

**STATEMENT TO HEARING COMMISSION RE. APPLICATION OF  
REGINA PROPERTIES LIMITED, 1 - 3 DAWSON STREET, NEW PLYMOUTH  
NPDC REF: LUC21/47890**

We, **Larry and Kaylene Stewart**, lodged a formal Submission opposing the above Application for Resource Consent. I now state in evidence before the Hearing Commission as follows:-

**THE ADVERSE EFFECTS ON US**

1. We have owned and resided in Unit 11, Richmond Estate, 120 St Aubyn Street, New Plymouth for almost three years.
2. As stated in our Submission, the primary reason we oppose the Application is due to the excessive height of the proposed development and the consequential effects of loss of sunlight and shading that will result to our residence.
3. In the Resource Consent Application - part of "Section 4.4.2 - Shading" says the "actual and potential adverse effects are considered to be acceptable". We do not agree with this as, while the loss of sunlight and extent of shading will vary with the seasons, it will have a permanent detrimental effect on our quality of life and enjoyment of living areas, both indoors and outdoors.
4. We will lose the sunlight into our living areas on the western side of the ground floor earlier in the afternoons and, not only that, we will also permanently lose our view of the sky from these areas which will make our indoors dark as a certain amount of light reflects from the sky, whereas only darkness will come off the proposed building if Resource Consent is granted. At the moment, we get the sun in these areas until about 5.00pm but, if the Applicant is allowed to build any higher, we may not get any sun at all through these windows in the winter months, which is when we need it most. *see top photo on p.8*
5. On the western side of our upper level, we also get the sun through all the windows in the late afternoon but, if the Applicant gets permission to build any higher, it is possible we may not get any sun here in the winter months either. *see top photo on p.9*
6. At the moment, the sun shines through the windows of our master bedroom and through the door to the upstairs lounge/computer room where Larry spends most of his time as he has serious

health problems and has difficulty walking. He also had an eye removed at the end of July so needs to get all the sun and light he can. This area could become quite dark and depressing later in the afternoons, whereas it is light and sunny with the Applicant's building the height it is now.

*See bottom photo on p.8 and bottom photo on p.9*

7. We will also lose the sun earlier off our deck area. We have recently had louvres installed over this area so that we can block out the sun when we want, but we paid a lot of extra money to have retractable louvres so that we can open them right back and let the sun in if we want. We want to be able to decide ourselves when to have sun and when not to and not have it permanently removed in the afternoons because of someone else's desire to come into the area and build outside the current Regulations. *See photo on p.10*
8. We don't think it is reasonable or fair to expect to be granted permission to build any higher than the building is now, especially when part of it is already over the regulation height and when it is going to have a detrimental effect on the lives of people who have already been living in their possible retirement homes for a number of years thinking they are safe from ever having their views or sunlight blocked.

#### **RESPONSE TO SECTION S42a REPORT (Luke Balchin)**

Obviously we can't cover everything here, but some of our concerns are as follows:

9. **Para. 9** - The last sentence says "The application was limited notified and then withdrawn during the notification period as the applicant wished to make changes to the design"

This makes it sound as though the Applicant withdrew the original Application as they "wished to make changes to the design", whereas the Applicant was actually asked to withdraw the Application by the NPDC following limited notification as not enough affected people had been notified. The Applicant then made changes and lodged this new Application.

10. **Para. 19** - "Overall the immediately surrounding area is consistent with its underlying business zoning which supports both medium to high density residential living and business activities. Residential activities do however dominate over commercial/business activities".

We note the Report acknowledges that residential activities do dominate over commercial / business activities.

**11. Para. 30 - Assessment of Effects and Additional Information Responses** - "The assessment concludes that the actual and potential adverse effects on the wider environment, etc., is overall, and on balance, to be acceptable".

In our opinion, these are not acceptable.

**12. Figure 1 on Page 5 and Figure 6 on Page 15** - these do not show an up-to-date aerial photo as they don't show the neighbouring buildings which consist of the dentist building as it is now and nor do they show 122, 122A or 122B St Aubyn Street.

**13. Para. 74 - Shading Effects: Unit GC** (GC is our unit with postal address of Unit 11, 120 St Aubyn Street) - "Unit GC is effected for more months of the year, March June and September. The plans provided show the most notable effects are an additional 1.5 hours of shading in March and September when compared to the existing environment. As illustrated on SK 5.08, effects overall for Richmond Estate are minor when compared to the permitted baseline as the duration and degree of shading effects are comparable".

With regards to the first two sentences - "An additional 1.5 hours of shading in March and September" - what about June and the other Winter months when the sun is lower? We will probably get more than 1.5 hours of additional shading during these months!! We note that 5pm shadow map SK4.18 shows the shadows extending beyond our property. We also question the accuracy of the 4pm study SK4.17 which shows the shading reaching only to the MacArthur property, 122 St Aubyn Street.

Also, it's not just the shading that will affect us on sunny days - we will be affected all day and every day of the year because of the loss of view of the sky and therefore loss of light - we all know that a certain amount of light is reflected off the sky and if another level is added to the already over-height building, we will probably not see any sky from the windows on our western side and our living areas will become dark and uninviting.

With regards to the last sentence - "As illustrated on SK 5.08, effects overall for Richmond Estate are minor when compared to the permitted baseline as the duration and degree of shading effects are comparable". As far as we are concerned, "effects overall for Richmond Estate" is not relevant as we are a complex of individual units and some units will be ~~more~~ affected more than others, so why group us all together. Each Submitter's unit should be treated separately and the more affected units should be acknowledged and not grouped together as "overall".

**14. Para. 75 - Shading Effects** - Starts by stating “Shading is an effect anticipated as even a 10 metre building would cast additional shading” and finishes by stating “shading effects of the proposal would be acceptable when compared to the existing environment and permitted baseline”.

In our case, this statement is incorrect - a 10 metre high building would not affect us as the majority of this would be behind 122A St Aubyn Street as it is now and we would hardly see the new proposed addition to the side as it would be behind 122 St Aubyn Street as there is only a small gap that we see on the boundary between these two units. The only way we will be greatly affected is if the building is allowed to go higher than it already is.

**15. Para. 79 - Bulk and Dominance, Privacy and Outlook** - States that “the matters of restricted discretion associated with bulk and dominance is limited to those effects on properties in a residential area. All of the properties to the west are in a business area, etc.”

This maybe so, but they are not occupied as businesses, they are all residential properties. From our downstairs, we basically only see the portion of building which is already over-height as the bulk of the present building is behind 122A St Aubyn Street. If the extra height is allowed, this would greatly affect our privacy and outlook and the bulk would definitely be extremely dominant compared to the outlook we have now.

Also, the Applicant is wanting to add a residential dwelling so why should Business B Regulations apply?

**16. Para. 86 - Richmond Estate** - States that “the opposing submitters all have primary outlooks toward the northeast maximising sunlight and sea views”.

It doesn't matter what our views are to the northeast - it's later in the day when it's beneficial to still have sun and light in the winter when it is most needed and if consent is given for the extra height, we will be robbed of this.

**17. Para. 103 - Coastal Environment** - States “No submissions were received relating actual and potential effects on the natural character of the coastal environment”.

Surely the Council has an obligation to consider these effects and deny Resource Consent if the affects aren't acceptable - our Submissions are mainly based on how we will be personally affected.

**18. Para. 112 - Reduced Landscaping** - States “No submissions were received relating to the proposal to reduce the level of landscaping required at the road boundary”.

Again, a Council requirement, so a Council decision.

**RESPONSE TO APPLICANT'S PLANNERS EVIDENCE (Darelle Martin)**

- 19. Para. 27 - Landscape and Visual Effects** - This states "I consider the commercial uses of the area to have been somewhat dismissed by the Submitters".

We know that the Hong Kong Takeaway and Restaurant (147 St Aubyn Street) is Business and Residential as the Owners live onsite. The Antennae Man's property (149 St Aubyn Street) is also Business and Residential as he has a residence onsite and runs his business from the garage. The large building on the corner of St Aubyn Street and Dawson Street, which is now owned by the Applicant, may be seen as a "Business" building but this has been unused for many years and we suggest this could also be developed as a Residential property in the future. The only true Business properties are the TBI Health Building (119 St Aubyn Street, next to the Devonport Apartments) and Lees Dental Company (124 St Aubyn Street).

- 20. Para. 40 - Shading** - This states "I consider that shading as a result of the proposal is similar to that which would result from a permitted development and has a significant overlap with regard to location and timing. Shading over and above that generated by a permitted development is generally limited to relatively small patches and slivers in terms of area, a noticeable proportion of which are on roofs, with most shade on any location disappearing from one hour to the next. Shading is also generally limited to certain times of the year and hours of the day".

As mentioned previously, in our case, shading for this proposal will be far greater than the shading which would result from a permitted development. As far as the "shading generally being limited to certain times of the year and hours of the day" - we agree with this but it will occur more in the winter months and at the end of the day when we all want a bit of sun and warmth entering our homes. Also, as mentioned previously, in our case, it's not just the shading but loss of sky and, therefore, loss of light.

- 21. Para. 46** - This states "With regard to Richmond Estate as a collective property and its shading summary SK5.08, the pattern and trends of permitted baseline development and proposed development shading are very similar".

As mentioned previously, the Richmond Estate units should not be grouped as a collective property as we are all individual units and, as such, are all going to be affected differently. In our case, we will be affected hugely if this proposal is allowed to go ahead.

**22. Para. 48** - This states "Overall, any actual or potential adverse effects with regard to shading over and above that which could occur as a result of a permitted building on the site are minor, and the character and amenity of the Business Environment Area and submitters' properties will be largely maintained in this context". She also states that she agrees the shading effects of the proposal are deemed to be acceptable.

In our case, the effects will not be minor and we certainly don't think they are acceptable.

**23. Para. 55** - States that it is a "Business B Environment Area" and therefore the proposal is acceptable, whereas if it was zoned as a "Residential Environment Area" it wouldn't be acceptable.

It may be zoned Business but it is definitely mainly Residential. As mentioned previously, the Applicant is wanting to add more **Residential property** so why should this proposal be allowed to adhere to Business Regulations?

**24. Para. 108 and Various other Items** - States that "shading from the proposed building will be similar to that of a permitted building".

As mentioned, numerous times - **Not from our Unit it won't!!**

**In Closing** - When we bought our apartment in 2018, we were advised that we could never be built out as nothing could be built in front of us and we believed nothing would get in the way of our sun or sky views either, because the buildings around us were already at the maximum height allowed (with part of the GQ building actually exceeding this). If the proposed development somehow manages to get consent, it will not only block out more sun and light to our unit at certain times of the year but would also block out our view of the sky from some windows every day of the year - all we would see is buildings which could also make our unit very dark and this is not acceptable to us.

Also, on behalf of our group of Submitters who are present at this Hearing and other residents in our complex, I would like to add that we are all in our 70's, with some residents even in their 80's, so a lot of us have health problems and/or are dealing with spouses health problems and we shouldn't have had to cope with the stress and extra work that this Application has caused over the last eighteen months. At our time of life, we should be able to chill out, relax and just enjoy life and not have to deal with matters of this nature.

The Applicant is wanting to come into the neighbourhood and build outside the Regulations so that his family can get fantastic views and sun which they could also get by building within the footprint already there. Regulations are Regulations so why have them if they are not adhered to? If Resource Consent is granted, one couple will get their dream retirement home at the expense of many neighbouring residents

Submitters: Larry & Kaylene Stewart

who will lose the enjoyment of their existing retirement homes!! These people will be hugely disadvantaged which could cause a lot of further stress for, possibly, the rest of their lives.

It's not fair and it's certainly not neighbourly!!

Yours sincerely

Larry and Kaylene Stewart

Unit 11 / 120 St Aubyn Street (Unit GC - Richmond Estate)

New Plymouth







22/07/21 at 3.35pm - Sun and light coming in through windows on western side downstairs. It can be inferred from Boon SK5.08 that we will lose direct sun into these rooms from 4pm over the May-June months.

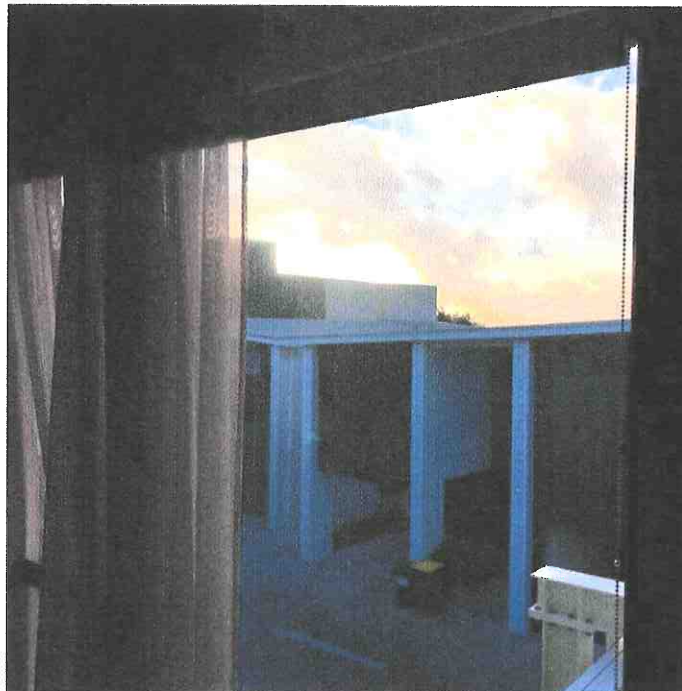


22/7/21 at 3.46pm - Sun coming into master bedroom from window on seaward side and through the doorway into the upstairs lounge



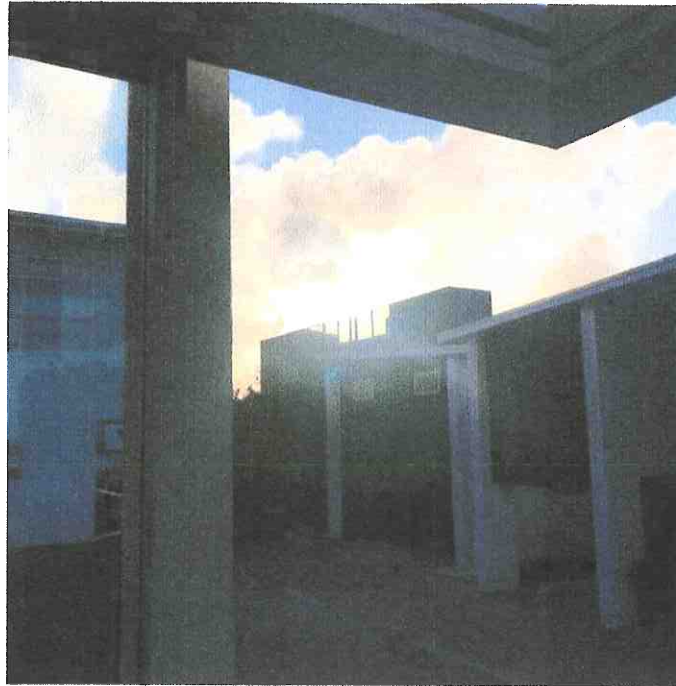


09/08/21 at 4.45pm - Sun coming into Grandkids bedroom through window on western side upstairs



22/07/21 at 4.48pm - Sun just disappearing over top of existing building - taken through master bedroom window on seaward side





20/09/21 at 5.21pm - Sun just disappearing over top of existing building - taken from downstairs deck. It can be inferred from Boon SK5.08 that the sun will be lost behind the proposed development from 4pm onwards over the months of May-June (sunsets 5.15pm & 5.08pm) ; 4.30pm onwards July and August (sunsets 5.25pm and 5.51pm); 5pm onwards in September (sunsets 6.19pm) and 5.30pm onwards in October (sunset 7.47pm)

Please Note : 22/07/21 was also cloudy when photo's were taken so our unit would be even sunnier on a clear day





22/07/21 at 3.36pm - Lounge and Dining



09/08/21 at 4.41pm - Lounge and Dining

It can be inferred from Boon SK5.08 that we lose sunlight from this area as early as 4pm over the months May and June and from 4.30pm onwards over July and August.





After hearing the Applicant's Evidence on Thursday, 23 September 2021, we would like to add the further comments:-

**Statement of Evidence of Emily Kathryn Batchelor**

3.4 States - "In September, the Richmond Estate as a whole will receive additional shading (with a proposed and with a permitted development) for a total of 1.5 hours of the day. For the Richmond Estate, September is one of the months of the year with the highest amount of additional shading."

..... Etc.

"In Summary, in September, the Stewarts will experience approximately 1.5 hours of additional shading. etc."

***We note that Emily acknowledges the fact that we will lose 1.5 hours of additional shading a day but the Applicant's advisers all say that the effect on us will be minor!! This is a lot of sun and light that we will miss out on, especially at the end of the day when it is enjoyable to sit down and relax with a bit of sun, especially when one has visitors.***

**Statement of Evidence of Darelle Marie Martin (Planner)**

Para. 6.2 States in response to Mr Jackson's evidence - "It is incorrect to describe the Body Corporate submission as unanimous, as the 16<sup>th</sup> owners of Richmond Estate, Michael Douglas Hammond and Helen Mavis Schouten, provided written approval for the application."

***There are actually only fifteen units in the complex and it should be noted that the people mentioned are the owners of Unit 7 in the tower which is on level 8, so, obviously, they will not be affected in any way. It was also interesting to note that this unit is one of the few in our complex who received initial notification of the original application. I think I am correct in saying that only the top two or three levels in the tower received initial notification and all the units who will be affected if consent is granted weren't considered.***

We also wish to place on record that, while the Applicant's Planner, Darelle Martin, has given extensive evidence of the effects that may or may not result from the proposed development, she has not visited our apartment and, as far as we are aware, has not visited any other apartments in the Richmond Estate or the Oceanview apartments either.

