

27 April 2021

Re: 41c Landing Road

Thank you for your interest in the above property currently listed with us for sale by Set Date.

We have made available to you the following:

- Certificate of Title
- LIM
- Rates information from Auckland Council
- School Zones
- REA Code of Conduct
- REA Guide to Selling and Buying
- Conditions of sale

41c Landing Road is 9794m² more or less fee simple estate 496011 Lot 12 Deposited Plan 424634 and ¼ share 655m² Lot 14 DP 406655.

THINGS WE WANT TO DRAW YOUR ATTENTION TO:

Land Information Memorandum (LIM)

Site Contamination	A study undertaken by the Auckland District Health Board and legacy Auckland Regional Council in 2001 identified that this site may have previously been used for horticultural purposes. (See LIM for further information)
Wind Zones for this property	Low wind speed of 32m/s
Soil issues	30/06/2000 Stability Sensitive Please note this property was previously shown under the Transitional District Plan as being located in a Stability sensitive area. <i>Stability sensitive - Titirangi and Laingholm is stability sensitive. This means that should you develop the property, you will require an engineer's report.</i>
	06/01/2010 Geotechnical report required
Overland Flow Path	This site spatially intersects with one or more Overland Flow Paths.
Special Features – General	26/08/2009 Pedestrian ROW – Pedestrian ROW in favour of council

	25/08/2009 Fencing – The owner will be responsible for the cost of creating and/or maintaining and dividing fence between: (i) Any public reserve; or (ii) Any other land vested or to be vested in or occupied by the City; b.,, The owner will not erect or permit to be erected any dividing fence or replace any existing fence on any part of the above mentioned boundaries unless the fence or replacement fence is constructed with visually permeable materials.
Drainage	06/01/2010 Stormwater easement 06/10/2010 On-site stormwater management device 06/01/2010 Stormwater mitigation
Planning	Refer to LIM
Subdivisions	Refer to LIM
Engineering Approvals	EWA-2008-264 Engineering Compliance New Fire Hydrant Approved 24/04/2008
Resource Management – Other issues	06/01/2010 – Tree removal The Owners of the land shall preserve in perpetuity and use the Owner’s best endeavours to ensure that others preserve in perpetuity all bush and trees growing from time to time on those parts of the land marked Covenant Areas “C” “D” and “E” on Deposited Plan 424634 in their natural state and without limiting the generality of the foregoing, the owner shall not cut down, trim, burn, maim or do any act which may prejudice the preservation of such bush and trees or permit others to cut down, trim, maim, burn or do any act which may prejudice the preservation of such bush or trees without first obtaining the consent of the Auckland Council which may be withheld for any reason at the total discretion of the Auckland Council and if conditions are imposed on any such consent, then strictly in accordance with those conditions. The Owner will also carry out such weed management to the satisfaction of the Auckland Council as required by the conditions of Consent RMA2005279
Building	ABA-2014-937 RBW – RES 2: Proposed two storey, three bedroom residential dwelling with double carport, deck, retaining wall, 400L detention tank 19/08/2014 CCC Issued 11/02/2016
Waitakere Ranges Heritage Area	This property is located within the Waitākere Ranges Heritage Area as defined in the Waitākere Ranges Heritage Area Act 2008.



The ProAgent Team

Gaston Coma

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Bronwyn Scott-Woods

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Austar Realty Ltd Licensed (REAA 2008) | 423 Titirangi Road, Titirangi 0604

Disclosures:

- The vendors lawyer has informed us that the caveat on the title will be removed as part of the settlement process
- Village Fields drainage system approximately \$100 per year admin and the owners rotate to check the drains
- They have strengthened the carport pad to be able to build on it.

We recommend that when purchasing a property, you seek legal advice.

This information has been supplied to us by a third party. Accordingly, the Vendor and Austar Reality Limited are merely passing over this information as supplied to us by others. While we have passed on this information supplied by a third party, we have not checked, audited, or reviewed records or documents and therefor to the maximum extent permitted by law neither the Vendor nor Austar Realty Limited or any of its' salespersons or employees accept any responsibility for the accuracy of the materials. Intending purchasers are advised to conduct their own investigation

Regards

Gaston Coma & Bronwyn Scott-Woods



The ProAgent Team

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STATEMENT OF PASSING OVER INFORMATION:

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Austar Realty Ltd
PO Box 69139
Glendene
AUCKLAND 0645



Applicant	Austar Realty Ltd
LIM address	41C Landing Road Titirangi
Application number	8270308399
Customer Reference	
Date issued	30-Apr-2021
Legal Description	LOT 12 DP 424634, LOT 14 DP 406655
Certificates of title	496011

Disclaimer

This Land Information Memorandum (LIM) has been prepared for the applicant for the purpose of section 44A of the Local Government Official Information and Meetings Act 1987.

The LIM includes information which:

- Must be included pursuant to section 44A of the Local Government Official Information and Meetings Act 1987
- Council at its discretion considers should be included because it relates to land
- Is considered to be relevant and reliable

This LIM does not include other information:

- Held by council that is not required to be included
- Relating to the land which is unknown to the council
- Held by other organisations which also hold land information

Council has not carried out an inspection of the land and/or buildings for the purpose of preparing this LIM. Council records may not show illegal or unauthorised building or works on the land.

The applicant is solely responsible for ensuring that the land or any building on the land is suitable for a particular purpose and for sourcing other information held by the council or other bodies. In addition, the applicant should check the Certificate of Title as it might also contain obligations relating to the land.

The text and attachments of this document should be considered together.

This Land Information Memorandum is valid as at the date of issue only.

s44A(2)(a) Information identifying any special feature or characteristics of the land

This information should not be regarded as a full analysis of the site features of this land, as there may be features that the Council is unaware of. The applicant is solely responsible for ensuring that the land is suitable for a particular purpose including development.

Site Contamination

A study undertaken by the Auckland District Health Board and legacy Auckland Regional Council in 2001 identified that this site may have previously been used for horticultural purposes. Auckland Council does not currently have information confirming whether this site is contaminated as a result of any previous horticultural use. However, due to the potential for contamination, the Council may require a preliminary site investigation and/or detailed site investigation be carried out by a suitably qualified and experienced practitioner, and provided to the council for review. Resource consent from Auckland Council may also be required prior to any soil disturbance (including sampling soil), redevelopment, subdivision, or change of use of the site.

Wind Zones

Wind Zone(s) for this property: Low wind speed of 32 m/s

The wind zones are based on wind speed data specific to all building sites as outlined in NZS 3604:2011. Other factors such as topographic classes, site exposure and ground roughness determine the actual wind bracing demands and bracing elements required for the building.

For further information refer to NZS 3604:2011 Section 5 — Bracing Design

Soil Issues

Soil issues recorded. The land may not be suitable for particular development or land use purposes. A soil report may be required to/must be submitted with any building and/or resource consent application.

Effective Date	Description	Details
06/01/2010	Geotechnical report required	The Owner of the land shall: (a), ensure the foundations of any dwelling houses constructed over the subsoil drains installed on the land are designed in such a way that the drains are not impeded or damaged; and (b), not place, erect, construct or permit to remain on any of the land any buildings unless: (i), the foundations of such buildings have been the subject of specific design by a Registered Engineer experienced in Geomechanics and familiar with: A., the geotechnical report by Jackson Clapperton & Partners Limited, dated 11 October 2001, together with its subsequent amendments; and B., the peer review of the said report by Beca Carter Hollings and Ferner Limited (both held in Council's files under RMA20020091; and (ii), such buildings are constructed in accordance with that design to the satisfaction of the Auckland Council ,,
30/06/2000	Stability Sensitive	Please note this property was previously shown under the Transitional District Plan as being located in a

		Stability sensitive area.
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If any soil information/reports have been prepared in relation to this property, they will be available for viewing at an Auckland Council Service Centre.

Flooding

This statement entitled "Flooding" appears on all LIMs.

Known flooding information is displayed on the map attached to this LIM entitled "Special Land Features – Natural Hazards - Flooding".

The information shown in the "Special Land Features - Natural Hazards - Flooding" map is also shown on the Auckland Council online map viewer (Geomaps), at www.aucklandcouncil.govt.nz, which is updated from time to time.

Any proposed development may require a flooding assessment to be provided by the applicant.

The absence of flooding on the "Special Land Features - Natural Hazards - Flooding" map does not exclude the possibility of the site flooding, particularly from Overland Flow Paths which may be on other properties.

Overland Flow Path

This site (property parcel) spatially intersects with one or more Overland Flow Paths, as displayed on the map attached to this LIM entitled "Special Land Features – Natural Hazards - Flooding".

Overland Flow Paths are lines representing the predicted route of overland flow, based on analysis of a Digital Terrain Model (derived from aerial laser survey). Overland Flow Paths do not show the width or extent of flow.

Overland Flow Paths are based solely on the terrain and are indicative only.

Overland Flow Paths may flood depending on the amount of rain.

The Auckland Unitary Plan contains policies and rules relating to development and/or works within or adjacent to Overland Flow Paths.

Note: The terms "Flow Path" and "Flowpath" are used interchangeably.

Exposure Zones

New Zealand Standard 3604:2011 classifies all properties in New Zealand into zones based on environmental features including wind, earthquake, snow load and exposure. These zones are relevant to building requirements, such as strength of buildings, materials that should be used and maintenance. All building sites are classified as being in Exposure Zones Extreme Sea Spray, B, C, or D, depending on the severity of exposure to wind driven salt.

This property is classified as: Zone D

High — Coastal areas with high risk of wind-blown sea-spray salt deposits. This is defined as within 500m of the sea including harbours, or 100m from tidal estuaries and sheltered inlets. The coastal area also includes all offshore islands including Waiheke Island, Great Barrier Island. Within each of the zones there are different environmental locations that require fittings and fixtures appropriate to its designation as outlined Tables 4.1 to 4.3 in NZS 3604:2011 being either "closed", "sheltered" or "exposed".

For further information refer to NZS 3604:2011 Section 4 — Durability.

Special Features - General

Effective Date	Description	Details
26/08/2009	Pedestrian ROW	Pedestrian Right of Way in favour of council.
25/08/2009	Fencing	a.,,The owner will be responsible for the cost of creating and/or maintaining and dividing fence between: (i) Any public reserve; or (ii) Any other land vested or to be vested in or occupied by the City; b.,,The owner will not erect or permit to be erected any dividing fence or replace any existing fence on any part of the abovementioned boundaries unless the fence or replacement fence is constructed with visually permeable materials.

s44A(2)(b) Information on private and public stormwater and sewerage drains

Information on private and public stormwater and sewerage drains is shown on the **underground services map** attached.

Note: Private drainage is the responsibility of the land owner up to and including the point of connection to the public sewer or drain.

Effective Date	Description	Details
06/01/2010	Stormwater easement	Area lettered A, B, C, D, E; on DP 207383 is a drainage easement in gross in favour of Waitakere City Council to provide for future drainage extensions.
06/01/2010	On-site stormwater management device	The Owners of the land shall fully maintain all stormwater/subsoil disposal systems referred to herein on the land to the entire satisfaction of the Auckland Council; such responsibility which extends to ensuring the stability of the land is maintained
06/01/2010	Stormwater mitigation	The Owner of the land shall not carry out any development, nor place, erect, construct or permit to remain on any part of the land any buildings, unless stormwater mitigation measures are carried out that must include but are not limited to the following: ,, (a),,prior to any construction on the land and if so required by the Auckland Council then at building consent stage, the Owner shall provide to the Auckland Council a detailed engineering proposal to show how stormwater will be mitigated on the land. Such proposal shall include for example, roof water reuse for toilet, laundry and outside use, and roof areas to drain to tanks and paved areas to drain to underground detention tanks; and ,, (b),,all stormwater flows are limited to pre-development levels for the two and ten year storm events; and (a),,where stormwater flows from the land to the southern watercourse, such stormwater flows are limited to the predevelopment levels for the two, ten and

		one hundred year storm event(s) in order to prevent increased stormwater flows on downstream neighbours; and (b), stormwater runoff from the shared driveway is mitigated to the above levels; and (c), ensure that the said drainage system complies with Auckland Regional Council's TP10 "Stormwater Management Devices Design Guideline Manual" including without limitation compliance with the restrictions on unpainted roof materials (ie no galvanized or zincalume or other unpainted metal type roofing); and all building on the land is located entirely outside the areas marked Covenant Areas "C", "D" and "E" on Deposited Plan 424634
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s44(2)(ba) Information notified to Council by a drinking water supplier under Section 69ZH of the Health Act 1956

Prospective purchasers should be aware of other drinking water systems connected to this property. There may also be private drinking water supply systems such as rainwater tanks or private water bores. You are advised to clarify the drinking water supply with the current landowner.

No Information has been notified to Council.

s44A(2)(bb) Information Council holds regarding drinking water supply to the land

For metered water information, please contact **Watercare (09) 442 2222** for services provided to this property.

s44A(2)(c) Information relating to any rates owing in relation to the land


Billing Number/ Rate Account:	12341779373
Rates levied for the Year 2020/2021 :	\$2,556.26
Total rates to clear for the current year (including any arrears and postponed rates):	\$-75.86

The rates figures are provided as at 8 a.m. 30/04/2021. It is strongly advised these are not used for settlement purposes.

Retrofit Your Home Programme

The Retrofit Your Home programme provides financial assistance, advice and information to householders wanting to create an improved home environment.

The scheme contributes to the achievement of the Air Quality National Environmental Standards encouraging the installation of clean heat and insulation in homes as well as supporting access to central government grants and subsidies. The programme offers homeowners a retrofit plan for their homes and financial assistance up to \$5000 repaid through a targeted rate.

 Auckland Council (09) 890 7898 if you require further information

 retrofit@aucklandcouncil.govt.nz

s44A(2)(d) Consents, Certificates, Notices, Orders or Requisitions affecting the land or any buildings on the land(da) the information required to be provided to a territorial authority under section 362T(2) of the Building Act 2004:s44A and (2)(e) Information concerning any Certificate issued by a Building Certifier pursuant to the Building Act 1991 or the Building Act 2004

Note: if the land is part of a cross lease title or unit title, consents and permits for the other flats or units may be included in this LIM. If the land has been subdivided there may be consents and permits included that relate to the original property.

It is recommended that the full property file is viewed and compared with the actual building and activities on the land to identify any illegal or unauthorised building works or activities.

Financial / development contributions

Financial and development contributions are relevant for recently subdivided land, vacant lots, new residential unit(s) or where there is further development of a site. If any financial or development contribution has not been paid, Council can recover outstanding amount(s) from a subsequent owner of the land.

Please note that financial contributions and development contributions may be paid in land, cash or a combination of these. The form of payment of contributions may be subject to negotiation but final discretion remains with the Council.

Resource Management

Planning

41C Landing Road Titirangi

Application No.	Description	Decision	Decision Date
LUC-2002-91	Land Use Consent Subdivision - 12 Lot *Notified Combined LUC/SUB* Appeal Granted 16/12/03	Granted	05/12/2002
LUC-2005-926	Change of Condition (s127) Request to vary conditions of consent & to extend time Refer RMA 20020091 & 20041339	Granted	16/11/2005
LUC-2006-1853	Tree Consent Underground a small section of overhead power cables	Granted(Construction Monitoring Underway)	27/10/2006
LUC-2008-1823	Land Use Consent Sec 125 application for extension of time for RMA 20020091 and 20050926	Granted	15/12/2008
LUC-2008-1823	Extension of lapse date Sec 125 application for extension of time for RMA 20020091 and 20050926	Granted	15/12/2008

Application No.	Description	Decision	Decision Date
LUC-2008-661	Change of Condition (s127) Variation of the conditions of consent LUC-2002-0091 and LUC-2005-0926 which will remove the requirement to construct a walkway between Landing and Grendon Roads, and remove the proposed recreation reserve, the remaining balance of land would be absorbed into proposed Lots 9 and 10. Overall the proposal is a discretionary activity.	Withdrawn	06/08/2009
LUC-2014-1402	Land Use Consent Construction of a new two level three bedroom dwelling and double carport along with associated vehicle access, retaining walls and other site works requires consent under the City Wide Natural Hazards Rule; under the Managed Natural Area Earthworks	Granted	16/01/2015

Subdivisions

41C Landing Road Titirangi

Application No.	Description	Decision	Decision Date
SUB-2004-853	Subdivision Consent STAGE 2A LOTS 5-8 & 16	Granted	20/12/2002
SUB-2005-279	Subdivision Consent STAGE 2B LOTS 9 - 12, 14, 15 Eng Plan Approval E14790 pt stg 2B- LOTS 7,11,14,17- LT 406655 pt stg 3 - Lots 9,10,12 & 15 - LT 424634	Completion Cert Approved	20/12/2002
SUB-2002-36	Subdivision Consent Stage 1 Lots 1-4 Subdivision-12 Lot - E14120 - *Notified Combined LUC/SUB*	Granted	20/12/2002
SUB-2005-279	Subdivision survey plan ((s)223) LT 406655	Granted	13/11/2008
SUB-2005-279	Subdivision completion cert ((s)224C) STAGE 2B LOTS 9 - 12, 14, 15 Eng Plan Approval E14790 pt stg 2B- LOTS 7,11,14,17- LT 406655 pt stg 3 - Lots 9,10,12 & 15 - LT 424634	Approved	06/08/2009
SUB-2005-279	Subdivision survey plan ((s)223) LT 424634	Granted	09/11/2009
SUB-2005-279	Subdivision completion cert ((s)224C) Stage 3	Approved	08/12/2009

Engineering Approvals

41C Landing Road Titirangi

Application No.	Description	Decision	Decision Date
EWA-2008-264	Engineering Compliance New fire hydrant	Approved	24/04/2008

If there are any conditions, then only that portion of the consent will be included in the attachments section. The applicant should satisfy themselves as to whether all conditions of resource consents for this property

have been met.

Resource Management - Other issues

Effective Date	Reference	Description
06/01/2010	A reference number is not recorded by Council for this type of record	Tree removal The Owners of the land shall preserve in perpetuity and use the Owner's best endeavours to ensure that others preserve in perpetuity all bush and trees growing from time to time on those parts of the land marked Covenant Areas "C" "D" and "E" on Deposited Plan 424634 in their natural state and without limiting the generality of the foregoing, the owner shall not cut down, trim, burn, maim or do any act which may prejudice the preservation of such bush and trees or permit others to cut down, trim, maim, burn or do any act which may prejudice the preservation of such bush or trees without first obtaining the consent of the Auckland Council which may be withheld for any reason at the total discretion of the Auckland Council and if conditions are imposed on any such consent, then strictly in accordance with those conditions. The Owner will also carry out such weed management to the satisfaction of the Auckland Council as required by the conditions of Consent RMA2005279.

Further Information

The Council may hold additional information for this property, for example concerning resource consents for discharges to air, land or water issued by the former Auckland Regional Council prior to 1 November 2010. If you would like Auckland Council to search for this type of information, please contact us.

Building

41C Landing Road Titirangi

Application No.	Description	Issue Date	Status
ABA-2014-937	RBW - RES 2: Proposed two storey, three bedroom residential dwelling with double carport, deck, retaining wall, 400L denton tank	19/08/2014	CCC Issued 11/02/2016 (See Note 2)

Note	Description
2	Code Compliance Certificate (CCC) for this consent was issued.

Please note that prior to the Building Act 1991; Councils were not required to maintain full records of building consents [etc] issued under the Building Act. While Auckland Council has always endeavoured to maintain full records of pre-Building Act 1991 matters, not all records for this period have survived and in other cases where building work is documented, information may be incomplete. Council does not accept responsibility for any omission.

It is recommended that the Council property file is viewed and compared with the actual building and activities on site to identify any illegal or unauthorised building works or activities.

Compliance Schedules (Building Warrant of Fitness)

The Council has no record of a Compliance Schedule for this property/building.

If it is evident that any specified systems such as lifts or commercial fire alarms are present in the building, the owner must ensure there is a current compliance schedule or building warrant of fitness.

Swimming/Spa Pool Barriers

The Council has no record of a swimming pool or spa pool being registered on this property. Swimming pools and spa pools must have a barrier that complies with the Building Act 2004.

Pool barrier information is available for viewing at <http://www.aucklandcouncil.govt.nz>

Licences

There are NO current licences recorded

s44A(2)(ea) Information notified under Section 124 of the Weathertight Homes Resolution Services Act 2006

The Council has not been notified of any information under Section 124 of the Weathertight Homes Resolution Services Act 2006 relating to this property.

s44A (2)(f) Information relating to the use to which the land may be put and any conditions attached to that use

Purchasers or those intending to develop the land should satisfy themselves that the land is suitable for any intended use or future development proposal. In addition to any site specific limitations recorded below, general restrictions that apply across the region may be relevant to any development proposals on this property.

Auckland Unitary Plan - Operative in Part (AUP:OP)

The **Auckland Unitary Plan - Operative in part(AUP:OP)** applies to this property and should be carefully reviewed and considered, as it may have implications for how this property can be developed and/or used. Those parts of the Auckland Unitary Plan that are operative replace the corresponding parts of legacy regional and district plans. However, certain parts of the AUP:OP are the subject of appeals and have not become operative. If a property is subject to an appeal this will be identified on the attached Unitary Plan Property Summary Report. Where this is the case, both the Auckland Unitary Plan Decisions version and the legacy regional and district plans will need to be considered.

The AUP:OP zones, controls, overlays, precincts, and designations that apply to this property are set out in the Property Summary Report, which is attached to this memorandum.

The AUP:OP can be viewed here:

<https://www.aucklandcouncil.govt.nz/unitaryplan>

The legacy regional and district plans can be viewed here:

<https://www.aucklandcouncil.govt.nz/districtplans>

<https://www.aucklandcouncil.govt.nz/regionalplans>

The appeals to the AUP:OP can be viewed here:

<https://www.aucklandcouncil.govt.nz/unitaryplanappeals>

Auckland Council District Plan - Hauraki Gulf Islands Section (Operative 2013) (DP:HGI)

While the regional provisions in the AUP:OP apply to the Hauraki Gulf Islands, and are set out in the Property Summary Report attached to this memorandum, the AUP:OP does not contain any district provisions for the Hauraki Gulf Islands. If the Property Summary Report attached to this memorandum lists its zone as "Hauraki Gulf Islands", the district provisions that apply are in the Auckland Council District Plan Hauraki Gulf Islands Section (Operative 2013) (DP:HGI).

The relevant maps of the DP:HGI are attached to this memorandum, if applicable. The text of the DP:HGI can be found here:

<https://www.aucklandcouncil.govt.nz/aurakigulfislands>

Plan Changes and Notices of Requirement

Changes to the AUP:OP and DP:HGI may be proposed from time to time. These proposed plan changes may relate to either the maps or the text of those plans. Any proposed changes to the AUP:OP relevant to this property will be listed as a modification in the Property Summary Report attached to this memorandum. However, proposed changes to the DP:HGI will not appear on the Property Summary report. That information can be found on the Auckland Council website.

Please refer to the AUP:OP for information on any proposed Plan Changes or see the Auckland Council modifications website at:

<https://www.aucklandcouncil.govt.nz/unitaryplanmodifications>

Information relating to any proposed Plan Changes to DP:HGI can be found here:

<https://www.aucklandcouncil.govt.nz/aurakigulfislands>

From time to time a requiring authority, such as a Ministry of the Crown or a council controlled organisation, may notify Auckland Council that they require certain land to be designated for a certain purpose. If this property is the subject of such a notice of requirement, that notice may have implications for how this property can be developed or used from the date it is received by Council.

If this property is not on the Hauraki Gulf Islands, any notices of requirement applicable will be listed as a modification in the Property Summary Report attached to this memorandum.

If this property is on the Hauraki Gulf Islands, any notice of requirement will be available on the Auckland Council Website.

Information on all current notices of requirement can be found on the modifications page here:

<https://www.aucklandcouncil.govt.nz/unitaryplanmodifications>

Copies of the appeals to the Auckland Unitary Plan can be viewed online at:

<https://www.aucklandcouncil.govt.nz/unitaryplanappeals>

Auckland Unitary Plan

Please note that the Auckland Unitary Plan (Operative in part) applies to this property. The Unitary Plan should be carefully reviewed and considered, as it may have implications for how this property can be developed or used. Parts of the Unitary Plan that are relevant to this property relating to zones, overlays, controls, designations and other restrictions are identified in the Property Summary Report attached to this LIM.

The Unitary Plan can be accessed at Council service centres and libraries and can be found on the following internet page:

<http://www.aucklandcouncil.govt.nz/EN/planspoliciesprojects/plansstrategies/unitaryplan/Pages/home.aspx>

Information concerning Caveat, Bond, Encumbrance, Consent Notice and Covenant

For any information concerning Caveats, Bonds, Encumbrances, Consent Notices or Covenants, please refer to the Certificate of Title for this property.

s44A(2)(g) Information regarding the land which has been notified to Council by another statutory organisation

Waitākere Ranges Heritage Area

This property is located within the Waitākere Ranges Heritage Area as defined in the Waitākere Ranges Heritage Area Act 2008. A link to the Act and further information on the heritage area can be found on the council's website at:

<https://www.aucklandcouncil.govt.nz/arts-culture-heritage/heritage-walks-places/Pages/waitakere-ranges-heritage-area.aspx>

s44A(2)(h) Information regarding the land which has been notified to Council by any network utility operator pursuant to the Building Act 1991 or Building Act 2004

Underground Services and District Plan maps are attached.

Please note: Height restrictions apply where overhead power lines cross the site. Works near water services utilities may require approval. Works near high-pressure Gas, Oil or LPG pipelines create risk of damage and must first be approved. Please contact the relevant Utility provider in your area for further information.

Any escape of gas or liquid from the pipelines is potentially dangerous and requires immediate action as soon as discovered (Dial 111 and ask for the Fire Service).

Attachments

As the placement of the building/s on the attached maps is based on aerial photography we cannot guarantee the accuracy. A formal survey will indicate the exact location of the boundaries.

- Auckland Unitary Plan Property Summary Report
- Auckland Unitary Plan - Operative in part Maps and Map Legend
- Auckland Council District Plan - Hauraki Gulf Islands Section (if applicable)
- Underground Services & Utilities Map and Map Legend
- Special Land Features Map and Map Legend

Please note Map Legends have been created for use across the region and may contain features which were not captured by the previous legacy Councils; therefore the information may not be available for these maps. Please contact the Resource Management Planning Team in your area for further information on any features which may or may not appear on your map.

- Consent Conditions : LUC-2002-91
- Consent Conditions : LUC-2008-1823
- Consent Conditions : LUC-2006-1853
- Consent Conditions : LUC-2005-926
- Consent Conditions : LUC-2014-1402
- As Built Drainage Plan : ABA-2014-937

Auckland Unitary Plan Operative in part (15th November 2016) Property Summary Report

Address

41C Landing Road Titirangi

Legal Description

LOT 12 DP 424634

Appeals

Modifications

Zones

Residential - Large Lot Zone

Precinct

Controls

Controls: Macroinvertebrate Community Index - Native

Controls: Macroinvertebrate Community Index - Rural

Controls: Stormwater Management Area Control - TITIRANGI / LAINGHOLM 1 - Flow 1

Overlays

Natural Heritage: Waitakere Ranges Heritage Area Overlay - Extent of Overlay

Natural Heritage: Waitakere Ranges Heritage Area Overlay - WRHA_06 - Subdivision Schedule

Natural Resources: Significant Ecological Areas Overlay - SEA_T_5539 - Terrestrial

Designations

Designations: Airspace Restriction Designations - ID 1102 - Protection of aeronautical functions - obstacle limitation surfaces -
Auckland International Airport Ltd - Confirmed



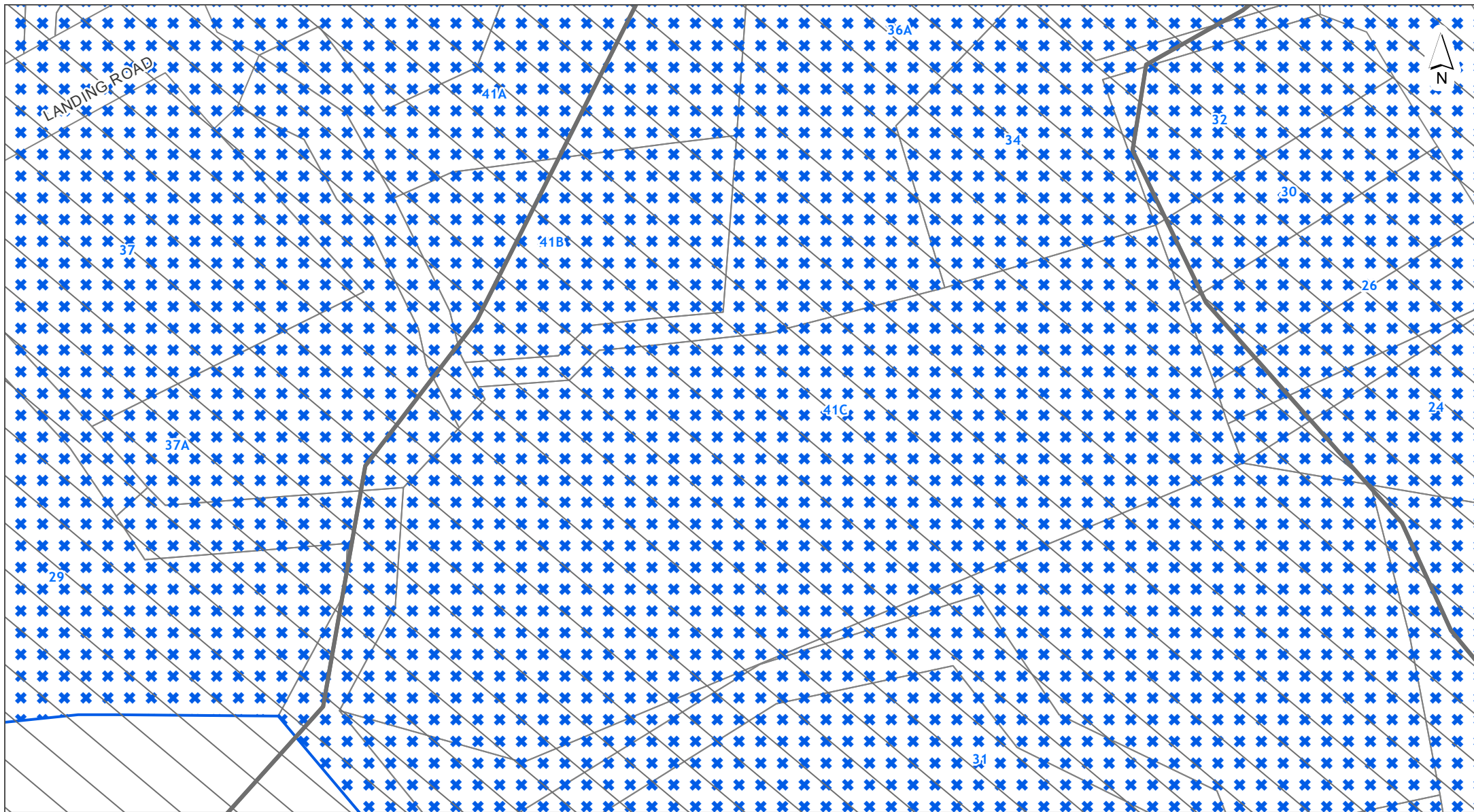
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Built Environment
41C Landing Road Titirangi
LOT 12 DP 424634

0 7 14 21
Meters

Scale @ A4
= 1:1,000

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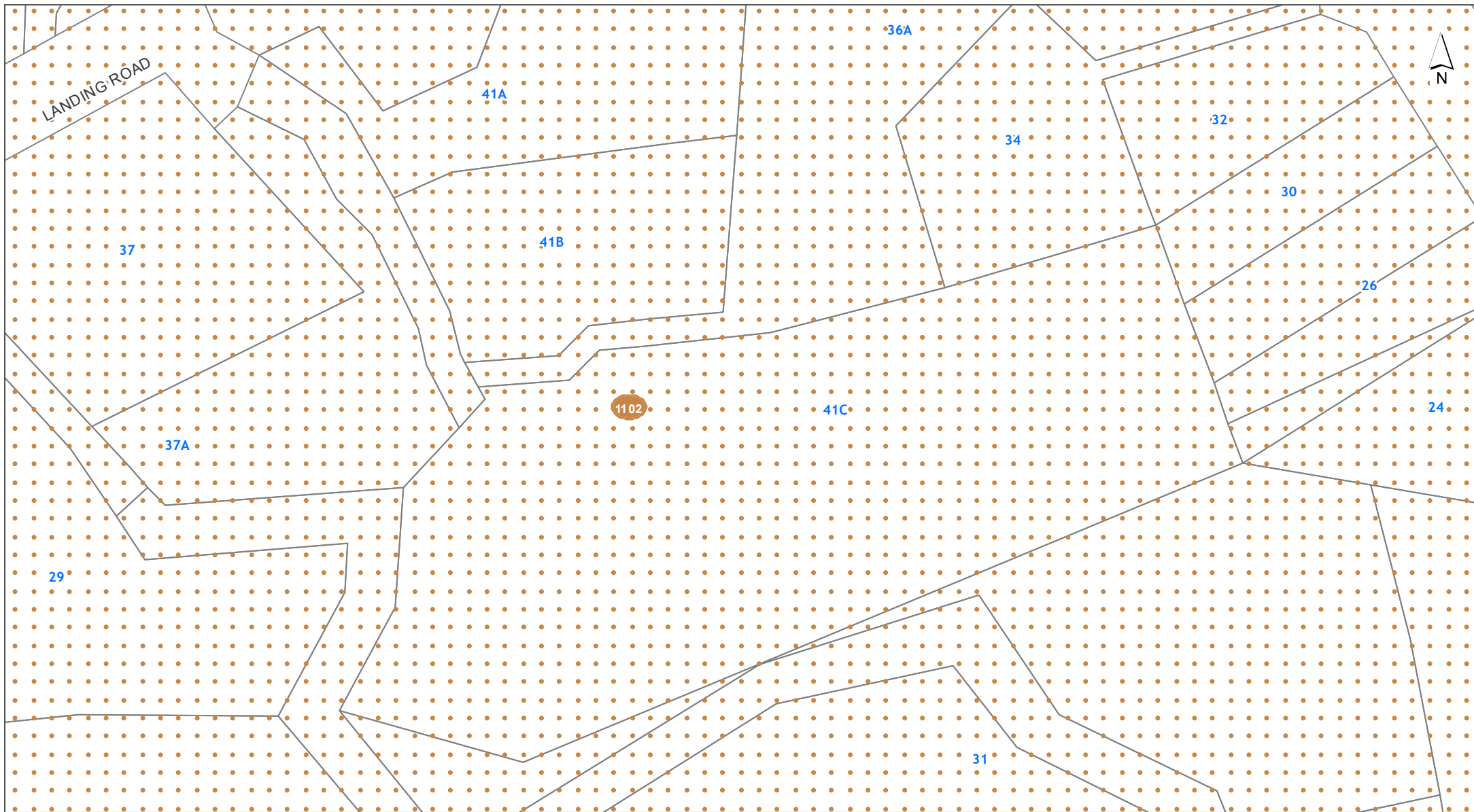
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Controls**41C Landing Road Titirangi****LOT 12 DP 424634**

0 7 14 21
Meters

Scale @ A4
= 1:1,000

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Designations

41C Landing Road Titirangi

LOT 12 DP 424634

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Meters

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Historic Heritage and Special Character

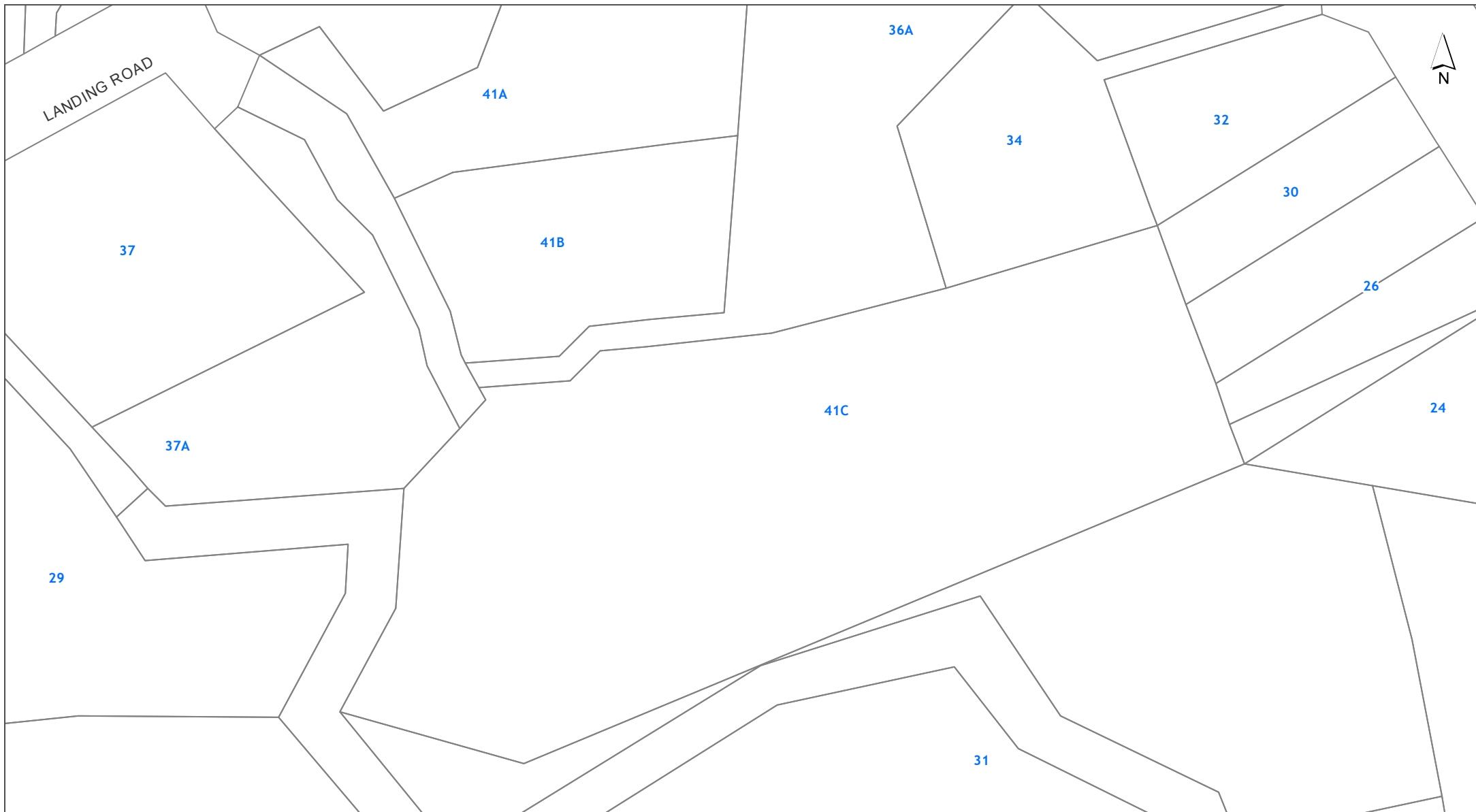
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LOT 12 DP 424634

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Meters

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Infrastructure

41C Landing Road Titirangi

LOT 12 DP 424634

0 7 14 21
Meters

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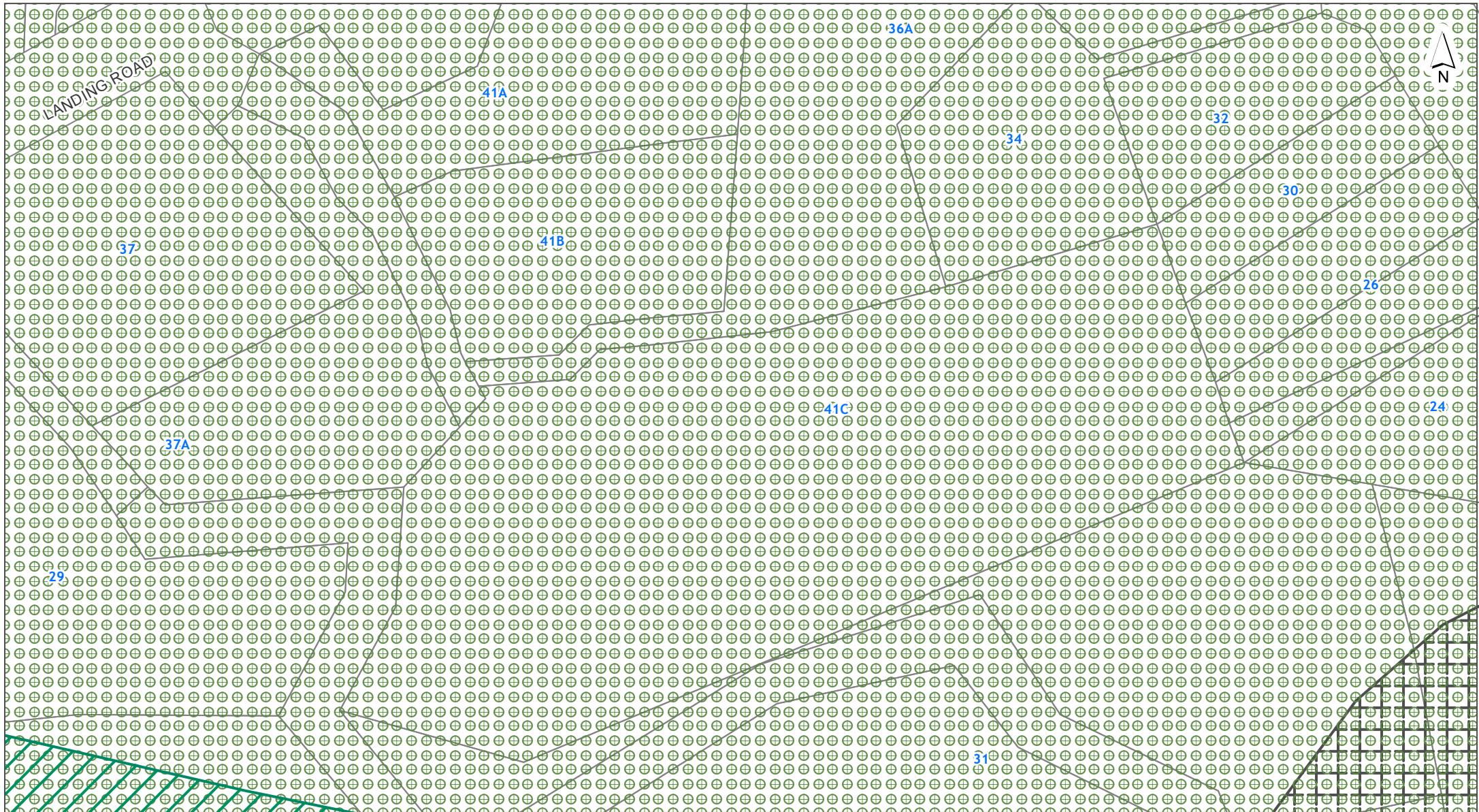
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Mana Whenua**41C Landing Road Titirangi****LOT 12 DP 424634**

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Natural Heritage

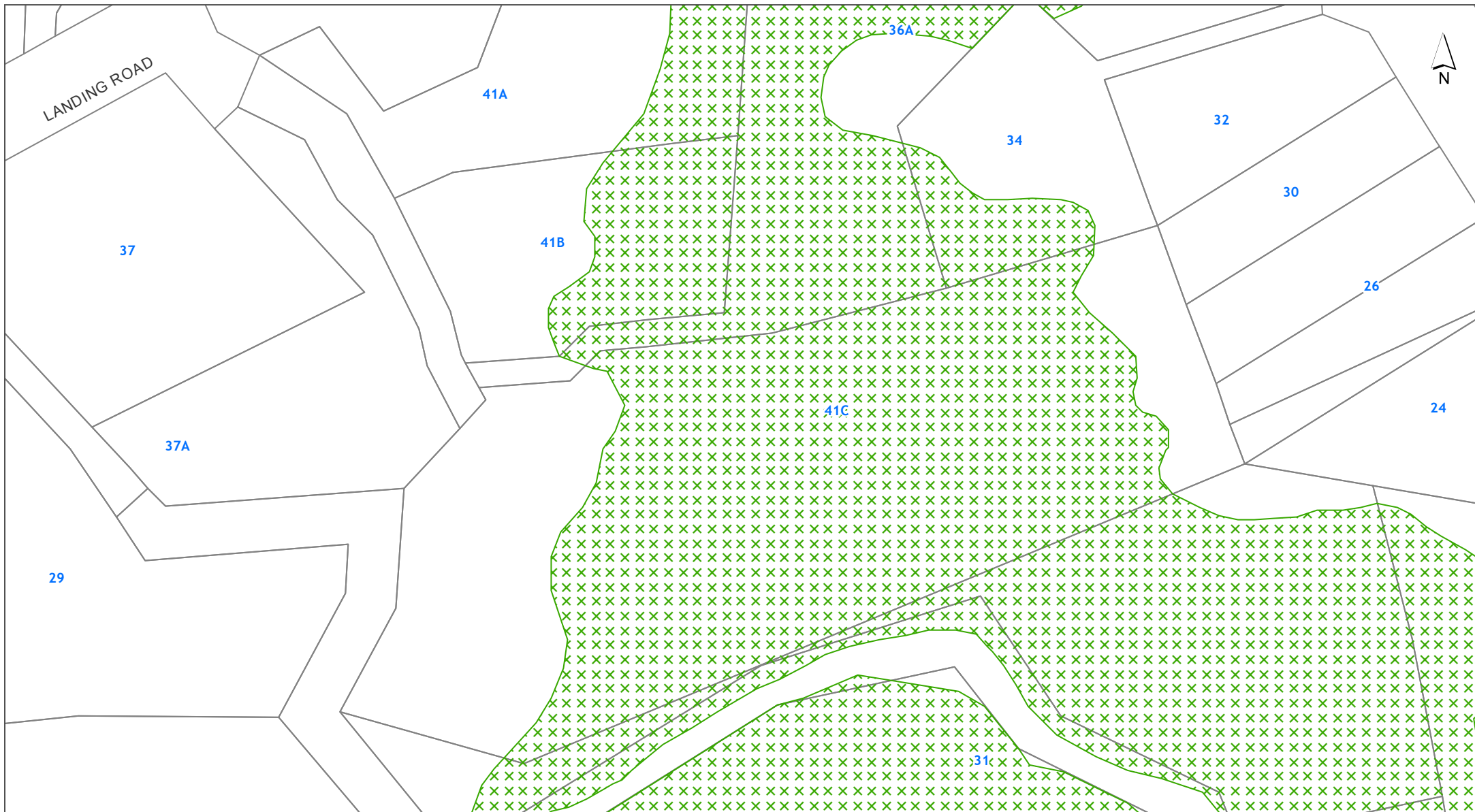
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Natural Resources

41C Landing Road Titirangi

LOT 12 DP 424634

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Meters

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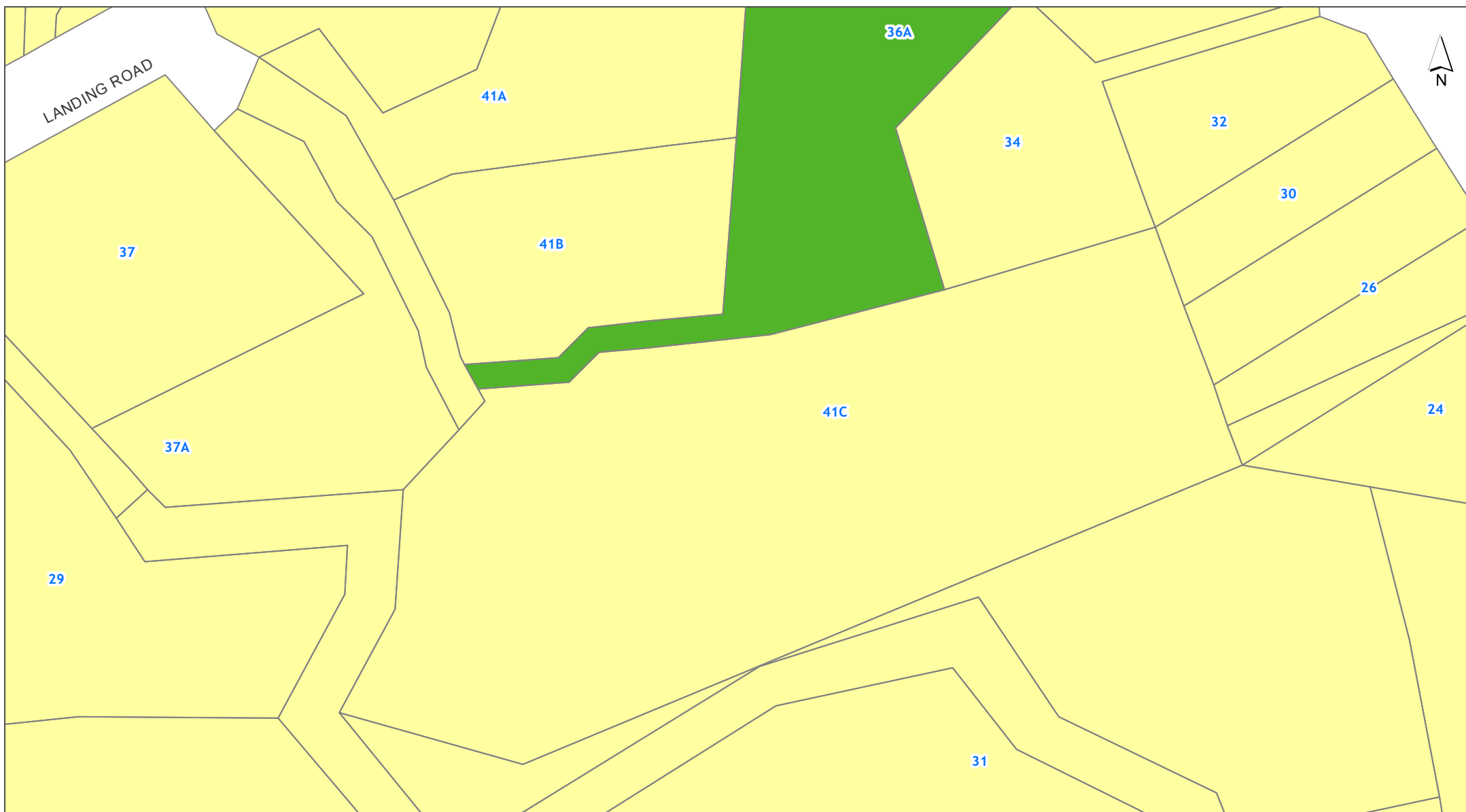
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Precincts**41C Landing Road Titirangi****LOT 12 DP 424634**

0 7 14 21
Meters

Scale @ A4
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Zones and Rural Urban Boundary**41C Landing Road Titirangi****LOT 12 DP 424634**



0 7 14 21
Meters

Scale @ A4
= 1:1,000



Date Printed:
30/04/2021

NOTATIONS

Appeals

-  Properties affected by Appeals seeking change to zones or management layers
-  Properties affected by Appeals seeking reinstatement of management layers

Proposed Plan Modifications




-  Notice of Requirements
-  Plan Changes

Tagging of Provisions:

- [i] = Information only
- [rp] = Regional Plan
- [rcp] = Regional Coastal Plan
- [rps] = Regional Policy Statement
- [dp] = District Plan (only noted when dual provisions apply)

ZONING

Residential

-  Residential - Large Lot Zone
-  Residential - Rural and Coastal Settlement Zone
-  Residential - Single House Zone
-  Residential - Mixed Housing Suburban Zone
-  Residential - Mixed Housing Urban Zone
-  Residential - Terrace Housing and Apartment Buildings Zone








Business

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

Open space

-  Open Space - Conservation Zone
-  Open Space - Informal Recreation Zone
-  Open Space - Sport and Active Recreation Zone
-  Open Space - Civic Spaces Zone
-  Open Space - Community Zone
-  Water [i]



Rural

-  Rural - Rural Production Zone
-  Rural - Mixed Rural Zone
-  Rural - Rural Coastal Zone
-  Rural - Rural Conservation Zone
-  Rural - Countryside Living Zone
-  Rural - Waitakere Foothills Zone
-  Rural - Waitakere Ranges Zone

Future Urban

-  Future Urban Zone
-  Green Infrastructure Corridor (Operative in some Special Housing Areas)

Infrastructure

-  Special Purpose Zone - Airports & Airfields
Cemetery
Quarry
Healthcare Facility & Hospital
Tertiary Education
Māori Purpose
Major Recreation Facility
School
-  Strategic Transport Corridor Zone

Coastal

-  Coastal - General Coastal Marine Zone [rcp]
-  Coastal - Marina Zone [rcp/dp]
-  Coastal - Mooring Zone [rcp]
-  Coastal - Minor Port Zone [rcp/dp]
-  Coastal - Ferry Terminal Zone [rcp/dp]
-  Coastal - Defence Zone [rcp]
-  Coastal - Coastal Transition Zone














Precincts

--- Rural Urban Boundary









--- Indicative Coastline [i]

Overlays


Natural Resources

	Terrestrial [rp/dp]	} Significant Ecological Areas Overlay
	Marine 1 [rcp]	
	Marine 2 [rcp]	
	Water Supply Management Areas Overlay [rp]	
	Natural Stream Management Areas Overlay [rp]	
	High-Use Stream Management Areas Overlay [rp]	
	Natural	} Lake Management Areas Overlay (Natural Lake and Urban Lake)
	Urban	
	High-Use Aquifer Management Areas Overlay [rp]	
	Quality-Sensitive Aquifer Management Areas Overlay [rp]	
	Wetland Management Areas Overlay [rp]	

Infrastructure

	Airport Approach Surface Overlay	
	Aircraft Noise Overlay	
	City Centre Port Noise Overlay [rcp / dp]	
	Quarry Buffer Area Overlay	
	National Grid Subdivision Corridor	} National Grid Corridor Overlay
	National Grid Substation Corridor	
	National Grid Yard Compromised	
	National Grid Yard Uncompromised	
















Mana Whenua

	Sites & Places of Significance to Mana Whenua Overlay [rcp/dp]
--	--








Built Environment

	Identified Growth Corridor Overlay
--	------------------------------------





















Natural Heritage

	Notable Trees Overlay	
	Outstanding Natural Features Overlay [rcp/dp]	
	Outstanding Natural Landscapes Overlay [rcp/dp]	
	Outstanding Natural Character Overlay [rcp/dp]	
	High Natural Character Overlay [rcp/dp]	
	Viewshafts	} Regionally Significant Volcanic Viewshafts & Height Sensitive Areas Overlay [rcp/dp]
	Height Sensitive Areas	
	Regionally Significant Volcanic Viewshafts Overlay Contours [i]	
	Locally Significant Volcanic Viewshafts Overlay [rcp/dp]	
	Locally Significant Volcanic Viewshafts Overlay Contours [i]	
	Modified	} Ridgeline Protection Overlay
	Natural	
	Local Public Views Overlay [rcp/dp]	
	Extent of Overlay	} Waitakere Ranges Heritage Area Overlay
	Subdivision Schedule	

Historic Heritage & Special Character

	Historic Heritage Overlay Place [rcp/dp]	
	Historic Heritage Overlay Extent of Place [rcp/dp]	
	Special Character Areas Overlay Residential and Business	
	Auckland War Memorial Museum Viewshaft Overlay [rcp/dp]	
	Auckland War Memorial Museum Viewshaft Overlay Contours [i]	
	Stockade Hill Viewshaft Overlay – 8m height area	
	Stockade Hill Viewshaft [i]	

Controls

	Key Retail Frontage	} Building Frontage Control
	General Commercial Frontage	
	Adjacent to Level Crossings	} Vehicle Access Restriction Control
	General	
	Motorway Interchange Control	
	Centre Fringe Office Control	
	Height Variation Control	
	Parking Variation Control	
	Level Crossings With Sightlines Control	
	Arterial Roads	
	Business Park Zone Office Control	
	Hazardous Facilities	} Emergency Management Area Control
	Infrastructure	
	Macroinvertebrate Community Index	
	Flow 1 [rp]	} Stormwater Management Area Control
	Flow 2 [rp]	
	Subdivision Variation Control	
	Surf Breaks [rcp]	
	Cable Protection Areas Control [rcp]	
	Coastal Inundation 1 per cent AEP Plus 1m Control	

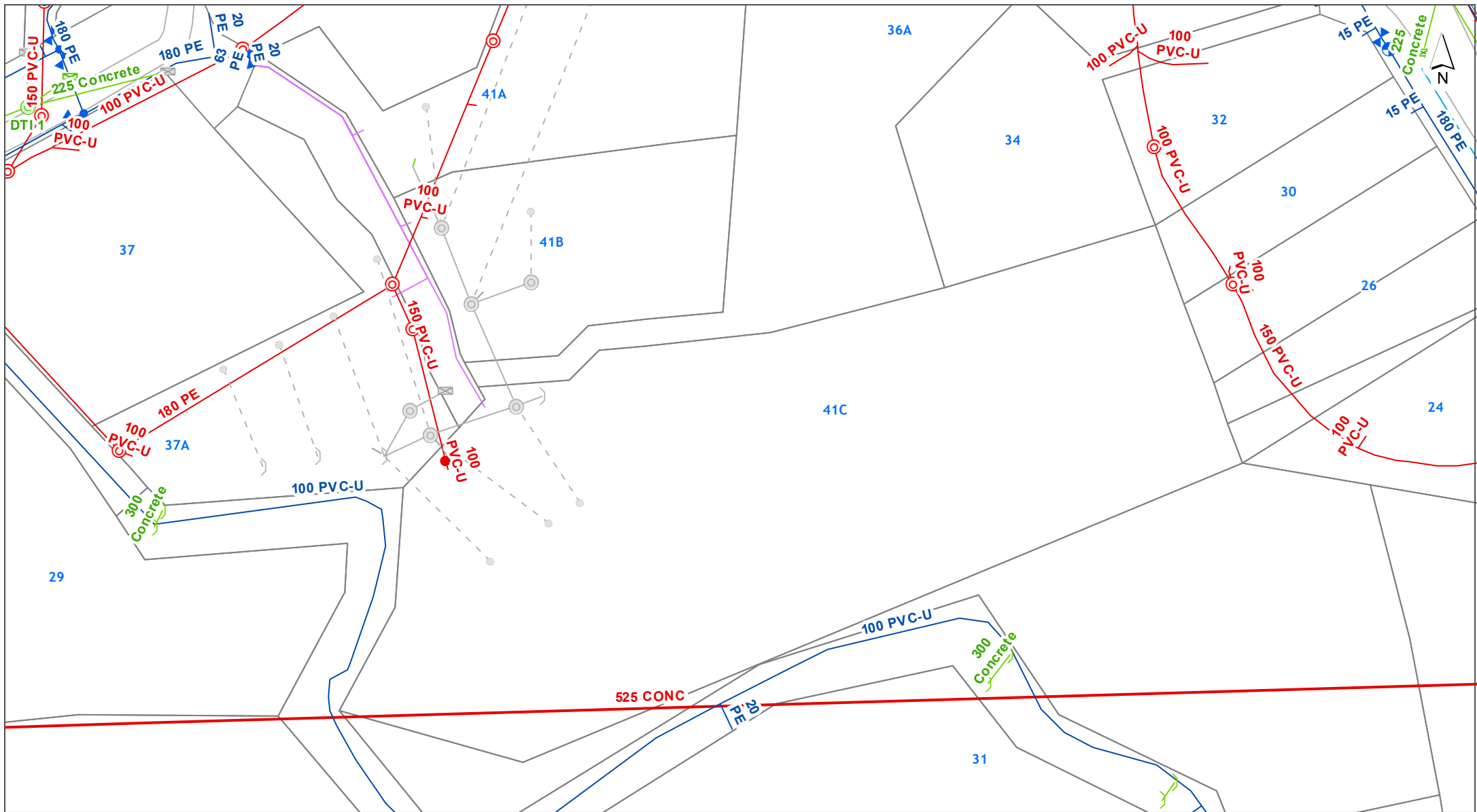
Designations



Designations



Airspace Restriction Designations

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Underground Services

41C Landing Road Titirangi

LOT 12 DP 424634

0 7 14 21
Meters

Scale @ A4
= 1:1,000

Date Printed:
30/04/2021

Stormwater

Note: Unless otherwise specified in the text below, the *colour* of a Stormwater symbol is determined by the ownership or usage status, using the following colour scheme:

Public, **Private** or **Abandoned**

	Treatment Device		Overland Flowpath (Public)
	Septic Tank		Overland Flowpath (Private)
	Septic Tank (Hi-Tech)		Forebay (Public)
	Soakage System		Forebay (Private)
	Inspection Chamber		Treatment Facility (Public)
	Manhole (Standard / Custom)		Treatment Facility (Private)
	Inlet & Outlet Structure		Pump Station
	Inlet & Outlet (No Structure)		Planting
	Catchpit		Embankment
	Spillway		Viewing Platform
	Safety Benching		Bridge
	Culvert / Tunnel		Erosion & Flood Control (Other Structure)
	Subsoil Drain		Erosion & Flood Control (Wall Structure)
	Gravity Main		
	Rising Main		
	Connection		
	Fence		
	Lined Channel		
	Watercourse		

Water

	Valve
	Hydrant
	Fitting
	Other Watercare Point Asset
	Other Watercare Linear Asset
	Local Pipe (Operational-NonPotable)
	Local Pipe (Operational-Potable)
	Local Pipe (Operational Not Vested)
	Local Pipe (Abandoned / Not Operational)
	Transmission Pipe (Operational-NonPotable)
	Transmission Pipe (Operational-Potable)
	Transmission Pipe (Not Operational)
	Transmission Pipe (Proposed)
	Pump Station
	Reservoir
	Other Structure (Local)
	Chamber (Transmission)
	Water Source (Transmission)
	Other Watercare Structures and Areas

Wastewater

	Fitting
	Fitting (Non Watercare)
	Manhole
	Pipe (Non Watercare)
	Local Pipe (Operational)
	Local Pipe (Operational Not Vested)
	Local Pipe (Abandoned / Not Operational)
	Transmission Pipe (Operational)
	Transmission Pipe (Not Operational)
	Transmission Pipe (Proposed)
	Chamber
	Structure (Non Watercare)
	Pump Station
	Wastewater Catchment

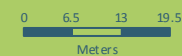
Utilities

	Transpower Site
	Pylon (Transpower)
	110 kv - Electricity Transmission
	220 kv - Electricity Transmission
	400 kv - Electricity Transmission
	Aviation Jet A1 Fuel Pipeline
	Liquid Fuels Pipeline [Marsden to Wiri]
	Gas Transmission Pipeline
	High-Pressure Gas Pipeline
	Medium-Pressure Gas Pipeline
	Indicative Steel Mill Slurry Pipeline
	Indicative Steel Mill Water Pipeline
	Fibre Optic Cable (ARTA)
	Contour Interval

Legend
updated:
21/09/2020

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Hazards**41C Landing Road Titirangi****LOT 12 DP 424634**

Scale @ A4
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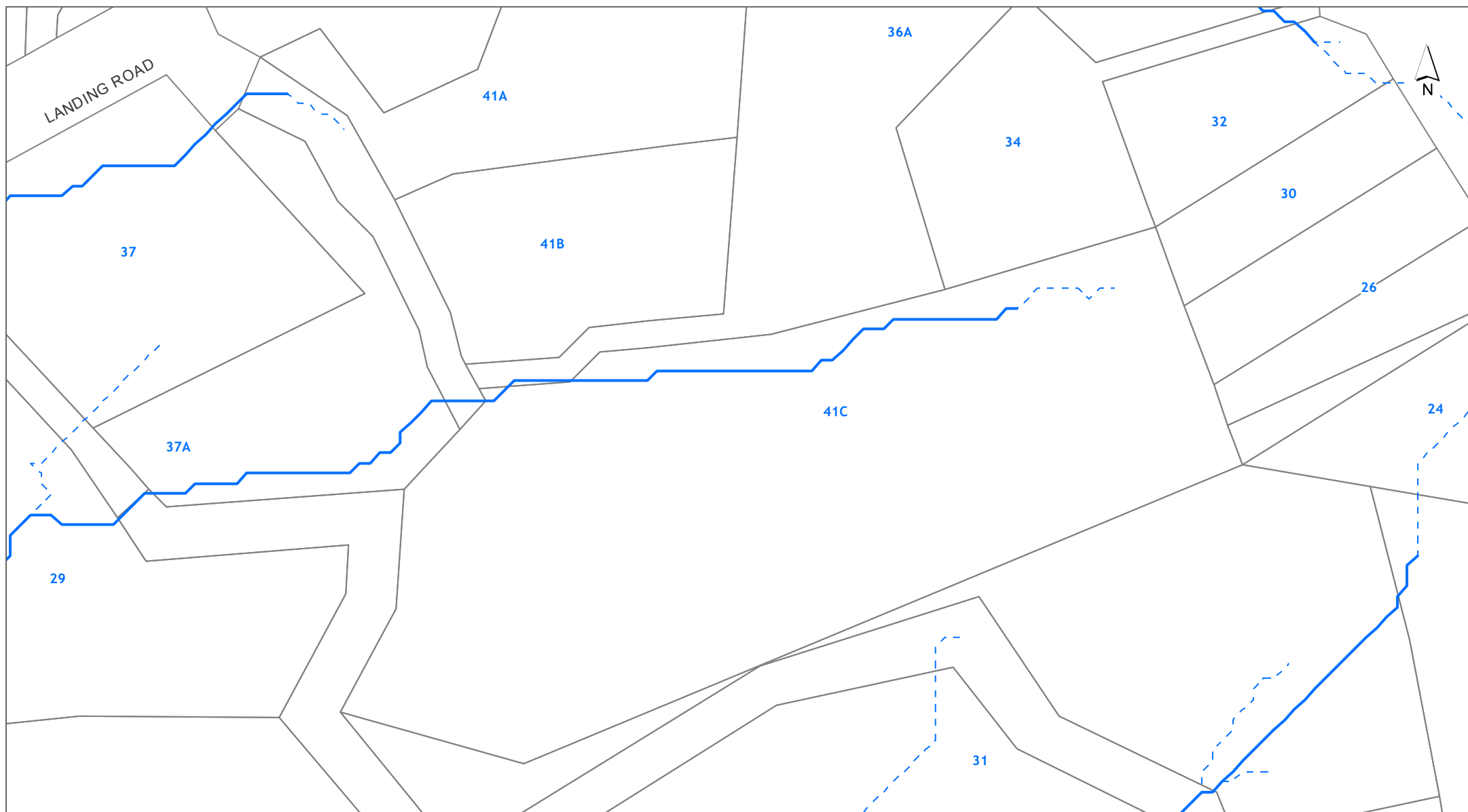
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Natural Hazards - Coastal Inundation**41C Landing Road Titirangi****LOT 12 DP 424634**

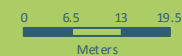
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Meters

Scale @ A4
= 1:1,000

Date Printed:
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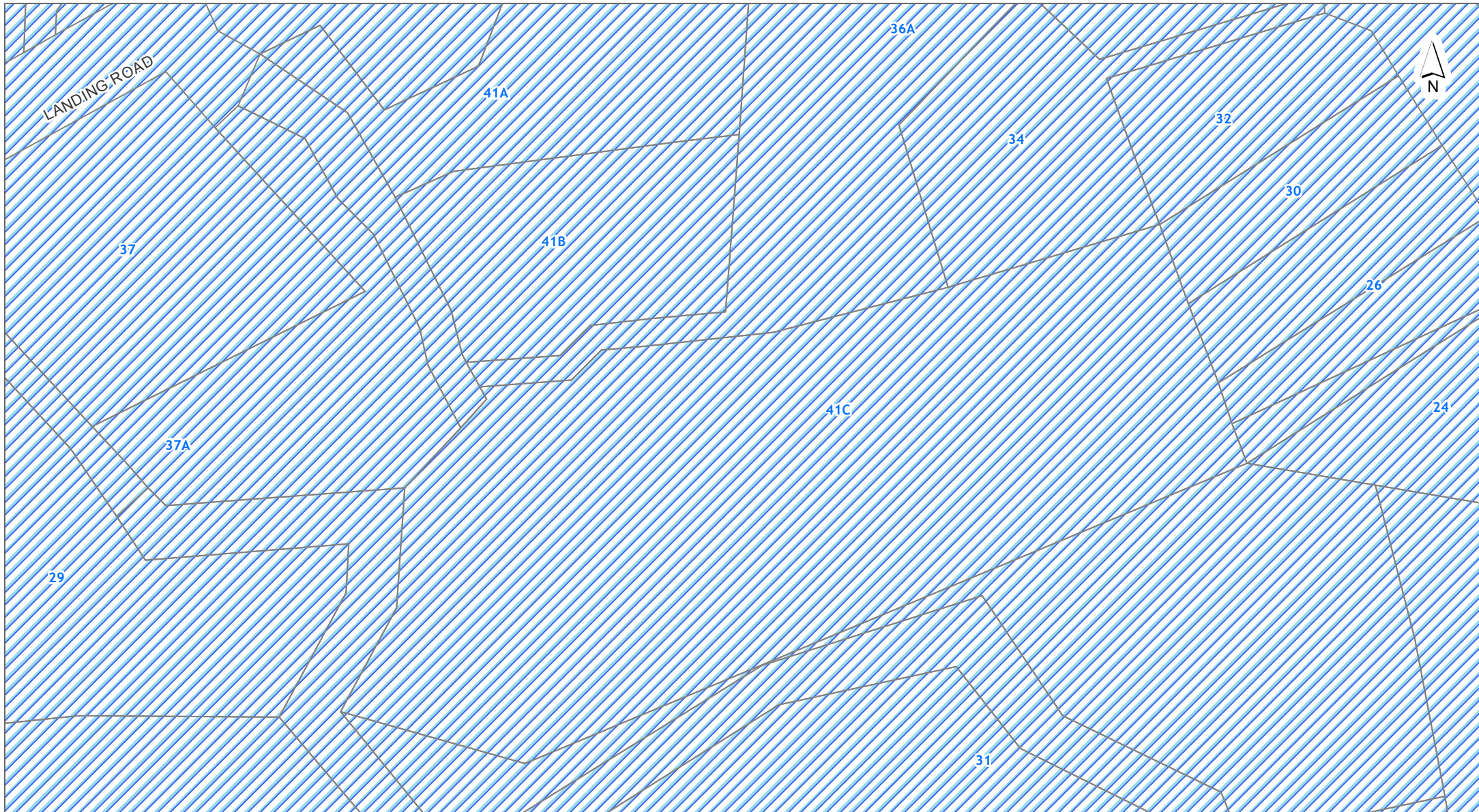
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Natural Hazards - Flooding**41C Landing Road Titirangi****LOT 12 DP 424634**

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Natural Hazards - Sea Spray**41C Landing Road Titirangi****LOT 12 DP 424634**

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Meters

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Natural Hazards - Volcanic Cones**41C Landing Road Titirangi****LOT 12 DP 424634**

0 6.5 13 19.5
Meters

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Other**41C Landing Road Titirangi****LOT 12 DP 424634**

0 6.5 13 19.5
Meters

Scale @ A4
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Date Printed:
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Hazards

Soil Warning Area

-  Fill (Franklin District only)
-  Advisory (Franklin District only)
-  Contamination (Franklin District only)
-  Erosion (Franklin District only)
-  Hazardous Activities & Industries List (HAIL) (Franklin District only)
-  Inundation (Franklin District only)
-  Rainfall Event (Franklin District only)
-  Slippage (Franklin District only)
-  Subsidence (Franklin District only)
-  Slippage / Subsidence / Erosion etc (Auckland City and Papakura District only)
-  Uncertified Fill (Auckland City and Papakura District only)
-  Organic Soil (Auckland City and Papakura District only)
-  Filled / Weak Ground (Auckland City and Papakura District only)
-  Refuse Tips Site / Weak Area (Auckland City and Papakura District only)
-  Unstable / Suspected Ground (Auckland City and Papakura District only)
-  Allochthon Waitemata (Rodney District only)
-  Motatau Complex (Rodney District only)
-  Puriri Mudstone (Rodney District only)
-  Mahurangi Limestone (Rodney District only)
-  Mangakahia Complex (Rodney District only)
-  Hukerenui Mudstone (Rodney District only)
-  Whangai Formation (Rodney District only)
-  Tangihua Complex (Rodney District only)
-  within 150m of Northland Allochthon (Rodney District only)




Hazards

Soil Warning Area continued

-  Soil D (Rodney District only)
-  within 150m of Soil D (Rodney District only)
-  Soil C (Rodney District only)
-  within 150m of Soil C (Rodney District only)
-  Soil B (Rodney District only)
-  within 150m of Soil B (Rodney District only)
-  Soil A (Rodney District only)
-  Gas Main Pipeline
-  Petroleum Pipeline
-  Closed Landfill (Auckland Council owned)
-  Closed Landfill (Privately owned)
-  Air Discharge (Franklin District only)
-  No Soakage (Franklin District only)
-  Indicative Steel Mill Slurry Line 20m Buffer (Franklin District only)
-  Indicative Steel Mill Water Line 20m Buffer (Franklin District only)


Natural Hazards

Overland Flow Path

-  Catchment area 2000m² to 3999 m²
-  Catchment area 4000 m² to 3 Ha
-  Catchment area 3 Ha and above

 1% AEP Flood Plain




 Flood Prone Areas

 Flood Sensitive Areas

 Sea Spray








 Volcanic Cones

Coastal Inundation

-  1% AEP
-  1% AEP plus 1m sea level rise
-  1% AEP plus 2m sea level rise

Other

Cultural Heritage Index

-  Archaeological Site
-  Hayward and Diamond
-  Historic Botanical Site
-  Historic Structure
-  Maori Heritage Area
-  Maritime Site
-  Reported Historic Site

The information Council holds in relation to Special Land Features differs based on the area a property is located in. Those areas where information is held on a Special Land Feature is denoted in the legend above.

Legend updated: 12/06/2018

**REPORT FOR APPLICATION TO EXTEND THE PERIOD OF TIME BEFORE
A RESOURCE CONSENT LAPSES IN ACCORDANCE WITH SECTION 125
and TO CHANGE OR CANCEL CONDITIONS OF A RESOURCE CONSENT
IN ACCORDANCE WITH SECTION 127 OF THE RESOURCE
MANAGEMENT ACT 1991**

1.0 SUMMARY OF PROPOSAL

It is proposed to Change condition(s) of the Environment Court Consent Order dated 16 December 2003 relating to resource consent RMA20020091 and to extend the period of time in which to implement the consent by a further three years.

2.0 APPLICATION DETAILS

Planner:	Jeannette Ibrahim
RMA:	RMA 20050926
Site Address:	42 – 46 Landing Road, Titirangi
Applicant:	Richmond Eden Ltd (R Maxwell)
Date Application Received:	17/06/2004
Previous RMA:	RMA20020091 (SPW 21464); RMA 20041339
Ward:	Waitakere
Legal Description:	Lot 8 DP 207383
Service Address:	A.W Smith, Jackson Clapperton & Partners, PO Box 71065 Rosebank, Avondale, Auckland
Further Information Required:	Yes (appellants approval; revised site plan; infrastructure matters)
Date Requested:	11/7/2005
Date Received:	24/8/2005; 21/9/2005; 28/9/2005; 30/9/2005
Any Affected Persons:	None directly
Approval Given:	Written approval obtained from Waitakere Ranges Protection Society (a party to the original Consent Order)
Date of Site Visit:	On-site meeting with Ruth Andrews 26.05.2005; on-site meeting with Karen Pegrume on 8 July 2005.

3.0 BACKGROUND

On 20/12/2002, a notified resource consent application was granted to Richmond Eden Limited (R Maxwell) to subdivide a 6.9716ha site into 12 lots ranging in size from 1.5044ha to 2475m² with 200m³ of earthworks for the formation of the carriageways on the shared access ways on a site at 39 Landing Road, Titirangi (refer RMA20041339). This consent was granted subject to a number of conditions.

Three appeals were lodged in relation to the granting of the above-mentioned consent by Waitakere Ranges Protection Society Inc, DPK Singh & Others and the applicant (Richmond Eden Limited).

The details of the appeals have been discussed in more detail in Section 5.3 of this report. The appeals were resolved in the Environment Court by means of a Consent Order dated 16 December 2003 and from which the following conditions are read.

In accordance with section 127 the applicant has applied to Change the following condition/s:

(A) THAT pursuant to Sections 104, 105, 108 and 113 of the Resource Management Act 1991 and Section 348 of the Local Government Act 1974, consent be granted to the application (RMA 20020091 and SPW 21464 Amended) by Richmond Eden Limited (R Maxwell) to subdivide a 6.9716ha site into 12 lots (being Stage 1 comprising Lots 1 – 4 and Stage 2 comprising Lots 5 – 12) ranging in size from 1.5044ha to 1917m² with 2000m³ of earthworks for the formation of the carriageways on the shared driveways at 39 Landing Road, Titirangi, being Lot 8 DP207383 for the following reasons:

(1) The development shall proceed in accordance with the plans titled (Plan for Proposed Subdivision of Lot 8 D.P.207383, Landing Road, Titirangi – Sheet SPM) prepared by (Jackson Clapperton & Partners Limited) and dated Oct 2003) and the advance copy of the Land Transfer Plan W21464 Amended (which shows access lot 16) and all referenced by Council as RMA20020091', Figure 8, Proposed Landscape Plan', Figure 3 Appendix 5 Ecological Assessment both contained in the Assessment of Environmental Effects Landing Road Titirangi, dated January 2002, including all information, submitted with the application and attached as Appendix Four in the Council report.

(3) All buildings shall generally be contained within the designated building platforms as depicted on the plan Sheet 1 submitted October 2003.

(6) The second stage of the weed management required by Condition 5 [above] is required to be ongoing for a period of five years following the issue of any stage-two section 224C Certificate. A bond of \$12,000.00 (by way of bank surety or cash) to cover the implementation of the second stage of the approved weed management programme shall be paid prior to the issue of the section 224C Certificate for Stage 2 of the subdivision. – The bond shall be released after five years provided that the weed management programme has been completed to the satisfaction of the Manager: Resource Consents

(C) STAGE 2 (Being Residential Lots 5-12 inclusive, Shared Driveway Lot 14 & 16 and Recreation Reserve Lot 15)

(1) SECTION 223 REQUIREMENTS (Stage 2)

1(e) Provide for a water supply easement in gross in favour of Council over Lot 14 in a Memorandum of Easements endorsed on the survey plan. Include in the Section 223 approval on the plan, "subject to the granting or reserving of the easement(s) set out in the Memorandum hereon". Note: The easement document will be prepared by Councils Solicitor at the applicants cost.

(2) SECTION 224 REQUIREMENTS (Stage 2)

Prior to the release by the Council of the Section 224(c) compliance certificate for this Stage 2 of this subdivision the applicant shall comply with the following conditions to the satisfaction of Council: Note: The application requesting the 224 release shall be in writing, shall include the S224 (c) processing fee, shall address how each of the following conditions have been satisfied, and shall be accompanied with Compliance Certificates from each of Council section(s) named below.

The consent holder has requested that the condition/s read as follows (changes struck out and/or marked in underlined bold):

- (A) THAT pursuant to Sections 104, 105, 108 and 113 of the Resource Management Act 1991 and Section 348 of the Local Government Act 1974, consent be granted to the application (RMA 20020091 and SPW 21464 Amended) by Richmond Eden Limited (R Maxwell) to subdivide a 6.9716ha site into 12 lots (being Stage 1 comprising Lots 1 – 4 inclusive and Stage 2A comprising Lots 5 6, and 8 and Stage 2B comprising Lots 7, 9, 10, 11 and 12) ranging in size from 1.5049ha to 1920m² with 2000m³ of earthworks for the formation of the carriageways on the shared driveways at 39 Landing Road, Titirangi, being Lot 8 DP207383 for the following reasons:

- (1) The development shall proceed in accordance with the amended plans titled (~~Plan for Proposed Subdivision~~) of Lot 8 D.P.207383, Landing Road, Titirangi – Sheet SPM 'Preliminary Land Transfer Plan (Variation August 2005)' and 'Richmond Eden Limited (Maxwell) Option B 39 Landing Road Subdivision – Stage 2A (RMA 20020091) Detailed Variation Application Plan, - September 2005 Sheet 1' and 'Richmond Eden Limited (Maxwell) 39 Landing Road Subdivision – Stage 2A & 2B (RMA 20020091) Detailed Variation Application Plan, - September 2005 Sheet 2') prepared by (Jackson Clapperton & Partners Limited) and dated ~~Oct-2003~~ 29.09.2005) and the advance copy of the Land Transfer Plan W21464 Amended (which shows access lot 16) and all referenced by Council as RMA20020091, Figure 8, Proposed Landscape Plan, Figure 3 Appendix 5 Ecological Assessment both contained in the Assessment of Environmental Effects Landing Road Titirangi, dated January 2002, including all information, submitted with the application and attached as Appendix Four in the Council report.

- (3) All buildings shall generally be contained within the designated building platforms as depicted on the plan ~~Sheet 1~~ amended plan titled 'Detailed Variation Application Plan, Sheet 1, Sheet 2' submitted ~~October 2003~~ September 2005.

- (6) The second stage of the weed management required by Condition 5 [above] is required to be ongoing for a period of five years following the issue of any stage-two section 224C Certificate. A bond of \$12,000.00 (by way of bank surety or cash) to cover the implementation of the second stage of the approved weed management programme shall be paid prior to the issue of the section 224C Certificate for Stage 2A of the subdivision. – The bond shall be released after five years provided that the weed management programme has been completed to the satisfaction of the Manager: Resource Consents. The company established to administer and maintain the private stormwater and groundwater drains shall manage and oversee the weed control obligations for Stages 2A and 2B for the five year period after the final issue of section 224C Certificates

- (C) STAGE 2 (Being Stage 2A comprising Residential Lots 14-12 5, 6 & 8 inclusive & Shared Driveway Lot 14 & 16 and Stage 2B comprising Residential Lots 7, 9, 10, 11 and 12 inclusive, Shared Driveway Lot 14 & Recreation Reserve Lot 15)

(1) SECTION 223 REQUIREMENTS (Stage 2)

- 1(e) Provide for a water supply easement in gross in favour of Council over Lots 14 and 16 in a Memorandum of Easements endorsed on the survey plan. Include in the Section 223 approval on the plan, "subject to the granting or reserving of the easement(s) set out in the Memorandum hereon". Note: The easement document will be prepared by Councils Solicitor at the applicants cost.

(2) SECTION 224 REQUIREMENTS (Stage 2)

Prior to the release by the Council of the Section 224(c) compliance certificate(s) for Stage 2A and Stage 2B of this subdivision the applicant shall comply with the following conditions to the satisfaction of Council: Note: The application requesting the 224 release shall be in writing, shall include the S224 (c) processing fee, shall address how each of the following conditions have been satisfied, and shall be accompanied with Compliance Certificates from each of Council section(s) named below.

4.0 SECTION 127

Section 127 of the Resource Management Act 1991, as amended by the Resource Management Amendment Act 2003, allows the holder of a resource consent to apply at any time (other than once a survey plan has been

deposited in relation to a subdivision consent) to change any condition of the resource consent (except any condition relating to the duration of a consent) without specifying a reason for such a change. It is no longer necessary to show that there has been a change in circumstances if the consent itself does not provide for such an application to be made.

Section 127 also provides that the application for a change or cancellation is to be treated as a discretionary activity and processed in accordance with sections 88-121 of the Resource Management Act 1991. It clarifies that the effects to be considered in terms of the notification assessment are the effects of the change or cancellation only.

For the purposes of determining who is adversely affected by the change or cancellation, Council must consider every person who made a submission to the original application and every person who may be affected by the change or cancellation.

5.0 SECTION 93 AND 94 DETERMINATION

5.1 STATUTORY CONSIDERATIONS

As a discretionary activity, the application to change or cancel conditions of RMA20020091 should be publicly notified in accordance with section 93 of the Resource Management Act 1991, unless it can be demonstrated that the requirements of sections 93 and 94 of the Act can be satisfied. Applications must be notified (either publicly or in a limited manner) if the adverse effects on the environment are more than minor or all affected parties have not given their consent.

Section 93 provides that applications for resource consent need not be notified where:

"(a) The application is for a controlled activity :or

(b) The consent authority is satisfied that the adverse effect of the activity on the environment will be minor.

Section 94 also provides for limited notification if not all adversely affected persons have given their consent, whereby all affected persons will be notified (but not the public at large) and have the opportunity to make a submission and be heard. Section 94(2) also provides for an application to proceed on a non-notified basis *"if all persons who in the opinion of the consent authority, may be adversely affected by the activity have given their written approval to the activity."*

Recent case law has indicated that consent authorities should give careful consideration to the question of notification, and should publicly notify applications for resource consent unless it can be clearly demonstrated that the criteria of sections 93 and 94(2) are met. A comprehensive assessment of any potential adverse effects is required. It should be noted that in terms of an application to change or cancel conditions of consent only the effects arising from the change or cancellation should be considered. In determining whether or not an adverse effect on the environment arising from the change or cancellation will be minor, Council shall take no account of the effect of the activity on the environment or any person if the Plan permits an activity with that effect (Sections 94A and 94B).

In relation to potentially affected persons Council must particularly consider the effects of the change or cancellation on every person who made a submission to the original application and every person who may be adversely affected by the change or cancellation. Case law has established that the Council is only able to disregard adverse effects arising from the change or cancellation that would be 'de minimis' (Bayley CA 115/98). This concept can be taken to describe effects that are negligible or whose likelihood of occurrence would be remote. In the case of the current application, this threshold has been adopted as the correct basis for assessing whether any person may be adversely affected by the Change of conditions.

In terms of determining adverse effects on the environment arising from the Change of conditions and whether a person would be adversely affected by the proposed Change of conditions, Sections 94A and 94B gives Council the discretion to make permitted baseline comparisons i.e. a comparison between the environment (which includes both the subject site and the neighbouring environment) as it exists at the time the application is considered and the effects of activities that are permitted by the Plan even if hypothetical, as compared with the effects of the proposed Change. Case law has established that any such hypothetical developments must be not be "fanciful" in terms of what could reasonably be expected to establish there.

When considering effects under Section 94A and 94B, regard may be had to any condition which, if imposed under any decision to grant consent would eliminate or reduce the adverse effect to one which would be no more than minor for the purposes of section 94A or to a point where it would be de minimis or only a remote possibility for the purposes of section 94B.

5.2 ADVERSE EFFECTS ON THE ENVIRONMENT

5.2.1 Water Quality and Quantity

There would be de-minimis adverse effects in relation to water quality / quantity arising from the proposed change of conditions as the proposal would involve the addition of a building line restriction to better preserve privacy for the owner of the adjoining lot at 39 Landing Road and drainage easements over Lot 8 in favour of Lot 7 to enable appropriate management of stormwater.

5.2.2 Native Vegetation, Vegetation and Fauna Habitat

There would be de-minimis adverse effects in relation to vegetation and fauna habitat as a result of the proposed change of conditions as the amended layout would more accurately reflect and protect the existing native vegetation on site. As a result of a more detailed survey of the site undertaken during the course of preparing Engineering plans, it was determined that less than minor adverse environmental effects would occur by carrying out minor amendments to the approved lot boundaries, bush covenant line and location of the approved building platforms.

By moving the building platform slightly west and north of its present location on Lot 6, this enables improved bush protection as well as moving the building out of the dripline of the vegetation on this site. The bush covenant line has been amended accordingly.

The Environment Court Consent Order includes weed management in the suite of consent conditions associated with the subdivision. The applicant has offered to include these obligations as part of the management requirements of the administrative entity that is to be established to administer and maintain the private stormwater and groundwater drains. Therefore a concomitant change would follow from the change to the staging and has been included as part of this consent.

5.2.3 Land / Soil

There would be de-minimis adverse effects on soil / existing landform as a result of the proposed change of conditions as no additional earthworks would occur as a result. The proposal does involve the alteration of the staging however, which would result in the construction being carried out over an extended period of time. Whilst this may prolong the extent of the earthworks activity, it would also better enable the applicant to effectively manage the effects of the proposed earthworks.

5.2.4 Air

As the proposed change of conditions does not relate to air emissions of any kind, there would be de-minimis adverse effects on air quality.

5.2.5 Ecosystem Stability

There would be no adverse effects on the stability of ecosystems as a result of the proposed change of conditions. As outlined above, the proposed amendments to the proposal would enable better protection of both the existing vegetation on site and the ephemeral creek running through Lot 6. It is therefore considered that the proposed amendments and subsequent change of conditions would have a positive outcome.

5.2.6 Outstanding Natural Features; Landforms, Geological Sites,

The subject site is not identified in the District Plan as being within an area identified as containing "outstanding natural features" within the City (refer Maps 3.5D & E). The proposed change of conditions would not therefore adversely affect any identified outstanding natural features.

5.2.7 Natural Character of Coast and Margins of Lakes, Rivers and Wetlands

There would be de-minimis adverse effects in relation to the natural character of the coast and margins of lakes, rivers and wetlands arising from the proposed change of conditions as the proposal would have less effect than what has already been approved on the site.

5.2.8 Outstanding Landscapes

The subject site is not identified in the District Plan as being within an area of "outstanding landscape" within the City (refer Map 3.6B). The site is within the urban area of the city and the environment is already extensively modified. Therefore the proposed change of conditions would not adversely affect any identified outstanding landscapes.

5.2.9 Amenity Values - Health and Safety, Landscapes, Local Areas and Neighbourhood Character

Whilst the location of the building platforms on Lots 6 and 7 would be moved in order to achieve a better environmental outcome, this change in location would not adversely impact upon the amenity of the site or character of the wider area. A building line restriction has been proposed that would ensure privacy for the owners of 39 Landing Road and the effects of the change of conditions on the amenity values of the local area and neighbourhood character would be de-minimis.

5.2.10 Heritage

There would be no adverse effects in respect of heritage items arising from the proposed change of conditions because there are no heritage items on the site.

5.2.11 Conclusion in relation to Sections 93(1)(b) and 94 A:

Overall the adverse effect on the environment from the proposed change of conditions would be de-minimis for the reasons stated above.

5.3 Sections 94 and 94B - Adversely Affected Persons

As required by Section 127(4), in determining who may be adversely affected by the Change, particular regard has been given to every person who made a submission to the original application and every person who may be adversely affected by the Change of conditions.

Two appeals were lodged before the Environment Court with reference to Councils decision to grant consent to Richmond Eden Ltd for resource and subdivision consent to subdivide a 6.9716 hectare site into 12 lots ranging in size from 1.5044 hectares to 2,475m² in the Bush Living and Waitakere Ranges Environment. These appeals were made by the Waitakere Ranges Protection Society and Mr DPK Singh, Mrs NS Singh and Mrs Audrey Crowe and can be summarised as follows:

Waitakere Ranges Protection Society: challenged the decision to grant subdivision consent and sought that the granting of consent be overturned. In the alternative the appeal proposed certain conditions restricting the intensity of the development on the site.

Mr DPK Singh, Mrs NS Singh and Mrs Audrey Crowe: related to conditions requiring the setting aside of an area in the subdivision and the creation of a walkway from Grendon Road to Landings Road, with this being vested to Council.

Both appeals were resolved and a Consent Order issued by the Court dated 16 December 2003. It is considered that the proposed change of conditions would not adversely affect either of the appellants to the original subdivision approval, as outlined in more detail above. No other persons are considered to be adversely affected by the Change. This is because the changes are related to slight changes to timing and changes within two sites and not to the overall plan of subdivision.

The proposed changes would not affect the matters of concern to Singh and others but the applicant has obtained the written approval of the Waitakere Ranges Protection Society to the proposed changes.

5.4 Special Circumstances

In accordance with section 94C(2) of the RMA it is considered that there are no special circumstances that warrant notification of the Change.

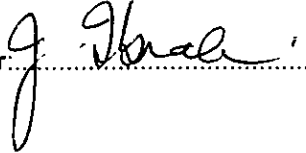
6.0 SECTIONS 93 AND 94 RECOMMENDATION

Pursuant to Sections 93 and 94 of the Resource Management Act 1991, it is recommended that this application RMA for a change or cancellation to conditions of RMA20041339 be processed without

being publicly notified for the following reasons:

- The adverse effect on the environment of the change of conditions for which consent is sought will be de minimis because the proposal seeks a better environmental outcome resulting in de-minimis environmental effects as a result of a more detailed and comprehensive site analysis.
- No persons are considered to be affected by the proposal for the reasons stated in 5.3 above but Waitakere Ranges Protection Society has provided written approval to the proposed changes.
- There are no special circumstances to warrant notification of this application.

Reporting Planner
Jeannette Ibrahim



Date: 16 Nov 2005

7.0 SECTIONS 93 and 94 DETERMINATION

Acting under delegated authority and for the reasons set out in the above assessment this application RMA20041339 to Change conditions of RMA20020091 shall be non-notified as recommended in Section 6.0 above.


Team Leader Consents

Date: 16/11/05

ASSESSMENT OF NON-NOTIFIED RESOURCE CONSENT APPLICATION UNDER SECTION 104 OF THE RESOURCE MANAGEMENT ACT 1991

8.0 STATUTORY ASSESSMENT

As noted, the proposal to change or cancel conditions of RMA20020091 requires consideration as a discretionary activity under the provisions of section 127 (3)(a) of the Resource Management Act 1991. In considering the application, the Council shall have regard to the matters specified in Section 104 which is subject to Part II of the Act. The relevant matters include a consideration of actual and potential effects on the environment, together with an assessment of the extent to which the proposed change(s)/cancellation is consistent with the objectives, policies and rules of the District Plan.

9.0 ENVIRONMENTAL ASSESSMENT

9.1 In order to make a decision in terms of Section 104B of the Act it is necessary to undertake an analysis and assessment to determine whether the purpose and principles of the Act are being met (Part II) having regard to the matters set out in Section 104, the Fourth Schedule and any other statutory considerations.

Section 104(1) of the Act requires that the consent authority have regard to any actual or potential effects on the environment arising from the proposed change or cancellation of conditions, any relevant objectives, policies, rules or other provisions of a plan or proposed plan and any relevant regional policy statement and regional plan or proposed plan, and any other matters the consent authority considers relevant and reasonably necessary to determine the application.

9.2 SECTION 104 ASSESSMENT

9.2.1 Actual and Potential Effects on the Environment

As a discretionary activity a variety of issues are relevant when determining the nature and scale of adverse effects on the environment arising from the proposed change/cancellation including effects on visual amenity, and construction effects. These aspects have been discussed previously in Section 5.0, the accompanying Sections 93 and 94 Assessment and Determination Report. The assessment of effects concluded that the effects would be de-minimis as the proposed change of conditions arise from a more detailed analysis of the site and an attempt to minimise the effects on the environment such as vegetation clearance and erosion of the stream bank.

9.2.2 Other Matters (Section 104(1)(c))

There are no other matters relevant to this application.

10.0 POLICIES AND OBJECTIVES

It is considered that the proposed Change of conditions of RMA20020091 would be consistent with the objectives and policies of the District Plan. The District Plan is "effects-based" in its approach to natural and physical resources and it has been demonstrated in the previous environmental assessment of effects that subject to conditions any adverse effects arising from the proposal would be de minimis.

11.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991- PURPOSE AND PRINCIPLES

Section 5 in Part II of the Act identifies the purpose of the Act as being the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

The Change of conditions of RMA20020091 is not considered to adversely affect any matters of national importance. It is considered that the adverse effects arising from the proposed changes and the proposed mitigation are limited in significance to the surrounding neighbourhood.

Iwi representatives of local Maori have had the opportunity to participate in the original hearing process and decision and there are no Treaty of Waitangi matters arising from these proposed changes to the original decision.

Section 7 identifies a number of "other matters" to be given particular regard by Council in the consideration of any assessment for resource consent, and includes the efficient use of natural and physical resources, and the maintenance and enhancement of amenity values.

The potential effects of the proposal on the amenity and character of the area have been discussed in detail in the effects assessment contained in Section 8 of this report. It is concluded that the proposed changes would be compatible with the surrounding built and natural environment and the existing amenity of the area would not be reduced.

12.0 MONITORING

The proposal will need to be monitored in accordance with the conditions specified in this report, and the requirements contained in the District Plan.

13.0 RECOMMENDED SECTION 127 DECISION

Pursuant to Sections 104, 104B, 108 and 127 of the Resource Management Act 1991, being satisfied that no body or person is adversely affected, it is recommended that **consent is granted** to the application by Richmond Eden Ltd (R Maxwell) to Change Conditions of RMA20020091 (as more accurately defined in Sections 3 and 4 of this report) at 39 Landing Road, Titirangi being Lot 8 DP 207383 for the following reasons:

- (i) The adverse effect on the environment of the Change of conditions for which consent is sought will be de minimis because the proposal seeks to achieve a better environmental outcome as a result of a more detailed and comprehensive site analysis and includes protection of some significant trees, improved stormwater control for Lot 7, protection of privacy to an adjoining property and better site layout for Lots 6 and 7.
- (ii) No persons are adversely affected by the proposed change in conditions as discussed in 5.3 above. Whilst there were two appellants to the approval of the original subdivision consent, the change of conditions do not directly relate to their concerns about the proposal.
- (iii) The lot sizes of the sites in which the boundaries are being changed, would not be altered by more than 10%.
- (iv) Alteration of the staging provisions of the approval over a period to match the difficult physical access to the site would allow a more flexible programme consistent with the anticipated construction seasons.
- (v) The proposed changes are consistent with the intended outcome of the Environment Court Consent Order and are not contrary to Part II of the Act.

The changed conditions imposed on the consent are as follows:

- (A) THAT pursuant to Sections 104, 105, 108 and 113 of the Resource Management Act 1991 and Section 348 of the Local Government Act 1974, consent be granted to the application (RMA 20020091 and SPW 21464 Amended) by Richmond Eden Limited (R Maxwell) to subdivide a 6.9716ha site into 12 lots (being Stage 1 comprising Lots 1 – 4 inclusive and Stage 2A comprising Lots 5, 6, and 8 and Stage 2B comprising Lots 7, 9, 10, 11 and 12) ranging in size from 1.5049ha to 1920m² with 2000m³ of earthworks for the formation of the carriageways on the shared driveways at 39 Landing Road, Titirangi, being Lot 8 DP207383 for the following reasons:
 - (1) The development shall proceed in accordance with the amended plans titled 'Preliminary Land Transfer Plan (Variation August 2005)' and 'Richmond Eden Limited (Maxwell) Option B 39 Landing Road Subdivision – Stage 2A (RMA 20020091) Detailed Variation Application Plan, - September 2005 Sheet 1' and 'Richmond Eden Limited (Maxwell) 39 Landing Road Subdivision – Stage 2A & 2B (RMA 20020091) Detailed Variation Application Plan, -

September 2005 Sheet 2') prepared by (Jackson Clapperton & Partners Limited) and dated 29.09.2005) and the advance copy of the Land Transfer Plan W21464 Amended (which shows access lot 16) and all referenced by Council as RMA20020091, Figure 8, Proposed Landscape Plan, Figure 3 Appendix 5 Ecological Assessment both contained in the Assessment of Environmental Effects Landing Road Titirangi, dated January 2002, including all information, submitted with the application and attached as Appendix Four in the Council report.

- (3) All buildings shall generally be contained within the designated building platforms as depicted on the amended plan titled 'Detailed Variation Application Plan, Sheet 1, Sheet 2' submitted September 2005.
- (6) The second stage of the weed management required by Condition 5 [above] is required to be ongoing for a period of five years following the issue of any stage-two section 224C Certificate. A bond of \$12,000.00 (by way of bank surety or cash) to cover the implementation of the second stage of the approved weed management programme shall be paid prior to the issue of the section 224C Certificate for Stage 2A of the subdivision. – The bond shall be released after five years provided that the weed management programme has been completed to the satisfaction of the Manager: Resource Consents. The company established to administer and maintain the private stormwater and groundwater drains shall manage and oversee the weed control obligations for Stages 2A and 2B for the five year period after the final issue of section 224C Certificates
- (C) STAGE 2 (Being Stage 2A comprising Residential Lots 5, 6 & 8 inclusive & Shared Driveway Lot 16 and Stage 2B comprising Residential Lots 7, 9, 10, 11 and 12 inclusive, Shared Driveway Lot 14 & Recreation Reserve Lot 15)
- (1) SECTION 223 REQUIREMENTS (Stage 2)
 - 1(e) Provide for a water supply easement in gross in favour of Council over Lots 14 and 16 in a Memorandum of Easements endorsed on the survey plan. Include in the Section 223 approval on the plan, "subject to the granting or reserving of the easement(s) set out in the Memorandum hereon". Note: The easement document will be prepared by Councils Solicitor at the applicants cost.

(2) SECTION 224 REQUIREMENTS (Stage 2)

Prior to the release by the Council of the Section 224(c) compliance certificate(s) for Stage 2A and Stage 2B of this subdivision the applicant shall comply with the following conditions to the satisfaction of Council: Note: The application requesting the 224 release shall be in writing, shall include the S224 (c) processing fee, shall address how each of the following conditions have been satisfied, and shall be accompanied with Compliance Certificates from each of Council section(s) named below.

All other conditions of RMA20020091 shall remain unchanged.

Reporting Planner: 
Jeannette Ibrahim

Date: 16 Nov 2005

14.0 SECTION 125

In determining an application for an extension of time, it is necessary for the Council to consider the criteria in section 125(1)(b) of the Act and in making a decision to grant an extension Council must take into account :-

- (i) whether substantial progress or effort has been, and continues to be, made towards giving effect to the consent; and
- (ii) whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension; and
- (iii) The effect of the extension on the policies and objectives of any plan or proposed plan."

The Resource Management Amendment Act 2003 has changed the wording of section 125. It is no longer mandatory that Council has to be satisfied regarding the tests in section 125(b) (i)-(iii) but must take them into account when making a decision. As the tests are no longer mandatory, the Council retains discretion to consider it unreasonable to obtain all affected persons approvals and Council does not need to be satisfied that the effect of the extension on the policies and objectives of the Plan is minor. Rather the Amendment Act directs Council to take into account the effect of the extension on the policies and objectives of any plan.

However despite the changes of the Amendment Act 2003, guidance obtained from case law relating to the previous section 125 such as decisions of the High Court (*M 1725/99 per Randerson J*) and the Court of Appeal (CA 64/00) in *Body Corporate 970101 v Auckland City Council*, is still relevant. A number of principles can be drawn from these cases and other relevant case law, relating to the application of section 125 of the Act. A summary of the principles is as follows:

- Reference to the term “substantial” in section 125(1) does not require a majority of the work to be completed because it is used in the context of continuing progress.
- The “substantial” progress or effort must be towards the objective of giving effect to a consent.
- All endeavour, both on and off the site, contributing to the completion of the work envisaged by the consent can be looked at in determining whether or not progress is continuing to be made.
- The words “or effort” in section 125(1)(b) assists a consent holder who, while making substantial efforts towards giving effect to the consent, has been unable to make substantial progress for some reason. If a consent authority were obliged to find that substantial progress or effort had not been made due to a period of time when work was held up through no fault of the consent holder and despite their best efforts, injustice could arise.
- Continuous progress or effort is not required towards giving effect to the consent. While continuity of progress or effort is required, there may be reasonable interruptions which do not break the overall picture of continuing towards the end in view.
- It is appropriate to take into account the practical and economic realities of constructing and completing a major development, including fluctuations in market demand and the need to raise finance.
- Substantial effort alone can satisfy the test in section 125(1)(b) provided it is aimed at giving effect to this consent.

This last stated principle is not specifically stated in the *Body Corporate* case, but the terms “progress or effort” in section 125(1)(b)(i) is disjunctive so that either type of activity can be relied upon. The *Body Corporate* case itself demonstrates that substantial effort on the part of consent holder without any actual physical “progress” being made is sufficient for the purposes of that subsection.

15.0 ASSESSMENT

It is appropriate to consider the application in relation to each of the three subsections of section 125(1)(b) of the Resource Management Act:

15.1 Section 125(1)(b)(i) – whether substantial progress or effort been, and continues to be, made towards giving effect to the consent?

This subsection of section 125(1)(b)(i) falls into two parts:

- Whether substantial progress or effort has been made; and
- If so, whether progress is continuing to be made.

As noted above, it is accepted that section 125(1)(b)(i) makes clear that the two terms are disjunctive and that “progress” and “effort” connote two different types of activity, either of which can satisfy this limb.

The applicant has indicated that the following actions have been undertaken, as evidence to support their contention regarding substantial progress or effort:

- Stage 1 of the subdivision has been completed
- Site investigations have been ongoing to ensure that stormwater discharges remain at pre-development levels
- Bush protection has been implemented

- The applicant continues to work closely with Council's Environmental Monitoring Officers to ensure the best practicable environmental outcome for the subdivision as a whole

In light of this information, it is clear that the consent holder has made substantial progress or effort towards giving effect to the development proposal authorised by resource consent RMA 20020091. It is also evident that such progress is continuing.

15.2 Section 125(1)(b)(ii) – whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension?

The consent holder has provided written approvals from the Waitakere ranges Protection Society in support of this application. However, the Council needs to determine for itself whether any persons may be adversely affected by the granting of an extension.

In considering this issue, Council can have regard to relevant case law, which states:

“...an extension application is not an opportunity for the Council to consider again the adverse effects on neighbours and other persons of the activity for which it granted the resource consent. In relation to such persons it is confined to adverse effects of the extension of the period for implementation of the consent.” (Court of Appeal decision in Body Corporate case, paragraph 74.)

It is therefore necessary for the Council to consider only whether there are any potential effects that may arise from granting an extension that would not have arisen if the consent had been implemented. The application for an extension of time to give effect to a consent under section 125(1)(b) is not an opportunity to re-litigate the consent itself.

The discussion on affected parties in part 5.3 of this report in relation to the proposed change of conditions can be extended to the request for an extension of time as the Consent Order has generated an expectation for the development of the land. The applicant has demonstrated a willingness to undertake the necessary site investigations for drainage but the findings have led to unavoidable delays in completing the subdivision. Appellants to the original application were party to the Consent Order and have not been considered to be affected parties in this case for the reasons stated earlier in part 5.3.

As such, it is considered that there are no unacceptable adverse effects that would arise as a result of the proposed extension of time. It is therefore concluded that there are no parties who would be adversely affected by the granting of the extension, as distinct from parties that might be affected by the potential effects of implementing RMA 20020091

15.3 Section 125(1)(b)(iii) - the effect of the extension on the policies and objectives of any plan or proposed plan.

The proposed extension would not have any effect on the policies and objectives of the Council's District Plan. Those objectives and policies have not changed significantly in the time since the original resource consent was granted. The proposal was considered to be consistent with the policies and objectives of the District Plan at the time consent was originally granted.

In these circumstances, it is considered that an extension of time to enable the consent to be implemented would have no effect in terms of the policies and objectives of the District Plan.

16.0 THE EXTENSION OF TIME REQUESTED

The Consent RMA 20020091 was approved by Consent Order on 16 December 2003 and will lapse on 16 December 2005. The applicant has requested that a further lapse period of 3 years be granted to enable completion of Stages 2A and 2B of this consent. Given the ground conditions and the need for continuous testing of the installed drainage over a complete annual cycle to ensure its proper functioning it is appropriate to extend the lapse period for a further 3 years.

A new lapse date of 16 December 2008 is recommended.

17.0 CONCLUSION

The applicant has applied for an extension of a period of 3 (three) years in which to implement RMA 20020091 originally granted on 16 December 2003. Assessment of the application has shown that substantial progress or effort has been made and is continuing to be made towards giving effect to the consent, that there would be no

persons adversely affected by the granting of the extension and that there would be de minimis effect on the policies and objectives of the District Plan. The extension period applied for of 3 years is considered reasonable for the reasons stated in 15.1 and 16.0 above.

Overall having taken into account all three matters outlined in section 125 (1)(b), it is concluded that it would be reasonable and appropriate to grant an extension of time being a further (three) 3 years from the date on which the consent would otherwise have lapsed in order to give effect to the development authorised by RMA 20030091 granted on 16 December 2003.

18.0 RECOMMENDED SECTION 125 DECISION

Pursuant to Section 125 of the Resource Management Act 1991, being satisfied that there are no affected persons from whom approval is required and that the relevant statutory matters have been taken into account, consent is granted to the application by Richmond Eden Limited (R Maxwell) to extend the expiry date of the RMA 20020091 granted on 16 December 2003, to subdivide a 6.9716ha site into 12 lots (being Stage 1 comprising Lots 1 – 4 inclusive and Stage 2A comprising Lots 5 6, and 8 and Stage 2B comprising Lots 7, 9, 10, 11 and 12) ranging in size from 1.5049ha to 1920m² with 2000m³ of earthworks for the formation of the carriageways on the shared driveways at 39 Landing Road, Titirangi, being Lot 8 DP207383 for the following reasons:

1. No persons are considered to be affected by the proposed extension of time.
2. Substantial progress or effort has been made towards giving effect to the consent and is continuing to be made
3. The effect of the extension of the policies and objectives of the District Plan would be de minimis.

The resource consent RMA 20020091 will now expire on **16 December 2008**

ADVICE NOTE:

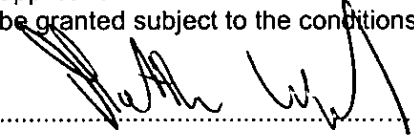
All conditions of RMA 20020091 granted on 16 December 2003 and the subsequent approved variations RMA 20041339 and RMA 20050926 still apply to the development, and this extension of time has not removed or amended any of those conditions.

Planner: 
Jeannette Ibrahim

Date: 16 Nov 2005

19.0 CONSENT GRANTED AS RECOMMENDED

Acting under delegated authority and for the reasons set out in the above recommendation this application RMA20050926 to Change conditions and extend the lapse period of RMA20020091 shall be granted subject to the conditions set out in Section 13.0 and 18.0 above.


.....

Date: 16/11/05

Team Leader Consents

Please contact Jeannette Ibrahim (Ph 836 8000 ext. 8352) if you have any queries about this resource consent and associated report.

REPORT FOR APPLICATION TO EXTEND THE PERIOD OF TIME BEFORE A RESOURCE CONSENT LAPSES IN ACCORDANCE WITH SECTION 125 OF THE RESOURCE MANAGEMENT ACT 1991

1.0 SUMMARY OF PROPOSAL

It is proposed to extend the time period within which resource consent LUC 2002-0091 can be implemented. The original application has already been amended by LUC 2004-1339 (Section 127 Application) and LUC 2005-0926 (combined Section 127 & 125 Application). A further period of (12 months) is sought.

2.0 APPLICATION DETAILS

Planner:	Nick Pollard
RMA:	LUC 2008-1823
Site Address:	42 – 46 Landing Road
Applicant:	c/- Ralph Maxwell Richmond Eden Limited
Date Application Received:	8 December 2008
Previous RMA:	LUC 2002-0091 LUC 2005-0926
Date Previous RMA Granted:	16 December 2003
Extension Period Sought:	12 months only
Date Previous RMA Lapses	16 December 2008
Ward:	New Lynn
Legal Description:	Lot 17 DP 364620
Address for Service:	C/- A. W. Smith Jackson Clapperton and partners Limited PO Box 71065
Further Information Required:	No
Date Requested:	N/a
Date Received:	N/a
Any Affected Persons:	No
Approval Given:	N/a

3.0 BACKGROUND

On 20/12/2002, a notified resource consent application was granted to Richmond Eden Limited (R Maxwell) to subdivide a 6.9716ha site into 12 lots ranging in size from 1.5044ha to 2475m² with 200m³ of earthworks for the formation of the carriageways on the shared access ways on a site at 39 Landing Road, Titirangi (refer LUC 2002-0091). This consent was granted subject to a number of conditions.

Three appeals were lodged in relation to the granting of the above-mentioned consent by Waitakere Ranges Protection Society Inc, DPK Singh & Others and the applicant (Richmond Eden Limited).

The appeals were resolved in the Environment Court by means of a Consent Order dated 16 December 2003 and from which the following conditions are read.

A variation to conditions (LUC 2004-1339) was granted 27 August 2004. And further to this a combined Section 127 – Change of Conditions and Section 125 – Extension of Time Application was received 17/6/2004, which sought to vary a number of conditions, change the staging and extend the lapse date (refer LUC 2005-296). This consent was processed on a non-notified basis and was granted, 16/11/05.

In accordance with section 125(1) (as amended by the Resource Management Amendment Act 2003) of the Resource Management Act 1991, a resource consent lapses on the expiry of five years after the date on which it commenced or when the date expressly provided for in the consent has passed. Prior to the Amendment Act resource consents lapsed on the expiry of a period of two years.

Pursuant to Section 125 (1) of the Resource Management Act 1991, an application can be made any time before the consent lapses, for an extension of the time period in which a resource consent must be given effect to.

The consent holder has lodged an application for an extension of time to give effect to the proposal authorised under LUC 2008-1823. The application was received before the consent lapsed on the (16/12/2008) and seeks a further period of 12 months in which to give effect to the consent.

4.0 STATUTORY ASSESSMENT

In determining an application for an extension of time, it is necessary for the Council to consider the criteria in section 125(1)(b) of the Act and in making a decision to grant an extension Council must take into account :-

- (i) whether substantial progress or effort has been, and continues to be, made towards giving effect to the consent; and
- (ii) whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension; and
- (iii) The effect of the extension on the policies and objectives of any plan or proposed plan.”

The Resource Management Amendment Act 2003 has changed the wording of section 125. It is no longer mandatory that Council has to be satisfied regarding the tests in section 125(b) (i)-(iii) but must take them into account when making a decision. As the tests are no longer mandatory, the Council retains discretion to consider it unreasonable to obtain all affected persons approvals and Council does not need to be satisfied that the effect of the extension on the policies and objectives of the Plan is minor. Rather the Amendment Act directs Council to take into account the effect of the extension on the policies and objectives of any plan.

However despite the changes of the Amendment Act 2003, guidance obtained from case law relating to the previous section 125 such as decisions of the High Court (*M 1725/99 per Randerson J*) and

the Court of Appeal (CA 64/00) in *Body Corporate 970101 v Auckland City Council*, is still relevant. A number of principles can be drawn from these cases and other relevant case law, relating to the application of section 125 of the Act. A summary of the principles is as follows:

- Reference to the term “substantial” in section 125(1) does not require a majority of the work to be completed because it is used in the context of continuing progress.
- The “substantial” progress or effort must be towards the objective of giving effect to a consent.
- All endeavour, both on and off the site, contributing to the completion of the work envisaged by the consent can be looked at in determining whether or not progress is continuing to be made.
- The words “or effort” in section 125(1)(b) assists a consent holder who, while making substantial efforts towards giving effect to the consent, has been unable to make substantial progress for some reason. If a consent authority were obliged to find that substantial progress or effort had not been made due to a period of time when work was held up through no fault of the consent holder and despite their best efforts, injustice could arise.
- Continuous progress or effort is not required towards giving effect to the consent. While continuity of progress or effort is required, there may be reasonable interruptions which do not break the overall picture of continuing towards the end in view.
- It is appropriate to take into account the practical and economic realities of constructing and completing a major development, including fluctuations in market demand and the need to raise finance.
- Substantial effort alone can satisfy the test in section 125(1)(b) provided it is aimed at giving effect to this consent.

This last stated principle is not specifically stated in the *Body Corporate* case, but the terms “progress or effort” in section 125(1)(b)(i) is disjunctive so that either type of activity can be relied upon. The *Body Corporate* case itself demonstrates that substantial effort on the part of consent holder without any actual physical “progress” being made is sufficient for the purposes of that subsection.

5.0 ASSESSMENT

It is appropriate to consider the application in relation to each of the three subsections of section 125(1)(b) of the Resource Management Act:

5.1 ***Section 125(1)(b)(i) – whether substantial progress or effort been, and continues to be, made towards giving effect to the consent?***

This subsection of section 125(1)(b)(i) falls into two parts:

- Whether substantial progress or effort has been made; and
- If so, whether progress is continuing to be made.

As noted above, it is accepted that section 125(1)(b)(i) makes clear that the two terms are disjunctive and that “progress” and “effort” connote two different types of activity, either of which can satisfy this limb.

The applicant has indicated that the following actions have been undertaken, as evidence to support their contention regarding substantial progress or effort:

- Stages 1 and 2A have been completed and titles obtained.

- Bush protection has been implemented.
- The shared driveway has been constructed and services provided for proposed lots within stage 2B.
- Some weed control and replanting within Stage 2B has been undertaken but remains uncompleted.
- The construction of a walkway between Landing and Grendon Roads remains outstanding and vesting of recreation reserve (proposed Lot 15) is yet to occur. Both of these matters are the subject of a currently adjourned publicly notified consent application LUC 2008-0661.

In light of this information, it is clear that the consent holder has made substantial progress or effort towards giving effect to the development proposal authorised by resource consent RMA 2002-0091 and LUC 2005-0926. It is also evident that such progress is continuing.

5.2 Section 125(1)(b)(ii) – whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension?

The consent holder has not provided any written approvals in support of this application. However, the Council needs to determine for itself whether any persons may be adversely affected by the granting of an extension.

In considering this issue, Council can have regard to relevant case law, which states:

“...an extension application is not an opportunity for the Council to consider again the adverse effects on neighbours and other persons of the activity for which it granted the resource consent. In relation to such persons it is confined to adverse effects of the extension of the period for implementation of the consent.” (Court of Appeal decision in Body Corporate case, paragraph 74.)

It is therefore necessary for the Council to consider only whether there are any potential effects that may arise from granting an extension that would not have arisen if the consent had been implemented. The application for an extension of time to give effect to a consent under section 125(1)(b) is not an opportunity to re-litigate the consent itself.

It is considered that the effects of the proposal which have the potential for adverse effects have been largely undertaken; these include activities such as earthworks, vegetation clearance, the construction of accessways and service provision including subsoil drainage. The remaining activities would have relatively minor effects and can be controlled by conditions already imposed. It should be noted that the development of the site is now expected by the community.

The effects relating to the construction of the walkway would have limited impact on nearby residents and the adjoining communities, and as noted above this is the subject of a separate application being assessed on its own merits. The applicant has demonstrated a willingness to resolve the issues surrounding the walkway and the recreation reserve and is currently in discussions with Waitakere City Council Parks Department.

It is therefore considered that there are no unacceptable adverse effects that would arise as a result of the proposed extension of time. It is therefore concluded that there are no parties who would be adversely affected by the granting of the extension, as distinct from parties that might be affected by the potential effects of implementing LUC 2002-0091 and LUC 2005-0296.

5.3 Section 125(1)(b)(iii) - the effect of the extension on the policies and objectives of any plan or proposed plan.

The proposed extension would not have any effect on the policies and objectives of the Council's District Plan. Those objectives and policies have not changed significantly in the time since the original resource consent was granted. The proposal was considered to be consistent with the policies and objectives of the District Plan at the time consent was originally granted.

In these circumstances, it is considered that an extension of time to enable the consent to be implemented would have no effect in terms of the policies and objectives of the District Plan

6.0 THE EXTENSION OF TIME REQUESTED

The Consent LUC 2002-0091 was approved by Consent Order on 16 December 2003 and lapsed 16 December 2005. LUC 2005-0926 was approved under delegated authority on the 16 November 2005 with a further 3 years and will lapse 16 December 2008. The applicant has requested that a further lapse period of 12 months be granted to enable completion of Stage 2B of this consent. Given the need to work collaboratively with WCC Parks and community to construct the walkway and complete weed control/planting it is considered appropriate to extend the lapse period for a further 12 months.

A new lapse date of 16 December 2009 is recommended.

7.0 CONCLUSION

The applicant has applied for an extension of a period of one year (12 months) in which to implement LUC 2002-0091 originally granted on 16 December 2003 and extended lapse date by LUC 2005-0926 granted 16 November 2005. Assessment of the application has shown that substantial progress or effort has been made and is continuing to be made towards giving effect to the consent, that there would be no persons adversely affected by the granting of the extension and that there would be negligible effect on the policies and objectives of the District Plan.

Overall having taken into account all three matters outlined in section 125 (1)(b), it is concluded that it would be reasonable and appropriate to grant an extension of time being a further one year (12 months) from the date on which the consent would otherwise have lapsed in order to give effect to the development authorised by LUC 2005-0926 granted on (16 November 2005).

8.0 RECOMMENDED DECISION

Pursuant to Section 125 of the Resource Management Act 1991, being satisfied that there are no affected persons from whom approval is required and that the relevant statutory matters have been taken into account, consent is granted to the application by Richmond Eden Limited (R Maxwell) to extend the expiry date of:

- LUC 2002-0091 granted on 16 December 2003, to subdivide a 6.9716ha site into 12 lots (being Stage 1 comprising Lots 1 – 4 inclusive and Stage 2A comprising Lots 5 6, and 8 and Stage 2B comprising Lots 7, 9, 10, 11 and 12) ranging in size from 1.5049ha to 1920m² with 2000m³ of earthworks for the formation of the carriageways on the shared driveways;

And:

- LUC 2005-0926 granted on 16 November 2005 which extended the lapse date to the 16 December 2008.

at 39 Landing Road, Titirangi, being Lot 8 DP207383 for the following reasons:

1. No persons are considered to be affected by the proposed extension of time.
2. Substantial progress or effort has been made towards giving effect to the consent and is continuing to be made
3. The effect of the extension of the policies and objectives of the District Plan would be negligible.

The resource consents LUC 2002-0091 (as previously amended LUC-2004-1339 and LUC-2005-

0926) will now expire on **16 December 2009**.

ADVICE NOTE:

All conditions of RMA 20020091 granted on 16 December 2003 and the subsequently approved variations RMA 2004-1339 and RMA 2005-0926 still apply to the development, and this extension of time has not removed or amended any of those conditions.

Planner:.....

(Nick Pollard)

Date:.....

15/12/08

9.0 CONSENT GRANTED AS RECOMMENDED

Acting under delegated authority and for the reasons set out in the above recommendation this application LUC 2008-1823 shall be granted subject to the conditions set out in Section 8.0 above.

.....
Team Leader Consents
(Steve McKenzie)

Date:.....

15/12/08

Please contact (Nick Pollard) (ph 836 8000 ext.8569) if you have any queries about this decision and associated report.

30 October 2006

Northpower
C/- Karl Burgisser
Arborlab
PO Box 35569
Browns Bay
North Shore City 0753

Dear Mr Burgisser

Resource Consent Application Number RMA20061853
Location: 46 Landing Road, Laingholm, WAITAKERE CITY

I am pleased to advise that your Resource Consent (Planning) application has been considered and consent has been granted pursuant to sections 93, 94, 104, and 108 of the Resource Management Act 1991.

The full report considering your application and the decision which has been made is attached. The following contains the decision on your application and the conditions which must be met for your consent to be valid:

DECISION

Pursuant to Sections 93, 94, 94A – 94D, 104, 104C and 108 of the Resource Management Act 1991, being satisfied that no body or person is adversely affected, **consent is granted** to the application by **Northpower to carry out vegetation alteration to a section of mixed native species growing beneath overhead power lines**, as more accurately defined in Sections 1 and 5 of this report) at **46 Landing Road, Laingholm, Waitakere City**, being **Lot 17 DP 364620** for the following reasons:

- (i) No persons may be adversely affected by the proposal
- (ii) The proposal has been considered in terms of the relevant assessment criteria, meets the relevant policies and objectives of the District Plan; and would create no more than minor adverse effects on the environment.

Conditions imposed on the consent are as follows:

1. Subject to the conditions outlined below the vegetation alteration shall proceed in accordance with the information submitted with the application, dated **12/10/2006**, and referenced by Council as **RMA 20061161**. The only vegetation to be subject to alteration shall be that vegetation growing beneath the overhead power lines described in the application and identified in the site photographs in section 4 of this report.
2. Pursuant to Section 125 of the Resource Management Act 1991, this consent shall lapse after a period of two years from the commencement of the consent. The vegetation alteration shall be undertaken within 2 years of the issue of this consent. If this does not happen the consent lapses and a new consent will need to be applied for.
3. The consent holder shall appoint a suitably qualified and experienced Works Arborist to supervise all works in accordance with the conditions of consent and recommendations of the arboricultural report by **Arborlab (19/9/2006)** referred to as the report. The consent holder must submit evidence of the appointment by way of an Arborists on-site log or report that identifies site attendance at stages 1 – 2. At the completion of the works the appointed arborist must provide final documentation that states works have been carried out in accordance with the conditions of consent. This evidence must be sent to the Consents

Manager, Consents Services, Waitakere City Council, Private Bag 93109, Henderson, Waitakere City.

1. Pre-start meeting with all works personnel to explain the condition of consent and working methods.
2. Removal and works within the driplines of any protective vegetation.
4. Any removal or pruning off protected vegetation shall be undertaken by appropriately trained and skilled persons in accordance with modern arboricultural practices so as not to cause damage to/or death of the subject vegetation or other 'protected' vegetation growing beneath or alongside. No native vegetation shall be removed by mechanical excavators.
5. Any cut weed vegetation must be removed from site and disposed of in accordance with good practice. All other cut vegetation shall either be removed from site or stacked neatly in locations that will not restrict the natural regeneration of cut stumps or the area.
6. Machinery access to vegetated areas shall only take place from existing cleared areas or tracks or following the protection of the ground by mulch or other suitable methods determined by the Works Arborist.
7. The relocation of current overhead power lines to underground locations within the driplines of protected vegetation shall be by way of directional drilling at a minimum depth of 900mm. All excavation for entry and exit pits shall take place outside of the driplines of protected vegetation.
8. All exposed roots shall be cut with a sharp pruning tool to the face of any excavation and recovered with topsoil as soon as possible.
9. In the event of the directional drilling head becoming stuck within the dripline of protected vegetation recovery must take place by hand under the direct supervision of the Works Arborist.
10. No material generated from pit excavation or drilling shall be deposited within the driplines of protected vegetation. Material not able to be appropriately relocated to cleared areas of the site shall be removed in accordance with good practice.
11. The removal of existing utility poles shall take place through areas already clear of vegetation or routes that will minimise damage to existing vegetation.
12. The consent holder shall carry out replacement planting of the working areas in the first planting season following completion of the works with native plants of Pb2 or Pb3 grade if deemed necessary by a Council Environmental Monitoring Officer (EMO). The planting and maintenance shall be carried out to the satisfaction of Council's Environmental Monitoring Officers for a period of **TWO** years from the date of planting. If the new planting dies within this period a new species of Pb grade 2 or 3 shall be planted as a replacement and maintained in accordance with good practice. To determine if replacement planting of the areas is required the consent holder or agent shall contact a Council EMO by telephoning 839 0400 upon completion of the works.

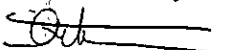
End of Conditions

Compliance with the above conditions will be monitored by Council's Environmental Monitoring Officer in accordance with section 35(d) of the Resource Management Act. This will typically include site visits to verify compliance (or non compliance) and documentation (site notes and photographs) of the activity established under the Resource Consent. Only after all conditions of the Resource Consent have been met, will Council issue a letter of compliance on request of the applicant.

Please note also that you must complete the activity that is consented to within two (2) years including compliance with the conditions of consent. If that does not happen the consent lapses and you may need to apply for an extension or a new consent. **Note: Your consent lapses on 30 October 2008.**

Please contact Phillip Russell (extn 8555) of the Resource Consents Section if you have any general queries about the enclosed report or decision.

Yours faithfully



MICHAEL CAMPBELL
MANAGER RESOURCE CONSENTS

Iwi representatives of local Maori have had the opportunity to participate in the original hearing process and decision and there are no Treaty of Waitangi matters arising from these proposed changes to the original decision.

Section 7 identifies a number of "other matters" to be given particular regard by Council in the consideration of any assessment for resource consent, and includes the efficient use of natural and physical resources, and the maintenance and enhancement of amenity values.

The potential effects of the proposal on the amenity and character of the area have been discussed in detail in the effects assessment contained in Section 8 of this report. It is concluded that the proposed changes would be compatible with the surrounding built and natural environment and the existing amenity of the area would not be reduced.

12.0 MONITORING

The proposal will need to be monitored in accordance with the conditions specified in this report, and the requirements contained in the District Plan.

13.0 RECOMMENDED SECTION 127 DECISION

Pursuant to Sections 104, 104B, 108 and 127 of the Resource Management Act 1991, being satisfied that no body or person is adversely affected, it is recommended that **consent is granted** to the application by Richmond Eden Ltd (R Maxwell) to Change Conditions of RMA20020091 (as more accurately defined in Sections 3 and 4 of this report) at 39 Landing Road, Titirangi being Lot 8 DP 207383 for the following reasons:

- (i) The adverse effect on the environment of the Change of conditions for which consent is sought will be de minimis because the proposal seeks to achieve a better environmental outcome as a result of a more detailed and comprehensive site analysis and includes protection of some significant trees, improved stormwater control for Lot 7, protection of privacy to an adjoining property and better site layout for Lots 6 and 7.
- (ii) No persons are adversely affected by the proposed change in conditions as discussed in 5.3 above. Whilst there were two appellants to the approval of the original subdivision consent, the change of conditions do not directly relate to their concerns about the proposal.
- (iii) The lot sizes of the sites in which the boundaries are being changed, would not be altered by more than 10%.
- (iv) Alteration of the staging provisions of the approval over a period to match the difficult physical access to the site would allow a more flexible programme consistent with the anticipated construction seasons.
- (v) The proposed changes are consistent with the intended outcome of the Environment Court Consent Order and are not contrary to Part II of the Act.

The changed conditions imposed on the consent are as follows:

- (A) THAT pursuant to Sections 104, 105, 108 and 113 of the Resource Management Act 1991 and Section 348 of the Local Government Act 1974, consent be granted to the application (RMA 20020091 and SPW 21464 Amended) by Richmond Eden Limited (R Maxwell) to subdivide a 6.9716ha site into 12 lots (being Stage 1 comprising Lots 1 – 4 inclusive and Stage 2A comprising Lots 5, 6, and 8 and Stage 2B comprising Lots 7, 9, 10, 11 and 12) ranging in size from 1.5049ha to 1920m² with 2000m³ of earthworks for the formation of the carriageways on the shared driveways at 39 Landing Road, Titirangi, being Lot 8 DP207383 for the following reasons:
 - (1) The development shall proceed in accordance with the amended plans titled 'Preliminary Land Transfer Plan (Variation August 2005)' and 'Richmond Eden Limited (Maxwell) Option B 39 Landing Road Subdivision – Stage 2A (RMA 20020091) Detailed Variation Application Plan, - September 2005 Sheet 1' and 'Richmond Eden Limited (Maxwell) 39 Landing Road Subdivision – Stage 2A & 2B (RMA 20020091) Detailed Variation Application Plan, -

September 2005 Sheet 2') prepared by (Jackson Clapperton & Partners Limited) and dated 29.09.2005) and the advance copy of the Land Transfer Plan W21464 Amended (which shows access lot 16) and all referenced by Council as RMA20020091, Figure 8, Proposed Landscape Plan, Figure 3 Appendix 5 Ecological Assessment both contained in the Assessment of Environmental Effects Landing Road Titirangi, dated January 2002, including all information, submitted with the application and attached as Appendix Four in the Council report.

- (3) All buildings shall generally be contained within the designated building platforms as depicted on the amended plan titled 'Detailed Variation Application Plan, Sheet 1, Sheet 2' submitted September 2005.
- (6) The second stage of the weed management required by Condition 5 [above] is required to be ongoing for a period of five years following the issue of any stage-two section 224C Certificate. A bond of \$12,000.00 (by way of bank surety or cash) to cover the implementation of the second stage of the approved weed management programme shall be paid prior to the issue of the section 224C Certificate for Stage 2A of the subdivision. – The bond shall be released after five years provided that the weed management programme has been completed to the satisfaction of the Manager: Resource Consents. The company established to administer and maintain the private stormwater and groundwater drains shall manage and oversee the weed control obligations for Stages 2A and 2B for the five year period after the final issue of section 224C Certificates
- (C) STAGE 2 (Being Stage 2A comprising Residential Lots 5, 6 & 8 inclusive & Shared Driveway Lot 16 and Stage 2B comprising Residential Lots 7, 9, 10, 11 and 12 inclusive, Shared Driveway Lot 14 & Recreation Reserve Lot 15)

(1) SECTION 223 REQUIREMENTS (Stage 2)

- 1(e) Provide for a water supply easement in gross in favour of Council over Lots 14 and 16 in a Memorandum of Easements endorsed on the survey plan. Include in the Section 223 approval on the plan, "subject to the granting or reserving of the easement(s) set out in the Memorandum hereon". Note: The easement document will be prepared by Councils Solicitor at the applicants cost.

(2) SECTION 224 REQUIREMENTS (Stage 2)

Prior to the release by the Council of the Section 224(c) compliance certificate(s) for Stage 2A and Stage 2B of this subdivision the applicant shall comply with the following conditions to the satisfaction of Council: Note: The application requesting the 224 release shall be in writing, shall include the S224 (c) processing fee, shall address how each of the following conditions have been satisfied, and shall be accompanied with Compliance Certificates from each of Council section(s) named below.

All other conditions of RMA20020091 shall remain unchanged.

Reporting Planner:.....
Jeannette Ibrahim

Date:.....

14.0 SECTION 125

In determining an application for an extension of time, it is necessary for the Council to consider the criteria in section 125(1)(b) of the Act and in making a decision to grant an extension Council must take into account :-

- (i) whether substantial progress or effort has been, and continues to be, made towards giving effect to the consent; and
- (ii) whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension; and
- (iii) The effect of the extension on the policies and objectives of any plan or proposed plan."

The Resource Management Amendment Act 2003 has changed the wording of section 125. It is no longer mandatory that Council has to be satisfied regarding the tests in section 125(b) (i)-(iii) but must take them into account when making a decision. As the tests are no longer mandatory, the Council retains discretion to consider it unreasonable to obtain all affected persons approvals and Council does not need to be satisfied that the effect of the extension on the policies and objectives of the Plan is minor. Rather the Amendment Act directs Council to take into account the effect of the extension on the policies and objectives of any plan.

However despite the changes of the Amendment Act 2003, guidance obtained from case law relating to the previous section 125 such as decisions of the High Court (*M 1725/99 per Randerson J*) and the Court of Appeal (CA 64/00) in *Body Corporate 970101 v Auckland City Council*, is still relevant. A number of principles can be drawn from these cases and other relevant case law, relating to the application of section 125 of the Act. A summary of the principles is as follows:

- Reference to the term "substantial" in section 125(1) does not require a majority of the work to be completed because it is used in the context of continuing progress.
- The "substantial" progress or effort must be towards the objective of giving effect to a consent.
- All endeavour, both on and off the site, contributing to the completion of the work envisaged by the consent can be looked at in determining whether or not progress is continuing to be made.
- The words "or effort" in section 125(1)(b) assists a consent holder who, while making substantial efforts towards giving effect to the consent, has been unable to make substantial progress for some reason. If a consent authority were obliged to find that substantial progress or effort had not been made due to a period of time when work was held up through no fault of the consent holder and despite their best efforts, injustice could arise.
- Continuous progress or effort is not required towards giving effect to the consent. While continuity of progress or effort is required, there may be reasonable interruptions which do not break the overall picture of continuing towards the end in view.
- It is appropriate to take into account the practical and economic realities of constructing and completing a major development, including fluctuations in market demand and the need to raise finance.
- Substantial effort alone can satisfy the test in section 125(1)(b) provided it is aimed at giving effect to this consent.

This last stated principle is not specifically stated in the *Body Corporate* case, but the terms "progress or effort" in section 125(1)(b)(i) is disjunctive so that either type of activity can be relied upon. The *Body Corporate* case itself demonstrates that substantial effort on the part of consent holder without any actual physical "progress" being made is sufficient for the purposes of that subsection.

15.0 ASSESSMENT

It is appropriate to consider the application in relation to each of the three subsections of section 125(1)(b) of the Resource Management Act:

15.1 Section 125(1)(b)(i) – whether substantial progress or effort been, and continues to be, made towards giving effect to the consent?

This subsection of section 125(1)(b)(i) falls into two parts:

- Whether substantial progress or effort has been made; and
- If so, whether progress is continuing to be made.

As noted above, it is accepted that section 125(1)(b)(i) makes clear that the two terms are disjunctive and that "progress" and "effort" connote two different types of activity, either of which can satisfy this limb.

The applicant has indicated that the following actions have been undertaken, as evidence to support their contention regarding substantial progress or effort:

- Stage 1 of the subdivision has been completed
- Site investigations have been ongoing to ensure that stormwater discharges remain at pre-development levels
- Bush protection has been implemented

- The applicant continues to work closely with Council's Environmental Monitoring Officers to ensure the best practicable environmental outcome for the subdivision as a whole

In light of this information, it is clear that the consent holder has made substantial progress or effort towards giving effect to the development proposal authorised by resource consent RMA 20020091. It is also evident that such progress is continuing.

15.2 *Section 125(1)(b)(ii) – whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension?*

The consent holder has provided written approvals from the Waitakere ranges Protection Society in support of this application. However, the Council needs to determine for itself whether any persons may be adversely affected by the granting of an extension.

In considering this issue, Council can have regard to relevant case law, which states:

"...an extension application is not an opportunity for the Council to consider again the adverse effects on neighbours and other persons of the activity for which it granted the resource consent. In relation to such persons it is confined to adverse effects of the extension of the period for implementation of the consent." (Court of Appeal decision in Body Corporate case, paragraph 74.)

It is therefore necessary for the Council to consider only whether there are any potential effects that may arise from granting an extension that would not have arisen if the consent had been implemented. The application for an extension of time to give effect to a consent under section 125(1)(b) is not an opportunity to re-litigate the consent itself.

The discussion on affected parties in part 5.3 of this report in relation to the proposed change of conditions can be extended to the request for an extension of time as the Consent Order has generated an expectation for the development of the land. The applicant has demonstrated a willingness to undertake the necessary site investigations for drainage but the findings have led to unavoidable delays in completing the subdivision. Appellants to the original application were party to the Consent Order and have not been considered to be affected parties in this case for the reasons stated earlier in part 5.3.

As such, it is considered that there are no unacceptable adverse effects that would arise as a result of the proposed extension of time. It is therefore concluded that there are no parties who would be adversely affected by the granting of the extension, as distinct from parties that might be affected by the potential effects of implementing RMA 20020091

15.3 *Section 125(1)(b)(iii) - the effect of the extension on the policies and objectives of any plan or proposed plan.*

The proposed extension would not have any effect on the policies and objectives of the Council's District Plan. Those objectives and policies have not changed significantly in the time since the original resource consent was granted. The proposal was considered to be consistent with the policies and objectives of the District Plan at the time consent was originally granted.

In these circumstances, it is considered that an extension of time to enable the consent to be implemented would have no effect in terms of the policies and objectives of the District Plan.

16.0 THE EXTENSION OF TIME REQUESTED

The Consent RMA 20020091 was approved by Consent Order on 16 December 2003 and will lapse on 16 December 2005. The applicant has requested that a further lapse period of 3 years be granted to enable completion of Stages 2A and 2B of this consent. Given the ground conditions and the need for continuous testing of the installed drainage over a complete annual cycle to ensure its proper functioning it is appropriate to extend the lapse period for a further 3 years.

A new lapse date of 16 December 2008 is recommended.

17.0 CONCLUSION

The applicant has applied for an extension of a period of 3 (three) years in which to implement RMA 20020091 originally granted on 16 December 2003. Assessment of the application has shown that substantial progress or effort has been made and is continuing to be made towards giving effect to the consent, that there would be no

persons adversely affected by the granting of the extension and that there would be de minimis effect on the policies and objectives of the District Plan. The extension period applied for of 3 years is considered reasonable for the reasons stated in 15.1 and 16.0 above.

Overall having taken into account all three matters outlined in section 125 (1)(b), it is concluded that it would be reasonable and appropriate to grant an extension of time being a further (three) 3 years from the date on which the consent would otherwise have lapsed in order to give effect to the development authorised by RMA 20030091 granted on 16 December 2003.

18.0 RECOMMENDED SECTION 125 DECISION

Pursuant to Section 125 of the Resource Management Act 1991, being satisfied that there are no affected persons from whom approval is required and that the relevant statutory matters have been taken into account, consent is granted to the application by Richmond Eden Limited (R Maxwell) to extend the expiry date of the RMA 20020091 granted on 16 December 2003, to subdivide a 6.9716ha site into 12 lots (being Stage 1 comprising Lots 1 – 4 inclusive and Stage 2A comprising Lots 5 6, and 8 and Stage 2B comprising Lots 7, 9, 10, 11 and 12) ranging in size from 1.5049ha to 1920m² with 2000m³ of earthworks for the formation of the carriageways on the shared driveways at 39 Landing Road, Titirangi, being Lot 8 DP207383 for the following reasons:

1. No persons are considered to be affected by the proposed extension of time.
2. Substantial progress or effort has been made towards giving effect to the consent and is continuing to be made
3. The effect of the extension of the policies and objectives of the District Plan would be de minimis.

The resource consent RMA 20020091 will now expire on **16 December 2008**

ADVICE NOTE:

All conditions of RMA 20020091 granted on 16 December 2003 and the subsequent approved variations RMA 20041339 and RMA 20050926 still apply to the development, and this extension of time has not removed or amended any of those conditions.

Planner:.....
Jeannette Ibrahim

Date:.....

19.0 CONSENT GRANTED AS RECOMMENDED

Acting under delegated authority and for the reasons set out in the above recommendation this application RMA20050926 to Change conditions and extend the lapse period of RMA20020091 shall be granted subject to the conditions set out in Section **13.0** and **18.0** above.

.....

Date:.....

Team Leader Consents

Please contact Jeannette Ibrahim (Ph 836 8000 ext. 8352) if you have any queries about this resource consent and associated report.

Decision on application for resource consent under the Resource Management Act 1991



Non-complying activity under the operative plan

Restricted discretionary activity under the PAUP

Application number: LUC-2014-1402
Applicant's name: Latitude Homes Ltd
Site address: 41C Landing Road, Titirangi
Legal description: Lot 12 DP 424634 and ¼ share of Lot 14 DP 406655 (C.F.R. 496011)

Proposal:

To construct a new dwelling, a carport, and associated driveway and vehicle manoeuvring area, and undertake associated earthworks.

The resource consents are:

Land use consents (s9) – R/LUC

Auckland Council District Plan (Waitakere Section)

• **City Wide Rules – Natural Hazards**

Rule 1.1(a) and (c) – General (Natural Hazards) – The proposal is to construct a new dwelling and undertake earthworks on land that is known by Council to likely be subject to inundation associated with an overland flow path and which is identified as being stability sensitive. Consent is required as a Limited Discretionary Activity.

• **Managed Natural Area**

Rule 3.3(a) – Earthworks (Managed Natural Area) – The proposed earthworks include earthworks that will be located outside of the building platform, are not limited to earthworks for the construction of a driveway or infrastructure, and will have a volume of greater than 30m³ (160m³ is proposed to be displaced). Consent is required as a Non-Complying Activity.

• **Bush Living Environment**

Rule 12.2(a) – Carparking and Driveway (Bush Living Environment) – The proposed development will result in the construction of a new driveway serving a dwelling. Consent is required as a Controlled Activity.

Proposed Auckland Unitary Plan

- Regional land use consent in accordance with Part 3, Chapter H, Clause 4.14.2 - Stormwater Management - Flow of the PAUP. The area of proposed impermeable surface would exceed the permitted standards, i.e. a maximum permitted impermeable area of 25m². The application proposes a total impermeable area of 220.6m². Activities in breach of the permitted standard for this rule are considered as a controlled activity, provided that the proposed works are undertaken in accordance with the hydrology mitigation requirements outlined within the PAUP. If a proposal is not undertaken in accordance with the hydrology mitigation requirements, as is the case for this application, the proposal is considered as a Restricted Discretionary Activity.

Acting under delegated authority, under Sections 104, 104B, and 104D, the application is **GRANTED**.

1. Reasons

Under Section 113 of the RMA, the reasons for this decision are:

- Any actual and potential effects on the environment by the proposal will be acceptable, with any adverse effects being adequately avoided, remedied, or mitigated by appropriate conditions of consent. It is also noted that:
 - Conditions of consent are considered sufficient to ensure that any adverse silt/sediment effects resulting from the proposed earthworks will be less than minor overall.
 - Conditions of consent are considered sufficient to ensure that the proposed development will not exacerbate or result in any adverse effects on the subject site or surrounding properties associated with the natural hazards (stability sensitive and an overland flow path) identified as affecting the site. This matter has been assessed and this position is supported by both Council's Development Engineer and Geotechnical Engineer.
 - No rules have been triggered under the NES. A preliminary site investigation report was supplied as additional information in support of the application (prepared by Geosciences Limited, referenced REP-0494PSI/SEP14, and dated 17 September 2014), which advised that there were no infringements under the NES associated with this proposal, which was assessed and supported by Council's Consultant Contaminated Sites Specialist, Ms Elaina Boud.
 - The site, scale, design, and siting of the proposed earthworks is considered appropriate due to the less than minor adverse effects on the surrounding properties, and when considering the proposed earthworks in the context of the identified slope stability hazard potentially affecting this site.
- The proposal would be not contrary to the relevant Objectives and Policies of the Auckland Council District Plan (Waitakere Section) and the Proposed Auckland Unitary Plan, and regard has been had to the relevant assessment criteria, and the objectives and policies of the District Plan.
- The proposal would be not contrary to the Waitakere Ranges Heritage Area Act.

- The proposal would be consistent with the Auckland Council Regional Policy Statement and Part 1 of the Proposed Auckland Unitary Plan.
- The proposal would be consistent with Part II of the Resource Management Act 1991.

2. Conditions

Under Section 108 of the RMA, these consents are subject to the following conditions:

General Conditions

1. The proposed activity shall be carried out in accordance with the plans and all information submitted with the application, detailed below, and all referenced by the Council as consent number LUC-2014-1402:
 - Application Form, and Assessment of Environmental Effects prepared by Eden Architects Ltd, dated 28 August 2014:

Report title and reference	Author	Dated
Description of Project & Environmental Effects Assessment, Application for Land Use Consent at 41C Landing Road, Titirangi, Lot 12 DP 424634 & PT Lot 14 DP 406655, Consent #: ABA-2014-937, LUC-2014-1402	Eden Architects Ltd	12 December 2014
Retaining Wall, Job Number 17408	Hutchinson Consulting Engineers	26 May 2014
41C Landing Road, Titirangi – Stormwater Management Design (Building Consent Number: ABA-2014-937)	EQ Engineers Consulting Ltd	22 July 2014
Preliminary Site Investigation (PSI), 41C Landing Road, Titirangi, Doc. Reference REP-0494PSI/SEP14	Geosciences Limited	17 September 2014
41C Landing Road, Titirangi – Flood Risk Assessment	EQ Engineers Consulting	28 May 2014
Proposed Dwelling, at 41C Landing Road, Titirangi – Geotechnical Investigation Report, Project 62439	Fraser Thomas	April 2014
Geotechnical Completion Report for Richmond Eden Ltd Subdivision, Landing Road, Titirangi – Stage 3, Lots 9, 10 & 10 DP 424634, WCC Ref: RMA20020091 SPW21464, Ref: 2001-014	Jackson Clapperton & Partners Ltd	8 September 2009

Plan title and reference	Author	Dated
Site Plan, Drawing No. A01	Eden Architects Ltd	
Site Plan, Drawing No. A01A, revision 1	Eden Architects Ltd	3 November 2014
Long-Section Through D(r)iveway (no reference details provided)	(no reference details provided)	(no reference details provided)
Earth Work Plan, Job No. SH038, Drawing No. 04	Creative Arch	6 May 2014
Proposed Stormwater Layout Plan, Drawing No. 95133/BC.01	EQ Engineers Consulting Ltd	22 July 2014
Elevations, Drawing No. A02, revision 1	Eden Architects Ltd	3 November 2014
Floor Plans, Job No. SH038, Drawing No. 05	Creative Arch	6 May 2014
Setout Plan – Level 1, Job No. SH038, Drawing No. 06	Creative Arch	6 May 2014
Setout Plan – Level 2, Job No. SH038, Drawing No. 07	Creative Arch	6 May 2014

Other additional information	Author	Dated
Email, including amended AEE, amended site plan showing extent of floodplain, and a long section showing proposed driveway maintaining existing ground contours	Eden Architects Ltd	12 December 2014
Email, including amended AEE, revised site plan, and revised elevation plans	Eden Architects Ltd	10 November 2014
Email, including amended AEE, revised site plan, revised elevation plans, and an infrastructure plan	Eden Architects Ltd	30 October 2014
Email, including height in relation to boundary diagrams	Eden Architects Ltd	17 October 2014
Email, including response to s92 request, amended AEE, stormwater design assessment, and retaining wall design report	Eden Architects Ltd	16 October 2014
Email, including amended AEE and Soils Contamination Report	Eden Architects Ltd	3 October 2014

2. This consent (or any part thereof) shall not commence until such time as the following charges, which are owing at the time the Council's decision is notified, have been paid in full:

- (a) All fixed charges relating to the receiving, processing and granting of this resource consent under Section 36(1) of the Resource Management Act 1991 (RMA); and

- (b) All additional charges imposed under Section 36(3) of the RMA to enable the Council to recover its actual and reasonable costs in respect of this application, which are beyond challenge.
3. The consent holder shall pay any subsequent further charges imposed under Section 36 of the RMA relating to the receiving, processing and granting of this resource consent within 20 days of receipt of notification of a requirement to pay the same, provided that, in the case of any additional charges under Section 36(3) of the RMA that are subject to challenge, the consent holder shall pay such amount as is determined by that process to be due and owing, within 20 days of receipt of the relevant decision.
4. Under Section 125 of the RMA, this consent lapses five years after the date it is granted unless:
- (a) The consent is given effect to; or
- (b) The Council extends the period after which the consent lapses.
5. The consent holder shall pay the Council an initial consent compliance monitoring charge of \$540.00 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs that have been incurred to ensure compliance with the conditions attached to this consent.

Advice Note:

The initial monitoring charge is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc, all being work to ensure compliance with the resource consent. In order to recover actual and reasonable costs, inspections, in excess of those covered by the base fee paid, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge or charges as they fall due. Such further charges are to be paid within one month of the date of invoice. Only after all conditions of the resource consent have been met, will Council issue a letter confirming compliance on request of the consent holder.

Surveyor's Certificate

6. A Licenced Cadastral Surveyor shall set out the foundations of the proposed dwelling and certify to Council in writing prior to work progressing beyond the foundation stage that the building is located exactly as proposed in the application and will comply with the height in relation to boundary rules of the District Plan if constructed in accordance with the approved consent in terms of levels and position. No work shall proceed beyond this stage until receipt of such certification, to the satisfaction of the Manager Resource Consents.

Earthworks:

7. Prior to the commencement of the earthworks activity, the consent holder shall hold a pre-start meeting that:
- (a) is located on the subject site
- (b) is scheduled not less than 5 days before the anticipated commencement of earthworks
- (c) includes all concern Council officers e.g. Monitoring officer etc.

- (d) includes representation from the contractors who will undertake earthworks and suitably qualified professionals
- (e) The following information shall be made available at the pre-start meeting including specific references to all relevant documentation, such as resource consent conditions, and Sediment Control Plan.

Advice Note:

To arrange the pre-start meeting required by Consent Condition (7) please contact the Team Leader West - Monitoring and Incidents to arrange this meeting +64 9 301 0101. The conditions of consent should be discussed at this meeting. All additional information required by the Council should be provided 2 days prior to the meeting.

- 8. The Team Leader West - Monitoring and Incidents shall be notified at least two (2) working days prior to earthwork activities commencing on the subject site.

Advice Note:

In order to comply with Consent Condition (8), please fill out the "Notice of Works Commencing" form supplied with your Resource Consent pack and forward this to Council as noted on the form to advice of the start of works.

- 9. Prior to the commencement of earthworks activity, all required erosion and sediment control measures on the subject site shall be constructed and carried out.

Advice Note:

It is recommended that you discuss any potential measures with Council's monitoring officer who will guide you on the most appropriate approach to take. Please contact the Team Leader West - Monitoring and Incidents on +64 9 301 0101 for more details. Alternatively, please refer to "Auckland Regional Council, Technical Publication No. 90, Erosion & Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region".

- 10. All earthworks shall be managed to ensure that no debris, soil, silt, sediment or sediment-laden water is discharged from the subject site either to land, stormwater drainage systems, watercourses or receiving waters. In the event that a discharge occurs, works shall cease immediately and the discharge shall be mitigated and/or rectified to the satisfaction of the Team Leader West - Monitoring and Incidents.
- 11. The site shall be progressively stabilised against erosion at all stages of the earthwork activity.
- 12. All earthworks activity on the subject site shall comply with the New Zealand Standard 6803:1999 for Acoustics – Construction Noise.

13. The use of noise generating motorised equipment and vehicle movements to and from the site associated with earthworks activity on the subject site shall be restricted to between the following hours:.

Monday to Friday: 7:30 a.m. to 7p.m.

Saturday: 8:00am to 5:30pm

There is to be no operation of noise-generating, motorised equipment and vehicles associated with earthworks activity on the subject site on Sundays or public holidays.

14. There shall be no obstruction of access to public footpaths, berms, private properties, public services/utilities, or public reserves resulting from the earthworks activity. All materials and equipment shall be stored within the subject site's boundaries.
15. There shall be no airborne or deposited dust beyond the subject site as a result of the earthworks activity, that in the opinion of the Team Leader West - Monitoring and Incidents, is noxious, offensive or objectionable.

Advice Note:

It is recommended that potential measures as discussed with Council's monitoring officer who will guide you on the most appropriate approach to take. Please contact the Team Leader West - Monitoring and Incidents on +64 9 301 0101 for more details. Alternatively, please refer to the Ministry for the Environment publication "Good Practice Guide for Assessing and Managing the Environmental Effects of Dust Emissions".

16. There shall be no damage to public roads, footpaths, berms, kerbs, drains, reserves or other public asset as a result of the earthworks activity. In the event that such damage does occur, the Team Leader West - Monitoring and Incidents, will be notified within 24 hours of its discovery. The costs of rectifying such damage and restoring the asset to its original condition will be met by the consent holder.

Advice Note:

In order to prevent damage occurring during the earthwork activity, the consent holder should consider placing protective plates over footpaths, kerbs, and drains. Where necessary, prior to works commencing, photographing or video recording of roads, paths and drains may be appropriate.

If you would like further details or suggestions on how to protect public assets during the earthwork phase, please contact the Team Leader West - Monitoring and Incidents on +64 9 301 0101

17. Notice shall be provided to the Team Leader West - Monitoring and Incidents, at least two (2) working days prior to the removal of any erosion and sediment control works.

Geotechnical:

18. Prior to the commencement of the earthworks activity, the consent holder shall provide a certificate verifying the location and depth of the existing groundwater drains at the site. Written evidence shall be provided to the Team Leader West - Monitoring and Incidents in a form of a receipt, producer statement or similar.
19. The construction of buildings foundations, retaining structures and all associated earthworks shall be supervised by a suitable qualified engineering professional. In supervising the works, the suitable qualified engineering professional shall ensure that they are constructed and otherwise completed in accordance with NZS 4431:1989 Code of Practice for Earthfill for Residential Development or NZS4404:2004 Code of Practice for Urban Land Development & Subdivision Engineering and "Section 2 of the Code of Practice: City Infrastructure and Land Development" and the following reports:
 - (a) "Proposed Dwelling at 41C Landing Road, Titirangi Geotechnical Investigation", prepared by Fraser Thomas, reference 62439, dated April 2014
 - (b) Geotechnical report by Jackson Clapperton & Partners Limited dated 11 October 2001, and subsequent amendments and familiar with the Peer Review by Beca Carter Hollings & Ferner Limited

Advice Note:

For timber structures, a hazards class rating of H5/H5 is considered to meet the 50 year durability requirement.

20. Within 10 working days following the completion of earthworks, the suitable qualified engineering professional responsible for supervising the works shall provide to the Team Leader West - Monitoring and Incidents, written evidence that all fill used on the subject site has the characteristics set out below:
 - (a) be solid material of a stable, inert nature; and
 - (b) not contain contaminants; and
 - (c) not be subject to biological breakdown.

Written evidence shall be in the form of a receipt, compaction certificate(s), producer statement or similar.

21. Subsoil/Underfill Drainage: Upon completion of earthworks, the designer or the suitable qualified engineering professional who supervises the earthworks and retaining walls of the property must confirm that the subsoil drainage has not been affected or intercepted by the proposed earthworks and retaining walls. Written evidence shall be provided to the Team Leader West - Monitoring and Incidents in a form of a receipt, producer statement or similar.

Advice Note:

Subsoil drainage done at subdivision stage has been identified to be located in the northern section of the subject site. This subsoil drainage should not be affected. In the event that the subsoil drainage is affected or intercepted, a suitable qualified engineering professional familiar with the geotechnical report by Jackson Clapperton & Partners Limited dated 11 October 2001, and subsequent amendments; and familiar with the Peer Review by Beca Carter Hollings & Ferner Limited should be contacted for specific advice.

22. Subsurface drainage behind all retaining structures shall be connected to the Stormwater system (to be installed in accordance with Advice Note (2)). Written evidence shall be provided to the Team Leader West - Monitoring and Incidents in the form of a receipt, producer statement or similar.
23. Where excess soil or waste materials resulting from earthworks activity is to be removed from the subject site, it shall be deposited at an approved disposal site. Written evidence confirming this action shall be provided to the Team Leader West - Monitoring and Incidents within 10 working days of the completion of the earthworks activity. Written evidence shall be in the form of a receipt, producer statement or similar.
24. One (1) month on completion of earthworks, a Certificate, signed by the suitable qualified engineering professional who supervised the works, shall be provided to the Team Leader West - Monitoring and Incidents. The certificate shall determine if the earthworks have been carried out in accordance with Consent Conditions (18) to (23) and that the site has been left in a condition suitable for its intended use. The certificate shall include a "Professional Statement" the extent of inspection, revisit and review of all references and assumptions made during the investigation, assess the results of testing and opinion on the compliance of the development.

3. Advice notes

1. *Works (construction of the driveway and on-site manoeuvring area) are proposed within the drainage easement i.e. overland flow path easement, therefore ensure the finished level of the constructed driveway and turning area is flush with the surrounding ground level within the easement and also the concrete pad is formed in a manner that the overland flow path continues to flow downstream without any obstruction that may cause diversion.*
2. *The consent holder is advised that, prior to occupation of the proposed dwelling, the consent holder is required to have installed the proposed on-site stormwater management device (6m² stormwater detention tank, in accordance with the report titled "41C Landing Road, Titirangi - Stormwater Management Design, Building Consent Number: ABA-2014-937", prepared by EQ Engineers Consulting Ltd, and dated 22 July 2014) to mitigate against adverse effects on the environment, increased downstream flooding, increased stream channel erosion, or adverse effect on public infrastructure systems, in accordance with the requirements of the consent notices registered against the Certificate of Title for the site (interest references 8174871.2 and 8385811.2). Any activities that are in breach of these consent notices may require a variation of consent notice (in accordance with Section 221(3) of the Act), as well as land use consent.*

3. *In the Managed Natural Area, all native vegetation, regardless of its size, is protected and the Plan has limits on the amount of cleared area. The goal is to maintain and strengthen a healthy natural ecosystem. The site is also within the Bush Living Environment and the Waitakere Ranges Heritage Area. Objectives for these involve ensuring that development fits with the neighbourhood character and does not dominate the natural environment. The area has an abundant seed source of native species. Natural restoration should be allowed to occur within all bush areas and desirably throughout the Managed Natural Area to restore any clear areas as bush areas.*
4. *All native vegetation is protected in the Managed Natural Area under the Auckland Council District Plan (Waitakere Section), and all vegetation located within the part of the subject site contained within the Significant Ecological Area overlay under the Proposed Auckland Unitary Plan is considered protected.*
5. *The consent holders are reminded of the additional obligations regarding the current and on-going use and development of the subject site (including the protection of the native vegetation on the subject site), in accordance with the consent notices registered against the Certificate of Title for the site (interest references 8174871.2 and 8385811.2). Any activities that are in breach of these consent notices may require a variation of consent notice (in accordance with Section 221(3) of the Act), as well as land use consent.*
6. *If you disagree with any of the above conditions, or disagree with the additional charges relating to the processing of the application you have a right of objection pursuant to Sections 357A or 357B of the RMA. Any objection must be made in writing to Council within 15 working days of notification of the decision.*
7. *Please read the conditions of this resource consent carefully and make sure that you understand all the conditions that have been imposed before commencing the development.*
8. *This resource consent will lapse five years after the date of Council's decision **unless**:*
 - (a) *it is given effect to before the end of that period. To give effect to this consent, the activity allowed by this consent must be established and the conditions contained in the consent complied with. Please note that there must be compliance with all of the consent conditions once the land use has been established, or*
 - (b) *an application is made and granted prior to the expiry of that period for a time extension. The statutory considerations that apply to extensions are set out in Section 125 of the RMA. **Note:** all charges owing at the time Council's decision is notified must be paid before a consent can commence.*
9. *The consent holder shall obtain all other necessary consents and permits, including those under the Building Act 2004, and the Historic Places Act 1993. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004. Please note that the approval of this resource consent, including consent conditions specified above, may affect a previously issued building consent for the same project, in which case a new building consent may be required.*

10. A copy of this consent should be held on site at all times during the establishment and construction phase of the activity. The consent holder is requested to notify Council, in writing, of their intention to begin works at least 14 days prior to work starting on the consented development. A "Notice of Works Starting" Form is included in your Resource Consent Pack to facilitate this notice. "Notice of Works Starting" forms can be emailed to rcmadmin@aucklandcouncil.govt.nz, faxed to (09) 353 9186 or posted to:

Administration Officer, Monitoring and Incidents,
Monitoring and Incidents,
Auckland Council,
Private Bag 92300,
Auckland 1142.

11. The granting of this resource consent does not in any way allow the consent holder to enter and undertake works within neighbouring properties, without first obtaining the agreement of all owners and occupiers of said land to undertake the proposed works. Any negotiation or agreement is the full responsibility of the consent holder, and is a private agreement that does not involve Council. Should any disputes arise between the private parties, these are civil matters which can be taken to independent mediation or disputes tribunal for resolution. It is recommended that the private agreement be legally documented to avoid disputes arising. To obtain sign-off for the resource consent, the services described by the conditions above are required to be in place to the satisfaction of Council.
12. Compliance with the consent conditions will be monitored by Council in accordance with Section 35(d) of the Resource Management Act. This will typically include site visits to verify compliance (or non-compliance) and documentation (site notes and photographs) of the activity established under the Resource Consent. In order to recover actual and reasonable costs, inspections, in excess of those covered by the base fee paid, shall be charged at the relevant hourly rate applicable at the time. Only after all conditions of the Resource Consent have been met, will Council issue a letter on request of the consent holder.

Delegated decision maker:

Name:

Leethi Ken

Title:

Team Leader - Resource Consents

Signed:

[Signature]

Date:

16/1/15

41 C The Landing
 Out-Flow Drainage
 Haley Bay 1.55.20763.
 Scale 1:100

AISA 2014-937

Natn

