

CONSOLIDATION UPDATE: NOVEMBER 9, 2022

THE CITY OF WINNIPEG

THE SECONDARY DYKE BY-LAW
NO. 7600/2000

**A By-law of THE CITY OF WINNIPEG
designating Secondary Dyke Corridors, and
regulating construction within Secondary Dyke
Corridors.**

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

SHORT TITLE

1. This By-law shall be referred to as the **"Secondary Dyke By-law"**.

DEFINITIONS

amended 8162/2002

2. (1) *repealed 8162/2002*

- (2) In this By-law,

"designated employee" means the Director of Water and Waste, (the "Director") or such other person as may be authorized in writing by the Director, to exercise some or all of the powers vested in the person holding the position of Director, by this By-law;

"Director" means the Director or Acting Director of Water and Waste for the City of Winnipeg.

added 59/2005

"in" when used in respect of a secondary dyke, or secondary dyke corridor, whether by itself or as part of the word "within", includes "on", "under" and "over";

"permit" means a permit issued by a designated employee under section 5;

"primary dike" means a primary dyke or a primary line of defence designated as such on a map of the City of Winnipeg's dykes contained in the most recent annual report required to be made to the Minister by the Dyking Commissioner by *The Dyking Authority Act*;

amended 91/2010

"secondary dyke" means any permanent dyke or other flood control work within the City of Winnipeg which has been, or is, constructed between a primary dyke and the channel of the Red, Assiniboine, Seine or LaSalle Rivers, or between a primary dyke and the channel of the Sturgeon, Truro, Omand's or Bunn's Creeks.

"secondary dyke corridor" means those areas identified as such on one or more of the maps attached as Schedules A to E to this By-law.

amended 91/2010

"structure" includes:

amended 8162/2002

(a) a well, pipe line, conduit, cut, excavation, dyke, and any structure or erection, or any part of any of those things,
amended 8162/2002

(b) an addition to or extension of anything listed in (a), and,

(c) a chattel that is attached to anything listed in (a);

but does not include

(d) a chain link or wooden fence, or

(e) an erection or structure which
amended 8162/2002

(i) does not have a fixed location on or in the ground, or

(ii) is not attached to something having a fixed location on or in the ground;
amended 116/2003

"temporary dyke" means a non-permanent dyke erected for the purpose of protecting the City, or part of the City, from flood;

"tree" means any woody plant of a species which at maturity is usually 5 or more metres in height, having one or more self-supporting trunks, and includes the roots, branches, trunk, crown, or any part thereof, but does not include a woody shrub;

"woody shrub" means any woody plant of a species which at maturity is usually less than 5 metres in height, having usually more than one self-supporting stem, and including the roots, branches, stems, crown or any part thereof.

MAINTENANCE OF SECONDARY DYKE CORRIDORS

3. Every owner, occupant and agent for either the owner or occupant" shall maintain the secondary dyke corridor located on their property free and clear of trees and structures that have not been permitted under section 5.

amended 8162/2002

NO RETROACTIVE EFFECT

4. Section 3 does not apply to any tree located within a secondary dyke corridor prior to the date this by-law is enacted by Council.

REGULATION OF DEVELOPMENT WITHIN CORRIDOR

5. No person shall construct or erect a structure or plant a tree within a secondary dyke corridor without a permit issued under section 6.

amended 91/2010

PERMITS

6. (1) Upon receipt of an application containing information satisfactory to the designated employee that would enable the designated employee to determine whether or not the proposed development will meet the provisions of this By-law, and upon payment, at the time of application of the fee established by Council, the designated employee may issue a permit.

amended 91/2010

(2) A permit shall not be issued for development to be done in a secondary dyke corridor unless the applicant demonstrates to the reasonable satisfaction of the designated employee that the proposed development will not, or will not have a tendency to, adversely affect:

(a) the integrity of a secondary; or,

(b) the construction, or integrity, of a temporary dyke.

(3) The designated employee may issue a permit to allow development within a secondary dyke corridor subject to such terms and conditions as he considers necessary to ensure compliance with subsection (2).

(4) A decision to issue or to refuse a permit must be given to the applicant in accordance with *The City of Winnipeg Charter*.¹

amended 8162/2002

- (5) Where an address for sending a decision or other document is required, the address provided by the person in the application for a permit shall be used. ¹
added 8162/2002

EXPIRY OF PERMITS IN ONE YEAR

7. A permit issued under section 6:

- (a) shall expire and the right of an applicant under the permit shall terminate if the development authorized by the permit is not commenced within one (1) year from the date of issuance of the permit and reasonably continued without interruption thereafter; and,
amended 8162/2002
- (b) may, upon receipt of a request for renewal and upon payment of the fee established by Council, be renewed by the designated employee on only one occasion for an additional period not exceeding one (1) year.
amended 91/2010

DUTY TO PREVENT FLOODING

8(1) Every owner and occupant of property on which a secondary dyke corridor or secondary dyke is located must take reasonable actions at his or her cost to prevent flooding on his or her property and to ensure that the secondary dyke or secondary dyke corridor on the property is effective as a flood control work in preventing flooding in the City of Winnipeg.

DUTY TO COMPLY WITH DIRECTIONS OF DESIGNATED EMPLOYEE

8(2) Without restricting the general nature of subsection 8(1), the obligation placed by that subsection on the owner or occupant of property on which a secondary dyke corridor or secondary dyke is located includes the obligation at his or her own expense to comply with directions provided by a designated employee under subsection 8(3).
added 91/2010

DIRECTIONS OF DESIGNATED EMPLOYEE

8(3) Where a designated employee has reason to believe that there is a significant risk of flooding in an area protected by secondary dykes, as he or she considers actions to be prudent in the circumstances, he or she may in writing or verbally direct an owner or occupant of property on which a secondary dyke corridor or secondary dyke is located to take specific actions at the owner's or occupant's expense to comply with his or her obligation under subsection 8(1), including any or all of the following measures:

- (a) to remove snow and ice from the secondary dyke or secondary dyke corridor on his or her property;

- (b) to remove any or all buildings, structures, trees and other obstacles, whether or not they have been authorized by section 4 or 6 of this By-law, from the secondary dyke or secondary dyke corridor on his or her property;
- (c) to remove specific obstacles on the secondary dyke or secondary dyke corridor on his or her property;
- (d) to accept of his or her property the delivery of sandbags or other material or items from the City of Winnipeg with which to construct a temporary dyke;
- (e) to construct a temporary dyke on the secondary dyke or secondary dyke corridor on his or her property which temporary dyke may be required to be linked to temporary dykes constructed on adjacent properties and located as specified by a designated employee, using materials and a method of construction approved by a designated employee, and to a height and width specified by the designated employee;
- (f) to monitor dikes for seepage and to pump out seepage as necessary;
- (g) to maintain, repair or improve the temporary dyke after it has been constructed;
- (h) to permit accessibility to the remainder of the secondary dyke or the secondary dyke corridor; and
- (i) to take other reasonable measures to construct and maintain the temporary dyke as a barrier to flooding.

added 91/2010

DUTY TO REMOVE TEMPORARY DYKES

9 Within a reasonable period of time after the threat of flooding has receded and, in any event, when directed to do so by a designated employee, an owner or occupant of property on which a secondary dyke corridor or secondary dyke is located must remove and properly dispose of the sandbags and other elements of a temporary dyke that has been constructed on the secondary dyke or secondary dyke corridor.

amended 91/2010

POWERS OF DESIGNATED EMPLOYEE

10(1) A designated employee may conduct inspections and take steps to administer and enforce this By-law or remedy a contravention of this By-law in accordance with *The City of Winnipeg Charter* and, for those purposes, has the powers of a designated employee under *The City of Winnipeg Charter*. When flooding or the threat of flooding constitutes an emergency that affects the health or safety of people or affects property, a designated employee may take whatever actions and measures are necessary to meet the emergency and to eliminate or reduce its effects.

amended 91/2010; 116/2010

NOTICE REQUIREMENTS VARIED

10(2) Because of the impracticality of complying with subsection 117(1) of *The City of Winnipeg Charter* in the urgent situations typically associated with the need for owners and occupants to comply with section 8, the requirements for giving notice under subsection 117(2) of *The City of Winnipeg Charter* are hereby varied pursuant to section 119 of *The City of Winnipeg Charter*, as follows: A copy of a notice, order or document issued or given in order to enforce or administer section 8 of this By-law and which is sent by registered mail or delivery under subsection 117(1) of *The City of Winnipeg Charter* is deemed to have been received by the person to whom it is sent 24 hours after the time it was sent by registered mail to or delivered to the address of the person determined in accordance with this By-law.

amended 91/2010

DESIGNATED EMPLOYEE MAY ISSUE ORDERS

11. Without restricting the generality of section 10, a designated employee who finds that any provision of this By-law is being contravened may, by written order, require the person responsible for the contravention to remedy it.

amended 59/2005

ORDERS

12. Any order to remedy a contravention of this By-law must be issued in accordance with The City of Winnipeg Charter.¹

added 59/2005

1 See sections 184 to 188 of *The City of Winnipeg Charter*, reproduced in Attachment “B”.

ADDRESS FOR SERVICE

13. Where an address for service must be determined, it shall be done as follows:
- (a) if the person to be served is the owner of real property, the address maintained by the tax collector for the purpose of issuing the tax notice for that property; and
 - (b) if the person to be served is the occupant of real property, the street address for that property;
 - (c) if the document to be served relates to a permit for which the person to be served has applied, the address provided by the person in the application.
added 59/2005

APPEALS PURSUANT TO SECTIONS 3 TO 7

14. An appeal from an order or decision of a designated employee in respect of sections 3 to 7 of this By-law may be made in accordance with The City of Winnipeg Charter to the Standing Policy Committee on Public Works.
added 59/2005; amended 106/2015; 137/2022

APPEALS PURSUANT TO SECTIONS 8 TO 11

15(1) An appeal from an order or decision of a designated employee in respect of sections 8 to 11 of this By-law may be made in accordance with The City of Winnipeg Charter to a hearing body consisting of the following individuals or their delegates:

- (a) the Chief Administrative Officer of the City;
- (b) the Chief Financial Officer of the City;
- (c) all of the Deputy Chief Administrative Officers;
amended 91/2010
- (d) the Director of Corporate Support Services;
amended 91/2010
- (e) the Director of Planning, Property and Development;
- (f) the Director of Community Services;
- (g) the Director of Winnipeg Transit.
amended 91/2010

CHAIR AND VICE-CHAIR OF HEARING BODY

15(2) The Chief Administrative Officer of the City or his/her designate shall serve as the chairperson of the hearing body referred to in subsection (1) and the Chief Financial Officer of the City or his/her designate shall be the vice-chairperson.

PANELS AUTHORIZED

15(3) The hearing body referred to in subsection (1) may sit in panels of three or more members selected by the chairperson.

RULES OF PRACTICE AND PROCEDURE

15(4) Sections 54.10 and 54.11 of the Procedure By-law apply to hearings conducted under this section and the hearing body referred to in subsection (1) may adopt other rules of practice and procedure.

added 59/2005

16. *repealed 59/2005*

17. *repealed 59/2005*

SCHEDULE A FORMS PART OF BY-LAW

18. The following schedules, attached hereto, form part of this By-law:

Schedule A (two pages)	Kingston Row and Kingston Crescent
Schedule B (one page)	Lord Avenue
Schedule C (two pages)	Glenwood Crescent
Schedule D (three pages)	Scotia Street

amended 91/2010

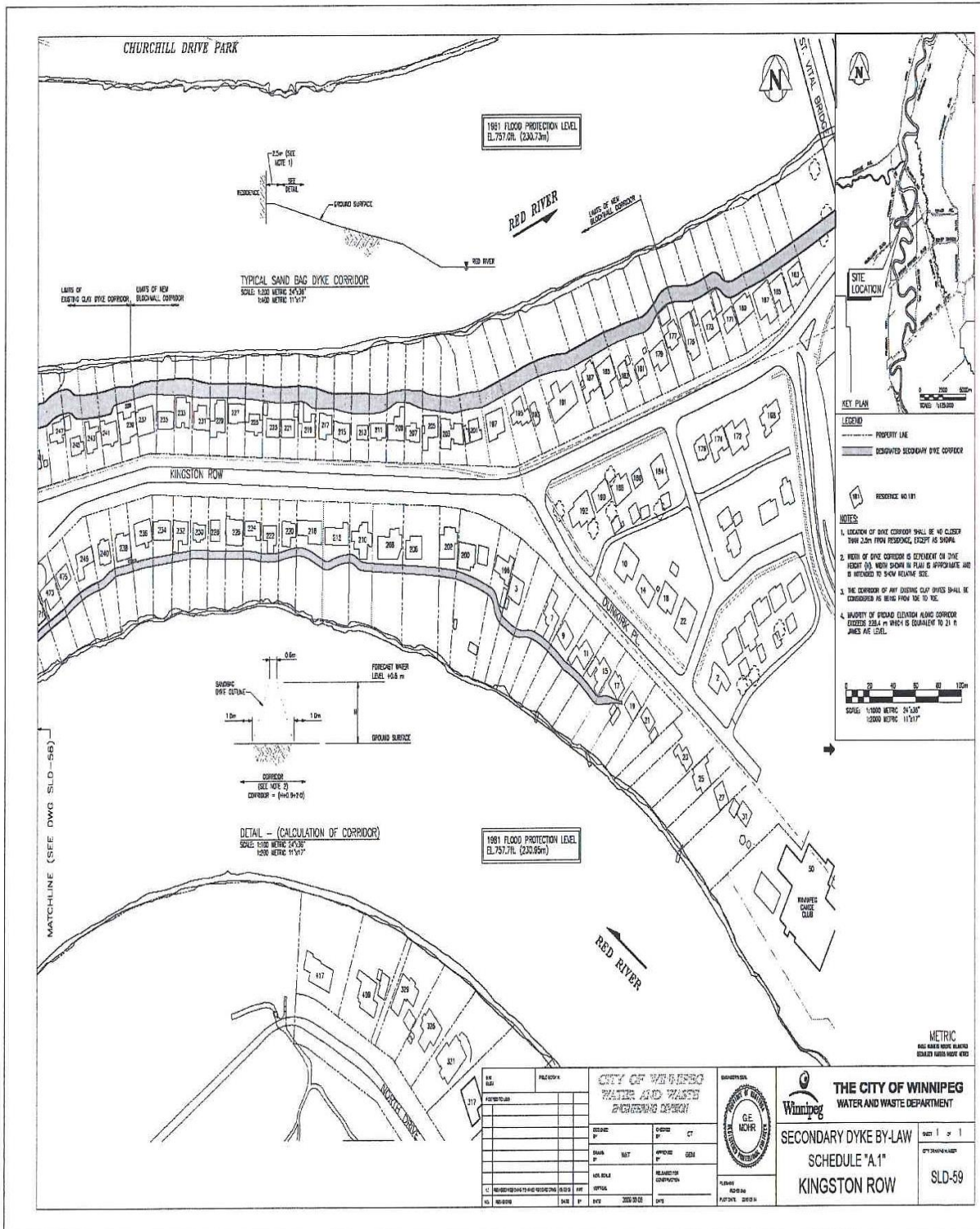
DONE AND PASSED in Council assembled, this 26th day of April, A.D., 2000.

1 See sections 116 and 117 of The City of Winnipeg Charter for information about how to serve orders, decisions and other documents.

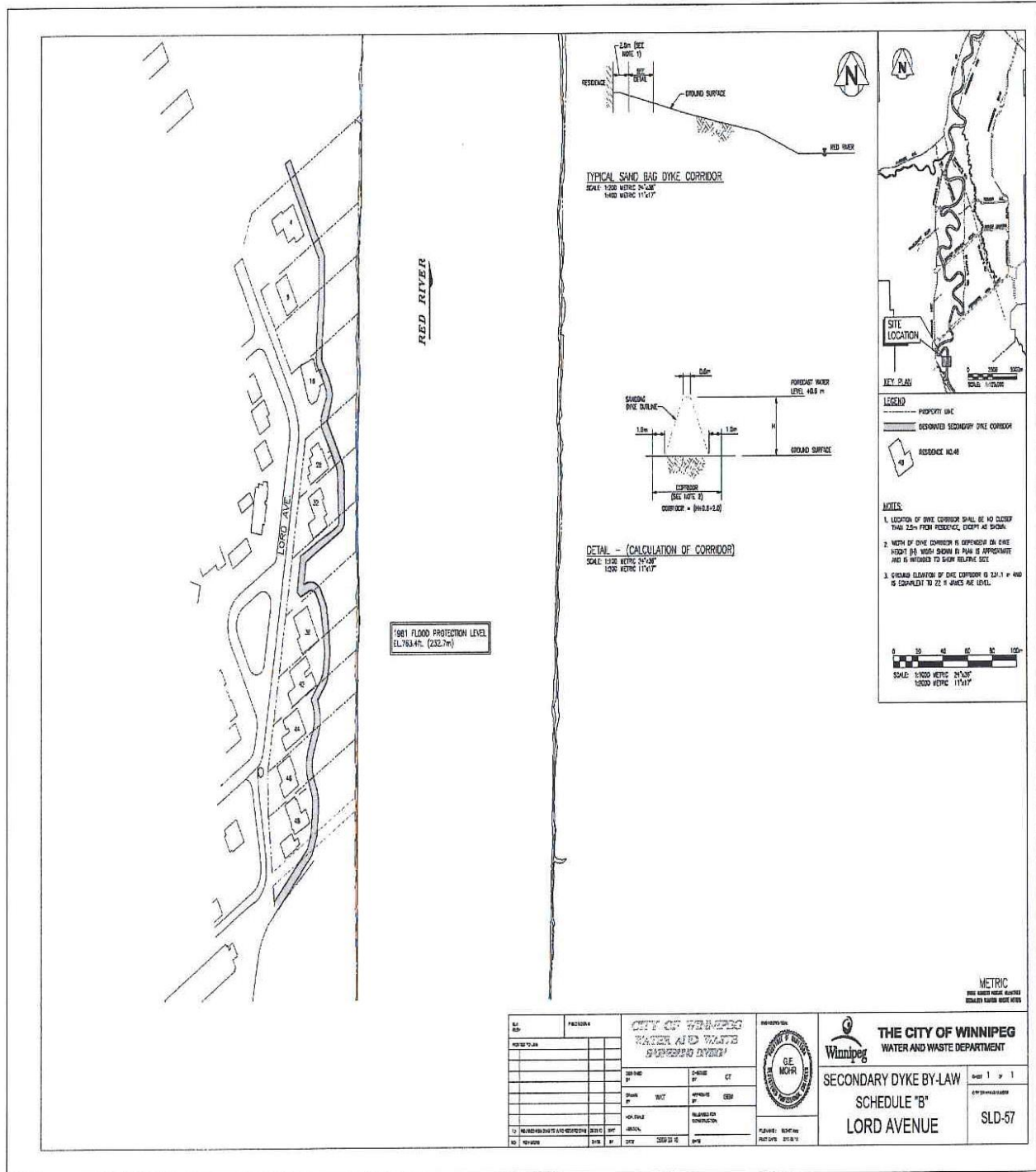
2 See sections 180-181 and sections 183-188 of *The City of Winnipeg Charter* for information about some of the key powers given to designated employees.

3 See sections 189 and 121 of *The City of Winnipeg Charter* for information about appeals, including information about the time limit for appeals and how appeals are to be filed.

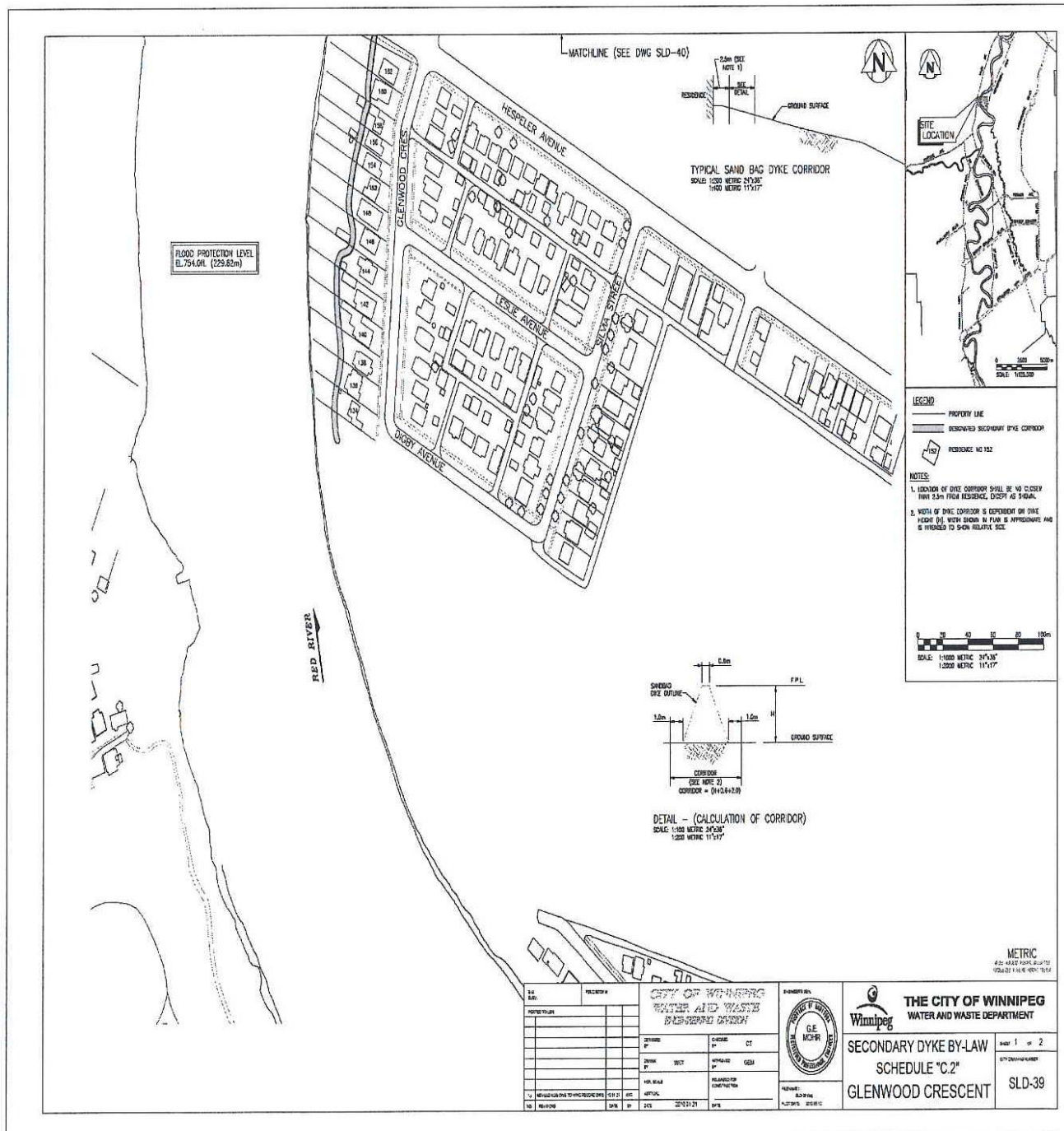
Schedule "A"

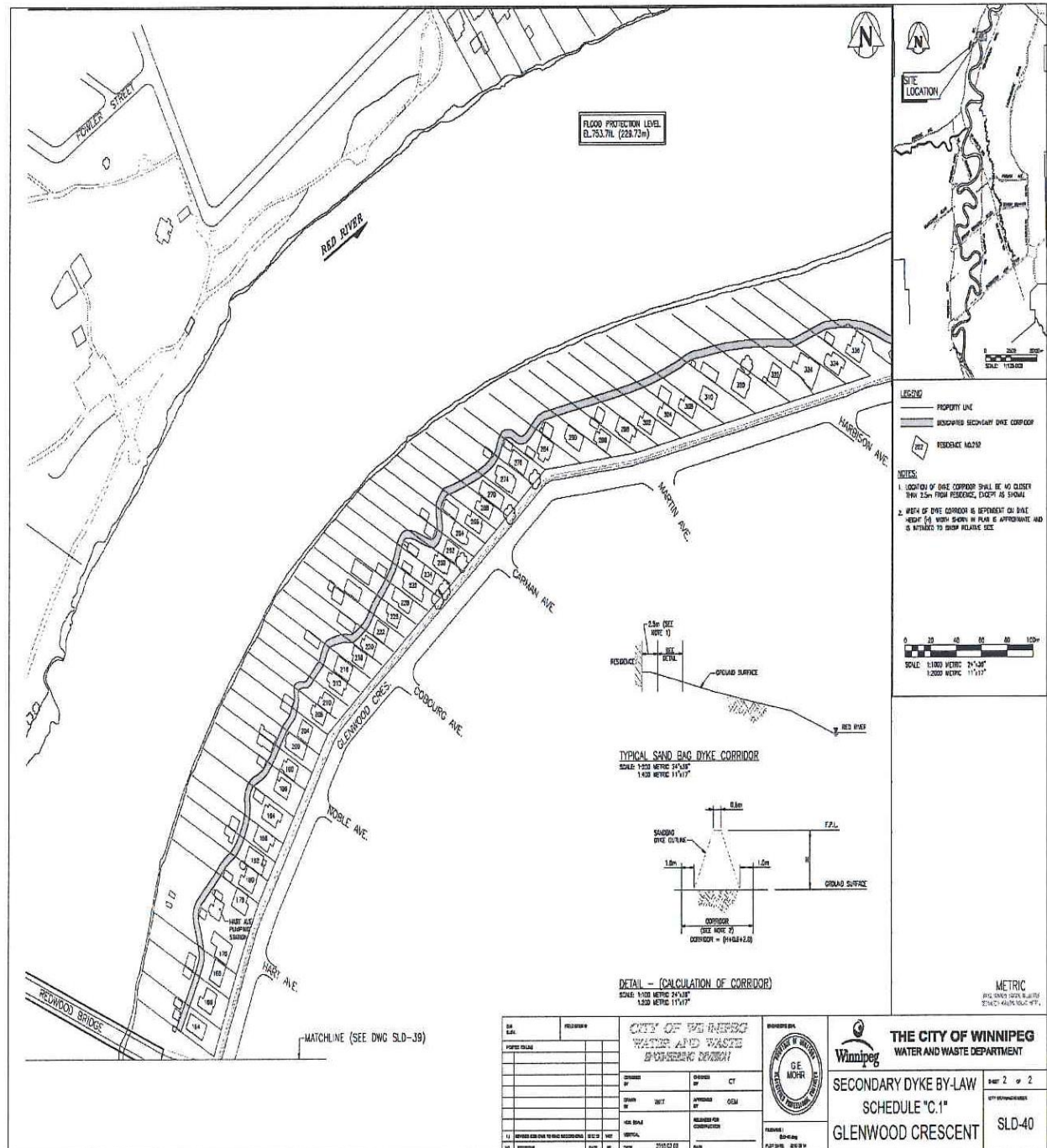


Schedule "B"



Schedule "C"





Schedule "D"

