remain upon the land which in the opinion of the Board materially alters the actual appearance or condition of the land or is prejudicial to the land as an area of open space as defined in the Act.

In particular, on and in respect of the land, except with the prior written consent of the Board, or as outlined in the Third Schedule, the Owner shall not:

- (a) Fell, remove, burn or take any native trees, shrubs or plants of any kind.
 - (b) Plant, sow or scatter any trees, shrubs or plants or the seed of any trees, shrubs or plants other than local native flora, or introduce any substance injurious to plant life except in the control of pest plants.
 - (c) Mark, paint, deface, blast, move or remove any rock or stone or in any way disturb the ground.
 - (d) Construct, erect or allow to be erected, any new buildings or make exterior alterations to existing buildings.
 - (e) Erect, display or permit to be erected or displayed, any sign, notice, hoarding or advertising matter of any kind.
 - (f) Carry out any prospecting or exploration for, or mining or quarrying of any minerals, petroleum, or other substance or deposit.
 - (g) Dump, pile or otherwise store any rubbish or other materials, except in the course of maintenance or approved construction, provided however that after the completion of any such work all rubbish and materials not wanted for the time being are removed and the land left in a clean and tidy condition.
 - (h) Effect a subdivision as defined in the Resource Management Act 1991.
 - (i) Allow cattle, sheep, horses, or other livestock to enter, graze, feed or otherwise be present provided, however, that they may graze up to any approved fenceline on the perimeter of the land.
3. In considering any request by the Owner for an approval in terms of Clause 2 hereof, the Board will not unreasonably withhold its consent if it is satisfied that the proposed work is in accordance with the aim and purpose of the covenant as contained in the First Schedule.
4. Except with the prior written consent of the Board, no action shall be taken or thing done, either on the land or elsewhere, which will in any way cause deterioration in the natural flow, supply, quantity, or quality of any river, stream, lake, pond, marsh, or any other water resource affecting the land.
5. The Owner shall notify the Trust of any advice received from any power authority, mining company, or other body or person of the intention to erect utility transmission lines or carry out any prospecting, exploration, mining or quarrying on the land and shall not signify any concurrence in relation to the proposed work without the written permission of the Board.
- 6.(i) The Owner shall continue to comply with the provisions of the Biosecurity Act 1993 and all amendments thereto provided, however, that the Owner may request assistance from the Trust in carrying out the aforementioned responsibility.
- 6.(ii) That in keeping with the aims and purposes of this covenant the Owner shall continue to comply with the Wild Animal Control Act 1977 and shall take reasonable measures for the control of wild animals as defined in the Act.

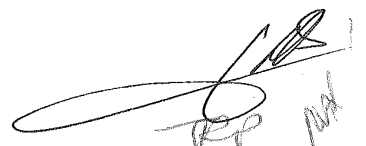
Handwritten signature and initials, possibly "TRP" and "M7", with a large flourish.

7. The Owner shall keep all fences and gates on the boundary of the land in good order and condition and will accept responsibility for all repairs. Except as provided for in Clause 8 herein rebuilding or replacement of all such fences and gates will be the responsibility of the Owner.
8. The Trust shall repair and replace to its former condition any fence, gate or other improvement on the land which may have been damaged in the course of the Trust exercising any of the rights conferred by the covenant.
9. Subject to any conditions mutually agreed between the Trust and the Owner, members of the public shall have freedom of entry and access to the land with the prior permission of the Owner.
10. The Owner may approve the use of firearms, traps or the safe use of poison by any person or persons for the eradication of pest animals on the land.
11. The Trust, through its officers, agents or servants, may at all times enter upon the land for the purpose of viewing the state and condition thereof. In exercising this right, any officer, agent or servant of the Trust will notify the Owner in advance.
12. Any consent, approval, authorisation or notice to be given by the Trust shall be sufficient if given in writing signed by the Trust Manager and delivered or sent by ordinary post to the last known residential or official address of the Owner or to the solicitor acting on behalf of the Owner.
13. The Owner or the Trust may at any time during the term of this covenant, by mutual agreement, carry out any works or improvements, or take any action either jointly or individually, or vary the terms of this covenant to ensure the more appropriate preservation of the land as an open space in terms of the Act provided, however, such agreement is not contrary to the aim and purpose of this covenant.
14. The Trust may revoke this covenant if all the members of the Board are satisfied that by reason of any change in the character of the land or of any other circumstances which the Board may deem sufficiently material, this covenant ought to be deemed obsolete, or that the continued existence thereof would impede the reasonable use of the land without securing any practical benefit consistent with the purpose of the Act.
15. Nothing in these presents hereinbefore contained shall be deemed to render the Covenantor personally liable for any breach of these covenants and conditions committed after the Covenantor shall have ceased to be the Owner.
16. The Owner shall notify the Trust of any change of ownership or control of all or any part of the land, and shall supply the Trust with the name and address of the new owner.
17. If at any time prior to registration hereof by the District Land Registrar the Owner desires to sell or otherwise dispose of all or any part of the land such sale or disposition shall be made expressly subject to the restrictions, stipulations and agreements contained in the Second Schedule hereto.

Handwritten signature and initials, possibly "SRP" and "MMS", with a large flourish.

THIRD SCHEDULE

1. The Owner may, after prior consultation with the Trust as to route, create walking tracks through the bush on the land and maintain same.
2. The Owner may, after prior consultation with the Trust as to siting and design, provided necessary consents are obtained from the territorial authorities, subdivide the land into no more than five new allotments and create a building site of a maximum area of 2,500 square metres with access thereto on each new allotment AND FURTHER the Owner may construct and maintain a dwelling and associated amenities on each building site so created PROVIDED THAT the Owner will ensure domestic pets which could be a threat to the indigenous flora and fauna protected by this Deed are kept under strict control.
3. In accordance with clause 9 of the Second Schedule of this Deed, the Trust and the Owner have mutually agreed the Owner shall have the sole right to determine whether or not any member of the public may have entry and access to the land.

Handwritten signature and initials in the bottom right corner of the page.

SCHEDULE OF LAND

Land Registry: NORTH AUCKLAND
Estate: fee simple

Area: A = 26.0 hectares

Lot & D.P. No. Part Lot 2
(other legal description) DP 2681
Block V
Russell Survey District
Shown as area A on SO 70061

Part Certificate of Title: 18D/1186

IN WITNESS WHEREOF this memorandum has been executed
this 19th day of April 1999

by:
WAIRORO PARK LIMITED

as Covenantor

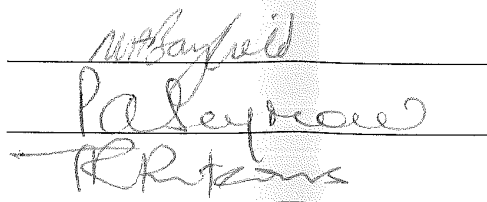


THE COMMON SEAL of the QUEEN
ELIZABETH THE SECOND NATIONAL
TRUST was hereto affixed in the
presence of:

Chairman

Director

Trust Manager



OPEN SPACE COVENANT

Pursuant to Section 22 of
the Queen Elizabeth the
Second National Trust
Act 1977.

Correct for the
purposes of the Land
Transfer Act.

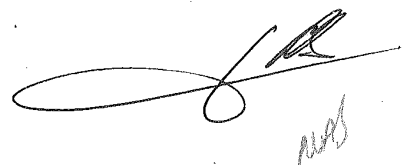
WAIRORO PARK LIMITED
Covenantor



Trust Manager
being a person authorised
by the Trust to certify on
its behalf.

AND

**THE QUEEN ELIZABETH THE
SECOND NATIONAL TRUST**

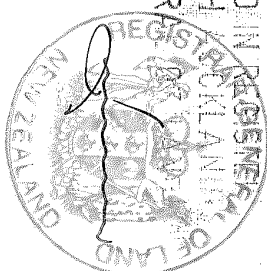


LINZ COPY

3.42 06.JUN01 D 610636 1/4

**PARTICULARS ENTERED IN REGISTRY
LAND REGISTRY NORTH
for REGISTRAR-GENERAL**

3-21





EASEMENT CERTIFICATE

(IMPORTANT: Registration of this certificate does not of itself create any of the easements specified herein).

I/We **WAIRORO PARK LIMITED**

EI 5490701.3 Easemen

Cpy - 01/01, Pgs - 006, 17/02/03, 07:54



DocID: 310745129

being the registered proprietor(s) of the land described in the Schedule hereto hereby certify that the easements specified in that Schedule, the servient tenements in relation to which are shown on a plan of survey deposited in the Land Registry Office at **NORTH AUCKLAND** on the **20th** day of **November** **2002** under No. **315354** are the easements which it is intended shall be created by the operation of section 90A of the Land Transfer Act 1952.

SCHEDULE DEPOSITED PLAN NO. **315354**

Nature of Easement (e.g., Right of Way, etc.)	Servient Tenement		Dominant Tenement Lot No.(s) or other Legal Description	Title Reference
	Lot No.(s) or other Legal Description	Colour, or Other Means of Identification, of Part Subject to Easement		
Right of Way	Lot 1, DP 315354	B & D	Lot 2, DP 315354	60523
Telecom- munications	Lot 1, DP 315354	B & D	Lot 2, DP 315354	60523
Electricity	Lot 1, DP 315354	B & D	Lot 2, DP 315354	60523

HENDERSON REEVES CONNELL RISHWORTH

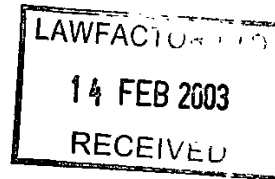
L A W Y E R S

Refer: Mr Atkins (22932/5)

13 February 2003

The Manager
Lawfactor Limited
DX CP24101
AUCKLAND

LINZ



Attention: Gareth

Dear Sirs

JL & BM BOEROP

We return the documents sent on 7th February, together with a copy of page 5 of a mediated agreement between the Caveator and Wairoro Park Limited dated 19th August 1999, and we regret that we did not send this copy to you with the documents at the outset.

The Caveator agreed to the cost of some roading upgrading and under paragraph 19 a right to register a Caveat was provided, as the company could be obliged to pay the proportion of the roading upgrading should any part of the property be sold within 15 years.

Thus the Caveat is specifically to secure payment upon a sale within 15 years and you will see that clause 19 states that it shall not prevent anything except a transfer of the property or part thereof. It therefore seems totally inappropriate to seek consent when the Caveator's interest is not being affected, as the Caveat will be brought down on to the new Titles, and the easements are of no consequence to the rights of the Caveator.

Yours faithfully

HENDERSON REEVES CONNELL RISHWORTH

per:

B.M. Atkins
Consultant

5

17. In the event that the defendant wishes to add further residential accommodation to its property it shall only do so if it pay~~s~~ in reduction of the mortgage debt \$20,000 per unit so established.
18. Until the mortgage debt is repaid or expires at the end of the period of 15 years from the date of this agreement the sum owing shall be increased by the amount of the CPI index for that year.
19. Any sum left owing on the expiry of 15 years from the date of this agreement shall be deemed to have been repaid and any caveat lodged against the defendant's title to protect the sum owed shall be withdrawn. The parties shall be entitled to treat this agreement as an agreement by the defendant to secure the sum owed by it to the plaintiff by an agreement to mortgage on the standard ADLS fixed principal sum mortgage form secured over the defendant's property. The plaintiff agrees the mortgage shall not be registered but a caveat shall be registered over the defendant's title to secure the mortgage but shall not prevent anything except a transfer of the property or part thereof.
20. The plaintiff agrees on or before 1/11/99 to construct to a standard approved to an acoustic engineer a solid wall to provide an acoustic screen from carpark noise to the benefit of the Boerop residents. This wall will be built at the boundary of the cafe carpark to the extent necessary to provide adequate acoustic screening for the Boerop residence to the following minimum requirements. It shall at least be 1.8 metres high. It shall be close boarded timber construction ie, 25 mm plank - no gaps - and designed to achieve 10 dba attenuation.
21. Attached to this agreement is a plan showing a portion of the plaintiff's property edged in red but excluding therefrom the plaintiff's carpark and water tank which is currently vegetated. The plaintiff agrees as a condition of this settlement that it will not remove any further significant vegetation in this defined area. This undertaking shall only subsist for the benefit of Captain



State whether any rights or powers set out here are in addition to or in substitution for those set out in the Seventh Schedule to the Land Transfer Act 1952.

1. Rights and powers:



2. Terms, conditions, covenants, or restrictions in respect of any of the above easements:

Dated this 24th day of January 2003

Signed by the above-named
WAIRORO PARK LIMITED

.....
Director

in the presence of

Witness M.P. Hutton

Occupation Retired

Address P.O. Box 53, Russell

.....
Director

Correct for the purposes of the Land Transfer Act 1952

[Signature]
(Solicitor for) the registered proprietor:

Approved by Registrar-General
of Land under No. 1998/6031EF



EASEMENT CERTIFICATE

Land Transfer Act 1952

Law Firm Acting
Henderson Reeves Connell Rishworth Solicitors WHANGAREI

Auckland District Law Society
REF: 4050 /4

This page is for Land Registry Office use only.
(except for "Law Firm Acting")

**Easement instrument to grant easement or *profit à prendre*, or
Sections 90A and 90F, Land Transfer Act 1952**

EI 7411707.3 Easement I

Cpy - 01/01, Pgs - 003, 05/07/07, 12:04

Land registration district

NORTH AUCKLAND



Grantor

Surname(s) must be underlined or in CAPITALS.

WAIRORO PARK LIMITED

Grantee

Surname(s) must be underlined or in CAPITALS.

WAIRORO PARK LIMITED

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

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

Dated this 3rd day of July 2007

Attestation

 Beryl Maureen BOEROP - Director Jan Leendert BOEROP - Director Signature [common seal] of Grantor	Signed in my presence by the Grantor Signature of witness Witness to complete in BLOCK letters (unless legibly printed) Witness name Occupation GLENN RAYMOND LOVELL SOLICITOR Address KAEO
--	---

 Beryl Maureen BOEROP - Director Jan Leendert BOEROP - Director Signature [common seal] of Grantee	Signed in my presence by the Grantee Signature of witness Witness to complete in BLOCK letters (unless legibly printed) Witness name Occupation GLENN RAYMOND LOVELL SOLICITOR Address KAEO
--	---

Certified correct for the purposes of the Land Transfer Act 1952.

[Solicitor for] the Grantee
GLENN RAYMOND LOVELL
SOLICITOR
KAEO

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

Annexure Schedule 1

Easement instrument

Dated

3rd July 2007.

Page

2

of

3

pages

Schedule A

(Continue in additional Annexure Schedule if required.)

Purpose (nature and extent) of easement, profit, or covenant	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant tenement (Identifier/CT or in gross)
Right of Way, Electricity supply and telecommunication supply	H on DP 370303	286170	286171, 286172, 286173, 286174, 342720, 60522
	J on DP 370303	286171	286170, 286172, 286173, 286174, 342720, 60522
	L on DP 370303	286173	286170, 286171, 286172, 286174, 342720, 60522
	N on DP 370303	286174	286170, 286171, 286172, 286173, 342720, 60522
	G, I, K, M, O, S, T on DP370303	342720	286170, 286171, 286172, 286173, 286174, 60522
	P on DP 370303		286171, 286172
	Q on DP 370303		286172
	R on DP 370303	60522	286170, 286171, 286172, 286173, 286174, 342720

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

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

Continue in additional Annexure Schedule if required.

Unless otherwise provided below, the rights and powers implied in specific classes of easement are those prescribed by the Land Transfer Regulations 2002 and/or the Ninth Schedule of the Property Law Act 1952.

The implied rights and powers are [varied] ~~[negated]~~ ~~[added to]~~ or ~~[substituted]~~ by:

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

~~[the provisions set out in Annexure Schedule 2].~~

Covenant provisions

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

Continue in additional Annexure Schedule if required.

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

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

~~[Annexure Schedule 2].~~

All signing parties and either their witnesses or solicitors must sign or initial in this box

[Handwritten signatures]

Annexure Schedule 2



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

Easement Instrument

Dated

3rd July 2007

Page

3

of

3

pages

(Continue in additional Annexure Schedule, if required.)

1. RIGHT OF WAY

Rights and Powers

- 1.1 Paragraph 11(2) of Schedule 4 of the Land Transfer Regulations 2002 shall be deleted and replaced with the following:

"11(2) i. Subject to 11(2)ii, if the grantee (or grantees, if more than 1) and the grantor share the use of the easement facility, each of them shall make a contribution according to user for the repair and maintenance of the easement facility, and for the associated costs, for the purposes set out in subclause (1).

11(2)ii Any maintenance, repair or replacement of any easement facility that is necessary because of any act or omission by any owner of either the dominant or servient land (which includes any of the agents, employees, contractors, subcontractors or invitees of those owners) must be carried out promptly by that owner at the sole cost of that owner or in such proportion as relates to the act or omission."

Where there is a conflict between the provisions of Schedule 4 to the Land Transfer Regulations 2002 and/or of the Ninth Schedule to the Property Law Act 1952 and the modifications in this Easement Instrument, these modifications must prevail.

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.

DRAWING TITLE:			
SITE PLAN			
FENZ APPLICATION			
DRAWN:	SCALE:	DATE:	SHEET:
AB	NTS	22/09/2025	01-2
CHECKED: AB	REF: 714.1		

5-02-1279 RH Carpenter, Carpenter Investments Limited, 30 Umbria Lane, Flat Bush, AUCKLAND
2019, ron.carpenter@trgroup.co.nz

A-ppt01

Photograph taken standing next to driveway looking into track entrance and covenant at a bearing of 150 degrees.

2024



A-ppt02

Photograph taken standing at gate post on western side of driveway entrance at a bearing of 280 degrees.

2024







Angela Smith <smithbilyard@gmail.com>

Site visit roundup (5-02-1279)

3 messages

Mieke Kapa <MKapa@qeii.org.nz>

Thu, May 2, 2024 at 12:17 PM

To: "ron.carpenter@trgroup.co.nz" <ron.carpenter@trgroup.co.nz>, Angela Smith <smithbilyard@gmail.com>

Tena koe Ron and Angela

Thank you Angela for meeting with me onsite at [206A Aucks Road, Okaito](#). And many thanks to you for making the initial phone call and connecting about the covenant encroachment; that was very much appreciated.

It was a shame not to catch up with you this time Ron, perhaps we can meet when you come up this way another time. I see that you also have a covenant on Moojebing farm across the road and I will be ringing later in the year to tee up a site visit for that, perhaps that timing would work out for you.

Angela and I went through the various dwelling and garden encroachments into the covenant that are currently occurring. I created a map of these in with the photopoints photograph document attached.

Below summarises what has encroached into the covenant (note the driveway through the covenant to the building platform is allowed):

- Dwelling and outdoor areas
- Parking
- Deck
- Two water tanks
- Firewood shed
- Vegetable garden
- Amenity gardens
- Mown grass with specimen trees (either side of driveway)
- Planted bromeliads and other exotic species in and around the walking track (track indicated on the map)

QEII head office believe that the way forward includes:

- Removing exotic plants from either side of the driveway. A small mowing strip alongside the driveway is ok but stop mowing the remainder. Either allow mown grass to regenerate with natives or plant native species so that the area will eventually look like the adjacent natural covenant.
- Removing other exotic plant species from underneath the kanuka on either side of the small walking track and allow to regenerate naturally or plant in natives.
 - Your neighbour (206B Aucks Road) Mark Tatton (021 643 111) is a contractor that may be able to help with both of those (he also does native planting and weed control works on Omata Estate) if you wanted him to.
- Any additional buildings must be built within the building platform (Angela suggested that this would be surveyed at your cost), not within the covenant.
- Minor trimming of trees on the southern side of the current dwelling for fire purposes is allowed.
- Areas to remain within the covenant –
 - Current dwelling and outdoor areas
 - Current parking
 - Current deck
 - Two current water tanks
 - Current firewood shed
 - Current vegetable garden
- Angela mentioned that you were getting the area surveyed to determine exactly where the covenant is. Could you please ensure there are permanent markers at key locations.
- HO lawyers have decided that it is not necessary to create a variation to add the changes that are needed. However, two things will need an approval letter (but will more than likely be approved).
 - Septic system can be upgraded. Please supply a design.
 - An additional water tank can be added where the boat is in the aerial photograph (east of the dwelling) only. Or within the building platform (out of covenant area).

I think that is everything covered off. Please don't hesitate to contact me with regards to any of the above.

Thanks once again for the positive assistance to these historical matters.

Ngā mihi

Mieke

**Mieke Kapa**

Far North Regional Rep - Kaiwhakarite ā Rohe o Te Tai Tokerau

QEII National Trust - Ngā Kairauhī Papa

PH: 027 494 0733

**5021279_Post-monitoringPhotopoints_2024April.pdf**
731K**Ron Carpenter** <ron.carpenter@trgroup.co.nz>

Thu, May 2, 2024 at 5:32 PM

To: Mieke Kapa <MKapa@qeii.org.nz>

Cc: Angela Smith <smithbilyard@gmail.com>, Lee Crown <leedeb16@yahoo.co.nz>

Miele,
Sent from my iPhone

On 2 May 2024, at 12:19 PM, Mieke Kapa <MKapa@qeii.org.nz> wrote:

Miele, this is so constructive. Thank you.

I am up here at the moment and will share this with our property managers who live at 206.

Will work up a plan from there and keep you informed.

Do look forward to meeting up in due course.

R

[Quoted text hidden]

Mieke Kapa

[Quoted text hidden]

9 attachments



Mieke Kapa <MKapa@qei.org.nz>
To: Ron Carpenter <ron.carpenter@trgroup.co.nz>
Cc: Angela Smith <smithbilyard@gmail.com>, Lee Crown <leedeb16@yahoo.co.nz>

Thu, May 2, 2024 at 5:41 PM

Fantastic – have a lovely evening.

Ngā mihi
Mieke

Mieke Kapa | Far North Regional Representative –Kaiwhakarite ā Rohe o Te Tai Tokerau | QEII National Trust – Ngā Kairauhi Papa |Ph 027 494 0733

[Quoted text hidden]



WHAKARATONGA IWI

FIRE
EMERGENCY

NEW ZEALAND

Non-Reticulated Firefighting Water Supplies, Vehicular Access & Vegetation Risk Reduction Application for New and Existing Residential Dwellings and Sub-Divisions



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Section A - Firefighting Water Supplies and Vegetation Risk Reduction Waiver

“Fire and Emergency New Zealand strongly recommends the installation of automatic fire detection system devices such as smoke alarms for early warning of a fire and fire suppression systems such as sprinklers in buildings (irrespective of the water supply) to provide maximum protection to life and property”.

Waiver Explanation Intent

Fire and Emergency New Zealand [FENZ] use the New Zealand Fire Service [NZFS] Code of Practice for firefighting water supplies (SNZ PAS 5409:2008) (The Code) as a tool to establish the quantity of water required for firefighting purposes in relation to a specific hazard (Dwelling, Building) based on its fire hazard classification regardless if they are located within urban fire districts with a reticulated water supply or a non-reticulated water supply in rural areas. The code has been adopted by the Territorial Authorities and Water Supply Authorities. The code can be used by developers and property owners to assess the adequacy of the firefighting water supply for new or existing buildings.

The Area Manager under the delegated authority of the Fire Region Manager is responsible for approving applications in relation to firefighting water supplies. The Area Manager may accept a variation or reduction in the amount of water required for firefighting for example; a single level dwelling measuring 200^m² requires 45,000L of firefighter water under the code, however the Area Managers in Northland have excepted a reduction to 10,000L.

This application form is used for the assessment of proposed water supplies for firefighting in non-reticulated areas only and is referenced from (Appendix B – Alternative Firefighting Water Sources) of the code. This application also provides fire risk reduction guidance in relation to vegetation and the 20-metre dripline rule under the Territorial Authority’s District Plan. Fire and Emergency New Zealand are not a consenting authority and the final determination rests with the Territorial Authority.

For more information in relation to the code of practice for Firefighting Water supplies, Emergency Vehicle Access requirements, Home Fire Safety advice and Vegetation Risk Reduction Strategies visit www.fireandemergency.nz

Section B – Applicant Information

Applicants Information	
Name:	Carpenter Investments
Address:	206A Aucks Road Russell
Contact Details:	021 2111579
Return Email Address:	c/- Angela Bilyard-Smith Architectural Designer

Section C – Property Details

Property Details	
Address of Property:	206A Aucks Road
Lot Number/s:	Lot 5 DP 370303
Dwelling Size: (Area = Length & Width)	181m2
Number of levels: (Single / Multiple)	single

1. Fire Appliance Access to alternative firefighting water sources - Expected Parking Place & Turning circle

Fire and Emergency have specific requirements for fire appliance access to buildings and the firefighting water supply. This area is termed the hard stand. The roading gradient should not exceed 16%. The roading surface should be sealed, able to take the weight of a 14 to 20-tonne truck and trafficable at all times. The minimum roading width should not be less than 4 m and the property entrance no less 3.5 metres wide. The height clearance along access ways must exceed 4 metres with no obstructions for example; trees, hanging cables, and overhanging eaves.

1 (a) Fire Appliance Access / Right of Way	
Is there at least 4 metres clearance overhead free from obstructions?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Is the access at least 4 metres wide?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Is the surface designed to support a 20-tonne truck?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Are the gradients less than 16%	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Fire Appliance parking distance from the proposed water supply is 20 metres	

If access to the proposed firefighting water supply is not achievable using a fire appliance, firefighters will need to use portable fire pumps. Firefighters will require at least a one-metre wide clear path / walkway to carry equipment to the water supply, and a working area of two metres by two metres for firefighting equipment to be set up and operated.

1 (b) Restricted access to firefighting water supply, portable pumps required
Has suitable access been provided? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Comments: Gentle slope

Internal FENZ Risk Reduction comments only:

Click or tap here to enter text.

2. Firefighting Water Supplies (FFWS)

What are you proposing to use as your firefighting water supply?

2 (a) Water Supply Single Dwelling

Tank	<input type="checkbox"/> Concrete Tank <input checked="" type="checkbox"/> Plastic Tank <input checked="" type="checkbox"/> Above Ground (Fire Service coupling is required - 100mm screw thread suction coupling) <input type="checkbox"/> Part Buried (max exposed 1.500 mm above ground) <input type="checkbox"/> Fully Buried (access through filler spout) Volume of dedicated firefighting water 15,000litres
------	--

2 (b) Water Supply Multi-Title Subdivision Lots / Communal Supply

Tank Farm	<input type="checkbox"/> Concrete Tank <input type="checkbox"/> Plastic Tank <input type="checkbox"/> Above Ground (Fire Service coupling is required - 100mm screw thread suction coupling) <input type="checkbox"/> Part Buried (max exposed 1.500mm above ground) <input type="checkbox"/> Fully Buried (access through filler spout) Number of tanks provided Click or tap here to enter text. Number of Tank Farms provided Click or tap here to enter text. Water volume at each Tank Farm Click or tap here to enter text. Litres Volume of dedicated firefighting water Click or tap here to enter text. litres
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2 (c) Alternative Water Supply

Pond:	Volume of water: Click or tap here to enter text.
Pool:	Volume of water:
Other:	Specify: Click or tap here to enter text.
	Volume of water: Click or tap here to enter text.

Internal FENZ Risk Reduction comments only:

[Click or tap here to enter text.](#)

3. Water Supply Location

The code requires the available water supply to be at least 6 metres from a building for firefighter safety, with a maximum distance of 90 metres from any building. This is the same for a single dwelling or a Multi-Lot residential subdivision. Is the proposed water supply within these requirements?

3 (a) Water Supply Location

Minimum Distance:	<i>Is your water supply at least 6 metres from the building?</i> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Maximum Distance	<i>Is your water supply no more than 90 metres from the building?</i> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

3 (b) Visibility

How will the water supply be readily identifiable to responding firefighters? E.g.: tank is visible to arriving firefighters or, there are signs / markers posts visible from the parking place directing them to the tank etc.

Comments:

Signage / markers will be positioned

3 (c) Security

How will the FFWS be reasonably protected from tampering? E.g.: light chain and padlock or, cable tie on the valve etc.

Explain how this will be achieved:

Cable tie on the valve

Internal FENZ Risk Reduction comments only:

Click or tap here to enter text.

4. Adequacy of Supply

The volume of storage that is reserved for firefighting purposes must not be used for normal operational requirements. Additional storage must be provided to balance diurnal peak demand, seasonal peak demand and normal system failures, for instance power outages. The intent is that there should always be sufficient volumes of water available for firefighting, except during Civil Défense emergencies or by prior arrangement with the Fire Region Manager.

4 (a) Adequacy of Water supply

Note: *The owner must maintain the firefighting water supply all year round. How will the usable capacity proposed be reliably maintained? E.g. automatically keep the tank topped up, drip feed, rain water, ballcock system, or manual refilling after use etc.*

Comments:

Rain water from roof.

Internal FENZ Risk Reduction comments only:

Click or tap here to enter text.

5. Alternative Method using Appendix's H & J

If Table 1 + 2 from the Code of Practice is not being used for the calculation of the Firefighting Water Supply, a competent person using appendix H and J from the Code of Practice can propose an alternative method to determine firefighting water supply adequacy.

Appendix H describes a method for determining the maximum fire size in a structure. Appendix J describes a method for assessing the adequacy of the firefighting water supply to the premises.

5 (a) Alternative Method Appendix H & J

If an alternative method of determining the FFWS has been proposed, who proposed it?

Name: Click or tap here to enter text.

Contact Details: Click or tap here to enter text.

Proposed volume of storage?

Litres: Click or tap here to enter text.

Comments:

Click or tap here to enter text.

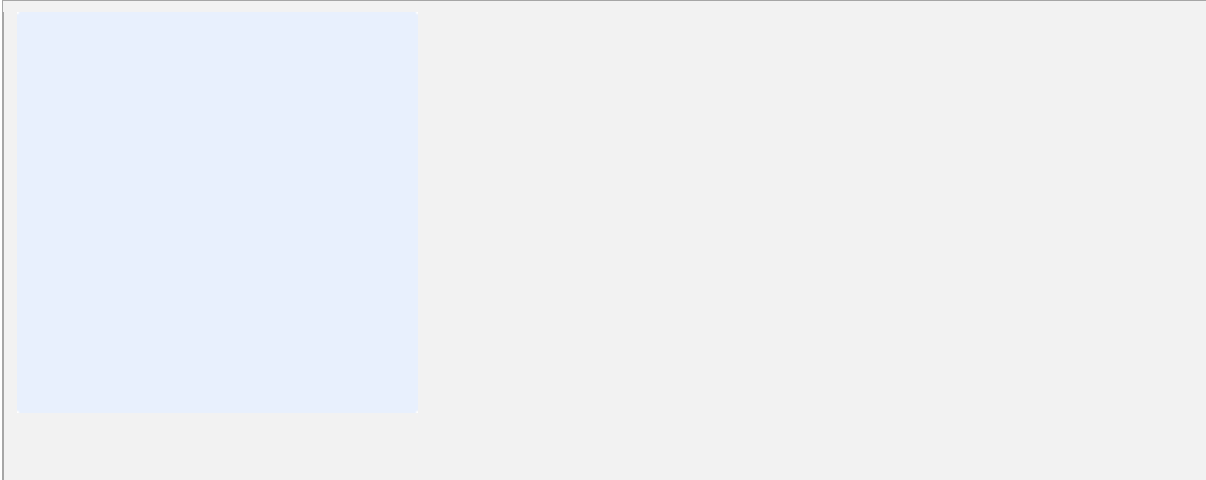
** Please provide a copy of the calculations for consideration.*

Internal FENZ Risk Reduction comments only:

Click or tap here to enter text.

6. Diagram

Please provide a diagram identifying the location of the dwelling/s, the proposed firefighting water supply and the attendance point of the fire appliance to support your application.

A large rectangular area for a diagram, divided into a light blue section on the left and a light grey section on the right.

Internal FENZ Risk Reduction comments only:

Click or tap here to enter text.

7. Vegetation Risk Reduction - Fire + Fuel = Why Homes Burn

Properties that are residential, industrial or agricultural, are on the urban–rural interface if they are next to vegetation, whether it is forest, scrubland, or in a rural setting. Properties in these areas are at greater risk of wildfire due to the increased presence of nearby vegetation.

In order to mitigate the risk of fire spread from surrounding vegetation to the proposed building and vice-versa, Fire Emergency New Zealand recommends the following;

I. Fire safe construction

Spouting and gutters – Clear regularly and consider screening with metal mesh. Embers can easily ignite dry material that collects in gutters.

Roof – Use fire resistant material such as steel or tile. Avoid butanol and rubber compounds.

Cladding – Stucco, metal sidings, brick, concrete, and fibre cement cladding are more fire resistant than wood or vinyl cladding.

II. Establish Safety Zones around your home.

Safety Zone 1 is your most important line of defence and requires the most consideration. Safety Zone 1 extends to 10 metres from your home, you should;

- a) Mow lawn and plant low-growing fire-resistant plants; and*
- b) Thin and prune trees and shrubs; and*
- c) Avoid tall trees close to the house; and*
- d) Use gravel or decorative crushed rock instead of bark or wood chip mulch; and*
- e) Remove flammable debris like twigs, pine needles and dead leaves from the roof and around and under the house and decks; and*
- f) Remove dead plant material along the fence lines and keep the grass short; and*
- g) Remove over hanging branches near powerlines in both Zone 1 and 2.*

III. Safety Zone 2 extends from 10 – 30 metres of your home.

- a) Remove scrub and dead or dying plants and trees; and*
- b) Thin excess trees; and*
- c) Evenly space remaining trees so the crowns are separated by 3-6 metres; and*
- d) Avoid planting clusters of highly flammable trees and shrubs*
- e) Prune tree branches to a height of 2 metres from the ground.*

IV. Choose Fire Resistant Plants

Fire resistant plants aren't fire proof, but they do not readily ignite. Most deciduous trees and shrubs are fire resistant. Some of these include: poplar, maple, ash, birch and willow. Install domestic sprinklers on the exterior of the sides of the building that are less than 20 metres from the vegetation. Examples of highly flammable plants are: pine, cypress, cedar, fir, larch, redwood, spruce, kanuka, manuka.

For more information please go to <https://www.fireandemergency.nz/at-home/the-threat-of-rural-fire/>

If your building or dwelling is next to vegetation, whether it is forest, scrubland, or in a rural setting, please detail below what Risk Reduction measures you will take to mitigate the risk of fire development and spread involving vegetation?

7 (a) Vegetation Risk Reduction Strategy

Vegetation to be removed min. 5m from around the proposed house. The property landscaping and gardens will be well maintained.

Internal FENZ Risk Reduction comments only:

Click or tap here to enter text.

8. Applicant

Checklist	
<input checked="" type="checkbox"/>	Site plan (scale drawing) – including; where to park a fire appliance, water supply, any other relevant information.
<input checked="" type="checkbox"/>	Any other supporting documentation (diagrams, consent).

I submit this proposal for assessment.

Name: Angela Bilyard-Smith Dated: 22/09/2025

Contact No.: 021 2111579

Email: smithbilyard@gmail.com

Signature: AB

9. Approval

In reviewing the information that you have provided in relation to your application being approximately a 181 square metre, Single Level dwelling/sub division, and non-sprinkler protected.

The Area Manager of Fire and Emergency New Zealand under delegated authority from the Fire Region Manager, Te Hiku, has assessed the proposal in relation to firefighting water supplies and the vegetation risk strategy. The Manager Choose an item. agree with the proposed alternate method of Fire Fighting Water Supplies. Furthermore; the Manager agrees with the Vegetation Risk Reduction strategies proposed by the applicant.

Name: Click or tap here to enter text.

Signature: Click or tap here to enter text Dated: Click or tap to enter a date

P.P on behalf of the Area Manager

Fire and Emergency New Zealand
Te Tai Tokerau / Northland District

APPROVED
By GoffinJ at 9:25 am, Sep 24, 2025

Jason Goffin- Advisor Risk
Reduction