

**HEARINGS REPORT UNDER SECTION 42A OF THE RESOURCE MANAGEMENT  
ACT 1991 FOR LANDUSE CONSENT APPLICATION LUC22/48356**

<b>Applicant:</b>	Te Atiawa Iwi Holdings LP
<b>Site Address:</b>	51 Barrett Street, New Plymouth
<b>Legal Description:</b>	Section 2389 Town of New Plymouth
<b>Site Area:</b>	1032m <sup>2</sup>
<b>Operative District Plan Zoning:</b>	Residential A Environment Area
<b>Proposed District Plan Zoning:</b>	General Residential Zone (as notified September 2019). Medium Density Residential Zone (decisions version May 2023)
<b>Operative District Plan Overlays:</b>	Churchill Heights Urban Viewshaft
<b>Proposed District Plan Overlays</b>	Churchill Heights Viewshaft
<b>Proposal as notified:</b>	Construction of eight 2-storied terraced and semi-detached townhouses to be used for Papakāinga housing. The proposal breaches landuse and building activity provisions including height in relation to boundary, roadside boundary setbacks, outdoor living space, outlook spaces and earthworks requirements.
<b>Status:</b>	Restricted Discretionary Activity
<b>Application received:</b>	4 <sup>th</sup> November 2022
<b>Limited notification:</b>	21 <sup>st</sup> April 2023
<b>Submissions closed:</b>	22 <sup>nd</sup> May 2023
<b>Further information requested:</b>	5 <sup>th</sup> December 2022 (pre-notification) 14 <sup>th</sup> June 2023 (post notification)

## **SCOPE/PURPOSE OF THIS REPORT.**

1. This report has been prepared in accordance with Section 42A of the Resource Management Act (RMA) to assist the commissioner in deciding on a landuse resource consent at 51 Barrett Street, Westtown, New Plymouth.
2. The report provides an opportunity for the submitter to see how their submission has been evaluated and the recommendations being made by the planning officer.
3. In light of the above, wherever possible, I have provided a recommendation to assist the commissioner.

## **STATEMENT OF QUALIFICATIONS AND EXPERIENCE**

### **Experience**

4. My full name is Campbell Stewart Robinson, Director of Future Proof Planning Limited. I hold the qualification of Bachelor of Resource and Environmental Planning from Massey University, Palmerston North and have approximately 22 years' experience in planning and resource management profession.
5. I am employed as a Senior Planner (Consultant) by the Resource Consent Team at New Plymouth District Council. I have undertaken a range of roles for New Plymouth District Council on a consulting basis over the last five years including providing advice on a range of consenting matters and being a co-author on several chapters of the New Plymouth District Plan Review hearings. I have also held the role of Acting Planning Consents Lead.
6. Prior to establishing my own consultancy, I held the role of Best Practice and Heritage Manager at Wellington City Council, providing practice oversight of the Council's consenting functions and managing a team which provided advice on Wellington's heritage buildings.
7. Prior to this I was employed by the Ministry for the Environment providing advice to the Minister for the Environment on the 2013 and 2017 resource management reforms.
8. I have extensive experience in the fields of resource consenting, District Plan preparation and policy reform. I have experience in Environment Court mediation and have prepared affidavits in judicial review proceedings before the High Court and Court of Appeal. I have also worked as a planning officer and consultant in the United Kingdom and The Republic of Ireland.

### **Code of Conduct**

9. In preparing this report I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014.

## LIMITED NOTIFICATION AND SUBMISSION

10. The application for landuse consent was subject to limited notification under s 95B of the Act<sup>1</sup>. The notification was limited to the following party outlined in Table 1 below:

**Table 1: Limited Notification Details**

#	Property Address	Email Address	Persons
1	107 Morley Street	<a href="mailto:Heather.jury@icloud.com">Heather.jury@icloud.com</a> <a href="mailto:Len.jury@xtra.co.nz">Len.jury@xtra.co.nz</a>	Heather and Len Jury

11. A submission was received in opposition to the landuse consent dated 22nd May 2023. The submission was received before the closing date for serving of the submission.

## SITE VISIT

12. I conducted a site visit of the application site and surrounding area on Monday the 19th of June. During the site visit I was able to enter the grounds of the application site as well as the property at 107 Morley Street being the sole submitter on the application. I was able to walk around the property viewing the application site from the front, side and rear yards to better understand the likely effects of the proposal and to better consider the concerns raised in the submission. I did not enter the dwelling at number 107 Morley Street itself.

## STATUTORY REASONS FOR THE APPLICATION & ACTIVITY STATUS

### National Environmental Standards

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

### Statutory Acknowledgement Area

15. The site is not part of any known Statutory Acknowledgement Area.

### Operative District Plan 2005 (ODP).

16. At the time the notification decision was made the site was located within the Residential A Environment Area and contained the Churchill Heights (Section 2) viewshaft.
17. The notification decision outlined that the proposal required consent under the following ODP rules outlined in Table 2:

<sup>1</sup> Refer notification report under Section 95 of the RMA dated 21 April 2023.

**Table 2: ODP Rules Assessment Relevant to Limited Notification**

Rule #	Rule Name	Status of Activity	Comment
Res5	Daylighting Requirement	Restricted Discretionary	Unit 8 of Block B does not comply with daylighting requirements at the eastern boundary with 47A and 47B Barrett Street.
Res6	Daylighting Requirements along Road Boundary	Restricted Discretionary Activity	The townhouses breach daylighting requirements along both Morley Street and Barrett Street. The Morley Street daylighting non-compliance is appropriately demonstrated through the plan entitled, Proposed Site Elevations – West, Drawing No. RC-033. The Barrett Street daylighting non-compliance resulting from proposed unit 1 is 3379mm in height and 2366mm in depth.
Res14	Front yard coverage	Restricted Discretionary Activity	The proposal will exceed the 35% front yard coverage with a total of 59%. Barrett Street proposed frontage is 14%, meeting the permitted requirements.
Res47	Maximum Volume of earthworks – 20m <sup>3</sup> per 100m <sup>2</sup> of site	Restricted Discretionary Activity	Consent is required due to earthworks volumes. The proposed site allows 206.4m <sup>3</sup> of earthworks in a 12-month period as a permitted activity. The proposal estimates 1032m <sup>3</sup> of excavation and fill.
Res73	Vehicle access points	Restricted Discretionary Activity	The proposed new vehicle access will be approximately 14.5m from the Barrett Street/ Morley Street intersection and therefore won't comply with the 30m from intersection setback requirement.
Res77	Onsite Maneuvering	Restricted Discretionary Activity	Onsite maneuvering from the car-parking area does not meet the required dimensions.
Res81 and 82	Traffic Generation	Restricted Discretionary Activity	Traffic generation will be exceeded as a result of the eight townhouses and associated onsite carparking. The total VEM over 24hours is 30VEM, however, the proposal will result in 64VEM over 24hour period from the site, with a peak hour of 9VEM/hr.

18. The proposal was a **Restricted Discretionary Activity** under the ODP being the highest activity status under the above relevant rules.

## Proposed New Plymouth District Plan (PDP).

19. The application site, as notified in September 2019, was located within the General Residential Zone and contained the Churchill Heights Viewshaft (Section 2).
20. At the time the application was lodged and the notification decision was made, there were no rules relevant to the application site which had legal effect under Section 86B of the RMA.
21. Decisions were released on the PDP on the 13<sup>th</sup> of May 2023. The decisions version of the PDP changed the underlying zoning of the application site from General Residential Zone to Medium Density Residential Zone (MDRZ)<sup>2</sup>. The Churchill Heights Viewshaft was unchanged by the decision.
22. Section 86B of the RMA outlines that a rule in a proposed plan has legal effect when a decision on submissions relating to the rule is made and publicly notified, except if:
  - the Environment Court order the rule to have legal effect from a different date (s 86B (b)); or
  - the local authority resolves that the rule has delayed legal effect (until Proposed Plan becomes operative s 86B(c)).
23. Given neither s 86B (b) or (c) are applicable, the provisions of the MDRZ Chapter and Zone are considered to have legal effect.
24. In light of the above, the applicant was requested to provide further information on the 14<sup>th</sup> of June 2023. The aim of this request was to identify any new relevant Rules, Effects Standards, Objectives and Policies under the decisions version of the PDP.
25. An assessment against the relevant Rules and Effects Standards of the PDP is included in Tables 3 and 4 below:

**Table 3: Analysis of PDP Rules following release of decisions.**

Rule #	Rule Name	Status	Comment
MRZ-R3	Māori purpose activities	Restricted Discretionary Activity	The application is for Papakāinga housing which is included within the definition of Maori Purpose Activities <sup>3</sup> .
MRZ-R4	Up to three residential units per site	N/A	MRZ-R12 applies for developments of four or more residential units on a site.
MRZ-R12	Four or more residential units per site	N/A MRZ-R12 does not apply to Papakāinga <sup>4</sup> .	I agree with the statements outlined within the applicant's further information response that the proposal meets the definition of

<sup>2</sup> Refer Decision Report 25 [recommendation-report-25-resz.pdf \(npdc.govt.nz\)](https://www.npdc.govt.nz/recommendation-report-25-resz.pdf)

<sup>3</sup> Māori Purpose Activities "means the use of land and structures for a range of activities for Māori cultural, community and living purposes, and integrated Māori development, including but not limited to one or more of the following activities: [papakāinga];

<sup>4</sup> Papakāinga "Means a comprehensive development for tangata whenua residing in the New Plymouth District to provide residential accommodation for members of iwi or hapū groups. It also includes communal buildings and facilities."

			Papakāinga <sup>5</sup> under the PDP. The applicant can be seen as representing the interests of Te Atiawa iwi and hapu <sup>6</sup> . The applicant confirms that the development would be for iwi and hapu members of Te Atiawa through the Ka Uruora initiative <sup>7</sup> . I also consider the development to be comprehensive in nature.
MRZ-R30	Building activities including demolition or removal of a structure	Restricted Discretionary	The development fails to comply with 4 separate Effects Standards and therefore triggers the requirement for a landuse consent. This rule does not apply with MRZ-R32.
MRZ-R32	Building activities that do not comply with MRZ-S3 Height in Relation to boundary, but comply with MRZ-S4 Alternative Height in Relation to Boundary	Restricted Discretionary	The development does not comply with MRZ-S3 in relation to the adjoining property to the east but complies with MRZ-S4 in relation to the same boundary.
EW-R10	Earthworks for building activities	Restricted Discretionary	The total earthworks area exceeds 150% of the area of the building activity.

<sup>5</sup> Refer further information response from Laura Buttimore dated 3<sup>rd</sup> July 2023.

<sup>6</sup> The website for Te Atiawa outlines that "*Te Atiawa Holdings Limited Partnership ('Holdings LP') and Te Atiawa (Taranaki) Holdings Ltd ('Fisheries Holdings Ltd') are the commercial subsidiaries of Te Kotahitanga o Te Atiawa Trust ('Te Kotahitanga'), the Limited Partner, Shareholder and post settlement governance entity (PSGE) for Te Atiawa (Taranaki).*" [Te Atiawa Iwi Holdings LP | Te Kotahitanga o Te Atiawa](#)

<sup>7</sup> Ka Uruora website outlines that "*Ka Uruora was established by Te Kotahitanga o Te Atiawa Trust and Te Kāhui o Taranaki Trust as a collective iwi charitable trust to facilitate and oversee the delivery of services and solutions for iwi members. Ka Uruora services include financial education, savings and housing solutions to support iwi whānau members to achieve financial independence and improve financial wellbeing.*"

**Table 4: Analysis of PDP MDRZ Effects Standards following release of decisions.**

Effects Standard #	Effects Standard Name	Complies?	Comment
MRZ-S1	Maximum structure height	Yes	MRZ-S1 provides for 11m or 12m where certain parameters are met. The maximum height of the proposed development would be 8.145m (Block A).
MRZ-S2	Maximum building coverage	Yes	MRZ-S2 provides for a building coverage of up to 60% for Papakāinga housing. The proposed building coverage would be 40%.
MRZ-S3	Height in relation to boundary	No	The development fails to meet the 45 <sup>o</sup> height in relation to boundary requirement on the property to east of the site (47A & B Barrett Street). The daylighting breach is shown in Figure 1. Road boundaries are exempted from the provisions of MRZ-S3. The proposal complies with the height in relation boundary requirements on the boundary with 107 Morley Street <sup>8</sup> .
MRZ-S4	Alternative height in relation to boundary	Yes	
MRZ-S5	Minimum building setbacks	No	Effects Standard MRZ-S5 allows requires a minimum setback of at least: <ul style="list-style-type: none"> <li>▪ 1.5m from the road;</li> <li>▪ 1m from side boundary; and</li> <li>▪ 2.5m for decks, balconies and terraces above 2m in height.</li> </ul> <p>The first-floor elevations of units 1, 3 and 4 are located within 1.5m of the Morley Street boundary (nil setback). The proposed bike structure (1.2m x 4.7m x 2m) on the Barrett St frontage is considered a building and is within the 1.5m road boundary setback<sup>9</sup>.</p>
MRZ-S6	Outdoor living space requirements	No	Whilst all units provide at least 20m <sup>2</sup> outdoor living space, unit 1 and 2 do not meet the minimum dimension of 3m x 3m. The units have a maximum depth of 2.1m.
MRZ-S7	Minimum outlook space	No	Each unit is required to provide outlook spaces of at least 4m wide x 6m deep for a principal living room, 3 x 3m for a

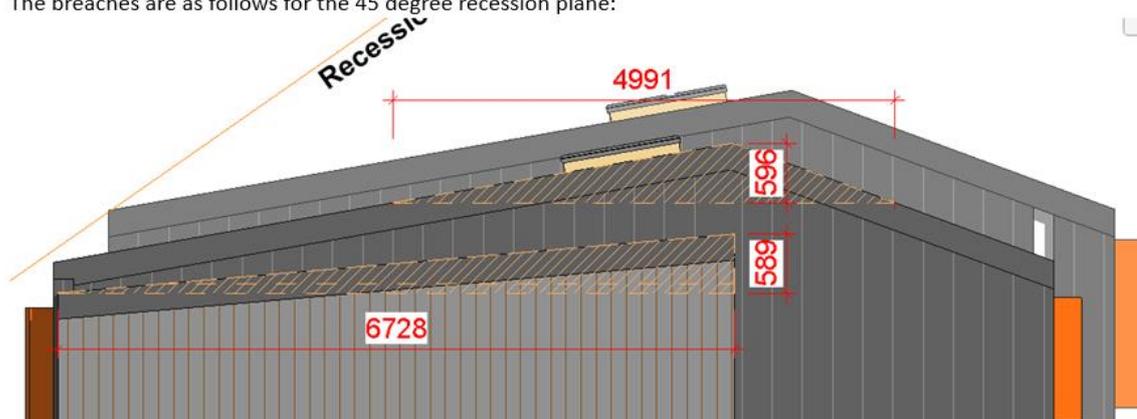
<sup>8</sup> Buildings have been designed to achieve a 3m + 35<sup>o</sup> angle on this boundary.

<sup>9</sup> The bike shed structure was shown on the architectural plans as lodged.

			principal bedroom and 1 x 1m for other bedrooms. Units 5 and 6 cannot provide a 6m depth from the principal living room of a dwelling or main living and dining area (5.35m). All other units achieve the standard.
MRZ-S8	Minimum landscaped permeable surface area	Yes	At least 25% of the application site would be either planted in grass, vegetation or landscaped with permeable materials (30%).
MRZ-S9	Outdoor storage requirements	Yes	No outdoor storage is proposed
MRZ-S10	Maximum fence or wall height	Yes	The front boundary fences along Morley and Barret Streets would be 2m and 1.8 in height but 50% permeable to comply with the provisions of MRZ-S10 1.b and c. Side boundary fences would be maximum of 2m in height in accordance with MRZ-S10 2.

**Figure 1: Extent of non-compliance with Effects Standards MRZ-S3 on the boundary with 47A and 47B Barrett Street.**

The breaches are as follows for the 45 degree recession plane:



26. The proposal complies with all other matters within the PDP including the provisions of the Churchill heights View shaft and transport provisions.
27. The proposal is a Restricted Discretionary Activity under Rules MRZ-R3, MRZ-R30, MRZ-R32 and EW-R10 being the highest activity status under the above relevant rules.

**Overall Activity Status:**

28. Section 88A(1A) of the RMA outlines that if the activity status of application for resource consent changes as a result of decisions on a Plan or proposed plan, the application continues to be processed, considered and decided as an application for the type of activity that it was at the time that the application was first lodged.
29. In this case there was no changed to the activity status, i.e., the activity status was for a Restricted Discretionary Activity under decisions version of the PDP.

### **Status of the PDP following close of appeal period.**

30. The decisions version of the PDP was the subject to an appeal period which closed on the 26th of June 2023. Twenty-two appeals were received in total<sup>10</sup>.
31. No appeals were received in relation to either the decisions on the underlying change to MDRZ zoning or the provisions of the MDRZ Chapter itself including the Objectives, Policies or Rules. No appeals were received in relation to the Churchill Heights Viewshaft.
32. Under Section 86F of the RMA a Rule in a Proposed Plan must be treated as operative (and any previous rule as inoperative) if the time for making submissions or lodging appeals on the rule has expired, and in relation to the rule:
  - no submissions in opposition have been made or appeals have been lodged;
  - all submissions in opposition and appeals have been determined; or
33. In light of decisions being released on the PDP and the closing of the appeal period, the appeals on the PDP are able to determine that the application no longer requires consent under the ODP including the matters outlined in Table 2 above.

### **National Environmental Standard for Assessing and Managing Contaminants in Soil 2011 (NESCS)**

34. Regulation 5(4) and 5(5) of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS) describes subdivision and disturbing soil as an activity to which the NES applies where an activity that can be found on the Ministry for the Environment Hazardous Activities and Industries List (HAIL) has occurred.
35. Consistent with the findings of the notification report, the proposed activity is a permitted activity under the NESCS.

### **Requirement for Other Consents.**

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

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<sup>10</sup> [Appeals \(npdc.govt.nz\)](https://www.npdc.govt.nz)

## SITE DESCRIPTION AND SURROUNDING ENVIRONMENT

37. The site (refer Figure 2) is located on the corner of Morley Street and Barrett Street and is held in a single record of title. The site has a rectangular proportion and is generally flat in terms of its topography being approximately between 52.5m and 53m above sea level. The site previously contained a detached single storey bungalow dwelling and detached garage accessed from Morley Street. Both structures have been demolished.
38. The site is boundary by Morley Street to the west and Barrett Street immediately to the north. On the opposite site of Barrett Street to the north lies the Otūmaikuku pā, and the former Barrett Street Hospital. This site has several planning overlays including sites of archaeological and cultural significance as well as heritage buildings<sup>11</sup>.
39. Opposite the site to the west lies established residential properties on the corner of Morley and Barrett Street and Morley Street and Wallace place. Each property contains an existing detached residential dwelling. The site is boundary to the east by a cross lease sites (47A and 47B Barrett Street). The site is bound to the south by an existing single storey residential dwelling accessed from a single crossing point to Morley Street.
40. The area can be described as being residential in terms of its character with a mix of unit types and architectural styles. The area includes a range of standalone buildings on larger sites with private landscaped areas but also higher density residential sites with multiple units. Examples of small terrace and semi-detached units are outlined with the architectural statement by Solari Architects and shown in Figure 3 below.
41. The site is in close proximity to the fringes of the City Centre and has easy walking access to recreational opportunities including Yarrows Stadium, Saunders Park (Tukapa Sports Club), Western Park/Pipiko Native Reserve and West End Bowling Club.
42. The Westown shopping centre is located approximately 600m to the south-west and includes cafes, TSB bank, Unichem pharmacy, bars and restaurants and cafes, TSB bank, Unichem pharmacy, bars and restaurants. The site is located on New Plymouth bus route No 4 which connects the CBD with Hurdon and Westwon (refer Figure 4).
43. Morley Street is an "Arterial Road" under the PDP roading hierarchy and has a 50km/hr speed limit. The roadway has unrestricted parallel parking spaces and footpaths on both side of the road and carries approximately 11,750 vehicles per day. Barrett Street is defined as a Local Road and carries 450 vehicles per day.

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<sup>11</sup> Refer paragraph 6 of the notification report for further details.

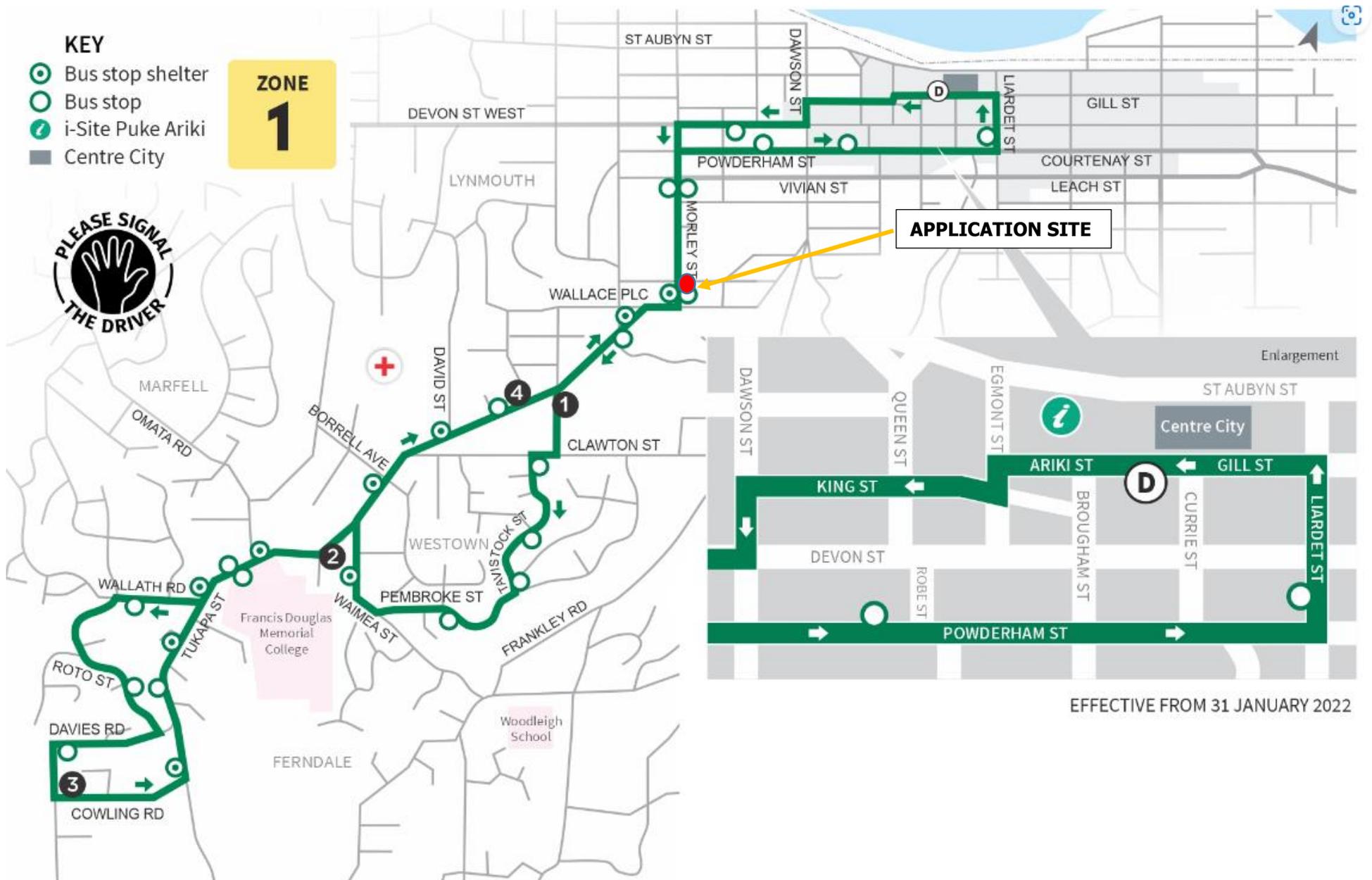
Figure 2: Aerial Location Plan of subject site and surrounding area. Source: NPDC Miles GIS



**Figure 3: Medium density terraced and semi-detached multi-unit examples.** Source: Solari Architects.



Figure 4: Map showing New Plymouth Bus Route 4 - Westown/Hurdon: Source: TRC.



## PROPOSAL

44. The applicant seeks landuse consent to construct eight townhouses for Papakāinga purposes that trigger building and land use activity rules under the PDP<sup>12</sup>.
45. The proposal includes two detached two-storied buildings each containing four units (known as Blocks A and B). The maximum height of Blocks A and B would be 8.14m and 7.48m respectively. Block A is located on the western edge of the site close to the Morley Street boundary. Block B is aligned with the southern boundary of the site set back 3.88m from the boundary with 107 Morley Street. A pedestrian access is provided from Morley Street between the southern end of Block A and the northern elevation of Block B.
46. The 8 units will be comprised of 5 x 2-bedroom units and 3 x 3-bedroom units ranging in area from 85m<sup>2</sup> to 109m<sup>2</sup>. Each unit would be provided with dedicated private outdoor living areas ranging from 24m<sup>2</sup> to 80.5m<sup>2</sup>. Outdoor living spaces would be provided at ground floor level part from Unit 1 which features a ground floor space as well as a small balcony overlooking Barrett Street. Each unit would be provided with areas for bin storage and a clothesline.
47. The development would be accessed via a single crossing point on Barrett Street adjacent to the boundary with 47 Barrett Street, 17m from the intersection with Morley Street. The development would be complemented by a private car park on the eastern side of the site providing 7 regular parking spaces and a single disability park. The area provides for 8 bike parks within a self-contained shed.
48. The application outlines that:
- "Block A will be clad in dark grey andesite roof colour and edging with horizontal timber clad on the exterior. Vertical timber battens will be used for Block A where the buildings front Morley and Barrett Street with the timber batten representing the forest of the Maunga and the roof pitches providing the varying heights of the Pouakai Ranges. The front door of all units will the raw orange kōkōwai colour to portray this colour that comes from the Maunga and is used in traditional Māori carvings.*
- Block B will be clad in the andesite grey metal cladding both on the roof and exterior walls. With all the windows punching through the metal cladding being coloured in the orange raw kōkōwai colouring. The roof pitch of Block B depicts the Mount Taranaki. All the front doors, as per Block A are the orange kōkōwai colour."*
49. The applicant proposes a condition of consent be imposed to confirm the final materials of the proposal.
50. The development includes a comprehensive hard and soft landscaping plan. The plan includes details of:
- Planting of an estimated 280+ trees and shrubs;
  - Lawns and permeable surfaces;

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<sup>12</sup> Whilst the application as lodged did not specific use the term Papakāinga, Section 2.4 of the application stated that *"The application site is intended to be developed and used for whānau housing, along with the land to the north of the site being the former Barrett Street Hospital another DSP property."*

- Bench seating;
- Decks, boardwalks and concrete pavement areas;
- New boundary fencing to public and private boundaries.

51. The applicant proposes that the above matters be achieved through a condition of consent.
52. The application is supported by an Engineering Infrastructure Report by Envelope Engineering as well as a Geotechnical Assessment Report has been prepared by INITIA. The applicant also engaged ATAMZ to prepare a Traffic Impact Assessment.
53. The engineering report outlines approximately 310m<sup>3</sup> of topsoil strip required with a portion being reused within the final landscaping. A proposed cut volume of 135m<sup>3</sup> to prepare building platforms, to provide access and to support the installation of services. The area of cut and fill works would be 1032m<sup>2</sup>. The report recommends mitigation measures which have been formally adapted as draft conditions of consent. This includes an erosion and sediment control plan.
54. The geotechnical report concludes that the site meets the definition of "good ground" and is suitable for the support of the new buildings on shallow foundations embedded in either engineered fill, or very stiff to hard Taranaki Brown Ash. This information will support the building consent application and will not be considered as part of the landuse consent.

#### **EFFECTS DISREGARDED.**

55. The following effects have been disregarded for the purposes of this report:
- The existing environment can be considered including the residential building and garage recently removed from site.
  - In light of the decision under the notification assessment, I have not applied the permitted baseline (S104(2)).

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

##### **Matters over which Discretion is Restricted:**

##### MRZ-R3: Māori Purposes Activities:

- 1. The effects of non-compliance with any relevant Medium Density Residential Zone Effects Standards and any relevant matters of discretion in the infringed effects standards.*
- 2. Where compliance with three or more Medium Density Residential Zone Effects Standards are not achieved:*
  - a. whether the activity is compatible with the planned character of the surrounding neighbourhood;*
  - b. the extent to which the intensity and scale of the activity may adversely impact on the amenity of neighbouring properties and the surrounding neighbourhood;*
  - c. whether the activity is appropriately located on site; and*
  - d. whether the adverse effects of the activity can be avoided, remedied or mitigated.*

Building activities including demolition or removal of a structure:

1. *The effects of non-compliance with any relevant Medium Density Residential Zone Effects Standards and any relevant matters of discretion in the infringed effects standards.*

MRZ-R32: Building activities that do not comply with MRZ-S3 Height in Relation to boundary, but comply with MRZ-S4 Alternative Height in Relation to Boundary:

1. *Sunlight access:*
  - a. *Whether sunlight access to the outdoor living space of an existing residential unit on a neighbouring site satisfies the following criterion: Four hours of sunlight is retained between the hours of 9am to 4pm during the Equinox (22 September):*
    - i. *over 75% of the existing outdoor living space where the area of the space is greater than the minimum required by MRZ-S6; or*
    - ii. *over 100% of existing outdoor living space where the area of this space is equal to or less than the minimum required by MRZ-S6.*
  - b. *In circumstances where sunlight access to the outdoor living space of an existing residential unit on a neighbouring site is less than the outcome referenced in (a):*
    - i. *The extent to which there is any reduction in sunlight access as a consequence of the proposed development, beyond that enabled through compliance with MRZ-S3 Height in relation to boundary control; and*
    - ii. *The extent to which the building affects the area and duration of sunlight access to the outdoor living space of an existing dwelling on a neighbouring site, taking into account site orientation, topography, vegetation and existing or consented development.*
2. *Attractiveness and safety of the street: The extent to which those parts of the buildings located closest to the front boundary achieve attractive and safe streets by:*
  - a. *providing doors, windows and balconies facing the street;*
  - b. *maximising front yard landscaping;*
  - c. *providing safe pedestrian access to buildings from the street; and*
  - d. *minimising the visual dominance of garage doors as viewed from the street.*
3. *Overlooking and privacy: The extent to which direct overlooking of a neighbour's habitable room windows and outdoor living space is minimised to maintain a reasonable standard of privacy, including through the design and location of habitable room windows, balconies or terraces, setbacks, or screening.*

EW-R10: Earthworks for building activities:

1. *The extent to which the land disturbance or earthworks will compromise archaeological sites, sites and areas of significance to Māori or historic heritage and whether any adverse effects can be appropriately remedied or mitigated.*
2. *Whether the cut face and any retaining structures can be concealed behind development or effectively landscaped.*
3. *The potential to create new or exacerbate existing natural hazards, impact natural drainage patterns, redirect overland flow paths or flood flows or create instability, erosion or scarring.*
4. *Whether the earthworks are of a type, scale and form that is appropriate for the location and character of the zone, including the effects on visual amenity, and impacts on existing natural landforms and features.*
5. *Management of visual amenity effects through landscape treatment, site reinstatement and screening.*
6. *The control of vehicle movements to and from the site (associated with earthworks) to manage construction effects on traffic safety and amenity.*
7. *The effects of non-compliance with any Earthworks Effects Standards and any relevant matters of discretion in the infringed effects standards.*
8. *The matters in EW-P3 to EW-P6.*

**Assessment of Effects:**

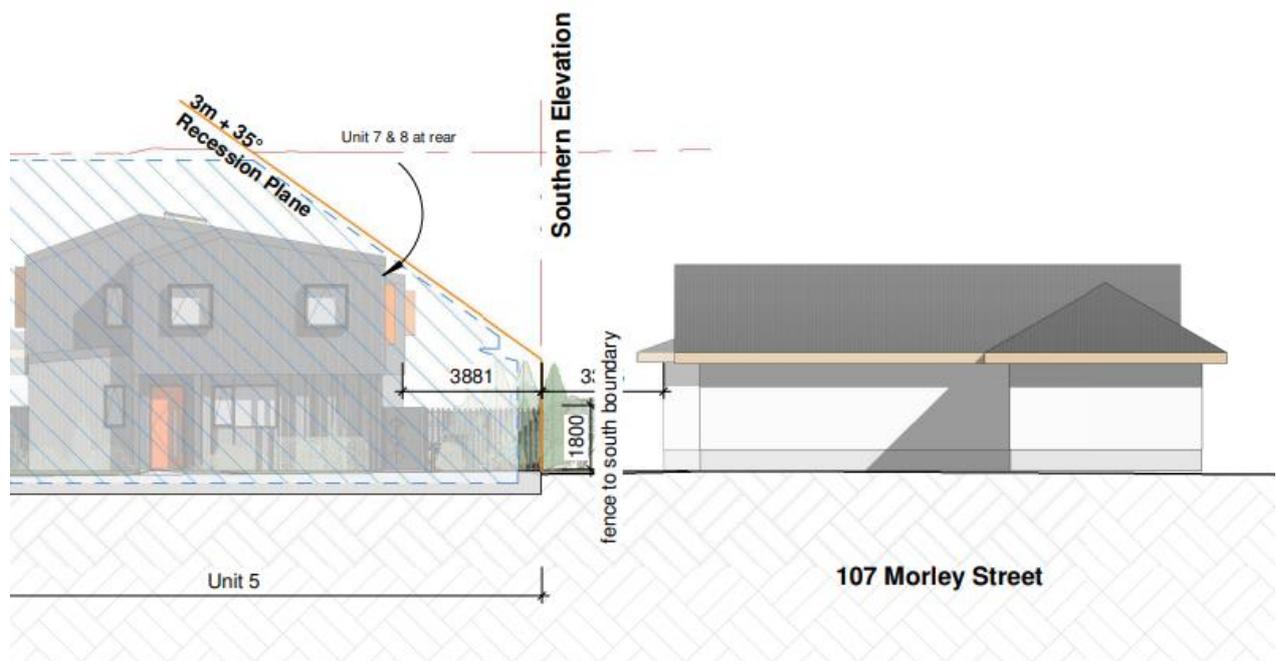
Matters Considered.

56. As part of considering the effects on this proposal on the submitter and effects generally I have reviewed the following:
- the contents of the submission;
  - the notification report by Ms Carter which found the following effects to be no more than minor:
    - Shading effects on Barrett Street;
    - Streetscape effects on Morley Streets;
    - Traffic effects; and
    - Earthworks and construction effects.
  - the architectural and landscaping drawings;
  - the Effects Standards and Rules of the MDRZ;
  - the AEE by Ms Buttimore including technical reports; and
  - findings of my site visit of the property.
57. The property at 107 Morley Street shares its northern boundary with the subject site. The property contains a single storey detached dwelling accessed from Morley Street. The dwelling contains 3 bedrooms and features living and dining room areas on the northern side of the dwelling oriented to the north and west. The dwelling features a range of outdoor living spaces around the dwelling ranging in size and function.
58. The submitter outlines a range of concerns with the proposal including:
- The proposed density would negatively change the character of the area;

- The proposal would create adverse traffic effects both for submitters property and the surrounding road network;
- The development would adverse amenity effects including privacy, noise, nuisance, outlook, shading, construction and earthworks effects;
- A lack of green space is provided within the development;
- The development would create a range of related nuisance effects such as alcohol consumption, smoking, the keeping of pets, neighbor disputes and increased noise;
- Effects would be significant and cannot be avoided, remedies or mitigated;
- The proposal would be inconsistent with the purpose, principle and provisions of the RMA 1991, The Taranaki Regional Policy Statement, the Operative District Plan 2005 and the Proposed District Plan 2019.

59. The submitters property lies adjacent to proposed Block B which contains unit 5-8. The property would experience views of Block B from internal living spaces and from the grounds of their property. A contiguous elevation and perspective drawing of the relationship between Block B and 107 Morley Street is shown in Figures 5 and 6.

**Figure 5: Contiguous elevation of development showing Block B and 107 Morley Street.**



**Figure 6: Perspective drawing showing rear of Block B and 107 Morley Street.**



Amenity effects including privacy, building dominance, outlook and shading.

60. Whilst the siting of Block B would clearly be visible from the submitter's property, there are several mitigation and contextual factors which assist in reducing adverse amenity effects including shading, privacy loss and building dominance and a loss of outlook. These include:

- Living areas and outdoor amenity spaces being placed at ground level rather than first floor level;
- Screening of such spaces through a combination of dedicated planting and closed board fencing;
- Windows facing the submitters property are limited to 4 bedrooms and 4 bathrooms;
- Windows feature protruding window frames which allow for views and light and internal privacy for units 5-8 but reduce the degree of overlooking to the submitters property;
- Providing a minimum 3.88m setback from the boundary where the zone provides for a minimum 1.5m setback;
- Avoiding the use of terraces or balconies on the southern elevation of Block B so as to avoid undue overlooking and privacy loss;
- Proposing a maximum building height 7.48m where the MDRZ now allows for up to 12m in certain circumstances;
- Siting Block B to achieve a  $3m+35^\circ$  height in relation to boundary angle where the MDRZ now allows for  $3m+45^\circ$ ;

- Views between the living areas of 107 Morley Street and the southern elevation of Block B would be partially screened by three existing conifer trees estimated to be 2.5-3m in height (refer photos 1 and 2).
  - The property at 107 Morley Street retains a range of outdoor spaces including north and west facing areas and more secluded and private areas to the east of the existing dwelling.
61. When appraising the submission, I have considered that the site has been rezoned during the processing of the consent and that the Effects Standards of the MDRZ are generally more enabling in nature than those of both the Residential A Environment Area (ODP) and the General Residential Zone (PDP as notified).
  62. An alternative development scenario provided by the applicant demonstrates that a building which meets both the height in relation to boundary requirements under MRZ-S3 and setback under MRZ-S6 with 107 Morley Street (refer Figure 7 and 8) could be built on the site where all other Rules and Effects Standards are met<sup>13</sup>.
  63. Under this scenario, a building could plausibly be established within 3m of the southern boundary of the site employing a 2nd floor terrace. The overlooking, privacy and built dominance effects of this scenario would be greater upon persons in 107 Morley Street than those associated with the proposed development.
  64. The applicant has provided shading diagrams based on the scenario outlined in Figures 7 and 8<sup>14</sup>. The shading scenarios show that a building sited in accordance with Effects Standards MRZ-S3 and MRZ-S6 would create a greater degree of shading than the proposed development. Whilst I have not applied the permitted baselines the drawings serve as a useful comparison to show the level of shading which might be anticipated.
  65. In assessing possible shading effects, I have placed more weight on the fact the development complies with the height in relation to boundary, setback and height requirements on the boundary with the submitter's property.
  66. I consider that shading effects on the property at 47A and 47B Barrett Street are acceptable in light of the findings within the s 95 report by Ms Carter.

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<sup>13</sup> MRZ-S6(3) outlines that decks, balconies and terraces that are more than 2m above ground level shall be setback 2.5m from any side boundary.

<sup>14</sup> Refer drawings provided as part of further information response received 3rd of July 2023.

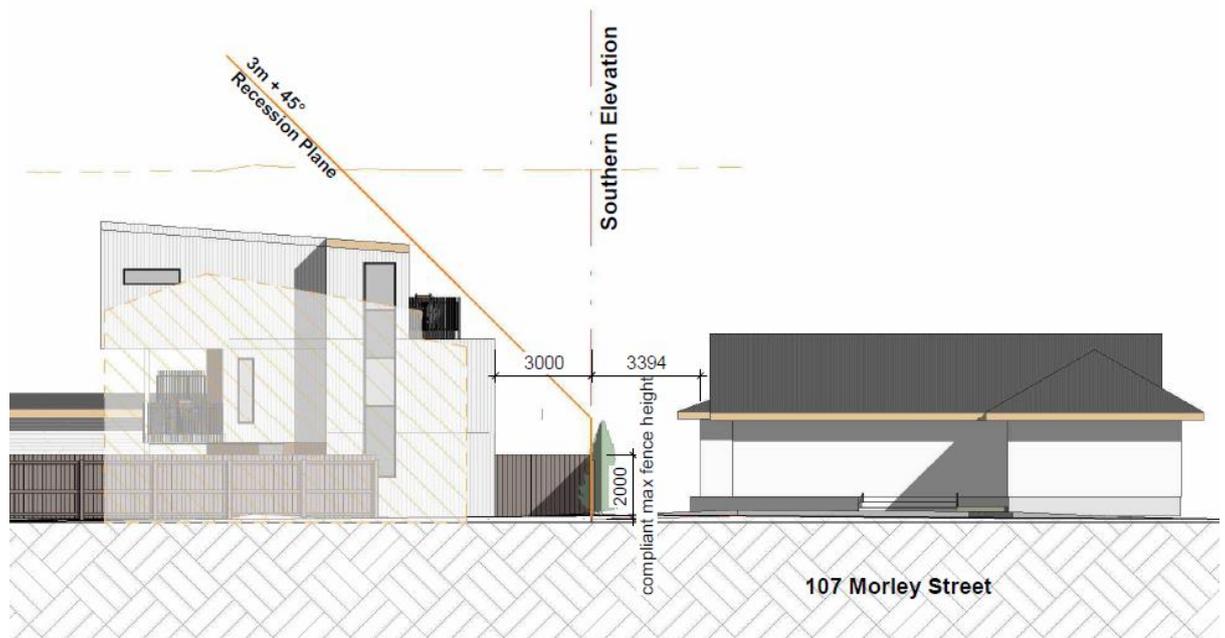
**Photo 1: Existing conifers trees – 107 Morley Street taken from application site.**



**Photo 2: Existing conifers trees – taken from 107 Morley Street.**



**Figure 7: Contiguous elevation of alternative development scenario.**



**Figure 8: Elevation of alternative development scenario facing 107 Morley Street.**



67. In regard to the submitters concern of a lack of “green space”, the development provides for private and communal green spaces within the site and lies within easy walking distance to large dedicated open space areas such as Sanders Park and Western Park. I would also note that the development would provide approximately 280 tree and shrub species across the site which would visually soften the appearance of the development generally and provide for improved biodiversity.

68. I would also note that the development complies with both the building coverage requirement under MRZ-S2 and the minimum landscaped permeable surface area under MRZ-S8 which demonstrates that the site generally is not over developed with buildings, structures and hard landscaping. Overall, I consider that the quality and amount of private and shared open space, including green space to be acceptable.

69. In regard to the more general nuisance effects raised by the submitter, I consider such effects are typical of a residential urban environment. PDP Noise control standards and Council bylaws help to control such effects where they are elevated to the point where they become a material noise. It should be noted that the area is already heavily urbanised and the site is located on a busy arterial road subject to background traffic noise levels.

### **Traffic and Parking:**

70. The submitter raises concerns regarding the impact of parking on their property and the safety and efficiency of the surrounding transport network.
71. The transportation effects of the development on individuals and the wider networks were well canvassed in the notification report with effects on the wider environment being found to be minor. The application which was supported by a Traffic Impact Assessment was forwarded to Council's Network Transportation Lead, Mr John Eagles, for comment. Mr Eagles was satisfied with the establishment of the new vehicle access point, the onsite manoeuvring provided and the increased traffic generation.
72. Ms Carter assessed the traffic effects in relation to the submitter's property stating that: *" Any traffic safety and amenity effects resulting from the proposed increased traffic generation and the position of the accessway are considered to be less than minor in nature on the persons associated with 107 Morley Street due to the separation distance of the proposed access onto Barrett Street from the neighbouring site on Morley Street."*
73. For completeness I have considered the specific effects of parking overspill on the submitter's property noting that should such overspill occur, this would not impact on the ability of the submitter to park on their property. This is based on the property containing double garage, areas of vehicle hard standing and two access points to Morley Street.
74. In the absence of any further technical evidence being presented and noting the proposal complies with all related transport provisions of the PDP, I consider that transport and parking effects of the development on the submitter and wider environment are acceptable.

### **Earthworks and Construction Effects:**

75. The proposed earthworks fail to be met the permitted activity criteria under Rule EW-R10. The application outlines commitment to an erosion and sediment control plan. Compliance with the plan forms part of the draft conditions of consent outlined in Appendix 1.
76. It is considered that through the application of consent conditions any actual and potential effects associated with the earthwork's operation can be entirely managed within the boundaries of the site. The effects of earthworks are localised to the site and are expected to be completed in a limited number of days.
77. Similarly, construction effects will be temporary in nature and can be effectively managed through suitable conditions of consent. New PDP noise standards for construction noise remain in place to ensure that such works do not create an undue nuisance particularly for directly adjoining properties. I recommended four conditions

to ensure such effects are minimised including limited the house of works, a process for capturing and dealing with complaints, a construction noise condition as well as a general review condition.

### **Streetscape Effects:**

78. I consider that streetscape effects of the development are acceptable based on the findings outlined by Ms White and Ms Carter outlined within the notification report. In her assessment of the scheme Ms. White concluded:

*"The site represents a good location and opportunity for medium density housing and the proposed design is logical and well considered. The key issue for urban design assessment is the potential effects of building siting, scale and form along Morley Street which could lead to visual dominance, perceptions of higher density, lack of landscaping and loss of privacy and surveillance.*

*The bulk of the development along Morley Street is greater than that permitted by the Operative Plan and typical in the area and will represent a change in the immediate context. However, the existing context is varied and given the potential future statutory context, is likely to continue to change and intensify.*

*This context, along with the status of the road and corner location, and the architectural and landscaping design make this generally supportable from an urban design perspective. Whilst the proposal results in infringements of the recession plane and front yard coverage, the design of the built form and landscaping serves to deliver an urban design outcome that is positive for Morley Street and consistent with general urban design best practice."*

79. I consider the findings of Ms Whites report to still be relevant given:
- The scope and design of the proposal has not materially changed has not changed since her initial report;
  - The underlying MDRZ is broadly favourable towards well considered housing density. density
80. Overall, I agree with the findings presented and find that streetscape effects would be acceptable. A condition is included to ensure that the visual connection between the kitchen/living areas of units 1-4 with Morley Street is maintained.

### **Effects Conclusion:**

81. In summation, I have considered the scope of the submission put forward as well as wide effects of the proposal. Whilst I appreciate the depth and breadth of the concerns outlined, I consider that there are number of factors which in combination demonstrate any negative outlook effects described in the notification decision by Ms Carter on the submitter will ultimately be acceptable.
82. Whilst the notification report found outlook effects to be minor, this was based on the triggers under the ODP including a failure to meet from front yard building coverage and height in relation to boundary provisions on the roadside boundary with Morley Street. Whilst I accept these findings, the compliance now achieved under the PDP

Effects Standards suggests that the effects of Block B on the submitter’s property such as privacy loss, outlook, and building dominance are anticipated by the PDP.

- 83. In the absence of any further technical evidence I concluded that traffic, streetscape, earthworks and constriction effects are acceptable noting again such effects were well canvassed at the notification stage.
- 84. With regards to the concerns regarding the consistency with the relevant planning documents I have undertaken an assessment under Section 104(1)(b) below. This includes a discussion around the expectations of maintaining or protecting protection existing residential character.

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

**National Environmental Standards**

- 85. There is no National Environmental Standards relevant to this application.

**National Policy Statements**

National Policy Statement for Urban Development 2020.

- 86. The National Policy Statement on Urban Development 2020 (“NPS-UD”) came into effect on the 20 August 2020 and replaced the National Policy Statement on Urban Development Capacity 2016 (“NPS-UDC”). It is noted that Strategic Objectives have been included in the PDP to give effect to the NPS-UD.

**Table 5: Relevant NPS-UD Objectives and Policies to resource consent decisions.**

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

87. The proposal is considered to be generally consistent with the relevant Objectives and Policies of the of the NPS-UD 2020 as it provides for urban environments and amenity to change over time to provide for well function environments. This is discussed further under the PDP assessment below.

### **Taranaki Regional Policy Statement 2010.**

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

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

*SUDPOLICY 1 To promote sustainable development in urban areas by:*

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

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

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

*(d) providing for regionally significant infrastructure;*

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

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

*(g) promoting the maintenance, enhancement or protection of land, air and water resources within urban areas or affected by urban activities;*

*(h) protecting indigenous biodiversity and historic heritage; and*

*(i) avoiding or mitigating natural and other hazards.*

89. The RPS was finalised in 2010 and whilst there was an interim review undertaken in 2017, a full review has not since commenced.
90. Since the RPS came into effect there have been a number of key policy changes at the national level including the NPS-UDC and NPS-UD.
91. I note that there is a potential conflict in policy direction between the RPS and NPS-UD in relation to amenity values being maintained or enhanced (Policy SUD 1 (a)) or being expected to change over time (NPS-UD Objective 4 and Policy 6).
92. When there is a conflict between the RPS and the NPS-UD, I am of the view that the NPS-UD takes precedence as it is the most recent higher order document that plans are required to give effect to.
93. Should the RPS be updated to give effect to the NPS-UD (or other high order documents for that matter), Council will be required to assess whether it meets the requirements of the RPS and, if not, update its District Plan via a Variation or Plan Change.

## **Operative District Plan 2005.**

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

## **Proposed District Plan 2019.**

95. I have outlined the relevant Strategic Objectives as well as Objectives and Policies of the MDRZ below. My understanding that these matters do not form part of the scope of appeals received on the PDP. The matters are therefore considered to be operative.

### Strategic Objectives

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

### *Tangata Whenua*

*TW-13 Tangata whenua are able to exercise kaitiakitanga and actively participate in resource management processes and decision-making in a way that provides for the relationship of tangata whenua with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes and other taonga of significance to Māori.*

*TW-15 Recognise that tangata whenua:*

- 1. are kaitiaki;*
- 2. hold unique expertise in mātauranga Māori and tikanga;*
- 3. are the only people who can identify impacts on their relationship with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes and other taonga of significance to Māori.*

*TW-16 Tangata whenua are able to protect, develop and use their ancestral land in a way which is consistent with their culture and traditions and their social, cultural and economic aspirations.*

*TW-17 Recognise the contribution that tangata whenua and their relationship with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes, and other taonga of significance make to the district's identity and sense of belonging.*

97. I agree with the statements of Ms Buttimore provided in her further information response dated 3<sup>rd</sup> July that the development is broadly in line with the Tangata Whenua Strategic Objectives.

## *Urban Form and Development*

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

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

98. The proposal to established multi-unit Papakāinga housing on an existing “brown field” site helps to achieve the compact and well-functioning urban form outlined in UFD-18(1). The development provides for modern housing stock in a location which is connected to public transport routes and a variety of amenities and recreational opportunities. The proposed units would be complemented by dedicated landscaping and private outdoor living spaces providing for liveable communities. Overall, the development can be seen as being consistent with UFD-18(1).

99. UFD-18(2) is not considered to be relevant to this application as the site does not contain any specific cultural or natural planning overlay such as a site of cultural or archaeological significance or any outstanding natural landscapes.

100. By providing Papakāinga housing stock for tangata whenua, the development would enhance the relationship of iwi and hapu with their wider cultural rohe. The design of the site including its landscaping further enhances the connection between tangata whenua and the cultural rohe by incorporating mātauranga Māori principles<sup>15</sup>. The development can therefore be seen as being consistent with UFD-18(3).

101. The development provides for greater productivity and economic growth contributing to a compact urban form and through the employment of people associated with the construction industry including building and technical trades e.g., surveyors, surveyors, planners and engineers. The development is therefore consistent with UFD-18(4).

102. The provision of modern housing stock would provide for an improved sense of social and cultural well-being for future inhabitants. Effects including a minor negative outlook

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<sup>15</sup> Specific architectural cultural narratives are shown in drawings RC-007 REV A, RC-008 REVA and RC-009 REV A dated 2.11.22.

loss would be noticeable to the submitter but in my view would not be of a threshold which would undermine their own sense of social wellbeing. The development can therefore be seen as being consistent with UFD-18(5).

103. Based on the information to hand, the site does not appear to be subject to any short, medium or long-term potential natural hazards or climate change impacts such as sea level rise of an enhance flooding risk. The development is therefore consistent with UFD-18(6).
104. The "brown field" application site is well positioned to connect to existing 3-waters, roading, public transport, recreational and social infrastructure in line with UFD-18(7).
105. The development would assist the community in meeting its housing needs consistent with UFD-18(8). The provisions of 2 and 3-bedroom terrace and semi-detachment apartments also increases housing choice. The lack of housing choice within the district was highlighted within the District Plan review process. Section 4.3.5 of the Residential Section 32 report stated that:

*"A mix of densities enables communities to respond to the changing needs and demographics of its residents through their lifecycle. The ability for older people to remain living in the same community with their social networks nearby is hugely important.*

*Looking at the type of housing built in the District, trends show that overwhelmingly the most predominant building type is the detached house and that there is a considerable lack of other type of houses such as units, flats, townhouses, studio accommodation etc. being built.<sup>16</sup>"*

106. The development would alter the existing character of the area by providing for a denser form of housing typology. This change is likely be noticeable and slightly negative in terms of outlook for the submitter's property as discussed earlier.
107. Negative changes in amenity values are addressed in UFD-18(9) which outlines that to achieve the overall outcomes of UFD-18, changes may detract from amenity values appreciated by people within the community. UFD-18(9) allows for such changes to occur where appropriate in order gain the benefits of increased and varied housing choice.
108. Whilst I agree with the submitted that the character of the area will change because of the proposal, I agree with the conclusions reached by Ms Carter that such effects would be no more than minor. UFD-18(9) directs that there is no presumption that existing character or amenity levels are to be maintained and/or protected urban environments.

UFD-20 *A variety of housing types, sizes and tenures are available across the district in quality living environments to meet the community's diverse social and economic housing needs in the following locations:*

1. *suburban housing forms in established residential neighbourhoods;*

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<sup>16</sup> Refer section 4.3.5 of the Residential section 32 report [24-residential-zones.pdf \(npdc.govt.nz\)](#)

2. *a mix of housing densities in and around the city centre, town centres, local centres and key transport routes, including multi-unit housing;*
3. *opportunities for increased medium and high-density housing in the city centre, town centres and local centres that will assist to contribute to a vibrant, mixed-use environment;*
4. *a range of densities and housing forms in new subdivisions and areas identified as appropriate for growth; and*
5. *papakāinga that provides for the ongoing relationship of tangata whenua with their culture and traditions and with their ancestral land and for their cultural, environmental, social and economic well-being.*

109. UFD-20(1) is not considered to be relevant to this proposal as the application given the underlying MDRZ zoning broadly promotes denser forms of housing compared to the predominant General Residential Zone.

110. The development can be seen as being consistent with UFD-20(2) as it provides for a mix of terraced and semi-detached multi-unit Papakāinga units located on an arterial transport route. The units would be within a 10-minute walk to the Westtown shopping centre which includes a variety of amenities and services including TSB bank, Subway, Unichem pharmacy, Pizza Hut, Little Fed café and the Nag 'N' Noggin bar and restaurant.

111. The proposed provides a range for a mix of unit sizes and configurations within an area which has been recently "upzoned" as a result of the PDP decisions. The decision to upzone the application site and wider area demonstrates that the area is broadly suitable for well-designed liveable and connected housing intensification in line with UFD-20(2) and (3).

112. The proposal provides for Papakāinga housing consistent with the outcome sought by UFD-20(5).

113. Overall, the development is considered to be broadly consistent with the Urban Form and Development Strategic Objectives.

#### *Medium Density Residential Zone*

*MRZ- O1 The Medium Density Residential Zone is predominantly used for residential activities and is characterised by medium density housing up to three storeys high in a variety of forms.*

114. The proposal is for Papakāinga housing set within two 2-storied blocks with varied architectural forms. By providing a mix of 2 and 3 bedroom units within terrace and semi detached formats, the proposal can be seen as providing a variety of housing forms. Overall, the proposal is considered to be consistent with MRZ-O1.

*MRZ- O2 The role, function and planned residential character of the Medium Density Residential Zone is not compromised by non-residential activities.*

115. The proposal is purely for residential Papakāinga activities and does not involve any non-residential activities.

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

116. The proposal would increase the variety of unit types and overall housing choice within the area. The development generally fits within many of the bulk and location parameters for the MDRZ involving only minor breaches in setbacks on the Morley Street boundary and the height on relation to boundary requirement for the eastern boundary. As discussed earlier, I consider that the southern area of the site including its interface with 107 Morley Street has been sensitively designed to reflect the context and amenity of the adjoining site. Whilst this property would experience a minor negative loss of outlook, the effect is considered acceptable and overall, this property would continue to receive good levels of amenity.

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

117. The proposal would provide for modern accommodation built to the latest building code standards. Each unit would be provided with a suitable level of private outdoor amenity space and dual aspect internal living spaces. Generally, the units have been provided with a more generous 2.7m stud height apart from units 7 and 8 which employ a 2.4m height to reduce effects on neighbouring properties.

118. The proposed building coverage of just 40% demonstrates that the site would not be over-development in terms of buildings and structures noting that Effects Standard MRZ-S3 allows for 60% building coverage for Papakāinga.

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

119. The application site is zoned for medium density residential purposes and lies within an established residential area supported by a range of existing built, social and recreational infrastructure. The proposal can therefore be seen as broadly helping to delivering a compact urban form for the city.

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

120. Based on the advice presented by Ms White as part of the s 95A assessment, effects on the streetscape are considered to be less than minor and ultimately acceptable.

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

121. The property at no 107 Morley Street would experience adverse outlook effects which are minor and acceptable in nature. The magnitude of the effects both on 107 Morley Street and more generally on the wider environment would be managed and mitigated through the design of the Block B.

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

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

122. The proposal is for Papakāinga housing, a subcomponent of Māori Purpose Activities. The development can therefore be seen as a compatible with the role, function, and planned character of the MDRZ.

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

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

*Potentially compatible activities include:*

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

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

123. Whilst the development includes more than 4 residential units on a site, Papakāinga activities are exempted from Rule MRZ-R12. Denser forms of Papakāinga activities are therefore broadly consistency with the role, function and planned character of the MDRZ noting such developments are subject to all other provisions of the PDP including District Wide Matters (signs, earthworks etc) and zone Effects Standards.

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

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

*Incompatible activities include:*

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

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

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

125. The proposal is for Papakāinga housing brought to market by iwi and for mana whenua of the area. The proposal provides for a mixture of 2 and 3-bedroom townhouses set within an established residential area.

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

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

126. The proposed housing development would be consistent with the role and function of the underlying MDRZ which is broadly outlined in Objective MRZ-O1.
127. I have also considered whether the development is consistent with the “planned character” of the zone noting this term is used throughout the PDP but not formally defined. My understanding is that the lack of a definition is deliberate as the term implies different outcomes for different zones e.g., rural vs residential zones. In the residential context, the application of the term can be seen as being influenced in combination by the Objectives, Policies Rules and Effects Standards which differentiate the outcomes expected in each of the residential zones.
128. The use of the word “planned” is deliberate and signals that in order to deliver housing outcomes sought under the UFD Strategic Objectives, changes in existing character and amenity levels within existing urban environments is anticipated. The use of the term planned ensures that the settings of the PDP do not unduly favor the status quo at the expense of the opportunity to change and development over time in order to achieve the required outcomes as directed under UFD-18.
129. Further context for what the planned residential character for the MDRZ can be found within the Overview section of the Chapter itself which states:

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

*The zone is generally characterised by a mix of uses, including existing suburban scale residential housing (stand-alone houses) and townhouses/flats. However, it is expected that the character and scale of buildings in this zone will transition over time as the number of medium density residential developments increases (i.e. multi-unit, semi-detached and terraced houses)."*

*To ensure a good quality of life and amenity for existing and future residents, the District Plan seeks to ensure that high standards of on-site amenity are achieved, including by controlling the level of noise and light overspill that may be emitted in the zone, and by requiring that residential properties are provided with good access to sunlight and daylight and have a reasonable level of privacy. The provisions also require that site design and layout be considered in order to protect and enhance the amenity of surrounding properties and the wider neighbourhood."*

130. The proposed development, which provides for a mix of unit sizes and typologies is generally consistent with the built outcomes outlined within the chapter view and is an example of the change of character and scale expected over time. Based on the design before me I consider that the expected change is achieved in a way which provides suitable levels of sunlight, daylight and privacy both for future residents of the development and surrounding properties including 107 Morley Street.
131. The PDP does not seek to control the number of units associated with Papakāinga housing. This is demonstrated by Rule MRZ-R12 exempting Papakāinga. Whilst the development does not meet the outdoor living space, outlook, setbacks and height in relation to boundaries, the extent of the breaches is general marginal in nature and limited to targeted aspects of the site and specific units.

132. All units would be provided with outdoor living spaces some of which are well in excess of the minimum requirements. Spaces which are provided are flat, of reasonable dimension, would receive suitable levels of sunlight/daylight at different times of the day and are directly accessible from internal living spaces.
133. Whilst not meeting the outlook space requirements, the overall level of outlook from all primary living spaces, principal bedrooms and other bedrooms would be suitable. The failure to meet the technical standards is generally marginal and mitigated through the design overall.
134. The effects of the failing to meet boundary setbacks are limited to the Morley and Barrett Street boundaries and based on the analysis of Ms White are acceptable.
- MRZ-P7 Require the effects generated by activities to be of a type, scale and level that are appropriate for the Medium Density Residential Zone, including by:*
- 1. controlling noise, vibration, light or glare (particularly at night);*
  - 2. minimising adverse effects on the local transport network, including from inappropriate traffic volumes by providing sufficient on-site parking, servicing, manoeuvring, pedestrian and cycling space;*
  - 3. managing earthworks, subdivision and construction work;*
  - 4. ensuring the size, design and type of signage is compatible with the planned character and amenity of the residential area that the signage is located in; and*
  - 5. minimising hard surfacing and, where possible, retaining or providing visually prominent trees, bush and landscaping.*
135. Given the residential nature of the proposal it is not expected that there would be ongoing and regular nuisance effects associated with lighting vibration and noise of a non-residential nature. The Effects Standards of the PDP remain in place to control any such effects. Any noise and vibration associated with the construction phase of the project would be inherently temporary in nature and can be mitigated through by consent conditions. The development is therefore consistent with MRZ-P7(1).
136. Adverse effects of the proposal on the local transport network were well canvassed under the notification assessment and found to be minor on nature. Following the close of submissions, the proposal has been amended to provide for an accessible park to ensure compliance with the transport provisions of the PDP. Overall, the proposal can be seen as being consistent with MRZ-P7(2).
137. Effects related to earthworks have also been well canvassed in the notification report. Any affects would be temporary in nature and can be mitigated by the conditions outlined in the engineering report which I have adopted as part of the draft conditions should the commissioner grant consent. The development is therefore consistent with MRZ-P7(3).
138. MRZ-P7(4) is not considered to be relevant as the application does not seek dispensation for any signage requirements. The provisions of the signage chapter under the PDP remain in place to control effects should any signage be proposed in the future.

139. Whilst the application site itself does not contain any visually prominent trees, bush or landscaping, the development would be complemented by a dedicated hard and soft landscaping plan involving the establishment of over 280+ trees and shrubs around the site. Even when allowing for buildings and hardstanding areas, 30% of the site area would be covered in landscaping and other permeable materials consistent with outcomes sought under MRZ-P7(5).

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

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

140. It can be said that the development generally complies with the bulk and location provisions pertaining to the MDRZ and in some cases is well within the permitted activity thresholds (e.g., maximum height and building coverage). The development complies with all bulk and location effects in relation to private boundaries apart from a minor height in relation boundary breach on the eastern boundary. The effects of this breach on the immediate neighbouring property were well canvassed as part of the notification assessment found not to meet limited notification threshold (less than minor).

141. The proposed setback distance of 3.88m from units 7 and 8 within Block B to the boundary at 107 Morley Street is a generous setback distance in light of the 1.5m setback prescribed under Effects Standard MRZ-S6. This setback provides for a setback of over 7m between existing and proposed buildings. The setback distance provides visual and built relief between the proposed development and the dwelling at 107 Morley Street.

142. Provision of new fencing, landscaping and a building height which achieves a 3m+35° height in relation to boundary angle means that adverse visual amenity effects, including a sense of enclosure or dominance would be minimised. As noted earlier, the living areas for units 5-8 which are the units which lie adjacent to the boundary with 107 Morley Street lie exclusively on the ground floor with direct views between these areas and the north facing living areas of 107 Morley Street being completely screened by proposed planting and solid closed boarded fencing. Whilst the proposal may result in a minor loss of outlook for the submitters property at 107 Morley Street, the development can still be seen as being generally consistent with the Policy.
143. Blocks A and B have been positioned close to Morley Street wrapping around the intersection with Barrett Street. The frontages employ a variety of materials and facade treatments and include windows orientated to overlook the street to create a sense of interaction with the adjoining streetscape. The blocks also use different roof forms creating a sense of architectural interest.
144. Paragraphs 52-68 of the notification is also relevant to this assessment of Policy MRZ-P8(3)-(5). Here Ms Carter undertook a broad assessment of shading and front yard coverage effects. This discussion was supported by analysis of Ms White in her capacity as urban design expert for Council. I agree with her conclusions that found that effects were less than minor.
145. Whilst the Rules and Effects Standards triggered by the proposal have changed as result of the PDP decisions, the building itself retains the same location and general proportions. The development can therefore be seen as consistent with MRZ-P8(3)-(5). The conclusions reached remain relevant to the assessment of front boundary setbacks.
146. The proposal provides a range of native trees and shrubs would provide for a localised increase in habitat and ecological connectivity with nearby green spaces including the Otūmaikuku Pā & Native Reserve and the Pipiko Native Reserve. The development is therefore consistent with MRZ-P8 (6) and (7).

*MRZ-P9 Ensure development provides well-designed on-site amenity, having regard to:*

- 1. the extent to which a reasonable level of sunlight access and privacy is achieved;*
- 2. the provision of sufficient separation distances between buildings to minimise adverse enclosure and dominance effects;*
- 3. the availability of private, outdoor living spaces of sufficient size to provide suitable amenity for residents;*
- 4. the provision of acoustic attenuation/insulation to minimise adverse noise effects between residential units (if attached) and road noise (if located next to state highways); and*
- 5. the availability of adequate storage space and utility and refuse areas to meet the needs of the occupants in the building.*

147. The architectural statement by Solari Architects includes a range of building design analysis covering the following aspects:

- Integrated Building Design;
- Building frontages;
- Building entrances;
- Ventilation;
- internal Layout and Amenity;
- Privacy of internal spaces;
- Open space design;
- Waste Minimising and Recycling
- Energy efficiency;
- Service Areas and Facilities; and
- Water Use, Conservation and Management.

148. The analysis provided is broadly comprehensive and demonstrates that future residents would access to considered on-site amenity consistent with the MRZ-P9(1)-(5).

*MRZ-P10 Encourage living activities that are healthy, accessible and sustainable by:*

1. *using universal design to cater for people of all ages and abilities;*
2. *orientating buildings to maximise solar gain for natural light, warmth and moisture control;*
3. *incorporating innovative design to assist occupants in minimising energy and water consumption; and*
4. *providing for small-scale on-site energy generation (such as solar panels) to meet the needs of occupants.*

149. By providing a variety of compact housing, built to modern standards, the development would generally be in accordance with MRZ-P10(1) – (4).

*MRZ-P11 Ensure activities and development in the Medium Density Residential Zone that may compromise cultural, spiritual or historic values of importance to tangata whenua consult with and seek expert cultural advice from tangata whenua, including with respect to mitigation options.*

150. As the proposal is an iwi lead development specifically for local mana whenua it is understood that there will not be any compromising of these values.

*EW-O1 Earthworks and associated retaining structures necessary for the construction, maintenance or operation of activities are enabled, provided that adverse environmental effects are avoided, remedied or mitigated.*

*EW-P1 Allow earthworks and land disturbance that are associated with the construction, maintenance and repair or upgrade of the following activities, while ensuring the scale, volume and effects of earthworks and land disturbance are appropriate:*

1. *fences, poles, pile or service connections;*
2. *gardening, planting or any vegetation and the construction or maintenance of garden amenities;*
3. *sport and recreation activities;*
4. *conservation activities;*

5. *replacement, removal or installation of underground petroleum storage systems;*
6. *interments in a burial ground, cemetery or urupā;*
7. *the transport network;*
8. *walking and cycling tracks and leisure activities;*
9. *network utilities, including new and extended vehicle access tracks ;*
10. *building activities authorised by a building consent;*
11. *silage pits in the rural production zone;*
12. *vehicle access tracks associated with agriculture, pastoral and horticultural activities in the Rural Production Zone; or*
13. *other earthworks within specified limits and meeting the Earthworks Effects Standards.*

*EW-  
P2*      *Manage earthworks that have the potential to:*

1. *create new or exacerbate existing natural hazards, particularly flood events, or cause adverse impacts on natural coastal processes;*
2. *result in adverse effects on:*
  - a. *the stability of land or structures;*
  - b. *visual amenity and character;*
  - c. *waterbodies and scheduled features;*
  - d. *the health and safety of people and communities;*
  - e. *indigenous biodiversity;*
  - f. *the operation of network utilities; or*
3. *result in adverse construction noise, vibration, odour, dust, lighting and traffic effects.*

*EW-  
P3*      *Ensure earthworks are undertaken in a way that avoids or appropriately remedies or mitigates adverse effects on cultural, spiritual or historical values of importance to tangata whenua, by:*

1. *having regard to:*
  - a. *the extent to which the earthworks or land disturbance may compromise the particular cultural, spiritual or historical values of importance to tangata whenua associated with the site and, if so, the outcomes of any consultation with tangata whenua, including any expert cultural advice provided with respect to:*
    - i. *opportunities to incorporate mātauranga Māori into the overall scale, form and extent of the earthworks or land disturbance;*
    - ii. *opportunities for tangata whenua's relationship with ancestral lands, water, sites, wāhi tapu and other taonga to be maintained or strengthened;*
    - iii. *options to avoid, remedy or mitigate adverse effects; and*
  - b. *the outcomes of any consultation with Heritage New Zealand Pouhere Taonga.*
2. *in all cases, requiring appropriate steps to be followed in the event that sensitive material is discovered during earthworks and land disturbance.*

*EW-P4 Ensure that earthworks are of a type, scale and form that is appropriate for the location having regard to the effects of the activity, and:*

- 1. the impact on existing natural landforms and features and indigenous vegetation;*
- 2. changes in natural landform that will lead to instability, erosion and scarring;*
- 3. impacts on natural drainage patterns and secondary flow paths;*
- 4. compatibility of the earthworks and the design and materials for any retaining structures with the visual amenity and character of the surrounding area;*
- 5. the extent to which the activity mitigates any adverse visual effects associated with any exposed cut faces or retaining structures, including through screening, landscaping and planting; and*
- 6. the impact of the movement of dust and sediment beyond the area of development.*

*EW-P5 Require earthworks and any retaining structures associated with future land development or subdivision to be designed, located, managed and undertaken in a coordinated and integrated manner, including by:*

- 1. managing large-scale earthworks associated with subdivision, including for the purpose of site development and creating roads or access to and within the subdivision; and*
- 2. considering the appropriateness of earthworks in conjunction with site design and layout of future subdivision and development of land, particularly for future infill or greenfield subdivision.*

*EW-P6 Ensure that earthworks and any associated structures are designed as far as practicable to reflect natural landforms, and where appropriate, landscaped to reduce and soften their visual impact having regard to the character and visual amenity of the surrounding area.*

151. Consistent with the findings under s 95 and 104 1 (a), the effects of earthworks proposed on the site would be acceptable and can be avoided, remedied or mitigated via standard conditions of consent. Overall, the development is consistent with the above Objectives and Policies.

152. In summary, the development can be seen as being broadly consistent with the relevant Objectives and Policies of the MDRZ and Earthworks Chapter.

#### **OTHER MATTERS - s104(1)(c)**

153. There are no other matters considered to be relevant to this proposal.

#### **PART 2 OF THE RMA**

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

## RCOMMENDATION

155. That for the above reasons the application be **granted** pursuant to Section 104 & 104C of the Resource Management Act subject to the draft conditions contained in Appendix 1.

### Report and recommendation by:

### Report and decision by:



*Campbell Robinson*  
*Consultant Planner*

### Date:

25<sup>th</sup> July 2023

### Reviewed by:



*Zane Wood*  
*Planning Lead*

### Date:

25<sup>th</sup> July 2023