

**BEFORE THE INDEPENDENT HEARING COMMISSIONER WASLEY APPOINTED BY NEW
PLYMOUTH DISTRICT COUNCIL**

UNDER

the Resource Management Act
1991

IN THE MATTER OF

an application under Section 88 of
the Act by **Regina Properties
Limited** to the **New Plymouth
District Council** for land use
consent for a residential
apartment addition (one
additional storey) to the top of an
existing commercial building in the
Business B Environment Area at 1-
3 Dawson Street, New Plymouth

STATEMENT OF EVIDENCE OF DARELLE MARIE MARTIN (PLANNING)

ON BEHALF OF REGINA PROPERTIES LIMITED ('the applicant')

4 AUGUST 2021

INTRODUCTION

1. My name is Darelle Marie Martin. I am a Planner at BTW Company Limited, a multi-disciplinary consultancy with offices in New Plymouth and Hamilton.

QUALIFICATIONS AND EXPERIENCE

2. I hold a Bachelor of Science in Geography and Environmental Science (2012) and a Postgraduate Diploma (with Distinction) in AgriCommerce (2013) from Massey University. I am an Associate Member of the New Zealand Planning Institute and am the Chair of the Taranaki branch of the Resource Management Law Association.
3. Upon graduating I worked for two years in Nelson as a planner at a consultancy. When I returned to New Plymouth I worked for two years in Geographic Information Systems at Powerco, then for a year undertaking Land Information Memoranda at New Plymouth District Council. I have been working for nearly three years at BTW Company as a planner, typically undertaking land use and subdivision consent applications, and processing the same on behalf of Councils. I undertake planning work for a wide range of predominantly private sector clients throughout Taranaki across a wide variety of sectors. My planning advice and project work typically relates to project management, policy analysis and resource consent matters.
4. I am familiar with the New Plymouth district and the Taranaki region, having spent the majority of my life living in the New Plymouth District.
5. I am familiar with the Operative New Plymouth District Plan, the Proposed New Plymouth District Plan, the Regional Policy Statement for Taranaki and other relevant planning documents.

EXPERT WITNESS CODE OF CONDUCT

6. Although this is not an Environment Court hearing, I confirm that I have read the Code of Conduct for expert witnesses contained in the 2014 Environment Court Practice Note and that I agree to comply with it. This evidence I am presenting is within my area of my expertise, except where I state that I am relying on the evidence of another person. To the best of my knowledge, I have not omitted to consider any material facts known to me that might alter or detract from the opinions I express.

INVOLVEMENT WITH THE APPLICATION

7. I was engaged by the Applicant in August 2019 and prepared an initial consent application for an alternative design. The former application was limited notified and after submissions closed it was found that Council had made an error in identifying which parties to notify, and there were found to be additional parties who should have been notified. Because the Act states that consent cannot be granted if it was not notified to parties to whom it should have been, the application was unable to proceed any further. The applicant then considered the matters raised in the submissions for the former application and undertook redesign work to create the current proposal, which required a new consent application. The former application was then withdrawn. It has therefore been a matter of following correct consenting process to withdraw the first and lodge the second to have the new design assessed. I note that the first application did not reach a point whereby Council were able to make a recommendation to grant or decline.
8. Preparation of the subject application began in December 2020 and my involvement has consisted of:
 - a. Consulting with residents in close proximity to the application site, providing proposed plans for feedback and / or written approval;
 - b. Preparing the Resource Consent Application and Assessment of Environmental Effects ('the application');
 - c. Assisting with preparing responses to Council's requests for further information;
 - d. Facilitating meetings with submitters and experts involved; and
 - e. Communicating with Council throughout.

SCOPE OF EVIDENCE

9. In my evidence I will comment on:
 - The Site and Immediate Environment;
 - The Proposal;
 - The Regulatory Framework;
 - Environmental Effects;
 - Operative New Plymouth District Plan ('ODP');
 - Proposed New Plymouth District Plan ('PDP');

- The Regional Policy Statement for Taranaki ('RPS');
- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health ('NES-CS');
- National Policy Statement on Urban Development ('NPS-UD');
- Part 2 of the RMA;
- Submissions;
- Recommended Consent Conditions; and
- Conclusion.

10. In addition to the documents mentioned above I have also considered the following:

- The expert evidence of Messrs Bain and Preston and Ms Batchelor;
- and
- Council's Section 42a report (dated 28 July 2021) on the application ('Hearings Report').

THE SITE AND IMMEDIATE ENVIRONMENT

11. The application site ('the site') and immediate environment are generally well described in detail in the application including the Landscape and Visual Impact Assessment ('LVIA') submitted with the application, the further information request responses and the Hearings Report, and I generally agree with the summary provided and will not repeat that information.

12. A point of clarification I will make is for what activities land use resource consent RC 12288 from NPDC was granted with regard to section 9 of Mr Balchin's report. Since the Hearings Report was published both Mr Balchin and I have checked the RC 12288 information and agreed that it concerned balconies over recreation reserve land and car park landscaping dispensations. RC 12288 did not include a dispensation for the building to be a greater height than what the operative district plan at the time permitted because the proposal required no such dispensation. The existing building height was therefore established as of right.

13. In terms of the site including Lot 2 DP 19148 owned by New Plymouth District Council, the extents of the existing and proposed buildings within Lot 2 DP 19148 are authorised by an air space easement which requires no amendment as a result of the proposal.

THE REGULATORY FRAMEWORK

14. The relevant statutory planning documents to be taken into account are:

- The ODP;
- The PDP;
- The RPS;
- The NES-CS; and
- The NPS-UD.

15. The subject site is located in the Business B Environment Area in the ODP (which uses the term Environment Area instead of Zone) and I agree with the planning overlays identified in the Hearings Report. None of the PDP rules with immediate legal effect apply to this proposal. I agree that the activity shall be overall assessed as a Restricted Discretionary activity. I have reviewed Paragraph 39 of the Hearings Report, which sets out the land use rules under which consent is required and I agree with Mr Balchin's assessment.

16. With regard to section 104C RMA, as a restricted discretionary activity Council's discretion is restricted to those matters listed for each rule that the proposal requires consent for, which are outlined later in my evidence.

17. It is noted that there is a maximum permitted height rule of 10 m applicable however the rule acts as a trigger for a land use consent process if a proposed building exceeds 10 m. The application is then assessed as a Restricted Discretionary activity as this subject application is, with certain matters of discretion for Council. In my opinion, the ODP therefore contemplates buildings higher than 10 m. If the ODP did not contemplate such buildings then buildings over 10 m in height would default to a non-complying or prohibited activity status.

18. The majority of the existing building is 11.7 m high, with a portion 13.6 m at the rear, or 1.7 and 3.6 m respectively above the 10 m permitted building height. The building was constructed to these heights as of right as explained earlier.

ENVIRONMENTAL EFFECTS

Matters of Discretion

19. I agree with Mr Balchin that the assessment is restricted to the matters listed for Rule Bus 13, Rule OL63 and Rule OL71, with regard to the following sections in my evidence:

- a. Permitted Baseline
- b. Landscape and Visual Effects
- c. Shading Effects
- d. Building Bulk and Dominance, Privacy and Outlook.

20. I agree with Mr Balchin's identification of the relevant assessment criteria within Rules BUS13, OL63 and OL71 which direct consideration of:

a. Bus13:

- 1) The extent to which the extra HEIGHT of the proposed BUILDING will:
 - adversely affect the character and visual amenity of the surrounding area;
 - have an overbearing effect on SITES within the RESIDENTIAL ENVIRONMENT AREA;
 - adversely affect OUTSTANDING and REGIONALLY SIGNIFICANT LANDSCAPES;
 - intrude into and/or block an URBAN VIEWSHAFT (see section 3 of the planning maps); and
 - adversely affect the natural character of the coastal environment or PRIORITY WATERBODIES.
- 2) The extent to which SITE layout, separation distances, topography, planting or set backs can mitigate the adverse effects of extra HEIGHT.

b. OL63 and OL71:

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

Permitted Baseline

21. I consider it relevant and necessary to apply the permitted baseline when assessing this proposal, because the ODP sets a permitted height standard of 10 m for the site without any other restrictions on building bulk, design or location, nor are there any restrictions on these matters imposed on the site by other sites it is adjacent to, as it is effectively surrounded by the same Business B Environment Area applicable to the site.

22. I consider that it would not be fanciful for a landowner to develop the application site as per the permitted baseline example used (demonstrated in Ms Batchelor's evidence) because of the following contributors:

a. Because of the site's values such as:

- i. Location in close proximity to the central city area with services / facilities, large population of people, a short commute from outside suburbs, and near main transportation routes;
- ii. Size, at 1,478 m² (owned by the applicant, excluding the NPDC owned landscape strip); and
- iii. Aesthetic, being near the coast with views of the sea and recreation opportunism nearby;

b. The contextual and financial values of the site are relatively high, with an associated need for large scale and/or high intensity activities to generate appropriate value.

23. It is therefore feasible and non-fanciful that the site could be developed to complete site coverage with multiple storeys (typically three within 10 m) in order to accommodate an activity suitable for the site. This is reflected in the other sites nearby where to achieve maximum value, sites are developed to high site coverage by buildings (e.g. 2, 4, 4A Dawson Street, 132 St Aubyn Street, 141 St Aubyn Street, and 122, 122A, 122B and 124 St Aubyn Street) with all of these except 124 St Aubyn Street being two-storeyed to utilise value by vertical development also. Alternatively, value is achieved by high density multi-storey development such as Devonport apartments and Richmond Estate. Value is also

achieved through the likes of subdivision and utilising the additional development rights it provides. Many examples of this are evident in the immediate area:

- a. 2, 4 and 4A each have a dwelling on what was in 2005 a single allotment with one dwelling; and
- b. 122, 122A, and 122B St Aubyn Street are three two-storeyed apartments on what was in 2016 an allotment with one dwelling used as a dental surgery.

24. There is a reasonable likelihood and expectation then that the site follows a similar development pattern and intensity to those surrounding it, noting that the Business B Environment Area provides for it.

25. As such, site, elevation and 3D plans (SK3.10-13) demonstrate a non-fanciful building addition surrounding the existing building to 10 m above ground level on the application site. The model of the building was then utilised to provide shading plans to demonstrate shading effects from a permitted baseline development.

26. I note that the assessment criteria for Bus13 is with regard to the effects of the “extra height” of the building, and most of that for OL63 and OL71 is with regard to effects of the “additional height” of the building. The ODP therefore directs assessment to effects of only the parts of the building which are not permitted and therefore supports consideration of the permitted baseline when determining applications for overheight buildings.

The permitted baseline is also accurately described in the Hearings Report, section 47 and 48, though the figure referenced is Figure 5. I note that Mr Balchin has also agreed that it is relevant to apply the permitted baseline.

Landscape and Visual Effects

27. The character of the site and surrounding area is of mixed business and residential uses. The character is generally described in the site description of the application, the LVIA of the same, and in Mr Balchin’s Hearings Report, however both the Report and many submissions use the term ‘predominantly residential’ in terms of land use of the area, on which I will elaborate. The immediately surrounding area illustrates a reasonably high number of dwellings due to the nature of Richmond Estate and Devonport apartments being high-density residential uses. However, I consider the commercial uses of the area

to have been somewhat dismissed by the submitters. Within 100 m of the site there is the takeaway food shop (147 St Aubyn Street), Antenna Man (149 St Aubyn Street), TBI Health (119 St Aubyn Street), Lees Dental Company (124 St Aubyn Street), plus the buildings owned by the applicant which are at 1-3 Dawson Street (the application site), used as offices for a law firm for the last two decades until within the last few years, and 132 St Aubyn Street which has had a mixed commercial history. Both of the applicant's buildings remain commercial in appearance and have been disused for the past few years, with 1-3 Dawson Street to support commercial offices again once structural upgrades have been undertaken. Overall, my point is that the site and area together contain both active and paused commercial uses that are reflective of the Business Environment Area zoning, though the area has also been utilised for high-density residential development.

28. The Business B Environment Area is characterised in the ODP Management Strategy, Reasons 7.1 as follows: "BUSINESS B ENVIRONMENT AREAS are characterised by larger scale, bulky BUILDINGS (such as warehouses), orientated towards the motorised customer, with parking usually provided on-SITE. Some of these BUILDINGS are set back from the ROAD with parking provided in front of the BUILDING, while others are located up to the street with parking areas provided at the side or the rear of the BUILDING. Advertising is usually through SIGNS rather than window displays, and generally no weather protection is provided." I note that the description does not mention residential activities or amenity.

29. Following on from this, the Management Strategy Reasons 1.3 offers guidance on assessing effects on amenity that is appropriate for the subject Environment Area; "In considering effects of activities on the environment it is important to recognise the differing levels of amenity between areas. For example, residential areas have much higher levels of amenity than industrial or business areas, and community expectations reflect this. Past planning practices have recognised that business, rural and industrial activities can generate effects incompatible with residential uses, and have provided for this by physically separating such activities. This has resulted in the aggregation of activities with like effect and areas with differing levels of amenity." The ODP therefore recognises a desired higher level of amenity in a Residential Environment Area, putting methods of implementation in place (as explained further later in my evidence) with the

intention of achieving that amenity, which is anticipated to be lower for the Business Environment Area.

30. Mr Bain has undertaken detailed assessments of the landscape and visual impacts of the proposal. The approach involved collaboration with Ms Griffiths on behalf of Council to determine 7 key public viewpoints in addition to the two public viewshafts. The initial LVIA also included assessment of 10 private viewpoints, later added to by the memo of 5 July 2021.

31. Mr Bain concludes that adverse effects on all key public viewpoints will be very low / low beneficial / moderate beneficial. As per Mr Balchin's Hearings Report section 87, both Mr Bain and Council's landscape expert Erin Griffith's advice concludes that effects on the landscape values from the coastal walkway are characterised as very low.

32. In terms of effects on the viewshafts I agree with Mr Bain's assessment that the effects on the Cameron Street and Marsland Hill viewshafts will have no change or be negligible respectively. Mr Balchin concurs with this assessment in sections 97, 98, and 100 of the Hearings Report, noting that the latter is subject to a suitable cladding colour being chosen. Ms Griffith's most recent memo dated 26th July 2021 also concurs that there is no change to the Cameron Street viewshaft view, and she states that "I am comfortable with the proportion of the view that the proposal will remove – I consider its protrusion into the view to have an overall low effect on appreciation of the view." Ms Griffith then goes on to advise consideration of a suitable colour scheme for the building, which has informed Mr Balchin's Hearings Report and proposed conditions of consent.

33. Private viewpoints were assessed in the LVIA of the original application and the memo of 5th July 2021. I agree with Mr Bain's conclusions.

34. Overall, in terms of effects on character and visual amenity, in my opinion, and as alluded to in the evidence of Mr Balchin and in Mr Bain's reports, it becomes a consideration of whether the effects are acceptable with regard to the matters to which Council have restricted their discretion.

35. In my opinion there is no evidence to suggest that the proposed building will result in significant adverse effects on these matters, as the views and outlook of submitters will

largely remain unaffected and the vast majority of the sea and sky views they experience will be maintained.

Shading Effects

36. Shading effects of the proposal are detailed in the further information provided July 2021 and in the evidence of Ms Batchelor based on the modelling work that she undertook.
37. In my opinion the shading modelling has been through an extremely rigorous process which has resulted in very detailed and highly accurate information being produced.
38. With regard to point 71 of the Hearings Report, any updates required for the timing displayed have been completed. These plans were provided to Mr Balchin prior to the Hearings Report being finalised however there may not have been time for point 71 to be updated to reflect this. The subject drawings are included in Ms Batchelor's evidence.
39. Shading is not specifically listed as a matter for discretion in the applicable rules but I consider it to be part of a consideration of effects on "character and visual amenity of the surrounding area" with regard to Bus13. Significantly, the Residential Environment Areas of the ODP have permitted daylight envelope standards and include matters for discretion for rules pertaining to these and to height that relate to amount and timing of shading, and privacy. However, in the Business B Environment Area in which the application site is located, privacy and shading are not included as such matters, nor is there an enforced daylight envelope. I consider the differences in the provisions for the Business B Environment Area and Residential Environment Area zones deliberately differentiate between the intended function and amenity of the two zones, as also addressed elsewhere in my evidence.
40. In assessing the information provided with the application, further information responses, and from Ms Batchelor's evidence, I consider that shading as a result of the proposal is similar to that which would result from a permitted development and has a significant overlap with regard to location and timing. Shading over and above that generated by a permitted development is generally limited to relatively small patches and slivers in terms of area, a noticeable proportion of which are on roofs, with most shade on any location disappearing from one hour to the next. Shading is also generally limited to certain times of the year and hours of the day.

41. With regard to 122 St Aubyn Street and its shading effect summary SK5.05, considering the degree and timing of additional shading cast by permitted and proposed buildings, the pattern and trends of shading are significantly similar, however permitted shading is demonstrated to:
- a. Have a longer duration of effect (with regard to number of months with effects);
 - b. Have a longer duration of a greater degree of shading (with regard to consecutive half hours); and
 - c. Have a greater degree of shading starting earlier in the day and remaining for slightly longer in the day.
42. Shading greater than the permitted baseline is limited to essentially half an hour from 4pm – 4:30pm in June and July. Shading occurs in this timeframe for a permitted baseline design but is of a higher degree for the proposal. Examples of existing, permitted and proposed shading are illustrated on SK5.02.
43. With regard to winter months when it is accepted that access to sunlight is generally of higher value, very similar effects are experienced in both scenarios. From August through October, permitted baseline development shading of the highest degree starts half an hour earlier compared with the proposed development.
44. With regard to 122A St Aubyn Street and its shading effect summary SK5.06, the pattern and trends of shading are similar, particularly in the months with less sun, April through August. Shading greater than the permitted baseline is essentially an hour from 3pm in February, March and September. It is also for 2 – 2.5 hours in January, October, November and December from about 2:30pm. Shading occurs in this timeframe for a permitted baseline design but is a degree higher for the proposed. The proposed development therefore demonstrates a higher (mid) degree of additional shading in the months with more and the most sun, September through March, and none of this is a high degree of shading.
45. With regard to 122B St Aubyn Street and its shading summary SK5.07, shading greater than the permitted baseline is essentially one hour around 5:30pm to 6:30pm in January and November, which is a degree greater than shading which occurs in the permitted

baseline. Shading is also for an hour in March, April, August and September between 4:30pm and 5:30pm, which is shading that does not occur in the permitted baseline scenario, and is of a low degree. The owners of this property did not submit on the application however the shading assessment and modelling aids in illustrating shading effects on the eastern side of the proposed building in general.

46. With regard to Richmond Estate as a collective property and its shading summary SK5.08, the pattern and trends of permitted baseline development and proposed development shading are very similar. Shading greater than the permitted baseline occurs for half an hour from around 5pm in April and August, which is a degree greater than shading which occurs in the permitted baseline. It also occurs for 0.5 – 1 hour from 4pm in May and June, which is shading that does not occur in the permitted baseline, and is of a low degree. An example of this is illustrated on SK5.02.

47. Road users and pedestrians are by nature only passing through the shade on Hine Street, Dawson Street and the Coastal Walkway for a short time and therefore any effects of shading upon them are considered to be less than minor.

48. Overall, any actual or potential adverse effects with regard to shading over and above that which could occur as a result of a permitted building on the site are minor, and the character and amenity of the Business Environment Area and submitters' properties will be largely maintained in this context. I agree with Mr Balchin's summary of assessment in Sections 74 and 75 of the Hearings Report whereby shading effects of the proposal are deemed to be acceptable.

Building Bulk and Dominance, Privacy and Outlook

49. I agree with Mr Balchin's assessment in Sections 76, 78, 80, 84 and 86 of the Hearings Report, being that there will be minor bulk and dominance effects on the area and nearby properties including those on Dawson Street, 122 / 122A / 122B St Aubyn Street, Devonport Apartments, and Richmond Estate.

Traffic Effects

50. For brevity I have not listed the assessment criteria for the relevant parking, loading and queueing rules as the issues for those activities do not seem to be in contention, whereas

the main issues have been with the overheight nature of the building and the associated effects.

51. I rely on and agree with the report of Council's traffic engineer which has concluded that any effects of the transport related matters will be minor in nature, as per section 118 of Mr Balchin's Hearings Report.

Summary

52. Relying in part on the expert evidence provided on behalf of the applicant and the expert reports provided on behalf of Council, I conclude that overall, with consideration of the relevant matters to which Council have restricted their discretion, the adverse effects from the proposal will be acceptable. I agree with Mr Balchin's assessment in sections 90 and 91 of the Hearings Report.

OPERATIVE NEW PLYMOUTH DISTRICT PLAN

53. The ODP is an 'effects-based plan' and has adopted a zoning approach to manage the effects of certain activities within the district. The premise behind this is that within each environment area it is the effects on the character of the area that are important rather than the activity itself.

54. The effects-based approach of the ODP is reflected in the relevant objectives and policies for this application which broadly focus on avoiding, remedying or mitigating adverse effects.

55. I have largely adopted the planning assessment of the objectives and policies of the ODP undertaken in the application. I make the following additions:

- a. Policy 1.1 – the methods of implementation include using rules specifying development standards relating to daylighting, length of buildings, numbers of habitable buildings per lot, coverage of sites and front yards, and building to boundary setbacks. While many of these are used in the Residential Environment Areas, none of these standards are applicable to the Business B Environment Area (noting that it does have development controls on building height and landscaping). This demonstrates that the ODP intends a lower level of amenity for the site and the others that are in the same Business

Environment Area, than it does within a Residential Environment Area. Accordingly, since effects of the over height portion of the building with regard to the likes of visual effects and shading are not significant and are acceptable in this Business B Environment Area, I consider them to be compatible with the character of the area. Mr Balchin reaches the same conclusion on consistency in Table 4 of the Hearings Report.

- b. Policy 1.2 – the methods of implementation include using rules specifying development standards relating to daylighting, height of buildings, and landscaping of road and side boundaries. The Reasons 1.2 section essentially explains that where there is an interface between two different Environment Areas, one should not be affected by overspill from the other and that the Residential Environment Area is the most sensitive area. In this instance, daylighting and side boundary landscaping rules do not apply to the proposal, recognising that it does not interface a Residential Environment Area but is flanked by Business B Environment Area sites immediately adjacent to the south and east, with Business D Environment Area sites located to the southwest and west. Since the character of the receiving environment is therefore not as sensitive as a Residential Environment Area, I consider effects to be acceptable, and as the ODP does not specify a scale or intensity of over height buildings that is unacceptable (via a non-complying or prohibited status for a particular height), the amenity of the neighbouring areas of the site are not diminished and the proposal is consistent with the policy. Mr Balchin reaches the same conclusion in Table 4 of the Hearings Report.

56. I agree with Mr Balchin's assessment and conclusions on consistency with regard to the objectives and underlying policies for Objectives 5, 11, 14, 19, and 20 in Table 4 of the Hearings Report.

57. I will clarify that with regard to Mr Balchin's assessment against Objective 7 and Policy 7.1 in Table 4 of the Hearings Report, the wording of the final sentence is unclear. I believe the intention is for it to be understood as "As such the proposal is not contrary to Policy 7.1 and is consistent with Objective 7". Should that be the case, I agree with Mr Balchin. If

inconsistency with Objective 7 is alternatively what Mr Balchin intended, I disagree, however I consider this unlikely given the prior assessment in the paragraph.

58. My conclusion is that the proposal is consistent with the objectives and policies of the ODP. I note Mr Balchin reaches the same overall conclusion.

PROPOSED NEW PLYMOUTH DISTRICT PLAN

59. The PDP represents NPDC's future direction for the District including the CBD. In terms of the area in which the building will be located, maintaining the permitted height of buildings at 10 m is proposed. Although the height rule does not yet have legal effect, it indicates that the proposed building is located in an area of CBD where multi-storey buildings are anticipated.

60. Unlike the ODP the PDP has strategic objectives. The PDP states that: 'The strategic objectives address key strategic and/or significant matters for the district and provide district-wide strategic considerations to guide decision making at a strategic level. It is intended that all other objectives and policies in the District Plan are to be read and achieved in a manner consistent with the strategic objectives.'

61. In my opinion it is clear that the strategic objectives are higher ranking and an application's alignment with the objectives is of high importance when assessing whether or not an application is consistent with the objectives and policies of a PDP. The strategic objectives do not have associated policies and are listed under several headings however I consider only those with regard to Urban Form and Development are of significant relevance to the application.

62. I adopt the planning assessment of the strategic objectives undertaken in the application, with additions as follows.

63. "UFD-16 - The district has a hierarchy of vibrant and viable centres that are the location for shopping, leisure, cultural, entertainment and social interaction experiences and provide for the community's employment and economic needs."

64. I consider that the proposal is consistent with UFD-16, contributing to a vibrant centre through the following factors:

- a. The addition of residents near an urban hub. Residents can use the facilities and attractions that the city offers in close proximity without needing to drive in from elsewhere. Inner-cities with residents also maintain a presence of people 24 hours a day, rather than becoming disused areas outside of 9am – 5pm shopping hours;
- b. Contributing to the safety of public spaces such as for users of the Coastal Walkway by it being visible to the proposed apartment residents i.e. passive surveillance;
- c. A comprehensive redesign of the exterior of the building to ensure that the addition and existing building will complement one another, providing a fit-for-purpose office building into the future and overall enhancing this site from its current architectural state;
- d. Provision of high-quality office space for commercial tenants bringing more people to the central business district to work, creating vibrancy and retail spending; and
- e. Creation of employment for design professionals and the construction industry and likely flow on effects for surrounding businesses.

65. “UFD-15 - 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: 1) suburban housing forms in established residential neighbourhoods; 2) a mix of housing densities in and around the city centre, town centres and transport nodes, 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 housing that provides for the ongoing relationship of tangata whenua with ancestral land and for their cultural, environmental, social and economic well-being.”

66. I consider that the proposal is consistent with the objective because of the provision of an additional inner-city dwelling that contributes to the variety of housing types. As a relatively large five-bedroom apartment in this mixed use area of stand-alone, townhouse and apartment dwellings (refer to 2 and 4 Dawson Street, 8 and 10 Dawson Street, and Richmond Estate for examples of these types of dwellings respectively).

67. I agree with Mr Balchin's assessment that the proposal is consistent with the strategic objectives of the PDP, noting that Mr Balchin assessed a wider range than I, which I do not disagree with.
68. In terms of the other relevant objectives and policies of the PDP, I generally follow the assessment in the application.
69. I agree with the assessment and conclusions Mr Balchin reaches in Table 5 of the Hearings Report with regard to objectives and underlying policies for Objectives TRAN-O3, TRAN-O4, TRAN-O5, VIEWS-O1, CE-O1, CE-O2, CE-O3, CE-O4.
70. With regard to objectives and underlying policies for Objectives MUZ-O1, MUZ-O2, MUZ-O3 and MUZ-O4, I agree with Mr Balchin's assessment and conclusions in Table 5 of the Hearings Report. This differs to my assessment provided in the application, however I now better understand what "commercial service activities" under the PDP entail and consider the PDP zoning provisions for the site and those in the same zone are out of character and inappropriate, with little weight to be placed on them at this time while PDP hearings continue.
71. My overall conclusion is that the proposal will be consistent with all of the relevant strategic objectives of the PDP and most other relevant objectives and policies, with the exception of the MUZ provisions explained earlier, which I consider to be an odd fit for the site and surrounds in any case and have little current weight. This is consistent with Mr Balchin's conclusions in sections 126 to 128 of the Hearings Report.
72. In my view less weight can be given to the PDP objectives and policies than the ODP in the decision-making process due to the uncertain nature of the final content of those objectives and policies which are yet to be shaped by plan change hearings, decisions and appeal processes. I note that hearings have been occurring in the past few weeks and will continue into 2022 and I note Mr Balchin shares a similar opinion.

SECTION 104 RMA

73. Section 104 (1) outlines the matters that a consent authority must have regard to when considering an application for resource consent and any submissions received, subject to Part 2. The matters are as follows:

- a. *(a) any actual and potential effects on the environment of allowing the activity;*
and
- (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
- (b) any relevant provisions of—*
- (i) a national environmental standard:*
- (ii) other regulations:*
- (iii) a national policy statement:*
- (iv) a New Zealand coastal policy statement:*
- (v) a regional policy statement or proposed regional policy statement:*
- (vi) a plan or proposed plan; and*
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

74. As mentioned earlier section 104C is also applicable, being:

- (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.

Actual and Potential Effects on the Environment

75. Actual and potential effects on the environment and consideration of the ODP and PDP have been addressed earlier in my evidence and throughout the application and evidence for the applicant.

NES – Contaminated Soil

76. I have considered the NES-CS in the application. From a review of known land uses and the relevant register held by Taranaki Regional Council, the application concludes that the NES-CS is not considered to apply.

NPS – Urban Development

77. The NPS-UD is relevant given the application site is located within an urban environment, with New Plymouth District Council classified as a Tier 2 local authority and New Plymouth a Tier 2 urban environment. I note that the NPS-UD came into force post notification of the PDP so my understanding is that the PDP (as notified and assessed at the time of the application) did not take account of the NPS-UD, however I am aware that Council have made adjustments to the latest version of the PDP that is currently being considered through hearings.

78. Policies 3 and 4 relate to encouraging tall buildings in city centres and metropolitan centre zones with minimum heights of 6 storeys, however these policies only relate to Tier 1 urban environments. There are a number of objectives and policies within the NPS-UD that encourage intensification within city centres and place requirements on local authorities to enable intensification through regional policy statements and district plans. The requirements are placed on local authorities in respect of the plan making process, rather than applicants for resource consent, so I have not considered those objectives and policies directly; but consider it is important to note the above in the context of this application for intensification in an urban environment.

79. The following objectives of the NPS-UD are relevant to the application:

- a. Objective 1: New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.
- b. Objective 4: New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.
- c. Objective 6: Local authority decisions on urban development that affect urban environments are: (a) integrated with infrastructure planning and funding decisions; and (b) strategic over the medium term and long term; and (c) responsive, particularly in relation to proposals that would supply significant development capacity.
- d. Objective 8: New Zealand's urban environments: (a) support reductions in greenhouse gas emissions; and (b) are resilient to the current and future effects of climate change.

80. The following policies of the NPS-UD are relevant to the application:

- a. Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum: (a) have or enable a variety of homes that: (i) meet the needs, in terms of type, price, and location, of different households; and (ii) enable Māori to express their cultural traditions and norms; and (b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and (c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and (d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and (e) support reductions in greenhouse gas emissions; and (f) are resilient to the likely current and future effects of climate change.
- b. Policy 6: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters: (a) the planned urban built form anticipated by those RMA planning documents that have given effect to this National Policy Statement (b) that the planned urban built form in those RMA planning documents may involve significant changes

to an area, and those changes: (i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and (ii) are not, of themselves, an adverse effect (c) the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1) (d) any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity (e) the likely current and future effects of climate change.

81. In relation to the proposal the above objectives and policies seek to ensure the creation of well-functioning urban environments recognising that urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations. There is also a focus on reducing greenhouse gas emissions in urban environments and ensuring urban development is resilient to climate change.

82. In my opinion the proposal will result in an enhancement to central New Plymouth and contribute positively to the objective to create well-functioning urban environments.

83. The NPS UD directs NPDC to remove minimum parking requirements (other than accessible car parks) from any District Plan not later than 18 months after the effect date, i.e. 20 February 2022, in order to be consistent with the objectives and policies of the NPS-UD, specifically:

Policy 11: In relation to car parking:

- (a) the district plans of tier 1, 2, and 3 territorial authorities do not set minimum car parking rate requirements, other than for accessible car parks; and
- (b) tier 1, 2, and 3 local authorities are strongly encouraged to manage effects associated with the supply and demand of car parking through comprehensive parking management plans.

a.

84. In theory, the use of the site for a dwelling after 20 February 2022 could be permitted without providing any on-site parking. I consider that the proposal (which proposes a reduction in residential parking by one space and supplies two) is consistent with the

intent of the NPS-UD while providing for a functional site and maintaining traffic safety and efficiency on Dawson Street.

85. The proposal is consistent with the direction of the NPS-UD.

86. There are no other national environmental standards, national policy statements or other regulations that are relevant and the New Zealand Coastal Policy Statement is not relevant in this case.

Regional Policy Statement for Taranaki

87. I adopt the planning assessment of the RPS undertaken in the application.

88. In conclusion, and taking a broad judgement, the proposal is consistent with, and not contrary to, the objectives and policies of the RPS. I note Mr Balchin comes to the same conclusion in section 135 of the Hearings Report.

Operative and Proposed District Plans

89. Both district plans have been assessed earlier in my evidence.

PART 2 OF THE RMA

90. Section 104 matters are also subject to Part 2 (Purpose and Principles) of the RMA. The overriding purpose of the RMA is to promote the sustainable management of natural and physical resources. It is commonly accepted that the approach to applying Section 5 involves an overall broad judgment of whether a proposal would promote the sustainable management of natural and physical resources. That assessment requires the taking into account of conflicting considerations, the scale or degree of them and their relevant significance or proportion. The purpose of the RMA is informed by the provisions of Part 2 generally.

91. *RJ Davidson Family Trust v Marlborough District Council* [2018] NZCA 316 has further influenced the way in which Part 2 should be assessed. In circumstances where it is clear that a plan is “prepared having regard to Part 2 and with a coherent set of policies designed to achieve clear environmental outcomes” the Court envisaged that “the result of a genuine process that has regard to those policies in accordance with s 104(1) should be to implement those policies.” Reference to Part 2 would not likely add anything, and “could not justify an outcome contrary to the thrust of the policies”.

92. In respect of the ODP and RPS, I consider that they have been prepared with a coherent set of policies designed to achieve clear environmental outcomes and that an assessment of this application against Part 2 would not necessarily add anything to the evaluative exercise required. The PDP policies, however, have not yet been through the same process rigour as the ODP and RPS. I do not consider that an assessment against Part 2 is required and have not undertaken one accordingly.

SUBMISSIONS

93. I confirm I have read all of the submissions. Many of the matters raised in the submissions are addressed in the further information supplied July 2021, my evidence, the evidence of others and in the Hearings Report.

94. With regard to:

- a. The Sharrock submission;
- b. The White submission (Devonport apartment);
- c. The MacArthur submission;
- d. The Hey submission;
- e. The Pease submission;
- f. The Gardner submission;
- g. The Williams submission;
- h. The Stewart submission;
- i. The White submission (Richmond Estate apartment);
- j. The Richmond Estate Body Corporate submission;
- k. The Clegg submission;
- l. The Comber submission;
- m. The Holt submission; and
- n. The Hurlstone submission;

Most, if not all of the matters of the submissions have been addressed by the further information supplied in July 2021 and in evidence by Messrs Bain and Preston and Ms Batchelor, except for the few examples that I will explain in the following sections.

Sea View

95. With regard to the White submission for Ms White’s Devonport apartment, “loss of some sea view” was raised as a point. An assessment of the sea views was not able to be undertaken from the apartment by Mr Bain to answer Council’s S92 request in July 2021.

Additional Noise

96. With regard to the Pease submission which raises “additional noise pollution with a change of use including business / residential” as a point, this could be considered within the effects on character of the surrounding area as per rule Bus13. I consider the change of use to include both business and residential to be in character with the surrounding area which has mixed commercial and residential uses as I explained earlier. In addition, the proposal will comply with the permitted noise standards of Bus85 which are provided below from Appendix 12 of the ODP. Noting that the application site and its surrounding area are in predominantly Business B Environment Area, the noise standards are set at a higher level than the Residential Environment Area. I consider that any effects of noise from the proposal will be indistinguishable from the surrounding noise and will be acceptable.

7.1	Maximum noise levels, measured at any point within the boundary of any RECEIVING SITE located within the: RESIDENTIAL ENVIRONMENT AREAS	on any day: 7am-10pm	L ₁₀ 50dBA L _{max} n/a
7.2		10pm-7am	L ₁₀ 40dBA L _{max} 70dBA
7.3	BUSINESS A, B or C ENVIRONMENT AREAS	on any day: 7am-10pm	L ₁₀ 60dBA L _{max} n/a
7.4		10pm-7am	L ₁₀ 60dBA L _{max} 75dBA

Number of Rules Implicated

97. With regard to the Stewart submission which raises the number of rules (7) under which the proposal requires consent, a number of the rule breaches are minor or technical non-compliances that result in minor effects and the effects associated with the other rules have been subject to detailed assessments by experts such as Mr Bain and Ms Batchelor and Council peer review, also by independent experts such as Ms Griffith.

Residential Occupation in the Business B Environment Area

98. The same submission makes a point that although the area is zoned Business B, it is mainly in residential occupation and that it is wrong to apply to build above 10 m, as this would

not be possible in a residential zoned area. As explained earlier, the area is in the Business B Environment Area, not the Residential Environment Area, and therefore has different and more permissive controls on development and land use, different matters for discretion when assessing applications, and different intent for the area through the relevant objectives and policies of the ODP. As discussed earlier in my evidence, the 10 m maximum height rule acts as a trigger for consent, it is not a limit, and as applications for buildings over 10 m in height default to restricted discretionary rather than non-complying or prohibited activities, I consider this confirms that the ODP contemplates overheight buildings in the Bus B Environment Area. Further, the maximum building height in the Residential Environment Area is 9 m which is not significantly different to the subject site 10 m, and again the ODP contemplates taller buildings in the Residential Environment Area with anything higher than 9 m being a restricted discretionary activity, as it is for this application. It is legally incorrect to apply Residential Environment Area rules on the subject application in the Business B Environment Area however when comparing the building height rules, they are very similar and breaches of them are assessed similarly, except for the anticipated lower standard of amenity in the Business area.

Parking

99. With regard to the White submission for Ms White's Richmond Estate apartment, the submission raises that with regard to parking, "a substantial increase in activity from the proposed structure is likely to increase the pressure on parking for the resident, visitors and workers in the vicinity". I disagree that there will be a substantial increase in parking activity or congestion and the reasons for this and for parking being acceptable are in Section 4.8 of the application. Council's Development Engineer John Eagles had no significant concerns with parking as per section 116 of Mr Balchin's Hearings Report.

Residential Character of Buildings

100. With regard to the submission by the Richmond Estate Body Corporate, and in other submissions (e.g. Clegg, Comber), a point is raised about the bulk, height and number of storeys / levels of the proposal being out of character with the built environment of what is considered to be a predominantly residential neighbourhood. I disagree that the proposal is out of character, and I have addressed the mixed business-residential character of the area earlier. With particular regard to residential character and buildings, I consider that in the context of:

- a. The many one-two storey high dwellings in the area (such as along Dawson, Hine and St Aubyn Streets and the apartments of Richmond Estate not contained in the tower); plus
- b. The four-storey high Devonport apartments and the eight-storey high Richmond Estate tower, with the former having significantly visible bulk due to its shape and location along several main traffic routes, and the second having significantly visible bulk due to its height;

That the proposed three- and four-storey high building is compatible and fits well with the character of the area, being in approximately the middle-ground between the two types of dwellings explained in a) and b) above.

Clarification on Effects on Natural Character of Coastal Environment

101. I will clarify a point in the same submission whereby my statement in section 4.6 of the application is deemed to be inaccurate and misleading. The statement has been taken out of context and I direct the commissioner to read the whole of section 4.6. The statement was made in terms of assessing effects on the natural character of the coastal environment, a matter of discretion with regard to Bus13.

Clarification on Rule Bus22 and Mechanical Noises

102. With regard to the Comber submission, inadequate assessment of Bus22 in the application is raised within point 11. My reading of this point of the submission is that the submitter considers Bus22 to apply to noises that they will hear from within noise sensitive rooms within their own property, as generated by the likes of mechanical services for the proposal. This is not the intent of Bus22, which is instead applicable to construction of noise sensitive rooms in the proposed building only, with noises generated on the application site instead controlled by Bus85 as explained earlier in my evidence. Noises from mechanical services on the proposed building will comply with the permitted standards of Bus85.

Benefits and Adverse Effects with Regard to the Wider Community

103. With regard to the Holt submission, a point (i) is raised with regard to the proposal benefiting one family only, and that “the adverse effects to the wider community would be severely detrimental”. I disagree with these statements, noting that the proposal demonstrates consistency with strategic Urban Form and Development objectives of the

PDP with regard to increasing the vibrancy of the inner city and contributing another type of housing to the area, as addressed earlier in my evidence, which are factors attributable to a wider audience than just the applicants' family. In addition, as addressed in the application, further information, and evidence of Mr Bain and Ms Batchelor, adverse effects to the wider community have been assessed to be acceptable and similar to the effects of a permitted development.

Clarification of Sea View

104. With regard to point ii of the same submission, the view from the submitter's apartment was assessed in the memo by Richard Bain provided with the S92 information of July 2021 and explains that the submitter's view extends east and west of the immediate view of the proposal. I consider then that the view east is interrupted by the Richmond Estate tower, therefore the proposed building will not be impeding on uninterrupted ocean and horizon views.

Appearance of the Area

105. With regard to the Hurlstone submission, the submitter mentions that the proposal would not respect the character and appearance of the wider area. I have addressed character sufficiently earlier in my evidence, but with regard to appearance, I consider the context of the area to be somewhat eclectic and not of any one defined era of development. The immediate area consists of:

- a. The application site with a tiered 1990s commercial building with carpark areas;
- b. Tidy stand-alone dwellings at 2, 4 and 4A Dawson Street;
- c. Three conjoined Housing New Zealand townhouses at 8 – 10 Dawson Street;
- d. The bright yellow two-storey takeaway shop at 141 St Aubyn Street;
- e. The historic Devonport apartments, predominantly in teal;
- f. Simple boxy two-storey building (TBI Health) and Clarendon apartments immediately east of the Devonport apartments;
- g. The sprawling Richmond Estate with the iconic tower;
- h. The three modern Oceanside apartments at 122, 122A and 122B St Aubyn Street; and

- i. The large vacant building (previously a gym, and a police station) immediately south of the application site. This building is owned by the applicant.

Outside of this, buildings and land uses become more generally stand-alone dwellings to the west-southwest, and more commercial to the east-southeast. I consider that the appearance of the area does not demonstrate a particular high quality or a trend in design that is vulnerable to any effects as a result of the proposal. As addressed earlier the proposal includes design to rejuvenate the façade of the existing building while integrating it with the proposed extension. My opinion is that the appearance of the proposal respects the appearance of the wider area.

Garden Shading

106. With regard to the Bennett submission, the submitter did not indicate that they are directly affected by an effect of the application, were neutral to it, indicated to grant consent, and did not want to be heard. The submitter raises a point about winter shadows over their garden. The shading diagrams that were in the information notified to the submitter (from the application) showed more shading than what the most recent revised plans do, and the submitter provided a neutral submission on that first set of diagrams. Therefore I consider that there are acceptable effects on the submitter's property from shading. This is consistent with Mr Balchin's assessment in section 72 of the Hearings Report.

Property Values

107. Several submissions raise the issue of the reduction of property values, which is not an effect recognised in the RMA or ODP.

Likelihood of Permitted Baseline and Proposed Development

108. Several submitters suggest a more acceptable alternative is to utilise the area available on the application site to develop buildings to 10 m high to perform the same functions as that proposed. It follows that the effects on the likes of views and shading would therefore be acceptable to those submitters for that permitted building. From the information supplied by the applicant in July 2021, Mr Bain summarises that "Based on amenity as defined in the RMA, in my opinion, no submitter will experience a loss of coherence or pleasantness from a loss of view", and shading diagrams SK5.05-08 demonstrate that

shading from the proposed building will be similar to that of a permitted building. Overall then the proposal is not dissimilar to a permitted development which several submitters would accept. In terms of shading, which was a common submission point, it has been illustrated that a permitted baseline development would have very similar shading effects on submitters as the proposed development.

Height 'Limit'

109. Several of the submissions relate to there being a height restriction or limit of 10 m. I have addressed this matter earlier in my evidence.

Clarification on Compliant Height of Existing Building

110. Several submissions relate to the existing building already exceeding 10 m in height, and a comment in the MacArthur submission is that “When the building was first built consent was given for the building to be above the 10 metre maximum height for 1 Dawson Street”. This is incorrect and explained earlier in my evidence. The existing building height was established as of right as a permitted activity.

Precedent

111. Several submissions raise the issue that the proposal will create a precedent and if consent is granted more applications for over height buildings will follow.

112. It is my opinion that granting of the consent would not set a negative precedent, whereby further applications for over height buildings would follow and Council’s ability to decline applications would be diminished.

113. The proposal has a number of design elements such as being stepped back from the front of the existing building, with the bulk of the extension set behind it, and the proposed mixed use of the site for commercial and residential activities, that combine to create a unique proposal.

114. In any case, it is my understanding that a consent authority must determine every case on its merits; and in my experience the facts and circumstances of cases generally all differ i.e. different localities, topography, surrounding environment and design elements.

115. I note Mr Balchin shares a similar opinion on the issue of precedent and District Plan integrity in sections 129 – 133 of the Hearings Report.

RECOMMENDED CONSENT CONDITIONS

116. If the Commissioner is of the mind to grant the application, I have made comments on the recommended conditions provided in the Addendum to Hearings Report. These comments are included in **Annexure A** of my evidence.

CONCLUSION

117. In my overall broad judgment, with the suggested conditions, I am of the view that granting the consent will be consistent with the objectives and policies of the ODP, PDP, RPS and NPS-UD and will achieve the purpose of the RMA to promote the sustainable management of natural and physical resources. In coming to my conclusion, I am mindful of the matters raised by submitters and their genuine concerns. However, I consider that with regard to the assessment of the proposal undertaken in terms of the matters to which Council have restricted their discretion for all activities involved, the proposal is compatible with the character and amenity anticipated by the ODP for this Business Environment Area, will result in a number of demonstrable consistencies with the PDP's intent for vibrancy and housing near the city centre and that, with the design proposed and the suggested conditions of consent (with requested amendments), the adverse effects will be appropriately avoided or mitigated. Accordingly, I agree with the Hearings Report that the application should be granted subject to conditions.

Darelle Martin

4 August 2021

Annexure A

Comments on draft conditions of consent

Annexure A: Comments on draft conditions of consent

Key:

~~Red strikethrough~~: proposed deletions

Green underlined: proposed changes / additions

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

1. The use and development of the site shall be as described within the application made to council and titled Resource Consent Application and Assessment of Environmental Effects, Apartment Addition – 1-3 Dawson Street – Rev 1 – Date 12/02/2021; ~~including all subsequent information submitted by the applicant, and shall be substantially in accordance with the plans by BOON team-architects detailed below, and all referenced by the Council as consent number LUC20/47890;~~

Commented [DM1]: Minor grammatical change

NOTE – DRAWING REFERENCES TO BE UPDATED

Drawing Number	Date	Drawing Name
SKO.01	01.07.2021	Proposed Site Plan
SK2.01	01.07.2021	Parking Plan

SK2.02	01.07.2021	3 Dawson Proposed Ground Floor
SK2.03	01.07.2021	3 Dawson Proposed Level 1
SK2.04	01.07.2021	3 Dawson Proposed Level 2
SK3.01.1	01.07.2021	West Elevation - Proposed Only
SK3.02.1	01.07.2021	North Elevation - Proposed Only
SK3.03.1	01.07.2021	East Elevation - Proposed Only
SK3.04.1	01.07.2021	South Elevation - Proposed Only

Commented [DM2]: References to be updated, 09/07/2021 are the most recent plans.

Façade Composition, External Building Form and Design Features

2. Final detailed design plans of the building shall be submitted to Council’s Planning Lead, or nominee, for certification prior to the application for a building consent being lodged. The final detailed design plans shall confirm the following building design elements are achieved:

~~i. A glazed façades shall have a design and finish which achieves a Visual Light Transmission (VLT) of between 40-60%.~~

Commented [DM3]: A control on the VLT of glazing is not considered necessary to mitigate effects of the proposal. This condition has been copied from another consent decision that was unique being related to a 6 storey CBD building with fully glazed facades where light penetration was a key mitigation measure for the height and bulk of the building. Ms Batchelor provides further justification on this request in her evidence.

ii. The finish treatment, materials and colours of the external cladding shall have a reflectance value of ~~less than 10%~~ between 30 and 100% and be a colour that is a neutral palette ~~and complimentary to the coastal environment and surrounding buildings and shall be~~ restricted to light sandy, grey, cream or blue tones.

Commented [DM4]: As supported by the statement of Ms Batchelor in her evidence, a light reflectance value of between 30 and 100 % is considered to be a reasonable range whereby a colour is prevented from being excessively dark.

~~iii. The treatment and external materials to be utilised for the top external cladding including colours. The final detailed design plans shall ensure that the buildings proposed architectural treatment and finished appearance is consistent with the plans and information referenced at Condition 1.~~

Commented [DM5]: Considered to be an uncertain, subjective statement difficult to monitor

Commented [DM6]: Clarity sought on what colour 'sandy' is

Commented [DM7]: Incorporated into above condition

3. The final detailed design plans shall be consistent with the drawings referred to under Condition 1 above and the consent holder shall provide a report confirming consistency ~~shall be~~ prepared by a suitably qualified and experienced architect ~~and provided~~ to Council's Planning Lead prior to the building consent being lodged. The report shall specifically address Condition 2. All works shall then be carried out with the details certified by the Council, and thereafter retained and maintained, to the satisfaction of the Council's Planning Lead or nominee.

Commented [DM8]: Onus to be on consent holder.

4. The maximum building height, including any ancillary components, shall not exceed the maximum heights demonstrated on plans ~~SK3-01-1, SK3-02-1, SK3-03-1 and SK3-04-1~~ listed in the table under Condition 1. All maximum height shall be measured from a recognised Taranaki Datum height within the site.

Commented [DM9]: Combined and removed repetition.

Commented [DM10]: Plans are listed in Condition 1

5. A survey certificate provided by a Licensed Cadastral Surveyor shall be supplied to the Council at foundation pour for the concrete slab to confirm slab height is as per the approved building consent plans. Then a further survey certificate shall be supplied within one calendar month following practical completion of the building to confirm that the overall height of the building does not exceed the heights specified as per condition 4.

Commented [DM11]: "exceed" was missing from the sentence

Fencing & Landscaping

6. A Fencing and Landscaping Plan demonstrating measures being applied to enhance visual amenity on Dawson Street and, in respect of landscaping and fencing on Lot 1 DP 10510, soften the eastern elevation of the building, shall be submitted for certification to the Council's Planning Lead, or nominee, prior to the building consent being lodged. The Plan shall demonstrate:

- fencing proposed;

- plant species;

- plant spacing; and

- plant locations.

~~7. The landscaping plan shall demonstrate measures being applied to soften the eastern elevation of the building where located in Lot 1 DP 10510. The plan shall be submitted for certification to the Council's Planning Lead, or nominee, prior to the building consent being lodged.~~

Commented [DM12]: Reworded into one condition

8. Fencing and landscaping in accordance with the approved Fencing and Landscaping Plan shall be implemented within the first planting season after the completion of construction of the building.

9. On completion of the fencing and landscaping, the consent holder shall provide certification from a landscape architect ~~shall certify~~ that these works have been completed in accordance with the approved Fencing and Landscaping Plan ~~and provide this certification~~ to the Council's Planning Lead no less than 30 days following the completion of the fencing and landscaping.

10. For the duration of this consent, the consent holder shall maintain all fencing and planting in a good ~~and healthy~~ condition. Any fencing or planting not in a good ~~and healthy~~ condition shall be replaced as soon as reasonably possible.

Commented [DM13]: Minor rewording to reference the Plan named above.

Earthworks and Construction Management

~~11. At least 15 working days prior to any earthworks commencing on the site, the consent holder shall submit to the Council's Planning Lead, or nominee, for certification the following:~~

a) A copy of the Construction Traffic Management Plan (CTMP) to Council's Planning Lead, or nominee. The CTMP will demonstrate how it will manage construction traffic to:

- i. Protect public safety;
- ii. Minimise delays to road users;
- iii. Minimise disruption to property access; and
- iv. Inform the public about any potential impacts on the road network in advance to the works occurring.

The CTMP shall include, but not be limited to:

- i. Details of traffic management activities and sequencing proposed for the Project;
- ii. Methods for managing construction related traffic movements; and
- iii. Provisions to ensure that, as far as practicable, road users will not be held up by construction activities for an unreasonable period of time (such time to be specified within the CTMP).

b) An Earthworks Management Plan (EMP) which identifies specific procedures associated with stormwater and soil management, dust and sediment control measures. The Earthworks Management Plan must include the following:

- i. Dates for earthworks, timing and proposed duration;
- ii. Details of the sediment and dust control measures to be implemented on the site;
- iii. Measures for avoiding any carry of soil or any other material onto public roads;
- iv. Proposed earthworks traffic route;
- v. No undermining of any adjoining areas of road reserve; and
- vi. 24 hour contact phone numbers of the designated site liaison person/s responsible for handling queries and complaints regarding the earthwork activities.

c) A Construction Management Plan (CMP) which identifies specific procedures associated with site incidents and prevention of potential effects on the surrounding environment and community, proposed long term site management, occupational safety and health issues and measures. The Construction Management Plan must include:

- i. A copy of the consent conditions;
- ii. 24 hour contact phone numbers of the designated site liaison person/s responsible for handling queries and complaints regarding the construction programme and all construction activities;
- iii. Methodology for logging and handling queries and complaints regarding the construction programme and all construction activities;
- iv. Work hours, scheduling and timing of vehicle movements;
- v. The location and layout of vehicle parking spaces for all vehicles associated with construction activities on the site, including those for construction workers' vehicles and construction related vehicles, over the entire construction period and how this will be managed;

~~vi. The location and design of a temporary construction vehicle access point and traffic circulation through the site over the construction period;~~

~~vii. Storage of construction plant and material; and~~

~~viii. Notification procedures between the consent holder and the Council's monitoring planner, in respect of any changes to the approved CMP;~~

~~12. Once the CTMP, EMP and CMP are certified, all earthworks and construction activities shall be undertaken in accordance with these management plans.~~

13. The consent holder must pay the council's actual and reasonable costs incurred to ensure compliance with the conditions attached to this consent.

Water Connections

14. Prior to occupation, the building extension shall be connected to a water supply system which complies with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008.

Stormwater

15. Prior to lodging a building consent a stormwater management report shall be provided to Council's Planning Lead, or nominee for certification. The stormwater report shall detail how all stormwater on site is going to be managed and treated prior to discharge to the receiving environment.

Utilities

16. Prior to the commencement of any site works associated with the project, the consent holder shall accurately identify the location of existing underground network utilities (www.beforeudig.co.nz). Construction plans must identify the locations of the existing network utilities and appropriate physical indicators must be placed on the ground showing specific surveyed locations. All construction personnel, including contractors, are to be made aware of the presence and location of the various existing network utilities which traverse, or are in close proximity to the project area, and the restrictions in place in relation to those existing network utilities.

Roading

17. A residential vehicle crossing for access to the dwelling within Lot 1 DP 10510 shall be constructed to the Standard specified in the Council's Land Development & Subdivision Infrastructure Standard (Cl.3.3.17.1).

Advice Note

a) An application with the appropriate fee shall be made to the Council for a new Vehicle Crossing, and upon approval the vehicle crossing is to be installed by a Council approved contractor at the applicant's cost

Noise

18. Compliance with sound attenuation shall be required to be demonstrated as part of the building consent application.

Commented [DM14]: Taking into account the restricted discretionary status of the application, the relevant matters of discretion and Section 104C(3) of the RMA, I consider these conditions outside of what Council can impose. Again, they have been copied from another consent decision, which was different to the subject one as it was for a non-complying activity and all matters could be considered and conditioned. In case the Commissioner disagrees, I consider the conditions with regard to a CTMP and CMP could remain (as they could be considered administrative matters in implementing the consent), but the EMP be deleted as the proposal does not require consent for earthworks.