



10th October 2025

Attention: Bennet Atkins

Auckland Council
135 Albert Street
Auckland CBD
Auckland 1010

Copy to: Hugh Johnstone & Tamara Croft (by email)
Johnstone Construction Ltd

Dear Bennet,

RE: Application for Resource Consent at 142 Konini Road, Titirangi (LUC60444322) – Further s92 Response Letter

Thank you for your email dated 26th August 2025. Further to the matters raised by Council, alongside the supporting emails and letter submitted by nearby interested parties, please find below our response to each point within your letter following your number referencing for ease of review:

Requested information:

Scope of the application

1. The relevant retrospective reasons for resource consent pertaining to Sections E11- “*Land Disturbance – Regional*” & E15 – “*Vegetation management and biodiversity*” have been reincluded in an updated Assessment of Environmental Effects (“AEE”), which is attached as Appendix D to this response.

If retrospective works are to be included in the application, please update the AEE and ecology report accordingly, noting the following:

2. An updated Ecological Impact Assessment (“EIA”) and Environmental Management Plan (“EMP”) have been prepared by Ecology New Zealand Ltd (“ENZ”), which are attached as Appendices (B1) and (B2) to this response. Specific assessment has been provided pertaining to the loss of the Norfolk pine and two Japanese cedar trees within the updated assessment, where ENZ have concluded overall that while these three trees were mature, their exotic status meant that there was no notable loss of vegetation value or notable reduction in food sources or nesting habitat for avifauna or chiropteran fauna. While it was possible that the removal of these trees, in the absence of ecologist supervision, could have resulted in death or injury to avifauna or chiropteran fauna, it is ENZ’s view that it was unlikely based on a field investigation that did not identify any evidence of bat roost features within the felled

trees alongside the tree removal being undertaken outside of the main bird nesting season.

3. With respect to an updated arborist report, it is not considered necessary to update the originally supplied report prepared by The Tree Consultancy Ltd (“TTC”) as a suitable supporting effects assessment has been undertaken by ENZ in the supporting EIA. The purpose of providing such an assessment was to outline an arboricultural methodology to demonstrate the measures that would be put in place throughout the course of works to maintain the long-term health of any tree(s) located within the Significant Ecological Area (“SEA”), which were to be retained post-completion of works. For completion, the trees identified within TCC’s analysis are understood to have been removed and otherwise covered by ENZ in terms of mitigation planting.
4. Having discussed this further with TTC, and with confirmation provided by the Council, it is understood that the nature of such a request better aligns with the technical expertise of a suitably qualified and experienced geotechnical expert. Walker Engineering Consultants (“WEC”) Ltd has provided a cover letter responding to the relevant requests that are within their specialist area, which is attached as Appendix C1, and is supplemented by a more detailed stormwater & construction review memo, attached as Appendix C2, based on the updated architectural plans. WEC have confirmed that the updated slope stability provided assumes that the vegetation and tree removal works undertaken to date do not exacerbate slope stability.

Further retrospective works - E36 matters:

5. WEC have addressed this matter within their supporting covering letter and updated assessment. Please refer to the assessments provided in Appendices C1 and C2.
6. WEC have addressed this matter within their supporting covering letter and updated assessment. Please refer to the assessments provided in Appendices C1 and C2.

Clarification - E8 matters:

7. WEC have addressed this matter within their supporting covering letter and updated assessment. Please refer to the assessments provided in Appendices C1 and C2.

Clarification Plans:

8. The updated architectural plans, included in Appendix (A), correctly show the proposed distance between the breezeway structure and boundary shared with 144 Konini Road. The EIA plans, including the extent of mitigation planting proposed, have been updated to take the revised set back distance into account.

Further Assessment:

9. A detailed analysis against the relevant objectives and policies included in Section D12 – “*Waitākere Ranges Heritage Area Overlay*” has been provided in the revised AEE, which is supplemented by a further analysis in line with s104(1)(c) of the Act against the Waitākere Ranges Heritage Area (“WRHA”) Act 2008. Overall, having

had regard to the relevancy of the permitted baseline coupled with the remediation and mitigation measures within the SEA, it is considered that the outcome will remain consistent with the relevant provisions of the AUP(OP) alongside the WRHA.

Outstanding S92 matters

Similarly to Matter (1), the retrospective E11 and E15 reasons for consent have been reincluded in the revised AEE. As such, a broader analysis against the relevant objectives and policies included in Sections B7 – “*Toitū te whenua, toitū te taiao – Natural resources*”, D9 – “Significant Ecological Areas Overlay”, and E15 – “*Vegetation management and biodiversity*” has been undertaken within the revised AEE. For the reasons described within the revised AEE, I conclude that the proposed outcome is consistent with the relevant objectives and policies included within the AUP(OP).

Other Matters:

Whilst not directly requested by way of your email dated 26th August 2025, the Applicant has similarly engaged ENZ to undertake the preparation of a Lizard Survey Plan (“LSP”) and undertake the necessary surveying of the subject site to understand the abundance and diversity of herpetofauna. This is attached as Appendix B3 to this response. I understand that ENZ have directly liaised with Council’s Ecologist regarding the proposed survey methodology outlined within the LSP. Surveying is currently being undertaken by ENZ, who have indicated that a completion report will be available for Council’s peer review within the next two weeks.

Berry Simons Environmental Law (“Berry Simons”) has been engaged by the Applicant to provide a direct response to the legal submission prepared by Asco Legal dated 6th August 2025. This will be submitted separately to this s92 response package within the next few days. However, the key outcomes of this assessment have been available for our consideration at the point of preparing this s92 response letter. In particular:

- That the application can be processed on a limited notification basis to one affected person, being any owner / occupier located at 5 Kopiko Road, as any potential adverse effects arising from the proposed redevelopment have been extensively addressed with suitable mitigation and/or remediation proffered to address any resulting effects;
- That the application is not incomplete, having had regard to the revised AEE which now includes retrospective reasons for consent as outlined above;
- The “quantum of works” does not automatically equate a minor or more than minor effects occurring. The correct approach is to undertake an assessment that considers whether any resulting effects have been avoided, remedied or mitigated, to which quantum considerations may be relevant;
- Drawing on relevant case law, there are no special circumstances that are present in the context of this application, with reference to the retrospective nature of works or the level of public interest, which would give rise to circumstances in which public or limited notification would be desirable;

- That the permitted baseline is of a relevant consideration in the context of this application, noting that the undertaking of additions and alterations outside of the SEA and Yard setback can be undertaken without the need for any resource consent(s);
- That the granting of an application, such as this proposal, for resource consent does not create a precedent in a strict legal sense;

If you wish to discuss any part(s) of this letter, please do not hesitate to send me an email at Nick@elevateplanning.co.nz or call on 021 0244 9292.

Yours sincerely,



Nicholas Simpson

Director & Planning Consultant | BUrbPlan (Hons), Int. NZPI
Elevate Planning Limited

Appendix (A): Updated Architectural Plans

Appendix (B1): Updated Ecological Impact Assessment

Appendix (B2): Revised Environmental Management Plan

Appendix (B3): Lizard Survey Plan

Appendix (C1): Engineering s92 Response

Appendix (C2): Revised Stormwater & Construction Memo

Appendix (C3): Revised Civil Plans

Appendix (D): Assessment of Environmental Effects (Revised 10th
October 2025)

