

17 OCT 2003

In the Environment Court**ENF 13/98**Under the **Resource Management Act 1991 ("the Act")**In the matter of **an application for enforcement orders under section 314 of the Act**Between **Waitakere City Council**

Applicant

And **Andrew John Borrett and Susan Mandy Borrett**

Respondents

Before the Environment Court

His Honor Judge *Sheppard*, sitting alone pursuant to section 279 of the Act in **Chambers** at Auckland on the **16th** day of October 2003

Consent Order

Having considered the application for enforcement orders, and the joint memorandum lodged on behalf of the parties **THIS COURT ORDERS BY CONSENT** that:

- 1 The respondents are directed to undertake and as required engage appropriate experts to undertake, the remedial works required as specified in the **attached**:
 - a. **Revegetation and Weed Management Plan** (attached as Appendix A);
 - b. **Earthworks Engineering and Works Plan** (attached as Appendix B).
- 2 Appendices A and B are intended to form part of these enforcement orders.
- 3 The respondents are directed to cease all earthworks on the property (other than those required by the Court pursuant to this order) being an activity that contravenes or is likely to contravene s9(1) of the Act and/or Rule 3 of the



Protected and General Natural Area Rule and/or Rule 7 of the Foothills Human Environment Rules in the Waitakere City District Plan ("District Plan") or is likely to be offensive or objectionable to such an extent that it has or likely to have an adverse effect on the environment. Provided that earthworks may be undertaken on the property if a written resource consent to do so is obtained from the Applicant. For the purposes of these orders "earthworks" has the same definition as the definition of "earthworks" contained within the Waitakere City Operative District Plan as at the date of these orders. A copy of this definition is attached to these orders as Appendix C.

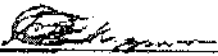
- 4 The respondents are directed to cease the clearance of native vegetation on the property being an activity that contravenes or is likely to contravene s9(1) of the Act and/or Rule 3 of the Protected and General natural Area Rules in the District Plan or is likely to be offensive or objectionable to such an extent that it has or is likely to have an adverse effect on the environment. Provided that clearance may be undertaken on the property if a written resource consent to do so is obtained from the Applicant. For the purposes of these orders "clearance" has the same definition as the definition of "clearance" contained within the Waitakere City Operative District Plan as at the date of these orders. A copy of this definition is attached to these orders as Appendix D.
- 5 The respondents are prohibited from using the property as a contractors depot, being an activity which contravenes or is likely to contravene s9(1) of the Act and/or Rule 8 of the Foothills Human Environment Rules in the District Plan.
- 6 The respondents must permit Council's enforcement officers to enter the property to monitor compliance with these orders pursuant to s.332 of the Act.
- 7 Any reference to the respondents includes the respondents successors; successors having the same meaning as in s.2A and 273 of the Act.
- 8 The location in respect of which the enforcement orders are sought is the land situated at 49 Sunnyvale Road, Waitakere City, being Lot 2 DP 62243



and the land situated at 47 Sunnyvale Road, Waitakere City, being Lot 3 DP
62243.

- 9 Save for orders made herein the application for enforcement orders (ENF
13/98) be withdrawn forthwith.
- 10 The applicant and respondents agree that the issue of costs is to be reserved.

Dated at Auckland this 16th day of October 2003



Environment Judge



Appendix A

Revegetation and Weed Management Plan

Revegetation Areas

- 1 The areas identified for revegetation and subject to this Revegetation Plan are identified generally in Figure 1. These comprise three areas:
 - Gully Earthworks Area - comprising the disturbed area of the steep gully (also referred to as the 'amphitheatre'), bounded by the access track to the north and west, and the flat platform area to the west of the gully (this area comprises about 3500m²), revegetation of the flat platform area (hardstand area) above and to the north of the gully has also been agreed at the site meeting of 19 May 2003.
 - Access Tracks - comprising the tracks on the western and eastern valley, which extend from the flat platform area and continue down to the culvert and up to the rear boundary of the property. The sides of this track are to be suitably revegetated to reduce its width to 2 metres.
 - Embankment above gully - bounded by the access tracks from the hardstanding area adjacent the Borrett house. (This area comprises about 400m²).

Revegetation Strategy & Plant Selection

Approach

- 2 The approach to revegetation of the site revolves around the establishment of a nursery canopy cover. Once established, this nursery cover will provide suitable habitat for the growth of future successional canopy and understorey species. The approach envisages the following series of steps:
 - Weed eradication
 - Site preparation and planting of nursery species
 - Maintenance of the nursery plantings.



DOC2701082

AK

Nursery Species

- 3 The nursery cover planting will be with light and desiccation tolerant species. At this site manuka and silver fern are appropriate.
- 4 Resilient fruiting species (i.e. karamu, mapou, cabbage tree, mahoe, hangehange) should also be interplanted at this time to encourage bird use on the re-vegetated face and subsequent seed dispersal from adjacent vegetated areas.
- 5 On the access track margins revegetation with the same species is appropriate.

Revegetation Plan – Gully Area

Weed Removal

- 6 A full weed eradication programme is to be implemented prior to the establishment of new vegetation.
- 7 Weed removal should be completed in following series of steps:
 - 7.1 Clearance of weed mass cover to the edges of the disturbed area:
 - a. This first step will predominantly require hand methods such as utilising brush cutter, slasher, pitchfork.
 - b. The cleared weed mass should be removed from the gully face and stockpiled on the metalled hardstand area at the top of the gully for disposal.
 - c. Complete removal to expose the underlying surficial soil substrate will not be necessary, and may lead to erosion, however, the site should be left generally devoid of the weed cover currently present.
 - d. Removal of weeds from the grassed platform area at the top of the gully will not be necessary.

7.2 Weed Spraying

- a. Weed spraying of the cleared gully face and spot spraying of the grassed platform area should be carried out using a glyphosate weedkiller (e.g. Roundup) prior to commencing planting.

7.3 Timing

- a. Weed eradication should be undertaken to the satisfaction of the Council by July 2004.

Preparation

- 8 Following completion of the weed removal the gully slope face should be covered with a mulch of organic/vegetative matter (wood chip/bark). Mulching of the slope will limit weed regrowth and minimise maintenance requirements.

Planting

9 Nursery Cover Planting

- a. Manuka seedlings in root trainers will be utilised as the dominant species for the nursery cover planting. Plantings would be at 0.5- 1m intervals, to achieve a density of 2-4 plants/m².
- b. Planting will involve the following steps;
 - Soak root trainers
 - Shift mulch and skim off grass/weed regrowth
 - Turn over cleared patch
 - Dig planting hole - sized 2x size of root trainer and to depth of about 5cm below length of root trainer
 - Score sides of hole
 - Remove seedling from container retaining bedding soil
 - Place seedling in hole with stem positioned about 2-3cm below level of adjacent soil



- Add slow release fertiliser to base of hole and mix with loosened soil
- Add soil around plant — importing topsoil or additional mulch for spot application at this step may be necessary in some places
- Firm soil around planting, leaving slight depression (2-3cm deep) around plant to capture runoff/moisture
- Re-spread mulch around margins of plant, but leave clear space at base (i.e. do not bury plant)
- Insert locator stake adjacent planting

Interplanting

- 10 Interplanting of the manuka nursery cover with resilient fruiting species (karamu, mapou, cabbage tree, mahoe, hangchange) should be undertaken once the manuka planting is complete. Plantings would also be of root trainer sized seedlings, planted at intervals 2-5m intervals.
- 11 The same planting technique as outlined above is appropriate.

Timing

- 12 Planting of both nursery and interplanting species should be completed by the end of the September following completion of the earthworks.

Revegetation Plan – Access Track

Residual Track

- 13 Revegetation of the access track margin is to be undertaken to create a narrowed residual track of 2m width.
- 14 Where practical, the residual track should be re-aligned adjacent to the excavation cuts and revegetation focussed on the flatter track margins.
- 15 Table drains adjacent the track should be armoured to reduce erosion and the track metalled.



Revegetation of Track Margin

16 Revegetation of the track margin should be undertaken in a manner similar to that outlined above for the gully area. Given the proximity of the adjacent regenerating vegetation, planting density can be reduced for this strip as follows:

- * Manuka planting - 1m intervals
- * Fruiting species - 5m intervals

Revegetation Plan - Embankment Above Gully

General

- 17 Replanting of this slope is to be with larger specimen trees selected from Annexure A1 (suitable species could include: rewarewa, cabbage tree, mahoe, kahikatea, rimu, kohuhu).
- 18 The preparation and planting process will generally follow that outlined in paragraphs 6-12 above. Mass weed removal will not be necessary, however, spot spraying will be required.
- 19 Plantings shall be of planter bags, size at about PB 5 - PB 10.

Maintenance

- 20 Weeding using hand methods should be undertaken at the follow intervals post planting:
- * Monthly over the spring summer period following planting (November to March);
 - * then at 4 monthly intervals (or more regularly if needed).
- 21 Care should be taken when weeding not to damage plant or foliage - stem damage can occur if weed-eaters are used for weed clearance.
- 22 While browser damage is not expected, monitoring should be implemented and animal repellents employed if significant damage is noted.



- 23 Loss of plantings should be expected. Where this occurs, replanting with replacement plants should be undertaken.

Monitoring

- 24 Compliance monitoring will be done by Waitakere City Council at the following intervals:
- a. At the end of the weed eradication process to check weed infestations have been controlled to a satisfactory degree prior to site preparation and replanting (July 2004).
 - b. Two monitoring visits by Waitakere City Council representative(s) during planting to ensure planting is being undertaken as per the specifications of this revegetation plan.
 - c. A visit on completion of the planting (October 2004).
 - d. A monitoring visit at the end of February 2005, thereafter three monthly visits until September 2005 and six monthly until September 2006.
 - e. The purpose of all monitoring visits is to check full compliance with the revegetation plan, to ensure any dead/dying plant material is being replaced and to ensure that weeds are being controlled satisfactorily.
- 25 On completion of each monitoring visit a report will be prepared by the monitoring officer and forwarded to Mr and Mrs Borrett detailing progress of the revegetation and noting any necessary action items and a timeline for completing these.

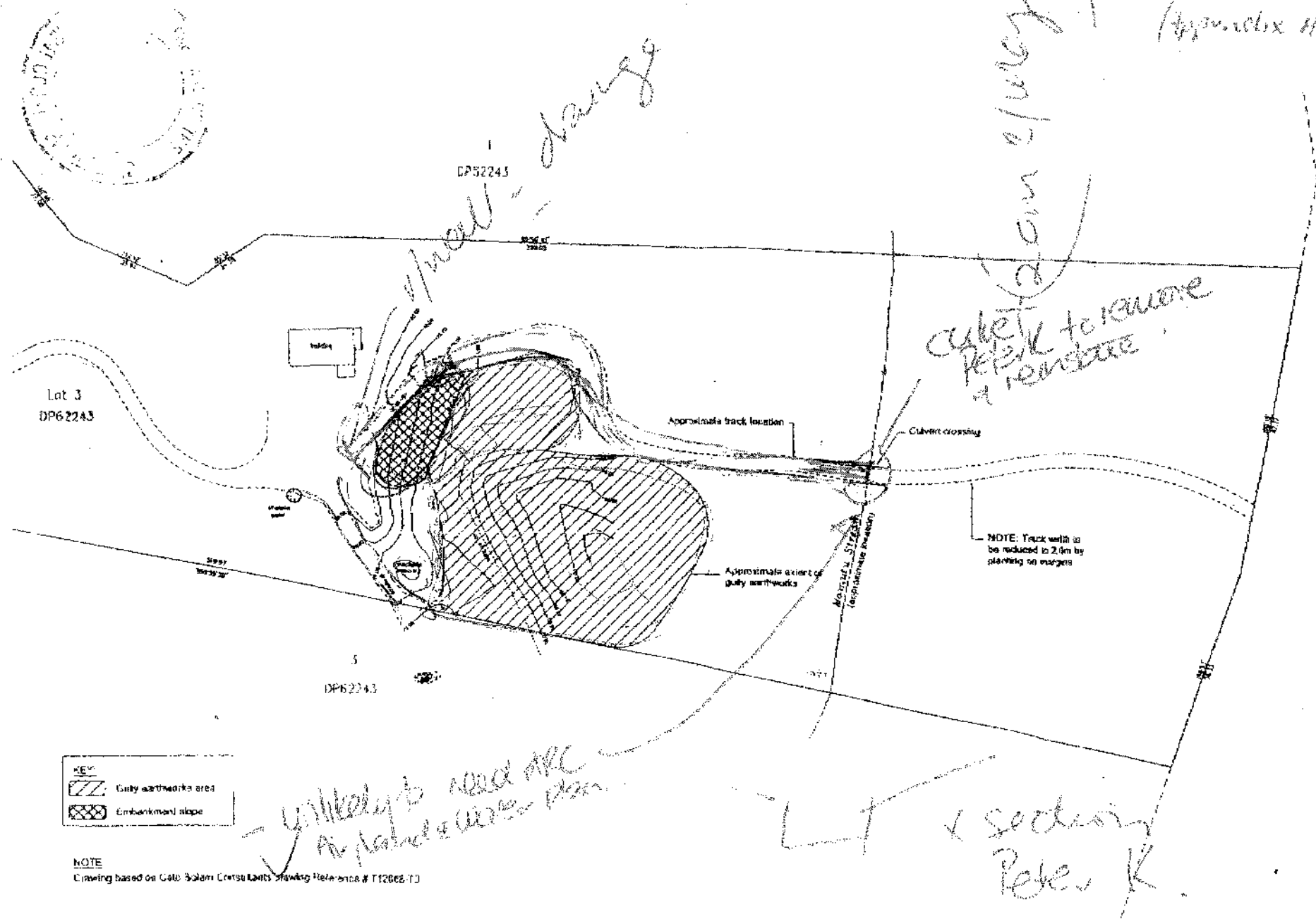


05/27/04/02

A9

(Appendix H)

A10



KEY

	Gully earthwork area
	Embankment slope

NOTE
 Drawing based on Gato Bolam Cross Earth Drawing Reference # T12068-TJ

✓ unlikely to need more
 as planned & approved plan

 Tankin & Taylor Environmental & Engineering Consultants	DATE	REV	NOV 13 2011
	DRAWN	DESIGNED	
	CHECKED	APPROVED	
	SCALE	PROJECT NO	15003.00

A BORRETT
 REVEGETATION PLAN
 49 SUNNYVALE ROAD

Andrew Witt

VEGETATION LIST



All

Appendix B

Earthworks Engineering and Works Plan

- 1 The following remedial works are required as summarised on the marked up copy of a plan by Tonkin and Taylor Limited.

Proposed Stability Works

- 2 To enhance the stability of the building platform, so the long term Factor of Safety (FOS) of the building platform is equal or greater than 1.5, we recommend the construction of a berm and inground retaining structure. This is in general agreement with the scheme proposed at a meeting with Council on 24 April 2002.
- 3 A berm is proposed in the re-entrant corner at the bottom of the access track leading to the platform below the building, see Site Sketch and Section A (Figures 1 and 3).
- 4 The crest of the slope in front of the northeast corner of the building will be stabilised using inground piles (see Figures 3 and 4).
- 5 The above design solution has been subject to initial review by the W.C.C. reviewer, Dr Fendall who also provided the cross section details.

Slope Stability and Wall Analyses

- 6 The slope stability of the building site has been analysed by Tonkin & Taylor Ltd using Slope/W software. For Section A, the slope immediately below the existing dwelling has a long term FOS > 1.5 when a small, engineered fill buttress is placed at the toe (Figure 1). Analyses of Section B show that the critical surface extending to the eastern wall of the existing structure has a FOS = 1.38 (Figure 2). Our analyses show that an inground retaining wall extending over a 10.5m length (8 piles) would effectively isolate the existing dwelling from downslope instability and increase the Factor of Safety of the building platform to ≥ 1.5 .
- 7 The inground wall was designed using 'Wallap' software. A site sketch (Figure 3) and wall detail (Figure 4) for the design is attached, together with the analysis output (Annexure B1).



1997/0024

- 8 We have determined that development of a 1m deep headscarp down slope of the proposed wall, deflections at the top of the wall will be less than 15mm and the wall will achieve a FOS>2.0, while in the extreme event of full evacuation to the base of the fill at 3m the pile capacity will rely on shear transfer between the timber poles and surrounding concrete to achieve a FOS>1.5.

Construction of the Inground Retaining Wall

- 9 The inground retaining wall is to comprise 8 No. normal density 275 SED timber poles, concreted into 500mm diameter bored holes at 1.5m centre to centre spacings. The poles are to extend a minimum depth of 6.5m below existing ground level. The locations of the poles are shown on the Site Sketch (Figure 3). Piles must be set back a minimum of 2m from the crest of the batter.
- 10 The construction methodology for the wall is stepped out below:
- 10.1 500mm diameter holes are to be bored down to 6.5m as shown on the Site Sketch.
- 10.2 Immediately following the completion of a bored hole, the pole should be placed in the centre of the hole and the hole backfilled with site concrete (i.e. $f_c = 10\text{MPa}$ after 28 days).
- 10.3 Repeated this until all 8 poles are installed.
- 11 During the construction period, no heavy equipment shall be within 5m of the crest of the batter when it is not in use.

Construction of the Fill Buttress

- 12 The 3m high buttress fill should be formed with a minimum 3m wide base and 2m wide crest. The side of the buttress fill should not be steeper than 2.5(H):1(V). Both ends of the fill should taper into the existing batter contours. The locations of the buttress fill is shown on the Site Sketch (Figure 3).
- 13 The construction methodology for the fill buttress is stepped out below:



- 13.1 The contractor shall remove all vegetation from beneath the site of the proposed fill and shall clear all obstructions from this area. Clearing shall mean the removal of all growth (other than grass and weeds), extraction of roots larger than 50mm diameter and other items remaining above the surface of the ground.
- 13.2 All turf and organic topsoil shall be stripped from the areas subject to earthworks. All topsoil shall be stockpiled for future reuse in the locations approved on Site by the Engineer.
- 13.3 Before the placing of any fill, the existing slope may be re-contoured as directed by the Engineer if necessary.
- 13.4 Bulk fill should be spread uniformly in layers of no more than 0.3m thickness and then compacted by the trafficking of the fill with appropriate plant to achieve the compaction requirements below:
- a. Cohesive Fill
The average vane strength over 10 consecutive readings shall not be less than 100kPa, with no individual reading less than 90kPa.
 - b. Granular Fill
Scala penetrometer readings should average not less than 5 blows/50mm over the depth of the fill, with no individual reading less than 3 blows/50mm.
- 13.5 The Contractor shall be responsible for ensuring that the specified compaction parameters are achieved and shall carry out such testing as is needed to ensure the consistent quality of the fill.
- 14 The face below the building platform is to be revegetated in accordance with the recommendations of The Revegetation and Weed Management Plan (Appendix A).

Momutu Stream Culvert

- 15 The existing fill embankment and culvert on the vehicle access track should be removed and the stream returned to its original natural state. Silt control measures in accordance with the Auckland Regional Council publication TP90 must be in place during this work.



General Requirements

- 16 The existing stockpile of concrete rubble is to be placed in the gully at the base of the fill batter prior to commencement of the reshaping works.
- 17 The main earthwork areas are to be regraded to uniform slopes of approximately 18 degrees (1 in 4) maximum and the finished surface shaped and regressed (or otherwise vegetated) to avoid erosion by concentrated stormwater flows.
- 18 All the earthworks areas are to be "stabilised" as per TP90 prior to the removal of silt control measures.
- 18.1 Revegetation of steep slopes associated with the vehicle access track.

Construction Supervision

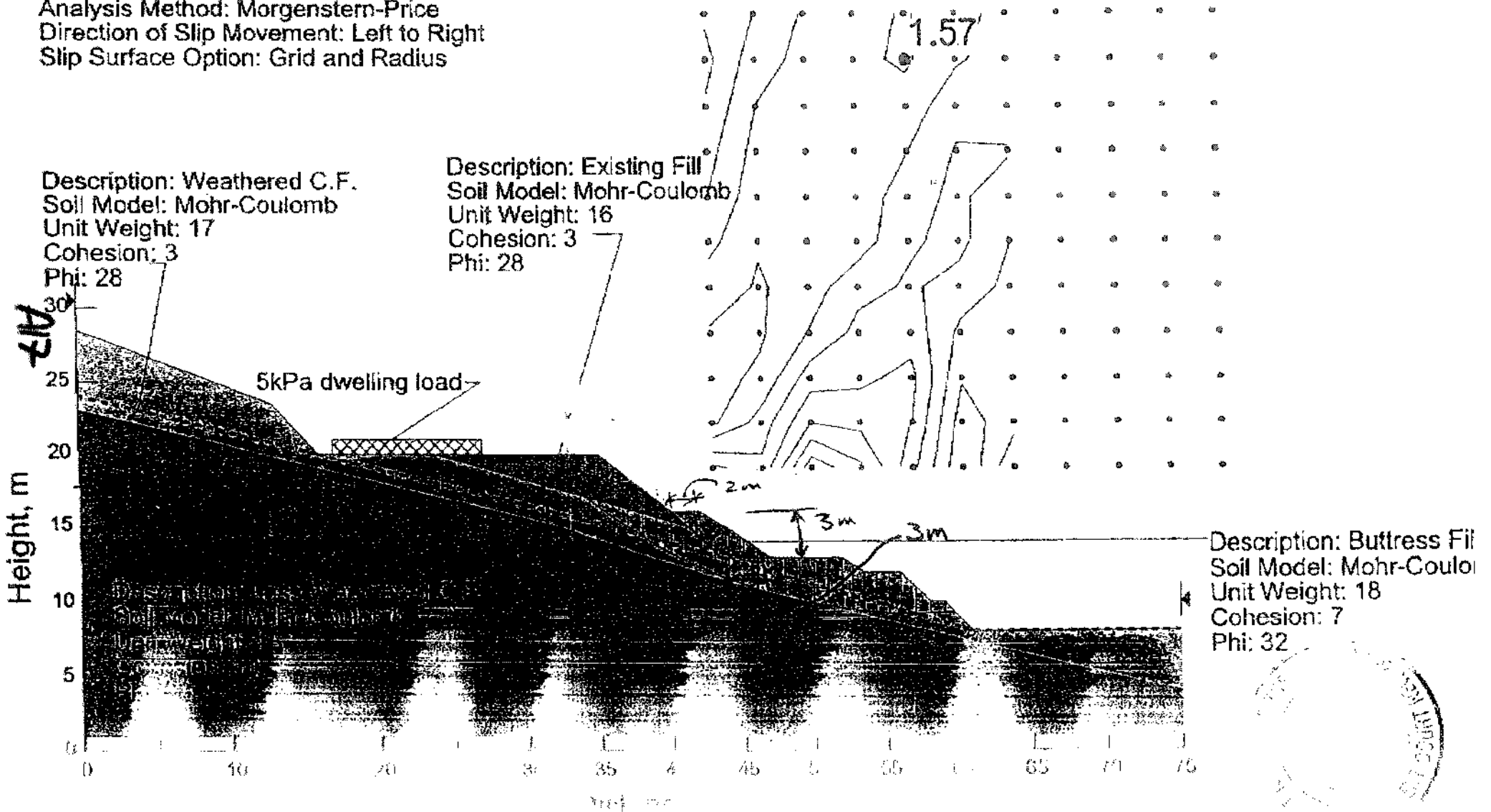
- 19 The design is subject to supervision during construction by a geotechnical engineer to confirm ground conditions and to certify the works are carried out in accordance with this design.
- 20 All earthworks shall be supervised by Tonkin & Taylor Limited, who shall provide a Producer Statement-Construction Review (PSC) upon completion, confirming construction is in accordance with the design specifications.



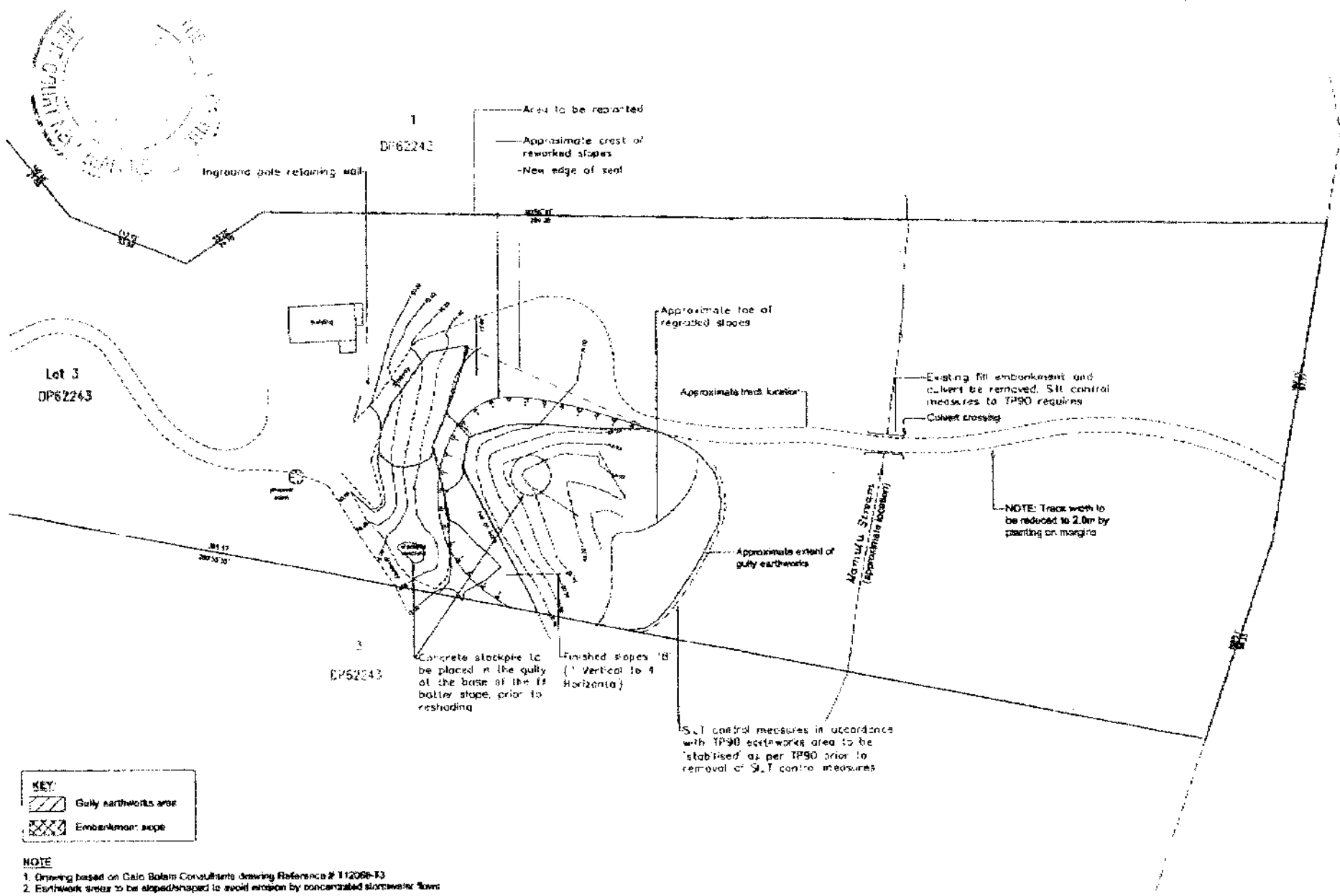
02251047

Description: 49 Sunnyvale Road, Remediation Works
 Comments: Section A
 File Name: Section A - buttress fill.stz
 Last Saved Date: 29/04/2002
 Last Saved Time: 17:30:53
 Analysis Method: Morgenstern-Price
 Direction of Slip Movement: Left to Right
 Slip Surface Option: Grid and Radius

FIGURE 1



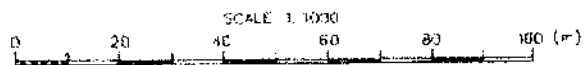
A18



KEY:

	Gully earthworks area
	Embankment slope

NOTE
 1. Drawing based on Gato Bolam Consultants drawing Reference # 112068-F3
 2. Earthwork areas to be sloped/shaped to avoid erosion by concentrated stormwater flows



 Taylor & Taylor Environmental & Engineering 11/11/03 15809 OC 1.1.00 1-F SCALES 1:1000 PROJECT NO. 15809-001	DRAWN: P.B.S. / mly/03 DATE/TIME CHECKED: _____ APPROVED: _____ CHECKED: _____ SCALES: 1:1000 PROJECT NO.: 15809-001
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	PROJECT NO.: 15809-001

A BORRETT
REVEGETATION PLAN
49 SUNNYVALE ROAD

Figure 2

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A19

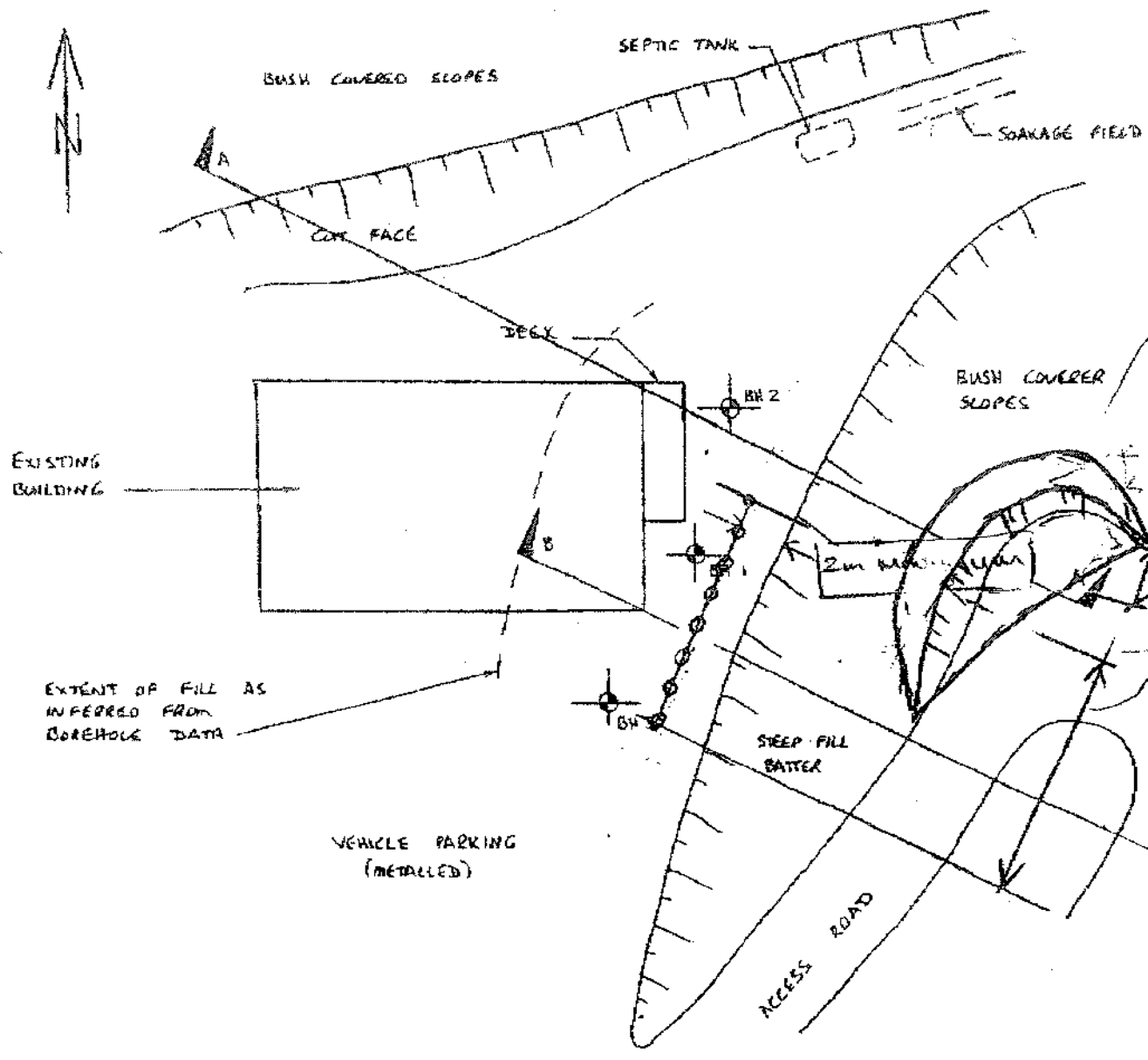


FIGURE 3

BERUM IS 3m HIGH

This is the Exhibit marked 'A' mentioned and referred to in the annexed Affidavit of Waf. Peter a/b/p/a. Fenwick sworn at Auckland this 26th day of February 1998 before me

Tara Katherine Joyce
Solicitor
AUCKLAND

10.5m : 8 poles @ 1.5m SPACING



GUINYVALE

PARSEY

SCALES	1:200	PROJECT	833
DATE	23/1/98	PROJECT	1/10/98

Office: WAC

LNU

Project: 49 SUNNYVALE RD

Description:

Computed: CKL 30/9/2002

Checked:

20

CROSS SECTION

A20

APPROX SCALE 1:50

← DWELLING →

2m MINIMUM

FIGURE 9

275 SED
NORMAL DENSITY
TIMBER POLES

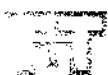
6 x POLES @ 1.5m
CENTRE TO CENTRE
SPACING IN FRONT OF
EXISTING DWELLING
- SEE ATTACHED PLAN

0.5m Ø BORED &
BACKFILLED WITH SITE CONCRETE



Annex we B1'

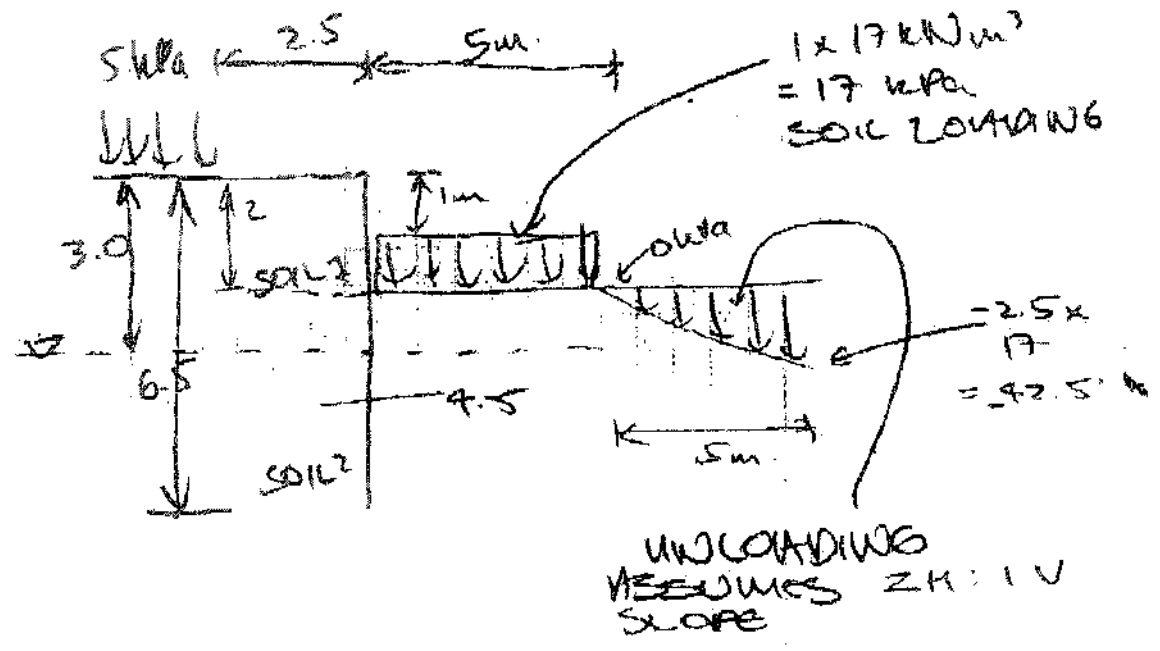
WALLAP ANALYSIS FOR WALL DESIGN



A21

WALL CHECK

MODEL



COMPOSITE SECTION NOT ASSUMED

POLES 275 SED

$$E = 87600$$

$$I = \frac{\pi (0.275)^4}{64} = 0.000281 \text{ m}^4/\text{m}$$

PER 1.5 m SPACING = 0.000421 m⁴

SWAY OUTPUT ROW 4

OS = 6.15 > 2.0 ∴ OK

DISP = 13 mm ∴ OK

M* = 5.8 kNm/m x 1.5 m spacing x 1.6
 = 13.9 kNm

M_{min} = 0.8 x 0.6 x 1 x 1 x 0.85 x 0.85 x 38000 x $\frac{\pi (0.275)^3}{32}$
 = 27 kNm > 13.9 kNm ∴ OK

A22

AKC
OK

30/4/2002

20

Checked:

$$V^* = 6.7 \text{ kN} \times 1.5 \text{ m} \times 1.6 = 16 \text{ kN}$$

$$\phi U_n = 0.6 \times 1 \times 0.9 \times 3100 \times 3 \pi \frac{0.275^2}{16}$$

$$= 74 \text{ kN} > 16 \text{ kN} \therefore \text{OK } \checkmark$$

Program: WALLAP Version 4.10 Revision A19.B18.R20
Licensed from GEOSOLVE

Job No. 15809.1
Made by : CKL
Date:30-04-2002
Checked :

RETAINING WALL DESIGN
DEVALE ROAD

Units: kN,m

INPUT DATA

SOIL PROFILE

Stratum No.	Elevation of top of stratum	Soil types	
		Active side	Passive side
1	20.00	1 FILL & W CF	1 FILL & W CF
2	15.50	2 LESS W CF	2 LESS W CF

SOIL PROPERTIES

No.	Description (Datum elev.)	Bulk density kN/m3	Young's Modulus Eh, kN/m2 (dEh/dy)	At rest coeff. Ko (dKo/dy)	Consol. state. NC/OC (Nu)	Active limit Ka (Kac)	Passive limit Kp (Kpc)	Cohesion kN/m2 (dc/dy)
1	FILL & W CF	17.00	15000	0.530	OC (0.350)	0.361 (1.202)	2.770 (3.329)	3.000d
	LESS W CF	18.00	30000	0.380	OC (0.300)	0.238 (0.975)	4.204 (4.101)	10.00d

GROUND WATER CONDITIONS

Density of water = 9.81 kN/m3

	Active side	Passive side
Water table elevation	17.00	17.00

Automatic water pressure balancing at toe of wall : No

WALL PROPERTIES

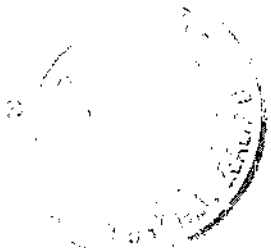
Elevation of toe of wall = 13.50
Maximum finite element length = 0.40
Youngs modulus of wall E = 8.7000E+06 kN/m2
Moment of inertia of wall I = 1.8700E-04 m4/m run
E.I = 1.627E+03

CHARGE LOADS

SurchARGE no.	Elev.	Distance from wall	Length/parallel to wall	Width perpend. to wall	SurchARGE kN/m2	
					Near edge	Far edge
1	20.00	2.50(A)	9.00	10.00	5.00	=
	18.00	-0.10(P)	15.00	5.00	17.00	=
	18.00	-5.00(P)	15.00	5.00	0.00	-42.50

Note: A = Active side, P = Passive side

A trapezoidal surcharge is defined by two values:
N = at edge near to wall, F = at edge far from wall



CONSTRUCTION STAGES

Stage no.	Stage description
1	Excavate to elevation 18.00 on PASSIVE side
2	Apply surcharge no.1 at elevation 20.00 No analysis at this stage
3	Apply surcharge no.2 at elevation 18.00 No analysis at this stage
4	Apply surcharge no.3 at elevation 18.00

FACTORS OF SAFETY and ANALYSIS OPTIONS

Type of structure - Retaining wall

Stability analysis:

Method of analysis - CP2
 Factor on passive for calculating wall depth = 2.00
 Factor on passive for calculating tie force = 1.00

Parameters for undrained strata:

Minimum equivalent fluid density = 5.00 kN/m³
 Maximum depth of water filled tension crack = 0.00 m

Bending moment and displacement calculation:

Method - Subgrade reaction model using Influence Coefficients
 Open Tension Crack analysis? - No
 Non-linear Modulus Parameter (L) = 4.000 m

Boundary conditions:

Length of wall (normal to plane of analysis) = 15.00 m
 Width of excavation on active side of wall = 20.00 m
 Width of excavation on passive side of wall = 10.00 m
 Distance to rigid boundary on active side = 20.00 m
 Distance to rigid boundary on passive side = 10.00 m

OUTPUT OPTIONS

Results to be stored on disk? - Yes
 Results to be output on the printer? - No

Stage no.	Stage description	Displacement	Active pressures	Graph. output
1	Excav. to elev. 18.00 on PASSIVE side	No	No	No
2	Apply surcharge no.1 at elev. 20.00	No	No	No
3	Apply surcharge no.2 at elev. 18.00	No	No	No
4	Apply surcharge no.3 at elev. 18.00	No	No	No
-	Summary output	Yes	-	Yes

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 69 Rodenhurst Road, London SW4, UK. Tel: 0044 20 8674 7251



A25

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RETAINING WALL DESIGN
ROSEVALE ROAD

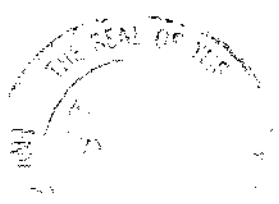
Sheet No.
Run No. WALL-CK
Job No. 15809.1
Made by : CKL
Date: 30-04-2002
Checked :

Units: kN/m

SUMMARY OF RESULTS

NETTY ANALYSIS according to CP2 method
Factor of safety on gross pressure (excluding water pressure)

No	G.L.		Strut Elev.	Factor of Safety	Moment of equilib. at elev.	Toe elev. for FOS = 2.000		Strut force for F=1.000 kN/m run
	Act.	Pass.				Toe elev.	Wall Penetration	
1	20.00	18.00	Cant.	6.141	14.04	15.70	2.30	
2	20.00	18.00			No analysis at this stage			
3	20.00	18.00			No analysis at this stage			
	20.00	18.00	Cant.	6.154	14.09	16.55	1.45	



A26

RETAINING WALL DESIGN
49 SUNNYVALE ROAD

Units: kN,m

SUMMARY OF RESULTS

BENDING MOMENT and DISPLACEMENT CALCULATION - Assumptions:
 - Upgrade reaction model - Boussinesq Influence coefficients
 - deformations are elastic until the active or passive limit is reached
 - Open Tension Crack analysis - No
 - Length of wall perpendicular to section = 15.00m

Rigid boundaries: Active side 20.00 from wall
 Passive side 10.00 from wall

Bending moment, shear force and displacement envelopes

Node no.	Y coord	Displacement		Bending moment		Shear force	
		maximum m	minimum m	maximum kN.m/m	minimum kN.m/m	maximum kN/m	minimum kN/m
	20.00	0.013	0.000	0.0	-0.0	0.0	0.0
	19.60	0.011	0.000	0.0	0.0	0.0	0.0
	19.20	0.009	0.000	0.0	0.0	0.3	0.0
4	18.90	0.007	0.000	0.3	0.0	1.3	0.0
5	18.40	0.005	0.000	1.2	0.0	3.4	0.0
6	18.00	0.003	0.000	3.1	0.0	6.7	0.0
	17.60	0.002	0.000	5.3	0.0	3.2	0.0
	17.30	0.001	0.000	5.8	0.0	0.0	-2.5
	17.00	0.001	0.000	4.6	0.0	0.0	-5.3
10	16.70	0.000	0.000	2.9	0.0	0.0	-5.3
11	16.40	0.000	-0.000	1.4	0.0	0.0	-4.1
12	16.00	0.000	-0.000	0.2	-0.2	0.0	-2.0
	15.75	0.000	-0.000	0.0	-0.4	0.1	-0.7
	15.50	0.000	0.000	0.0	-0.2	2.0	0.0
	15.25	0.000	0.000	0.2	-0.1	0.5	0.0
13	14.80	0.000	0.000	0.2	-0.0	0.0	-0.1
14	14.40	0.000	0.000	0.1	-0.0	0.0	-0.2
15	14.00	0.000	0.000	0.0	-0.0	0.0	-0.2
16	13.75	0.000	0.000	0.0	-0.0	0.0	-0.1
17	13.50	0.000	0.000	0.0	-0.0	0.0	0.0

Maximum and minimum bending moment and shear force at each stage

Stage no.	Bending moment				Shear force			
	maximum kN.m/m	elev.	minimum kN.m/m	elev.	maximum kN/m	elev.	minimum kN/m	elev.
1	5.3	17.30	-0.4	15.75	6.2	18.00	-5.3	17.00
2	No calculation at this stage							
3	No calculation at this stage							
4	5.8	17.30	-0.2	15.50	6.7	18.00	-5.3	16.70

HOKIN and TAYLOR LTD.

Sheet No.
Run No. WALL-CK

Program: WALLAP Version 4.10 Revision A19.B18.R20
Processed from GEOSOLVE

Job No. 15809.1
Made by : CKL
Date: 30-04-2002
Checked :

RETAINING WALL DESIGN
at SUNNYVALE ROAD

Units: kN,m

TABLE OF RESULTS (cont.)

Maximum and minimum displacement at each stage

Stage no.	Displacement		Stage description		
	maximum elev.	minimum elev.			
	m	m			
	0.012	20.00	0.000	20.00	Excav. to elev. 18.00 on PASSIVE side
	No calculation at this stage			Apply surcharge no.1 at elev. 20.00	
	No calculation at this stage			Apply surcharge no.2 at elev. 19.00	
	0.013	20.00	-0.000	16.40	Apply surcharge no.3 at elev. 18.00

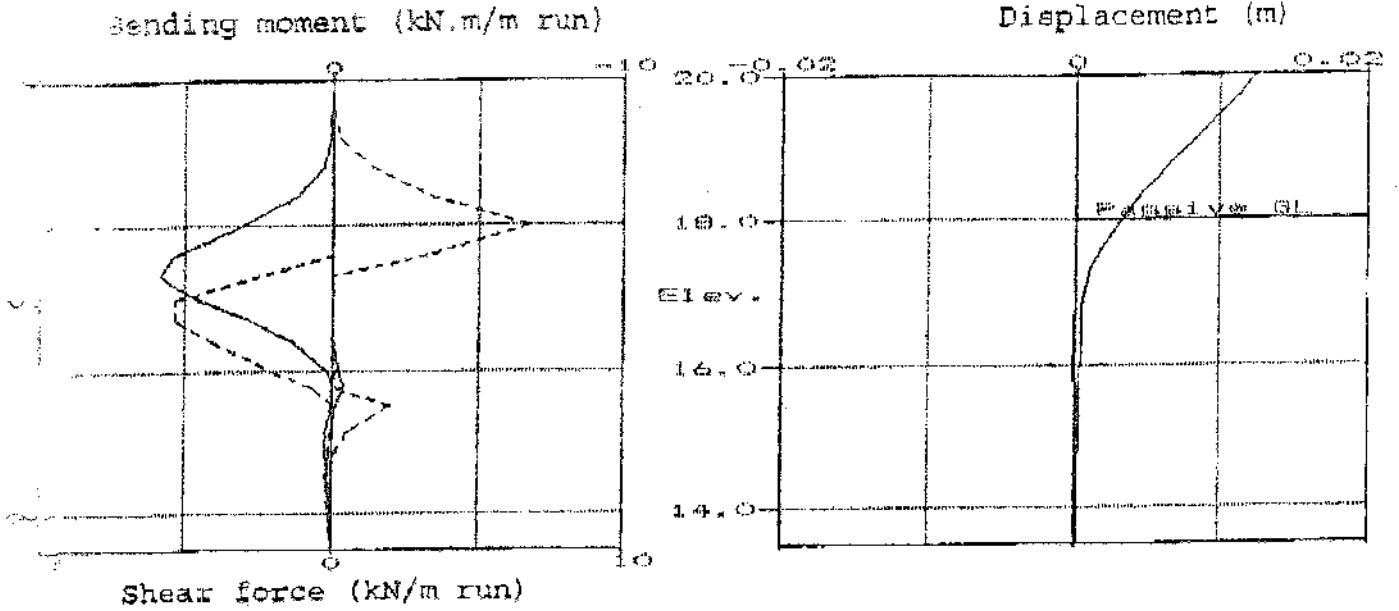


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Units: kN,m

RESULTS

Max moment and displacement envelopes



EARTHWORKS

means earthmoving operations carried out by any means for any purpose and includes:

- (a) quarrying;
- (b) prospecting and exploration;
- (c) the disturbance of land surfaces by moving, removing, placing or replacing soil or earth, or by excavation, cutting or filling operations;
- (d) contouring;
- (e) road, driveway and other access constructions;
- (f) landfill operations;

but does not include:

- (i) horticulture or tillage of soil for agriculture;
- (ii) gardening for domestic purposes;
- (iii) work carried out to provide for effluent disposal systems or pile foundations for residential buildings;
- (iv) work, including earthworks, carried out for the maintenance and upgrading of any existing infrastructure;
- (v) trenching work for the installation of infrastructure;
- (vi) solid waste landfill operations.

EASEMENT(S)

means a specified area of land over which another party or parties have reserved a right of access

EASTERNMOST SITE BOUNDARY

means the site boundary closest to the eastern (90°) point of the compass (See Diagram A)

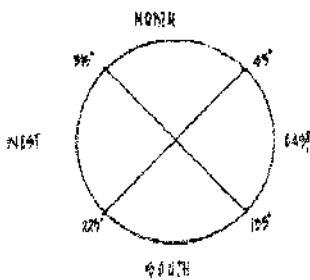


Diagram A

ECOLOGICAL LINKAGE

OPPORTUNITIES

means the area shown on the *Natural Areas Maps as Ecological Linkage Opportunities* and to which the underlying *Natural Area Rules* apply

EFFECT(S)

means:

- (a) any positive or adverse effect; and
- (b) any temporary or permanent effect; and
- (c) any past, present, or future effect; and
- (d) any cumulative effects which arise over time or in combination with other effects

regardless of the scale, intensity, duration, or frequency of the effect, and also includes -

- (e) any potential effect of high probability; and
- (f) any potential effect of low probability which has a high potential impact

EFFECTS RATIO

means, in respect of *Hazardous Facilities*, the ratio determined by the *Hazardous Facilities Screening Procedure* (see Appendix to the *Hazardous Facilities and Contaminated Sites Rules*)

ELECTRICITY DISTRIBUTION SUBSTATION

means those parts of works or electrical installations, being a building, structure, or enclosure, incorporating fittings that are used principally for the purposes of the control of the distribution of electricity, provided it does not exceed 20m² in area, including any casing or enclosure

definition



BUILDING BULK

means the total dimension of a *building*, including width, length and *height*

BUILDING COVERAGE

means that proportion of the *net site area* which may be covered by *buildings* or parts of *buildings*, and includes overhangs or eaves in excess of 0.75 metres in width, but excludes uncovered:

- decks
- terraces
- steps
- satellite dishes
- swimming pools
- pergolas

(Note: see the definition of "impermeable" which differs from the above)

BUSH LIVING ENVIRONMENT

means *land* shown on the *Human Environments Maps* as *Bush Living Environment* and to which the *Bush Living Environment Rules* apply

CANOPY

means a weather-proof covering, substantially covering a footpath used by the public

CAR PARKING (CAR PARK)

means provision for the parking of motor vehicles where each car park space has dimensions of no less than 2.5 metres by 5.0 metres and includes provision for manoeuvring to and from each car park space, each *car park* to be formed in a permanent, maintenance free surface, marked out and with provision made for the drainage of stormwater

CARRIAGEWAYS

means that part of a *driveway* or *road* formed for the carriage of motor vehicles

CATCHMENT(S)

means the area(s) which the Council has defined relating to the:

- *road(s)*; and/or
- *wastewater treatment and disposal system(s)*; and/or
- *stormwater treatment and disposal system(s)*; and/or
- *public water supply system(s)*; and/or
- *reserve(s)*

over which a *financial contribution* will apply

CENTRAL POINT

means the point shown on the *Human Environments Maps* as "*Central Point*" to which Rule 2 in the *Living Environment Rules* relates

CERTIFICATE(S) OF COMPLIANCE

means a certificate granted by a local authority under Section 139 of the *Act*

CHANGED USE

means a *building* or *site* used for a significantly different purpose than the immediately previous use, and will include a change from a *Residential Activity* to a *Non-Residential Activity*, or a change from *Any Activity* to a *Retail Activity*

CITY-WIDE RULES

means rules appearing in the *City-Wide Rules* part of the *Plan*

CLEANFILL(S)

means depositing onto or into *land*, material of natural content not subject to biological breakdown

CLEARANCE

means removing or killing any *native vegetation* of any height or any *exotic vegetation* with a height of 1.0m or more, including any alteration of the root structure of such *vegetation* likely to result in plant death, provided that this definition shall not include *pruning* or:

- the removal of any *vegetation* that, in the opinion of an expert recognised by the Council, is dead or suffering from an untreatable or dangerously infectious disease
- removal or alteration of *vegetation* necessary to avoid injury to persons or damage to property

CLOSE-BOARDED FENCE

means a *fence* constructed of wooden palings or boards, with gaps between the palings or boards not exceeding 10mm

definitions



HUGH FENDALL CONSULTANTS LTD

Civil and Structural Engineering

Dr. H.D.W. FENDALL Director
B.E. (Civil) Hons., Ph.D, MIPENZ, (Civil, Geotechnical) CPEng
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Ref: 9833/R2
9 August 2007

Waitakere City Council,
Private Bag 93-109,
Henderson,
WAITAKERE CITY, 0650.

ATTENTION: Mr C. Diprose

Dear Sir,

BORRETT PROPERTY
AT 49 SUNNYVALE ROAD, SWANSON

REVIEW OF CONSENT ORDER

1. INTRODUCTION

As briefed, we have carried out a review of the Environmental Court Consent Order dated 16 October 2003, with respect to the earthworks requirements.

We also carried out a site inspection on 21 June 2007 (accompanied by yourself and Ms R. Andrews), in order to assess the current situation.

As a result, it is our professional opinion that some items of the Consent Order can be relaxed / removed, but as outlined herein a number of the up-grading / remedial works are still required.

2. CONSENT ORDER

2.1 GENERAL

Appendix B of the Consent Order deals with the required earthworks operations which were intended to improve the stability of the various earthworks areas.

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The remedial works were outlined in a report by Tonkin & Taylor Limited which was prepared in 2002. I carried out a preliminary review of the reports recommendations at about this time and note that these form the basis of the Consent Order requirements.

In brief, the following three main aspects of work were required:

- (i) Improvement of the stability of the dwelling building platform area by the construction of a retaining wall and the placement of a limited area of buttress filling at the base of the slope below the building.
- (ii) Regrading of the main earthworks areas to a more uniform slope, so as to remove the steep bank areas,
- (iii) Removal of the fill embankment and culvert across the Momutu Stream, so as to return the area to its previous natural state.

Since the Consent Order was made in October 2003, nearly four years has passed (5 years since the Tonkin and Taylor report) and the intention of our site inspection on 21 June 07 was to review the past stability of the land and filled areas and further consider the possible off-site effects of future instability.

The three areas are discussed separately in the following sections.

2.2 STABILITY OF HOUSE SITE

As outlined in previous geotechnical reports by our firm, the existing dwelling is located within a level terrace which has been created by cutting and filling operations. The south-eastern corner of the building extends to within about 4 metres of the crest of a steep fill batter slope which falls down towards the west and south-west, and from our previous geotechnical investigations, it was inferred that the fill zone extends beneath the south-western corner of the building platform.

The fill zone was considered to be potentially unstable (as partially evidenced by a previous slump of the fill batter within the area to the south of the dwelling) and hence the recommendation for stabilisation measures including a pole retaining wall and fill buttress as outlined in the Consent Order.

On 21 June 07, I noted that there did not appear to have been any major settlement or slumping of the fill zone at the south-western corner of the dwelling since my previous inspection of the property on 2 October 2001. However it must be noted that the "patchy" nature of the carpark seal in this vicinity could be due to gradual settlement movements which have resulted in deterioration of the surface which has subsequently been repaired. Furthermore, the outer edge of the terrace (towards the crest of the steep slopes) appears to be slightly lower than that at the dwelling. This could be at least partially due to the initial contouring of the area, but could also be due to settlement near the outer edge.

To the south of the dwelling, a row of pittosporums has been planted along the crest of the steep fill batter slopes. These extend over the extent of the previous slump and together with other trees / shrubs on the batter slope itself, would be helping to assist the stability in this area.

The fill batter slopes to the north-west of this area (adjacent to the dwelling) is higher and is not protected by any significant vegetation. This slope area is grassed with small terraces / cattle trails having been formed by horses / ponies. Terracing of a slope can occur as a result of gradual downhill soil creep movements, but in this case, it cannot be determined if the existing terraced surface is due to soil creep, cattle movements, or a combination of both. Given the steepness of the slope, it is my opinion that soil creep movements are likely to be occurring.

I consider that a particularly conservative approach must be taken with regard to slope stability issues in relation to dwellings and similar buildings. Hence, notwithstanding the apparent satisfactory performance of the fill batter slope over the past few years, it is my opinion that the slope cannot be considered to be "stable". This is because any significant movement of the fill zone could detrimentally affect the building structure and result in potential risk to the occupants.

For this reason, it is my opinion that the building platform stability works as outlined in the Consent Order, Appendix B, Items 2 to 14 should still be carried out.

It can be noted that the reason for the above recommendation is related to the safety of the dwelling and its occupants, and not to potential off-site effects. Given the distance of the dwelling to the property boundaries and to the watercourse, it is considered extremely unlikely that there would be any measurable off-site effects in relation to a soil failure within the slopes immediately below the dwelling.

2.3 MAIN EARTHWORKS AREA

The bulk of the earthworks carried out on the property have involved the placement of fill within the valley area and adjacent slopes to the south-west of the dwelling. The area affected by the earthworks is around 100 metres x 70 metres. Most of the filling appears to have been placed by edge dumping to gradually extend level terrace areas.

A number of steep batter slopes of marginal stability have been created. To improve the long term stability of the filled areas, it was intended that the surfaces be re-graded to a more uniform slope – refer Consent Order, Appendix B, Items 16 and 17.

Based on my inspection on 21 June 2007, it would appear that no major instability of the fill batters has occurred since my previous inspection on 2 October 2001. One area of exposed soil on a steep fill batter slope was however observed, and it can be inferred that this is the result of a small area of surficial slumping. Other limited slump areas may also have occurred in the past but have become disguised by the grass cover and other vegetation. The lower portion of the filled areas have become covered with immature wattle, with native bush and scrub further down slope.

Provided that the vegetation is allowed to remain, it is my opinion that the risk of a large scale slope instability associated with evacuation of the fill from the slope is remote.

Surficial slumping of soils on the steep batters will inevitably continue to occur for some time, but their effect would be relatively localised, with the down slope vegetation helping to reduce associated silt runoff.

Accordingly, it is my opinion that Consent Conditions 16 and 17 of Appendix B could be removed since the risk of off-site effects associated with localised instability of the fill is very low.

2.4 STREAM CULVERT & EMBANKMENT

Prior to my site inspection in 2001, a culvert and fill embankment had been constructed across the Momutu Stream, around 150 metres to the west of the dwelling. Based on the condition of the vegetation and earth surfaces in 2001, it appeared that the work had been carried out relatively recently prior to the inspection. The culvert pipe is 450 mm diameter with the fill embankment being up to around 2 metres high. No construction details are available for the fill embankment nor the pipe construction / bedding details.

The Consent Order, Appendix B, Item 15 required the fill embankment and culvert to be removed and the stream returned to its original natural state.

During the site inspection in June 2007, it was noted that a crack has developed in the surface of the fill embankment. This crack is about 100 mm in width and is located near the downstream edge of the fill embankment, and extends over most of the crest length (the crack is perpendicular to the stream).

The crack indicates that lateral displacement of the downstream face of the embankment is occurring and unless remedial measures are carried out, it is considered virtually inevitable that a significant failure will occur in the future. This failure would be likely to undermine the remaining embankment and it is considered virtually inevitable that the entire embankment will fail at some stage in the future. This failure would result in off-site effects in terms of silt discharge, potential stormwater flow surges, as well as degrading the ecology of the downstream area.

The stream catchment area above the culvert is approximately 15 – 16 hectares and I have carried out flow calculations which show that the culvert has a capacity less than the "2 year return period storm". This means that overtopping of the embankment is likely to be occurring on a regular basis.

This could result in sudden failure of the embankment, with consequent environmental problems associated with the silt discharges, etc. Furthermore, it is my opinion that failure of the embankment by seepage flows cannot be ruled out since the compaction standard is unknown and the risk of this is increased due to the small culvert pipe size and therefore more frequent "heading up" events.

Scour holes have developed at both the upstream and downstream ends of the culvert pipe and the culvert has a "hanging outlet" with the water falling about 300 – 400 mm to

a ponded area before continuing down stream. Fish passage has therefore been prevented.

For the above reasons, it is still considered appropriate that the existing fill embankment and culvert be removed and replanting carried out to return the area to as close to its natural state as possible.

3. SUMMARY

In summary, as a result of our site inspection and file review in June 2007, it is our opinion that the Consent Order requirements in relation to improving the stability of the building site and removal of the stream culvert and embankment are still appropriate. The Consent Order requirements in relation to regrading of the other fill areas could possibly be relaxed or removed given that the risk of any significant off-site effects as a result of slope failures is very low.

Please do not hesitate to ring me if you have any queries.

Yours faithfully,



Dr H.D.W. Fendall
Director
HUGH FENDALL CONSULTANTS LIMITED

49 Sunnyvale Rd –

Site Visit 21 June 2007

**Report on Restoration/Revegetation status in conjunction with 2003
Environment Court Enforcement Order**

Ruth Andrews

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1 Introduction

This report provides a follow-up to previous assessments undertaken to assess various remedial works required on the property at 49 Sunnyvale Rd as part of the enforcement order issued in 2003. The enforcement order came about as a direct result of ongoing illegal earthworks and vegetation alteration over the preceding years.

In May 2003, Tonkin & Taylor provided a revegetation plan for the site on behalf of the owners, following a number of site visits and discussions with Council. The report and its recommendations were reviewed and accepted by the Council and formed part of the enforcement order.

Council now seeks to progress the matter. This may take the form of a variation to the enforcement order, depending on the findings from investigations.

I undertook a site visit to the property on June 21 2007 accompanied by Dr Hugh Fendall and Mr Colin Diprose. The purpose of my site visit was to :

- make a general overall assessment of the current situation to determine whether any of the requirements of the 2003 revegetation plan have been met
- if none of the revegetation/restoration work has been undertaken, make a determination on whether this should still be implemented in its original form, or whether changes could reasonably be made given the passage of time & current state of the area.

2 Observations of current situation

Approximately five years have passed since I have seen the property. During that time, some changes have taken place to the vegetation pattern within the previously disturbed (earthworked) areas.

Weed cover is still present on the 'gully' area (refer figs. 1 & 2). This is characterised typically by nasturtium (*Tropaeolum* spp), kikuyu and broadleaf weeds with emergent wattle (*Acacia* spp) towards the toe of the gully. The 'embankment' below the house is also weed-covered. The pittosporums planted by the owners several years ago at the top of the slope (immediately to the east of the parking platform in front of the house) have grown to approx 3-4 metres in height.

The cut banks at the sides of the formed track have, as expected, grown over with a mix of weeds and native seedlings (refer Fig 3). Pampas (*Cortaderia* spp), wattle (*Acacia* spp), gorse (*Ulex europaeus*) and a mixture of broadleaf weeds have established. Kanuka seedlings, some coprosma and kumerahou have taken root where conditions are favourable, although very steeply-cut faces remain bare.

The culvert which was put in across the Momotu Stream is failing, with deep (10 cm wide) cracks appearing in the track directly above it. A large scour-hole has formed in the stream-bed on the south side of the culvert.

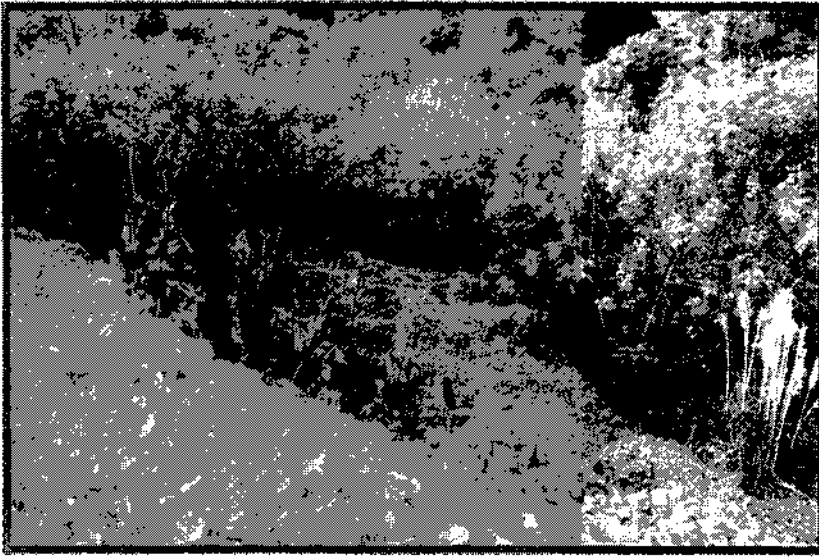


Fig 1. Typical weed cover in gully area



Fig 2. View of gully area from below house



Fig 3. View of track (looking down towards culvert)

3. 2003 Recommendations

The Tonkin & Taylor revegetation plan made the following recommendations in 2003 (in summary)

Gully area (Area A):

- clearance of weed mass using manual and chemical methods
- planting with nursery crop species
- follow-up with interplanting

Embankment area (below house – Area B):

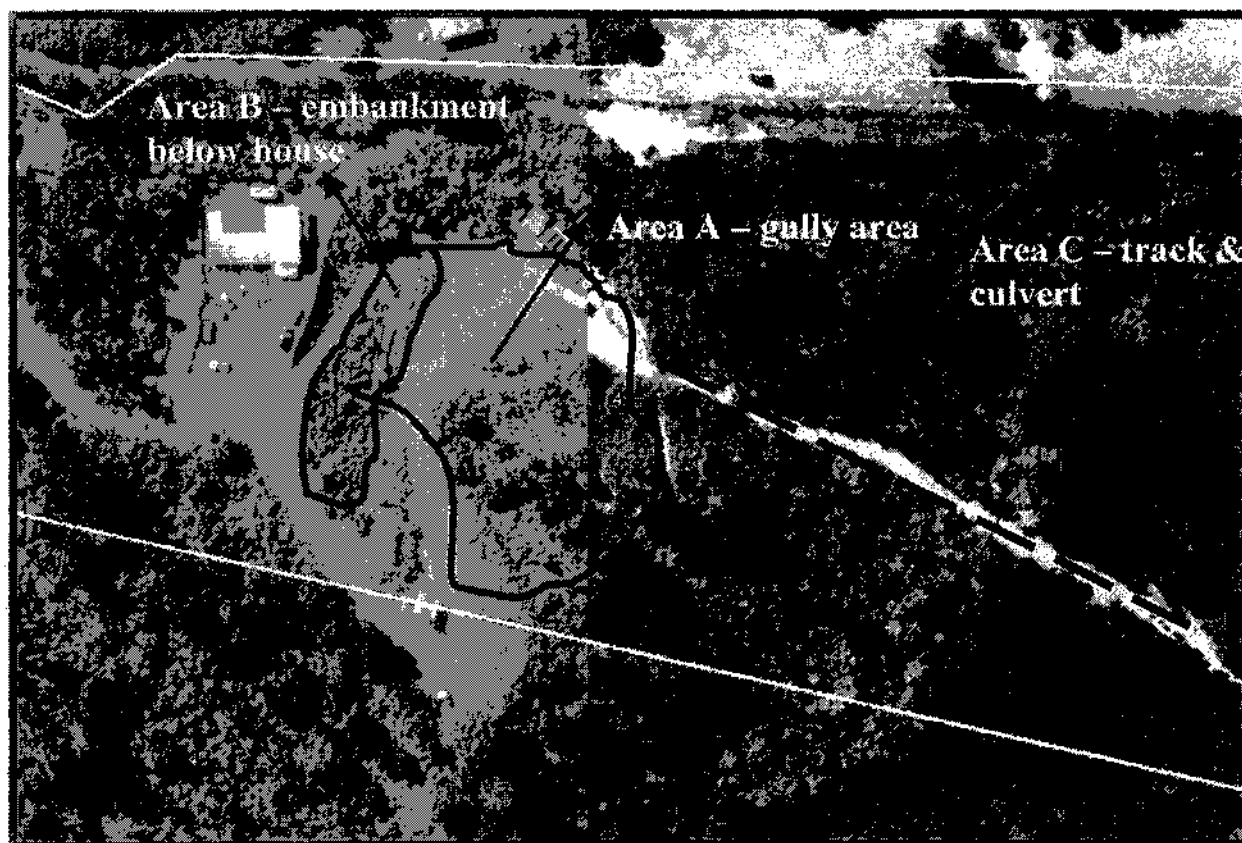
- weed control (spot spraying)
- planting with larger specimen trees

Track margins (Area C):¹

- planting of mānuka per 1m intervals
- planting of fruiting species per 5 m intervals

(Lists of species were also provided.)

Fig 4 – General Areas subject to restoration agreement in 2003



¹ Weed control was not deemed as specifically necessary along the track areas because there were minimal weeds present at the time of inspections (earthworks had only recently been undertaken and weeds had had no time to establish. It was anticipated that the requirements of the consent notice would be met within a specific timeframe).

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From the observations made as part of the site visit on June 21, it is evident that no or minimal weed control or planting has been undertaken in fulfilment of the restoration/replanting plan.

Weeds continue to dominate the areas, as discussed above. Two horses are allowed to roam and graze the gully & embankment areas. This appears to have contributed to weeds being kept at ground-level for the most part. However, there is no available 'formal' pasture area for these animals. Grazing animals are detrimental to any kind of regenerating bush through trampling, effluent run-off and introduction of new weed species. It is also worth noting that these horses do not appear to be restricted from any of the 'bush margins' and, as designated Protected Natural Area, it is a **non-complying activity** to allow grazing animals of any kind in the area (rule 5.1).

No natural revegetation is occurring within the gully or up on the embankment areas. Natural revegetation has occurred to some degree along the track margins but weeds have also established which are likely to compete with exotics if not controlled.

4. Recommended Actions – 2007

The 2003 recommendations were formulated with the purpose of ensuring enough intervention was undertaken so that previously disturbed land areas were not allowed to degrade to an unacceptable state.

The native forest and stream area on this property are significant; evident in the District Plan zoning allocated to the site ('protected natural area' and 'riparian margins natural area'). The previous unauthorised earthworks and vegetation disturbances resulted in undesirable changes to the natural features of the property. Further, these changes are ongoing as no positive intervention has taken place.

Gully areas

The 2003 Tonkin & Taylor plan (refer para 5.0) recommended that the gully area and 'platform' above it be weed-controlled using manual and chemical methodology. Thereafter a nursery crop should be established using mānuka seedlings at a density of up to 4 plants per square metre. Interplanting with fruiting species could thereafter be undertaken. Weed monitoring at regular intervals would be essential.

Recommended actions today >

It is desirable that this approach still be taken. The weed cover is just as extensive as it was in 2002/2003 and significant measures would be necessary to remove all the weed cover and undertake planting as described in the 2003 report.

Horses would obviously need to be removed from the areas. Native seedlings would be lost and weeds re-introduced very quickly if the horses were to remain.

Embankment areas

The 2003 report recommended that spot-spraying of weeds only would be necessary in this steep area just below the house (and above the gully/embankment areas).

Thereafter, establishment of larger specimen trees would be planted (such as cabbage trees, rewarewa, kahikatea and rimu). Monitoring for weeds & plant health etc would be undertaken at regular intervals to ensure maximum survival rates.

Recommended actions today>

Weeds appear to be more extensive along the embankment areas now. Horses are also allowed to roam and graze around here which has contributed to localised erosion and the presence of additional exotic species.

The weed control in this area now requires a more 'heavy duty' approach and probably more widespread spraying to ensure good foliar cover. It is desirable that planting be undertaken as per the recommendations, with appropriate monitoring.

Track margins

The 2003 recommendations required that mānuka be planted at 1 metre intervals and fruiting species at 5 m intervals. At that stage, weed control was not a major issue due to the fact that the track had been excavated fairly recently and weeds had not had a sufficient amount of time to become troublesome. Further, 'maintenance' (para.8.0) would ensure any weeds that appeared subsequent to planting could be controlled by hand.

Recommended actions today>

Weeds have now become established along the track margins. Some natural regeneration has also occurred.

It is essential that weeds are controlled along the track margins. Of particular concern is pampas, which forms fast, dense monocultures and excludes any kind of desirable regeneration. Acacia and broadleaf weeds should also be controlled. Gorse is less of a problem but new seedlings should be pulled.

The track margins have the capacity to regenerate naturally given the close proximity of available seed sources. Therefore, as part of a 'do minimum' approach, no specific planting may be necessary. However this would only be successful if weeds are controlled on a regular basis. If weeds are left to colonise, they would almost certainly out-compete regeneration in a relatively short space of time.

Culvert

The 2003 report briefly discussed the culvert which had been implemented to allow access across the Momotu Stream.

The culvert is now of significant concern due to its obvious failure. It is likely that fish-passage has been hindered by the presence of the culvert and the changes in the stream bed and water-flow that have taken place around it. Removing the culvert and reinstating the stream is a fairly major undertaking which would cause environmental damage. I would suggest that this matter requires further discussion with Hugh Fendall.

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6.0 Summary

In summary, it is considered that:

- the 2003 recommendations for replanting/restoration are still desirable and should be implemented
- the 2003 recommendations could be subject to some minor changes as discussed above (the suggested changes are as a direct result of the passage of time and the fact that no significant attempts have been made to either control weeds or undertake planting on the property in the last five years)
- horses should be completely restricted from the areas subject to restoration. It is a non-complying activity to graze animals where they can access protected natural areas and their presence is not conducive to revegetation/restoration as required by the enforcement order
- adequate and ongoing monitoring needs to be undertaken for a period of at least 2-3 years following planting and weed control. Dead plants should be removed and replaced, and weeds continually controlled
- further discussion should be had on the culvert issue, following Hugh Fendall's assessment of its current state.

ANIMAL WELFARE: WAITAKERE

To:
Planning and Regulatory Committee

Menacing dogs and placement policy

**Dog Control Act 1996
and 2003 amendment**

Report prepared by:
Neil Wells, Manager: Animal Welfare

A45

Menacing dogs and placement policy – Dog Control Act 1996 and 2003 amendments

Introduction

As a result of wide spread public alarm over an attack on a child by two pit-bulls in Cox's park, Parliament amended the Dog Control Act 1996 in 2003 giving territorial authorities and dog control officers extended powers.

Menacing dog classifications

Territorial authorities may classify as "menacing" any dog that the territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of –

- Observed or reported behaviour
- Characteristics typically associated with the dog's breed or type.

A territorial authority **must** classify as a menacing dog any dog of the breed or type specified. This includes the Brazilian Fila, the Dogo Argentina, the Japanese Tosa (breeds) and the American Pit Bull Terrier (type).

None of the specified breeds are known to be in Waitakere city. Waitakere City has classified 265 dogs on the grounds that the owners have described their dogs as pit bull or pit bull cross at the time of registration.

The effect of a menacing dog classification is that the dog must not be at large or in any public place, except when confined completely within a vehicle or cage without being muzzled.

The territorial authority may classify as "dangerous" any dog where the owner has been convicted of a challenging offence or where the territorial authority has sworn evidence as to its aggressive behaviour.

The effect of a dangerous dog classification is the same as menacing in that the dog must not be at large or in any public place, except when confined completely within a vehicle or cage without being muzzled.

Placement Policy

The Long Term Council Community Plan for 2006–2016 provides for a level of service whereby 75% of animals will be re-homed or adopted by 2009.¹ To offset the regulatory side of our service, work continues strongly in the field of education, welfare and re-homing initiatives.²

Temperament Assessments

Policy

¹ LTCCP Volume 2; Page 79

² Page 78

It is policy that before a dog is put up for adoption it undergoes a comprehensive temperament assessment by a qualified staff canine behaviourist. If the dog fails the temperament test it is euthanased.

At the time of placement a photograph is taken of the dog for identification purposes.

Process

In April 2007 we commenced a temperament evaluation pilot programme. This was initiated after some mishaps whereby dogs were placed in new homes and then returned for biting or other behavioural issues. While there was a temperament test procedure in place there was a lack of consistency and emotion tended to influence decisions. Staff members were acting in good faith there was no formal evaluation test.

The pilot programme was commenced in April 2007 and a staff member who has a tertiary qualification in canine behaviour set up a formal dog temperament test. The staff member is the only person experienced enough to carry out the evaluations and does not allow emotion to cloud the issue.

When a member of the public puts a name on a dog it is then subjected to a temperament test and evaluation. The test for an adult dog takes an hour and covers behavioural traits such as interaction with people and the environment and people, reactions with toys, food, sudden movements, touch, other animals, food aggression (if any) and basic commands. Behavioural traits associated with its breed or cross are assessed.

The dog is then graded green, orange or red. "Green" means it is all clear and suitable as a family pet; orange means it is suitable but with some restrictions, e.g. it might not be suitable in a family with very young children; "red" means it is unsuitable and the dog is euthanased.

If the dog is "orange" the issues are discussed with potential owner before proceeding with adoption. A follow up phone call to the owner is made and any issues are addressed at this time but a visit by the canine temperament assessor is available should the need arise.

Since the pilot programme commenced no dog has been returned for behavioural reasons.

Assessment of Breed

Policy

The policy of Animal Welfare: Waitakere not to adopt out pit-bulls or pit-bull crosses.

Where it can be reasonably identified that a dog's breed or partial breed is pit bull the dog is euthanased. Where a dog displays other pit bull traits it too is euthanased.

Background

Description by breed is not an exact science. There are 210 breed recognised in the National Dog Database. In 2006 Standards New Zealand published *New Zealand Standard – Guide to Identifying Dog Breeds*. While there is a matrix of indicative attributes of pure breeds, it is difficult to follow and the end result is not conclusive. The Standard is not helpful at all in identifying cross breeds.

Veterinary canine experts in both New Zealand and Australia reaffirm that there is no scientific test to determine whether a dog is a pit bull or not and, in a recent opinion from the New Zealand Veterinary Association, comes this —

Specific breed bans cause bad owners to change breeds. Unless prohibited, bad owners who want dominant aggressive dogs will end up with them. It's a macho thing for these inadequate people ...Breed specific legislation does not address the fact

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that a dog of any breed can be dangerous when conditioned to be aggressive. ...While the nature verses nurture, or genotype verses environment debate remains unresolved there's no evidence to date that genes contribute sufficient share to dominance aggression to justify a legislative ban... What is indisputable is that environment (read 'bad owners') has a huge influence on dominance aggression. ...visual identification as a means of identifying genotype becomes very subjective, if not impossible. ...The original cross between bulldogs and Old English terriers in the 18th century has produced Staffordshire bull terriers, English bull terriers, American Staffordshire terriers, and the American Pit bull terrier. ...mixtures between these breeds and others produce a plethora of offspring impossible to differentiate from the 'pit bull type'

Process

The policy not to adopt out pit-bulls or pit-bull crosses is based on two premises.

First, such a dog is by statute deemed to be classified as a menacing dog and it would be contradictory for Animal Welfare to adopt out a dog which on the one hand is said to be suitable for a family and yet on the other hand is classified as menacing.

Secondly, dogs that are pit-bull or look like pit-bull will end up being owned by such people and the urban myths about pit-bulls are amplified. Just as German Shepherds, Doberman's and Rottweilers have been the macho dog in the past, in the future some other breed will take over from the pit-bull. By withdrawing the preferred macho dog from availability for adoption Animal Welfare: Waitakere is restricting their availability to undesirables who want to turn otherwise good dogs into aggressive and dangerous dogs.

When a dog is impounded at Animal Welfare: Waitakere the description that is attached is a subjective process as there is no chance to see the parents of the dog. While an officer may attach a breed description when the dog is first booked in a panel of 3 staff members assess its breed and agree on its predominant breed and secondary breed. Where there is an indication that a dog might have some pit-bull in it then it will be euthanased.

Policy prepared by Neil Wells, Manager: Animal Welfare

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