

# SUPPLEMENTARY AGENDA



**Tuesday, 8 July 2025**

**Time:** 10:00 AM  
**Location:** Conference Room - Te Ahu  
Cnr State Highway 1 and Mathews  
Avenue  
Kaitiāia

**Membership:**

Chairperson Adele Gardner  
Deputy Chairperson John Stewart  
Councillor Felicity Foy  
Member Darren Axe  
Member Sheryl Bainbridge  
Member William (Bill) Subritzky  
Member Rachel Baucke



**Te Paeroa Mahi / Order of Business**

**7    Ngā Pūrongo / Reports ..... 4**

     7.4    Proposed Amended Land Drainage Bylaw ..... 4

## **7 NGĀ PŪRONGO / REPORTS**

### **7.4 PROPOSED AMENDED LAND DRAINAGE BYLAW**

**File Number:** A5258031

**Author:** Dan Bowmar, Policy Advisor

**Authoriser:** Roger Ackers, Group Manager - Planning & Policy

#### **TAKE PŪRONGO / PURPOSE OF THE REPORT**

To seek approval for Te Hiku Community Board to recommend that Council approve the amended Land Drainage Bylaw draft for consultation.

#### **WHAKARĀPOOTO MATUA / EXECUTIVE SUMMARY**

- There are four land drainage districts in the Far North, all situated in Te Hiku Ward: Kaitāia, Motutangi, Waiharara and Kaikino.
- The Local Government Act 2002 gives Council the power to make bylaws to regulate the use and management of these drainage assets.
- On 03 October 2019 (Resolution 2019/37 refers), Council made the Land Drainage Bylaw.
- On 24 September 2024 (Resolution 2024/134 refers), the Land Drainage Bylaw 2019 was reviewed by Council under Section 158 of the Local Government Act 2002 and Council approved the Land Drainage Bylaw 2019 to continue with amendment.
- Section 160 (3)(a) of the Local Government Act 2002 requires that Council consult with the public when amending a bylaw.
- A draft of the amended Land Drainage Bylaw 2019 is in Attachment 1.
- The recommended consultation period is between 01 August and 29 August 2025. Oral submissions will follow.

#### **TŪTOHUNGA / RECOMMENDATION**

**Te Hiku Community Board recommend that Council:**

- adopt the proposal in attachment 4 to be released for public consultation to meet the requirements of section 82 of the Local Government Act 2002.**
- approve, the period for making written submissions on the proposal will be a minimum of 4 weeks.**
- delegate authority to the Mayor to decide on the date of oral presentation/s of submissions.**
- authorise the Chief Executive to make any necessary minor drafting or presentation amendments to the proposal to correct errors or omissions, or to reflect the decisions made by the Council prior to final publication and public release.**

#### **1) TĀHUHU KŌRERO / BACKGROUND**

There are four land drainage districts in the Far North, all situated in Te Hiku Ward: Kaitāia, Motutangi, Waiharara and Kaikino.

Sections 145 (a and b) and section 146 (b)(i) of the Local Government Act 2002 gives Council the power to make bylaws to regulate the use and management of these drainage assets.

On 03 October 2019 (Resolution 2019/37 refers), Council made the Land Drainage Bylaw 2019.



On 24 September 2024 (Resolution 2024/134 refers), the Land Drainage Bylaw 2019 was reviewed by Council under Section 158 of the Local Government Act 2002 and Council approved the Land Drainage Bylaw 2019 should continue with amendment.

Section 82A of the Local Government Act 2002 sets out the requirements for information to be made available for consultation. Those requirements are to provide:

- the proposal and the reasons for the proposal
- an analysis of the reasonably practicable options, including the proposal
- a draft of the amended Bylaw

Council staff have prepared a proposal document that meets the requirements of section 82A. The proposal document is in Attachment 4.

## **2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS**

### **Council's role relating to the drainage districts**

Managing and maintaining land drainage infrastructure aligns with the following community outcomes, stated in the Long-term Plan:

- Communities that are healthy, safe, connected and sustainable by reducing the risk of damage from flooding to individual properties.
- Resilient communities that are prepared for the unexpected by reducing the risk of flooding.
- A wisely managed environment that recognises the role of tangata whenua as kaitiaki by providing a safe living environment for affected communities.

The Bylaw:

- ensures Council access to drainage channels
- addresses connections of private drains to drainage channels
- includes provisions to ensure drainage channels are not obstructed or altered
- regulates stopbanks, crossings, and watering places
- covers damage, maintenance and repair to drainage assets, inspections, obstruction of officers, and penalties for breaching the Bylaw.

### **Problems to be addressed**

The problem stated when the Bylaw was made is that improperly managed and maintained land drainage assets can impact negatively on contiguous properties. This included:

- a) The unsafe and inefficient creation, operation, maintenance and renewal of the land drainage network.
- b) Improper hazard management to prevent or minimise flooding and erosion, minimise adverse effects on the local environment particularly freshwater ecological systems quality, and not assisting in maintaining water quality.
- c) Lack of protection of Council land drainage assets, for example, by not setting out acceptable types of connection to land drainage networks.
- d) Risks to the health and safety of council employees.

### **Review findings**

The Review identified that:

- improperly managed and maintained land drainage assets can impact negatively on contiguous properties

- a bylaw is still the most appropriate way to address problems relating to the land drainage network.
- the form of the Bylaw is not appropriate, with amendments required to provide greater certainty to the Bylaw:
  - the Bylaw should not refer to the Interpretation Act 1999, which was replaced by the Legislation Act 2019;
  - maps of the drainage districts should be included in a Schedule to the Bylaw with accompanying provisions in the Bylaw applying to this Schedule (e.g. the Schedule may be amended by resolution of Council);
- while the provisions in the Bylaw appear fit for purpose, engagement and consultation with key stakeholders may identify further changes that should be made to the Bylaw
- at the time of the review, the Bylaw did not give rise to implications under the New Zealand Bill of Rights Act 1990. However, a full assessment will need to be conducted following any possible amendments

### Amendments to the Bylaw

The draft amended Bylaw is in Attachment 1. Tracked changes to the Bylaw can be found in attachment 3.

Amendments to the Bylaw in attachment 3 include:

- a) Correction of a typo in clause 2:

This Bylaw comes into force on the 7<sup>th</sup> day of October 2019.

- b) Addition of a definition of “Land Drainage Area” in subclause 5.1 to ensure clarity:

**Land Drainage Area** means a land drainage area identified in Schedule 1: Land Drainage Maps to this Bylaw, or any other land drainage area that the Council by resolution identifies and determines to regulate for land drainage purposes.

- c) Replacing the reference to the Interpretation Act 1999 with the Legislation Act 2019 in subclause 5.3. The ~~Interpretation Act 1999~~ Legislation Act 2019 applies to this Bylaw.

- d) Rewording of subclause 11.1 to ensure clarity:

~~No person shall discharge or cause, permit or suffer to be discharged onto a drainage channel or private drain connected therewith, any liquid, gaseous or solid matter which shall be likely to be a nuisance or injurious to health or to the proper care of the drainage channel.~~  
may –

- (a) Widen or deepen; or
- (b) Stop or obstruct; or
- (c) Alter the course of; or
- (d) In any way interfere with,

Any drainage channel or associated works with the prior written approval of Council.

- e) Addition of wording to subclause 13.2 to ensure clarity:

No person shall remove, change or construct any culvert, bridge or crossing in upon or over any drainage channel without the prior approval of Council.

- f) Rewording of subclause 16.1 to ensure clarity:

~~Council, members, officers, workmen or agents~~ An enforcement officer or authorised person shall have the power, right, and authority to inspect any installation set up for the withdrawal or diversion of water from any drainage channel, whether authorised or not and the Council

may direct any alteration or improvement to or replacement of such installation or request its removal or demolition at any time.

g) Rewording of subclause 17.1 to ensure clarity:

No person, whether on private land or not, shall obstruct any ~~member, appointee, employee or agent of Council~~ enforcement officer or authorised person, with or without drain cleaning machinery or plant, in the performance of anything which such member, appointee, employee or agent is or may be required to do in the discharge of their duties.

h) An addition to clause 20. Land Drainage Areas:

**20. Land Drainage Areas**

20.1 The provisions of this Bylaw do not remove the need for any resource or other consents required under the Resource Management Act 1991, Building Act 2004. Where consents are required under this chapter of this Bylaw and other acts or regulations, all shall be lodged with the Council at the same time.

i) Maps have been created from new maps created by our GIS team to increase accuracy from previous maps (see attachment 2). Maps that show the properties charged drainage area rate are also within this schedule. These will be added to a separate Schedule as:

Schedule 1: Land Drainage Maps.

After getting feedback from Te Hiku Community Board and the Land Drainage Committees, other amendments were considered but not made. These included:

- a) Adding floodgates to areas covered under section 146 of the Local Government Act 2002 was suggested. The Council is unable to change the wording of legislation. However, as floodgates are a land drainage asset, they will be covered by this bylaw.
- b) Regarding whether the bylaw should still be made under the Local Government Act 1974. Part 29 of the Local Government Act 1974 remains in force, including section 517 that allows Council to make a range of bylaws relating to the protection of drainage channels. Whereas section 146(1)(b)(iv) of the Local Government Act 2002 provides broad authority for a bylaw managing, regulating, and protecting land drainage, the provisions of the Local Government Act 1974 allow for specific prohibitions and regulations. This can provide useful and clear authority for specific provisions in the Bylaw. For example, clause ten that prohibits alterations to a drainage channel without Council approval is directly and specifically authorised by section 517(h) of the Local Government Act 1974. Staff consider it both appropriate and useful to continue to cite Part 29 of the Local Government Act 1974 as an enabling authority for the Bylaw.
- c) Regarding changing the measurements of drainage channels and access lanes. Infrastructure and compliance have given feedback that the current measurements given in the Bylaw are appropriate and as such do not require amendment.
- d) Regarding Section 18 and the \$20,000 penalty not being big enough and whether wording should be changed to \$20k per breach instead of for breach.  
The penalties applicable to breach of a bylaw are limited to those permitted by statute. Section 242(4) of the Local Government Act 2002 states that a person convicted of an offence against a bylaw is liable to a fine not exceeding \$20,000. Unlike similar offence provisions in other statutes (e.g. the Resource Management Act), there is no further penalty for continuing offences, which would increase the penalty risk that deters those who commit offenders. This means that regardless of the wording of the clause, a further penalty can only be imposed on a subsequent conviction for a repeat offence.

Of note is that section 176 of the Local Government Act, which applies to a person convicted of an offence against a bylaw, allows the Council to recover the costs of any damage caused

in the course of committing the offence. The Court assesses those costs, which are recoverable as if they were a fine.

### **New Zealand Bill of Rights Act 1990 preliminary assessment**

The review found that the Bylaw does not give rise to implications under the New Zealand Bill of Rights Act 1990. However, a full assessment of the impact of the bylaw on these rights cannot be made until the content of the bylaw is finalised.

### **Proposal for consultation**

The amended Land Drainage Bylaw will be made under section 145 and 146 of the Local Government Act 2002. Under section 156 of the Local Government Act 2002 Council must consult using either the special consultative procedure or the requirements in section 82 of the Local Government Act.

Under the Council's Significance and Engagement Policy, the amended bylaw does not meet the threshold for requiring the special consultative procedure as the amended bylaw:

- does not involve the transfer of a strategic asset
- will not incur unbudgeted financial impacts
- will not have a significant impact on Māori, the public, or level of service as the new bylaw will have the same effect as the current bylaw.

Therefore, consultation needs to comply with section 82 of the Local Government Act 2002.

Section 82A of the Local Government Act 2002 sets out the requirements for information to be made available for consultation. Those requirements are to provide:

- the proposal and the reasons for the proposal
- an analysis of the reasonably practicable options, including the proposal
- a draft of the proposed bylaw

Council staff have prepared a proposal document that meets the requirements of section 82A. The proposal document is in Attachment 4.

### **Consultation process**

Section 82 of the Local Government Act 2002 does not stipulate a minimum length of time for consultation but requires the Council, to give people "a reasonable opportunity" to present their views on the proposed bylaw. A consultation period of at least four weeks is considered best practice. Therefore, Council staff recommend consultation to open on 01 August 2025 and close on 29 August 2025 which is a period of four weeks.

Council staff recommend people be encouraged to present their views by making comments or submissions via the Council's website. A submission form will be provided for download on the website for people to print and use to make written submissions either by post or delivery to Council offices. A small number of printed copies of the proposal document and submission form will be made available at Council offices for people to use if they are not able to print the documents themselves. A link to the webpage for making submissions will be emailed to the Council's "subscribers" database and publicised on the Council's social media pages.

The proposed amended bylaw is likely to be of interest to the public and Council staff expect that there will be requests to present submissions orally to elected members. The date for the oral presentations of submissions, if required, has been tentatively set for 03 September 2025.

### **TAKE TŪTOHUNGA / REASON FOR THE RECOMMENDATION**

The Local Government Act 2002 requires that Council consult when amending a bylaw. A proposal for an amended Land Drainage Bylaw, including a draft of the Bylaw, is in Attachment 4.

**3) PĀNGA PŪTEA ME NGĀ WĀHANGA TAHUA / FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION**

The operational costs of consultation are expected to be minimal (less than \$1,000 plus staff time and resources) and will be met from within existing budgets.

**ĀPITIHINGA / ATTACHMENTS**

1. **Proposed Amended Land Drainage Bylaw 2019 - 2025 - A5253561** [!\[\]\(8c4dca64662d21542001ca0ed7eeb688\_img.jpg\)](#) [!\[\]\(3de35c640e7147a3fb61ee393128d2ae\_img.jpg\)](#)
2. **Proposed Schedule 1 Land Drainage Maps - Land Drainage Bylaw 2019 - July 2025 - A5253557** [!\[\]\(d1438aeefda19c86ae7477bf1fb30796\_img.jpg\)](#) [!\[\]\(dc4d2c544087998b6f093f485f5119d7\_img.jpg\)](#)
3. **Proposed Tracked changes - Land Drainage Bylaw 2019 - July 2025 - A5253559** [!\[\]\(f26ab61dd00ea7e5f19553908ec3fa6b\_img.jpg\)](#) [!\[\]\(ecf85e064bcd351a8999f71bf3f405e7\_img.jpg\)](#)
4. **Proposal - Land Drainage Bylaw 2019 - July 2025 - A5253555** [!\[\]\(b7205a03f3dd3fe6f731085a326bb0d6\_img.jpg\)](#) [!\[\]\(fea63d7e313047478d89177e38e2c72d\_img.jpg\)](#)

**Hōtaka Take Ōkawa / Compliance Schedule:**

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
  - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
  - b) Assess the options in terms of their advantages and disadvantages; and
  - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga.
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

<b>He Take Ōkawa / Compliance Requirement</b>	<b>Aromatawai Kaimahi / Staff Assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	In line with the Significance and Engagement Policy, the recommendation to continue the Land Drainage Bylaw with amendment will have little effect on the financial thresholds, ratepayers, specific demographics, or levels of service. The recommendation is consistent with existing plans and policies. Therefore, the level of significance is low.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	<ul style="list-style-type: none"> <li>• Land Drainage Bylaw 2019</li> <li>• Local Government Act 2002</li> <li>• New Zealand Bill of Rights Act 1990</li> <li>• Far North District Council – Te Pae Ata – Three-Year Long-Term Plan 2024-2027 (Section 7 – Wai Ua me Hapuwai Stormwater and Drainage)</li> <li>• Land Drainage Act 1908</li> <li>• Interpretation Act 1999</li> <li>• Legislation Act 2019</li> <li>• Resource Management Act 1991</li> </ul>
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	This issue has relevance within Te Hiku Ward. Engagement will be required with Te Hiku Community Board to further understand the issues and problems relating to Land Drainage.
State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water.  State the possible implications and how this report aligns with Te Tiriti o Waitangi / The Treaty of Waitangi.	Seeking the views and input of hapu/iwi in the development of policy is integral, and Māori will be given an opportunity to contribute during the consultation stage. Council will give notice of the proposed Bylaw to organisations representing Māori in the Far North district.  Māori are kaitiaki of the land and are therefore an important voice in issues of Land Drainage.
Identify persons likely to be affected by or have an interest in the matter, and	All interested parties will be given an opportunity to share their views and preferences including Te Hiku

how you have given consideration to their views or preferences (for example – youth, the aged and those with disabilities).	Community Board, the Land Drainage Board, Land Drainage Committees, affected landowners, Infrastructure Group subject matter experts, and iwi/hapū.
State the financial implications and where budgetary provisions have been made to support this decision.	The operational costs for amending the Bylaw is expected to be minimal (less than \$1000 plus staff time and resources) and will be met by existing operational budgets.
Chief Financial Officer review.	The Chief Financial Officer has not reviewed this report.



# LAND DRAINAGE BYLAW

2019



## 1. Title

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This Bylaw is the Land Drainage Bylaw 2019

## 2. Commencement

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This Bylaw comes into force on the 7<sup>th</sup> day of October 2019.

## 3. Application

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This Bylaw applies to land drainage areas in the Far North District as identified in Schedule 1 of this Bylaw.

## 4. Purpose

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- 4.1 The purpose of this Bylaw is to regulate land drainage assets within land drainage areas identified in schedules to this Bylaw.
- 4.2 This Bylaw is made by the Far North District Council pursuant to section 145 and section 146(b)(iv) of the Local Government Act 2002, Part 29 of the Local Government Act 1974, the Land Drainage Act 1908, and every other enabling power and authority.
- 4.3 Note that this bylaw does not remove the need for any necessary resource consents (under the Resource Management Act 1991) from the Northland Regional Council.

## 5. Interpretation

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- 5.1 In this Bylaw, unless the context otherwise requires -

**Authorised Person** means any person authorised in writing by the Council to act on its behalf.

**Council** means the Far North District Council. Note that this bylaw does not remove the need for any necessary resource consents (under the Resource Management Act 1991) from the Northland Regional Council.

**Drain** means that part of a Drainage Channel from the invert to the top of the bank on either side of the invert but does not include the land abutting the top of the banks of the drain.

**Drainage Assets** refers to land drainage works including drainage channels, stopbanks, flood storage areas, floodgates, overflow channels, channel throttling, and scour protection or riparian planting to throttle flows along waterways, which works are vested in the Council or acquired or constructed or operated under the control of the Council, as described in the attached Schedules and shown on the maps attached to this Bylaw and such other areas as may be included pursuant to the provisions of the Local Government Act 1974, Local Government Act 2002 and Land Drainage Act 1908.

**Drainage Channel** means every drain, passage or channel on or under the ground through which water flows, continuously or otherwise, and which -

- a) Immediately before the commencement of the Bylaw was a drainage channel under the control of the Council; or
- b) Is constructed by the Council as a drainage channel after the commencement of this Bylaw; or
- c) Is vested in the Council as a drainage channel; -

And includes the land occupied by the drain itself plus all that land abutting each side of the drain to a distance of 3.5 metres from the top of the banks of the drain, but does not include a water race.

**Land Drainage Area** means a land drainage area identified in Schedule 1: Land Drainage Maps to this Bylaw, or any other land drainage area that the Council by resolution identifies and determines to regulate for land drainage purposes.

**Landowner** means the owner of any property, or as applied to any land, building, or premises means any person for the time being entitled to receive the rack rent of such land, building, or premises, and where the content so requires or admits the expression shall include the habitant occupier of any such land, building or premises, and where such owner is absent from New Zealand the expression shall include his attorney or agent or any other person acting for him or on his behalf.

**Obstruction** includes earth, stone, timber and material of all kinds and trees, plants, rubbish, weeds and growths of all kinds.

**Person** includes a corporation sole, a body corporate, and an unincorporated body.

**Private drain** means any drain constructed by or vested in a private owner and not managed by Council.

5.2 Any explanatory notes and attachments are for information purposes only and do not form part of this Bylaw.

5.3 The Legislation Act 2019 applies to this Bylaw.

## 6. Access to and Along Drains

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- 6.1 Without the prior approval of Council and then only subject to such conditions as Council shall impose, no owner of any land on the banks of any drainage channel shall plant or permit to grow any tree, shrub or hedge, or erect or maintain any fence, building, bridge or other construction or make any excavation in such a position as to interfere with or obstruct the free access of Council's workmen or agents, plant or machinery along such drain or to any part thereof, for a distance of 10 metres from the edge of the drain, or such other distance as Council may specify in respect to any drain or part thereof.
- 6.2 No person shall construct or maintain any road or accessway for the passage of stock, machines or other vehicles along the bank of any drain under the control of Council, within 3.5 metres of the edge of the drain, without having first obtained the prior written approval of Council, which may impose any conditions it thinks fit if such consent is granted.

## 7. Private Drain Connection

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- 7.1 No landowner shall connect a private drain with a drainage channel or enlarge a connected private drain or branches thereof, or add new branch drains thereto without obtaining the prior written approval of Council.
- 7.2 Any owner applying for such approval shall submit to Council such plans and specifications as may be required by Council showing the exact location of the private drain and branches (if any) giving details of the length, size and construction and indicating the approximate area to be drained.
- 7.3 Council may impose such conditions as it thinks fit upon the connection or continuance of the connection of private drains including the payment of a fee to cover the cost of inspection and report to Council relating to any such drain.

## 8. Obstruction to Flow

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- 8.1 No person shall stop, obstruct, increase or interfere with or divert the flow of water in any drainage channel, without the prior written approval of Council.

- 8.2 No owner of the land on either side of any drainage channel shall allow, permit, or suffer to grow therein or on the banks thereof any plant growth that may be likely to impede the flow of any water in any drainage channel.
- 8.3 No owner of the land on either side of any drainage channel shall throw into the drain, or cause, permit or suffer to be thrown or to fall therein any material that may be likely to impede the flow of water in any drainage channel.
- 8.4 No person shall deposit any debris or rubbish, in or on land in the drainage channel on which, if no such impediment was created, flood water might encroach and cause a nuisance.
- 8.5 No person shall stop or obstruct any drainage channel or erect any barrier (other than required by law), buildings, structures or alter level or grades of landscapes (e.g. filling), or defence against water in or near any drainage channel; (e.g. fencing not to cause a barrier).
- 8.6 No person shall allow any private channel or watercourse to become blocked in a way which may endanger or become a hazard or impede the water flow of any drainage channel or watercourse under the control of Council.
- 8.7 No person shall allow animals, or machines or other vehicles to damage drainage assets. Grazing cattle are to be kept a minimum distance of 2 metres from any drain.
- 8.8 Any damage so caused by animals or machines shall be reported immediately to Council and any costs associated with repairing such assets shall be the responsibility of the landowner concerned.
- 8.9 Any permitted development affecting or likely to affect any drainage channel shall be designed and carried out so as to safely accommodate a 100 year storm flow, and without causing more than minor damage.

## 9. Removal of Obstructions

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- 9.1 The Council may require the removal of any growth or other obstruction that is, or is likely to obstruct the free flow of any water in any watercourse - and in default thereof Council may do the work required and recover the cost thereof from such owner or owners.

## 10. Alterations to Drainage Channel

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- 10.1 No person shall widen or deepen a drainage channel, or stop or obstruct the same or alter the course thereof or in any way interfere with any drainage channel or associated works or structures without the prior written approval of Council.

## 11. Pollution and Nuisances

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- 11.1 No person may –
  - (a) Widen or deepen; or
  - (b) Stop or obstruct; or
  - (c) Alter the course of; or
  - (d) In any way interfere with,Any drainage channel or associated works with the prior written approval of Council.
- 11.2 No owner or occupier of the land on either side of a drainage channel or private drain connected therewith, shall permit or suffer any dead stock or animals or any part thereof, to be or remain in any drainage channel or private drain connected therewith.

## 12. Stopbanks

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- 12.1 No person shall erect or cause or permit to be erected any stopbank, on or along any drainage channel, without the prior written approval of Council and in accordance with such terms and conditions as Council may impose.
- 12.2 Every owner upon whose land a stopbank adjoining a drainage channel is located, whether for the protection of the land or not, shall not remove it or suffer or permit it to be removed, lowered or breached without the prior written approval of Council.

## 13. Crossings

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- 13.1 No person shall cross or pass over a drainage channel with any vehicle, or drive any stock or convey any implement or machinery or goods or materials thereover except at crossings appointed by Council.
- 13.2 No person shall remove, change or construct any culvert, bridge or crossing in upon or over any drainage channel without the prior approval of Council.
- 13.3 Council may require the owner or owners of properties on which there is a drainage channel, to construct, maintain or renew crossings at places and in such manner approved by Council and in default thereof Council may do the work required and recover the cost thereof from such owner or owners.

## 14. Watering Places

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- 14.1 No owner shall construct in any drainage channel a watering place for stock or maintain or use the same without the prior approval of Council which may impose such conditions for mode of construction and for fencing and otherwise as it decides and such consent may be suspended or revoked at any time.
- 14.2 The owner or owners of land adjoining watering places shall use and maintain the same so that no damage to the drainage channel can result from their use. In the event of damage Council may call upon the owner or owners responsible to repair the same and in default thereof may do the work and recover the cost thereof from such owner or owners.

## 15. Damage, Maintenance and Repair

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- 15.1 No person shall injure, destroy, cause damage to or interfere with any dam, reservoir, stopbank, headworks, building or any installation connected with drainage assets, or allow, permit or suffer any stock to damage or destroy the same.
- 15.2 Where any drainage channel is damaged by stock, or otherwise, Council may require the owner responsible for such damage to repair such drainage channel to the satisfaction of Council and on default thereof may have the necessary repairs executed and recover the costs thereof from the said owner.

## 16. Inspection

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- 16.1 An enforcement officer or authorised person shall have the power, right, and authority to inspect any installation set up for the withdrawal or diversion of water from any drainage channel, whether authorised or not and the Council may direct any alteration or improvement to or replacement of such installation or request its removal or demolition at any time.

### 17. Obstruction to Officers

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- 17.1 No person, whether on private land or not, shall obstruct any enforcement officer or authorised person, with or without drain cleaning machinery or plant, in the performance of anything which such member, appointee, employee or agent is or may be required to do in the discharge of their duties.

### 18. Penalty

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- 18.1 Any person who commits a breach of this Bylaw shall be liable to a fine not exceeding \$20,000 and in addition to any penalty imposed for breach of this Bylaw, Council may sue any person for the amount of damage done by them to the drainage assets and for any penalty fine or fee which is prescribed by any statutory enactment whatsoever.

### 19. Other Requirements

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- 19.1 The provisions of this Bylaw do not remove the need for any resource or other consents required under the Resource Management Act 1991, Building Act 2004. Where consents are required under this chapter of this Bylaw and other acts or regulations, all shall be lodged with the Council at the same time.

### 20. Land Drainage Areas

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- 20.1 The provisions of this Bylaw do not remove the need for any resource or other consents required under the Resource Management Act 1991, Building Act 2004. Where consents are required under this chapter of this Bylaw and other acts or regulations, all shall be lodged with the Council at the same time.

### Additional information

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The history of the bylaw is for information purposes only and does not form part of this Bylaw.

#### History of the Bylaw

Action	Commencement
Made	03 October 2019
Reviewed	
Decision to continue with amendment	
Next review	



Te Kaunihera  
o Te Hiku o te Ika  
Far North District Council

HE ARA TĀMATA  
CREATING GREAT PLACES  
*Supporting our people*

## Land Drainage Maps

### Land Drainage Bylaw 2019

July 2025

#### List of Maps

##### 1. 3Waters - Drainage Areas

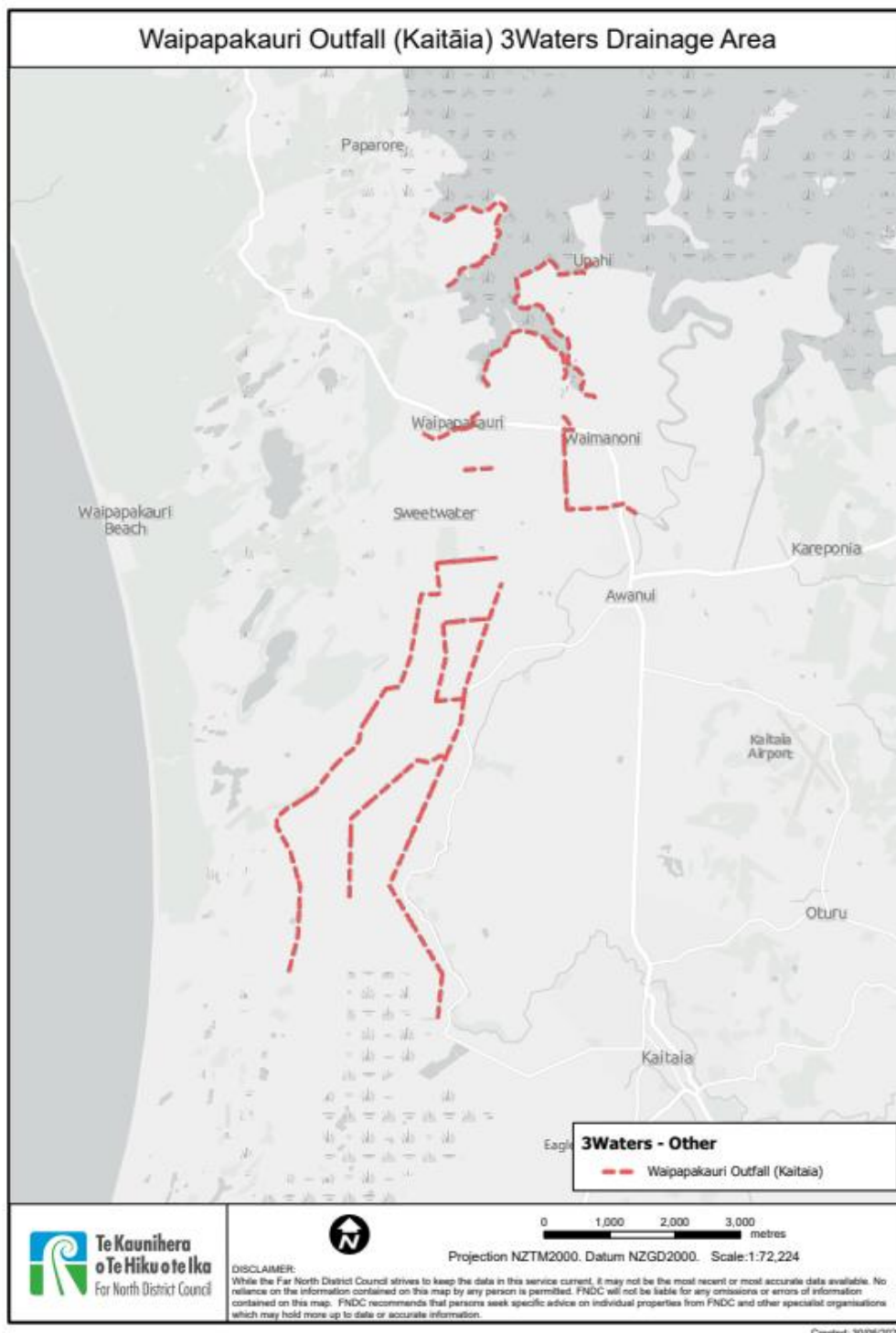
- 1.1 Waipapakauri Outfall (Kaitāia)
- 1.2 Pukepoto Outfall (Kaitāia)
- 1.3 Motutangi (Northern)
- 1.4 Lower Awanui (Kaitāia)
- 1.5 Kaikino (Northern)
- 1.6 Tangonge (Kaitāia)
- 1.7 Kaitāia (Kaitāia)
- 1.8 Waiharara (Northern)
- 1.9 Puckeys Outfall (Kaitāia)
- 1.10 Whangatane (Kaitāia)
- 1.11 Wairoa (Kaitāia)
- 1.12 All Drainage Areas

##### 2. Properties Charged Drainage Area Rates (FNDC)

- 2.1 (06D6A) Kaitāia Drainage Area Rate
- 2.2 (06D7A) Motutangi A Drainage Area Rate
- 2.3 (06D7B) Motutangi B Drainage Area Rate
- 2.4 (06D7C) Motutangi C Drainage Area Rate
- 2.5 (06D8A) Waiharara A Drainage Area Rate
- 2.6 (06D8B) Waiharara B Drainage Area Rate
- 2.7 (06D8C) Waiharara C Drainage Area Rate
- 2.8 (06D9A) Kaikino A Drainage Area Rate
- 2.9 (06D9B) Kaikino B Drainage Area Rate
- 2.10 (06D9C) Kaikino C Drainage Area Rate
- 2.11 All Properties Charged Drainage Area Rate

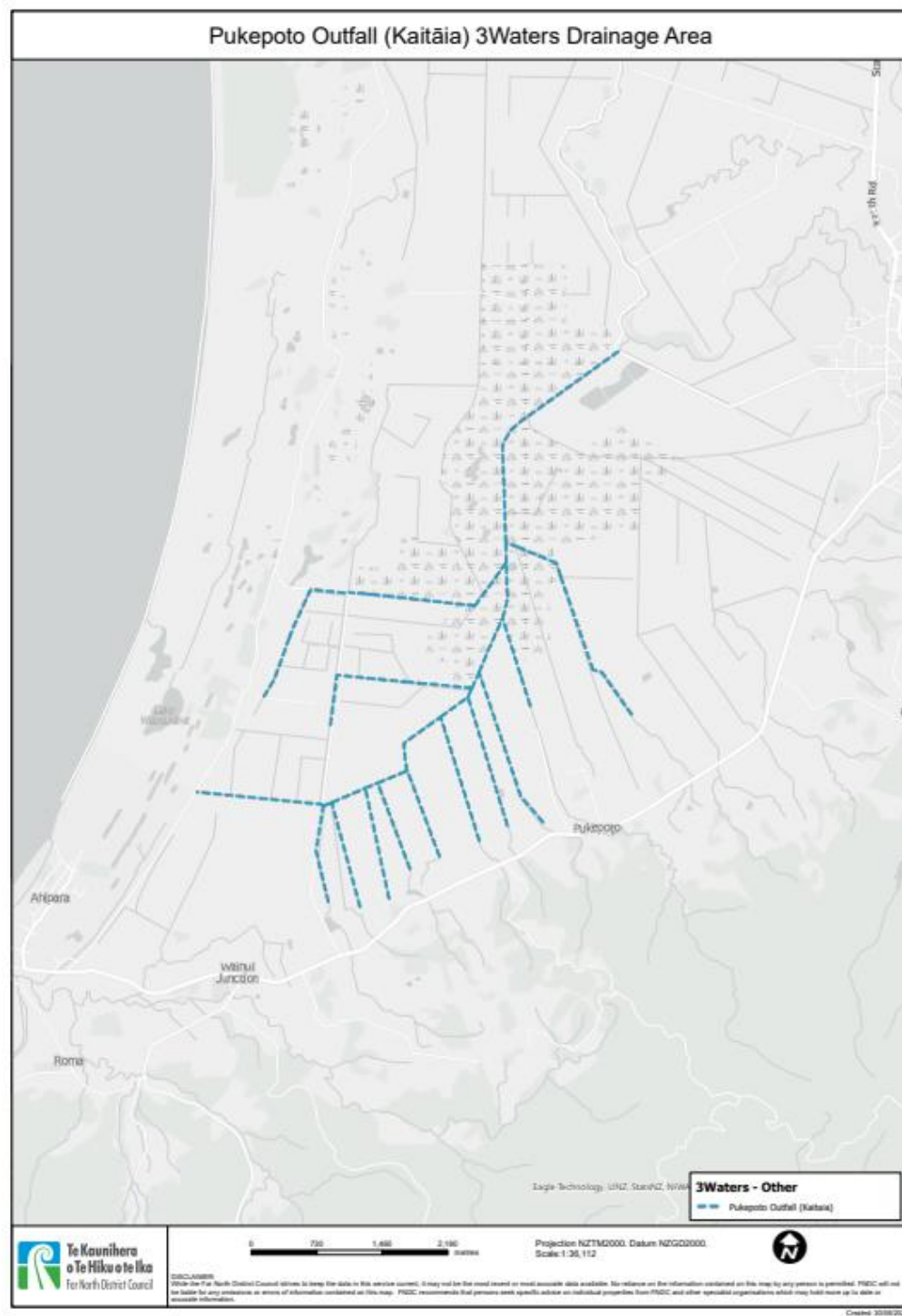
## 1. 3Waters - Drainage Areas

### 1.1 Waipapakauri Outfall (Kaitiāia)





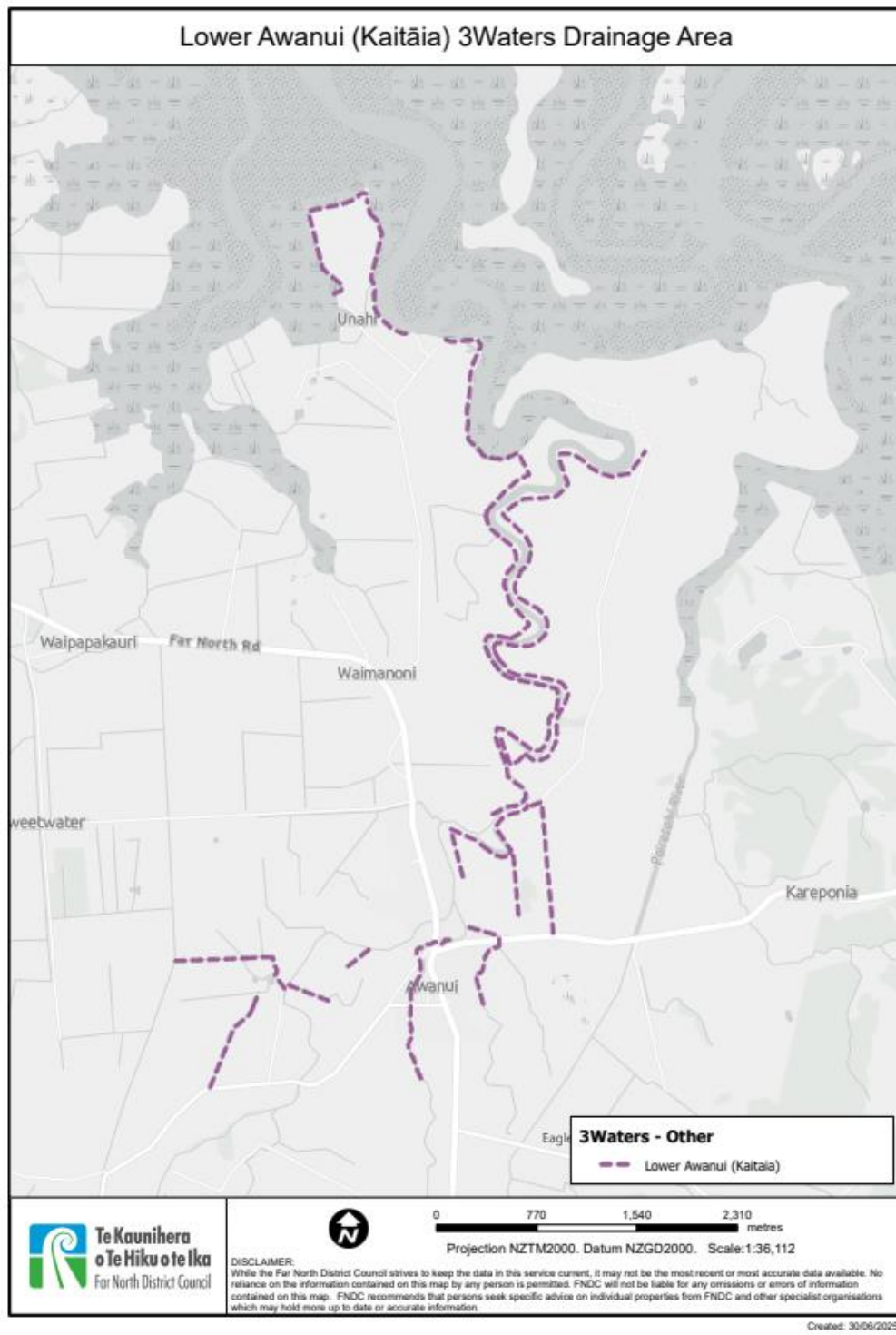
### 1.2 Pukepoto Outfall (Kaitiāia)

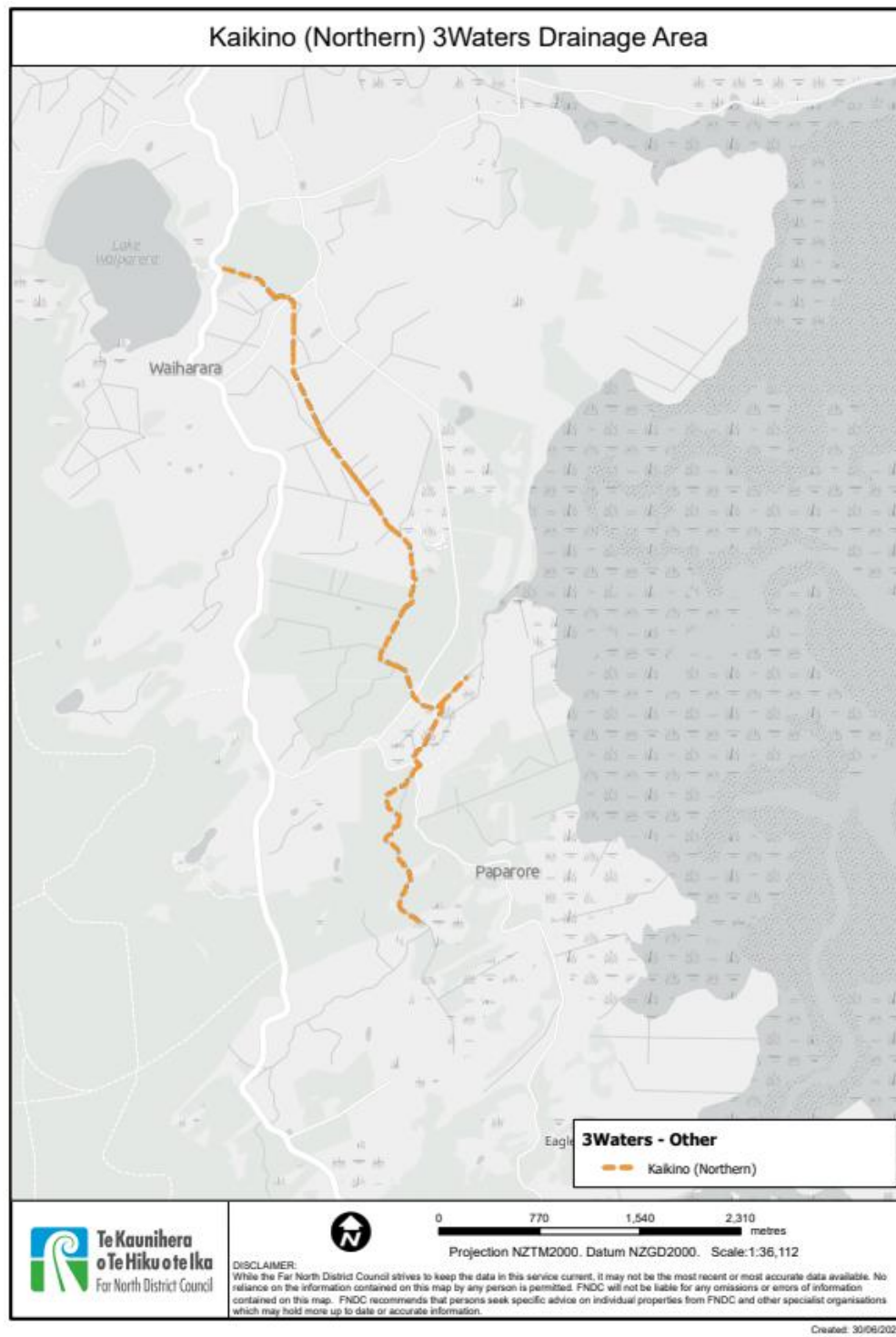


## 1.3 Motutangi (Northern)

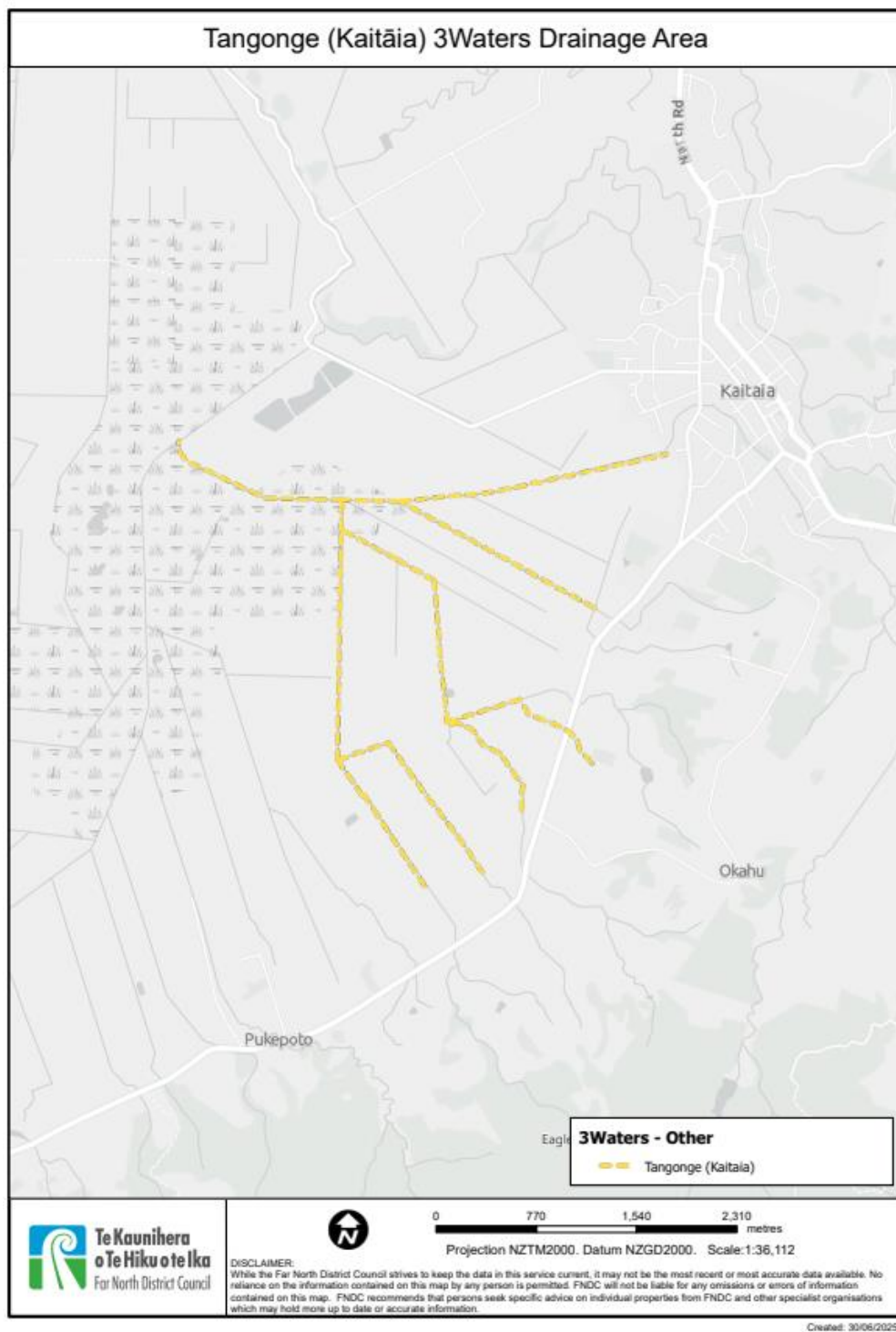


## 1.4 Lower Awanui (Kaitāia)



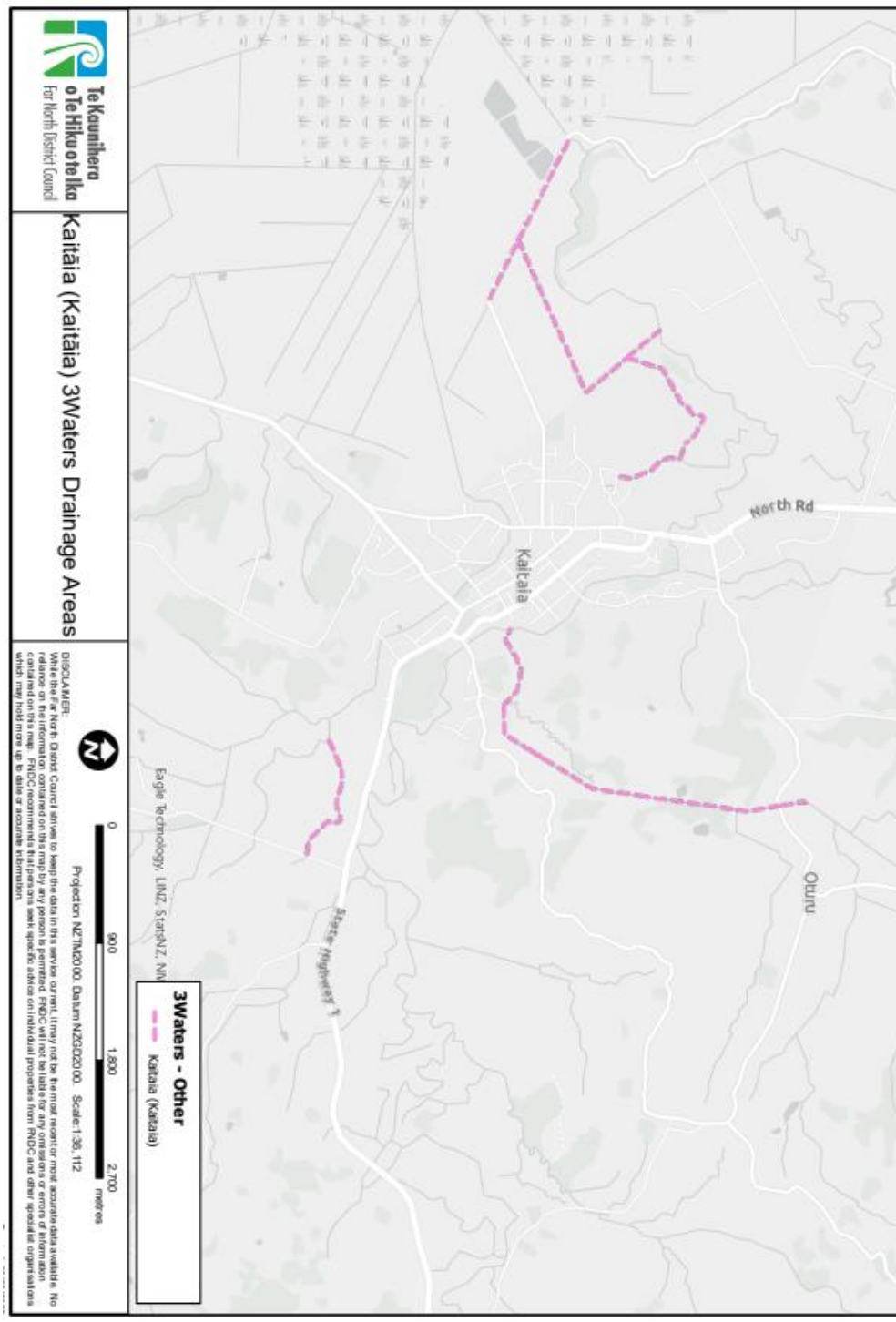
1.5 Kaikino (Northern)

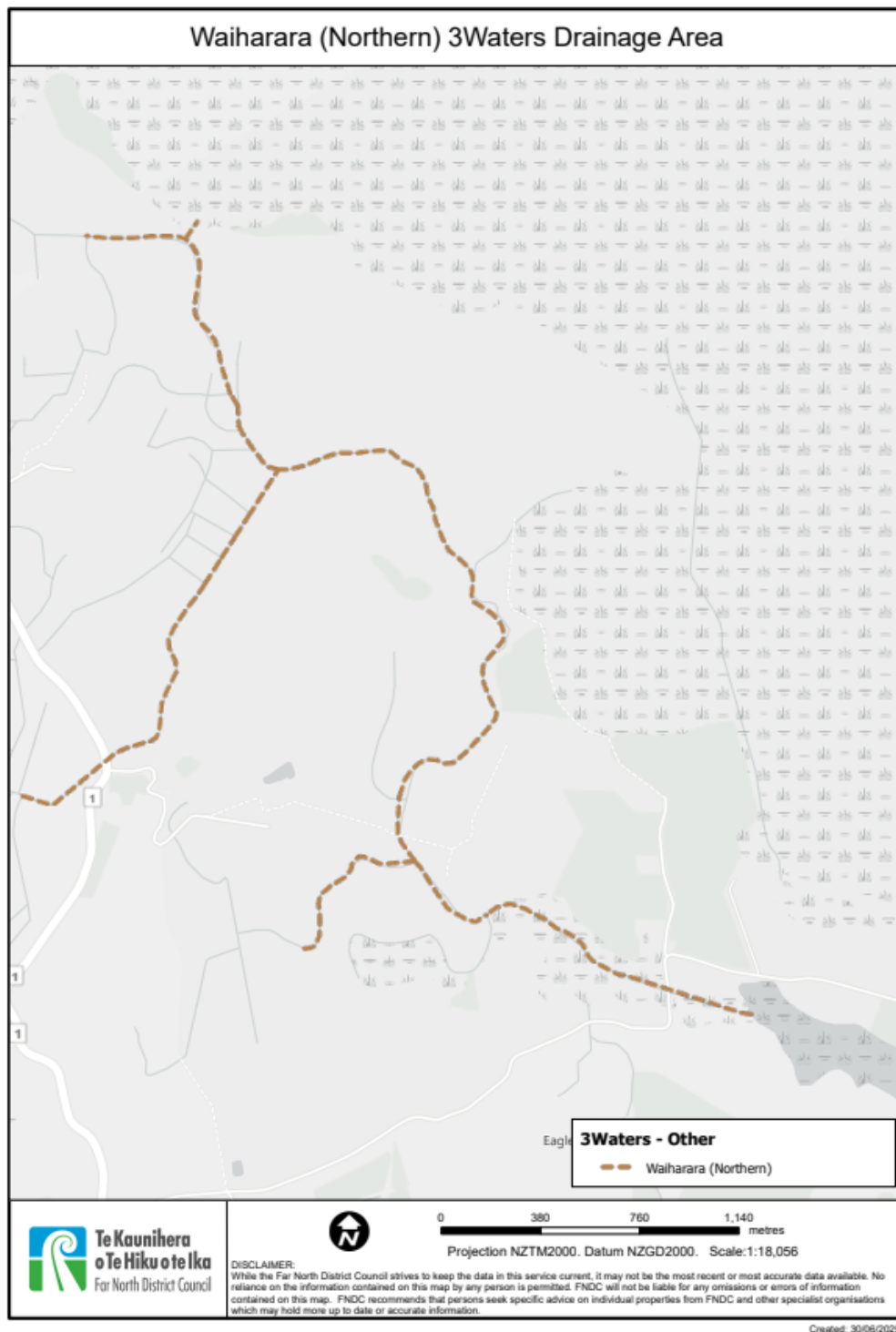
### 1.6 Tangonge (Kaitiāia)



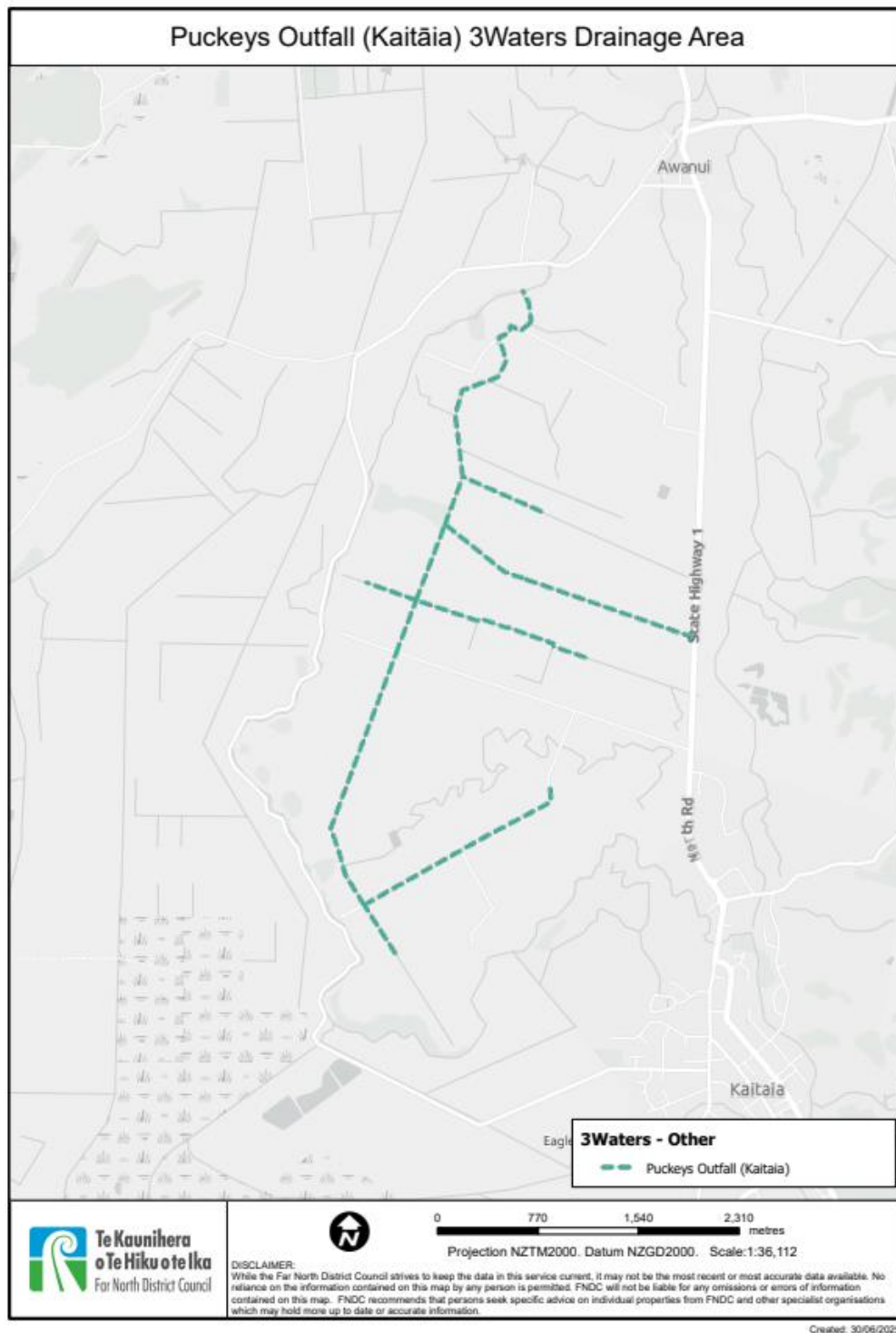


## 1.7 Kaitāia (Kaitāia)



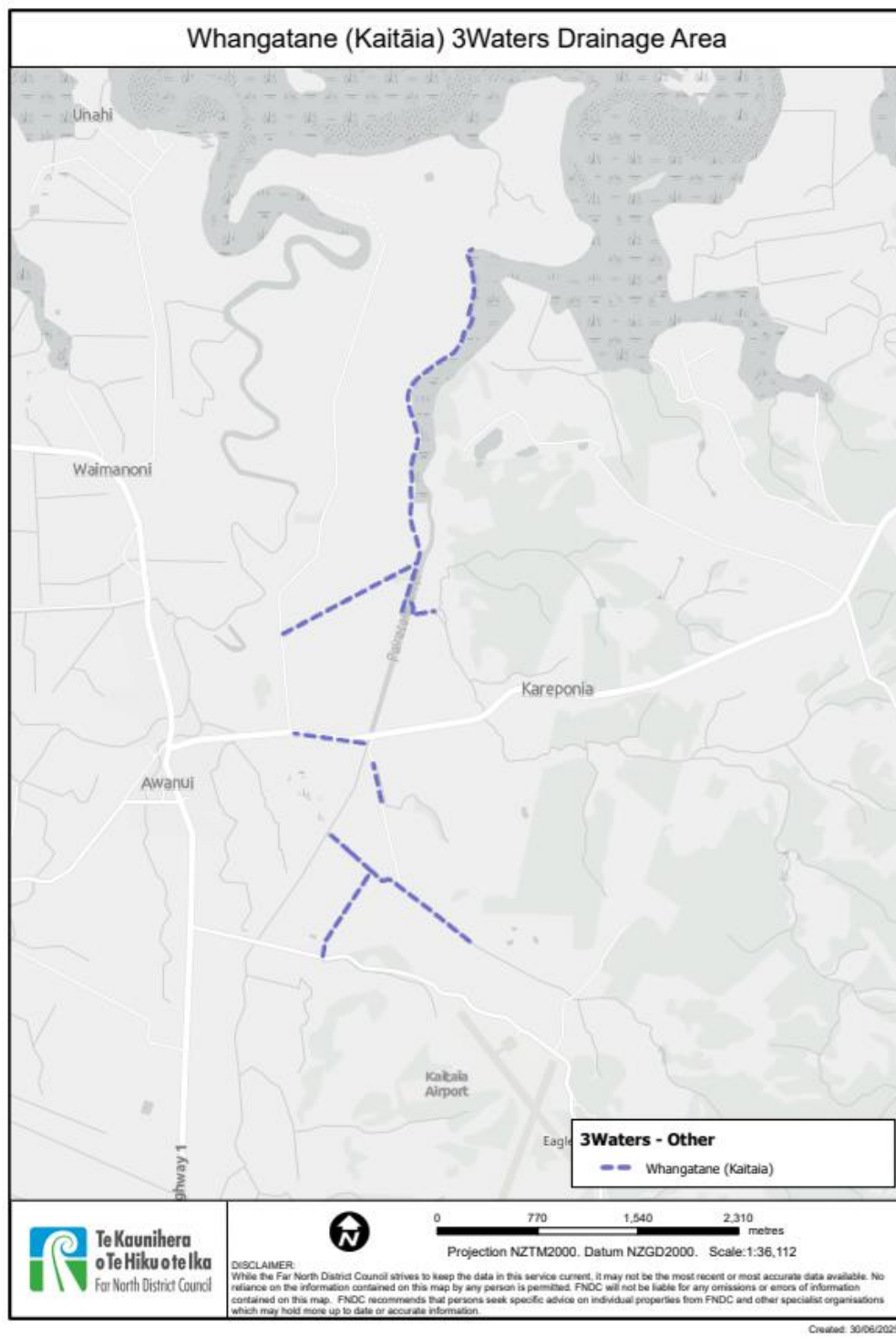
1.8 Waiharara (Northern)

### 1.9 Puckeys Outfall (Kaitiāia)

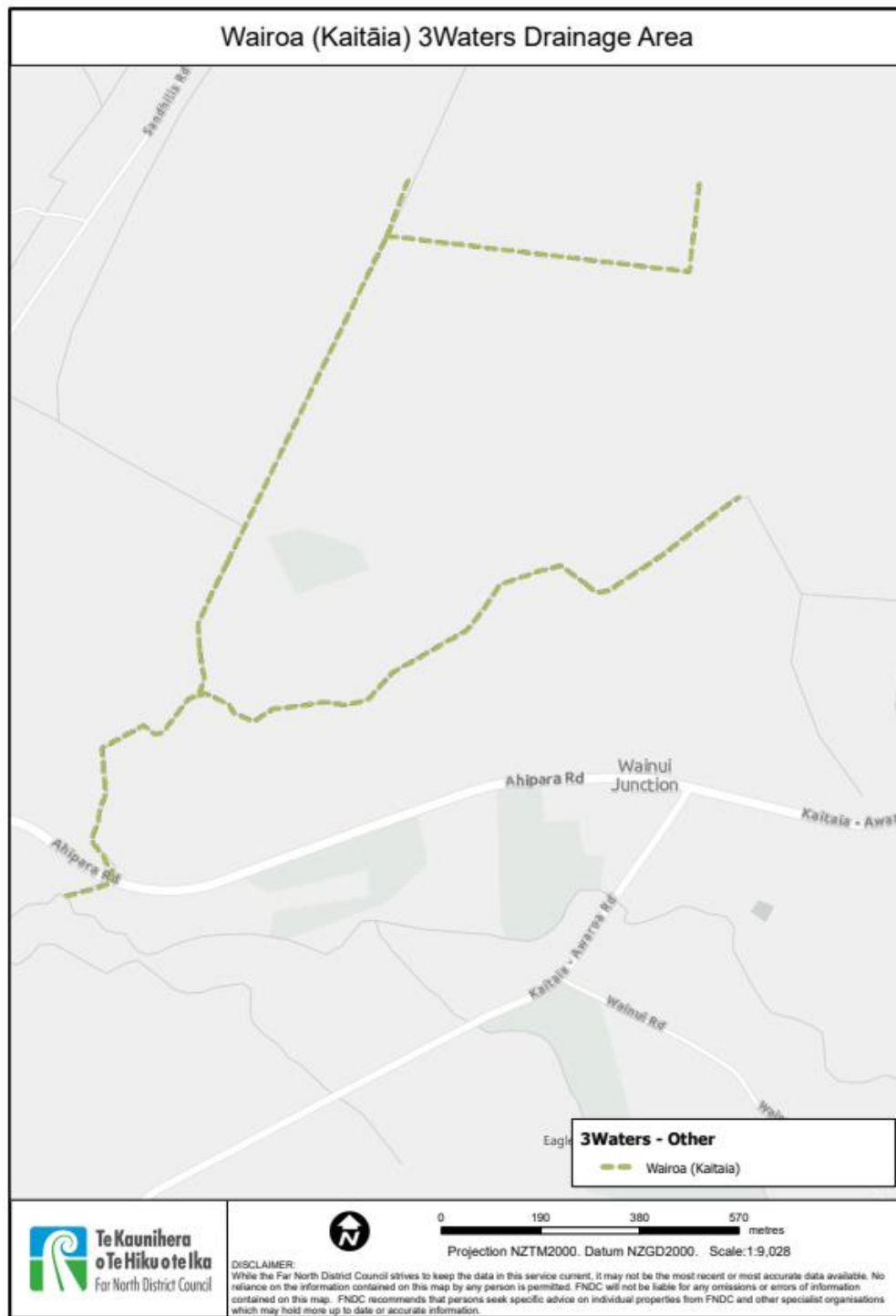




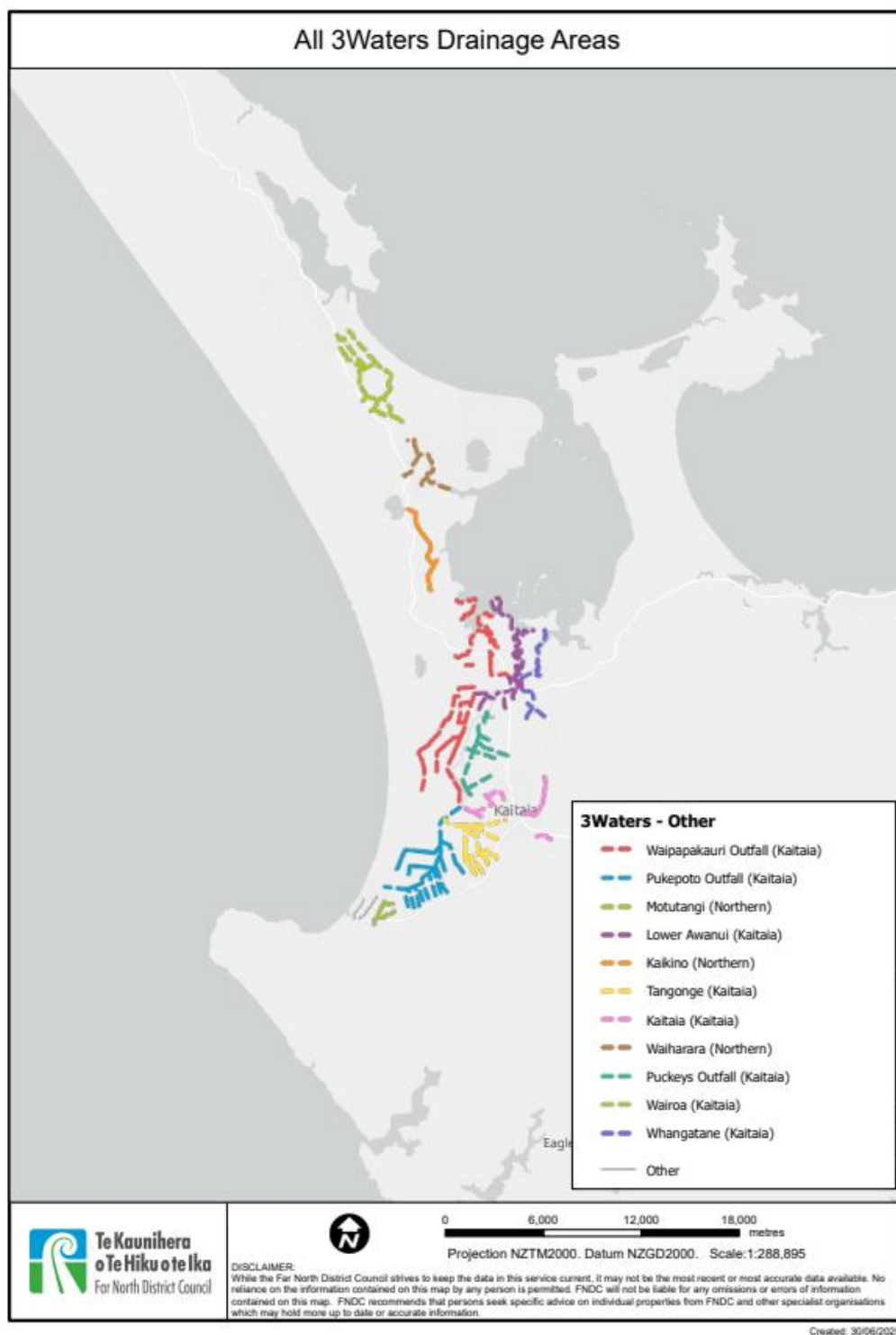
## 1.10 Whangatane (Kaitāia)



## 1.11 Wairoa (Kaitiāia)

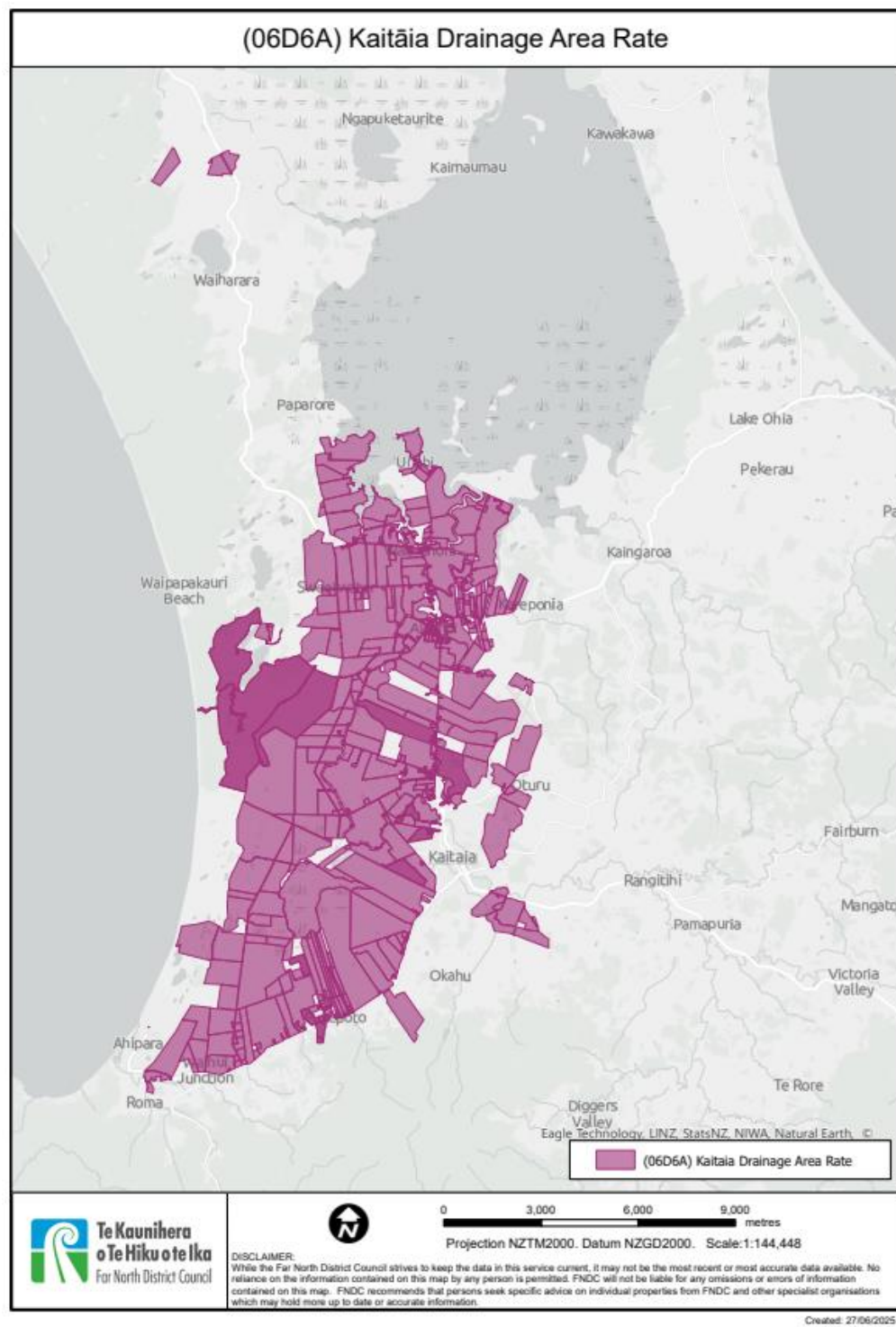


## 1.12 All Drainage Areas

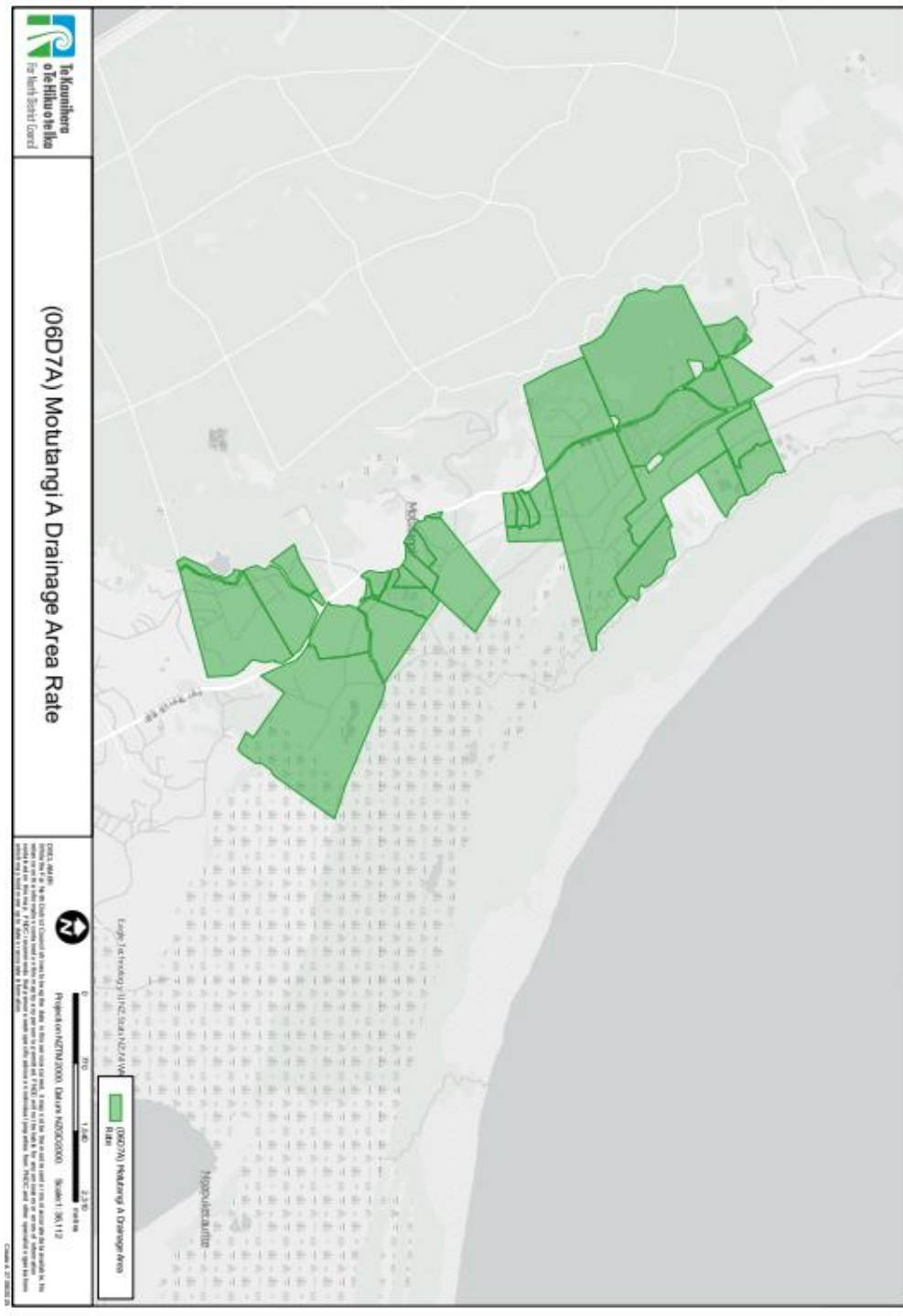


## 2. Properties Charged Drainage Area Rates (FNDC)

### 2.1 (06D6A) Kaitāia Drainage Area Rate

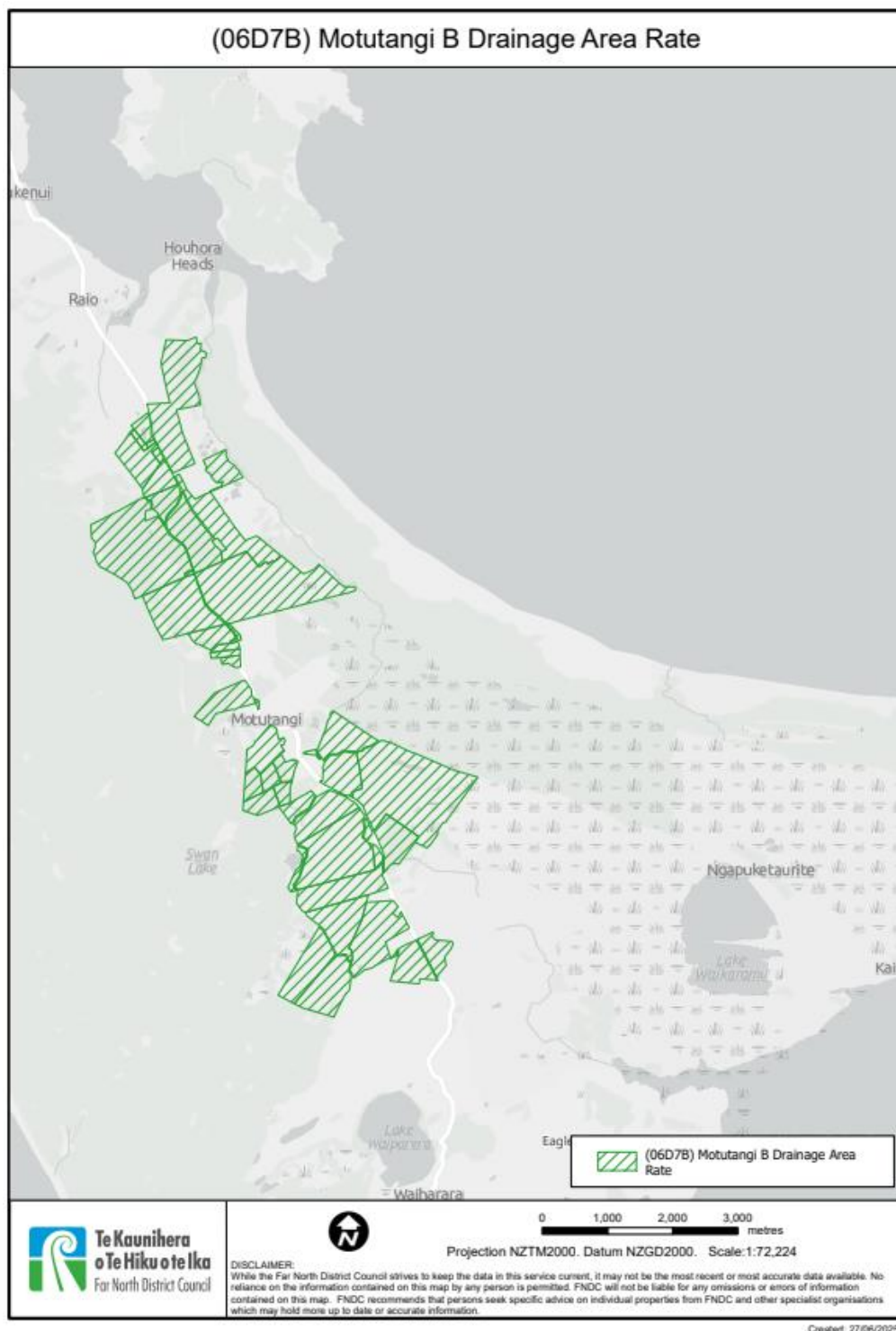


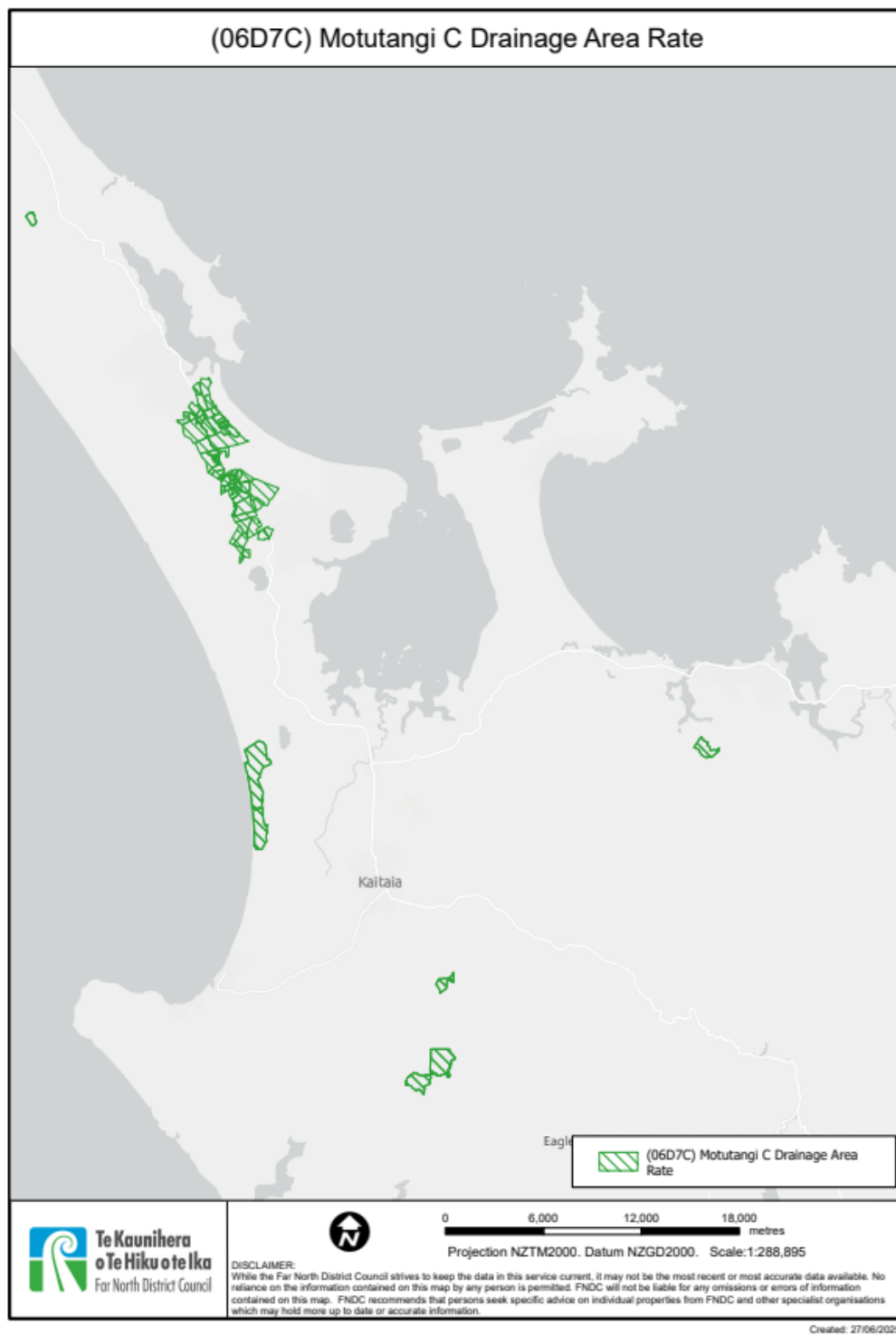
## 2.2 (06D7A) Motutangi A Drainage Area Rate

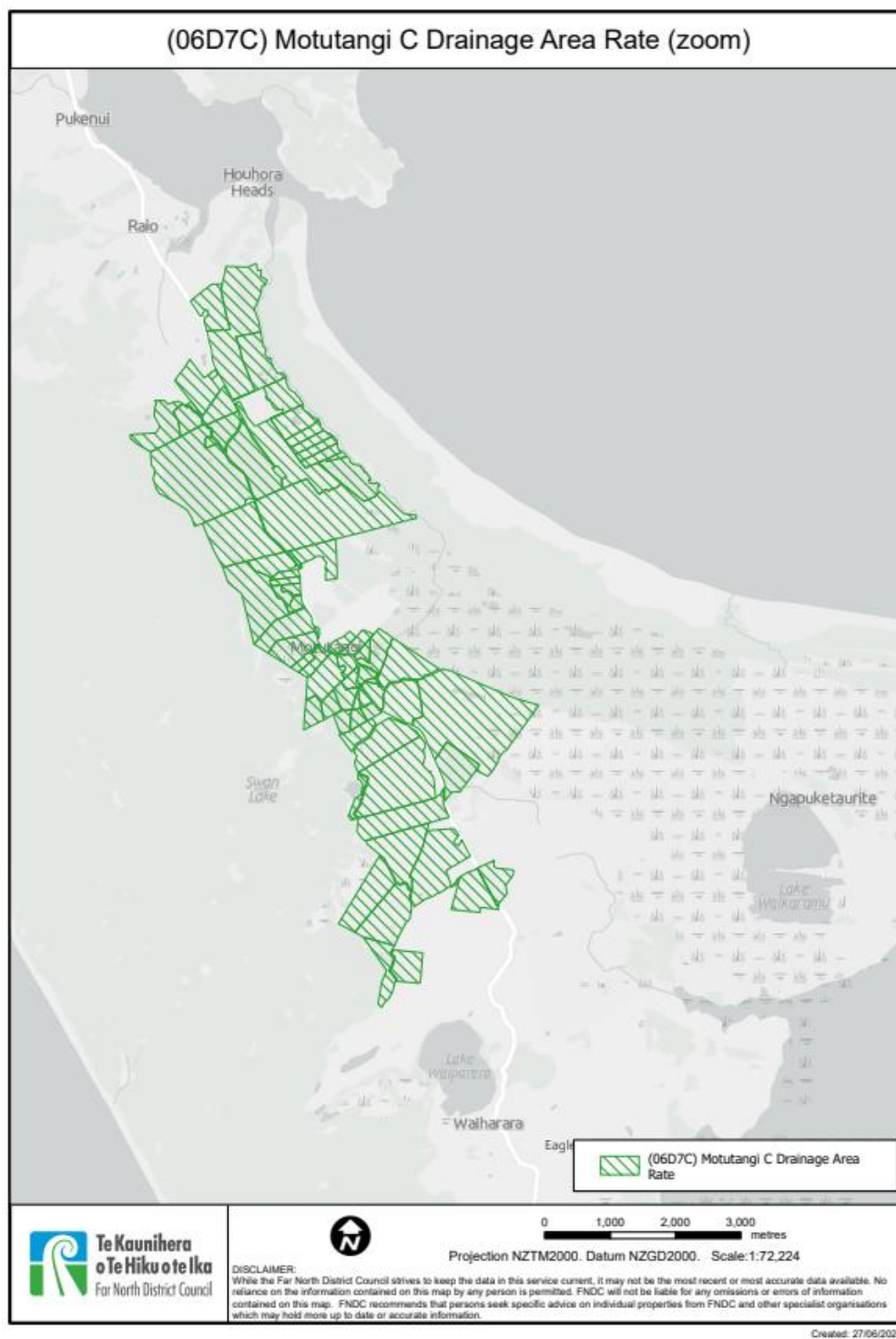




## 2.3 (06D7B) Motutangi B Drainage Area Rate

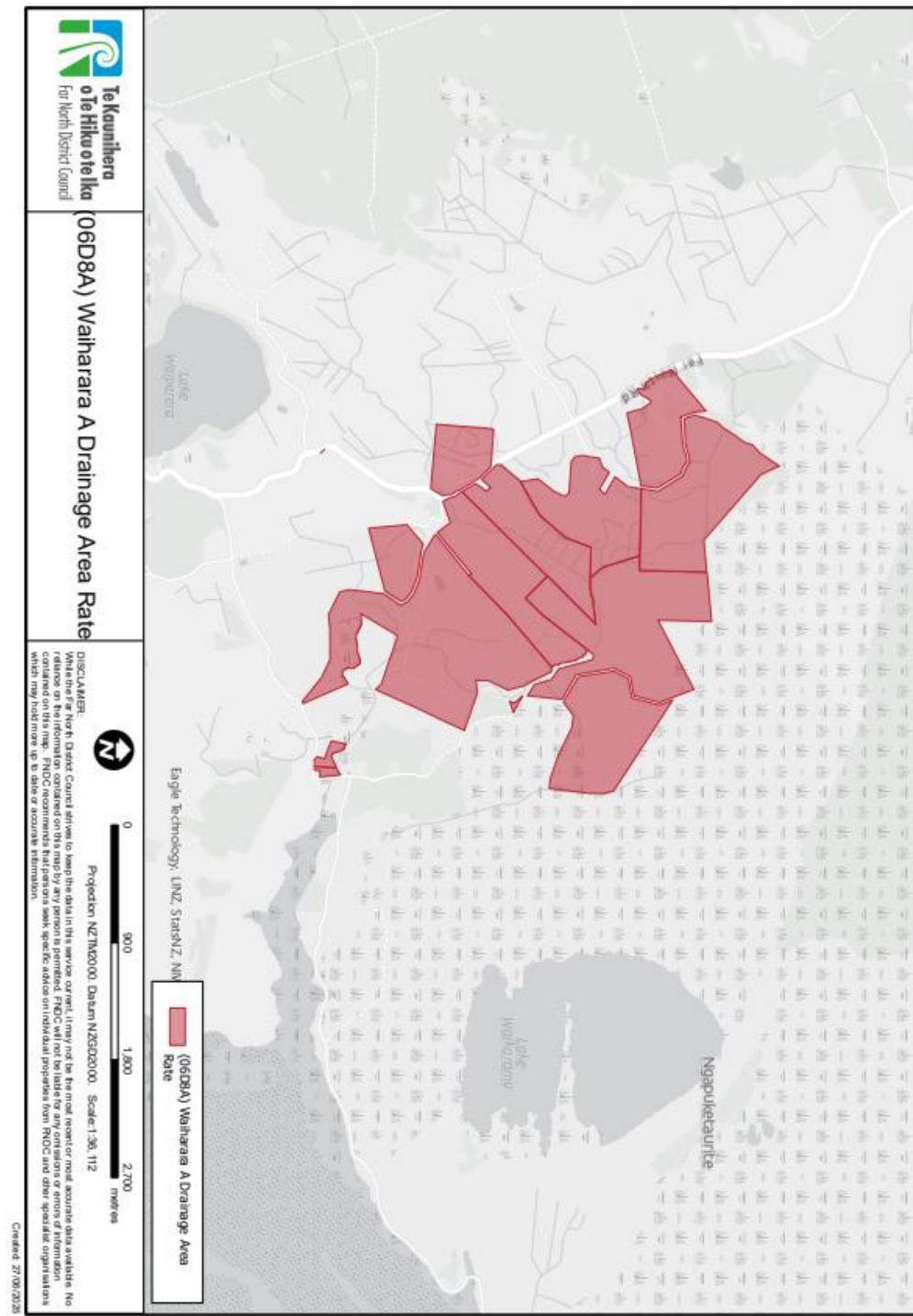


2.4 (06D7C) Motutangi C Drainage Area Rate

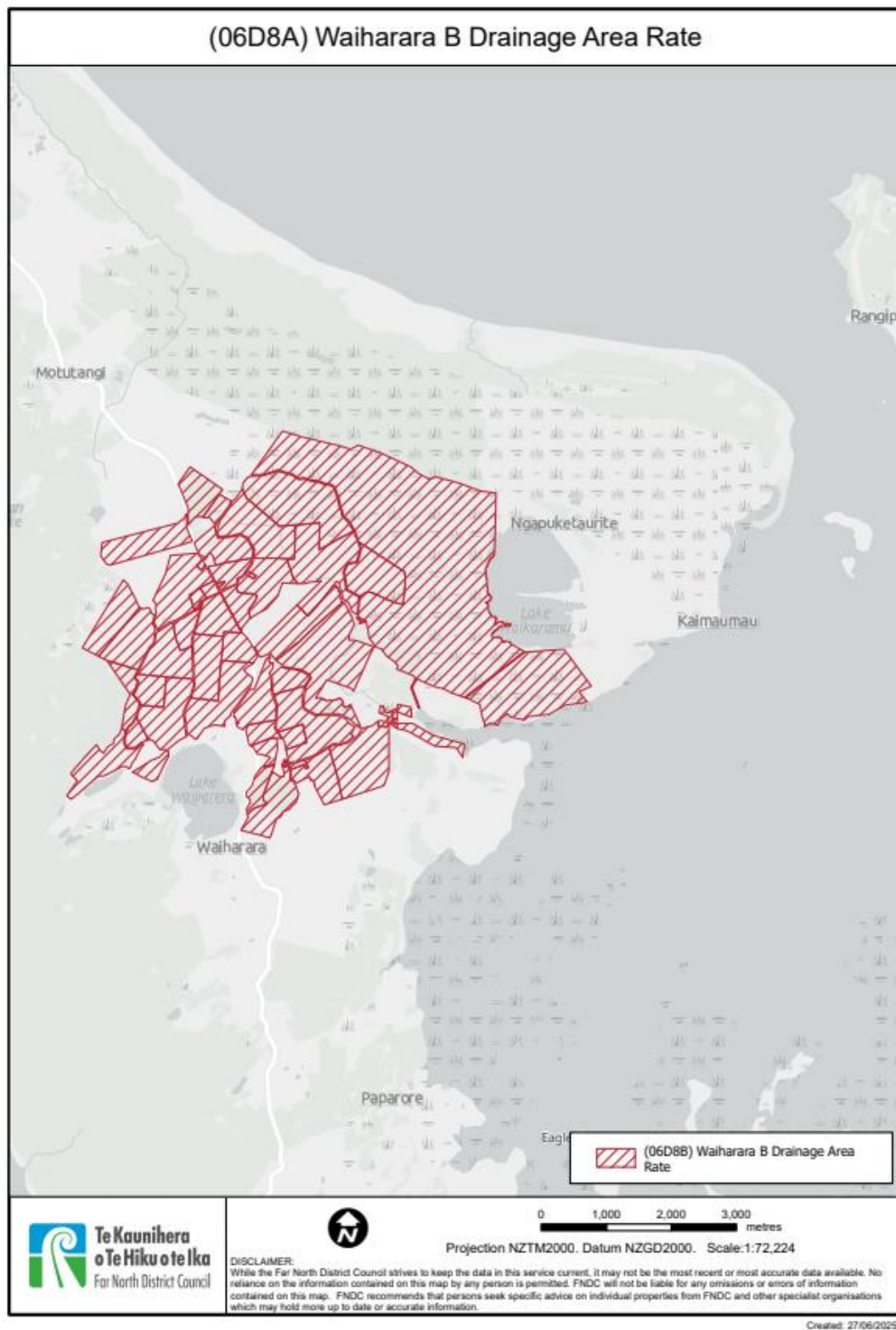




## 2.5 (06D8A) Waiharara A Drainage Area Rate



## 2.6 (06D8B) Waiharara B Drainage Area Rate



**(06D8C) Waiharara C Drainage Area Rate**

DISCLAIMER:  
While the North District Council strives to keep the data in this service as up to date as possible, it may not be the most recent or most accurate data available. No reliance on the information contained on this map by any person is permitted. FNDC will not be liable for any omissions or errors of information contained on this map. FNDC recommends that persons seek specific advice on individual properties from FNDC and other specialist organisations which may hold more up to date or accurate information.

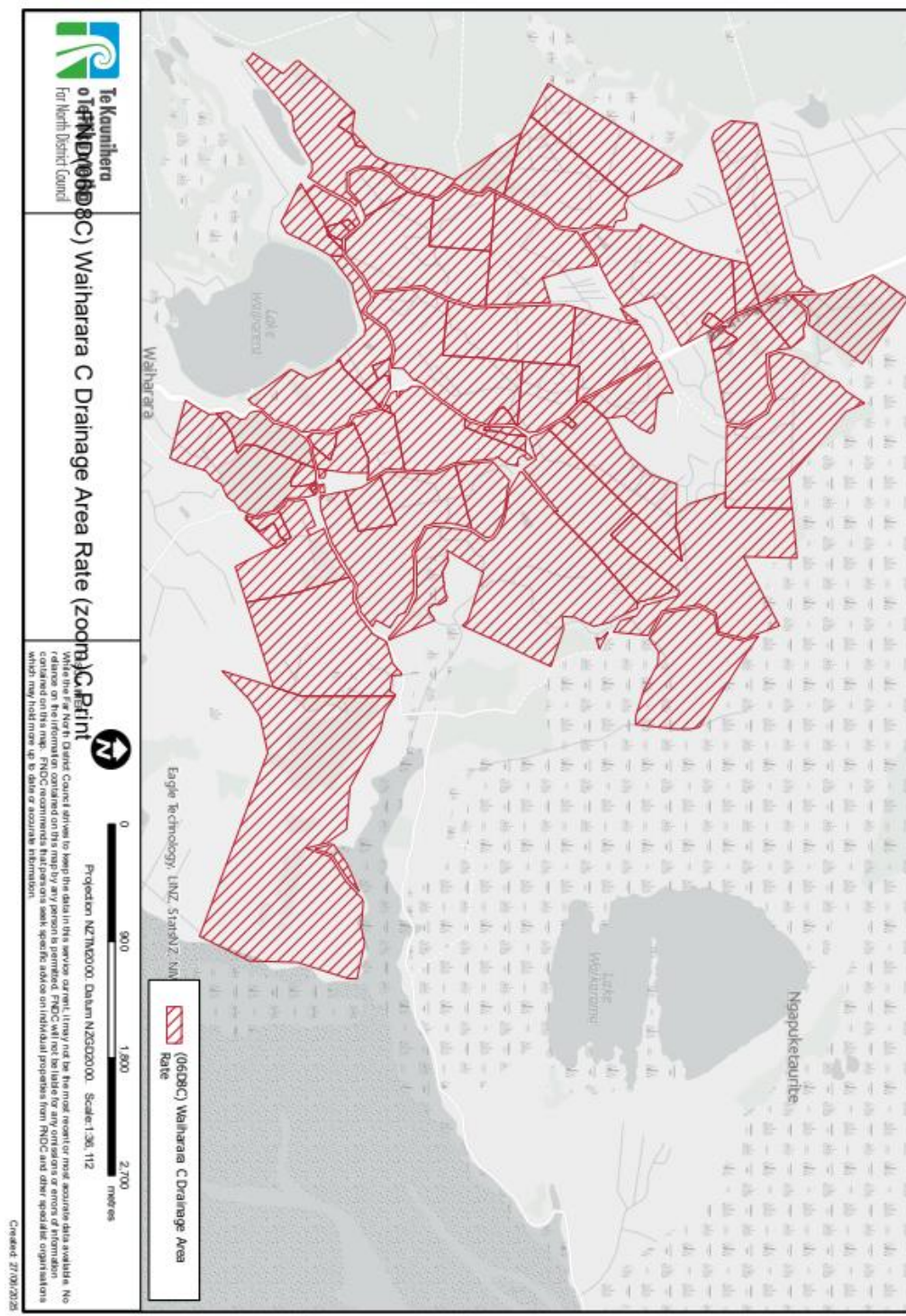
Projection: NZTM2000, Datum: NZGD2000, Scale: 1:57,791

0 14,390 28,780 43,170 metres

North Arrow

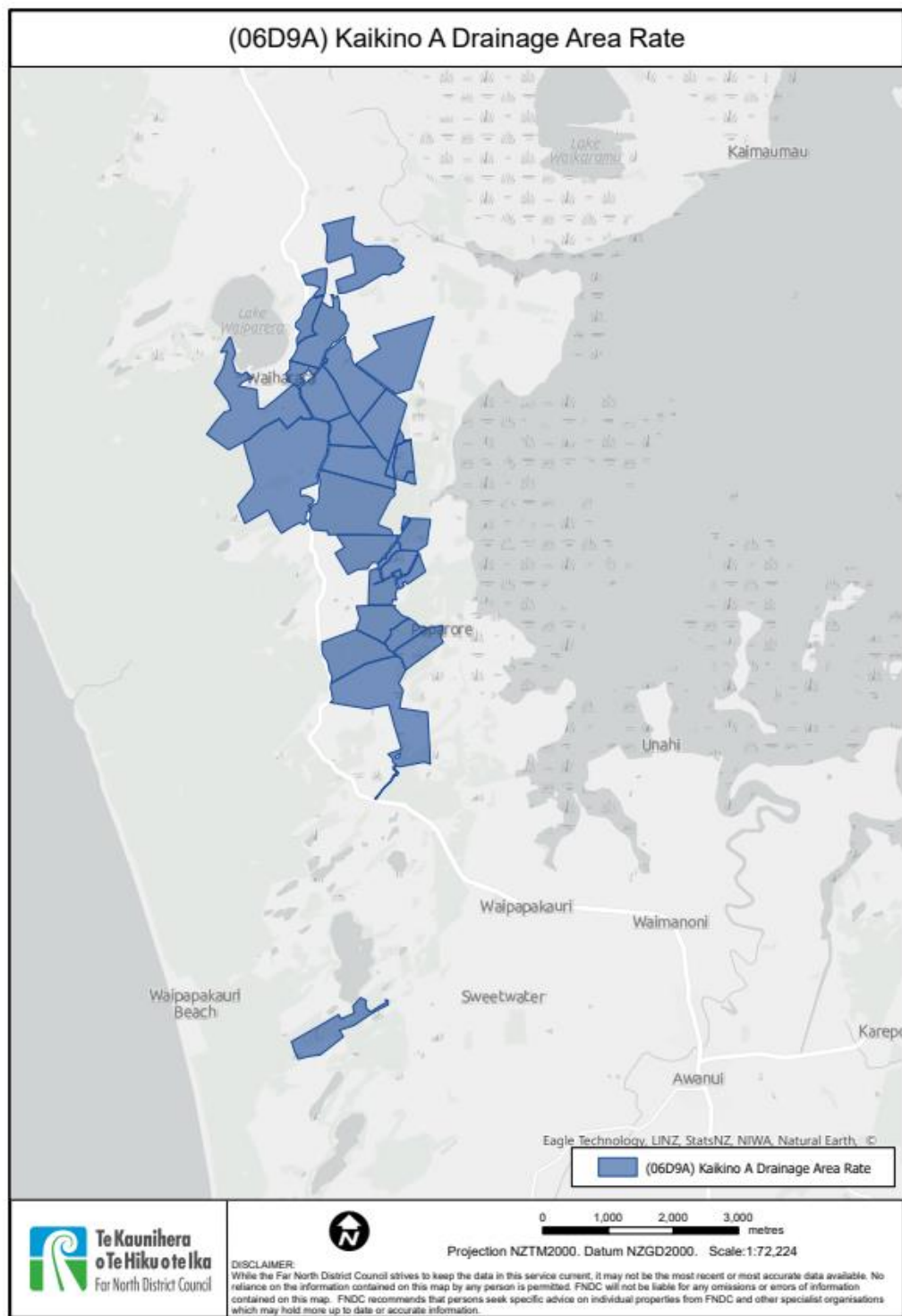
Map Labels: Kaitia, Kerikeri, Kaitake

Map Title: (06D8C) Waiharara C Drainage Area Rate

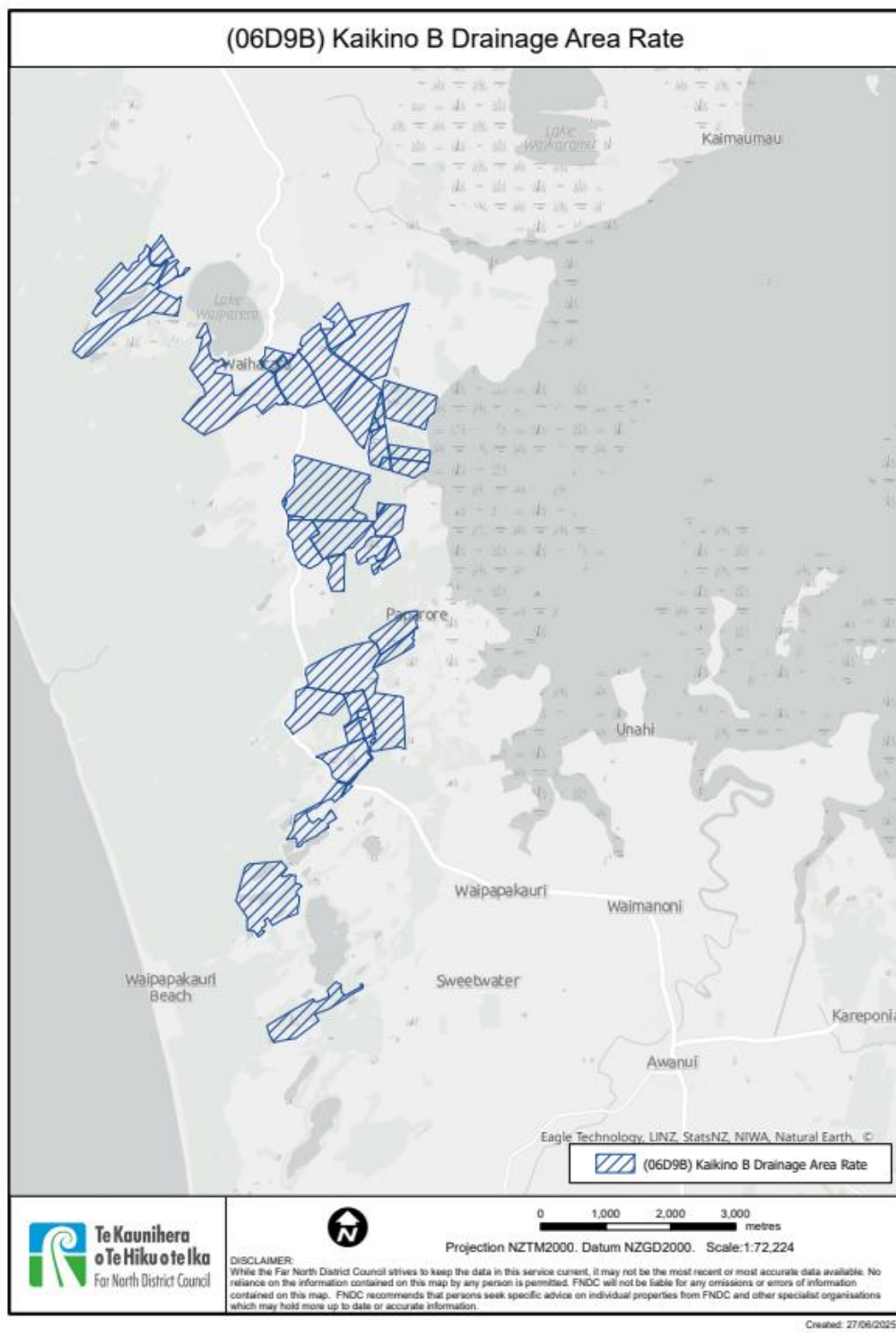


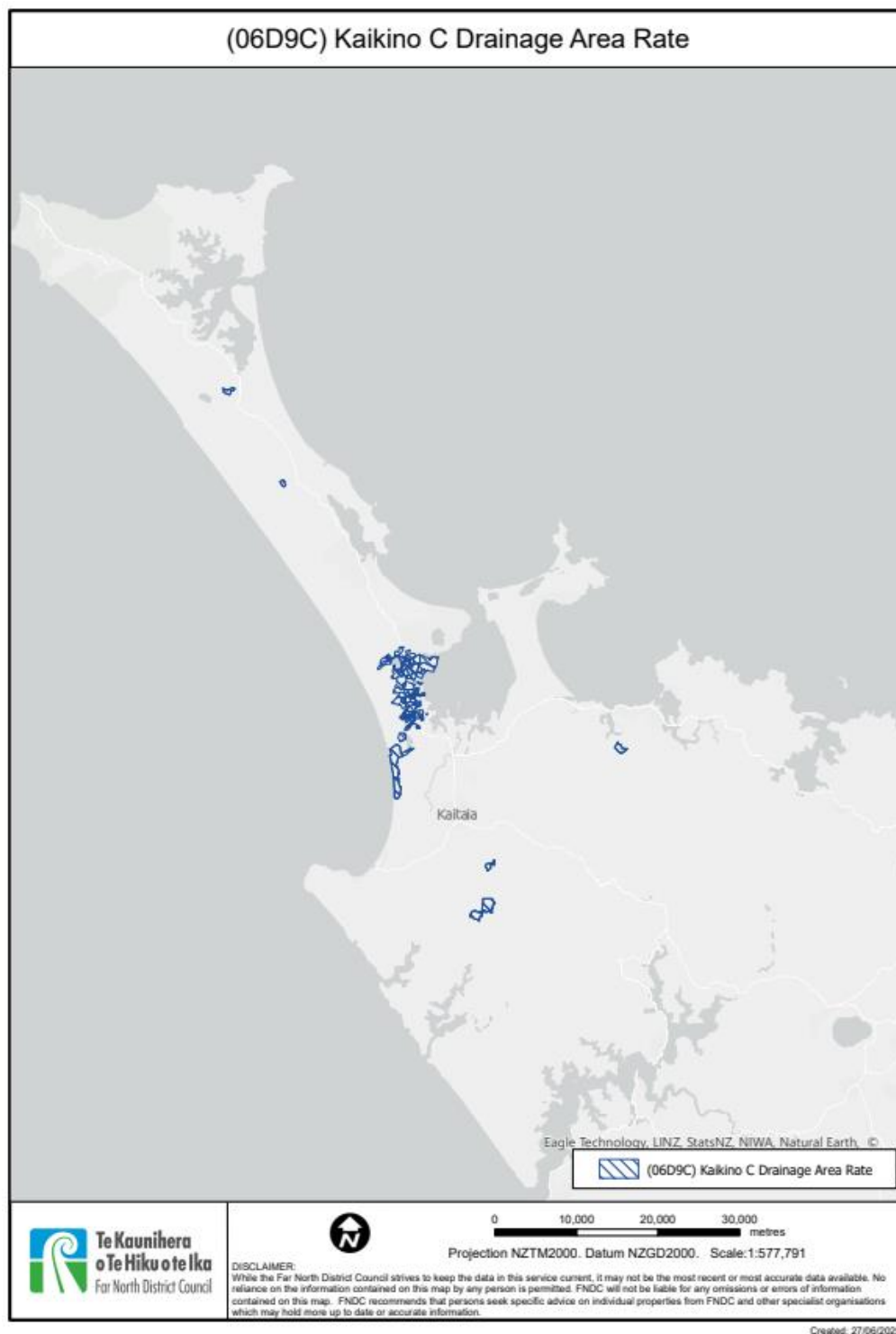


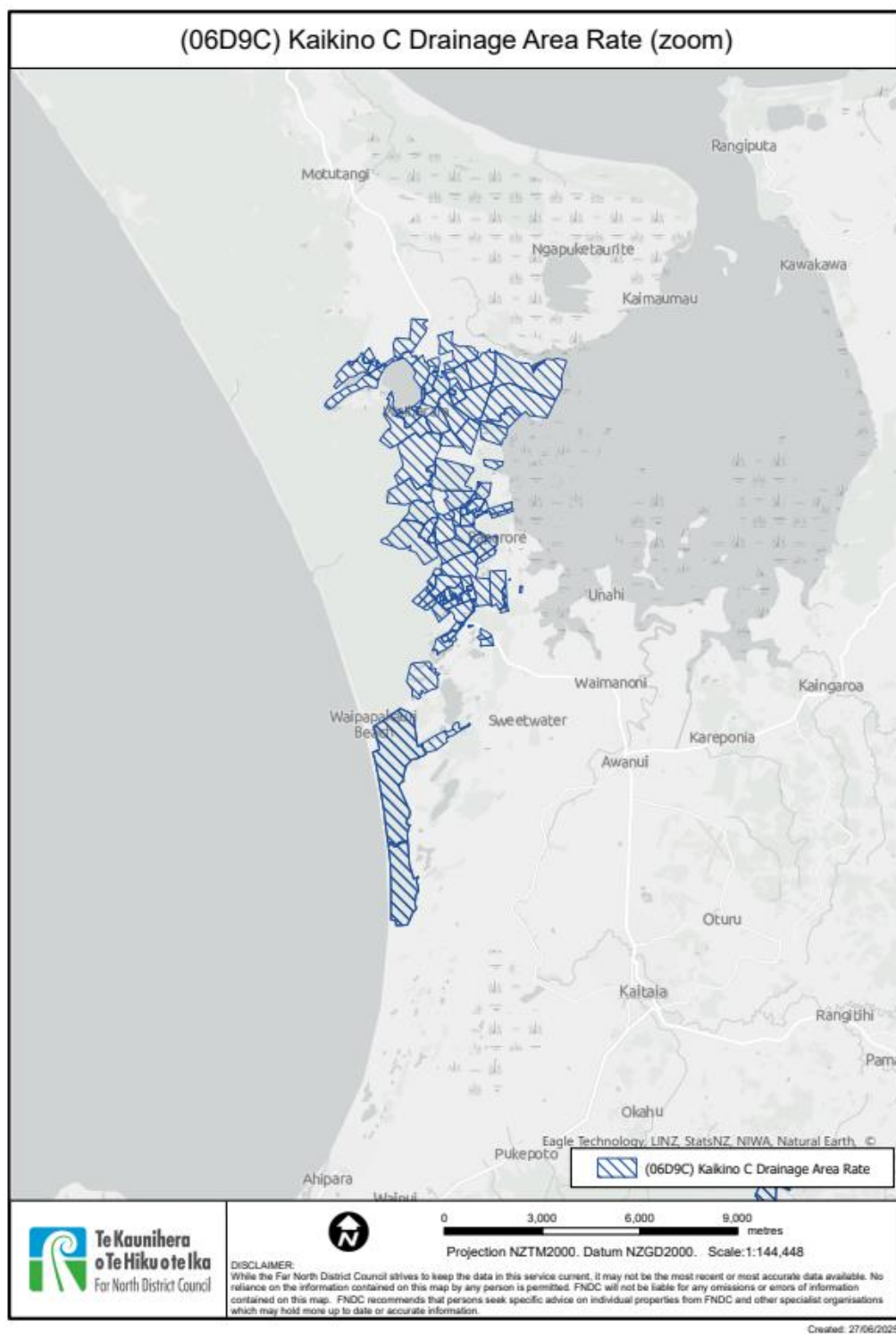
## 2.8 (06D9A) Kaikino A Drainage Area Rate



## 2.9 (06D9B) Kaikino B Drainage Area Rate

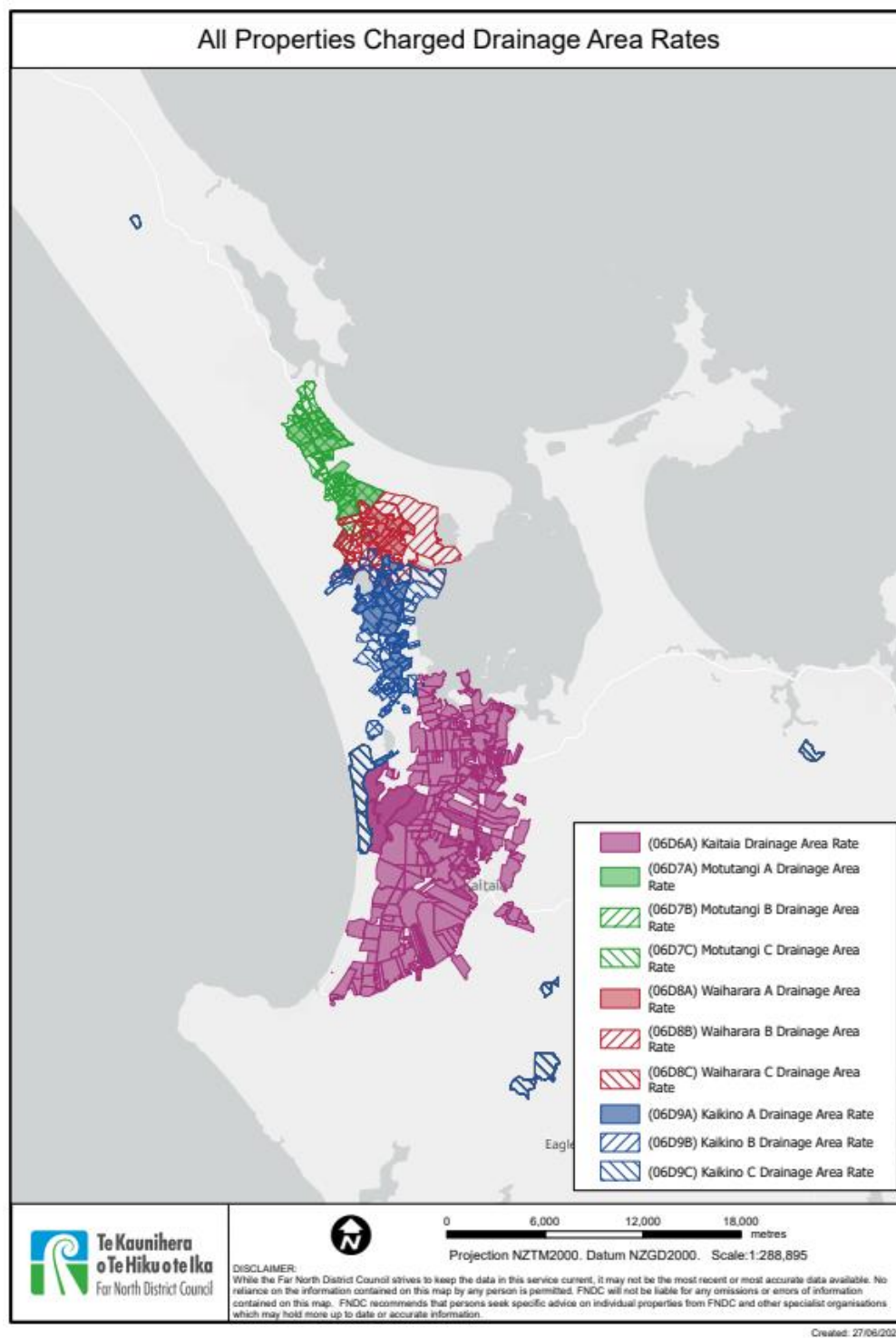


2.10 (06D9C) Kaikino C Drainage Area Rate





### 2.11 All Properties Charged Drainage Area Rate



## Land Drainage Bylaw 2019

### 1. Title

This Bylaw is the Land Drainage Bylaw 2019

### 2. Commencement

This Bylaw comes into force on the 7<sup>th</sup> day of October 2019.

### 3. Application

This Bylaw applies to land drainage areas identified in schedules to this Bylaw the Far North District.

### 4. Purpose

- 4.1 The purpose of this Bylaw is to regulate land drainage assets within land drainage areas identified in schedules to this Bylaw.
- 4.2 This Bylaw is made by the Far North District Council pursuant to section 145 and section 146(b)(iv) of the Local Government Act 2002, Part 29 of the Local Government Act 1974, the Land Drainage Act 1908, and every other enabling power and authority.
- 4.3 Note that this bylaw does not remove the need for any necessary resource consents (under the Resource Management Act 1991) from the Northland Regional Council.

### 5. Interpretation

5.1 In this Bylaw, unless the context otherwise requires -

**Authorised Person** means any person authorised in writing by the Council to act on its behalf.

**Council** means the Far North District Council. Note that this bylaw does not remove the need for any necessary resource consents (under the Resource Management Act 1991) from the Northland Regional Council.

**Drain** means that part of a Drainage Channel from the invert to the top of the bank on either side of the invert but does not include the land abutting the top of the banks of the drain.

**Drainage Assets** refers to land drainage works including drainage channels, stopbanks, flood storage areas, floodgates, overflow channels, channel throttling, and scour protection or riparian planting to throttle flows along waterways, which works are vested in the Council or acquired or constructed or operated under the control of the Council, as described in the attached Schedules and shown on the maps attached to this Bylaw and such other areas as may be included pursuant to the provisions of the Local Government Act 1974, Local Government Act 2002 and Land Drainage Act 1908.

**Drainage Channel** means every drain, passage or channel on or under the ground through which water flows, continuously or otherwise, and which –

- a) Immediately before the commencement of the Bylaw was a drainage channel under the control of the Council; or
- b) Is constructed by the Council as a drainage channel after the commencement of this Bylaw; or
- c) Is vested in the Council as a drainage channel; -

And includes the land occupied by the drain itself plus all that land abutting each side of the drain to a distance of 3.5 metres from the top of the banks of the drain, but does not include a water race.

**Land Drainage Area** means a land drainage area identified in Schedules XYZ? to this Bylaw, or any other land drainage area that the Council by resolution identifies and determines to regulate for land drainage purposes.

**Landowner** means the owner of any property, or as applied to any land, building, or premises means any person for the time being entitled to receive the rack rent of such land, building, or premises, and where the content so requires or admits the expression shall include the habitant occupier of any such land, building or premises, and where such owner is absent from New Zealand the expression shall include his attorney or agent or any other person acting for him or on his behalf.

**Obstruction** includes earth, stone, timber and material of all kinds and trees, plants, rubbish, weeds and growths of all kinds.

**Person** includes a corporation sole, a body corporate, and an unincorporated body.

**Private drain** means any drain constructed by or vested in a private owner and not managed by Council.

5.2 Any explanatory notes and attachments are for information purposes only and do not form part of this Bylaw.

5.3 The Legislation Act 2019 applies to this Bylaw.

## 6. Access to and Along Drains

6.1 Without the prior approval of Council and then only subject to such conditions as Council shall impose, no owner of any land on the banks of any drainage channel shall plant or permit to grow any tree, shrub or hedge, or erect or maintain any fence, building, bridge or other construction or make any excavation in such a position as to interfere with or obstruct the free access of Council's workmen or agents, plant or machinery along such drain or to any part thereof, for a distance of 10 metres from the edge of the drain, or such other distance as Council may specify in respect to any drain or part thereof.

6.2 No person shall construct or maintain any road or accessway for the passage of stock, machines or other vehicles along the bank of any drain under the control of Council, within 3.5 metres of the edge of the drain, without having first obtained the prior written approval of Council, which may impose any conditions it thinks fit if such consent is granted.

## 7. Private Drain Connection

7.1 No landowner shall connect a private drain with a drainage channel or enlarge a connected private drain or branches thereof, or add new branch drains thereto without obtaining the prior written approval of Council.

7.2 Any owner applying for such approval shall submit to Council such plans and specifications as may be required by Council showing the exact location of the private drain and branches (if any) giving details of the length, size and construction and indicating the approximate area to be drained.

- 7.3 Council may impose such conditions as it thinks fit upon the connection or continuance of the connection of private drains including the payment of a fee to cover the cost of inspection and report to Council relating to any such drain.

#### **8. Obstruction to Flow**

- 8.1 No person shall stop, obstruct, increase or interfere with or divert the flow of water in any drainage channel, without the prior written approval of Council.
- 8.2 No owner of the land on either side of any drainage channel shall allow, permit, or suffer to grow therein or on the banks thereof any plant growth that may be likely to impede the flow of any water in any drainage channel.
- 8.3 No owner of the land on either side of any drainage channel shall throw into the drain, or cause, permit or suffer to be thrown or to fall therein any material that may be likely to impede the flow of water in any drainage channel.
- 8.4 No person shall deposit any debris or rubbish, in or on land in the drainage channel on which, if no such impediment was created, flood water might encroach and cause a nuisance.
- 8.5 No person shall stop or obstruct any drainage channel or erect any barrier (other than required by law), buildings, structures or alter level or grades of landscapes (e.g. filling), or defence against water in or near any drainage channel; (e.g. fencing not to cause a barrier).
- 8.6 No person shall allow any private channel or watercourse to become blocked in a way which may endanger or become a hazard or impede the water flow of any drainage channel or watercourse under the control of Council.
- 8.7 No person shall allow animals, or machines or other vehicles to damage drainage assets. Grazing cattle are to be kept a minimum distance of 2 metres from any drain.
- 8.8 Any damage so caused by animals or machines shall be reported immediately to Council and any costs associated with repairing such assets shall be the responsibility of the landowner concerned.
- 8.9 Any permitted development affecting or likely to affect any drainage channel shall be designed and carried out so as to safely accommodate a 100 year storm flow, and without causing more than minor damage.

#### **9. Removal of Obstructions**

- 9.1 The Council may require the removal of any growth or other obstruction that is, or is likely to obstruct the free flow of any water in any watercourse - and in default thereof Council may do the work required and recover the cost thereof from such owner or owners.

#### **10. Alterations to Drainage Channel**

- 10.1 No person may –
- (a) Widen or deepen; or
  - (b) Stop or obstruct; or
  - (c) Alter the course of; or
  - (d) In any way interfere with,
- Any drainage channel or associated works with the prior written approval of Council.

~~shall widen or deepen a drainage channel, or stop or obstruct the same or alter the course thereof or in any way interfere with any drainage channel or associated works or structures without the prior written approval of Council.~~

#### **11. Pollution and Nuisances**

- 11.1 No person shall discharge or cause, permit or suffer to be discharged onto a drainage channel or private drain connected therewith, any liquid, gaseous or solid matter which shall be likely to be a nuisance or injurious to health or to the proper care of the drainage channel.
- 11.2 No owner or occupier of the land on either side of a drainage channel or private drain connected therewith, shall permit or suffer any dead stock or animals or any part thereof, to be or remain in any drainage channel or private drain connected therewith.

#### **12. Stopbanks**

- 12.1 No person shall erect or cause or permit to be erected any stopbank, on or along any drainage channel, without the prior written approval of Council and in accordance with such terms and conditions as Council may impose.
- 12.2 Every owner upon whose land a stopbank adjoining a drainage channel is located, whether for the protection of the land or not, shall not remove it or suffer or permit it to be removed, lowered or breached without the prior written approval of Council.

#### **13. Crossings**

- 13.1 No person shall cross or pass over a drainage channel with any vehicle, or drive any stock or convey any implement or machinery or goods or materials thereover except at crossings appointed by Council.
- 13.2 No person shall remove, ~~change or~~ construct any culvert, bridge or crossing in upon or over any drainage channel without the prior approval of Council.
- 13.3 Council may require the owner or owners of properties on which there is a drainage channel, to construct, maintain or renew crossings at places and in such manner approved by Council and in default thereof Council may do the work required and recover the cost thereof from such owner or owners.

#### **14. Watering Places**

- 14.1 No owner shall construct in any drainage channel a watering place for stock or maintain or use the same without the prior approval of Council which may impose such conditions for mode of construction and for fencing and otherwise as it decides and such consent may be suspended or revoked at any time.
- 14.2 The owner or owners of land adjoining watering places shall use and maintain the same so that no damage to the drainage channel can result from their use. In the event of damage Council may call upon the owner or owners responsible to repair the same and in default thereof may do the work and recover the cost thereof from such owner or owners.

#### **15. Damage, Maintenance and Repair**

- 15.1 No person shall injure, destroy, cause damage to or interfere with any dam, reservoir, stopbank, headworks, building or any installation connected with drainage assets, or allow, permit or suffer any stock to damage or destroy the same.

15.2 Where any drainage channel is damaged by stock, or otherwise, Council may require the owner responsible for such damage to repair such drainage channel to the satisfaction of Council and on default thereof may have the necessary repairs executed and recover the costs thereof from the said owner.

#### **16. Inspection**

16.1 ~~Council, members, officers, workmen or agents~~ An enforcement officer or authorised person shall have the power, right, and authority to inspect any installation set up for the withdrawal or diversion of water from any drainage channel, whether authorised or not and the Council may direct any alteration or improvement to or replacement of such installation or request its removal or demolition at any time.

#### **17. Obstruction to Officers**

17.1 No person, whether on private land or not, shall obstruct any ~~member, appointee, employee or agent of Council~~ enforcement officer or authorised person, with or without drain cleaning machinery or plant, in the performance of anything which such member, appointee, employee or agent is or may be required to do in the discharge of their duties.

#### **18. Penalty**

18.1 Any person who commits a breach of this Bylaw shall be liable to a fine not exceeding \$20,000 and in addition to any penalty imposed for breach of this Bylaw, Council may sue any person for the amount of damage done by them to the drainage assets and for any penalty fine or fee which is prescribed by any statutory enactment whatsoever.

#### **19. Other Requirements**

19.1 The provisions of this Bylaw do not remove the need for any resource or other consents required under the Resource Management Act 1991, Building Act 2004. Where consents are required under this chapter of this Bylaw and other acts or regulations, all shall be lodged with the Council at the same time.

#### **20. Land Drainage Areas**

20.1 ~~After consultation in accordance with the requirements of section 82 of the Local Government Act 2002 Council may identify any additional area that should be regulated for land drainage purposes and pursuant to a resolution made under section 151(2) of the Local Government Act 2002 add that area to the definition of Land Drainage Area in this Bylaw.~~

#### **Additional information to Land Drainage Bylaw 2019**

This document is for information purpose only and does not form part of this Bylaw. It contains matters made pursuant to this Bylaw and information to help users to understand, use and maintain this Bylaw.

The document may be updated at any time.

#### Section 1: History of the bylaw

Action	Description	Date of decision	Commencement
Expire	The Land Drainage Bylaw 2009 automatically revoked in October 2016.	16 October 2016	1 December 2009
Make	Land Drainage Bylaw 2019	3 October 2019	3 October 2019

#### Section 2: Related documents

Document	Description	Location	Date
<i>Reports to Council/Committee/Panels</i>			
Adoption of Statement of Proposal	Statement of Proposal including draft Bylaw adoption for public consultation	<a href="#">Statement of Proposal</a>	27 June 2019
Submissions	Public submissions on the Statement of Proposal	<a href="#">Submissions</a>	8 July 2019 – 9 August 2019; Hearing on August 22, 2019
Deliberations	Deliberations on submission issues raised		3 October 2019
?			


**Maps of 4 Drainage Areas**  
**Maps of Areas of Impact**



HE ARA TĀMATA  
CREATING GREAT PLACES  
*Supporting our people*

## Land Drainage Bylaw 2019

### Proposal

31 July 2025

#### 1 Context

There are four land drainage districts in the Far North, all situated in the Te Hiku Ward: Kaitiāia, Motutangi, Waiharara and Kaikino.

The Local Government Act gives Council the power to make bylaws to regulate the use and management of these drainage assets.

On 07 October 2019, the Land Drainage Bylaw 2019 came into place. This Bylaw was reviewed by the Council on 24 September 2024 under Section 158 of the Local Government Act 2002 and the Council decided it should continue with amendment.

Section 82A of the Local Government Act 2002 sets out the requirements for information to be made available for consultation for the proposed amended Land Drainage Bylaw. Those requirements are to provide:

- the proposal and the reasons for the proposal
- an analysis of the reasonably practicable options, including the proposal
- a draft of the proposed amended Bylaw.

#### 2 The proposal

The Council proposes to amend the Land Drainage Bylaw 2019 under sections 145 and 146 of the Local Government Act 2002 to:

- ensure Council access to drainage channels
- address connections of private drains to drainage channels
- ensure drainage channels are not obstructed or altered
- regulate stopbanks, crossings, and watering places
- cover damage, maintenance and repair to drainage assets, inspections, obstruction of officers, and penalties for breaching the Bylaw.

#### 3 Reasons for the proposal

##### Problems to be addressed

The problem stated when the Bylaw was made is that improperly managed and maintained land drainage assets can impact negatively on adjoining properties. This included:

- a) The unsafe and inefficient creation, operation, maintenance and renewal of the land drainage network;
- b) Improper hazard management to prevent or minimise flooding and erosion, minimise adverse effects on the local environment particularly freshwater ecological systems quality, and not assisting in maintaining water quality;
- c) Lack of protection of Council land drainage assets, for example, by not setting out acceptable types of connection to land drainage networks;
- d) Risks to the health and safety of council employees.



**Review findings**

Council staff identified that improperly managed and maintained land drainage assets can still impact negatively on adjoining properties.

The review identified that a bylaw is still the most appropriate way to address problems relating to the land drainage network.

The review also identified that the form of the Bylaw is not appropriate, with amendments required to provide greater certainty:

- the Bylaw should not refer to the Interpretation Act 1999, which was replaced by the Legislation Act 2019;
- maps of the drainage districts should be included in a Schedule to the Bylaw with accompanying provisions in the Bylaw applying to this Schedule (e.g. the maps in the Schedule may be amended by resolution of Council);
- while the provisions in the Bylaw appear fit for purpose, engagement and consultation with key stakeholders may identify further changes to the Bylaw.

The review found that the Bylaw does not give rise to implications under the New Zealand Bill of Rights Act 1990. However, a full assessment will need to be conducted following any possible amendments.

## 4 Analysis of the reasonably practicable options

**Option One: Continue the Bylaw without amendment**

*The current Bylaw stays in force with no changes.*

Advantages:

- Regulation of land drainage assets will continue.

Disadvantages:

- Bylaw will not be as certain (clear) as it could be.

**Option Two: Continue the Bylaw with amendment (recommended option)**

*The current Bylaw is amended.*

Advantages:

- Regulation of land drainage assets will continue.
- Bylaw will be more certain (clear).

Disadvantages:

- None identified

**Option Three: Do nothing – allow the Bylaw to revoke (expire) in two years**

*The current Bylaw will still apply until 03 October 2026 when it will automatically revoke.*

Advantages:

- None identified.

Disadvantages:

- Regulation of the land drainage assets will only continue for two more years.
- Until the Bylaw revokes, it will not be as certain (clear) as it could be.
- After the Bylaw revokes, land drainage assets will not be regulated and ad hoc decisions are likely to occur regarding the management of these assets. For regulation to continue, a new bylaw would need to be made.

**Option Four: Revoke the Bylaw**

*Revoking the Bylaw is not a reasonably practicable option.*

**Option Two was preferred by the Council**

On 24 September 2024, Council approved that the Land Drainage Bylaw 2019 should continue with amendment. Amendments to the Bylaw will make it more certain (clear).

## 5 New Zealand Bill of Rights Act 1990 implications

Part 2 of the New Zealand Bill of Rights Act 1990 sets out twenty rights that are affirmed and protected, that may only be subject to reasonable limits that can be demonstrably justified in a free and democratic society. Section 155(2)(b) of the Local Government Act 2002 requires the Council to determine if the proposed bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990. The Council will fully assess these implications before it makes amendment to the Bylaw.

A full assessment of the impact of the bylaw on these rights cannot be done until the content of the bylaw is finalised.

## 6 Proposed amendments to the Bylaw

Amendments to the Bylaw include:

- a) Correction of a typo in clause 2:  
This Bylaw comes into force on the 7<sup>th</sup> day of October 2019.
- b) Addition of a definition of "Land Drainage Area" in subclause 5.1 to ensure clarity:  
**Land Drainage Area** means a land drainage area identified in Schedule 1: Land Drainage Maps to this Bylaw, or any other land drainage area that the Council by resolution identifies and determines to regulate for land drainage purposes.
- c) Replacing the reference to the Interpretation Act 1999 with the Legislation Act 2019 in subclause 5.3.  
The ~~Interpretation Act 1999~~ **Legislation Act 2019** applies to this Bylaw.
- d) Rewording of subclause 11.1 to ensure clarity:  
~~No person shall discharge or cause, permit or suffer to be discharged onto a drainage channel or private drain connected therewith, any liquid, gaseous or solid matter which shall be likely to be a nuisance or injurious to health or to the proper care of the drainage channel. may –~~  
  - (a) Widen or deepen; or
  - (b) Stop or obstruct; or
  - (c) Alter the course of; or
  - (d) In any way interfere with,**Any drainage channel or associated works with the prior written approval of Council.**
- e) Addition of wording to subclause 13.2 to ensure clarity:  
No person shall **remove, change** or construct any culvert, bridge or crossing in upon or over any drainage channel without the prior approval of Council.
- f) Rewording of subclause 16.1 to ensure clarity:  
~~Council, members, officers, workmen or agents~~ **An enforcement officer or authorised person** shall have the power, right, and authority to inspect any installation set up for the withdrawal or diversion of water from any drainage channel, whether authorised or not and the Council may direct any alteration or improvement to or replacement of such installation or request its removal or demolition at any time.
- g) Rewording of subclause 17.1 to ensure clarity:  
No person, whether on private land or not, shall obstruct any ~~member, appointee, employee or agent of Council~~ **enforcement officer or authorised person**, with or without drain cleaning machinery or plant, in the performance of anything which such member, appointee, employee or agent is or may be required to do in the discharge of their duties.
- h) An addition to clause 20. Land Drainage Areas:  
**20. Land Drainage Areas**  
**20.1** The provisions of this Bylaw do not remove the need for any resource or other consents required under the Resource Management Act 1991, Building Act 2004. Where consents are required under this chapter of this Bylaw and other acts or regulations, all shall be lodged with the Council at the same time.
- i) Maps have been created from new maps created by our GIS team to increase accuracy from previous maps. Maps that show the properties charged drainage area rate are also within this schedule. These will be added to a separate Schedule as:  
**Schedule 1: Land Drainage Maps.**

The proposed amended Bylaw is included in section 8 of this proposal. Schedule 1: Land Drainage Maps can

be found following the bylaw in Section 8.

After getting feedback from Te Hiku Community Board and the Land Drainage Committees, other amendments were considered but not made. These included:

- a) Adding floodgates to areas covered under section 146 of the Local Government Act 2002 was suggested. The Council is unable to change the wording of legislation. However, as floodgates are a land drainage asset, they will be covered by this bylaw.
- b) Regarding whether the bylaw should still be made under the Local Government Act 1974. Part 29 of the Local Government Act 1974 remains in force, including section 517 that allows Council to make a range of bylaws relating to the protection of drainage channels. Whereas section 146(1)(b)(iv) of the Local Government Act 2002 provides broad authority for a bylaw managing, regulating, and protecting land drainage, the provisions of the Local Government Act 1974 allow for specific prohibitions and regulations. This can provide useful and clear authority for specific provisions in the Bylaw. For example, clause ten that prohibits alterations to a drainage channel without Council approval is directly and specifically authorised by section 517(h) of the Local Government Act 1974. Staff consider it both appropriate and useful to continue to cite Part 29 of the Local Government Act 1974 as an enabling authority for the Bylaw.
- c) Regarding changing the measurements of drainage channels and access lanes. Infrastructure and compliance have given feedback that the current measurements given in the Bylaw are appropriate and as such do not require amendment.
- d) Regarding Section 18 and the \$20,000 penalty not being big enough for big avocado orchards costing \$20 to \$30 million, and whether wording should be changed to \$20k per breach instead of for breach.

The penalties applicable to breach of a bylaw are limited to those permitted by statute. Section 242(4) of the Local Government Act 2002 states that a person convicted of an offence against a bylaw is liable to a fine not exceeding \$20,000. Unlike similar offence provisions in other statutes (e.g. the Resource Management Act), there is no further penalty for continuing offences, which would increase the penalty risk that deters those who commit offenders. This means that regardless of the wording of the clause, a further penalty can only be imposed on a subsequent conviction for a repeat offence.

Of note is that section 176 of the Local Government Act, which applies to a person convicted of an offence against a bylaw, allows the Council to recover the costs of any damage caused in the course of committing the offence. The Court assesses those costs, which are recoverable as if they were a fine.

## 7 How to give your views on the proposal

The Council encourages any person or organisation affected by or having an interest in the Land Drainage Bylaw 2019 to present their views on the proposal to the Council by making a submission. Submissions can be made by using any of the following methods:

- online at the Council's website [www.fndc.govt.nz/have-your-say](http://www.fndc.govt.nz/have-your-say)
- email your submission to [submissions@fndc.govt.nz](mailto:submissions@fndc.govt.nz)  
drop-off your submission at any Council service centre or library, details of their locations and opening times are listed at [www.fndc.govt.nz/contact](http://www.fndc.govt.nz/contact) or you can get that information by phoning the Council on 0800 920 029
- post your submission to: Strategy Development Team, Far North District Council, Private Bag 752, Kaikohe 0440
- make an oral presentation of your submission at a Council meeting.

Please include your full name and email address or postal address in your submission if you want:

- the Council to acknowledge receipt of your submission
- to make an oral presentation – you will be contacted about when and where the meetings for this are taking place.

Consultation will take place between 01 August and 29 August 2025. Those interested in supporting their submission orally will be contacted with a date and time following the four-week consultation period.

### Privacy statement

Please be aware, any submissions that are made on the amended Land Drainage Bylaw become part of the public consultation process. As such, all submissions, any summaries of submissions, and any documents provided with your submission, are copied and made available to the Council's governing body as well as the public. Any personal information included with a submission such as your name is treated as part of the submission and will also be released publicly. Your submission and any personal information that you supply such as your name will not be treated as confidential unless you specifically request it in your submission.

## 8 Draft Amended Land Drainage Bylaw and Schedule 1: Land Drainage Maps

### 1. Title

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This Bylaw is the Land Drainage Bylaw 2019

### 2. Commencement

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This Bylaw came into force on the 7<sup>th</sup> day of October 2019.

### 3. Application

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This Bylaw applies to land drainage areas in the Far North District as identified in Schedule 1 of this Bylaw.

### 4. Purpose

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- 4.1 The purpose of this Bylaw is to regulate land drainage assets within land drainage areas identified in schedules to this Bylaw.
- 4.2 This Bylaw is made by the Far North District Council pursuant to section 145 and section 146(b)(iv) of the Local Government Act 2002, Part 29 of the Local Government Act 1974, the Land Drainage Act 1908, and every other enabling power and authority.
- 4.3 Note that this bylaw does not remove the need for any necessary resource consents (under the Resource Management Act 1991) from the Northland Regional Council.

### 5. Interpretation

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- 5.1 In this Bylaw, unless the context otherwise requires -

**Authorised Person** means any person authorised in writing by the Council to act on its behalf.

**Council** means the Far North District Council. Note that this bylaw does not remove the need for any necessary resource consents (under the Resource Management Act 1991) from the Northland Regional Council.

**Drain** means that part of a Drainage Channel from the invert to the top of the bank on either side of the invert but does not include the land abutting the top of the banks of the drain.

**Drainage Assets** refers to land drainage works including drainage channels, stopbanks, flood storage areas, floodgates, overflow channels, channel throttling, and scour protection or riparian planting to throttle flows along waterways, which works are vested in the Council or acquired or constructed or operated under the control of the Council, as described in the attached Schedules and shown on the maps attached to this Bylaw and such other areas as may be included pursuant to the provisions of the Local Government Act 1974, Local Government Act 2002 and Land Drainage Act 1908.

**Drainage Channel** means every drain, passage or channel on or under the ground through which water flows, continuously or otherwise, and which -

- a) Immediately before the commencement of the Bylaw was a drainage channel under the control of the Council; or

- b) Is constructed by the Council as a drainage channel after the commencement of this Bylaw; or
- c) Is vested in the Council as a drainage channel; -

And includes the land occupied by the drain itself plus all that land abutting each side of the drain to a distance of 3.5 metres from the top of the banks of the drain, but does not include a water race.

**Land Drainage Area** means a land drainage area identified in Schedule 1: Land Drainage Maps to this Bylaw, or any other land drainage area that the Council by resolution identifies and determines to regulate for land drainage purposes.

**Landowner** means the owner of any property, or as applied to any land, building, or premises means any person for the time being entitled to receive the rack rent of such land, building, or premises, and where the content so requires or admits the expression shall include the habitant occupier of any such land, building or premises, and where such owner is absent from New Zealand the expression shall include his attorney or agent or any other person acting for him or on his behalf.

**Obstruction** includes earth, stone, timber and material of all kinds and trees, plants, rubbish, weeds and growths of all kinds.

**Person** includes a corporation sole, a body corporate, and an unincorporated body.

**Private drain** means any drain constructed by or vested in a private owner and not managed by Council.

5.2 Any explanatory notes and attachments are for information purposes only and do not form part of this Bylaw.

5.3 The Legislation Act 2019 applies to this Bylaw.

## 6. Access to and Along Drains

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- 6.1 Without the prior approval of Council and then only subject to such conditions as Council shall impose, no owner of any land on the banks of any drainage channel shall plant or permit to grow any tree, shrub or hedge, or erect or maintain any fence, building, bridge or other construction or make any excavation in such a position as to interfere with or obstruct the free access of Council's workmen or agents, plant or machinery along such drain or to any part thereof, for a distance of 10 metres from the edge of the drain, or such other distance as Council may specify in respect to any drain or part thereof.
- 6.2 No person shall construct or maintain any road or accessway for the passage of stock, machines or other vehicles along the bank of any drain under the control of Council, within 3.5 metres of the edge of the drain, without having first obtained the prior written approval of Council, which may impose any conditions it thinks fit if such consent is granted.

## 7. Private Drain Connection

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- 7.1 No landowner shall connect a private drain with a drainage channel or enlarge a connected private drain or branches thereof, or add new branch drains thereto without obtaining the prior written approval of Council.
- 7.2 Any owner applying for such approval shall submit to Council such plans and specifications as may be required by Council showing the exact location of the private drain and branches (if any) giving details of the length, size and construction and indicating the approximate area to be drained.
- 7.3 Council may impose such conditions as it thinks fit upon the connection or continuance of the connection of private drains including the payment of a fee to cover the cost of inspection and report to Council relating to any such drain.

## 8. Obstruction to Flow

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- 8.1 No person shall stop, obstruct, increase or interfere with or divert the flow of water in any drainage channel, without the prior written approval of Council.
- 8.2 No owner of the land on either side of any drainage channel shall allow, permit, or suffer to grow therein or on the banks thereof any plant growth that may be likely to impede the flow of any water in any drainage channel.
- 8.3 No owner of the land on either side of any drainage channel shall throw into the drain, or cause, permit or suffer to be thrown or to fall therein any material that may be likely to impede the flow of water in any drainage channel.
- 8.4 No person shall deposit any debris or rubbish, in or on land in the drainage channel on which, if no such impediment was created, flood water might encroach and cause a nuisance.
- 8.5 No person shall stop or obstruct any drainage channel or erect any barrier (other than required by law), buildings, structures or alter level or grades of landscapes (e.g. filling), or defence against water in or near any drainage channel; (e.g. fencing not to cause a barrier).
- 8.6 No person shall allow any private channel or watercourse to become blocked in a way which may endanger or become a hazard or impede the water flow of any drainage channel or watercourse under the control of Council.
- 8.7 No person shall allow animals, or machines or other vehicles to damage drainage assets. Grazing cattle are to be kept a minimum distance of 2 metres from any drain.
- 8.8 Any damage so caused by animals or machines shall be reported immediately to Council and any costs associated with repairing such assets shall be the responsibility of the landowner concerned.
- 8.9 Any permitted development affecting or likely to affect any drainage channel shall be designed and carried out so as to safely accommodate a 100 year storm flow, and without causing more than minor damage.

## 9. Removal of Obstructions

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- 9.1 The Council may require the removal of any growth or other obstruction that is, or is likely to obstruct the free flow of any water in any watercourse - and in default thereof Council may do the work required and recover the cost thereof from such owner or owners.

## 10. Alterations to Drainage Channel

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- 10.1 No person shall widen or deepen a drainage channel, or stop or obstruct the same or alter the course thereof or in any way interfere with any drainage channel or associated works or structures without the prior written approval of Council.

## 11. Pollution and Nuisances

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- 11.1 No person may –
  - (a) Widen or deepen; or
  - (b) Stop or obstruct; or
  - (c) Alter the course of; or
  - (d) In any way interfere with,Any drainage channel or associated works with the prior written approval of Council.
- 11.2 No owner or occupier of the land on either side of a drainage channel or private drain connected therewith, shall permit or suffer any dead stock or animals or any part thereof, to be or remain in any drainage channel or private drain connected therewith.

## 12. Stopbanks

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- 12.1 No person shall erect or cause or permit to be erected any stopbank, on or along any drainage channel, without the prior written approval of Council and in accordance with such terms and conditions as Council may impose.
- 12.2 Every owner upon whose land a stopbank adjoining a drainage channel is located, whether for the protection of the land or not, shall not remove it or suffer or permit it to be removed, lowered or breached without the prior written approval of Council.

## 13. Crossings

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- 13.1 No person shall cross or pass over a drainage channel with any vehicle, or drive any stock or convey any implement or machinery or goods or materials thereover except at crossings appointed by Council.
- 13.2 No person shall remove, change or construct any culvert, bridge or crossing in upon or over any drainage channel without the prior approval of Council.
- 13.3 Council may require the owner or owners of properties on which there is a drainage channel, to construct, maintain or renew crossings at places and in such manner approved by Council and in default thereof Council may do the work required and recover the cost thereof from such owner or owners.

## 14. Watering Places

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- 14.1 No owner shall construct in any drainage channel a watering place for stock or maintain or use the same without the prior approval of Council which may impose such conditions for mode of construction and for fencing and otherwise as it decides and such consent may be suspended or revoked at any time.
- 14.2 The owner or owners of land adjoining watering places shall use and maintain the same so that no damage to the drainage channel can result from their use. In the event of damage Council may call upon the owner or owners responsible to repair the same and in default thereof may do the work and recover the cost thereof from such owner or owners.

## 15. Damage, Maintenance and Repair

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- 15.1 No person shall injure, destroy, cause damage to or interfere with any dam, reservoir, stopbank, headworks, building or any installation connected with drainage assets, or allow, permit or suffer any stock to damage or destroy the same.
- 15.2 Where any drainage channel is damaged by stock, or otherwise, Council may require the owner responsible for such damage to repair such drainage channel to the satisfaction of Council and on default thereof may have the necessary repairs executed and recover the costs thereof from the said owner.

## 16. Inspection

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- 16.1 An enforcement officer or authorised person shall have the power, right, and authority to inspect any installation set up for the withdrawal or diversion of water from any drainage channel, whether authorised or not and the Council may direct any alteration or improvement to or replacement of such installation or request its removal or demolition at any time.

## 17. Obstruction to Officers

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- 17.1 No person, whether on private land or not, shall obstruct any enforcement officer or authorised person, with or without drain cleaning machinery or plant, in the performance of anything which



such member, appointee, employee or agent is or may be required to do in the discharge of their duties.

## 18. Penalty

- 18.1 Any person who commits a breach of this Bylaw shall be liable to a fine not exceeding \$20,000 and in addition to any penalty imposed for breach of this Bylaw, Council may sue any person for the amount of damage done by them to the drainage assets and for any penalty fine or fee which is prescribed by any statutory enactment whatsoever.

## 19. Other Requirements

- 19.1 The provisions of this Bylaw do not remove the need for any resource or other consents required under the Resource Management Act 1991, Building Act 2004. Where consents are required under this chapter of this Bylaw and other acts or regulations, all shall be lodged with the Council at the same time.

## 20. Land Drainage Areas

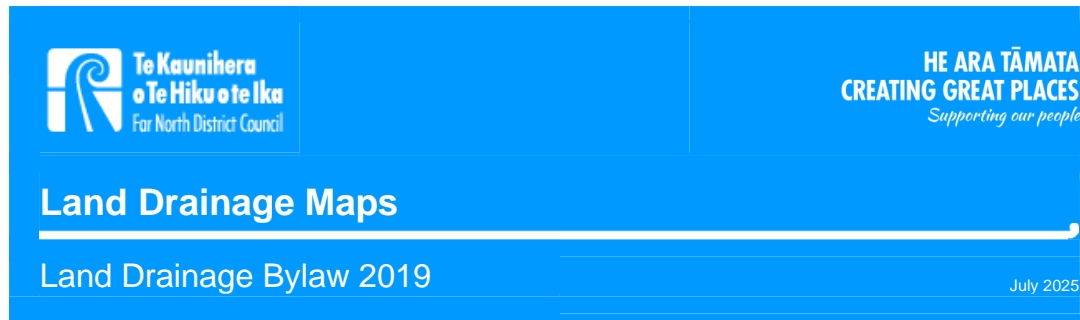
- 20.1 After consultation in accordance with the requirements of section 82 of the Local Government Act 2002 Council may identify any additional area that should be regulated for land drainage purposes and pursuant to a resolution made under section 151(2) of the Local Government Act 2002 add that area to the definition of Land Drainage Area in this Bylaw.

## Additional information

The history of the bylaw is for information purposes only and does not form part of this Bylaw.

### History of the Bylaw

Action	Commencement
Made	03 October 2019
Reviewed	24 September 2024
Decision to amend Bylaw	24 September 2024
Amendment approved	
Next review	



## List of Maps

### 1. 3Waters - Drainage Areas

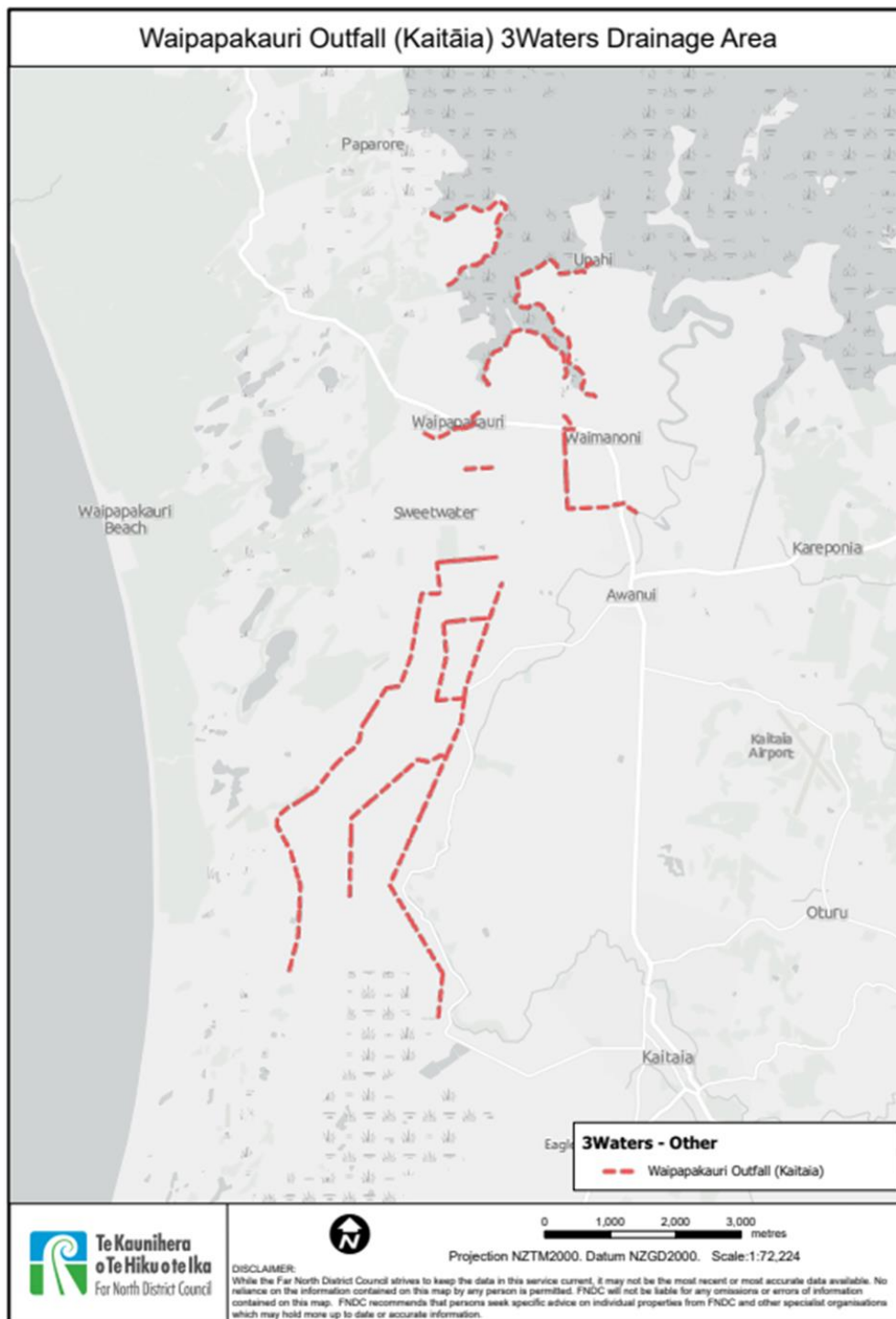
- 1.1 Waipapakauri Outfall (Kaitāia)
- 1.2 Pukepoto Outfall (Kaitāia)
- 1.3 Motutangi (Northern)
- 1.4 Lower Awanui (Kaitāia)
- 1.5 Kaikino (Northern)
- 1.6 Tangonge (Kaitāia)
- 1.7 Kaitāia (Kaitāia)
- 1.8 Waiharara (Northern)
- 1.9 Puckeys Outfall (Kaitāia)
- 1.10 Whangatane (Kaitāia)
- 1.11 Wairoa (Kaitāia)
- 1.12 All Drainage Areas

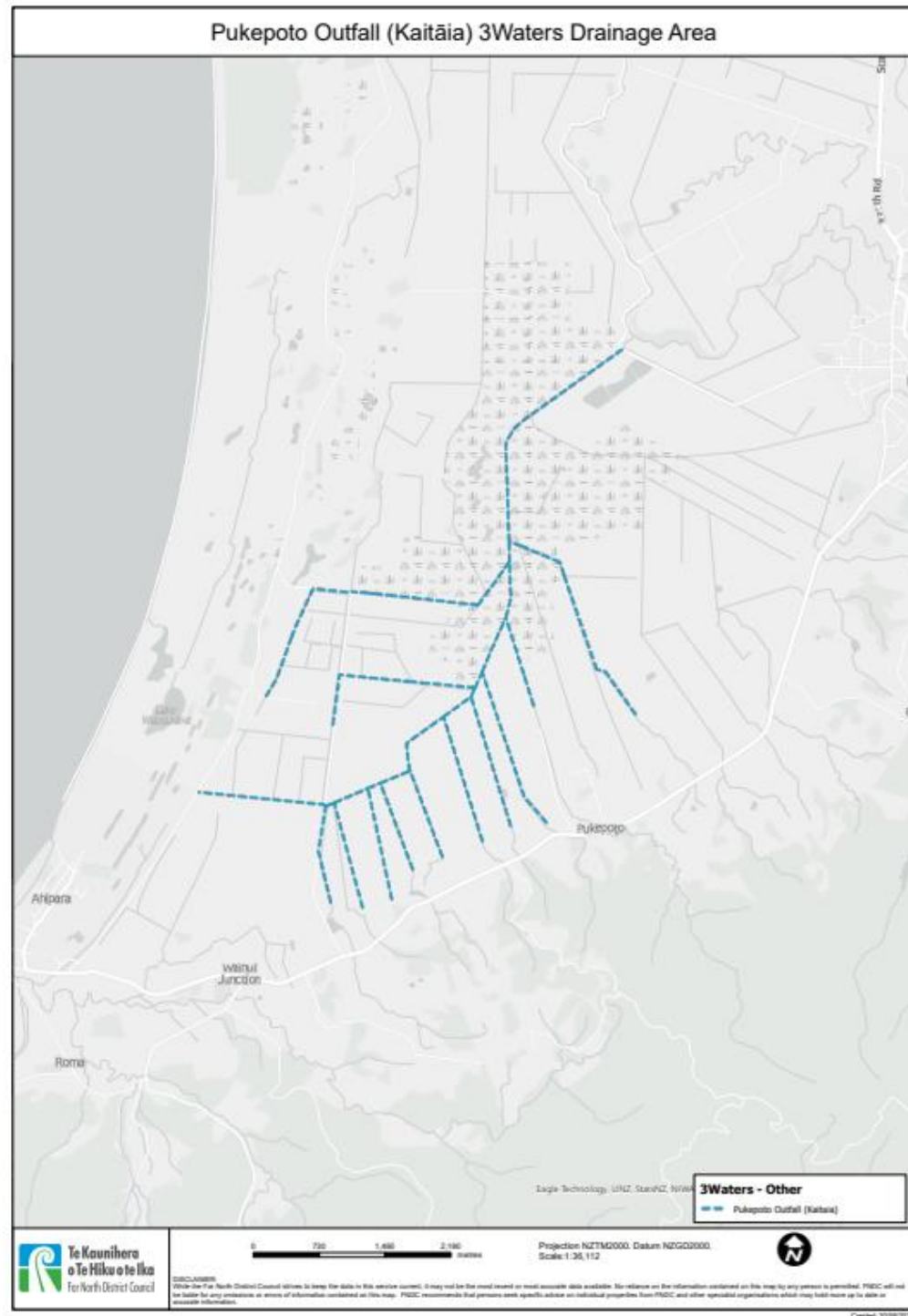
### 2. Properties Charged Drainage Area Rates (FNDC)

- 2.1 (06D6A) Kaitāia Drainage Area Rate
- 2.2 (06D7A) Motutangi A Drainage Area Rate
- 2.3 (06D7B) Motutangi B Drainage Area Rate
- 2.4 (06D7C) Motutangi C Drainage Area Rate
- 2.5 (06D8A) Waiharara A Drainage Area Rate
- 2.6 (06D8B) Waiharara B Drainage Area Rate
- 2.7 (06D8C) Waiharara C Drainage Area Rate
- 2.8 (06D9A) Kaikino A Drainage Area Rate
- 2.9 (06D9B) Kaikino B Drainage Area Rate
- 2.10 (06D9C) Kaikino C Drainage Area Rate
- 2.11 All Properties Charged Drainage Area Rate

## 1. 3Waters - Drainage Areas

### 1.1 Waipapakauri Outfall (Kaitiāia)

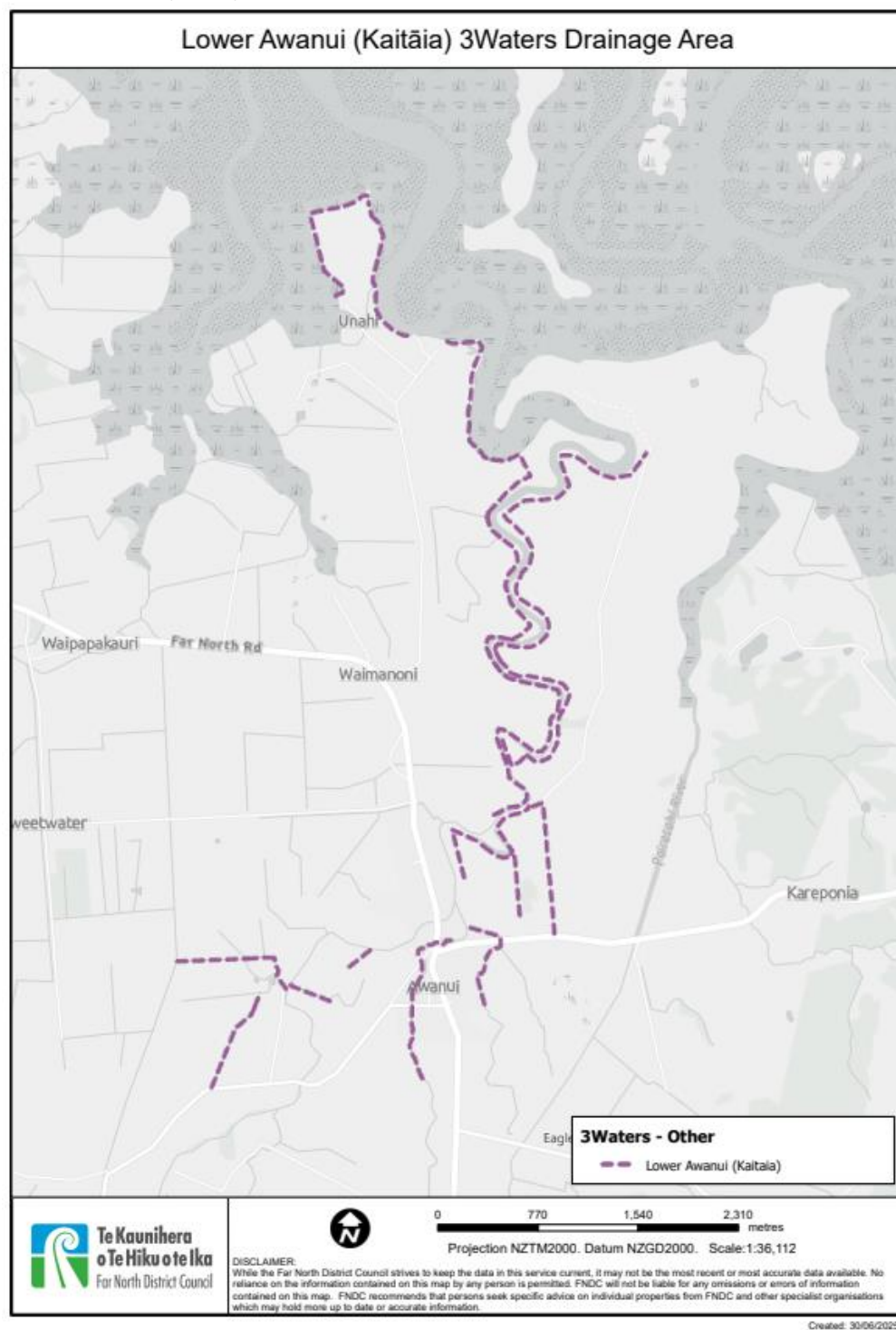


1.2 Pukepoto Outfall (Kaitiāia)

## 1.3 Motutangi (Northern)

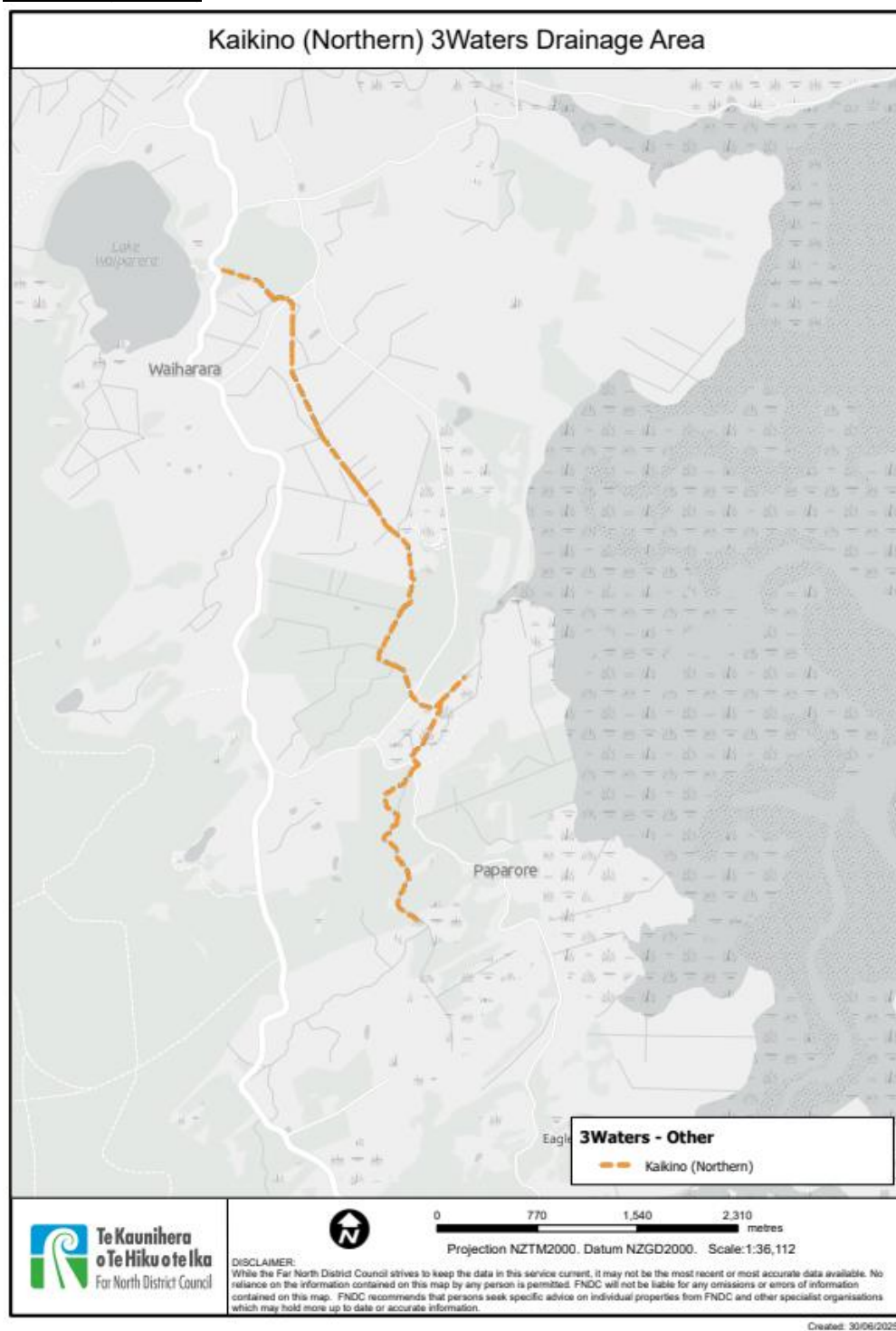


## 1.4 Lower Awanui (Kaitāia)



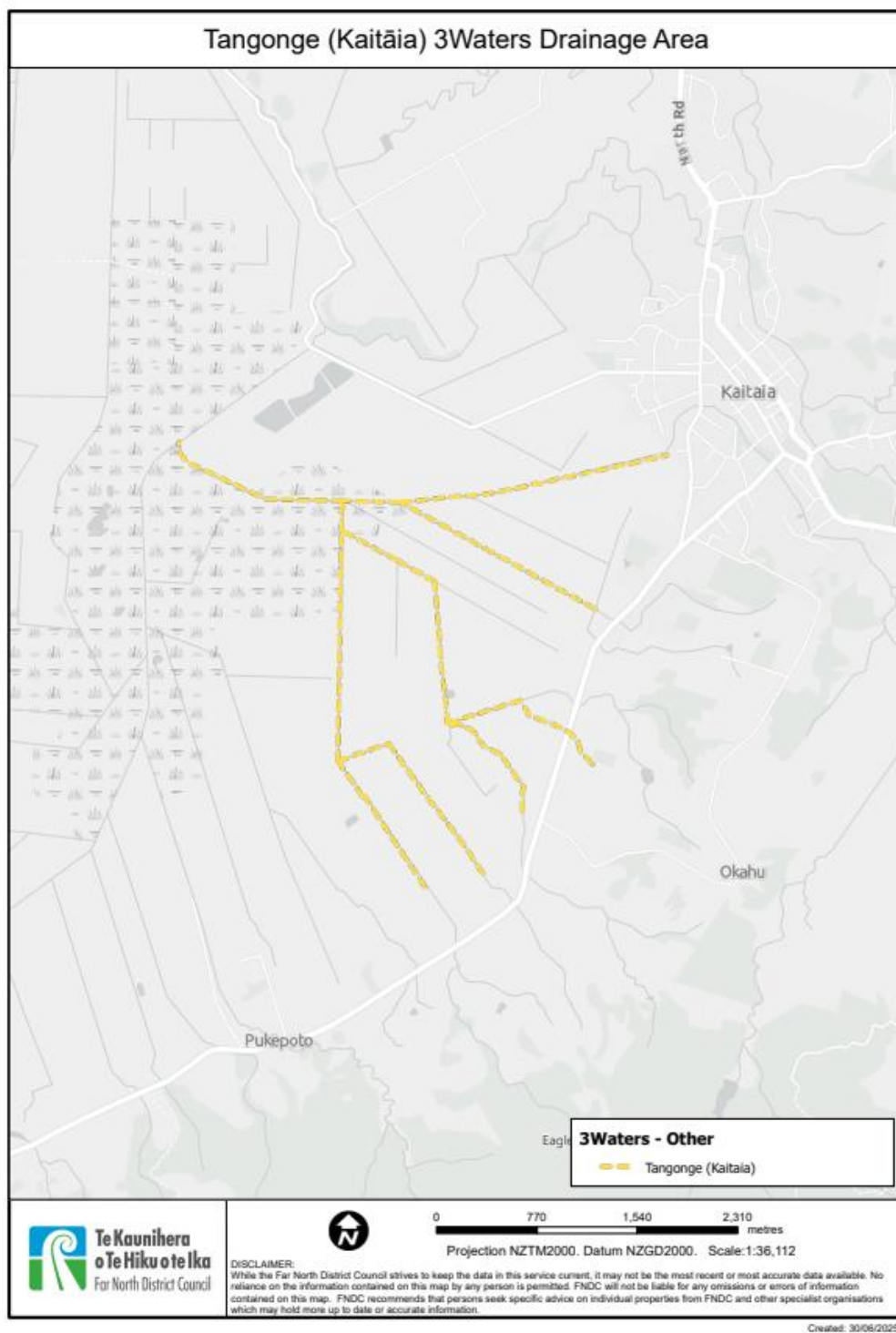


## 1.5 Kaikino (Northern)

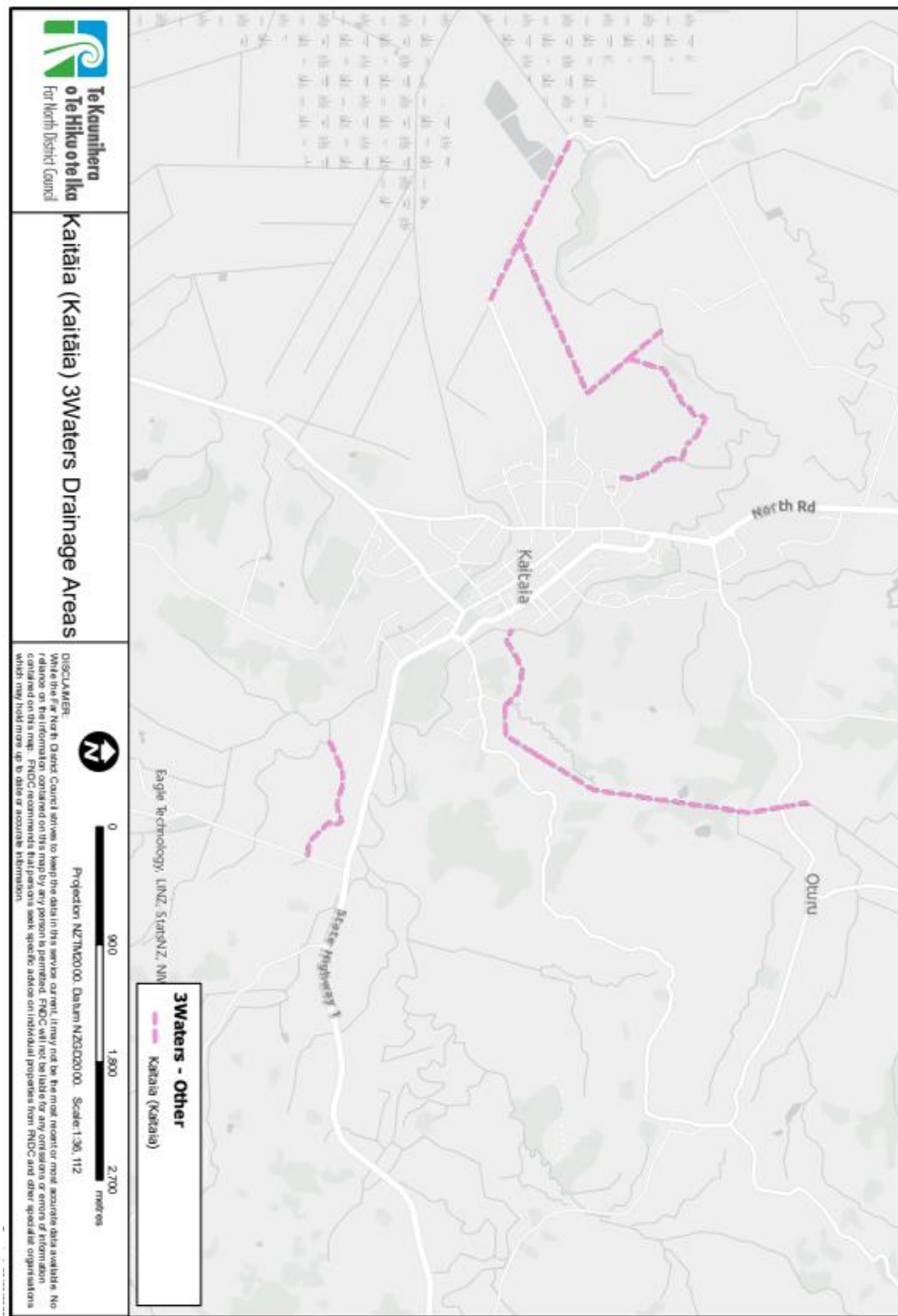




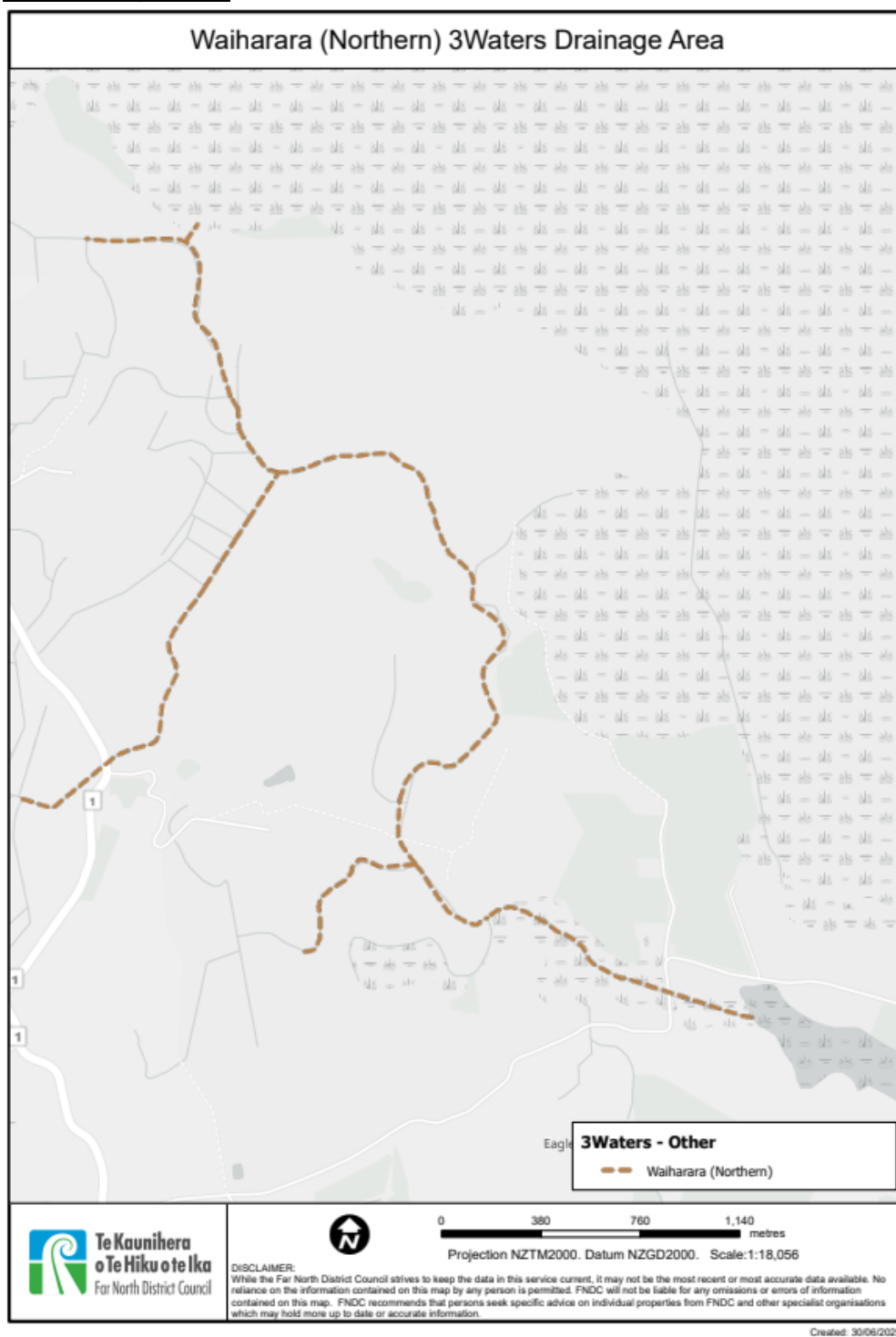
## 1.6 Tangonge (Kaitāia)



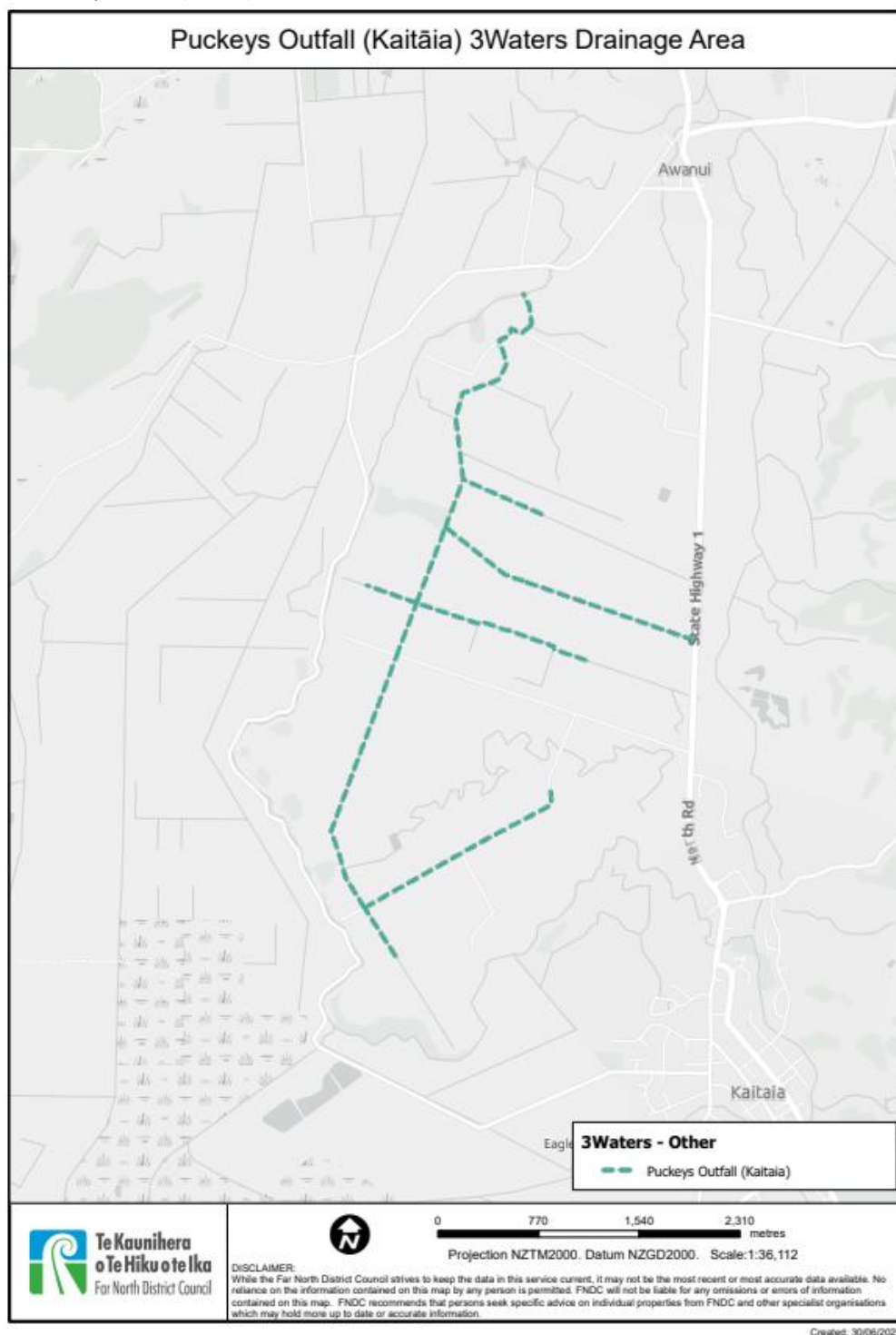
## 1.7 Kaitāia (Kaitāia)



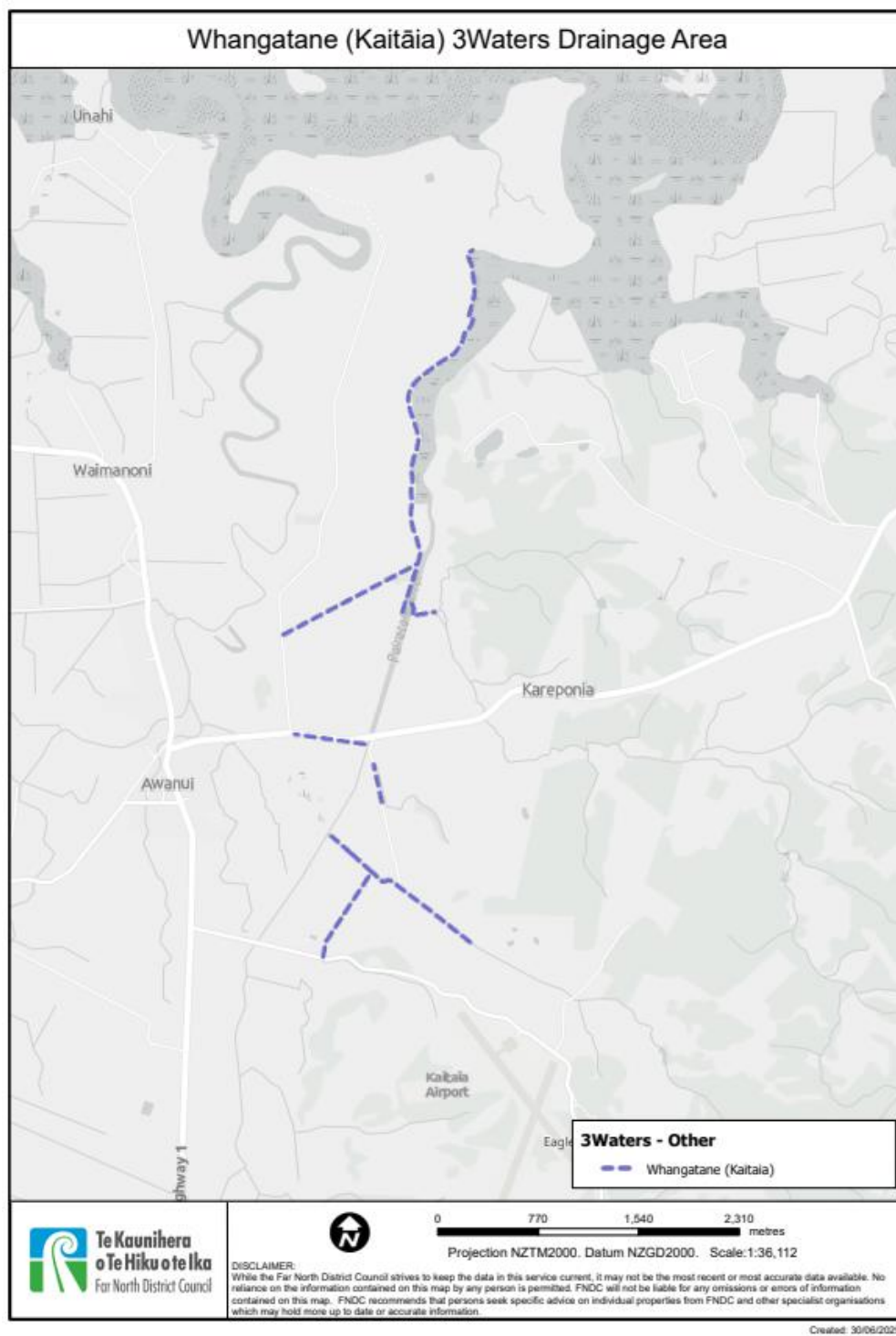
## 1.8 Waiharara (Northern)



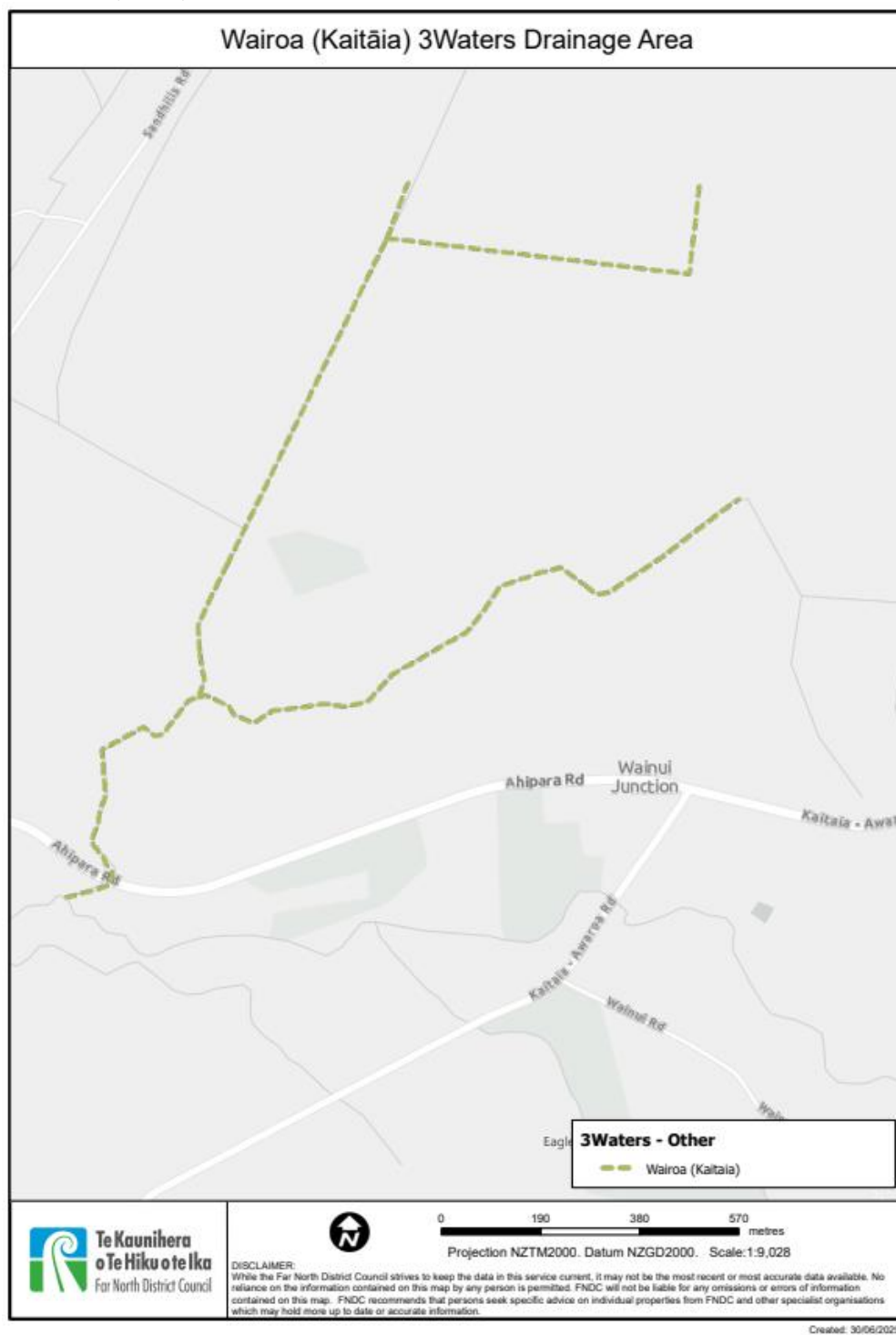
## 1.9 Puckeys Outfall (Kaitiāia)



## 1.10 Whangatane (Kaitāia)

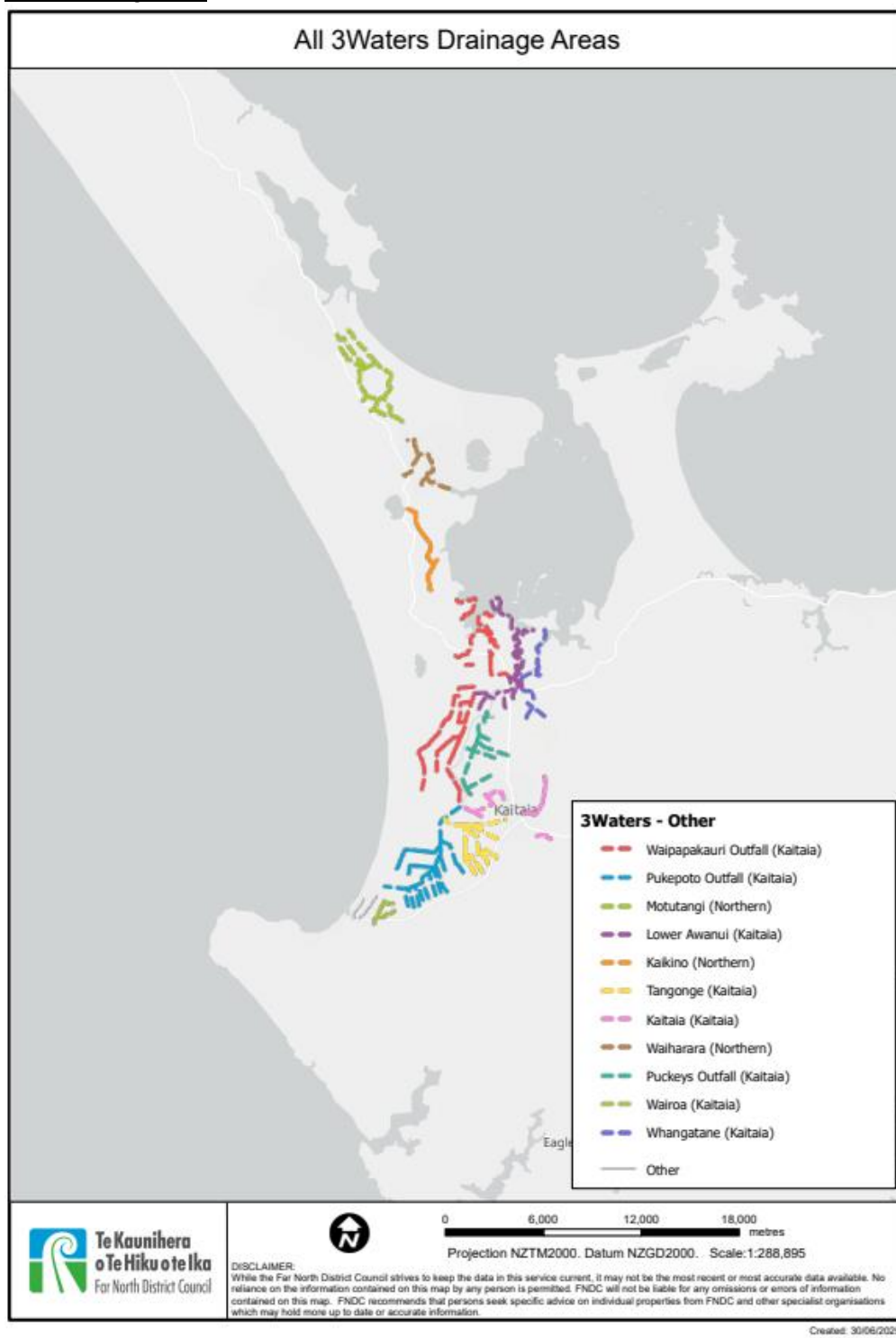


## 1.11 Wairoa (Kaitiāia)





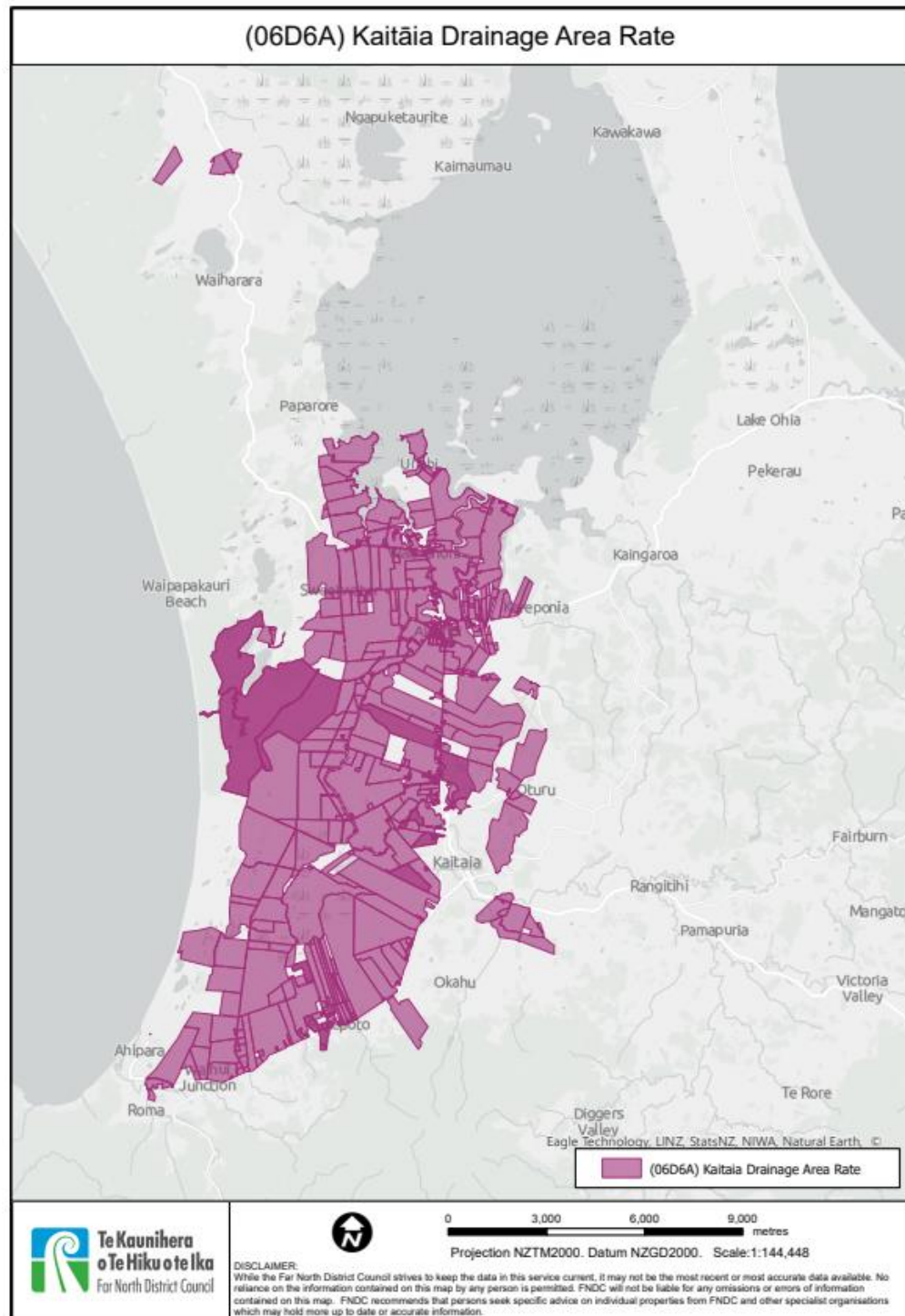
## 1.12 All Drainage Areas



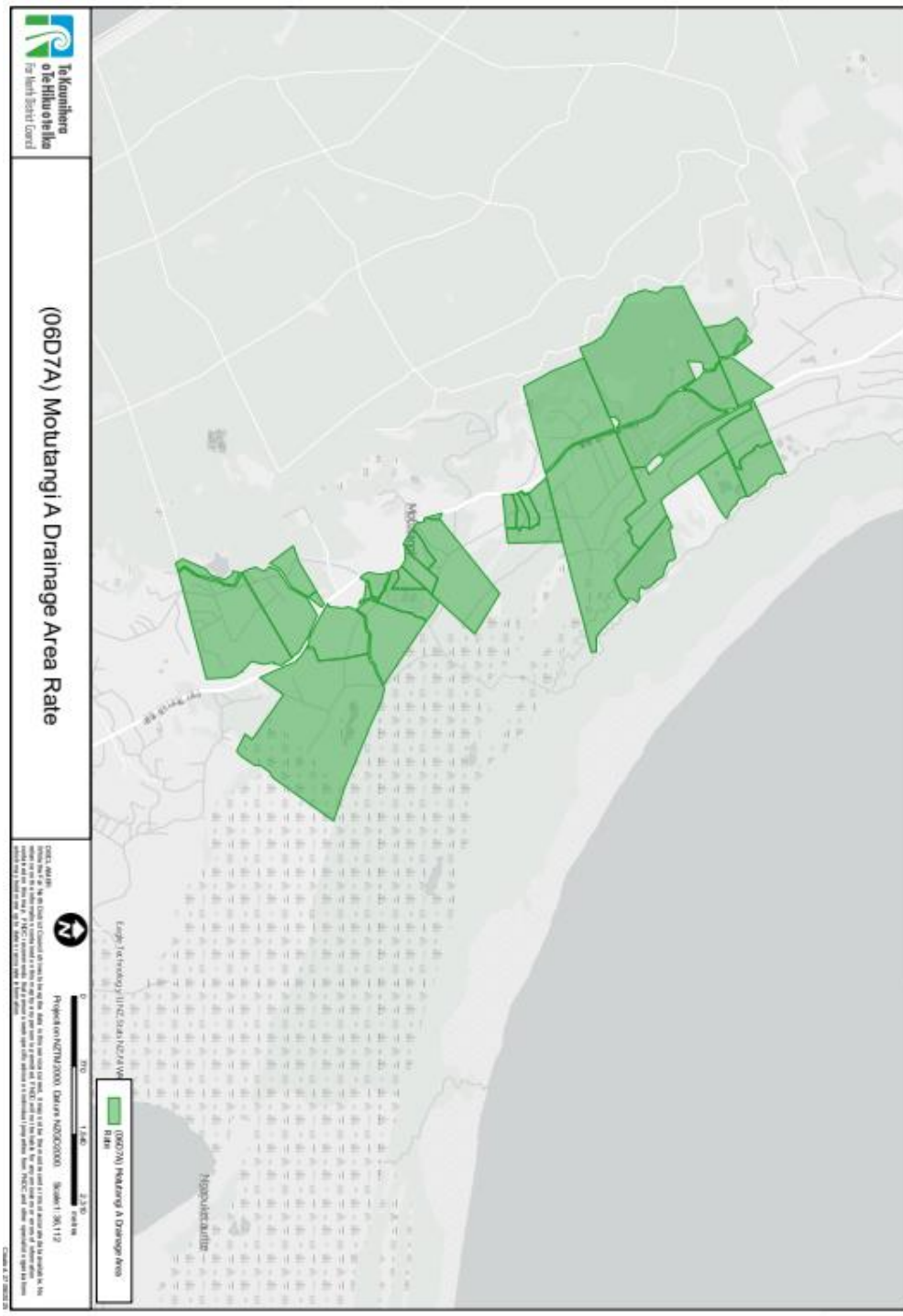


## 2. Properties Charged Drainage Area Rates (FNDC)

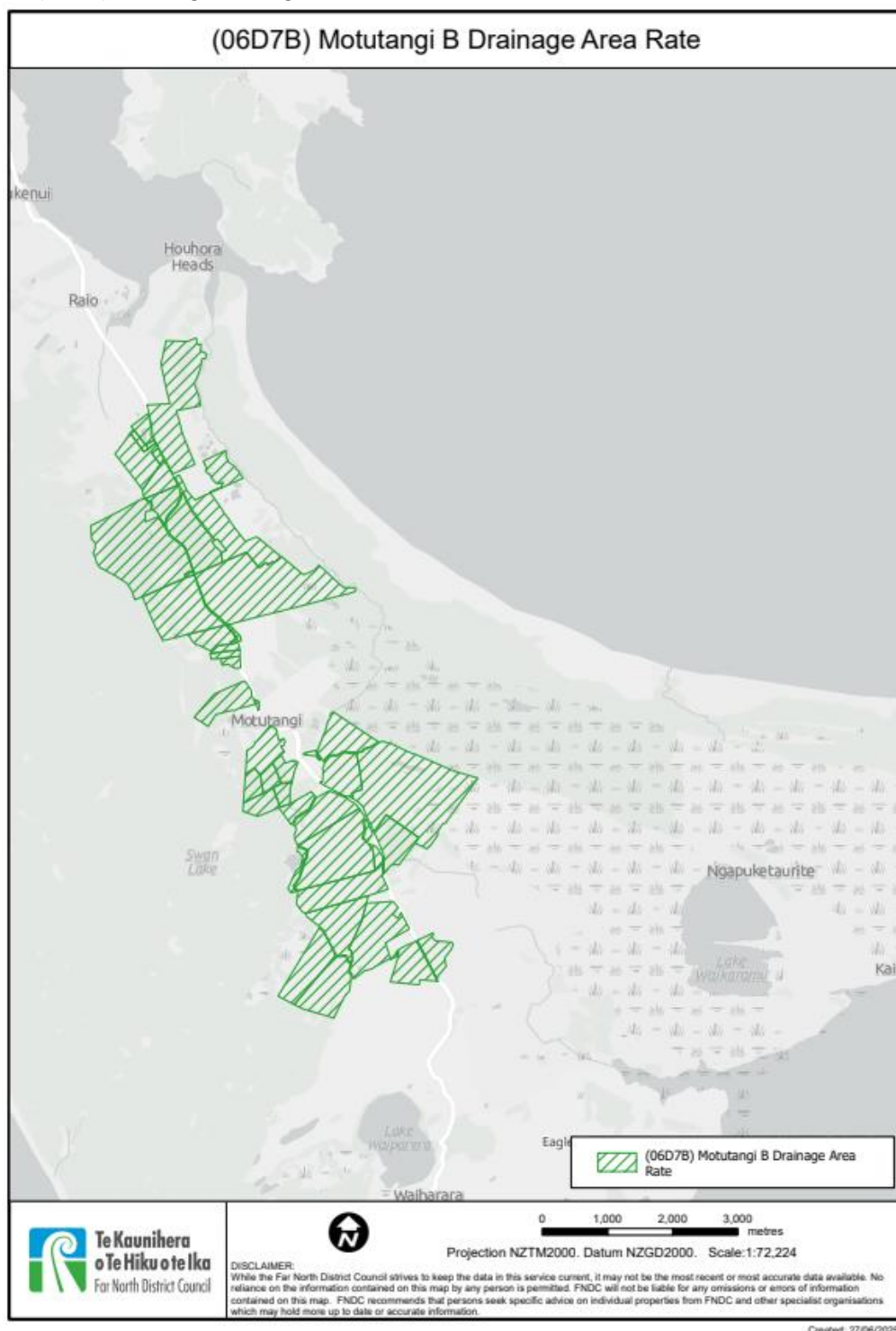
### 2.1 (06D6A) Kaitiāia Drainage Area Rate



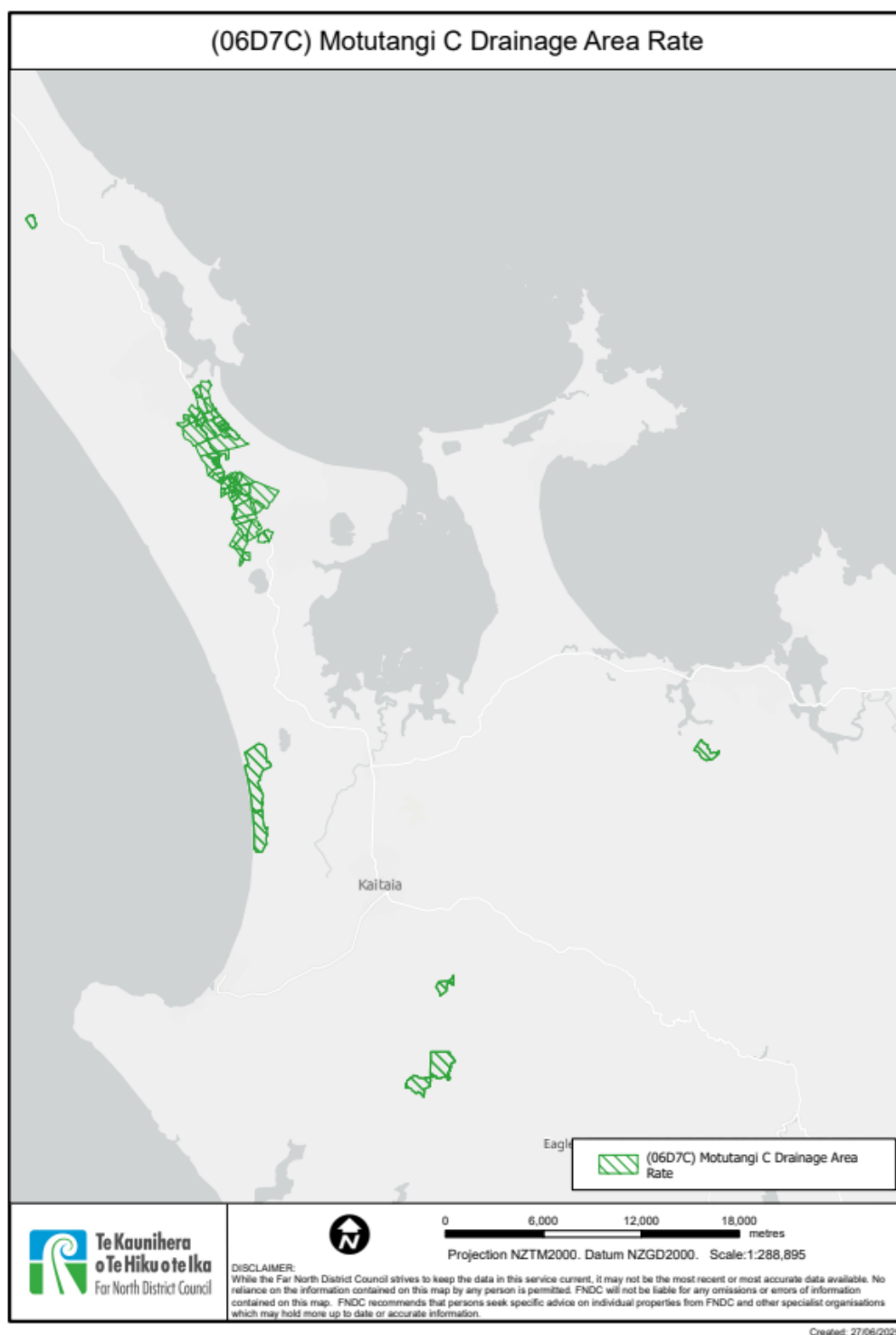
## 2.2 (06D7A) Motutangi A Drainage Area Rate

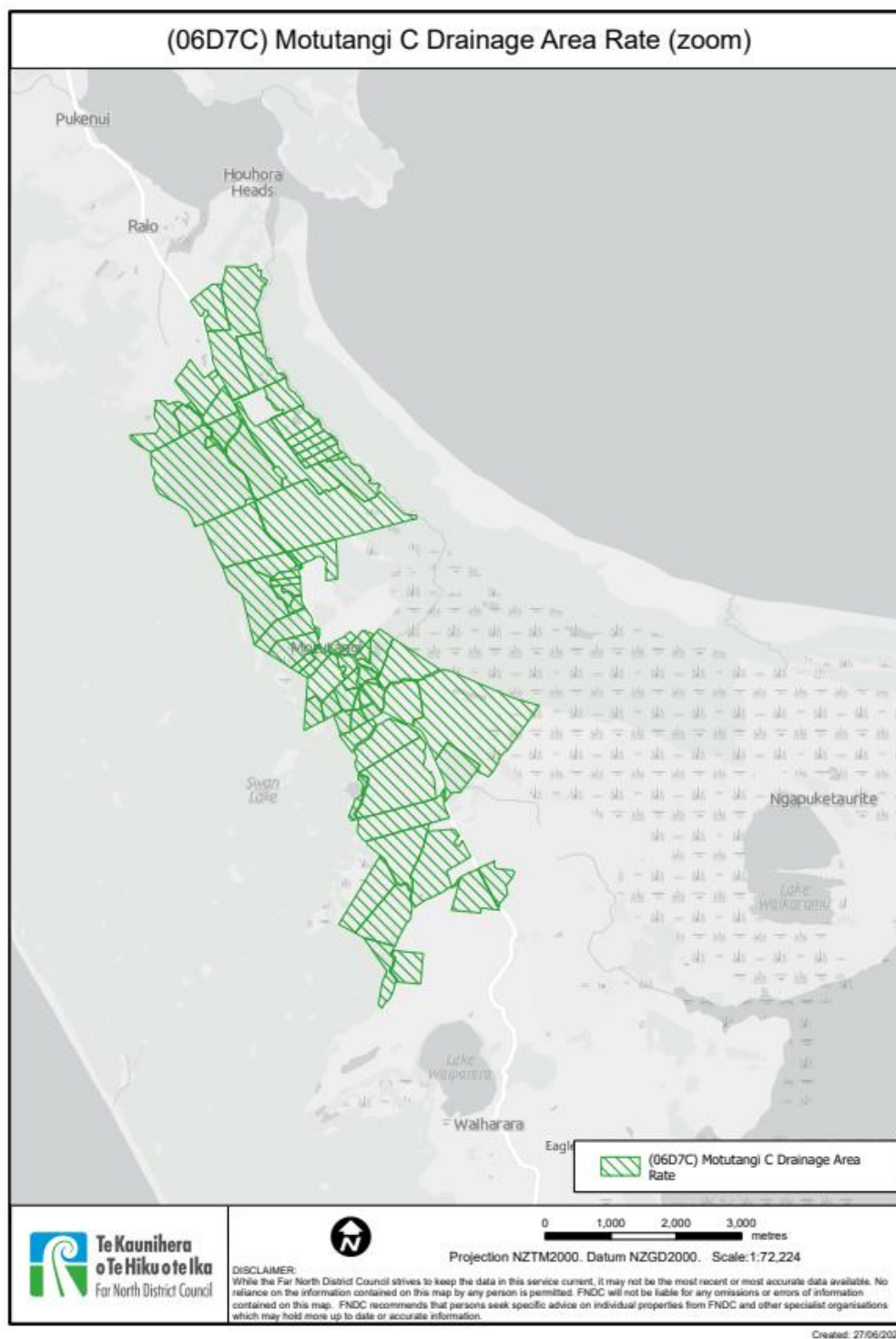


## 2.3 (06D7B) Motutangi B Drainage Area Rate



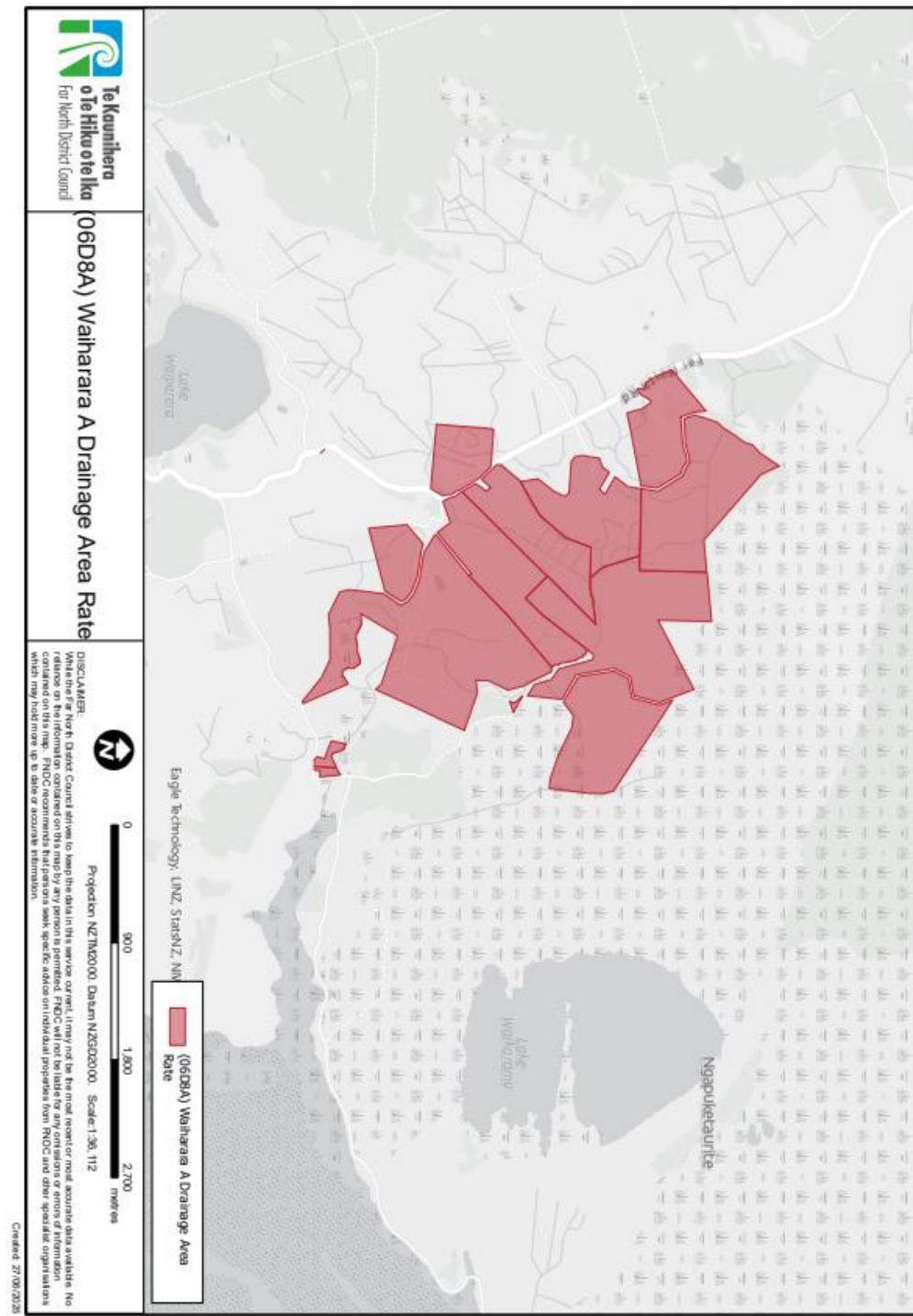
## 2.4 (06D7C) Motutangi C Drainage Area Rate



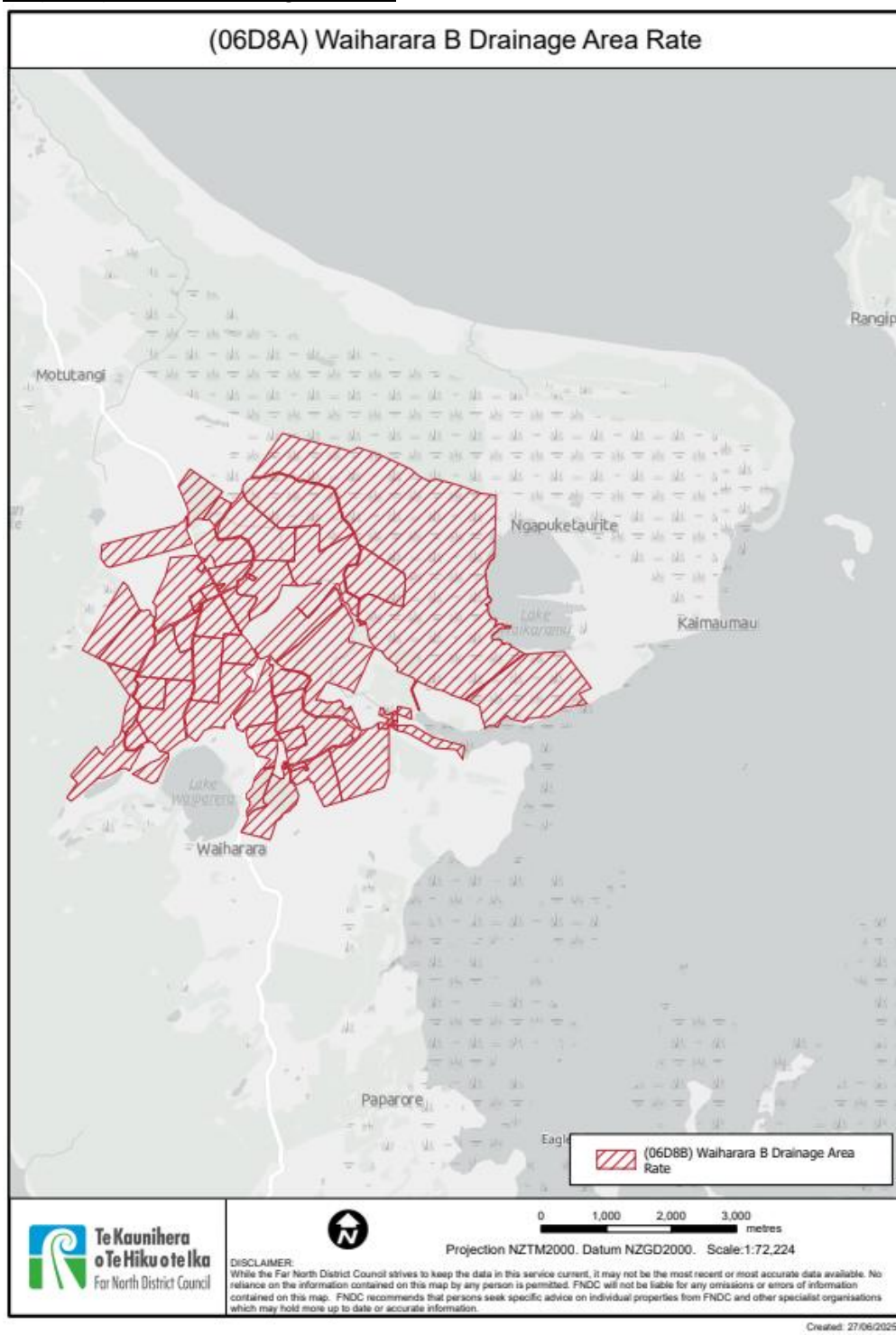




## 2.5 (06D8A) Waiharara A Drainage Area Rate

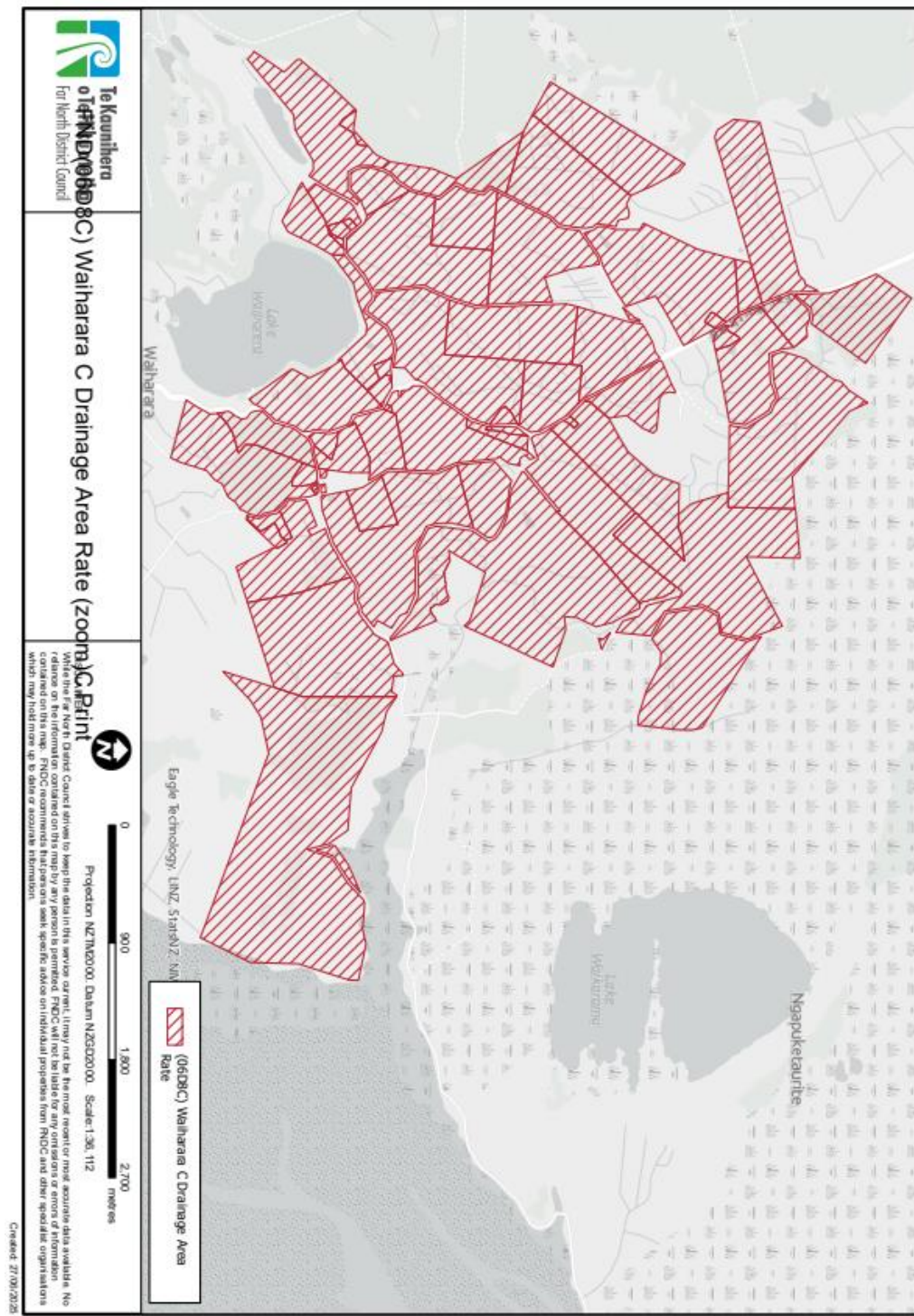


## 2.6 (06D8B) Waiharara B Drainage Area Rate

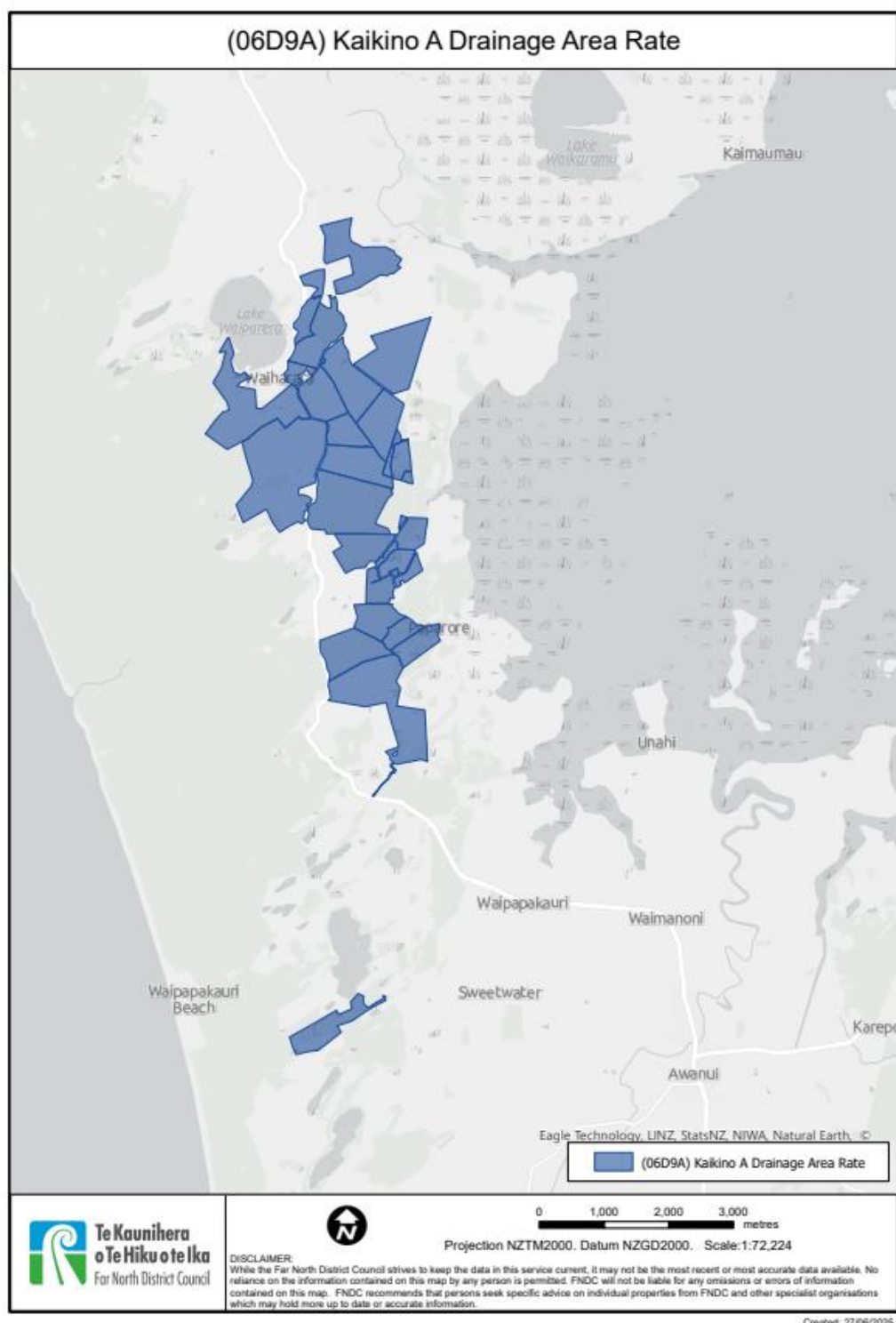




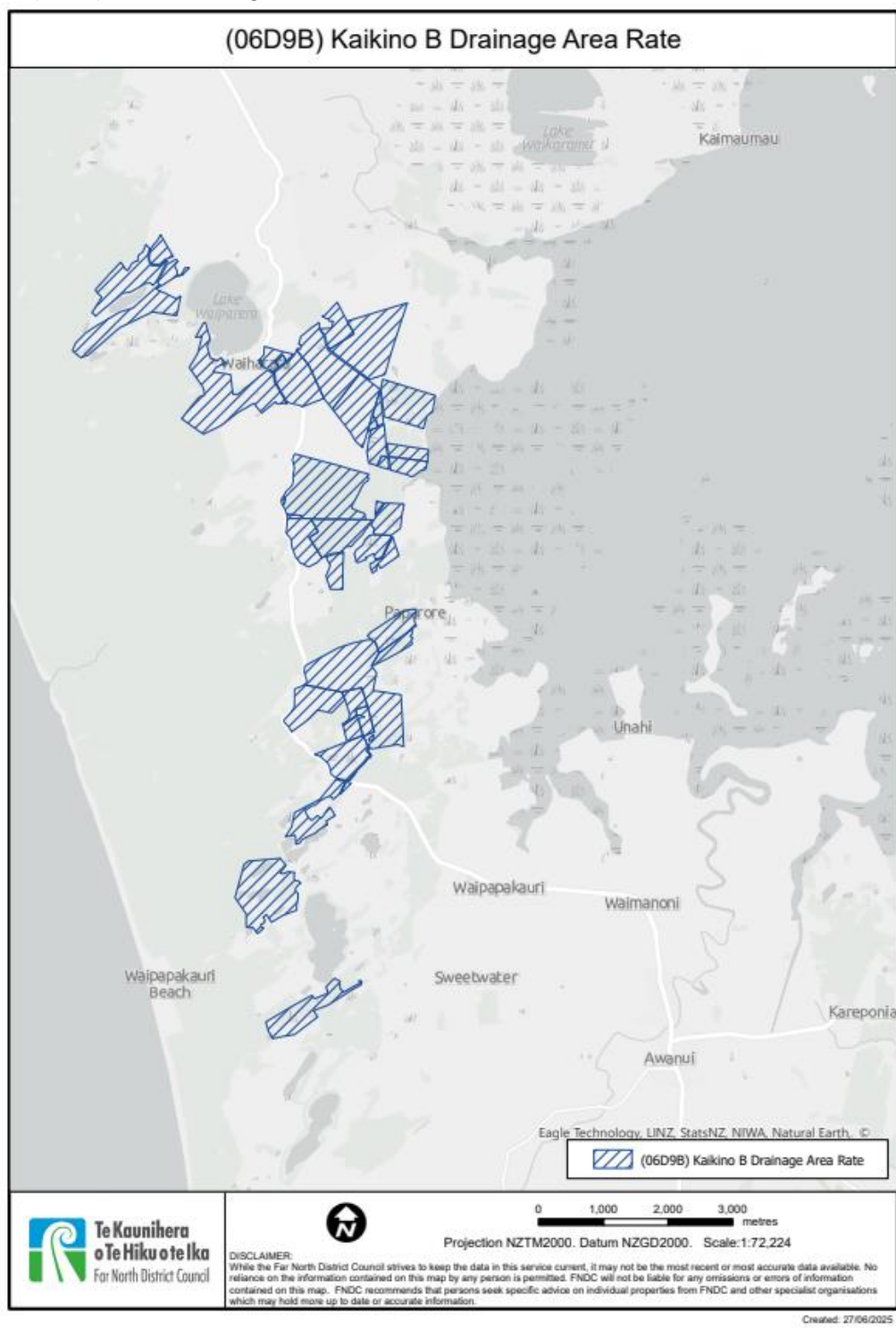




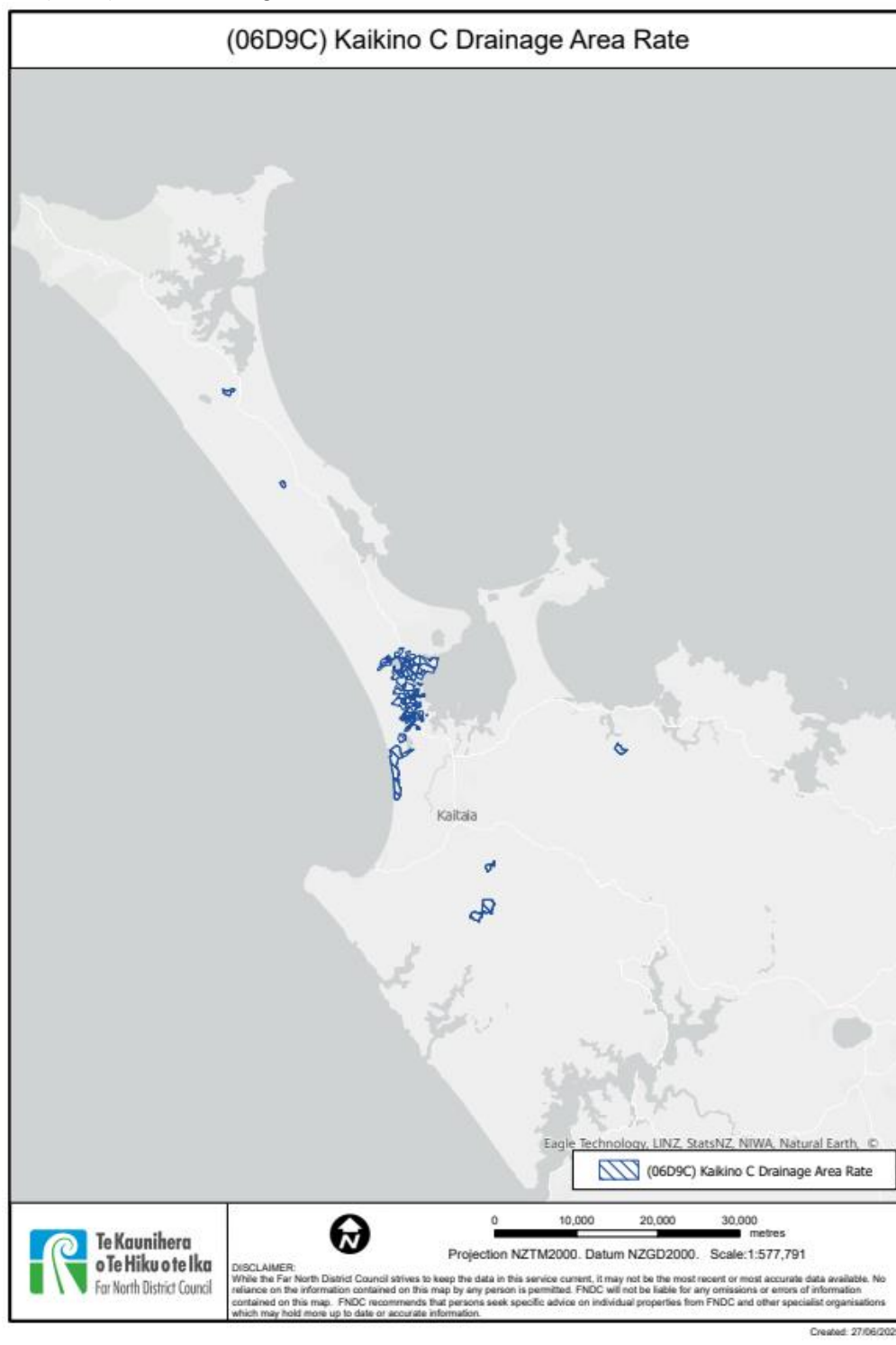
## 2.8 (06D9A) Kaikino A Drainage Area Rate



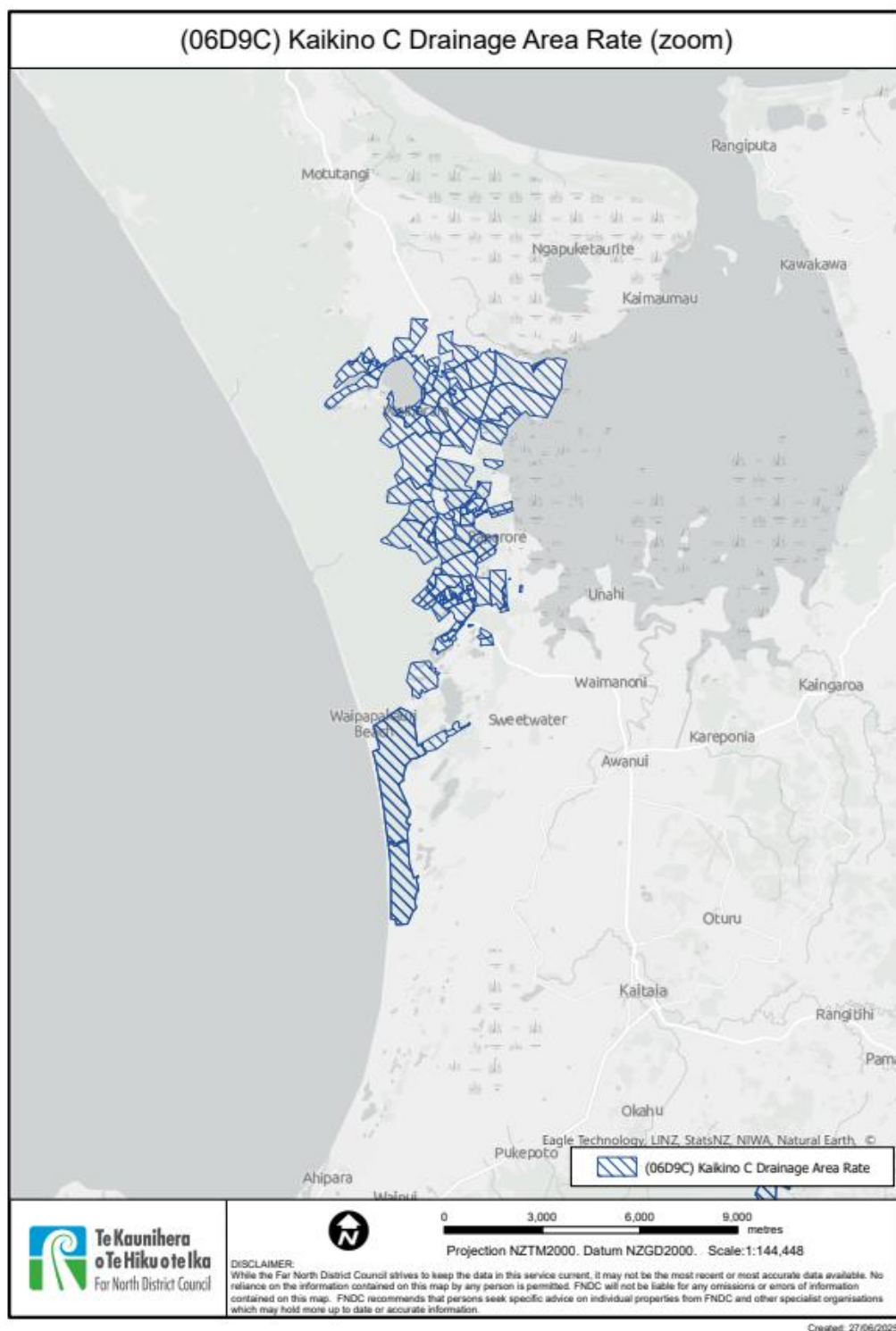
## 2.9 (06D9B) Kaikino B Drainage Area Rate



## 2.10 (06D9C) Kaikino C Drainage Area Rate







## 2.11 All Properties Charged Drainage Area Rate

