

**BEFORE THE NEW PLYMOUTH DISTRICT COUNCIL HEARING COMMISSIONERS**

**IN THE MATTER OF**      The Resource Management Act 1991

**AND**                      The proposed building activities at 39-41 Molesworth Street, New Plymouth  
(LUC23/48350)

STATEMENT OF EVIDENCE OF SEAN ZIELTJES

ON BEHALF OF NGĀTI TE WHITI HAPŪ

DATED 31 July 2024

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## **A INTRODUCTION**

- 1, My full name is Sean Peter Zieltjes.
2. I am an independent planning consultant. I hold a Master of Legal Studies (Environmental Law) (Hons) from the University of Auckland and a Bachelor of Resource and Environment Planning (Ecology) (Hons) from Massey University. I have been a full member of the New Zealand Planning Institute since 2016.
3. I have been a planner in the New Plymouth District since 2009. Over that time, I have been employed as a monitoring and enforcement officer, a resource consents planner and a policy adviser at New Plymouth District Council. I have also worked for a local multi-disciplinary consultancy providing resource management advice to a broad range of industry and local development community. I have and continue to work for Taranaki Mouna Project Limited implementing a private-public-iwi partnership led biodiversity restoration project of Te Papakura o Taranaki. I have and continue to provide planning advice to private developers, Regional and District Councils, as well as a number of post-settlement governance entities and hapū around the Taranaki Region.
4. Specific experience relevant to this application includes:
  - a) Administering the New Plymouth District Council Wāhi Tapu and Archaeological Sites Review from 2014-2018.
  - b) Providing independent planning advice to Ngā Kaitiaki (the joint iwi and hapū committee informing the development of the Proposed New Plymouth District Plan) since 2016.
  - c) The technical writing and planning input to the Cultural Values Statement Ngāti Te Whiti developed to inform the Ngāmotu New Plymouth City Centre Strategy.
5. I am familiar with the New Plymouth District and Taranaki Region with, outside of time at university, having spent my whole life in this Region.
6. I am familiar with the New Plymouth District Plan, both operative and proposed, and other relevant planning documents for this proposal. I have been involved in all stages of plan development for the proposed District Plan across a broad range of topics/issues/opportunities.
7. This evidence is given in support of the submission of Ngāti Te Whiti Hapū with respect to the proposal LUC23/48350.

## **B. CODE OF CONDUCT**

8. I confirm that I have read the Code of Conduct for expert witnesses contained in the 2023 Environment Court Practice Note and that I agree to comply with it. In

particular, unless I state otherwise, this evidence is within my area of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

## **C INVOLVEMENT WITH THIS APPLICATION**

9. I was engaged by Ngāti Te Whiti Hapū to assist with this process following the lodgement of submissions. I attended the engagement meeting following submissions being lodged. I am familiar with the site, and undertook my most recent visit to the receiving environment around the site on 20 July 2024.
10. I attended expert witness conferencing with Ms Martin and Ms Thompson to produce the Joint Witness Statement ('JWS').

## **D PURPOSE AND SCOPE**

11. In this matter I have been asked by Ngāti Te Whiti to address planning matters. I confirm I have read the application and supporting reports provided, submissions, Officers' 42A Report and the evidence of the Applicant.
12. As set out in the Joint Witness Statement, the planning issue that remains in contention is the planned character of the City Centre Zone, and the actual and potential adverse effects that may result from the proposed building activities on this planned character.
13. This statement of evidence therefore addresses that issue only, as opposed to traversing the broader range of planning matters associated with the development.
14. I agree with the section 42A report and JWS regarding the description of the activity/proposal, applicable rules, activity status (being Discretionary), and the relevant objectives and policies in this instance. I agree with the analysis in the planners report regarding the zone the application site is within, and the applicable overlay provisions.
15. I reconfirm that I do not consider there is a permitted baseline to be applied in this instance, as agreed across planning experts in the JWS.
16. As a point of clarification, I note that in several of the plans submitted, the design statement submitted and the Landscape Visual Impact Assessment ('LVIA') all reference vertical aluminum battens on the western facade that, aside from any potential applied cultural expression opportunity, are referenced as having the function of dissipating potential glare from the copper facade treatment, and minimising the visual scale of the building. Other plans attached to the JWS showing the western facade do not have these vertical aluminum battens which

would accord with Mr Doody's statement of having no external fixtures to the building. Confirming the western facade treatment is a point of clarification.

## **E PLANNED CHARACTER**

17. For the purposes of this evidence I adopt the descriptions of landscape character set out in the LVIA including descriptions of the current built form and descriptions of the coastal location of the site. I rely on the description of existing environment and planned character set out in the evidence of Ms Julie Healey<sup>1</sup>, this being inclusive of Waimanu Pā, as well as the values and whakapapa of Ngāti Te Whiti with their ancestral lands<sup>2</sup>.
18. Planned character is not defined in the Proposed District Plan, nor elsewhere in the RMA. I understand that the term was deliberately added throughout the plan following submissions of Kāinga Ora to clearly convey to plan users that the provisions of the Plan anticipate a level of change across the district from the current character of neighbourhoods and places<sup>3,4</sup>.
19. As set out in Decision Report 38, the deliberate use of Planned Character throughout urban zones in the Plan strengthened the connection with, and implementation of urban form and development strategic objectives. Planned character was deliberately introduced in place of 'local character' or 'predominant character' recognising that maintenance of *"existing character is not desirable, particularly in light of the suite of tools that have been proposed in the PDP to enhance vitality and vibrancy"*<sup>5</sup>. At paragraph 725 the section 42A report to Hearing 16 the report writer goes on to state *"Following Hearing 1, we now have the benefit of Interim Guidance from the Hearings Panel on the Urban Form and Development strategic objectives. In particular, I note the emphasis in UFD-13 on anticipated change of urban environments over time and use of the phrase "planned character" in UFD-19"*.
20. Based on this, my understanding of the importance of the use of the word 'planned' is to direct that status quo with respect to existing character is not the

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<sup>1</sup> See section D of Ms Healey evidence.

<sup>2</sup> Noting that the definition of environment from the RMA reads as follows:  
*environment includes—*

*(a) ecosystems and their constituent parts, including people and communities; and*

*(b) all natural and physical resources; and*

*(c) amenity values; and*

*(d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters*

<sup>3</sup> See Decision Report 38, section 9 page 14 -

<sup>4</sup> For example, Kāinga Ora submission point 563.571 in relation to CCZ policy CCZ-P1, utilised throughout the CCZ, TCZ, LCZ and MUZs

<sup>5</sup> See Section 42A Report – Hearing 16, paragraph 724

outcome sought in the plan, and that change towards a different character in the City Centre Zone is anticipated and expected<sup>6</sup>.

21. I understand 'character' to include both physical and natural attributes/factors of a place, as well as experiential or relational elements associated with a place. Landscape and views are an element of character. Historic heritage and associations are an element of character. Geography and proximity to the coastal environment are an element of character. Lived experience of people are an element of character.
22. I agree with Ms Martin that planned character must be inferred from the Overview section. However, I also consider that the Ngāmotu New Plymouth City Centre Strategy<sup>7</sup>, and the associated Ngāmotu New Plymouth Māori Design Principles, alongside the non-statutory City and Town Centre Design Guide<sup>8</sup> and that utilising these broad suite of tools to do so is anticipated in the implementation of the Plan, and contain directive statements regarding this planned character inclusive of cultural values.
23. From my participation in the proposed District Plan process and from the evidence produced with respect to planned character and design I understand that implementation of the term 'planned character' is inclusive of realising applied cultural expressions at appropriate places and in appropriate ways as advised by mana whenua within various zones and planning processes including the City Centre Zone<sup>9</sup>.
24. I consider that policy CCZ-P8(5) is particularly pertinent to this point; that it is the expert cultural advice to be relied upon regarding appropriateness of art works or unique and recognisable features that reflect the cultural, spiritual or historic values of importance to tangata whenua, and that this provision is important to give effect to the strategic objectives of the plan; specifically TW-15<sup>10</sup>.

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<sup>6</sup> See policies CCZ-P1, CCZ-P2, CCZ-P3, CCZ-P8 amongst others as referenced in the JWS.

<sup>7</sup> [Ngāmotu New Plymouth City Centre Strategy \(npdc.govt.nz\)](https://www.npdc.govt.nz/About/Plans/Strategy)

<sup>8</sup> I understand that through the course of the plan development process the design guides were reduced to non-statutory document, with the policy direction bolstered to enable the consideration of planned character as is being discussed through this process.

<sup>9</sup> See the evidence of Ms Sarah Mako to Hearing 16 -

<https://proposeddistrictplan.npdc.govt.nz/hearings/hearing-16-commercial-and-mixed-zones/>. See the evidence of Mr Rangī Kipa to Hearing 17(a) & 15(b) -

<https://proposeddistrictplan.npdc.govt.nz/hearings/hearing-17-a-15-b-design-guidelines-and-residential-zones/>

<sup>10</sup> TW-15 reads as follows: *Recognise that tangata whenua:*

1. *are kaitiaki;*
2. *hold unique expertise in mātauranga Māori and tikanga;*
3. *are the only people who can identify impacts on their relationship with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes and other taonga of significance to Māori.*

25. I infer that the planned character of City Centre Zone where identified Sites and Areas of Significance to Māori ('**SASM**') are in proximity can be observed in the existing environment at the places identified in the evidence of Ms Julie Healey, some of which are set out in the JWS.

## **F EFFECTS OF THIS PROPOSAL ON PLANNED CHARACTER**

### Landuses proposed and planned character

25. I consider that the scale and nature of the effects of this proposal on the planned character of the area are a function of the land uses to be established at the site, as well as the building activities proposed at the site. As set out in the JWS, I agree that the commercial and living activities proposed at the site are anticipated in the City Centre Zone and contribute to the planned character of the zone consistent with the provisions of the plan.
26. I agree that these uses of the site are positive, and result in positive effects for the planned character of the City Centre. However, I note that based on the evidence of Ms Martin the commercial activities proposed and associated positive effects with respect to planned character could be achieved through their alternative scenario of reinstating the existing building and providing a commercial space as described, without any additions in height or bulk.

### Building activities and planned character

27. I understand that the proposed additions and associated extra height and bulk above the existing building envelope are solely for the purposes of a private residence<sup>11</sup>. The additions to the building enable the residential activities to borrow amenity from the public realm, and public spaces (such as proximity to the Coastal Walkway), as well as extensive unobstructed views of the coastal environment.
28. I note that Ms Thompson at paragraphs 46-49 of the Section 42A report considers that there is not a permitted baseline to be applied and the application must be assessed on its merits with respect to effects (consistent with the JWS). However Ms Thompson then goes on to apply a permitted baseline with respect to height in her assessment at paragraphs 53-57 (inconsistent with JWS). Ms Martin agrees the assessment of Ms Thompson at section 10.2(a) of her evidence stating that: *In particular, Ms Thomson explains the proposed height is permitted, with no further regard to be had to this aspect as it would be out of scope for why consent is required*<sup>12</sup>.

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<sup>11</sup> This is set out in the evidence of Mr Kevin Doody.

<sup>12</sup> See page 14 of Ms Martin's evidence, paragraph 10.2(a)

29. With respect, I consider these conclusions are incorrect. The proposed height associated with the additions to the building is not permitted. As set out in the JWS, and in both the application and Section 42A report rules CCZ-R20 and CCZ-R21 clearly apply as fully discretionary activities<sup>13</sup>. CCZ-R20 and CCZ-R21 are not reliant on conformance with any zone effects standards and do not bring CCZ-S1 into consideration (which sets heights generally across the zone outside of sites that are a coastal frontage site). Reliance on the permitted height in the effects standard to discount adverse effects associated with height, bulk, scale, and overlooking is incorrect in my view.
30. I consider that the additional height, bulk and design as they relate to the planned character of the receiving environment are matters of consent that must be engaged squarely with in any s.104(1)(a) assessment. I have proceeded to make the following assessment consistent with my assessment of the rules and permitted baseline.
31. The application site is located prominently at the end of a row of more industrial type buildings adjoining and adjacent to public spaces in the coastal environment.
30. The LVIA identifies key public vantage points. These public vantage points were confirmed through Blue Marble peer review as being important public views. As set out in the evidence of Ms Julie Healey, these are the same vantage points that Ngāti Te Whiti are most likely to engage with the site<sup>14</sup> given the lack of public access to the application site. I consider that it is from these locations at which the visual contribution the proposed additions makes to the planned character of the receiving environment must be assessed from.
31. As set out in the application, and shown in the plans lodged with the application the existing building activities at the site are largely not visible nor imposing from these public vantage points. This is in part due to the screening provided by existing vegetation, as well as the height of the existing building being relatively low-rise to other buildings in this general location. It is the additions to the building which significantly increase the prominence of the building when viewed from public spaces within the receiving environment.
32. In considering whether the affects of proposed additions are acceptable in the context of the planned character of the receiving environment, I have relied on the Design Statement and LVIA from Boon, the peer review of the LVIA completed by Blue Marble, and the evidence of Ms Julie Healey on Ngāti Te Whiti Hapū.

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<sup>13</sup> See decision report 27 - <https://proposeddistrictplan.npdc.govt.nz/decisions/> paragraphs 3.37 onwards.

<sup>14</sup> See paragraph 32 of the Statement of Evidence from Ms Julie Healey to LUC23/48350.

33. In my view the LVIA has erred in applying a permitted baseline for height in making its assessment<sup>15</sup>.
34. Notwithstanding this, I acknowledge that the LVIA concludes that the overall scale effect of the current design is moderate-low, with the nature of the effect being neutral. I consider that this conclusion is akin to the current design maintaining the existing character of the area.
35. In reaching this consideration I note that the author of the LVIA states the following:

*The proposed development has elements that seek to align it with its environment from an aesthetic perspective by selecting of colors and varying the building façade and form which when considered within the existing built form along Molesworth Street are beneficial in nature. But when considered against the perceived and actual character and values associated with the landscape in which the proposal sits, it is my professional opinion that the opportunity to connect in a meaningful way with the landscape character and values of the community and area has been either missed or overlooked<sup>16</sup>.*

36. In my view this conclusion is consistent with the evidence of Ms Healey with respect to the applied cultural expression put forward in the application/evidence; that the additions to the building as proposed do not connect in a meaningful way with the cultural context within which this proposal is located, and in fact given the lack of this connection perpetuate the adverse effects of built form subjugating mana whenua values, relationships and associations with their ancestral lands.
37. In my view tall buildings do not inherently generate unacceptable adverse effects on the environment. Like the LVIA, I consider that where design enables the height or bulk of a building or structure to have relevance with the receiving environment, it can enhance the overall character, amenity, values and vitality of an area. In respect to tall buildings on or adjacent to pā sites within commercial settings I consider there are several examples either consented or established in the existing environment within the City Centre that provide important cues as to how design related provisions of the Proposed Plan apply on a case-by-case basis. In all instances I note that applied cultural expressions are applied on the façade of the building primarily and complemented by planting or signage as secondary elements.

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<sup>15</sup> See section 5.1 of the Boon LVIA included with the application.

<sup>16</sup> See section 7.1 of the LVIA.



38. This is consistent with LVIA where the author considers that *if the mitigation and enhancement recommendations are implemented, the overall degree of effect on the landscape character & values of the proposed development will be 'Very low' with a 'Beneficial' nature of effect*<sup>17</sup>. I consider that that working towards achieving a beneficial nature of effect as this relates to cultural values is consistent with the expectations set by the use of planned character throughout the provisions of the plan<sup>18</sup>.
39. The mitigation and enhancement referenced specifically in the LVIA include the following:
1. *Landscape design elements where practical onsite and within the publicly visible outdoor living areas of the apartment and commercial tenancies, to be endemic locally significant plant species along with materials and colours that reflect the endemic landscape of the area and associated values. The garden beds along the road boundary are in unkept condition with some plants possibly too large for their location. A plant mix consisting of Corokia cotoneaster "Paritutu", Dianella nigra, Hebe speciosa (Napuka), Selliera radicans, Dysphyma australe, Pimelea prostrata, Fuchsia procumbens, Euphorbia glauca with the following specimen trees Myrsine salicina and Melicope ternata recommended in the landscaped area indicated in the north western corner of the site. In addition, a 2-year maintenance period to ensure plants are well established and weed species are controlled.*
  2. *In absence of a CIA in writing of this report. Colors, patterns, and treatments (cultural narrative) to be considered on the Western façade, visible structure and potential signage that overlooks Waimanu Pā (SASM ID 736) if required and as directed as part of a provided CIA.*
  3. *Ensure cladding and façade treatments have no greater adverse glare effects than a glazed façade would afford on the North, West and East facades of the proposed development*<sup>19</sup>.
39. Both the LVIA and Blue Marble peer review reach similar conclusions, and both note that these conclusions be revisited upon receipt of a Cultural Impact Assessment ('CIA').
40. In my experience cultural impact assessment is a process as much as it is a report. It is my understanding that since initial communications that Ngāti te Whiti have been undertaking the process of impact assessment. This is evidenced with the site walk and discussions, the correspondence included in the application and

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<sup>17</sup> See section 7.1 of the LVIA.

<sup>18</sup> As referenced above from the Officers Report for Hearing 16, paragraph 724.

<sup>19</sup> See section 8.2 of the LVIA.

supplementary information, the submissions lodged and the recommendations made with respect to applied cultural expression.

41. In my experience there are many ways to participate in a resource consent process. Making submissions, and appearing at a hearing are a valid method of participating and providing expertise to a process.
42. The considered, consistent and genuine advice of Ngāti Te Whiti with respect to how applied cultural expression can enable this proposal to avoid, remedy and mitigate the adverse effects of the additions to the building on the planned character of the area are set out in the evidence of Ms Julie Healey. That is the installation of cultural motifs on the building facade itself drawing on the design work to date (i.e., an extension of the already proposed aluminium battens on the western facade to include motifs associated with Ngāti Te Whiti in a subtle manner). This is shown at option 1 in the concept drawings provided.
43. In the absence of these facade treatments there is little ability for Ngāti Te Whiti, or members of the broader public to engage with the cultural narratives that are imbued within the application site from public vantage points identified in the LVIA, noting the lack of public access and use of the application site.
44. At paragraph 42 of her evidence Ms Healey notes that the cumulative adverse effects of architecture subjugating the values, relationships and connections of Ngāti Te Whiti with their ancestral lands that the proposed additions in their current form perpetuates are pronounced and significantly adverse.
45. To conclude otherwise is to not take into account the rangatiratanga of Ngāti Te Whiti as guaranteed through Te Tiriti o Waitangi<sup>20</sup>, nor is it consistent with Strategic Objective TW-15.
46. I acknowledge some of the practical constraints raised in the evidence of Mr Doody associated with the maintenance of a building in coastal environment. However I note that the applied cultural expressions put forward as concepts are only that – concepts at the time this process proceeded to hearing. Based on my experience I would expect that these practical considerations would be resolved through subsequent design processes. I also note that these approaches and concepts were put forward by the applicants own design professionals and advice.

#### Summary – adverse effects on planned character

47. Overall I consider that the positive effects of the proposal for the community as they relate to planned character have been overstated in the evidence of Ms

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<sup>20</sup> See section 8 of the RMA

Martin<sup>21</sup>. I understand that the commercial activities are able to be conducted within the existing building envelope of the site<sup>22</sup>. The additions to the building are solely for a private residence that borrows its amenity from the environment it looks to establish within, but conversely the additions are such *that the opportunity to connect in a meaningful way with the landscape character and values of the community and area has been either missed or overlooked*<sup>23</sup>.

48. The proposed applied cultural expressions (being the pavement treatment and the kohatu) whilst do introduce some elements of mahi toi into the environment fall short of meaningfully or appropriately recognising the values of Ngāti Te Whiti at this place, inclusive of their relationship with their ancestral lands, Waimanu pā, their statutory acknowledgement with the coastal environment as evidenced in the advice and submissions of Ngāti Te Whiti and Ngāti Tawhirikura.

## **G SUMMARY AND RECOMMENDATIONS**

49. Overall I consider that the proposed building activities at the site in their current form are not acceptable and generate adverse effects on the planned character of the environment that are not avoided, remedied or mitigated through the proffered applied cultural expression (option 2). Therefore I consider that the application must be declined.



Sean Zieltjes

31 July 2024

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<sup>21</sup> See section 10.5 of the statement of evidence from Ms Martin - <https://www.npdc.govt.nz/council/hearings/2024/august/k-d-holdings-limited/>

<sup>22</sup> See paragraph 10.31 of the evidence of Ms Martin.

<sup>23</sup> See section 7.1 of the LVIA.