

**BEFORE HEARING COMMISSIONERS
IN NEW PLYMOUTH**

UNDER THE

Resource Management Act 1991 ("**Act**")

IN THE MATTER OF

an application under s88 of the Act by Te Atiawa Iwi Holdings Ltd to undertake an eight-townhouse development at 51 Barrett Street, New Plymouth for Land Use Resource consent application **LUC22/48356**

BETWEEN

**TE ATIAWA IWI HOLDINGS LIMITED
PARTNERSHIP**

Applicant

AND

NEW PLYMOUTH DISTRICT COUNCIL

Consent authority

STATEMENT OF EVIDENCE OF LAURA CATHERINE BUTTIMORE

(PLANNING)

Commissioner: Angela Jones

INTRODUCTION

Background, qualifications and experience

1. My full name is Laura Catherine Buttimore.
2. I hold the qualifications of a Bachelor of Resource and Environmental Planning (Honours) from Massey University. I have been a Full Member of the New Zealand Planning Institute since 2014. I am currently self-employed working as an independent planning consultant and have been since 2016.
3. I have over fourteen years' experience as a professional planner working in local authority and private consultancy across New Zealand. I have extensive experience in terms of residential development, specifically within the New Plymouth District. My recent experience includes processing a variety of resource consents for New Plymouth District Council ("**NPDC**" or "**Council**") as well as preparing and lodging consents for applicants. I have also been involved in the Proposed District Plan ("**PDP**") for NPDC, specifically with the Urban Structure Plan Development Areas.
4. I regularly appear at Council level hearings as a professional planning witness, and I have prepared and presented evidence to the Independent Hearings Board (Christchurch Replacement Plan) and the Environment Court on various planning matters.
5. My involvement in this proposal includes:
 - (a) initial scoping and review of development options, including pre-application engagement with Council;
 - (b) preparing and lodging the resource consent application and assessment of environment effects ("**AEE**");
 - (c) preparing and responding to the two separate requests for further information;
 - (d) meeting the submitter to discuss the proposal, as part of the project team, prior to notification;

- (e) review of the Notification Decision;
 - (f) review of the submission made regarding the application; and
 - (g) review of the Section 42A report ("**Officer's Report**").
6. I have visited the application site and surrounding area on numerous occasions, and I am familiar with it and the surrounding environment.

Expert witness code of conduct

7. I have been provided with a copy of the Code of Conduct for Expert Witnesses contained in the Environment Court's 2023 Practice Note. While this is not an Environment Court hearing, I have read and agree to comply with that Code. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Purpose and scope of evidence

8. The purpose of my evidence is to provide a planning assessment of the proposal.
9. In my evidence I will comment on:
- (a) The site and receiving environment;
 - (b) The proposal;
 - (c) The submission received;
 - (d) Statutory requirements;
 - (e) Environmental effects;
 - (f) Objective and policy assessment;
 - (g) Other matters;
 - (h) Part 2 of the RMA; and
 - (i) Conditions of consent.

10. I will address each in turn.

THE SITE AND SURROUNDING ENVIRONMENT

11. A description of the site and surrounds is briefly summarised in the Officer's Report. I generally agree with the summary of the site and receiving environment and adopt that description here. In addition to this, a site description of a cultural context is provided below.

Cultural context of the site and surrounding environment

12. To Ngāti Te Whiti Hāpu and Te Kotahitanga o Te Atiawa Trust ("**Te Kotahitanga**"), the mana whenua of the area, the site forms part of a wider cultural landscape that details a rich and sacred history. The cultural landscape details the importance of the Wai-papa-pounamu awa just north of the site, the Huatoki Stream, east of the site, the location and importance of Otūmaikuku Pā and other pā and papakāinga in the immediate environment. The cultural connection mana whenua have with the land has been reflected through the development's design narrative, as outlined in the evidence of Ms Saris.
13. Otūmaikuku Pā is north of the subject site located on the former Barrett Street Hospital. The pā was a site located in a strategic position, with views across the land and out to the ocean. It was a thriving settlement with numerous vantage points. When European settlement began in the 1840s, the site was designated as a Native Reserve. Following this designation, the New Zealand Settlements Act 1863 was passed confiscating the land. Te Atiawa and other Taranaki kāinga and pā were destroyed to make way for stockades, forts, military camps and blockhouses. Otūmaikuku was acquired by the Crown to establish a hospital.

Background to property ownership

14. On 9 August 2014 Te Kotahitanga and the Crown signed the deed of settlement for the historical Treaty of Waitangi claims of Te Ātiawa. This was followed by enactment of the Te Ātiawa Claims Settlement Act 2016. The settlement comprises a range of financial and cultural redress and the

option of over 53 Deferred Settlement Properties (“**DSP**”) and Right of First Refusal (“**RFR**”) Properties.

15. The application site to which this application relates was a DSP property and is now in the ownership of Te Atiawa Iwi Holdings Limited Partnership (“Te Ātiawa Holdings”). Te Kotahitanga manages its commercial activities through Te Ātiawa Holdings, a Te Kotahitanga 100% owned commercial subsidiary mandated and responsible for the management of the DSP property portfolio.
16. 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. This site is considered to be the beginning of the redevelopment of Otūmaikuku for Te Ātiawa and its people. The Te Ātiawa vision for Otūmaikuku is to establish a place that once again will be open, accessible, provide housing, public open spaces and community amenity for all. To celebrate and acknowledge the varied history of the subject site and wider environment is crucial for its future success.

THE PROPOSAL

17. The proposal involves the construction of 8 townhouses with services and carparking across two associated buildings; being Building A (fronting Morley Street) and Building B (adjoining the southern boundary). A description of the proposal is set out in paragraphs 44 to 54 of the Officer’s Report, and I generally agree with the summary provided in that section.
18. It is important to note that the application now meets the definition of ‘papakāinga’ housing under the PDP. At the time of writing the AEE for this development the Decisions version of the PDP had not yet been issued, and therefore this definition was not available. The evidence of Mr Tuuta details further the proposed housing and how this is consistent with the definition of ‘papakāinga’ housing. The use of this definition is supported by the Officer in the Officer’s Report at paragraph 44.

SUBMISSION ON THE APPLICATION

19. One submission has been received regarding the application (the “**submission**”) from Leonard and Heather Jury (the “**submitter**”).
20. I have reviewed the submission made and the summary provided in the Officer’s Report at paragraph 58.
21. I address the key concerns of the submitter throughout my evidence.

STATUTORY REQUIREMENTS

Operative New Plymouth District Plan (ODP) and Proposed New Plymouth District Plan (PDP)

22. Paragraphs 16 - 33 of the Officer’s Report sets out the statutory reasons for the application and concludes that overall, the proposal is a Restricted Discretionary Activity (paragraph 29). I agree with this conclusion and the summation that the PDP is now the relevant District Plan following the closing of the appeal period. Accordingly, consent is now only necessary under the PDP.
23. Given the timing, the application was prepared primarily with consideration of the ODP. However, the PDP Medium Density provisions align with the development and support the desire for intensification in central locations close to amenities. The focus of this evidence is therefore on the assessment of the application against the PDP and its relevant provisions, which primarily relate to the Medium Density Zone. This is consistent with the approach taken in the Officer’s Report. Table 1 below identifies the relevant PDP provisions.

Table 1: PDP provisions table

Rule	Proposed District Plan rule	Status
<i>Medium Density Zone Rules</i>		
MRZ-R3 Māori Purpose Activity ¹	Māori Purpose activity. The activity is permitted if the proposal can meet all of the Medium Density Zone	Restricted Discretionary (RDIS)

¹ The application meets the definition of Māori Purpose Activity as it is for papakāinga housing

Rule	Proposed District Plan rule	Status
	(MDZ) effect standards. The application does meet all of the effects standards and is therefore RDIS.	
MRZ-R4 Up to three residential units per site	N/A as the development is for papakāinga housing	N/A
MRZ-R12 Four or more residential units per site	N/A as the development is for papakāinga housing	N/A
MRZ-R30 Building activities	The activity is permitted if the proposal can meet all of the MDZ effect standards. The application does meet all of the effects standards and is therefore RDIS.	RDIS
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	N/A. MRZ-S4 is not applicable as the MRZ-S3 infringement occurs outside of the 20m site frontage.	N/A
<i>Medium Density Zone Effect Standards</i>		
MRZ-S1 Height	Complies: height is less than 11m	Complies
MRZ-S2 Maximum Building Coverage	Complies: Site coverage is less than 50%	Complies
MRZ-S3 Recession Plane to side boundary	The application creates an infringement at Unit 8 to eastern side boundary.	RDIS
MRZ-S4 Alternative Recession Plane	N/A. The recession plane infringement is outside of 20m of the site frontage.	N/A
MRZ- S5 Side yard setbacks	1.5m from the road 1m from side boundary 2.5m for decks, balconies and terraces above 2m in height. The first floor on Units 1, 3 and 4 will be within 1.5m of the road as they are built right up to the road. The bike structure on Barrett Street is considered a building and constructed up to Barrett Street road frontage.	RDIS
MRZ-S6 Outdoor living space	20m ² with a minimum dimension of 3m.	RDIS

Rule	Proposed District Plan rule	Status
	All units have outdoor living in excess of 20m ² but Units 1 and 2 don't achieve the 3m minimum dimension as they have maximum depth of 2.1m.	
MRZ-S7 Outlook space	An outlook space from a habitable room must be provided with a 4x6m area for a principal living room, 3x3m for a principal bedroom and 1x1m for a second bedroom. Each unit can achieve this standard with the exception of units 5 and 6 which cannot achieve the 6m dimension of the living space on the ground floor, their maximum depth is 5.35m.	RDIS
MRZ-S8 Permeable surface area	Complies: 25% of site shall be permeable materials. The proposal exceeds this limit with 30% of the site permeable materials.	Complies
MRZ-S10 Maximum fence or wall height	Complies: Within the front yard 2m for collector and arterial roads. Side yard 2m. The application will comply with this provision.	Complies
<i>Earthworks</i>		
EW-R10 Earthworks for building activities	The total earthworks exceeds 150% of the area of the building activity.	RDIS
EW-S2 Maximum quantity of earthworks	Complies : Maximum cut or depth of fill 1.5m outside the building setback; and 0.5m inside the building setback	Complies
EW-S3 Site reinstatement	Complies: Within six months but as soon as practicable reinstate the site. Construction will commence alongside earthworks.	Complies
EW-S4 Control of silt and sediment	Complies: Prevent silt or sediment entering stormwater system, waterbodies, overland flow paths and roads. Silt and sediment control plan provided with application and offered as a condition of consent to avoid silt and sediment run off.	Complies

Rule	Proposed District Plan rule	Status
EW-S5 Accidental Discovery	Complies: Accidental discovery protocol required if sensitive material discovered during earthworks. Applicant offers this as a condition of consent.	Complies
<i>Transport</i>		
Parking	N/A	N/A
TRAN-S11 On-site manoeuvring	Complies: On site manoeuvring complies with TRAN Figure 6.	Complies
TRAN-R9 Traffic generation	Complies: High trip generator activities include residential activities with more than 25 dwelling units.	Complies
TRAN-S7 Disability car park	All activities shall provide parking that complies with Figure 6, which includes one disability park. The proposal now provides an accessible car park.	Complies

24. I agree with the Officer's Report Table 3 and Table 4 assessment of the relevant PDP rules and effects standards, with the exception of MRZ-R32 and MRZ-S4. I disagree with Mr Robinson that Rule MRZ-R32 is applicable as I do not believe the application triggers this rule. MRZ-S4 is an alternative height in relation to boundary provision and only applies to development that is within 20m of the road boundary. The note section of MRZ-S4 states that *"this standard is an alternative to the permitted MRZ-S3 Height in relation to boundary standard and applies to development that is within 20m of the road boundary. Building activities seeking to use this alternative standard are a restricted discretionary activity under MRZ-R32"*. The MRZ-S3 height in relation to boundary non-compliance is outside of the 20m site frontage and therefore I do not believe MRZ-S4 and MRZ-R32 are applicable.
25. However, out of an abundance of caution I will include an assessment of the application against MRZ-R32 and MRZ-S4 assessment criteria as I do agree it usefully assesses potential effects on adjacent landowners from recession plane infringements. If the Commissioner is of the mind to include this rule, then an assessment of that relevant criteria is necessary.

26. Paragraphs 95 to 152 of the Officer's Report provides an assessment of the Proposal against the relevant objectives and policies of the PDP. An objective and policy assessment is provided below.

Section 104 of the Resource Management Act

27. The proposal needs to be assessed against Sections 104 and 104C of the Resource Management Act (**RMA**). The following sections of evidence assess the application's effects with reference to Section 104 (1)(a) of the RMA, including the effects raised by the submitter.

ENVIRONMENTAL EFFECTS

28. As per section 104C(1) of the RMA, actual and potential effects on the environment from the Proposal are limited to the relevant assessment criteria for the PDP rule and effects standard provisions. The relevant assessment criteria is limited to the following effects:

- (a) Planned character;
- (b) Streetscape effects;
- (c) Privacy, outlook, amenity and shading effects on adjacent landowners;
- (d) On-site and inter-site amenity;
- (e) Traffic and transport;
- (f) Earthworks and construction effects; and
- (g) Positive effects.

29. Firstly, an assessment of the permitted baseline needs to be considered in light of the relevant effects. This is further discussed below.

Permitted baseline

30. Section 104(2) of the RMA provides discretion to apply the permitted baseline. Section 104(2) provides that when forming an opinion about whether there are any actual or potential effects on the environment of the following activity, the consent authority:

“may disregard an adverse effect of an activity on the environment if a national environment standard of the plan permits an activity with that effect”

31. The purpose of the permitted baseline test is to isolate and make effects of activities on the environment that are permitted by the plan irrelevant. It includes non-fanciful (credible) activities that would be permitted as of right by the plan in question.
32. When applying the permitted baseline, such effects cannot be taken into account when assessing the effects of a particular resource consent application.
33. The plan in question relates to the PDP, and in particular the Medium Density Zone (“**MDZ**”). The MDZ is intended to enable intensification around centres within the New Plymouth District. It is acknowledged this is an increase in density beyond what was enabled by the ODP.
34. The application, in response to the second request for further information , included two separate permitted baseline models which demonstrated a permitted activity on the subject site under the ODP and the PDP. Given the PDP MDZ is now to be treated as operative, I consider that the relevant permitted baseline model is the PDP model.
35. The PDP model provided a standalone dwelling at the northern portion of the site fronting Barrett Street and a three-storey duplex at the rear with two separate four bedroom units. The floor plans are shown in Figure 1.



Figure 1: PDP Baseline Mode Floor plans¹

36. The Solari Plan elevations also demonstrate the bulk of the baseline model buildings in comparison to the proposal. This clearly demonstrates that Building B adjoining 107 Morley Street is at a scale and bulk that is consistent with the permitted model. The top image in Figure 2 below shows the baseline model with the proposal hatched under it and the second image shows the proposal with the baseline model hatched under it. This clearly demonstrates that the baseline model is larger in both scale and massing than the proposed Building B. Accordingly, I consider the effects of the proposed Building B remain consistent with those that would be anticipated under the permitted baseline, and if the permitted model was constructed.

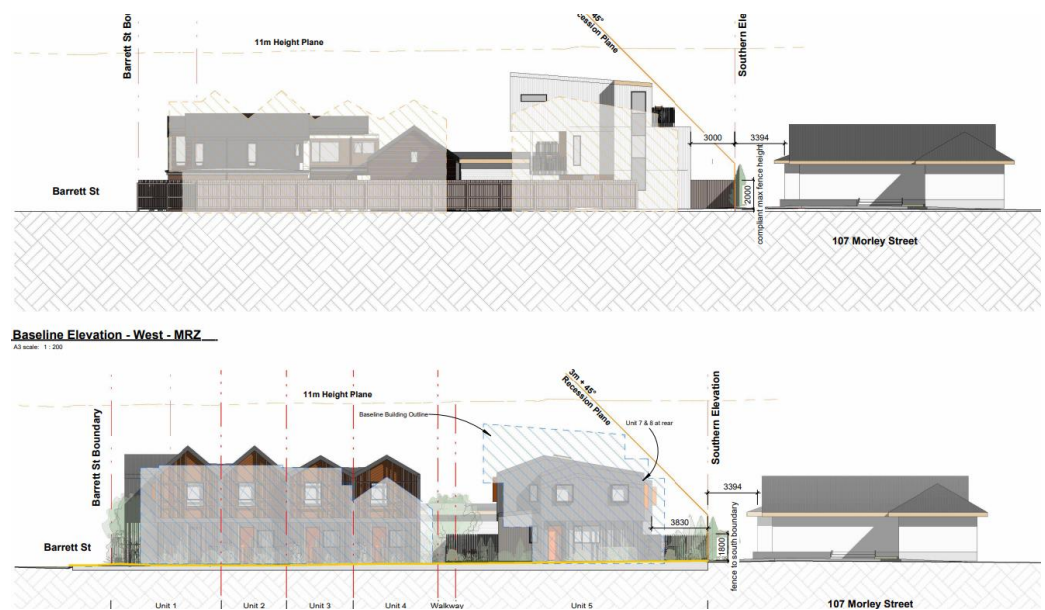


Figure 2: PDP Baseline Model Elevations²

37. I consider the proposed MDZ baseline model shown in the Solari Plan set to be a credible development that could be established on site as of right. Potential effects associated with this model should in my opinion be considered in light of the effects assessment provided below, which is consistent with s104(2) of the RMA.

² Solari Plan set, Drawing Number RC-063a-MRZ

Planned character

38. The relevant assessment criteria (MRZ-R3) includes “*whether the activity is compatible with the planned character of the surrounding environment*”.
39. Mr Dobson’s evidence addresses the existing residential character experienced in the immediate environment. This ‘planned character’ must now include the change to character that can occur as a result of the Medium Density zoning under the PDP. It is important to acknowledge that the planned character is intended to capture the future environment which includes activities permitted by the PDP. This is because the existing urban environment is likely to change with intensification which is enabled and encouraged by the PDP. I believe that the application demonstrates it can be constructed within the Medium Density Zone and produce improved benefits for the planned character of the area compared to the permitted baseline model provided by Solari. These benefits are further outlined in the evidence of Ms Saris and Mr Dobson but include:
- (a) the activation of the Morley Street, Barrett Street intersection,;
 - (b) connection to street through building mass fronting and addressing the street;
 - (c) a detailed cultural narrative; and
 - (d) an extensive landscaping plan.
40. As demonstrated in the evidence of Mr Dobson, the overall effects on residential character are very low. Further, Ms Saris concludes that the design celebrates a cultural narrative and design that will interact with the street and activate a corner site to provide enhanced character of the immediate environment. The incorporation of the cultural narrative into planned character is consistent with the outcomes sought by Te Kotahitanga in the PDP hearings process,³ and will enable a positive cultural experience not otherwise provided in this location.

³ Sarah Mako PDP Evidence, Hearing 9, paragraphs 41 – 48
<file:///C:/Users/Laura/Downloads/hearing-9-submitters-expert-evidence-te-kotahitanga-o-te-atiawa-planning-sarah-mako.pdf>

41. The submitter has raised concerns on the proposal not maintaining the residential character of the area. Specific consideration to residential character was set out in the ODP. This has been replaced by the PDP provisions, which refer to 'planned character' as opposed to 'residential character'. Planned character is a broader concept than residential character and in my opinion includes the existing and permitted environment considerations and cultural aspirations. I believe that planned character is now the appropriate term and relevant assessment criteria in relation to this proposal, and not residential character as raised by the submitter.
42. I agree with the conclusions reached by Mr Dobson and Ms Saris, and believe that the application will be compatible with the planned character of the surrounding environment. Further, I believe the proposal will enhance the planned character through a high-quality, well-designed development that incorporates a meaningful cultural narrative.

Streetscape effects

43. The Officer's report discusses streetscape effects at paragraphs 78 – 80. I agree this is a relevant effect based on assessment criteria for MRZ-S3, S5, S6 and S7. I agree with the conclusion reached in the Officer's Report and that effects on streetscapes are acceptable.
44. Further, I note that Mr Dobson and Ms Saris agree with this conclusion at paragraph 49. Overall, it is considered that the proposed development, through architectural design, successfully interacts via building design and materiality, building location, front doors and internal living spaces, opening up and addressing the street to ensure a positive relationship. Proposed landscaping is provided to further soften and mitigate any potential effects on streetscape. I agree with the expert opinion of Mr Robinson, Council's urban design expert Ms White, Ms Saris and Mr Dobson that the streetscape effects from the proposal are acceptable.

Amenity value effects including privacy, outlook, sense of enclosure and shading effects on the adjacent landowners

45. The amenity values effects including privacy, outlook, sense of enclosure and shading are all relevant assessment matters under MRZ-S3, S5 (privacy, shading and sense of enclosure), MRZ-S6 and S7 (privacy and outlook). The Officer's report discusses these effects at paragraphs 60 to 69 and concludes that effects are acceptable. I agree with this conclusion.
46. I acknowledge that the Officer's Report limits effects on those adjacent landowners, being the submitter at 107 Morley Street and 47A and 47B Barrett Street. I further acknowledge that the effects on 47A and 47B are considered appropriate in accordance with the notification decision. I agree with this conclusion. Therefore, I believe the assessment of effects on amenity values is now limited to those effects on 107 Morley Street. Amenity effects is a concern raised by the submitter and the effects on their property are addressed below.
47. I believe the starting point for assessing effects on 107 Morley Street is to address the fact that the proposal complies with all bulk and location requirements under the PDP to this property boundary including:
- (a) Height;
 - (b) Recession plane height in relation to boundary controls;
 - (c) Side yard setback (1m and setback proposed is 3.88m at its closest point);
 - (d) Building coverage; and
 - (e) Permeable surface area
48. Non-compliance with the PDP Medium Density Zone Effect Standard relate to technical breaches on:
- (a) internal amenity aspects, including outdoor living space and outlook space;

- (b) a recession plane breach to the eastern boundary that was considered to create an effect less than minor in the notification decision; and
 - (c) a road boundary setback from Block A which is effectively screened from 107 Morley Street by Block B.
49. Regardless, a full assessment of potential relevant amenity effects on 107 Morley Street is included below.

Privacy, outlook and sense of enclosure effects on 107 Morley Street

50. I agree with the Officer's Report in paragraph 63 where he concludes that the baseline scenario would create greater overlooking, privacy and built dominance effects on 107 Morley Street than the proposed development. This is because of the following:
- (a) The baseline model enables a dwelling three storeys in height to be constructed 3m from 107 Morley Street boundary, whereas the proposed development is set back 3.8m at its closest point.
 - (b) The baseline model accommodates a second-floor balcony overlooking 107 Morley Street, whereas the proposed development has no balconies directly overlooking this property to preserve privacy.
 - (c) The baseline model is three stories in height. The proposal is only two, with the second floor of proposed Block B having 8 windows overlooking 107 Morley Street and half of these windows are for a bathroom designed for sun light access not outlook, with the second half window an elevated bedroom window with protruding window frames as to protect internal privacy and limit overlooking effects; and
 - (d) The outdoor living for Block B is entirely located on the ground floor, with north facing outdoor living provided on the opposite side of the building from 107 Morley Street, ensuring separation between properties.

51. As identified above, the proposed design **and** layout of the site has given specific thought and articulation to the sensitive boundary interface with both 107 Morley Street and 47A and 47B Barrett Street. Block B has been intentionally setback from the 107 Morley Street boundary to ensure no recession plane or side yard breaches occur to this boundary. Accordingly, there would be no reduction in privacy or adverse effects associated with outlook, or sense of enclosure, above the permitted baseline.
52. The proposed floor plan for Units 5 – 8 has been designed to avoid overlooking and enclosure effects on 107 Morley Street. This has been achieved through the 3.8m setback of this building from the southern boundary, design of the windows and layout of the Block B units to ensure overlooking effects on 107 Morley Street are limited. The windows on this southern boundary are boxed out (see 3D images to demonstrate window shrouds) to reduce overlooking effects and loss of privacy for 107 Morley Street. When viewed from 107 Morley Street, Block B will comply with all bulk and location requirements set out in the Medium Density Zone.
53. I am of the opinion that the potential effects of loss of privacy, overlooking and sense of enclosure on 107 Morley Street are appropriate and consistent with the effects permitted by the PDP. Further, I agree with the Officer's Report that the baseline model permitted by the PDP would create greater effects on 107 Morley Street privacy, outlook and sense of enclosure than the proposal.

Shading effects on 107 Morley Street

54. The comprehensive shading analysis undertaken by Ms Saris and detailed in her evidence and plan set demonstrate that 107 Morley Street will still have adequate access to sunlight and shading is less than what could occur by the baseline scenario.
55. The shading analysis provided by Ms Saris illustrates that during the spring equinox there is no shading on the outdoor living space between the hours of 9am and 4pm. This is over and above what is expected by MRZ-R32 assessment criteria, which requires four hours of sunlight to neighbouring sites' outdoor living space between the hours of 9am and 4pm on the spring equinox. It is important to note that the intention of MRZ-R32 is to enable

recession plane breaches on adjacent residential properties to proceed on a non-notified basis (a non-notification clause is set out in MRZ-R32) where access to adjacent residential properties outdoor living spaces is retained as one assessment criteria matter.

56. I believe the application is consistent with matters of discretion set out under MRZ-R32. This is because it exceeds the sunlight access requirements, it is considered attractive and connected to the street (as confirmed by Ms Saris and Mr Dobson), and overlooking and privacy effects are acceptable (as outlined above).
57. Further to the above, I agree with the Officer's Report at paragraph 64 which states that the *'shading scenarios shows 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'*. As stated by the Reporting Officer, regardless of whether the Commissioner adopts the permitted baseline model, the demonstration of shading effects from permitted building versus the proposal is a useful comparison to demonstrate shading effects and what could occur as of right.
58. Overall, I believe the shading effects on 107 Morley Street are acceptable and less than what could occur as a permitted activity. I acknowledge, shading effects and access to sunlight are concerns raised by the submitter but I believe the design and scale of the development ensure potential effects on this property in relation to shading and sunlight access are consistent with a permitted activity under the PDP.

On-site amenity

59. The application can achieve excellent on-site amenity for each unit. This is demonstrated in both the evidence of Ms Saris and Mr Dobson.
60. The technical on-site amenity breaches for the proposal relate to outdoor living space and outlook space, which require consideration for on-site amenity as per the matters of discretion.
61. The proposal complies with the outdoor living space requirements for all units with the 20m² being exceeded, which forms the primary intention of MRZ-S6. Although Units 1 and 2 cannot achieve the minimum dimension of 3m (MRZ-S6 1(a)), all other units achieve this. This 3m dimension

breach in my opinion is a technical breach to MRZ-S6. These units still have adequate onsite amenity and outdoor living spaces, with Unit 1 having 43m² of outdoor living and Unit 2 having 24m². I am satisfied that the large outdoor living area will be adequate to ensure the external living needs and privacy of future occupants is met.

62. The outlook space requirement for each unit is met, with the exception of units 5 and 6 as they cannot achieve a 6m x 4m outlook space from their living area with the maximum width being 5.3m. This breach is considered another technical breach as Units 5 and 6 have adequate outlook from their living space in both a north and south direction, with Unit 5 also having outlook over Morley Street.
63. Further, the Solari Plan set provides comprehensive analysis on outdoor living spaces, access to sunlight for each unit and privacy for each unit. It is therefore considered that each unit can achieve sufficient on-site amenity.

Traffic and transport

64. As demonstrated by the evidence of Mr Skerrett the application complies with all transport related provisions of the PDP. No relevant assessment criteria requires the consideration of transport effects.
65. The application provided a Traffic Impact Assessment and assessment of the application under the ODP. These provisions are now no longer relevant. The submitter raised concerns about traffic safety and efficiency issues. I believe the PDP provisions now demonstrate that any potential effects are enabled by the PDP permitted activity status under the Transport Chapter, and will ensure a safe and efficient roading network.
66. Any potential traffic related effects are now permitted by the PDP and therefore acceptable.

Earthworks and construction

67. The Officer's Report at paragraphs 75 to 77 concludes that earthworks and construction effects can be managed on site and through conditions of consent. I agree with this conclusion and accept the conditions proposed by the Reporting Officer to manage earthworks and construction effects.

Positive effects

68. The proposal will create a positive precedent for the types of developments to be achieved in the immediate environment and for medium density housing across the District.
69. The development will deliver a housing product that provides for different living opportunities for people that otherwise are unable to access the housing market – aligning with the NPS-UD and Policy UFD-20 in the PDP.
70. The proposal will have the following additional positive effects:
 - (a) The construction and development of a high-quality medium density development for whānau housing;
 - (b) The proposed development will maximise the potential of the application site for residential activity in an area where residential accommodation is highly sought after;
 - (c) The proposed intensified residential activity is complementary within an area in which there is a comprehensive range of services and amenities that exist to serve the development;
 - (d) The provision of papakāinga housing will provide quality housing for Te Ātiawa uri;
 - (e) A positive beginning for Te Ātiawa's redevelopment of Otūmaikuku which:
 - (i) is consistent with the social, cultural, environmental and economic revitalisation of Te Ātiawa, enabled by this land received through Treaty settlement;
 - (ii) enables an important cultural narrative to be expressed to enhance the planned character of the area;
 - (f) The design outcome is a high-quality architectural design that will maintain and enhance the amenity and streetscape character of the area; and

- (g) The proposed landscape treatment plan includes a comprehensive planting plan that will positively contribute to the visual amenity of the site and surrounding neighbourhood.

Effects conclusion

71. Overall, I agree with the Officer's Report that effects of the proposal on the environment are acceptable and align with what is anticipated and provided for by the PDP.
72. For the reasons listed above I believe the effects on 107 Morley Street are able to be effectively mitigated through design and layout, and are less than what could occur by a permitted activity.

**ASSESSMENT AGAINST RELEVANT PLANNING DOCUMENTS
S104(1)(B)**

73. There are no National Environmental Standards relevant to this application.

National Policy Statement Urban Development 2020

74. Paragraphs 86 and 87 of the Officer's Report makes an assessment of the proposal against the National Policy Statement for Urban Development 2020 ("**NPS-UD**"). I agree with the assessment.
75. In summary, the NPS-UD supports and encourages increased densities within urban environments. Particularly where development provides for a range of living opportunities which can facilitate a range of varying needs. The proposal is able to provide medium density housing in close proximity to the amenities and the urban CBD of New Plymouth. I believe the proposal is consistent with the NPS-UD.
76. I agree with the Officer's Report that there is no other National Policy Statement of relevance to this application.

Taranaki Regional Policy Statement

77. The Officer's Report at paragraphs 88 – 93 provides an assessment of the

proposal against the Taranaki Regional Policy Statement (“**RPS**”). I note that when taking a broad assessment of SUDPOLICY 1 the application is still consistent with the overall intent of this policy, regardless of the conclusion on ‘maintenance and enhancement’ of amenity values. Further, I note the evidence of Mr Dobson concludes that amenity values are able to be maintained. Overall, I believe the application is consistent with the RPS.

Operative District Plan

78. I agree with the Officer’s Report that the ODP has been superseded by the provisions of the PDP and therefore an assessment of the relevant objectives and policies (as made in the AEE) are no longer relevant.

Proposed District Plan

79. I agree with the Officer’s Report that the PDP objectives and policies are now of relevance. An assessment of the relevant objectives and policies is provided below.

Strategic Objectives:

80. The Strategic Objectives are the overarching objectives that should guide development under the PDP. The Tangata Whenua objectives are to encourage and enable mana whenua to participate in the consenting process, the objectives of relevance are:

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, water bodies, sites, areas and landscapes and other taonga of significance to Māori”.

TW-16 - “Tangata whenua are able to protect, develop and use 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 districts identity and sense of belonging”.

81. This development will enable tangata whenua to develop their ancestral land in way that can provide social, cultural and economic benefits for Ngāti Te Whiti and Te Ātiawa uri, through the provision of whānau housing. It also enables Ngāti Te Whiti to exercise their kaitiakitanga within the area of Otūmaikuku, a culturally significant area of land to the hapū.
82. The application is consistent with these objectives and all other Tangata Whenua Strategic Objectives.
83. In addition, the Strategic Objectives have a set of Urban Form and Development objectives and policies which are relevant to the proposal. These are:

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 and 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 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.*

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;*

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 to 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 wellbeing.”*

UFD 24 – *“Urban environments are well-designed, liveable, connected, accessible, and safe spaces for the community to live, work and play, which:*

1. *integrate and enhance natural features and topography into the design of development to minimise environmental impacts;*
2. *recognise the local context and planned character of an area;*
3. *reduce opportunities for crime and perceptions of crime through design solutions;*
4. *create ease of movement in communities through connected transport networks, a range of transport modes and reduced reliance on private motorised vehicles;*
5. *incorporate mātauranga Māori in the design, construction and development of the built environment;*
6. *use low impact design solutions and healthy, accessible, energy efficient buildings; and*
7. *are adequately serviced by utilising and upgrading existing infrastructure and social infrastructure or with new infrastructure and social infrastructure.*

84. These urban form and development objectives recognise and encourage the intensification of housing across the district, particularly in and around the centres and key transport routes. This site aligns with this desire through its location and proximity to the city centre, Westtown centre and a key transport route. It is important to highlight UFD-18 item 9, which acknowledges that amenity in existing environments might be altered through intensification that provides for varying housing types. The proposal will alter the amenity currently experienced in the immediate

environment, of note the submitter at 107 Morley Street. However, this change in amenity and intensification is consistent with the UFD objectives and align with the below Medium Density Zone objectives and policies.

85. The proposal is creating an increased built form on site, enabling a medium density development to provide multi-unit housing for Te Ātiawa whānau. The design of the development has incorporated mātauranga Māori to provide Ngāti Te Whiti and Te Ātiawa an exemplary development that they can be proud of. The development is consistent with the Urban Form and Development Strategic Objectives and their focus to enable varied housing choice and an increase in density across the district.

Medium Density Zone Objectives and Polices

86. To avoid repetition the MDZ objectives and policies have not been copied in this report but are set out in the June 'Further Information Response' to Council. The application aligns with the overall intent of the Medium Density objective and policy framework, which is to encourage medium density housing that delivers varied housing form with varying housing types. The buildings have been designed to comply with bulk and location effects at adjacent neighbours' boundaries (with the exception of a small recession plane infringement to the south-eastern boundary). This to ensure the development is consistent with the planned character for the immediate environment, which is now classified as Medium Density zoning.
87. While this rezoning will result in a change in built form and character in the immediate environment, this change is enabled by the PDP. The Medium Density Zone does enable up to four dwellings on a site and it is acknowledged that this development is for eight dwellings. I believe that this housing development aligns with papakāinga housing which enables the greater density proposed, in this zone.
88. This Te Ātiawa-led development, that will be developed through the Ka Uruora Housing Trust, will enable Te Ātiawa whānau into healthy kāinga and provide ownership opportunities for those whānau. This meets the definition of papakāinga under the PDP. The development will deliver housing for Te Ātiawa whānau at an affordable price, to enable high quality

living environments for their uri. I believe this aligns with Policies MRZ-P5 and MRZ-P11.

89. Further, the development has been designed by Solari Architects who specialise in providing medium density high quality housing that achieves urban design outcomes. The development has been designed to interact with the street and articulate the Morley and Barrett Street intersection, which aligns with policy MRZ-P8. Each unit has been carefully designed to ensure it achieves adequate access to sunlight and its own outdoor living space. The development achieves a high-quality design which will enable housing that I believe aligns with the medium density zoning. This aligns with Policy MRZ-P9.
90. I agree with the Officer's Report that the application is consistent with the Earthworks objectives and policies and can be appropriately managed by conditions of consent.
91. Overall, the application is considered to be consistent with the relevant objectives and policies of the PDP as set out above.

OTHER MATTERS

Iwi Environmental Management Plan

92. Tai Whenua, Tai Tangata, Tai Ao an Iwi Environmental Management Plan ("**EMP**") for Te Atiawa covers a wide range of matters. It is considered that the development has been designed to give effect to this EMP.
93. The EMP acknowledges the intricate and reciprocal relationship that Te Ātiawa has with the land, the people and the environment. The proposal will ensure the mauri of Te Ātiawa whānau, Te Atiawa community, Te Ātiawa hapū and, most importantly, the ecosystem is retained and enhanced (Figure 1.1 of the EMP). Those matters that are particularly relevant to this application are the following:
- (a) Chapter 6.1 Te Tai Hauora, as the development enables the active engagement and recognition of Te Ātiawa as the kaitiaki of the land.

(b) Chapter 6.2 which provides objectives and policies for development including urban development, papakāinga, land disturbance and stormwater management.

94. The development is considered to align with this document and its intentions.

CONDITIONS OF CONSENT

95. I have no objections or suggested amendments to the conditions of consent offered in Appendix 1 of the Officer's Report. The only suggested change is to Condition 1 plan number reference RC-041 which is labelled incorrectly and should read Proposed Section – Block B only and not Block A and B.

PART 2 OF THE ACT

96. I note the Officer's Report does not undertake a Part 2 assessment, which aligns with the *R J Davidson* decision. However, out of the abundance of caution and in case the Commissioner was to take an alternative view, I have undertaken a full Part 2 assessment below.

Section 5 – Purpose of the Act

97. The overarching purpose of the RMA is 'to promote the sustainable management of natural and physical resources'. It is my opinion that the proposed development achieves this purpose by providing housing for people and communities which will enable their social, economic and cultural wellbeing while promoting sustainable management of the natural (land) and physical (infrastructure) resources.

Section 6 – Matters of National Importance

98. Section 6 requires that Council shall recognise and provide for matters of national importance.

99. I believe the only relevant section 6 matter is 6(e), which states that "the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga" must be recognised and provided for. I believe the application is consistent with Section 6(e) as the

development has been informed by the expertise of Ngāti Te Whiti Hapū and Te Kotahitanga kaimahi, from the design through to the occupation of the units by uri/whānau – this will ensure the relationship of mana whenua and their culture and traditions with their ancestral lands (including returned through settlement processes) are recognised and provided for.

Section 7 – Other matters

100. Section 7 requires that Council shall have particular regard to a number of other matters. The relevant matters to this proposal I believe are as follows:
- (a) Kaitiakitanga;
 - (b) The efficient use and development of natural and physical resources;
 - (c) The maintenance and enhancement of amenity values; and
 - (d) Maintenance and enhancement of the quality of the environment.
97. Ngāti Te Whiti Hapū and Te Kotahitanga have been engaged to inform the proposal, enabling the exercise of kaitiakitanga to an extent commensurate with the scale of the development.
98. As detailed in the effects assessment above, I believe that the development is an appropriate use of the natural and physical resources as it enables medium density development in an appropriate location close to key amenities.
99. I believe the application is able to maintain amenity values within the surrounding environment and provides the opportunity to enhance the quality of the environment through the construction and development of high-quality medium density housing, demonstrating best practice urban design principles to front and activate the street, and an important corner site.
100. Taking the above into consideration, it is my opinion that the application is consistent with Section 7 of the Act.

Section 8 – te Tiriti o Waitangi

101. Section 8 relates to the principles of te Tiriti o Waitangi. It is my opinion that the application is entirely consistent with the principles of the te Tiriti o Waitangi. The application is a DSP site under the Te Atiawa Claims Settlement Act 2016 and Te Atiawa Deed of Settlement 2014. The proposal is consistent with the social, cultural, environmental and economic aspirations of Te Ātiawa.
102. Given the assessment I have provided above, I consider that the application is consistent with Sections 6 – 8 of the Act and its overall purpose. I acknowledge the submitter believes the application is inconsistent with Part 2 of the RMA. For the reasons listed above I believe the application achieves the purpose of the RMA.

CONCLUSION

103. After evaluating all of the actual and potential effects on the environment from this proposal, I consider that the adverse effects on the environment can be appropriately avoided, remedied or mitigated through the imposition of conditions as set out by the Officer's Report.
104. I have assessed the application against all relevant planning instruments, particularly the relevant provisions of the PDP, and I consider that it is consistent with the relevant objectives and policies. Further, I believe it aligns with the NPS-UD, the RPS and EMP.
105. Weighing up all of the relevant considerations and taking into account all matters raised, including the concerns of the submitter, I believe the proposal will be achieve the purpose of the RMA, being to promote sustainable management of natural and physical resources.



1 August 2023
Laura Buttimore