Before the Far North District Council Hearings Committee

In the Matter of the Resource Management Act 1991

And

In the Matter of the Proposed Far North District Plan.

Statement of rebuttal evidence of Joseph Brady Henehan on behalf of Kingheim Ltd (Submitter number S461.001)

Dated 15 September 2025

Reyburn and Bryant 1999 Ltd PO Box 191, Whangarei Email: joseph@reyburnandbryant.co.nz

1. Introduction

- 1.1 My name is Joseph Brady Henehan. My qualifications and experience are as set out in my statement of evidence dated 9 June 2025.
- 1.2 I have read the Code of Conduct for Expert Witnesses and have complied with this Code in the preparation of my further evidence.

2. Summary

- 2.1 This rebuttal evidence acknowledges and addresses the comments raised in the s42A report for Hearing 15C. In response to these comments, this statement of rebuttal evidence relates to the following topics:
 - a. Permitted activities and bulk/location controls
 - b. Coastal hazards and site constraints
 - c. Appropriateness of RPROZ and coastal environment overlay
 - d. Eroded natural coastal character of the area
 - e. Use of precincts on smaller sites

3. Permitted activities and bulk/location controls

- 3.1 The s42A report expresses concern that the proposed Reef Lodge Precinct (RLP) would enable a more intensive use of the site than what has been consented. This is not the case.
- 3.2 While the RLP provisions permits the concurrent operation of up to three residential units, 14 motor home campsites, and eight motel units to operate concurrently, any increase in development would still be subject to the bulk and location rules of the Rural Production Zone (RPROZ) chapter of the Proposed District Plan (PDP). These controls ensure that any future development is appropriately scaled and designed to maintain rural and coastal character.
- 3.3 The purpose of permitting particular activities on the site is not to enable intensification, but to recognise and legitimise the existing and consented use of the site. Any future development beyond what is permitted would still require resource consent and be subject to a full effects-based assessment. The RLP simply provides a more accurate and enabling framework for assessing such proposals. It also looks to focus any such future resource consent application on the effects of the particular bulk and location, hazard or engineering related rule that is infringed. The activities themselves, provided they are in accordance with the RLP are permitted and not the subject of any future resource consent application.

4. Coastal hazards and site constraints

4.1 The s42A report references "significant coastal hazards" as a reason to reject the precinct. This

- assertion is at odds with the technical reports provided with my original evidence, particularly regarding coastal erosion hazards.
- 4.2 The engineering assessment prepared by Hawthorn Geddes (attached as part of the original submission) confirms that the site is not subject to significant coastal hazard risk. The site is protected by an existing rock revetment wall, and the approved redevelopment includes minimum finished floor levels and other mitigation measures to address any residual flood risk. These measures were accepted by Council in granting resource consent 2230258-RMALUC.
- 4.3 Furthermore, the RLP does not remove the requirement for future development to comply with RPROZ bulk and location rules, nor does it exempt development from hazard mitigation requirements. Any future proposal will still need to demonstrate that it avoids or mitigates natural hazard risks, consistent with the District Plan as well as the New Zealand Coastal Policy Statement and Regional Policy Statement provisions.

5. Appropriateness of RPROZ and CE overlay

- 5.1 The s42A report suggests that the RPROZ and CE overlay best reflect the site and surrounding area. I do not agree with this.
- 5.2 The site and surrounding area are already significantly developed, with the Reef Lodge operating for over 40 years and neighbouring properties also containing large residential units and implement sheds. For example, a neighbouring property (Lot 3 DP 530260) has recently been granted consent for a shed and dwelling under reference 2240110-RMALUC, further diminishing any remaining rural character. Photos of the shed and dwelling recently consented on this site are provided in Figures 1 and 2 below:



Figure 1: Image of dwelling and shed on Lot 3 DP 530260 when viewed from beach



Figure 2: Image of shed on Lot 3 DP 530260 when viewed from the RLP site

- 5.3 The buildings consented on this adjacent site, combined with the motel lodge and residential redevelopment consented on the submitter's site, demonstrate that the character of this particular locality is not typical of the RPROZ or the CE.
- 5.4 It is also worth noting that the developed nature of Reef Lodge at 44 Gillies Road was cited as a justification for approving the dwelling and shed under 2240110-RMALUC. Excerpts from that decision are included below:

Assessment

Receiving Environment

The receiving environment is well described in the landscape report by Hawthorn and comprises a cluster of rural-residential coastal development on the west coast of the Karikari Peninsula surrounded by larger Maori land blocks and rural production units to the south and east. There is a residential settlement 750m to the north of the site on the coast (Rangiputa). Reef Lodge is a visitor accommodation activity adjoining the site. The transitional nature of the area is described by Hawthorn as follows:

The area around the application site which accommodates lifestyle lots forms a transition between the more residential character of Rangiputa and the less developed farmland located to the south. The node of built development around the application site consists of larger style homes and accessary buildings set into landscaped grounds overlooking the beach and harbour.

This is the environment within which the adverse effects of the application must be assessed.

Due to the appropriate location and design of the buildings and the associated plantings the landscape has the capacity to absorb the change to ensure that the proposal will be well integrated into the existing coastal landscape character.

Overall, it is considered that the proposal will have a low adverse landscape character effect on the immediate vicinity, but that overall, the proposal will have a very low effect on the landscape character attributes of the wider coastal environment along this part of the Rangaunu Harbour.

Having reviewed the site photographs and the information provided in the landscape assessment, the processing planner agrees with this conclusion and <u>overall</u> the character and amenity effects of the second dwelling and earthworks on the receiving environment would be less than minor.

- 5.5 Copies of the 2240110-RMALUC decision and approved plans are **enclosed** for reference.
- 5.6 The RPROZ/CE does not support the historic character of the Reef Lodge site. While this may be appropriate for new developments, it is not fitting to or compatible with the long-established consented activity at 44 Gillies Road.

6. Eroded natural coastal character of the area

- 6.1 The s42A report itself acknowledges that the activity at the Reef Lodge site is an "anomaly" within the RPROZ (paragraph 271(b)). Maintaining the assertation that this site is an anomaly in the RPROZ erodes Council's ability to protect the natural coastal character and coastal hazard risks of the area.
- 6.2 The "anomaly" has become a new measure for development in this particular locality. It is setting a precedent for other non-complying resource consent processes, particularly in the surrounding area. The 2240110-RMALUC decision confirms that the established character of the locality (particularly the presence of Reef Lodge) was a key factor in approving the large-scale house and commercial-scale shed on the adjacent site.
- 6.3 If the RLP is adopted by Council, this issue would be rectified. The activities on the subject site would be specifically provided for in the District Plan through the precinct overlay. This means that similar large-scale developments on other sites within the RPROZ/CE would no longer be able to rely on the precedent set by Reef Lodge, thereby helping to protect the remaining natural coastal character of the area and uphold the integrity of both the RPROZ and the CE overlay in the District Plan.
- 6.4 The notified PDP zoning/overlays will not protect this coastal area from this "anomaly" just as the ODP has not. The current situation has already resulted in the natural character of the surrounding area to be eroded.
- 6.5 A precinct overlay is appropriate in this case to remove the "anomaly" character of the site and provide a tailored planning response that recognises the unique nature of the site and its

established use. Its historic and current activities would be supported and contained. Retaining the RPROZ would require future development to be assessed against planning provisions that are misaligned with the site's historic and actual use, resulting in erroneous, unnecessary consenting complexity and uncertainty.

7. Use of precincts on smaller sites

7.1 The reporting planner argues the following in paragraph 271(c) of the s42A report:

"In my view, the precinct tool should be used sparingly and only in situations where a large area of land requires a different planning framework to an underlying zone".

- 7.1 This position is not supported by evidential basis or reasoning.
- 7.2 The National Planning Standards (2019) define a precinct as a spatial layer that:
 - "...identifies and manages an area where additional place-based provisions apply to modify or refine aspects of the policy approach or outcomes anticipated in the underlying zone(s)"
- 7.3 There is no requirement or guidance in the National Planning Standards that precincts must only apply to large areas of land. The Standards are silent on minimum site size and instead focus on the purpose and function of precincts specifically, to provide tailored provisions where the underlying zone does not adequately manage the specific characteristics or activities of a site.
- 7.4 This approach is commonly utilised in the Whangarei District Plan², with the below three examples covering land areas comparable to the proposed RLP:
 - PREC2 Western Hills Drive Precinct 7,362m²
 - PREC10 Waterfront Commercial Zone Precinct 8,930m²
 - PREC11 Onerahi Industrial Precinct 1.2821ha
- 7.5 The Auckland Unitary Plan³ also utilises a variety of Precincts. Below is an excerpt from the Auckland Unitary Plan GIS mapping system showing Precincts outlined in red:

¹ <u>national-planning-standards-november-2019-updated-2022.pdf</u>

² ePlan - Whangarei District Council

³ Auckland Unitary Plan Operative in part



Figure 3: AUP GIS maps showing precinct areas

- 7.6 Having considered the above points, precincts are a legitimate tool for providing site-specific planning frameworks, regardless of site size. The RLP is proposed to provide certainty and flexibility for an existing business that contributes to the local tourism economy. The size of the site (1.1762ha) is not a relevant constraint what matters is the established consented nature of the activity (historic and actual) and the need for a bespoke planning response.
- 7.7 Without the precinct, future amendments to the activity would be subject to inappropriate zoning rules:
 - Multiple residential units would be **non-complying** under RPROZ-R3.
 - Visitor accommodation would be discretionary under RPROZ-R4.
 - Rural tourism activities would be restricted discretionary under RPROZ-R22.
- 7.8 This creates unnecessary regulatory burden and undermines the viability of the business. The RLP provides a more efficient and effective framework that aligns with the purpose of the RMA and the objectives of the PDP.

8 Conclusion

- 9.1 The Reef Lodge Precinct is a site-specific, enabling, and effects-based planning response that:
 - · Recognises historic, existing and consented activities.
 - Maintains appropriate environmental safeguards.
 - Aligns with higher-order planning instruments.
 - Provides certainty for landowners and Council.

9.2	The RLP should be adopted to ensure the District Plan reflects the reality of land use on the site,
	protects the local coastal character and supports the ongoing viability of a long-established local
	business.

Joseph Henehan (Planner)

15 September 2025

Attachments

1. 2240110-RMALUC



NOTIFICATION DETERMINATION UNDER SECTIONS 95A TO 95G OF THE RESOURCE MANAGEMENT ACT 1991

1 Application Details

Council Reference: 2240110-RMALUC

Applicant: Cameron George Delacey

Property Address: 34A Gillies Road, Karikari Peninsula 0483

Legal Description: Lot 3 DP 530260 (RT 861897)

Description of Application: Activity A:

Proposed construction of a new second dwelling and shed breaching Visual Amenity for buildings in the General Coastal Zone, Building Height, Residential Intensity, Setback from Boundary, Fire Risk to Residential Units, Coastal Hazard Zones and Earthworks rules as a Non-Complying Activity under 10.6.5.5

NON-COMPLYING ACTIVITIES

Activity B:

Variation to consent notice (iv), (vi) and (vii) of 11515756.4 pursuant to Section 221(3) of the Resource Management Act to allow for a modified wastewater disposal field in (iv), (vi) with a varied consent notice relating to fire-fighting water supply and to allow for

fighting water supply and to allow for

construction of a swimming pool within building

restriction area Z in (vii).

Reporting Planner: Katrina Roos – Boffa Miskell

Operative District Plan Zoning: General Coastal

Operative District Plan

Notations:

Coastal Hazard Zones 1 and 2

Other Notations of Relevance: NRC Coastal Flood Hazard Zones 1, 2 and 3,

Coastal Erosion Hazard Zones 2 and 3

Proposed District Plan Zoning: Rural Production

Proposed District Plan

Overlays:

Coastal, Rangaunu Harbour Outstanding Natural Character Area (adjoins), Coastal Flood Zones 1, 2 and 3, Coastal Erosion

Zones 1 and 2

Proposed District Plan Designations:

2 Procedural Details

Date Received: 04-Sep-2023

Date of Site Visit: 7-Sep-2023 - RC Engineer only

Further Information Requested: 20-Sep-2023

Further Information Received: 15-Feb-2024

Suspended under section 88E: -

Extension Pursuant to section

21-Feb-2024 - 19-Mar-2024 - 20 working days

37:

Pre-application Meeting Held: -

Pre-lodgement Consultation by

Applicant:

Locality Plan



Figure 1: The location of the site (Lot 3 DP 530260)

3 Description of Site

The site is as described in the application documents being pages 3 to 5 of the Assessment of Environmental Effects (AEE) titled "Application for Resource Consent – Proposed construction of a new dwelling and shed – 34A Gillies Road, Karikari Peninsula – Cameron DeLacey" prepared by Bay of Islands Planning Ltd, dated 3 September 2023.

I concur with this description but make the following additional comments.

Coastal flood and erosion hazards partially affect the site as shown in the Northland Regional Council (NRC) hazard map detail below.

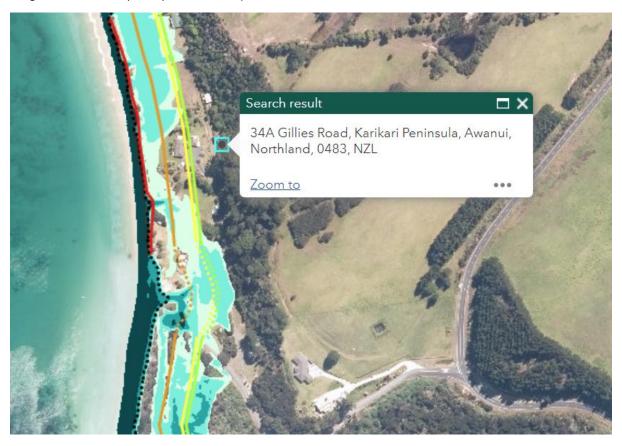


Figure 2: NRC Natural Hazards

The site is also affected by Council mapped Coastal Hazard Zones 1 and 2 in the Operative Plan as shown in the detail below:



Figure 3: FNDC Coastal Hazard Zones

There are multiple archaeological sites in the vicinity as shown in the detail below from the NZAA Archsite GIS mapping system. An archaeological assessment was carried out for the underlying subdivision in 2017 and has been supplied with the application.

The land to be zoned Rural Production under the Proposed District Plan does not contain Class 1 to 3 soils as managed by the National Policy Statement for Highly Productive Land 2022.



Figure 4: Archaeological Sites

Record of Title

The Record of Title has multiple easements and consent notices that are relevant to the proposal. The applicant has provided an assessment against each consent notice on pages 4-5 of the AEE confirming compliance and only a variation to Clause (vi) and (vii) is sought to allow for alternative fire-fighting water supply and construction of a swimming pool within building restriction areas Y and Z.

Consent History

The site was created by subdivision RC 2180002/VAR A.

4 Description of Proposed Activity

The applicant proposes to construct a large two-storey dwelling and shed on the northern part of the property. The dwelling includes three bedrooms, double garage, outdoor areas and two pools. The shed encompasses a ground floor featuring roller doors on either end. Additionally, a mezzanine floor is proposed, complete with a bathroom facility. The existing small dwelling (55m²) on site will be retained for additional family accommodation, however an existing shed will be removed.

The application also includes a consent notice variation and originally included an esplanade strip reduction which has since been withdrawn following feedback from the Parks and Reserves department at Council.

Landscape and Visual

The application is supported by a landscape report by Hawthorn including a landscape plan for mitigation planting. The report assesses the effects of the dwelling, shed and swimming pool structures on the coastal environment and adjoining properties. The proposed exterior walls of the dwelling will be a dark bronze and the roof will be nearly black exterior. The proposed shed roof and walls will also be nearly black. The proposed colours are visually recessive and have LRV's well below the required 30% for the zone. The landscape plan is described as follows:

The key components of the planting include tall fast growing trees planted to the west of the retaining wall and shed. This will screen it from the viewing positions to the west and from the neighbouring property at 34 Gillies Road.

Landscape amenity plantings around the dwelling will also integrate it into the landscape and the existing backdrop of vegetation.

Additional mitigation includes agreement to non-reflective glazing and protection of trees on the esplanade strip on top of the coastal rock wall.

Setbacks

There are minor boundary setback breaches relating to the eaves of the dwelling and a proposed retaining wall on the western elevation of the proposed shed in respect of the boundary with 34 Gillies Road.

Vehicle Access

The existing right of way off Gillies Road will continue to be utilised to provide vehicular access to the dwelling. Adequate parking and manoeuvring space will be provided for the new dwelling, new shed and existing small dwelling to be retained.

Servicing

The proposed wastewater system will be designed in accordance with a Wastewater Design Report by Geologix Consulting Engineers. The existing wastewater system for the dwelling to be retained will be removed and the dwelling will be connected to the new system. The below image shows the location of the wastewater system, which has been granted building consent under EBC-2024-814/0. The location is more than 30m from the Coastal Marine Area.



Figure 5: Location of Wastewater System

There are two existing 25,000L water tanks to the south of the shed an additional two 25,000L water tanks are proposed. 20,000L is dedicated for firefighting purposes in accordance with FENZ approval. The water tanks and a 10,000L underfloor tank will also provide potable water supply along with stormwater attenuation by collecting runoff from the roof of the dwelling and shed. Attenuation overflow will be to ground via soakage.

Earthworks

The proposed earthworks include a total cut and fill of 1232m³ to form a building platform. A silt fence will be placed around the proposed earthworks. Proposed maximum cut and fill heights will be 3m of engineered fill. A 3m high retaining wall is proposed on the western and eastern sides of the proposed shed which will also be engineered and obtain a building consent. A draft construction management plan has been provided in the section 92 response.

Natural Hazards

According to NRC, the site is within the coastal flood hazard zones and coastal erosion hazard zones. The proposed dwelling will also be within 20m of woody vegetation.

A coastal hazard report by Haigh Workman has been supplied in the section 92 response confirming the dwelling is not at risk from the coastal hazards, nor will it exacerbate the hazards, subject to a minimum recurrence level of 3m for the engineered fill beneath the dwelling and a 3.8m finished floor level. The Haigh Workman report took into account the report by Geologix.

There is an existing rock wall on the esplanade strip. The applicant has not included the rock wall in the application as it is an existing structure of undetermined age but has identified its location in respect of Mean High Water Springs.

Water Supply

Approval from Fire Emergency NZ is provided in respect of the dwelling location and proposed water supply.

Consent Notice

The application proposes to vary clause (vi) of consent notice 11515756.4 in respect of Lot 3 DP 530260 to read as follows:

In conjunction with the construction of any dwelling, and in addition to a potable water supply, a water collection system with sufficient supply for fire fighting purposes is to be provided by way of a tank or other approved means and to be positioned so that it is safely accessible for this purpose. These provisions Water supply will be in accordance with the New Zealand Fire Fighting Water Supply Code of Practice SNZ PAS:4509 the provision of water for fire-fighting approved by Fire and Emergency New Zealand as it relates to the development approved via RC 2240110. Water for fire-fighting is to be provided in accordance with the approved plans associated with RC 2240110.

A last minute amendment to clause (vii) is also sought to allow for construction of a swimming pool within building restriction areas Y and Z:

No buildings shall be constructed within Building Restriction Areas Y and Z <u>except for that authorised under RC 2240110.</u>

A final last minute amendment to clause (iv) was sought to allow for a reduced reserve disposal area for the wastewater management system in accordance with the recommendations of the Geologix report:

In conjunction with construction of any building which includes a wastewater treatment and effluent disposal system the applicant shall submit for Council approval a TP58 Report prepared by a Chartered Professional Engineer or an approved TP58 Report Writer. The report shall identify a suitable method of wastewater treatment for the proposed development along with an identified effluent disposal area plus a 100% reserve disposal area. The report shall confirm that all of the treatment & disposal system can be fully contained within the lot boundary and comply with the Regional Water and Soil Plan Permitted Activity Standards.

Section 92 Request

A section 92 request was made on 20 September 2023 in respect of the following:

- Please provide a coastal hazard report prepared by a suitably qualified engineer in support of the application.
- 2. Please provide a draft construction management plan for the earthworks detailing the following:
 - a. The timing of construction works, including hours of work, key project and site management personnel.
 - b. The transportation of demolition and construction materials from and to the site and associated controls on vehicles through sign-posted site entrance/exits and the loading and unloading of materials.
 - c. The excavation and earthworks, including retaining structures and any necessary dewatering facilities, prepared by a suitably qualified geotechnical engineer.
 - d. Control of dust and noise on-site and any necessary avoidance or remedial measures.

- e. Prevention of earth and other material being deposited on surrounding roads from vehicles and remedial actions should it occur.
- f. Publicity measures and safety measures, including signage, to inform adjacent landowners and occupiers, pedestrians and other users or Road.
- g. Erosion and sediment control measures to be in place for the duration of the works in accordance with GD05.
- 3. Please clarify the ongoing use of the existing dwelling on the property. Is it intended for a separate tenancy/holiday let, or for overflow accommodation for family/friends?
- 4. A copy of the application has been sent to Heritage NZ Pouhere Taonga, who may request a specific archaeological assessment to support the application.
- 5. Robin Rawson of Council's Parks Department has reviewed the application and do not support the reduction of the esplanade strip. Please see the comments below and respond.

The Operative District notes that all applications are subject to Section 230 of the Resource Management Act which anticipates that an esplanade reserve or strip with a width of 20m is set aside.

Purposes of an esplanade strip or reserve contained within Section 229 of the Resource Management Act that are relevant to this site and application include; maintaining the natural function of the adjacent sea, protecting natural values, and mitigating natural hazards. These functions will be better provided for with an esplanade strip with a width of 20m that meets the anticipated outcomes of the Resource Management Act and FNDC Operative District Plan.

There is no expectation that the strip will be used for public access as there is not an adjoining reserves network and it is unusual for people to recognise esplanade strips as providing for access. It is my view that the reduction in the width of the esplanade strip is more likely to reduce the safety of anyone who chooses to access this area, as the entire strip would be overlain by the rock wall.

Although it is acknowledged that the esplanade strip will move as the coast recedes, the existing width will assist in reducing development in this area and promoting natural defences such as sand-dunes when the sea wall fails. There is greater scientific support and recognition of the need for coastal defences than there has been in the past and increasing reliance on natural coastal defences.

For the reasons given above, the proposed reduction in the width of the existing esplanade reserve is not supported for this site.

Parks and Reserves has no comment on the proposed increase in residential density in this area.

All matters were deemed satisfied by 15 February 2024 when the applicant withdrew the proposal to reduce the size of the existing esplanade strip.

5 Distribution and Correspondence

Internal Specialists

The proposal has been reviewed and assessed by the following Council specialists and the matters within the scope of this application have been taken into account in the assessment below

Internal Specialist	Date Sent	Date Received
RC Engineer	6-Sep-2023	18-Dec-2023
IAM	6-Sep-2023	-
NTA / Roading	6-Sep-2023	-
Reserves	6-Sep-2023	18-Sep-2023, 8-Dec-2023, 14- Feb-2024

External Party

Correspondence has been received from the following external parties, and the matters within the scope of this application have been considered in this assessment below.

External Party	Date Sent	Date Received
lwi	6-Sep-2023	-
Department of Conservation	6-Sep-2023	-
Heritage New Zealand Pouhere Taonga	6-Sep-2023	11-Oct-2023, 2-Feb-2024

6 Reasons for the Application

Rule Assessment

The proposal requires resource consents for the following reasons:

Operative Far North District Plan

section 9(3) - Land use

Rule Number and Name	Non Compliance Aspect	Activity Status
10.6.5.1.1 VISUAL AMENITY	The proposal cannot comply with (a) as buildings are proposed larger than 50m2.	10.6.5.4 DISCRETIONARY ACTIVITIES
The following are permitted activities in the General Coastal Zone:	JOHIZ.	ACTIVITES
(a) any new building(s) not for human habitation provided that the gross		
floor area of any new building permitted under		

this rule, does not exceed 50m² or for human habitation provided that the gross floor area does not exceed 25m2; and (b) the exterior is coloured within the BS5252 standard colour palette range with a reflectance value of 30% or less or are constructed of natural materials which fall within this range		
10.6.5.1.2 RESIDENTIAL INTENSITY	The dwelling will be a second dwelling on site and will have less than 6ha of land.	10.6.5.5 NON- COMPLYING ACTIVITIES
10.6.5.1.4 BUILDING HEIGHT	The dwelling will be 8.5m in height.	10.6.5.4 DISCRETIONARY ACTIVITIES
10.6.5.1.7 BUILDING SETBACKS	Proposed buildings are outside the permitted 10m setback however the eaves within the setback are 600mm. The proposal includes a maximum eave of 1105mm within the setback. A retaining wall adjoining the proposed shed will also breach a boundary setback.	10.6.5.4 DISCRETIONARY ACTIVITIES
12.3.6.1.2 EXCAVATION AND/OR FILLING, INCLUDING OBTAINING ROADING MATERIAL BUT EXCLUDING MINING AND QUARRYING, IN THE GENERAL COASTAL ZONES	Earthworks will exceed 300m3.	12.3.6.3 DISCRETIONARY ACTIVITIES
Excavation and/or filling, excluding mining and quarrying, on any site in the, General Coastal Zones is permitted, provided that: (a) it does not exceed 300m³ in any 12 month period per site; and (b) it does not involve a cut or filled face exceeding 1.5m in height i.e. the maximum permitted cut and fill height may be 3m.		
12.4.6.1.2 FIRE RISK TO RESIDENTIAL UNITS (a) Residential units shall	The dwelling will be closer than 20m from an area of shrubland.	12.4.6.3 DISCRETIONARY ACTIVITIES

be located at lea away from the cany trees in a noccurring or del planted area of shrubland, wood forest;	drip line of aturally iberately scrub or		
12.4.6.1.1 HAZARD 2 AR	COASTAL EAS	The application proposes earthworks and a dwelling within a CH2 area	12.4.6.3 DISCRETIONARY ACTIVITIES

Proposed Far North District Plan

The Proposed Far North District Plan (PDP) was notified on 27 July 2022. Rules in a Proposed Plan have legal effect once Council makes a decision on submissions relating to that rule and publicly notified this decision, unless the rule has immediate legal effect in accordance with section 86(3) of the Resource Management Act 1991 (the Act).

The submission period on the PDP has closed and the further submissions stage has closed, with hearings to be scheduled in 2024. Only rules in the PDP with immediate legal effect are relevant. These rules are identified with a 'hammer' in the plan. Rules that do not have immediate legal effect do not trigger the need for a resource consent under the PDP.

An assessment of the proposal against the rules with immediate legal effect has been undertaken. The following reasons for consent under the Proposed District Plan are now relevant to the proposal.

section 9(3) - Land use

Rule Number and Name	Non Compliance Aspect	Activity Status
EW-R13	Erosion and sediment controls will apply to the construction earthworks in accordance with EW-R13 requirements.	Permitted

Proposed Regional Plan

The applicant has confirmed that the earthworks are a permitted activity under Rule C.8.3.1 Earthworks – permitted activity, being less than 200m2 of disturbed earth at any one time within 10m of Mean High Water Springs.

Section 221(3) Resource Management Act 1991

The proposal is a discretionary activity under Section 221(3) of the RMA, which allows for resource consent for the variation to or cancellation of consent notices.

Bundling

Where a proposal requires more than one type of resource consent or requires more than one resource consent and the activities for which consents are being sought overlap to such an extent that they cannot be realistically or properly separated it is appropriate to bundle the consents. Therefore, they are considered together in a holistic manner with the most restrictive activity classification applying.

In this instance I consider that the activities overlap and cannot be separated and therefore the consents will be assessed on a bundled basis.

Overall Activity Status

Overall, the application is a Non Complying activity.

7 National Environmental Standards

The following National Environmental Standards are considered relevant to the site; however, resource consent is not required under the standard as addressed below.

National Environmental Standard for Assessing and Managing Contaminants in Soils to Protect Human Health 2011 (NESCS)

Based on the applicants review of Council records and/or my review of Northland Regional Councils selected land use register and historical imagery available on Retrolens, the piece of land to which this application relates is not a HAIL site, and therefore the NESCS does not apply.

National Environmental Standards for Freshwater 2020 (NESFW)

While the NESFW is enforced by the regional council, it is still relevant to consider whether the activities subject of this application may have implications in terms of the NESFW regulations.

The site does not contain any wetlands or freshwater within 100m of the dwelling site, nor does the application involve a dairy farm activity and therefore the NESFW is not relevant.

8 Notification Assessment

Section 95A – Public Notification Assessment

Section 95A requires a decision on whether or not to publicly notify an application and sets out a step by step process by which to make this decision.

Step 1: Mandatory public notification in certain circumstances

s95A(3)(a)	Has the applicant requested that the application be publicly notified?	No
s95A(3)(b)	Is public notification required under section 95C?	No
s95A(3)(c)	Has the application been made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977?	No

Step 2: If not required by step 1, public notification in certain circumstances.

s95A(5)(a)	Is the application for a resource consent for one or more activities and each activity is subject to a rule or national environmental standard that precludes public notification?	No
s95A(5)(b)	Is the application for a resource consent for 1 or more of the following, but no other, activities; a controlled activity; a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity?	No

Step 3: If not precluded by step 2, public notification required in certain circumstances not

s95A(8)(a	Is the application for a resource consent for one or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification?	No
s95A(8)(b	In accordance with section 95D, will the activity have, or is it likely to have, adverse effects on the environment that are more than minor? The assessment below addresses this matter.	No

Assessment of Environmental Effects

To determine whether the activity will have or will be likely to have adverse effects on the environment that are more than minor, an assessment of environmental effects carried out in accordance with section 95D of the Act is required.

Effects that must be Disregarded

Adjacent Land

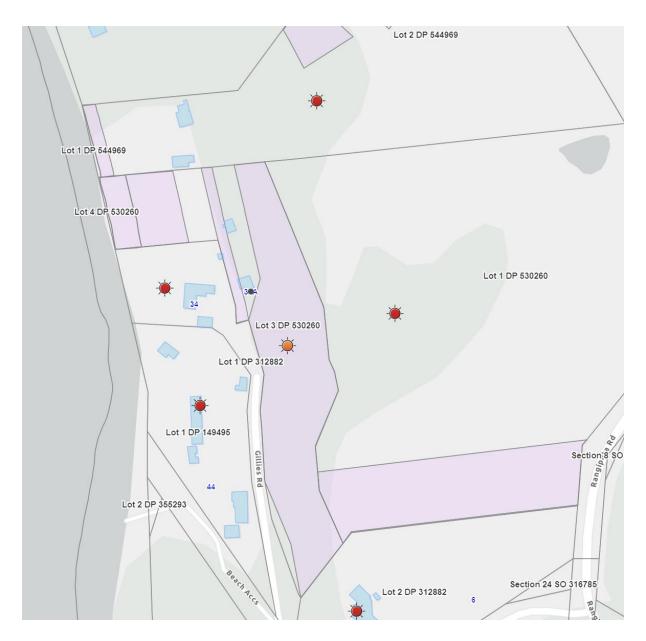
Pursuant to section 95D(a) the consent authority must disregard any effects on the land in, on, or over which the activity will occur, and on persons who own or occupy any adjacent land.

The land adjacent to the subject site is identified in Table 1 and Figure 6 below.

Table 1: Adjacent Land

Legal Description	Address
Lot 1 DP 530260	Rangiputa Road
Lot 1 DP 312882	34 Gillies Road
Lot 1 DP 149495	44 Gillies Road
Lot 2 DP 544969	6 Rangiputa Road
Lot 2 DP 312882	6 Rangiputa Road

Figure 6: Adjacent Land



Restricted Discretionary Activities

Pursuant to section 95D(c) in the case of a restricted discretionary activity, the consent authority must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard restricts discretion.

The application is not for a restricted discretionary activity and therefore the consent authority can take into account any relevant matter when assessing the environmental effects.

Written Approvals

Pursuant to section 95D(e) the consent authority must disregard any effect on a person who has given written approval.

In this instance, no written approvals have been provided.

Trade Competition

Pursuant to section 95D(e) the consent authority must disregard trade competition and the effects of trade competition.

There are no trade competition matters.

Effects that may be Disregarded

Permitted Baseline

Pursuant to section 95D(b) the Council has the discretion to disregard effects of an activity if a rule or national environmental standard permits an activity with that effect, this is known as the permitted baseline.

The permitted baseline is relevant to the application in respect of a single large dwelling and accessory buildings outside the coastal hazard zones, including buildings with sleeping accommodation. The permitted baseline has been taken into account in the assessment below.

Assessment

Receiving Environment

The receiving environment is well described in the landscape report by Hawthorn and comprises a cluster of rural-residential coastal development on the west coast of the Karikari Peninsula surrounded by larger Maori land blocks and rural production units to the south and east. There is a residential settlement 750m to the north of the site on the coast (Rangiputa). Reef Lodge is a visitor accommodation activity adjoining the site. The transitional nature of the area is described by Hawthorn as follows:

The area around the application site which accommodates lifestyle lots forms a transition between the more residential character of Rangiputa and the less developed farmland located to the south. The node of built development around the application site consists of larger style homes and accessary buildings set into landscaped grounds overlooking the beach and harbour.

This is the environment within which the adverse effects of the application must be assessed.

Adverse Effects Assessment

Taking into account the above, the following assessment determines whether the proposed activity will have, or is likely to have, adverse effects on the environment that are more than minor.

Coastal Character and Amenity

There is a permitted baseline for a single large dwelling and multiple accessory buildings and accompanying noise, traffic and site activities outside the coastal hazard zones. Having regard to the baseline it is considered that the new dwelling and the existing dwelling on one site would not result in adverse character and amenity effects provided the existing dwelling is only used in conjunction with the main dwelling as a minor household unit and not treated as separate accommodation. This has been indicated by the applicant.

The landscape report by Hawthorn makes the following observations regarding coastal natural character:

Although the site has not been identified as having outstanding natural character values, it is located directly adjacent to the harbour which dose have ONC values. The proposed buildings have been set back as far as possible from the beach to protect the natural character, open space and amenity values of the coastal environment. The buildings will be dark and recessive and will have landscape plantings around them to integrate them into the landscape. The large Macrocarpa trees next to the sea wall screen and soften the view of the house from the harbour and the shed will be planted out so that it is screened from view from within the coastal environment.

Due to the appropriate location and design of the buildings and the associated plantings the landscape has the capacity to absorb the change to ensure that the proposal will be well integrated into the existing coastal landscape character.

Overall, it is considered that the proposal will have a low adverse landscape character effect on the immediate vicinity, but that overall, the proposal will have a very low effect on the landscape character attributes of the wider coastal environment along this part of the Rangaunu Harbour.

Having reviewed the site photographs and the information provided in the landscape assessment, the processing planner agrees with this conclusion and overall the character and amenity effects of the second dwelling and earthworks on the receiving environment would be less than minor.

Landscape and Visual

The landscape report by Hawthorn makes the following conclusions regarding the visual effects of the second dwelling, shed, swimming pool and earthworks:

Due to the appropriate architectural style, height, colour, and positioning of the of the buildings, the use of recessive colours and the proposed mitigative landscaping the development will result in less than minor adverse landscape, visual amenity and natural character effects.

Additional mitigation measures have also been agreed to relating to glazing and protection of existing trees.

Having reviewed the site photographs and the information provided in the landscape assessment, the processing planner agrees with this conclusion and overall the visual effects of the second dwelling, shed, swimming pool and earthworks on the receiving environment would be less than minor.

Cultural and Archaeological Effects

An archaeological assessment prepared for the underlying subdivision is provided and is considered sufficient by Heritage NZ to confirm that there is no archaeological material on site likely to be disturbed by the works. The Accidental Discovery Protocol will apply. Local lwi were given the opportunity to comment on the proposal with no reply received.

Natural Hazards

The dwelling and earthworks to enable the dwelling will be located in a CH2 area and within areas identified in the NRC hazard maps. A coastal hazard report by Haigh Workman has been supplied in the section 92 response confirming the dwelling is not at risk from the coastal hazards, nor will it exacerbate the hazards, subject to a minimum recurrence level of

3m for the engineered fill beneath the dwelling and a 3.8m finished floor level. Coastal hazard effects would be less than minor subject to adherence to the levels recommended in the hazard report.

Ecology

No indigenous vegetation clearance is proposed for the dwelling and the earthworks will be subject to silt and sediment controls and a construction management plan. Appropriate wastewater and stormwater infrastructure will protect the coastal receiving environment from inappropriate discharges.

Fire Risk

The approval of FENZ has been provided for the water supply and setback from existing vegetation. Safety effects would be less than minor.

Servicing

The additional dwelling will be serviced by on-site wastewater and roof collection of water supply with stormwater overflow to ground. The wastewater system has building consent and will be located more than 30m from the Coastal Marine Area. Adverse effects on receiving environments are not anticipated.

Vehicle Access

Vehicle access via an existing right of way is proposed and is sufficient to support the additional dwelling, which will result in low traffic volumes given it will be the primary dwelling on site and the existing dwelling will be for additional accommodation and not as a separate unit. There is sufficient space on site for parking and manoeuvring to support both dwellings.

Earthworks

During the site works, there will be temporary construction related effects. The application is supported by cut and fill plans and earthworks will comply with the Auckland Regional Council GD05 guidelines for erosion and sediment control.

All exposed ground will be sealed or revegetated following the completion of works. The proposed earthworks will not affect nearby receiving environments, subject to implementation of sediment controls.

It is considered with implementation of the silt and sediment controls as offered in the application and the construction management plan, overall the temporary environmental effects of the earthworks on receiving environments will be less than minor.

Cumulative Effects

On-going and subsequent subdivision and development of land can potentially result in cumulative adverse effects as the volume and nature of development exceeds the carrying capacity of the environment to absorb these effects.

The dwelling will not give rise to cumulative adverse effects on the landscape as the dwelling has been designed to be as unobtrusive as possible from coastal views and views from public vantage points, subject to design controls and amenity planting. The new dwelling will be used in conjunction with the existing small dwelling with low residential traffic and appropriate infrastructure to protect receiving environments. The dwelling and earthworks will not exacerbate existing coastal hazards.

Adverse Effects Conclusion

In conclusion, I consider that the proposal will not have and is not likely to have more than minor adverse effects on the wider environment.

Step 4: Public notification in special circumstances

s95A(9)	Do special circumstances exist in relation to the application that warrant the application being publicly	No
	notified?	
	The assessment below addresses this matter.	

Special circumstances are those that are:

- Exceptional or unusual, but something less than extraordinary;
- Outside of the common run of applications of this nature, or;
- Circumstances which make notification desirable, notwithstanding the conclusion that the adverse effects will be no more than minor.

In this instance there is nothing exceptional or unusual about the application, and the proposal has nothing out of the ordinary to suggest that public notification should occur.

Section 95B – Limited Notification Assessment

Where an application is not publicly notified under section 95A, section 95B requires a decision on whether there are any affected persons (under section 95E) and sets out a step by step process by which to make this decision.

Step 1: Certain affected groups and affected persons must be notified

s95B(2)(a)	Are there any affected protected customary rights groups?	No
s95B(2)(b)	Are there any affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity)?	No
s95B(3)(a)	Is the proposed activity on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11?	No
s95B(3)(b)	Is the person to whom the statutory acknowledgement is made is an affected person under section 95E?	No

Step 2: If not required by step 1, limited notification precluded in certain circumstances

s95B(6)(a)	The application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes limited notification.	No
s95B(6)(b)	The application is for a controlled activity (but no other activities) that requires a resource consent under a district plan (other than a subdivision of land).	No

Step 3: If not precluded by step 2, certain other affected persons must be notified

s95B(7)	In the case of a boundary activity, determine in	No	

	accordance with section 95E whether an owner of an allotment with an infringed boundary is an affected person.	
s95B(8)	In the case of any other activity, determine whether a person is an affected person in accordance with section 95E. The assessment below addresses this matter.	No

Affected Persons Assessment

The following assessment addresses whether there are any affected persons that the application is required to be limited notified to, pursuant to s95B(7) or (8), in accordance with 95E. A person is affected if the activity's adverse effects on a person are minor or more than minor (but not less than minor).

Pursuant to section 95E(2)(c) the consent authority must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11.

Effects that must be Disregarded

Controlled or Restricted Discretionary Activities

Pursuant to section 95E(2)(b) the activity is a restricted discretionary activity and the consent authority must disregard any adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard restricts discretion.

The application is for a Non-complying activity and therefore a full consideration of effects can be made.

Written Approvals

Pursuant to section 95E(3)(a) a person is not an affected person if they have given written approval to the application (and not withdrawn it).

No persons have given their written approval.

Effects that may be Disregarded

Permitted Baseline

Pursuant to section 95D(b) the permitted baseline may be taken into account and the Council has the discretion to disregard those effects.

The permitted baseline has been taken into account as addressed in the section 95A Assessment above.

Assessment

Neighbourhood Character and Amenity Values

It is considered that the new dwelling and the existing dwelling on one site would not result in adverse character and amenity effects on adjoining neighbours from noise, traffic and site activities provided the existing dwelling is only used in conjunction with the main dwelling as a minor household unit and not treated as separate accommodation. The effects on coastal

character and amenity have been determined to be less than minor, including from viewpoints on adjoining properties.

Landscape and Visual

The application is supported by a landscape report by Hawthorn in respect of the building design and a landscape plan for mitigation planting which concludes the visual effects of the second dwelling, shed and earthworks would be less than minor.

Setbacks

The dwelling includes a very minor setback breach related to the eave size and a retaining wall in respect of the boundaries with 34 Gillies Road. Anticipated effects on the outlook of neighbouring properties from the setback breaches are expected to be less than minor as the neighbouring dwelling faces west with living and outdoor areas also oriented towards the coast.

Fire Risk

The approval of FENZ has been provided for the water supply and setback from existing vegetation. Safety effects on adjoining properties would be less than minor.

Servicing

The additional dwelling will be serviced by on-site wastewater and roof collection of water supply with stormwater overflow to ground. Adverse cross-boundary effects on adjoining properties are not anticipated.

Natural Hazards

Adverse effects on adjoining properties from the coastal hazards are not anticipated subject to adherence to the recurrence levels recommended in the hazard report for the dwelling and earthworks.

Earthworks

During the site works, there will be temporary construction related effects. The application is supported by detailed plans and earthworks will comply with the Auckland Regional Council GD05 guidelines for erosion and sediment control and a construction management.

The earthworks will require a short construction period and exposed ground will be covered up or revegetated following the completion of works.

It is considered with implementation of the construction management plan overall the temporary environmental effects on adjoining properties will be less than minor.

Vehicle Access

Vehicle access, parking and manoeuvring are considered adequate and traffic generated by the additional dwelling will be low given it will be the primary dwelling on site and the existing dwelling will be for additional family accommodation and not a separate unit. Effects on adjoining properties from traffic would be less than minor.

Conclusion

Having regard to the above assessment and the mitigation measures offered, no persons are considered affected to at least a minor degree.

Step 4: Further notification in special circumstances

application any other limited no	al circumstances exist in relation to the on that warrant notification of the application to persons not already determined to be eligible for otification under this section (excluding persons I under section 95E as not being affected	No
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I do not consider there are special circumstances that would warrant the notification of the application to any other person. The proposed activity is not out of the ordinary within this zone.

9 Notification Recommendation

Based on the assessment above under section 95A of the Act, this application may be processed without public notification. In addition, under section 95B of the Act, limited notification is not required.

I therefore recommend that this application is processed non notified.

Date: 19/03/2024

Katrina Roos – Associate Principal Planner, Boffa Miskell

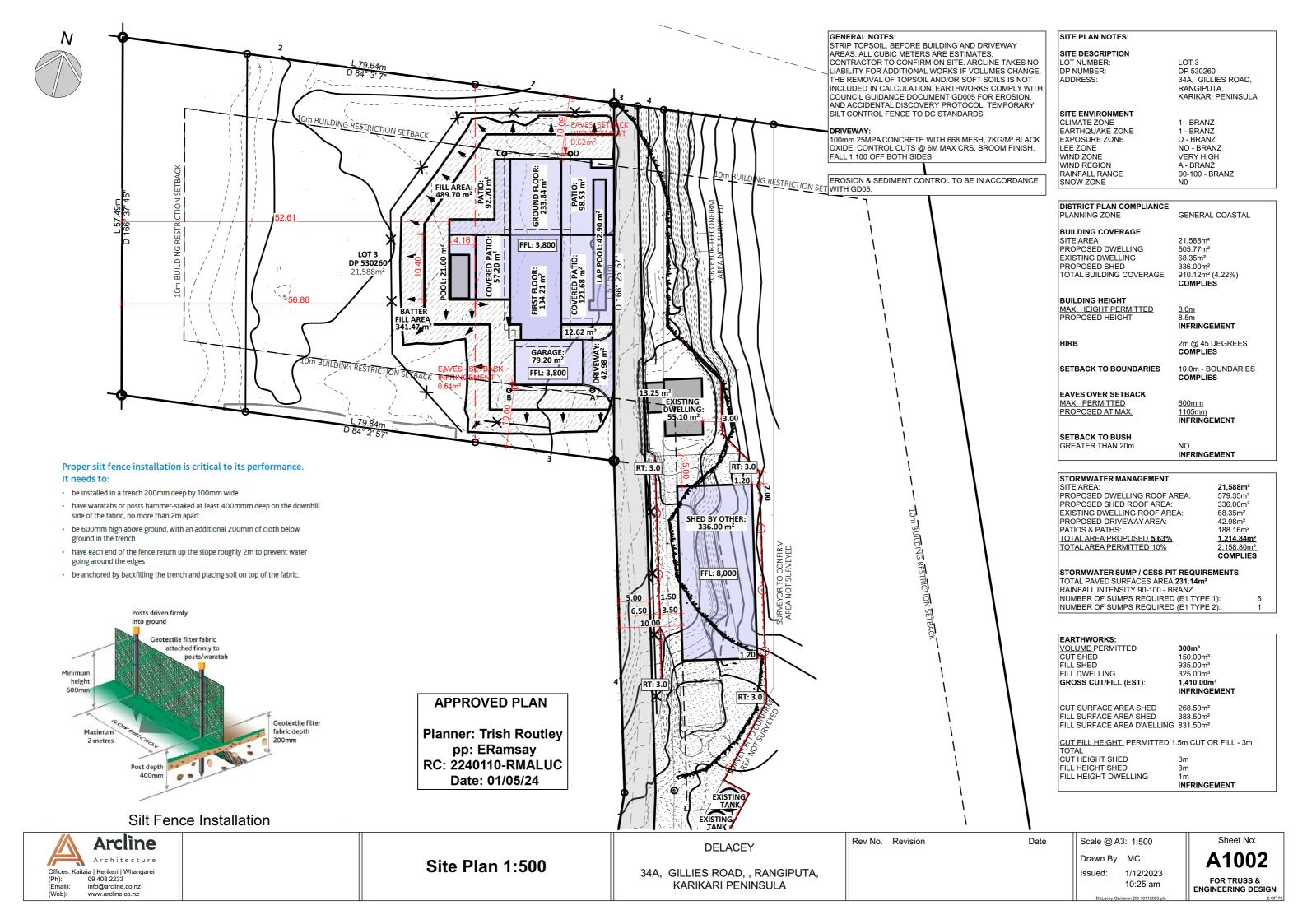
P. Y. Killales

10 Notification Determination

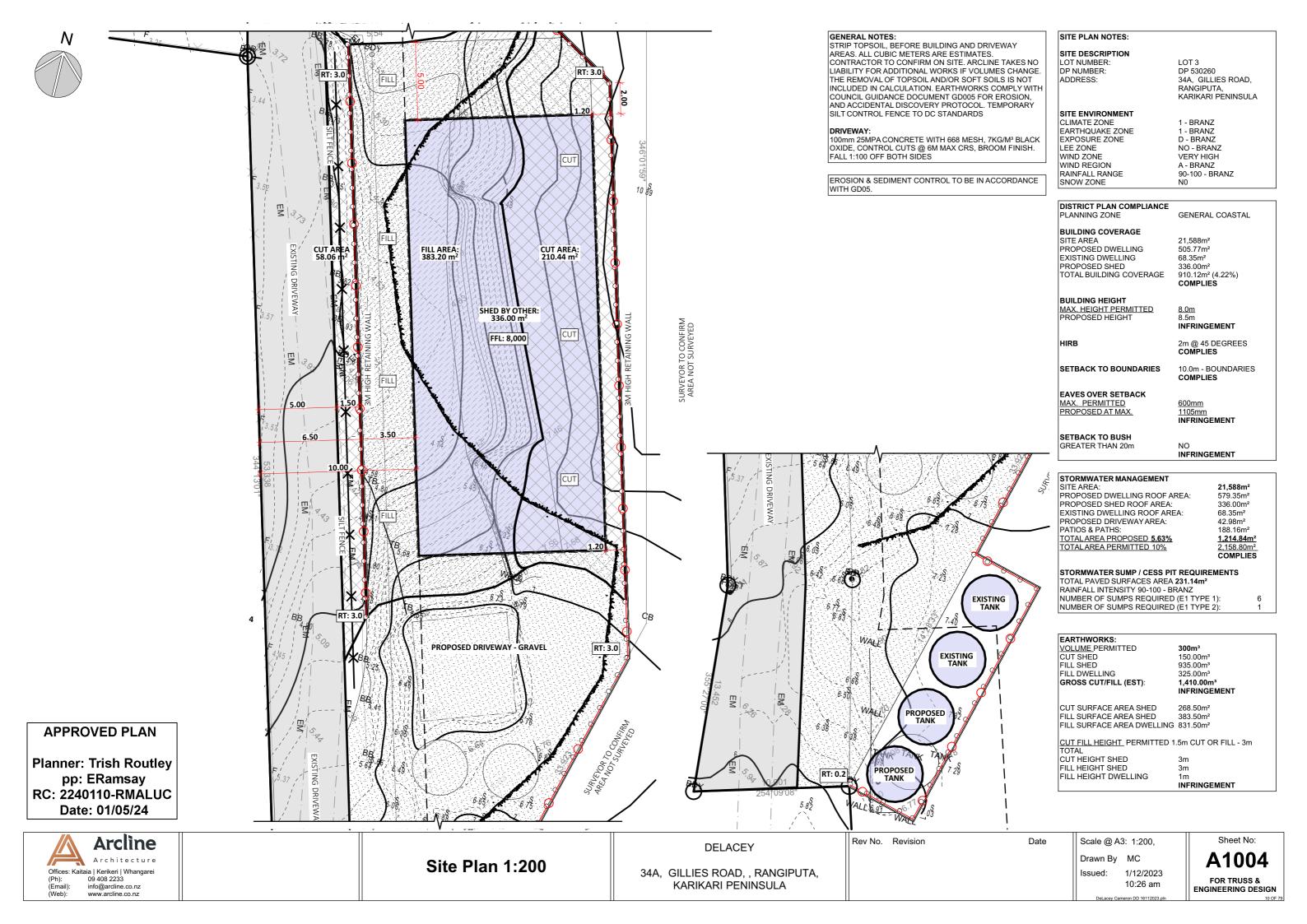
Acting under delegated authority, and for the reasons set out in the above assessment, under sections 95A and 95B this application shall be processed on a non-notified basis.

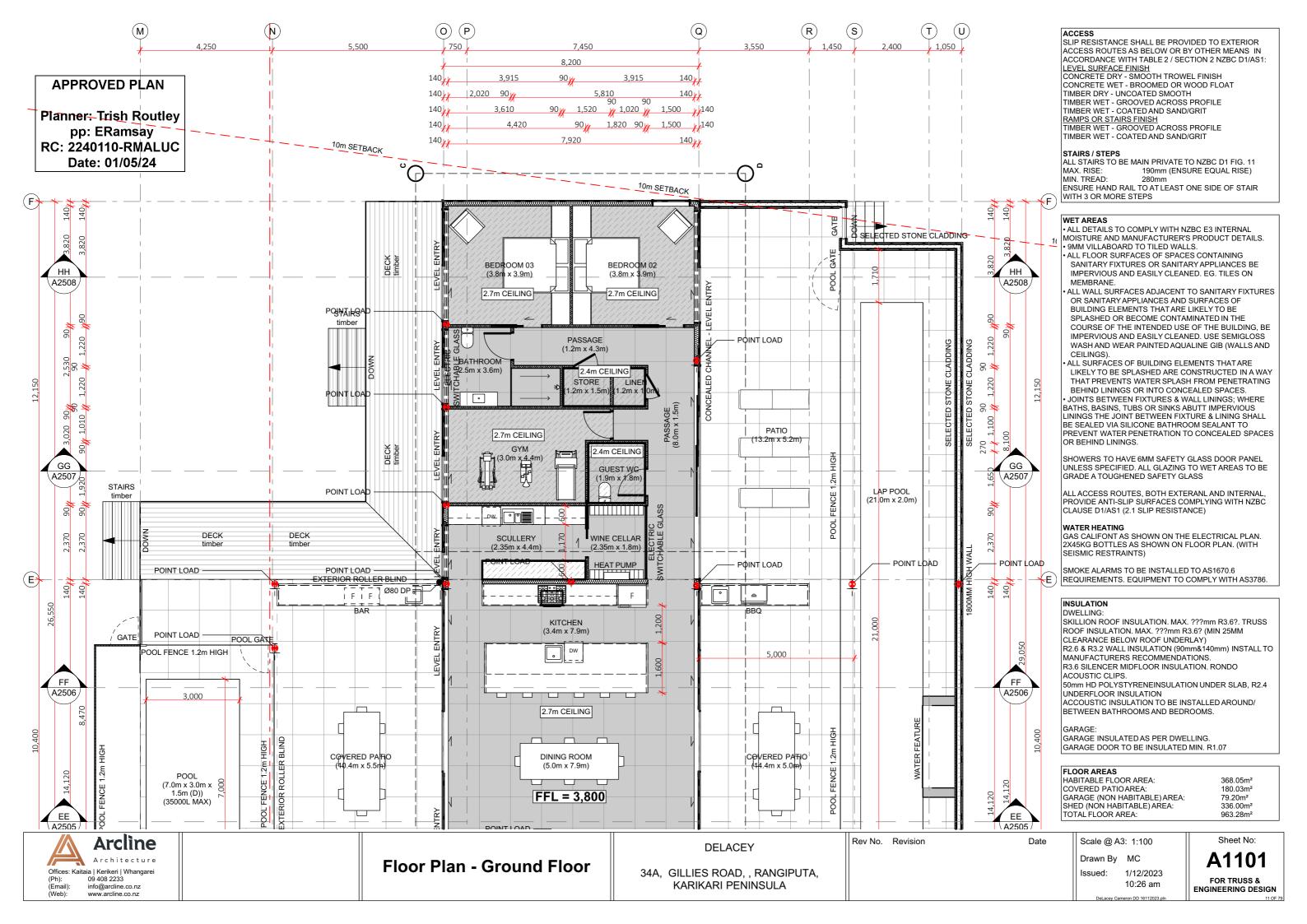
Name: Pat Killalea Date: 19/03/2024

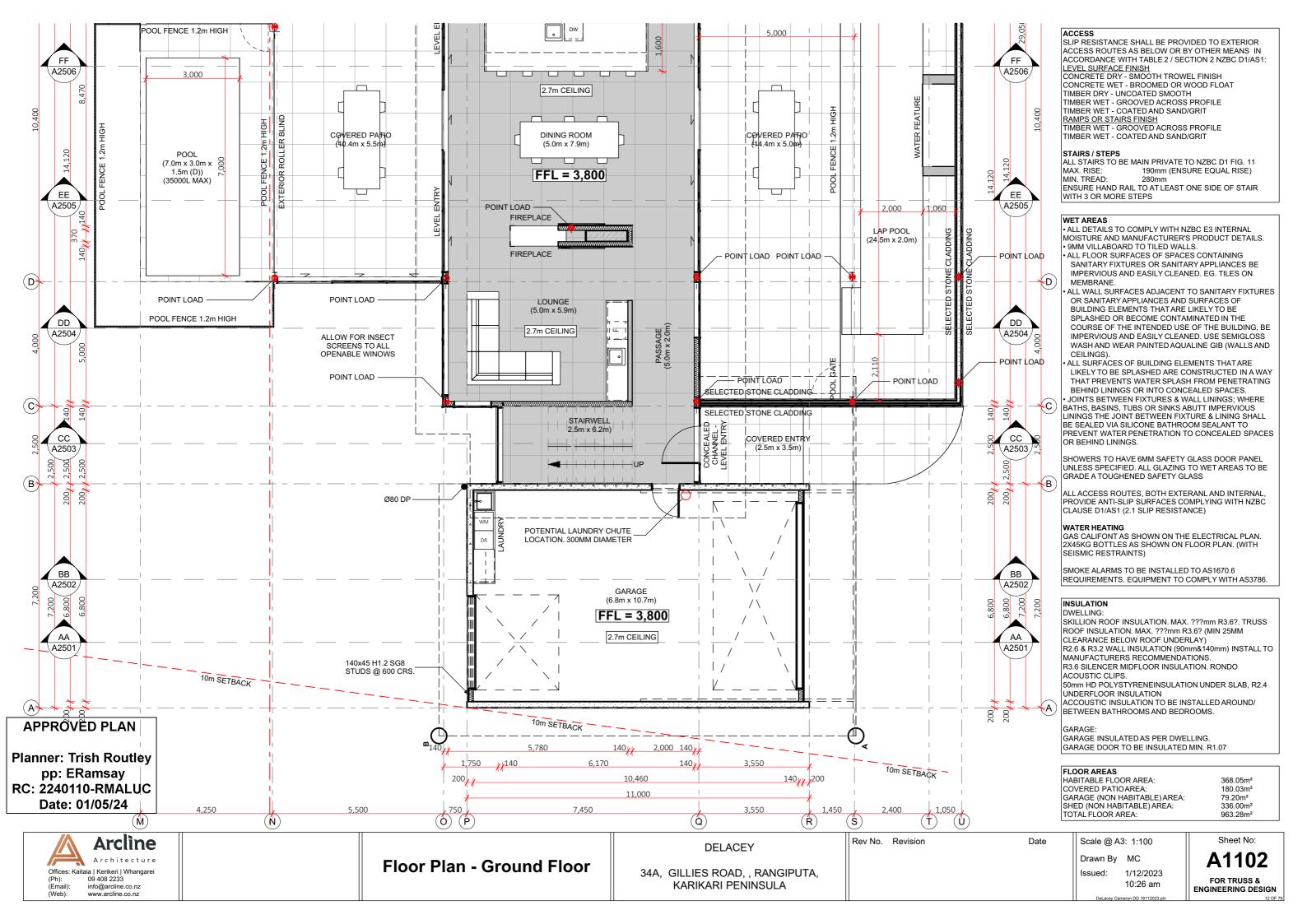
Title: Independent Commissioner

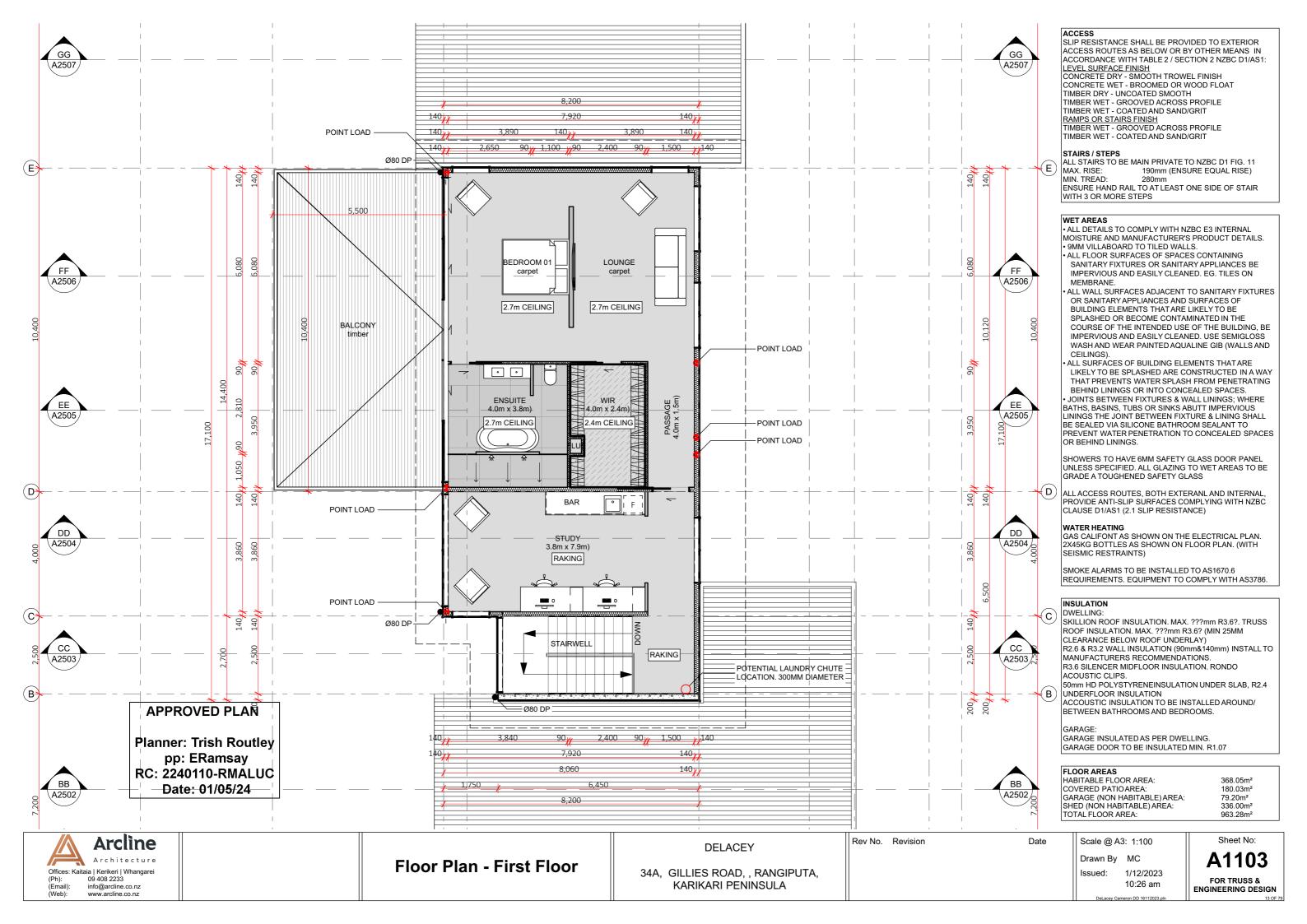


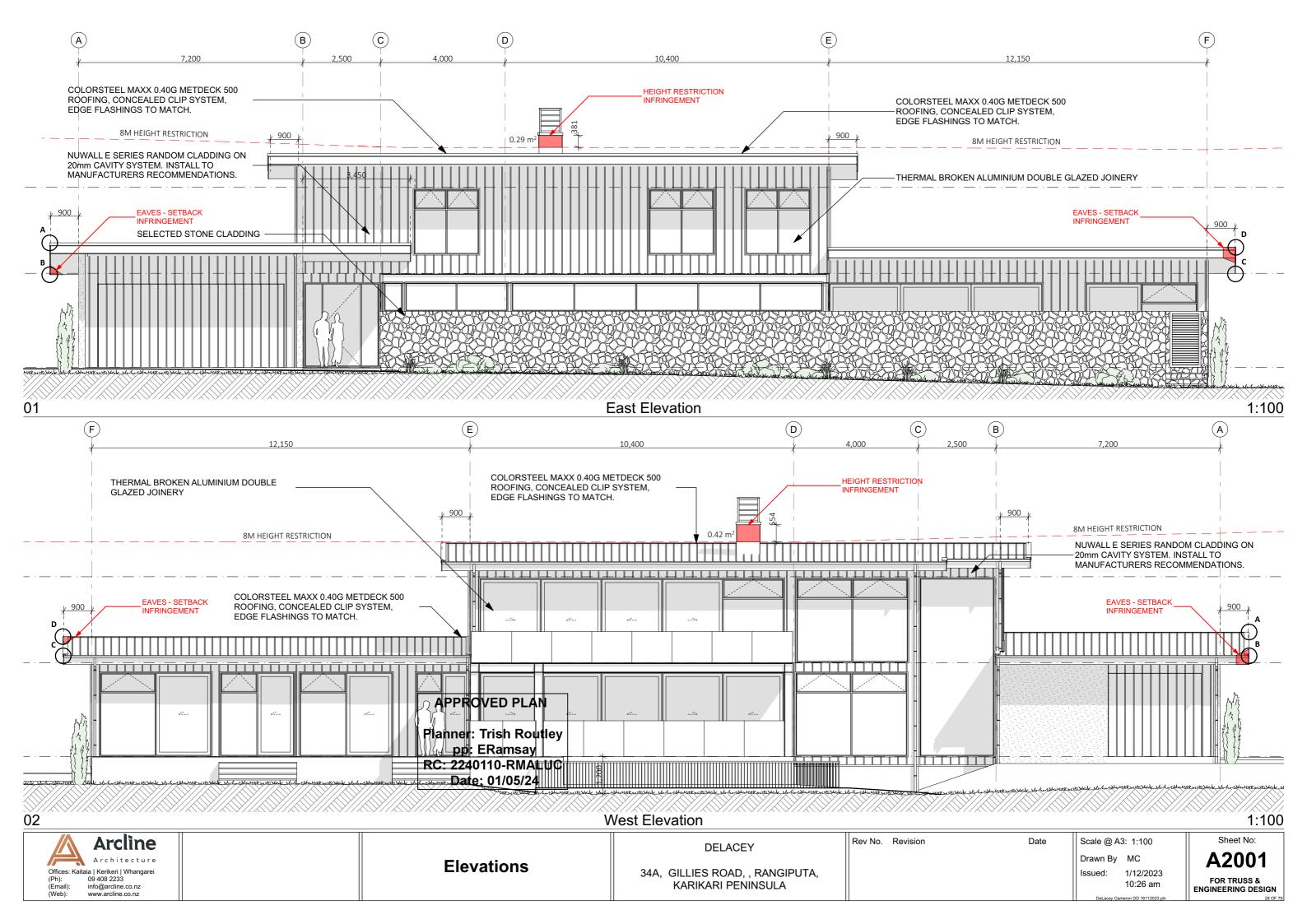


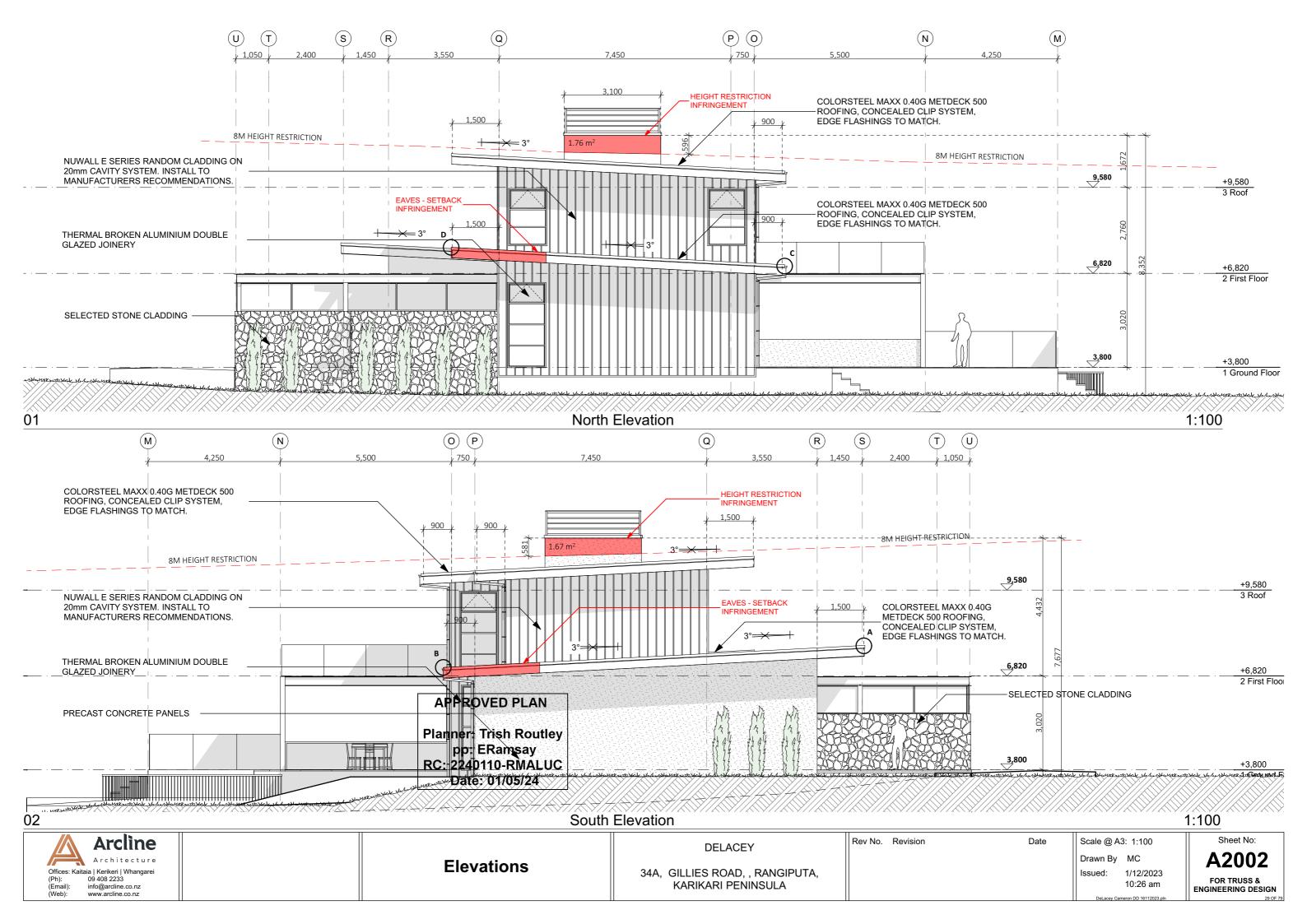












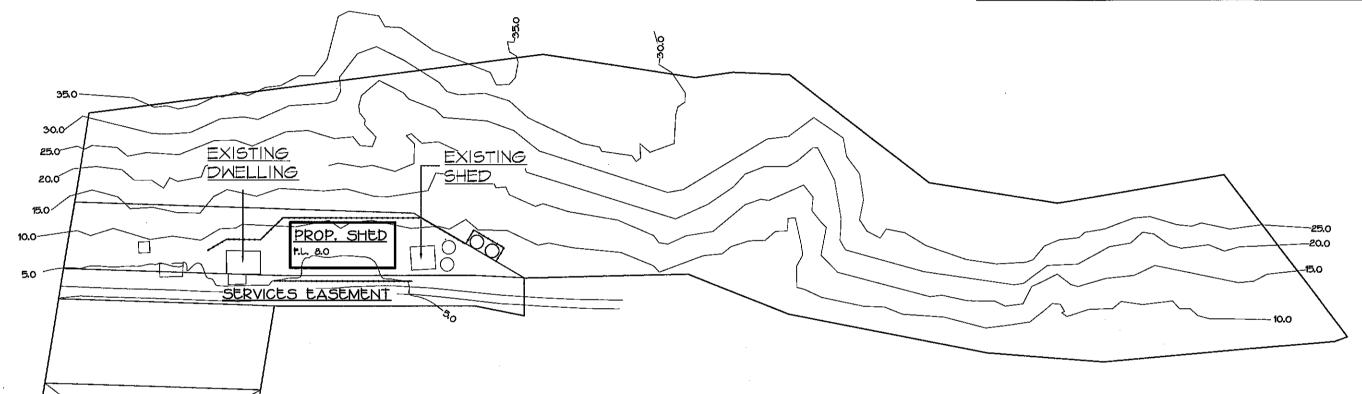
<u>SITE PLAN</u> <u>LEGAL:</u>

LOT

DP 530260 AREA 2.1588ha

PLANNING

TERRITORIAL AUTHORITY	FAR NORTH DISTRICT O	COUNCIL
ZONING	GENERAL COASTAL	
MAX. BUILDING COVERAGE	5% MAX.	
PROPOSED BUILDING COVERAGE	EXISTING DWELLING	72.0m²
	PROPOSED SHED	300,0m²
	TOTAL COVERAGE	372.0m² = 1.7%
YARDS		
YARD FRONT	10.0m	
SIDE	10.0m	
REAR	10.0m	
HEIGHT IN RELATION TO		
BOUNDARY	2.0+45°	
MAXIMUM HEIGHT	8.0m	
WIND ZONE	HIGH	
CORROSION ZONE	ZONE D	
CLIMATE ZONE	ZONE 1	
EARTHQUAKE ZONE	ZONE 1	



APPROVED PLAN

OVERALL SITE PLAN

NO BUILD ZONE

ESPLANADE STRIP

Planner: Trish Routley pp: ERamsay RC: 2240110-RMALUC Date: 01/05/24

> PRELIMINARY 30.05.2023

HILL DESIGN ENGINEERING LTD.		HILL DESIGN PO BOX 72 844 Populature (09) 298 6954 Fox (09) 297 7964	PROP, SHED at at Cities book bangibuta	OVERALL SITE PLAN			DWG. No.	REVISION:
B.E.(HONS), MI.P.E.N.Z. C.P.ENG, No 47048	DATE: REVISION:	Enroll enquiries the property of HRL DESIGH ENGINEERING LTD. and is not to be reproduced atthout prior permission. Contractor to verify of dimensions on sits before commencing work. Written dimensions superside social dimensions.	Karikari Peninsula For S. Delacey	AJP	CHECKED: PH DATE: APR. '22	A5 5HOWN	OF1 3 JOS Hot 22	2-4629

