

DISTRICT PLAN REVIEW

Proposed Waimakariri District Plan - Submission

Clause 6 of Schedule 1, Resource Management Act 1991

Submitter details

(Our preferred methods of corresponding with you are by **email** and **phone**).

Full name: _____

Email address: _____

Phone (Mobile): _____ Phone (Landline): _____

Postal Address: _____ Post Code: _____

Physical address: _____ Post Code: _____
(if different from above)

Please select one of the two options below:

I **could not** gain an advantage in trade competition through this submission (go to Submission details, you do not need to complete the rest of this section)

I **could** gain an advantage in trade competition through this submission (please complete the rest of this section before continuing to Submission details)

Please select one of the two options below:

I **am** directly affected by an effect of the subject matter of the submission that:

- A) Adversely affects the environment; and
- B) Does not relate to trade competition or the effect of trade competition.

I **am not** directly affected by an effect of the subject matter of the submission that:

- A) Adversely affects the environment; and
- B) Does not relate to trade competition or the effect of trade competition.

Submission details

The specific provisions of the proposal that my submission relates to are as follows: *(please give details)*

My submission is that: *(state in summary the Proposed Plan chapter subject and provision of your submission. Clearly indicate whether you support or oppose the specific provisions or wish to have amendments made, giving reasons) (please include additional pages as necessary)*

I/we have included: _____ additional pages

I/we seek the following decision from the Waimakariri District Council: *(give precise details, use additional pages if required)*

Submission at the Hearing


I/we wish to speak in support of my/our submission

I/we do not wish to speak in support of my/our submission

If others make a similar further submission, I/we will consider presenting a joint case with them at the hearing

Signature

Of submitters or person authorised to sign on behalf of submitter(s)

Signature  Date _____

(If you are making your submission electronically, a signature is not required)

Important Information

1. The Council must receive this submission before the closing date and time for submissions.
2. Please note that submissions are public. Your name and submission will be included in papers that are available to the media and public. Your submission will only be used for the purpose of the District Plan review process.
3. Only those submitters who indicate they wish to speak at the hearing will be emailed a copy of the planning officers report (please ensure you include an email address on this submission form).

If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):

- It is frivolous or vexatious
- It discloses no reasonable or relevant case
- It would be an abuse of the hearing process to allow the submission (or the part) to be taken further
- It contains offensive language
- It is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

Send your submission to: Proposed District Plan Submission
Waimakariri District Council
Private Bag 1005, Rangiora 7440

Email to: developmentplanning@wmk.govt.nz

Phone: 0800 965 468 (0800WMKGOV)

You can also deliver this submission form to one our service centres:

Rangiora Service Centre: 215 High Street, Rangiora

Kaiapoi Service Centre: Ruataniwha Kaiapoi Civic Centre, 176 Williams Street, Kaiapoi

Oxford Service Centre: 34 Main Street, Oxford

Submissions close 5pm, Friday 26 November 2021

Please refer to the Council website waimakariri.govt.nz for further updates

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PO Box 5558
Papanui, Christchurch

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✉ hello@survus.co.nz
🔍 www.survus.co.nz

SUBMISSION ON THE PROPOSED WAIMAKARIRI DISTRICT PLAN
Clause 6, First Schedule of the Resource Management Act 1991

To: The Waimakiri District Council
Freepost 1667, Private Bag 1005, Rangiora 7400

C/- Survus consultants
PO Box 5558
Papanui
Christchurch 8542
Attention: Hamish Frizzell
Email Address: subdivisions@survus.co.nz
Phone: 03 352 5599

Name of Submitter

- 1 Survus Consultants (**Survus** or the **submitter**)

Proposal to which submission relates

- 2 This submission relates to the Proposed District Plan (the **PDP**) in its entirety and particularly the introduction of the General Rural Zone (the **GRZ**) and rules governing subdivision and establishment of dwellings in the GRZ.
- 3 The submitter could not gain an advantage in trade competition through this submission

Detail of submission

- 4 Survus' submission relates to the PDP as a whole but has a specific focus on:
 - (a) The separation of the rural zone into two separate zones and the inclusion of the GRZ;
 - (b) Provisions for the GRZ relating to subdivision within this zone; and
 - (c) Provisions for the GRZ relating to establishment of new residential units within this zone.
- 5 These provisions have been introduced and given immediate legal effect without prior community consultation. They have adversely impacted 20 applications for 4 ha rural subdivision that have been lodged by Survus on behalf of its landowner clients.
- 6 Survus **opposes** the separation of the rural zone into two new zones and the proposed new GRZ.

- 7 Survus also **opposes** the subdivision rules and land use rules relating to new residential units in the GRZ.

Background

- 8 Prior to notification of the PDP, Survus lodged 20 separate rural subdivision consent applications relating to land located in what is now known as the General Rural Zone under the PDP (the **Survus applications** or the **applications**). These applications are listed in **Appendix 1** to this submission.
- 9 The number of new lots proposed by each application ranges from 2 – 40 lots. In total, 161 new lots are proposed. The Survus applications remain extant and have yet to be determined.
- 10 When the subdivision consent applications were lodged, subdivision within the rural zone with a minimum lot size of 4 ha was a controlled activity under the Operative District Plan (**ODP**) subject to compliance with a large number of subdivision standards. Non-compliance with one or more of the subdivision standards altered the activity status of the application to restricted discretionary activity, discretionary activity or non-complying activity, depending upon which standard is breached.
- 11 On 18 September 2021 the Waimakariri District Council (the **Council**) notified the PDP. One of the outcomes of the PDP is to split the Rural Zone into two separate zones: a *Rural Lifestyle Zone* (the **RLZ**) which has a minimum lot size of 4 ha and a *General Rule Zone* (the **GRZ**) which has a minimum lot size of 20 ha. Subdivision that does not comply with the new minimum lot size requirements is assessed as a non-complying activity under the PDP.
- 12 Concurrent with the notification of the PDP, the Environment Court issued a decision to give immediate legal effect to new rules which set the minimum allotment size within the GRZ. The decision records that the purpose of the new rural subdivision rules as to maintain rural character and amenity, and the production potential of rural land.
- 13 Because the Survus applications were not determined when the PDP was notified, these applications are ‘caught’ by the PDP in the sense that the provisions of both the ODP and the PDP need to be considered by Council when processing and determining these applications.

Location of properties that are the subject of the Survus applications

- 14 A combined plan has been prepared to show the locations and context of the application properties in the wider Waimakariri District and the GRZ is attached as **Appendix 2**.
- 15 Plans showing the location of each individual property that is the subject of a Survus Application in relation to the neighbouring properties is attached at **Appendix 3**. This information was extracted from GRIP which is a cadastral mapping application used by Surveyors. (It should be noted that not all recently approved subdivisions prior to the notification of the PDP would be shown on these plans due to Title not being issued as yet. These plans therefore represent lots that are existing).

Reasons for submission

- 16 The notification of the PDP and associated GRZ provisions has caused substantial additional cost, uncertainty and delay in relation to the Survus applications. In particular, the PDP creates material doubt as to whether these applications will qualify for grant of consent under the new 20 ha minimum lot size requirements in the GRZ.

- 17 The submitter considers that the Survus applications lodged but not determined and referred to in Appendix 1 should be treated differently from other similar applications that are lodged after notification of the PDP.
- 18 The submitter seeks that the Survus applications are made exempt from the new and more stringent rules in the PDP that apply to subdivision in the GRZ so that these applications need only comply with the ODP subdivision and land use rules. This could be achieved by, among other matters amendment to the so-called legacy exemptions in the PDP for subdivision and residential units in the GRZ.
- 19 As mentioned, the total number of properties to be created, if the Survus applications are approved pursuant to the abovementioned legacy provisions, is 161 lots. This additional number of new lots is negligible in the context of the total number of existing rural lots in Waimakariri District. The submitter considers that the additional lots will not have any material adverse effect on the production potential of the rural land resource in the GRZ or the rural character of the GRZ.
- 20 At least eight (8) of the Survus applications are located directly adjacent or partly within the proposed new RLZ which allows for 4ha lots. In addition, these eight properties are partly or fully surrounded by properties of between 4ha and 20ha with the majority of the properties being 4ha.
- 21 The remaining 12 properties are also located in areas where the adjacent properties have already been subdivided into smaller lots with one property in particular being 17ha in size and surrounded by 4ha lots. (581 Downs Road).
- 22 It is therefore highly unlikely that these properties will ever be used for primary production purposes in future in view of their size and locations.
- 23 Where properties larger than 20ha are located in areas where smaller lots are not commonly found in the surrounding areas, precedents have already been created where neighbouring properties have been allowed to subdivide into smaller than 20ha lots not long before the notification of the PDP.
- 24 An example of this is the Survus application regarding 6 Rakahuri Road, Glentui where a property on the opposite side of the road, being 854 Birch Hill Road, was approved for subdivision on the 17th of September (a day prior to the notification of the PDP) into 9 lots smaller than 20ha and of which 8 are 4ha (refer to RC215444).
- 25 One application was affected by Covid-19 lockdowns and the contamination could not be remediated on site in time and prior to the PDP being notified to enable the application to become a Permitted Activity in terms of the National Environmental Standards Regulations (NES). The Council was informed of the time frame for remediation at all times.
- 26 Survus also considers that the manner in which the new PDP rural zone rules have been introduced and made of immediate legal effect is inappropriate and unfair to rural landowners, as discussed in more detail below.

Lack of Public Participation/Community engagement

International Best practice:

- 27 It is International Good Practice that citizens participate in the decision making and development activities of local government.

New Zealand Policies:

- 28 Citizens in New Zealand are encouraged to participate in the Long Terms Plans and District Plans of local governments which shape New Zealand and its environment and as such, this submission is part of this process.

Department of the Prime Minister and Cabinet (Policy Method Toolbox)

- 29 It is standard practise in New Zealand to engage with Communities during the policy making processes and this is strengthened by the Policy Method Toolbox as a method *“that helps policy practitioners identify and select the right approach for their policy initiative”* (Department of the Prime Minister and Cabinet. <https://dpmc.govt.nz/our-programmes/policy-project/policy-methods-toolbox/community-engagement>). There are many advantages for local government to engage with its citizens on aspects which directly involve the future use of their land since it *demonstrates ethical treatment, respect and sensitivity* and ensures that local governments are accountable.

Local Government Act:2002 Part 6 (Planning Decision Making and Accountability)

- 30 Part 6 of the Local Government Act 2002 deals with planning, decision making and accountability and requires that local authorities adopt a policy for engagement. (s76AA) and s78 requires that *“local authorities must in the course of it’s decision-making process in relation to a matter give consideration to the views and preferences of persons likely to be affected by, or to have an interest in the matter.”*

Waimakariri District Council Policy on Consultation (Significant and Engagement Policy-SEP)

- 31 The Waimakariri District Council has a Consultation Policy which reflects the extent of the “International Association for Public Participation (IAP2) spectrum and as required by the Local Government Act. This Policy applies to the Council and “provides guidance for the consideration of significance and engagement ...”. The Policy has set out criteria as to when Council regard a matter to be significant for purposes of engagement. Point 5.4 of the Policy stipulates that if the impact or consequences of the decision or proposal will have a substantial impact on more than 5% of the resident population of the District based on estimates by Statistics New Zealand at 30 June each year, the matter is likely to be significant. The Policy further states that every Report should include a statement indicating that the issue of significance has been considered. If an issue is considered significant the report must also include a statement addressing community engagement.
- 32 The Rural areas of the Waimakariri District constitutes more than 5% of the total population of the Waimakariri District Council. The total population of the Waimakariri District was estimated to be 64 700 (as of 2020) and more than 5% of the population resides in the rural areas which are affected by the Rule change. Covid 19 statistics indicate that at least 16 699 people (25%) reside in the rural areas of the Waimakiriri District. (www.covid19.govt.nz).

Relationship between the Local Government Act and RMA

- 33 Section 86 of the RMA provides the ability for council’s to apply to the Environment Court that Rules can be introduced with immediate effect without having to go through a notification or consultation process.
- 34 In this situation there would however have been an expectation that Council would have been more open and possibly followed a consultative process as per their SEP prior to lodging an application to the Environment Court which has affected more than 5% of the population of the Waimakariri District. Schedule 1, clause 3(4) RMA states that local authorities are required to apply the consultative provisions contained in the LGA.

- 35 The Environment Court decision granting the Council's application for immediate legal effect to the rural subdivision and residential unit provisions of the PDP has directly affected the Survus applications as referred to in Appendix 1 and many other landowners in the Waimakariri District, without any meaningful process of public input or community engagement. In addition, there has not been any community input into which areas in the Waimakariri District should be considered for mainly agricultural purposes, rural living purposes and urban residential purposes prior to an application being lodged to the Environment Court.
- 36 There has been no documentation provided to the Community prior to notification of the PDP as to how Waimakariri District concluded which areas should remain for mainly agricultural purposes and which areas should be considered for rural living purposes.
- 37 The Council also obtained the Environment Court decision without notice to the community or potentially affected rural landowners. This excluded all communities and individuals within the District from participating in a decision-making process that would impact on their livelihoods and future use of their land. This action appears to be in contradiction with the Council's SEP.
- 38 Survus appreciates Council's effort to protect agricultural land. However the process is considered flawed due to lack of landowner engagement or information available to the community as to how Council concluded the delineation of the areas to be subdivided into 20ha vs 4ha. Survus considers that the planning maps and rules regarding management of the rural zone within the district cannot be support and need to be revisited.

Decision sought

- 39 The submitter seeks the following relief:
- (a) That the PDP be rejected in its current form;
 - (b) That the PDP maps regarding the GRZ and the RLZ be deleted;
 - (c) That the PDP provisions regarding rural subdivision and residential development in the GRZ be deleted;
 - (d) That General Rural Zone Rule GRUZ-R3 be amended by inserting a new clause (4A) to expressly provides for residential units in respect of the Survus applications as a controlled activity in the General Rural Zone follows:

a site with a minimum net site area of 4ha or more but less than 20ha, which does not have a residential unit erected on it, is subject to a subdivision consent application that was lodged prior to 18 September 2021 and is extant at 18 September 2021, one residential unit may be erected.
 - (e) Insert a new controlled activity subdivision rule into the Subdivision Chapter that that expressly provides for the Survus applications by allowing subdivision between 4 ha and 20 ha as a controlled activity in the General Rural Zone as follows (or words to like effect):

Where a subdivision consent application was lodged prior to 18 September 2021 and is extant at 18 September 2021, that seeks to create one or more allotments with a minimum allotment area of 4ha or more but less than 20ha.

- (f) That the PDP provisions be amended to reflect the issues raised in this submission;
- (g) That the relevant PDP objectives and policies be amended as required to support and implement the particular relief described above; and/or
- (h) Such other relief as may be required to give effect to this submission, including alternative, consequential or necessary amendments to the PDP that address the matters raised by the submitter.

Conclusion

- 40 The submitter does wish to be heard in support of this submission.
- 41 If others make a similar submission, the submitter will consider presenting a joint case with them at the hearing.
- 42 Thank you for the opportunity to submit on the PDP.

Dated 26 November 2021



Hamish Frizzell

Survus Consultants

Address for service:

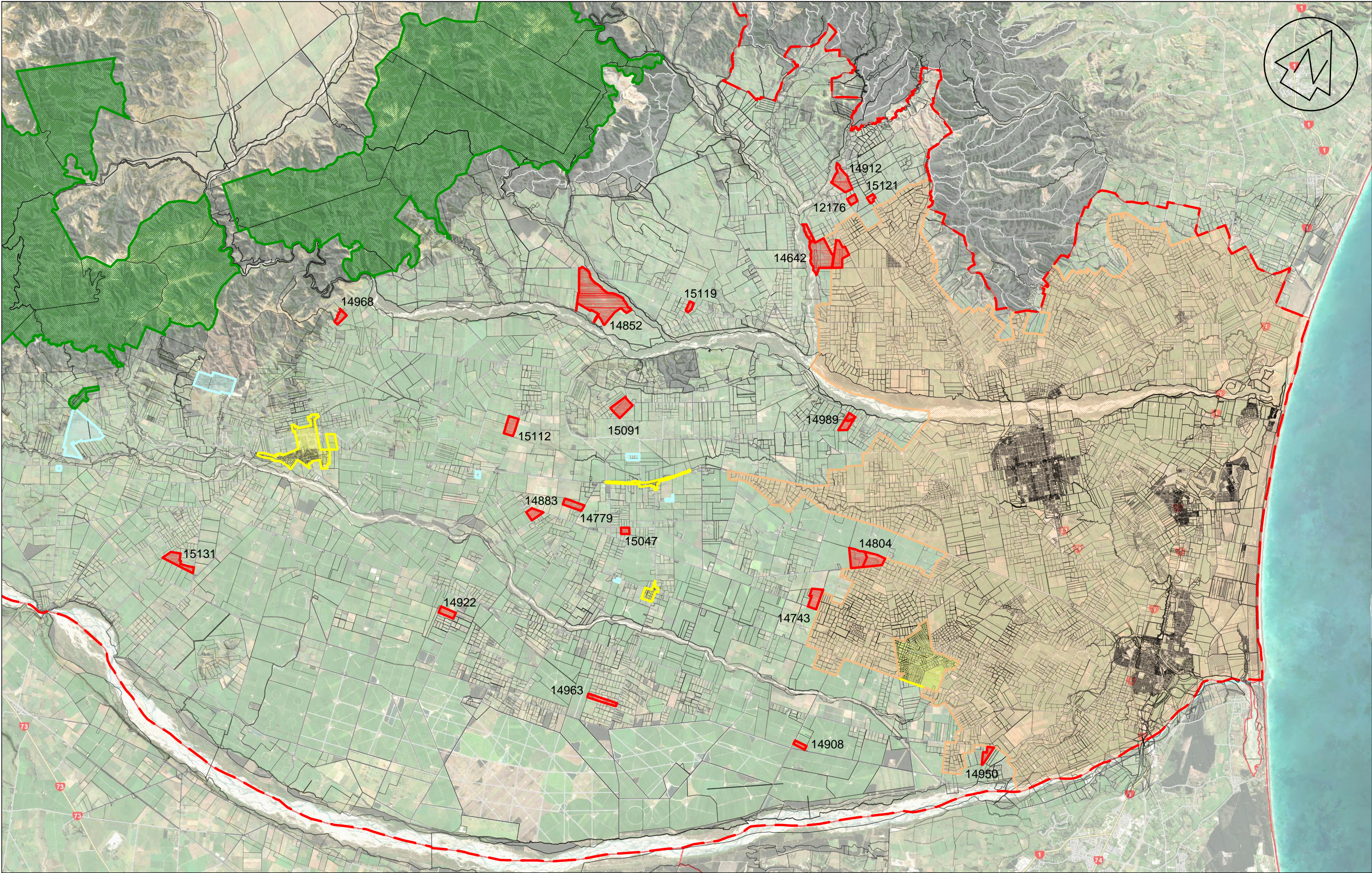
C/- Survus consultants
PO Box 5558
Papanui
Christchurch 8542
Attention: Hamish Frizzell
Email Address: subdivisions@survus.co.nz
Phone: 03 352 5599


APPENDIX 1

Plan Ref	Client	Address	Lots	Accepted (\$88)	RC number
14642	Alan Davie Martin	241 Yaxley/375 Stonyflat Road Loburn	40	10/08/2021	RC215434 RC215435
14743	Scott Larson	1552 Tram Road Swannanoa/237 Woodfields Rd	9	10/03/2021	RC215123 and RC215124-11/3 acc
14779	Terence Davis	1547 Poynts Road Cust	11	31/03/2021	RC215171 and RC215172
14804-2	John Bassett	86 & 106 Woodfield Road	12	30/06/2021	RC215349 and RC215350
14804	Gerard Bassett	2 Woodfields Road	9	30/06/2021	RC215346 and RC215347
14852	Rakahuri Farming Ltd	6 Rakahuri Road Glentui	10	10/05/2021	RC215246 and RC215247
14908	Sue Sullivan	372 Two Chain Road	2	31/08/2021	RC215492 and RC215493
14912	Herman Wezenberg	137 Mt Grey Road North Loburn	10	25/08/2021	RC215476 and RC215477
14922	Roel Wobben	723 Wolffs Road, Eyrewell Forest	5	18/08/2021	RC215466 and RC215467
14968	Ashley Gorge Farming Coy Ltd	417 Ashley Gorge Road, Coopers Creek	2	13/08/2021	RC215447 and RC215448
14989	John Waller	589 Mount Thomas Road, Fernside	6	3/09/2021	RC215504 & RC215505
15047	Brian Pilbrow	1189 Woodfileds Road Cust	2	25/08/2021	RC215487
15091	Ivor Farming - David Haigh	16 Champions Road Summerhill	11	15/09/2021	RC215539 and RC215540
15112	Rod Newton	782 Steffens Road, Starvation Hill	4	14/09/2021	RC215529 and RC215530
15119	Trist Moffat	609 Birch Hill Road, Okuku	2	24/08/2021	RC215474 and RC215475
15121	Mark Webb	277 Loburn Terrace Road, North Loburn	2	10/09/2021	RC215524 and RC215525
15131	Trish Robinson	151 Kiri Kiri Road, Burnt Hill	8	31/08/2021	RC215496 and RC215497
14963	Peter Kerdemelidis	581 Downs Road, Eyrewell Forest	5	8/09/2021	RC215520
14805	Verkerk Propoerties No. 1 Limited	630 Mill Road, Ohoka	9	16/09/2021	RC215544
14950	Brian J Martin	466 South Eyre Road, Swannanoa	2	17/09/2021	RC215546

Total Lots

161



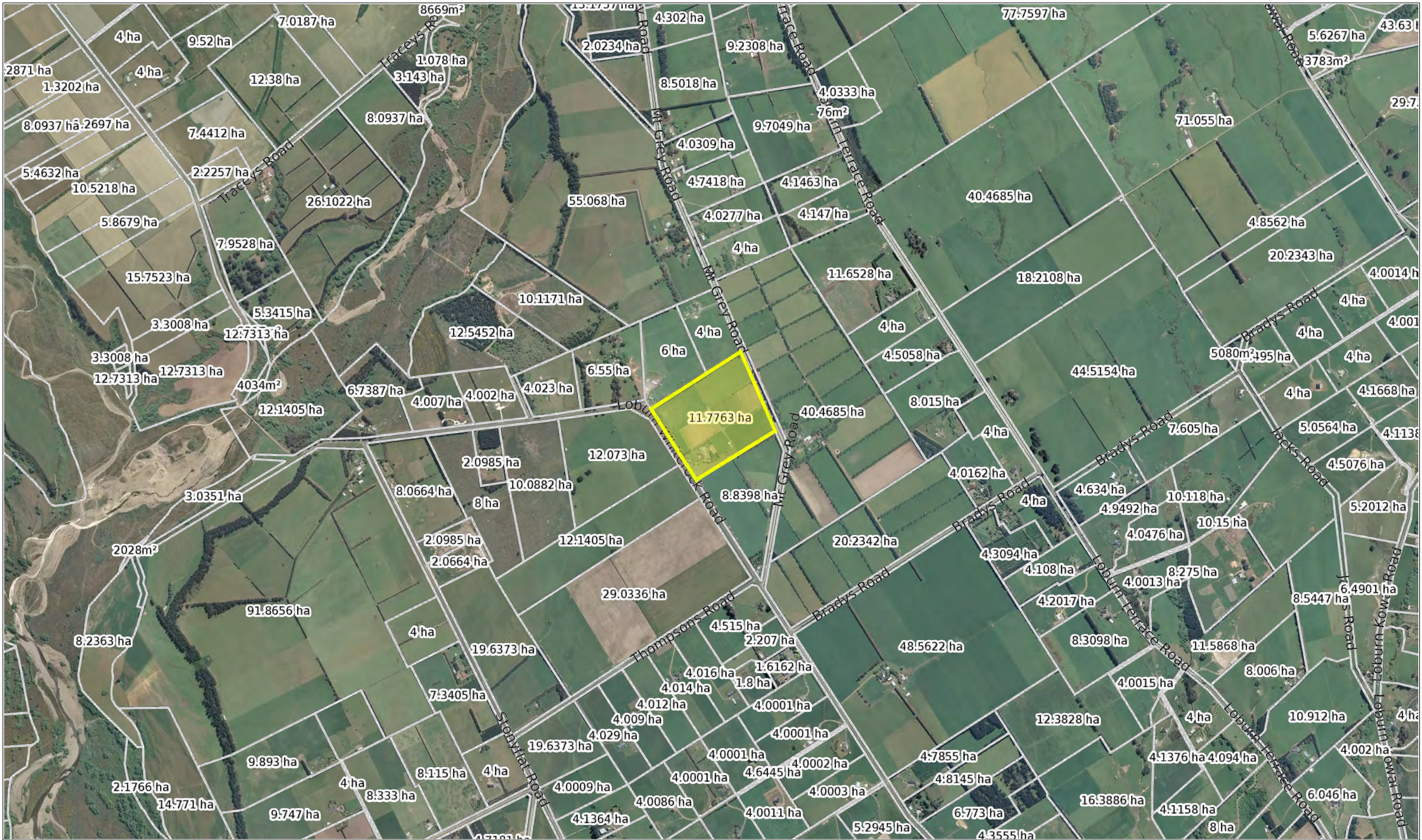


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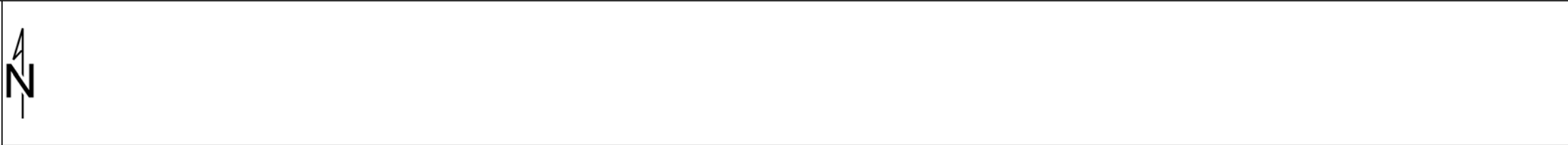
4 Meadow Street, PO Box 5558, Papanui, Christchurch

P	03 352 5599	AMBERLEY	03 314 9200
F	03 352 5527	ASHBURTON	03 307 7021
TOLL FREE	0508 787 887	DARFIELD	03 318 8151

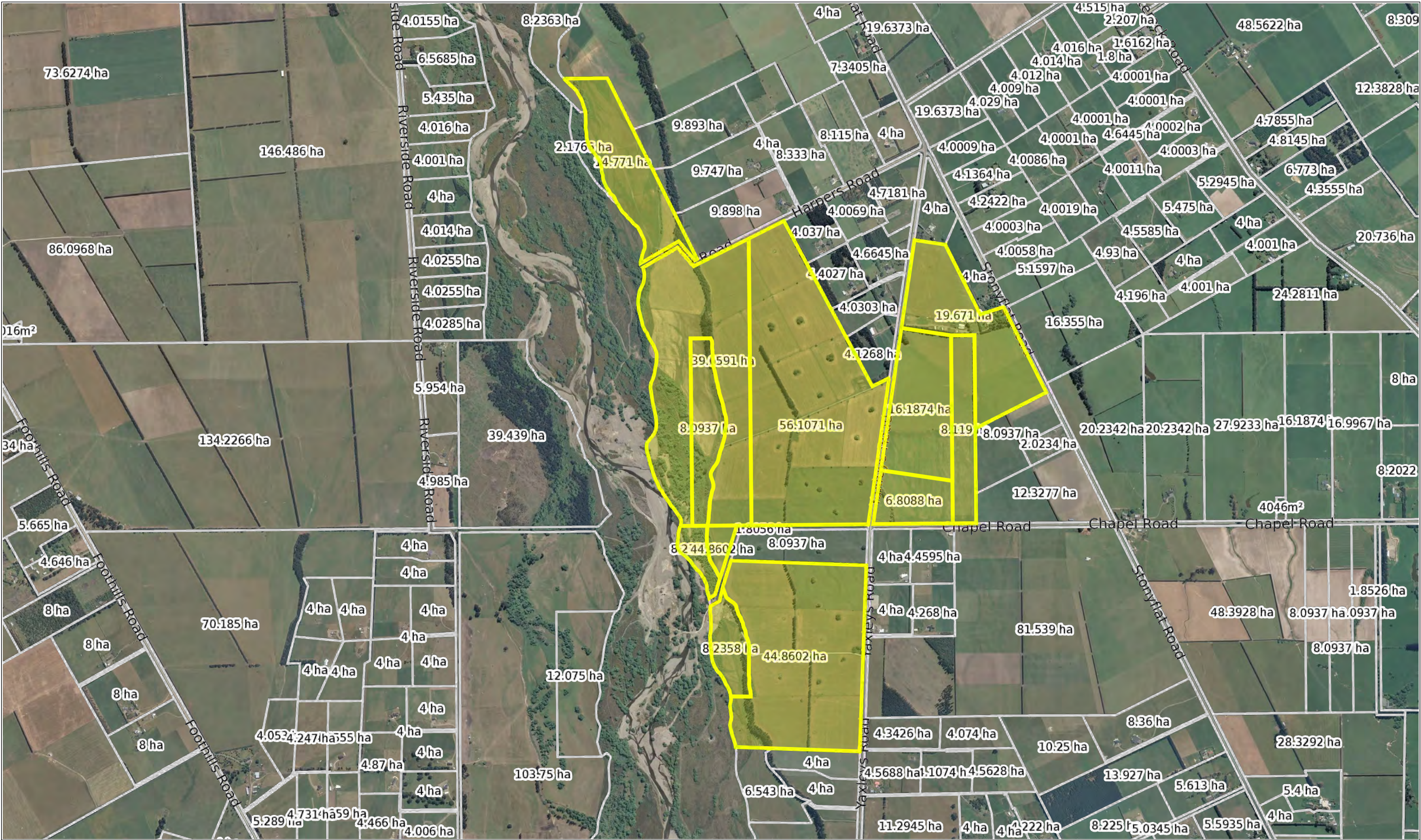
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						TITLE		SCALE 1 : 150,000 (A3)	SIZE A3
						AFFECTED PROPERTIES IN THE WIDER WAIMAKARIRI DISTRICT AREA		DRAWING NO SC-01	REV A
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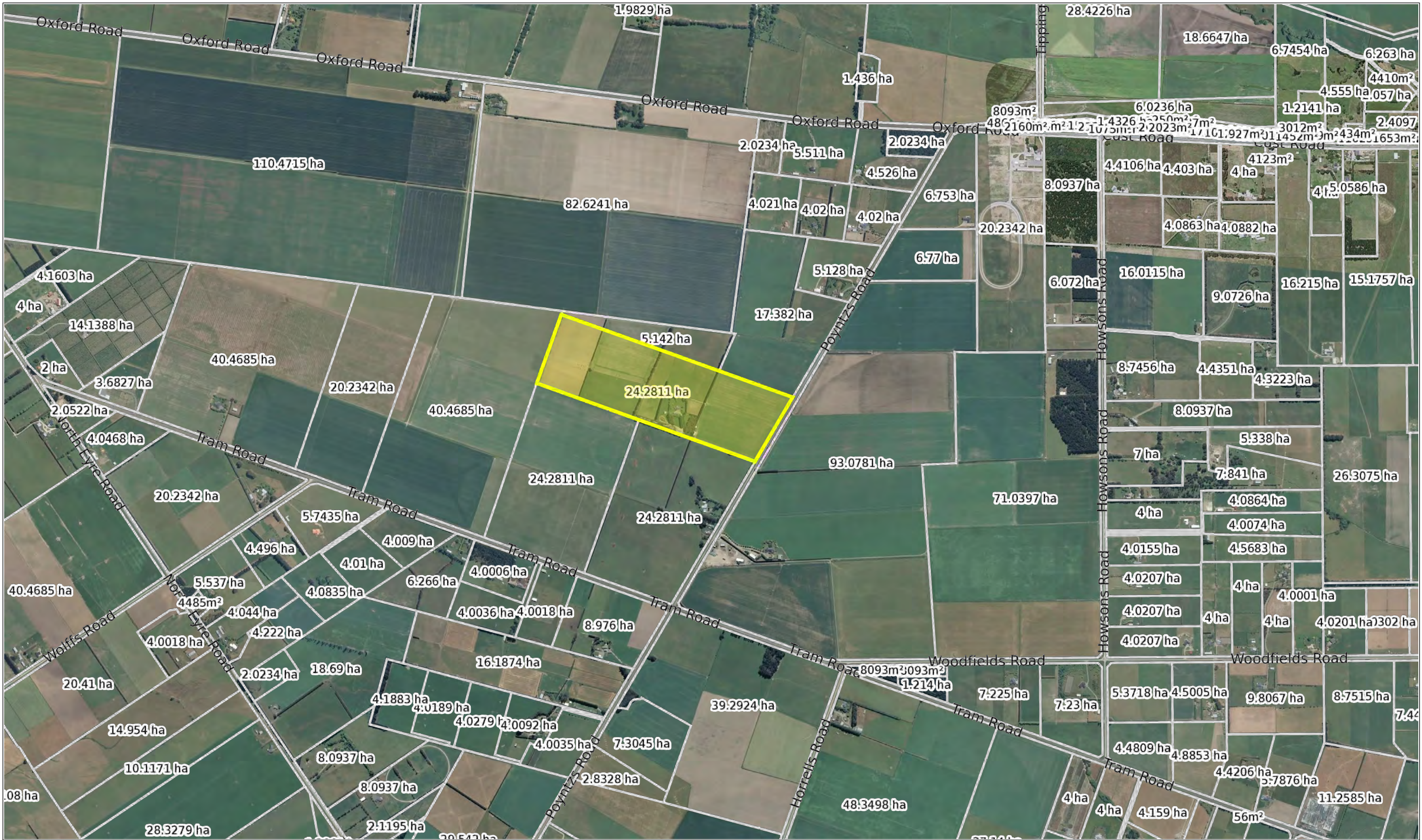


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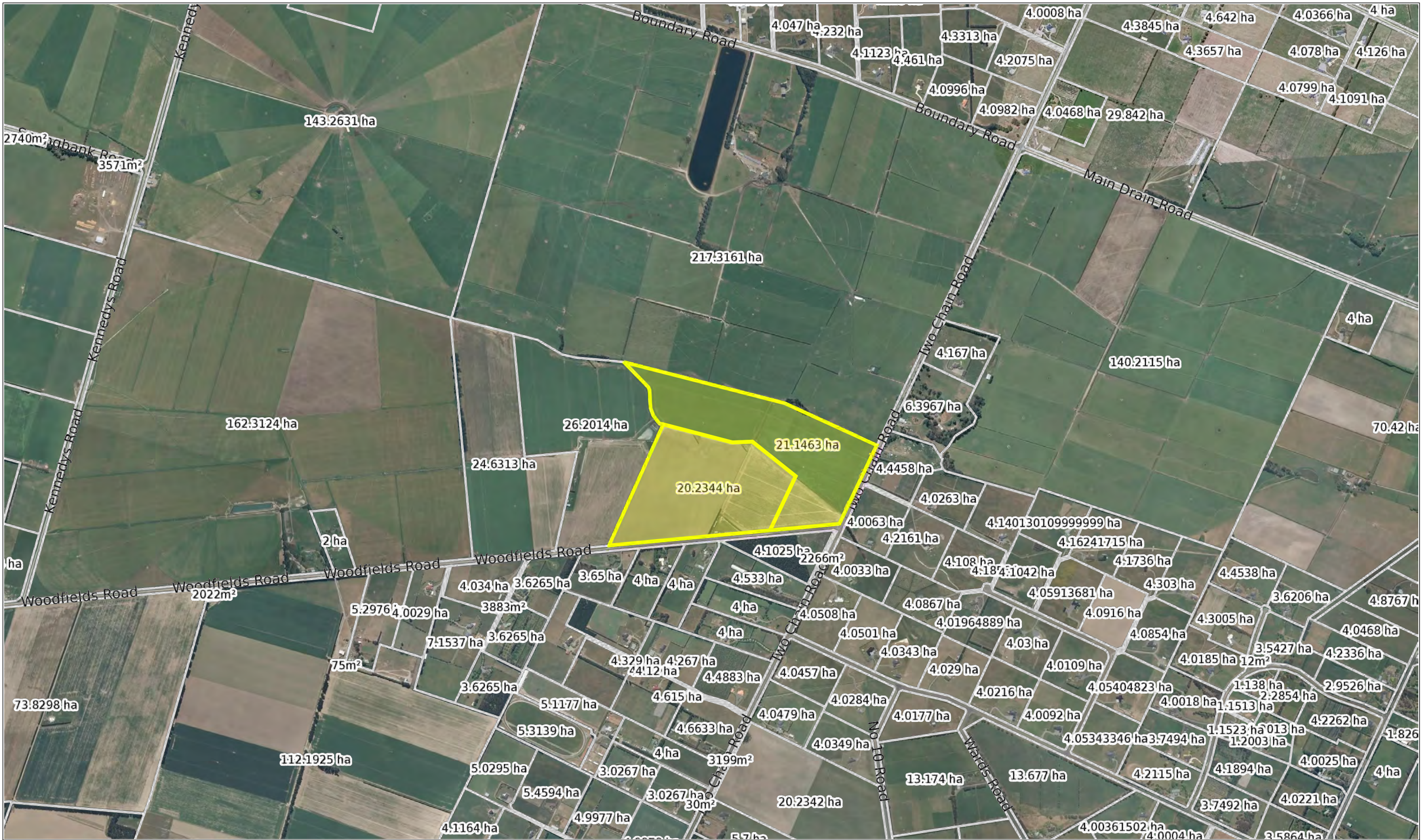
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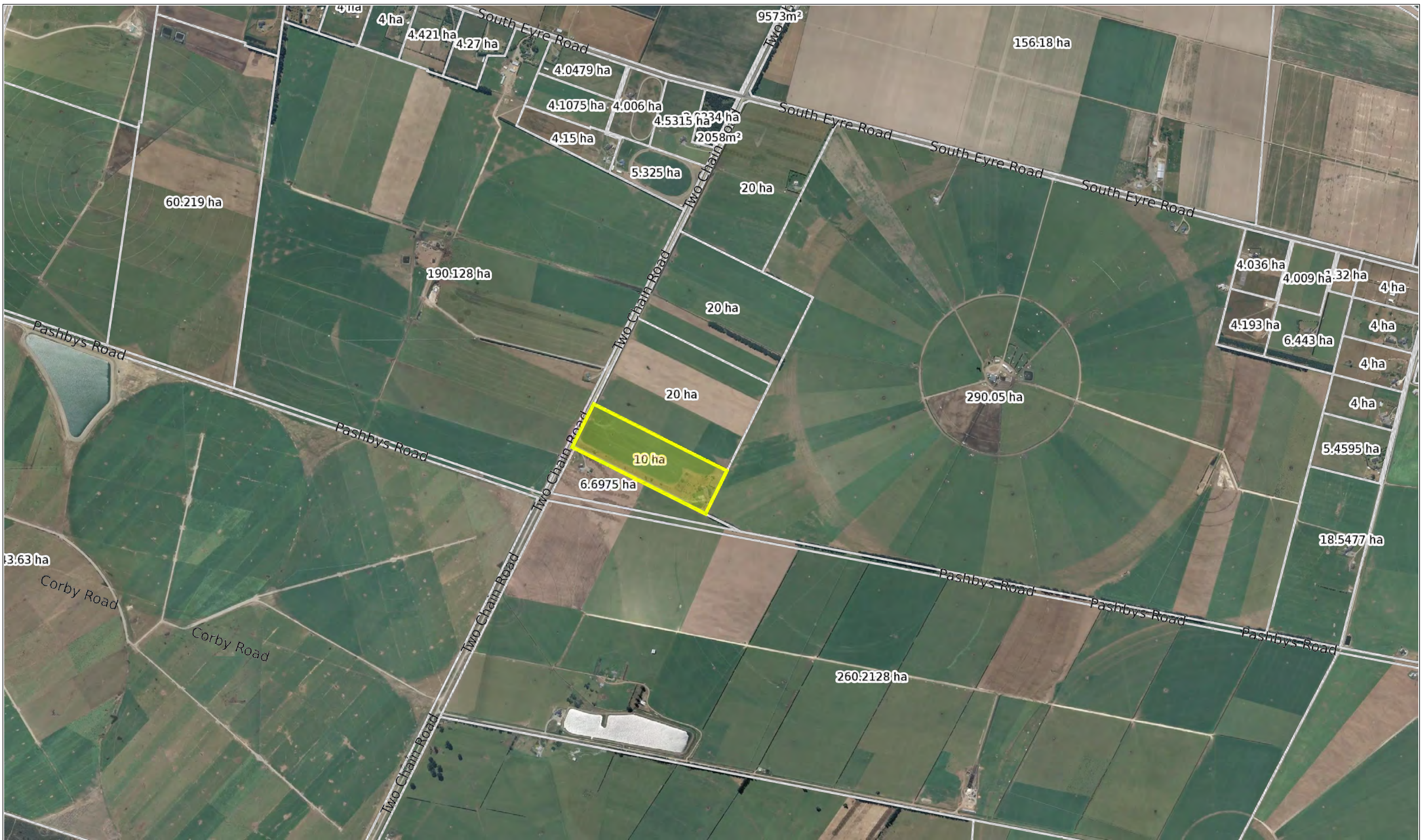
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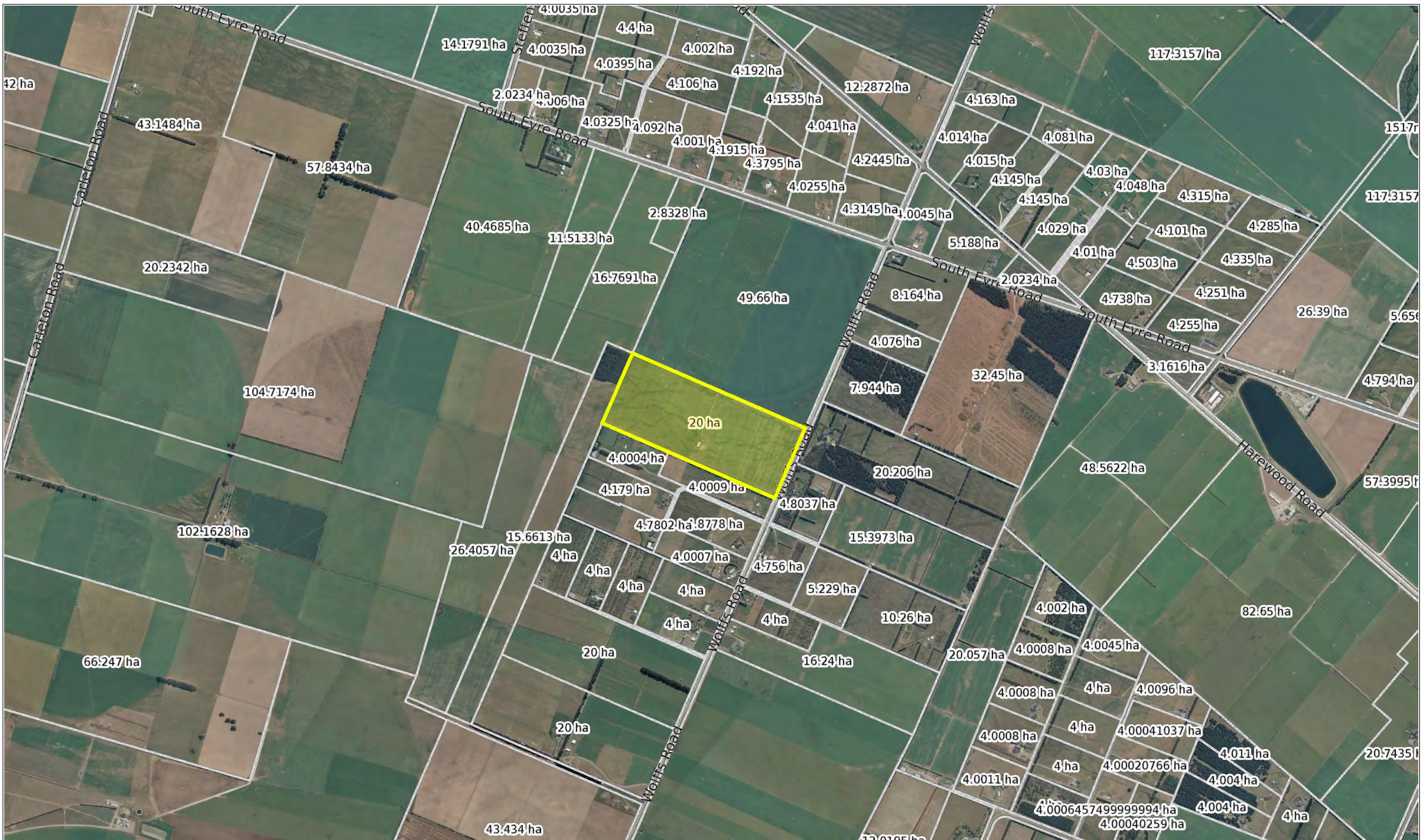


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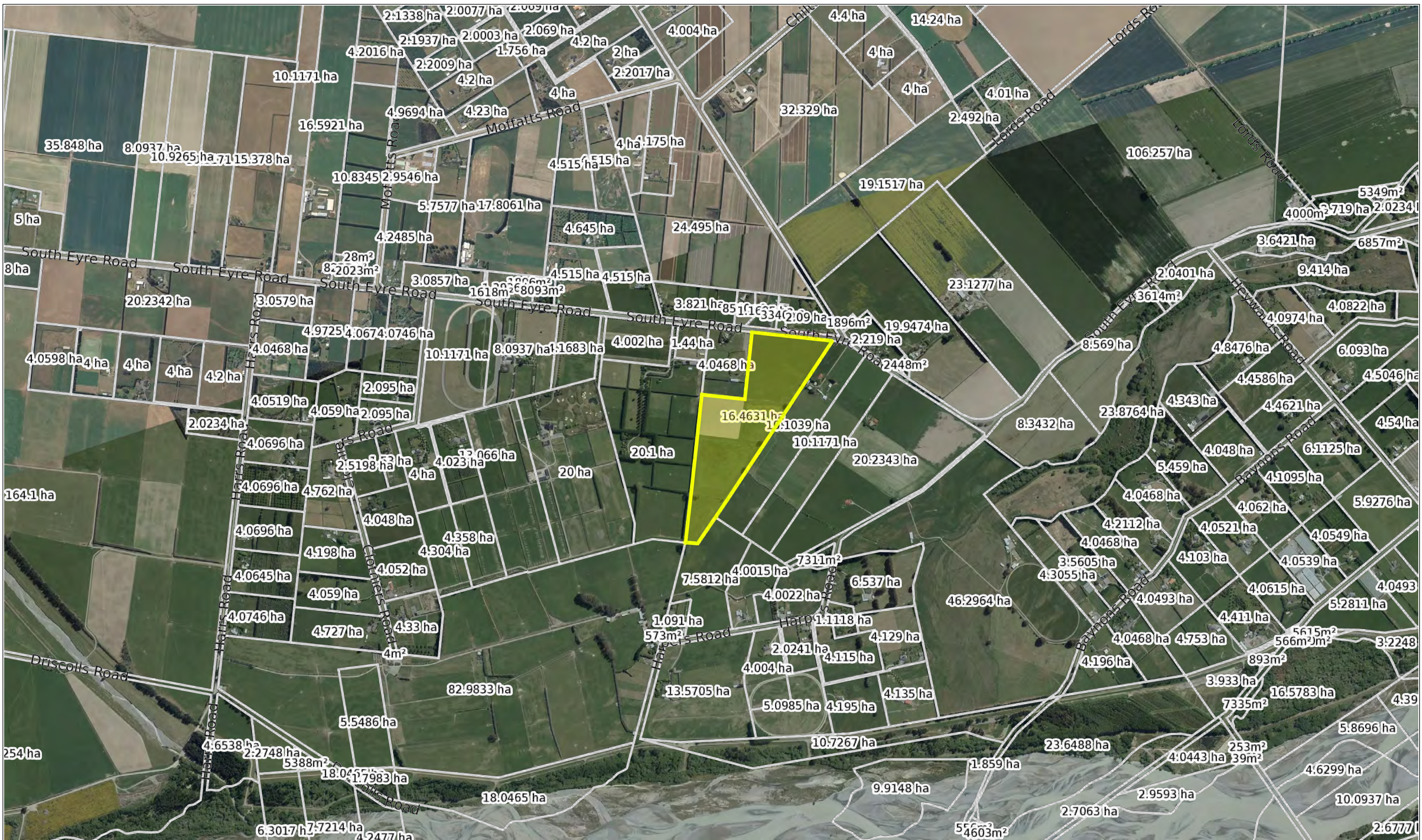
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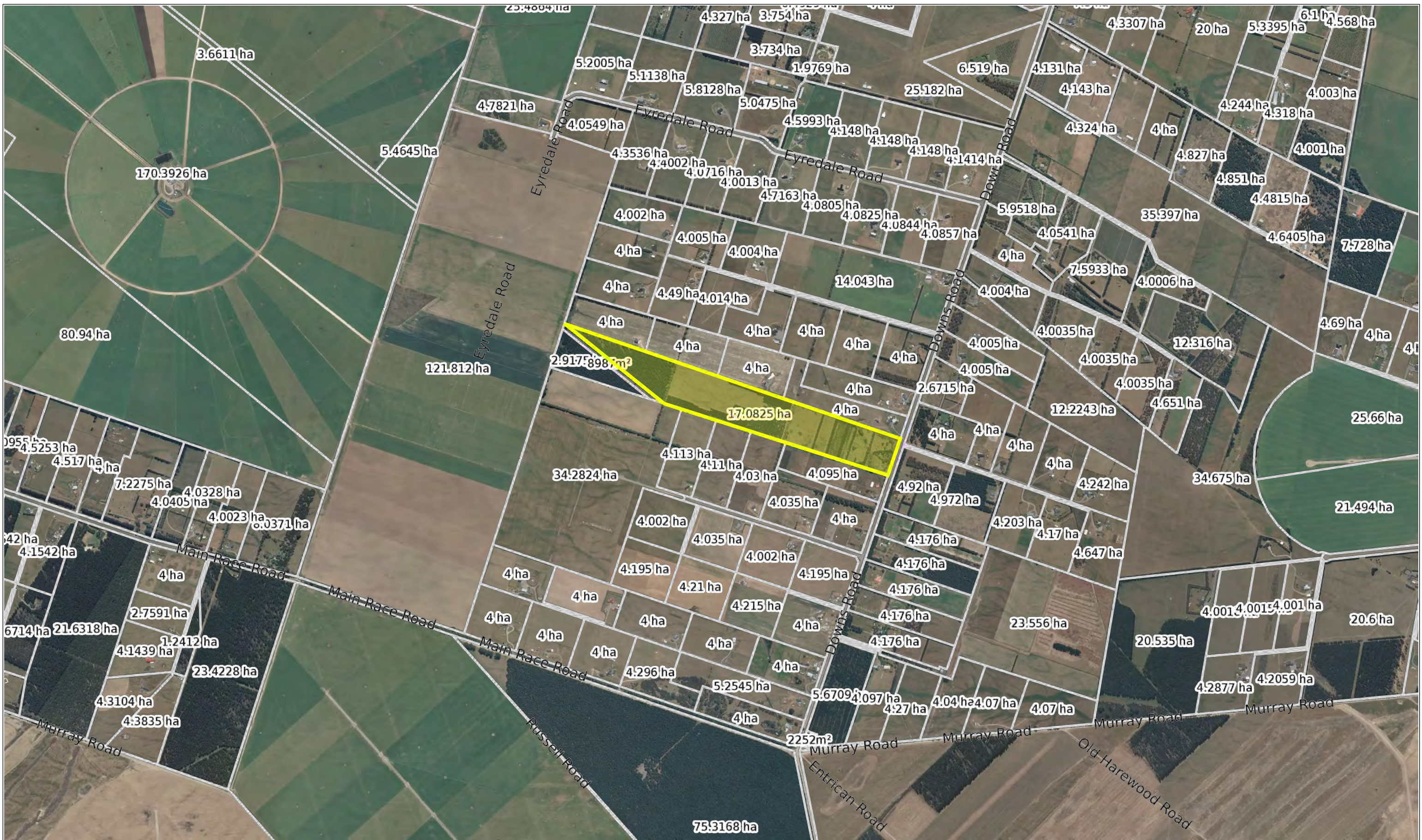
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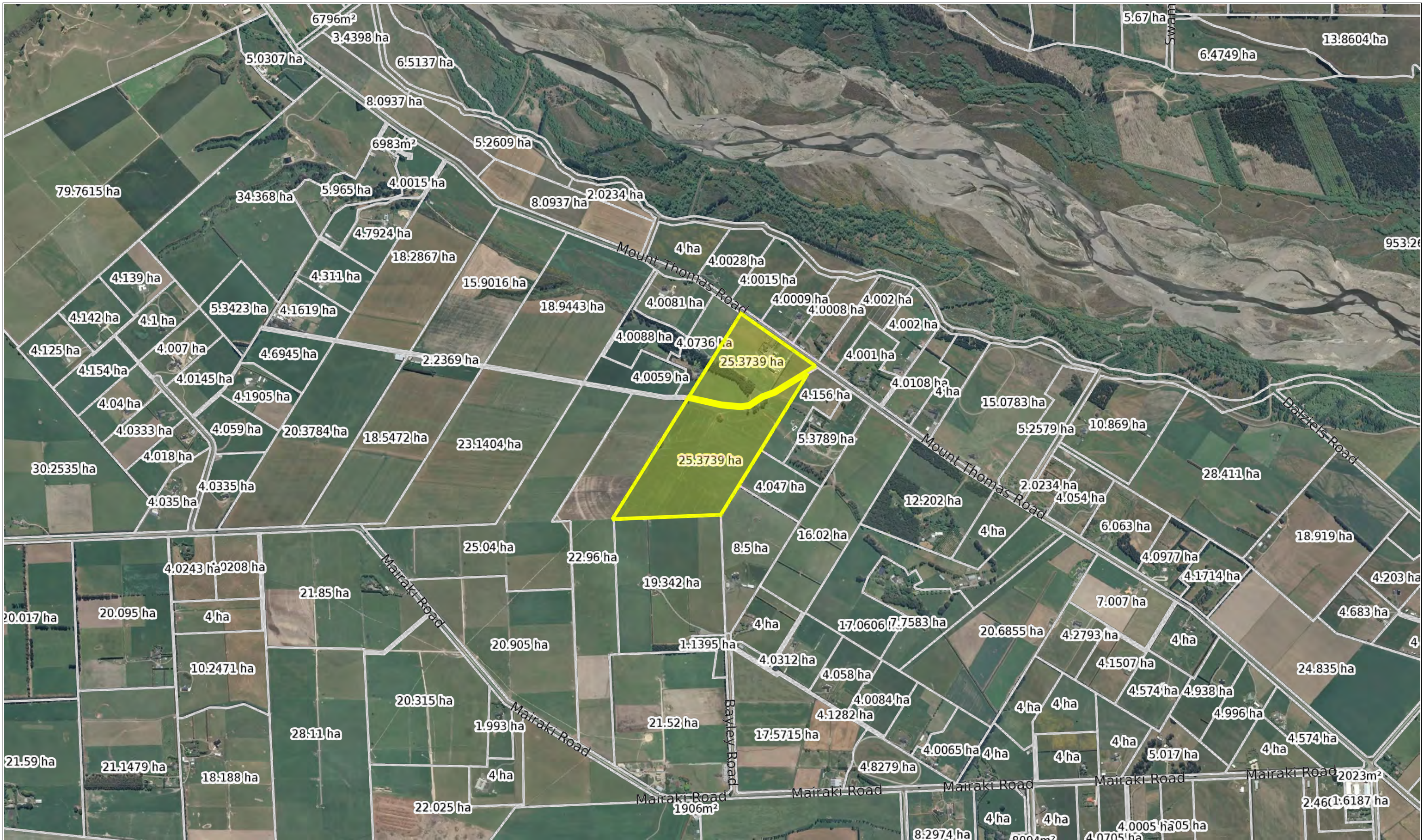
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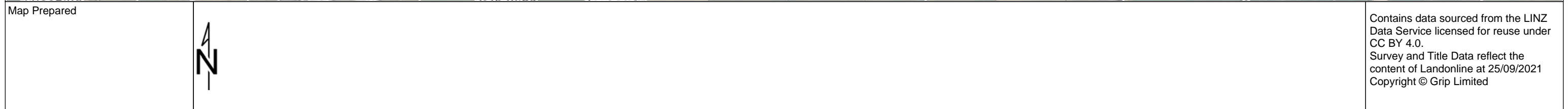
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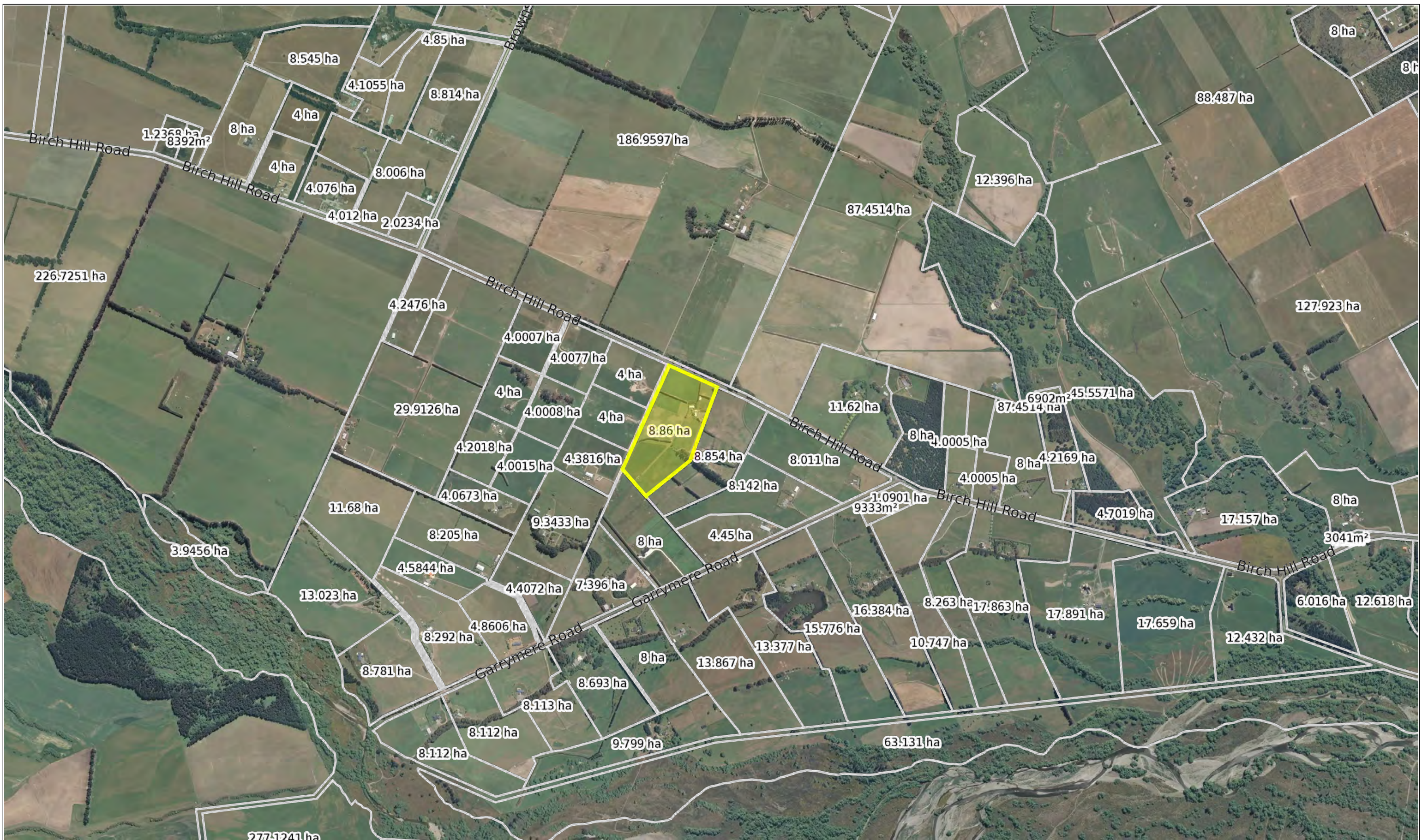


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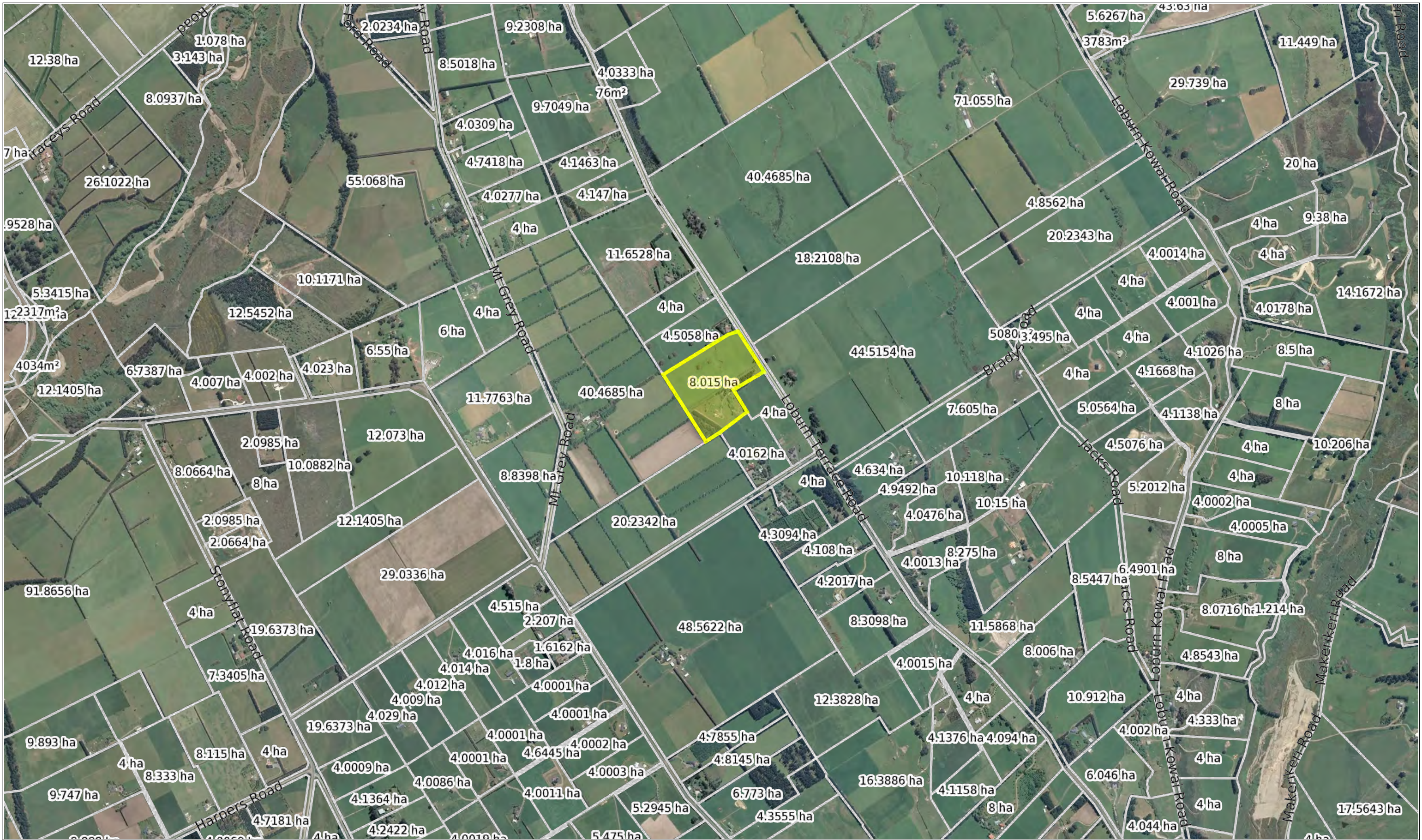




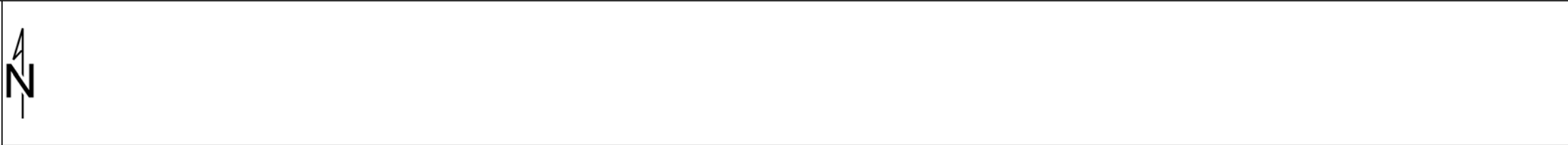
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