

TASMAN DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991 APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE ACT

To: The Chief Executive
Tasman District Council
PO Box 7050
Richmond

1. **Applicant:**
Tipple Family Trust

2. **Proposal:**
Retrospective resource consent for a deck that:

- has a finished floor level of over 2m and a breach in setbacks to the adjoining property boundary shared with 36 Kaiteriteri-Sandy Bay Road; and
- breaches the 4.5m setback for a road boundary as the southern boundary of the property is legal road reserve; and
- is an extension to an existing residence that is more than 50% of the floor area and reduces the distance to mean high water springs in the Coastal Environment Area; and

Retrospective resource consent for stairs that have been erected for pedestrian access to the beach that:

- breaches the 4.5m setback for a road boundary as the southern boundary of the property is legal road reserve; and
- is the construction of a new building in the Coastal Environment Area; and
- have been erected partly within the road reserve.

The deck and stairs have both been erected within a cultural heritage precinct and no authority from Heritage New Zealand Pouhere Taonga has been obtained (or written approval). The pile hole excavations for both structures were 0.6 metres in width in the Land Disturbance Area 2.

*A full description of the proposal is contained in **Annexure A** to this application.*

3. **Location:**
38 Kaiteriteri-Sandy Bay Road, Kaiteriteri

4. **Legal Description:**
The proposal relates to land in Lot 2 DP 7124 comprised in title RT NL2B/1375.

The road reserve between the southern property boundary and the beach is also included in this application.

5. **Owner / Occupier:**
The owners of the site are the Tipple Family Trust.

6. **Resource Consents:**
Land use consent is sought through this application. No other resource consents are required to give effect to this proposal.

7. **Effects on the Environment:**
An assessment of actual or potential effects on the environment of the proposal is enclosed (**Annexure A**), prepared in accordance with Section 88 of and the Fourth Schedule to the Resource Management Act 1991.

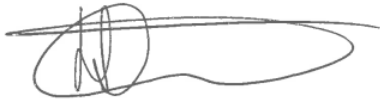
8. **Other Information:**

The following information is enclosed in assisting understand the proposal and its effects on the environment, and in accordance with the requirements of the Resource Management Act 1991 and the District Plan:

- Site Plan – prepared by Tuatara Structures (**Annexure B**);
- Deck As built plans - prepared by Tuatara Structures (**Annexure C**)
- Certificate of Acceptance Brief - prepared by Tuatara Structures (**Annexure D**)
- Record of title (**Annexure E**).
- Iwi Consultation responses (**Annexure F**).

9. **Application Fee:**

Once an RM number has been allocated to this job, the Applicant will pay Council's application fee via internet banking.



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(Signed by the Authorised Agent)

Dated: 23 August 2023

Address for Service:

Tipple Family Trust
C/- Planscapes (NZ) Ltd
PO Box 99
NELSON
Attn: Tayla Carson

Ph: (03) 539 0281

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Annexure A

ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

Prepared by Planscapes NZ Ltd

INTRODUCTION

David Tipple ('the applicant') seeks retrospective resource consent for the erection of a deck in the Coastal Environment Area (CEA) at 38 Kaiteriteri-Sandy Bay Road. The deck has a finished floor level of 3.6m above average ground level (at its highest point in the south-west corner of the property) and is located along the property boundary shared with 36 Kaiteriteri-Sandy Bay Road. The subject site is an established residential holiday home which is adjacent to the main beach of Kaiteriteri. The deck was erected in December 2022. The applicant has applied for a certificate of acceptance from the building consent department of Tasman District Council ('the consent authority') and it has been identified as also requiring resource consent as part of this process. The applicant is apologetic around a lack of understanding of the consent process regarding this structure.



Figure 1: Site location

The site is located within the Residential Zone, Coastal Environment Area and Land Disturbance Area 2 under the Tasman Resource Management Plan (TRMP).

Overall, the proposal has been assessed to require consent under the following rules of the TRMP:

- Rule 17.1.3.1(k) – The deck has a finished floor level of above 2m and is located within 4m of the internal property boundary shared with 36 Kaiteriteri-Sandy Bay Road.

- Rule 17.1.3.1 (m) – The deck is breaching the daylight admission angle in relation to the boundary shared with 36 Kaiteriteri-Sandy Bay Road.
- Rule 17.1.3.1 (q) – The deck and the stairs are located within 4.5m of the road reserve boundary (legal road).

The building coverage does not exceed 35 percent and therefore under rule 17.1.3.4 is a **Restricted Discretionary Activity**.

- Rule 18.11.2.1 (a) – The activity is the construction of a new building (stairs) in the Coastal Environment Area.
- Rule 18.11.2.1 (b) – The deck is an extension to an existing building, it increases the ground floor area by more than 50% and it also reduces the existing building setback to mean high-water springs.

At the closest point, the deck is located 10m from mean high-water springs (horizontal distance) and the stairs are located 5m from mean high-water springs and is therefore a **Restricted Discretionary Activity** in accordance with 18.11.3.2.

- Rule 16.13.6.1 (d) – The deck and stairs have both been erected in a cultural heritage precinct without authority or written permission from Heritage New Zealand Pouhere Taonga.

This is a **Restricted Discretionary Activity** in accordance with rule 16.13.6.3.

- Rule 18.5.3.1 (b)(iv) – The pile hole excavations for both structures were 0.6 metres in width in the Land Disturbance Area 2 where they are required to be less than 0.6m width

This is a **Controlled Activity** in accordance with 18.5.3.2.

The following assessment has been prepared in accordance with Section 88 of and the Fourth Schedule to the Resource Management Act 1991. The application is accompanied by Annexures B-E which form part of this assessment of effects on the environment.

SITE DESCRIPTION

The 809m² site is located at 38 Kaiteriteri-Sandy Bay Road and is in an established residential holiday home area. The site is an irregular shape with internal property boundaries with 6 different parcels of land. From Kaiteriteri-Sandy Bay Road, the site slopes gently downwards to the garage located centrally on the western property boundary. From the garage, the site is steeply sloping up, with stair access/pedestrian access to the residential property. South of the residential property, the site drops away steeply towards the beach and Coastal Marine Area (CMA). A topographical map of the property is shown in *Figure 2*.

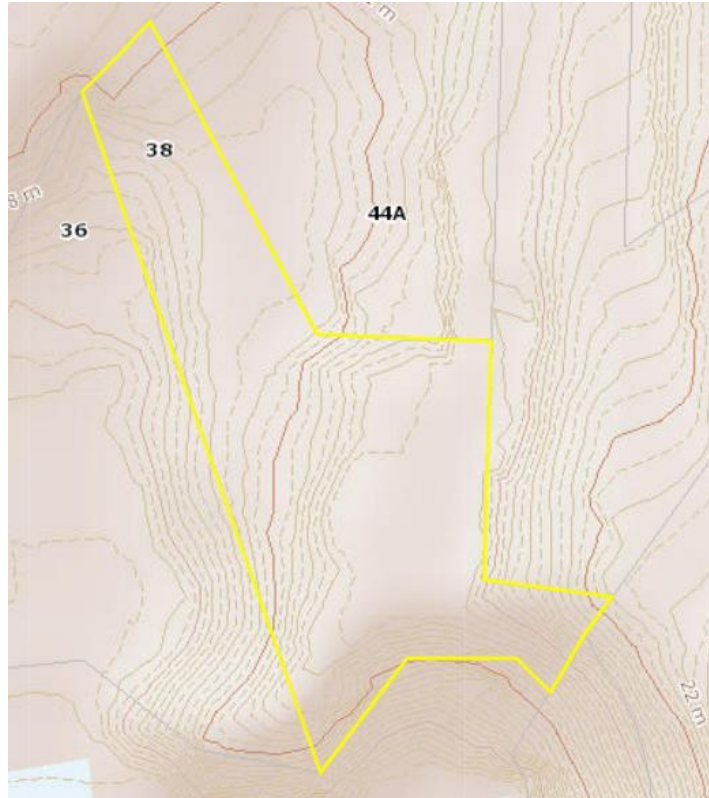


Figure 2: Topographic image of the property

The southern boundary of the property directly adjoins legal road reserve to the CMA.

The adjoining property to the east (36 Kaiteriteri-Sandy Bay Road) is significantly lower than 38 Kaiteriteri-Sandy Bay Road as the residence is located at the same elevation as the beach. The parcel of land to the south of the residential dwelling is Council Road Reserve. There are significant amounts of mature vegetation located on the steep slopes around the subject site's property boundaries, presumably for slope stabilisation.

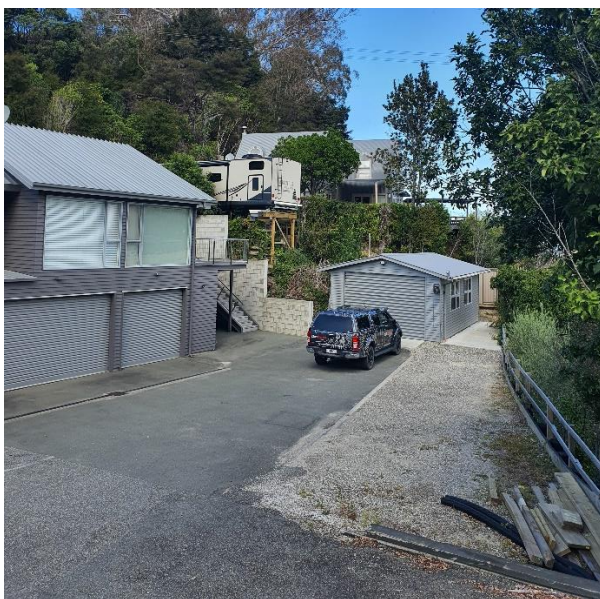


Photo A: Access to the subject site and garage



Photo B: View of the subject site from the car park area adjacent to 36 Kaiteriteri-Sandy Bay Road.



Photo C: Area of beach adjacent to the property.



Photo D: Neighboring property (36 Kaiteriteri-Sandy Bay Road) with subject site above on the hill.



Photo E: View of the dwelling from Kaiteriteri-Sandy Bay Road.

ACTIVITY DESCRIPTION

The applicant seeks retrospective resource consent to authorise a deck which has been erected within the Coastal Environment Area, within the permitted setback required for decks with a finished floor level of over 2m in relation to the boundary shared with 36 Kaiteriteri-Sandy Bay Road. It is also within 4.5m of the southern boundary which is a road boundary as it is legal road reserve. The deck is an extension to the existing dwelling that is over a 50% increase and reduces the setback to mean high-water springs. The applicant was unaware of their requirements under both the Building Act 2004 and Resource Management Act 1991 and is attempting to rectify his actions through a certificate of acceptance, retrospective resource consent application and consultation with iwi following the development of this application.

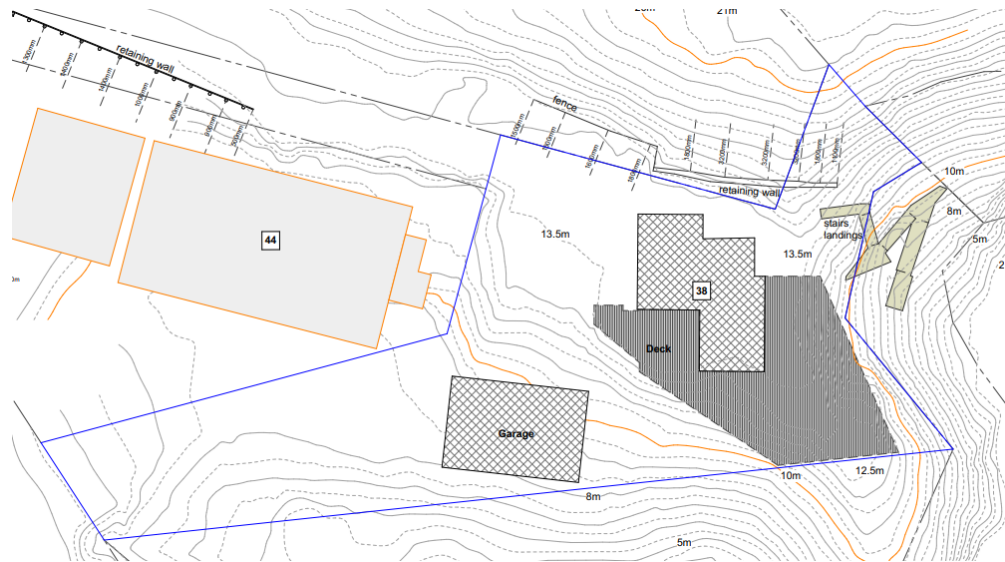


Figure 2: Site plan showing deck in relation to the residential dwelling

The deck is timber and has been installed to the South and Southwest of the residential dwelling, overlooking the coastal views. The barrier along the edge of the deck is a glass balustrade and is transparent.



Photo F: Deck that has been erected from the dwelling towards the south.



Photo G: Deck that has been erected from the southern corner of the dwelling towards the east.



Photo H: Deck towards the west, showing glass balustrade.



Photo I: Deck towards the east.

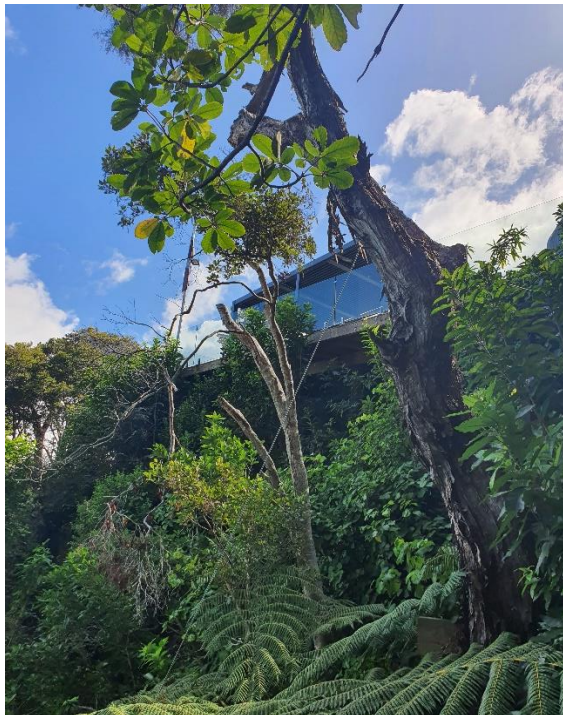


Photo J: View of the deck from the beach.

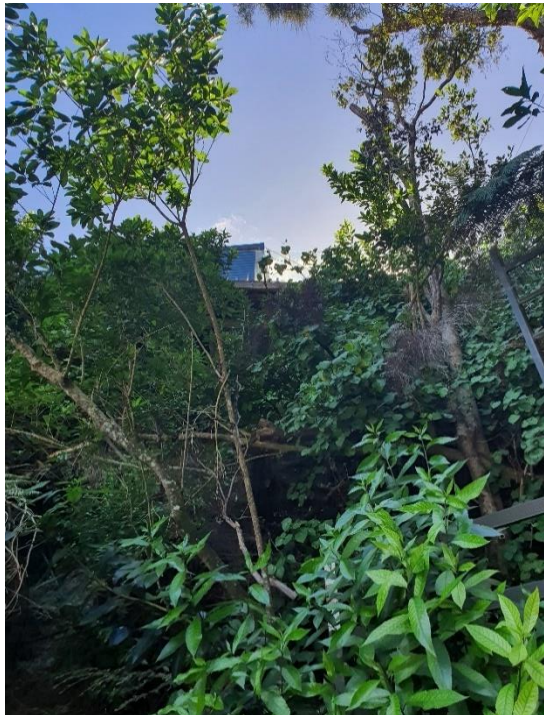


Photo K: View of the deck from the exit of the stairs.

The applicant has also erected a stairway for pedestrian access to the beach. This has been requested to be in the certificate of acceptance for certification. It is noted that the stairs meet the definition of building under the TRMP.



Photo L: Stairway that has been erected for pedestrian access from the beach to the property.

The applicant was unaware of the location of the property boundary, which has never been formally defined with a fence or other structure. On Land Information New Zealand, this area is shown as legal road and borders the southern boundary of the subject site as shown in *Figure 3*.

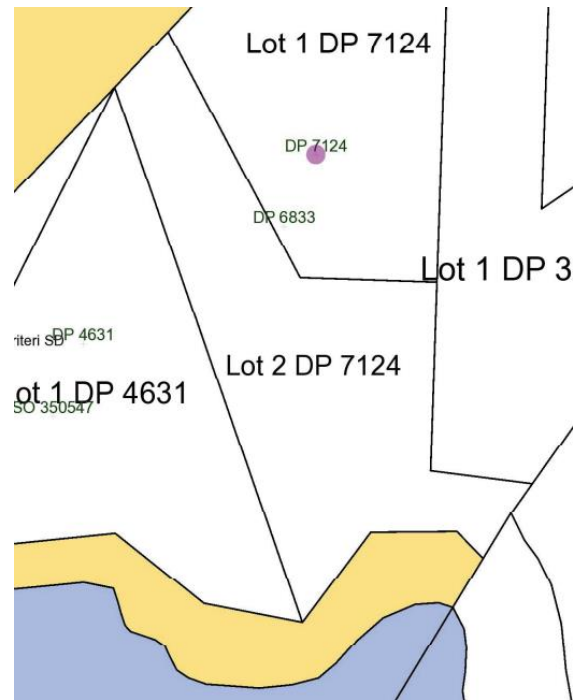


Figure 3: Land Information New Zealand spatial map showing road reserve in yellow.

The encroachment within the road reserve is shown below in *Figure 4* which is contained in the plans as *Annexure D*.

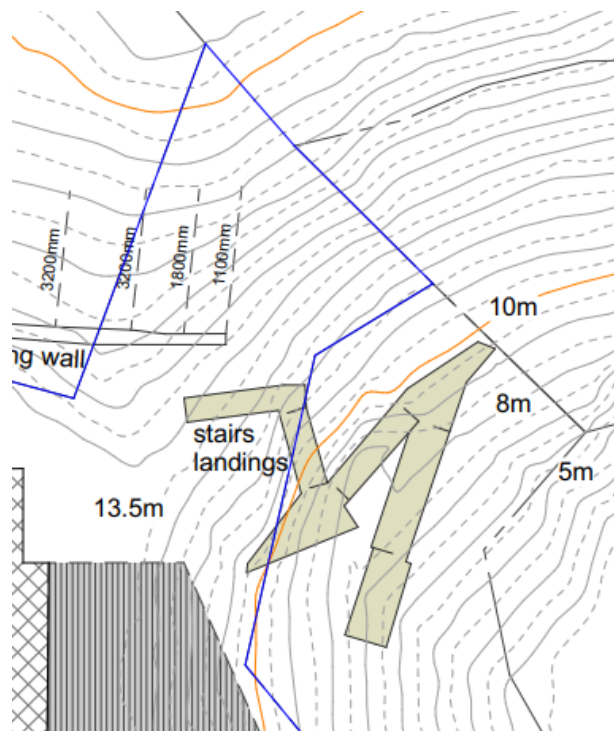


Figure 4: Site plan showing the stairs that have been erected partly within legal road reserve.

Notwithstanding the requirements under the Building Act 2004 and Resource Management Act 1991, the applicant is required to undergo a process of obtaining a license to occupy for a structure in the road reserve, which will be a separate process.

TASMAN RESOURCE MANAGEMENT PLAN

Figure 5 presents the relevant TRMP planning maps which cover the site area. The following annotations and overlays are relevant to the site:

- Residential Zone
- Land Disturbance 2 Area
- Coastal Environment Area
- Immediately adjacent to Mean High Water Springs

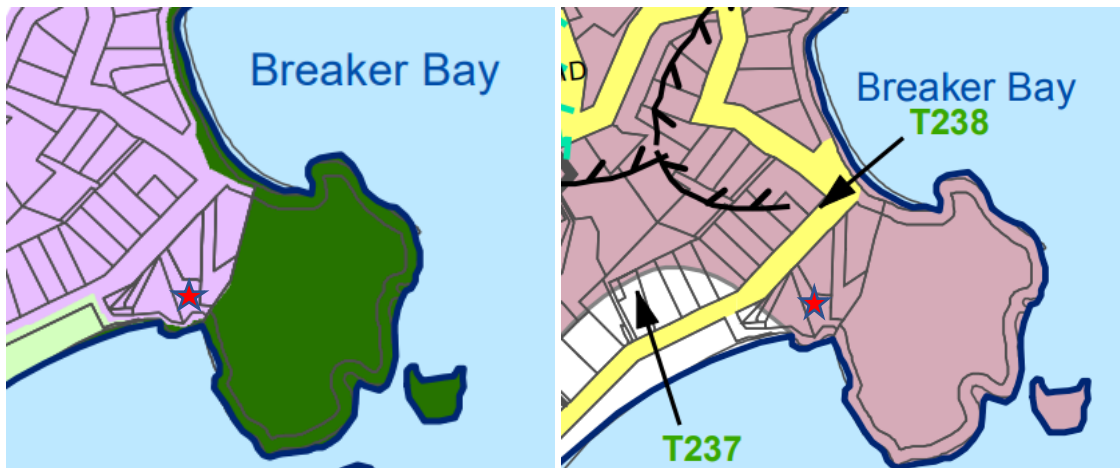


Figure 5: TRMP Zone and Area Maps 83 with the subject site identified with a red star.

The site is also located within a cultural heritage precinct, shown below in *Figure 6*. The site is also located in close proximity to known features of archaeological and cultural significance. The closest items are NZAA ID number N26/86, N26/83 and N26/84. N26/86 and N26/84 are described as a findspots of argillite adze. NZ26/83 is a terraced pa with ditch/bank defences. Pits, midden and a working area (argillite) was also recorded in 1976.

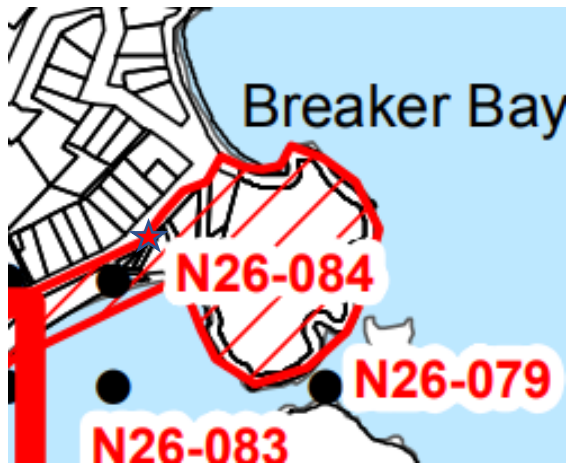


Figure 6: Cultural Heritage Sites Map A118.

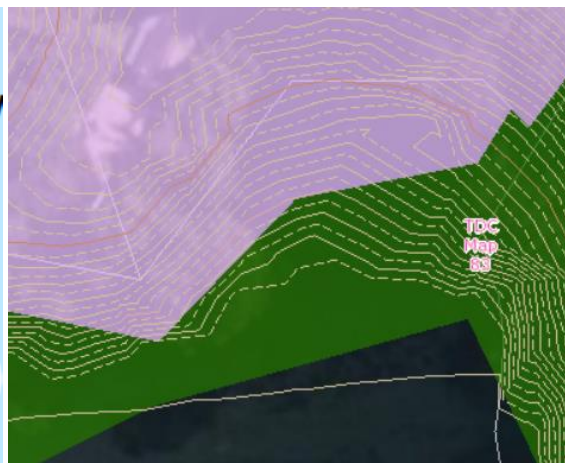


Figure 7: Zone boundaries for stairs.

The location of the stairs is within the Residential Zone, adjacent to the Open Space and Recreation Zone as shown in *Figure 7* above.

The site is also adjacent to a statutory acknowledgement area being the Coastal Marine Area.

TRMP Rule Assessment

An assessment of the proposal against the rules of the TRMP has been undertaken and is presented in Table 1.

Table 1: TRMP Rule Assessment

Rule	Provision	Assessment
Residential Zone		
17.1.3.1 (d) Residential Site Density	The site must be at least 450 square metres.	Compliant – The site is 809 square metres.
17.1.3.1(e) – Building Coverage	Maximum building coverage is 33 percent.	Compliant – The proposal has a total building coverage of 11.1%.
17.1.3.1(i) – Outdoor Living Space	Each dwelling has an area of outdoor living space for the exclusive use of the occupants of that dwelling which: <ul style="list-style-type: none"> (i) has a minimum area of 60 square metres; (ii) contains a circle with a diameter of at least 6 metres; (iii) is located to receive sunshine in midwinter; (iv) is readily accessible from a living area of the dwelling. 	Compliant – The outdoor living area is meeting the minimum requirements.
17.1.3.1(k) Balcony or Deck	A balcony or deck with a finished floor level above 2m high is no closer than 4 metres from side or internal boundaries.	Non-Compliant – The deck has a finished floor level of above 2m and is located within 4m of the internal property boundary shared with 36 Kaiteriteri-Sandy Bay Road.
17.1.3.1(m) – Building Envelope	No building projects beyond a building envelope constructed by daylight admission lines commencing from points 2.5 metres above ground level from all side and rear boundaries. The angle to be used is to be determined using the diagram in Schedule 17.1A.	Non-Compliant – The deck is breaching the daylight admission angle in relation to the boundary shared with 36 Kaiteriteri-Sandy Bay Road.
17.1.3.1(p) – Height	7.5 metres on sites of more than 400 square metres net area	Compliant – The maximum height of the deck is 3.6m above ground level.
17.1.3.1(q) – Setbacks	Buildings are set back at least 1.5 metres from the internal boundaries on one side and at least 3 metres from all other internal boundaries (side and rear) in the case of all buildings. A setback of 4.5m is also required for the road boundary and 5.5 for a garage door that is facing the road.	Non-compliant – The deck is within 1.5m of the boundary shared with 36 Kaiteriteri-Sandy Bay Road. It is also within 4.5m of the southern boundary which is a legal road boundary. The stairs are within 4.5m of the southern boundary which is a legal road boundary and within this parcel of land.

17.1.3.1(y) – Wastewater disposal	All buildings (other than accessory buildings) which generate wastewater are connected to a reticulated wastewater system where the service is available.	Compliant.
17.1.3.1(y) – Stormwater	EITHER All stormwater from buildings and impervious surfaces is discharged to a Council maintained stormwater drainage network that has the capacity to receive the additional stormwater. OR The discharge complies with section 36.4 of this Plan	Compliant.
17.1.3.1(zb) – Access	Access to each dwelling complies with 16.3.3.1(n)(ii)(h)	Compliant.
Land Disturbance Area 2		
18.5.3.1(b)	Cut batters for new buildings are only permitted at a vertical depth of less than 0.5m and the excavation of a hole that is less than 0.6 metres in width.	Non-Compliant – The deck and stairs did not require cuts of more than 0.5m, however the pile holes were 0.6 metres width, not less than 0.6.
18.5.3.1(r)	Where any soil disturbance or earthworks disturbs any archaeological site, disturbance is to cease unless or until any authority is obtained from Heritage New Zealand Pouhere Taonga under the Heritage New Zealand Pouhere Taonga Act 2014.	Compliant – No archaeological sites were disturbed.
Coastal Environment Area		
18.11.2.1 (a) permitted activities	The activity is not the construction of a new building.	Non-Compliant – the stairs meet the definition of building and the activity is for the (retrospective) construction of a new building.
18.11.2.1 (b) permitted activities	The activity is an extension to an existing building and does not: (i) increase the ground floor area by more than 50%; or (ii) reduce the existing building setback to mean high water springs; or (iii) N/A	Non-Compliant – The deck is an extension to an existing building and it increases the ground floor area by more than 50% and it also reduces the existing building setback to mean high water springs.
Cultural Heritage Sites		
16.13.6.1 (d) permitted activities	Activities are permitted provided that there is a listed cultural heritage item or precinct present on the site and (i) an authority from Heritage NZ has been obtained, or written approval from Heritage that is not necessary; and (ii) the listed cultural heritage site is not a wahi tapu site or highly significant site as identified in Schedule 16.13C.	Non-Compliant – The deck and stairs have both been erected within a cultural heritage precinct and no authority from Heritage New Zealand Pouhere Taonga has been obtained (or written approval). The heritage sites are not identified as wahi tapu or highly significant in Schedule 16.13.C.

Overall, the proposal has been assessed to require consent under the followings rule of the TRMP:

- Rule 17.1.3.1(k) – The deck has a finished floor level of above 2m and is located within 4m of the internal property boundary shared with 36 Kaiteriteri-Sandy Bay Road.
- Rule 17.1.3.1 (m) – The deck is breaching the daylight admission angle in relation to the boundary shared with 36 Kaiteriteri-Sandy Bay Road.
- Rule 17.1.3.1 (q) – The deck and the stairs are located within 4.5m of the road reserve boundary (legal road).

The building coverage for the site does not exceed 35 percent and therefore under rule 17.1.3.4 is a **Restricted Discretionary Activity**.

- Rule 18.11.2.1 (a) – The activity is the construction of a new building (stairs and deck) in the Coastal Environment Area.
- Rule 18.11.2.1 (b) – The deck is an extension to an existing building, it increases the ground floor area by more than 50% and it also reduces the existing building setback to mean high-water springs.

At the closest point, the deck is located 10m from mean high-water springs (horizontal distance) and the stairs are located 5m from mean high-water springs and is therefore a **Restricted Discretionary Activity** in accordance with 18.11.3.2.

- Rule 16.13.6.1 (d) – The deck and stairs have both been erected in a cultural heritage precinct without authority or written permission from Heritage New Zealand.

This is a **Restricted Discretionary Activity** in accordance with rule 16.13.6.3.

Overall, when bundled the proposal requires consent for a **Restricted Discretionary Activity**.

TRMP Objectives and Policies

The TRMP objectives and policies which are relevant to the proposal are outlined and assessed in Table 2.

Table 2: TRMP Objectives and Policies

Clause	Provision	Assessment
Chapter 5 – Site Amenity Effects		
Objective 5.1.2	Avoidance, remedying or mitigation of adverse effects from the use of land on the use and enjoyment of other land and on the qualities of natural and physical resources.	The intent of these provisions is to ensure amenity values are protected both onsite and in the surrounding residential environment.
Objective 5.2.2	Maintenance and enhancement of amenity values on site and within communities throughout the District.	The deck has a finished floor level of over 2m and is within the setback requirements in relation to the internal property boundary shared with 36 Kaiteriteri-Sandy Bay Road and the legal road boundary to the south. The stairs also encroach into the legal road reserve adjacent to the Coastal Marine Area.
Policy 5.1.3.1	To ensure that any adverse effects of subdivision and development on site amenity, natural and built heritage and landscape values, and contamination and natural hazard risks are avoided, remedied, or mitigated.	The vegetation located within the road reserve and the internal property boundary screens the deck from view from the beach. The balustrade of

Policy 5.2.3.2	To ensure adequate daylight and sunlight to residential properties, and rural dwelling sites.	<p>the deck is glass and the stairs have been finished in a recessive colour to blend in with the natural colours in the surrounding area.</p> <p>The deck has created a pleasant outdoor living area which is positive for the onsite amenity of the applicant.</p> <p>The stairs create a direct pedestrian accessway from the subject site to the beach.</p> <p>The road reserve is extremely steep, with an elevation change of 8m from the beach level to the property boundary shared with 38 Kaiteriteri-Sandy Bay Road. It is extremely unlikely that is site will ever be developed by Council to a legal road.</p> <p>The pile excavations for the deck have occurred and are well screened by the existing vegetation. The earthworks were within the permitted limits for Land Disturbance Area 2. The visual effects of the deck were temporary and have been completed. There were no complaints received to Council, regarding this activity when it occurred.</p> <p>No items of cultural or heritage value were uncovered during the construction activity. The deck and stairs are well hidden from view given their recessive colours and position relative to the mature vegetation.</p>
Chapter 6 – Urban Environmental Effects		
Objective 6.2.2.2	Urban growth and sufficient opportunities, including redevelopment opportunities that encourage more efficient use of land, energy and provision of infrastructure, services and amenities.	These provisions seek to encourage efficient use of land that is sufficiently serviced and which avoids cumulative effects on the coastal environment. Furthermore, they aim to promote the landward development of coastal land and adverse environmental effects are to be avoided.
Objective 6.3.2.1	Sustainable urban growth that is consistent with the capacity of services and has access to the necessary infrastructure such as water supply, roading, wastewater and stormwater systems.	The proposal represents an efficient use of an existing residential site in the Coastal Environment Area. The deck is an efficient use of land, and optimises the outdoor living opportunity for the applicant.
Objective 6.4.2	Containment of urban subdivision, use and development so that it avoids cumulative adverse effects on the natural character of the coastal environment.	Given the height distance, relative to the beach and location of the deck and stairs, are unlikely to be impacted by sedimentation, erosion or instability.
Policy 6.4.3.2	To provide for future growth of key coastal settlements landward rather than along the coast.	
Policy 6.14.3.3	To control land use activities and subdivision to avoid any adverse environmental effects in terms of sedimentation, erosion, instability and loss of visual amenity	The structures are well screened from view from the beach therefore the loss of visual amenity is unlikely to be noticed.
Chapter 8 – Margins of Rivers, Lakes, Wetland and the Coast		
Objective 8.2.2	Maintenance and enhancement of the natural character of the margins of lakes, rivers, wetland and the coast, and the protection of that character from adverse effects of the subdivision, use, development or maintenance of land or other resources, including	<p>These provisions seek to maintain and enhance the natural character of the coast.</p> <p>The materials and colours used for the deck and stairs sits comfortably within the character and amenity values of this coastal location. The site is located at the further extent of the CEA from the</p>

	effects on landform, vegetation, habitats, ecosystems and natural processes.	coast and will not be visually prominent. The coastal edge is developed in this location in general. There are dwellings and other structures that are very close to the coast that are part of the existing character – therefore the structures are not out of context in the receiving environment. When viewed from the coast, the scale of the deck is not prominent.
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SECTION 104C OF THE RESOURCE MANAGEMENT ACT

Section 104C of the Act states, in relation to restricted discretionary activities:

When considering an application for a resource consent for a restricted discretionary activity, a consent authority must consider only those matters over which—

- (a) a discretion is restricted in national environmental standards or other regulations:*
- (b) it has restricted the exercise of its discretion in its plan or proposed plan.*

The matters of restricted discretion within the TRMP have been assessed and it is considered that the adverse effects on the environment from the proposal will be less than minor.

TRMP Assessment Criteria

The relevant TRMP matters of Restricted Discretion have been assessed in Table 3.

Table 3: TRMP Matters of Restricted Discretion, Rule 17.1.3.4B.

Matters of Restricted Discretion	Comment
<p><u>Site Layout</u></p> <p>(a) The extent to which the siting and configuration of buildings and the uses on the site have a positive relationship with the street, in particular whether main entrances front the street with garaging and parking located to the rear of the site.</p> <p>(b) The extent to which the siting and design of buildings, structures and open space adversely affects the acoustic environment of the adjoining property.</p>	<p>Intrusion of the deck and stairs within the 4.5m setback for road boundaries allows efficient and practical use of an irregular shaped site with limitations due to the topography of the site. The road boundary setback is a technical breach as it is legal road however there is no real road in this location.</p> <p>The deck is a practical and pleasant structure and use of the site, creating a sunny and private outdoor living space for the dwelling.</p> <p>The deck is significantly higher than the residential property at 36 Kaiteriteri-Sandy Bay Road and there is significant mature vegetation between the deck and the residential dwelling on this site. Due to the vegetation between the two properties, the deck is hidden.</p> <p>The open space amenity of the beach is not impacted by the development as only a small part of the deck is visible from the beach. The stairs blend in with the vegetation and can only be viewed when you are between the water and stairs.</p>
<p><u>Building Design and External Appearance</u></p> <p>(a) Whether the design and external appearance of buildings, including the scale, orientation and spacing, complements the existing buildings in the vicinity.</p> <p>(b) Whether the bulk or repetitive form of buildings is likely to detract from the visual amenities of the neighbourhood.</p>	<p>The deck and stairs are in keeping with the surrounding residential buildings. The use of the deck and stairs will not detract from the use, pleasantness, or amenity of the neighbourhood.</p> <p>The vegetative screening between the beach and the deck largely hides the excessive bulk and scale of the deck, which is only noticeable largely from within the site itself.</p>

<p>(c) Whether garages, garage doors or car parking on the site dominates the appearance of the site development when viewed from the street or internal accessways. In general, they should be recessed behind the front building line and integrated in the building design in a way that does not dominate the street frontage or internal accessways.</p> <p>(d) Whether lighting overspill from the site will adversely affect the amenity values of adjacent properties.</p>	
<p><u>Sunlight and Daylight</u></p> <p>(a) Whether an increase in the height of the building in relation to the boundary will adversely affect access of sunlight and daylight to adjoining sites and the safe functioning of the road.</p>	<p>The vegetation between the beach and adjoining property creates more shading than the deck structure.</p>
<p>Matters of Restricted Discretion</p>	<p>Comment</p>
<p><u>Setbacks from Road and Internal Boundaries</u></p> <p>(8) The extent to which the intrusion towards the boundary is necessary in order to allow more efficient, practical and pleasant use of the remainder of the site.</p> <p>(9) The extent to which alternative practical locations are available for the building.</p> <p>(10) The extent to which the proposed building detracts from the pleasantness, coherence, openness and attractiveness of the site as viewed from the street and adjoining sites.</p> <p>(11) The adverse effects of the building intrusion on the outlook and privacy of people on adjoining sites, including loss of access to daylight on adjoining sites.</p> <p>(12) The ability to provide adequate parking and manoeuvring space for vehicles clear of the road.</p> <p>(13) The extent to which the proposed building will be compatible with the appearance, layout and scale of other buildings and sites in the surrounding area, including the setback of existing buildings in the vicinity from boundaries, its external materials and colour.</p> <p>(14) The ability to mitigate any adverse effects of the proposal on adjoining sites and the street scene, including by planting and landscaping.</p> <p>(15) Adverse effects of the proximity of the building in terms of difficulty of access to the building or to adjoining rear sites.</p> <p>(16) The extent to which the use of the proposed building will detract from the pleasantness or amenity of adjoining sites, in terms of noise, smell, dust, glare or vibration.</p>	<p>(8) Intrusion of the deck and stairs allows efficient and practical use of an irregular shaped site with varying ground levels.</p> <p>(9) The varying topography of the site and position of the site falling away steeply to the beach limits the practical locations for a deck.</p> <p>(10) The deck has created a high-quality outdoor area for the applicant, is extremely pleasant and will not detract from the streetscape of the area.</p> <p>(11) The deck is within setbacks required in relation to the boundary shared with 36 Kaiteriteri-Sandy Bay Road however there is vegetation that prevents any overlooking to this property therefore the deck will not appreciably diminish the privacy of the neighbouring site.</p> <p>(12) Adequate parking and manoeuvring space is provided within the site.</p> <p>(13) The proposed deck is compatible with the surrounding high-quality holiday homes in the immediate vicinity.</p> <p>(14) The landscaping within the legal road reserve will be maintained.</p> <p>(15) N/A</p> <p>(16) The deck creates a pleasant outdoor area for the applicant which has been finished in recessive colours and glass for the balustrade which does not create any objectional glare.</p>
<p>Matters of Restricted Discretion</p>	<p>Comment</p>
<p><u>Coastal Environment Area</u></p> <p>(1) The effects of the location, design and appearance of the building, including its scale, height, materials, landscaping and colour, on the amenity and natural character of the locality, including effects on:</p>	<p>(1) The deck does not affect the amenity of the natural area. The deck is well screened with existing vegetation and the stairs are only able to be seen when you are standing right in front of them. Seascape values are maintained by the proposal.</p>

<p>(a) natural features; (b) landscape and seascape values; (c) significant natural values; (d) the character of any existing development.</p> <p>(2) The effects of natural hazards.</p> <p>(3) The effects on a site of cultural significance to Maori.</p> <p>(4) The duration of the consent (Section 123 of the Act) and the timing of reviews of conditions and purpose of reviews (Section 128).</p> <p>(5) Financial contributions, bonds and covenants in respect of the performance of conditions, and administrative charges (Section 108).</p>	<p>(2) The site is significantly higher than the coast and is unlikely to be affected by natural hazards. Both structures are not habitable.</p> <p>(3) The site is culturally significant and this application will be sent to iwi to review specific cultural effects that may have been a result of the proposal.</p> <p>(4) N/A</p> <p>(5) N/A</p>
<p><u>Cultural Heritage Sites</u></p> <p>(1) Any matters raised in a report prepared in accordance with requirement 19.2.1.14.</p> <p>(2) Any matter necessary to ensure the appropriate management, protection or enhancement of a cultural heritage site.</p> <p>(3) Any matter necessary to ensure kaitiakitanga over a wāhi tapu site or wāhi tapu area.</p> <p>(4) Any matters relevant to ensuring the appropriate management of a previously unknown cultural heritage site that is discovered during any land disturbance activities associated with the proposed activity.</p> <p>(5) Any matter relevant to the absence of an authority from Heritage New Zealand Pouhere Taonga under the Heritage New Zealand Pouhere Taonga Act 2014.</p>	<p>The applicant has commissioned this document in order to consult with iwi and Heritage New Zealand Pouhere Taonga around the specific cultural and heritage impact that may have resulted from the construction of the deck and stairs.</p> <p>Once this consultation has occurred, an assessment against these matters will be made.</p>

ENVIRONMENTAL EFFECTS OF THE PROPOSAL

Section 104(1) of the RMA, the framework under which the Council will determine a resource consent, also requires that a consent authority have regard to any actual or potential effects on the environment of consenting to an activity.

Section 88 of the Resource Management Act 1991 states that any application for resource consent must be accompanied by an assessment of effects on the environment prepared in accordance with the Fourth Schedule of the Act. Such assessment must be commensurate with the scale and significance of the effects on the environment that may arise with the proposal.

The relevant effects on the environment associated with this application are outlined in Table 3 above. Consultation with the Taiao for the eight iwi group representatives for the top of the south. Of the eight iwi, we have received four formal responses. These are all contained in *Annexure F* and are follows:

Jen Skilton – Environmental Manager, Ngāti Apa ki te Rā Tō

‘Kia ora Tayla,

Thanks for your email.

Kaiteretera lies at the centre of what was for several generations a large and intensive Ngāti Apa occupation and cultivation complex. This complex occupied a 10-kilometre stretch of coastline, including the current Kaiteriteri Scenic Reserve. It included up to eight pā, as well as associated kāinga, urupā, cultivations, mahinga kai areas, and fishing stations.

Some sites and areas of significance to Ngāti Apa ki te Rā Tō recognised through our Treaty Settlement as Statutory Acknowledgements in this area include:

- Coastal Marine Area
- Kaiteriteri Scenic Reserve

It is disappointing that the Tipple family did not follow process. From a cultural perspective, Ngāti Apa ki te Rā Tō would have required adherence to our ADP (attached) and supported an iwi monitor being present for earthworks.'

Tehau Kaonohi – Environmental Manager, Ngati Koata

'...4. Cultural Impacts

The retrospective nature of the consent and the building of the deck and stairs without proper due diligence to Council processes is of great concern to Ngati Koata and has an effect on the tino rangatiratanga and mana of Ngati Koata within Te Tau Ihu. Further, the construction of the deck and its potential impact on the coastal marine environment as well as the potential impacts on known and unknown archaeological sites in the area are unable to be regulated or mitigated at this point.

We consider the building of both deck and stairs without proper due diligence and offense to the aforementioned tino rangatiratanga and mana. As such, Ngati Koata do not take lightly to any retrospective consents.

5. Position

Ngati Koata are opposed to the retrospective consent being sought. Ngati Koata would have appreciated if consultation and involvement were sought earlier in the process..."

George Stafford – Poutohutohu Taiao, Ngati Rarua

'Kia ora Taylor

Thank you for our recent discussions regarding this matter. Unfortunately, there is no way to sugarcoat my comments, so I probably won't bother trying. This applicant's arrogance and sense of entitlement is clear to anyone who would read these documents. To suggest the applicant is "apologetic and was confused" is simply a load of rubbish.

The applicant is apologetic and acting confused because they have been found out. Furthermore, to suggest that the applicants were "unaware " is a direct challenge to the intelligence of anyone who is reading these documents. This deck is a complicated and significant addition to this property. It would have taken someone with extensive construction knowledge to build this as that is obvious because the applicant has now found an engineer who is happy to put his/her name to what the builder(s) has done.

With that knowledge those responsible would have known at the very minimum this deck would have needed foundation and structural engineering, surveying so that it was sited within the applicant's property boundaries, building consent due to a many number of things and the only matter the builder(s) might not have considered or known was those matters surrounding the cultural heritage precinct and the coastal marine environment.

If those responsible for building this deck were Licensed Building Practitioners (LBP) then the licence they hold should seriously come into critique. In my mind there is no way that this deck would have been permitted in the scale it currently beholds if the correct processes had been followed and there is no way it should now be retrospectively consented, regardless of how much it cost to construct it in the first instance and now how much it is costing the applicant to retrospectively have it consented.

Within the document provided I see on pages 18 & 19 there are extensive references to the non-necessity for this application to be publicly notified. It is not hard to see why this applicant would want to avoid this.

Also on page 19 these words are used; "There are no special circumstances that relate to this application. It is requested that the Council consider processing this as a non-notified application in accordance with Section 95 of the Act, subject to completion of the consultation discussed above."

Is the applicant still challenging our intelligence by suggesting there are "no special circumstances" and requesting from the council a non-notified application.

Then on page 20 the applicant then (in my mind) lists all the special circumstances.

My final comment is I do not approve of any further consideration by the Tasman District Council to now entertain a retrospect consent for all the matters this applicant has breached.'

Lewis Smith – Kaiwhakahaere – Team Lead Wairau, Ngāti Kuia

'... Cultural Effects:

Our usual practice is to evaluate the potential impacts of a proposal, but in this instance, we are conducting a retrospective assessment. The cultural values of Ngāti Kuia and Ngāti Apa ki te Rā Tō may have already been harmed by any negative effects, and without a cultural monitor on-site overseeing the works, any damage that has occurred may go unnoticed by those lacking proper cultural training. For our Whanau, any work done in culturally sensitive areas, where we are not enabled to be Kaitiaki, has a negative impact on our cultural values. We hope to collaborate with landowners who are proposing developments to educate them about our cultural values and significant places in a manner that is Mana enhancing for all parties involved. It is our desire that retrospective consents like this are not a repeat occurrence, and that the community follows the correct procedures for works of this nature to help us protect our sites.

Recommendations:

- 1. It is understood that the applicant is apologetic, this needs to be addressed with Iwi representatives directly.*
- 2. Recognition of the cultural significance of the area to be pursued, this may be a wider project supported by TDC*
- 3. A site visit is conducted by an archaeologist and iwi monitor to assess if any damage to a site has occurred, further recommendations may be attained from this visit.'*

In regard to **positive effects**, it is noted that the proposal will meet the social needs of the Applicant.

SECTION 95 OF THE RESOURCE MANAGEMENT ACT

Public notification

Section 95A of the RMA outlines the assessment criteria for public notification. It sets out four steps for determining whether to publicly notify an application.

Mandatory Public notification (Step 1): Subsection (2) states that if any of the criteria in subsection (3) is met the application shall be publicly notified. If not, then step 2 will be applied.

None of the criteria of subsection (3) are triggered by the application and mandatory public notification is not applicable.

Public notification precluded (Step 2): Subsection (4) states that if the application meets the criteria set out in subsection (5), step four shall be applied. If not, then step 3 will be applied.

None of the subsection (5) tests are relevant to this application; therefore, public notification is not precluded and step three applies.

Public notification required in certain circumstances (Step 3): If either of the criteria in subsection (8) are met, then the application shall be publicly notified.

This activity is considered to have a less than minor adverse effect on the environment for the reasons detailed above, and no applicable rules require public notification.

The criteria of subsection (8) do not apply to this application.

Public notification in special circumstances (Step 4): Subsection (9) states that consideration must be given to whether special circumstances exist that warrant public notification of an application.

There are no special circumstances that relate to this application.

Limited notification

If the application is not subject to public notification, then an assessment against section 95B is required.

Certain affected groups and affected persons must be notified (Step 1): Subsection (2) requires any affected protected customary rights groups or customary marine title groups to be notified.

None of these groups are affected by the application.

Subsection (3) requires identification of statutory acknowledgements and assessment of the activity section 95(E) to determine if those to who the acknowledgement is given are an affected party.

The proposal is not located within a Statutory Acknowledgement Area however is adjacent to Te Tau Ihu Coastal Marine Area.

Limited notification precluded in certain circumstances (Step 2): If either of the criteria in Subsection (6) are met, being works subject to a rule precluding notification or a controlled activity, then limited notification is precluded.

The criteria of subsection (6) do not apply to this application.

Certain other persons to be notified (Step 3): Subsection (9) requires parties identified under section 95(E) to be notified.

A site visit was completed on 7th June, in order to reassess the associated effects in relation to the boundary shared with 36 Kaiteriteri-Sandy Beach Road. Figures 8 and 10 are photos along the boundary and the extent of the mature vegetation growing between the two properties. 36 Kaiteriteri-Sandy Beach Road is significantly lower than 38 Kaiteriteri-Sandy Bay Road and any shading effects are already existing from the hillside, rather than the deck structure. The mature vegetation screens the deck and the glass balustrade softens the appearance of the deck. Given the above, I do not consider that 36 Kaiteriteri-Sandy Bay Road to be affected parties as the resulting effects on this neighbouring property are less than minor.



Figure 8: Photo along boundary shared with 36 Kaiteriteri-Sandy Bay Road towards the south.



Figure 9: View from the deck towards 36 Kaiteriteri-Sandy Bay Road.



Figure 10: Photo along boundary shared with 36 Kaiteriteri-Sandy Bay Road towards the north.



Figure 11: View from the deck towards 36 Kaiteriteri-Sandy Bay Road.

Iwi consultation has occurred and the feedback has been provided. Heritage New Zealand Pouhere Taonga will also be undertaken as part of this process. Aside from cultural heritage effects being determined through this consultation, there are no other effects on any party considered to be minor or more than minor as assessed above.

The criteria of subsection (9) do not apply to this application.

Special circumstances (Step 4): Subsection (10) states that consideration must be given to whether special circumstances exist that warrant limited notification of an application.

There are no special circumstances that relate to this application.

It is requested that the Council consider processing this as a non-notified application in accordance with Section 95 of the Act, subject to completion of the consultation discussed above.

PART 2 OF THE RESOURCE MANAGEMENT ACT

The following matters of national importance are relevant to the proposal:

The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development; and

The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers; and

The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; and

The protection of historic heritage from inappropriate subdivision, use, and development; and

The management of significant risks from natural hazards.