

Before the Hearing Commissioner appointed by Napier City Council

In the matter of the Resource Management Act 1991
(the Act)

And in the matter of an application by The Te Awa Land
Development Company Limited to
establish a comprehensive suburban
commercial development at 35 Kenny
Road, Napier

Statement of evidence of Cameron James Drury

29 October 2019

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IJB-136562-4

INTRODUCTION

Qualifications and experience

- 1 My name is Cameron Drury. I graduated from Massey University with a Bachelor's degree in Environmental and Resource Planning in 2003 and have 15 years' professional planning experience.
- 2 During this time, I have worked with the Hawke's Bay Regional Council and Napier City Council as a Consents Planner and a number of private consultants as an Environmental Planner. I am currently a Principal Planner and Director of Strategy Planning Limited.
- 3 I am a Full Member of the New Zealand Planning Institute.
- 4 I prepared the Resource Consent Application and confirm I have visited the site.

Expert witness Code of Conduct

- 5 I have been provided with a copy of the Code of Conduct for Expert Witnesses contained in the Environment Court's Practice Note dated 1 December 2014. I have read and agreed to comply with that Code. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

PURPOSE AND SCOPE OF EVIDENCE

- 6 In the following evidence I will:
 - 6.1 Outline how the proposal was developed;
 - 6.2 Respond to matters raised in the Section 42A Report; and
 - 6.3 Respond to matters in submissions.

DEVELOPMENT OF THE PROPOSAL

- 7 The actual design of the structures and layout was undertaken by Atkinson Harwood Architecture Limited; however, I was involved in the discussions that influenced the development of the proposal.
- 8 In general:
- 8.1 Tenancies that support residential environments were the focus;
 - 8.2 The development was designed to achieve active frontages along all sides to interact with the existing streetscape and future development across the balance of the site;
 - 8.3 Locating the day care to the west was to preserve the ability for this more residential use to be integrated into a future residential development across the balance of the site – which will be closer than the properties on the opposite side of Kenny and Eriksen Roads;
 - 8.4 Car parking was spread around the development to avoid a large dominating car parking area, while landscaping was proposed to soften the interface of the development and car parking area with the road.
- 9 On 21 March 2019 Sol Atkinson from Atkinson Harwood and I met with Georgina King (NCC Urban Design lead) to discuss the design and layout. Following this meeting the design and layout were refined to take into account matters which Ms King had raised. Updated Plans were provided as part of the first s92 response. The refinements generally involved:
- 9.1 Refining the rooflines;
 - 9.2 Increasing the modulation of the structures;
 - 9.3 Creating further visual interest along the southern façade;
 - 9.4 Separating traffic circulation and car parking for the day care centre;

- 9.5 Improving pedestrian connectivity from the road boundaries and through the development; and
 - 9.6 Increasing the amount of landscaping.
- 10 Signage detail and confirmation of landscaped areas was provided as part of the second s92 response (Appendix I of the Officer's report).

RESPONSE TO MATTERS RAISED IN THE SECTION 42A REPORT

- 11 I have reviewed the Council's Section 42A Report dated 17 October 2019. I support the Officer's recommendation to approve consent, and in particular, support the views expressed in Section 10.5 which I feel provides a good summary of how the matters pertaining to this proposal can be considered, except where commented on below.
- 12 The following evidence considers the Officer's recommendations in relation to:
- 12.1 Traffic;
 - 12.2 Light Spill;
 - 12.3 Retention of both stormwater attenuation areas; and
 - 12.4 Development and Financial Contributions.

Traffic

- 13 As referred to in paragraph 9.4 of the Section 42A Report, Council's Transportation Engineer has confirmed that he is satisfied with the conclusion drawn in the Traffic Impact Assessment being:

It is concluded that the proposed development can be accommodated within the local traffic and transportation environment with no more than minor effects.

- 14 The Officer goes on to recommend two conditions. The first relates to the footpath being extended along the southern side of Kenny Road to the

boundary of the site with a suitably designed pedestrian crossing across Eriksen Road. The second relates to a right turn bay (to the site) off Kenny Road.

15 In terms of the extended footpath and crossing, this would only be required in the event that the footpath along Kenny Road has not already been extended by others as part of road upgrades associated with residential development on adjoining land, or if the roundabout intersection, which as confirmed by the Napier City Council's transportation team¹ would include crossing facilities on all legs of the roundabout, has not already been constructed.

16 For this reason, I suggest the following amendments to Condition 5.5 (or similar):

5.5 In the event of no footpath connection between the boundary of the site and the footpath along the southern side of Kenny Road, including a suitably designed pedestrian crossing provision across Eriksen Road, the consent holder shall provide an all-weather footpath connection from the site to the existing footpath network along the southern extent of Kenny Road, ~~This shall require~~ including a suitably designed pedestrian crossing provision at across Eriksen Road prior to the commencement of any tenancy.

17 Condition 5.6 requires there to be a right turn bay established within Kenny Road to access the vehicle crossing to the site. I suggest the following amendments to Condition 5.6 (or similar) to make this clearer:

5.6 ~~The Kenny Road and site access intersection shall be designed to include a~~ A right turn bay shall be established within Kenny Road to support the safe and efficient operation of the ~~intersection~~ vehicle crossing to the site off Kenny Road.

¹ Para 19 Evidence of Aaron Campion

Light Spill

- 18 The Officer has acknowledged the assessment undertaken by Mr Wilson (of Xyst) and agrees that compliance with the 10 lux limit in Condition 5.23 of the District Plan will ensure that any effects of light spill will be less than minor.
- 19 The issue however is that the recommended condition (Condition 7) locks in the particular design that Mr Wilson developed as part of his methodology to confirm that a feasible lighting solution can be achieved while not exceeding the 10 lux limit in Condition 5.23.
- 20 As Mr Wilson has confirmed, there may be other lighting plans that can comply with Condition 5.23².
- 21 The applicant did not intend to commit to this particular solution; rather it wished to demonstrate that Condition 5.23 can be complied with. To this effect the following condition was proposed in the s92 response dated 20 September 2019:

A lighting Plan shall be prepared, and confirmation of it complying with the standards in Condition 5.23 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.

- 22 This condition would provide flexibility around the lighting design (to be determined at detailed design stage) while still ensuring compliance with District Plan limits and that any effects are less than minor. The following (or similar) could be provided as an alternative however:

7. Either

The consent holder shall ensure that all exterior lighting on the site is installed and operated in accordance with the submitted lighting

² Para's 16 and 19 Evidence of Paul Wilson

design and light spill calculation report titled “*Kenny Road Suburban Commercial Exterior Lighting Design and Statement of Compliance*” prepared by Mr Paul Wilson of XYST and dated 29 August 2019, or

A lighting Plan shall be prepared, and confirmation of it complying with the standards in Condition 5.23 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.

Retention of both Stormwater Attenuation Areas

- 23 The proposed stormwater attenuation areas are proposed in order to manage stormwater on-site until the infrastructure associated with Stage 4 of the Te Awa Structure Plan Area has been provided by Council. This solution has been accepted by Council.
- 24 Acknowledging the dual function of the attenuation area along the road frontage (landscaping), it is was proposed that this particular area be retained once the Stage 4 infrastructure had been provided despite it not being strictly necessary from a stormwater perspective.
- 25 I agree with the Officer’s recommendation in regard to retaining this stormwater attenuation area for its positive effects on amenity values along the street frontage, but not in regard to the attenuation area along the side and rear of the site.
- 26 Retaining this area when it is not necessary affects the available land for future residential development and the potential yield of the Te Awa Structure Plan Area in terms of managing urban growth. There is an ‘Indicative Open Space Network’ area already located on the site; retaining the attenuation area in addition to that would further limit the development potential of the balance land. Condition 5.8 should be amended as follows:

5.8 ~~This~~ The stormwater attenuation area along the street frontage of Kenny and Erikson Roads shall ~~is to~~ be maintained in perpetuity

on the site, and is to be protected by way of covenant included on the Record of Title for the property.

The cost of all documentation associated with the preparation of the covenant documentation is to be borne by the consent holder.

Development and Financial Contributions

27 Section 11 of the Section 42A Report addresses Development and Financial Contributions for this commercial development. No supporting calculations have been provided.

28 Based on the financial contribution figures set out in the Report it appears that the Council officer responsible for those calculations has applied Table 1 of Chapter 65. Table 1 applies to:

28.1 all subdivisions except for industrial or commercial purposes (Rule 65.9);

28.2 multi-unit developments for residential purposes (Rule 65.10).

This development is neither of those things. It is a commercial development and so Rule 65.11 and Table 2 applies. That is what was stated in the application (Appendix 5). The Officer's Report gives no reasons to explain why the Council has adopted a different approach.

RESPONSE TO MATTERS RAISED IN SUBMISSIONS

29 A total of four submissions were received as summarised below.

Address	Owner	In Support/Opposition
136 Eriksen Road, Napier	Summerset Villages (Te Awa) Limited	Support
120 Eriksen Road, Napier	Jones, Gareth Wyn (new owner) Clark, Joanne (new owner)	Opposition
100 Eriksen Road, Napier	Friedlander, Andrew Mark Campbell, Vicki Heather Napier Independent Trustees Limited	Opposition
56 Kenny Road, Napier	Friedlander, Andrew Mark Campbell, Vicki Heather	Opposition

- 30 These have been considered by Officer in Section 9 of the Section 42A Report and I agree with the views expressed. I note in particular:
- 30.1 I agree with the Officer that the location for the suburban commercial node is consistent with the intent of the Structure Plan documentation³;
- 30.2 I agree that the scale of the development is entirely commensurate with the scale anticipated for suburban commercial development and actual or potential effects in this regard will be less than minor⁴;
- 30.3 The proposed uses are appropriate for the type of demand arising from residential environments and I agree that the provision of a development at the scale proposed is appropriate to the market demand that will be generated from completion of the various stages of the Structure Plan⁵;
- 30.4 Mr Campion has advised that the traffic associated with the proposed development is able to be accommodated on the adjacent road network and can be safely supported from a transportation perspective⁶;
- 30.5 Although there will be an increase in traffic, in Mr Campion's view the proposal will not have a discernible impact on the level of traffic and associated acceleration/deceleration anticipated under the Structure Plan for the area/intersection⁷;
- 30.6 The level of car parking has been a specific aspect addressed through the peer review process and deemed to be appropriate⁸;

³ Section 9.1, Section 42A Report

⁴ Section 9.2, Section 42A Report

⁵ Section 9.3, Section 42A Report

⁶ Para 25 Evidence of Aaron Campion

⁷ Para 23 Evidence of Aaron Campion

⁸ Para 24 Evidence of Aaron Campion

30.7 The effect of the noise infringements is described by Earcon Consultants as 'inaudible', and as such, I agree with the Officer that this degree of infringement results in less than minor adverse effects with regard to noise⁹;

30.8 Further:

(i) Noise limits in the District Plan do not apply to vehicles travelling on a road (Rule 57.9(d));

(ii) Acceleration noise associated with the proposed development, received at 120 Eriksen Road, will be negligible relative to any acceleration away from the proposed roundabout¹⁰;

30.9 I agree with the Officer that given the scale of the proposed suburban commercial development, the proposal will have no discernible impact on the amenity of the receiving residential environment¹¹.

31 In summary, the effects of the proposal in regard to those anticipated for the Zone can be considered less than minor, with there being no discernible change in anticipated traffic patterns and behaviour or noise levels.

CONCLUSIONS AND RECOMMENDATIONS

32 Subject to the proposed amendments to the conditions recommended by the Officer, it is my view that resource consent for the proposal can be granted for the following reasons:

32.1 The proposed suburban commercial development will contribute to the efficient operation of the Te Awa Structure Plan area by allowing residents of this area to provide for their daily requirements without having to travel to adjacent neighbourhoods;

⁹ Section 9.6, Section 42A Report

¹⁰ Para 12.3 Evidence of Daniel Martens

¹¹ Page 20, Section 42A Report

- 32.2 The design of the development is of a high quality, with modulated building elevations and roof pitches to ensure visual interest. This, combined with the proposed on-site landscaping will ensure that the appearance of the development contributes to the overall amenity of the locale;
- 32.3 The scale and intensity of the development is consistent with the scale of other established suburban commercial nodes within Napier (Greenmeadows, Onekawa and Marewa) and entirely appropriate when viewed in the context of the development area it will service;
- 32.4 Given the scale of the proposed suburban commercial development, the proposal will have no discernible impact on the amenity of the receiving residential environment;
- 32.5 The proposed hours of operation of the individual tenancies, which are to include loading and rubbish/recycling pick-ups, will ensure that acoustic effects will be less than minor;
- 32.6 The anticipated traffic volumes associated with the development can be accommodated within the existing roading network with no discernible effect on safe and efficient road operation;
- 32.7 The loading and storage areas have been designed at the rear (south-west) corner of the site so as to maintain the visual amenity of the site as viewed from public viewpoints;
- 32.8 Vehicle ingress/egress has been designed so as to avoid congestion and the two-way nature of both access points serves to minimise any conflict between vehicles;
- 32.9 The development is able to be serviced through a range of public and private infrastructure;
- 32.10 The proposed car-parking is safe and convenient for access whilst still maintaining an acceptable aesthetic from Kenny and Eriksen Roads;

- 32.11 The proposal is consistent with the intent of the Te Awa Structure Plan Design Outcomes;
- 32.12 The proposal is consistent with the relevant Objectives and Policies of the City of Napier District Plan;
- 32.13 The proposal is consistent with Part 2 of the RMA in that it seeks to provide for basic suburban needs without the need to travel outside of the locale, the scale and form of the proposed development will not compromise anticipated amenity levels and adverse effects are able to be effectively mitigated by way of consent conditions.

Cameron Drury

29 October 2019