



ADMINISTRATIVE REPORT

Report Date: February 8, 2013
Contact: Al Zacharias
Contact No.: 604.873.7214
RTS No.: 09688
VanRIMS No.: 08-2000-20
Meeting Date: February 26, 2013

TO: Vancouver City Council

FROM: The General Manager of Engineering Services in consultation with the Director of Legal Services and the Director of Real Estate Services

SUBJECT: East Fraser Lands Area 2 South (Phase 2 Subdivision):

- (i) Establishment as Road of Riverfront Lot East of Kinross Street and Log Storage Use of the Riverfront; and
- (ii) Extension of Closing Date for Sale of Portions of East Kent Avenue South and Kinross Street

RECOMMENDATION

- A. THAT Council authorize the Director of Legal Services in consultation with the General Manager of Engineering Services to enter into such agreements as are required to transfer to the City, at no cost to the City, and establish as road Lot 21 District Lot 330 Group 1 New Westminster District Plan EPP 23174, the same as shown cross-hatched on the sketch attached hereto as Appendix "A" ("Lot 21").
- B. THAT Council authorize the Director of Legal Services in consultation with the General Manager of Engineering Services to enter into an agreement with Western Forest Products ("WFP") to confirm the City's support for the continued use of the Fraser River adjacent to City owned road and park lands to be subdivided from Lots 25, 26, 27, and 28 Blocks 9, 10, and 16 to 19 District Lots 330 and 331 Plan 2593, for log storage use by WFP and their assignees.
- C. THAT Council authorize the Director of Real Estate Services to extend the closing date for the sale of portions of East Kent Avenue South and Kinross Street to Park Lane River District Developments Ltd. ("Park Lane"), for up to six months.

- D. THAT Council authorize the Director of Legal Services to include in the agreements such other terms and conditions satisfactory to the Director of Legal Services and the General Manager of Engineering Services.

REPORT SUMMARY

Park Lane has applied to undertake the second phase of the subdivision of lands within Area 2 of East Fraser Lands (the "Phase 2 Subdivision"). As with the first phase which was completed in 2010, the second phase will result in the creation of development parcels, park parcels which will be transferred to the City and the dedication of roads to the City. Both of the matters put forward in this Council Report are required to complete the Phase 2 Subdivision.

- (i) *Establishment as Road of Riverfront Lot East of Kinross Street and Log Storage Use of the Riverfront*

One of the conditions of the East Fraser Lands development was that road be dedicated along the waterfront to provide public access to the water. Western Forest Products and Weyerhaeuser Company Limited (the "Forest Companies") have existing rights for use of the Fraser River foreshore adjacent to the East Fraser Lands Development for mooring facilities and booming grounds and their consent is required in order for the subdivision and road dedications to be registered in the Land Title Office.

In order to preserve the Forest Companies' rights, the full width of road dedication along the entire waterfront cannot be achieved with a typical road dedication under the Land Title Act. Recommendations A and B will enable the preservation the Forest Companies' mooring rights while still providing a City owned riverfront road.

Recommendation A addresses lands that are currently subject to a registered charge in favour of the Forest Companies and enables an 11 metre wide road dedication plus a 1 metre wide lot along the riverfront (proposed Lot 21) to be transferred to the City as a titled parcel to act as a placeholder for the existing encumbrance. Council Authority is required to transfer Lot 21 to the City and establish it as road under the Vancouver Charter.

Recommendation B provides for an agreement with WFP that addresses lands that are not currently subject to the encumbrance in favour of the Forest Companies. The WFP agreement will address waterfront use fronting the road and park to be dedicated from lands currently owned by Park Lane (Lots 25, 26, 27, and 28 Blocks 9, 10, and 16 to 19 District Lots 330 and 331 Plan 2593 - the "Park Lane Lots"). The Park Lane Lots are shown on Appendix "D". Council authority is required to enter into the agreement with WFP.

These two Recommendations facilitate the provision of City owned public access to the river while acknowledging the City's support for a working river and continued use of the riverfront for log storage.

- (ii) *Extension of Closing Date for Sale of Portions of East Kent Avenue South and Kinross Street*

Recommendation C, if approved by Council, will provide the Director of Real Estate Services with the authority to extend the closing date for the sale of portions of road to Park Lane

beyond 90 days which is the maximum period Council has authorized the Director of Real Estate Services to extend closing dates for real estate transactions.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

The authority for establishing streets and lanes is set out in Section 291(a) of the Vancouver Charter.

The East Fraser Lands ODP is supportive of the working river concept.

On May 1, 2011 the City entered into the Tripartite Agreement, between the City, Vancouver Fraser Port Authority (the "Port") and Park Lane River District Developments Ltd. supporting continued use of the Fraser River adjacent to East Fraser Lands for log storage use with respect to City Lands (roads and parks).

On December 14, 2010 Council approved the recommendations of RTS8996 - "East Fraser Lands Area 2 South - Establishment as Road of Riverfront Lots between Kerr Street and Kinross Street" under similar circumstances to those described in Recommendation A of this report.

On January 21, 2010, City Council approved in principle, the rezoning of East Fraser Lands ("EFL") Area 2 subject to conditions, including but not limited to, the registration of subdivision plan(s) to create the EFL Area 2 parcels. The CD-1 By-law has since been enacted subject to the fulfilment of a number of conditions which include the requirement for subdivision and the dedication of road to the City.

The Closure and Sale of Portions of East Kent Avenue South and Kinross Street (RTS9690) was approved by Council on October 16, 2012.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager, the General Manager of Engineering Services, the Director of Real Estate Services, and the Director of Legal Services are in agreement with the recommendations.

REPORT

Background/Context

- (i) *Establishment as Road of Riverfront Lot East of Kinross Street and Log Storage Use of the Riverfront*

Park Lane is the owner of 6 properties, east of Kinross Street and adjacent to the Fraser River (the "Encumbered Properties") that are more precisely described and shown in Appendix "B". They also own the Park Lane Lots to the west of the Encumbered Properties as shown on Appendix D. Park Lane intends to subdivide the Encumbered Properties and the Park Lane Lots with adjacent lands to create development parcels, open space (park) parcels, and road in order to fulfill the rezoning conditions for EFL Area 2. As noted above, this is the second phase of subdivision for EFL Area 2. A copy of the proposed subdivision plan for the Phase 2 Subdivision is attached as Appendix "C".

One of the rezoning conditions seeks the “dedication to the City as road to the satisfaction of the General Manager of Engineering Services, the Director of Legal Services and the Approving Officer, a minimum 10 metre wide strip along the riverfront to connect Kerr Street with the easterly limit of Area 2” (the “Rezoning Condition”). The purpose of the riverfront road, which is proposed by Park Lane to be 12 metres in width, is to provide for river-oriented recreational uses, a walkway, and a bikeway. It is common practice for the City to seek road dedication along the waterfront to accommodate walkways, bikeways, and public open space.

Statutory Right of Way GC104773 (“GC104773”) is a charge registered on the title of the Encumbered Properties in favour of the Forest Companies. GC104773 gives the Forest Companies the right to “interfere with, curtail and restrict fully” the “legal right of ingress and egress to and from the North Arm of the Fraser River” over the Encumbered Properties to facilitate the Forest Companies’ use of the foreshore as a mooring facility and booming ground.

The Forest Companies have not agreed to the dedication of the entire width of the riverfront road since dedication would extinguish their rights under GC104773. In order to preserve GC104773 as a charge on title, Park Lane has proposed the creation of a narrow lot along the riverfront i.e. Lot 21 (as shown cross-hatched on Appendix “A”) which forms part of the riverfront road referred to in the Rezoning Condition.

In support of Park Lane’s proposal Recommendation A seeks the transfer of Lot 21 to the City and its establishment as road under Section 291(a) of the Vancouver Charter in order to affirm its use by the City as road (for riverfront recreational use) and maintain the rights in favour of the Forest Companies. Lot 21 is approximately 1 metre in width which provides for the remaining approximately 11 metres of road along the riverfront to be dedicated under the Land Title Act thus providing the required road connection to the river. Lot 21 is positioned strategically such that fully dedicated connections to the river are provided at intervals of 200 metres or less as required by Section 75(1)(c) of the Land Title Act.

In 2010 the Forest Companies discharged GC104773 from Lots 25, 26, 27, and 28 Blocks 9, 10, and 16 to 19 District Lots 330 and 331 Plan 2593 (defined above as the “Park Lane Lots” - see Appendix “D”) since at that time they did not hold waterlot leases fronting on these properties. In support of the Park Lane’s commercial lease (between Park Lane and the Port) fronting on the proposed EFL commercial district the Forest Companies have agreed to relinquish their rights under GC104773 as applicable to the commercial development in favour of reinstating their rights appurtenant to their new leases fronting on the Park Lane Lots. Recommendation B provides WFP with adequate riparian rights to operate their log storage facility in conjunction with their lease agreements with the Port.

(ii) *Extension of Closing Date for Sale of Portions of East Kent Avenue South and Kinross Street*

The closure and sale of portions of East Kent Avenue South and Kinross Street was approved by Council on October 16, 2012 (RTS #9690). The closure and sale of such portions of road is a requirement to complete the Phase 2 Subdivision. The sale of the road portions was originally supposed to close on November 27, 2012 however other issues relating to the Phase 2 Subdivision required the Director of Real Estate Services to extend the closing date for 90 days to February 25, 2013 which is the maximum extension permitted by standing authorities.

The City and Park Lane are actively working on completing the various requirements for the Phase 2 Subdivision but staff anticipate that additional time will be required to complete the various pieces and therefore the closing date will need to be extended beyond February 25. This report seeks authorization to extend the closing date for up to 6 months however staff believe the Phase 2 Subdivision will be completed much sooner.

Strategic Analysis

(i) *Establishment as Road of Riverfront Lot East of Kinross Street and Log Storage Use of the Riverfront*

Establishment of road under the Vancouver Charter, as opposed to dedication as road under the Land Title Act, will allow GC104773 to remain as a charge on the title of Lot 21 and enable the Phase 2 Subdivision to proceed. Typically, the City requires developers to deliver new roads entirely free of encumbrances such that the City's future use of them remains unfettered. Adherence to this practice would delay if not preclude the subdivision and the creation of the EFL Area 2 parcels. Continued use of the Fraser River foreshore for log boom moorage is consistent with the East Fraser Lands ODP and supportive of the concept for a working river alongside the East Fraser Lands development.

Since the approximately 1 metre wide Lot 21 has limited development potential, and is not entirely consistent with the approved form of development, via the subdivision process the Approving Officer will require that a no-development covenant (other than development to support the proposed use) be registered on the title of Lot 21 in addition to it being established as road under the Vancouver Charter.

The agreement under Recommendation B provides WFP with adequate rights to operate their log storage facilities fronting on the Park Lane Lots without introducing an additional encumbrance on the riverfront road.

The approval of this report will enable the Rezoning Condition to be fulfilled and the Phase 2 Subdivision to proceed.

Implications/Related Issues/Risk (if applicable)

Financial

(i) *Establishment as Road of Riverfront Lot East of Kinross Street and Log Storage Use of the Riverfront*

The riverfront road will be dedicated and Lot 21 will be transferred at no cost to the City. No monies are exchanged under these agreements.

(ii) *Extension of Closing Date for Sale of Portions of East Kent Avenue South and Kinross Street*

There are no financial implications for the City as a result of the extension of the closing date.

Legal

- (i) *Establishment as Road of Riverfront Lot East of Kinross Street and Log Storage Use of the Riverfront*

The continuance of GC104773 and the new agreement with WFP are acceptable under the circumstances. GC104773 and the new agreement with WFP are not expected to have an adverse impact on the proposed river-oriented recreational uses along the riverfront.

- (ii) *Extension of closing date for sale of portions of East Kent Avenue South and Kinross Street*

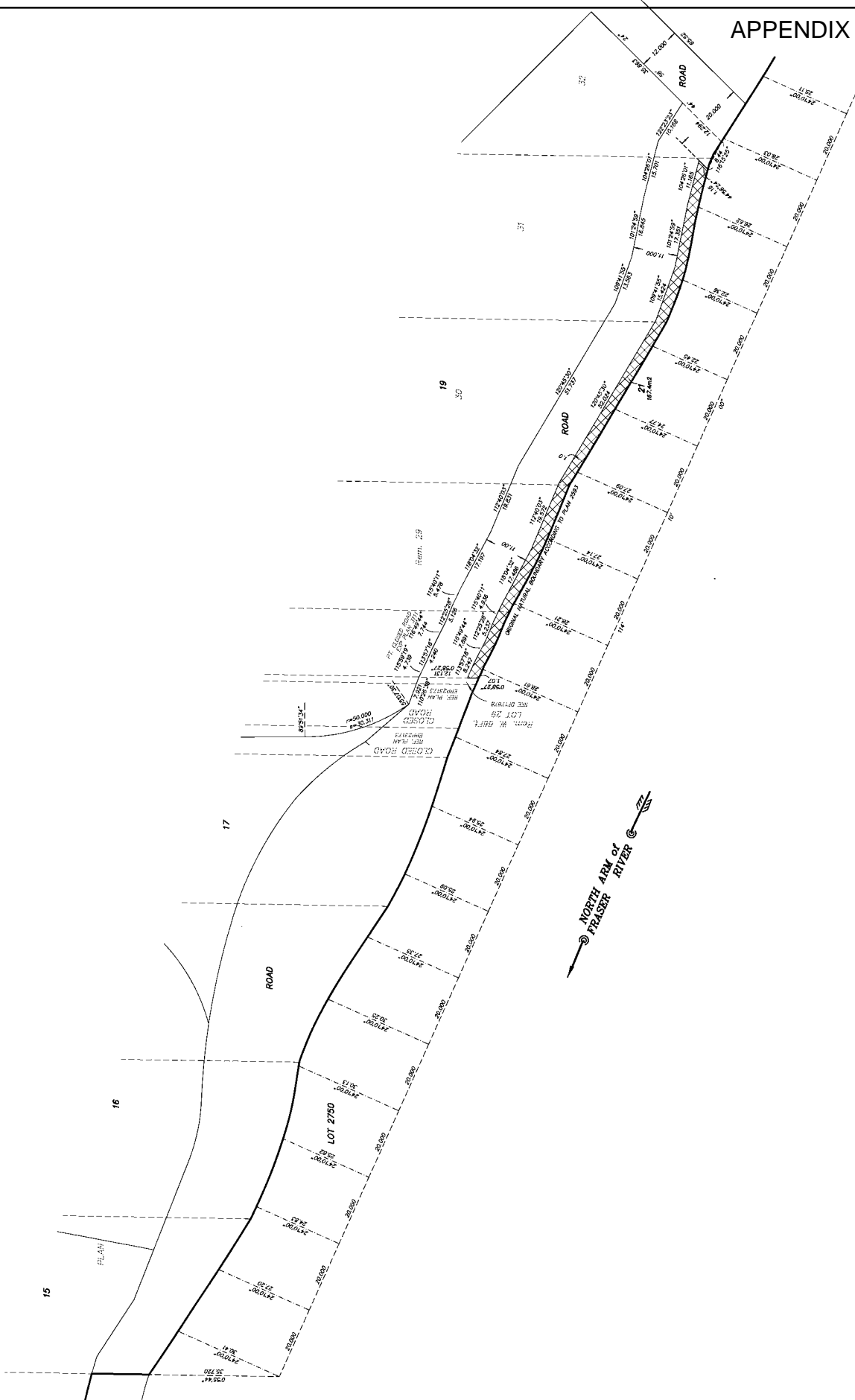
There are no legal implications for the City as a result of the extension of the closing date.

CONCLUSION

The General Manager of Engineering Services, in consultation with the Director of Legal Services and the Director of Real Estate Services recommend approval of the Recommendations contained in this report.

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SURVEY PLAN SHOWING
1 METER STRIP ON PART
OF AREA 2 PHASE 2
EAST FRASER LANDS
NOT TO SCALE



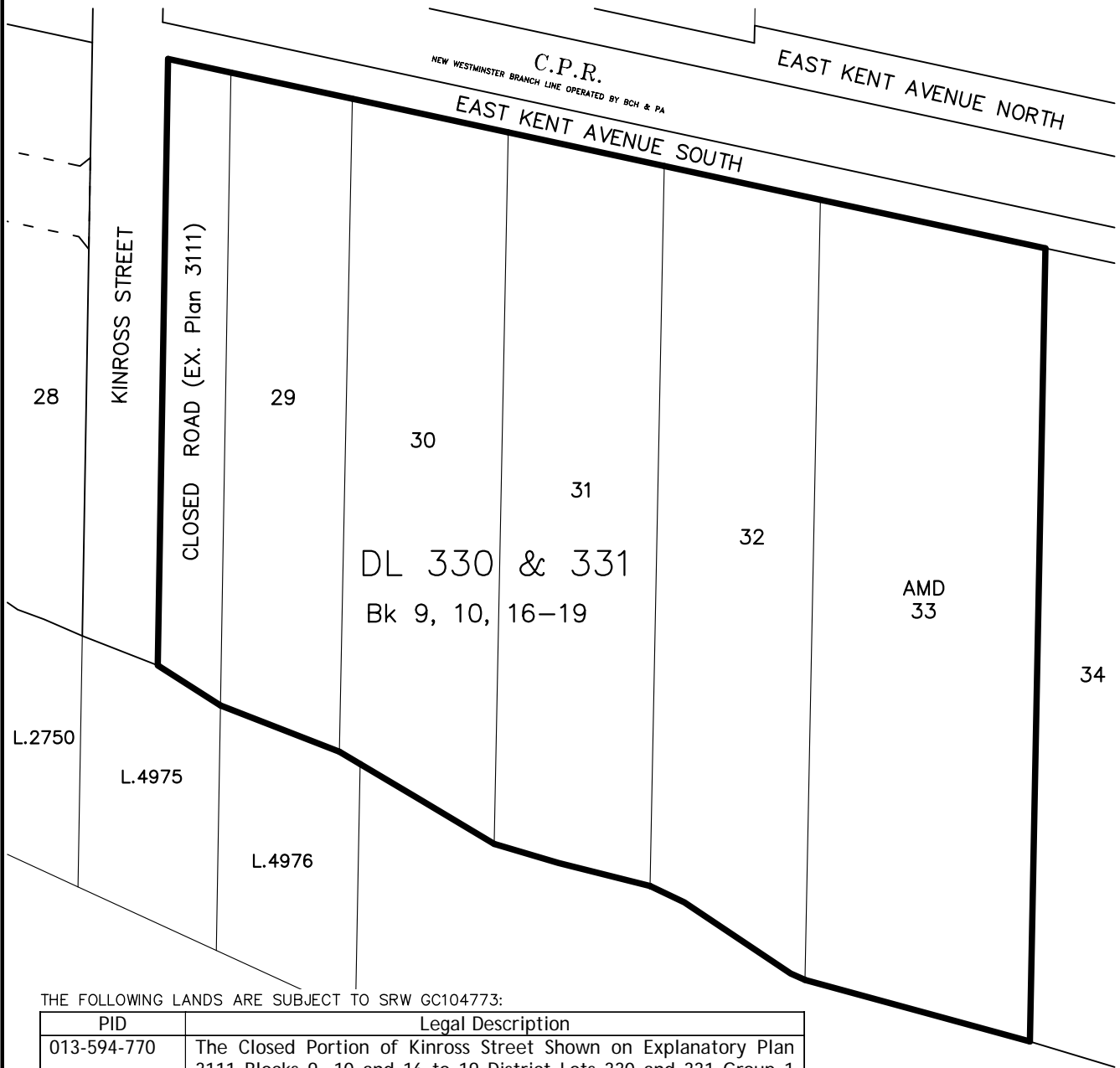
APPENDIX A

4 - 19200 040 A01
BUTLER
SURVEY
No. 604-583-5811
C/W 3052-AREA2-PH2-1m STRIP

29 JANUARY 2013
3052-AREA2-PH2-1m STRIP

THIS PLAN LIES WITHIN THE GREATER VANCOUVER REGIONAL DISTRICT

APPENDIX B – "Encumbered Properties"

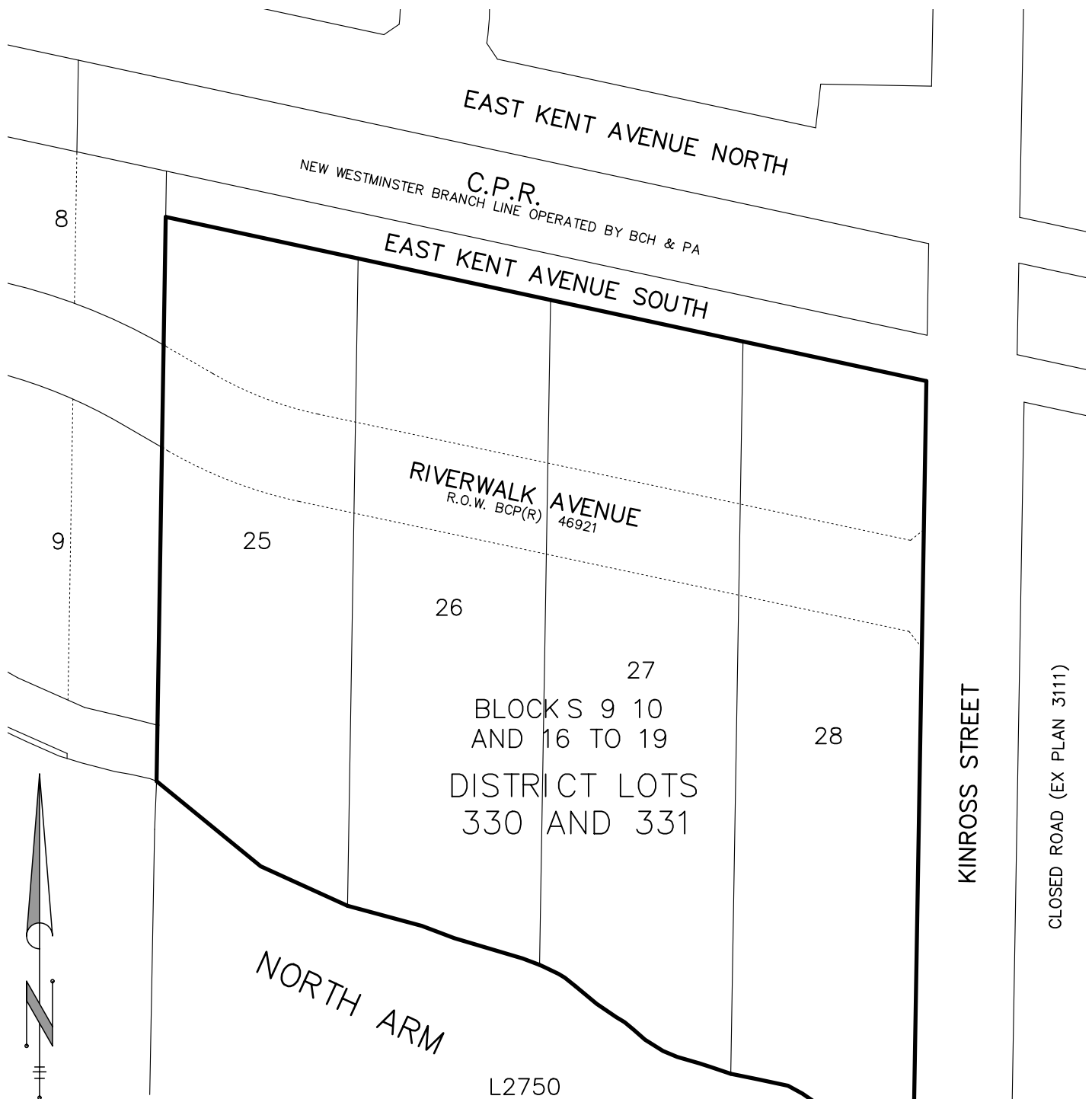


THE FOLLOWING LANDS ARE SUBJECT TO SRW GC104773:

PID	Legal Description
013-594-770	The Closed Portion of Kinross Street Shown on Explanatory Plan 3111 Blocks 9, 10 and 16 to 19 District Lots 330 and 331 Group 1 Plan 2593
013-594-265	Lot 29, Except the West 66 Feet Now Road, Blocks 9, 10 and 16 to 19 District Lots 330 and 331 Group 1 Plan 2593
013-594-303	Lot 30 Blocks 9, 10 and 16 to 19 District Lots 330 and 331 Group 1 Plan 2593
013-594-338	Lot 31 Blocks 9, 10 and 16 to 19 District Lots 330 and 331 Group 1 Plan 2593
013-594-346	Lot 32 Blocks 9, 10 and 16 to 19 District Lots 330 and 331 Group 1 Plan 2593
013-594-419	Amended Lot 33 (See 53754K) Blocks 9, 10 and 16 to 19 District Lots 330 and 331 Group 1 Plan 2593

NORTH ARM FRASER RIVER

APPENDIX 'D' – "PARK LANE LOTS"



THE FOLLOWING LANDS ARE <u>NOT</u> SUBJECT TO SRW GC104773	
P.I.D.	LEGAL DESCRIPTION
013-594-168	LOT 25 BLOCKS 9 10 AND 16 TO 19 DISTRICT LOTS 330 AND 331 PLAN 2593
013-594-184	LOT 26 BLOCKS 9 10 AND 16 TO 19 DISTRICT LOTS 330 AND 331 PLAN 2593
013-594-192	LOT 27 BLOCKS 9 10 AND 16 TO 19 DISTRICT LOTS 330 AND 331 PLAN 2593
013-594-214	LOT 28 BLOCKS 9 10 AND 16 TO 19 DISTRICT LOTS 330 AND 331 PLAN 2593

DRAWING NOT TO SCALE
AFP MAP: V-25

ENGINEERING SERVICES
JANUARY 29 2013