

Meeting	Kaipara District Council
Date	Thursday 30 May 2019
Time	Meeting commenced at 9.35am Meeting concluded at 4.22pm
Venue	Kaihu Hall – 43 Kaihu Wood Road, Kaihu
Status	Confirmed

Open Minutes

Membership

Chair:

Mayor Jason Smith

Members:

Deputy Mayor Peter Wethey

Councillor Anna Curnow

Councillor Victoria del la Varis-Woodcock

Councillor Julie Geange

Councillor Libby Jones

Councillor Karen Joyce-Paki

Councillor Jonathan Larsen

Councillor Andrew Wade

Jason Marris
General Manager Governance, Strategy and Democracy

5.3 District Plan – Refining NZ Company Limited Designation Conditions

District Planner 3805.01

Moved Geange/Curnow

That Kaipara District Council:

- a) *Approves the amendment of the Operative Kaipara District Plan by including the conditions attached to the Designation of The New Zealand Refining Company Limited D63.*

Carried

Meeting adjourned for morning tea at 11.00am

District Plan - Refining NZ Company Limited Designation Conditions

Meeting: Kaipara District Council
Date of meeting: 30 May 2019
Reporting officer: Paul Waanders: District Planner

Purpose/Ngā whāinga

To obtain Council approval to include the conditions attached to The New Zealand Refining Company Limited's pipeline Designation into the Operative Kaipara District Plan.

Executive summary/Whakarāpopototanga

Traditionally the conditions attached to designations were not included into the District Plan and applicants had to consult the Requiring Authority to determine what the conditions were when operating within the designation area.

As of late conditions are required to be recorded in the District Plan to create certainty and inform landowners of these conditions.

Recommendation/Ngā tūtohunga

That Kaipara District Council:

- a) Approves the amendment of the Operative Kaipara District Plan by including the conditions attached to the Designation of The New Zealand Refining Company Limited D63.

Context/Horopaki

Section 175(2) of the Resource Management Act (RMA) requires inter alia that:

(2) The territorial authority must, as soon as practicable and without using [Schedule 1](#),—

(a) include the designation in its district plan and any proposed district plan as if it were a rule in accordance with the requirement as issued or modified in accordance with this Act;

Although the Designation (D63) was included in the Schedule of Designations in Appendix 21.1 of the District Plan, the conditions attached to the Designation were never included into the District Plan which is now a requirement.

Discussion/Ngā kōrerorero

On 12 June 2008 Commissioners H Bhana and L Simmons recommended that the Kaipara Operative District Plan provide for an existing Petroleum Products Transmission Line that extends from the Rodney District Boundary near Vipond Road Wellsford to the Whangarei District Boundary near Artillery and Massey Roads, subject to certain conditions.

The Requiring Authority, The New Zealand Refining Company Ltd, accepted the provisions and conditions with some smaller amendments of the Designations which became the substantive decision.

The Designation was incorporated into the Operative District Plan and subsequently in the 2013 Kaipara Operative District Plan as:-

Appendix 21.1 - Schedule of Designations				
ID	Map No.	Designation/Purpose	Requiring Authority	Underlying Zoning
D63	16, 17, 21, 24	Petroleum Pipeline	New Zealand Refining Company Limited	Rural

Traditionally conditions attached to a Designation were not recorded in the District Plan as these were the requirements of the Requiring Authority. However as of late the conditions are now required to be included in the District Plan as the single document that forms the basis of land-use controls. Including conditions ensures certainty for developers of what is to be provided for but also it ensures compliance for the Requiring Authority that the Designation will be observed and conditions are complied with.

The agent for The New Zealand Refining Company Limited has now requested that the conditions be included in the Operative District Plan to comply with the provisions of sec 175(2) "*as if it were a rule in accordance with the requirement as issued or modified in accordance with this Act;* "

Options

The conditions attached to the Designation are an integral part of the Designation and incorporating these into the District Plan has become a requirement.

There are two options to consider how these are incorporated:

Option 1. Include the conditions and any amendments through the comprehensive District Plan Review where all the Requiring Authorities will assess the Designation and will decide if these should lapse, should be rolled over and or be amended.

Option 2. Include the conditions when the Designation is approved and is incorporated into the District Plan in terms of section 175(2) without the formal process prescribed in schedule 1 to the RMA.

Option 2 is recommended. This will require the District Plan to be amended to include the approved conditions without following the process prescribed in Schedule 1 of the RMA.

The reason for this recommendation is based on the request by the agent for The New Zealand Refining Company Limited that the conditions be incorporated into the Operative District Plan due to development occurring along the route of the pipeline. In the light of the recent breach of the petroleum line and the risks any future breaches pose to our communities as well as Council's reputation, it would be advisable that developers are made aware of the conditions that apply along the designated pipeline route.

Policy and planning implications

There are specific reasons, outlined above, for undertaking this amendment before the comprehensive review of the District Plan. Although it might be applicable for other designations it is not suggested that all designation conditions be incorporated into the District Plan at this stage. These will be dealt with during the comprehensive review. If, however there are significant reasons for conditions to be incorporated in to the District Plan, these applications will be dealt with as they are submitted.

Financial implications

There are no financial implications for this single application. However, if many applications are submitted it will require staff reallocation to work through the history of these other designations. If these are scheduled as part of the District Plan review programme they will be included in this programme as business as usual.

Risks and mitigations

This application may trigger requirements from other Requiring Authorities who may request that their designation conditions should also be incorporated as soon as possible. These should be considered as they are lodged. The effect of designation conditions on imminent development will determine whether the conditions will receive priority and require a future decision from Council.

Significance and engagement/Hirahira me ngā whakapāpā

The decisions or matters of this report do not trigger the significance criteria outlined in Council's Significance and Engagement Policy, and the public will be informed via agenda on the website.

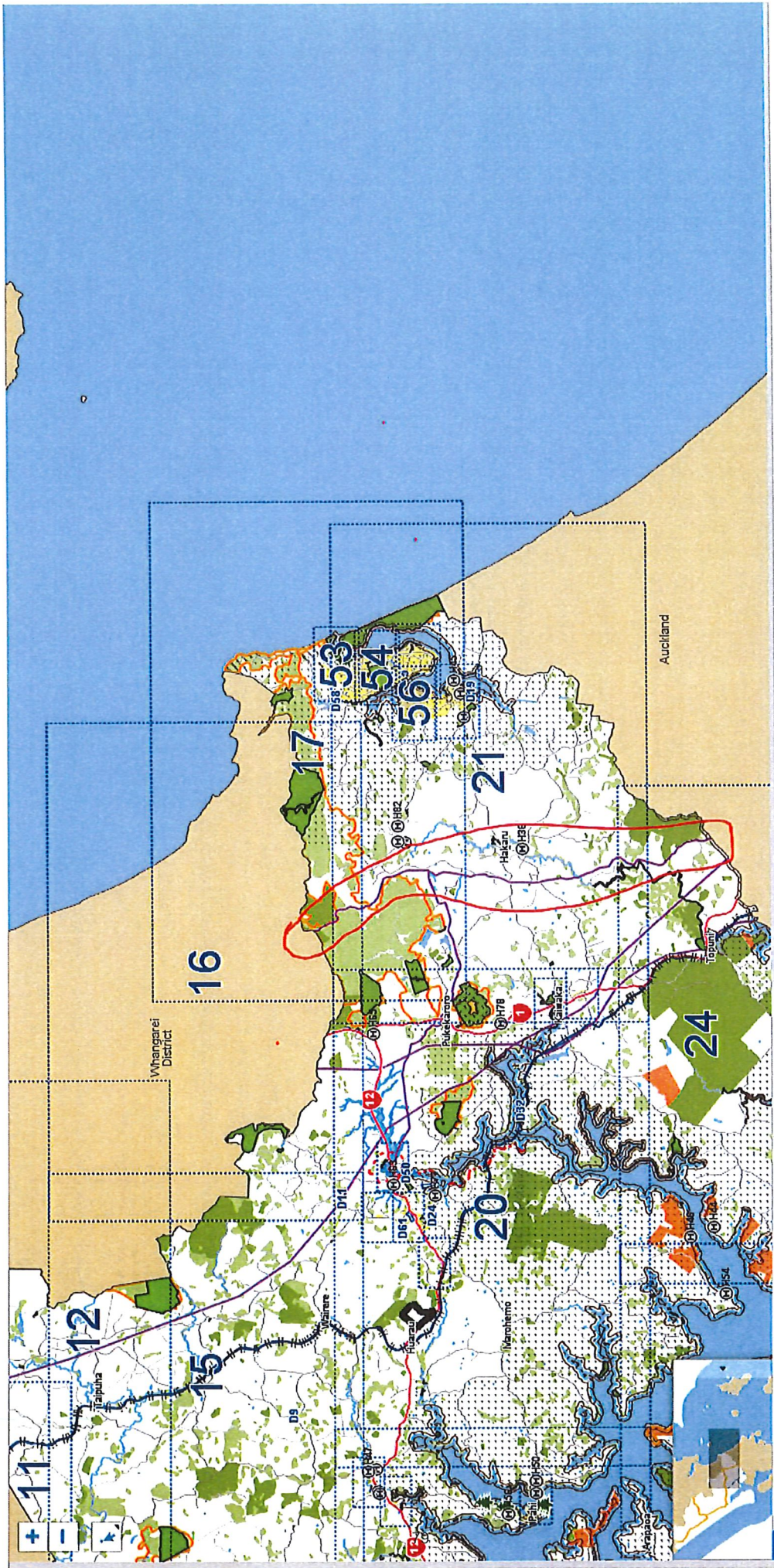
Next steps/E whaiake nei

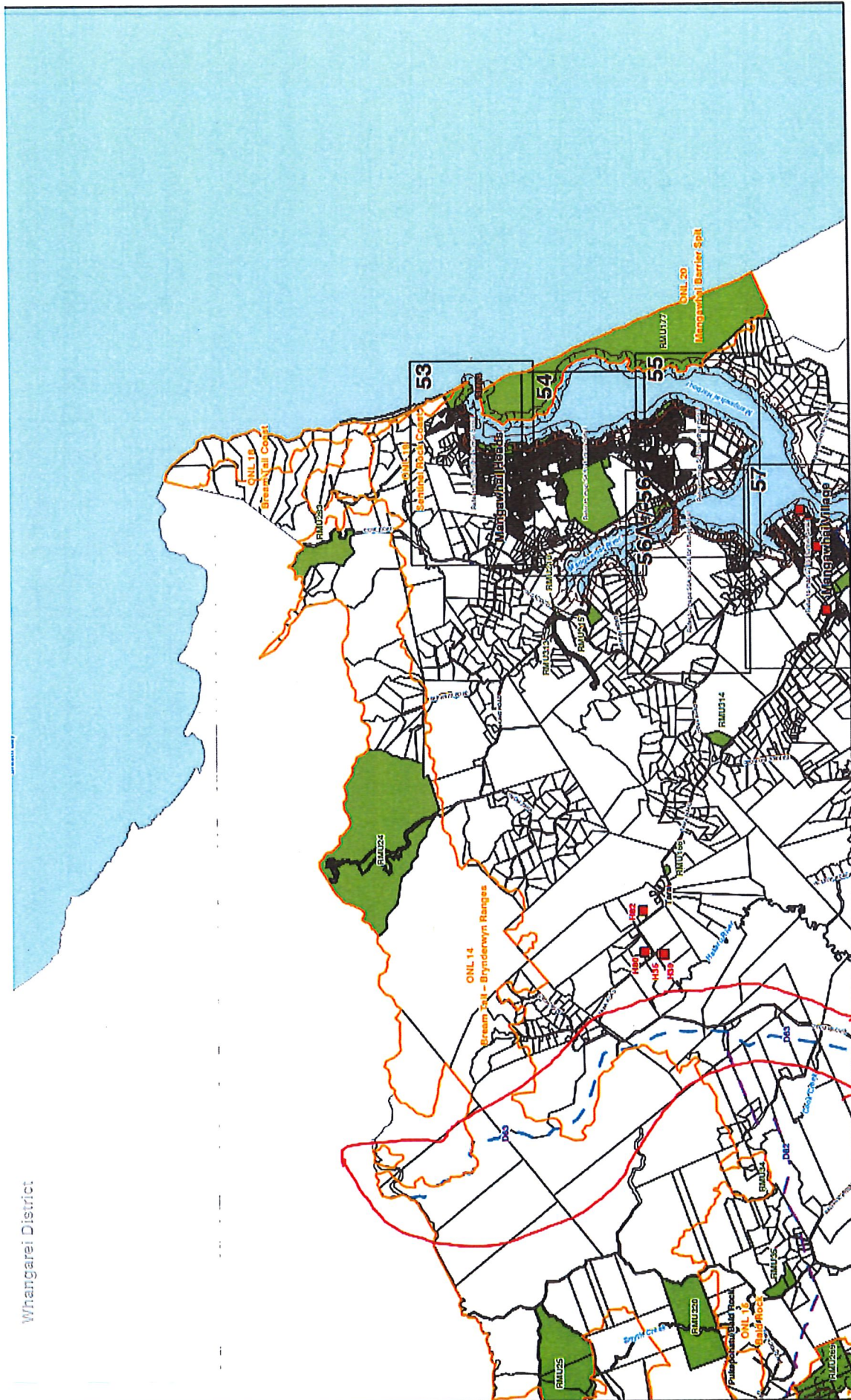
The Operative District Plan will be amended by the inclusion of the Conditions approved by the Requiring Authority, The New Zealand Refining Company Limited.

Attachments/Ngā tapiritanga

	Title
A	Maps depicting the location of Designation D63 Petroleum Pipeline
B	Conditions attached to Designation D63

Paul Waanders, 03 May 2019





KAIPARA DISTRICT
Kaipara District Council
Kaipara 14, Whangarei • Phone 09 438 8888

Scale: 1:50,000 @ A3
Contains Crown Copyright Data. Crown Copyright Reserved.
This plan is a representation of the information available to the Council at the time of its preparation. It is not a guarantee of accuracy. The Council is not responsible for any errors or omissions. The Council is not responsible for any damage or loss resulting from the use of this plan. The Council is not responsible for any damage or loss resulting from the use of this plan.

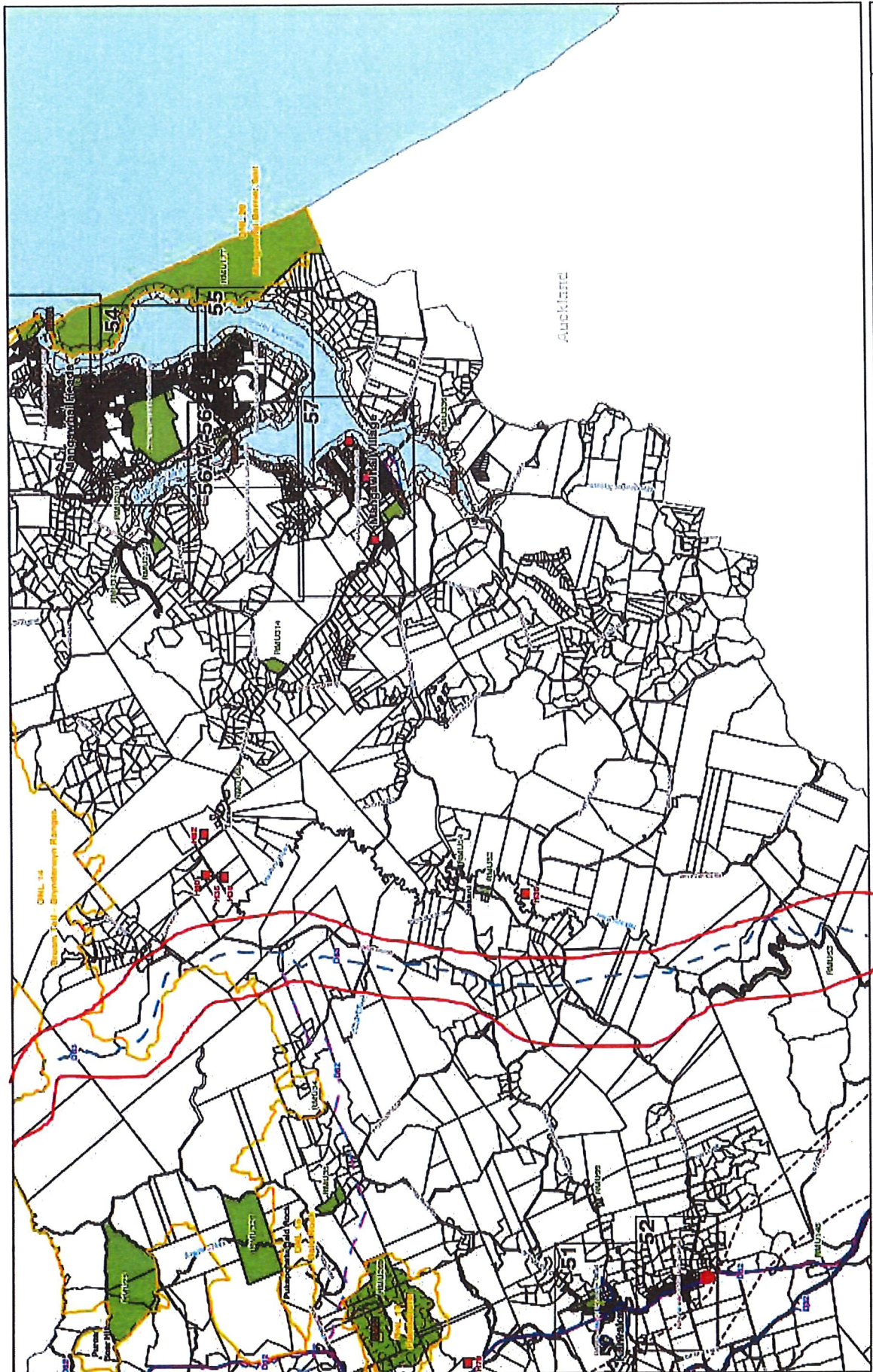
KAIPARA DISTRICT PLAN - OPERATIVE VERSION - NOVEMBER 2013

Map Series Two

Sites, Features and Units

Map 17 of 60

North arrow pointing up.





KAIPARA DISTRICT

KAIPARA DISTRICT PLAN - OPERATIVE VERSION - NOVEMBER 2013

Map Series Two

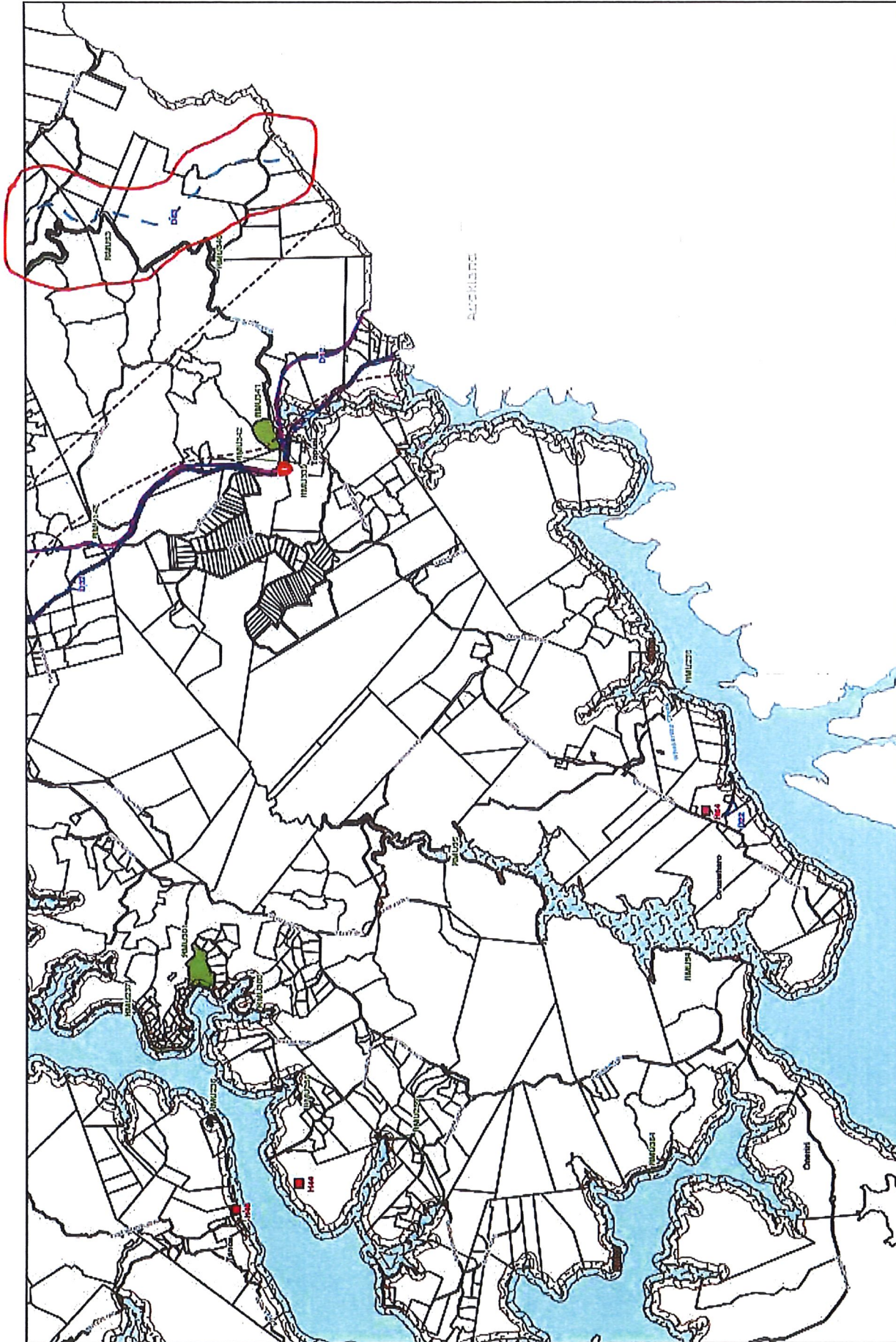
Sites, Features and Units

Map 21 of 80

Scale: 1:50,000 @ A3

Copyright Crown Copyright Data, Crown Copyright Reserved.

Information provided is for general information only. It is not intended to be used for any other purpose. All information is provided as is, without any warranty, express or implied. The user of this information is responsible for its use and for any consequences arising from its use.





Kaipara District
Kaipara District Council

Scale: 1:50,000 @ A3

Contains Crown Copyright Data. Crown Copyright Reserved.
This map is a reproduction of the original map and is not a substitute for the original map. It is intended for general information only and should not be used for navigation or other purposes. The map is not a substitute for a professional survey or other official documents. The map is not a substitute for a professional survey or other official documents.

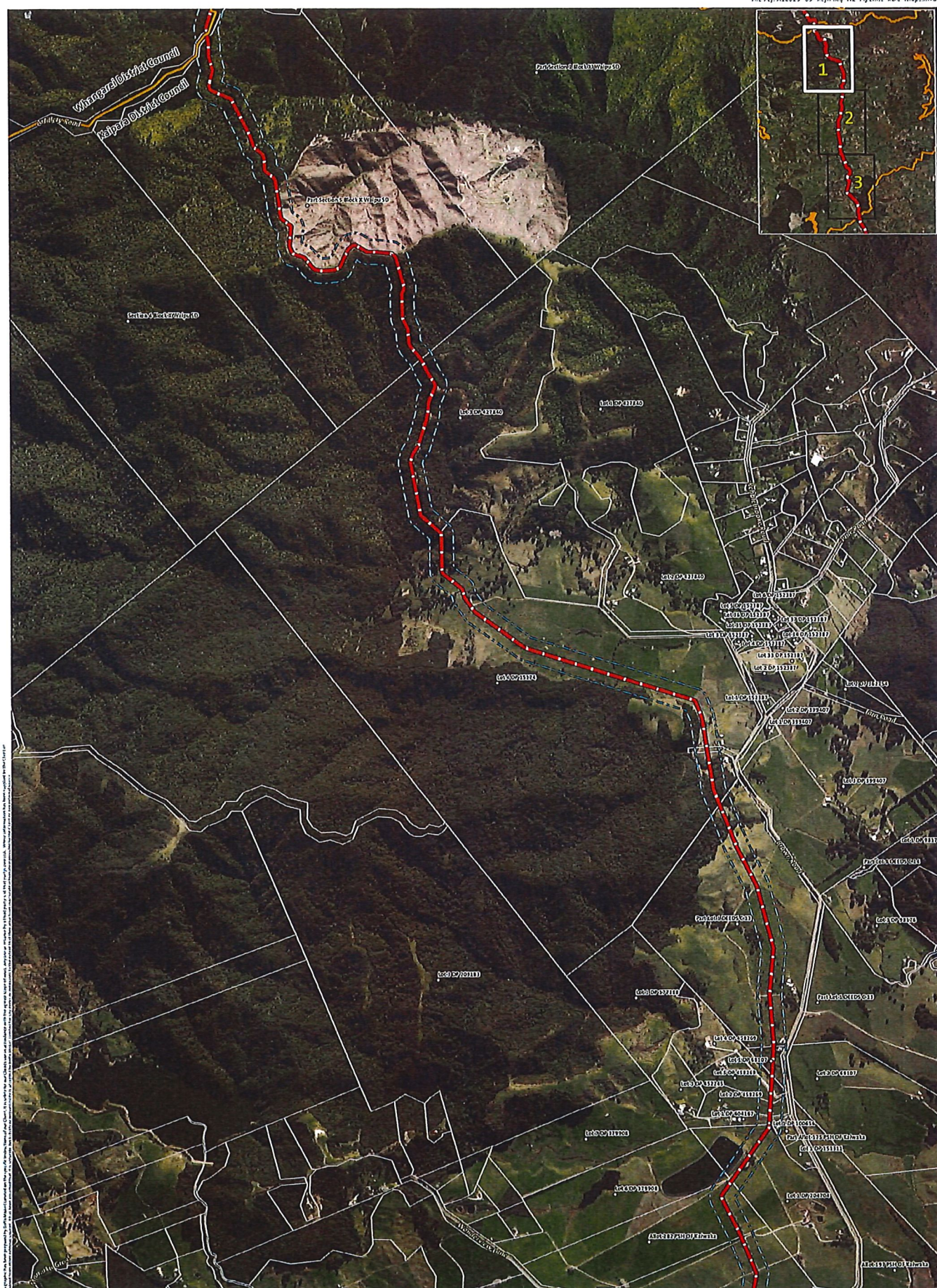
KAIPARA DISTRICT PLAN - OPERATIVE VERSION - NOVEMBER 2013

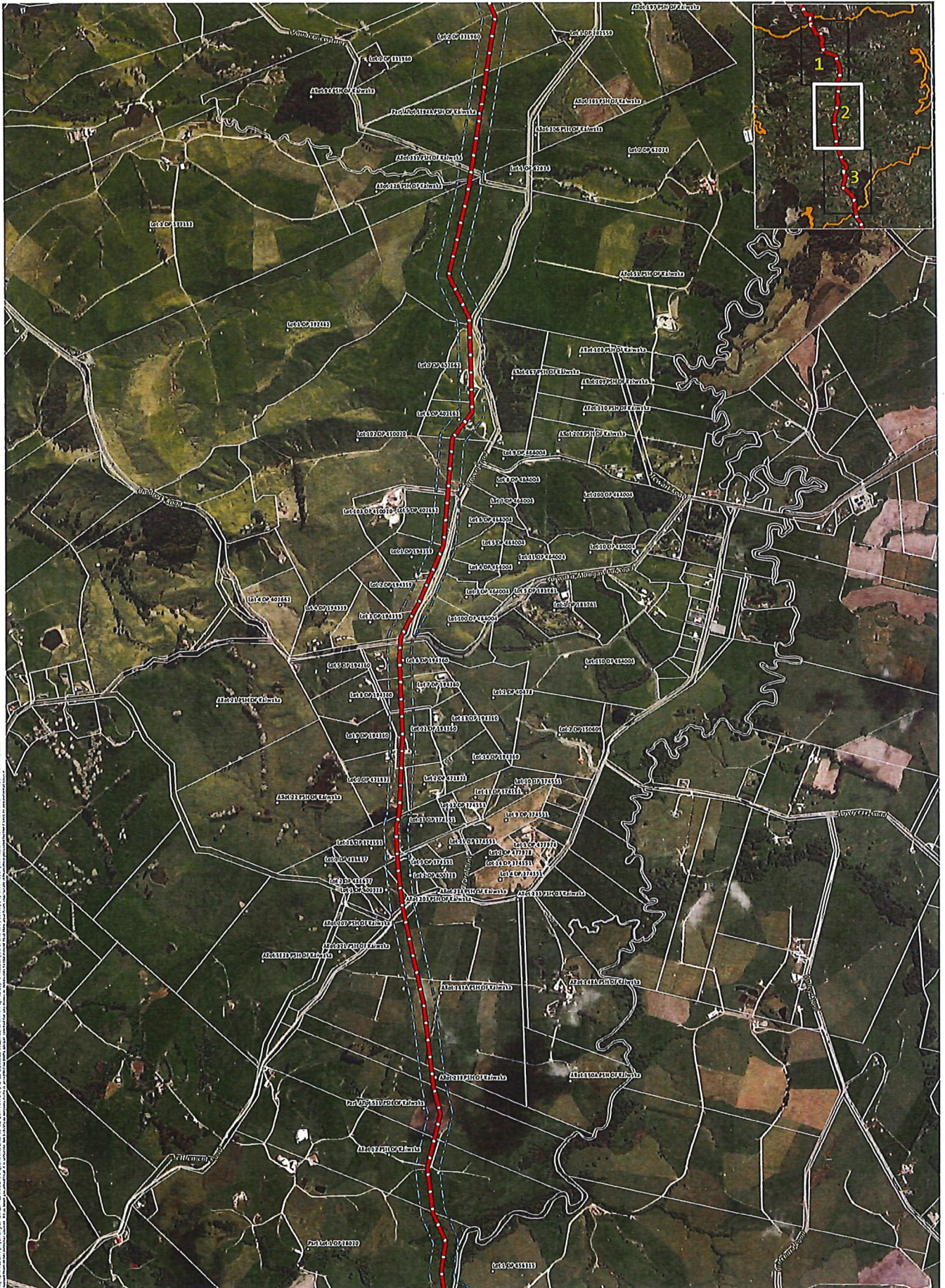
Map Series Two

Sites, Features and Units

Map 24 of 60









Appendix

NOTICE OF REQUIREMENT BY THE NEW ZEALAND REFINING COMPANY LIMITED TO KAIPARA DISTRICT COUNCIL

1. PURPOSE OF DESIGNATION

- 1.1 The designation by The New Zealand Refining Company Limited (NZRC) is for the operation, maintenance and repair, upgrade and renewal of the existing petroleum transmission pipeline and ancillary facilities as required for the transportation of refined fuel products and described as follows:

- (i) The existing 275mm petroleum transmission pipeline
- (ii) the existing isolation valves
- (iii) cathodic protection terminals
- (iv) surface marker posts and warning signage

located between the northern district boundary extending from Artillery Road and the southern district boundary extending from Mangawhai Road at Kaiwaka.

- 1.2 The designation is subject to the following limitations:

- Renewal shall be limited to works on the petroleum transmission pipeline and will be limited to replacement of sections of the pipeline with sections having equivalent diameter and no more than [50] lineal metres of pipeline will be excavated at any particular time.
- Upgrade will be limited to adding or replacing aboveground components provided the district plan relevant permitted activity standards are complied with.

- 1.3 The designation affects land legally described in Appendix III "List of Property Owners located along the RAP Route" to the Notice of Requirement as submitted to Kaipara District Council.

2. RESTRICTIONS OF DESIGNATION

- 2.1 No persons shall:

- Erect any structure, or
- Erect any fence with supports which extend more than 0.4m into the ground from the surface, or
- Plant any tree or shrub, or
- Disturb the soil below a depth of 0.4m from the surface, or
- Do anything on or to the land which would or could damage or endanger the pipeline

within the designated corridor without first obtaining the written consent of NZRC.

For the avoidance of doubt, such written consent shall not be required for ordinary cultivation, digging, excavating, tilling and working soil to a depth of less than 0.4m or where NZRC has provided specific written approval prior to the designation coming into effect. A minimum of 1m cover shall remain above the top of the pipe after any ordinary cultivation, digging or excavation has taken place.

Landowners and/or developers can apply to NZRC for consent to do any work on the land within the designation corridor. NZRC will review each application with the landowner and/or developer and work to achieve the most suitable outcome for all parties. NZRC may give its written consent subject to reasonable conditions including the power to revoke the consent in specified circumstances.

NZRC agrees to not unreasonably withhold its consent.

Works or activities that would or could damage or endanger the pipelines include, for example, the use of heavy compaction or vibration machinery or equipment, pile driving machinery and equipment, trenching, excavation or drilling (including micro drilling and directional drilling).

- 2.2 No person shall undertake road opening, trenching, excavation or drilling (including micro drilling and directional drilling), or lay underground high voltage power lines >450v either in parallel with or intersecting NZRC's petroleum pipeline, without first obtaining NZRC's written approval.
- 2.3 However, subject to restriction 2.4, the restrictions in 2.1 and 2.2 above do not apply, and NZRC's consent is not required under section 176 of the Resource Management Act 1991 to the following activities, provided that a Road Opening Notice has been obtained from the Kaipara District Council:
- any road widening or associated works;
 - any repair, maintenance or upgrade to existing road surface;
 - any repair, maintenance or upgrade to any existing network utility infrastructure

Provided in all cases that:

- soil is not disturbed below a depth of 0.4m from the surface; and
- after works, the finished surface level is not reduced below the pre-existing surface datum.

Where works in the above categories would exceed a depth of 0.4m from the surface and/or after completion of such works the finished surface level is proposed to be reduced below the pre-existing surface datum then application shall be made to NZRC for consent to do the works. NZRC will review each application with the applicant and work to achieve the most suitable outcome for all parties. NZRC may

give its written consent subject to reasonable conditions, and agrees to not unreasonably withhold its consent.

- 2.4 The exception provided by restriction 2.3 will only apply from the date that Kaipara District Council formally adopts and implements either the Code of Practice for Working in the Road, Auckland Region or a National Code of Practice for Working in Roads which may be developed pursuant to the January 2008 Cabinet paper *Management of Utilities' Access to Road, Rail and Motorway Corridors*, provided the Code of Practice adopted and implemented contains provisions that are substantially similar to those contained in the Code of Practice for Working in Roads, Auckland Region, requiring notification to utility providers of works intended by other parties in the vicinity of existing utility infrastructure.

3. CONDITIONS

- 3.1 Subject to these conditions, works shall be undertaken in general accordance with the plans and information submitted by the requiring authority in the documents entitled *"Proposed Designation Relating to the Refinery to Auckland Pipeline"*.
- 3.2 The maximum width of the designation shall be as follows:
- For land, not including roads 12 metres
 - For land comprising roads and rail corridor under which the pipeline crosses, or is contained within 6 metres.
- 3.3 All pipeline maintenance, repair, upgrade and renewal activities within road reserves that involve excavation shall be pursuant to the Road Opening Notice requirements of the Council.
- 3.4 All pipeline maintenance, repair, upgrade and renewal activities outside road reserves that involve excavation shall be in accordance with the Guide to Land Access for the Oil and Gas Industry and Landowners (2002).
- 3.5 Where maintenance, repair, upgrade and renewal activities involving excavation are undertaken pursuant to the designation, appropriate sediment and erosion measures shall be employed, in accordance with the Operative Kaipara District Plan.
- 3.6 Scheduled maintenance, repair, upgrade or renewal work and associated activities shall be limited to between the hours of 7am and 7pm, Monday to Saturday (excluding public holidays) except with the prior approval of the Council.
- 3.7 All works or activities related to the designation shall be undertaken in compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances 2001 (NZECP 34:2001).
- 3.8 The noise from maintenance works, repair, upgrade and renewal activities shall be measured, assessed and controlled in accordance with the procedures and limits set out NZS 6803:1999 Acoustics — Construction Noise.

-
- 3.9 NZRC shall consult with Transit New Zealand at least 30 working days prior to carrying out any works or activities on, in or under State Highways, except in emergency situations.
 - 3.10 NZRC shall consult with the Council at least 15 working days prior to carrying out any works or activities on, in or under Council-controlled roads, except in emergency situations.
 - 3.11 The requiring authority shall respond within 15 working days of receiving any request for its written approval under section 176 of the Resource Management Act 1991.

4. ADVICE NOTES

- 4.1 Access to overhead electricity transmission lines, poles or supporting structures shall be maintained at all times in accordance with the Electricity Act 1992.
- 4.2 NZRC has confirmed that it will consult with land owners and occupiers who may be affected by maintenance works, repair, upgrade or renewal activities to reach fair and reasonable arrangements for entry, and to address any matters regarding effects of maintenance, repair, upgrade or renewal activities, including restoring the surface of the land following maintenance, in accordance with its relevant obligations under the pipeline easement.
- 4.3 This designation traverses earlier Transit New Zealand designations that are protected pursuant to sections 176 and 177 of the Resource Management Act 1991, and State Highways which are protected pursuant to sections 51 and 52 of the Transit New Zealand Act 1989. Where that occurs, the Requiring Authority may only carry out its activities with the written consent of Transit New Zealand.
- 4.4 The Requiring Authority is obliged to operate the pipelines and ancillary facilities in accordance with the requirements of AS2885: Pipelines — Gas and Petroleum Liquids, the Health and Safety in Employment (Pipelines) Regulations 1999 and in accordance with the authorisations issued for those facilities in terms of the Petroleum Act 1937.
- 4.5 Emergency works may be performed in line with the Vector advice booklet by excavation to 0.4m depth and thereafter the use of hand tools only. Emergency operations should be notified immediately to Vector Gas Ltd who provide an on-call service outside of normal working hours.
- 4.6 An authority may need to be obtained from the New Zealand Historic Places Trust to destroy, damage or modify an archaeological site in accordance with the Historic Places Act 1993.
- 4.7 The Requiring Authority may need to seek resource consent from the Northland Regional Council in accordance with the provisions of the Northland Regional Council Water and Soil Plan for Northland.
- 4.8 The Kaipara District Council intends to adopt the National Code of Practice for Utilities' Access to the Road and Rail Corridors with the applicable Corridor Access request superseding the Application to trench Across Unsealed or Sealed Road.

-
- 4.9 Where works or activities are proposed on, in or under Council-controlled roads, NZRC and the Council will undertake consultation in accordance with the principles of collaboration and coordination contained in the January 2008 Cabinet paper *Management of Utilities' Access to Road, Rail and Motorway Corridors*.