

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

Decision No. [2024] NZEnvC 029

IN THE MATTER of an appeal under s 120 of the Resource
Management Act 1991

BETWEEN NEW ZEALAND MOTOR
CARAVAN ASSOCIATION INC

(ENV-2023-CHC-078)

Appellant/ Applicant

AND MARLBOROUGH DISTRICT
COUNCIL

Respondent

Court: Environment Judge B P Dwyer sitting alone under s 279 of the
Act

Hearing: On the papers

Last case event: 4 March 2024

Date of Decision: 7 March 2024

Date of Issue: 7 March 2024

CONSENT ORDER

A: Under s 279(1)(b) of the Resource Management Act 1991, the Environment
Court, by consent, orders that:

(1) resource consents are granted on the basis of the conditions of consent
as attached and set out in the consents with identifiers U220749.01 and
U220749.02 (Appendix 1);

(2) the appeal is otherwise dismissed.

NEW ZEALAND MOTOR CARAVAN ASSOCIATION INC v MARLBOROUGH
DISTRICT COUNCIL



B: Under s 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] The Court has read the notice of appeal and the memorandum of the parties dated 18 December 2023 which proposes to resolve the appeal.

[2] The Court issued a minute dated 16 January 2024, raising issues with the conditions of consent. The parties lodged a joint memorandum in response dated 7 February 2024. I have considered that memorandum, and the amended conditions attached. The amended conditions include a new condition 20, which provides that activities authorised by the consent must cease if a right turn bay is not installed and able to be used within 18 months of consent being granted. As I had a concern about the vires of such a condition, I asked the Appellant to confirm whether that condition had been offered on an *Augier* basis. Mr Thomsen, for the Appellant, has advised that the Appellant is prepared to offer it on an *Augier* basis.¹ I accept that advice and impose the condition on that basis.

Other relevant matters

[3] New Zealand Transport Agency Waka Kotahi gave notice of an intention to become a party under s 274 of the Act and has signed the memorandum setting out the relief sought.

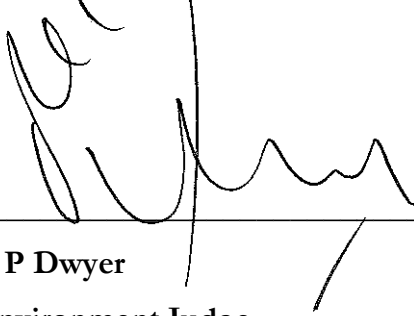
Orders

[4] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;

¹ By email dated 4 March 2024.

- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.



B P Dwyer
Environment Judge



Appendix 1 Conditions of Consent

Certificate of Resource Consent

Consent Holder:	New Zealand Motor Caravan Association Inc.
Consent Type:	Subdivision (Allotment Creation)
Consent Number:	U220749.01
Lapse Date:	This consent will lapse on 1 February 2029 unless given effect to prior to that date (i.e. the completed survey plan must be lodged for approval under section 223 Resource Management Act 1991 no later than this date).
Establishment Conditions:	Condition 1
Part 3, Section:	Section 11(1)(a) of the Resource Management Act 1991.

Pursuant to sections 34A(1) and 104B and after having regard to Part 2 matters and sections 104 and 106 of the Resource Management Act 1991, the Environment Court **grants** consent to subdivide Lot 2 DP 2470 into two allotments, subject to the following conditions imposed under section 108 of the Resource Management Act 1991.

Section 223 Condition

The following condition of consent must be complied with to Council's satisfaction before a certificate is issued under section 223 of the Resource Management Act 1991:

1. The cadastral survey data set submitted for approval must conform with the scheme plan prepared by Scope Surveying (Project No 22084, Sheet No 3201, Rev C, dated 22 August 2022) attached as Annexure 1 to this consent.

Section 224 Condition

The following condition of consent must be complied with to Council's satisfaction before a certificate is issued under section 224 of the Resource Management Act 1991:

2. The consent holder must obtain the confirmation from Assets and Services Department of Council that all the conditions in the Certification of Services set out in PD220041, Document 01a, dated 2 August 2022 have been met to their satisfaction. Modification to those requirements prior to release of the confirmations would be subject to agreement between the parties.

Ongoing Obligation

The following condition of consent must be complied with on a continuing basis and will be recorded in a consent notice. The consent notice will be registered against the computer register for proposed Lot 1. The consent notice will be prepared by Council and the costs of preparation and registration must be met by the consent holder.

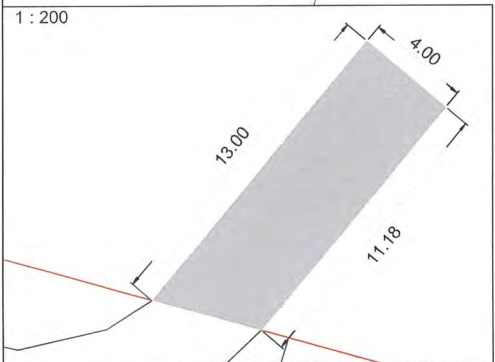
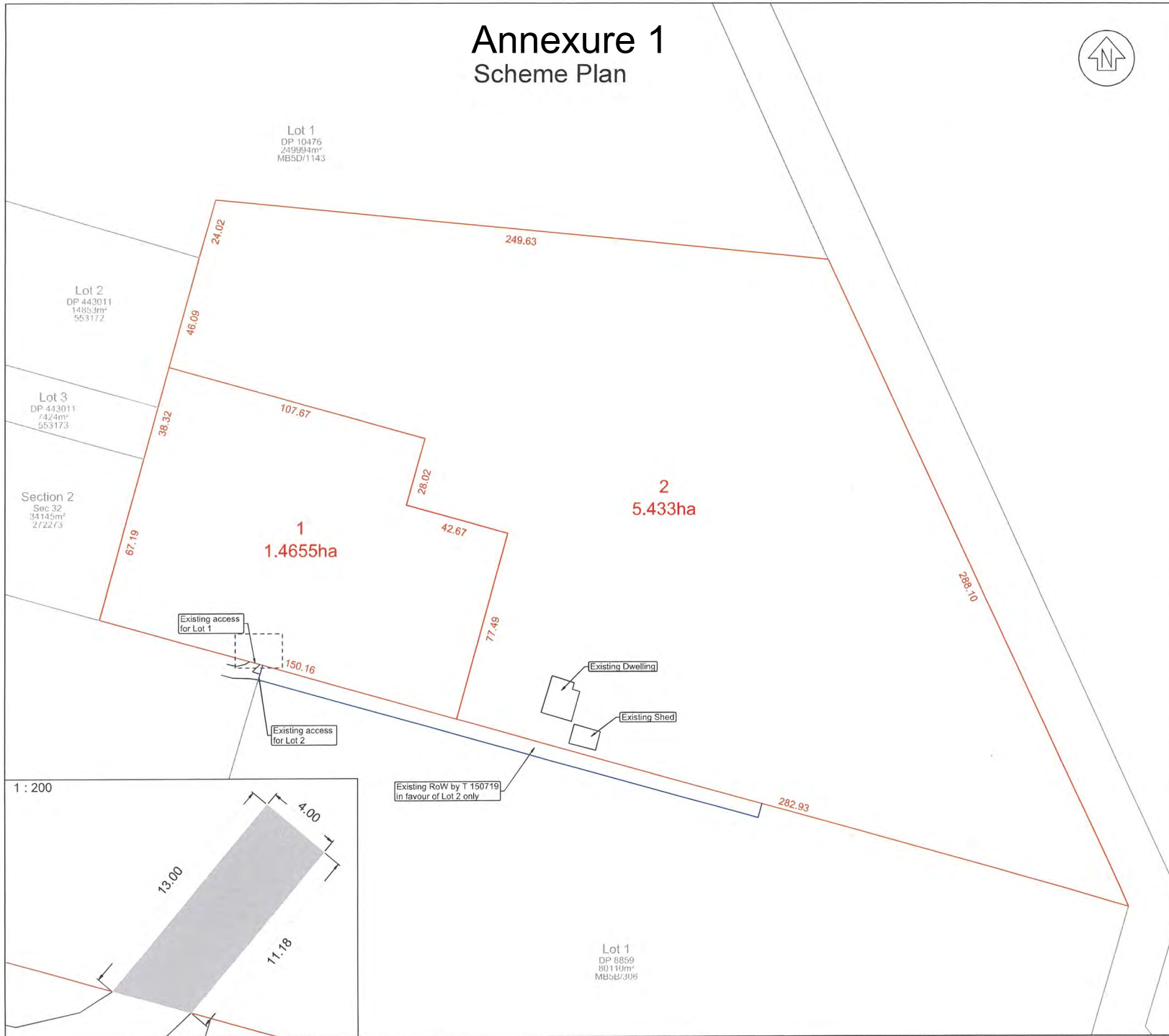
Condition to apply to Lot 1 hereon:

3. No dwellings may be constructed or sited hereon.

Advice Notes

1. A development contribution is payable for this subdivision. Development contributions are required by the Local Government Act 2002 and Council's Development Contributions Policy. An interim development contribution notice is attached as Annexure 2 to this consent DC220127. The development contribution must be paid to Council before the issue of a certificate under section 224 of the Resource Management Act 1991. The Development Contributions Policy contains a review provision in section 8. The request for reconsideration must be made within ten working days after the date the person receives notice from Council of the level of development contribution Council is proposing to require. Refer to Development Contributions Policy on Council's website www.marlborough.govt.nz
2. A Carriageway Access Request (CAR) must be lodged with Marlborough Roads prior to any works within the road reserve, including the works associated with services and vehicle entranceways. A CAR can be applied for at: www.beforeyoudig.co.nz or www.submitica.com
3. Assets and Services advise that the requirements set out in PD220041, Document 01a, dated 2 August 2022 for access is expected to be complied with before certification will be provided. Modification to those requirements prior to release of the confirmations would be subject to agreement between the parties.
4. Application should be made to Council's Assets and Services Department for a RAPID address number for Lot 1 to assist emergency, electoral and postal services with property location.

Annexure 1 Scheme Plan



Notes:
- Area's and dimensions subject to final survey
- Property owner: Sharalyn Gay Gillon

Client:
Baseline Group Marlborough

Project Title:
63 Freeths Road

Sheet Title:
**Proposed Subdivision of
Lot 2 DP 2470
(RT MB58/31)**



7/68 Seymour Street
Blenheim
www.scopesurveying.co.nz
(03) 577 6755

Scale: 1:1500 A3

Drawn by: JG

Date: Mon Aug 22 16:33:57 2022

Project No: 22084	Sheet No: 3201	Rev. C
----------------------	-------------------	-----------

Annexure 2

Development Contributions Assessment



**MARLBOROUGH
DISTRICT COUNCIL**

PO Box 443, Blenheim 7240
Phone: (03) 520 7400
Fax: (03) 520 7496

Name/Address:	New Zealand Motor Caravan Association 4 Graham Road Takanini 2112	Record Number:	22218700
		DC Ref:	DC220127
		Property Number:	198678
		Date of Initial Assessment:	28 October 2022
		Resource Consent Ref:	PD220041 U220749
		PIM Ref:	
Site Address:	63 Freeths Road Koromiko	Date of Re-Assessment	

Services Catchment:	Rural	
Rating Area	Picton Vicinity	

General Development Levy				
Catchment	Activity	Number of Household Equivalent Units (HEUs)	Development Contribution per HEU (incl)	Total D/C (incl)
Regional Rural	Land Transport	1.00	\$3196.00	\$3196.00
Subtotal General Development Levies (incl)				\$3196.00

Zone Development Levy			
Catchment	Number of Household Equivalent Units (HEUs)	Development Contribution per HEU (incl)	Total D/C (incl)
Subtotal Zone Development Levies (incl)			

Additional Development Levy (Appendix 3, clause (n))		
Description	File Reference	Total D/C (incl)
Subtotal Additional Development Levies (incl)		

Total Development Contribution Levies for the services itemised (incl)	\$3196.00
GST Content	\$416.87

Total Development Contributions	\$3196.00
--	------------------

Important Notes:

1. The applicant shall pay development contributions prior to connecting to existing service connections.
2. Council will invoice the applicant for the payment of all development contributions 5 months following the granting of building consent, unless earlier payment is required to satisfy other activities, such as subdivision sec 224, Building Code compliance, connection to a dwelling, etc.
3. This assessment is valid for 12 months following date of initial assessment, beyond which a reassessment at the current Producers Price Index and current charges apply.
4. **Request for reconsideration of Development Contributions** – The request for reconsideration must be made within 10 working days after the date the person receives notice from Council of the level of development contribution Council is proposing to require. Refer to Development Contributions Policy on Councils website www.marlborough.govt.nz

Connection Fee Assessment



**MARLBOROUGH
DISTRICT COUNCIL**

PO Box 443, Blenheim 7240

Phone: (03) 520 7400

Fax: (03) 520 7496

Name/Address:	New Zealand Motor Caravan Association 4 Graham Road Takanini 2112	DC Ref:	DC220127
		Property Number:	198678
		Date of Assessment:	28 October 2022
		Resource Consent Ref:	PD220041 U220749
Location:	63 Freeths Road Koromiko	PIM Ref:	

Service Area	Connection Type	Qty	Cost per connection (incl)	Total (incl)
Total (incl)				\$0.00
GST content				\$0.00

Total Connection Fees	
------------------------------	--

Notes:

1. The above service connection fees shall be paid by the applicant prior to Council installing the service connections.
2. The service connection application forms shall be completed and signed by the applicant prior to Council installing the service connections.
3. Council will endeavour to install connections to meet performance measures within its asset management plans, but makes no guarantee these will be met.
4. The connection fees quote above is valid for 12 months. The quote will be recalculated if payment is made 12 months after the issuing of this assessment.
5. The services disconnection fee shall be paid by the applicant prior to disconnection from any dwelling on the property.
6. The applicant shall pay development contributions prior to connecting to existing service connections.
7. Council will invoice the applicant for the payment of all connection fees at the time of building consent issue.

Certificate of Resource Consent

Consent Holder:	New Zealand Motor Caravan Association Inc.
Consent Type:	Land Use (Activity)
Consent Number:	U220749.02
Lapse Date:	N/A (This consent has immediate effect).
Establishment Condition:	N/A
Part 3, Section:	Section 9(3)(a) of the Resource Management Act 1991.

Pursuant to sections 34A(1) and 104B and after having regard to Part 2 matters and sections 104 and 106 of the Resource Management Act 1991, the Environment Court **grants** consent:

- To operate a short term stay motor caravan park for a maximum of 80 motorhomes and caravans for New Zealand Motor Caravan Association's (NZMCA) members on the Lot 1 of the subdivision authorised under U220749.01.
- To allow vehicle parking and boundary fencing to be located close to protected notable trees.
- To erect signage and a registration kiosk associated with the motor caravan park;

subject to the following conditions imposed under section 108 of the Resource Management Act 1991.

Conditions

General

1. Unless otherwise required by the following conditions, the development shall be undertaken in general accordance with the application documents received by Council on 23 September 2022, and amended application dated 20 October 2022 (provided to Council on 25 October 2022 and saved as record 22214317) and further information received 1 December 2022 (saved as record 22247851)..
2. The use of the site for camping shall be restricted to NZMCA members and their guests and invitees travelling in a self-contained vehicle certified to NZS 5465:2001 (as amended or replaced from time to time by other applicable standards or legislation).
3. Only vehicles displaying membership of New Zealand Motor Caravan Association Inc may park overnight on the site.
4. Unless otherwise restricted by condition 19(a) below, a maximum of 80 motorhomes & caravans shall be permitted to occupy the site for the purpose of temporary accommodation at any one time. (Also refer to further advice note 1 below).
5. The duration of stay on-site shall be no more than 10 days in a 30 day period, with the exception of one motorhome or caravan that belongs to an on-site custodian appointed to manage the park.

Advice note: unless required by condition 19(c), the appointment of an on-site custodian shall be at the discretion of the consent holder.

6. The consent holder shall create a code of conduct and rules for the use of the site for the consented activity generally in accordance with the code of conduct and the rules of the park set out in Appendix 4 to the resource consent application held on Council's file U220749 (saved as record 22214317).
7. The consent holder shall record the number of motorhomes and caravans camping on site. The consent holder shall provide the Marlborough District Council's Compliance Manager with information confirming the number of motor caravans camping on site within ten (10) working days of a request.

Services

8. Within six months of grant of approval the consent holder must obtain the confirmation from Assets and Services Department of Council that the conditions in the Certification of Services set out in PD220041, Document 01a, dated 2 August 2022 have been met to their satisfaction. Modification to those requirements prior to release of the confirmations would be subject to agreement between the parties.
9. Within six months of grant of consent, the consent holder must install and fill a minimum 20,000 litre dedicated firefighting water supply tank. The couplings and access to that supply must be in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008. The system must thereafter be maintained.

Landscaping & notable trees

10. Within six months of grant of consent the consent holder must place boulders 1m outside the drip line of the canopy extremities of the following notable trees identified in the plan attached as Annexure 3:
 - a) The eastern side of notable tree 38BG (fencing may be used as an alternative).
 - b) The western side of notable tree 37AO.
 - c) The southern side of notable tree 37AD.
 - d) On all sides of notable tree 38BF.
11. The boulders to be placed on the site in accordance with condition 10 shall be no smaller than 0.5m diameter and placed no more than 2.0m apart. The ground must not be excavated prior to the boulder placement, unless a qualified arborist is on-site to supervise any work in close proximity of a notable tree. The boulder placement shall thereafter be maintained.
12. Within six months of grant of consent the consent holder must provide the Manager Resource Consent at Marlborough District Council confirmation from a qualified arborist that the boulders have been placed in accordance with conditions 10 and 11.

Advice note: It is recommended that boulders from Hapuka are used as these don't splinter.
13. Additional boulders to the same standard as in condition 11 above shall be placed around any notable tree with a low canopy which subsequently loses limbs that would allow vehicles to access within the dripline.
14. Other than for the construction of the new entranceway there must be no excavation within 10m of the base of any notable tree or within the Tree Protection Zone of a notable tree, whichever is the greater.
15. Any fencing erected on the boundary or within the site must be post and wire fencing, except where boundary fencing is to be located within the canopy area of a notable tree in which case metal standards must be used to reduce the risk of damaging roots.
16. The 2m wide strip of native trees and shrubs along the southern boundary of Lot 1 (to the east of the vehicle entranceway adjoining the right of way), shall be retained and maintained. It may be trimmed as necessary to ensure safe sightlines for vehicle use of the entranceway.

Right turn bay & interim operating conditions

17. Within 18 months of consent being granted a right turn bay (RTB) at the intersection of Freeths Road/State Highway 1 shall be constructed to be generally in accordance with the plans attached at Annexure 4. For the avoidance of doubt, the works subject to this condition will be carried out between chainage 7360 to 7080 as depicted on the plans included in Annexure 4.

18. The consent holder shall provide the Marlborough District Council's Compliance Manager with written confirmation from Waka Kotahi that the RTB is practically complete in accordance with the plans attached at Annexure 4.

Interim operating conditions

19. Until the installation of the RTB required by condition 17 has been completed and is able to be used by the public, the following conditions shall apply:
- a) A maximum of 30 motorhomes & caravans shall be permitted to occupy the site for the purpose of temporary accommodation at any one time.
 - b) The consent holder must, through its Travel App, online travel directory, on-site signage, social media pages and magazine publication, make NZMCA members aware that due to concerns with safety of the right turn-in to Freeths Road the facility is most suited to south-bound visitors. For north-bound arrivals, members must be advised of the hazards of approaching the intersection to make the right turn off State Highway 1.
 - c) The consent holder must ensure a campsite manager resides on site between 1 December and 1 March to actively monitor and manage occupancy numbers, and to keep the NZCMA Travel App and directories up-to-date with occupancy levels.
 - d) The consent holder shall create and make available a survey for NZMCA members staying at the site to complete that seeks their views on the quality and safety of the access to the site, particularly the turn-in to Freeths Rd from State Highway 1. The consent holder shall provide the Marlborough District Council's Compliance Manager or Waka Kotahi with results of the survey within five (5) working days of a request.

Advice note: for the avoidance of doubt, unless expressly modified by the interim operating conditions, the exercise of this consent shall be in accordance with the conditions of consent set out herein.

20. If the RTB required by condition 17 is not installed and able to be used by the public within 18 months of consent being granted, the activities authorised by this consent must immediately cease and shall not recommence unless the RTB is completed and written confirmation provided in accordance with condition 18.

Noise

21. The activity must be conducted to ensure that noise arising at any point within the boundary does not exceed the following noise limits:
- 7.00 am to 10.00 pm 50dB LAeq
 - 10.00 pm to 7.00 am 40dB LAeq 70dB LAFma
22. Noise must be measured in accordance with NZS 6801:2008 Acoustics – Measurement of Environmental Sound, and assessed in accordance with NZS 6802:2008 Acoustics – Environmental Noise.

Review condition

23. Pursuant to sections 128 to 132 of the Resource Management Act 1991, the Marlborough District Council may at any time or times review the effectiveness of the conditions in the following situations:
- a) To avoid or mitigate any adverse effects on notable trees from the consent holder's activity, and if considered appropriate by Council, to deal with such effects by way of further or amended conditions; and/or
 - b) To amend the parameters of monitoring vehicles on site and the maximum usage of the site (including under conditions 2, 3, 4, 5, 7 and 19(a)) should that be considered necessary; and/or

- c) To review the necessity for monitoring of noise being emitted from the site and require noise monitoring if required.

The consent holder is responsible for all actual and reasonable costs associated with this review.

Further Advice Notes

1. A vehicle towing a caravan is not counted for the purposes of conditions 4 and 19(a).
2. A Carriageway Access Request (CAR) must be lodged with Marlborough Roads prior to any works within the road reserve, including the works associated with the vehicle entranceway. A CAR can be applied for at: www.beforeyoudig.co.nz or www.submitica.com
3. Assets and Services advise that the requirements set out in PD220041, Document 01a, dated 2 August 2022 for access is expected to be complied with before certification will be provided. Modification to those requirements prior to release of the confirmations would be subject to agreement between the parties.
4. Application should be made to Council's Assets and Services Department for a RAPID address number for Lot 1 to assist emergency, electoral and postal services with property location.
5. Fire Emergency New Zealand strongly recommend having some dedicated water storage and fire extinguishers available on-site for fighting if the need ever arises. FENZ have qualified staff experienced in this area and would be happy to assist or advise on this matter.
6. Marlborough Lines advise that a formal design will be required if an electrical connection is requested. Any installation must be underground as per the conditions imposed hereon, and must either comply with permitted standards in relation to the notable trees or further Resource Consent obtained.
7. Pursuant to section 36 of the Resource Management Act 1991, the consent holder shall be responsible for the actual and reasonable costs associated with monitoring this resource consent.

Annexure 3



The accompanying material has been released by Council from its information repositories. Council does not accept any responsibility for the initial and ongoing accuracy to the material. It is the responsibility of the recipient to make such checks as the recipient considers appropriate to ensure accuracy. Services layers are schematic only and actual positions and level should be confirmed from Councils hard copy records.

Notable Tree Locations 63 Freeths Road



Printed By: mja1@NC7915 Date: 1/02/2024

File Name: S:\Mja1\WorkingDrafts\2024\lanSutherland\FreethsRoadMap\FreethsRoadMap\FreethsRoadMap.aprx

1:1,250

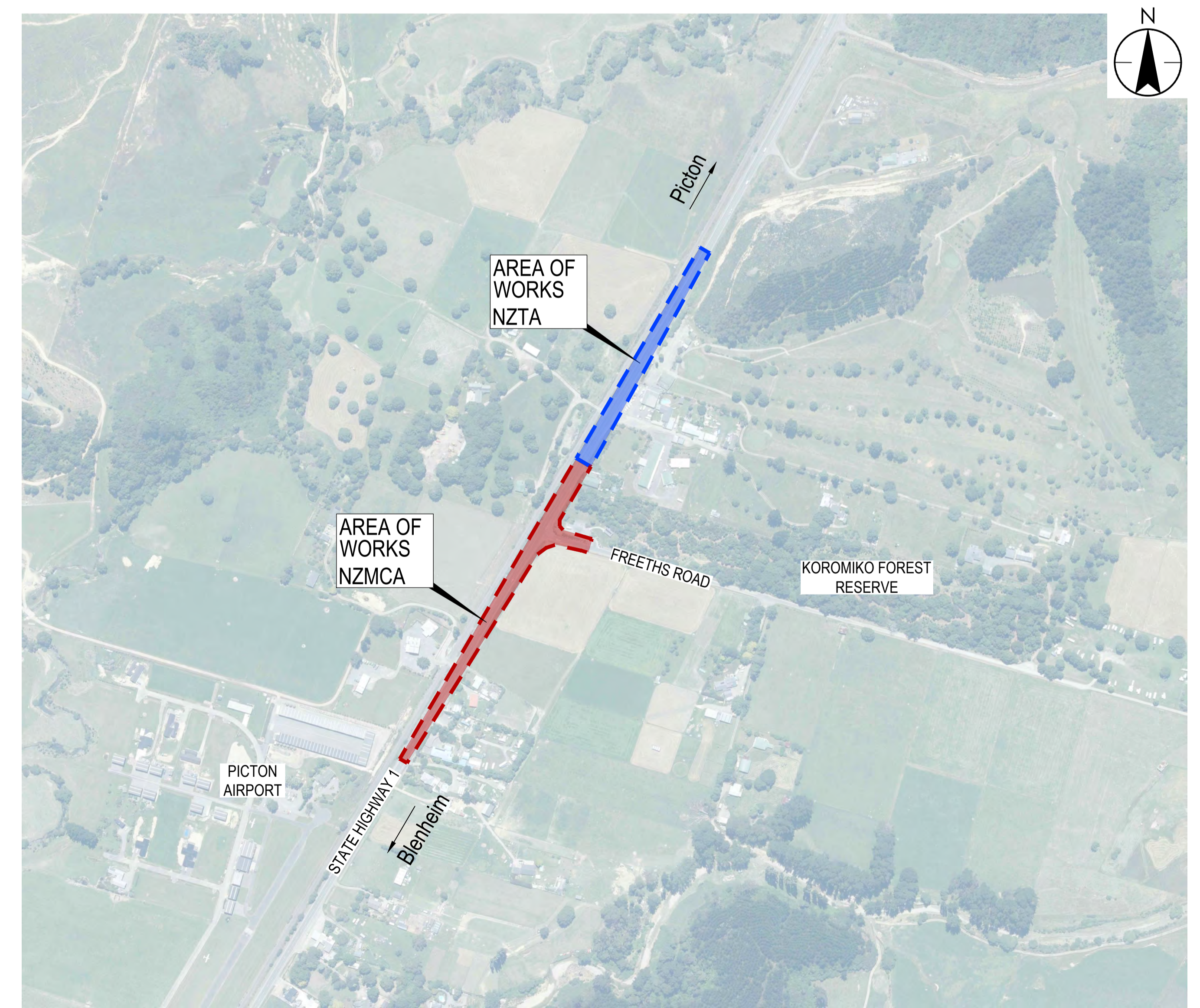


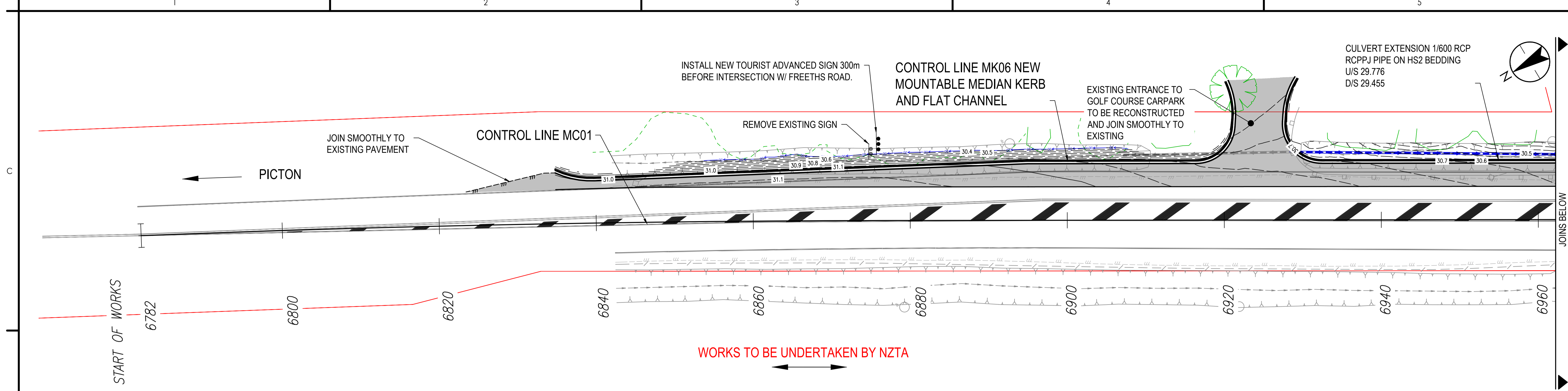
SH1S AND FREETHS ROAD INTERSECTION RIGHT TURN BAY CH6780 TO CH7340

KOROMIKO, MARLBOROUGH

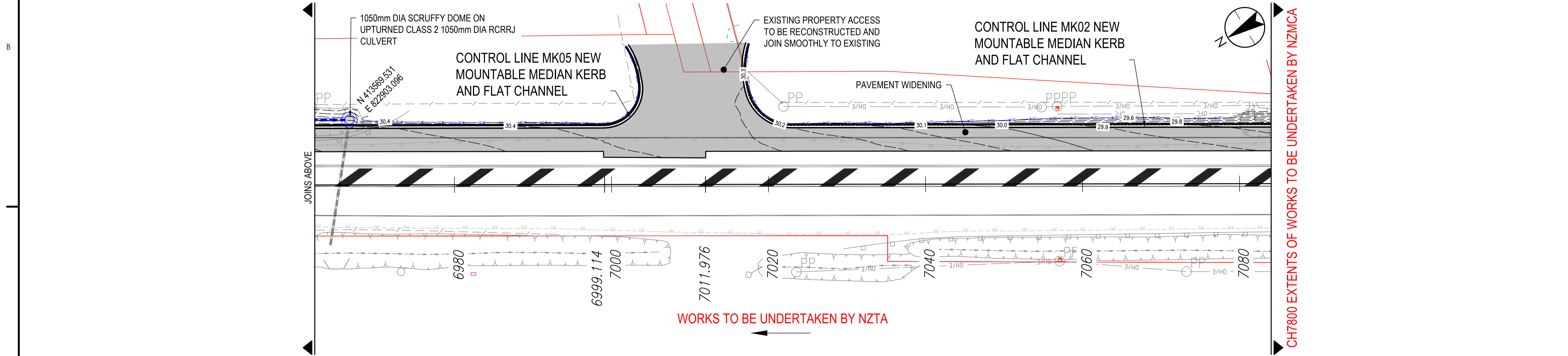
Project Number: 310205957

SCHEDULE OF DRAWINGS	
DRAWING No.	DESCRIPTION
310205957-CI-1000	COVERSHEET AND DRAWING SCHEDULE
310205957-CI-1010	GENERAL ARRANGEMENT SHEET 1 OF 3
310205957-CI-1011	GENERAL ARRANGEMENT SHEET 2 OF 3
310205957-CI-1012	GENERAL ARRANGEMENT SHEET 3 OF 3
310205957-CI-1210	PAVEMENT MARKING & SIGNAGE SHEET 1 OF 3
310205957-CI-1211	PAVEMENT MARKING & SIGNAGE SHEET 2 OF 3
310205957-CI-1212	PAVEMENT MARKING & SIGNAGE SHEET 3 OF 3





WORKS TO BE UNDERTAKEN BY NZTA



WORKS TO BE UNDERTAKEN BY NZTA

CH7800 EXTENTS OF WORKS TO BE UNDERTAKEN BY NZMCA

GENERAL ARRANGEMENT
SCALE 1:250m

REFER TO DWG. 1012 FOR NOTES AND LEGEND.

Notes

Issue Status	Colour Disclaimer
<p>PRELIMINARY NOT TO BE USED FOR CONSTRUCTION PURPOSES</p> <p>This document is suitable only for the purpose noted above. Use of this document for any other purpose is not permitted.</p>	<p>This drawing has been documented in colour. This drawing is required to be printed in colour. Failure to do so may result in loss of information. Black and white printing may be used if specific black and white documents have been obtained from Stantec.</p>

Issue Status

PRELIMINARY
NOT TO BE USED FOR CONSTRUCTION PURPOSES

This document is suitable only for the purpose noted above. Use of this document for any other purpose is not permitted.

Colour Disclaimer

This drawing has been documented in colour. This drawing is required to be printed in colour. Failure to do so may result in loss of information. Black and white printing may be used if specific black and white documents have been obtained from Stantec.

Notes

File Name:
310205957-CI-1010-1012 GNRL-ARMT

Stantec Australia Pty Ltd | ABN 17 007 820 322
15 Scott Street, Parramatta Park
Cairns QLD 4870
Tel: 07 4034 0500
Web: www.stantec.com/au

Copyright Reserved

The Copyrights to all designs and drawings are the property of Stantec. Reproduction or use for any purpose other than that authorised by Stantec is forbidden. The Contractor shall verify and be responsible for all dimensions. DO NOT scale the drawing - any errors or omissions shall be reported to Stantec without delay.

Client/Project Logo

Client/Project

WAKA KOTAHI NZ TRANSPORT AGENCY

SH1S AND FREETHS ROAD
INTERSECTION RIGHT TURN BAY
CH6780 TO CH7340
KOROMIKO, MARLBOROUGH

Authorised: YYYY.MM.DD

MCD: JK AB 2024.01.25
Dwn: Dsgn. Chkd. YYYY.MM.DD

Title

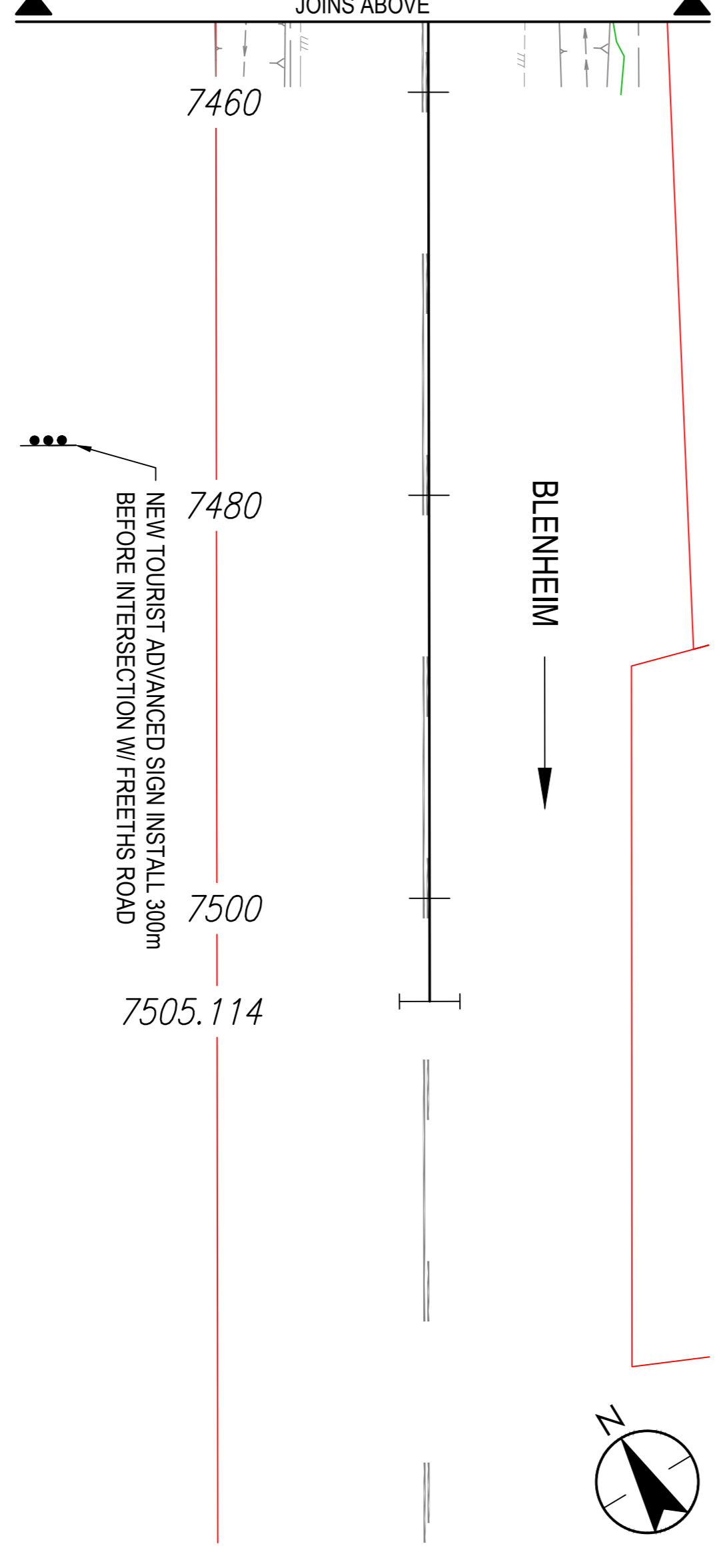
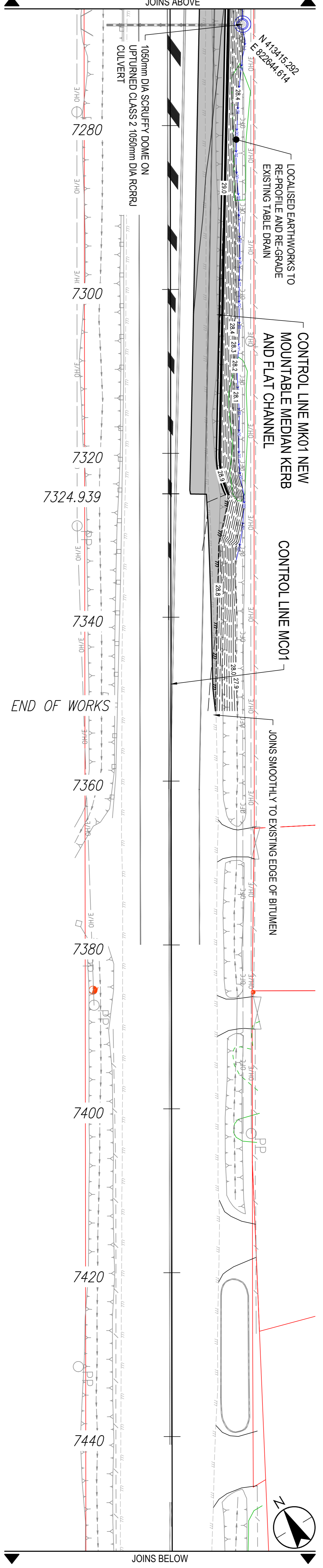
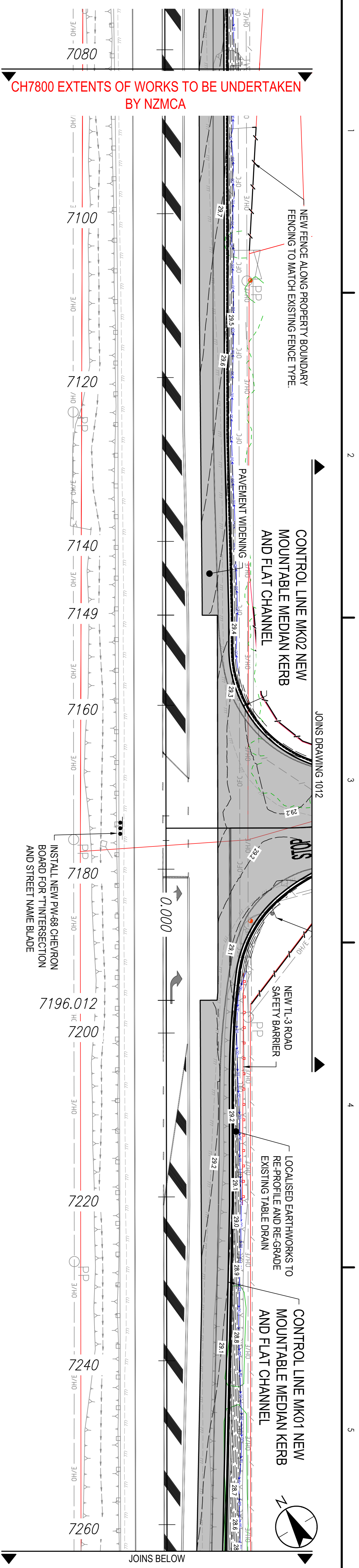
GENERAL ARRANGEMENT
SHEET 1 OF 3

Project No. 310205957
Scale 1:250 A1

Revision 1
Drawing No. 310205957-CI-1010

Printed: 20/01/2024 11:28:30 AM By: HELMANN, LARNA
L:\2024\01\310205957\CI-1010-1012\310205957-CI-1010-1012.dwg

ORIGINAL SHEET - ISO A1 COORD. DATUM - AHD



GENERAL ARRANGEMENT
SCALE 1:250m

REFER TO DWG. 1012 FOR NOTES AND LEGEND.

Noted: 25/01/2024 11:39:33 AM By: KEIMANN, JANNIA
C:\1250\DATA\AURORA\310205957\310205957\FREETHS RD 247.1201_AURORA.DWG

Scale 1:250

Scale 1:250

1	FOR CLIENT APPROVAL	JK	AB	2024.07.25
Issued/Revision				
By: APOI YTTYJ.MXJ.DD				

Issue Status: **PRELIMINARY**
NOT TO BE USED FOR CONSTRUCTION PURPOSES

Colour Disclaimer: This drawing has been documented in colour. It is intended to be printed in black and white. Any colour shown on this drawing is for reference only. The use of this drawing for any other purpose is not permitted.

Notes: This document is suitable only for the purpose noted above. Use of this document for other purposes is not permitted.

File Name: 310205957-CI-1010-1012 GENL.ARM.T

Copyright Reserved

Stantec
Stantec Australia Pty Ltd | ABN 17 007 800 322
15 Scott Street, Parramatta Park
Cairns QLD 4870
Tel: 07 4024 0500
Web: www.stantec.com.au

Client/Project Logo: WAKA KOTAHU NZ TRANSPORT AGENCY

Client/Project: WAKA KOTAHU NZ TRANSPORT AGENCY
SHS AND FREETHS ROAD INTERSECTION RIGHT TURN BAY CH6780 TO CH7340 KOROMIKO, MARLBOROUGH

Authorised: YTTYJ.MXJ.DD

MCD	JK	AB	2024.07.25
DWG	DGR	CRD	YTTYJ.MXJ.DD

Project No: 310205957
Drawing No: 310205957-CI-1011
Scale: 1:250
A1

