

Job Ref: 18084

1 April 2022

Napier City Council  
Private Bag 6010  
Napier 4142

Attn: Luke Johnston

## **RM190053 | 107 CARLYLE STREET, NAPIER | OVERVIEW OF PROPOSAL FOLLOWING AMENDMENTS ARISING**

The application (RM190053) is to expand an existing car sales operation and to undertake associated earthworks on the site comprising 87, 93, 107 and 115 Carlyle Street and 29 and 31 Faraday Street, Napier.

Owing to part of the development occurring within the Napier Hill Character Zone and that the activity within the Fringe Commercial Zone is considered by Council to be defined as 'Comprehensive Commercial Development', the proposal overall falls to be classified as a Discretionary Activity under Rules 6.17(1)(c) and 17.11(1)(a) of the City of Napier District Plan.

The application was lodged at the beginning of April 2019 and included Development Plans, a Geotechnical report (**refer Attachment 1**) and a Visual Impact Assessment.

A request for further information was issued on 2 May 2019, and among other matters, sought engagement with Te Taiwhenua o Te Whanganui Orotu and Ngāti Pārau. In working through this item, it was resolved with the parties that a Cultural Impact Assessment would be prepared by Te Taiwhenua o Te Whanganui Orotu.

The request for further information was responded to in August 2020 (**refer Attachment 2**), with the Cultural Impact Assessment, confirming support for the proposal, being provided in September 2020 (**refer Attachment 3**).

Alongside this, RDCL was engaged by Council to undertake a peer review of the geotechnical design/report prepared by Cheal. This commenced mid-2019, with a site visit being undertaken by the Peer Reviewer (Cam Wylie) and the Applicants geotechnical engineer (Ian Jennings, Cheal) on 25 September 2019.

Although no written feedback was provided by the Peer Reviewer at that time, Cheal responded to matters raised verbally in an Addendum dated 21 June 2021 (**refer Attachment 4**).



RDCL provided its peer review in a letter dated 25 July 2021 (**refer Attachment 5**). While it was stated that 'the proposed excavation is likely possible', further detail to substantiate the assessments was recommended together with the use of different ground support techniques.

A further assessment to respond to the matters raised was prepared by Cheal and provided to RDCL on 21 September 2021 (**refer Attachment 6**). Upon reviewing this, RDCL confirmed that the proposed work would provide sufficient protection for the work to proceed (from a geotechnical perspective), but requested an integrated plan of the final proposed ground support to be provided. This was subsequently provided on 1 October 2021 (**refer Attachment 7**) after which RDCL confirmed in a letter dated 8 November 2021 that the information provided meets the requirements to confirm the suitability of the proposal from a geotechnical perspective (**refer Attachment 8**).

Alongside the peer review pertaining to geotechnical matters, the applicant moved to Design Group Stapleton Elliot to refine the design of the workshop as viewed from Faraday Street and to undertake a more comprehensive Visual Impact Assessment. The updates and Visual Impact Assessment were provided to Council in an email dated 19 April 2021 (**refer Attachment 9**). Upon receipt, Council engaged Development Nous to undertake a Peer Review of these designs and the Visual Impact Assessment. This commenced in May 2021 with the Peer Review report being issued in June 2021 (**refer Attachment 10**).

The Peer Review report raised a number of matters and further questions/points of clarification were made in an email dated 2 July 2021 (**refer Attachment 11**).

A meeting was held with the Planners and Landscape Architects involved on Friday 15 October 2021 to discuss the outstanding matters. These were recorded in an email dated 18 October 2021 (**refer Attachment 12**), with a response around these matters being provided in an email dated 21 January 2022 (**refer Attachment 13**).

This was provided to Development Nous, and through an email dated 4 February 2022, asked further points of clarification (**refer Attachment 14**). A response to these matters was provided on 2 March 2022 (**refer Attachment 14**).

The Peer Reviewer provided feedback to the Council on 8 March 2022 (**refer Attachment 15**). While it was confirmed that utilisation of the Commercial Zoning for the activity was appropriate from an amenity and visual perspective, the main area of contention seemed to be around the time it will take for the vegetation to establish on the cut profile, and the influence of this matter on the decision around the scale of temporary effects and the 'flow on' of this decision on the notification decision. In response, we provided confirmation (**refer Attachment 15**) from Ever Green Landcare that:

- Hydro seeding is a feasible solution,
- The proposal is quite standard in this regard,
- It is reasonable to expect the seed to start striking after 2 weeks.

Noting the following, it is the scale of temporary visual effects, while vegetation establishes, that appears to be the final matter contention:

1. The Geotechnical peer review has confirmed suitability of the earthworks,



2. Traffic, lighting and noise effects have been considered/requests for further information satisfied and effects found to be less than minor – if not positive compared the existing environment,
3. A Cultural Impact Assessment has been completed not opposing the proposal.

The following provides an overview of the application as amended by the various works outlined above together with summary assessments (environmental effects and policy assessment) and our views on notification. These views take account of the matters raised by the Peer Reviewers as part of distilling the matters to undertake the necessary planning assessments.

## 1. Site and Context

### Site

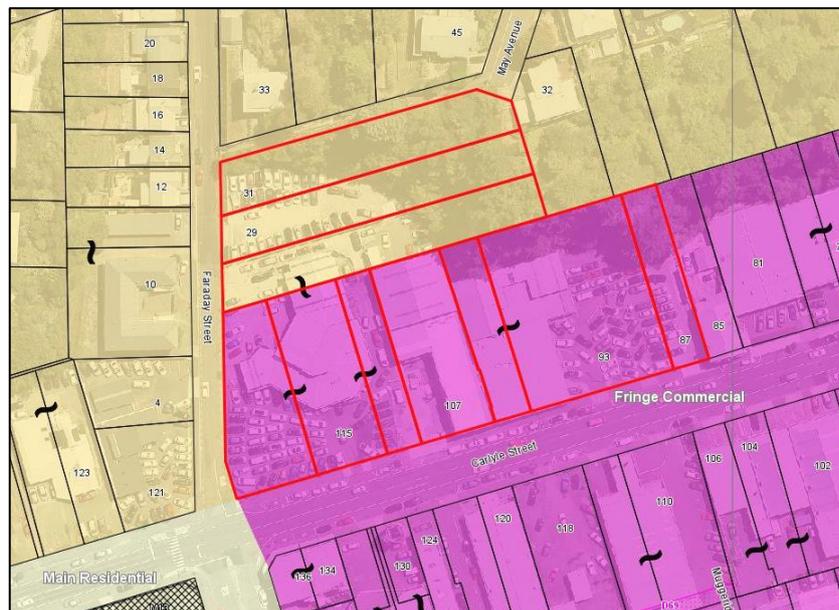
- The site comprises 87, 93, 107 and 115 Carlyle Street and 29 and 31 Faraday Street, Napier, as shown in **Figure 1** below, and has a total area of 6,158m<sup>2</sup>.
- As shown in **Figure 2**, the sites along Carlyle Street are located within the Fringe Commercial Zone and those along Faraday Street within the Napier Hill Character Zone.
- According to the Napier City Council GIS, all sites are recorded as being within an area of Napier that was occupied prior to 1900.
- The sites comprise a suite of car dealerships operating as different brands under an integrated operating model.
- The existing dealership configuration is the result of a number of resource consents and building consents being obtained over the years and was until 2004 retained within the Fringe Commercial Zone along Carlyle Street.
- Upon purchasing 27 Faraday Street, within the Napier Hill Character Zone, the workshop was extended onto this site under Resource Consent RM040171.

**Figure 1:** Subject Site





**Figure 2:** District Plan

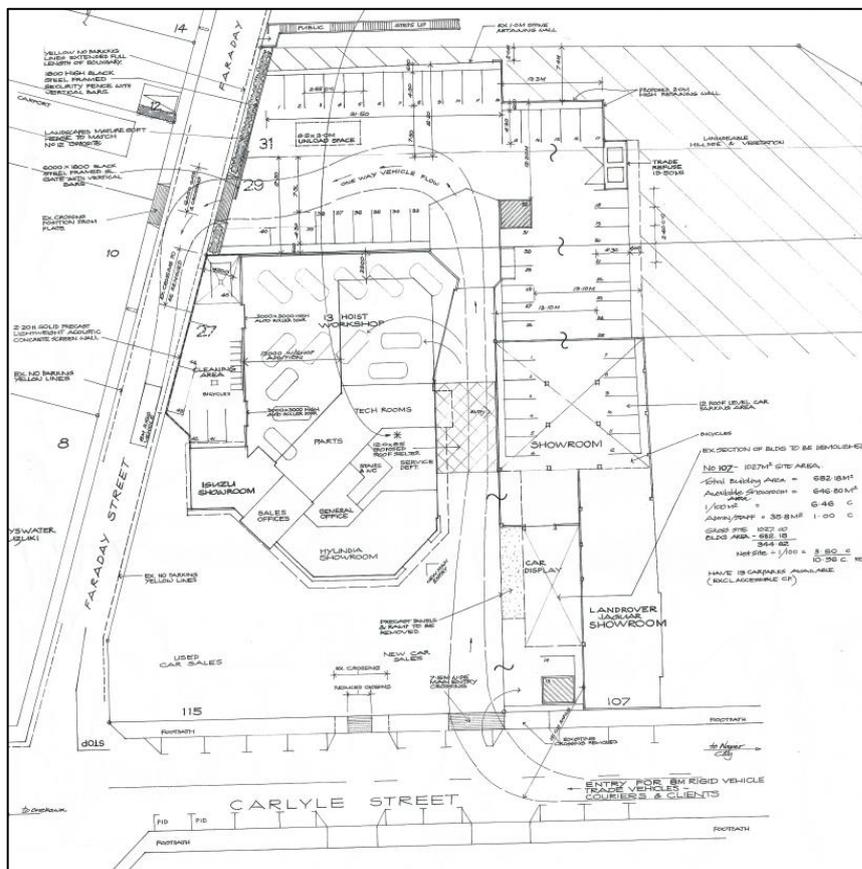


### **Resource Consent RM150135**

- Resource Consent RM150135 was later granted on 16 June 2016 to redevelop the dealership and to expand it onto 29 and 31 Faraday Street. In summary, the redevelopment involved:
  - Forming a new car parking area and trade refuse storage on 29 and 31 Faraday Street zoned Napier Hill Character,
  - Extending the existing workshop onto 27 Faraday Street zoned Napier Hill Character,
  - Reconfiguring the vehicle crossings to suit the new internal access and on-site manoeuvring on both Faraday Street and Carlyle Street,
  - Installing a 2.2m high acoustic wall and landscaping along Faraday Street,
  - Altering the existing building on 107 Carlyle Street to create a new showroom and to install new signage.



**Figure 3:** Resource Consent RM150135



- The principal issues of contention were noise generated from the proposed redevelopment, including hours of operation, and traffic effects on Faraday Street.
- Noise was raised as an issue by the owner of 10 Faraday Street opposite, which contained a number of residential flats. Expert evidence that the facility would not result in unreasonable noise effects on the environment, provided all recommended noise control measures as set out in the associated noise impact report were in place, including the acoustic fence along Faraday Street, was accepted, however. Hours of operation were also limited to:
  - Monday to Friday 7.00am to 7.00pm
  - Saturday 7.00am to 5.30pm
  - Sunday 8.00am to 5.00pm
- Nevertheless, a condition was imposed to essentially require compliance with the Permitted Activity noise levels in the District Plan and for an Acoustic Design Certificate (ADC) to be prepared by a suitably qualified and experienced acoustic engineer and provided to the Council to confirm this.
- A similar approach was taken with lighting, and a condition was imposed to require a lighting plan layout and written confirmation to be provided to Council to confirm compliance with the light spill conditions for a Permitted Activity within the Napier Hill Character Zone.
- A Delivery Plan was also required to be prepared by the consent holder and provided to all delivery companies outlining the delivery times (restricted to operating hours as above), the access points for entry and exit, and that when on site that deliveries be conducted in a manner to minimise noise and disruption to the neighbourhood.



- In terms of traffic, and while site layout had been carefully considered to better manage traffic i.e. a one-way system with customers entering from Carlyle Street and exiting onto Faraday Street, it was accepted that the proposed redevelopment would increase vehicle movements associated with the moving of vehicles between the workshop and dealership area onto Faraday Street.
- Expert evidence was provided in relation to this matter and on the basis of the developments new traffic distribution, vehicle movements were in fact expected to remain at or near their current levels, and it was confirmed that Faraday Street was able to safely and effectively accommodate the predicted volume. Although these views were accepted by Councils Transportation Engineer, the owner of 10 Faraday Street held a contrary view.
- To resolve the matter, it was agreed that yellow no parking lines be painted on both sides of Faraday Street, that a Traffic Management Plan be submitted as a condition of consent to manage effects from vehicle transporters, and that internal signage be constructed on the site to show directional flow of vehicles, with the vision of minimising vehicle movements onto Faraday Street.
- In terms of loading, given the existing site configuration and lack of any real opportunity to accommodate loading on-site, a condition was imposed to locate the loading/unloading of vehicles to points on Faraday Street located between Carlyle and Thackeray Streets. The same conditions required a Traffic Management Plan (TMP) to be prepared by a recognised Site Traffic Management Supervisor (STMS) to the satisfaction of Council to facilitate this.

#### **Existing Slope Backdrop**

- The existing slope is characterized by evidence of previous slips and exotic species including pines.
- Vegetation removal is not regulated under the District Plan i.e. the existing vegetation can be removed without the need for a resource consent.

## **2. Details of the Proposal**

- Although some aspects of Resource Consent RM150135 have been completed, the consent holder has undertaken a review of the needs of the broader operation and has developed a longer-term plan - with the aim of better servicing the operation and reducing its use or reliance on Faraday Street.

#### **General Approach**

- In developing the proposal and preparing this application, guidance has been taken from the outcomes of RM150135 to the effect that this application seeks to simply adopt conditions to achieve the same outcomes in relation to noise and light spill - in that District Plan levels will be met. It was therefore not considered necessary for an Acoustic or Lighting Assessment to be prepared.
- Secondly, and on the basis that the new layout will significantly reduce vehicle movements onto Faraday Street and that loading will continue to occur as it is currently consented, it was not considered necessary for a Traffic Impact Assessment to be prepared. This was accepted by Dave Curson through the Section 92 request for further information.
- Conditions around these matters to ensure effects will be less than minor and to achieve the same outcomes as provided for under RM150135 were outlined and expanded upon in Section 7 of the application document in relation to effects on the environment. In this



regard, the existing consent, and associated conditions, form the existing environment against which the effects of the proposed re-designed layout are to be assessed.

### **Overview of Proposal and Operation**

- In summary, the proposal seeks to expand and redevelop the existing car dealership in stages across its existing sites involving:
  - (1) Undertaking earthworks to avail a sufficiently sized building platform to construct a large enough workshop on 29 and 30 Faraday Street to service the various car brands with first level car parking on top,
  - (2) Construction of a new showroom on 115 Carlyle Street and 27 Faraday Street, also comprising a valet area and first level administration area,
  - (3) Further development of the one-way customer service layout with a porte-cochère feature and a customer service reception and client drop off/pick up to each side,
  - (4) Establishment of customer car parking on 93 Carlyle Street and an internal pedestrian walkway,
  - (5) Construction of a new showroom to contain the Mini and BMW brands on 87 Carlyle Street,
  - (6) Establishment of new signage across the development site.
- Stage 1 is anticipated to involve the proposed earthworks, Stage 2 construction of the workshop, Stage 3 demolition of the existing showroom (on the corner site) and construction of the new showroom, and Stage 4, the demolition of the showroom on 93 Carlyle Street and construction of the new showrooms.
- The design of the Faraday Street façade of workshop has been refined to represent a more 'residential' built form (gables and pitched roofs) along with appropriate screening, fencing, and planting to better address the streetscape/residential interface. Development Plans are provided in **Attachment 16**. The following condition is suggested:

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  - The development shall be undertaken in general accordance with the plans prepared by ADA Designers labelled Aug 2018, 4315, SK3A - G with amendments made to the Faraday Street façade of the workshop according to the Plan labelled Faraday Elevation,9/04/21, A2.

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- The existing vehicle crossings on Carlyle Street will be retained, with only one crossing remaining off Faraday Street for operational purposes.
- To this effect, all customers will enter and exit via Carlyle Street. Owing to the parking facility on the roof of the workshop, the movement of vehicles between the workshop and sales areas will be completely internalised in comparison to the existing and consented situation where Faraday Street is used to access car parking towards the rear.
- Loading and unloading will continue to occur from Faraday Street between Carlyle and Thackeray Streets under a Traffic Management Plan as provided for under RM150135. The following condition (adopted from RM150135) is proposed in this respect:

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  - A Traffic Management Plan (TMP) shall be prepared by a recognised Site Traffic Management Supervisor (STMS) to the satisfaction of Council's Road Asset Manager to address the unloading/loading of vehicles on transporters within Faraday Street. The area where this can take place is limited to Faraday Street between Carlyle and Thackeray Streets only.

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- In terms of on-site car parking, the District Plan contains different car parking requirements for different types of activities. In this case, the car parking requirements pertaining to car sales



yards, industrial activities (for the workshop and servicing areas) and offices (for the first-floor administration area of the main showroom) are applicable.

- The sales administration areas in association with the showrooms and service/reception areas associated with the workshop are considered to fall under the 'car sales yard' and 'industrial activity' demand ratios as outlined above respectively.
- An analysis of the car parking requirement of the District Plan versus the car parking provided is outlined in **Table 1** below. Some car parks associated with the workshop will be 'truck and trailer'.
- No issues in relation to on-site car parking have been raised.

**Table 1:** Car parking

	District Plan Demand Ratios			Total
	For Car Sale Yards - 1 park per 100m <sup>2</sup> of indoor and outdoor GFA	For Industrial Activities (workshop) - 1 park per 100m <sup>2</sup> GFA	For offices (first floor administration area) - 1 park per 50m <sup>2</sup> GFA	
<b>Required</b>	2,455m <sup>2</sup> (indoor) / 100 = 25 + 3,430m <sup>2</sup> (outdoor) / 100 = 34 = 59 total	1,563m <sup>2</sup> / 100 = 16	338m <sup>2</sup> / 50m <sup>2</sup> = 7	82
<b>Proposed</b>				<b>102</b>

- Hours of operation are proposed to remain as per RM150135, being
  - Monday to Friday 7.00am to 7.00pm
  - Saturday 7.00am to 5.30pm
  - Sunday 8.00am to 5.00pm

Any activities undertaken on the site outside of these hours will be undertaken inside the buildings and with all roller doors facing Faraday Street closed.

- Similarly, the proposal seeks to manage noise and light spill in accordance with the outcomes and methodologies approved under RM150135. The following conditions (adopted from RM150135) are proposed in this respect:
 

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  - An Acoustic Design Certificate (ADC) shall be prepared by a suitably qualified and experienced acoustic engineer and provide to the Council at the time of Building Consent to confirm compliance with the standards of 17.17 and 6.27 of the City of Napier District Plan as provided in Schedule xx [to be attached to the consent document]. The ADC shall outline all mitigation involved in achieving this.
  - A lighting Plan shall be prepared, and confirmation of it complying with the standards in 17.18 and 6.28 of the City of Napier District Plan as provided in Schedule xx [to be attached to the consent document] shall be provided to the Council by a suitably qualified person at the time of building consent.

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### **Earthworks and Construction**

- Approximately 24,000m<sup>3</sup> of earthworks will be undertaken to create a building platform to accommodate the new workshop to the rear.
- The extent of earthworks were originally shown on the Plans provided in associated with the Cut Slope Design Report prepared by Cheal, provided in Appendix 3 of the original application. The design has however been refined through the peer review processes and is now based on the information provided in **Attachment 17**. In summary, the proposed earthworks will involve:



- The maximum height of the proposed cut profile is expected to be 30m (approx.),
- Cut volume is expected to be in order of 22,500m<sup>3</sup>,
- The cut profile has been designed to a batter of 0.25H:1.0V,
- The profile will include 2 separate benches to enable plantings to be established. The first will be at approximately 18m high and the second approximately 26m high.
- The width of each bench will be approximately 1.125m wide.
- In accordance with the Landscape Plans provided in **Attachment 18**, the cut face will be hydro seeded with climbers and ground cover shrubs planted on the benches and at the top of the slope.
- The planting palette has been chosen by DGSE taking the site conditions into account. The selected species have 'hardy tolerant capacities', and it is DGSE's expectation that little to no maintenance should be required. A period of 24 months for replacement of any failed planting is nevertheless recommended.
- In regard to hydro seeding, Evergreen Landcare has advised:
  - Hydro seeding is a feasible solution,
  - That the proposal is quite standard in this regard,
  - It is reasonable to expect the seed to start striking after 2 weeks.
- 5m - 8m long anchors spaced on a 2m grid spanning the lower portion of the slope (subject to detailed design) will be installed as ground support.
- Approximately 800m<sup>3</sup> of fill with a maximum depth of 1.5m (approx.) will be established towards the rear of the site to accommodate the workshop (primarily).
- Noting the need for detailed design, the following conditions (or similar) are proposed:

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  - Detailed design of the finished slope (as influenced by (d) – (f)), ground support solutions and landscaping solutions shall be undertaken in an integrated manner by a chartered professional engineer (CPEng) and Landscape Architect according to the following Plans:
    - a) Bayswater Vehicles Sales Court Plan, Proposed Development, Final Site layout Plan, Drawing No. 17367-101, Rev C
    - b) Bayswater Vehicles Sales Court Plan, Proposed Development, Cross Sections 1 & 2, Drawing No. 17367-102, Rev C
    - c) Bayswater Vehicles Sales Court Plan, Proposed Development, Cross Sections 3 & 4, Drawing No. 17367-103, Rev C
    - d) DGSE, Landscape Plan, L100
    - e) DGSE, Landscape Planting Plan, L101
    - f) DGSE, Slope Face Sections, L200
  - The design shall:
    - a) ensure slope stability during construction and for the asset life
    - b) meet the requirements of Safety at Work Act (2015)
    - c) include due consideration of Safety in Design principles
    - d) include a robust risk assessment
    - e) meet the criteria for static (1.5) and earthquake (1.2) final factors of safety
    - f) allow a suitable depth of soil to be established and retained on the benches to allow plant establishment and growth

**Advice Note:** Input may be required from a Landscape Architect

  - The design shall be provided to Council for peer review (by a chartered professional engineer (CPEng) with specific experience in design and risk assessment of cut slopes



and specification and installation of ground support and stabilisation) prior to earthworks commencing.

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- The duration of the earthworks is expected to be in the order of 12 weeks. The following conditions are proposed in relation to construction management and reinstatement. While existing vegetation is able to be removed without the need for resource consent / any regulatory approval/overview, the following conditions include the requirement for a Vegetation Removal Plan:

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- The consent holder shall give Napier City Councils Team Leader Resource Consents at least five (5) working days notice of the commencement of each stage of works authorised by this consent and on completion of the works.
  - Prior to commencing each stage of works, the consent holder shall submit to the Napier City Councils Environmental Solutions Manager a Construction Management Plan, for that stage, that as a minimum:
    - Outlines the procedures for keeping adjacent footpaths, roads free of mud, debris and obstruction
    - Outlines how parking associated with construction will be managed
    - Outlines the nature and location of signage to be erected to warn pedestrians of the construction site and associated construction vehicles
    - Outlines the mechanisms used to control dust
    - Outlines the mechanisms used to control water born sediment during and after construction.

The Construction Management Plan Stage shall also include a Vegetation Removal Plan that:

- Outlines the methodology of works
  - Outlines anticipated time frames
  - Focuses on managing safety risks
  - Focuses on managing effects on the roading network
  - The best possible means shall be employed to ensure that windblown dust and soil and associated wind erosion is minimised, and that adequate drainage and silt control is in place during and following the earthworks to avoid, remedy or mitigate any adverse environmental effects.
  - The consent holder shall implement suitable measures to prevent earth being deposited on public roads. In the event that the materials is deposited on the road, the consent holder shall take immediate action at their own expense to clean the street. The measures shall remain in place until completion of work.
  - The works are to be supervised and monitored by a suitably qualified Chartered Professional Engineer. Certification shall be provided to Councils Team Leader Resource Consents from the engineer in the form of a Statement of Professional Opinion to verify compliance with the intended use and that the works in accordance with the approved plans.
  - Any damage to footpaths, kerbs or berms due to earthworks shall be repaired in accordance with the Napier City Council standards at the applicants expense within one month of the damage occurring.
  - Construction hours shall be restricted to 7:30am to 6:00pm Monday to Friday and 7:30am to 12:00pm Saturday only. No building work is to be undertaken on Sundays and Public Holidays.
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- Written confirmation was provided by EAM as part of the previous consenting process that the proposal and 'piece of land' did not require further investigation under the NES. Given the broader extent of the site subject to this application however, and in the absence of a PSI at this point in time, the following condition framework is proposed to provide for the outcomes sought by the NES. This approach is considered appropriate given the difficulty in undertaking the necessary assessments with existing hardstand and buildings in place. It is proposed that this overall assessment is be able to be undertaken in stages according to the building development within different areas of the site.

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- a) A Preliminary Site Investigation (PSI), and if necessary a Detailed Site Investigation (DSI) that meets the requirements of the NESCS for Assessing and Managing Contaminants in Soil to Protect Human Health shall be undertaken by a suitably qualified and experienced practitioner (SQEP) over the area of proposed soils disturbance/occupation for and shall be provided to the Council prior to commencement.
  - b) Testing and reporting shall be undertaken in accordance with MFE 2011 Contaminated Land Management Guidelines No.5 Site Investigation and Analysis of Soil. The assessment report(s) shall be provided to the Council for certification and shall contain details of how any land will be either remediated to comply with the relevant SCS<sub>(health)</sub> limits for its end use purpose, or how the removal of any contaminated earth offsite to a suitably authorised facility will be managed.
  - c) A validation report shall be provided to the Hastings District Council confirming that any area remediated has been remediated to comply with the relevant SCS<sub>(health)</sub> limits, or that any site management/mitigation measures have been adequately employed.  
To avoid doubt, the validation process will require testing to be undertaken by a SQEP in accordance with MFE 2011 Contaminated Land Management Guidelines No.5 Site Investigation and Analysis of Soil.
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### 3. District Plan Context

- The development site traverses the boundary of the Fringe Commercial and Napier Hill Character Zones. The proposal is therefore subject to both Chapters 7 and 17 of the District Plan. Chapters 52A and 61 pertaining to Earthworks and Transport are also relevant.
- The proposal is largely provided for within the Fringe Commercial Zone of the site.
- RM150135 has already allowed a commercial use of the residentially zoned sites, and these sites are now very much part of the Fringe Commercial 'environment'. This separates this land from the generality of characteristics associated with Residential Zones, and indeed, it is considered that the site and surrounding environment is less sensitive to non-residential uses being established than in a typical residential neighbourhood.
- Policy 52A.3.5 directs the Council to allow earthworks where the adverse effects on the environment will be minor. This is very a clear and highly directive policy.
- The proposal overall is to be assessed as a Discretionary Activity under the District Plan and Clause 11 of the NESCS.



#### 4. Assessment of Effects

- The activity primarily involves the expansion of a car sales yard on a development site traversing the boundary of two zones and associated earthworks.
- Within the Fringe Commercial Zone, the proposal is classified as a Comprehensive Commercial Development and is subject to the assessment Criteria in Chapter 20.3(2).
- The same activity within the Napier Hill Character Zone is classified as a Non-residential Activity and is subject to Assessment Criteria in Chapter 12.3(1).
- There are a number of specific infringements occurring within each Zone.
- The proposed earthworks are subject to the Assessment Criteria in Chapter 52A.21.
- The legally established environment under Resource Consent RM150135 should also be considered.
- Key findings over the course of the process include:

##### Built Development

- Development over the Fringe Commercial extent of the site is consistent with that anticipated for the Zone. The Peer Reviewer has stated *'the proposed redevelopment within the Commercial Fringe Zone is appropriate to the site zoning and statutory framework. The built form is in keeping with the existing bulk, scale, character, and language of the existing land use within the lots zoned commercial and the expectations for development within that zone'* (Landscape Peer Review 21 June 2021, page 9),
- RM150135 has already authorised the expansion of the operation onto 27, 29 and 31 Faraday Street (within the Napier Hill Character Zone), and owing to the proposal essentially internalising activities, the intensity of the proposed use compared the consented use in respect to effects on the residential environment on Faraday Street is expected to be less.
- The Faraday Street façade of the workshop (within the Napier Hill Character Zone) has been refined to represent a more 'residential' built form (gables and pitched roofs) along with appropriate screening, fencing, and planting. The Peer Reviewer has stated *'the workshop elevations and renderings have been well considered in terms of offering a façade that presents a similar character to the existing style and era of buildings on Faraday Street. This has been done through the incorporation of gabled and pitched roof form, weatherboard cladding and building articulation that helps to integrate the building into the residential character and grain. The building has also been set back appropriately from the road boundary interface and allocated street planting and residential style fencing to further soften the built form into the landscape. The building also has the benefit of orientation; the bulk of the workshop will be concealed longitudinally along the toe of the cut cliff face.'* (Landscape Peer Review 21 June 2021, page 9).
- There will be no shading effects on adjoining sites, while the height in relation to boundary infringement along Faraday Street is minor and not of a scale to dominate or shade the road reserve.
- There will be no issues in relation to the privacy of adjacent sites.
- Conditions are proposed to ensure compliance with District Plan noise limits. This is the exact same approach applied to RM150135.



- Conditions are proposed to ensure compliance with District Plan light spill limits. This is the exact same approach applied to RM150135.
- The effects of the proposed built development and associated operation are considered to be less than minor.

#### Traffic

- The purpose of the proposal is to reduce the effects of the operation of the roading networks – which had nevertheless been assessed via a Traffic Impact Assessment and the RM150135 auditing process to be acceptable, thus effects associated with traffic compared the existing environment baseline are positive,
- There will be a reduction in access to and from Faraday Street, and therefore less use of the Faraday Street/Carlyle Street intersection arising from the operation,
- There will be no change in loading procedures,
- Greater capacity to store vehicles associated the service and maintenance aspects of the operation on the roof of the new workshop together with improved drop-off/pick-up facilities is anticipated to reduce on-street car parking,
- There will be a reduction in the number of vehicle crossings thereby simplifying the relationship of the various sites with the roads.
- As outlined in the S92 response, with the benefit of a site visit, Mr Curson confirmed that a Traffic Impact Assessment was not required.
- Traffic effects are considered to be less than minor.

#### Earthworks Stability

- The Peer Reviewer (RDCL) has confirmed in a letter dated 8 November 2021 that the information provided meets the requirements to confirm the suitability of the proposal from a geotechnical perspective.
- Conditions to inform detailed design have been proposed.

#### Cultural Values

- A Cultural Impact Assessment, confirming support for the proposal, has been undertaken by Te Taiwhenua o Te Whanganui Orotu.

#### Construction Effects

- Construction activities are a function of reality when developing urban environments and associated facilities. Nuisance effects still need to be managed however, and in this regard:
  - Hours of operation will be limited to daytime/working hours, being 7.30am-6.00pm Monday-Saturday.
  - Construction activity will be undertaken in accordance with the New Zealand Standard NZS 6803:1999 “Acoustics – Construction Noise”.
  - A Vegetation Removal Plan, Traffic Management Plan and Construction Management Plan will be provided in accordance with conditions of consent.
- Works will be undertaken subject to either an Accidental Discovery Protocol or an Authority.
- As outlined in the S92 response, Mr Curson confirmed that the proposed condition around construction management is an acceptable approach for ensuring that overall, effects with regard to construction can be managed to be less than minor.



- In conjunction with the temporary duration of such effects, these initiatives will ensure that overall, effects with regard to construction will be less than minor.
- Approaches around soil contamination are proposed to ensure the outcomes of the NESCS.
- The visual effects of the proposed earthworks, including the visual appearance of the cut while plantings establish, appears to be the primary matter of contention. Here we note:
  - The site is not identified as an Outstanding or Significant Natural Landscape.
  - Vegetation removal is not regulated under the District Plan i.e. the existing vegetation can be removed without the need for a resource consent.
  - Publicly accessible views of the proposal and proposed earthworks have been identified by DGSE. These viewpoints have been assessed and based on the distance, existing buildings, and site character, visual impact effects are considered to be low as vegetation establishes.
  - This conclusion refers to the establishment of vegetation. In reviewing this assessment, and while there has been a quantum of correspondence on the matter, the Peer Reviewer has essentially raised questions around:
    - Will the planting be successful?
    - How long this will take, and what is the scale of effects in the interim?
  - The second point is essentially an assessment of the nature, scale and duration of 'temporary effects'.
  - Each is considered below.

#### Will the Planting be Successful?

- As outlined above, the cut face will be hydro seeded with climbers and ground cover shrubs planted on the benches and at the top of the slope.
- Again, while there has been a quantum of correspondence, the Peer Reviewer has essentially raised questions around:
  - The ability for the necessary plant medium/bench solutions to be accommodated from a geotechnical perspective, and implications on drainage,
  - The likelihood of plants establishing,
  - Maintenance.
- In terms of geotechnical and drainage matters, benches with landscaping have always been part of the cut profile concept from an initial feasibility perspective, and a feature anticipated to be developed through detailed design. Conditions have been proposed to provide for an integrated approach between the geotechnical engineer and landscape architect in this regard.
- Regarding the likelihood of plants establishing, DGSE has selected a planting palette comprising species that have 'hardy tolerant capacities' in respect to site conditions. That said, a period of 24 months for replacement of any failed planting is recommended, which is a relatively standard approach.
- In regard to the hydro seeding aspects of the reinstatement solution, Evergreen Landcare has advised:
  - Hydro seeding is a feasible solution,
  - The proposal is quite standard in this regard,
  - It is reasonable to expect the seed to start striking after 2 weeks.



- As for maintenance, the species selected have been chosen so as to avoid the need for maintenance in the first instance, and for the slope to go on to establish naturally.

#### Temporary Effects - visual appearance of the cut while plantings establish

- While temporary effects fall within the definition of an effect, it is stated in the Assessment Criteria pertaining to earthworks that 'permanent effects will be given more weight than temporary effects'. This seems appropriate with construction activities given there is an inherent establishment period. Nevertheless, Evergreen Landcare has again advised:
  - Hydro seeding is a feasible solution,
  - The proposal is quite standard in this regard,
  - It is reasonable to expect the seed to start striking after 2 weeks.
- We also note that while the time it may take for landscaping to establish to screen a building for example has been taken into account in assessing the effects of other proposals, the issue of establishment in this case does not apply to the screening of something that may result in an adverse effect, rather something that is very much related to the completion of construction / construction reinstatement – noting that vegetation removal is not regulated under the District Plan and that all vegetation could be removed from the slope concerned in any case – and not reinstated.
- Based on the above, the concept need not be considered unique, and the time required to establish plantings in keeping with the inevitabilities of construction projects. Pair this with the direction in the District Plan that the time it may take for planting to establish (i.e. temporary effects) is to be given less weight in the first instance, and the scale of temporary effects can be considered less than minor.

## 5. Policy Assessment

### **Fringe Commercial Zone**

- The proposal is consistent with Objective 14.2 in that enables the continued use and development of an existing commercial activity while ensuring the adverse effects on nearby land uses are avoided, remedied, or mitigated. The Peer Reviewer has stated '*the proposed redevelopment within the Commercial Fringe Zone is appropriate to the site zoning and statutory framework. The built form is in keeping with the existing bulk, scale, character, and language of the existing land use within the lots zoned commercial and the expectations for development within that zone*' (Landscape Peer Review 21 June 2021, page 9),
- The proposal is consistent with Policies 14.2.1 and 14.2.3, which is to ensure that the effects of noise generated within the zone do not extend beyond the zone boundary and to avoid, remedy or mitigate the effects of light spill beyond the zone boundary, in that conditions are proposed to ensure compliance with District Plan standards.
- Although Policy 14.2.5 is to identify distinct commercial zones within the City, the operation already extends onto residentially zoned sites.
- Providing for the improved use of the site recognises existing investment, which is consistent with the second component of Policy 14.2.5.
- Policy 14.2.6 is to ensure that future development is of a scale and height that will not have adverse effects on access to sunlight or the amenity values of the surrounding environment. The minor height infringements associated with the proposal are not of a nature or scale to



compromise this Policy, or Policy 14.3.1, which is to avoid, remedy or mitigate the shading effects of new development on adjacent buildings, pavements, pedestrian areas, reserves and roads, and to maintain a scale of built environment that is appropriate to the surrounding area.

- When considered across the site, the scale of signage is not inconsistent with the character of Carlyle Street in terms of Policy 14.3.2, which is to avoid, remedy, or mitigate the adverse effects of signs on the character and visual amenity of commercial areas.
- Policy 14.3.3 seeks to ensure visual effects of development are avoided, remedied or mitigated by requiring landscaping where practicable and appropriate. This applies to the commercial zoned extent of the site. Based on the findings of the Peer Reviewer referred to in regard to Objective 14.2, no specific mitigation in this regard is necessary. Landscaping solutions applied to matters elsewhere on the site have been explained above and are referred to below.
- Pedestrian connectivity will be provided through the site as encouraged by the theme of Policy 14.3.4.
- The application is consistent with Objective 14.4 and Policy 14.4.2, which seek to maintain compact and efficient commercial areas and to encourage infill and consolidation in that the proposal aims to optimise the utility of the existing site, which already includes those on Faraday Street.
- Considerably more car parking will be provided on-site in line with Policies 14.4.3 and 14.4.5, which seek to manage the effects of vehicle parking in the commercial areas and commercial activities adjacent to arterial roads.
- Acknowledging that the extent of earthworks is an appropriate trade off to enable the positive effects of the proposal in terms internalising its operations and reducing its reliance on Faraday Street gives regard to Policy 14.4.4, which is to recognise commercial centres as an important physical resource,
- Objective 14.9 seeks to provide for large format retail development that will complement and enhance the established retail environment and does not compete for industrially zoned land. The proposal is consistent with the thrust of this policy as its redevelopment and optimization will contribute to an existing commercial area and also avoid the need for the operation to compete with other larger land holdings in other zones, which more likely than not would only be found within non-commercial zones,

### **Napier Hill Character Zone**

- Although technically zoned residential, the bulk and location of the workshop is not inappropriate in the context of the commercial fringe character of the receiving environment in terms of Objective 4.4 and Policy 4.4.2(a).
- The proposal will enable improved residential amenity values in terms of Objective 4.5 through removing the unformed vehicle storage area on 29 and 31 Faraday Street and establishing a building with a façade accepted by the Peer Reviewer as one *'that presents a similar character to the existing style and era of buildings on Faraday Street'*.
- The proposal does not give rise any privacy issues.
- The proposal will reduce the level of traffic movements at the lower end of Faraday Street in terms of Objective 4.6, and provide for an improvement in the safety and functioning of the road network in terms of Objective 61.3 and Policy 61.3.3 and 61.3.6.



## **Earthworks**

- The proposal will not give rise to any issues in relation to the life-supporting capacity of soils, while the site is not an outstanding natural feature or located within a significant landscape in terms of Objective 52A.3.
- Revegetation is consistent with the theme expressed in Policy 52A.3.1.
- The design of the cut profile and proposed remediation has been developed to achieve Policy 52A.3.3, which is to ensure that earthworks will not adversely affect the natural and physical environment or the amenity of the community and adjoining land uses. Historic heritage and culturally sensitive sites are addressed in relation to Policy 52A.3.6 below.
- Policy 52A.3.5 is to 'allow earthworks where the adverse effects on the environment will be minor'. This is a very clear and highly directive policy and would direct the Council to approve the proposed earthworks on the basis that effects have been assessed to be no more than minor – certainly not more than minor.
- Policy 52A.3.6 relates to historic and cultural heritage (including archaeology) and seeks to protect this from the effects of earthworks wherever practicable. Here we note:
  - There are no known cultural heritage or archaeological sites on the property,
  - A Cultural Impact Assessment, confirming support for the proposal, has been undertaken by Te Taiwhenua o Te Whanganui Orotu,
  - Conditions and advice notes can be imposed in relation to construction management and the unexpected discovery of archaeological sites as is common for similar activities.
- The proposed earthworks have been and will be subject to expert geotechnical design and observation to achieve Objective 52A.4, which is to minimise the hazard and environmental effects of earthworks, and Policy 52A.4.1, which is to control the adverse effects of earthworks on the natural and physical environment, including the potential for an increased risk of hazard and the potential effects on adjoining property owners.

Overall, consideration of the policy framework would support and in some instances direct the Council to grant resource consent.

## **6. Notification**

- There is no presumption in the RMA itself as to whether or not an application will be notified and a consent authority has discretion in determining whether or not notification is necessary. This assessment is primarily governed by Section 95A and Section 95B of the RMA.

### **Section 95A – Need for Public Notification**

- Section 95A of the RMA considers the need for public notification and sets out four steps in a specific order to be considered in determining whether to publicly notify.
- In terms of Step (1), public notification has not been requested, Section 95C pertaining to notification in the event that further information is not provided under Section 92 is not applicable, and the application is not being made jointly with an application to exchange recreation reserve land under Section 15AA of the Reserves Act 1977.
- In terms of Step (2), none of the circumstances precluding notification are applicable.
- Moving to Step 3, notification is not required by a rule in a Plan.
- In assessing the actual or potential effects on the broader environment, Section 95D(a) states effects must be disregarded on person who own or occupy land upon which the activity will

occur or land adjacent to that land. The land disregarded in accordance with Section 95D(a) is shown in **Figure 4** below.

- It is then a matter of determining whether or not the effects beyond that land disregarded are 'more than minor'.

**Figure 4:** Adjoining Parties



- It has been demonstrated in Section 4 above that effects will be less than minor – certainly not more than minor. Key points in arriving upon this view include:
  - The Cultural Impact Assessment confirms support for the proposal,
  - The Peer Reviewer (RDCL) has confirmed that the information provided meets the requirements to confirm the suitability of the proposal from a geotechnical perspective,
  - The proposal is consistent with that anticipated for the Fringe Commercial Zone, noting matters associated with the Napier Hill Character Zone are addressed in regard to localized parties under Section 95B below,
  - Publicly accessible views of the proposal and proposed earthworks have been identified by DGSE. These viewpoints have been assessed and based on the distance, existing buildings, and site character, visual impact effects are considered to be low as vegetation establishes,
  - the time required for planting to establish is in keeping with the inevitabilities of construction projects.
- Lastly, as no special circumstances are considered to apply.
- Public notification is therefore not required under any of the pathways in Section 95A.



### **Section 95B – Need for Limited Notification**

- While public notification is not necessary, any effects of the proposal on the local environment and upon particular parties must still be considered. This is addressed through Section 95B of the RMA, which has four steps similar to Section 95A.
- In terms of Step (1), there are no affected protected customary rights or customary marine title groups in terms of Subclause (2).
- Regarding subclause (3), while the site is within the Area of Interest of the Ahuriri Hapu, it is not located within or near a Statutory Acknowledgment Area. We nevertheless recognise the Cultural Impact Assessment confirming support for the proposal.
- In terms of Step (2), none of the circumstances in Subsection (5) that would preclude limited notification apply. We therefore move to Step (3).
- Step (3) requires the consent authority to determine, in accordance with Section 95E, whether there are any affected parties. Section 95E states that a person is an affected person if the consent authority decides that the activity's adverse effects on the person are minor or more than minor (but are not less than minor).
- Having disregarded the parties identified in **Figure 4** above from the Section 95A assessment, we now return to those parties to consider where on the spectrum of effects this particular proposal falls i.e. less than minor, minor or more than minor.
- This proposal seeks to achieve an outcome that addresses many of the effects associated with the existing and consented outcomes for the site. With reference to the original notification assessment in Section 8 of the application document and the points noted in the assessment of effects above, effects on adjoining and nearby owners are considered less than minor. The following has been considered in coming to this view:
  - Conditions can be imposed, as is the current case with RM150135 to ensure compliance with District Plan noise and light spill limits,
  - Operations will be internalised and there will be a considerable reduction in the use of Faraday Street,
  - Although there will be greater bulk on the properties to the rear following construction of the workshop, the design of the Faraday Street façade has been refined to represent a more 'residential' built form (gables and pitched roofs) along with appropriate screening, fencing, and planting to better address the streetscape/residential interface, and it has been acknowledged by the Peer Reviewer that it '*presents a similar character to the existing style and era of buildings on Faraday Street*'. Effects arising from the proposed building work on 10 and 12 Faraday Street immediately opposite are therefore considered to be less than minor. Further, the 'bulk' will not be of a significant scale in the context of the physical receiving environment and is fundamental in enabling positive effects in relation to less vehicular use of Faraday Street by the activity,
  - The proposal does not present any risk to the privacy of adjoining properties,
  - In regard to 33 and 35 Faraday Street and 32 and 45 May Avenue above the slope, the cut profile has been designed/assessed by Cheal to ensure stability, taking runoff into account - the Peer Reviewer (RDCL) has confirmed that the information provided meets the requirements to confirm the suitability of the proposal from a geotechnical perspective,
  - As outlined above, DGSE has considered views from key vantage points and based on the distance, existing buildings, and site character, visual impact effects are considered to be low. In regard to adjoining sites, we note:



- Views from 10 and 12 Faraday Street of the proposed cut will be largely screened by the workshop building. In considering this viewpoint (3), in its VIA, DGSE has stated:

this viewpoint is representative of what might be the fixed view from the first property that marks the transition between the 'Fringe Commercial Zone' and the residential use of the Napier Hill Character Zone. Despite use change, the current view consists of existing commercial activity and car park. The proposal is not considered to significantly alter the nature of the activity in which it is viewed, and the effect type is to be considered neutral, with the redevelopment building façade facing south away from the properties and the removal of an existing vehicle crossing.

This view is indicative of a residential property with a multi-unit development. Although there are multiple residents at this property, many of these units face away from the site, and the bottom units that face towards the site have an existing screen to restrict views. It is considered that only a small portion of residents along Faraday Street will have a direct view and the effect level of the proposal will be low. The area of designated planting along the roadside of Faraday Street also provides an opportunity to minimise the impacts of the proposed redevelopment through softening the change and screening a portion of the built form once it has been established.

- Similarly, the assessment of viewpoint (1B) considers views from across Carlyle Street. Here it is stated:

Viewpoint 1A and 1B are located south/south-west of the site at the intersection between Carlyle and Faraday Streets and is the most exposed area in which the proposed change in the existing site will be viewed.

From these views, the full extent of the site's frontage onto both Carlyle Street and Faraday Street are visible, with the backdrop of the hill face and proposed earthworks. The redevelopment of the built form and the existing activity of the proposal are considered consistent with the rhythm of the character in this area. This location is the most prominent location for viewing the proposed change of the earthworks to the slope, as it occupies the entirety of the background, sweeping west to east. It is considered that an uninterrupted and almost vertical cut rising above the new buildings would have been considered significantly noticeable and have an adverse impact. However, the implementation of mitigation measures through planting and cut design will reduce the visual effect.

Due to the periphery of Mataruahou being visible to a large portion of Napier, most viewers will likely experience a range of residential, vegetated, and raw cut face combinations. It is considered that the change in slope face is not unexpected or dissimilar to the nature of the Mataruahou slope. The visual effect type from this viewpoint is then considered neutral, with a low effect on the landscape character. Both viewpoints demonstrate the area's ability to be able to absorb and mitigate effects, as the edges of the existing and



surrounding commercial activities are within this frame, blurring the edge transitions, separating the slope edge and residential area with built form, mixed-use, and materiality.

- While properties along Guy Hills Road are not adjoining, views from these properties are considered by DGSE in assessing viewpoint (6). Here it is stated:

This viewpoint is located on Guys Hill Road which is within the Napier Hill Character and is elevated above the site. This view is typical of what the residential properties on the Mataruahou face may see of the proposed development.

From this view, there is an obvious change in zoning, visible through the large, commercial, and industrial-style buildings, creating a coarse-textured urban fabric. It is considered that from this view, the proposed new buildings will be consistent with the existing surrounding situation. The face of Mataruahou provides a blurred edge, reducing the impact of the large built forms as they become integrated into the commercial zone. The proposed earthworks and removal of existing vegetation may provoke a harsh edge and have an initial low-moderate level of visual impact but will reduce to low with neutral effects as the recommended vegetation establishes and recovers the visual absorption capability properties.

- While conclusions refer to the establishment of vegetation, which the Peer Reviewer has raised questions around, it has been assessed that the scale of effects during this time is in keeping with the inevitabilities of construction projects and with reference to District Plan directions, that the scale of temporary effects in this regard and context can be considered less than minor.
  - The initiatives proposed around construction management will ensure that overall, effects with regard to construction will be less than minor.
- On this basis, and applying the tests in Section 95E, in addition to noting the fact that no special circumstances are considered to apply in terms of Step 4, the application may be processed on a non-notified basis without the need for the approval of any specific parties.

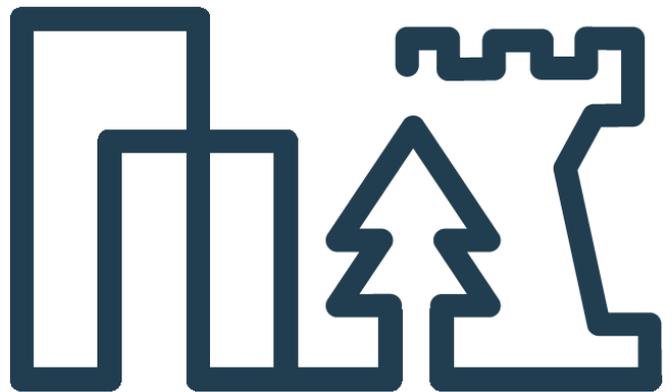
We trust the information provided is sufficient to outline and consider the proposed amendments and proposal in general. Please do not hesitate to contact us if we can be of any further assistance.

Your Sincerely

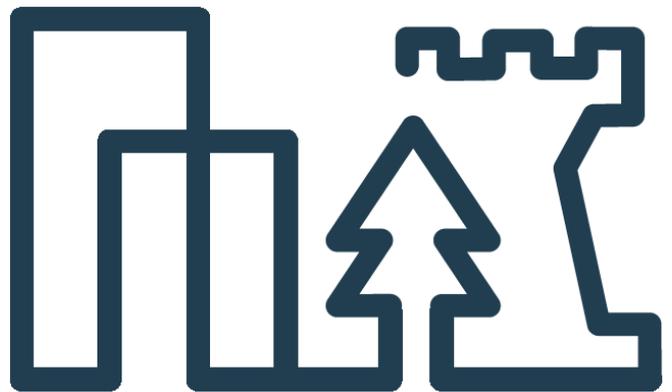
**Cameron Drury BRP(HONs) MNZPI  
Principal Planner | Director**

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M 027 283 0017

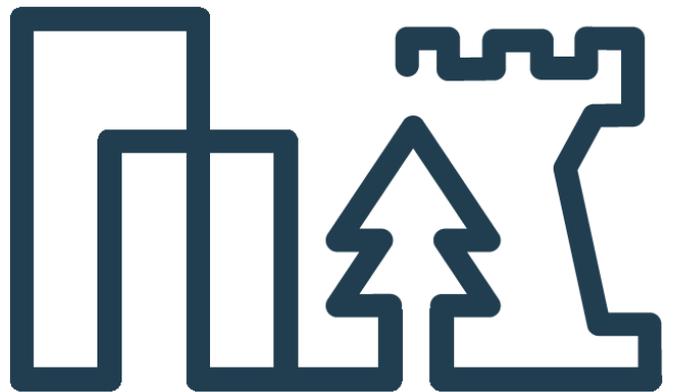
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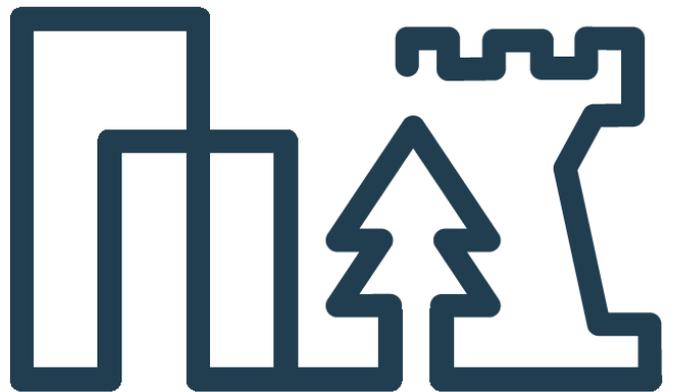
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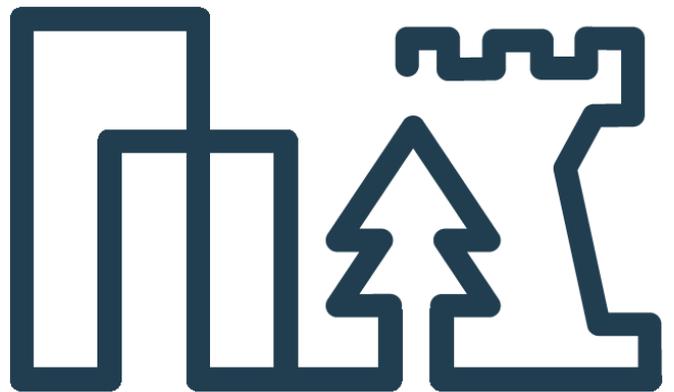
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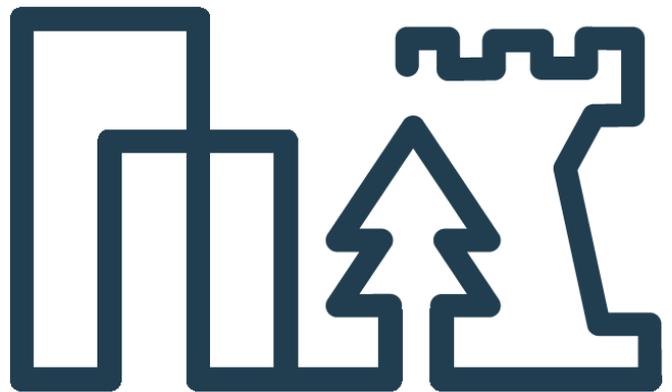
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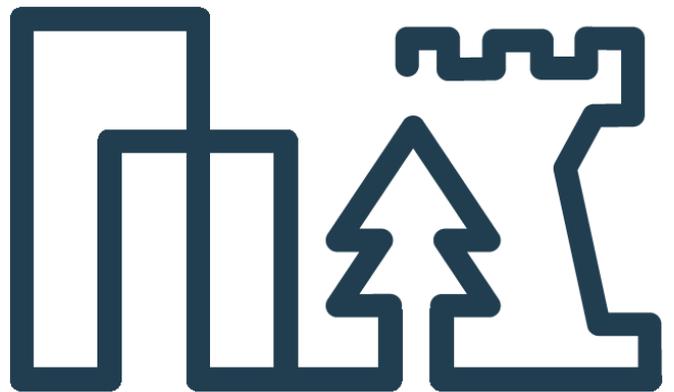
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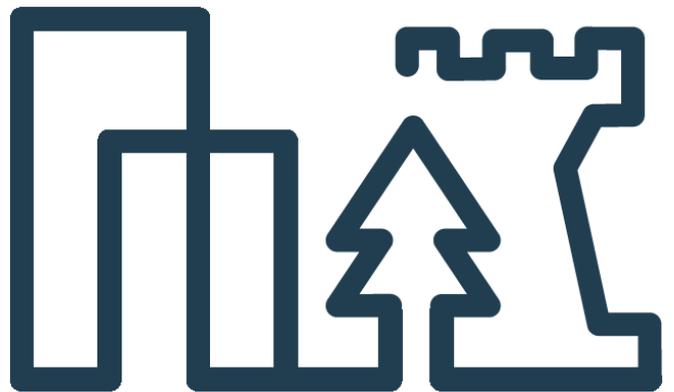
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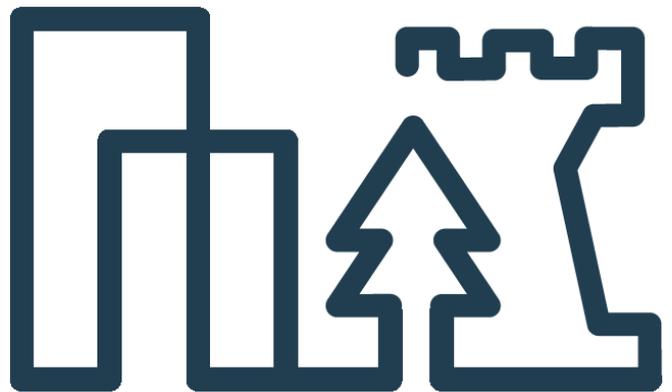
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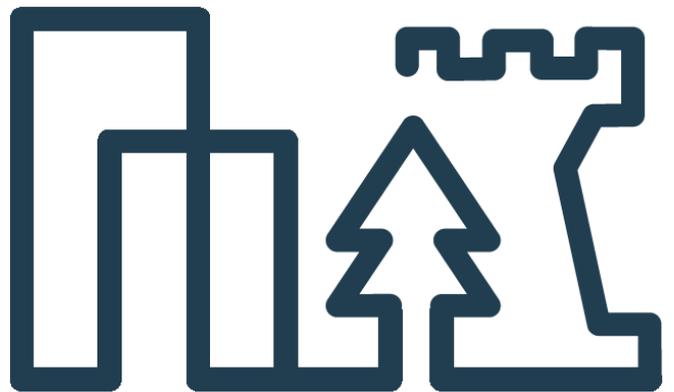
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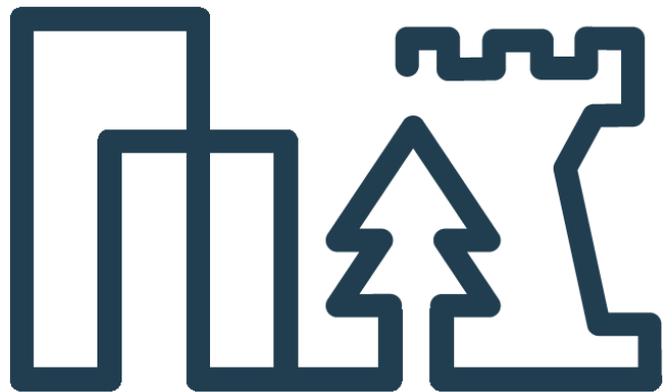
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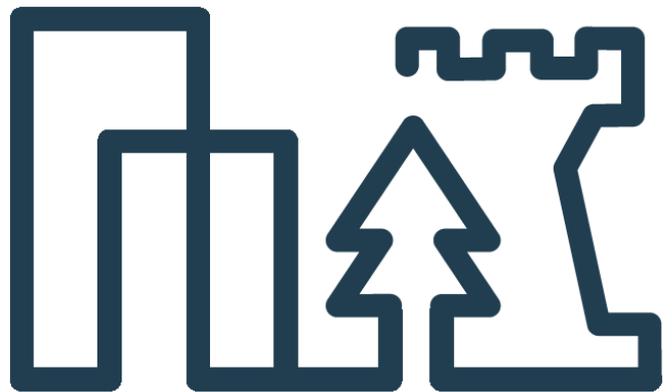
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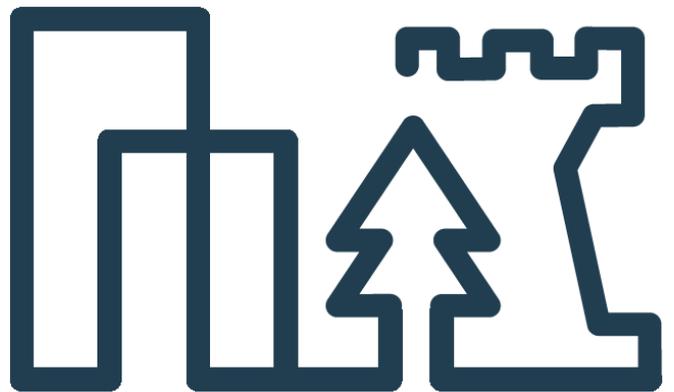
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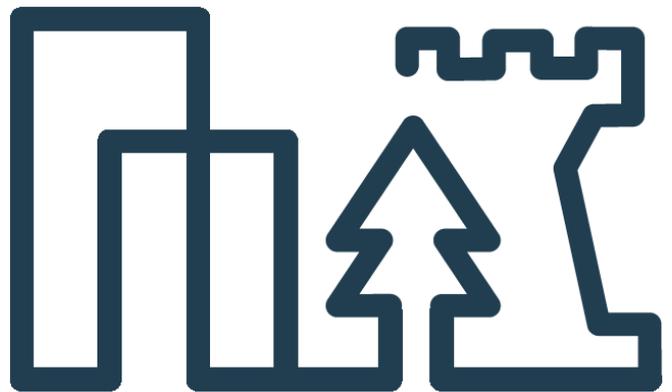
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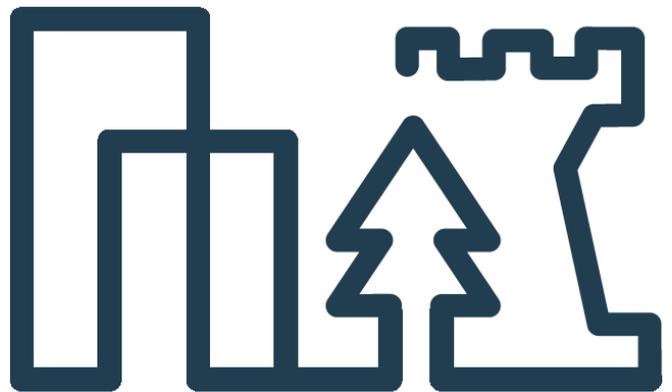
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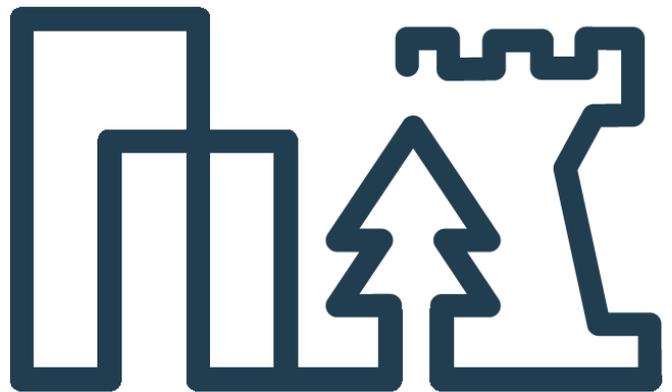
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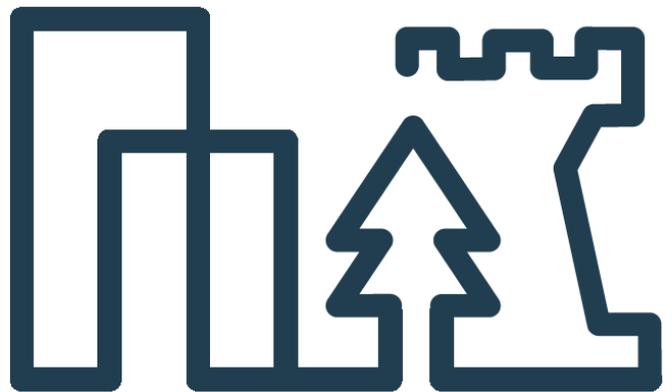
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## Attachment 16



## Attachment 17



## Attachment 18

