

RESOURCE CONSENT APPLICATION FOR:



***Villa Strand Limited
(Company #1914151),
Norfolk Estate
Norfolk Road,
Carterton District***

**7 Lot Subdivision
Rural (Primary Production) Zone
Non-Complying Activity
(average lot size)**



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APPLICATION FOR RESOURCE CONSENT UNDER SEC 88 OF THE RESOURCE MANAGEMENT ACT 1991

Date: 2 July 2008 **Ref:** 07/250
To: Carterton District Council
P O Box X
CARTERTON

We, **TOMLINSON & CARRUTHERS**, Surveyors, apply for SUBDIVISION consent on behalf of: -

Villa Strand Limited (Company #1914151),
Norfolk Estate, Norfolk Road,
Carterton District

The names and addresses of the owner/s and occupier/s (other than the applicant) of any land to which this application relates: Spark It Up Limited, Level 3, Primeproperty House, 2 Woodward Street, Wellington

Proposal Description:	Subdivide 3 rural lots into 6 rural lots.			
Location:	Norfolk Estate, Norfolk Road, Carterton			
Current Zoning:	Rural Zone			
Type of Activity:	Controlled	Discretionary	Restricted Discretionary	Non-Complying <input checked="" type="checkbox"/>
Notification:	Public Notification	Limited Notification	Non Notified <input checked="" type="checkbox"/>	
Non-complying aspects	Discretionary under Carterton District Plan as all lots are under 3 hectares but Non-Complying under Proposed Wairarapa Combined District Plan as the average lot size is less than 2 hectares.			

LEGAL

Title Reference:	307811, 307813, 307834 & 307835	Legal Description:	Lots 1, 3, 24 & 25 DP 376563	
Legal Roads:	Norfolk Road	Encumbrances:	Land covenants and consent notices (see titles)	
Rights of Way:	None	Reserves:	None	

PLANNING

Existing Activities:	Conventional Pastoral <input checked="" type="checkbox"/>	Horticulture <input type="checkbox"/>	Viticulture <input type="checkbox"/>
	Intensive Cropping <input type="checkbox"/>	Cropping <input type="checkbox"/>	Forestry <input type="checkbox"/>
	Existing Dwelling <input type="checkbox"/>	Other Buildings/ Uses:	Bare Land
Proposed: Use	Rural Residential	Rural Residential/Lifestyle	Yes
Number of Lots	7	Sizes	1.55 ha, 1.55 ha, 1.55 ha, 1.55 ha, 1.55 ha, 1.55 ha, 3.25 ha.
Proposed building sites:	Available	Yes	Specified No Earthworks None
Proposed: rights of way	To Lots		
easements	Utilities to lot 2.	reserves	None

DESIGNATIONS/ HAZARDS

Historic Classification:	None	Significant Trees:	None.
Drains/ Water Courses:	Water race across site.	Rivers/ Lakes:	None.
Physical Nature of land:	Flat pasture	Soil Type:	IVs1
Hazards: Ocean	No	River	No
		Earthquake fault	No
		Slope Stability:	Minimal movement.

PROPOSED ACCESS

From legal road	Norfolk Road.	Formed	Yes	Sealed	Sealed
From right of way	To Lot 2	Formed	Yes	Sealed	Yes

UTILITIES

Existing Services:	Telephone, electricity.			
Proposed Services:	Water Supply	Rainwater collection.	Stormwater	Onsite soak pits.
	Sewage	Site specific septic systems	Electricity/ Telephone	Available at boundary.

ASSESSMENT OF ENVIRONMENTAL EFFECTS

Attached to this application.

CONSULTATION

Greater Wellington Regional Council	No	Railways	No	Iwi	No
Department of Conservation	No	Telecom	No	Neighbours	No
Transit New Zealand	No	PowerCo	No	Land Registrar	No
Other organisations consulted	None				
Other Consents applied for:	None				

SIGNED

Dated at **MASTERTON** on Wednesday, 2 July 2008.

To the best of my knowledge the information given in this report is accurate and correct.

Address for service: -



Memorandum of Easements

Purpose	Shown	Servient Tenement	Dominant Tenement
Right of Way, Electricity, Telecommunications.	A	Lot 7	Lot 6 Lot 22 DP 376563

Note: Areas and distances are subject to the final survey.

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Subdivision Consent Application & Assessment of Environmental Effects

1. INTRODUCTION

This report represents an Assessment of Effects on the Environment for a seven lot subdivision in the rural area. The activity is discretionary as all of the proposed lots are less than 3 hectares under the operative Carterton District Plan. The proposal is, however, a Non-Complying activity under the Proposed Wairarapa Combined District Plan as the average lot size is less than 2 hectares. This assessment has been prepared in accordance with Section 88 and the Fourth Schedule of Resource Management Act 1991.

Please note that the proposal is for the subdivision of three existing lots under three existing titles. To assist with the processing of these subdivisions, the three applications have been merged into one application.

2. GENERAL INFORMATION

2.1 Site Location

The proposed subdivision is located on farmland on the western side of Norfolk Road 2.5 kilometres north of the junction with State Highway 2. The land proposed to be subdivided is approximately 9 ha in size. The legal description of the site is Lots 1, 3, 24 & 25 Deposited Plan 376563 contained within the Certificates of Title 307811, 307813, 307834 & 307835.

For more information, please refer to Figure 2.1 below and the certificates of title at the rear of the application.

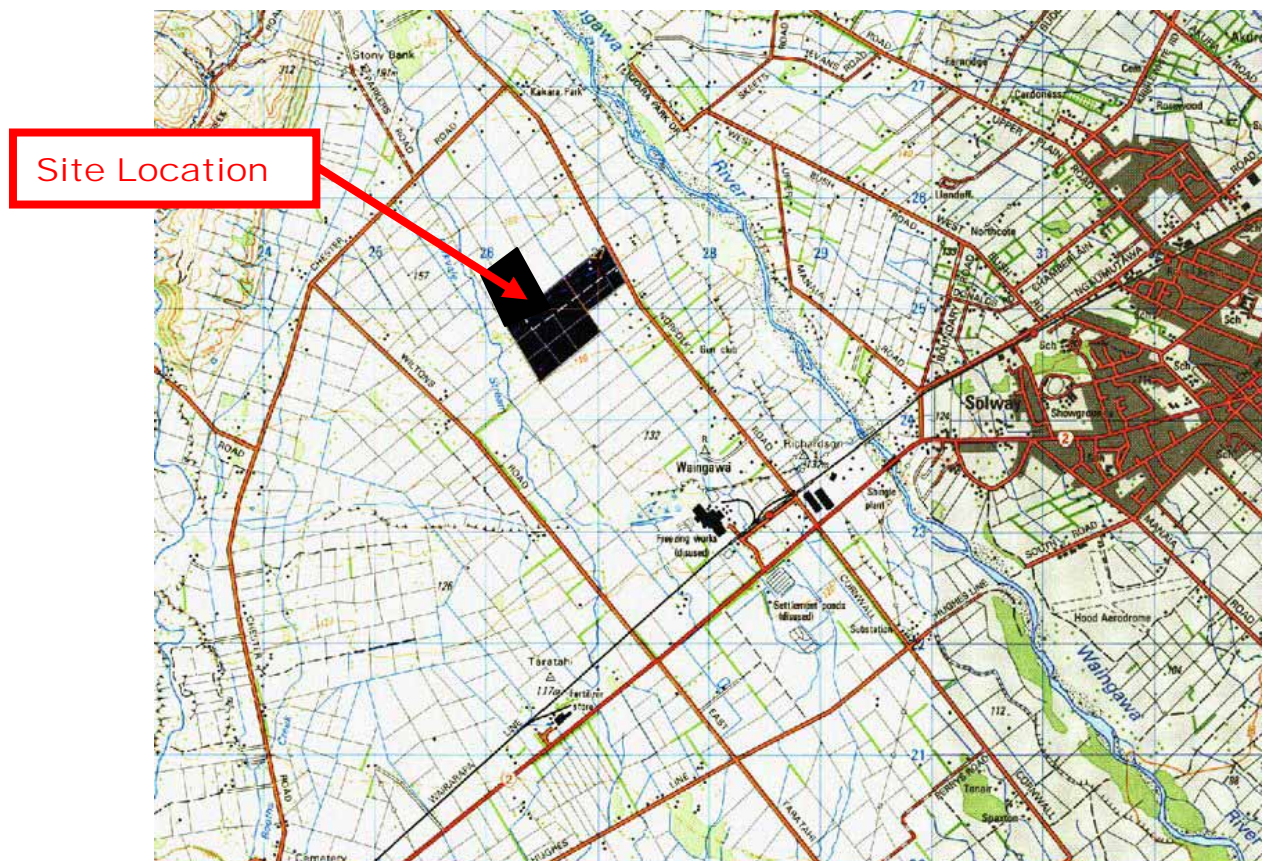


Figure 2.1 Proposed subdivision site

2.2 Site Description

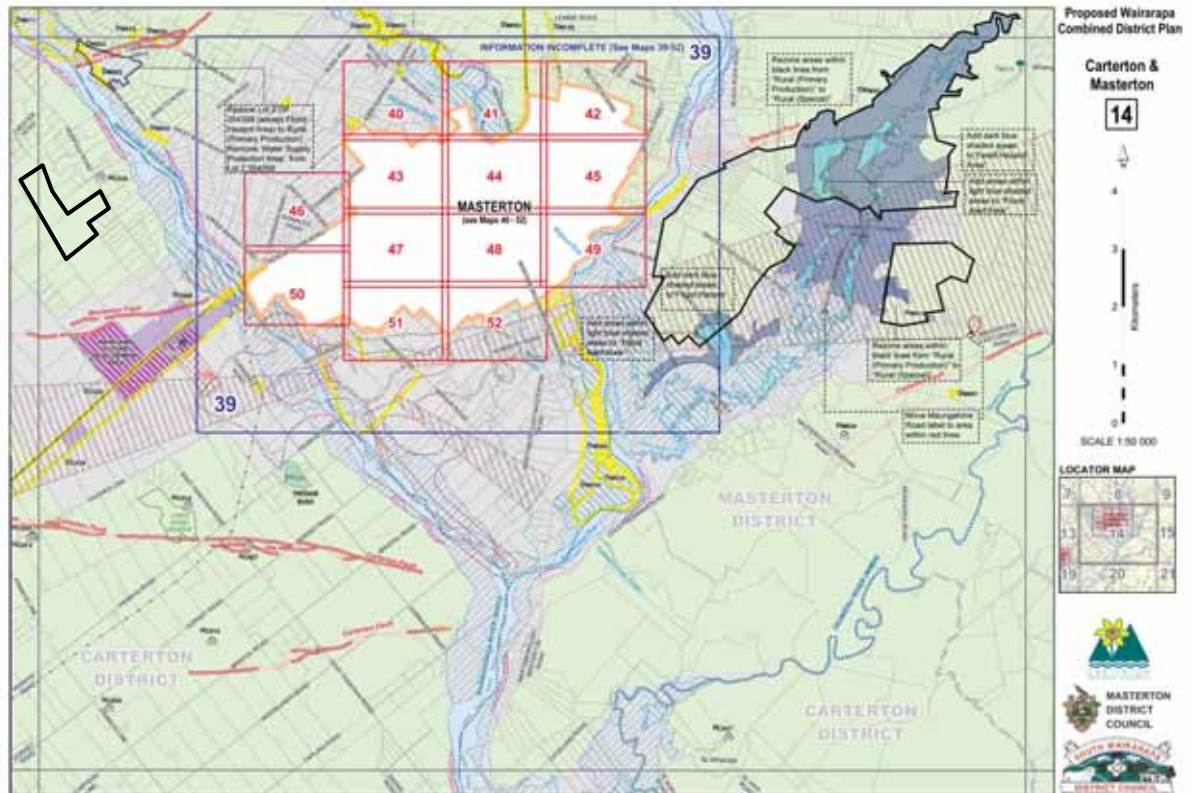


Figure 2.2 Map 14 of the Proposed Wairarapa Combined District Plan with the site highlighted with a bold black outline.

The site is located in the Rural environment of the Carterton District.

The majority of the land is flat pasture used for a farming operation.

There are no buildings on the site.

Access to the site is by means of an access to Norfolk Road via a road yet to be named.

Services to the site include electricity and telecommunications available at the boundary with Norfolk Road.

For more details, please refer to the aerial photograph shown on the scheme.

3. PROPOSAL

3.1 Proposal Description

The proposal is to subdivide three lots held in four titles into seven lots held in seven titles. The proposed lot sizes are:

Lot	Size
1	1.55 ha
2	1.55 ha
3	1.55 ha
4	1.55 ha
5	1.55 ha
6	1.55 ha
7	3.25 ha

All proposed are to be developed into rural residential blocks according to the development plan included in the scheme plan on this application.

Please note that the area of Lot 7 is an adjusted boundary to incorporate the existing seal of the right of way seal and utilities which is currently outside the lot boundary.

Please refer to the scheme plan in this application for further details. Please note the areas are approximate and subject to final survey.

3.2 Access

Access to proposed lots will be through entrances from a road yet to be named that accesses Norfolk Road. While lots 1-5 will have separate entrances, Lots 6 & 7 will share an existing right of way which is formed and sealed.

The design of the new entrances and accessways will be formed and metalled according to NZS4404:2004 low usage access standard.

3.3 Water supply

Any future dwelling will source its water from rainwater.

3.4 Sewage Disposal

All proposed lots are of sufficient size to enable a satisfactory disposal system to be installed. Attached to this application is an engineer's report assessing each lot for sewage disposal.

The systems will be required to comply with Rules 6 & 7 of the Wellington Regional Council Discharge to Land Plan. The Discharge to Land Plan specifies a setback of 20m for aerobic and 50m for anaerobic septic systems from water bodies (the water race). This is to ensure that water bodies are not contaminated by the installation of disposal systems.

3.5 Drainage

Drainage from all proposed lots will be by means of onsite soak pits and the natural drainage of the land for other water not captured by buildings.

3.6 Electricity and Telecommunications

The site has electricity and telephone connections available onsite and these easements are attached to the title.

3.7 Landscaping & Earthworks

Landscaping and earthworks are proposed as shown in the attached landscaping assessment.

3.8 Alternative Sites

The Fourth Schedule of the Resource Management Act 1991 states that the following matter is included in an assessment of effects on the environment:

b) Where it is likely that an activity will result in any significant adverse effects on the environment, a description of any possible alternative locations or methods for undertaking that activity

Due to the site specific nature of the proposed activity, it is not appropriate to provide a description of alternative sites. Furthermore, it is considered that the proposed subdivision will not be a contributor to any significant adverse effects on the environment.

3.9 Mitigation Measures

The effects of the proposal on the existing infrastructure will be minimal. The effects on the productivity of the area will not alter.

It is considered that the proposed subdivision will not contribute to any significant adverse effects on the environment but if there are any effects in this proposed subdivision that require mitigation these could be dealt with in conditions issued by the Carterton District Council.

3.10 Easements and Covenants

Easements are proposed for the access and utilities for Lot 6. All other easements and covenants are to follow the newly created titles.

The applicants propose developing their properties according to the landscape design provided in the appendices. The applicants leave it to the discretion whether these are registered against the certificates of title pursuant to Section 221 of the Resource Management Act 1991.

4. CONSULTATION

4.1 Affected Parties

Section 94B of the Resource Management Act 1991 states:

94B Forming opinion as to who may be adversely affected

- (1) Subsections (2) to (4) apply when a consent authority is forming an opinion, for the purpose of section 94(1), as to who may be adversely affected by the activity.*
- (2) The consent authority must have regard to every relevant statutory acknowledgement, within the meaning of an Act specified in Schedule 11, made in accordance with the provisions of that Act.*
- (3) A person—*
 - (a) may be treated as not being adversely affected if, in relation to the adverse effects of the activity on the person, the plan permits an activity with that effect; or*
 - (b) in relation to a controlled or restricted discretionary activity, must not be treated as being adversely affected if the adverse effects of the activity on the environment do not relate to a matter specified in the plan or proposed plan as a matter for which—*
 - (i) control is reserved for the activity; or*
 - (ii) discretion is restricted for the activity; or*
 - (c) must not be treated as being adversely affected if it is unreasonable in the circumstances to seek the written approval of that person.*

In the circumstances of the proposal, the activity is for a non complying activity so it could be considered the following parties are affected:

- Direct neighbours; and
- Greater Wellington Regional Council.

4.2 Written Approvals

Under Section 104 (3) it states:

- (3) A consent authority must not—*
 - (b) when considering an application, have regard to any effect on a person who has given written approval to the application*

No written consents have been obtained.

4.3 Notification

Section 93 of the Resource Management Act 1991 allows for non-notification of applications in certain circumstances:

93. When public notification of consent applications is required—

- (1) A consent authority must notify an application for a resource consent unless—*
 - (a) the application is for a controlled activity; or*
 - (b) the consent authority is satisfied that the adverse effects of the activity on the environment will be minor.*

However if the above applies Section 94 of the Resource Management Act 1991 prescribes that notice must be served on all those deemed to be affected unless all written approvals have been received from the affected persons:

94. When public notification of consent applications is not required—

- (1) If notification is not required under section 93(1), the consent authority must serve notice of the application on all persons who, in the opinion of the consent authority, may be adversely affected by the activity, even if some of those persons have given their written approval to the activity.*
- (2) However, a consent authority is not required to serve notice of the application under subsection (1) if all persons who, in the opinion of the consent authority, may be adversely affected by the activity have given their written approval to the activity.*

The proposal is within the Norfolk Estate subdivision site. The proposal is designed to not generate any additional lots fronting any properties outside the Norfolk Estate site.

Taking into account the landscape assessment in the appendices and the engineer's report, this proposal will have no more than minor effects and request that this application not be notified.

5. STATUTORY REQUIREMENTS

5.1 Activity Status

Under Section 88A of the Resource Management Act 1991 it states:

88A Description of type of activity to remain the same

- (1) Subsection (1A) applies if—
- (a) an application for a resource consent has been made under section 88; and
 - (b) the type of activity (being controlled, restricted, discretionary, or non-complying) for which the application was made under section 88, or for which the activity is treated under section 77C, is altered after the application was first lodged as a result of—
 - (i) a proposed plan being notified; or
 - (ii) a decision being made under clause 10(3) of the First Schedule; or
 - (iii) otherwise.
- (1A) The application continues to be processed, considered, and decided as an application for the type of activity that it was for, or was treated as being for, at the time the application was first lodged.
- (2) Notwithstanding subsection (1), any plan or proposed plan which exists when the application is considered must be had regard to in accordance with section 104(1)(b).

The proposed activity is a discretionary activity under the operative Carterton District Plan.

The proposed activity is a non-complying activity under the Proposed Wairarapa Combined District Plan.

Pursuant to Section 88A, the activity status of the proposal is for a non-complying activity activity.

Under Section 104B it states:

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

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

- (a) may grant or refuse the application; and
- (b) if it grants the application, may impose conditions under section 108.

Under Section 104D it states:

104D Particular restrictions for non-complying activities

- (1) *Despite any decision made for the purpose of section 93 in relation to minor effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—*
- (a) *the adverse effects of the activity on the environment (other than any effect to which section 104(3)(b) applies) will be minor; or*
 - (b) *the application is for an activity that will not be contrary to the objectives and policies of—*
 - (i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
 - (ii) *the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
 - (iii) *both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*

5.2 Section 104 – Consideration of Applications

Under Section 104, in assessing the merits of this application, the consent authority is required to consider the following:

- (1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to–*
 - (a) any actual and potential effects on the environment of allowing the activity; and*
 - (b) any relevant provisions of–*
 - (i) a national policy statement*
 - (ii) a New Zealand coastal policy statement*
 - (iii) a regional policy statement or proposed regional policy statement*
 - (iv) a plan or proposed plan; and*
 - (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.*
- (2) When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect.*

This application will address the provisions of Section 104 in the following order:

- Part II Matters – Purpose and principles of the Resource Management Act
- Actual and Potential Effects – Assessment of Environment Effects
- Relevant Provisions of -
 - Regional Policy Statement
 - Regional Soil Plan
 - Regional Discharge to Land Plan
 - District Plan
 - Operative Plan
 - Proposed Plan
- Permitted Baseline

6. PART II MATTERS

6.1 Section 5 - Purpose

Section 5(1) specifies that the purpose of the Act is to “promote the sustainable management of natural and physical resources”.

Sustainable management is defined within Section 5(2) as:

“sustainable management” means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while-

- (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) *Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

The subdivision seeks to create rural residential lots within the rural area.

The proposal has provided mitigation measures with regards to the disposal of sewage, the supply of a potable water supply and practical access.

Overall, the proposed development aims to sustainably manage the natural and physical resources of the site.

6.2 Section 6 - Matters of national importance

Under Section 6 of the Resource Management Act 1991 it states:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) *The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) *The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*
- [(f) the protection of historic heritage from inappropriate subdivision, use, and development.]*
- [(g) the protection of recognised customary activities.]*

The site of this application is located in the Rural (Primary Production) Area but this is not identified in the District Plan as an outstanding natural feature or landscape.

6.3 Section 7 – Other Matters

Under Section 7 of the Resource Management Act 1991 it states:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (a) Kaitiakitanga:*
- (aa) The ethic of stewardship:]*
- (b) The efficient use and development of natural and physical resources:*
- [(ba) the efficiency of the end use of energy:]*
- (c) The maintenance and enhancement of amenity values:*
- (d) Intrinsic values of ecosystems:*
- (e) Repealed.*
- (f) Maintenance and enhancement of the quality of the environment:*
- (g) Any finite characteristics of natural and physical resources:*
- (h) The protection of the habitat of trout and salmon:*
- [(i) the effects of climate change:]*
- [(j) the benefits to be derived from the use and development of renewable energy.]*

Under section 7 it relates to ‘other matters’ that shall be given regard to when assessing development of an area. The proposal seeks to be consistent with these other matters, in particular the maintenance and enhancement of amenity values, and the maintenance and quality of the environment.

It is considered that in the context of Sections 6 and 7 the subdivision of the site predominantly for rural and residential use is not inappropriate.

7. ACTUAL AND POTENTIAL EFFECTS

This assessment combines the assessment criteria of both the operative Carterton District Plan and the assessment criteria for subdivisions described in Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan as required by section 104 of the Resource Management Act 1991.

7.1 Amenity Values

7.1.1 Amenity

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (i) *The extent to which the area's amenity values and character are protected and/or enhanced.*

The Resource Management Act 1991 defines amenity values as;

“Those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural or recreational attributes.”

Rural character changes from place to place, and differs markedly from urban character. The proposed development site is on Norfolk Road which is between rural residential lots and pastoral farming. Some of the characteristics that contribute to the Norfolk Road properties’ rural character are as follows:

- Low-medium density rural residential development
- Few structures
- Rural animals
- Expansive landscape and open space values

Rural character reflects the predominance of natural elements, but is also modified by the predominance of cultural (human induced) patterns and processes. The process of subdivision and associated rural residential development has the potential to affect this rural character by increasing the intensity of development. In the case of this subdivision, the result will be more intensive land uses that will produce different environmental effects.

There is potential to reduce the purely rural-pastoral character of the area and enhance the rural-residential nature to the environment. The potential addition of houses and the associated structures (garages, etc.) may clutter the environment and reduce open space values. Taking into account the existing vegetation in the surrounding area, however, the applicants’ proposed development of all lots will maintain a visual separation with neighbouring houses.

7.1.2 Precedent & Cumulative Effects

In *Blyth v Tasman DC* EnvC C175/05 it stated that the test for an adverse precedent effect is whether the case can be readily distinguished from others that might arise in the area.

The site is part of an existing rural residential development called Norfolk Estate. The scale and density of the proposal is similar to that of other development within close proximity. The proposal could not be considered as setting a precedent.

It could be considered that the proposal is a cumulative effect due to the proposal extending other similar development. The proposal, however, includes a landscape report and design which would make the proposal distinct from other development in the area. A cumulative effect would be avoided in the future as other developments would need to apply the same mitigation measures.

7.1.3 “Reverse Sensitivity”

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (ii) *The provision to mitigate reverse sensitivity effects where specific site characteristics and the nature of adjoining land uses are likely to generate the potential for complaints about adjoining land based primary production activities.*

The relevant planning statutory documents have a shared focus to provide for the continued operation of primary production activities in rural areas. Where rural residential activities are proposed it would be reasonable to propose a reverse sensitivity consent notice attached to the certificates of title of rural residential blocks informing purchasers that the site is located in a rural working environment.

7.2 Natural Resources

7.2.1 Landscapes

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (iii) *The extent to which existing landforms, significant tree, indigenous vegetation and habitats and waterbodies are protected and/or enhanced.*

The visual effects associated with the proposed subdivision essentially relate to the future development of proposed lots. Such visual effects will be both permanent and temporary in nature. Permanent effects will be largely associated with the construction of houses, sheds, fences, driveways, gardens, and planted trees etc. It is likely that these permanent effects will be reduced in time as each site becomes more established. Temporary visual effects relate mainly to earthworks associated with constructing of dwellings.

The visual impact of the proposed subdivision will have no more than a minor effect on the existing open landscape. The Norfolk Road area is an area of a medium level of residential activity.

People wanting to live in the rural environment do not always want a large area of land to manage. Lifestyle block owners rarely develop more than 1500m² of lots with gardens, driveways and structures. The provision of rules including minimum lot sizes, minimum frontages and setbacks from boundaries of 25 metres for dwellings works towards ensuring that land is efficiently developed so that it minimises the impact visually and on neighbouring uses. By concentrating development in a smaller area, it minimises visual impact on a larger area.

Overall, the proposed development of the proposed subdivision will have no more than minor visual impact on neighbouring properties, but over time the structures will blend in to the landscape through landscaping.

The reserved control of the proposed plan provides adequate remedies should the council be of a mind to implement additional conditions to mitigate the potential risk to visual impact.

7.2.2 Groundwater

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (iv) *Whether the subdivision would create adverse effects on groundwater quality in areas where groundwater quality.*

The proposed development of the lots is located near an area where there are no known issues relating to high groundwater, nitrate pollution in groundwater and soil issues where development could affect groundwater quality.

7.2.3 Water Environment

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (v) *The provision for esplanade reserves and/or strips.*

An esplanade strip is not required.

7.3 Physical Resources

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (vi) *Whether the subdivision is inconsistent with the requirements of New Zealand Standard 4404:2004 Land Development and Subdivision Engineering and other related standards.*
- (ix) *The cumulative impacts on infrastructure and its efficient use and development, including the capacity, safety and efficiency of the roading and rail network, and the ability of the area's utility services to function efficiently.*

I will assess the potential impact of the development on these services separately.

7.3.1 Water supply

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (vii) *The provision of a potable water supply.*

Water supply to all proposed lots will be by way of rainwater tank collection. Rainwater collection is not expected to create any significant adverse effects on the environment so long as there is sufficient storage and water quality is maintained.

7.3.2 Sewage & Stormwater

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (viii) *The adequate and effective disposal of sewage and stormwater, or the ability of every lot to dispose of sewage and stormwater effectively without risk to public health and the environment.*

7.3.2.1 Sewage

Any new dwellings on proposed lots will have to have septic tanks installed to dispose of effluent. Proposed lots are of a sufficient size and shape to provide adequate area for any wastewater disposal to comply with Rules 6 & 7 of the Wellington Regional Council Discharge to Land Plan. A compliant system will not generate any adverse effects on the environment.

7.3.2.2 Stormwater

The creation of any additional soakpits for the disposal of stormwater is not expected to cause any significant adverse effects on the environment.

7.3.3 Access

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (x) *The adequate provision of access within every lot to meet modern vehicular standards.*

Access to proposed lots will be through entrances from a road yet to be named that accesses Norfolk Road. While lots 1-5 will have separate entrances, Lots 6 & 7 will share an existing right of way which is formed and sealed.

The design of the new entrances and accessways will be formed and metalled according to NZS4404:2004 low usage access standard. So long as both accesses comply with these standards it is not anticipated that any adverse will be generated.

7.3.4 Roading

Norfolk Road is legally formed and sealed. Norfolk Road could provide access to additional lots without any significant adverse strain on the infrastructure or the environment.

The access to the proposed lots will be formed and has good sight distances and capable of complying with District Plan Standards.

7.3.5 Electricity/Telecommunications

These services for additional lots can be accessed from the existing connections on the site. Due to their close proximity to the proposed lots, no problems are foreseen in supplying these services and that there will be no significant adverse effects on the environment.

7.3.6 Energy Efficiency

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (xi) *The provision of renewable energy and energy efficiency in the design and construction methods of the subdivision, and the consequential land use development.*

There are no perceived issues of energy efficiency in relation to the proposed development.

7.4 Development & Land Use

7.4.1 Subdivision Design

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (xii) *Whether the design and layout of the subdivision avoids, remedies or mitigates any adverse effects on the surrounding environment.*

The proposed application does intensify the use of the site. The type of development is, however, consistent with other development in the area. Overall, it is not expected that the proposed use through the design will avoid where possible any adverse effects on neighbouring uses. The application does not create any lots with an urban character. The rural character of the surrounding is maintained.

7.4.2 Intensification

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (xiii) *Whether the proposed subdivision will create an additional lot for building/development or will change the use of the affected land.*

There are no existing issues created by the existing use of the land. Rural residential development is the predominant feature of the surrounding area and additional lots that comply with the proposed minimum lot size are consistent with the desired intensification for the surrounding area.

7.4.3 Building Standards

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (xiv) *The ability of any existing or likely proposed building to comply with all standards in this Plan.*

The lots are designed so that future buildings on the site can comply with all standards of the proposed and operative plan.

7.4.4 Setback & Bulk Standards

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (xv) *The ability of every allotment of land to accommodate a conforming dwellinghouse or a principal building and to be utilised in a manner that can comply with the Plan provisions.*

The new boundaries between the proposed lots comply with the district wide setback distances and other applicable standards. Any new dwellings can comply with the setback requirements avoiding the need for a land use consent at building consent stage.

7.4.5 Financial contributions

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (xvi) *The potential for financial contributions to avoid, remedy or mitigate any adverse effects on the environment.*

The addition of lots as part of this application will reduce the open space so a reserve contribution is applicable. As additional lots will be accessing a rural road a roading financial contribution is also applicable. No other financial contributions are necessary as all effects are internalised within the site.

7.4.6 Reserves

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (xvii) *Whether additional reserve land is necessary, including connections to existing and future reserves, to provide for the increased demand on the reserve network as a result of the subdivision.*

No reserves are necessary as part of this application.

7.4.7 Development

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (xviii) *The effects on the safe and efficient operation of Hood Aerodrome.*
- (xix) *The extent to which the subdivision is consistent with the Development/Management/Structure Plan for the area.*

The site is not part of an area subject to specified development.

7.5 Heritage

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan it states that in assessing applications it must take into account the following general assessment criteria:

- (xx) *The effects on any historic or archaeological site and the surroundings associated with any historic or archaeological site.*
- (xxi) *The effect of the subdivision on the values of any waahi tapu site and any resources of significance to Tangata Whenua.*

There are no heritage sites located on the proposed subdivision site. If any archaeological deposits are identified during any development of the land, the owner/contractor will act in good faith and contact the Historic Places Trust and the relevant Iwi's. It is acknowledged that under Section 99 of the Historic Places Trust Act 1991 it is an offence to destroy, damage or modify an Archaeological site without Authority from the Trust.

7.6 Hazards

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (xvii) The risk where land is subject to flooding or inundation, erosion, landslip or subsidence, or is within an identified natural hazard high-risk area.*
- (xviii) The risk of fire, and whether mitigation measures will effectively mitigate this risk.*

7.6.1 Stability

The land to be developed on each lot is not within an area identified or known for soil instability and does not show any sign of a potential threat of instability.

7.6.2 Earthquake Fault

Geological maps do not indicate any sign of a fault running through the proposed subdivision area.

7.6.3 Flooding

The site is not prone to inundation.

7.6.4 Earthworks

In Rule 22.1.1 (a) of Proposed Wairarapa Combined District Plan states:

- (xxiii) The extent to which earthworks are required and the effects of earthworks on the site and surrounding environment.*

No earthworks are proposed as part of this application.

8. RELEVANT PLANS AND POLICIES

Relevant Plans and Policies include:

- Regional Plans and Statements –
 - Regional Policy Statement
 - Regional Soil Plan
 - Regional Discharge to Land Plan
- District Plans -
 - Operative Plan
 - Proposed Plan

8.1 'Relevance'

Where a relevant operative plan is devoid of policy framework, or where a proposed plan introduces a new measure which introduces a more coherent pattern of objectives and policies in a plan, then there is the ability to give more weight to a proposed plan if it is appropriate in the circumstances to do so. Each application should be a case specific consideration.

In *Russell v Dunedin CC* EnvC C92/2003 it states in paragraph 17 and 18:

“Although the application is contrary to the Proposed District Plan, it cannot be said that the weight to be given to that Proposed Plan under section 104 should be significant having regard to the state of the Proposed Plan.”

“In terms of the Act however, we can further conclude that where the state of the plan is still uncertain (as it is here), then the Act intends the more conservative approach to be taken of layering both the Transitional and the Proposed Plan over the application.”

In the following sections the provisions of plans will be assessed for relevance and whether the proposal complies, if consistent with or is contrary to those relevant provisions.

8.2 Regional Policy Statement

The Wellington Regional Policy Statement outlines the resource management issues for the region. Objectives and policies for the various resources in the region are outlined, and methods are described for achieving these.

Land subdivision and the issues of subdivision upon the resources of the Region are identified within the document.

Policies associated with subdivision within the Regional Policy Statement are outlined within various sections of the document, and are identified within the 'User Guide'.

The proposal aims to be consistent with the policies of the Regional Policy Statement. In particular the proposal will have a neutral or minor effect upon:

- Water quality
- Soil erosion
- Landscape character of the area

8.3 Regional Soil Plan

The Regional Soil Plan covers activities associated with soil disturbance, tracking, and vegetation disturbance.

These rules cover activities associated with these land disturbances, excluding any activities associated with a subdivision consent.

Activities involving land disturbance associated with the proposed subdivision consent would be permitted under the Regional Soil Plan.

As the proposal involves land disturbance involved with subdivision consent it is, however, considered that the proposal is consistent with the rules of the Regional Soil Plan.

8.4 Regional Discharges to Land Plan

8.4.1 Policy

Section 4.2.17-

To promote the following provisions for sewage treatment and disposal in relation to new developments:

- (1) reticulated sewerage systems should be used, where available and practicable;*
- (2) on-site sewage treatment and disposal systems should be designed and located in a manner which reflects the characteristics of the site (including lot size), in order to avoid, remedy or mitigate adverse effects on water quality and human health.*

8.4.2 Rules

New septic systems are required to comply with Rules 6 and 7 of the Regional Discharges to Land Plan.

8.4.3 Assessment

A reticulated sewage system is not available to the site. Any proposed septic systems can comply with Rule 7 of the Regional Discharge to Land Plan.

8.5 Operative Carterton District Plan

In assessing the merits of this application, the Carterton District Council is required to have regard to matters set out in Sec 104 of the Resource Management Act 1991. The current operative district plan for the Carterton District is the Carterton District Plan.

8.5.1 Rules

This application is a Discretionary Activity under Rule 2.7.10(a) as one or more proposed lots are under the 3 hectare minimum size required. The proposal will be assessed in accordance with the criteria set out in Rule 2.7.10 and Chapter 9 of the District Provisions.

8.5.2 Controlled Activities – Reserved Controls

Standard	Description	Assessment
2.7.7.1	<i>The minimum lot size is 3 hectares.</i>	The proposal does not comply with this standard.
2.7.7.1(a)	<i>Whether each lot can be serviced from a supply demonstrated as being adequate and potable to the lots being created</i>	A potable water supply is able to be obtained from all proposed lots.
2.7.7.1(b)	<i>Whether each lot can be serviced by a system that is evidenced to be fully contained for on-site treatment and disposal.</i>	Any new disposal systems must comply with the requirements of the Building Act 1991, and Rules 6 and 7 of the 'Regional Discharge to Land Plan'.
2.7.7.1(c)	<i>Whether the lot can provide a site suitable for building development.</i>	All lots provide many suitable building sites.
2.7.7.1(d)	<i>Every lot must have suitable access to a formed legal road.</i>	Access is available from a new road that accesses Norfolk Road.
2.7.7.1(e)	<i>Whether the right of way is adequate to serve the number of proposed lots.</i>	The proposed access is adequate in accordance to relevant standards.
2.7.7.1(f)	<i>Whether esplanade land is required to be set aside.</i>	No esplanade is required.

8.5.3 Discretionary Activities - Matters over which Council retains control

Standard	Description	Assessment
2.7.11.1(a)	<i>Whether the scale of the development is generally in keeping with the character and amenity of the rural area;</i>	The proposal can comply with this standard.
2.7.11.1(b)	<i>the nature and scale of the effects created by the activity for example, on noise, glare, dust, and smoke and the methods proposed to avoid, remedy or mitigate the effects;</i>	The proposal can comply with this standard.
2.7.11.1(c)	<i>any effects on the operation of the road, access provision, provision for vehicle parking, loading and manoeuvring. Access to the State Highway will be carefully assessed;</i>	The proposal does comply with this standard.
2.7.11.1(e)	<i>the effects on the visual amenity of the rural environment and the proposed mitigation measures in terms of screening and landscape;</i>	The proposed landscaping does mitigate any potential and actual effects.
2.7.11.1(f)	<i>consideration will be given to the likely cumulative effects where activities are being concentrated in one locality including effects on the rural character and amenity;</i>	The proposed landscaping does mitigate any potential and actual effects.
2.7.11.1(g)	<i>the proposed means of waste disposal and other required servicing including water supply. A solid waste management plan may be required.</i>	The site has been assessed by a suitably qualified engineer.

8.6 Section 104D ‘Contrary to’ test

Section 104D(b) states:

104D Particular restrictions for non-complying activities

- (1) *Despite any decision made for the purpose of section 93 in relation to minor effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—*
- (b) *the application is for an activity that will not be contrary to the objectives and policies of—*
- (i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
 - (ii) *the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
 - (iii) *both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*

Cooper J said in *Rodney DC v Gould and Gillian* 11/10/04 HC Auckland CIV2003-485-2182 paragraph 76:

“Put simply, the scheme of the Act for non-complying activities does not work if rules are included among the matters to be considered under [s104D(1)(b)].” (statute was renumbered in RMAmA03)

In order to assess the proposal against Section 104D (1)(b) of the Act, the term ‘contrary’ needs to be defined. The consultant planner states in paragraph 8.1:

That is, that the proposal is not “opposed to in nature, different, or opposite to” the objectives and policies.”

This test is taken from *New Zealand Rail Ltd v Marlborough District Council* (1993) 2NZRMA 449. It should be noted that the term ‘not contrary’ is used rather than ‘consistent’ or ‘compliant’ suggesting there is higher threshold of incompatibility than mere complying with a rule.

In the appeal Greig J considered this by stating (*New Zealand Rail Ltd v Marlborough District Council* [1993] NZRMA 70):

“...The essential question was whether the consent to the proposed use and development was “contrary” or not to the relevant objectives and policies. The Tribunal correctly I think, with respect, accepted that that should not be restrictively defined and that it contemplated being opposed in nature, different to or opposite. The Oxford English Dictionary in its definition of “contrary” refers also to repugnant and antagonistic. The consideration of this question starts from the point that the proposal is already a non-complying activity but cannot, for that reason alone, be said to be contrary. “Contrary” therefore means something more than just non-complying.”

Greig J states that the “opposed to in nature, different, or opposite to” test sets a lower threshold than a standard of “antagonism” or “repugnance.” He is concerned that there needs to be a clearer differentiation between non-compliance with a rule and being contrary to a policy and an objective. “Antagonism” or “repugnance” presents the proposition that a proposal would need to be flagrantly and deliberately against the policies in order to meet the threshold of being ‘contrary.’

8.6.1 Objectives & Policies - Rural Environment

Objectives outlined within the District Plan for the Rural Environment are:

Objective	Description	Assessment
2.3.1	<i>Maintain and enhance the character and amenity of the rural area.</i>	The proposal contains measures that maintain the character of the rural area and is therefore consistent and not contrary to this relevant provision.
2.3.2	<i>Protect significant natural features and areas from adverse effects of development.</i>	The proposal is not near any area of significant natural features and is therefore consistent and not contrary to this relevant provision.
2.3.3	<i>Ensure that development does not contribute to the susceptibility of land to erosion.</i>	The proposal is not near an area prone to erosion and is therefore consistent and not contrary to this relevant provision.
2.3.4	<i>Ensure that development does not adversely impact upon susceptibility to flooding or the availability of water.</i>	The proposal is not near an area prone to flooding or groundwater issues and is therefore consistent and not contrary to this relevant provision.
Policy		
2.4.1	<i>Manage the density of development to deal with adverse effects on the open rural amenity.</i>	The proposal is consistent and not contrary to this relevant provision.
2.4.2	<i>Manage the adverse effects of activities to limit their impact on the quality of the rural environment.</i>	The proposal is consistent and not contrary to this relevant provision.
2.4.3	<i>Any activity utilising the land resource should be managed in a sustainable manner so as to avoid soil loss.</i>	The proposal is consistent and not contrary to this relevant provision.

8.6.2 Objectives & Policies - Natural Hazards

Objective	Description	Assessment
10.2.1	<i>Avoid or mitigate the adverse effects of natural hazards on the environment within the District.</i>	There are no natural hazards that could affect the proposal.
Policy		
10.3.1	<i>Avoid or mitigate the adverse effects of natural hazards on the environment within the District.</i>	The proposal is consistent and not contrary to this relevant provision.
10.3.2	<i>To recognise the risk of natural hazard events to existing activities.</i>	The proposal is consistent and not contrary to this relevant provision.
10.3.3	<i>To encourage people to be prepared for the occurrence of natural hazard events through the provision of information and advice.</i>	The proposal is consistent and not contrary to this relevant provision.

8.7 Proposed Wairarapa Combined District Plan

In assessing the merits of this application, the Carterton District Council is required to have regard to matters set out in Sec 104 of the Resource Management Act 1991, including a proposed plan.

Under the Plan, Resource Consent is required prior to any subdivision of land (Rule 20).

This application meets the criteria as a Non-Complying Activity in the Rural (Primary Production) Area under proposed Rule 20.1.7.(a).

8.7.1 Subdivision Standards – Controlled Activities

Under Rule 20.1.2 (f) (3) of the Proposed Wairarapa Combined District Plan it states:

Standard	Description	Assessment
20.1.2	Rural (Primary Production) Zone	
	(e) Minimum Lot Standards	
	(i) <i>Any subdivision within the Rural (Primary Production) Zone shall comply with any one of the following:</i>	
	<u>1-4 Hectare Cluster Option</u>	
	(3) <i>Minimum lot area of one hectare for up to two lots, provided all lots comply with the following:</i>	If the application were assessed as three applications, all applications would comply.
	(a) <i>Each front lot shall have a minimum frontage of 100m; and</i>	All front lots comply.
	(b) <i>If there are two or more rear lots they shall share a single vehicle access, and shall be designed in accordance with the requirements for accessways under this Plan; and</i>	Does comply.
	(c) <i>Each lot must contain a building area outside a buffer distance of 25m from all existing boundaries of the parent property, except the buffer distance shall be 10m from the road front boundary of sealed roads.</i>	Does comply.
	<u>“Building Area”</u>	
	<i>For the purpose of this rule, building area shall be defined as that area (or areas) shown within each lot on a proposed subdivision plan that:</i>	
	- <i>Contains any dwelling house to be located on the lot, and which is able to meet the minimum development standards for dwellings in the Rural (Primary Production) Zone; and</i>	Does comply.
	- <i>Has minimum dimensions of 15m by 12m; and</i>	Does comply.
	- <i>Shall be able to satisfactorily dispose of effluent on-site;</i>	Does comply.

This application does not meet the criteria as a Controlled Activity in the Rural (Primary Production) Area under proposed Rule 20.1.2.(f). This application meets the criteria as a Non-Complying Activity in the Rural (Primary Production) Area under proposed Rule 20.1.7.(a).

8.7.2 Objectives & Policies – Rural Zone

Description	Assessment
4.3.1 Objective Rur1 – Protection of Rural Character & Amenity	
<i>To maintain and enhance the amenity values of the Rural Zone, including natural character, as appropriate to the predominant land use and consequential environmental quality of different rural character areas within the Wairarapa.</i>	The proposal is consistent with the character of the surrounding area so is therefore not contrary to this relevant provision.
4.3.2 Rur1 Policies	
(a) <i>Identify areas within the Rural Zone where the predominant land use is primary production, which needs to operate and develop effectively – Rural (Primary Production) Zone.</i>	The predominant use of the surrounding area is rural residential lots with few areas of primary production associated with a viable farming operation. The proposal is consistent with the surrounding uses and therefore not contrary to this relevant provision.
(c) <i>Identify areas within the Rural Zone in which there are particular land use issues that require specific management approaches, including urban growth, flood hazards, and the operational requirements of key infrastructural facilities and intensive primary production activities – Rural (Special) Zone.</i>	The design of the proposal is consistent and not contrary to this relevant provision.
(d) <i>Maintain and enhance the amenity values, including natural character, of the differing Rural character areas through appropriate controls over subdivision and the bulk, location and nature of activities and buildings, to ensure activities and buildings are consistent with the rural character, including an appropriate scale, density and level of environmental effects.</i>	The surrounding areas have few natural features. The proposed design and potential future use is consistent with the surrounding scale and intensity of development and therefore not contrary to this relevant provision.
4.3.4 Objective Rur2 – Provision for Primary Production and Other Activities	
<i>To enable primary production and other land uses to function efficiently and effectively in the Rural Zone, while the adverse effects are avoided, remedied, or mitigated.</i>	The predominant use of the surrounding area is rural residential lots with few areas of primary production associated with a viable farming operation. The proposal maintains a building setback from site boundaries that would avoid any reverse sensitivity conflict. A reverse sensitivity consent notice is a further way of

ensuring the proposal is consistent and not contrary to this relevant provision.

4.3.5 Policies Rur2

(a) <i>Provide for primary production activities as permitted activities in the Rural (Primary Production) Zone and Rural (Special) Zone, subject to such environmental standards as necessary to avoid, remedy or mitigate any adverse effects of primary production activities without unreasonably affecting landowners' ability to use their land productively.</i>	A reverse sensitivity consent notice is a further way of ensuring the proposal is consistent and not contrary to this relevant provision.
(b) <i>Provide for other land uses as permitted activities in the Rural (Primary Production) Zone and Rural (Special) Zone, subject to such environmental standards as necessary to avoid, remedy or mitigate any adverse effects.</i>	The proposal is consistent and not contrary to this relevant provision.
(c) <i>Ensure activities that are potentially sensitive to the adverse external effects of primary production and other activities, particularly those activities with significant external effects, are either appropriately sited, managed or restricted to avoid or mitigate these effects.</i>	The proposal maintains a building setback from site boundaries that would avoid any reverse sensitivity conflict. A reverse sensitivity consent notice is a further way of ensuring the proposal is consistent and not contrary to this relevant provision.
(d) <i>Ensure that new primary production and other activities that may have significant external adverse effects are appropriately sited from sensitive land uses or are otherwise controlled to avoid or mitigate such effects.</i>	The proposal introduces a more intensive rural residential development similar to neighbouring activities. By locating these activities away from sensitive activities is consistent and not contrary to this relevant provision.
(e) <i>Provide interface controls on primary production and other activities that may have adverse effects on adjoining activities.</i>	The proposed rules in the Rural Zones ensure that the proposal is consistent and not contrary to this relevant provision.

4.3.7 Objective Rur3 – Interzone Management

To ensure the amenity values of adjoining zones are reasonably protected from the adverse effects of activities within the Rural Zone.

The proposed rules in the Residential and Rural Zones ensure that the proposal is consistent and not contrary to this relevant provision.

4.3.8 Rur3 Policy

(a) <i>Manage the effects of Rural Zone activities to ensure that the environmental qualities and characteristics in the adjoining zones are not unreasonably degraded, bearing in mind their location adjacent to a functioning primary production environment.</i>	The proposed rules in the Rural Zones ensure that the proposal is consistent and not contrary to this relevant provision.
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8.7.3 Objectives & Policies – Subdivision, Land Development

Description	Assessment
18.3.1 Objective SLD1 – Effects of Subdivision & Land Development <i>To ensure subdivision and land development maintains and enhances the character, amenity, natural and visual qualities of the Wairarapa, and protects the efficient and effective operation of land uses and physical resources.</i>	<p>The proposal is consistent with the character of the surrounding area so is therefore not contrary to this relevant provision.</p>
18.3.2 SLD1 Policies	
(a) <i>Manage subdivision and land development in a manner that is appropriate for the character and qualities of the environmental zone in which it is located, while recognising that such change may alter the character and qualities.</i>	<p>The proposal is appropriate for the site in the context of its surrounds so is therefore not contrary to this relevant provision.</p>
(b) <i>Provide subdivision where it is compatible with the physical characteristics of the site, provided any adverse environmental effects are avoided, remedied or mitigated.</i>	<p>The proposal is appropriate for the site in the context of its surrounds so is therefore not contrary to this relevant provision.</p>
(c) <i>Provide flexible subdivision in the Commercial and Industrial Zones to promote the efficient use of these resources and their infrastructural capacity.</i>	<p>While the subdivision design does not comply with the proposed rules, it should be taken into account that few of the neighbouring lots also do not comply with the minimum lot size of the operative or proposed plans. There is an inherent recognition following on from the operative plan that a flexible approach be applied to the site when assessing effects. The demands of the surrounding environment on land use, together with the efficient provision of infrastructure, influences rural residential sized lots with little open space to be used for primary production uses. The proposal is consistent and not contrary to this relevant provision.</p>
(d) <i>Set minimum allotment sizes for the Residential and Rural Zones that provide a baseline for maintaining the character, scale and intensity of development of their Zones, including their servicing capacity, while recognising the differing constraints, qualities and characteristics within each zone.</i>	<p>The site and its surrounds are an anomaly with operative and proposed minimum lot sizes. There are few infrastructural constraints. The proposal is consistent and not contrary to this relevant provision.</p>
(f) <i>Limit the intensity of subdivision and land development in those rural parts of the Wairarapa in which significant intensification may have adverse effects on the risks from natural hazards, the operational requirements of key infrastructural and land use assets, water supply catchments, and the growth of urban areas.</i>	<p>The site is inside an area where rural residential development already exists. More intensive development forms part of the existing environment and natural hazards are avoided. The proposal is therefore consistent and not contrary to this relevant provision.</p>

<p>(g) <i>To provide for the subdivision of rural land for rural-residential purposes through minimum standards that seek to:</i></p>	<p>The proposal is consistent and not contrary to this relevant provision.</p>
<p>i. <i>Avoid or mitigate any significant potential adverse effects on the viability and operational requirements of any productive use of any adjacent rural or industrial land;</i></p>	<p>The proposal is already part of an unviable primary productive area purely from a land use perspective. A rural residential property has two uses:</p> <p>i. Providing a dwelling; and i. Providing land.</p> <p>A person who owns a rural residential property who works elsewhere who supplements their income with a boutique primary production activity is a viable use of land. A person who wants a larger rural residential property for a larger dwelling is a viable use of land with less land wasted.</p> <p>The proposal does not include activities or development within proximity of primary production activities that could cause a reverse sensitivity.</p> <p>Taking these factors into account the proposal is consistent and not contrary to this relevant provision.</p>
<p>ii. <i>Ensure allotment sizes and the pattern of subdivision maintains the open rural character, particularly from public roads;</i></p>	<p>The existing environment is an open landscape characterised by rural residential development relying on the natural elevation for an outlook. The proposal is consistent with the pattern of development of the surrounding area. Taking these factors into account the proposal is consistent and not contrary to this relevant provision.</p>
<p>iii. <i>Ensure allotments are able to accommodate the likely use in accordance with the other requirements of the Plan;</i></p>	<p>The lots are able to accommodate the likely use of the lots in a way that can comply with other provisions of the proposed plan. The proposal is therefore consistent and not contrary to this relevant provision.</p>
<p>iv. <i>Avoid adverse effects on the safe and efficient use of roads, and pedestrian and cycling networks;</i></p>	<p>The proposal is consistent and not contrary to this relevant provision.</p>
<p>v. <i>Satisfactorily avoid or mitigate the potential reverse sensitivity effects in relation to either nearby industrial and rural productive activities, activities allowed by the zoning, or anticipated urban growth;</i></p>	<p>As previously described in other sections, the proposal is consistent and not contrary to this relevant provision.</p>

vi. <i>Ensure the actual and potential effects on rural character, amenity and natural values will not be compromised by intensive and ad hoc urban development and/or through the cumulative effects of rural-residential development;</i>	As previously described in other sections, the proposal is consistent with a pattern of rural residential development in the surrounding area that does not extend the urban area and therefore not contrary to this relevant provision.
vii. <i>Ensure the sewage effluent from all lots can be effectively disposed without any potential adverse effects on the environment.</i>	The proposal is consistent and not contrary to this relevant provision.
viii. <i>Ensure a potable water supply is available on each allotment.</i>	The proposal is consistent and not contrary to this relevant provision.
<p>(h) <i>Allotments below the minimum standards in the Rural Zone will not be allowed unless there are exceptional or unique circumstances, particularly if one or more of the following matters applies:</i></p> <p>i. <i>The proposed subdivision is likely to have a significant adverse effect on the viability and operational requirements of any productive use of adjacent rural or industrial land, including activities allowed by the zoning, or anticipated urban growth;</i></p> <p>ii. <i>The allotment sizes and/or pattern of the subdivision would not maintain the open rural character, particularly from public roads and vantage points;</i></p> <p>iii. <i>Allotments are unable to accommodate the likely use in accordance with the other requirements of the Plan;</i></p> <p>iv. <i>The subdivision would require an extension or upgrading of any service or road that is not in the economic interest of the District;</i></p> <p>v. <i>The subdivision would compromise the safe and efficient use of the road network;</i></p> <p>vi. <i>Any exacerbation of risks from flooding or other natural hazards that is likely to occur through intensified landholdings, occupation or where capital and infrastructural investment is more than minor;</i></p> <p>vii. <i>The proposal is unlikely to be able to satisfactorily and reliably dispose of effluent;</i></p> <p>viii. <i>The proposal is likely to lead to ad hoc urban development and/or adverse effects on rural character, amenity, and natural values through the cumulative effects of rural residential development in the</i></p>	<p>Section 104D of the Resource Management Act 1991 states clearly that the second ‘gateway test’ is that ‘the application is for an activity that will not be <u>contrary</u> to the objectives and policies of <u>both</u> the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity’. A provision of a proposed plan stating that subdivision will not be allowed unless there are ‘exceptional or unique circumstances’ is beyond the powers conferred by the Act to the territorial authority.</p> <p>It should be noted that the provisions of i-ix are similar to those in (g) and have previously been addressed. Due to (h) being <i>ultra vires</i>, assessment under this provision should not be given any weight.</p>

<p>vicinity;</p> <p>ix. <i>The proposal is unable to provide a potable supply of water.</i></p>	
<p>(j) <i>To provide for subdivision below the minimum standards if it results in the more effective management of network utilities or the protection of significant heritage assets and natural areas.</i></p>	<p>Providing a more flexible approach to the demands for smaller lots within the rural area that does not conflict with the operations of a working rural environment prevents the potential inefficient use of land. Requiring a person to own land that they do not plan to use for the sake of complying with a rule antagonises Part 2 of the Act.</p> <p>The proposal recognises that the site is not a viable purely primary production operation. By intensifying the development of the site reduces the inefficient demands on the land of other more viable operations.</p>
<p>(m) <i>To support the use of integrated and innovative subdivision design and best practice to maintain and enhance the character and qualities of the environmental zone in which it is located.</i></p>	<p>The proposal is consistent and not contrary to this relevant provision from the perspective that the lot sizes avoids hazards while maximising the amenity that the river corridor provides.</p>

18.3.4 Objective SLD2 – Effects of Servicing Requirements

To ensure that subdivision and land development is appropriately serviced to provide for the likely or anticipated use of the land.

The lots are a sufficient size to provide for services on-site so the proposal is therefore consistent and not contrary to this relevant provision.

18.3.5 SLD2 Policies

<p>(a) <i>Ensure adequate infrastructure is provided by the subdivider/developer to allow new activities and development to connect to wastewater and water reticulation where adequate capacity exists to meet the needs of the development.</i></p>	<p>The lots are a sufficient size to provide for services on-site. The proposal is therefore consistent and not contrary to these relevant provisions.</p>
<p>(c) <i>Avoid, remedy or mitigate any adverse effects resulting from stormwater discharges.</i></p>	
<p>(d) <i>Ensure that owners of unserviced lots are responsible for providing a potable water supply and for the disposal of sewage and stormwater in a manner that avoids, remedies or mitigates any adverse effects.</i></p>	
<p>(e) <i>Promote infrastructure and servicing design solutions for development that avoids, remedies or mitigates significant adverse environmental effects on natural and physical resources, ecosystems, and amenity values (for example water bodies).</i></p>	

18.3.7 Objective SLD3 – Sustainable Infrastructure Development

To maintain sustainable and efficient public infrastructure that meets the additional demand generated by development and subdivision, while avoiding, remedying or mitigating adverse effects on the environment.

The proposal includes entrances that access sealed sections of rural road therefore not requiring the additional sealing of a rural road. The proposal is therefore consistent and not contrary to these relevant provisions.

18.3.8 SLD3 Policies

- (b) *Require a contribution where an activity necessitates road upgrading to avoid, remedy, or mitigate adverse effects on the road or the wider environment.*

It is expected that as a condition of consent there be a financial contribution towards the future upgrading of the district's roading network. The consent holder would also be required to pay for all costs associated with the materials and labour to gain access to the road network.

18.3.13 Objective SLD5 – Reserves and Open Space

To sustainably manage and develop the reserve and open space network to cater for current and future community needs and to protect and enhance significant environmental assets.

It is expected that as a condition of consent there be a financial contribution towards the future of the district's reserves and public amenities.

18.3.14 SLD5 Policies

- (a) *Require a reserve contribution from new residential and visitor accommodation development, including rural subdivision creating vacant lots that have the ability to be developed for residential purposes, that is proportionate to the demand for passive and active community recreational requirements arising from the development, including the need to protect the Wairarapa's key environmental assets such as its coastal margins and natural features.*
- (c) *Manage subdivision and development adjacent to or near reserves to ensure public access (or future public access) is provided at the time of subdivision and/or development.*

It is expected that as a condition of consent there be a financial contribution towards the future of the district's reserves and public amenities. The proposal is therefore consistent and not contrary to this relevant provision.

18.4 Anticipated Environmental Outcomes

- (a) *Allotments of a size form and pattern to provide for land uses that are compatible with the values, character and qualities of the immediate environment.*
- (d) *Effective wastewater systems that protect the quality of ground and surface water resources.*

The proposal provides a size and pattern of land use compatible with the surrounding area so is therefore consistent and not contrary to this relevant provision.

On-site services can achieve this outcome.

9. PERMITTED BASELINE

Under Section 104(2) of the Resource Management Act 1991 which states:

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

The term “Permitted Baseline” is not a term expressly used in the Act and there are several assessment tools when applying Section 104(2) of the Act.

9.1 “As of right”

Under Section 5 of the Resource Management Act 1991 it states:

- (2) *In this Act, “sustainable management” means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—*
- (c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

The term ‘permitted baseline’ is described in the case *Smith Chilcott Ltd v Auckland CC* [2001] 3 NZLR 473 where it is stated that when considering permitted baseline the consent authority can take into consideration a fully complying development.

Under the operative plan the following activities are permitted for the site:

- 4 dwellings (Rule 2.7.2.2 (a));
- As well as a dwelling, 1 accessory flat being a self contained dwelling with an area of less than 75m² (Rule 2.7.2.2 (b));
- Dwellings to be at least 8 metres from front and rear boundaries, 5 metres from side boundaries (Rule 2.7.2.1);
- Other buildings to be at least 16 metres from front boundaries, 12 metres from side and rear boundaries (Rule 2.7.2.1);
- A dwelling of building height of no more than 10 metres (Rule 2.7.2.1);
- Other buildings of building height of no more than 10 metres (Rule 2.7.2.1);

Under the operative plan for the Rural Area only boundary adjustments that will not create additional buildings lots and subdivision involving different parts of a building are a permitted activities. The proposed activity does not meet the criteria for a controlled activity as most of the proposed lots are less than 3 hectares. The proposed activity is therefore a discretionary activity. The site could include a 4 lot subdivision of lots over 3 hectares as a controlled activity.

Under the proposed plan the following activities are permitted for the site:

- 4 dwellings with no site coverage restrictions (Rule 4.5.2(d));
- Dwellings to be at least 25 metres from all boundaries (Rule 4.5.2(b));
- Other buildings to be 10 metres from all boundaries (Rule 4.5.2(c));
- A building height of 15 metres (Rule 4.5.2(a)(i)); and

- Accessory buildings with no size limit.

Under the proposed plan for the Rural (Primary Production) Area no subdivision is a permitted activity. The proposed activity does meet the criteria for a controlled activity under Rule 20.1.2(f)(2).

In *Bayley v Manukau CC* [1999] 1 NZLR 568 the following test is applied when assessing effects:

“The appropriate comparison of the activity for which the consent is sought... is with what either is being lawfully done on the land or could be done there as of right.”

The proposal could be amended to the following permitted activities:

- There could be four dwellings on the site and an accessory flat of 75m² 25 metres from the site boundary on each existing lot; and
- Accessory buildings 15 metres from the site boundary.

9.2 Existing Environment

In *Wilson v Selwyn DC* (2005) 11 ELRNZ 79 on page 93 *Bayley* was clarified by stating:

“or as it would exist if the land were used in a manner permitted as of right by the plan... on the environment as it exists.”

While the District Plan states that the purpose of the Rural Area is to provide a rural character, in assessing this application it must assess the environmental effects this application has on those affected by the proposed subdivision. If the properties affected are not ‘purely rural’ in nature, and in fact more in line with ‘rural residential’ lifestyle lots, then we submit that this application does not generate an adverse effect.

In *Paremata Residents Assn Inc v Porirua CC* EnvC W41/2003 the Environment Court held that the comparison of the proposed use and the existing uses should extend to the difference in the character and nature of the activities. The amended proposed activity is more in line with the activities of its surrounds incorporating rural residential activities with purely rural activities.

In *Stalker v Queenstown Lakes DC* (EnvC) C40/2004 the Court also took into account, as part of the existing environment, the existing activities on the site pursuant to existing use rights, when determining whether consent should be granted for an extension of those activities. The applicant could build one accessory flat now and other accessory buildings before the proposed plan becomes operative and, if the proposed plan becomes operative in its current format, extend the dwelling. In either scenario, a landscaping plan may not be required.

9.3 Controlled Activities

Glenfield Ratepayers & Residents Association Assn (Inc) v North Shore CC Env A138/02 applied the permitted baseline approach of *Arrigato* in respect of activities “as of right”, “permitted” or “permitted by the plan” was interpreted as not referring exclusively to “permitted activities” as defined in the Act. The Court held that it could extend in appropriate circumstances to controlled activities where it was reasonably

clear that consent would be granted because the discretion over which a council had reserved control would not apply.

Alternatively, as a controlled activity, the proposal could be amended to include 4 lots of at least 3 hectares in area. Under the proposed plan, however, the proposal could be amended to subdivide only Lots 24 and 25 DP 376563 to include two 1 hectare lots and a 4 hectare block.

9.4 Conclusions

Under Section 104(2) of the Resource Management Act 1991 which states:

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

The permitted baseline therefore not only includes an activity permitted under a plan, but also the activities allowed under a resource consent as well as existing uses protected under Section 10 of the Act.

The environment that this application should be assessed against include the following:

- Numerous lots within the vicinity of the site ranging between 1 hectare and 1.5 hectares; and
- The large number of buildings on Lot 1 DP 5543.

In *Baker Boys Ltd v Christchurch CC* (1998) 4 ELRNZ 297 the Court held that an applicant for a resource consent must satisfy the Court that the single purpose of the Act (s5) is met by granting rather than refusing consent. The operative and proposed plan provides the tools to the consent authority in the form of reserved control for the purpose of maintaining the amenity the district plans aim to achieve. In the case of the site as present, there is visual separation between the existing developed part of the site with neighboring lots. The eventual development of lots will blend the developed areas into the landscape therefore mitigating any perceived intensification.

The potential and actual effects of the proposal are therefore considered less than minor.

10. CONCLUSION

Taking into account the assessment of environmental effects and the analysis of the relevant planning provisions:

- The effects of the proposal on the existing amenity will be less than minor;
- The effects of the proposal on the existing infrastructure will be minimal; and
- The effects on the productivity of the area will not alter.

It is considered that the proposed subdivision will not contribute to any significant adverse effects on the environment but if there are any effects in this proposed subdivision that require mitigation these could be dealt with in conditions issued by the Carterton District Council.

APPENDIX 1: Certificates of Title



COMPUTER FREEHOLD REGISTER UNDER LAND TRANSFER ACT 1952

Search Copy



Identifier **307811**
Land Registration District **Wellington**
Date Issued 09 April 2008

Prior References

240641

Estate Fee Simple
Area 3.1251 hectares more or less
Legal Description Lot 1 Deposited Plan 376563

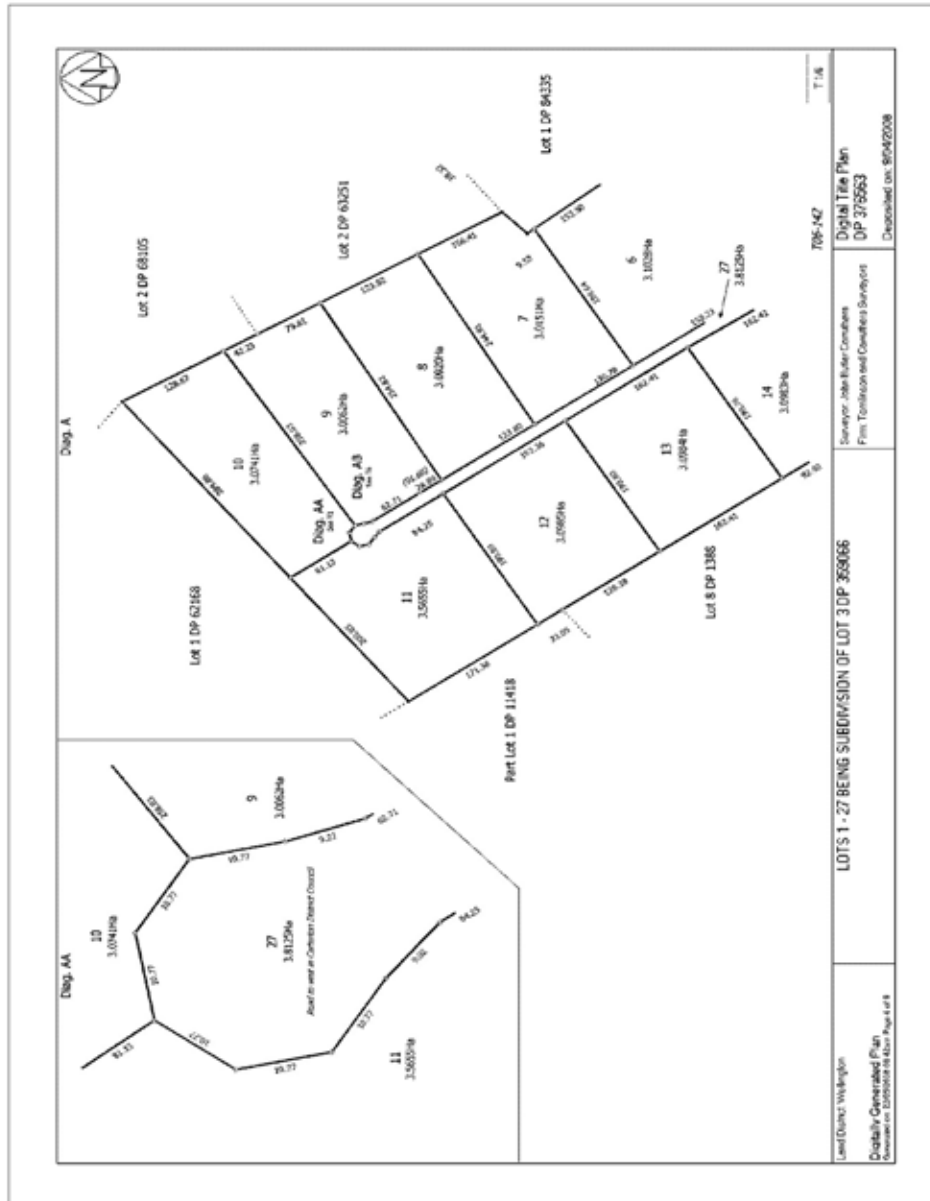
Proprietors
Spark It Up Limited

Interests

Land Covenant in Easement Instrument 7001980.3 - 24.8.2006 at 9:00 am
7145841.1 Mortgage to Matrix Custodian Limited - 5.12.2006 at 9:00 am
7777239.2 Consent Notice pursuant to Section 221 Resource Management Act 1991 - 9.4.2008 at 9:00 am
Subject to a water supply easement over part marked C on DP 376563 created by Easement Instrument 7806506.1 - 6.5.2008 at 9:00 am
7806506.2 Encumbrance to Norfolk Estate Residents' Association Incorporated - 6.5.2008 at 9:00 am

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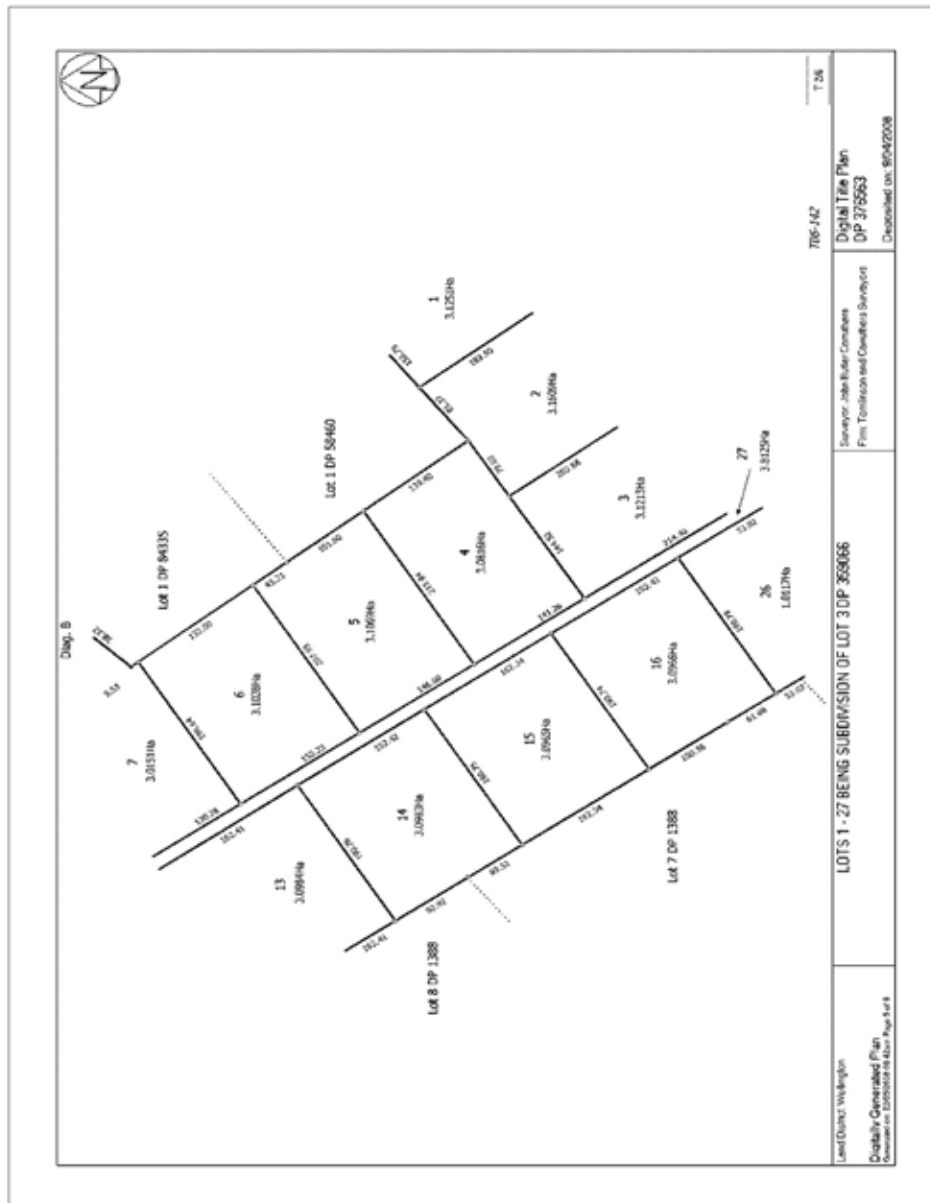


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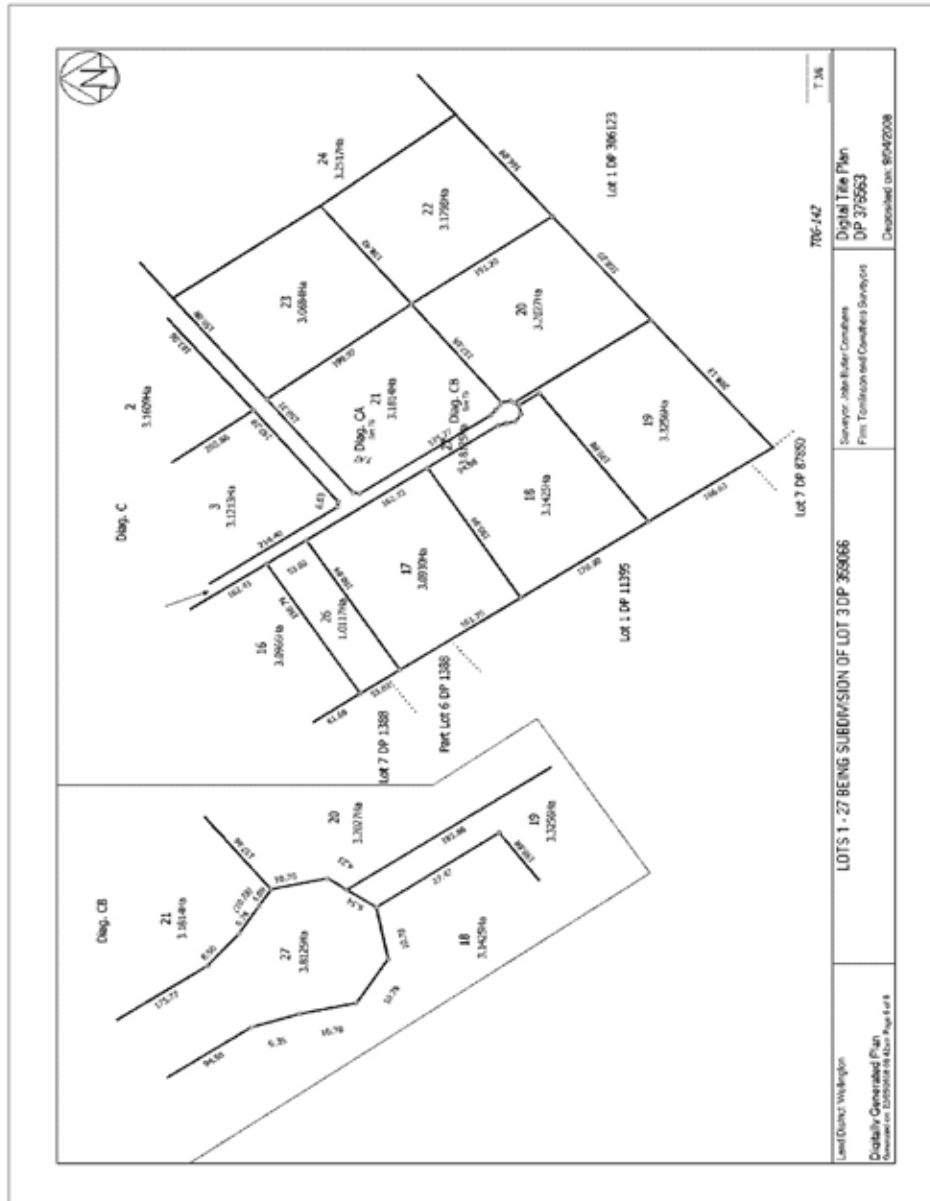


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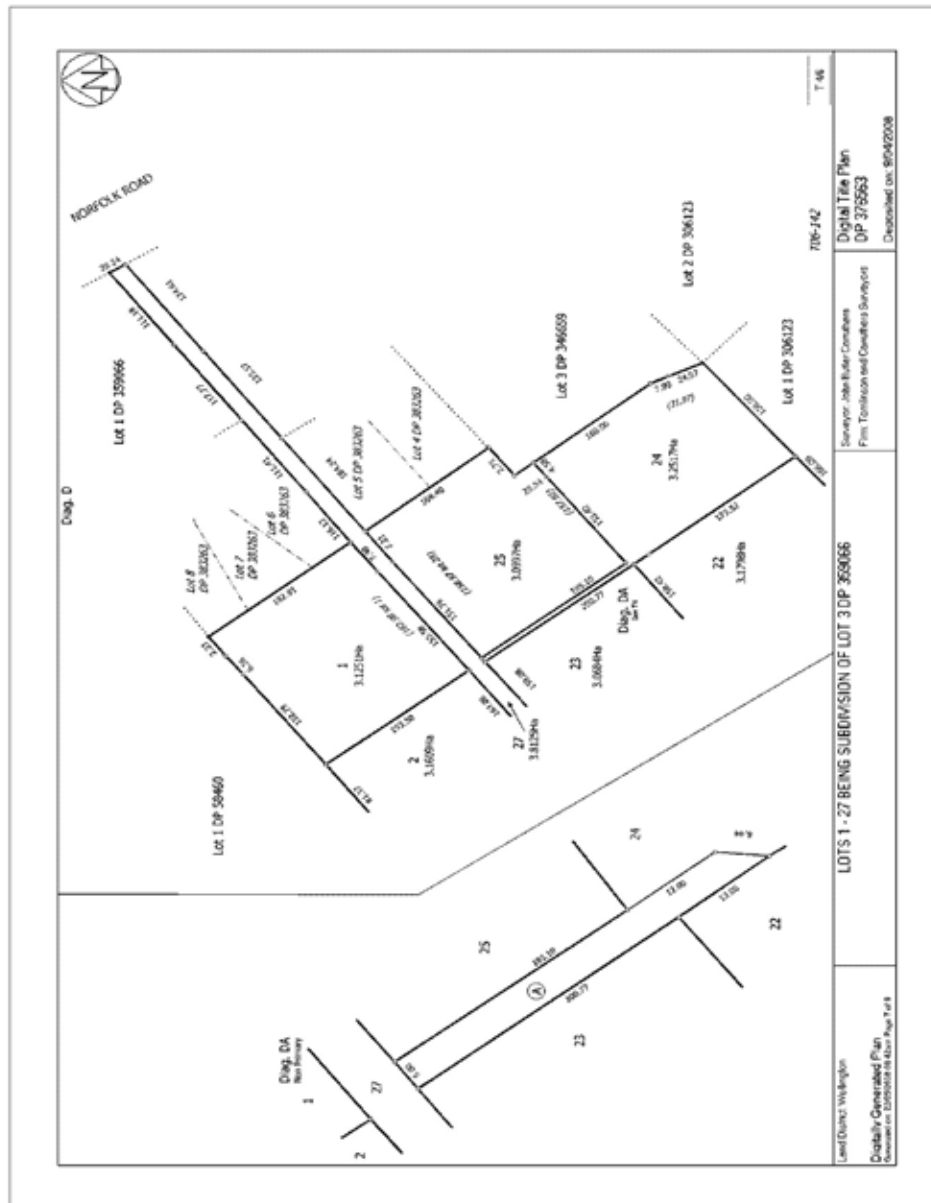


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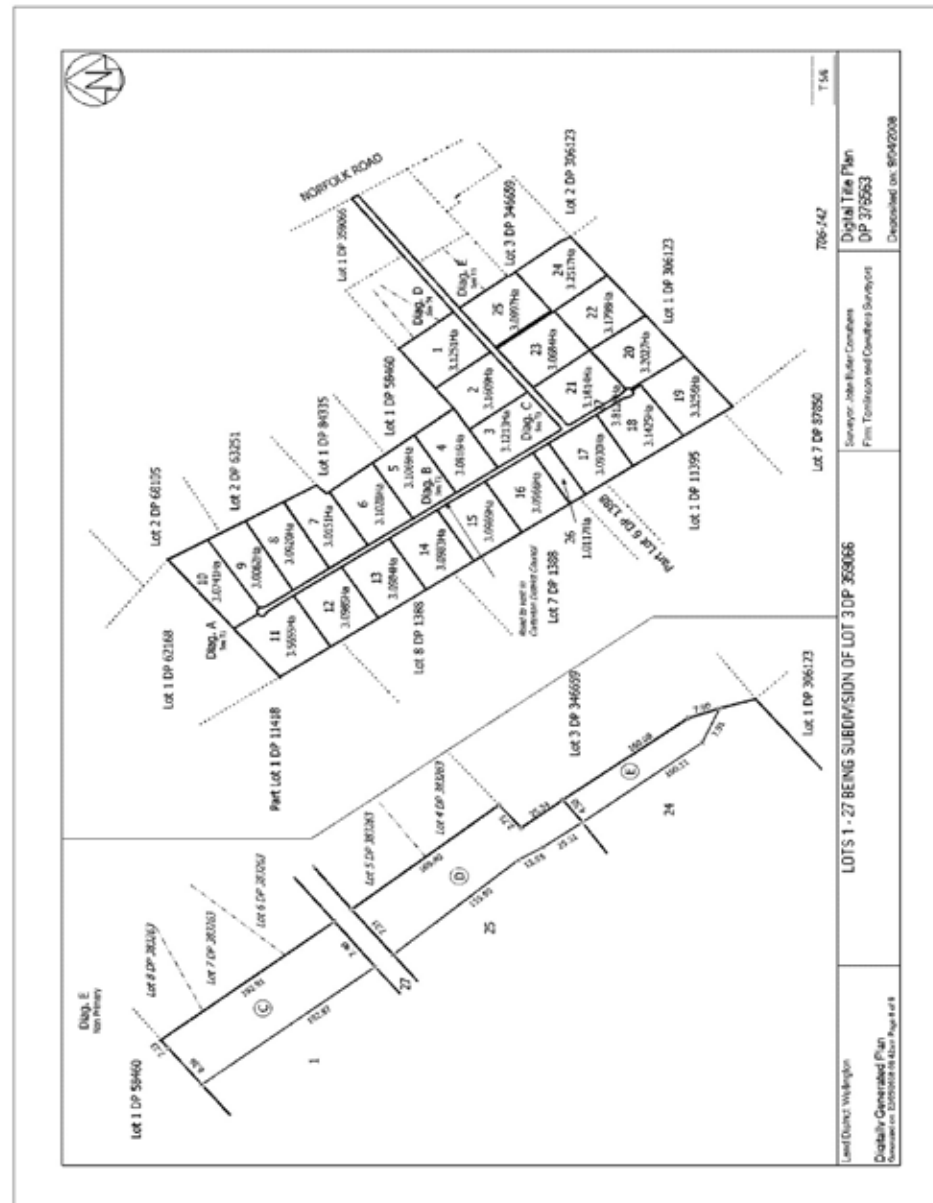
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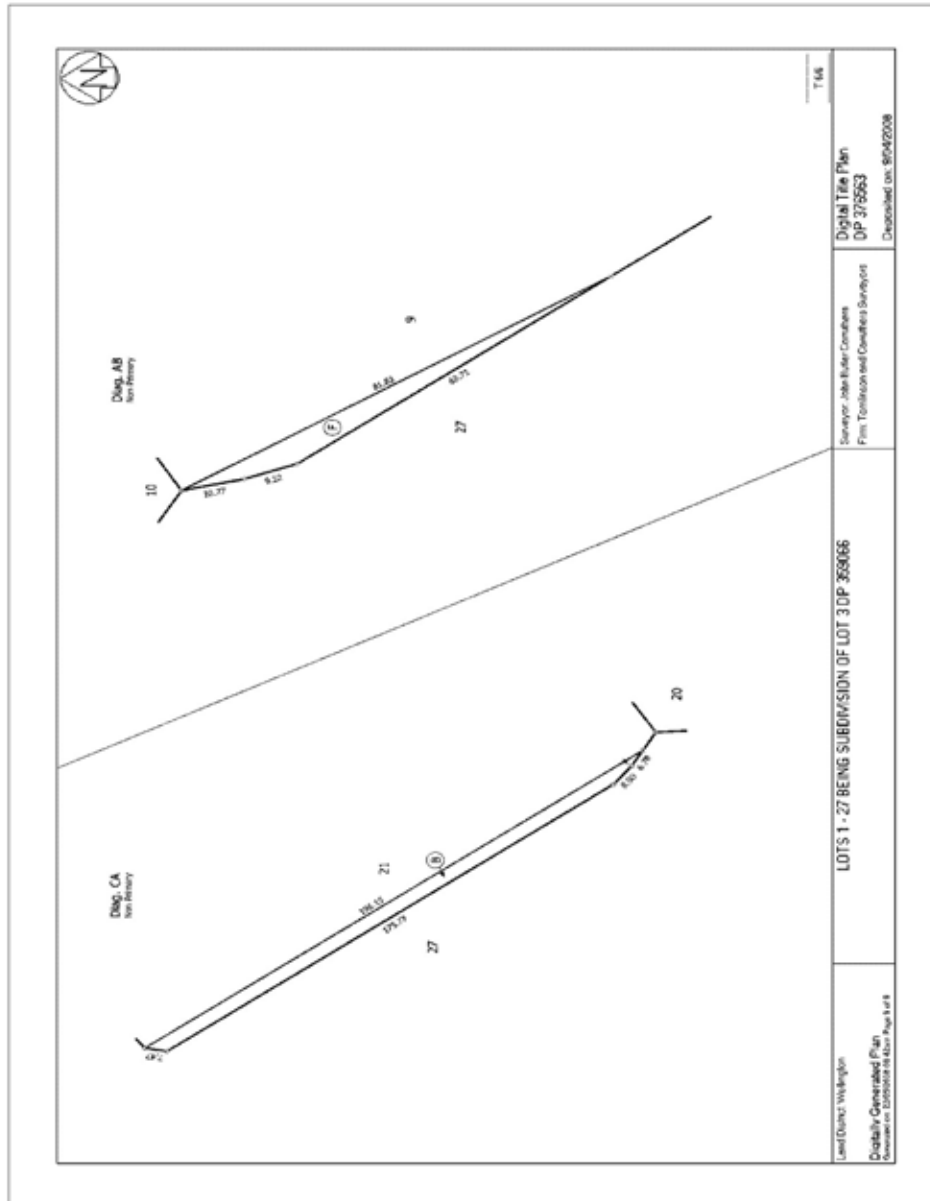
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Identifier **307811**



Transaction Id
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**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**

Search Copy



Identifier 307813
Land Registration District Wellington
Date Issued 09 April 2008

Prior References
240641

Estate Fee Simple
Area 3.1213 hectares more or less
Legal Description Lot 3 Deposited Plan 376563

Proprietors
James Alexander Shaw

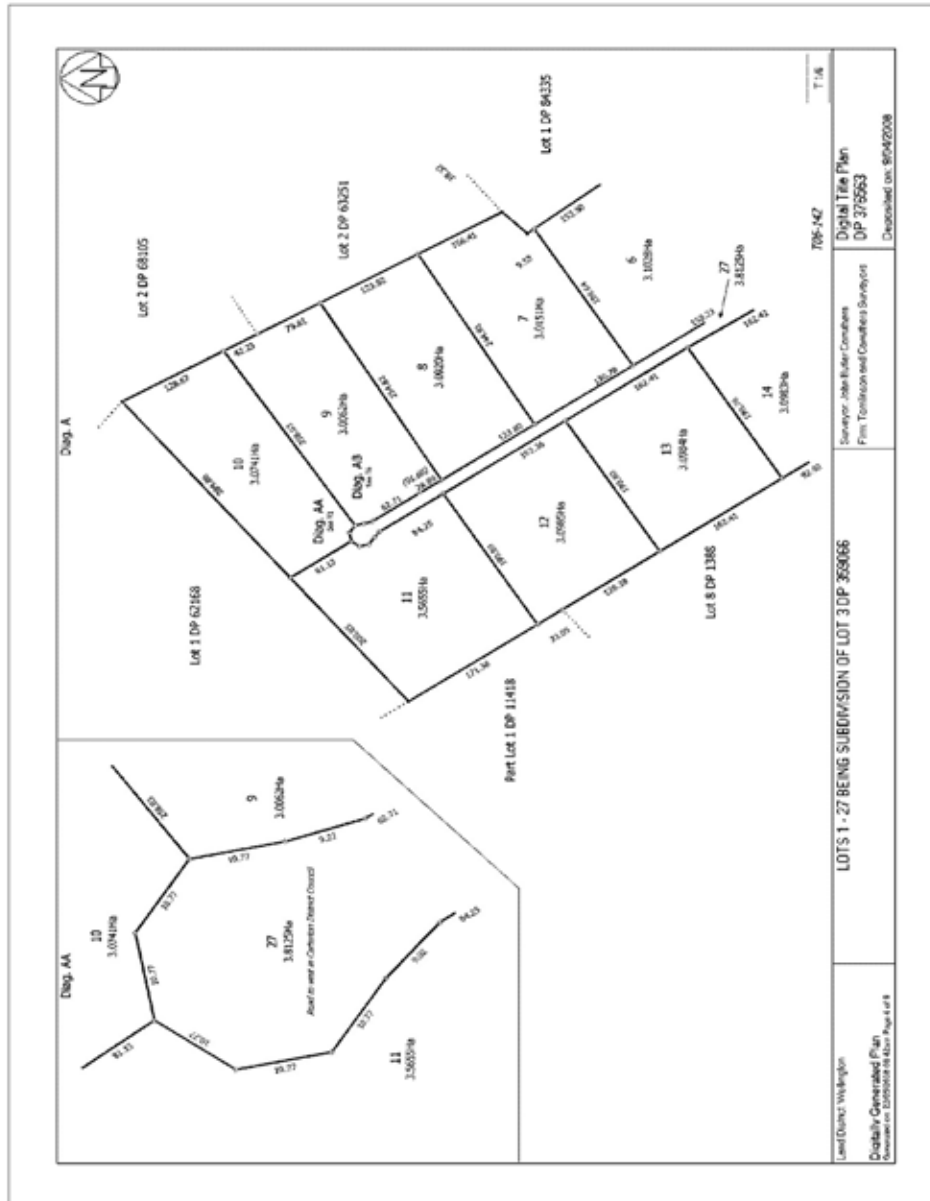
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7777239.2 Consent Notice pursuant to Section 221 Resource Management Act 1991 - 9.4.2008 at 9:00 am
7806506.2 Encumbrance to Norfolk Estate Residents' Association Incorporated - 6.5.2008 at 9:00 am
Fencing Covenant in Transfer 7833303.2 - 30.5.2008 at 3:50 pm
7833303.3 Mortgage to ASB Bank Limited - 30.5.2008 at 3:50 pm

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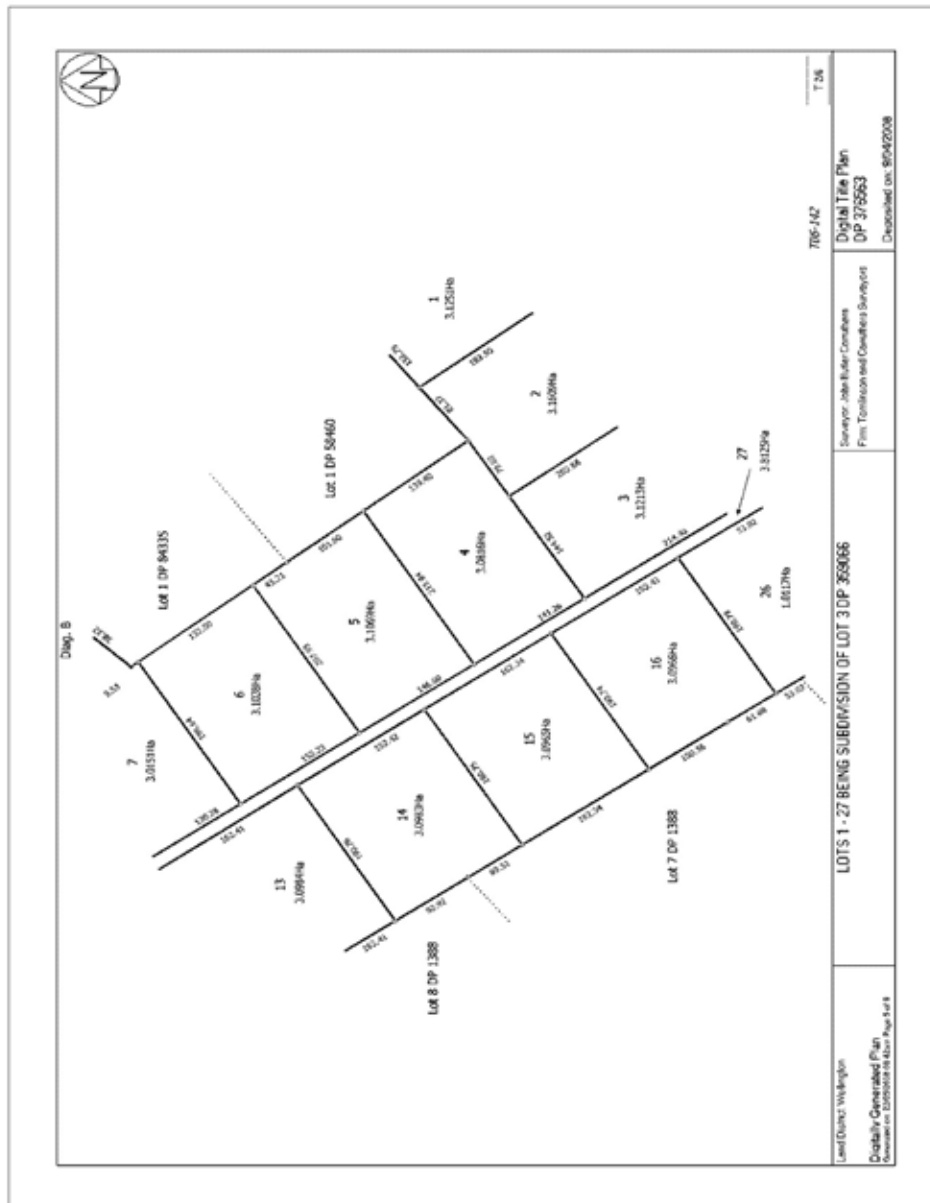


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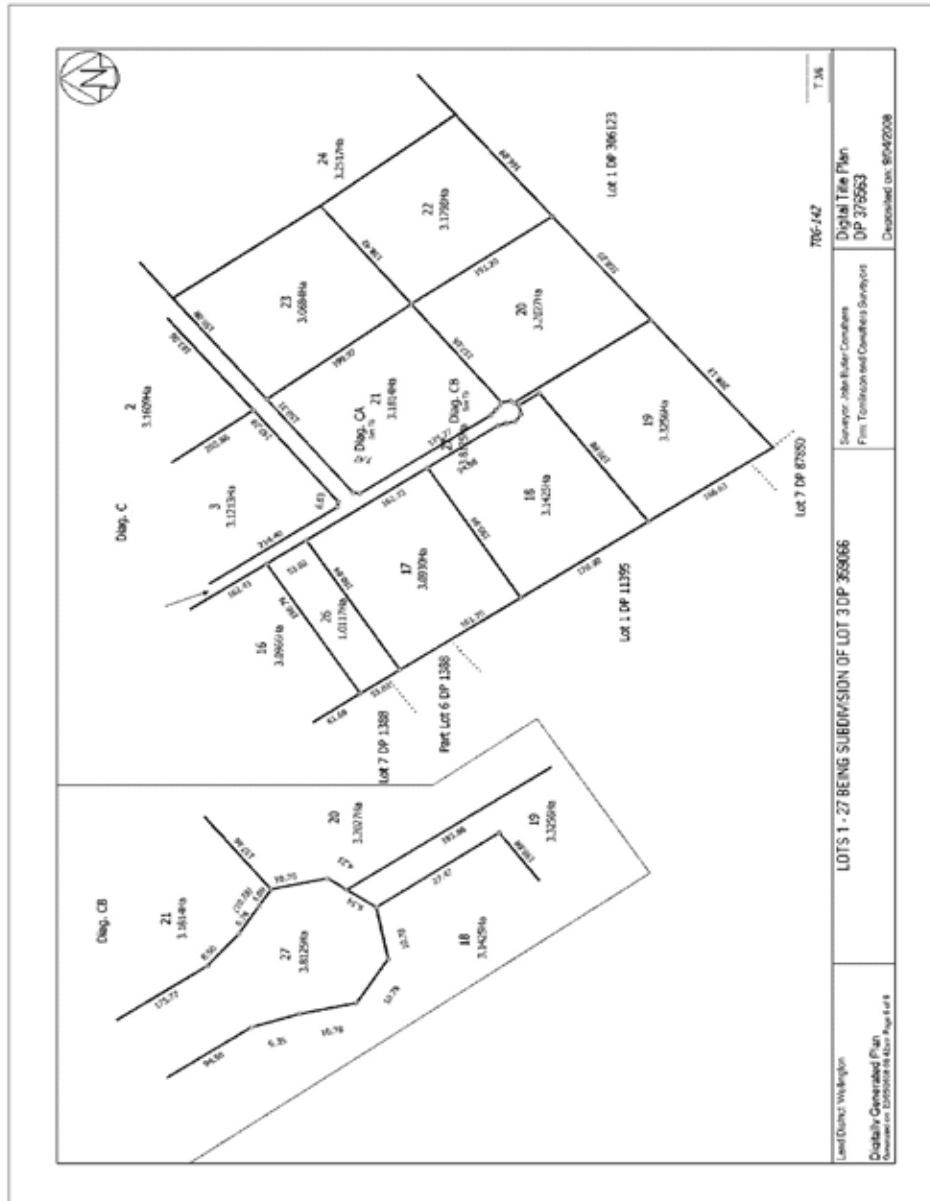


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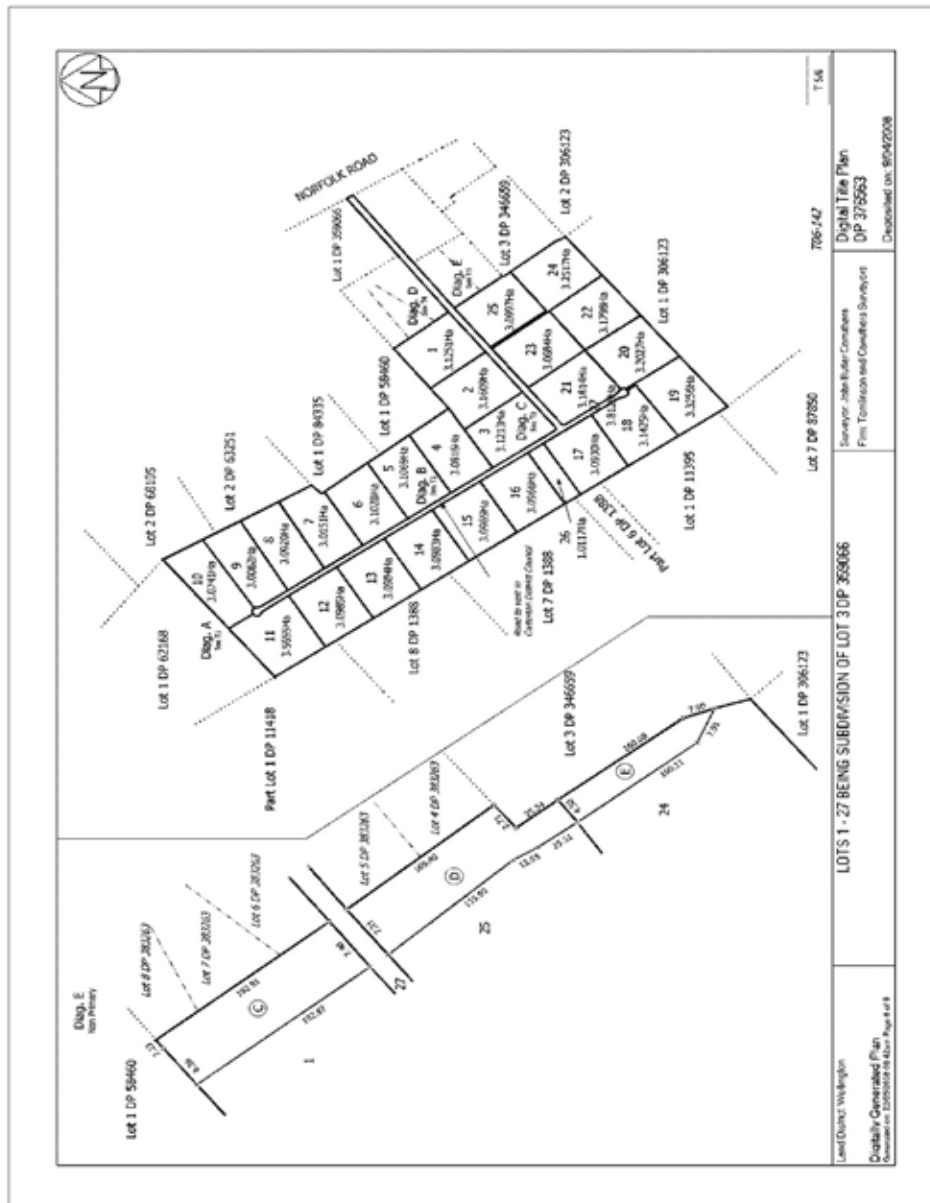


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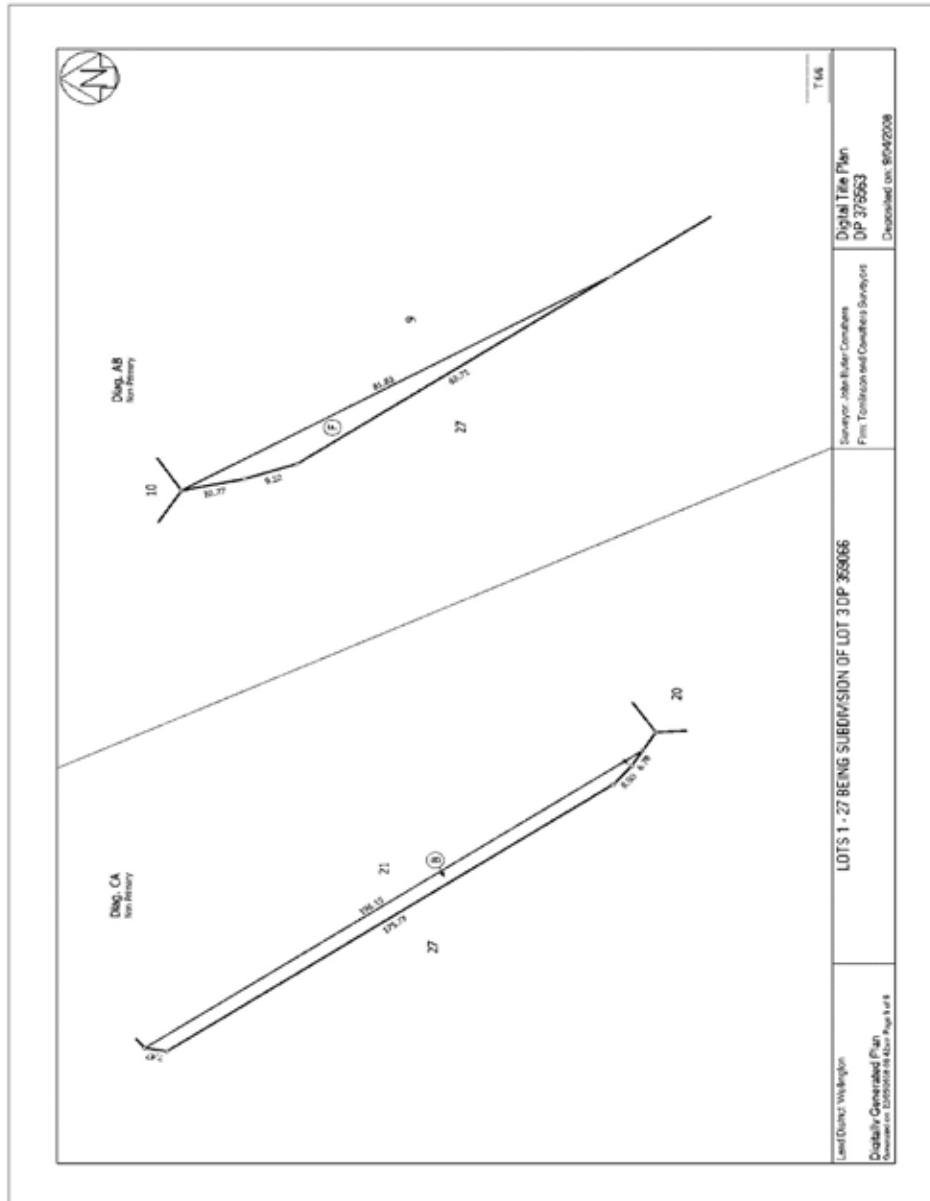
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Identifier **307813**



Transaction Id
Client Reference 07-250

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Register Only



**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**

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Identifier **307834**
Land Registration District **Wellington**
Date Issued 09 April 2008

Prior References
240641

Estate Fee Simple
Area 3.2517 hectares more or less
Legal Description Lot 24 Deposited Plan 376563

Proprietors
Spark It Up Limited

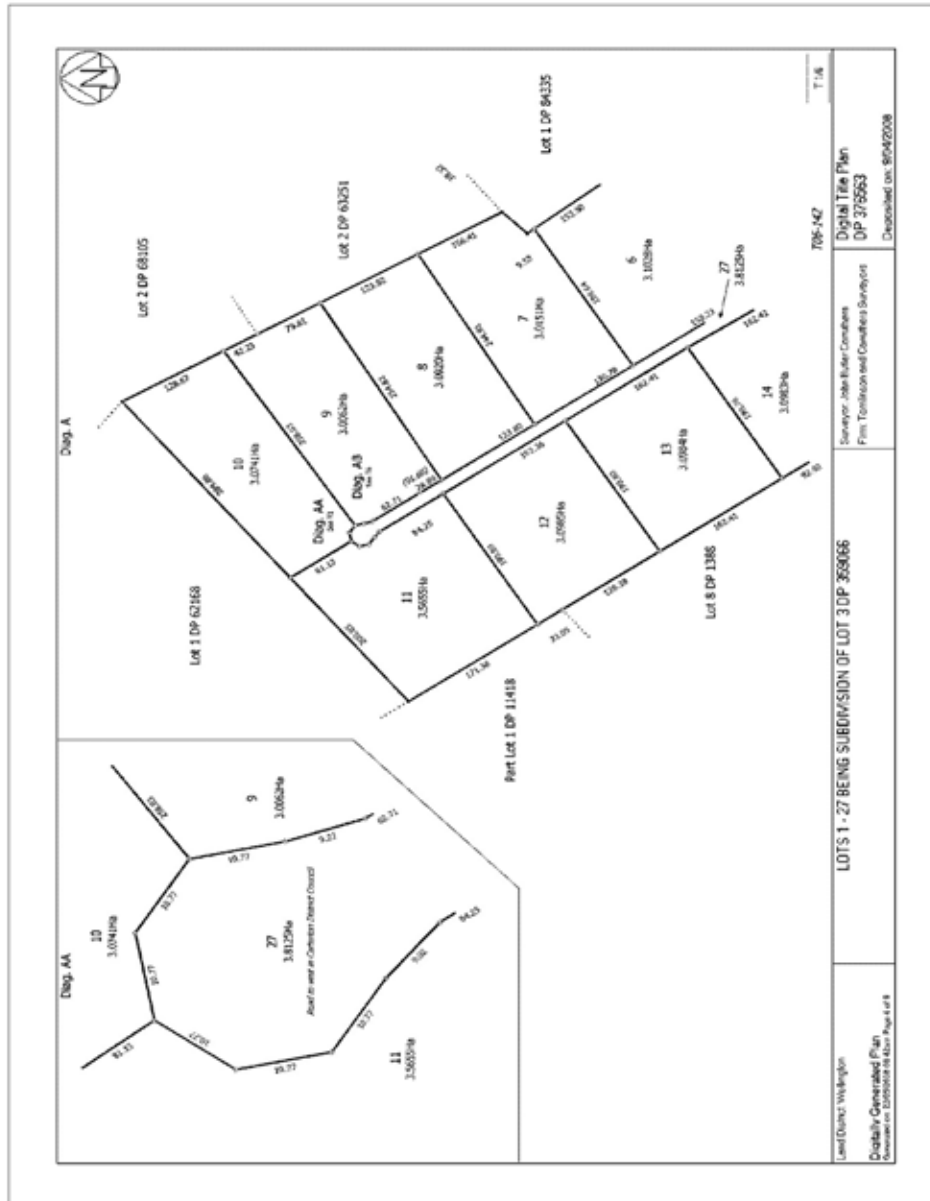
Interests
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7145841.1 Mortgage to Matrix Custodian Limited - 5.12.2006 at 9:00 am
7777239.2 Consent Notice pursuant to Section 221 Resource Management Act 1991 - 9.4.2008 at 9:00 am
7806506.2 Encumbrance to Norfolk Estate Residents' Association Incorporated - 6.5.2008 at 9:00 am

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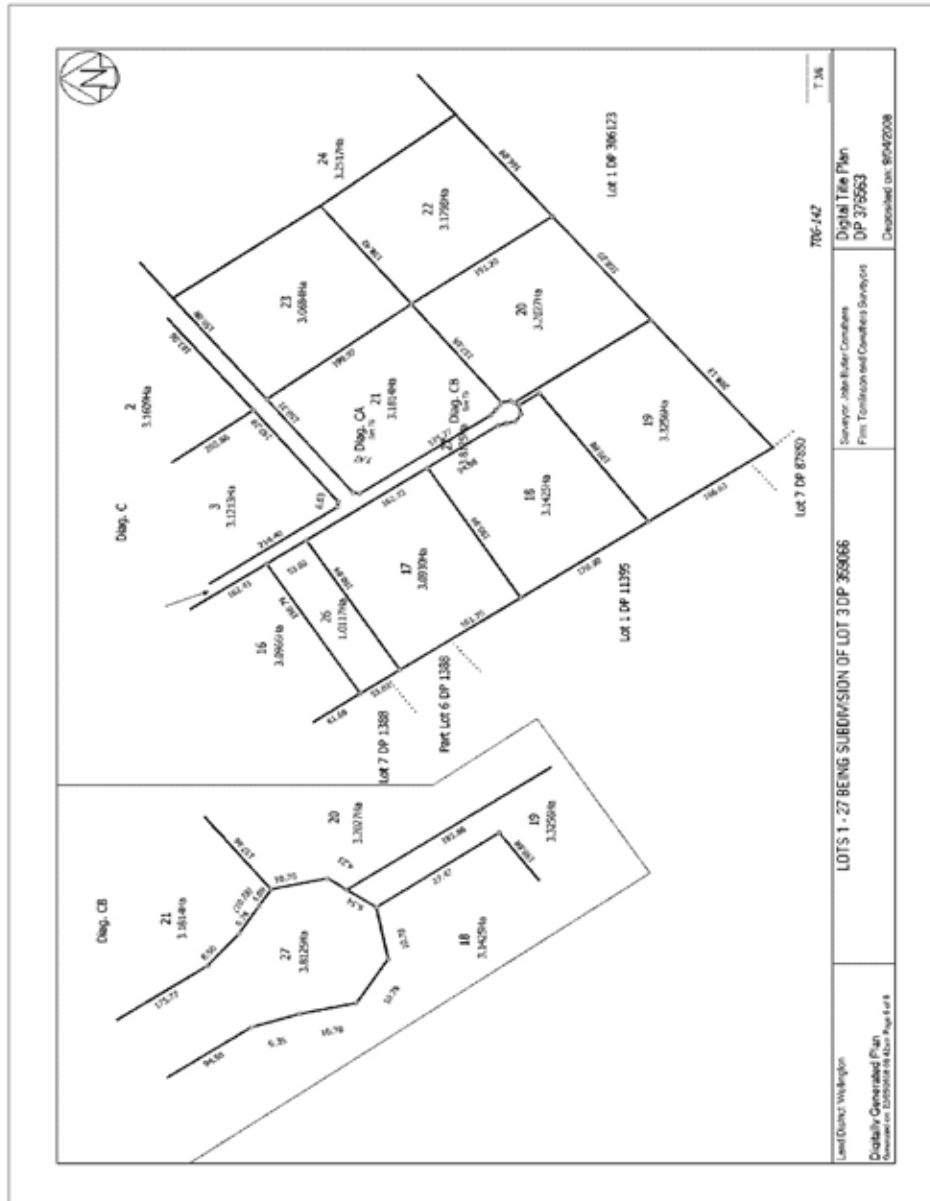


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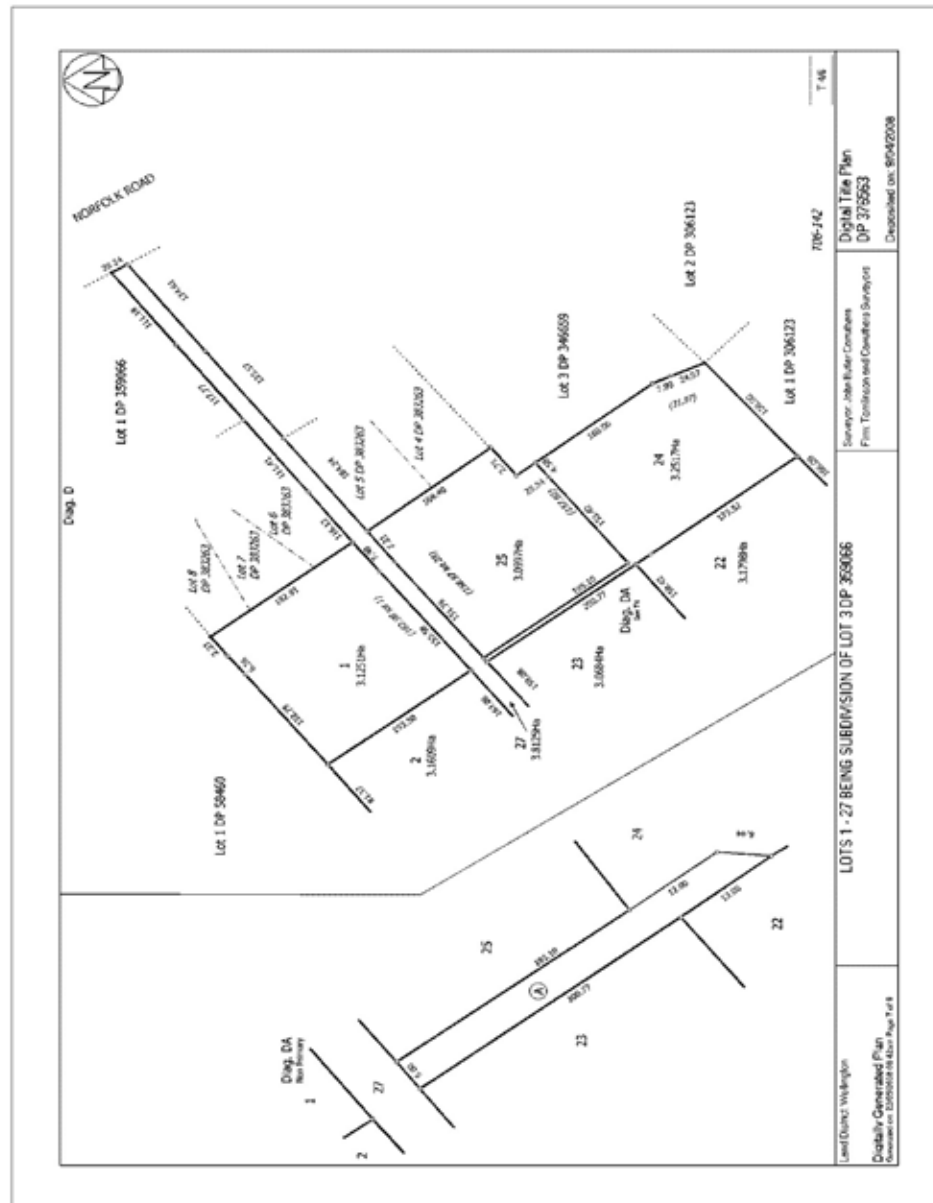
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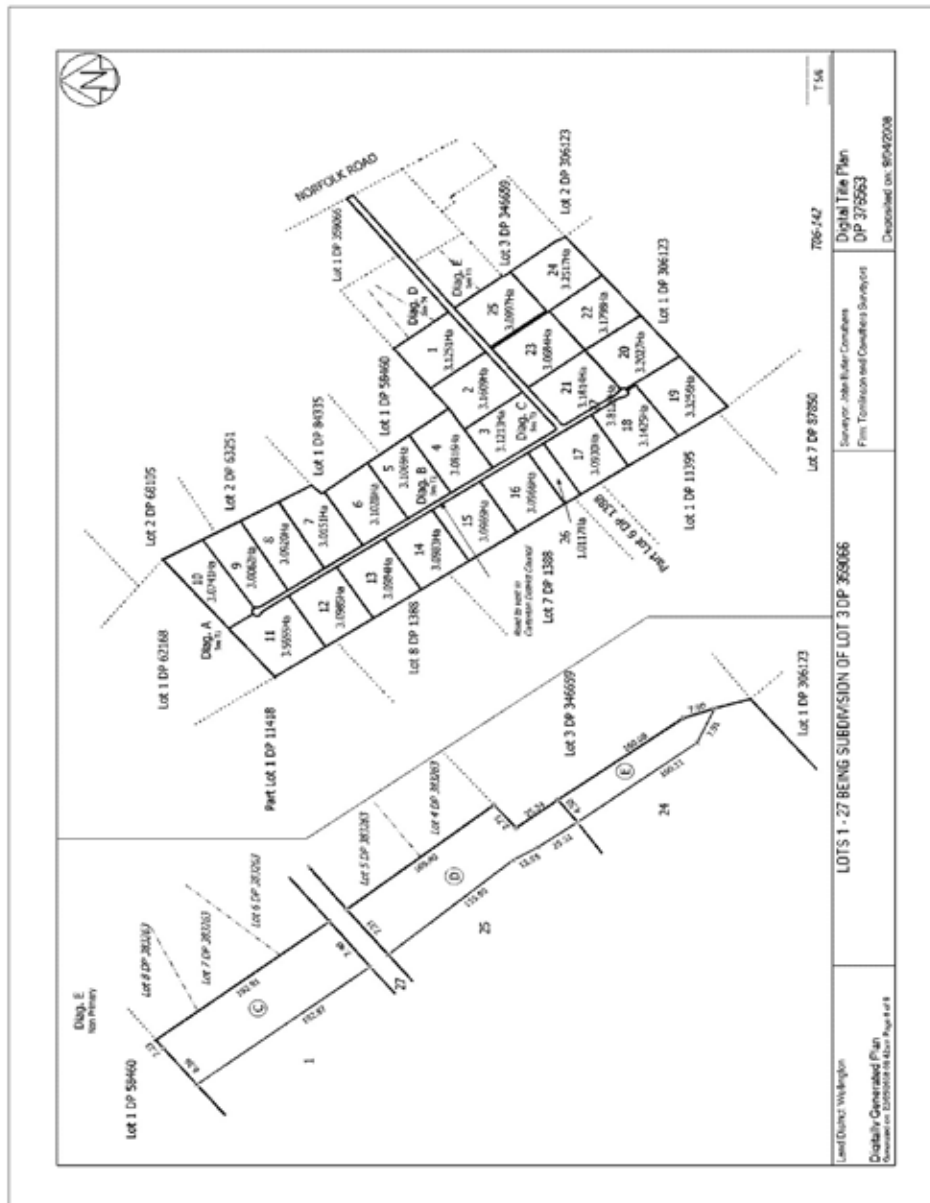
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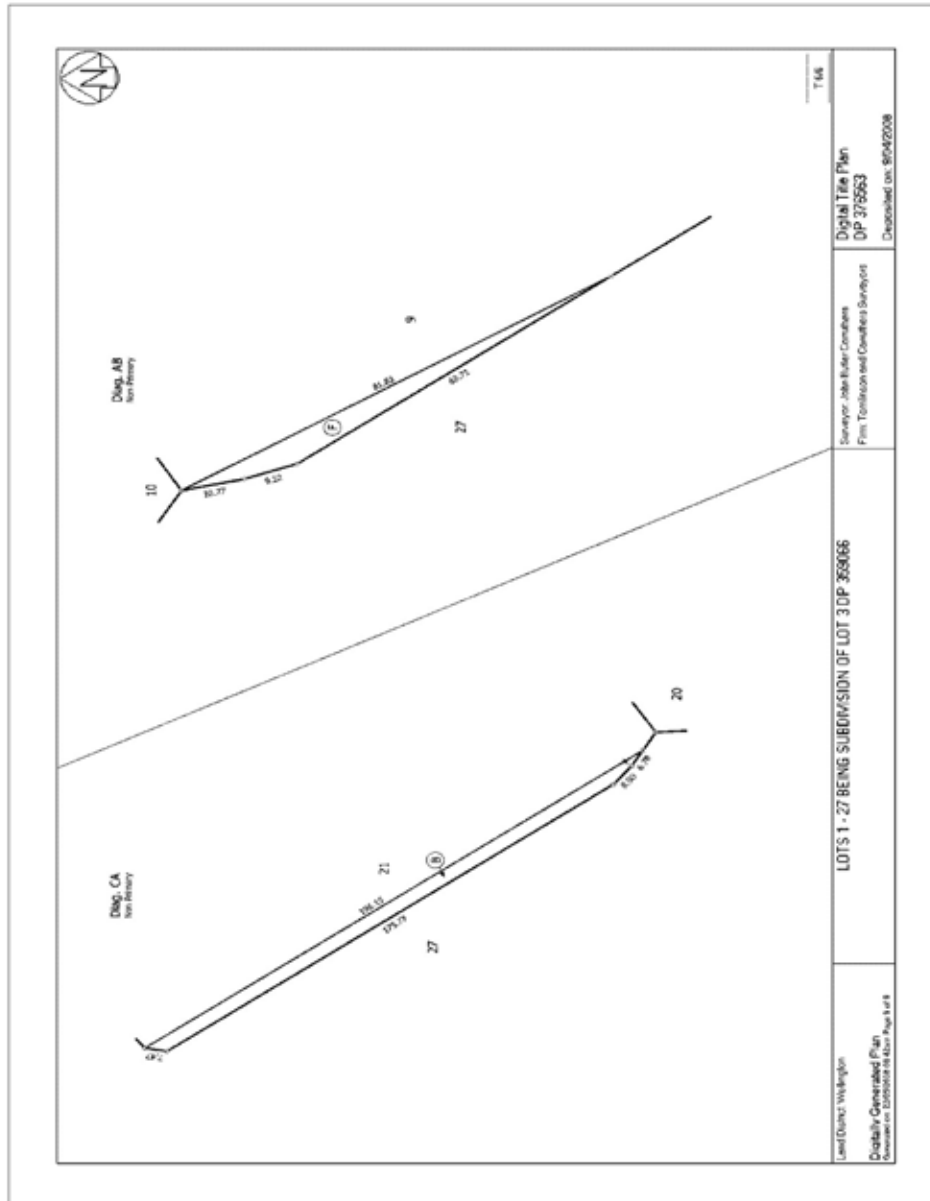
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Identifier 307834



Transaction Id
Client Reference 07-250

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**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**

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Identifier 307835
Land Registration District Wellington
Date Issued 09 April 2008

Prior References
240641

Estate Fee Simple
Area 3.0997 hectares more or less
Legal Description Lot 25 Deposited Plan 376563

Proprietors
Brian Douglas Lambert and Barbara Anne Lambert

Interests

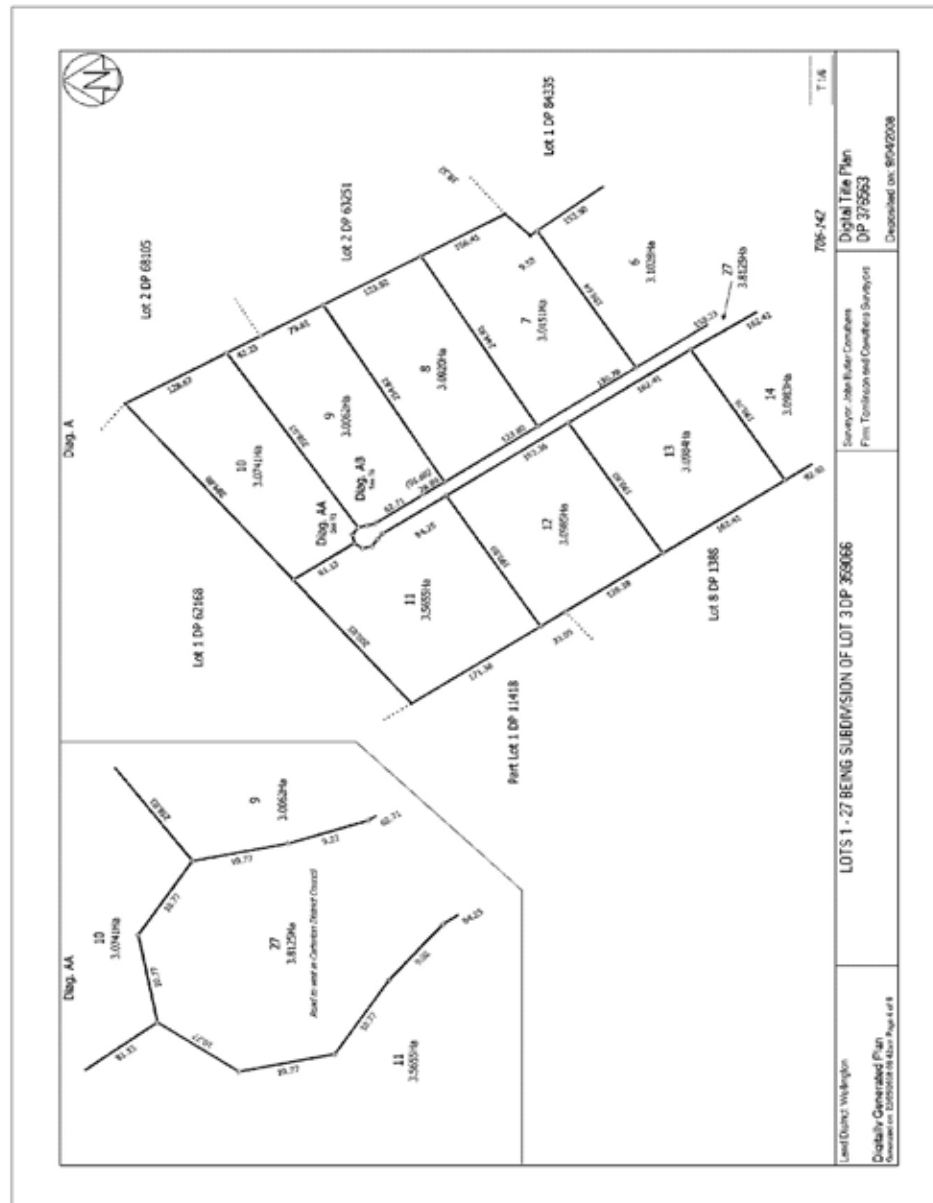
Land Covenant in Easement Instrument 7001980.3 - 24.8.2006 at 9:00 am
7777239.2 Consent Notice pursuant to Section 221 Resource Management Act 1991 - 9.4.2008 at 9:00 am
Subject to a water supply easement over part marked D on DP 376563 created by Easement Instrument 7806506.1 - 6.5.2008 at 9:00 am
Fencing Covenant in Transfer 7826138.2 - 12.6.2008 at 9:39 am
7826138.3 Mortgage to ASB Bank Limited - 12.6.2008 at 9:39 am
7826138.4 Mortgage to Basecorp Finance Limited - 12.6.2008 at 9:39 am

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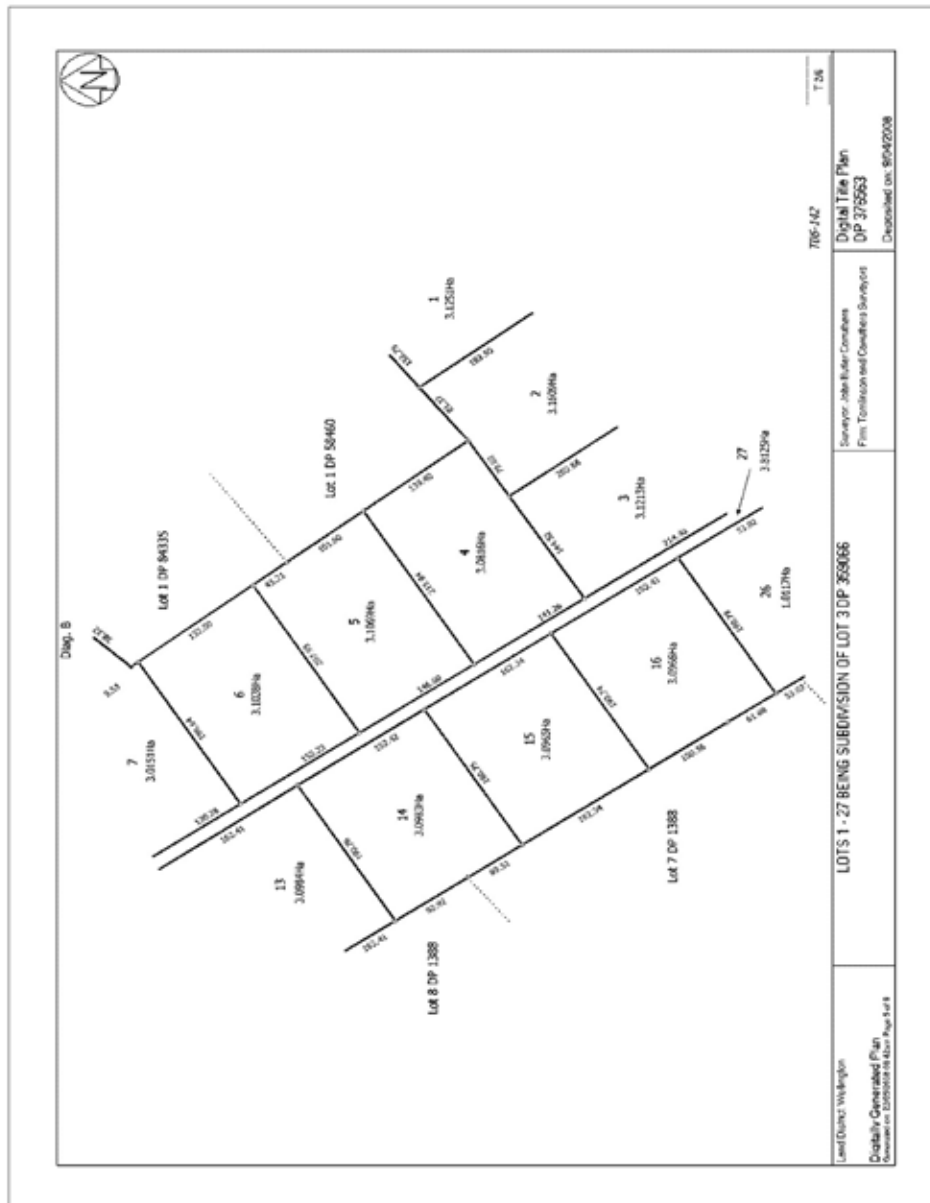


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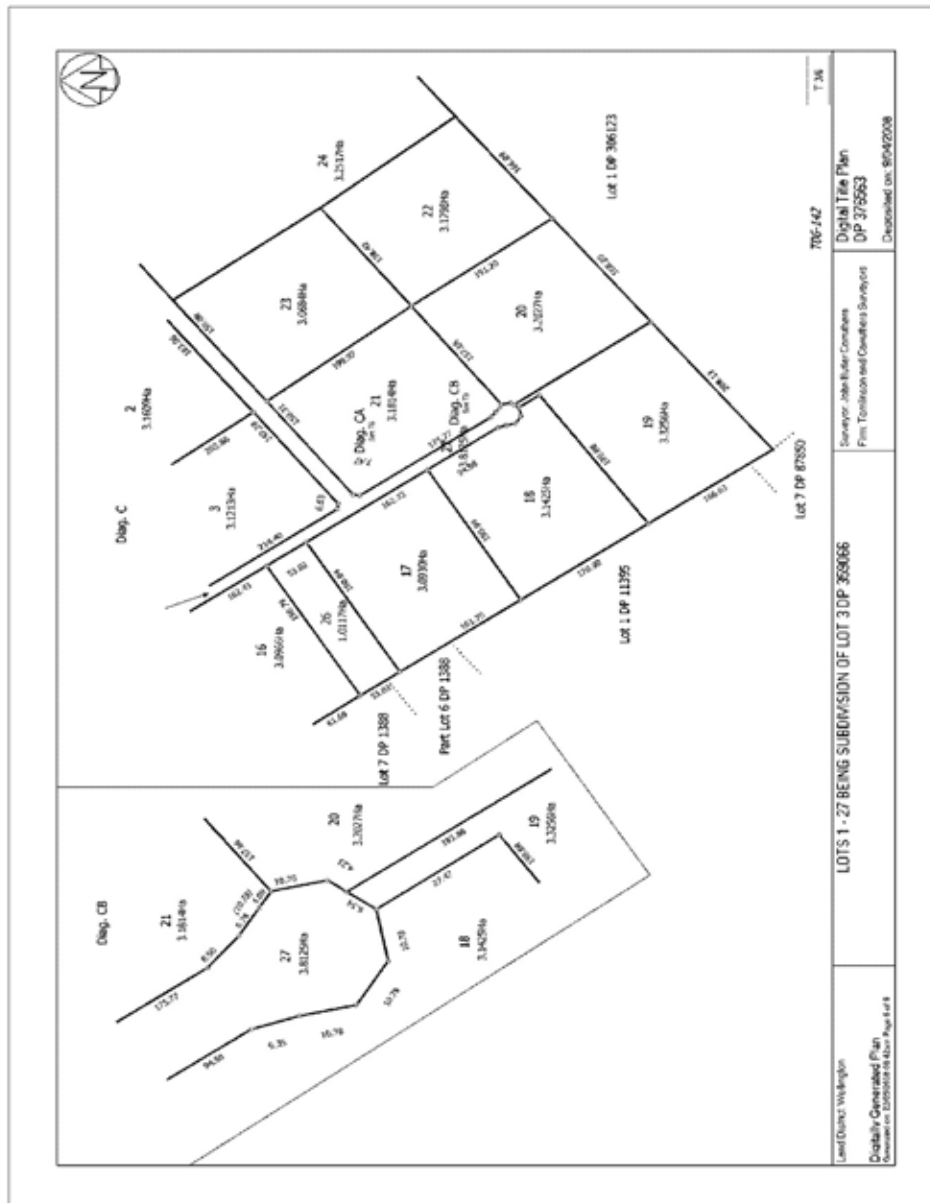


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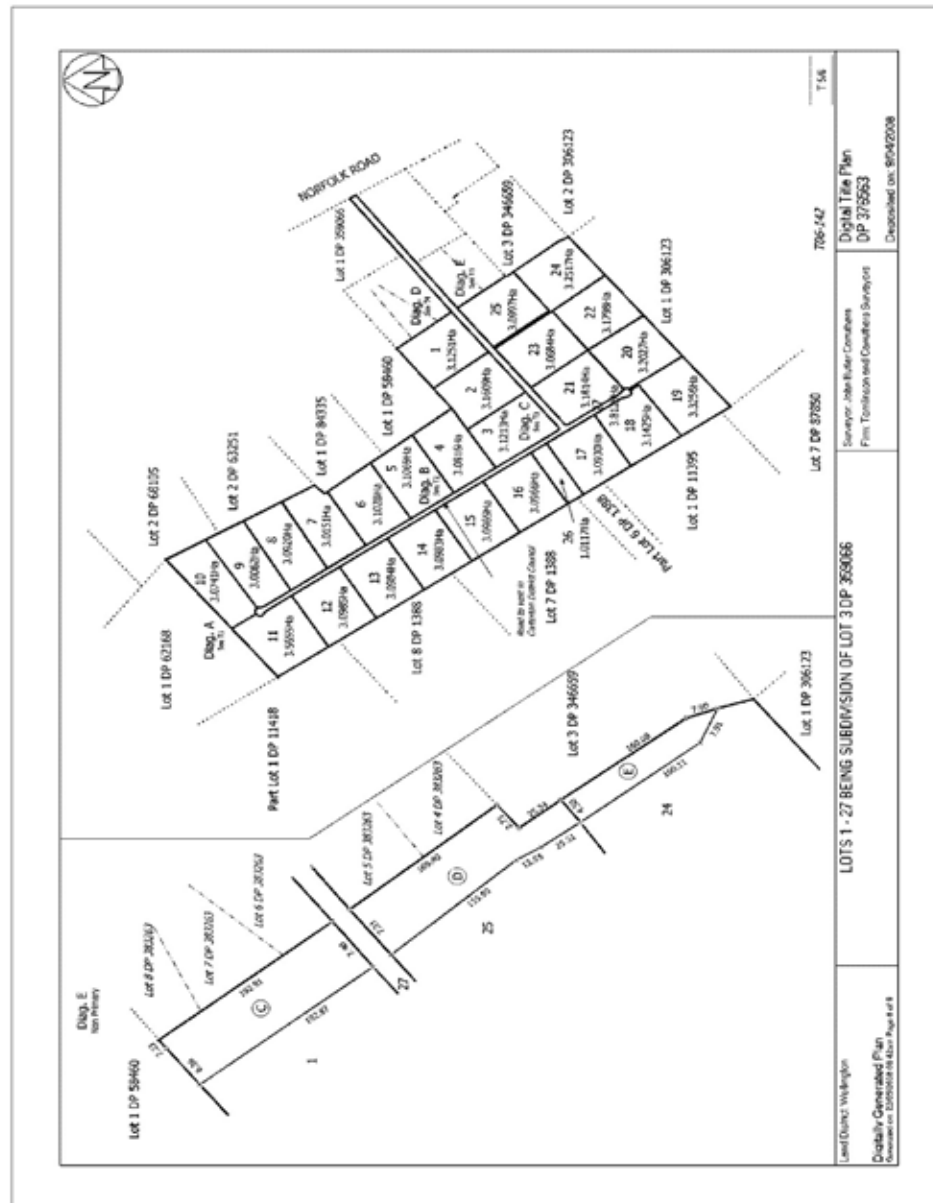


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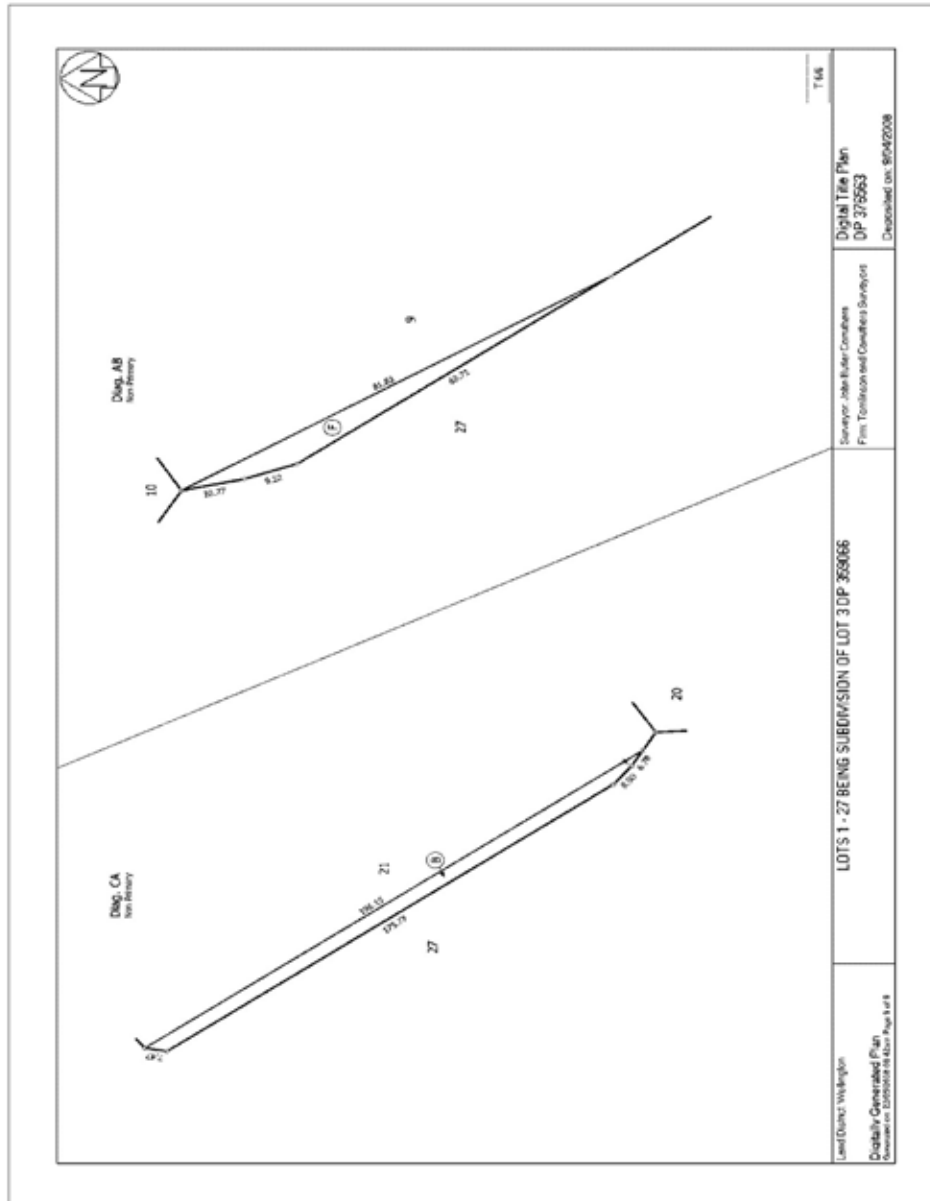
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Identifier **307835**



Transaction Id
Client Reference 07-250

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Approved by Registrar-General of Land under No. 2002/6055
Easement instrument to grant easement or profit à prendre, or create land covenant
Sections 90A and 90F, Land Transfer Act 1952

EI 7001980.3 Easement I

Land registration district

WELLINGTON



Cpy - 01/01.Pgs - 014,23/08/08,15:27



DocID: 411723188

Surname(s) must be underlined or in CAPITALS.

Grantor

Jennifer Ngaire HAXTON as to a 1/2 share and Jennifer Ngaire HAXTON, William John Anthony
Antony PANSTERS and Stephen Patrick KERR as to a 1/2 share

Grantee

Jennifer Ngaire HAXTON as to a 1/2 share and Jennifer Ngaire HAXTON, William John Anthony
Antony PANSTERS and Stephen Patrick KERR as to a 1/2 share

Surname(s) must be underlined or in CAPITALS.

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 11th day of July 2006

Attestation

	Signed in my presence by the Grantor
	Signature of witness
	Witness to complete in BLOCK letters (unless legibly printed)
	Witness name
	Occupation
	JILL EDNA NELSON LAW CLERK MASTERTON
	Address
Signature [common seal] of Grantor	

	Signed in my presence by the Grantee
	Signature of witness
	Witness to complete in BLOCK letters (unless legibly printed)
	Witness name
	Occupation
	JILL EDNA NELSON LAW CLERK MASTERTON
	Address
Signature [common seal] of Grantee	

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

[Solicitor for] the Grantee

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

REF: 7003 - AUCKLAND DISTRICT LAW SOCIETY

Approved by Registrar-General of Land under No. 2002/6055
Annexure Schedule 1



Easement instrument

Dated 11/7/06

Page 2 of 10 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)
Electricity Right of Way Telecommunications Water Supply	A on DP 359066	Lot 3 DP 351727 CT WN 328/850 CT 240641	Lot 2 DP 351727 359066 CT 212336 240640 Lot 4 DP 351727 359066 CT 212338 240642 Lot 5 DP 351727 359066 CT 212339 240643
Building and Land Use Covenants		Lots 1 to 5 inclusive on DP 351727 359066	Lots 1 to 5 inclusive on DP 351727 359066

**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]~~ Annexure Schedule 3

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

[Signatures]

Approved by Registrar-General of Land under No. 2002/5032
Annexure Schedule




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

Easement Instrument

Dated 11/7/06 Page 3 of 10 pages

(Continue in additional Annexure Schedule, if required.)

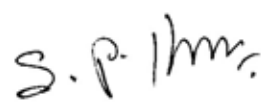
Attestation


Signature, or common seal of Grantor

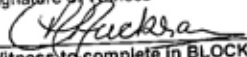
Signed in my presence by the Grantor W J A Pansters
Signature of Witness


Witness to complete in BLOCK letters
(unless typewritten or legibly stamped)


Witness name Wendy Downes
Occupation Secretary
Address 41A Cole St
Masterton


Signature, or common seal of Grantor


Signed in my presence by the Grantor S P Kerr
Signature of Witness


Witness to complete in BLOCK letters
(unless typewritten or legibly stamped)

Witness name CAROL AUCKRAM
Occupation Office Admin.
Address Masterton

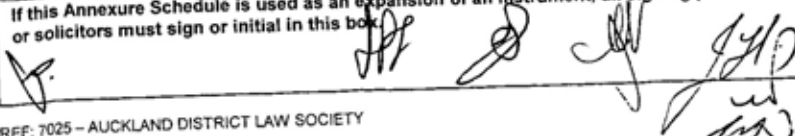

Signature, or common seal of Grantee

Signed in my presence by the Grantee W J A Pansters
Signature of Witness


Witness to complete in BLOCK letters
(unless typewritten or legibly stamped)

Witness name Wendy Downes
Occupation 41A Cole St
Address Masterton

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



REF: 7025 - AUCKLAND DISTRICT LAW SOCIETY

Approved by Registrar-General of Land under No. 2002/5032
Annexure Schedule



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

Easement Instrument

Dated 11/7/06 Page 4 of 10 pages

(Continue in additional Annexure Schedule, if required.)

S.P. Kerr

Signature, or common seal of Grantee

Signed in my presence by the Grantee S P Kerr
Signature of Witness

[Signature]

Witness to complete in BLOCK letters
(unless typewritten or legibly stamped)

Witness name CAROL AUCKRAM

Occupation Office Admin.

Address Masterton.

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.

REF: 7025 - AUCKLAND DISTRICT LAW SOCIETY

Approved by Registrar-General of Land under No. 2002/5032
Annexure Schedule 2



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

Easement Instrument

Dated

11/7/06

Page 5 of 10 Pages

(Continue in additional Annexure Schedule, if required.)

VARIATIONS AND ADDITIONS TO IMPLIED RIGHTS AND POWERS IN EASEMENTS

1. Where there is a conflict between the provisions of the Fourth Schedule to the Land Transfer Regulations 2002 and the Ninth Schedule to the Property Law Act 1952, the provisions of the Ninth Schedule shall prevail.
2. Where there is a conflict between the provisions of the Fourth Schedule and/or the Ninth Schedule, and the modifications in this Easement Instrument, the modifications shall prevail.
3. No cables, wires or pipes in relation to the easements shall be permitted to be above the ground.
4. The water supply easement facility includes the water pump and water pipes situated on the easement area at the date of this Instrument and any replacement thereof.
5. Where maintenance, repair or replacement of an "easement facility" (as defined in the Fourth Schedule to the Land Transfer Regulations 2002) or any part of an easement facility is rendered necessary by any act or default or omission of any party (including the tenants, agents, employees, contractors or invitees of that party), such party will be responsible for and will promptly carry out and complete at that party's cost such maintenance repair or replacement. Where any such act or default or omission is only the partial cause of the need for maintenance repair or replacement that party's liability under this subclause will reduce to a fair proportion (having regard to the extent that other causes have contributed to the need for maintenance repair or replacement) with the balance of the costs involved being met in accordance with clause 11 of the Fourth Schedule.

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

[Handwritten signatures and initials]

REF: 7025 - AUCKLAND DISTRICT LAW SOCIETY

Approved by Registrar-General of Land under No. 2002/5032
Annexure Schedule 3



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

Easement Instrument

Dated 11/7/06

Page 6 of 10 Pages

(Continue in additional Annexure Schedule, if required.)

BACKGROUND

1. The Grantors have subdivided their land ^{formerly} comprised in Certificate of Title WN32B/850 into lots, a plan of such subdivision having been deposited under No ~~351727~~ **359066**.
2. It is the Grantors' intention that the registered proprietors or occupiers for the time being of each of the lots listed in Schedule 3A below ("the covenanted lots") be bound by the covenants stipulations and restrictions set out hereafter as they relate to each such covenanted lot and that the registered proprietors and occupiers for the time being of each of the covenanted lots should be able to enforce the observance and performance of such covenants stipulations and restrictions by the registered proprietors or occupiers for the time being of any other of the covenanted lots.

NOW THEREFORE

The Grantors hereby transfer to themselves each of the lots described in Schedule 3A below and in respect of each such lot **HEREBY COVENANTS** with themselves as registered proprietor of all the other lots described in Schedule 3A that they will at all times hereafter perform and observe all the covenants stipulations and restrictions contained in Schedule 3B below as they relate to each lot to the end and intent that each of the said lots shall have the benefit and burden of the covenants stipulations and restrictions set out in Schedule 3B and that each of the registered proprietors and occupiers for the time being of each of the said lots may enforce the performance and observance of such covenants stipulations and restrictions against any other of the registered proprietors or occupiers for the time being of the said lots. Lot or lots mean all or any of the lots described in Schedule 3A including any lots created as a result of further subdivision of any lot described in Schedule 3A.

SCHEDULE 3A

LOT	DEPOSITED PLAN	CERTIFICATE OF TITLE
1	351727 359066	242335 240639
2	"	242336 240640
3	"	242337 240641
4	"	242338 240642
5	"	242339 240643

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.

[Handwritten signatures and initials]

REF: 7025 - AUCKLAND DISTRICT LAW SOCIETY

Approved by Registrar-General of Land under No. 2002/5032
Annexure Schedule

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

Easement Instrument

Dated

11/7/06

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(Continue in additional Annexure Schedule, if required.)

SCHEDULE 3B

SPECIFIC DESIGN CONTROLS

1. Any dwellinghouse erected on any lot (excluding carports, garages and auxiliary buildings) shall have a minimum floor area of 120 square metres unless the written approval of Spark It Up Limited is obtained for a dwelling house of a smaller size provided that the dwelling house will comply with all other aspects of the terms and conditions of these covenants.
2. No owner of any lot will use or permit or suffer to be used in any building (including garages, carports and outbuildings) on any lot any galvanised iron, tin or aluminium roofing materials or in respect of exterior walls any fibro planks (except for specific timber-grained 150 mm wide planks) or fibrolite sheeting, flat Hardiflex, plywood sheeting (except where it is to be concrete or texture finished for architectural effect) unless the written approval of Spark It Up Limited is obtained for the use of corrugated iron on the walls of the dwelling house provided that the dwelling house will comply with all other aspects of the terms and conditions of these covenants. Corrugated iron may be used for the walls of any garage, carport or outbuilding.
3. All vehicle crossings to any lot and driveways are to be completed to local Council standards and specifications prior to occupation of any dwellinghouse erected on any lot.
4. The pitch of any roof is to be between 22.5 and 55 degrees. Flat roofs are only permitted as connections between structures and shall not exceed 20% of the total area of the roof.
5. Roof colours are to be natural, of low reflectivity (cedar shingles, slate, galvan or other similar steel finish but not including plain galvanised), or dark coloursteel colours (karaka and charcoal).
6. All colours of any building on any lot are to be natural and recessive (in materials as stated above) or in the range of browns, tussock, grey or natural greens
7. Joinery shall be in timber, steel or aluminium. Joinery colours (excepting timber) shall match roofing, gutter and spouting colours.
8. Water tanks shall be buried or screened and if screened then the screening is to be coloured as per 7 above.
9. Septic tanks and storm water disposal shall be to Council specifications.

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.

REF: 7025 - AUCKLAND DISTRICT LAW SOCIETY

Approved by Registrar-General of Land under No. 2002/5032
Annexure Schedule

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

Easement Instrument

Dated

11/7/06

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Pages

(Continue in additional Annexure Schedule, if required.)

10. Not to carry out on any lot any construction or reconstruction or alteration, addition or refurbishment to any dwellinghouse which results in the exterior appearance and architectural standards of the dwellinghouse not being in keeping with the exterior appearance and architectural standard of neighbouring dwellinghouses.

RESTRICTIONS ON LAND USE

1. The owner for the time being of any lot shall not:
 - (a) Erect on any lot any relocated building, being any building whether new or otherwise transported on to any lot in substantially built up form.
 - (b) Have any gate across the vehicular entrance to any lot that is higher than 1.8 metres.
 - (c) Have any gateposts or columns adjacent to any part of the vehicular entry to the lot other than a maximum of two matching gateposts or columns each of which may be no higher than 1.8 metres.
 - (d) Have any wall or fence on any lot higher than 1.2 metres above ground level.
 - (e) Have any paling or long run iron fence on any lot. Fences shall not be painted or stained and shall otherwise be left in their natural state.
 - (f) Allow unrestricted storm water run off and shall provide for all storm water falling on roofs and buildings to be collected and disposed of in an onsite storm water soakage pit designed and constructed to Council standards.
 - (g) Allow any signs on the lot other than:
 - (i) no more than two real estate signs necessary for the sale of the lot; and
 - (ii) a sign indicating the number of the lot and the name of its owner.
 - (h) Allow any external lighting to affect any neighbouring property.
 - (i) Allow the exterior painting and other exterior surface materials of any building to deteriorate and shall maintain the same to a reasonable standard appropriate to a high quality residential neighbourhood and will not allow any buildings or structures on the lot to become dilapidated or to fall into disrepair or allow any nuisance or disturbance to be caused to any owner or occupier of neighbouring lots.

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REF: 7025 - AUCKLAND DISTRICT LAW SOCIETY

Approved by Registrar-General of Land under No. 2002/5032
Annexure Schedule



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

Easement Instrument

Dated

11/7/06

Page 9 of 10 Pages

(Continue in additional Annexure Schedule, if required.)

- (j) Allow any livestock or other animals to be a nuisance to any occupier or owner of adjoining lots.
- (k) Allow any broom, gorse, thistles, other noxious weeds, undergrowth, dried or rank grass to grow or remain on the lot, but to maintain the lot in a clean and tidy condition clear of long grass and rubbish.
- (l) Allow on any lot any activity which creates a nuisance, disturbance or damage to any owner or occupier of any neighbouring lots.
- (m) Permit or allow or suffer any rubbish to accumulate upon the lot, but to keep the lot in a neat and tidy condition.
- (n) Allow any lot to be used for pig farming, poultry farming, boarding kennels or as a depot for trucks and machinery.
- (o) Allow any trees in a shelter belt or plantation to grow higher than 4 metres on Lot 2 DP 954727. 359066.
- (p) Allow any building or other structure to be erected or placed, or be permitted to remain on that part of Lot 3 marked A on DP 954727 ("the ROW") provided that the registered proprietor of Lot 3 DP 954727 shall not be required to remove the woolshed, attached building and yards from the ROW until 1 June 2009. On or before 1 June 2009 the registered proprietor of Lot 3 DP 954727 shall ensure that the existing site of the woolshed, attached shed and yards is left in a clear, tidy and level state.

BUILDING CONSTRUCTION

1. During the construction of any building on any lot the owner shall ensure the lot is generally kept tidy and that no rubbish shall be allowed to escape or be deposited onto any adjoining lot or any access lot or recreation area. The owner of any lot will ensure that no damage shall be done to any part of any roadway, footpath, berm or landscaping on the access to the lots.
2. Except when building operations are in process, the owner will not allow or suffer to be brought onto or remain on any lot any trade vehicle, trade equipment or materials, debris, rubbish or vehicle of an unsightly nature unless the same is adequately garaged or screened to prevent offence to any adjoining lots and to preserve the amenities of the neighbourhood.
3. The owner of any lot will not permit or suffer any building in the course of construction to be left without substantial work being carried out for a period exceeding three

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.

REF: 7025 - AUCKLAND DISTRICT LAW SOCIETY

Approved by Registrar-General of Land under No. 2002/5032
Annexure Schedule

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

Easement Instrument

Dated

11/7/06

Page 10 of 10 Pages



(Continue in additional Annexure Schedule, if required.)

months, construction of any such building to be completed within 12 months of the commencement of work.

4. The owner of any lot will not permit or suffer the lot to be occupied or used as a residence either by the erection of temporary structures or the placing thereon of vehicles used for human habitation and will not permit the lot to be used as a residence until any dwellinghouse under construction has been substantially completed in accordance with the requirements of the Council.

LOT 1 DP 354727 AND LOT 3 DP 354727
~~359066~~ ~~359066~~

As at the date of this Instrument there are a dwellinghouse and other improvements on the land that will be Lot 1 Deposited Plan ~~354727~~ ³⁵⁹⁰⁶⁶ Certificate of Title ~~242337~~ ²⁴²³³⁵ that may not comply with all of the terms and conditions of the within land covenants. There will be no requirement to make any changes to the dwellinghouse and other improvements to make them comply with the land covenants however, the owner of Lot 1 will be required to comply with the covenants that do not relate to the dwelling and improvements existing on Lot 1. However, if any work is carried out on the dwellinghouse and other improvements such work must be in accordance with the terms and conditions of the covenants.

As at the date of this Instrument there is a woolshed on the land that will be Lot 3 Deposited Plan ~~354727~~ ³⁵⁹⁰⁶⁶ Certificate of Title ~~242337~~ ²⁴²³³⁵ that may not comply with the terms and conditions of the within land covenants. There will be no requirement to make any changes to the woolshed to make it comply with the land covenants. However, if work is carried out on the woolshed such work must be in accordance with the terms and conditions of the land covenants provided that it is permitted for the woolshed to be relocated to another lot on Deposited Plan ~~354727~~ ³⁵⁹⁰⁶⁶ without such relocation constituting a breach of these covenants.

GENERAL

1. Each person bound by the easements and covenants shall only be liable in respect of breaches of the easements and covenants that occur while that person is the registered proprietor of the servient tenement in respect of which the breach occurred.
2. If any servient tenement is subsequently subdivided the easements and covenants shall apply to each part of the subdivided land.

easements, Section 1

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.

REF: 7025 - AUCKLAND DISTRICT LAW SOCIETY

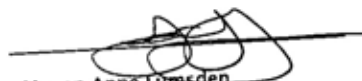
CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, Megan Anne Lumsden, of Christchurch in New Zealand, Bank Officer

HEREBY CERTIFY -

1. **THAT** by Deed dated the 20th October 2003 a copy of which is deposited in the Land Registry Office at Christchurch (Canterbury Registry) numbered PA 5941731.1.
Westpac Banking Corporation ABN 33 007 457 141, incorporated in Australia (New Zealand division) under the Corporations Act 2001 and having its principal place of business in New Zealand at PWC Tower 188 Quay Street, P O Box 934, Auckland and carrying on the business of banking appointed me its attorney on the terms and subject to the conditions set out in the said Deed and the attached document is executed by me under the powers thereby conferred.
2. **THAT** at the date hereof I am a Tier Three Attorney for Westpac Banking Corporation.
3. **THAT** at the date hereof I have not received any notice or information of the revocation of that appointment by the winding up or dissolution of the said **Westpac Banking Corporation** or otherwise.

Signed at Christchurch


Megan Anne Lumsden

this 11 July 2006

Approved by Registrar-General of Land under No. 2003/6150
Annexure Schedule - Consent Form
Land Transfer Act 1952 section 238(2)



Insert type of instrument
"Caveat", "Mortgage" etc

Easement Instrument

Page **1** of **1** pages

Consentor
Surname must be underlined or in CAPITALS

WESTPAC BANKING CORPORATION

Capacity and Interest of Consentor
(eg. Caveator under Caveat no./Mortgagee under Mortgage no.)

Mortgagee under Mortgage No. 5692334.1

Consent

Delete Land Transfer Act 1952, if inapplicable, and insert name and date of application Act.
Delete words in [] if inconsistent with the consent.
State full details of the matter for which consent is required.

Pursuant to [section 238(2) of the Land Transfer Act 1952]


section _____ of the _____ Act

[Without prejudice to the rights and powers existing under the interest of the Consentor]

the Consentor hereby consents to:
the registration of the attached Easement Instrument

Dated this 11th day of July 2006

Attestation


Megan Anne Lumsden
Signature of Consentor

Signed in my presence by the Consentor

Signature of Witness

Witness to complete in BLOCK letters (unless legibly printed)

Witness name **Lizette Smith**

Occupation

Address

**BANK OFFICER
WESTPAC
CHRISTCHURCH**

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

REF: 7029 - AUCKLAND DISTRICT LAW SOCIETY

Approved by Registrar-General of Land under No. 2003/6150
Annexure Schedule - Consent Form
Land Transfer Act 1952 section 238(2)



Insert type of instrument
"Caveat", "Mortgage" etc

Easement Instrument

Page **1** of **2** pages

Consentor

Surname must be underlined or in CAPITALS

**Jennifer Ngaire HAXTON, Stephen Patrick
KERR
and William John Anthony PANSTERS**

Capacity and Interest of Consentor

(eg. Caveator under Caveat no./Mortgagee under Mortgage no.)

Mortgagee under Mortgage 6880504.3

Consent

Delete Land Transfer Act 1952, if inapplicable, and insert name and date of application Act.
Delete words in [] if inconsistent with the consent.
State full details of the matter for which consent is required.

Pursuant to [section 238(2) of the Land Transfer Act 1952]

~~section~~ of the ~~Act~~

[Without prejudice to the rights and powers existing under the interest of the Consentor]

the Consentor hereby consents to:
the registration of the attached Easement Instrument

Dated this **11th** day of **July** 2006

Attestation

J. N. Haxton

Signature of Consentor

Signed in my presence by the Consentor **J N Haxton**

[Signature]
Signature of Witness

Witness to complete in BLOCK letters (unless legibly printed)

Witness name **TRUDY JOY CARRIG**
Occupation **LAW CLERK**
Address **MASTERTON**

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

REF: 7029 - AUCKLAND DISTRICT LAW SOCIETY

Approved by Registrar-General of Land under No. 2002/5032
Annexure Schedule



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

Easement Instrument

Dated 11 July 2006 Page 2 of 2 pages

(Continue in additional Annexure Schedule, if required.)

Attestation

S. P. Kerr
Signature of Consentor

Signed in my presence by the Consentor S P Kerr
Signature of Witness

Bruce Kennedy Logan
Witness to complete in BLOCK letters
(unless typewritten or legibly stamped)

Witness name

Occupation **BRUCE KENNEDY LOGAN**
SOLICITOR
Address **MASTERTON**

W J A Pansters
Signature of Consentor

Signed in my presence by the Consentor W J A Pansters
Signature of Witness

Jill Edna Nelson
Witness to complete in BLOCK letters
(unless typewritten or legibly stamped)

Witness name

Occupation **JILL EDNA NELSON**
LAW CLERK
Address **MASTERTON**

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.

REF: 7025 - AUCKLAND DISTRICT LAW SOCIETY

CONO 7777239.2 Consen

Cpy - 01/01, Pgs - 001, 08/04/08, 12:07



DocID: 212168409

CONSENT NOTICE

SECTION 221 RESOURCE MANAGEMENT ACT 1991

TO: The District Land Registrar
WELLINGTON

In the matter of a consent notice issued Pursuant to Section 221 of the Resource Management Act 1991 in respect of the subdivision of 27 allotments being a subdivision of Lot 3 DP 359066 and contained in Certificate of Title 240641 for deposit under No. ~~37.6563...~~

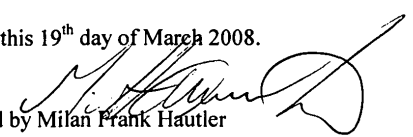
Conditions of Subdivision

1. Proposed Lot 26 to be declared a private reserve with no dwellings to be erected. This to be registered on the certificates of title of lot 26 by way of a consent notice pursuant to Section 221 of the Resource Management Act.
2. A body corporate to be set up to plant and maintain the reserve on proposed Lot 26. The contact details of this body corporate to be forwarded to Council. This to be registered on the certificates of title of lot 26 by way of a consent notice pursuant to Section 221 of the Resource Management Act.
3. The bank of the Parkvale Stream along the subdivision to be planted, in general accordance with Greater Wellington Regional Council guidelines "Restoration planting: a guide planning restoration planting projects in the Wellington Region", and "Mind the stream: A guide to looking after urban and rural streams in the Wellington Region". Detailed plans including species specification to be submitted to Council for approval by end of August 2006. The planting to be identified, protected and maintained by way registering it on the certificates of title of lot 11 by way of a consent notice pursuant to Section 221 of the Resource Management Act.
4. Electricity and telecommunication services shall be reticulated underground. This to be registered on the certificates of title of lots 1-25 by way of a consent notice pursuant to Section 221 of the Resource Management Act.

TAKE NOTICE that pursuant to Section 221 Resource Management Act 1991.

I, Milan Frank Hautler, Planning & Regulatory Manager of the Carterton District Council hereby certify that the conditions of subdivision, noted above to be complied with on a continuing basis, were imposed by the Carterton District Council on the date of subdivision approval of 8th day of June 2006, and I request that you note the Certificates of Title to the land accordingly.

Dated this 19th day of March 2008.


Signed by Milan Frank Hautler
Planning & Regulatory Manager of the
Carterton District Council by authority
of the Council under Section 252(1)
of the Local Government Act 1974.

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

Easement instrument to grant easement or profit à prendre, or create land covenant
Sections 90A and 90F, Land Transfer Act 19

EI 7806506.1 Easemen

Cpy - 01/03, Pgs - 005, 06/05/08, 08:31

Land registration district

WELLINGTON



Grantor

Surname(s) must be underlined or in CAPITALS.

SPARK IT UP LIMITED

Grantee

Surname(s) must be underlined or in CAPITALS.

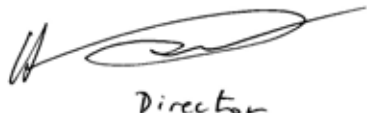

BEDROCK NOMINEES LIMITED



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 **28** day of **April** 2008

Attestation

 Director	Signed in my presence by the Grantor  Signature of witness
	Witness to complete in BLOCK letters (unless legibly printed) Witness name Occupation Address
Signature [common seal] of Grantor	RICHARD BERTRAND CHESNEY SOLICITOR WELLINGTON

 Director  Director	Signed in my presence by the Grantee Signature of witness
	Witness to complete in BLOCK letters (unless legibly printed) Witness name Occupation Address
Signature [common seal] of Grantee	

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


[Solicitor for] the Grantee

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

REF: 7003 - AUCKLAND DISTRICT LAW SOCIETY

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

Annexure Schedule 1



Easement instrument

Dated

28 Apr. 2008

Page

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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)
Water Supply	"C" on DP376563 "D" on DP376563	Lot 1 DP 376563 Lot 25 DP 376563	Lot 2 DP 359066 (240640) Lot 4 DP 359066 (240642)
	"E" on DP376563	Lot 24 DP 376563	Lot 3 DP 346659

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 Fifth Schedule of the Property Law Act 2007.

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

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

[the provisions set out in Annexure Schedule 2].

Covenant provisions

Delete phrases in [] and insert memorandum number as required.
Continue in additional Annexure Schedule if required.

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

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

~~[Annexure Schedule 2]~~

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

REF: 7003 – AUCKLAND DISTRICT LAW SOCIETY

Approved by Registrar-General of Land under No. 2002/5032

Annexure Schedule



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

Easement

Dated

28 April 2008

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3

Pages

(Continue in additional Annexure Schedule, if required.)

ANNEXURE SCHEDULE 2

1. Preliminary:

- (a) Where there is a conflict between the provisions of Schedule 4 of the Land Transfer Regulations 2002 and/or the Ninth Schedule of the Property Law Act 2007 on the one hand and the provisions of this easement instrument on the other hand, the provisions of this easement instrument will prevail.
- (b) The Grantee will be responsible for obtaining the necessary consents to take water from the water race

2. Definitions:

- (a) "Schedule 4" means Schedule 4 of the Land Transfer Regulations 2002.
- (b) "Water Supply" shall mean the Right to drain water and Right to convey water
- (c) "Right to drain water" means that right as set out in clause 4 of Schedule 4 varied to the extent that (i) the easement facility excludes (unless and only to the extent that the Grantor shall otherwise permit in writing) open drains and tanks (with or without headwells) and (ii) water must be drained in underground pipes or trenches which meet relevant local authority requirements.
- (d) "Right to convey water" means that right as set out in clause 3 of Schedule 4 varied to the extent that water must be conveyed in underground pipes or trenches which meet relevant local authority requirements.

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.

REF: 7025 – AUCKLAND DISTRICT LAW SOCIETY

[Handwritten signatures]

Approved by Registrar-General of Land under No. 2002/5032
Annexure Schedule



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

Easement

Dated

28 Apr. '1 2008

Page

3

of

3

Pages

(Continue in additional Annexure Schedule, if required.)

CONSENT

Matrix Custodian Limited As Mortgagee under Mortgage No.7145841.1 hereby consents to the within
easement instrument without prejudice to the rights and powers existing under the said mortgage.


SIGNED by
Matrix Custodian Limited
by its authorised signatories


John Murray
Authorised Signatory
Matrix Custodian Limited

Malcolm Moore
Authorised Signatory
Matrix Custodian Limited

In the presence of:

Signature of Witness:

Full Name of Witness: 
Sarah Cole
Occupation: Lending Analyst
Auckland

Address

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.

REF: 7025 - AUCKLAND DISTRICT LAW SOCIETY



Approved by Registrar-General of Land under No. 2002/5032
Annexure Schedule



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

Easement

Dated

28 April 2008

Page

4

of

4

Pages

(Continue in additional Annexure Schedule, if required.)

CONSENT

GE Custodians As Mortgagee under Mortgage No.7155588.2 hereby consents to the within easement instrument without prejudice to the rights and powers existing under the said mortgage.

SIGNED by
GE Custodians
by its authorised signatories
signatory

Jillian Macmillan

Jillian Macmillan

In the presence of:

Maureen Meyrick

Signature of Witness:

MAUREEN MEYRICK
LEGAL ASSISTANT
AUCKLAND

Full Name of Witness:

Occupation:

Address

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.

REF: 7025 - AUCKLAND DISTRICT LAW SOCIETY

LINZ Form P005 - PDF

ENC 7806506.2 Encum

Cpy - 01/01, Pgs - 004, 05/05/08, 00:31



15610 21217408

MEMORANDUM OF ENCUMBRANCE

PARTIES:

SPARK IT UP LIMITED together with its successors in title and assigns ("the encumbrancer")

NORFOLK ESTATE RESIDENTS' ASSOCIATION INCORPORATED together with its successors and assigns ("the encumbrancee")

BACKGROUND:

- A. The encumbrancer is registered as proprietor of an estate in fee simple in the lands comprised in the certificates of title listed in the schedule hereto.
- B. The land comprised in each certificate of title is hereafter referred to as a "lot".
- C. The registered proprietor for the time being of each lot is required to become and, for so long as that registered proprietor continues to be the registered proprietor of a lot, to remain a member of the encumbrancee and to abide by the constitution of the encumbrancee ("the constitution") and any bylaws made pursuant to such constitution ("the bylaws").
- D. The encumbrancer has agreed to encumber each lot severally for the better securing to the encumbrancee of the performance of the obligations to the encumbrancee by the registered proprietor or proprietors for the time being of each lot.

OPERATIVE CLAUSES:

1. The encumbrancer encumbers each lot severally for the benefit of the encumbrancee for a term expiring 999 years from the date of this encumbrance to secure :
 - i. the performance by the encumbrancer of the covenants set out below;
 - ii. an annual rent charge payable to the encumbrancee in respect of each lot of \$1,000 per annum (plus GST if any) due on the first day of January in each year commencing 1 January 2009.
2. Notwithstanding clause 1, for so long as the registered proprietor of a lot shall have fully complied with the covenants set out below, the rent charge reserved by clause 1(ii) shall not be payable in respect of that lot.

COVENANTS:

The encumbrancer covenants for itself and its successors in title and assigns with the encumbrancee as follows:

- a. Upon becoming the owner and/or the registered proprietor of a lot, the encumbrancer shall join as a member of the encumbrancee and shall sign an Acknowledgment of Membership in accordance with the constitution.
- b. The encumbrancer shall remain a member of the encumbrancee for so long as the encumbrancer is the owner and/or the registered proprietor of a lot.

\\server-01\company\bran\2007\141207 spark it up\Memorandum of Encumbrance.doc

- c. For so long as the encumbrancer is the owner and/or the registered proprietor of a lot, the encumbrancer will observe and perform the obligations of a member of the encumbrancee as set out in the constitution and the bylaws.
- d. The encumbrancee will on sale of a lot, procure the transferee of that lot to become a member of the encumbrancee and to execute, if required by the encumbrancee, a deed of covenant in favour of the encumbrancee whereby the transferee agrees to become a member of the encumbrancee and to observe and perform the obligations of a member of the encumbrancee as set out in the constitution and the bylaws.

REMEDIES:

Without prejudice to the encumbrancee's rights of action at common law (including the bringing of an action against the encumbrancer for specific performance of its obligations under this encumbrance) and with the exceptions of section 203 of the Property Law Act 2007 and section 154 of the Land Transfer Act 1952, none of the rights, powers remedies and implied covenants provided pursuant to the Property Law Act 2007 and the Land Transfer Act 1952 shall apply to this encumbrance.

DATED this 24 day of April 2008


EXECUTION

EXECUTED by
SPARK IT UP LIMITED
LIMITED by its sole director
Hayim Nachum in the presence of:

) 
)
)
)

THE COMMON SEAL of
NORFOLK ESTATE RESIDENTS'
ASSOCIATION INCORPORATED was
hereunto affixed in the presence of:




Member Director - Spark it up Limited


Member

Correct for the purposes of the Land Transfer Act 1952


Solicitor for the parties

SCHEDULE

Lot (All lots on DP 376563)	Certificate of Title
Lot 1	307811
Lot 2	307812
Lot 3	307813
Lot 4	307814
Lot 5	307815
Lot 6	307816
Lot 7	307817
Lot 8	307818
Lot 9	307819
Lot 10	307820
Lot 11	307821
Lot 12	307822
Lot 13	307823
Lot 14	307824
Lot 15	307825
Lot 16	307826
Lot 17	307827
Lot 18	307828
Lot 19	307829
Lot 20	307830
Lot 21	307831
Lot 22	307832
Lot 23	307833
Lot 24	307834
Lot 25	308735
Lot 26	308736

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Approved by Registrar-General of Land under No. 2003/6150
Annexure Schedule - Consent Form
Land Transfer Act 1952 section 238(2)



Insert type of instrument
"Caveat", "Mortgage" etc

Encumbrance

Page **1** of **1** pages

Consentor

Surname must be underlined or in CAPITALS

Capacity and Interest of Consentor

(eg. Caveator under Caveat no./Mortgagee under Mortgage no.)

Matrix Custodian Limited

Mortgagee pursuant to Mortgage 7145841.1

Consent

Delete Land Transfer Act 1952, if inapplicable, and insert name and date of application Act.

Delete words in [] if inconsistent with the consent.

State full details of the matter for which consent is required.

Pursuant to [section 238(2) of the Land Transfer Act 1952]

[section] of the [Act]

[Without prejudice to the rights and powers existing under the interest of the Consentor]

the Consentor hereby consents to:

the registration of the encumbrance in the form attached

Dated this **15** day of **April** 2008

Attestation

Rob Murray
Authorised Signatory
Matrix Custodian Limited

Malcolm Moore
Authorised Signatory
Matrix Custodian Limited

Signature of Consentor

Signed in my presence by the Consentor

Signature of Witness

Witness to complete in BLOCK letters (unless legibly printed)

Witness name

Occupation **Sarah Cole**
Lending Analyst

Address **Auckland**

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

REF: 7029 - AUCKLAND DISTRICT LAW SOCIETY



View Instrument Details

Instrument Type Transfer
Instrument No 7826138.2
Status Registered
Date & Time Lodged 12/06/2008 09:39:13
Lodged By Sandra Gaye Harrison

Affected Computer Registers 307835
Land District Wellington

Transferors

Spark It Up Limited

Transferees

Brian Douglas Lambert and Barbara Anne Lambert

Clauses, Conditions or Intent

The transferee shall be bound by a fencing covenant as defined in Section 2 of the Fencing Act 1978 in favour of the transferor

Transferor Certifications

- I certify that I have the authority to act for the Transferor and that the party has the legal capacity to authorise me to lodge this instrument ☒
- I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument ☒
- I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply ☒
- I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period ☒

Signature

Signed by Richard Bertrand Chesney as Transferor Representative on 29/05/2008 05:55 PM

Transferee Certifications

- I certify that I have the authority to act for the Transferee and that the party has the legal capacity to authorise me to lodge this instrument ☒
- I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument ☒
- I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply ☒
- I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period ☒

Signature

Signed by Kathryn Ann Williams as Transferee Representative on 11/06/2008 11:52 AM

*** End of Report ***



View Instrument Details

Instrument Type Transfer
Instrument No 7833303.2
Status Registered
Date & Time Lodged 30/05/2008 15:50:38
Lodged By Paul Wing Fai Cheng

Affected Computer Registers 307813
Land District Wellington

Transferors
Spark It Up Limited

Transferees
James Alexander Shaw

Clauses, Conditions or Intent

The transferee shall be bound by a fencing covenant as defined in Section 2 of the Fencing Act 1978 in favour of the transferor

Transferor Certifications

- I certify that I have the authority to act for the Transferor and that the party has the legal capacity to authorise me to lodge this instrument ☒
- I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument ☒
- I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply ☒
- I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period ☒

Signature

Signed by Richard Bertrand Chesney as Transferor Representative on 30/05/2008 12:21 PM

Transferee Certifications

- I certify that I have the authority to act for the Transferee and that the party has the legal capacity to authorise me to lodge this instrument ☒
- I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument ☒
- I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply ☒
- I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period ☒

Signature

Signed by Paul Wing Fai Cheng as Transferee Representative on 30/05/2008 03:47 PM

*** End of Report ***

APPENDIX 2: Engineer's Reports



EASTERN CONSULTING LIMITED CONSULTING CIVIL & STRUCTURAL ENGINEERS

Reference: E081709

Villa Strand Ltd.,
14 Pascoe Avenue,
Mana,
Wellington

Attention: Mr. C. Lambert

31 March 2008.

Dear Christian,

**RE: Proposed Subdivision of Lot 1 LT 376563 (Being a subdivision of Lot 3DP 359066)
Norfolk Road, Masterton.**

This report has been prepared as an attachment to go with an application to subdivide the above Lot. This report is not necessarily a report that would be suitable for the purposes of final design.

A copy of the scheme plan is attached. This details the location and orientation of the Lots with respect to the existing subdivision.

Site

The proposed subdivision site is located on the northern side of the new road that has been created on this site leading off Norfolk Road in the Carterton District.

The site is flat like the surrounding land with an overall slight tilt to the south and east. This area is known to be generally summer dry and very stony.

A water race runs along and just inside the north eastern boundary of the site. Under the proposed scheme plan, both the proposed lots will have direct access to the water race.

There are no dwellings or other outbuildings on the Lot.

Assessment

I visited the site on Friday 28 March 2008. At the time of my visit the weather was fine, dry and warm. The site visit coincided with a prolonged period of fine, hot and dry weather in the Wairarapa. The ground conditions were dry and very firm under foot.

The grass was slightly greener immediately adjacent to the water race, indicating that while the overall land area would be considered free draining, any potential leakage from the water race was going vertically into the soil profile and not travelling laterally along any hard pan or other layer.

I hand dug a test pit to approximately 600mm depth more or less in the middle of the Lot. The top 450mm consisted of a gravelly soil loam and river type gravels and boulders. The balance of the test pit consisted of a clayey including river type gravels and boulders. The gravels and boulders were generally well rounded and varied in size up to 100mm plus equivalent diameter. The attached photo generally shows the type of soil. This test pit was reasonably similar to that on Lot 3.

The excavated material was very dry throughout the full depth of the excavation and would be suitable for the treatment and disposal of domestic type waste water.

16 Perry Street
P O Box 246 – MASTERTON
Phone: (06) 370-0007
Fax: (06) 370-0810
Email: enquiries@ece.co.nz



243 Main Street
P.O. Box 40-083 – UPPER HUTT
Phone: (04) 527-9028
Fax: (04) 527-7778
Email: netterd@ece.co.nz

Even though the water race was not that far away from the test excavation, and the water flow is not that far below the channel edge, there was no indication of any ground water in the test excavation.

There was no significant evidence of ground pugging in the area inspected. The grass cover over the site was mostly dry with some green tinges and there were no obvious signs of water leakage from any ground water spring(s) or other source.

Based on this site assessment, I have summarised below my opinion of the site:

- **Potable Water Supply.** A potable water supply could be obtained from the collection of rainwater from the roof of any building on each site. Storage would be provided by a suitable tank(s) and pumping system, with the actual volume of storage required for each site being determined by the size of the particular dwelling on each site including an allowance for the corresponding fire water requirements. It may be possible to obtain a supply of potable water from a bore, but this may require a suitable treatment system and an application to Greater Wellington for a resource consent.
- **Non Potable Water Supply.** Non potable water is being reticulated to the 25 Lots that comprise the original subdivision. The reticulation pipe runs inside the existing property boundary and could be extended to provide supply to the additional lot. In addition, the original Lot 1 has direct access to the water race. The proposed scheme plan shows that both of the proposed Lots will retain this direct access to the water race and will be able to use this as a non-potable supply of water.
- **Stormwater.** All water not collected for potable or other use would be directed to soak pits as required by the District Plan. As long as the lots are not re-contoured, any excess stormwater will follow the existing secondary flow paths over the site as it currently might. As the area is known to be dry and free draining, it is very unlikely that excess stormwater will be generated from the site. Well formed water tables have been provided along either side of the new roads, complete with culverts and headwalls. This is in accordance with the Land Drainage Act, NZS 4404 and the NZ Building Code.
- **Waste Water Treatment and Disposal.** There is sufficient space and a suitable soil profile outside of any open channel, building or boundary setback requirements for the establishment of a suitable engineer designed waste water treatment and disposal system on each of the proposed lots.
- **Services.** Power and telephone services are available nearby. I did not seek confirmation of the actual capacity from the service providers as the developer will be responsible for ensuring these services are provided.
- **Dwelling Site.** I am not aware that this site is either wet or subject to surface water flooding. Notwithstanding this, I would recommend that any dwelling not be built in the bottom of any depression on the site and that the floor level be elevated a minimum of 200mm above ground level. The actual floor level to be determined at the time of the building consent application for the particular location and lot. The size of each proposed lot is sufficient to ensure compliance with the required boundary setback distances for the standard 12m * 15m dwelling unit.
- **Water Race.** It is expected that any standard conditions that the Carterton District Council have regarding the water race network will be met such as the provision of gates in any new boundary fences crossing the water race, the location and installation of culverts, the provision of suitable clearances along at least one side of the race for inspection and cleaning and any riparian planting and the use of the water will become conditions of any approved subdivision consent.

Summary and Conclusion.

Based on this preliminary site assessment, I am of the opinion that the land type and aspect is suitable for the subdivision as proposed, including the ability to provide a suitable dwelling site, a potable and where appropriate non potable water supply, suitable stormwater disposal and/or collection, the treatment and disposal of domestic type waste water and the provision of the necessary power and telephone services, all in accordance with the District Plan.

Please contact the undersigned if you require further information.

Yours Faithfully,

M. R. Hewison

M. R. Hewison
EASTERN CONSULTING LIMITED
Email: mikeh@ece.co.nz
Mobile: (027) 245 0047



LOT-1



EASTERN CONSULTING LIMITED
CONSULTING CIVIL & STRUCTURAL ENGINEERS

Reference: E081709

Villa Strand Ltd.,
14 Pascoe Avenue,
Mana,
Wellington

Attention: Mr. C. Lambert

31 March 2008.

Dear Christian,

**RE: Proposed Subdivision of Lot 3 LT 376563 (Being a subdivision of Lot 3DP 359066)
Norfolk Road, Masterton.**

This report has been prepared as an attachment to go with an application to subdivide the above Lot. This report is not necessarily a report that would be suitable for the purposes of final design.

A copy of the scheme plan is attached. This details the location and orientation of the Lots with respect to the existing subdivision.

Site

The proposed subdivision site is located on the northern side of the intersection of the two new roads that have been created on this site in Norfolk Road in the Carterton District.

The site is flat like the surrounding land with an overall slight tilt to the south and east. This area is known to be generally summer dry.

There are no dwellings or other outbuildings on the Lot.

Assessment

I visited the site on Friday 28 March 2008. At the time of my visit the weather was fine and dry and warm. The site visit coincided with a prolonged period of fine, hot and dry weather. The ground conditions were dry and very firm under foot.

I hand dug a test pit to approximately 500mm depth more or less in the middle of the Lot. The top 300mm consisted of a gravelly soil loam and river type gravels and boulders. The balance of the test pit consisted of a clayey loam including river type gravels and boulders. The gravels and boulders were generally well rounded and varied in size up to 100mm plus equivalent diameter. The attached photo generally shows the type of soil. The soil profile was similar to that on Lot 1.

The excavated material was very dry throughout the full depth of the excavation and would be suitable for the treatment and disposal of domestic type waste water. There was no evidence of ground water in the excavation.

There was no significant evidence of ground pugging in the area inspected. The grass cover over the site was mostly dry with some green tinges and there were no obvious signs of water leakage from any ground water spring(s) or other source.

16 Perry Street
P O Box 246 – MASTERTON
Phone: (06) 370-0007
Fax: (06) 370-0810
Email: george@ece.co.nz



243 Main Street
P.O. Box 40-083 – UPPER HUTT
Phone: (04) 527-9028
Fax: (04) 527-7778
Email: peterd@ece.co.nz

Based on this site assessment, I have summarised below my opinion of the site:

- **Potable Water Supply.** A potable water supply could be obtained from the collection of rainwater from the roof of any building on each site. Storage would be provided by a suitable tank(s) and pumping system, with the actual volume of storage required for each site being determined by the size of the particular dwelling on each site including an allowance for the corresponding fire water requirements. It may be possible to obtain a supply of potable water from a bore, but this may require a suitable treatment system and an application to Greater Wellington for a resource consent.
- **Non Potable Water Supply.** Non potable water is being reticulated to the 25 Lots that comprise the original subdivision. The reticulation pipe runs inside the existing property boundary and could be extended to provide supply to the additional lot.
- **Stormwater.** All water not collected for potable or other use would be directed to soak pits as required by the District Plan. As long as the lots are not re-contoured, any excess stormwater will follow the existing secondary flow paths over the site as it currently might. As the area is known to be dry and free draining, it is very unlikely that excess stormwater will be generated from the site. Well formed water tables have been provided along either side of the new roads, complete with culverts and headwalls. This is in accordance with the Land Drainage Act, NZS 4404 and the NZ Building Code.
- **Waste Water Treatment and Disposal.** There is sufficient space and a suitable soil profile outside of any open channel, building or boundary setback requirements for the establishment of a suitable engineer designed waste water treatment and disposal system on each of the proposed lots.
- **Services.** Power and telephone services are available nearby. I did not seek confirmation of the actual capacity from the service providers as the developer will be responsible for ensuring these services are provided.
- **Dwelling Site.** I am not aware that this site is either wet or subject to surface water flooding. Notwithstanding this, I would recommend that any dwelling not be built in the bottom of any depression on the site and that the floor level be elevated a minimum of 200mm above ground level. The actual floor level to be determined at the time of the building consent application for the particular location and lot. The size of each proposed lot is sufficient to ensure compliance with the required boundary setback distances for the standard 12m * 15m dwelling unit.
- **Water Race.** There is no water race on this property.

Summary and Conclusion.

Based on this preliminary site assessment, I am of the opinion that the land type and aspect is suitable for the subdivision as proposed, including the ability to provide a suitable dwelling site, a potable and where appropriate non potable water supply, suitable stormwater disposal and/or collection, the treatment and disposal of domestic type waste water and the provision of the necessary power and telephone services, all in accordance with the District Plan.

Please contact the undersigned if you require further information.

Yours Faithfully,



M. R. Hewison
EASTERN CONSULTING LIMITED
Email: mikeh@ece.co.nz
Mobile: (027) 245 0047



LOT 3.



EASTERN CONSULTING LIMITED
CONSULTING CIVIL & STRUCTURAL ENGINEERS

Reference: E081709

Villa Strand Ltd.,
14 Pascoe Avenue,
Mana,
Wellington

Attention: Mr. C. Lambert

31 March 2008.

Dear Christian,

**RE: Proposed Subdivision of Lot 25 LT 376563 (Being a subdivision of Lot 3DP 359066)
Norfolk Road, Masterton.**

This report has been prepared as an attachment to go with an application to subdivide the above Lot. This report is not necessarily a report that would be suitable for the purposes of final design.

A copy of the scheme plan is attached. This details the location and orientation of the Lots with respect to the existing subdivision.

Site

The proposed subdivision site is located on the southern side of the new road that has been created on this site leading off Norfolk Road in the Carterton District.

The site is flat like the surrounding land with an overall slight tilt to the south and east. This area is known to be generally summer dry and very stony.

A water race runs along and just inside the north eastern boundary of the site. Under the proposed scheme plan, both the proposed lots will have direct access to the water race.

There are no dwellings or other outbuildings on the Lot.

Assessment

I visited the site on Friday 28 March 2008. At the time of my visit the weather was fine, dry and warm. The site visit coincided with a prolonged period of fine, hot and dry weather in the Wairarapa. The ground conditions were dry and very firm under foot.

The grass was slightly greener immediately adjacent to the water race, indicating that while the overall land area would be considered free draining, any potential leakage from the water race was going vertically into the soil profile and not travelling laterally along any hard pan or other layer.

I hand dug a test pit to approximately 600mm depth more or less in the middle of the Lot. The top 300mm consisted of a gravelly soil loam and river type gravels and boulders. The balance of the test pit consisted of a clayey sandy firm but brittle loam, but was free of river type gravels and boulders. The gravels and boulders that were present, were generally well rounded and varied in size up to 100mm plus equivalent diameter. The attached photo generally shows the type of soil. The lower soil layer in this test pit was different from that on Lots 1 & 3.

The excavated material was very dry throughout the full depth of the excavation and would be suitable for the treatment and disposal of domestic type waste water.

16 Perry Street
P O Box 246 – MASTERTON
Phone: (06) 370-0007
Fax: (06) 370-0810
Email: master@ece.co.nz



243 Main Street
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Phone: (04) 527-9028
Fax: (04) 527-7778
Email: master@ece.co.nz

Even though the water race was not that far away from the test excavation, and the water flow is not that far below the channel edge, there was no indication of any ground water in the test excavation.

There was no significant evidence of ground pugging in the area inspected. The grass cover over the site was mostly dry with some green tinges and there were no obvious signs of water leakage from any ground water spring(s) or other source.

Based on this site assessment, I have summarised below my opinion of the site:

- **Potable Water Supply.** A potable water supply could be obtained from the collection of rainwater from the roof of any building on each site. Storage would be provided by a suitable tank(s) and pumping system, with the actual volume of storage required for each site being determined by the size of the particular dwelling on each site including an allowance for the corresponding fire water requirements. It may be possible to obtain a supply of potable water from a bore, but this may require a suitable treatment system and an application to Greater Wellington for a resource consent.
- **Non Potable Water Supply.** Non potable water is being reticulated to the 25 Lots that comprise the original subdivision. The reticulation pipe runs inside the existing property boundary and could be extended to provide supply to the additional lot. In addition, the original Lot 1 has direct access to the water race. The proposed scheme plan shows that both of the proposed Lots will retain this direct access to the water race and will be able to use this as a non-potable supply of water.
- **Stormwater.** All water not collected for potable or other use would be directed to soak pits as required by the District Plan. As long as the lots are not re-contoured, any excess stormwater will follow the existing secondary flow paths over the site as it currently might. As the area is known to be dry and free draining, it is very unlikely that excess stormwater will be generated from the site. Well formed water tables have been provided along either side of the new roads, complete with culverts and headwalls. This is in accordance with the Land Drainage Act, NZS 4404 and the NZ Building Code.
- **Waste Water Treatment and Disposal.** There is sufficient space and a suitable soil profile outside of any open channel, building or boundary setback requirements for the establishment of a suitable engineer designed waste water treatment and disposal system on each of the proposed lots.
- **Services.** Power and telephone services are available nearby. I did not seek confirmation of the actual capacity from the service providers as the developer will be responsible for ensuring these services are provided.
- **Dwelling Site.** I am not aware that this site is either wet or subject to surface water flooding. Notwithstanding this, I would recommend that any dwelling not be built in the bottom of any depression on the site and that the floor level be elevated a minimum of 200mm above ground level. The actual floor level to be determined at the time of the building consent application for the particular location and lot. The size of each proposed lot is sufficient to ensure compliance with the required boundary setback distances for the standard 12m * 15m dwelling unit.
- **Water Race.** It is expected that any standard conditions that the Carterton District Council have regarding the water race network will be met such as the provision of gates in any new boundary fences crossing the water race, the location and installation of culverts, the provision of suitable clearances along at least one side of the race for inspection and cleaning and any riparian planting and the use of the water will become conditions of any approved subdivision consent.

Summary and Conclusion.

Based on this preliminary site assessment, I am of the opinion that the land type and aspect is suitable for the subdivision as proposed, including the ability to provide a suitable dwelling site, a potable and where appropriate non potable water supply, suitable stormwater disposal and/or collection, the treatment and disposal of domestic type waste water and the provision of the necessary power and telephone services, all in accordance with the District Plan.

Please contact the undersigned if you require further information.

Yours Faithfully,

M. R. Hewison

M. R. Hewison
EASTERN CONSULTING LIMITED
Email: mikeh@ece.co.nz
Mobile: (027) 245 0047



LOT. 25.



Memorandum of Easements

Purpose	Shown	Servient Tenement	Dominant Tenement
Right of Way, Electricity, Telecommunications.	A	Lot 7	Lot 6 Lot 22 DP 376563

Note: Areas and distances are subject to the final survey.

APPENDIX 3: Landscape Architect's Report

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VISUAL IMPACT ASSESSMENT
AND
LANDSCAPE MITIGATION PROPOSALS
For
NORFOLK ESTATE
REPORT 1
for
Villa Strand Ltd



Prepared by
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INTRODUCTION

This Visual Impact Assessment Report and Landscape Concept Plan have been commissioned by the Applicant, Villa Strand Ltd, to accompany their application for resource consent to subdivide Lots 1, 3 & 25 LT 376563 (Being a subdivision of Lot 3 DP 359066) Norfolk Estate, 123 Norfolk Estate, Carterton District. The Villa Strand Ltd representative is Christian Lambert, 14 Pascoe Ave, Mana, Wellington.

As well as this report, Carterton District Council (CDC) has requested further information specifically dealing with the remainder of the Lots at Norfolk Estate. A separate report (Report 2) provides information outlining the visual implication of further anticipated subdivision for the balance of the area. Report Two also includes an Overall Landscape Development Concept Plan, attempting to show how cumulative subdivision of Norfolk Estate could be mitigated through strategic planning.

Report 1 is to be considered independently from Report 2, as Report 1 deals specifically with a submitted application for resource consent. Report 2 is for speculative application only.

The scope of this report is the VISUAL LANDSCAPE, concentrating specifically on subdivision of three 3.1 hectare lots into six 1.55 hectare lots. This report is to be read in conjunction with the scheme plan and application for resource consent prepared by Tomlinson and Carruthers, where the statutory requirements and Assessment of Environmental Effects has been addressed.

This report has been prepared by myself, Rachel Callaghan. I have a Bachelors degree in Landscape Architecture from Lincoln University, 1992. I am currently working in private practice as a landscape architect consultant, and have also had experience working both within and for district councils since 1992. I have successfully submitted development plans, landscape assessments and implemented planting plans for similar subdivisions in the Wairarapa.

I am compelled to state my previous involvement with Norfolk Estate. In 2006 I prepared the Visual Impact Assessment and Mitigation Planting Plans for Bedrock Ltd (granted conditional Resource Consent in 2007) for subdivision of Lots 1, 2 and 3 DP 359066 from three lots into a total of nine lots. I also project managed and completed the landscape planting works for the same development. As far as I am aware, Bedrock Ltd has no involvement with this resource consent application.

This report comprises the following:

THE VISUAL IMPACT ASSESSMENT

1. Site Parameters
2. Visual Catchment
3. Visual Characteristics of the Site
4. Visual Characteristics of Surrounding Landscape
5. Assessment of Existing Vegetation
6. Constraints
7. Opportunities
8. Visual Impact on Surrounding Landscape

LANDSCAPE MITIGATION PROPOSALS

9. Overall Proposals
10. Mitigation Planting
 - a. Outside Perimeter
 - b. Enhancing Residential Amenity
11. General Landscaping Guidelines for Property Owners
12. Recommendations for Conditions of Consent – Landscaping
 - a. Specifications for Mitigation Plantings
 - b. General Conditions for Ongoing Maintenance

CONCLUSION

APPENDIX ONE - Overall Aerial Photo Plan of Norfolk Estate

APPENDIX TWO - Conceptual Landscape Plan of Lots 25a and 25b

APPENDIX THREE – About the Plans

APPENDIX FOUR- Proposed Roadside and Entry Planting Plans 1, 2 and 3 for Villa Strand Ltd

APPENDIX FIVE - Proposed Boundary and Shelter Planting Plans 4 & 5 for Villa Strand Ltd

APPENDIX SIX – Plant Schedule and Specifications for Proposed Planting Plans

APPENDIX SEVEN - Recommended NZ Native Plant Species

VISUAL IMPACT ASSESSMENT

1. SITE PARAMETERS

The site is in three lots in Norfolk Estate, the first two of which are located approximately 455 metres down the new (unnamed) road off 123 Norfolk Road in Carterton District. The third (Lot 3), starts a further 155m along the road.

For the purposes of this visual impact assessment, my parameters will be the three lots identified on the attached plan (Appendix One). These are Lots 1, 3 and 25. Appendix One shows the location of these lots within the overall context of Norfolk Estate.

Each lot is currently 3.1ha, therefore the application site covers 9.30ha in total. The application is for subdividing each of these 3 lots into 2 each – a total of 6 lots. These 6 lots would then be approximately 1.55ha each (subject to final land survey)



Figure 1: An example of neighbouring Norfolk Road development showing the mixed planting and shelterbelts that have closed vistas off to the open rural landscape beyond.

2. VISUAL CATCHMENT

Adverse visual effects from proposals such as this are usually based on views from public vantage points. In this case, Norfolk Road and Chester Road are the adjacent public vantage points, as well, of course, as the new road through Norfolk Estate, and several of the Lots therein.

Chester Road

There is absolutely no visibility onto the site from Chester Road itself. There are at least three shelter belts parallel to Chester Road, between the road and the site, making it impossible to see into Norfolk Estate at all. That is not to say that no existing households cannot see the site, however, but this is difficult to ascertain from both the site itself, and Chester Road.

Norfolk Road

The intensity of development along Norfolk Road has resulted in the closure of once open views. To the west of Norfolk Estate there is not one open vista through to the site from the road.

This is with the exception of the road immediately adjacent to the entrance of Norfolk Estate, where there is no effective visual barrier at this time. However, extensive planting occurred in 2007 along the road frontage (part of conditions for the subdivision of Lot 2 DP 359066). A ten metre wide buffer zone along Norfolk Road, planted in mixed native tree species will take effect within the

Figure 2 below: Many single species exotic shelterbelts line Norfolk Road. This shelterbelt is directly across the road from Norfolk Estate



Figure 3: From Norfolk Road, the distance and extensive planting means that future houses on Lots 1, 3 and 25 will not be visible. The arrow indicates where the new house is on Lot 17.



next two years. There is also a five metre wide buffer planting strip both sides of the new road, as far as the water race, as well as a double row of trees and shrubs to act as a visual barrier to the lots on the west of the new road, along the right-of-way. By the time the Bedrock lots are built on and amenity planting takes place, the three Villa Strand Lots will not be visible at all from Norfolk Road.

At least four households west along Norfolk Road can currently see Lots 1 and 25. However, the buffer planting from 2007 will eventually block out some of these views. Views through to Lot 1 will need mitigating along the boundary with DP 58460. This planting should be in the form of a mixed species shelterbelt, up to 3m wide.

East of Norfolk Estate, there is less intensive amenity planting, and some open glimpses of farmland, and the eastern end of Norfolk Estate, including Lots 19-24. Lots 1, 3 and 25 are not visible from this direction.

From within Norfolk Estate

The new road travels directly through the middle of the site. Therefore it is completely exposed to all three Lots. However, the public driving down the new road are likely to be doing so out of curiosity, and presumably are more likely to want to see the development taking place within. Planting a solid barrier would effectively eliminate visual interest for these sight seers.

Lots 1 and 3 each have an existing bund on the road front. This may help with mitigation planting, to add instant height. Without additional vegetation the bunds are not high enough to eliminate views of potential houses from vehicle height, although they would be an effective sound barrier to quieten road noise.

Across the water race, the Bedrock subdivision does look directly into Lots 1 and 25. However all Villa Strand Lots are proposed to be a similar size to the Bedrock Lots. I have therefore assumed that there is unlikely to be conflict with the proposed subdivision that this document is addressing.

Lot 2 lies between Lots 1 and 3, and would therefore be directly affected by adjacent smaller additional lots. Views through to Lot 3 are already diffused by the row of trees (see photo right) and this leaves only a direct view into Lot 1. A simple buffer/shelter planting strip along the Lot 1-2 boundary would diffuse the additional density of Lot 1. However, the landowners of Lot 2 (S and D Parker) are included in the possible future group subdivision addressed in Report 2 which would effectively place them in exactly the same position as Lot 1. I have therefore specifically not included buffer planting between Lots 1 and 2 as a recommended Condition of Consent. I believe mitigation planting between future subdivided Lots should be subject to landowners own development and aesthetic criteria, rather than a legal requirement.

Directly across the road from Lot 3 is Lot 16. Lot 16 is one of the 2 Lots specifically excluded from Report 2. The Lot 3 bunds create a partial visual barrier, as can be seen in Figure-- , right, of the Lot 17 house. The bunds, in conjunction with the proposed 5m wide roadside buffer planting strip will be all that is required to mitigate any adverse visual impact from Lot 16 towards Lot 3. Likewise Lot 11, where the distance of over 600m from Lot 3, plus 5 Lots between the two, would mitigate the visual impact from the potential Lot 3 subdivision.



Figure 4: Lot 1 bund, with the water-race on the right.

Figure 5: The Lot 3 bunds seen from the new road. The bund is not high enough to offer a complete visual barrier of housing development, but planting on top of the bunds will add extra height to buffer planting.



Figure 6: From within Lot 3, the new house on Lot 17 is partially obscured by the bunds, and vice versa.



I have not discussed mitigation from any of the remaining lots in proximity to Lots 1, 3 and 25, as future subdivision applications are anticipated. This effectively eliminates the need to consider the visual impact on them for buffer planting. However, I do include a conceptual landscape plan (Appendix Two), which shows recommendations for landscape planting and layout within one divided lot (25a and b), to help achieve wind protection and privacy, whilst retaining a feeling of openness.

Elsewhere

There are several new houses being constructed on a subdivision adjacent to Norfolk Estate on DP 346659. One of the houses in particular has diffused views to Lot 25 through some mature pine trees. A double row of mixed trees planted along the northern side of the water race should mitigate the visual impact of smaller lots, as seen from the existing house. This planting must take into effect the requirements for CDC water race maintenance machinery.

3. VISUAL CHARACTERISTICS OF THE SITE – VISUAL DESCRIPTIVE DETAIL

The predominant visual characteristic of the three Lots is that of a broad, open, flat landscape. There is a feeling of openness within the site at the moment. Big sky views, and long vistas to the south and east in particular. The natural character is difficult to define, as the land has had generations of modification to enable cropping and pastoral farming to occur. I am in no doubt that this wide open landscape would once have been covered in dense podocarp forest.

This site is an old river terrace that has dense pockets of river stones just below the surface in many areas. Many of these stones have been stockpiled over the years, and some form a stone wall along the boundary of Lots 1 and 2 with DP 58460.

Lots 1 and 3 both have an existing bund approximately 1m high, just inside the road boundary fence. Lot 3, being on a corner, has two road frontages, and three of its boundaries have bunds. The fourth side is up against Lot 2, with the existing row of planting in lot 2 effectively screening the two lots from each other.

The existing Taratahi water race runs parallel to the northern boundaries of Lots 1 and 25, and does create some visual interest from the new road that could be emphasised with riparian planting, taking into account CDC maintenance requirements.

Lot 25 does have a significant row of 19 Macrocarpa trees close to the boundary with Lot 24. The distance of these trees from the new road is approximately 170m. However the lack of vegetation on the other two Lots, coupled with the flat land, means there is no visually distinctive characteristic that sets this site apart from any other, apart from the bunds on Lots 1 and 3, and the water race on Lot 1 and 25.

Figure 7: Mound of stones on Lot 3. The entire site is an old river terrace.



Figure 8: The water race on Lot 25.



Figure 9: The water race through Lot 1 has several curves and flax bushes.



Figure 10: The row of Macrocarpa trees on the far boundary of Lot 25. The woolshed on Lot 24 can be glimpsed through the trees.



4. VISUAL CHARACTERISTICS OF THE SURROUNDING LANDSCAPE

The major landform in this landscape is the Tararua mountain range and the foothills. The foothills are farmed, and are relatively un-vegetated. The Tararuas are a significant view from Norfolk Estate itself.

Norfolk Road

On the eastern approach to Norfolk Estate, there is still much farmland that is visible from Norfolk Road. This is flat pastoral farmland, with the predominant vegetation being single species exotic shelterbelts. Norfolk Estate itself, however, is almost obscured by amenity planting and shelterbelts. From within Norfolk Estate, looking outwards, the dominant species of shelterbelt is Pinus radiata.

Heading west, past Norfolk Estate, Norfolk Road itself is relatively closed in by lifestyle blocks adjacent to the road. The many small landholdings in the area have resulted in the outward views of the surrounding landscape being almost lost from the public vantage points. Although the houses are set back from the road, they are generally still visible. The extensive shelter planting around most of the houses is single species exotic conifer shelterbelts, with the exception of some newer planting of native species. There are several remnant stands of kanuka (Kunzea) further up the road from Norfolk Estate. Even with all the houses and amenity plantings, the Tararua Ranges are still visible most of the way along Norfolk Road.

It is not until you enter the Tararua forest park that the predominant landscape vegetation becomes exclusively native. In an area in such close proximity to the mountains, it is interesting that not many landowners have emphasised the native vegetation. Presumably the plant species around landholdings will have wind shelter as their main priority, at the exclusion of endemic native vegetation.

Adjoining landscape

The open farmland to the east and west allows distant views across to the eastern Wairarapa hill country, and the Tararua Ranges. The openness of this view should be retained as much as possible. To the south, remnant kanuka and totara are scattered across the landscape. However, views of these trees will eventually be obscured by development of Lots 11-19. There are many pine shelter belts near and far in the adjoining landscape.

Norfolk Estate

The landscape of Norfolk Estate itself has no special character or visual significance. This is a broad, generally flat, open landscape, with a fall from northwest to southeast. There is one dwelling under construction (on Lot 17),



Figure 11: Pinus radiata is the predominant shelter species in the surrounding landscape

Figure 12: Southward views



Figure 13: The Tararua Ranges from within Lot 3

Figure 14: The open farmland to the east in the adjoining landscape. This photo is from outside Lot 18



plus a relocated woolshed on Lot 24. There is also a hayshed on Lot 17 that is due for removal.

There is one row of significant mature conifers in Lot 25, close to the Lot 24 boundary. Elsewhere, there are only two clusters of trees in the whole of Norfolk Estate, one being in Lot 2, the other in Lot 21.

Two sealed roads form the distribution network to all lots, supplemented by several right-of-ways. There are open swales on each side of the carriageway, for excess stormwater collection. The road verges are stony and uneven. The entrance into each lot has post and rail fencing, while the remainder of the fencing is conventional post and batten, 8 wires, with a barb second from the top. This is suitable for the rural location.



Figure 15 : A typical open swale and sealed entrance (Lot 3).

5. ASSESSMENT OF EXISTING VEGETATION

Norfolk Estate itself has only three clusters of trees spread over the entire 24 Lots.

Lot 2 has a mature mixed species shelterbelt through the middle of it. The trees include *Eucalyptus* (gums), *Acacia* (wattle) and *Dodonea* (Akeake). As a visual barrier to the back of Lots 3-10, this shelterbelt is reasonably significant. It is my understanding that the owners of Lot 2 purchased this lot specifically because of the trees, and they fully intend to retain them.

Lot 21 has a small cluster of the same mixed species as Lot 2. Aesthetically, these trees have little value. The cluster covers approximately 7m by 30m. They may be useful as the backdrop to future mitigation planting.

On Lot 25, close to the boundary with Lot 24 there is a row of 19 mature *Macrocarpa* trees. These trees are an extension of the existing shelter belt between DP 359066 (Bedrock) and DP 346659, and possibly form some visual diffusion of Norfolk Estate from the new house on DP 346659. These trees would be a significant wind break for Lot 24, but not aesthetically valuable insofar as enhancing the natural landscape features. The eventual removal of these trees would open up views to the eastern Wairarapa hills from several vantage points. It may, though, open up views into Norfolk Estate from surrounding properties. The trees could be strategically removed as proposed buffer planting matures. This should be up to the property owner.

Lot 19 has a remnant *Kanuka* growing towards the back of the section. This is associated with the scattering of *kanuka* and *totara* trees beyond Lots 11 to 19.



Figure 16: The new sealed road through Norfolk Estate, heading north.



Figures 17 & 18 : The mixed species shelter belt on Lot 2 includes Akeake, Wattles and Gum trees.

6. CONSTRAINTS

- I. Visually, this is a very open landscape. From within Norfolk Estate, any developments would be obvious and open to view, without strategies implemented to absorb them into the landscape



- II. Possible buffer planting is constrained by the openness of the site, and care must be taken not to enclose the space or compromise views of the Tararua ranges, or the feeling of openness from within the lots, or the road. Buffer planting must be limited to certain areas and heights, and suggested species
- III. The strong linear nature of the two new roads is a constraint in that they are featureless straight lines. This tends to have the effect of speeding vehicles up. Curves and interesting features tend to slow vehicles down.
- IV. Exposure to strong nor-west winds, amidst an already dry environment is a constraint to establishing mitigating vegetation. Conditions on the Certificates of Title may need to be imposed to actively manage mitigation planting to cope with these conditions (namely irrigation), to ensure it establishes adequately. Specified plant sizes at planting will have to take these conditions into account as well.
- V. It is physically hard work to dig plant holes and build fences without the aid of specialist machinery, due to the extremely stony ground.
- VI. There is no existing vegetation on any of the applicant sites except Lot 25 which could help visually blend new structures into the landscape.
- VII. The adjoining landowners may not want to have smaller lot sizes next to them, with the additional development density this entails.



Figure 19a : The roads through the site are featureless straight lines. They would be enhanced with street trees that linked with the buffer planting.

Figure 19b : The road running west to east past Lot 3 and 16.



7. OPPORTUNITIES

- I. Buffer planting can be effective for privacy whilst still allowing intermittent views through the planting. Intermittent tree clusters allow vistas between them, to the view beyond – be it a house, or the mountains. This is better than excluding the view altogether with a solid hedgerow, and can retain a feeling of openness.
- II. Limiting the general height of tree species used as buffer planting can help maintain views of mountains from within the lots, and the new road.
- III. Trees planted within the road reserve can help eliminate the linear effect of the straight roads. Occasional trees on the road reserve, combined with curvaceous plant layout in the buffer strip can create the illusion of a curving road, even when it is straight. Any proposed trees on the road reserve need to comply with the CDC Street Tree Policy.
- IV. The current planting at the Norfolk Road entry, as far down the new road as the water race, is an ideal style to pick up on and use throughout the site. Those plants are 100% NZ native trees, shrubs, grasses and flaxes. Imposing similar conditions on buffer planting, if further subdivision is to go ahead, is an opportunity to create a cohesive, naturalised look to Norfolk Estate.

Figure 20: An example of the type of barrier planting along the roadsides that should be avoided.



Figure 21: An example of the proposed 5 metre wide buffer planting for the roadsides around Lots 1, 3 and 25. The planting shown here is 9 months old.



- V. It is obvious through my assessment of existing vegetation that native tree species are sadly lacking in the area as a whole. This development could be perceived as the ideal opportunity to extend the wildlife corridors, and increase the biodiversity of the area.
- VI. The excess stones throughout the site could be an opportunity to link the natural landscape to the domestic landscaping by using them to erect walls and landscape features.
- VII. The water race could be seen as enhancing wildlife habitats, with the addition of riparian planting. Any landscaping adjacent to the water race has to take into account the by-laws regarding machinery access, and water rights.

Figure 22 : A local example of appropriate landscaping incorporating native trees and stones to harmonise with the surrounding landscape



Figure 23: Structures such as gabion walls can be built using the local materials



Figure 24: Several pukeko already call the water race area home. These two pukeko were in Lot 1. Increasing the planting increases the wild life habitats



8. VISUAL IMPACT ON SURROUNDING LANDSCAPE

The existing settlement and pastoral land use patterns have already modified this landscape. Agricultural practises such as land clearance for shelterbelts, fencing, livestock grazing and cultivation of the land for cropping, plus roads, power poles and residences all signify the modified landscape we see today. The lack of naturally occurring trees on this plain is a direct result of human land use patterns.

The openness of the rural landscape in this general area has already been reduced. Existing medium density lifestyle blocks and subsequent amenity planting have reduced the openness. Shelterbelts are another visual barrier.

Consent was granted by CDC in 2006 for the original Norfolk Estate subdivision to take place. This already allows for 25 dwellings on an average lot size of 3.1ha, with subsequent amenity planting to be developed on the site. Add a further 8 dwellings and existing extensive buffer planting if we include the Bedrock subdivision, and the landscape character of this particular area has been modified already.

I believe that increasing the density of housing will not necessarily have an adverse visual impact on the area. The potential to enhance the rural amenity of Norfolk Estate through proposed landscaping is where I see the value of granting consent to this subdivision application. You are already potentially going to have 33 dwellings in this area, with an ad hoc mixture of amenity plantings and shelterbelts. This way CDC gets to influence the direction of that landscaping, even if only for these three lots at this stage.

At this very moment, subject to Certificate of Title being issued, there is nothing to stop the individual landowners of each or all lots planting solid barrier hedges of Leyland cypress around the perimeter of their properties. This, in actual fact, would have the very effect I will be designing to try and mitigate. The linear nature of the roads, if planted in solid hedges, would not only shut down any outward view shafts from within the lots, and the new roads, but would create a very monotonous, insular landscape.

If further subdivision is sought, and granted, for the remainder of Norfolk Estate, the planting plans and landscape treatments may simply be replicated with minor amendments, with emphasis on retaining as much openness to the surrounding landscape as practical.

From outside and within Norfolk Estate, there will be minimal visual impact from smaller sections, over and above what is already consented for. Well designed buffer planting can diffuse the effect of 6 dwellings just as effectively as 3 dwellings within the same spatial area.

The fact that the current conditions of title do not require or restrict any kind of buffer planting around the perimeter of the Lots is really what has convinced



Figure 25: Woodlot planting on surrounding land. At the moment there are no restrictions on this type of planting occurring throughout Norfolk Estate.



Figures 26 & 27 : Examples of views of the site from surrounding houses on Norfolk Rd. The view above is towards Lot 25, below is Lot 1. The Bedrock subdivision is in the foreground (Lots 6 and 7).



me that extra dwellings will not have an adverse visual impact on the surrounding landscape.

From the visual perspective I have no issue with the increased density of houses, if mitigation landscaping is made a condition of consent. I believe that houses on a 1.55ha section are no more likely to interfere with the overall appearance of Norfolk Estate in the surrounding landscape, than that already granted consent for with 3.10ha sections.

It all comes down to the mitigation planting.

Therefore, in conclusion, I believe that the visual impact of these extra 3 dwellings over and above what has already been approved, subject to mitigation planting, will have minimal impact on the future amenity values and landscape within this area.

LANDSCAPE MITIGATION PROPOSALS

9. OVERALL PROPOSALS

The key proposals are as follows:

1. 5m wide roadside buffer planting strips along all Lots bounding the new road.

This planting to include: cluster planting with naturally occurring tree species; occasional canopy trees; the rest of the trees growing no higher than 6m at maturity; using plant species that are self-seeding so they can be self-sustaining populations at the end of their natural life cycle; leave random, naturalistic gaps in the buffer planting, to create vistas inwards and outwards

2. 2 row wide boundary buffer planting strip along selected perimeter fence lines.

This planting is designed to soften the edges of the development, whilst forming a diffused view inwards and outwards to the landscape beyond. Some canopy trees planted amongst faster colonising species.

4. Feature planting at Lot entries to distinguish one property from the next.
5. Make application to CDC for approval for street trees within the new road verges.

10. MITIGATION PLANTING

Road frontages

As much planting as practical within the site should be NZ native plant species. The native species are inherently appropriate, and no other plant visually links with our landscape better than the plants indigenous to these soils and conditions, as well as considering obvious ecological benefits for our native flora and fauna. A list of recommended plant species is in Appendix Five.

A commonly used technique to mitigate subdivision is to buffer plant along roadsides and boundaries, to totally obscure development within. In this case, I believe that would be a mistake.

To create a solid plant barrier along the road frontages would simply emphasise the linear nature of the road design. Creating subtle curves, plus undulating canopy heights, with occasional vistas, is more in keeping with the naturalistic style of planting that is appropriate to an area this close to the mountains. Diffusing the impact of houses, whilst still allowing glimpses through, is more visually stimulating than obscuring the houses (and landscape beyond) altogether. A 5m wide planting strip along the road frontage is in keeping with other buffer planting in the vicinity, and is sufficient to create 3-4 rows deep of planting.

The road verge is 7m wide, between the boundary fences and the carriageway. There is no need for restrictions on the size and form of plants within the roadside planting, as far as visibility for road safety is concerned. However, the proposed street tree locations would obviously need to take these exit points, and fields of vision into consideration. The maximum distance the street trees are from any given exit point, the minimum the impact of visibility onto the road.

Outside Perimeter

The perimeter of the development should also avoid straight 'hedges'. The vast majority of planting in the surrounding area is single species exotic shelterbelts, but for biodiversity and visual integration I recommend that Norfolk Estate does not follow suit. For practical purposes, there may be areas along fence lines that are 2 straight rows of trees. But introducing a mixture of tree textures, form and height creates interest, and a more undulating, naturalistic look. Adding clusters of the large canopy trees to the perimeter planting will further enhance the naturalistic style. Trying to integrate the housing development into the natural landscape is a far better option than just trying to screen the houses with solid hedges.

Enhancing Residential Amenity

Below: Some of the proposed native vegetation for Lots 1, 3 and 25 (Figures 28-31)



Cordyline australis – Cabbage Tree



Phormium cookianum – Flax



Podocarpus totara – Totara



Hebe diosmifolia

The proposed landscape concept plan for lots 25A and B has been created as a sample of what can be achieved using strategic design, rather than solid barrier planting for privacy and wind protection. Realistically there will need to be protection from the wind. The trick is how to balance this against the aesthetic, and the views, plus openness.

I envisage that individual landowners on 1.55ha lots will want:

- Private outdoor living space
- protection from predominant winds
- maximum sun/daylight to dwellings
- views of either the Tararua ranges, or the eastern hills
- a semi-rural outlook
- low maintenance amenity planting
- perhaps up to half of the section for garden, the rest to be paddocks
- utility sheds for vehicles, firewood and general equipment, plus water tanks
- plus four of the proposed lots are required to provide access for water race maintenance machinery

If people are choosing to live in the country, then supposedly they are not going to want to be barricaded into their 1.55ha lot with no outward views. The buffer planting proposed is really a baseline for the style of planting that would ideally occur in each lot. However, individuals will be allowed the freedom to do what they like within their own boundaries. If owners want greater wind protection, for instance, their single species conifer shelterbelt will be at least set back from the road, and have 5m of mixed native planting in front to soften it. In no way is this proposal intended to limit owner's individuality, but rather, set the tone for a cohesive character to the public face of properties.

Offering new owners a copy of recommend plant species, plus GWRC guidelines on best establishment practice could be helpful to many, for their own landscaping. This is a harsh environment in which to establish trees. This is an ideal opportunity to try and encourage revegetation back onto these plains.

11. GENERAL LANDSCAPING GUIDELINES FOR PROPERTY OWNERS

1. Internal boundaries and landscaping for privacy would ideally have clusters of trees between houses rather than tall hedges along fence lines.
2. Avoid planting rows of single species along boundary fences.
3. Use only the recommended plant species listed in the Appendix for significant planting (shelter, framework, revegetation), reserving other species to smaller detailed areas close to the house itself.
4. Ideally, provision should be made for screening water tanks and utility sheds within each site's landscaping plan.

5. Utilise the water from effluent systems, where feasible, to irrigate amenity plantings.
6. Utilise the stones found on the site for mulch, and landscape features such as entry walls and pillars at the property entrance.

12. RECOMMENDATIONS FOR CONDITIONS OF CONSENT – LANDSCAPING

I recommend the following landscape conditions be included as Conditions of Consent for subdivision of Lots 1, 3 and 25 into a total of six separate lots of 1.55ha each.

a. Specifications for Mitigation Plantings

1. A five metre wide planting strip along the road front boundaries of the 3 lots adjacent to either of the new roads, to include 3-4 'rows' of tree, shrub and grass species, as per the Proposed Repeat Plans 1, 2 and 3 for a total of 610m roadside, plus 40m total for 4 entry feature plantings:
 - I. Lot 1, 151m;
 - II. Lot 3, 349m;
 - III. Lot 25, 150m. All dimensions EXCLUDE the access gates, and water race.
2. A double row buffer planting strip (rows 1-1.5m spacing) parallel to the following fence lines, to be planted within the application Lot, as per the Proposed Repeat Plans 4 or 5:
 - I. Lot 1 and DP 58460 (shelter)
 - II. Lot 25 and Lot 4 DP 359066 (Buffer - MUST comply with CDC water race by-laws)
3. The Applicant shall seek consent for street trees adjacent to Lots 1, 3 and 25 as per the attached Overall Landscape Development Plan. Street trees may include root guards, staking and tying as per CDC Street Tree Policy recommendations

NOTE: Subsequent street tree and mitigation planting outlined on the Overall Landscape Development Plan in Report 1 to be included in Conditions of Consent if and when the remainder of the Norfolk Road lots are subdivided.

4. At least 80% of the planting shall be NZ native plant species;
5. No more than 20% of planting shall be of a single tree species;
6. At least 40% of total planting shall be perennials or shrubs under 1.5 metres tall at final height;
7. All shrubs and perennials shall be at least 300 millimetres high at planting, and all trees shall be at least 1 metre tall at planting.

(This reduced plant size is to counter the harsh establishment conditions of the site).

b. General Conditions for Ongoing Maintenance

1. Plants shall be protected and maintained, and any dead plants replaced with the same or similar species the following plant season, until such time that the planting becomes self-sustaining (replacing itself through seed).
2. Maintenance in the specified areas shall be the ongoing responsibility of each Certificate of Title holder. Maintenance includes: maintaining stakes and ties; weed and pest control (weeds no higher than 1m); irrigation during the 2 year establishment phase; and maintaining stock-proof fences.
3. The list of recommended plant species (Appendix Seven) shall be given to all future landowners, and they shall be encouraged, but not obligated, to use plants from the list for all significant planting (shelter, revegetation and framework planting).

CONCLUSION

The creation of 6 smaller lots within this existing subdivision need not necessarily lead to a greater loss of privacy and outlook, or a reduction in the amenity values of the area.

The fact that the current conditions of title do not require or restrict any kind of buffer planting around the perimeter of the Lots is really what has convinced me that extra dwellings will not have an adverse visual impact on the surrounding landscape.

Rather, this proposal could be seen as an opportunity for the CDC to impose landscape mitigation conditions that extend the cohesive roadside plantings already in place, back towards Norfolk Road. This will not happen with 3 different landowners adding ad hoc landscaping to their own road fronts.

From outside and within Norfolk Estate, there will be minimal visual impact from extra housing, over and above what is already consented for. Well designed buffer planting can diffuse the effect of 6 dwellings just as effectively as 3 dwellings within the same spatial area.

It all comes down to the mitigation planting.

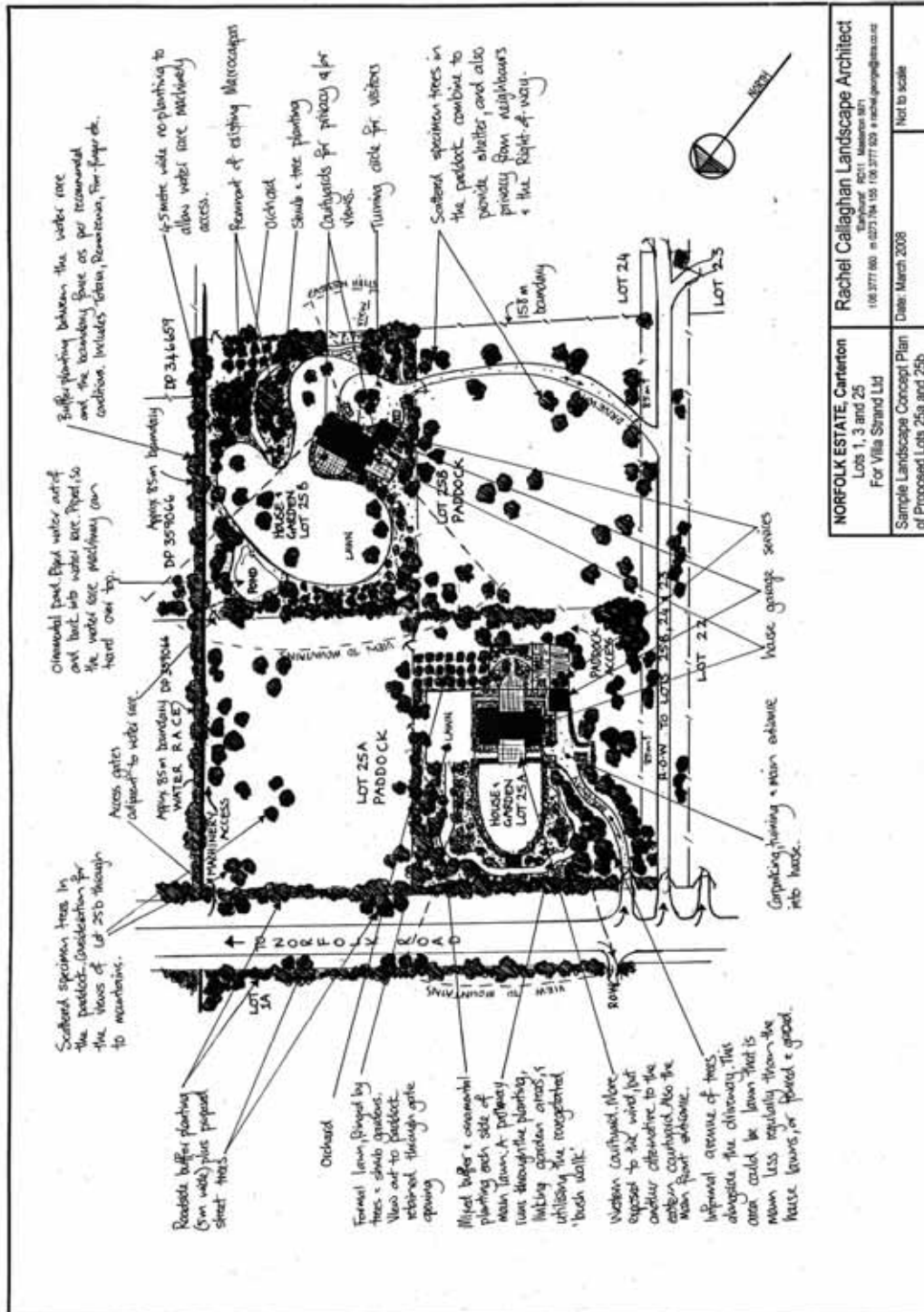
In conclusion, I believe that the visual impact of these 6 smaller lots proposed for Norfolk Estate will have a less than minor effect on the potential amenity values and natural landscape character already approved by Carterton District Council with the original subdivision, if developed in conjunction with the mitigation conditions as recommended within this report.

APPENDIX ONE

Overall Aerial Photo Plan of Norfolk Estate – Lots shown in boxes relate to this report – 1, 3, 25



Both 25A and B are shown with 2 acre gardens (approximately), with the remainder as paddock. Both properties have ample space, and retain the main view shafts past the buffer and amenity planting. With strategic planning, it is entirely possible to have privacy for outdoor living without resorting to planting along all boundary fence lines.



APPENDIX THREE - About the Plans

Conceptual Landscape Plan of Lots 25a and 25b (Appendix Two)

I have drawn the plan of proposed Lots 25a and b, showing how I believe the internal landscaping and layout could work for smaller lots. This plan is conceptual only, and could be replicated on almost any divided lot.

Both 25a and b are shown with approximately 0.77ha (nearly 2 acres) gardens, with the remainder as paddock. This is a large garden by anyone's standards, and both lots would work equally well with a smaller garden, and greater proportion of paddock.

Around each house there are two adjacent courtyards – one for the sun and mountain views, and one either sheltered by the house, garage or trees from the prevailing nor-west winds.

Both properties have large lawns, with extensive planting around the perimeter. There is a lot of area available for revegetation planting that can be incorporated into the garden with paths meandering through.

Planting needs to accommodate the main views, whilst providing shelter from the nor-west winds. It is unrealistic to expect uninterrupted views of the mountains, but rather, the focus should be on retaining key view shafts from significant living areas in the house. I suspect shelter will be the primary motivating factor in developing planting areas. My point is that this can be done in an attractive manner, without resorting to solid hedges. Note that strategic trees scattered in the land between the ROW and both houses provide privacy and screening from the ROW and subsequent neighbours.

The water race can be seen as an asset to these lots. Ensuring maintenance machinery can access the water race does not need to be a barrier to landscaping. Lot 25a has the water race in its paddock. Access may be gained to the paddock from the area behind the house, if an access gate to the water race is not allowed. However, I do believe a gate on the road boundary fence, adjacent to the water race would simplify this issue.

Lot 25b has utilised the water from the race to form a small amenity pond. The water could be diverted by underground culverts (to allow the machinery to cross), and run back into the race through an outlet pipe. Of course this type of development would need extensive consultation and approval from the CDC, but this concept shows the possibilities.

I have also drawn a vehicle access gate between each of the proposed lots adjacent to the water race, specifically for the maintenance machinery.

Lot 25b has the large macrocarpa trees to accommodate somehow. The concept plan shows only a small portion of them remaining, with other trees planted around them. Another concept could perhaps have the house placed in front of the trees, and the trees being the backdrop to the house. In this case the house would need to be located a lot closer to the Lot 25a boundary than it is shown on the plan, to eliminate shade and safety issues.

Below: Some examples of the plant species included in the roadside plans



Cordyline australis – cabbage tree



Plagianthus regius – ribbonwood



Phormium cookianum – flax



Sophora - Kowhai

Both properties have ample space, and retain the main view shafts past the buffer and amenity planting. With strategic planning, it is entirely possible to have privacy and shelter for outdoor living without resorting to planting along all boundary fence lines. A feeling of openness is maintained by each property, with open paddocks and expansive lawns, and dwellings set well back from the boundaries.

Proposed Roadside Planting Plans (See Appendix FOUR)

The planting plans for the roadside have been designed to incorporate a balance of openness, views, privacy and wind protection to come up with an attractive, low maintenance and practical plant layout.

The roadside plans are 35m long, and are to be repeated a total of 17.5 times for the entire road frontage of Lots 1, 3 and 25, excluding the water race, and entries. The entry plans are included to create distinct 'entry' points to each Lot, as a variation on the roadside plan.

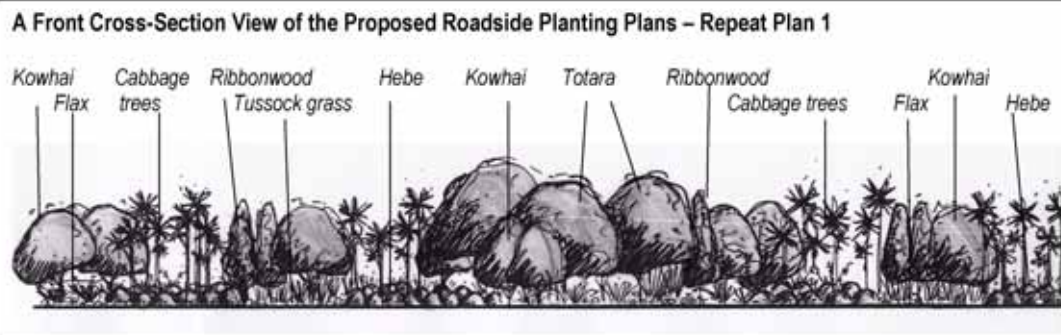
20m of the plan is the more open style of planting. Here I have concentrated on majority ground coverage of low shrubs, grasses and flaxes, up to 1.5m high, with slender upright trees (eg Cabbage and Ribbonwood) well spaced between them. This not only deals with groundcover plants to prevent weeds, but allows views over top of them, past the trees, to the landscape beyond.

The last 15m of the plan is designed as a cluster of dense planting, with no visibility through. This is to balance out the openness of the first 20m. Mid-canopy trees are planted closely together, 3 'rows' deep, with 4 canopy trees (totara) amongst them. The totara do grow tall eventually, and will help create curves and undulations to give the road more visual interest.

For practical purposes, rip lines will have to be mechanically dug prior to planting. The stones here are very dense and disobliging for digging. I have designed four rip lines at 1m centres for the roadside, but have attempted to cluster plants in such a way that they do not appear as straight rows of planting. The other benefit to mechanical ripping is that many stones are unearthed, which can then be used as mulch around the plants.

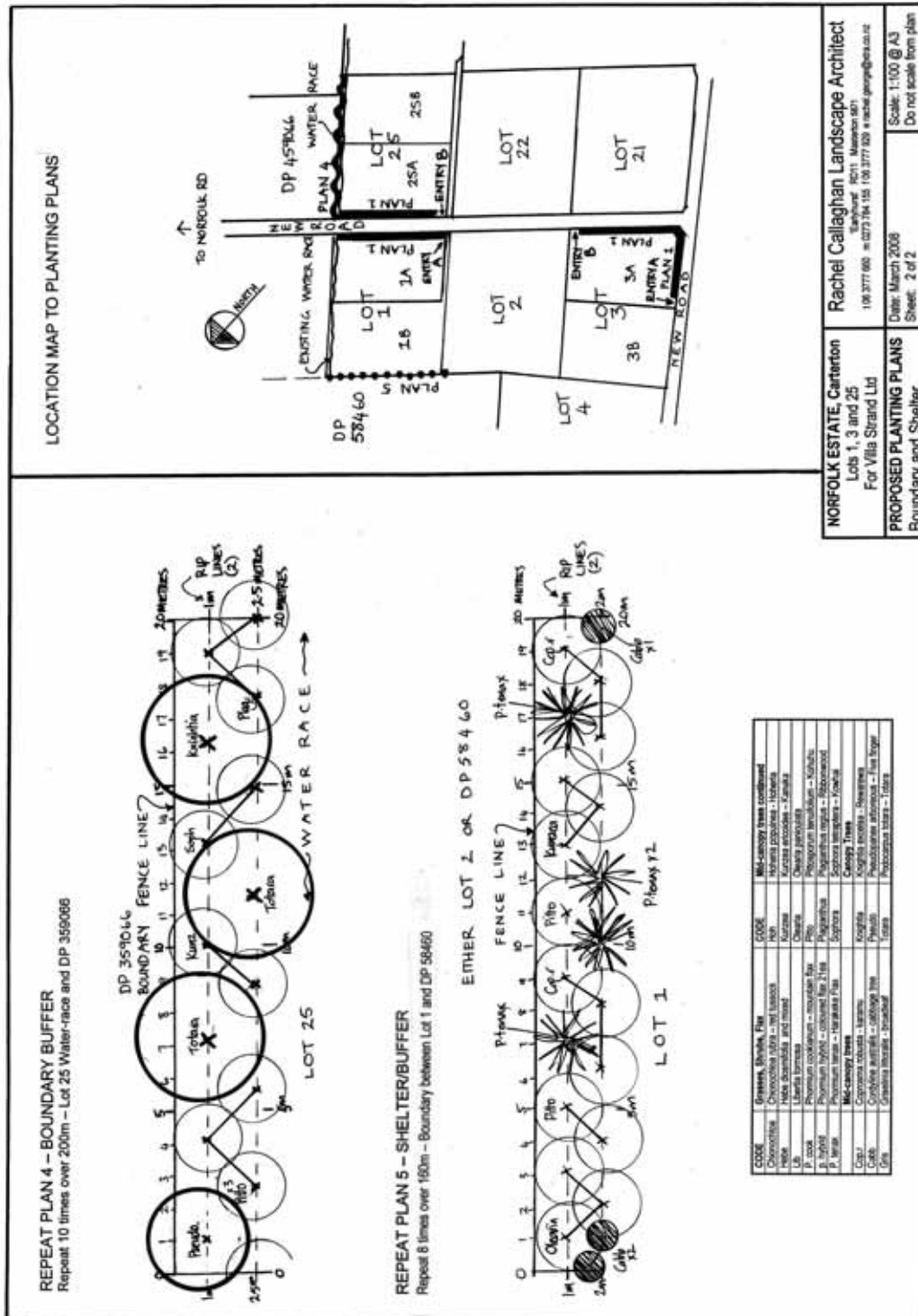
The existing bunds on Lots 1 and 3 may interfere with the final spacing of the rows, and this needs to be accommodated at the time of planting and ripping. The land owners may prefer to level out the bunds to a maximum height of 600mm. This would simplify the roadside planting, and eliminate the need to prevent the water runoff down the slope, and not being absorbed into the plant holes.

*The majestic Totara Tree
would make a stunning street tree
throughout Norfolk Estate*



REPEAT PLAN 1 - ROADSIDE
5m wide, repeat 17.5 times over 810m - Lots 1, 3 and 25

APPENDIX FIVE - Proposed Boundary and Shelter Planting Plans 4 & 5 for Villa Strand Ltd



APPENDIX SIX

Plant Schedule and Specifications for Proposed Planting Plans

NORFOLK ESTATE, Norfolk Road, Carterton – Lots 1, 3 and 25 - Villa Strand Ltd
Roadside, Entries, Boundary Buffer and Shelter Buffer Planting

BOTANICAL NAME	QUANTITY	SIZE TO PURCHASE (Height)
Grasses, Shrubs, Flax		
Chionochloa rubra – red tussock	209	300mm
Hebe diosmifolia and mixed species	471	300mm
Libertia formosa	44	300mm
Phormium cookianum – mountain flax	448	300mm
Phormium hybrid – coloured flax 21ea	42	300mm
Phormium tenax – Harakeke Flax	140	300mm
Mid-canopy trees		
Coprosma robusta - karamu	108	1m
Cordyline australis – cabbage tree	282	500mm PB3/5
Griselinia littoralis - broadleaf	12	1m
Hoheria populnea - Hoheria	12	1m
Kunzea ericoides – kanuka	176	1m
Olearia paniculata	54	1m
Pittosporum tenuifolium – Kohuhu	135	1m
Plagianthus regius – Ribbonwood	91	1m
Sophora tetralopha – Kowhai	178	1m
Canopy Trees		
Knightia excelsa - Rewarewa	10	1.5m
Pseudopanax arboreous – Five finger	10	1.5m
Podocarpus totara – totara	88	1.5m
TOTALS	2,510	

Specification Notes to Accompany Planting Plans

1. If the listed plants cannot be sourced from a range of nurseries, alternative species with similar characteristics (appearance and growth habit) may be used. Approval is to be obtained from Carterton District Council for any alternative species.
2. The planted areas are to be sprayed with an approved herbicide at least two weeks prior to planting commencing.
3. The rip lines are to be created using a minimum 300mm wide bucket at the spacing indicated on each planting plan. This to be: 4 rip lines at 1m spacing for Repeat Plans 1, 2 and 3; 2 rip lines each for Repeat Plans 4 and 5.

4. At least one 25x25mm 1.2m treated pointed batten shall be used to stake every tree included in the Canopy and Mid-canopy categories. Any shrubs near 700mm high at the time of planting may require a smaller stake 25x25mm x1m.
5. Rubber or similarly stretchy ties are to be used for tying trees to stakes, as per accepted horticultural practice (i.e. – the figure 8 technique).
6. At least two slow release fertiliser tablets (GWRC supplies) to be added to each tree hole at time of planting, and one per grass, shrub and flax hole.
7. Mulch of river stones to be applied around each plant at the time of planting (sourced on site).
8. The Irrigation system is to be installed and operational within 1 month of planting commencing.
9. Hare repellent is to be sprayed on all plants on the day of planting, and thereafter at three monthly intervals, until plants are mature or tall enough to not be vulnerable to animal pests (Pine Plus available from GWRC).
10. The three month maintenance contract period includes: release spraying weeds from around all plants at least once in the 3 month period after planting (with approved herbicide); also checking ties and general health of plants; a second spray of hare repellent to all plants. Responsibility for replacement of dead or diseased plants, including those destroyed by animal pests is to be negotiated at time of planting contract.

APPENDIX SEVEN - Recommended NZ Native Plant Species

Many of these plants come from various GRWC booklets that are also useful in describing best establishment techniques for revegetation planting. 'Restoration Planting: A guide to restoration planting projects in the Wellington Region', by Greater Wellington Regional Council.

Plants for groundcover and revegetation

▪ Carex sp	Tussock grasses
▪ Chionochloa sp	tussock grasses
▪ Cortaderia fulvida	Toetoe *
▪ Cortaderia toetoe	Toetoe
▪ Hebe sp	hebe
▪ Libertia sp	NZ Iris

Plants for general shelter, framework and revegetation

* indicates particularly good initial shelter species

▪ Coprosma sp: repens, robusta, virescens * (all)	
▪ Cordyline australis	Cabbage Tree *
▪ Corokia cotoneaster	Corokia *
▪ Cortaderia toetoe	Toetoe *
▪ Cortaderia fulvida	Toetoe *
▪ Dodonea viscosa	Akeake *
▪ Griselinia littoralis	Broadleaf
▪ Hebe stricta	Koromiko *
▪ Kunzea ericoides	Kanuka *
▪ Leptospermum scoparium	Manuka *
▪ Melicytus ramiflorus	Mahoe
▪ Muehlenbeckia astonii	Shrubby tororaro
▪ Myoporum laetum	Ngaio *
▪ Myrsine australis	Mapou or Matipo *
▪ Olearia paniculata	Akiraho *
▪ Phormium sp: cookianum, tenax	Mountain flax * and Harakeke *
▪ Pittosporum tenuifolium, eugeniolodes	Kohuhu/lemonwood *
▪ Plagianthus regius	Ribbonwood
▪ Poa cita	Silver tussock
▪ Pseudopanax ferox, crassifolius	Fierce Lancewood and Lancewood
▪ Sophora species	Kowhai

Canopy trees

▪ Alecyrion excelsus	Titoki	Knightia excelsa	Rewarewa
▪ Pseudopanax arboreous	Five-finger	Nothofagus sp	NZ Beech
▪ Podocarpus totara	Totara	Prumnopitys sp	Matai & Miro
▪ Dacrydium cupressinum	Rimu		

Dodonea – Akeake

Dodonea – Akeake

Plagianthus
- Ribbonwood

Pittosporum tenuifolium
- Kohuhu

Sophora sp
- Kowhai





Memorandum of Easements

Purpose	Shown	Servient Tenement	Dominant Tenement
Right of Way, Electricity, Telecommunications.	A	Lot 7	Lot 6 Lot 22 DP 376563

Note: Areas and distances are subject to the final survey.