

HEARINGS COMMITTEE AGENDA

THURSDAY, 14 DECEMBER 2023, 9.00 AM

**Otaru Room, 2nd Floor, Civic Centre
50 The Octagon, Dunedin**

MEMBERSHIP:

Commissioner Louise Taylor

IN ATTENDANCE:

Campbell Thomson (Senior Planner/Committee Advisor),
Lianne Darby (Associate Senior Planner), Katie Eglesfield
(Parks and Recreation Planner), Zoe Lunniss (Biodiversity
Officer) and Wendy Collard (Governance Support Officer)

PART A (Committee has the power to decide these matters):

- 1 **ESPLANADE RESERVE WAIVER – SUB-2022-114, 3 Chelivode Street, Waitati and 175 Mopanui Road, Blueskin**

Introduction

Applicant to introduce themselves and their team.

Procedural Issues

Any procedural matters to be raised.

Presentation of the Planner's Report

Memorandum from Lianne Darby

Refer to pages 1 - 5

The Applicant's Presentation

Refer to pages 6 – 79

Biodiversity Comments

Memorandum from Biodiversity Advisor

Refer to pages 80 – 83

Parks and Recreation Comments

Memorandum from Parks and Recreation Planner

Refer to pages 84 – 87

LUC-2021-345

Refer to pages 88 - 104

The Planner's Review of their Recommendation

The Planner reviews their recommendation with consideration to the evidence presented

The Applicant's Response

The Applicant to present their right of reply

PLEASE NOTE: The **only** section of the hearing which is not open to the public is the Committee's final consideration of its decision, which is undertaken in private. Following completion of submissions by the applicant, submitters and the applicant's right of reply, the Committee will make the following resolution to exclude the public. All those present at the hearing will be asked to leave the meeting at this point.

RESOLUTION TO EXCLUDE THE PUBLIC

To be moved:

“That the public be excluded from the following parts of the proceedings of this meeting, namely, Item 1.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48 (1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

	General subject of each matter to be considered.	Reason for passing this resolution in relation to each matter.	Ground(s) under section 48 for the passing of this resolution.
1	Resource Consent application – 3 Chelivode Street, Waitati and 175 Mopanui Road, Blueskin	That a right of appeal lies to any Court or Tribunal against the Dunedin City Council in these proceedings.	Section 48(1)(d)

TO: Hearing Commissioner

FROM: Lianne Darby, Associate Senior Planner

DATE: 21 November 2023

SUBJECT: **RESOURCE CONSENT APPLICATION
SUB-2022-114
175 MOPANUI ROAD, BLUESKIN
3 CHELIVODE STREET, WAITATI**

DESCRIPTION OF ACTIVITY

Resource consent is sought for the two-lot subdivision of part of 3 Chelivode Street, Waitati, and part of 175 Mopunui Road with proposed Lot 2 to be transferred to the property of 175 Mopunui Road (Orokonui Ecosanctuary). The subject sites are:

- 3 Chelivode Street, being the land legally described as Lot 2 Deposited Plan 403524, and Lot 1-2, 5 Deposited Plan 392376 and Section 3-6, 8 Survey Office Plan 23545, held in Record of Title 411554, and having an area of 158.4546ha. 3 Chelivode Street is a rural property of very irregular shape situated at the edge of the Waitati township. This proposal involves the subdivision of Lot 1 DP 392376 (76.8378ha) only, with the remaining land becoming balance parcels.
- 175 Mopunui Road, being the land legally described as Lot 3-4, 6 Deposited Plan 392376 and Section 1 Survey Office Plan 396241, held in Record of Title 505712 and having an area of 60.3590ha. This site forms part of the Orokonui Ecosanctuary and is covered in mature vegetation. It shares a boundary with 3 Chelivode Street on its northern side. Only Lots 3 and 6 DP 392376 (58.7230ha) are involved in this subdivision, with the remaining land becoming balance parcels.

The proposal is to subdivide Lots 1, 3 and 6 DP 392376 into two lots and to create a right of way over Lot 1 in favour of Lot 2. The right of way will be over an existing access which weaves up a steep portion of the hillside outside of 175 Mopunui Road.

Proposed Lot 1 will have an area of 76.7276ha, and Lot 2, 58.5835ha. The application will involve the following amalgamation conditions to recreate the sites of 3 Chelivode Street and 175 Mopunui Road.

'That Lot 1 hereon and Lot 2 403524, and Lot 2, 5 Deposited Plan 392376 and Section 3-6, 8 Survey Office Plan 23545 (residue RT 411554) be held in the same record of title (See CSN Request ...).'

'That Lot 2 hereon and Lot 4 DP 392376 and Section 1 SO 39624 (residue 505712) be held in the same record of title (See CSN Request ...).'

The result of the subdivision is to transfer 1305m² of land from 3 Chelivode Street to 175 Mopunui Road for the purpose of having an area to deposit clean fill (debris from culverts). Land use consent LUC-2021-345 was issued on 9 August 2021 for the undertaking of earthworks on 175 Mopunui Road, with the excavated material to be deposited on 3 Chelivode Street.

Orokonui Creek passes through proposed Lot 1 from south to north. The waterway is shown on the Proposed Plan as requiring an esplanade reserve. It is also subject to a high class soils overlay, and an Area of Significant

Biodiversity Value (Orokonui Stream) overlay. Independently of the Proposed Plan, the waterway is subject to a Conservation Covenant registered on the title pursuant to section 77 of the Reserves Act 1977.

Following advice to the applicant on 18 August 2022 that the esplanade reserve requirement needed to be addressed as part of the subdivision proposal, the applicant had the application placed on hold.

An application to waive the esplanade reserve requirement was received at Council on 7 November 2023. In the 15-month interim, the applicant has sought from the Department of Conservation (“DoC”) a change to a clause of the Conservation Covenant to allow unlimited public access to the covenanted land on either side of the Orokonui Creek. Currently, public access is only available with the prior permission of the landowner, “... the giving of which should not unnecessarily be withheld.” The applicant had not had a decision from the DoC by 7 November 2023. The applicant seeks to progress to a hearing on the waiver of the esplanade reserve on the understanding that an application has been submitted to DoC and a response is still pending.

PLANNING PROVISIONS

Proposed Plan

3 Chelivode Street is zoned **Rural – Coastal**. There is an **Esplanade Reserve** requirement along Orokonui Creek, and this area is an **Area of Significant Biodiversity Value – C041 (Orokonui Stream)**. Part of the site is **High Class Soils**. The eastern portion of the site is within the **Purakanui and Orokonui Significant Natural Landscape (SNL)**.

175 Mopanui Road is zoned **Rural – Hill Slopes**. Much of the site is within the **Purakanui and Orokonui Significant Natural Landscape (SNL)**.

General subdivision in the rural zones is a restricted discretionary activity subject to compliance with the performance standards. The proposal will fail to comply with the following:

- Rule 16.7.2 requires subdivision to comply with Rule 10.3.1.
- Rule 10.3.1.X requires a 20m wide esplanade reserve along the banks of the Orokonui Creek. The applicant seeks to have no esplanade reserve along this waterway.

Activities that contravene this rule are considered to be a **restricted discretionary** activity pursuant to Rule 10.3.1.4.

- Rule 16.7.4.1.a requires a minimum site size of 40ha for the Rural – Coastal zone. The subdivision will result in a 1305m² area of the Rural – Coastal zone being transferred into a site of Rural – Hill Slopes zoning. While the overall site will be greater than 40.0ha, only 1305m² of it will be zoned Rural – Coastal, making a technical non-compliance with this rule.

Activities that contravene this rule are considered to be a **non-complying** activity pursuant to Rule 16.7.4.3.

Operative District Plan

Most of the relevant rules of the Proposed Plan for this zone and site have not been appealed and so the zoning and rules of the Operative Plan have been effectively superseded. In accordance with Section 86F of the Resource Management Act 1991 the Operative Plan provisions do not need to be considered as part of this subdivision application where replaced by the Proposed Plan provisions.

Resource Management Act 1991

Sections 77 and 230 of the Resource Management Act 1991 (RMA) allow for variation of the width of esplanade reserves, either in the District Plan or by a Resource Consent. In considering this request, Council is required to have regard to matters set out in section 229 of the RMA.

Section 229 of the Resource Management Act 1991 identifies the purposes for which these esplanade reserves or strips can be taken. The reserve or strip can have one or more of the following purposes:

- (a) *To contribute to the protection of conservation values by, in particular:*
 - (i) *Maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or*
 - (ii) *Maintaining or enhancing water quality; or*
 - (iii) *Maintaining or enhancing aquatic habitats; or*
 - (iv) *Protecting the natural values associated with the strip or reserve; or*
 - (v) *Mitigating natural hazards; or*
- (b) *To enable public access to or along any sea, river, or lake; or*
- (c) *To enable public recreation use of the strip or reserve and adjacent sea, river or lake, where the use is compatible with the conservation values.*

ASSESSMENT

The proposal is to subdivide two existing sites (158.4546ha and 60.3590ha) into two new sites (158.3241ha and 60.4895ha), being in effect a boundary adjustment. The 1305m² of 3 Chelivode Street being transferred to 175 Mopanui Road is situated next to the rear boundaries of both sites, well away from any road. It is also approximately 200m from the waterway within 3 Chelivode Street.

Orokonui Creek will be situated within proposed Lot 1 of the subdivision. It is fenced off from the pastoral land in accordance with the existing ASVB overlay. The ASBV aligns with the area covered by the Conservation Covenant. This ASBV C041 ranges in width from approximately 14m to approximately 37m, and is divided into north and south sections (with a link, C042, only 2.0m wide joining them). The waterway is contained within the fenced sections but is not necessarily positioned centrally. The ASBV contains mature vegetation but is not exclusively covered by vegetation.

There is a requirement to create a 20m wide esplanade reserve along both banks of the waterway at the time of subdivision. An application to waive this requirement is subject to Rule 10.5.3.2 which outlines Council's matters of discretion:

- a) Effects on biodiversity values and natural character values of riparian margins and the coast
- b) Effects on public access.

Biodiversity

The proposal to waive the esplanade reserve has been considered by Council's Biodiversity Officer. She advises that Orokonui Creek runs through 3 Chelivode Street and is listed in Appendix 10C as a waterbody with conservation values. These include the presence of indigenous freshwater species; banded kokopu, giant kokopu, inanga, longfin eel, shortfin eel, giant bully, redfin bully, bluegill bully and lamprey.

The ASBV is subject to a Conservation Covenant registered on the title of 3 Chelivode Street pursuant to section 77 of the Reserves Act 1977. Restrictions and stipulations of the covenant include, but are not limited to:

- a. Protection in perpetuity
- b. No change to the character of the topography of Covenant Areas except as authorised
- c. No buildings or structures, hoarding, or commercial development on the Covenant Areas
- d. No exotic planting or seed sowing to occur within the Covenant Area and no indigenous vegetation removal
- e. No grazing
- f. No disturbance to archaeological historical or traditional cultural sites
- g. The public shall have access to and across the Covenant Area with prior permission to the landowner

The Biodiversity Officer notes that the section of Orokonui Creek requiring consideration of an esplanade reserve is already protected by the ASBV C041 and the Conservation Covenant. She comments, 'While the existing protective measures may not cover the entire expanse that an esplanade reserve would, the presence of protection mechanisms on-site deserves acknowledgment'. She considers that the waiving of the esplanade

reserve would have potential effects on biodiversity values which are minor. Access is also retained as a condition of the covenant.

Having noted that, the Biodiversity Officer comments that the management of the area would be enhanced by the retirement of grazing within 20m of the waterway. However, she notes that the primary reason for the subdivision is to facilitate the Orokonui Ecosanctuary in carrying out additional conservation activities, although details of these activities have not been included within the application itself.

Parks and Recreation

Council's Parks and Recreation Planner, Parks and Recreation ("PARS"), has also considered the application. She identifies the same layers of existing protection over the waterway, as well as the Proposed Plan requirement for an esplanade reserve. The reasons given for seeking the waiver are that the applicant considers the requirement to be not applicable, and the boundary adjustment is well away from the creek.

The Parks and Recreation Planner comments that PARS requires a robust rationale to support the waiving of an esplanade reserve. The proposed subdivision might be some distance from the waterway but the subdivision process is the only mechanism for creating an esplanade reserve, and one of the few mechanisms for protecting biodiversity and public access.

The existing ASBV and Conservation Covenant provide approximately 10m protection either side of the Orokonui Creek, although this is not consistent along the length of the waterway and the creek is not situated centrally within the protected area. The waterway provides an essential link from the wetland to the Orokonui Ecosanctuary. The Parks and Recreation Planner recommends:

"We consider that providing an esplanade strip for biodiversity of 20m either side of the creek would promote biodiversity values, providing an essential buffer zone between farming activities while providing adequate space for biodiversity to thrive. While we recognise the Covenant provides a protective element, it is less than the required 20m and we therefore promote this outcome to achieve the best practice for biodiversity values."

PARS has less concern about public access to the natural environment as the Covenant provisions already provides for this. Furthermore, adequate provision to Orokonui Stream and the wetland is provided through the DoC Track 'Orokonui Lagoon Walk' and the Orokonui Ecosanctuary provides access to the upper Orokonui Creek through its own networks of tracks.

PARS recommends that the esplanade reserve requirement be relaxed so as to be a 20.0m wide esplanade strip on each side of the waterway instead. Its purpose would be for biodiversity only. The Parks and Recreation Planner comments that this may be considered as suitable exchange for any compensation payable for the strip.

Summary

Council's Biodiversity Officer is agreeable to the waiver of the esplanade reserve requirement, while the Parks and Recreation Planner is also agreeable but seeks instead an esplanade strip for biodiversity reasons. This would be a third layer of protection over the waterway itself and much of the land aligning the waterway, but beyond the extent of the ASBV, it would add a layer of protection over additional land which is currently pasture and actively farmed.

An esplanade strip stays within the ownership of the landowner and moves with the watercourse. Over time, this can lead to quite a significant difference in alignment. This is beneficial for maintaining a 20m wide margin on each side of the waterway at all times, but does create uncertainty for the landowner. PARS has not advised whether it is expecting the strip to be retired from grazing but further conversation with the planner has determined that, in an ideal world, the strip would be fenced and ungrazed. Fencing would be an expense for the property owner, and in the absence of any shrubbery or trees within this additional land, either planting would have to follow or the area is likely to regress into weed species.

When considering the need for an esplanade reserve or strip, the distance between the waterway and the proposed land transfer is not a significant matter; the subject property is a large rural site and subdivision of any portion of the site is the trigger for the taking of a reserve or strip.

The purpose of the subdivision is probably a greater contributor to the discussion of whether or not the requirement for a reserve or strip is appropriate. In this case, the subdivision is to transfer a relatively small area of land to Orokonui Ecosanctuary as an area to deposit material during earthworks. It will not result in the fragmentation of the rural land in any way, nor any new development proposal. The property owner is contributing land to the ecosanctuary, and any requirement to fence or plant the reserve/strip becomes an additional cost when there are already few benefits for the landowner in subdividing. Even the vesting of an esplanade strip without additional restrictions on the use of the land is a cost.

For these reasons, and because there are already two layers of protection over the waterway and a strip of land approximately 14m to 37m wide along its length, it is my view that the requirement for an esplanade reserve can be waived with no adverse effects. The taking of an esplanade strip either imposes greater stipulations on the use of the land within the strip which might not be appropriate, or allows the present farming practices to continue within the strip but outside of the ASBV and covenant area, reducing any justification for taking the strip.

RECOMMENDATION

That, pursuant to Section 230(5) of the Resource Management Act 1991, the esplanade reserve requirement for the subdivision of 3 Chelivode Street be waived in full at the time of resource consent SUB-2022-114.

Prepared by:



Lianne Darby
Associate Senior Planner

Report approved by:



Campbell Thomson
Senior Planner

Date report prepared: 21 November 2023

Appendix One: Application.
Appendix Two: Biodiversity memorandum
Appendix Three: PARS memorandum.
Appendix Four: LUC-2021-345

APPENDIX ONE

APPLICATION



APPLICATION FORM FOR A RESOURCE CONSENT

PLEASE FILL IN ALL THE FIELDS

Application details

I/We Otago Natural History Trust Incorporated

(must be the FULL name(s) of an individual or an entity registered with the New Zealand Companies Office. Family Trust names and unofficial trading names are not acceptable: in those situations, use the trustee(s) and director(s) names instead) hereby apply for:

Land Use Consent ☒ Subdivision Consent

I opt out of the fast-track consent process: Yes No

(only applies to controlled activities under the district plan, where an electronic address for service is provided)

Brief description of the proposed activity:

The applicant proposes to subdivide the sites into two fee simple allotments. In legal effect, this will be an adjustment of the boundary between the subject sites; 1305 m² of 3 Chelivode St will be transferred to 175 Mopanui Rd.

Have you applied for a Building Consent? Yes, Building Consent Number ABA No

Site location/description

I am/We are the: (☒ owner, ☒ occupier, ☐ lessee, ☐ prospective purchaser etc) of the site (tick one)

Street address of site: 175 Mopanui Rd and 3 Chelivode St, Waitati

Legal description: Lots 3–4, 6 DP 392376; Lot 2 DP 403524, Lot 1–2, 5 DP 392376 and Sec 3–6, 8 SO 23545

Certificate of Title: 505712, 411554

Contact details

Name: Paterson Pitts Group (☐ applicant ☒ agent (tick one))

Address: PO Box 5933, Dunedin

Postcode: 9058

Phone (daytime):

Email: vyvienne.evans@ppgroup.co.nz

Chosen contact method (this will be the first point of contact for all communications for this application)

I wish the following to be used as the address for service (tick one): ☒ Email ☐ Post ☐ Other:

Ownership of the site

Who is the current owner of the site?

If the applicant is not the site owner, please provide the site owner's contact details:

Address:

Postcode:

Phone (daytime):

Email:

Planning Application Fees Payment Details (Who are we invoicing)

THIS FORM MUST BE COMPLETED FOR ALL PLANNING APPLICATIONS THAT ATTRACT A FEE. ALL FIELDS ARE MANDATORY.

This information is required to assist us to process resource consent invoices and refunds at lodgement and the end of the process. If you have any queries about completing this form, please email planning@dcc.govt.nz

Deposit Payment Payee Details:

Full Name of Deposit Payee (Person or Company): Otago Natural History Trust Incorporated
c/o Paterson Pitts Group

Mailing Address of Deposit Payee (please provide PO Box number where available): PO Box 5933, Dunedin 9058

Email Address of Deposit Payee: vyvienne.evans@ppgroup.co.nz

Daytime contact phone number: [REDACTED]

Important Note: The Payee will automatically be invoiced for the deposit and/or any additional costs. Should a portion of the deposit be unspent, it will be refunded to the payee.

Fees

Council recovers all actual and reasonable costs of processing your application. Most applications require a deposit and costs above this deposit will be recovered. A current fees schedule is available on www.dunedin.govt.nz or from Planning staff. Planning staff also have information on the actual cost of applications that have been processed. This can also be viewed on the Council website.

Development contributions

Your application may also be required to pay development contributions under the Council's Development Contributions Policy. For more information please ring 477 4000 and ask to speak to the Development Contributions Officer, or email development.contributions@dcc.govt.nz.

Occupation of the site

Please list the full name and address of each occupier of the site:

Monitoring of your Resource Consent

To assist with setting a date for monitoring, please estimate the date of completion of the work for which Resource Consent is required. Your Resource Consent may be monitored for compliance with any conditions at the completion of the work. (If you do not specify an estimated time for completion, your Resource Consent, if granted, may be monitored three years from the decision date).

(month and year)

Monitoring is an additional cost over and above consent processing. You may be charged at the time of the consent being issued or at the time monitoring occurs. Please refer to City Planning's Schedule of Fees for the current monitoring fee.

Detailed description of proposed activity

Please describe the proposed activity for the site, giving as much detail as possible. Where relevant, discuss the bulk and location of buildings, parking provision, traffic movements, manoeuvring, noise generation, signage, hours of operation, number of people on-site, number of visitors etc. Please provide proposed site plans and elevations.

Please see the attached application.

Description of site and existing activity

Please describe the existing site, its size, location, orientation and slope. Describe the current usage and type of activity being carried out on the site. Where relevant, discuss the bulk and location of buildings, parking provision, traffic movements, manoeuvring, noise generation, signage, hours of operation, number of people on-site, number of visitors etc. Please also provide plans of the existing site and buildings. Photographs may help.

Please see the attached application.

District plan zoning

What is the District Plan zoning of the site? Please see the attached application.

Are there any overlaying District Plan requirements that apply to the site e.g. in a Landscape Management Area, in a Townscape or Heritage Precinct, Scheduled Buildings on-site etc? If unsure, please check with City Planning staff.

Please see the attached application.

Breaches of district plan rules

Please detail the rules that will be breached by the proposed activity on the site (if any). Also detail the degree of those breaches. In most circumstances, the only rules you need to consider are the rules from the zone in which your proposal is located. However, you need to remember to consider not just the Zone rules but also the Special Provisions rules that apply to the activity. If unsure, please check with City Planning staff or the Council website.

Please see the attached application.

Affected persons' approvals

I/We have obtained the written approval of the following people/organisations and they have signed the plans of the proposal:

Name:

Address:

Name:

Address:

Please note: You must submit the completed written approval form(s), and any plans signed by affected persons, with this application, unless it is a fully notified application in which case affected persons' approvals need not be provided with the application. If a written approval is required, but not obtained from an affected person, it is likely that the application will be fully notified or limited notified.

Assessment of Effects on Environment (AEE)

In this section you need to consider what effects your proposal will have on the environment. You should discuss all actual and potential effects on the environment arising from this proposal. The amount of detail provided must reflect the nature and scale of the development and its likely effect. i.e. small effect equals small assessment.

You can refer to the Council's relevant checklist and brochure on preparing this assessment. If needed there is the Ministry for the Environment's publication "A Guide to Preparing a Basic Assessment of Environmental Effects" available on www.mfe.govt.nz. Schedule 4 of the Resource Management Act 1991(RMA) provides some guidance as to what to include.

Please see the attached application.

The following additional Resource Consents from the Otago Regional Council are required and have been applied for: Yes No
 Water Permit Discharge Permit Coastal Permit Land Use Consent for certain uses of lake beds and rivers ☒ Not applicable

Assessment of Objectives and Policies

In this Section you need to consider and assess how your application proposal aligns with the relevant objectives and policies in the District Plan relating to your activity. If your proposal is a discretionary or non-complying activity under the District Plan more attention to the assessment will be necessary as the objectives and policies of the District Plan may not always be in support of the proposed activity.

Please see the attached application.

Declaration

I certify that, to the best of my knowledge and belief, the information given in this application is true and correct.

I accept that I have a legal obligation to comply with any conditions imposed on the Resource Consent should this application be approved.

Subject to my/our rights under section 357B and 358 of the RMA to object to any costs, I agree to pay all the fees and charges levied by the Dunedin City Council for processing this application, including a further account if the cost of processing the application exceeds the deposit paid.

Signature of: Applicant ☒ Agent (tick one):

Vyvienne Evans

05/08/22
 Date:

Privacy – Local Government Official Information and Meetings Act 1987

You should be aware that this document becomes a public record once submitted. Under the above Act, anyone can request to see copies of applications lodged with the Council. The Council is obliged to make available the information requested unless there are grounds under the above Act that justify withholding it. While you may request that it be withheld, the Council will make a decision following consultation with you. If the Council decides to withhold an application, or part of it, that decision can be reviewed by the Office of the Ombudsmen.

Please advise if you consider it necessary to withhold your application, or parts of it, from any persons (including the media) to (tick those that apply):

- ☐ Avoid unreasonably prejudicing your commercial position
- ☐ Protect information you have supplied to Council in confidence
- ☐ Avoid serious offence to tikanga Māori or disclosing location of waahi tapu

What happens when further information is required?

If an application is not in the required form, or does not include adequate information, the Council may reject the application, pursuant to section 88 of the RMA. In addition (section 92 RMA) the Council can request further information from an applicant at any stage through the process where it may help to a better understanding of the nature of the activity, the effects it may have on the environment, or the ways in which adverse effects may be mitigated. The more complete the information provided with the application, the less costly and more quickly a decision will be reached.

Further assistance

Please discuss your proposal with us if you require any further help with preparing your application. The Council does provide pre-application meetings without charge to assist in understanding the issues associated with your proposal and completing your application. This service is there to help you.

Please note that we are able to provide you with planning information but we cannot prepare the application for you. You may need to discuss your application with an independent planning consultant if you need further planning advice.

City Planning Staff can be contacted as follows:

IN WRITING: Dunedin City Council, PO Box 5045, Dunedin 9054

IN PERSON: Customer Services Centre, Ground Floor, Civic Centre, 50 The Octagon

BY PHONE: (03) 477 4000

BY EMAIL: planning@dcc.govt.nz

There is also information on our website at www.dunedin.govt.nz

Information requirements

- ✓ Completed and Signed Application Form
- ✓ Description of Activity and Assessment of Effects
- ✓ Site Plan, Floor Plan and Elevations (where relevant)
 - Written Approvals
- ✓ Payee details
 - Application fee (cash, eftpos, direct credit or credit card (surcharge may apply))
- ✓ Certificate of Title (less than 3 months old) including any relevant restrictions (such as consent notices, covenants, encumbrances, building line restrictions)
 - Forms and plans and any other relevant documentation signed and dated by Affected Persons

In addition, subdivision applications also need the following information:

- ✓ Number of existing lots
- ✓ Number of proposed lots
- ✓ Total area of subdivision
- ✓ The position of all new boundaries

In order to ensure your application is not rejected or delayed through requests for further information, please make sure you have included all of the necessary information. A full list of the information required for resource consent applications is in the Information Requirements Section of the District Plan.

OFFICE USE ONLY

Has the application been completed appropriately (including necessary information)? Yes No

Application: Received Rejected

Received by: Counter Post Courier Other:

Comments:

(Include reasons for rejection and/or notes to handling officer)

Planning Officer:

Date:

D18208 Orokonui Ecosanctuary
Rev A

PATERSONPITTSGROUP

Your Land Professionals
www.ppgroup.co.nz
0800 PPGROUP



5 August 2022

City Planning
Dunedin City Council
PO Box 5045
Dunedin 9054

Attn: The Senior Planner

RESOURCE CONSENT APPLICATION

Orokonui Ecosanctuary

On behalf of our client, we submit for consideration by the Dunedin City Council a resource consent application prepared in accordance with sch 4 of the Resource Management Act 1991.

The application seeks subdivision consent for a **restricted discretionary** activity.

The following supporting documents are attached:

- Form 9
- Subdivision scheme plan rev A 220721
- Records of Title 41154 and 505712

For any further information or discussion in respect of this application, please do not hesitate to contact the author below.

Yours faithfully,
PATERSON PITTS GROUP

Vyviene Evans
Planner

M: 021-198-0716
T: 03-477-3245
E: vyviene.evans@ppgroup.co.nz

DUNEDIN:
P.O. Box 5933,
Dunedin 9058.
T 03 477 3245

CHRISTCHURCH:
P.O. Box 160094,
Christchurch 8441.
T 03 928 1533

ALEXANDRA:
P.O. Box 103,
Alexandra 9340.
T 03 448 8775

CROMWELL:
P.O. Box 84,
Cromwell 9342.
T 03 445 1826

QUEENSTOWN:
P.O. Box 2645,
Queenstown 9349.
T 03 441 4715

WANAKA:
P.O. Box 283,
Wanaka 9305.
T 03 443 0110

1 THE SITE

The subject sites are 175 Mopanui Rd and 3 Chelivode St.

- **175 Mopanui Rd** (60.3590 ha) is legally described as Lots 3–4, 6 DP 392376 and Sec 1 SO 396241. It is held in Record of Title (RT) 505712 in the name of Otago Natural History Trust Incorporated (the applicant). However, only Lots 3 and 6 DP 392376 (58.7230 ha) are the subject of this application.
- **3 Chelivode St** (158.4546 ha) is legally described as Lot 2 DP 403524, Lot 1–2, 5 DP 392376 and Sec 3–6, 8 SO 23545. It is held in RT 411554 in the name of Graeme Henry Bennett and Marie Patricia Bennett. However, only Lot 1 DP 392376 (76.8378 ha) is the subject of this application.

175 Mopanui Rd is part of Orokonui Ecosanctuary and is mostly covered in dense vegetation. It is an irregularly shaped site, with a narrow strip of land (Lot 6 DP 392376) joining it to Dons Creek Rd.

3 Chelivode St is a large rural site that adjoins the northern boundary of 175 Mopanui Rd. There is an existing dwelling at its northern end, but this is outside Lot 1 DP 392376.

Under the Second Generation Dunedin District Plan (2GP), 3 Chelivode St is zoned Coastal Rural and 175 Mopanui Rd is zoned Hill Slopes Rural, and both sites are within a number of overlays.

Key features of the site are described further below in relation to the proposal.

2 SURROUNDING ENVIRONMENT

175 Mopanui Rd is generally surrounded by rural land, although there is rural residential land on the western side of Dons Creek Rd. Orokonui Creek passes through its access leg.

3 Chelivode St extends north as far as Waitati, a coastal settlement north of Dunedin, and the northwestern end of Lot 1 DP 392376 is bounded by residential land. Otherwise, it is also surrounded by rural and rural residential land. Parts of the site extend to the margins of Orokonui Lagoon, and Orokonui Creek passes through it.

3 THE PROPOSAL

The applicant proposes to subdivide the sites into two fee simple allotments.

- Lot 1 (76.7276 ha) will be part of the farm at 3 Chelivode St.
- Lot 2 (58.5835 ha) will be part of Orokonui Ecosanctuary.

In legal effect, this subdivision will simply be an adjustment of the boundary between the subject sites; 1305 m² of 3 Chelivode St will be transferred to 175 Mopanui Rd.

Key elements of the proposal are described further below and are illustrated by the subdivision scheme plan.

3.1 Legal matters

Lot 1 will continue to be held in RT 411554, and Lot 2 will be amalgamated with Record of Title 505712.

None of the existing easements on the titles will be affected by the proposal. However, a new right of way (ROW) easement is proposed over Lot 1 in favour of Lot 2, which is shown as ROW A on the subdivision scheme plan. This ROW will be 8 m wide and will legalise the existing access over 3 Chelivode St used by Orokonui Ecosanctuary

3.2 Natural hazards

The part of Lot 1 DP 392376 near Orokonui Lagoon is within the Hazard 3 (coastal) Overlay Zone. According to the 2GP Data Map, the sites are mostly sloping by 20°–26°, and some parts are sloping by 26°–35°.

3.3 Transportation

175 Mopanui Rd has frontage and legal access to Mopanui Rd, Dons Creek Rd and Blueskin Rd. 3 Chelivode St has frontage and legal access to a variety of roads, however, we note that the existing dwelling is accessed from Buckingham St.

The proposal will not result in any changes to the sites' existing access provisions.

4 REASONS FOR APPLICATION

The documents referred to in s 104(1)(b) of the Resource Management Act 1991 (RMA) with rules and regulations relevant to the proposal are:

- The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS).
- The 2GP.

The proposal is assessed against the relevant rules and regulations of these documents below.

4.1 NES-CS

The NES-CS came into force on 1 January 2012 and applies when a person wants to do an activity described in reg 5(2)–(6) on a piece of land described in reg 5(7) or 5(8), unless the requirements of reg 5(9) are met.

- A piece of land described in reg 5(7) is one on which an activity or industry described in the Hazardous Activities and Industries List (HAIL) is being, has been or is more likely than not to have been undertaken.
- Reg 5(8) describes when the NES-CS applies to a piece of land that is production land.
- Reg 5(9) states that the NES-CS does not apply if a Detailed Site Investigation shows that any contaminants in or on a piece of land are at, or below, background concentrations.

The proposal involves subdividing land. However, the sites can be considered production land and the proposed subdivision will not cause any part of them to change in land use. Therefore, even if the site does contain a piece of land described in reg 5(7), the NES-CS will not apply (reg 5(8)(c)).

Nevertheless, we lodged a HAIL search request with the DCC on 5 July 2022 (HAIL-2022-122). The HAIL Search Report summary advises that there is no explicit evidence of HAIL activity on 175 Mopanui Rd. It also advises HAIL categories A10, A17 and G3 may apply to parts of 3 Chelivode St. Based on the information in the report, we consider that category A8 may also apply to part of 3 Chelivode St. These HAIL categories are listed below.

- **A8.** Livestock dip or spray race operations.
- **A10.** Persistent pesticide bulk storage or use including sport turfs, market gardens, orchards, glass houses or spray sheds
- **A17.** Storage tanks or drums for fuel, chemicals or liquid waste
- **G3.** Landfill sites.

The Orokonui Farm Settlement Plan dated January 1979 shows a tip and vegetable gardens to the east of Orokonui Lagoon, and sheep yards and a woolshed at the northern end of the site, near Bay Rd (now Doctors Point Rd). Documents associated with building consent ABA-2005-308471 show the existing dwelling on the site as having a diesel boiler for heating at its southern end. These documents also show the woolshed identified in the Orokonui Farm Settlement Plan, and the woolshed and sheep yards are visible in current aerial photos of the site.

Categories A8, A10, A17 and G3 may apply to the parts of the site where the woolshed/sheep yards, vegetable gardens, diesel boiler and tip are/were located, respectively. However, as the subject sites are production land and the possible HAIL sites are not within the land to be amalgamated with 175 Mopanui Rd we have not undertaken any further HAIL assessment.

4.2 2GP

As mentioned above, the sites are zoned Coastal Rural and Hill Slopes Rural and are within in a number of overlays (see Table 1), including Outstanding Natural Landscape (ONL), Significant Natural Landscape (SNL) and Natural Coastal Character (NCC) Overlay zones.

We note that Orokonui Reserve is identified as an area of significant biodiversity value in the 2GP, although this does not include 175 Mopanui Rd, only 602 Blueskin Rd (which adjoins its southern boundary).

Table 1. 2GP overlays that apply to 3 Chelivode St and 175 Mopanui Rd.

SITE	OVERLAYS
175 Mopanui Rd	• Pūrākaunui and Orokonui Landscape Overlay Zone – Significant Natural Landscape • Mihiwaka to Heyward Coast Landscape Overlay Zone – Outstanding Natural Landscape.
3 Chelivode St	• Pūrākaunui and Orokonui Landscape Overlay Zone – Significant Natural Landscape • Hazard 3 (coastal) Overlay Zone • Archaeological Alert Layer • High Class Soils Mapped Area • Esplanade reserves and strips mapped area (Orokonui Creek). • Area of significant biodiversity value (Orokonui Creek) • Blueskin Bay Coastal Character Overlay Zone – Natural Coastal Character

SUBDIVISION ACTIVITIES

The proposal involves a fee simple subdivision, which meets the definition of general subdivision, an activity in the subdivision activities category. General subdivision is a restricted discretionary activity in rural zones and within the ONL, SNL and NCC Overlay Zones, provided it complies with the

relevant performance standards (rule 16.3.5.1). The proposed subdivision will comply with the relevant performance standards (see in Table 2) and is therefore a **restricted discretionary** activity.

Table 2. Compliance of the proposed subdivision with relevant performance standards.

PERFORMANCE STANDARD	ASSESSMENT
Access Rules 6.8.1 and 16.7.1	Complies The resultant sites will have legal accessways (rule 6.8.1.1).
Esplanade reserves and strips Rules 10.3.1 and 16.7.2	Not applicable Subdivision activities along the bank of Orokonui Creek must provide an esplanade reserve at least 20 m wide (rule 10.3.1.1.b.iv). However, although Orokonui Creek passes through the sites, the part of the boundary being adjusted is distant from it.
Firefighting Rules 9.3.3 and 16.7.3	Complies No additional allotments will be created by the proposed subdivision, and no changes to the existing activities on the sites are proposed. They can therefore continue to be served by their existing firefighting water supply.
Minimum site size Rule 16.7.4	Complies Lot 1 will meet the 40 ha minimum site size for the CR Zone, and Lot 2 will meet the 25 ha minimum site size for the HSR Zone (rules 16.7.4.1.a and 16.7.4.1.d, respectively).
Shape Rule 16.7.5	Not applicable This performance standard is not relevant, as neither of the sites are intended to be developed further as a result of the proposed subdivision (rule 16.7.5.1).

4.3 Overall activity status

In summary, the proposal requires resource consent for the following reasons:

- General subdivision is a restricted discretionary activity in rural zones, and in the ONL, SNL and NCC Overlay Zones (rule 16.3.5.1).

Overall, we consider the proposal's activity status to be **restricted discretionary**.

5 ASSESSMENT OF ENVIRONMENTAL EFFECTS

Under s 104C(1) of the RMA, when considering a resource consent application for a restricted discretionary activity, a consent authority must consider only those matters:

- To which its discretion is restricted in its plan or proposed plan.
- To which its discretion is restricted in national environmental standards or other regulations.

The 2GP matters of discretion relevant to the proposal are set out in Table 3 below, and the assessment of environmental effects addresses these matters as well as other relevant effects.

Table 3. 2GP matters of discretion relevant to the proposal.

ACTIVITY/PERFORMANCE STANDARD	MATTERS OF DISCRETION
General subdivision in rural zones	• Effects on long term maintenance of rural land for productive rural activities (rule 16.10.4.a) • Effects on rural character and visual amenity (rule 16.10.4.b) • Effects on biodiversity values and natural character values of riparian margins and coast (rules 10.6.3.1, 10.6.3.5.a, 16.10.4.c) • Effects on public access (rules 10.6.3.5.b, 16.10.4.d) • Risk from natural hazards (rules 11.5.2.1, 11.5.2.5, 16.10.4.e, 16.10.5.10) • Effects on the safety and efficiency of the transport network (rules 6.11.2.1, 6.11.2.7 16.10.4.f) • Effects on health and safety (rules 9.6.2.4, 9.6.2.5, 16.10.4.g)
General subdivision in the ONL or SNL Overlay Zones	• Effects on landscape values (rules 10.6.3.15, 16.10.5.3) • Positive effects on biodiversity values or the natural character of the coast (rule 10.6.3.1). • Effects on biodiversity values and the natural character of riparian margins and the coast (rule 10.6.3.5.a) • Effects on public access (rule 10.6.3.5.b)
General subdivision in the NCC Overlay Zone	• Effects on natural character of the coast (rules 10.6.3.9, 16.10.5.5) • Positive effects on biodiversity values or the natural character of the coast (rule 10.6.3.1). • Effects on biodiversity values and the natural character of riparian margins and the coast (rule 10.6.3.5.a) • Effects on public access (rule 10.6.3.5.b)

5.1 Positive effects

The proposed subdivision will adjust the boundary between the subject sites in a way that supports the continued operation of Orokonui Ecosanctuary, a major conservation activity in Dunedin. It will therefore help to enhance indigenous biodiversity.

5.2 Effects on long term maintenance of rural land for productive rural activities (rule 16.10.4.a)

The proposed subdivision will result in the farm at 3 Chelivode St decreasing in size by 1305 m², with this land to be used for conservation activity. This is a negligible decrease in size, considering the large area of 3 Chelivode St, and regardless, conservation activity is enabled in rural zones

The resultant sites will meet the minimum site sizes of their respective zones, so are large enough to support productive rural activities. The high class soils on Lot 1 are distant from the boundary being adjusted and will be unaffected by the proposal.

Overall, we consider that the proposal's adverse effects on long term maintenance of rural land for productive rural activities will be nil.

5.3 Effects on rural character and visual amenity and landscape values (rules 10.6.3.15, 16.10.4.b, 16.10.5.3)

As mentioned above, the decrease in the size of the farm at 3 Chelivode St will be negligible, and the land transferred to 175 Mopanui Rd will be used for conservation activity. In general, the land uses of the sites will be unchanged, and the subdivision will not result in any change in the level of development on the sites.

The proposed subdivision will therefore have no noticeable effects with respect to wider rural character, visual amenity and landscape values. If anything, it will contribute to the landscape values of the Pūrākaunui and Orokonui SNL and the Mihiwaka to Heyward Coast NOL, by supporting the operation of Orokonui Ecosanctuary.

Overall, we consider that the proposal's adverse effects rural character and visual amenity and landscape values will be **nil**.

5.4 Effects on biodiversity values and natural character values of riparian margins and coast (rules 10.6.3.1, 10.6.3.5.a, 16.10.4.c)

As section 4.2 mentioned, although Orokonui Creek passes through the site, but both the creek and Orokonui Lagoon are distant from the part of the boundary being adjusted. Additionally, no additional allotments will be created by the proposed subdivision. The biodiversity and natural character of the creek and lagoon will therefore be unaffected by the proposal.

Overall, we consider that the proposal's adverse effects on biodiversity values and natural character values of riparian margins and coast will be **nil**.

5.5 Effects on public access (rules 10.6.3.5.b, 16.10.4.d)

Again, no esplanade reserve along Orokonui Creek is required as part of the proposed subdivision, and the land uses of the subject sites will be effectively unchanged. Public access to Orokonui Creek and Orokonui Lagoon will therefore be unaffected by the proposal.

Subdivision activities along the bank of Orokonui Creek must provide an esplanade reserve at least 20 m wide (rule 10.3.1.1.b.iv). However, the creek is distant from the part of the boundary being adjusted and no additional allotments are proposed, so public access to the creek will be unaffected by the proposal.

Overall, we consider that the proposal's adverse effects on public access will be **nil**.

5.6 Effects on natural character of the coast (rules 10.6.3.9, 16.10.5.5)

The land to be transferred from 3 Chelivode St to 175 Mopanui Rd is inland from the Blueskin Bay NCC Overlay Zone. Given this, and the minor nature of the proposed boundary adjustment, the natural character of the coast in this area will be unaffected by the proposal.

Overall, we consider that the proposal's adverse effects on natural character of the coast will be **nil**.

5.7 Risk from natural hazards (rules 11.5.2.1, 11.5.2.5, 16.10.4.e, 16.10.5.10)

The boundary to be adjusted is inland from the Haz 3 (coastal) Overlay Zone, and the proposal will not result in any change to the existing level of development on the sites. Therefore, despite the presence of the Haz 3 (coastal) Overlay Zone, and the steepness of much of the sites, the proposal will not result in an increased risk from natural hazards on the sites.

Overall, we consider that the proposal's adverse effects with respect to risk from natural hazards will be **nil**.

5.8 Effects on the safety and efficiency of the transport network (rules 6.11.2.1, 6.11.2.7 16.10.4.f)

The proposal will not result in any changes to the traffic associated with the sites, or their existing access provisions.

Overall, we consider that the proposal's adverse effects on the safety and efficiency of the transport network will be **nil**.

5.9 Effects on health and safety (rules 9.6.2.4, 9.6.2.5, 16.10.4.g)

The proposal will result in effectively no changes to the existing land use and development of the sites, so no changes to services are required.

Overall, we consider that the proposal's adverse effects on health and safety will be **nil**.

5.10 Overall effects

Based on the above assessment, we conclude that the proposal's adverse effects on the environment will be **less than minor**.

6 NOTIFICATION ASSESSMENT

There are no rules in a plan or national environmental standard that require public or limited notification of the application. The proposal's adverse environmental effects will not be more than minor, and no affected persons have been identified under s 95E. We therefore believe it is appropriate for the application to be processed on a non-notified basis.

7 OBJECTIVES AND POLICIES ASSESSMENT

The proposal is consistent with the relevant objectives and policies of the 2GP (see Table 4).

Table 4. Consistency of the proposal with the relevant objectives and policies of the 2GP.

OBJECTIVES AND POLICIES	ASSESSMENT
Objective 6.2.3 Land use, development and subdivision activities maintain the safety and efficiency of the transport network for all travel modes and its affordability to the public. Policy 6.2.3.3 Require land use activities to provide adequate vehicle loading and manoeuvring space to support their operations and to avoid or, if avoidance is not practicable, adequately mitigate adverse effects on the safety and efficiency of the transport network. Policy 6.2.3.4 Require land use activities to provide the amount of parking necessary to ensure that any overspill parking effects, that could adversely affect the safety and efficiency of the transport network are avoided or, if avoidance is not practicable, adequately mitigated. Policy 6.2.3.9 Only allow land use and development activities or subdivision activities that may lead to land use or development activities, where: - adverse effects on the safety and efficiency of the transport network will be avoided or, if avoidance is not practicable, adequately mitigated; and - any associated changes to the transportation network will be affordable to the public in the long term.	The proposal will not result in any changes to the traffic associated with the sites, or their existing access provisions, and will therefore maintain the safety and efficiency of the transport network.
Objective 10.2.1 Biodiversity values are maintained or enhanced, including by protecting areas of significant indigenous vegetation and the significant habitats of indigenous fauna. Policy 10.2.1.5 Encourage conservation activity in all zones. Policy 10.2.1.11 Only allow subdivision activities where the subdivision is designed to ensure any future land use or development will: - maintain or enhance, on an on-going basis, biodiversity values; - protect areas of significant indigenous vegetation and the significant habitats of indigenous fauna; and - be in accordance with policies 10.2.1.2, 10.2.1.3, 10.2.1.4 and 10.2.1.8.	The proposed subdivision is simply a boundary adjustment that will support the conservation activity associated with Orokonui Ecosanctuary. It will therefore help to enhance biodiversity values.
Objective 10.2.2 The biodiversity values and natural character of the coast and riparian margins are maintained and enhanced.	Orokonui Creek and Orokonui Lagoon are distant from the boundary being adjusted and their

Policy 10.2.2.6 Only allow activities adjacent to water bodies and the coast where the biodiversity values and natural character of the coast and riparian margins are maintained or enhanced. Policy 10.2.2.7 Only allow subdivision activities adjacent to water bodies and the coast where the subdivision is designed to ensure that the following biodiversity values and natural character values are maintained or enhanced, including through provision of an esplanade reserve or esplanade strip in identified locations: a. biodiversity values of riparian margins and the coast; b. the water quality and aquatic habitats of the water body or coast; and c. the natural functioning of the adjacent sea or water body.	biodiversity and natural character will be unaffected by the proposal.
Objective 10.2.3 Areas of outstanding natural coastal character (ONCC), high natural coastal character (HNCC), and natural coastal character (NCC) are protected from inappropriate use and development; and their values, as identified in Appendix A5, are preserved or enhanced. Policy 10.2.3.7 Only allow subdivision activities in Outstanding Natural Coastal Character (ONCC), High Natural Coastal Character (HNCC) and Natural Coastal Character (NCC) overlay zones where the subdivision is designed to ensure that any future land use or development will preserve or enhance, on an on-going basis, the natural character values identified in Appendix A5 and will be in accordance with policies 10.2.3.1, 10.2.3.2, 10.2.3.3, 10.2.3.4, 10.2.3.5 and 10.2.3.6.	The proposal only involves subdivision in the NCC Overlay Zone in a technical sense—the actual area within the overlay is distant from the boundary to be adjusted and will be unaffected by the proposal.
Objective 10.2.4 Subdivision and development activities maintain and enhance access to coastlines, water bodies and other parts of the natural environment, including for the purposes of gathering of food and mahika kai. Policy 10.2.4.3 Require subdivision of land to enhance public access to the natural environment through: a. requiring an esplanade reserve or esplanade strip of an appropriate width and location adjacent to identified water bodies and the coast; and b. where practicable, providing opportunities for access in other areas where this will enhance recreational opportunities, particularly through connecting to and expanding the existing tracks network or utilising adjacent unformed legal roads.	The proposed boundary adjustment will not alter (and will therefore maintain) public access to Orokonui Stream or Orokonui Lagoon.
Objective 10.2.5 Outstanding Natural Features (ONFs), Outstanding Natural Landscapes (ONLs) and Significant Natural Landscapes (SNLs) are protected from inappropriate development; and their values, as identified in Appendix A3, are maintained or enhanced. Policy 10.2.5.10 Only allow subdivision activities in Outstanding Natural Feature (ONF), Outstanding Natural Landscape (ONL), and Significant Natural	The proposed subdivision is within an ONL and a SNL, but is simply a minor boundary adjustment that will have no adverse effects on the wider landscape values of the area. If anything, the proposal will enhance them by supporting the conservation activity associated with Orokonui Ecosanctuary.

Landscape (SNL) overlay zones where the subdivision is designed to ensure that any future land use or development will maintain or enhance the landscape values identified in Appendix A3 and will be in accordance with policies 10.2.5.1, 10.2.5.2, 10.2.5.3, 10.2.5.4, 10.2.5.6, 10.2.5.7, 10.2.5.8 and 10.2.5.9.	
Objective 11.2.1 Land use and development is located and designed in a way that ensures that the risk from natural hazards, and from the potential effects of climate change on natural hazards, is no more than low, in the short to long term. Policy 11.2.1.12 In all hazard overlay zones, the swale mapped area, the dune system mapped area, or in any other areas that the DCC has information to suspect there maybe risk from a natural hazard, only allow subdivision activities where there is a reasonable level of certainty that any future land use or development will meet Policies 11.2.1.1–11.2.1.11.	The boundary to be adjusted is inland from the Haz 3 (coastal) Overlay Zone that applies to 3 Chelivode St, and the land use of the sites will be effectively unchanged.
Objective 16.2.1 Rural zones are reserved for productive rural activities and the protection and enhancement of the natural environment, along with certain activities that support the well-being of communities where these activities are most appropriately located in a rural rather than an urban environment. Policy 16.2.1.1 Enable farming, grazing and conservation in the rural zones.	The proposed subdivision is simply a minor boundary adjustment and both sites will continue to be used for activities enabled in the rural zones.
Objective 16.2.3 The rural character values and amenity of the rural zones are maintained or enhanced, elements of which include: a. a predominance of natural features over human made features; b. a high ratio of open space, low levels of artificial light, and a low density of buildings and structures; c. buildings that are rural in nature, scale and design, such as barns and sheds; d. a low density of residential activity, which is associated with rural activities; e. a high proportion of land containing farmed animals, pasture, crops, and forestry; f. extensive areas of indigenous vegetation and habitats for indigenous fauna; and g. other elements as described in the character descriptions of each rural zone located in Appendix A7. Policy 16.2.3.8 Require residential activity to be at a density that maintains the rural character values and visual amenity of the rural zones.	The proposed subdivision is simply a minor boundary adjustment that will have no adverse effects on the wider character and amenity of the Coastal Rural and Hill Slopes Rural Zones.
Objective 16.2.4 The productivity of rural activities in the rural zones is maintained or enhanced. Policy 16.2.4.4	Both the resultant sites meet the minimum site size for their respective zones, and the high class soils on Lot 1 are distant from the boundary to be adjusted.

Only allow subdivision activities where the subdivision is designed to ensure any future land use and development will: a. maintain or enhance the productivity of rural activities; b. maintain highly productive land for farming activity, or ensure the effects of any change in land use are: i. insignificant on any high class soils mapped area; and ii. no more than minor on other areas of highly productive land; c. maintain land in a rural rather than rural residential land use; and d. not increase the potential for reverse sensitivity.	
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8 SECTION 104 ASSESSMENT

Additional matters that must be considered under s 104 of the RMA are discussed below.

8.1 Offsetting or compensation measures

S 104(1)(ab) requires a consent authority to have regard to any measure proposed or agreed to by the applicant to offset or compensate for any adverse effects that the proposal will or may have on the environment. We do not propose any offsetting or compensation measures.

8.2 Relevant planning provisions

Sch 4 requires the proposal to be assessed against any relevant provisions of a document referred to in s 104(1)(b). The proposal has already been assessed against the relevant provisions of the NES-CS and 2GP. As the proposal is consistent with the relevant 2GP objectives and policies, we consider that there is no need to assess it against higher order planning documents.

8.3 Other matters

S 104(1)(c) requires a consent authority to have regard to any other matters it considers relevant and reasonably necessary to determine the application. There are no other relevant matters to consider.

9 PART 2 ASSESSMENT

Pt 2 of the RMA (ss 5–8) sets out the purpose and principles of the Act. S 5 identifies the purpose and s 6 outlines a number of matters of national importance that must be recognised and provided for. S 7 sets out other matters to be given particular regard by all persons exercising functions and powers under the RMA, and s 8 requires the principles of the Treaty of Waitangi to be taken into account.

Sch 4 of the Act requires all resource consent applications to assess proposals against the matters set out in pt 2. This requirement has been met by the above assessment of the proposal against the provisions of the relevant planning documents. Based on this assessment, we conclude that the proposal will therefore achieve the purpose of the RMA.

10 CONCLUSION

The applicant proposes to subdivide the sites into two fee simple allotments. In legal effect, this will be an adjustment of the boundary between the subject sites; 1305 m² of 3 Chelivode St will be transferred to 175 Mopanui Rd.

The proposal has a **restricted discretionary** activity status and requires:

- **Subdivision consent** for the proposed subdivision (boundary adjustment) of a rural site in the ONL, SNL and NCC Overlay Zones

We consider that the proposal's adverse environmental effects are less than minor and have not identified any affected persons. Furthermore, the proposal is consistent with the relevant 2GP objectives and policies. We therefore believe it is appropriate for this application to be processed on a non-notified basis.

PROPOSED EASEMENT			
PURPOSE	SHOWN	SERVIENT TENEMENT (BURDENED LAND)	DOMINANT TENEMENT (BENEFITED LAND)
Right of Way	A	Lot 1	Lot 2

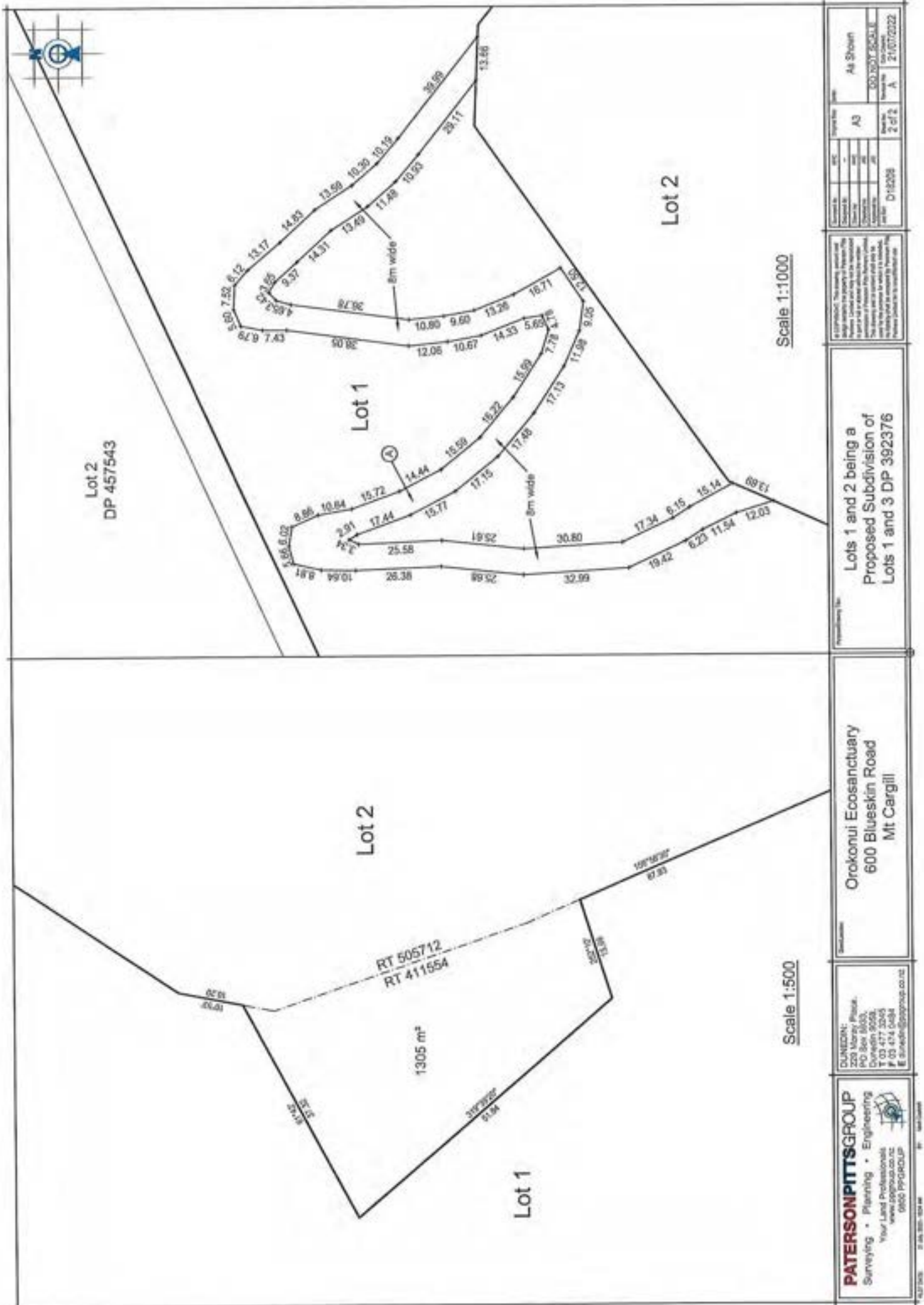
Lots 1 and 2 being a
Proposed Subdivision of
Lots 1 and 3 DP 392376

Orokonui Ecosanctuary
600 Blueskin Road
Mt Cargill

DUNEDIN:
229 Moray Place,
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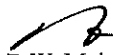
[illegible]





**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**




R.W. Muir
Registrar-General
of Land

Identifier 411554
Land Registration District Otago
Date Issued 22 July 2009

Prior References
382105

Estate	Fee Simple
Area	158.4546 hectares more or less
Legal Description	Lot 2 Deposited Plan 403524 and Lot 1-2, 5 Deposited Plan 392376 and Section 3-6, 8 Survey Office Plan 23545

Registered Owners

Graeme Henry Bennett and Marie Patricia Bennett

Interests

Subject to Section 8 Atomic Energy Act 1945

Subject to Section 3 Geothermal Energy Act 1953

Subject to Part IV A Conservation Act 1987

Subject to Section 6 Mining Act 1971

Subject to Section 261 Coal Mines Act 1979

Subject to Section 8 Mining Act 1971

Subject to Section 3 Petroleum Act 1937

Subject to Section 5 Coal Mines Act 1979

788334.2 Conservation Covenant pursuant to Section 77 Reserves Act 1977 (affects part formerly Section 1 marked C & D on SO Plan 23475) - 17.9.1991 at 9.34 am

Subject to a right of way over part marked AV,AJ,AM,AW,AX, and AZ DP 392376 created by Transfer 814465.1 - 18.9.1992 at 10:35 am

The right of way created by Transfer 814465.1 is subject to the Councils condition of consent endorsed on the diagram attached to the said transfer - 18.9.1992 at 10.35 am

Some of the easements created by Transfer 937406.5 are subject to Section 243 (a) Resource Management Act 1991

Subject to a right of way over part marked V,W,X,Y,Z,AA,AB,AC,AD,AM,AN,AP,AQ,AR,AS,AT,AU and a right to drain sewage over parts marked a-b, b-c, c-d,d-e, e-f, f-g, g-h, j-k, l-m, m-n, n-o, m-p, p-q, q-r, r-s, s-t, t-u all on DP 392376 created by Transfer 937406.5 - 2.10.1997 at 10:50 am

Subject to a Right to Convey Water over parts marked

W,AA,AB,AD,AH,AJ,AK,AL,AM,AN,AO,AP,AQ,AR,AE,AF,AG,BD and BF and a Right to Convey and Store Water over parts marked BE and BG all on DP 392376 created by Transfer 5122238.2 - 10.12.2001 at 2:06 pm

Subject to Section 241(2) Resource Management Act 1991 (affects DP 392376)

Identifier

411554

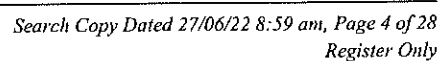
Subject to a right (in gross) for right of way over Lot 1 marked BK, Lot 2 marked BL & Lot 5 marked BM DP 392376, a right (in gross) for telecommunication over Lot 1 marked BJ DP 392376 and a right (in gross) for electricity over Lot 1 marked BH DP 392376 and Section 3 marked F & Section 6 marked G DP 27071 in favour of Telecom Mobile Limited (for a limited time) created by Transfer 8038831.1 - 24.12.2008 at 9:00 am

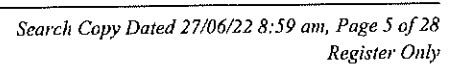
Subject to Section 241(2) Resource Management Act 1991 (affects DP 403524)

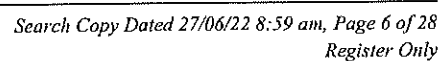
12028921.1 Lease of Area 1 Deposited Plan 556696 Term 6 years commencing 1 July 2014 (right of renewal) Record of Title 942689 issued - 4.3.2021 at 10:21 am

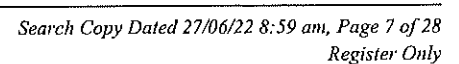
Subject to a right to convey electricity over part Lot 1 Deposited Plan 392376 over part marked BH, right to convey telecommunications over part Lot 1 Deposited Plan 392376 over part marked BJ, a right of way over part Lot 1 Deposited Plan 392376 over part marked BK, over part Lot 2 Deposited Plan 392376 over part marked BL and over part Lot 5 Deposited Plan 392376 over part marked BM all on DP 392376 and a right to convey electricity over part Section 3 Survey Office Plan 23545 over part marked F and over part Section 6 Survey Office Plan 23545 over part marked G all on DP 27071 created by Easement Instrument 12028921.3 - 4.3.2021 at 10:21 am

Search Copy Dated 27/06/22 8:59 am, Page 3 of 28
Register Only



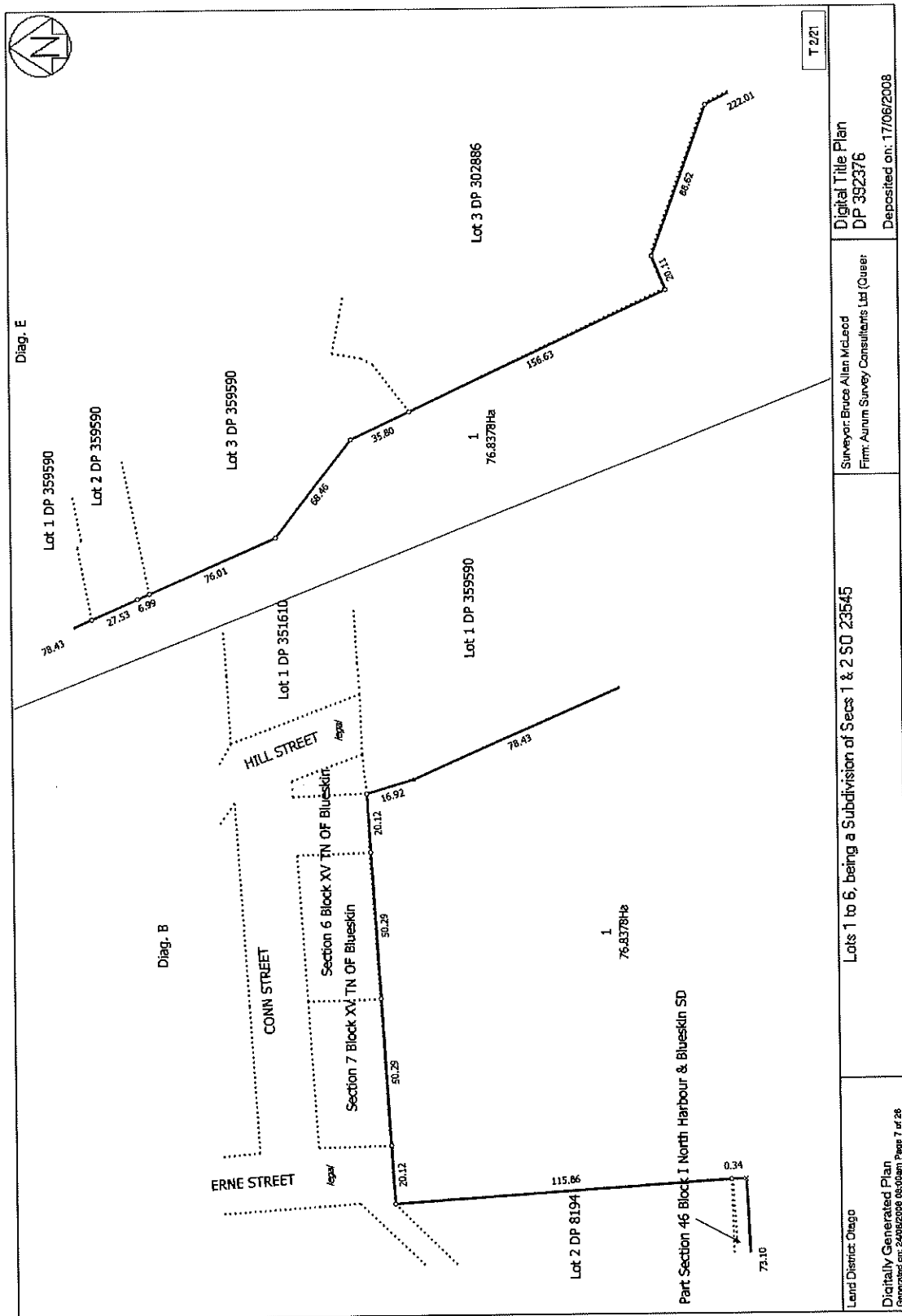


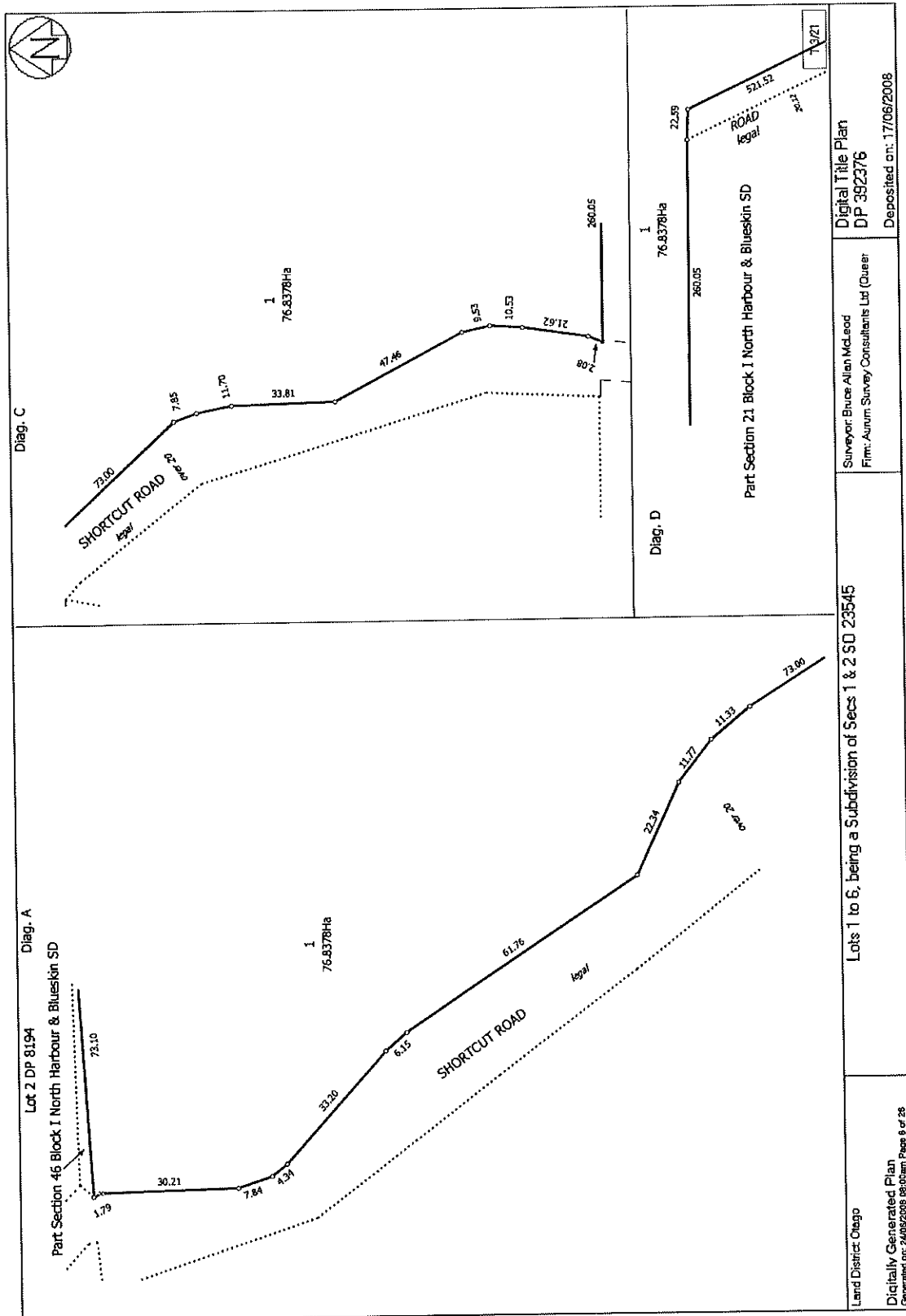




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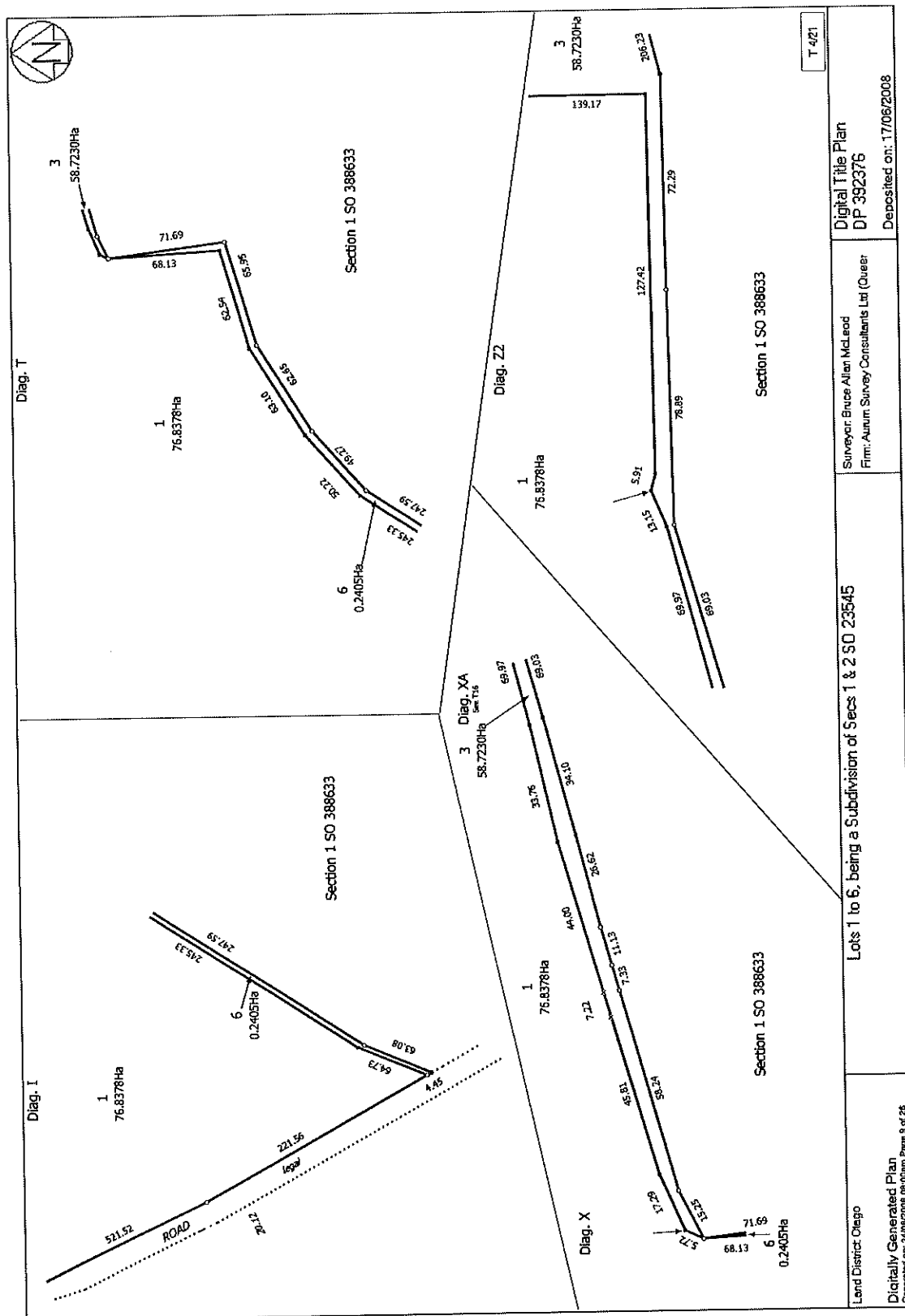
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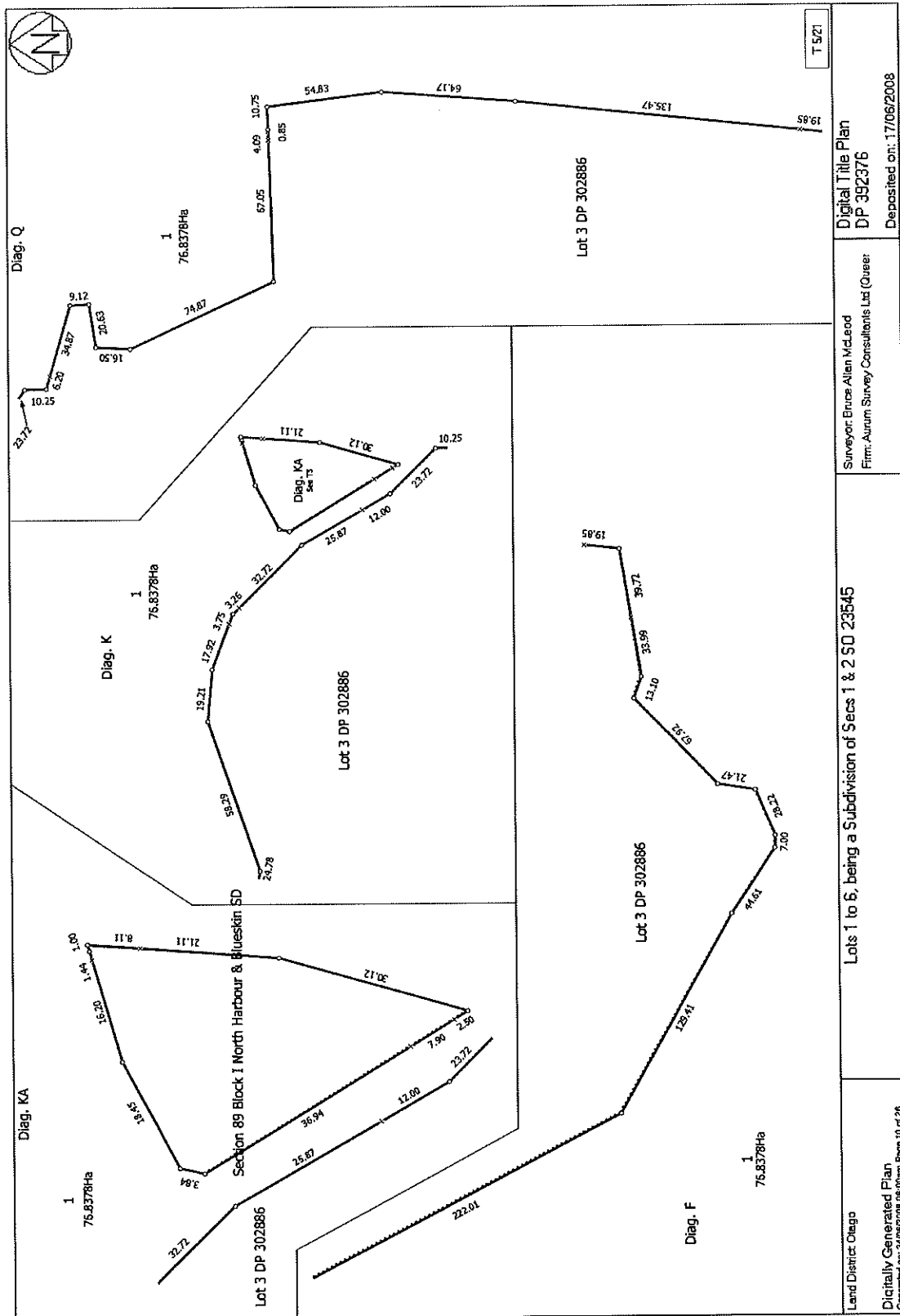
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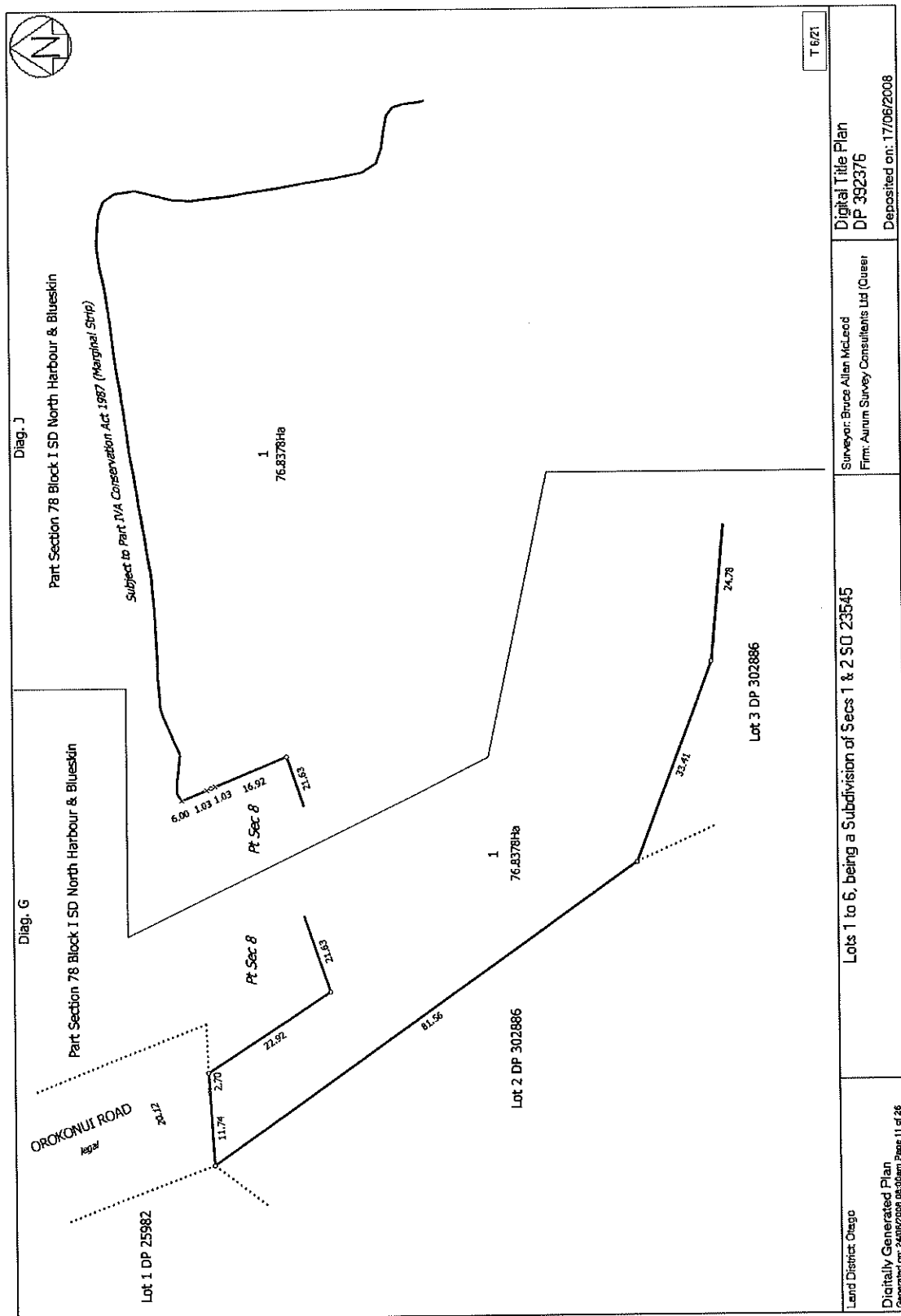
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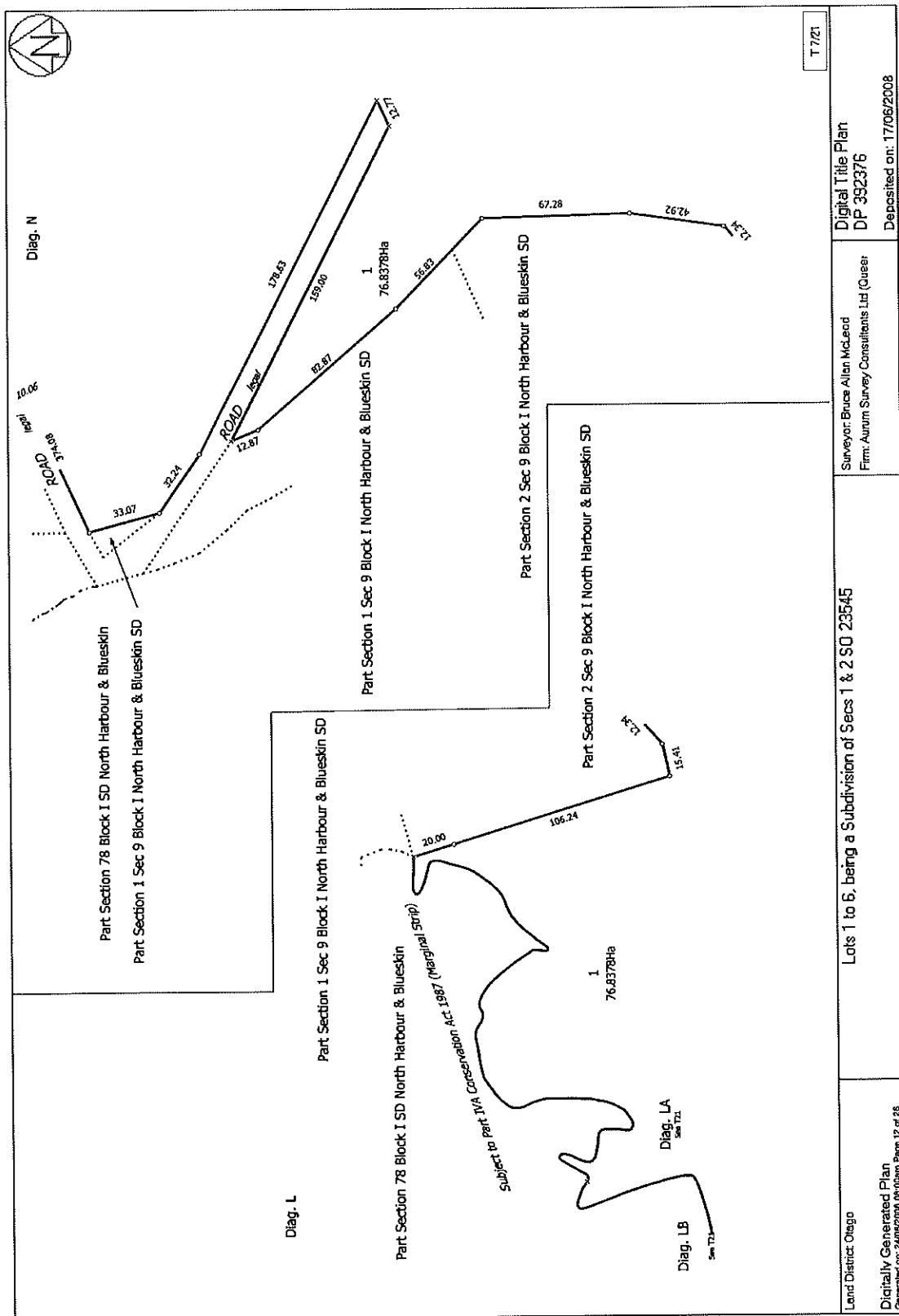
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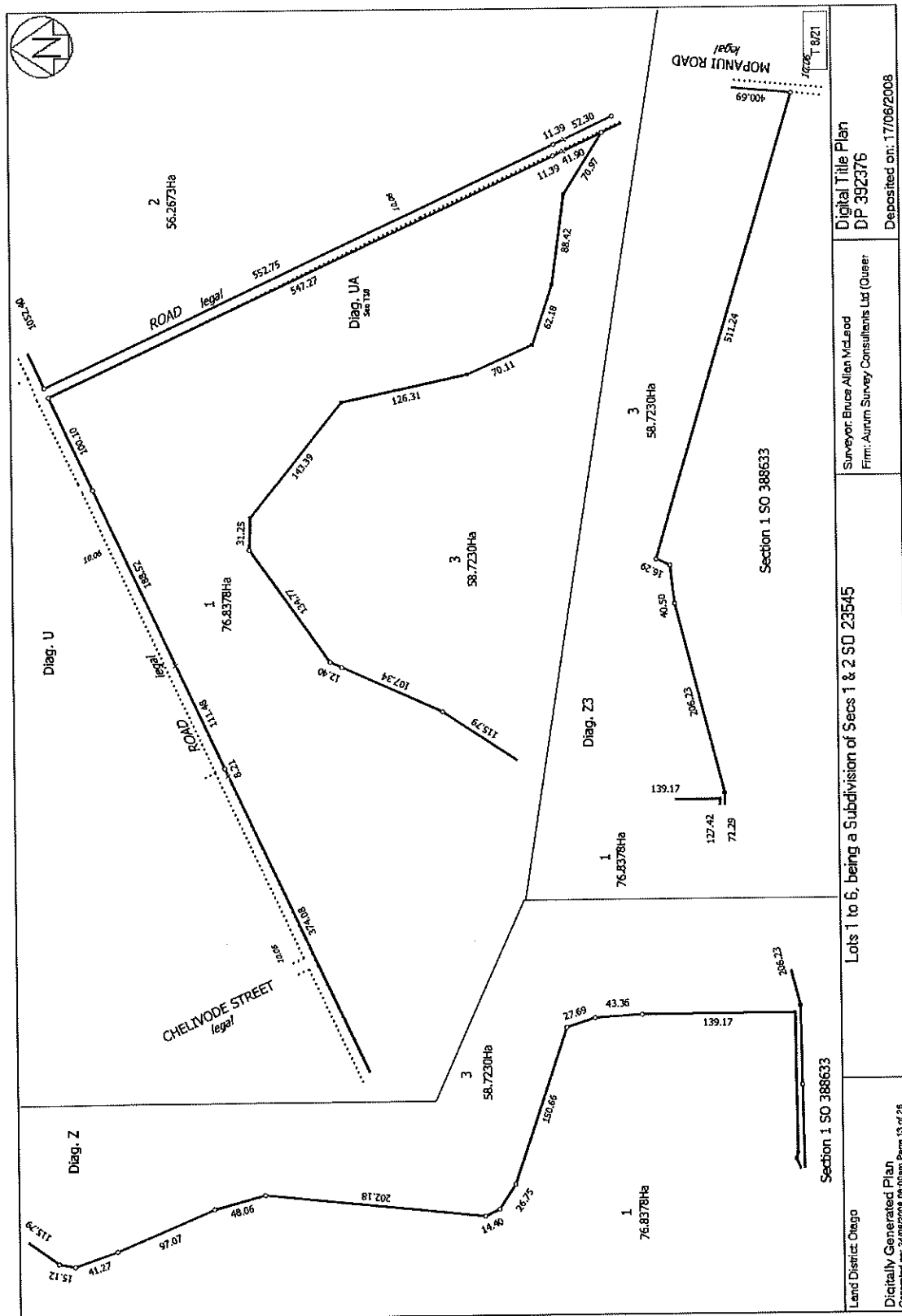
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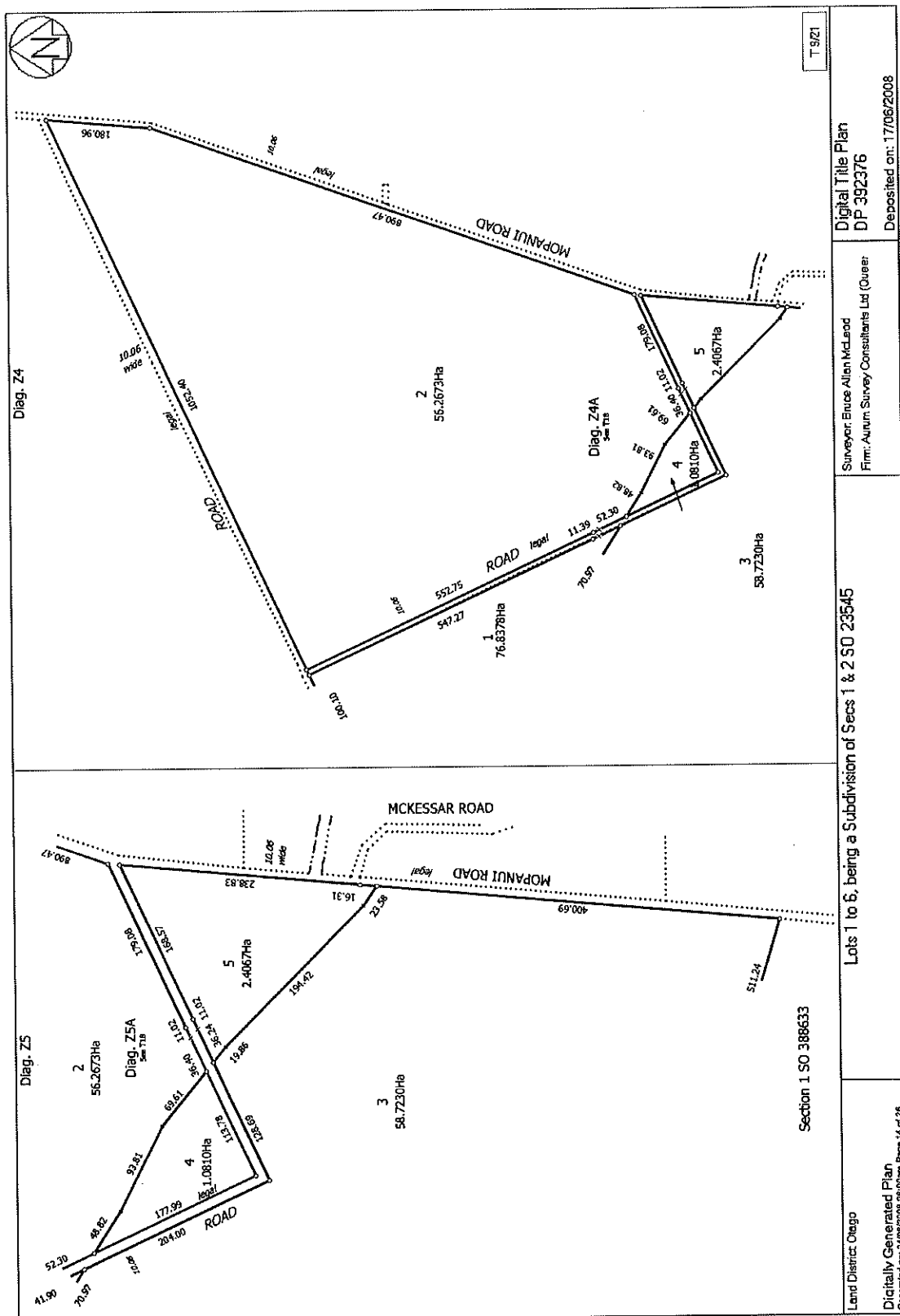
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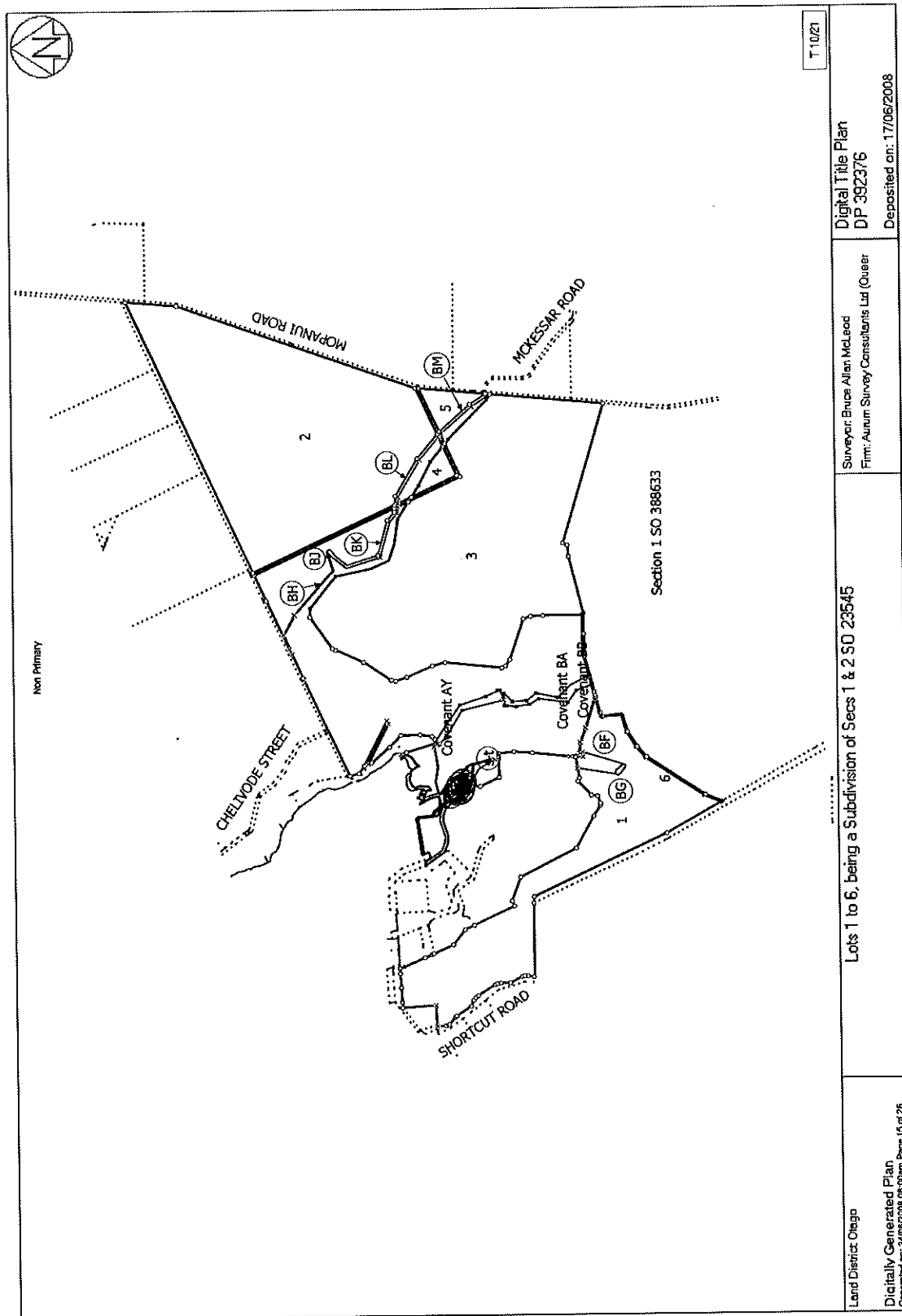
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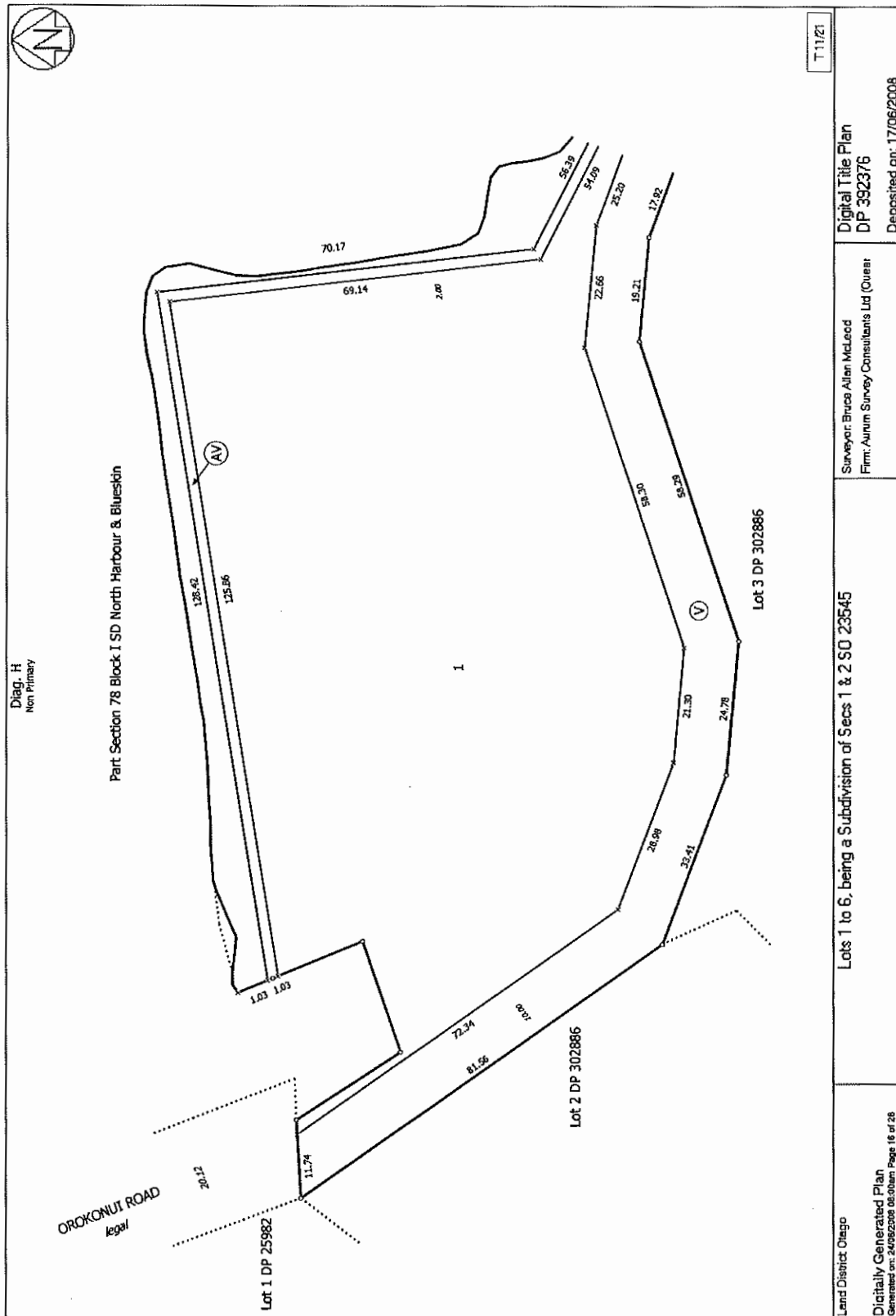
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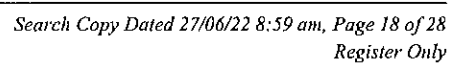
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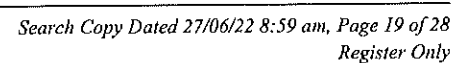


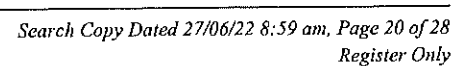
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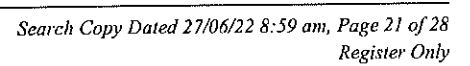
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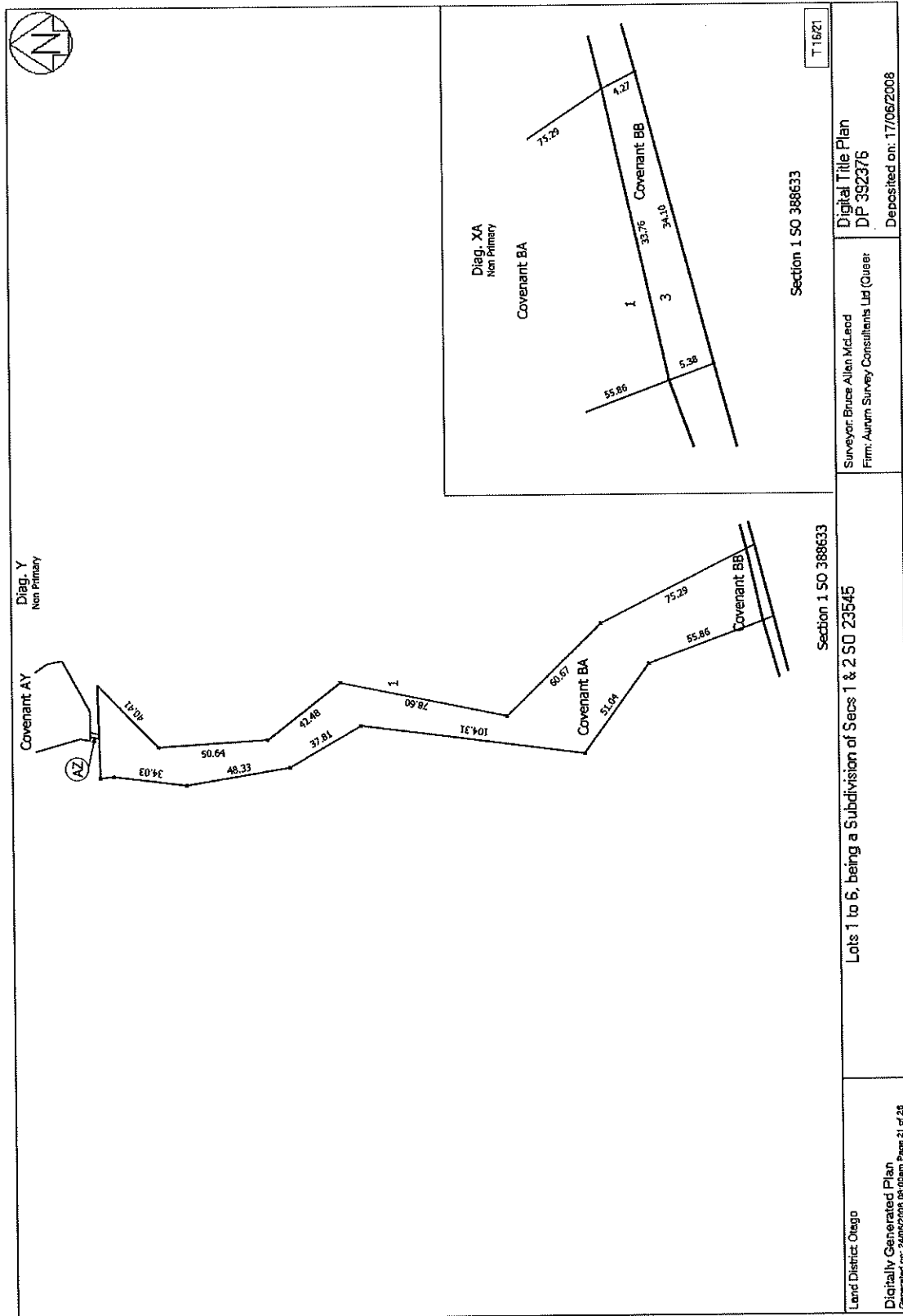






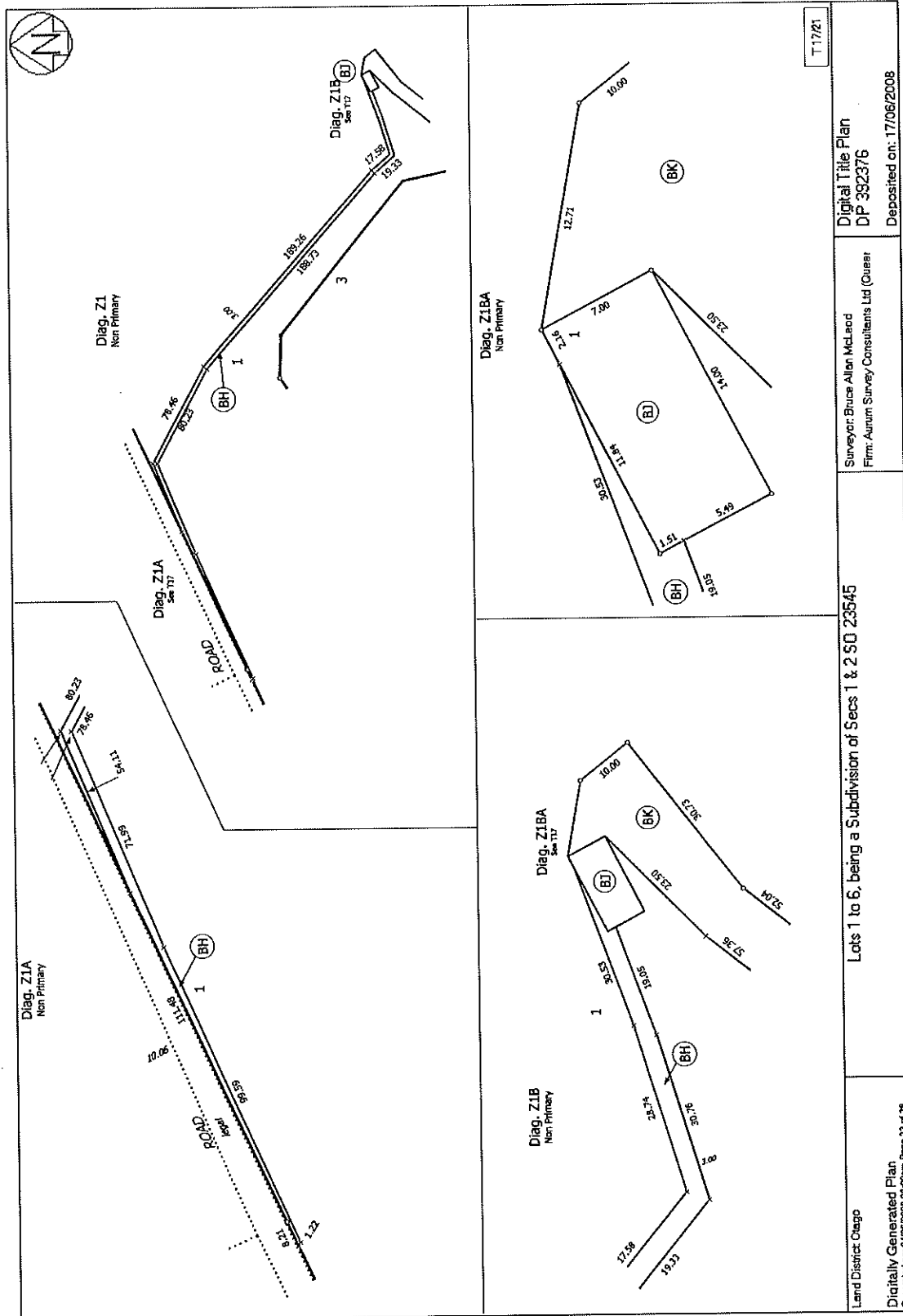
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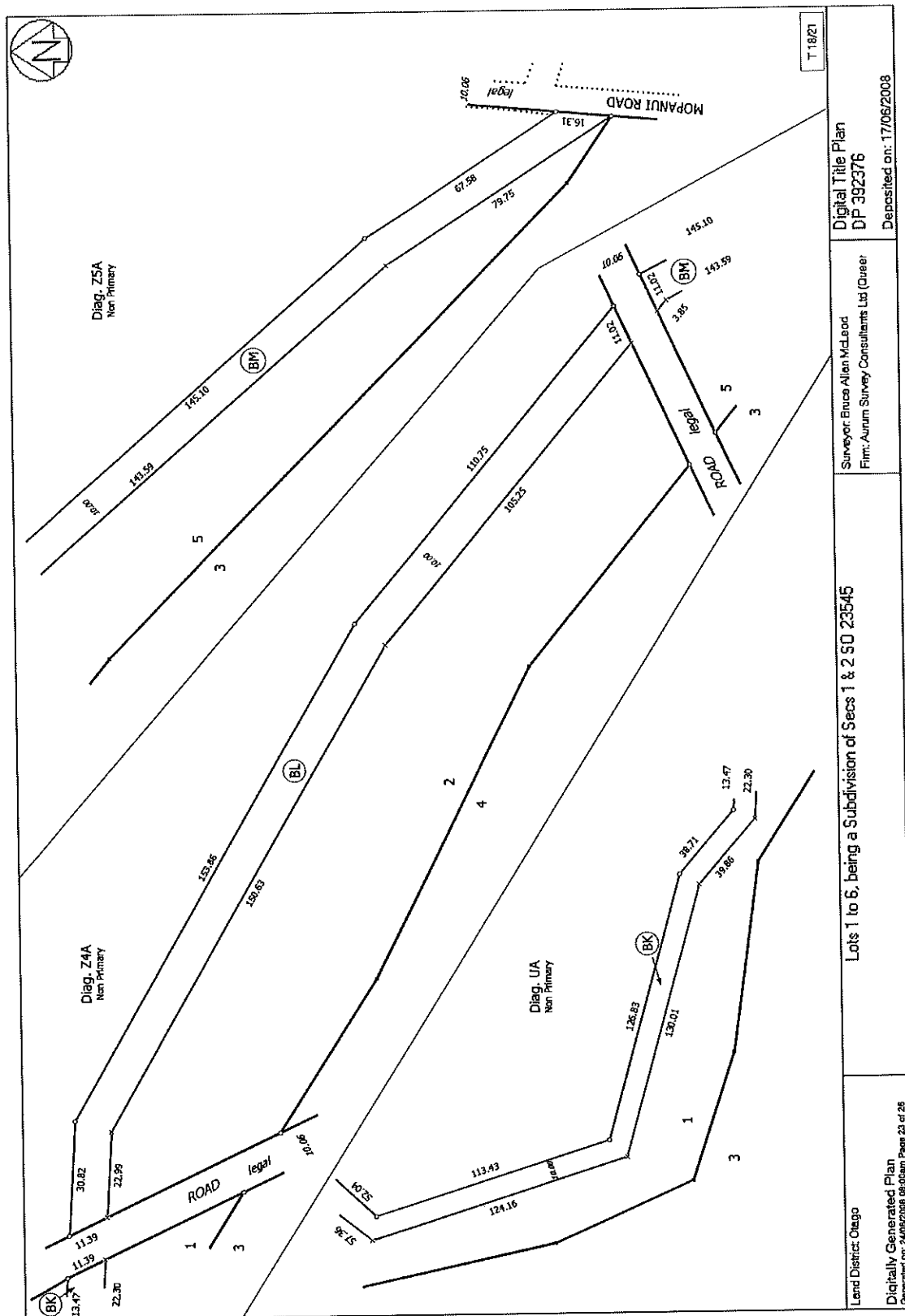
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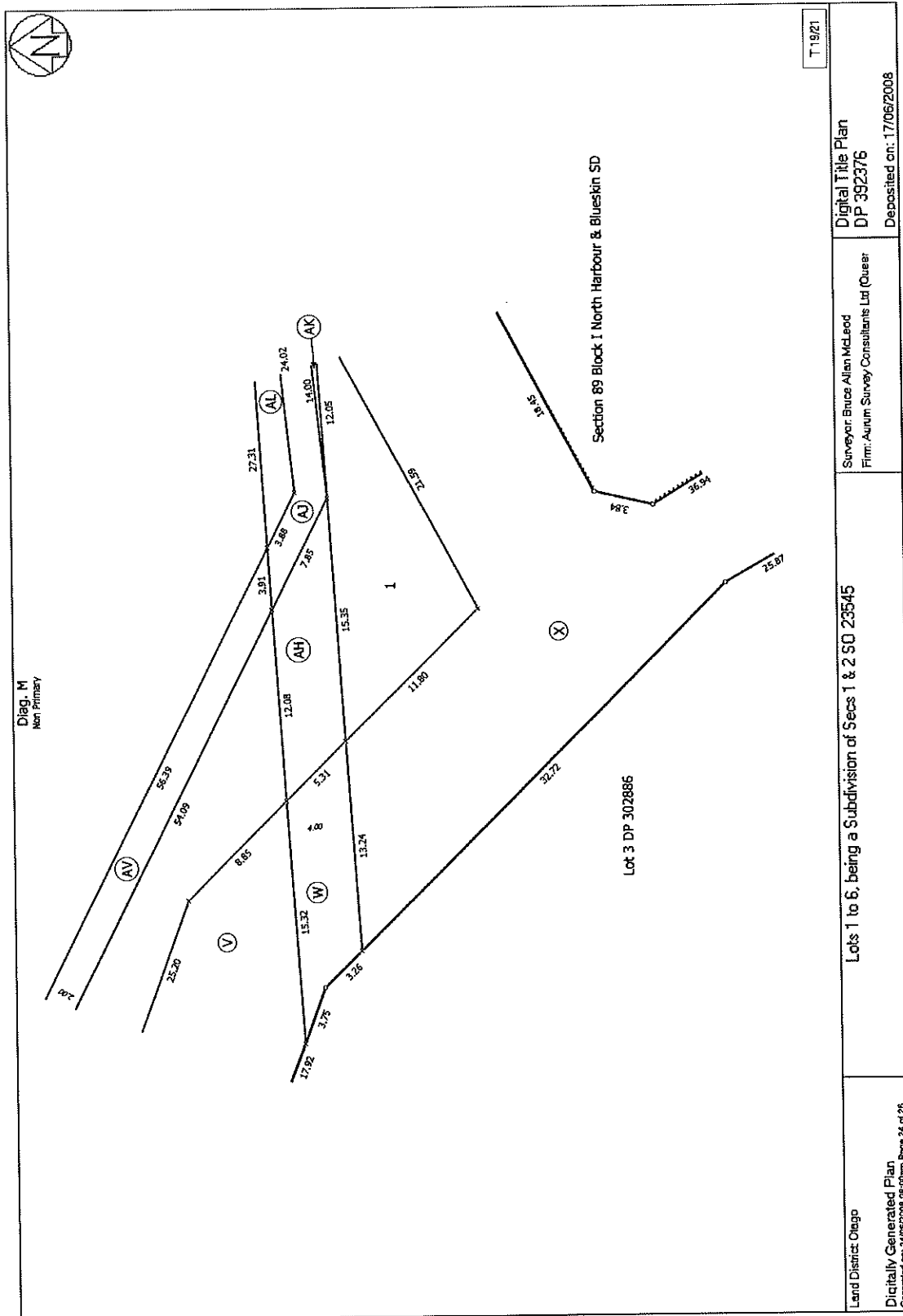
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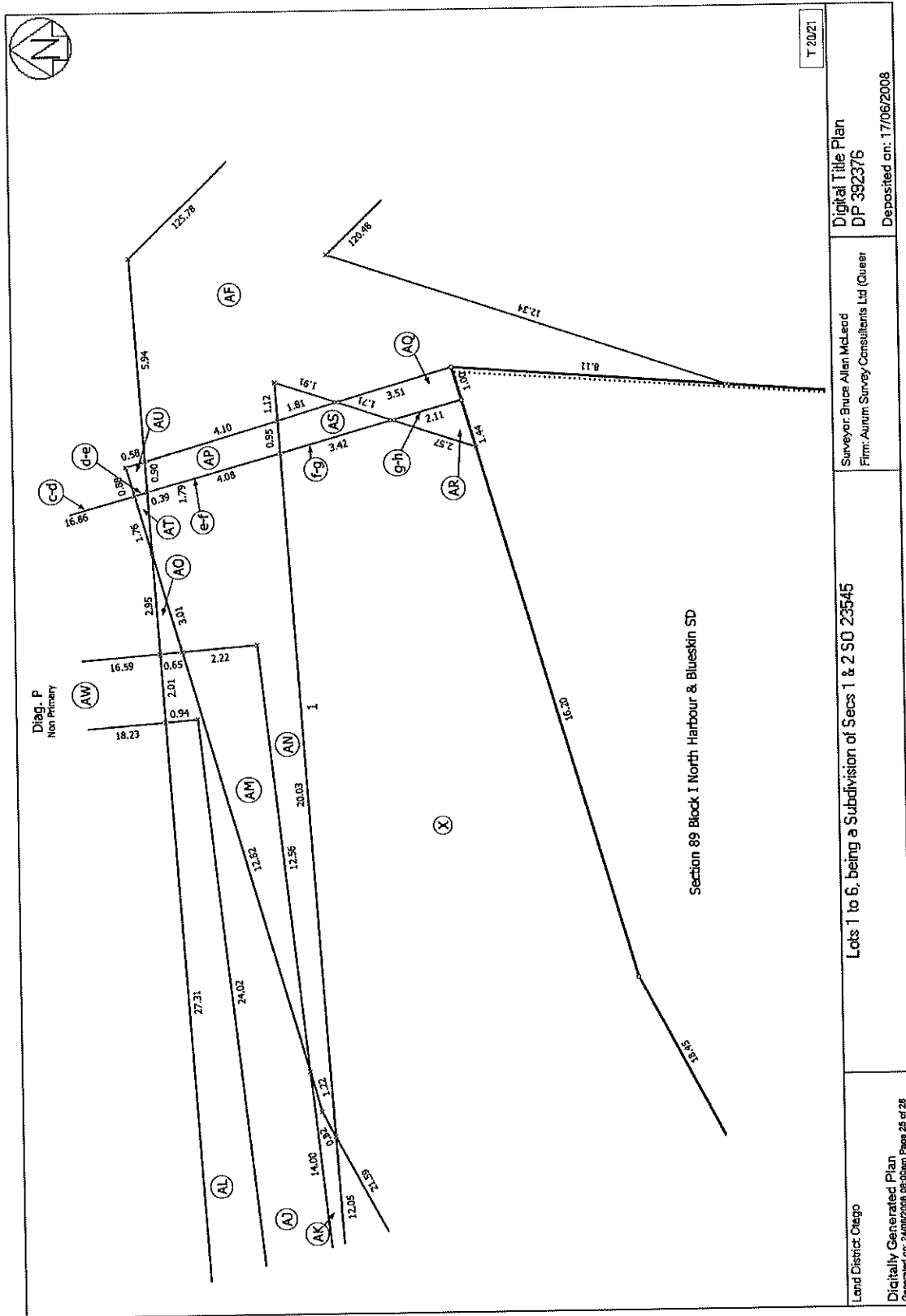
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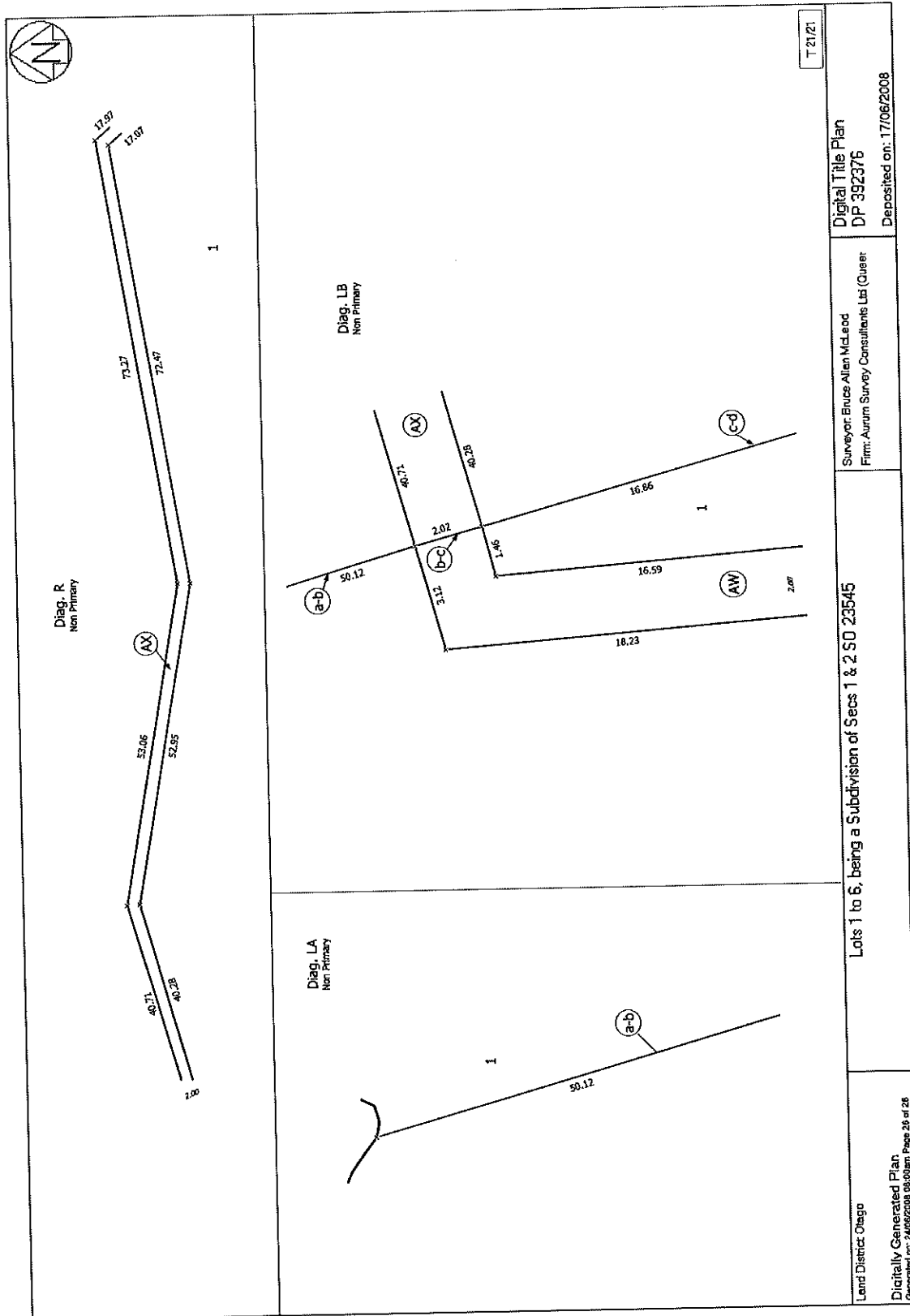
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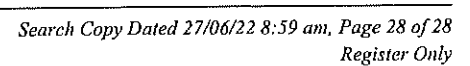
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**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**




R.W. Muir
Registrar-General
of Land

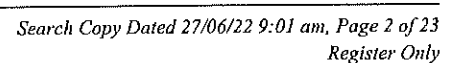
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Land Registration District **Otago**
Date Issued 25 November 2009

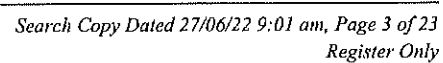
Prior References
382106 483206

Estate	Fee Simple
Area	60.3590 hectares more or less
Legal Description	Lot 3-4, 6 Deposited Plan 392376 and Section 1 Survey Office Plan 396241

Registered Owners
Otago Natural History Trust Incorporated

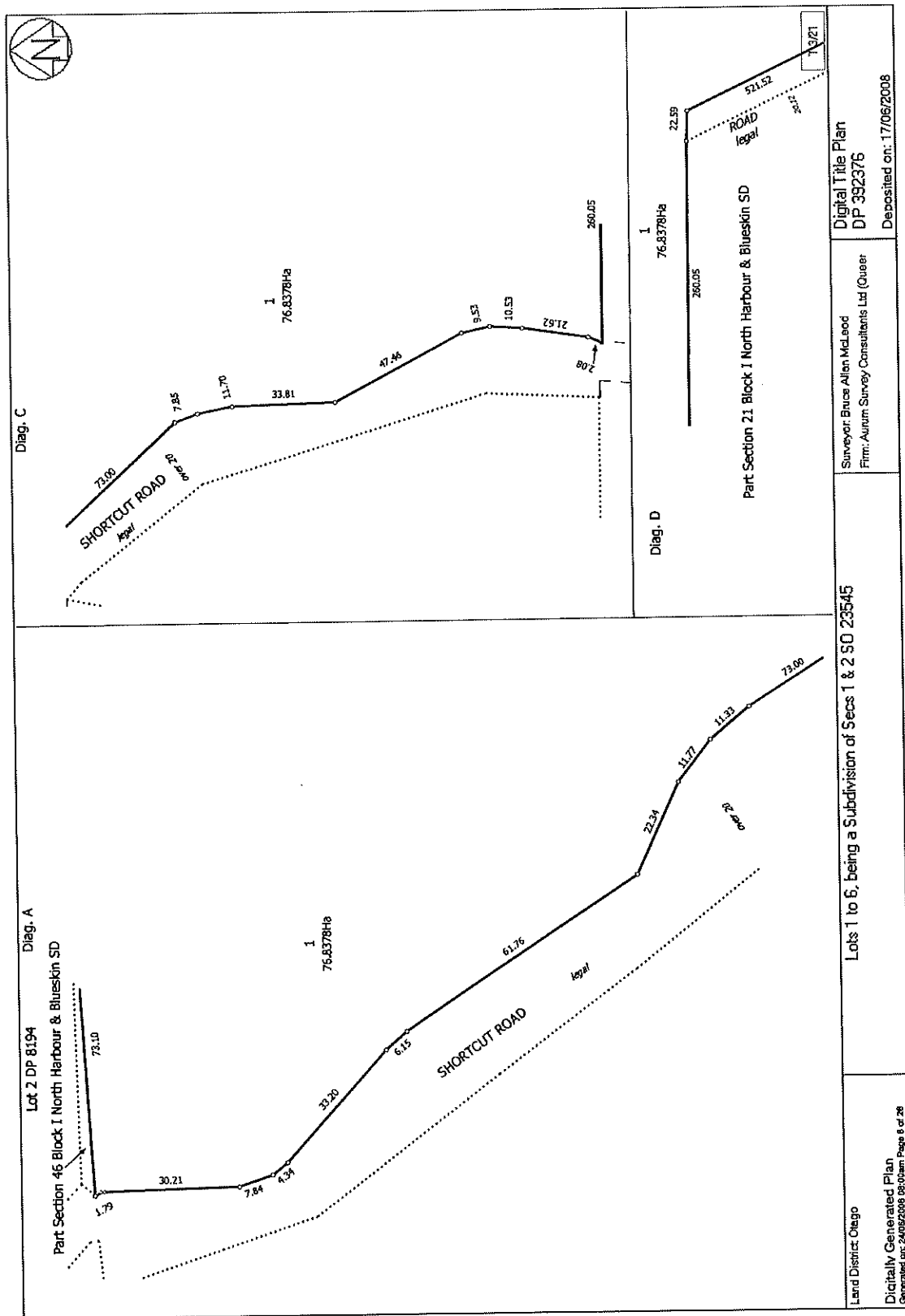
Interests
Subject to Section 8 Atomic Energy Act 1945
Subject to Section 3 Geothermal Energy Act 1953
Subject to Part IV A Conservation Act 1987
Subject to Section 6 Mining Act 1971
Subject to Section 3 Petroleum Act 1937
Subject to Section 261 Coal Mines Act 1979
Subject to Section 5 Coal Mines Act 1979
Subject to Section 8 Mining Act 1971
788334.2 Conservation Covenant pursuant to Section 77 Reserves Act 1977 (affects part marked D SO Plan 23545)-
17.6.2008 at 9:00 am
Subject to a Right to Convey Water over part marked BC DP 392376 created by Transfer 5122238.2 - 10.12.2001 at
2:06 pm
Appurtenant hereto is a right of way created by Easement Instrument 6200372.5 - produced 2.11.2004 at 9:00 am and
entered 22.12.2004 at 9.00 am
Subject to Section 241(2) Resource Management Act 1991 (affects DP 392376)
Subject to Section 345(2A)(a) and (b) Local Government Act 1974





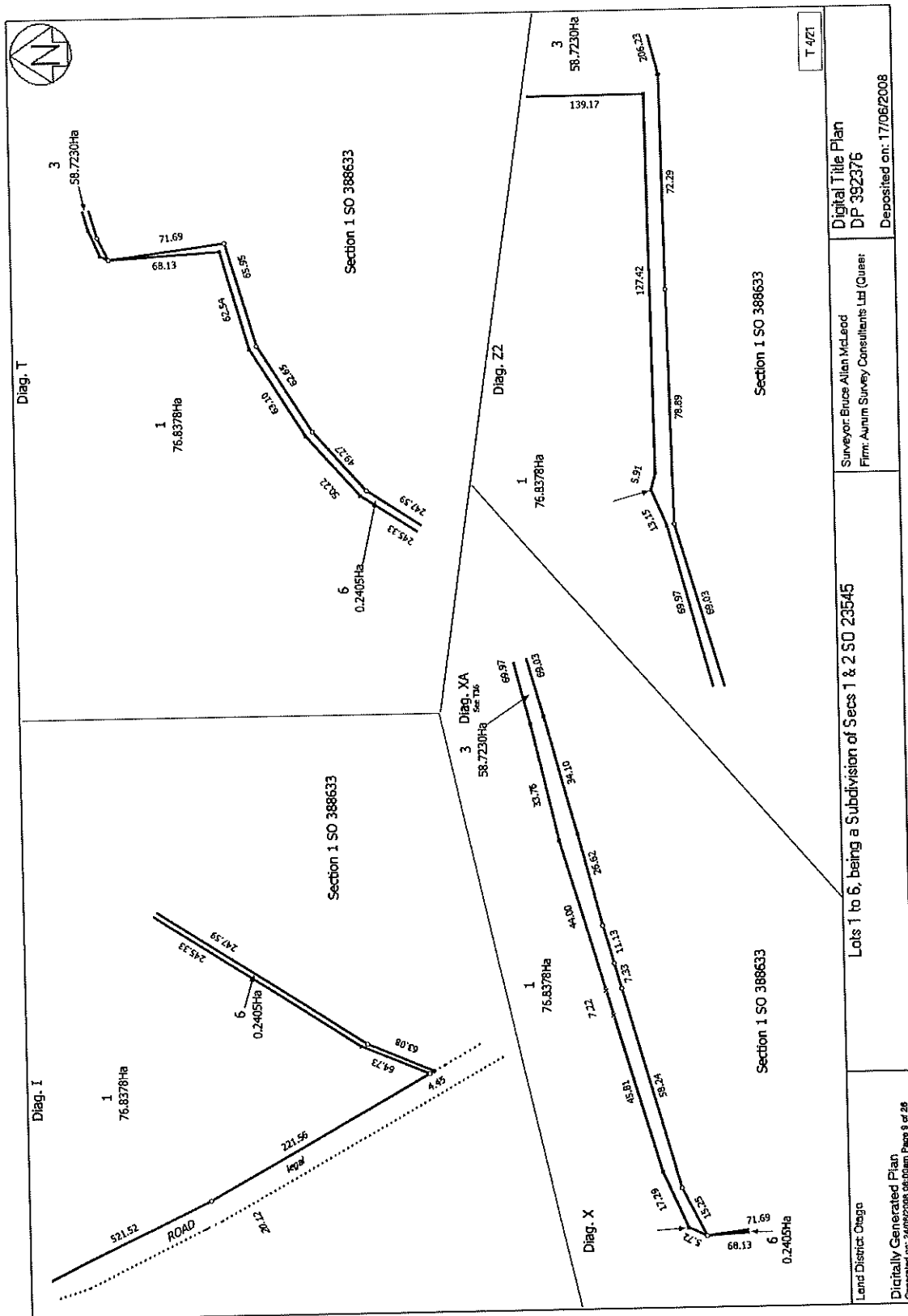
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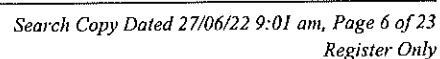
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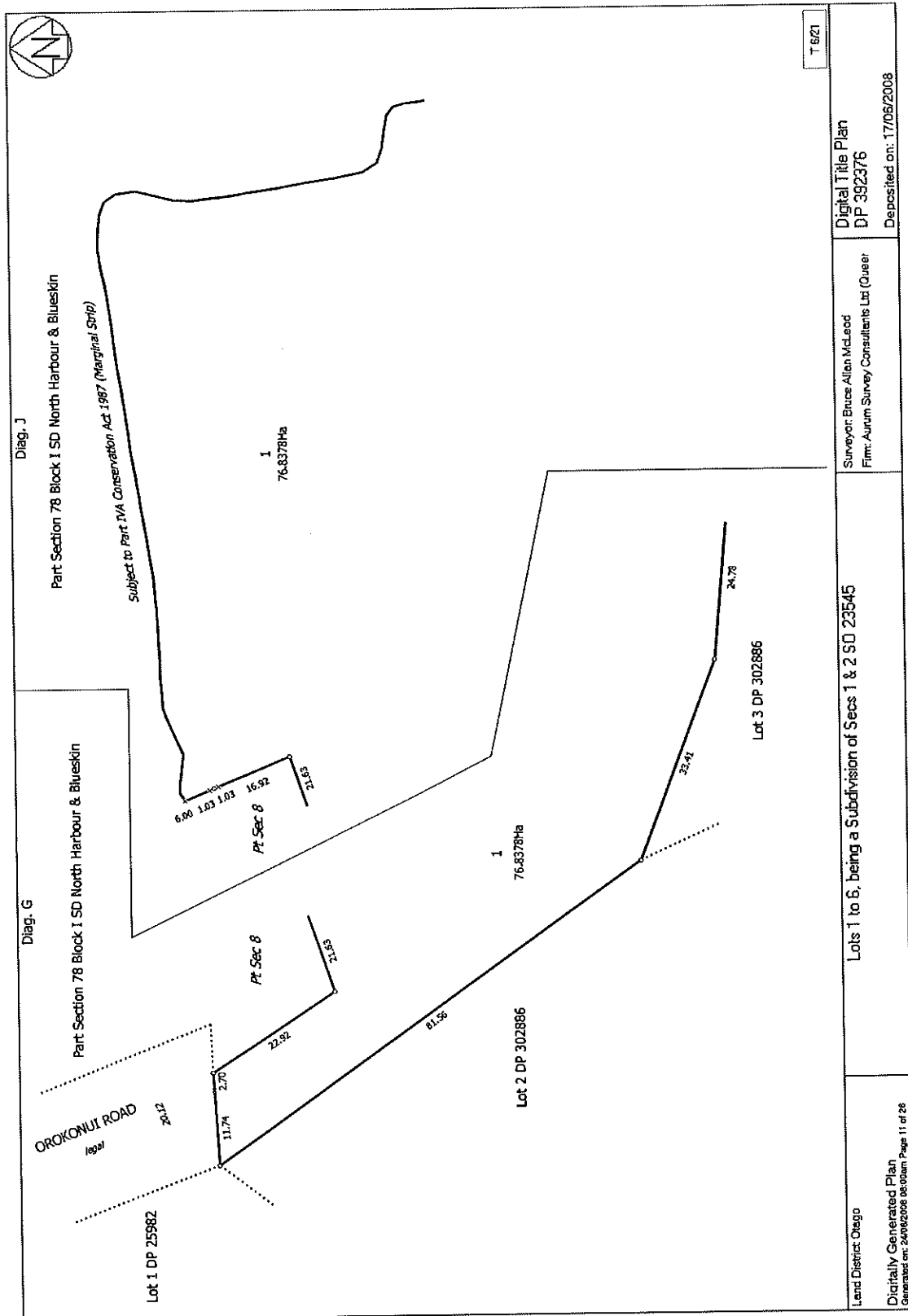
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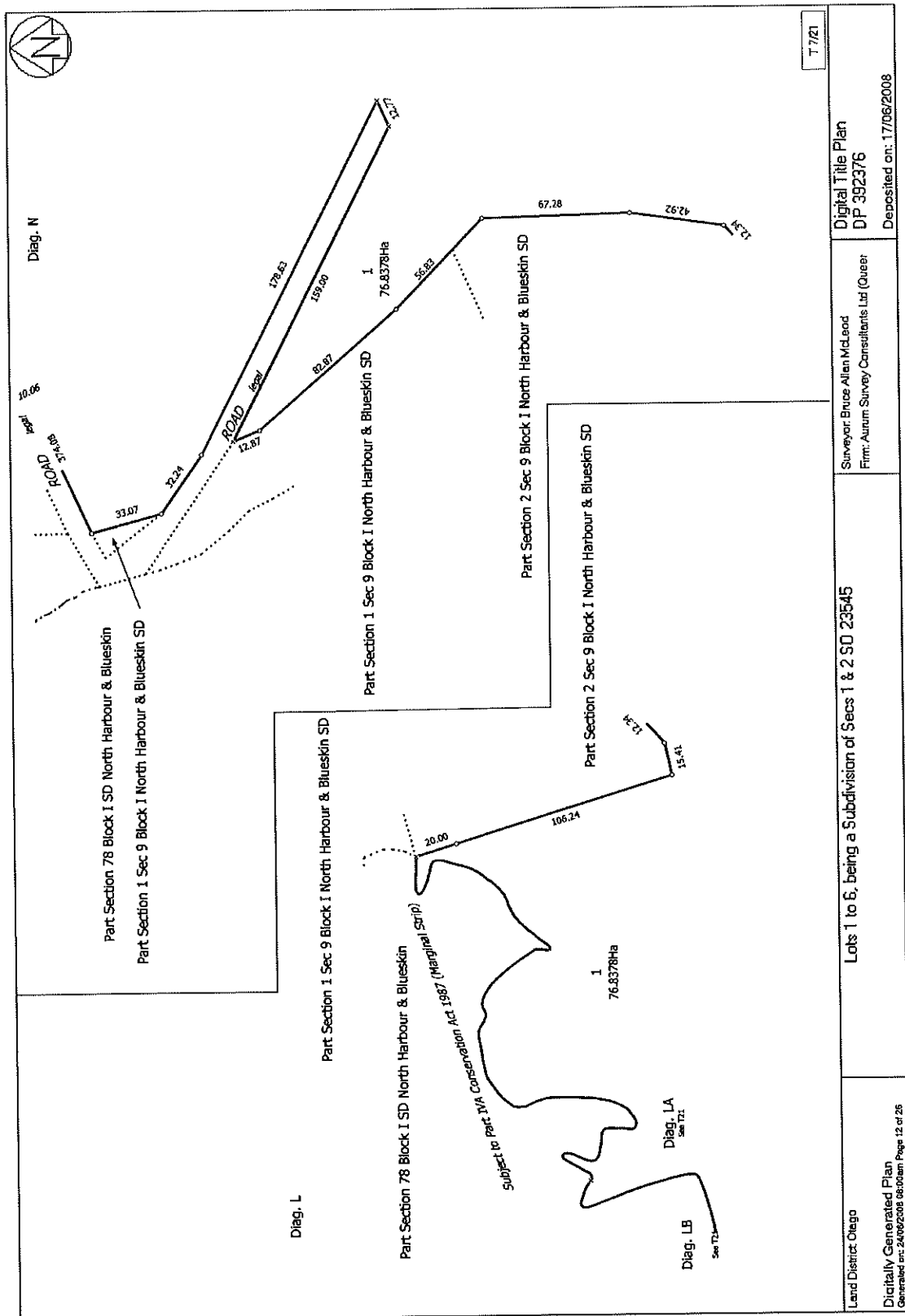
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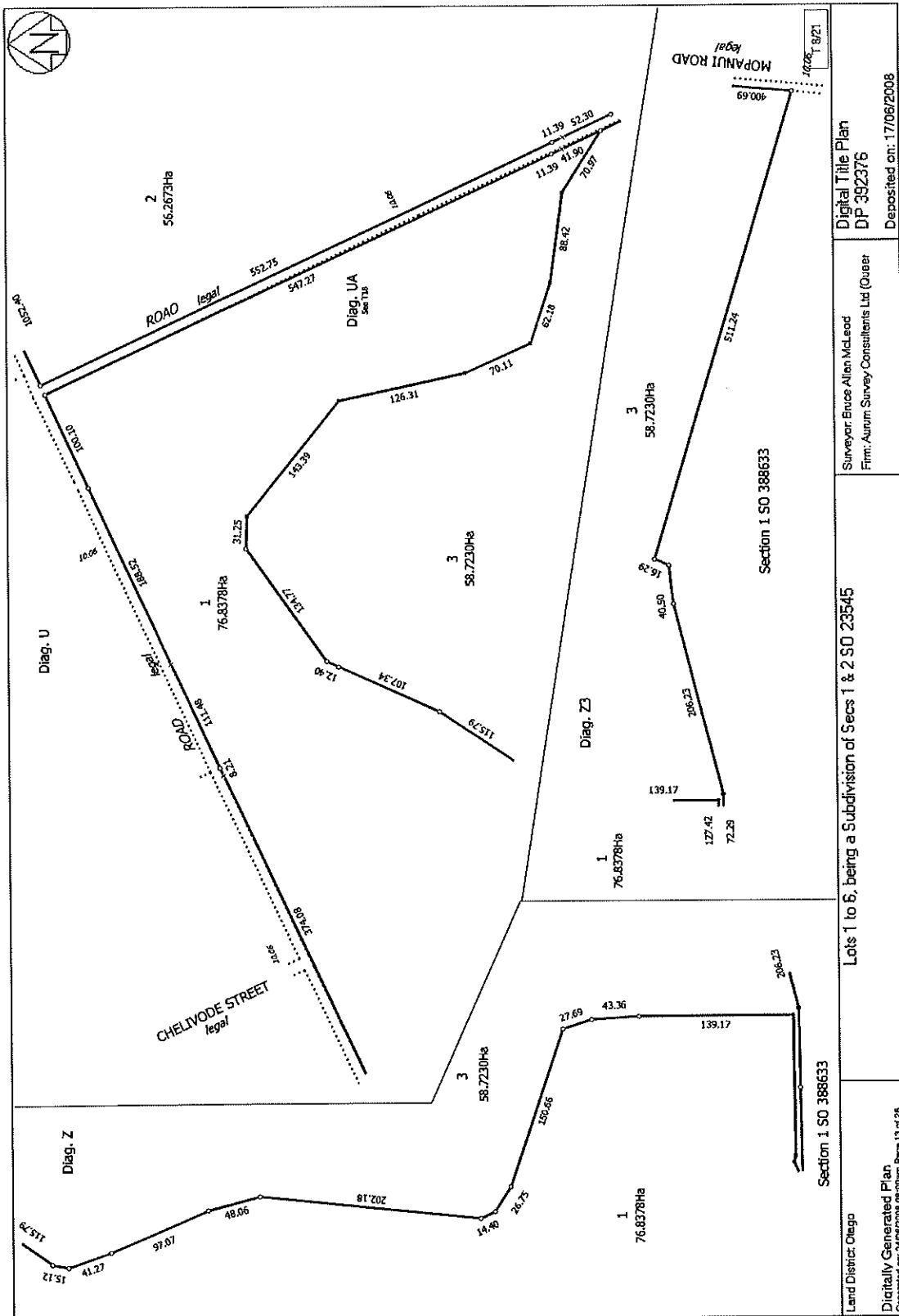
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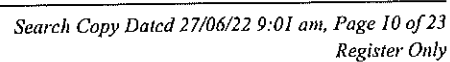


Digital Title Plan
DP-392376
Deposited on: 17/06/2008

Surveyor Bruce Allan McLeod
Firm: Aurum Survey Consultants Ltd (Queer)

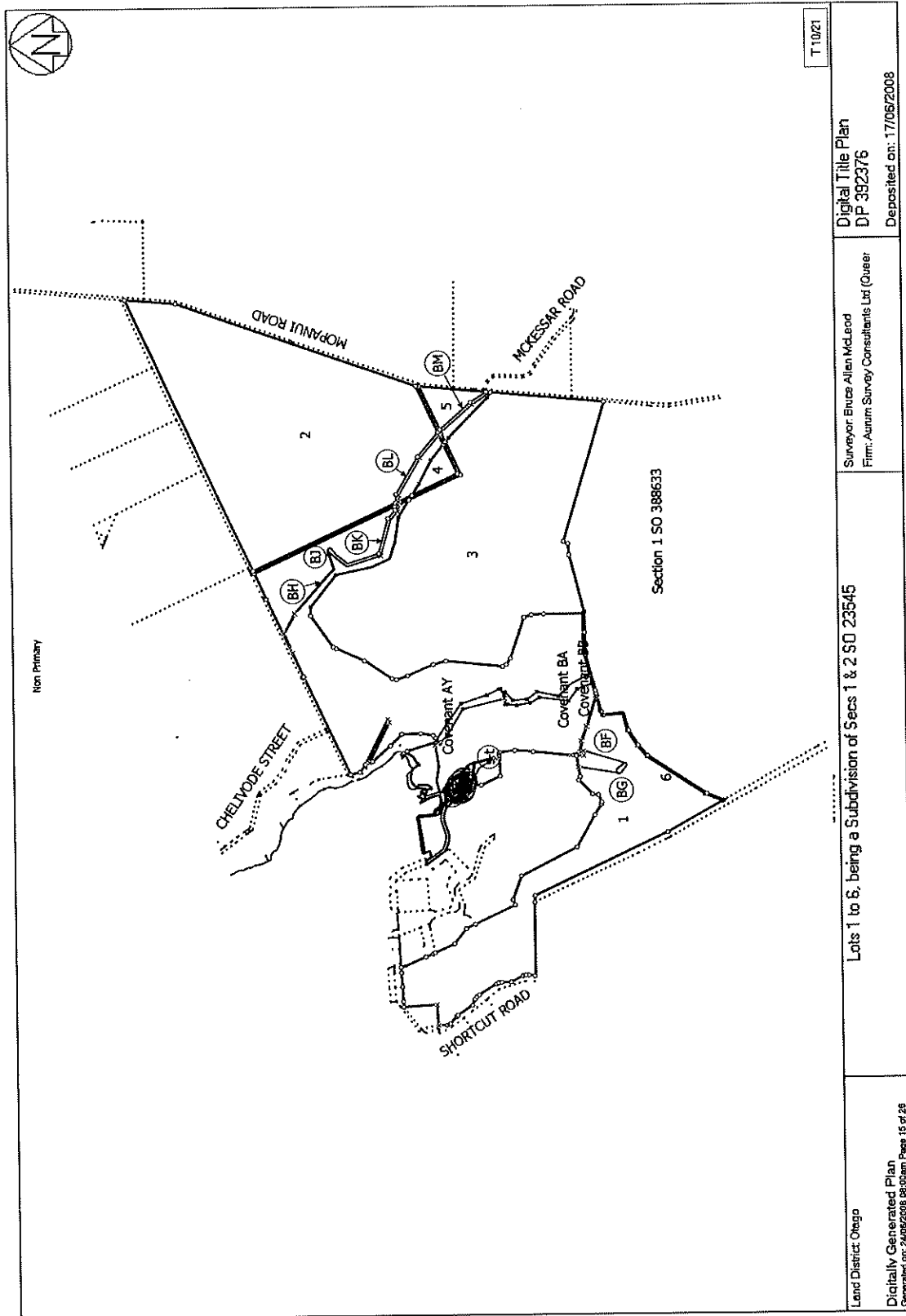
Lots 1 to 6, being a Subdivision of Secs 1 & 2 SO 23545

Land District: Otago
Digitally Generated Plan
Generated on: 24/06/2008 Document Page 13 of 28



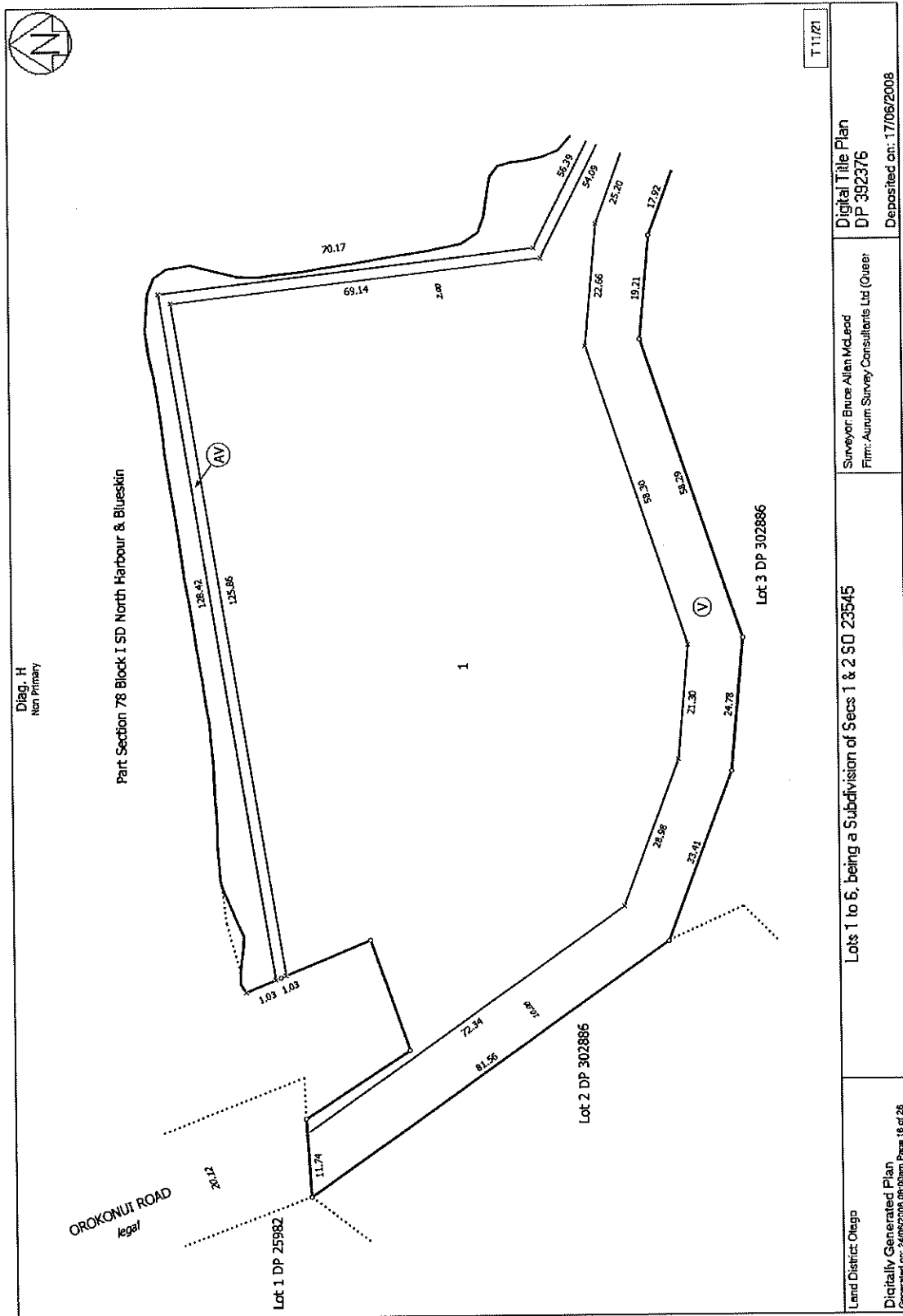
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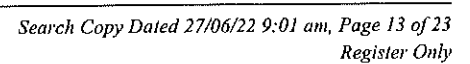
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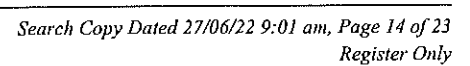


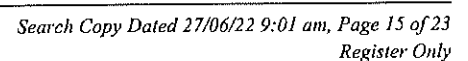
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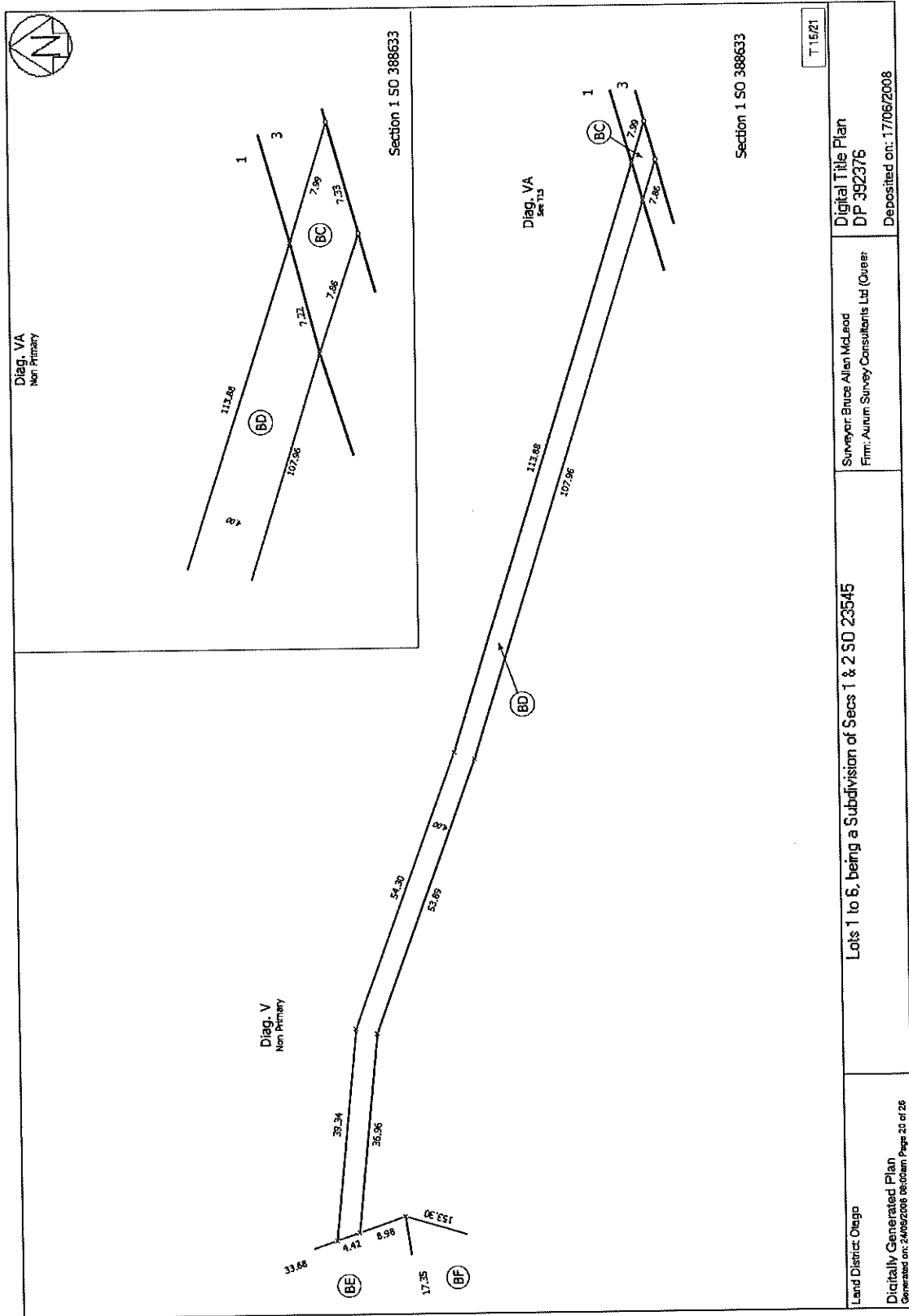






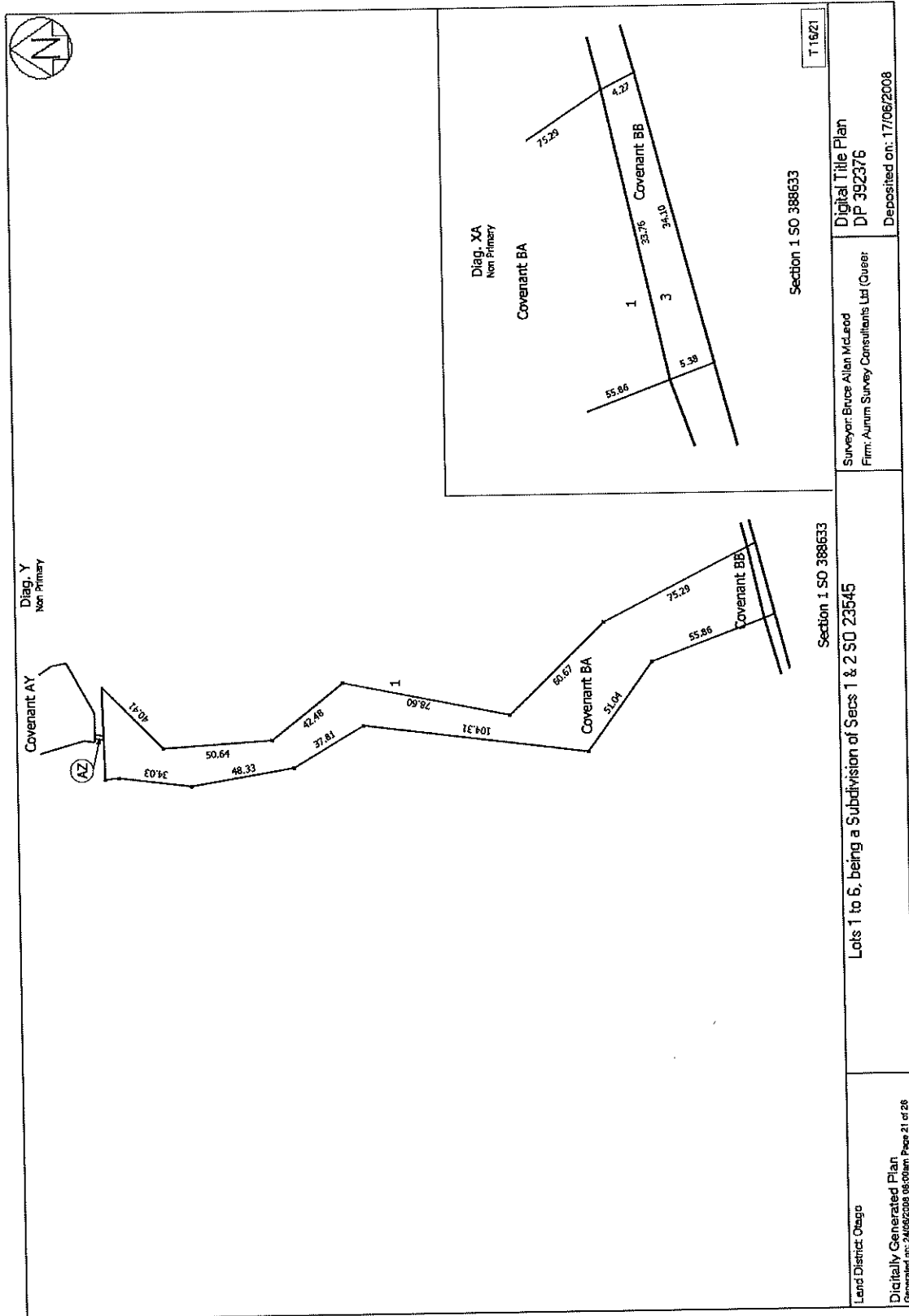
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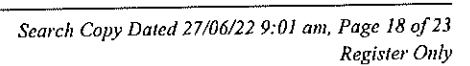
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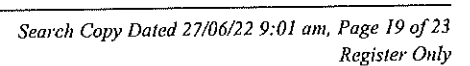


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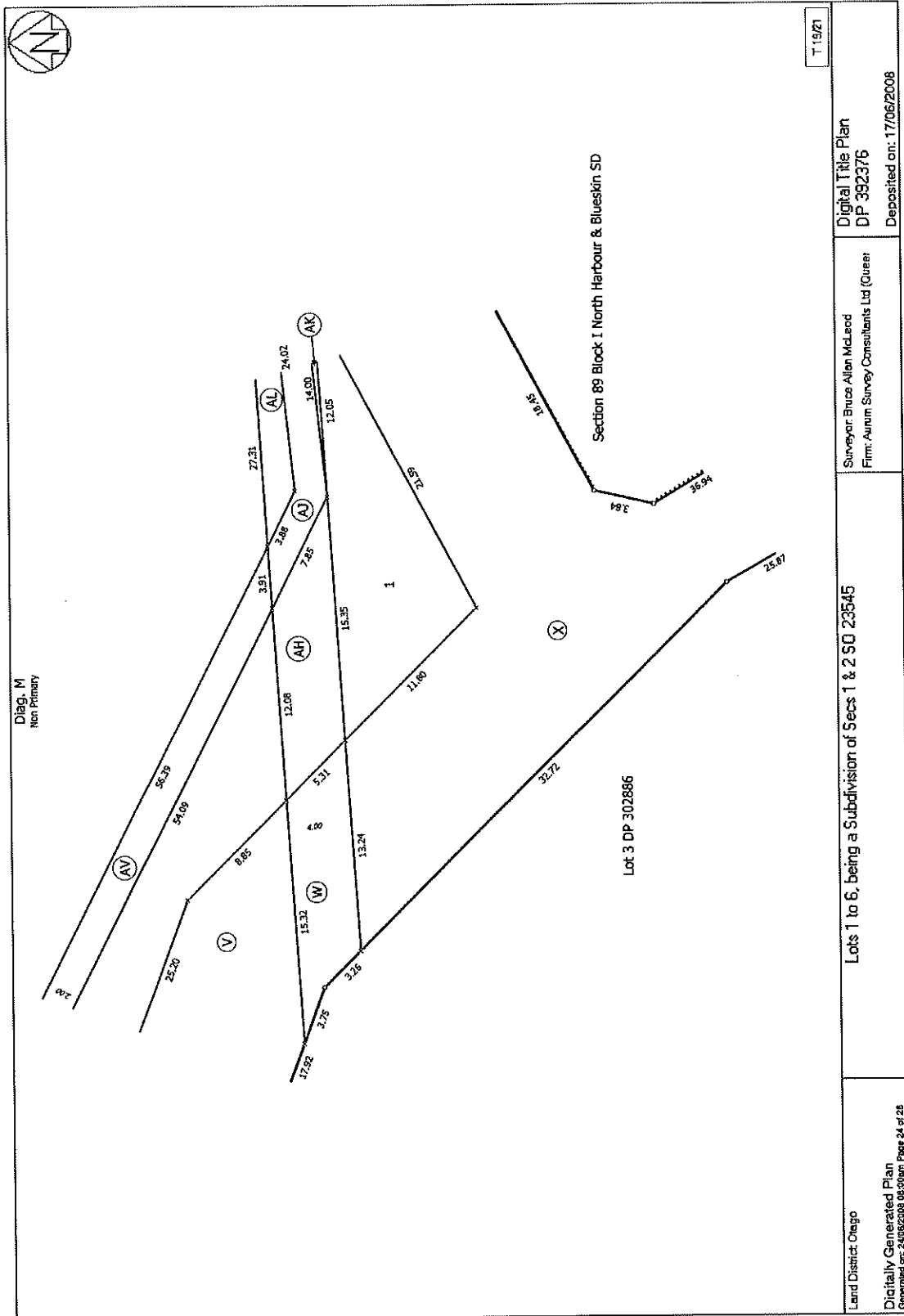






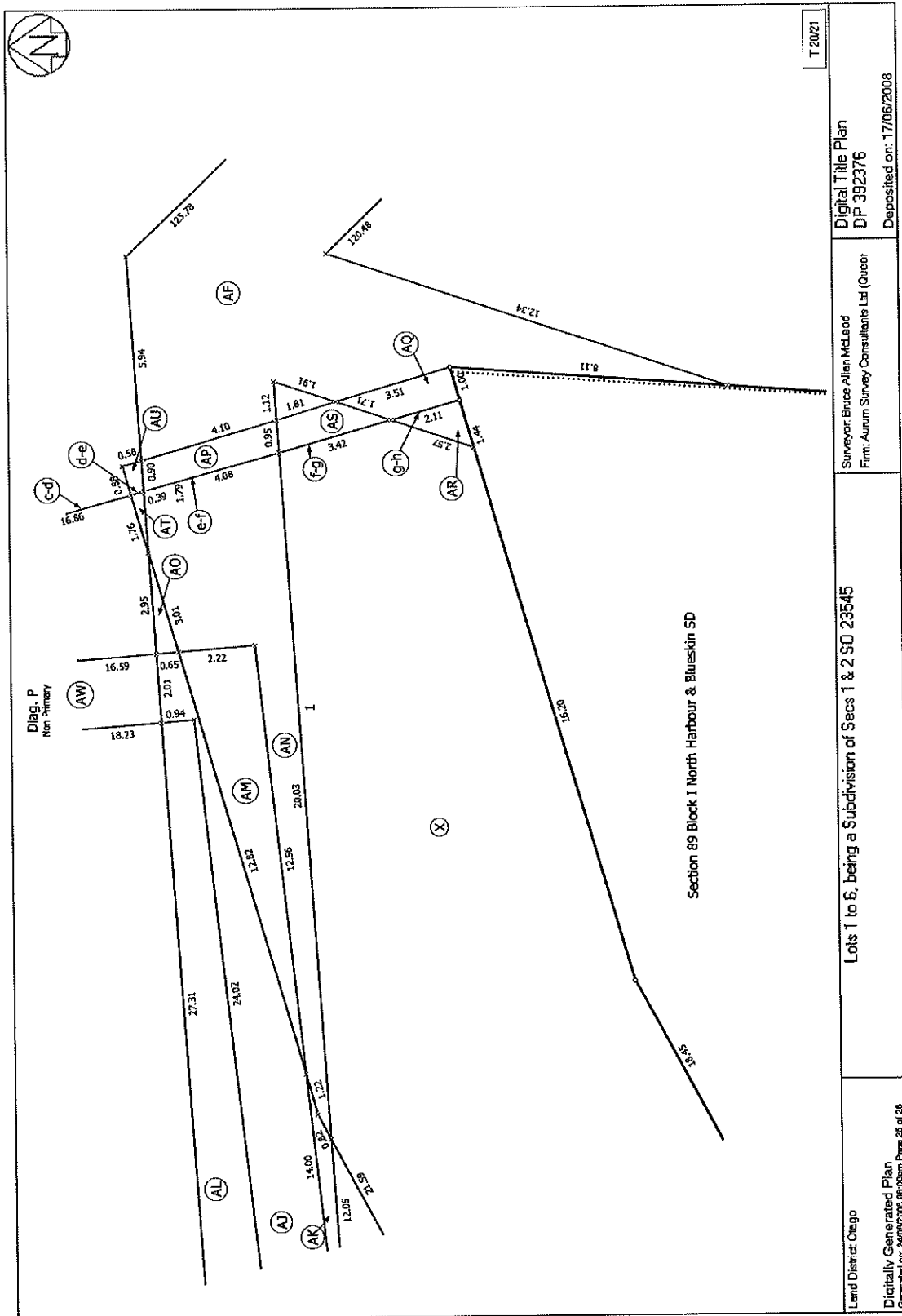
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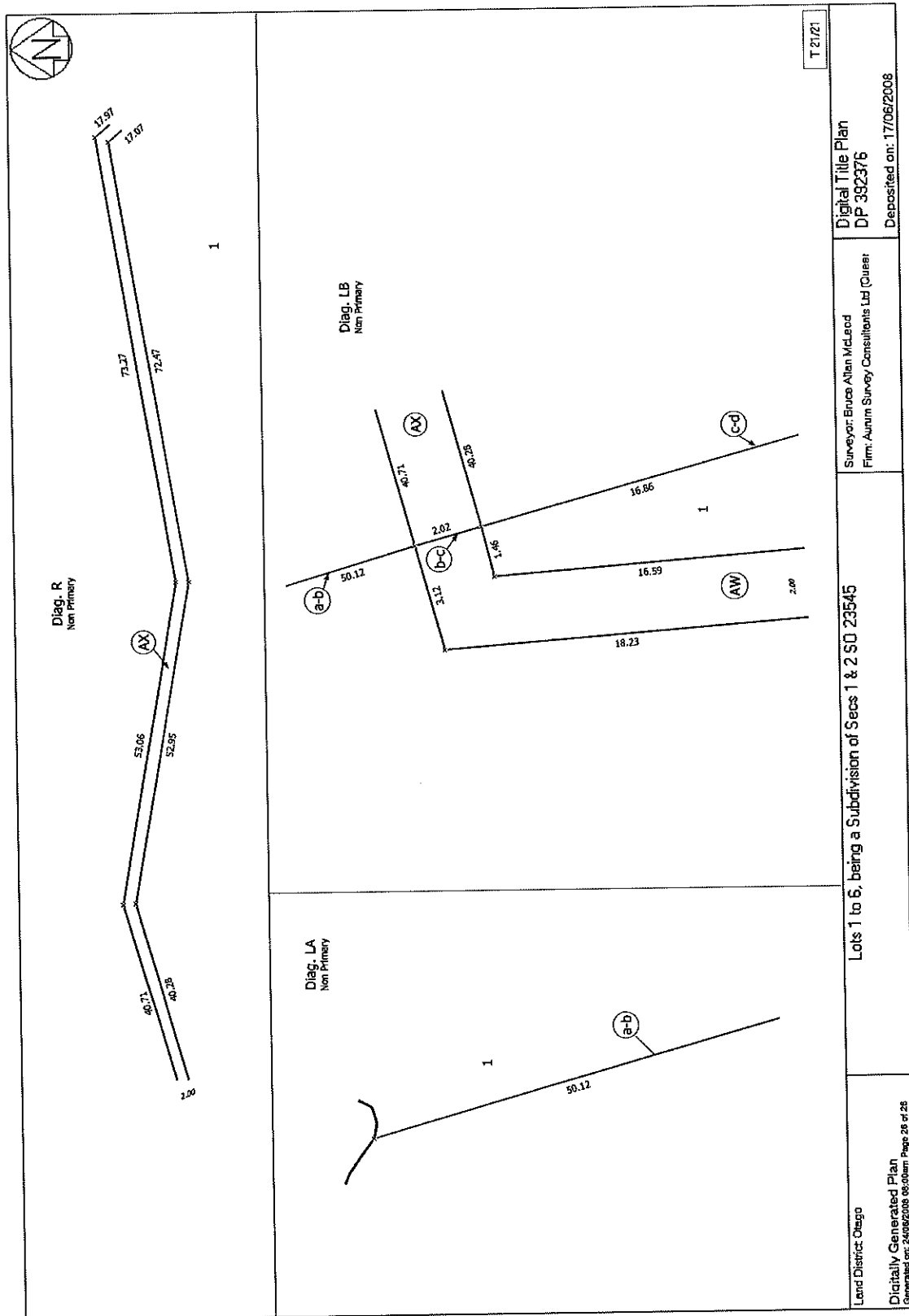
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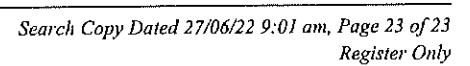
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Identifier

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APPENDIX TWO
BIODIVERSITY COMMENTS

TO: Lianne Darby

FROM: Zoe Lunniss, Biodiversity Advisor

DATE: 16 November 2023

SUBJECT: SUB-2022-114 – 175 MOPANUI ROAD & 3 CHELIVODE STREET – BIODIVERSITY COMMENTS

Kia ora Lianne,

Please find my biodiversity comments on application SUB-2022-114.

1. This application seeks resource consent for the two-lot subdivision of part of 3 Chelivode Street, Waitati, and part of 175 Mopunui Road.
2. The subdivision consists of a boundary change where 1305 m² of land will be transferred from 3 Chelivode Street to 175 Mopunui Road.
3. The application states the purpose of the subdivision is to *"support the conservation activity associated with Orokonui Ecosanctuary"*.

Site

175 Mopunui Road

4. 175 Mopunui Road forms part of the Orokonui Ecosanctuary, a 307 ha protected area of Coastal Otago Forest with significant biodiversity values.
5. The Orokonui Reserve is identified as an Area of Significant Biodiversity Value (ASBV) in the 2GP (ASBV C040). However, ASBV C040 does not include 175 Mopunui Road although under the same ownership.

3 Chelivode Street

6. 3 Chelivode Street is a large rural site that adjoins the northern boundary of 175 Mopunui Rd.
7. Orokonui Creek runs through 3 Chelivode Street (Figure 1) and is listed in Appendix 10C as a water body with conservation values. These include the presence of indigenous freshwater species; banded kokopu, giant kokopu, inanga, longfin eel, shortfin eel, giant bully, redfin bully, bluegill bully, and lamprey.
8. Orokonui Creek and its surrounding riparian vegetation scheduled as ASBV C041 and ASBV C042. ASBV C041 covers Orokonui Creek riparian area around 10 m on either side of the water way. These ASBVs cover the same area as a Conservation Covenant registered by virtue of Section 77 of the Reserves Act 1977.
9. Restrictions and stipulations of the Conservation Covenant agreement include, but are not limited to;
 - a. Protection in perpetuity

- b. No change to the character of the topography of Covenant Areas except as authorised
- c. No buildings or structures, hoarding, or commercial development on the Covenant Areas
- d. No exotic planting or seed sowing to occur within the Covenant Area and no indigenous vegetation removal
- e. No grazing
- f. No disturbance to archaeological historical or traditional cultural sites
- g. The public shall have access to and across the Covenant Area with prior permission to the landowner

Relevant 2GP Policy

- 10. **Policy 10.2.2.7** - Only allow subdivision activities adjacent to water bodies and the coast where the subdivision is designed to ensure that the following biodiversity values and natural character values are maintained or enhanced, including through provision of an esplanade reserve or esplanade strip in identified locations, including Orokonui Creek.
- 11. **Policy 10.2.4.3** - Require subdivision of land to enhance public access to the natural environment through:
 - a. requiring an esplanade reserve or esplanade strip of an appropriate width and location adjacent to identified water bodies and the coast; and
 - b. where practicable, providing opportunities for access in other areas where this will enhance recreational opportunities, particularly through connecting to and expanding the existing tracks network or utilising adjacent unformed legal roads.

Proposed activity

- 12. Esplanade Reserve is required along Orokonui Creek with a minimum width of 20 m either side of the waterway, as per Policy 10.2.2.7.
- 13. The applicant seeks to have the esplanade reserve requirement along Orokonui Creek waived.

Assessment and recommendations

- 14. The section of Orokonui Creek requiring an esplanade reserve is already protected by ASBV C041 and a Conservation Covenant. This ASBV (Figure 1) appears to be about 14 m at its narrowest and extends to at least 20 m at certain points along the creek.
- 15. While the existing protective measures may not cover the entire expanse that an esplanade reserve would, the presence of protection mechanisms on-site deserves acknowledgment.
- 16. In assessing an alteration or reduction to the required esplanade reserve, the effects on the values of Orokonui Creek (as outlined in Appendix 10C) and biodiversity values must be considered.
- 17. Given the current protection mechanisms over Orokonui Creek and the adjoining riparian strip, acknowledged through ASBV C041 and the Conservation Covenant, the potential effects of waiving the esplanade reserve on biodiversity values is considered minor.
- 18. Additionally, access is retained as a condition of the Conservation Covenant.
- 19. The management of the land, involving the retirement of grazing setback 20 m from the waterbody and/or installation of fencing, would likely further enhance the area.

20. It is important to note that the primary reason for the subdivision is to facilitate the Orokonui Ecosanctuary in carrying out additional conservation activities although details regarding these activities have not been included within the application.



Figure 1: Orokonui Creek running through 3 Chelivode Street, ASBV C041 and C040 evident.

Zoe Luniss
Biodiversity Advisor

APPENDIX THREE

PARS COMMENTS

Memorandum

TO: Lianne Darby, Planning
FROM: Katie Eglesfield, Parks and Recreation
DATE: 17 November 2023
SUBJECT: SUB -2022-114 175 MOPANUI ROAD & 3 CHELIVODE STREET –
 PARS COMMENTS

Kia Ora Lianne,

Thank you for the opportunity to comment on the above subdivision consent application SUB-2022-114.

The subdivision proposes to undertake a boundary adjustment between the properties at 3 Chelivode Street and 175 Mopanui Road. This will transfer 1305m² of land from the rural farmland of 3 Chelivode Street to Orokonui Ecosanctuary located at 175 Mopanui Road. The purpose of this land has not been explained within the application except to state that it will “support the conservation activity associated with Orokonui Ecosanctuary”.

The two sites are subject to the following:

175 Mopanui Road: zoned Hill slopes Rural and subject to Significant Natural Landscape (Purakaunui and Orokonui) Overlay Zone.

3 Chelivode Street: Zoned Rural and subject to Area of Significant Biodiversity Value, High Class Soils Mapped Area and Esplanade Reserve and Strips Mapped area (Orokonui Creek).

The focus of this commentary is in regard to the esplanade strip located on 3 Chelivode Street. Orokonui Creek runs through the property and is subject to Rule 10.3.1X of the Second Generation District Plan (2GP). This requires that:

“Subdivision activities along the bank of the following rivers, creeks and streams must provide an esplanade reserve with a minimum width of 20m”.

Orokonui Creek is listed in C041 of Appendix A1.2 as an Area of Significant Biodiversity Value (ASBV). This same area, that is subject to an ASBV, is also registered on the Record of Title of 3 Chelivode Street (Lot 3-4, 6 Deposited Plan 392376 and Section 1 Survey Office Plan 396241) as a Conservation Covenant (788334.2). This Covenant and ASBV covers the Orokonui Creek Riparian Margin of approximately 10m either side of the creek.

Restrictions and stipulations of the Conservation Covenant agreement include, but are not limited to;

- a. Protection in perpetuity.
- b. No change to the character of the topography of Covenant Areas except as authorised.
- c. No buildings or structures, hoarding, or commercial development on the Covenant Areas

- d. No exotic planting or seed sowing to occur within the Covenant Area and no indigenous vegetation removal.
- e. No grazing
- f. No disturbance to archaeological historical or traditional cultural sites
- g. The public shall have access to and across the Covenant Area with prior permission to the landowner.

It is understood the applicant wishes to waive the esplanade strip requirement as they consider it “not applicable”, noting “Although Orokonui Creek passes through the sites, the part of the boundary being adjusted is distant from it”.

While any reductions of waivers for esplanade provision are decided through an independent hearing committee, PARS require a robust rationale to offer support for this. Performance Standard Contravention by failure to provide an esplanade strip or reserve, as per Rule 10.3.1.X, is provided in Rule 10.5.3.2 which outlines that matters of discretion:

- a. Effects on biodiversity values and natural character values of riparian margins and the coast.
- b. Effects on public access.

PARS has considered the applicant’s position that Orokonui Creek is distant from the proposed subdivision activity taking place on site. However, we note that the subdivision process is one of the only mechanisms in which protection of biodiversity values and public access can be enabled, and thus, when a subdivision activity takes place, the consideration for an esplanade strip or reserve must be undertaken as per rules of the 2GP.

Effects on biodiversity values and natural character

Currently, the protective function of the ASBV and the conservation covenant on site provides approximately 10m either side of the Orokonui Creek. This is not consistent along the creek and in some instances reduces to 7m either side of the creek at its narrowest. The provision required by Rule 10.3.1.X for an esplanade strip is a 20m strip either side of the creek.

Orokonui Creek provides an essential link from the wetland to Orokonui Ecosanctuary, the creek itself has native freshwater fish species and whitebait spawning, as identified in Appendix A1.2, Schedule of Areas of Significant Biodiversity Value. An Esplanade strip or reserve also has the function of providing a corridor for the movement of indigenous species from wetland to hills.

We consider that providing an esplanade strip for biodiversity of 20m either side of the creek would promote biodiversity values, providing an essential buffer zone between farming activities while providing adequate space for biodiversity to thrive. While we recognise the Covenant provides a protective element, it is less than the required 20m and we therefore promote this outcome to achieve the best practice for biodiversity values.

Effects on public access

PARS considers enhancing public access to the natural environment is not necessary in this instance as the covenant provision already provides for this: g. “The public shall have access to and across the Covenant Area with prior permission to the landowner”. Furthermore, adequate provision to Orokonui Stream and wetland is provided through the Department of Conservation Track “Orokonui Lagoon Walk” and the Orokonui Ecosanctuary provides access to the upper Orokonui Creek through its own network of tracks.

In this case, given the aforementioned access situation, covenant and ASBV, we consider that an Esplanade Reserve is not necessary however PARS would require an esplanade strip restricting the

purpose to biodiversity only. This may be considered as suitable exchange for any compensation payable for the strip.

Ka mihi nui / Thanks very much,

A handwritten signature in cursive script, reading "Katie Eglesfield".

Katie Eglesfield
PARKS AND RECREATION PLANNER

APPENDIX FOUR

LUC-2021-345



9 August 2021

Orokonui Ecosanctuary Limited and Otago Natural History Trust Incorporated
175 Mopanui Road
Blueskin Bay
Dunedin
Attn: Amanda Symon

Via email: amanda@orokonui.nz

Dear Amanda

RESOURCE CONSENT APPLICATION:

**LUC-2021-345
175 MOPANUI ROAD AND 3 CHELIVODE STREET,
WAITATI
DUNEDIN**

Your application for resource consent was processed on a non-notified basis in accordance with sections 95A to 95G of the Resource Management Act 1991. The application was considered by a Senior Planner, under delegated authority, on 9 August 2021.

The Council has granted consent to the application with conditions. The assessment of the application, including the reasons for the decision, is set out in the report attached to this letter. The consent certificate is attached to the rear of this letter.

Please note that the processing of this application could not be completed within the 20 working day time limit prescribed under section 115 of the Resource Management Act 1991. The time limits for the processing of this consent have been extended pursuant to sections 37A(2)(a) and 37A(4)(b)(ii) of the Resource Management Act 1991 due to the need to confirm legal matters regarding access.

The consent certificate outlines the conditions that apply to your proposal. Please ensure that you have read and understand all of the consent conditions.

You may object to this decision or any condition within 15 working days of the decision being received, by applying in writing to the Dunedin City Council at the following address:

Senior Planner - Enquiries
Dunedin City Council
PO Box 5045
Dunedin 9054

You may request that the objection be considered by a hearings commissioner. The Council will then delegate its functions, powers and duties to an independent hearings commissioner to consider and decide

the objection. Please note that you may be required to pay for the full costs of the independent hearings commissioner.

Alternatively, there may be appeal rights to the Environment Court. Please refer to section 120 of the Resource Management Act 1991. It is recommended that you consult a lawyer if you are considering this option.

You will be contacted in due course if you are due a partial refund or you have to pay additional costs for the processing of your application.

Please feel free to contact me if you have any questions.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'R. Buxton', followed by a horizontal line.

Robert Buxton
Consultant Planner, Buxton & Walker Limited

APPLICATION LUC-2021-345: 175 MOPANUI ROAD AND 3 CHELIVODE STREET, WAITATI, DUNEDIN

Department: Resource Consents

BACKGROUND

The original application was made on the basis that the earthworks were within the Flagstaff-Mt Cargill Significant Natural Landscape. However, they are outside of this overlay. Also, although the application referred to only 175 Mopanui Road, the location of the proposed fill appears to be on 3 Chelivode Street. Note the owners of 3 Chelivode Street have given their written approval. In discussion with the applicant's engineer, it was also confirmed that the earthworks volume would be less than 400m³ and that the fill may be deeper than 2m.

DESCRIPTION OF ACTIVITY

Consent is sought to undertake earthworks and build post and rail fences to protect the predator resistant fence and access from stormwater debris build up that has caused a breach in the fence. Earthworks involves increasing the existing cut of no more than 400m³ with a less steep batter (the maximum change in ground level of the cut will not exceed 2m and the new batter will not exceed 1:1 vertical: horizontal). The cut soil will be placed as fill on the adjoining site at 3 Chelivode Street, with a maximum change in ground level that may exceed 2m. The fill is proposed to be at a batter of 1:3 vertical: horizontal.

175 Mopanui Road is legally described as Lot 3-4, 6 Deposited Plan 392376 and Section 1 Survey Office Plan 396241 (Record of Title 505712), and has an area of 60.3590ha. This site is part of the Orokonui Ecosanctuary showing on the DCC Rates Information Database as including 600 and 602 Blueskin Road and having a total area of approximately 314ha. The adjoining property at 3 Chelivode Street is legally described as Lot 2 Deposited Plan 403524, Sections 3, 4, 5, 6 and 8 SO 23545 and Lots 1, 2 and 5 Deposited Plan 392376 (Record of title 505712) and has an area of 158.4546ha.

REASONS FOR APPLICATION

Dunedin currently has two district plans: the Operative Dunedin City District Plan 2006 (the "2006 District Plan"), and the Proposed Second Generation Dunedin City District Plan (the "Proposed 2GP"). Until the Proposed 2GP is made fully operative, both district plans need to be considered in determining the activity status and deciding what aspects of the activity require resource consent.

The activity status of the application is fixed by the provisions in place when the application was first lodged, pursuant to section 88A of the Resource Management Act 1991. However, it is the provisions of both district plans in force at the time of the decision that must be had regard to when assessing the application.

2006 District Plan

The subject site is zoned **Rural**.

Zoning rules of the Proposed 2GP relevant to this application are not appealed, and therefore the rules of the 2006 District Plan that apply to this activity are considered effectively inoperative.

Proposed 2GP

The applicant's site at 175 Mopanui Road is zoned **Rural – Hill Slopes**. There is an overlay Flagstaff-Mt Cargill Significant Natural Landscape (SNL) within the site but to the east of the proposed earthworks. The

adjoining site at 3 Chelivode Street is zoned **Rural – Coastal**. There is an Archaeological Alert Layer within this site, but to the west of the proposed earthworks.

CITY WIDE ACTIVITIES

The proposal falls under the definition of the following city-wide activities:

Temporary activities – Construction
Earthworks activities – Large Scale

The temporary activity being construction, does not meet all the development standards i.e. thresholds for small-scale earthworks in this zone, and as such it is considered to fall under the definition of large-scale earthworks; it is therefore a **restricted discretionary activity** under Rule 4.5.1.3. Matters that discretion is restricted to (and assessment guidance) are covered in Rules 4.7.2.1 and 4.7.2.2 (which links to the earthworks rules immediately below).

The proposed earthworks activity do not meet the thresholds for small-scale earthworks as follows:

- Rule 8A.5.1.3.a.iv - the Maximum change in ground level for small scale earthworks in a Rural zone is 2.0m. The proposed earthworks may involve fill greater than 2m.
- Rule 8A.5.1.4.a.ii - the Maximum area for earthworks does not apply in a Rural zone that is not within the SNL.
- Rule 8A.5.1.5.a.iii - the Maximum volume for small scale earthworks in a Rural zone, is 5m³ cut per 100m² of site for slopes between 26° and 35° (the slope on the uphill side of the predator resistant fence where the cut is to occur is approximately 26°) and is 15m³ fill per 100m² of site for slopes between 15° and 20° (the slope on the downhill side of the predator resistant fence where the fill is to occur is approximately 18°). Due to the sites being 60ha where the cut is to occur (giving a maximum cut of 30,000m³), and 158ha where the fill is to occur (giving a maximum fill of 237,000m³), the proposed earthworks of approximately up to 400m³, is well within the maximum volumes.

Due to the fill being over 2m in height, under Rule 8A.3.2.3 the earthworks are large-scale which is a **restricted discretionary activity** and the matters that discretion is restricted to are effects on: visual amenity (Rule 8A.7.2.1.a); amenity of surrounding properties (Rule 8A.7.2.1.b); the stability of land, buildings and structures (Rule 8A.7.2.1.c); and biodiversity (Rule 8A.7.2.2) and assessment guidance is covered in Rules 8A.7.2.1 and 8A.7.2.2.

Rule 8A.5.4.1 Setback requires fill and cuts to be setback from property boundaries. As the precise location of the fill and the property boundary is not precisely known, the fill may be located too close or over the property boundary. Under Rule 8A.5.4.2, contravening the setback is a restricted discretionary activity and the matters for discretion are restricted to the effects on the stability of land, buildings and structures (Rule 8A.6.3.1) and assessment guidance is given in Rules 8A.6.2.1 and 8A.6.3.1.

Note, although some indigenous vegetation may be cleared, the activity is considered to be indigenous vegetation clearance – small scale as the area will not exceed the permitted maximum area of 500m² (Rule 10.3.2.1.c.i) and the proposal is also considered to be covered by Rule 10.3.2.1.a.ii.

MANAGEMENT ZONE ACTIVITIES

The activity is "Conservation".

Under the Proposed 2GP, activities have both a land use activity and a development activity component.

Land Use Activity

The activity of Farming and Conservation is a **permitted** activity under Rules 16.3.3.6 and 16.3.3.29 respectively. Note although much of 3 Chelivode Street is farmed, the area in the vicinity of the proposed works is heavily vegetated.

Development Activity

The proposal also includes adding post and rail fences to protect the predator resistant fence and access along the fence from being subject to stormwater debris that has breached the fence in the past. Fences are a permitted activity under Rule 16.3.4.6.

National Environmental Standards

The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESC) came into effect on 1 January 2012. The National Environmental Standard applies to any piece of land on which an activity or industry described in the current edition of the Hazardous Activities and Industries List (HAIL) is being undertaken, has been undertaken or is more likely than not to have been undertaken. Activities on HAIL sites may need to comply with permitted activity conditions specified in the National Environmental Standard and/or might require resource consent.

I note the proposed earthworks is on sloping land which is unlikely to have included a sheep dip or other HAIL activity, and much of the area has been subject to earthworks when the original predator resistant fence was erected. No HAIL search of Council records has been undertaken, nor has a preliminary site investigation been carried out. The land is conservation land and the development does not constitute a change of use under the NESC. Also the volume of soil disturbance proposed is a permitted activity under clause 8(3) due to the total area of the site the proposed earthworks are to occur in.

There are no other National Environmental Standards relevant to this application.

Overall Status

Where an activity requires resource consent under more than one rule, and the effects of the activity are inextricably linked, the general principle from case law is that the different components should be bundled and the most restrictive activity classification applied to the whole proposal.

In this case, there is more than one rule involved, however, both are a **restricted discretionary** activity.

WRITTEN APPROVALS AND EFFECTS ASSESSMENT

Affected Persons

The written approval of the person detailed in the table below has been obtained. In accordance with sections 95D(e) and 104(3)(a)(ii) of the Resource Management Act 1991, the Council cannot have regard to the effects of the activity on this person.

Person	Owner	Occupier	Address	Obtained
Graeme and Marie Bennett	Yes	Yes	3 Chelivode Street, Waitati	17 June 2021

No other person or party is considered to be adversely affected by the activity. This is because the environmental effects of the proposal are limited to effects on parties that are less than minor.

Effects on the Environment

Permitted Baseline

Under sections 95D(b) and 104(2) of the Resource Management Act 1991, the Council may disregard an adverse effect of the activity on the environment if the district plan or a national environmental standard permits an activity with that effect.

This is the permitted baseline. In terms of earthworks, the activity would be permitted if the change in ground level was no more than 2m, the volume of cut was no greater than 30,000m³. And the volume of fill was no greater than 237,000m³ and the toe of the fill was located the height of the fill from the boundary.

It is considered that this is the appropriate baseline against which the activity should be considered. As a result, it is the effects arising from the proposal, beyond the permitted baselines, that are the crucial elements for consideration.

Receiving Environment

The existing and reasonably foreseeable receiving environment is made up of:

- The existing environment and associated effects from lawfully established activities;
- Effects from any consents on the subject site (not impacted by proposal) that are likely to be implemented;
- The existing environment as modified by any resource consents granted and likely to be implemented; and
- The environment as likely to be modified by activities permitted in the district plan.

For the subject sites and adjacent land, the existing and reasonably foreseeable receiving environment comprises conservation and farming.

It is against these that the effects of the activity, beyond the permitted baseline, must be measured.

Assessment Matters/Rules

Consideration is required of the relevant assessment rules in the 2006 District Plan and the Proposed 2GP. In carrying out this assessment, no regard has been given to any trade competition or any effects of trade competition.

1. Visual amenity, amenity of surrounding properties and biodiversity values (Proposed 2 GP 8A.7.2.1.a, 8A.7.2.1.b, 8A.7.2.2)

The site is well screened by vegetation and is located a significant distance from adjoining properties. The site of the proposal has also been subject to earthworks when the predator resistant fence was first erected. The closest dwelling on an adjoining site is approximately 500m from the proposed work and is at an elevation that is 45m lower. The closest dwelling that is above the elevation of the work is approximately 1100m distant at 76 Dons Creek Road. Given that the earthworks are significantly smaller than the permitted volumes, I consider that any visual and biodiversity adverse effects will be less than minor.

2. Stability of land, buildings and structures (Proposed 2GP 8A.7.2.1.c and 8A.6.2.1)

The scale of the earthworks is significantly smaller in volume than that that would be permitted. The applicant has advised that the cut will be less than the permitted change in ground level of 2m and the batter will meet the permitted performance standard of 1:1 vertical to horizontal. In terms of the fill, its final height and location (in terms of relative to the site boundaries) is not known, however, the earthworks will be designed by an environmental engineer and will have a batter of 1:3 vertical to horizontal (which is less than the permitted standard of 1:2 vertical to horizontal). Also any stability concerns will only affect the immediate slope on which the fill is to occur which is well vegetated. Also there are no buildings or structures nearby, the closest being approximately 300m distant and that is located on the site of the fill.

Overall, given the relatively small volume of earthworks and its location, I consider any adverse effects in terms of stability will be less than minor.

NOTIFICATION ASSESSMENT

Public Notification

Section 95A of the Resource Management Act 1991 sets out a step-by-step process for determining public notification. Each step is considered in turn below.

Step 1: Mandatory public notification in certain circumstances

- Public notification has not been requested.
- There has been no failure or refusal to provide further information.
- There has been no failure to respond or refusal to a report commissioning request.
- The application does not involve the exchange of recreation reserve land.

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

- There are no rules or national environmental standards precluding public notification.
- The application does not involve: a controlled activity, nor a boundary activity. As a result, public notification is not precluded under Step 2.

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

- There are no rules or national environmental standards requiring public notification.
- The activity will not have, or be likely to have, adverse effects on the environment that are more than minor.

Step 4: Public notification in special circumstances

- There are no special circumstances that warrant the application being publicly notified. There is nothing exceptional or unusual about the application that makes public notification desirable.

Limited Notification

Section 95B of the Resource Management Act 1991 sets out a step-by-step process for determining limited notification. Each step is considered in turn below.

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

- The activity is not in a protected customary rights area; the activity is not an accommodated activity in a customary marine title area; and, the activity is not on or adjacent to, or might affect, land that is the subject of a statutory acknowledgement.

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

- There are no rules or national environmental standards precluding limited notification.
- The application does not involve a controlled activity that is not a subdivision.

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

- The application does not involve a boundary activity.
- Apart from persons who have given written approval, there are no persons where the activity's adverse effects on the person are minor or more than minor (but are not less than minor) as discussed above.

Step 4: Further notification in special circumstances

- There are no special circumstances that warrant the application being limited notified. There is nothing exceptional or unusual about the application that makes limited notification to any other persons desirable.

SUBSTANTIVE DECISION ASSESSMENT

Effects

In accordance with section 104(1)(a) of the Resource Management Act 1991, the actual and potential adverse effects associated with the proposed activity have been assessed and outlined above. It is considered that the adverse effects on the environment arising from the proposal are less than minor.

Offsetting or Compensation Measures

In accordance with section 104(1)(ab) of the Resource Management Act 1991, there are no offsetting or compensation measures proposed or agreed to by the applicant that need consideration.

Objectives and Policies

In accordance with section 104(1)(b) of the Resource Management Act 1991, the objectives and policies of the 2006 District Plan and the Proposed 2GP were taken into account when assessing the application.

2006 District Plan

The proposal is considered to be consistent with the following objectives and policies:

- **Objective 4.2.1 and Policy 4.3.1 (Sustainability Section)**
These seek to enhance and maintain the amenity values of the Dunedin area.
- **Objective 6.2.2 and Policies 6.3.5, 6.3.6, 6.3.11, 6.3.14 (Rural/Rural Residential Section)**
These seek to maintain and enhance the amenity values associated with the character of the rural area.
- **Objective 17.2.3 and Policy 17.3.9 (Earthworks Section)**
These seek to control the location and scale of earthworks and to ensure that earthworks are undertaken in a manner that is safe and in a manner that minimises adverse effects on the environment.

Proposed 2GP

The proposal is considered to be consistent with the following Proposed 2GP objectives and policies:

- **Objective 2.4.6 and Policies 2.4.6.1, 2.4.6.2 (Strategic Directions Section)**
These seek to maintain and enhance the character and visual amenity of the rural environment.
- **Objective 8A.2.1 and Policies 8A.2.1.1, 8A.2.1.2 and 8A.2.1.3 (Earthworks Section)**
This seeks to ensure that earthworks necessary for permitted or approved land use and development are enabled, while avoiding, or adequately mitigating, any adverse effects on visual amenity, stability and surrounding properties.
- **Objective 11.2.1 (Natural Hazards Section)**
This seeks that in areas where there may be a risk from natural hazards, to only allow land use where there is reasonable certainty the risks for future land use or development is no more than low, in the short to long term.
- **Objective 16.2.3 and Policies 16.2.3.1, 16.2.3.1, 16.2.3.8 (Rural Zones)**
These seek to ensure that the rural character values and amenity of the rural zones are maintained or enhanced.

Objectives and Policies Assessment

Although consideration should be given to the weight each Plan has, it is noted that the proposed development is considered to be generally consistent with the relevant objectives and policies of both Plans, and these support the granting of consent.

Other Matters

Having regard to section 104(1)(c) of the Resource Management Act 1991, no other matters are considered relevant.

Part 2

Based on the findings above, it is evident that the proposal would satisfy Part 2 of the Resource Management Act 1991. Granting of consent would promote the sustainable management of Dunedin's natural and physical resources.

RECOMMENDATION

After having regard to the above planning assessment, I recommend that:

1. This application be processed on a non-notified basis, pursuant to sections 95A and 95B of the Resource Management Act 1991.
2. The Council grant consent to the proposed activity under delegated authority, in accordance with sections 104 and 104C of the Resource Management Act 1991.
3. The time limits for the processing of this consent be extended pursuant to sections 37A(2)(b) and 37A(4)(b)(ii) of the Resource Management Act 1991.



Robert Buxton
Consultant Planner

Date: 9 August 2021

DECISION

I have read both the notification assessment and substantive decision assessment in this report. I agree with both recommendations above.

Under delegated authority on behalf of the Dunedin City Council, I accordingly approve the granting of resource consent to the proposal:

*Pursuant to Part 2 and sections 34A(1), 104 and 104C of the Resource Management Act 1991, and the provisions of the Operative Dunedin City District Plan 2006 and the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council **grants** consent to a **restricted discretionary activity** being the*

undertaking of earthworks and fencing to protect the existing predator resistant fence and access to it on the site at 175 Mopanui Road and 3 Chellivode Street, Waitati, Dunedin, legally described as Lot 3-4, 6 Deposited Plan 392376 and Section 1 Survey Office Plan 396241 (Record of Title 505712), subject to the conditions imposed under section 108 of the Act, as shown on the attached certificate.

and

That, having taken into account:

- *The interests of any person who may be adversely affected by the time extension,*
- *The interests of the community in achieving an adequate assessment of effects of a proposal, policy statement or plan, and*
- *Its duty under section 21 to avoid reasonable delay,*

the Council has, pursuant to sections 37A(2)(b) and 37A(4)(b)(ii) of the Resource Management Act 1991, extended the requirement outlined in section 115 regarding the time in which notification of a decision must be given after the date the application was first lodged with the Council.

Phil Marshall

Phil Marshall
Senior Planner

Date: 9 August 2021



Consent Type: Land Use Consent

Consent Number: LUC-2021-345

Purpose: The undertaking of earthworks and fencing to protect the existing predator resistant fence and access to it.

Location of Activity: 175 Mopanui Road and 3 Chelivode Street, Waitati, Dunedin.

Legal Description: Lot 3-4, 6 Deposited Plan 392376 and Section 1 Survey Office Plan 396241 (Record of Title 505712) and Lot 2 Deposited Plan 403524, Sections 3, 4, 5, 6 and 8 SO 23545 and Lots 1, 2 and 5 Deposited Plan 392376 (Record of title 505712)

Lapse Date: 9 August 2026, unless the consent has been given effect to before this date.

Conditions:

1. *The proposed activity must be undertaken in general accordance with the approved plans attached to this certificate as Appendix One, and the information provided with the resource consent application received by the Council on 18 June 2021, except where modified by the following conditions.*
2. *The consent holder must provide notice to the Resource Consent Monitoring team by email to rcmonitoring@dcc.govt.nz of the start date of the works. This notice must be provided at least five (5) working days before the works are to commence.*

Engineering

3. *The earthworks and construction work is to be under the control of a nominated and suitably qualified person (civil/environmental engineer or technician).*
4. *The earthworks must be undertaken with the principles of industry best practice applied at all stages of site development including site stability, stormwater and erosion management, traffic management, along with dust and noise controls at the sites.*
5. *As-built records of the final extent, batter slope and thickness of any un-engineered fill must be recorded, and provided to the Council within 1 month of completion of the earthworks.*

Advice Notes:

1. The following documents are recommended as best practice guidelines for managing erosion and sediment-laden run-off:
 - a) Environment Canterbury, 2007 "Erosion and Sediment Control Guideline 2007" Report No. R06/23.
 - b) Dunedin City Council "Silt and Sediment Control for Smaller Sites" (information brochure).

General

2. This is a resource consent. Please contact the Council's Building Services Department, about the building consent requirements. Note the family flat may require specific building code requirements.
3. In addition to the conditions of a resource consent, the Resource Management Act 1991 establishes through sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.
4. Resource consents are not personal property. The ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.
5. It is the responsibility of any party exercising this consent to comply with any conditions imposed on the resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in section 339 of the Resource Management Act 1991.
6. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.

Issued at Dunedin on 9 August 2021



Robert Buxton
Consultant Planner

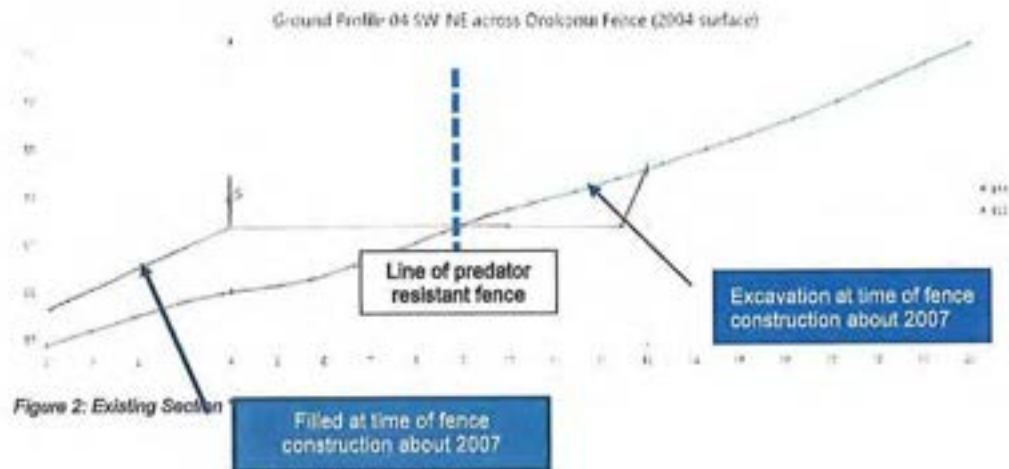
Appendix One: Approved Plans for LUC-2021-345 (scanned images, not to scale)

Orokonui Ecosanctuary
Resource consent Application for Earthworks



Figure 1: Location of proposed Works approximately 25 metres either side of "Perp Orokonui Fence 10m 04"

Orokonui Ecosanctuary
Resource consent Application for Earthworks



Note

- Black line Indicates current ground profile
- Red and blue lines denote the ground profile prior to predator resistant fence and perimeter access road construction

Orokonui Ecosanctuary
Resource consent Application for Earthworks

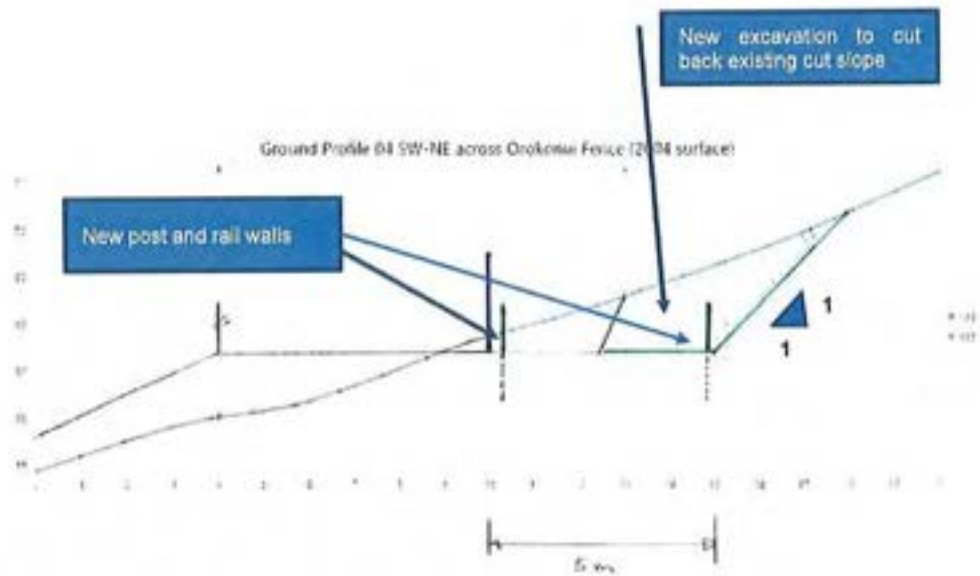


Figure 3: Proposed Section indicating extend of modification of existing cut slope

Orokonui Ecosanctuary
Resource consent Application for Earthworks

- Extent of trimming of existing cut slope
- Post and rail fence to protect predator resistant fence from flood water debris impact
- Post and rail fence to catch cut slope debris and protect vehicle access inside fence
- New sanctuary boundary fence (indicative) to allow for future cleanfill deposits
- New vehicle gate location (indicative)
- Clean fill disposal



Figure 4: Outline of extent of earthworks