

**BEFORE COMMISSIONER MCKAY APPOINTED BY NEW PLYMOUTH
DISTRICT COUNCIL**

UNDER

the Resource Management
Act 1991 ("RMA")

IN THE MATTER

of an application under
section 88 of the Act by
**BRYAN & KIM ROACH &
SOUTH TARANAKI
TRUSTEES LTD** to the **NEW
PLYMOUTH DISTRICT
COUNCIL** for a land use
consent to construct a
dwelling and associated
retaining and fencing at
24/26 Woolcombe Terrace,
New Plymouth.
(LUC24/48512)

**STATEMENT OF EVIDENCE OF BENJAMIN RICHARD LAWN ON BEHALF OF
BRYAN & KIM ROACH & SOUTH TARANAKI TRUSTEES LTD**

1. INTRODUCTION

- 1.1 My full name is Benjamin Richard Lawn.
- 1.2 I have over 12 years' experience in resource management and planning. I hold a Bachelor of Environmental Management and Planning (BEMP) from Lincoln University.
- 1.3 My experience in resource management and planning includes roles within the private sector for both international and domestic companies, performing development of environmental policy, consent compliance, application for large scale land use, air/marine/freshwater discharge consents, water abstraction consents, contaminated land and community/tangata whenua engagement, amongst other facets.
- 1.4 I am currently a Planner at McKinlay Surveyors Limited, a planning and surveying company operating throughout the Taranaki region. I am responsible for project scoping services, resource consent applications for a large variety of land uses and subdivisions as well as submitting and speaking on behalf of clients for District and Regional matters.
- 1.5 This evidence is given in support of the land use consent application ("the application") lodged by Bryan & Kim Roach, and South Taranaki Trustees

Limited ("the applicant"), for a dwelling and associated retaining and fencing, located at 24/26 Woolcombe Terrace, New Plymouth (LUC24/48512).

1.6 I am authorised to give this evidence on behalf of the applicant.

2. INVOLVEMENT IN THE PROJECT

2.1 I was engaged by the applicant in April 2024 to prepare and lodge a (retrospective) land use consent application. I was not involved in any prior mediation or discussions.

2.2 My involvement in the application has included:

- (a) preparing and lodging the resource consent application and assessment of environment effects ("AEE");
- (b) preparing and responding to requests for further information;
- (c) meeting the applicant to discuss the proposal, as part of the project team, prior to notification;
- (d) review of the Notification Decision;
- (e) review of the submission made regarding the application; and
- (f) review of the Section 42A report ("Officer's Report").

2.3 I have visited the application site and surrounding area on numerous occasions, and I am familiar with it and the surrounding environment.

2.4 I have also reviewed the following documents produced with the application, including:

- (a) The original application for consent dated 07 June 2024;
- (b) The BOON architectural plans for the resource consent dated 29 May 2024;
- (c) The amended BOON architectural plans for the resource consent dated 6 August 2024;
- (d) The amended application for resource consent dated 14 August 2024;
- (e) The amended BOON architectural plans for the consent dated 20 September 2024.

- 2.5 I have also reviewed the evidence of Mr Daniel McEwan landscape architect, Mr Kyle Arnold associate director of Boon Ltd, Mr Jono Murdoch architect, and Mr Richard Bain landscape architect.

3. CODE OF CONDUCT

- 3.1 I confirm that I have read the Code of Conduct for expert witnesses contained in the 2023 Environment Court Practice Note and that I agree to comply with it. I confirm I have considered all the material facts that I am aware of that might alter or detract from the opinions I express. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

4. PURPOSE AND SCOPE OF EVIDENCE

- 4.1 In this matter, I have been asked by the applicant to provide a planning assessment of the proposal.
- 4.2 Except where my evidence relates to contentious matters, I propose to only summarise the conclusions set out in my consent application and AEE documentation.
- 4.3 My evidence is structured as follows:
- (a) The application (Section 5);
 - (b) The site and surrounding environment (Section 6);
 - (c) Statutory assessment (Section 8);
 - (d) Environmental effects (Section 9);
 - (e) Assessment against relevant planning documents (Section 10);
 - (f) Other matters (Section 11);
 - (g) Part 2 of the RMA (Section 12);
 - (h) Proposed conditions of consent (Section 13); and
 - (i) Concluding comments (Section 14).

5. THE APPLICATION

- 5.1 Details of the application are described in the section 42a report dated 4th March 2025. I generally agree with the summary of the application and adopt that description here.

6. THE SITE AND RECEIVING ENVIRONMENT

- 6.1 The application site and receiving environment are well described in the section 42a report. I generally agree with the summary of the site and receiving environment and adopt that description here.

7. SUBMISSION ON THE APPLICATION

- 7.1 One submission has been received regarding the application (the "submission") from Geoffry and Johanna Whyte (the "submitter").
- 7.2 I have reviewed the submission made and the summary provided in the Officer's Report at paragraph 30.
- 7.3 I address the key concerns of the submitter throughout my evidence.

8. STATUTORY ASSESSMENT

Operative New Plymouth District Plan (ODP) and Proposed New Plymouth District Plan (PDP)

- 8.1 The Officer's Report sets out the statutory reasons for the application and concludes that overall, the proposal is a Discretionary Activity. I agree with this conclusion and the summation that the PDP is now the relevant District Plan following the closing of the appeal period. Accordingly, consent is now only necessary under the PDP.
- 8.2 Since the submission of the application, the PDP - Appeals Version (effective 14 September 2023) has been revised with minor changes and withdrawn appeals. The current version is referred to as the PDP – Appeals Version – Update 7: Withdrawn appeals. This is considered to supersede the original PDP – Appeals Version, and consent is therefore required under the PDP 'Update 7' version.
- 8.3 The revised version of the PDP does not include any changes to the relevant objectives, policies or rules which the application is subject to other than the Medium Density Residential Zone (MDRZ) provisions which included a new rule for 'Community corrections activities' (MRZ-R16), and its inclusion under the MRZ-P2 as a potentially compatible activity.

- 8.4 The inclusion of the new MRZ-R16 Rule has subsequently changed the numbering of the succeeding Medium Density Rules. The relevant PDP provisions to the application have, therefore, been updated as shown in **Table 1** below.

Table 1: PDP provisions table

Rule #	Rule	Compliance	Activity Status
<i>Medium Density Zone Rules</i>			
MRZ- R30 31	Building Activities	The eastern building does not meet all the effects standards and is therefore RDIS.	RDIS
MRZ- R32 33	Building activities that do not comply with MRZ-S3 Height in Relation to boundary, but comply with MRZ-S4 Alternative Height in Relation to Boundary	The eastern building that is within 20m of the road frontage is within the alternative height in relation to boundary effects standard (S4) on the eastern boundary. The matters of discretion are met. Therefore, the activity is Restricted Discretionary under this rule.	RDIS
<i>Medium Density Zone Effect Standards</i>			
MRZ-S1	<i>Maximum structure height -</i> 11m maximum.	The maximum height of the buildings is 8.155m.	Complies
MRZ-S2	<i>Maximum building coverage -</i> 50% maximum.	The site coverage of the buildings is 48.4%.	Complies
MRZ-S3	<i>Height in relation to boundary -</i> Buildings must not project beyond a 45-degree recession	A portion of the building past 20m from the road frontage intercepts the 45-degree recession	Does not Comply

	plane measured from a point 3m vertically above ground level.	plane.	
MRZ-S4	<p><i>Alternative height in relation to boundary</i> –</p> <p>Buildings within 20m of the site frontage must: not exceed a height of 3.6m measured vertically above ground level at side boundaries and thereafter; must be set back one metre and then 0.3m for every additional metre in height (73.3 degrees) up to 6.9m and then one metre for every additional metre in height (45 degrees)</p>	The eastern boundary daylighting utilises the alternative height to boundary standard and is achieved.	Complies
MRZ-S5	<p><i>Minimum building setbacks</i> –</p> <p>From a road boundary: 1.5m</p> <p>From a side boundary: 1m</p>	All buildings meet the minimum setback.	Complies
MRZ-S6	<p><i>Outdoor living space requirements</i> –</p> <p>Minimum area of outdoor living space per residential unit is 20m².</p>	Both buildings have an outdoor area of 20m ² provided which is accessed from the living room area, and has no dimension less than 3m, a flat	Complies

		gradient and is free of any buildings etc.	
MRZ-S7	<i>Minimum outlook space –</i> Minimum Outlook Spaces: ○ Living Room – 6m x 4m ○ Principal Bedroom – 3m x 3m ○ All Other Habitable Rooms – 1m x 1m	Both buildings are able to meet the required outlook spaces.	Complies
MRZ-S10	<i>Maximum fence or wall height –</i> Within the front yard: 1.4m in height above ground level	The rock wall and glass balustrade combined are 2.34m above the existing ground level height.	Does not Comply
<i>Coastal Environment</i>			
CE-R5	Building Activities where all underlying zone rules and effects standards are complied with.	The eastern dwelling does not comply with MRZ-S3 Height in relation to boundary and MRZ-S10 Maximum fence or wall height, therefore the activity is Discretionary under this Rule. The building complies with all other underlying zone rules and effects standards.	Does not Comply

8.5 I agree with the Officer's Report's summary of applicable rules and effects standards in Tables 2 and 3 respectively, except for the inclusion of MRZ-R1 which is in relation to 'Residential Activities (excluding residential buildings). In my opinion the MRZ-R1 rule is included in the PDP as a permitted activity

to address the land use component for residential purposes. This application is related to the buildings which MRZ-R1 specifically excludes.

8.6 This is further reinforced in the Recommendation Report from the Independent Hearings Panel for the PDP which states, “*We have differentiated between ‘residential activities’ and ‘residential buildings’ (Rule R1) as the definition of the former term was inapt in our view to capture buildings and thus trigger building related effects standards. Although Rule R1 remains subject to compliance with the zone effects standards, those standards are irrelevant to the use of land for ‘residential activities’ (as opposed to buildings). We have included ‘(excluding residential buildings)’ in the rule title to make this clear*”.¹

8.7 I also note in paragraph 13 of the Officer’s Report and paragraph 8 of the Notification Report, it states, “*The as-built structures are shown in Figures 2-4 and fail to comply with Rules MRZ-R31, MRZ-R33 and CE-R5*”, which I do not believe is correct as MRZ-R33 is shown to be complied with.

Application of MRZ-R31 and MRZ-R33 to Building Activities

8.8 The PDP contains two rules which address ‘building activities’ in the MDRZ; MRZ-R31 and MRZ-R33.

8.9 Building activities are defined in the PDP as:

“means undertaking or carrying out any of the following building works:

- *Erection of a structure - erection of new buildings and structures;[...]*”.²

The proposed activity meets this definition as it consists of the erection of a structure, with a building and a retaining wall/fence (structure) being proposed.

8.10 MRZ-R31 is for, “*Building Activities including demolition or removal of a structure*” within the Medium Density Residential Zone. This is a permitted activity provided all Effects Standards are complied with.

8.11 MRZ-R33 is for, “*Building activities that do not comply with MRZ-S3 Height in Relation to boundary, but comply with MRZ-S4 Alternative Height in Relation to Boundary*” within the Medium Density Residential Zone. This is a

¹ PDP Recommendation Report 25 – RESZ, para 6.19 ([link](#))

² PDP: Part 1/Interpretation/Definitions ([link](#))

Restricted Discretionary Activity, with the matters of discretion including sunlight access, streetscape, overlooking and privacy.

- 8.12 The difference in application of these rules is that MRZ-31 requires all Effects Standards to be met, (in which case the built form will be permitted), whilst MRZ-R33 is applied if Effect Standard MRZ-S3 cannot be complied with, but Effect Standard MRZ-S4 can (in which case the built form requires a restricted discretionary consent).
- 8.13 MRZ-S3 is the Effect Standard for, "*Height in Relation to Boundary*" (HIRB) which requires buildings to be within a 45-degree recession plane measured from 3m above ground level on side boundaries.
- 8.14 MRZ-S4 is the Effect Standard for, "*Alternative height in relation to boundary*" (AHIRB) which requires buildings within 20m of the site frontage to not exceed a height of 3.6m measured vertically above ground level at side boundaries and thereafter, must be set back one metre and then 0.3m for every additional metre in height (73.3 degrees), up to 6.9m, and then one metre for every additional metre in height (45 degrees).
- 8.15 The submission from Mr & Mrs Whyte stated they believe that MRZ-S4 does not apply to the proposed building, "*as the building does not sit entirely within 20 metres of the site frontage*"³. I disagree with this and outline my interpretation of the applicability of the MRZ-S3 and MRZ-S4 Effects Standards and other subsequent statements within their submission below.
- 8.16 MRZ-S3 and MRZ-S4 apply to, "*Buildings*"; with MRZ-S4 being applicable to "*Buildings within 20m of the site frontage*". MRZ-S3 includes a listed criteria for which the standard does not apply to. This includes, "*9. Buildings or parts of buildings that utilise MRZ-S4 Alternative Height in Relation to Boundary standard*".
- 8.17 The use of the phrase "*parts of buildings*" shows that MRZ-S3 and MRZ-S4 can be applicable to a single building which can utilise both effects standards, and there is no requirement for a building to be contained wholly within the first 20m of the site frontage.
- 8.18 I agree with Mr and Mrs Whyte's submission that Kainga Ora was the party that sought inclusion of the AHIRB standard in the PDP, however, I do not agree that their intention was to allow only a single building wholly within 20m of the site frontage to utilise this standard. I have reviewed the hearing

³ Mr & Mrs Whyte Submission, para 17

evidence of Mr. Michael Campbell for Kainga Ora in relation to the AHIRB, which is quoted in Mr and Mrs Whyte's submission. The interpretation of the AHIRB being applicable to single or multiple buildings is reiterated by the inclusion of Point 9 within MRZ-S3 (referred to in paragraph 8.16) having been requested by Mr. Campbell in his submission:

*"[...] To ensure there is no conflict between GRZ-R27 and MRZ-R29 and the AHRB standard, I have proposed an exclusion where the AHRB standard is utilised. I have also proposed an exclusion under the GRZ-S4 and MRZ-S4 height in relation to boundary standards for 'buildings and/parts of buildings that utilise the MRZ-SX Alternative Height in Relation to Boundary standard'. This is to ensure that permitted land use activities remain permitted where the AHRB is utilised, and are not caught by requirements that 'all Medium Density Residential Zone Effects Standards are complied with'."*⁴ (Note that MRZ-S4 referred to the Standard HIRB at the time).

- 8.19 The evidence of Mr. Campbell was also supported by Mr. Nicholas Rae, an Urban Designer and Landscape Architect engaged by Kainga Ora. In Mr. Rae's evidence, he assesses the potential increased shading from the Standard HIRB to the AHIRB with 3D Shade Modelling. This modelling shows a maximum bulk factor for shading impacts, which results in an increased shading over the first 20m of site frontage utilising the AHIRB which then lessens thereafter where the bulk is limited to the Standard HIRB⁵. There is no separation of the bulk factor between HIRB and AHIRB in the modelling.

⁴ PDP Hearing 17(a) & 15(b) - Design Guidelines and Residential Zones: Submitter Evidence, Kainga Ora Michael Campbell Planning Evidence, para 5.30 ([link](#))

⁵ PDP Hearing 17(a) & 15(b) - Design Guidelines and Residential Zones: Submitter Evidence, Kainga Ora Nicholas Rae Urban Design, attachment B ([link](#))



Figure 1: Extract of Mr. Rae's evidence to the PDP Hearing on the HIRB and AHIRB showing one bulk factor for shading comparison

8.20 The evidence of Mr. Campbell also states that the AHIRB standard was based on the Auckland Unitary Plan (AUP)⁶. On reviewing the AUP, the AHIRB standard within Mixed Housing Urban Zone (H5.6.6) states that the standard is an alternative to the permitted HIRB and applies to, "development that is within 20m of the site". It also states that it applies to, "Any buildings or parts of buildings [...]"⁷.

H5.6.6. Alternative height in relation to boundary

Purpose: to enable the efficient use of the site by providing design flexibility at upper floors of a building close to the street frontage, while maintaining a reasonable level of sunlight access and minimising overlooking and privacy effects to immediate neighbours.

(1) This standard is an alternative to the permitted Standard H5.6.5 Height in relation to boundary and applies to development that is within 20m of the site frontage.

⁶ PDP Hearing 17(a) & 15(b) - Design Guidelines and Residential Zones: Submitter Evidence, Kainga Ora Michael Campbell Planning Evidence, para 5.21 ([link](#))

⁷ Auckland Unitary Plan – Residential Mixed Housing Urban Zone, H5.6.6 (2), ([link](#))

- (2) Any buildings or parts of buildings within 20m of the site frontage must not exceed a height of 3.6m measured vertically above ground level at side and rear boundaries. Thereafter, buildings must be set back 1m and then 0.3m for every additional metre in height (73.3 degrees) up to 6.9m and then 1m for every additional metre in height (45 degrees) as shown in Figure H5.6.6.1 Alternative height in relation to boundary below.

Figure 2: AUP AHIRB Rule

- 8.21 Due to the AHIRB standard being a relatively new standard within the New Plymouth District, a request was made to NPDC for all resource consent applications that have been granted since the implementation of this rule. There have been 7 developments that have utilised the AHIRB Rule MRZ-33 and were granted consent. Of these, 5 were for developments which were for a single building from within 20m of the road frontage and which extended beyond the 20m. There were no applications denied. A summary of these applications is included in **Appendix 1** in my evidence. In the interest of brevity, I have not attached full copies of the applications and planners' decision reports, however I have copies of all documentation if the Commissioner wishes to review.
- 8.22 A relevant example of a granted land use consent under MRZ-R33 is included below as it is of a similar nature to this application. LUC24-48428 was granted by NPDC on the 26th June 2024 for a new dwelling at 44 Octavious Place – located two blocks away from the applicant's site with the same overlays and zoning, a full copy of the application document and planners report is attached to this evidence as **Appendix 2**. This was for a single dwelling which utilised the AHIRB standard for dwelling within the first 20m of the road frontage, then assessed the dwelling using the standard HIRB thereafter. A portion of the dwelling also breached the standard HIRB past 20m. The below images show the approved daylighting and shading plans under LUC24-48428 which has utilised the same interpretation as this application. It is noted that LUC24-48428 was granted as a non-notified consent without the utilisation of the preclusion from notification clause under MRZ-R33 (as MRZ-S3 was not complied with past 20m from the site frontage).

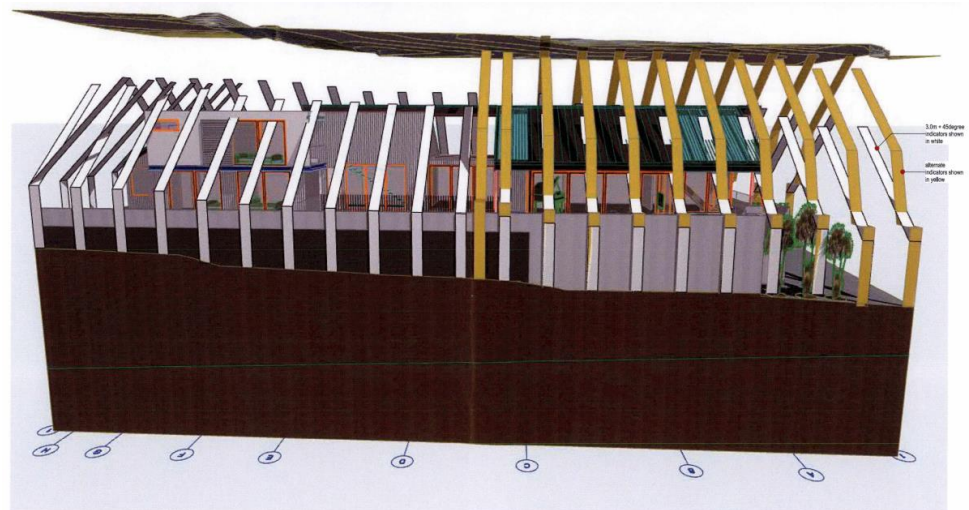


Figure 3: LUC24-48428 Daylight Analysis - Drawing No A403

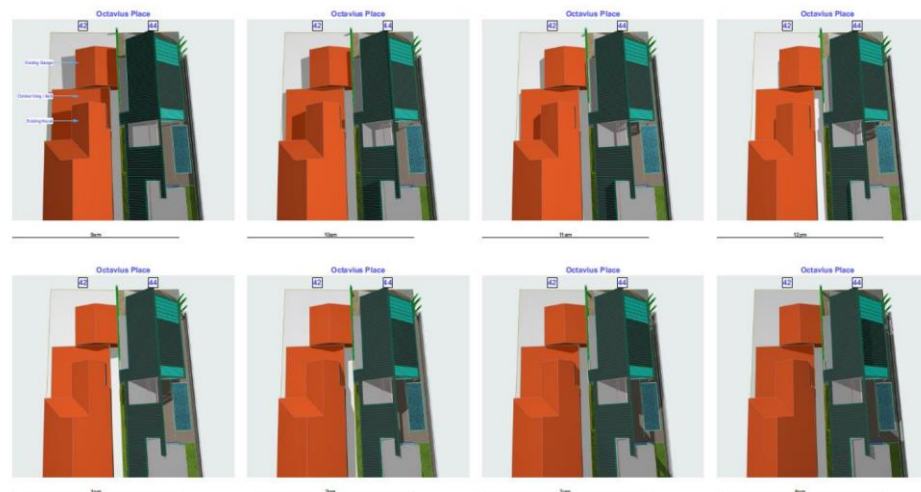


Figure 4: LUC24-48428 Shading Analysis

- 8.23 I believe the appropriate implementation of the AHIRB MRZ-R33 and MRZ-S4 is to buildings within 20m of the site frontage, whether that be a single dwelling or one that extends beyond 20m from the site frontage, thereafter the standard HIRB MRZ-S4 applies. If the AHIRB was implemented only to single buildings wholly within 20m of the site frontage, in my opinion it would encourage poor development outcomes, with buildings being separated by a miniscule amount at the 20m point, simply to state they are separate buildings after 20m, whilst still being retained and utilised by one owner. This would not result in any perceivable visual changes to adjoining properties and, therefore, would provide no benefit to the district or its people and communities.
- 8.24 The intention of the AHIRB standard was to allow for a greater flexibility in building design and site utilisation within the MDRZ that was not available

through the standard HIRB controls. Based on the above, my opinion is that there is no evidence to suggest that only a single building wholly within the 20m of site frontage can utilise the AIRHB Standard MRZ-S4 or MRZ-R33. The evidence shows that a single building can utilise both the HIRB and AHIRB as part of an application.

- 8.25 Out of an abundance of caution I will include an assessment of the application against MRZ-R31 and MRZ-S3 assessment criteria against the first 20m of the dwelling, as I believe it usefully assesses potential effects on adjacent landowners from a standard HIRB recession plane infringement. If the Commissioner is of the mind to include this rule on the first 20m of the dwelling, then an assessment of that relevant criteria is necessary.

Section 104 of the Resource Management Act

- 8.26 The proposal needs to be assessed against Sections 104 and 104B of the Resource Management Act 1991 (**RMA**). The following sections of evidence assess the application's effects with reference to Section 104 (1)(a) of the RMA, including the effects raised by the submitter.

9. ENVIRONMENTAL EFFECTS

- 9.1 Pursuant to section 104(1)(a) of the Act, this section provides an assessment of the actual and potential effects on the environment that the proposal may generate, including:

- (a) Character and streetscape effects;
- (b) Privacy, outlook, amenity and shading effects on adjacent landowners;
- (c) Coastal environment;
- (d) Other matters raised in the submission;
- (e) Other matters raised in the officer's report; and
- (f) Positive effects.

Permitted baseline

- 9.2 Section 104(2) of the RMA provides discretion to apply the permitted baseline. Section 104(2) provides that when forming an opinion about whether there are any actual or potential effects on the environment of the following activity, the consent authority:

"may disregard an adverse effect of an activity on the environment if a national environment standard or the plan permits an activity with that effect"

- 9.3 The purpose of the permitted baseline test is to isolate and make effects of activities on the environment that are permitted by the plan irrelevant. It includes non-fanciful (credible) activities that would be permitted as of right by the plan in question.
- 9.4 When applying the permitted baseline, such effects cannot be taken into account when assessing the effects of a particular resource consent application.
- 9.5 The plan in question relates to the PDP, and in particular the MDRZ. The MDRZ is intended to enable intensification around centres within the New Plymouth District. It is acknowledged this is an increase in density beyond what was enabled by the ODP, however, this is a decision that was made through a public process and now represents what the plan provides for, including as permitted standards. It is noted that the AHIRB MRZ-S4 is not included in this assessment as it is a Restricted Discretionary Activity.
- 9.6 The application AEE included information related to the permitted baseline regarding shading on the adjoining property at 28 Woolcombe Terrace. This was modelled by Mr. Murdoch and is addressed in detail within his evidence. The modelling shows a permitted 11m high building that is setback 1m from the boundary and complies with the standard HIRB under MRZ-S3 and is compared to the proposed building. I agree with Mr. Murdoch that all shading from the proposed building is less than what is modelled as permitted under the PDP, as shown in his evidence.
- 9.7 Mr. McEwan's evidence has also provided analysis of a permitted building under the PDP in regards to bulk and volume. This follows the same permitted standards as Mr. Murdoch's shading models, with an 11m high building that is setback 1m from the boundary and complies with the standard HIRB under MRZ-S3, and shown in yellow below.

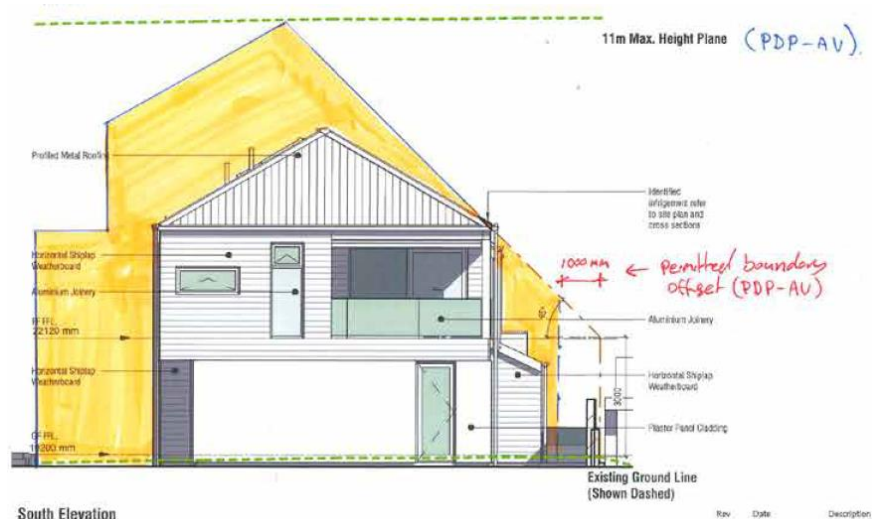


Figure 5: Permitted Baseline Model from Mr. McEwan's Evidence

9.8 I consider the proposed permitted building model shown in the Mr. McEwan's evidence to be a credible development that could be established on site as of right. The increase in the height limit of 9m in the ODP to 11m within the MDRZ of the PDP allows for and anticipates three storey dwellings. As stated in the evidence of Mr. and Mrs. Roach and Mr. Arnold, their project brief was to design a dwelling that maximised the potential of the site and the extensive sea views. As they were designing the dwelling under the ODP rules, it was limited to a two storey house. It is not fanciful to anticipate that three storey dwellings which reach 11m will be constructed in this area under the increased permitted height limits of the PDP.

9.9 Regarding the maximum front yard fence or wall height, the effects standard MRZ-S10 allows for fences or walls that are 1.4m high from ground level in the front yard in the MDRZ. The rock retaining wall is 1.21m above the ground level and would meet the requirements of a permitted activity if the glass balustrade fence above it was removed. The total height of the rock retaining wall and glass balustrade fence is 2.26m above ground level. This is 0.86m higher than what is permitted within the MDRZ under MRZ-S10.

9.10 Potential effects associated with this outcome should in my opinion be considered in light of the effects assessment provided below, which is consistent with s104(2) of the RMA.

Character and Streetscape Effects

9.11 As noted in the application AEE, the maximum breach of the HIRB is 0.629 high and 7.86m in length, which is located approximately 24m from the road. If the Commissioner is of the mind to include the entire building under the

standard HIRB MRZ-S3, then the maximum breach of the front section of the building is 0.56m high and 14.7m in length, or a total of 22.56m.

- 9.12 As noted in the application AEE, the total height of the rock retaining wall and glass balustrade fence is 2.26m above ground level. This is 0.86m higher than what is permitted within the MDRZ under MRZ-S10. Note that the measurements regarding the retaining wall and glass balustrade have been updated by Mr. Murdoch in his evidence as shown in drawing SK3.0 Rev 1, following the comment in paragraph 43 of the Officer's Report requesting the height of the wall and the elevation be clarified. This has resulted in a clarification of the combined height of the retaining wall/fence from 2.34m as stated in the AEE, to 2.26m.
- 9.13 Mr. McEwan's and Mr. Bain's evidence outlines an assessment on the visual effects of the proposed building and front yard fence infringements. It is noted that Mr. McEwan has also assessed the entire length of the dwelling under MRZ-S3 in his evidence as a 'worst-case scenario', if this effect standard is to be applied to the entire building. As demonstrated in both Mr. McEwan's and Mr. Bain's evidence, these infringements have been assessed to have a 'very low' impact on the landscape character and values, which equates to less than minor under the RMA. They consider the portions of the dwelling which breach the HIRB to have negligible or insignificant material effect on the wider receiving environment.
- 9.14 Regarding the rock retaining wall and fence, Mr. McEwan's evidence assesses the visual effects as being 'low' with the glass balustrade being visually part of the deck/balcony and consistent with the surrounding area. Mr. Bain provides agreement with this, and considers that the rock wall is an attractive structure that creates no visual dominance or adverse character effect on the streetscape, coast, or neighbouring property. He also notes the glass balustrade is also required for health and safety requirements. I agree with these comments and believe that the tinted glass balustrade fence design also provides mitigation to the potential adverse visual effects, compared to a solid non-transparent design such as timber or concrete. Fence/wall design is a matter of discretion under MRZ-S10, and although the overall status of the proposal is discretionary, I consider it is worth noting that a visually appealing design was considered by the architects at the design stage.
- 9.15 I am in agreement with the conclusions reached by Mr. McEwan and Mr. Bain which is in line with my assessment in the applications AEE. I believe that the proposed dwelling and rock wall/fence are compatible with the planned

character of the environment, with the infringements having a less than minor effect. Further, I believe the proposal enhances the planned character of the area through a high-quality, well-designed development.

Privacy, outlook, amenity and shading effects on adjacent landowners

Shading

- 9.16 The comprehensive shading analysis undertaken by Mr. Murdoch and detailed in his evidence and plan set, demonstrate that 28 Woolcombe Terrace will still have adequate access on all current outdoor areas to sunlight, and shading is less than what could occur as a permitted activity under MRZ-S3.
- 9.17 The shading analysis provided by Mr. Murdoch illustrates that during the spring equinox there is no shading on the outdoor living spaces between the hours of 9am and 4pm. This is over and above what is expected by MRZ-R33 assessment criteria, which requires four hours of sunlight to neighbouring sites' outdoor living space between the hours of 9am and 4pm on the spring equinox.
- 9.18 The extent of the breach of MRZ-S3 at the rear of the dwelling is also shown by Mr. Murdoch to create a less than minor increase in shading, compared to the same dwelling with the breached area being removed. The breach creates a small increase in shading occurring in the corner of the neighbouring site which is currently used for vehicle parking/manoeuvring and is less than what would occur from a permitted building under MRZ-S3.
- 9.19 The analysis of the shading from the entire length of the as built dwelling was also modelled by Mr. Murdoch. This was compared against the shading from a permitted dwelling that meets the requirements of the MDRZ standards, with all as-built shading being less than what a permitted building would create.
- 9.20 I am in agreement with the Officer's Report in paragraph 40 which concludes the shading effects as being less than minor, and that the shading effects from the breach of the HIRB are marginal in terms of its area and the time in which it occurs. I note, however, that I do not agree with this part of paragraph 40 which states, "[...] *I consider that the area of the site affected by additional shading over and above the permitted baseline [...]*". As detailed in the shading diagrams from Mr. Murdoch, the shading produced by the as-built dwelling is less than the permitted baseline in all occurrences.

The shading produced by the as-built dwelling is slightly increased compared to the same building with the infringement area removed – which is a different comparison to the permitted baseline.

- 9.21 Mr. Murdoch's analysis was also reviewed by Mr. McEwan and Mr. Bain, with both experts assessing the resulting increase in shading from the extent of the infringements as being 'very low' on the 7-point scale, or less than minor. I am in agreement with all three experts that the effects from the shading attributed to the infringed areas of the as-built dwelling are less than minor, and will create no shading effects greater than what is permitted and anticipated between two adjoining properties within the MDRZ of the PDP.

Privacy, outlook, amenity

- 9.22 The evidence provided by Mr. McEwan includes a landscape and visual assessment of the dwelling and fence/retaining structure on the adjoining property at 28 Woolcombe Terrace. Regarding privacy, Mr. McEwan concludes that the proposed dwelling has been designed with windows in habitable rooms, that would have an increased occupancy, which are primarily facing north and west away from the adjoining property, and that the impact on 28 Woolcombe Terrace is less than minor.
- 9.23 I agree with Mr. McEwan's assessment and note that the building's breach of the MRZ-S3 standard does not facilitate any additional outlooks or impairments to privacy compared to a dwelling that meets MRZ-S3. The viewpoints of windows being approximately 0.6m lower (the extent of the MRZ-S3 infringement) are not expected to have any difference in these effects.
- 9.24 The outlook and amenity impacts from the building on 28 Woolcombe Terrace are assessed by Mr. McEwan and concluded as being 'low', taking into account the buildings design features, such as, the setback deck area in the middle of the dwelling, portion of staggered roof form and angled window alcoves. Regarding the view to Mt Taranaki which was raised by the submitter, the breach of the MRZ-S3 standard does not contribute to this. Furthermore, there is an approximate 4m setback from the southern boundary to the proposed dwelling, which is greater than the required 1m setback under the PDP. If a dwelling was constructed in this area as a permitted activity, it would create more obstruction of Mt Taranaki than the present design.
- 9.25 Regarding the retaining wall/fence, Mr. McEwan is in agreement with the assessment in my AEE and concludes the impacts to be 'low', with the glass

balustrade being visually consistent with the area and offering no obstruction in views above what is permitted.

- 9.26 I agree with Mr. McEwan's assessment that the proposed dwelling and retaining wall/fence overall create 'low' visual effects on the adjoining neighbour. It is my opinion that the proposed dwelling is consistent with the objectives and policies of the MDRZ, and I see no evidence that the infringements of the MRZ-S3 or MRZ-S10 create effects above what is permitted by the PDP within this zoning.

Dominance

- 9.27 The dominance of the as-built dwelling has been assessed by both Mr. McEwan and Mr. Bain in their evidence. Both have assessed the dominance effects on 28 Woolcombe as being 'low', with the infringement of the height to boundary areas creating a minimal addition to any dominance factor. I am in agreement with this assessment in addition to the assessment outlined in my original AEE. I also agree with both their statements that a permitted baseline exists where a permitted dwelling is able to be built with a much larger bulk factor, which would create greater dominance effects compared to the as-built dwelling.
- 9.28 Mr. McEwan notes in his evidence that he is not in agreement with the Officer's Report, which assesses the dominance effects as being minor. Mr. McEwan determines the as-built dwelling as having less than minor effects based on his assessment. As stated above, I am in agreement with Mr. McEwan and Mr. Bain's assessments and conclusions when taking into account the permitted baseline. The Officer's Report states in Paragraph 28 that the permitted baseline has been applied, however there is no commentary in the Officer's Report on the permitted baseline in relation to the dominance effects.
- 9.29 The Officers Report states in Paragraph 46 when assessing dominance, that the combined length of HIRB infringement is 75% of the total building length which is a factor in determining the dominance effects as being minor. The assessment appears to be based entirely on MRZ-S3 and does not apply the MRZ-R33 or MRZ-S4 AHIRB when assessing the dominance effects. Whilst the overall status of the consent application is Discretionary due to the Coastal Environment Overlay and the officer's discretion is not limited, it is my opinion that consent is being sought for under both MRZ-R31 and MRZ-R33 and should be applied in the assessment as such (as stated in Section 8 of this evidence).

- 9.30 When assessing the dominance of the as-built dwelling under MRZ-R33 for the portion of the building within 20m of the road frontage, and MRZ-R31 for the building thereafter, the effects are negligible, with the MRZ-R33 being met and all RD matters being complied with. The dominance effects thereafter from the infringement of the MRZ-S3 HIRB are contained to the rear of the site, and are much less than the permitted baseline. However if the Commissioner is of the mind to apply the MRZ-R31 and MRZ-S3 HIRB to the entire building, the assessments performed by Mr. McEwan and Mr. Bain have applied this, with the determination that the dominance is still less than minor in their opinions.

Coastal environment

- 9.31 Due to the activity being within the Coastal Environment Overlay, the application is discretionary under Rule CE-R5 which requires all building activities to meet all underlying zone rules and effects.
- 9.32 I agree with the Officer's Report in paragraph 33, which refers to the Notification Report, and in paragraph 103 where Mr. Robinson summarises the existing environment which has been heavily modified. I note that in paragraph 33 of the Notification Report, Mr. Robinson states he is in agreement with the analysis offered in the AEE but states the effects of the proposal on the Coastal Environment would be minor.
- 9.33 The AEE concluded that the effects on the Coastal Environment are less than minor, and it is my opinion based on the AEE and the analysis offered in the Notification Report, there is no evidence that the proposed activity will have any measurable adverse impact on the Coastal Environment. Therefore, I consider the potential adverse effects to be less than minor, not minor – as stated in the Notification Report Paragraph 33.

Other matters raised in the submission

- 9.34 The submitter has raised the following matters that I wish to address:
- (a) Infringements of earthworks standards:
 - (i) The submitter stated they believe the activity does not comply with EW-R10 under the PDP. In my opinion, this is not an applicable rule, as the earthworks were carried out and completed in 2022 as supported by the timeline within Mr. and Mrs. Roach's evidence.

- (ii) The PDP was notified in 2019, however the earthworks rules did not have legal effect until the Decisions Version in May 2023.
 - (iii) Under the ODP, the applicable rule was Res47, which allowed a maximum quantity of 20m³ per 100m² of site area. The site area was 904m² which allowed a maximum quantity of 180.8m³. The earthworks performed a cut of 84.8m³ and fill of 12.97m³ which totals 97.77m³. It is therefore considered to meet the permitted criteria of the ODP, which was in force at the relevant time.
- (b) MRZ-S5(3) not assessed:
- (i) MRZ-S5(3) relates to the 2.5m setback from side boundaries required for decks, balconies and terraces more than 2m above ground level.
 - (ii) This was addressed in the AEE with MRZ-S5 being stated as being compliant. This is evident from the submitted architectural drawings. I have added side boundary measurements to both balconies (highlighted in red) that are higher than 2m in the image below which confirms this. I therefore assess MRZ-S5 as being compliant with the proposed dwelling.

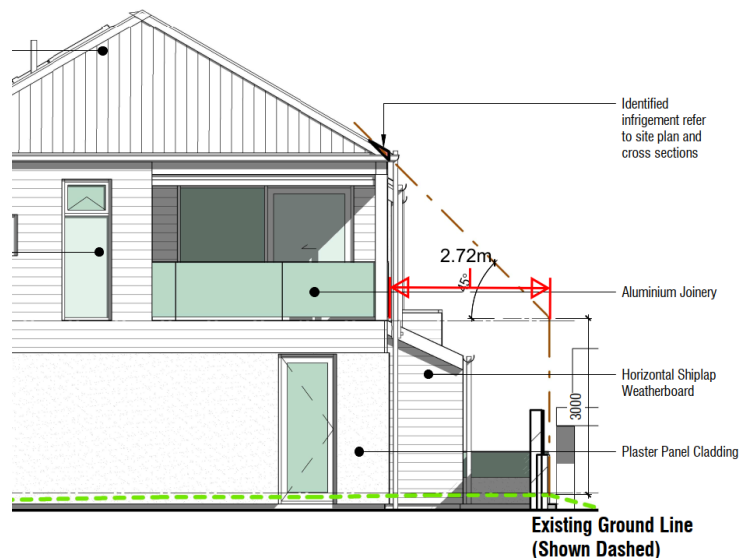


Figure 6: Extract of BOON Consent Drawings - SK3.1 with Measurement from Side Boundary to Balcony Added

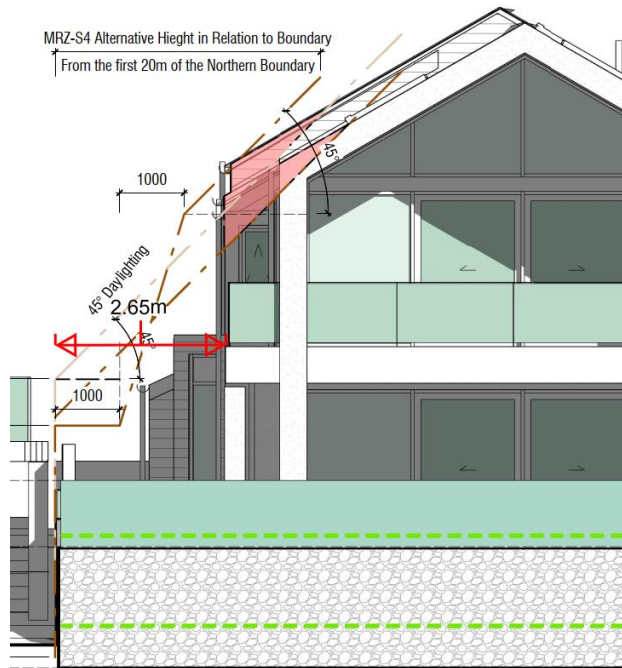


Figure 7: Extract of BOON Consent Drawings - SK3.0 with Measurement from Side Boundary to Balcony Added

Other matters in the Officer's Report

- 9.35 The Officer's Report addresses the northern first level deck in Paragraph 41 and states that, "Compliance with Effects Standard MRZ-S5 3. will be achieved by installing vertical timber louvers to the eastern edge of the terrace". As detailed above, the northern first level deck is over 2.5m from the side boundary and is therefore compliant with MRZ-S5. There is no requirement to install the vertical timber louvers to achieve compliance with MRZ-S5.

Positive Effects

- 9.36 Section 104 of the RMA also takes into account positive effects from the activity, which in this case are considered to be the following:
- (a) A large four-bedroom dwelling which is able to house multiple generations and is designed at a high-quality standard which will house people for many years to come.
 - (b) Creating a high-quality building that replaces an existing dated building, contributing to the planned character of the area;
 - (c) A dwelling which incorporates natural sunlight and visual amenities which can be enjoyed by the occupants.

- (d) The dwelling is designed with open views to road reserve, ensuring passive surveillance;
- (e) Creation of employment for the construction industry and flow on effects for surrounding businesses.

10. ASSESSMENT AGAINST RELEVANT PLANNING DOCUMENTS S104(1)(B)

- 10.1 There are no National Environmental Standards relevant to this application.

National Policy Statement Urban Development 2020

- 10.2 Paragraphs 64-65 of the Officer's Report makes an assessment of the proposal against the National Policy Statement for Urban Development 2020 ("NPS-UD"). I agree with the assessment that the activity is generally consistent with the relevant Objectives and Policies of the NPS-UD.
- 10.3 In summary, the NPS-UD supports and encourages a variety of housing types with an overall increase in densities within urban environments. The proposal is able to provide a well-designed dwelling that will facilitate multiple generations within the medium density zoning in close proximity to the amenities and the urban CBD of New Plymouth. I believe the proposal is consistent with the NPS-UD which is in alignment with the Officer's Report's conclusion reached in Paragraph 65.

Operative District Plan

- 10.4 I agree with the Officer's Report in paragraph 23 that the ODP has been superseded by the provisions of the PDP and, therefore, an assessment of the relevant objectives and policies are no longer relevant.

Proposed District Plan

- 10.5 The following Objectives and Policies of the PDP are considered relevant to the proposal:
 - (a) UFD-18, UFD-20 and UFD-24;
 - (b) Objectives MRZ-O1 to O7, Policies MRZ-P1 to P2 and P5 to P10.

<i>Strategic Objectives</i>	
UFD-18	The district develops and changes over time in a cohesive, compact and structured way that:

	<ol style="list-style-type: none"> 1. delivers a compact, well-functioning urban form that provides for connected, liveable communities; 2. manages impacts on the natural and cultural environment; 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; 4. enables greater productivity and economic growth; 5. enables greater social and cultural well-being; 6. takes into account the short, medium and long-term potential impacts of natural hazards, climate change and the associated uncertainty; 7. utilises existing infrastructure and social infrastructure or can be efficiently serviced with new infrastructure and social infrastructure; 8. meets the community's short, medium and long-term housing and industrial needs; and 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.
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> <ol style="list-style-type: none"> 1. suburban housing forms in established residential neighbourhoods; 2. a mix of housing densities in and around the city centre, town centres, local centres and key transport routes, including multi-unit housing; 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; 4. a range of densities and housing forms in new subdivisions and areas identified as appropriate for growth; and 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.

UFD-24	<p>Urban environments are well-designed, liveable, connected, accessible, and safe spaces for the community to live, work and play, which:</p> <ol style="list-style-type: none"> 1. integrate and enhance natural features and topography into the design of development to minimise environmental impacts; 2. recognise the local context and planned character of an area; 3. reduce opportunities for crime and perceptions of crime through design solutions; 4. create ease of movement in communities through connected transport networks, a range of transport modes and reduced reliance on private motorised vehicles; 5. incorporate mātauranga Māori in the design, construction and development of the built environment; 6. use low impact design solutions and healthy, accessible, energy efficient buildings; and 7. are adequately serviced by utilising and upgrading existing infrastructure and social infrastructure or with new infrastructure and social infrastructure.
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10.6 The applicants four-bedroom dwelling aligns with the PDP's strategic objectives by contributing to a well-structured urban form. The dwelling utilises existing infrastructure, creating no additional demand on infrastructure. The dwelling is a modern, well-designed housing option that enhances social and economic well-being while helping to meet the district's housing needs.

10.7 This development contributes to the variety of housing types and high-quality living environments sought under UFD-20, by offering a contemporary dwelling within an established residential neighbourhood. The house is designed to complement the existing character of the area while also incorporating modern elements. By providing a spacious and well-functioning home for multiple generation families, the proposal addresses the district's demand for diverse housing types.

10.8 The application ensures a well-designed, liveable, and safe urban environment in accordance with UFD-24. The design utilises natural sunlight within rooms, modern construction materials, and accessibility features to ensure long-term viability. The development also provides open views to road reserve, ensuring passive surveillance. The dwelling will contribute to a

more modern residential area that aligns with the district's long-term vision for sustainable growth.

<i>Medium Density Residential Zone – Objectives and Policies</i>	
<i>MRZ-01</i>	<i>The Medium Density Residential Zone is predominantly used for residential activities and is characterised by medium density housing up to three storeys high in a variety of forms.</i>
<i>MRZ-03</i>	<i>There is an increase in the variety of housing densities, types, sizes and tenures to respond to community needs, while also responding appropriately and sensitively to the context, planned character, tangata whenua values and amenity values of the surrounding neighbourhood</i>
<i>MRZ-04</i>	<i>Residential buildings provide occupants and neighbours with well- designed living environments.</i>
<i>MRZ-05</i>	<i>Buildings are well designed, use land efficiently and contribute positively to the delivery of a compact urban form</i>
<i>MRZ-06</i>	<i>Changes to the planned character and increased housing capacity do not result in incompatible built form and adverse changes to landform that compromise streetscape amenity and natural features</i>
<i>MRZ-07</i>	<i>Adverse effects of activities are managed to provide residential amenity consistent with the planned character of the Medium Density Residential Zone</i>
<i>MRZ-P1</i>	<i>Allow activities that are compatible with the role, function and planned character of the Medium Density Residential Zone, while ensuring their design, scale and intensity are appropriate, including 1. residential activities...</i>
<i>MRZ-P2</i>	<i>Manage activities that are potentially compatible with the role, function and planned character of the Medium Density Residential Zone, and ensure it is appropriate to establish such activities in the Medium Density Residential Zone having regard to whether:</i> <i>1. the purpose of the activity assists in enabling a range of housing choices in the district, services neighbourhood needs or enhances social connectivity;</i> <i>2. the scale of the activity, site design and layout and built form is well-designed and integrates with the character of neighbouring residential properties and the streetscape;</i>

	<p><i>the location of non-residential activities is close to and accessible to existing centres and not in isolated locations;</i></p> <p><i>4. the activity has the potential to undermine the viability of a nearby centre; and</i></p> <p><i>5. there is adequate existing or planned infrastructure to service the activity.</i></p> <p><i>Potentially compatible activities include:</i></p> <ol style="list-style-type: none"> <i>1. four or more residential units per site;</i> <i>2. retirement villages;</i> <i>3. childcare services;</i> <i>4. community facilities;</i> <i>5. visitor accommodation;</i> <i>6. general retail activities;</i> <i>7. supermarkets;</i> <i>8. entertainment and hospitality activities;</i> <i>9. business service activities;</i> <i>10. sport and recreation activities;</i> <i>11. emergency services facilities; and</i> <i>12. community corrections activities.</i>
<i>MRZ-P5</i>	<p><i>Encourage residential development which provides a range of housing types and sizes, including social housing and lower cost, market rate housing, taking account of the housing requirements of different households, especially those on low to moderate incomes.</i></p>
<i>MRZ-P6</i>	<p><i>Allow residential development that is consistent with the role, function and planned residential character of the Medium Density Residential Zone by controlling:</i></p> <ol style="list-style-type: none"> <i>1. The number, design and layout of residential units per site;</i> <i>2. Building height, bulk and location;</i> <i>3. Site coverage and outdoor living space;</i> <i>4. Setbacks from boundaries; and</i> <i>5. Height in relation to boundaries.</i>

MRZ-P7	<p><i>Require any effects generated by activities to be of a type, scale and level that are appropriate for the Medium Density Residential Zone, including by:</i></p> <ol style="list-style-type: none"> <i>1. controlling noise, vibration, light or glare (particularly at night);</i> <i>2. minimising adverse effects on the local transport network, including from inappropriate traffic volumes by providing sufficient on-site parking, servicing, manoeuvring, pedestrian and cycling space;</i> <i>3. managing earthworks, subdivision and construction work;</i> <i>4. ensuring the size, design and type of signage is compatible with the planned character and amenity of the residential area that the signage is located in; and</i> <i>5. minimising hard surfacing and, where possible, retaining or providing visually prominent trees, bush and landscaping.</i>
MRZ-P8	<p><i>Require that development provides well-designed streetscapes, suitable residential amenity for surrounding properties and public places and do not result in overdevelopment of sites by:</i></p> <ol style="list-style-type: none"> <i>1. ensuring that the height, bulk and form of buildings minimise adverse visual amenity effects, including a sense of enclosure or dominance;</i> <i>2. reducing the visual effects of the scale and bulk of buildings through variations in facades, materials, roof form, building separation and other design elements;</i> <i>3. orientating buildings to face the street (without compromising solar gain) and limiting the use of unarticulated blank walls and facades to reinforce the visual connection with the street;</i> <i>4. discouraging the placement of accessory buildings, garages, parking areas and access ways that detract from, dominate or obscure housing as viewed from public places;</i> <i>5. discouraging access ways and the use of high fences or walls on boundaries that limit opportunities for passive surveillance of the street or public open space and that run between properties and create low amenity or unsafe environments;</i> <i>6. increasing the opportunities for landscaping and permeable surface areas, by minimising the amount of hard surfacing</i>

	<p><i>used, to support the overall visual amenity of sites; and</i></p> <p><i>7. retaining visually prominent trees, indigenous habitat and established landscaping that contribute to the amenity of the site and neighbourhood and ecological connectivity.</i></p>
MRZ-P9	<p><i>Ensure development provides well-designed on-site amenity having regard to:</i></p> <ol style="list-style-type: none"> <i>1. the extent to which a reasonable level of sunlight access and privacy is achieved;</i> <i>2. the provision of sufficient separation distances between buildings to minimise adverse enclosure and dominance effects;</i> <i>3. the availability of private, outdoor living spaces of sufficient size to provide suitable amenity for residents;</i> <i>4. the provision of acoustic attenuation/insulation to minimise adverse noise effects between residential units (if attached) and road noise (if located next to state highways); and</i> <i>5. the availability of adequate storage space and utility and refuse areas to meet the needs of the occupants in the building.</i>
MRZ-P10	<p><i>Encourage living activities that are healthy, accessible and sustainable by:</i></p> <ol style="list-style-type: none"> <i>1. using universal design to cater for people of all ages and abilities;</i> <i>2. orientating buildings to maximise solar gain for natural light, warmth and moisture control;</i> <i>3. incorporating innovative design to assist occupants in minimising energy and water consumption; and</i> <i>4. providing for small-scale on-site energy generation (such as solar panels) to meet the needs of occupants.</i>
MRZ-P11	<p><i>Ensure activities and development in the Medium Density Residential Zone that may compromise cultural, spiritual or historic values of importance to tangata whenua consult with and seek expert cultural advice from tangata whenua, including with respect to mitigation options.</i></p>

10.9 The application aligns with the overall intent of the Medium Density objective and policy framework, which is to encourage medium density housing that delivers varied housing form with varying housing types. The MRZ allows for

residential activities that are compatible with the “*role, function and planned character of the MRZ*” (MRZ-O2), while ensuring their design, scale, site design, layout and built form are appropriate. For the reasons previously discussed in this evidence, the residential dwelling and retaining wall/fence are considered an appropriate development for the area. The largely compliant built form of the dwelling does not give rise to adverse bulk, dominance, or shadowing effects to adjacent properties.

- 10.10 The four-bedroom high-quality house aligns with the MDRZ objectives by contributing to a well-functioning residential area characterized by medium-density housing, up to three storeys in a variety of forms. The design ensures efficient land use while maintaining compatibility with the planned character of the neighbourhood. By integrating well with the surrounding environment, and utilizing existing infrastructure, the development supports compact urban growth and increases housing capacity without negatively impacting streetscape amenity or natural features.
- 10.11 I agree with the assessment of planned character provided in the Officer’s Report in paragraphs 47 – 51, which determines the planned character of the PDP to allow for an increase in bulk and scale of building compared to the General Residential Zone.
- 10.12 Overall, I consider the development complementary to the MDRZ and existing / planned character of this location. Accordingly, the proposal is not considered contrary to, and is consistent with, the relevant objectives and policies of the New Plymouth PDP. This is in alignment with the conclusion of the Officer’s Report’s PDP Objectives and Policies assessment in paragraphs 74 - 103.

Regional Policy Statement for Taranaki

- 10.13 The Regional Policy Statement (RPS) includes range of Objectives and Policies which address the development of urban environments. This includes:

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.

10.14 I agree with the Officer's Report in paragraph 70, that the NPS-UD takes precedence over the RPS when there is conflict between the two.

10.15 It is my opinion that the proposed development is not contrary to any of the RPS objectives or policies, and results in a well-designed urban development that will continue to provide housing for multiple generations.

11. OTHER MATTERS

Iwi Environmental Management Plan

11.1 Tai Whenua, Tai Tangata, Tai Ao an Iwi Environmental Management Plan ("EMP") for Te Atiawa covers a wide range of matters. It is considered that the development is consistent with this EMP. Those matters that are particularly relevant to this application are the following:

(a) Chapter 6.2 which provides objectives and policies for development including urban development, papakāinga, land disturbance and stormwater management.

11.2 The development is considered to align with this document and its intentions, and I agree with this same conclusion in the Officer's Report in Paragraph 106.

12. PART 2 OF THE RMA

- 12.1 I am in agreement with the Officer's Report in paragraph 107, that the PDP has been prepared in accordance with Part 2 of the Act, and as per the of Court of Appeal decision in R J Davidson Family Trust vs Marlborough District Council (CA97/2017) there is no need to refer directly to Part 2.

13. PROPOSED CONDITIONS OF CONSENT

- 13.1 I have reviewed the proposed conditions of consent in the Officer's Report and I consider the conditions to be appropriate, except for Condition 2 which requires, "*Installation of timber louvers to achieve compliance with Effects Standard MRZ-S5 of the PDP*". As stated in Section 9 of my evidence, the as-built decks are compliant with MRZ-S5 and do not require any modification to meet the effect standard.

- 13.2 As stated in Mr. McEwan's evidence, proposed mitigation options are available, and although mitigation is not required to reduce potential adverse effects of the dwelling or front wall/fence to be less than minor, the retention of the louvers as a voluntary condition is offered as below:

- (a) The existing proposed Condition 2 in the Officer's Report, with the reference to 'timber' and Effects Standard MRZ-S5 removed. It is also proposed that the louvers are installed within 1.5m of the eastern edge, as the set location has not been finalised, with detailed design still to be investigated by the applicant. A proposed rewording of the condition is shown below:

Installation of vertical louvers

2. Vertical louvers within 1.5m of the eastern edge of the first floor north facing balcony shall be installed. A final design shall be submitted to the Council's Planning Lead for approval within 20 working days and installation shall be completed within 40 working days from the commencement of this consent. Photographic evidence confirming installation shall be supplied to the Council's Monitoring Supervisor.

- 13.3 Note that the date of drawing number SK3.0 in Condition 1 should be updated to 3.7.25 to reflect the Rev 1 drawing in Mr. Murdoch's evidence.

14. CONCLUSION

14.1 My evidence has assessed the planning matters that I am aware of in relation to the Application and I can safely conclude that:

- (a) The infringements of the as-built dwelling and retaining wall/fence are minimal, with all effects from the infringement of the HIRB being less than the permitted baseline, and is anticipated within the PDP.
- (b) I have assessed the application against all relevant planning instruments, particularly the relevant provisions of the PDP, and I consider that it is consistent with the relevant objectives and policies.
- (c) Weighing up all of the relevant considerations, and taking into account all matters raised, including the concerns of the submitter, I believe the as-built dwelling and retaining wall/fence will not produce adverse effects above less than minor. As noted in Section 9.36 of my evidence, there are also positive effects that are occurring from the development.
- (d) Accordingly, I agree with the Officer's Report that the application should be granted subject to conditions - with the amendments to the draft consent conditions outlined in Section 13 of my evidence.



Benjamin Richard Lawn
McKinlay Surveyors Ltd

12/03/2025

APPENDIX 1 – SUMMARY OF APPLICATIONS TO NPDC UNDER MRZ-R33 ALTERNATIVE HEIGHT IN RELATION TO BOUNDARY

Application Number	Applicant	Address	Single Building Extending Beyond 20m from Road Frontage?	Decision
LUC22-48356/SUB24-50020	Te Atiawa Iwi Holdings LP	51 Barrett Street, New Plymouth	Yes	Granted
LUC23-48254	Trustees of Linda and Trustees of Hamblyn Street	12 Hamblyn Street, New Plymouth	Yes	Granted
LUC23-48284	A M & C J Lynch	39 Cameron Street, New Plymouth	Yes	Granted
LUC24-48428	M & R Holyoake	44 Octavious Place, New Plymouth	Yes	Granted
LUC24-48460	Te Atiawa Iwi Holdings LP	26 Weymouth Street, New Plymouth	Yes	Granted
LUC24-48562	M & C Anderson & L & G Lim	5 + 7 Hobson Street, New Plymouth	No	Granted
LUC24-48446/SUB24-50038	Plan Enabled Ltd	129 Corontation Ave, New Plymouth	No	Granted

*Applications sourced from LGOIMA request to NPDC – 23/1/25

APPENDIX 2 – LUC24-48428 – 44 OCTAVIOUS PLACE, NEW PLYMOUTH



Te Kaunihera-ā-Rohe o Ngāmotu

New Plymouth
District Council



FORM 9
Application for a land use
resource consent or
fast-track resource consent

Section 87AAC & 88, Resource Management Act 1991

This form must be submitted with a completed application cover page form.

1. Applicant details

- 1a. I am the ☐ Property owner ☐ Lessee ☒ Agent authorised by owner/lessee
- 1b. Full name
First name(s) Surname
- 1c. Electronic service address - this must be provided for fast-track consent applications
- 1d. Telephone
Mobile Landline
- 1e. Postal address or alternative method of service under Section 352 of RMA 1991

2. Property owner details

Provide details below for the property owner if different to 1. above

- 2a. Full name
First name(s) Surname
- 2b. Electronic service address
- 2c. Telephone
Mobile Landline

3. Fast-track application details

- 3a. Is this a fast-track controlled land use application? ☐ Yes ☒ No (proceed to 4.)
- 3b. If yes, please indicate whether you opt out or do not opt out of the fast-track resource consent process ☐ I opt out ☐ I do not opt out

Under the fast-track resource consent process the Council must give notice of the decision within 10 working days after the date the application was first lodged, unless the applicant opts out of the process at the time of lodgement. A fast-track application may cease to be a fast-track application under Section 87AAC(2) of the RMA.

4. Description of proposed activity

- 4a. Description of activity
- 4b. Description of the site at which activity is to occur
- 4c. Description of any other activities that are part of the proposal
- 4d. Details of additional resource consents required for this activity ☒ No additional resource consents are required.
☐ Additional resource consents are required.
Please provide details of the resource consents required, and whether these have been lodged.

Please turn over

OFFICE USE ONLY

Date received
Time received
Received by
Receipt #
Amount paid

Application #
Document #
Property ID
Land ID

Planner's Pre-check

Signature

Date

requires neighbours
written approval form
(not deemed permitted).

4. Description of proposed activity - continued

4e. District Plan rule(s)
not being met

MRZ-S2 Max building coverage
MRZ-S3 Height in relation to boundary
MRZ-S5 Minimum building setbacks

4f. Proposed start date

May 2024

5. Information included in application

I confirm that I have assessed my proposed activity against the relevant matters of the RMA:

- ☒ Part 2 Purpose and Principles.
- ☒ Section 104 Consideration of Applications.
- ☒ Schedule 4, including an Assessment of Environmental Effects (AEE).

I have attached this assessment and all other required information as listed below:

- ☒ Site plan. Your site plan must show the following items:
 - Scale and north orientation.
 - Existing and proposed buildings.
 - Building dimensions and distances to boundaries.
 - Trees, fences, landscaping, screening and contours.
 - Car parking, loading facilities and access points.
 - Signs.
- ☒ Floor plan.
- ☒ Elevation plan. Your plan must show the groundlines and the view of your site, from the ground up, from all boundaries.
- ☒ Written approvals from affected parties. Contact the Council if you are unsure of who the potentially affected parties might be.
- ☒ Application fee. Refer to the land use consents fees and charges schedule.

6. Post-approval contact details for monitoring purposes

6a. Full name

Chris

First name(s)

Holyoake

Surname

6b. Electronic service
address

cholyoake@gmail.com

6c. Telephone

0212951362

Mobile

Landline

7. Privacy statement

The Privacy Act 2020 applies to the personal information provided in this application. For the purposes of processing this application the Council may disclose that personal information to another party. If you want to have access to, or request correction of, that personal information, please contact the Council.

8. Applicant's declaration and privacy waiver

By signing this application, or by submitting this application electronically, I confirm that I am authorised to make such an application, that the information contained in this application is true and correct and that I have read, understood and agree to such terms and conditions applying to this application. I acknowledge and agree to the disclosure of my personal information in respect of this application.

A signature is not required if this application is submitted electronically.

If signing on behalf of a trust or company, please provide additional written evidence that you have signing authority.

Chris

First name(s)

Holyoake

Surname

Signature

28-02-2024

Date



Te Kaunihera-ā-Rohe o Ngāmotu

New Plymouth
District Council



FORM

Application cover page

(required with all other forms)

Incorporates requirements of Form 2, sections 33 or 45,
Building Act 2004

1. Property details

- 1a. Site address
(Specify unit/level number,
location of building within
site/block number, building
name and street name)

44 OCTAVIUS PLACE
NEW PLYMOUTH

- 1b. Current lawfully
established use

RESIDENTIAL DWELLING

- 1c. Legal description

LOT 2 DP4989

- 1d. Rapid number

2. Property owner details

- 2a. Owner name

MURRAY + ROSLYN

First name(s)

HOLYOAKE

Surname

- 2b. Name of additional
owner(s)/company/trust

- 2c. Contact person
(if different from above)

- 2d. Postal address
(include postcode)

LEVEL 2, 10 DEVON ST EAST 4312

- 2e. Contact details

Phone

Mobile

Fax

- 2f. Email

holyoakehouse@gmail.com

3. Payer details

- 3a. Required for invoice



Applicant
- proceed to 4



Owner
- proceed to 4



Other
- provide details below

- 3b. Name in full

- 3c. Postal address

4. Description of project

- 4a. Detailed description
of the development/
project

PROPOSED NEW DWELLING

- 4 BEDROOMS
- 3 LEVELS
- SWIMMING POOL

RESOURCE CONSENT REQUIRED FOR

- MRZ-S2
- MRZ-S3
- MRZ-S5
- COASTAL ENVIRONMENT

- 4b. Will business activities take place when building is completed?



Yes

























No

Please turn over

5. NPDC applications for this project

OFFICE USE ONLY

	Application attached	Have applied already (write the application number if known)	Information provided
5a. Common applications			
 Project information memorandum	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
 Building consent	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
 Vehicle crossing	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
 Encroachment licence	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
 Land use resource consent	<input checked="" type="radio"/>	<input type="text"/>	<input type="radio"/>
 Deemed permitted boundary activity notice.....	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
 Subdivision resource consent	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
 Sewer connection/disconnection	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
 Stormwater connection/disconnection.....	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
 Water connection/disconnection	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
5b. Non-residential applications			
 Discharge of trade waste consent	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
 Alcohol licensing	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
 Food premises registration	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
 Health Act registration	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
(Hairdressing, camping ground, funeral parlour, offensive trade)			
 Beauty registration	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
5c. Other project authorisations			
 Swimming pool registration	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
 Temporary obstruction on road reserve	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
 Temporary road closure	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
 Easements through NPDC-owned reserve land	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
5d. Other project requirements			
 Rapid number request	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
 Contractors parking space reservation	<input type="radio"/>	<input type="text"/>	<input type="radio"/>
 Existing street damage declaration	<input type="radio"/>	<input type="text"/>	<input type="radio"/>

28 February 2024

SHAUN
HL 28/2

ASSESSMENT OF ENVIRONMENTAL EFFECTS

RESOURCE CONSENT APPLICATION FOR NEW DWELLING AT 44 OCTAVIUS PLACE, NEW PLYMOUTH.

1. ADDRESS OF PROPOSAL:

Address – 44 Octavius Place, New Plymouth

Lot and DP number – Lot2 DP4989

2. APPLICANTS DETAILS:

Name – Murray & Roslyn Holyoake

Address – Level 2, 10 Devon St East, New Plymouth

Contact Details – holyoakehouse@gmail.com

3. SITE DETAILS:

Site area – 523m²

District Plan Zoning – MRZ - Medium Density Residential Zone

Overlays - Coastal Erosion Hazard Area
 - Coastal Environment

4. PROPOSED ACTIVITY:

This project involves the construction of a new three-level dwelling. The proposed dwelling includes garaging at ground floor level with the living areas and bedrooms at first floor level and the master bedroom on the third level.

The house has been arranged and orientated to maximise the views from the site while maintaining privacy to the surrounding houses.

The exterior of the house is a mixture of white painted timber cladding and plastered masonry. The roof is profiled metal with some small areas of membrane roofing.

At first floor level there are timber decked outdoor areas and a swimming pool - some of the timber decked areas have roof over these and therefore considered a part of the overall building coverage.

5. SITE DESCRIPTION:

The site is zoned 'Medium Density Residential Zone' in the Proposed District Plan and is located in a small cul-de-sac at the end of Octavius Place. The site is narrow with gentle topography along the length where it rises towards the rear of the section.

There had previously been a poor condition existing house on the site which has now been removed leaving the site empty awaiting further development.

4c

The North-eastern corner of the site has an easement across it to provide access to the adjacent site at 46 Octavius Place. Furthermore, in this corner it has been identified on the planning maps as a 'Coastal Erosion Area'. Following discussions with the NPDC duty planner a deliberate effort has been made to exclude any building from this zone. Also noted is that the site is within the 'Coastal Environment' overlay, as per CE-R5 the activity is permitted given that the rules and effects standards of the underlying zone are being complied with.

The site is surrounded by a variety of existing homes of different ages and styles. The bulk of the proposed dwelling has been managed so that it is two-stories with a pitched roof and the rear third level built into the lines of the roof.

6. DISTRICT PLAN RULES:

Proposed District Plan - Decisions Version, MRZ Effects Standards	Complies	Does Not Comply
MRZ-S1 - The proposed works comply with the 11m maximum structure height	X	
MRZ-S2 - The proposed works infringe on the maximum 50% building coverage as the proposed coverage is 55%		X
MRZ-S3 - The proposed works encroach the height-in-relation-to-boundary indicators on the eastern boundary, extent illustrated in the elevations - however, this has been accepted by the neighbour (see attached) as not causing effect. There are also encroachments made along the east and west boundaries to the standard indicators but comply with the alternate indicators - see below.		X
MRZ-S4 - Compliance achieved using the alternative height-in-relation-to-boundary indicators. As demonstrated in elevations.	X	
MRZ-S5 - The proposed works comply with the minimum building setbacks - Note as illustrated there is building proposed within the setbacks on the east and west boundaries, however, this is <12.0m in length. The proposed deck along the eastern side of the house is >2.0m above ground level and is <2.5m from the boundary, however this has been accepted by the neighbour (see attached) as not causing effect.		X
MRZ-S6 - The proposed development achieves the minimum outdoor living space requirements given the outdoor area adjacent the proposed swimming pool.	X	
MRZ-S7 - The proposed development achieves the minimum outlook space requirements from all habitable rooms.	X	
MRZ-S8 - The proposed development exceeds the minimum 25% landscaped area having min. 136.2m ² of landscaped area. Note that this area includes timber decking over natural ground and does not include the area of the swimming pool.	X	
MRZ-S9 - Proposal does not include any outdoor storage and therefore is compliant.	X	
MRZ-S10 - All proposed fencing with compliant with <1.4m to the road boundary and <2.0m to the side boundaries.	X	

7. **BREACH OF STANDARDS:**

The proposed works breach the following standards:

- MRZ-S2 **Maximum building coverage** - proposed 55% coverage > 50% permitted.
- MRZ-S3 **Height in relation to boundary** - encroachment to eastern boundary.
- MRZ-S5 **Minimum building setbacks** - encroachment by proposed deck >2.0m above ground and < 2.5m from a side boundary.
-

Due to the noted infringements the activity status is **Restricted Discretionary**

8. **APPLICATION ACTIVITY STATUS:**

The above rules result in the proposed works being **Restricted Discretionary**

9. **STATUTORY MATTERS – Restricted Discretionary Activities**

The proposed activity requires restricted discretionary activity resource consent. The consideration of restricted discretionary activities is addressed in section 104C of the Act as follows:

104C Determination of applications for restricted discretionary activities

- (1) When considering an application for a resource consent for a restricted discretionary activity a consent authority must consider only those matters over which-
 - (a) A discretion is restricted in national environmental standards or other regulations:
 - (b) It has restricted the exercise of its discretion in its plan or proposed plan.
- (2) The consent authority may grant or refuse the application.
- (3) However, if it grants the application, the consent authority may impose conditions under section 108 only for those matters over which-
 - (a) A discretion is restricted in national environmental standards or other regulations:
 - (b) It has restricted the exercise of its discretion in its plan or proposed plan.

10. **ASSESSMENT OF EFFECTS (SECTION 104(1)(A))**

Pursuant to section 104C of the Act, the only matters that may be considered in the assessment of this application and the formulation of conditions are those over which discretion has been restricted (and over which control has been reserved with regard to conditions). Therefore, the following assessment is guided by the matters to which discretion is restricted with regard to the identified reasons of consent and the corresponding assessment criteria.

10.1 MRZ-S2 – Maximum Building Coverage

The proposed building coverage is 55% which exceeds the permitted 50% coverage for the medium density residential zone.

The coverage is made up of areas where the proposal includes outdoor areas over top of the garage below and also outdoor areas where there is roof over top - and therefore included in the building coverage.

The proposed house has been orientated towards the views and to create sheltered outdoor spaces. The amenity included in the project is consistent with the objectives of the Medium Density residential zone and a balance made between indoor / outdoor and sheltered outdoor spaces. There are areas of vegetation planned around the perimeter of the property to create an attractive boundary to neighbouring properties and maximise privacy between surrounding properties.

The extent of the infringement and orientation ensure there are no effects created as a part of the proposed building coverage.

10.2 MRZ-S3 – Height In Relation To Boundary

The proposed development infringes on the height-in-relation-to-boundary controls. The upper level master bedroom has an infringement of max. 5.7m long with a max. vertical component of 0.6m. The extent and orientation of this has been discussed with the neighbouring property owners at 46 Octavius Place and they accept this as per the attached signed documents.

There are also components of the proposal which encroach the S3 - Height in relation to boundary controls, however, they comply with the alternative height in relation to boundary controls - see elevations / visuals for extent and orientation. Note that in both situations (east and west boundary) neither of the neighbouring properties have outdoor living areas adjacent to these and therefore under MRZ-R32 no matters of discretion are required for assessment.

The property at 42 Octavius Place has an existing garage in the first part of their property with some general garden/planting behind this. Their outdoor living area is on the western side of their property and therefore there is no effect or change to sunlight access on this area.

The property at 46 Octavius Place has driveway and garaging along the area where the alternative indicators are being used. Their outdoor living spaces are located elsewhere on their property and as such there is no effect on sunlight access by employing the alternative indicators in this situation.

10.3 MRZ-S5 - Minimum Building Setbacks

There is a proposed deck at first floor level along the eastern side of the house. Therefore this is >2.0m above ground and <2.5m from the side boundary.

The extent and orientation of this has been discussed with the neighbouring property at 46 Octavius Place and they have accepted this aspect of the proposal as per the attached signed documents.

10.4 Summary of effects

The proposed works conform to the majority of the Proposed District Plan rules for the Medium Density Residential zone. However, there are some minor infringements as noted above and where related to boundary activities have been accepted by the neighbouring property.

The extent of the infringements is less than minor as there are no effects on adjacent properties due to the orientation of these encroachments.

The scope of the proposal is consistent with objectives of the Medium Density Residential zone and the surroundings have been considered alongside the proposal to ensure that the dwelling is attractive and provides the required amenity.

While the works result in infringements the effects of these are less than minor due to their orientation on the property.

11. RELEVANT STATUTORY DOCUMENTS (SECTION 104(1)(B))

In considering an application for resource consent Section 104(1)(b) of the Act requires that regard be had to any relevant provisions of a plan or proposed plan, national environmental standards, and national and regional policy statements. The proposal is insignificant in terms of the higher-level statutory documents, and the only relevant statutory document with regard to this application is the Operative District Plan.

Additionally, as this application is for a restricted discretionary activity, section 104C of the Act limits this consideration to the matters over which Council has restricted its discretion. An assessment of the proposal against the relevant rules and standards of the Operative District Plan has been provided above. Furthermore, an assessment of effects of the proposal in light of the relevant objectives and policies and



assessment criterion of the Proposed District Plan has been provided above. Overall, the proposed developments accords with the relevant objectives and policies contained in the Proposed District Plan.

12. PART 2 OF THE ACT

As a restricted discretionary activity, Part 2 of the Act is only relevant to the extent that it assists in the interpretation of the matters over which the discretion has been restricted.

The proposed new dwelling promotes sustainable management of natural and physical resources to enable occupants and the wider community to provide for social, economic wellbeing and for their health, so is consistent with Part 2 of the Act.

As addressed above the proposed works can be undertaken in a manner where any adverse effects are avoided or mitigated.

13. NOTIFICATION

Pursuant to the Resource Legislation Amendment Act 2017, amendments to the Resource Management Act 1991 ("the Act") took effect on 18 October 2017, including those in respect of sections 95A and 95B relating to the notification of an application for resource consent. The following assessment is provided accordingly.

13.1 Public Notification of Consent Applications (Section 95A)

Section 95A of the Act (as amended by the Resource Legislation Amendment Act 2017) prescribes the steps in order to determine whether to publicly notify an application for a resource consent.

Step 1: Mandatory public notification in certain circumstances

The application does not meet any of the criteria set out in s95A(3), that would require mandatory public notification of the application pursuant to s95A(1), for the following reasons:

- The applicant does not request that the application be publicly notified;
- Public notification is not required under s95C; and
- The application is not jointly made with application to exchange reserve land under the Reserves Act 1977.

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

Pursuant to section 95A(5)(b)(ii) of the Act, the subject application relates to a residential activity, and as such Step 3 is not relevant and the application can only be notified under Step 4.

Step 4: Public notification in special circumstances

Section 95A(9)(a) requires public notification where special circumstances exist. It is considered that there are no special circumstances relating to this application that warrant the application being notified.

13.2 Limited Notification of Consent Applications (Section 95B)

Section 95B of the Act (as amended by the Resource Legislation Amendment Act 2017) prescribes the steps in order to determine whether to give limited notification of the application.

Step 1: Certain affected groups and affected persons must be notified.

Pursuant to section 95B(2) & 95B(3), there are no affected protected customary rights groups or marine title groups, and the proposed activity is not on or adjacent to, or may affect land that is the subject of a statutory acknowledgement, respectively.

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

The proposed activities are not precluded from limited notification by a rule or national environmental standard. Therefore, Step 3 applies.

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

Based on the assessment provided in Section 7 above, it is considered that no persons are considered adversely affected by the proposal, over and above a degree that is less than minor.

Step 4: Further notification in special circumstances

There are no special circumstances that exist in relation to the application that warrant notification of the application to any other persons not already determined to be eligible for limited notification under s92B(10).

13.3 Recommendation

That, pursuant to sections 95A and 95B of the Act, this application is processed without notice because:

- The applicant does not invite public notification;
- The application is for a residential development;
- No persons are considered to be adversely affected to a degree that is minor or more than minor; and
- There are no special circumstances to warrant public or limited notification.

14. SUMMARY

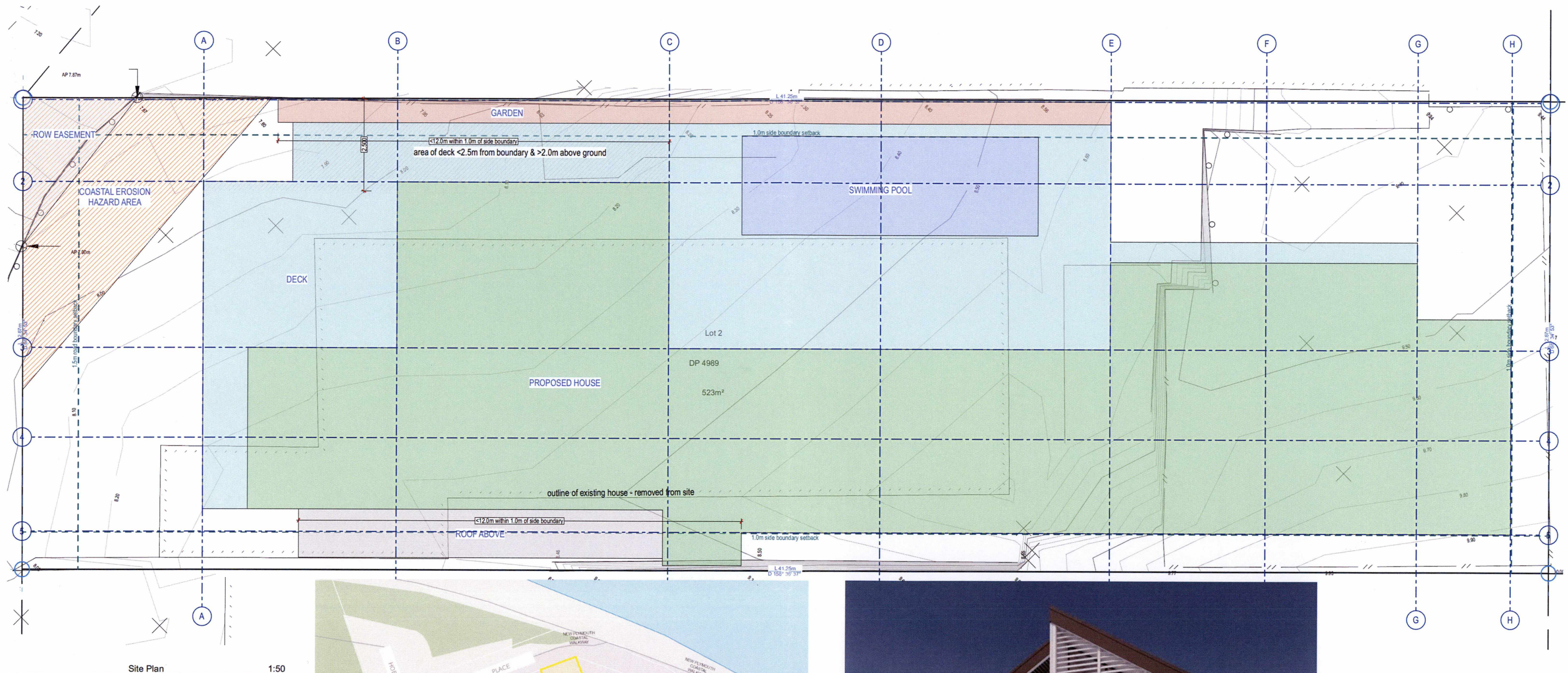
The proposed works are consistent with the Medium Density Residential zone rules in creating attractive residential development with a level of amenity typical of this typology. Consideration has been made to the bulk and location of the proposed works to ensure a balanced result for the proposed development and the neighbouring properties.

The effects of the above infringements will be less than minor due to their extent and their location and orientation on the property.

The effects of the proposed works will be less than minor and we believe consent should be granted on a non-notified basis.

44 Octavius Place, New Plymouth
M & R Holyoake

LAND USE CONSENT



SITE COVERAGE

Site area - 523m²
Proposed coverage - 289m² = 55% coverage

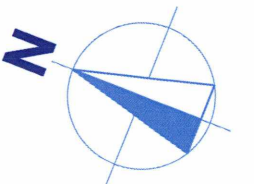
RESOURCE CONSENT

Name: Shaan

Date: 28/2

Signature: 

location map



Client.

M & R Holyoake

Job Title.

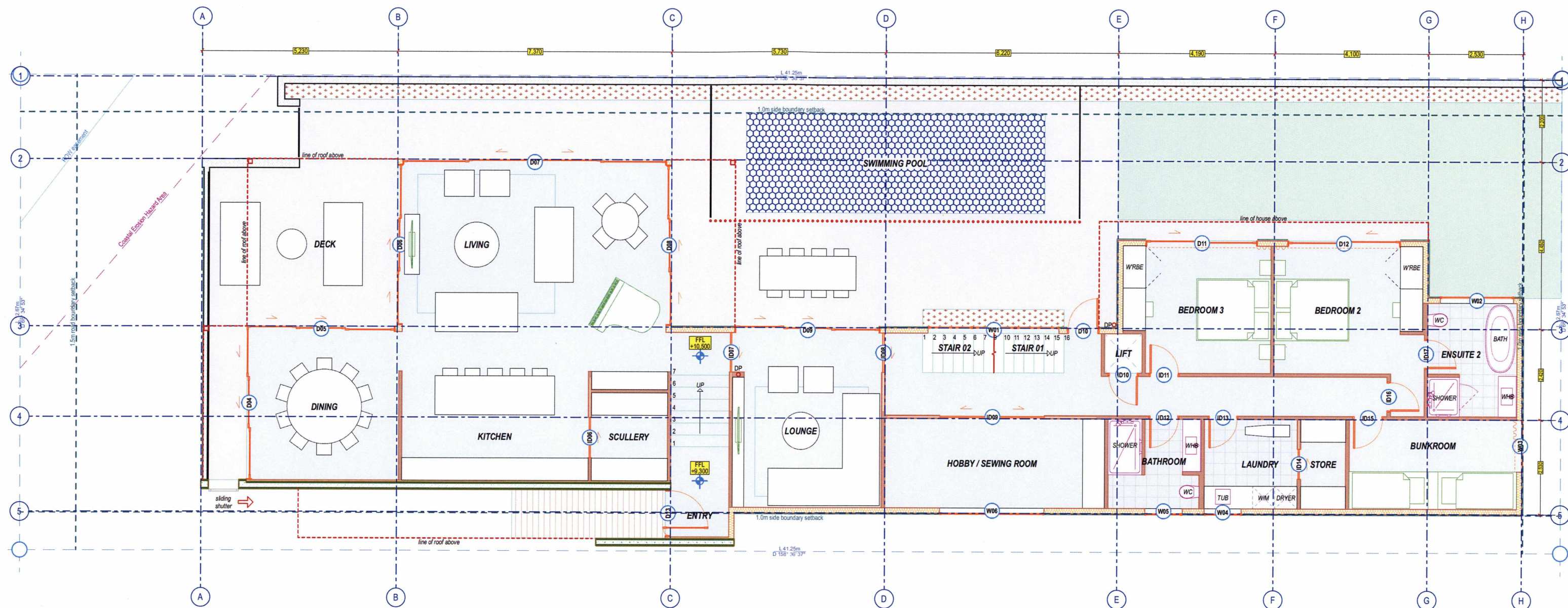
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44 Octavius Place
New Plymouth

Drawing Title.

Site Plan

Scale. 1:50, 1:1 @ A1 Date. 3/10/2020

Drawing No. **A101** Rev.



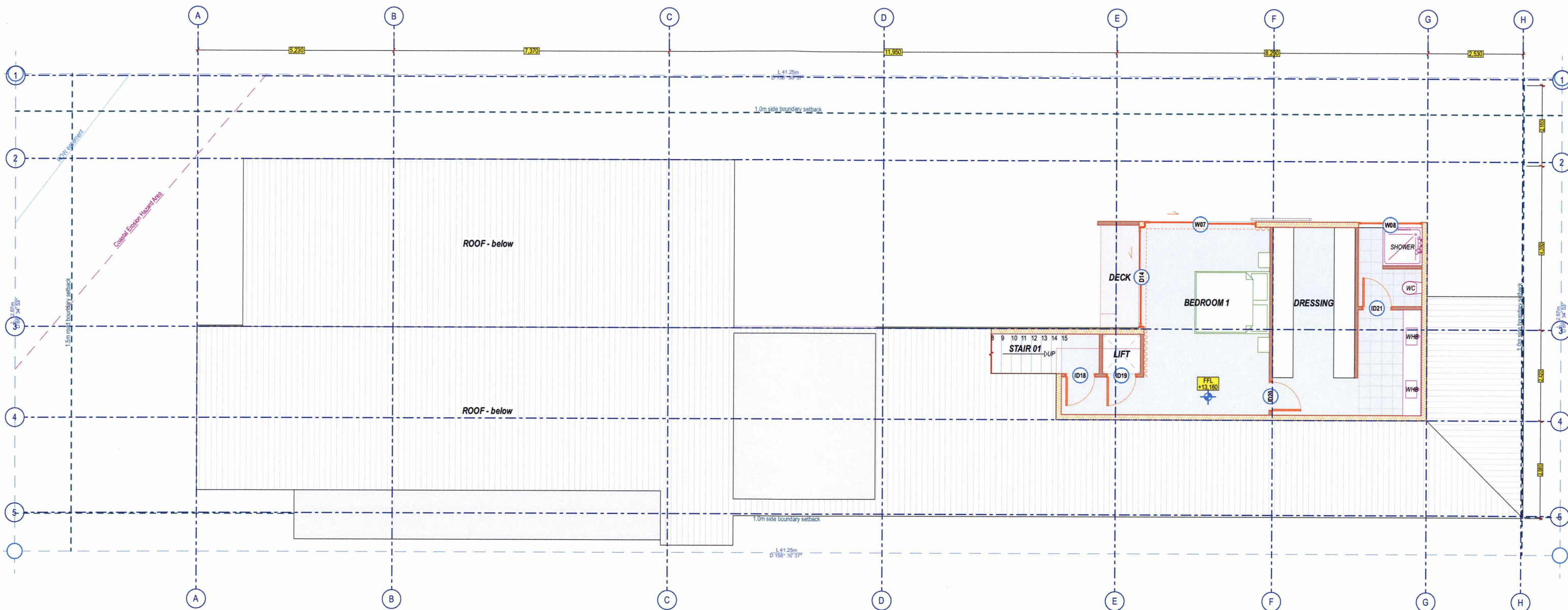
First Floor Plan 1:50



RESOURCE CONSENT

Name: *Sharon*
 Date: *28/2*
 Signature: *[Signature]*

Client:
M & R Holyoake
 Job Title:
New House
 44 Octavius Place
 New Plymouth
 Drawing Title:
First Floor Plan
 Scale: 1:50 @ A1 Date: 3/10/2020
 Drawing No. **A202** Rev:

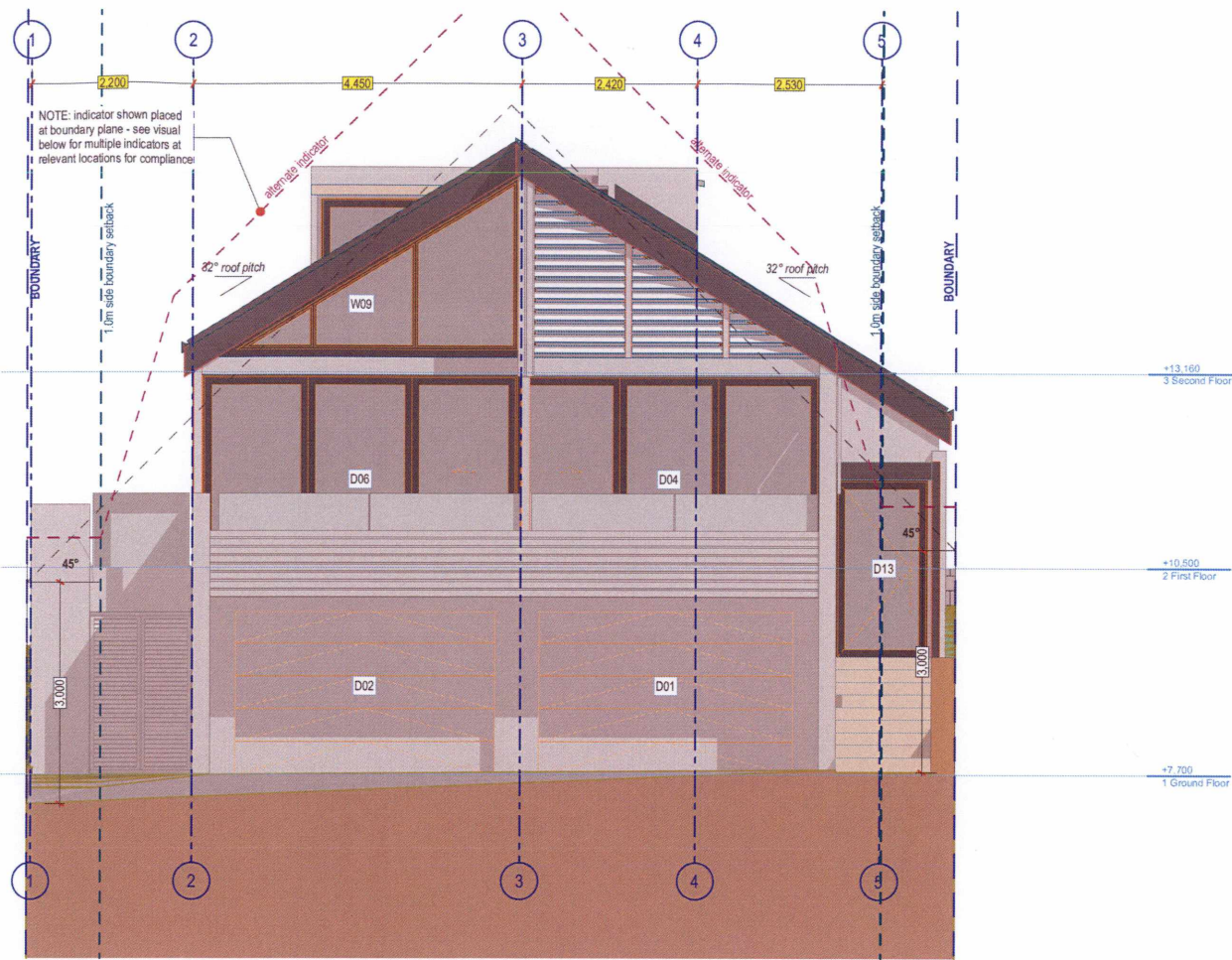


Second Floor Plan 1:50



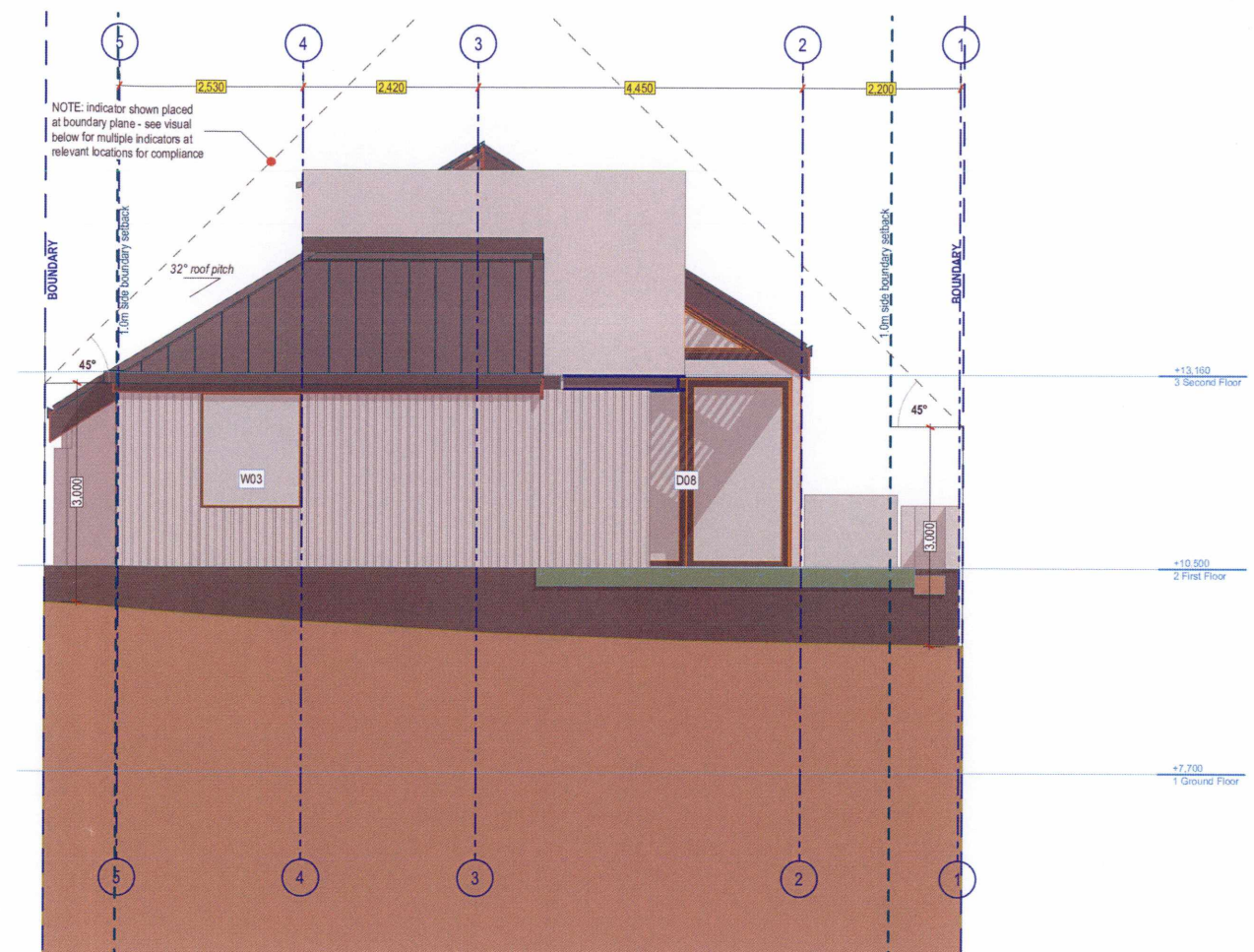
RESOURCE CONSENT
 Name: *SHAWN*
 Date: *28/2*
 Signature: *[Signature]*

Client:
M & R Holyoake
 Job Title:
New House
 44 Octavius Place
 New Plymouth
 Drawing Title:
Second Floor Plan
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 Drawing No. **A203** Rev.



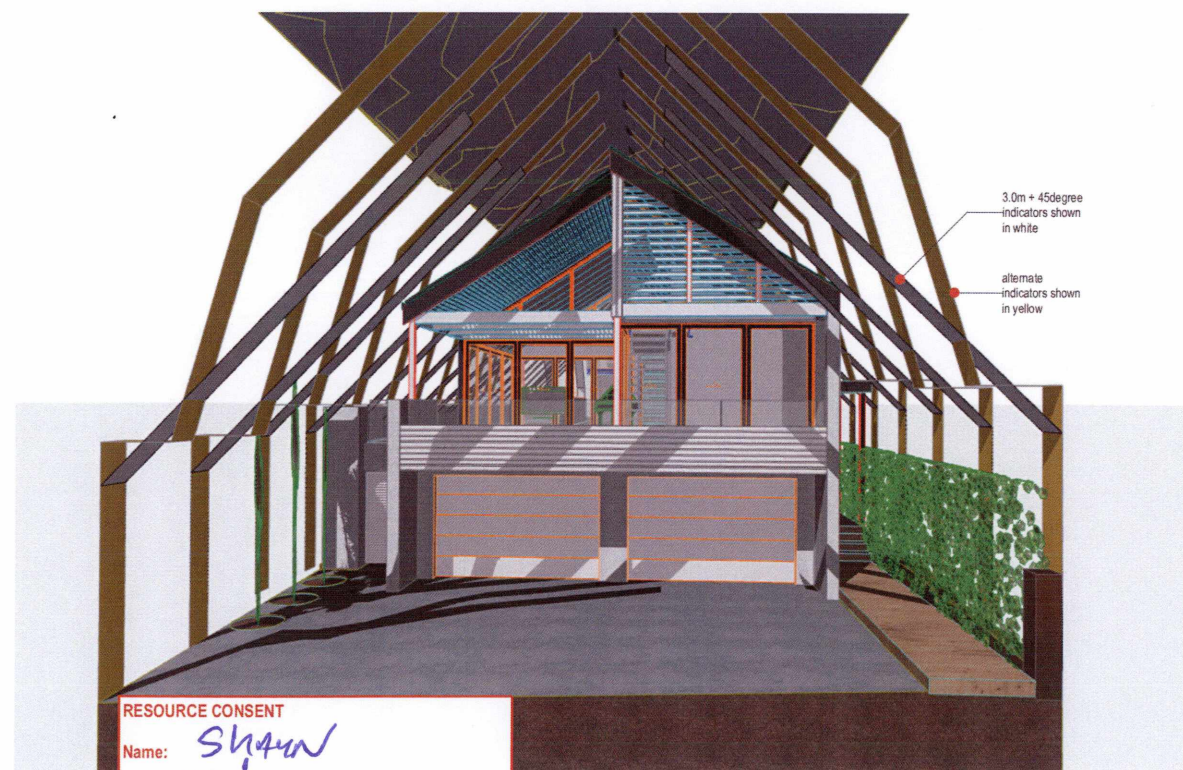
North Elevation

1:50



South Elevation

1:50

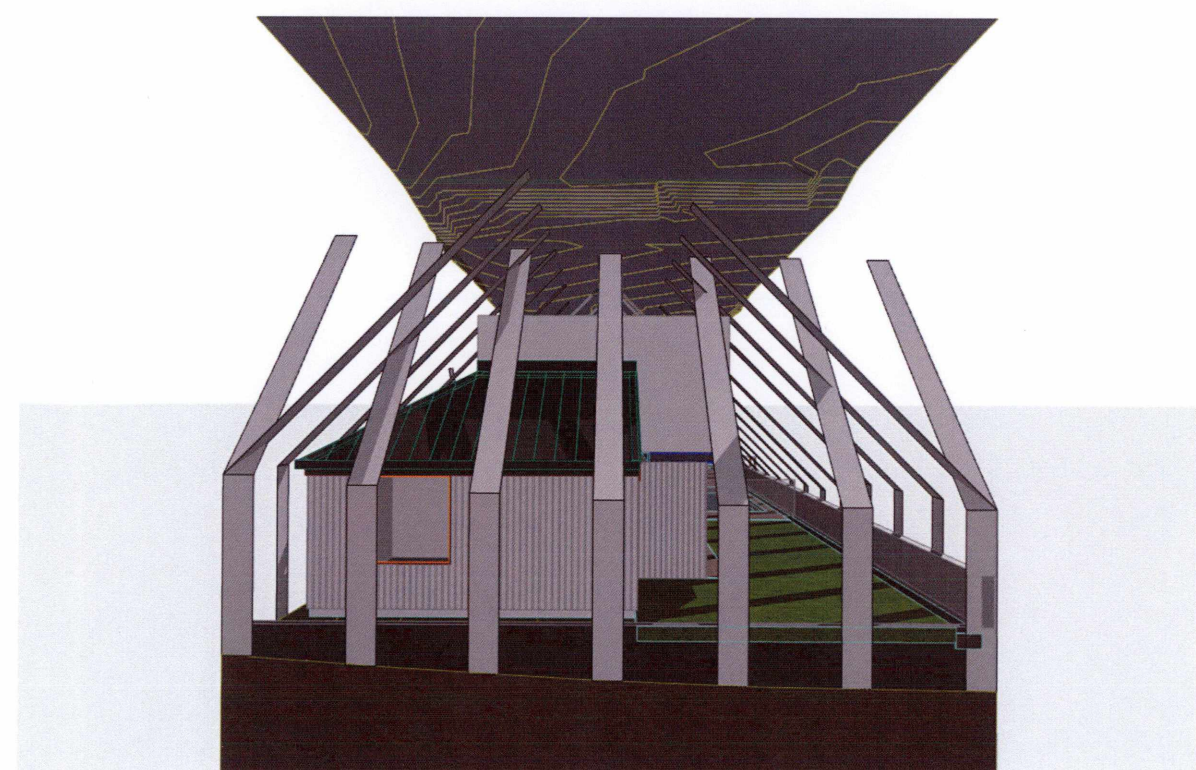


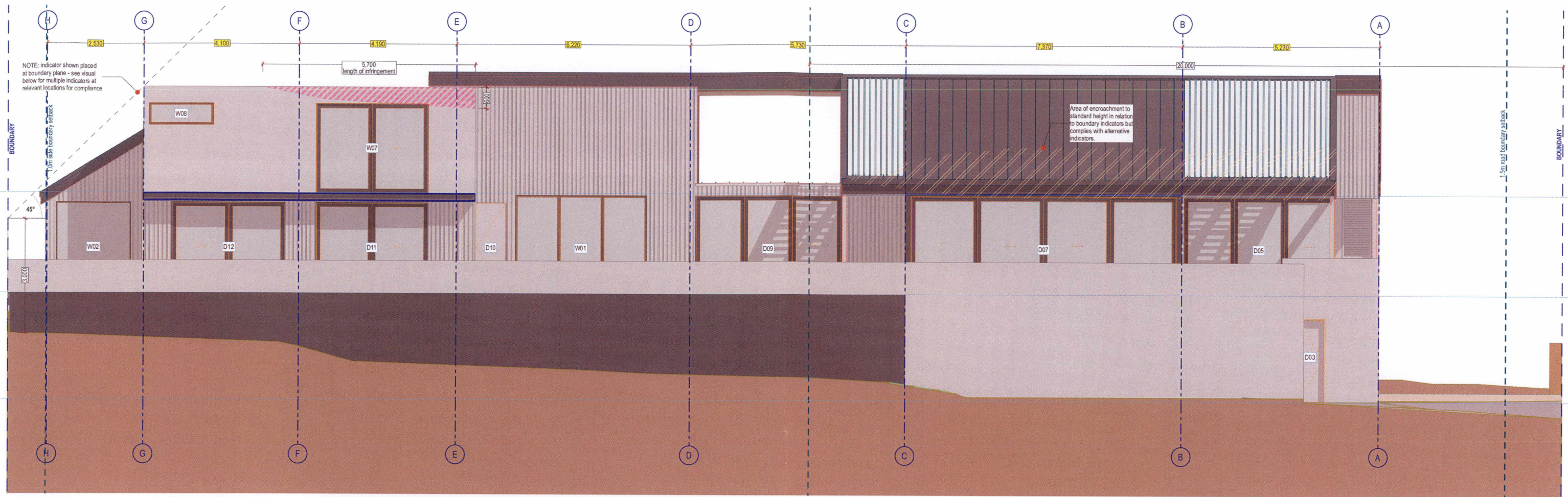
RESOURCE CONSENT

Name: *Shawn*

Date: *28/2*

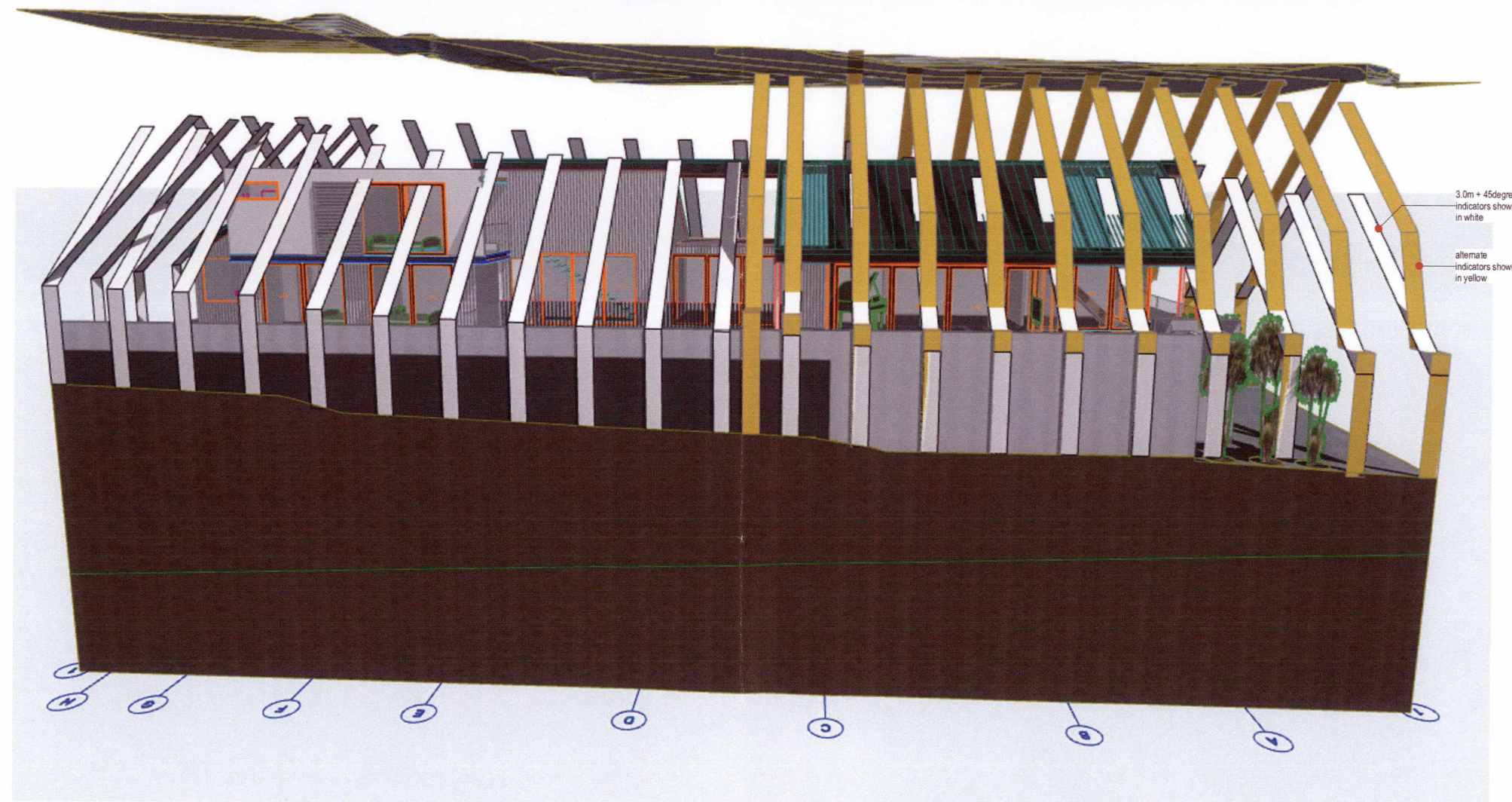
Signature: *[Signature]*





East Elevation

1:50



RESOURCE CONSENT

Name: SKAUN
Date: 28/2
Signature: [Signature]

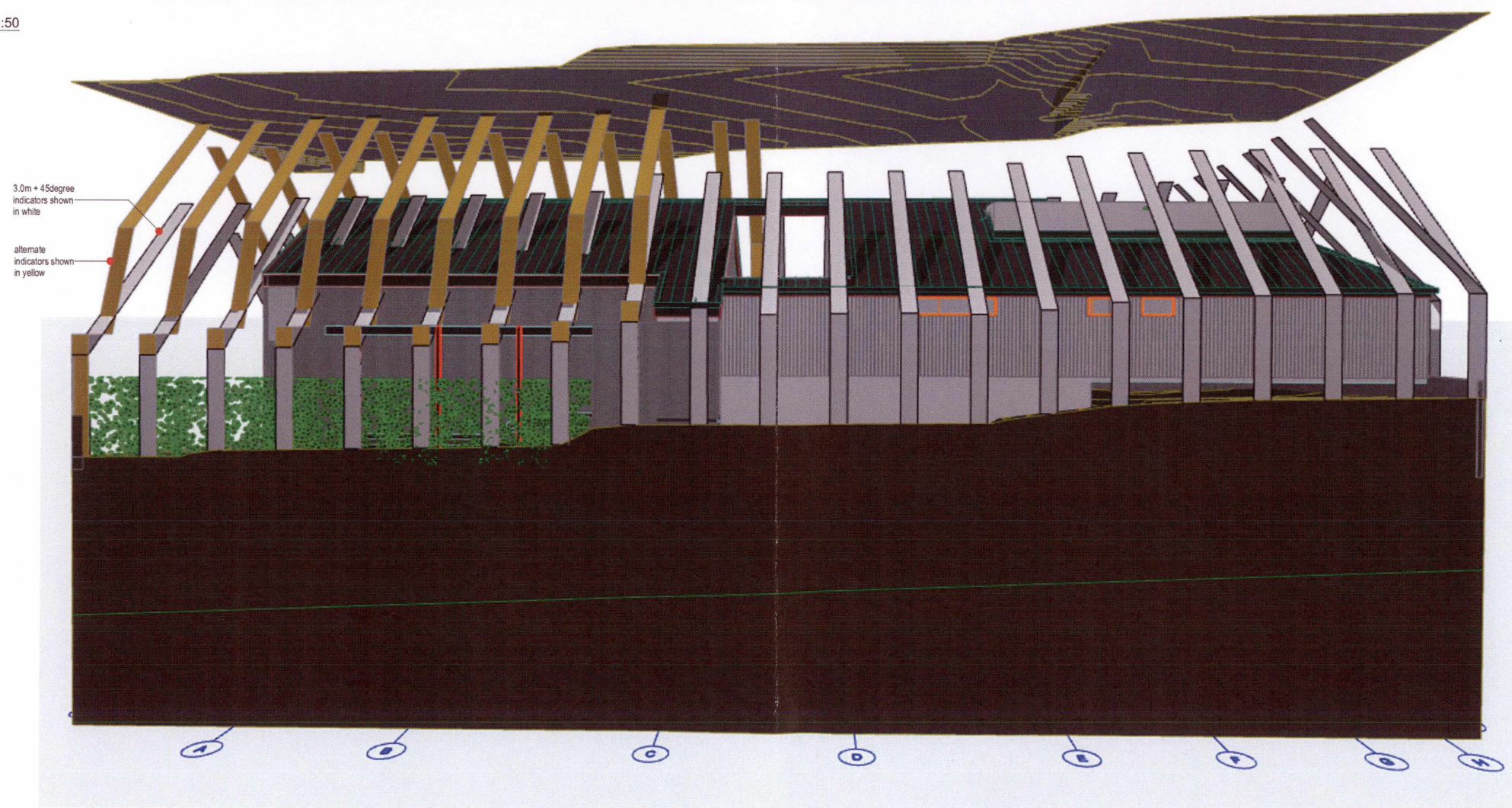
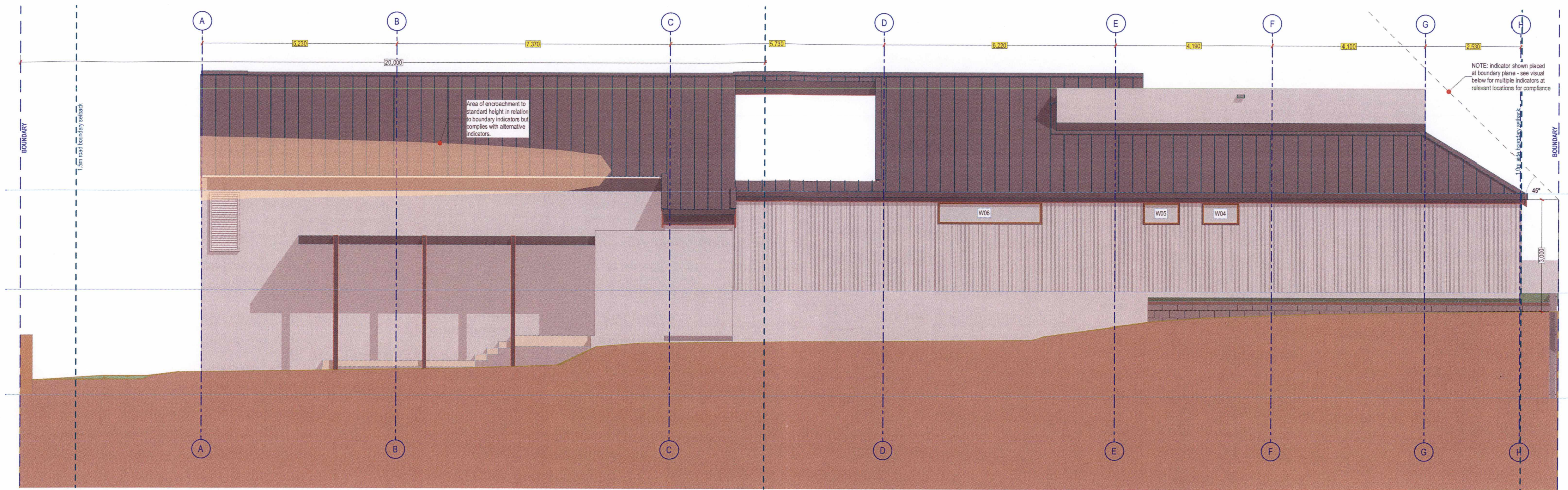
Client:
M & R Holyoake

Job Title:
New House
44 Octavius Place
New Plymouth

Drawing Title:
East Elevation

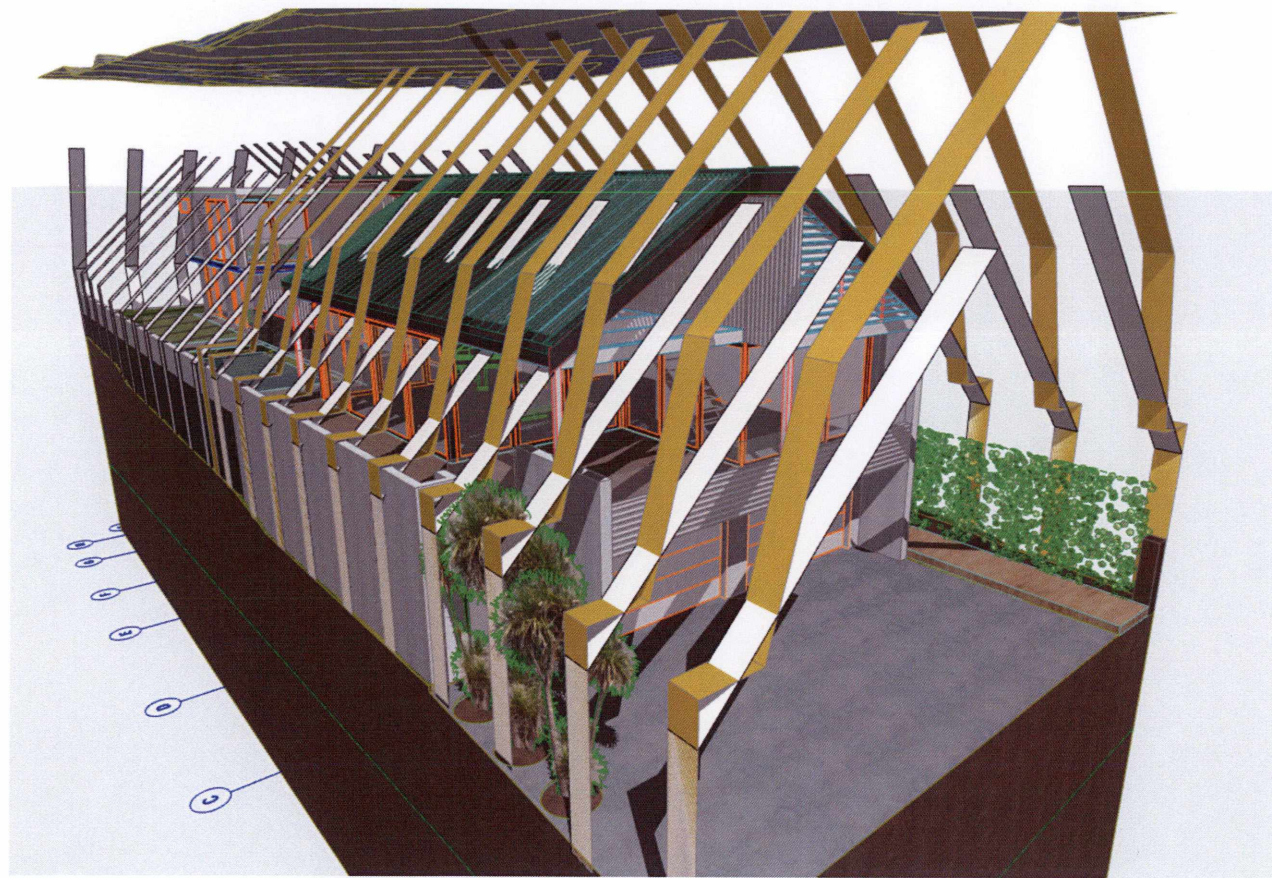
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Drawing No. A402 Rev:



RESOURCE CONSENT
 Name: *28/2 Schen*
 Date: *[Signature]*
 Signature: *[Signature]*

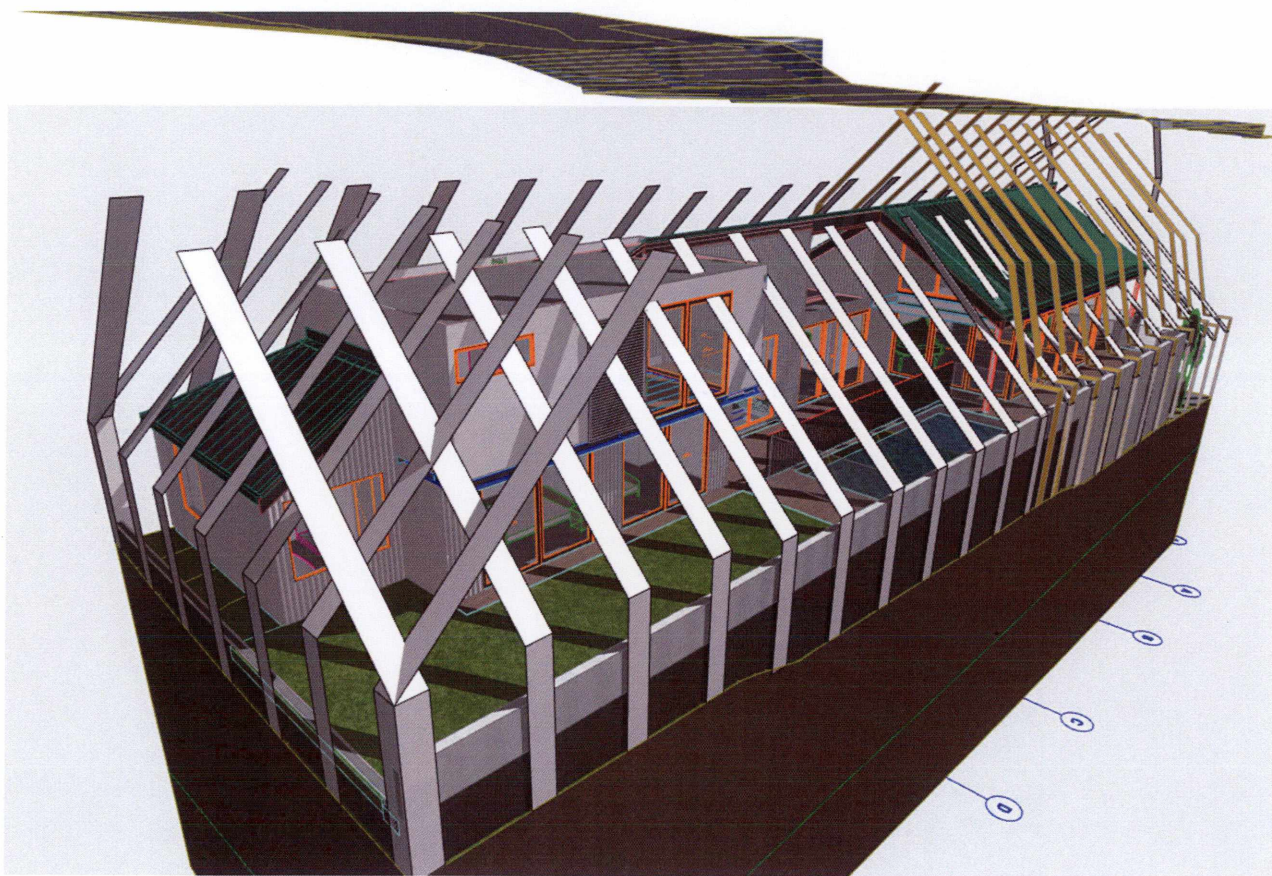
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 M & R Holyoake
 Job Title:
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 44 Octavius Place
 New Plymouth
 Drawing Title:
 West Elevation
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 Drawing No. A403 Rev.



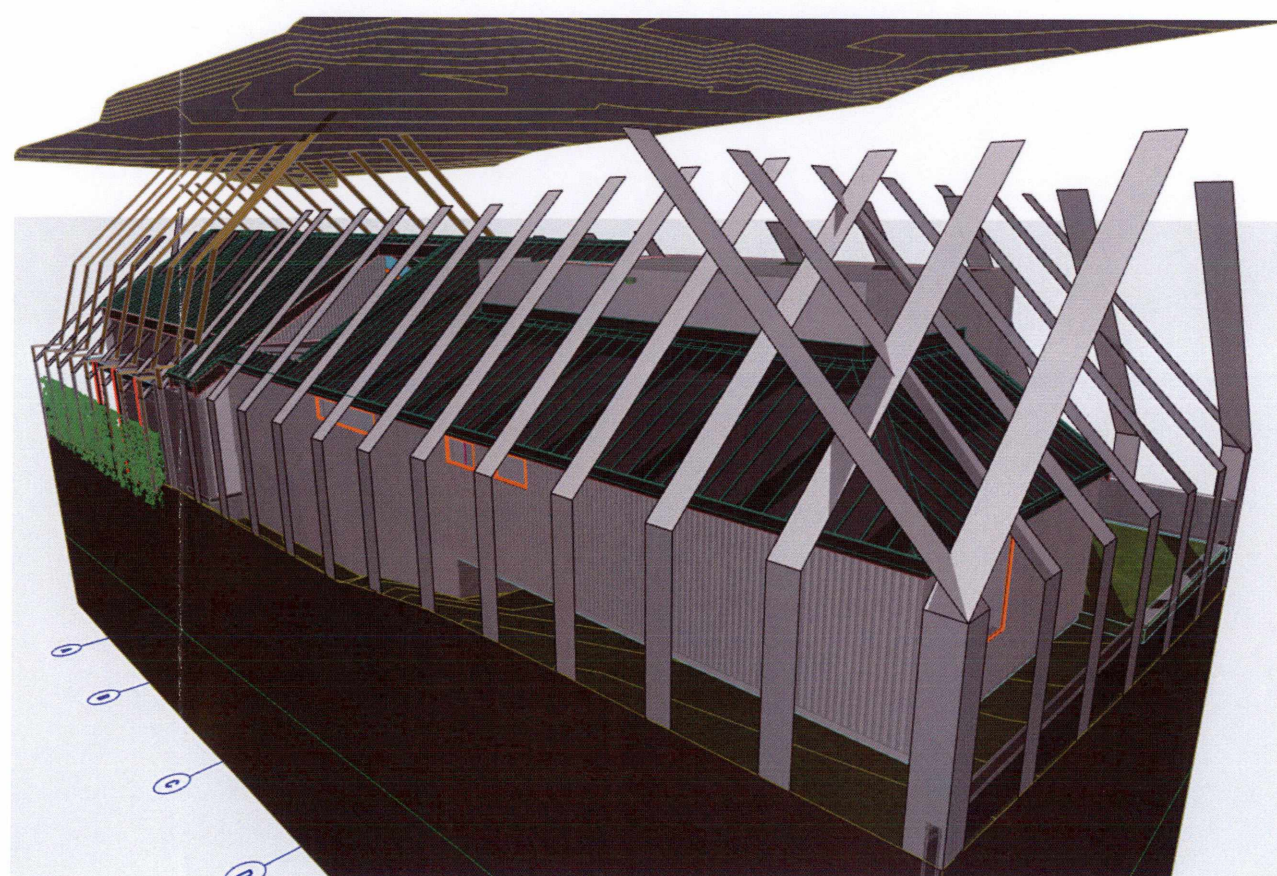
North Eastern Visual



North Western Visual



South Eastern Visual



South Western Visual

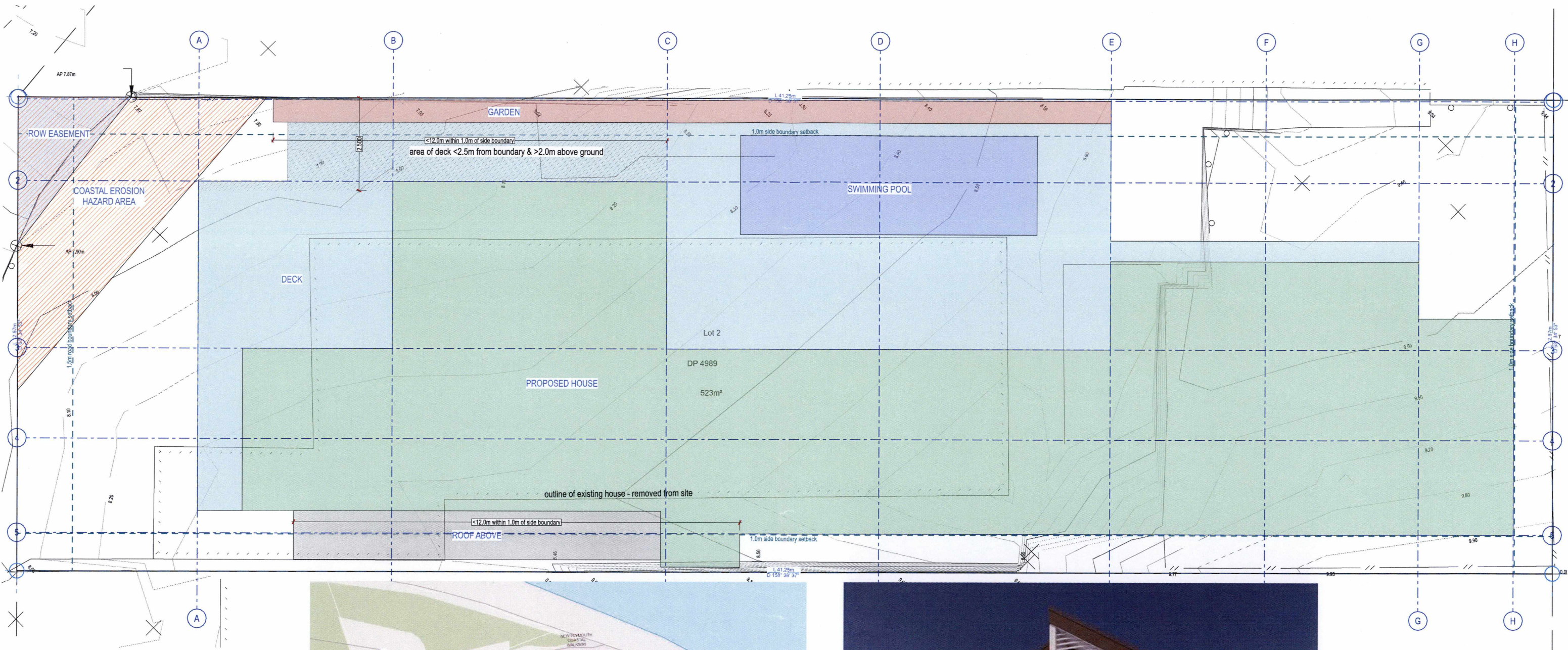
RESOURCE CONSENT	
Name:	SKAUP
Date:	2/5/2
Signature:	[Signature]

Client:	
M & R Holyoake	
Job Title:	
New House	
44 Octavius Place	
New Plymouth	
Drawing Title:	
Exterior Visuals	
Scale:	1:1.1204 @ A1
Date:	3/10/2020
Drawing No.	A404
Rev.	

PROPOSED NEW DWELLING

44 Octavius Place, New Plymouth
M & R Holyoake

LAND USE CONSENT



Site Plan 1:50

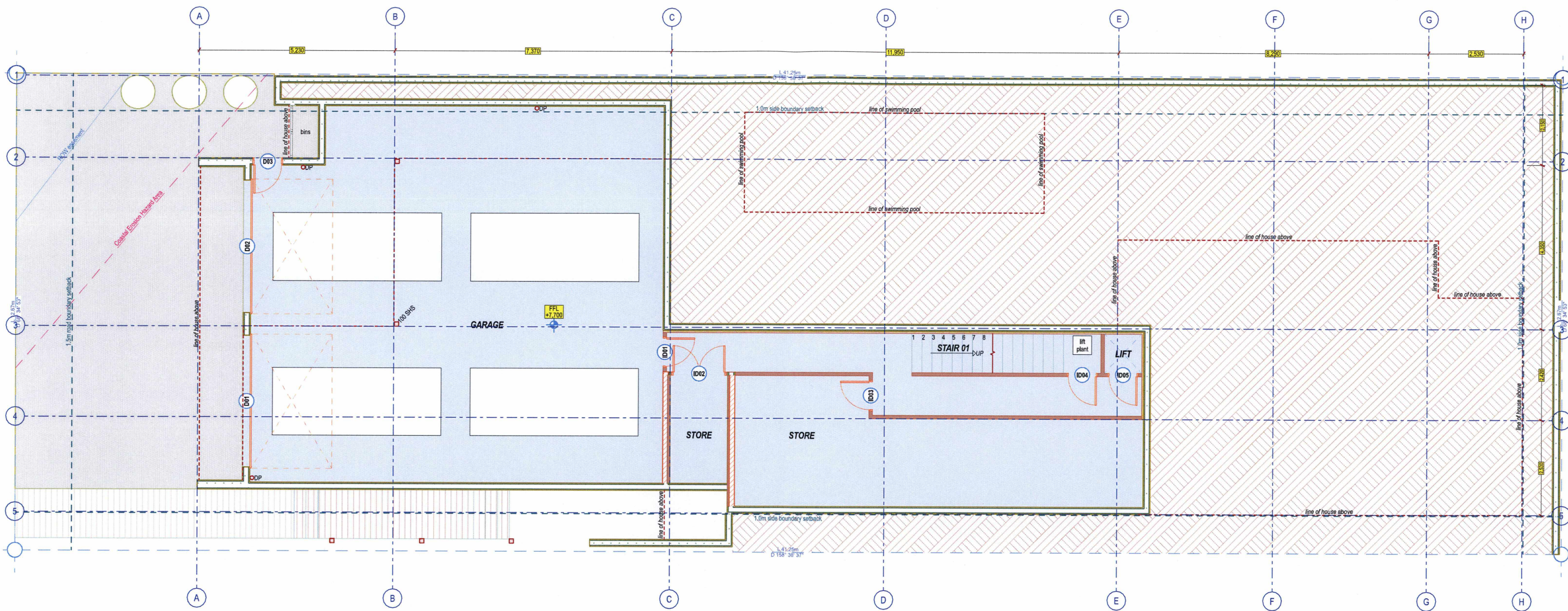
SITE COVERAGE
Site area - 523m²
Proposed coverage - 289m² = 55% coverage



location map

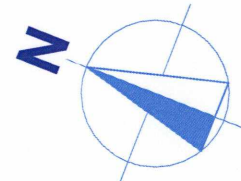


Client:	
M & R Holyoake	
Job Title:	
New House	
44 Octavius Place	
New Plymouth	
Drawing Title:	
Site Plan	
Scale:	1:50, 1:1 @ A1
Date:	3/10/2020
Drawing No.	A101
Rev.	

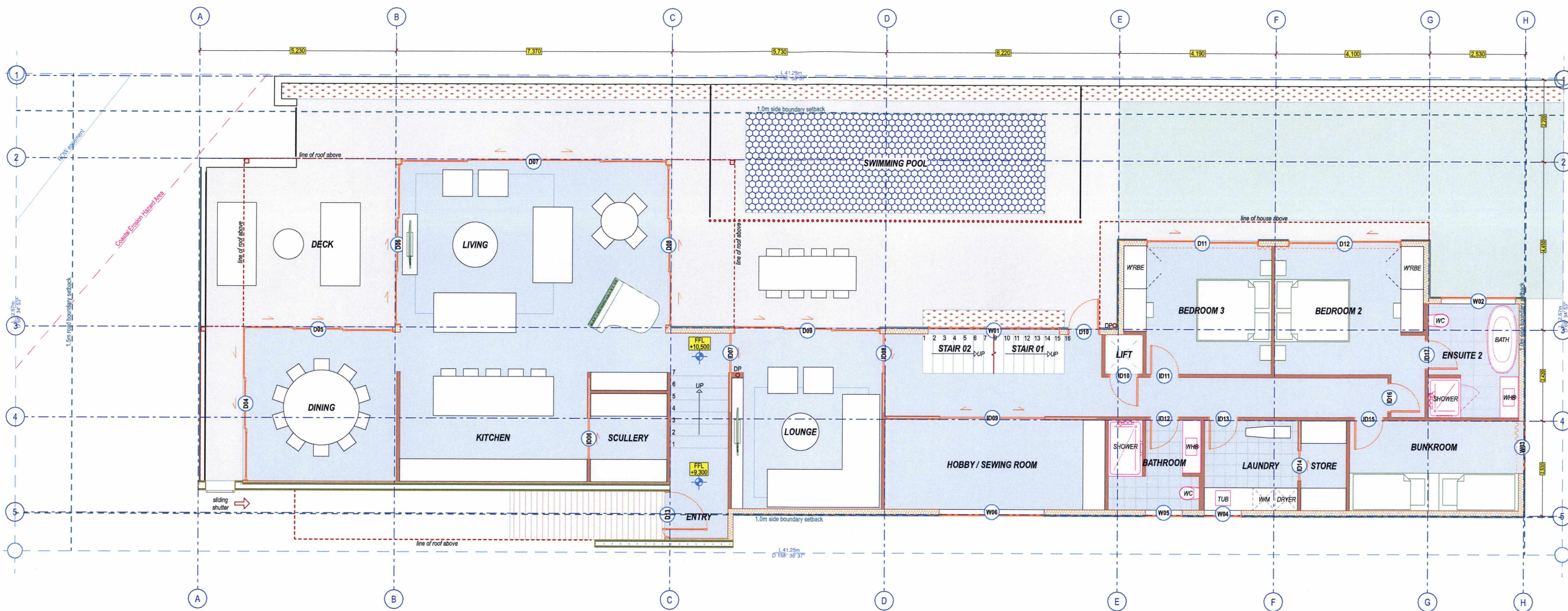


Ground Floor Plan

1:50

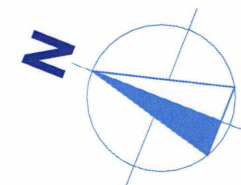


Client:		
M & R Holyoake		
Job Title:		
New House		
44 Octavius Place		
New Plymouth		
Drawing Title:		
Ground Floor Plan		
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Drawing No.	A201	Rev:

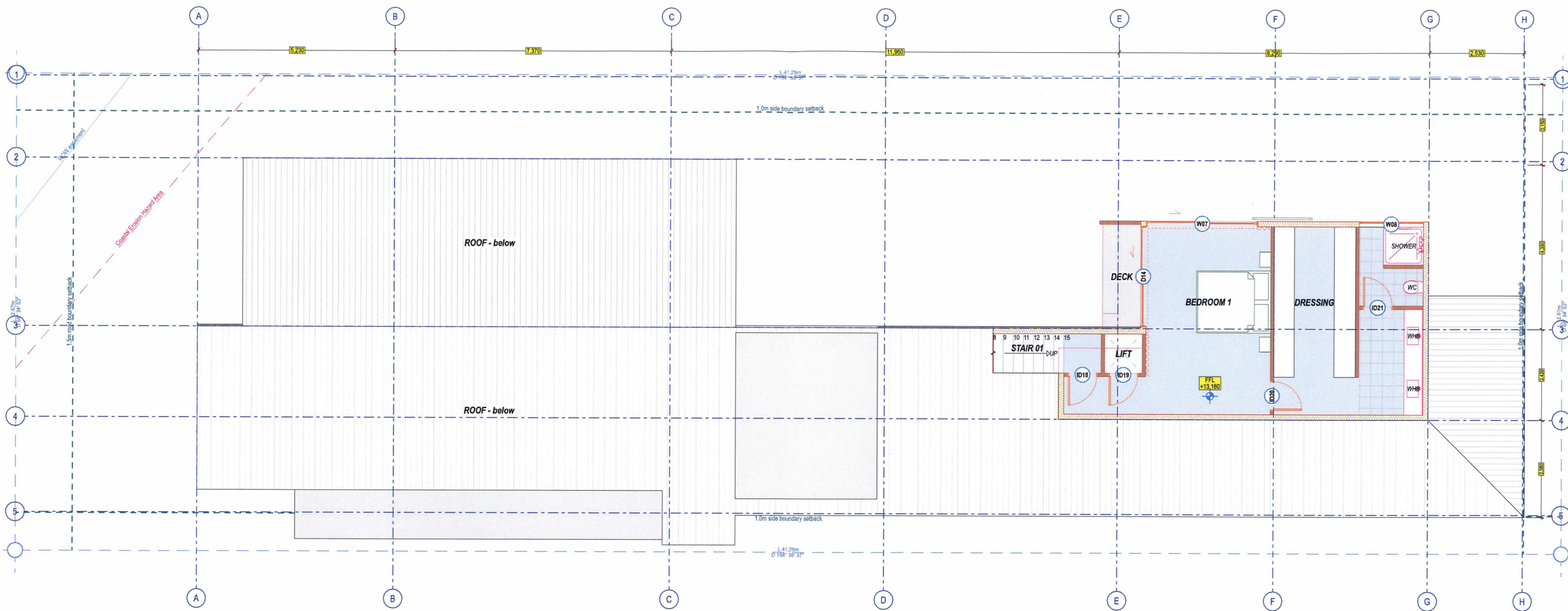


First Floor Plan

1:50



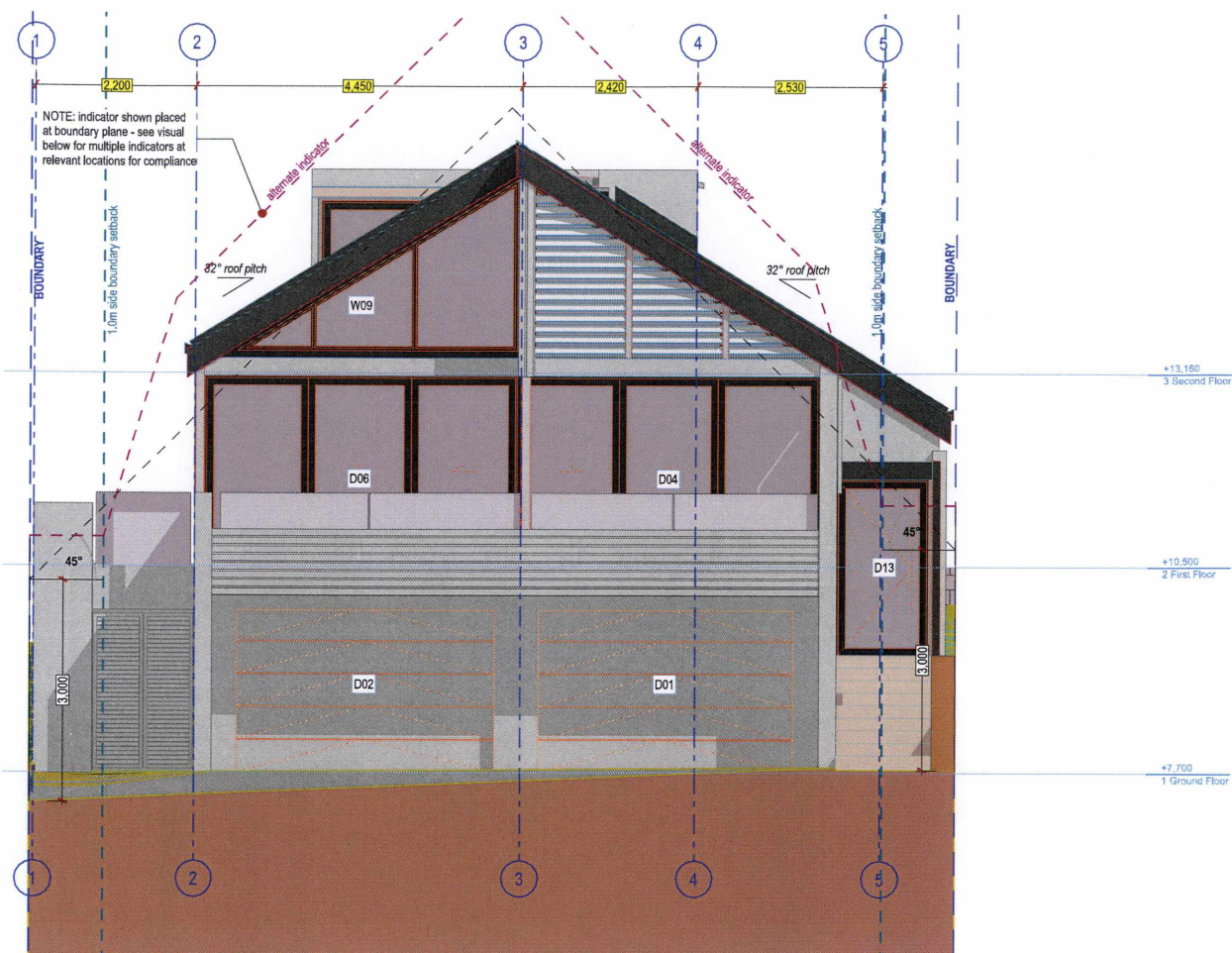
Client.		
M & R Holyoake		
Job Title.		
New House		
44 Octavius Place		
New Plymouth		
Drawing Title.		
First Floor Plan		
Scale.	1:50 @ A1	Date. 3/10/2020
Drawing No.	A202	Rev.



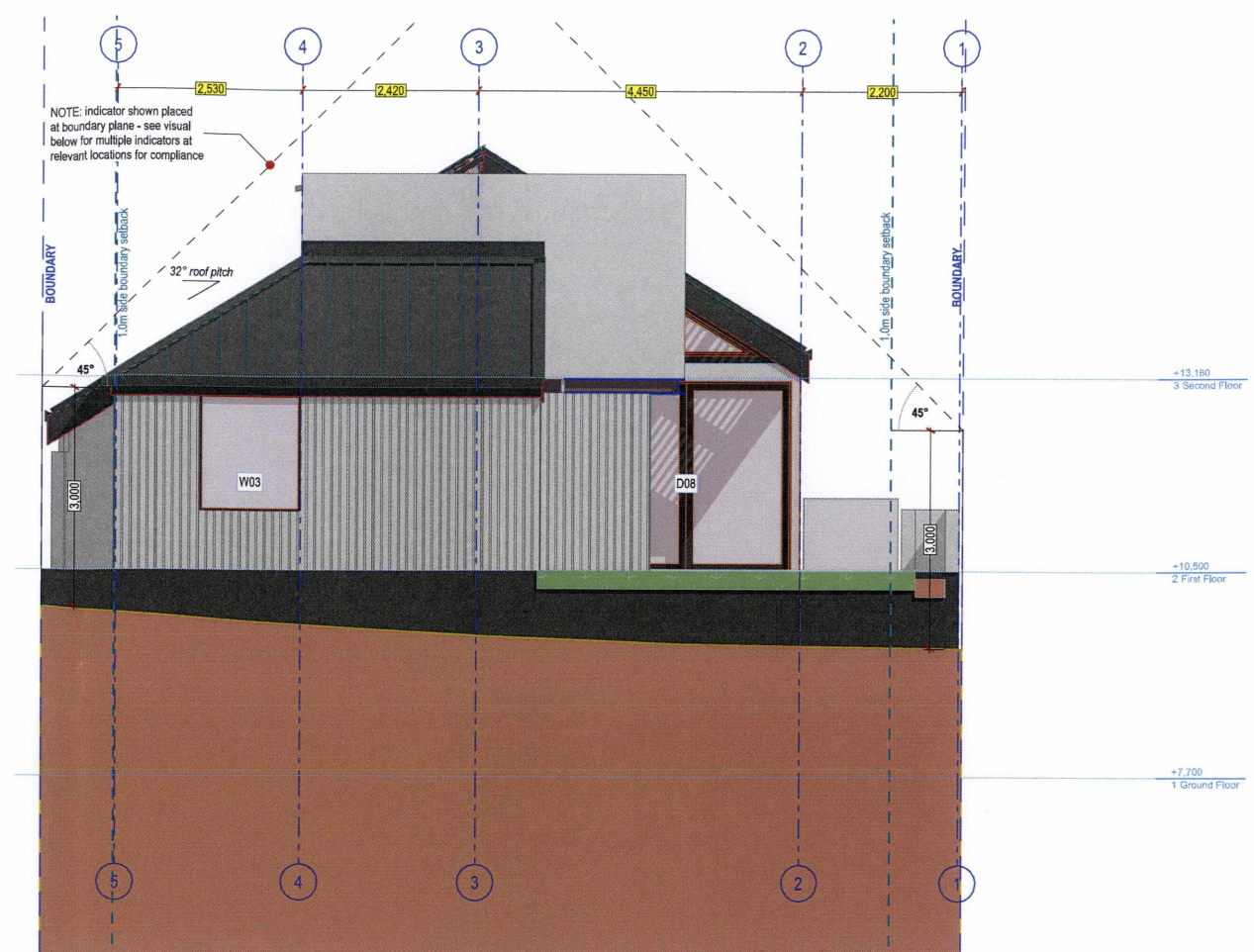
Second Floor Plan 1:50



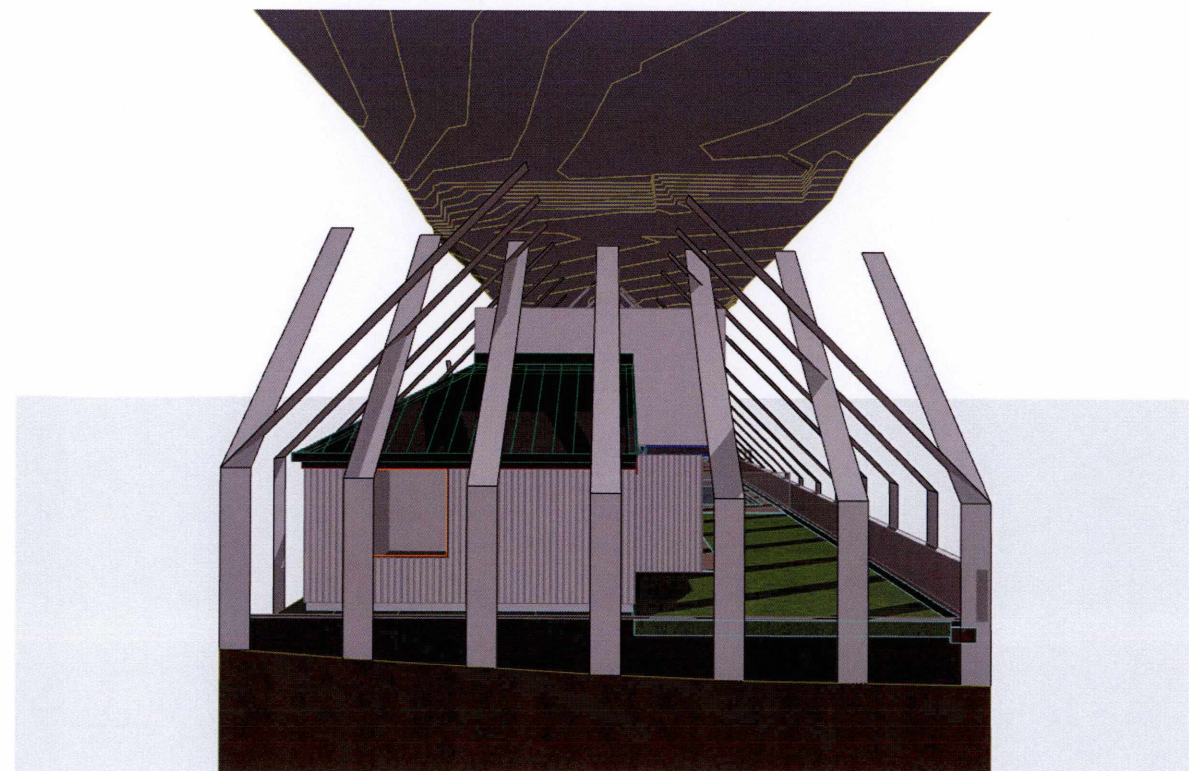
Client.		
M & R Holyoake		
Job Title.		
New House		
44 Octavius Place		
New Plymouth		
Drawing Title.		
Second Floor Plan		
Scale.	1:50 @ A1	Date. 3/10/2020
Drawing No.	A203	Rev.

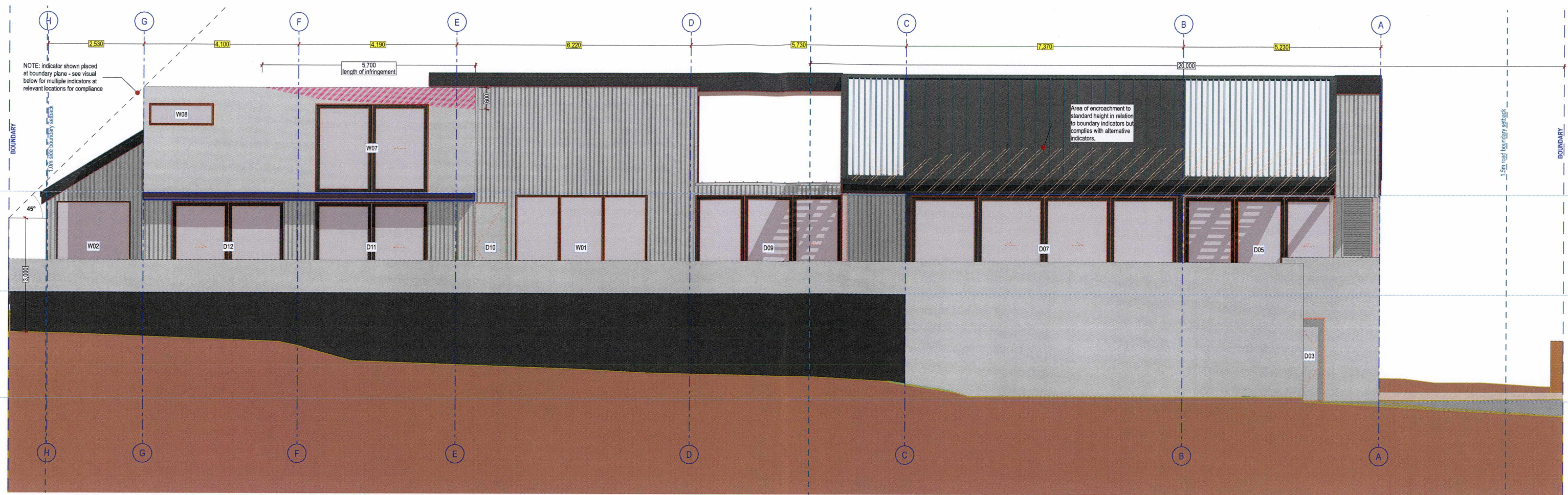


North Elevation 1:50



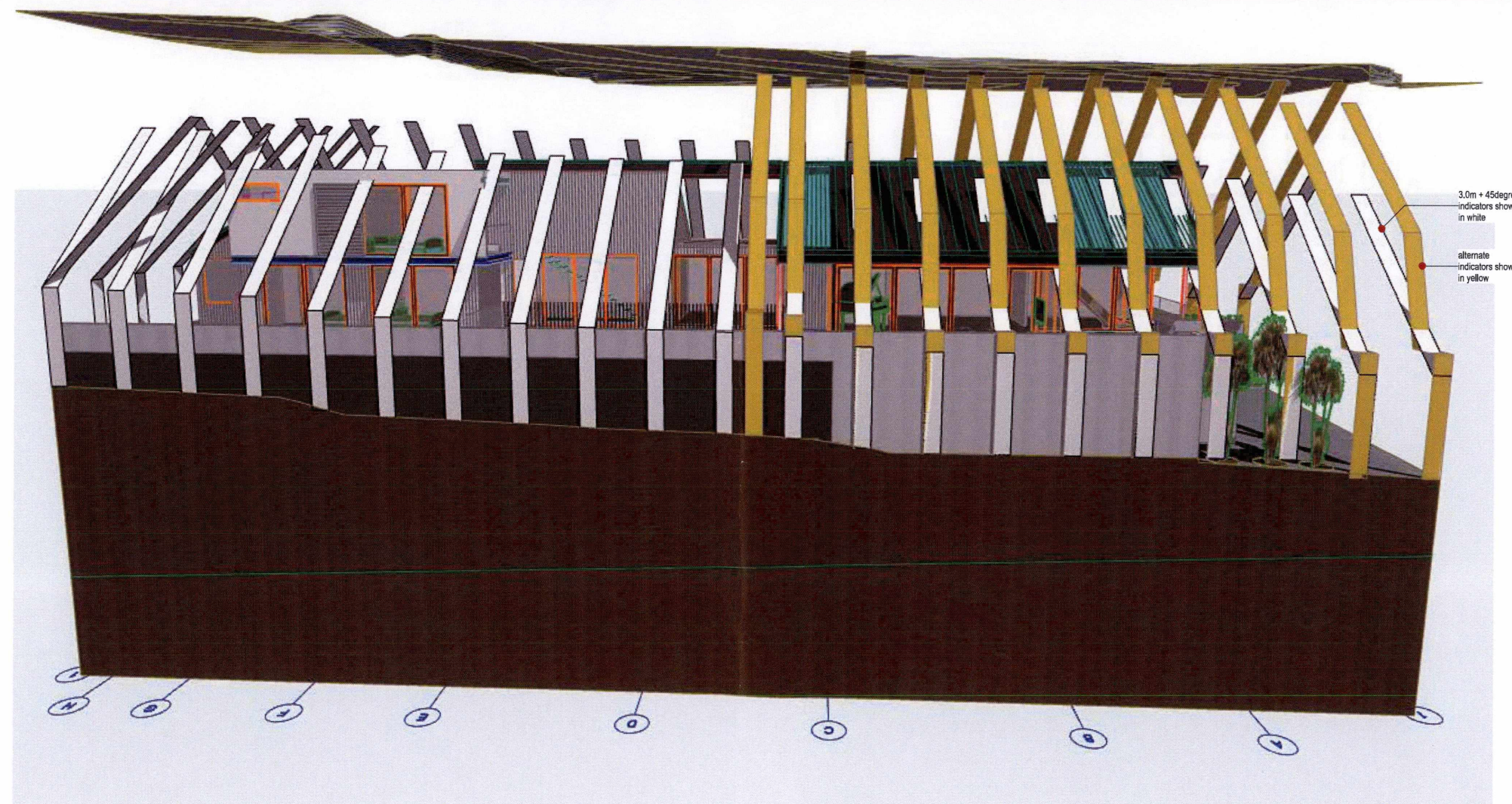
South Elevation 1:50



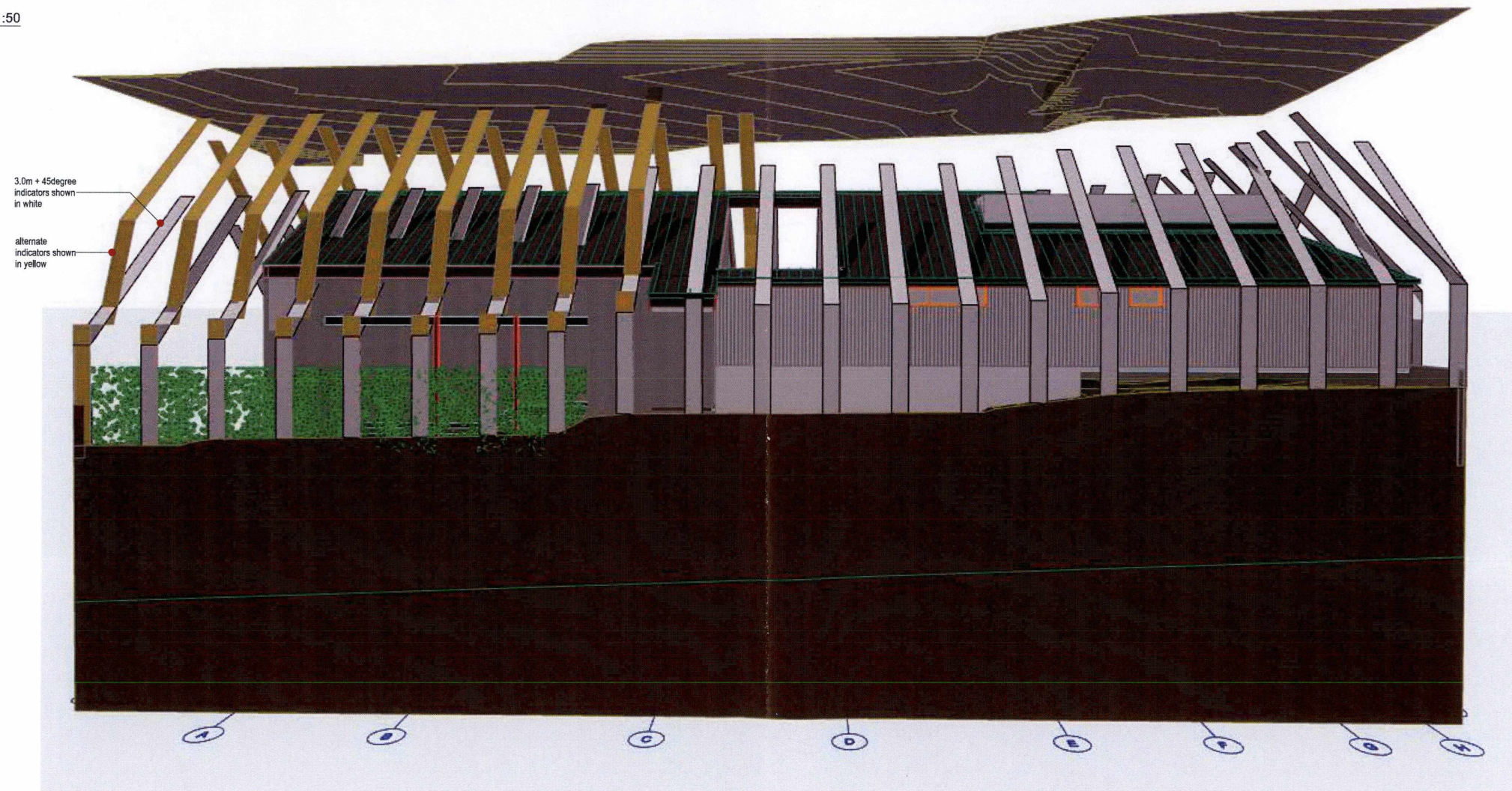
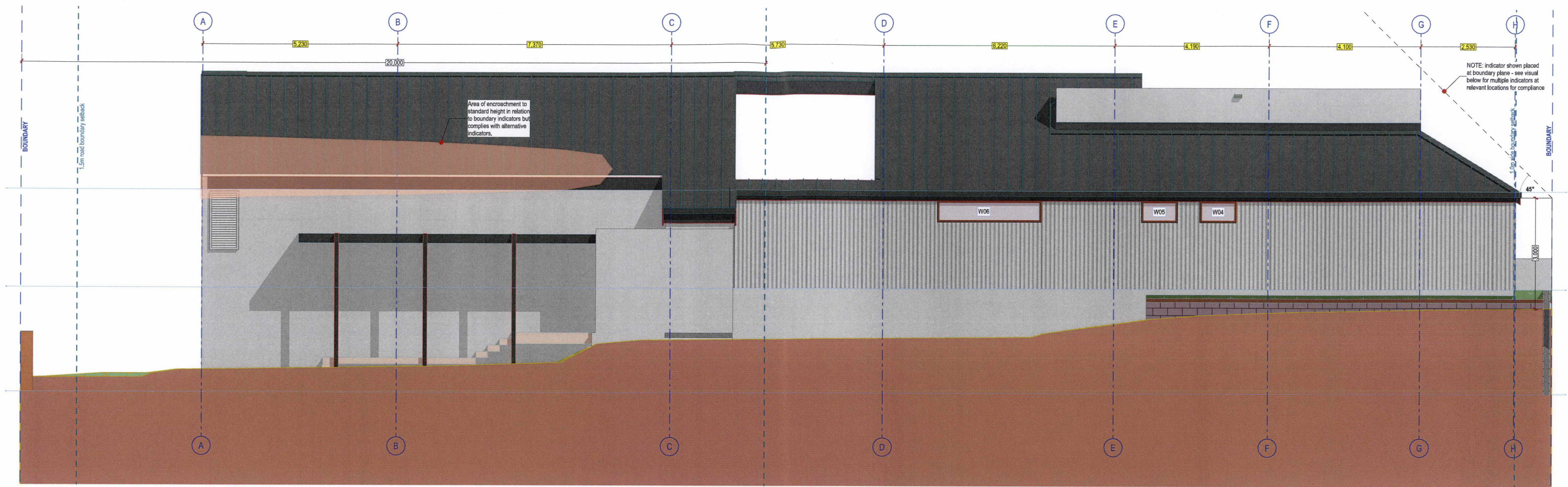


East Elevation

1:50



Client:		
M & R Holyoake		
Job Title:		
New House		
44 Octavius Place		
New Plymouth		
Drawing Title:		
East Elevation		
Scale:	1:50, 1:0.7639 @ A1	Date: 3/10/2020
Drawing No.	A402	Rev.



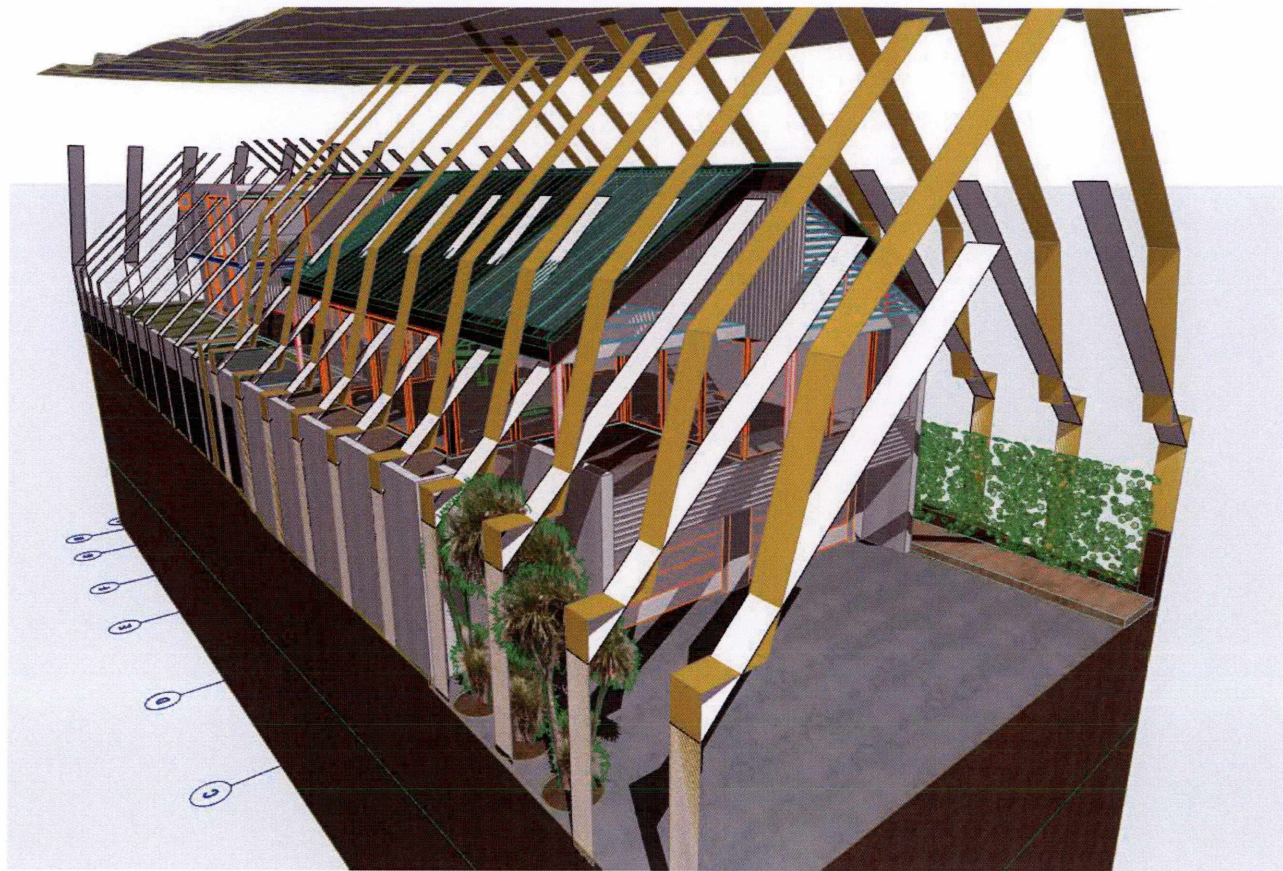
Client:
M & R Holyoake

Job Title:
New House
44 Octavius Place
New Plymouth

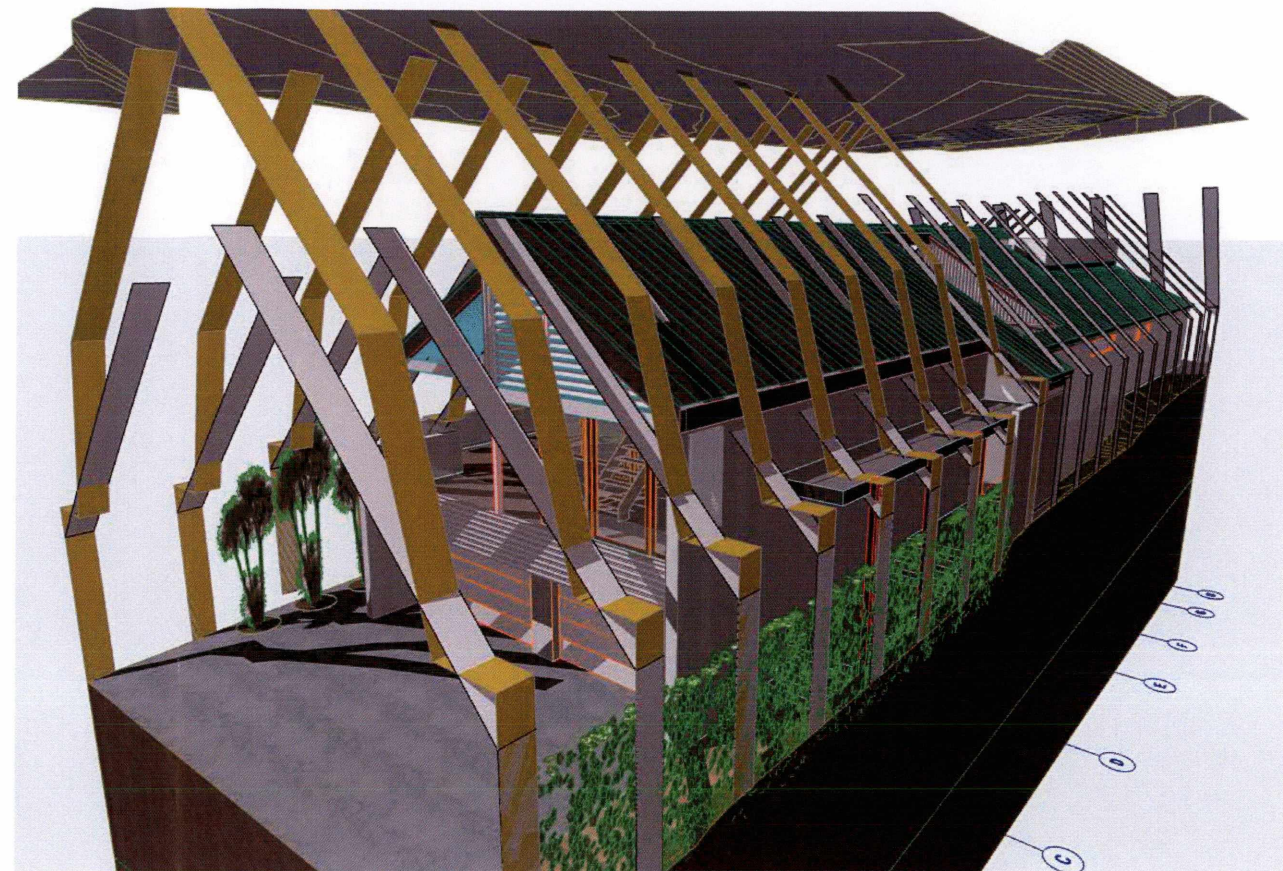
Drawing Title:
West Elevation

Scale: 1:50, 1:0.7639 @ A1 Date: 3/10/2020

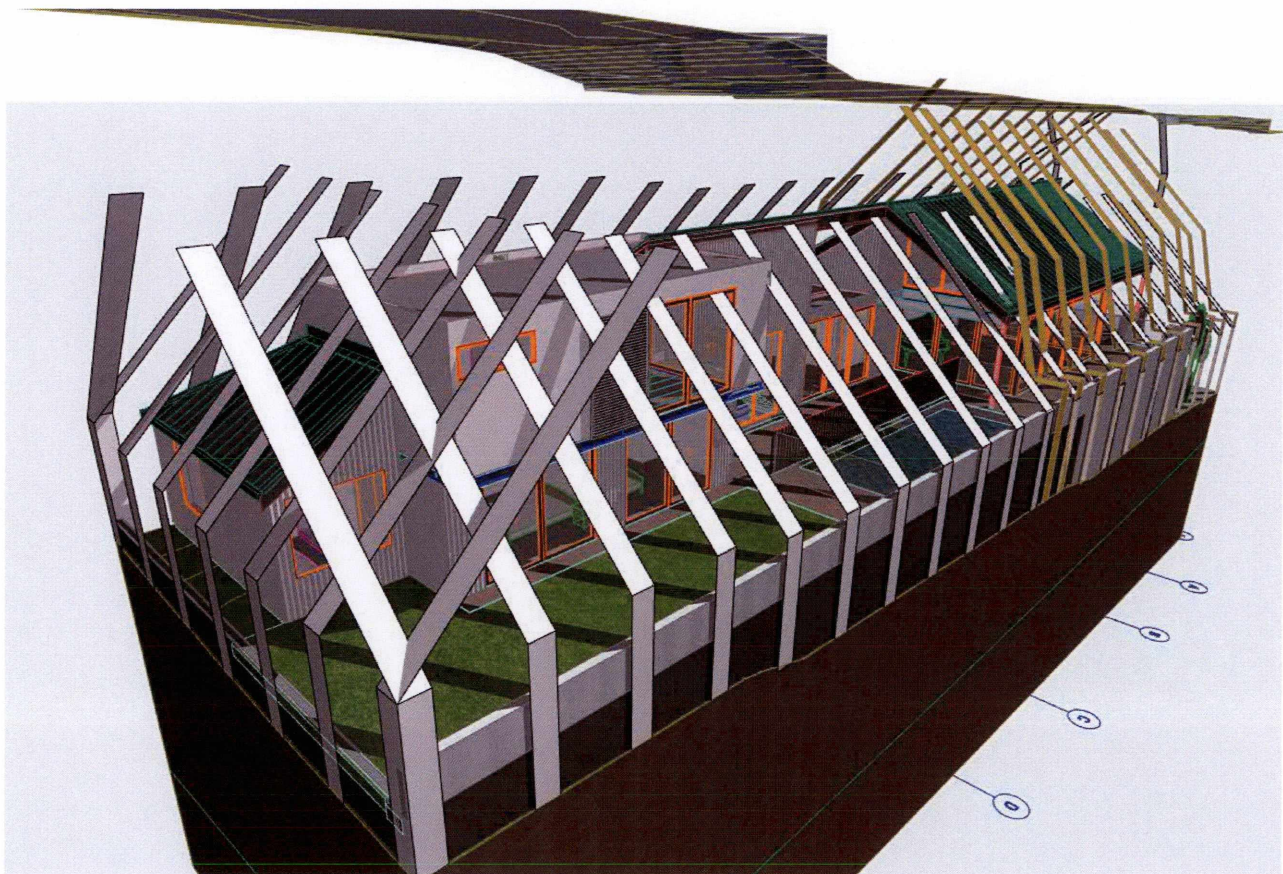
Drawing No. A403 Rev.



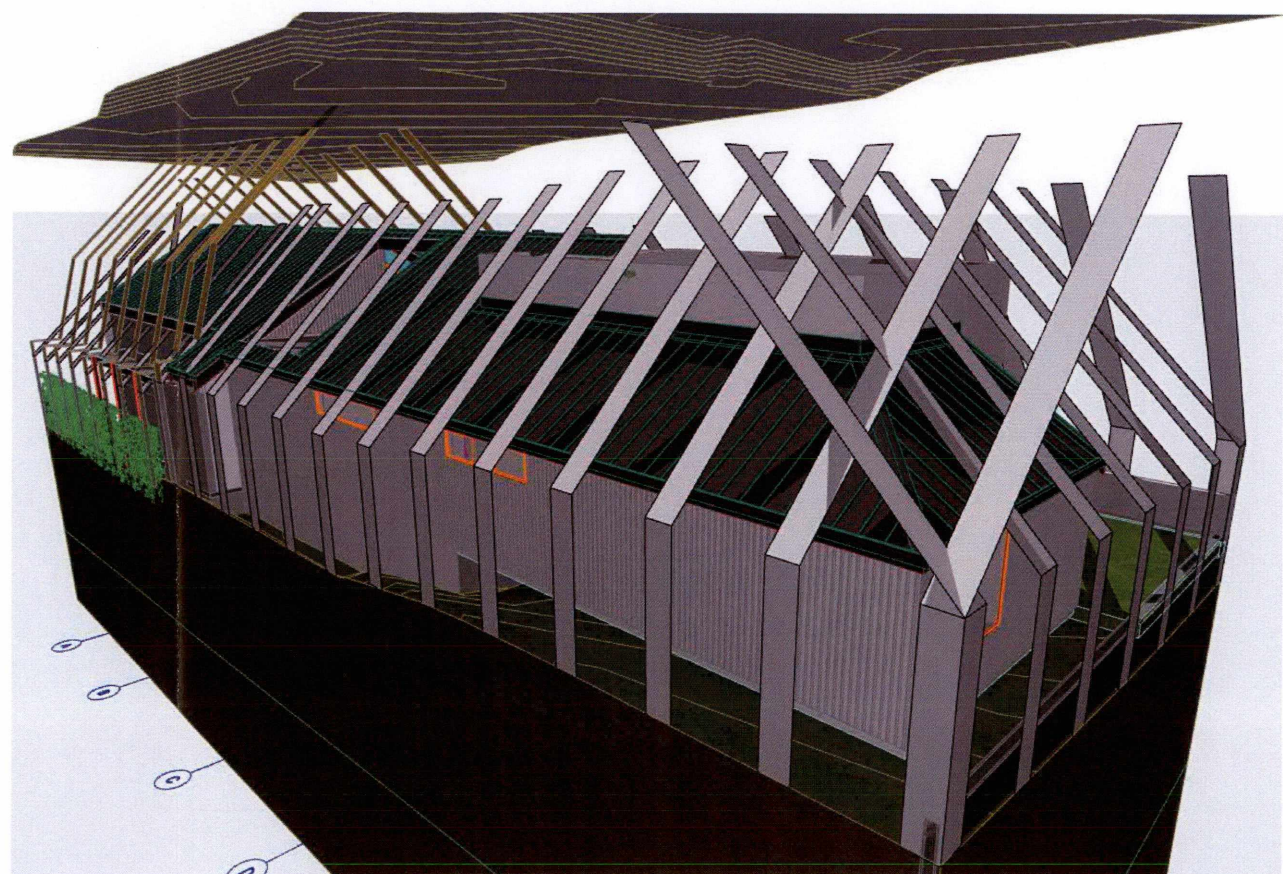
North Eastern Visual



North Western Visual



South Eastern Visual



South Western Visual

Client:		
M & R Holyoake		
Job Title:		
New House		
44 Octavius Place		
New Plymouth		
Drawing Title:		
Exterior Visuals		
Scale:	1:1,1204 @ A1	Date: 3/10/2020
Drawing No.	A404	Rev.



Te Kaunihera-a-Rohe o Ngāmotu

New Plymouth
District Council



FORM 8A

Written approval to an
activity subject to a resource
consent application

Please read the information on the back of this page before giving your written approval in respect of a resource consent application.

1. Affected person's details

- 1a. I am the ☒ Property owner ☐ Occupier
- 1b. Of the property at (street address) 46 Octavius Place
New Plymouth
- 1c. Full name Cassie + Shawn Conaglen
First name(s) Surname
- 1d. Electronic service address shaunconaglen@gmail.com
- 1e. Telephone 0278847411
Mobile Landline
- 1f. Postal address or alternative method of service under Section 352 of RMA 1991
- 1g. I have the authority to sign on behalf of all other owner/occupiers of the property ☒ Yes ☐ No

2. Resource consent application details

- 2a. Applicant's name Murray + Roslyn Holyoake
First name(s) Surname
- 2b. Site address 44 Octavius Place, New Plymouth
- 2c. Description of proposal
Proposed new dwelling which includes the following encroachments
MP2-S3 Height in relation to boundary - upper bedroom 5.7m long x 0.6m high
MP2-S5 Minimum building setback, proposed deck on eastern side 72.0m above ground + < 2.5m from boundary

3. Documents and plans

I have read and/or seen:

- ☒ The full resource consent application, including:
- ☒ The full description of the activity and the assessment of environmental effects (AEE).
- ☒ Plan(s), signed by me and listed below. (If required, attach any additional plan information.)

Plan reference number	Plan title	Date
A401 - A203	site + proposed floor plans	28-02-24
A401 - A402	proposed elevations	28-02-24
A403	proposed visuals	28-02-24
AEE		28-02-24

Please turn over

OFFICE USE ONLY

Date received Property ID Application #
Time received Land ID Document #
Received by

4. Privacy statement

The Privacy Act 2020 applies to the personal information provided in this written approval. For the purposes of processing the resource consent application the Council may disclose this personal information to another party. If you want to have access to, or request correction of, this personal information, please contact the Council.

5. Affected person's declaration

By signing* this written approval, or by submitting this form electronically, I confirm that I understand the proposal and that the Council must decide that I am no longer an affected person and therefore must not have regard to any adverse effects on me.

I understand that I may withdraw my written approval by giving written notice to the Council before the hearing, if there is one or, if there is not, before the application is determined.

I confirm that the information contained in this written approval is true and correct, and agree to the disclosure of my personal information in respect of this written approval.

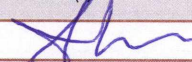
If signing on behalf of a trust or company, please provide additional written evidence that you have signing authority.

SHAUN

First name(s)

CONAGHEN

Surname



Signature of person giving written approval (or person authorised to sign on behalf of the person giving written approval)

28/2/2024

Date

*A signature is not required if you give your written approval by electronic means, however the plans do need to be signed.

6. Information for affected persons

1. Please ensure you fully understand the proposal before deciding whether to sign this form. You may need to ask for further information from the applicant.
2. There is no obligation to sign this form, and no reasons need to be given.
3. Conditional written approvals cannot be accepted.
4. If this form is not signed, the application may be notified and you may have the opportunity to submit on the application.
5. If the Council determines that the activity is a deemed permitted boundary activity under section 87BA of the Act, your written approval cannot be withdrawn.
6. It is acceptable for you to request that you be given some time to consider the application before deciding whether to provide your written consent or not. You may also obtain your own professional advice on the application e.g. from a lawyer, planner or surveyor before deciding whether or not to give your written approval.
7. 'An Everyday Guide to the RMA' on the Ministry for the Environment website at www.mfe.govt.nz contains useful information for affected persons.
If you have any further questions regarding this process contact the duty planner at the Council on 06-759 6060.



When replying please quote document no: LUC24/48428

26 June 2024

M and R Holyoake
C/- Chris Holyoake
Email: cholyoake@gmail.com

Kia ora Chris,

LUC24/48428 CONSENT IS GRANTED FOR A NEW DWELLING AT 44 OCTAVIUS PLACE, NEW PLYMOUTH.

I am pleased to be able to **enclose** a copy of a Resource Consent Approval, and my Planners Report prepared under the Resource Management Act 1991, for the above project.

If you are unhappy with any part of this decision you have the right to object in accordance with Section 357A(2) of the Resource Management Act 1991. Any objection shall be made in writing, setting out the reasons for the objection. This must be lodged with Council within 15 working days after receiving this decision.

The purpose of this letter is also to formally extend the timeframe within which the decision is to be issued, under section 37A of the Resource Management Act 1991 (RMA). In accordance with section 37A(4)(b)(ii), it is advised that the timeframe for processing the application has been extended and the applicant agrees to the extension.

Section 37A also requires the consent authority to take into account the interests of any person who may be directly affected by the time extension. It is considered that by taking additional time to complete the consent, a sound decision can be made. The consent authority also recognises its duty under s21 to avoid unreasonable delay.

Any monitoring or time involved in ensuring compliance may result in extra charges being invoiced to you. Therefore, to reduce additional charges payable to you, please ensure that you comply with the conditions of the Resource Consent as soon as possible. Additionally, to reduce administration costs, please contact one of Councils Monitoring Officer's on 759 6060, fax 06 759 6118 or email enquiries@npdc.govt.nz to inform us when work is about to commence.

Yours sincerely

Laura Buttimore
CONSULTANT PLANNER



Te Kaunihera-ā-Rohe o Ngāmotu

New Plymouth District Council

RESOURCE CONSENT LUC24/48428

Granted under Sections 95A-E, 104, 104C and 108 of the Resource Management Act 1991.

Applicant:	M and R Holyoake
Location:	44 Octavius Place, New Plymouth
Legal Description:	Lot 2 DP 4989
Proposal:	Erection of a new dwelling.
Status:	Restricted Discretionary activity under the Proposed New Plymouth District Plan – Appeals Version (PDP AV).

DECISION:

In accordance with Sections 95A, 95B, 95C, 95E, 104 and 104C of the Resource Management Act 1991, consent is granted on a non-notified basis for a new dwelling at 44 Octavius Place, New Plymouth for the reasons discussed in the planner's report, as summarised below:

1. The effects of the proposal on the environment will be acceptable.
2. The proposal is consistent with the relevant objectives and policies of the Proposed District Plan, Regional Policy Statement and all other relevant matters.
3. The proposal meets the Purpose of the Resource Management Act.

Subject to the following conditions imposed under Section 108 of the Resource Management Act 1991:

1. The land-use activity shall be carried out in accordance with the plans and all information submitted with the application and as updated by further information responses, and all referenced by the Council as consent number LUC24/48428 including the following:
 - Assessment of Environmental Effects, titled "Resource Consent Application for new dwelling at 44 Octavius Place, New Plymouth" prepared by Chris Holyoake, dated 28 February 2024.
 - Response to Section 92 Request, prepared by Chris Holyoake, dated 4 June 2024.

-
- Application Drawings - Site Plan, Drawing No A1.01, dated 3/10/2020; Ground Floor Plan, Drawing No A201, dated 3/10/2020; First Floor Plan, Drawing Number A202, dated 3/10/2020; Second Floor Plan, Drawing Number A203, dated 3/10/2020; North and South Elevations, Drawing No A401, dated 3/10/2020; East Elevation, Drawing No A402, dated 3/10/2020; West Elevation, Drawing No A403. Dated 3/10/2020; Exterior Visuals, Drawing No A404, dated 3/10/2020; Earthworks, Drawing No A405, dated 3/10/2020. Shading 22/09 9am – 4pm, Drawing Number A406; dated 3/10/2020
2. The consent holder shall undertake landscape planting along eastern and western side boundaries to align with that shown on the elevations plans (drawing A1010 (3D) and A404) within six months of the completion of the dwelling. This planting shall be maintained on an ongoing basis and if dead or diseased shall be replaced.
 3. The consent holders shall pay the council's costs of any monitoring that may be necessary to ensure compliance of the use with the conditions specified.

ADVICE NOTES:

Consent Lapse Date

- a) *This consent lapses on **26 June 2029** unless the consent is given effect to before that date; or unless an application is made before the expiry of that date for the Council to grant an extension of time for establishment of the use. An application for an extension of time will be subject to the provisions of section 125 of the Resource Management Act 1991.*
- b) *This consent is subject to the right of objection as set out in section 357A of the Resource Management Act 1991.*

DATED: 26 June 2024



Zane Wood
PLANNING CONSENTS LEAD

S95 NOTIFICATION DECISION AND S104 REPORT TO THE PLANNING LEAD FOR LAND USE CONSENT

Application Number:	LUC24/48428
Proposal:	Construction of a new two story dwelling
Applicant:	Murray and Roslyn Holyoake
Site Address:	44 Octavius Place, New Plymouth
Legal Description:	Lot 2 DP 4989
Site Area:	523m ²
Zone:	Operative District Plan: Residential B Environment Proposed District Plan: Medium Density Zone
District Plan Overlays:	Operative District Plan: Not Applicable Proposed District Plan: Roding Hierarchy: Octavius Place – Local Road; Coastal Erosion Hazard Area, Coastal Environment,
Activity Status:	Operative District Plan: N/A Proposed District Plan: Restricted Discretionary Activity

SITE DESCRIPTION / SURROUNDING ENVIRONMENT

1. The site description has been accurately described within the Application of Environmental Effects (AEE). I concur with that description and include below for reference:

*"The site is zoned '**Medium Density Residential Zone**' in the Proposed District Plan and is located in a small cul-de-sac at the end of Octavius Place. The site is narrow with gentle topography along the length where it rises towards the rear of the section.*

There had previously been a poor condition existing house on the site which has now been removed leaving the site empty awaiting further development.

The North-eastern corner of the site has an easement across it to provide access to the adjacent site at 46 Octavius Place. Furthermore, in this corner it has been identified on the planning maps as a 'Coastal Erosion Area'. Following discussions with the NPDC duty planner a deliberate effort has been made to exclude any building from this zone. Also noted is that the site is within the 'Coastal Environment' overlay, as per CE-R5 the activity is permitted given that the rules and effects

standards of the underlying zone are being complied with. The site is surrounded by a variety of existing homes of different ages and styles. The bulk of the proposed dwelling has been managed so that it is two-stories with a pitched roof and the rear third level built into the lines of the roof.”



Figure 1: Outline of subject site (Source: PDP)

2. A site visit was undertaken on the 10th of April 2024. The following site photo is included for reference:



Figure 2: View from the northern end of the subject site looking south into the site.

3. The subject site is located within the Residential B environment under the Operative District Plan (ODP) with no specific overlays listed. Under the Proposed District Plan (PDP) the site is zoned Medium Density with proposed site including the Coastal Environment and the north eastern corner containing the Coastal Hazard overlay.

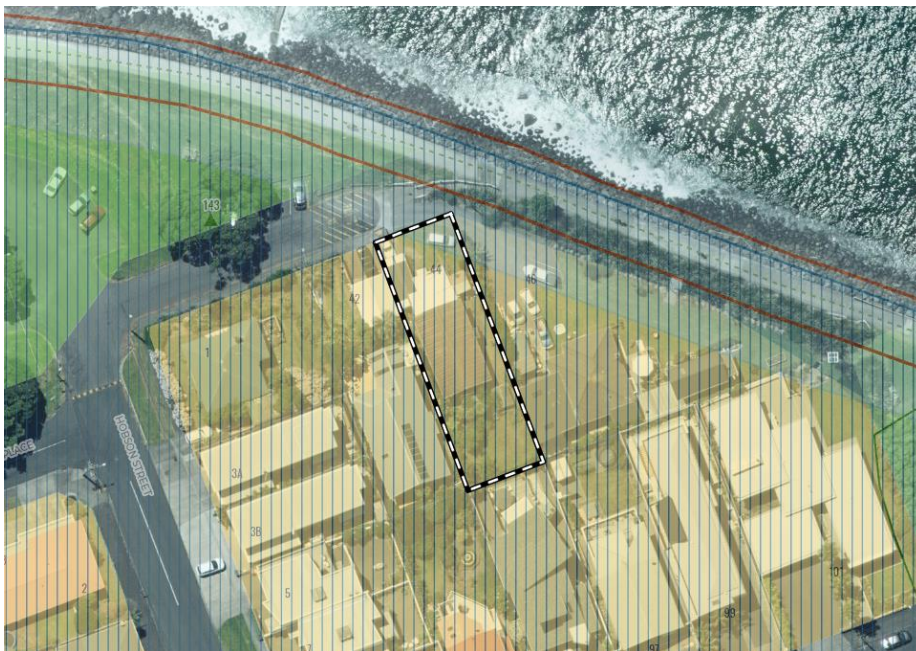


Figure 3: PDP Planning Map and overlays (Source: PDP planning maps).

PROPOSAL

4. Pursuant to s88 of the Resource Management Act 1991, C Holyoake has applied for land use consent for a new three storey dwelling at the subject. The proposal is summarised below:

- Erection of a new three storey dwelling on site;
- The site is currently vacant so earthworks is limited to a site scape and won't exceed 104m³ in area;
- The new dwelling has intentionally been located clear of the Coastal Erosion Hazard Area;
- A new swimming pool is proposed on site but is an above ground pool that will sit flush with proposed decking and therefore no substantial earthworks for the swimming pool is proposed;
- The proposal will exceed site coverage, side yard setbacks to the eastern boundary and recession plane breach along the eastern boundary and western boundary (but comply with the alternative recession plane provisions)

5. The proposed site plan, floor plan and 3D perspectives are included for reference below.

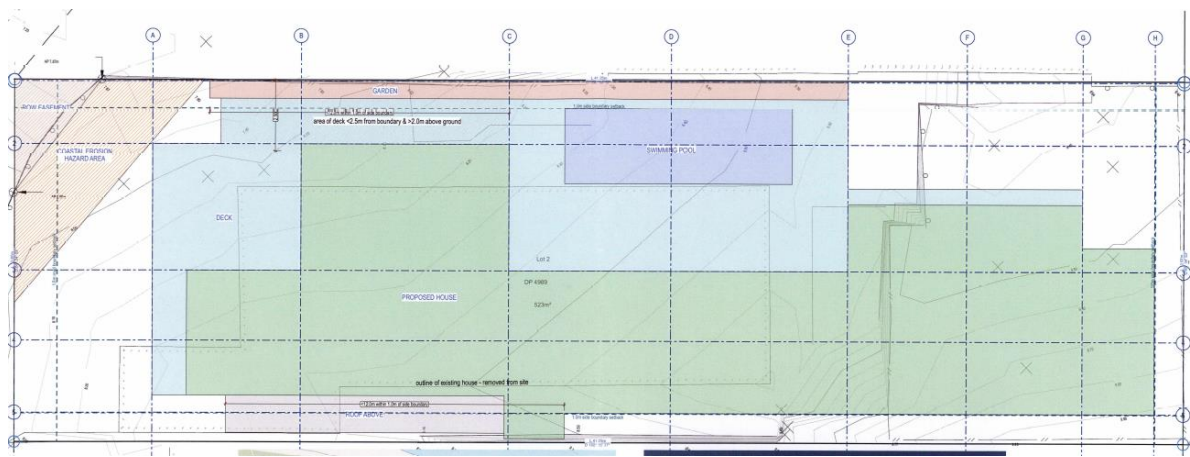


Figure 4: Proposed Site Plan (Source: Drawing Number: A101, dated 3/10/2020).



Figure 5: Northern perspective (Source: Site Plan, Drawing Number A1010 dated 3/10/2020).

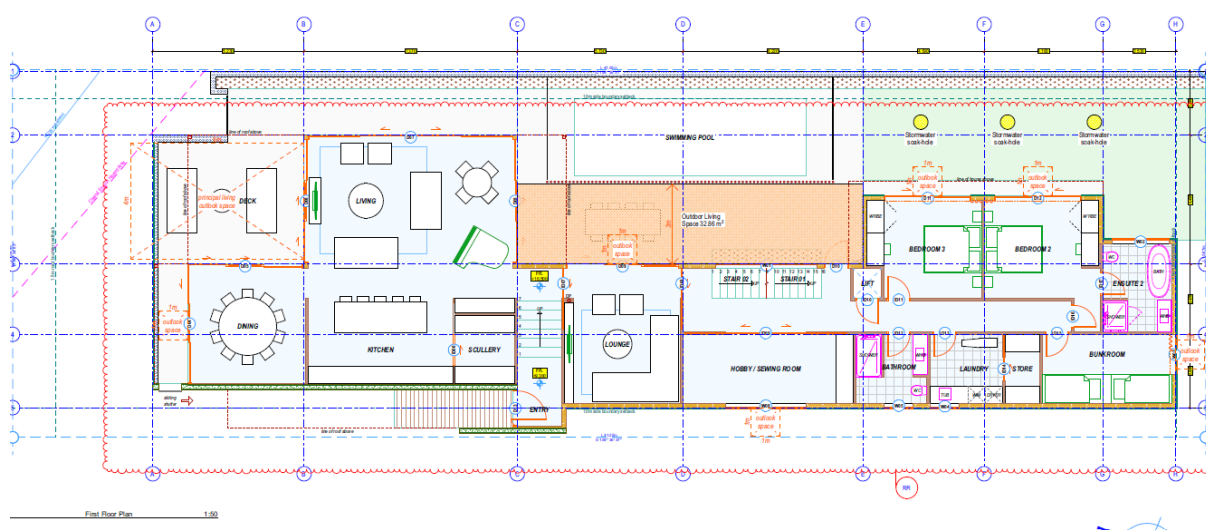


Figure 6: Proposed First Floor Plan (Source: Drawing Number A202, dated 3/10/2020).

Additional Information

6. The applicant's agent, C Holyoake provided additional information on the 11th of June for earthworks, swimming pool construction and stormwater management and this information forms part of the consented application.

STATUTORY REASONS FOR THE APPLICATION

National Environmental Standards

-
7. Regulation 5(5) of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES CS) describes sampling soil 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.
 8. I have checked the TRC Selected Land Use register and NPDC's record systems and there is no evidence that the site has contained an activity listed on the HAIL. Therefore, the NES does not apply.

Statutory Acknowledgement Area

9. The site does not contain nor is immediately adjacent to a Statutory Acknowledgement Area.

Proposed New Plymouth District Plan (Notified 23 September 2019)

10. The subject site is located within the Medium Density Residential Zone and is subject to a Coastal Hazard (north eastern portion only), Coastal Environment overlays. All rules, including the associated Effects Standards, now have legal effect, have not been appealed, and are therefore able to be treated as operative. On this basis, the provisions of the Operative District Plan (ODP) have fallen away, and no regard has been had to the ODP.
11. The proposal has been assessed as requiring consent for the following Proposed District Plan rules. For reference, compliance with permitted standards has been included where applicable.

Table 1 – PDP Decisions Version Standards

Rule	Rule Name	Activity Status	Comment
Medium Density Residential Zone			
MRZ-R30	Building activities including demolition or removal of a structure	Restricted Discretionary	Does not comply. The proposal is unable to comply with General Residential Zone Effects Standard MRZ-S2, S3 and S5.
MRZ-R32	Building activities that do not comply with mRZ-S3 but comply with MRZ-S4 (alternative recession plane)	Restricted Discretionary	

Effects Standards			
MRZ-S1	Maximum Structure Height –11m	Permitted	The proposal complies.
MRZ-S2	Maximum Building Coverage – 50%	Restricted Discretionary	The proposal will exceed the 50% site coverage and will be 55% site coverage.
MRZ-S3	Height in Relation to Boundary – 3m and 45° angle.	Restricted Discretionary	Does not comply. The proposed dwelling will exceed this along portions of the eastern and western elevations.
MRZ-S4	Alternative Height in Relation to boundary	Permitted	The proposal complies with this alternative recession plane angle to all boundaries.
MRZ-S5	Minimum Building Setbacks 1. From a <u>road boundary</u> : 1.5m 2. From a <u>side boundary</u> : 1m or less than 1m where the length of all <u>buildings</u> erected within 1.5m of the <u>side boundary</u> does not exceed 12m or 50% of the <u>boundary</u> whichever is the lesser.	Restricted Discretionary	Does not comply. The proposed deck along the eastern boundary is higher than 2m and is less than 2.5m from the eastern boundary.
MRZ-S6	Outdoor Living Space	Permitted	The proposal complies.
MRZ-S7	Minimum Outlook Space	Permitted	The proposal complies.
MRZ-S8	Minimum Landscaped Area – 25%	Permitted	The proposal complies. TBC percentage.
MRZ-S9	Outdoor Storage	Not Applicable	No outdoor storage proposed.
MRZ-S10	Maximum Fence or wall height – 1.4m Front Yard / 2m side or rear yard.	Not Applicable	Any proposed fencing will comply with this requirement.

Earthworks			
EW-R10	Earthworks does not exceed 150% of the building activity and will comply with the effects standards.	Permitted	<p>The proposal complies.</p> <p>Earthworks proposed on-site equate to 104m³ approximately.</p> <p>The proposal complies with the Earthworks standards.</p>
Transport			
TRAN-R1	Roads and Vehicle Access Points	Not Applicable	<p>Not Applicable.</p> <p>No change to existing on-site access arrangements are proposed under this application.</p>
Coastal Environment			
CE-R1	Earthworks where is permitted under the earthworks chapter and other relevant overlay chapters	Permitted	<p>Complies</p> <p>The applicant has confirmed earthworks will be within the permitted earthworks volumes under the Earthworks Chapter.</p>

Summary

12.The proposal is a **Permitted Activity** under the PDP and a **Restricted Discretionary activity** under the PDP – Decisions Version being the highest status under the above Plan.

EFFECTS DISREGARDED

13.The following effects have been disregarded for the purposes of the notification decision and s104 assessment (s95D, 95E and 104(2)&(3)(a)):

- a) In regard to Section 95D(a), Council must disregard any effects on persons who own or occupy the subject site and adjacent land. Effects on persons who own or occupy the properties included in or adjacent to the sites involved in the proposal have been disregarded as they either own or occupy the land on which the activity will occur or any land adjacent to that land.

b) Pursuant to section 95D(b), if a rule or national environmental standard permits an activity with that effect, then that adverse effect of that activity may be disregarded. This is known as the 'Permitted Baseline'.

- The construction of a new dwelling which complies with the Medium Density Zone provisions and effect standards area a permitted activity.
- In this instance, the proposed addition cannot comply with all effects standard due to recession plane, side yard setback and site coverage breaches. Therefore, I am not applying the permitted baseline as I don't consider the development proposed is comparable to a permitted activity.

c) Section 95D(c) requires that in the case of a Restricted Discretionary activity, Council must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard restricts control. The assessment of adverse effects is restricted to the following matters:

Medium Density Residential Zone:

Alternative recession plan (MRZ-R32)

1. *Sunlight access:*

1. *Whether sunlight access to the [outdoor living space](#) of an existing [residential unit](#) on a neighbouring [site](#) satisfies the following criterion: Four hours of sunlight is retained between the hours of 9am to 4pm during the Equinox (22 September):*
 1. *over 75% of the existing [outdoor living space](#) where the area of the space is greater than the minimum required by [MRZ-S6](#);*
or
 2. *over 100% of existing [outdoor living space](#) where the area of this space is equal to or less than the minimum required by [MRZ-S6](#).*
 2. *In circumstances where sunlight access to the [outdoor living space](#) of an existing [residential unit](#) on a neighbouring [site](#) is less than the outcome referenced in (a):*
 1. *The extent to which there is any reduction in sunlight access as a consequence of the proposed development, beyond that enabled through compliance with [MRZ-S3 Height in relation to boundary](#) control; and*
 2. *The extent to which the [building](#) affects the area and duration of sunlight access to the [outdoor living space](#) of an existing dwelling on a neighbouring [site](#), taking into account [site](#) orientation, topography, vegetation and existing or consented development.*
-

-
2. *Attractiveness and safety of the street: The extent to which those parts of the [buildings](#) located closest to the front [boundary](#) achieve attractive and safe streets by:*
 1. *providing doors, windows and balconies facing the street;*
 2. *maximising front [yard landscaping](#);*
 3. *providing safe pedestrian access to [buildings](#) from the street; and*
 4. *minimising the visual dominance of garage doors as viewed from the street.*
 3. *Overlooking and privacy: The extent to which direct overlooking of a neighbour's [habitable room](#) windows and [outdoor living space](#) is minimised to maintain a reasonable standard of privacy, including through the design and location of [habitable room](#) windows, balconies or terraces, setbacks, or screening.*

Site coverage

1. *Effect on the streetscape and planned character of the area.*
2. *Effect on amenity values of nearby residential properties, especially privacy and outlook of [adjoining sites](#).*
3. *The ability to provide adequate [outdoor living space](#) on [site](#).*
4. *Whether adequate mitigation of adverse effects can be achieved through the imposition of conditions, such as for [landscaping](#).*

Height in Relation to Boundary

1. *Effect on the streetscape and planned character of the area.*
2. *The extent to which topography, [site](#) orientation and planting can mitigate the effects of the [height](#) of the [building](#) or [structure](#).*
3. *Effect on amenity values of nearby residential properties, including privacy, shading and sense of enclosure.*

Minimum building setbacks

1. *Effect on streetscape and planned character of the area.*
 2. *The extent to which topography, [site](#) orientation and planting can mitigate the effects of the [building](#) or [structure](#).*
 3. *Effect on amenity values of nearby residential properties, including outlook, privacy, shading and sense of enclosure.*
 4. *The extent to which the reduction in the setback is necessary due to the shape or natural and physical features of the [site](#).*
 5. *Whether adequate mitigation of adverse effects can be achieved through the use of screening, planting or alternative design.*
- d) Section 95D(d) of the RMA requires that Council must disregard trade competition and the effects of trade competition. Trade competition and the effects of trade competition are not considered relevant and have been disregarded.
-

-
- e) Section 95(e) of the RMA requires that Council must disregard any effect on a person who has given written approval to the application. No written approvals have been provided with the application.

NOTIFICATION DECISION

Public Notification (s95A)

Step 1: mandatory public notification in certain circumstance

The application must be publicly notified if it meets any of the criteria below:

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

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

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

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

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

Assessment of Adverse Effects on the Environment

Character and Amenity Effects

14. The proposal would see the construction of a large dwelling on site. The dwelling is not dissimilar to style and scale of other dwellings within the immediate environment. The design includes elevated decking which sits at a height above the basement ground floor along the eastern portion of the site. The proposed dwelling is setback from the street and extends the length of the site in a north south direction.
15. The dwelling outlook and orientation is to the north, north east with outdoor living also to the east around the swimming pool.
-

-
16. The design is a modern architectural designed home with quality design and landscaping. The dwelling will sit within the medium density zone and is reflective of this well sited central location adjoining the coastal environment where modern architecturally designed homes are evident. The dwelling is setback from the street and will be viewed as a visually appealing building from the street and public realm.
17. The design and style of the dwelling is in keeping with the planned character of the immediate environment. The design has been intentionally planned to ensure effects on adjacent landowners are avoided and or mitigated with the outdoor living adjoining property to the east who has provided their written approval. The effects standard breaches are relatively discrete in scale with consideration to effects on adjacent landowners.
18. The side yard setback infringement relates to an elevated deck on the first floor which is orientated on the eastern side of the house. The extent of this orientation and infringement along the eastern boundary has been discussed with the adjacent landowner and their written approval provided. Therefore, this effect on the adjacent landowners privacy, outlook and sense of enclosure can be considered acceptable and disregarded in accordance with Section 104(3) (a) (ii).
19. The site coverage breach is 55%, 5% beyond the permitted medium density site coverage requirement. The breach includes elevated first floor decking with roof to enable year round outdoor living and has been intentionally provided to the north and east (adjoining neighbour who has provided their approval). Landscaping is proposed around the perimeter of the property to soften the built form.
20. The dwelling has a pitched roof sloping down towards adjacent receptors to the east and west. The western boundary of the proposed dwelling has been intentionally designed to have minimal windows and doors along the western boundary of the dwelling to reduce overlooking and any loss of privacy from the western receptor. The windows along the western elevation of the dwelling are limited to two high level windows for sunlight access only, with no outlook into the western neighbours property.
21. Overall, I believe the design is consistent with the planned character of the immediate environment.
22. On balance, the non-compliant site coverage and side yard setback infringement has been carefully designed to ensure the relationship with the adjacent landowners, and wider streetscape are provided for and any effects upon the public realm are considered no more than minor.
-

Sun light access and overlooking and privacy

23. The proposed dwelling does not meet the standard recession plane requirement along both the eastern and western boundary, but it does comply with the alternative recession plane along both of these boundaries. The applicant has assessed the alternative recession plane for the first 20m of the site frontage only, which leaves a eastern recession plane breach outside of the alterative recession provision. However, this recession breach relates to the eastern neighbour who has provided their written approval.
 24. As required under MRZ-R32 a comprehensive assessment is required for access to sunlight, overlooking and privacy for adjacent residential units. This assessment is applicable in this instance as the site does not comply with the recession plan MRZ-S3 standard but meets the MRZ-S4 standard. The landowner of relevance to this assessment is only the adjacent landowner to the west, as the landowner to the east has provided their written approval and no other boundary recession plan infringements are applied.
 25. The applicant has provided some shading analysis as a response to further information to demonstrate shading effects on 42 Octavius (western neighbour), this is shown below in Figure 7 and demonstrate the proposed building will create some shading along the eastern portion of the adjacent site early in the morning between the hours of 9 -11am. However, this only creates a small infringement and will still ensure the outdoor living spaces on this adjacent property receive access to sunlight for the majority of the day.
-

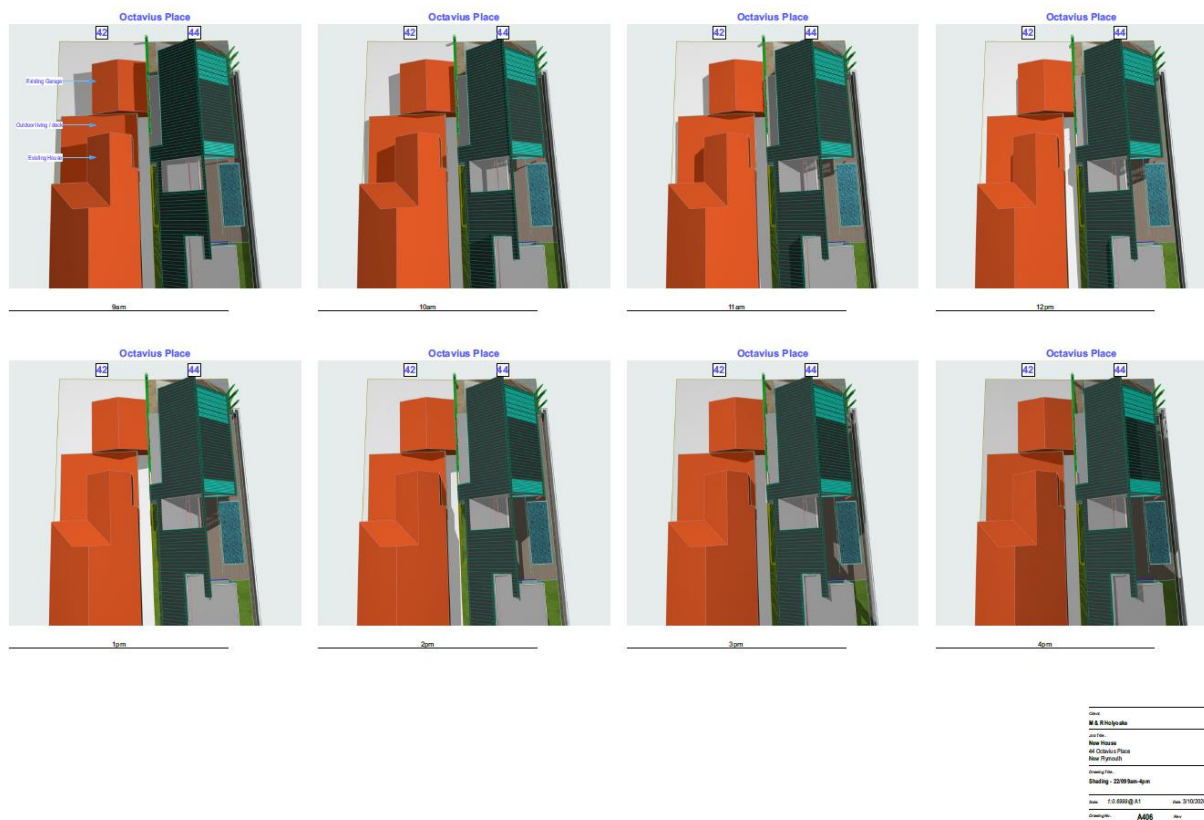


Figure 7: Shading Assessment (Source: Applicant plans; drawing number A406, dated 3/10/2020)

26. This shading assessment clearly demonstrates that the required 4 hours of sunlight for adjacent outdoor living spaces will be achieved for this western neighbour at 42 Octavius Place. The adjacent property does appear to have two outdoor living spaces, one in the north western corner of the dwelling and a high level outdoor living space in the north eastern corner of the dwelling adjoining the subject site. From NDPC Building records it appears this high level deck in the north eastern corner is not consented and therefore not considered under this outdoor living space requirement. Regardless, of that, the high level north eastern outdoor living would still achieve four hours of sunlight as required by the assessment criteria in MRZ-R32.
27. Further, as discussed above the proposed dwelling is attractive from the street and provides outdoor living to the north (the street) and has intentionally design dwelling to not overlook or interact the adjacent property to the west. The design of the western elevation of the dwelling ensures there is not overlooking or privacy loss for the adjacent landowner at 42 Octavius with only high level windows viewed along this elevation and planting proposed along this boundary extent in the northern portion of the site.

Summary

28. Overall, and based on the above assessment, it is considered that the actual or potential adverse effects of the proposal on the environment would be no more than minor.

Step 4: public notification in special circumstances

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

Conclusion on public notification

30. It is concluded under s95A of the RMA that the adverse effects of the proposal on the environment will be less than minor and the application does not need to be publicly notified.

Limited Notification (s95B)

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

- I consider there no persons to be an affected protected customary rights group or customary marine title group.
- The proposal is not located on land that contains or is immediately adjacent to a Statutory Acknowledgement Area.

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

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

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

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

Assessment of Affected Parties

31. The applicant has obtained the written approval of the property owners at 46 Octavius Place, New Plymouth. Accordingly, all effects to these persons have been discounted in accordance with Section 95b of the RMA.

32. The land adjacent to the subject site is considered to comprise the properties directly adjacent to the west (42 Octavius Place) and south (95 Buller Street). I do not consider that any other people/parties are affected based on the existing environment, the distance to other properties and the nature of the proposal.

Assessment

33. The proposed new dwelling is not considered to create adverse effects on the property to the south, being 95 Buller Street. The dwelling has been designed to comply with effects standards from this boundary in relation to recession planes, side yard setbacks, with the only applicable standard relating to site coverage. However, the dwelling as viewed from this southern extent will look over the southern extent of the dwelling, with lawn and swimming pool evident from this interface and will not appreciate the full extent or built form of the dwelling when viewed from the southern elevation. Fencing treatments, with the retention of the existing 1.8m fence along this boundary will further screen the built form when viewed from this property. The applicant has confirmed the fence is proposed to be retained. Overall, I believe any effects from this property will be less than minor for the reasons listed above.

34. Potential effects on the adjacent western neighbour at 42 Octavius Place have been considered in the s95A assessment above. I believe the proposal has been carefully designed to ensure effects when viewed from this property will be less than minor. The reasons for this include:

- The building is setback the required 1m from this boundary, with the exception of a small portion that is less than 12m in length but complies with the required setback from side boundary provisions (MRZ-S55) to this western boundary;
- There is only two high level windows on this elevation with no overlooking provided towards this property from the interior of the dwelling;
- The dwelling complies with the alternative recession plane but not the standard recession plane along this elevation;
- Landscaping is proposed along the northern portion of the western elevation to soften built form when viewed from this property;
- The applicant has demonstrated this property will retain adequate access to sunlight from there outdoor living spaces as shown in Figure 7 above;

35. It is for these reasons listed above that I consider any potential effects on this property are less than minor. Further, MRZ-R32 provides a non-notification clause under this rule if dwellings comply with MRZ-S4 but not MRZ-S3, therefore enabling an acceptance of effects in relation to any MRZ-S3 breaches. Whilst, I haven't relied on this non-notification clause it is useful to highlight.

36. Overall, I consider there is no adjacent landowners who are potentially affected by the proposed dwelling for the reasons detailed above.

37. There are no other persons considered affected by the development.

Summary

38. Overall, I consider the effects of the proposal relating to the relevant District Plan provisions can be appropriately avoided, remedied or mitigated and the actual and potential effects of the proposal will be less than minor on any potentially affected persons.

Step 4: further notification in special circumstances

39. No special circumstances exist that warrant the application being limited notified.

Conclusion on limited notification

40. It is concluded under s95B of the RMA that the application does not need to be limited notified.

Overall Notification Decision

41. The application does not need to be notified under sections 95A – 95E of the RMA.

SECTION 104 ASSESSMENT

Assessment of Actual and Potential Effects on the Environment - S104(1)(a)

Operative and Proposed New Plymouth District Plans

42. In my opinion all matters relevant to Section 104(1)(a) have been considered within earlier sections of this report. Based on the assessments made, the actual and potential effects of the proposal are considered to be no more than minor (managed through appropriate conditions) and the proposed use is not considered to compromise the established residential character and amenity of the underlying MRZ.

Conclusion

43. In summary, adverse effects on the environment are considered to be no more than minor under the Operative and Proposed District Plans and overall, the effects of the proposal are acceptable.

Assessment of Proposal against Planning Documents - Section 104(1)(b)

National Environmental Standards

44. There is no NES relevant to this application.

Taranaki Regional Policy Statement

45. The proposal is consistent with the relevant provisions of the Operative Taranaki Regional Policy Statement (2010).

National Policy Statement – Urban Development

46. The New Plymouth District has been classified as Tier 2 Local Authority in the National Policy Statement on Urban Development. Never the less, I consider that the proposal contributes to a well-functioning urban environment, through the provision of in fill development, within an urban environment close to local amenities.

47. The proposal is considered to be consistent with the objectives, policies and outcomes of the NPS-UD

Proposed District Plan

48. The following Objectives and Policies of the Proposed District Plan are considered relevant to this application and are summarised below for reference:

<i>MRZ-01</i>	<i>The Medium Density Residential Zone is predominantly used for residential activities and is characterised by medium density housing.</i>
<i>MRZ- 03</i>	<i>There is an increase in the variety of housing densities, types, sizes and tenures to respond to community needs, while also responding appropriately and sensitively to the context, character and amenity values of the surrounding neighbourhood.</i>
<i>MRZ-04</i>	<i>Residential buildings provide occupants and neighbours with high amenity living environments.</i>
<i>MRZ-05</i>	<i>Buildings are well designed, use land efficiently and contribute positively to a compact urban form.</i>
<i>MRZ-06</i>	<i>Changes to the existing character and increased housing capacity do not result in incompatible built form and adverse changes to landform that compromise streetscape amenity and natural features.</i>
<i>MRZ-07</i>	<i>Adverse effects of activities are managed to maintain residential amenity.</i>
<i>MRZ-P1</i>	<i>Allow activities that are compatible with the role, function and character of the Medium Density Residential Zone, while ensuring their design, scale and intensity are appropriate, including</i>

	<i>residential activities</i>
<i>MRZ-P6</i>	<i>Maintain the role, function and residential character of the Medium Density Zone by controlling:</i> <ol style="list-style-type: none"> <i>1. The number of residential units per site;</i> <i>2. Building height, bulk and location;</i> <i>3. Site coverage and outdoor living space;</i> <i>4. Setbacks from boundaries; and</i> <i>5. Height in relation to boundaries.</i>
<i>MRZ-P7</i>	<i>Require any effects generated by activities to be of a type, scale and level that are appropriate for the Medium Density Residential Zone, including by...</i>
<i>MRZ-P8</i>	<i>Require that buildings deliver high quality streetscapes, maintain residential amenity for surrounding properties and public places and do not result in overdevelopment of sites by...</i>
<i>MRZ-P9</i>	<i>Ensure buildings achieve high-quality on-site amenity having regard to...</i>

Assessment

49. The proposed new dwelling has been designed to ensure the amenity values of the surrounding environment are enhanced. The proposed dwelling is architecturally designed and will be visual appealing when viewed from the surrounding streetscape.

50. The dwelling has been carefully designed to consider effects on adjacent landowners and has accordingly reduced potential effects through design.

51. The proposed dwelling will ensure quality on site amenity for the new residents.

52. Overall, I consider the proposed new dwelling is of an appropriate scale form and appearance, and the development overall would not be contrary to the applicable MRZ objectives and policies outlined above.

53. The proposal is not considered contrary to the applicable PDP objectives and policies.

Other Matters - s104(1)(c)

54. I do not consider there are any other matters relevant or necessary to determine the application.

Overall Assessment to Grant or Decline under the Proposed District Plan

55.I conclude the adverse effects of the proposal are no more than minor and the proposal is consistent with the objectives and policies of the Proposed District Plan. The application can be granted under the Proposed District Plan.

PART 2 of the RMA

56.Having regard to the above assessment it is concluded that the proposal is consistent with Part 2 of the Resource Management Act 1991 (RMA) as the proposal achieves the purpose of the RMA being sustainable management of natural and physical resources.

RECOMMENDATION

57.That for the above reasons the application be approved on a non-notified basis pursuant to Sections 95A-95E, 104, 104C and 108 of the Resource Management Act 1991, subject to the conditions suggested within resource consent LUC24/48428 attached to this document.

REPORT DETAILS

PREPARED BY:



LAURA BUTTIMORE
CONSULTANT PLANNER

DATE: 26 JUNE 2024
