

HEARINGS REPORT UNDER SECTION 42A OF THE RESOURCE MANAGEMENT ACT 1991 FOR LANDUSE CONSENT APPLICATION LUC24/48512

Applicant:	Bryan & Kim Roach & South Taranaki Trustees Limited
Site Address:	24 and 26 Woolcombe Terrace, New Plymouth
Legal Description:	Part Lot 1 DP 4522 and Part Lot 2 DP 5012 (RT 961499)
Site Area:	904m ²
District Plan Zoning:	Medium Density Residential Zone
District Plan Overlays	Coastal Environment Woolcombe Terrace is a "Local Road"
Proposal	Construction of a new dwelling and associated fencing and retaining walls (retrospective)
Status:	Discretionary Activity under Rule CE-R5 of the Proposed District Plan 2023
Application received:	10th of June 2024
Further Information Requested/Received	4 th July and 14 TH August 2024
Limited notification:	8th of November
Submissions closed:	4th December 2024

SCOPE/PURPOSE OF THIS REPORT.

1. This report has been prepared in accordance with Section 42A of the Resource Management Act (RMA) to assist the commissioner in deciding on a land use resource consent at 24 & 26 Woolcombe Terrace, New Plymouth.
2. The report provides an opportunity for the submitter to see how their submission has been evaluated, and the recommendations being made by the planning officer.
3. Considering the above, wherever possible, I have provided a recommendation to assist the commissioner.

STATEMENT OF QUALIFICATIONS AND EXPERIENCE

Experience

4. My full name is Campbell Stewart Robinson, Director of Future Proof Planning Limited. I hold the qualification of Bachelor of Resource and Environmental Planning from Massey University,

Palmerston North and have approximately 24 years' experience in planning and resource management profession.

5. I am employed as a Senior Planner (Consultant) by the Resource Consent Team at New Plymouth District Council. I have undertaken a range of roles for New Plymouth District Council on a consulting basis over the last seven years including providing advice on a range of consenting matters and being a co-author on several chapters of the New Plymouth District Plan Review.
6. Prior to establishing my own consultancy, I held the role of Best Practice and Heritage Manager at Wellington City Council, providing practice oversight of the Council's consenting functions and managing a team which provided advice on Wellington's heritage buildings.
7. Prior to this I was employed by the Ministry for the Environment providing advice to the Minister for the Environment on the 2013 and 2017 resource management reforms.
8. I have extensive experience in the fields of resource consenting, District Plan preparation and policy reform.

Code of Conduct

9. In preparing this report I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023.

SITE DESCRIPTION AND SURROUNDING ENVIRONMENT

10. The site (refer Image 1 and Figure 1) is located at 24 and 26 Woolcombe Terrace. The property contains two existing dwellings including a recently built two-storied home located on the eastern side of the site (number 26).
11. The site is bound by residential properties to the south, east and west and to the north by the Woolcombe Terrace legal road. Beyond the roadway is the New Plymouth foreshore.
12. The foreshore land parcel includes common green space and planting at the top of the coastal escarpment as well as the New Plymouth coastal walkway located at the foot of the cliff immediately adjacent to the foreshore. The coastal margin forms part of the Statutory Acknowledgement Area of Te Atiawa Iwi¹.

PROPOSAL

13. The applicant seeks land use consent for construction of a second dwelling as well as retaining and fencing structures on the northern boundary of the site. The as-built structures are shown in Figures 2-4 and fail to comply with Rules MRZ-R31, MRZ-R33 and CE-R5.
26. The dwelling is approximately 30m in length, 10m in width at its widest point and 8.155m in height. The dwelling is orientated towards the north to take advantage of prominent views over the coastal margin and has an area of 199m².
27. The dwelling is accessed via a single vehicle access located between 24 and 26 Woolcombe Terrace and by a pedestrian access on the eastern side of the dwelling adjacent to 28 Woolcombe Terrace.

¹ As defined within the Te Atiawa Claims Settlement Act 2016.

Image 1: Existing eastern dwelling, 26 Woolcombe Terrace. Source: Site Visit.



Figure 1: 26 Woolcombe Terrace. Source: McKinlay Surveyors.



LIMITED NOTIFICATION AND SUBMISSION

14. The application for land use consent was subject to limited notification under s95B of the Act². The notification was limited to the following party outlined in Table 1 below:

Table 1: Limited Notification Details

#	Property Address	Email Address	Persons
1	28 Woolcombe Terrace	techsound@extra.co.nz	Geoffery and Johanna Whyte

15. A submission was received in opposition to the land use consent dated 4th of December 2024 from Mr and Mrs Whyte. The submission was received before the closing date for serving of the submission.

SITE VISIT

16. I conducted a site visit of the application site and surrounding area on 25th June 2024 and again on the 4th of March 2025. During the first site visit I was able to enter the grounds of the application site and view the property at 28 Woolcombe Terrace. I was able to walk along the common boundary between and observe the relationship between the properties to better understand the likely effects of the proposal. During the second site visit I viewed the application site from the public footpath only.

STATUTORY REASONS FOR THE APPLICATION & ACTIVITY STATUS

National Environmental Standards

17. Regulation 5(5) of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 describes and development as an activity to which the NES applies where an activity that can be found on the Ministry for the Environment Hazardous Activities and Industries List (HAIL) has occurred. I have checked the TRC Selected land Use register and there is no evidence that the site has contained an activity listed on the HAIL. I have also checked all other National Environmental Standards (NES), and none are applicable to the consideration of this proposal. Therefore, no NESs are relevant to the consideration of this proposal.

Proposed New Plymouth District Plan 2023.

18. The site lies within the Medium Density Residential Zone (MDRZ) and within the Coastal Environment Area. The relevant Rules and Effects Standards of the PDP is included in Tables 2 and 3. A full assessment of all relevant MDRZ Effects Standards is shown in Appendix 2.
19. Since the application was lodged in June 2024, three further updates have been made to the PDP³. The changes have resulted in renumbering of some Rules within the MDRZ including matters relevant to this application.

² Refer Appendix 1 s95 notification report dated 30 October 2024.

³ Update 5: 2.10.24, update 6: 4.12.24, update 7: 23.12.24.

Table 2: Applicable Rules.

Rule #	Rule Name	Status	Comment
CE-R5	Building activities within the Coast Environment	Discretionary	The proposal fails to meet the Effects Standard of the underlying MDRZ and therefore fails to meet the permitted activity criteria under Rule CE-R5.
MRZ-R1	Residential activities (excluding residential buildings)	Restricted Discretionary	The proposal fails to comply with 2 separate MDRZ Effects Standards and therefore triggers the requirement for a land use consent.
MRZ-R31 ⁴	Building activities including demolition or removal of a structure	Restricted Discretionary	The proposal fails to comply with 2 separate MDRZ Effects Standards and therefore triggers the requirement for a land use consent.
MRZ-R33 ⁵	Building activities that do not comply with MRZ-S3 Height in Relation to boundary, but comply with MRZ-S4 Alternative Height in Relation to Boundary	Restricted Discretionary	The dwelling does not comply with Effects Standard MRZ-S3 but complies with MRZ-S4. Rule MRZ-R32 includes a non-notification clause however the relief from the notification assessment under this rule is applied in this instance as the other applicable rules to this proposed (Rules MRZ-R30 and CE-R5) do not have a non-notification clause.

Table 3: Applicable Effects Standards.

Effects Standard	Effects Standard Name	Complies?	Comment
MRZ-S3	Height in relation to boundary (HIRB)	No	The dwelling fails to comply with the 3m + 45° requirement relative to the boundary with 28 Woolcombe Terrace (refer Figures 2 and 3 ⁶). The area of the infringed by the Standards form is wedged shaped and has a combined length of 29.1m. The breach has a maximum height of 1.9m near the northern elevation of the building.
MRZ-S10	Maximum fence or wall height	No	MRZ-S10 1. outlines that no fences or walls or a combination of these structures whether separate or joined together) within the front yard on "Local Roads" shall exceed 1.4m in height about the existing ground level. The combined height of the as-built wall and glass balustrade would be 2.28m.

20. I am satisfied that the proposal complies with all other Effects Standards and Rules under the PDP. Overall, the proposal is a **Discretionary Activity** under Rule CE-R5 of the PDP being the highest activity status.

Status of the application following release of Proposed District Plan - Appeals Version.

21. Decisions on the Proposed District Plan (PDP) were released on the on the 13th of May 2023. The decisions version of the PDP was the subject to an appeal period which closed on the

⁴ Numbering updated. Previously was labelled MRZ-R30.

⁵ Numbering updated. Previously was labelled MRZ-R32.

⁶ Refer drawing numbers SK1.0 and SK3.0 By BOON Architects, dated 6th August 2024.

26th of June 2023. Twenty-two appeals were received in total⁷. On the 14th of September 2023, the Council released the appeals version of the PDP which identified those parts of the PDP which were effectively settled and those which remain under appeal.

22. Under Section 86F of the RMA, a Rule in a Proposed Plan must be treated as operative (and any previous rule as inoperative) if the time for making submissions or lodging appeals on the rule has expired, and in relation to the rule:
- no submissions in opposition have been made or appeals have been lodged; or
 - all submissions in opposition and appeals have been determined.
23. No appeals were received in relation to either the decisions on the underlying zoning or the provisions of the relevant Rules or Effects Standards of the MDRZ. Whilst an appeal has been received on Rule CE-R5⁸, there is no equivalent Rule under the Operative District Plan (ODP). On this basis, I am able to determine that the application does not require consent under the ODP, and that the proposal only requires consent under the PDP

Requirement for Other Consents.

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

EFFECTS DISREGARDED.

28. Consistent with my findings under paragraph 23 of the notification decision, I have applied the permitted baseline s 104(2). Effects related to a dwelling that meets the Effects Standards of the underlying zone have been discounted.

⁷ [Appeals \(npdc.govt.nz\)](https://npdc.govt.nz/)

⁸ Royal Forest & Bird Protection Society ENV-2023-AKL-000094

Figure 2: Site Plan 24/26 Woolcombe Terrace. Source: BOON Architects

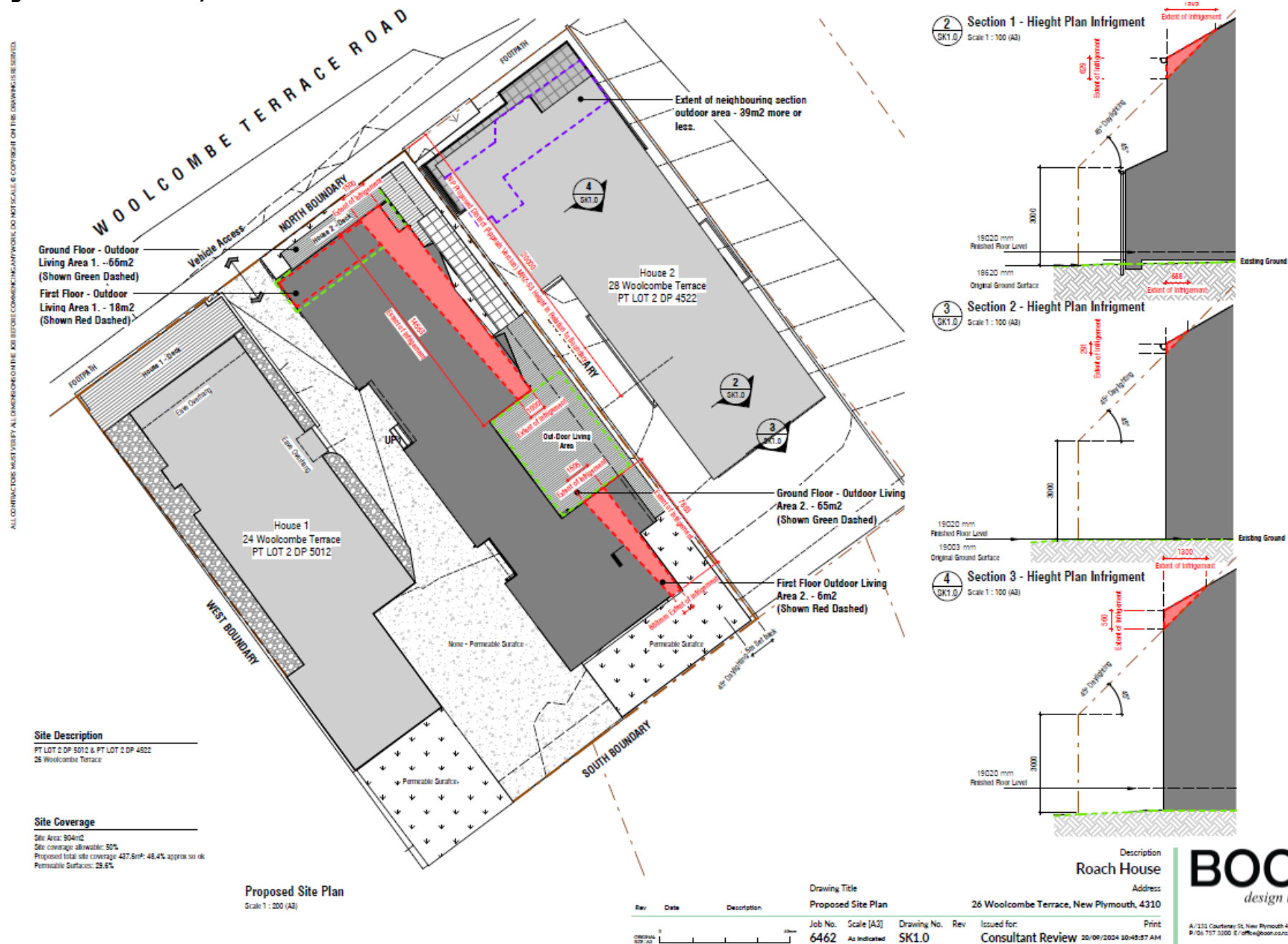
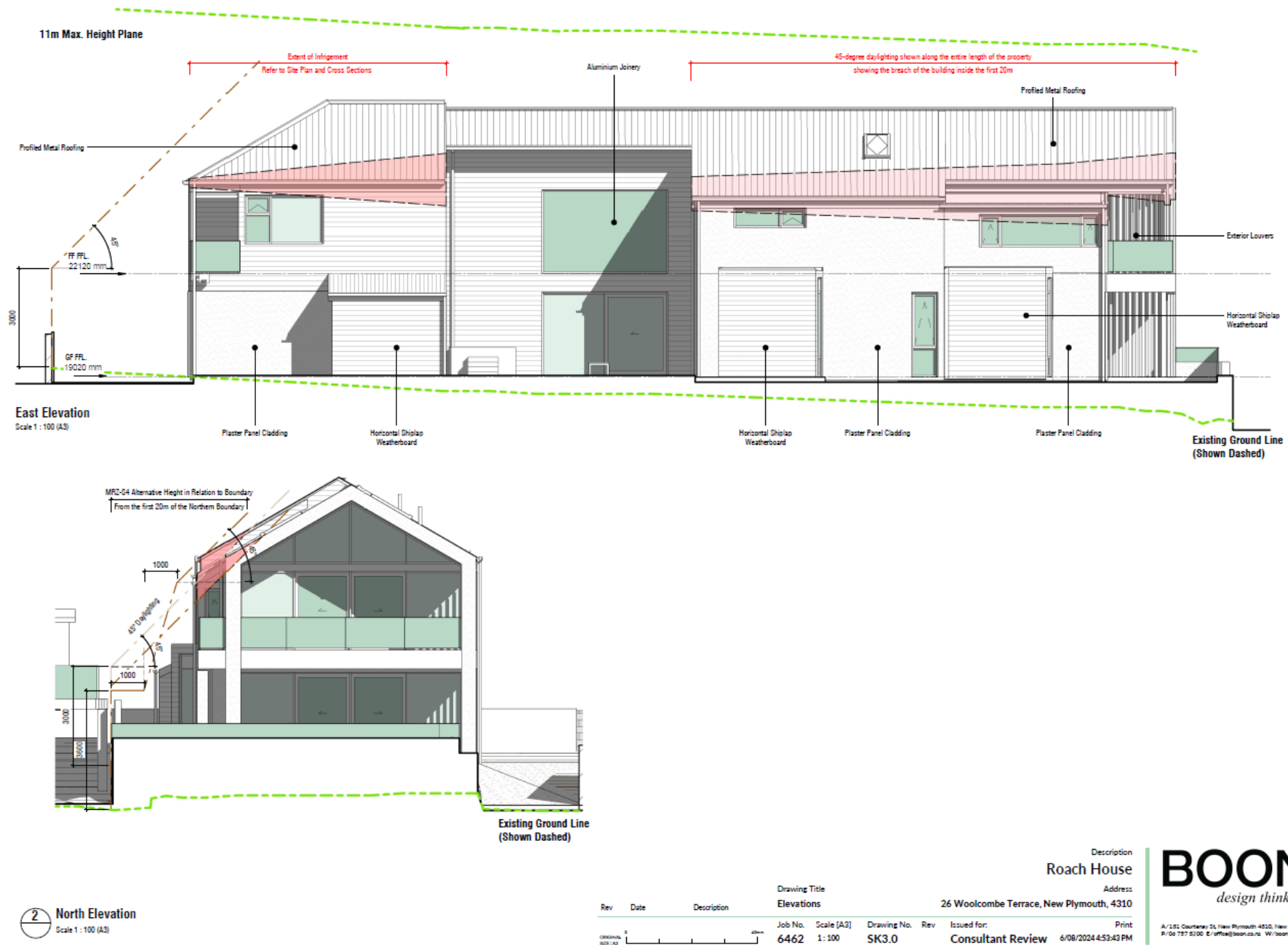


Figure 3: Eastern and Northern Elevations. Source: BOON Architects.



West Elevation
Scale 1 : 100 (A3)

South Elevation
Scale 1 : 100 (A3)

Roach House
Address
26 Woolcombe Terrace, New Plymouth, 4310

BOON
design thinkers

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

Matters Considered.

29. As part of considering the effects on this proposal on the submitter and effects generally I have reviewed the following:

- the contents of the submission;
- the notification report including discussion of
 - Streetscape effects;
 - Effects on the coastal environment;
 - Paragraphs 38-52 which discussed effects on the submitters property
- the architectural drawings;
- the Effects Standards and Rules of the MDRZ and CE;
- the AEE and further information provided by Mr Lawn; and
- findings of my site visit of the property.

Submission.

30. The submitter outlines a range of concerns with the proposal including:

- The proposed density would negatively impact the amenity of the property including shading, building dominance, reduced outlook, reduced privacy and a sense of enclosure.
- Particularly concerned with the possible shading effects in later after periods on areas of the site which are used as entertainment space
- The proposal would block the views of the Taranaki Maunga which contributes to the amenity gained from existing indoor and outdoor spaces
- Concerned that the development does not comply with Rule EW-R10 and Effects Standard MRZ-S5 under the Proposed District Plan 2023
- Concerned that the mitigation measures to prevent adverse effects from the first-floor balcony adjoining the submitters property have yet to be installed and won't be installed if consent was approved
- Effects would be significant and have not been mitigated
- Concerned that the proposed front wall would impact westerly facing views from the ground floor private outdoor space
- Concerned about the accuracy of the fence heights shown on the application drawings
- The proposal would be inconsistent with:
 - the purpose, principles, provisions and part 2 of the RMA 1991
 - the Taranaki Regional Policy Statement 2010
 - the Proposed District Plan 2023

31. This submitters property shares its western boundary with the application site. The property contains a large three-storied detached dwelling which is accessed via a single crossing point from the legal road. The property was built in 2013. The dwelling features a range of outdoor living spaces around the dwelling ranging in size and function including balconies at first and second floor level which have prominent views over the New Plymouth coastline.

32. The dwelling breaches the height in relation to boundary Effects Standard MRZ-S3 along the common boundary between the application site and submitters property. The area of the building which breaches the Effects Standards includes areas of roof, eave, exterior cladding, private outdoor decking areas and windows. The as built relationship between the properties is shown in Images 2 and 3.

Image 2: Boundary between 26 and 28 Woolcombe Terrace looking south showing.



Image 3: Boundary between 26 and 28 Woolcombe Terrace looking north.



Effects on Streetscape and Coastal Environment:

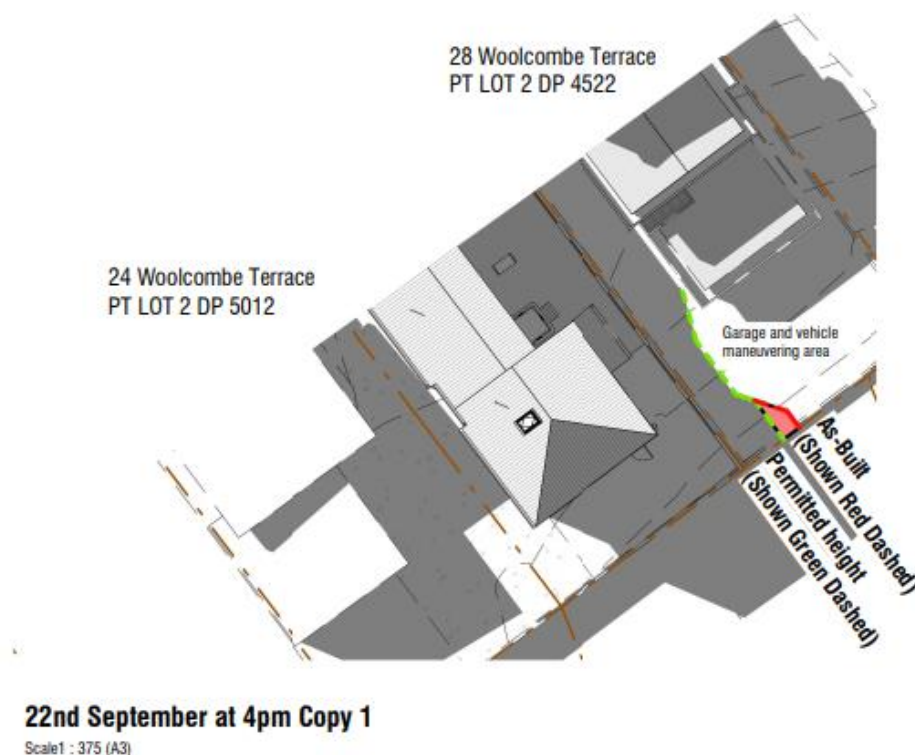
33. Paragraphs 25-28 and 29-33 of the notification report addressed streetscape and coastal environment effects respectively. Given no further submitter evidence has been presented regarding either matter, I maintain my view that effects are minor and ultimately acceptable.

Effects on Submitters Property:

Shading Effects:

34. Possible shading effects are addressed on pages 20 and 21 of the AEE and in paragraphs 40-45 of the notification report.
35. To recap, the applicant was requested to provide further shading analysis as part of the of the Council's request for further information⁹. The applicant was also requested to clarify the ground levels used to inform the assessment of shading and other zone Effects Standards¹⁰. A revised AEE was provided on the 14th of August which was complemented by additional shading diagrams by BOON architects outlining shading scenarios on the 21st of June and the 21st of December.
36. The diagrams comparing shading effects on the 22nd of September remain the most relevant as they show the difference in shading effects between a compliant building and the as-built dwelling. As shown in Figure 5, the as-built dwelling would create some additional shading in late afternoon periods over and above a building of the same height which complies with the HIRB Effects Standard MRZ-S3¹¹.

Figure 5: Comparison of shading effects 22nd September.



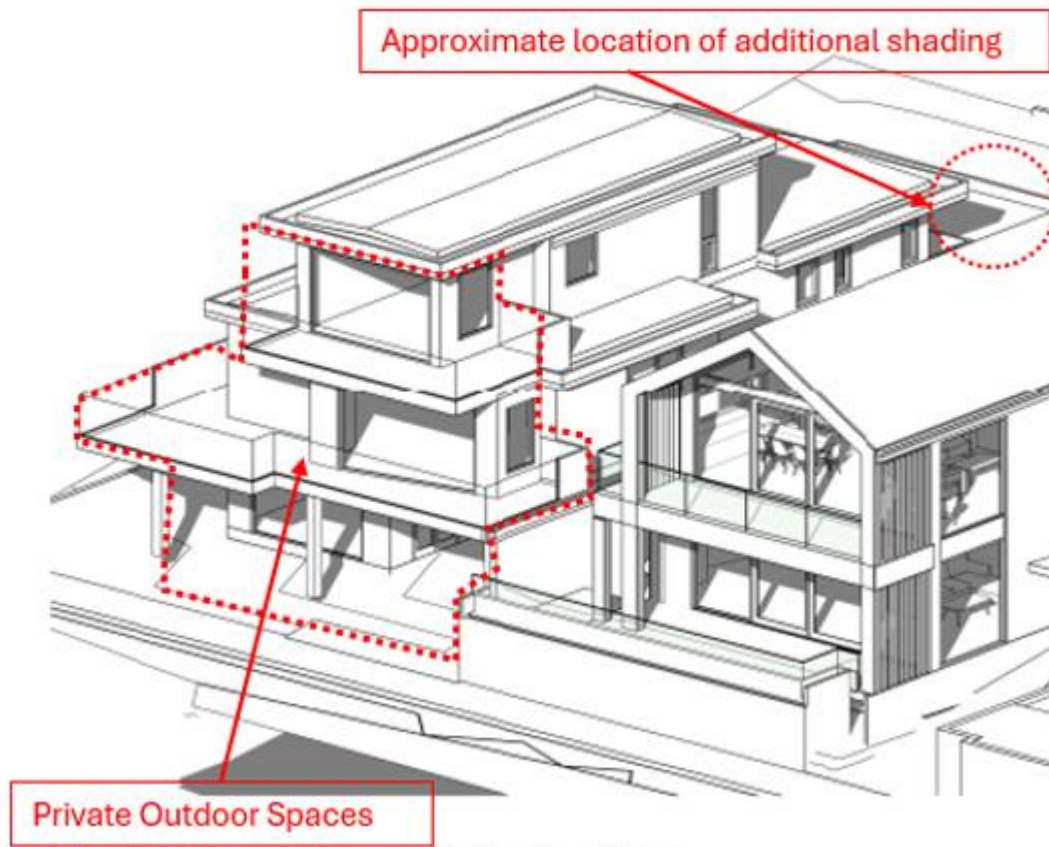
⁹ Question 5 of the request for further information dated 4.7.24.

¹⁰ Question 1 of the request for further information dated 4.7.24.

¹¹ As built height of the dwelling is 8.155m.

37. The submitter has outlined that area of their site which would be impacted by shading can be used for outdoor amenity purposes and is not, as stated in the notification report, “used in association for parking and manoeuvring”. The area in question is the south-western corner of #28.
38. I accept that there is no impediment for this space being used for amenity but would note from my own observations that the space is one of several private outdoor amenity spaces available to the occupants of the property. Other spaces appear to be more functional and provide higher levels of amenity. For example, the ground floor, first floor and second floor spaces located on the northern elevation are directly adjacent to and accessible from the dwelling and provide long views over the adjacent coastal line. The shading diagrams show that when compared to the permitted baseline scenario, these spaces would not be impacted by the development.

Figure 6: Location of additional shading relative to private outdoor spaces.

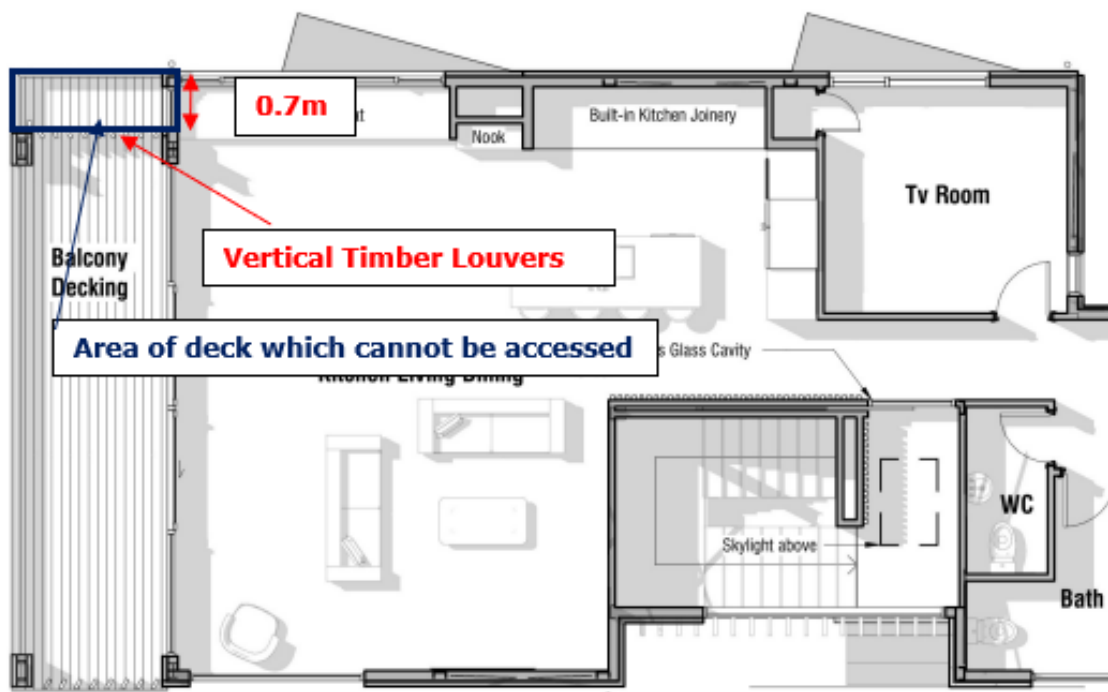


39. Whilst the submitter has raised concerns that the shading diagrams do not accurately reflect the possible shading effects, in the absence of any further technical evidence, I have no clear reason to not accept the accuracy of the offered analysis.
40. Overall, I consider shading effects are less than minor and ultimately acceptable. Whilst the development does create some additional shading over and above a building which complies with the HIRB standards, the shading is marginal in terms of its area and the time in which it would occur. Consistent with my notification assessment I consider that the area of the site affected by additional shading over and above the permitted baseline is less sensitive to additional shading when compared to other private outdoor spaces.

Privacy:

41. Privacy effects are addressed on pages 28-30 of the AEE and in paragraphs 50-52 of the notification report. The potential privacy effects are created from parts of the eastern elevation including 3 windows and first floor deck failing to meet HIRB requirements. Having considered the submission points, I note the following:
- The three infringed windows are tinted thereby moderating direct views between the properties to the benefit of both the applicant and the submitter.
 - The southernmost window (labelled master bedroom) appears to infringe the window frame rather than the glass areas meaning it offers no views over and above what could be established under the permitted baseline.
 - The middle window (labelled tv room) is located 2.8m above the floor level and therefore promotes views of the sky areas rather than towards to the neighbouring property. Only a fraction of this window is infringed.
 - Access to the northern most window (labelled kitchen) is blocked by an internal window seat further limiting direct privacy effects. Only a fraction of this window is infringed.
 - Compliance with Effects Standard MRZ-S5 3. will be achieved by installing vertical timber louvers to the eastern edge of the terrace. A condition of consent is recommended to this effect. Once installed, any overlooking or privacy effects that do result would be consistent with effects of the permitted baseline (refer Figure 7).

Figure 7: First floor decking areas – 26 Woolcombe Terrace.



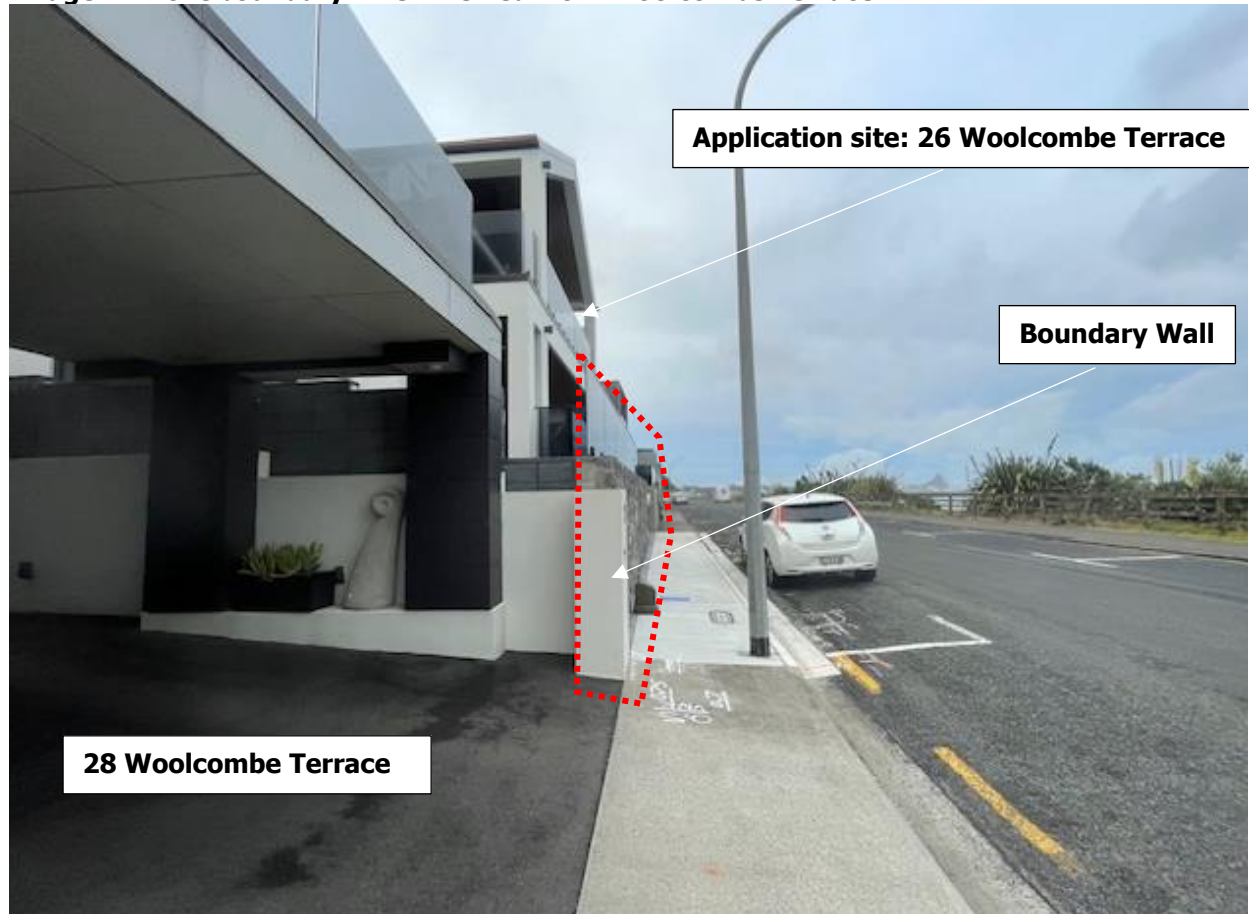
42. The over height wall/balustrade on the street facing boundary would create no clear material adverse effect on the adjoining private boundary with number 28 Woolcombe Terrace. Westerly views from the ground floor private open space area of number 28 are predominantly impeded by an existing solid block wall on the common boundary rather than the front boundary wall (refer

Image 4). Following remedial action, the fence height on the side boundary wall between the properties now complies with the requirements of Effects Standard MRZ-S10.

43. In making my conclusions around the effects of the boundary wall, I have assessed the maximum height of the wall as being 2.28m above the original ground level as shown on BOON drawing SK3.0. This is consistent with the notification report. Given the submitter has raised questions regarding the accuracy of the height, the applicant should:

- clarify the maximum height of the wall; and
- update the front elevation on of drawing SK3.0 to reflect the fact there are no stairs on the common boundary between the application site and 28 Woolcombe Terrace.

Image 4: Front boundary when viewed from Woolcombe Terrace.



44. Overall, possible adverse privacy effects are considered to be less than minor and acceptable.

Building Dominance/Outlook/Sense of Enclosure:

45. Effects of this nature are addressed in pages 21 and 22 of the AEE and paragraphs 46-49 of the notification report. Here I described building dominance effects as being the sense of building enclosure or the sense of a building being too close or being overbearing. Building dominance effects can contribute to a feeling of a lack of visual or built relief between buildings impacting on the sense of outlook or amenity.

46. The notification report outlined that:

- The combined length of HIRB infringement is estimated at 21.9m being 75% of the total building length or 62% of the total boundary length between the properties.

- The proportion of the building which fails to comply with the Effects Standard is relatively high in the context of both the building and boundary length and would create a sense of being dominated or enclosed.
- Effects are at the lower end of magnitude but met the limited notification threshold (at least minor).

Discussion of "Planned Character" and changes to amenity

47. In considering whether the building dominance/outlook/sense of enclosure effects on the submitters property are acceptable, I have considered whether the PDP allows for changes in amenity levels to occur over time and whether the proposal is consistent with the "planned character" of the underlying zone.
48. The term "planned character" is used throughout the PDP including throughout the Objectives, Policies and Rules of the MDRZ. The term itself is not formally defined with its zone-specific interpretation being influenced by relevant Strategic Objectives, the chapter overview statement, Objectives Policies, Rules and Effects Standards.
49. The use of "planned character" rather than "existing character" is deliberate as this allows for character and amenity levels within existing urban environments to change over time to achieve the broader outcomes sought by the Strategic Objectives. The term is consistent with the direction provided within Strategic Objective UFD-19 that states:

"The district develops and changes over time in a cohesive, compact and structured way that:.....(9) may detract from amenity values appreciated by existing communities but improve such values for new communities by providing increased and varied housing densities and types.

50. The overview section of the MDRZ Chapter provides context for the expected planned character of the zone. It states:

"The purpose of the Medium Density Residential Zone is to provide areas for medium density residential development up to three stories in height with a mixture of detached, semi-detached and terraced housing and low-rise apartments.

The zone is generally characterised by a mix of uses, including existing suburban scale residential housing (stand-alone houses) and townhouses/flats.

However, it is expected that the character and scale of buildings in this zone will transition over time as the number of medium density residential developments increases (i.e. multi-unit, semi-detached and terraced houses)."

51. Overall, it can be seen from the Chapter overview, that larger scale and bulkier dwellings when compared to the General Residential Zone are generally consistent with the planned character of the MDRZ subject to them meeting the MDRZ Effects Standards. The PDP also makes clear that negative changes in existing amenity views may be created as a result of changes to urban environments. This is not to say that significant adverse changes to existing amenity levels is consistent with the direction of the PDP. In this instance, I have deemed the effects to be minor and at the lower end in terms of magnitude which is consistent with the direction of UFD-19(9).

Mitigation

52. Reflecting on the submitters concerns, I have considered if specific mitigation measures would assist in reducing built dominance effects resulting from the proposal. Methods to mitigate building dominance effects can include the use of boundary treatments e.g. screening, landscaping and planting as well as a reduction in the physical extent of building.
53. Opportunities for boundary treatments such as screening appear to be limited as such screens may result in new adverse effects on the property at number 28. For example, fence screening may block or screen the non-compliant aspects of the dwelling but may increase the sense of built dominance or sense of enclosure for the submitter's property. Any screening or fencing would also need to comply with Effects Standards of the PDP including MRZ-S10 (boundary fencing).
54. Opportunities for planting of shrubs and/or trees also appear to be limited as the area between the dwelling and the boundary with 28 Woolcombe Terrace includes near continuous timber decking. The use of large planter boxes or vegetative screening would in my view need to be carefully considered in terms of their effectiveness and would require the advice of a dedicated landscape professional.
55. Requiring physical demolition of part of the building to reduce effects, whilst possible, would be disproportionate in terms of the level of effect being caused.
56. I would note that the submission has outlined that adverse effects cannot be mitigated and has not outlined any specific measures to address their concerns.

Earthworks:

57. The submission has raised concerns that the development requires further consents under Rules EW-R10¹² and CE-R1¹³. The submitter outlines that the infringements are related to cutting and filling associated with the front boundary wall and balustrade.
58. Development of the site commenced in 2021 in accordance with an approved building consent (reference BC21/128998).
59. Image 5 below shows the under-construction wall including cutting and filling. The image was taken by Council building officer visiting the site on Tuesday 24th May 2022.

¹² "Earthworks for building activities"

¹³ "Earthworks (excluding network utilities)"

Image 5: Construction of front boundary wall May 2022.



60. Given Rules EW-R10 and CE-R1 referenced in the submission, did not have legal effect until the May 13th 2023¹⁴, I am satisfied that the land use consent was not required for these matters.

Effects Conclusion:

61. In summary, I have considered the scope of the submission and the effects of the proposal. Whilst I appreciate the depth and breadth of the concerns outlined, I consider that there are number of factors which in combination demonstrate any negative building dominance effects described in the notification decision will be at the lower end in terms of magnitude and ultimately be acceptable given the development is consistent with the planned character of the zone. Furthermore, negative changes to existing amenity levels are expected to occur as urban environments develop and change over time.
62. It is not obvious that further mitigation measures would be plausible, proportionate or warranted given the level of effects is in my view at the lower end in of terms of magnitude.

ASSESSMENT AGAINST PLANNING DOCUMENTS - Section 104(1)(b)

National Environmental Standards

63. There is no National Environmental Standards relevant to this application.

¹⁴ Proposed District Plan - Decisions Version.

National Policy Statements

National Policy Statement for Urban Development 2020.

64. The National Policy Statement on Urban Development 2020 ("NPS-UD") came into effect on the 20 August 2020 and replaced the National Policy Statement on Urban Development Capacity 2016 ("NPS-UDC"). The document was further updated in May 2022. Table 4 outlines the relevant Objectives and Policies of the NPS-UD and the relevant Strategic Objectives under the PDP.

Table 4: Relevant NPS-UD Objectives and Policies to resource consent decisions.

NPS-UD Objective/ Policy	NPS-UD Intent	Relevant Strategic Objectives
Objective 1	Urban environments are "well functioning" and provide for wellbeing now and into the future.	UFD-18
Objective 4	Urban environments including amenity values develop and change over time.	UFD-18, UFD-19, UFD-20
Objective 5	Planning decisions take into account the principles of the Treaty of Waitangi.	UFD-18, UFD-19, UFD-20, UFD-24
Policy 1	Planning decisions contribute to well-functioning urban environments to achieve a range of outcomes.	UFD-18, UFD-19, UFD-20, UFD-24
Policy 6	Decision makers have regard to a range of matters including expected change in urban environments and effects of climate change. Change overtime may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities etc.	UFD-18, UFD-19, UFD-20

65. The proposal is considered to be generally consistent with the relevant Objectives and Policies of the of the NPS-UD 2022 as it provides for urban environments and amenity to change over time to provide for well-functioning environments. This is discussed further under the PDP assessment below.

Taranaki Regional Policy Statement 2010.

66. The Regional Policy Statement includes range of Objectives and Policies which address the development of urban environments. This includes:

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

SUDPOLICY 1 To promote sustainable development in urban areas by:

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

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

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

(d) providing for regionally significant infrastructure;

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

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

(g) promoting the maintenance, enhancement or protection of land, air and water resources within urban areas or affected by urban activities;
(h) protecting indigenous biodiversity and historic heritage; and
(i) avoiding or mitigating natural and other hazards.

67. The RPS was finalised in 2010 and whilst there was an interim review undertaken in 2017, a full review has not since commenced.
68. Since the RPS came into effect there have been a number of key policy changes at the national level including the NPS-UDC and NPS-UD.
69. I note that there is a potential conflict in policy direction between the RPS and NPS-UD in relation to amenity values being maintained or enhanced (Policy SUD 1 (a)) or being expected to change over time (NPS-UD Objective 4 and Policy 6).
70. When there is a conflict between the RPS and the NPS-UD, I am of the view that the NPS-UD takes precedence as it is the most recent higher order document that plans are required to give effect to.
71. For example, RPS SUDPOLICY 1 (a) encourages high quality urban design, including the maintenance and enhancement of amenity values. I consider that the direction to “maintain and enhance amenity values” is inconsistent with the direction of Objective 4 and Policy 6 of the NPS-UD which provide for urban environments and amenity values to development and change over time.
72. Should the RPS be updated to give effect to the NPS-UD (or other high order documents for that matter), Council will be required to assess whether it meets the requirements of the RPS and, if not, update its District Plan via a Variation or Plan Change.

Operative District Plan 2005.

73. As outlined earlier in this report the Objectives and Policies of the ODP 2005 have effectively been superseded by the provisions of the PDP.

Proposed District Plan 2019.

74. I have outlined the relevant Strategic Objectives as well as Objectives and Policies of the MDRZ and Coastal Environment Chapter below.

Strategic Objectives

75. For the purposes of deciding on applications for resource consent, all other Objectives and Policies in all other chapters of the PDP are to be read and achieved in a manner consistent with the strategic objectives.

Urban Form and Development

UFD-18 *The district develops and changes over time in a cohesive, compact and structured way that:*

- 1. delivers a compact, well-functioning urban form that provides for connected, liveable communities;*
- 2. manages impacts on the natural and cultural environment;*

3. *recognises and provides for the relationship of tangata whenua with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes and other taonga of significance;*
4. *enables greater productivity and economic growth;*
5. *enables greater social and cultural well-being;*
6. *takes into account the short, medium and long-term potential impacts of natural hazards, climate change and the associated uncertainty;*
7. *utilises existing infrastructure and social infrastructure or can be efficiently serviced with new infrastructure and social infrastructure;*
8. *meets the community's short, medium and long-term housing and industrial needs; and*
9. *may detract from amenity values appreciated by existing communities but improve such values for new communities by providing increased and varied housing densities and types.*

76. The proposal is for an additional dwelling close to public transport and a variety of services and recreational areas. As such, the development contributes towards achieving a compact and well-functioning urban form under UFD-18(1).
77. Whilst the site lies within the Coastal Environment, it retains no obvious remaining natural or coastal character. Given the site lies within a statutory acknowledgement area, a copy of the application was forwarded on to Te Atiawa iwi with no comments being received. Overall, the proposal is not inconsistent with either UFD-18(2) or (3).
78. The development provides for localised economic growth contributing to a compact urban form and through the employment of people associated with the construction industry consistent with UFD-18(4).
79. The provision of modern housing stock would provide for an improved sense of social well-being for future inhabitants consistent with UFD-18(5).
80. Based on the information to hand, the site does not appear to be subject to any short, medium or long-term potential natural hazards or climate change impacts such as sea level rise of an enhance flooding risk. The development is therefore consistent with UFD-18(6).
81. The application site is already connected to existing 3-water, roading, public transport, recreational and social infrastructure in line with UFD-18(7).
82. The development assists the community in meeting its housing needs consistent with UFD-18(8).
83. UFD-18(9) addresses negative changes in existing amenity values that may occur as a result of changes to urban environments. UFD-18(9) directs that there is no presumption in favor of the status quo that existing character or amenity levels are to be strictly maintained or protected.

Medium Density Residential Zone

Objectives

- MRZ-01** *The Medium Density Residential Zone is predominantly used for residential activities and is characterised by medium density housing up to three storeys high in a variety of forms.*

84. The proposal is for an additional large dwelling which is two stories in height consistent with the direction of Objective MRZ-O1.

MRZ-02 *The role, function and planned residential character of the Medium Density Residential Zone is not compromised by non-residential activities.*

MRZ-03 *There is an increase in the variety of housing densities, types, sizes and tenures to respond to community needs, while also responding appropriately and sensitively to the context, planned character, tangata whenua values and amenity values of the surrounding neighbourhood.*

85. Whilst the proposal would not increase or diversify the housing types in the area, the development is considered to be generally consistent with MRZ-O3 given:

- The proposal complies with majority of the bulk and location Effects Standards of the underlying zone including height, building coverage, side yard setbacks, minimum outlook space, minimum private open space and minimum permeable area. This generally demonstrates that the siting and design of the dwelling is appropriate for the site.
- Whilst this submitters property would experience some negative building dominance effects, the effect is considered acceptable and overall, this property would continue to receive good levels of amenity.
- Increased built density is consistent with the role and function of the MDRZ.

MRZ-04 *Residential buildings provide occupants and neighbours with well-designed living environments.*

MRZ-05 *Buildings are well designed, use land efficiently and contribute positively to the delivery of a compact urban form.*

86. The application site is zoned for medium density residential purposes and lies within an established residential area close to a range of existing built, social and recreational infrastructure. The proposal for a single modern dwelling is an efficient use of the land and helps to achieve the goal of a compact urban form for the city.

MRZ-06 *Changes to the planned character and increased housing capacity do not result in incompatible built form and adverse changes to landform that compromise streetscape amenity and natural features.*

87. Consistent with my findings in the notification report and paragraph 33 above, I consider that effects on the streetscape are compatible with character of the area. Furthermore, the site contains no notable natural features or character which could be affected.

MRZ-07 *Adverse effects of activities are managed to provide residential amenity consistent with the planned character of the Medium Density Residential Zone.*

88. Consistent with the anticipated change directed under Strategic Objective UFD-18(9), Policy MRZ-P7 seeks to "manage" rather than avoid adverse effects to ensure residential amenity is consistent with the planned character of the zone.

89. In my view, the effects of the proposal, whilst not avoided or mitigated would not be significant. Whilst the effects met the relevant threshold for limited notification, the effects are not inconsistent with those effects created as existing urban areas develop and changes over time.

Policies

MRZ-P1 *Allow activities that are compatible with the role, function and planned character of the Medium Density Residential Zone, while ensuring their design, scale and intensity are appropriate, including:*

- 1. residential activities;*
- 2. boarding houses;*
- 3. Māori purpose activities;*
- 4. home businesses;*
- 5. residential visitor accommodation;*
- 6. supported residential care facilities;*
- 7. educational facilities; and*
- 8. medical and health services.*

90. The proposal is for residential activities which are a compatible with the role, function, and planned character of the MDRZ. Whilst the proposal requires land use consent, effects are in my view, acceptable. Overall the scale of the proposal is compatible with the role and function of the MDRZ.

MRZ-P2 *Manage activities that are potentially compatible with the role, function and planned character of the Medium Density Residential Zone, and ensure it is appropriate to establish such activities in the Medium Density Residential Zone having regard to whether:*

- 1. the purpose of the activity assists in enabling a range of housing choices in the district, services neighbourhood needs or enhances social connectivity;*
- 2. the scale of the activity, site design and layout and built form is well-designed and integrates with the character of neighbouring residential properties and the streetscape;*
- 3. the location of non-residential activities is close to and accessible to existing centres and not in isolated locations;*
- 4. the activity has the potential to undermine the viability of a nearby centre; and*
- 5. there is adequate existing or planned infrastructure to service the activity.*

Potentially compatible activities include:

- 1. four or more residential units per site;*
- 2. retirement villages;*
- 3. childcare services;*
- 4. community facilities;*
- 5. visitor accommodation;*
- 6. general retail activities;*
- 7. supermarkets;*
- 8. entertainment and hospitality activities;*
- 9. business service activities;*

10. sport and recreation activities; and
11. emergency services facilities.

91. Given the proposal is for residential activities, MRZ-P2 is not considered relevant to this decision.

MRZ-P3 *Avoid activities that are incompatible with the role, function and planned character of the Medium Density Residential Zone, or activities that will result in:*

1. *reverse sensitivity effects or conflict with permitted activities in the zone; or*
2. *adverse effects, which cannot be avoided, or appropriately remedied or mitigated, on the planned medium density residential character and amenity values.*

Incompatible activities include:

1. *industrial activities;*
2. *primary production and rural industry;*
3. *commercial service activities;*
4. *large format retail activities; and*
5. *integrated retail activities.*

92. Residential activities are not considered to be incompatible with the role, function and planned character of the MRDZ.

MRZ-P5 *Encourage residential development which provides a range of housing types and sizes, including social housing and lower cost, market rate housing, taking account of the housing requirements of different households, especially those on low to moderate incomes.*

93. Policy MRZ-P5 is not considered to be of major relevant to this application as it involves a single large dwelling.

MRZ-P6 *Allow residential development that is consistent with the role, function and planned residential character of the Medium Density Residential Zone by controlling:*

1. *the number, design and layout of residential units per site;*
2. *building height, bulk and location;*
3. *site coverage and outdoor living space;*
4. *setbacks from boundaries; and*
5. *height in relation to boundaries.*

94. The effects of the failing to meet HIRB and boundary fencing requirements are limited to the immediate streetscape and common boundary with number 28 Woolcombe Terrace. The effects are at the lower end in terms of their magnitude and are acceptable.

MRZ-P7 *Require the effects generated by activities to be of a type, scale and level that are appropriate for the Medium Density Residential Zone, including by:*

1. *controlling noise, vibration, light or glare (particularly at night);*

2. *minimising adverse effects on the local transport network, including from inappropriate traffic volumes by providing sufficient on-site parking, servicing, manoeuvring, pedestrian and cycling space;*
3. *managing earthworks, subdivision and construction work;*
4. *ensuring the size, design and type of signage is compatible with the planned character and amenity of the residential area that the signage is located in; and*
5. *minimising hard surfacing and, where possible, retaining or providing visually prominent trees, bush and landscaping.*

95. Given the residential nature of the proposal, it is not expected that there would be ongoing and regular nuisance effects associated with lighting vibration and noise of a non-residential nature. The Effects Standards of the PDP remain in place to control any such effects. Any noise and vibration associated with the end stages of construction phase of the project would be inherently temporary in nature and can be mitigated through by consent conditions. The development is therefore consistent with MRZ-P7(1).
96. Given the development complies with all relevant transport related Rules and Effects Standards, consistency with MRZ-P7(2) is achieved.
97. As discussed earlier, consent has not been sought for departure from any earthworks Rules and Effects Standards. The development is therefore consistent with MRZ-P7(3).
98. MRZ-P7(4) is not considered to be relevant as the application does not seek dispensation for any signage requirements.
99. The development achieves compliance with Effects Standard MRZ-S8 (Minimum landscaped permeable surface area) thereby demonstrating consistency with Policy MRZ-P7(5).

MRZ-P8 *Require that development provides well-designed streetscapes, suitable residential amenity for surrounding properties and public places and does not result in overdevelopment of sites by:*

1. *ensuring that the height, bulk and form of buildings minimise adverse visual amenity effects, including a sense of enclosure or dominance;*
2. *reducing the visual effects of the scale and bulk of buildings through variations in facades, materials, roof form, building separation and other design elements;*
3. *orientating buildings to face the street (without compromising solar gain) and limiting the use of unarticulated blank walls and facades to reinforce the visual connection with the street;*
4. *discouraging the placement of accessory buildings, garages, parking areas and access ways that detract from, dominate or obscure housing as viewed from public places;*
5. *discouraging access ways and the use of high fences or walls on boundaries that limit opportunities for passive surveillance of the street or public open space and that run between properties and create low amenity or unsafe environments;*
6. *increasing the opportunities for landscaping and permeable surface areas, by minimising the amount of hard surfacing used, to support the overall visual amenity of sites; and*
7. *retaining visually prominent trees, indigenous habitat and established landscaping that contribute to the amenity of the site and neighbourhood and ecological connectivity.*

100. Whilst the development fails to meet the HIRB requirements to the boundary with 28 Woolcombe Terrace, the effects of this have been found to be acceptable consistent with MRZ-P8(1).
101. The use of tinted windows and vertical timber louvers assists in reducing privacy effects created by the proposal. Whilst the building fails to meet the HIRB requirements, it complies with height, side boundary setback, minimum permeable area and side boundary fencing requirements. Overall, there is adequate visual and built relief between the proposed building and neighbouring dwellings consistent with Policy MRZ-P8(2).
102. Despite not meeting the requirements related to the front boundary fence height, I have previously found that effects on the streetscape and neighbouring property to be acceptable. The development can therefore achieve consistency with MRZ-P8 (3)-(6). Policy MRZ-P8 (7) is not considered to be relevant to this proposal.

Coastal Environment

Objectives

- CE-01** *The natural character, landscape, historic, cultural and ecological values of the coastal environment are recognised and preserved, and where appropriate enhanced and restored.*
- CE-02** *Activities in the coastal environment enable people and communities to provide for their social, economic and cultural wellbeing and their health and safety, while ensuring adverse effects of activities on natural processes and the values of the coastal environment are avoided, remedied or mitigated.*
- CE-03** *Tangata whenua values, mātauranga and tikanga and their ability to practice kaitiakitanga are recognised and reflected in resource management processes concerning the coastal environment.*
- CE-04** *The risks to people and property from coastal hazards and climate change are avoided, remedied or mitigated.*

Policies

- CE-P2** *Protect natural character in the coastal environment by ensuring:*
- 1. adverse effects on the natural characteristics, processes and values which contribute to Areas of Outstanding Natural Character are avoided;*
 - 2. significant adverse effects on the natural characteristics, processes and values which contribute to other coastal natural character are avoided; and*
 - 3. other adverse effects on the natural characteristics, processes and values which contribute to coastal natural character are avoided, remedied or mitigated.*
- CE-P3** *Allow activities within the coastal environment which:*
- 1. appropriately avoid, remedy or mitigate adverse effects on natural processes, coastal natural character, landscape, amenity, historic, cultural and ecological values; and*
 - 2. mitigate any significant hazard risks to people, property and the environment to an acceptable level; and*

3. *Either:*

- a. *have an operational need or functional need to be located in the coastal environment, such as Port Taranaki or the National Grid; or*
- b. *provide for Māori purpose activities.*

CE-P4

Manage the scale, location and design of activities within the coastal environment that have the potential to adversely affect coastal natural character, landscape, amenity, historic, cultural and ecological values, indigenous vegetation and habitats of indigenous fauna or that have the potential to increase or be vulnerable to coastal hazards, including:

1. *building activities;*
2. *multi-unit development;*
3. *industrial activities;*
4. *network utilities;*
5. *earthworks; and*
6. *subdivision.*

CE-P8

Ensure activities are not located inappropriately within the coastal environment, having regard to:

1. *the effects of the activity and its impact on the particular natural character, landscape, amenity, historic, indigenous vegetation and habitats of indigenous fauna, ecological and recreational values of the area;*
2. *the outcomes of any consultation with tangata whenua, including any expert cultural advice provided, including the extent to which the activity may compromise the relationship of tangata whenua with their ancestral lands, water, sites, wāhi tapu, and other taonga, or the kaitiaki and mana whenua responsibilities of tangata whenua in the coastal environment;*
3. *the extent to which the values of the area are sensitive or vulnerable to change or whether any adverse effects can be avoided, or where avoidance is not possible, appropriately remedied or mitigated;*
4. *opportunities to enhance, restore or rehabilitate the particular values of the coastal environment of the area;*
5. *the presence of any natural hazards and whether the activity will exacerbate the hazard or be vulnerable to it;*
6. *the adoption of a risk-based approach to hazard management, including consideration of climate change and sea level rise over at least the next 100 years, taking a risk management approach to existing development; and a risk reduction (including avoidance where appropriate) approach to new development;*
7. *whether there is an operational need or functional need for the activity to be located in the coastal environment;*
8. *the positive effects associated with the activity; and*
9. *whether the activity maintains or enhances public access to and along the coast and recreation within the coastal environment, including to the Waiwhakaiho surf break, and regionally significant surf breaks*

within the New Plymouth District as identified in the Proposed Coastal Plan for Taranaki (Decisions version at 5 October 2019).

CE-P9 *Require activities within the coastal environment to avoid, remedy or mitigate adverse landscape, indigenous vegetation and habitats of indigenous fauna, visual and amenity effects by:*

- 1. ensuring the scale, location and design of any built form or land modification is appropriate in the location;*
- 2. integrating natural processes, landform and topography into the design of the activity, including the use of naturally occurring building platforms;*
- 3. limiting the prominence or visibility of built form from public places and the coast;*
- 4. where possible, limiting expansion of existing urban coastal settlements; and*
- 5. retaining existing indigenous vegetation and habitats of indigenous fauna (excluding planted vegetation that is not subject to a conservation covenant), and restoring and rehabilitating indigenous vegetation and habitats of indigenous fauna, using coastal plant species sourced from the relevant ecological district.*

103. The development is considered to achieve consistency with the Coastal Environment Objectives and Policies given:

- the site lies within a heavily modified urban landscape;
- redevelopment of the site with a large dwelling is consistent with its existing use
- the site retains no obvious natural or coastal character or existing vegetation;
- development on the southern side of Woolcombe Terrace is characterised by large, detached dwellings which are 2-3 stories in height;
- the development would not exacerbate coastal hazards and climate change risks;
- the site contains no specific cultural, historic or ecological values; and
- the proposal does not impact on public access to the coast.

OTHER MATTERS - s104(1)(c)

104. Given the application site lies within a Statutory Acknowledgement Area, the application is subject to Tai Whenua, Tai Tangata, Tai Ao the Iwi Environmental Management Plan of Te Kotahitanga o Te Atiawa.

105. As outlined in the s95 report, a copy of the application was sent to te Atiawa iwi on the 26th of June 2024. No comments were received prior to the notification decision.

106. In the absence of any specific comments from iwi, I consider that development is consistent with the Objectives and Policies of the iwi management plan the development given:

- there are no recorded sites of cultural significance either on the application site or immediate surrounding area
- the use of the site for residential activities is consistent with the role and function of the underlying zone;
- earthworks do not form part of this application;

PART 2 OF THE RMA

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

RECOMMENDATION

108. That for the above reasons, the application be **granted** pursuant to Section 104 & 104B of the Resource Management Act subject to the draft conditions contained in Appendix 3.

Report and recommendation by:

Report and decision by:



Campbell Robinson
Consultant Planner



Reviewed by:

Richard Watkins
Principal Planner

Date:

4th March 2025

Appendix 1: Limited Notification Report.

**NOTIFICATION REPORT UNDER SECTION 95 OF THE RESOURCE MANAGEMENT
ACT 1991 FOR LANDUSE CONSENT APPLICATION LUC24/48512**

Applicant:	Bryan & Kim Roach & South Taranaki Trustees Limited
Site Address:	24/26 Woolcombe Terrace, New Plymouth
Legal Description:	Part Lot 1 DP 4522 and Part Lot 2 DP 5012 (RT 961499)
Site Area:	904m ²
Proposed District Plan Zoning:	Medium Density Residential Zone
District Plan Overlays	Coastal Environment Woolcombe Terrace is a "Local Road"
Proposal	Construction of a new dwelling and associated fencing and retaining walls (retrospective)
Status:	Discretionary Activity under the Proposed District Plan

SITE DESCRIPTION AND SURROUNDING ENVIRONMENT

1. The site (refer Image 1 and Figure 1) is located at 24 and 26 Woolcombe Terrace. The property contains two existing dwellings including a recently built two-storied home located on the eastern side of the site.

Image 1: Existing eastern dwelling, 26 Woolcombe Terrace. Source: Site Visit.



Figure 1: 24/26 Woolcombe Terrace. Source: McKinlay Surveyors.



2. The site is bound by existing residential properties to the south, east and west and to the north by the Woolcombe Terrace legal road. Beyond the roadway is the New Plymouth foreshore. The foreshore parcel of land includes common green space and planting at the top of the coastal escarpment as well as the New Plymouth coastal walkway located at the foot of the cliff immediately adjacent to the foreshore. The coastal margin forms part of the Statutory Acknowledgement Area of Te Atiawa Iwi¹.
3. Please refer to Section 3.1-3.4 of the assessment of environmental effects by McKinlay Surveyors for further contextual information about the site.

ADEQUACY OF INFORMATION

4. The applicant has provided the following information to complement the application:
 - Assessment of environmental effects (AEE) by McKinlay Surveyors.
 - Drawing package including shading diagrams by BOON Architects.
5. Overall, an acceptable level of detail was provided to meet the purposes of Section 88 of the RMA.
6. Further information was requested of the applicant on 4th July 2024. Further information was formally accepted on 24th of September 2024.
7. In conjunction with the information provided under Section 92 of the Act, a full assessment of the effects of the development has been possible.

¹ As defined within the Te Atiawa Claims Settlement Act 2016.

PROPOSAL

8. The applicant seeks land use consent for construction of the as-built dwelling as well as retaining and fencing structures on the northern boundary of the site. The as-built structures are shown in Figures 3-5 and fail to comply with Rules MRZ-R30, MRZ-R32 and CE-R5.
9. The as-built dwelling is approximately 30m in length, 10m in width at its widest point and 8.155m in height. The dwelling is orientated towards the north to take advantage of prominent views over the coastal margin and has an area of 199m².
10. The dwelling is accessed via a single vehicle access located between 24 and 26 Woolcombe Terrace and by a pedestrian access on the eastern side of the dwelling adjacent to 28 Woolcombe Terrace.

STATUTORY REASONS FOR THE APPLICATION & ACTIVITY STATUS

National Environmental Standards

11. Regulation 5(5) of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES) describes and development as an activity to which the NES applies where an activity that can be found on the Ministry for the Environment Hazardous Activities and Industries List (HAIL) has occurred.
12. I have checked the TRC Selected land Use register and there is no evidence that the site has contained an activity listed on the HAIL. Therefore, the NES does not apply.

Proposed New Plymouth District Plan 2023.

13. The site lies within the Medium Density Residential Zone (MRZ) and within the Coastal Environment Area (refer Figure 2).

Figure 2: Proposed District Plan Zoning.



14. An assessment against the relevant Rules and Effects Standards of the PDP is included in Tables 1 and 2 below:

Table 1: Applicable Rules.

Rule #	Rule Name	Status	Comment
CE-R5	Building activities within the Coast Environment	Discretionary	The development fails to meet the Effects Standard of the underlying MDZ and therefore fails to meet the permitted activity criteria under Rule CE-R5.
MRZ-R1	Residential activities (excluding residential buildings)	Restricted Discretionary	The development fails to comply with 2 separate MRZ Effects Standards and therefore triggers the requirement for a land use consent.
MRZ-R30	Building activities including demolition or removal of a structure	Restricted Discretionary	The development fails to comply with 2 separate MRZ Effects Standards and therefore triggers the requirement for a land use consent.
MRZ-R32	Building activities that do not comply with MRZ-S3 Height in Relation to boundary, but comply with MRZ-S4 Alternative Height in Relation to Boundary	Restricted Discretionary	The as-built dwelling does not comply with Effects Standard MRZ-S3 but complies with MRZ-S4. Rule MRZ-R32 includes a non-notification clause however the relief from the notification assessment under this rule is applied in this instance as the other applicable rules to this proposed (Rules MRZ-R30 and CE-R5) do not have a non-notification clause.

Table 2: Applicable Effects Standards.

Effects Standard	Effects Standard Name	Complies?	Comment
MRZ-S3	Height in relation to boundary (HIRB)	No	The as-built dwelling fails to comply with the 3m + 45° requirement relative to the boundary with 28 Woolcombe Terrace (refer Figures 3 and 4 ²). The area of the infringed by the Standards form is wedged shaped and has a combined length of 29.1m. The breach has a maximum height of 1.9m near the northern elevation of the building.
MRZ-S4	Alternative height in relation to boundary	Yes	Effects Standard MRZ-S4 relates to buildings within the first 20m of the site. The as-built dwelling complies with this Effects Standard.
MRZ-S10	Maximum fence or wall height	No	MRZ-S10 1. outlines that no fences or walls or a combination of these structures whether separate or joined

² Refer drawing numbers SK1.0 and SK3.0 By BOON Architects, dated 6th August 2024.

			together) within the front yard on "local Roads" shall exceed 1.4m in height about the existing ground level. The combined height of the as-built wall and glass balustrade would be 2.28m for length of 11.41m.
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15. I am satisfied that the proposal complies with all other Effects Standards and Rules under the PDP.
16. Overall, the proposal is a **Discretionary Activity** under Rule CE-R5 of the PDP being the highest activity status.

Status of the application following release of Proposed District Plan - Appeals Version.

17. Decisions on the Proposed District Plan (PDP) were released on the on the 13th of May 2023. The decisions version of the PDP was the subject to an appeal period which closed on the 26th of June 2023. Twenty-two appeals were received in total³. On the 14th of September 2023, the Council released the appeals version of the PDP which identified those parts of the PDP which were effectively settled and those which remain under appeal.
18. Under Section 86F of the RMA, a Rule in a Proposed Plan must be treated as operative (and any previous rule as inoperative) if the time for making submissions or lodging appeals on the rule has expired, and in relation to the rule:
 - no submissions in opposition have been made or appeals have been lodged; or
 - all submissions in opposition and appeals have been determined.
19. No appeals were received in relation to either the decisions on the underlying zoning or the provisions of the relevant Rules or Effects Standards of the Medium Residential Zone.
20. Whilst an appeal has been received on Rule CE-R5⁴, there is no equivalent Rule under the Operative District Plan (ODP).
21. On this basis, I able to determine that the application does not require consent under the ODP, and that the proposal only requires consent under the PDP.

³ [Appeals \(npdc.govt.nz\)](https://npdc.govt.nz/)

⁴ Royal Forest & Bird Protection Society ENV-2023-AKL-000094

Notification Report LUC24/48512: 24 & 26 Woolcombe Terrace.



Figure 4: Eastern and Northern Elevations. Source: BOON Architects.

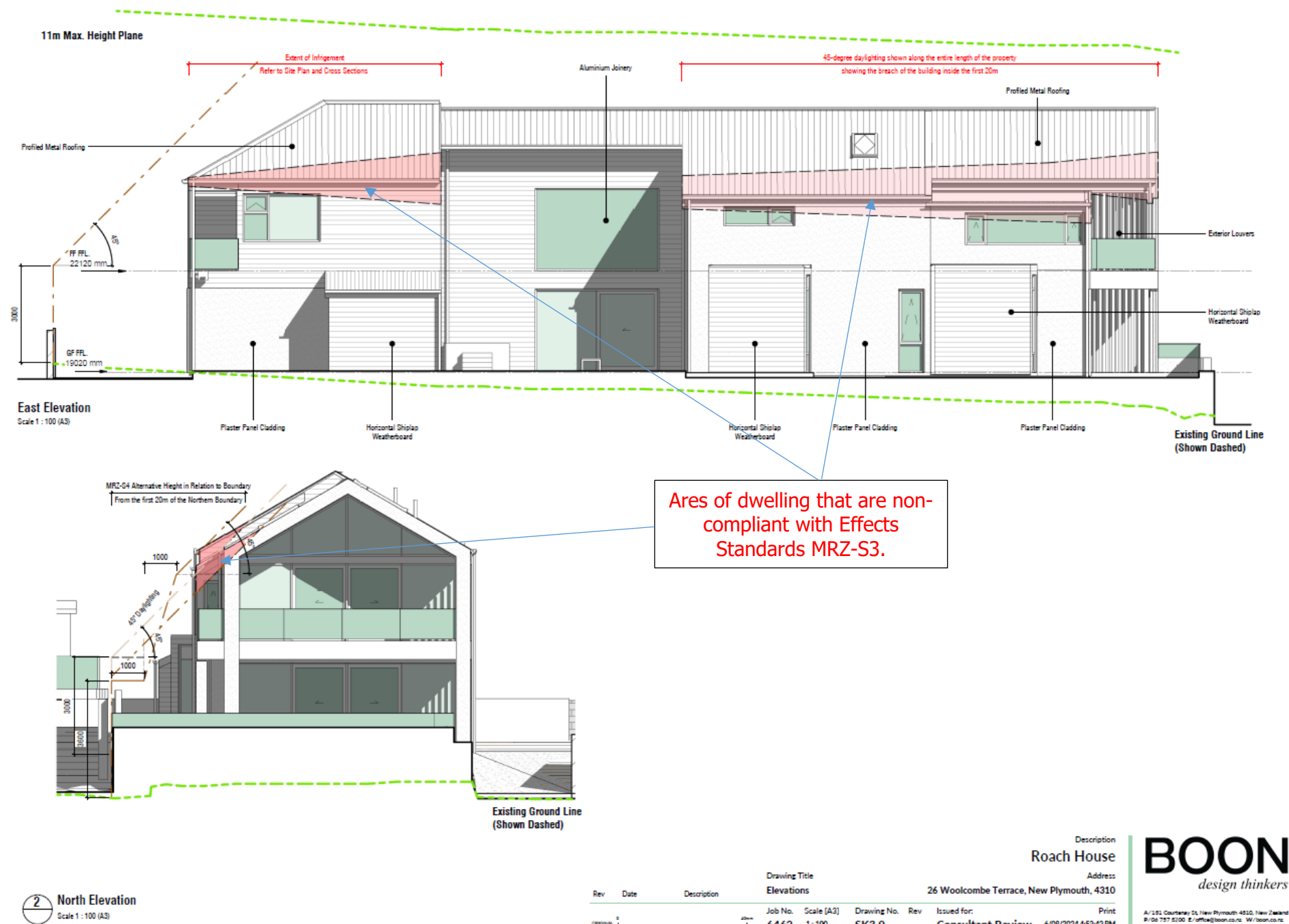
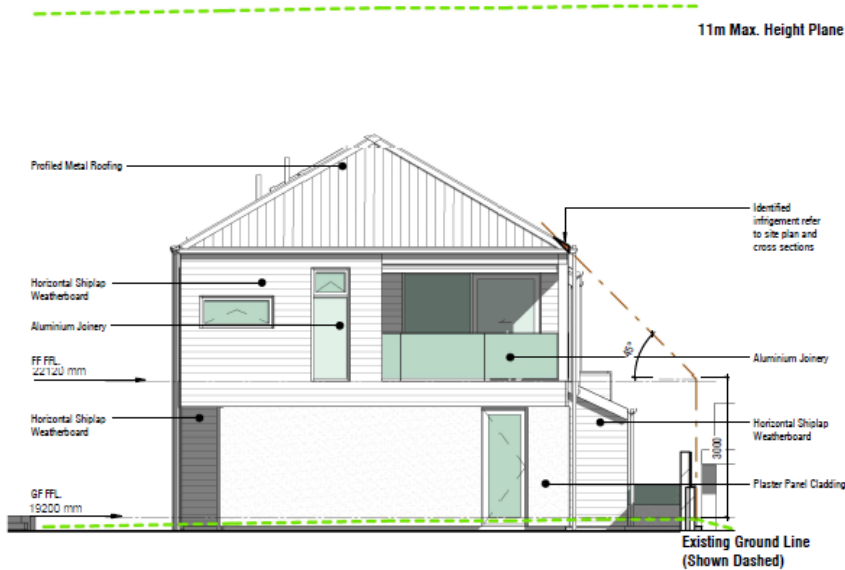


Figure 5: Western and Southern Elevations. Source: BOON Architects.



West Elevation
Scale 1 : 100 (A3)



South Elevation
Scale 1 : 100 (A3)

Rev			Date	Description	Drawing Title		Description		Address		Print	
ORIGINAL			6/08/2024		Elevations		26 Woolcombe Terrace, New Plymouth, 4310		Roach House		6/08/2024 4:53:50 PM	
Rev	Date	Description	Job No.	Scale [A3]	Drawing No.	Rev	Issued for:	Consultant Review	6/08/2024 4:53:50 PM	Print		
6462	1: 100	SK3.1										

BOON
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NOTIFICATION DECISION

Public Notification (Section 95A)

22. The Council as consent authority must follow the steps set out in the section below, in the order given, to determine whether to publicly notify an application for a resource consent (s95A(1)).

Step 1: Mandatory public notification in certain circumstances

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

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

- The application is not subject to a rule or national environmental standard that precludes notification.
- The application is not precluded from public notification given it is for a Discretionary Activity and fails to meet the preclusion tests under Sections 95A(5) of the Act.

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

- The application is not for a resource consent for one or more activities subject to a district plan rule or NES that would require notification.
 - The consent authority decides, in accordance with Section 95D that the activity will have or is likely to have adverse effects on the environment that are more than minor.
23. The following effects have been disregarded for the purposes of the notification decision (s95D and 95E):
- Whilst the existing environment can be considered, the constructed dwelling at 26 Woolcombe Terrace requires a resource consent. The structure itself cannot then therefore form part of the lawfully established existing environment.
 - Whilst the proposal requires consent as a discretionary activity under Rule CE-R5, this Rule is triggered due to the failure to meet the Effects Standards of the underlying zone (MRZ-S3 and (MRZ S-10). It is therefore appropriate to apply the permitted baseline to this development.
 - Effects on persons who own or occupy the site have been disregarded for the public notification assessment.
 - I am not aware of any trade competition effects relating to this application.
 - No written approvals have been provided with the application.

Assessment of Effects on the Wider Environment

24. In light of the matters which trigger the need for consent under the PDP I considered the following effects:
- Streetscape.
 - Effects on the coastal environment.

Streetscape:

25. The applicant seeks consent for the as-built combination of wall and glass balustrading on the northern boundary of the site. The rock wall retains the higher ground level on the application and aims to prevent falls from the area atop the retaining wall is accessible from external and internal areas of the dwelling.
26. Possible adverse effects on the streetscape have been considered by Mr Lawn in his response to further information response⁵. Their response quantifies the level of non-compliance relative to Effects Standard MRZ-S10 outlining that the combined height of the wall/balustrade above the original ground level of the site is 2.34m. This is 0.94m above the 1.4m permitted activity threshold.
27. Whilst the development does not comply with the maximum fence height on the northern boundary, the as-built outcome is typical of many examples on the southern side of the terrace including examples at 18, 20, 24/26 (western dwelling) and 32 Woolcombe Terrace (Images 2-5). In these examples, front boundaries have been developed to provide for raised decking areas which overlook the coast including combinations of block walls and glass balustrading similar in form and function with the as-built stone wall and balustrade. In the case of image 2 (18 Woolcombe Terrace), the front of the first-floor façade of the dwelling itself is located at the boundary line. Overall, I agree with assessment within the application that the proposal is not inconsistent with the built character of the area.
28. Whilst the combined height is well in excess of the 1.4m permitted threshold, the top of the combined structure is finished in permeable glass which reduces its prominence within the landscape. Overall, the design of the combined structures mitigates and avoids visual or built dominance effects on the adjacent street.

Image 2: 18 Woolcombe Terrace.



⁵ Refer amended Assessment of Environmental Effects dated 14th August 2024.

Image 3: 20 Woolcombe Terrace.



Image 4: Eastern dwelling 24/26 Woolcombe Terrace.



Image 5: 32 Woolcombe Terrace.



Coastal Environment:

29. Given the proposal fails to comply with the Effects Standards of the underlying zone, land use consent is required under the Coastal Environment Chapter (Rule CE-R5).
30. The southern side of Woolcombe Terrace is a highly modified urban environment featuring large modern homes overlooking the Nerw Plymouth Coastline. The building activities which have occurred on the site are typical of brownfield redevelopment overtime where older dwellings are either significantly renovated or removed altogether and placed by modern purpose-built homes.
31. The site contains no recorded or observed landscape, amenity, historic, cultural and ecological values and does not contain any notable or protected, indigenous vegetation or indigenous fauna habitats.
32. Whilst the property and wider area are located within the coastal environment, there are no specific natural hazard risks pertaining to the site itself. Based on the information to hand, the building activities which have occurred on the site would not add too or exacerbate the risks of natural hazards.
33. Overall, I agree the analysis offered in Section 5.5 AEE, that the effects of the proposal on the Coastal Environment would be minor.

Step 4: Public Notification in special circumstances

34. The proposal does not include an exceptional or unique matter which would meet the threshold of being considered as a special circumstance.

Public Notification Conclusion

35. It is concluded under Section 95A of the RMA that the application does not need to be publicly notified.

Limited Notification (Section 95A)

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

- No protected customary rights groups or customary marine title groups are affected by the activity.
- The application site is adjacent to, or may affect, land that is the subject of a Statutory Acknowledgement Area. A copy of the application was sent to iwi on the 26th of June 2024. No comments were received at the time of writing this report.
- Whilst it is for iwi to outline the potential effects of a development on their rohe, it is ultimately for the Council to determine if any effects meet the threshold for limited notification. In the absence of any specific comments from iwi, I consider that effects on the statutory acknowledgement area are less than minor given:
 - the development would not physically impact on the foreshow land parcel opposite the application site;
 - the use of the site for residential purposes is consistent with the underlying Medium Density Residential Zone;
 - Earthworks as associated with this development do not form part of this application.

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

- The application is not subject to a rule or national environmental standard that precludes notification. The application is not precluded from limited notification as it fails to meet the preclusion tests under Section 95B(6)

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

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

Assessment of Affected Persons

36. Figure 5 below identifies those persons which are directly adjacent to the subject site. I have undertaken a review of each property to consider where they would be the subject to actual or potential effects and scale of effects involved. As part of my assessment, I have reviewed:
- Assessment of Environmental Effects by McKinlay Surveyors.
 - Architectural drawing package by BOON architects.
 - Observations and images collected during my site visit of the property.
37. In assessing the surrounding environment during my site visit, and when viewing the site using the aerial imagery available, I consider that no other persons would be potentially affected by the proposal at levels which would be minor or more than minor.

Property 1: 28 Woolcombe Terrace.

38. This property shares its western boundary with the application site. The property contains a large three-storied detached dwelling which is accessed via a single crossing point from the legal road. The property was built in 2013.
39. The as-built dwelling breaches height in relation to boundary Effects Standard MRZ-S3 along the common boundary of the property meaning that any effects of this proposal are most likely to be felt by this property. The area of the building which breaches the Effects Standards breach is shown in Figure 3 and includes areas of roof, eave, exterior cladding, private outdoor decking areas and windows. The as-built relationship between the two buildings is shown in images 6 and 7. Given there is no limits to the Council's discretion in assessing effects I have broadly grouped effects on this property in terms of three key areas being shading, privacy loss and building dominance or sense of enclosure.

Figure 5: Properties considered for assessment under Section 95B.



Image 6: Boundary between 26 and 28 Woolcombe Terrace looking south showing.

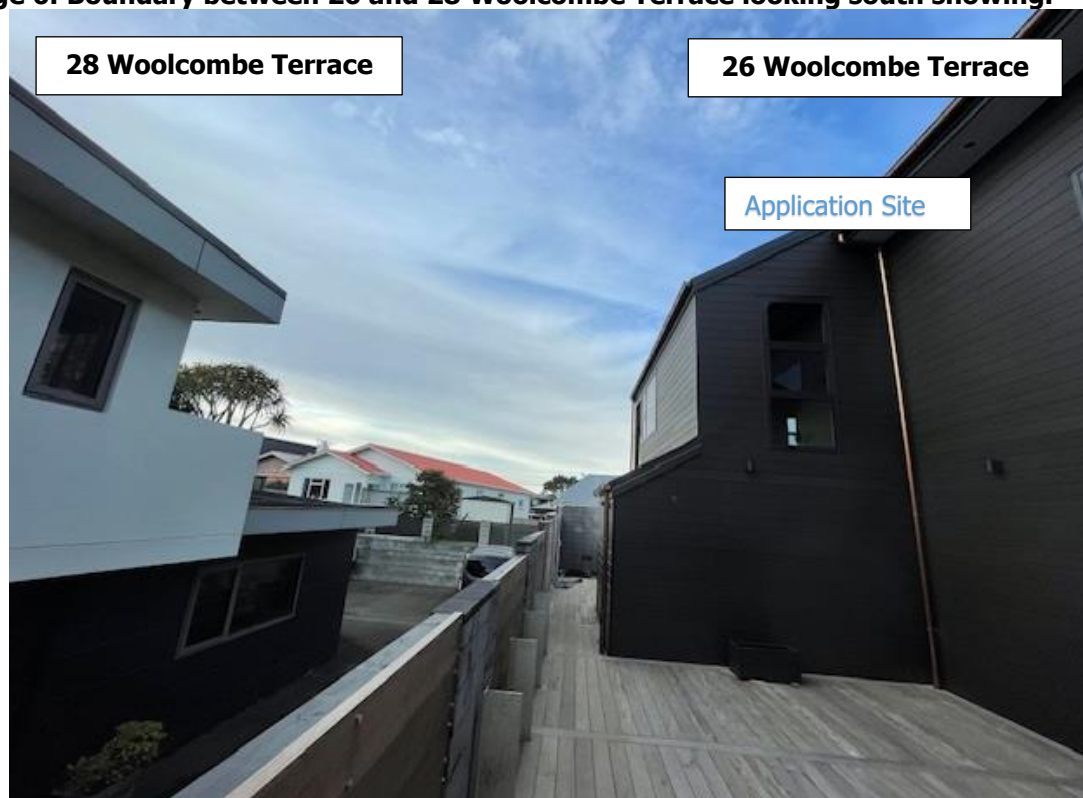


Image 7: Boundary between 26 and 28 Woolcombe Terrace looking north.



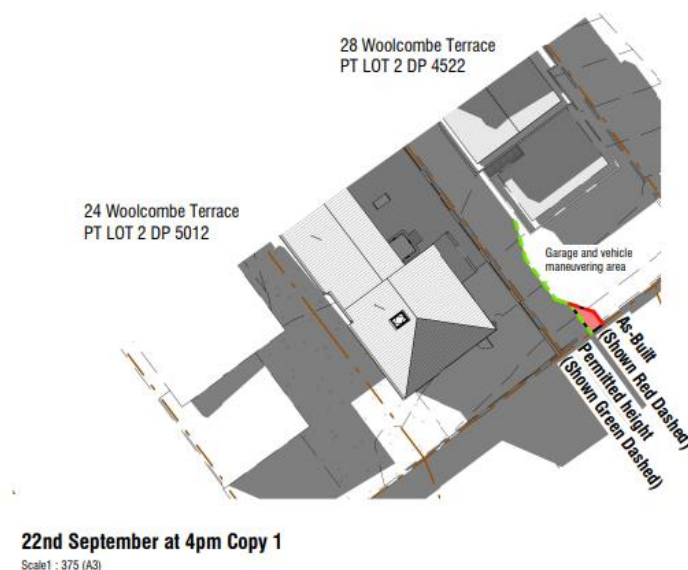
Shading Effects:

40. Possible shading effects are addressed on pages 20 and 21 of the AEE. The analysis is supported by shading diagrams by BOON architects⁶. The AEE provides the following statement of possible shading effects:

"The shading modelling shows that no shading from the eastern dwelling is present on the neighbouring property from morning to 3pm. At 4pm there is shading present on the southern end of the site. The modelling shows the permitted baseline shading (green dashed line) and the extent of additional shading from the breach of the recession plane (red area) as shown in Figure 17. This additional shading is located in the vehicle manoeuvring area of 28 Woolcombe Terrace and does not project onto any dwelling or outdoor area. The total area of additional shading equates to approximately 2m². Due to the minor increase in shading for a short period and the location of this being outside of any dwelling or outdoor area, the effects on 28 Woolcombe Terrace are considered to be less than minor."

41. Further to the analysis provided within the AEE, the applicant was also requested to provide further shading analysis as part of the of the Council's request for further information request⁷. A revised AEE was provided on the 14th of August which was complemented by additional shading diagrams by BOON architects outlining shading scenarios on the 21st of June and the 21st of December.
42. From the analysis provided, the diagrams comparing shading effects on the 22nd of September are the most relevant as this shows a clear different between an anticipated building and the as-built dwelling. As shown in Figure 6 below, the as-built dwelling would create some additional shading in late afternoon periods over and above a building of the same height which complies with the HIRB Effects Standard MRZ-S3⁸.
43. The area of number 28 which would be impacted by the additional shading is an area of hardstanding used in association for parking and manoeuvring located in the south-western corner of the site. The additional shading created does not appear to fall upon on the existing dwelling itself or any of its private outdoor spaces located at ground, first and second floor on the northern elevation (refer Figure 7).

Figure 6: Comparison of shading effects 22nd September.

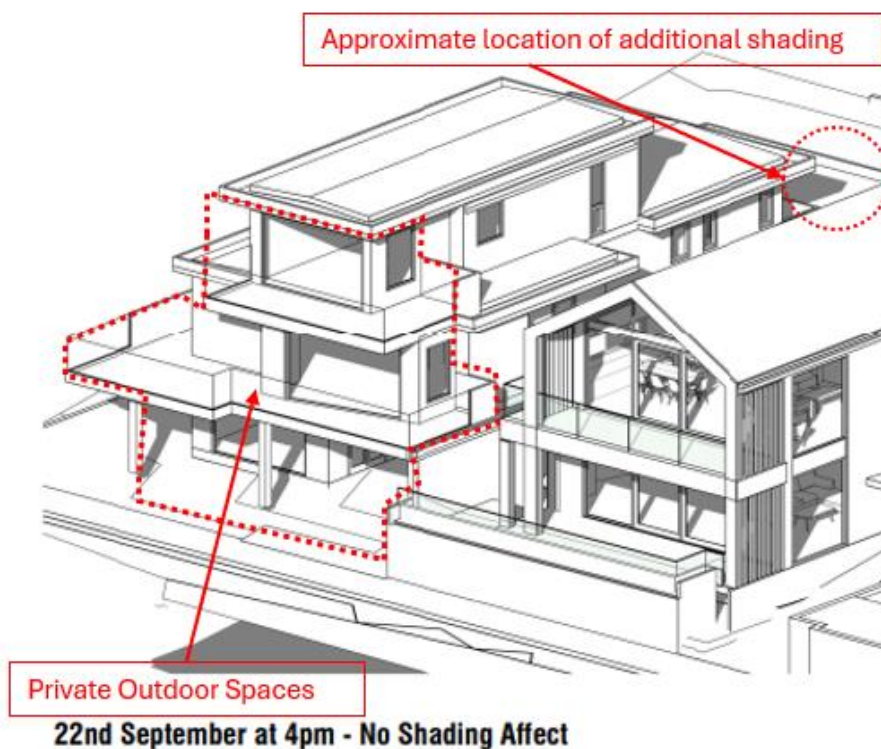


⁶ Refer Figures 15-17 of the AEE showing shading on 22nd September at 12pm, 3pm and 4pm.

⁷ Question 1 of the request for further information dated 4.7.24.

⁸ As built height of the dwelling is 8.155m.

Figure 7: Location of additional shading relative to private outdoor spaces.



44. Overall, I agree with the analysis put forward in the application that shading effects are less than minor. Whilst the development does create some additional shading over and above a building which complies with the HIRB standards, the shading is marginal in terms of its area and the time in which it would occur. Moreover, the area of the site affected is not particularly sensitive to additional shading.
45. I would have likely reached a different conclusion on shading effects if any additional shading created by the proposal had materially impacted the private outdoor spaces or internal living spaces of the adjoining dwelling.

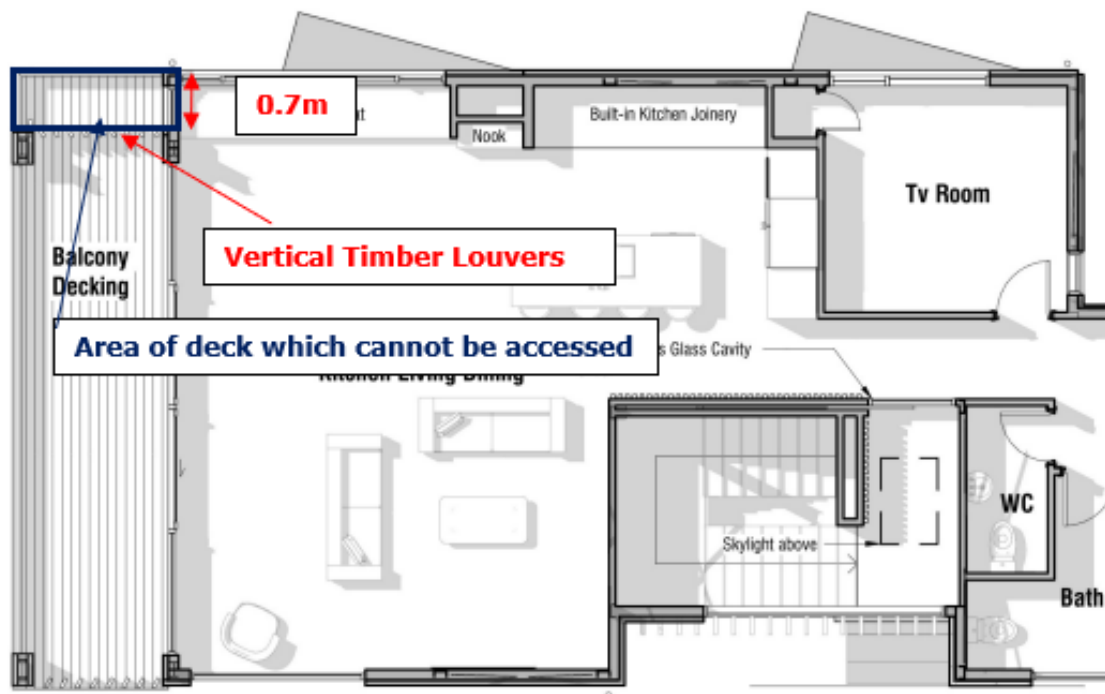
Building Dominance/Outlook/Sense of Enclosure:

46. Effects of this nature are addressed in pages 21 and 22 of the AEE. Building dominance effects can be broadly described as the sense of building enclosure or the sense of a building being too close or being overbearing. Building dominance effects can contribute to a feeling of a lack of visual or built relief between buildings impacting on the sense of outlook or amenity.
47. The overall combined length of HIRB infringement along the common boundary with number 28 is estimated at 21.9m. This represents approximately 75% of the total building length or 62% of the total boundary length between the properties. The areas of the as-built dwelling include roof, eaves, guttering, wall cladding, and first floor windows. It also includes an area decking at first floor level.
48. The proportion of the building which fails to comply with the Effects Standard is relatively high in the context of both the building and boundary length and would create a sense of being dominated or enclosed. Effects are at the lower end of magnitude but in my view would be at least minor.
49. Overall, I consider that the owners/occupiers of number 28 property would experience building dominance and enclosure effects that are at least minor resulting from the cumulative portion of eastern elevation which does not comply with the HIRB Effects Standard MRZ-S3.

Privacy:

50. Privacy effects are addressed on pages 28-30 of the AEE. I broadly agree with the analysis offered which concludes that privacy effects on 28 Woolcombe Terrace would be less than minor. Key findings which support this stance include:
- The area of the three first floor windows infringed is limited to the very top of the windows only.
 - The infringement of the southernmost window (master bedroom) appears to infringe the frame rather than the glass areas.
 - The middle window (tv room) is located 2.8m above the floor level and therefore promotes views of the sky areas rather than towards to the neighbouring property. Only a fraction of this window is infringed.
 - Access to the northmost window (kitchen) is blocked by a window seat.
 - The three infringed windows are tinted thereby moderating direct views between the properties.
 - Access to the area of the first-floor deck which fails to comply with MRZ-S3 is blocked by vertical timber louvers set-back 0.7m from the edge of the building. The placement of the louvers effectively avoids any overlooking or privacy loss from this aspect of the infringement (refer Figure 8).

Figure 8: First floor decking areas – 26 Woolcombe Terrace.



51. The over height wall/balustrade on the street facing boundary would create no material adverse effect on the adjoining private boundary with number 28. The fence height on the common boundary between the property complies with the requirements of the Effects Standard MRZ-S10.

52. Overall, whilst adverse privacy and shading effects are less than minor, I consider that the cumulative amount of dwelling which infringes the HIRB Effects Standards would result in a sense of building dominance or sense of enclosure. Effects on the owners/occupiers of 28 Woolcombe Terrace are at least minor and meet the threshold for limited notification.

Property 2: 22 Woolcombe Terrace.

53. This property is located on the eastern side of number 24 Woolcombe Terrace and contains a large two-storied detached dwelling.
54. Whilst the dwelling technically adjoins the application site, the dwelling is located to the east of 24 Woolcombe Terrace. Whilst the dwelling may have some oblique views of the as-built dwelling at number 26, any effects would be screened by the building at number 24 and reduced to a less than minor magnitude.

Property 3: 33 Buller Street.

55. This property is located to the south of the application site and contains a modestly sized single-storied dwelling and detached garage. The property features areas of private outdoor space to the north-west of the property. The as-built dwelling complies with all bulk and location effects standards relative to the site at 33 Buller Street
56. Whilst the as-built dwelling is clearly visible from this property, any effects obviously visible, is consistent with the planned character of the underlying zone.
57. Property 4 includes the coastal margin on the opposite side of Woolcombe Terrace. The strip of land runs along the northern side of Woolcombe Terrace and lies within the legal road parcel. Effects on this parcel have been assessed under step 3 of Section 95A.

Step 4: Further notification in special circumstances

58. I consider that no special circumstances exist that warrant the application being limited notified under Section 95B(10) to other parties other than those identified under Step 3.

CONCLUSION

59. That the application for land use consent be the subject of limited notification under s95B of the Act. The notification is limited to the following parties outlined in Table 3 below:
60. The limited notification will commence on Monday the 4th of November 2024 and conclude no later than 5pm on Friday the 29th of November 2024.

Table 3: Limited Notification Details

Property Address	Persons/Owners
28 Woolcombe Terrace	GM Whyte and JS Whyte

Report by:



Campbell Robinson
Consultant Planner

Date: 30TH October 2024

Reviewed and decision by:



Richard Watkins
Principal Planner

30th October 2024.

Appendix 2: MDRZ Effects Standard Table.

Effects Standard #	Effects Standard Name	Complies?	Comment
MRZ-S1	Maximum structure height	Yes	The Effect Standard allows for a height of 11m plus an additional 1m in height for 50% of a building's roof elevation, measured vertically from the junction between wall and roof, where the entire roof slopes 15 degrees or more. The proposed dwelling has a maximum height of 9m.
MRZ-S2	Maximum building coverage	Yes	MRZ-S2 provides for a building coverage of up to 50%. The proposed building coverage would be 48.4%.
MRZ-S3	Height in relation to boundary	No	The dwelling fails to comply with the 3m + 45° requirement relative to the boundary with 28 Woolcombe Terrace. The area of the infringed by the Standards form is wedged shaped and has a combined length of 29.1m. The breach has a maximum height of 1.9m near the northern elevation of the building.
MRZ-S4	Height in relation to boundary	Yes	Effects Standard MRZ-S4 relates to buildings within the first 20m of the site. The as-built dwelling complies with this Effects Standard.
MRZ-S5	Minimum building setbacks	Yes	<p>The Effects Standard requires:</p> <ol style="list-style-type: none"> 1. From a road boundary: 1.5m. 2. From a side boundary: 1m or less than 1m where the length of all buildings erected within 1m of the side boundary does not exceed 12m or 50% of the boundary whichever is the lesser. 3. For decks, balconies and terraces that are more than 2m above ground level and located along any side boundary: 2.5m. <p>The building would be setback over 1.5m from the side boundaries and more than 1.0m from the road boundary thereby meeting MRZ-S5 1. and 2. The applicant proposes to install vertical timber louvers on the eastern end of the first-floor balcony to achieve compliance with MRZ-S5 3.</p>
MRZ-S6	Outdoor living space requirements	Yes	The Effects Standard requires a minimum area of outdoor living space of 20m ² per residential unit. The proposed dwelling is able to meet this requirements of MRZ-S6 1. a-d.

MRZ-S7	Minimum outlook space	Yes	Each unit is required to provide outlook spaces in accordance with MRZ-S7 2. a-c including a space at least 4m wide x 6m deep for a principal living room, 3 x 3m for a principal bedroom and 1 x 1m for other bedrooms.
MRZ-S8	Minimum landscaped permeable surface area	Yes	The Effects Standard requires at least 25% of the application site to be either planted in grass, vegetation or landscaped with permeable materials. The proposal provides 29.6%.
MRZ-S9	Outdoor storage requirements	Yes	No outdoor storage is proposed
MRZ-S10	Maximum fence or wall height	No	MRZ-S10 1. outlines that no fences or walls or a combination of these structures (whether separate or joined together) within the front yard on "Local Roads" shall exceed 1.4m in height about the existing ground level. The combined height of the as-built wall and glass balustrade would be a maximum of 2.28m.

Appendix 3: Draft Conditions of Consent.

Approved Plans:

1. The use and development of the land shall be consistent with application No. LUC24/48512 including further information submitted during the processing of the application and with the following plans:

Plan No	Name	Date
SK1.0	Proposed Site Plan	6.8.24
SK2.0	Proposed Ground Floor Plan	6.8.24
SK2.1	Proposed First Floor Plan	6.8.24
SK3.0	Elevations*	6.8.24
SK3.1	Elevations	6.8.24

* It is recommended that the applicant update this drawing.

Installation of timber louvers to achieve compliance with Effects Standard MRZ-S5 of the PDP.

2. Installation of the vertical timber louvers at the eastern edge of the first-floor balcony (refer drawings SK2.1 and SK3.0) shall be completed within 20 working days from the commencement of this consent. Photographic evidence confirming installation shall be supplied to the Council's Monitoring Supervisor.

Construction Noise Effects:

3. Construction noise from all remaining works shall comply with the relevant standards outlined under Rule NOPSE-7 NZS6803:1999 requiring the noise generated complies with the noise limits set out in Tables 2 and 3 of NZS 6803:1999 Acoustics Construction Noise, with reference to 'construction noise' taken to refer to mobile noise sources.

Advice Notes:

1. The land use consent lapses 5 years after the date of decision unless the consent is given effect to before that date; or unless an application is made before the expiry of that date for the Council to grant an extension of time for establishment of the use.
2. An application for an extension of time will be subject to the provisions of section 125 of the Resource Management Act 1991.