

**HEARINGS REPORT UNDER SECTION 42A OF THE RESOURCE MANAGEMENT  
ACT 1991 FOR LANDUSE CONSENT APPLICATION LUC23/48350**

<b>Applicant:</b>	KD Holdings Ltd
<b>Site Address:</b>	39-41 Molesworth Street, New Plymouth
<b>Legal Description:</b>	Lot 1 – 2 DP 17052 comprised in Record of Title TNJ1/808
<b>Site Area:</b>	891m <sup>2</sup>
<b>Operative District Plan Zoning:</b>	Business B Environment Area
<b>Proposed District Plan Zoning:</b>	City Centre Zone
<b>Operative District Plan Overlays:</b>	State Highway 44, urban view shaft, coastal policy area, Martin new Plymouth Railway Designation N8, sight of significance to Māori – 736 (Waimanu Pa)
<b>Proposed District Plan Overlays</b>	Archaeological Site/Site of Significance to Māori ID 736 Pa, Coastal Environment, Coastal frontage site, State Highway 44, Height Management Area B – 14 metres, Noise Control Boundary.
<b>Proposal as notified:</b>	<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>
<b>Status:</b>	<p>Proposed District Plan – Appeals Version: Discretionary</p> <p>Operative District Plan: Permitted</p> <p>NESCS: Discretionary</p>
<b>Application received:</b>	17th October 2023
<b>Limited notification:</b>	20 March 2023
<b>Submissions closed:</b>	19 <sup>th</sup> April 2024
<b>Further information requested:</b>	<p>S92(2) 6 December 2023 (peer review of LVIA)</p> <p>S92 – traffic information request (agreed s92)</p>

## **SCOPE/PURPOSE OF THIS REPORT.**

1. This report has been prepared in pursuant to s.42A of the Resource Management Act 1991 (RMA) and provides an assessment of the proposal in accordance with the relevant matters specified in the RMA.
2. The subject site is located at 39-41 Molesworth Street, New Plymouth in the City Centre Zone of the Proposed District Plan – Appeals Version (PDP-AV).
3. The report provides an opportunity for the submitter to see how their submission has been evaluated and the recommendations being made by the planning officer.
4. In light of the above, wherever possible, I have provided a recommendation to assist the commissioner on whether or not the consent should be granted.
5. The conclusions reached and the recommendations made in this report are not binding on the Commissioner and it should not be assumed that the Commissioner will reach the same conclusions or decision after having considered all of the evidence.
6. Should the Commissioner agree with my assessment under section 104(1) and conditions that the proposal can be granted, I have provided recommended conditions of consent for reference. Note that the conditions may not be all comprehensive and may be varied as a result of the hearing, subject to the discretion of the Commissioner.

## **STATEMENT OF QUALIFICATIONS AND EXPERIENCE**

### **Experience**

7. My name is Karleen Thomson. I hold the qualification of a Bachelor of Social Sciences, meeting the requirements for a major in Geography from the University of Waikato. I am a Senior Planner at Laurenson Planning Ltd and I am the processing planner on behalf of the New Plymouth District Council.
8. I have approximately 20 years' experience as a Resource Consent Planner. I have been working with Laurenson Planning Ltd for the last 5 years. I am a full member of the New Zealand Planning Institute.

## **SITE VISIT**

9. I conducted a site visit of the application site and surrounding area on Monday the 3 March 2024, having previously completed a land use consent for the site and being familiar with the area.

## **STATUTORY REASONS FOR THE APPLICATION & ACTIVITY STATUS**

### **National Environmental Standards**

10. 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 and development 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.

### **Statutory Acknowledgement Area**

11. The site is located within an area that contains a Statutory Acknowledgement, specifically Te Atiawa Coastal Marine Area Scheduled Statutory Acknowledgement under the Te Atiawa Claims Settlement Act 2016.

### **Operative District Plan 2005 (ODP).**

12. At the time the notification decision was made the site was located within the Business B Environment Area and contains overlays as detailed at the start of this report.
13. 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.

<b>Rule #</b>	<b>Rule Name</b>	<b>Status of Activity</b>	<b>Comment</b>
Bus 22	Erection or use of buildings for noise sensitive activities.  Requirement for sound attenuation of any building.	Permitted	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.  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.

14. As detailed above, the proposal is a Permitted activity under the OPD.

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

15. The appeals version of the Proposed New Plymouth District Plan was released on 14 September 2023 (PDP-AV). At this point in 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).
16. The site is located within the City Centre Zone and contains overlays described earlier in this report.
17. An assessment against the relevant Rules and Effects Standards of the PDP-AV is included in Tables 3 and 4 below:

**Table 3: Analysis of PDP Rules following release of appeals.**

<b>Rule #</b>	<b>Rule Name</b>	<b>Status</b>	<b>Comment</b>
City Centre Zone			
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 structure on a coastal frontage site	Discretionary	Additions are proposed that will increase the GFA of the building.
Noise			
NOISE – R6 <b>Subject to Appeal</b>	Alterations, or additions to a building for a noise sensitive activity	Permitted	Proposal required to comply with Noise standard S3.
Sites and Areas of Significance to Māori			
SASM-R17	Earthworks within the extent of a scheduled site or area of significance to Māori, 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
Transport			
EW-R10	Earthworks for building activities	Restricted Discretionary	The proposal does not comply with EW-S2 maximum cut depth or fill height. Seven anchor piles 11.5m deep are proposed.
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	Restricted Discretionary	The proposed western extension, and portions of the proposed



	corridor		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.
Coastal Environment			
CE-R1	Earthworks	Discretionary	<p>Permitted where the earthworks are permitted under all relevant rules in the Overlay Chapters and the Earthworks Chapter.</p> <p>The earthworks are not permitted under the earthworks chapter (EW-S2)</p>
CE-R5 <b>Subject to Appeal</b>	Building Activities	Discretionary	<p>Permitted where all underlying zone rules and effects standards are complied with.</p> <p>The proposal does not meet the zone rules as it is on a Coastal Frontage Site</p>

**Table 4: Analysis of PDP Effects Standards following release of appeals.**

Effects Standard #	Effects Standard Name	Complies?	Comment
CCZ-S1	Maximum Structure Height	Complies	<p>The property is located in Area B of height management area which has a maximum structure height of 14 metres.</p> <p>The building has a proposed height of 13.84m.</p>
CCZ-S2	Defined Pedestrian Frontage Requirements	N/A	The site does not have an identified defined pedestrian frontage.
CCZ-S3	Boundary Fence and wall requirements	N/A	No fencing is proposed along the road boundary.
CCZ-S4	Minimum Residential Size	Complies	<p>Residential units must have a minimum net internal floor area as follows:  30m<sup>2</sup> for studios.; or  45m<sup>2</sup> for one or more bedrooms.  Three bedrooms are proposed with a floor area of 320m<sup>2</sup></p>
Noise-S3	Noise	Will Comply	1. Any noise sensitive activity with

	Insulation standards for sensitive activities.		<p>a noise sensitive room in a new building or alteration or addition to an existing building shall be designed, constructed and maintained to meet an internal noise level in:</p> <p>A. Bedrooms – D2m, nT,w+ Ctr.&gt;30dB</p> <p>B. Other habitable rooms – D2m, nTw + Ctr &gt;25dB.</p> <p>2. Compliance with (1) above shall be achieved if prior to the construction of any building containing a noise sensitive room, an acoustic design certificate from a suitably qualified and experience acoustic consultant is provided to the Council which certifies that the proposed design and construction of the building, alterations or additions will achieve internal sound levels. The building shall be designed, constructed and maintained in accordance with the design certificate.</p> <p>3. A ventilations system shall be installed in the noise sensitive rooms.</p> <p>The agent proposes to provide confirmation from an acoustic engineer that the noise sensitive rooms will comply with the required criteria prior to construction.</p>
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	<p>As soon as it is practicable, but no later than six months from the commencement of earthworks or land disturbance:</p> <p>1.the earthworks area shall be stabilized, filled, recontoured and revegetated to achieve</p>

			<p>80% ground cover in a manner consistent with the surrounding land; or</p> <p>2. sealed, paved, metalled or built over.</p> <p>Proposal can comply with standard</p>
EW-S4 Subject to appeal	Control of Silt and Sediment	Complies	<p>For the duration of earthworks or land disturbance, measures must be implemented to prevent silt or sediment from entering the stormwater system, waterbodies, overland flow paths or roads. The measures must be installed prior to the commencement of earthworks or land disturbance and maintained until the site of the earthworks or land disturbance has been reinstated in accordance with EW-S4.</p> <p>Proposal can comply with standard</p>
EW-S5 <b>Subject to appeal</b>	Requirements for discovery of sensitive material during earthworks or land disturbance	Complies	<p>Despite any other rule in this plan permitting earthworks or land disturbance, or any activity associated with earthworks or land disturbance, in the event of discovery of sensitive material during earthworks or land disturbance (which is not expressly provided for by any resource consent or other statutory authority, the owner of the site or the consent holder must take the following steps:</p> <ol style="list-style-type: none"> <li>1. Cease works and secure the area.</li> <li>2. Inform tangata whenua, NZ Police if the discovery is of human remains or koiwi, The Council, Heritage NZ Pouhere Taonga.</li> <li>3. Wait for and enable an inspection of the site.</li> <li>4. Recommencement of work must not recommence until all requirements, listed (a)-(e) in EW-S5.4 have been met.</li> </ol> <p>Proposal will comply with standard in the event of accidental discovery.</p>

TRAN-S1	Design standards for vehicle access points onto a SH that is not a LAR	<b>Does not comply.</b>	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
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18. The proposal is a Discretionary Activity being the highest activity status under the above relevant rules.

## NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH

Requirement	
<p><b>Regulation 8(3) Permitted Activities</b></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 m<sup>3</sup> per 500 m<sup>2</sup>:</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>(ii)for all other purposes combined, a maximum of 5 m<sup>3</sup> per 500 m<sup>2</sup> of soil may be taken away per year:</p>	<p>Historical use of the site was previously used for outdoor storage of (potentially) treated timber and automotive dismantling/wrecking yards. Both are recognized as HAIL activities.</p> <p>Personal protection equipment and clothing will be utilised by workers to ensure compliance with subsection (a).</p> <p>Proposal will comply with subsection (b)</p> <p>The permitted disturbance is 44.5m<sup>3</sup>. Proposed disturbance is approximately 36m<sup>3</sup>. The proposal complies with subsection (c).</p> <p>Most of the soil is likely to be removed from site. The permitted volume for removal is 8.9m<sup>3</sup>, as most of the 36m<sup>3</sup> will be removed, the proposal <b>does not</b> comply with subsection (d).</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>Soil removed from site will be disposed of at a facility authorized to receive the material. Proposal will comply with subsection (e).</p> <p>The disturbance of soil will not exceed 2 months complying with sub section (f).</p> <p>Exposed surfaces will be sealed over, complying with subsection (g).</p>
<p><b>Regulation (9) Controlled Activities</b>  Removing or replacing fuel storage system, sampling soil, or disturbing soil  (1)If a requirement described in any of <u>regulation 8(1) to (3)</u> 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 <u>regulation 7</u>:</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><b>Regulation (10) Restricted Discretionary Activities</b>  (1)This regulation applies to an activity described in any of <u>regulation 5(2) to (6)</u> on a piece of land described in regulation 5(7) or (8) that is not a permitted activity or a controlled activity.</p>	

<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:</p>	<p>A DSI has not been provided.</p>
<p><b>Regulation (11) Discretionary Activities</b> (1)This regulation applies to an activity described in any of <u>regulation 5(2) to (6)</u> on a piece of land described in regulation 5(7) or (8) that is not a permitted activity, controlled activity, or restricted discretionary activity.</p> <p>(2)The activity is a discretionary activity</p>	<p>The proposal does not meet the criteria for a permitted activity due to the volume of earth being removed from site being greater than 8.9m<sup>3</sup> approximately 36m<sup>3</sup> will be removed.</p> <p>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.</p>

### Requirement for Other Consents.

19. It has been determined that no further resource consents under the RMA are necessary for the proposal including any consents from Taranaki Regional Council.

### SITE DESCRIPTION AND SURROUNDING ENVIRONMENT

20. 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.*



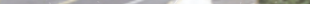


Figure 1: Application Site (source: Boon Architecture Plans)

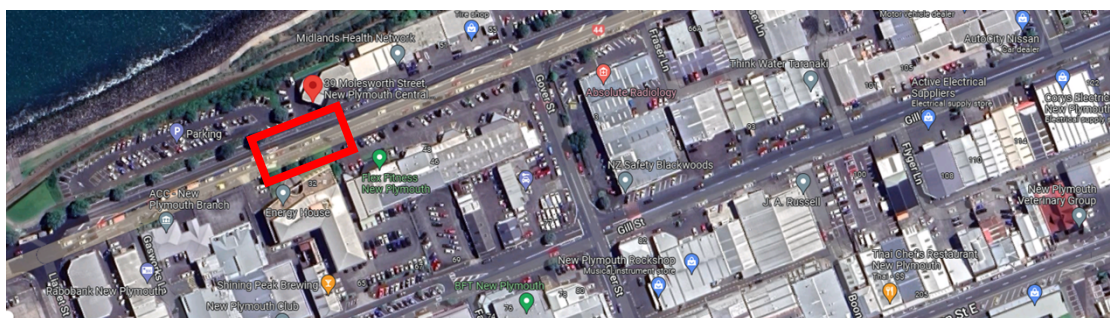


Figure 2: Aerial of subject site and surrounding area (source: Google Maps)

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



Photo 1: Application Site





Photo 2: Application site and car parking



Photo 3: Approximately location of extension to the side





Photo 4: Streetscape adjacent to the application site looking east

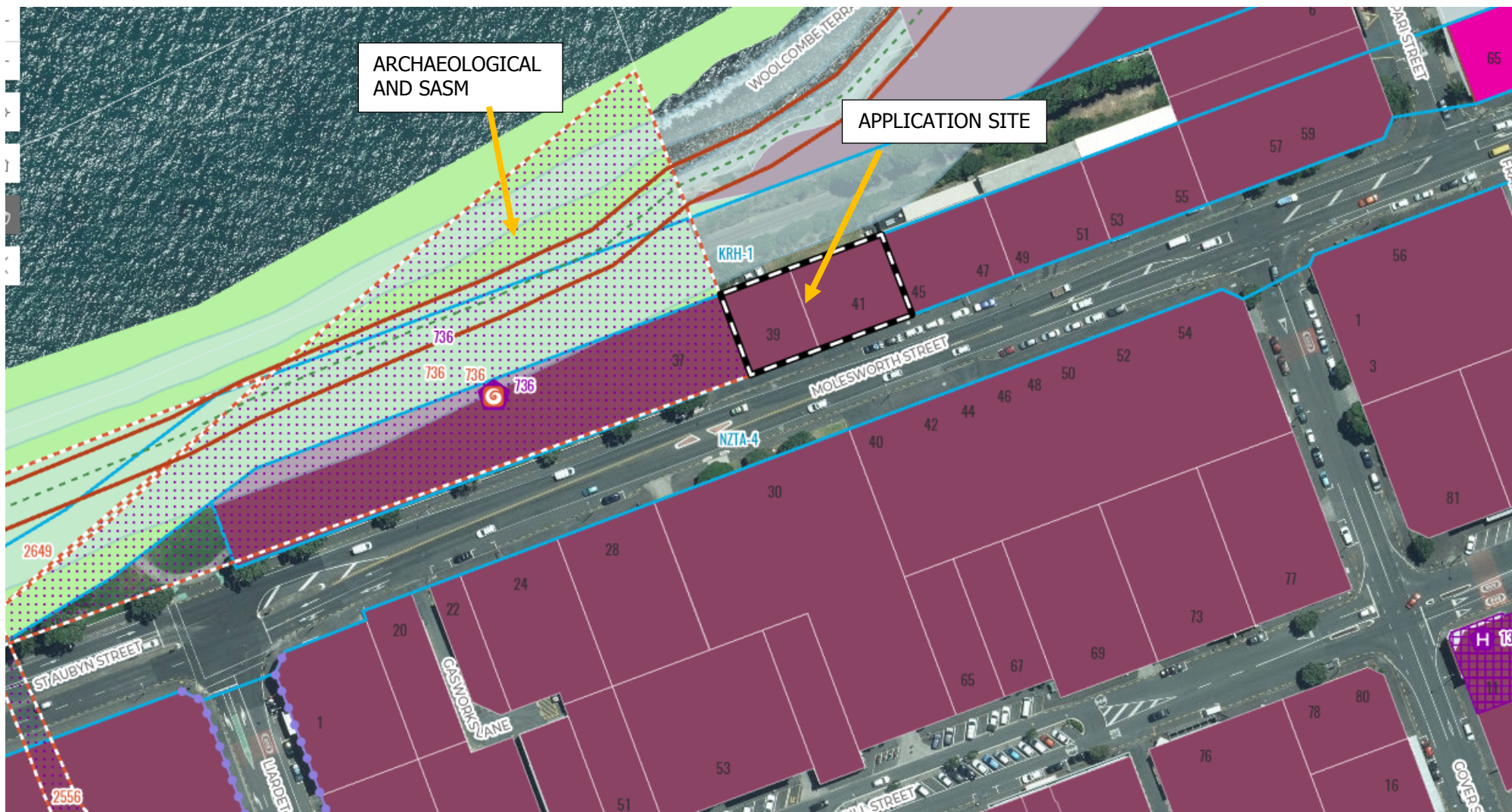


Photo 5: Streetscape looking west from application site. Entrance to adjoining public car park.



Photo 6: From coastal walk way looking towards the building (circled)





**Figure 3: PDP MIXED USE ZONE WITH ONLY ARCHAEOLOGICAL (DOTS) AND SASM (RED & WHITE DASHED OUTLINE) OVERLAY. (Source: NPDC GIS)**





**FIGURE 4: ENLARGED AERIAL OF THE SITE (BLACK & WHITE DASHED OUTLINE) AND SURROUNDING AREA (Source: NPDC GIS)**



## PROPOSAL

22. 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 m<sup>3</sup> 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 carparks 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.*

23. 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. These reports are attached in Appendix C and De respectively.
24. 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.

25. The current application will 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.
26. 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.
27. A full copy of the application is attached as Appendix 2, Appendix 3 contains the development plans (excluding the cultural narrative), Appendix 4 a copy of the peer review of the LVIA by Blue Marble Landscape Architects, Appendix 5 a copy of the notification Report, Appendix 6 a copy of the submissions and Appendix 7 the Cultural Narrative – Options 1 and 2 and associated correspondence. A set of draft conditions, agreed to through conferencing is attached as Appendix 1, to this report.
28. Expert conferencing was undertaken on Monday 15 July 2024 with Darelle Martin (planner) BTW Company Ltd representing the applicant), Sean Zieltjes (planner, Ngati Te Whiti Hapu).

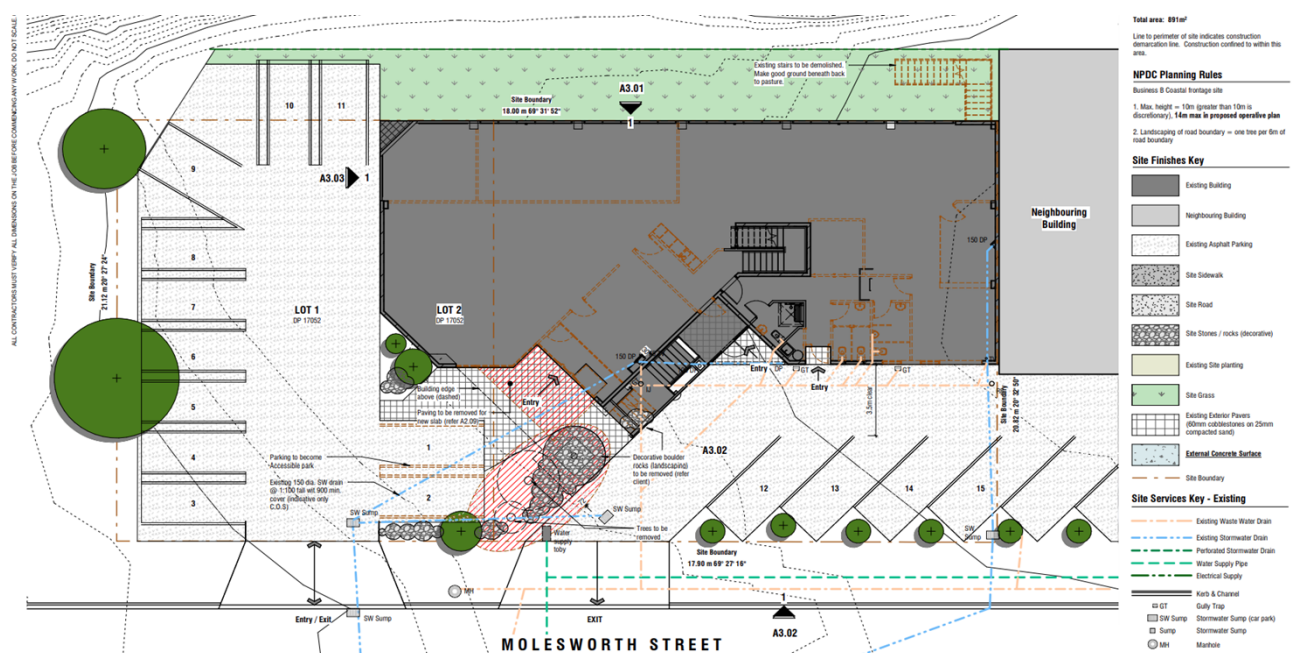


Figure 5: Existing Site Plan (previously approved)

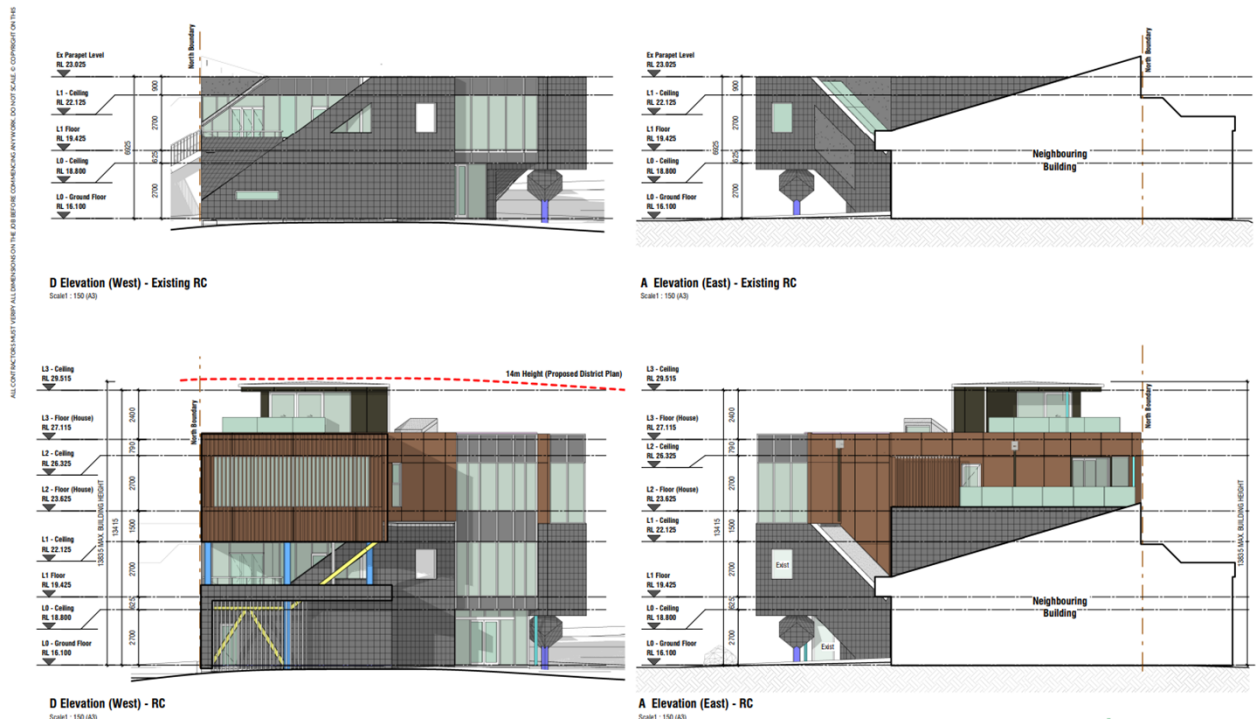
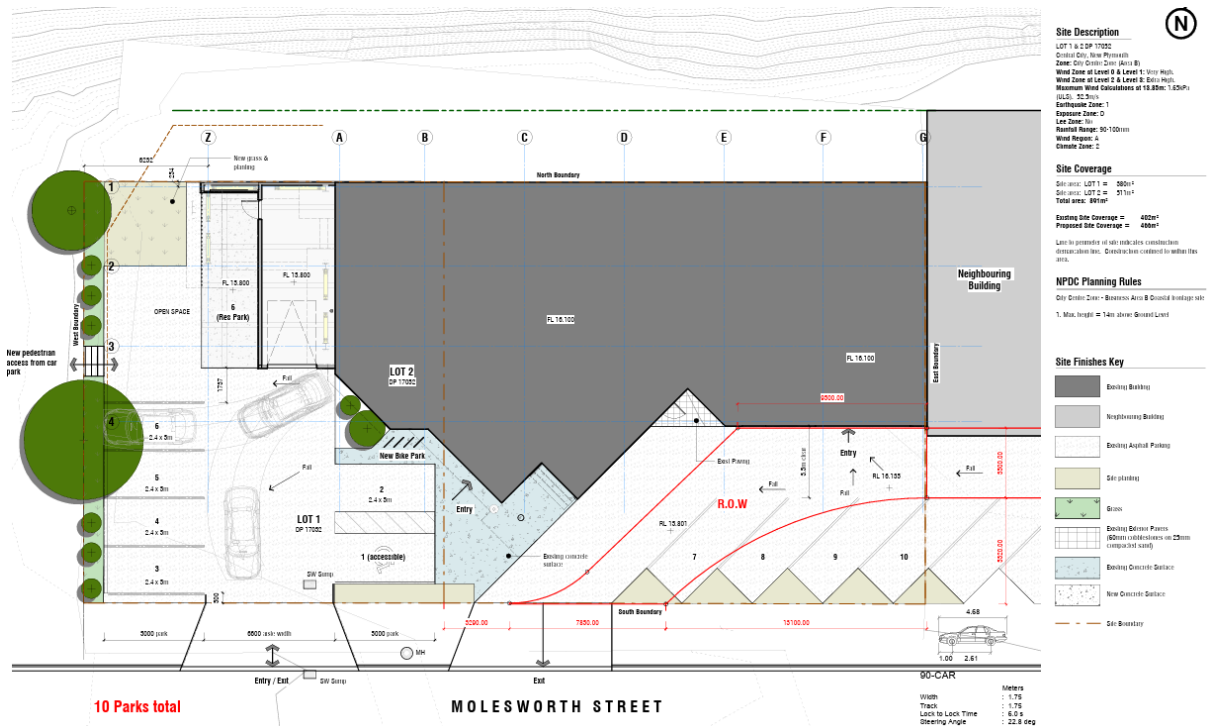








Figure 5E: Existing Building (source: Google Maps) – rock sculpture has been removed.

29. 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.*

## NOTIFICATION AND SUBMISSIONS RECEIVED

### 30. Notification Decision

31. The application for land use consent was subject to limited notification under s 95B of the Act<sup>1</sup>. The application was limited notified on the 20 March 2024 to the following parties:

- Te Kotahitanga o Te Atiawa
- Ngāti Te Whiti hapu
- Ngāti Tuparikino hapu
- Ngāti Tawhirikura hapu:

32. A copy of the Notification Decision is in Appendix 5.
33. **Submissions Received**
34. A copy of the submissions received are attached in Appendix 6. One submission was received in support of the application and one submission in support as detailed below.
35. Ngāti Te Whiti
36. Ngāti Te Whiti support the application in whole/part and originally did not wish to be heard in support of their submission, but were open to discuss the application further. Subsequent to receipt of this submission, the applicant has been engaging with Ngati te Whiti. Subsequent to this engagement, Ngati te Whiti has now sought to be heard.
37. Ngāti Te Whiti oppose the 4 level building on Te Waimanu or Pukemanu. Ngāti Te Whiti appreciate Boon Architect history and description of the 1990's building, however, today this does not reflect Cultural relevance to Te Waimanui or Ngāti Te Whiti cultural values in the CBD strategic plan.
38. Ngāti Te Whiti seek that the application be granted resource consent with amendments and/or conditions on the basis that the plans are revised to reflect the Waimanu Pa.
39. Beverley Gibson
40. Ms Gibson on behalf of Ngāti Tawhirikura, opposes the application in whole or part, and wishes to be heard in support of the submission. The decision sought from Council is to decline the application.
41. The reasons for the submission are:
- Concern at the height of the new building will set a precedence and see a rise for other high rise buildings going up along the coastline. This will desecrate the natural beauty of the Ngmotu coastline. Rather than sighting the beautiful indigenous foliage of the green and wild landscape, new high rise builds will grow and ruin our topography and vista.
  - The views of the build from the walkway are incongruous with the profile of natural features, landscape, contour, space and surroundings.
  - A lookout point and a third floor are an unnecessary addition. The building with a residential apartment on the second floor will have expansive views already as far as the eye can see across the moana from Paritutu to Paraninihi Ki Waitotara.
  - The connection of Ngati Tawhirikura, Ngati Tuparakino and Ngati Te Whiti to the whi tap, Waimanu Pa is well known and recorded in a newspaper article of October 1905. There appears to be no acknowledgement or alignment to the whi tap in the design of the proposed build. Rather it is a large building that is out of character and distinctively different to its surroundings.
  - Ms Gibson has advised that she is confused by the term 'minor' concerning adverse effects. Given that each person is looking at a project for resource consent from different angles, in my view. The implicate of the effect is moderate high concerning #3, #4, #5 and #6 below.
  - RMA (1991) se provides the meaning of effect. I note the westward side of the existing building of Pinnacle Health will be shadowed and will not receive the warmth of the sun in the late afternoons and summer evenings.

- This application suggests level 1 & level 2 are offices. How long will this condition be in place before the owners request another resource consent to change levels 1 and 2 into residential blocks.

## **SECTION 104 CONSIDERATIONS**

42. This section of the report outlines the statutory framework of the Resource Management Act 1991 under which the assessment of the application will be undertaken.
43. **Section 104**
44. Matters to be considered by the Council when assessing an application for resource consent under s104 of the Act include, subject to Part 2, any actual and potential effects on the environment, any relevant objectives, policies, rules or other provisions of a Plan or Proposed Plan and any other matters considered necessary (i.e. under s104(1)(c)).
45. The following sections of this report will assess the proposal's effects on the environment and against any relevant objectives, policies of the New Plymouth District Plan (Waikato Section) and Proposed New Plymouth District Plan, the New Zealand Coastal Policy Statement, and the Operative Regional Policy Statement and other relevant regulations and other matters considered necessary.
46. **Permitted Baseline**
47. Section 104(2) contains the statutory definition of the permitted baseline. This section specifies that when forming an opinion with regard to the actual and potential effects on the environment of allowing the activity, the consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect. Application of the permitted baseline is a matter of discretion for the consent authority. If is applied, permitted effects cannot then be taken into account when assessing the effects of a particular resource consent application. The baseline has been defined by case law as being non-fanciful (credible) activities that could be permitted as of right by the District Plan.
48. In this case the permitted baseline has not been applied due to the number of non-compliances with the effects standard of the PDP-AV and that there is no permitted baseline under the ODP. Addition or Erection of a structure and earthworks within the vicinity of a SASM are not provided for as a permitted activity and there is no comparable activity. Accordingly, the proposal will be assessed on its merits.
49. **Existing Environment**
50. The existing environment can be considered including the existing building and recently approved land use consent (LUC22/48292) for earthworks in association with an upgrade to an existing commercial building. These amendments were minor upgrades for earthquake strengthening and a small addition to the existing building, all within the footprint of the current building's roof area.

## ASSESSMENT OF EFFECTS - Section 104(1)(a)

51. The potential effects from the proposal on the environment are categorised below and have been primarily determined from an assessment of the application, support documents and the submissions received. I consider the main effects from the activity to be associated with the height of the building, traffic effects, earthworks, contaminated land, building within the extent of a Site and Area of Significance or within 50 metres of the extent of a mapped archaeological site and amenity.
52. As a Discretionary Activity PDP-AV, Council's discretion is not limited, however matters of discretion against relevant rules where appropriate will be used as a guide for assessment.

### Height

53. The building is currently two stories high, the extensions to the building include an addition to the side at ground floor level comprised of a single car garage and carport and a third floor three bedroom apartment with fourth floor lookout/living space and associated deck.
54. The site is located within a height management area, specifically Area B. As detailed in the PDP-AV district plan assessment Area B has a maximum height limit of 14 metres. The 45m<sup>2</sup>, 2.4m high fourth floor addition brings the total height to 13.84m high, the balance of the building is just over 11 metres high.
55. The LVA peer review by Blue Marble has acknowledged the fourth level, specifically in response to the Boon report. Paragraph 2.11 of the Blue Marble report states "*The scale of the building is described, relating its height to new (14m) PDP height limits in this area. Regarding the proposed 4th-level building the LVIA contends that its smaller footprint helps "offset the potential bulk and scale of the building". I do not necessarily share this view that the 4th level building creates a positive effect by way of scale offset. One could argue that it is out of scale with the wider building and appears out of character. I discuss this matter later in this review*".
56. Paragraph 2.17 goes on to state "*The assessment of landscape effects identifies effects on landscape values in the context of the relevant statutory provisions. This includes, amongst other things, reference to the small footprint of the level 4 lookout structure which "could have occupied a much greater area". I referred to this lookout structure earlier in this review about its scale. The LVIA's assessment, as described above, strikes me as slightly perverse - essentially saying that its okay because it could have been worse. I'm not sure I agree. However, the fact is that that it does not exceed the permitted height limit*".
57. I agree with the last sentence of the above paragraph that the building additions, specifically the fourth floor does not exceed the permitted height limit and thus the height is permitted. The comments from the submitters are noted, that the height of the building is undesirable, particularly with regard to the coastal amenity. I will discuss this aspect further within this report, however, with respect to the height, as there is no actual breach of the height provisions of the plan, no further regard can be had to this aspect. Therefore, whilst the submitter is of the view that the lookout point and third floor is an unnecessary addition, I am also of the view that it is out of the scope of why consent is required.

58. Traffic

59. The traffic non-compliances are detailed above and relate to the width of the right of way, access separation, and location of the extension to the rail corridor. In isolation, the activity status of these non-compliances would be a restricted discretionary activity and as such I will in this case use the matters of discretion as a guide for the effects assessment.
60. Primary effects are the potential for adverse effects on the safety and efficiency of the site and the transport network. The right of way is 3.5m instead of the required 4m. The right of way is shared with the adjoining tenancies and operates on entry/exit only half moon style access. The width of the right of way is not changing as a result of the proposal and can easily facilitate the movement of vehicles without compromising the safety or efficiency of the transport network.
61. Failure to comply with the access separation or right of way width will not impact upon the ability for a fire appliance to be able to reach the building or the source of a firefighting water supply from the road. Council's Development Engineer has reviewed the proposal and has not raised any concerns.
62. A separate dual entry/exit vehicle entrance provides for a separate parking area for car parks numbered 1-6, along with access to the garage and car port. Sufficient room is on site to enable vehicles to exit the site in a forward direction. Access separation is not achieved with either the nearby right of way to the east or the public car park to the west. This is an existing situation. Any effects from failing to comply with access separation will be acceptable.
63. There will be an increase in vehicle movements as a result of the proposal. Whilst the tenancies of the office space is unknown, this space has been previously occupied for business use and it is anticipated that there will be little change. The increase will arise as a result of the residential use of this space. Provision in the form of a garage and carport are made for the dwelling, vehicle movements from a private residence are generally in the order of 10 per day. However, given the proximity of the site to the central business district this could be less. Regardless, provision is on site for onsite manoeuvring. Any effects will be no more than minor.
64. With respect to the location of the building being situated within 2 metres of the rail corridor, it is noted that the rail corridor is located at a lower level than the proposed building. The topography and associated height differential between the location of the rail corridor and proposed building ensures that the safety and efficiency of the rail corridor is not compromised. Sight lines along the rail corridor will not be obscured. Any effects will be no more than minor and acceptable.
65. Earthworks
66. Earthworks consent is required for the depth of cut with the seven proposed anchor piles which will be 11.5 metres deep, which will ensure stability of the building. These works will not impact upon the stability of the land nor create or exacerbate any natural hazards, nor impact upon natural drainage patterns, or redirect overland flow path. The anchor piles will be concealed beneath the ground and the ground level of the site maintained and all stormwater disposal managed.
67. Traffic movements associated with the earthworks will be approximately 5 heavy vehicles, with noise effects during construction anticipated to comply with the

construction noise standards. Provision for parking is available on site. Any effects arising from the earthworks and associated construction effects are considered to be no more than minor and will be acceptable.

68. Contaminated Land

69. The agent has provided an assessment of this in Section 3.2 and 4.3 of the application. I adopt this assessment, however in summary the proposal exceeds the permitted volume of earthworks of 8.9m<sup>3</sup> being removed by site. The proposed volume is approximately 36m<sup>3</sup>. Conditions of consent have been offered by the agent, inclusive of erosion and sediment control, and earthworks management plan that includes use of personal protective equipment. Subject to the proposed mitigation measures any effects will be no more than minor and acceptable.

70. Building within the extent of a Site and Area of Significance to Māori

71. The earthworks will occur within 50 metres of the extent of a recognized SASM, specifically the Waimanu Pa. Ms Gibson on behalf of Ngāti Tawhirikura has submitted in opposition to the proposal, one of the issues being that there is no acknowledgment or alignment to the wahi tapu in the design of the proposed building. Rather it is a large building that is out of character and distinctively different to its surroundings. Ngāti Te Whiti are also of the view, that the building today, does not reflect the cultural relevance to Te Waimanu or Ngāti Te Whiti's cultural values.

72. A copy of the submissions was provided to the applicant's agent – BTW Company Ltd. On the 2<sup>nd</sup> July 2024 the agent provided an update on the outcome of further consultation with Ngāti Te Whiti Hapu following their submission. This update is included at the back of Appendix 7 attached to this report. As a result of this consultation, the proposal is to include a cultural narrative in the site design plans. This is by way of mata kupenga (fish net/scales) etching on the pavement, and a stone marker incorporating "Waimanu" as text and a design etched or carved.

73. The inclusion of a cultural narrative was recommended in the LVIA by Boon Architects, however at that time, the relevant conversations had not occurred for it to have been incorporated into the LVIA. The proposed cultural narrative was developed between a representative of Ngāti Te Whiti and Boon Architects through a process that was agreed during post submission hui between the applicant and Ngāti Te Whiti. The stone marker is an acknowledgement and recognition of the Waimanu Pa adjacent to the site, which although now destroyed still retains cultural significance to Ngāti Te Whiti. The stone marker is one of the non-negotiable features of the cultural narrative and has been agreed to by the applicant.

74. Two options were considered in the creation of a cultural narrative. Option 2 is broadly detailed above in Paragraph 71, although also includes some planting around the stone marker. Option 1 includes all of the features of Option 2, plus patterned screens on selected panels attached to the building. A copy of consultation undertaken and the respective Options are contained in Appendix 7 to this report.

75. The preferred option by Ngāti Te Whiti and Ngāti Tawhirikura is Option 1 as this option recognizes and provides for their relationship with Waimanu, as well as protects the historic heritage values of this particular location.

76. The option selected by the applicant is Option 2, etched paving and stone marker. This is not supported by Ngāti Te Whiti as Option 2 does not achieve the same outcome as Option 1 does in identifying the significance of the area through design of built form.
77. The proposal provides scope for a cultural narrative that recognizes the history of the area and cultural significance. Whilst each party prefers a different Option, the key difference is panels or no panels. I acknowledge the value of the site to Ngāti Te Whiti and Ngāti Tawhirikura, as has the applicant, whom has amended the application to include a cultural narrative, Option 2, to mitigate or avoid any potential adverse cultural effects.
78. In consideration of the rule framework in this regard, the relevant rule is SASM-R17 'Earthworks within the Extent of a Scheduled Site or area of significance to Maori'. Earthworks in this case is the piling of seven anchor piles and some land disturbance associated with the creation of the cultural narrative. This will create minimal disturbance to the area of works. The plan seeks to allow land disturbance and alterations to existing buildings and structures to occur on or in proximity to sites of significance, whilst ensuring their design, scale and intensity will not compromise cultural, spiritual and heritage values, interests or associations of importance to tangata whenua (SASM-P3).
79. The actual earthworks themselves is minimal, primarily related to the depth of the piles, a structural necessity and will be of a short duration. There may be some minor surface works associated with the construction of the garage and creation of the cultural narrative. Again, these works will be minimal and temporary in duration.
80. There will be a slight increase in the footprint of the building to incorporate the garage and carport to the west of the building. The building is existing, the additions and extension provide for an efficient use of the land resource, with the applicant endeavoring to have regard to the cultural significance of the site. Thus indicating that adverse effects on the site or areas of cultural, spiritual and historical values can at least be minimized (SASM-P5).
81. The site and area of significance to Māori is recognized by the inclusion of a cultural narrative and is protected and maintained due to the small extent of land disturbance (SASM-O1). The application provides potential for the relationship of tangata whenua with sites and areas of significance to be recognized (SASM-O2). The cultural narrative will be appreciated by the community and creates a sense of identity (SASM-O3). This is consistent with the outcomes sought by the objectives and policies of the plan.
82. Therefore whilst the specific design of the cultural narrative between the applicant and the submitters is not agreed upon, they are aligned in the fact that a cultural narrative does recognize the significance of the site and as such any effects can be mitigated. Its whether the proposed mitigation is sufficient to allay the concerns of the submitters in recognizing the significance of the site and in this regard I have not formed a position.
83. Earthworks within the extent of a scheduled archaeological site or within 50 metres of the extent of a mapped archaeological site
84. As noted in the district plan assessment the site is located wholly within 50 metres of the extent of a mapped archaeological site. The increased footprint of the building will not adversely impact upon the archaeological site as there will be minimal disturbance to land. The context of the site has been described in the LVIA, the cultural matters



have been discussed above, and no conclusion made. I consider that effects to be similar to that detailed above, and subject to mitigation will be acceptable.

85. Amenity

86. Amenity is subjective, however the main amenity effects are considered to be those associated with building near the coast and amenity comprising building dominance, the amenity of the City Centre Zone and noise.

87. *Building near the coast*

88. The application site falls within the Coastal Environment. The Plan seeks to protect and manage the natural character of the coastal environment, which includes natural and modified landscapes. This is in recognition that natural coastal character is more modified in urban areas than rural areas. Consent is required as the proposal does not comply with the earthworks requirements of the plan and or the underlying zone rules. The effects of earthworks have already been assessed above and considered to be acceptable. The underlying zone rules will be assessed further within this report.
89. In recognition of the coastal environment, an LVIA has been provided by Boon Architects and peer reviewed by Blue Marble. The report by Boon Architects has provided an assessment of the Landscape Context, including character and values, a description of the built form and façade treatments and scale of the building. The LVIA also makes reference to the design statement prepared by Boon Architects. This statement explains that *"the façade design narrative is inspired by the coastal environment the development is situated in. Taranaki's coastline is a combination of black sand, rock, clays and volcanic soils. In certain places erosion allows all these geology strata's to be made visible in one place – White cliffs etc. The design leans on this narrative in creating strata in the façade – black tiles in reference to the black sand, boulders and rock walls. Copper paneling & vertical screens in reference to the clay and mix soils and dark grey paneling in reference to the volcanic topsoil strata. The use of high quality aluminum in the façade is to combat the severe coastal environment the building is subjected to. Other materials like timber may create a softening effect, yet would not last well in those conditions and not meet relevant fire design criteria. The aluminum is durable holds the colour, and provides a striking architectural aesthetic"*.
90. Landscaping will also be undertaken, including landscaping around the stone marker, with input from Ngāti Te Whiti and Ngāti Tawhirikura. *The LVIA has noted that "although the majority of the vegetation in and surrounding the subject site is native, it still lacks local endemic species which aligns with the biodiversity and revegetation aspirations of local hapu and the central city strategy"*. The LVIA has recommended a planting mix that may be more representative of the area and suitable to the site. The applicant's agent has pro-offered a landscaping condition that includes the opportunity for Ngāti Te Whiti to provide advice on. The condition, if accepted and the consent granted, could be amended to include Ngāti Tawhirikura.
91. I further acknowledge that the submitters consider that the third and fourth floor are an unnecessary addition. The height of the building has been disregarded as discussed above, this leaves the effect of the building on the coast line. The plan acknowledges that the coastal environment includes natural and modified landscapes. As detailed in the design statement, consideration has been given to the façade of the building which has been designed to be mindful of its coastal setting. There will be a change in outlook even with the proposed recessive colouring, landscaping will further soften the built

form. I accept the conclusions of the LVIA and peer review that the overall effect on landscape and character value is Mod-Low and that the visual effects on both public and private visual amenity is Low.

92. Paragraph 3.4 of the Blue Marble report has provided a table to assist with defining effect into a less than minor, minor or more than minor scale. Using this scale, the landscape character and amenity effects equates to minor and less than minor visual effects. On this basis, I consider that the overall effects of the proposal are acceptable given the design elements and landscaping proposed.
93. *City Centre Zone*
94. The plan defines the city centre as the principle centre that serves the district and the Taranaki region. It caters for a wide range of activities, particularly retail, business service activities, living activities community facilities and visitor accommodation. The core pedestrian area of the city centre provides for a mix of retail and business service activities, including boutique/small scale shops, complementary retail chains, professional offices and services, and places for entertainment and hospitality. Typically shops and cafes/restaurants are located on the ground floor so there is a flow of activity from the building to the street. Offices and residences are generally and ideally located on the upper floors.
95. The proposal is generally in keeping with this description with the habitable portion of the building situated on the upper floors, tenancies are unknown and may comprise office space. The submitters have raised concern that the lower floors may also revert to residential use, however this is not something that I can consider as part of this application, as it may never occur. Any change in use will be subject to plan provisions, residential living is not precluded in this zone.
96. The submitters have also expressed concern at shading effects of the building. The Boon Architect report considered this aspect of both the District Plan and the building, stating that shading effects are considered to be negligible on neighbouring properties with the majority of the shade affected area being road reserve or car park entrance.
97. On the basis of the above, I am satisfied that the proposal is compatible with the role and function of the City Centre Zone. The City Centre Zone places a lot of emphasis on the planned character, recognizing that built form plays an integral part to creating a sense of place and identity, where people can recognize and appreciate the culture and heritage of an area. The time of development or redevelopment enables the planned character of an area to gradually evolve and be enhanced through cultural design and input. The proposal provides for a cultural narrative and subject to alignment on this narrative, any amenity effects of the proposal with respect to the City Centre Zone are acceptable.
98. *Noise*
99. Noise effects associated with construction have been discussed above under earthworks. With respect to the noise overlay for sensitive buildings, this is subject to an acoustic certificate to confirm compliance at the time of building consent. If consent is granted, conditions of consent will be imposed. Paragraph 4.10.2 of the application assesses the potential noise effects from the rail corridor. I adopt this assessment and concur that the effects will be no more than minor and therefore acceptable.

100. Conclusion
101. In consideration of the above potential effects, I am of the view that the effects are acceptable with respect to traffic effects, there will be little change in effect as a result of the building additions. Provision is available on site for parking and the DE has not identified any traffic concerns.
102. The height of the building is within the permitted provisions of the plan, the amenity of the proposal with regard to the coastal environment, bulk of the building and effects of development within the City Centre Zone are acceptable.
103. I consider that the earthworks effects are limited due to the nature of the works and therefore acceptable. The effects as a result of the structure additions and associated earthworks occurring within the extent of a SASM and archaeological feature. Again, I consider the effects of the actual earthworks and building additions to be acceptable.
104. In recognition that the site does adjoin a site of significance, a cultural narrative has been proposed but alignment on the level of detail on the cultural narrative has not been reached. Therefore, it is yet to be determined whether the effects of the proposal can be mitigated to an acceptable level.
105. In consideration of the above, and subject to resolution of the cultural narrative, I consider the effects of the proposal to be acceptable.

#### **RELEVANT PLAN PROVISIONS - Section 104(1)(b)**

#### **National Environmental Standards**

106. The NESCS has been discussed above and will not be repeated here. Consent is being sought under the NESCS for a Discretionary Activity as detailed above.

#### **National Policy Statements**

##### National Policy Statement for Urban Development 2020.

107. The National Policy Statement on Urban Development 2020 ("NPS-UD") came into effect on the 20 August 2020 and replaced the National Policy Statement on Urban Development Capacity 2016 ("NPS-UDC"). It is noted that Strategic Objectives have been included in the PDP to give effect to the NPS-UD.

**Table 5: Relevant NPS-UD Objectives and Policies to resource consent decisions.**

<b>NPS-UD Objective/ Policy</b>	<b>NPS-UD Intent</b>	<b>Relevant Strategic Objectives</b>
Objective 1	Urban environments are "well functioning" and provide for wellbeing now and into the future	UFD-18
Objective 4	Urban environments including amenity values develop and change over time.	UFD-18, UFD-19, UFD-20
Objective 5	Planning decisions take into account the principles of the Treaty of Waitangi.	UFD-18, UFD-19, UFD-20, UFD-24

Policy 1	Planning decisions contribute to well-functioning urban environments to achieve a range of outcomes.	UFD-18, UFD-19, UFD-20, UFD-24
Policy 6	Decision makers have regard to a range of matters including expected change in urban environments and effects of climate change. Change overtime may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities etc.	UFD-18, UFD-19, UFD-20

108. The proposal is considered to be generally consistent with the relevant Objectives and Policies of the of the NPS-UD 2020 as it provides for urban environments and amenity to change over time to provide for well function environments.

### **New Zealand Coastal Policy Statement 2010**

109. The agent in section 5.5 of the application has provided an assessment of the NZCPS 2010. I have read that assessment and adopt that assessment here.

### **Taranaki Regional Policy Statement 2010.**

110. The Regional Policy Statement includes range of Objectives and Policies which address the development of urban environments. This includes Chapter 15 The Built Environment:

*SUD OBJECTIVE 1: To promote sustainable urban development in the Taranaki region.*

*SUDPOLICY 1 To promote sustainable development in urban areas by:*

*(a) encouraging high quality urban design, including the maintenance and enhancement of amenity values;*

*(b) promoting choices in housing, work place and recreation opportunities;*

*(c) promoting energy efficiency in urban forms, site layout and building design;*

*(d) providing for regionally significant infrastructure;*

*(e) integrating the maintenance, upgrading or provision of infrastructure with land use;*

*(f) integrating transport networks, connections and modes to enable the sustainable and efficient movement of people, goods and services, encouraging travel choice and low-impact forms of travel including opportunities for walking, cycling and public transport;*

*(g) promoting the maintenance, enhancement or protection of land, air and water resources within urban areas or affected by urban activities;*

*(h) protecting indigenous biodiversity and historic heritage; and*

*(i) avoiding or mitigating natural and other hazards.*

111. The RPS was finalised in 2010 and whilst there was an interim review undertaken in 2017, a full review has not since commenced.

112. Since the RPS came into effect there have been a number of key policy changes at the national level including the NPS-UD.
113. In reading the explanations provided for Policy 1 in the Regional Policy Statement, I consider the proposal to be consistent with the above objective and policy. The proposal will contribute to social, cultural and economic well being of people living in urban areas, through the provision of commercial and residential space within the city centre.

### **Operative District Plan 2005.**

114. As outlined earlier in this report the Objectives and Policies of the ODP 2005 have effectively been superseded by the provisions of the PDP. However, as the noise provisions are subject to appeal, assessment of the equivalent rule under the ODP was undertaken and concluded to be permitted under the ODP. As a permitted activity, the proposal is considered to also be consistent with the relevant objectives and policies.

### **Proposed District Plan – Appeals Version**

115. An Assessment of the proposal against the relevant PDP-AV objectives and policies are provided below:

<b>Obj/Pol #</b>	<b>Urban Form and Development</b>
UDF-18	<p>The district develops and changes over time in a cohesive, compact and structured way that:</p> <ol style="list-style-type: none"> <li>1. delivers a compact, well-functioning urban form that provides for connected, liveable communities;</li> <li>2. manages impacts on the natural and cultural environment;</li> <li>3. recognises and provides for the relationship of tangata whenua with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes and other taonga of significance;</li> <li>4. enables greater productivity and economic growth;</li> <li>5. enables greater social and cultural well-being;</li> <li>6. takes into account the short, medium and long-term potential impacts of natural hazards, climate change and the associated uncertainty;</li> <li>7. utilises existing infrastructure and social infrastructure or can be efficiently serviced with new infrastructure and social infrastructure;</li> <li>8. meets the community's short, medium and long-term housing and industrial needs; and</li> <li>9. may detract from amenity values appreciated by existing communities but improve such values for new communities by providing increased and varied housing densities and types.</li> </ol>
UFD-19	<p>There is sufficient land available to meet the short, medium and long-term housing demands of the district, as follows:</p> <ol style="list-style-type: none"> <li>1. in the short to medium-term (in no particular time priority order): <ol style="list-style-type: none"> <li>a. infill;</li> <li>b. undeveloped residential zones, particularly the Structure Plan Development Areas;</li> </ol> </li> </ol>

	<ul style="list-style-type: none"> <li>c. residential intensification in and around the city centre, town centres, local centres and key transport routes where there will be increased housing densities.</li> <li>2. in addition to the above, in the long-term in Future Urban Zones that have been zoned for urban development through a plan change process.</li> </ul>
UFD-20	<p>A variety of housing types, sizes and tenures are available across the district in quality living environments to meet the community's diverse social and economic housing needs in the following locations:</p> <ul style="list-style-type: none"> <li>1. suburban housing forms in established residential neighbourhoods;</li> <li>2. a mix of housing densities in and around the city centre, town centres, local centres and key transport routes, including multi-unit housing;</li> <li>3. opportunities for increased medium and high-density housing in the city centre, town centres and local centres that will assist to contribute to a vibrant, mixed-use environment;</li> <li>4. a range of densities and housing forms in new subdivisions and areas identified as appropriate for growth; and</li> <li>5. papakāinga that provides for the ongoing relationship of tangata whenua with their culture and traditions and with their ancestral land and for their cultural, environmental, social and economic well-being.</li> </ul>
UFD-21	The district has a hierarchy of vibrant and viable centres that are the location for shopping, leisure, cultural, entertainment, residential and social interaction experiences and provide for the community's employment and economic needs.
UFD-21	The district has a hierarchy of vibrant and viable centres that are the location for shopping, leisure, cultural, entertainment, residential and social interaction experiences and provide for the community's employment and economic needs.
UDF-22	<p>The hierarchy of centres in the district is maintained in accordance with the following hierarchy:</p> <ul style="list-style-type: none"> <li>1. the city centre is the principal centre that provides a wide range of retail and business service activities, living activities, community facilities, and visitor accommodation that serve the district and the Taranaki region;</li> <li>2. Waitara, Inglewood and Fitzroy are town centres that provide a range of business, retail and entertainment activities that serve the needs of each town centre's community and, in the case of Waitara and Inglewood, their surrounding rural areas and;</li> <li>3. local centres are made up of rural service centres, village centres, suburban shopping centres and neighbourhood shops that provide convenience-based retail and business service activities which serve the needs of each local centres community and surrounding areas.</li> </ul>
UDF-24	<p>Urban environments are well-designed, liveable, connected, accessible, and safe spaces for the community to live, work and play, which:</p> <ul style="list-style-type: none"> <li>1. integrate and enhance natural features and topography into the design of development to minimise environmental impacts;</li> <li>2. recognise the local context and planned character of an area;</li> </ul>

	<ol style="list-style-type: none"> <li>3. reduce opportunities for crime and perceptions of crime through design solutions;</li> <li>4. create ease of movement in communities through connected transport networks, a range of transport modes and reduced reliance on private motorised vehicles;</li> <li>5. incorporate mātauranga Māori in the design, construction and development of the built environment;</li> <li>6. use low impact design solutions and healthy, accessible, energy efficient buildings; and</li> <li>7. are adequately serviced by utilising and upgrading existing infrastructure and social infrastructure or with new infrastructure and social infrastructure.</li> </ol>
	<b>Tangata Whenua</b>
TW-13	Tangata whenua are able to exercise kaitiakitanga and actively participate in resource management processes and decision-making in a way that provides for the relationship of tangata whenua with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes and other taonga of significance to Māori.
TW-14	Timely, effective and meaningful engagement and consultation with tangata whenua is encouraged and supported.
TW-15	<p>Recognise that tangata whenua:</p> <ol style="list-style-type: none"> <li>1. are kaitiaki;</li> <li>2. hold unique expertise in mātauranga Māori and tikanga;</li> <li>3. are the only people who can identify impacts on their relationship with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes and other taonga of significance to Māori.</li> </ol>
TW-16	Tangata whenua are able to protect, develop and use their ancestral land in a way which is consistent with their culture and traditions and their social, cultural and economic aspirations.
TW-17	Recognise the contribution that tangata whenua and their relationship with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes, and other taonga of significance make to the district's identity and sense of belonging.
NE-8	An integrated management approach is taken when activities impact on waterbodies and the coastal environment, in collaboration with government, councils and tangata whenua.
	<p><u>Comment</u></p> <p>The proposal provides for mixed use in the heart of the centre and has regard to the context and character of the area. The proposal has the opportunity to contribute to the character of the city centre in a way that appreciates the coastal environment and recognises the cultural values of the area. The proposal provides for an efficient use of the land resource, providing residential intensification within the city centre, adjacent to key transport routes. A mix of commercial and residential activities will contribute to the ongoing vibrancy of the city centre.</p> <p>The application site adjoins a site of significance, the cultural values and ancestral linkages to the area are proposed to be recognised, though agreement has on the</p>

	<p>design has yet to be reached there is agreement for a cultural narrative, details to be finalised.</p> <p>The proposal is consistent with the above objectives and policies.</p>
	<b>Sites and Areas of Significance to Māori</b>
Objective SASM-O1	Sites and areas of significance to Māori are recognised, protected and maintained.
	<p><u>Comment</u></p> <p>The plan has recognised the SASM, with an LVIA being provided in support of the application. One of the recommendations of the LVIA is a cultural narrative be considered. Post submissions, constructive engagement occurred in this space, however alignment has yet to be reached. The proposed development seeks to extent the footprint to the west to incorporate a garage and carport, and increase the height of the building by adding a further two storeys (one full storey and a smaller storey).</p> <p>I consider that the proposal is consistent with the objective SASM-O1 as there is recognition of the site, despite the proposed extensions to the building, I consider that the site of significance as mapped is protected and maintained.</p>
Objective SASM-O2	The relationship of tangata whenua with sites and areas of significance to Māori is recognised and protected.
	<p><u>Comment</u></p> <p>The relationship of tangata whenua with the site has been recognized through engagement and the inclusion of a cultural narrative, which will help recognize and preserve the cultural significance of the site.</p>
Objective SASM-O3	Sites and areas of significance to Māori are appreciated by the community and are acknowledged as important to the districts identity.
	<p><u>Comment</u></p> <p>With the incorporation of a cultural narrative, I consider that the proposal will be consistent with SASM-O3.</p>
SASM-P2	<p>Protect and maintain sites and areas of significance to Māori from inappropriate activities by:</p> <ol style="list-style-type: none"> <li>1. Ensuring identified sites and areas of significance to Māori are not disturbed, destroyed, removed and/or visually encroached upon; and</li> <li>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.</li> </ol>
	<p><u>Comment</u></p> <p>The application has endeavoured to reduce effects upon the cultural and heritage values through design.</p>
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"> <li>1. land disturbance;</li> <li>2. demolition or removal of existing buildings and structures;</li> </ol>



	<ol style="list-style-type: none"> <li>3. alterations to existing buildings and structures;</li> <li>4. maintenance and repair or upgrading of existing network utility structures; and</li> <li>5. erection of signs.</li> </ol>
SASM-P4	<p>Manage activities that occur on, or adjacent to scheduled sites and areas of significance to Maori 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"> <li>1. erection of, additions to and relocation of structures;</li> <li>2. earthworks; and</li> <li>3. subdivision of land containing sites and areas of significance to Maori.</li> </ol>
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"> <li>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;</li> <li>2. the extent to which the activity may compromise tangata whenua's relationship with their ancestral lands, water, sites, wahi tapu, and other taonga, and/or the ability to protect, maintain or enhance sites of significance to tangata whenua;</li> <li>3. tangata whenua's responsibilities as kaitiaki and mana whenua;</li> <li>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;</li> <li>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 incorporation of mātauranga Māori principles into the design, development and/or operation of activities that may affect the site; and</li> <li>6. where the site is also an archaeological site, the relevant objectives and policies in the <u>Historic Heritage Chapter</u>.</li> </ol>
SASM-P6	<p>When considering the appropriateness of an activity on, in proximity to, or affecting sites and areas of significance to Maori, have regard to:</p> <ol style="list-style-type: none"> <li>1. the particular cultural, spiritual and historical values, interests or associations of importance to tangata whenua that are associated with the site which may be affected;</li> <li>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 the ability to protect, maintain or enhance sites of significance to Māori;</li> <li>3. tangata whenua's responsibilities as kaitiaki and mana whenua;</li> <li>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 site;</li> <li>5. the outcomes of any consultation with tangata whenua, including any expert cultural advice provided, in particular with respect to mitigation</li> </ol>

	<p>measures and the incorporation of mātauranga Māori into the design, development or operation of activities that may affect the site;</p> <p>6. whether the modification or destruction of a site:</p> <ol style="list-style-type: none"> <li>is required to allow for a significant public benefit that could not otherwise be achieved and the significant public benefit outweighs the retention of the site or area of significance to Māori or parts of the site or area of significance to Māori; or</li> <li>is required to enable mana whenua to realise cultural, spiritual, historical or economic benefits; or</li> <li>is necessary to prevent serious threat to property, people or services; and</li> </ol> <p>7. where the site is also an archaeological site, the relevant objectives and policies in the Historic Heritage Chapter.</p>
<p><b>Comment</b></p> <p>Earthworks are being kept to a minimum, the effects of which can be managed through appropriate erosion and sediment control measures.</p> <p>Recognition of cultural identity through design is one way of achieving the above outcomes, this in turn creates a sense of place that can be appreciated by all. The proposal through design seeks to recognise both the coastal environment within which it is located and the cultural values of the area.</p> <p>A cultural narrative is proposed to recognise the significance of the site. Two options for the cultural narrative have been drawn up with the input of Ngāti Te Whiti and Ngāti Tawhirikura, whilst agreement on which option has not been reached, it appears that there is general agreement for a cultural narrative.</p> <p>The effects of the proposal have the ability to be both minimised and mitigated and therefore I consider the proposal to be consistent with the above policies.</p>	
	<b>Historic Heritage</b>
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-P14	<p>Allow the following activities on or in proximity to an archaeological site provided they do not compromise the sites historic heritage values:</p> <ol style="list-style-type: none"> <li>land disturbance;</li> <li>demolition or removal of existing buildings and structures where the structure is not or does not form part of the site;</li> <li>alterations to existing buildings and structures, excluding earthworks.</li> <li>Maintenance and repair or upgrading of existing network utility structures; and erection of signs.</li> </ol>
HH-P15	<p>Manage activities that occur on or adjacent to scheduled archaeological sites including:</p> <ol style="list-style-type: none"> <li>erection of additions to and relocation of structures.</li> <li>Earthworks; and</li> <li>Subdivision of land containing archaeological sites</li> </ol>
HH-P18	When considering the appropriateness of an activity on, in proximity to, or affecting archaeological sites and scheduled pre-1900 buildings, or on land where

	<p>there is reasonable cause to suspect an archaeological site may exist, have regard to:</p> <ol style="list-style-type: none"> <li>1. the particular cultural and historic heritage values present and their setting;</li> <li>2. the reduction or loss of historic heritage values, including the ability to interpret the place and its relationship with other heritage features/items or archaeological sites;</li> <li>3. the site's sensitivity to change or capacity to accommodate change without compromising the historic heritage values of the archaeological site and surrounds;</li> <li>4. any opportunities to enhance historic heritage;</li> <li>5. any assessments or advice from a suitably qualified and experienced heritage expert or archaeological expert;</li> <li>6. the outcomes of consultation with Heritage New Zealand Pouhere Taonga;</li> <li>7. whether the modification or destruction of a site: <ol style="list-style-type: none"> <li>a. is required to allow for significant public benefit that could not otherwise be achieved and the significant public benefit outweighs the retention of the archaeological site or parts of the archaeological site; or</li> <li>b. is necessary to prevent serious threat to property, people or services; and</li> </ol> </li> <li>8. where the site is also a site or area of significance to Māori, the relevant objectives and policies in the Sites and Areas of Significance to Māori Chapter.</li> </ol>
<p><b>Comment</b></p> <p>The site is adjacent to an archaeological feature. I consider the proposal to be consistent with the above objectives and policy, as the in terms of the mapped extent, the proposal recognises (subject to a cultural narrative), protects and maintains the feature. The cultural narrative provides an opportunity for community awareness of the area to be heightened and appreciated. Effects associated with the works can be managed and mitigated through conditions.</p>	
	<b>Earthworks</b>
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 that the scale, volume and effects of earthworks and land disturbance are appropriate.
EW-P2	<p>Manage earthworks that have the potential to:</p> <ol style="list-style-type: none"> <li>1. create new or exacerbate existing natural hazards, particularly flood events or cause adverse impacts on natural coastal processes.</li> <li>2. Result in adverse effects on: <ol style="list-style-type: none"> <li>a. The stability of land or structures;</li> <li>b. Visual amenity and character;</li> <li>c. Waterbodies and schedule features;</li> <li>d. The health and safety of people and communities;</li> <li>e. Indigenous biodiversity;</li> <li>f. The operation or network utilities; or</li> </ol> </li> <li>3. Result in adverse construction noise, vibration, odour, dust, lighting and traffic effects.</li> </ol>

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"> <li>1. having regard to: <ol style="list-style-type: none"> <li>a. 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"> <li>i. opportunities to incorporate mātauranga Māori into the overall scale, form and extent of the earthworks or land disturbance;</li> <li>ii. opportunities for tangata whenua's relationship with ancestral lands, water, sites, wāhi tapu and other taonga to be maintained or strengthened;</li> <li>iii. options to avoid, remedy or mitigate adverse effects; and</li> </ol> </li> <li>b. the outcomes of any consultation with Heritage New Zealand Pouhere Taonga.</li> </ol> </li> <li>2. in all cases, requiring appropriate steps to be followed in the event that sensitive material is discovered during earthworks and land disturbance.</li> </ol>
EW-P4	<p>Ensure that earthworks are of a type, scale and form that is appropriate for the location having regard to the effects of the activity, and:</p> <ol style="list-style-type: none"> <li>1. the impact on existing natural landforms and features and indigenous vegetation;</li> <li>2. changes in natural landform that will lead to instability, erosion and scarring;</li> <li>3. impacts on natural drainage patterns and secondary flow paths;</li> <li>4. compatibility of the earthworks and the design and materials for any retaining structures with the visual amenity and character of the surrounding area;</li> <li>5. the extent to which the activity mitigates any adverse visual effects associated with any exposed cut faces or retaining structures, including through screening, landscaping and planting; and</li> <li>6. the impact of the movement of dust and sediment beyond the area of development.</li> </ol>
EW-P6 Subject to appeal	<p>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.</p>
<p><u>Comment:</u> Earthworks are necessary to enable the building additions, however will be kept to a minimum with appropriate erosion and sediment control measures in stalled. The proposal is consistent with the above objectives and polices. Through the incorporation of a cultural narrative, and conditions of consent for cultural monitoring, it is considered that the proposal will achieved the outcomes sought by the above objective and policies.</p>	
<b>Transport</b>	

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 onsite parking for activities in centres is located appropriately having regard to:</p> <ol style="list-style-type: none"> <li>1. existing and future accessibility to public transport.</li> <li>2. Allowing ease of movement within, to and from the activity for a variety of users.</li> <li>3. Ease of access to support walking and cycling;</li> <li>4. Impacts on streetscape and amenity.</li> </ol>
TRAN-P12	<p>Require that activities provide for the safe and efficient movement of vehicles on-site, onto and along the <u>road transport network</u> by:</p> <ol style="list-style-type: none"> <li>1. providing appropriately designed and located <u>vehicle access points</u>, on-site parking including bicycle parking, loading and <u>standing spaces</u>, <u>driveways</u>, <u>manoeuvring space</u> and <u>queuing space</u> to reduce disruption to traffic flow, driver distraction and <u>road</u> congestion;</li> <li>2. ensuring that the location, orientation, design and illumination of <u>signs</u> avoid <u>road</u> or footpath user obstruction, distraction or confusion; and</li> <li>3. providing stock truck effluent receiving facilities to avoid or minimise spillage onto <u>roads</u>.</li> </ol>
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"> <li>3. restricting the location of buildings, structures and other visual obstructions, including vegetation within sightline areas of railway level crossings.</li> </ol>
<p><u>Comment</u> The proposal will not restrict the ability of the transport network to be operate in a safe, efficient and effective way within and beyond the district. The vehicle points are existing and there will be little change in how these vehicle points are utilise pre and post development. Provision is made on site for parking, however being located within the city centre there are plenty of opportunities in the immediate vicinity for public parking spaces, street parking. Furthermore, the site is within easy walking distance and readily accessible. The proposal is consistent with the above objectives and policies.</p>	
<b>COASTAL ENVIRONMENT</b>	
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 kaitiakitanga 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"> <li>1. adverse effects on the natural characteristics, processes and values which contribute to Areas of Outstanding Natural Character are avoided.</li> <li>2. Significant adverse effects on the natural characteristics, processes and values which contribute to other coastal natural character avoided and</li> <li>3. Other adverse effects on the natural characteristics, processes and values which contribute to coastal natural character are avoided, remedied or mitigated.</li> </ol>
CE-P3	Allow activities within the <u>coastal environment</u> which: <ol style="list-style-type: none"> <li>1. appropriately avoid, remedy or mitigate adverse effects on natural processes, coastal natural character, landscape, amenity, historic, cultural and ecological values; and</li> <li>2. mitigate any significant hazard risks to people, property and the environment to an acceptable level; and</li> <li>3. Either: <ol style="list-style-type: none"> <li>a. have an <u>operational need</u> or <u>functional need</u> to be located in the <u>coastal environment</u>, such as Port Taranaki or the <u>National Grid</u>; or</li> <li>b. provide for <u>Māori purpose activities</u>.</li> </ol> </li> </ol>
CE-P4	Manage the scale, location and design of activities within the coastal environments 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"> <li>1. building activities.</li> <li>2. multi development</li> <li>3. industrial activities</li> <li>4. network utilities</li> <li>5. earthworks and</li> <li>6. subdivision.</li> </ol>
CE-P8	Ensure activities are not located inappropriately within the coastal environment, having regard to: <ol style="list-style-type: none"> <li>1. the effects of the activity and its impact on the particular natural character, landscape, amenity, historic indigenous vegetation and habitats of indigenous fauna, ecological and recreational values of the area.</li> <li>2. The outcomes of any consultation with tangata whenua, including any expert cultural advice provided, including the extent to which the activity may compromise the relationship of tangata whenua with their ancestral lands, water, sites, wāhi tapu, and other taonga, or the kaitiaki and mana whenua responsibilities of tangata whenua in the coastal environment;</li> </ol>

		<ol style="list-style-type: none"> <li>3. the extent to which the values of the area are sensitive or vulnerable to change or whether any adverse effects can be avoided, or where avoidance is not possible, appropriately remedied or mitigated;</li> <li>4. opportunities to enhance, restore or rehabilitate the particular values of the coastal environment of the area;</li> <li>5. the presence of any natural hazards and whether the activity will exacerbate the hazard or be vulnerable to it;</li> <li>6. the adoption of a risk-based approach to hazard management, including consideration of climate change and sea level rise over at least the next 100 years, taking a risk management approach to existing development; and a risk reduction (including avoidance where appropriate) approach to new development;</li> <li>7. whether there is an operational need or functional need for the activity to be located in the coastal environment;</li> <li>8. the positive effects associated with the activity; and</li> <li>9. whether the activity maintains or enhances public access to and along the coast and recreation within the coastal environment, including to the Waiwhakaiho surf break, and regionally significant surf breaks within the New Plymouth District as identified in the Proposed Coastal Plan for Taranaki (Decisions version at 5 October 2019).</li> </ol>
CE-P9 Subject appeal	to	<p>Require activities within the <u>coastal environment</u> to avoid, remedy or mitigate adverse landscape, <u>indigenous vegetation</u> and habitats of indigenous fauna, visual and amenity effects by:</p> <ol style="list-style-type: none"> <li>1. ensuring the scale, location and design of any built form or land modification is appropriate in the location;</li> <li>2. integrating natural processes, landform and topography into the design of the <u>activity</u>, including the use of naturally occurring <u>building platforms</u>;</li> <li>3. limiting the prominence or visibility of built form from public places and the coast;</li> <li>4. where possible, limiting expansion of existing urban coastal settlements; and</li> <li>5. retaining existing <u>indigenous vegetation</u> and habitats of indigenous fauna (excluding planted vegetation that is not subject to a <u>conservation covenant</u>), and restoring and rehabilitating <u>indigenous vegetation</u> and habitats of indigenous fauna, using coastal plant species sourced from the relevant ecological district.</li> </ol>
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.
CE-P15		Promote restoration and rehabilitation of natural character, indigenous vegetation and habitats of indigenous fauna, cultural landscape features, dunes and other natural coastal features or processes.
<p><b>Comment</b></p> <p>The proposal has been supported by an LVIA that has considered the bulk and scale of the building within the local and coastal environment. The design statement by Boon Architects explains how the building has been designed to fit with the coastal environment. Consideration</p>		



has been given to the cultural significance of the site. The proposal is consistent with the above objectives and policies of the plan.	
	<b>CITY CENTRE ZONE</b>
CCZ-O2	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-O3	The city centre is a compact, dynamic and vibrant retail and business area.
CCZ-O4	The structures in the city centre are well design and contribute positively to the streetscape.
CCZ-O5	The city centre is an attractive, accessible and safe environment for people to work, live and play.
CCZ-O6	Increased numbers of people live in the City Centre.
CCZ-O7	The city centres historic and cultural heritage is maintained and enhanced and contributes to the city's unique sense of place and identity.
CCZ-O8	The role and function of the city centre is not compromised by incompatible activities or built form.
CCZ-P1	<p>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:</p> <ol style="list-style-type: none"> <li>1. retail activities;</li> <li>2. business service activities;</li> <li>3. sensitive activities;</li> <li>4. medical and health services;</li> <li>5. sport and recreation activities;</li> <li>6. Maori purpose activities;</li> <li>7. Community corrections activities;</li> <li>8. Emergency service activities.</li> </ol>
CCZ-P3	<p>Avoid activities which are incompatible with the role, function and planned character of the City Centre Zone, or activities that will result in:</p> <ol style="list-style-type: none"> <li>1. Reverse sensitivity effects or conflict with permitted activities in the zone; or</li> <li>2. Adverse effects which cannot be avoided or appropriately remedied or mitigated on; <ol style="list-style-type: none"> <li>a. The city centre's planned character and amenity values;</li> <li>b. Historic heritage values of importance to the city centres unique sense of place and identity.</li> <li>c. Cultural, spiritual or historic values and interests or associations of importance to tangata whenua or</li> <li>d. Residential activities at residential zone interfaces.</li> </ol> </li> </ol>
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"> <li>1. Inactive frontages</li> <li>2. Total or partial demolition of structures.</li> <li>3. The erection of structures.</li> <li>4. Alterations to exteriors of structures.</li> </ol>

	<ol style="list-style-type: none"> <li>5. Additions to structures.</li> <li>6. Structure height.</li> <li>7. Noise, and light, and</li> <li>8. Signage.</li> </ol>
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"> <li>1. having an interesting and engaging frontage with variations in form, materials and colour;</li> <li>2. providing clearly visible and accessible entranceways and connections to pedestrian networks, including safe and practicable access for people with limited mobility;</li> <li>3. locating utilities and service areas so they are not visible from public areas and are screened or incorporated into the overall structure form;</li> <li>4. using sustainable design methods, where practical, to minimise the use of energy and water resources and to create healthy living and working environments;</li> <li>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;</li> <li>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</li> <li>7. providing residential units that are functional and of a sufficient size for the day to day needs of residents.</li> </ol>
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"> <li>1. maximise opportunities for the public to use and access that space.</li> <li>2. maintain and enhance the city centres historical and cultural heritage.</li> <li>3. minimise any adverse shading effects on the public space;</li> </ol>
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"> <li>1. whether building occupants have adequate access to daylight;</li> <li>2. the ability to manage noise and light emissions at an acceptable, reasonable level; and</li> <li>3. the size, design and type of signage and whether it is compatible with the planned character and amenity of the city centre.</li> </ol>
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"> <li>1. incorporating planting and landscaping materials that complement the existing design of the area;</li> </ol>

	<ol style="list-style-type: none"> <li>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;</li> <li>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</li> <li>4. using low-reflective materials and minimal use of corporate colours on any structure.</li> </ol>
<p><b>Comment</b></p> <p>The above policies place a lot of emphasis on the planned character of the city centre, recognising that over time that sites such as the application site will be redesigned and as such the plan seeks to ensure that the design achieves the values (cultural and heritage), character (coastal and city centre) and amenity of the area having regard to the context of the site and surrounds. The plan seeks for development to be sympathetic to the natural and cultural features of the environment. Recognition of Maori cultural connections with ancestral land is part of this.</p> <p>The proposed additions to the building support the vitality of the city centre zone, provided for mixed use living. The proposal provides for residential accommodation, admittedly for one household, however the City Centre Zone does not specify a minimum or maximum density, other than wanting to ensure development is compatible with the function and planned character of the zone. The proposal is considered to be compatible with the zone, with careful design and selection of colour palate. Recognition and provision of the historical and cultural aspects is being provided.</p> <p>I consider that the proposal is consistent with the above objectives and policies of the plan.</p>	
	<b>Contaminated Land</b>
CL-O1	The risks to human health from contaminated land are avoided, remedied or mitigated.
CL-P2	Ensure that contaminated land or potentially contaminated land is suitable for the intended use by requiring investigation, remediation or management where necessary at the time of land use change, subdivision or re-development so as to minimise the risk to human health from the contamination.
<p><b>Comment</b></p> <p>The proposal is consistent with the above objectives and policies. Conditions of consent are proposed to ensure there is no risk to human health during earthworks, all surplus material will be disposed of to a facility authorised to receive such material and the site reinstated.</p>	

### Conclusion

116. The redesign of the site generally fits well with the surrounding environment and context of the area. Careful consideration has been given to the design of the building to ensure that it fits with the coastal environment, earthworks are kept to a minimum and can be satisfactorily managed. The proposal provides for a mix of commercial and residential opportunities within the city centre zone, with easy connectivity to the wider town and coastal walkway. Being located on a site adjoining a SASM, the opportunity is there to recognise the cultural significance of the area for the wider public through the incorporation of a cultural narrative. The proposal is consistent with the above objectives and policies.

## OTHER MATTERS - s104(1)(c)

### Ngamoto New Plymouth City Centre Strategy.

117. The Ngamoto New Plymouth City Centre Strategy sets the strategic direction for New Plymouth's city centre over the next 30 years. By 2050 it is envisaged that the city centre will be the place where people to for a range of experiences. It will deliver a diversity of retail, cultural and social experiences for the community to enjoy. There will be walkable neighbourhoods in and around the city centre with a greater mix of residential options for people to choose. The presence of Ngāti Te Whiti and Te Atiawa will be visible, recognising the past, present and future. The city centre will have a strong economic base and will be the place where people want to live, work and play.
118. The vision is supported by five goals that seek to address the identified challenges and opportunities. These are Whakamana – Restoring our Huatoki; Whakahononga – Connecting our City to the Coast, Whakaataahua – Activating our Green Links, Whakakaka – Reinforcing our City Core, Whakaora – Living in our City Centre.
119. Whakakaha seeks to increase living opportunities so that the city centre and its surrounds become a choice for more people to call home, liveable and walkable communities to make the city centre thrive.
120. Whakaora is similar, seeking to transform the city centre east of Liardet St into a residential led mixed use neighbourhood. Including easing the consent process for retrofit of existing buildings in the city centre. One of the key components will be the preparation of a residential design guide for the city centre as a whole that will all align with the Ngamoto Maori Design Principles.
121. It is my opinion that with the incorporation of a Cultural Narrative, that the proposal achieves the overall vision of the Ngamoto New Plymouth City Centre Strategy, contributing to a live, work, play philosophy.

### TAI WHENUA, TAI TANGATA, TAI AO

122. The following relevant provisions of Tai Whenua, Tai Tangata, Tai Ao are addressed below:

Ob. TTAN4.2 Acknowledge and provide for Te Atiawa values and the expressions of our narrative in the built form and landscaping	The proposal has been amended to make provision for a cultural narrative and landscaping.
Ob. TTAN4.4 Acknowledge and provide for Te Atiawa cultural landscapes in the built design to connect and deepen our 'sense of place'.	As per the above, the detail of which however has yet to be fully resolved, however the proposal does acknowledge and make provision for design to be incorporated.
Pol. TTAN4.1 Restrict development within 50 metres from the outer most extent of a wahi tapu/wahi taonga, urpua and site of significance.	Development currently exists on the site, with the proposal seeking to maximise the potential of the site, whilst endeavouring to be sensitive to the environment within which it is located.
Pol. TTAN4.7 Require that methods for on-going protection/ management of wāhi tapu/wāhi	Although a land use consent, if consent is granted, a condition of consent is proposed

taonga, urupā and sites of significance to Māori are secured at the time of subdivision.	that the cultural narrative is maintained for the duration of the land use consent.
Pol. TTAN4.9 Require planning of site specific native vegetation as a condition of any resource consent.	If consent is grant, a condition of consent is proposed seeking input into the proposed landscaping and plant species.
Ob. TTAN6.1 Wāhi tapu/wāhi taonga, urupā and sites of significance to Māori are protected from damage, modification, desecration or destruction.	The area is already modified, however this does not remove the significance of the site. If consent is granted, conditions requiring erosion and sediment control and cultural monitoring are proposed.
Pol. TTAN6.2 Require that all resource applications made under the Resource Management Act 1991 involving land disturbance activities provisions are made for any or all of the following: a) consultative site visit and hui; b) plans for development are cerified by Te Atiawa, this includes but is not limited to quantity of land disturbance, building platforms (topsoil clearance and any contouring), trenching in relation to stormwater, wastewater and telecommunication services; c) archaeological assessment (walk over/test pitting), or a full archaeological description; d) preparation of a Cultural Impact Assessment; e) cultural monitoring; and f) recommended consent conditions or consent notices.	
Pol. TTAN6.7 Require adequate sediment and silt control measures adjacent to Te Atiawa Statutory Acknowledgement waterways, including but not limited to: a) minimising the extent of land cleared and left bare at any given time; and b) capture of run-off and sediment via control such as silt traps and fences, and these structures are monitored and cleared regularly to ensure effectiveness.	
TTHE1.2 The mauri of wāhi tapu/wāhi taonga, urupā and sites of significance is protected within the Te Atiawa rohe for current and future generations.	The proposal endeavours to capture the significance of the site through the incorporation of a cultural narrative as part of the site development.
Pol. TTHE2.4 Require conditions of consent for all known wāhi tapu/wāhi taonga, urupā and sites of significance to Māori. This includes but is not limited to:	Opportunity is being provided for cultural monitoring during land disturbance.

<p>a) restrict development within 50 metres of any wāhi tapu/wāhi taonga, urupā and sites of significance to Māori; b) consultative site visit and hui; c) archaeological assessment, by a person nominated by Ngā Hapū o Te Atiawa; d) applicants to commission a Cultural Impact Assessment for any activity within 500 metres of a wāhi tapu/wāhi taonga, urupā and sites of significance to Māori identified in council plans; e) applicants to apply for an Archaeological Authority from Heritage New Zealand Pouhere Taonga for any activity which may disturb a site; and f) applicants to commission the use of a cultural monitor for land disturbance works.</p>	
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## **PART 2 OF THE RMA**

123. I am satisfied in this case that the provisions of the Proposed District Plan – Appeals Version has been robustly prepared in accordance with Part 2 of the Act. Therefore, as per the Court of Appeal decision in *R J Davidson Family Trust vs Marlborough District Council* (CA97/2017) I feel assured in taking the view that there is no need to refer to Part 2 because doing so would not add anything to the evaluative exercise of the proposal undertaken earlier in this report.

## RCOMMENDATION

124. That for the above reasons the application be **granted** pursuant to Section 104 & 104B of the Resource Management Act subject to the Conditions. A set of draft conditions for consideration is attached in Appendix 1.

### Report and recommendation by:

### Report and decision by:

*Karleen Thomson*  
*Consultant Planner*

**Date:** 16<sup>th</sup> July 2024

### Reviewed by:

*Richard Watkins*  
*Planning Lead*

**Date:** 16<sup>th</sup> July 2024



## **Appendix 1: Draft Conditions of Consent.**

### **General Conditions**

1. The development shall be undertaken in general accordance with the information and plans submitted by the Consent Holder in support of application number LUC23/48350 and officially received by Council on 17 October 2023.

Copies of the approved plans are attached:

- KD – Molesworth St Alterations – Stage 2 – Location Plan Proposed (RC) Job Number 6801 drawing SK0.03 Rev A dated September 2023
- KD – Molesworth St Alterations – Stage 2 – Site Plan Proposed (RC) Job Number 6801 drawing SK0.05 Rev A dated 31 January 2024
- KD – Molesworth St Alterations – Stage 2 – L0 Proposed Floor Plan (office) RC Job Number 6801 drawing SK2.01 Rev A dated September 2023
- KD – Molesworth St Alterations – Stage 2 – L1 Proposed Floor Plan (office) RC Job Number 6801 drawing SK2.02 Rev B dated 8 February 2024
- KD – Molesworth St Alterations – Stage 2 – L2 Proposed Floor Plan (house) RC Job Number 6801 drawing SK2.03 Rev B dated 8 February 2024
- KD – Molesworth St Alterations – Stage 2 – L3 Proposed Floor Plan (house) RC Job Number 6801 drawing SK2.04 Rev A dated September 2023
- KD – Molesworth St Alterations – Stage 2 – D Elevation (West) RC Job Number 6801 drawing SK3.01 Rev A dated September 2023
- KD – Molesworth St Alterations – Stage 2 – B Elevation (North) RC Job Number 6801 drawing SK3.02 Rev A dated September 2023
- KD – Molesworth St Alterations – Stage 2 – D Elevation (South) RC Job Number 6801 drawing SK3.03 Rev A dated September 2023
- KD – Molesworth St Alterations – Stage 2 – Precedents Job Number 6801 drawing SK3.07 Rev A dated September 2023
- (Boon 3D Views – Cultural Narrative Option 1 Patterned Screens drawing SK4.09, SK4.11, SK4.13)
- (Boon 3D Views – Cultural Narrative Option 2 Paving Cultural Narrative, drawing SK4.10, SK4.12, SK4.14)
- (Landscaping & Konatu Stone, SK4.17)

In the case of inconsistency between the application and the conditions of this consent, the conditions of consent shall prevail.

2. The consent holder shall contact the Council's Environmental Planner – Monitoring at least 48 hours prior to any work commencing on the site and advise the officer of the date upon which such works will commence.
3. The consent holder shall pay the Council's costs of any monitoring that may be necessary to ensure compliance of the use with the conditions specified.

### Glazing and Façade Treatments

4. All mirrored glazing shall be removed from the facades of the building.

#### Landscaping

5. A Landscape Planting Plan prepared by a suitably qualified expert in landscaping shall be submitted by the consent holder to the Development Control Lead and certified prior to the commencement of works. The Landscape Planting Plan must include:
- Planting in front of car parks 7-10.
  - No less than four specimen trees planted in the north west corner of the site adjacent to the car port. Trees must be no less than 2m tall at the time of planting.
  - Specify Plant Species, numbers, size, spacing, layout and grade;
  - The consent holder must provide a minimum of 20 working days to Ngati Te Whiti and Ngati Tawhirikura for the opportunity to provide feedback/input on the proposed planting plan.
  - Any feedback received from Ngati Te Whiti Hauu and Ngati Tawhirikura on plant species and demonstrate how that has been adopted into the planting plan.
- All works shall be carried out in accordance with the Landscape Plan certified in accordance with this condition.
6. Prior to issue of a Code Compliance Certificate or within 12 months of the exterior building construction being completed whichever occurs first, the consent holder shall complete planting in accordance with the Landscape Planting Plan certified in accordance with Condition 5:

### **Prior to Earthworks/Construction Commencing**

#### Cultural Monitoring

7. No less than 7 working days prior to earthworks commencing on site, the consent holder shall advise Ngati Te Whiti Hapū and Ngati Tawhirikura of the intention to undertake the earthworks, so that they may provide a monitor for on-site cultural monitoring during these earthworks at their discretion.

#### Erosion and Sediment Control

8. The consent holder must provide an erosion and sediment control plan for certification by the Development Control Lead. Erosion and sediment control measures must be implemented in accordance with the certified erosion and sediment control plan.

#### Acoustic Design Certificate

9. The consent holder must provide to Council at the time of application for building consent an acoustic design certificate from a suitably qualified acoustic expert to confirm the noise insulation of the dwelling has been designed to meet an internal noise level of 40dB<sub>L<sub>Aeq</sub>(24hour)</sub>, inside all noise sensitive rooms with ventilating windows open.

#### Earthworks Management Plan

10. Prior to the commencement of works on site an Earthworks Management Plan prepared by a suitably qualified environmental practitioner shall be submitted to Councils Monitoring Officer for certification. This plan shall include measure for (as relevant):
  - (a) Health and safety to inform all contractors of the potential for soil contamination.
  - (b) Requirement for use of personal protective equipment.
  - (c) Minimising soil disturbance.
  - (d) Reinstating the exposed area as soon as practicable.
  - (e) Implementing dust management measures as necessary to ensure that there are no air borne particulars.
  - (f) Advising Council of the authorized soil disposal facility.

All works must be in accordance with the certified earthwork management plan.

#### **During Earthworks/Construction**

##### Earthworks/Excavation

11. Excavation works associated within the site must be kept wholly within the boundary of the development and not encroach past the boundary.
12. All disturbed material, silt, sediment and dust shall be retained on the site unless transported off site by a vehicle.
13. All disturbed soils and hardfill material removed from site must be tested prior to disposal and disposed of to a facility authorized to receive that material. This excludes cured hardstand material (such as paving/asphalt/concrete) which is cleanfill and is not required to go to an authorized facility.

##### Construction Noise

14. During construction, all construction works must comply with NZS6803:1999 Acoustic Construction Noise.

##### Accidental Discovery

15. If the consent holder discovers archaeological evidence, or suspected archaeological evidence, they shall without delay notify:
  - Ngati Te Whiti Hapū
  - Ngati Tawhirikura;
  - Heritage New Zealand Pouhere Taonga (HNZPT); and
  - New Zealand Police in the case of skeletal remains; andStop work within the immediate vicinity of the discovery to allow a site inspection by HNZPT and the Ngati Te Whiti Hapū, Ngati Tawhirikura and their advisors, who shall determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required. Site work shall only recommence following consultation with the Consent Authority, HNZPT, Ngati Te Whiti Hapū, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.

### Cultural Narrative

16. The consent holder must incorporate a cultural narrative onsite either Option 1 or Option 2.

- Boon 3D Views – Cultural Narrative Option 1 Patterned Screens drawing SK4.09, SK4.11, SK4.13
- Boon 3D Views – Cultural Narrative Option 2 Paving Cultural Narrative only drawing SK4.10, SK4.12, SK4.14
- Landscaping & Konatu Stone SK4.17

The stone marker must incorporate “Waimanu” as text and a design etched or carved into the stone.

### **Post Earthworks**

17. All areas of earthworks (excluding any area covered by buildings or hard landscaping) shall be revegetated to achieve 80% ground cover within 6 months of the earthworks being commenced to the satisfaction of Councils Monitoring Officer.
18. All costs in meeting the conditions of these requirements shall be met by the applicant unless otherwise stated.

### **Ongoing Conditions**

19. The consent holder must maintain the landscaping required in Condition 5 on an ongoing basis. In the event that any of the landscaping should die or become diseased they must be replaced with a similar species or plant within the next planting season.
20. The consent holder must maintain the applied cultural narrative for the life of the activity.