

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 retrospective land use consent for the constructed dwelling and associated retaining and fencing at 24/26 Woolcombe Terrace, New Plymouth. (LUC24/48512)

STATEMENT OF EVIDENCE OF DANIEL CONRAD MCEWAN ON BEHALF OF BRYAN & KIM ROACH

1. INTRODUCTION

- 1.1 My full name is Daniel Conrad McEwan. I am a landscape architect at Timbre Landscape Architecture + Design Limited, New Plymouth and hold a B.LA, and a registered membership with the NZILA. Prior to March 2025 I was a full time employee at BOON and have committed to prepare and present this evidence on BOON Ltd's behalf. My experience includes 10 years in the Landscape Architectural Industry working for a commercial construction company in Auckland; Local Collective, a prominent Wellington landscape architecture firm; and prior to March 2025, for BOON in New Plymouth. Previously I have worked on the ARO Apartments, The Paddington, Wellington Children's Hospital and several of Kāinga Ora's larger developments (all in Wellington) prior to joining BOON; and, various commercial, public realm, and larger residential developments during my time at BOON. These recent projects all contribute various elements that provide relevant experience to the constructed dwelling and understanding of the built environment relevant to the 24/26 Woolcombe Terrace land use consent.
- 1.2 This evidence is given in support of the land use consent application ("the application") lodged by Bryan & Kim Roach C/- Mckinlay Surveyors Limited ("the applicant"), to seek a retrospective consent for the two-level standalone dwelling located at 26 Woolcombe Terrace, New Plymouth - due to the construction process bridging the change over to the Proposed District Plan – Appeals Version, which became operative on the 14th of September 2023 (PDP AV).
- 1.3 I am authorised to give this evidence on behalf of the applicant.

2. INVOLVEMENT IN THE PROJECT

2.1 My involvement in the application has included:

- (a) Development and preparation of a landscape concept for the amalgamated lots 24/26 Woolcome Terrace - with a primary focus on a landscape design that complemented the architectural form and colours, the adjacent coastal environment, and looked at key privacy aspects that would benefit both our client and the neighbours at 28 Woolcombe Terrace - as I was informed by our client that Mr and Mrs Whyte, the owners of 28 Woolcombe Terrace, were concerned about seeing into Mr and Mrs Roach's house - and vice versa.
- (b) Phone conversation with the NPDC duty planning officer June 2022. The advice given was a fence can be up to 2.5m in height for the lesser of 12m or 30% of a side boundary before requiring building consent with the remainder being under 2m. This rule has remained within the now operative PDP-AV.
- (c) Preparation of context and evidence for the fence dispute that went through a mediation process in April 2024 with the three parties being Mr & Mrs Whyte and their legal team, NPDC planning officers and their legal team, our client Mr & Mrs Roach and their legal and consultant team.
- (d) Meeting and assistance with NPDC-appointed surveyor (Dave Armstrong) to ensure agreed (post mediation) reduction of the block and timber fence was cut down to comply in full, with the PDP-AV fence height of 2m (which was subsequently confirmed).

2.2 I have read and reviewed the evidence of Mr Kyle Arnold, Mr Jono Murdoch, Mr Ben Lawn, Mr Bryan & Mrs Kim Roach subsequent to the application, including the application and assessment of environmental effects (LUC24/48512) dated 6th of July 2024 and the section 42A Report in response dated 4th March 2025.

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 address the visual and amenity impact of the constructed residential dwelling on landscape and urban character and on the submitter's property at 28 Woolcombe Terrace, through my experience as a senior Landscape Architect.
- 4.2 I confirm that I have read the submission opposing the Application and the Council Officer's Report. The assumptions, assessments, and conclusions set out in my evidence remain valid.
- 4.3 Except where my evidence relates to contentious matters, I propose to only summarise the conclusions set out within the application and AEE prepared by Mr Ben Lawn of Mckinlay Surveyors Limited.
- 4.4 My evidence is structured as follows:
- (a) Summary **(Section 5)**.
 - (b) The Application (for retrospective resource consent) **(Section 6)**.
 - (c) Visual Assessment/Analysis methodology and outcomes **(section 7)**.
 - (d) Matters raised in submission from Mr & Mrs GM & JS Whyte **(Section 8)**.
 - (e) Visual Impact on Submitters property, 28 Woolcombe Terrace, Mr & Mrs GM & JS Whyte **(Section 9)**.
 - (f) Council Officer's Report **(Section 10)**.
 - (g) Mitigation recommendations **(Section 11)**.
 - (h) Conclusion **(Section 12)**.

5. SUMMARY

- 5.1 The key landscape related issues in my opinion are:
- (a) Impact of the over-height breaches the building has within the context of the now operative (in the context of this case) Proposed District Plan – Appeals Version (PDP-AV) when assessed against a building that fully complies with the permitted activity standards (in terms of dominance, sense of enclosure privacy and bulk form and scale related issues);

- (b) The additional shade effects of the constructed building areas of structure that infringe on the permitted daylight angle of 45 degrees to a height of 11 meters under the PDP-AV;
- (c) The constructed buildings' visual impact on 28 Woolcombe Terrace; what are the actual effects on views beyond a structure that complies with all permitted standards built in the same location;
- (d) The extent of the constructed building's impact on the existing architectural vernacular, streetscape and surrounding environment.

6. THE APPLICATION

- 6.1 Details of the application are well described in the section 42A report and the Section 95 report, which I agree with primarily - with the exception of my comments relating to the Section 95 report outlined below in **Section 10**, and I don't believe require further comment on my part.

7. VISUAL ASSESSMENT/ANALYSIS METHODOLOGY AND OUTCOMES

- 7.1 The following extract in Figure 7.1 from *'Te Tangi a te Manu – Aotearoa New Zealand, Landscape Assessment Guidelines'* has been the main reference in my professional review of the conclusions contained within Mr Campbell Robinson's S95 and S42A Reports for the retrospective resource consent application, as the guidelines are adopted Nationally and have been acknowledged as best practice with international recognition and provide a holistic approach in determining potential effects. My analysis and assessment in determining a professional judgement on actual and potential effects of the constructed dwelling follows this best practice. All aspects of the constructed dwelling and the construction and design process have been considered - with primary focus on the physical breaches where the constructed dwelling penetrates the new daylight angle of 45 degrees within the PDP-AV. Where 'Low' from the below 7-point scale, is used within my written evidence it relates to insignificant, or lacking importance on any particular effect when assessing potential 'adverse effects' afforded from a professional perspective. This primarily relates to visual effects within my written evidence, a subset of landscape effects.

Figure 1: 7-point scale extract from NZILA Te Tangi a te Manu – Aotearoa New Zealand – Landscape Assessment Guidelines.

- ‘Less than minor’ means insignificant. It can be characterised as ‘very low’ and overlapping with ‘low’ on the 7-point scale.^{161 162}

						SIGNIFICANT	
LESS THAN MINOR		MINOR		MORE THAN MINOR			
VERY LOW	LOW	LOW-MOD	MODERATE	MOD-HIGH	HIGH	VERY HIGH	

^{6.40} However, avoid an overly mechanical approach: “One is dealing with degrees of smallness. Where the line might be drawn between the three categories might not be easily determined.”¹⁶³ There are different interpretations within the profession as to where the boundaries of such categories precisely fall. The key is to be transparent and explain the reasons to justify a professional judgement.¹⁶⁴ The 7-point scale is a rating of magnitude, whereas an assessment of whether effects are minor (or less than or more than) is a reasoned consideration of the magnitude and importance (significance) of such effects in context. Assess the individual effects first using the 7-point scale in the normal manner. Following that, consider whether the adverse effects are minor (or less than or more than) in the context of the relevant test.

7.2 Photography of the existing urban form and relevant shading and visual effects have been captured by myself during my site investigations on 20th of January 2025, using an equivalent 50mm focal lens, widely adopted as the industry standard to best represent real-world views in determining visual effects. The resulting images show in my opinion that the constructed dwelling is consistent in form, scale and function with the architectural vernacular along Woolcombe Terrace and Octavius Place refer **Appendix A Sheets 1 to 5.**

7.3 I completed a desktop study of all relevant design, survey and statutory planning documentation. This assisted in cross-reference checks to affirm my opinions on all contested potential adverse effects due to the breaches being ‘Low’ within the 7-Point scale which can equate to ‘Less Than Minor’ as an RMA determination. ‘Low’ within this evidence can be described as of little concern, or with no quantifiable adverse outcomes from a professional perspective. In terms of potential effects on landscape character and values it is my opinion that ‘Very Low’ is the resulting level of effect, as the constructed dwelling aligns with the purpose and provisions of the zone within the PDP-AV - and any potential effects of the breached portions of the dwelling are considered to have negligible, or insignificant, material effect on the wider receiving environment.

- 7.4 I also completed a desktop study using google Street View, and a NPDC GIS portal was used to further support my four physical site visits and analysis in preparation of my evidence, which supported my conclusions on the existing built form, and that the constructed dwelling at 26 Woolcombe Terrace aligns with the existing form and expectations of the MRZ Zone within the PDP-AV. The site visit dates were 20.01.2025, 22.01.2025, 07.02.2025 and 09.02.2025
- 7.5 I undertook 3D modelling, using the BOON architectural model with the new PDP-AV 45 degree daylight angle (MRZ-S3), and the alternative daylighting provision (MRZ-S4). Levels were extracted from the now agreed existing survey ground level, and were used to determine and best understand 'actual' breached portions of the constructed dwelling roof and walls (except where gutters and soffit are exempt); refer **Appendix B Sheets 2 to 5**. This technique was used as the 2D plans provided as part of the application, I believe, can be easily misinterpreted - in terms of what portions of the structure breaches afford actual effects - i.e. the area of the breach in the plan views within the application appear far greater than the actual highest points of the breach which affords any potential adverse effects.
- 7.6 It is stated within Mr Campbell Robinson's Section 42A report, and again in Mr Whyte's submission, that the breach of the 45-degree daylighting angle is for the entire length of the constructed dwelling, or 29.1m as stated in Table 3 of the S42A - which is not the case. The extent of the breach length is approximately $\frac{3}{4}$ of the entire length of the constructed dwelling, with no breach occurring within the middle deck area of the dwelling. It is also important to note, that in my opinion, it is only the vertical highest points of the breached areas that afford any potential adverse effects - with the area of those highest points in fact having negligible adverse effects. Mr Robinson also states in his S42A report (Table 3 under MRZ-S3), that the breach has a maximum height of 1.9m near the northern elevation of the building. The highest breach according to the profiles provided by Armstrong Surveying (Paragraph 5.26 in Kyle Arnolds' evidence and attached to his evidence as **Annexure A**) is 0.74m (Profile C MRZ-S3) with the northern most breach being 0.62m (Profile A MRZ-S3). The only conclusion I can make as to where Mr Robinson took this 1.9m figure from, is some combination of height and the extent of the breach.
- 7.7 As demonstrated within my further shading analysis in **Appendix B Sheet 7**, along with analysis to determine what additional dominance the breach portions of the constructed dwelling would afford over and above a building complying with all permitted standards under MRZ-S3, as shown in **Appendix B Sheet 3**, including my comments earlier above in this section. It is my opinion when considering the potential adverse effects on 28 Woolcombe Terrace from the constructed dwelling at 26 Woolcombe Terrace that the resulting effects on shading, privacy loss, dominance and sense of enclosure, and the wider receiving environment including streetscape, are all considered 'Low' - which in

the 'real world' means various forms of built form, colour and material choices would provide a greater sense of dominance and sense of enclosure, which is visually evident in some of the existing boundary examples from **Appendix A** particularly images 7, 8, 9, 10, 11, 12, 13 and 29.

- 7.8 I agree with Mr Lawn's conclusions within the AEE (Revision v3), on the front boundary constructed rock wall and glass balustrade of the constructed dwelling at 26 Woolcombe Terrace, that the potential adverse effects are 'Less than Minor' considering the surrounding environment. Following my site analysis and assessments I provide the following comments. It is of my opinion that from seated positions within the outdoor area of 28 Woolcombe Terrace, the retaining wall and structural column of 28 Woolcombe Terrace obstruct a high percentage of the view west. The constructed rock wall is set back 130mm off the legal boundary which helps offset potential dominance effects, along with the additional 300mm offset of the glass balustrade. The glass balustrade is typical of decks and balconies along the road boundary of Woolcombe Terrace and Octavius Place as demonstrated in **Appendix A** and shown below in **Figure 2**. Although the balustrade is attached to the rear portion of the rock wall in front of the lower deck, it visually reads as part of this deck, which is consistent with the area, and from my understanding of the architectural documentation is designed as a fall from height barrier, and not as a visual front boundary treatment. It is of my opinion that any resulting effects on the dominance of the glass balustrade intended as a fall-from-height barrier, are considered 'Low'.

7.9 **Figure 2:** Front road boundary treatments of 32, 28 and 26 Woolcombe Terrace..



8. MATTERS RAISED IN SUBMISSION (IN OPPOSITION)

- 8.1 I have reviewed the submission in opposition to the Application for retrospective resource consent and provide the following comments in response to matters outlined within the submission.
- 8.2 In response to the submitters' primary reasons in section 3 of their submission; I find no substantial evidence to support reasons a. to f. that do not align with the purpose and objectives of the medium density zone outlined within the PDP-AV - along with the existing urban form - and along with the existing and perceived values in general for the activity and environment along Woolcombe Terrace.
- 8.3 I am in agreement with the conclusions reached in Mr Campbell Robinson's S95 and S42A Reports in the context of my expertise, with the exception of my differing view on his conclusions relating to sense of enclosure and dominance effects outlined in **Section 10** of my written evidence.
- 8.4 Due to its location within the coastal environment - and being on the south side of Woolcombe Terrace, within a designated medium density zone, with a highly modified existing built urban form - I find no substantial evidence of any actual or potential

adverse effects that would be greater than 'less than minor', in the nature of the effect, in this context, on the environment. My judgement from a landscape profession perspective differs from Mr Robinson's determination - because that resulting determination doesn't align with my conclusion, when assessed against the 7-point scale included as shown in 7.1 of my written evidence.

- 8.5 I note that, in response to item 7 in the Submission, Images 2 and 3 of the S42A report are taken within the boundary of 26 Woolcombe Terrace – and, therefore, don't provide an accurate representation of proximity. A photo taken aligned with the boundary, with less lens distortion, would be required to accurately demonstrate proximity within an image (to accurately represent proximity). **Figures 3** and **4** below I believe demonstrate a more accurate representation of proximity taken from my site visit on the 22nd of January 2025, along with **Image 4** in **Appendix B**.

Figure 3: Dwelling proximity looking North.



Figure 4: Dwelling proximity looking south.



- 8.6 In response to item 18 and 19 from the Submission - the statements appear in my opinion, to be in contention with each other - given that a multi-unit development that meets all permitted standards, (excluding what could be afforded to implement the "alternative" daylight standards under MRZ-S4), that could occur on the site of 26 Woolcombe Terrace, would afford far greater adverse effects on shading, building dominance outlook, privacy and sense of enclosure - than the current constructed building with its current portions of the structure that don't comply.
- 8.7 Additionally, my understanding of the effects standard MRZ-S4, is that it does not exclude single dwellings - and the trigger for restricted discretionary is all based on assessing and minimising potential adverse effects, but that it sets an additional expectation of what could occur, with assessment, over and above the permitted standards. I disagree with the submitter that the constructed building will adversely affect their amenity including shading "*in excess of what would result from a permitted activity*" (item 19) - and have seen no evidence that clearly supports this argument. My own assessments and conclusions show negligible potential adverse effects when compared to a development that meets all permitted standards.
- 8.8 In response to item 21 of the Submission; my assessment concludes that a development complying with all permitted standards, under MRZ-S3, would afford the same, or greater, potential adverse effects than the constructed dwelling. In relation to the breached portions of the constructed dwelling, from my assessment, they provide no additional adverse effects than a development complying with all permitted standards.

In addition, a structure could also likely be built up to the 1m boundary offset and fill the volume along the eastern boundary up to 11m as described as a compliant MRZ-S3 activity within the PDP-AV. The end result would be a structure that affords a sheer wall effect with greater dominance and sense of enclosure than the constructed dwelling including those portions that breach the permitted activity standards.

- 8.9 The images provided within the submission seeking to demonstrate the lost view towards Mouna Taranaki do not represent an accurate representation of the proposed loss in my view, with the zoomed image of the Mouna, exaggerating any potential lost view. **Appendix B Sheet 6**, shows an accurate representation of the view of the Mouna with the correct viewing distance for the A3 document of 550mm, captured with a 50mm equivalent fixed prime lens. It is also to note that new permitted structures that could be constructed on 31 to 33 and 24 to 30 Buller Street would block views towards the Mouna from the dwelling at 28 Woolcombe Terrace, therefore, any views of the Mouna are considered temporary.
- 8.10 Additionally, what I can extract from the submitter's images, is that, it is solely compliant portions of the constructed dwelling affecting any views towards the Mouna - therefore various configurations of a building complying with all the permitted standards would afford similar, or potentially greater, loss of views south of 28 Woolcombe Terrace. Views back towards 28 Woolcombe Terrace past the compliant portion of the constructed dwelling are shown in **Figure 5** below.

Figure 5: view towards 28 Woolcombe Terrace aligned with a view to the Mounga showing compliant portions of the constructed dwelling at 26 Woolcombe Terrace.



- 8.11 In response to item 4.7 of the submitter's written affidavit evidence (attached to the submission), I don't believe the building exceeds 30m in length from the documentation I have reviewed.
- 8.12 In response to the submitter's claim that the additional shading afforded by the breached portions of the constructed dwelling will adversely affect their outdoor living area - my professional judgment aligns with the defined outdoor living areas within the application and conclusions of Mr Campbell Robinson's report; with the exception of the outdoor living area discrepancy in the Section 95 Report which I have highlighted in **Appendix A Sheet 1** of my evidence. Mr Whytes own supporting evidence (in his submission affidavit, Image 059), clearly shows an asphaltic paved driveway and a van parked in the area where additional shading occurs. This is also noted as 'New Sealed Driveway' to the rear – and accesses an internal double garage within the building consent plans for 28 Woolcombe Terrace.
- 8.13 Mr Murdoch's evidence states and demonstrates within his shading diagrams that the breached portions of the constructed dwelling only afford additional shading at 4pm in and around September 22nd, with the resulting effects on the defined outdoor living area being negligible over a building complying with all the permitted standards. This supports my conclusion that shading effects are 'Very Low' within the 7-point scale which can equate to 'less than minor' in terms of RMA definitions, and does so (or less) in my

opinion, in these circumstances where additional shading from the breached portions of the structure afford no greater amount in terms of area, or have negligible effects in terms of location of shade cast on the hardstand area of 28 Woolcombe Terrace.

- 8.14 In relation to Figures 5 to 8 in the submitter's evidence, these historical images, in my professional opinion, confirm two main points relating to my assessment of potential effects. First, that residential activity and its relationship to the coastal environment has been an accepted and permitted activity for some time. Secondly, when assessed against my analysis of existing architectural vernacular, is that the change in bulk form and scale of the residential activity along Woolcombe Terrace has been consistent with the development of the zone - and the constructed dwelling on 26 Woolcombe Terrace is fit for purpose, and aligns with the existing urban development and environment. Additionally, when comparing the image in Figure 9 of the submitters evidence, assessed against the now constructed dwelling on both 28 and 26 Woolcombe Terrace, this further confirms my above opinion that the constructed dwelling in contention is fit for purpose within the zone and the existing built form and environment.

9. VISUAL IMPACT ON 28 WOOLCOMBE TERRACE (SUBMITTER Mr & Mrs GM & JS Whyte)

- 9.1 In relation to potential adverse shading effects on Woolcombe Terrace - when assessing the breached portions of the constructed dwelling against a building complying with all the permitted standards (MRZ-S3) - it is my opinion that any potential adverse effects of shading are 'Very Low' within the 7-point scale for reasons described above in section 8.12 and 8.13. It is also my opinion that any shading on hardstand areas, not part of a clearly defined outdoor living area, have beneficial effects on the wider environment; as there is an approximately 20+ degree difference between hardstand areas in full sun compared to those same areas in the shade - which is considered an increasing issue with rising global temperatures.
- 9.2 In response to items 23 to 25 of Mr & Mrs GM & JS Whyte's submission, I would like to make the following comments: after reviewing the building consent documents for 28 Woolcombe Terrace along with site observations, there appears to be no direct access to the rear asphalt area from any bedroom and can only be accessed through the rear garage or past the rear garage along the eastern boundary. The majority of my site visits have observed a grey van parked on the asphalt hardstand area where the portion of shade in contention is cast. With the existing gated driveway and likely vehicle tracking required for vehicles to manoeuvre in and out of the rear-accessed garage, I fail to see any plausible argument that the area where shade is cast can be defined (in regulatory terms and standards) as outdoor living area.
- 9.3 In relation to visual dominance and sense of enclosure - when assessed against a building complying with all the permitted standards- with the varied colour choices and façade

treatments, along with the strategically angled window alcoves, set back deck area in the middle of the dwelling, and portion of staggered roof form - it is of my opinion that the bulk and form of the building has been mitigated - and sheer wall dominance, or sense of enclosure, is an appropriate level - and results in a Low level of effect. The difference in real world terms is that the constructed dwelling has been considered in its form, shape and materiality to mitigate any potential dominance effects or sense of enclosure.

- 9.4 In relation to privacy, it is my opinion that the constructed dwelling has been designed in such a way that minimises potential effects on privacy. With some windows on the constructed dwelling at 26 Woolcombe Terrace positioned high, using the example of the TV room on level 2 shown within the architectural plans and the larger windows facing east being passageways not lending themselves to static viewing, along with the small aperture tinted windows of the dwelling at 28 Woolcombe Terrace, it is considered that any potential adverse effects on privacy are to an acceptable level and align with the MRZ effects standards.
- 9.5 The submitter shows images on pages 080 and 081 of their affidavit evidence (in their submission) of two large windows facing East towards 28 Woolcombe Terrace. The above-mentioned foliage screen would have screened the majority of the ground-level window. These windows look out from internal corridors within the constructed dwelling - so are not static, but momentary views when passing from one internal room to another. There are no obvious outlooks from these windows - so they are not considered primary outlooks. Equally when assessing the property file of 28 Woolcombe Terrace, windows WS04 and WF11 are from the stairwell of the submitters dwelling, WF9 600x1060mm is a small bedroom window, WF10 800x1060mm is a small bathroom window. All windows are tinted - and their position in relation to the passage/corridor windows in the constructed dwelling at 26 Woolcombe Terrace - appear to have limited potential views from 26 Woolcombe Terrace. Additionally, there is no evidence on how the constructed dwelling affords any greater potential adverse effects on privacy than a building complying with all the permitted standards would in my opinion.
- 9.6 In response to item 31 of the submission; following my site visits and analysis, it is my opinion that the view west from the ground level would be obstructed by a 1.4m solid structure on the existing ground level of approximately 700mm, and it is only the glass balustrade of the constructed dwelling that forms any portion of the breach. Therefore, I consider any additional effects in relation to lost view to be 'Low'.

10. COUNCIL OFFICER REPORT S42A REPORT~

10.1 Mr Campbell Robinson, NPDC prepared a report dated 04th March 2025, which raised the following matters that I wish to address:

- (a) Analysis of how the buildings height and scale relates to the pattern of development within the CBD.
- (b) How does the front fence relate to the PDP-AV rules.
- (c) To what extent does the constructed dwelling provide dominance - and what aspects provide dominance and a sense of enclosure beyond a building complying with all the permitted standards.

10.2 Based on Mr Robinson's conclusions within his S42a report relating to matters (a) and (b) above, I agree that the potential adverse effects are 'less than minor', with the exception of the following which relates to matter (c) above:

- (a) Building dominance effects as I have read Mr Robinson's S42a Report is the only matter that is claimed to be at least 'Minor'. When assessing the survey findings from Bland & Jackson, Dave Armstrong and Mckinlay Surveyors and considering the architectural variance along the eastern façade, with my site visits and observations on site; in my opinion within the S42A Report, with its appended S95 Report, there is no clear evidence or explanation that I find, to stipulate where the potential adverse effects on dominance and or sense of enclosure are experienced or occur in relation to the minor breaches the constructed dwelling at 26 Woolcombe affords. A building complying with all the permitted standards (MRZ-S3 and MRZ-S4) would afford greater dominance effects, in my opinion, if built to the limits stipulated within the PDP-AV under a discretionary and or restricted discretionary activity.

10.3 The PDP-AV provides a permitted maximum height of 11.00m. A building complying with all the permitted standards, built to this height limit would create far greater dominance effects in terms of height and scale than the constructed dwelling. The shading diagrams provided by BOON (in Mr Murdoch's evidence) also show that at certain times of the year a building complying with all the permitted standards would afford greater extents of shading than the constructed building. Due to the timing within which this evidence was required, I did not have the benefit of real-world analysis of the shading effects in Mr Murdoch's evidence at 4 pm on September the 22nd. However, I have provided an analysis of modelled and real-world shading on 28 Woolcombe Terrace taken at 5.40 pm on the 7th of February 2025. Refer to **Appendix B Sheet 7**. I selected the later time of 5.40 pm to cast a similar extent of shade shown in the 4 pm September 22nd analysis of Mr Murdoch's evidence. My conclusion from this analysis is that a building

complying with all the permitted standards (MRZ-S3) would cast greater shade on the associated area, and, that the breached portion of the constructed dwelling makes negligible difference in any potential adverse shading afforded to the rear yard at 28 Woolcombe Terrace.

11. MITIGATION RECOMMENDATIONS

- 11.1 While I don't consider that additional mitigation is necessary in this case as I consider the potential adverse effects to be 'Low', further mitigation is proposed that would further reduce potential adverse effects on privacy.
- 11.2 The pending installation of louvres on the front and eastern side of the dwelling, which includes the upper deck. These louvres further mitigate potential adverse privacy effects. My view is that this deck could form any number of compliant design configurations and additionally is consistent with many scenarios along the existing surrounding coastal environment, and is consistent with what is contemplated under PDP-AV.

12. CONCLUSION

- 12.1 My evidence has assessed the Landscape and Urban Visual Impact matters that I am aware of in relation to the application and I can safely conclude that:
- (a) The constructed building fits well within the existing urban and landscape context.
 - (b) The constructed building effects from shading are considered 'Very Low' in the 7-point scale which can equate to 'less than minor' as an RMA determination, and does so in my opinion. To re-iterate, RMA determinations are the responsibility of planning professionals to determine, in my experience, as they are to consider the entire range of potential effects of a proposed or resulting activity.
 - (c) The perceived dominance effects of the constructed building, as noted within Mr Robinson's S95 and S42A Reports, are not accurately articulated or demonstrated - and in my professional opinion are less than minor - when assessed against a building complying with all the permitted standards, that could be erected on the site in the context of the relevant rules, objectives and policies in the PDP-AV.
 - (d) If implemented, mitigation measures referred to above in **section 11**, would further assist some of the potential adverse privacy effects but are considered by me unnecessary for the constructed dwelling to be to an acceptable level under the relevant PDP-AV provisions.
 - (e) I am in agreement with the findings provided by Mr Robinson in his S95 and S42A Reports - that the impacts on the streetscape and coastal environment within the

wider area are to an acceptable level - and can equate to less than minor in terms of adverse effect of the activity.

- (f) In my opinion, after reviewing the evidence of Mr Kyle Arnold, it is considered that potential adverse effects, assessed against the previous ODP, would be 'Very Low' on the 7-point scale, which would equate to 'Less Than Minor' as an RMA determination.

12.2 By way of a summary, my detailed analyses and assessments enable me to confidently conclude that:

- (a) In my opinion, the breached portions of the constructed dwelling afford no effects that would result in anything above a 'less than minor' determination under the RMA.
- (b) In my opinion, the constructed building is consistent with the existing architectural vernacular and the intentions for the Medium Density Residential Zone under the PDP-AV.
- (c) In my opinion, the rear breached portion of the height of the constructed building will cast additional shade on the neighbouring property located at 28 Woolcombe Terrace, with negligible adverse effects when considered against a building complying with all the permitted standards (under MRZ-S3), and the defined outdoor living areas, with consideration of an original ground level within the excavated rear portion of 28 Woolcombe Terrace.
- (d) In my opinion, potential adverse effects on dominance and sense of enclosure from the breached portion of the constructed dwelling are negligible when assessing what a building complying with all the permitted standards (under MRZ-S3) could afford if built to the height and boundary limits within the PDP-AV.
- (e) Mitigation recommendations as proposed above in **Section 11** of my evidence, would further reduce any potential adverse effects on privacy, that I already consider 'Low' in relation to the 7-point scale.



**Daniel Conrad McEwan
Landscape Architect**

12th March 2025

Attached Appendices:

**Appendix A – Visual Assessment of Existing Built Form and Architectural Vernacular
Appendix B – Analysis of potential effects caused by structure infringements**