

16 September 2025

Attention:

Dear Wendy

Resource consent application – Further information request

Application number(s):	LUC60438343
Applicant:	Steven Alan Bernstein
Address:	13 Church Bay Road, Oneroa, Waiheke Island 1081
Proposed activity(s):	Establish building in relation to boundary infringement regarding balustrade.

Further to my letter of 9 October 2024 where I confirmed that your application was accepted for processing, I have now reviewed your application and inspected the site.

This letter is a request for further information that will help me better understand your proposal, including its effect on the environment and the ways any adverse effects might be mitigated.

Requested information

Planning

1. The provided Cato Bolam survey dated 2 May 2025 appears to use LiDAR data based on 2016-2018 imagery. The definition of ‘ground level’ under the Hauraki Gulf Islands District Plan relies on 2005-2006 LiDAR data to be used when no subdivision has been approved since 18 September 2006.

Can you please update your survey plan to use LiDAR data based on 2005-2006 imagery. Once this survey plan is updated, please confirm all relevant infringements in relation to the eastern boundary including:

- Whether the retaining wall is considered a building for having a height in excess of 1m. If so, please provide a full elevation of the retaining wall.
- Whether the deck and balustrade of the recent swimming pool additions result in any height in relation to boundary infringements or side yard infringement. If this is the case and the applicants wish to legally establish this, the application will need to be re-lodged to include the full swimming pool additions and alterations.

- Whether the existing deck, chimney and balustrade of the original 2004 dwelling result in any height in relation to boundary infringements. If this is the case and the applicants wish to legally establish this, the application will need to be re-lodged to include the to include the full house.
2. Please confirm whether any fence will be erected on top of the retaining wall. If so, please incorporate this into any height in relation to boundary infringements and provide a full elevation of the retaining wall.
 3. Please provide a plan that shows the total area of earthworks required to construct the retaining wall (including all associated areas of cut and fill). If greater than 50m², please confirm that they trigger consent under rule 10c.5.5.2 and provide a corresponding assessment of adverse effects.
 4. There appears to be a stand of trees on site where the retaining wall was located as seen in figure 1 below. Can you please confirm what the species of these trees were? If native, please confirm their removal as a trigger for consent under rule 10c.5.1.2 and provide a corresponding assessment of adverse effects including mitigation planting.



Figure 1: Previous stand of trees shown circled in red (2017 aerials)

Providing the information

Please provide this information in writing within 15 working days (before 7 October 2025). If you will not be able to provide the information by that date, please contact me before then to arrange an alternative time. We will not work on your application any further until either you provide this information, or you state that you refuse to provide it.

Note: If you will require more than 15 working days to provide this further information, I will seek that you agree to an extension of time under [section 37](#) of the Resource Management Act 1991 (the RMA). This will enable appropriate time for me to undertake the necessary review of the information once provided.

Refusing to provide the information

If you refuse to provide the information, or if you do not submit the information to us within 15 days (or by another other agreed time), the RMA requires that we publicly notify your application.¹

If this happens, you will be required to pay the notification fee of \$20,000 in full before we proceed with the notification of your application.²

Next steps

Once you have provided the requested information, I will review what you have provided to make sure it adequately addresses all of the points of this request.

In the application acceptance letter, I described the statutory timeframe for our decision on your application. The time for you to respond to this further information request will be excluded from this timeframe³. I will be able to give you an updated forecast on a decision date on request once you have provided the information requested above.

If you have any queries, please contact me on 027 201 8798 and quote the application number above.

Yours sincerely,



George Bell
Intermediate Planner

¹ Section 95C of the RMA

² Section 36AAB(2) of the RMA

³ Section 88C(2) of the RMA