

**BEFORE COMMISSIONER MCKAY APPOINTED BY NEW PLYMOUTH
DISTRICT COUNCIL**

UNDER the Resource Management Act
1991 (“RMA”)

IN THE MATTER of an application under section 88
of the Act by **BRYAN & KIM
ROACH & SOUTH
TARANAKI TRUSTEES LTD**
to the **NEW PLYMOUTH
DISTRICT COUNCIL** for a
land use consent to construct a
dwelling and associated
retaining and fencing at 24/26
Woolcombe Terrace, New
Plymouth. (LUC24/48512)

**ADDITIONAL INFORMATION AS REQUESTED IN POST HEARING
MINUTE DATED 28/3/25 – PROPOSED PERGOLA**

1. INTRODUCTION

1.1 A pergola, inclusive of planting details for the central outdoor deck area, has been designed by Mr. McEwan. This design is intended to meet the intent of the offered condition to mitigate privacy and overlooking effects.

1.2 On review of the PDP definitions, it is my opinion that the designed pergola meets the definition of a structure, as defined below:

(a) *means any building, equipment, device, or other facility, made by people and which is fixed to land; and includes any raft.*

Commented [CR1]: Agreed.

1.3 I do not consider the designed pergola to meet the definition of a building under the PDP below:

(a) *means a temporary or permanent movable or immovable physical construction that is:*

(i) *partially or fully roofed, and*

(ii) *is fixed or located on or in land, but*

(iii) *excludes any motorised vehicle or other mode of transport that could be moved under its own power.*

Commented [CR2]: Agreed.

- 1.4 The designed pergola is not 'partially or fully roofed' in any way, as it contains no solid materials creating shelter. The connecting wires between the posts are intended solely to guide the plant foliage as it grows from the planter boxes at the base of the structure. The plant foliage will remain permeable and, in my opinion, will not constitute a 'roof'.
- 1.5 Based on this, I have performed an assessment of the pergola structure against the relevant rules and standards of the PDP, as are outlined below.

2. PDP PROVISIONS

Rule #	Rule	Compliance	Activity Status
<i>Medium Density Zone Rules</i>			
MRZ-R31	Building Activities	The pergola meets the definition of a 'structure', and therefore MRZ-R31 is applicable, as 'building activities' is defined under the PDP as 'undertaking or carrying out any of the following building works: Erection of a structure - erection of new buildings and structures.'	Permitted
<i>Medium Density Zone Effect Standards</i>			
MRZ-S1	Maximum structure height - 11m maximum.	The maximum height of the structure is below 11m, with the height from ground level being 3.515m.	Complies
MRZ-S2	Maximum building coverage - 50% maximum.	The structure is not considered to be a building, therefore MRZ-S2 is not applicable as this relates only to 'building footprints'.	Complies
MRZ-S3	Height in relation to boundary - Buildings must not project beyond a 45-degree recession	The structure is not considered to be a building, therefore MRZ-S3 is not applicable, however the design from Mr. McEwan shows it is within the daylight angle regardless.	Complies

Commented [CR3]: Disagree. The pergola fails to meet the requirements of MRZ-R31 1. as it fails to meet the requirements of Effects Standard MRZ-S10. See further comments below in regards to Effects Standard MRZ-S10.

Commented [CR4]: Agreed.

Commented [CR5]: Agreed.

Commented [CR6]: Agreed.

	plane measured from a point 3m vertically above ground level.		
MRZ-S4	<i>Alternative height in relation to boundary</i>	Not applicable.	Complies
MRZ-S5	<i>Minimum building setbacks –</i> <ul style="list-style-type: none"> From a road boundary: 1.5m From a side boundary: 1m 	The structure is not considered to be a building, therefore MRZ-S5 is not applicable.	Complies
MRZ-S6	<i>Outdoor living space requirements</i>	Not applicable.	Complies
MRZ-S7	<i>Minimum outlook space</i>	Not applicable.	Complies
MRZ-S8	<i>Minimum landscaped permeable surface area – 25% minimum.</i>	The structure is permeable, with the plant foliage and planter boxes being located on the current permeable deck, therefore there will be no change in permeable surfaces.	Complies
MRZ-S9	<i>Outdoor storage requirements</i>	Not applicable.	Complies
MRZ-S10	<i>Maximum fence or wall height –</i> Within the front yard: 1.4m in height above ground level. Within the side and rear yard: 2m in height above ground level.	The pergola is considered to be a structure under the PDP, however MRZ-S10 only relates to the structures of fences or walls. This is due to the wording of MRZ-S10 being: <i>No fences or walls or a combination of <u>these</u> structures (whether separate or joined together).</i> It is my opinion that MRZ-S10 is worded to only apply to 'fences or walls' rather than any structure, as it specifically references only these two,	Complies

Commented [CR7]: Agreed.

Commented [CR8]: Agreed.

Commented [CR9]: Agreed.

Commented [CR10]: Agreed.

Commented [CR11]: Agreed.

Commented [CR12]: Agreed.

Commented [CR13]: I disagree with these statements. The proposed pergola structure involves a series of permanent supporting posts being located in the side yard and physically attached to the existing fence structure. It is therefore reasonable to consider the pergola as a permeable extension to the existing closed portion of the fence. Its supporting structures aim to enclose a section of the common boundary. This is consistent with the wording offered within the Standard which states:

No fences or walls or a combination of these structures (whether separate or joined together).

Overall, in the absence of any clear direction to the contrary, I consider that the proposed pergola would be within scope of Effects Standard MRZ-S10. Given the combined height of existing fence and proposed extension is over 2m, it fails to meet the requirements of Effects Standard MRZ-S10 2.

		<p>whilst MRZ-S1 applies to all structures.</p> <p>There are no definitions of 'fence or wall' under the PDP. In my opinion, the pergola design is not a 'wall' as it consists of plant foliage which is not a solid or rigid element, and it is not a 'fence' as it does not function to enclose a property in the way fences typically do. The open framework of the pergola, together with the permeable nature of the climbing plants, does not exhibit the characteristics commonly associated with fences or walls.</p> <p>Accordingly, it is my opinion that the proposed pergola does not fall within the scope of MRZ-S10. While it is a structure, it is not a fence or wall, nor a combination of those, and therefore the standard is not triggered by this element of the proposal.</p>	
<i>Coastal Environment</i>			
CE-R5	Building Activities where all underlying zone rules and effects standards are complied with.	The proposed structure is able to comply with all underlying zone rules and effects standards.	Complies

Commented [CR14]: I disagree with this statement. The development fails to comply with Rule CE-R5 as it cannot meet the Effects Standards of the underlying Medium Density Residential Zone.

3. CONCLUSION

- 3.1 Following this review of the pergola design prepared by Mr. McEwan, it is my opinion that the proposal meets all relevant provisions of the PDP and qualifies as a permitted activity. On this basis, no resource consent is required to construct the pergola.

Benjamin Richard Lawn
McKinlay Surveyors Limited

11 April 2025