

**BEFORE INDEPENDENT HEARING COMMISSIONERS
IN NAPIER CITY COUNCIL**

**I MUA NGĀ KAIKŌMIHANA WHAKAWĀ MOTUHAKE
TE KAUNIHERA O AHURIRI**

**IN THE MATTER of the Resource Management Act 1991
AND
IN THE MATTER of the hearing of submissions on the Napier City
Council Proposed District Plan**

HEARING TOPIC: HEARING STREAM 2

**STATEMENT OF PRIMARY EVIDENCE OF LEZEL BENEKE
ON BEHALF OF KĀINGA ORA – HOMES AND COMMUNITIES**

(CORPORATE)

29 NOVEMBER 2024

Instructing solicitor:
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1. EXECUTIVE SUMMARY

1.1 My name is Lezel Beneke. I hold the position of Principal Development Planner within the Urban Planning and Design Group at Kāinga Ora – Homes and Communities (“**Kāinga Ora**”) and am presenting this evidence on behalf of Kāinga Ora.

1.2 The key points addressed in my evidence are:

A summary of the Kāinga Ora submissions addressed in Hearing Stream 2 on the Napier City Council (“**the Council**”) Proposed District Plan (“**PDP**”), including the rationale for the relief sought and in particular comments about:

- (a) Earthworks – thresholds and definitions; and
- (b) Subdivision – minimum lot sizes and design guidelines.

1.3 Kāinga Ora is generally supportive of the proposed provisions notified within the PDP. Nevertheless, Kāinga Ora is seeking further amendments and refinements to those matters addressed within Hearing Stream 2. Kāinga Ora considers that if the relief requested is adopted, it will not only further allow Kāinga Ora to adequately increase and improve its ability to provide for public housing, but will also provide for additional housing development capacity and aide in the consenting and delivery of housing for all landowners and potential developers across Napier City. The benefits and opportunities realisable by the amendments sought by Kāinga Ora in the PDP are not for Kāinga Ora only, but rather will result in a better choice of housing typology and size for everyone choosing to live in Napier City.

2. INTRODUCTION

2.1 My name is Lezel Beneke. I hold the position of Principal Development Planner within the Urban Planning and Design Group at Kāinga Ora.

2.2 I am a Full Member of the New Zealand Planning Institute. I hold a Bachelor’s Degree with honours in Planning from the University of Auckland. I have held roles in the planning profession for the past 16

years and have been involved in advising on issues regarding the Resource Management Act 1991 ("**RMA**") and District Plans.

2.3 My experience includes working within local authorities, private consultancy and as a sole trader. For the past 3 years I have been employed by Kāinga Ora (formerly Housing New Zealand).

2.4 I have been providing development planning expertise within Kāinga Ora since 2021. In this role I have:

- (a) Undertaken assessment and identification of redevelopment land within the portfolio;
- (b) Provided input into the strategic land planning, including the Asset Management Strategy, various investment and land use frameworks, and various structure plan processes of Kāinga Ora;
- (c) Provided advice on the regulatory planning processes associated with Kāinga Ora residential development projects;
- (d) Undertaken engagement with local authorities, local communities and other agencies on matters relating to regulatory policy frameworks associated with residential development;
- (e) Provided advice on, and management of, input into strategic planning activities including plan changes and plan review processes throughout the country, including more recently, technical lead and project management of Kāinga Ora submissions and corporate evidence relating to Plan Changes implementing the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act ("**Amendment Act**") and the National Policy Statement on Urban Development 2020 ("**NPS-UD**") across the Waikato, Bay of Plenty, Wellington and South Island regions.

2.5 I am familiar with the Kāinga Ora corporate intent in respect of the provision of housing within Napier City. I am also familiar with the national, regional and district planning documents relevant to the PDP.

2.6 I confirm that I am authorised to give evidence on behalf of Kāinga Ora in respect of hearings on the PDP.

3. BACKGROUND TO KĀINGA ORA AND RATIONALE FOR THE KĀINGA ORA SUBMISSIONS

3.1 Kāinga Ora was formed in 2019 as a statutory entity established under the Kāinga Ora – Homes and Communities Act 2019 (“**the Kāinga Ora Act**”). Under the Crown Entities Act 2004, Kāinga Ora is a crown entity and is required to give effect to Government policy.

3.2 The Kāinga Ora Act sets out the functions of Kāinga Ora in relation to housing and urban development, as well as its core role as a world class public housing landlord. Kāinga Ora works across the housing spectrum to build and contribute to complete, diverse communities that enable New Zealanders from all backgrounds to have similar opportunities in life.

3.3 Kāinga Ora is also the largest residential landlord in New Zealand, providing public housing¹ to more than 186,000 people² who face barriers (for a number of reasons) to housing in the wider rental and housing market.

3.4 At the local level, Kāinga Ora manages a public housing portfolio of 1,530 homes in Napier City, making it a significant landowner. At the time of writing, there are a further 540 households on the public housing waitlist in Napier City who need a home, according to the Ministry for Social Development³.

3.5 As a result, Kāinga Ora maintains a significant interest in how the PDP provisions enable redevelopment and renewal activities across its portfolio, so that Kāinga Ora is able to continue to provide its core public

¹ Public housing is an umbrella term for state housing and community housing.

² Kāinga Ora – Homes and Communities Annual Report 2022

³ The Housing Register, as at 30 September 2024, Ministry of Social Development.

housing function of housing those in need, including replacing dwellings which are no longer fit for purpose with warm, dry homes.

3.6 Kāinga Ora has made a number of primary and further submissions on the PDP to ensure that provisions do not create unnecessary barriers to the redevelopment, renewal, and maintenance of the public housing portfolio in Napier City.

3.7 Most notably, and as it relates to Hearing Stream 2, Kāinga Ora is concerned with several of the Earthworks and Subdivision provisions to the extent that they could hinder Kāinga Ora development and renewal activities, as well as those of other developers and owners.

4. THE KĀINGA ORA SUBMISSIONS

4.1 Kāinga Ora made a number of submissions on the PDP, both in the primary and further submissions processes, however those key submissions that will be discussed in subsequent points are outlined below:

Earthworks provisions

- (a) **Submission 285.22**, which sought an increase in the volume of earthworks permitted for each site in a residential zone or precinct from 50m³ to 250m³.
- (b) **Further submissions FS488.168.80 and FS488.168.82**, which sought consistency in the permitted activity thresholds for earthworks, whether this is general earthworks or earthworks associated with a building activity.
- (c) **Further submission FS496.196.78** supporting proposed amendments which seek to ensure consistent permitted activity threshold for all sites regardless of site size.

Subdivision provisions

- (d) **Submissions 285.20 and 285.21**, which generally supported proposed subdivision standards however sought the following

in relation to new resultant vacant allotments in residential zones:

- i. Within the General Residential Zone (GRZ), a minimum vacant allotment size of 300m²;
 - ii. Within the Medium Density Residential Zone (MRZ) and High Density Residential Zone (HRZ), a minimum shape factor of 8m x 15m.
- (e) **Further submission FS488.168.76** which sought to provide for infringement to minimum lot size standards as a restricted discretionary activity, rather than the notified non-complying activity status.

5. PERMITTED EARTHWORKS ACTIVITY STANDARDS AND ALIGNMENT WITH RESIDENTIAL ZONE PROVISIONS

5.1 Based on review of the s42A report prepared by Ms. Lawson on behalf of the Council⁴, there are two key earthworks-related matters in the Kāinga Ora primary and further submissions that remain in contention. These are set out below and addressed in turn in subsequent points:

- (a) The volume of earthworks allowed per site as a permitted activity; and
- (b) Discrepancies in the volume of earthworks permitted per site, depending on whether that earthworks is associated with a building activity.

Volume of Earthworks Permitted per Site

5.2 As set out in its primary submission, the Kāinga Ora position remains that a more enabling permitted activity framework is required in relation to earthworks, particularly as it relates to relevant volumetric thresholds. Specifically, Kāinga Ora seeks that a standardised permitted activity threshold of 250m³ per site apply to all earthworks activities within

⁴ Napier City Council Hearing Stream 2 Section 42A Report, Earthworks (dated 18 October 2024).

residential zones and precincts, provided that those activities are able to comply with general earthworks standards.

- 5.3 Kāinga Ora notes that the s42A report⁵ concludes that “the notified provisions would likely result in an increase in resource consent applications for earthworks associated with building activities, particularly with consideration of the current operative provision.” Notwithstanding this, Ms. Lawson recommends the rejection of Kāinga Ora submission 285.22.
- 5.4 Kāinga Ora considers that acceptance of the relief sought in its submission is an appropriate way of addressing the issue of appropriate enablement, and would provide for improved alignment between permitted earthworks activity standards and the level of development anticipated through the PDP. Kāinga Ora also views the modifications as a more effective way of balancing the management of potential adverse effects with the need to enable development and delivery of housing within residential zones, relative to what has been notified by the Council.
- 5.5 Notwithstanding the above, Kāinga Ora also notes that there is an inter-relationship between its relief sought in relation to the earthworks permitted activity standards and its relief sought in relation to residential zones, which will be heard at a later date; namely, an increase in the number of dwellings permitted per site in the GRZ, MRZ, and HRZ relative to the notified PDP provisions. Kāinga Ora intends to provide further evidence on the latter matter in future hearing streams on residential zone provisions.
- 5.6 In the experience of Kāinga Ora, earthworks activities and their potential adverse effects are typically well understood where sites are relatively level. General earthworks standards such as those notified in the PDP and summarised below, which would apply regardless of whether consent is required for the volume of earthworks, are often an effective method of managing and monitoring potential effects from small scale earthworks activities:

⁵Napier City Council Hearing Stream 2 Section 42A Report, Earthworks (dated 18 October 2024), at paragraphs 173 and 174.

- (a) Limits on uncontrolled cuts, such as those specified in proposed *Standard EW-S2*;
- (b) Required implementation of silt and sediment control measures, such as those specified in proposed *Standard EW-S5*;
- (c) Required timeframes for site reinstatement and ground cover following completion of earthworks, such as those specified in proposed *Standard EW-S6*; and
- (d) Required implementation of dust control measures, such as those specified in proposed *Standard EW-S7*.

5.7 Having reviewed a number of recent resource consents issued by the Council for Kāinga Ora developments in the 2023 and 2024 calendar years, it is noted that effectively all required resource consents for earthworks under the Operative District Plan. It was also observed that the conditions imposed were relatively consistent across resource consents and largely reinforced or duplicated what would otherwise be required by the general earthworks standards notified in the PDP. A summary of these conditions are set out below, as paraphrased from approved resource consents attached as **Attachment 1**:

- (a) Conditions requiring earthworks to be in accordance with the 'Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region (GD05)';
- (b) Conditions requiring earthworks activities to be managed to ensure no debris, soil or silt is discharged beyond the site into land or water;
- (c) Conditions requiring the Team Leader Planning and Compliance to be notified prior to earthworks commencing, and to be provided with information regarding timing and duration of works and contact details for contractors; and
- (d) Conditions requiring an erosion and sediment control plan to be submitted to Council for certification prior to works.

- 5.8 The above is consistent with the types of conditions imposed on Kāinga Ora consents involving earthworks in other areas of the country, including in those districts where there is an operative 250m³ permitted activity standard in place. The key matters addressed through these conditions tend to be requirements for silt, sediment, and dust control measures to minimise risk of discharges into land and air.
- 5.9 In the Auckland region, where a 250m³ permitted activity threshold has been operative for a number of years since the resolution of appeals on the Proposed Auckland Unitary Plan, the Kāinga Ora experience continues to be that conditions of consent relating to earthworks frequently reiterate general earthworks standards. The exception tends to be in circumstances where sites experience significant topographical constraints, are impacted by natural hazards such as flooding, are of a much larger scale (either in terms of area or volume), or involve remedial works to address contamination under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health ('**NESCS**').
- 5.10 Whilst in Napier City, the majority of recent developments have been for more intensive residential developments involving establishment of a greater number of units than would otherwise be permitted under the PDP, recent government direction involving Kāinga Ora activities means there is likely to be an increase in the proportion of small-scale developments and redevelopments moving forward⁶.
- 5.11 It is anticipated that the above may result in a greater number of permitted development activities for Kāinga Ora relative to the status quo, except that the notified permitted activity earthworks volumes would likely require resource consent applications be made to the Council despite being largely administrative in nature and offering little additional value in managing effects beyond what would already need to be complied with through general earthworks standards.
- 5.12 Although the change to permitted earthworks volumes requested by Kāinga Ora is likely to be of relatively little practical consequence to

⁶ This includes renewals/refurbishment of existing dwellings.

larger developments, which will require land use consent under zone provisions to assess their appropriateness and suitability, it will be consequential on smaller developments.

5.13 Smaller developments typically are impacted disproportionately by additional regulatory hurdles, as they often have smaller overall budgets, which are less able to absorb additional unnecessary administrative costs. Cumulatively, across a number of developments, these costs are significant and are likely to add to the already high costs involved in developing new homes, both for Kāinga Ora and the private development community.

5.14 For the above reasons, Kāinga Ora requests that the Panel accept its relief to increase the earthworks volumes permitted on residentially zoned sites across general earthworks and earthworks associated with building activities. It is the view of Kāinga Ora that doing so would also better align rules and standards to the direction and outcomes envisaged by the Objectives and Policies of the proposed Earthworks chapter, including (most notably):

(a) **Policy EW-P1:** Allow for Earthworks

“Allow for earthworks as a permitted activity providing that the scale, volume, and effects are appropriately managed.”

(b) **Policy EW-P2:** Environment

“Ensure earthworks and any associated retaining structures and infrastructure are designed to manage adverse effects on the environment by:

a. Restricting unretained cut depth and fill height;

b. Limiting maximum volume of earthworks;

c. Providing adequate setbacks from site boundaries or structures;

- d. *Demonstrating that the site will be stabilised, reinstated, revegetated, and/or recontoured in a timely manner consistent with the surrounding land, and;*
- e. *Controlling the movement of dust and sediment beyond the area of development, particularly to avoid nuisance effects on neighbouring sites, silt and sediment entering stormwater systems, or impacting on overland flow paths and/or roads.”*

Discrepancy in Permitted Activity Earthworks Volumes

- 5.15 Through further submissions, Kāinga Ora has noted that it considers a singular permitted activity for general earthworks volume should apply regardless of the purpose of that earthworks activity.
- 5.16 From an effects perspective, it remains difficult to understand the rationale for separating out earthworks associated with a building activity. As set out in earlier points, the potential effects of small-scale earthworks activities are well understood regardless of the intended purpose and can be sufficiently managed through general earthworks standards applying to all earthworks activities.
- 5.17 Whilst there is reference in the s42A report⁷ to the building consent process being able to effectively address such issues, it is understood that the management of potential adverse effects on the environment is an RMA matter.
- 5.18 Further, there are activities identified within the notified definition of ‘building activities’ that would often fall outside of the scope of a building consent, such as the demolition or removal of structures.
- 5.19 In terms of Kāinga Ora activities, while perhaps less common, there are instances where earthworks need to be carried out which are not directly associated with a building activity. This can be the case where earthworks associated with routine maintenance or remedial works is required.

⁷ Napier City Council Hearing Stream 2 Section 42A Report, Earthworks (dated 18 October 2024), at paragraphs 167-169.

5.20 On the above basis, Kāinga Ora considers that a single threshold should apply to all earthworks activities and that small-scale earthworks can be appropriately managed through general earthworks permitted activity standards.

6. MINIMUM SITE SIZE STANDARDS FOR VACANT LOT SUBDIVISION

6.1 As outlined in section 4.0 above, Kāinga Ora has made several submissions on the proposed minimum site size and shape factor standards applying to vacant lot subdivision in residential zones.

6.2 Fundamentally, Kāinga Ora supports differentiation in the standards applying to vacant lot subdivision between residential zones such that they accord with, and enable, the outcomes envisaged by the underlying zone.

6.3 In the s42A report, it is noted that Ms. Mills recommends that the notified 350m² minimum lot size and the 8m x 15m shape factor be retained in relation to vacant lot subdivision in the General Residential Zone and Medium Density Residential Zone. It is also noted that commentary and discussion as to the appropriate minimum site size and shape factor for HRZ has largely been deferred to the hearing.⁸

6.4 While Kāinga Ora has not undertaken thorough testing of the notified PDP vacant lot standards relative to the development standards in residential zones, the approach Auckland has taken to minimum vacant lot standards within the Auckland Unitary Plan (Operative in Part) are helpful – particularly given that this has now been operative for a number of years.

6.5 In the Auckland Unitary Plan, the following standards apply to vacant lot subdivision in residential zones:

- (a) A 400m² minimum lot size and 8m x 15m shape factor within the Mixed Housing Suburban Zone (most comparable to the

⁸ Napier City Council Hearing Stream 2 Section 42A Report, Part 2 Subdivision (dated 23 October 2024), at paras 177-119.

proposed GRZ), to provide for establishment of new lots compatible with a generally suburban planned built form.

- (b) A 300m² minimum lot size and 8m x 15m shape factor within the Mixed Housing Urban Zone (most comparable to the proposed MRZ), to provide for a somewhat denser urban built form relative to the Mixed Housing Suburban Zone.
- (c) A 1200m² minimum lot size and 15m x 20m shape factor within the Terrace Housing and Apartment Building Zone (most comparable to the proposed HRZ), to ensure that more intensive and larger buildings containing multiple dwellings are able to establish whilst generally complying with zone standards.

- 6.6 The above framework has not created or resulted in significant obstacles for Kāinga Ora development activities.
- 6.7 Whilst commentary in the s42A report expresses some concern over a larger minimum site size in HRZ potentially hindering redevelopment via a controlled activity pathway, it is considered that vacant lot subdivision tends to be the exception rather than the norm in established brownfield environments.
- 6.8 More frequently, developers in brownfield environments (including Kāinga Ora) will seek concurrent land use and subdivision consents for development of dwellings and subsequent subdivision around them, in which case preclusions to the minimum site size requirements in the PDP would apply (noting *Standard SUB-S1(1)(b)*).
- 6.9 Notwithstanding the above, however, it is also acknowledged that whilst through the PDP, the MRZ and HRZ have generally been applied to brownfield environments, the framework associated with the zone and subdivision standards needs to consider urban expansion and potential future application to greenfield environments. In these environments (rather than brownfield), it becomes critically important that minimum site size and shape factor standards are set correctly based on planned zone outcomes rather than on previous or existing subdivision patterns.

- 6.10 On this basis, Kāinga Ora supports differentiation of minimum site size and shape factor standards applying to vacant lot subdivision. Kāinga Ora would also support a larger minimum site size and shape factor standard applying within the HRZ.
- 6.11 Kāinga Ora also notes the non-complying activity status applying to vacant lot subdivision activities which infringe these minimum standards, and suggests that a more enabling restricted discretionary activity pathway would be appropriate. This would enable infringing applications to demonstrate how the proposal would continue to provide for buildings and dwellings that comply with zone development standards through matters of discretion, thus continuing to be in accordance with envisaged zone outcomes.
- 6.12 A non-complying activity status is only considered appropriate when the activity is not anticipated within the zone and the effects of that activity are not anticipated to occur. In this instance, residential subdivision is anticipated and the effects associated can be assessed appropriately.

7. SUBDIVISION DESIGN GUIDE

- 7.1 As per its submission, Kāinga Ora remains concerned regarding the proposed retention of subdivision and residential design guides and Codes of Practice *within* the PDP. Specifically, Kāinga Ora refers to Assessment Criteria *SUB-AC2(j)* as follows:

“the extent to which the subdivision design demonstrates consistency with the Napier subdivision design guide.”

- 7.2 Previously, through discussions with the Council during the preparation of its Spatial Picture document, Kāinga Ora has expressed concern regarding the embedding of the Code of Practice within the Operative District Plan in that it unnecessarily necessitates additional resource consents for non-compliance with what Kāinga Ora typically views as ‘methods’ of achieving outcomes.

- 7.3 These same principles and concerns remain true for Kāinga Ora in relation to the PDP. In practice, the incorporation of design guidance

and Codes of Practice within a District Plan creates an additional de facto set of rigid rules and standards to be complied with, which often fail to recognise or allow for flexibility and innovation in design in achieving quality planning outcomes.

- 7.4 Noting the language of the notified assessment criteria, applications where the subdivision design is 'inconsistent with' the subdivision design guide could be at increased risk of notification and/or a 'decline,' even if that subdivision continues to be generally in accordance with the outcomes envisaged by the Subdivision chapter.
- 7.5 In the view of Kāinga Ora, the outcomes envisaged by a particular zone or chapter should be clearly laid out in the Objectives and Policies. Non-statutory design guidelines sitting outside of the District Plan can then be beneficial in that they set out a 'method' by which those outcomes outlined within Objectives and Policies can be achieved; noting however that equally there may be other 'methods' of achieving those desired outcomes not otherwise identified in the guide.
- 7.6 Design guidance is best retained simply as guidance, to be relied upon and utilised as a tool outside of a district plan to assist applicants to better understand and interpret the relevant objectives, policies, and assessment criteria within the district plan.
- 7.7 Given the above, Kāinga Ora seeks that the Subdivision Design Guidelines and references to the guidelines are removed from the PDP. Should there be critical outcomes sought by the Design Guidelines, Kāinga Ora seeks that these matters should be built into the objectives and policies of the Subdivision chapter, as well as either the rules/standards or the assessment criteria depending on what outcome is sought.
- 7.8 It is anticipated that the above approach would also be advantageous to the Council in that it allows for the design guidelines to remain 'fluid' as new and novel approaches and methods of achieving desired outcomes are tested and trialled.

7.9 There are several practical examples of the Kāinga Ora recommended approach where this has been adopted and implemented elsewhere:

- (a) ***The Proposed New Plymouth District Plan***, where recent decisions ‘recommend that they [Design Guides] be removed as appendices from the Proposed Plan and that the requirements in various chapters be complied with or considered removed from the relevant rules.’⁹
- (b) ***The Auckland Design Manual***¹⁰, which has been in place for a number of years to assist applicants in understanding and implementing the outcomes envisaged by the Auckland Unitary Plan.

8. CONCLUSION AND RELIEF SOUGHT

8.1 As previously noted, Kāinga Ora remains concerned with several earthworks and subdivision provisions as notified and the impact that these could have on its development and renewal activities.

8.2 Given the above, Kāinga Ora offers several practical examples of how such provisions function at a practical level in hopes that this will assist the Council and the Panel in making a determination; and specifically, a determination that will appropriately balance the need to manage potential adverse effects whilst enabling (rather than unnecessarily hindering) development.

8.3 Kāinga Ora seeks the following relief in relation to Hearing Stream 2:

- (a) Kāinga Ora seeks that a single permitted activity threshold of 250m³ per site apply to all earthworks activities within residential zones. Should the Panel be reluctant to grant this relief at this stage given that there is an inter-relationship between this relief and the relief sought by Kāinga Ora in relation to permitted levels of development within residential zones, Kāinga Ora requests that the Panel defer decision on

⁹Recommendation Report 37 Design Guides - Proposed New Plymouth District Plan and dated 13 May 2023, at paragraphs 3.5 to 3.11.

¹⁰<https://www.aucklanddesignmanual.co.nz/en/design-guidance.html>

this matter until such time as residential zone provisions are heard.

- (b) Kāinga Ora seeks differentiation in the minimum site size and shape factor standards applying to vacant lot subdivision across the various residential zones, to better align with the outcomes envisaged for each zone. Kāinga Ora supports a larger minimum site size and shape factor standard applying within the HRZ.
- (c) Kāinga Ora seeks removal of reference to the Subdivision Design Guide and Codes of Practice within the Subdivision chapter of the PDP, and requests that these remain non-statutory to guide applicants in interpreting and achieving the outcomes envisaged by the PDP.



Lezel Beneke

Principal Development Planner, Kāinga Ora

29 November 2024

Report for an application for resource consent under the Resource Management Act 1991



NAPIER
CITY COUNCIL
Te Kaunihera o Ahuriri

Discretionary Activity – Eight lot subdivision, seven dwellings, earthworks and associated HIRB, yard, landscaped area, open space, and transport infringements

1. Application description

Application number(s):	RMS230056
Applicant:	B&A Urban & Environmental obo Kāinga Ora – Homes and Communities
Site address:	3 – 5 Lowry Terrace Napier
Legal description:	Lot 67 and 109 DP 8162
Site area:	1,694m ²

Napier Operative District Plan

Zoning:	Main Residential Zone
Overlays, controls, special features, designations, etc:	Adjoins State Housing Advocacy Area Heritage Precinct

Napier Proposed District Plan:

Zoning:	Medium Density Residential Zone
Overlays, controls, special features, designations, etc:	High Liquefaction, Overland Flow Path, Mana Ahuriri Area of Interest

2. Locality Plan



Source: NCC Intramap

3. Report assessment and methodology

This is not the decision on the application. This report sets out the advice and the recommendations of the reporting planner.

The application is appropriately detailed and comprehensive and includes expert assessments. Accordingly, no undue repetition of descriptions or assessments from the application is made in this report.

I have made a separate and independent assessment of the proposal. Where there is agreement on any descriptions or assessments in the application material, this is identified in this report.

Where professional opinions differ, or extra assessment and / or consideration is needed for any reason, the relevant points of difference of approach, assessment, or conclusions are detailed. Also, the implications for any professional difference in findings in the overall recommendation is provided.

The assessment in this report also relies on reviews and technical advice from the following specialists:

- NCC Infrastructure providing a conditions memo dated 16 November 2023.
- NCC Urban Design correspondence received throughout the application process.

4. The Proposal

The application proposes the removal of the two dwellings from the site and the construction of seven double storey dwellings and an associated eight lot subdivision. The dwelling typologies comprise two duplexes and one triplex. Lots range in size from 99qm (lot 2) up to 231sqm (JOAL measures 472sqm).

The proposed dwelling mix comprises 5 x 2 bed and 2 x 3 bed units.

The elevation plans and isometrics indicate a range of materials and colour finishing.

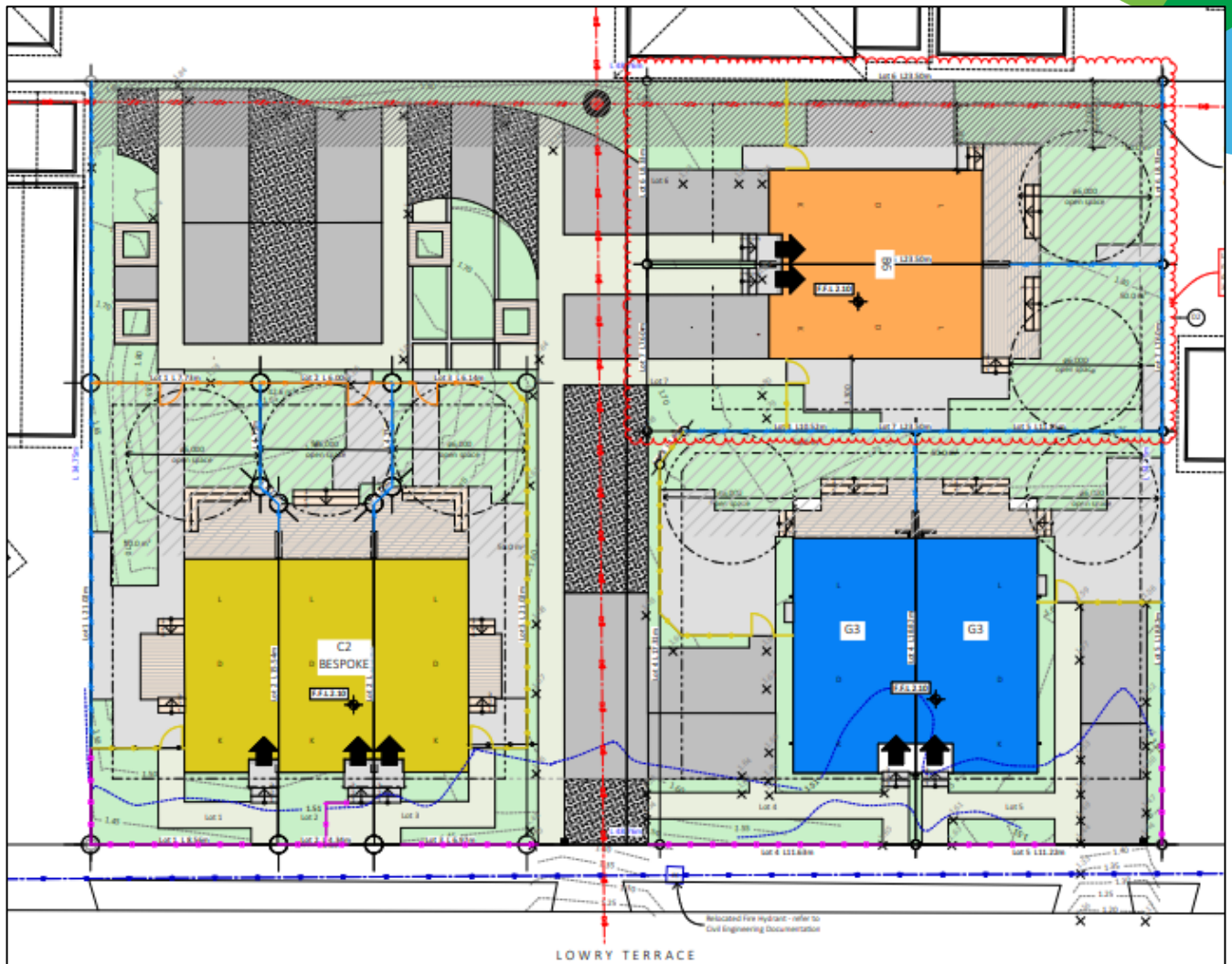
All lots except lot 5 are provided vehicle access via a centrally located JOAL. Lot 5 has its own vehicle crossing from Lowry Terrace, located on the eastern side of the dwelling. The JOAL serves five car spaces, one each for lots 1-3 and 6-7. There is no increase in the number of vehicle crossings currently serving the site.

Servicing arrangements are detailed in the supporting Civil Design Report prepared by Civil Services (HB) Limited dated June 2023 Rev 1.

Earthworks involve a volume of 621cum. A silt fence for sediment control purposes is proposed to the site's perimeter, as per drawing 1126-C303A.

Hard and soft landscaping is proposed as shown on the supporting landscape plans prepared by Development Nous. Of note is the lower, semi permeable fencing proposed to the street boundary and higher screen fencing between lots and side and rear external boundaries.

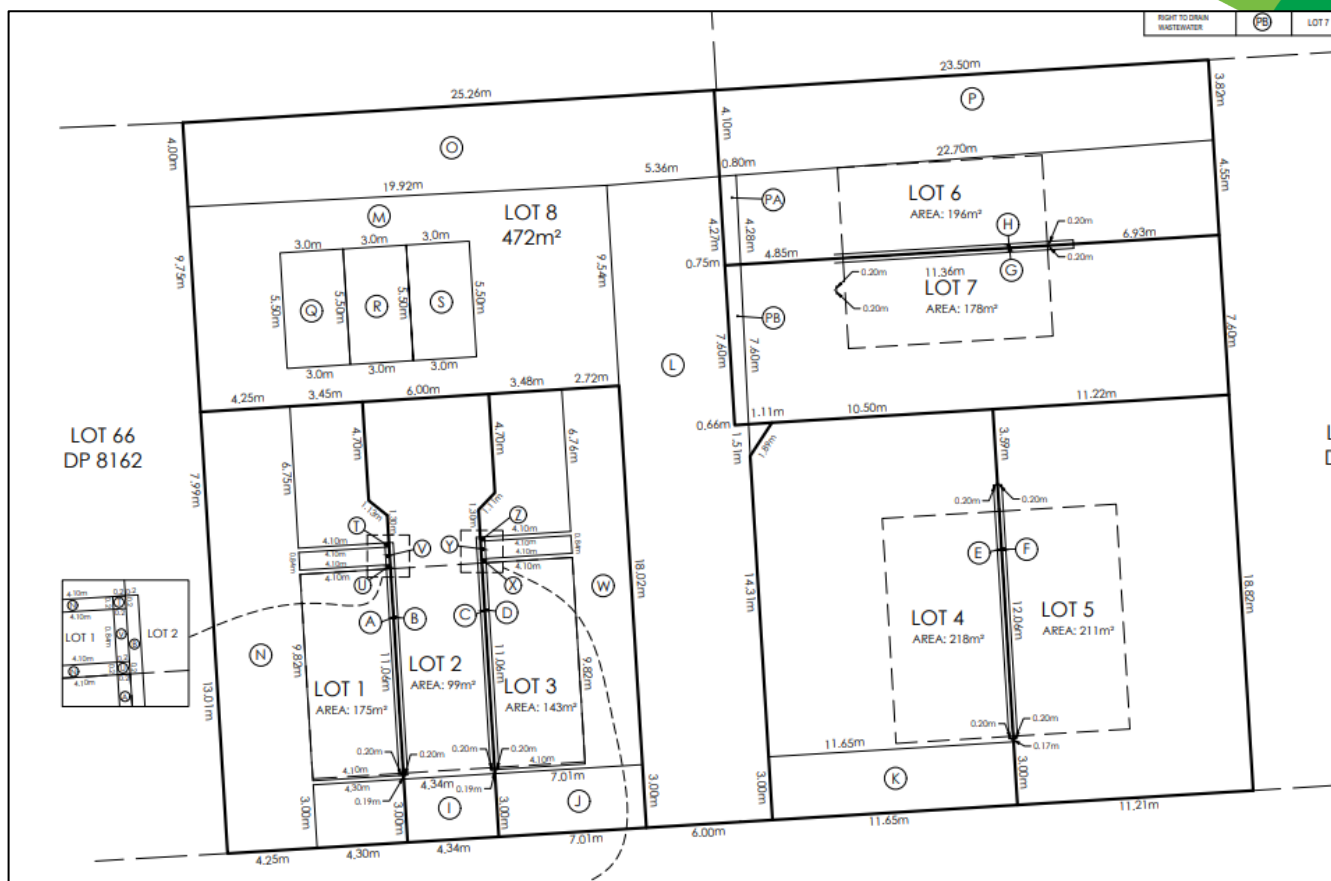
Proposed site plan: (source: Creatus Group drawings – application documentation)



Proposed isometric view: (source: Creatus Group drawings – application documentation)



Proposed scheme plan: (source: Technical Spatial – application documentation)



All proposed buildings are sited clear of the existing Council wastewater main that traverses the site.

The application is supported by the following technical reports:

- Preliminary Geotechnical Assessment Report prepared by Civil Services (HB) Limited dated 22 May 2023 ref 1126-002.
- Traffic Impact Assessment prepared by Traffic Planning Consultants dated June 2023, Ref: 230158 Issue A – draft;
- Concept Civil Design Report prepared by Civil Services (HB) Limited dated June 2023 Rev 1.

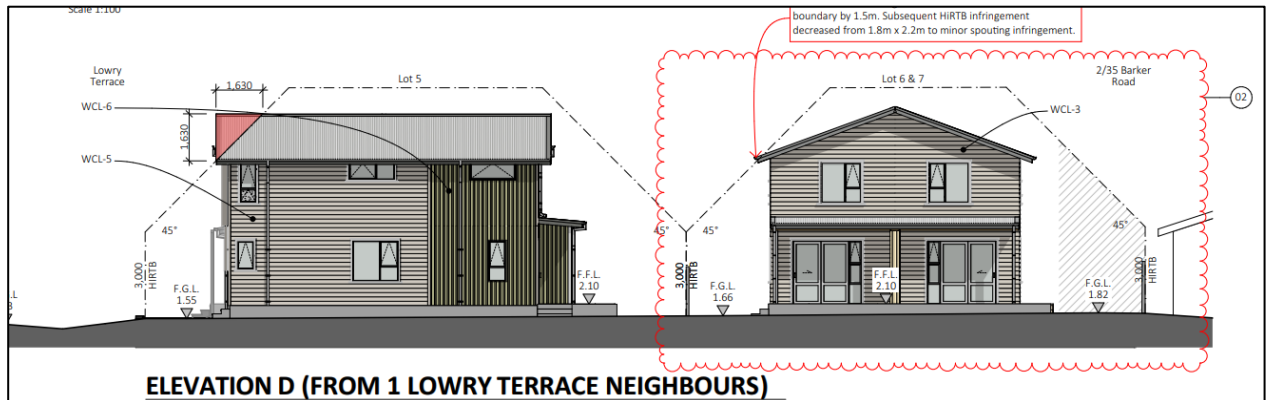
Further Information

Further information was requested via section 92 of the RA on 15 August 2023. The s92 request was satisfied on 25 October 2023 with the following additional information provided:

- Updated architectural and landscape plans
- Revised scheme plan Rev 4 dated 17 August 2023
- Updated engineering plan C302C.
- Addendum to Stormwater Calculations Ref: 1126-009 dated 12 September 2023.

Amended Plans February 2024

A set of amended plans was received on 15 February 2024 provided in response to concerns raised regarding the southern internal HIRB infringement of the dwelling on lot 7 and the associated deleterious amenity impacts on lots 4 and 5. The amended plans show a near compliant HIRB arrangement, with only the spouting of the dwelling now infringing the HIRB:



As a consequence of achieving a near complaint HIRB, the originally proposed vehicle turning head adjacent lot 6 has been removed. The applicant has provided a traffic engineering memo, prepared by TPC Ltd, which includes vehicle tracking analysis demonstrating that the resultant car parking and access arrangement remains workable, with vehicles able to egress from the development in a forward direction. The memo recommends the erection of a sign at the entrance stating 'Residents Vehicles Only' to assist with traffic safety mitigation.

The extracts of the plans included above are taken from the amended plans received 15 February 2024.

Site and surrounding environment description

B&A Urban and Environmental has provided a description of the subject site and surroundings on pages 6 and 7 of the Assessment of Environmental Effects (AEE) titled: *Land Use and Subdivision for Seven Dwellings, 3-5 Lowry Terrace, Marewa, Assessment of Environmental Effects and Statutory Analysis 27 July 2023*.

I concur with that description of the site and have no further comment other than to note:

- The site is adjacent the designated State Housing Advocacy Area Heritage Precinct in the Napier City Operative District Plan. This Precinct is not proposed in the Napier City Proposed District Plan.
- Council wastewater mains traverse the site both north/south and west/east, as shown in red below:



5. Background

Specialist Input

Team	Response
NCC Infrastructure	<p>We have reviewed the information provided and can support the application because:</p> <ul style="list-style-type: none"> • The proposed lots will be serviceable by the Council's reticulated infrastructures. • Access provisions will allow for safe ingress and egress to and from the site. <p>To ensure the application mitigates any effects on Council's infrastructure, the efficiency and safety of the transport network and the health and safety arising from environmental health factors, we require conditions to be imposed on the consent.</p>
NCC Transportation	<p>It looks as though an area of permeable paving has been included at the north eastern end of the JOAL. This effectively provides a "Y" shaped turning head which is acceptable.</p> <p>No house number wayfinding signage is currently shown on the plan at the intersection of Lowry Terrace and the JOAL and this requires conditioning.</p>
NCC Urban Design	<p>NCC UD comments set out below with applicant response provided in italics:</p> <p>Recommendations / Queries:</p> <ol style="list-style-type: none"> 1. JOAL - It is recommended that any area required for vehicle access and turning is not to be defined as pedestrian by way of concrete path, as this is counter intuitive to safe wayfinding, particularly for children. Please see highlighted area of concern on the attached plan. To enhance the visual appeal of the concrete (?) driveway surface finish decorative saw cuts may be used instead. <p><i>Traffic engineering matter.</i></p>

2. Please advise what the vehicle access surface & finishes are.
Mix of standard and exposed aggregate.
3. To simplify navigation & improve turning/backing for vehicles, the following is recommended;
 - backing bay not required be removed,
 - (3a) the driveway be realigned to allow for simpler wide turn, and
 - (3b) the backing bay be widened.*Traffic engineering matters.*
4. It is recommended that the raised planters proposed adjacent to the JOAL & Lot 1 & 3 parking are removed & replaced with ground cover planting to improve sightlines for safe wayfinding whilst still providing amenity. It is also recommended that the specimen trees indicated be on a 1.8m high standard to ensure a clear (trunk) sightline for vehicles & pedestrians.
Planter boxes have been set back slightly.
5. All of the 6m OLS circles are compromised by deck & steps.
 - Lot 2 – although indicated as complying, it appears the area shown is compromised by both side boundary fences, as well as the clothesline & shed.
 - Lot 4 - compromised by the clothesline,
 - Lot 5 - compromised by the clothesline & rubbish bins, and
 - Lot 7 – compromised by the clothesline, shed & tank.*The District Plan allows this. The areas are considered functional, usable and have good level of outdoor amenity relative to the size of the unit that they serve and in the context of accessibility of public open space in Marewa. The proposal meets the screening assessment criteria and the private outdoor space is adequate.*
6. Is a water tank proposed for Lot 2? If so please indicate its location (not within the OLS circle or primary sightline of main internal living area).
A tank is not required for lot 2.

ELEVATIONS

The use of warm neutrals, such as Torere & Glinks Gully Half for the exterior cladding is to be commended, however I am concerned about some of the paired cladding colours selected. Used on the exterior, I believe the colours The Terrace & Koromiko, will look too strident in direct sunlight and are considered unlikely to age well. I recommend that the developer consider using the pairings suggested by the paint manufacturer, which are less contrasting, muted tones.

1. LOTS 1, 2 & 3 – there is no individual identity for these units except for their front door colour & weatherboards above. A gable end facing the street would mitigate this (please see marked up Sheet 106 attached). This individuality could also be enhanced by using different exterior colours for the cladding of each dwelling, limited to say 3 cladding colours repeated throughout the development depicting each unit but linking them to the whole development. These repeated tones & use of the gabled ends would create a sense of address to the street, & enhance the amenity and character of the overall development. Another way to define the separate units could be through modulation of the façade via the introduction of wing walls beneath the proposed soffits between each dwelling - this would break up the length of the façade and reduce its box like appearance.

Refer updated elevations on sheets 106 and 107. Elevation A and G illustrate that each of the terraced triplex units is to have its own individual exterior cladding colour. These colours are restricted to the accent feature vertical shiplap weatherboard rather than changing the main cladding finish in sections breaking up the overall understood envelope of the building, challenging the continuity of the triplex.

2. LOTS 4 & 5 - See general note above regarding cladding colours – It is recommended 'The Terrace' selected for the vertical weatherboards be substituted.

The elevations have been updated to show 'The Terrace' cladding colour for the vertical weatherboards on lots 4 and 5 and 'Koromiko' cladding colour for the weatherboards on lots 6 and 7.

3. LOTS 6 & 7 - See general note above regarding cladding colours – It is recommended 'Koromiko' selected for the vertical weatherboards be substituted.

The elevations have been updated to show 'The Terrace' cladding colour for the vertical weatherboards on lots 4 and 5 and 'Koromiko' cladding colour for the weatherboards on lots 6 and 7.

4. SOLAR ACCESS - It is noted that the north facing elevation of Lot 6 does not take advantage of its solar access for the ground floor kitchen, dining & living areas, or for the upstairs bedroom. It is also noted that Lot 5's east facing elevation does not take advantage of its solar access (morning sun) on both dwelling levels. It is recommended that the proposed fenestration for both these elevations be added to or the windows enlarged on both levels.

	<p><i>The zone rules do not prescribe minimum standards for daylight.</i></p> <p><i>Re-orientation of lots 6 and 7 is not possible due to the existing WW service line extending across the rear boundary.</i></p> <p>5. Is the floor level height above ground level necessary (requiring 3 risers)? If possible, a reduced floor level would allow improved accessibility for all.</p> <p><i>The floor levels are required to meet the ongoing flood level issues in the area and discussions with NCC Infrastructure.</i></p>
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6. Reasons for the application

Napier City Proposed District Plan

The Napier City Proposed District Plan was notified on 21st September 2023. A number of rules have immediate legal effect, largely concerning Heritage. None of those rules are relevant to this proposal and therefore consent under the PDP is not required.

Napier City Operative District Plan

Chapter 5 - Main Residential Zone.

Any subdivision, use or development of land that does not comply with all conditions in the Main Residential Zone is a Restricted Discretionary Activity under Rule 5.12. The following conditions are not met by the proposal, as detailed in the AEE:

- Condition 5.16 Yards: Proposed Lot 5 does not achieve the minimum 40% front yard landscaping required, with 35% proposed, resulting in a shortfall of 5%.
- Condition 5.18 Height in Relation to Boundary:
 - Unit 3 protrudes beyond the southern recession plane (adjoining Lowry Terrace) and the eastern recession plane (adjoining the JOAL).
 - Unit 4 protrudes beyond the southern recession plane (adjoining Lowry Terrace).
 - Unit 5 protrudes beyond the southern recession plane (adjoining Lowry Terrace).
 - Unit 7 (**spouting only**) protrudes beyond the southern recession plane adjacent the rear boundaries of lots 4 and 5.
- Condition 5.20 Landscape Area – minimum 30% not met:
 - Lot 2 proposes 28.1% landscaped area
 - Lot 3 proposes 26.4% landscaped area
 - Lot 4 proposes 29.2% landscaped area
 - Lot 5 proposes 26.1% landscaped area
 - Lot 7 proposes 20% landscaped area
- Standard 5.21 Open Space: Proposed Lot 2 is provided with 42.6sqm open space, which does not meet the minimum 50sqm of open space required.

Chapter 52A - Earthworks

The proposal does not meet condition 52A.12 as more than 50cum of earthworks are proposed (621m³). Pursuant to 52A.9 resource consent is required as a Restricted Discretionary Activity.

The proposal does not meet 52A.10(2) as more than 100cum of earth will be removed from the site within a 12-month period. Pursuant to 52A.10(2) resource consent is required as a Discretionary Activity.

Chapter 61 – Transport

Any subdivision, use or development of land that does not comply with all of the relevant conditions is a Restricted Discretionary activity pursuant to Rule 61.9:

- Rule 61.13A: The parking space manoeuvring depth for Units 1-3 and 6-7 does not achieve the minimum 5.8m manoeuvring depth required, with between 4.8m and 5m proposed.
- Rule 61.17(1)(e): The proposed shared accessway (JOAL/Lot 8) serving the parking spaces for Lots 1-4 and 6-7 has a minimum width of 4.2m which does not comply with the minimum 4.5m width required.
- Rule 61.20 Right of Ways: The shared accessway (JOAL/Lot 8) serves more than four dwelling units and does not provide a turning head.

Chapter 66 Code of Practice

The proposal does not comply with the controlled activity standards and is therefore a Restricted Discretionary Activity under Rule 66.6.2:

- Standard 5.7.1 Non Public Accessways: The proposed vehicle crossing serving six units via the JOAL (Lot 8) will be 3.8m wide which does not achieve the minimum 4.8m vehicle crossing width required.

National Environmental Standard for Assessing Managing Contaminants in Soil (NESCS)

There is nothing to indicate the site has previously been used for any activity or industry described in the HAIL. Resource consent is not required under the NESCS.

7. Status of the resource consents

Where a proposal:

- consists of more than one activity specified in the plan(s); and
- involves more than one type of resource consent or requires more than one resource consent; and
- the effects of the activities overlap;

the activities may be considered together.

Where different activities within a proposal have effects which do not overlap, the activities will be considered separately.

In the instance, the effects of the proposed resource consents will overlap and thus they are considered together as a **Discretionary Activity** overall.

Resource Consent RMS230056

Section 95A and 95B Notification Assessment Report

8. Public notification assessment (sections 95A, 95C-95D)

Section 95A specifies the steps the council is to follow to determine whether an application is to be publicly notified. These steps are addressed in the statutory order below.

Step 1: mandatory public notification in certain circumstances

Mandatory notification is not required as:

- the applicant has not requested that the application is publicly notified (s95A(3)(a));
- there are no outstanding or refused requests for further information (s95C and s95A(3)(b)); and
- the application does not involve any exchange of recreation reserve land under s15AA of the Reserves Act 1977 (s95A(3)(c)).

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

The application is not precluded from public notification as:

- the activities are not subject to a rule or national environmental standard (NES) which precludes public notification (s95A(5)(a)); and
- the application does not exclusively involve one or more of the activities described in s95A(5)(b).

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

The application is not required to be publicly notified as the activities are not subject to any rule or a NES that requires public notification (s95A(8)(a)).

The following assessment addresses the adverse effects of the activities on the environment, as public notification is required if the activities will have or are likely to have adverse effects on the environment that are more than minor (s95A(8)(b)).

Adverse effects assessment (sections 95A(8)(b) and 95D)

The consultant has provided, in accordance with schedule 4 of the RMA, an assessment of adverse environmental effects in such detail as corresponds with the scale and significance of the effects that the activities may have on the environment. This can be found on pages 23 and 24 of the AEE.

I concur with this assessment, insofar as it concerns the effects relevant to the consideration of adverse effects in terms of s95D of the RMA.

Effects that must be disregarded

Effects on persons who are owners and occupiers of the land in, on or over which the application relates, or of land adjacent to that land

The council is to disregard any effects on the persons who own or occupy the land in, on, or over which the activity will occur, and on persons who own or occupy any adjacent land (s95D(a)). The land adjacent to the subject site is identified in the AEE and I include map extract below taken from page 14 of the AEE. The adjacent properties are listed in the following table.

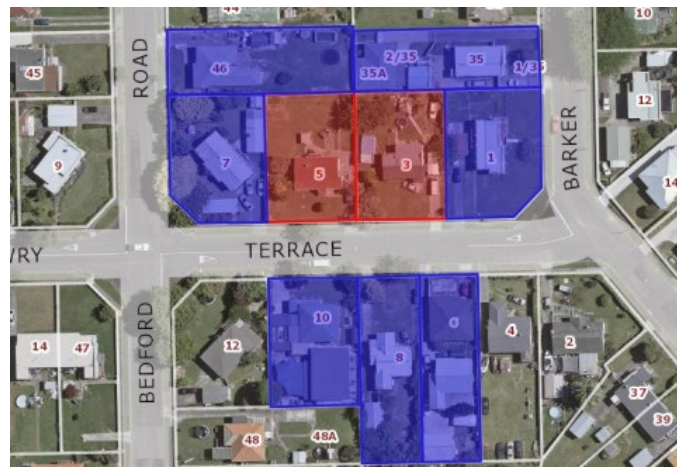
Table 1

Address

46 Bedford Road

35 and 35A Barker Road

1, 6, 6A, 7, 8 and 10 Lowry Terrace



Source: applicant's AEE

Any effect on a person who has given written approval to the application

The application is not supported by any written approvals.

Effects that may be disregarded

Permitted baseline

Rule 5.15 of the Main Residential Zone allows a wide-ranging set of different development scenarios to be undertaken as-of-right at the site. The scale of the site also offers the scope to deliver a myriad of different permitted development outcomes. In light of this and noting the applicant has not presented a counterfactual proposal for comparison in its application, I have determined to not take into account the effects of permitted activities.

Adverse effects

Urban Character

The site is not in an area designated for special character, heritage, outstanding natural feature or significant landscape values. The site adjoins the State Housing Advocacy Area located north of the site. The District Plan states that sustainable management of this area will be via non-regulatory means. I note this area is not proposed to be taken forward in the Proposed District Plan. I note also that the site is outside of this area. For these reasons combined I do not consider this advocacy area to impede the grant of consent for the proposed development.

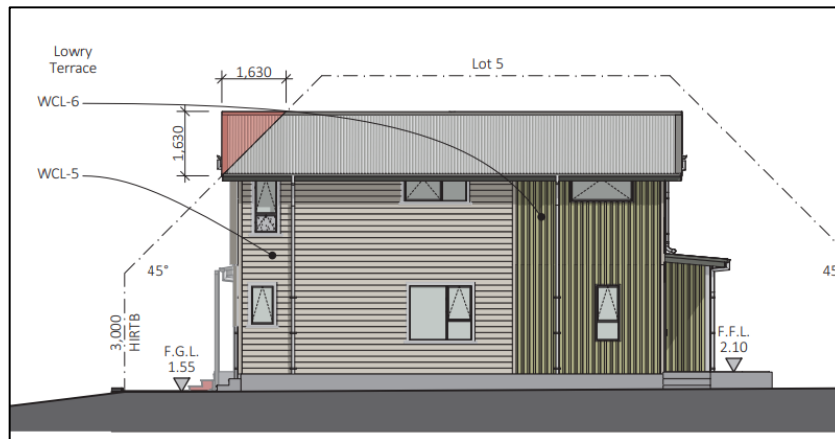
The prevailing building height in the area is single storey. Whilst all of the dwellings are double storey, I observe that single level transitions from single storey to double storey are commonplace across the residential areas of Napier. Consequently, double storey development is not an uncharacteristic feature of suburban Napier. I note all dwellings comply with the underlying zone 8m maximum building height.

The seven dwellings are contained within three separate buildings, with duplexes and a triplex proposed. This is an efficient use of the site and consequently spacing between dwellings is generous and generally consistent with that found in the wider urban environment.

Site coverage is a very low 21.8%, considerably less than the permitted 50% maximum and consistent with the prevailing site coverage in the area, respectful of the surrounding development pattern. Landscaping across the site provides an attractive development when viewed from the public realm. Although three lots do not meet the minimum 30% landscaped areas, these infringements are minor in extent and the overall landscaped area, taken as a whole, is compliant at 31.6%.

The proposed layout of the front dwellings is conventional, all of them oriented to the street. This is consistent with the existing dwellings on the site and therefore the proposal will maintain streetscape legibility. The Lowry Terrace front setbacks all comply with the zone minimum. The gables on dwellings 4 and 5 infringe the front HIRB requirement – refer image below taken from the applicant’s drawings. I do not consider these infringements to be of significant scale and are limited to two dwellings only.

Proposed front HIRB infringements: (source: Createus Group drawings – application documentation)



The absence of car parking accessed off Lowry Terrace for all but one of the lots (lot 5) provides for an attractive, landscaped frontage. The lot 5 access and parking area is to the side of the dwelling, a conventional and respectful design response.

Proposed front fencing to Lowry Terrace is low and permeable and this, coupled with soft landscaped front gardens, offers a positive street interface. The 50% front yard landscaping

requirement is met by all front lots except lot 5 which falls 5% short, a minor level of non-compliance which will be indiscernible in this urban environment.

The dwellings have been architecturally designed and feature a high degree of modulation and articulation, providing visual interest and good townscape quality. There is some degree of visual interest in the roofscape, through the incorporation of: varied rooflines with some pitched roofs set parallel to the street and others perpendicular; a range of roof pitches including 10, 11, 20 and 25 degrees; and the adoption of three different shades of grey (Grey Friars, Thunder Grey and Sandstone Grey). The solid to void ratios of the front facades of dwellings facing the street are well considered, providing a much higher level of activation and passive surveillance than the current dwellings. The applicant has made changes to the cladding colours on some elevations, addressing the concerns of NCC Urban Design.

There is no change in the number of vehicle crossings serving the site, which helps limit the character change in this section of the street. The proposed car parks in front of dwellings 6 and 7 are not a preferred design response as they dominate the dwelling frontages however these lots will not be visible from the wider environment. I note they will have very limited visibility from Lowry Terrace and therefore will not negatively impact this streetscape. The two car parks sited perpendicular to the western side of dwelling 4 is somewhat unconventional, however the character impact is less than minor because this area is set back from the street, in line with the front building line of dwellings 3 and 4. The largest expanse of car parking is sited recessively behind the triplex, out of view from the public domain, a further site responsive design element.

For the above reasons I consider any adverse effects on the urban character of the wider environment to be less than minor.

Residential Amenity

No person's amenity levels in the wider environment will be adversely affected by the proposal given the considerable separation distance between the site and the properties in the wider environment.

Traffic, Parking and Access

Notwithstanding the development's non-compliances with the roading design criteria at section 3.3.2 of the Code of Practice, having regard to the supporting Traffic Impact Assessment (TIA) and the absence of objection from NCC Transportation, I consider any adverse effects on the local road network to be less than minor.

In the absence of any evidence to the contrary, I accept the TIA conclusion - vehicle and pedestrian access has been designed to a suitable standard and the proposal can be accommodated within the road network without compromising its function, capacity or safety. In accepting this conclusion I note the following:

- All vehicles exiting from on-site parking spaces within the JOAL onto Lowry Terrace can do so in a forward manner, **as demonstrated by the vehicle tracking analysis provided in the TPC memo dated 12 February 2024.**
- The JOAL will operate as a low speed environment and the TIA considers it to have acceptable levels of intervisibility. I take the view that pedestrian safety has been

- appropriately catered for in the JOAL design notwithstanding the 300mm non-compliance with the minimum access width standard.
- The estimated traffic generation, in the range of 28 to 42 traffic movements per day, is not significant and the TIA confirms the local road network has the capacity to absorb this level of generation.
 - The proposed crossings have adequate sight distances, are sited more than 15m from an intersection, are more than 6m apart and crossing widths are less than 5m.
 - Dimensions of all on-site parking spaces comply with AS/NZS 2890:1 (2004).
 - There is sufficient space on the site and within the surrounding road network to provide parking for construction vehicles, which will in any event be temporary.

The comments provided by NCC Urban Design regarding the proposed surface treatments within the JOAL and potential vehicle/pedestrian safety/conflict issues have been checked with NCC Transportation who advise: *'Shared Zone' principles have been adopted for this development and are considered acceptable. All of the road area is designed to be available for use by all road users with the low traffic and pedestrian numbers. The one-way and narrower road should help focus driver observation, reduce vehicle speeds and remove the need for demarcation.* I place greater weight on, and accept, the qualified traffic engineering advice in respect to the JOAL surface treatments and general JOAL design. I note the Operative District Plan does not have any standards governing JOAL surface treatments.

I consider any adverse traffic, parking and access effects on the wider environment to be less than minor.

Earthworks

The applicant proposes erosion and sediment control measures to manage earthworks related effects. Any visual effects of the earthworks will be temporary in nature, as all areas to be disturbed will be constructed on or landscaped. The site is relatively flat and consequently landform modification will be very limited, with the bulk of earthworks relating to dwelling foundations and JOAL construction, largely limited to existing ground levels.

Hazards

The application is supported by a geotechnical assessment. The land is assessed as not being suitable for standard NZS 3604-style foundations due to its Medium to High liquefaction vulnerability. The report states the site is also not suitable for deep foundations. The report recommends a gravel raft type foundation. Based on this reporting, I consider the site suitable for residential development with any geotechnical risks able to be adequately mitigated at building consent stage through the adoption of appropriate gravel raft foundation design.

Only a small southern portion of the site is located within the 1:50 Year Flood Zone. All buildings are located outside of this area. The balance of the site is within the 'Low Flood Risk Area'. The dwellings have been designed to ensure the proposal does not increase or exacerbate flood hazard risk. NCC Infrastructure require minimum floor levels for each dwelling which the applicant accepts.

Site Contamination

There is no known site contamination. Remediation is not required.

Servicing

NCC Infrastructure does not object to the proposed servicing arrangements. The supporting Civil Report confirms that the development can be adequately serviced with respect to stormwater, wastewater and water. On this basis I consider the proposed servicing arrangements will have less than a minor effect on the reticulated infrastructure networks. Any cumulative effect resulting from the increased demand generated by the additional five dwellings on the local infrastructure networks will be less than minor.

All buildings are sited clear of the wastewater mains which traverse the site, avoiding any adverse effects on this on-site infrastructure.

Heritage and Culture

There are no known waahi tapu, significant or notable trees either on the subject site or within the vicinity of it that would be adversely affected by the proposal. Accidental discovery protocols will apply. All development is located outside of the adjacent State Housing Advocacy Area Heritage Precinct. I note this precinct is not proposed in the Napier City Proposed District Plan.

Noise

There is nothing to suggest construction noise will exceed the District Plan noise standards. The residential intensity is not a level that will generate noise levels beyond that expected from a usual domestic environment. Owing to the separation distance between the works location and the nearest properties in the wider environment, noise effects on the wider environment will be less than minor.

Adverse effects conclusions

I conclude the adverse effects on the wider environment will be less than minor in terms of s95D of the RMA.

Step 4: Public notification in special circumstances

If an application has not been publicly notified as a result of any of the previous steps, then the council is required to determine whether special circumstances exist that warrant it being publicly notified (s95A(9)).

Special circumstances are those that are:

- Exceptional, abnormal or unusual, but something less than extraordinary or unique;
- outside of the common run of applications of this nature; or
- circumstances which make notification desirable, notwithstanding the conclusion that the activities will not have adverse effects on the environment that are more than minor.

In this instance I have turned my mind specifically to the existence of any special circumstances and conclude that there is nothing exceptional or unusual about the application, and that the proposal has nothing out of the ordinary realm to suggest that public notification should occur.

Public notification conclusion

Having undertaken the s95A public notification tests, the following conclusions are reached:

- Under step 1, public notification is not mandatory.
- Under step 2, there is no rule or NES that specifically precludes public notification of the activities, and the application is for activities other than those specified in s95A(5)(b).
- Under step 3, public notification is not required as the application is for activities that are not subject to a rule that specifically requires it, and it is considered that the activities will not have adverse effects on the environment that are more than minor.
- Under step 4, there are no special circumstances that warrant the application being publicly notified.

It is therefore recommended that this application be processed without public notification.

9. Limited notification assessment (sections 95B, 95E-95G)

If the application is not publicly notified under s95A, the council must follow the steps set out in s95B to determine whether to limited notify the application. These steps are addressed in the statutory order below.

Step 1: Certain affected protected customary rights groups must be notified

There are no protected customary rights groups or customary marine title groups affected by the proposed activities (s95B(2)).

In addition, the council must determine whether the proposed activities are on or adjacent to, or may affect, land that is subject of a statutory acknowledgement under schedule 11, and whether the person to whom the statutory acknowledgement is made is an affected person (s95B(3)). In this instance, no statutory acknowledgements are relevant.

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

The application is not precluded from limited notification as:

- a. the application is not for one or more activities that are exclusively subject to a rule or NES which preclude limited notification (s95B(6)(a)); and
- b. the application is not exclusively for a controlled activity, other than a subdivision, that requires consent under a district plan (s95B(6)(b)).

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

As this application is not for a boundary activity, there are no affected persons related to that type of activity (s95B(7)).

The following assessment addresses whether there are any affected persons that the application is required to be limited notified to (s95B(8)).

In determining whether a person is an affected person for the purposes of giving limited notification of an application, s95E of the RMA relevantly provides that:

- a) a person is affected if adverse effects on that person are minor or more than minor (but not less than minor);
- b) adverse effects on that person that are permitted by a rule in a plan or NES (the permitted baseline) may be disregarded;
- c) the adverse effects on those persons who have provided their written approval must be disregarded.
- d) the council must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11.

Adversely affected persons assessment (sections 95B(8) and 95E)

Northern Properties - 46 Bedford Road and 35 and 35A Barker Road

35 and 35A Barker Road are occupied by single dwellings and are located adjacent proposed lot 6. The dwelling on lot 6 complies with the bulk and location standards of the Operative District Plan.

The rear of 46 Bedford is adjacent the proposed car parking area to the rear of the triplex. Consequently, there will be no visual bulk, overshadowing, overlooking, loss of daylight/sunlight impacts on this property. The car park is limited to three vehicle spaces and therefore the vehicle movements generated by the carpark will be low. A 1.8m high solid timber paling fence is proposed along the common boundary which will fully screen, at ground level, the proposed car park from 46 Bedford. For these reasons any noise/disturbance effects generated by the use of the car park on 46 Bedford will be less than minor.

The applicant's sediment control measures will ensure adverse earthworks effects are less than minor on these properties. There is nothing to suggest that construction works will infringe the District Plan noise standards.

Western Property – 7 Lowry Terrace

This property is occupied by a single dwelling and is located adjacent proposed lot 1. The dwelling on lot 1 complies with the bulk and location standards of the Operative District Plan. A rear/side garage at 7 Lowry Terrace is located adjacent the proposed rear carpark, mitigating noise and disturbance effects generated by the use of the car park on 7 Lowry Terrace.

The applicant's sediment control measures will ensure adverse earthworks effects are less than minor on these properties. There is nothing to suggest that construction works will infringe the District Plan noise standards.

Eastern Property – 1 Lowry Terrace

This property is occupied by a single dwelling and is adjacent proposed lots 5, 6 and 7. The dwelling at this property is separated from the subject site by its western driveway and garage. All of the dwellings on proposed lots 5, 6 and 7 comply with the bulk and location standards of the Operative District Plan. Adverse amenity effects on this property will therefore be less than minor.

The applicant's sediment control measures will ensure adverse earthworks effects are less than minor on these properties. There is nothing to suggest that construction works will infringe the District Plan noise standards.

Southern Properties – 6, 6A, 8 and 10 Lowry Terrace

These properties are located opposite the site, on the southern side of Lowry Terrace. The separation distance provided by Lowry Terrace offers amenity mitigation such that any adverse amenity effects relating to overlooking, overshadowing, loss of daylight, loss of sunlight and visual bulk on these properties are less than minor.

The applicant's sediment control measures will ensure adverse earthworks effects are less than minor on these properties. There is nothing to suggest that construction works will infringe the District Plan noise standards.

Statutory Acknowledgements

The site is not within or adjacent to a Statutory Acknowledgment Area.

Summary

For the above reasons any adverse effects on persons at adjacent properties will be less than minor.

Step 4: further notification in special circumstances

In addition to the findings of the previous steps, the council is also required to determine whether special circumstances exist in relation to the application that warrants it being notified to any other persons not already determined as eligible for limited notification (excluding persons assessed under section 95E as not being affected persons).

Special circumstances are those that are:

- a) Exceptional, abnormal or unusual, but something less than extraordinary or unique;
- b) outside of the common run of applications of this nature; or
- c) circumstances which make limited notification to any other person desirable, notwithstanding the conclusion that no other person has been considered eligible.

In this instance I have turned my mind specifically to the existence of any special circumstances under s95B(10) and conclude that there is nothing exceptional or unusual about the application, and that the proposal has nothing out of the ordinary run of things to suggest that notification to any other persons should occur.

Limited notification conclusion

Having undertaken the s95B limited notification tests, the following conclusions are reached:

- c. Under step 1, limited notification is not mandatory.
- d. Under step 2, there is no rule or NES that specifically precludes limited notification of the activities, and the application is for activities other than those specified in s95B(6)(b).
- e. Under step 3, limited notification is not required as it is considered that the activities will not result in any adversely affected persons.
- f. Under step 4, there are no special circumstances that warrant the application being limited notified to any other persons.

It is therefore recommended that this application be processed without limited notification.

10. Notification recommendation

Non-notification

For the above reasons under section 95A this application may be processed without public notification.

In addition, under section 95B, limited notification is not required.

Accordingly, I recommend that this application is processed non-notified.



H. Lampp
Consultant Planner
City Strategy

Date: 23 February 2024

Resource Consent RMS230056

Sections 104 and 104B Assessment Report

NOTE: Refer to Sections 1 – 7 above for the resource consent application details, locality plan, description of the proposal, description of the site and location, and reasons for the consent and activity status.

11. Statutory considerations – section 104 assessment

Matters to be considered by the Council when assessing an application for resource consent under s104(1) of the Act include, subject to Part 2, any actual and potential effects on the environment and any relevant provisions of a plan or proposed plan, amongst other matters.

Under section 104C of the Act, after considering an application for a resource consent for a Discretionary Activity, a consent authority may grant or refuse the application. If it grants the application, it may impose conditions under section 108 of the RMA.

Section 104(1)(a) & (ab) – actual and potential effects on the environment

The s95 assessments contained in sections 8 and 9 of this report find that the actual and potential adverse effects on the environment generated by the activity are less than minor.

Positive effects (section 104(1)(a))

The infill development will increase the city's housing supply and enhance housing choice for residents. The development will make use of existing infrastructure.

Offsetting measures or compensation proposed or agreed (section 104(1)(ab))

I am not aware of any measures proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment as a means to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.

Section 104(1)(b) – relevant statutory instruments

Section 104(1)(b) states that a consent authority must have regard to any relevant provisions of various identified statutory instruments when considering an application for a resource consent, as follows:

'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;*

The following provides commentary regarding relevant national environmental standards, regional policy statements and plans. There are no 'other regulations' (ii) considered relevant to this application.

National Environmental Standards (section 104(1)(b)(i))

There are no national environmental standards relevant to this application.

National Policy Statement (section 104(1)(b)(iii))

The National Policy Statement for Urban Development (NPS-UD 2020) is relevant. The NPS-UD 2020 seeks to increase development capacity to enable more homes to be built in response to demand whilst ensuring the delivery of well-functioning urban environments. The policies seek to improve land-use flexibility in the areas that have the greatest demand. The proposal responds positively to the NPS-UD, as it will increase the housing supply of a tier 2 city. The proposal delivers five additional dwellings within an established, well-connected, residential zoned and sustainably located area. The development displays a conventional residential layout which will perform as a well-functioning urban environment.

New Zealand Coastal Policy Statement 2010 (section 104(1)(b)(iv))

The New Zealand Coastal Policy Statement is not relevant to this application.

Hawke's Bay Regional Policy Statement (section 104(1)(b)(v))

The only regional policy statement or proposed regional policy statement relevant to this application is the Hawke's Bay Regional Policy Statement (RPS). As required under section 75(3) of the RMA, District Plans must give effect to the RPS (embedded in the Hawke's Bay Regional Resource Management Plan (RRMP)).

I consider that the following objective of the RPS is relevant to this application:

OBJ 1 To achieve the integrated sustainable management of the natural and physical resources of the Hawke's Bay region, while recognising the importance of resource use activity in Hawke's Bay, and its contribution to the development and prosperity of the region.

The proposed activity is consistent with Objective OBJ 1 insofar as it will contribute to the development and prosperity of Napier City and the region by enabling residential development on the subject site to occur without risk to human health.

Hawke's Bay Regional Resource Management Plan (RRMP) (section 104(1)(b)(vi))

In addition to the RPS, the Hawke's Bay Regional Resource Management Plan (RRMP) includes the Regional Plan. The proposal is not inconsistent with any of the objectives and policies in the RRMP.

Napier City Operative District Plan

Residential Environment

Objective 4.2 To enable the diverse housing needs and preferences of the City's residents to be met while ensuring that the adverse effects on the environment of residential land use, development and subdivision are avoided, remedied or mitigated.

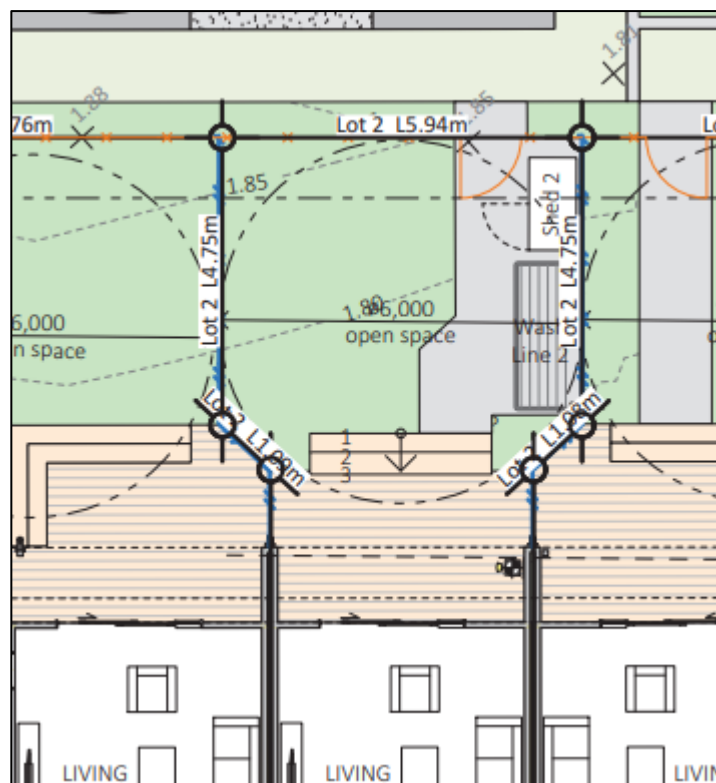
Policy 4.2.1 Enable the development of a range of housing types within the urban area and where appropriate, more intensive forms of housing such as papakainga housing and multi-unit development.

Policy 4.2.2 Ensure intensive forms of housing development such as papakainga housing and multi-unit development do not adversely affect the surrounding environment. Particular regard will be given to:

- *protecting the privacy and amenity of surrounding residential properties, residential areas and any nearby rural areas;*

- *maintaining the character of the surrounding residential areas;*
- *integrating the development with any adjacent public reserve and road system, ensuring the safe use of these areas;*
- *integrating the development with the surrounding neighbourhood, and community focal points, so that where possible, they are accessible to pedestrians; and*
- *designing for visual and aural privacy, sunlight and daylight access, adequate outdoor space (either private or communal), safety, and on-site parking and manoeuvring in a way that is appropriate to and consistent with the more intensive settlement pattern.*
- *Ensuring multi-unit development is only located where the roading network is able to support the additional traffic movements and demand for on street parking generated by the proposal.*

The proposal achieves the desired outcome by providing an efficient and respectful (in character and amenity terms) form of medium density residential development while providing residents with a sufficient level of open space and outdoor living areas. Although lot 2 provides open space that is 7.4sqm less than the 50sqm zone minimum, it does accommodate the 6m diameter circle which is directly accessible from the principal living area - refer image below. The washing line and a small part of the shed is within the 6m circle however I do not consider this fatal in internal amenity terms because the dwelling it serves is a two bedroom unit that will accommodate a smaller household unit. In other words, the space provides a sufficient level of outdoor amenity relative to the size of the unit it serves. Moreover, as noted in the AEE, there are parks and reserves within walking distance of the site that can be enjoyed by future lot 2 residents.



Washing lines and sheds encroach into the 6m diameter circles of the open space serving dwellings 5 and 7. The encroachments however are marginal in extent and the quantum of open space serving each dwelling exceeds the zone minimum. These utility encroachments do not unacceptably compromise the internal amenity that will be enjoyed by future occupants.

An appropriate balance of landscaped area and impervious surfaces is proposed to maintain a quality living environment. Further, the design and layout of the proposal will ensure that the activity is compatible with the surrounding residential area and will not compromise the existing levels of character and amenity currently enjoyed by residents of the area.

Having regard to the supporting TIA, I consider the local roading network can support the additional traffic movements and demand for on street parking generated by the proposal.

Objective 4.5 To maintain and enhance those qualities and characteristics that contribute to the wellbeing of the City's residents and the amenity of the residential zones.

Policy 4.5.3 Control the location of buildings on front and corner sites to maintain a degree of consistency of setback from the road.

Policy 4.5.4 Control building height and bulk to ensure it is compatible with the height and bulk of the surrounding residential area.

Policy 4.5.5 Control buildings so they are designed and located in a manner to ensure that adequate levels of sunlight and daylight reach adjacent residential properties throughout the year.

Policy 4.5.6 Ensure storage and parking areas are designed, located and/or screened in a way that maintains the on-site amenity and privacy of adjacent residential properties and visual amenity when viewed from the road.

Policy 4.5.7 Control residential development so it is designed and located in a way that takes into account the type of development, likely occupants and provides:

- *sufficient outdoor space for the anticipated number of occupants of the dwelling;*
- *outdoor space which is of a useable shape for recreation;*
- *sunlight access to the outdoor space area;*
- *privacy of outdoor space.*

The front HIRB infringements are small in scale and will not unacceptably compromise streetscape character. The gabled roof forms are a design response preferred by NCC City Design & Urban Renewal, adding visual interest to the character of the area. Street setbacks are compliant. All dwellings comply with the maximum 8m height standard.

Car parking areas and driveways are sited in a manner that do not dominate frontages or the street. The siting of the carparks and driveways maintain on-site amenity, neighbouring privacy and streetscape legibility.

By adopting compliant side and rear yard setbacks the buildings provide for adequate sunlight and daylight into adjacent residential properties throughout the year. Outdoor spaces meet minimum requirements other than for lot 2; they are usable, functional and will receive sufficient sunlight access throughout the year. Side and rear boundary fencing ensures a good level of privacy is afforded to each outdoor living space.

The dwelling on lot 7 infringes the height recession plane in respect to lots 4 and 5. The infringement is limited to the spouting of the building and will be indiscernible to lots 4 and 5. All other internal HIRBs are compliant.

Objective 4.7 To maintain and enhance residential amenity through the retention and planting of trees within the residential environment.

Policy 4.7.3 Encourage the planting of trees, especially mature trees, within residential areas to mitigate the effects of urban intensification, urban-fringe development and any loss of significant vegetation.

Extensive landscape planting is proposed throughout the site that will soften the built form and ably assist in assimilating the development into its surrounds.

Transportation

Objective 61.3: To maintain a safe and efficient transport network that meets the needs of the community and the future growth of Napier without causing significant adverse effects.

Policy 61.3.3: Control the design and location of subdivision, use and development of land so as to minimise traffic patterns that will interfere with the safe and efficient operation of the transport network.

Policy 61.3.6: Avoid, remedy or mitigate the effects of vehicle parking, access and manoeuvring on the transport network.

Objective 61.4: To maintain an integrated transport network while avoiding, remedying or mitigating any adverse effects on the environment.

The proposal accords with these objectives and policies for the following reasons:

- The proposed accessways and parking spaces have been designed to provide for safe pedestrian and vehicular access to and from the proposed dwellings, with the JOAL designed to enable vehicles to safely exit onto Lowry Terrace in a forward manner.
- The memo recommends the erection of a sign at the entrance stating 'Residents Vehicles Only' to assist with traffic safety mitigation.
- The TIA confirms that the proposed traffic generated by the development can be accommodated without compromising the safety and efficient operating of the local road network.
- Sightlines at the proposed vehicle crossings are compliant with the Operative District Plan.

Earthworks

Objective 52A.3 To enable earthworks within Napier City while ensuring that the life-supporting capacity of soils and eco-systems are safeguarded and adverse effects on outstanding natural features and significant landscapes, historic heritage values and human health and safety are avoided, remedied or mitigated.

Policy 52A.3.1 Require the repasture or revegetation of land where vegetation is cleared in association with earthworks.

Policy 52A.3.4 Control earthworks to ensure that they will not adversely affect the natural and physical environment, and the amenity of the community, adjoining land uses, historic heritage values and culturally sensitive sites.

Policy 52A.3.5 Allow earthworks where the adverse effects on the environment will be minor.

In response to the above:

- The proposal will not give rise to any issues in relation to the life-supporting capacity of soils.

- The site is not an outstanding natural feature or located within a significant landscape in terms of Objective 52A.3.
- The proposed earthworks will be temporary and are of a nature that is reasonably expected for a development of this extent. All exposed works will be covered once the proposed dwellings have been constructed.
- Standard erosion and sediment control practices are proposed to ensure adverse effects on the environment and neighbouring properties will be less than minor.

Volume 2 - Code of Practice for Subdivision and Land Development

Objective 5.1.2(2) The amenity values comprising the character of Napier's diverse localities are maintained or enhanced.

Objective 5.1.3 The provision of a range of reserves and open spaces located in appropriate sites to provide for the recreational, amenity, tourist, and intrinsic values of Napier.

Objective 5.1.6 The provision of an efficient and effective infrastructure, services and utility network that provides for the current and reasonably foreseeable needs of the City.

Objective 5.1.7 The provision of allotments that have adequate vehicular access to provide for the actual and potential needs of a range of permitted activities, and that such access is appropriately integrated with the City's road network.

Objective 5.1.12 The protection of people's health and safety in a manner that is compatible with, and complementary to, other legislative requirements and management systems.

Policy 5.2.2 To ensure that the development process (including subdivisions) allows significant mature trees which contribute to the amenity of the neighbourhood to be retained.

Policy 5.2.6 To identify natural hazard-prone areas and, where appropriate, to control the use and development of land (including subdivisions) to avoid, remedy or mitigate the effects on the natural hazard or the effects of the natural hazard on the developments. Policy 5.2.11 To control the use and development (including subdivisions) of land to avoid, remedy or mitigate any adverse effects on the health and safety of the City.

The proposal is in accordance with the Objectives specified in Part A5 (Management Strategy for Land Development) of Volume 2 of the Code and in particular Objectives 2, 5, 6 and 7, which pertain to the maintenance of amenity values, mitigation of natural hazards and the provision of three waters infrastructure and vehicle access.

Chapter 12 Residential Environments Assessment Criteria

Clause 3 of Chapter 12 requires Council to consider the following for multi-unit discretionary activities:

Design and External Appearance

The development respects the aesthetic qualities of the surrounding built form and will enhance the visual amenity of the neighbourhood. The design and external appearance of the development is well considered, providing articulated facades, visual interest and an appropriate level of townscape diversity.

The cladding colour on the proposed triplex dwellings has been revised, providing enhanced sense of identity for each unit, in accordance with NCC Urban Design recommendations.

The colour finishes have been refined, made in response to NCC Urban Design comments.

Site Layout

The generous spacing between the three distinct and separate buildings ensures the site does not appear cramped or overdeveloped relative to the surrounding development pattern. The proposed layout of the front lots is conventional, incorporating dwellings that address Lowry Terrace, consistent with the existing development at the site. The dwellings on rear lots 6 and 7 are less conventional in layout insofar as they are sited perpendicular to the front dwellings (lots 4 and 5). This however is not unacceptable given they are largely concealed from street view. They are also set well in from rear and side external boundaries, limiting their prominence in views from neighbouring rear yards.

Open Space

Internal and external boundary fencing is proposed that appropriately screens open space areas within the site from one another as well as from adjacent properties' open space areas.

Landscape Elements

Landscaping is proposed throughout the development, making a positive contribution to the landscape character of the area and enhancing the development's street appeal.

Carparking and Access

The design and location of vehicle crossings ensures that the development will avoid on-road congestion. Adequate sight distances are available for vehicular and pedestrian safety at each proposed crossing. The applicant has demonstrated by way of vehicle tracking analysis that vehicles can exit the site in a forward direction.

Infrastructure

NCC Infrastructure does not consider the proposed development to have adverse effects on infrastructural services. All buildings are sited clear of the wastewater mains which traverse the site.

Air Traffic Safety

The safety, efficiency and operations of the Hawke's Bay Airport are unaffected by the proposal.

Cumulative Effect

The proposed additional dwellings will not generate noise and other adverse effects not in keeping with the surrounding residential area. The development is domestic in character and appearance and the residential use will be domestic, consistent with the prevailing domestic use and day-to-day activities currently occurring at the site and neighbouring residential properties.

Scale and Intensity

The proposed density of development represents an efficient use of residentially zoned urban land, without the land appearing overdeveloped. The scale and intensity of the development is not incompatible with the surrounding residential uses and development. The proposed site coverage is considerably less than the 50% maximum permitted in the zone, and is consistent with the prevailing site coverage in the area. There will be a change in local character with the increased building height of one additional storey, and the greater development intensity, however the change is moderated by careful building placements, well-articulated designed dwellings and extensive site-wide landscaping.

Urban Form and Development Capacity

The conventional residential layout will deliver a well-functioning urban environment, consistent with the NPS-UD.

Assessment Criteria Summary

The application responds favourably to the relevant assessment criteria contained in section 3 of Chapter 12.

Financial Contributions

Objectives 65.3 – 65.6 and related policies in Chapter 65 have been considered. The development will produce additional demand on the Council's three-water services, roading network, and parks from seven additional households and will generate adverse cumulative effects on infrastructure, amenity values, and therefore people's health, safety, and wellbeing. To mitigate these adverse effects and ensure the development pays a proportionate share of costs to upgrade these services to respond to the demand on services generated by the additional five households, a condition of consent is recommended which requires a financial contribution to be paid. Granting resource consent subject to the recommended condition implements the objectives and policies in Chapter 65.

Napier City Proposed District Plan (section 104(1)(b)(vi))

The application was lodged with Council prior to the notification of the PDP on 21 September 2023. Therefore, in accordance with section 104(1)(b)(vi) of the RMA, consideration of the relevant provisions is required. However, it is noted that the submission period of the PDP is still open and therefore very little weight should be afforded to these provisions. As such, a full written assessment of those provisions is not considered necessary for the purposes of this report. Notwithstanding this, a high-level assessment of the relevant provisions of the Medium Density

Residential Zone, Transport section and Earthworks sections of the PDP has found the proposal is not contrary to the objectives and policies of those sections of the Plan.

Other matters (s 104(c))

In accordance with an assessment under s104(1)(c) of the RMA, no other matters are considered relevant and reasonably necessary to determine the application.

Permitted baseline (s 104(2))

Rule 5.15 of the Main Residential Zone allows a wide-ranging set of different development scenarios to be undertaken as-of-right at the site. The scale of the site also offers the scope to deliver a myriad of different permitted development outcomes. In light of this and noting the applicant has not presented a counterfactual proposal for comparison in its application, I have determined to not take into account the effects of permitted activities.

Section 104(3))

I have not had regard to trade competition or the effects of trade competition.

No person has given written approval to the application and therefore no adverse effects are disregarded.

Granting resource consents would not be contrary to any of the matters listed at s104(3)(c).

Section 106

Where there is a potential significant risk from natural hazards, section 106 requires a combined assessment of:

- a) The likelihood of natural hazard occurring (whether individually or in combination); and
- b) The material damage to land in respect of which the consent is sought, other land or structures that would result from natural hazards and
- c) Any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen or result in material damage of the kind referred to in paragraph (b).

The supporting geotechnical assessment recommends a gravel raft foundation design owing to the medium to high liquefaction vulnerability. Subject to implementation of this recommendation, which can be addressed at building consent stage, the site is suitable for residential development.

The site is in a low flood risk area except for a small southern area. All proposed development is clear of this area.

Legal and physical access is provided to all lots.

For the above reasons I consider there to be no reason to refuse subdivision consent on any of the grounds expressed in Section 106 of the RMA.

Part 2

In the context of this Discretionary Activity application for land use and subdivision where the objectives and policies of the relevant statutory documents were prepared having regard to Part 2 of the RMA, they capture all relevant planning considerations and contain a coherent set of policies designed to achieve clear environmental outcomes. They also provide a clear framework for assessing all relevant potential effects and there is no need to go beyond these provisions and

look to Part 2 in making this decision as an assessment against Part 2 would not add anything to the evaluative exercise.

Conclusion

Overall, the proposal is consistent with the objectives and policies of the Napier City Operative District Plan, Napier City Proposed District Plan and the NPS-UD 2020.

12. Conditions

Under sections 108, 108AA, and 220 of the RMA, these consents are subject to the following conditions:

1. These consents shall be carried out in accordance with the documents and drawings and all supporting additional information submitted with the application, detailed below, and all referenced by the council as resource consent number RMS230056.
 - *Land Use and Subdivision for Seven Dwellings 3-5 Lowry Terrace, Marewa, Assessment of Environmental Effects and Statutory Analysis* prepared by B&A Urban and Environmental dated 27 July 2023

Drawing title and reference	Author	Rev	Dated
101B Existing Site Plan 1/09/2023	Creatus Group	As specified	As specified
102C Overall Site Plan 15/02/2024			
103C Overall Site/Floor Plan 15/02/2024			
104C First Floor Plan 15/02/2024			
105C Roof Plan 15/02/2024			
106C Site Elevations 15/02/2024			
107C Site Elevations 15/02/2024			
108B Site Perspectives 01/09/2023			
H20230107-LOW-L800 Rev 5	Development Nous	As specified	09/02/24
H20230107-LOW-L800a Rev 2			
H20230107-LOW-L800b Rev 1			
H20230107-LOW-L800c Rev 1			
H20230107-LOW-L801 Rev 5			
H20230107-LOW-L802 Rev 5			
H20230107-LOW-L803 Rev 5			
H20230107-LOW-L821 Rev 3			
H20230107-LOW-L822 Rev 3			
H20230107-LOW-L823 Rev 1			
H20230107-LOW-L824 Rev 2			
H20230107-LOW-L831 Rev 3			
H20230107-LOW-L832 Rev 3			

H20230107-LOW-L841 Rev 1			
H20230107-LOW-L851 Rev 1			
H20230107-LOW-L852 Rev 1			
Services Design 1126-C302 Rev C	Civil Services (HB) Limited	C	June 2023
Scheme Plan - Proposed Subdivision	Technical Spatial	5	13/02/24

Report title and reference	Author	Rev	Dated
Preliminary Geotechnical Assessment Report Ref 1126-002	Civil Services (HB) Limited		22 May 2023
Traffic Impact Assessment Ref: 230158 Issue A	Traffic Planning Consultants	A	June 2023
Concept Civil Design Report Ref: 1126-003	Civil Services (HB) Limited	1	June 2023
Addendum to Stormwater Calculations Ref: 1126-011	Civil Services (HB) Limited		8 November 2023
Stormwater Calculations Entire Subdivision 1126 Rev B	Civil Services (HB) Limited		15 November 2023
Traffic Engineer Assessment Memo Ref: 230593	Traffic Planning Consultants		12 February 2023

2. Under section 125 of the RMA, these consents lapse five years after the date they are granted unless:
 - a. The consents are given effect to; or
 - b. The council extends the period after which the consents lapse.
3. Council will undertake monitoring in accordance with the RMA. The consent holder shall pay the actual and reasonable costs incurred to ensure compliance with the conditions attached to these consents.

Advice note:

The initial monitoring deposit is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc., all being work to ensure compliance with the resource consent(s). In order to recover actual and reasonable costs, monitoring of conditions, in excess of those covered by the deposit, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge. Only after all conditions of the resource consent(s) have been met, will the council issue a letter confirming compliance on request of the consent holder.

Financial Contributions

4. Prior to s224 certification or issue of building consent for the development, whichever occurs first, a financial contribution of \$131,568.32 shall be paid to the consent authority as a contribution towards the impact on the cost of upgrading existing engineering and community services as set out in the Financial Contribution Policy dated 29 June 2021. The amount is inclusive of GST and will be subject to the indexation applicable at the time of payment.

Specific Conditions – Subdivision

Electrical and Telecommunications

5. Prior to s224 certification under the Resource Management Act 1991, telecommunications reticulation (including ducting for computer media), underground electrical, and where applicable, gas services shall be provided to all lots. For lots where telecommunications reticulation (including ducting for computer media) is not currently installed, the Consent Holder shall provide a signed contract and proof of payment or a completion certificate from the utility provided.

Easements

6. Pursuant to Section 243 of the RMA easements shall be provided for all services that cross one lot to service another and all easements shown on the approved scheme plan including easement in gross (over lots 6 and 8 for right to drain sewer) shall be included in a memorandum endorsed on the plan and shall be granted or reserved. Easement widths shall be as specified in the Napier City Council – Code of Practice for Subdivision and Land Development (Refer to Clause 1.7.4 Easements and Standard Drawing D24 (Easement Dimensions)).

Amalgamation

7. That Lot 8 hereon shall be held as to six undivided one sixth shares by the owners of lots 1 to 4, 6 and 7 hereon and individual records of title be issued in accordance therewith (LINZ Reference 1870072).

Roading

8. Prior to s224 certification under the Resource Management Act 1991, crossings serving the JOAL and lot 5 shall be constructed and any redundant crossing or part thereof shall be reinstated to kerb and channel, all in accordance with the Napier City Council – Code of Practice for Land Development and Subdivision Infrastructure.
9. Prior to s224 certification under the Resource Management Act 1991, the JOAL shall be designed and constructed in accordance with the Napier City Council Engineering Code of Practice for Subdivision and Land Development. As-built plans for the JOAL, in accordance with the requirements of the NCC Code of Practice for Subdivision and Land Development (and any approved amendments), shall be submitted to the consent authority. The consent

holder shall obtain certification of a complete and correct record by a registered and professionally qualified engineer.

10. Prior to s224 certification under the Resource Management Act 1991, wayfinding signage details shall be submitted to and approved by the consent authority and thereafter installed in accordance with the approved details. Evidence demonstrating installation shall be provided prior to s224 certification.
11. Prior to s224 certification under the Resource Management Act 1991, the JOAL lighting shall be installed. Design and cabling details of the lighting shall be submitted to and approved by the consent authority.
12. Prior to s224 certification under the Resource Management Act 1991, a 'Residents Vehicles Only' sign shall be installed at the Lowry Terrace entrance to the JOAL.

Stormwater

13. Prior to s224 certification under the Resource Management Act 1991, stormwater connections for each lot shall be constructed in accordance with the Napier City Council - Code of Practice for Land Development and Subdivision Infrastructure.

Water Supply

14. Prior to s224 certification under the Resource Management Act 1991, water connections for each lot shall be constructed in accordance with the Napier City Council - Code of Practice for Land Development and Subdivision Infrastructure. No private water supply pipes shall pass between one lot and another (except through a legal right of way).

Wastewater

15. Prior to s224 certification under the Resource Management Act 1991, wastewater connections for each lot shall be constructed in accordance with the Napier City Council - Code of Practice for Land Development and Subdivision Infrastructure.

Consent Notices

16. Pursuant to Section 221 of the Resource Management Act 1991 a consent notice shall be registered on the Record of Title of the respective lots as follows:
 - a) Any habitable buildings shall be subject to a minimum finished floor level of RL 2.10m NZVD 2016 Datum.
 - b) Stormwater from Lot 1 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council Code of Practice for Subdivision and Land Development. The total stormwater runoff (impervious and pervious area) from Lot-1 for a 10% AEP storm event and 10 minutes duration must not exceed 2.0 litres per second.

- c) Stormwater from Lot 2 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council Code of Practice for Subdivision and Land Development. The total stormwater runoff (impervious and pervious area) from Lot-2 for a 10% AEP storm event and 10 minutes duration must not exceed 1.2 litres per second.
- d) Stormwater from Lot 3 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council Code of Practice for Subdivision and Land Development. The total stormwater runoff (impervious and pervious area) from Lot-3 for a 10% AEP storm event and 10 minutes duration must not exceed 1.8 litres per second.
- e) Stormwater from Lot 4 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council Code of Practice for Subdivision and Land Development. The total stormwater runoff (impervious and pervious area) from Lot-4 for a 10% AEP storm event and 10 minutes duration must not exceed 2.7 litres per second.
- f) Stormwater from Lot 5 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council Code of Practice for Subdivision and Land Development. The total stormwater runoff (impervious and pervious area) from Lot-5 for a 10% AEP storm event and 10 minutes duration must not exceed 2.7 litres per second.
- g) Stormwater from Lot 6 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council Code of Practice for Subdivision and Land Development. The total stormwater runoff (impervious and pervious area) from Lot-6 for a 10% AEP storm event and 10 minutes duration must not exceed 2.5 litres per second.
- h) Stormwater from Lot 7 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council Code of Practice for Subdivision and Land Development. The total stormwater runoff (impervious and pervious area) from Lot-7 for a 10% AEP storm event and 10 minutes duration must not exceed 2.1 litres per second.

Specific Conditions – Land Use

17. The conditions of subdivision consent are also required to be satisfied if the approved land use proceeds before the subdivision consent has received s224 certification under the Resource Management Act 1991. In particular: electrical and telecommunications; roading; stormwater (including consent notice requirements); water supply; and wastewater.

Wastewater

18. Prior to commencement of the development the existing wastewater main on the site shall be located and CCTV inspected to provide a baseline condition and the CCTV record provided to the consent authority. All CCTV inspections shall be completed to the current NZ Pipe Inspection Manual.
19. Within two months of the completion of the development the consent holder shall complete a second CCTV inspection of the wastewater main on the site and the CCTV record shall

be provided to the consent authority. All CCTV inspections shall be completed to the current NZ Pipe Inspection Manual. Any defects to the wastewater asset caused as a result of the development works shall be repaired at the full cost of the consent holder and shall be carried out within three months of the date of the CCTV record being submitted to the consent authority and in accordance with engineering design first approved by the consent authority.

Construction

20. At the time of building consent application for any habitable building it shall be demonstrated that the building adopts a minimum finished floor level of RL 2.10m NZVD 2016 Datum.
21. Construction shall be undertaken in compliance with NZS 6803:1999 for noise associated with construction.
22. Construction shall be restricted to the hours of 7.30am and 6.00pm Monday to Friday and 7.30am to 12.00pm on Saturday only. No building work is to be undertaken on Sundays or Public Holidays.
23. Prior to commencement of works a construction management plan shall be submitted to and approved by the consent authority (send to planning@napier.govt.nz and environmental.solutions@napier.govt.nz). All construction works shall be carried out in accordance with the approved details. The construction management plan shall:
 - a) Outline delivery procedures and times.
 - b) Outline how parking in association with construction will be managed.
 - c) Temporary traffic management plan.
 - d) Outline the nature and location of signage to be erected to warn pedestrians of the construction site and associated vehicles.

Environmental

24. Prior to the commencement of any on-site works, all silt and sediment control measures detailed in the Concept Civil Design Report dated June 2023 shall be implemented and undertaken for the duration of the construction period.

Landscaping


25. All soft landscaping shown on the approved landscaping plans within each lot shall be planted in the first planting season following Code of Compliance for each dwelling and shall be maintained in general accordance with the landscaping plans approved under Condition 1. Any dead or dying species shall be replaced within the following planting season.
26. All hard landscaping shall be constructed prior to the occupation of any dwelling and be maintained in general accordance with the landscaping plans approved under Condition 1.

Advice notes

1. *The engineering design shall be undertaken by a Chartered Professional Engineer experienced in water, sewer, stormwater and roading services design and construction. The design shall be generally in accordance with the application and the NCC Code of Practice for Subdivision and Land Development, except where a specific dispensation has been granted through the Engineering Approval (certification by NCC Infrastructure) process.*
2. *Plans approved under Resource Consent do not constitute an Engineering Plan Approval and should not be used for the purposes of constructing public reticulation works in the absence of that approval.*
3. *All works within the road corridor shall be managed by a contractor operating under a current CAR (Corridor Access Request), made through the www.beforeudig.co.nz website and appropriate traffic management. The Corridor Access Request shall be approved by the Road Controlling Authority prior to construction works commencing onsite.*
4. *Detailed foundation design by a suitably qualified engineer shall be provided at the time of building consent and must generally accord with the recommendations contained in the supporting Geotechnical Assessment prepared by Civil Services (HB) Limited dated 22 May 2023.*
5. *That the following procedures (Accidental Discovery Protocol) shall be followed in the event that Koiwi, archaeological features or Taonga are discovered or are suspected to have been unearthed during earthworks or construction phase of site development:*
 - a. *Earthworks should cease immediately in the vicinity of the discovery. It is important that any remains or artefacts are left undisturbed or in-situ once discovered. If it is unclear whether the find is Koiwi, archaeological features or Taonga, the consent holder shall consult a Heritage New Zealand Pouhere Taonga (HNZPT) archaeologist.*
 - b. *The site supervisor/consent holder/agent shall take steps immediately to secure the area so that Koiwi or Taonga remain untouched and site access is restricted.*
 - c. *The site supervisor/consent holder/agent shall ensure that consumption of food and/or drink and/or smoking in the immediate area of the discovery is restricted.*
 - d. *The site supervisor/consent holder/agent will notify the New Zealand Police (in the event of the discovery of Koiwi/skeletal remains only), Heritage New Zealand and*
 - i. *Ngāti Parau - Chad Tareha chadtareha24@gmail.com and/or*
 - ii. *Mana Ahuriri – Parris Greening parris@manaahuriritrust.com and/or*
 - iii. *Maungaharuru-Tangitū Trust – Lee Grace lee@tangoio.maori.nz and/or*
 - iv. *Te Taiwhenua o Te Whanganui a Orutu – hori@taiwhenua.com*
 - e. *Activities on the site will remain on-hold until the Police (in the case of Koiwi), the Kaumatua (or other representative advised by the relevant Māori organisation) and Heritage New Zealand have given approval for works to recommence.*
 - f. *In the case of discovering Koiwi, site access should be restricted to all parties until Police are satisfied the remains are not of forensic relevance.*
 - g. *The site supervisor/consent holder/agent shall ensure that Kaumatua (or other representative advised by the relevant Māori organisation) have the opportunity to undertake Karakia or other cultural ceremonies and activities at the site as may be considered appropriate.*

- h. The consent holder shall ensure that no information regarding discoveries of Māori origin is released to the media except as authorised by the relevant Māori organisation/s.*
6. *Any reference to number of days within this decision refers to working days as defined in s2 of the RMA.*
 7. *For the purpose of compliance with the conditions of consent, “the council” refers to the council’s resource consents and compliance officers unless otherwise specified.*
 8. *For more information on the resource consent process with Napier City Council see the council’s website: <https://www.napier.govt.nz/> . General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment’s website: <https://www.mfe.govt.nz/rma> .*
 9. *If you disagree with any of the above conditions, and/or disagree with the additional charges relating to the processing of the application(s), you have a right of objection pursuant to sections 357A and/or 357B of the Resource Management Act 1991. Any objection must be made in writing to the council within 15 working days of your receipt of this decision (for s357A) or receipt of the council invoice (for s357B).*
 10. *The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety at Work Act 2015), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.*

Delegated decision maker:

Name: Nick McCool
Title: Principal Resource Consents Planner,
City Strategy
Signed: 
Date: 23 February 2024

Resource Consent Notice of Works Starting

Please email this form to planning@napier.govt.nz at least 5 days prior to work starting on your development.

Alternatively deliver to:

Customer Services Dunvegan House Ground Floor 215 Hastings Street Napier South

Or

Mail to:

Attention: Resource Consent Team

Private Bag 6010

Napier 4142

New Zealand

Site address:	
Resource consent number:	Associated building consent:
Expected start date of work:	Expected duration of work:

Primary contact	Name	Ph No.	Address	Email address
Owner				
Project manager				
Builder				
Earthmover				
Arborist				
Other (specify)				

Signature: Owner / Project Manager (indicate which)	Date:
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Once you have been contacted by the Resource Consent/Compliance Officer, all correspondence should be sent directly to them.

The council will review your property for start of works every three months from the date of issue of the resource consent and charge for the time spent. You can contact your Resource Consent/Compliance Officer on 06 835 7579 or via <https://www.napier.govt.nz/> to discuss a likely timetable of works before the inspection is carried out and to avoid incurring this cost.

Report for an application for resource consent under the Resource Management Act 1991



NAPIER
CITY COUNCIL
Te Kaunihera o Ahuriri

Discretionary Activity – Three Lot into Thirteen Lot Subdivision & Multi-Unit Development – Yards, HIRB, Open Space, Earthworks, Transport, NES

1. Application description

Application number(s):	RMS220101
Applicant:	Kainga Ora – Homes and Communities
Site address:	11, 13, 15 and 19 Cottrell Crescent
Legal description:	Lot 48, 49 and 50 DP 11370
Site area:	672m ² , 1287m ² and 972m ²
Napier Operative District Plan	
Zoning:	Main Residential
Overlays, controls, special features, designations, etc:	1:50 Year Flood Zone

2. Locality Plan



Source: Napier City Council IntraMaps

3. The proposal, site and locality description

Proposal

The proposal involves a comprehensive site redevelopment to create high density housing in the Main Residential Zone. This includes:

- Removal of four existing single-storey dwellings, along with all accessory buildings and garages.
- Construction of 13 new dwellings with the following configurations:

- ii. eight two-bedroom dwellings (Lots 1, 2, 5, 6, 9, 10, 11 and 12),
 - iii. four three-bedroom dwellings (Lots 4, 7, 8 and 13),
 - iv. one four-bedroom dwelling (Lot 3),
 - v. All newly constructed dwellings will be two-storey, with a mix of standalone and duplex typologies.
- c. The provision of one car parking space for each unit, with the exception of Lot 3, 4, 7, 8 and 13 which will have two car parking spaces. The proposed dwellings will be accessed through the JOAL from Cottrell Crescent. The JOAL will provide one way vehicle movement, with vehicles entering through the northern vehicle crossing and existing to the south.
- d. A concurrent subdivision alongside the multi-unit development of the dwellings, so that each unit is on a freehold title. With the creation of a Jointly Owned Access Lot (JOAL) which will be held in 13 undivided one-thirteenth shares by the owners of Lots 1 to 13.
- e. Earthworks are required across the sites to establish suitable levels for foundations and access ways, and to carry out landscaping. The landscaping will be in the form of planting, surface treatments and fencing.

Subdivision Consent

It is proposed to subdivide 3 lots into 13 lots for residential development in the Main Residential Zone.

Lot 1 – 180m ² net site area	Lot 8 – 238m ² net site area
Lot 2 – 170m ² net site area	Lot 9 – 240m ² net site area
Lot 3 – 258m ² net site area	Lot 10 – 143m ² net site area
Lot 4 – 179m ² net site area	Lot 11 – 154m ² net site area
Lot 5 – 139m ² net site area	Lot 12 – 176m ² net site area
Lot 6 – 138m ² net site area	Lot 13 – 260m ² net site area
Lot 7 – 160m ² net site area	

Land Use Consent

The applicant seeks to carry out the subdivision and the construction of the dwellings concurrently, therefore they are also seeking multi-unit resource consent. Under Rule 5.10 in the Main Residential Zone multi-unit development requires resource consent.

The proposal also seeks land use consent as some of the proposed lots do not comply with Rule 5.16 Yards in the Main Residential Zone, where the rule states that any part of a building must not be erected closer than three metres to the road boundary. The dwellings on Lot 1 and Lot 2 will be located within the 3 metre road setback.

The proposal also does not comply with Rule 5.18 Height in Relation to Boundary, where the rule states that any part of a building or structure must not project beyond a building envelope constructed by drawing planes along all parts of the site boundary. The planes must commence

3 metres above ground level at the site boundary and must be inclined to the horizontal at an angle of 45 degrees. The dwelling located on Lot 9 will infringe the height in relation to boundary rule by a maximum of 100mm vertically and 560mm horizontally.

The proposal does not comply with Rule 5.21 Open Space, where it states that each dwelling must have an amount of open space on the building site of not less than 50% of the gross floor area of all buildings on site, except that a minimum of 50m² per dwelling unit is required. Rule 5.21 also states that the open space must include an area capable of containing a 6 metre diameter circle. Lots 4, 7 and 11 will not be able to accommodate a 6 metre diameter circle, the shortfall will range from 100mm to 600mm. Lot 10 will only have an open space of 47m², rather than the 50m² that is required.

Rule 52A.10(2) states that the removal off site of more than 100m³ of earth (including topsoil) per 12 month period in any zone (excluding Main Rural Zone) is a discretionary activity and therefore requires resource consent. The proposal involves 441m³ of topsoil removal from site, and 12m³ of fill, therefore requiring a resource consent.

Rule 61.13(1)(a) states that where onsite parking is provided, that the parking of vehicles must be in accordance with design requirements. Rule 61.17(1)(e) states that the minimum access way width and manoeuvring provisions, must comply with Chapter 66 (Volume II) C5.7.1 in the Code of Practice for Subdivision and Land Development. Rule 61.13(1)(a) is not met as each parking space will be only 5 metres deep and 2.7 metres wide. Rule 61.17(1)(e) will not be met as the JOAL will be a minimum of 3.3 metres wide where a public road is required. There are no other district plan infringements for this proposal.

Site and surrounding environment description

The subject sites are residential lots measuring 672m², 1287m², and 971m² (totalling 2930m²) in the Main Residential Zone. All sites are relatively flat and rectangular/triangular in shape. 11 and 19 Cottrell Crescent both contain an existing single-storey dwelling onsite and small accessory buildings. 13 and 15 Cottrell Crescent contain two single-storey dwellings in a duplex arrangement, and small accessory buildings. All dwellings and accessory buildings will be demolished or removed from the sites. All properties have open front yards with no front yard fencing. All sites have side and rear fencing and vegetated areas across the sites. Between the sites there are 4 vehicle crossings and driveways, there are no street trees along the street frontage of any of the sites.

The surrounding environment consists of similar sized residential lots with dwelling configurations in detached and duplex styles. The sites are in close proximity to Maraenui Park and Maraenui Shopping Centre, which consists of a reserve, pharmacy, laundromat, bakery, takeaways, petrol station and a Four Square. Kindergartens, primary schools and high schools are also located in the surrounding neighbourhood.

Nicole Heron of Barker & Associates has provided a description of the proposal and subject site on pages 6-9 of the Assessment of Environmental Effects (AEE) titled: Construction of Thirteen Dwellings and Associated Subdivision – 11-19 Cottrell Crescent, Onekawa.

Having undertaken a site visit on 28 October 2022 and 23 November 2022, I concur with that description of the proposal and the site and have no further comment

4. Background

Specialist Input

The proposal has been reviewed and assessed by the following specialist teams:

- The Development and Standards Team support the application because the proposed lots will be serviceable by Council's reticulated infrastructure, the proposed wastewater connections will be protected through easements, and access provisions will allow for safe ingress and egress to and from the site.
- The assessment from internal teams led to a Section 92 request under the Resource Management Act 1991. The S92 was to clarify several issues around urban design and mailbox placements for the proposal. The applicant addressed these matters through the submission of additional information.

Specialist Reports

- Engineering Report by Vitor Torres de Melo of Maven, dated 14/9/22 and referenced as 104152.
- Detailed Site Investigation by Brodie Rowse of Geosciences, dated 8/10/21 and referenced as REP-H0164/DSI/OCT21.
- Site Management Plan by Brodie Rowse of Geosciences, dated 8/10/21 and referenced as MEM-H0164/WI/OCT21.
- Transport Assessment by Peter Kelly of Traffic Planning Consultants, dated September 2022 and referenced as 220273.

5. Reasons for the application

The operative plan provisions

In assessing an application for resource consent, the relevant provisions requiring consideration are those provisions of the NCCDP(OP) that are not subject to appeal and are operative (including treated as operative under s86F of the RMA);

- the relevant provisions of any relevant plan that remain operative as a consequence of the appeals against certain provisions of the NCCDP (OP); and
- the relevant provisions of a plan change to the NCCDP (OP) (including a private plan adopted by the Council) or a variation to a plan change to the NCCDP (OP) where the relevant provisions have legal effect.

The task of identifying the relevant provisions as described above requires individual analysis of the provisions of the NCCDP(OP) and the relevant appeals, within the context of the specific resource consent application.

In this instance:

The proposal involves multi unit development and subdivision in the Main Residential Zone. Under rule 5.12 of the NCCDP(OP), multi unit development and subdivision that does not comply with all relevant conditions requires resource consent as a restricted discretionary activity.

The proposal involves removal of more than 100m³ of earth within a 12 month period, therefore under Rule 52A.10(2) of the NCCDP(OP), resource consent is required as a discretionary activity.

Accordingly, resource consent is required for the following reasons:

- Rule 5.16 Yards – Restricted Discretionary
- Rule 5.18 Height in Relation to Boundary – Restricted Discretionary
- Rule 5.21 Open Space – Restricted Discretionary
- Rule 5.27 Earthworks – Discretionary
- Rule 5.31 Transport – Restricted Discretionary

Land use consent (s9)

Napier Operative District Plan

Main Residential Zone – 5.10 Land Development (including subdivision, but excluding multi unit development for commercial and industrial activities)

1. Land development, including subdivision but excluding multi unit development for commercial and industrial activities, is a controlled activity provided that:
 - a. It complies in all respects with the standards and terms specified in Chapter 66 (Volume II) of this Plan.
 - b. It complies in all respects with the relevant conditions in the Main Residential Zone Activity Table and Condition Table.
 - c. It is assessed according to the matters in Chapter 66 (Volume II) over which the Council has reserved its control.
2. Applications for resource consent will not be publicly notified in respect of land development (including subdivision) that fully complies with the standards and terms, and notice of applications need not be served.

Main Residential Zone – 5.12 Land Uses Not Complying With Conditions

1. Any subdivision, use or development of land referred to in Rules 5.2 to 5.11 that does not comply with all of the relevant conditions in the Main Residential Zone activity table and condition table is a restricted discretionary activity, unless stated by a rule elsewhere in this Chapter.

Main Residential Zone – 5.16(1)(a) Yards

1. The following yard conditions shall apply to all land uses:
 - a. Front Yards
 - i. Any part of a building must not be erected closer than 3 metres to the road boundary, except that:

- Eaves, fascias, gutters, down pipes, chimneys and flues may encroach on the front yard by a distance of up to 1 metre measured horizontally.
- If a garage/carport is provided, it must not be erected closer than 5m to the road boundary, so as to provide a vehicle standing bay. (Refer to Rule 61.17).

b. Front Yard Landscaping

On all sites other than rear sites, 40% of the front yard must comprise landscaped permeable surface.

c. Other Yards

- Any part of a building (including eaves and guttering) must not be erected closer than 1 metre to a side or rear site boundary.
 - Provided that where this is the only condition infringement and the written approval of the adjacent landowner(s) is provided at building consent stage, a resource consent application will not be necessary.
- Any part of a building, fence or permanently fixed structure must not be erected closer than 6 metres from the top of the bank of any watercourse or open drain.

Main Residential Zone – 5.18(1)(a) Height in Relation to Boundary

1. The following height in relation to boundary conditions shall apply to all land uses:

- Any part of a building or structure, must not project beyond a building envelope constructed by drawing planes along all parts of all site boundaries. The planes must commence 3.0 metres above ground level at the site boundary and must be inclined to the horizontal at an angle of 45 degrees.
- Provided that:
 - In relation to multi-unit development, the building envelope must be constructed by drawing planes along all parts of all building site boundaries and must commence at the building site boundary.
 - The height in relation to boundary control does not apply to the length of common wall between two or more attached buildings.
 - Where the site abuts an entrance strip or access lot, the furthest boundary of the entrance strip or access lot may be deemed to be the site boundary for the purpose of applying the height in relation to boundary control.
 - No account must be taken of aerials, lines, support structures, solar heating devices, air conditioning units and similar structures housing electronic or mechanical equipment or chimneys, no more than 1 metre wide in any horizontal direction and less than 2.5 metres in height beyond the building envelope.

Main Residential Zone – 5.21(1)(a) & 5.21(1)(c)(iv) Open Space

1. The following open space conditions shall apply to all residential activities:
 - a. Each dwelling unit must have an amount of open space on the building site of not less than 50% of the gross floor area of all buildings on the site, except that a minimum of 50m² per dwelling unit must be provided.
 - b. The maximum area of open space required to be provided on a building site is 100m² per dwelling unit.
 - c. Provided that:
 - i. Open space may comprise of more than one area.
 - ii. Open space may take the form of a deck or terrace but must be unobstructed by buildings (other than cantilevered decks), parking spaces, or vehicle manoeuvring areas.
 - iii. Open space must be directly accessible from the dwelling unit to which it relates.
 - iv. The open space must:
 - Include at least one area capable of containing a 6 metre diameter circle; and
 - Have a minimum dimension of 3 metres measured at right angles to the perimeter of the area.

Main Residential Zone – 5.27 Earthworks

1. The relevant provisions of Chapter 52A (Earthworks) of this Plan must be complied with.

Main Residential Zone – 5.31 Transport

1. The relevant provisions of Chapter 61 (Transport) of this Plan must be complied with.

Earthworks Chapter – 52A.10(2) Discretionary Activities

The following Earthworks operations are discretionary activities. A resource consent application must be made and consent may be declined or granted with, or without, conditions. The Council will have regard to the objectives and policies of this Plan and the assessment criteria in Chapter 52A.22. The Councils discretion is unrestricted.

1. The removal off site of more than 25m³ of topsoil, sand, gravel, metal or earth per 12 month period, in the Main Rural Zone.
2. The removal off site of more than 100m³ of earth (including topsoil) per 12 month period in any zone (excluding Main Rural Zone).

Transportation Chapter – 61.13(1)(a) General

1. Subject to Section 10 of the Act, where a building is constructed, substantially reconstructed, altered or added to, or where there is a change in the use of any land or building which has a different requirement for loading spaces under this Rule Table, provision in accordance with this Condition Table shall be made for the following:

- a. The parking of vehicles in accordance with design requirements, where onsite parking is provided.
- b. The loading and unloading of goods where the site is used for the manufacture, servicing, storage, sale or hire of goods or materials.
- c. Physical and legal vehicular access from a formed legal road.
- d. The parking of bicycles
- e. The provision of bicycle end of journey facilities

Transportation Chapter – 61.17(1)(e) Residential Activities

1. All residential activities that provide onsite vehicle access and car parking shall comply with the following, unless stated by a rule elsewhere in this Plan:
 - a. All vehicle movement paths must be designed using the New Zealand 99 percentile tracking curve as in Appendix 17.
 - b. Vehicle manoeuvring must be provided on the site as follows:
 - i. On all sites which have direct access to an Arterial Road or State Highway.
 - ii. On all rural sites.
 - iii. All manoeuvring areas must be provided and maintained in accordance with Appendices 17 and 18.
 - c. The access drive or aisle from the vehicular entrance to vehicular parking spaces must have a gradient not exceeding 1 in 4.
 - d. The minimum accessway width must be clear of eaves unless there is a height clearance of 4.2 metres above the driveway.
 - e. The minimum accessway width and manoeuvring provisions, must comply with Chapter 66 (Volume II) C5.7.1 in the Code of Practice for Subdivision and Land Development.

Subdivision consent (s11)

Napier Operative District Plan

Main Residential Zone – 5.10 Land Development (including subdivision, but excluding multi unit development for commercial and industrial activities)

1. Land development, including subdivision but excluding multi unit development for commercial and industrial activities, is a controlled activity provided that:
 - a. It complies in all respects with the standards and terms specified in Chapter 66 (Volume II) of this Plan.
 - b. It complies in all respects with the relevant conditions in the Main Residential Zone Activity Table and Condition Table.
 - c. It is assessed according to the matters in Chapter 66 (Volume II) over which the Council has reserved its control.

2. Applications for resource consent will not be publicly notified in respect of land development (including subdivision) that fully complies with the standards and terms, and notice of applications need not be served.

Main Residential Zone – 5.12 Land Uses Not Complying With Conditions

1. Any subdivision, use or development of land referred to in Rules 5.2 to 5.11 that does not comply with all of the relevant conditions in the Main Residential Zone activity table and condition table is a restricted discretionary activity, unless stated by a rule elsewhere in this Chapter.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

The applicant has provided a DSI Report written by Brodie Rowse of Geosciences Limited, dated 8 October 2021. The DSI identifies heavy metal concentrations in exceedance of the NES and background ranges for soil. The potential contamination is noted as being from unverified fill, discharges associated with prolonged residential occupation, and clandestine laboratory storage of materials and equipment in 2004. Therefore, the site must be considered as a 'piece of land' under the NES.

The DSI recommends that general development earthworks should be undertaken in accordance with the provided Site Management Plan Work Instruction for Development Earthworks. Topsoil from the site should be retained on site for reuse in ornamental landscaping areas as far as possible. When the buildings are removed from site, these buildings must be subject to an appropriately intrusive hazardous buildings survey to identify the location and extent of any asbestos within. Once identified, these materials must be appropriately removed under the controls of a licensed asbestos removals where those regulations are triggered.

Conditions will be placed on this resource consent to ensure that the Remediation Action Plan will be carried out.

Section 106 Assessment under the Resource Management Act 1991

- Part of the subject sites are located within the 1:50 Year Flood Zone, according to NCC GIS hazard layers. Although, it is not considered that there is a significant risk from natural hazards in terms of the proposed subdivision due to the risk being able to be mitigated at building consent stage, and the council imposing a minimum finished floor level for any future development.
- Sufficient provision has been made for legal and physical access to each proposed lot, through the way of a JOAL.

As such, there is no reason for council to refuse this subdivision consent on any of the grounds specified in Section 106 of the RMA.

National Policy Statement on Urban Development 2020

The National Policy Statement for Urban Development 2020 (NPS-UD) applies to this proposal. The direction of the NPS-UD is to enable more housing and commercial developments, particularly in higher density areas. The proposal will result in a total of 13 dwellings in a mix of duplex and

detached styles across the current 3 sites which will be subdivided. Overall, the proposal is consistent with the policy direction of the NPS-UD.

6. Status of the resource consents

Where a proposal:

- consists of more than one activity specified in the plan(s); and
- involves more than one type of resource consent or requires more than one resource consent; and
- the effects of the activities overlap;

the activities may be considered together.

Where different activities within a proposal have effects which do not overlap, the activities will be considered separately.

In the instance, the effects of the proposed resource consents will overlap and thus they are considered together as a **discretionary** activity overall.

7. Public notification assessment (sections 95A, 95C-95D)

Section 95A specifies the steps the council is to follow to determine whether an application is to be publicly notified. These steps are addressed in the statutory order below.

Step 1: mandatory public notification in certain circumstances

No mandatory notification is required as:

- the applicant has not requested that the application is publicly notified (s95A(3)(a));
- there are no outstanding or refused requests for further information (s95C and s95A(3)(b)); and
- the application does not involve any exchange of recreation reserve land under s15AA of the Reserves Act 1977 (s95A(3)(c)).

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

The application is not precluded from public notification as:

- the activities are not subject to a rule or national environmental standard (NES) which precludes public notification (s95A(5)(a)); and
- the application does not exclusively involve one or more of the activities described in s95A(5)(b).

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

The application is not required to be publicly notified as the activities are not subject to any rule or a NES that requires public notification (s95A(8)(a)).

The following assessment addresses the adverse effects of the activities on the environment, as public notification is required if the activities will have or are likely to have adverse effects on the environment that are more than minor (s95A(8)(b)).

Adverse effects assessment (sections 95A(8)(b) and 95D)

The consultant has provided, in accordance with schedule 4 of the RMA, an assessment of adverse environmental effects in such detail as corresponds with the scale and significance of the effects that the activities may have on the environment. This can be found on pages 13-18 and 24-25 of the AEE.

I concur with this assessment.

The AEE concludes that:

Yards:

- *The existing streetscape and protection from road frontage domination* – as the yard infringement on Lot 1 and 2 is relatively small, it is considered that there is less than minor adverse effects on the existing streetscape and on road frontage domination. Any adverse effects are further mitigated due to front yard landscaping treatment such as low fencing, and planting.
- *The outlook and privacy of adjacent and adjacent properties* – the dwellings on proposed Lot 1 and 2 will be partially located within the 3 metre road setback. As the infringement is not with an adjacent property, there is not considered to be any adverse effects on the outlook and privacy of adjacent properties.
- *The effects of shading of adjacent properties* - the dwellings on proposed Lot 1 and 2 will be partially located within the 3 metre road setback. As the infringement is not with an adjacent property, there is not considered to be any adverse effects on the shading of adjacent properties.
- *The effects on amenity values of the neighbourhood* - as the yard infringement on Lot 1 and 2 is relatively small, it is considered that there is less than minor adverse effects on the amenity values of the neighbourhood. Any adverse effects are further mitigated due to front yard landscaping treatment such as low fencing, and planting.
- *The effects on the maintenance and enhancement of watercourses and open drains* – not applicable.

Height in Relation to Boundary:

- *The availability of daylight to adjacent properties* - the dwelling located on Lot 9 will infringe the height in relation to boundary rule by a maximum of 100mm vertically and 560mm horizontally. Due to the infringement being relatively small, it is considered that any adverse effects from this will be less than minor in regards to the availability of daylight to adjacent properties.
- *The effects on the privacy of adjacent properties and occupiers* - the dwelling located on Lot 9 will infringe the height in relation to boundary rule by a maximum of 100mm vertically and 560mm horizontally. Due to the infringement being relatively small, it is considered that any adverse effects from this will be less than minor in regards to the privacy of adjacent properties and occupiers.
- *The effects on amenity values* - the dwelling located on Lot 9 will infringe the height in relation to boundary rule by a maximum of 100mm vertically and 560mm horizontally. Due to the infringement being relatively small, it is considered that any adverse effects from this will be less than minor in regards to the effects on amenity values.

- *The effects on landscape values* - the dwelling located on Lot 9 will infringe the height in relation to boundary rule by a maximum of 100mm vertically and 560mm horizontally. Due to the infringement being relatively small, it is considered that any adverse effects from this will be less than minor in regards to the effects on landscape values.

Open Space:

- *The effects on privacy and amenity of the occupants on-site* - Lots 4, 7 and 11 will not be able to accommodate a 6 metre diameter circle, the shortfall will range from 100mm to 600mm. Lot 10 will only have an open space of 47m², rather than the 50m² that is required. Despite the open space infringements for Lots 4, 7, 10 and 11 there is still considered to be sufficient open space available onsite for the occupants of the properties. There are considered to be less than minor adverse effects on privacy and amenity of the occupants on site.
- *The effect on the open space appearance of the neighbourhood* - Lots 4, 7 and 11 will not be able to accommodate a 6 metre diameter circle, the shortfall will range from 100mm to 600mm. Lot 10 will only have an open space of 47m², rather than the 50m² that is required. As all of the open space infringements are on the sections at the back of the development, there is not considered to be any adverse effects on the open space appearance of the neighbourhood as these infringements cannot be viewed from the street.

Earthworks:

- *The matters identified in the second column of the Earthworks activity table and/or condition table* – not applicable for this application.
- *The cumulative effect of non-compliance with more than one condition* – not applicable for this application.
- *The matters set out in Chapter 1.6.5* – the matters set out in Chapter 1.6.5 have been considered.
- *The assessment criteria in Chapter 52A.22 of this Plan where applicable:*
 - Land Disturbance and Vegetation Clearance* – in order to facilitate building platforms and landscaping, the four existing dwellings, hard surfaces and vegetation will be removed from the site. Further earthworks will be required across the entirety of the site in order to establish suitable levels for foundations, civil works and access ways, as well as carry out landscaping. The earthworks will comprise of 441m³ of topsoil removal, 438m³ cut and 12m³ fill. Details of the earthworks proposed have been included in the AEE, Engineering Report, Detailed Site Investigation and the Site Management Plan.
 - Visual Impact* – due to the purpose of the earthworks being to facilitate construction in the way of building platforms and landscaping, once the earthworks are completed and the proposal is carried out any earthworks will not be visual when viewed from outside of the property. Therefore, it is considered that any adverse effects on neighbouring properties or the wider environment will have less than minor adverse effects in regards to visual impact.
 - Noise* – any noise effects from earthworks will be of a temporary nature, and is similar in nature to other earthworks within the Main Residential Zone. It is anticipated that earthworks will be carried out during standard construction hours, and so adverse noise impacts are not anticipated.
 - Effects on other land uses and adjoining properties* – due to the purpose of the earthworks being to facilitate construction in the way of building platforms and landscaping, once the earthworks are completed and the proposal is carried out any earthworks will not be visual when viewed from outside of the property. Therefore, it is considered that any adverse

effects on neighbouring properties or the wider environment will have less than minor adverse effects.

v. *Earthworks within outstanding or significant natural landscapes* – not applicable for this application.

Transport:

- *The matters identified in the second column of the Transport activity table and /or condition table* – assessed below.
- *The cumulative effect of non-compliance with more than one condition* - as part of this application a Transport Assessment, prepared by Traffic Planning Consultants, was submitted. The Transport Assessment report confirms that all sites can be adequately accommodated into the road network without compromising its function, capacity, or safety. Overall, the report concludes that the proposed development can be serviced without any cumulative effects from non-compliance with more than one condition.
- *In respect of a controlled activity failing to comply with all of the relevant conditions, those matters the Council had reserved its discretion over* – assessed below.
- *The matters set out in Chapter 1.6.5* - the matters set out in Chapter 1.6.5 have been considered.
- *The provision of on-site parking spaces* - The provision of one car parking space for each unit has been provided, with the exception of Lot 3, 4, 7, 8 and 13 which will have two car parking spaces.
- *The provision of on-site loading spaces* – there are no on-site loading spaces proposed.
- *The provision of vehicular access from road* - the proposed dwellings will be accessed through the JOAL from Cottrell Crescent. The JOAL will provide one way vehicle movement, with vehicles entering through the northern vehicle crossing and existing to the south. Rule 61.17(1)(e) will not be met as the JOAL will be a minimum of 3.3 metres wide where a public road is required. However, the Transport Assessment report confirms that each site can be adequately accommodated into the road network without compromising its function, capacity, or safety.
- *The number of parking spaces* - there is the provision of one car parking space for each dwelling, with the exception of Lot 3, 4, 7, 8 and 13 which will have two car parking spaces. There is considered to be sufficient car parking spaces provided for the dwellings onsite.
- *The availability of parking spaces* – there is the provision of one car parking space for each dwelling, with the exception of Lot 3, 4, 7, 8 and 13 which will have two car parking spaces. There is considered to be sufficient car parking spaces provided for the dwellings onsite.
- *Provision of on-site manoeuvring areas* – the Transport Assessment report shows vehicle tracking/manoeuvring areas for each lot. The report concludes that sufficient manoeuvring areas have been provided.
- *Effects on the safety and efficiency of the road network* - the Transport Assessment report confirms that each site can be adequately accommodated into the road network without compromising its function, capacity, or safety.

Assessment Criteria in Chapter A8:

- *Scale and Intensity* – the scale and intensity of the development is compatible with surrounding land uses and the proposed landscaping helps to mitigate any adverse effects. The proposal is not considered to adversely affect the functioning of the immediate area.
- *Access* – the proposed dwellings will be accessed through the JOAL from Cottrell Crescent. The JOAL will provide one way vehicle movement, with vehicles entering through the northern vehicle crossing and existing to the south.

- *Infrastructure* – the proposal includes a connections to the existing water supply rider main within Cottrell Crescent through a new rider main. Each dwelling will have an individual lateral connections with a separate manifold box at the boundary. On site stormwater detention is proposed to achieve stormwater neutrality on the sites. Detention storage will be provided through 2000 litre tanks. The stormwater from the tanks will be discharged to the proposed stormwater main within the JOAL, or to the kerb outlet where connection to the mains is not possible. The proposal includes constructing a wastewater main within the JOAL, which connects to the existing public wastewater network which runs adjacent to the western boundary of the site. As part of this application an Engineering Report, prepared by Maven, was submitted. Maven’s report confirms that all sites can be adequately serviced in terms of water, stormwater and wastewater. Overall, the report concludes that the proposed development can be serviced without adverse effects.
- *Hazards and Contaminated Sites* – the applicant has provided a DSI Report written by Brodie Rowse of Geosciences Limited, dated 8 October 2021. The DSI identifies heavy metal concentrations in exceedance of the NES and background ranges for soil. The potential contamination is noted as being from unverified fill, discharges associated with prolonged residential occupation, and clandestine laboratory storage of materials and equipment in 2004. Therefore, the site must be considered as a ‘piece of land’ under the NES. The DSI recommends that general development earthworks should be undertaken in accordance with the provided Site Management Plan Work Instruction for Development Earthworks. Topsoil from the site should be retained on site for reuse in ornamental landscaping areas as far as possible. When the buildings are removed from site, these buildings must be subject to an appropriately intrusive hazardous buildings survey to identify the location and extent of any asbestos within. Once identified, these materials must be appropriately removed under the controls of a licensed asbestos removals where those regulations are triggered. Conditions will be placed on this resource consent to ensure that the Remediation Action Plan will be carried out.
- *Cumulative Effects* – the proposed development is not considered to have any adverse effects on the surrounding environment that are minor or more than minor. Each lot is appropriately integrated into the roading network and has access to a legal road. Any adverse cumulative effects from the development are considered to be less than minor, this is supported through the numerous reports provided with the application, the AEE and the s92 response.

Subdivision:

- *The assessment in terms of performance criteria in Part B and the requirements of Part C of this Code* – the AEE addresses the performance criteria in Part B to an adequate standard that demonstrates less than minor adverse effects created from this proposal. The conditions imposed on this resource consent will help further mitigate any adverse effects from this proposal in relation to Part C of the Code.
- *The imposition of financial contributions* – a financial contribution of \$341,735.90 (10 x \$34,173.59) is required to contribute towards the cost of upgrading the existing engineering and community services. Financial contributions are only charged for 10 lots as currently there are 3 dwellings with developmental rights.
- *The granting, reserving or modification of easements* – the scheme plan provided shows easements proposed for party walls, right to drain water, right to convey sewage, water, electricity and communications.
- *The alteration of any lot boundary* – the proposal is for the subdivision of 3 lots into 13 residential lots, therefore this requires alteration to lot boundaries.

- *Stormwater, on-site or off-site* – on site stormwater detention is proposed to achieve stormwater neutrality on the sites. Detention storage will be provided through 2000 litre tanks. The stormwater from the tanks will be discharged to the proposed stormwater main within the JOAL, or to the kerb outlet where connection to the mains is not possible. As part of this application an Engineering Report, prepared by Maven, was submitted. Maven's report confirms that all sites can be adequately serviced in terms of water, stormwater and wastewater. Overall, the report concludes that the proposed development can be serviced without adverse effects.
- *Sewage disposal, on-site or off-site* – the proposal includes constructing a wastewater main within the JOAL, which connects to the existing public wastewater network which runs adjacent to the western boundary of the site. As part of this application an Engineering Report, prepared by Maven, was submitted. Maven's report confirms that all sites can be adequately serviced in terms of water, stormwater and wastewater. Overall, the report concludes that the proposed development can be serviced without adverse effects.
- *Construction* – the proposal is for a concurrent subdivision and multi-unit development. The applicant proposes to construct 13 new dwellings, this will include 8 two-bedroomed, 4 three-bedroomed, 1 four-bedroomed dwellings. All newly constructed dwellings will have modern design and will be two-storey, with a mix of standalone and duplex typologies. The proposal also includes the construction of a JOAL, footpaths, paved areas and parking spaces.
- *Earthworks, including fill* – in order to facilitate building platforms and landscaping, the four existing dwellings, hard surfaces and vegetation will be removed from the site. Further earthworks will be required across the entirety of the site in order to establish suitable levels for foundations, civil works and access ways, as well as carry out landscaping. The earthworks will comprise of 441m³ of topsoil removal, 438m³ cut and 12m³ fill. Details of the earthworks proposed have been included in the AEE, Engineering Report, Detailed Site Investigation and the Site Management Plan. Earthworks plans and sediment control measures are proposed and supplied with the application. The applicant has also provided a DSI which identifies heavy metal concentrations in exceedance of the NES and background ranges for soil. Therefore, the site is considered a 'piece of land' under the NES. The DSI recommends that general development earthworks should be undertaken in accordance with the Remediation Action Plan Work Instruction that was provided with this application. Conditions will be placed on this resource consent to ensure that the Remediation Action Plan Work will be carried out. Any adverse effects from the proposed earthworks is considered to be less than minor on any persons or the environment.
- *Access, roads, parking, manoeuvring and loading* – the provision of one car parking space for each unit, with the exception of Lot 3, 4, 7, 8 and 13 which will have two car parking spaces. The proposed dwellings will be accessed through the JOAL from Cottrell Crescent. The JOAL will provide one way vehicle movement, with vehicles entering through the northern vehicle crossing and existing to the south. Each parking space will have sufficient manoeuvring space. As part of this application a Transport Assessment, prepared by Traffic Planning Consultants, was submitted. The Transport Assessment report confirms that all sites can be adequately accommodated into the road network without compromising its function, capacity, or safety. Overall, the report concludes that the proposed development can be serviced without adverse effects.
- *Flood control and natural hazard risk mitigation (including site stability)* – part of the subject sites are located within the 1:50 Year Flood Zone, according to NCC GIS hazard layers. Although, it is not considered that there is a significant risk from natural hazards in terms of the

proposed subdivision due to the risk being able to be mitigated at building consent stage, and the council imposing a minimum finished floor level for any future development.

- *Fire risk protection or mitigation (including access)* – not applicable for this application.
- *Energy supply (electricity and/or gas)* – the conditions imposed on this resource consent requires separate energy supply to be supplied to all lots.
- *Water supply* – the proposal includes a connections to the existing water supply rider main within Cottrell Crescent through a new rider main. Each dwelling will have an individual lateral connections with a separate manifold box at the boundary. As part of this application an Engineering Report, prepared by Maven, was submitted. Maven's report confirms that all sites can be adequately serviced in terms of water, stormwater and wastewater. Overall, the report concludes that the proposed development can be serviced without adverse effects.
- *Telecommunications and information cabling* – the conditions imposed on this resource consent requires separate telecommunications to be supplied to all lots.
- *The preservation of significant and notable trees, places or features of significant heritage, and places of cultural or amenity value* – not applicable for this proposal.
- *Landscaping and planting* – a landscaping plan has been provided as part of this application. Landscaping is proposed throughout the development in the form of planting, surface treatments and fencing. The planting includes specimen trees, hedging, groundcover species and lawn areas. The proposed landscaping will help to create privacy between the dwellings, and soften the view of the dwellings from the street.
- *The provision of any consent notice in terms of Section 221 of the Act including subdivision in hazard areas and compliance with acoustic insulation requirements* – consent notices in the form of stormwater control, and minimum finished floor level have been imposed on this resource consent.
- *Solid Waste Management* – not applicable for this application.

Multi-Unit Development:

- *Design and external appearance* – as the dwellings will be of modern design with a range of roof forms, materials, glazing and dwelling types, such as standalone dwellings and duplexes, the development will create variety in urban form. The proposed landscaping in the way of planting and fencing will further mitigate any adverse visual effects from the road frontage by softening views of the development.
- *Site layout* – the site layout has been designed to ensure that dwellings are setback appropriately from external boundaries to maintain privacy and amenity of neighbouring properties and occupiers. There will be no adverse effect arising beyond the site boundaries and that no adjacent sites or persons will be affected by the proposal.
- *Open space* – the concept plan shows that despite open space infringements with some of the lots, each dwelling has still been provided with adequate open space. Any adverse effects from open space infringements are considered to be less than minor and are considered to be contained solely within the subject site.
- *Landscape elements* – a landscaping plan has been provided as part of this application. Landscaping is proposed throughout the development in the form of planting, surface treatments and fencing. The planting includes specimen trees, hedging, groundcover species and lawn areas. The proposed landscaping will help to create privacy between the dwellings, and soften the view of the dwellings from the street.
- *Carparking and access* – the provision of one car parking space for each unit, with the exception of Lot 3, 4, 7, 8 and 13 which will have two car parking spaces. The proposed dwellings will be accessed through the JOAL from Cottrell Crescent. The JOAL will provide

one way vehicle movement, with vehicles entering through the northern vehicle crossing and existing to the south. As part of this application a Transport Assessment, prepared by Traffic Planning Consultants, was submitted. The Transport Assessment report confirms that all sites can be adequately accommodated into the road network without compromising its function, capacity, or safety. Overall, the report concludes that the proposed development can be serviced without adverse effects.

- *Infrastructure* – As part of this application an Engineering Report, prepared by Maven, was submitted. Maven's report confirms that all sites can be adequately serviced in terms of water, stormwater and wastewater. Overall, the report concludes that the proposed development can be serviced without adverse effects. The proposal includes constructing a wastewater main within the JOAL, which connects to the existing public wastewater network which runs adjacent to the western boundary of the site. On site stormwater detention is proposed to achieve stormwater neutrality on the sites. Detention storage will be provided through 2000 litre tanks. The stormwater from the tanks will be discharged to the proposed stormwater main within the JOAL, or to the kerb outlet where connection to the mains is not possible. The proposal includes a connections to the existing water supply rider main within Cottrell Crescent through a new rider main. Each dwelling will have an individual lateral connections with a separate manifold box at the boundary.
- *Air traffic safety* – not applicable for this proposal.
- *Cumulative effect* – the proposed development is not considered to have any adverse effects on the surrounding environment that are minor or more than minor. Each lot is appropriately integrated into the roading network and has access to a legal road. Any adverse cumulative effects from the development are considered to be less than minor, this is supported through the numerous reports provided with the application, the AEE and the s92 response.
- *Scale and intensity* – the scale and intensity of the development is compatible with surrounding land uses and the proposed landscaping helps to mitigate any adverse effects. The proposal is not considered to adversely affect the functioning of the immediate area.

National Environmental Standard for Assessing and Managing Contaminates in Soil to Protect Human Health:

- *The adequacy of detailed site investigation* – the Detailed Site Investigation was produced by Brodie Rowse of Geosciences Limited, which included a study of historical photographs, a review of the certificate of titles, a review of the Council files, site sampling, an inspection of the land surface for asbestos fragments, laboratory analysis of soils samples and a report. Geosciences limited also provided a Remediation Action Plan.
- *The suitability of the piece of land for the proposed activity* – the proposed development is a suitable use of the properties, and is not unlike other land uses in the area, given that the soil is remediated prior to construction as per the Remediation Action Plan provided.
- *The approach to the remediation or ongoing management of the piece of land* – the DSI and the Remediation Action Plan outline the approach to be used for the remediation of the piece of land. This approach is considered appropriate.
- *The adequacy of the site management plan or the site validation report or both, as applicable* – the DSI and the Remediation Action Plan are considered adequate in addressing the course of action to be used, and for the site management plan provided.
- *The transport, disposal, and tracking of soil and other materials taken away in the course of the activity* – the Remediation Action Plan states the procedure for transport, disposal and tracking of soil to be taken away from the site.

- *The requirement for and conditions of a financial bond* – no financial bond has been placed on this resource consent.
- *The timing and nature of the review of the conditions in the resource consent* – not applicable for this application.
- *The duration of the resource consent* – not applicable for this application.

Overall, I agree with the AEE and conclude that this proposal does not create any adverse effects on neighbouring properties or the wider environment that are minor or more than minor.

Step 4: Public notification in special circumstances

If an application has not been publicly notified as a result of any of the previous steps, then the council is required to determine whether special circumstances exist that warrant it being publicly notified (s95A(9)).

Special circumstances are those that are:

- Exceptional, abnormal or unusual, but something less than extraordinary or unique;
- outside of the common run of applications of this nature; or
- circumstances which make notification desirable, notwithstanding the conclusion that the activities will not have adverse effects on the environment that are more than minor.

In this instance I have turned my mind specifically to the existence of any special circumstances and conclude that there is nothing exceptional or unusual about the application, and that the proposal has nothing out of the ordinary realm to suggest that public notification should occur.

Public notification conclusion

Having undertaken the s95A public notification tests, the following conclusions are reached:

- Under step 1, public notification is not mandatory.
- Under step 2, there is no rule or NES that specifically precludes public notification of the activities, and the application is for activities other than those specified in s95A(5)(b).
- Under step 3, public notification is not required as the application is for activities that are not subject to a rule that specifically requires it, and it is considered that the activities will not have adverse effects on the environment that are more than minor.
- Under step 4, there are no special circumstances that warrant the application being publicly notified.

It is therefore recommended that this application be processed without public notification.

8. Limited notification assessment (sections 95B, 95E-95G)

If the application is not publicly notified under s95A, the council must follow the steps set out in s95B to determine whether to limited notify the application. These steps are addressed in the statutory order below.

Step 1: Certain affected protected customary rights groups must be notified

There are no protected customary rights groups or customary marine title groups affected by the proposed activities (s95B(2)).

In addition, the council must determine whether the proposed activities are on or adjacent to, or may affect, land that is subject of a statutory acknowledgement under schedule 11, and whether the person to whom the statutory acknowledgement is made is an affected person (s95B(3)). Within the Napier region the following statutory acknowledgements are relevant:

In this instance, the proposal is not on or adjacent to and will not affect land that is subject to a statutory acknowledgement, and will not result in adversely affected persons in this regard.

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

The application is not precluded from limited notification as:

- the application is not for one or more activities that are exclusively subject to a rule or NES which preclude limited notification (s95B(6)(a)); and
- the application is not exclusively for a controlled activity, other than a subdivision, that requires consent under a district plan (s95B(6)(b)).

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

As this application is not for a boundary activity, there are no affected persons related to that type of activity (s95B(7)).

The following assessment addresses whether there are any affected persons that the application is required to be limited notified to (s95B(8)).

In determining whether a person is an affected person:

- a person is affected if adverse effects on that person are minor or more than minor (but not less than minor);
- adverse effects permitted by a rule in a plan or NES (the permitted baseline) may be disregarded;
- the adverse effects on those persons who have provided their written approval must be disregarded; and

Adversely affected persons assessment (sections 95B(8) and 95E)

The consultant has provided in accordance with schedule 4 of the RMA, an assessment of adversely affected persons in such detail as corresponds with the scale and significance of the effects that the activities may have on persons in the surrounding environment.

The AEE concludes that:

- Whilst no written approval has been provided from neighbouring sites, the applicant owns the properties across the road at 12 and 16 Cottrell Crescent, therefore their support for this proposal is implied.

- *Regarding adverse effects to the north at 49, 51, 53 Alexander Avenue and 21 Cottrell Crescent* – the only boundary infringement adjacent to one of these properties is the height in relation to boundary infringement from the dwelling on Lot 9. The height in relation to boundary infringement will be a maximum of 100mm vertically, and 560mm horizontally. This infringement is small enough that any shading effects on adjacent properties are considered to be less than minor. Lot 11 cannot contain a 6 metre circle, and Lot 10 only has 47m² of open space rather than the minimum requirement of 50m². Any adverse effects from the two open space infringements are considered to be contained solely within the sites that they occur on, and are not considered to create any adverse effects on the adjacent properties. Overall, any adverse effects on properties to the north of the development will be less than minor.
- *Regarding adverse effects to the south at 9 Cottrell Crescent* – Lot 4 cannot contain a 6 metre diameter circle, however any adverse effects from this open space infringement is considered to be less than minor as it is considered that any adverse effects will be contained solely within the infringing site. There are no boundary infringements between 9 Cottrell Crescent to the south and with Lots 3 and 4, therefore any adverse effects from this development is considered to be less than minor in terms of the properties to the south.
- *Regarding adverse effects to the east at 10, 12, 14 and 16 Cottrell Crescent* – whilst no written approval has been provided from neighbouring sites, the applicant owns the properties across the road at 12 and 16 Cottrell Crescent, therefore their support for this proposal is implied. Lot 1 and Lot 2 will both be located partially within the 3 metre road setback, although this is considered to have less than minor adverse effects on the properties to the east due to the separation distance of the road.
- *Regarding adverse effects to the west at 6, 8, 10, 12 and 14 Dinwiddie Avenue* – Lots 4 and 7 both cannot contain a 6 metre diameter circle, however any adverse effects from this open space infringement is considered to be less than minor as it is considered that any adverse effects will be contained solely within the two infringing sites. There are no boundary infringements between the adjacent properties to the west and with Lots 4-8, therefore any adverse effects from this development is considered to be less than minor in terms of the properties to the west.
- In terms of earthworks being carried out on the subject sites, any adverse effects will be temporary in nature. Earthworks are required to establish suitable levels for foundations, access ways and to carry out landscaping. Once construction of the dwellings are completed there will be no adverse effects from earthworks.
- In terms of privacy effects arising from the occupation of the proposed dwellings, the areas of high occupancy (i.e. kitchens and living areas) are located on the ground floor, with lesser used areas (i.e. bedrooms and bathrooms) located on the first floor. In addition to this, consideration has been given to the placement of windows, which sees small windows with raised sill heights on the upper floor. 1.8 metre high fencing will be around the perimeter of the sites, to further aid in mitigating any privacy effects on adjacent properties.
- As the dwellings will be of modern design with a range of roof forms, materials, glazing and dwelling types, such as standalone dwellings and duplexes, the development will create variety in urban form. The proposed landscaping in the way of planting and fencing will further mitigate any adverse visual effects from the road frontage by softening views of the development.
- The site layout has been designed to ensure that dwellings are setback appropriately from external boundaries to maintain privacy and amenity of neighbouring properties and occupiers. There will be no adverse effect arising beyond the site boundaries and that no adjacent sites or persons will be affected by the proposal.

Overall, I agree with the AEE and conclude that the proposal will create less than minor adverse effects on the environment. No persons will be adversely affected by the proposal as any effects will be less than minor.

Step 4: Further notification in special circumstances

In addition to the findings of the previous steps, the council is also required to determine whether special circumstances exist in relation to the application that warrants it being notified to any other persons not already determined as eligible for limited notification (excluding persons assessed under section 95E as not being affected persons).

Special circumstances are those that are:

- Exceptional, abnormal or unusual, but something less than extraordinary or unique;
- outside of the common run of applications of this nature; or
- circumstances which make limited notification to any other person desirable, notwithstanding the conclusion that no other person has been considered eligible.

In this instance I have turned my mind specifically to the existence of any special circumstances under s95B(10) and conclude that there is nothing exceptional or unusual about the application, and that the proposal has nothing out of the ordinary run of things to suggest that notification to any other persons should occur.

Limited notification conclusion

Having undertaken the s95B limited notification tests, the following conclusions are reached:

- Under step 1, limited notification is not mandatory.
- Under step 2, there is no rule or NES that specifically precludes limited notification of the activities, and the application is for activities other than those specified in s95B(6)(b).
- Under step 3, limited notification is not required as it is considered that the activities will not result in any adversely affected persons.
- Under step 4, there are no special circumstances that warrant the application being limited notified to any other persons.

It is therefore recommended that this application be processed without limited notification.

9. Notification determination

Acting under delegated authority, and for the reasons set out in the above assessment and recommendation, under sections 95A and 95C to 95D, and 95B and 95E to 95G of the RMA this application shall be processed non-notified.



Briar Smith

Resource Consents Planner

City Strategy

Date: 11 July 2023

Decision on an application for resource consent under the Resource Management Act 1991

Discretionary Activity – Three Lot into Thirteen Lot Subdivision & Multi-Unit Development - Yards, HIRB, Open Space, Earthworks, Transport, NES

Application number(s): RMS220101
Applicant: Kainga Ora – Homes and Communities
Site address: 11, 13, 15 and 19 Cottrell Crescent
Legal description: Lot 48, 49 and 50 DP 11370
Proposal:

The proposal involves a comprehensive site redevelopment to create high density housing in the Main Residential Zone, this includes:

- a. Removal of four existing single-storey dwellings, along with all accessory buildings and garages.
- b. Construction of 13 new dwellings with the following configurations:
 - ii. eight two-bedroom dwellings (Lots 1, 2, 5, 6, 9, 10, 11 and 12),
 - iii. four three-bedroom dwellings (Lots 4, 7, 8 and 13),
 - iv. one four-bedroom dwelling (Lot 3),
 - v. All newly constructed dwellings will be two-storey, with a mix of standalone and duplex typologies.
- c. The provision of one car parking space for each unit, with the exception of Lot 3, 4, 7, 8 and 13 which will have two car parking spaces. The proposed dwellings will be accessed through the JOAL from Cottrell Crescent. The JOAL will provide one way vehicle movement, with vehicles entering through the northern vehicle crossing and existing to the south.
- d. A concurrent subdivision alongside the multi-unit development of the dwellings, so that each unit is on a freehold title. With the creation of a Jointly Owned Access Lot (JOAL) which will be held in 13 undivided one-thirteenth shares by the owners of Lots 1 to 13.
- e. Earthworks are required across the sites to establish suitable levels for foundations and access ways, and to carry out landscaping. The landscaping will be in the form of planting, surface treatments and fencing.

The applicant seeks to carry out the subdivision and the construction of the dwellings concurrently, therefore they are also seeking multi-unit resource consent. Under Rule 5.10 in the Main Residential Zone multi-unit development requires resource consent.

The proposal also seeks land use consent as some of the proposed lots do not comply with Rule 5.16 Yards in the Main Residential Zone, where the rule states that any part of a building must not be erected closer than three metres to the road boundary. The dwellings on Lot 1 and Lot 2 will be located within the 3 metre road setback.

The proposal also does not comply with Rule 5.18 Height in Relation to Boundary, where the rule states that any part of a building or structure must not project beyond a building envelope constructed by drawing planes along all parts of the site boundary. The planes must commence 3 metres above ground level at the site boundary and must be inclined to the horizontal at an angle of 45 degrees. The dwelling located on Lot 9 will infringe the height in relation to boundary rule by a maximum of 100mm vertically and 560mm horizontally.

The proposal does not comply with Rule 5.21 Open Space, where it states that each dwelling must have an amount of open space on the building site of not less than 50% of the gross floor area of all buildings on site, except that a minimum of 50m² per dwelling unit is required. Rule 5.21 also states that the open space must include an area capable of containing a 6 metre diameter circle. Lots 4, 7 and 11 will not be able to accommodate a 6 metre diameter circle, the shortfall will range from 100mm to 600mm. Lot 10 will only have an open space of 47m², rather than the 50m² that is required.

Rule 52A.10(2) states that the removal off site of more than 100m³ of earth (including topsoil) per 12 month period in any zone (excluding Main Rural Zone) is a discretionary activity and therefore requires resource consent. The proposal involves 441m³ of topsoil removal from site, and 12m³ of fill, therefore requiring a resource consent.

Rule 61.13(1)(a) states that where onsite parking is provided, that the parking of vehicles must be in accordance with design requirements. Rule 61.17(1)(e) states that the minimum accessway width and manoeuvring provisions, must comply with Chapter 66 (Volume II) C5.7.1 in the Code of Practice for Subdivision and Land Development. Rule 61.13(1)(a) is not met as each parking space will be only 5 metres deep and 2.7 metres wide. Rule 61.17(1)(e) will not be met as the JOAL will be a minimum of 3.3 metres wide where a public road is required. There are no other district plan infringements for this proposal.

Land use consent (s9)

Napier Operative District Plan

Main Residential Zone – 5.10 Land Development (including subdivision, but excluding multi unit development for commercial and industrial activities)

1. Land development, including subdivision but excluding multi unit development for commercial and industrial activities, is a controlled activity provided that:
 - a. It complies in all respects with the standards and terms specified in Chapter 66 (Volume II) of this Plan.
 - b. It complies in all respects with the relevant conditions in the Main Residential Zone Activity Table and Condition Table.
 - c. It is assessed according to the matters in Chapter 66 (Volume II) over which the Council has reserved its control.

2. Applications for resource consent will not be publicly notified in respect of land development (including subdivision) that fully complies with the standards and terms, and notice of applications need not be served.

Main Residential Zone – 5.12 Land Uses Not Complying With Conditions

1. Any subdivision, use or development of land referred to in Rules 5.2 to 5.11 that does not comply with all of the relevant conditions in the Main Residential Zone activity table and condition table is a restricted discretionary activity, unless stated by a rule elsewhere in this Chapter.

Main Residential Zone – 5.16(1)(a) Yards

1. The following yard conditions shall apply to all land uses:

- a. Front Yards

- i. Any part of a building must not be erected closer than 3 metres to the road boundary, except that:

- Eaves, fascias, gutters, down pipes, chimneys and flues may encroach on the front yard by a distance of up to 1 metre measured horizontally.
- If a garage/carport is provided, it must not be erected closer than 5m to the road boundary, so as to provide a vehicle standing bay. (Refer to Rule 61.17).

- b. Front Yard Landscaping

On all sites other than rear sites, 40% of the front yard must comprise landscaped permeable surface.

- c. Other Yards

- i. Any part of a building (including eaves and guttering) must not be erected closer than 1 metre to a side or rear site boundary.

- Provided that where this is the only condition infringement and the written approval of the adjacent landowner(s) is provided at building consent stage, a resource consent application will not be necessary.

- ii. Any part of a building, fence or permanently fixed structure must not be erected closer than 6 metres from the top of the bank of any watercourse or open drain.

Main Residential Zone – 5.18(1)(a) Height in Relation to Boundary

1. The following height in relation to boundary conditions shall apply to all land uses:

- a. Any part of a building or structure, must not project beyond a building envelope constructed by drawing planes along all parts of all site boundaries. The planes must commence 3.0 metres above ground level at the site boundary and must be inclined to the horizontal at an angle of 45 degrees.

b. Provided that:

- i. In relation to multi-unit development, the building envelope must be constructed by drawing planes along all parts of all building site boundaries and must commence at the building site boundary.
- ii. The height in relation to boundary control does not apply to the length of common wall between two or more attached buildings.
- iii. Where the site abuts an entrance strip or access lot, the furthest boundary of the entrance strip or access lot may be deemed to be the site boundary for the purpose of applying the height in relation to boundary control.
- iv. No account must be taken of aerials, lines, support structures, solar heating devices, air conditioning units and similar structures housing electronic or mechanical equipment or chimneys, no more than 1 metre wide in any horizontal direction and less than 2.5 metres in height beyond the building envelope.

Main Residential Zone – 5.21(1)(a) & 5.21(1)(c)(iv) Open Space

1. The following open space conditions shall apply to all residential activities:

- a. Each dwelling unit must have an amount of open space on the building site of not less than 50% of the gross floor area of all buildings on the site, except that a minimum of 50m² per dwelling unit must be provided.
- b. The maximum area of open space required to be provided on a building site is 100m² per dwelling unit.
- c. Provided that:
 - i. Open space may comprise of more than one area.
 - ii. Open space may take the form of a deck or terrace but must be unobstructed by buildings (other than cantilevered decks), parking spaces, or vehicle manoeuvring areas.
 - iii. Open space must be directly accessible from the dwelling unit to which it relates.
 - iv. The open space must:
 - Include at least one area capable of containing a 6 metre diameter circle; and
 - Have a minimum dimension of 3 metres measured at right angles to the perimeter of the area.

Main Residential Zone – 5.27 Earthworks

1. The relevant provisions of Chapter 52A (Earthworks) of this Plan must be complied with.

Main Residential Zone – 5.31 Transport

1. The relevant provisions of Chapter 61 (Transport) of this Plan must be complied with.

Earthworks Chapter – 52A.10(2) Discretionary Activities

The following Earthworks operations are discretionary activities. A resource consent application must be made and consent may be declined or granted with, or without, conditions. The Council will have regard to the objectives and policies of this Plan and the assessment criteria in Chapter 52A.22. The Council's discretion is unrestricted.

1. The removal off site of more than 25m³ of topsoil, sand, gravel, metal or earth per 12 month period, in the Main Rural Zone.
2. The removal off site of more than 100m³ of earth (including topsoil) per 12 month period in any zone (excluding Main Rural Zone).

Transportation Chapter – 61.13(1)(a) General

1. Subject to Section 10 of the Act, where a building is constructed, substantially reconstructed, altered or added to, or where there is a change in the use of any land or building which has a different requirement for loading spaces under this Rule Table, provision in accordance with this Condition Table shall be made for the following:
 - a. The parking of vehicles in accordance with design requirements, where onsite parking is provided.
 - b. The loading and unloading of goods where the site is used for the manufacture, servicing, storage, sale or hire of goods or materials.
 - c. Physical and legal vehicular access from a formed legal road.
 - d. The parking of bicycles
 - e. The provision of bicycle end of journey facilities

Transportation Chapter – 61.17(1)(e) Residential Activities

1. All residential activities that provide onsite vehicle access and car parking shall comply with the following, unless stated by a rule elsewhere in this Plan:
 - a. All vehicle movement paths must be designed using the New Zealand 99 percentile tracking curve as in Appendix 17.
 - b. Vehicle manoeuvring must be provided on the site as follows:
 - i. On all sites which have direct access to an Arterial Road or State Highway.
 - ii. On all rural sites.
 - iii. All manoeuvring areas must be provided and maintained in accordance with Appendices 17 and 18.
 - c. The access drive or aisle from the vehicular entrance to vehicular parking spaces must have a gradient not exceeding 1 in 4.
 - d. The minimum accessway width must be clear of eaves unless there is a height clearance of 4.2 metres above the driveway.

- e. The minimum accessway width and manoeuvring provisions, must comply with Chapter 66 (Volume II) C5.7.1 in the Code of Practice for Subdivision and Land Development.

Subdivision consent (s11)

Napier Operative District Plan

Main Residential Zone – 5.10 Land Development (including subdivision, but excluding multi unit development for commercial and industrial activities)

1. Land development, including subdivision but excluding multi unit development for commercial and industrial activities, is a controlled activity provided that:
 - a. It complies in all respects with the standards and terms specified in Chapter 66 (Volume II) of this Plan.
 - b. It complies in all respects with the relevant conditions in the Main Residential Zone Activity Table and Condition Table.
 - c. It is assessed according to the matters in Chapter 66 (Volume II) over which the Council has reserved its control.
2. Applications for resource consent will not be publicly notified in respect of land development (including subdivision) that fully complies with the standards and terms, and notice of applications need not be served.

Main Residential Zone – 5.12 Land Uses Not Complying With Conditions

1. Any subdivision, use or development of land referred to in Rules 5.2 to 5.11 that does not comply with all of the relevant conditions in the Main Residential Zone activity table and condition table is a restricted discretionary activity, unless stated by a rule elsewhere in this Chapter.

National Environmental Standard for Assessing and Managing Contaminates in Soil to Protect Human Health

The applicant has provided a DSI Report written by Brodie Rowse of Geosciences Limited, dated 8 October 2021. The DSI identifies heavy metal concentrations in exceedance of the NES and background ranges for soil. The potential contamination is noted as being from unverified fill, discharges associated with prolonged residential occupation, and clandestine laboratory storage of materials and equipment in 2004. Therefore, the site must be considered as a 'piece of land' under the NES.

The DSI recommends that general development earthworks should be undertaken in accordance with the provided Site Management Plan Work Instruction for Development Earthworks. Topsoil from the site should be retained on site for reuse in ornamental landscaping areas as far as possible. When the buildings are removed from site, these buildings must be subject to an appropriately intrusive hazardous buildings survey to identify the location and extent of any

asbestos within. Once identified, these materials must be appropriately removed under the controls of a licensed asbestos removals where those regulations are triggered.

Conditions will be placed on this resource consent to ensure that the Remediation Action Plan will be carried out.

Section 106 Assessment under the Resource Management Act 1991

- Part of the subject sites are located within the 1:50 Year Flood Zone, according to NCC GIS hazard layers. Although, it is not considered that there is a significant risk from natural hazards in terms of the proposed subdivision due to the risk being able to be mitigated at building consent stage, and the council imposing a minimum finished floor level for any future development.
- Sufficient provision has been made for legal and physical access to each proposed lot, through the way of a JOAL.

As such, there is no reason for council to refuse this subdivision consent on any of the grounds specified in Section 106 of the RMA.

National Policy Statement on Urban Development 2020

The National Policy Statement for Urban Development 2020 (NPS-UD) applies to this proposal. The direction of the NPS-UD is to enable more housing and commercial developments, particularly in higher density areas. The proposal will result in a total of 13 dwellings in a mix of duplex and detached styles across the current 3 sites which will be subdivided. Overall, the proposal is consistent with the policy direction of the NPS-UD.

Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consent. I am satisfied that I have adequate information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on the application.

Acting under delegated authority, under sections 104, 104C and Part 2 of the RMA, the resource consents are **GRANTED**.

Reasons

The reasons for this decision are:

1. In accordance with an assessment under ss104(1)(a) and (ab) of the RMA, the actual and potential effects from the proposal will be acceptable as:
 - a. Whilst no written approval has been provided from neighbouring sites, the applicant owns the properties across the road at 12 and 16 Cottrell Crescent, therefore their support for this proposal is implied.
 - b. This proposal does not create any adverse effects on neighbouring properties or the wider environment that are minor or more than minor.

- c. The site layout has been designed to ensure that the dwellings are setback appropriately from external boundaries to maintain privacy and amenity of neighbouring properties and occupiers. There will be no adverse effects arising beyond the site boundaries that are minor or more than minor.
 - d. The site has been assessed under Section 106 of the RMA, where it was concluded that Council do not need to decline this consent based on any criteria of Section 106 of the RMA.
 - e. In terms of positive effects, the dwellings will be of modern design with a range of roof forms, materials, glazing and dwelling types, such as standalone dwellings and duplexes, this helps to create variety in urban form. The proposed landscaping in the way of planting and fencing will further create positive effects from the proposal. The development is expected to provide positive effects on the surrounding environment.
 - f. With reference to s104(1)(ab), the proposal includes landscaping in the form of fencing and planting to mitigate any adverse effects on the environment when the development is viewed from the street frontage. The 1.8 metre high fencing around the perimeter of the site also helps to mitigate any adverse effects in terms of privacy for adjacent properties.
2. In accordance with an assessment under s104(1)(b) of the RMA, the proposal is consistent with the relevant statutory documents.
- a. In particular the proposal is not contrary to the objectives and policies of the Main Residential Zone, such as:
 - i. **Objective 4.2** aims to support the diverse housing needs and preferences of the city's residents whilst avoiding, remedying, or mitigating adverse effects from residential land use, development and subdivision. The proposed development will allow for 13 dwellings in the same area that previously only contained 4 dwellings. The subject sites and surrounding environment is appropriate for more intensive forms of housing. The dwellings will be of modern design with a range of roof forms, materials, glazing and dwelling types, such as standalone dwellings and duplexes. The mitigation measures provided in the application, and conditions set on this resource consent will ensure that there are no adverse effects on the environment from this proposal, while the proposal supports the diverse housing needs and preferences of the city's residents (4.2.1, 4.2.2).
 - ii. **Objective 4.3** aims to support growth through residential intensification in suitable areas, to create a settlement pattern that maintains the city's commercial and community nodes, supports public transport and reduces private vehicle use in accordance with the Hawke's Bay Policy Statement. The proposed development will allow for 13 dwellings in the same area that previously only contained 4 dwellings. The subject sites and surrounding environment is appropriate for more intensive forms of housing (4.3.1, 4.3.3).
 - iii. **Objective 4.5** aims to maintain and enhance those qualities and characteristics that contribute to the wellbeing of the City's residents and the amenity of the residential zones. The site layout has been designed to ensure that dwellings are setback appropriately from external boundaries to maintain privacy and amenity of

- neighbouring properties and occupiers. There will be no adverse effects arising beyond the site boundaries and that no adjacent sites or persons will be affected by the proposal. The development maintains and enhances the area's characteristics that contribute to the amenity of the residential zones. The modern design of the dwellings, mitigation proposed, and conditions that will be set on this resource consent will help to ensure this (4.5.3, 4.5.4, 4.5.5, 4.5.6, 4.5.7).
- iv. **Objective 4.7** aims to maintain and enhance residential amenity through the planting of trees within the residential environment. The proposal includes extensive landscaping in the form of fencing and planting of low shrubs and trees (4.7.3).
- b. The proposal is also consistent with objectives and policies relating to subdivision and land development set out in Part A (Volume 2), in particular those objectives and policies under Section A5 of the District Plan, such as:
- i. **Objective 2 – Amenity Values:** the site layout has been designed to ensure that dwellings are setback appropriately from external boundaries to maintain privacy and amenity of neighbouring properties. The development maintains and enhances the area's characteristics that contribute to the amenity of the residential zones. The modern design of the dwellings, mitigation proposed, and conditions that will be set on this resource consent will help to ensure this.
 - ii. **Objective 6 – Infrastructure Services and Utilities:** the proposal shows that all lots will have separate water, stormwater, wastewater, electricity and phone connections creating an efficient and effective infrastructure, services and utility network. Conditions will be set on this resource consent to ensure separate services.
 - iii. **Objective 7 – Vehicular Access:** the provision of one car parking space for each unit, with the exception of Lot 3, 4, 7, 8 and 13 which will have two car parking spaces. The proposed dwellings will be accessed through the JOAL from Cottrell Crescent. The JOAL will provide one way vehicle movement, with vehicles entering through the northern vehicle crossing and existing to the south.
 - iv. **Policy 3 – Visual Effects:** the relevant conditions set on the resource consent for this proposal will help to mitigate the visual effects of the development.
 - v. **Policy 11 – Health and Safety:** the relevant conditions set on the resource consent for this proposal will help to avoid, remedy or mitigate any adverse effects on the health and safety of the city.
3. In accordance with an assessment under s104(1)(c) of the RMA, no other matters are considered relevant.
4. In the context of this discretionary activity application for land use and subdivision, where the objectives and policies of the relevant statutory documents were prepared having regard to Part 2 of the RMA, they capture all relevant planning considerations and contain a coherent set of policies designed to achieve clear environmental outcomes. They also provide a clear framework for assessing all relevant potential effects and there is no need to go beyond these provisions and look to Part 2 in making this decision as an assessment against Part 2 would not add anything to the evaluative exercise.

5. Overall, the proposal can be assessed on a non-notified basis as there is considered to be less than minor adverse effects on the adjacent and wider environment. Based upon the nature and scale of the proposal it is considered to be consistent with the district plan objectives and policies in the Main Residential Zone.

Conditions

Under sections 108 and 108AA of the RMA, these consents are subject to the following conditions:

General conditions

These conditions apply to all resource consents.

- These consents shall be carried out in accordance with the documents and drawings and all supporting additional information submitted with the application, detailed below, and all referenced by the council as resource consent RMS220101.
 - Application Form and Assessment of Environmental Effects prepared by Nicole Heron of Barker & Associates, dated 11 October 2022.

Report title and reference	Author	Rev	Dated
Construction of Thirteen Dwellings and Associated Subdivision – 11-19 Cottrell Crescent, Onekawa.	Nicole Heron of Barker & Associates	Final Revision 1	11 October 2022

Drawing title and reference	Author	Rev	Dated
Proposed Scheme Plan – Drawing No. C150	MH of Maven	A	22/9/22
Site Plan – Ground Floor – RC-A1-200	Isthmus	B	16/6/23
Ground Floor – Overlay – RC-A1-201	Isthmus	B	16/6/23
Site Plan – First Floor – RC-A1-210	Isthmus	B	16/6/23
Site Plan – Roof Plan – RC-A1-220	Isthmus	B	16/6/23
Site Plan – Typology – RC-A5-001	Isthmus	B	16/6/23
Typology Plans – 2 Bed B3 & B6 – RC-A5-100	Isthmus	A	21/9/22
Typology Elevations – 2 Bed B3 – RC-A5-110	Isthmus	B	16/6/23
Typology Elevations – 2 Bed B6 – RC-A5-120	Isthmus	B	16/6/23
Typology Plans – 3 Bed E3 – RC-A5-200	Isthmus	A	21/9/22
Typology Elevations – 3 Bed E3 – RC-A5-210	Isthmus	B	16/6/23
Typology Plans – 3 Bed G3 – RC-A5-300	Isthmus	A	21/9/22
Typology Elevations – 3 Bed G3 – RC-A5-310	Isthmus	A	21/9/22

Typology Plans – 4 Bed ON3 Bespoke – RC-A5-400	Isthmus	A	21/9/22
Typology Elevation – 4 Bed ON3 Bespoke – RC-A5-510	Isthmus	B	16/6/23
Proposed Elevation & Colour Strategy – 11-19 Cottrell Crescent	Isthmus	N/A	N/A
Proposed Site Elevations – RC-A2-001	Isthmus	B	16/6/23
Proposed Site Elevations – RC-A2-002	Isthmus	B	16/6/23
Proposed Site Sections – RC-A3-001	Isthmus	B	16/6/23
Proposed Site Sections – RC-A3-002	Isthmus	B	16/6/23
3D Views – 11-19 Cottrell Crescent	Isthmus	A	21/9/22
Document Legend – L-0.2	RG of Rough Milne Mitchell Landscape Architects	D	4/10/22
11-19 General Arrangement – L-1.0	RG of Rough Milne Mitchell Landscape Architects	E	26/6/23
11-19 Fencing Strategy – L-1.1	RG of Rough Milne Mitchell Landscape Architects	E	26/6/23
11-19 Materials Plan – L-1.2	RG of Rough Milne Mitchell Landscape Architects	E	26/6/23
11-19 Planting Plan – L-1.3	RG of Rough Milne Mitchell Landscape Architects	E	26/6/23
Cottrell Crescent Plant Palette – page 1-2	Rough Milne Mitchell Landscape Architects	N/A	N/A
Other additional information	Author	Rev	Dated
Engineering Report – Kainga Ora – 11-19 Cottrell Crescent, Onekawa, Napier	Vitor Torres de Melo of Maven	A	14/9/22
Detailed Site Investigation – 11-19 Cottrell Crescent, Napier	Brodie Rowse of Geosciences	N/A	8/10/21
Site Management Plan for Development Earthworks at 11-19 Cottrell Crescent, Onekawa, Napier	Brodie Rowse of Geosciences	N/A	8/10/21
Proposed Residential Development Transport Assessment – 11-19 Cottrell Crescent, Napier	Peter Kelly of Traffic Planning Consultants	Final	September 2022

2. Under section 125 of the RMA, these consents lapse five years after the date they are granted unless:
 - a. The consents are given effect to; or
 - b. The council extends the period after which the consents lapse.
3. Council will undertake monitoring in accordance with the RMA. The consent holder shall pay the actual and reasonable costs incurred to ensure compliance with the conditions attached to these consents.

Financial Contributions

4. A financial contribution of \$341,735.90 (10 x \$34,173.59) must be paid to Council as the contribution towards the impact on and cost of upgrading the existing engineering and community services asset out in the Council's Essential Services Development Plan. The financial contribution must be paid prior to submission of 224(c) certification, or prior to building consent being uplifted, whichever occurs first. This amount is inclusive of GST and will be subject to the indexation applicable at the time of payment.

Specific conditions - Subdivision consent RMS220101

General Engineering

5. All engineering work and design shall be in accordance with the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure or to the satisfaction of the Director of Infrastructure or nominee.
6. Where not already available, telecommunications reticulation (including ducting for computer media), underground electrical, and where applicable, gas services shall be provided to all lots/dwellings. The consent holder shall obtain a completion certificate from each network operator for electricity, telephone and, where applicable, gas services.
7. Any services relocations shall be at the expense of the consent holder.
8. Written confirmation shall be provided from the consent holder stating that all conditions of consent have been complied with and approved. (Refer to Part A7.1.6.2 of the Code).

Engineering Approval

9. The applicant shall submit to Council a final detailed engineering design, including construction drawings, detailing the water, stormwater, sewer and roading services required to service the development for Engineering Approval (certification by NCC infrastructure) prior to construction. This shall be undertaken by a Chartered Professional Engineer experienced in water, sewer, stormwater and roading services design and construction. The design shall be generally in accordance with the application and the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure, except where a specific dispensation has been granted through the Engineering Approval (certification by NCC Infrastructure) process.

10. Any water, sewer, and stormwater assets located on private land within the development that have NOT been accepted by the Director, NCC Infrastructure (or nominee), for vesting in council, shall be clearly marked as PRIVATE on the engineering design.
11. The consent holder shall provide Napier City Council with the "Construction" producer statements issued by their contractor for the services constructed.
12. All works within the boundaries of a public road shall be undertaken by a contractor who is approved to work within the road reserve.
13. As-built plans and data, in accordance with the requirements of the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure (and any approved amendments) shall be submitted to Council once construction is completed by the consent holder. The consent holder shall obtain certification of a complete and correct record by a registered and professionally qualified engineer.
14. Please Note: Data on public water and sewer assets will be required to be presented to Council in accordance with the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure.
15. The consent holder shall provide certification from a Chartered Professional Engineer that the works have been constructed in accordance with the approved design at s224(c) certification.

Easements

16. The right(s)-of-way and any services easements over parts of Lot(s) 1-13 must be included in a memorandum of easements endorsed on the survey plan and must be created, granted or reserved as necessary. The consent holder must meet the costs for the preparation, review, and registration of the easement instruments on the relevant computer registers (Records of Title).
17. Easements in gross in favour of Napier City Council for the purpose of providing a right to drain sewer and water and a right to convey water, must be created over parts of Lot(s) 8, 13 & 100 and must be included in a memorandum of easements endorsed on the survey plan and be granted or reserved. The consent holder must meet the costs for the preparation, review, and registration of the easement instruments on the relevant computer registers (Records of Title).
18. Easements are to be created in accordance with the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure.
19. No permanent structures shall be constructed or trees planted within the wastewater or stormwater easements.
20. That Lot 100 hereon (legal access) be held as to 13 undivided one-thirteenth shares by the owners of Lots 1-13 hereon as tenants in common in the said shares and that individual Records of Title be issued in accordance therewith. LINZ Request Number: 1821466.

Roading

21. Vehicular access shall be provided to all lots as shown on the approved Scheme Plan.

22. Any damage to existing vehicle crossings, footpath and berm as a result of any works within the property shall be repaired at the consent holder's expense.
23. All new vehicle crossings must be designed and formed in accordance with the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure. The new crossing must maintain an at-grade (level) pedestrian footpath across the length of the crossing, using the same materials, kerbing, pavings, patterns and finish as the footpath on each side of the crossing.

Stormwater

24. All stormwater is to be controlled in terms of the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure and E1 of the Building Code, unless approved by a condition imposed on this consent.
25. All new roof surfaces shall be constructed from inert materials or painted with non-metal-based paint and thereafter maintained.
26. All stormwater from the sites shall be attenuated to the existing pre-development levels.

Wastewater

27. The consent holder must design and construct separate connections to the public sewer reticulation network to serve dwellings/Lot(s) 1-13 in accordance with the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure with no private wastewater pipes passing between one lot and another except through an easement.

Water Supply

28. The consent holder must design and construct connections to the public water reticulation network to serve dwellings/Lot(s) 1-13 in accordance with the requirements of the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure.
29. Each dwelling/lot shall be provided with a separate water supply, no water pipes shall pass from one lot to another except through the legal access to the rear lot.

Environmental

30. Any earthworks must meet the requirements of the 'Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region' (GD 005) for construction.
31. All earthworks shall be managed to ensure that no debris, soil, silt, sediment or sediment-laden water is discharged beyond the subject site to either land, stormwater drainage systems, watercourses or receiving waters. In the event that a discharge occurs, works shall cease immediately and the discharge shall be mitigated or rectified to the satisfaction of the Team Leader Planning and Compliance.

Advice Note 1: Construction of drainage on neighbouring properties: All work on live Council water and wastewater mains must be undertaken by Council. The granting of this resource consent does not in any way allow Council to enter and construct drainage within neighbouring properties, without first obtaining the agreement of all owners and occupiers

of said land to undertake the proposed works. Obtaining neighbour's consent is the responsibility of the consent holder. Any negotiation or agreement is the full responsibility of the consent holder and is a private agreement that does not involve the Council. Should any disputes arise between the private parties, these are civil matters which can be taken to independent mediation or the disputes tribunal for resolution. It is recommended that the private agreement be legally documented to avoid disputes arising. Council will only enter and construct the drainage on neighbouring properties once the consent holder provides Council with the required neighbouring consent.

Advice Note 2: *The subject site is within the 1:50 year flood zone. Building consent applications may be subject to section 73 of the Building Act 2004.*

32. The consent holder shall contact Napier City Council's Team Leader Planning and Compliance at least five (5) working days prior to the commencing of earthworks as authorised by this consent and on completion of the works. At least five working days prior to the commencement of any works, the consent holder must notify the Council of the following information.
- i. The start date of works.
 - ii. The expected duration of works.
 - iii. The expected end date of works.
 - iv. Contact details for:
 - A. Owner
 - B. Project Manager
 - C. Builder
 - D. Earthmover

Advice Note: *The information must be emailed to planning@napier.govt.nz Use Subject: RMS220101. The consent holder should use the form at the bottom of this decision.*

33. The consent holder shall ensure that a detailed Construction Management Plan (including Erosion and Sediment Control Plan) is submitted to Napier City Council's Team Leader Planning and Compliance for approval prior to commencement of earthworks or construction on the site.
34. The Construction Management Plan shall include, but not be limited to the following details:
- a. Demonstration of compliance with the 'Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region'(GD 005) for construction and 'Water Sensitive Design for Stormwater' (GD004) for design and operation.
 - b. Outlines the mechanisms used to ensure that waterborne sediment does not depart the subject site, during and/or after construction.
 - c. Outlines the mechanisms used to control dust; including a requirement to cease work should the mean wind speed exceed 30kph (all data is derived from Metservice – Te Ratonga Tirorangi, Meteorological Service).
 - d. Outlines the procedures for keeping stormwater systems, adjacent footpaths, roads free of mud, debris and obstruction.

- e. Outlines how parking associated with construction will be managed.
- f. Outlines how the nature and location of signage to be erected to warn pedestrians of the construction site and associated construction vehicles.
- g. Details of on-site stormwater management during the construction phase, including how the quality and quantity of any stormwater discharged off site will be controlled, including when some dwellings are constructed which may affect the secondary flow path.
- h. Mitigation measures proposed to prevent dust, vibration and noise nuisance during earthworks (including the covering of loaded trucks).
- i. Methods proposed to prevent dust or silt entering drains or watercourses or roads during earthworks.
- j. Noise mitigation to ensure compliance with NZS6803:1999.
- k. Hours of operation.
- l. Incorporate the requirements of the Site Management Plan, prepared by for the site (NESCS).

Consent Notices

Pursuant to Section 221 of the Resource Management Act 1991 a consent notice must be registered on the Record of Title of Lots 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12 and 13 advising that;

- Stormwater disposal from the developed surfaces (developed surfaces are listed in Building Code E1/VM1) of existing Lot 1 should be to an approved outlet. The total stormwater runoff (impervious and pervious area) from Lot 1 for a 10% AEP storm event and 10 minutes duration must not exceed 2.1 litres per second.
- Stormwater disposal from the developed surfaces (developed surfaces are listed in Building Code E1/VM1) of Lot 2 should be to an approved outlet. The total stormwater runoff (impervious and pervious area) from Lot 2 for a 10% AEP storm event and 10 minutes duration must not exceed 1.8 litres per second.
- Stormwater disposal from the developed surfaces (developed surfaces are listed in Building Code E1/VM1) of existing Lot 3 should be to an approved outlet. The total stormwater runoff (impervious and pervious area) from Lot 3 for a 10% AEP storm event and 10 minutes duration must not exceed 2.5 litres per second.
- Stormwater disposal from the developed surfaces (developed surfaces are listed in Building Code E1/VM1) of existing Lot 4 should be to an approved outlet. The total stormwater runoff (impervious and pervious area) from Lot 4 for a 10% AEP storm event and 10 minutes duration must not exceed 2 litres per second.
- Stormwater disposal from the developed surfaces (developed surfaces are listed in Building Code E1/VM1) of existing Lot 5 should be to an approved outlet. The total stormwater runoff (impervious and pervious area) from Lot 5 for a 10% AEP storm event and 10 minutes duration must not exceed 1.6 litres per second.

- Stormwater disposal from the developed surfaces (developed surfaces are listed in Building Code E1/VM1) of existing Lot 6 should be to an approved outlet. The total stormwater runoff (impervious and pervious area) from Lot 6 for a 10% AEP storm event and 10 minutes duration must not exceed 1.6 litres per second.
- Stormwater disposal from the developed surfaces (developed surfaces are listed in Building Code E1/VM1) of existing Lot 7 should be to an approved outlet. The total stormwater runoff (impervious and pervious area) from Lot 7 for a 10% AEP storm event and 10 minutes duration must not exceed 1.8 litres per second.
- Stormwater disposal from the developed surfaces (developed surfaces are listed in Building Code E1/VM1) of existing Lot 8 should be to an approved outlet. The total stormwater runoff (impervious and pervious area) from Lot 8 for a 10% AEP storm event and 10 minutes duration must not exceed 2.4 litres per second.
- Stormwater disposal from the developed surfaces (developed surfaces are listed in Building Code E1/VM1) of existing Lot 9 should be to an approved outlet. The total stormwater runoff (impervious and pervious area) from Lot 9 for a 10% AEP storm event and 10 minutes duration must not exceed 2.4 litres per second.
- Stormwater disposal from the developed surfaces (developed surfaces are listed in Building Code E1/VM1) of existing Lot 10 should be to an approved outlet. The total stormwater runoff (impervious and pervious area) from Lot 10 for a 10% AEP storm event and 10 minutes duration must not exceed 1.6 litres per second.
- Stormwater disposal from the developed surfaces (developed surfaces are listed in Building Code E1/VM1) of existing Lot 11 should be to an approved outlet. The total stormwater runoff (impervious and pervious area) from Lot 11 for a 10% AEP storm event and 10 minutes duration must not exceed 1.7 litres per second.
- Stormwater disposal from the developed surfaces (developed surfaces are listed in Building Code E1/VM1) of existing Lot 12 should be to an approved outlet. The total stormwater runoff (impervious and pervious area) from Lot 12 for a 10% AEP storm event and 10 minutes duration must not exceed 1.8 litres per second.
- Stormwater disposal from the developed surfaces (developed surfaces are listed in Building Code E1/VM1) of existing Lot 13 should be to an approved outlet. The total stormwater runoff (impervious and pervious area) from Lot 13 for a 10% AEP storm event and 10 minutes duration must not exceed 4.2 litres per second.
- Minimum floor levels for habitable dwellings are to be RL 1.50 metres to the 2016 NZVD.

Specific conditions – land use consent – RMS220101

39. All engineering work and design shall be in accordance with the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure or to the satisfaction of the Director of Infrastructure or nominee.
40. Where not already available, telecommunications reticulation (including ducting for computer media), underground electrical, and where applicable, gas services shall be

- provided to all lots/dwellings. The consent holder shall obtain a completion certificate from each network operator for electricity, telephone and, where applicable, gas services.
41. Written confirmation shall be provided from the consent holder stating that all conditions of consent have been complied with and approved. (Refer to Part A7.1.6.2 of the Code)).
 42. All stormwater shall be controlled in terms of the Code of Practice for Subdivision and Land Development and E1 of the Building Code, unless approved by a condition imposed on this consent.
 43. Any services relocations shall be at the expense of the consent holder.
 44. Each dwelling unit shall be provided with a separate water supply connection.
 45. Each dwelling unit shall be provided with a separate wastewater connection.
 46. The applicant shall submit to Council a final detailed engineering design, including construction drawings, detailing the water, stormwater, sewer and roading services required to service the development for Engineering Approval (certification by NCC infrastructure) prior to construction. This shall be undertaken by a Chartered Professional Engineer experienced in water, sewer, stormwater and roading services design and construction. The design shall be generally in accordance with the application and the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure, except where a specific dispensation has been granted through the Engineering Approval (certification by NCC Infrastructure) process.
 47. Any water, sewer, and stormwater assets located on private land within the development that have NOT been accepted by the Director, NCC Infrastructure (or nominee), for vesting in council, shall be clearly marked as PRIVATE on the engineering design.
 48. The consent holder shall provide Napier City Council with the "Construction" producer statements issued by their contractor for the services constructed.
 49. All works within the boundaries of a public road shall be undertaken by a contractor who is approved to work within the road reserve.
 50. As-built plans and data, in accordance with the requirements of the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure (and any approved amendments) shall be submitted to Council once construction is completed by the consent holder. The consent holder shall obtain certification of a complete and correct record by a registered and professionally qualified engineer.
 51. Please Note: Data on public water and sewer assets will be required to be presented to Council in accordance with the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure.
 52. The consent holder shall provide certification from a Chartered Professional Engineer that the works have been constructed in accordance with the approved design at code of compliance.
 53. Vehicular access shall be provided to all lots as shown on the approved Scheme Plan.
 54. Any damage to existing vehicle crossings, footpath and berm as a result of any works within the property shall be repaired at the consent holder's expense.

55. All new vehicle crossings must be designed and formed in accordance with the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure. The new crossing must maintain an at-grade (level) pedestrian footpath across the length of the crossing, using the same materials, kerbing, pavings, patterns and finish as the footpath on each side of the crossing.
56. Minimum floor levels for habitable dwellings are to be RL 1.50 metres to the 2016 NZVD.
57. Any earthworks must meet the requirements of the 'Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region' (GD 005) for construction.
58. All earthworks shall be managed to ensure that no debris, soil, silt, sediment or sediment-laden water is discharged beyond the subject site to either land, stormwater drainage systems, watercourses or receiving waters. In the event that a discharge occurs, works shall cease immediately and the discharge shall be mitigated or rectified to the satisfaction of the Team Leader Planning and Compliance.

Advice Note 1: Construction of drainage on neighbouring properties: All work on live Council water and wastewater mains must be undertaken by Council. The granting of this resource consent does not in any way allow Council to enter and construct drainage within neighbouring properties, without first obtaining the agreement of all owners and occupiers of said land to undertake the proposed works. Obtaining neighbour's consent is the responsibility of the consent holder. Any negotiation or agreement is the full responsibility of the consent holder and is a private agreement that does not involve the Council. Should any disputes arise between the private parties, these are civil matters which can be taken to independent mediation or the disputes tribunal for resolution. It is recommended that the private agreement be legally documented to avoid disputes arising. Council will only enter and construct the drainage on neighbouring properties once the consent holder provides Council with the required neighbouring consent.

Advice Note 2: The subject site is within the 1:50 year flood zone. Building consent applications may be subject to section 73 of the Building Act 2004.

59. The consent holder shall contact Napier City Council's Team Leader Planning and Compliance at least five (5) working days prior to the commencing of earthworks as authorised by this consent and on completion of the works. At least five working days prior to the commencement of any works, the consent holder must notify the Council of the following information.
 - i. The start date of works.
 - ii. The expected duration of works.
 - iii. The expected end date of works.
 - iv. Contact details for:
 - E. Owner
 - F. Project Manager
 - G. Builder
 - H. Earthmover

Advice Note: The information must be emailed to planning@napier.govt.nz Use Subject: RMS220101. The consent holder should use the form at the bottom of this decision.

60. The consent holder shall ensure that a detailed Construction Management Plan (including Erosion and Sediment Control Plan) is submitted to Napier City Councils Team Leader Planning and Compliance for approval prior to commencement of earthworks or construction on the site.
61. The Construction Management Plan shall include, but not be limited to the following details:
 - a. Demonstration of compliance with the 'Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region'(GD 005) for construction and 'Water Sensitive Design for Stormwater' (GD004) for design and operation.
 - b. Outlines the mechanisms used to ensure that waterborne sediment does not depart the subject site, during and/or after construction.
 - c. Outlines the mechanisms used to control dust; including a requirement to cease work should the mean wind speed exceed 30kph (all data is derived from MetService – Te Ratonga Tiorangi, Meteorological Service).
 - d. Outlines the procedures for keeping stormwater systems, adjacent footpaths, roads free of mud, debris and obstruction.
 - e. Outlines how parking associated with construction will be managed.
 - f. Outlines how the nature and location of signage to be erected to warn pedestrians of the construction site and associated construction vehicles.
 - g. Details of on-site stormwater management during the construction phase, including how the quality and quantity of any stormwater discharged off site will be controlled, including when some dwellings are constructed which may affect the secondary flow path.
 - h. Mitigation measures proposed to prevent dust, vibration and noise nuisance during earthworks (including the covering of loaded trucks).
 - i. Methods proposed to prevent dust or silt entering drains or watercourses or roads during earthworks.
 - j. Noise mitigation to ensure compliance with NZS6803:1999.
 - k. Hours of operation.
 - l. Incorporate the requirements of the Site Management Plan, prepared by for the site (NESCS).
62. Landscaping shall be in accordance with the approved plans and planting schedule under condition (1) and shall be planted within the first planting season following code of compliance for each respective dwelling, and shall remain, and be maintained in perpetuity.
63. Fencing in accordance with the approved plans under Condition (1) shall be constructed within six months of receiving code of compliance for each dwelling and shall remain and be maintained in perpetuity.

64. Provision is to be made for the placement of letterboxes, refuse and recycling in general accordance with the plans approved under condition (1) of RMS220101.
65. External roof and walls shall consist of the cladding type and colour scheme on the approved set of plans under condition (1) of RMS220101.

Specific conditions – NES – RMS220101

66. The consent holder shall notify Napier City Council Team Leader Planning and Compliance of the intended start date, no less than five working days prior to works commencing on site.
67. The Consent holder shall ensure all soil disturbance is undertaken in accordance with the provisions of the Site Management Plan, and any subsequent variations, under the direction of a Suitably Qualified Professional (SQEP).
68. A Validation Report shall be provided to Council Team Leader Planning and Compliance within three months of completion of earthworks.

10. Advice notes

1. *All works within the road corridor shall be managed by a contractor operating under a current Corridor Access Request, made through the www.beforeudig.co.nz website and appropriate traffic management. The Corridor Access Request shall be approved by the Road Controlling Authority prior to construction works commencing onsite*
2. *That the following procedures (Accidental Discovery Protocol) shall be followed in the event that Koiwi, archaeological features or Taonga are discovered or are suspected to have been unearthed during earthworks or construction phase of site development:*
 - a. *Earthworks should cease immediately in the vicinity of the discovery. It is important that any remains or artefacts are left undisturbed or in-situ once discovered. If it is unclear whether the find is Koiwi, archaeological features or Taonga, the consent holder shall consult a Heritage New Zealand Pouhere Taonga (HNZPT) archaeologist.*
 - b. *The site supervisor/consent holder/agent shall take steps immediately to secure the area so that Koiwi or Taonga remain untouched and site access is restricted.*
 - c. *The site supervisor/consent holder/agent shall ensure that consumption of food and/or drink and/or smoking in the immediate area of the discovery is restricted.*
 - d. *The site supervisor/consent holder/agent will notify the New Zealand Police (in the event of the discovery of Koiwi/skeletal remains only), Heritage New Zealand and*
 - i. *Ngāti Parau - Chad Tareha chadtareha24@gmail.com and/or*
 - ii. *Mana Ahuriri – Paris Greening paris@manaahuriritrust.com and/or*
 - iii. *Maungaharuru-Tangitū Trust – Lee Grace lee@tangoio.maori.nz and/or*
 - iv. *Te Taiwhenua o Te Whanganui a Orutū - Tania Eden taniaeden@xtra.co.nz*
 - e. *Activities on the site will remain on-hold until the Police (in the case of Koiwi), the Kaumatua (or other representative advised by the relevant Māori organisation) and Heritage New Zealand have given approval for works to recommence.*

- f. *In the case of discovering Koiwi, site access should be restricted to all parties until Police are satisfied the remains are not of forensic relevance.*
- g. *The site supervisor/consent holder/agent shall ensure that Kaumatua (or other representative advised by the relevant Māori organisation) have the opportunity to undertake Karakia or other cultural ceremonies and activities at the site as may be considered appropriate.*
- h. *The consent holder shall ensure that no information regarding discoveries of Māori origin is released to the media except as authorised by the relevant Māori organisation/s.*
3. *Any reference to number of days within this decision refers to working days as defined in s2 of the RMA.*
4. *For the purpose of compliance with the conditions of consent, “the council” refers to the council’s resource consents and compliance officers unless otherwise specified.*
5. *For more information on the resource consent process with Napier City Council see the council’s website: <https://www.napier.govt.nz/> . General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment’s website: <https://www.mfe.govt.nz/rma> .*
6. *If you disagree with any of the above conditions, and/or disagree with the additional charges relating to the processing of the application(s), you have a right of objection pursuant to sections 357A and/or 357B of the Resource Management Act 1991. Any objection must be made in writing to the council within 15 working days of your receipt of this decision (for s357A) or receipt of the council invoice (for s357B).*
7. *The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety at Work Act 2015), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.*

Delegated decision maker:

Name: Luke Johnson
Title: Manager Regulatory Solutions
City Strategy

Signed:



Date: 11 July 2023

Resource Consent Notice of Works Starting

Please email this form to planning@napier.govt.nz at least 5 days prior to work starting on your development.

Alternatively deliver to:

Customer Services Dunvegan House Ground Floor 215 Hastings Street Napier South

Or

Mail to:

Attention: Resource Consent Team

Private Bag 6010

Napier 4142

New Zealand

Site address:	
Resource consent number:	Associated building consent:
Expected start date of work:	Expected duration of work:

Primary contact	Name	Ph No.	Address	Email address
Owner				
Project manager				
Builder				
Earthmover				
Arborist				
Other (specify)				

Signature: Owner / Project Manager (indicate which)	Date:
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Once you have been contacted by the Resource Consent/Compliance Officer, all correspondence should be sent directly to them.

The council will review your property for start of works every three months from the date of issue of the resource consent and charge for the time spent. You can contact your Resource Consent/Compliance Officer on 06 835 7579 or via <https://www.napier.govt.nz/> to discuss a likely timetable of works before the inspection is carried out and to avoid incurring this cost.

Report for an application for resource consent under the Resource Management Act 1991



NAPIER
CITY COUNCIL
Te Kaunihera o Ahuriri

Discretionary Activity – Two Lot into Ten Lot Subdivision & Multi-Unit Development – Yards, HIRB, Open Space, Earthworks, Transport, NES

1. Application description

Application number(s):	RMS220100
Applicant:	Kainga Ora – Homes and Communities
Site address:	45, 47, 49 and 51 Cottrell Crescent
Legal description:	LOT 61 & 62 DP 11370
Site area:	2551m ²
Napier Operative District Plan	
Zoning:	Main Residential
Overlays, controls, special features, designations, etc:	N/A

2. Locality Plan



Source: Napier City Council IntraMaps

3. The proposal, site and locality description

Proposal

The proposal involves a comprehensive site redevelopment to create high density housing in the Main Residential Zone, this includes:

- Removal of three existing single-storey dwellings, along with all accessory buildings.

- b. Construction of 8 new dwellings with the following configurations:
 - ii. four two-bedroom dwellings (Lots 2, 3, 6 and 7),
 - iv. one four-bedroom dwelling (Lot 1, 4 and 5), and
 - v. one five-bedroom dwelling (Lot 8).
 - v. The newly constructed dwellings will have a mix of standalone and duplex typologies.
- c. The provision of one car parking space for each unit, with the exception of Lot 1, 4, and 5 which will have two outdoor car parking spaces. Lot 8 will also have one garage carparking space. The proposed dwellings will be accessed through the JOAL from Cottrell Crescent.
- d. A concurrent subdivision alongside the multi-unit development of the dwellings, so that each unit is on a freehold title. With the creation of a Jointly Owned Access Lot (JOAL) which will be held in 8 undivided one-eighth shares by the owners of Lots 1 to 8.
- e. Earthworks are required across the sites to establish suitable levels for foundations and access ways, and to carry out landscaping. The landscaping will be in the form of planting, surface treatments and fencing.

Subdivision Consent

It is proposed to subdivide 2 lots into 10 lots for residential development in the Main Residential Zone.

Lot 1 net site area – 313m ²	Lot 6 net site area – 152m ²
Lot 2 net site area – 291m ²	Lot 7 net site area – 152m ²
Lot 3 net site area – 285m ²	Lot 8 net site area – 324m ²
Lot 4 net site area – 245m ²	Lot 9 net site area – 90m ² To be held with LOT 60 DP 11370 on one Record of Title
Lot 5 net site area – 240m ²	Lot 100 net site area – 455m ² To be held by the owners of Lots 1-8 as a JOAL

Land Use Consent

The applicant seeks to carry out the subdivision and the construction of the dwellings concurrently, therefore they are also seeking multi-unit resource consent. Under Rule 5.10 in the Main Residential Zone multi-unit development requires resource consent.

The proposal also seeks land use consent as the dwelling on proposed Lot 2 does not comply with Rule 5.16 Yards in the Main Residential Zone, where the rule states that any part of a building must not be erected closer than three metres to the road boundary. The dwelling on Lot 2 will be located within the 3 metre road setback, infringing into the setback to a maximum of 489mm.

The proposal also does not comply with Rule 5.18 Height in Relation to Boundary, where the rule states that any part of a building or structure must not project beyond a building envelope constructed by drawing planes along all parts of the site boundary. The planes must commence 3 metres above ground level at the site boundary and must be inclined to the horizontal at an

angle of 45 degrees. The dwelling located on Lot 8 will infringe the height in relation to boundary rule by a maximum of 1.022 metres vertically and 4.72 metres horizontally on the northern boundary, and by a maximum of 0.972 metres vertically and 3.075 metres horizontally on the eastern boundary.

The proposal does not comply with Rule 5.21 Open Space which states that the open space must include an area capable of containing a 6 metre diameter circle. Lots 2, 4 and 5 will not be able to accommodate a 6 metre diameter circle, the shortfall will range from 210mm to 1.2 metres.

Rule 52A.10(2) states that the removal off site of more than 100m³ of earth (including topsoil) per 12 month period in any zone (excluding Main Rural Zone) is a discretionary activity and therefore requires resource consent. The proposal involves 383m³ of topsoil removal from site, 675m³ cut and 3m³ of fill, therefore requiring a resource consent.

Rule 61.13(1)(a) states that where onsite parking is provided, that the parking of vehicles must be in accordance with design requirements (5.4 metres deep and 3 metres wide). Rule 61.13(1)(a) is not met as each parking space will be only 5 metres deep and 2.7 metres wide. There are no other district plan infringements for this proposal.

Site and surrounding environment description

The subject sites are residential lots measuring 1072m², 1388m², and 91m² (totalling 2551m²) in the Main Residential Zone. All sites are relatively flat and rectangular/triangular in shape. 45-47 Cottrell Crescent contains one existing single storey dwelling, two vehicle crossings, one driveway and small accessory buildings. 49-51 Cottrell Crescent contains two existing single storey dwellings, two vehicle crossings and driveways, and small accessory buildings. All dwellings and accessory buildings will be demolished or removed from the sites. All properties have open front yards with no front yard fencing. All sites have side and rear fencing and vegetated areas across the sites.

The surrounding environment consists of similar sized residential lots with dwelling configurations in detached and duplex styles. The sites are in close proximity to Maraenui Park and Maraenui Shopping Centre, which consists of a reserve, pharmacy, laundromat, bakery, takeaways, petrol station and a Four Square. Kindergartens, primary schools and high schools are also located in the surrounding neighbourhood.

Nicole Heron of Barker & Associates Limited has provided a description of the proposal and subject site on pages 6-9 of the Assessment of Environmental Effects (AEE) titled: Construction of eight dwellings and associated subdivision – 45-51 Cottrell Crescent, Onekawa.

Having undertaken a site visit on 23 November 2022, I concur with that description of the proposal and the site and have no further comment.

4. Background

Specialist Input

The proposal has been reviewed and assessed by the following specialist teams:

- The Development and Standards Team support the application because the proposed lots will be serviceable by Council's reticulated infrastructure, and access provisions will allow for safe ingress and egress to and from the site.
- The assessment from internal teams led to a Section 92 request under the Resource Management Act 1991. The S92 was to clarify several issues around urban design, roading and stormwater. The applicant addressed these matters through the submission of additional information.

Specialist Reports

- Transport Assessment by Peter Kelly of Traffic Planning Consultants Limited, dated September 2022 and referenced as 220274.
- Engineering Report by Vitor Torres de Melo of Maven, dated 14/9/22 and referenced as 104152.
- Detailed Site Investigation by Krysten Walker of Geosciences Limited, dated 8/11/21 and referenced as REP-H0166B/DSI/NOV21.
- Remediation Action Plan and Site Management Plan by Colin Jowett of Geosciences Limited, dated 8/11/21 and referenced as Mem-H0166b/WI/Nov21.

5. Reasons for the application

The operative plan provisions

In assessing an application for resource consent, the relevant provisions requiring consideration are those provisions of the NCCDP(OP) that are not subject to appeal and are operative (including treated as operative under s86F of the RMA);

- the relevant provisions of any relevant plan that remain operative as a consequence of the appeals against certain provisions of the NCCDP (OP); and
- the relevant provisions of a plan change to the NCCDP (OP) (including a private plan adopted by the Council) or a variation to a plan change to the NCCDP (OP) where the relevant provisions have legal effect.

The task of identifying the relevant provisions as described above requires individual analysis of the provisions of the NCCDP(OP) and the relevant appeals, within the context of the specific resource consent application.

In this instance:

The proposal involves multi unit development and subdivision in the Main Residential Zone. Under rule 5.12 of the NCCDP(OP), multi unit development and subdivision that does not comply with all relevant conditions requires resource consent as a restricted discretionary activity.

The proposal involves removal of more than 100m³ of earth within a 12 month period, therefore under rule 52A.10(2) of the NCCDP(OP), resource consent is required as a discretionary activity.

Accordingly, resource consent is required for the following reasons:

- Rule 5.16 Yards – Restricted Discretionary
- Rule 5.18 Height in Relation to Boundary – Restricted Discretionary
- Rule 5.21 Open Space – Restricted Discretionary
- Rule 5.27 Earthworks – Discretionary
- Rule 5.31 Transport – Restricted Discretionary

Land use consent (s9)

Napier Operative District Plan

Main Residential Zone – 5.10 Land Development (including subdivision, but excluding multi unit development for commercial and industrial activities)

1. Land development, including subdivision but excluding multi unit development for commercial and industrial activities, is a controlled activity provided that:
 - a. It complies in all respects with the standards and terms specified in Chapter 66 (Volume II) of this Plan.
 - b. It complies in all respects with the relevant conditions in the Main Residential Zone Activity Table and Condition Table.
 - c. It is assessed according to the matters in Chapter 66 (Volume II) over which the Council has reserved its control.
2. Applications for resource consent will not be publicly notified in respect of land development (including subdivision) that fully complies with the standards and terms, and notice of applications need not be served.

Main Residential Zone – 5.12 Land Uses Not Complying With Conditions

1. Any subdivision, use or development of land referred to in Rules 5.2 to 5.11 that does not comply with all of the relevant conditions in the Main Residential Zone activity table and condition table is a restricted discretionary activity, unless stated by a rule elsewhere in this Chapter.

Main Residential Zone – 5.16 Yards

1. The following yard conditions shall apply to all land uses:
 - a. Front Yards
 - i. Any part of a building must not be erected closer than 3 metres to the road boundary, except that:
 - Eaves, fascias, gutters, down pipes, chimneys and flues may encroach on the front yard by a distance of up to 1 metre measured horizontally.
 - If a garage/carport is provided, it must not be erected closer than 5m to the road boundary, so as to provide a vehicle standing bay. (Refer to Rule 61.17).
 - b. Front Yard Landscaping

On all sites other than rear sites, 40% of the front yard must comprise landscaped permeable surface.

c. Other Yards

- i. Any part of a building (including eaves and guttering) must not be erected closer than 1 metre to a side or rear site boundary.
 - Provided that where this is the only condition infringement and the written approval of the adjacent landowner(s) is provided at building consent stage, a resource consent application will not be necessary.
- ii. Any part of a building, fence or permanently fixed structure must not be erected closer than 6 metres from the top of the bank of any watercourse or open drain.

Main Residential Zone – 5.18 Height in Relation to Boundary

1. The following height in relation to boundary conditions shall apply to all land uses:

- a. Any part of a building or structure, must not project beyond a building envelope constructed by drawing planes along all parts of all site boundaries. The planes must commence 3.0 metres above ground level at the site boundary and must be inclined to the horizontal at an angle of 45 degrees.
- b. Provided that:
 - i. In relation to multi-unit development, the building envelope must be constructed by drawing planes along all parts of all building site boundaries and must commence at the building site boundary.
 - ii. The height in relation to boundary control does not apply to the length of common wall between two or more attached buildings.
 - iii. Where the site abuts an entrance strip or access lot, the furthest boundary of the entrance strip or access lot may be deemed to be the site boundary for the purpose of applying the height in relation to boundary control.
 - iv. No account must be taken of aerials, lines, support structures, solar heating devices, air conditioning units and similar structures housing electronic or mechanical equipment or chimneys, no more than 1 metre wide in any horizontal direction and less than 2.5 metres in height beyond the building envelope.

Main Residential Zone – 5.21 Open Space

1. The following open space conditions shall apply to all residential activities:

- a. Each dwelling unit must have an amount of open space on the building site of not less than 50% of the gross floor area of all buildings on the site, except that a minimum of 50m² per dwelling unit must be provided.
- b. The maximum area of open space required to be provided on a building site is 100m² per dwelling unit.
- c. Provided that:
 - i. Open space may comprise of more than one area.

- ii. Open space may take the form of a deck or terrace but must be unobstructed by buildings (other than cantilevered decks), parking spaces, or vehicle manoeuvring areas.
- iii. Open space must be directly accessible from the dwelling unit to which it relates.
- iv. The open space must:
 - Include at least one area capable of containing a 6 metre diameter circle; and
 - Have a minimum dimension of 3 metres measured at right angles to the perimeter of the area.

Main Residential Zone – 5.27 Earthworks

1. The relevant provisions of Chapter 52A (Earthworks) of this Plan must be complied with.

Main Residential Zone – 5.31 Transport

1. The relevant provisions of Chapter 61 (Transport) of this Plan must be complied with.

Earthworks Chapter – 52A.10(2) Discretionary Activities

The following Earthworks operations are discretionary activities. A resource consent application must be made and consent may be declined or granted with, or without, conditions. The Council will have regard to the objectives and policies of this Plan and the assessment criteria in Chapter 52A.22. The Councils discretion is unrestricted.

1. The removal off site of more than 25m³ of topsoil, sand, gravel, metal or earth per 12 month period, in the Main Rural Zone.
2. The removal off site of more than 100m³ of earth (including topsoil) per 12 month period in any zone (excluding Main Rural Zone).

Transportation Chapter – 61.13 General

1. Subject to Section 10 of the Act, where a building is constructed, substantially reconstructed, altered or added to, or where there is a change in the use of any land or building which has a different requirement for loading spaces under this Rule Table, provision in accordance with this Condition Table shall be made for the following:
 - a. The parking of vehicles in accordance with design requirements, where onsite parking is provided.
 - b. The loading and unloading of goods where the site is used for the manufacture, servicing, storage, sale or hire of goods or materials.
 - c. Physical and legal vehicular access from a formed legal road.
 - d. The parking of bicycles
 - e. The provision of bicycle end of journey facilities

Subdivision consent (s11)

Napier Operative District Plan

Main Residential Zone – 5.10 Land Development (including subdivision, but excluding multi unit development for commercial and industrial activities)

1. Land development, including subdivision but excluding multi unit development for commercial and industrial activities, is a controlled activity provided that:
 - a. It complies in all respects with the standards and terms specified in Chapter 66 (Volume II) of this Plan.
 - b. It complies in all respects with the relevant conditions in the Main Residential Zone Activity Table and Condition Table.
 - c. It is assessed according to the matters in Chapter 66 (Volume II) over which the Council has reserved its control.
2. Applications for resource consent will not be publicly notified in respect of land development (including subdivision) that fully complies with the standards and terms, and notice of applications need not be served.

Main Residential Zone – 5.12 Land Uses Not Complying With Conditions

1. Any subdivision, use or development of land referred to in Rules 5.2 to 5.11 that does not comply with all of the relevant conditions in the Main Residential Zone activity table and condition table is a restricted discretionary activity, unless stated by a rule elsewhere in this Chapter.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

The applicant has provided a DSI Report written by Krysten Walker of Geosciences Limited, dated 8 November 2021. The DSI identifies heavy metal concentrations in exceedance of the NES and background ranges for soil. The potential contamination is likely due to the anthropogenic activities associated with prolonged residential occupation (i.e. the use of lead based paint). Therefore, the site must be considered as a 'piece of land' under the NES.

To address this, Geosciences Limited have included a Remediation Action Plan (RAP) and a Site Management Plan (SMP) to address the controls required under the NES. The RAP and SMP will address any potential effects that may arise from soil disturbance on a HAIL site. Additionally, the Work Instruction requires a Site Validation Report to be prepared following the completion of earthworks. It is considered that when the provided measures recommended within the RAP and SMP are implemented, the effects relating to the disturbance of potentially contaminated land will be less than minor.

Conditions will be placed on this resource consent to ensure that the above will be carried out.

Section 106 Assessment

- The two sites are not located within any hazard layers, according to NCC GIS hazard maps. Therefore, it is not considered that there is a significant risk from natural hazards in terms of the proposed subdivision.
- Sufficient provision has been made for legal and physical access to each proposed lot, through the way of a JOAL.

As such, there is no reason for council to refuse this subdivision consent on any of the grounds specified in Section 106 of the RMA.

National Policy Statement on Urban Development 2020

The National Policy Statement for Urban Development 2020 (NPS-UD) applies to this proposal. The direction of the NPS-UD is to enable more housing and commercial developments, particularly in higher density areas. The proposal will result in a total of 8 dwellings in a mix of duplex and detached styles across the current 2 sites which will be subdivided. Overall, the proposal is consistent with the policy direction of the NPS-UD.

6. Status of the resource consents

Where a proposal:

- consists of more than one activity specified in the plan(s); and
- involves more than one type of resource consent or requires more than one resource consent; and
- the effects of the activities overlap;

the activities may be considered together.

Where different activities within a proposal have effects which do not overlap, the activities will be considered separately.

In the instance, the effects of the proposed resource consents will overlap and thus they are considered together as a **discretionary activity** overall.

7. Public notification assessment (sections 95A, 95C-95D)

Section 95A specifies the steps the council is to follow to determine whether an application is to be publicly notified. These steps are addressed in the statutory order below.

Step 1: mandatory public notification in certain circumstances

No mandatory notification is required as:

- the applicant has not requested that the application is publicly notified (s95A(3)(a));
- there are no outstanding or refused requests for further information (s95C and s95A(3)(b)); and
- the application does not involve any exchange of recreation reserve land under s15AA of the Reserves Act 1977 (s95A(3)(c)).

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

The application is not precluded from public notification as:

- the activities are not subject to a rule or national environmental standard (NES) which precludes public notification (s95A(5)(a)); and
- the application does not exclusively involve one or more of the activities described in s95A(5)(b).

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

The application is not required to be publicly notified as the activities are not subject to any rule or a NES that requires public notification (s95A(8)(a)).

The following assessment addresses the adverse effects of the activities on the environment, as public notification is required if the activities will have or are likely to have adverse effects on the environment that are more than minor (s95A(8)(b)).

Adverse effects assessment (sections 95A(8)(b) and 95D)

The consultant has provided, in accordance with schedule 4 of the RMA, an assessment of adverse environmental effects in such detail as corresponds with the scale and significance of the effects that the activities may have on the environment. This can be found on pages 13-16 and 25-26 of the AEE.

I concur with this assessment.

The AEE concludes that:

Yards:

- *The existing streetscape and protection from road frontage domination* – as the yard infringement on Lot 2 is relatively small (489mm), it is considered that there is less than minor adverse effects on the existing streetscape and on road frontage domination. Any adverse effects are further mitigated due to front yard landscaping treatment such as low fencing, and planting.
- *The outlook and privacy of adjacent and adjacent properties* – the dwelling on proposed Lot 2 will be partially located within the 3 metre road setback. As the infringement is not with an adjacent property, there is not considered to be any adverse effects on the outlook and privacy of adjacent properties.
- *The effects of shading of adjacent properties* - the dwelling on proposed Lot 2 will be partially located within the 3 metre road setback. As the infringement is not with an adjacent property, there is not considered to be any adverse effects on the shading of adjacent properties.
- *The effects on amenity values of the neighbourhood* - as the yard infringement on Lot 2 is relatively small (489mm), it is considered that there is less than minor adverse effects on the amenity values of the neighbourhood. Any adverse effects are further mitigated due to front yard landscaping treatment such as low fencing, and planting.

- *The effects on the maintenance and enhancement of watercourses and open drains – not applicable.*

Height in Relation to Boundary:

- *The availability of daylight to adjacent properties - the dwelling located on Lot 8 will infringe the height in relation to boundary rule by a maximum of 1.022 metres vertically and 4.72 metres horizontally on the northern boundary, and by a maximum of 0.972 metres vertically and 3.075 metres horizontally on the eastern boundary. Due to the infringement being relatively small, it is considered that any adverse effects from this will be less than minor in regards to the availability of daylight to adjacent properties.*
- *The effects on the privacy of adjacent properties and occupiers - the dwelling located on Lot 8 will infringe the height in relation to boundary rule by a maximum of 1.022 metres vertically and 4.72 metres horizontally on the northern boundary, and by a maximum of 0.972 metres vertically and 3.075 metres horizontally on the eastern boundary. Due to the infringement being relatively small, it is considered that any adverse effects from this will be less than minor in regards to the privacy of adjacent properties and occupiers.*
- *The effects on amenity values - the dwelling located on Lot 8 will infringe the height in relation to boundary rule by a maximum of 1.022 metres vertically and 4.72 metres horizontally on the northern boundary, and by a maximum of 0.972 metres vertically and 3.075 metres horizontally on the eastern boundary. Due to the infringement being relatively small, it is considered that any adverse effects from this will be less than minor in regards to the effects on amenity values.*
- *The effects on landscape values - the dwelling located on Lot 8 will infringe the height in relation to boundary rule by a maximum of 1.022 metres vertically and 4.72 metres horizontally on the northern boundary, and by a maximum of 0.972 metres vertically and 3.075 metres horizontally on the eastern boundary. Due to the infringement being relatively small, it is considered that any adverse effects from this will be less than minor in regards to the effects on landscape values.*

Open Space:

- *The effects on privacy and amenity of the occupants on-site - Lots 2, 4 and 5 will not be able to accommodate a 6 metre diameter circle, the shortfall will range from 210mm to 1.2 metres. Despite the open space infringements for Lots 2, 4 and 5 there is still considered to be sufficient open space available onsite for the occupants of the properties. There are considered to be less than minor adverse effects on privacy and amenity of the occupants on site.*
- *The effect on the open space appearance of the neighbourhood - Lots 2, 4 and 5 will not be able to accommodate a 6 metre diameter circle, the shortfall will range from 210mm to 1.2 metres. As all of the open space infringements are on the rear of the sections, there is not considered to be any adverse effects on the open space appearance of the neighbourhood as these infringements cannot be viewed from the street.*

Earthworks:

- *The matters identified in the second column of the Earthworks activity table and/or condition table – not applicable for this application.*

- *The cumulative effect of non-compliance with more than one condition* – not applicable for this application.
- *The matters set out in Chapter 1.6.5* – the matters set out in Chapter 1.6.5 have been considered.
- *The assessment criteria in Chapter 52A.22 of this Plan where applicable:*
 - i. Land Disturbance and Vegetation Clearance* – in order to facilitate building platforms and landscaping, the three existing dwellings, hard surfaces and vegetation will be removed from the site. Further earthworks will be required across the entirety of the site in order to establish suitable levels for foundations, civil works and access ways, as well as carry out landscaping. The earthworks will comprise of 383m³ of topsoil removal, 675m³ cut and 3m³ fill. Details of the earthworks proposed have been included in the AEE, Engineering Report, Detailed Site Investigation and the Site Management Plan.
 - ii. Visual Impact* – due to the purpose of the earthworks being to facilitate construction in the way of building platforms and landscaping, once the earthworks are completed and the proposal is carried out any earthworks will not be visual when viewed from outside of the property. Therefore, it is considered that any adverse effects on neighbouring properties or the wider environment will have less than minor adverse effects in regards to visual impact.
 - iii. Noise* – any noise effects from earthworks will be of a temporary nature, and is similar in nature to other earthworks within the Main Residential Zone. It is anticipated that earthworks will be carried out during standard construction hours, and so adverse noise impacts are not anticipated.
 - iv. Effects on other land uses and adjoining properties* – due to the purpose of the earthworks being to facilitate construction in the way of building platforms and landscaping, once the earthworks are completed and the proposal is carried out any earthworks will not be visual when viewed from outside of the property. Therefore, it is considered that any adverse effects on neighbouring properties or the wider environment will have less than minor adverse effects.
 - v. Earthworks within outstanding or significant natural landscapes* – not applicable for this application.

Transport:

- *The matters identified in the second column of the Transport activity table and/or condition table* – assessed below.
- *The cumulative effect of non-compliance with more than one condition* – not applicable.
- *In respect of a controlled activity failing to comply with all of the relevant conditions, those matters the Council had reserved its discretion over* – assessed below.
- *The matters set out in Chapter 1.6.5* - the matters set out in Chapter 1.6.5 have been considered.
- *The provision of on-site parking spaces* – the proposal include the provision of one car parking space for each unit, with the exception of Lot 1, 4, and 5 which will have two outdoor car parking spaces. Lot 8 will also have one garage carparking space.
- *The provision of on-site loading spaces* – there are no on-site loading spaces proposed.
- *The provision of vehicular access from road* - The proposed dwellings will be accessed through the JOAL from Cottrell Crescent.

Assessment Criteria in Chapter A8:

- *Scale and Intensity* – the scale and intensity of the development is compatible with surrounding land uses and the proposed landscaping helps to mitigate any adverse effects. The proposal is not considered to adversely affect the functioning of the immediate area.
- *Access* – The proposed dwellings will be accessed through the JOAL from Cottrell Crescent.
- *Infrastructure* – on site stormwater detention is proposed to achieve stormwater neutrality on the sites. Detention storage will be provided through 2000 litre tanks for each dwelling. The stormwater from the tanks will be discharged to the proposed stormwater system, which sees three pipelines discharging into double kerb outlets. It is proposed to provide direct connections for each dwelling to the existing wastewater main that runs through the site. It is proposed to connect to the existing water supply rider main within Cottrell Crescent. Each dwelling will have an individual lateral connection with a separate manifold box at the boundary. As part of this application an Engineering Report, prepared by Maven, was submitted. Maven's report confirms that all sites can be adequately serviced in terms of water, stormwater and wastewater. Overall, the report concludes that the proposed development can be serviced without adverse effects.
- *Hazards and Contaminated Sites* – the applicant has provided a DSI Report written by Krysten Walker of Geosciences Limited, dated 8 November 2021. The DSI identifies heavy metal concentrations in exceedance of the NES and background ranges for soil. The potential contamination is likely due to the anthropogenic activities associated with prolonged residential occupation (i.e. the use of lead based paint). Therefore, the site must be considered as a 'piece of land' under the NES. To address this, Geosciences Limited have included a RAP and a SMP to address the controls required under the NES. The RAP and SMP will address any potential effects that may arise from soil disturbance on a HAIL site. Additionally, the Work Instruction requires a Site Validation Report to be prepared following the completion of earthworks. It is considered that when the provided measures within the RAP and SMP are implemented, the effects relating to the disturbance of potentially contaminated land will be less than minor. Conditions will be placed on this resource consent to ensure that the above will be carried out.
- *Cumulative Effects* – the proposed development is not considered to have any adverse effects on the surrounding environment that are minor or more than minor. Each lot is appropriately integrated into the roading network and has access to a legal road. Any adverse cumulative effects from the development are considered to be less than minor, this is supported through the numerous reports provided with the application, the AEE and the s92 responses.

Subdivision:

- *The assessment in terms of performance criteria in Part B and the requirements of Part C of this Code* – the AEE addresses the performance criteria in Part B to an adequate standard that demonstrates less than minor adverse effects created from this proposal. The conditions imposed on this resource consent will help further mitigate any adverse effects from this proposal in relation to Part C of the Code.
- *The imposition of financial contributions* – a financial contribution of \$136,694.36 (4 x \$34,173.59) is required to contribute towards the cost of upgrading the existing engineering and community services. Financial contributions are only charged for 4 lots as currently there are 4 developmental rights across the two lots.

- *The granting, reserving or modification of easements* – the scheme plan provided shows easements proposed for party walls, right of way, right drain water, to convey water, to convey electricity and communications, and to drain sewage.
- *The alteration of any lot boundary* – the proposal is for the subdivision of 2 lots into 8 residential lots, therefore this requires alteration to lot boundaries.
- *Stormwater, on-site or off-site* – on site stormwater detention is proposed to achieve stormwater neutrality on the sites. Detention storage will be provided through 2000 litre tanks for each dwelling. The stormwater from the tanks will be discharged to the proposed stormwater system, which sees three pipelines discharging into double kerb outlets. As part of this application an Engineering Report, prepared by Maven, was submitted. Maven's report confirms that all sites can be adequately serviced in terms of water, stormwater and wastewater. Overall, the report concludes that the proposed development can be serviced without adverse effects.
- *Sewage disposal, on-site or off-site* – it is proposed to provide direct connections for each dwelling to the existing wastewater main the runs through the site. As part of this application an Engineering Report, prepared by Maven, was submitted. Maven's report confirms that all sites can be adequately serviced in terms of water, stormwater and wastewater. Overall, the report concludes that the proposed development can be serviced without adverse effects.
- *Construction* – the proposal is for a concurrent subdivision and multi-unit development. The applicant proposes to construct 8 new dwellings, this will include 4 two-bedroomed, 1 four-bedroomed dwelling, and 1 five-bedroomed dwelling. All newly constructed dwellings will have modern design and will be two-storey, with a mix of standalone and duplex typologies. The proposal also includes the construction of a JOAL, footpaths, paved areas and parking spaces.
- *Earthworks, including fill* – in order to facilitate building platforms and landscaping, the three existing dwellings, hard surfaces and vegetation will be removed from the site. Further earthworks will be required across the entirety of the site in order to establish suitable levels for foundations, civil works and access ways, as well as carry out landscaping. The earthworks will comprise of 383m³ of topsoil removal, 675m³ cut and 3m³ fill. Details of the earthworks proposed have been included in the AEE, Engineering Report, Detailed Site Investigation and the Site Management Plan.
- *Access, roads, parking, manoeuvring and loading* – The provision of one car parking space for each unit, with the exception of Lot 1, 4, and 5 which will have two outdoor car parking spaces. Lot 8 will also have one garage carparking space. The proposed dwellings will be accessed through the JOAL from Cottrell Crescent. Each parking space will have sufficient manoeuvring space. As part of this application a Transport Assessment, prepared by Traffic Planning Consultants, was submitted. The Transport Assessment report confirms that all sites can be adequately accommodated into the road network without compromising its function, capacity, or safety. Overall, the report concludes that the proposed development can be serviced without adverse effects.
- *Flood control and natural hazard risk mitigation (including site stability)* – the sites are not located within the 1:50 Year Flood Zone, according to NCC GIS hazard layers. However, council have imposed a minimum finished floor level for any future development.
- *Fire risk protection or mitigation (including access)* – not applicable for this application.
- *Energy supply (electricity and/or gas)* – the conditions imposed on this resource consent requires separate energy supply to be supplied to all lots.
- *Water supply* – It is proposed to connect to the existing water supply rider main within Cottrell Crescent. Each dwelling will have an individual lateral connection with a separate manifold box

at the boundary. As part of this application an Engineering Report, prepared by Maven, was submitted. Maven's report confirms that all sites can be adequately serviced in terms of water, stormwater and wastewater. Overall, the report concludes that the proposed development can be serviced without adverse effects.

- *Telecommunications and information cabling* – the conditions imposed on this resource consent requires separate telecommunications to be supplied to all lots.
- *The preservation of significant and notable trees, places or features of significant heritage, and places of cultural or amenity value* – not applicable for this proposal.
- *Landscaping and planting* – a landscaping plan has been provided as part of this application. Landscaping is proposed throughout the development in the form of planting, surface treatments and fencing. The planting includes specimen trees, hedging, groundcover species and lawn areas. The proposed landscaping will help to create privacy between the dwellings, and soften the view of the dwellings from the street.
- *The provision of any consent notice in terms of Section 221 of the Act including subdivision in hazard areas and compliance with acoustic insulation requirements* – consent notices in the form of stormwater control, and minimum finished floor level have been imposed on this resource consent.
- *Solid Waste Management* – the proposal has included rubbish collection stands, which will be at the front of the site.

Multi-Unit Development:

- *Design and external appearance* – as the dwellings will be of modern design with a range of roof forms, materials, glazing and dwelling types, such as standalone dwellings and duplexes, the development will create variety in urban form. The proposed landscaping in the way of planting and fencing will further mitigate any adverse visual effects from the road frontage by softening views of the development.
- *Site layout* – the site layout has been designed to ensure that dwellings are setback appropriately from external boundaries to maintain privacy and amenity of neighbouring properties and occupiers. There will be no adverse effect arising beyond the site boundaries and that no adjacent sites or persons will be affected by the proposal.
- *Open space* – the concept plan shows that despite open space infringements with some of the lots, each dwelling has still been provided with adequate open space. Any adverse effects from open space infringements are considered to be less than minor and are considered to be contained solely within the subject site.
- *Landscape elements* – a landscaping plan has been provided as part of this application. Landscaping is proposed throughout the development in the form of planting, surface treatments and fencing. The planting includes specimen trees, hedging, groundcover species and lawn areas. The proposed landscaping will help to create privacy between the dwellings, and soften the view of the dwellings from the street.
- *Carparking and access* – The provision of one car parking space for each unit, with the exception of Lot 1, 4, and 5 which will have two outdoor car parking spaces. Lot 8 will also have one garage carparking space. The proposed dwellings will be accessed through the JOAL from Cottrell Crescent. Each parking space will have sufficient manoeuvring space. As part of this application a Transport Assessment, prepared by Traffic Planning Consultants, was submitted. The Transport Assessment report confirms that all sites can be adequately accommodated into the road network without compromising its function, capacity, or safety.

Overall, the report concludes that the proposed development can be serviced without adverse effects.

- *Infrastructure* – As part of this application an Engineering Report, prepared by Maven, was submitted. Maven's report confirms that all sites can be adequately serviced in terms of water, stormwater and wastewater. Overall, the report concludes that the proposed development can be serviced without adverse effects. On site stormwater detention is proposed to achieve stormwater neutrality on the sites. Detention storage will be provided through 2000 litre tanks for each dwelling. The stormwater from the tanks will be discharged to the proposed stormwater system, which sees three pipelines discharging into double kerb outlets. It is proposed to provide direct connections for each dwelling to the existing wastewater main the runs through the site. It is proposed to connect to the existing water supply rider main within Cottrell Crescent. Each dwelling will have an individual lateral connection with a separate manifold box at the boundary.
- *Air traffic safety* – not applicable for this proposal.
- *Cumulative effect* – the proposed development is not considered to have any adverse effects on the surrounding environment that are minor or more than minor. Each lot is appropriately integrated into the roading network and has access to a legal road. Any adverse cumulative effects from the development are considered to be less than minor, this is supported through the numerous reports provided with the application, the AEE and the s92 responses.
- *Scale and intensity* – the scale and intensity of the development is compatible with surrounding land uses and the proposed landscaping helps to mitigate any adverse effects. The proposal is not considered to adversely affect the functioning of the immediate area.

National Environmental Standard for Assessing and Managing Contaminates in Soil to Protect Human Health:

- *The adequacy of detailed site investigation* – the Detailed Site Investigation was produced by Krysten Walker of Geosciences Limited, which included a study of historical photographs, a review of the certificate of titles, a review of the Council files, site sampling, an inspection of the land surface for asbestos fragments, laboratory analysis of soils samples and a report. Geosciences limited also provided a Remediation Action Plan.
- *The suitability of the piece of land for the proposed activity* – the proposed development is a suitable use of the properties, and is not unlike other land uses in the area, given that the soil is remediated prior to construction as per the Remediation Action Plan provided.
- *The approach to the remediation or ongoing management of the piece of land* – the DSI and the Remediation Action Plan outline the approach to be used for the remediation of the piece of land. This approach is considered appropriate.
- *The adequacy of the site management plan or the site validation report or both, as applicable* – the DSI and the Remediation Action Plan are considered adequate in addressing the course of action to be used, and for the site management plan provided.
- *The transport, disposal, and tracking of soil and other materials taken away in the course of the activity* – the Remediation Action Plan states the procedure for transport, disposal and tracking of soil to be taken away from the site.
- *The requirement for and conditions of a financial bond* – no financial bond has been placed on this resource consent.
- *The timing and nature of the review of the conditions in the resource consent* – not applicable for this application.
- *The duration of the resource consent* – not applicable for this application.

Overall, I agree with the AEE and conclude that the proposal does not create any adverse effects on neighbouring properties or the wider environment that are minor or more than minor.

Step 4: Public notification in special circumstances

If an application has not been publicly notified as a result of any of the previous steps, then the council is required to determine whether special circumstances exist that warrant it being publicly notified (s95A(9)).

Special circumstances are those that are:

- Exceptional, abnormal or unusual, but something less than extraordinary or unique;
- outside of the common run of applications of this nature; or
- circumstances which make notification desirable, notwithstanding the conclusion that the activities will not have adverse effects on the environment that are more than minor.

In this instance I have turned my mind specifically to the existence of any special circumstances and conclude that there is nothing exceptional or unusual about the application, and that the proposal has nothing out of the ordinary realm to suggest that public notification should occur.

Public notification conclusion

Having undertaken the s95A public notification tests, the following conclusions are reached:

- Under step 1, public notification is not mandatory.
- Under step 2, there is no rule or NES that specifically precludes public notification of the activities, and the application is for activities other than those specified in s95A(5)(b).
- Under step 3, public notification is not required as the application is for activities that are not subject to a rule that specifically requires it, and it is considered that the activities will not have adverse effects on the environment that are more than minor.
- Under step 4, there are no special circumstances that warrant the application being publicly notified.

It is therefore recommended that this application be processed without public notification.

8. Limited notification assessment (sections 95B, 95E-95G)

If the application is not publicly notified under s95A, the council must follow the steps set out in s95B to determine whether to limited notify the application. These steps are addressed in the statutory order below.

Step 1: Certain affected protected customary rights groups must be notified

There are no protected customary rights groups or customary marine title groups affected by the proposed activities (s95B(2)).

In addition, the council must determine whether the proposed activities are on or adjacent to, or may affect, land that is subject of a statutory acknowledgement under schedule 11, and whether

the person to whom the statutory acknowledgement is made is an affected person (s95B(3)). Within the Napier region the following statutory acknowledgements are relevant:

In this instance, the proposal is not on or adjacent to and will not affect land that is subject to a statutory acknowledgement, and will not result in adversely affected persons in this regard.

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

The application is not precluded from limited notification as:

- the application is not for one or more activities that are exclusively subject to a rule or NES which preclude limited notification (s95B(6)(a)); and
- the application is not exclusively for a controlled activity, other than a subdivision, that requires consent under a district plan (s95B(6)(b)).

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

As this application is not for a boundary activity, there are no affected persons related to that type of activity (s95B(7)).

The following assessment addresses whether there are any affected persons that the application is required to be limited notified to (s95B(8)).

In determining whether a person is an affected person:

- a person is affected if adverse effects on that person are minor or more than minor (but not less than minor);
- adverse effects permitted by a rule in a plan or NES (the permitted baseline) may be disregarded;
- the adverse effects on those persons who have provided their written approval must be disregarded; and

Adversely affected persons assessment (sections 95B(8) and 95E)

The consultant has provided in accordance with schedule 4 of the RMA, an assessment of adversely affected persons in such detail as corresponds with the scale and significance of the effects that the activities may have on persons in the surrounding environment.

The AEE concludes that:

- Whilst no written approval has been provided from neighbouring sites, the applicant owns the properties at 28, 41, 43, 53 and 55 Cottrell Crescent, therefore their support for this proposal is implied.
- *Regarding adverse effects to the north at 87, 89, 91, 93 and 95 Wycliffe Street:* Lot 8 has a Height in Relation to Boundary infringement with 93 and 95 Wycliffe Street, this infringement is relatively small in scale with the infringement being of a maximum of 1.022 metres vertically and 4.72 metres horizontally on the northern boundary, and by a maximum of 0.972 metres vertically and 3.075 metres horizontally on the eastern boundary. As this infringement is relatively small in scale it is considered that any adverse effects on the properties at 93 and 95 Wycliffe Street is less than minor. Lot 4 and 5 have an Open Space infringement where they

cannot contain a 6 metre diameter circle, these two lots border 87, 89 and 91 Wycliffe Street. Despite the infringement on Lot 4 and 5 bordering those properties there is not considered to be any adverse effects from the infringement as the effects are considered to be contained solely within the boundaries of the two lots.

- *Regarding adverse effects to the east at 129A and 131-131C Riverbend Road, and 53 and 55 Cottrell Crescent:* whilst no written approval has been provided from neighbouring sites, the applicant owns the properties at 53 and 55 Cottrell Crescent, therefore their support for this proposal is implied. There is an Open Space infringement on Lot 2, and whilst 53 and 55 Cottrell Crescent share a boundary with this lot, there is not considered to be any adverse effects from this infringement as the effects are considered to be contained solely within the boundaries of Lot 2. Lot 8 has a Height in Relation to Boundary infringement with 129A Riverbend Road, this infringement is relatively small in scale with the infringement being of a maximum of 1.022 metres vertically and 4.72 metres horizontally on the northern boundary, and by a maximum of 0.972 metres vertically and 3.075 metres horizontally on the eastern boundary. As this infringement is relatively small in scale it is considered that any adverse effects on the property at 129A Riverbend Road is less than minor. The properties at 131-131C Riverbend Road are not adjacent to any infringements on any proposed lots.
- *Regarding adverse effects to the south at 28, 30 and 32 Cottrell Crescent:* whilst no written approval has been provided from neighbouring sites, the applicant owns the property at 28 Cottrell Crescent, therefore their support for this proposal is implied. There are considered to be no adverse effects on these properties that are minor or more than minor as the dwellings are considered to be setback appropriately from the road boundary, the dwellings are separated from these properties with Cottrell Crescent, and because of mitigation such as fencing and landscaping.
- *Regarding adverse effects to the west at 41 and 43 Cottrell Crescent:* whilst no written approval has been provided from neighbouring sites, the applicant owns the properties at 41 and 43 Cottrell Crescent, therefore their support for this proposal is implied. There is an Open Space infringement on Lot 4, and whilst 41 and 43 Cottrell Crescent share a boundary with this lot, there is not considered to be any adverse effects from this infringement as the effects are considered to be contained solely within the boundaries of Lot 4.
- In terms of earthworks being carried out on the subject sites, any adverse effects will be temporary in nature. Earthworks are required to establish suitable levels for foundations, access ways and to carry out landscaping. Once construction of the dwellings are completed there will be no adverse effects from earthworks.
- In terms of privacy effects arising from the occupation of the proposed dwellings, the areas of high occupancy (i.e. kitchens and living areas) are located on the ground floor, with lesser used areas (i.e. bedrooms and bathrooms) located on the first floor. In addition to this, consideration has been given to the placement of windows, which sees small windows with raised sill heights on the upper floor. 1.8 metre high fencing will be around the perimeter of the sites, to further aid in mitigating any privacy effects on adjacent properties.
- As the dwellings will be of modern design with a range of roof forms, materials, glazing and dwelling types, such as standalone dwellings and duplexes, the development will create variety in urban form. The proposed landscaping in the way of planting and fencing will further mitigate any adverse visual effects from the road frontage by softening views of the development.
- The site layout has been designed to ensure that dwellings are setback appropriately from external boundaries to maintain privacy and amenity of neighbouring properties and occupiers.

There will be no adverse effect arising beyond the site boundaries and that no adjacent sites or persons will be affected by the proposal.

Overall, I agree with the AEE and conclude that the proposal will create less than minor adverse effects on the environment. No persons will be adversely affected by the proposal as any effects will be less than minor.

Step 4: further notification in special circumstances

In addition to the findings of the previous steps, the council is also required to determine whether special circumstances exist in relation to the application that warrants it being notified to any other persons not already determined as eligible for limited notification (excluding persons assessed under section 95E as not being affected persons).

Special circumstances are those that are:

- Exceptional, abnormal or unusual, but something less than extraordinary or unique;
- outside of the common run of applications of this nature; or
- circumstances which make limited notification to any other person desirable, notwithstanding the conclusion that no other person has been considered eligible.

In this instance I have turned my mind specifically to the existence of any special circumstances under s95B(10) and conclude that there is nothing exceptional or unusual about the application, and that the proposal has nothing out of the ordinary run of things to suggest that notification to any other persons should occur.

Limited notification conclusion

Having undertaken the s95B limited notification tests, the following conclusions are reached:

- Under step 1, limited notification is not mandatory.
- Under step 2, there is no rule or NES that specifically precludes limited notification of the activities, and the application is for activities other than those specified in s95B(6)(b).
- Under step 3, limited notification is not required as it is considered that the activities will not result in any adversely affected persons.
- Under step 4, there are no special circumstances that warrant the application being limited notified to any other persons.

It is therefore recommended that this application be processed without limited notification.

9. Notification determination

Acting under delegated authority, and for the reasons set out in the above assessment and recommendation, under sections 95A and 95C to 95D, and 95B and 95E to 95G of the RMA this application shall be processed non-notified.



Briar Smith
Resource Consents Planner
City Strategy

Date: 13 July 2023

Decision on an application for resource consent under the Resource Management Act 1991

Discretionary Activity – Two Lot into Ten Lot Subdivision & Multi-Unit Development – Yards, HIRB, Open Space, Earthworks, Transport, NES

Application number(s):	RMS220100
Applicant:	Kainga Ora – Homes and Communities
Site address:	45, 47, 49 and 51 Cottrell Crescent
Legal description:	LOT 61 & 62 DP 11370
Proposal:	

The proposal involves a comprehensive site redevelopment to create high density housing in the Main Residential Zone, this includes:

- a. Removal of three existing single-storey dwellings, along with all accessory buildings.
- b. Construction of 8 new dwellings with the following configurations:
 - ii. four two-bedroom dwellings (Lots 2, 3, 6 and 7),
 - iv. one four-bedroom dwelling (Lot 1, 4 and 5), and
 - v. one five-bedroom dwelling (Lot 8).
- v. The newly constructed dwellings will have a mix of standalone and duplex typologies.
- c. The provision of one car parking space for each unit, with the exception of Lot 1, 4, and 5 which will have two outdoor car parking spaces. Lot 8 will also have one garage carparking space. The proposed dwellings will be accessed through the JOAL from Cottrell Crescent.
- d. A concurrent subdivision alongside the multi-unit development of the dwellings, so that each unit is on a freehold title. With the creation of a Jointly Owned Access Lot (JOAL) which will be held in 8 undivided one-eighth shares by the owners of Lots 1 to 8.
- e. Earthworks are required across the sites to establish suitable levels for foundations and access ways, and to carry out landscaping. The landscaping will be in the form of planting, surface treatments and fencing.

The applicant seeks to carry out the subdivision and the construction of the dwellings concurrently, therefore they are also seeking multi-unit resource consent. Under Rule 5.10 in the Main Residential Zone multi-unit development requires resource consent.

The proposal also seeks land use consent as the dwelling on proposed Lot 2 does not comply with Rule 5.16 Yards in the Main Residential Zone, where the rule states that any part of a building must not be erected closer than three metres to the road boundary. The dwelling on

Lot 1 will be located within the 3 metre road setback, infringing into the setback to a maximum of 489mm.

The proposal also does not comply with Rule 5.18 Height in Relation to Boundary, where the rule states that any part of a building or structure must not project beyond a building envelope constructed by drawing planes along all parts of the site boundary. The planes must commence 3 metres above ground level at the site boundary and must be inclined to the horizontal at an angle of 45 degrees. The dwelling located on Lot 8 will infringe the height in relation to boundary rule by a maximum of 1.022 metres vertically and 4.72 metres horizontally on the northern boundary, and by a maximum of 0.972 metres vertically and 3.075 metres horizontally on the eastern boundary.

The proposal does not comply with Rule 5.21 Open Space which states that the open space must include an area capable of containing a 6 metre diameter circle. Lots 2, 4 and 5 will not be able to accommodate a 6 metre diameter circle, the shortfall will range from 210mm to 1.2 metres.

Rule 52A.10(2) states that the removal off site of more than 100m³ of earth (including topsoil) per 12 month period in any zone (excluding Main Rural Zone) is a discretionary activity and therefore requires resource consent. The proposal involves 383m³ of topsoil removal from site, 675m³ cut and 3m³ of fill, therefore requiring a resource consent.

Rule 61.13(1)(a) states that where onsite parking is provided, that the parking of vehicles must be in accordance with design requirements (5.4 metres deep and 3 metres wide). Rule 61.13(1)(a) is not met as each parking space will be only 5 metres deep and 2.7 metres wide. There are no other district plan infringements for this proposal.

Land use consent (s9)

Napier Operative District Plan

Main Residential Zone – 5.10 Land Development (including subdivision, but excluding multi unit development for commercial and industrial activities)

1. Land development, including subdivision but excluding multi unit development for commercial and industrial activities, is a controlled activity provided that:
 - a. It complies in all respects with the standards and terms specified in Chapter 66 (Volume II) of this Plan.
 - b. It complies in all respects with the relevant conditions in the Main Residential Zone Activity Table and Condition Table.
 - c. It is assessed according to the matters in Chapter 66 (Volume II) over which the Council has reserved its control.
2. Applications for resource consent will not be publicly notified in respect of land development (including subdivision) that fully complies with the standards and terms, and notice of applications need not be served.

Main Residential Zone – 5.12 Land Uses Not Complying With Conditions

1. Any subdivision, use or development of land referred to in Rules 5.2 to 5.11 that does not comply with all of the relevant conditions in the Main Residential Zone activity table and condition table is a restricted discretionary activity, unless stated by a rule elsewhere in this Chapter.

Main Residential Zone – 5.16 Yards

1. The following yard conditions shall apply to all land uses:

- a. Front Yards

- i. Any part of a building must not be erected closer than 3 metres to the road boundary, except that:

- Eaves, fascias, gutters, down pipes, chimneys and flues may encroach on the front yard by a distance of up to 1 metre measured horizontally.
- If a garage/carport is provided, it must not be erected closer than 5m to the road boundary, so as to provide a vehicle standing bay. (Refer to Rule 61.17).

- b. Front Yard Landscaping

On all sites other than rear sites, 40% of the front yard must comprise landscaped permeable surface.

- c. Other Yards

- i. Any part of a building (including eaves and guttering) must not be erected closer than 1 metre to a side or rear site boundary.

- Provided that where this is the only condition infringement and the written approval of the adjacent landowner(s) is provided at building consent stage, a resource consent application will not be necessary.

- ii. Any part of a building, fence or permanently fixed structure must not be erected closer than 6 metres from the top of the bank of any watercourse or open drain.

Main Residential Zone – 5.18 Height in Relation to Boundary

1. The following height in relation to boundary conditions shall apply to all land uses:

- a. Any part of a building or structure, must not project beyond a building envelope constructed by drawing planes along all parts of all site boundaries. The planes must commence 3.0 metres above ground level at the site boundary and must be inclined to the horizontal at an angle of 45 degrees.

- b. Provided that:

- i. In relation to multi-unit development, the building envelope must be constructed by drawing planes along all parts of all building site boundaries and must commence at the building site boundary.

- ii. The height in relation to boundary control does not apply to the length of common wall between two or more attached buildings.

- iii. Where the site abuts an entrance strip or access lot, the furthest boundary of the entrance strip or access lot may be deemed to be the site boundary for the purpose of applying the height in relation to boundary control.
- iv. No account must be taken of aerials, lines, support structures, solar heating devices, air conditioning units and similar structures housing electronic or mechanical equipment or chimneys, no more than 1 metre wide in any horizontal direction and less than 2.5 metres in height beyond the building envelope.

Main Residential Zone – 5.21 Open Space

1. The following open space conditions shall apply to all residential activities:
 - a. Each dwelling unit must have an amount of open space on the building site of not less than 50% of the gross floor area of all buildings on the site, except that a minimum of 50m² per dwelling unit must be provided.
 - b. The maximum area of open space required to be provided on a building site is 100m² per dwelling unit.
 - c. Provided that:
 - i. Open space may comprise of more than one area.
 - ii. Open space may take the form of a deck or terrace but must be unobstructed by buildings (other than cantilevered decks), parking spaces, or vehicle manoeuvring areas.
 - iii. Open space must be directly accessible from the dwelling unit to which it relates.
 - iv. The open space must:
 - Include at least one area capable of containing a 6 metre diameter circle; and
 - Have a minimum dimension of 3 metres measured at right angles to the perimeter of the area.

Main Residential Zone – 5.27 Earthworks

1. The relevant provisions of Chapter 52A (Earthworks) of this Plan must be complied with.

Main Residential Zone – 5.31 Transport

1. The relevant provisions of Chapter 61 (Transport) of this Plan must be complied with.

Earthworks Chapter – 52A.10(2) Discretionary Activities

The following Earthworks operations are discretionary activities. A resource consent application must be made and consent may be declined or granted with, or without, conditions. The Council will have regard to the objectives and policies of this Plan and the assessment criteria in Chapter 52A.22. The Council's discretion is unrestricted.

1. The removal off site of more than 25m³ of topsoil, sand, gravel, metal or earth per 12 month period, in the Main Rural Zone.
2. The removal off site of more than 100m³ of earth (including topsoil) per 12 month period in any zone (excluding Main Rural Zone).

Transportation Chapter – 61.13 General

1. Subject to Section 10 of the Act, where a building is constructed, substantially reconstructed, altered or added to, or where there is a change in the use of any land or building which has a different requirement for loading spaces under this Rule Table, provision in accordance with this Condition Table shall be made for the following:
 - a. The parking of vehicles in accordance with design requirements, where onsite parking is provided.
 - b. The loading and unloading of goods where the site is used for the manufacture, servicing, storage, sale or hire of goods or materials.
 - c. Physical and legal vehicular access from a formed legal road.
 - d. The parking of bicycles
 - e. The provision of bicycle end of journey facilities

Subdivision consent (s11)

Napier Operative District Plan

Main Residential Zone – 5.10 Land Development (including subdivision, but excluding multi unit development for commercial and industrial activities)

1. Land development, including subdivision but excluding multi unit development for commercial and industrial activities, is a controlled activity provided that:
 - a. It complies in all respects with the standards and terms specified in Chapter 66 (Volume II) of this Plan.
 - b. It complies in all respects with the relevant conditions in the Main Residential Zone Activity Table and Condition Table.
 - c. It is assessed according to the matters in Chapter 66 (Volume II) over which the Council has reserved its control.
2. Applications for resource consent will not be publicly notified in respect of land development (including subdivision) that fully complies with the standards and terms, and notice of applications need not be served.

Main Residential Zone – 5.12 Land Uses Not Complying With Conditions

1. Any subdivision, use or development of land referred to in Rules 5.2 to 5.11 that does not comply with all of the relevant conditions in the Main Residential Zone activity table and condition table is a restricted discretionary activity, unless stated by a rule elsewhere in this Chapter.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

The applicant has provided a DSI Report written by Krysten Walker of Geosciences Limited, dated 8 November 2021. The DSI identifies heavy metal concentrations in exceedance of the NES and

background ranges for soil. The potential contamination is likely due to the anthropogenic activities associated with prolonged residential occupation (i.e. the use of lead based paint). Therefore, the site must be considered as a 'piece of land' under the NES.

To address this, Geosciences Limited have included a Remediation Action Plan (RAP) and a Site Management Plan (SMP) to address the controls required under the NES. The RAP and SMP will address any potential effects that may arise from soil disturbance on a HAIL site. Additionally, the Work Instruction requires a Site Validation Report to be prepared following the completion of earthworks. It is considered that when the provided measures recommended within the RAP and SMP are implemented, the effects relating to the disturbance of potentially contaminated land will be less than minor.

Conditions will be placed on this resource consent to ensure that the above will be carried out.

Section 106 Assessment

- The two sites are not located within any hazard layers, according to NCC GIS hazard maps. Therefore, it is not considered that there is a significant risk from natural hazards in terms of the proposed subdivision.
- Sufficient provision has been made for legal and physical access to each proposed lot, through the way of a JOAL.

As such, there is no reason for council to refuse this subdivision consent on any of the grounds specified in Section 106 of the RMA.

National Policy Statement on Urban Development 2020

The National Policy Statement for Urban Development 2020 (NPS-UD) applies to this proposal. The direction of the NPS-UD is to enable more housing and commercial developments, particularly in higher density areas. The proposal will result in a total of 8 dwellings in a mix of duplex and detached styles across the current 2 sites which will be subdivided. Overall, the proposal is consistent with the policy direction of the NPS-UD.

Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consent. I am satisfied that I have adequate information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on the application.

Acting under delegated authority, under sections 104, 104C and Part 2 of the RMA, the resource consent is **GRANTED**.

Reasons

The reasons for this decision are:

1. In accordance with an assessment under ss104(1)(a) and (ab) of the RMA, the actual and potential effects from the proposal will be acceptable as:

- a. Whilst no written approval has been provided from neighbouring sites, the applicant owns the properties at 28, 41, 43, 53 and 55 Cottrell Crescent, therefore their support for this proposal is implied.
 - b. The proposal does not create any adverse effects on neighbouring properties or the wider environment that are minor or more than minor.
 - c. The site layout has been designed to ensure that the dwellings are setback appropriately from external boundaries to maintain privacy and amenity of neighbouring properties and occupiers. There will be no adverse effects arising beyond the site boundaries that are minor or more than minor.
 - d. The site has been assessed under Section 106 of the RMA, where it was concluded that Council do not need to decline this consent based on any criteria of Section 106 of the RMA.
 - e. In terms of positive effects, the dwellings will be of modern design with a range of roof forms, materials, glazing and dwelling types, such as standalone dwellings and duplexes, this helps to create variety in urban form. The proposed landscaping in the way of planting and fencing will further create positive effects from the proposal. The development is expected to provide positive effects on the surrounding environment.
 - f. With reference to s104(1)(ab), the proposal includes landscaping in the form of fencing and planting to mitigate any adverse effects on the environment when the development is viewed from the street frontage. The 1.8 metre high fencing around the perimeter of the site also helps to mitigate any adverse effects in terms of privacy for adjacent properties.
2. In accordance with an assessment under s104(1)(b) of the RMA, the proposal is consistent with the relevant statutory documents.
- a. In particular the proposal is not contrary to the objectives and policies of the Main Residential Zone, such as:
 - i. **Objective 4.2** aims to support the diverse housing needs and preferences of the city's residents whilst avoiding, remedying, or mitigating adverse effects from residential land use, development and subdivision. The proposed development will allow for 8 dwellings in the same area that previously only contained 3 dwellings. The subject sites and surrounding environment is appropriate for more intensive forms of housing. The dwellings will be of modern design with a range of roof forms, materials, glazing and dwelling types, such as standalone dwellings and duplexes. The mitigation measures provided in the application, and conditions set on this resource consent will ensure that there are no adverse effects on the environment from this proposal, while the proposal supports the diverse housing needs and preferences of the city's residents (4.2.1, 4.2.2).
 - ii. **Objective 4.3** aims to support growth through residential intensification in suitable areas, to create a settlement pattern that maintains the city's commercial and community nodes, supports public transport and reduces private vehicle use in accordance with the Hawke's Bay Policy Statement. The proposed development will allow for 8 dwellings in the same area that previously only contained 3 dwellings. The

subject sites and surrounding environment is appropriate for more intensive forms of housing (4.3.1, 4.3.3).

- iii. **Objective 4.5** aims to maintain and enhance those qualities and characteristics that contribute to the wellbeing of the City's residents and the amenity of the residential zones. The site layout has been designed to ensure that dwellings are setback appropriately from external boundaries to maintain privacy and amenity of neighbouring properties and occupiers. There will be no adverse effects arising beyond the site boundaries and that no adjacent sites or persons will be affected by the proposal. The development maintains and enhances the area's characteristics that contribute to the amenity of the residential zones. The modern design of the dwellings, mitigation proposed, and conditions that will be set on this resource consent will help to ensure this (4.5.3, 4.5.4, 4.5.5, 4.5.6, 4.5.7).
 - iv. **Objective 4.7** aims to maintain and enhance residential amenity through the planting of trees within the residential environment. The proposal includes extensive landscaping in the form of fencing and planting of low shrubs and trees (4.7.3).
- b. The proposal is also consistent with objectives and policies relating to subdivision and land development set out in Part A (Volume 2), in particular those objectives and policies under Section A5 of the district plan, such as:
- i. **Objective 2 – Amenity Values:** the site layout has been designed to ensure that dwellings are setback appropriately from external boundaries to maintain privacy and amenity of neighbouring properties. The development maintains and enhances the area's characteristics that contribute to the amenity of the residential zones. The modern design of the dwellings, mitigation proposed, and conditions that will be set on this resource consent will help to ensure this.
 - ii. **Objective 6 – Infrastructure Services and Utilities:** the proposal shows that all residential lots will have separate water, stormwater, wastewater, electricity and phone connections creating an efficient and effective infrastructure, services and utility network. Conditions will be set on this resource consent to ensure separate services.
 - iii. **Objective 7 – Vehicular Access:** the provision of one car parking space for each unit, with the exception of Lot 1, 4, 7 and 5 which will have two car parking spaces. Lot 8 will also have one garage car parking space. The proposed dwellings will be accessed through the JOAL from Cottrell Crescent.
 - iv. **Policy 3 – Visual Effects:** the relevant conditions set on the resource consent for this proposal will help to mitigate the visual effects of the development.
 - v. **Policy 11 – Health and Safety:** the relevant conditions set on the resource consent for this proposal will help to avoid, remedy or mitigate any adverse effects on the health and safety of the city.
3. In accordance with an assessment under s104(1)(c) of the RMA, no other matters are considered relevant.
4. In the context of this discretionary activity application for land use, subdivision and NES, where the objectives and policies of the relevant statutory documents were prepared having

regard to Part 2 of the RMA, they capture all relevant planning considerations and contain a coherent set of policies designed to achieve clear environmental outcomes. They also provide a clear framework for assessing all relevant potential effects and there is no need to go beyond these provisions and look to Part 2 in making this decision as an assessment against Part 2 would not add anything to the evaluative exercise.

- Overall, the proposal can be assessed on a non-notified basis as there is considered to be less than minor adverse effects on the adjacent and wider environment. Based upon the nature and scale of the proposal it is considered to be consistent with the district plan objectives and policies in the Main Residential Zone.

Conditions

Under sections 108 and 108AA of the RMA, these consent are subject to the following conditions:

General conditions

These conditions apply to all resource consents.

- These consents shall be carried out in accordance with the documents and drawings and all supporting additional information submitted with the application, detailed below, and all referenced by the council as resource consent RMS220100.
 - Application Form and Assessment of Environmental Effects prepared by Nicole Heron of Barker & Associates Limited, dated 11 October 2022.

Report title and reference	Author	Rev	Dated
Construction of eight dwellings and associated subdivision – 45-51 Cottrell Crescent – NPR18925	Nicole Heron of Barker & Associates Limited	Final Revision 1	11/10/22

Drawing title and reference	Author	Rev	Dated
Proposed Scheme Plan – C150	MH of Maven	A	19/9/22
Site Plan – Ground Floor – RC-B1-200	Isthmus	B	16/6/23
Ground Floor – Overlay – RC-B1-201	Isthmus	B	16/6/23
Site Plan – First Floor – RC-B1-210	Isthmus	B	16/6/23
Site Plan – Roof Plan – RC-B1-220	Isthmus	B	16/6/23
Site Plan – Typology – RC-B5-001	Isthmus	B	16/6/23
Typology Plans – 2 Bed RH-CN2 Bespoke – RC-B5-100	Isthmus	B	16/6/23
Typology Elevations – 2 Bed RH-CN2 Bespoke – RC-B5-110	Isthmus	B	16/6/23
Typology Plans – 2 Bed RH-D2 Bespoke – RC-B5-200	Isthmus	B	16/6/23
Typology Elevations – 2 Bed RH-D2 Bespoke – RC-B5-210	Isthmus	B	16/6/23

Typology Plans – 2 Bed B6 Standard – RC-B5-300	Isthmus	A	21/9/22
Typology Elevations – 2 Bed B6 Standard – RC-B5-310	Isthmus	A	21/9/22
Typology Plans – 4 Bed O3 Bespoke – RC-B5-400	Isthmus	B	16/6/23
Typology Elevations – 4 Bed O3 Bespoke – RC-B5-410	Isthmus	B	16/6/23
Typology Plans – 3+1 Bed H3 – RC-B5-500	Isthmus	A	21/9/22
Typology Elevations – 3+1 Bed H3 – RC-B5-510	Isthmus	B	16/6/23
Typology Plans – 5 Bed V1 Bespoke – RC-B5-600	Isthmus	A	21/9/22
Typology Elevations – 5 Bed V1 Bespoke – RC-B5-610	Isthmus	A	21/9/22
Proposed Elevation & Colour Strategy. 45-51 Cottrell Crescent – Page 28	Isthmus	N/A	N/A
Proposed Site Elevations – RC-B2-001	Isthmus	B	16/6/23
Proposed Site Elevations – RC-B2-002	Isthmus	B	16/6/23
Proposed Site Sections – RC-B3-001	Isthmus	B	16/6/23
Proposed Site Sections – RC-B3-002	Isthmus	B	16/6/23
Compliance Schedule – 45-51 Cottrell Crescent – Page 35	Isthmus	N/A	N/A
45-51 General Arrangement – L-1.0	RG of Rough Milne Mitchell Landscape Architects	E	26/6/23
45-51 Fencing Strategy – L-1.1	RG of Rough Milne Mitchell Landscape Architects	E	26/6/23
45-51 Materials Plan – L-1.2	RG of Rough Milne Mitchell Landscape Architects	E	26/6/23
45-51 Planting Plan – L-1.3	RG of Rough Milne Mitchell Landscape Architects	E	26/6/23
Cottrell Crescent Plant Palette – Page 8 & 9	N/A	N/A	N/A
Other additional information	Author	Rev	Dated
Proposed Residential Development Transport Assessment – 45-51 Cottrell Crescent, Napier - 220274	Peter Kelly of Traffic Planning Consultants Limited	Final	September 2022

Engineering Report Kainga Ora – 45-51 Cottrell Crescent, Onekawa, Napier - 104152	Vitor Torres de Melo of Maven	A	14/9/22
Detailed Site Investigation – 45-51 Cottrell Crescent, Onekawa, Napier – REP-H0166B/DSI/NOV21	Krysten Walker of Geosciences Limited	N/A	8/11/21
Remediation Action Plan and Site Management Plan for 45-51 Cottrell Crescent, Napier – Mem-H0166b/WI/Nov21	Colin Jowett of Geosciences Limited	N/A	8/11/21
S92 Response 1 – RE: RMS220100 – s92 Request	Nicole Heron of Barker & Associates Limited	N/A	31/10/22
S92 Response 2 – RE: Doc 1612642 RE: RMS220100 – s92 Request	Nicole Heron of Barker & Associates Limited	N/A	10/11/22
S92 Response 3 – RE: Doc 1612642 RE: RMS220100 – s92 Request	Nicole Heron of Barker & Associates Limited	N/A	17/11/22
S92 Response 4 – RE: Doc 1612642 RE: RMS220100 – s92 Request	Nicole Heron of Barker & Associates Limited	N/A	18/11/22

2. Under section 125 of the RMA, these consents lapse five years after the date they are granted unless:
 - a. The consents are given effect to; or
 - b. The council extends the period after which the consents lapse.
3. Council will undertake monitoring in accordance with the RMA. The consent holder shall pay the actual and reasonable costs incurred to ensure compliance with the conditions attached to these consents.

Financial Contributions

4. A financial contribution of \$136,694.36 (4 x \$34,173.59) must be paid to Council as the contribution towards the impact on and cost of upgrading the existing engineering and community services asset out in the Council's Essential Services Development Plan. The financial contribution must be paid prior to submission of 224(c) certification, or prior to building consent being uplifted, whichever occurs first. This amount is inclusive of GST and will be subject to the indexation applicable at the time of payment.

Specific conditions - Subdivision consent RMS220101

General Engineering

5. All engineering work and design shall be in accordance with the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure or to the satisfaction of the Director of Infrastructure or nominee.

6. Where not already available, telecommunications reticulation (including ducting for computer media), underground electrical, and where applicable, gas services shall be provided to all lots/dwellings. The consent holder shall obtain a completion certificate from each network operator for electricity, telephone and, where applicable, gas services.
7. Any services relocations shall be at the expense of the consent holder.
8. Written confirmation shall be provided from the consent holder stating that all conditions of consent have been complied with and approved. (Refer to Part A7.1.6.2 of the Code).

Engineering Approval

9. The applicant shall submit to Council a final detailed engineering design, including construction drawings, detailing the water, stormwater, sewer and roading services required to service the development for Engineering Approval (certification by NCC infrastructure) prior to construction. This shall be undertaken by a Chartered Professional Engineer experienced in water, sewer, stormwater and roading services design and construction. The design shall be generally in accordance with the application and the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure, except where a specific dispensation has been granted through the Engineering Approval (certification by NCC Infrastructure) process.
 - a. Any water, sewer, and stormwater assets located on private land within the development that have NOT been accepted by the Director, NCC Infrastructure (or nominee), for vesting in council, shall be clearly marked as PRIVATE on the engineering design.
 - b. The consent holder shall provide Napier City Council with the "Construction" producer statements issued by their contractor for the services constructed.
 - c. All works within the boundaries of a public road shall be undertaken by a contractor who is approved to work within the road reserve.

Note: Data on public roading, water and sewer assets will be required to be presented to Council in accordance with the Napier City Council Code of Practice for Subdivision and Land Development.
10. As-built plans and data, in accordance with the requirements of the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure (and any approved amendments) shall be submitted to Council once construction is completed by the consent holder. The consent holder shall obtain certification of a complete and correct record by a registered and professionally qualified engineer.
11. The consent holder shall provide certification from a Chartered Professional Engineer that the works have been constructed in accordance with the approved design at s224(c) certification.

Easements

12. Pursuant to Section 243 of the RMA easements shall be provided for all services that cross one lot to service another and all easements shown on the approved scheme plan

RMS220100 including easement in gross shall be included in a memorandum endorsed on the plan and shall be granted or reserved.

Easement widths shall be as specified in the Napier City Council Code of Practice for Subdivision and Land Development (Part C5.4 and M3.22).

13. A legal right of Way shall be imposed in accordance with the approved scheme plan RMS 220100 in favour of the relevant lots. The private right of way shall be endorsed in a memorandum on the survey plan and be duly granted or reserved.
14. No permanent structures shall be constructed or trees planted within the wastewater or stormwater easements.

Amalgamation Condition:

15. That Lot 100 hereon (legal access) be held as to eight undivided one-eighth shares by the owners of Lots 1-8 hereon as tenants in common in the said shares and the that individual records of title be issues in accordance therewith.
16. That Lot 9 hereon be held with Lot 60 DP 11370 and one record of title to issue.
LINZ Request Number: 1821458.

Roading

17. Vehicular access shall be provided to all lots as shown on the approved Scheme Plan.
18. Any damage to existing vehicle crossings, footpath and berm as a result of any works within the property shall be repaired at the consent holder's expense.
19. All new vehicle crossings must be designed and formed in accordance with the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure. The new crossing must maintain an at-grade (level) pedestrian footpath across the length of the crossing, using the same materials, kerbing, pavings, patterns and finish as the footpath on each side of the crossing.

Stormwater

20. All stormwater is to be controlled in terms of the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure and E1 of the Building Code, unless approved by a condition imposed on this consent.

Wastewater

21. The existing Council wastewater main shall be protected with an easement in gross in accordance with the approved scheme plan and Code of Practice for Subdivision and Land Development.

The existing Council wastewater main traversing the property shall be located and CCTV inspected to provide a baseline condition prior to site development and the following applies:

- a. Upon completion of works on the site, the consent holder shall complete the CCTV inspection of the wastewater main to check the condition of the pipe after construction.

- b. All CCTV inspections shall be completed to the current NZ Pipe Inspection Manual and shall be provided to the Council.
 - c. Evidence shall be provided at Section 224(c) certification.
22. Each dwelling/lot shall be provided with a separate waste water supply, no waste water pipes shall pass from one lot to another except through an easement.

Water Supply

23. Each dwelling/lot shall be provided with a separate water supply, no water pipes shall pass from one lot to another except through an easement.

Environmental

24. Any earthworks must meet the requirements of the 'Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region' (GD 005) for construction.
25. All earthworks shall be managed to ensure that no debris, soil, silt, sediment or sediment-laden water is discharged beyond the subject site to either land, stormwater drainage systems, watercourses or receiving waters. In the event that a discharge occurs, works shall cease immediately and the discharge shall be mitigated or rectified to the satisfaction of the Team Leader Planning and Compliance.
26. Prior to the commencement of earthworks activity, all measures required in accordance with the approved Remediation Action Plan and Site Management Plan from Geosciences Ltd, dated 8 November 2021 reference Mem-H0166b/WI/Nov21.
27. The consent holder shall contact Napier City Council's Team Leader Planning and Compliance at least five (5) working days prior to the commencing of earthworks as authorised by this consent and on completion of the works. At least five working days prior to the commencement of any works, the consent holder must notify the Council of the following information.
- i. The start date of works.
 - ii. The expected duration of works.
 - iii. The expected end date of works.
 - iv. Contact details for:
 - A. Owner
 - B. Project Manager
 - C. Builder
 - D. Earthmover

Advice Note: The information must be emailed to planning@napier.govt.nz Use Subject RMS220100. The consent holder should use the form at the bottom of this decision.

28. Within 3 months of the completion of earthworks on the site, a Site Validation Report (SVR) shall be provided to the director of infrastructure. The SVR shall be prepared by a suitably qualified contaminated land professional.

Advice Note: The SVR should contain sufficient detail to address the following matters:

- *a summary of the works undertaken, including a statement confirming whether the excavation of the site has been completed in accordance with the approved Remediation Action Plan and Site Management Plan.*
 - *a statement on compliance with the Remediation Action Plan and Site Management Plan during the works.*
 - *the location and dimensions of the excavations carried out, including a relevant site plan and a summary of any testing undertaken.*
 - *copies of the disposal dockets for the material removed from the site.*
 - *records of any unexpected contamination encountered during the works, if applicable.*
 - *details regarding any complaints and/or breaches of the procedures set out in the Remediation Action Plan and Site Management Plan and the conditions of this consent.*
 - *details of the validation sampling undertaken on materials re-used on site.*
 - *a description of additional monitoring undertaken (if applicable).*
29. The Director of Infrastructure shall be notified at least two (2) working days prior to works commencing in contaminated areas on the subject site.
 30. All earthworks shall be managed in accordance with the approved Remediation Action Plan and Site Management Plan from Geosciences Ltd, dated 8 November 2021 reference Mem-H0166/WI/Nov21 to minimise any discharge of debris, soil, silt, sediment or sediment-laden water from beyond the subject site to either land, stormwater drainage systems, watercourses or receiving waters.
 31. All earthworks shall be managed to avoid the potential for cross-contamination of materials to occur, in particular, movement of contaminated soil around the site and/or deposition of contaminated soil on other parts of the site shall be avoided.
 32. The mixing of top soils, road materials, and underlying natural soils shall be avoided.
 33. Where soils are identified for off-site disposal, they shall be loaded directly for removal and all material shall be covered during transportation off site.
 34. Excess soil or waste materials removed from the subject site shall be deposited at a disposal site that holds consent to accept the relevant level of contamination.
 35. Where contaminants are identified that have not been anticipated by the application, works in the area containing the unexpected contamination shall cease until the contingency measures outlined in the approved Remediation Action Plan and Site Management Plan from Geosciences Ltd, dated 8 November 2021 reference Mem- H0166/WI/Nov21 have been implemented, and have been notified to the Director: Infrastructure. Any unexpected contamination and contingency measures shall be documented in the SVR.

Consent Notices

Pursuant to Section 221 of the Resource Management Act 1991 a consent notice must be registered on the Record of Title of Lots 1, 2, 3, 5, 6, 7, and 8 advising that;

- Stormwater from Lot 1 and the JOAL combined, shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council Code of Practice for Subdivision and Land Development. The total stormwater runoff (impervious and pervious area) from Lot 1 for a 10% AEP storm event and 10 minutes duration must not exceed 5.07 litres per second.

- Stormwater from Lot 2 and the JOAL combined, shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council Code of Practice for Subdivision and Land Development. The total stormwater runoff (impervious and pervious area) from Lot 2 for a 10% AEP storm event and 10 minutes duration must not exceed 2.82 litres per second.
- Stormwater from Lot 3 and the JOAL combined, shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council Code of Practice for Subdivision and Land Development. The total stormwater runoff (impervious and pervious area) from Lot 3 for a 10% AEP storm event and 10 minutes duration must not exceed 2.82 litres per second.
- Stormwater from Lot 4 and the JOAL combined, shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council Code of Practice for Subdivision and Land Development. The total stormwater runoff (impervious and pervious area) from Lot 4 for a 10% AEP storm event and 10 minutes duration must not exceed 2.65 litres per second.
- Stormwater from Lot 5 and the JOAL combined, shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council Code of Practice for Subdivision and Land Development. The total stormwater runoff (impervious and pervious area) from Lot 5 for a 10% AEP storm event and 10 minutes duration must not exceed 2.65 litres per second.
- Stormwater from Lot 6 and the JOAL combined, shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council Code of Practice for Subdivision and Land Development. The total stormwater runoff (impervious and pervious area) from Lot 6 for a 10% AEP storm event and 10 minutes duration must not exceed 1.88 litres per second.
- Stormwater from Lot 7 and the JOAL combined, shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council Code of Practice for Subdivision and Land Development. The total stormwater runoff (impervious and pervious area) from Lot 7 for a 10% AEP storm event and 10 minutes duration must not exceed 1.88 litres per second.
- Stormwater from Lot 8 and the JOAL combined, shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council Code of Practice for Subdivision and Land Development. The total stormwater runoff (impervious and pervious area) from Lot 8 for a 10% AEP storm event and 10 minutes duration must not exceed 2.92 litres per second.
- Minimum floor levels for habitable dwellings are to be RL 1.50 metres to the 2016 NZVD.

Specific conditions – land use consent – RMS220101

36. All engineering work and design shall be in accordance with the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure or to the satisfaction of the Director of Infrastructure or nominee.

37. Where not already available, telecommunications reticulation (including ducting for computer media), underground electrical, and where applicable, gas services shall be provided to all lots/dwellings. The consent holder shall obtain a completion certificate from each network operator for electricity, telephone and, where applicable, gas services.
38. Any services relocations shall be at the expense of the consent holder.
39. Written confirmation shall be provided from the consent holder stating that all conditions of consent have been complied with and approved. (Refer to Part A7.1.6.2 of the Code).
40. The applicant shall submit to Council a final detailed engineering design, including construction drawings, detailing the water, stormwater, sewer and roading services required to service the development for Engineering Approval (certification by NCC infrastructure) prior to construction. This shall be undertaken by a Chartered Professional Engineer experienced in water, sewer, stormwater and roading services design and construction. The design shall be generally in accordance with the application and the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure, except where a specific dispensation has been granted through the Engineering Approval (certification by NCC Infrastructure) process.
 - a. Any water, sewer, and stormwater assets located on private land within the development that have NOT been accepted by the Director, NCC Infrastructure (or nominee), for vesting in council, shall be clearly marked as PRIVATE on the engineering design.
 - b. The consent holder shall provide Napier City Council with the "Construction" producer statements issued by their contractor for the services constructed.
 - c. All works within the boundaries of a public road shall be undertaken by a contractor who is approved to work within the road reserve.

Note: Data on public roading, water and sewer assets will be required to be presented to Council in accordance with the Napier City Council Code of Practice for Subdivision and Land Development.

41. As-built plans and data, in accordance with the requirements of the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure (and any approved amendments) shall be submitted to Council once construction is completed by the consent holder. The consent holder shall obtain certification of a complete and correct record by a registered and professionally qualified engineer.
42. Vehicular access shall be provided to all dwellings as shown on the approved Scheme Plan.
43. Any damage to existing vehicle crossings, footpath and berm as a result of any works within the property shall be repaired at the consent holder's expense.
44. All new vehicle crossings must be designed and formed in accordance with the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure. The new crossing must maintain an at-grade (level) pedestrian footpath across the length of the crossing, using the same materials, kerbing, pavings, patterns and finish as the footpath on each side of the crossing.

45. All stormwater is to be controlled in terms of the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure and E1 of the Building Code, unless approved by a condition imposed on this consent.
46. Minimum floor levels for habitable dwellings are to be RL 1.50 metres to the 2016 NZVD.
47. The existing Council wastewater main traversing the property shall be located and CCTV inspected to provide a baseline condition prior to site development and the following applies:
 - a. Upon completion of works on the site, the consent holder shall complete the CCTV inspection of the wastewater main to check the condition of the pipe after construction.
 - b. All CCTV inspections shall be completed to the current NZ Pipe Inspection Manual and shall be provided to the Council.
47. Each dwelling/lot shall be provided with a separate waste water supply, no waste water pipes shall pass from one lot to another except through an easement.
48. Each dwelling/lot shall be provided with a separate water supply, no water pipes shall pass from one lot to another except through an easement.
49. Any earthworks must meet the requirements of the 'Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region' (GD 005) for construction.
50. All earthworks shall be managed to ensure that no debris, soil, silt, sediment or sediment-laden water is discharged beyond the subject site to either land, stormwater drainage systems, watercourses or receiving waters. In the event that a discharge occurs, works shall cease immediately and the discharge shall be mitigated or rectified to the satisfaction of the Team Leader Planning and Compliance.
51. Prior to the commencement of earthworks activity, all measures required in accordance with the approved Remediation Action Plan and Site Management Plan from Geosciences Ltd, dated 8 November 2021 reference Mem-H0166b/WI/Nov21.
52. The consent holder shall contact Napier City Council's Team Leader Planning and Compliance at least five (5) working days prior to the commencing of earthworks as authorised by this consent and on completion of the works. At least five working days prior to the commencement of any works, the consent holder must notify the Council of the following information.
 - i. The start date of works.
 - ii. The expected duration of works.
 - iii. The expected end date of works.
 - iv. Contact details for:
 - E. Owner
 - F. Project Manager
 - G. Builder
 - H. Earthmover

Advice Note: The information must be emailed to planning@napier.govt.nz Use Subject: RMS220100. The consent holder should use the form at the bottom of this decision.

39. Landscaping shall be in accordance with the approved plans and planting schedule under condition (1) and shall be planted within the first planting season following code of compliance for each respective dwelling, and shall remain, and be maintained in perpetuity.
40. Fencing in accordance with the approved plans under Condition (1) shall be constructed within six months of receiving code of compliance for each dwelling and shall remain and be maintained in perpetuity.
41. Provision is to be made for the placement of letterboxes, refuse and recycling in general accordance with the plans approved under condition (1) of RMS220100.
42. External roof and walls shall consist of the cladding type and colour scheme on the approved set of plans under condition (1) of RMS220100.

Specific conditions – NES – RMS220100

53. Prior to the commencement of earthworks activity, all measures required in accordance with the approved Remediation Action Plan and Site Management Plan from Geosciences Ltd, dated 8 November 2021 reference Mem-H0166b/WI/Nov21.
54. Within 3 months of the completion of earthworks on the site, a Site Validation Report (SVR) shall be provided to the director of infrastructure. The SVR shall be prepared by a suitably qualified contaminated land professional.

Advice Note: The SVR should contain sufficient detail to address the following matters:

- *a summary of the works undertaken, including a statement confirming whether the excavation of the site has been completed in accordance with the approved Remediation Action Plan and Site Management Plan.*
 - *a statement on compliance with the Remediation Action Plan and Site Management Plan during the works.*
 - *the location and dimensions of the excavations carried out, including a relevant site plan and a summary of any testing undertaken.*
 - *copies of the disposal dockets for the material removed from the site.*
 - *records of any unexpected contamination encountered during the works, if applicable.*
 - *details regarding any complaints and/or breaches of the procedures set out in the Remediation Action Plan and Site Management Plan and the conditions of this consent.*
 - *details of the validation sampling undertaken on materials re-used on site.*
 - *a description of additional monitoring undertaken (if applicable).*
55. The Director of Infrastructure shall be notified at least two (2) working days prior to works commencing in contaminated areas on the subject site.
 56. All earthworks shall be managed in accordance with the approved Remediation Action Plan and Site Management Plan from Geosciences Ltd, dated 8 November 2021 reference Mem-H0166/WI/Nov21 to minimise any discharge of debris, soil, silt, sediment or sediment-laden water from beyond the subject site to either land, stormwater drainage systems, watercourses or receiving waters.

57. All earthworks shall be managed to avoid the potential for cross-contamination of materials to occur, in particular, movement of contaminated soil around the site and/or deposition of contaminated soil on other parts of the site shall be avoided.
58. The mixing of top soils, road materials, and underlying natural soils shall be avoided.
59. Where soils are identified for off-site disposal, they shall be loaded directly for removal and all material shall be covered during transportation off site.
60. Excess soil or waste materials removed from the subject site shall be deposited at a disposal site that holds consent to accept the relevant level of contamination.
61. Where contaminants are identified that have not been anticipated by the application, works in the area containing the unexpected contamination shall cease until the contingency measures outlined in the approved Remediation Action Plan and Site Management Plan from Geosciences Ltd, dated 8 November 2021 reference Mem- H0166/WI/Nov21 have been implemented, and have been notified to the Director: Infrastructure. Any unexpected contamination and contingency measures shall be documented in the SVR.

Advice Notes

1. *This consent has been granted on the basis of all the documents and information provided by the consent holder, demonstrating that the new lots can be appropriately serviced (infrastructure and access).*
2. *Details and specifications for the provision of infrastructure private drainage are subject to the Engineering Approval Process. Should it become apparent during the Engineering Approval Process that a component of the granted resource consent cannot be implemented changes to the proposal will be required. This may require either a variation to this subdivision consent or a new consent.*
3. *It is the responsibility of the consent holder to ensure that all information submitted and assessed as part of the subdivision consent is correct and can be implemented as per the subdivision consent (without requiring additional reasons for consent). Any subsequent approval processes (such as the Engineering and Building Consent) do not override the necessity to comply with the conditions of this resource consent.*
4. *That the following procedures (Accidental Discovery Protocol) shall be followed in the event that Koiwi, archaeological features or Taonga are discovered or are suspected to have been unearthed during earthworks or construction phase of site development:*
 - a. *Earthworks should cease immediately in the vicinity of the discovery. It is important that any remains or artefacts are left undisturbed or in-situ once discovered. If it is unclear whether the find is Koiwi, archaeological features or Taonga, the consent holder shall consult a Heritage New Zealand Pouhere Taonga (HNZPT) archaeologist.*
 - b. *The site supervisor/consent holder/agent shall take steps immediately to secure the area so that Koiwi or Taonga remain untouched and site access is restricted.*
 - c. *The site supervisor/consent holder/agent shall ensure that consumption of food and/or drink and/or smoking in the immediate area of the discovery is restricted.*
 - d. *The site supervisor/consent holder/agent will notify the New Zealand Police (in the event of the discovery of Koiwi/skeletal remains only), Heritage New Zealand and*

- i. Ngāti Parau - Chad Tareha chadtareha24@gmail.com and/or
 - ii. Mana Ahuriri – Paris Greening paris@manaahuritrust.com and/or
 - iii. Maungaharuru-Tangitū Trust – Lee Grace lee@tangoio.maori.nz and/or
 - iv. Te Taiwhenua o Te Whanganui a Orutu - Tania Eden taniaeden@xtra.co.nz
- e. *Activities on the site will remain on-hold until the Police (in the case of Koiwi), the Kaumatua (or other representative advised by the relevant Māori organisation) and Heritage New Zealand have given approval for works to recommence.*
 - f. *In the case of discovering Koiwi, site access should be restricted to all parties until Police are satisfied the remains are not of forensic relevance.*
 - g. *The site supervisor/consent holder/agent shall ensure that Kaumatua (or other representative advised by the relevant Māori organisation) have the opportunity to undertake Karakia or other cultural ceremonies and activities at the site as may be considered appropriate.*
 - h. *The consent holder shall ensure that no information regarding discoveries of Māori origin is released to the media except as authorised by the relevant Māori organisation/s.*
- 5. *Any reference to number of days within this decision refers to working days as defined in s2 of the RMA.*
 - 6. *For the purpose of compliance with the conditions of consent, “the council” refers to the council’s resource consents and compliance officers unless otherwise specified.*
 - 7. *For more information on the resource consent process with Napier City Council see the council’s website: <https://www.napier.govt.nz/> . General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment’s website: <https://www.mfe.govt.nz/rma> .*
 - 8. *If you disagree with any of the above conditions, and/or disagree with the additional charges relating to the processing of the application(s), you have a right of objection pursuant to sections 357A and/or 357B of the Resource Management Act 1991. Any objection must be made in writing to the council within 15 working days of your receipt of this decision (for s357A) or receipt of the council invoice (for s357B).*
 - 9. *The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety at Work Act 2015), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.*

Delegated decision maker:

Name: Luke Johnson
Title: Manager Regulatory Solutions
City Strategy

Signed: 

Date: 13 July 2023

Resource Consent Notice of Works Starting

Please email this form to planning@napier.govt.nz at least 5 days prior to work starting on your development.

Alternatively deliver to:

Customer Services Dunvegan House Ground Floor 215 Hastings Street Napier South

Or

Mail to:

Attention: Resource Consent Team

Private Bag 6010

Napier 4142

New Zealand

Site address:	
Resource consent number:	Associated building consent:
Expected start date of work:	Expected duration of work:

Primary contact	Name	Ph No.	Address	Email address
Owner				
Project manager				
Builder				
Earthmover				
Arborist				
Other (specify)				

Signature: Owner / Project Manager (indicate which)	Date:
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Once you have been contacted by the Resource Consent/Compliance Officer, all correspondence should be sent directly to them.

The council will review your property for start of works every three months from the date of issue of the resource consent and charge for the time spent. You can contact your Resource Consent/Compliance Officer on 06 835 7579 or via <https://www.napier.govt.nz/> to discuss a likely timetable of works before the inspection is carried out and to avoid incurring this cost.

Section 95 and 95B Notification Report & Section 104 Assessment for a Resource Consent Application under the Resource Management Act 1991



NAPIER
CITY COUNCIL
Te Kaunihera o Ahuriri

Discretionary Activity (1 into 16 lot subdivision and multi-unit development; HIRB, Landscaped Area, Earthworks, Open Space, Side Yard, Transportation)

1. Application description

Application number(s):	RMS220089
Applicant:	Kainga Ora – Homes and Communities
Site address:	24-32 Lister Avenue, Maraenui
Legal description:	Lot 12, 13, 14, 15 and 16 DP 9889
Site area:	3,697m ²
Napier Operative District Plan	
Zoning:	Main Residential
Overlays, controls, special features, designations, etc:	
Activity Status	Discretionary Activity

2. Locality Plan



Image 1: Site Location (Source: Napier City Council IntraMaps)

3. Application documents

A description of the proposal is set out in Section 4 on page 7-9 of the report “Construction of 16 dwellings and associated subdivision”, (prepared by Barkers & Associates dated 15 August 2022) (“AEE”) submitted with the application, including the following application plans appended to that report:

Report title /Drawings and reference	Author	Rev	Dated
Architectural Plans	Young & Richards	E	(site coverage calculations Rev F)
Engineering Services Report	Stantec		August 2022
Landscaping Plans	Development Nous		
Traffic Planning Consultants Memo	TPC Traffic Planning Consultants Ltd		August 2022
Detailed Site Investigation	Geosciences		24/02/22
Site Management Plan	Geosciences		Feb 22
Assessment of Environmental Effects	Barkers & Associates		25/08/2022
Scheme Plan- 310003299-SU-S100	Stantec	6	16/02/023

Further Information

The following further information was requested by Council pursuant to s92 of the RMA on 28 September 2022 and satisfied on 8 August 2023.

- Management of stormwater to ensure pre-development runoff requirements are met and the proposal complies with the Code of Practice for Subdivision and Land Development 2022.
- Amendments to the scheme plan.
- Urban Design matters that included fencing along public areas, and dual frontages for dwellings visible to the public realm.
- Clarification of infringements for side yard, open space and site coverage.

Further information was provided by the Applicant in response to the above requests for further information, as follows:

- Email received on 9 November 2022 outlining a response to some planning matters and urban design concerns regarding addressing the dual frontage to the public realm for certain dwellings.
- There were a number of emails regarding engineering matters and scheme plan changes. The final version is Scheme Plan 310003299-SU-S100 Revision 6, dated 16/02/23, and the Engineering Services Report by Stantec (Revision 3, dated June 2023).

4. Report assessment and methodology

This is not the decision on the application. This report sets out the advice and the recommendations of the reporting planner.

The application is appropriately detailed and comprehensive and includes expert assessments. Accordingly, no undue repetition of descriptions or assessments from the application is made in this report.

I have made a separate and independent assessment of the proposal. Where there is agreement on any descriptions or assessments in the application material, this is identified in this report.

Where professional opinions differ, or extra assessment and / or consideration is needed for any reason, the relevant points of difference of approach, assessment, or conclusions are detailed. Also, the implications for any professional difference in findings in the overall recommendation is provided.

The assessment in this report also relies on reviews and advice from the following specialists:

- Council's Environmental Lead, Andrew Gass, has reviewed the application and has recommended conditions of consent for the purpose of avoiding, remedying or mitigating adverse environmental effects related to the matter of contaminated soil.
- Council's development engineers have reviewed the application and has identified actual and potential adverse effects on the activity on the environment and Council infrastructure network. Conditions of consent are recommended by the engineer, and include the development being in accordance with the submitted proposal and engineering services report.
- Council's Team Leader City Design & Urban Renewal has reviewed the development proposal and has provided feedback throughout the consideration of the proposal. Feedback was generally supportive with comments regarding fencing along the reserve interface, fencing along the JOAL, and dual frontages for those fronting both the JOAL and the street.
- Council's Reserves Team has reviewed the proposal and have no comment.

5. The proposal, site and locality description

Proposal

The site subject to the proposal is 24-32 Lister Avenue, Maraenui, Napier, and encompasses Lot 12, 13, 14, 15 and 16 DP 9889. 24-32 Lister Avenue, Maraenui equates 3,697m² and encompasses five allotments that together form the Site. The site is located on Lister Avenue and zoned Main Residential in the Operative Napier District Plan. The site is currently occupied by five dwellings that will be removed as part of this proposal.

The proposal involves the subdivision of these five parcels of land into nineteen allotments, consisting of sixteen development lots and one access lot, and referred to as the JOAL, with two parking lots, on the scheme plan submitted under RMS220089, 310003299-SU-S100 Revision 6, dated 16/02/23) Accordingly, subdivision consent is sought.

Land Use Consent is sought for a multi-unit development and earthworks to enable the commencement of construction prior to completing subdivision. The five parcels will be held together under the Building Act. The application states the proposed earthworks comprises 570m³

top soil removal and 941m³ fill. The extent of earthworks is required to establish suitable levels for foundations, civil works and accessways.

The five dwellings will be removed, and replaced with sixteen dwellings across the parent lot. Development will exceed 350m² density, therefore a concept plan is required to be submitted with the application documents as per condition 5.15 of the District Plan. Architectural plans have been provided illustrating compliance and non-compliance with the provisions within the Main Residential zone. In summary the Table below outlines the key characteristics for each dwelling/lot. In summary there are twelve two bedroom units, one- three bedroom unit, one- four bedroom unit and two- five bedroom units. These are a mixture of standalone and duplex typologies. Each unit complies with open space calculations where at least 50m² or 50% GFA is provided with each dwelling that is directly accessible. Units 2, 3, 5, and 6 have an infringement of 380mm with the 6m open space circle.

The overall site has a landscaped area of 30.3% which complies with the District Plan. Post subdivision Lots 1, 2, 6, 7, 9, 10, 11, 12, 13 and 15 have varying degrees of infringements with the required 30%. Site coverage on the parent lot is a compliant 38% with each lot complying post subdivision with the minimum 50% site coverage required in the District Plan (*site coverage includes small sheds*). This compliance with site coverage differs from the application due to the removal of the requirement to accommodate a notional garage space. Table 1 is a summary of key development characteristics.

Lot	Lot size	Building Typology	GBA	Landscaped Area	Site Coverage	Park spaces
1	316m ²	4+1 Bedroom Type R3	128.1m ²	28%- NC	45%	2
2	161m ²	2 bedroom Type B6	60.1m ²	28%-NC	45%	1
3	165m ²	2 bedroom Type B6	60.1m ²	30%	36%	1
4	234m ²	3 bedroom Type F3	64.1m ²	32%	26%	2
5	165m ²	2 bedroom Type B6	60.1m ²	32%	35%	1
6	161m ²	2 bedroom Type E6	60.1m ²	28%-NC	37%	1
7	316m ²	4 + 1 bedroom Type 03	128.1m ²	28%-NC	41%	2
8	165m ²	2 bedroom Type B6	60.1m ²	35%	35%	1
9	140m ²	2 bedroom Type B6	60.1m ²	28%- NC	43%	1
10	140m ²	2 bedroom Type B6	60.1m ²	29%-NC	43%	1
11	140m ²	2 bedroom Type B6	60.1m ²	29%-NC	43%	1
12	140m ²	2 bedroom Type B6	60.1m ²	29%-NC	43%	1
13	130m ²	2 bedroom Type B6	60.1m ²	29%-NC	43%	1
14	260m ²	4 bedroom Type P3	77.1m ²	31%	30%	2
15	135m ²	2 bedroom Type B6	60.1m ²	25%-NC	47%	1
16	159m ²	2 bedroom Type B6	60.1m ²	40%	38%	1
17	14m ²	Carpark				Above
18	14m ²	Carpark				Above

20	751m ²	Access Lot				NA
Total	3,697m ²	2-5 bedroom typologies	1,118.6m ²	30.3%	38%	24

Table 1: Site Development Characteristics

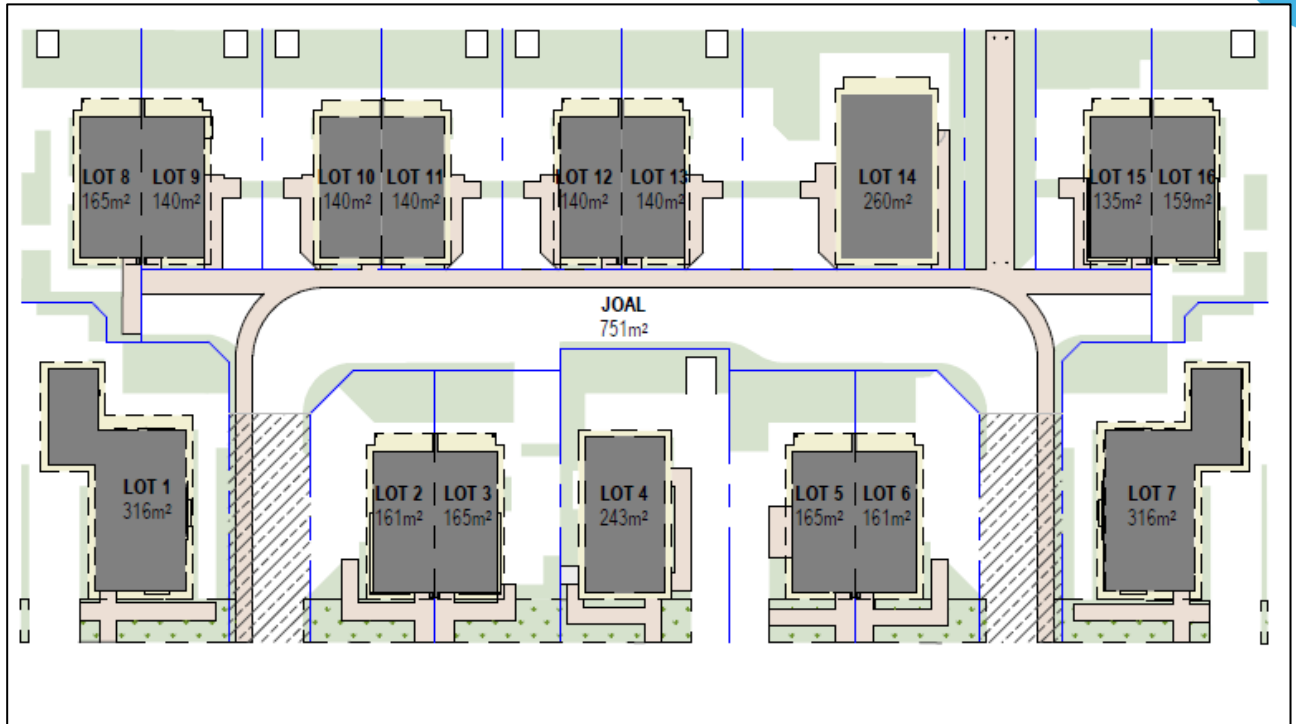


Image 2: Site Coverage Plan



Image 3: Elevations

The sheds located on Lot 8, 9, 10, 11, 12, 13, 14 15 and 16 will be located within the 1m setback shared with the adjoining reserve. All other yard requirements are met, with the exception of internal yard infringements where there are duplex arrangements. Along the street this includes Lots 2, 3, 5 and 6. Adjacent to the reserve this includes Lots 8 & 9, 10 & 11, 12 & 13, and 15 & 16.

The JOAL will provide a one way vehicle movement system, with vehicles entering through the northern vehicle crossing and existing to the south providing access to Units 2, 3, 6 and 8-16. There are individual vehicle crossings for Units 1, 4, 5 and 7 which require reversing directly manoeuvring onto Lister Crescent. The JOAL will be amalgamated to development lots utilising the JOAL as part of the subdivision process.

A landscaping plan has been submitted and forms part of the proposal. The landscaping proposed includes a mixture of grass, specimen trees, fruit trees, and shrubs. Fencing is proposed that range from 1.2m – 1.8m in height, with permeable fencing along the western boundary and facing towards the reserve. A pathway is proposed alongside the JOAL, separated from the vehicle pathways, with access to Te Awa Park at the rear of the site. This pedestrian link to Te Awa Park is proposed to be relocated to the south. Not all allotments comply with the minimum landscaped area for residential development posts subdivision, with the overall development achieving a compliant 30.3% landscaped area.

Servicing:

- On site stormwater detention is proposed to achieve stormwater neutrality. This will require 2,000L detention tanks for each site that will discharge to new kerb connections, or connect to the stormwater pipe in the JOAL through a bubble up sump.
- The existing wastewater main will be re-aligned through the JOAL. Each unit/allotment will be provided an individual connection to the wastewater main.
- It is proposed to connect to the existing water supply rider main within Lister Crescent.
- The submitted Engineering Services Report prepared by Stantec, referenced V3, dated June 2023 should be read as an addendum to this decision.

Earthworks:

Earthworks volumes will exceed a permitted 50m³ per site within a 12 month period, with 250m³ permitted across the sites. In addition, soil removed from the site will be greater than a permitted 100m³ per site.

The application documents include mitigation measures that form part of the proposal. These include the following matters as per the submitted Engineering Services Report.

- silt fences that will be installed around the full perimeter of the site.
- A stabilised entrance
- Highly trafficked areas to be stabilised with 150mm of AP65 or similar.
- Silt socks will be used in kerbs and around the nearest stormwater sump to provide additional control beyond the site boundaries. ¹

¹ Engineering Services Report, Page 8

Site and surrounding environment description

Nicole Heron of B & A Urban & Environmental has provided a description of the proposal and subject site on pages 4-7 of the Assessment of Environmental Effects (AEE) titled: Construction of 16 dwellings and associated subdivision 24-32 Lister Crescent, Maraenui.

Having undertaken a site visit on 26 January 2023, I concur with that description of the proposal and the site and have no further comment.

6. Reasons for the application

Napier Operative District Plan

The application is for subdivision and land use involving the construction of 16 dwellings and shared JOAL, associated parking area and servicing.

In this instance:

Chapter 5 - Main Residential Zone

Rule 5.2- Any residential activity is a permitted activity provided it complies with the relevant conditions for the Main Residential Activity zone.

Rule 5.12- Any subdivision, use or development of land that does not comply with all conditions in the Main Residential Zone is a restricted discretionary activity under Rule 5.12. The following conditions are not met by the proposal:

Condition 5.15- density exceeds one dwelling per 350m² therefore detailed plans have been provided in lieu of a concept plan.

Condition 5.18- Height in relation to boundary- Dwelling 14 infringes the Height in Relation to boundary on the western boundary by a maximum of 167mm adjoining the reserve.

Condition 5.20 – the development post subdivision, does not comply with the minimum 30% landscaped area on lots 1, 2, 6, 7, 9-13 and 15, with the infringements outlined in Table 1 above.

Condition 5.16- External Side Yard infringement, sheds only.

The attached units will not comply with side yard post subdivision, an infringement of 1m.

Condition 5.21- Open Space where Units 2, 3, 5, and 6 have an infringement of 380mm with the 6m open space circle.

Condition 5.27 – earthworks infringements- See earthworks section below.

Chapter 52A- Earthworks

Condition 52A.12 is not met as the volume of earthworks proposed is 1,511m³, and infringement of 1,261m³.

The proposal does not meet 52A.10 (2) as more than 100m³ will be removed from the site within a 12-month period. Pursuant to Section 52A.10(2) resource consent is required as a discretionary activity for earthworks.

Condition 5.31-transportation infringements see Transport section below.

Chapter 61- Transport

Consent is required as a restricted discretionary activity pursuant to Rule 61.9, as the permitted activity conditions are not met.

- Condition 61.17(a) is not met as the parking spaces for Unit 9 and 13-15 have a manoeuvring depth of less than 5.8m.
- Condition 61.17.1.(e) is not met in that the JOAL will serve 12 dwellings with a minimum access width of 3.5m, where the width of a public road is required for more than nine units.
- Condition 61.19.1.(a) is not met in that the vehicle crossing for Unit 1 and 2 are located within 10 metres of the Lister Crescent and Lister Place intersection.

Code of Practice:

Condition 5.37- proposal does not meet C5.7.1 of the Code of Practice as the proposed JOAL, which services 11 dwellings is not designed to public road standard.

Rule Summary:

Chapter 66- Code of Practice

Consent is required as a Restricted Discretionary Activity pursuant to Rule 66.6.2 as the controlled activity standards are not met, in that the proposal is for the construction of 12 dwellings that share an access way that has a minimum width of 3.5m, where a public road is required for development involving more than ten units.

Rule 5.12- Consent is required as a Restricted Discretionary activity pursuant to Rule 5.12 of the District plan.

Rule 52A.10 - Consent is required as a Discretionary activity pursuant to Rule 52A.10.

National Environmental Standard for Assessment and Managing Contaminants in Soil (NESCS)

A Detailed Site Investigation (DSI) and Site Management Plan supports the application. The DSI includes soil testing that confirms elevated concentrations of heavy metals. As the earthworks volumes exceed Regulation 8(3), soil disturbance is a controlled activity under Regulation 9 provided 9(1)(a)-(d) requirements are met. The DSI confirms these requirements are met, noting the DSI recommends all works are to be carried out in accordance with the supporting Geosciences Site Management Plan. A site validation report process will ensure the land is remediated to a standard that does not pose a future risk to human health.

7. Status of the resource consents

Where a proposal:

- consists of more than one activity specified in the plan(s); and
- involves more than one type of resource consent or requires more than one resource consent; and
- the effects of the activities overlap;

the activities may be considered together.

Where different activities within a proposal have effects which do not overlap, the activities will be considered separately.

In the instance, the effects of the proposed resource consents will overlap and thus they are considered together as a **discretionary activity** overall.

Resource Consent RMS200089

Section 95A and 95B Notification Assessment Report

NOTE: Refer to Sections 1 – 7 above for the resource consent application details, locality plan, description of the proposal, description of the site and location, and reasons for the consent and activity status.

8. Public notification assessment (sections 95A, 95C-95D)

Section 95A specifies the steps the council is to follow to determine whether an application is to be publicly notified. These steps are addressed in the statutory order below.

Step 1: mandatory public notification in certain circumstances

No mandatory notification is required as:

- the applicant has not requested that the application is publicly notified (s95A(3)(a));
- there are no outstanding or refused requests for further information (s95C and s95A(3)(b)); and
- the application does not involve any exchange of recreation reserve land under s15AA of the Reserves Act 1977 (s95A(3)(c)).

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

The application is not precluded from public notification as:

- the activities are not subject to a rule or national environmental standard (NES) which precludes public notification (s95A(5)(a)); and
- the application does not exclusively involve one or more of the activities described in s95A(5)(b).

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

The application is not required to be publicly notified as the activities are not subject to any rule or a NES that requires public notification (s95A(8)(a)).

In terms of S95A(8)(b) an assessment of whether the effects of the proposal are more than minor is set out below.

Section 95D – assess if adverse effects on the environment are more than minor

As provided in S95D, a consent authority that is deciding, for the purpose of S95A(8)(b), whether an activity will have or is likely to have adverse effects on the environment that are more than minor—

- (a) **Must disregard any effects on persons who own or occupy the land over which the activity will occur or any land adjacent to that land;**

The term 'adjacent' applies to properties close to the proposed site. The adjacent land in this case is identified as that land outlined in red in Image 3 below.

- (b) **May** disregard an adverse effect of the activity if a rule or NES permits an activity with that effect (permitted baseline);

This is known as the permitted baseline. In this case, I have not applied the permitted baseline.

- (d) **Must** disregard trade competition and the effects of trade competition; and

Trade competition is not applicable in this instance.

- (e) **Must** disregard any effect on a person who has given written approval to the application.

No written approvals have been provided with this application therefore all immediately adjacent properties are considered as potentially affected persons. An assessment of whether these properties are adversely affected is made below in the limited notification assessment.

In accordance with S95D(a), I have disregarded effects on persons who own or occupy the properties highlighted in Figure 6 below (being the adjacent land).

Table 1

Address

22 Lister Crescent
17, 19, 21, 23, 25, 27, 29 Lister Crescent
34 Lister Crescent
NCC Reserves



Image 4: Adjoining landowners (with the inclusion of 23 Lister Crescent).

Effects that may be disregarded

Permitted baseline

The permitted baseline refers to the effects of permitted activities on the subject site. The permitted baseline may be taken into account and the council has the discretion to disregard those effects where an activity is not fanciful. In this case the permitted baseline includes the construction of one dwelling and supplementary unit on each underlying lot. The permitted baseline has not been applied.

Assessment

Adverse effects

The adverse effects on the wider environment, beyond those adjacent properties identified above will be less than minor for the following reasons.

Infrastructure Effects:

- The site is not within an area known to have ponding issues and is not subject to flooding in a 1 in 50 year storm event.² The proposed stormwater attenuation includes measures to ensure stormwater neutrality is achieved. This will include the installation of tanks for each lot. The estimated tank volume is 2,000L and will be finalised following detailed design. ³ Napier City Council Engineering Team have reviewed the stormwater infrastructure proposed, levels of permeable surface and support the proposal subject to the imposition of standard engineering conditions that will ensure the proposal is implemented as per the submitted engineering services report.
- The site is able to be adequately serviced for water and wastewater. The engineering services report provides an assessment of the additional demand generated by the development. The payment of financial contributions as per the District Plan and Councils Financial Contribution Policy mitigates any potential adverse effects on infrastructure that result from the additional demand placed on it.
- The Engineering Services Report concludes the proposal is able to meet SNZ PAS 4509:2008 for firefighting purposes.⁴

Traffic Effects:

- Dwellings/Lots 8-16 will be serviced via a centralised JOAL formed to a minimum 3.5m width, excluding the 1.05m wide footpath for pedestrian use. There will be five new vehicle crossings formed onto Lister Crescent with those not required to be removed and reinstated. The Transportation Assessment submitted confirms there are adequate site distances from vehicle crossings, the locations are not compromised by street trees and these will not compromise

² Engineering Services Report. p3

³ Engineering Services Report p4

⁴ Engineering Services Report p.7

safe sightlines⁵. The location of vehicle crossings and the proposed internal transport network will generate adverse effects that are less than minor.

- Pedestrian access is proposed through the site connecting Lister Crescent to the adjoining reserve. This is located towards the centre of the development and separated from moving vehicles. The Transport Assessment states that *'sight lines and speeds within the site are expected to be suitable so as not to create any unsafe conflicts between vehicle and pedestrian activity'*.⁶
- The site will be provided with one parking space per two bedroom unit, and two parks for the three and four bedroomed units. A total of 20 on-site parking spaces are provided. Although there may be some on-street parking demand at times, this is anticipated in the residential zone with no minimum parking standard provided for consideration. Potential adverse effects due to parking are less than minor on the wider environment.
- Vehicle movements generated from the site are estimated to be approximately 93 vehicle movements per day, and 10 per hour during the two peak commuter periods.⁷ The Traffic Assessment provided considers this increase in traffic volume can be accommodated within the existing road network with no noticeable effects.
- There are three transport related infringements which are assessed as being minor in nature. These are
 - o Condition 61.17(a) is not met as the parking spaces for Unit 9 and 13-15 have a manoeuvring depth of less than 5.8m.
 - o Condition 61.17.1.(e) is not met in that the JOAL will serve 12 dwellings with a minimum access width of 3.5m, where the width of a public road is required for more than nine units.
 - o Condition 61.19.1.(a) is not met in that the vehicle crossing for Unit 1 and 2 are located within 10 metres of the Lister Crescent and Lister Place intersection.
- NCC Transportation Engineer has reviewed the proposal, and the Transportation Assessment with the engineering team providing a memo which states *"access provisions will allow for safe ingress and egress to and from the site"*. The infrastructure memo provided also states that standard engineering conditions will assist with the efficiency and safety of the transport network.
- In summary, and taking into account the assessment above I consider the potential adverse traffic effects to be less than minor.

Amenity and Character:

- All dwellings/lots address the streetscape with carparks not directly in front of dwellings. The dwellings facing the JOAL address the internal 'streetscape'.
- The yard setback infringements related to the dwellings are internal to the site, and are not along the streetscape or external boundaries. There are infringements due to the duplex

⁵ Transport Assessment p6-7

⁶ Transport Assessment p7

⁷ Transport Assessment p15

typology with the adverse effects localised within the site from an amenity perspective, and the visual effects mitigated by the design of the dwellings, materiality and architectural articulation. The effects on the streetscape dominance due to this infringement is less than minor.

- There are sheds located within the 1m setback adjoining the reserve. These are very small in scale with a maximum height of 1.98m and will protrude slightly above the fencing. Each shed measures 4.8m². The proposed fencing along this boundary is permeable above 1.2m in height.
- Overall, across the site the landscaped area meets 30% prior to subdivision. Therefore, when considering the level of landscaping across the site this remains comparable with that expected in the Main Residential Zone. A landscaping plan has been submitted that provides for a range of landscaping options that form part of the proposal. Post subdivision there are infringements as per Table 1, however given the overall compliance across the site, and the landscaping proposed, the effects of this will be less than minor.
- Built development remains below the permitted level with a relatively low site coverage of 38% across the development, which is also compliant post subdivision. The duplex typology results in five two storey building units presenting to Lister Crescent, and five building units visible from the adjoining reserve. The building footprint is comparable with the existing site coverage across the five sites.
- The proposed transition from single level to double storey is common throughout the established residential areas of the city. All dwellings will meet the maximum height requirement, with only a height in relation to boundary infringement adjacent to the reserve. This infringement will not detract from streetscape amenity or the public reserve, and generates adverse effects that are less than minor.
- The proposal reflects a scale anticipated in the Main Residential Zone, as directed by the density provisions under condition 5.15. Where there are infringements with standards these are assessed as minor. The height in relation to boundary infringement is addressed above. The remaining development infringement relates to landscaped area following the completion of subdivision on some lots.
- There is a mix of standalone and duplex typologies, providing built form diversity and visual interest to the public realm (Lister Crescent and the rear reserve).
- Spacing between the buildings is sufficiently generous and generally consistent with that found in the wider urban environment.
- I have had a regard to the response from NCC Team Leader City Design and Urban Renewal which does not object to the proposal. There were comments regarding landscaping and fencing, particularly along the reserve boundary and the JOAL which have been addressed and the proposal including a revised fencing package that includes permeability. Therefore, from an urban design perspective potential adverse effects are less than minor.
- Effects of the open space infringement for units 2, 3, 5 and 6 will be indiscernible in the wider environment.

Overall, having regard to the infringements with the District Plan, and consideration of urban design comments received, I consider the potential adverse effects on amenity and character of the development are less than minor.

Earthworks Effects:

- The applicant proposes erosion and sediment control measures to manage earthworks related effects. Mitigation that forms part of the proposal includes silt fences that will be installed around the full perimeter of the site, a stabilised entrance, highly trafficked areas to be stabilised with 150mm of AP65 or similar, and silt socks will be used in kerbs and around the nearest stormwater sump to provide additional control beyond the site boundaries.⁸
- Any visual effects of the earthworks will be temporary in nature, as all areas to be disturbed will be constructed on or landscaped.
- Overall, when considering the potential adverse effects of earthworks, and having particular regard to the assessment criteria in Chapter 52A I consider these temporary adverse effects to be less than minor on the wider environment, with temporary effects to be localised. Post development, I consider the earthworks effects to be not noticeable from the wider environment.

Construction Effects

- There is sufficient space on the subject site and within the surrounding road network to provide parking for construction vehicles.
- Construction works will be able to comply with the District Plan noise standards having regard to the nature of the proposal. It is considered that any adverse effects associated with noise and vibration would be temporary in nature, and are less than minor on the wider environment.
- There is a pedestrian linkage currently in place that will be relocated as part of the development. This new location has been agreed to by Councils Reserve team. During construction there will be temporary disruption to this that will be less than minor.

Contaminated Soils

- The application documents include a Detailed Site Investigation with a Management Plan proposed that includes mitigation during the earthworks phase of the proposal, and remediation. I consider the potential adverse effects due to contaminants in soil to be less than minor.

Adverse effects conclusions

I conclude the adverse effects on the wider environment will be less than minor in terms of s 95D of the RMA.

⁸ Engineering Services Report, Page 8

Step 4: Public notification in special circumstances

If an application has not been publicly notified as a result of any of the previous steps, then the council is required to determine whether special circumstances exist that warrant it being publicly notified (s95A(9)).

Special circumstances are those that are:

- Exceptional, abnormal or unusual, but something less than extraordinary or unique;
- outside of the common run of applications of this nature; or
- circumstances which make notification desirable, notwithstanding the conclusion that the activities will not have adverse effects on the environment that are more than minor.

In this instance I have turned my mind specifically to the existence of any special circumstances and conclude that there is nothing exceptional or unusual about the application, and that the proposal has nothing out of the ordinary realm to suggest that public notification should occur. The proposal includes residential development upon land zoned Main Residential.

Public notification conclusion

Having undertaken the s95A public notification tests, the following conclusions are reached:

- Under step 1, public notification is not mandatory.
- Under step 2, there is no rule or NES that specifically precludes public notification of the activities, and the application is for activities other than those specified in s95A(5)(b).
- Under step 3, public notification is not required as the application is for activities that are not subject to a rule that specifically requires it, and it is considered that the activities will not have adverse effects on the environment that are more than minor.
- Under step 4, there are no special circumstances that warrant the application being publicly notified.

It is therefore recommended that this application be processed without public notification.

9. Limited notification assessment (sections 95B, 95E-95G)

If the application is not publicly notified under s95A, the council must follow the steps set out in s95B to determine whether to limited notify the application. These steps are addressed in the statutory order below.

Step 1: Certain affected protected customary rights groups must be notified

There are no protected customary rights groups or customary marine title groups affected by the proposed activities (s95B(2)).

In addition, the council must determine whether the proposed activities are on or adjacent to, or may affect, land that is subject of a statutory acknowledgement under schedule 11, and whether the person to whom the statutory acknowledgement is made is an affected person (s95B(3)).

In this instance, there is no applicable statutory acknowledgement area.

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

The application is not precluded from limited notification as:

- the application is not for one or more activities that are exclusively subject to a rule or NES which preclude limited notification (s95B(6)(a)); and
- the application is not exclusively for a controlled activity, other than a subdivision, that requires consent under a district plan (s95B(6)(b)).

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

As this application is not for a boundary activity, there are no affected persons related to that type of activity (s95B(7)).

The following assessment addresses whether there are any affected persons that the application is required to be limited notified to (s95B(8)).

In determining whether a person is an affected person:

- a person is affected if adverse effects on that person are minor or more than minor (but not less than minor);
- adverse effects permitted by a rule in a plan or NES (the permitted baseline) may be disregarded;
- the adverse effects on those persons who have provided their written approval must be disregarded

Adversely affected persons assessment (sections 95B(8) and 95E)

The applicants' consultant has provided in accordance with schedule 4 of the RMA, an assessment of adversely affected persons in such detail as corresponds with the scale and significance of the effects that the activities may have on adjacent land.

I generally concur with the AEE. My assessment of adverse effects on persons is detailed below.

I note that the application is not supported by any written approvals of any person.

The applicant owns nearby properties at 25 and 27 Lister Crescent.

22 Lister Crescent:

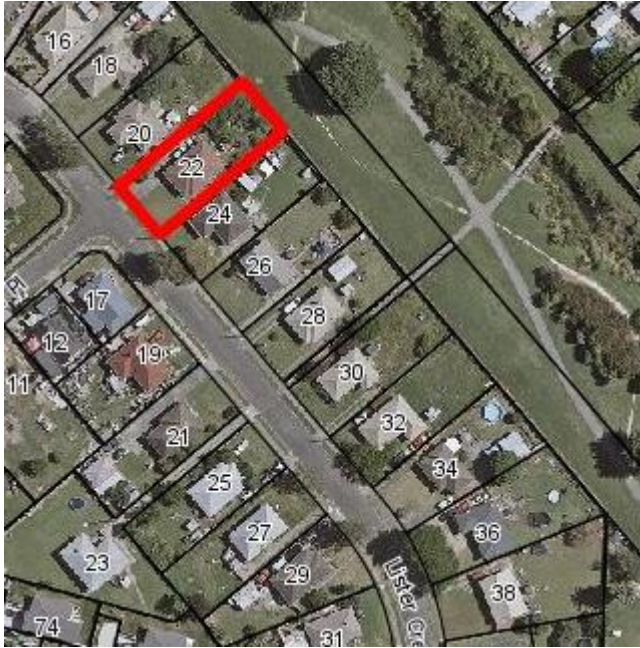


Image 5: 22 Lister Crescent (source: Napier Maps)

22 Lister Crescent is located along the northern boundary adjoining the site where Units 1 and 8 will be situated.

The applicant has provided an assessment in Section 7.3.1 on Page 19 of the application documents. I concur with this assessment and make the following summarising/additional comments.

- Buildings 1 and 8 comply with all yard requirements, and height in relation to boundary along the boundary shared with this property. The site layout of buildings 1 and 8 incorporates compliant open space, with fencing along the common side boundary ensuring aural and visual privacy for 34 Lister. The nearest vehicle crossing will provide access to Unit 1 only, with a compliant vehicle crossing to allow inward one way traffic located on the opposite side of Unit 1 to 22 Lister Crescent. The proposal will comply with site coverage, landscaped area, and external development control measures.
- There will be two dwellings situated next to 22 Lister Crescent, of a scale commensurate with other dwellings in the surrounding area, with two dwellings one in the front and one at the rear not dissimilar to many developments within the Main Residential Zone. The dwellings are detached and the open space between them provides a good degree of visual relief, resulting in a visual bulk effect on 22 Lister that is less than minor.



Image 6 Side elevation adjoining 22 Lister Crescent (Source: Application Documents)

- Vehicle movements and outdoor space situated with these adjoining lots are compatible with two dwellings, with the shared access and other open space internal to the site. The shared JOAL is separated from 22 Lister by the proposed intervening buildings 1 and 8. These buildings serve as an amenity buffer for 22 Lister, mitigating any adverse effects associated with traffic movements within the JOAL.

Overall, the dwellings meet all relevant performance standards, and the location of the dwellings, open space and access are such that, the adverse effects on 22 Lister Crescent are less than minor.

34 Lister Crescent:



Image 7: 34 Lister Crescent (Source: Napier Maps)

34 Lister Crescent is located along the southern boundary adjoining the site where Units 7 and 16 are situated.

The applicant has provided an assessment at 34 Lister Crescent, in Section 7.3.2 (Page 20) of the Application. I concur with this assessment made and make the following additional comments/assessment:

- Buildings 7 and 16 will comply with all yard requirements, height in relation to boundary along the boundary shared with this property. The site layout for buildings 7 and 16 incorporates

compliant open space with fencing along the boundary ensuring aural and visual privacy for 34 Lister. The nearest vehicle crossing is accessing Unit 7 with a one way exit located further north. The proposal will comply with site coverage, landscaped area, and external development control measures.



Image 8: Elevation visible from 34 Lister Crescent

- There will be two dwellings situated directly next to 32 Lister Crescent, of a scale commensurate with other dwellings in the surrounding area, with two dwellings one in the front and one at the rear not dissimilar to many developments within the Main Residential Zone. The dwellings are detached and the open space between them provides a good degree of visual relief, resulting in a visual bulk effect on 22 Lister that is less than minor.
- Vehicle movements and outdoor space situated with these adjoining lots are compatible with two dwellings, with the shared access and other open space internal to the site. The shared JOAL is separated from 32 Lister by the proposed intervening buildings 7 and 16. These buildings serve as an amenity buffer for 32 Lister, mitigating any adverse effects associated with traffic movements within the JOAL.

Overall, the dwellings meet all relevant performance standards, and the location of the dwellings, open space and access are such that the adverse effects on 32 Lister Crescent are less than minor.

17-29 Lister Crescent (except 25 & 37 Lister Crescent).

- Units 1, 2, 3, 4, 5, 6, and 7 are located fronting Lister Crescent and across the opposite side of Lister Crescent.
- Due to the duplex typology there is an appearance of five dwellings along this façade, all compliant with front yard boundary rules.
- There will be a total of five vehicle crossings/access points, which remains similar to the five parcels along the road.

Additional Assessment:

- There are pockets of similar intensity within the surrounding environment, with the prevailing established character comprising larger sites than proposed. The proposal includes an increase from 5 dwellings to 16 dwellings on a street zoned Main Residential. There is no

minimum lot size in the Main Residential Zone, subject to compliance with development control measures. The intensification of use is comparable with that expected in the Main Residential zone

- Traffic Planning Consultants Ltd consider the proposal will integrate into the transport network without causing adverse network effects that are more than less than minor.
- The only height in relation to boundary infringement is adjacent the reserve. The extent of the infringement is negligible.

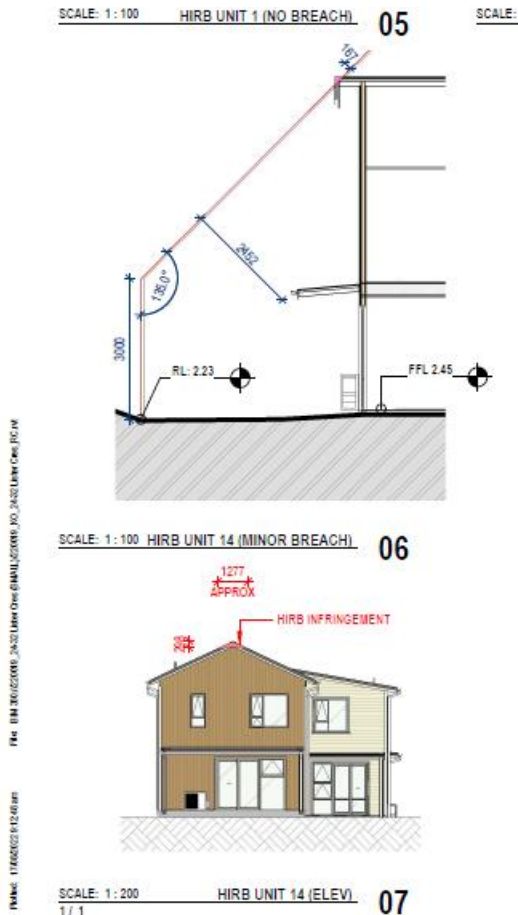


Image 9 Height in relation to boundary breach at House 14.

- Overall Landscaped area is compliant across the site, with site coverage below 50%, therefore the built form density is comparable with the expectations in the Main Residential Zone.
- The proposal is able to be serviced, with stormwater runoff attenuated to pre-development levels so effects on neighbouring properties are less than minor.
- Construction management and earthworks management such as erosion and sediment control measures have been proposed. Such measures also include submitting a construction management plan that will ensure adverse effects relating to construction vehicles, noise, and construction hours will be less than minor.

In summary, I conclude that the potential adverse effects of the proposal on the nearby landowners to be less than minor.

Step 4: further notification in special circumstances

In addition to the findings of the previous steps, the council is also required to determine whether special circumstances exist in relation to the application that warrants it being notified to any other persons not already determined as eligible for limited notification (excluding persons assessed under section 95E as not being affected persons).

Special circumstances are those that are:

- Exceptional, abnormal or unusual, but something less than extraordinary or unique;
- outside of the common run of applications of this nature; or
- circumstances which make limited notification to any other person desirable, notwithstanding the conclusion that no other person has been considered eligible.

In this instance I have turned my mind specifically to the existence of any special circumstances under s95B(10) and conclude that there is nothing exceptional or unusual about the application, and that the proposal has nothing out of the ordinary run of things to suggest that notification to any other persons should occur.

Limited notification conclusion

Having undertaken the s95B limited notification tests, the following conclusions are reached:

- Under step 1, limited notification is not mandatory.
- Under step 2, there is no rule or NES that specifically precludes limited notification of the activities, and the application is for activities other than those specified in s95B(6)(b).
- Under step 3, limited notification is not required as it is considered that the activities will not result in any adversely affected persons.
- Under step 4, there are no special circumstances that warrant the application being limited notified to any other persons.

It is therefore recommended that this application be processed without limited notification.

10. Notification recommendation

Non-notification

For the above reasons under section 95A this application may be processed without public notification.

In addition, under section 95B, limited notification is not required.

Accordingly, I recommend that this application is processed non-notified.



Christina Bunny

Senior Resource Consents Planner
City Strategy

Date: 5 September 2023

11. Notification determination

Acting under delegated authority, and for the reasons set out in the above assessment and recommendation, under sections 95A and 95C to 95D, and 95B and 95E to 95G of the RMA this application shall be processed non-notified.



Luke Johnson

Acting Manager Regulatory Solutions

City Strategy

Date: 5 September 2023

Resource Consent RMA230103

Sections 104 AND 104C Assessment Report

NOTE: Refer to Sections 1 – 7 above for the resource consent application details, locality plan, description of the proposal, description of the site and location, and reasons for the consent and activity status.

11. Statutory considerations – section 104 assessment

Matters to be considered by the Council when assessing an application for resource consent under s104(1) of the Act include, subject to Part 2, any actual and potential effects on the environment and any relevant provisions of a plan or proposed plan, amongst other matters.

Under section 104B of the Act, after considering an application for a resource consent for a Discretionary Activity, a consent authority may grant or refuse the application. If it grants the application, it may impose conditions under section 108 of the RMA.

Section 104(1)(a) & (ab) – actual and potential effects on the environment

As outlined in the Section 95A and 95B Notification Report in Sections 8-9 above, the overall adverse effects of this proposal on the wider environment and on adjacent land and persons have been assessed as being less than minor, for the following reasons:

Density:

- There is no minimum lot size or density requirement in the Main Residential Zone. Instead, Council must identify what relevant NCCDP conditions are breached by the proposed development and assess the actual and potential effects on those infringements based on the applicable assessment criteria. Detailed Plans have been provided with the application which meet the requirement of a 'concept plan' under Condition 5.15 and that illustrates the infringements.
- Overall, the development will be 231m² per dwelling, an increase in density across the parent site, with lots ranging from 136m² - 316m², with a shared JOAL equating 808m² post subdivision. The assessment within the notification report above, and further expanded below, considers the effects of the other infringements for residential development in the Zone, and those required under assessment criteria 12.3.3, Chapter 61 and the Code of Practice for Subdivision and Land Development 2022.

Open Space:

- The proposal is able to meet the minimum open space required for each lot other than for Units 2, 3, 5, and 6, with a maximum infringement of 380mm. I concur with the applicant's assessment provided as part of the further information received on 9 November 2022 which states:

Whilst there is a shortfall of the 6m diameter circle, ample outdoor open space is provided for each of the units, with areas ranging from 51m²-73m². Further the subject site immediately adjoins a reserve to the north of the site and which provide additional amenity and opportunities for passive and active recreation.

Height in Relation to Boundary:

- The height in relation to boundary infringement is only adjacent the reserve, a non-sensitive amenity interface. The infringement will not generate adverse shading, overlooking or dominance effects on the reserve or adjacent properties.

Extent of Earthworks:

- The Applicant has proposed mitigation measures as part of the application that will ensure the effects of earthworks are less than minor. This includes limiting construction work to specified hours of operation, complying with construction noise standards, implementation of erosion and sediment control measures, and the provision of a construction management plan. Having considered the assessment criteria in Chapter 52A, I consider that the measures proposed will appropriately mitigate any actual or potential adverse effects from earthworks on the environment.

Cumulative Effects:

- I have considered the cumulative effects of the infringements and the potential adverse effects due to increased density.
- While there are infringements, the coverage and landscaping conditions of the Main Residential Zone are met, with a relatively low site 38% coverage (12% less than the permitted 50% maximum), and more than the minimum 30% landscaped area delivered. All dwellings are two storeys which comply with the 8m height limit, with these buildings also meeting the yard setback and height in relation to boundary requirements (with the exception of a small infringement adjacent to the reserve).

Assessment Criteria 12.3.3:

- Here I adopt the assessment above and within the notification decision report, and make the additional assessment below.
- Overall, having regard to the infringements with the District Plan, and consideration of urban design comments received, I consider the potential adverse effects on amenity and character to be less than minor. In addition to the assessment made above I note that the revised fencing permeability along the JOAL addresses concerns raised by the NCC Team Leader City Design and Urban Renewal. In addition, dwellings with dual frontage have been amended to improve the relationship with the streetscape and the JOAL as per the NCC Team Leader City Design and Urban Renewal recommendations. Key notes below were provided as part of the final plan set which set out the design amendments made in response to the NCC Team Leader City Design and Urban Renewal comments.

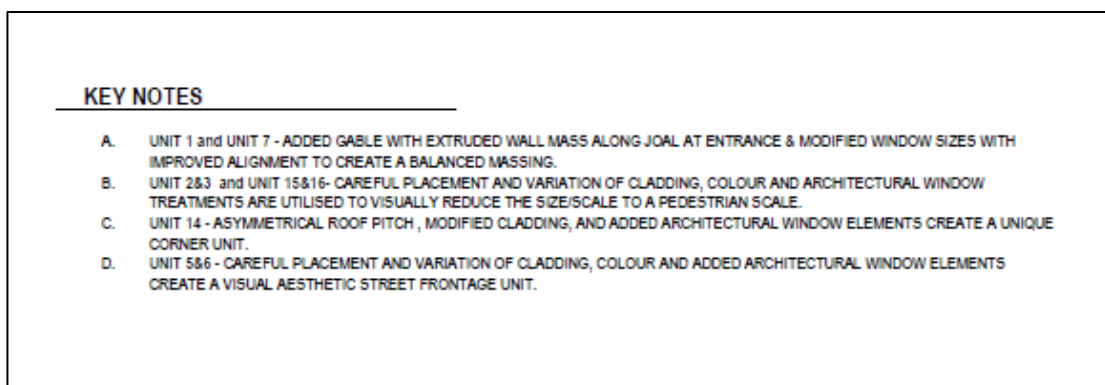


Image 10 Amendments to address urban design concerns

Traffic Effects

- Traffic effects of the proposal on the immediate and wider environment are less than minor. In addition to the assessment made above I note that NCC Transportation Engineer provided feedback via email dated 4 October 2022 which states:
 - *I have reviewed the TIA and because the JOAL is a one-way road, the width and associated manoeuvring spaces are acceptable.*

- *From a Transportation perspective, the reserve access (Lot 18) is acceptable as long as sight lines can be maintained where it intersects with the JOAL.*
- *There may be street lights that need moving to accommodate vehicle crossings, this work will be at the Applicants cost.*

Soil Contamination Effects

- A Site Management Plan is in place to ensure potential adverse effects due to contaminants in soil and the pathway to human health is less than minor.

Servicing Effects

- NCC Infrastructure are satisfied that the site is able to be adequately serviced as per the engineering services report.

Positive effects (section 104(1)(a))

The proposal will allow for a range of housing options within an area adequately serviced for residential activities. The proposal will contribute to the efficient use and/or development of natural and physical resources within the City, as it is utilising existing residentially zoned land for residential development.

Offsetting measures or compensation proposed or agreed (section 104(1)(ab))

I am not aware of any measures proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment as a means to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.

Section 104(1)(b) – relevant statutory instruments

Section 104(1)(b) states that a consent authority must have regard to any relevant provisions of various identified statutory instruments when considering an application for a resource consent, as follows:

'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;'*

The following provides commentary regarding relevant national environmental standards, regional policy statements and plans. There are no 'other regulations' (ii) or 'national policy statements' (iii) considered relevant to this application.

National Environmental Standards (section 104(1)(b)(i))

The National Environmental Standard for Assessing and Managing Contaminants in Soil applies to the proposal. Consent is sought as a Controlled Activity.

No other National Environmental Standards apply.

National Policy Statements (section 104(1)(b)(iii))

National Policy Statement for Urban Development 2020

The NPS-UD 2020 seeks to increase development capacity to enable more homes to be built in response to demand whilst ensuring the delivery of well-functioning urban environments. The policies seek to improve land-use flexibility in the areas that have the greatest demand. The proposal responds positively to the NPS-UD, as it will increase the housing supply of a tier 2 city. The proposal delivers an additional eleven dwellings within an established, well-connected,

residential zoned and sustainably located area. The development displays a conventional residential layout which will perform as a well-functioning urban environment.

Hawke's Bay Regional Policy Statement (section 104(1)(b)(v))

The only regional policy statement or proposed regional policy statement relevant to this application is the Hawke's Bay Regional Policy Statement (RPS). As required under section 75(3) of the RMA, District Plans must give effect to the RPS (embedded in the Hawke's Bay Regional Resource Management Plan (RRMP)).

The proposal is not inconsistent with the Hawke's Bay Regional Policy Statement.

Hawke's Bay Regional Resource Management Plan (RRMP) (section 104(1)(b)(vi))

In addition to the RPS, the Hawke's Bay Regional Resource Management Plan (RRMP) includes the Regional Plan.

The proposal is not inconsistent with the Hawke's Bay Resource Management Plan (RRMP).

City of Napier District Plan (section 104(1)(b)(vi))

The site of the proposed development is located within the Main Residential Zone of the District Plan.

The relevant Objectives and Policies of the District Plan are as follows:

Chapter 4- Main Residential Zone:

Objective 4.2. seeks to enable the diverse housing needs and preferences of the City's residents to be met while ensuring that the adverse effects on the environment of residential land use, development and subdivision are avoided, remedied or mitigated.

Associated Policies 4.2.1 and 4.2.2 are relevant to this application. Policies 4.2.2 (a)- (f) seek to ensure development is consistent with the surrounding residential environment, protect the amenity of the residential areas, maintain the character of the surrounding residential areas, integrate the development with any adjacent public reserve and road system, integrate the development with the surrounding neighbourhood, be designed for visual and aural privacy, and ensure that multi-unit development is only located where the roading network is able to support additional traffic movements. The plan also notes the following beneath Objective 4.2.

Changes in demographic profile lead to new demands and preferences in housing stock. Subject to the careful management of environmental effects, there is no reason for the Council to judge between or weight some forms of residential development as being more appropriate than others. The Council's role is not to control or dictate the type or diversity of housing that is available within the City. Rather the emphasis should be on management of the physical features of the diverse housing forms that are provided to maintain 'sense of place' and ensure a high standard of amenity.

The Council's experience has been that intensive development can adversely impact upon the character and quality of the City's residential areas and lead to localised adverse amenity impacts for adjacent residents. If left unchecked such intensification may significantly degrade the City.

The assessments below on the wider environment have canvassed if this location is suitable for residential intensification, including potential adverse effects due to increased traffic volumes, and intensification of site development.

The consideration of this proposal has particular regard to the adjacent public reserve given its proximity. Having considered the assessments provided, I consider the proposal is consistent with Objective 4.2 and its associated policies. The surrounding environment is residential in nature with developments of varying densities nearby, with some less dense than that proposed. Although involving intensification, the proposal is largely consistent with those development control measures anticipated in the Main Residential Zone.

Objective 4.3 and associated Policies 4.3.1, 4.3.4 and 4.3.7 are applicable and seek to enable residential intensification where appropriate and around commercial and community nodes, and manage the intensity to ensure effects. The assessment above and within the submitted documents, confirm that this location is suitable for residential intensification, being close to community services, with a roading network able to support the development (as per the assessment provided in the Traffic Impact Assessment). Overall the proposal delivers a well-considered design outcome that achieves an appropriate level of onsite amenity for occupants. Therefore, I consider this proposal to be consistent with Objective 4.3 and its associated policies.

Objective 4.5 and its associated policies seek to maintain and enhance those qualities and characteristics that contribute to the wellbeing of the City's residents and the amenity of the residential zones.

In particular, Policy 4.5.4 is to control the building height and bulk so it is compatible with the height and bulk of the surrounding residential area, and Policy 4.5.5 is to control buildings so they are designed and located to ensure adequate levels of sunlight and daylight reach adjacent residential properties throughout the year. Policy 4.5.7 is to control development to ensure occupants have sufficient outdoor space for the anticipated number of occupants of the dwelling, outdoor space which is of a useable shape for recreation, sunlight access to the outdoor space area, and privacy of outdoor space. These matters are generally localised effects for consideration. I have considered these policies in particular, and have also considered the assessment provided within, where, although there are departures from the NCCDP, in this location an acceptable outcome is achieved. Therefore, I consider the proposal is not inconsistent with Policy 4.5.4.

Policy 4.5.8 seeks to ensure residential development that increases the density of buildings and/or population within an area, provide for or contribute to, the provision of public reserves and/or the establishment of appropriate community facilities, sufficient to maintain the health, safety and wellbeing of local residents. The site adjoins a public reserve, and is well located in this regard.

Policy 4.5.1 is specific to controlling land uses that generate noise, odour, dust or vibration, and ensure it is undertaken in a manner that does not cause nuisance, or otherwise have an adverse effect on the health, safety or comfort of residents of surrounding area. The Applicant has proposed mitigation measures as part of the proposal that will ensure the effects of earthworks remain less than minor. This includes limiting construction work to specified hours of operation, complying with construction noise standards, implementation of erosion and sediment control measures, and the provision of a construction management plan.

Chapter 62- Natural Hazards

Objective 62.3 seeks to manage the effects of natural resources on land uses throughout the city. Policy 62.3.3 directs Council to *Control the subdivision, use and development of land to ensure that risks to the community are avoided, remedied or mitigated.*

The proposal is supported by a geotechnical report and is located on a site relatively flat and within residentially zoned land. A minimum FFL level and stormwater attenuation is proposed.

Chapter 64- Contaminated Sites

Objective 64.2 seeks to “ensure that there are no significant risks to human health posed by residual soil contaminate levels in land [...]”. Policy 64.2.1 provides direction to identify and manage contamination, and Policy 64.2.2 seeks to ensure remediation will ensure the risks to human health are acceptable for the intended use at the time of development.

The application is consistent with these objectives and policies as discussed throughout this report. The proposed works will be under the supervision of a suitably qualified environmental practitioner in this regard.

Volume 2 - Code of Practice for Subdivision and Land Development

Objective 5.1.2(2) The amenity values comprising the character of Napier’s diverse localities are maintained or enhanced.

Objective 5.1.3 The provision of a range of reserves and open spaces located in appropriate sites to provide for the recreational, amenity, tourist, and intrinsic values of Napier.

Objective 5.1.6 The provision of an efficient and effective infrastructure, services and utility network that provides for the current and reasonably foreseeable needs of the City.

Objective 5.1.7 The provision of allotments that have adequate vehicular access to provide for the actual and potential needs of a range of permitted activities, and that such access is appropriately integrated with the City’s road network.

Objective 5.1.12 The protection of people’s health and safety in a manner that is compatible with, and complementary to, other legislative requirements and management systems.

Policy 5.2.2 To ensure that the development process (including subdivisions) allows significant mature trees which contribute to the amenity of the neighborhood to be retained.

Policy 5.2.6 To identify natural hazard-prone areas and, where appropriate, to control the use and development of land (including subdivisions) to avoid, remedy or mitigate the effects on the natural hazard or the effects of the natural hazard on the developments. Policy 5.2.11 To control the use and development (including subdivisions) of land to avoid, remedy or mitigate any adverse effects on the health and safety of the City.

The proposal is in accordance with the Objectives specified in Part A5 (Management Strategy for Land Development) of Volume 2 of the Code and in particular Objectives 2, 5, 6 and 7, which pertain to the maintenance of amenity values, mitigation of natural hazards and the provision of three waters infrastructure and vehicle access. The proposal has been reviewed by the Development Engineers who uphold the provisions of the Code of Practice.

Chapter 65- Financial Contributions

Objective 65.3 – 65.6 and related policies have been considered. This proposal is consistent with those objectives and policies, specifically Policy 65.3.2 which requires financial contributions to be imposed as a condition of subdivision consent in order to “mitigate adverse effects on infrastructure, amenity values, and provide for people’s health, safety, and wellbeing”.

The development will produce additional demand on Council infrastructure. . To mitigate any adverse effects resulting from this additional demand the infrastructure shall be upgraded and the applicant shall pay a proportionate share of costs to undertake the necessary upgrades. I recommend that a condition of consent secures the necessary financial contribution to be paid.

Having considered all relevant statutory documents, I consider the proposal to be consistent with Objectives 65.3 – 65.6.

Chapter 52A- Earthworks:

Objective 52A.3 To enable earthworks within Napier City while ensuring that the life-supporting capacity of soils and eco-systems are safeguarded and adverse effects on outstanding natural features and significant landscapes, historic heritage values and human health and safety are avoided, remedied or mitigated.

Policy 52A.3.1 Requires the repasture or revegetation of land where vegetation is cleared in association with earthworks.

Policy 52A.3.4 Control earthworks to ensure that they will not adversely affect the natural and physical environment, and the amenity of the community, adjoining land uses, historic heritage values and culturally sensitive sites.

Policy 52A.3.5 Allow earthworks where the adverse effects on the environment will be minor.

In relation to the above, the following comments are made:

- The proposal will not give rise to any issues in relation to the life-supporting capacity of soils.
- The site is not an outstanding natural feature or located within a significant landscape in terms of Objective 52A.3.
- The proposed earthworks will be temporary and are of a nature that is reasonably expected for a development of this extent. All exposed works will be covered once the proposed dwelling units have been constructed.
- Standard erosion and sediment control practices will be implemented to ensure downstream adverse effects and effects on adjacent persons will be less than minor.
- Policy 52A.3.5 would direct the Council to approve the proposed earthworks on the basis that their effects have been assessed to be less than minor.

Section 104(1)(c) – Other Matters

Section 104(1)(c) makes provision for ‘any other matters the consent authority considers relevant and reasonably necessary to determine the application’. I consider the Napier City Council Financial Contributions Policy 2021 is relevant. Financial contributions have been applied in accordance with this.

I have considered the proposal under Section 106 of the RMA. The site is within the high liquefaction area and has been supported by a geotechnical report. The applicant has provided the following assessment in Section 13 of the AEE and I concur. In addition I note that minimum FFL and stormwater attenuation has been proposed to mitigate flooding effects.

The site has adequate legal and physical access to the each lot following subdivision.

Section 104(1) – Subject to Part 2

Any consideration of an application for resource consent under section 104(1) is subject to Part 2.

The AEE states the following with regard to Part 2. I concur with the assessment made.

11.0 Part 2 Matters

Section 5 of Part 2 identifies the purpose of the RMA as being the sustainable management of natural and physical resources. This means managing the use, development and protection of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being and health and safety while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

Section 6 of the Act sets out a number of matters of national importance including (but not limited to) the protection of outstanding natural features and landscapes and historic heritage from inappropriate subdivision, use and development.

Section 7 identifies a number of “other matters” to be given particular regard by Council and includes (but is not limited to) Kaitiakitanga, the efficient use of natural and physical resources, the maintenance and enhancement of amenity values, and maintenance and enhancement of the quality of the environment.

Section 8 requires Council to take into account the principles of the Treaty of Waitangi.

Overall, as the effects of the proposal are considered to be less than minor, and the proposal accords with the relevant Operative District Plan objectives and policies, it is considered that the proposal will not offend against the general resource management principles set out in Part 2 of the Act.

12.0 CONCLUSION

Matters to be considered by the Council when assessing an application for resource consent under s104(1) of the RMA include, subject to Part 2, any actual and potential effects on the environment and any relevant provisions of a plan or proposed plan, amongst other matters. I have concluded that the overall adverse effects of this proposal on the wider environment and on adjacent land and persons will be less than minor.

I have concluded that the proposal will be consistent with the relevant objectives and policies of the District Plan.

Having regard to Part 2, this proposal will achieve the purpose of the Act, being ‘the sustainable management of natural and physical resources’, represents efficient use and development of the land resource, and will maintain amenity values and the quality of the environment.

After considering the requirements of sections 104 and 104B of the Resource Management Act 1991, it is recommended that consent to this application be granted, subject to conditions.

Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consent. I am satisfied that I have adequate information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on the application.

Acting under delegated authority, under sections 104, 104B and Part 2 of the RMA, the resource consent is **GRANTED**.

Reasons

The reasons for this decision are:

- a. The proposal is for residential development which is an activity that is generally anticipated and provided for within the Main Residential zone.
- b. The assessment above has had particular regard to the character of the area. For the reasons outlined within the notification and decision report above, all actual and potential effects of the proposal on the wider and localised environment are considered to be less than minor and acceptable from a resource management perspective.
- c. For the reasons outlined within the decision report above, the proposal is considered to be consistent with the Objectives and Policies of the District Plan, and all statutory documents.

Conditions

1. This consent shall be carried out in accordance with the documents and drawings and all supporting additional information submitted with the application, detailed below, and all referenced by the council as resource consent number RMS220089.
 - Application Form and Assessment of Environmental Effects prepared by Barkers & Associates Limited, dated 25 August 2022.

Report title /Drawings and reference	Author	Rev	Dated
Assessment of Environmental Effects	Barkers & Associates		25/08/2022
Engineering Services Report	Stantec		August 2022
Traffic Planning Consultants Memo	TPC Traffic Planning Consultants Ltd		August 2022
Detailed Site Investigation	Geosciences		24/02/2022
Site Management Plan	Geosciences		Feb 22
Scheme Plan- 310003299-SU-S100	Stantec	6	16/02/2023

Proposed Drinking Water Plans, Drawing No. 310003299-03-001-C150	Stantec	D	09/12/2022
Proposed Wastewater Plan, Drawing No. 310003299-03-001-C160	Stantec	D	09/12/2022
Utilities Stormwater Plan, Drawing No. 310003299-03-001-C170	Stantec	D	02/05/2023
Utilities Stormwater Details, Drawing No. 310003299-03-001-C175	Stantec	B	21/06/2023
Utilities Combined Proposed Services Plan, Drawing No. 310003299-03-001-C180	Stantec	E	02/05/2023
Proposed JOAL Typical Sections, Drawing No. 310003299-03-001-C181	Stantec	D	09/12/2022
Site Grading Plan, Drawing No. 310003299-03-001-C300	Stantec	D	09/12/2022
Section Plan, Drawing No. 310003299-03-001-C305	Stantec	D	09/12/2022
JOAL 1 Longitudinal Section, Drawing No. 310003299-03-001-C310	Stantec	D	09/12/2022
JOAL 2 Longitudinal Section, Drawing No. 310003299-03-001-C311	Stantec	D	09/12/2022
Cross Sections – Sheet 1, Drawing No. 310003299-03-001-C320	Stantec	D	09/12/2022
Cross Sections – Sheet 2, Drawing No. 310003299-03-001-C321	Stantec	D	09/12/2022
Architectural Plan Set Refer to Drawing Index A2-A00-001	Young & Richards	F	19/01/2023
Landscape Plans Fence Type 1 of 2 Rev 3 Landscape Master Plan Rev 4 Layout and Finishes (1-6) Rev 2 Planting Plan (1-6)	Development Nous; dated 12/08/2022		

2. Under section 125 and 125(2) of the RMA, this consent lapses five years after the date it is granted unless:
 - a. The consents are given effect to; or
 - b. The council extends the period after which the consents lapse.
3. Council will undertake monitoring in accordance with the RMA. The consent holder shall pay the actual and reasonable costs incurred to ensure compliance with the conditions attached to consent.
4. That at least 5 working days prior to the commencement of any construction or site works, the consent holder must submit a completed copy of the "Resource Consent Notice of Works Starting" form, attached at the end of this decision, to the Council.
5. That pursuant to Section 220(1)(b)(iv) of the Resource Management Act 1991, the following amalgamation condition must be imposed.
 - a. *That Lot 20 hereon is a Joint Owned Access Lot and is to be owned in equal shares by Lots 2, 3, 6 and 8 to 16.*
 - b. *Lot 17 and 18 are for carparking and shall be held together in the same record of title with Lots 16 and 8 respectively*

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6. That prior to approval under s224 certification under the Resource Management Act 1991, or the issuance of a building consent for the development (whichever occurs first), the consent holder must pay a financial of \$281,590.38 (including GST).

This is a contribution towards the impact on the cost of upgrading existing engineering and community services as set out in the Financial Contribution Policy dated 29 June 2021. The amount is inclusive of GST and will be subject to the indexation applicable at the time of payment.

Advice Note: Financial Contribution Calculations are below:

	Units	Bedrooms	Base FC	Total FC	Exemption	Contribution
	0	1	\$34,173.59	\$0.00	0.5	\$0.00
	12	2	\$34,173.59	\$410,083.08	0.77	\$315,763.97
	4	3	\$34,173.59	\$136,694.36	1	\$136,694.36
Totals	16			\$546,777.44		
			Total contributions to pay before credits ==>>			\$452,458.33
		No of Credits	5	Credit value ==>>		\$ 170,867.95
		Total contributions to pay ==>>				\$281,590.38

7. All engineering work and design shall be in accordance with the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure 2022 or to the satisfaction of the Director of Infrastructure or nominee.
8. Any services relocations associated with the approved land-use and subdivision consent shall be at the expense of the Consent Holder.

9. That prior to approval under Section 224 of Resource Management Act 1991, the consent holder must provide to Lots 1-16 hereon telecommunications reticulation (including ducting for computer media), underground electrical, and where available: gas services.

a. The consent holder must obtain a completion certification from each network operator for electricity, telephone, and where applicable: gas services.

10. That the applicant shall submit to Council a final detailed engineering design, including construction drawings, detailing the water, stormwater, sewer and roading services required to service the development for Engineering Approval (certification by NCC infrastructure) prior to construction. This shall be undertaken by a Chartered Professional Engineer experienced in water, sewer, stormwater and roading services design and construction. The design shall be generally in accordance with the application and the NCC Code of Practice District Plan for Subdivision and Land Development Infrastructure, except where a specific dispensation has been granted through the Engineering Approval (certification by NCC Infrastructure) process.

That any water, sewer, and stormwater assets located on private land within the development that has NOT been accepted by the Director, NCC Infrastructure (or nominee), for vesting in council, shall be clearly marked as PRIVATE on the engineering design.

That the consent holder shall provide Napier City Council with the "Construction" producer statements issued by their contractor for the services constructed.

All works within the boundaries of a public road shall be undertaken by a contractor who is approved to work within the road reserve.

Note: Data on public roading, stormwater, water and sewer assets will be required to be presented to Council in accordance with the NCC District Plan and the Code of Practice for Subdivision and Land Development Infrastructure.

That the consent holder shall provide certification from a Chartered Professional Engineer that the works have been constructed in accordance with the approved design.

11. Pursuant to Section 243 of the RMA easements shall be provided for all services that cross one lot to service another and all easements shown on the approved scheme plan RMS220089 including easement in gross shall be included in a memorandum endorsed on the plan and shall be granted or reserved.

12. Easement widths shall be as specified in the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development (Part C5.4 and M3.22).

13. A legal right of way shall be imposed in accordance with the approved scheme plan RMS220089 in favour of the relevant lots. The private right of way shall be endorsed in a memorandum on the survey plan and be duly granted or reserved.

14. Any redundant, damaged crossing, damaged footpath and berms are to be reinstated to standard kerb and channel, berm and footpaths in accordance with the Napier City Council Engineering Code of Practice for Subdivision and Land Development.

15. That prior to approval under section 224 of the Resource Management Act 1991, all new vehicle crossings must be designed and formed in accordance with the Napier City Council District Plan and the Code of Practice for Land Development and Subdivision Infrastructure

2022. The new crossing must maintain an at-grade (level) pedestrian footpath across the length of the crossing, using the same materials, kerbing, pavings, patterns and finish as the footpath on each side of the crossing.

16. Prior to s224 certification under the Resource Management Act 1991, the right of way shall be designed and constructed in accordance with the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure
17. Stormwater from the combined subdivision (Lots 1-16, and JOAL) shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council Code of Practice for Subdivision and Land Development and as per the Engineering Servicing Report prepared by Stantec, dated June 2023. The total stormwater runoff (impervious and pervious area) from the combined subdivision for a 10% AEP storm event and 10 minutes duration must not exceed 38 litres per second.
18. All stormwater is to be controlled in terms of the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure and E1 of the Building Code unless approved by a condition imposed on this consent.

There are new lots reliant on stormwater disposal to the roadside kerb and channel. The consent holder must design and construct a disposal point for stormwater runoff from the lot(s) in accordance with the council-approved engineering design and plan at engineering approval stage.

19. Prior to seeking s224(c) approval, a draft Operation and Maintenance manual shall be provided for any stormwater infrastructure on private land or vested with Council where it is beyond the standard gravity property connection.

Evidence shall be provided illustrating compliance with the above condition, including the below.

Within one calendar month of completion of the site works, a full Operation and Maintenance manual shall be prepared, submitted and accepted by the consent holder and Director of Infrastructure, Napier City Council. At a minimum, the manual shall include (but is not limited to):

- a. How the whole site and specific equipment/features are operated and maintained with respect to stormwater*
- b. Personal responsibilities, treatment methods and treatment requirements.*
- c. Mitigation of pollutants (gross soluble and suspended)*
- d. Locations of treatment and conveyance systems.*
- e. The maintenance schedule for the specific equipment/features.*
- f. The design parameters and limitations of the specific equipment/features.*
- g. The design calculations of the specific equipment/features.*

Wastewater

21. That prior to approval under section 224 of the Resource Management Act 1991, the consent holder must design and construct separate connections to the public sewer reticulation network to serve the new lots 1-16 in accordance with the Napier City Council and the Code of Practice for Land Development and Subdivision Infrastructure 2022 with no private wastewater pipes passing between one lot and another except through an easement.

Advice Note:

- *Alterations to the public sewer reticulation network require Engineering Plan Approval.*
- *Plans approved under Resource Consent do not constitute an Engineering Plan Approval and should not be used for the purposes of constructing public reticulation works in the absence of that approval*

Water Supply

22. The consent holder must design and construct connections to the public water reticulation network to serve new Lots 1-16 in accordance with the requirements of the Code of Practice for Land Development and Subdivision Infrastructure 2022. Each residential lot shall be provided with a separate water supply, with no private water supply pipes passing between one lot and another (except through an easement).

Advice note:

- *Alterations to the public water reticulation network require Engineering Plan Approval.*
- *Public water supply is required to ensure an acceptable water supply for each lot, including for fire-fighting purposes.*
- *Plans approved under Resource Consent do not constitute an Engineering Plan Approval and should not be used for the purposes of constructing public reticulation works in the absence of that approval.*

Environmental

23. Any earthworks should be meeting the requirements of the 'Erosion and Sediment Control Guide for Land Disturbing Activities for the Auckland Region' (GD 005) for construction.
24. All earthworks shall be managed to ensure that no debris, soil, silt, sediment or sediment-laden water is discharged beyond the subject site to either land, stormwater drainage systems, watercourses or receiving waters. In the event that a discharge occurs, works shall cease immediately and the discharge shall be mitigated or rectified to the satisfaction of the Team Leader Planning and Compliance.

As-Built Plans

25. As-built plans for the right of way, stormwater, wastewater and water supply shall be in accordance with the requirements of the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure (and any approved amendments) and submitted to the Consent Authority. The consent holder shall obtain certification of a complete and correct record by a registered and professionally qualified engineer.

Construction

26. Construction shall be undertaken in compliance with NZS 6803:1999 for Noise associated with Construction.
27. Construction shall be restricted to the hours of 7.30am and 6.00pm Monday to Friday and 7.30am to 12.00pm on Saturday only. No building work is to be undertaken on Sundays or Public Holidays.
28. Prior to commencement of works a construction management plan shall be submitted to and approved by the consent authority (Council's Traffic and Safety Engineer). All construction works

shall be carried out in accordance with the approved details. The construction management plan shall:

- a. Outline the procedures for keeping adjacent footpaths free of mud, debris and obstruction.
- b. Outline delivery procedures and times.
- c. Outline how parking in association with construction will be managed.
- d. Outline the nature and location of signage to be erected to warn pedestrians of the construction site and associated vehicles.
- e. Disruption to the management of the pedestrian linkage to the adjoining reserve, throughout the construction period.

Consent Notices

29. That pursuant to section 221 of the Resource Management Act 1991 that a consent notice be registered on the Record of Title of lots 1-16 advising that ;

1. Stormwater from Lot 1 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure. The total stormwater runoff (impervious and pervious area) from Lot-1 for a 10% AEP storm event and 10 minutes duration must not exceed 3.75 litres per second.

2. Stormwater from Lot 2 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure. The total stormwater runoff (impervious and pervious area) from Lot-2 for a 10% AEP storm event and 10 minutes duration must not exceed 2.22 litres per second.

3. Stormwater from Lot 3 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure. The total stormwater runoff (impervious and pervious area) from Lot-3 for a 10% AEP storm event and 10 minutes duration must not exceed 2.21 litres per second.

4. Stormwater from Lot 4 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure. The total stormwater runoff (impervious and pervious area) from Lot-4 for a 10% AEP storm event and 10 minutes duration must not exceed 2.91 litres per second.

5. Stormwater from Lot 5 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure. The total stormwater runoff (impervious and pervious area) from Lot-5 for a 10% AEP storm event and 10 minutes duration must not exceed 1.97 litres per second.

6. Stormwater from Lot 6 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure. The total stormwater runoff (impervious and pervious area) from Lot-6 for a 10% AEP storm event and 10 minutes duration must not exceed 2.24 litres per second.

7. Stormwater from Lot 7 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure. The total stormwater runoff (impervious and pervious area) from Lot-7 for a 10% AEP storm event and 10 minutes duration must not exceed 3.77 litres per second.

8. Stormwater from Lot 8 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure. The total stormwater runoff (impervious and pervious area) from Lot-8 for a 10% AEP storm event and 10 minutes duration must not exceed 1.90 litres per second.

9. Stormwater from Lot 9 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure. The total stormwater runoff (impervious and pervious area) from Lot-9 for a 10% AEP storm event and 10 minutes duration must not exceed 1.94 litres per second.

10. Stormwater from Lot 10 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure. The total stormwater runoff (impervious and pervious area) from Lot-10 for a 10% AEP storm event and 10 minutes duration must not exceed 1.94 litres per second.

11. Stormwater from Lot 11 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure. The total stormwater runoff (impervious and pervious area) from Lot-11 for a 10% AEP storm event and 10 minutes duration must not exceed 1.94 litres per second.

12. Stormwater from Lot 12 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure. The total stormwater runoff (impervious and pervious area) from Lot-12 for a 10% AEP storm event and 10 minutes duration must not exceed 1.94 litres per second.

13. Stormwater from Lot 13 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure. The total stormwater runoff (impervious and pervious area) from Lot-13 for a 10% AEP storm event and 10 minutes duration must not exceed 1.94 litres per second.

14. Stormwater from Lot 14 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure. The total stormwater runoff (impervious and pervious area) from Lot-14 for a 10% AEP storm event and 10 minutes duration must not exceed 3.49 litres per second.

15. Stormwater from Lot 15 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council District Plan and the Code of Practice for Subdivision and Land Development Infrastructure. The total stormwater runoff (impervious and pervious area) from Lot-15 for a 10% AEP storm event and 10 minutes duration must not exceed 2.01 litres per second.

16. Stormwater from Lot 16 shall be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council District Plan and the

Code of Practice for Subdivision and Land Development Infrastructure. The total stormwater runoff (impervious and pervious area) from Lot-16 for a 10% AEP storm event and 10 minutes duration must not exceed 1.83 litres per second.

17. Any habitable buildings erected on Lots 1-16 shall be subject to a minimum habitable floor level not lower than the following RL 2.10 metres, to the 2016 NZVD.

Advice Note: All land appears to be above the flood level so it appears that a section 73 notice will not be required unless they give us different surveyed ground levels that are different from our GIS.

30. Fencing covenants shall be created over Lots 8-16 to exempt Napier City Council from any contribution towards fencing that allotment, being the owner of the adjacent reserve. All covenants shall be prepared by the City nominated solicitor at the applicant's expense. Evidence of your instructions to the solicitor to prepare this covenant shall be provided at the time Section 224 application is made.

Specific Conditions- Land Use Consent

31. Any habitable buildings erected on Lots 1-16 shall be subject to a minimum habitable floor level not lower than the following RL 2.10 metres, to the 2016 NZVD.

Earthworks:

32. That prior to the commencement of any earthworks on the site, the consent holder shall submit an Erosion and Sediment Control Plan (ESCP) for certification by Council's Planning Team. All works undertaken onsite must be in accordance with the certified ESCP.
33. That prior to the commencement of any building work at the site, the consent holder must submit to Council compaction certification of any fill to the site from a suitably qualified and experienced person.
34. That hours of operation for any earthworks must be limited to 8am-5pm, Monday-Friday.
35. Earthworks must not generate adverse dust nuisance effects on any other person; site works must comply with section 2.5.6 of the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure 2022.
36. That all earthworks must be undertaken in general accordance with all relevant recommendations made within the Geotechnical Investigation by Geosciences dated 24 February 2022.
37. All soft landscaping shown on the approved landscaping plans within each lot shall be planted in the first planting season following Code of Compliance for each dwelling and shall be maintained in general accordance with the landscaping plans approved under Condition 1. Any dead or dying species shall be replaced within the following planting season.
38. All hard landscaping shall be constructed prior to the occupation of any dwelling and be maintained in general accordance with the landscaping plans approved under Condition 1.
39. All stormwater must be controlled at all times with the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure 2022 and E1 of the Building Code unless approved by a condition imposed on this consent.

40. Stormwater from the entire site must be controlled up to pre-development stormwater runoff and disposed to an approved system in accordance with the Napier City Council Code of Practice for Land Development and Subdivision Infrastructure 2022. The total stormwater runoff (impervious and pervious surface areas) from the entire site for a 10% AEP storm event and 10 minutes duration must not exceed 38 litres per second.
41. Any building consent application for development of the site must be accompanied with complete details of the proposed stormwater attenuation system with calculations to support and demonstrate compliance with condition (40) of this resource consent.
42. External roof and walls shall consist of the cladding type and colour scheme on the approved set of plans under condition (1) of RMS220089.

Specific conditions – NES-CS Consent

43. Prior to the commencement of earthworks activity, all measures required in accordance with the approved Remedial Action Plan (RAP) prepared by EAM NZ Ltd, dated April 2023, Reference - PROJECT: EAM 2395-REP-01 shall be put in place.
44. Within 3 months of the completion of earthworks on the site, a Site Validation Report (SVR) shall be provided to the Director Infrastructure. The SVR shall be prepared by a suitably qualified contaminated land professional.

Advice note:

The Site Validation Report (SVR) required by condition (44) should contain sufficient detail to address the following matters:

- a. a summary of the works undertaken, including a statement confirming whether the excavation of the site has been completed in accordance with the approved Assessment of Environmental Effects and Environmental Management Plan.*
 - b. a statement on compliance with the Remedial Action Plan during the works.*
 - c. the location and dimensions of the excavations carried out, including a relevant site plan*
and a summary of any testing undertaken copies of the disposal dockets for any material removed from the site.
 - d. records of any unexpected contamination encountered during the works, if applicable*
 - e. details regarding any complaints and/or breaches of the procedures set out in the RAP and the conditions of this consent.*
 - f. details of the validation sampling undertaken on materials re-used on site*
 - g. a description of additional monitoring undertaken (if applicable).*
45. The Director of Infrastructure shall be notified at least two (2) working days prior to works commencing in contaminated areas on the subject site.
 46. That the consent holder must ensure all contractors informed of the soil contamination prior to any works commencing on site and that the contractors must ensure they employ

all necessary measures to protect themselves from the risk to human health posed by the contaminants in the soil.

47. That the consent holder and all contractors must ensure necessary measures are employed to avoid the mobilisation of soil particles during remediation.
48. That any soil or earth removed from the site must be disposed of at an approved disposal facility that accepts contaminated material. The consent holder is responsible for appropriately advising the disposal facility that the material being disposed is contaminated.

Advice notes

1. *That the following procedures (Accidental Discovery Protocol) shall be followed in the event that Koiwi, archaeological features or Taonga are discovered or are suspected to have been unearthed during earthworks or construction phase of site development:*
 - a. *Earthworks should cease immediately in the vicinity of the discovery. It is important that any remains or artefacts are left undisturbed or in-situ once discovered. If it is unclear whether the find is Koiwi, archaeological features or Taonga, the consent holder shall consult a Heritage New Zealand Pouhere Taonga (HNZPT) archaeologist.*
 - b. *The site supervisor/consent holder/agent shall take steps immediately to secure the area so that Koiwi or Taonga remain untouched and site access is restricted.*
 - c. *The site supervisor/consent holder/agent shall ensure that consumption of food and/or drink and/or smoking in the immediate area of the discovery is restricted.*
 - d. *The site supervisor/consent holder/agent will notify the New Zealand Police (in the event of the discovery of Koiwi/skeletal remains only), Heritage New Zealand and*
 - i. *Ngāti Parau - Chad Tareha chadtareha24@gmail.com and/or*
 - ii. *Mana Ahuriri – Parris Greening parris@manaahuriritrust.com and/or*
 - iii. *Maungaharuru-Tangitū Trust – Lee Grace lee@tangoio.maori.nz and/or*
 - iv. *Te Taiwhenua o Te Whanganui a Orutu - Tania Eden taniaeden@xtra.co.nz*
 - e. *Activities on the site will remain on-hold until the Police (in the case of Koiwi), the Kaumatua (or other representative advised by the relevant Māori organisation) and Heritage New Zealand have given approval for works to recommence.*
 - f. *In the case of discovering Koiwi, site access should be restricted to all parties until Police are satisfied the remains are not of forensic relevance.*
 - g. *The site supervisor/consent holder/agent shall ensure that Kaumatua (or other representative advised by the relevant Māori organisation) have the opportunity to undertake Karakia or other cultural ceremonies and activities at the site as may be considered appropriate.*
 - h. *The consent holder shall ensure that no information regarding discoveries of Māori origin is released to the media except as authorised by the relevant Māori organisation/s.*

2. Any reference to number of days within this decision refers to working days as defined in s2 of the RMA.
3. For the purpose of compliance with the conditions of consent, “the council” refers to the council’s resource consents and compliance officers unless otherwise specified.
4. For more information on the resource consent process with Napier City Council see the council’s website: <https://www.napier.govt.nz/> . General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment’s website: <https://www.mfe.govt.nz/rma> .
5. If you disagree with any of the above conditions, and/or disagree with the additional charges relating to the processing of the application(s), you have a right of objection pursuant to sections 357A and/or 357B of the Resource Management Act 1991. Any objection must be made in writing to the council within 15 working days of your receipt of this decision (for s357A) or receipt of the council invoice (for s357B).
6. The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety at Work Act 2015), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.

Delegated decision maker:

Name: Luke Johnson

Title: Acting Manager Regulatory Solutions
City Strategy

Signed:



Date: 5 September 2023

Resource Consent Notice of Works Starting

Please email this form to planning@napier.govt.nz at least 5 days prior to work starting on your development.

Alternatively deliver to:

Customer Services Dunvegan House Ground Floor 215 Hastings Street Napier South
Or

Mail to:

Attention: Resource Consent Team

Private Bag 6010

Napier 4142

New Zealand

Site address:	
Resource consent number:	Associated building consent:
Expected start date of work:	Expected duration of work:

Primary contact	Name	Ph No.	Address	Email address
Owner				
Project manager				
Builder				
Earthmover				
Arborist				
Other (specify)				

Signature: Owner / Project Manager (indicate which)	Date:
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Once you have been contacted by the Resource Consent/Compliance Officer, all correspondence should be sent directly to them.

The council will review your property for start of works every three months from the date of issue of the resource consent and charge for the time spent. You can contact your Resource Consent/Compliance Officer on 06 835 7579 or via <https://www.napier.govt.nz/> to discuss a likely timetable of works before the inspection is carried out and to avoid incurring this cost.