

**IN THE HIGH COURT OF NEW ZEALAND  
AUCKLAND REGISTRY**

**I TE KŌTI MATUA O AOTEAROA  
TĀMAKI MAKĀURAU ROHE**

**CIV-2016-404-2343  
[2018] NZHC 1344**

BETWEEN ROYAL FOREST AND BIRD  
PROTECTION SOCIETY OF NEW  
ZEALAND INCORPORATED  
Appellant

AND AUCKLAND COUNCIL  
Respondent

Continued next page

Hearing: On the papers

Counsel: S Gepp and P Anderson for Appellant  
J Caldwell and M Gribben for Respondent  
C Kirman and A Devine for Housing NZ Corporation Inc  
R Gardner for Federated Farmers of New Zealand Inc  
D Minhinnick and L J Eaton for Stevenson Group Ltd  
B Matheson for Fulton Hogan Ltd, Brookby Quarries Ltd and  
Winstone Aggregates Ltd  
C Sheard for New Zealand Transport Agency  
T Howell for Te Arai Group  
J Gardner-Hopkins and L Hinchey for Transport NZ Ltd  
R Enright and M Wright for Environmental Defence Society Inc  
M Williams for Man O' War Farm Ltd

Judgment: 8 June 2018

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**JUDGMENT (NO 2) OF WHATA J**

---

*This judgment was delivered by me on 8 June 2018 at 3.00 pm,  
pursuant to Rule 11.5 of the High Court Rules.*

*Registrar/Deputy Registrar*

*Date: .....*

HOUSING NEW ZEALAND CORPORATION INC  
FEDERATED FARMERS OF NEW ZEALAND INC  
STEVENSON GROUP LIMITED  
FULTON HOGAN LIMITED  
BROOKBY QUARRIES LIMITED  
NEW ZEALAND TRANSPORT AGENCY  
WINSTONE AGGREGATES LIMITED  
TE ARAI GROUP  
TRANSPower NEW ZEALAND LIMITED  
ENVIRONMENTAL DEFENCE SOCIETY INC  
MANO'WAR FARM LIMITED  
COUNTIES MANUKAU DISTRICT HEALTH  
BOARD  
Section 301 Parties

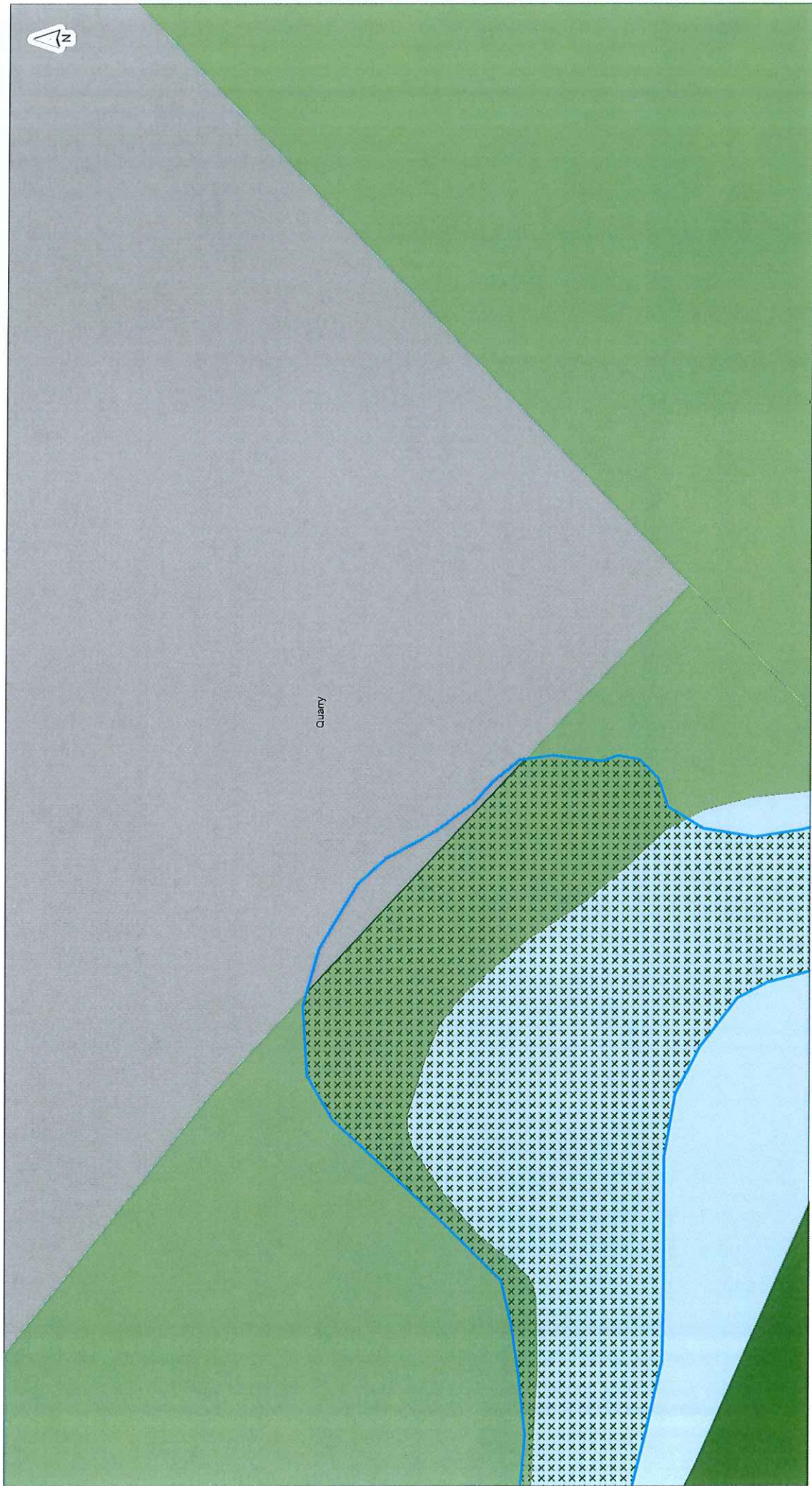
[1] Subsequent to the delivery of my judgment in this matter, dated 18 May 2018, I heard from Mr Gribben, for Auckland Council. He noted that certain appendices were omitted from that judgment. For completeness, I now identify the omitted appendices, namely:

- (a) The AUP maps identifying the significant ecological areas on certain sites, as shown on Appendix A;
- (b) Including a new activity for any vegetation, alteration or removal within a Quarry Zone, within a SEA, along with matters of discretion and assessment criteria related to this new activity, as shown in Appendix B.

[2] Having conferred with Mr Gribben, I am satisfied that the omitted attachments are now included in this judgment.

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.





Quarry

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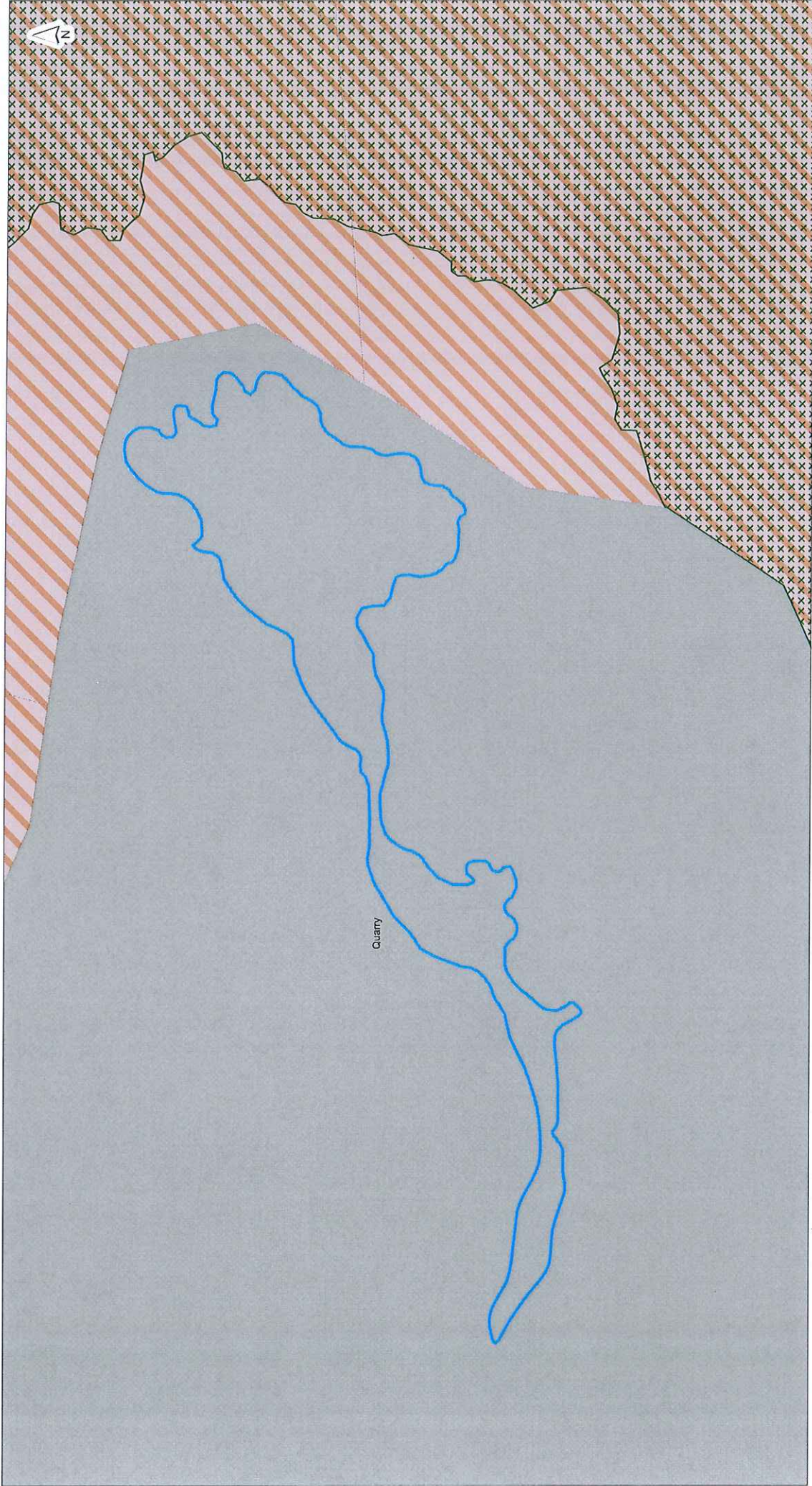
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Quarry



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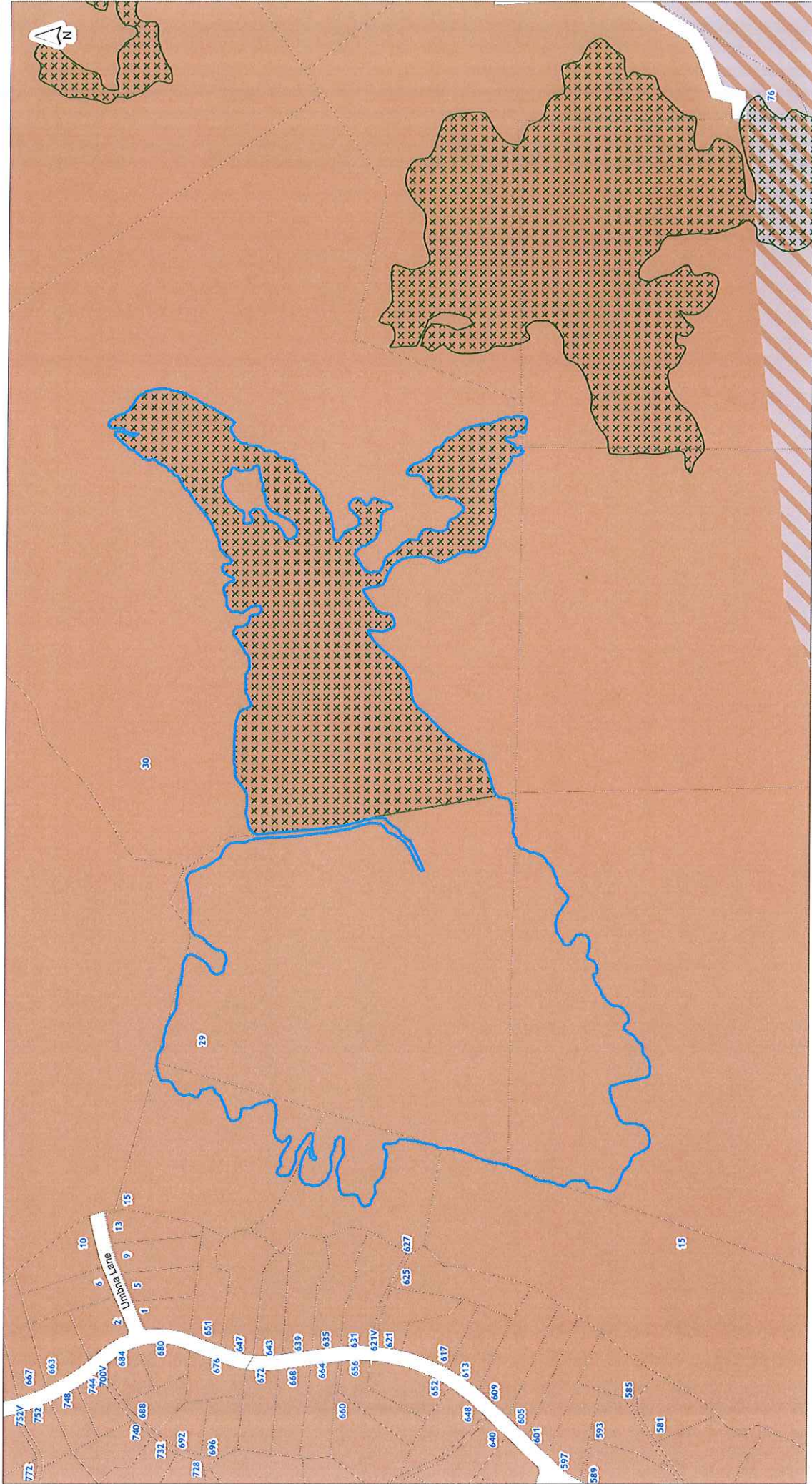
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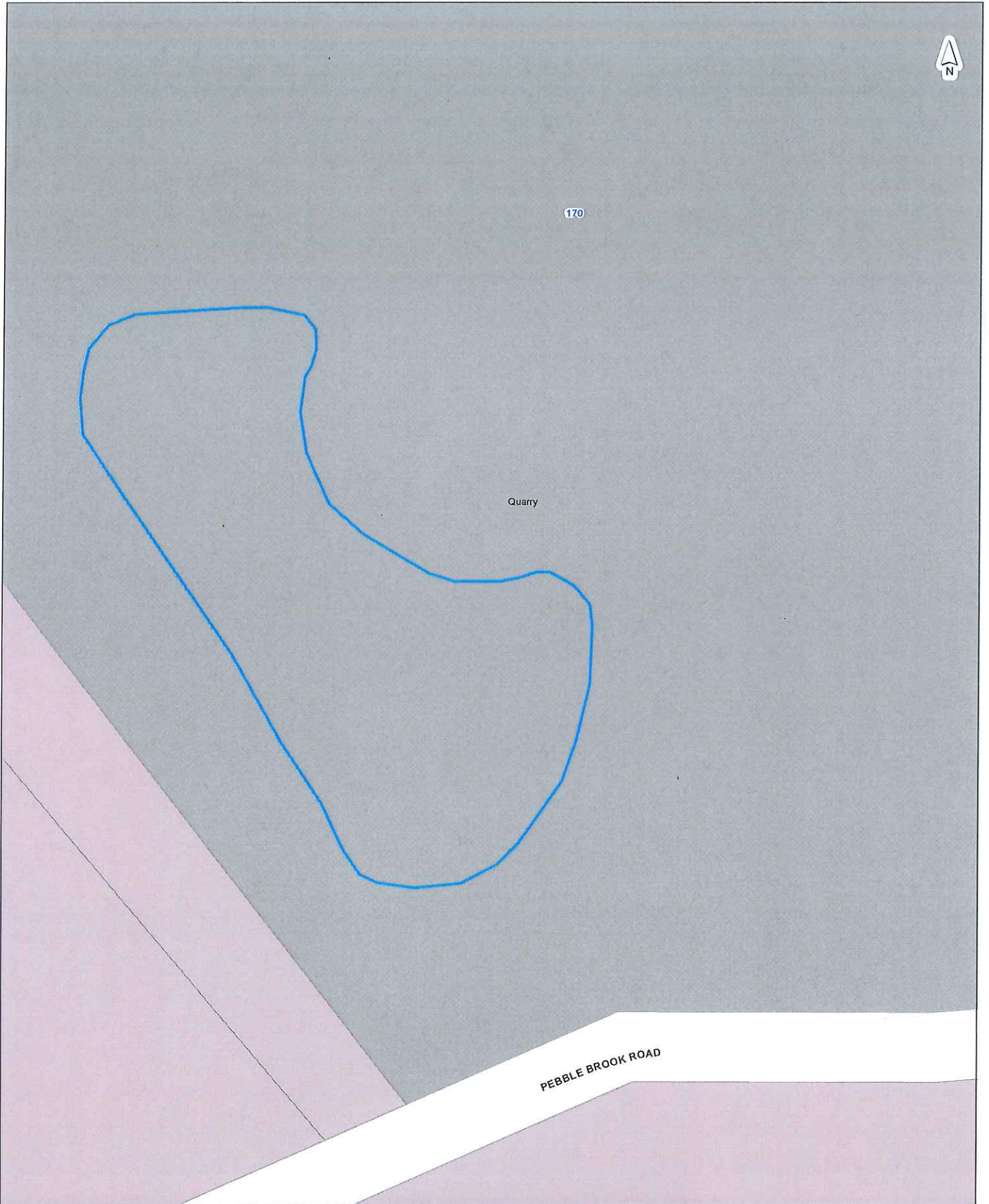
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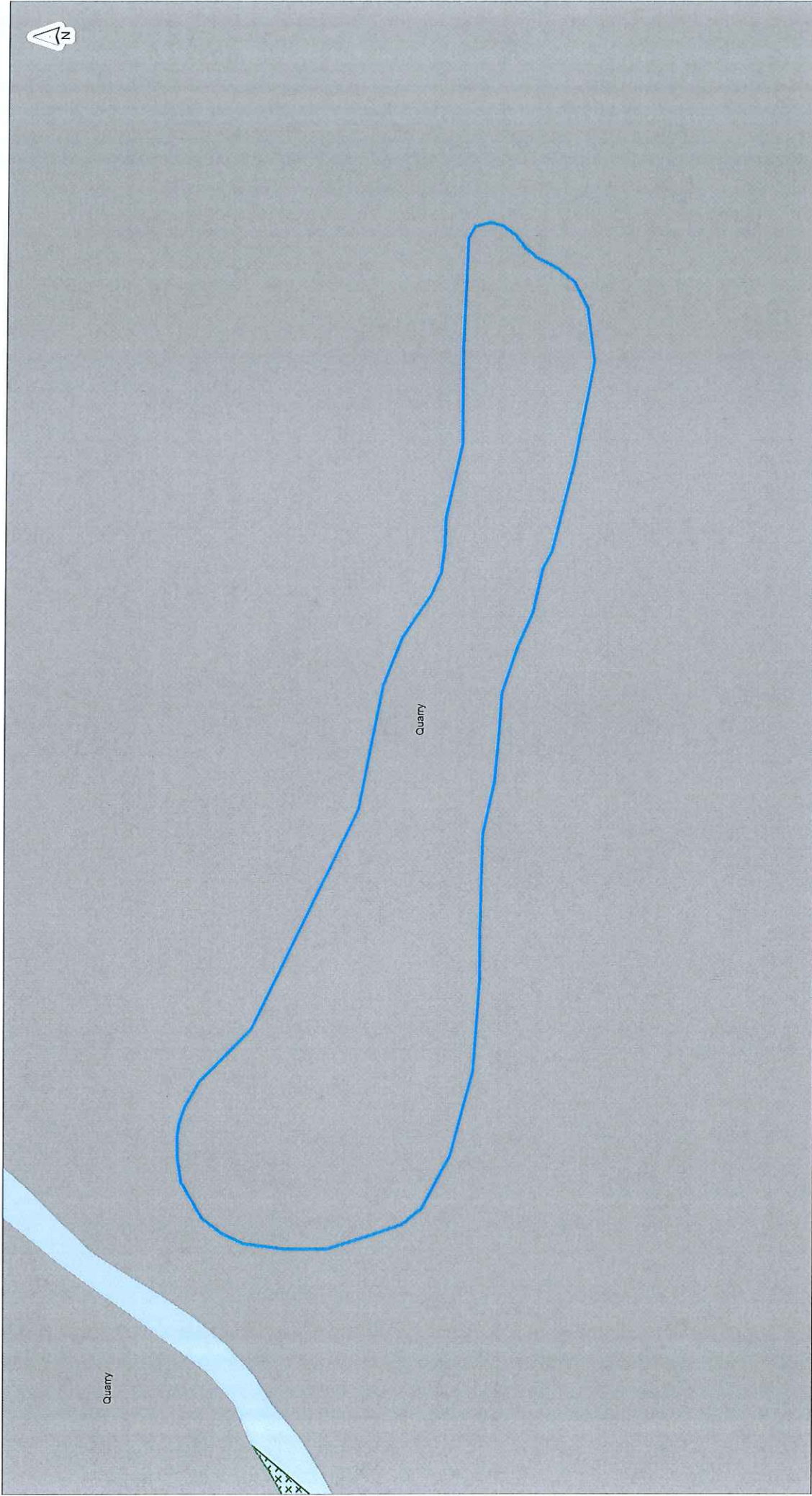
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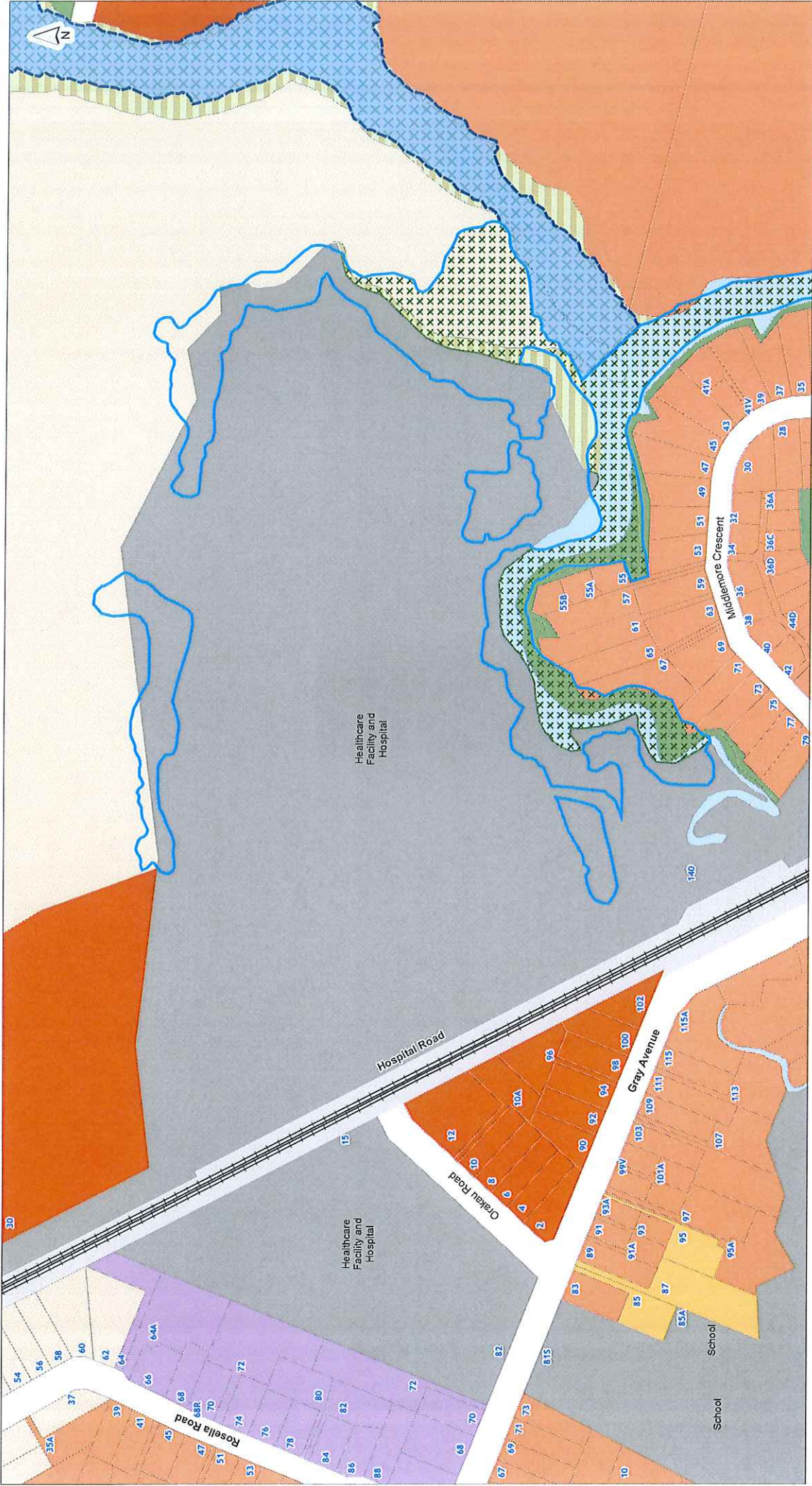
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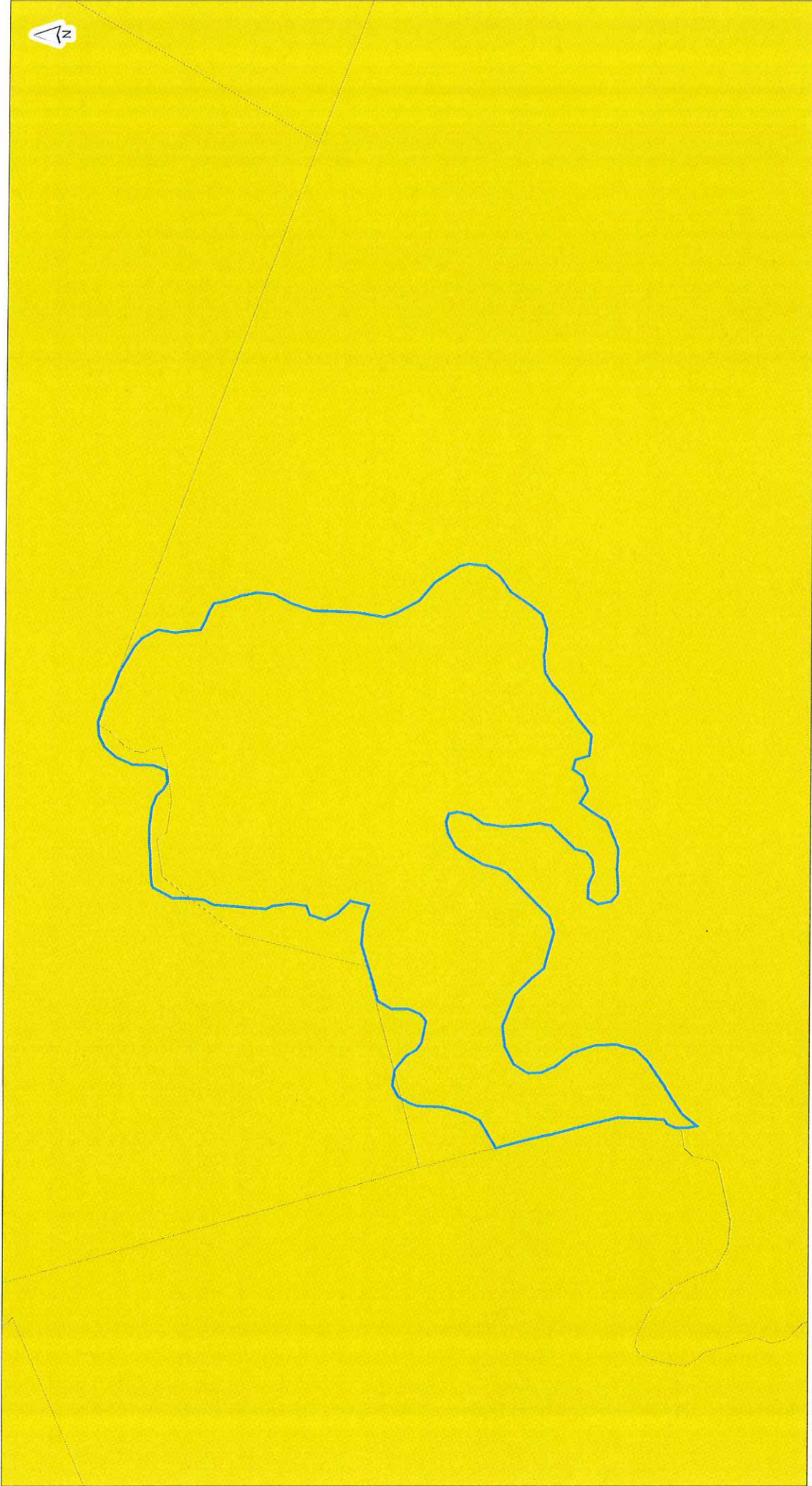
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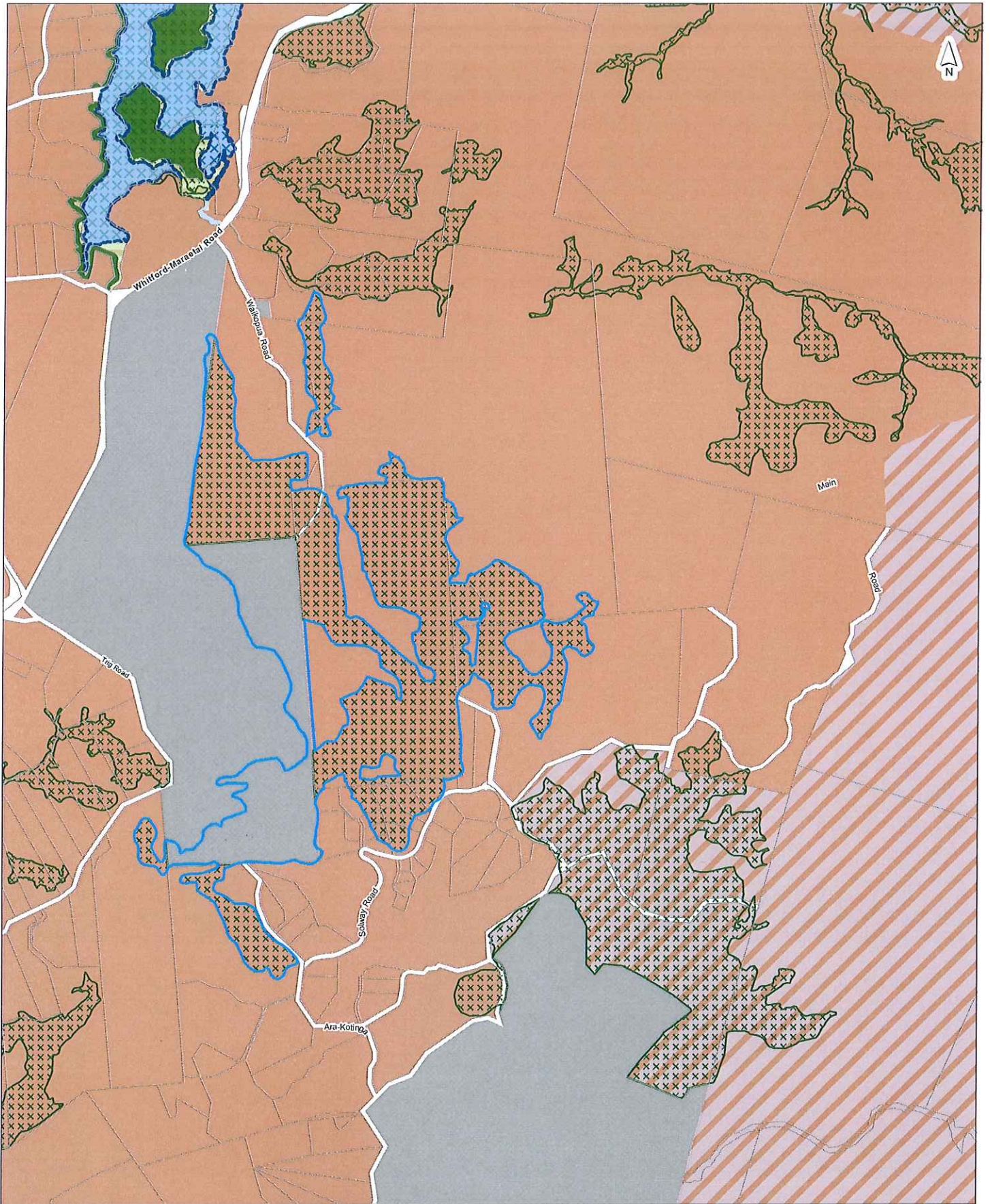


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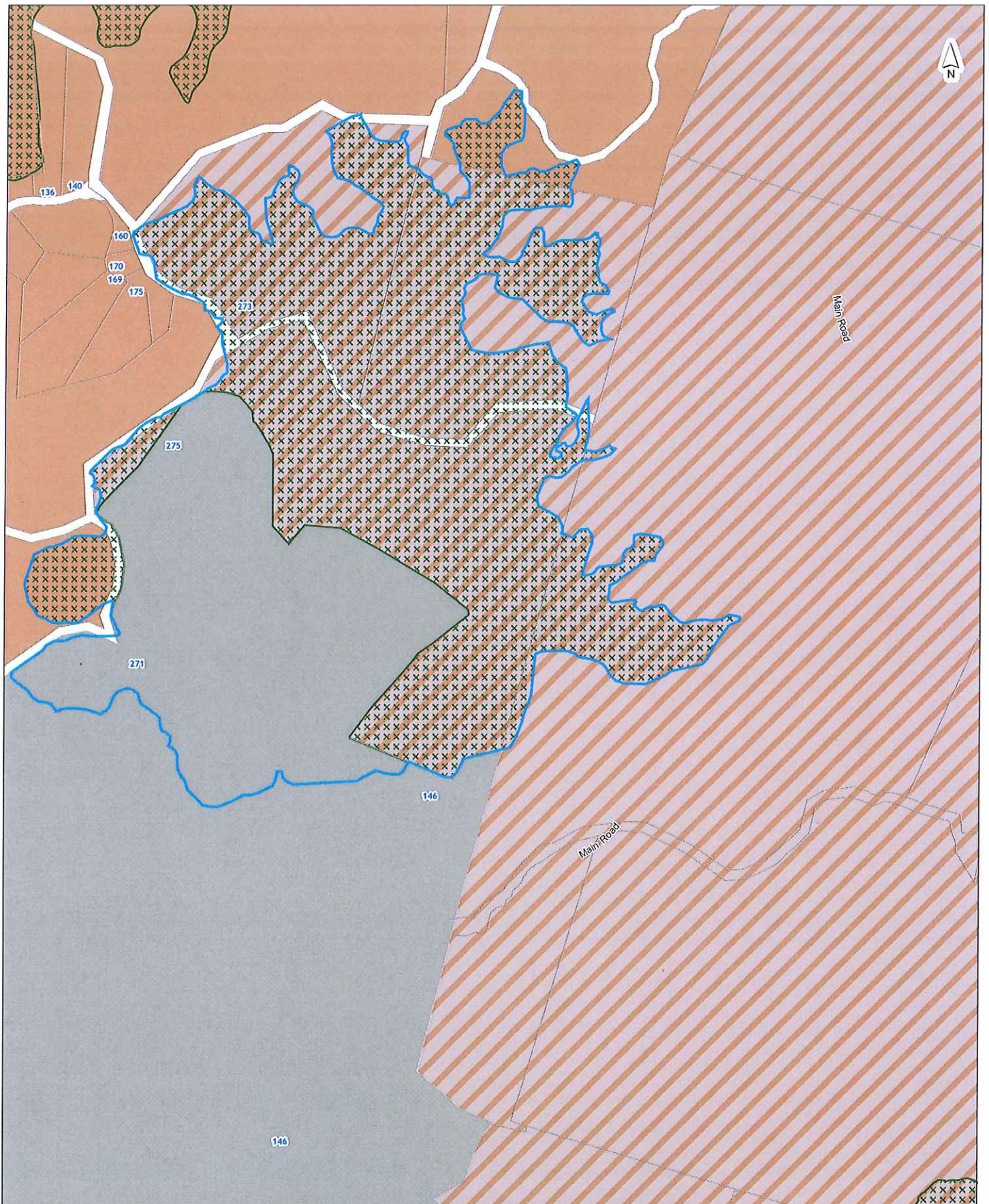
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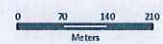
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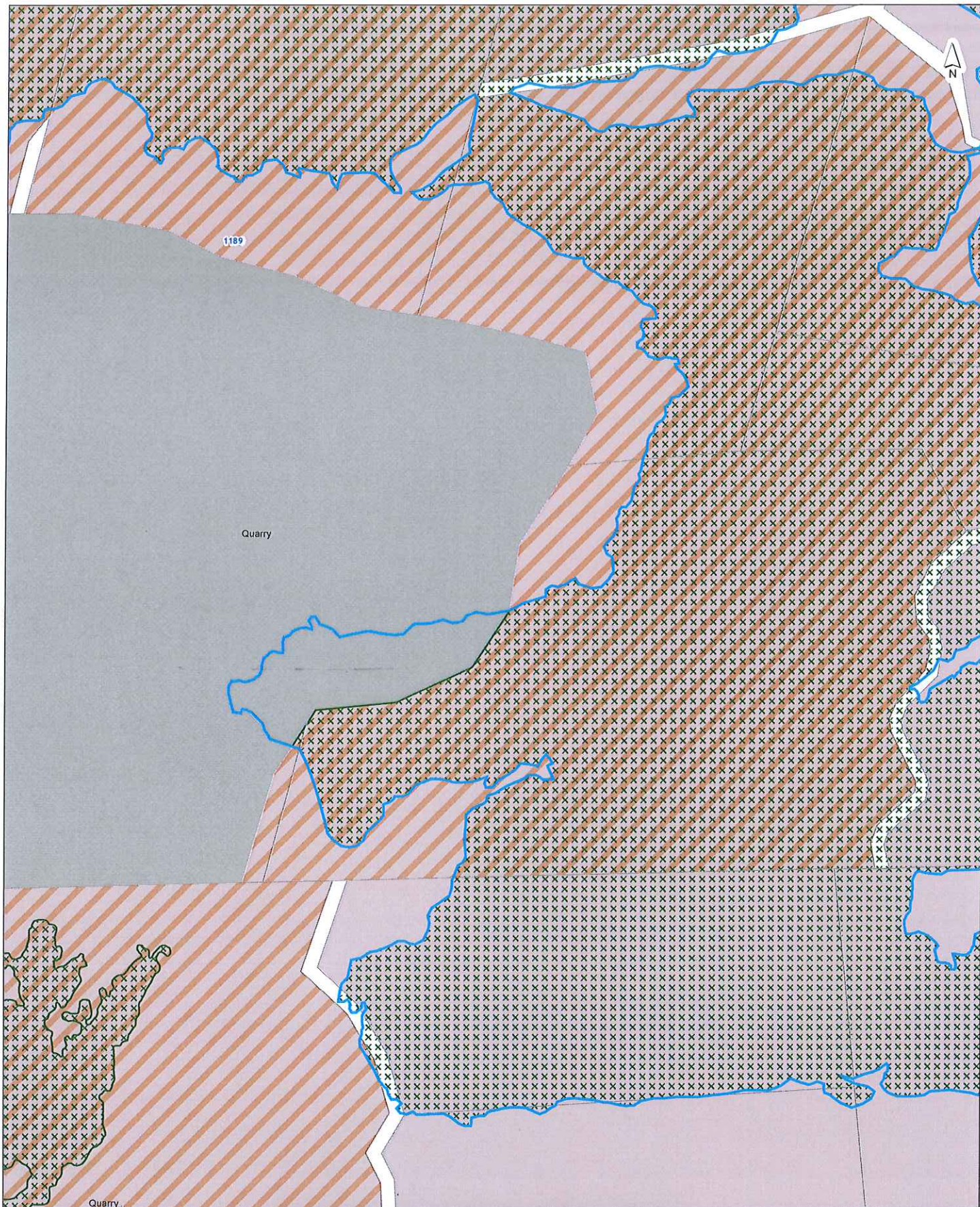
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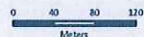
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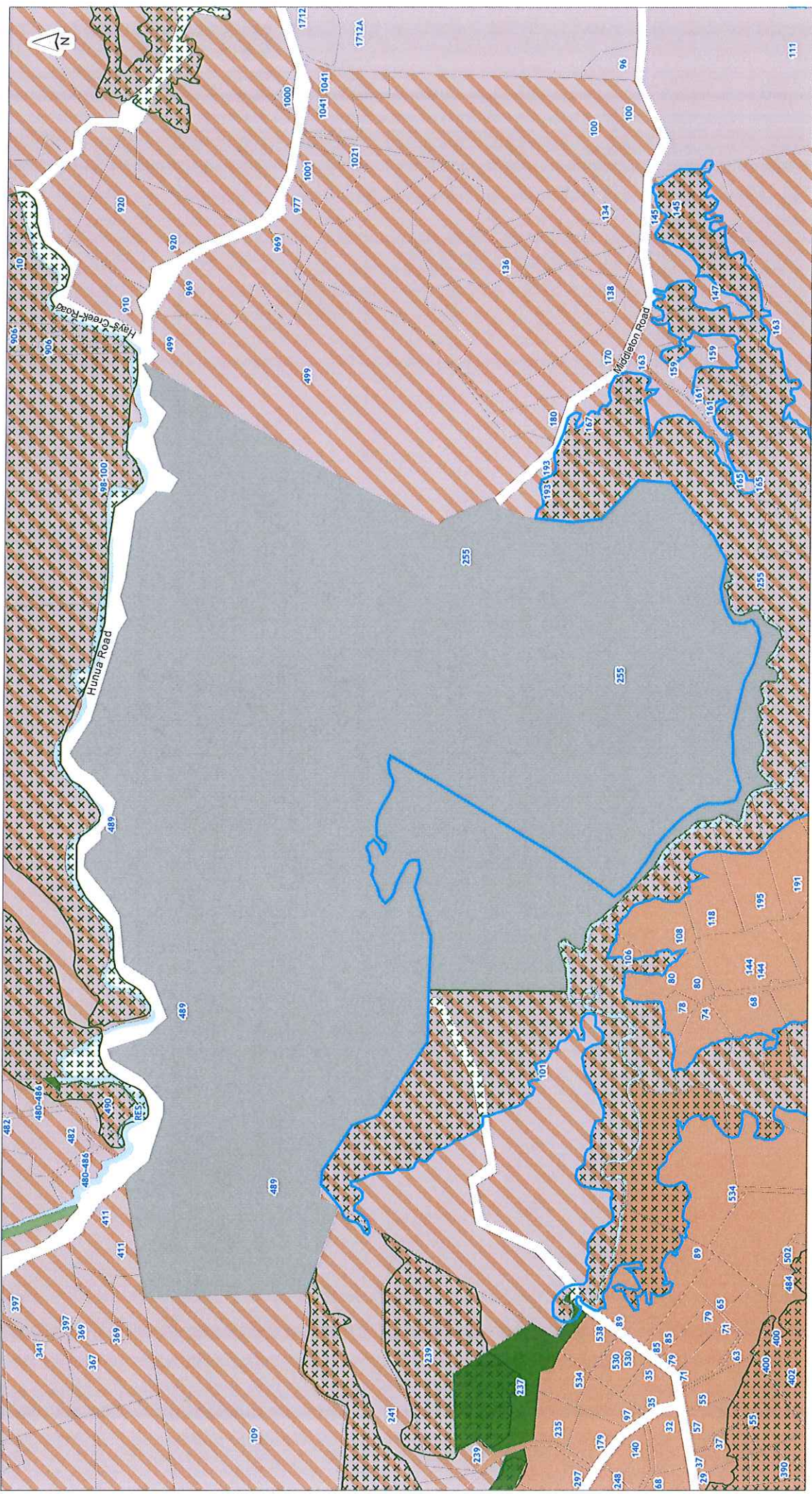
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*To Kaitiaki o Tāmaki Makaurau*





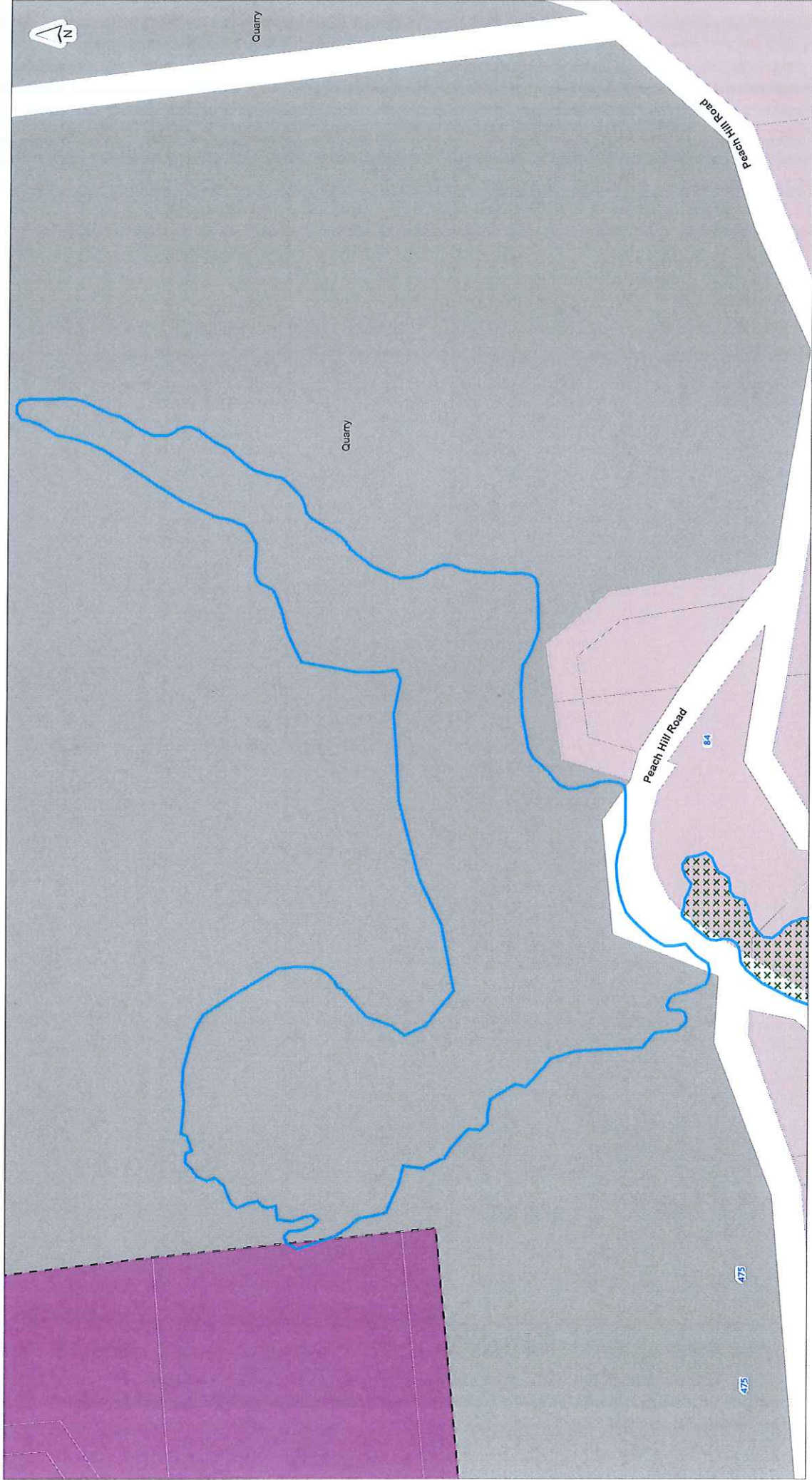
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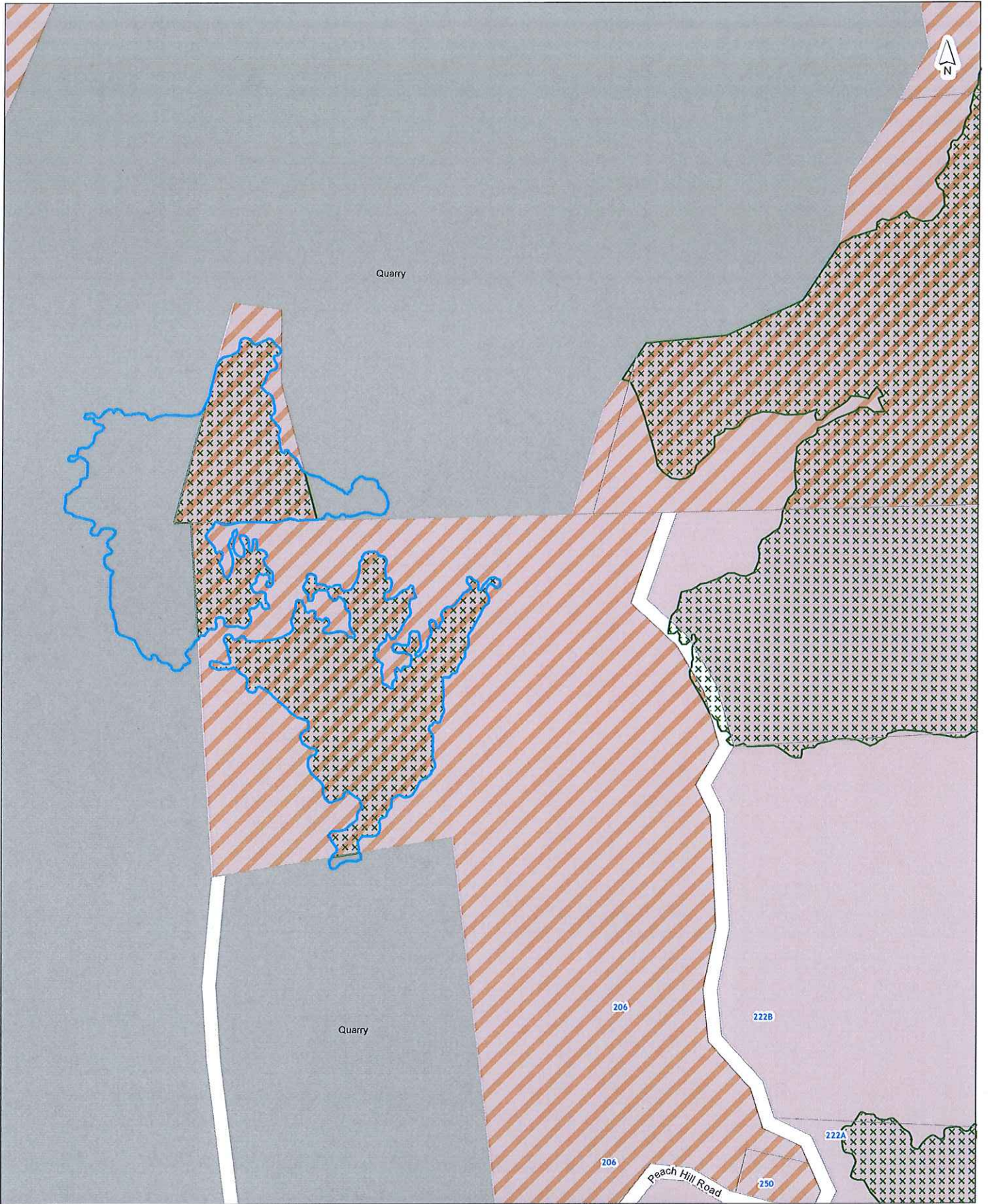


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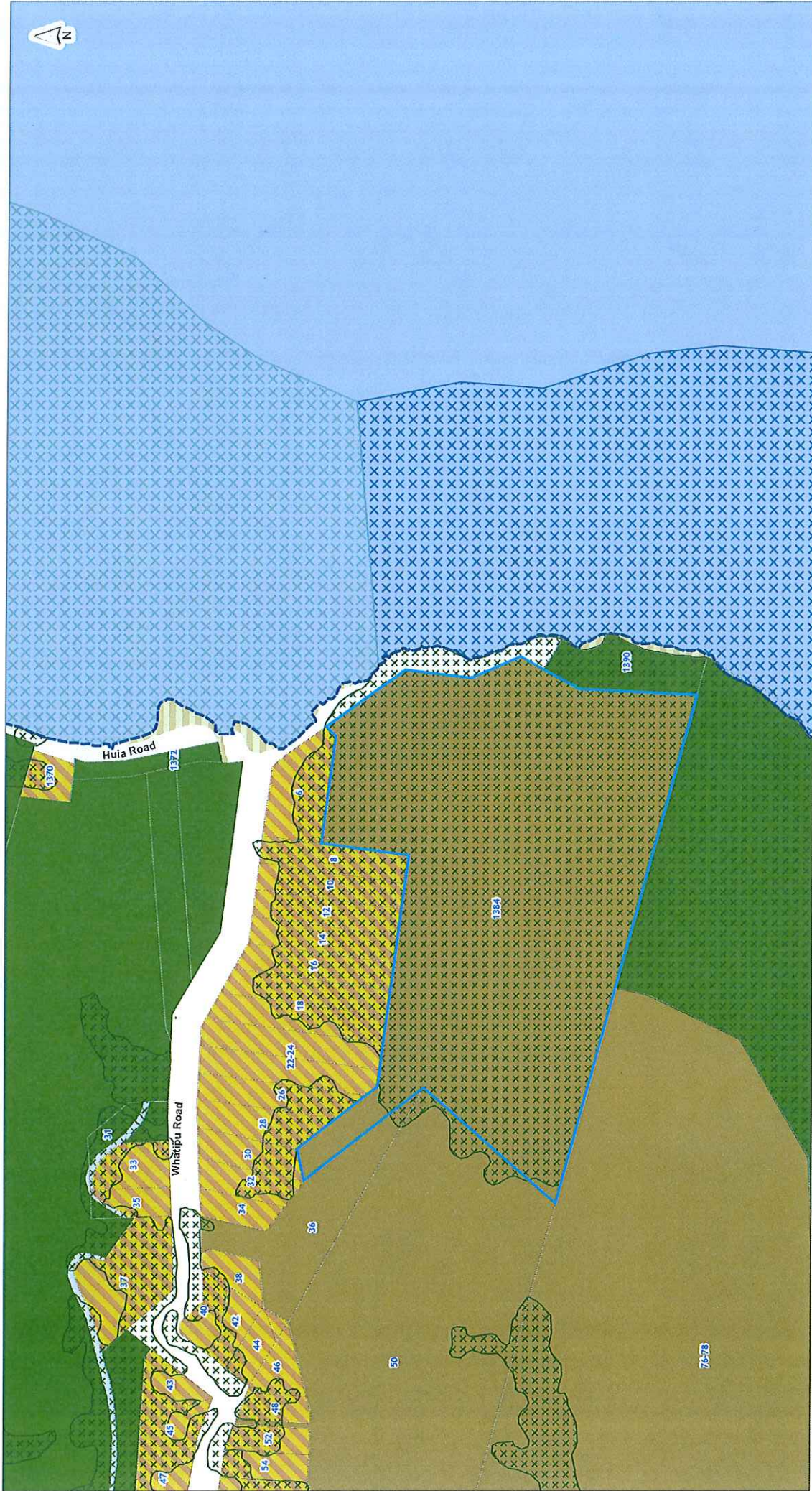
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**Extent to reinstate - SEA\_T\_5539(1384 Huia Rd)**

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**SEA mapping changes not discussed in IHP Topic 023 report**

**Schedule No. = SEA\_T\_5539**

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Metres

Date Printed:  
1/11/2016

**Legend**

- Appeal seeking reinstatement of a Significant Ecological Area
- Significant Ecological Areas Overlay**
- Terrestrial (rpl/dp)
- Marine 1 (r/cp)
- Marine 2 (r/cp)
- Zoning (Proposed Auckland Unitary Plan - Decisions version 19 Aug 2016)**
- Residential - Large Lot Zone
- Residential - Rural and Coastal Settlement Zone
- Residential - Single House Zone
- Residential - Mixed Housing Suburban Zone
- Residential - Mixed Housing Urban Zone
- Residential - Terrace Housing and Apartment Buildings Zone
- Open Space - Conservation Zone
- Open Space - Informal Recreation Zone
- Open Space - Sport and Active Recreation Zone
- Open Space - Civic Spaces Zone
- Open Space - Community Zone

- Business - City Centre Zone
- Business - Metropolitan Centre Zone
- Business - Town Centre Zone
- Business - Local Centre Zone
- Business - Neighbourhood Centre Zone
- Business - Mixed Use Zone
- Business - General Business Zone
- Business - Business Park Zone
- Business - Heavy Industry Zone
- Business - Light Industry Zone
- Future Urban Zone

- Green Infrastructure Corridor (Operative in some Special Housing Areas)
- Rural - Rural Production Zone
- Rural - Mixed Rural Zone
- Rural - Rural Coastal Zone
- Rural - Rural Conservation Zone
- Rural - Countryside Living Zone
- Rural - Waikare Foothills Zone
- Rural - Waikare Ranges Zone
- Strategic Transport Corridor Zone
- Special Purpose Zone

- Coastal - General Coastal Marine Zone (r/cp)
- Coastal - Marina Zone (r/cp/dp)
- Coastal - Mooring Zone (r/cp)
- Coastal - Minor Port Zone (r/cp/dp)
- Coastal - Ferry Terminal Zone (r/cp/dp)
- Coastal - Defence Zone (r/cp)
- Coastal - Coastal Transition Zone
- Water (r)
- Hauraki Gulf Islands Road (r)

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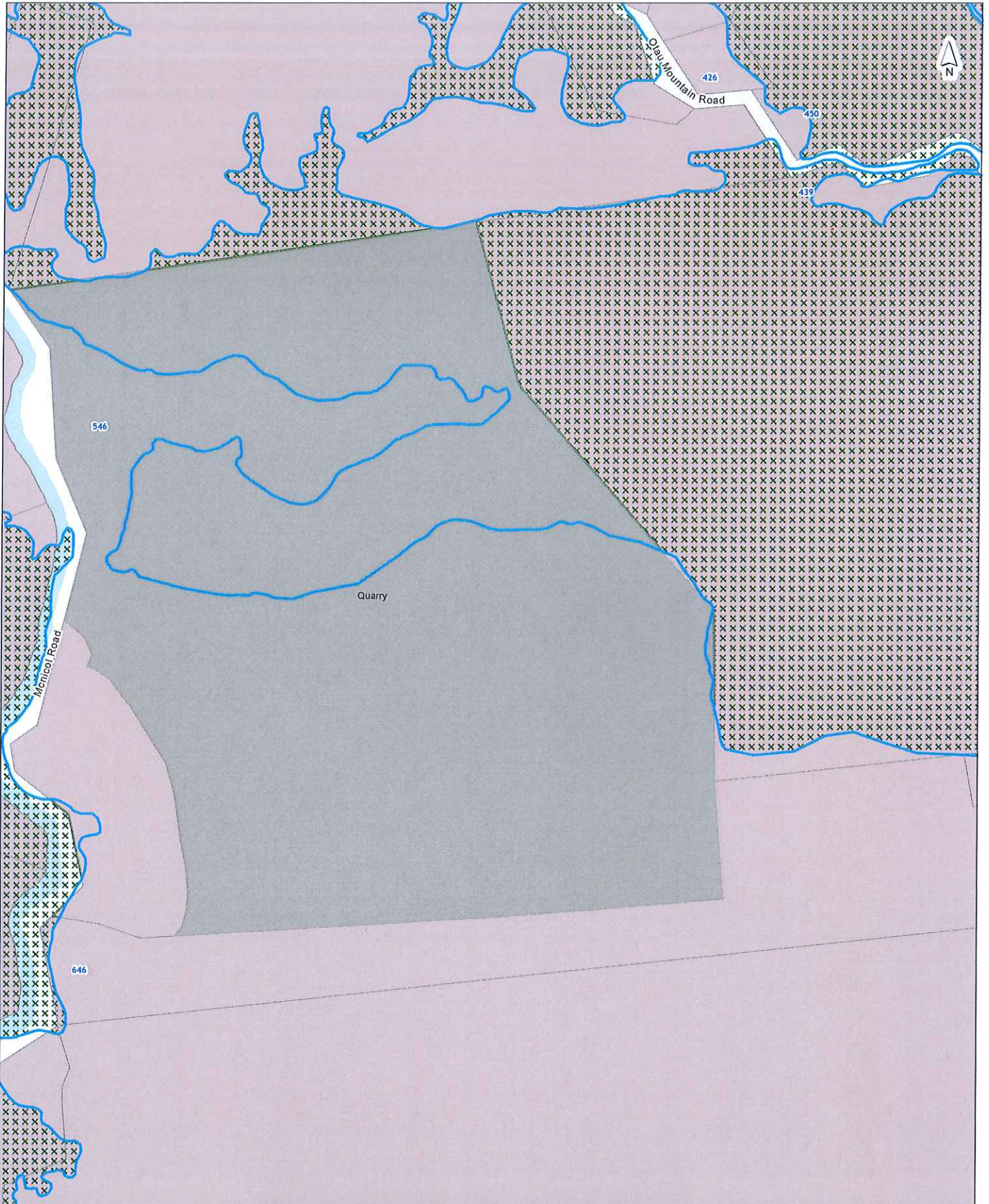
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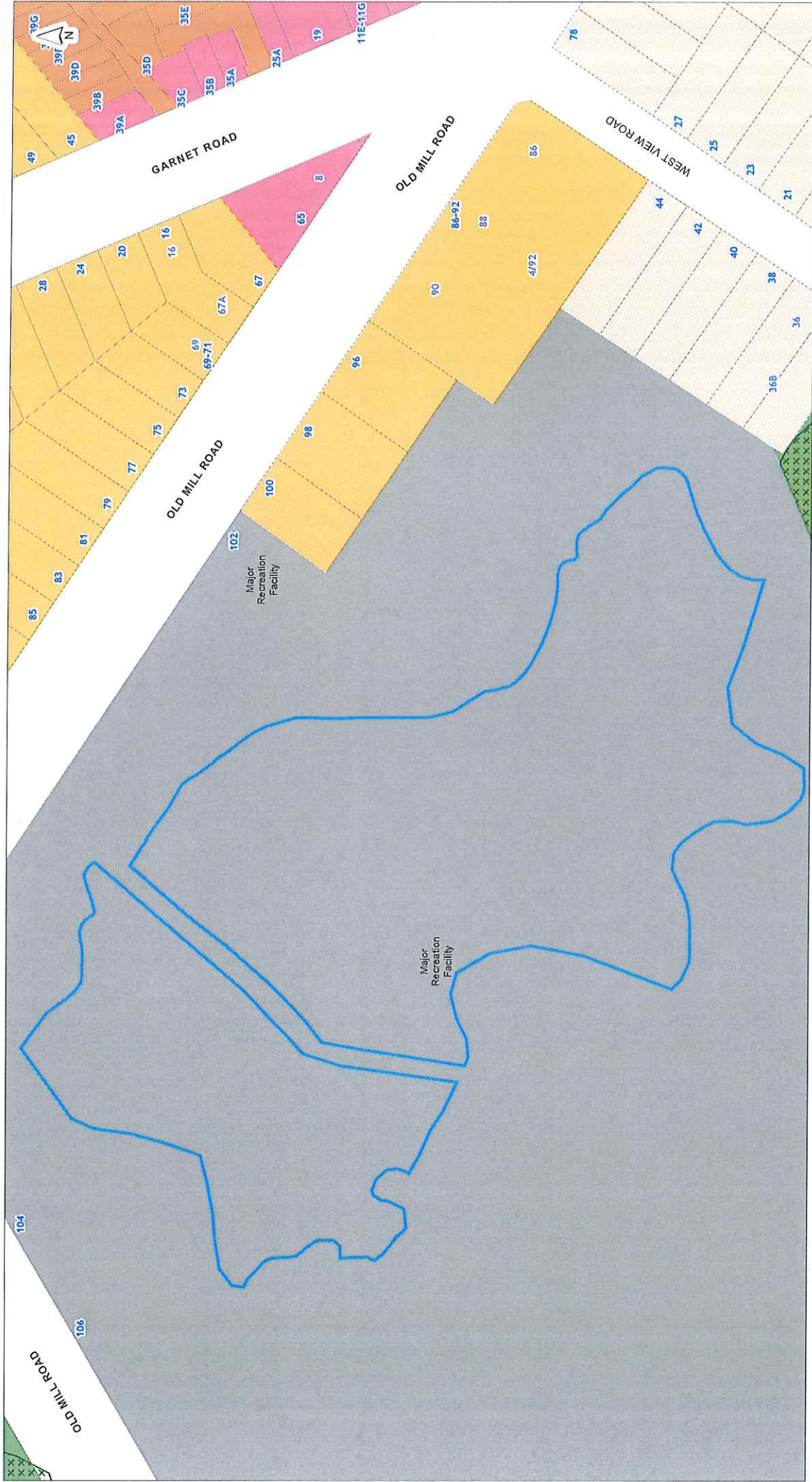
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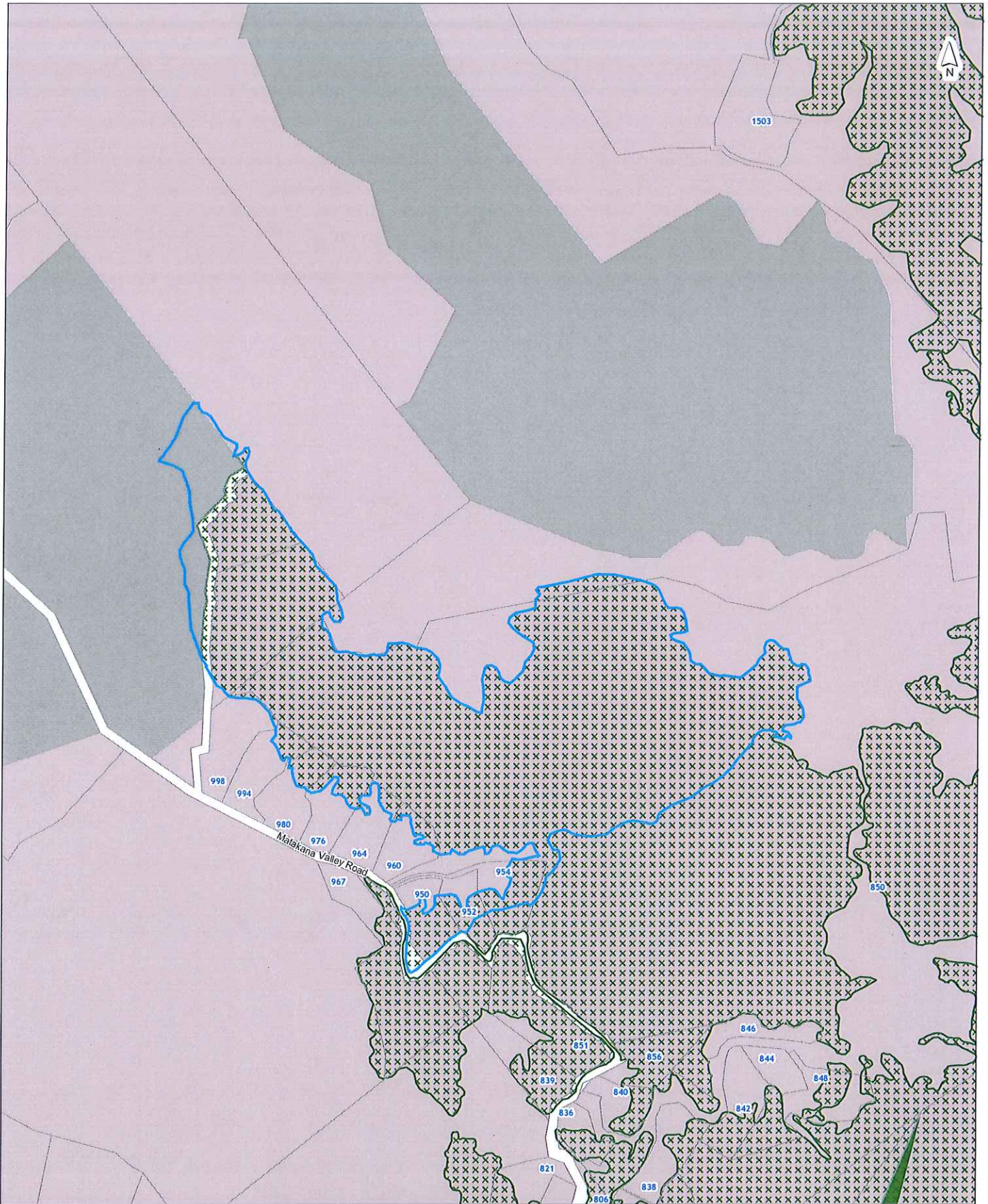
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# Extent to reinstate - SEA\_T\_6245

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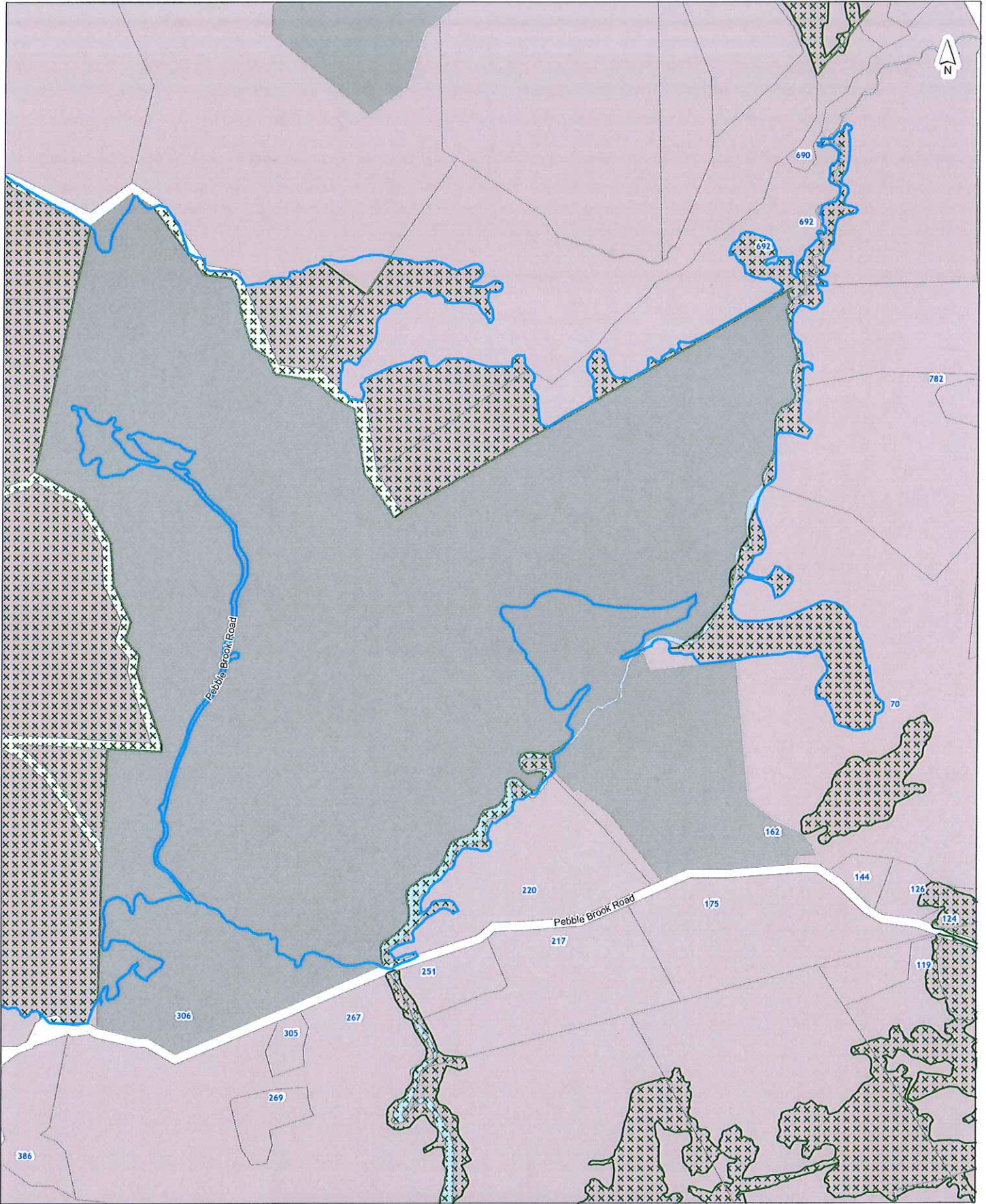
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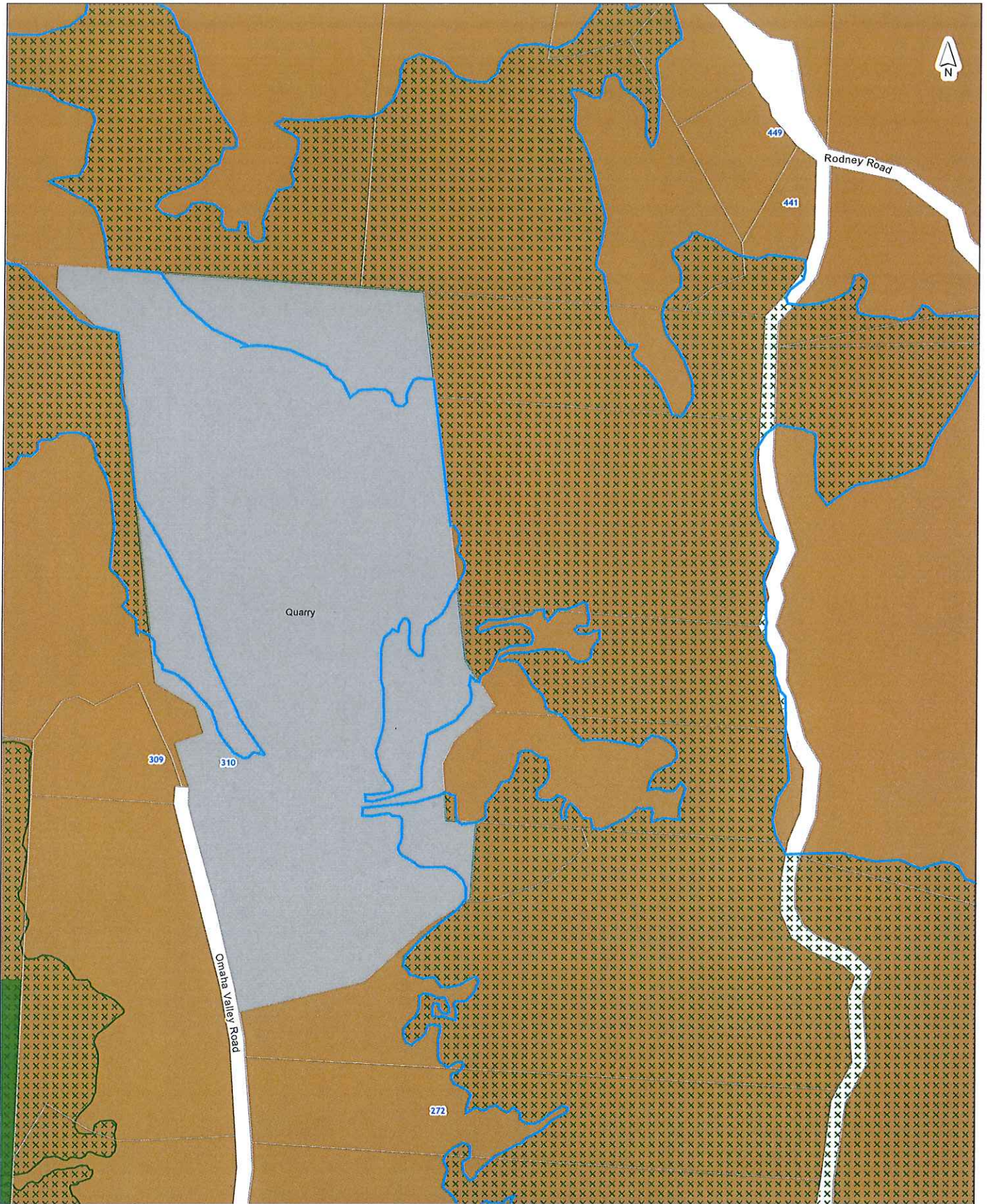
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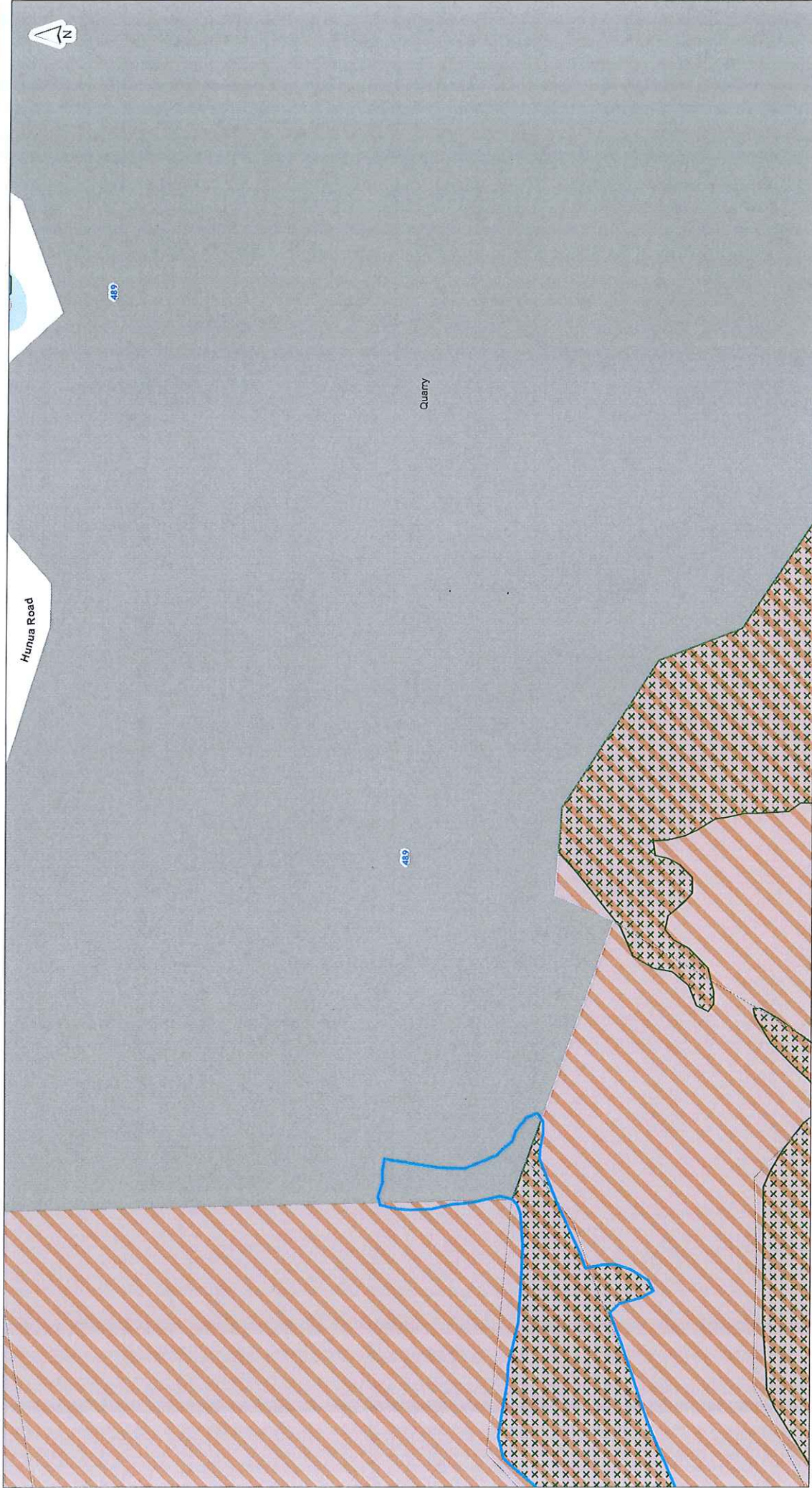
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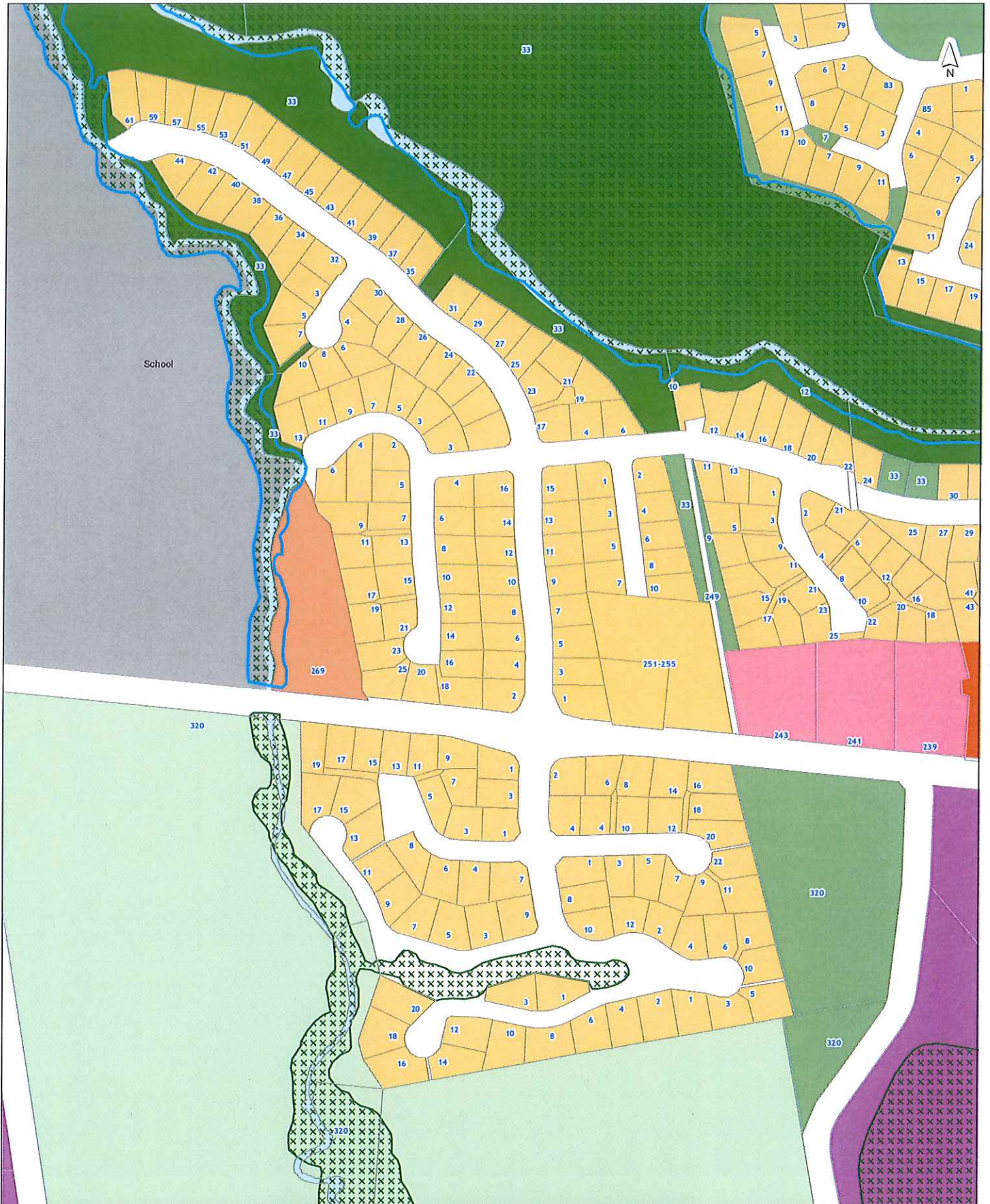
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**Extent to reinstate - SEA\_T\_7032**

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**Extent to reinstate - SEA\_T\_8343**



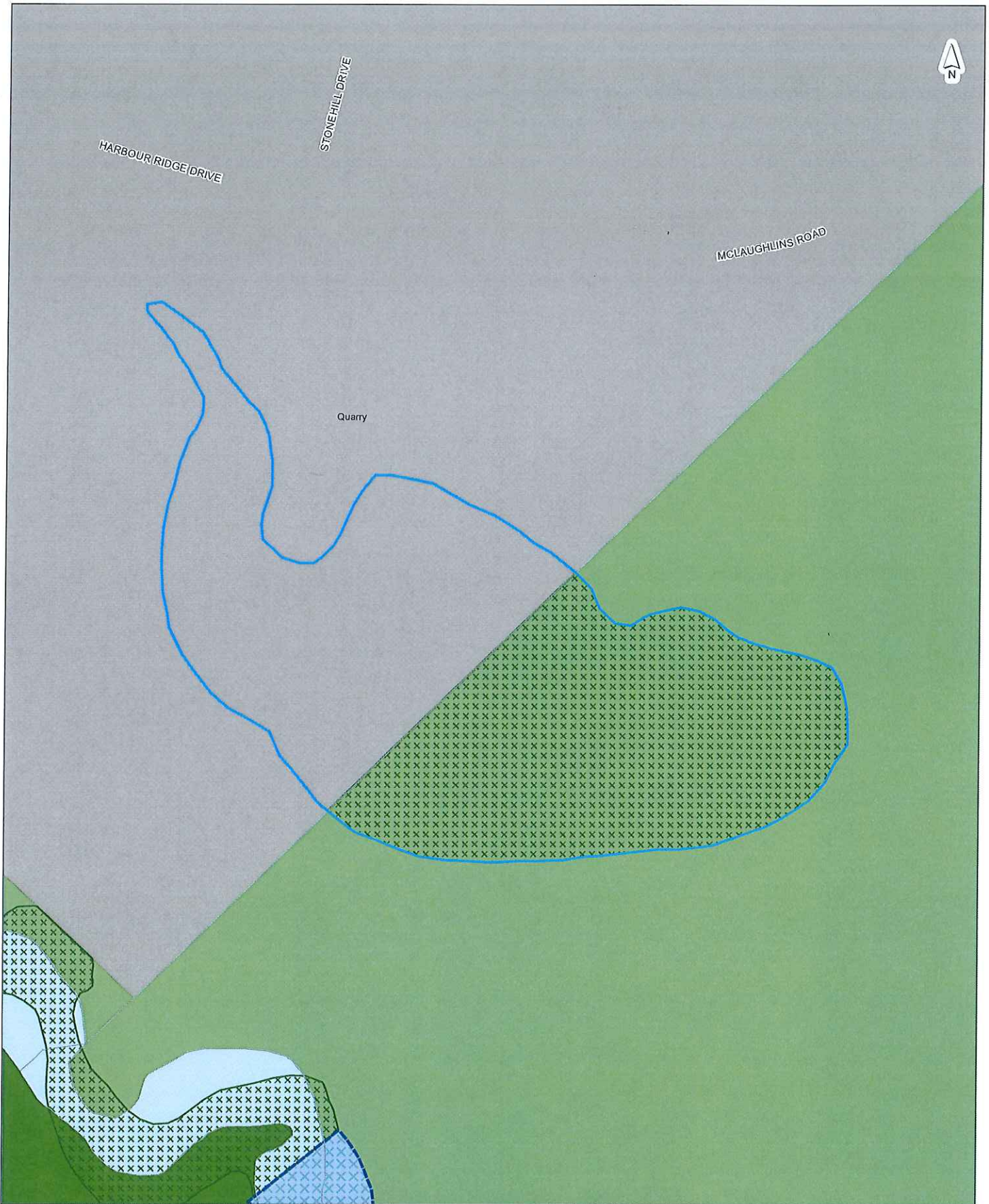
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Te Kaitiaki Take Kōwhiri





Quarry

HARBOUR RIDGE DRIVE

STONEHILL DRIVE

MCLAUGHLINS ROAD

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**Extent to reinstate - SEA\_T\_8443**



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## Appendix B

[Quarry specific provisions, as included in the Proposed Auckland Unitary Plan (notified 30 September 2013)]

### Chapter H: Auckland-wide rules

#### 4.3 Vegetation management

...

##### 1.2 Vegetation management in overlays

[rp]

Activity	SEA	ONF										HNC	ONLs	ONC	
		A1	A	V1	V2	B	C	D	E	F1	F2				
...															
Any vegetation alteration or removal within a Quarry Zone	RD	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
...															

...

#### 4. Assessment - Restricted discretionary activities

##### 4.1 Matters of discretion

...

##### 2. Any vegetation alteration or removal within a Quarry Zone

The council will restrict its discretion to the matters below for the activities listed as restricted discretionary in the activity table:

- a. scale, location, quality, significance, visibility of indigenous vegetation and habitats
- b. significant adverse effects on existing streams, wetlands, riparian margins and habitat
- c. buffer areas between Mineral Extraction Activities and remaining areas of SEA
- d. duration and staging of Mineral Extraction Activities
- e. proposals for the avoidance, remediation or mitigation of significant adverse effects, or the partial offsetting of residual adverse effects in the local area, including positive environmental benefits
- f. benefits derived from extracting the resource.

##### 4.2 Assessment criteria

...



## 2. Vegetation alteration or removal of an SEA within a Quarry Zone

a. whether the proposed measures, including staging and rehabilitation, will minimise or mitigate significant adverse effects, partially offset residual adverse effects or provide for positive environmental benefits through:

i. actions undertaken in advance of vegetation removal;

ii. areas of indigenous planting;

iii. the ratio, quality and type of new indigenous planting in relation to the established vegetation to be removed;

iv. the translocation of any indigenous plant and animal species;

v. the opportunity to establish ecological linkages with existing vegetation and/or habitats;

vi. ongoing programmes of weed and pest control; and

vii. fencing and stock removal.

b. whether the proposed mitigation measures implement the 'no net loss principle'

c. whether the vegetation proposed to be removed forms part of an ecological corridor, or is adjacent to a watercourse and acts as a filter for sediment and water runoff, or protect threatened plants or animal species and whether the activity will significantly adversely affect these values

d. whether the scale or location of the activity will significantly affect water quality or quantity and the habitat value of waterways or wetlands

e. whether the activity is necessary to enable continued efficient operation of the mineral extraction site.