

**BEFORE HEARING COMMISSIONERS
IN NEW PLYMOUTH**

UNDER THE

Resource Management Act 1991

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 ĀTIAWA IWI HOLDINGS LIMITED
PARTNERSHIP**

Applicant

AND

NEW PLYMOUTH DISTRICT COUNCIL

Consent authority

**TE ĀTIAWA IWI HOLDINGS LIMITED PARTNERSHIP
RIGHT OF REPLY**

23 August 2023



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MAY IT PLEASE THE COMMISSIONER:

1. This right of reply is filed in accordance with directions in Minute One issued by the Commissioner on 18 August.
2. At the hearing the Commissioner raised the following issues in respect of the conditions, to be considered by the planner for Te Ātiawa Iwi Holdings Limited Partnership (**Te Ātiawa Holdings**), Ms Buttimore, and the Council Officer, Mr Robinson:
 - (a) traffic management;
 - (b) cultural monitoring;
 - (c) landscaping effects;
 - (d) the status of the Residential Design Guide; and
 - (e) construction noise.
3. Ms Buttimore and Ms Robinson also agreed that the condition addressing existing vehicle access should be amended to ensure it occurs prior to occupation of the units.
4. Counsel is instructed that to address the issues raised at paragraphs 2 and 3, Ms Buttimore and Mr Robinson have agreed on the revised conditions of consent accompanying this memorandum. Amendments to the revised conditions are shown in red for ease of review.
5. Counsel is further instructed that Ms Buttimore and Mr Robinson have offered the following commentary accompanying the agreed revised conditions of consent:
 - (a) with regard to construction effects, they were satisfied the construction hours condition alongside a Traffic Management Plan (added as new condition 7) was

sufficient to manage construction effects given the limited nature/scale of the build;

- (b) with regard to landscaping effects:
 - (i) They were satisfied conditions 10 to 13 managed landscaping requirements and the required line of sight necessary for Block A, with the proposed Poor Knight climber to establish along the Morley Street frontage of Block A.
 - (ii) No planting changes are proposed along the southern boundary adjoining 107 Morley St. Planting is proposed as per the latest Landscape Plan (provided as an attachment to this memorandum).
- (c) No changes to the Residential Design Guides occurred post-notification and therefore no further assessment beyond what was submitted with the lodgement of the application is necessary.

- 6. Counsel also confirms that Conditions 15 and 16, which propose a role for Ngāti Te Whiti hapū in cultural monitoring, are being offered by Te Ātiawa Holdings on an *Augier* basis (derived from the case *Augier v Secretary of State for the Environment* (1978) 38 P & CR 219) which provides that, if an otherwise ultra vires condition is volunteered by a resource consent applicant and a consent is granted with that condition, then that condition is enforceable. Counsel has also suggested inclusion in the advice note that the applicant agrees to the condition under s 108AA(1)(a) of the RMA.

DATED this 23rd day of August 2023



M M E Wikaira
Counsel for Te Ātiawa Iwi Holdings