BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

Decision No. **[2020] NZEnvC 154**

IN THE MATTER	of the Resource Management Act 1991
AND	of an appeal pursuant to s120 of the Act
BETWEEN	CABLE BAY WINE LIMITED & MOTUKAHA INVESTMENTS LIMITED (ENV-2018-AKL-000010) Appellants
AND	AUCKLAND COUNCIL Respondent

Court:	Alternate Environment Judge L J Newhook Commissioner I M Buchanan Commissioner J A Hodges
Consideration:	On the papers
Appearances:	AGW Webb for Appellants S F Quinn and K Rogers for Auckland Council S J Simons and R K Smith for J Loranger, L Niemann M Poland and C Poland, s274 parties S and S Edwards for themselves, s274 parties
Date of Decision:	17 September 2020
Date of Issue:	17 September 2020

FINAL DECISION OF THE ENVIRONMENT COURT

A: Consents granted, conditions of consent finalised and attached.

B: Costs reserved.

REASONS

Introduction

[1] On 10 June 2020 the Court issued its Fourth Interim Decision in this matter[1], indicating that consent was likely to be granted in part, subject to the finalisation of conditions.

[2] We directed as follows:

> Provided an updated version of the draft conditions attached to the decision to satisfy the Court's express requirements in the decision, and specifically in consultation with other parties, to undertake a thorough edit of the attached draft conditions to ensure a sufficiently higher standard of consistency and clarity that sets a clear expectation that a similarly high level of compliance and enforcement is to be achieved.
>
> Submit for the Court 's consideration an updated draft enforcement order to reflect the Court's decisions.

[3] On 1 July 2020, after consultation with the other parties, the Council submitted a memorandum of its counsel and a comprehensive spreadsheet showing track changed edits to the draft conditions of consent, on which it had consulted the other parties seeking comments.

[4] The Council recorded that on 29 June 2020 Cable Bay confirmed it had no substantive comments, but just one minor amendment. The Council advised that on 28 June 2020 Mr and Mrs Edwards provided some comments and that on 30 June and 1 July 2020 the other s274 parties provided substantial comments.

[5] The Council submitted that many of the substantive changes sought by the s274 parties went beyond the directions of the Court.

[6] We have reviewed the comments of all parties and the redrafting undertaken by the Council where it agreed with some comments in whole or in part.

[7] We have also received further memoranda from s274 parties continuing to seek further changes.

[8] While we understand many of the concerns that the s274 parties have held throughout these long running proceedings, particularly the notable unconsented building works and the

[1] [2020] NZEnvC 075.

extent of indoor and outdoor expansion of activities being to a considerable degree inappropriate in this zone, we have to draw a line between conditions of consent that are for the purpose of avoiding, remedying or mitigating adverse effects on the environment on the one hand, and unnecessary or even punitive on the other.

[9] We find that the balance ultimately struck by the Council in its drafting, taking account of valid concerns and comments by the other parties, is right in all the circumstances.

[10] The Council recorded in its 1 July memorandum that it did not consider the need for ongoing enforcement orders once the consent were in place with the finally set conditions. It had expressed this view to the other parties who either agreed, or not asserted a view that enforcement orders were required on a continuing basis.

[11] We find that the redrafted conditions are appropriate and now offer the clarity and enforceability that we were seeking. The applications are now granted to the extent described in our Fourth Interim Decision and shown on the plans annexed to this decision and as indicated in the conditions of consent which are also attached.

[12] We make one final observation. We think it a matter of regret that while the Council ultimately took enforcement steps and participated extensively in both sets of proceedings, the problems brought about by the unconsented building works and the almost uncontrolled growth of indoor and outdoor activities on the Cable Bay land, were probably exacerbated by lack of sufficiently early action by the Council.

[13] Costs are reserved. Any applications to be made within fourteen days of the date of this decision.

For the Court:



L J Newhook
Alternate Environment Judge



Conditions

Purpose of the Consent

1. This consent authorises additions and alterations to and use of an existing building used as a winery and restaurant at 12 Nick Johnstone Drive, Church Bay, Waiheke Island and associated works and specified uses of the Cable Bay facilities, subject to the following conditions.

General Conditions

2. The restaurant and functions, additions and alterations to buildings and all operations and management shall be carried out in accordance with the following documents, except where subsequently modified through the consent process, in which case the latter shall prevail:

   a) Application Form and Assessment of Environmental Effects prepared by Isle Land Limited, dated April 2017
   b) Letter from Isle Land Limited dated 5 July 2017
   c) Report by Commute Transportation Consultants dated 20 June 2017
   d) The following plans included in Attachment 1 of these Conditions:

Plan title and reference	Author	Dated
Site Plan, The As-Built structure for Cable Bay Winery - Sheet A0-5	Andrew Rosales	22/1/2020
Situation and Floor Plan, The As-Built structure for Cable Bay Winery - Sheet A0-1	Andrew Rosales	24/1/2020
Verandah Floor Plan, The As-Built structure for Cable Bay Winery - Sheet A0-2	Andrew Rosales	24/1/2020
Section A and South West Elevation, The As-Built structure for Cable Bay Winery - Sheet A0-3	Andrew Rosales	24/1/2020
North West Elevation and South East Elevation, The As-Built structure for Cable Bay, Winery - Sheet A0-4	Andrew Rosales	24/1/2020
Unimplemented works to be surrendered		Attached to Wendy Baverstock evidence dated 20/8/19

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Existing Landscape Features, Sheet 01, Drawing LP.01, Rev G	Bridget Gilbert	6/12/2019
Landscape Concept - Fence, Sheet 02, Drawing LP.02, Rev G	Bridget Gilbert	6/12/2019
Landscape Detail - Fence, Sheet 03, Drawing LP.03, Rev G	Bridget Gilbert	6/12/2019
Proposed Planting, Sheet 01, Drawing LP.04, Rev G	Bridget Gilbert	6/12/2019
The As-Built Structures – Drawing A02 'The Verandah Floor Plan' (forms part of Certificate of Acceptance COA00178638)	Fisher Design and Build	15/9/15
Untitled plan showing emergency fire exits (forms part of Certificate of Acceptance COA00178638)	CNA plan annotated by Life Safety Services Group (AFS Total Fire Protection)	Undated

Advice note:

This consent shall be read in conjunction with other resource consents approved for the subject site. The Consent Holder has surrendered those parts of resource consents LUC/2011/267 and VCC/2011/267/1 in respect of building works that have not been implemented, which are shown on the plan included in Attachment 1 and entitled "Unimplemented works to be surrendered".

3. The Consent Holder shall pay the Council an initial consent compliance monitoring charge of $1050 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs incurred to ensure compliance with these Conditions of consent.

Advice note:

The initial monitoring deposit is to cover the cost of inspecting the site, carrying out tests, reviewing Conditions, updating files, etc., all being required to ensure compliance with the resource consent. To recover actual and reasonable costs, the cost of monitoring Conditions in excess of that covered by the deposit shall be charged at the relevant hourly rate applicable at the time. The Consent Holder will be advised of the further monitoring charge. Only after all Conditions of the resource consent have been met, will the Council issue a letter confirming compliance on request of the Consent Holder.

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Physical Works and Construction Conditions

4. A minimum of two days prior to the commencement of works on site, including roofing and joinery replacement, the Consent Holder or their agent shall arrange a meeting with the Council's Team Leader Compliance Monitoring and those contractors responsible for undertaking works to ensure that all parties involved are aware of what is required of them during the construction process. The following requirement shall be checked and signed off by the Council's Team Leader Compliance Monitoring prior to the commencement of construction on site:

   Contractors are made aware of construction noise limits, restricted construction hours and designated areas for storage of materials and loading and unloading of equipment as specified in accordance with Conditions 7, 8, 9, and 10.

   Advice Note

   It is recommended that the pre-construction meeting is organised at least five working days before the meeting.

5. Within six months of the grant of this consent, the Consent Holder shall complete improvements to the Verandah incorporating the following specifications, including glazing and roof installation set out on the drawings referenced in Condition 2:

   a) Roof: Constructed of 0.55mm roofing steel with 25mm ply sarking or other construction that has equivalent or better acoustic performance;

   b) Reverberation control: Absorptive material with sound absorption of NRC0.7 (or greater) shall be affixed to the underside of the sarking or suspended below. A perforated or slotted facing can be affixed below the material if required;

   c) Glazing: Low reflective 10mm float glass or laminated glass in well-sealed frames with compressible seals;

   d) Air Conditioning to ensure the comfort of the maximum number of patrons with doors and windows closed;

   e) All external opening doors and windows shall be fitted with compressible seals around the perimeter of each opening;

   f) Masonry upstands and walls shall be retained as existing at the date of grant of this consent;

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g) There shall be no areas of leakage or weakness between sound-proofing elements of the Verandah - the sarking/roof shall interface with glass frames or with equivalent wall mass, and the mass shall be continuous across the structure with no gaps;

h) The south-eastern and south-western façade of the Verandah shall be designed with no opening windows and doors, except where unavoidable for emergency exit purposes, and all elements of this façade shall be sealed closed; and

i) All external doors and windows shall be fitted with latches and locks that can be securely fastened to prevent opening by any unauthorised person or in contravention of these conditions.

Advice note:

A building consent will be required for these improvement works.

6. The Verandah shall be finished with the following materials and colours:

a) framed low-reflectivity glazing (i.e. anti-reflection glazing);

b) a dark grey roof to match the existing (LRV 10%);

c) a basalt stone coping (dark blue grey-toned natural stone); and

d) a grey plaster finish (already in place).

7. The relevant parts of this resource consent relating to construction activities shall be included in the contract documentation for the works and all contractors shall be made aware of them and shall ensure compliance with those Conditions. All construction personnel working on the site shall be made aware of and have access to the relevant parts of these consent documents and the associated environmental protection methodologies.

Construction related conditions

8. All storage of materials and loading and unloading of equipment associated with the site construction shall take place within the site boundaries so as not to interfere with the safe and convenient functioning of the public road, private property and/or property access, to the satisfaction of the of the Council's Team Leader Compliance Monitoring.

9. All construction and earthworks activities on the subject site shall comply with the more stringent of the New Zealand Standard 6803:1999 for Acoustics - Construction Noise (or any subsequent revision) or Rule 4.6 of the Auckland Council District Plan Hauraki Gulf Islands Section 2018 when measured one metre from the façade of any dwelling, visitor

accommodation or other building designed for overnight stay existing at the date of grant of this consent, including 85 Church Bay Road.

10. The use of noise generating tools, motorised equipment, vehicles and any other noise generating activities that are associated with construction and/or earthworks activity on the subject site shall be restricted to between the following hours to comply with Condition 9:
    a) Monday to Saturday: 7:30 a.m. to 6.00 p.m.
    b) Sundays and Public Holidays: no works

Landscape and related works – design, implementation and maintenance

11. Additional planting shall be provided in accordance with the updated landscape design drawings and specifications for the site referred to in Condition 17, including but not limited to:
    a) Three large trees on the south side of the Verandah, which are within a view shaft protected by a 2006 Consent Order for the site and shall be of such a size (established by survey means) so as not to result in the view shaft being adversely affected.
    b) Planting to ensure screening of the northern side of the Cable Bay buildings consistent with the 2004 Landscape Plan. Three additional specimen trees are to be provided in the area.

12. A designated Alfresco Dining Area shall be provided with a maximum area of 80 square metres immediately adjacent to the southwestern façade of the original Restaurant as numbered 01 on Drawing LP.03 in Attachment 1 to these Conditions, subject to the following:
    a) The Alfresco Dining Area shall be delineated by robust posts that cannot be removed by patrons, with heavy rope that is difficult to step over between them
    b) During wedding ceremonies, the ropes and posts may be removed by staff but must be reinstated before any subsequent use of the area for its defined purpose;
    c) A minimum of three clearly visible and easily readable signs shall be provided on the dining side of the Alfresco Dining Area fence stating that no food or drink is to be taken onto the lawn; and
    d) Any umbrellas used in the Alfresco Dining Area shall be recessive in colour.

13. A Designated Area for Weddings shall be provided, subject to the following:

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a) It shall extend in a north-westerly direction from the north-west face of the Verandah as far as the gate shown at the end of the wooden path used for mobility access and numbered 12 on Drawing LP.03;

b) The area shall include the Alfresco Dining Area and the Short-term Viewing Area for Patrons described in Condition 15;

c) It shall be no more than 15 metres wide from the front of the Restaurant and generally as shown enclosed by a fence numbered 08 on Drawing LP.03; and

d) Other than paved areas, wooden walkways and potager gardens existing at the date of grant of this consent, the full area shall be surfaced in grass.

14. The Designated Area for Weddings shall incorporate the following:

a) A physical barrier to prevent access from the Designated Area for Weddings and the wooden walkway in front of the Verandah to the wider lawn area and to ensure there is no patron use of the lawn in front of the Verandah, except as noted in Conditions 14 b). The physical barrier may take the form of either:

- a fence no less than 1.2 m high designed to ensure it is not easily climbable and, in particular, contains no horizontal components that can be used for climbing; or
- a moat a minimum of 2.5 m wide and 0.5 m deep to comply with the requirements set out in paragraphs [12] (b) and [13] of the Court's Third interim Decision dated 15 October 2019.

Any fence shall be constructed within six weeks of the date of grant of this consent and any moat shall be constructed within three months of the date of grant of this consent.

b) Provision for temporary access over or through the physical barrier required by Condition 14 a) preventing access to the main lawn, such temporary access being for use up to four times a year when special events authorised under resource consent R/LUC/2010/5431 take place;

c) A tractor access route in the locality of the above area to other parts of the property with provision to ensure any access by unauthorised persons will be prevented;

d) A removable 1.2 m high post and vertical batten style fence at the northern edge of the Designated Area for Weddings with a pedestrian access gate (with signage on both sides stating permitted access rights) at the northern end of the existing wooden



walkway from the vehicular mobility access area (as numbered 12 on Drawing LP.03 in Attachment 1 to these Conditions);

e) A gate installed, normally locked, at the south-west end of the Verandah to prevent patron access to areas outside the Designated Area for Weddings.

f) A minimum of five clearly visible and easily readable signs shall be provided on the Restaurant side of the barrier required by Condition 14 a) in locations approved by the Council's Team Leader Compliance Monitoring, in addition to those on the gate at the northern end of the Designated Area for Weddings and those in the Alfresco Dining Area. The signs shall state that patron access to the wider lawn area is prohibited.

15. A designated Short-term Viewing Area for Patrons shall be provided, with a maximum area of 150 square metres, within the Designated Area for Weddings, where patrons can take photographs or can take in the view, subject to the following:

a) The north-western limit of the area shall extend a maximum distance of 15 metres from and be parallel to the north-west façade of the Verandah;

b) The area shall be delineated by robust posts that cannot be removed by patrons, with heavy rope that is difficult to step over between them;

c) During wedding ceremonies the ropes and posts may be removed by staff but must be reinstated before any subsequent use of the area for its defined purpose; and

d) A minimum of two signs, clearly visible and easily readable from the Short-term Viewing Area for Patrons shall be provided on the post and rope barrier in locations approved by the Council's Team Leader Compliance Monitoring, in addition to all other signs. The signs shall state that patron access beyond the rope is prohibited. Two further clearly visible and easily readable signs shall be permanently installed within the Viewing Area for Patrons in locations approved by the Council's Team Leader Compliance Monitoring. These signs shall state that the area is to be used for taking photographs and taking in the view only and all sitting, eating, drinking and games are prohibited. The signs may be covered during wedding ceremonies.

16. Areas reserved for overflow parking shall be provided to the extent they are required.

17. Within three months of the grant of this consent, the Consent Holder shall submit detailed landscape design drawings, specifications and a landscape management and maintenance plan (Landscape Implementation and Maintenance Plan) prepared by a suitably qualified landscape specialist to the Council's Team Leader Compliance Monitoring for certification. Certification shall be on the basis that the detailed landscape design drawings, specifications and management/maintenance plan will achieve all aspects of the consented conceptual landscape

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design drawings LP.01 to LP.04 included in Attachment 1 of these Conditions and the requirements of Conditions 11 to 16.

18. No later than six months following certification, the Consent Holder shall implement the landscape and associated works in accordance with the certified Landscape Implementation and Maintenance Plan, subject to any planting being undertaken within an appropriate planting season (April-October). Thereafter, the Consent Holder shall retain and maintain the works (including the planting, structures, paving and signage) in perpetuity to the satisfaction of the Council's Team Leader Compliance Monitoring in accordance with the certified Landscape Implementation and Maintenance Plan and these conditions of consent.

19. Prior to completion of the works, and within two weeks of the date of grant of this consent, temporary barriers and equivalent signage to that required by Conditions 12, 14 and 15 shall be used to ensure use of the Alfresco Dining Area, Designated Area for Weddings and the designated Short-term Viewing Area for Patrons is limited to that authorised by these Conditions.

20. The Consent Holder shall ensure the lockable security gate at the top of the southern steps leading to the loading bay is always kept locked except when in use by staff.

External lighting

21. All exterior lights shall be affixed to the building (except in the carparking area) and orientated straight down or 'inwards' towards the buildings to minimise external light spill and shall comply with the lighting standards contained in Rule 4.10.3 of the Auckland District Plan - Hauraki Gulf Islands District Plan 2018 relating to artificial lighting. Outside of the hours of operation, the only exterior lighting in use shall be security lighting affixed in this manner.

22. The Consent Holder shall provide the Council's Team Leader Compliance Monitoring with an as-built lighting plan prepared by a suitably qualified person to confirm this Condition is met.

Remediation building works

23. The northern containers shall be painted in a recessive colour to complement the main building on site.



24. The plastic glazing on the pergola structure to the north of the main kitchen shall be removed within one month of the grant of this consent.

25. The Consent Holder shall ensure that screening, in the form of close boarded wooden fencing, of the southernmost container and associated outdoor storage/rubbish area is retained to the satisfaction of the Council's Team Leader Compliance Monitoring. Any works required to meet this Condition shall be completed within two months of the grant of this consent.

26. The concrete pad shown on the approved landscape plan may be retained but shall not to be utilised for day to day activities associated with hospitality at the Cable Bay facilities. Use shall be restricted to the four events per year authorised under consent R/LUC/2010/5431, and in accordance with any conditions applicable under that consent.

Post Development and Operational Conditions

27. All staff and contractors working on site shall be provided with a copy of these Conditions of consent and shall be required to confirm in writing as part of their induction process that they have read and understood the Conditions and agree to take all practicable steps to ensure they are complied with at all times.

28. The hours when the Winery can be operated by staff are 6 a.m. – 8 p.m. - March to April and 8 a.m. – 5 p.m. Monday to Friday - May to February. The hours during which the facilities may be open to the public shall be limited to:

Winery	10 a.m. – 5 p.m. daily
Tasting room	10 a.m. – 5 p.m. daily
Restaurant, Motukaha Room and Verandah	11 a.m. – 11 p.m. Sunday and Monday 11 a.m. – 12 midnight Tuesday to Saturday
Alfresco Dining Area, delineated outdoor area and Motukaha Deck	11 a.m. – 10 p.m. Monday to Saturday 11 a.m. – 6 p.m. Sunday, Christmas Day, Good Friday and Easter Monday
Private functions	11 a.m. – 11 p.m. Sunday and Monday 11 a.m. – 12 midnight Tuesday to Saturday
Use of the Designated Area for Weddings and Short-term Viewing Area	11 a.m. until 30 minutes after sunset Monday to Saturday 11 a.m. – 6 p.m. Sunday, Christmas Day, Good Friday and Easter Monday

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Advice note

Private functions must comply with the hours of operation for the specific area in which the function is taking place.

29. All patron access to the premises shall be via the main stair entry on the east side of the building except for disabled access only, which shall be at the northwest corner of the building;

30. All patrons in the Restaurant, Verandah and Alfresco Dining Area shall be seated and served at tables, except during functions and wedding ceremonies when standing and mixing can occur in accordance with other conditions of consent.

Use of the Verandah, Restaurant, Alfresco Dining Area and Motuhaka Room

31. To manage the noise effects of the Verandah, Restaurant, Alfresco Dining Area and Motukaha Room to meet the noise limits in Condition 44, the following measures shall be implemented by the Consent Holder during operation of each individual area:

Times	Verandah	Restaurant	Alfresco Dining Area	Motuhaka Room Deck
11 a.m. to 10 p.m. Monday to Saturday 11 a.m. to 6 p.m. Sunday, Christmas Day, Good Friday, and Easter Monday	SE and SW façades shall be closed at all times NW façade may be open but must be closed at 6 p.m.	Façade may be open	Seated dining for a maximum of 40 patrons and a maximum group size of eight patrons	Available for patron use
After 10 p.m. any day	All façades closed	Façade closed	Closed	Not available for patron use
After 6 p.m. Sunday, Christmas	All façades closed	Façade closed	Closed	Not available for patron use

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Day, Good Friday and Easter Monday				

32. At any time that the PA System is being used in the building, all external windows and doors in the Verandah and the Restaurant shall be completely closed and, except for safety fire exit doors, all latches and locks securely fastened to reduce noise breakout and to prevent patrons or staff opening any external windows or doors.

33. The Consent Holder shall maintain a complaints register from the date of grant of this consent. The complaints register shall be kept up to date at all times and completed by the responsible manager on site at the time of the complaint. The register shall include, as a minimum, the following information relating to each complaint:

a) Summary and nature of the complaint;
b) Name of manager recording complaint;
c) Name and address of complainant when provided;
d) Date and time of complaint;
e) Weather conditions, including wind direction;
f) Details of which façades were open or closed at the time of the complaint;
g) Numbers of people outside;
h) Details of any potential enthusiastic behaviour that could have contributed to the complaint;
i) Whether a Council compliance officer attended;
j) Assessment of likely causes and significance in terms of compliance with the conditions of this consent;
k) Action taken; and
l) Follow up responses to the complainant.

34. The complaints register shall be available for inspection by a Council compliance officer at any time the facilities are open.

35. No later than 12 months after the grant of this consent, and thereafter at annual intervals when required by the Council's Team Leader Compliance Monitoring, the Consent Holder shall provide the Team Leader with a Complaints Summary Report prepared by an independent person approved by the Team Leader and setting out the following

information:

a) A summary of complaints made during the year; and

b) An analysis of those complaints to the extent practicable to identify any trends, including whether the north-west façade being open during the day may have contributed to those complaints.

Outdoor use

36. There shall be no use of the lawn authorised by this consent other than as set out in Conditions 13, 14, 15, 28, 37, 38, 40 and 41.

37. The Designated Area for Weddings may be used for outdoor wedding ceremonies, including for a period of up to 15 minutes before and 30 minutes after the ceremony for refreshments, including alcohol in compliance with any current liquor licence. Outdoor wedding ceremonies are prohibited in all other parts of the entire Cable Bay site. All other aspects of a wedding function must be held indoors and subject to the same conditions as other indoor activities.

38. The number of wedding ceremonies that can occur within the Designated Area for Weddings shall be limited to 30 per calendar year, provided that no more than 20 shall occur in the summer months (November to March). No part of any ceremony may extend beyond 6 p.m. Any use of a Wedding PA system shall be controlled using the noise limiting device required by Condition 51.

39. The Consent Holder shall keep a record of the numbers, dates and times of wedding ceremonies on-site to be available to a Council compliance officer on request.

40. When the area is not in use for wedding ceremonies that part of the area delineated as Short-term Viewing Area for Patrons may be accessed by patrons for taking in the view or taking photographs.

41. There shall be no eating, drinking, sitting or the playing of games in the Short-term Viewing Area for Patrons, other than during wedding ceremonies as provided for in Condition 37.

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42. All functions shall occur inside the building and no functions or parts of functions shall be undertaken outdoors, including in the Alfresco Dining Area, other than provided for by Condition 37 for wedding ceremonies. The Consent Holder shall keep a record of the numbers of attendees, the area of the facility used, dates and times of functions on-site to be available for inspection by a Council compliance officer on request at all times the facilities are open.

Advice Note:

For the purpose of this consent, a function means any booking, event or gathering of a group of people where the PA System is used to play amplified sound, including for voice or music.

Noise limits

43. The cumulative noise generated by all hospitality related activities on the site (excluding helicopter movements (R/LUC/2014/341) and the four temporary events per annum (R/LUC/2010/5431)) shall comply with the following noise limits when measured at or within the notional boundary of any dwelling or visitor accommodation unit existing at the date of grant of this consent on an adjacent property, including the dwelling at 85 Church Bay Road:

Time	L_{Aeq} A-weighted	L_{eq} @ 63Hz 1/1 octave band	L_{eq} @ 125Hz 1/1 octave band	L_{Amax}
Day time 7 a.m. to 10 p.m. Monday to Saturday, and public holidays other than Christmas Day, Good Friday and Easter Monday 9 a.m. to 6 p.m. Sunday, Christmas Day, Good Friday and Easter Monday	42 dB	50 dB	50 dB	NA
Night time At all other times	32 dB	40 dB	45 dB	65 dB

44. The noise limit for the Wedding PA system shall be 37 dBL_{Aeq} when measured at or within the notional boundary of any dwelling or visitor accommodation existing at the date of grant of this consent on an adjacent property, including the dwelling at 85 Church Bay Road.

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45. The noise limits in Conditions 43 and 44 supersede those in the 2006 Consent granted for the Cable Bay Facility.

46. All noise measurements and assessments shall be undertaken in accordance with New Zealand Standards NZS6801:2008 *Acoustics – Measurement of Environmental Sound* and NZS6802:2008 *Acoustics – Environmental Noise*, except that an adjustment for special audible characteristics shall not be applied to the measured low frequency noise levels for comparison with the limits in Conditions 43 and 44. The adjustment for special audible characteristics may be applied to the A-weighted levels, if necessary, in accordance with the standards above.

47. Noise from all stationary mechanical plant on the site shall comply with a noise limit of 30 dB L_{Aeq} when measured at or within the notional boundary of any dwelling, including the dwelling at 85 Church Bay Road.

Advice note:
This noise limit applies to fixed refrigeration, heating, cooling and ventilation plant, power generation and the like. It is not intended to apply to noise from construction activities, agricultural machinery such as tractors, sprayers, bird scarers or mobile plant such as vehicles or buses.

Amplified sound

48. Other than the permanently installed sound systems in the Verandah, Bar, Restaurant and Motukaha Room, the PA System is the only source of amplified sound permitted to be used in the building (excluding cell phones and other small devices that may generate electronically amplified sound). There shall be no amplified sound outdoors other than using the Wedding PA system, except during events authorised by Consent LUC/2010/5431, subject to any conditions in that consent.

49. All amplified sound inside the building shall cease by 11 p.m. (Sunday and Monday) and 12.00 a.m. (midnight), (Tuesday to Saturday).

Advice note:
Conditions 48 and 49 do not apply to the four events consented under LUC/2010/5431.

50. The PA System, the in-house sound systems for the Restaurant, Bar, Verandah and

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Motukaha Room, and the Wedding PA System shall be controlled by an electronic noise limiting device installed in the signal chain which controls the output to the loudspeakers. The limiting device shall be capable of discrete control over the low frequency output as well as the overall output level to achieve compliance with Conditions 43 and 44. Once calibrated in accordance with Condition 54, the limits that are programmed into the device shall not be able to be changed by anyone except a suitably qualified and experienced acoustics engineer and a sound system contractor approved by the acoustics engineer and only during the calibration process.

51. When the PA system is in use (except during the calibration process outlined in Condition 54) it shall be connected to the electronic noise limiting device via clearly marked signal input and signal output connections. These shall be located so that they are clearly visible and accessible for monitoring and inspection purposes. The electronic noise limiting device shall be fully functioning and regular staff checks shall be made to ensure the systems remain connected while the PA Systems are in use.

Advice note:

The purpose of *this Condition is to ensure the input signal is not directly connected to the PA system loudspeakers without the electronic noise limiting device within the signal chain. The signal input and output connections to the electronic noise limiting device are provided by* a *labelled XLR wall jack plate in the Alfresco Dining Area (for the Wedding PA use), Bar, Restaurant and Motukaha Room areas*

52. Musical instruments that do not require amplification (e.g. drums) and cannot go through the PA System shall not be used unless it can be demonstrated by a suitably qualified acoustics engineer they will not result in the noise limits being exceeded. Use of musical instruments at any outside location is not authorised by this consent

53. Within one month of the grant of this consent to which these Conditions relate, the Consent Holder shall ensure that all sound systems and the noise limiting device are calibrated to ensure compliance with the noise limits in Condition 43 and 44 using noise level measurements at the notional boundaries of 85 Church Bay Road, 125 Church Bay Road and 20 Nick Johnstone Drive performed by a suitably qualified and experienced acoustics expert.



54. The calibration procedure shall be used to set the PA System, in-house sound system, Wedding PA system and noise limiting device at the maximum output level which maintains compliance with the noise limits in Conditions 43 and 44. The gain settings on the PA System loudspeaker shall be set to maximum volume during the calibration. The Consent Holder shall provide the opportunity for the calibration procedure to be witnessed by one qualified and experienced acoustics representative from Auckland Council and one qualified and experienced acoustics representative from the occupiers of the dwellings at 85 Church Bay Road, 125 Church Bay Road and 20 Nick Johnstone Drive at the Consent Holder's expense. At least two weeks of notice prior to the calibration shall be given to these representatives.

Advice note:

The calibration shall be carried out with all façades closed to determine the maximum level of the PA system (as per Condition 32). The north-west façade may need to be tested in an open and closed state to determine the limit for the in-house sound systems in the Verandah, Bar, Restaurant and Motukaha Room.

55. The occupiers of the dwellings at 85 Church Bay Road, 125 Church Bay Road, and 20 Nick Johnstone Drive shall be advised in writing that the calibration procedure is to occur no less than two days prior to the procedure. Subject to that requirement being met, the procedure (alone) may involve the generation of noise levels which exceed the noise limits in Conditions 43 and 44 for the period necessary to complete the calibration.

Advice Note:

This will ensure that, if required, the noise level measurements at the assessment locations can be sufficiently above the ambient sound to avoid the need for any adjustment for background sound. It will enable the accurate determination of the level difference between inside the spaces in the venue and the designated outdoor areas; and the assessment locations at the neighbouring dwellings for the purpose of the calibration.

56. The calibration procedure may only be undertaken between the hours of 7 a.m. and 10 p.m. on a weekday, and only in meteorological Conditions that slightly enhance propagation of sound towards the dwelling at 85 Church Bay Road, or when there is no perceptible wind in any direction.

57. Details of the calibration process methodology, results and the setting of the noise limiting device and general configuration of the in-house sound system and provisions for the PA systems shall be set out in correspondence prepared by a suitably qualified acoustics expert and submitted to the satisfaction of the Council's Team Leader Compliance Monitoring within 20 working days of the calibration exercise being completed.

58. The calibration process shall be repeated and complied with if required by the Council's Team Leader Compliance Monitoring, and every time there is a change to the sound system or building that in the opinion of a suitably qualified acoustics expert would result in a material change in the emission of amplified sound from the venue. The calibrated levels shall be checked on an annual basis and submitted to the satisfaction of the Council's Team Leader Compliance Monitoring within 20 working days of each calibration exercise being completed.

59. Where any calibration process demonstrates non-compliance with the noise limits in Condition 44, the Consent Holder shall take immediate action to remedy and advise Council' s Team Leader Compliance Monitoring of remedial action taken.

60. The Consent Holder shall undertake fortnightly parking surveys for the first period of 1 December to 28 February following the grant of this consent, on Saturdays between 12 noon and 3 p.m. and between 5 p.m. and 9 p.m. The surveys shall be designed and overseen by an independent and suitably qualified traffic engineer. The survey shall record the number of patrons and staff on site and the number of vehicles parked within the car park at one hourly intervals. The survey shall also record cycle parking demand, any offsite parking, and any offsite taxi or bus drop-offs or pick-ups. A record of those surveys shall be provided in writing to the Council's Team Leader Compliance Monitoring no later than one month after completion of the surveys.

61. If any overflow parking is recorded by the surveys required by Condition 60, a parking assessment shall be undertaken by an independent and suitably qualified traffic engineer to determine whether additional spaces should be constructed at the expense of the Consent Holder. Such assessment shall be provided in writing to the Council's Team Leader Compliance Monitoring no later than one month after completion of the surveys.

62. If the parking surveys and traffic assessment required by Conditions 60 and 61 indicate additional parking on-site is required, such parking shall be established on site within three

THE SEAL OF THE ENVIRONMENT COURT OF NEW ZEALAND

months from the date the Council receives the assessment, to the satisfaction of the Council's Team Leader Compliance Monitoring and shall thereafter be maintained for the duration of the consented development. All overflow parking within the site (existing or new) shall be constructed of a durable hardstanding material, provide mountable kerbs and be signposted.

63. Safe and clear pedestrian access and thoroughfare shall be maintained on all roads adjacent to the site at all times.

64. A staff travel management plan shall be prepared by the Consent Holder (in conjunction with an independent and suitably qualified traffic engineer to encourage alternative means for staff to arrive at and depart from the site. A copy of the staff travel management plan shall be submitted to the Council's Team Leader Compliance Monitoring within one month of the grant of this consent.

65. Staff shall not park in the visitor parking areas and shall be restricted to the staff parking area on the site.

66. A legible and convenient bus manoeuvring area shall be provided on site and kept clear at all times when not in use by a bus. Buses intending to park on-site shall utilise the parking area to the south of the main entrance from Church Bay Road in a manner that does not obstruct the driveway access to 85 Church Bay Road.

67. The Consent Holder shall provide sufficient visitor cycle parking spaces on site to satisfy the demand identified in the surveys required by Condition 60 within one month after the completion of the surveys to the satisfaction of the Council's Team Leader Compliance Monitoring.

68. lngress to and egress from the site by truck and trailer units (for export of grape juice} from the existing driveway at Church Bay Road shall occur no more than four times per annum.

69. The exterior of the buildings shall be retained in colours and materials stated in the application material submitted with the 2006 consent being:

a) Roof - Dulux Steellite - Metallic Charcoal;

b) Walls - vertical cedar - Resene Lumberside Half Tapa, coned basalt tile feature wall;

THE SEAL OF THE ENVIRONMENT COURT OF NEW ZEALAND

c) Windows - Aluminium-Ameren -Antique Iron, 8% low reflectivity glass, cedar louvres – Resene Lumberside Half Tapa;

d) Doors - Aluminium-Ameren - Antique Iron;

e) Glass - clear float low reflectivity 8%;

f) Entry Door - Zinc Panel

g) Landscape - natural fair faced concrete steps and retaining walls, coned basalt tile entry steps.

70. Any changes to the colours shall be complementary to the natural surrounding environment and compliant with the T Heath report.to the satisfaction of Council's Team Leader Compliance Monitoring.

Review

71. The Conditions of this consent may be reviewed by the Council's Team Leader Resource Consents pursuant to Section 128 of the RMA by the giving of notice pursuant to Section 129 of the RMA on the first anniversary of the date of grant of this consent and every anniversary thereafter in order:

a) To vary the use (or extent of use) of the Designated Area for Weddings, Short-term Viewing Area for Patrons, Alfresco Dining Area, Motukaha Room deck and/or the Verandah in light of increased understanding or further information, operational experience, changed circumstances or the results of monitoring; or

b) To review the time of closure of the NW façade of the Verandah during the day; or

c) To alter calibration and/or monitoring requirements in light of previous noise calibration and/or monitoring results and/or changed environmental conditions or circumstances; or

d) To vary parking requirements on site in light of increased understanding of further information, operational experience, changed circumstances or the results of monitoring; or

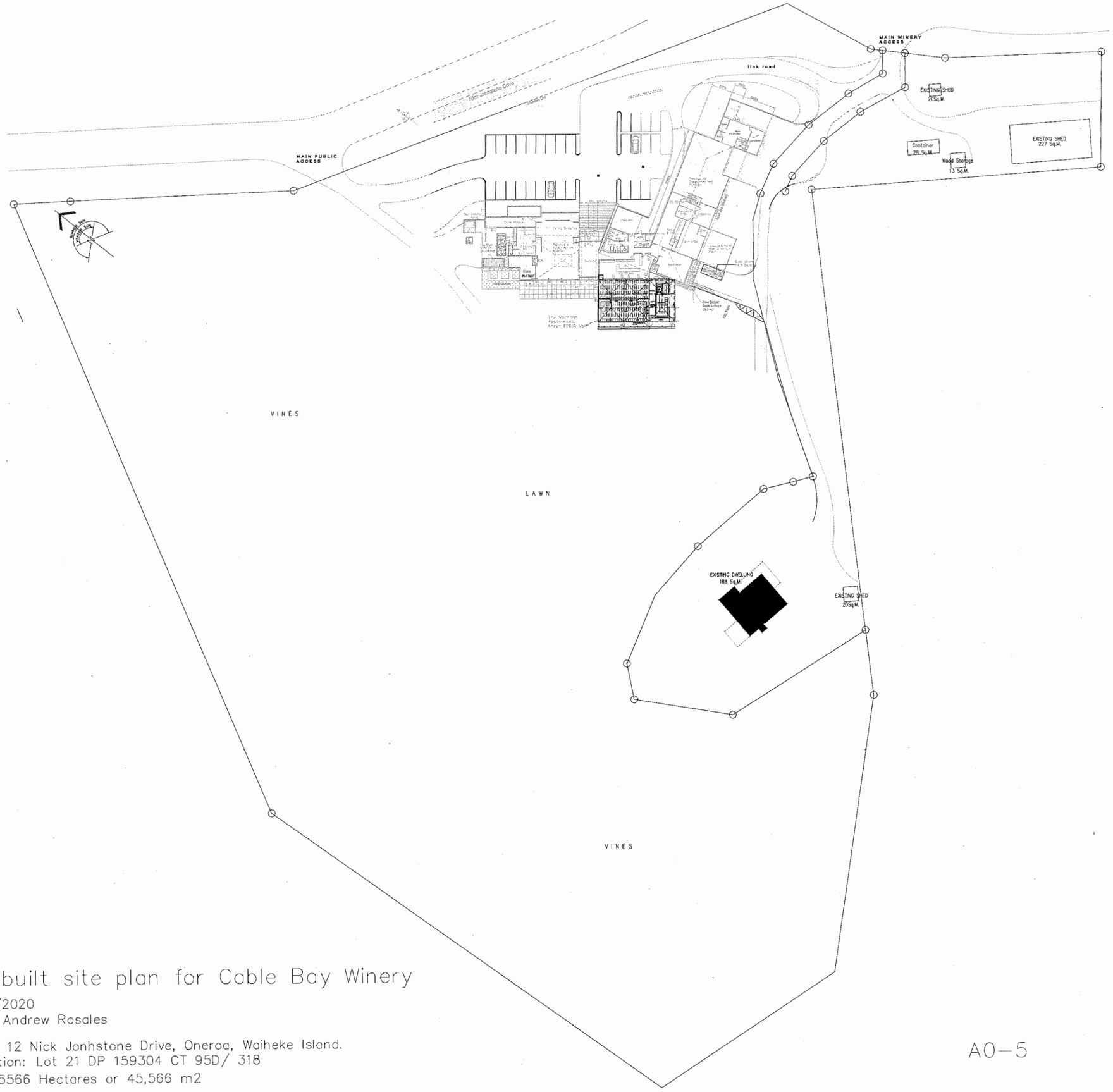
e) To deal with any adverse effect on the environment which may or may potentially arise from the exercise of this consent and which was not apparent at the lime of the grant of this consent.



Attachment 1

Plans





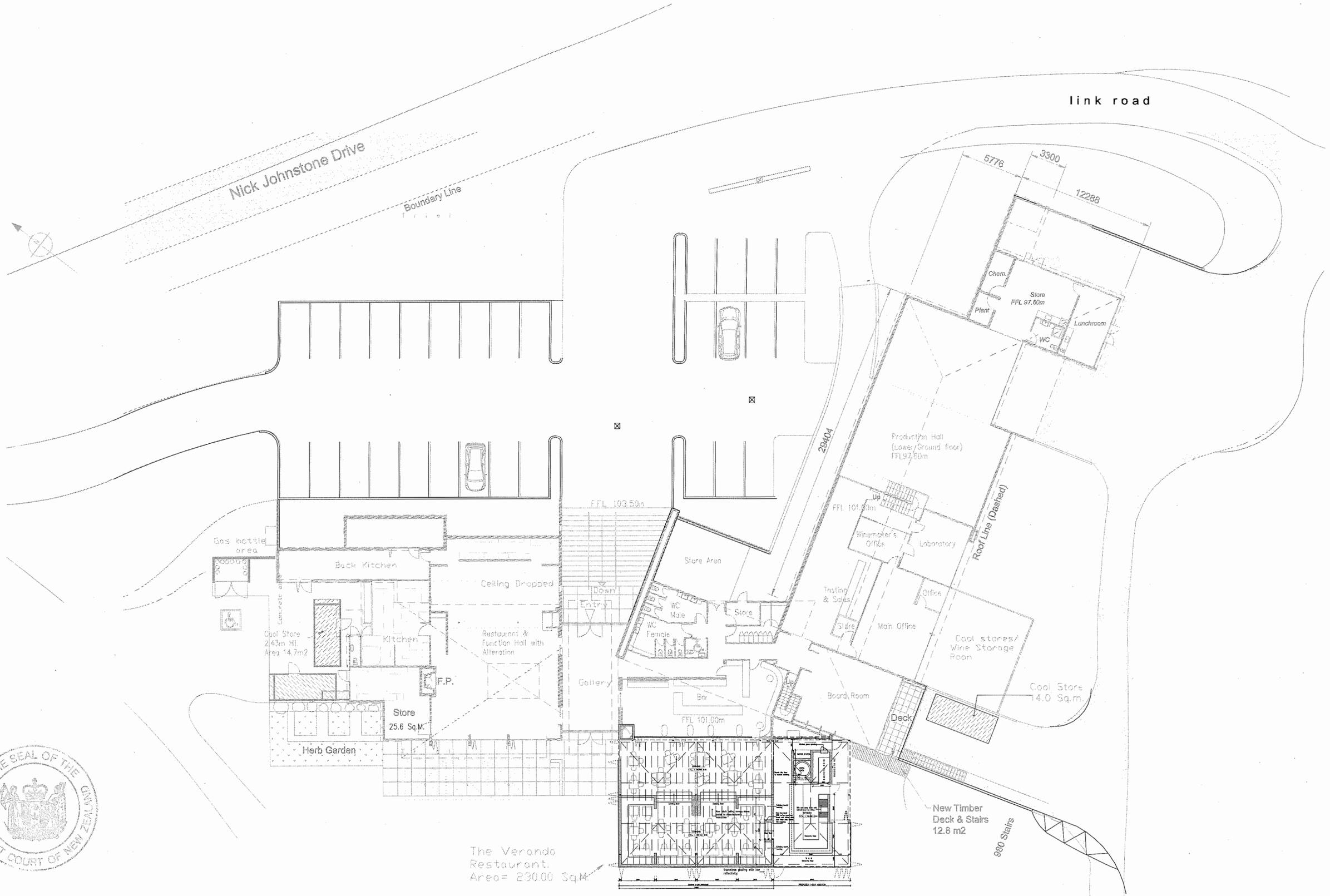
THE SEAL OF THE DISTRICT COURT OF NEW ZEALAND

The As-built site plan for Cable Bay Winery

Date: 22/01/2020
Prepared by: Andrew Rosales

Site Address: 12 Nick Jonhstone Drive, Oneroa, Waiheke Island.
Legal Description: Lot 21 DP 159304 CT 95D/ 318
Site Area: 4.5566 Hectares or 45,566 m2

A0-5

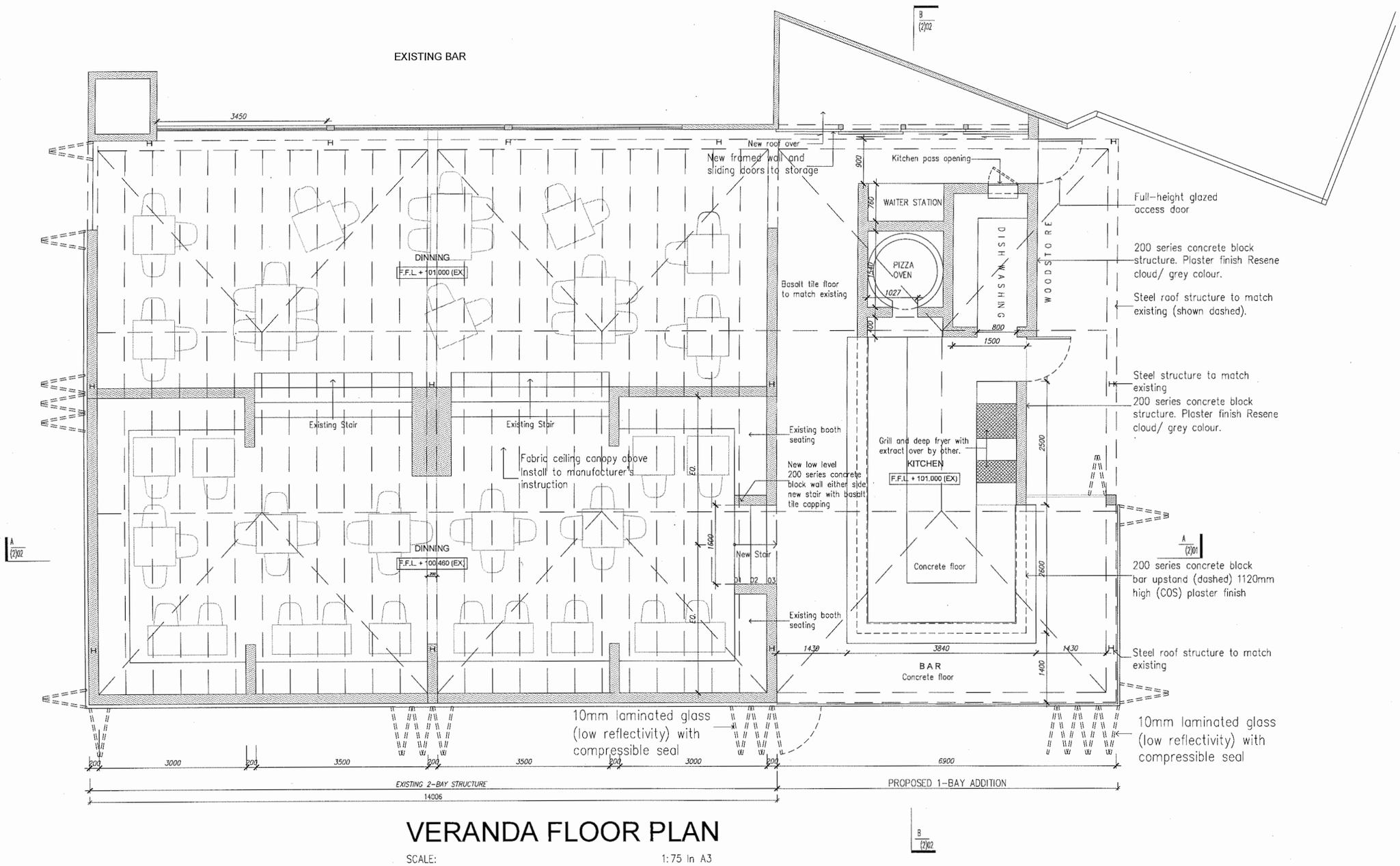


The As-built structure for Cable Bay Winery

Date: 24/01/2020

Prepared by: Andrew Rosales

A0-1



VERANDA FLOOR PLAN

SCALE: 1:75 In A3

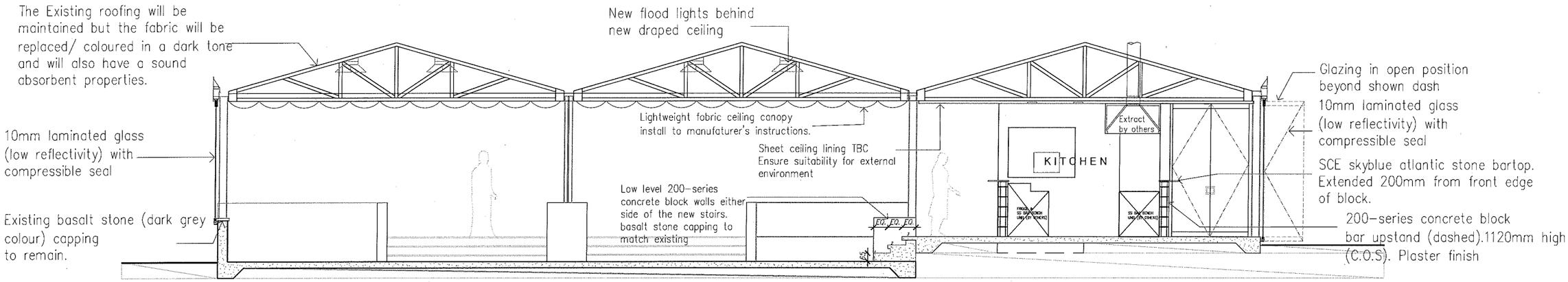
THE SEAL OF THE ENVIRONMENT COURT OF NEW ZEALAND

The As-built structure for Cable Bay Winery

A0-2

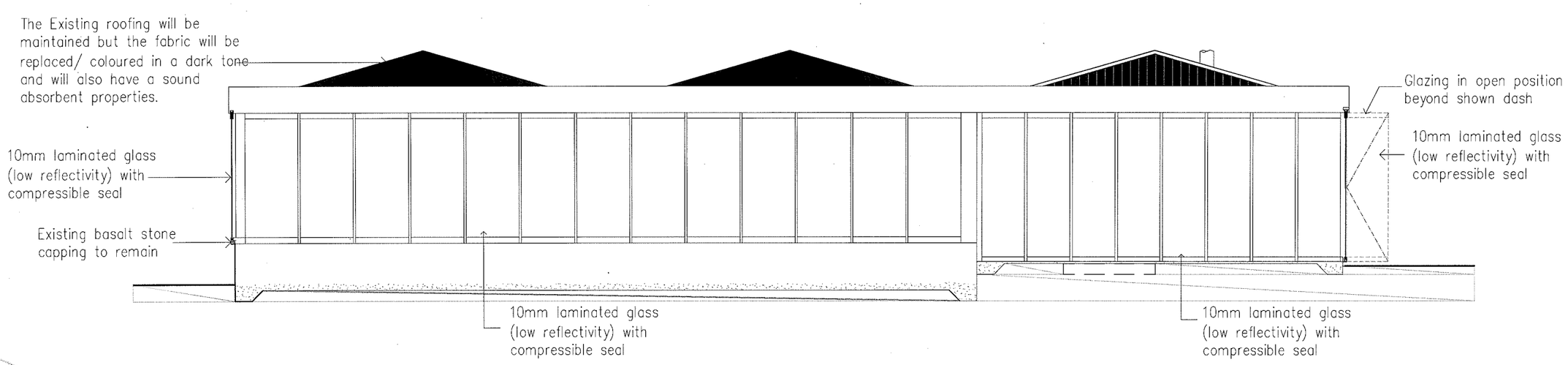
Date: 24/01/2020

Prepared by: Andrew Rosales



SECTION A A

SCALE: 1:100 In A3



SOUTH WEST ELEVATION

SCALE: 1:100 In A3

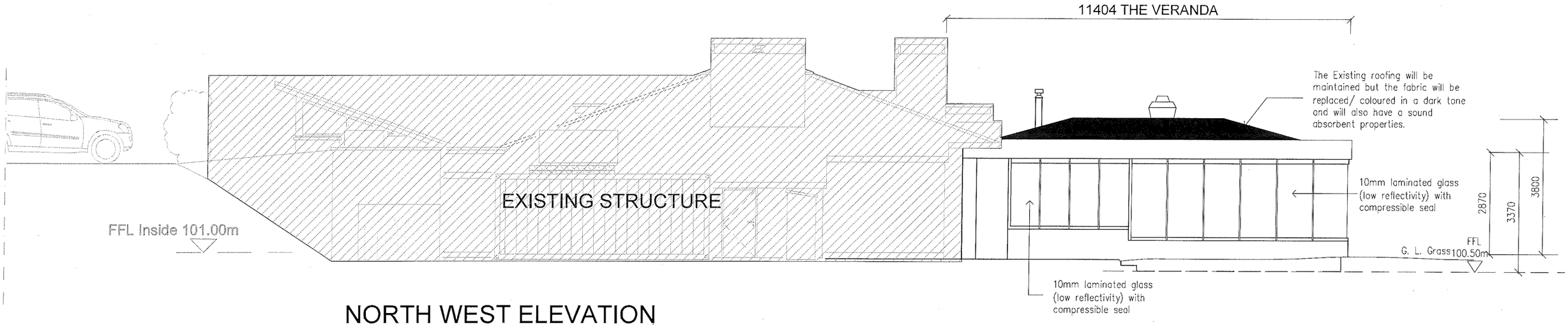
THE SEAL OF THE HIGH COURT OF NEW ZEALAND

The As-built structure for Cable Bay Winery

A0-3

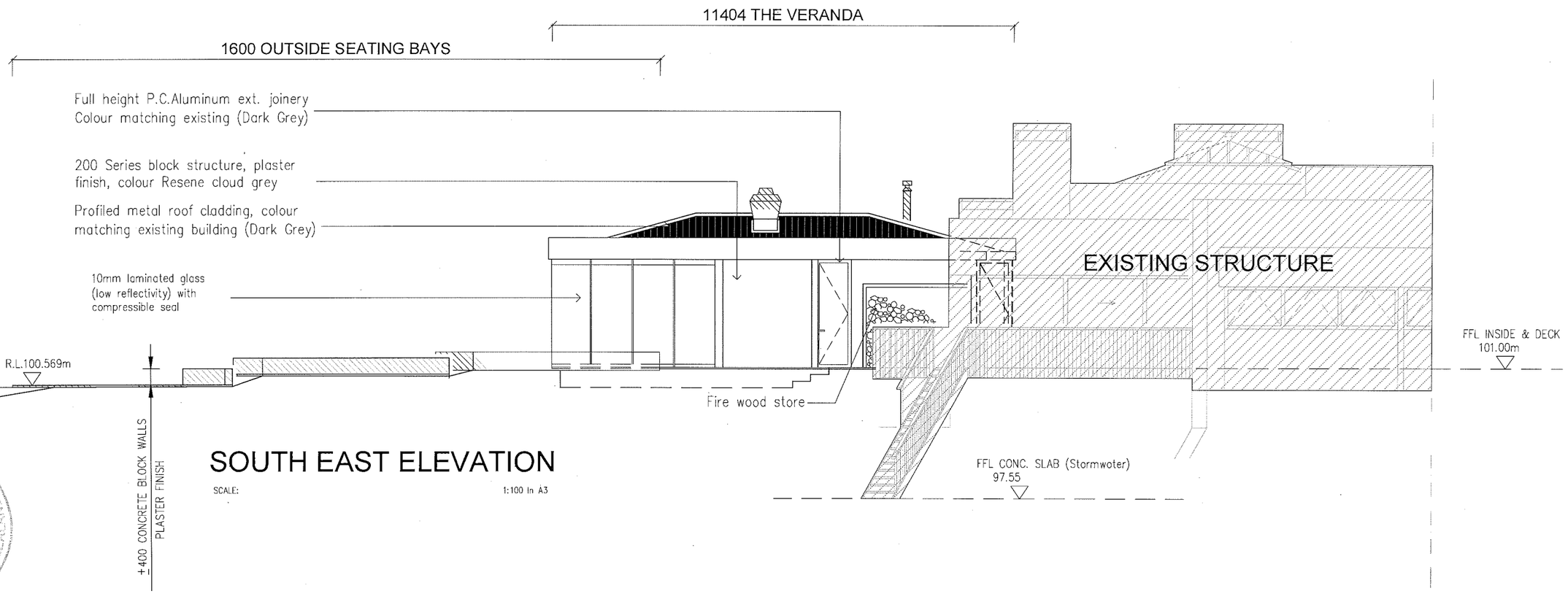
Date: 24/01/2020

Prepared by: Andrew Rosales



NORTH WEST ELEVATION

SCALE: 1:100 In A3



SOUTH EAST ELEVATION

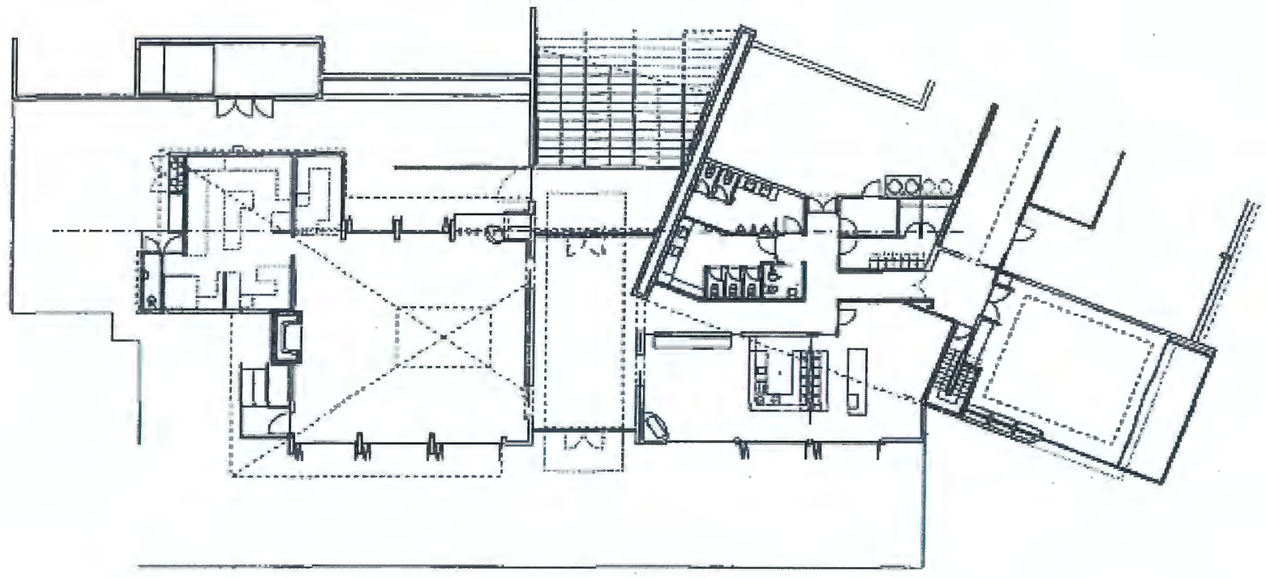
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THE SEAL OF THE ENVIRONMENT COURT OF NEW ZEALAND

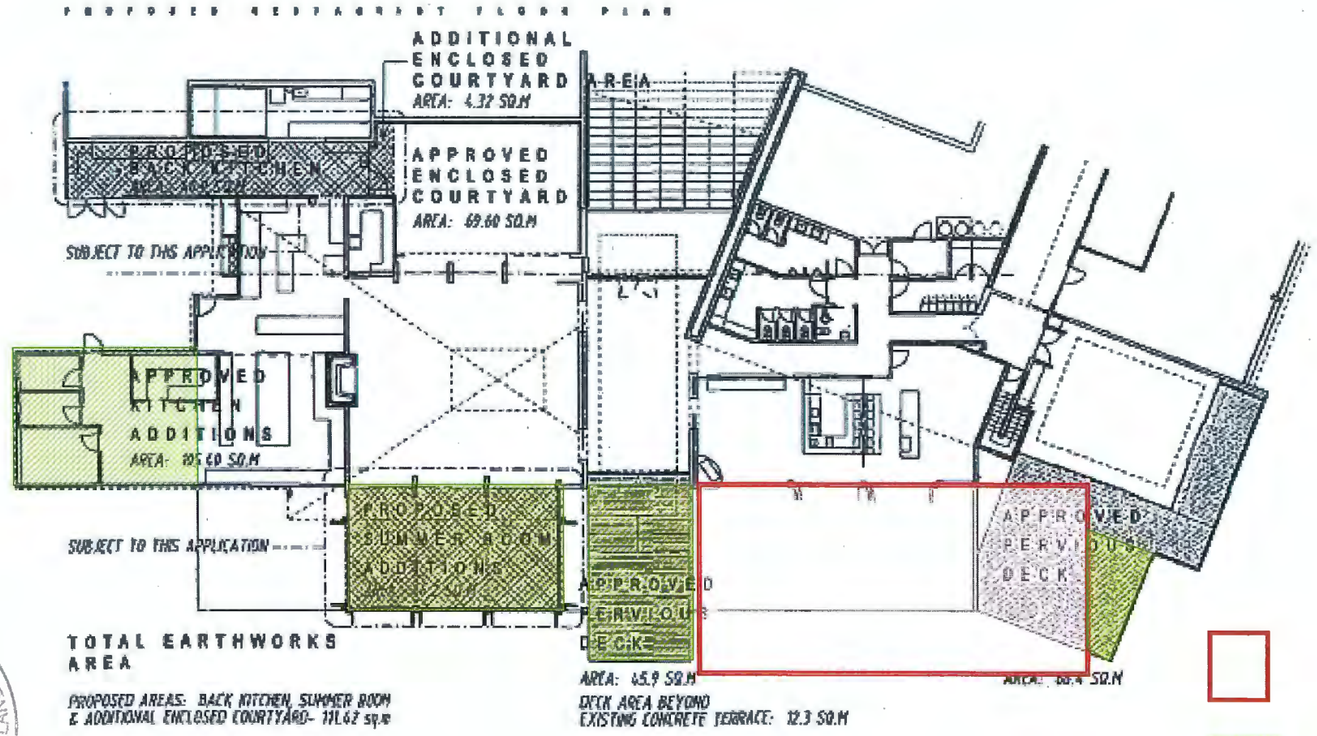
The As-built structure for Cable Bay Winery

Date: 24/01/2020
Prepared by: Andrew Rosales

A0-4



EXISTING RESTAURANT FLOOR PLAN



THE SEAL OF THE ENVIRONMENT COURT OF NEW ZEALAND

cna

RESOURCE CONSENT APPLICATION

ADDITIONS FOR CABLE BAY VINEYARD NICK JOHNSTONE DRIVE WAIHEKE ISLAND

CONTRACTORS

Structural Consultant

Structural Engineering

Fire Engineering

Mechanical Contractor

Project Managers

ARCHITECTS

No.	Date	Description
a.	27.10.10	Issued for RC lodgement
b.	03.11.10	Info issued
c.	10.11.10	RC issue
d.	08.06.11	Finalised RC issue

Council Copy

APPROVED
RESOURCE CONSENTS
Ref: 2011/267/1
08 JUN 2011
AUCKLAND COUNCIL

RC2-01

cna

P.O. Box 17 010
+64 3 377 0775 office
+64 3 377 0871 fax

DO NOT SCALE DRAWING
CONTRACTOR TO VERIFY ALL DIMENSIONS PRIOR TO COMMENCING WORK

"The Verandah" addition

Unimplemented works to be surrendered

EXISTING LANDSCAPE FEATURES

1. Existing verandah
2. Existing paved courtyard
3. Universal (i.e. disabled) and kitchen trolley access (timber surfacing)
4. Olive grove on mound
5. Boundary planting
6. Flax
7. Pond planting
8. Olive grove
9. Bund planted in mature flax
10. Amenity planting adjacent 85 Church Bay Road
11. Amenity planting associated with private dwelling
12. Olive grove
13. Mass flax planting on steep bank
14. Boundary planting
15. Mixed native low shrubs / groundcovers and edible planting
16. Mass flax planting at site boundary
17. Existing drainage trench
18. Lawn
19. Existing potager garden
20. Pond
21. Organic kitchen garden
22. Vineyard
23. Building entrance
24. Cleared area for heli-pad
25. Entrance amenity planting
26. Existing locked gate with timber railings and gate stained black.
27. Existing locked gate with timber railings and gate stained black.

Nick Johnstone Drive

Church Bay Road

Church Bay Road

ENVIRONMENT COURT OF NEW ZEALAND

0 20 40 60 80 100 m

DRAWING TITLE	EXISTING LANDSCAPE FEATURES
DRAWING SCALE	1:1000@A3
DATE	06 DECEMBER 2019
REVISION	G

CABLE BAY VINEYARD, WAIHEKE ISLAND

EXISTING LANDSCAPE FEATURES

Sheet Number 01

Drawing Number LP.01



PROPOSED LANDSCAPE FEATURES

1. Mixed native low shrubs / groundcovers and edible planting.
2. Ornamental heritage grapes (already undertaken).
3. Specimen trees - Olives PB95.
4. Specimen trees - Titoki PB95.
5. Swathes of native and exotic low shrubs / groundcovers and edible species - see LP04.
6. Olive trees planted into planted swathes.
7. Native graded shrub and groundcover planting beneath olive grove.
8. Native Boundary Underplanting Mix.
9. Lawn.
10. Verandah.
11. Native graded shrub and groundcover planting.
12. 1.2m high post and 'panel' fence. Removable posts fixed at approximately 2m centres into dark coloured concrete footing. 'Panels' to comprise steel or aluminium framed sections with vertical rods or steel wires at 200mm centres. Black powder coat or stainless steel finish.
13. Post and rope barrier.
14. Large rectilinear planters (on wheels) and plant pots to fill paved areas when not in use by food trucks during large events.

--------- 15m offset from building frontage

ENVIRONMENT COURT OF NEW ZEALAND

0 20 40 60 80 100 m

DRAWING TITLE	LANDSCAPE CONCEPT - FENCE
DRAWING SCALE	1:1000@A3
DATE	06 DECEMBER 2019
REVISION	G

CABLE BAY VINEYARD, WAIHEKE ISLAND

LANDSCAPE CONCEPT - FENCE

Sheet Number 02

Drawing Number LP.02


LEGEND
1. Existing concrete paving.
2. Existing universal (i.e. disabled) and kitchen trolley access (timber surfacing).
3. Existing potager garden with signage at either end of the central path advising that it is for disabled access only.
4. Entry foyer viewshaft.
5. Existing locked gate with timber railings and gate stained black.
6. Existing bin and storage area and access to Barrel Room.
7. Existing locked gate.
8. 1.2m high post and 'panel' fence. Removable posts fixed at approximately 2m centres into dark coloured concrete footing. 'Panels' to comprise steel or aluminium framed sections with vertical rods or steel wires at 200mm centres. Black powder coat or stainless steel finish.
9. Post and rope barrier.
10. Large rectilinear planters (on wheels) and plant pots to fill paved areas when not in use by food trucks during large events.
11. Gate (universal access).
12. Gate (universal access)
13. Existing grassed area.
01
02
03
04
05
06
07
08
09
10
11
13



Swathes of native and exotic low shrubs / groundcovers and edible species

TYPICAL PLANTING SCHEDULES	SPACING (m)	SIZE
NATIVE GRADED SHRUB AND GROUNDCOVER PLANTING MIX (Planting area between top of bank and 85 Church Bay Road and west of stormwater pond)		
Apodasmia similis (Oioi)	1.0	PB3
Coprosma 'Poor Knights'	0.5	PB3
Coprosma robusta (Karamu)	1.4	PB3
Cordyline australis (Cabbage tree)	1.4	PB3
Corynocarpus laevigatus (karaka)	3.0	PB3
Libertia grandiflora (NZ iris)	0.6	PB3
Macropiper excelsa (Kawakawa)	1.4	PB3
Muehlenbeckia complexa (Pohuehue)	0.5	PB3
Pittosporum crassifolium (Karo)	1.4	PB3
Pseudopanax lessonii (Houpara)	1.4	PB3
NATIVE BOUNDARY UNDERPLANTING MIX (Boundary adjoining 20 Nick Johnstone Drive)		
Dodonaea viscoasa 'Purpurea' (purple akeake)	1.4	PB3
Griselinia littoralis (Kapuka)	1.4	PB3
Hebe speciosa (Napuka)	1.4	PB3
Macropiper excelsa (Kawakawa)	1.4	PB3
Pittosporum crassifolium (Karo)	1.4	PB3
MIXED NATIVE LOW SHRUBS/GROUNDCOVER AND EDIBLE SPECIES MIX		
Apodasmia similis (Oioi)	1	PB3
Carex sp	1	PB3
Coprosma 'Poor Knights'	0.5	PB3
Cynara cardunculus var. scolymus (globe artichoke)	1.0	PB3
Echium sp	3.0	PB3
Hebe sp	0.7	PB3
Lavendula sp	1.0	PB3
Libertia sp	0.6	PB3
Muehlenbeckia complexa (Pohuehue)	0.5	PB3
Rosmarinus sp	1.0	PB3
Ocimum sp (basil)	0.6	PB3
SPECIMEN TREE PLANTING		
Alectryon excelsus (Titoki)	As shown	PB95
Olea europaea (Olive)	As shown	PB95
ORNAMENTAL GRAPES (At Church Bay Road entrance)		
Vitus sp (heritage)	2.0	PB8

ENVIRONMENT COURT OF NEW ZEALAND

DRAWING TITLE	PROPOSED PLANTING
DRAWING SCALE	NA
DATE	06 DECEMBER 2019
REVISION	G

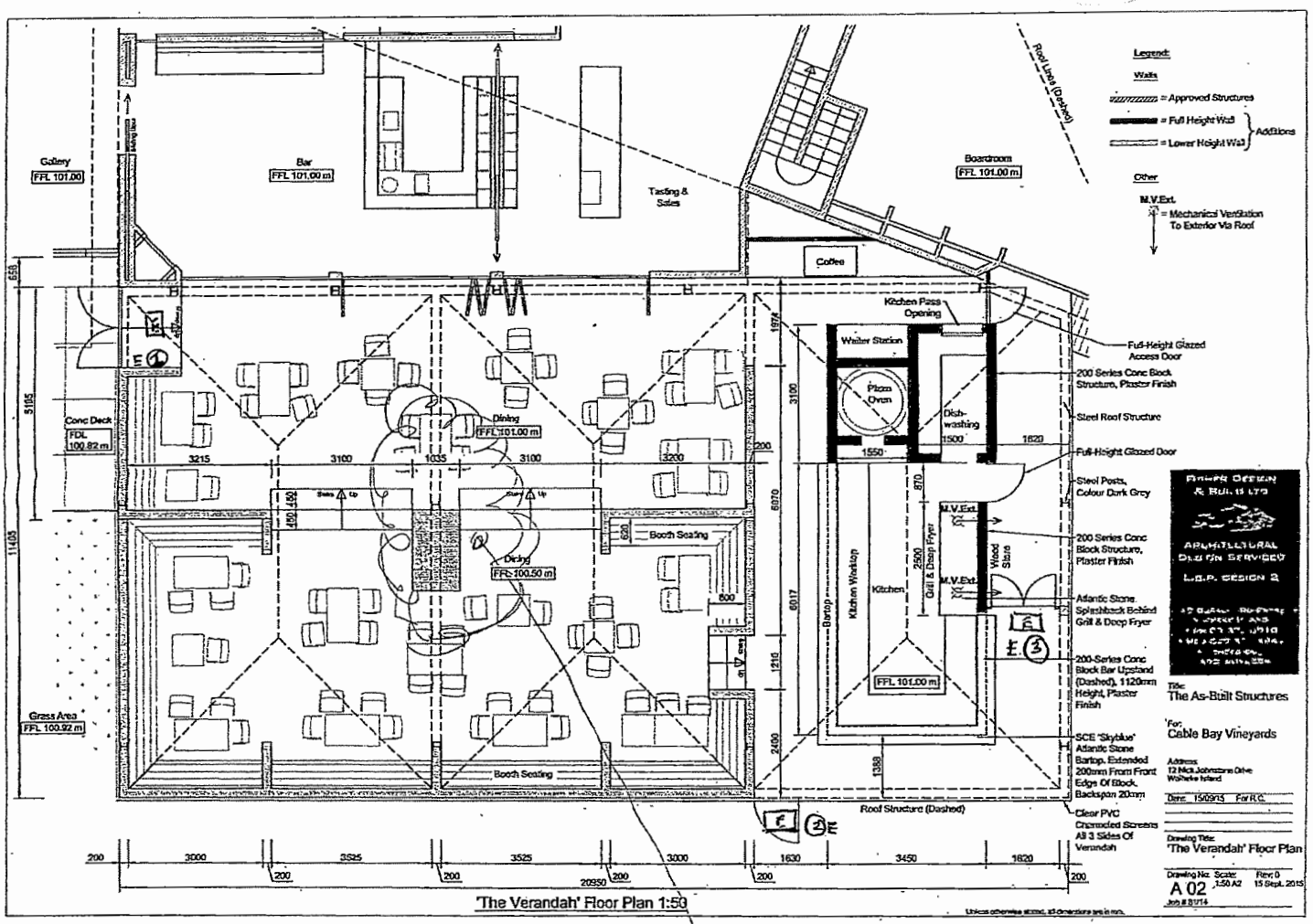
CABLE BAY VINEYARD, WAIHEKE ISLAND

PROPOSED PLANTING

Sheet Number **04**

Drawing Number **LP.04**

APPROVED



As Builts - Ext Lights - Chase Electrical Ltd

E - Ext Light - LED Ektor.

APPROVED

AUCKLAND COUNCIL
00 178 23
VM

emergency light must have been installed around this area!!
duration test results do not mention it either!!
Kato 10/05/17

LifeSAFETY SERVICES GROUP
AFS Total Fire Protection
PO Box 4224
Auckland 1140
Tel. 09 414 4077
Fax. 09 414 4099
www.afstotalfire.co.nz

