



Te Kaunihera-ā-Rohe o Ngāmotu

New Plymouth District Council

S95 NOTIFICATION REPORT TO THE PLANNING LEAD FOR LAND USE CONSENT

Application Number:	LUC23/48350
Proposal:	<p>Alterations to an existing building within the City Centre Zone on a coastal frontage site and associated earthworks in close proximity to an Archaeological Site/Site of Significance to Māori</p> <p>Consent is also being sought under National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health</p>
Applicant:	KD Holdings Limited
Site Address:	39-41 Molesworth Street, New Plymouth
Legal Description:	<p>Lot 1 – 2 DP 17052 comprised in Record of Title TNJ1/808</p> <p>Relevant Interests:</p> <ul style="list-style-type: none">• Subject to Section 308 (4) Local Government Act 1974 Subject to Part IV A Conservation Act 1987 (affects Lot 1 only)• Subject to Section 27B State-Owned Enterprises Act 1986 (which provides for the resumption of land on the recommendation of the Waitangi Tribunal and which does not provide for third parties, such as the owner of the land, to be heard in relation to the making of any such recommendation) (affects Lot 2 herein)• 13 Order in Council exempting Molesworth Street frontage from the operation of (now) Section 128 Public Works Act 1928• Subject to a party wall right over part marked B on DP 17052 created by Transfer 382108.9 –• Appurtenant hereto is a party wall right created by Transfer 382108.9• The easements created by Transfer 382108.9 are subject to Section 309 (1) (a) Local Government Act 1974 Subject to a right of way over part marked C on DP 17052 created by Transfer 382108.10• Appurtenant hereto is a right of way created by Transfer 382108.10 –• The easements created by Transfer 382108.10 are subject to Section 309 (1) (a) Local Government Act 1974 12341806.3

Site Area:	891m ²
Zone:	Operative District Plan: Business B Environment Area Proposed District Plan: City Centre Zone
District Plan Overlays:	Operative District Plan: State Highway 44, urban view shaft, coastal policy area, Martin new Plymouth Railway Designation N8, sight of significance to Maori – 736 (Waimanu Pa) Proposed District Plan: Archaeological Site/Site of Significance to Maori ID 736 Pa, Coastal Environment, Coastal frontage site, State Highway 44, Height Management Area B – 14 metres, Noise Control Boundary.
Activity Status:	Proposed District Plan: Discretionary Operative District Plan: N/A NESCO: Discretionary.

SITE DESCRIPTION

1. Pursuant to s88 of the Resource Management Act 1991, BTW Company (the Agent) have applied on behalf of KD Holdings (the Applicant) for land use consent for alterations to an existing building within the City Centre Zone on a coastal frontage site. The proposal includes associated earthworks in close proximity to an Archaeological Site/Site of Significance to Māori and under National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health
2. Section 2 of the application has provided a description of the site and its surrounds. For ease of reference, I have copied this below:

The application is 39-41 Molesworth Street, New Plymouth. The site is flat and developed with a two-storey commercial building and carparking. Landscaping strips are present along the road frontage and western boundary. A minor portion of the carpark area, a small lawn, and a staircase attached to the northern side of the building are located in the adjacent railway land.

The site has two existing vehicle access points:

- *One to the carparking area to the west; and*
- *The second immediately in front of the building, to access the parking spaces in the front yard. This crossing functions as an exit only, with cars circulating through the site from the sites to the east.*



Figure 1: Application Site (source: Boon Architecture Plans)

3. I have seen the site and have also relied upon the application and google maps.

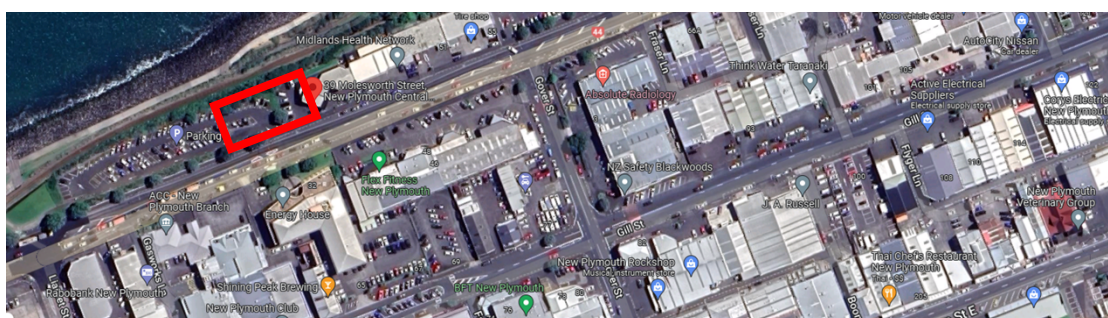


Figure 2: Aerial of subject site and surrounding area (source: Google Maps)

PROPOSAL

4. A detailed description of the proposal has been provided within Section 3 of the Application. For ease of reference this is copied below:

The proposal is for an addition to the existing building, as follows:

- A western addition increasing the existing footprint of the building, for a covered car park (level 0 / ground floor), void (level 1), pool and spa (level 2), with a roof. Levels 0 and 1 will maintain the existing office space uses and are anticipated to accommodate one commercial tenant per level;
- An additional floor (level 2) within most of the new building footprint, for a three-bedroom dwelling; and
- A portion of an additional floor (level 3) which is a lookout living area for the dwelling.

Prior to construction, an acoustic design certificate from a suitably qualified acoustic expert will be provided to confirm the noise insulation of the dwelling will be suitable (further explained with regard for the relevant PDP standard in Appendix D).

No signage is proposed.

The building will use existing connections to NPDC's three-water services. Exterior materials (excluding glazing and joinery) will predominantly be an aluminium cladding in copper and grey colours, as demonstrated on the plans. The grey tiled feature of the ground floor will be continued on the western extension's ground floor. Aluminium joinery will be used, and the decks will have glass balustrades.

Excavation and filling is required for the foundations of the western building extension. This consists of:

- *An average 0.5 m of cut;*
- *Seven drilled anchor piles beneath this cut, which are each a 15 cm diameter cylinder 11 m long;*
- *Filling / compacting with appropriate fill, aggregates, and concrete to form a concrete pad foundation; and*
- *An approximate 36 m³ of cut material results. Where it cannot be reused on the site, it will be transported off-site to a suitable location.*

The site will provide carpark for light vehicles, split in terms of their Vehicle Access Point (VAP) use as follows:

Western VAP

- *One accessible park and a standard park near the entry door;*
- *Retain four existing 90 degree parks along the western side; and*
- *A campervan will be generally stored in the garage and used occasionally.*

Eastern VAP (note: existing single direction in and out)

- *Three full angled parks along the road boundary, with a fourth shared with the site to the east understood to be for the application site users; and*
- *1-2 resident parks in the garage /store created under the earlier consent.*

No dedicated loading space is proposed as the office activities only require courier services from vans which are typically of light private vehicle size and can use one of the parks on the site.

Indicative vehicle movement numbers are included in Appendix H.

As advised by the outcomes of the LVIA (refer to sections 8 and 9 in the LVIA), the proposed activities could implement some measures in order to better provide for landscape character and values.

In implementing these measures, the proposal would also have improved outcomes for visual effects. Measures (numbered 1 and 3 in the LVIA) as recommended in section 8.2 of the LVIA have been interpreted into a planning framework and proposed as conditions of consent as follows:

Planting

Plants shall be planted in front of carpark 7-10. No less than four specimen trees shall be planted in the northwest corner of the site adjacent to the carport. Trees shall be no less than 2 m tall at time of planting.

Prior to planting, the consent holder will provide Ngāti Te Whiti hapū the opportunity to provide advice on suitable species for the site, with no less than 5 working days to do so. Plants and trees shall thereafter be chosen from List A or B below respectively or another local species that may be advised by Ngāti Te Whiti.

All planting shall be maintained for the duration of the activity. Plant List A (in front of carparks):

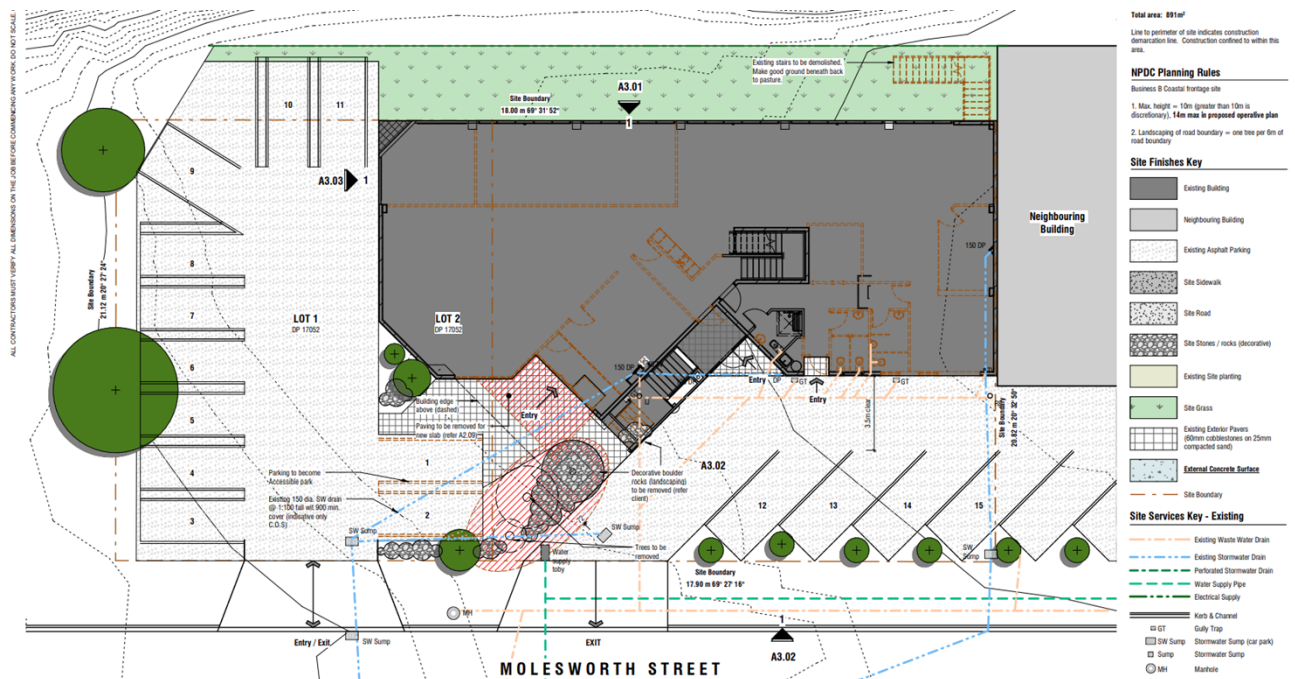
- *Corokia cotoneaster var Paritutu (Paritutu korokio)*
 - *Dianella nigra (Tūrutu)*
 - *Hebe speciosa (Napuka)*
 - *Selliera radicans (Remuremu)*
 - *Dysphyma austral (Horokaka)*
 - *Pimelea prostrata (Pinatoro)*
 - *Fuchsia procumbens*
 - *Euphorbia glauca (Waiūatua)*
- Plant List B (northwest corner):*
- *Myrsine salicina (Toro)*
 - *Melicope ternata (Wharangi)*
- Glazing and Façade Treatments*

All mirrored glazing shall be removed from the facades of the building. With regard for recommendation number two in the LVIA, noting that potential engagement with Ngāti Te Whiti may continue in the coming weeks, the potential to incorporate cultural narrative could be considered through that process.

5. The application has been supported by a Landscape and Visual Assessment (LVA) prepared by Boon Landscape. A peer review of the LVA was undertaken by Blue Marble Landscape Architects. This will be discussed further within the report.
6. Land use consent is required for a discretionary activity for alterations and additions to a structure within the City Centre Zone, on a Coastal Frontage Site. The site has an existing consent recently granted (LUC22/48292) to facilitate earthworks on the site for minor upgrades and footings for structural strengthening of the building. This consent has been given effect to.
7. The current application will noticeably increase the height of the building to make provision for a three-bedroom dwelling and lookout living room. In summary consent is required under the Proposed District Plan – Appeals Version (PDP) for:
 - Alterations to the exterior of a structure on a coastal frontage site.
 - Depth of earthworks (1.5m permitted, 11.5m proposed).
 - Earthworks within 50m of a SASM/Archaeological Feature.
 - Traffic (access separation, right of way does not meet PDP standards).
 - Erection of a structure within 2m of the railway corridor.
8. Whilst some of the provisions, such as noise, earthworks, coastal environment, of the PDP are subject to appeal, the proposal complies with the permitted activity standards under the Operative District Plan (ODP), and as such, no land use consent is required under the ODP.
9. As an addendum to the application, the applicant has also offered up a draft set of conditions for consideration. These conditions relate to:

- Planting in front of car parks 7-10.
- No less than four specimen trees shall be planted in the northwest corner of the site adjacent to the carpark, no less than 2 metres tall at the time of planting.
- Prior to planting, Ngāti Te Whiti Hapū have the opportunity to provide advice on suitable species for the site, with no less than 5 working days to do so.
- Cultural Monitoring – no less than 7 days prior to earthworks, the consent holder will advise Ngāti Te Whiti Hapū of the intention to undertake the earthworks, so that they may provide a monitor for onsite cultural monitoring.
- Erosion and Sediment Control.
- Earthworks Management Plan.

10. A full copy of the application is attached as Appendix A (inclusive of plans, LVA assessment) to this report and a copy of the draft conditions as Appendix B and the peer review of the LVA by Blue Marble Landscape Architects in Appendix C.



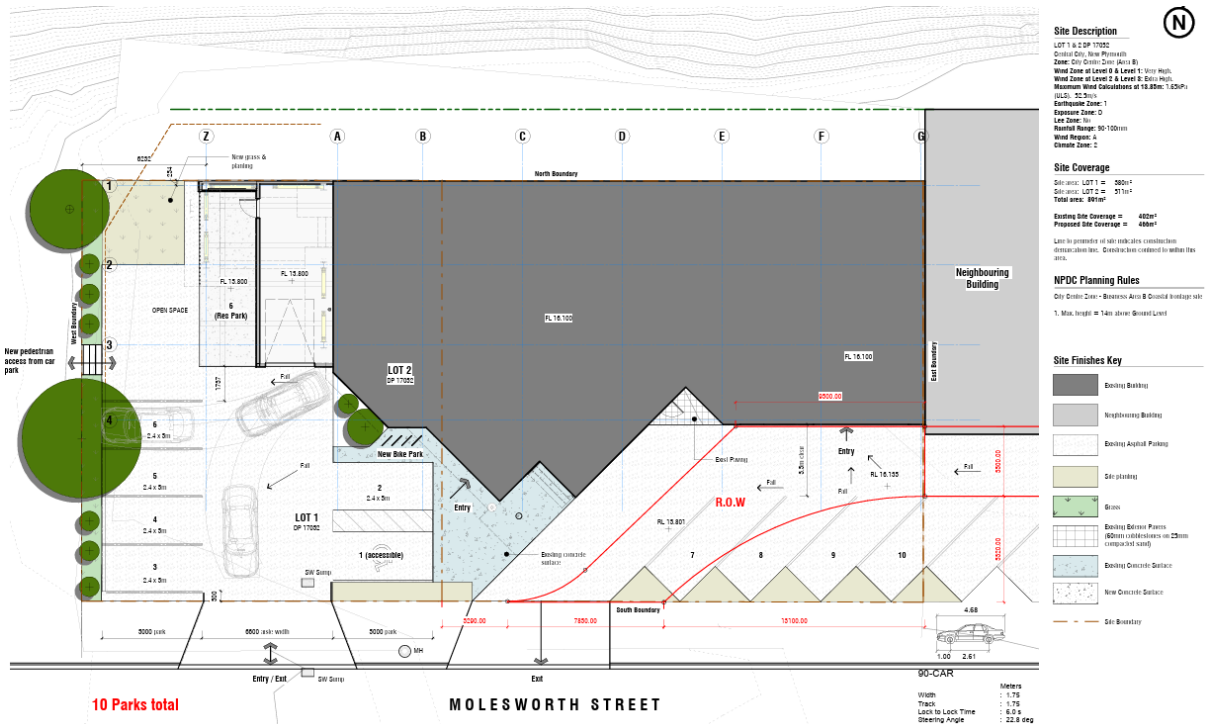


Figure 3A: Proposed Site Plan

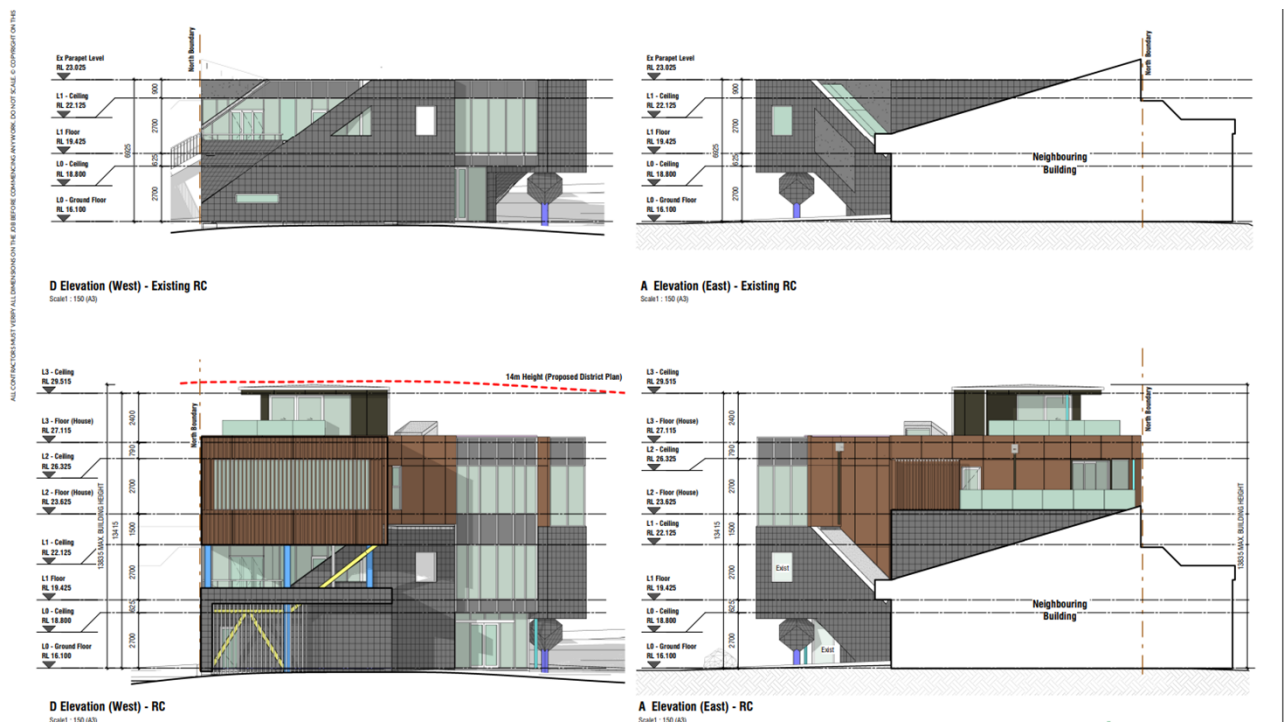


Figure 3B: West and East Elevations (existing top and proposed bottom).

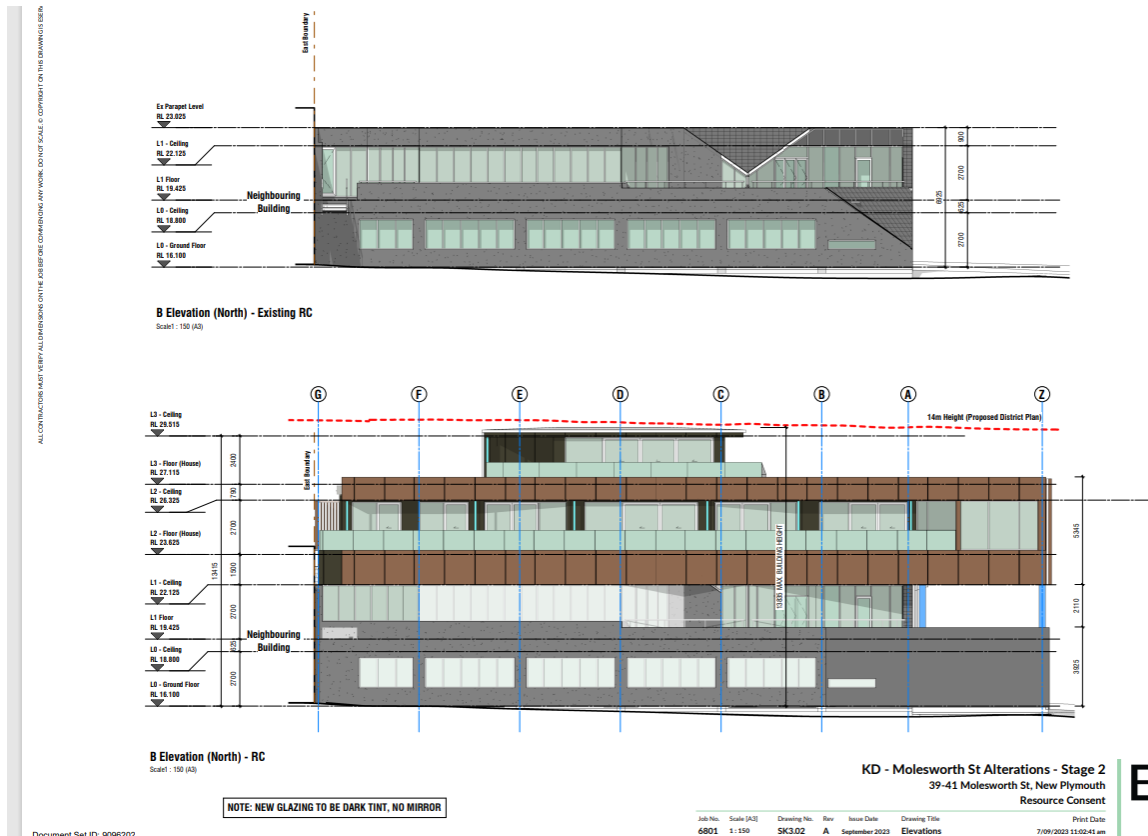


Figure 3C: North Elevation (existing top, proposed bottom).



Figure 3D: south Elevation (existing top, proposed bottom)



Figure 3E: Existing Building (source: Google Maps) – rock sculpture feature to be removed.

An amendment to the application was received on 22 February 2024 as follows:

- *Replace Drawing No. SK0.05 (Proposed Site Plan) with an amended plan to include the current carpark locations and Right of Way which also services the adjacent site (Record of Title TNJ1/809);*
- *Replace Drawing No. SK2.02 (L1 - Floor Plans (Proposed)), to include the location of commercial air conditioning units / mechanical plant on the roof of the proposed garage on the western side of the site. These will be the larger of the units and generate greater noise, within the permitted Noise-related standards of the PDP;*
- *Replace Drawing No. SK2.03 (L2 – Floor Plans (Proposed)), to include the location of residential scale air conditioning units / mechanical plant on the eastern side of the site on the Level 2 deck. These will have aluminium / copper slat screening as demonstrated on the elevation plans provided previously. They will be the smaller of the units and generate less noise than commercial units, and will also be within the permitted Noise-related standards of the PDP.*

STATUTORY REASONS FOR THE APPLICATION

National Environmental Standards

11. Regulation 5(5) of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES) describes soil disturbance as an activity to which the NES applies where an activity that can be found on the Ministry for the Environment Hazardous Activities and Industries List (HAIL) has occurred.
12. The applicant's agent has undertaken an assessment of the NESCS, in Sections 2.6 and 3.2 of the application. The site is not listed as a HAIL site on the Taranaki Regional Council Selected Use Register. The agent has undertaken a review of historical aerial photography and a review of past land uses, which includes timber

storage in the 1950's. The site was fully developed for commercial activities and a sealed car park in the 1990's.

13. As a precautionary approach, the agent considers that the site has previously potentially been used for timber storage (HAIL activity). despite the site having been redeveloped, it's unlikely to have been remediated. Accordingly, consent is being applied for under Regulation 11 of the NES for a Discretionary Activity.

Proposed New Plymouth District Plan – Appeals Version (September 2023)

14. The Appeals Version of the Proposed New Plymouth was released on 14 September 2023. At this point of time, all rules under the Appeals Version of the PDP have either legal effect (pursuant to s86B) or are treated as operative (pursuant to s86F).
15. The site is located within the City Centre Zone and contains overlays described earlier in this report.

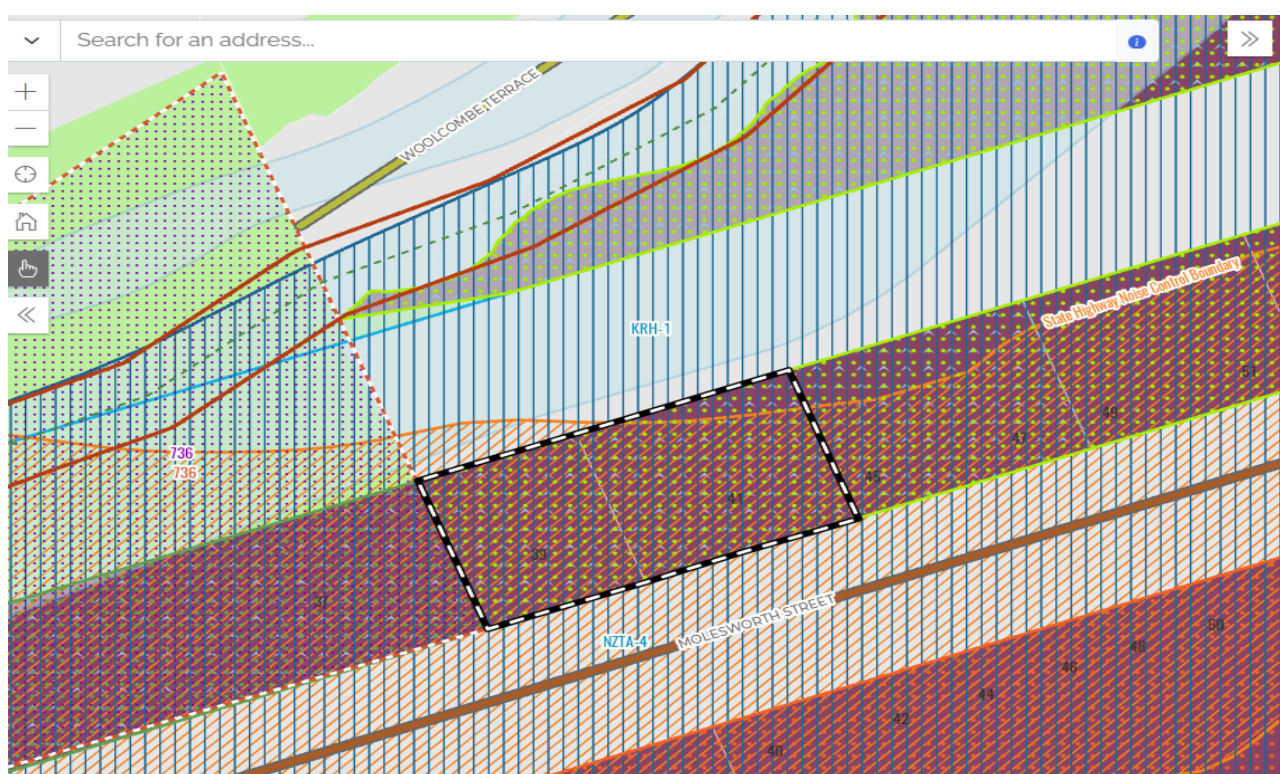


Figure 4: Proposed District Plan – Appeals Version – City Centre Zone

16. An assessment of this proposal against the rules and standards in the Proposed District Plan – Appeals Version that have legal effect or operative has been completed. The following rules are relevant to this proposal:

Rule #	Rule Name	Status of Activity	Comment
CCZ-R20	Alterations to the exterior of a structure on a coastal frontage site	Discretionary	The mirror glazing will be removed, along with other exterior works as outlined under the proposal.
CCZ-R21	Additions to a	Discretionary	Additions are proposed that will

	structure on a coastal frontage site		increase the GFA of the building.
Effects Standards			
CCZ-S1	Maximum Structure Height	Complies	14m permitted. 13.84m proposed.
CCZ-S2	Defined Pedestrian Frontage Requirements	N/A	Site does not have an identified defined pedestrian frontage.
CCZ-S3	Boundary Fence and wall requirements	N/A	No fencing along a road boundary proposed.
CCZ-S4	Minimum Residential Size	Complies	Permitted – 45m ² for one or more bedrooms. Three bedrooms proposed – 320m ²
NOISE			
NOISE – R6 Subject to Appeal	Alterations, or additions to a building for a noise sensitive activity	Complies	Proposal required to comply with Noise standard S3.
Noise-S3	City Centre Zone	Will Comply	The agent proposes to provide confirmation from an acoustic engineer that the noise sensitive rooms will comply with the required criteria prior to construction.
Sites and Areas of Significance to Māori			
SASM-R17	Earthworks within the extent of a scheduled site or area of significance to Maori, or within 50m of the extent of a mapped SASM	Discretionary	The site is wholly within the 50m of the Waimanu Pa
Historic Heritage			
HH-R30	Earthworks within the extent of a scheduled archaeological site, or within 50m of the extent of a mapped archaeological site.	Discretionary	The site is wholly within the 50m of the Waimanu Pa
Earthworks			
EW-R10	Earthworks for building activities	Restricted Discretionary	Refer to the below standards assessment
EW-S2 Subject to appeal	Maximum cut depth or fill height	Does not comply	No minimum building setback exists for this site in the CCZ chapter, therefore the site could be considered outside of a building setback (with an associated 1.5 m depth standard). The bulk of the proposal complies except for seven proposed anchor piles 11.5 m deep. This does not

			comply.
EW-S3 Subject to appeal	Site Reinstatement	Complies	Proposal can comply with standard
EW-S4 Subject to appeal	Control of Silt and Sediment	Complies	Proposal can comply with standard
EW-S5 Subject to appeal	Requirements for discovery of sensitive material during earthworks or land disturbance	Complies	Proposal can comply with standard
Transport			
TRAN-R1	Roads and Vehicle Access Points.	Restricted Discretionary	The proposal does not comply with all the effects standards. See below.
TRAN-R8	Erection of structures adjacent to a railway corridor	Restricted Discretionary	The proposed western extension, and portions of the proposed additional storeys, are within 2 m of the railway corridor (which is not defined in the PDP but is taken to be the designation area KHL-1)
TRAN-R10	Vehicle access points onto a SH	Discretionary	Refer to effects assessment below.
TRAN-S1	Design standards for vehicle access points onto a SH that is not a LAR	Does not comply.	Spacing between crossings 15 m – both crossings are 10 to 14 m from others such as that to NPDC carpark to the west and 40 Molesworth Street to the south - does not comply
TRAN-S20	Requirements for Right of Way construction	Does not comply	The existing right of way does not comply with the new standards. A 4m legal width is required, 3.5m is existing.
Coastal Environment			
CE-R1	Earthworks	Discretionary	The earthworks are not permitted under the earthworks chapter.
CE-R5 Subject to Appeal	Building Activities	Discretionary	The proposal does not meet the zone rules as it is on a Coastal Frontage Site

17. The proposal is a Discretionary activity under the Proposed New Plymouth District Plan being the highest status under the above Plan.

18. The following objectives and policies of the Proposed District Plan – Appeals Version are considered relevant to this proposal:

Obj/Pol #	
Objective SASM-O1	Sites and areas of significance to Māori are recognised, protected and maintained.
Objective SASM-O2	The relationship of tangata whenua with sites and areas of significance to Maori is recognised and protected.

Objective SASM-O3	Sites and areas of significance to Māori are appreciated by the community and are acknowledged as important to the districts identity.
SASM-P2	<p>Protect and maintain sites and areas of significance to Māori from inappropriate activities by:</p> <ol style="list-style-type: none"> 1. Ensuring identified sites and areas of significance to Māori are not disturbed, destroyed, removed and/or visually encroached upon; and 2. Requiring activities on, or in proximity to sites and areas of significance to Māori to avoid adverse effects on cultural, spiritual and/or heritage values, interests or associations of importance to tangata whenua.
SASM-P3	<p>Allow the following activities to occur on, or adjacent to scheduled sites and areas of significance to Māori, while ensuring their design, scale and intensity will not compromise cultural, spiritual and/or heritage values, interests or associations of importance to tangata whenua:</p> <ol style="list-style-type: none"> 1. land disturbance; 2. demolition or removal of existing buildings and structures; 3. alterations to existing buildings and structures; 4. maintenance and repair or upgrading of existing network utility structures; and 5. erection of signs.
SASM-P4	<p>Manage activities that occur on, or adjacent to scheduled sites and areas of significance to Māori that have the potential to compromise cultural, spiritual and/or heritage values, interests or associations of importance to tangata whenua, including:</p> <ol style="list-style-type: none"> 1. erection of, additions to and relocation of structures; 2. earthworks; and 3. subdivision of land containing sites and areas of significance to Māori.
SASM-P5	<p>Ensure that activities on, adjacent to or affecting sites and areas of significance to Māori avoid adverse effects on the site or area, or where avoidance is not possible, appropriately remedy or mitigate adverse effects, having regard to:</p> <ol style="list-style-type: none"> 1. the particular cultural, spiritual and/or historical values, interests or associations of importance to tangata whenua that are associated with the site which may be affected; 2. the extent to which the activity may compromise tangata whenua's relationship with their ancestral lands, water, sites, wāhi tapu, and other taonga, and/or the ability to protect, maintain or enhance sites of significance to tangata whenua; 3. tangata whenua's responsibilities as kaitiaki and mana whenua; 4. any opportunities for tangata whenua's relationship with the site or area to be maintained or strengthened on an ongoing or long term basis, including practical mechanisms for mana whenua to access, use and maintain the identified site; 5. the outcomes of any consultation with and/or cultural advice provided by mana whenua, in particular with respect to mitigation measures and/or the

	<p>incorporation of mātauranga Māori principles into the design, development and/or operation of activities that may affect the site; and</p> <p>6. where the site is also an archaeological site, the relevant objectives and policies in the Historic Heritage Chapter.</p>
HH-O1	Historic heritage is recognised, protected and maintained.
HH-O2	Historic heritage is appreciated by the community and is acknowledged as important to the districts identity.
HH-P15	<p>Manage activities that occur on or adjacent to scheduled archaeological sites, including:</p> <ol style="list-style-type: none"> erection of, additions to and relocation of structures; earthworks; and subdivision of land containing archaeological sites.
EW-O1	Earthworks associated retaining structures necessary for the construction, maintenance or operation of activities are enabled, provided that adverse environmental effects are avoided, remedied or mitigated.
EW-P1	Allow earthworks and land disturbance that are associated with the construction, maintenance and repair or upgrade of the following activities, while ensuring the scale, volume and effects of earthworks and land disturbance are appropriate.
EW-P3 Subject to appeal.	<p>Ensure earthworks are undertaken in a way that avoids or appropriately remedies or mitigates adverse effects on cultural, spiritual or historical values of importance to tangata whenua, by:</p> <ol style="list-style-type: none"> having regard to: <ol style="list-style-type: none"> the extent to which the earthworks or land disturbance may compromise the particular cultural, spiritual or historical values of importance to tangata whenua associated with the site and, if so, the outcomes of any consultation with tangata whenua, including any expert cultural advice provided with respect to: <ol style="list-style-type: none"> opportunities to incorporate mātauranga Māori into the overall scale, form and extent of the earthworks or land disturbance; opportunities for tangata whenua's relationship with ancestral lands, water, sites, wāhi tapu and other taonga to be maintained or strengthened; options to avoid, remedy or mitigate adverse effects; and the outcomes of any consultation with Heritage New Zealand Pouhere Taonga. in all cases, requiring appropriate steps to be followed in the event that sensitive material is discovered during earthworks and land disturbance.
EW-P5	<p>Require earthworks and any retaining structures associated with future land development or subdivision to be designed, located, managed and undertaken in a coordinated and integrated manner, including by:</p> <ol style="list-style-type: none"> managing large-scale earthworks associated with subdivision, including for the purpose of site development and creating roads or access to and within the subdivision; and

	2. considering the appropriateness of earthworks in conjunction with site design and layout of future subdivision and development of land, particularly for future infill or greenfield subdivision.
EW-P6 Subject to appeal	Ensure that earthworks and any associated structures are designed as far as practicable to reflect natural landforms, and where appropriate, landscaped to reduce and soften their visual impact having regard to the character and visual amenity of the surrounding area.
TRAN-O2	The transport network is safe, efficient and effective in moving people and goods within and beyond the district.
TRAN-O3	Activities generate a type or level of traffic that is compatible with the local road transport network they obtain access to and from.
TRAN-O4	The existing and future transport network is not compromised by incompatible activities which may result in reverse sensitivity effects or conflict.
TRAN-O5	Adverse effects from the construction, maintenance and development of the transport network are managed.
TRAN-P7 Subject to Appeal	Ensure that sensitive activities are appropriately located and separated from state highways and railway corridors and that any adverse noise, amenity and reverse sensitivity effects are avoided, remedied or mitigated.
TRAN-P8	<p>Ensure that on-site parking for activities in centres is located appropriately having regard to:</p> <ol style="list-style-type: none"> 1. existing and future accessibility to public transport; 2. allowing ease of movement within, to and from the activity for a variety of users; 3. ease of access to support walking and cycling; and 4. impacts on streetscape and amenity.
TRAN-P12	<p>Require that activities provide for the safe and efficient movement of vehicles on-site, onto and along the road transport network by:</p> <ol style="list-style-type: none"> 1. providing appropriately designed and located vehicle access points, on-site parking including bicycle parking, loading and standing spaces, driveways, manoeuvring space and queuing space to reduce disruption to traffic flow, driver distraction and road congestion; 2. ensuring that the location, orientation, design and illumination of signs avoid road or footpath user obstruction, distraction or confusion; and 3. providing stock truck effluent receiving facilities to avoid or minimise spillage onto roads.
TRAN-P14 Subject to appeal	<p>Ensure that activities do not constrain or compromise the safe and efficient operation of the rail transport network by:</p> <ol style="list-style-type: none"> 1. requiring appropriately designed and located vehicle access points within close proximity to railway level crossings to improve safety for road users on approaches to railway level crossings; 2. controlling vehicle access points over railway level crossings to minimise safety risks;

	3. restricting the location of buildings, structures and other visual obstructions including vegetation within sightline areas of railway level crossings.
CE-O1	The natural character, landscape, historic, cultural and ecological values of the coastal environment are recognised and preserved, and where appropriate enhanced and restored.
CE-O2	Activities in the coastal environment enable people and communities to provide for their social, economic and cultural wellbeing and their health and safety, while ensuring adverse effects of activities on natural processes and values of the coastal environment are avoided, remedied or mitigated.
CE-O3	Tangata whenua values, matauranga and tikanga and their ability to practice katiakitanga are recognised and reflected in resource management processes concerning the coastal environment.
CE-O4	The risks to people and property from coastal hazards and climate change are avoided, remedied or mitigated.
CE-P2 Subject to Appeal	Protect natural character in the coastal environment by ensuring: <ol style="list-style-type: none"> 1. adverse effects on the natural characteristics, processes and values which contribute to Areas of Outstanding Natural Character are avoided; 2. significant adverse effects on the natural characteristics, processes and values which contribute to other coastal natural character are avoided; and 3. other adverse effects on the natural characteristics, processes and values which contribute to coastal natural character are avoided, remedied or mitigated.
CE-P3	Allow activities within the coastal environment which: <ol style="list-style-type: none"> 1. appropriately avoid, remedy or mitigate adverse effects on natural processes, coastal natural character, landscape, amenity, historic, cultural and ecological values; and 2. mitigate any significant hazard risks to people, property and the environment to an acceptable level; and 3. Either: <ol style="list-style-type: none"> a. have an operational need or functional need to be located in the coastal environment, such as Port Taranaki or the National Grid; or b. provide for Māori purpose activities.
CE-P4	Manage the scale, location and design of activities within the coastal environment that have the potential to adversely affect coastal natural character, landscape, amenity, historic, cultural and ecological values, indigenous vegetation and habitats of indigenous fauna or that have the potential to increase or be vulnerable to coastal hazards, including: <ol style="list-style-type: none"> 1. building activities; 2. multi-unit development; 3. industrial activities; 4. network utilities;

	5. earthworks; and 6. subdivision.
CE-P9 Subject appeal	to Require activities within the coastal environment to avoid, remedy or mitigate adverse landscape, indigenous vegetation and habitats of indigenous fauna, visual and amenity effects by: <ol style="list-style-type: none"> 1. ensuring the scale, location and design of any built form or land modification is appropriate in the location; 2. integrating natural processes, landform and topography into the design of the activity, including the use of naturally occurring building platforms; 3. limiting the prominence or visibility of built form from public places and the coast; 4. where possible, limiting expansion of existing urban coastal settlements; and 5. retaining existing indigenous vegetation and habitats of indigenous fauna (excluding planted vegetation that is not subject to a conservation covenant), and restoring and rehabilitating indigenous vegetation and habitats of indigenous fauna, using coastal plant species sourced from the relevant ecological district.
CE-P13	Consider the incorporation of mātauranga Māori into the design, development and operation of activities on sites adjoining coastal areas which have cultural, spiritual or historic values of importance to tangata whenua and provide opportunities for tangata whenua to exercise their customary responsibilities in respect of the coastal environment.
CCZ-01	The city centre is the principle centre in the district and the Taranaki Region.
CCZ-02	The city centre is the primary location for a wide range of retail and business service activities, living activities, community facilities and visitor accommodation.
CCZ-03	The city centre is compact, dynamic and vibrant retail and business area.
CCZ-04	The structures in the city centre are well designed and contribute positively to the streetscape.
CCZ-05	The city centre is an attractive, accessible and safe environment for people to, live, work and play.
CCZ-06	Increased numbers of people live in the city centre.
CCZ-07	The city centres historic and cultural heritage is maintained and enhanced and contributes to the city's unique sense of place and identity.
CCZ-08	The role and function of the city centre is not compromised by incompatible activities or built form.
CCZ-P1	Allow activities which are compatible with the role, function and planned character of the City Centre Zone, while ensuring their design, scale and intensity is appropriate, including: <ol style="list-style-type: none"> 1. retail activities; 2. business service activities; 3. sensitive activities; 4. medical and health services; 5. sport and recreation activities; 6. Māori purpose activities 7. community corrections activities; and

	8. emergency service facilities.
CCZ-P2	<p>Manage activities which are potentially compatible with the role, function and planned character of the City Centre Zone and ensure it is appropriate for such activities to establish in the City Centre Zone having regard to whether:</p> <ol style="list-style-type: none"> 1. the activity has a functional need or operational need to establish in the zone; 2. the scale, design and layout of the activity is compatible with the planned character and amenity of the city centre; 3. there is adequate existing or planned infrastructure to service the activity; or 4. adverse effects or conflict between incompatible activities can be avoided, or appropriately remedied or mitigated.
CCZ-P4	Enable medium and high density housing developments in the city centre that will contribute to a vibrant, mixed use environment.
CCZ-P5	<p>Enable the role, function and planned character of the City Centre Zone by controlling the effects of:</p> <ol style="list-style-type: none"> 1. inactive frontages; 2. total or partial demolition of structures; 3. the erection of structures; 4. alterations to exteriors of structures; 5. additions to structures; 6. structure height; 7. noise and light; and 8. signage.
CCZ-P8	<p>Require structures, or additions and alterations to the exterior of structures, to be compatible with the planned character and amenity of the relevant area by:</p> <ol style="list-style-type: none"> 1. having an interesting and engaging frontage with variations in form, materials and colour; 2. providing clearly visible and accessible entranceways and connections to pedestrian networks, including safe and practicable access for people with limited mobility; 3. locating utilities and service areas so they are not visible from public areas and are screened or incorporated into the overall structure form; 4. using sustainable design methods, where practical, to minimise the use of energy and water resources and to create healthy living and working environments; 5. having regard to the expert cultural advice provided by tangata whenua on incorporating mātauranga Māori into the design and construction of the structure and, where appropriate, art works or unique and recognisable features that reflect cultural, spiritual or historic values of importance to tangata whenua; 6. maintaining similarity of frontage alignment, height and overall bulk, form and scale for structures adjoining a heritage building or within the heritage character area; and

	7. providing residential units that are functional and of a sufficient size for the day to day needs of residents.
CCZ-P9	<p>In addition to CCZ-P8, require structures, or alterations to the exterior of or additions to structures, that adjoin a public place to:</p> <ol style="list-style-type: none"> 1. maximise opportunities for the public to use and access that place; 2. maintain and enhance the city centre's historic and cultural heritage; 3. minimise any adverse shading effects on the public place; and 4. minimise the adverse impacts on the openness, historical and cultural values of the Huatoki Stream.
CCZ-P11	<p>Ensure any effects generated by activities are of a type, scale and level that are appropriate for the City Centre Zone and that will enable city centre amenity, having regard to:</p> <ol style="list-style-type: none"> 1. whether building occupants have adequate access to daylight; 2. the ability to manage noise and light emissions at an acceptable, reasonable level; and 3. the size, design and type of signage and whether it is compatible with the planned character and amenity of the city centre.
CCZ-P12	<p>Require structures and activities on coastal frontage sites adjoining the Coastal Walkway to interact with the coast, including by:</p> <ol style="list-style-type: none"> 1. incorporating planting and landscaping materials that complement the existing design of the area; 2. siting structures to maximise opportunities for the public to use and access the site and to assist with connectivity between the city centre and the Coastal Walkway; 3. providing transparent, non-reflective glazing that is not painted or obscured at ground floor level within any building along those walls that are visible from the Coastal Walkway; and 4. using low-reflective materials and minimal use of corporate colours on any structure.

Operative New Plymouth District Plan 2005

19. The site is located within the Business B Environment Area and contains overlays as described at the start of this report.

20. Apart from Rule Noise-R6, the PDP Rules and Effects Standards applicable to this activity have not been appealed and therefore must be treated as operative (S86F of the Act). However, as Rule Noise-R6 has been appealed, an assessment is required of whether the proposal needs consent under the Operative District Plan.

Rule #	Rule Name	Status of Activity	Comment
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Bus 22	<p>Erection or use of buildings for noise sensitive activities.</p> <p>Requirement for sound attenuation of any building.</p>	Permitted	<p>The agent has advised that the proposal will be designed and constructed in accordance with an acoustic design certificate from an acoustic engineer so that the level of noise received within a noise sensitive room, excluding noise from construction work does not exceed 40dBA L10 between 10pm and 7am on any day.</p> <p>This rule is similar to that of the PDP. It is proposed that an acoustic report will be provided at the time of building that confirms compliance.</p>
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NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH

Requirement	
<p>Regulation 8(3) Permitted Activities</p> <p>Disturbing Soil</p> <p>Disturbing the soil of the piece of land is a permitted activity while the following requirements are met:</p> <p>(a)controls to minimise the exposure of humans to mobilised contaminants must—</p> <p>(i)be in place when the activity begins:</p> <p>(ii)be effective while the activity is done:</p> <p>(iii)be effective until the soil is reinstated to an erosion-resistant state:</p> <p>(b)the soil must be reinstated to an erosion-resistant state within 1 month after the serving of the purpose for which the activity was done:</p> <p>(c)the volume of the disturbance of the soil of the piece of land must be no more than 25 m³ per 500 m²:</p> <p>(d)soil must not be taken away in the course of the activity, except that,—</p> <p>(i)for the purpose of laboratory analysis, any amount of soil may be taken away as samples:</p>	<p>Personal protection equipment and clothing will be utilised by workers.</p> <p>Proposal will comply.</p> <p>The permitted disturbance is 44.5m³. Proposed disturbance is approximately 75m³.</p> <p>Material removed from site will be tested and disposed of to an approved facility only.</p>

<p>(ii)for all other purposes combined, a maximum of 5 m³ per 500 m² of soil may be taken away per year:</p> <p>(e)soil taken away in the course of the activity must be disposed of at a facility authorised to receive soil of that kind:</p> <p>(f)the duration of the activity must be no longer than 2 months:</p> <p>(g)the integrity of a structure designed to contain contaminated soil or other contaminated materials must not be compromised.</p>	<p>As per the above.</p> <p>Earthworks will not be longer than 2 months.</p> <p>Exposed surfaces will be sealed over.</p>
<p>Regulation (9) Controlled Activities Removing or replacing fuel storage system, sampling soil, or disturbing soil (1)If a requirement described in any of regulation 8(1) to (3) is not met, the activity is a controlled activity while the following requirements are met:</p> <p>(a)a detailed site investigation of the piece of land must exist:</p> <p>(b)the report on the detailed site investigation must state that the soil contamination does not exceed the applicable standard in regulation 7:</p> <p>(c)the consent authority must have the report:</p> <p>(d)conditions arising from the application of subclause</p> <p>(2), if there are any, must be complied with.</p>	<p>A DSI has not been supplied.</p>
<p>Regulation (10) Restricted Discretionary Activities (1)This regulation applies to an activity described in any of regulation 5(2) to (6) on a piece of land described in regulation 5(7) or (8) that is not a permitted activity or a controlled activity.</p>	

(2)The activity is a restricted discretionary activity while the following requirements are met: (a)a detailed site investigation of the piece of land must exist:	A DSI has not been provided.
Regulation (11) Discretionary Activities (1)This regulation applies to an activity described in any of regulation 5(2) to (6) on a piece of land described in regulation 5(7) or (8) that is not a permitted activity, controlled activity, or restricted discretionary activity. (2)The activity is a discretionary activity	The proposal does not meet the criteria for a permitted activity due to the volume of earth being disturbed being breached by approximately 30m ³ . As no DSI is has been provided, the proposal does meet the criteria for either a controlled or Restricted Discretionary Activity and as such consent for a Discretionary Activity is required.

NOTIFICATION DECISION - Proposed District Plan – Appeals Version

Public Notification (s95A)

Step 1: mandatory public notification in certain circumstances

- The applicant has not requested that the application be publicly notified.
- The applicant has not refused to provide further information or refused to agree to commissioning a report under s95C.
- The application is not made jointly with an application to exchange recreation reserve land.

21. The proposal does not meet any of the criteria in Step 1 for notification and therefore the application can proceed to be assessed against Step 2.

Step 2: if not required by step 1, public notification precluded in certain circumstances

- The application is not subject to a rule or national environmental standard that precludes notification.
- The application is not for a controlled activity or boundary activity because consent is required for a discretionary activity under the PDP.

22. The proposal does not meet any of the criteria in Step 2 for notification and therefore the application can proceed to be assessed against Step 3.

Step 3: if not precluded by step 2, public notification required in certain circumstances

- There is no rule or NES that requires public notification of the application.
- If the activity will have or is likely to have adverse effects on the environment that are more than minor the application must be publicly notified.

23. There is no rule that requires public notification in regard to this proposal.

24. An assessment of adverse effects on the environment has been undertaken below.

25. In deciding whether an activity will have or is likely to have adverse effects on the environment that are more than minor, the relevant requirements of Section 95D(a) to (e) must be considered.

Section 95D(a)

26. In regard to Section 95D(a), Council must disregard any effects on persons who own or occupy the subject site and adjacent land.

27. Effects on persons who own or occupy the properties numbered below have been disregarded as they either own or occupy the land on which the activity will occur or any land adjacent to that land.

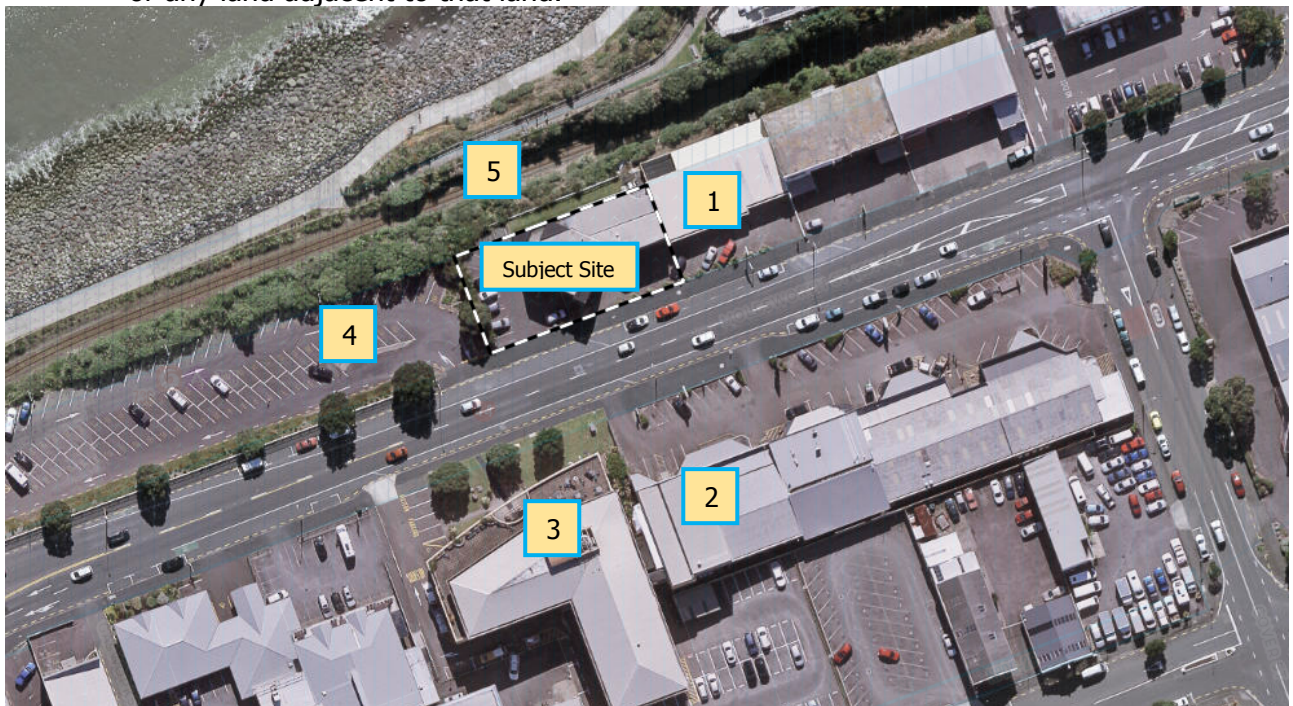


Figure 5: Location of persons who have been disregarded under section 95D(a)

Section 95D(b)

28. Pursuant to section 95D(b), if a rule or national environmental standard permits an activity with that effect then that adverse effect of that activity must be disregarded, this is known as the "permitted baseline".

29. I am not applying the permitted baseline due to the number of non-compliances as detailed above. The application will be assessed on its merits.

30. Accordingly, the permitted baseline has not been applied.

Section 95D(c)

31. As the proposal is a Discretionary Activity under the Proposed District Plan, Section 95D(c) is not considered to be relevant.

Section 95D(d)

32. Section 95D(d) of the RMA requires that Council must disregard trade competition and the effects of trade competition.

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33. Trade competition and the effects of trade competition are not considered relevant and have been disregarded.

Section 95D(e)

34. Section 95(e) of the RMA requires that Council must disregard any effect on a person who has given written approval to the application.
35. A written approval has been provided from Stephen Ekdahl on behalf of the owners and occupiers of Property 1 identified in Figure 5 above. Effects on those landowners and occupiers are disregarded.
36. The agent has engaged with Ngāti Te Whiti and a record of this is contained within Appendix G of the application. No written approval has been provided. Consultation commenced in March 2023, and as of 16 November 2023, there has not been any feedback from iwi or hapū since the application was provided to them at time of lodgement of the application. The agent has requested that processing continue.
37. Council also provided a copy of the application to Ngāti Whiti Hapū and Tawhirikura Hapū at the end of October and the end of November 2023. Other than the record of consultation provided with the application, which advised of a hui and hikoī, consultation does not appear to have been closed out with a formal response to the proposal.

Assessment of Environmental Effects

Proposed District Plan – Appeals Version

38. The proposal is considered to be a Discretionary Activity, and as such Council is not limited in the matters that it may consider.
39. Actual and potential effects on the environment are considered to be:
- Earthworks effects.
 - Cultural Effects
 - Archaeological Effects
 - Traffic Effects
 - Rail Corridor
 - Amenity and Character Effects
 - Contaminated Land

Earthworks Effects

40. Earthworks associated with the activity to provide a western addition to the existing footprint of the building have been detailed above under the proposal. There will be approximately 36m³ of material that will be transported off site.
41. These works will occur within 50m of a site of significance to Māori and the archaeological and cultural effects of this will be discussed below, likewise potentially contaminated soils will be discussed below. In terms of the earthworks being undertaken on site, the agent is proposing similar conditions to the previous consent for erosion and sediment control measures to be imposed prior to works commencing and maintained for the duration of works.

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42. An earthworks management plan is also proposed to be provided that will cover soil disturbance, dust, reinstatement of exposed areas, disposal of surplus material. Site stabilisation and reinstatement will occur with disturbed areas being built or sealed over. Noise during construction, will comply with the construction noise standards and will overall be for a temporary duration. Heavy vehicles required for material to be transported from site will be approximately 5 heavy trucks. Parking for works and goods is able to be undertaken in the car park areas on site.
43. Any effects are considered to be no more than minor due to the temporary duration and small volume of works required.

Cultural Effects

44. Works are within 50 metres of a significant feature, there are no known sites of significance on site. The area of works is contained, and erosion and sediment control measures will be implemented.
45. The landscape visual assessment has identified an opportunity for a cultural narrative to be considered on the western façade of the building. In addition, landscaping is proposed adjacent to car parks 7-10 and adjacent to the entrance of the building, which will include the opportunity for consultation with iwi over species.
46. The agent has undertaken consultation with Ngāti Te Atiawa, as stated above, no comments have been forthcoming. Draft conditions of consent have been proffered by the agent to provide opportunities for engagement over planting and cultural monitoring. From a wider environment perspective, the cultural effects are largely contained to the site itself and any effects will be no more than minor.

Archaeological Effects

47. The agent has undertaken an assessment of Archaeological Effects within Section 4.8 of the application. For the purposes of this report, I adopt that assessment. In summary, there have been no publicly recorded archaeological finds on the site and the majority of the proposed earthworks will cut down into asphalt /concrete and gravel fills and not into original soils. Due to the long history of urban uses of the site, any archaeological features would have long since been removed and destroyed and as such no Archaeological Authority is considered necessary.
48. Accordingly, based on the assessment provided, any archaeological effects are considered to be no more than minor.

Traffic Effects

49. Traffic non-compliances associated with the proposal is the width of the right of way, access separation, proximity of the building to the railway, vehicle access onto a State Highway. These are discussed below:

Right of way

50. There are currently two vehicle entrances to the site – a right of way, which is a dedicated exit only, with entry being located on the adjacent neighbouring site. A width of 4 metres is required and 3.5 metres is existing. Located to the west of the right of way is a dual entry/exit vehicle entrance with an aisle width of 6 metres. Proposed usage is predominantly light vehicle movements.

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51. The proposal provides for two commercial tenancies, Tenancy 1 will have a net GFA of 171m² and Tenancy 2 will have a net GFA of 267m² and a three bedroom residential dwelling on the top floor that will have a GFA of 320m² (excluding decks). The change in area is the garage extension to the west of the existing building and built form above the garage and the addition of the residential dwelling on top.
52. Traffic generation associated with the tenancies will remain similar to previous activities. The increase will be that associated with a residential dwelling, which on average are deemed to generate up to 10 vehicle movements per day, however being located within the town centre, actual vehicle movements may be potentially less. The increase in traffic movements associated with the addition of a residential dwelling is low and is unlikely to compromise the safety and efficiency of the road transport network. Vehicle movements associated with the dwelling will be from the entry/exit vehicle entrance.

Access Separation

53. Access separation is not achieved, this is an existing situation. There are clear sight lines available along Molesworth Street in both directions. Required access separation is 15 metres between crossings. The western most dual entry/exit vehicle entrance is more or less directly adjacent to the public carpark located to the west, approximately 5m from the western vehicle entrance to the right of way, and 10-14 metres to the eastern end of the right of way. These measurements do not factor in any vehicle entrances opposite. However, this is largely an existing situation. The intensity/density of built form is increasing; however, the residential dwelling is considered to be the increase in vehicle movements as discussed above.
54. With respect to access separation, this is an urban environment, and it can be anticipated that vehicles will be accessing various services within the city centre.
55. Parking that is accessed from the right of way, is all angled to facilitate the internal one-way access system and there is no change to this vehicle entrance or parking (parks 7-10 on the site plan). Carpark 10 does cross over the boundary shared with property 1 and car parks 7, 8 and 9 are partly located within the right of way however, this appears to be an existing situation where these car parks are likely to be shared across businesses, given the half-moon entry/exit style of the entrances. This arrangement cannot be relied on in perpetuity due to the right of way situation. Despite the unusual arrangement, the car parks are a 'nice to have' and it is unlikely that they will be altered by either right of way user. It is noted that there is not a minimum parking requirement for the activity should they be removed.
56. The building extension to the west results in a loss of 4 car parks and a reconfiguration of the parking area. Noting that the building extension incorporates a car port and garage. The loss of 4 car parks will not result in any loss of amenity or level of service noting that there is a car parking area adjacent to the application site, street parking and parking buildings within the wider environment.

Rail Corridor

57. The proposed western extension is located within 2 metres of the railway corridor shown on in the plan as designation KHL-1. The size of the building will be three stories, as detailed above. The safety and efficiency of the railway corridor is not

considered to be adversely affected due to the topography and the railway being located at a lower level than the proposed building.

58. The Agent has at Section 45.10.2 of the application, assessed the effects of the proposal and proximity to the Rail Corridor. I accept this assessment. Key points are:

- Despite the encroachment, the application site is a minimum of 10m from the operating area of the railway.
- The separation from the active lines of the rail corridor ensures that there is no impact on visibility along the railway.
- There are no rail related noise features in the vicinity of the site, noise features being level crossings, alarm bells and depot operations.
- To ensure reverse sensitivity effects are mitigated, the newly constructed portion of the building takes into account acoustic and earthquake design measures.

State Highway

59. The proposal is located on Molesworth Street, also known as State Highway 45. No consultation has been undertaken with the New Zealand Transport Agency. Molesworth Street is a two way street with a posted speed limit of 50km/hr. Street parking exists to the east of the site. The traffic environment and activity have been discussed above, the site is not a limited access road, and traffic effects through the addition of a residential dwelling are in keeping with the surrounding environment.

Construction Effects

60. Construction effects will be temporary and able to be managed within both the site and adjoining transport network. Vehicle movements associated with earthworks is approximately 5 heavy trucks. Parking for workers is able to be undertaken in the car park areas on site. Overall, the traffic effects are considered to be no more than minor.

Character and Amenity Effects

61. Alterations and additions to structures within the City Centre Zone that are located on a coastal frontage site, require consent. Boon Landscape have provided a visual landscape assessment. This assessment has considered the public views of the subject site.

62. Both the application in Section 4.6 and 5.6 (objectives and policies) and the Landscape Assessment by Boon have provided an assessment of Policy CCZ-P12. This policy provides the desired outcomes for structures and activities on the coastal frontage sites adjoining the coastal walkway. Provision has been made for landscaping, this will be relatively small scale, given the nature of the site which is predominantly commercial with a dwelling on the upper stories. As mentioned above, the agent provided a draft set of conditions for consideration by Council that makes provision for landscaping and for contribution by iwi to this landscaping.

63. The proposal builds upon the existing structure by extending to the west and building up. There will be little to no change with respect to public use. Connectivity is already in place between the city centre and this proposal will not restrict that access. The topography of the site is such that public access to the walkway is not viable and also the railway tracks require that public access be via designated access

points for safety. Connection to the coastal walkway is approximately 110m from the site via the adjacent car park/Waimanui Pa.

64. The site sits higher than the railway tracks and coastal walkway, with the main interface with the streetscape of Molesworth Street. There is dense vegetation along the embankment between the application site and railway/public walkway. The bulk of the existing building is largely screened from this perspective; however the upper storeys will be visible from a distance. The redesign and additions to the building have been architecturally designed. The exterior of the building will not be transparent. The proposed usage is for the commercial tenancies rather than retail and the exterior of the building has been designed accordingly. Noting that whilst the site is visible from the coastal walkway, due to the topographical separation, transparency is not essential to providing passive surveillance. The architectural finishes will achieve a low light reflective value and are considered to be colours that complement or have been chosen in consideration of the location and surrounding environment. The proposal is considered to achieve the outcomes sought by the plan.
65. The peer review of the LVA recommended seeking specific information from the applicant regarding glare. The agent has responded *"Section 4 of the LVIA comments on this aspect, and the application proposes a condition "All mirrored glazing shall be removed from the facades of the building". In essence, while the proposed cladding and glazing does have some reflection, as compared to the existing mirrored silver glazing present the proposal removes all mirrored glazing and replaces it with a dark but transparent tint, and adds an aluminium batten feature onto the west wall to further dissipate potential reflection on that side. The copper cladding does not have the typical shine reflection of glass and is somewhat softened, and is limited to some areas on the new third storey, a small portion reaching down into the second from the southern elevation, retuning to dark grey for the uppermost level. This is consistent with the colours of the coast and reduces the scale of the copper mass. The cladding has also been chosen for its durability in this coastal environment, where the likes of timber would weather too quickly"*. The response also identified that the west elevation copper cladding will incorporate aluminium battens over the copper cladding to dissipate any glare. Richard Bain of Blue Marble has confirmed that the explanation of glazing to be removed and tinted glazing to be introduced, as well as other materials, in particular the battens, alleviate any concerns around glare.
67. The height of the building will increase to 13.84 metres, still within the permitted 14m height provisions of the plan. The building is taller than the adjacent buildings, however the assessment provided considers that the smaller footprint of the 4th level lookout structure helps offset the potential bulk and scale of the building. The peer review does not share this view; however effects will be no more than minor as this addition does not exceed the permitted height level. The 4th level also has materials and colours similar to the rest of the building and as such is consistent with the overall design.
68. The proposed building will result in a noticeable change to the amenity. Whilst buildings in the vicinity are predominantly double storey, within the wider environment, there are taller buildings, such as the Worley building. Located a couple of streets back are a number of taller buildings that comprise part of the

skyline within the wider area. These taller buildings are generally visually stark, whereas the proposed building will comprise of a mix of building materials, shape (angles). It is considered that the building additions will fit within the context of the wider environment.



Figure 6: Existing Building



Figure 6A: Montage of Proposed

69. As stated above the architectural treatments to the additions use a mix of colours and materials that provide a variation and a form that compliments the existing architecture. The building will represent a modern building to complement the amenity of the area. The building design makes use of voids and primarily deck spaces across levels on the northern elevation to break up a continuous façade. The accentuation of the existing angles on the southern elevation provides variance.

70. The design inspiration used by the architect has been taken from the layers exposed in the coastal edge, the black iron sand, the copper clay layer and the dark topsoil layer, to help the building integrate with both the coastal environment and adjoining built form. The architects have provided the following below statement.

71. *"The design assessment has taken into consideration the wider context of the site, not just the architecture of the building, but the space that it forms between built form. The new design seeks to preserve the original character and create a seamless transition from new to old. Reducing the scale and bulk of the development through the use of form, angles and dark materials assists in minimizing the scale. The new development comprises long horizontal forms, reflecting the neighbouring context and built form. Being situated in a commercial zone the neighbouring buildings present larger bulk forms: therefore the rectangular mass and scale of the proposed design reflects the context it occupies. Reducing scale is assisted with natural vegetation at the North and West screening the ground floor, a building setback at the south boundary and a shared boundary neighbouring building on the East boundary. The upper floor is small and setback in the floor plan to be barely visible at direct street level. In additional, the upper floor is dark in tone to reflect the coastal narrative and to reduce the scale of the level 2 copper building mass".*

72. Appendix A of the Landscape Visual Assessment (LVA) has provided montages of the existing built form and the proposed built form, along various viewpoints along the coastal frontage of the site. The proposal does create change in a prominent location; however I concur with the assessment provided that the use of colours that is representative of the coastal landscape, and variation of materials/angles will ensure that the building contributes to the amenity of the wider area.

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73. The LVA has also recommended landscaping along the frontage, that a cultural narrative be considered along the western façade (subject to iwi approval) and ensure that the cladding and façade treatments have no greater adverse glare effects than a glazed façade. The agent has pro-offered a draft set of conditions in line with these recommendations, except for the cultural narrative. Noting that any cultural narrative, would require the input of iwi.
74. As mentioned above the LVA has been peer reviewed by Blue Marble. This review has concluded that the LVA is consistent with best practice methodology, thorough and logically presented. The LVA expresses reservations about the proposal in three areas, the lack of detail around planting, lack of cultural narrative in the context of the proximity to Waimanu Pa and glare. These aspects have largely been resolved in the context of the wider environment.
75. There appears to be a strong view from the LVA and peer review of that there will be a Cultural Impact Assessment (CIA) being completed. At this time no CIA is proposed and as such the agent provided a draft set of conditions for consideration as part of the application. This draft set of conditions includes conditions for landscaping. Blue Marble has also reviewed the pro-offered conditions and confirms that the proposed conditions are consistent with the recommendations of the LVA and agrees that a condition for a cultural narrative would be inappropriate without direct involvement from iwi.
76. The only remaining matter was clarification on viewpoint 8 (the buildings opposite the application, specifically the occupation of these buildings). This is more of a localised effect and will be discussed below.
77. The peer review assessment provided a matrix of effects upon which to assist in determining whether effects are less than minor being very low-low, minor being low to low-moderate or more than minor ranging from moderate through to significant. In reliance on the matrix, the peer reviewed advised that the LVA assessment of the proposal equates to minor for landscape character and value and less than minor for visual effects. As clarified in the conclusion of the LVA "*Minor adverse effects, means some real effect but of less than moderate magnitude and significance. It means the less part of the 'minor-moderate-major' scale. Minor can be characterised as 'low' and mod-low' on the matrix*". On basis, of the information provided in the application and peer review of the LVA, I am satisfied that any effects on the wider environment will be no more than minor.

Contaminated Land

78. Consent is also being sought as a precautionary measure under the NES for contaminated Land. No DSI has been provided, however a thorough assessment has been undertaken within the application. The volume of work is low, only 36m³. Furthermore, the material has not been confirmed as contaminated.
79. Whilst historical activities indicate that soils could be contaminated (former timber yard, used cars), the soil is also likely to have been levelled and mixed prior to development and has since been capped reducing any risk. To ensure that there is no risk associated with the proposed earthworks, personal protective equipment will be utilised during earthworks, the area of disturbance will be minimised to only the

volume necessary, dust management. All material removed from site will be tested prior to disposal and will be disposed of to an authorised facility.

80. Whilst a sensitive (residential) land use is added to the site, this is on an upper level and there are no activities located on the ground level that will result in any risk to human health. Subject to the imposition of conditions, any effects will be no more than minor.

Step 4: public notification in special circumstances

81. No special circumstances exist that warrant the application being publicly notified.

Conclusion on public notification

82. It is concluded under s95A of the RMA that the application does not need to be publicly notified.

Limited Notification (s95B)

Step 1: certain affected groups and affected persons must be notified

- No protected customary rights groups or customary marine title groups are affected by the activity.
- The proposal is located within an area that contains a Statutory Acknowledgement Area, specifically Te Atiawa Coastal Marine Area Scheduled Statutory Acknowledgement under the Te Atiawa Claims Settlement Act 2016.

83. Consultation has been undertaken by the applicant and a copy of the proposal forwarded to Te Atiawa by Council. However, there have been no comments forth coming from iwi, and as such it is recommended that the application is limited notified to Te Kotahitanga o Te Atiawa as detailed below.

Step 2: if not required by step 1, limited notification precluded in certain circumstances

- The application is not subject to a rule or national environmental standard that precludes notification.
- The application is not precluded from limited notification.

Step 3: if not precluded by step 2, certain other affected persons must be notified

- A person is affected if the consent authority decides that the activity's adverse effects on the person are minor or more than minor.

Effects that may be disregarded – s95E(2)(a)

84. Pursuant to section 95E(2)(a), the consent authority may disregard an adverse effect of the activity on persons if a rule or NES permits an activity with that effect.

85. The permitted baseline has not been applied as discussed above.

Effects that must be disregarded – s95E(2)(b)

86. The application is a Discretionary activity under the Proposed District Plan and s95E(2)(b) does not apply to the proposal.

Persons not affected – s95E(3)(a)

87. Written approval has been provided from the landowner of property 1 in Figure 7 below. Effects of the proposal have been disregarded on this party.

Assessment of Affected Parties

88. I consider that the only people who have the potential to be affected by the proposal are those people identified in Figure 7 below. I do not consider that any other people/parties are affected based on the existing environment and the distance to other properties.

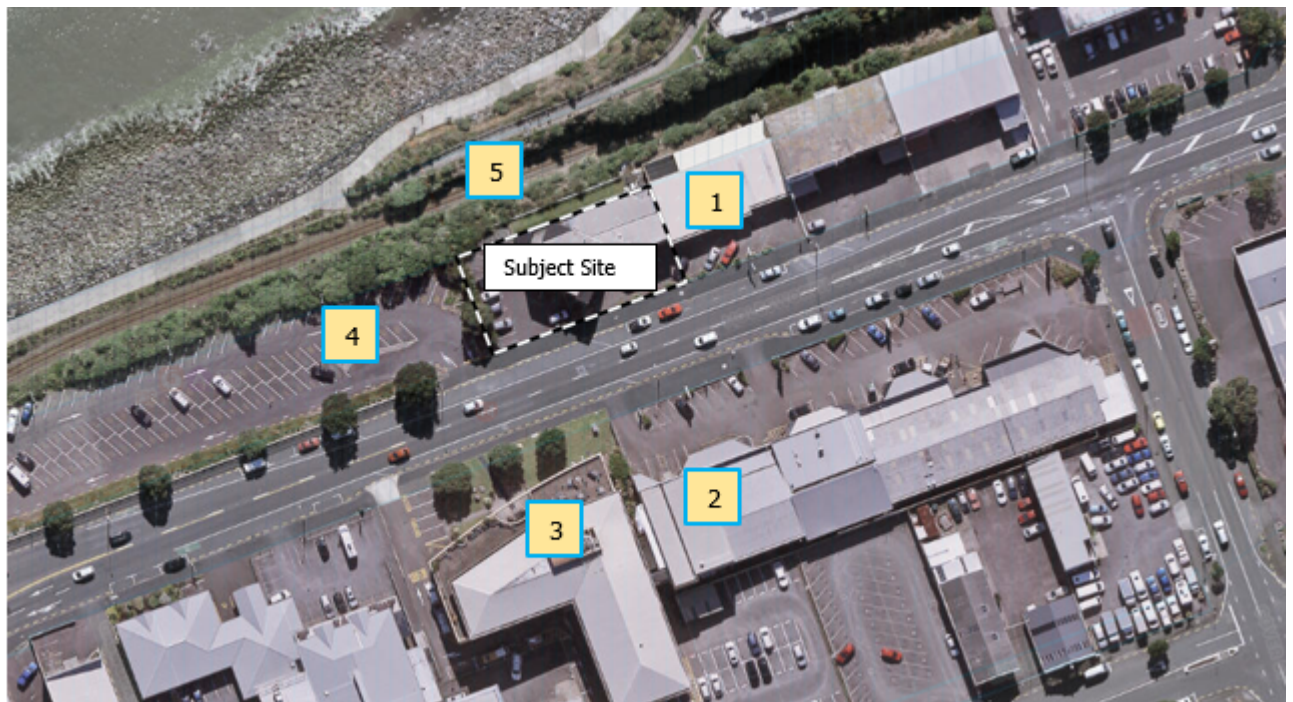


Figure 7: Location of persons who have been disregarded under section 95D(a)

Table 1: Corresponds with Figure 7 Above

Property Reference	Address	Legal Description
1*	45 Molesworth Street Located adjacent to the application site	Lot 3 DP 17052
2	40 – 52 Molesworth Located opposite the application site	Lot 2 DP 17254 PU1-4, UP 18646, PU 1 AUA AUB UP 18646, Pt Unit 3 DP 18646 (ground floor retail & first floor offices).
3	32-38 Molesworth Located opposite the application site	Lot 1 DP 17254
4	37 Molesworth Street Located adjacent to the application site	Pt Sec 1 SO 13029
5	Railway Lines (KRH-1)	Kiwi Rail

	Located to the rear of the site	
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* written approval has been provided from this party.

Assessment of Affected Parties of Properties Referenced 2-5 (refer figure 7)

89. A person is considered affected if the consent authority decides that the activity's adverse effects on the person are minor or more than minor. The effects on persons associated with land adjacent to the application site will be less than minor for the following reasons:

Earthworks

- The earthworks comply with the permitted area and volume, it is only the proximity of the works to a Site of Significance to Māori that requires consent.
- The depth of the earthworks is related to piling and necessary to establish the extension.
- Erosion and sediment control measures will be installed.
- The duration of works is short, with the ground being restored as soon as practicable.
- The works will not result in any effects or disturbance to the site of significance.

Traffic Effects

- There is sufficient room on site for vehicles to manoeuvre on site. The Development Engineer is satisfied that cars will not have to reverse on to Molesworth Street.
- Vehicle movements will be generally light vehicles and will not adversely affect adjacent sites. The tenancy has been and is proposed to be commercial, where it is not anticipated that there will be many (if any) heavy vehicle movements.
- The proposal will utilise the existing entry/exit arrangement with the right of way and there is no change to the existing angle car parking situation (of which some car parking sits within the right of way easement).
- There is also a dual entry/ exit vehicle entrance, which will serve the proposed site. There is access to a further 6 car parks from this entrance.
- The 3rd/4th storey is comprised of a three bedroom dwelling.
- The most notable change to vehicle movements is that associated with the residential dwelling, anticipated to up to 10 vehicle movements per day.
- The proposed garage and car port will provide parking to the residential dwelling on the 3rd and 4th storey.
- There are clear sight lines to/from the site.
- Property referenced 5 is Kiwirail, and the proposal will encroach on the two-metre boundary setback. However, a 10 metre buffer will be retained from the train track itself and acoustic treatment of the additions will be undertaken. On this basis, I consider any effects upon Property Referenced 5 to be less than minor.

Amenity

- Amenity will be consistent with the surrounding environment, which is representative of the city centre, with commercial tenancies.
- The height is compliant with plan provisions.
- The proposal expands on and alters the external appearance of the existing building. The usage of the lower two floors will be commercial, with a

residential 3rd and 4th storey. The amenity is considered to be in keeping with the surrounding area.

- Landscaping will be undertaken in the car parking area.
- The LVA peer review was satisfied that any effects upon the owners and occupiers of properties located opposite (Properties Referenced 2 & 3) will be less than minor as the effects will be brief/transitory due to the occupancy of the building being associated with commercial usage and occupancy varying and not permanently occupied 24/7. The agent confirmed via a site visit on the 8th January 2023. The property at 30 Molesworth St, otherwise known as 32-38 Molesworth Street is occupied by Todd Energy and Beach Energy. The use is not residential. The property at 40-42 Molesworth has two levels, the bottom level being occupied by Flex Fitness, who also occupy 42 Molesworth Street. The top floor of 40 Molesworth Street is occupied by Apex Digital and Dsigna Concepts Architectural Design. Accordingly, I am also satisfied that the occupation of these buildings is non-sensitive to the redesign of the application site.

Conclusion

90. Overall, it is my opinion that the effects on the owners and occupiers of Properties Referenced 2-5 will be less than minor.

Iwi and hapū

91. Te Atiawa are the relevant iwi for this rohe, relevant hapū are Ngāti Te Whiti, Ngāti Tūparikino and Ngāti Tawhirikura.
92. The cultural effects have been discussed above, whereby it was concluded that any wider effects would be no more than minor. It is acknowledged that the agent has undertaken consultation with iwi and hapū, however communications have appeared to have stalled.
93. Given that no conclusive comments have been received from iwi or the hapū, the potential sensitivity and significance of the site to iwi and hapū, irrespective of the pro-offered conditions, is uncertain. It is difficult to say that the effects upon iwi and hapū will be less than minor.
94. Accordingly, I consider the effects upon iwi and hapū to be at least minor and that the application should be limited notified.

New Zealand Transport Agency

95. This section of Molesworth Street is also State Highway 44. However, there is no change to the existing vehicle entrances and this site is within the 50km/hr urban environment. It is considered that despite the increase in height and overall floor space, that this proposal will result in little change in traffic effects. Council's Development Engineer doesn't have any concerns, onsite manoeuvring has been provided so that there is no reversing out onto Molesworth Street/State Highway Network. Accordingly, any effects upon the New Zealand Transport Agency are considered to be less than minor.

Step 4: further notification in special circumstances

96. No special circumstances exist as there is nothing that is unusual, abnormal or exceptional about this application.

Conclusion on limited notification

97. It is concluded under s95B of the RMA that the application **does** need to be limited notified.

98. The following parties have been identified as affected persons and will be served notice of the proposal:

- Te Kotahitanga o Te Atiawa
- Ngāti Te Whiti hapū
- Ngāti Tūparikino hapū
- Ngāti Tawhirikura hapū

Overall Notification Decision

99. Pursuant to Section 95A & B the application LUC23/48350 for a Discretionary Activity under the Proposed District Plan – Appeals Version shall proceed on a LIMITED NOTIFIED basis for the reasons discussed above:

Reporting Planner:

**Peer Reviewed & Approved
By:**



Karleen Thomson
Consultant Planner
Dated: 5 March 2024

Richard Watkins
Principal Planner
Dated: 12 March 2024