Western Bay of Plenty District Council

433 PUKEHINA PARADE EASTERN

LIM

Land Information Memorandum

Information in a LIM:

Rates and Water Rates

- Current Rating Valuation.
- Annual Rates.
- Outstanding Rates amounts.
- Water Charges.

Sewer and Stormwater

- Whether the property has district sewer available and whether it is connected.

Natural Hazards

- Actual and potential natural hazards.
- Actual and potential impacts of climate change that exacerbate natural hazards.
- Cumulative or combined effects of these hazards and impacts.

Special Land Features

- Including potential avulsion, falling debris, slippage, alluvion, or inundation on the site which have not identified as natural hazards.
- The status of the land in relation to the contamination of soil by hazardous substances.
- Weathertight Homes information (if relevant).
- Any relevant reports or information held by council in relation to the property.

Archaeological Sites

- Any relevant Archaeological sites.

Building Consents, Licences and Requisitions

- Building Permits/Consents issued on the property.
- Any outstanding works, Code Compliance Certificates for consents issued since 1993.
- If a Compliance Schedule has been issued for the building and when the related Warrant of Fitness expires.

Licences and Environmental Health

- Whether the property has a licence relating to the sale of food, the sale of liquor or any other licence (under Health Act 1956).

Enforcements and Notices

- Any notice, order, or requisition affecting the land or any building on the land previously issued by Council.

Planning and Resource Management

- Zoning of the property as defined by Operative and/or Proposed District Plans.
- All Resource Consents approved in relation to the property.
- Long term Community Plans.
- Structure Plans.

Drainage and Water

- Information on public stormwater and wastewater pipelines on the property as shown on Councils log plans.
- Water toby location.

Maps

- Maps relating to the property including Aerial Photo, Land Information, District Plan, Natural Hazards (not District Plan) and Archaeological Sites and Deposited Plan.

Information not in a LIM:

- Building Plans.
- For information in relation to State Highways please contact the New Zealand Transport Authority (NZTA).
- Western Bay of Plenty District Council does not hold any information concerning electricity, gas and telephone connections.
- Records of Title (previously known as Certificates of Title).

Disclaimer:

- Under section 44D of the Local Government Official Information and Meetings Act 1987 The territorial authority is not liable in a civil or criminal proceeding for making available in good faith the information in a land information memorandum that is known to the territorial authority about natural hazards that is required by s 44B. This includes information that identifies the following:
    - each natural hazard and each impact of climate change that exacerbates natural hazards, that affects the land concerned;
    - each potential natural hazard and each potential impact of climate change that exacerbates natural hazards to the extent that the territorial authority is satisfied that there is a reasonable possibility that the hazard or its impact may affect the land concerned (whether now or in the future);
    - the cumulative or combined effects of the hazards and impacts referred to above; and
    - any further information required by the regulations to make the information above more understandable.
- The Council records can be incomplete in some instances.
- The Council has not carried out an inspection of the land and/or buildings for the purpose of preparing this LIM. The Council records also may not show illegal or unauthorised building or works on the land.
- The Council does not provide interpretation or advice on how to interpret or utilise this information. If this required, the applicant should seek appropriate and independent professional advice.

Land Information Memorandum

Sections 44a and S.44B, Local Government Official Information and Meetings Act 1987

11 November 2025

P/1576/3100

BOWER REAL ESTATE LIMITED - BOP
PO BOX 13357
TAURANGA CENTRAL
TAURANGA 3141

Kia orā

Thank you for your application for a Land Information Memorandum.

The original of this LIM has been prepared pursuant to S.44A and S.44B of the Local Government Official Information and Meetings Act 1987, solely for the applicant, and contains information known to Council within its records and only relevant to the site requested. The reliance by other parties on the information within this LIM shall be at that other parties' sole risk. If any interpretation or explanation is required on any of the enclosed information or plans, the services of an independent advisor or consultant should be sought.

It is recommended that the Record of Title, which is not issued by Council, be searched by the purchaser. The LIM does not necessarily include information relating to private covenants or other memoranda affecting the title and those should be obtained from a Land Record search.

In preparing this report, no Council inspection of the property has been undertaken.

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

Ngā mihi

The Consents Services Team (Resource Consents)

limprocessors@westernbay.govt.nz

1 Applicant

Client Name:	James Mooney
Applicant Name:	BOWER REAL ESTATE LIMITED - BOP
	PO BOX 13357
	TAURANGA CENTRAL
	TAURANGA 3141
Postal Address:	PO BOX 13357
	TAURANGA CENTRAL
	TAURANGA 3141
Application Date:	29 Oct 2025
Issue Date:	11 November 2025

2 Property

Property Owner:	TAYLOR, BENSON LANGDON
	TAYLOR, HALINA BARBARA
Valuation No:	06922 358 00
Location:	433 PUKEHINA PARADE EASTERN
Legal Description:	LOT 371 DPS 9104
Area (hectares):	0.0822

Copies of any relevant deposited plan(s) can be found in the 'Maps' Section of this LIM (if available). Please note, this is not a Record of Title(s)

3 Rates and Water Rates

The information provided on rates/financial details in this report may not reflect the current details of the legal description/valuation on your application form. This may be due to the property being under subdivision or that the information has not yet been provided or updated for the current valuation and improvements for this financial year.

Note: Rates, Rateable Valuation Details and Water Rates relate to a valuation number. This may be linked to other properties, or a parent property. For this Land Information Memorandum, the valuation number 06922 358 00 is linked to: Lot 371 Deposited Plan South Auckland 9104

Land Value:	$1,280,000
Improvements:	$670,000
Capital Value:	$1,950,000
Tree Value:	$0
Annual Rates:	$4,513.04
Rates Owing:	$691.63

Note: For the period until rates are "set" the Current Annual Rates and Rateable Valuation Details should not be relied upon and any queries should be directed to the Rates Team.

Rates are charged in two equal instalments for the period commencing 1 July and ending 30 June each year.

Water Rates – This information applies to Western Bay of Plenty District Council (WBOPDC) systems only. In some parts of Tauriko, Papamoa, Pyes Pa and Oropi, properties are served by Tauranga City Council system.

Metered Water	YES
Date of Last Reading	03 Jun 2025
Connected	YES
Available	YES
Owing	$0.00

Water rates may be outstanding on this property as meter readings are completed six monthly.

Further information about Council's water supply and water quality is available from Council's website. Please refer to the WBOPDC Water Supply System Bylaw 2008: Water Supply System Bylaw 2008

Rates information and valuation history can be found online at the WBOPDC website: Rating Information Search

For any information regarding Māori Land, please contact the Waiariki or Waikato/Maniapoto Office of the Māori Land Court or view their website and online records at: Māori Land Court

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4 Building

This information is a record of details held on Council files and may not reflect the situation on site if work has been undertaken without consent. If Council holds any as-built drainage plans relevant to this property they will be included in the attachments section of this LIM.

4.1 Building Consents

BC	Project	Status of Consent
61467	DWELLING.	PIM ISSUED 06 Apr 1999
61753	DWELLING.	CANCELLED 26 May 1999
61760	DWELLING. Code Compliance Certificate is subject to Modification of durability requirement of the building code Clause B2.3.1; durability periods to commence from 2002 (as the date when the works was substantially completed) instead of from the date of the Code Compliance Certificate. Minor repairs to existing cladding around seaward facing ground floor lounge, replace damaged half truss with new rafters, above laundry ceiling	REF TO INSPECTOR
66280	RETAINING WALL	CONS ISSUED 16 Apr 2002

Building, Plumbing and Drainage Permits issued prior to 1993 will not have a Code Compliance Certificate as the requirement for this did not come into effect until 1 January 1993.

Note: Any information held by Council relating to Building Permits will be listed on the Historical Data page at the back of this section in your LIM.

Information regarding buildings where Council holds no records of consents:

The absence of records for building permits or consents may mean any of the following:

- The building was erected without a permit or consent.
- The building work may be exempt from requiring a permit/consent.
- A Council record is unable to be located.

If building work was carried out without a building permit prior to the 1991 Building Act, or without obtaining building consent under the Building Act 1991 or Building Act 2004, then there is no authority under those Acts for the Council to retrospectively issue a building consent for the work.

For buildings erected prior to the commencement of the Building Act 1991, without any building permit or for which Council holds no records, then Council is generally unlikely to take any action against the current owners of that building unless the building is unsafe or insanitary in terms of the Building Act 2004 or the Health Act 1956. This assumes that the building complies in all other respects with other statutory requirements.

For post-Building Act 1991/Building Act 2004 work, for which the Council holds no record, or the work is not exempt, it is likely that the building work was carried out without consent. If so, the property owner and the person who carried out the work may have contravened the Building Act 1991 and Building Act 2004, and enforcement action may be taken at the Council's discretion. However, some building work is exempt from requiring a permit/consent. This generally applies to small buildings or structures and minor alterations. Irrespective of whether consent is required the Building Act requires that all building work must comply with the Building Code. Potential purchasers of properties requiring further information on building work are advised to engage a qualified building professional to inspect and report.

A certificate of acceptance can be applied for when work is done without a building consent after 1 July 1992, or in specific circumstances when a code compliance certificate (CCC) can't be issued.

For further information go to – Certificate of Acceptance Information

4.2 Certificate of Acceptance

COA	Status
None Known	

4.3 Compliance Schedules / Building Warrant of Fitness:

Premise	Notes
None Known	

4.4 Earthquake Prone Buildings

There are no Earthquake Prone Buildings located on this land.

5 Environmental Health

5.1 Premise Registration

Premises	Category	Licence Status
None Known		

5.2 Liquor Licenses

Type	Status	Licence No	Date Issued
None Known			

5.3 Enforcements and Notices

Parcel ID	Notice Type	Comments	Date Issued	Date Complied

6 Natural Hazards

This section contains details of whether the land is affected by one or more natural hazards as defined in the Resource Management Act 1991:

"Natural hazard means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment".

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 and has no knowledge of. It is the landowner's responsibility to determine whether the property is suitable for any proposed activity or whether any proposed building site is suitable for development (and to undertake tests if necessary).

Notes: The WBOPDC's website linked below contains information about natural hazards which may be relevant to the site. Before using this website it is important that you read the terms of use to understand the limitations of that information. You are advised to seek expert advice regarding applicability and accuracy of the information as it relates to the site. The website does not replace a Land information Memorandum (LIM), which is requested from the District Council, and may contain other information about natural hazards.

The website can be accessed at the following link: Natural Hazards - Western Bay of Plenty District Council.

The Bay of Plenty Regional Council's **Bayhazards** website linked below also contains information about natural hazards which may be relevant to the site. Before using the Bayhazards website it is important that you read the terms of use to understand the limitations of that information. You are advised to seek expert advice regarding applicability and accuracy of the information as it relates to the site. The Bayhazards website does not replace a LIM which is requested from the District Council, and may contain other information about natural hazards. The **Bayhazards** website can be accessed at the following link: Bayhazards Natural Hazards Viewer.

6.1 Natural Hazard Information sourced from Western Bay of Plenty Operative (District Plan)

The District Plan maps currently identify coastal erosion, coastal inundation, flooding and land instability in some of the locations that may be susceptible to them. See the 'District Plan' map in the 'Maps' Section of this LIM.

Property specific Natural Hazard information relating to the Natural Hazards identified by the District Plan map can be found under Section **'6.3 Natural hazard information relating to the land concerned'.**

6.2 Natural Hazard Information Relating to the Building Act 2004

This section contains details of:

- Whether a notification of a building consent that relates to a natural hazard on the land concerned has been provided for under section 73 of the Building Act 2004, or in accordance with section 36(2) of the Building Act 2004 or section 641A of the Local Government Act 1974.
- Signs or notices under section 133BT of the Building Act 2004 on or near building on the land.
- Entries on certificates of title under section 434 of the Building Act 2004

Note: If there is an Earthquake Prone Building located on this property it will be identified in Section "Earthquake Prone Buildings" of this LIM report.

Building consent	Description	Issue Date	Hazard identified
BC61760	SECTION 36 (2)	23/6/1999	EROSION

6.3 Natural Hazard Information Relating to the Land Concerned

6.3.1 Earthquake

Note: If there is an Earthquake prone building located on this property it will be identified in Section "Earthquake Prone Buildings" of this LIM report.

6.3.2 Active Faults

No information known to Council.

6.3.3 Liquefaction

NOT DISTRICT PLAN
Regionwide

Tonkin + Taylor Ltd have prepared a report titled "Bay of Plenty Regional Liquefaction Vulnerability Assessment" (April 2021). The report was commissioned by the Bay of Plenty Regional Council.

The report presents the results of a liquefaction mapping exercise for the Bay of Plenty Region.

The Report was prepared in accordance with the Ministry for the Environment (MfE) and Ministry of Business, Innovation and Employment (MBIE) "Planning and Engineering Guidance for Potentially Liquefaction Prone Land" (2017) to a Level A (basic desktop assessment) level of detail.

The liquefaction maps from the report are shown on the map in this LIM titled "Natural Hazards (Not District Plan)" and on Council's online natural hazards maps. The mapped categories are "liquefaction damage is unlikely", "liquefaction damage is possible" and "liquefaction category is undetermined".

The subject property is identified based on information contained in the report as having one or more of these categories.

"Liquefaction damage is unlikely" means a probability of more than 85 percent that liquefaction-induced ground damage will be none to minor in a 1-in-500 year earthquake shaking event.

"Liquefaction damage is possible" means a probability of more than 15 percent that liquefaction-induced ground damage will be minor to moderate (or more) in a 1-in-500 year earthquake shaking event.

"Liquefaction category is undetermined" means that a liquefaction vulnerability category is undetermined, either because a liquefaction assessment has not been undertaken for this area, or there is not enough information to determine the appropriate category with the required level of confidence.

The report can be viewed on Council's natural hazards webpage (liquefaction subpage) at www.westernbay.govt.nz/liquefaction

6.3.4 Tsunami

NOT DISTRICT PLAN
Region-wide

GNS Science (now known as Earth Science New Zealand) have prepared a report titled Comprehensive Tsunami Inundation Modelling and Evacuation Zone Mapping: Final Report (March 2025). The report was commissioned by the Bay of Plenty Regional Council.
The purpose of the report is to document the methodology, results and limitations of the modelling undertaken by GNS Science to produce comprehensive tsunami inundation mapping for the Bay of Plenty region. The scope of the report is the Bay of Plenty coastline and offshore islands.

The tsunami inundation maps show:

- The area of land that could potentially be flooded by a tsunami caused by a rare offshore earthquake that has a wave height ranging between 8m and 15m along the Bay of Plenty coast.
  The likelihood of a tsunami like this occurring in any year is calculated as 0.04% (which is a 1 in 2,500 chance).

- The area of land that could potentially be flooded by a 5m high tsunami caused by a rare offshore earthquake.

  The likelihood of a tsunami like this occurring in any year is different along the Bay of Plenty shoreline. The likelihood in any year is calculated as ranging between 0.33% in the east and 0.13% in the west of the region (which is a range between a 1 in 300 chance in the east and a 1 in 750 chance in the west).

The technical report can be accessed from the Bay of Plenty Regional Council website - Natural hazards

6.3.5 Coastal Erosion

NOT DISTRICT PLAN

Coastal Erosion – Waihī Beach, Matakana Island, Maketū, Waihi Estuary, Pukehina to Ōtamarākau and Tauranga Harbour (additional locations not mapped in 2019)

Tonkin + Taylor Ltd have prepared reports titled:

- Western Bay of Plenty Coastal Erosion Hazard Assessment" (September 2024). The report presents the results of coastal erosion modelling carried out for Waihī Beach, Matakana Island, Maketū, Waihi Estuary and Pukehina to Ōtamarākau.

- "High-Level Identification of Coastal Erosion Hazard Areas Within Tauranga Harbour" (September 2024). The report presents the results of coastal erosion modelling carried out for Tauranga Harbour (additional locations not previously mapped in 2019).

Both reports were commissioned by the Bay of Plenty Regional Council.

In the reports, two scenarios are considered the most relevant for Council's statutory planning and consenting processes. These are the two scenarios shown on the map in this LIM titled "Natural Hazards (Not District Plan)" and on Council's online natural hazards maps.

The two scenarios mentioned above predict the extent of coastal erosion by the years 2080 and 2130 (shown as red and green broken lines respectively). These scenarios estimate a 66% chance of the predicted coastal erosion extents (shown by the lines) being reached or exceeded by those timeframes when taking into account the possible effects of climate change. This includes 0.6m of sea level rise by 2080 and 1.25m of sea level rise by 2130.

These scenarios are shown:

- In a table on page 49 (scenarios 4 and 7) of the Report titled "Western Bay of Plenty Coastal Erosion Hazard Assessment" (2024).

- In bullet points on page 3 of the Report titled "High-Level Identification of Coastal Erosion Hazard Areas Within Tauranga Harbour" (2024).

The report can be viewed on Council's natural hazards webpage (coastal erosion subpage) at www.westernbay.govt.nz/coastalerosion.

6.3.6 Volcanic and Geothermal activity

No information known to Council.

6.3.7 Landslip

No information known to Council.

6.3.8 Subsidence

No information known to Council.

6.3.9 Sedimentation

No information known to Council.

6.3.10 Wind

No information known to Council.

6.3.11 Drought

No information known to Council.

6.3.12 Fire

No information known to Council.

6.3.13 Flooding

No information known to Council.

6.3.14 Coastal Inundation

No information known to Council.

6.3.15 Other General Natural Hazard Information Unrelated to the Land Concerned

Flood hazard information referenced here includes modelling produced at a nation-wide scale by Earth Sciences New Zealand (ESNZ). The national tool provides consistent flood hazard data across New Zealand and is zoomable to street level, but not to individual properties. For property-specific flood hazard information that may affect this property please refer to the following section of this Land Information Memorandum titled, "Natural Hazards Relevant to the Subject Property". The modelling produced by ESNZ is available to view at the following link: Flood Hazard Modelling .

7 Special Feature(s) or Characteristic(s)

This section contains information about other special features or characteristics of the land that is known to the Council, but is not apparent from a district plan under the Resource Management Act 1991, including:

- potential avulsion, falling debris, slippage, alluvion, or inundation on the site which have not already identified as natural hazards above.
- the likely presence of hazardous substances on the site.

This information should not be regarded as a full analysis of the site as there may be features that the Council has no knowledge of. The applicant is solely responsible for ensuring that the land is suitable for a particular purpose.

7.1 Hazardous Substance(s)

No information known to Council.

7.2 Site Contamination

No information known to Council.

7.3 Hazardous Contaminant(s)

No information known to Council.

8 Historic Heritage Features and Archaeological Sites

Please refer to the map section of this LIM. The Geographic Information Services (GIS) plan entitled 'Archaeological Sites' will identify any registered archaeological site(s) over the property (depicted as a "U" number in a red/pink box/circle). If a site(s) is recorded on the property, an 'archaeological sites report' will be attached.

Please also refer to the District Plan map, this will also identify any significant historic heritage features located on the property. If a significant historic heritage feature is recorded over the property, the provisions of Section 7 (Historic Heritage) of the Operative District Plan apply.

If the GIS plan or District Plan map does not identify any archaeological site(s) and/or historic heritage feature(s) it should not be assumed there are no sites or features, only that Council has no record of these. Property owners still have obligations under the Heritage New Zealand Pouhere Taonga Act 2014 in that it is an offence for anyone to destroy, damage or modify or cause to be destroyed, damaged or modified, the whole or part of any archaeological site, knowing or having reasonable cause to suspect it is an archaeological site.

Further information on Archaeological Sites and/or Historic Heritage Features in the Western Bay of Plenty District can be found here;

- Operative District Plan
- NZAA Arch Site Hub
- Heritage New Zealand

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9 Sewer and Stormwater

District Sewer Connected:	NO
District Sewer Available:	NO

If a sewer is available, under the Local Government Act 1974, the property must connect to the sewer if it is within 30 metres of the property boundary or if the sewer is within 60 metres of the dwelling.

9.1 Septic Tanks and On-Site Effluent Treatment Systems (OSET)

Most septic tanks in the Western Bay of Plenty are permitted provided they are adequately maintained, however, when making dwelling additions you may need to upgrade the wastewater system, and this will require Building Consent under the Building Act 1991.

The removal and/or upgrade of existing septic tanks and/or OSET may also require Resource Consent from the Bay of Plenty Regional Council. Please contact Bay of Plenty Regional Council directly 0800 884 880 if you have any further questions about this.

10 Network Utility Operators

The WBOPDC does not hold any information concerning electricity, telecommunication and gas connections. Information may be obtained from the relevant network utility providers.

11 Projects

We work to provide good-quality local infrastructure and local services to our communities. Council projects tend to be one off, take place over the long term and impact a large area or community. You can read about Council projects here:

Council Projects

12 Planning/Resource Management

12.1 The Western Bay of Plenty Operative District Plan

This property is zoned **Residential**. See the District Plan map in the 'Maps' section of this LIM. The District Plan including rules, maps and performance standards, plus any current (and previous) Plan Changes can be found here:

Operative District Plan

District Plan Changes

12.2 Identified District Plan Natural Hazards

12.2.1 Flooding

None known

12.2.2 Coastal Erosion

The subject property is identified as being potentially susceptible to Coastal Erosion as shown on the District Plan maps in the 'Maps' section of this LIM. However, these maps are no longer the most up-to-date information that Council holds for flooding in this location. These maps have been superseded in terms of accuracy by more recent information. See Section 6.3.5 of this LIM.

12.2.3 Coastal Inundation

None known

12.2.4 Land Instability

None known

12.3 Identified Significant Features

12.3.1 Significant Ecological Feature(s)

None known

12.3.2 Outstanding Landscape Feature(s)

None known

12.3.3 Cultural and/or Built Heritage Feature(s)

None known

12.3.4 Notable tree(s)

None known

12.3.5 Designation(s)

None known

12.3.6 Proposed Esplanade Strip(s) and /or Reserve(s)

None known

12.3.7 Esplanade Strip(s) and /or Reserve(s)

None known

12.4 Resource Consents

RC Number	Status	Consent Type	Date Granted
401309	GRANTED	CONSENT TO ERECT DWELLING AND GARAGE IN HIGH RISK COASTAL HAZARD ZONE	10/03/1999

Notes:

- Resource consents can lapse. Applicants are advised to verify the status of Resource Consents with Council staff.

- If a Resource Consent(s) has been granted on this property it does not infer that the conditions of the consent have been met. Applicants are advised to verify the status of Resource Consent(s) with Council's Customer Service Planner.

12.5 Other Consents, Certificates, and Licences

Any information held by council relating to Historic Planning Consents will be listed on the 'Historical Data' page attached to this LIM.

If there are any Consent Notices (and associated specialist reports), Certificates, Bush Protection Inspections and/or Yard Exemption Statements relevant to this property they will be included in the 'Attachments' section of this LIM.

12.6 Community Plans

Council has a programme to help urban communities in the district develop long term plans that detail a vision for each community. Information regarding current Community Plans can be found here:

Community Plans

12.7 Structure Plans

Structure plans have been created by Council to assist in managing the District's growth. These identify new areas for development and show required infrastructure (roading, water supply, wastewater disposal, stormwater and recreation) and associated costs. These structure plans are contained in and shown on the Planning Maps.

Structure Plans

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13 Other Useful information

The WBOPDC provides the following discretionary information which it considers to be relevant in accordance with Section 44A(3) of the Local Government Official Information and Meetings Act 1987 (LGOIMA).

13.1 Council Website and ePlan

The Council's Website provides comprehensive information and resources, including details on building and resource consents topics such as natural hazards and zoning.

Council Website

The ePlan is an interactive electronic version of the District Plan. It aims to make it easier to find information relevant to your property and to have your say on changes to the District Plan.

ePlan

13.2 Reserve Management Plans

There are management plans in place for 222 reserves across the District, including plans covering each urban community.

Management plans are a statutory requirement under the Reserves Act. A plan provides a one-stop reference point that includes a reserves classification and legal status, the area it covers, infrastructure and funding for capital projects councils want to undertake.

Reserve Management Plans

Under Council's Reserve Management Plan(s) any property adjoining a public reserve is not permitted to encroach onto that reserve. Where new encroachments occur, or if an existing encroachment exists, Council will give notice to the encroacher to remove the encroachment and reinstate the reserve at their own cost. Please refer to the Reserve Management Plan.

13.3 The Bay of Plenty Regional Council

Regional Council policies and plans may affect the use and management of land, water air and other natural and physical resources.

For further information on whether a property is affected by any Regional Planning instrument or by some other function of the Regional Council please contact Regional Council.

Bay of Plenty Regional Council Website

13.4 The Ministry for the Environment

The Ministry for the Environment administer Acts, National Policy Statements, National Environmental Standards and other regulations.

Act and Regulations

HISTORICAL DATA

There are no historical building permit documents held for this property

There are no historical planning consent documents held for this property

MAPS

Aerial Photography

Land Information

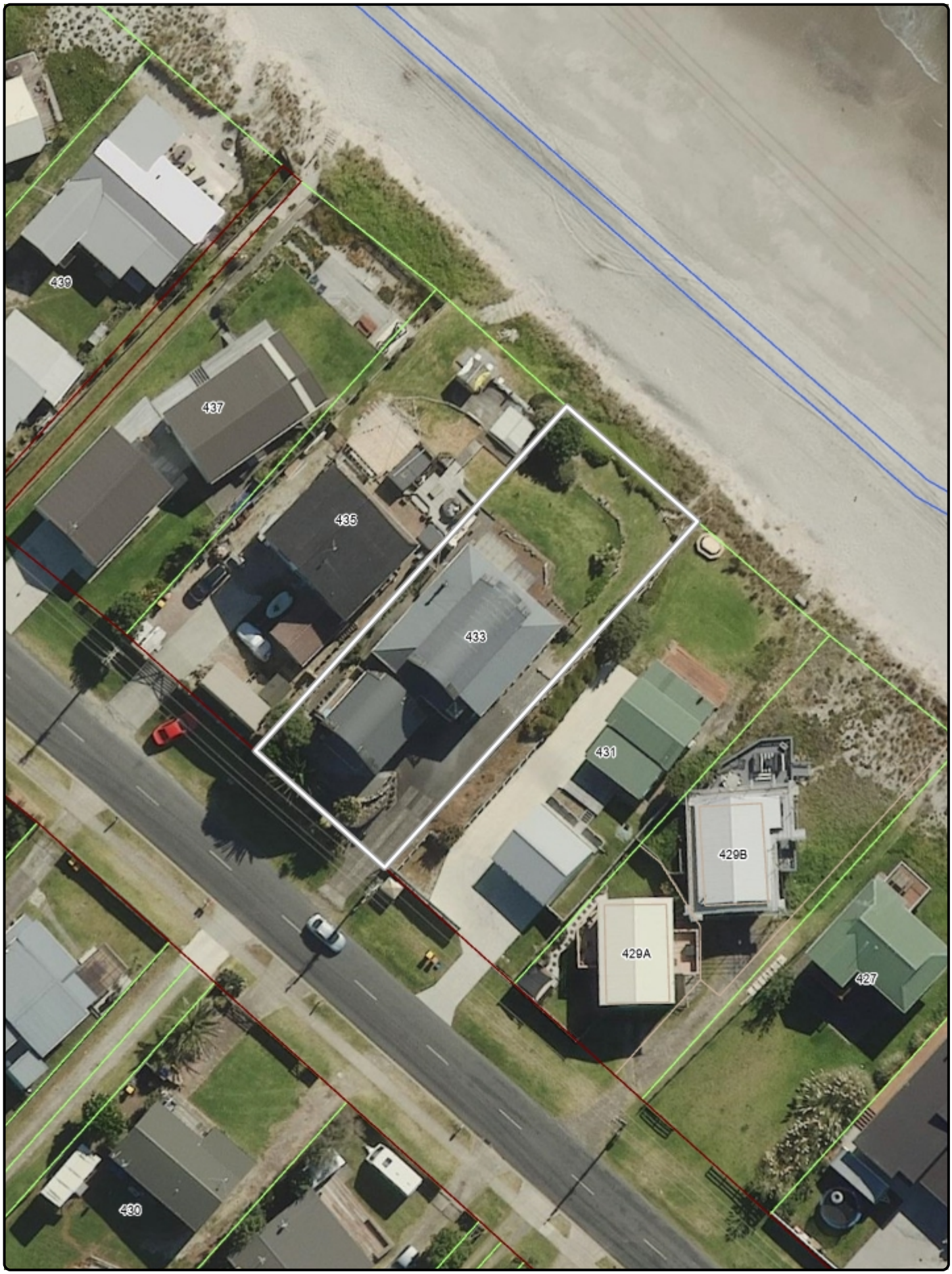
Land Information Legend

District Plan

District Plan Legend

Other Natural Hazards (not in District Plan)

Natural Hazards Legend



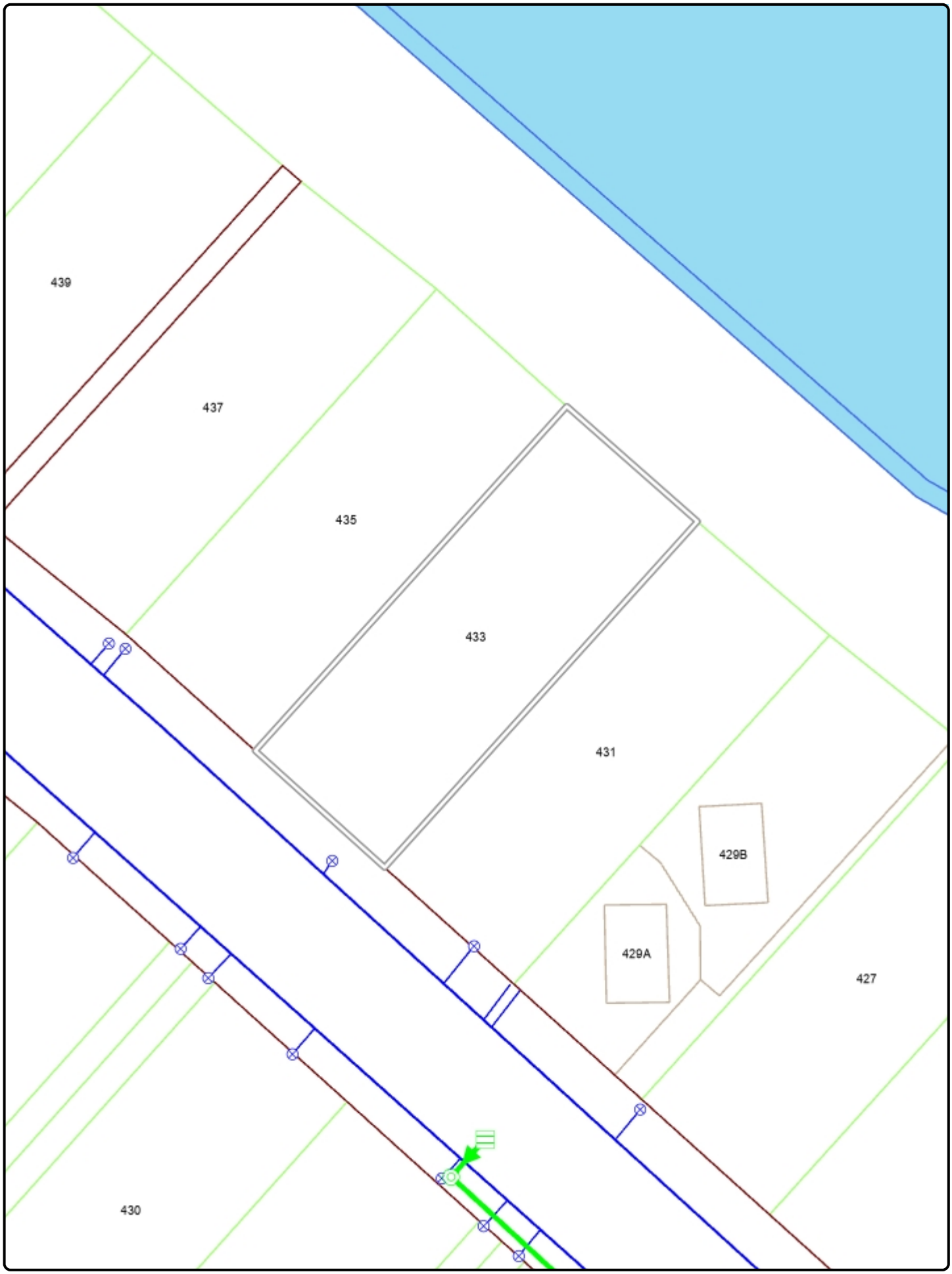
Western Bay of Plenty District Council | For our people

Produced using ArcMap by the Western Bay of Plenty District Council GIS Team.

Aerial Photo

0 25 Meters A4 Scale 1: 500

N



Western Bay of Plenty District Council | For our people

Land Information

0 — 25 Meters A4 Scale 1: 500

N

Water Supply

- Main
- Rider Main / Connection
- Instruments - Meter / Toby
- Valve - Air Release
- Valve - Altitude
- Valve - Non Return / Backflow Preventer
- Valve - Butterfly
- Valve - Flow Control
- Valve - Flow Meter
- Valve - Hydrant
- Valve - Normally Closed
- Valve - Pressure Reducing
- Valve - Pressure Sustaining
- Valve - Scour
- Valve - Sluice
- End Cap
- Junction
- Treatment Plant
- Containment Structure - Reservoir or Tank
- Pump
- Well - Bore

Stormwater

- Gravity Main
- Gravity Main (Below 1:2000)
- Pressure Main
- Service Main / Connection
- Open Drain
- Grass Swale
- Catchpit
- Chamber - Box
- Chamber - Inspection Shaft
- Chamber - Manhole
- Soakhole
- Valve - Flood Gate
- Valve - Sluice
- Wing Wall
- Inlet
- Junction
- Outlet
- Pump
- RAMM Culvert
- Stormwater Drainage Reserve
- Stormwater Pond

Wastewater

- Gravity Main
- Gravity Main (Below 1:2000)
- Rising Main
- Service Main / Connection
- Chamber - Inspection Shaft
- Chamber - Manhole
- Mechanical - Grinder Pump
- Valve - Air / AirKnife
- Valve - Non Return
- Valve - Pressure Reducing
- Valve - Scour /Knife
- Valve - Sluice
- Inlet
- Treatment Plant
- Junction
- Outlet
- Instruments - Flow Meter
- Pump
- Wastewater Pond

Property

- Paper Road
- Property or Restrictive Area
- Building
- Hydro
- Railway
- Road
- Parcel
- TCC Water Catchment

Protected Land

- Statutory Acknowledgement Areas
- Consent Notice Covenant
- Ecological
- Conservation Covenant
- QE II

RAP

- Class 1
- Class 2
- Class 3

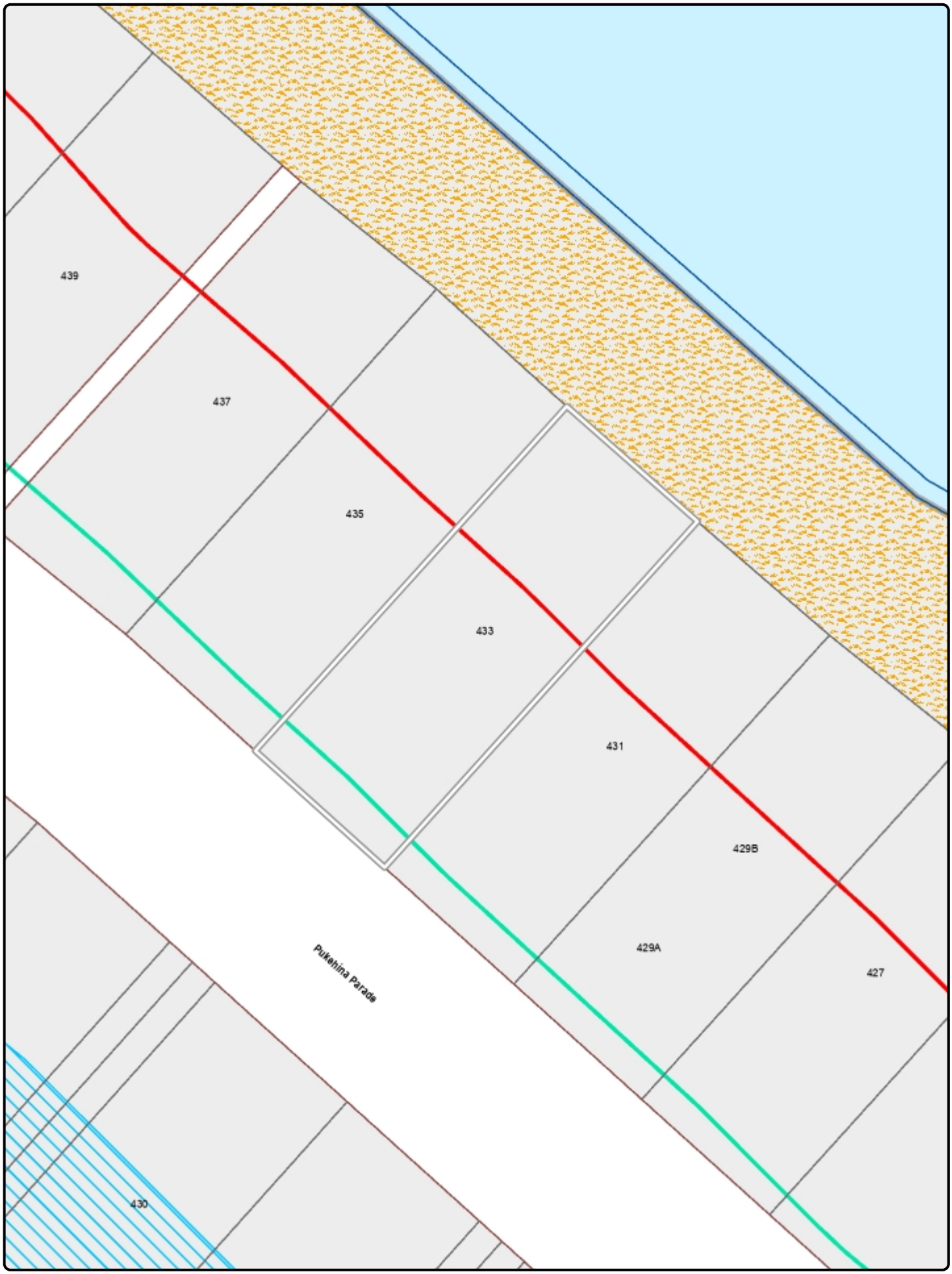
WBOP

- Other Councils
- Western Bay of Plenty
- Ocean, River, Stream
- Selected Parcel

Location of Services is indicative only.
Council accepts no liability for any error.

Western Bay of Plenty District Council | For our people

Land Information Legend



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District Plan

0 25 Meters A4 Scale 1: 500

N

Bay of Plenty Regional Council should be consulted before undertaking any activity in the vicinty of Mean High Water Springs to establish the actual line of Mean High Water Springs.
Formed roads are indicated as white shading on the road land parcels. Unformed roads have the underlying zone indicated.

(1) Primary risk includes the whole of the red line and the land towards the sea. Secondary risk includes the whole of the green line up to the edge of the red line.
(2) The identified areas include; the community service area at Rangiuru, the central hub site within the All Terrain Park and buffer zones in Stage 2 Omokoroa and Binnie Road.
(3) Compliance with NZECP 34:2001 is required in this area for buildings/structures and earthworks. The distance quoted is from the centreline of the transmission line.

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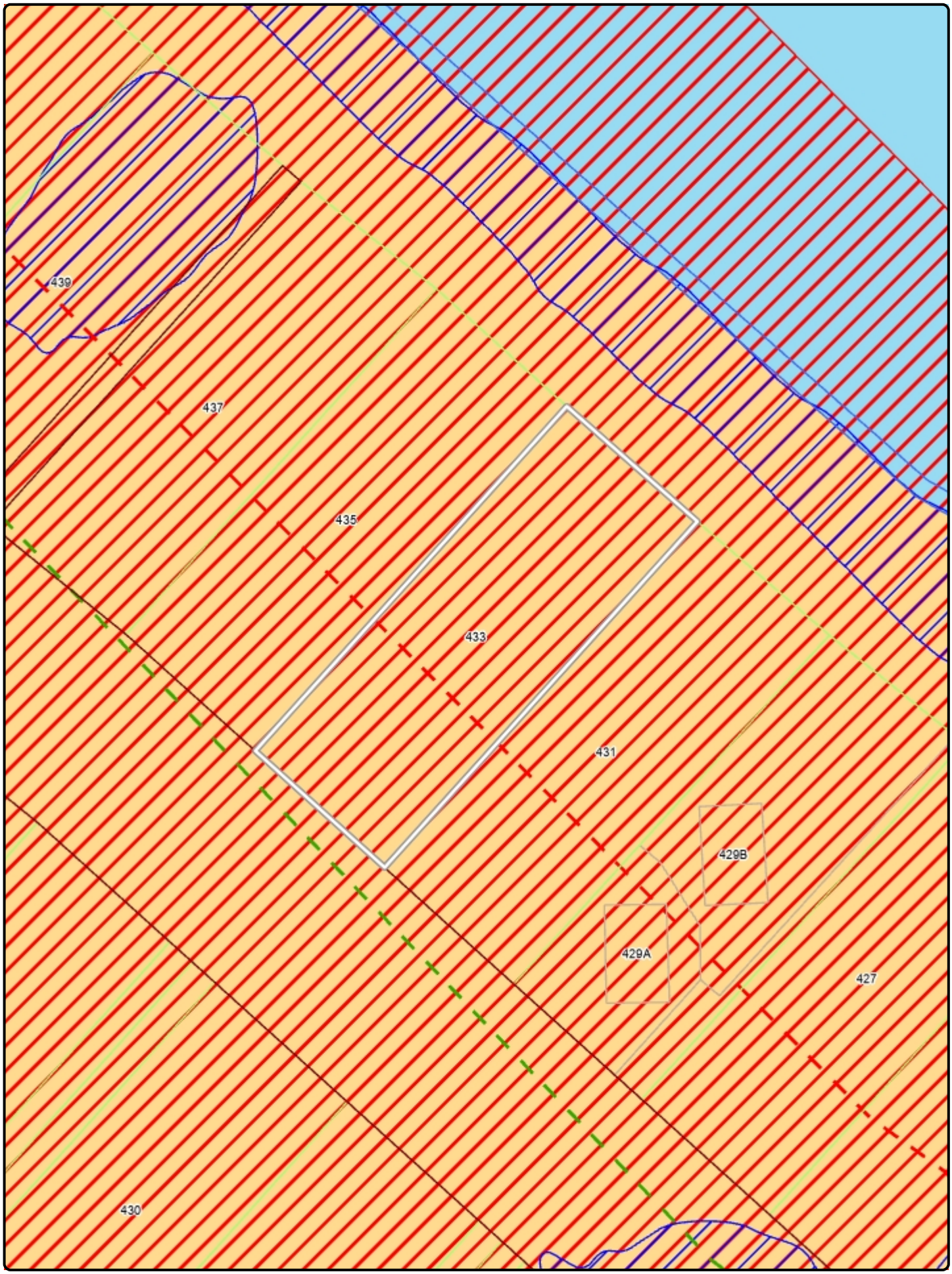
District Plan Legend



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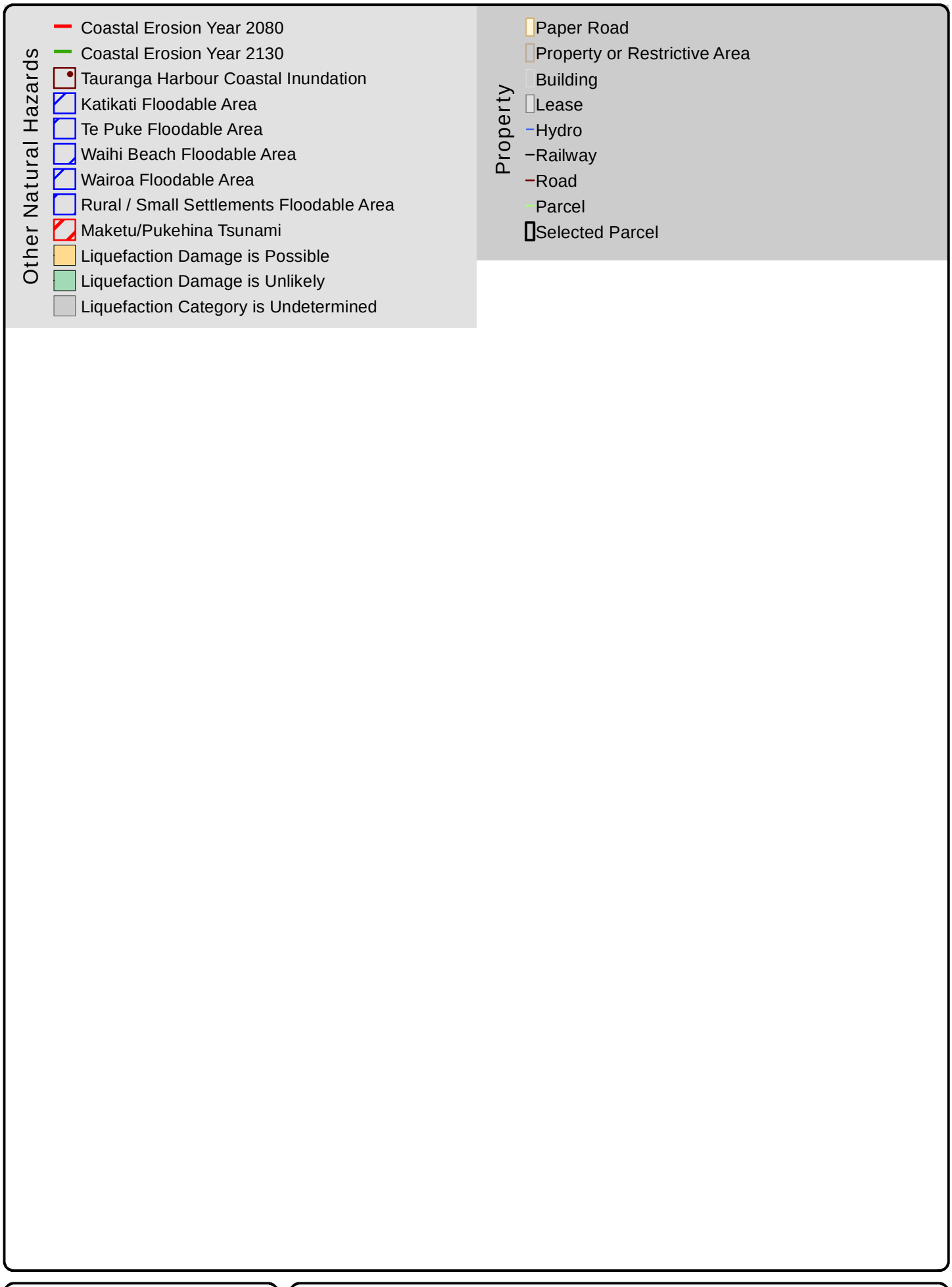
Natural Hazards (not District Plan)

0 — 25 Meters

A4 Scale 1: 500

N



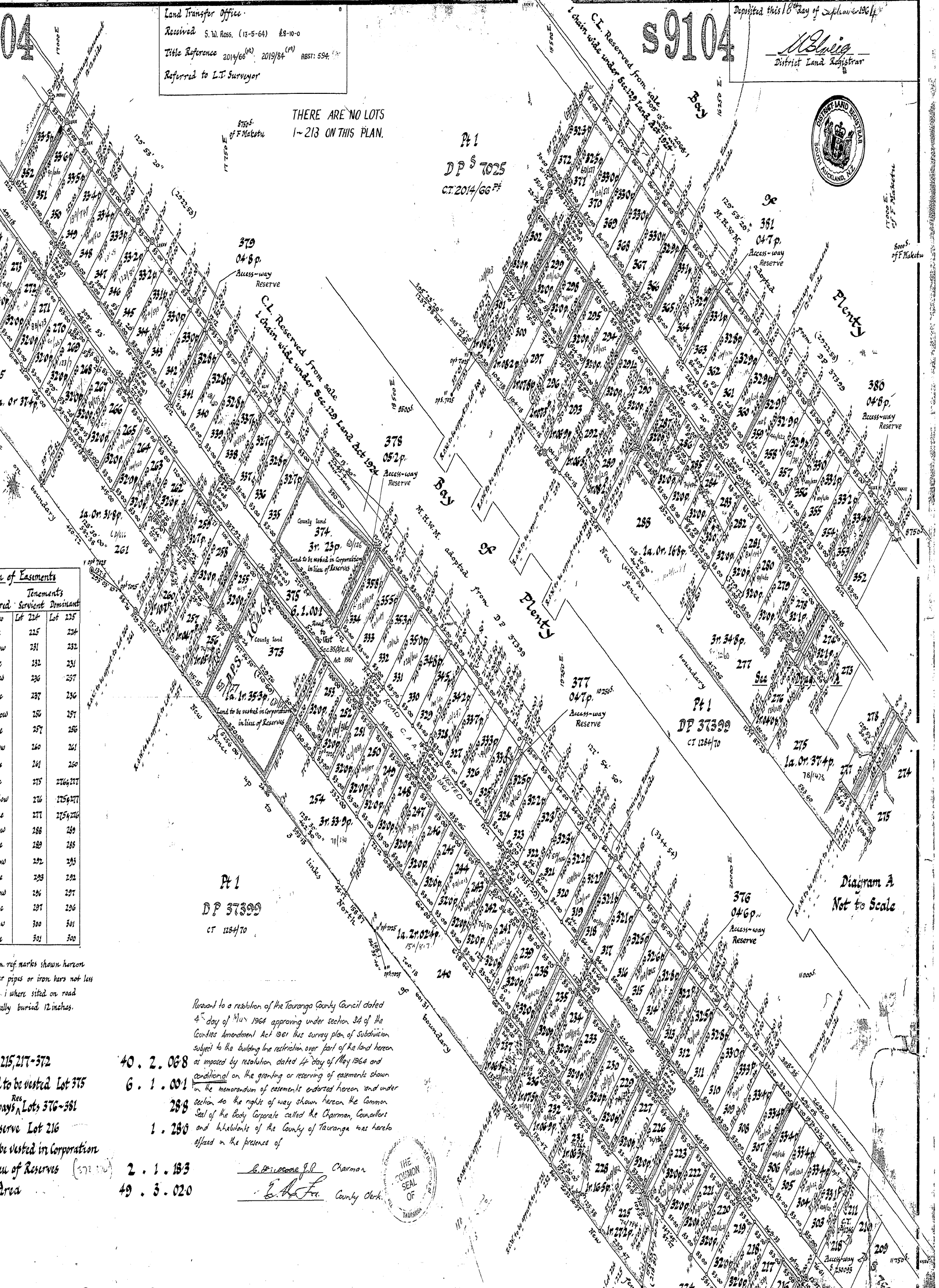
Western Bay of Plenty District Council | For our people

Natural Hazards Legend

s9104

Land Transfer Office
Received S. W. Ross. (13-5-64) £8-10-0
Title Reference 2014/66(pt) 2019/84(pt) ABST: 594
Referred to L.T. Surveyor

Deposited this 18th day of September 1964
District Land Registrar



Memorandum of Easements

Re: R.O.W. over	Coloured	Tenements Servient	Tenements Dominant
Pt. Lot 224	yellow	Lot 224	Lot 225
225	blue	225	224
231	yellow	231	232
232	blue	232	231
236	yellow	236	237
237	blue	237	236
256	yellow	256	257
257	blue	257	256
260	yellow	260	261
261	blue	261	260
275	blue	275	276 & 277
276	yellow	276	275 & 277
277	blue	277	275 & 276
288	yellow	288	289
289	blue	289	288
292	yellow	292	293
293	blue	293	292
296	yellow	296	297
297	blue	297	296
300	yellow	300	301
301	blue	301	300

Note: The perm. ref. marks shown hereon are 18" or longer pipes or iron bars not less than 5/8" diam. ; where sited on road they are generally buried 12 inches.

Lots 214, 215, 217~372	40 . 2 . 06.8
New Road to be vested Lot 375	6 . 1 . 00.1
Access-ways Res. Lots 376~381	28.8
Road Reserve Lot 216	1 . 28.0
Land to be vested in Corporation in lieu of Reserves (373, 374)	2 . 1 . 18.3
Total Area	49 . 3 . 02.0

Pursuant to a resolution of the Tauranga County Council dated 4th day of May 1964 approving under section 34 of the Counties Amendment Act 1961 this survey plan of Subdivision subject to the building line restriction over part of the land hereon as imposed by resolution dated 4th day of May 1964 and conditional on the granting or reserving of easements shown in the memorandum of easements endorsed hereon and under section 40 the rights of way shown hereon the Common Seal of the Body Corporate called the Chairman, Councillors and Inhabitants of the County of Tauranga was hereto affixed in the presence of

Chairman

County Clerk

THE COMMON SEAL OF TAURANGA

Plan of Part of Section 6
Block I Waihi South S D (Pt Lot 1 DP S 7025 & Pt Lot 142 DP S 7609)
South Auckland Land District Tauranga County
Contained in C.T.s 2014/66 (Pt) & 2019/84 (Pt)
Scale 150 links to an inch
Surveyed by Elder and Mackay Oct. '63 ~ Feb. '64

Approved as to Survey
Chief Surveyor 20.7.64
Reference Plans S 7025 S 7609 D.P. 37399 S 5970
Field Book S 100 folio: 8-23
Traverse Book 415 folio: 206-212
Examined by M O'Kane (17-7-64)
Recorded on Snr. I. Waihi Sth. S.D.
Correct
for Land Transfer Surveyor 20-7-64

I, Lloyd Lindsay Elder, of Tauranga, Registered Surveyor and the holder of an annual practising certificate, do solemnly and sincerely declare that this plan has been made from surveys executed by me: that both plan and survey are correct and have been made in accordance with the Regulations under the Surveyors Act 1938 And I make this declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957

Declared at Tauranga this 1st day of May 1964 before me

Justice of the Peace.

Approved
The Common Seal of Unit Subdivisions Ltd was hereunto set and affixed in the presence of:-

Director

Director

Secretary Manager Registered Owners

UNIT SUBDIVISIONS LIMITED THE COMMON SEAL OF

s9104

s9104

s9104

Attachments

A4427646: 2017-05-11 - 2017/029 - Determination refusal to grant an amendment to building consent and issue CCC certificate
A4427658: 2017-05-15 - 2017-029 - Letter to TLB Notification of decision of Determination
A4427681: 2017-02-01 - Expert report Pukehina Ref (2883) 310117 - Determination
A4433621: DEED OF COVENANT - SIGNED - 433 PUKEHINA PARADE
A4449501: 433 Pukehina Parade unable to Issue CCC
A946837: RC401309L - Land Use - Discretionary - Decision
A959636: BC61760 - Building Plan including Site/Drainage Plan - Approved
Invoice

MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HIKINA WHAKATUTUKI

Determination 2017/029

Regarding the refusal to grant an amendment to a building consent and issue a code compliance certificate for a 16-year-old house with plywood cladding at 433 Pukehina Parade, Te Puke

Summary

This determination is concerned with the compliance of repairs proposed to the external building envelope and considers whether the authority was correct to refuse to grant an amendment to the building consent. The determination also considers the authority's refusal to issue the code compliance certificate.

1. The matters to be determined

1.1 This is a determination under Part 3 Subpart 1 of the Building Act 2004[1] ("the current Act") made under due authorisation by me, John Gardiner, Manager Determinations and Assurance, Ministry of Business, Innovation and Employment ("the Ministry"), for and on behalf of the Chief Executive of the Ministry.

1.2 The parties to the determination are:

- the owners of the house, A and T Murray ("the applicants")
- Western Bay of Plenty District Council ("the authority"), carrying out its duties as a territorial authority or building consent authority.

1.3 This determination arises from the decision of the authority to refuse to issue a code compliance certificate for a 16-year-old house and its refusal to grant an amendment to the building consent for remedial building work. The authority is not satisfied that the proposed remediation is sufficient to result in the repaired house complying with the weathertightness and durability clauses[2] of the Building Code (First Schedule, Building Regulations 1992), given the age and the features of the remaining original construction.

[1] The Building Act, Building Code, Acceptable Solutions, past determinations and guidance documents issued by the Ministry are all available at www.building.govt.nz or by contacting the Ministry on 0800 242 243.

[2] In this determination, unless otherwise stated, references to sections are to sections of the current Act and references to clauses are to clauses of the Building Code.

1.4 The matters within this determination

1.4.1 The matters to be determined[3] are therefore whether the authority was correct to:

- refuse to issue a code compliance certificate for the original house (see paragraph 3.4)
- refuse an amendment to the building consent for repairs to the house (see paragraph 3.7).

1.4.2 In deciding these matters, I must consider whether:

- at the time the authority refused to issue the code compliance certificate the unrepaired house complied with Clauses B2 Durability, E2 External moisture and E3 Internal moisture, of the Building Code that was in force at the time the building consent was issued
- the building envelope if repaired as proposed would comply with Clauses B1 Structure, B2 Durability, and E2 External moisture of the Building Code.

1.4.3 In regard to the second question, the building envelope includes repair work carried out since the above refusal, the proposed repairs yet to be completed and the remaining original construction. The envelope includes the components of the systems (the wall cladding, the windows, the decks, the roof cladding and the pergolas) as well as the way components have been installed and work together. This matter includes compliance with Clause B1 Structure, insofar as it applies to weathertightness of the house.

1.4.4 In its correspondence, the authority limited its concerns to items associated with the clauses outlined in paragraph 1.4.2 above, and this determination does not consider compliance with other clauses of the Building Code.

1.4.5 I also note that the owners may apply to the authority for a modification of the durability provisions for the 16-year-old house to allow the durability periods specified in Clause B2.3.1 to commence from the date of substantial completion in 2001. While I leave this to the parties to resolve, I comment on the matter in paragraph 6.2.1.

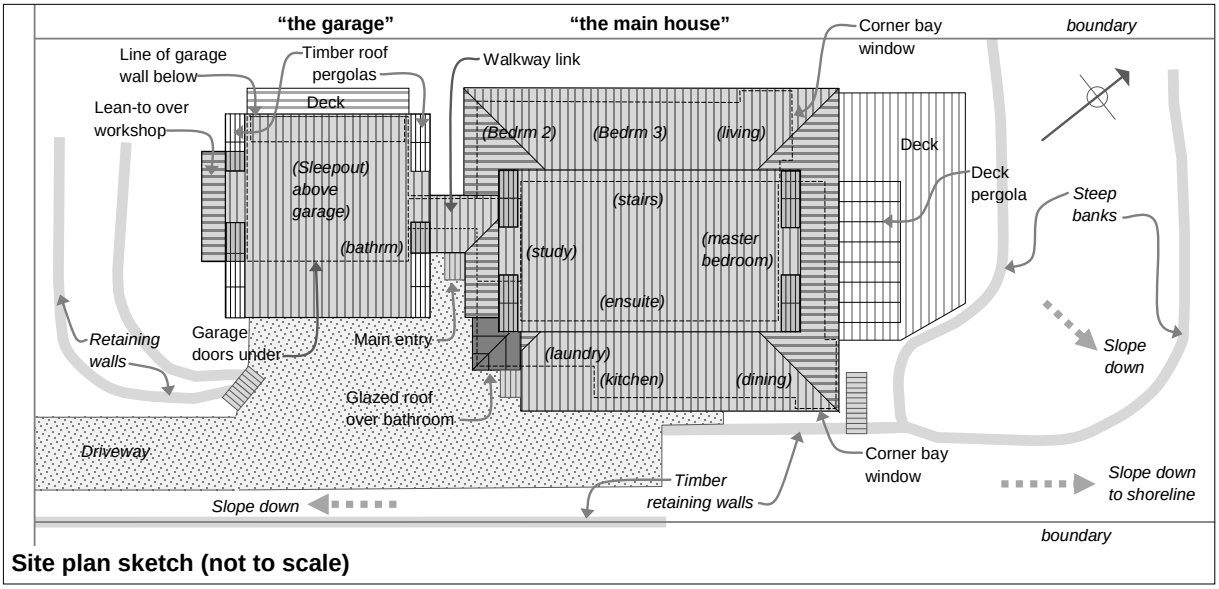
1.5 In making my decision, I have considered the submissions of the applicants, the report of the building surveyor engaged by the applicants ("the building surveyor"), the report of the expert commissioned by the Ministry to advise on this dispute ("the expert") and the other evidence in this matter.

2. The building work

2.1 The building work consists of a three bedroom house ("the main house") and a detached garage/sleepout ("the garage"), situated on a sloping coastal site in a sea spray and very high wind zone for the purposes of NZS 3604[4]. The garage is connected to the main house by a covered walkway ("the walkway") and the resulting configuration ("the house") is shown in Figure 1.

[3] Under sections 177(1)(a), 177(2)(b) and 177(2)(d) of the Act.
[4] New Zealand Standard NZS 3604:1999 Timber Framed Buildings

Figure 1: Approximate plan of the house



2.2 The main house provides:

- in the ground floor:
  - kitchen and living areas to the NE, opening onto a timber deck
  - two bedrooms in the west corner
  - bathroom and laundry in the south corner
  - a recessed main entry and foyer to the SW, with steps leading down to ground level and steps up to the covered walkway to the sleepout.
- in the upper level:
  - a master bedroom to the NE, with a void to the living area below
  - a study to the SW
  - ensuite, wardrobe and stairs between the bedroom and study.

2.3 The garage is more than a half-storey below the main house and provides:

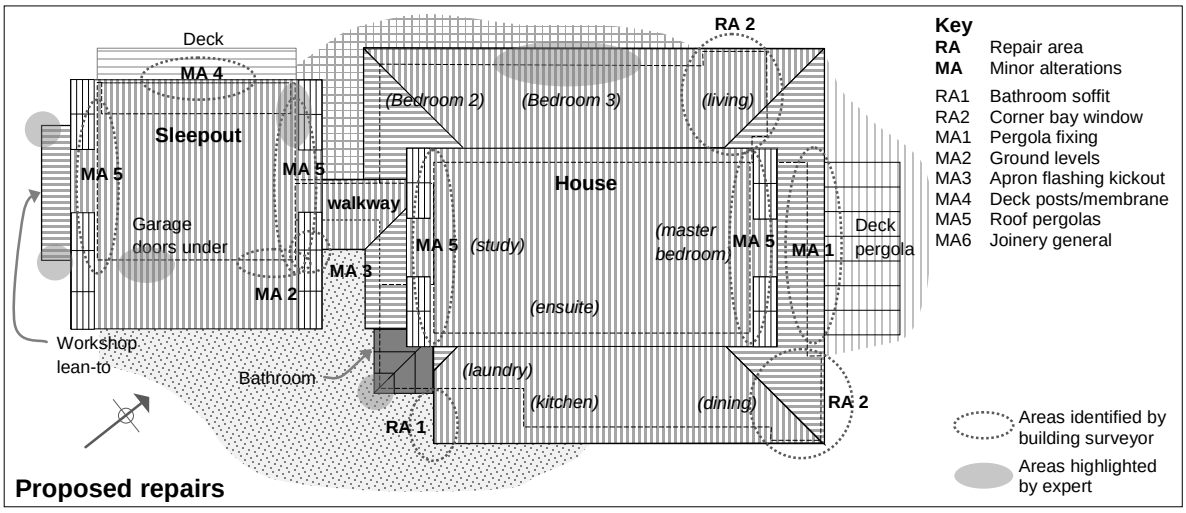
- a garage and workshop in the ground level
- an upper level bedroom and ensuite bathroom within the roof space
- an upper level timber deck, situated partly over the garage below.

2.4 Construction is generally conventional light timber frame, with concrete foundations and floor slab to the garage/sleepout, timber pole foundations to the main house, plywood wall cladding, aluminium windows and profiled metal roofing. The expert observed no timber markings on timber framing exposed during his investigation. Given the lack of evidence and the date of framing construction in 1999/2000, I consider the external framing is unlikely to be treated with preservative.

2.5 The wall cladding is H3 treated band-sawn unfinished plywood sheets fixed through the building wrap directly to the framing. 50 x 25mm timber battens (without weathergrooves) are fixed over joints and at intermediate positions to give the appearance of 'board and batten' cladding. Metal Z-flashings are installed to horizontal sheet joints. The plywood sheets are installed as 'linings' to the walkway, the recessed main entry and the upper wall to the sleepout deck; with no battens installed to most joints.

2.6 The proposed cladding repairs described in paragraph 3.6 are shown in Figure 2

Figure 2: Locations of proposed repairs (not to scale)



2.7 The roofs

2.7.1 The upper level roofs have gables, with the corrugated steel roof curved over the apex and verge overhangs of about 550mm. Decorative timber framed inserts ("the roof pergolas") are set within verge overhangs – extending from just below the curved central sections and down the 45° pitch to the gutter level, with no roof overhangs to those areas. The roof pergolas are supported on outriggers; with collar and tie beams, a king post up to the outrigger at the curved apex, and diagonal struts from the post to the ends of the collar beam.

2.7.2 The 25° pitch lower roof of the main house wraps around upper walls from the covered walkway, terminating above the south corner bathroom where a hipped glazed roof forms a lean-to against the clad ends. Eaves overhangs are about 600mm overall except above corner bay windows. A veranda extends above the SE laundry door and the end of the veranda soffit is framed and clad in plywood.

2.7.3 The roof of the garage/sleepout extends above the garage doors by about 1.8m to the SE, supported by angled timber struts. In the upper level, the roof extends to the NW to form a veranda above part of the upper deck. A 45° lean-to roof to the SE above the workshop area has no eaves or verge overhangs.

2.7.4 The walkway link has a 25° monopitched roof that turns at the house walls to form a canopy above the recessed main entry and entry steps. The walkway is open at the walls and the floor aligns with the sleepout floor, with steps down to the house level.

2.8 The decks

2.8.1 The building has three timber framed decks. The ground floor decks to the main house are spaced timber decking. The NE deck is at ground level, with no balustrades. The SE laundry veranda deck/stairs have open timber balustrades.

2.8.2 The garage/sleepout includes a 2m deep upper deck along the SW wall, which is partly situated above the garage below. The deck has open timber balustrades and the floor is butyl rubber membrane overlaid with spaced timber decking. The deck veranda is supported by wing walls at both ends with timber posts between.

3. Background

3.1 The authority issued a building consent (No. 61760) to the applicants on 9 July 1999 under the Building Act 1991 ("the former Act"). The authority carried out various inspections between September 1999 and May 2001 and the house appears to have been substantially completed by the end of 2001[5].

3.2 The 2002 and 2011 final inspections

3.2.1 Interior finishing work was completed in 2002 and the authority carried out the first final inspection on 11 September 2002. The authority's letter dated 17 September 2002 listed nine items to be completed before a code compliance certificate could be issued, which included the following items related to weathertightness:

- complete laundry landing and stairs (item 7)
- complete battening of plywood joints (item 8)
- lower ground levels around garage (item 9).

3.2.2 The applicants apparently completed landscaping and finishing work over the years but did not seek a code compliance certificate until they wished to sell the house in 2011. The authority carried out a second final inspection on 21 April 2011 and the inspection was recorded as a 'pass', with the record noting:

> Final recheck of inspection dated 17 September 2002 all items now completed.
> Note – No CCC issue due to age of consent.
> Building complies with Regulations at time of construction.

3.3 The first refusal to issue a code compliance certificate

3.3.1 In a letter to the applicants dated 28 April 2011, the authority refused to issue a code compliance certificate 'under Section 43(5)[6] of the Building Act 1991', although the authority also stated that it was:

> ...satisfied on reasonable grounds that the building work associated with the above building consent generally complies with the requirements of the Building Code in force at the time of its approval...

3.3.2 Despite acknowledging the compliance of the house, the authority explained that the reason for refusing the code compliance certificate was the time elapsed since the issue of the building consent, stating:

> The Building Act 1991 required that reasonable progress be made on building projects and although this building consent was issued on 9 July 1999, it is only 21 April 2011 that a final inspection has been requested.

3.3.3 The authority did not note that the applicants could apply for a determination if they disagreed with the decision. I also note that under section 41(b) of the former Act a building consent granted under that Act lapses and is of no effect if the building work has not commenced within six months or reasonable progress on the building work has not been made within 12 months; the delay is not a reason for refusing to issue a code compliance certificate for a completed building.

[5] QV included the house in its valuations from June 2001
[6] Section 43(5) of the 1991Act calls for the authority to provide reasons for its refusal

3.4 The 2015 final inspection

3.4.1 In 2015, the applicants again sought a code compliance certificate and the authority carried out a third final inspection on 23 February 2015, which noted the following 'failed elements' relating to the wall cladding:

> All openings and penetrations do not appear to be flashed and sealed
> - Use of sealant around most joins and flashings.
> - Exposed bay windows showing signs of possible moisture entry.
> - Cladding replaced above outside patio below master bedroom window, new head flashing also.
>
> Further investigation required.

3.4.2 In regard to 'old consent review' under the heading 'E2 Weathertightness report/investigation', the record also noted the need for a weathertightness report and, in an email to the applicants dated 23 February 2015, the authority provided 'comment in order to help with the process of obtaining the code compliance certificate', which included (in summary with the authority's reference numbers in brackets):

- (Item 1) Because of the age of the building and the moisture problems identified in the above inspection, past inspection records and a visual inspection do not provide reasonable grounds to establish compliance – and 'extensive weathertightness investigation will be necessary.'
- (Item 2) A building surveyor's weathertightness report is required as follows:
  - Report to confirm compliance with Clauses B2, E2 and E3 (Item 2a)
  - Conclusions to be based on adequate testing (Item 2b)
  - Repair proposals to be approved prior to commencing work (Item 2c)
  - Building surveyor to be agreed/confirmed prior to engagement (Item 2d).

3.4.3 The authority also attached 'further guidance and criteria to be considered as part of the weathertightness report/investigation.' The detailed notes covered the choice of a 'suitably qualified person' and minimum requirements for the report/investigation.

3.5 The building surveyor's report

3.5.1 Following the authority's advice, the applicants engaged a building surveyor to provide a report on the building work and also a builder to carry out any destructive investigation. The surveyor inspected the building on 3 December 2015 and 27 April 2016. The final report dated 11 August 2016 described the purpose of the report, noting that it was not:

> ...intended to indicate all possible areas of high moisture and all possible sites of timber decay, but establish if it fails on weathertightness based on Building Regulation E2. In addition, this report should not be used as the basis to develop the scope of any required remediation work, should that prove necessary. A full invasive and destructive investigation to the extent of any suspected water ingress and subsequent damage should always be done before any repairs are recommended [my emphasis].

3.5.2 The building surveyor's initial inspection included visual identification of potential defects and damage, with limited moisture testing carried out but no cladding or linings removed. The building surveyor noted (in summary):

- battens missing or deteriorated
- unflashed penetrations

- lack of kick-outs to apron flashings
- sealants deteriorating or missing
- deck membrane upstands require resealing
- insufficient ground clearances around the garage
- water stains and high moisture levels in the laundry veranda soffit
- very high moisture levels to corner bay windows.

3.5.3 The soffit lining was subsequently removed, revealing damaged timber where water had entered the cladding at the end of the veranda lean-to where a lower plywood sheet overlapped the upper sheet – allowing water through the horizontal joint.

3.5.4 The building surveyor also included the following general comments (in summary):

- The damage to the laundry veranda has a very clear cause and is isolated, so the limited decayed framing can be replaced and the cladding repaired.
- The high moisture levels to the bay windows require removal of cladding to establish the cause, with repair as necessary.
- There is no conclusive evidence that cladding or joinery had failed in the first 16 years, so the cladding has met the requirements of Clause E2.
- The repairs can therefore be carried out under Schedule 1 of the Act and do not require a building consent.

3.5.5 The report included a 'draft repair proposal' to remediate the identified weathertightness deficiencies and concluded that:

> Insofar as the non-invasive investigation enabled the survey, including the testing of exposed framing, the dwelling house that is the subject of this report is considered to meet the requirements of Clause E2...

3.6 The proposed repairs

3.6.1 During June and July 2016, when the limited extent of damage was revealed and the weathertightness report was being finalised, various discussions took place between the building surveyor, the builder and the authority. The authority maintained their position that drawings and building consent were required for the repairs.

3.6.2 Using copies of the original elevations, the building surveyor prepared two annotated drawings that identified the areas to be repaired (classified as 'minor alterations' or 'repairs to Areas 1 and 2') and outlined the repairs proposed (see paragraph 2.6 Figure 2). A third drawing provided limited details and specification notes.

3.6.3 Some repairs were classified as 'minor alterations' ("MA") as follows:

- MA1: pergola to NE deck to be spaced out from cladding
- MA2: ground levels to east corner of garage to be reduced
- MA3: kick-out to apron flashing to walkway roof/sleepout wall junction
- MA4: membrane to sleepout deck posts to be re-glued
- MA5: saddle flashings to roof pergola penetrations to be added
- MA6: new jamb sealants and battens to be installed to joinery.

3.6.4 The more significant repairs were to the following areas:

- Repair No. 1 ("RA1"): moisture penetration and damage to laundry soffit
- Repair No. 2 ("RA2"): moisture penetration to corner bay windows.

3.6.5 The drawings were submitted to the authority together with the final weathertightness report on 11 August 2016.

3.7 The refusal to approve the proposed repairs

3.7.1 The authority responded to the proposed repair work and the weathertightness report in an email to the building surveyor dated 24 August 2016. The authority requested further information on a number of areas to be repaired, including (in summary):

- the process for identifying and recording damage found during repairs, for deciding the necessary replacement and for allowing inspections during repairs
- the cause for the failure to the two bay windows and how the proposed repairs would fix or eliminate the cause(s)
- whether the joinery overhaul applies to all windows and doors or just the two corner bay windows
- how the re-installation of direct-fixed plywood could be justified, given the high weathertightness risks of the house
- the adequacy of the proposed saddle flashings to the roof pergola penetrations
- how the sleepout deck membrane would be re-glued at post penetrations
- the lack of specification for re-installing removed plywood cladding.

3.7.2 In regard to the weathertightness report, the authority noted its understanding that a final report would be prepared after completion of all repair work. However, the authority included the following comments (in summary):

- The purpose of the report is to provide reasonable grounds to be satisfied that the entire cladding is performing adequately, given its age.
- The high weathertightness risks of this building means that strong evidence is needed, so more extensive investigation is required, with 'strong and robust evidence of performance of the entire exterior cladding'.

3.8 Following discussions about the situation, the building surveyor wrote to the applicants on 31 August 2016, confirming his agreement with their decision to seek a determination on the matter. The surveyor noted that the authority appeared to be acting 'in an unreasonable manner by refusing to issue a code compliance certificate', given its 2011 written confirmation that the building was compliant and concluded:

> This is disappointing, in light of your agreement to have some repairs carried out that arose as a result of my survey and investigation, and despite the submission of the amendment, a repair schedule, repair drawings, and a weathertightness report.

3.9 The Ministry received an application for a determination on 23 September 2016.

4. The submissions

4.1 The applicants made a submission dated 21 September 2016, which outlined the background to the situation, noting that the lack of a code compliance certificate was impeding the sale of their property. The applicants included the following comments (in summary):

- After passing the final inspection in 2011, the authority refused to issue a code compliance certificate despite acknowledging the compliance of the work but did not mention that determination could be sought on the refusal.
- Since then all of the authority's requirements have been complied with, but the 2015 inspection resulted in a new list of requirements including a weathertightness report which has been provided.
- A builder was engaged to carry out repairs but there is now an impasse; the authority requires even more invasive testing, which we consider to be unnecessary and unreasonable given investigations carried out to date.
- The building surveyor and the builder do not believe that further testing is necessary, but the authority will not accept their professional opinions.

4.2 The applicants provided copies of:

- the drawings
- the building consent and inspection records
- the building surveyor's report dated 11 August 2016
- correspondence with the authority and the building surveyor
- a summary of events
- various other information.

4.3 The authority made no submission in response to the application.

4.4 A draft determination was issued to the parties for comment on 1 March 2017.

4.5 The applicant responded on 27 March 2017, noting that the window that had been replaced (refer paragraph 5.4.2) was due to the authority's inspection in 2011 which highlighted that the existing window was not compliant because it was too low.

4.6 Despite a reminder on 24 April 2017, the authority did not respond to the draft.

5. The expert's report

5.1 As mentioned in paragraph 1.5, I engaged an independent expert to assist me. The expert is a member of the New Zealand Institute of Building Surveyors and inspected the house on 22 November 2016; providing a report completed on 31 January 2017, which was forwarded to the parties the next day.

5.2 The expert assessed the compliance of the building with associated parts of Clauses B1, B2, E2, and E3 of the Building Code in respect of the authority's refusal to issue the code compliance certificate, and in relation to the proposed remedial building work.

5.3 General

5.3.1 The expert noted that the A4 drawings were difficult to read but the overall 'architectural shape and form of the building appears to be largely in accordance with the consented drawings', with the following discrepancies observed:

- bay window added to north corner of living area
- east corner bay window increased in size
- various other minor joinery changes.

5.3.2 The expert considered the building work was 'tidily presented and appears to have been reasonably well maintained'. The exterior cladding and internal linings were 'generally straight and fair of finish' except for defects identified in the plywood cladding and described within his report.

5.3.3 The expert assessed the plywood cladding system against the manufacturer's instructions and recommendations by BRANZ[7] at the time of installation. The expert noted that some of the minor repairs in the repair drawings had already been undertaken. The following paragraphs cover items not included within the drawings while the proposed repairs are considered separately in Table 1.

5.3.4 The expert noted that although plywood cladding and trim is 'neatly finished' in most areas, some trim is missing on the sleepout walls. Although these unbattened areas are sheltered from rainwater, the resulting gaps can lead to rodent entry and water penetration when washing the cladding.

5.4 The windows

5.4.1 The windows had originally been face-fixed over the plywood, with metal head flashings and no sill flashings. The building surveyor had photographed sealant poorly applied to some window flanges, but there is no evidence of seals beneath jamb flanges. The expert noted that battens had recently been installed to some windows (see Table 1 for assessment).

5.4.2 The expert noted that the NE master bedroom window had been replaced (and I note that the building surveyor's photograph[8] shows the gable end wall clad in new plywood up to the battened horizontal joint). It therefore appears that this window and surrounding cladding had been replaced prior to the surveyor's 2016 inspections. The expert noted that the new window had:

- reasonably well installed head and sill flashings
- visible seal strip behind jamb flanges
- battens (with sloped tops and no weathergrooves) installed up to sill flashing.

5.5 External corner junctions

5.5.1 During his inspection of the bay windows, the expert noted and removed a loose batten at the south corner below the bathroom window sill. In order to assess other external corner junctions, he also removed corner battens from the west corner of the garage workshop and noted the following:

- some gaps in the corner building wrap

[7] Good Timber Cladding Practice published February 1997
[8] Weathertightness Report, Page 84, photograph

- gaps between sheets greater than recommended for expansion
- no metal back-flashings behind the plywood
- at the bathroom window, the angled tops to battens exposed at the sill
- exposed framing water-stained and the presence of ants indicating moisture ingress
- workshop bottom plate dark stained, with elevated moisture levels.

5.6 Horizontal flashings

5.6.1 The expert assessed horizontal flashings to the plywood cladding, noting that:

- in some areas, the upper plywood sheet is finished hard down onto the metal flashing, which does not accord with manufacturer's instructions
- although the bottom of the sheet is hard to maintain, there is no indication of moisture penetration as a result and the cladding is more than 15 years old
- the upper joint on the NE master bedroom wall is the most exposed to the shoreline – and is battened and partially sealed in contrast to more sheltered elevations, which is likely to indicate a past problem (see paragraph 5.4.2).

5.7 Cladding penetrations

5.7.1 The expert assessed cladding penetrations, noting:

- the meter box near the south corner of the workshop lacks flashings or a roof overhang above, with a ruler able to be inserted through the junction
- although the garage door lacks a head flashing, the door head is sheltered below a 2m deep roof overhang so is not considered at risk.

5.8 Clearances

5.8.1 The expert assessed clearances below the plywood cladding, noting:

- as well as ground levels to east corner of garage (see Table 1); the NE cladding at the north corner lacks clearance above the paving, with a small cut-out revealing visible decay to the bottom plate and the back of the plywood
- plywood adjacent to garage door south jamb butts against unfinished ground
- although some clearances to the NW elevation of the main house are reduced, the paving is well drained, the eaves overhang reduces exposure to rain and there is no indication of water penetration.

5.9 The proposed repairs

5.9.1 The expert investigated repair areas 1 and 2 (RA1 and RA2) and the 'minor alterations' (MA1 to MA6) as identified in the repair drawings (see paragraph 3.6). Table 1 summarises his findings and conclusions.

Table 1: Expert's comments in relation to the proposed repairs

Areas of repair (see Figure 2)		**Expert's comments**	**Expert's conclusion**
RA1	Laundry soffit framing	• Lower plywood proud of upper • Framing to clad end of soffit decayed • No visible sign of damage to lower walls, but framing needs to be exposed to check	Scope of proposed repair sufficient to address defect, but further investigation of the framing below the bulkhead is required to check for damage
RA2	Corner bay windows	• Cladding removed to expose framing • Framing below north window decayed • Framing below east window stained • No metal flashing under corner cladding • Battens were in poor condition, with tops exposed to rain penetration • Sill flashing detail still exposes batten tops • (I also note battens lack weathergrooves)	Proposed details insufficient Further bay window and corner details required
MA1	Pergola to NE deck	• Pergola plate now spaced off cladding	Satisfactory
MA2	Ground levels to east corner of garage	• Some plywood sheets replaced • Sheets fixed hard against concrete slab edge • Framing condition not verified • Clearances still limited • Not in accord with proposed details	Further areas need attention Current repair not satisfactory Scope of proposed repair work is not sufficient to address the defect
MA3	Kick-out to walkway apron flashing	• End of apron flashing underlaps plywood horizontal flashing	Scope of proposed repair sufficient to address defect
MA4	Membrane to sleepout deck	• Membrane in good condition except for turn-ups at post penetrations	Scope of proposed repair sufficient to address defect
MA5	Saddle flashings to roof pergola penetrations	• Exposed ends of beams weathered • Some flashings already installed • Proposed work allows for investigation of underlying flashing and framing • No visual evidence of failure	Scope of proposed repair sufficient to address defect
MA6	Renew joinery jamb sealants, install new jamb battens	• Timber jamb and sill battens with weathergrooves installed to some windows • Sill flashings not installed • Sill batten with flat top hard against sill flange • Moisture readings to sill low	Proposed details insufficient: Specification, Sill details, Identification of windows to be repaired

5.10 Weathertightness summary

5.10.1 The expert noted that the following items had not been covered in the proposed repair drawings:

- the need for further investigation of the timber condition
- the lack of back flashings to plywood corners
- the lack of flashings to the meter box
- the lack of cladding clearances to some further areas

- the lack of batten trim to some wall areas.

5.10.2 The expert also commented on the authority's general concerns (refer paragraph 3.7.1), and his conclusions are shown in Table 2.

Table 2: the expert's conclusions on general concerns

The authority's concerns	Expert's comments	Expert's conclusion	Para.
Whether surveyor's investigation was sufficient	• Further issues identified during investigation	**Not sufficient**	5.9.1
Whether joinery overhaul limited to bay windows only	• Bathroom joinery needs investigating • Remaining joinery performing satisfactorily • Window specification, details and locations insufficient	**Further investigation required** **Further detail required in proposal**	5.4 5.9.1
Whether reinstalling direct fixed plywood justified.	• Damage limited and localised • Leaking not systemic • Plywood allows targeted repair • Most plywood cladding has already met 15 year durability requirement	**Reinstalling justified**	5.3.2

5.11 Clause B1 Structure

5.11.1 The expert observed 'visibly decayed timber framing' in localised areas, which raises doubts about the structural compliance of framing at:

- the end wall of the laundry soffit
- the north bay window
- the garage bottom plate.

5.11.2 At the recessed entry beneath the walkway where a pole/beam configuration supports the roof, the expert also noted that:

- the larger beam is well connected to the support post with angle brackets
- the upper beam sits on top of the post with a single bolted connection to the top of the lower angle bracket, which allows the upper beam to twist.

5.11.3 The expert also observed corrosion to the sleepout roof strap bracing and to a structural connector at the laundry soffit/post junction. Other structural elements appeared well installed, although there was an inconsistent mix of stainless steel and galvanised steel connectors and bolts.

5.12 Clause E3 Internal Moisture

5.12.1 The expert inspected the bathrooms, noting the following in the ensuite shower:

- sealant is used at the junction of the shower laminate wall linings with the tiled floor, in contrast to current recommendations for a tiled upstand
- the undertile membrane is assumed to include a 150mm upstand, which would prevent any moisture penetrating the sealant joint from entering framing
- although non-invasive moisture readings were slightly elevated at the bottom of the laminate, there was no indication of delamination of the shower linings

- particle board flooring in adjacent rooms would rapidly indicate any leakage from the shower, but the material was in 'immaculate condition'.

5.12.2 Taking the above into account, the expert considered that the shower waterproofing had been performing adequately over the past 16 years, and therefore complied with Clause E3 of the Building Code. Notwithstanding the expert's conclusion as to compliance, I note the elevated moisture readings at the bottom of the shower laminate and emphasise the need to maintain sealants to wet areas to ensure ongoing compliance with Clause E3 (see paragraph 6.4.2).

6. Discussion

6.1 The refusal to issue the code compliance certificate

6.1.1 The building consent considered in this determination was issued under the former Act, and accordingly the transitional provisions of the current Act apply when considering the issue of a code compliance certificate for work completed under this consent. Section 436(3)(b)(i) of the transitional provisions of the current Act requires the authority to issue a code compliance certificate only if it 'is satisfied that the building work concerned complies with the Building Code that applied at the time the building consent was granted'.

6.1.2 The authority's final inspection in February 2015 identified areas at risk of moisture ingress and recorded 'signs of possible moisture entry', and the authority reached a view it could not be satisfied on reasonable grounds that the building complied without the results of further investigation. The subsequent weathertightness investigations, and resulting report in 2016 (see paragraph 3.5), confirmed that the building envelope of the house did not fully comply with Clauses B2 and E2 at the time the authority refused to issue the code compliance certificate. I conclude that the authority was correct in its decision in 2015 to refuse to issue the code compliance certificate.

6.2 The current performance of the building

6.2.1 An application can be made to the authority for a modification of durability requirements to allow durability periods to commence from the date of substantial completion in 2001. Although that matter is not part of this determination (see paragraph 1.4.5), I have taken an anticipated modification into account that the external building envelope was completed by around June 2001 when considering the weathertightness performance of the claddings.

6.2.2 Generally the claddings appear to have been installed in accordance with good trade practice and the manufacturer's recommendations at the time of construction and have, with the exception of areas referred to in this determination, performed for the minimum 15 years required by Clause B2.

6.2.3 However, I note the expert's comments in Table 1 and paragraph 5.10.1, and I consider that the following areas require attention:

- the framed wall to the end of the laundry soffit
- the lack of back flashings to plywood corner junctions
- the corner below the bathroom window
- the lack of cladding clearances to some areas

- the lack of batten trim to some wall areas
- the sill battens to repaired windows and lack of detail for window remediation
- the horizontal joint above the master bedroom window
- the lack of flashings to the meter box
- the lack of weathergrooves to battens over critical plywood junctions
- further moisture testing and investigation into the condition of timber framing in areas with identified defects, including the condition of:
    - framing below the decayed soffit framing
    - framing below the north corner bay window
    - lower framing to the east corner of the garage
    - framing at roof pergola penetrations
    - corner framing behind unflashed plywood junctions
    - bottom plates to areas with insufficient clearances
    - framing around the recently installed master bedroom window.

6.2.4 I consider the expert's report establishes that the current performance of the building envelope is not adequate because there is evidence of ongoing moisture penetration into a number of areas of the timber framing, with timber damage to at least three areas. Consequently, I am satisfied that the cladding does not comply with Clause E2 of the Building Code. Because of the timber damage and the potential for further hidden damage, I am also satisfied that the timber framing may not comply with Clause B1.

6.2.5 Although roof and wall claddings are now 16 years old, the building surveyor's and the expert's investigations have revealed evidence of moisture ingress over an extended period. The evidence of current and past moisture penetration therefore satisfies me that the cladding has not complied with Clause B2 insofar as it applies to both Clauses B1 and E2.

6.2.6 Taking account of the expert's comments as outlined in Table 1, I am satisfied that the following areas require structural verification and/or appropriate repairs:

- the structural adequacy of the post/beam connection at the recessed entry
- the corroded bolts and connectors.

6.2.7 Taking account of the expert's report and the inspection records, I am satisfied that the house complies with Clause E3 of the Building Code.

6.3 The proposed remedial building work

6.3.1 The weathertightness and durability of the building envelope, if repaired as proposed, will be dependent on: design features in this house that increase weathertightness risks; features that protect the claddings and underlying framing; features included in the cladding system; the workmanship of the installed claddings; and the consequences of any potential failure on underlying construction.

6.3.2 The original house has certain environmental and design features, which influence its weathertightness risk profile and the proposed repairs will not change that risk profile. Using the E2/AS1 risk matrix to evaluate the building's features, elevations are assessed as having a medium to high weathertightness risk rating.

6.3.3 The house is also required to comply with the durability requirements of Clause B2, which requires a building to satisfy all the objectives of the Building Code throughout its effective life. The durability requirements of Clause B2 include a requirement for wall claddings to remain weathertight for a minimum of 15 years and for timber framing to remain structurally adequate for a minimum of 50 years. Because the expected life of the underlying structure is considerably longer, claddings need to protect the underlying structure of the house for a further 35 years to meet its minimum required life of 50 years.

6.3.4 In considering the proposed remedial work provided, and taking into account the expert's comments, I am of the view that the repairs proposed (in the drawings dated 3 August 2016) are not adequate to ensure that the repaired building will comply with Clauses B1 Structure, B2 Durability and E2 External moisture.

6.3.5 I consider that final decisions on whether compliance can best be achieved by either remediation or re-cladding, or a combination of both, can only be made after further investigation of the cladding and underlying timber framing. This will require careful analysis by an appropriately qualified expert, and should include an investigation of the condition of the underlying framing. Once that decision is made, the chosen remedial option should be submitted to the authority for its approval.

6.4 Maintenance

6.4.1 The expert and the building surveyor identified some areas where a lack of finishing or maintenance has lead to deterioration of claddings and components. Although a modification of durability provisions will mean that most areas of the claddings have already met the 15 years required by the Building Code, the expected life of the building as a whole is considerably longer.

6.4.2 Maintenance is also required to interior areas such as showers, where sealants protect against internal moisture penetration into the underlying timber framed walls. Careful maintenance is needed and must continue to ensure that claddings and wet area linings continue to protect the underlying framing for its minimum required life of 50 years for the structure.

6.4.3 Effective maintenance of the house is important to ensure ongoing compliance with the Building Code and is the responsibility of the building owner. The Ministry has previously described maintenance requirements associated with the external building envelope, including examples where the external wall framing of the building may not be treated to a level that will resist the onset of decay if it gets wet (for example, Determination 2007/60).

6.5 Durability modification

6.5.1 The relevant provision of Clause B2 of the Building Code requires that building elements must, with only normal maintenance, continue to satisfy the performance requirements of the Building Code for certain periods ("durability periods") "from the time of issue of the applicable code compliance certificate" (Clause B2.3.1).

6.5.2 In this case the 16-year delay since completion of the building in 2001 raises concerns that many elements of the building work are now beyond their required durability periods, and would consequently no longer comply with Clause B2 if code compliance certificates were to be issued effective from today's date.

6.5.3 I have considered this issue in previous determinations and maintain the view that:

(a) the authority has the power to grant an appropriate modification of Clause B2 in respect of all the building elements, if requested by an owner

(b) it is reasonable to grant such a modification, with appropriate notification, as in practical terms the extension is no different from what it would have been if a code compliance certificate for the building work had been issued at the time of substantial completion in 2001.

I therefore leave the matter of amending the building consents to modify Clause B2.3.1 to the parties once any other outstanding matters are resolved.

7. What happens next?

7.1 I note the building consent was issued to the applicants as the current owners of the house and the authority may issue a notice to fix that requires the applicants to bring the house into compliance with the Building Code. The notice should include the investigations and defects identified in paragraphs 6.2.2 and 6.2.6; and refer to any further defects that might be discovered in the course of investigation and rectification.

7.2 The applicant can then produce a response to the notice in the form of a detailed proposal to specifically address the matters of non-compliance and investigation for the areas identified, produced in conjunction with a competent and suitably experienced person, as to the investigation and rectification or otherwise of the specified matters. Any outstanding items of disagreement can then be referred to the Chief Executive for a further binding determination. A code compliance certificate will be able to be issued once these matters have been rectified and the matter of amending the building consent to modify Clause B2.3.1 has been resolved.

8. The decision

8.1 In accordance with section 188 of the Building Act 2004, I hereby determine that, in regard to the Building Code that was in force at the time the building consent was issued in 2000:

- some parts of the timber framing do not comply with Building Code Clauses B1 and B2
- some parts of the external wall cladding do not comply with Building Code Clauses E2 and B2

and accordingly, I confirm the authority's decision to refuse to issue a code compliance certificate for the house.

8.2 I also determine that the repairs proposed in the drawings dated 3 August 2016 are not sufficient to ensure that the repaired building will comply with Clauses B1 Structure, B2 Durability and E2 External moisture of the Building Code, and accordingly I confirm the authority's decision to refuse to issue an amendment to the building consent for the proposed building work.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 11 May 2017.

John Gardiner
Manager Determinations and Assurance

MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HIKINA WHAKATUTUKI

Determination 2017/029

Regarding the refusal to grant an amendment to a building consent and issue a code compliance certificate for a 16-year-old house with plywood cladding at 433 Pukehina Parade, Te Puke

Summary

This determination is concerned with the compliance of repairs proposed to the external building envelope and considers whether the authority was correct to refuse to grant an amendment to the building consent. The determination also considers the authority's refusal to issue the code compliance certificate.

1. The matters to be determined

1.1 This is a determination under Part 3 Subpart 1 of the Building Act 2004[1] ("the current Act") made under due authorisation by me, John Gardiner, Manager Determinations and Assurance, Ministry of Business, Innovation and Employment ("the Ministry"), for and on behalf of the Chief Executive of the Ministry.

1.2 The parties to the determination are:

- the owners of the house, A and T Murray ("the applicants")
- Western Bay of Plenty District Council ("the authority"), carrying out its duties as a territorial authority or building consent authority.

1.3 This determination arises from the decision of the authority to refuse to issue a code compliance certificate for a 16-year-old house and its refusal to grant an amendment to the building consent for remedial building work. The authority is not satisfied that the proposed remediation is sufficient to result in the repaired house complying with the weathertightness and durability clauses[2] of the Building Code (First Schedule, Building Regulations 1992), given the age and the features of the remaining original construction.

[1] The Building Act, Building Code, Acceptable Solutions, past determinations and guidance documents issued by the Ministry are all available at www.building.govt.nz or by contacting the Ministry on 0800 242 243.

[2] In this determination, unless otherwise stated, references to sections are to sections of the current Act and references to clauses are to clauses of the Building Code.

1.4 The matters within this determination

1.4.1 The matters to be determined[3] are therefore whether the authority was correct to:

- refuse to issue a code compliance certificate for the original house (see paragraph 3.4)
- refuse an amendment to the building consent for repairs to the house (see paragraph 3.7).

1.4.2 In deciding these matters, I must consider whether:

- at the time the authority refused to issue the code compliance certificate the unrepaired house complied with Clauses B2 Durability, E2 External moisture and E3 Internal moisture, of the Building Code that was in force at the time the building consent was issued
- the building envelope if repaired as proposed would comply with Clauses B1 Structure, B2 Durability, and E2 External moisture of the Building Code.

1.4.3 In regard to the second question, the building envelope includes repair work carried out since the above refusal, the proposed repairs yet to be completed and the remaining original construction. The envelope includes the components of the systems (the wall cladding, the windows, the decks, the roof cladding and the pergolas) as well as the way components have been installed and work together. This matter includes compliance with Clause B1 Structure, insofar as it applies to weathertightness of the house.

1.4.4 In its correspondence, the authority limited its concerns to items associated with the clauses outlined in paragraph 1.4.2 above, and this determination does not consider compliance with other clauses of the Building Code.

1.4.5 I also note that the owners may apply to the authority for a modification of the durability provisions for the 16-year-old house to allow the durability periods specified in Clause B2.3.1 to commence from the date of substantial completion in 2001. While I leave this to the parties to resolve, I comment on the matter in paragraph 6.2.1.

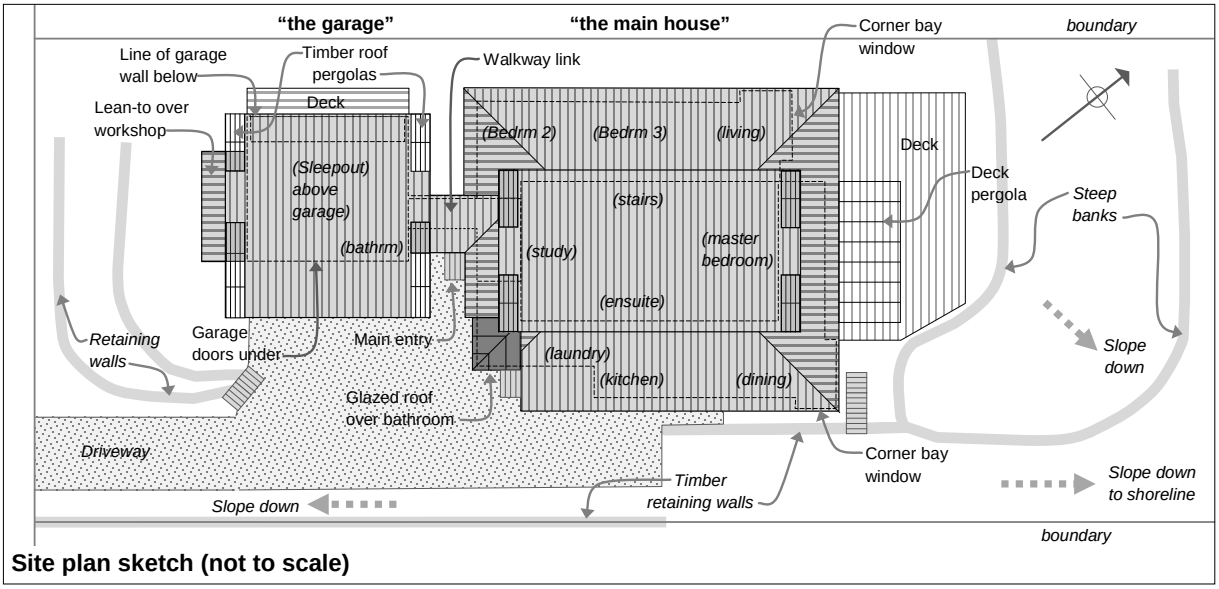
1.5 In making my decision, I have considered the submissions of the applicants, the report of the building surveyor engaged by the applicants ("the building surveyor"), the report of the expert commissioned by the Ministry to advise on this dispute ("the expert") and the other evidence in this matter.

2. The building work

2.1 The building work consists of a three bedroom house ("the main house") and a detached garage/sleepout ("the garage"), situated on a sloping coastal site in a sea spray and very high wind zone for the purposes of NZS 3604[4]. The garage is connected to the main house by a covered walkway ("the walkway") and the resulting configuration ("the house") is shown in Figure 1.

[3] Under sections 177(1)(a), 177(2)(b) and 177(2)(d) of the Act.
[4] New Zealand Standard NZS 3604:1999 Timber Framed Buildings

Figure 1: Approximate plan of the house



2.2 The main house provides:

- in the ground floor:
  - kitchen and living areas to the NE, opening onto a timber deck
  - two bedrooms in the west corner
  - bathroom and laundry in the south corner
  - a recessed main entry and foyer to the SW, with steps leading down to ground level and steps up to the covered walkway to the sleepout.
- in the upper level:
  - a master bedroom to the NE, with a void to the living area below
  - a study to the SW
  - ensuite, wardrobe and stairs between the bedroom and study.

2.3 The garage is more than a half-storey below the main house and provides:

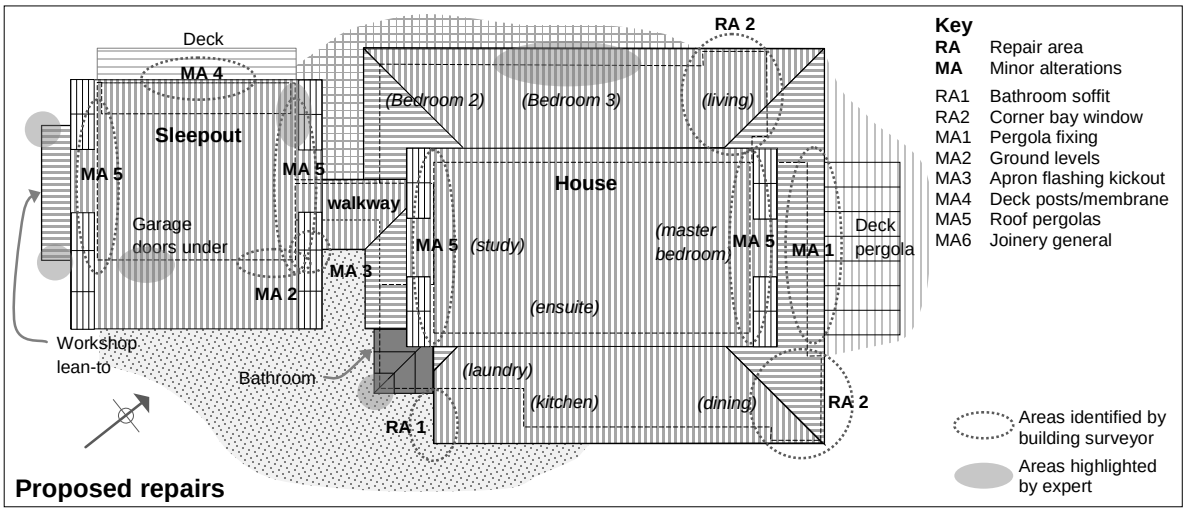
- a garage and workshop in the ground level
- an upper level bedroom and ensuite bathroom within the roof space
- an upper level timber deck, situated partly over the garage below.

2.4 Construction is generally conventional light timber frame, with concrete foundations and floor slab to the garage/sleepout, timber pole foundations to the main house, plywood wall cladding, aluminium windows and profiled metal roofing. The expert observed no timber markings on timber framing exposed during his investigation. Given the lack of evidence and the date of framing construction in 1999/2000, I consider the external framing is unlikely to be treated with preservative.

2.5 The wall cladding is H3 treated band-sawn unfinished plywood sheets fixed through the building wrap directly to the framing. 50 x 25mm timber battens (without weathergrooves) are fixed over joints and at intermediate positions to give the appearance of 'board and batten' cladding. Metal Z-flashings are installed to horizontal sheet joints. The plywood sheets are installed as 'linings' to the walkway, the recessed main entry and the upper wall to the sleepout deck; with no battens installed to most joints.

2.6 The proposed cladding repairs described in paragraph 3.6 are shown in Figure 2

Figure 2: Locations of proposed repairs (not to scale)



2.7 The roofs

2.7.1 The upper level roofs have gables, with the corrugated steel roof curved over the apex and verge overhangs of about 550mm. Decorative timber framed inserts ("the roof pergolas") are set within verge overhangs – extending from just below the curved central sections and down the 45° pitch to the gutter level, with no roof overhangs to those areas. The roof pergolas are supported on outriggers; with collar and tie beams, a king post up to the outrigger at the curved apex, and diagonal struts from the post to the ends of the collar beam.

2.7.2 The 25° pitch lower roof of the main house wraps around upper walls from the covered walkway, terminating above the south corner bathroom where a hipped glazed roof forms a lean-to against the clad ends. Eaves overhangs are about 600mm overall except above corner bay windows. A veranda extends above the SE laundry door and the end of the veranda soffit is framed and clad in plywood.

2.7.3 The roof of the garage/sleepout extends above the garage doors by about 1.8m to the SE, supported by angled timber struts. In the upper level, the roof extends to the NW to form a veranda above part of the upper deck. A 45° lean-to roof to the SE above the workshop area has no eaves or verge overhangs.

2.7.4 The walkway link has a 25° monopitched roof that turns at the house walls to form a canopy above the recessed main entry and entry steps. The walkway is open at the walls and the floor aligns with the sleepout floor, with steps down to the house level.

2.8 The decks

2.8.1 The building has three timber framed decks. The ground floor decks to the main house are spaced timber decking. The NE deck is at ground level, with no balustrades. The SE laundry veranda deck/stairs have open timber balustrades.

2.8.2 The garage/sleepout includes a 2m deep upper deck along the SW wall, which is partly situated above the garage below. The deck has open timber balustrades and the floor is butyl rubber membrane overlaid with spaced timber decking. The deck veranda is supported by wing walls at both ends with timber posts between.

3. Background

3.1 The authority issued a building consent (No. 61760) to the applicants on 9 July 1999 under the Building Act 1991 ("the former Act"). The authority carried out various inspections between September 1999 and May 2001 and the house appears to have been substantially completed by the end of 2001[5].

3.2 The 2002 and 2011 final inspections

3.2.1 Interior finishing work was completed in 2002 and the authority carried out the first final inspection on 11 September 2002. The authority's letter dated 17 September 2002 listed nine items to be completed before a code compliance certificate could be issued, which included the following items related to weathertightness:

- complete laundry landing and stairs (item 7)
- complete battening of plywood joints (item 8)
- lower ground levels around garage (item 9).

3.2.2 The applicants apparently completed landscaping and finishing work over the years but did not seek a code compliance certificate until they wished to sell the house in 2011. The authority carried out a second final inspection on 21 April 2011 and the inspection was recorded as a 'pass', with the record noting:

> Final recheck of inspection dated 17 September 2002 all items now completed.
> Note – No CCC issue due to age of consent.
> Building complies with Regulations at time of construction.

3.3 The first refusal to issue a code compliance certificate

3.3.1 In a letter to the applicants dated 28 April 2011, the authority refused to issue a code compliance certificate 'under Section 43(5)[6] of the Building Act 1991', although the authority also stated that it was:

> ...satisfied on reasonable grounds that the building work associated with the above building consent generally complies with the requirements of the Building Code in force at the time of its approval...

3.3.2 Despite acknowledging the compliance of the house, the authority explained that the reason for refusing the code compliance certificate was the time elapsed since the issue of the building consent, stating:

> The Building Act 1991 required that reasonable progress be made on building projects and although this building consent was issued on 9 July 1999, it is only 21 April 2011 that a final inspection has been requested.

3.3.3 The authority did not note that the applicants could apply for a determination if they disagreed with the decision. I also note that under section 41(b) of the former Act a building consent granted under that Act lapses and is of no effect if the building work has not commenced within six months or reasonable progress on the building work has not been made within 12 months; the delay is not a reason for refusing to issue a code compliance certificate for a completed building.

[5] QV included the house in its valuations from June 2001
[6] Section 43(5) of the 1991Act calls for the authority to provide reasons for its refusal

3.4 The 2015 final inspection

3.4.1 In 2015, the applicants again sought a code compliance certificate and the authority carried out a third final inspection on 23 February 2015, which noted the following 'failed elements' relating to the wall cladding:

> All openings and penetrations do not appear to be flashed and sealed
> - Use of sealant around most joins and flashings.
> - Exposed bay windows showing signs of possible moisture entry.
> - Cladding replaced above outside patio below master bedroom window, new head flashing also.
>
> Further investigation required.

3.4.2 In regard to 'old consent review' under the heading 'E2 Weathertightness report/investigation', the record also noted the need for a weathertightness report and, in an email to the applicants dated 23 February 2015, the authority provided 'comment in order to help with the process of obtaining the code compliance certificate', which included (in summary with the authority's reference numbers in brackets):

- (Item 1) Because of the age of the building and the moisture problems identified in the above inspection, past inspection records and a visual inspection do not provide reasonable grounds to establish compliance – and 'extensive weathertightness investigation will be necessary.'
- (Item 2) A building surveyor's weathertightness report is required as follows:
  - Report to confirm compliance with Clauses B2, E2 and E3 (Item 2a)
  - Conclusions to be based on adequate testing (Item 2b)
  - Repair proposals to be approved prior to commencing work (Item 2c)
  - Building surveyor to be agreed/confirmed prior to engagement (Item 2d).

3.4.3 The authority also attached 'further guidance and criteria to be considered as part of the weathertightness report/investigation.' The detailed notes covered the choice of a 'suitably qualified person' and minimum requirements for the report/investigation.

3.5 The building surveyor's report

3.5.1 Following the authority's advice, the applicants engaged a building surveyor to provide a report on the building work and also a builder to carry out any destructive investigation. The surveyor inspected the building on 3 December 2015 and 27 April 2016. The final report dated 11 August 2016 described the purpose of the report, noting that it was not:

> ...intended to indicate all possible areas of high moisture and all possible sites of timber decay, but establish if it fails on weathertightness based on Building Regulation E2. In addition, this report should not be used as the basis to develop the scope of any required remediation work, should that prove necessary. A full invasive and destructive investigation to the extent of any suspected water ingress and subsequent damage should always be done before any repairs are recommended [my emphasis].

3.5.2 The building surveyor's initial inspection included visual identification of potential defects and damage, with limited moisture testing carried out but no cladding or linings removed. The building surveyor noted (in summary):

- battens missing or deteriorated
- unflashed penetrations

- lack of kick-outs to apron flashings
- sealants deteriorating or missing
- deck membrane upstands require resealing
- insufficient ground clearances around the garage
- water stains and high moisture levels in the laundry veranda soffit
- very high moisture levels to corner bay windows.

3.5.3 The soffit lining was subsequently removed, revealing damaged timber where water had entered the cladding at the end of the veranda lean-to where a lower plywood sheet overlapped the upper sheet – allowing water through the horizontal joint.

3.5.4 The building surveyor also included the following general comments (in summary):

- The damage to the laundry veranda has a very clear cause and is isolated, so the limited decayed framing can be replaced and the cladding repaired.
- The high moisture levels to the bay windows require removal of cladding to establish the cause, with repair as necessary.
- There is no conclusive evidence that cladding or joinery had failed in the first 16 years, so the cladding has met the requirements of Clause E2.
- The repairs can therefore be carried out under Schedule 1 of the Act and do not require a building consent.

3.5.5 The report included a 'draft repair proposal' to remediate the identified weathertightness deficiencies and concluded that:

> Insofar as the non-invasive investigation enabled the survey, including the testing of exposed framing, the dwelling house that is the subject of this report is considered to meet the requirements of Clause E2...

3.6 The proposed repairs

3.6.1 During June and July 2016, when the limited extent of damage was revealed and the weathertightness report was being finalised, various discussions took place between the building surveyor, the builder and the authority. The authority maintained their position that drawings and building consent were required for the repairs.

3.6.2 Using copies of the original elevations, the building surveyor prepared two annotated drawings that identified the areas to be repaired (classified as 'minor alterations' or 'repairs to Areas 1 and 2') and outlined the repairs proposed (see paragraph 2.6 Figure 2). A third drawing provided limited details and specification notes.

3.6.3 Some repairs were classified as 'minor alterations' ("MA") as follows:

- MA1: pergola to NE deck to be spaced out from cladding
- MA2: ground levels to east corner of garage to be reduced
- MA3: kick-out to apron flashing to walkway roof/sleepout wall junction
- MA4: membrane to sleepout deck posts to be re-glued
- MA5: saddle flashings to roof pergola penetrations to be added
- MA6: new jamb sealants and battens to be installed to joinery.

3.6.4 The more significant repairs were to the following areas:

- Repair No. 1 ("RA1"): moisture penetration and damage to laundry soffit
- Repair No. 2 ("RA2"): moisture penetration to corner bay windows.

3.6.5 The drawings were submitted to the authority together with the final weathertightness report on 11 August 2016.

3.7 The refusal to approve the proposed repairs

3.7.1 The authority responded to the proposed repair work and the weathertightness report in an email to the building surveyor dated 24 August 2016. The authority requested further information on a number of areas to be repaired, including (in summary):

- the process for identifying and recording damage found during repairs, for deciding the necessary replacement and for allowing inspections during repairs
- the cause for the failure to the two bay windows and how the proposed repairs would fix or eliminate the cause(s)
- whether the joinery overhaul applies to all windows and doors or just the two corner bay windows
- how the re-installation of direct-fixed plywood could be justified, given the high weathertightness risks of the house
- the adequacy of the proposed saddle flashings to the roof pergola penetrations
- how the sleepout deck membrane would be re-glued at post penetrations
- the lack of specification for re-installing removed plywood cladding.

3.7.2 In regard to the weathertightness report, the authority noted its understanding that a final report would be prepared after completion of all repair work. However, the authority included the following comments (in summary):

- The purpose of the report is to provide reasonable grounds to be satisfied that the entire cladding is performing adequately, given its age.
- The high weathertightness risks of this building means that strong evidence is needed, so more extensive investigation is required, with 'strong and robust evidence of performance of the entire exterior cladding'.

3.8 Following discussions about the situation, the building surveyor wrote to the applicants on 31 August 2016, confirming his agreement with their decision to seek a determination on the matter. The surveyor noted that the authority appeared to be acting 'in an unreasonable manner by refusing to issue a code compliance certificate', given its 2011 written confirmation that the building was compliant and concluded:

> This is disappointing, in light of your agreement to have some repairs carried out that arose as a result of my survey and investigation, and despite the submission of the amendment, a repair schedule, repair drawings, and a weathertightness report.

3.9 The Ministry received an application for a determination on 23 September 2016.

4. The submissions

4.1 The applicants made a submission dated 21 September 2016, which outlined the background to the situation, noting that the lack of a code compliance certificate was impeding the sale of their property. The applicants included the following comments (in summary):

- After passing the final inspection in 2011, the authority refused to issue a code compliance certificate despite acknowledging the compliance of the work but did not mention that determination could be sought on the refusal.
- Since then all of the authority's requirements have been complied with, but the 2015 inspection resulted in a new list of requirements including a weathertightness report which has been provided.
- A builder was engaged to carry out repairs but there is now an impasse; the authority requires even more invasive testing, which we consider to be unnecessary and unreasonable given investigations carried out to date.
- The building surveyor and the builder do not believe that further testing is necessary, but the authority will not accept their professional opinions.

4.2 The applicants provided copies of:

- the drawings
- the building consent and inspection records
- the building surveyor's report dated 11 August 2016
- correspondence with the authority and the building surveyor
- a summary of events
- various other information.

4.3 The authority made no submission in response to the application.

4.4 A draft determination was issued to the parties for comment on 1 March 2017.

4.5 The applicant responded on 27 March 2017, noting that the window that had been replaced (refer paragraph 5.4.2) was due to the authority's inspection in 2011 which highlighted that the existing window was not compliant because it was too low.

4.6 Despite a reminder on 24 April 2017, the authority did not respond to the draft.

5. The expert's report

5.1 As mentioned in paragraph 1.5, I engaged an independent expert to assist me. The expert is a member of the New Zealand Institute of Building Surveyors and inspected the house on 22 November 2016; providing a report completed on 31 January 2017, which was forwarded to the parties the next day.

5.2 The expert assessed the compliance of the building with associated parts of Clauses B1, B2, E2, and E3 of the Building Code in respect of the authority's refusal to issue the code compliance certificate, and in relation to the proposed remedial building work.

5.3 General

5.3.1 The expert noted that the A4 drawings were difficult to read but the overall 'architectural shape and form of the building appears to be largely in accordance with the consented drawings', with the following discrepancies observed:

- bay window added to north corner of living area
- east corner bay window increased in size
- various other minor joinery changes.

5.3.2 The expert considered the building work was 'tidily presented and appears to have been reasonably well maintained'. The exterior cladding and internal linings were 'generally straight and fair of finish' except for defects identified in the plywood cladding and described within his report.

5.3.3 The expert assessed the plywood cladding system against the manufacturer's instructions and recommendations by BRANZ[7] at the time of installation. The expert noted that some of the minor repairs in the repair drawings had already been undertaken. The following paragraphs cover items not included within the drawings while the proposed repairs are considered separately in Table 1.

5.3.4 The expert noted that although plywood cladding and trim is 'neatly finished' in most areas, some trim is missing on the sleepout walls. Although these unbattened areas are sheltered from rainwater, the resulting gaps can lead to rodent entry and water penetration when washing the cladding.

5.4 The windows

5.4.1 The windows had originally been face-fixed over the plywood, with metal head flashings and no sill flashings. The building surveyor had photographed sealant poorly applied to some window flanges, but there is no evidence of seals beneath jamb flanges. The expert noted that battens had recently been installed to some windows (see Table 1 for assessment).

5.4.2 The expert noted that the NE master bedroom window had been replaced (and I note that the building surveyor's photograph[8] shows the gable end wall clad in new plywood up to the battened horizontal joint). It therefore appears that this window and surrounding cladding had been replaced prior to the surveyor's 2016 inspections. The expert noted that the new window had:

- reasonably well installed head and sill flashings
- visible seal strip behind jamb flanges
- battens (with sloped tops and no weathergrooves) installed up to sill flashing.

5.5 External corner junctions

5.5.1 During his inspection of the bay windows, the expert noted and removed a loose batten at the south corner below the bathroom window sill. In order to assess other external corner junctions, he also removed corner battens from the west corner of the garage workshop and noted the following:

- some gaps in the corner building wrap

[7] Good Timber Cladding Practice published February 1997
[8] Weathertightness Report, Page 84, photograph

- gaps between sheets greater than recommended for expansion
- no metal back-flashings behind the plywood
- at the bathroom window, the angled tops to battens exposed at the sill
- exposed framing water-stained and the presence of ants indicating moisture ingress
- workshop bottom plate dark stained, with elevated moisture levels.

5.6 Horizontal flashings

5.6.1 The expert assessed horizontal flashings to the plywood cladding, noting that:

- in some areas, the upper plywood sheet is finished hard down onto the metal flashing, which does not accord with manufacturer's instructions
- although the bottom of the sheet is hard to maintain, there is no indication of moisture penetration as a result and the cladding is more than 15 years old
- the upper joint on the NE master bedroom wall is the most exposed to the shoreline – and is battened and partially sealed in contrast to more sheltered elevations, which is likely to indicate a past problem (see paragraph 5.4.2).

5.7 Cladding penetrations

5.7.1 The expert assessed cladding penetrations, noting:

- the meter box near the south corner of the workshop lacks flashings or a roof overhang above, with a ruler able to be inserted through the junction
- although the garage door lacks a head flashing, the door head is sheltered below a 2m deep roof overhang so is not considered at risk.

5.8 Clearances

5.8.1 The expert assessed clearances below the plywood cladding, noting:

- as well as ground levels to east corner of garage (see Table 1); the NE cladding at the north corner lacks clearance above the paving, with a small cut-out revealing visible decay to the bottom plate and the back of the plywood
- plywood adjacent to garage door south jamb butts against unfinished ground
- although some clearances to the NW elevation of the main house are reduced, the paving is well drained, the eaves overhang reduces exposure to rain and there is no indication of water penetration.

5.9 The proposed repairs

5.9.1 The expert investigated repair areas 1 and 2 (RA1 and RA2) and the 'minor alterations' (MA1 to MA6) as identified in the repair drawings (see paragraph 3.6). Table 1 summarises his findings and conclusions.

Table 1: Expert's comments in relation to the proposed repairs

Areas of repair (see Figure 2)		**Expert's comments**	**Expert's conclusion**
RA1	Laundry soffit framing	• Lower plywood proud of upper • Framing to clad end of soffit decayed • No visible sign of damage to lower walls, but framing needs to be exposed to check	Scope of proposed repair sufficient to address defect, but further investigation of the framing below the bulkhead is required to check for damage
RA2	Corner bay windows	• Cladding removed to expose framing • Framing below north window decayed • Framing below east window stained • No metal flashing under corner cladding • Battens were in poor condition, with tops exposed to rain penetration • Sill flashing detail still exposes batten tops • (I also note battens lack weathergrooves)	Proposed details insufficient Further bay window and corner details required
MA1	Pergola to NE deck	• Pergola plate now spaced off cladding	Satisfactory
MA2	Ground levels to east corner of garage	• Some plywood sheets replaced • Sheets fixed hard against concrete slab edge • Framing condition not verified • Clearances still limited • Not in accord with proposed details	Further areas need attention Current repair not satisfactory Scope of proposed repair work is not sufficient to address the defect
MA3	Kick-out to walkway apron flashing	• End of apron flashing underlaps plywood horizontal flashing	Scope of proposed repair sufficient to address defect
MA4	Membrane to sleepout deck	• Membrane in good condition except for turn-ups at post penetrations	Scope of proposed repair sufficient to address defect
MA5	Saddle flashings to roof pergola penetrations	• Exposed ends of beams weathered • Some flashings already installed • Proposed work allows for investigation of underlying flashing and framing • No visual evidence of failure	Scope of proposed repair sufficient to address defect
MA6	Renew joinery jamb sealants, install new jamb battens	• Timber jamb and sill battens with weathergrooves installed to some windows • Sill flashings not installed • Sill batten with flat top hard against sill flange • Moisture readings to sill low	Proposed details insufficient: Specification, Sill details, Identification of windows to be repaired

5.10 Weathertightness summary

5.10.1 The expert noted that the following items had not been covered in the proposed repair drawings:

- the need for further investigation of the timber condition
- the lack of back flashings to plywood corners
- the lack of flashings to the meter box
- the lack of cladding clearances to some further areas

- the lack of batten trim to some wall areas.

5.10.2 The expert also commented on the authority's general concerns (refer paragraph 3.7.1), and his conclusions are shown in Table 2.

Table 2: the expert's conclusions on general concerns

The authority's concerns	Expert's comments	Expert's conclusion	Para.
Whether surveyor's investigation was sufficient	• Further issues identified during investigation	**Not sufficient**	5.9.1
Whether joinery overhaul limited to bay windows only	• Bathroom joinery needs investigating • Remaining joinery performing satisfactorily • Window specification, details and locations insufficient	**Further investigation required** **Further detail required in proposal**	5.4 5.9.1
Whether reinstalling direct fixed plywood justified.	• Damage limited and localised • Leaking not systemic • Plywood allows targeted repair • Most plywood cladding has already met 15 year durability requirement	**Reinstalling justified**	5.3.2

5.11 Clause B1 Structure

5.11.1 The expert observed 'visibly decayed timber framing' in localised areas, which raises doubts about the structural compliance of framing at:

- the end wall of the laundry soffit
- the north bay window
- the garage bottom plate.

5.11.2 At the recessed entry beneath the walkway where a pole/beam configuration supports the roof, the expert also noted that:

- the larger beam is well connected to the support post with angle brackets
- the upper beam sits on top of the post with a single bolted connection to the top of the lower angle bracket, which allows the upper beam to twist.

5.11.3 The expert also observed corrosion to the sleepout roof strap bracing and to a structural connector at the laundry soffit/post junction. Other structural elements appeared well installed, although there was an inconsistent mix of stainless steel and galvanised steel connectors and bolts.

5.12 Clause E3 Internal Moisture

5.12.1 The expert inspected the bathrooms, noting the following in the ensuite shower:

- sealant is used at the junction of the shower laminate wall linings with the tiled floor, in contrast to current recommendations for a tiled upstand
- the undertile membrane is assumed to include a 150mm upstand, which would prevent any moisture penetrating the sealant joint from entering framing
- although non-invasive moisture readings were slightly elevated at the bottom of the laminate, there was no indication of delamination of the shower linings

- particle board flooring in adjacent rooms would rapidly indicate any leakage from the shower, but the material was in 'immaculate condition'.

5.12.2 Taking the above into account, the expert considered that the shower waterproofing had been performing adequately over the past 16 years, and therefore complied with Clause E3 of the Building Code. Notwithstanding the expert's conclusion as to compliance, I note the elevated moisture readings at the bottom of the shower laminate and emphasise the need to maintain sealants to wet areas to ensure ongoing compliance with Clause E3 (see paragraph 6.4.2).

6. Discussion

6.1 The refusal to issue the code compliance certificate

6.1.1 The building consent considered in this determination was issued under the former Act, and accordingly the transitional provisions of the current Act apply when considering the issue of a code compliance certificate for work completed under this consent. Section 436(3)(b)(i) of the transitional provisions of the current Act requires the authority to issue a code compliance certificate only if it 'is satisfied that the building work concerned complies with the Building Code that applied at the time the building consent was granted'.

6.1.2 The authority's final inspection in February 2015 identified areas at risk of moisture ingress and recorded 'signs of possible moisture entry', and the authority reached a view it could not be satisfied on reasonable grounds that the building complied without the results of further investigation. The subsequent weathertightness investigations, and resulting report in 2016 (see paragraph 3.5), confirmed that the building envelope of the house did not fully comply with Clauses B2 and E2 at the time the authority refused to issue the code compliance certificate. I conclude that the authority was correct in its decision in 2015 to refuse to issue the code compliance certificate.

6.2 The current performance of the building

6.2.1 An application can be made to the authority for a modification of durability requirements to allow durability periods to commence from the date of substantial completion in 2001. Although that matter is not part of this determination (see paragraph 1.4.5), I have taken an anticipated modification into account that the external building envelope was completed by around June 2001 when considering the weathertightness performance of the claddings.

6.2.2 Generally the claddings appear to have been installed in accordance with good trade practice and the manufacturer's recommendations at the time of construction and have, with the exception of areas referred to in this determination, performed for the minimum 15 years required by Clause B2.

6.2.3 However, I note the expert's comments in Table 1 and paragraph 5.10.1, and I consider that the following areas require attention:

- the framed wall to the end of the laundry soffit
- the lack of back flashings to plywood corner junctions
- the corner below the bathroom window
- the lack of cladding clearances to some areas

- the lack of batten trim to some wall areas
- the sill battens to repaired windows and lack of detail for window remediation
- the horizontal joint above the master bedroom window
- the lack of flashings to the meter box
- the lack of weathergrooves to battens over critical plywood junctions
- further moisture testing and investigation into the condition of timber framing in areas with identified defects, including the condition of:
    - framing below the decayed soffit framing
    - framing below the north corner bay window
    - lower framing to the east corner of the garage
    - framing at roof pergola penetrations
    - corner framing behind unflashed plywood junctions
    - bottom plates to areas with insufficient clearances
    - framing around the recently installed master bedroom window.

6.2.4 I consider the expert's report establishes that the current performance of the building envelope is not adequate because there is evidence of ongoing moisture penetration into a number of areas of the timber framing, with timber damage to at least three areas. Consequently, I am satisfied that the cladding does not comply with Clause E2 of the Building Code. Because of the timber damage and the potential for further hidden damage, I am also satisfied that the timber framing may not comply with Clause B1.

6.2.5 Although roof and wall claddings are now 16 years old, the building surveyor's and the expert's investigations have revealed evidence of moisture ingress over an extended period. The evidence of current and past moisture penetration therefore satisfies me that the cladding has not complied with Clause B2 insofar as it applies to both Clauses B1 and E2.

6.2.6 Taking account of the expert's comments as outlined in Table 1, I am satisfied that the following areas require structural verification and/or appropriate repairs:

- the structural adequacy of the post/beam connection at the recessed entry
- the corroded bolts and connectors.

6.2.7 Taking account of the expert's report and the inspection records, I am satisfied that the house complies with Clause E3 of the Building Code.

6.3 The proposed remedial building work

6.3.1 The weathertightness and durability of the building envelope, if repaired as proposed, will be dependent on: design features in this house that increase weathertightness risks; features that protect the claddings and underlying framing; features included in the cladding system; the workmanship of the installed claddings; and the consequences of any potential failure on underlying construction.

6.3.2 The original house has certain environmental and design features, which influence its weathertightness risk profile and the proposed repairs will not change that risk profile. Using the E2/AS1 risk matrix to evaluate the building's features, elevations are assessed as having a medium to high weathertightness risk rating.

6.3.3 The house is also required to comply with the durability requirements of Clause B2, which requires a building to satisfy all the objectives of the Building Code throughout its effective life. The durability requirements of Clause B2 include a requirement for wall claddings to remain weathertight for a minimum of 15 years and for timber framing to remain structurally adequate for a minimum of 50 years. Because the expected life of the underlying structure is considerably longer, claddings need to protect the underlying structure of the house for a further 35 years to meet its minimum required life of 50 years.

6.3.4 In considering the proposed remedial work provided, and taking into account the expert's comments, I am of the view that the repairs proposed (in the drawings dated 3 August 2016) are not adequate to ensure that the repaired building will comply with Clauses B1 Structure, B2 Durability and E2 External moisture.

6.3.5 I consider that final decisions on whether compliance can best be achieved by either remediation or re-cladding, or a combination of both, can only be made after further investigation of the cladding and underlying timber framing. This will require careful analysis by an appropriately qualified expert, and should include an investigation of the condition of the underlying framing. Once that decision is made, the chosen remedial option should be submitted to the authority for its approval.

6.4 Maintenance

6.4.1 The expert and the building surveyor identified some areas where a lack of finishing or maintenance has lead to deterioration of claddings and components. Although a modification of durability provisions will mean that most areas of the claddings have already met the 15 years required by the Building Code, the expected life of the building as a whole is considerably longer.

6.4.2 Maintenance is also required to interior areas such as showers, where sealants protect against internal moisture penetration into the underlying timber framed walls. Careful maintenance is needed and must continue to ensure that claddings and wet area linings continue to protect the underlying framing for its minimum required life of 50 years for the structure.

6.4.3 Effective maintenance of the house is important to ensure ongoing compliance with the Building Code and is the responsibility of the building owner. The Ministry has previously described maintenance requirements associated with the external building envelope, including examples where the external wall framing of the building may not be treated to a level that will resist the onset of decay if it gets wet (for example, Determination 2007/60).

6.5 Durability modification

6.5.1 The relevant provision of Clause B2 of the Building Code requires that building elements must, with only normal maintenance, continue to satisfy the performance requirements of the Building Code for certain periods ("durability periods") "from the time of issue of the applicable code compliance certificate" (Clause B2.3.1).

6.5.2 In this case the 16-year delay since completion of the building in 2001 raises concerns that many elements of the building work are now beyond their required durability periods, and would consequently no longer comply with Clause B2 if code compliance certificates were to be issued effective from today's date.

6.5.3 I have considered this issue in previous determinations and maintain the view that:

(a) the authority has the power to grant an appropriate modification of Clause B2 in respect of all the building elements, if requested by an owner

(b) it is reasonable to grant such a modification, with appropriate notification, as in practical terms the extension is no different from what it would have been if a code compliance certificate for the building work had been issued at the time of substantial completion in 2001.

I therefore leave the matter of amending the building consents to modify Clause B2.3.1 to the parties once any other outstanding matters are resolved.

7. What happens next?

7.1 I note the building consent was issued to the applicants as the current owners of the house and the authority may issue a notice to fix that requires the applicants to bring the house into compliance with the Building Code. The notice should include the investigations and defects identified in paragraphs 6.2.2 and 6.2.6; and refer to any further defects that might be discovered in the course of investigation and rectification.

7.2 The applicant can then produce a response to the notice in the form of a detailed proposal to specifically address the matters of non-compliance and investigation for the areas identified, produced in conjunction with a competent and suitably experienced person, as to the investigation and rectification or otherwise of the specified matters. Any outstanding items of disagreement can then be referred to the Chief Executive for a further binding determination. A code compliance certificate will be able to be issued once these matters have been rectified and the matter of amending the building consent to modify Clause B2.3.1 has been resolved.

8. The decision

8.1 In accordance with section 188 of the Building Act 2004, I hereby determine that, in regard to the Building Code that was in force at the time the building consent was issued in 2000:

- some parts of the timber framing do not comply with Building Code Clauses B1 and B2
- some parts of the external wall cladding do not comply with Building Code Clauses E2 and B2

and accordingly, I confirm the authority's decision to refuse to issue a code compliance certificate for the house.

8.2 I also determine that the repairs proposed in the drawings dated 3 August 2016 are not sufficient to ensure that the repaired building will comply with Clauses B1 Structure, B2 Durability and E2 External moisture of the Building Code, and accordingly I confirm the authority's decision to refuse to issue an amendment to the building consent for the proposed building work.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 11 May 2017.

John Gardiner
Manager Determinations and Assurance

Ministry of Business, Innovation & Employment

DETERMINATIONS

BUILDING ASSESSMENT REPORT

433 Pukehina Parade, Pukehina

MBIE Determination Reference 2883

31 January 2017

Summary of matters to be determined
My instructions were to provide advice on the scope and extent of the proposed repair work. An assessment of the building work related to meeting the requirements of the Building Code was undertaken. The following building code clauses were considered: E2 External moisture B2 Durability B1 Structure H1 Energy efficiency E3 Internal moisture

Report prepared by:
Philip Browne
BInfSc GDipBS DipLaw MNZIBS ANZIQS AAMINZ

CONTENTS

1 SUMMARY

1.1 The building is situated on the beachfront at Pukehina, east of Te Puke. The two storey construction consists of a house and garage/sleepout, connected via an exterior covered walkway. The buildings are clad in plywood sheet with battened joints, direct fixed over framing. Face fixed exterior joinery is comprised of powdercoated aluminium windows and doors. Decks are open timber and butyl rubber. The roofs are curved and pitched with profiled metal sheeting and projecting roof eaves extending to the majority of the building perimeter.

1.2 Various issues were noted with the exterior plywood cladding installation, but otherwise the building was tidily presented and reasonably well maintained.

1.3 The building was consented in 1999 and underwent two failed final inspections in 2011 and 2015. This led to a site assessment in late 2015 and subsequent preparation of remedial drawings. The parties met in August 2016 and Council questioned the scope, extent and management of the remedial works. An application for a determination was lodged with MBIE on 23/09/16.

1.4 The following deficiencies affecting building code compliance are identified, but are not necessarily recorded in any order of importance (refer to Section 7 for additional explanations):

Items covered in the proposed scope of work

- Leaking laundry bulkhead (RA1)
- Leaking boxed windows (RA2)
- Inadequate ground clearances (MA2)
- Lack of apron flashing kickout flashings (MA3)
- Unsealed deck membrane turnups (MA4)
- At-risk saddle flashing junctions (MA5)

Items <u>not</u> covered in the proposed scope of work

- Inadequate flashings at external corner junctions
- Lack of meterbox flashings
- Flat top surface to window sill trims
- Inadequate finishing to cladding trims
- Inadequate structural connections

2 APPLICATION DETAILS

Property Address	433 Pukehina Parade, Pukehina
Owner's name(s)	Tony Murray
Applicable legislation	BA2004
Territorial Authority	Western Bay District Council
Date of Commissioning of Report	2 November 2016
Date of Completion of Report	31 January 2017
Assessor's Name, Address and Contact Details	Philip Browne BInfSc GDipBS DipLaw MNZIBS ANZIQS AAMINZ Kestrel Systems Ltd 172 Kaitemako Rd Tauranga 3175 Ph 027 277 8727

Site visit

Date	Weather conditions on site	Persons present	Relationship to claimant
22/11/16	Fine	Tony Murray Mike Crosby	Owner Builder

3 INTRODUCTION

3.1 This is an independent report prepared for the Ministry of Business, Innovation and Employment (MBIE) by an Assessor contracted by the Chief Executive of MBIE to provide specific information on buildings as part of the Determination process described in The Building Act 2004 section 187.

3.2 On completion, this report is to be provided to the MBIE official who requested the report on behalf of the Chief Executive of MBIE. Drafts or copies of the report are not to be provided to any other person except as directed by MBIE.

3.3 The investigation for this report was carried out to provide information required by MBIE. It is based on the following:

- Observation of internal and external building features for general compliance
- Non-invasive testing of moisture levels and invasive measurement of moisture content in the framing at sample locations
- Destructive testing at various locations

3.4 Documents referred to in the preparation of this report were provided by MBIE, the Council and Craig Dodd as follows:

- Determination application
- Consent documents
- Drawings
- Photographs
- Correspondence

3.5 The report is provided for the use of MBIE only. No other party should rely on its findings and no liability to any third parties is accepted.

4 GENERAL DESCRIPTION OF THE BUILDING

4.1 The building is situated on the beachfront at Pukehina, east of Te Puke.

4.2 The property is generally oriented with the road frontage and house entry on the southwest elevation, the garage entry on the southeast elevation, and the beachfront on the northeast elevation, as indicated on the Dodd remedial drawings. This is in contrast to the consent drawings which follow a simpler north, south, west and east elevation approach. The Dodd elevation naming convention has been adopted in this report.

4.3 The site is absolute beachfront and is classified as being at high risk of windblown sea-spray salt deposits (as defined by NZS 3604:2011). The building is moderately complex in plan and form and is assessed as having a medium weathertightness risk.

4.4 The two storey construction consists of a house and garage/sleepout, connected via an exterior covered walkway. Both buildings are light timber framed, the house having a timber piled floor and the garage/sleepout a concrete slab floor.

4.5 The buildings are clad in plywood sheet with battened joints, direct fixed over framing. Feature timber frames extend from the gables. Face fixed exterior joinery is comprised of powdercoated aluminium windows and doors, with boxed beachfront windows and feature glazing to the bathroom. Interior partitions are lightweight timber framed with plasterboard linings. Open timber decking extends across the NE beachfront elevation and to entry areas. There is a butyl rubber clad deck (overlaid with open floating timber decking) on the sleepout upper NW elevation above the garage.

4.6 The roofs are curved and pitched with profiled corrugated metal sheeting and projecting roof eaves of generally 550mm, extending to the majority of the building perimeter.

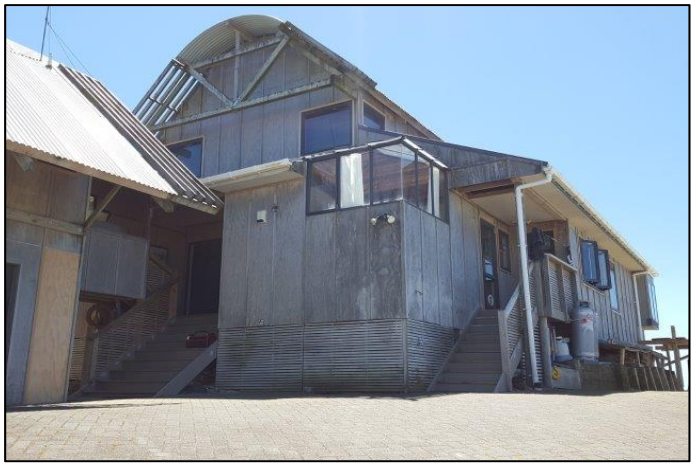
Building elevation photographs

North aspect

Part NE elevation, front deck

East aspect

Part SE elevation



Part SE elevation, house

Part SE elevation, garage

South aspect

SW elevation

Part NW elevation, sleepout balcony

Part NW elevation, garage

Part NW elevation, upper house

Part NW elevation, lower house

5 BACKGROUND INFORMATION

5.1 The building was consented in 1999 and underwent two failed final inspections in 2011 and 2015. The 2011 inspection passed but was failed by the BCA due to a legislation interpretation (on the basis of a lack of “reasonable progress”). The 2015 inspection led to a site assessment by Craig Dodd dated 17/12/15 on which remedial work now appears to be based (refer three drawings for repairs dated 3/08/16.

5.2 The report and drawings were submitted to Council and the parties met on 23/08/16. Council responded to the proposal on 24/08/16 with questions related to the scope, extent and management of the remedial works.

5.3 An application for a determination was lodged with MBIE on 23/09/16.

6 TECHNICAL DESCRIPTION

6.1 Comparison of as-built with building consent documents

Twelve consent drawings (A1-A8 and SP2-SP5) were received in A4 size that were difficult to read. The overall architectural shape and form of the building appears to be largely in accordance with the consented drawings. The following discrepancies were noted:

Consent drawing discrepancies
Different sleepout window configuration on SW road elevation
Window at north corner has been constructed as a boxed window
Boxed window at east corner is larger than drawn
Study window on SE elevation was not constructed with a raking sill
Door installed on NW elevation rather than window
Windows either side of the sleepout deck doors do not extend down to floor level

6.2 Risk factors present for weathertightness

The following risk factors impact on weathertightness for this property:

Risk Factor	Comment
Eaves	Generally 550mm gable and eaves protection provided apart from the following locations: • Reduced eaves at boxed window projections at north and east corners of house • No eaves at bathroom projection at south corner of house, at laundry bulkhead, at workshop on SW elevation and on gables at pergola type beam constructions where roofing is cut back • Increased eaves at house and garage entry areas on SE and SW elevations • Increased eaves at verandah on sleepout NW elevation
Number of stories	Two
Exposure zone	D: High (as defined by NZS3604:2011)
Wind zone	High (from Dodd drawings, but noted that the house is absolute beachfront, elevated and exposed to all quarters
Decks and balconies	Open timber decking on NE elevation and to entry areas. Butyl rubber clad deck (overlaid with open floating timber decking) to sleepout on upper NW elevation
Cladding type	Plywood with battened joints, direct fixed
Roof wall junctions	Fully protected apart from a lack of eaves at bathroom projection at south corner of house, at laundry bulkhead, at workshop on SW elevation and on gables at pergola type beam constructions where roofing is cut back
Parapets	None
Roof type	Curved and pitched profiled steel roof cladding
Envelope complexity	Moderate complexity with single cladding type
Cladding used as bracing element	No indication was found on the Council records of cladding being used as a bracing element

6.3 Mitigation of risk factors

The mitigation of weathertightness risk factors was reviewed as follows:

Mitigation	Comment
Timber treatment	No identification markings were found on the exposed timber framing at the boxed window projection at the north corner of the house (photo 6). Assumed the timber is untreated kiln dried framing as per common practice in the late 1990's
Cavity	None, all claddings are direct fixed
Construction quality	Below average (refer Section 8)
Maintenance	Generally well presented and maintained
Ground levels	Cladding to ground clearances are much less than provided for in E2/AS1 in some locations
Eaves or other features	Generally reasonable eaves overhangs, with the exceptions noted above

7 OBSERVATIONS

Observations that may have implications regarding compliance with the building code are detailed below. Further details related to the findings are noted on the photographs in Appendix A.

7.1 Clause E2: External moisture

A cladding weathertightness inspection report was issued by Craig Dodd on 17/12/15. The report noted on page 3 that “this report should not be used as the basis to develop the scope of any required remediation work, should that prove necessary. A full invasive and destructive investigation to the extent of any suspected water ingress and subsequent damage, should always be done before any repairs are recommended”. The report provided a repair proposal on page 83 and drawings dated 3.08.16 were later prepared for remedial work. The drawings include repairs described as Repair Areas 1 and 2, plus Minor Alterations 1 to 6 - these are discussed below. It is noted some of this work has already been completed."

Council questioned the scope and extent of the scheduled extent of remedial work in an email dated 24/08/16, in particular the following issues:

- Whether the extent of investigation was sufficient
- Whether the joinery overhaul was to be limited to the boxed windows only
- Whether reinstallation of direct fixed cladding is justified

The following investigations were undertaken with regard to weathertightness:

Repair Area 1 – Laundry bulkhead

The plywood cladding on the laundry bulkhead on the SW elevation has been poorly installed, with the lower cladding sitting proud of the upper cladding, allowing water penetration. The bulkhead framing is visibly damaged. No indication of any moisture penetration to the interior walls below the bulkhead was noted. The cladding below the bulkhead will need to be removed to check for any lower wall damage (photos 1-4). Refer to Dodd report investigation photos 9-13 and Dodd drawings for planned remediation (Repair No. 1). The scope of the proposed repair work is considered sufficient to address the defect.

Repair Area 2 – Boxed windows

The cladding below the north and east boxed windows has been removed (by others) and temporarily protected. The timber below the north boxed window is

visibly decayed. The cause of failure may be related to the lack of galvanised steel flashings installed over the wrap at external corners, as recommended by BRANZ in Good Timber Cladding Practice published February 1997 (refer photos 14, 18 & 20 in other locations). There was no indication of any moisture penetration to the interior below the north window junction. The corner of the east window seat (on the NE elevation) has been cut out by others. The timber is waterstained, but a MC 15% reading indicated currently normal moisture levels (refer photos 5-11). Photographs on page 91 of the Dodd cladding weathertightness report dated 17/12/15 indicated that the timber cover battens (photo assumed to be either the north or east boxed window) were in poor condition. Refer to Dodd drawings for planned remediation (Repair No. 2). Also refer external corner junctions below.

Minor Alterations 1 – Pergola

Photo 25: The pergola on the NE beach elevation has been spaced off the cladding as per the Dodd drawings (Minor Alterations 1, photo 25). The pergola on the SE garage elevation has also been spaced off the cladding, but is in any case well protected by the wide roof eaves over the garage door area (photo 64). The undertaken work has addressed the defect.

Minor Alterations 2 – Ground clearances

Two sheets of plywood cladding have been replaced at the east corner of the garage. The ground clearances appear to have been reduced but don't comply with the Dodd remedial drawings (Minor Alterations 2) or meet the Acceptable Solution. Refer Appendix C for a photograph of the bottom plate framing taken by the builder. It appears the condition of the timber wasn't independently verified by the building surveyor. The new cladding on the SE elevation is fixed hard against the garage slab, in contrast to the Dodd drawings (under Repairs to Areas 1 and 2 heading) that specified existing framing to be straightened and packed out if required to provide 6mm clearance between the cladding and the garage concrete slab. Note the cladding appears to be generally clear of the concrete slab elsewhere on the garage and workshop, including an adequate gap at the adjacent new cladding on the NE elevation (photos 27-30).

The cladding further along the garage NE elevation also appeared to be at risk due to minimal ground clearance. A small cladding cutout was made at bottom plate level, exposing visible decay to the bottom plate framing and the rear face of the cladding (photos 31-33). The Ecoply technical manual in 1999 stated that H3 treated plywood is not ground contact treated and must be kept at least 150mm away from ground contact. The cladding adjacent to the garage vehicle door is also in contact with unfinished ground (photo 35). The ground clearances in various locations

around the garage and house don't meet the Acceptable Solution (photos 20, 22, 24, 34 & 36). The scope of the proposed repair work is not considered sufficient to address the defect. Independent verification of the durability of the timber framing is needed in at-risk locations where ground clearances are minimal.

Minor Alterations 3 – Apron flashing junctions

The end of the apron flashing at the east corner of the sleepout terminates behind the horizontal flashing and no kickout flashing is installed (photos 37-38). Refer Dodd drawings for planned remediation (Minor Alterations 3).

There is minimal cladding clearance between the lower edge of the cladding and the apron flashing at the upper east corner of the house (photo 39). It is difficult to maintain the bottom edge of the cladding but is unlikely to result in weathertightness failure (noting that the cladding has already performed for the prescribed 15 year durability period). The scope of the proposed repair work is considered sufficient to address the defect.

Minor Alterations 4 – Deck membrane

The deck on the NW elevation of the sleepout is butyl rubber lined and overlaid with floating timber decking. The butyl deck cladding appears to be reasonably well detailed apart from unsealed turnups at the verandah posts. Butyl rubber junctions at either end of the deck need sealing. The deck slope was minimal, as measured at 1.2° and 0.7° in two locations. No evidence of failure was noted in the garage below and the butyl rubber membrane is protected by the decking. A single 65mm diameter deck outlet is installed. No overflow is installed, but is not considered necessary, as any overrun will be to the exterior over the fully waterproofed nib upstands (photos 40-49). Refer Dodd drawings for planned remediation (Minor Alterations 4). The scope of the proposed repair work is considered sufficient to address the defect.

Minor Alterations 5 – Saddle flashings

Beam penetrations through the gable cladding are at risk and saddle flashing remediation is planned (refer photos 50-54). Refer Dodd drawings (Minor Alterations 5). The exposed ends of the beams are weathered. The builder mentioned that the pergola type beams may be replaced with roofing, which would provide improved weather protection to the cladding. The stainless steel bolts are in good condition (photo 55). No evidence of any failure was found with the current saddle flashing installation (with visual inspection and non-invasive testing only), but it is likely that there has been some moisture penetration behind the cladding. The scope of the proposed repair work is considered sufficient to address the defect. Also refer horizontal flashings and other cladding penetrations below.

Minor alterations No. 6 – Joinery trim

Timber battens have recently been installed to all sides of some joinery. A photograph on page 90 of the Dodd cladding weathertightness report dated 17/12/15 indicated that sealant applied to a window jamb junction was in poor condition and the repair proposal recommended that all joinery should have cover battens installed to their perimeters.

New jamb and sill timber trims have been installed to the bifold windows on the SE elevation. The flat top surface allows water to pond on the sill trim, potentially trapping water against the cladding and restricting drainage from behind the window flange. The Dodd drawings (Minor Alterations No. 6) dated 3.08.16 called for jamb sealant to be renewed and covered with new battens to sides of all joinery. It appears the sill trims may have been installed prior to these drawings being issued. The jamb trim has rebated grooves. The rear face at each end of the sill trim has been rebated prior to installation, allowing for limited drainage from the horizontal grooves. If the sill trim is retained, the top 5mm of the trim needs to be removed to allow drainage from behind the window flange. The top surface of the trim also needs to be sloped 15° to prevent accumulation of water. Normal moisture readings of 8%, 11% & 12% were taken below the sill flanges on the NW elevation bedroom window and the SW elevation workshop window. The drill shavings looked in good condition (photos 70-79).

The varnished strand board flooring below the window in one of the NW elevation bedrooms is in excellent condition (typical), indicating there has been no significant moisture entry. No evidence of any moisture entry was found to the interior of the house other than noted in this report (photo 11). The undertaken work to the sides of exposed joinery appears to have addressed the defect. The sill trim installation has resulted in an additional defect that needs to be addressed. Also refer further finishing/cladding trim comments below.

External corner junctions

The external corner cladding on the bathroom at the south corner of the house is at similar risk to the boxed windows on the NE elevation but didn't appear to have been investigated. The cover batten was loose and there are gaps in the building paper. The gap between the cladding sheets is larger than the 2-3mm expansion gap required by the manufacturer. No corrosion issues were noted with the cladding fixings. A small cladding cutout was made at the external corner, immediately below the window. No galvanised steel flashing was installed over the wrap at the external corner. The framing was dark and ants were present, indicating a nearby moisture source. A normal MC 9% moisture reading was taken, indicating no current leaking.

No indication was noted of any external moisture penetration (photos 12-15). Remediation to these walls will be required.

A cover batten was removed at the external corner junction on the west corner of the workshop. A normal MC 14% moisture reading was taken in the framing at top plate level but lots of ants indicated moisture entry nearby. No galvanised steel flashing was installed. An elevated MC 21% moisture reading was taken at bottom plate level. The bottom plate was dark (photos 16-20).

A normal MC 15% moisture reading was taken at bottom plate level at the south corner of the workshop and a slightly elevated moisture reading was taken at the west corner of the garage, both at bottom plate level (photos 21-24).

Horizontal flashings

The plywood cladding is finished hard down on the metal horizontal flashings in some locations, which does not comply with the manufacturer's instructions. It is difficult to maintain the bottom edge of the cladding but is unlikely to result in weathertightness failure (noting that the cladding has already performed for the prescribed 15 year durability period). There will however be an opportunity to correct the cladding detailing when plywood sheets are removed to install saddle flashings (photos 56-58).

The horizontal flashing on the NE beach elevation has been battened and partially sealed. It is unclear whether the sealant was added as a preventative measure or if the cladding was leaking. The battens have been fixed to both the upper and lower cladding sheets and sealant has been poorly applied, restricting sheet expansion and reducing drainage away from the joint (photos 59-61).

Other cladding penetrations

No flashings are installed around the meter box on the garage SE elevation; a rule can be inserted above the meterbox through to the workshop interior. The cladding is vulnerable with no eaves protection above (photos 62-63).

No head flashing has been installed to the garage door head. This is not considered a weathertightness risk with wide canopy protection overhead (photos 64-65)

A new window has recently been installed to the master bedroom (not part of recent repairs). The cladding junction at the end of the master bedroom head flashing appears to be reasonably well installed (other end similar). An Inseal strip is visible behind the jamb flange. A sill flashing has been installed below the window. No indication of any moisture entry was found in the master bedroom interior (photos 66-69).

Finishing/cladding trim

The plywood cladding has been neatly finished in the house entry area on the SW elevation, with trims installed at plywood junctions. A head flashing is installed over the sleepout door, but not over the garage door below. Both doors are sheltered. Some trims are missing; in particular no trim is installed at the cladding junction above the garage entry door, leaving a clear gap through to the garage interior. Various trims are missing on the sleepout sheltered walls (photos 81-89). There is a risk of vermin entry and/or water penetration (when undertaking maintenance such as washing down the cladding) where the cladding finishing has not been completed.

External moisture issues summary

The following issues were confirmed/noted with respect to weathertightness:

<u>Items covered in the proposed scope of work</u>

- Leaking laundry bulkhead (RA1)
- Leaking boxed windows (RA2)
- Inadequate ground clearances (MA2)
- Lack of apron flashing kickout flashings (MA3)
- Unsealed deck membrane turnups (MA4)
- At-risk saddle flashing junctions (MA5)

<u>Items not covered in the proposed scope of work</u>

- Inadequate flashings at external corner junctions
- Lack of meterbox flashings
- Flat top surface to window sill trims
- Inadequate finishing to cladding trims
- Inadequate structural connections

The following table addresses some of the questions raised by Council:

Council question	Comment
Whether the extent of the Dodd investigation was sufficient	The extent of investigation was insufficient. Further issues detailed above were identified during the investigation for this report

Whether the joinery overhaul was to be limited to the boxed windows only	The bathroom joinery may need to be removed, depending on the findings made when the cladding is removed at the external corner junction. The additional investigation and moisture readings taken for this report indicated that the remaining joinery is performing satisfactorily
Whether reinstallation of direct fixed cladding is justified	The investigation indicated that the damage is limited and localised and the leaking is not considered systemic. The plywood jointing system readily allows targeted replacement without damaging adjacent sheets. The majority of the cladding has already performed for the prescribed 15 year durability period, justifying reinstallation of direct fixed cladding

7.2 Clause B2: Durability

Materials performance has been impaired in the following areas:

- Decayed framing
- Cladding deterioration
- Elevated moisture readings

The degree of water damage to the framing and cladding is such that it impairs the performance of these materials. The building therefore does not comply with building code clause B2.

No stamping was found on timber framing to give an indication of any treatment. As the house was constructed in the late 1990's, it is assumed that the concealed/enclosed framing is untreated.

The cladding has performed reasonably well in general where installed in accordance with the manufacturer's instructions and BRANZ recommendations, given the harsh exposed beachfront environment. The cladding finish appears to be "natural". The 1997 BRANZ Good Timber Cladding Practice publication recommended that plywood cladding is finished with a sound paint or stain system, preferably a light colour to reduce moisture movement and the likelihood of checking in the face veneer.

7.3 Clause B1: Structure

There is visibly decayed timber framing in localised locations at the laundry bulkhead, north boxed window and garage bottom plate (photos 3, 6 & 32). The decay raises doubt about compliance with building code clause B1.

There is a pole and beam junction in the entry area between the house and the garage. One of the beams is checked into and well connected to the timber pole with top and bottom angle brackets and fixed with three bolts and four wire dogs. The top beam has been somewhat crudely fixed, allowing the beam to twist. The connection to the timber pole is reliant on a single bolted connection and four wire dogs, all in the end and lower third of the beam. The connection could be improved significantly by installing a longer bracket with a double bolted connection to the top beam (photos 90-93). The connection is required to perform for the life of the building (but not less than 50 years). The adequacy of the current connection is questionable in a major seismic or storm event.

The beam on the left has been checked into and is well connected to the timber pole with top and bottom angle brackets, fixed with three bolts and four wire dogs.

Corrosion on the sleepout roof strap bracing and on a structural bracket in the laundry soffit area needs attending to (photos 94-95). There is some inconsistency with a mix of stainless steel and galvanised connections/bolts installed.

No issues were noted with the roof structure (other than the strap bracing noted above). The curved long run profiled steel roofing appears to be well installed, including the pictured chimney junction (photo 96).

Stainless steel subfloor connections appear to be well installed (photos 97-99).

7.4 Clause H1: Energy efficiency

Polyester fibre type insulation appears to be well installed between the house floor joists with no visible gaps (photo 100).The insulation wasn’t checked in other areas.

7.5 Clause E3 – Internal moisture

Seratone or similar wet wall linings in the master bedroom ensuite shower are reliant on a sealant bead for waterproofing. The current manufacturer’s instructions for tiled installations indicate a fully sealed junction between the two materials above a tiled upstand, which allows for drainage off the wall linings. The moisture meter indicated elevated moisture levels on the rear face of the wall linings. It is assumed that undertile waterproofing will have been carried 150mm up behind the wall linings. There was no indication of any failure of the wall linings (such as delamination) and the strand board flooring behind two of the shower walls was in immaculate condition. Given that any leakage from the shower would rapidly indicate as staining on the flooring, this indicates that the shower waterproofing is performing adequately (photos 101-104).

8 QUALITY OF FINISH OBSERVATIONS

8.1 Various issues are noted above with the exterior plywood cladding installation, such as lack of exterior corner moulds, inadequate ground clearances and poor construction at the laundry bulkhead. Apron and saddle flashing junctions and window perimeters need attention. Other than the above, the exterior cladding and internal linings are generally straight and fair of finish.

8.2 The building was tidily presented and appears to have been reasonably well maintained (with possibly the exception of staining the plywood cladding).

9 OUTCOME

A number of observations are recorded above that have implications for compliance with the New Zealand Building Code. A summary of deficiencies that may require remedial work to achieve code compliance follows:

Items covered in the proposed scope of work

- Leaking laundry bulkhead (RA1)
- Leaking boxed windows (RA2)
- Inadequate ground clearances (MA2)
- Lack of apron flashing kickout flashings (MA3)
- Unsealed deck membrane turnups (MA4)
- At-risk saddle flashing junctions (MA5)

Items <u>not</u> covered in the proposed scope of work

- Inadequate flashings at external corner junctions
- Lack of meterbox flashings
- Flat top surface to window sill trims
- Inadequate finishing to cladding trims
- Inadequate structural connections

MBIE Assessor's Name	Philip Browne BInfSc GDipBS DipLaw MNZIBS ANZIQS AAMINZ
Signature	
Date	31 January 2017

APPENDIX A - PHOTOGRAPHS

Clause E2: External moisture

Repair No. 1 – Laundry bulkhead

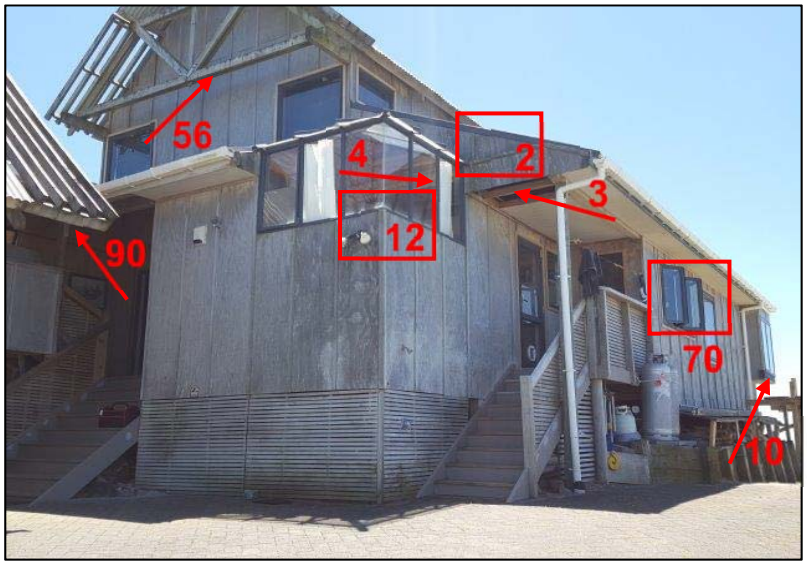


Photo 1: South aspect. Refer laundry bulkhead investigation in following photos, location indicated

Note: Numbers on photographs are references to closeup views or locations on other photographs

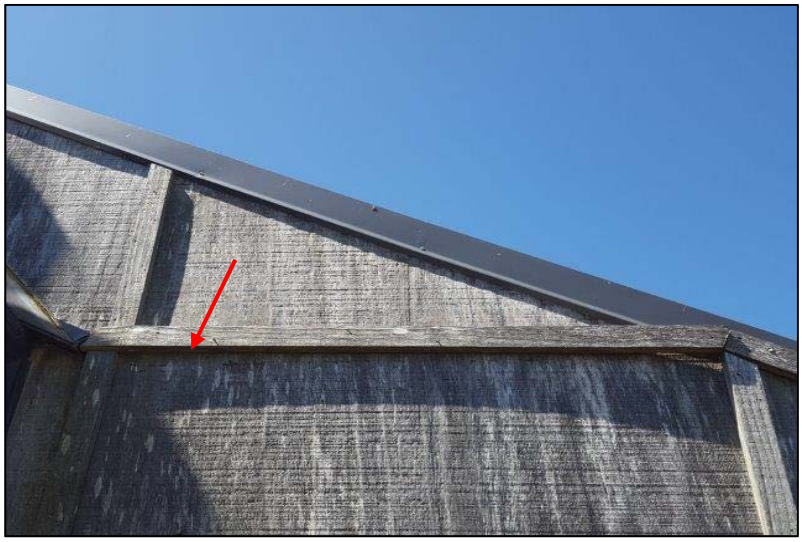


Photo 2: Laundry bulkhead on SW elevation. The plywood cladding has been poorly installed, with the lower cladding sitting proud of the upper cladding, allowing water penetration, refer next photo for view inside bulkhead

Photo 3: Damaged bulkhead framing. Refer to Dodd report investigation photos 9-13 and Dodd drawings for planned remediation (Repair No. 1)

Photo 4: View of bulkhead from bathroom interior. No indication of any moisture penetration to the interior walls below the bulkhead was noted. Cladding below the bulkhead will need to be removed to check for any wall damage below

Repair No. 2 – Boxed windows

Photo 5: North boxed window (cladding removed by others). Locations of following photos indicated

Photo 6: Visibly decayed timber framing below north boxed window (cladding removed by others). Cause of failure may be related to lack of external corner moulds (refer photos 14, 18 & 20). Photographs on page 90 of the Dodd cladding weathertightness report dated 17/12/15 indicated that the timber cover battens (assumed in this location) were in poor condition. Refer to Dodd drawings for planned remediation (Repair No. 2)

Photo 7: Cladding removed above north boxed window (by others). Refer to Dodd drawings for planned remediation (Repair No. 2)

Photo 8: Interior view of seat below window junction. No indication of any moisture penetration to the interior

Photo 9: East boxed window (NE elevation, cladding removed by others). Refer to Dodd drawings for planned remediation (Repair No. 2)

Photo 10: East boxed window (SE elevation, cladding removed by others). Refer to Dodd drawings for planned remediation (Repair No. 2)

Photo 11: Interior view of seat below end of window, NE elevation. Corner of window seat has been cut out by others. Timber is waterstained, MC 15% currently normal moisture reading taken

Other external corner junctions

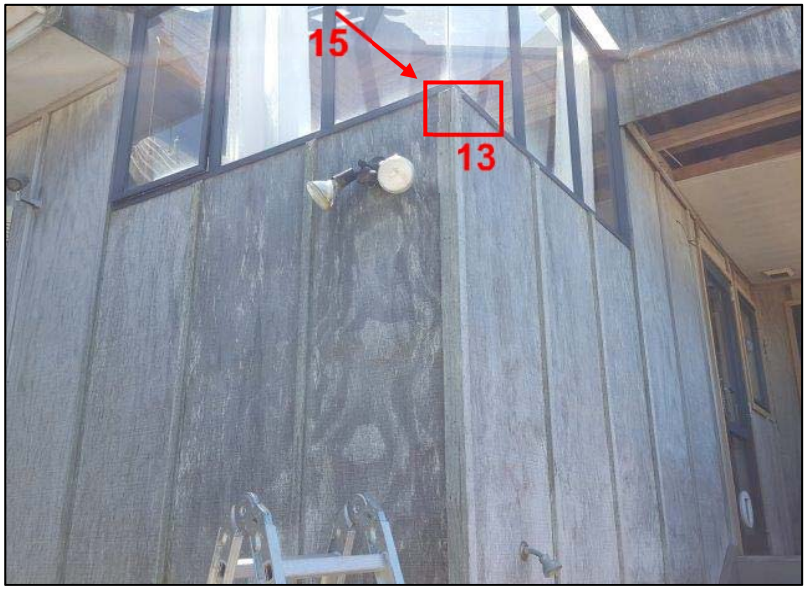


Photo 12: Bathroom at south corner of house. External corner cladding is at similar risk to boxed windows on NE elevation. Refer to photo 1 for location

Photo 13: Bathroom external corner. The cover batten was loose and there are gaps in the building paper (indicated). The gap between the cladding sheets is larger than the 2-3mm expansion gap required by the manufacturer. No corrosion issues were noted with the cladding fixings. Refer next photo

Photo 14: Cladding cutout at external corner. No galvanised steel flashing was installed over the building wrap (recommended by BRANZ). Framing was dark and ants were present (indicating nearby moisture source), MC 9% normal moisture reading taken. Refer next photo for interior view

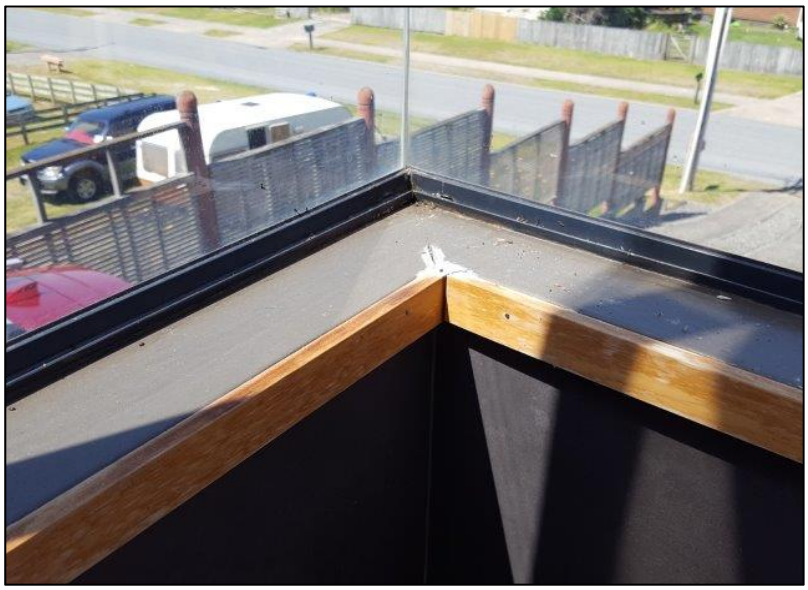


Photo 15: Bathroom window sill at south corner. No indication noted of any external moisture penetration

Photo 16: External corner junction with cover batten removed at top plate, west corner of workshop. Refer following photos

Photo 17: MC 14% normal moisture reading taken in framing at workshop external corner. Refer next photo

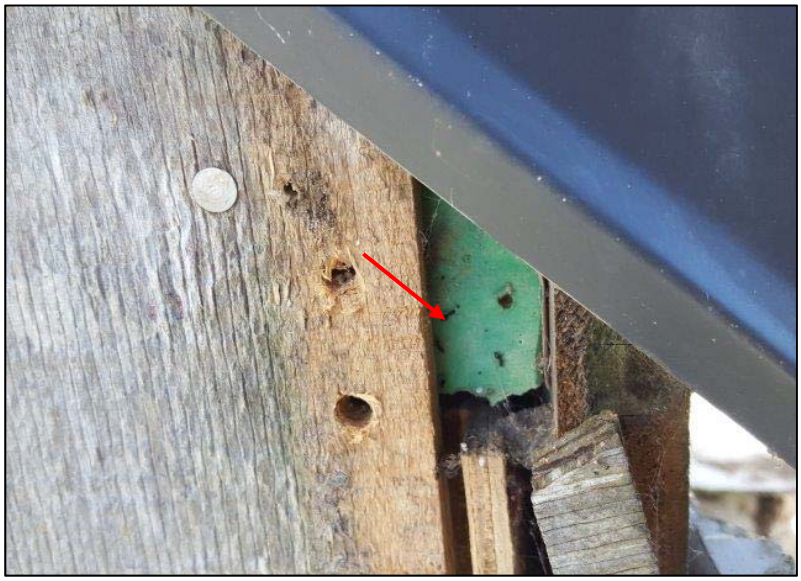


Photo 18: Lots of ants present at workshop external corner. No galvanised steel flashing was installed. Refer following photos for investigation at bottom plate level

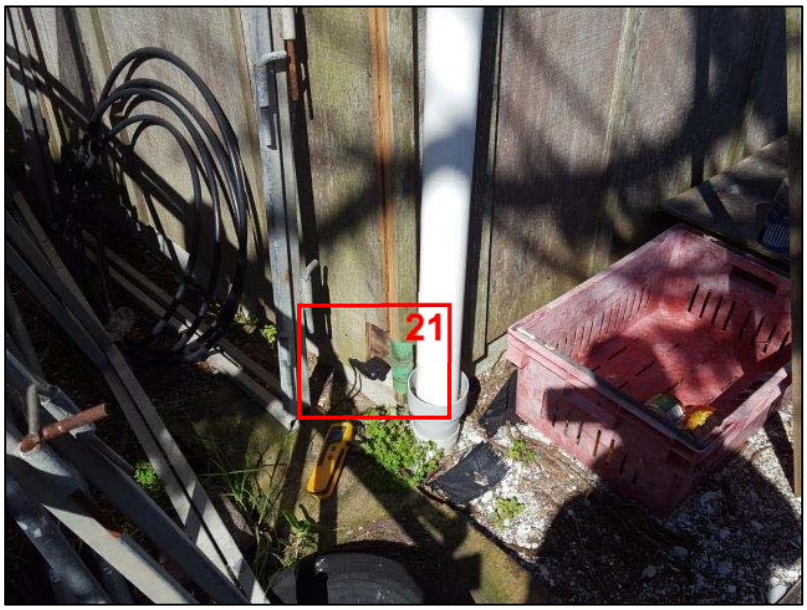


Photo 19: External corner junction at bottom plate, west corner of workshop. Refer following photo

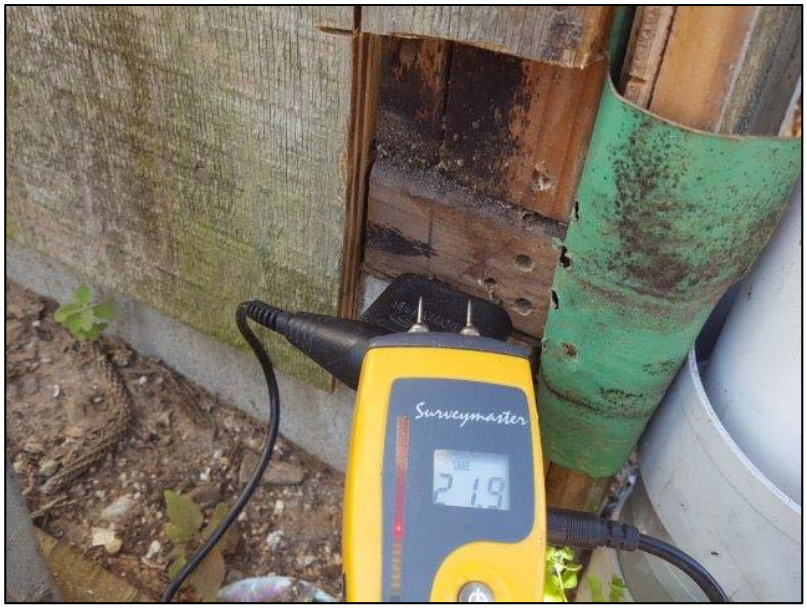


Photo 20: MC 21% elevated moisture reading at workshop external corner. Bottom plate is dark. No galvanised steel flashing was installed. Ground clearance is approximately 130mm from floor slab to unfinished ground level (225mm required to meet Acceptable Solution). Refer Dodd drawings (Minor Alterations 2)

Photo 21: South corner workshop with cover batten removed. Refer next photo

Photo 22: MC 15% normal moisture reading taken at workshop south corner. Ground clearance is approximately 200mm from floor slab to unfinished ground level (225mm required to meet Acceptable Solution). Refer Dodd drawings (Minor Alterations 2)

Photo 23: West corner of garage with cover batten removed. Refer next photo

Photo 24: MC 18% slightly elevated moisture reading at west corner of garage. Ground clearance is less than 225mm required to meet Acceptable Solution. Refer Dodd drawings (Minor Alterations 2)

Minor Alterations 1 - Pergola

Photo 25: Pergola on NE elevation has been spaced off cladding as per Dodd drawings (Minor Alterations 1). 550mm eaves protection (including gutter) is provided on the NE elevation (except where reduced by the boxed window projections

Minor Alterations 2 – Ground clearances

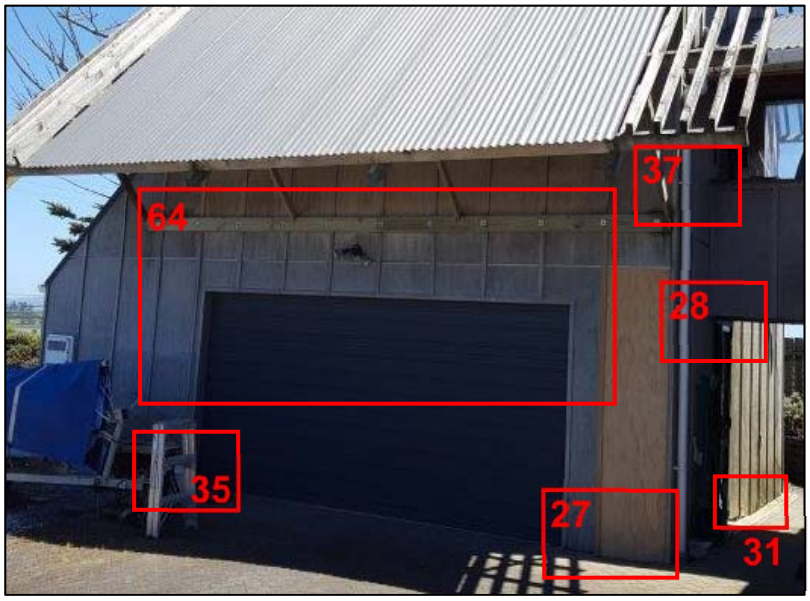


Photo 26: Garage SE elevation. Refer following indicated photos

Photo 27: Plywood cladding has been replaced on SE garage elevation. Refer Dodd drawings (Minor Alterations 2). Ground clearances don't comply with drawings or meet Acceptable Solution. Refer Appendix C for photograph of bottom plate framing taken by builder. It appears the condition of the timber wasn't independently verified by the building surveyor

Photo 28: New cladding is fixed hard against garage slab. Dodd drawings specified existing framing to be straightened and packed out if required to provide 6mm clearance between cladding and concrete slab of garage. Note the cladding appears to be generally clear of the concrete slab elsewhere on the garage and workshop. Refer following photos

Photo 29: Plywood cladding has been replaced on NE garage elevation. Refer Dodd drawings (Minor Alterations 2). No independent verification provided of timber condition. Refer next photo

Photo 30: Adequate gap provided between cladding and concrete slab. Note ground clearances don't meet Acceptable Solution

Photo 31: Cladding cutout at bottom plate on garage NE elevation. Refer photo 26 for location and next photo for cutout

Photo 32: Visibly decayed bottom plate, garage NE elevation. Refer next photo

Photo 33: Visibly decayed cladding (rear face) from cutout. The Ecoply technical manual in 1999 stated that H3 treated plywood is not ground contact treated and must be kept at least 150mm away from ground contact

Photo 34: Minimal ground clearance at north corner of garage. Refer Dodd drawings for planned remediation (Minor Alterations 2).

Photo 35: Cladding adjacent to garage door is in contact with unfinished ground. Refer Dodd drawings for planned remediation (Minor Alterations 2) and photo 26 for location

Photo 36: Minimal ground clearances on rear NW house elevation. Refer Dodd drawings for planned remediation (Minor Alterations 2)

Minor alterations No. 3 – Apron flashing junctions

Photo 37: East corner of sleepout. Refer next photo for closeup of apron flashing termination

Photo 38: End of apron flashing terminates behind horizontal flashing. No kickout flashing is installed. Refer Dodd drawings for planned remediation (Minor Alterations 3)

Photo 39: Minimal cladding clearance to apron flashing at upper east corner of house. Difficult to maintain bottom edge of cladding but unlikely to result in weathertightness failure within prescribed 15 year durability period

Minor alterations No. 4 – Deck membrane

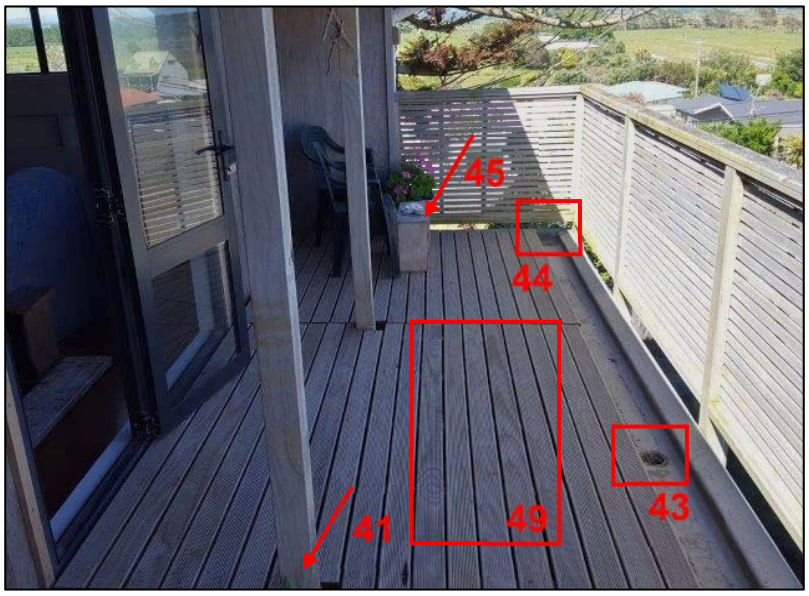


Photo 40: Deck on NW elevation of sleepout, west end. The open timber slatted balustrades are side fixed to the deck structure. Refer indicated photos below. Also refer upper wall photos 86-89

Photo 41: Unsealed butyl rubber turnup at verandah post. Refer Dodd drawings for planned remediation (Minor Alterations 4). Refer following photo with floating decking lifted

Photo 42:Butyl deck cladding appears to be reasonably well detailed apart from the unsealed turnup

Photo 43: 65mm diameter deck outlet. No overflow is installed, but is not considered necessary, refer next photo

Photo 44: Butyl rubber deck cladding appears to be reasonably well detailed at west corner. No overflow is installed, but is not considered necessary, as any overrun will be to the exterior over the fully waterproofed nib upstands

Photo 45: Butyl rubber deck cladding needs sealing on SW elevation. Refer Dodd drawings for planned remediation (Minor Alterations 4).

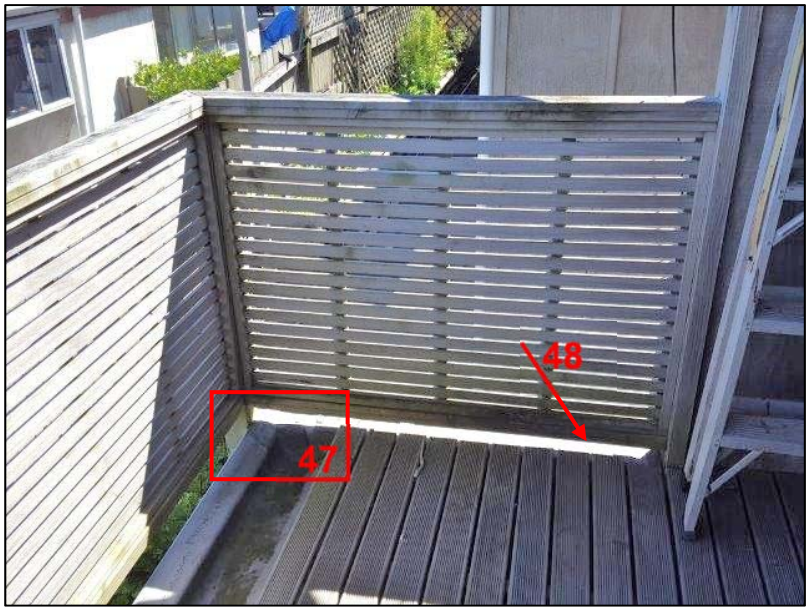


Photo 46: North end of deck. Refer indicated photos below

Photo 47: Butyl rubber deck cladding appears to be reasonably well detailed at north corner

Photo 48: Butyl rubber deck cladding needs sealing on SW elevation (location indicated by pen). Refer Dodd drawings for planned remediation (Minor Alterations 4).

Photo 49: Butyl rubber deck cladding appears to be reasonably well detailed below central section of floating decking. Deck slope was minimal, measured at 1.2° and 0.7° in two locations. No evidence of failure was noted in the garage below and the butyl rubber membrane is protected by the decking

Minor alterations No. 5 – Saddle flashings

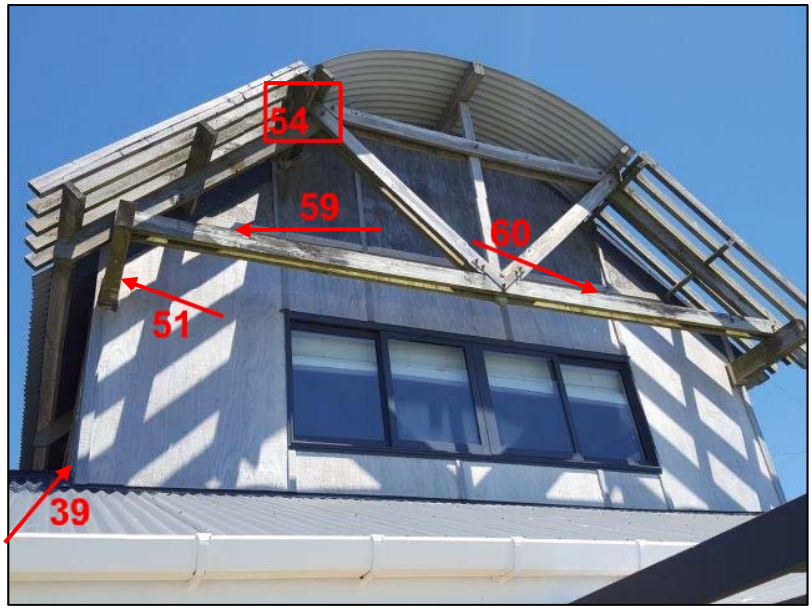


Photo 50: NE upper elevation facing the ocean. Refer indicated photos below

Photo 51: Typical beam penetration through gable cladding. Refer closeup of junction in next photo

Photo 52: Vulnerable cladding penetration junction at east corner of master bedroom (typical). Refer next photo for view of other side of junction. Refer Dodd drawings for planned remediation (Minor Alterations 5)

Photo 53: View of vulnerable beam penetration junction

Photo 54: Vulnerable double cladding penetration junctions above master bedroom. Refer Dodd drawings for planned remediation (Minor Alterations 5)

Photo 55: Exposed ends of beams are weathered and appear to have not been maintained. Builder mentioned that the pergola type beams may be replaced with roofing, which would provide improved weather protection to the cladding. Stainless steel bolts are in good condition (with minor staining only visible in photo)

Horizontal flashings

Photo 56: SW elevation at rear of house. Refer closeup photo below

Photo 57: The plywood cladding is finished hard down on the metal horizontal flashings in some locations, which does not comply with the manufacturer's instructions. Also refer next photo

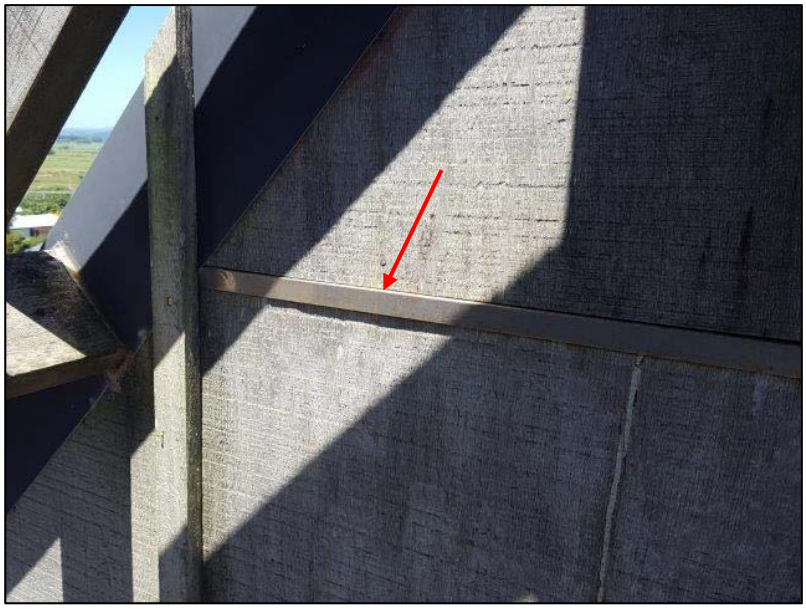


Photo 58: Plywood finished hard down on horizontal flashing. It is difficult to maintain the bottom edge of the cladding but unlikely to result in weathertightness failure (noting that the cladding has already performed for the prescribed 15 year durability period). There will however be an opportunity to correct the cladding detailing when plywood sheets are removed to install saddle flashings (refer Dodd drawings, Minor Alterations 5).

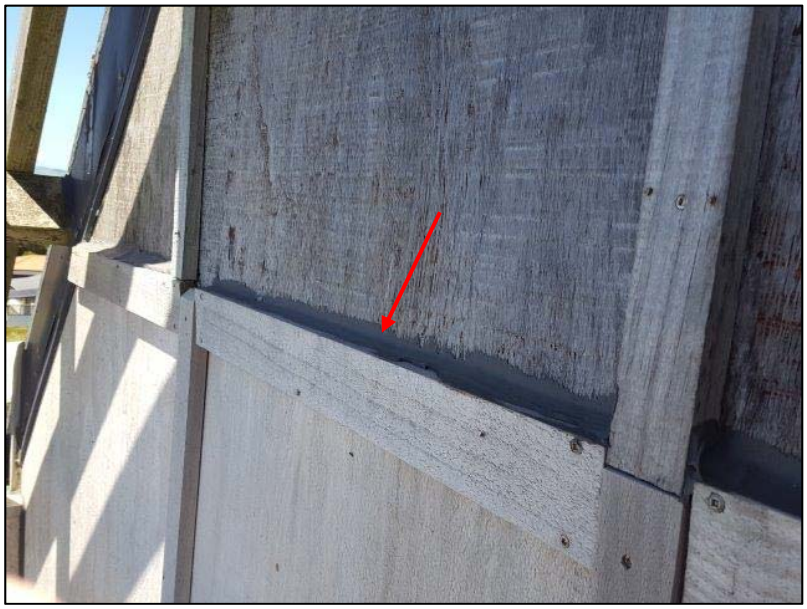


Photo 59: Horizontal flashing on NE beach elevation has been battened and partially sealed. It is unclear whether the sealant was added as a preventative measure or if the cladding was leaking. Also refer next photo and photo 50 for location

Photo 60: Horizontal flashing on NE beach elevation has been battened. Refer closeup in next photo and photo 50 for location

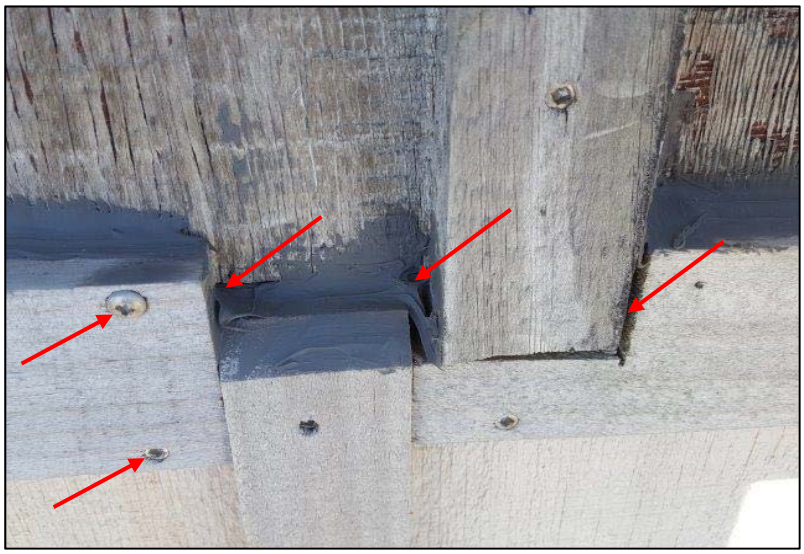


Photo 61: Battens have been fixed over horizontal metal flashing (assumed) to upper and lower cladding sheets and sealant has been poorly applied, restricting sheet expansion and reducing drainage away from the joint.

Other cladding penetrations

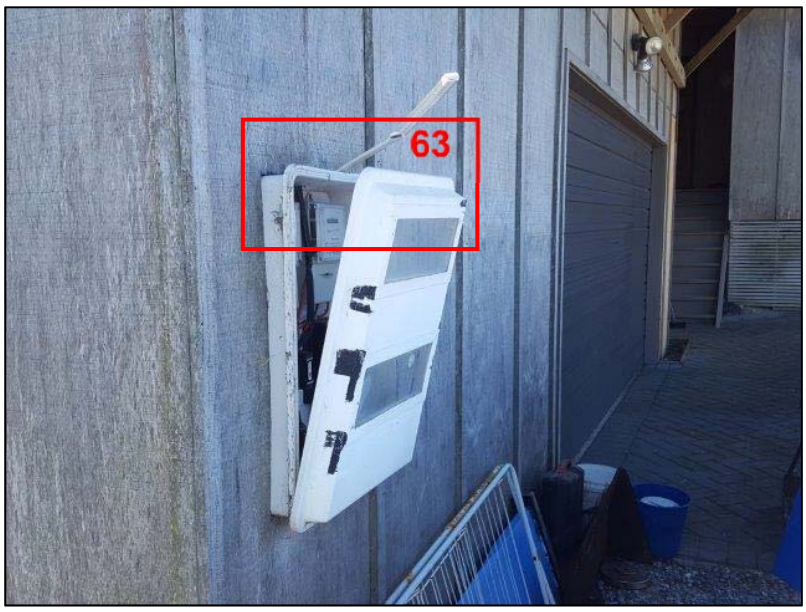


Photo 62: Meterbox on SE garage elevation. Refer to closeup in next photo

Photo 63: No flashings installed around meter box – rule penetrates into workshop

Photo 64: SE garage elevation. Pergola (indicated) has been spaced off cladding. Refer head flashing closeup in next photo, and general elevation on photo 26

Photo 65: No head flashing has been installed to garage door head. Not considered a weathertightness risk with wide canopy protection overhead

Photo 66: New window installed to master bedroom (not part of recent repairs). Refer indicated photos below

Photo 67: Cladding junction at end of master bedroom head flashing appears to be reasonably well installed (other end similar). Inseal strip is visible behind the jamb flange

Photo 68: Sill flashing has been installed to master bedroom window

Photo 69: Master bedroom window interior view. No indication of any moisture entry was found

Minor alterations No. 6 – Joinery trim

Photo 70: Bifold windows on SE elevation. Battens have recently been installed to all sides of some joinery. A photograph on page 90 of the Dodd cladding weathertightness report dated 17/12/15 indicated that sealant applied to a window jamb junction was in poor condition and the repair proposal recommended that all joinery should have cover battens installed to their perimeters. Refer to comments and photos below

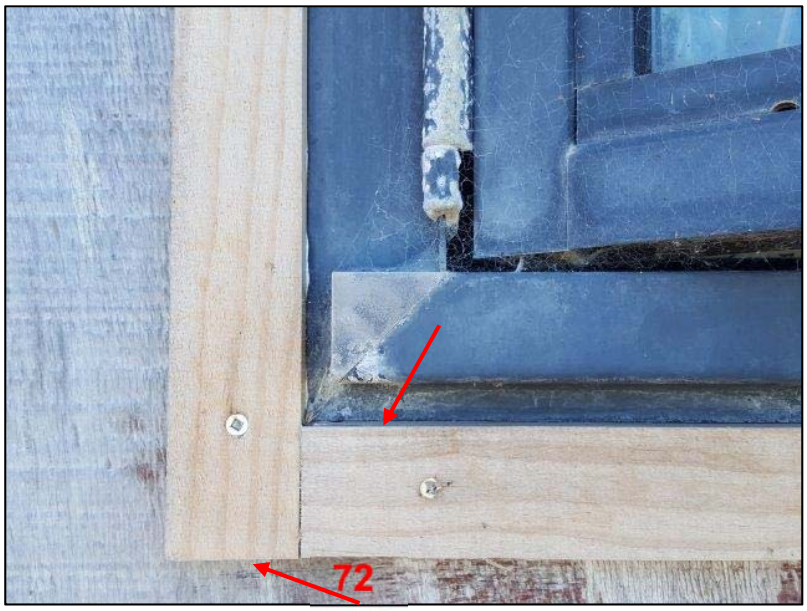


Photo 71: New jamb and sill timber trims installed to bifold window. Flat top surface allows water to pond on sill trim, potentially trapping water against the cladding and restricting drainage from behind the window flange. The Dodd drawings (Minor Alterations No. 6) dated 3.08.16 called for jamb sealant to be renewed and covered with new battens to sides of all joinery. It appears the sill trims may have been installed prior to these drawings being issued. Refer next photo from below trim.

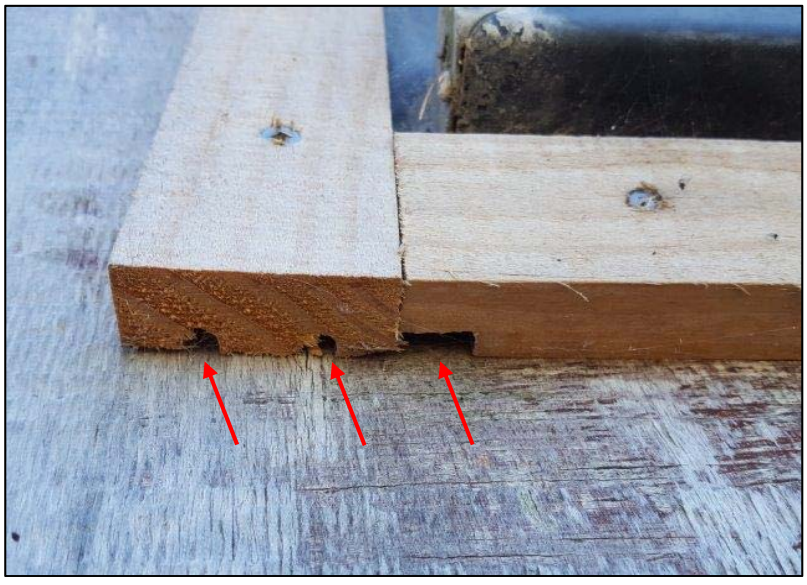


Photo 72: View from below new jamb and sill trim. Jamb trim has rebated grooves. Rear face of end of sill trim has been rebated by builder prior to installation. Refer following photos for typical view behind trim

Photo 73: Bedroom window on rear NW elevation. Refer indicated photo below

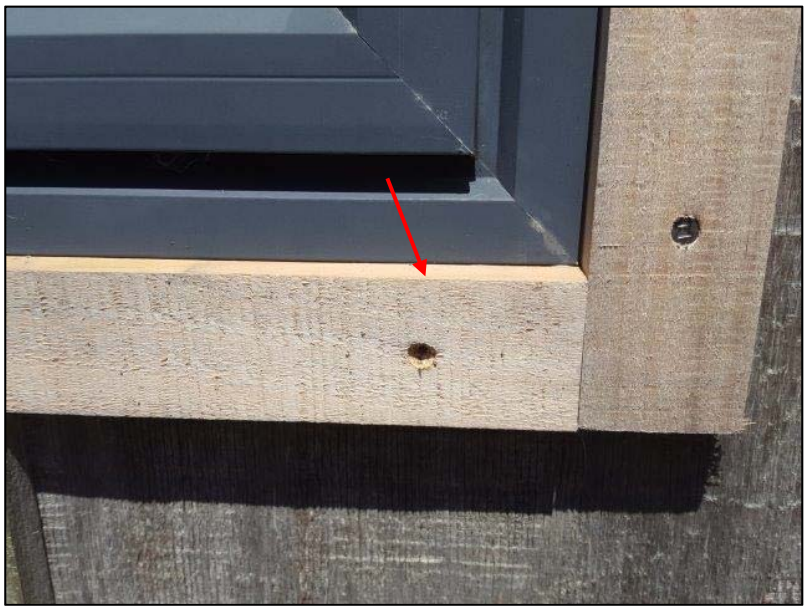


Photo 74: Sill trim with flat top surface. Refer next photo

Photo 75: Grooved rear face of sill trim with ends rebated to allow drainage from grooves. Flat top surface allows water to pond on sill trim, potentially trapping water against the cladding and restricting drainage from behind the window flange. If sill trim is retained, the top 5mm of the trim needs to be removed to allow drainage from behind the window flange. The top surface of the trim also needs to be sloped 15° to prevent accumulation of water. Refer next photo for moisture test

Photo 76:MC 8% normal moisture reading below sill flange

Photo 77: Drill shavings looked in good condition

Photo 78: Workshop window with sill trim removed. Refer moisture testing in next photo

Photo 79: MC 11% normal moisture reading below sill flange. Drill shavings looked in good condition. MC 12% normal moisture reading was taken below sill flange at other end of window. Drill shavings also looked in good condition

Photo 80: Interior view of bedroom window on NW elevation. Varnished strand board flooring is in excellent condition. No evidence of any moisture entry was found to the interior of the house other than noted in this report (photo 11)

Finishing/cladding trim

Photo 81: Plywood cladding in house entry area on SW elevation. Cladding has been neatly finished, with trims installed at plywood junctions

Photo 82: Sleepout entry on NE elevation above garage. Refer indicated closeup in next photo

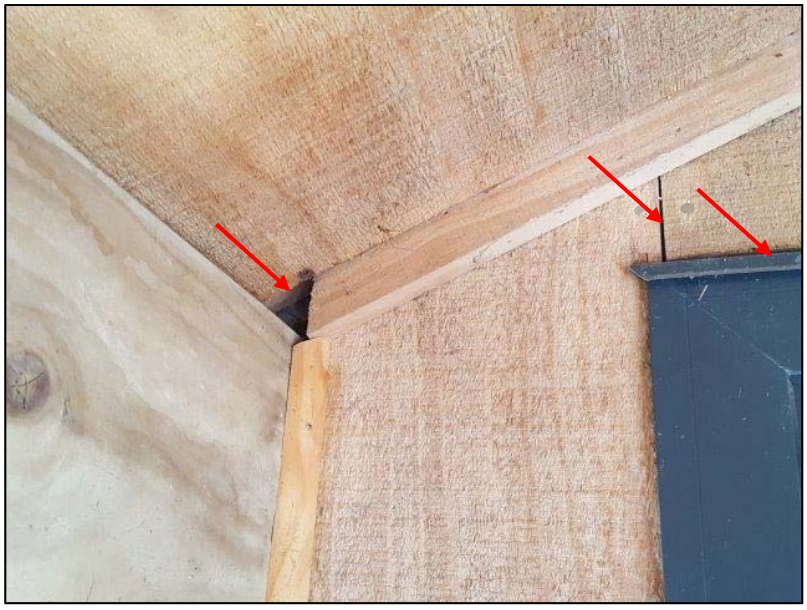


Photo 83: Head flashing is installed over sleepout door. No trim is installed over vertical junction above head flashing. End of soffit trim is poorly finished, leaving gap at beam junction

Photo 84: Garage entry door on NE elevation below sleepout entry. Refer indicated closeup in next photo

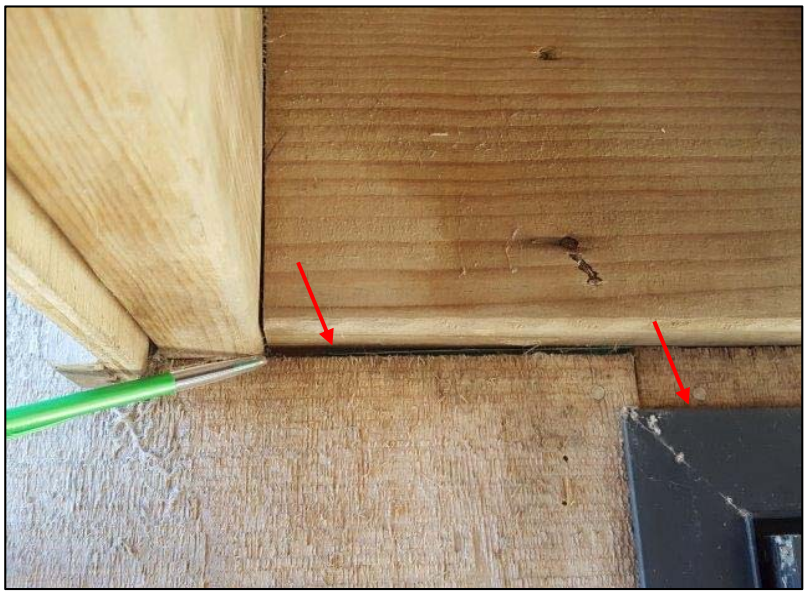


Photo 85: No head flashing is installed over the sheltered garage entry door. No trim is installed at the cladding junction, leaving a clear gap through to the garage interior. Maintenance activity such as washing down the cladding will result in water penetration behind the cladding

Photo 86: Sleepout deck end wall. No trims are installed to internal corner and cladding junctions to beam and roof

Photo 87: Sleepout wall above deck doors. Refer indicated closeups in following photos

Photo 88: Piece of insulation only in large gap between timber truss bottom chords

Photo 89: No trim installed over butted plywood cladding junction

Clause B1: Structure

Photo 90: Pole and beam junction in entry area between house and garage. Refer indicated closeups in following photos

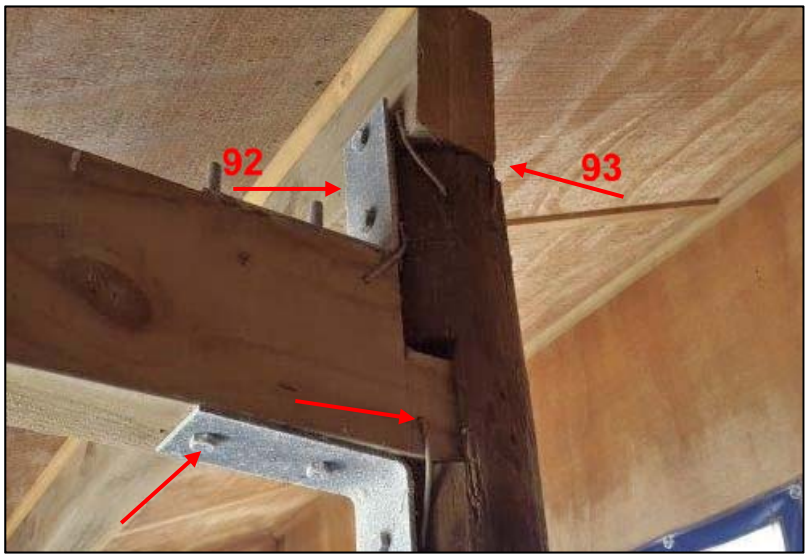


Photo 91: The beam on the left has been checked into and is well connected to the timber pole with top and bottom angle brackets, fixed with three bolts and four wire dogs. The top beam has been somewhat crudely fixed, with structural connections in the lower third of the beam only, allowing the beam to twist. Refer indicated closeups of top beam junction in following photos

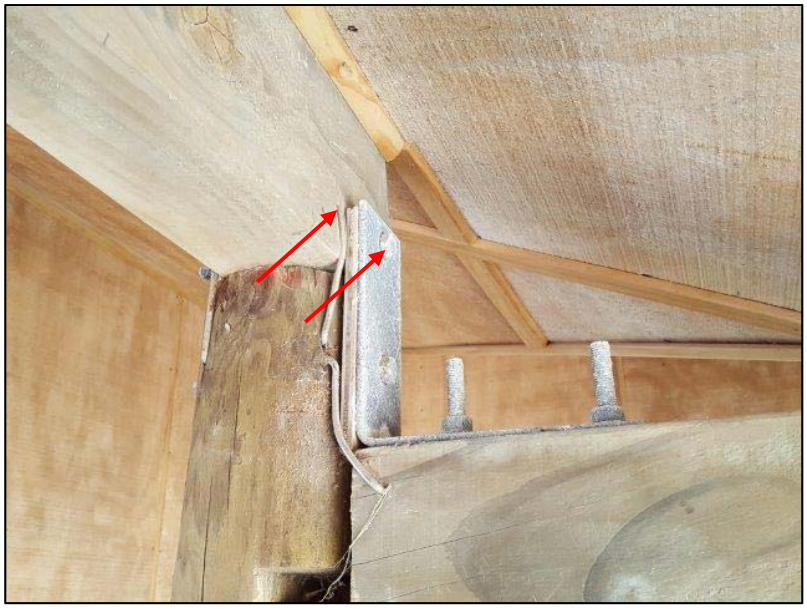


Photo 92: Top beam connection to timber pole is reliant on a single bolted connection and four wire dogs, all in the end and lower third of the beam. The connection could be improved significantly by installing a longer bracket with double bolted connection to the top beam. Refer next photo at other end of the single bolted connection

Photo 93: Top beam connection to timber pole is reliant on a single bolted connection and four wire dogs, all in the lower third and close to the end of the beam. The connection is required to perform for the life of the building (i.e. minimum 50 years). The adequacy of the connection is questionable in a major seismic or storm event

Photo 94: Corrosion to structural connection in laundry soffit area on SE elevation needs attending to. There is some inconsistency with a mix of stainless steel and galvanised connections/bolts installed. Refer photo 1 for general location

Photo 95: Corrosion on sleepout roof strap bracing above deck needs attending to

Photo 96: No issues were noted with the roof structure. The curved long run profiled steel roofing appears to be well installed, including the pictured chimney junction

Photo 97: Subfloor access panel removed on house SW elevation. Refer indicated photos for views below house

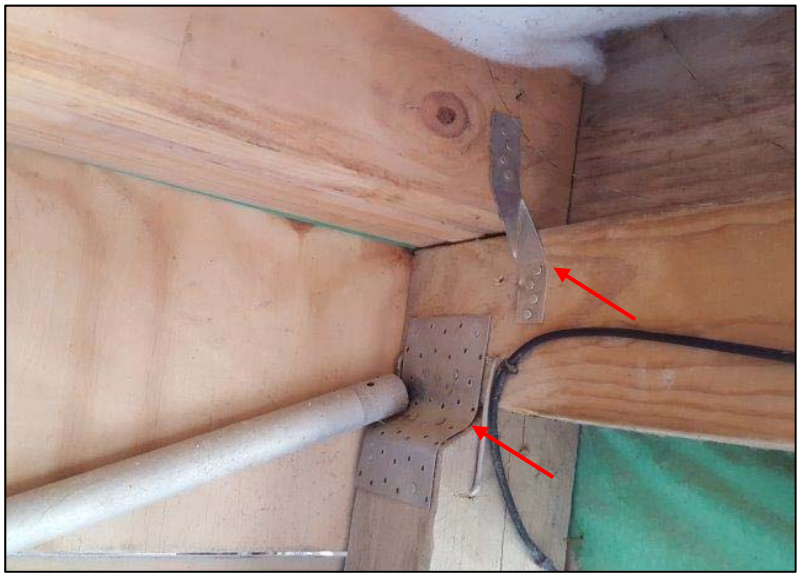


Photo 98: Stainless steel subfloor connections appear to be well installed

Photo 99: Stainless steel bolted connection

Clause H1: Energy efficiency

Photo 100: Polyester type insulation appears to be well installed between floor joists with no visible gaps

Clause E3 – Internal moisture

Photo 101: Seratone or similar wet wall linings in master bedroom ensuite shower are reliant on a sealant bead for waterproofing. The current manufacturer's instructions for tiled installations indicate a fully sealed junction between the two materials above a tiled upstand, which allows for drainage off the wall linings. Refer indicated closeup in following photo

Photo 102: Moisture meter indicates elevated moisture levels on rear face of wall linings. It is assumed that undertile waterproofing will have been carried 150mm up behind the wall linings. There was no indication of any failure of the wall linings such as delamination. Refer following photos of flooring in adjacent space

Photo 103: Robe space adjacent to master bedroom ensuite shower. Refer following photo

Photo 104: Strand flooring adjacent to shower in immaculate condition. Any leakage from the shower would rapidly indicate as staining on the flooring. The flooring adjacent to the shower in the master bedroom was also immaculate, indicating that the shower waterproofing is performing adequately

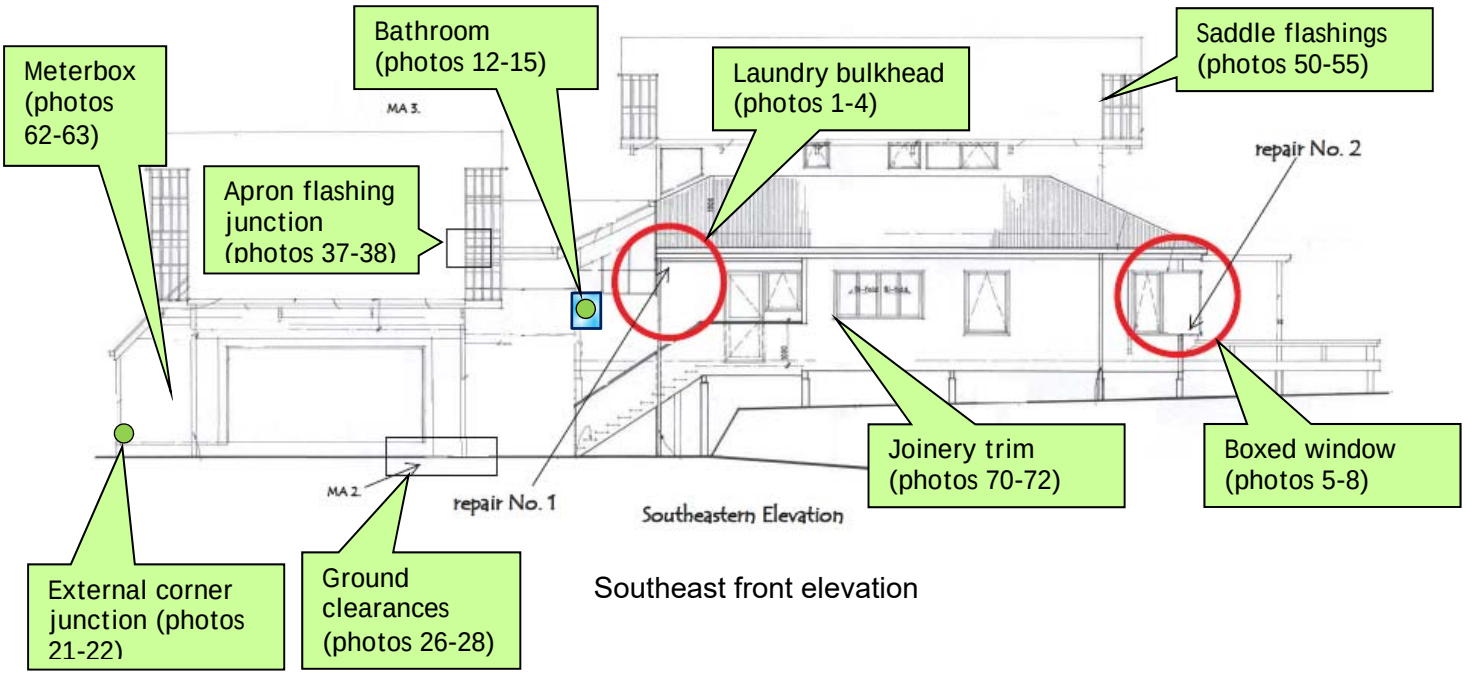
APPENDIX B - INVESTIGATION

A table of invasive moisture readings is included below, followed by marked up elevations identifying some of the investigation locations.

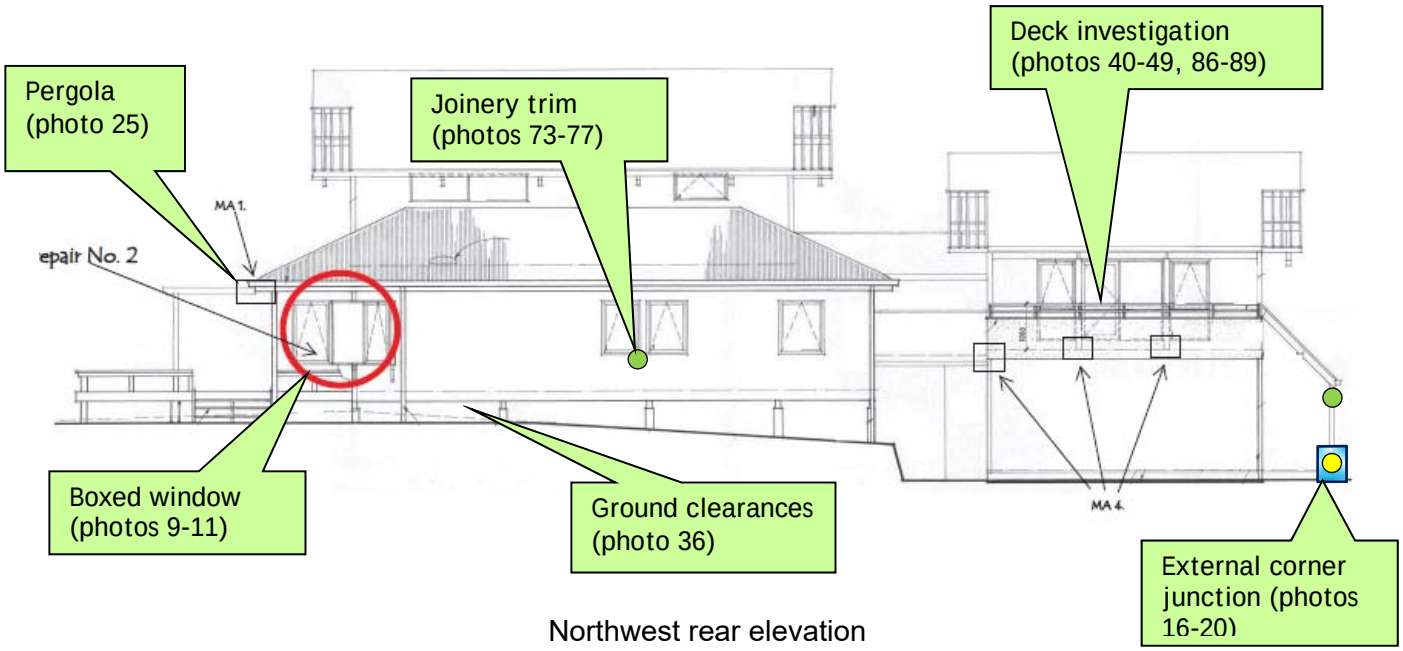
Invasive Reading	Photo No	Elevation	Location
9%	14	SE	Bathroom sill framing at external corner
14%	17	NW	Workshop upper framing at external corner
21%	20	NW	Workshop lower framing at external corner
15%	22	SE	Garage lower framing at external corner
18%	24	SW	Garage lower framing at external corner
8%	76	NW	Window sill framing
11%	79	SE	Window sill framing, LH end
12%	79	SE	Window sill framing, RH end

Key to moisture content

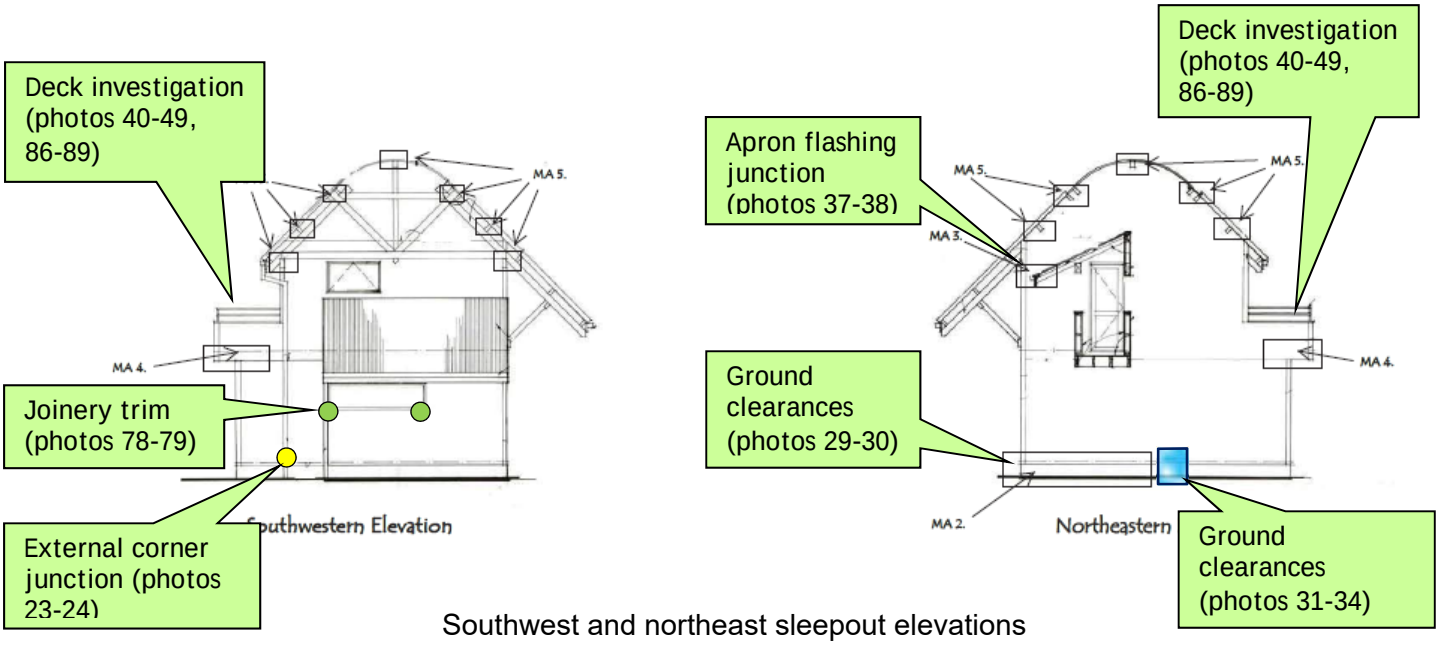
- Low 0% to less than 18%
- Medium 18% to less than 24%
- High 24% or more
- Destructive test positions



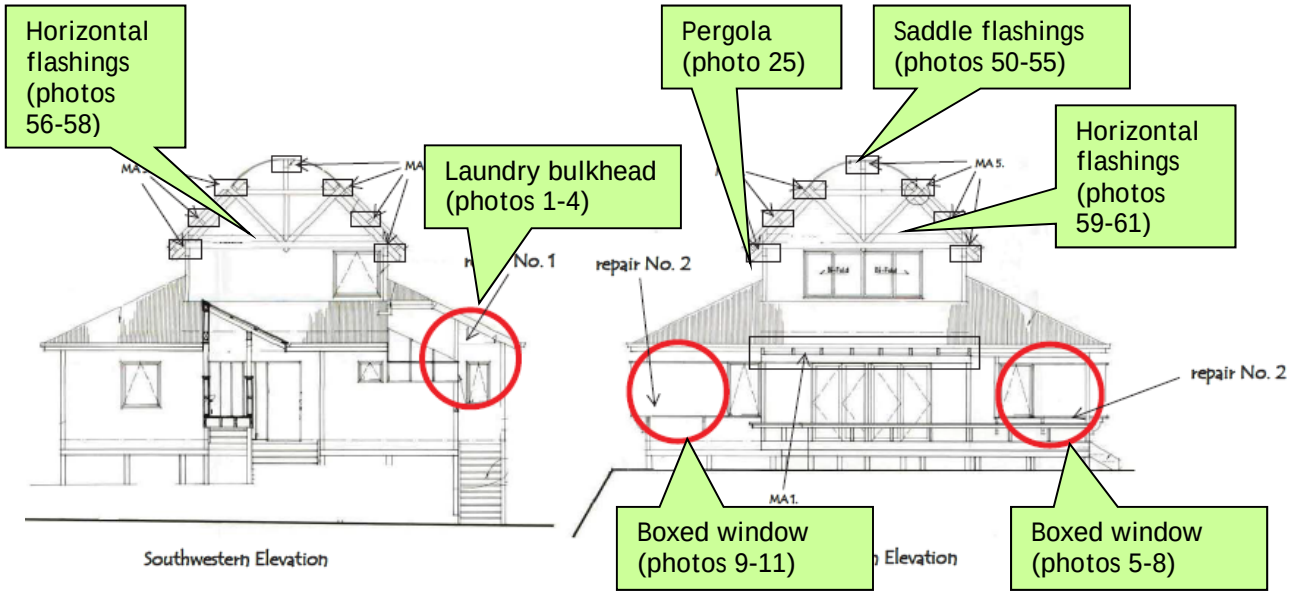
Southeast front elevation



Northwest rear elevation



Southwest and northeast sleepout elevations



Southwest and northeast house elevations

APPENDIX C – SUPPLIED PHOTOS

The following photographs were provided by Craig Dodd. Craig advised that the first photo was taken by Mike Crosby (builder) and the other photos were taken by Craig. All captions and comments have been added by Philip Browne

Bottom plate adjacent to garage door, where ground levels have been reduced. Condition of timber not independently verified by building surveyor


Beam above garage door has been spaced off cladding

COONEY LEES AND MORGAN BARRISTERS • SOLICITORS

DATED 14th July 1999

THE WESTERN BAY OF PLENTY DISTRICT COUNCIL

AND

ANTHONY MCGREGOR MURRAY and TRACY OLIVE NEWITT

DEED OF COVENANT

COONEY LEES AND MORGAN

DEED OF COVENANT

E: 14th July 1999

RTIES: **THE WESTERN BAY OF PLENTY DISTRICT COUNCIL** ("the Council")

AND: **ANTHONY MCGREGOR MURRAY** and **TRACY OLIVE NEWITT** ("the Covenantor")

WHEREAS the Covenantor is the registered proprietor of all that parcel of land containing 32.5 perches more or less being Lot 371 on Deposited Plan S.9104 and being part Section 6 Block I Waihi South Survey District excepting all minerals within the meaning of the Land Act 1924 on or under the land and reserving always to Her Majesty The Queen and all persons entitled to work the said minerals a right of ingress, egress and regress over the said land and being all the land contained in Certificate of Title 6D/277 South Auckland Registry Subject to Mortgage B.523117.3.

AND WHEREAS the Council has granted a Resource Consent pursuant to Section 105 of the Resource Management Act 1991 to erect a dwelling and garage within the coastal protection area subject to the following conditions:

1. That the position of the building from the toe of the foredune be accurately measured to the satisfaction of the Group Manager: Forward Planning in the month of July on a two yearly basis beginning in July 1999 and the results be reported to Council within one month of completing the measurement.

2. That where the toe of the foredune comes within 8 metres of the building foundations (excluding decks) the owner be required to relocate the building so that it is over 15 metres from the toe of the foredune. If it is not possible to achieve a 15 metre set back upon relocation, then the dwelling will have to be removed from the property.

3. That as an alternative to condition 2 the dwelling will not require relocation if the Group Manager: Forward Planning can be satisfied that the risk of further imminent erosion is unlikely and the applicant provides a report from a suitably qualified person detailing current and future predicted erosion/accretion, appropriate monitoring procedures and performance standards for when the

dwelling will need to be relocated. Any submitted report may be peer reviewed by Council at the Covenantor's cost.

4. That conditions 1 to 3 be registered on the title of the said land.

And whereas the Covenantor has agreed to accept such conditions, enter into a covenant pursuant to Section 108(2)(d) of the Resource Management Act 1991, and to registration of the covenant pursuant to Section 109 of the Resource Management Act 1991.

Now therefore in consideration of the premises the Covenantor for himself his executors, administrator and assigns hereby acknowledges and agrees and covenants with the Council that:

1. The Covenantor will ensure that the position of the building from the toe of the foredune be accurately measured to the satisfaction of the Group Manager: Forward Planning in the month of July on a two yearly basis beginning in July 1999 and the results be reported to Council within one month of completing the measurement.

2. Where the toe of the foredune comes within 8 metres of the building foundations (excluding decks) the Covenantor will relocate the building so that it is over 15 metres from the toe of the foredune. If it is not possible to achieve a 15 metre set back upon relocation, then the Covenantor will remove the dwelling from the land.

3. That as an alternative to condition 2 the dwelling will not require relocation if the Group Manager: Forward Planning can be satisfied that the risk of further imminent erosion is unlikely and the Covenantor provides a report from a suitably qualified person detailing current and future predicted erosion/accretion, appropriate monitoring procedures and performance standards for when the dwelling will need to be relocated. Any submitted report may be peer reviewed by Council at the Covenantor's cost.

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, Marianne Astrid Goudswaard, of Hamilton in New Zealand, Bank Officer
AND Carolyn Ann Oliver, of Hamilton in New Zealand, Bank Officer

HEREBY CERTIFY -

1. **THAT** by Deed dated the 10th of July 1996 copies of which are deposited in the Land Registry Offices at -

AUCKLAND (North Auckland Registry) and there numbered D.043055.1
BLENHEIM (Marlborough Registry) and there numbered 187102
CHRISTCHURCH (Canterbury Registry) and there numbered A.257595/1
DUNEDIN (Otago Registry) and there numbered 915888
GISBORNE (Poverty Bay Registry) and there numbered G.212187.1
HAMILTON (South Auckland Registry) and there numbered B.367046
HOKITIKA (Westland Registry) and there numbered 105721
INVERCARGILL (Southland Registry) and there numbered 244294.1
NAPIER (Hawkes Bay Registry) and there numbered 646199.1
NELSON (Nelson Registry) and there numbered 361557.1
NEW PLYMOUTH (Taranaki Registry) and there numbered 435551
WELLINGTON (Wellington Registry) and there numbered 533510.1

WESTPAC BANKING CORPORATION ARBN 007 457 141 incorporated in New South Wales, Australia ("Westpac") appointed us its attorneys on the terms and subject to the conditions set out in that Deed and the attached document is executed by us under the powers conferred by that deed.

2. **THAT** at the date hereof we were **Team Leader of a Legal Unit** and **Branch Service Officer of a Legal Unit** of the said Bank, respectively.

3. **THAT** at the date hereof we have not received any notice or information of the revocation of that appointment by the winding up or dissolution of the said **WESTPAC BANKING CORPORATION** or otherwise.

SIGNED at Hamilton)
this 26th day of July 1999)

91

CONSENT OF MORTGAGEE

WESTPAC BANKING CORPORATION as Mortgagee under Mortgage B.523147.3 **HEREBY CONSENTS** to the foregoing Deed of Covenant **BUT WITHOUT PREJUDICE** to its rights, powers and remedies under the said Mortgage.

DATED this [redacted] day of [redacted] 1999

EXECUTED by

WESTPAC BANKING CORPORATION

by its Attorney

[redacted]

Gwenda Joan Ware
Bank Officer
Hamilton

IN WITNESS WHEREOF these presents have been executed the day and year first hereinbefore written

THE COMMON SEAL of the)
WESTERN BAY OF PLENTY)
DISTRICT COUNCIL was)
hereto affixed in the presence of:)

THE WESTERN BAY OF PLENTY DISTRICT COUNCIL
The Common Seal of

.....
Mayor

.....
Chief Executive

SIGNED by:)
ANTHONY MCGREGOR MURRAY)
and **TRACY OLIVE NEWITT**)
in the presence of:-)

(Witness signature)

MICHAEL AVERY NITZ
(Full name of witness)

TEACHER.
(Occupation)

RD 7 TE PUNA
(Address)

IN THE MATTER OF THE LAND TRANSFER ACT 1952

23 JUL 1999

AND

IN THE MATTER OF THE RESOURCE MANAGEMENT ACT 1991

BETWEEN:

THE WESTERN BAY OF PLENTY DISTRICT COUNCIL

"the Council"

AND

ANTHONY MCGREGOR MURRAY and
TRACY OLIVE NEWITT

"the Covenantor"

DEED OF COVENANT

Correct for the purposes of the Land Transfer Act

.....
Solicitor for the Council

COONEY LEES & MORGAN
SOLICITORS
TAURANGA

PARTICULARS ENTERED IN REGISTER
LAND REGISTRY SOUTH AUCKLAND
FOR REGISTRAR - GENERAL OF LAND

2.06 01.DEC99 B 581246.2

REGISTRAR-GENERAL OF LAND NEW ZEALAND

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Western Bay of Plenty District Council
1484 Cameron Road,
Greerton, Tauranga 3112
P 07 571 8008
E customer.service@westernbay.govt.nz
westernbay.govt.nz

15 December 2021

P/1576/3100/1

TAYLOR, BENSON LANGDON
TAYLOR, HALINA BARBARA
433 PUKEHINA PARADE
RD 9
TE PUKE 3189

Dear Sir/Madam

NOTICE TO FIX CANCELLED / UNABLE TO ISSUE CODE COMPLIANCE CERTIFICATE

Building consent:	**61760**
Site address:	**433 PUKEHINA PARADE**
Project description:	**DWELLING**

This letter is to advise you that the Notice to Fix (NTF) issued 11 December 2017 was in fact issued in error and has now been officially cancelled.

Further to the above and subsequent review of Council records of the building consent, this is to also advise you that Council is unable to issue a CCC for this building consent.

The following is summary of Councils reasons and concerns with respect to its decision of not to issue the CCC:

The building work for the dwelling does not comply with the building code that was in force at the time the building consent (BC61760) was issued in 2000; in particular:

- Areas of the timber framing do not comply with Building Code Clauses B1.3.1, B1.3.2 and B2.3.1
- Parts of the external wall cladding do not comply with Building Code Clauses E2.3.2, E2.3.3 and B2.3.1

Reference also to the Determination 2017/029 (attached) issued by Ministry of Business, Innovation and Employment.

To remedy the non-compliance, you must:

- Provide a detailed investigation produced in conjunction with a competent and suitably qualified person to address the defects identified in paragraph 6.2.2-6.2.6 of the Determination 2017/029; including any further defects that might be discovered in the course of investigation and rectification; and
- Provide a detailed remedial work proposal, produced in conjunction with a competent and suitably qualified person to specifically address the matters of non-compliance

- The remedial work proposal and investigation are to be submitted for approval as an amendment application (before any work can be carried out on site).

Please note that these listed items should not be referenced as an exhaustive list for the project as further on-site issues and documentation may be required from the additional checks carried out by independent experts and/or our council officers.

A copy of this letter will be placed on the building consent file. Our record for the building consent will also be updated to say "CCC not issued".

If you are not in agreement with Council's decision you can apply for a further Determination with the Ministry of Business, Innovation and Employment
https://www.building.govt.nz/resolving-problems/resolution-options/determinations/applying-for-a-determination/

If you intended to carry out remedial work to the building, please contact the Council with regards to building consent requirements prior to commencement of the work.

Please contact me if you would like to discuss the matter further.

Yours faithfully

Rory Brownless
Team Leader Building Act Compliance

Enclosed:
1. Determination 2017/029

10 MAR 1999 Aaron Collier 1576/3100/2

MURRAY, ANTHONY MCGREGOR
NEWITT, TRACY OLIVE
C/- IAN K CARTER
PO BOX 572
TAURANGA

Dear Sir/Madam

APPLICATION FOR RESOURCE CONSENT

APPLICANT: MURRAY, ANTHONY MCGREGOR
YOUR REFERENCE:
DATE OF COUNCIL DECISION: 10 March 1999 (Delegated Authority)

I wish to advise that Council has granted the above application for land use consent in the following terms:

(a) *THAT pursuant to Section 94(2) of the Resource Management Act 1991, the Western Bay of Plenty District Council resolves that the application need not be notified in accordance with Section 93 of the Act because:*

(i) Council is satisfied that the adverse effect on the environment of the proposal will be minor, and

(ii) Council considers no other persons will be adversely affected by the proposal.

(b) *THAT pursuant to Section 104 and 105 of the Resource Management Act 1991, the Western Bay of Plenty District Council grants its consent to the application by A Murray and T Newitt for a discretionary activity, being the erection of a dwelling and garage within the coastal protection area on Lot 371 DPS 9104, Pukehina Parade, Pukehina, subject to the following conditions:*

1. THAT the dwelling be sited and constructed in accordance with the plans dated 2 February 1999 and report as submitted with the application by Ian K Carter LTD (Reference: Job Number 99).

2. THAT the dwelling and garage be designed and constructed so as to be readily relocatable to the satisfaction of Group Manager: Forward Planning.

3. THAT the applicant shall submit building consent plans to the consent authority for its approval before proceeding with construction work on the site such as to confirm with condition 2 as to the proposed buildings relocatable form of construction.

4. THAT sufficient access be maintained on the property to allow for the relocation of the dwelling.

5. *THAT earthworks, excavations, filling and removal of vegetation on the property seawards of the proposed dwelling be limited to minor activities consistent with normal residential use (e.g. gardening).*

6. *THAT the position of the building from the toe of the foredune be accurately measured to the satisfaction of the Group Manager Forward Planning in the month of July on a two yearly basis beginning in July 1999 and the results be reported to Council within one month of completing the measurement.*

7. *THAT where the toe of the foredune comes within 8 metres of the building foundations (excluding decks) the owner be required to relocate the building so that it is over 15 metres from the toe of the foredune. If it is not possible to achieve a 15 metre set back upon relocation, then the dwelling will have to be removed from the property.*

8. *THAT as an alternative to condition (b) 7, the dwelling will not require relocation if the Group Manager: Forward Planning can be satisfied that the risk of further imminent erosion is unlikely and the applicant provides a report from a suitably qualified person detailing current and future predicted erosion/accretion, appropriate monitoring procedures and performance standards for when the dwelling will need to be relocated. Any submitted report may be peer reviewed by Council at the applicant's cost.*

9. *THAT conditions (b) 6- (b) 8 shall be registered on the Certificate of Title of the property by covenant or suitable legal mechanism and that this covenant be prepared by Council's solicitors at the applicant's cost.*

10. *THAT an endorsement on the Certificate of Title in accordance with Section 36(2) of the Building Act 1991 be issued for any building consent on the property and be registered on the title prior to any construction works being undertaken in respect of this consent.*

11. *THAT Council may review consent conditions (b) 4 – (b) 8 hereof by giving notice of its intention to do so under Section 128 of the Resource Management Act at any time commencing within the first six months of the consent being issued and thereafter every two years and within one month of the monitoring information being supplied in accordance with condition (b) 6 of this consent. The consent conditions may be reviewed for the purpose of ensuring that an appropriate level of mitigation is provided to the dwelling to protect it against coastal erosion and inundation.*

12. *THAT the applicant implements the recommendations outlined in the report undertaken by MW Hughes of Shrimpton & Lipinski LTD dated 21 January 1999 (reference 141989).*

13. *THAT the applicant provides confirmation from Environment BOP that all necessary consents in relation to effluent disposal have been obtained.*

The reasons for this decision are that:

1. *The proposed dwelling has been set back from the coast at a distance greater than that of some neighboring dwellings.*

2. *Council is satisfied that the conditions of consent will mitigate the adverse effects of the coastal environment on the building.*

3. *The proposed dwelling is designed to mitigate the risk of inundation and erosion by being relocatable and by the setting of performance criteria.*

4. *It is acknowledged that the District Plan allows for one dwelling per lot as a discretionary activity and that a reasonable level of property rights exists for the owner to build on the property.*

5. *A Section 36(2) endorsement under the Building Act 1991 will be registered on the Certificate of Title making the owners and any future purchasers aware of hazards in relation to the property.*

ADVICE NOTES:

1. *A building consent will be required for all building work including stormwater and effluent disposal systems.*

2. *On site sewerage treatment and disposal will have to comply with Environment BOPs " On Site Effluent Treatment Regional Plan". Environment BOP has confirmed that the design of the effluent treatment system as shown on drawing S.P.4 is not acceptable. The soakage field is located beneath the driveway, which would result in possible compaction and breakage of the soakage field pipes. The soakage field is also shown at a higher elevation than the septic tank, which would be considered to be unworkable unless a pumping system is installed. The applicants are advised to contact Kevin Brian (Environmental Consents Officer), at Environment BOPs Whakatane Office.*

3. *This consent will lapse after two years of being granted unless considerable progress has been made and is continuing to be made to complete this project.*

4. *Any lack of recorded archaeological sites on this property may be due to one of two factors:*

   (a) there are no sites present, or

   (b) there has not been an archaeological survey undertaken.

   Archaeological sites are historic places as defined by the Historic Places Act 1993, and all archaeological sites are protected under the provisions of that Act. Any activity, which impacts on an archaeological site, requires the prior permission of the Historic Places Trust. If any archaeological site is uncovered during development then work must stop until the site can be assessed by a qualified archaeologist and an authority to modify, damage or destroy the site applied for under either Section 11 or 12 of the Act.

5. *You may object to this decision, including any conditions of consent , by notifying Council within 15 working days of receipt of this decision.*

6. *Full compliance with the conditions of consent is necessary to carry out the activity to which this consent relates. Your progress towards satisfying the conditions of consent will be monitored by Council, and enforcement measures may be taken to ensure compliance with the conditions of consent if necessary.*

If you wish to object to any part of this decision you have 15 working days from the date of receiving this notice to lodge your objection with the Council.

Yours faithfully

Sue McElroy
CONSENTS OFFICER
Email sjm@wbopdc.govt.nz

RETURN TO CONSENTS OFFICER	*DATE:*

WESTERN BAY OF PLENTY DISTRICT COUNCIL
FORWARD PLANNING

APPLICATION FOR RESOURCE CONSENT - NON-NOTIFIED - MURRAY, ANTHONY MCGREGOR

DELEGATED AUTHORITY *1576/3100/2*

RECOMMENDATION:

(a) *THAT pursuant to Section 94(2) of the Resource Management Act 1991, the Western Bay of Plenty District Council resolves that the application need not be notified in accordance with Section 93 of the Act because:*

(i) *Council is satisfied that the adverse effect on the environment of the proposal will be minor, and*

(ii) *Council considers no other persons will be adversely affected by the proposal.*

(b) *THAT pursuant to Section 104 and 105 of the Resource Management Act 1991, the Western Bay of Plenty District Council grants its consent to the application by A Murray and T Newitt for a discretionary activity, being the erection of a dwelling and garage within the coastal protection area on Lot 371 DPS 9104, Pukehina Parade, Pukehina, subject to the following conditions:*

1. *THAT the dwelling be sited and constructed in accordance with the plans dated 2 February 1999 and report as submitted with the application by Ian K Carter LTD (Reference: Job Number 99).*

2. *THAT the dwelling and garage be designed and constructed so as to be readily relocatable to the satisfaction of Group Manager: Forward Planning.*

3. *THAT the applicant shall submit building consent plans to the consent authority for its approval before proceeding with construction work on the site such as to confirm with condition 2 as to the proposed buildings relocatable form of construction.*

4. *THAT sufficient access be maintained on the property to allow for the relocation of the dwelling.*

5. *THAT earthworks, excavations, filling and removal of vegetation on the property seawards of the proposed dwelling be limited to minor activities consistent with normal residential use (e.g. gardening).*

6. *THAT the position of the building from the toe of the foredune be accurately measured to the satisfaction of the Group Manager Forward Planning in the month of July on a two yearly basis beginning in July 1999 and the results be reported to Council within one month of completing the measurement.*

7. *THAT where the toe of the foredune comes within 8 metres of the building foundations (excluding decks) the owner be required to relocate the building so that it is over 15 metres from the toe of the foredune. If it is not possible to achieve a 15 metre set back upon relocation, then the dwelling will have to be removed from the property.*

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9. *THAT conditions (b) 6- (b) 8 shall be registered on the Certificate of Title of the property by covenant or suitable legal mechanism and that this covenant be prepared by Council's solicitors at the applicant's cost.*

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11. *THAT Council may review consent conditions (b) 4 – (b) 8 hereof by giving notice of its intention to do so under Section 128 of the Resource Management Act at any time commencing within the first six months of the consent being issued and thereafter every two years and within one month of the monitoring information being supplied in accordance with condition (b) 6 of this consent. The consent conditions may be reviewed for the purpose of ensuring that an appropriate level of mitigation is provided to the dwelling to protect it against coastal erosion and inundation.*

12. *THAT the applicant implements the recommendations outlined in the report undertaken by MW Hughes of Shrimpton & Lipinski LTD dated 21 January 1999 (reference 141989).*

13. *THAT the applicant provides confirmation from Environment BOP that all necessary consents in relation to effluent disposal have been obtained.*

The reasons for this decision are that:

1. *The proposed dwelling has been set back from the coast at a distance greater than that of some neighboring dwellings.*

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ADVICE NOTES:

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2. *On site sewerage treatment and disposal will have to comply with Environment BOPs " On Site Effluent Treatment Regional Plan". Environment BOP has confirmed that the design of the effluent treatment system as shown on drawing S.P.4 is not acceptable. The soakage field is located beneath the driveway, which would result in possible compaction and breakage of the soakage field pipes. The soakage field is also shown at a higher elevation than the septic tank, which would be considered to be unworkable unless a pumping system is installed. The applicants are advised to contact Kevin Brian (Environmental Consents Officer), at Environment BOPs Whakatane Office.*

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5. *You may object to this decision, including any conditions of consent , by notifying Council within 15 working days of receipt of this decision.*

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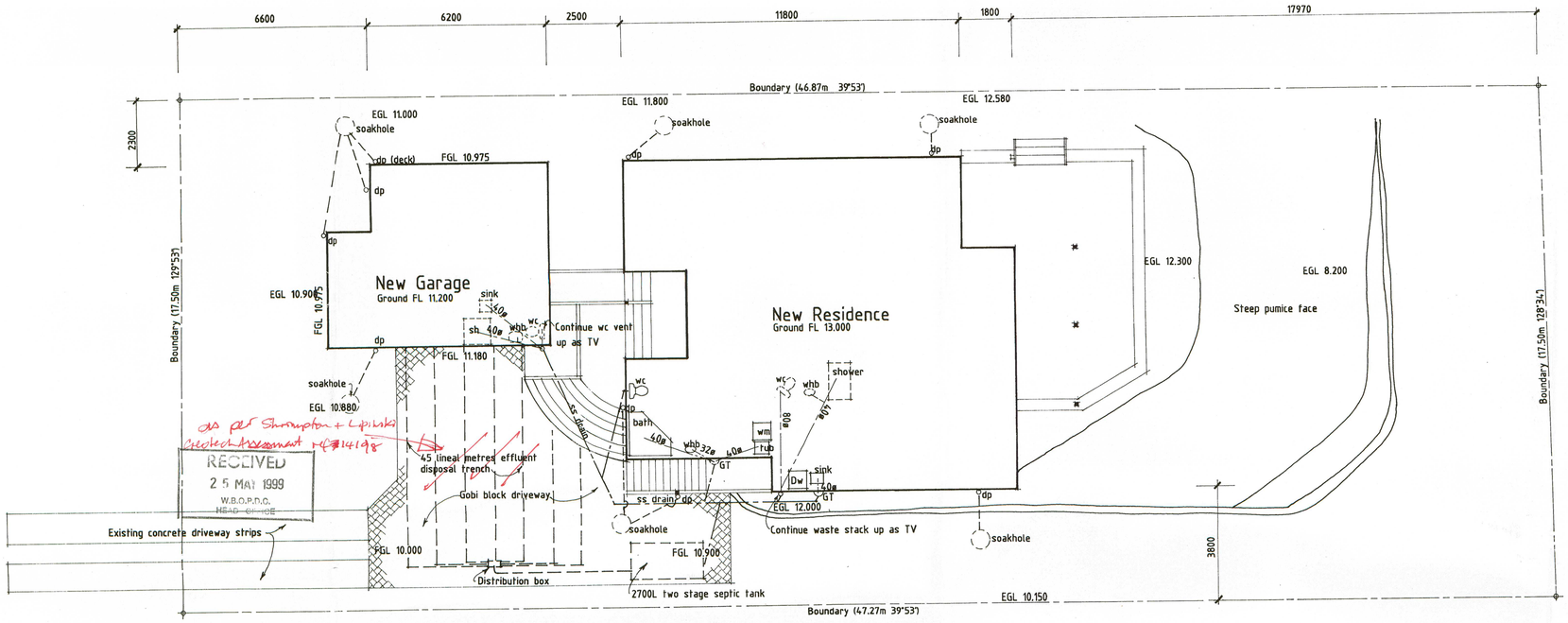
AARONCOLLIER
CONSENTS PLANNER
CCLU1
08 MAR 1999

Approved under Delegated Authority

.....

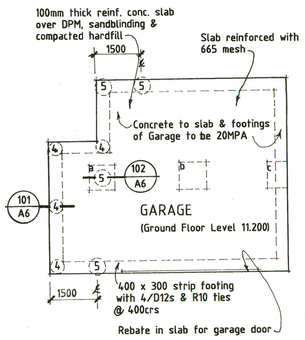
Date: 10/3/99

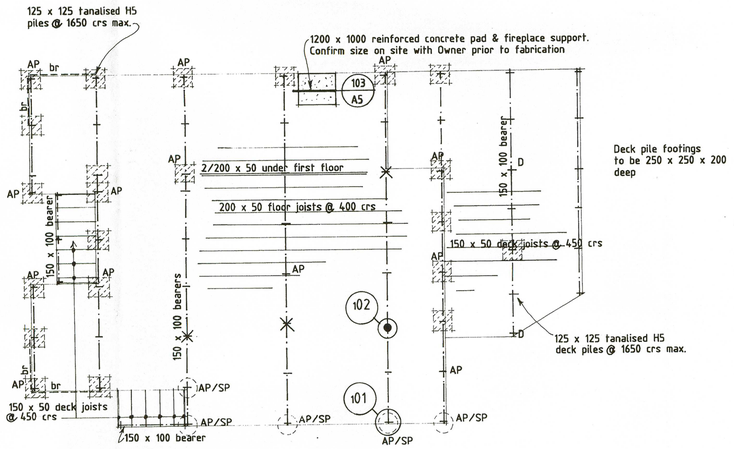


SITE/DRAINAGE PLAN

NOTES

1. Invert levels of effluent drains & septic tank to be determined on site & approved by the Architect.
2. All soakholes to be 600ø - 3 rings deep
3. EGL 10.100 Existing ground level
   FGL 10.100 Finished ground level

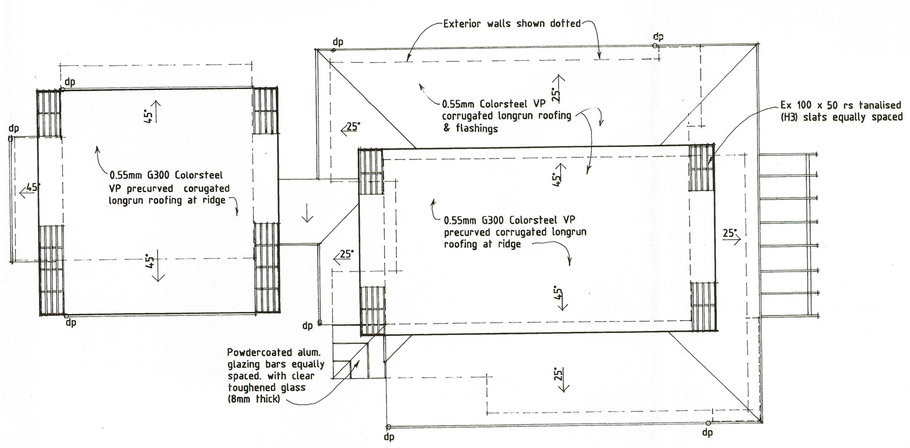




FOUNDATION PLAN

KEY

(5)	500 dia. conc. pile under Garage strip footing. 2.0m min. deep with 4/D12s & R6 ties @ 200crs	✳	900 x 900 footing
(4)	400 dia. conc. pile under Garage strip footing. 2.0m min. deep with 4D/12s & R6 ties @ 200crs	+	500 x 500 footing
a	800 x 800 x 250 deep pad/capping to pile with D12s @ 150 crs each way (75 bottom cover)	AP	900 deep x width as mentioned above
b	900 x 900 x 300 deep pad under SHS with D12s @ 150 crs each way (75 bottom cover)	AP/SP	Special Anchor piles (150 x 150) as detailed
c	800 x 600 x 300 deep pad with D12s @ 150 crs each way (75mm bottom cover)	+	Ordinary piles 450mm deep
	600 x 600 footing	●	200 SED pole as detailed
		+D	450 X 450 x 450 deep pile footings
		br	100 x 75 (tanalised H3) sub floor brace fixed as per NZS 3604



ROOF PLAN

NOTES

1. All gutters to be Marley PVC Stormcloud or similar approved.
2. All dp's to be 80mm dia. PVC.
3. Cut ends of roofing to be sealed with coil-on edge protection.
4. The roofing subcontractor is to consider the lapping of the roofing before installation.
5. NO gutter to the First Floor roof ofthe house.

Design as per MMMLHB's Calculations 107875E and producer statement

Tomo Tomolemin, MIPENZ
Reg No 9168
21/5/99

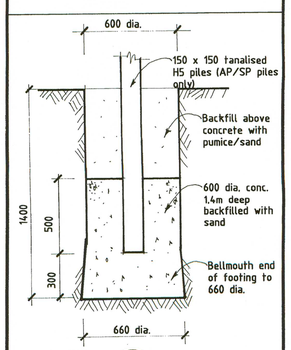
All dimensions shall be checked and varified on site.

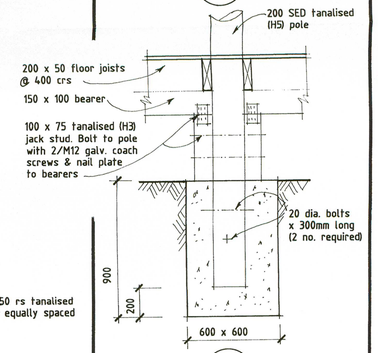
IAN K CARTER LTD B.ARCH FNZIA
REGISTERED ARCHITECT

PHONE 578-7878 FAX 578-9397
P.O.BOX 572 TAURANGA

NOTES

DRAWING INDEX





No.	REVISION DETAILS	BY	DATE

	DESIGN	IKC
	DRAWN	EAS
	CHECKED	
	APPROVED	IKC
	DATE	18/05/99

JOB TITLE

MURRAY/NEWITT RESIDENCE

at 433 Pukehina Parade

CONFIDENTIAL

Western Bay of Plenty District Council

DRAWING TITLE

APPROVED

SITE/DRAINAGE PLAN
FOUNDATION PLAN
ROOF PLAN

UNISSUED

CCC

DRAWN SCALE		REVISION
1:100 & 1:20		
JOB No. 199	CODE	DRAWING No. A1

SET NO.3

LEGAL DESCRIPTION
LOT 371
DPS 9104

Head Office: 1484 Cameron Road, Greerton, Tauranga 3143
Private Bag 12803, Tauranga Mail Centre, Tauranga 3143
Telephone: 07 571 8008. **F:** 07 577 9820
Email: customerservice@westernbay.govt.nz
Offices at: Waihi Beach, Katikati, Omokoroa and Te Puke

TAX INVOICE

REGISTRATION NO. 52-544-300

BOWER REAL ESTATE LIMITED - BOP
PO BOX 13357
TAURANGA CENTRAL
TAURANGA 3141

Invoice No: 409421

Date: 29 Oct 2025

Customer No: 232317

Your Reference: **LIM25737**

DETAILS	GST	Excl	Amount
LIM APPLICATION AND DELIVERY FEES LIM Address: 433 PUKEHINA PARADE EASTERN			
LIM FEE Standard 10 working day service	48.26	321.74	370.00

Please pay on this invoice. No statement will be issued.

EXCL	321.74
GST	48.26
TOTAL	**$370.00**
Less already paid	
TOTAL NOW DUE	**$**

REMITTANCE ADVICE: Online payments can be made by credit card at www.westernbay.govt.nz/invoice-payment or deposit to: **ANZ Tauranga 010434 0180600 00**, please enter **SI409421** in your payment reference. If paying by post, please detach and return with your payment to Private Bag 12803, Tauranga 3143.

CUSTOMER:	BOWER REAL ESTATE LIMITED - BOP
INVOICE NO:	409421
TOTAL DUE:	$
PAYMENT MADE:	$