

BEFORE THE NEW PLYMOUTH DISTRICT COUNCIL
INDEPENDENT HEARINGS COMMISSIONER

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Land Use Resource Consent
LUC21/47890 application for
1-3 Dawson St, New Plymouth

**SUMMARY STATEMENT OF EVIDENCE OF BILL JACKSON ON BEHALF OF THE
GROUP OF OBJECTORS - Refer section 6**

23 September 2021

1.0 INTRODUCTION

- 1.1. My name is William Lindsay Jackson. I am a Registered Architect and a Fellow of the New Zealand Institute of Architects (FNZIA).
- 1.2. I have been involved in the profession of architecture for the past 42 years.
- 1.3. Part of my professional training included papers in town planning.
For most of our projects, we run a town planning check at the very first concept stage. During my career I have written, lodged and managed many resource consent applications. I have interacted with planning issues in other cities. Recently I have prepared and lodged two LUC's.
I have given expert witness advice for a LUC previously.
- 1.4. I have visited the subject site and objectors sites, 23/July 21 4:00pm to 5:00pm, and observed the degree of existing shading and to ascertain the likely effect of the proposed activity on the objectors sites.
- 1.8 I confirm that I have read, and agree to comply with, the Environment Courts' Code of Conduct for Expert Witnesses (Environment Court of New Zealand Practice Note 2014). This evidence I am presenting is within my area of expertise, except where I state that I am relying on the evidence of another person. To the best of my knowledge I have not omitted to consider any material facts known to me that might alter or detract from the opinions I express.
I am relying on the BOON shading studies and summary of results, in my section 5
- 1.9 In response to Mr Quin's questions regarding my evidence:
In my chief evidence section 6, I detailed the members of the objectors group whom I represent, including a location plan.

4.0 REVIEW OF THE APPLICANTS ASSESSMENT OF EFFECTS (AEE)

4.1 The applicants AEE lists 6 parties which have given written approval.
It does not state here that 30 affected parties have not given approval

4.2 The applicants AEE (4.3) 'positive effects' states that:

'policies of the PDP support inner-city residential activities in a variety of housing types. They also promote vibrancy of the area, and safety of public spaces e.g. for users of the Coastal Walkway by it being visible to the apartment residents. It is considered the proposal will have positive effects on these factors'

I suggest, that in this case, the proposed development has **negative effects** on the already established inner city dwellers adjacent, who will lose privacy.

Ms Martin, in her summary evidence states that privacy is excluded in the matters for discretion. I say that it is not specifically included, but in my opinion, it is a factor in considering peoples appreciation of its pleasantness, aesthetic coherence, and recreational attributes.

122 St Aubyn St (Mac Arthur) and Unit 11 RE, will be particularly affected.

MacArthur's living areas and deck will be overlooked by a wall of glass.

I note that shading effects are not listed in matters for discretion either, yet are given a lot of attention by the applicant.

4.3 The applicants AEE (4.3)'positive effects' states that:

The proposed design takes the whole exterior of the building into account and structural strengthening, recladding / redecorating and window area upgrades will be undertaken etc

I say that the maintenance of the existing façade and window replacement will have no **positive environmental effect.**

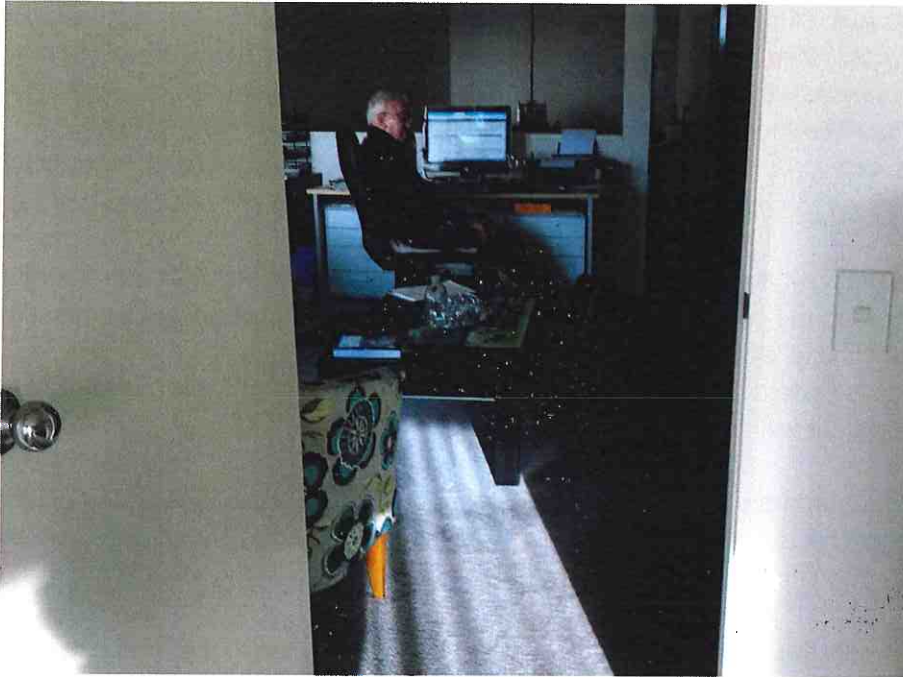
4.4 The applicants AEE (4.4.2) 'Shading effects' states that:

'Areas where shading occurs over and above the existing and permitted designs is considered to be overall short in duration, relatively small in area, and actual and potential adverse effects are considered to be acceptable.'

I suggest that the shading effects are **not short in duration, not relatively small in area,** from the objectors perspectives, and **certainly are not acceptable.**

For medium density residences, the outdoor deck areas are **the only outdoor private space they have.** So, while perhaps small, compared to the entire site area, they are not small relative to the use and enjoyment of the occupants. (See section 5.2)

I have photographed the indoor living areas and deck areas of some of the most affected objectors:



Stewart Residence. The sun currently streams in through the bedroom window on the seaward side and shines through the doorway into the room where Larry spends most of his time during the day. This will be **significantly reduced** by the proposed excessive height.



4 residences are affected here, including Unit 10/120 St Auburn St, Cleggs, The deck areas and living areas will be shaded about an hour earlier at certain times. The afternoon sun is most important in winter, when the effects will be greatest.

4.5 The applicants AEE (4.6) 'Mitigating factors' states that:

The proposed activities are effectively behind existing urban development along the coastal environment which has a highly modified natural character with regard to the likes of Regina Place walkway and the railway instead of, for example, a dune environment. As such there are considered to be less than minor actual and potential adverse effects on the natural character of the coastal environment as a result of the proposal.

I suggest that actually, the proposed development is in front of established residential development along the coastal fringe, and that it will have a significant visual effect in the immediate vicinity, and from further away.

(See section 5.1) Accordingly, in my opinion, the effects on the natural character of the coastal environment will be **more than minor**.

Ms Martin in her summary evidence p10 comments on the matter of assessing effects on the natural character of the coastal area and lists human modification and land uses as a factor, but then concludes that the proposal affects 'none of the above'.

I disagree because the proposal is adding to human modification to the land use adjacent to the coastal fringe.

5.0 REVIEW OF AND OPINION ON TECHNICAL REPORTS PROVIDED

5.1 The Landscape and Visual Impact Assessment (LVIA)

The (LVIA) context statement (Section 3) states:

'The property sits within a group of relatively tall buildings that extend east from Dawson Street to Queen Street, and south to Young Street'

In my opinion, the vicinity of the subject site is characterized by 2 & 3 storey high residential buildings, not tall buildings.

While zoned Bus B and in the PDP 'Mixed use commercial' I suggest that the public have indicated that the preferred use of this area is residential. It is in fact 70% residential use by area. Accordingly, I suggest that in assessing the effects of the proposal, cognizance should be given to the context as residential. The sites across Dawson St are Bus D zoned, which has similar rules to residential zoning.

The applicants 'public view points', (agreed with council) visual simulations seem to visually flatter the proposed building, by virtue of the selected photo angles and foreground distractions. I have taken similar photos to demonstrate visual impact of the bulk of the proposed building.

I do not agree with the applicant's assessments of the following images, because I do not believe the images submitted fairly reflect the extent of the proposal:



In this image I have marked up the windows as I believe they will actually look with tinted glass and in certain lights. (Notice the black look of the glass in the existing building.) The proposed building will appear heavier and more overbearing than depicted in the applicant's version of this image.

Ms Martin has incorrectly quoted me assuming that the glass will be tinted black. I do assume that the existing building has a dark tint glass. Actually even clear glass will appear dark, depending on the lighting levels inside and out.



In this view the fountain is dominating, and the proposed building is cropped out disguising it's true bulk. Applicant's assessment: **Very low**



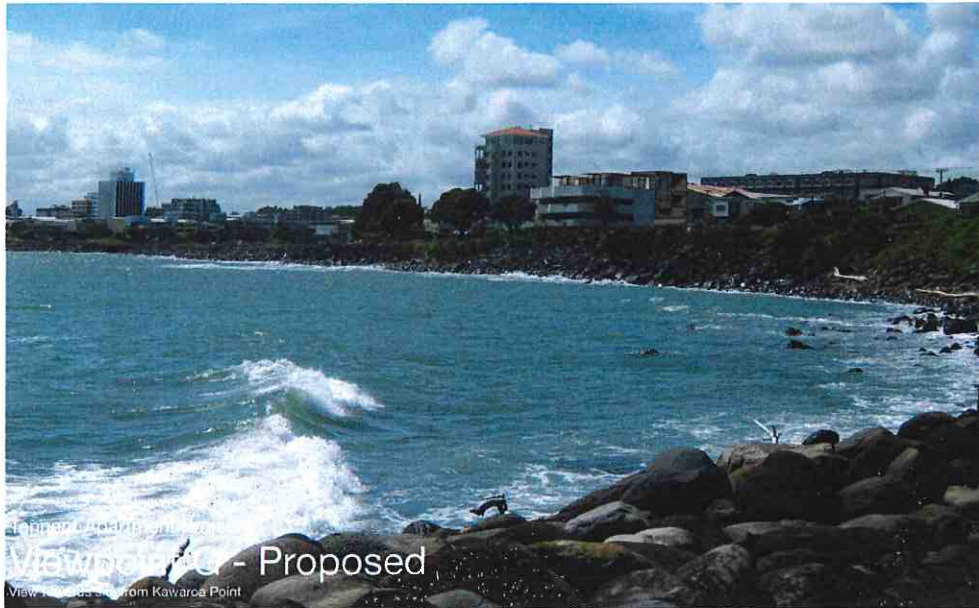
This view reveals the true bulk of the proposed building.
My assessment: **Moderate adverse**



View E Hine street Applicants assessment: **Low beneficial**
 My assessment: **Moderate adverse**



This view shows the true bulk of the proposed building. Dawson St is an important 'feeder access' to the coastal walkway, and is where many city fringe users join or exit the walkway. Accordingly, the visual assessment from points along Dawson Street are important



This viewpoint shows the proposed building as averaging the difference in height between the tower block and the Devonport apartments, when in fact those buildings are remote from the subject site. Applicants assessment: **Moderate beneficial**



The subject site is seen from many view points along the walk way. This viewpoint shows the relevant coastal landscape. Excessive extra height on the subject site will stand above the existing general topography and become dominant.

My assessment **Moderate adverse**

In summary, my opinion is that the proposed building will cause an adverse effect on the character and visual amenity of the coastal area that is more than minor.

5.2 Shading study.

Firstly, I note that 'shading' is not listed in the ODP assessment criteria for Bus 13. While it is one way to assess the adverse effects on the character and visual amenity of the area, there are other adverse effects that should be equally considered: e.g. Loss of light, loss of safety, loss of privacy. Also the effects of shade on humans.

In respect of the shading study drawings provided, I note that the 2D plans views do not give full appreciation of the shading where it occurs on vertical surfaces. The 3D renditions give a better appreciation.

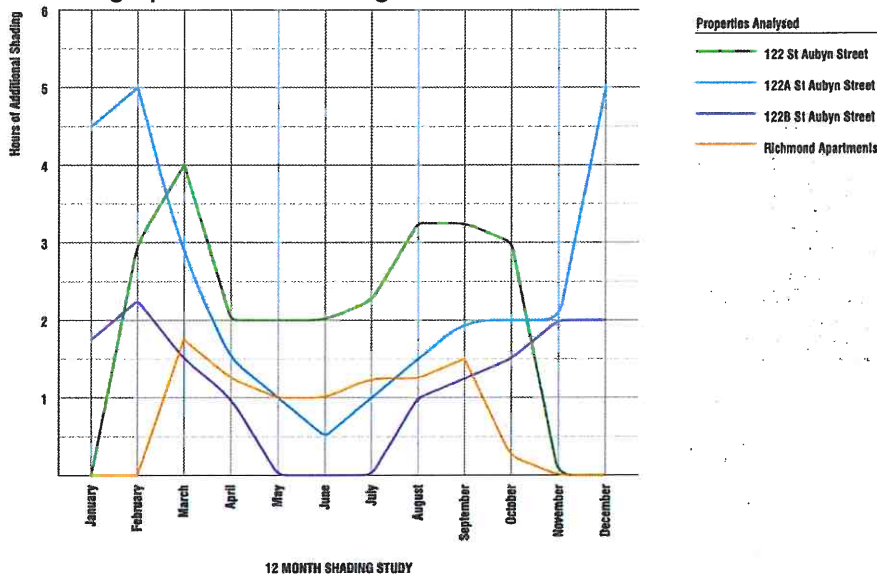
The applicant's section 92 response, BOON drawings SK5.01 to 5.04 provide a useful summary of the **adverse effects** of additional shading on the objector's sites, for which I tabulate the duration and assess as follows:

Duration of extra shading

Property	March 5:00pm	5:30	June 4:00pm	4:30	Sept 5:30pm	6:00	Dec 6:00pm	6:30
Richmond apartments		1.75	1	1	1.5	1.5		
122 St Aubyn	4	4	2	2	3.25	3.25		
122A St Aubyn	3	3	0.5		2		5.0	5.0
122BSt Aubyn	1.5	1.5			1.25		2	2

This summary shows that additional shading runs for 0.5 to 5.5 hrs, with 122 St Aubyn St, Diane and Bill Mc Arthur, and 122A, Colin and Margaret Comber, the most affected. 4 hrs and 5.0 hrs. This is also depicted in the BOON evidence page 71:

BOON graph of extra shading effects



This shows that at any time, at least one of the objectors is affected for a min. of 2 hrs

The decks and living areas of the Richmond Apartments, 120 St Aubyn St, Bill and Judith Hurlstone, and Trevor and Kay Clegg are affected in September 1.5 hrs. These folk spend a lot of time on their decks.

I say that these effects are not 'temporary' and the duration is not 'short, nor relatively small in area', for the people affected, and therefore in my view, are not acceptable.

5.3 Architectural assessment

The applicant's architectural assessment (BOON 5.1) states:

The design concept focusses on a modern residence, which is sympathetic in scale, to the existing building at 1 Dawson Street. The design intent is that the residence be visually distinct from the commercial building by use of materiality and colour, but to also provide a cohesive unification of the two. Final cladding selections and colours are yet to be decided, but will be of neutral nature.

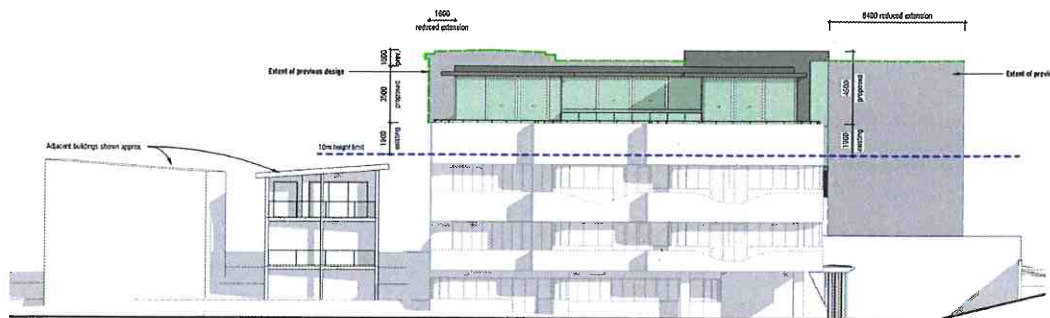
In my opinion, the proposed building pays little respect to the existing building in terms of line, level, composition, materiality or style.

It does not appear to be 'sympathetic in scale'.

There is no 'cohesive unification of the two'

The overall effect is one of striking dominance within the public streetscape.

This scale effect is particularly noticeable on the north elevation submitted, when compared with the existing 3 storied residence adjacent.



Proposed North Elevation
Scale 1:200 (A3)

The applicant's architectural assessment (BOON 5.8) also states that:

'Extensive use of glass in the façade provides visual softness, connectivity to the adjoining surrounds, and lightness to the proposed design. The glass will enable views through the proposed development from neighboring buildings'

About 70% of the proposed building is glass, bar the southern side. This will be reflective in certain lights, and at certain times, cause glare issues to the public, neighbors and motorists. It is effectively a glass box stacked on the existing building.

The applicant's architectural assessment (BOON 5.11) states that:

'The Dawson St Development makes use of the existing building, which results in reducing energy and emissions, waste generation and continues the story of the city.'

I say that the only way this proposal uses the existing building is as a platform to gain elevation. The waste stream for the proposal will be the same as any new build project.

I say that a more sustainable solution could have been achieved by converting the existing office building to an apartment, and either not building the over height proposal or scaling it back.

6.0 SUMMARY OF THE OBJECTORS EVIDENCE

6.1 The applicant lists 6 parties which have given written approval. However, 30 affected parties have not given approval.

6.2 The body corporate of the Richmond Estate, in their submission, representing 15 owners, unanimously requested that Council declines this application.
By way of clarification, the unanimous refers to the bdy corporate committee, not all the residents.

6.3 The objectors group includes 10 parties, who are all directly affected.
These are located as follows:

1	Bill & Diane MacArthur	122 St Aubyn Street
2	Colin & Margaret Comber	122A St Aubyn Street
3	Larry & Kaylene Stewart	Unit 11, Richmond Estate, 120 St Aubyn St
4	Bill Williams (to be read by Kaylene Stewart)	Unit 16, Richmond Estate, 120 St Aubyn St
5	Trevor & Kay Clegg	Unit 10, Richmond Estate, 120 St Aubyn St
6	Bill & Judy Hurstone	Unit 1B, Richmond Estate, 120 St Aubyn St
7	Morris and Ria Hey	Unit 1A, Richmond Estate, 120 St Aubyn St
8	Lyn White	Unit 2, Richmond Estate, 120 St Aubyn St
9	Liz Pease	Unit 3, Richmond Estate, 120 St Aubyn St
10	Leonce Sharrock	Unit 4, Richmond Estate, 120 St Aubyn St



6.4 The objectors concerns include the following factors, which are numerous, and reflect significant loss of amenity. It should be noted that the current occupants are mostly seniors, and spend most of their time in their homes. Some in poor health.

Issues	Number concerned
Shading effects	9
Mold/ lichen growth	2
Loss of quality of life	3
Loss of privacy	2
Loss of visual amenity	2
Loss of value of property	2
Out of character / scale	3
Compromises public view shafts	1
Incorrect representation of neighboring sites in shading studies	5
Inadequate AEE	1
No indication of relocated existing plant and new plant	1
Noise issues from plant	1
Visual dominance	2
Loss of views	7
Parking in the area	1
Cultural significance	1
Loss of sky space	2
Precedents	2

6.5 Visual amenity effects at objector's homes

I have visited the objector's homes and prepared marked up photos showing the visual amenity effects at the objector's homes. These include loss of views, loss of light, and loss of privacy. (Refer to appendix 2)

7 TECHNICAL ISSUES NOT ADDRESSED IN THE APPLICATION

7.1 Loss of light effect on health

The loss of light and 'sky factor' occurs, regardless of sun position.

The increase in height of the proposed building will create a 'canyon effect' at the adjacent site areas and result in the loss of light.

Sky factor is defined as "The ratio of the illumination on a horizontal plane at a given point inside a building due to the light received directly from the sky, due to the illumination from an unobstructed hemisphere of sky."

(encyclopedia2.thefreedictionary.com)

Natural light is more beneficial to human health, than artificial light, as it supports natural circadian rhythms, and promotes a sense of wellbeing.

It follows that any reduction in natural light will have adverse effect on human health and wellbeing. In this case, where the objectors are in their homes most for the day, this adverse effect will be more pronounced.

7.2 Health and safety risk

The effect of more shading will give rise to more mould growth on walking surfaces and walls of buildings. This will increase the risk of slipping and falls, which is a health and safety risk for all and especially seniors. It will require ongoing maintenance to control mould growth.

7.3 Road frontage

The proposed new road frontage on 3 Dawson St presents a wide expanse (10m) of concrete with the pedestrian access and wide car crossing. I note that the applicant has provided the two trees required by the plan, however, it is a bleak offering to the street scape, and in my view, an adverse effect on the environment.

7.4 Additional items on the roof

These were mostly addressed in the applicants evidence.

I understand that a bank of solar panels may be added to the roof top.

8.0 WIDER EFFECTS ON THE PUBLIC VIEWSHAFTS

8.1 The subject site lies in two 'public view shafts'. These are assessed by the applicant as viewed from the source. However the objective of the view shaft rules is to:
'Maintain and enhance the character and coherence of the urban areas'
In assessing this rule, council has limited its discretion to the following:

- 1) The extent of intrusion of the additional HEIGHT of the STRUCTURE into the view shaft, and the elements of the view affected.
- 2) The extent to which the core of the view is impinged upon by the additional HEIGHT of the STRUCTURE
- 3) Whether the STRUCTURE results in the removal of existing intrusions or increases the quality of the view.
- 4) Whether the additional HEIGHT of the STRUCTURE will frame the view.
- 5) The proximity of the STRUCTURE to the inside edge of the view shaft.

Marsland Hill view shaft

The applicant's assessment states

'The proposal is located at the seaward end of the view shaft resulting in a very small reduction of visible sea. The building does not protrude above others and so does not dominate the view in any way. In this context the building will not be noticeable as any kind of distinctive element that affects the overall city scene. The significance of change to the view shaft is negligible.'

I do not concur with this assessment:

I say that the core of the view is impinged upon by the additional height of the proposed building, as clearly depicted by the applicant.

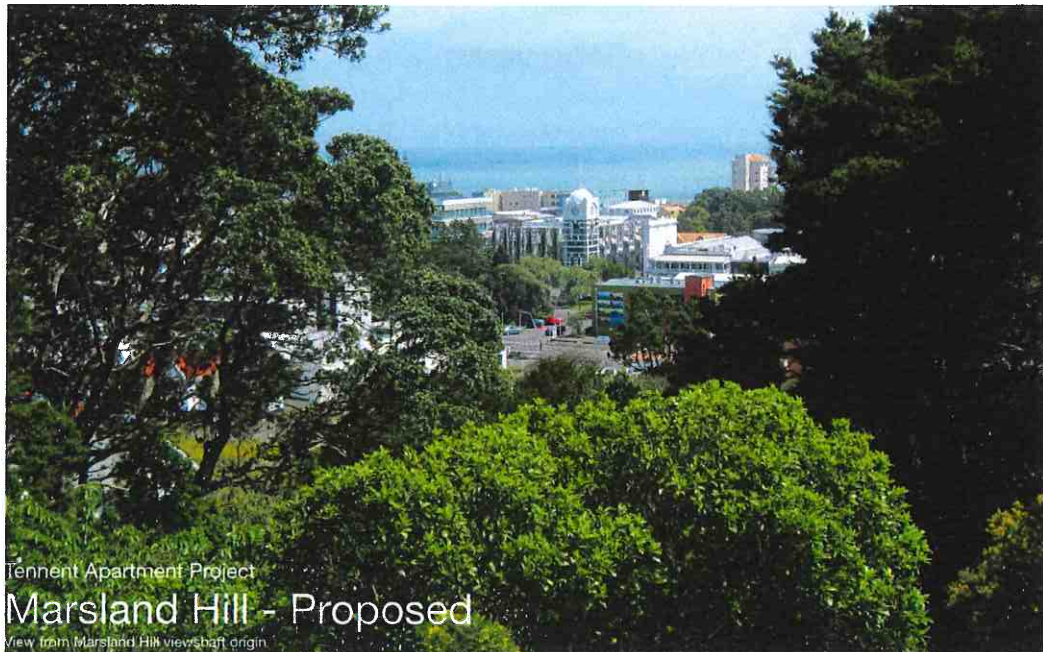
(Although the applicant describes the Marsland view shaft as a panorama, actually the most inviting and important view is toward the sea.)

The proposal reduces the amount of sea visible by a noticeable amount.

It actually does protrude above the office building immediately in front of it. The dark colour of the glass building stand out.

This point was also raised by the peer review, by Natural Capital item 4:

What is illustrated by the montage within Appendix B, is how the dark colour used in the montage punctuates the centre or core of the scene where built form touches the sea. (Refer to the applicant's assessment photo.)



In assessing view shafts, I suggest the cumulative effect of successive 'minor incursions' will be significant. Allowing these incursions therefore is not in the spirit of objective 5, policy 5.2 of the plan.

9.0 MITIGATION MEASURES

- 9.1 In my opinion, most of the applicant's apparent objectives could be achieved in another way to avoid the adverse effects on the surrounding environment.
- 9.2 The top floor of the office building could have been converted to an apartment with the living areas located on the northern end. A roof top pool could have been formed on the southern site at a level to still capture the sun.
- 9.4 Sustainability. **Reuse of the existing building** rather than a large new building would support the sustainability goals of the PDP.

10.0 SUMMARY

10.1 This proposal has little regard for the loss of amenity caused to the surrounding environment, which is predominantly residential in character and use.

10.2 The applicant's assessment of effects, considers it in a business context, when the established environment is residential. Some effects have not been addressed.

The shading effect in particular has been understated, as minor.

The applicant does not represent that the overwhelming public response is against this proposal.

10.3 The LVIA appears to flatter the proposal. In my opinion, the visual effects are greater than stated.

10.4 There are technical issues not addressed, namely the effects on neighbouring residents amenity, quality of life and health and safety

10.5 There are no benefits to the wider community from this development.

The view shaft assessment should be reconsidered, in my view

10.6 I do not agree with the applicant's mitigation statement, which overlooks obvious mitigation measures, which I have covered.

10.7 My conclusion is that the effects on character and visual amenity of the surrounding area are more than minor.

APPENDIX 1

Shading diagrams BOON SK5.01 to 04

APPENDIX 2

Visual amenity effects at objectors homes

APPENDIX 3

Zone cross section diagram

APPENDIX 2

Visual amenity effects at objector's sites

The following is a series of marked up photos indicating the visual amenity effects of the proposed development as viewed from the objectors homes. The markups are indicative and based on the proportions relative to the existing building, and the elevations of the proposed. The corner of the southern extremity is based on a site measurement marked up on the carpark.

The most effected is first, 122 St Aubyn St - Bill & Diane Mc Arthur, and then the less affected with distance and elevation from the subject site.

In the case of Unit 1A Richmond Estate - Morris and Ria Hey, there is a significant loss of views. In assessing these, the 'permitted baseline' is the line of the existing building parapet.

These photos show the dominating visual amenity effect of the proposal, and the loss of sky space, particularly from the closer homes.



122 St Aubyn St - Bill & Diane Mc Arthur



120 St Aubyn St Unit 11 Richmond Estate - Larry & Kaylene Stewart



120 St Aubyn St Unit 10 Richmond Estate Trevor and Kay Clegg



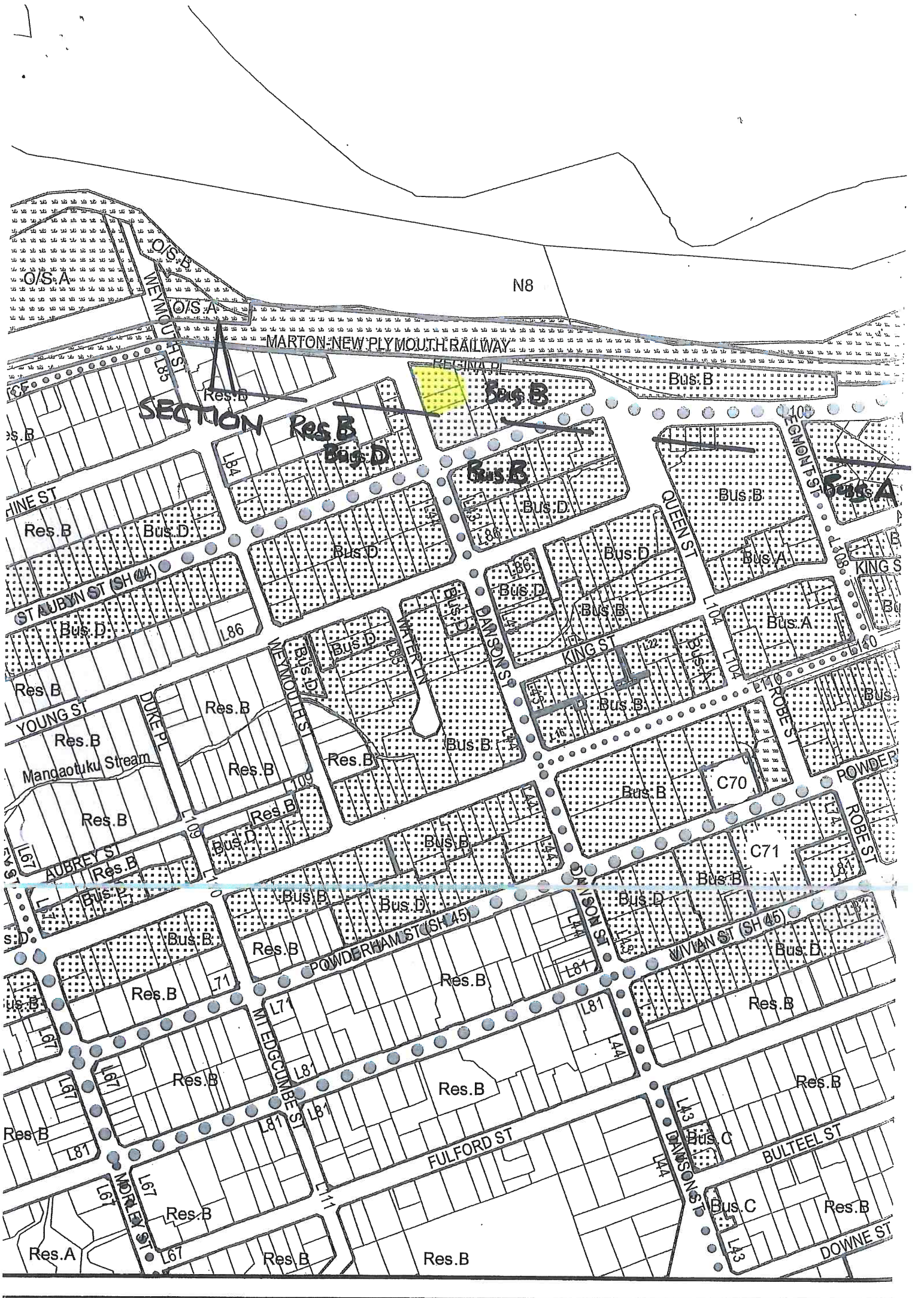
120 St Aubyn St Unit 1A Richmond Estate - Morris and Ria Hey



120 St Aubyn St Unit 4 Richmond Estate - Leonce Sharrock

APPENDIX 3

Zone cross section diagrams



N8

MARTON-NEW PLYMOUTH RAILWAY

SECTION

Res. B

Bus. B

Bus. D

Bus. B

Bus. D

Bus. B

Bus. A

Res. B

Bus. D

Bus. D

Bus. D

Bus. B

Bus. A

Bus. B

Bus. B

Bus. A

Bus. D

Res. B

Bus. D

Bus. D

Bus. B

Bus. A

Res. B

Res. B

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Res. B

Bus. B

Bus. B

POWDER

AUBREY ST

Res. B

Bus. D

Res. B

Bus. B

Bus. B

C71

ROBERT ST

Bus. B

Res. B

Res. B

Bus. D

Bus. D

Bus. B

Bus. B

POWDERHAM ST (SH 45)

VIVIAN ST (SH 45)

Bus. D

Bus. B

Res. B

Res. B

Res. B

Res. B

Res. B

Res. B

Res. B

Bus. C

Res. B

Res. B

Res. A

Res. B

Bus. C

Res. B

DOWNE ST

Table 23.14a Extent of the PARKING EXEMPTION AREA



