

Decision under the Resource Management Act 1991

The application decision is the record of the decision made by Council on the application, including any consents granted

If the application was granted the record will also include the consent conditions, advice notes and the reasons for the decision. If the application was refused the record will include the reasons for the decision.

Details

Application for

Section 88 Resource Consent Application

Consent authority

Marlborough District Council

Resource consent number

190431

Description of activity

Coastal permit to construct a new fixed timber jetty measuring 1.8 metres wide by 48.5 metres long fronting Lot 23 DP 491060 in Whangatoetoe Bay.

Applicants

Huimei Investments (NZ) PTY Limited

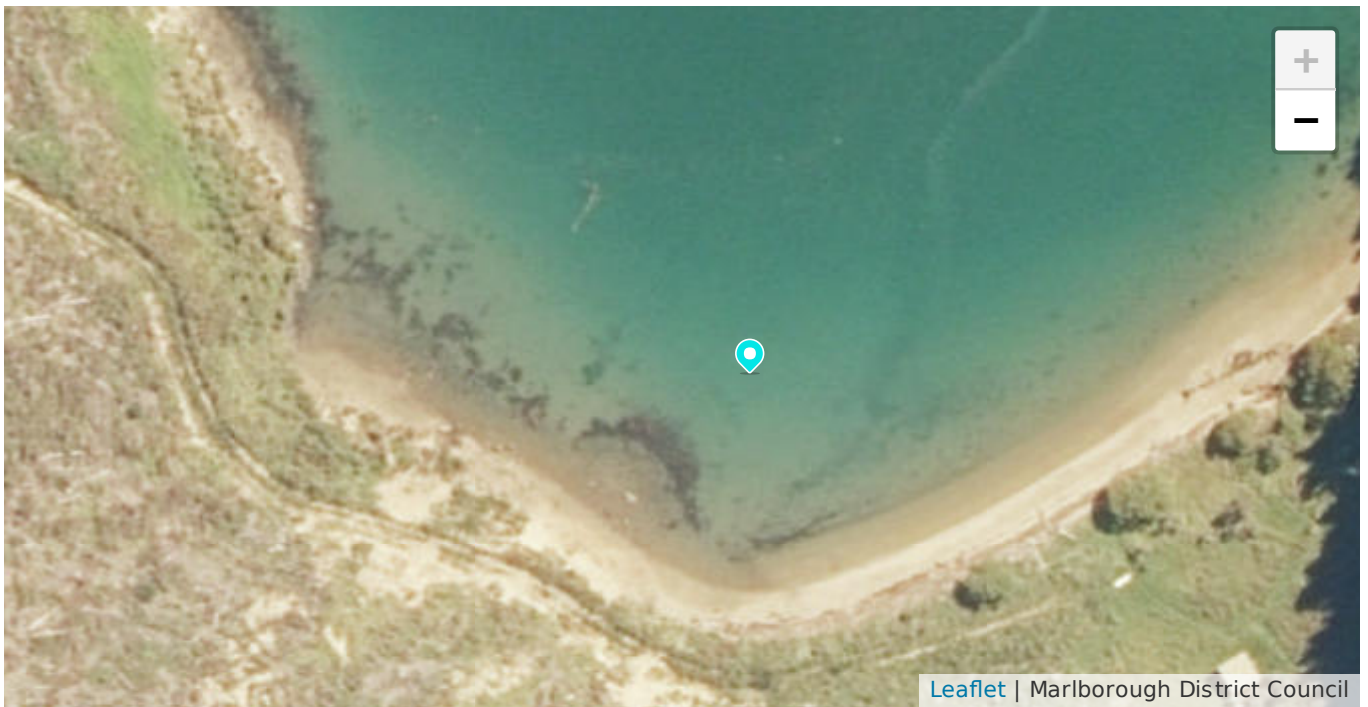
Decision status

Granted

Council decision date

13 Sep 2021

Application location



Location

Whangatoetoe Bay
Te Whanganui/Port Underwood

Easting

-

Northing

-

Application type

Jetty

Resource consents issued

Consent Number <input type="checkbox"/>	Type <input type="checkbox"/>	Subcategory <input type="checkbox"/>	Activity description <input type="checkbox"/>
190431.01	Coastal	Structure	Coastal permit to construct a new fixed timber jetty measuring 1.8 metres wide by 48.5 metres long fronting Lot 23 DP 491060 in Whangatoetoe Bay.

Certificate of Resource Consent

Details

Consent holders

Huimei Investments (NZ) PTY Limited

Consent type

Coastal

Subcategory type

Structure

Consent number

190431.01

Consent/permit description

Coastal permit to construct a new fixed timber jetty measuring 1.8 metres wide by 48.5 metres long fronting Lot 23 DP 491060 in Whangatoetoe Bay.

Site location**Location**

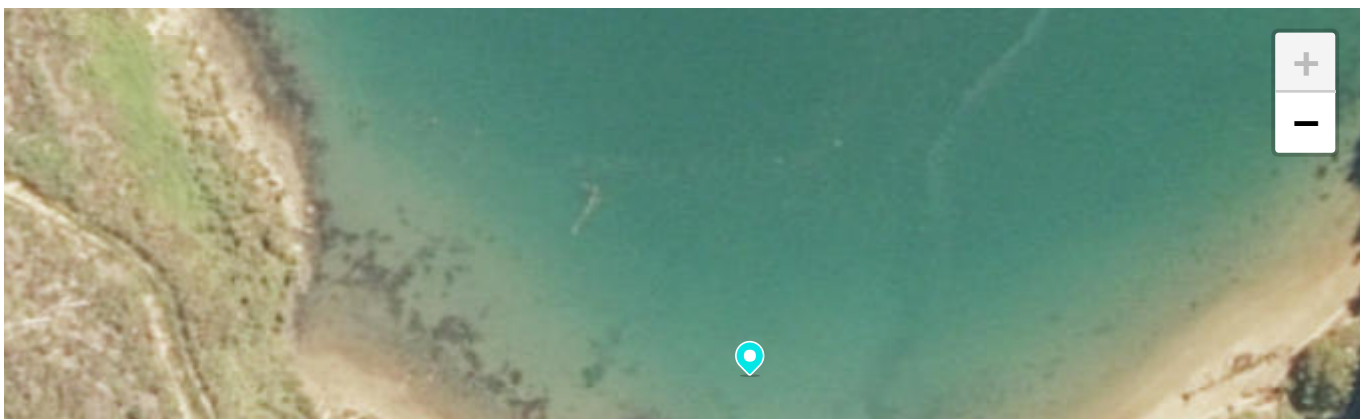
Whangatoetoe Bay
Te Whanganui/Port Underwood

Map details**Easting**

1695367

Northing

5422763





Dates

Commencement date

-

Lapse date

1 Oct 2024

Expiry date

1 Oct 2041

Part 3, sections

12

Conditions

1. Except insofar as required to comply with other conditions of this consent, the activity shall be undertaken and remain in accordance with the application and drawings for Resource Consent U190431. In particular the amended drawings labelled; 'Plan and Elevation', Drawing Number 26740, R2 Issue F (Appendix 1) and 'Maintaining Foot Access' (Appendix 2) appended to this consent.
2. When undertaking construction, maintenance or repair work on the structure the following must be complied with: a) No contaminants (including petrol, oil, paint and sawdust) from the work may be released into the coastal marine area. b) Any disturbance of the foreshore and seabed must be undertaken in a manner which minimises water turbidity. c) All equipment and left over building material must be removed from the coastal marine area upon completion of work.
3. All external surfaces of the structure must be: a) A colour(s) within a reflectivity value range of 5% to 30% inclusive; and/or b) A natural, weathered timber finish. The colour/s chosen and their reflectivity value/s must be specified in the drawings submitted for building consent.
4. Except as may be required by the Harbour Master for the purpose of safe navigation, all external lighting on the structure must be: a) Hooded to prevent any light spillage above the horizontal plane of the light source; and b) Directed away from roads so as to avoid any adverse effects on traffic safety.

5. Within 30 days of the date of completion of the construction of the structure or the issuing of a Code Compliance Certificate under the Building Act 2004 (whichever is first in time), the consent holder must provide a minimum of 10 colour photographs to the Compliance Manager, Marlborough District Council which: a) Are taken within 30 days of being provided to the Compliance Manager; and b) Depict the entire external appearance of the structure; and c) Are sufficient to demonstrate compliance with the conditions of this consent.
6. The consent holder must ensure that the structure is maintained in a tidy, safe and structurally sound condition at all times, including carrying out regular inspection and maintenance of timber and bolted connections.
7. All external areas of the jetty including decking must not be used as a storage location for marine craft, recreational equipment or any other material or item.
8. The consent holder must allow any person to pass across and lawfully use the jetty without charge. The consent holder must not display any signage that deters people from using the jetty.
9. The jetty must not be used at any time by any person (including the consent holder) in a manner which prevents or unduly hinders any other person from passing across the jetty or accessing the jetty with a vessel for the loading/unloading of goods and people.
10. The land to which the jetty relates is presently known as Lot 23 DP 491060 (the Land). This consent must not be transferred to any person other than an owner of the Land. In the event that the Land is sold or otherwise transferred to a new owner, this permit must within 3 months thereafter be either: a) Transferred pursuant to s135 of the Resource Management Act 1991 (including payment of any applicable administration fee) to the new owner of the land; or b) Surrendered to the consent authority.
11. If any artefact and/or any historical, cultural or archaeological material of Maori origin or likely to have significance to Maori is found or uncovered whilst undertaking work authorised by this consent, the following must be complied with: a) Work must cease immediately, the area must be secured and any uncovered material must remain untouched; b) Advice of the discovery must be given within 48 hours to the resource management officer of the relevant iwi, to Council and to Heritage New Zealand; and c) Work may not recommence until the approval of the relevant local iwi, Heritage New Zealand and Council are all obtained.
12. In accordance with Section 128 of the Resource Management Act 1991, the Marlborough District Council may review the conditions of this consent, for the specified purposes identified in section 128(1), including for the purpose of ensuring the adverse effects upon the following matters are adequately avoided, remedied or mitigated: (a) Maritime safety; and/or (b) Recreation values; and/or (c) Amenity values. Notice of review for these purposes may be given during the months of January to December inclusive of any year for the duration of this consent.
13. Unless a replacement resource consent is applied for and granted, the consent holder, at the consent holder's expense, must have removed the jetty from the coastal marine area prior to the following events, whichever is first in time, and they must provide written confirmation of this to the Compliance Manager, of Marlborough District Council within two weeks of completion of the removal: a) Expiry of the resource consent; or b) Surrender of the resource consent; or c) The structures becoming derelict or abandoned.

Volunteered Conditions.

As volunteered, the following must be implemented by the consent holder: a) For the purpose of maintaining foot access along the foreshore (as defined in Section 2 of the RMA), the consent holder must allow unrestricted public foot access over Area 'A' illustrated on the plan drawing appended to this consent (Appendix 2). b) Within one month of completion of the jetty, the consent holder must install and maintain a permanent

notice (as detailed in Appendix 2) at the landward end of the jetty at Mean High Water Springs facing seaward. The sign must be A3 in size.

Advice notes

1. All electronic correspondence relating to the operation of this consent and compliance with consent conditions should be sent to monitoring@marlborough.govt.nz.
2. The consent holder shall be required to pay the administrative charge or charges incurred in respect to inspections and monitoring of the structures and compliance with the conditions of consent.
3. At expiry of the resource consent it is a breach of section 12 of the RMA 1991 for the jetty to remain in the Coastal Marine Zone. The Consent holder must ensure its removal to avoid the risk of enforcement action.
4. If you wish to vary the jetty structure including increasing the size or changing the design you will need to apply to vary a condition of this consent under s127 of the RMA 1991 or potentially apply for a replacement consent subject to the degree of change sought.
5. The consent holder shall be required to pay Coastal Occupancy Charges if they apply.

Further resolutions

Council information

Catchment

No Catchment

National environment standard relevant to consent

-

Historical reference number

75719

Activity

Discretionary

Reasons for the decision

1. Proposal.

The applicant seeks resource consent to construct a new fixed timber jetty measuring 48.5 metres long by 1.8 metres wide, incorporating stairs to access the foreshore, fronting Lot 23 DP 491060 in Whangatoetoe Bay.

2. Description of Existing and Surrounding Environment.

The site is located in Whangatoetoe Bay, Te Whanganui/Port Underwood. The bay is located on the eastern side of the harbour. The property has no legal road access. Forestry tracks traverse the wider peninsula (which has been subdivided into individual lots), however the tracks are not legal road and not suitable for ongoing use as access to the property. No other access is available to the property other than by sea. A small building is located in the north of the bay, close to the shoreline. The proposed jetty is located to the south, placed to avoid the boating club mooring (M2455). The surrounding land consists of steep terrain that has been harvested for forestry. The remaining land consists of a small stand of mature pines, the remainder regenerating bush/scrub. The applicant also owns the neighbouring Lot to the south. Marine farms are spaced along the coast and within Whangatoetoe Bay.

3. Activity Status .

Marlborough Sounds Resource Management Plan (Sounds Plan) At the time the application was made the proposal constituted a discretionary activity under Rule 35.4 of the Sounds Plan. Since then the Proposed Marlborough Environment Plan (PMEP) has taken legal effect; the proposal is a discretionary activity under PMEP Rule 16.6.3.

4. Notification and Affected Parties.

The application was publically notified. Of the total of 4 submissions received, one was in support, with three opposed. Opposition to the proposal centred around concerns regarding increased road use to Port Underwood and parking availability in Oyster Bay (located on the opposite side of the harbour and frequently used as a parking/trailer space for visitors to Port Underwood) and the ongoing potential impacts on the area resulting from a lack of space available for longer term parking as a result of the subdivision on the opposite side of the harbour and the general increase of visitors to the area. Opposing submitters felt the jetty was not necessary, and the preference was that Whangatoetoe Bay remain navigable without any structures impeding this. There was a feeling that the land ought to be accessed from the forestry road, crossing the other properties in the subdivision. a) A pre-hearing meeting was arranged with two of the three submitters (one chose not to be further involved however requested that their concerns were considered). This meeting aired the concerns of the submitters regarding parking pressures in Oyster Bay and their preference the applicant accesses their property via Tumbledown Bay Road. Following legal consultation by the applicant it was confirmed that the property does not have legal access from Tumbledown Bay Road, via forestry tracks traversing the peninsula. This finding concluded the only viable access to the applicant's property (including most of those of the subdivision) is by sea. b) Following further consultation one submitter withdrew their wish to be heard (requesting due consideration of their concerns), and the remaining submitter requested enhanced foreshore access as the applicant's property does not include an area of Foreshore Reserve as per the amended drawings and volunteered conditions. Beach access steps were added to the jetty plans to address this concern and enable continued pedestrian access along the shore at high tide. c) Regarding the concerns of the submitters in terms of parking availability in Oyster Bay, Marlborough Roads has confirmed it has no plans to improve or increase parking in this area, nor are any upgrades planned for Port Underwood Road. Given that the subject property is only accessible by sea, this parking issue appears to be an existing issue which has been contributed to by the subdivision of the land. It seems unlikely that the issue would be made worse, or better, by the proposed jetty. Persons accessing the subject property by a boat launched from Oyster Bay would need to lawfully park their associated vehicle and boat trailer, whether the proposed jetty exists or not.

5. Assessment of Effects .

In terms of the considerations required by section 104(1)(a) of the Resource Management Act 1991, the proposal, subject to conditions, is concluded to be likely to have acceptable adverse effects on the existing ecological values, maritime safety, natural character, landscape values, water quality, recreational values (including public access) and amenity values of the immediate locality. In reaching this conclusion it is assessed that the proposed jetty, while being a new built structure in this part of the port, is due to its nature, size and design, broadly consistent with the established character and amenity of the area. In terms of positive effects, it is assessed that the structure would facilitate safe and convenient boat access to the applicant's adjacent property and associated recreational use of the marine area.

6. Relevant Statutory and Plan Provisions.

In terms of the considerations required by section 104(1)(b) of the Resource Management Act 1991, Policies 2, 6, 13, 15, 18 and 19 of the New Zealand Coastal Policy Statement 2010; Objectives 7.1.2, 7.1.9, 7.2.7 and 8.1.2 and Policies 7.1.7, 7.2.8, 7.2.10 and 8.1.6 of the Marlborough Regional Policy Statement; Policies 2.2.1.2, 6.1.2.1.4, 8.3.1.2, 9.2.1.1.1, 9.2.1.1.3, 9.2.1.1.10, 12.3.1.4, 19.3.1.4 and 19.3.1.7 of the Sounds Plan; and Policies 13.10.3 – 13.10.17 of the PMEP are of relevance to an evaluation of the proposal. Within the context of the site it is concluded that the proposal, subject to conditions, is consistent with most of the identified provisions.

7. Part 2 Resource Management Act 1991.

Having considered the matters of national importance, other matters and principles of the Treaty of Waitangi as required by Part 2 of the Resource Management Act 1991, it is concluded that the sole purpose of the Act would be better achieved through a grant of resource consent, subject to the conditions specified. In particular, restricting the transfer of the consent protects the amenity values of the bay and recognises the functional connection between the structure and the applicant's landholding.

8. Consent Duration and Lapse Date.

Section 123 of the Resource Management Act 1991 requires that every coastal permit have an expiry date. In this case an expiry date of 1 October 2041 is consistent with sustainable management. A three year lapse period to 1 October 2024 enables an ample length of time to give effect to the consent while also recognising that coastal space is a public resource and should be effectively used without unreasonable delay.

Recommendation

Decision by hearing

No

Decision

Granted

Processing officer

Silverstar, Sarah

Decision

Delegation number

104B

Date entered

13 Sep 2021

Delegated to

MDC Officer

Council staff member

Eatherley, Anna

Final decision

Granted

Final decision date

13 Sep 2021

Decision supporting documents

Report type	Report title	Author	Document
Site Plan	Appendix 1	-	Appendix 1 (1).pdf (606 kB)
Miscellaneous	Appendix 2	-	Appendix 2 (2).pdf (128 kB)
Miscellaneous	Additional Important Information for Resource Consent Holders	-	Section 88 Additional Important Information for Resource Consent Holders.pdf (94 kB)

Additional Important Information for Resource Consent Holders

The following information provided in this information sheet is a guide to the legal rights of applicants and submitters.

If you want to discuss matters raised in this information sheet you are welcome to contact Council. However, if you require specific advice you should contact an independent professional and refer to the relevant sections of the Resource Management Act 1991.

Commencement of a Resource Consent

Refer to section 116 of the Resource Management Act 1991

- Where no submissions were lodged or any submissions were withdrawn, a resource consent commences, (and may be actioned) on the date of the receipt of the decision.
- Where submissions were lodged to the application, and not withdrawn, the resource consent commences once the time for lodging an appeal has passed, provided no appeals have been received, or when all appeals have been resolved or withdrawn.
- If the resource consent was for activities controlled by the district plan on reclaimed land or land in the coastal marine area, or a restricted activity; then there are specific provisions regarding the commencement of resource consent. These provisions are outlined in section 116 of the Resource Management Act 1991.

Lapsing

Refer to section 125 of the Resource Management Act 1991

- If no lapse date is specified in the conditions of this consent, the consent will lapse 5 years after the decision date, unless the consent has been actioned (given effect to).
- Council requires full implementation of the establishment conditions prior to the lapse date in order to demonstrate effect has been given to the consent. Please note this includes commencing the activity you have applied for (for example taking water). It is important that when you commence the activity you do so in the sequence that your conditions require (for example installing a meter, then completing a meter inspection, then taking water, all before the lapse date). If you are unable to do so you are strongly recommended to make an application to extend the lapse date or vary the condition that is posing difficulty to implement.

Conditions of Resource Consent

Refer to section 108 of the Resource Management Act 1991

- If conditions are imposed these will be set out in the decision document.
- Please read your consent and ensure that you fully understand any conditions.
- If you have concerns with any condition(s), in the first instance you should discuss your concerns with Council, although an option may be to lodge an appeal or objection.
- It is a legal requirement that there be **compliance with** all conditions.
- If any conditions are contravened it may be that the Council or members of the public will initiate enforcement action (outlined in Part XII of the Resource Management Act 1991).

Change or Cancellation of Conditions of Resource Consent

Refer to section 127 of the Resource Management Act 1991

- The consent holder may apply to the Council to change or cancel conditions of the consent, except a condition specifying duration.

Monitoring Fees

Refer to section 36 of the Resource Management Act 1991 and the Council's Schedule of Fees

- The consent holder will be charged for actual and reasonable costs associated with the monitoring of this consent.

Objections

Refer to section 357 of the Resource Management Act 1991

- In certain circumstances the applicant has the right to object to the Council's decision.
- Any objection shall be made in **writing** and will need to outline the reasons for the objection.
- An objection needs to be lodged with the Council within **15 working days** of the Council's decision being received by you or your agent.

Appeals

Refer to Form 16 and sections 120 and 121 of the Resource Management Act 1991

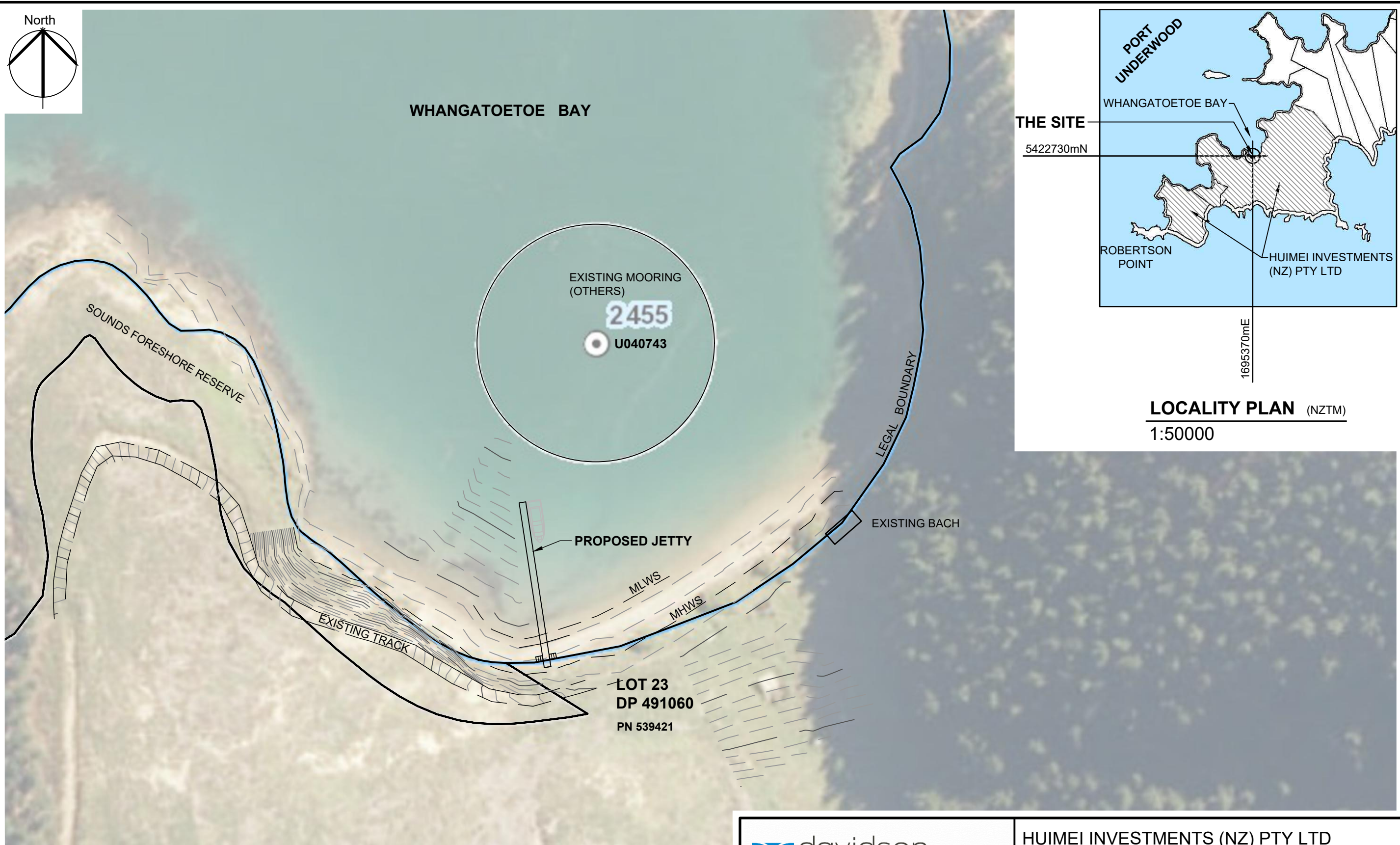
- The applicant and any submitters have the right to appeal the whole or any part of the Council's decision, however there is no right of appeal against the whole or any part of the decision to the extent that the decision relates to one or more of the following, but no other, activities:
 - a) a boundary activity, unless the boundary activity is a non-complying activity;
 - b) a subdivision, unless the subdivision is a non-complying activity;
 - c) a residential activity as defined in section 95A(6), unless the residential activity is a non-complying activity.
- A submitter can only appeal to the Environment Court if their appeal is related to a matter raised in their submission and their submission, or the part of their submission to which the appeal relates, has not been struck out under section 41D of the Resource Management Act 1991.
- A notice of appeal must be lodged with the Environment Court and the Council, within **15 working days** of the Council's decision being received (or received by your agent on your behalf). A copy also needs to be served on the applicant and submitters to the application within 5 working days of the notice being lodged with the Environment Court.

Before lodging an objection or an appeal it is recommended that you seek professional advice.

Subdivision Consents

Refer to sections 223 and 224 of the Resource Management Act 1991

- If no lapse date is specified in the conditions of this consent, the consent will lapse 5 years after the decision date, unless the consent has been actioned (given effect to). The lapse date is subject to the provisions of section 125 of the Resource Management Act 1991.
- The consent holder has a further 3 years following the issue of the section 223 approval to obtain a section 224 certificate from Council and lodge the survey plan for deposit with Land Information New Zealand prior to the resource consent lapsing.
- Payment of any compensation due as a result of road vesting or esplanade acquisition will be made upon receipt of your invoice and evidence that the new certificates of title have issued with the esplanade strip agreement registered on them, or vesting completed.



NOTES:

1. THIS DRAWING INCLUDES INFORMATION PROVIDED BY MDC.
2. SURVEYING UNDERTAKEN BY DAVIDSON GROUP LIMITED FOR ENGINEERING PURPOSES ONLY. (CONTOURS AT 0.2 m)
3. HEIGHT DATUM = CHART DATUM 0.0

SITE PLAN
1:1000

E	JETTY ABOVE MHWS CORRECTED	4/8/2021	R.B.M
D	ACCESS STEPS OVER JETTY AT MHWS	20/7/2021	R.B.M
C	BEACH ACCESS STEPS OVER JETTY	14/7/2021	R.B.M
	REVISION	DATE	BY

DAVIDSON GROUP

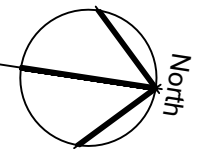
PROJECT PLANNERS
RESOURCE MANAGERS
CIVIL & STRUCTURAL ENGINEERS
BUILDING DESIGNERS
ENVIRONMENTAL ENGINEERS

Davidson Ayson House, 4 Nelson St
PO Box 256, Blenheim 7240, NZ
T: 03 579 2099 / F: 03 578 7028
E: service@DavidsonGroup.co.nz
W: DavidsonGroup.co.nz

HUIMEI INVESTMENTS (NZ) PTY LTD
WHANGATOETOE BAY, PORT UNDERWOOD
PROPOSED JETTY

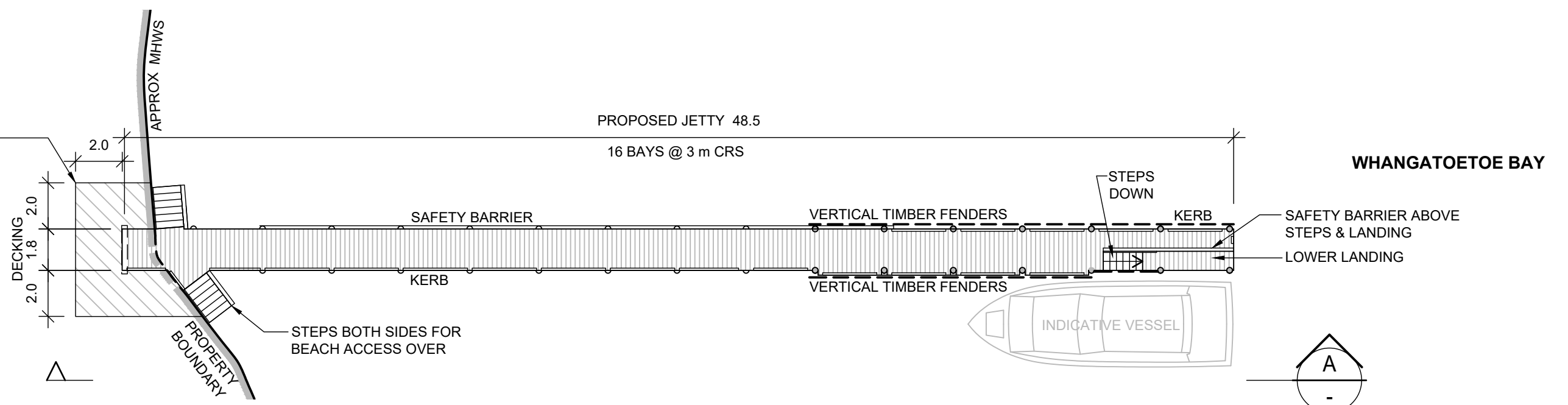
site & locality plans

DATE	ORIGINAL SIZE	DRAWING No.	SHEET	ISSUE
03/19	A3	26740	R1	E
DES W.L.M	DRN R.B.M	CK W.L.M	REF	



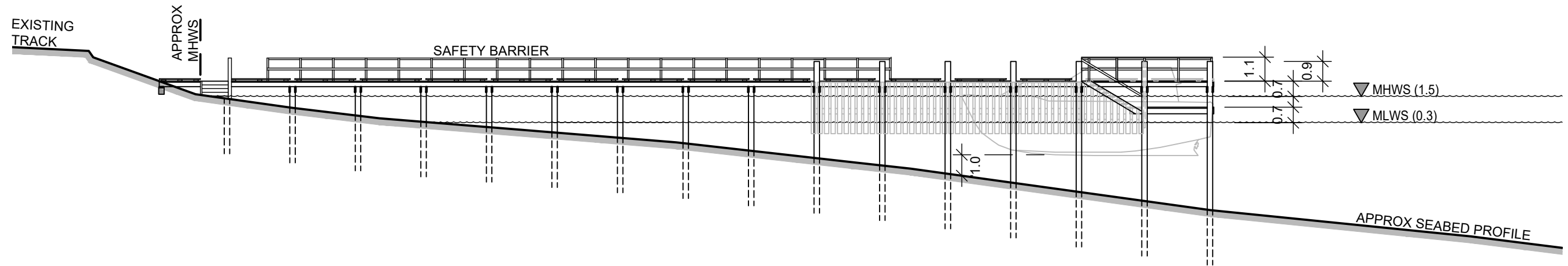
AREA 'A'

LOT 23
DP 491060
PN 539421



JETTY PLAN - GENERAL LAYOUT

1:200



TYPICAL ELEVATION

1:200

NOTE: FOR THE PURPOSE OF MAINTAINING FOOT ACCESS ALONG THE FORESHORE*, THE CONSENT HOLDER MUST ALLOW UNRESTRICTED PUBLIC FOOT ACCESS OVER AREA 'A'.

* FORESHORE HAS THE SAME MEANING AS IN SECTION 2 OF THE RESOURCE MANAGEMENT ACT 1991.

F	NOTES CLARIFIED FOOT ACCESS OVER	16/8/2021	R.B.M
E	FORESHORE ACCESS OVER LAND	6/8/2021	R.B.M
D	ACCESS STEPS OVER JETTY AT MHWS	20/7/2021	R.B.M
C	BEACH ACCESS STEPS OVER JETTY	14/7/2021	R.B.M
B	1.8 WIDE JETTY	17/4/2019	R.B.M
	REVISION	DATE	BY

davidson group

PROJECT PLANNERS
RESOURCE MANAGERS
CIVIL & STRUCTURAL ENGINEERS
BUILDING DESIGNERS
ENVIRONMENTAL ENGINEERS

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HUIMEI INVESTMENTS (NZ) PTY LTD
WHANGATOETOE BAY, PORT UNDERWOOD
PROPOSED JETTY

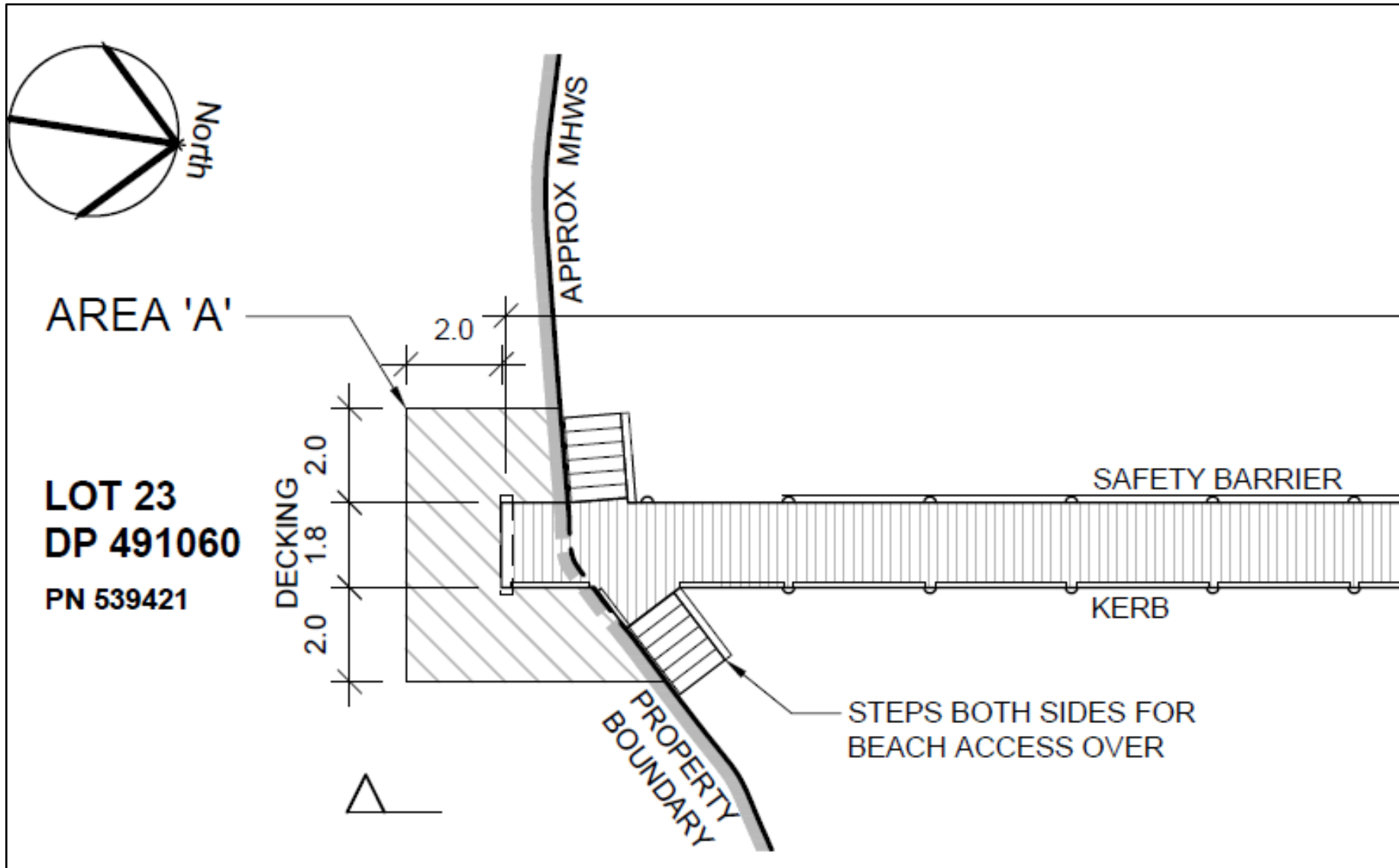
plan and elevation

DATE	ORIGINAL SIZE	DRAWING No.	SHEET	ISSUE
04/19	A3	26740	R2	F
DES W.L.M	DRN R.B.M	CK W.L.M	REF	

0mm

100mm

FOR THE PURPOSE OF MAINTAINING FOOT ACCESS ALONG THE FORESHORE*, THE PUBLIC HAS UNRESTRICTED FOOT ACCESS OVER AREA 'A' AS SHOWN ON THE BELOW PLAN.



*Foreshore means: Any land covered and uncovered by the flow and ebb of the tide at mean spring tides.