

BEFORE THE ENVIRONMENT COURT

IN THE MATTER of the Local Government (Auckland Transitional Provisions) Act 2010 and the Resource Management Act 1991

AND of appeals under s 157(1) of the LGATPA

BETWEEN BUNNINGS LIMITED
(ENV-2016-AKL-000271)

JAMES MAWSON
(ENV-2016-AKL-000272)

Appellants

AND AUCKLAND TRANSPORT
Respondent

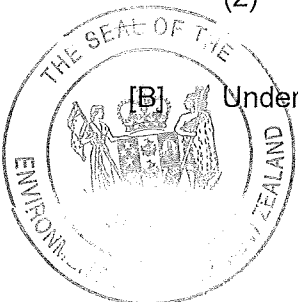
Principal Environment Judge L J Newhook sitting alone under s 279 of the Resource Management Act 1991
In Chambers at Auckland

CONSENT ORDER

[A] Under s 279(1)(b) of the Resource Management Act 1991 (RMA), the Environment Court, by consent, orders that:

- (1) the appeals are allowed subject to the amendments set out in this order and in Annexure A to this order
- (2) the appeals are otherwise dismissed.

[B] Under s 285 of the RMA, there is no order as to costs.

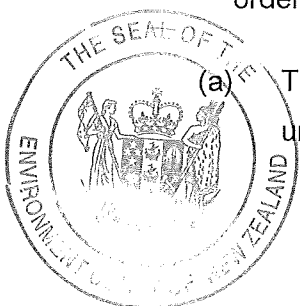


Introduction

- [1] These two appeals were lodged against Designation 1453 Road Widening Titirangi Road, in the partly operative Auckland Unitary Plan. Both appellants sought that the designation be withdrawn.
- [2] Following mediation the parties have agreed that the appeals can be resolved by reducing the extent of the designation and making amendments to the conditions.
- [3] In making this order the Court has read and considered the joint memorandum of counsel in support of the draft consent order dated 19 May 2017.
- [4] Bunnings Limited joined the appeal by James Mawson and James Mawson joined the appeal by Bunnings Limited under s 274 of the RMA. All parties have signed the memorandum setting out the relief sought. Auckland Council has signed the memorandum as the Territorial Authority to the appeals.
- [5] The Court is making this order under s 279(1)(b) of the RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297 of the RMA.
- [6] The Court understands that for the present purposes:
- (a) All parties to the proceedings agree to the granting of the consent order; and
 - (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction and conform to relevant requirements and objectives of the RMA, including in particular Part 2.

Orders

- [7] Therefore, the Court orders, by consent, that Designation 1453 Road Widening Titirangi Road in the partly operative Auckland Unitary Plan is confirmed subject to reducing the extent of the designation as per the maps in **Annexure A** of this consent order, and making the following amendments to the conditions:



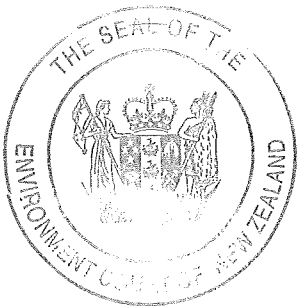
- (a) The location of the designation is to be amended as follows (with changes underlined or in strike-through):

2-14, 9-11, 17-35, 30, 40, 44-54, 45-49, 53, 58, 58-64, 65-163171A, 68-68A, 74-114 and 118-1460146 Titirangi Road, 2 Margan Avenue and 1 and 2 Northall Road, Titirangi

- (b) The following new conditions are to be inserted in the conditions for the Designation 1453 Road Widening Titirangi Road (including footnotes):

2. In relation to any walking / cycling / amenity upgrade (the upgrade) on land at 2-12 Titirangi Road (NA82C/664, NA1861/58 and NA1130/14) (the site) that is affected by this designation, Auckland Transport will, unless the owner of the site agrees to other parameters put forward by Auckland Transport, ensure that:

- a. it consults with the owners of the site at the concept and detail design stage;
- b. any new structure for the upgrade meets the floor levels of the existing 'site ramp'¹;
- c. if the stairs to the northern end of the existing 'site ramp'¹ are replaced with a ramp structure, the maximum gradient of the new ramp structure will not exceed the gradient of the existing 'site ramp'¹;
- d. there is appropriate physical separation (consistent with Auckland Transport Code of Practice (or revised code) for such a facility) between cyclists and customers / pedestrians from the site where the existing 'site ramp'¹ meets the upgrade;
- e. the design, materials, and any landscape treatments for the upgrade will be to the same or better standard as the existing 'site ramp'¹ and any adjacent landscaping;
- f. any works for the upgrade undertaken across the existing vehicular access² will not compromise vehicular access, or reduce existing priority between vehicles and other users.



¹ The Bunnings Warehouse Limited 'site ramp' as at 2017 as shown in resource consent number LUC 2014-207 and location as per the Titirangi Road Designation Diagrams in the attachment to these conditions.

² As per the vehicle access opposite Arawa Street as at 2017 as shown in the Titirangi Road Designation Diagrams in the attachment to these conditions.

g. it does not carry out construction works for the upgrade on the site (excluding required construction traffic management activities) during the following times:

i. from 1 November to 31 January;

ii. weekends; and

iii. statutory public holidays.

h. current access and fire egress to the site is maintained to the extent reasonably possible during construction of the upgrade. In the event that it is not reasonably possible to maintain current access and/or fire egress, Auckland Transport will at a minimum ensure that:

i. appropriate alternative fire egress is provided at all times;

ii. existing vehicular access is maintained at all times during operating and delivery times which are:

- Monday – Friday 6am to 7pm

- Saturday – Sunday 6am to 6pm;

iii. access and fire egress from the existing 'site ramp'¹ is maintained on weekends; and

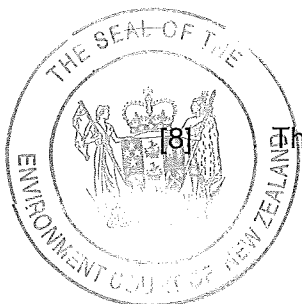
iv. the owner of the site is provided with at least one month's notice of any restriction of access.

(c) The Attachments heading is to be amended as follows (with changes underlined or in strike-through):

~~No attachments~~ Titirangi Road Designation Diagrams.

(d) The diagrams "Titirangi Road Designation Diagrams" as attached to this consent order as **Annexure A** are included as attachments to Designation 1453 Road Widening Titirangi Road in the partly operative Auckland Unitary Plan.

[8] The appeals are otherwise dismissed.



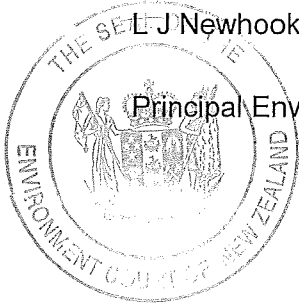
[9] The Court makes no order as to costs.

DATED at Auckland this 24th day of May 2017

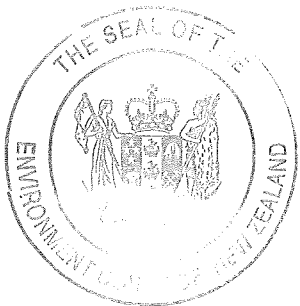


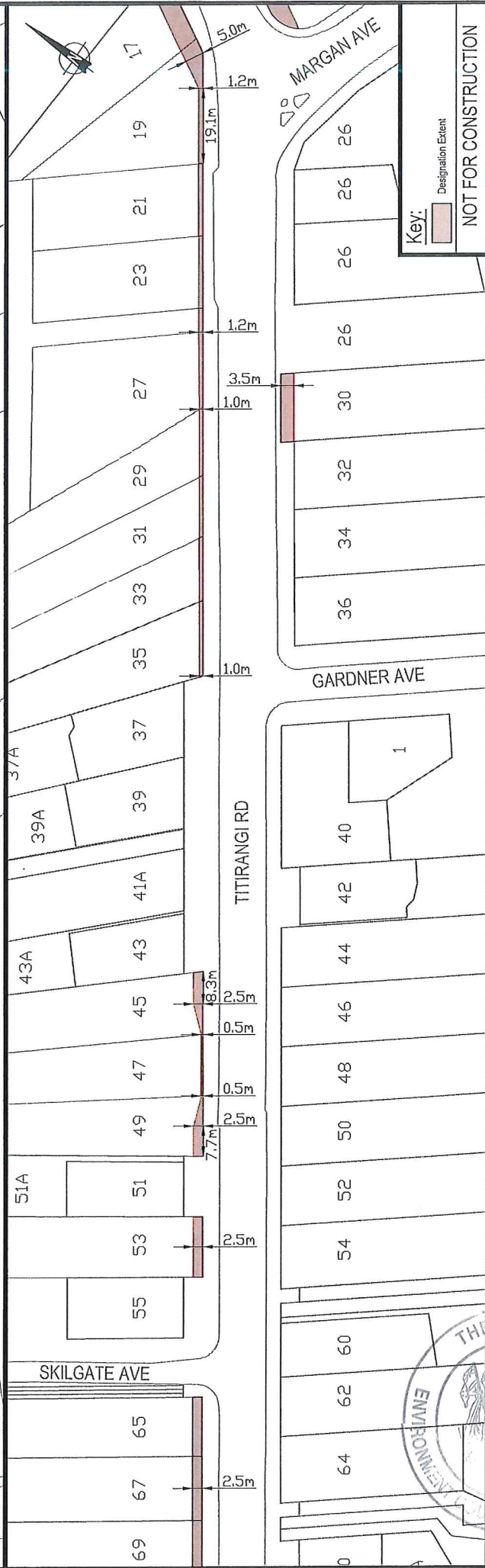
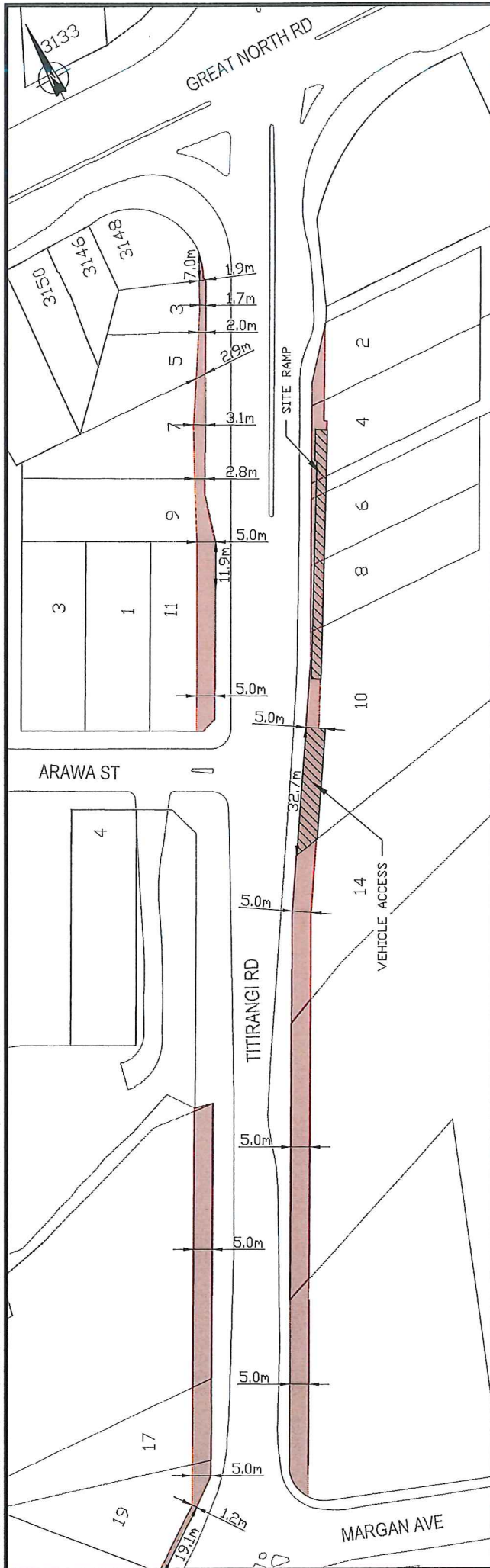
L.J. Newhook


Principal Environment Judge



Annexure A

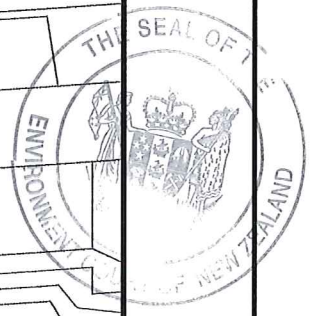


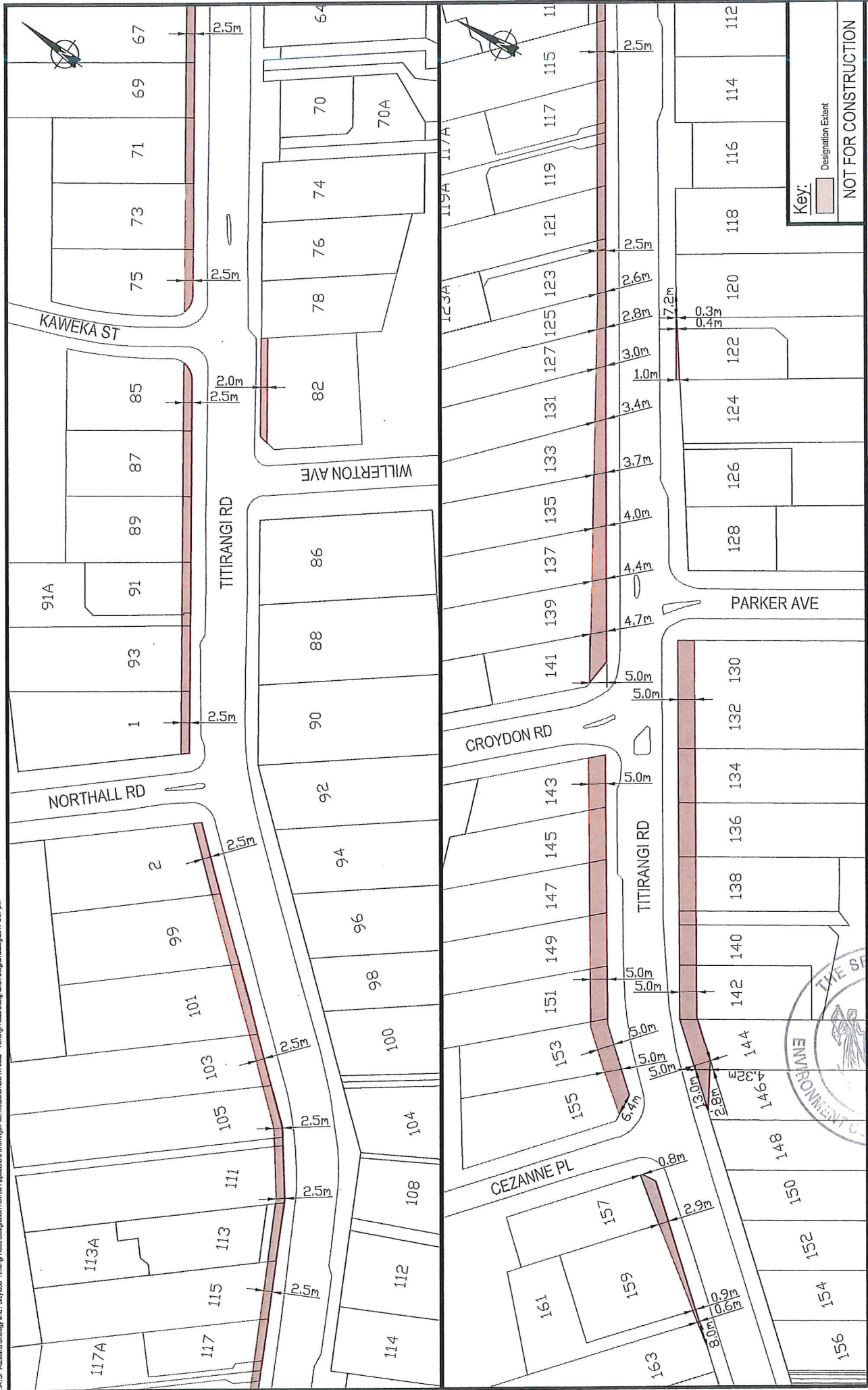


Key:
 Designation Extent
 NOT FOR CONSTRUCTION

Titirangi Road Designation Diagrams


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Titirangi Road Designation Diagrams

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THE SEAL OF THE
ENVIRONMENT COUNCIL OF NEW ZEALAND