

BEFORE THE ENVIRONMENT COURT

IN THE MATTER: of the Resource Management Act 1991 ("the Act")

AND

IN THE MATTER of an Appeal under Clause 14 to the First Schedule to the Act relating to Proposed Plan Change 72 - Rangiuru Business Park

BETWEEN HEB LANDHOLDINGS LTD

ENV-2016-AKL-000156

Appellant

AND WESTERN BAY OF PLENTY DISTRICT COUNCIL

Respondent

AND QUAYSIDE PROPERTIES LIMITED

Applicant

Environment Judge J A Smith sitting alone under s 279 of the Act
IN CHAMBERS at Auckland.

CONSENT ORDER

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

- (1) the appeal is allowed subject to Annexure A, Annexure B and Annexure C to this order.
- (2) the appeal is otherwise dismissed.

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



REASONS

Introduction

- [1] This proceeding concerns an appeal by HEB Landholdings Limited against a Decision of Western Bay of Plenty District Council on Proposed Plan Change 72 to the Western Bay of Plenty District Plan – First Review, relating to Rangiuru Business Park.
- [2] The appeal seeks specific relief relating to provision for future rail connectivity and a proposed stormwater pond affecting the Appellant's land.
- [3] The following amendments are agreed on between the parties, and will resolve this appeal in its entirety.

Future rail connectivity

- [4] Structure Plan 11.6, showing "Roading Layout and Land Use", reinstate the reference to "Potential Rail Connection" adjacent to part of the local purpose (amenity) reserve on the boundary with the Appellant's land; and
- [5] The "legend" in Structure Plan 11.6 be amended to include reference to Rule 12.4.13.1 (a) relating to rail access, which provides (pursuant to Council's decision) that local purpose reserves are required within the relevant development stage "except where required for rail access purposes."
- [6] Together these amendments clarify that a local purpose (amenity) reserve will not be required where this conflicts with rail access purposes and that a particular area adjacent to the Appellant's land may be required for a future rail connection.

Dimensions of stormwater pond:

- [7] Rather than requiring strict accordance with the relevant structure plan (as proposed under the Decisions Version), the Appellant's concerns regarding the dimensions of the proposed stormwater pond on the Appellant's land are proposed to be addressed by amending Rule 12.4.13.1 (b) so as to:



- 7.1 Require finished contours to be in "general" accordance with the relevant Structure Plan (11.2, showing "Proposed Contours with Proposed Layout Details");
- 7.2 Require stormwater drainage patterns and levels to be "generally in the locations shown on the structure plan"; and
- 7.3 Clarify that the "Structure Pond 1 (Diagonal)" on the Appellant's land "could be a location (whole or part) on the western side of Pah Road.

Financial contributions for stormwater pond

- [8] Following a review of valuation information, the parties are agreed that the financial contributions schedule relating to the Land Purchase and Legal Costs for stormwater Pond 1 on the Appellant's land (Item 6.4) should be amended from \$575,125.00 to \$810,000.00. This will require consequential amendments to the "\$ Rate" from \$107,500 to \$151,401.87"; to the "Total Cost of stormwater" from \$21,418,112.00 to \$21,652,987.00; and to the overall "Per square metre rate" from 14.41 per m² to 14.57m².
- [9] In making this order the Court has read and considered the appeal and the memorandum of the Parties dated 8 February 2017.
- [10] No person has given notice of an intention to become a party under s 274 of the Act.
- [11] The Court is making this order under s 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:
- 11.1 Two appeals remain outstanding in relation to PC72, by Rotorua District Council (ENV-2016-AKL-000154) and Bluehaven Management Limited (ENV-2016-AKL- 000153). They both relate to a discrete topic concerning Community Service Areas. The parties agree that the site specific amendments proposed to resolve this appeal have no bearing on the relief sought in the outstanding appeals.
 - 11.2 All parties to the proceedings have executed the Memorandum requesting this order; and



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

Order

[12] Therefore the Court orders, by consent, that the Decisions Version of Plan Change 72 is amended as shown in **Annexure A** underline (for additions) and ~~strikethrough~~ (for deletions), with a clean version shown at **Annexure B**.

[13] The Plan of Proposed Roading and Layout, Land Use and Staging Plan, Revision 6 dated 29 August 2016 is attached as Annexure C.

[14] The appeal is otherwise dismissed.

[15] There is no order as to costs.

Dated at Auckland this 13th day of February 2017.



J A Smith
Environment

Judge



Annexure A

Structure Plan Map 11.6 Roading Layout and Land Use

[insert new map entitled "PLAN OF PROPOSED ROADING LAYOUT, LAND USE AND STAGING PLAN"]

Rule 12.4.13.1

(b) Finished contours

All subdivision use and *development* in the Rangioru Business Park shall result in finished contours that are in general accordance with those shown in the *Structure Plan* in Appendix 7 (refer to "Structure Plan Proposed Contours with Proposed Layout Details" Plan). For clarity the purpose of this plan is to ensure that the stormwater drainage patterns and levels as set out in the structure plan are provided for as staged development occurs, and are generally in the locations shown on the structure plan. For Structure Pond 1 (Diagonal), this could be a location (whole or part) on the western side of Pah Road.

Financial Contributions Schedule – Stormwater

TABLE 7: FINANCIAL CONTRIBUTIONS SCHEDULE - STORMWATER						ESTIMATED PERCENTAGE OF WORKS TO BE COMPLETED IN STAGE			
ITEM	DESCRIPTION	UNIT	QUANTITY	RATE (\$)	COST (\$)	1	2	3	4
6.1	Stormwater Pond 2 (Carrs) including landscaping/fencing	LS	1	5,335,465.00	5,335,465.00	49%	29%	22%	0%
6.2	Stormwater Pond 2 (Carrs) Land Purchase and Legal	Ha.	36.80	53,750.00	1,978,000.00	100%	0%	0%	0%
6.3	Stormwater Pond 1 (Diagonal) including landscaping/fencing	LS	1	1,174,946.25	1,174,946.25	0%	0%	0%	100%
6.4	Stormwater Pond 1 (Diagonal) Land Purchase and Legal	Ha.	5.40	107,500.00	575,125.00 810,000.00	0%	0%	0%	100%
6.5	Walkways/ Boardwalks	m	1,500	137.00	205,500.00	33%	33%	17%	17%
6.6	Stormwater Reticulation 825 dia RCRRJ	m	130	739.80	96,174.00	0%	100%	0%	0%
6.7	Stormwater Reticulation 900 dia RCRRJ	m	270	835.70	225,639.00	100%	0%	0%	0%
6.8	Stormwater Reticulation 1050 dia RCRRJ	m	330	1,175.46	387,901.80	0%	56%	0%	44%
6.9	Stormwater Reticulation 1200 dia RCRRJ	m	100	1,438.	143,850.00	100%	0%	0%	0%



TABLE 7: FINANCIAL CONTRIBUTIONS SCHEDULE - STORMWATER							ESTIMATED PERCENTAGE OF WORKS TO BE COMPLETED IN STAGE			
ITEM	DESCRIPTION	UNIT	QUANTITY	RATE (\$)	COST (\$)	1	2	3	4	
				50						
6.10	Stormwater Reticulation 1350 dia RCRRJ	m	180	1,709.76	307,756.80	0%	100%	0%	0%	
6.11	Stormwater Reticulation 1500 dia RCRRJ	m	530	1,986.50	1,052,845.00	0%	0%	65%	35%	
6.12	Stormwater Reticulation 1650 dia RCRRJ	m	380	2,253.65	856,387.00	0%	47%	0%	53%	
6.13	Stormwater Reticulation 1800 dia RCRRJ	m	270	3,425.00	924,750.00	0%	100%	0%	0%	
6.14	Stormwater Reticulation 2100 dia RCRRJ	m	120	4,589.50	550,740.00	0%	0%	0%	100%	
6.15	Stormwater Reticulation manholes/structures	No.	16	13,700.00	219,200.00	25%	38%	65	31%	
6.16	Stormwater Reticulation Land Purchase and Legal	Ha.	1.3	107,500.00	144,050.00	27%	58%	0%	15%	
6.17	Stormwater Swale - Type A (18m Reserve)	m	980	372.64	365,187.20	0%	66%	34%	0%	
6.18	Stormwater Swale - Type B (21m Reserve)	m	800	431.55	345,240.00	100%	0%	0%	0%	
6.19	Stormwater Swale - Type C (23m Reserve)	m	1,135	489.09	555,117.15	100%	0%	0%	0%	
6.20	Stormwater Swale Land Purchase and Legal	Ha.	7.70	107,500.00	823,450.00	72%	20%	8%	0%	
6.21	TEL Box Culverts	LS	1	3,140,000.00	3,047,838.00	100%	0%	0%	0%	
6.22	Box Culverts (4m wide x 0.9m high)	m	180	6,850.00	1,233,000.00	67%	0%	33%	0%	
6.2	Box Culverts (4m wide x 1.2m high)	m	70	8,905.00	623,350.00	100%	0%	0%	0%	
6.24	Headwalls/ Embankment protection	No.	18	13,700.00	246,600.00	56%	11%	22%	11%	
Total Cost of Stormwater					\$21,418,112.00					
					\$21,652,987.00					
Total area					148.60ha					
Per square metre rate					\$ per m ²	14.41	14.57			



Annexure B

Structure Plan Map 11.6 Roading Layout and Land Use

[insert new map]

Rule 12.4.13.1

(b) Finished contours

All subdivision use and *development* in the Rangioru Business Park shall result in finished contours that are in general accordance with those shown in the *Structure Plan* in Appendix 7 (refer to "Structure Plan Proposed Contours with Proposed Layout Details" Plan). For clarity the purpose of this plan is to ensure that the stormwater drainage patterns and levels as set out in the structure plan are provided for as staged development occurs, and are generally in the locations shown on the structure plan. For the Diagonal Pond, this could be a location (whole or part) on the western side of Pah Road.

Financial Contributions Schedule – Stormwater

TABLE 7: FINANCIAL CONTRIBUTIONS SCHEDULE – STORMWATER						ESTIMATED PERCENTAGE OF WORKS TO BE COMPLETED IN STAGE			
ITEM	DESCRIPTION	UNIT	QUANTITY	RATE (\$)	COST (\$)	1	2	3	4
6.1	Stormwater Pond 2 (Carrs) including landscaping/fencing	LS	1	5,335,465.00	5,335,465.00	49%	29%	22%	0%
6.2	Stormwater Pond 2 (Carrs) Land Purchase and Legal	Ha.	36.80	53,750.00	1,978,000.00	100%	0%	0%	0%
6.3	Stormwater Pond 1 (Diagonal) including landscaping/fencing	LS	1	1,174,946.25	1,174,946.25	0%	0%	0%	100%
6.4	Stormwater Pond 1 (Diagonal) Land Purchase and Legal	Ha.	5.40	107,500.00	810,000.00	0%	0%	0%	100%
6.5	Walkways/ Boardwalks	m	1,500	137.00	205,500.00	33%	33%	17%	17%
6.6	Stormwater Reticulation 825 dia RCRRJ	m	130	739.80	96,174.00	0%	100%	0%	0%
6.7	Stormwater Reticulation 900 dia RCRRJ	m	270	835.70	225,639.00	100%	0%	0%	0%
6.8	Stormwater Reticulation 1050 dia RCRRJ	m	330	1,175.46	387,901.80	0%	56%	0%	44%
6.9	Stormwater Reticulation 1200 dia RCRRJ	m	100	1,438.	143,850.00	100%	0%	0%	0%

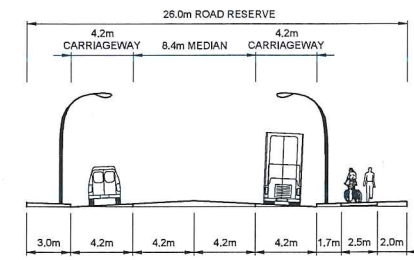
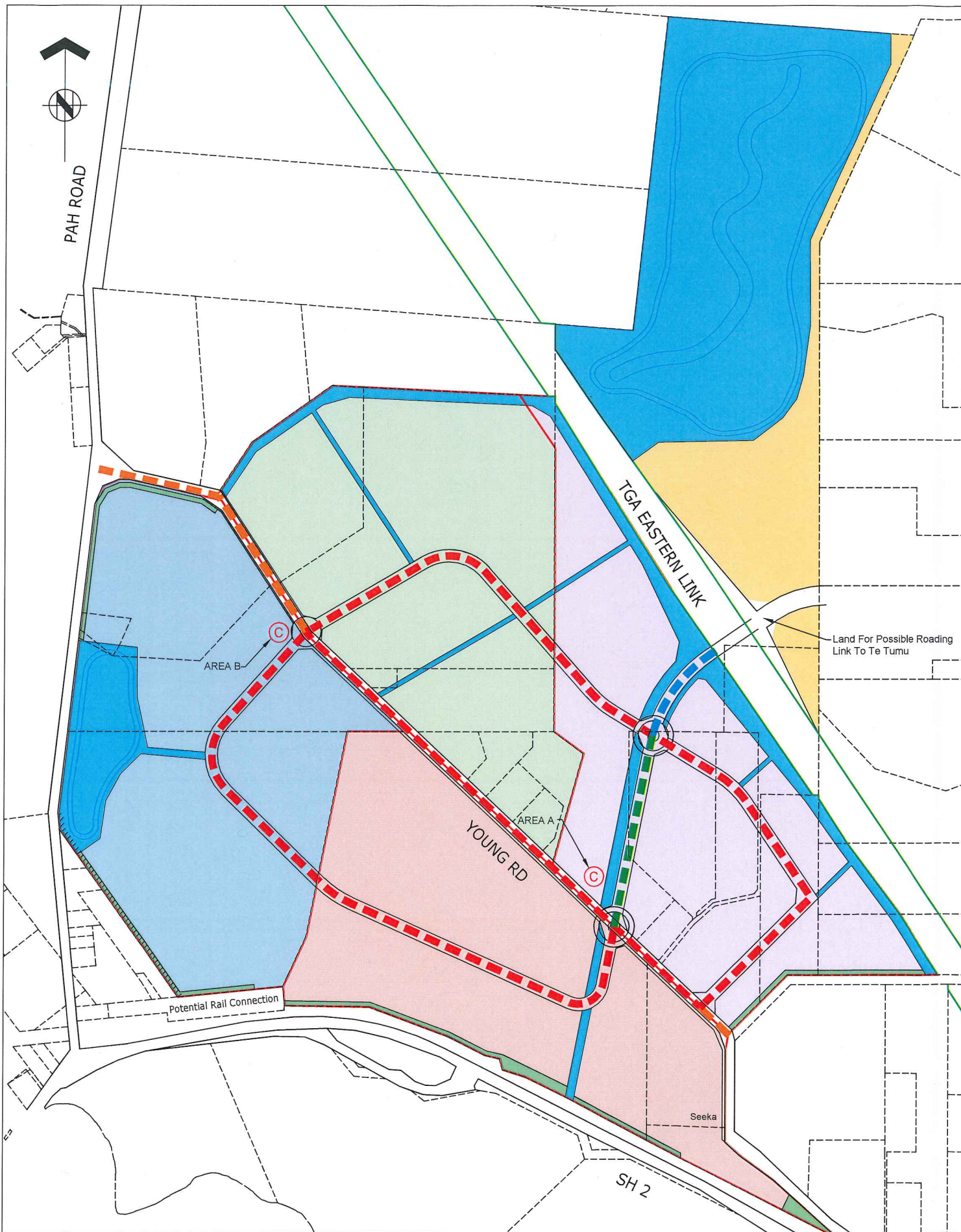


TABLE 7: FINANCIAL CONTRIBUTIONS SCHEDULE – STORMWATER						ESTIMATED PERCENTAGE OF WORKS TO BE COMPLETED IN STAGE			
ITEM	DESCRIPTION	UNIT	QUANTITY	RATE (\$)	COST (\$)	1	2	3	4
				50					
6.10	Stormwater Reticulation 1350 dia RCRRJ	m	180	1,709.76	307,756.80	0%	100%	0%	0%
6.11	Stormwater Reticulation 1500 dia RCRRJ	m	530	1,986.50	1,052,845.00	0%	0%	65%	35%
6.12	Stormwater Reticulation 1650 dia RCRRJ	m	380	2,253.65	856,387.00	0%	47%	0%	53%
6.13	Stormwater Reticulation 1800 dia RCRRJ	m	270	3,425.00	924,750.00	0%	100%	0%	0%
6.14	Stormwater Reticulation 2100 dia RCRRJ	m	120	4,589.50	550,740.00	0%	0%	0%	100%
6.15	Stormwater Reticulation manholes/structures	No.	16	13,700.00	219,200.00	25%	38%	65	31%
6.16	Stormwater Reticulation Land Purchase and Legal	Ha.	1.3	107,500.00	144,050.00	27%	58%	0%	15%
6.17	Stormwater Swale - Type A (18m Reserve)	m	980	372.64	365,187.20	0%	66%	34%	0%
6.18	Stormwater Swale - Type B (21m Reserve)	m	800	431.55	345,240.00	100%	0%	0%	0%
6.19	Stormwater Swale - Type C (23m Reserve)	m	1,135	489.09	555,117.15	100%	0%	0%	0%
6.20	Stormwater Swale Land Purchase and Legal	Ha.	7.70	107,500.00	823,450.00	72%	20%	8%	0%
6.21	TEL Box Culverts	LS	1	3,140,000.00	3,047,838.00	100%	0%	0%	0%
6.22	Box Culverts (4m wide x 0.9m high)	m	180	6,850.00	1,233,000.00	67%	0%	33%	0%
6.2	Box Culverts (4m wide x 1.2m high)	m	70	8,905.00	623,350.00	100%	0%	0%	0%
6.24	Headwalls/ Embankment protection	No.	18	13,700.00	246,600.00	56%	11%	22%	11%
Total Cost of Stormwater					\$21,652,987.00				
Total area					148.60ha				
Per square metre rate					\$ 14.57 per m ²				

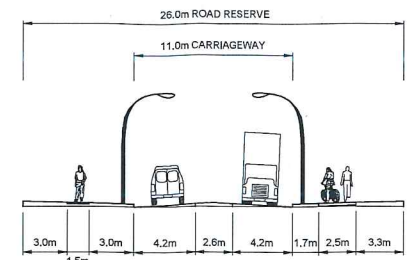


Annexure C

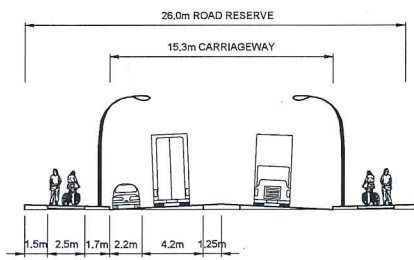




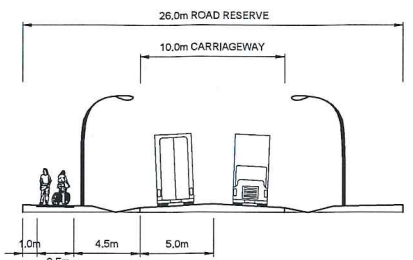
TYPE A
Entrance Road
Blue



TYPE A1
Entrance Road
Green



TYPE B
Collector Road
Red



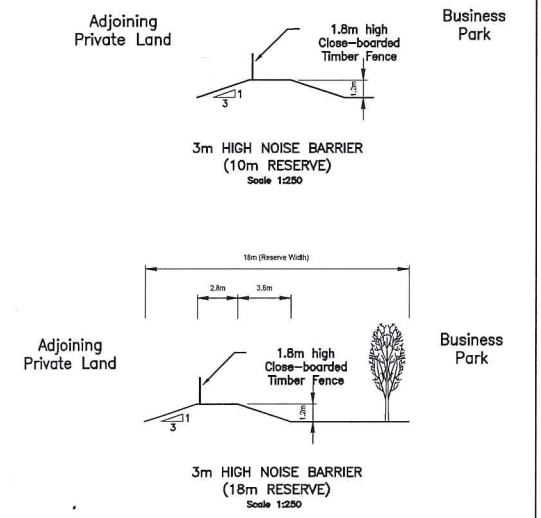
TYPE B1
Collector Road
Orange

LEGEND

- DESIGNATION BOUNDARY
- STAGE 1 - 45.6ha
- STAGE 2 - 43.5ha
- STAGE 3 - 39.6ha
- STAGE 4 - 48.5ha
- PROPOSED STAGING BOUNDARY
- LOCAL PURPOSE RESERVE (AMENITY - 10m WIDE MIN.) SEE RULE 12.4.13.1(a) REGARDING ALL RAIL ACCESS
- LOCAL PURPOSE RESERVE (STORMWATER) - REFER TO DWG 70
- NOISE BUND REQUIRED - REFER TO DETAIL
- WASTEWATER/WATER TREATMENT
- PROPOSED ROAD (TYPE A)
- PROPOSED ROAD (TYPE A1)
- PROPOSED ROAD (TYPE B)
- PROPOSED ROAD (TYPE B1)
- PROPOSED STORMWATER POND
- ROAD ROUNDABOUT
- MAJOR ROAD ROUNDABOUT
- COMMUNITY SERVICE AREA

NOTES

AREAS SHOWN ARE MINIMUM REQUIRED.



REF	AMENDMENT	BY	DATE	DGN	APPROVED:	DATE:	SIGNED:	SURVEY DATE:
5	BOUNDARY CHANGE TO LOCAL PURPOSE RESERVE	HHX	29.08.16	KLA		09.07.15		
4	ISSUED FOR INFORMATION	HHX	31.08.15	KLA		09.07.15		
3	ISSUED FOR INFORMATION	HHX	24.08.15		CHECKED:	09.07.15		
2	ISSUED FOR INFORMATION	KLA	14.07.15		DGN	09.07.15		
1	ISSUED FOR INFORMATION	KLA	09.07.15		APPROVED:	24.08.15		

ASSOCIATION OF CONSULTING ENGINEERS NEW ZEALAND
 ISO 9001 QUALITY ASSURED
 TAURANGA OFFICE LEVEL 1, 69 SPRING STREET TAURANGA 3110 T +64 7 578 0023 W www.harrisongrierson.com

PROJECT: QUAYSIDE PROPERTIES LTD RANGIURU BUSINESS PARK

TITLE: PLAN OF PROPOSED ROADING LAYOUT, LAND USE AND STAGING PLAN

ISSUE STATUS:	FOR INFORMATION	
PROJECT No:	1520-138093-01	SCALE: 1:5000 - A1
DRAWING No:	1:10000 - A3	A1
138093-01-92		REV
		6