

# ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

## PROPOSED DEVELOPMENT - NORTH KUMUTOTO PRECINCT

### WELLINGTON WATERFRONT

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## 1 INTRODUCTION

### 1.1 PREAMBLE

This report covers the proposed development of the North Kumutoto Precinct on the Wellington Waterfront.

The principal components of the proposed development are:

- a new five-level commercial building on Site 10 (10 Waterloo Quay); and
- new public open spaces, including Site 8, and associated small buildings and structures, including waterfront furniture.

This AEE report assesses both components of the development which are collectively referred to as the “Project”.

The Project partners are **Site 10 Redevelopment Limited Partnership** (Site 10 RLP) and **Wellington City Council** (WCC). Site 10 RLP will be responsible for the development of the Site 10 building, with WCC being responsible for the development of the public open spaces and associated buildings and structures.

The purpose of the report is to describe the Project and provide an Assessment of Effects on the Environment (AEE) Report in accordance with the Fourth Schedule of the Resource Management Act 1991 (the Act).

### 1.1 REPORT STRUCTURE

After this introduction and a background, the report provides the following information:

- Section 2 outlines the Project and consents required, along with a description of the land that is the subject of the applications (“the site”).
- Section 3 outlines the planning history of the area now referred to as the North Kumutoto Precinct.
- Section 4 outlines the statutory context, with a specific focus on the policy statements, environmental standards and plans applicable to the Project.
- Section 5 describes the consultation undertaken.
- Section 6 provides a resource management assessment of the Project.
- Section 7 provides a conclusion.

This AEE, plus the Applications for Resource Consent (Form 9) and the attached drawings, addresses the requirements of 3.2 of the District Plan, 6.4 of the Regional Coastal Plan, 7.4.1 of the Regional Freshwater Plan and 5.3.1 of the Regional Plan for Discharges to Land, which identify what information is to be supplied with a resource consent application.

### **1.3 ASSESSMENT OF EFFECTS ON THE ENVIRONMENT**

An Assessment of Effects on the Environment (AEE) is required under s.88 of the Resource Management Act 1991 (the Act) for an application for resource consent for a controlled, discretionary or non-complying activity.

Section 88(2)(b) requires that the assessment should be in such detail as corresponds to the scale and significance of the actual and potential effects that the activity may have on the environment, and shall be in general accordance with the Fourth Schedule of the Act.

The assessment of the Project, being both the new building and the new public open spaces, has been undertaken with these obligations in mind.

### **1.4 PROJECT DOCUMENTATION**

The documentation submitted in support of the Project consists of:

- Resource Consent Applications
- Application Drawings
- Assessment of Environmental Effects (AEE) Report
- Technical Assessment Reports

The documentation is organised as follows:

Volume 1: Application Forms and Application Drawings

Volume 2: Assessment of Environmental Effects (AEE) Report

Volumes 3 and 4: Technical Assessments

## 2 THE SITE AND THE PROJECT

### 2.1 THE SITE

The North Kumutoto Precinct is the area of the Wellington Waterfront that lies between Shed 21 to the north and the Kumutoto Plaza and Meridian Building to the south.

The new 5-level commercial building will occupy Site 10 at the northern end. New public open spaces will extend from the south to incorporate Site 8, which will be developed as a small 'pocket park' with access to the water's edge, and will include a new plaza, Whitmore Plaza, at the Whitmore Street entrance to the waterfront.

The project is outlined on the following drawings:

- Athfield Drawing RC1.00 - for the site 10 Building
- Isthmus Drawing 0.010 - for the public open spaces

The area covered by the Project is in the order of 9,500m<sup>2</sup>. The site occupied by the Site 10 building will be some 2,924m<sup>2</sup>.



**PHOTO 1:** Site 10 - looking across the site from the north east

### 2.2 PROJECT

The Project involves:

1. Construction of a new five-level building (plus basement level). A full description is provided in the Architectural Design Report.<sup>1</sup> However, in summary the key features are:

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<sup>1</sup> Refer Volume 3, **Appendix 1**

- Basement - basement car parking, cycle parking and building user amenities and building services plant;
- Ground Floor - retail, cafe gallery and small business units and servicing facilities, along with the main foyer/entry to the upper floors; and
- Levels 1 to 4 - commercial offices.

A public pedestrian link is provided through the building from the Waterloo Quay street-side colonnade to the Whitmore Plaza and waterfront promenade.

The building will have a maximum height of 22.4m above mean sea level (amsl) to the roofline, with a small (237m<sup>2</sup>) plant room, which is setback from the building edge, having a maximum height of 26.25m amsl.<sup>2</sup>

Site 10 RLP is the Applicant for the building.

2. The key components of the new public open spaces are illustrated on Isthmus Drawing 0.010 "Colour Masterplan" and comprise:

- **Site 8** is to be developed as a destination space offering amenity to the city while complementing the existing Kumutoto Plaza, including two narrow bridge structures (2m wide) to connect the Tug Wharf with Site 8, and pedestrian shelter canopies.
- **Whitmore Plaza** is both a gateway and an important public space marking the closest point between the Quays and the harbour edge and the connection between Parliament and the water. It will have a strong relationship with Site 10 (and any future development on Site 9).
- **Wool Store Plaza** is a sheltered and intimate space, accommodating pedestrian and service access to the "Waterloo on Quay" (Shed 21) and vehicle access to the Site 10 basement car park.
- **The Waterfront Promenade** is to be extended as a continuous movement space along the water's edge.
- **Kumutoto Lane** is a linear movement space shared by pedestrians and vehicles. It will have a strong relationship with surrounding buildings and spaces - this space will allow vehicle access in front of Shed 21 and the Site 10 building between the Waterloo Quay/Bunny Street and Waterloo Quay/Whitmore Street intersections.

A small building (former Toll Booth building)<sup>3</sup> and other structures (including an open 'pavilion' style structure on Site 8), along with waterfront furniture, will be part of the public open space development. The former Toll Booth building will be established at the Whitmore Street entrance to North Kumutoto, immediately north of Site 9.

For a more detailed description refer to the Landscape Design Statement (Volume 3, **Appendix 2** at pages 8-9)).

WCC is the Applicant for the public open space developments.

It is noted that **Site 9** is identified within the North Kumutoto Design Brief as a future development site; in the meantime the space will largely continue to operate as a car park. Harbour Wharf is also not part of this application and will continue to be a working wharf (currently occupied by the Wellington Maritime Police).

Overall the Project will result in a significant transformation of the North Kumutoto Precinct in line with the values, objectives and principles of the Wellington Waterfront Framework.<sup>4</sup>

<sup>2</sup> The 237m<sup>2</sup> includes the 2 chillers located outside the plant room.

<sup>3</sup> The former Toll Booth building was previously located at the entrance to Queens Wharf. It was relocated to the Silver Stream railway museum in 1976 when the Wellington Harbour Board replaced it with a larger tolls office. It has recently been 'repatriated' to the waterfront by the Wellington City Council and is currently 'resting' on the southern arm of the Queens Wharf 'Outer T'.

<sup>4</sup> The Wellington Waterfront Framework, adopted by the Wellington City Council in April 2001, sets out the 'vision' for the development of the Wellington inner harbour waterfront.



**PHOTO 2:** Looking north across Site 8 (with Kumutoto Stream mouth in the foreground)

## 2.3 PROJECT CONSENTS

The Project requires applications to both the Wellington City Council and to the Greater Wellington Regional Council.

The applications are:

### **Application 1: Application to Wellington City Council by Site 10 RLP**

Resource (land use) consent is sought for:

1. the construction, use and maintenance of a five-level commercial building on Site 10 (10 Waterloo Quay). Consent is required for a Discretionary Activity (Unrestricted) under Rule 13.4.7 of the Wellington City District Plan;
2. earthworks associated with the development of Site 10 and for the use of potentially contaminated land. Consent is required for a Discretionary Activity (Restricted) under Rule 30.2.2 (earthworks) and Rule 32.2 (contaminated land) of the Wellington City District Plan; and also for a Discretionary Activity under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011); and
3. on-site storage of diesel fuel. Consent is required for a Discretionary Activity (Restricted) under Rule 13.3.3.9 (hazardous substances).

### **Application 2: Application to Greater Wellington Regional Council by Site 10 RLP**

Consent is sought for:

1. the diversion of and/or take of ground water during the construction of a new commercial building, including a basement level, on Site 10 (10 Waterloo Quay). Consent is required for a water permit for a Discretionary Activity under Rule 16 of the Regional Freshwater Plan; and
2. the potential discharge of contaminants to land, including to the reticulated stormwater system; and for the potential discharge of contaminants to ground water during the construction of a new commercial building, including a basement level, on Site 10 (10 Waterloo Quay). Consent is required for a discharge permit for a Discretionary Activity under Rule 2 of the Regional Discharges to Land Plan and Rule 5 of the Regional Freshwater Plan.

### **Application 3: Application to Wellington City Council by WCC**

Resource (land use) consent is sought for:

1. the construction, maintenance and use of new and modified landscaped public open spaces and associated structures (including waterfront furniture and a pedestrian shelter pavilion) at North Kumutoto within the Lambton Harbour Area (aka "Wellington Waterfront"). Consent is required for a Discretionary Activity (Unrestricted) under Rule 13.4.5 of the Wellington City District Plan;
2. the establishment, maintenance and use of a building (former "Toll Booth" building) at the Whitmore Street entrance to North Kumutoto. Consent is required for a Discretionary Activity (Unrestricted) under Rule 13.4.7 of the Wellington City District Plan; and
3. earthworks associated with the public open space works and for the use of potentially contaminated land. Consent is required for a Discretionary Activity (Restricted) under Rule 30.2.2 (earthworks) and Rule 32.2 (contaminated land) of the Wellington City District Plan; and also for a Discretionary Activity under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011).

### **Application 4: Application to Greater Wellington Regional Council by WCC**

Consent is sought for Coastal Permits for:

1. the occupation of structures associated with the proposed works in the coastal marine area. Consent is sought for a Controlled Activity under Rule 16 of the Regional Coastal Plan;
2. the construction, maintenance and use of new structures in the coastal marine area, and associated modification to the protected wharf edge and reclamation edge, at North Kumutoto within the Lambton Harbour Development Area (aka "Wellington Waterfront"). Consent is sought for a Discretionary Activity under Rule 25 of the Regional Coastal Plan; and
3. potential discharges to the coastal marine area during the construction of the public open spaces in and adjacent to the coastal marine areas. Consent is for a Discretionary Activity under Rule 61 of the Regional Coastal Plan.



### 3 PLANNING HISTORY

The planning framework now applying to the Lambton Harbour Area under the operative District Plan has had a relatively recent history.

That history essentially commences in the early 1980s when consideration was first given to using the inner harbour area for non-port activities. Two early landmark events were the holding of the Wellington Civic Trust sponsored 'design competition' in 1982, when ideas were sought for the redevelopment of the area.

The 1982 design competition was followed in 1984 by the Harbour/City Conference jointly sponsored by the Wellington Harbour Board and the Wellington City Council. The conference recommended a joint approach by the City Council and the Harbour Board to the future development of the waterfront.

Empowering legislation to establish a joint planning committee and a Lambton Harbour Development Area (LHDA) was passed in 1987.<sup>5</sup> In turn, a combined planning scheme, the Lambton Harbour Combined Scheme, prepared under the Town and Country Planning Act 1977, was made operative on 1 November 1989.

#### 3.1 LAMBTON HARBOUR COMBINED SCHEME

In the Introduction to the Lambton Harbour Combined Scheme, it was recorded that:

*"Over the years there has been a marked change in the character of the Wellington waterfront. In the past, the wharves around the Lambton Harbour were intensively used by both cargo and passenger vessels as well as by smaller local craft. The major cargo handling areas have however shifted north, where land could be reclaimed for the large areas required for container storage and handling, and an overseas passenger terminal was constructed near Clyde Quay. With the migration of these functions away from the central area of Lambton Harbour a large area of land with significant development potential became available. Its proximity to the central area of Wellington, ready availability to existing transport routes and its commanding location at the water's edge provides superior development sites for a wide range of activities.*

*This potential was recognised by both the Wellington City Council and the Harbour Board, who agreed to prepare a combined planning scheme for the area as shown in Figure 1 following page".*<sup>6</sup>

The Lambton Harbour Combined Scheme (LHCS) advanced a proposed development concept for the 20 hectares of harbourfront land from the Wellington Railway Station in the north to the Clyde Quay Wharf in the south-east.

The 'concept plan' goal underpinning the LHCS was:

*"To create a high quality built environment within the Lambton Harbour Development Area with uses appropriate to a waterfront location and complementary to the Central Area of the City and which is financially viable".*<sup>7</sup>

The concept plan set out for eight "character areas" for which such matters as building location and suggested uses, bulk and height, the distribution of open spaces, vehicular access points, parking buildings and areas, pedestrian areas and vehicle routes to service the area, were established. One of the eight character areas was the "Railway Link Character Area".

The Railway Link Character Area at the northern end of the LHDA included the area now known as North Kumutoto. At page 21 of the LHCS it was recorded that:

*"The Concept Plan retains Shed 21 which has a Waterloo Quay frontage and the historic Eastbourne Ferry Building adjoining the Service Jetty opposite Whitmore Street. A new building on the site of the old Shed 17 will provide for a variety of commercial and semi-public uses".*

Among the policies in relation to "development and design" for the Railway Character Area were:

<sup>5</sup> Wellington Harbour Board and Wellington City Council Vesting and Empowering Act 1987

<sup>6</sup> Lambton Harbour Combined Scheme, page 13

<sup>7</sup> Op cit, page 14

*Policy 3: To develop the southern part of the area as a pedestrian area with sunny open spaces and unimpeded views of the harbour.*

*Policy 5: To retain Shed 21 and the Eastbourne Ferry Buildings as buildings of historic and/or architectural significance and to refurbish them for uses appropriate to the area.*

*Policy 6: To develop buildings abutting Waterloo Quay that are generally sympathetic to the design and appearance of the buildings of historic and/or architectural significance that are to be retained.*

*Policy 7: To develop buildings generally of a lower height than in the City Centre.<sup>8</sup>*

The policies in relation to “activities” were:

*Policy 1: To utilise refurbished buildings for uses that will attract the public to the area.*

*Policy 2: To replace Shed 17 (demolished) with a multi-storey office building with car parking floors.*

*Policy 3: To preserve the open character of the area by developing pedestrian open spaces between Waterloo Quay and the Harbour.*

The related Planning Map for the Railway Character Area indicated a maximum building height amsl of 44 metres.<sup>9</sup>

The LHCS, prepared under the Town and Country Planning Act 1977, became the “transitional” District Plan under the Resource Management Act 1991 and was administered as such until the new District Plan was prepared.<sup>10</sup>

## 3.2 PROPOSED DISTRICT PLAN (1994)

The Proposed Wellington City District Plan, publicly notified on 27 July 1994, included the Lambton Harbour Area as part of the Central Area, but contained no detailed design provisions. It was indicated that a design guide would be introduced in the future by way of a variation or change to the Plan.<sup>11</sup>

## 3.3 VARIATION 2

Variation 2 “Lambton Harbour Precinct”, publicly notified on 23 June 1995, sought to introduce separate provisions for Lambton Harbour. However, although the Variation was publicly notified and submissions received, it did not proceed to a hearing. This was primarily due to the Council’s decision in May 1996 to introduce a ‘moratorium’ on Lambton Harbour development pending a review of the concept plan being implemented through the Transitional District Plan.<sup>12</sup>

The moratorium followed Lambton Harbour Management Limited<sup>13</sup> and Council holding a public forum in mid-1996 to discuss mounting public concern around some of the Lambton Harbour Area developments, including the ‘retail and events centres’ at Queens Wharf.

## 3.4 COMMUNITY CONSULTATIVE COMMITTEE

In July 1996 the Council resolved to undertake a review of the concept plan and appointed a Lambton Harbour Community Consultative Committee (CCC) to undertake the review.<sup>14</sup>

<sup>8</sup> Op cit, page 22

<sup>9</sup> Op cit, Map 2.1 (refer Volume 3, **Appendix 3**)

<sup>10</sup> The now operative District Plan was first publicly notified as the Proposed District Plan in July 1994

<sup>11</sup> Proposed District Plan, July 1994, page 1/22

<sup>12</sup> This was the concept plan introduced through the Lambton Harbour Combined Scheme (refer Volume 3, **Appendix 4**)

<sup>13</sup> Lambton Harbour Management Company (LHML), the fore-runner to Wellington Waterfront Limited (WWL), was the management company set up by Council to implement the development plans for the waterfront.

<sup>14</sup> The CCC included representatives of Wellington Civic Trust, Waterfront Watch Inc, New Zealand Historic Places Trust, New Zealand Institute of Architects, Wellington Tenth Trust, Wellington Regional Chamber of Commerce, Tourism Wellington Trust, Building Owners’ and Managers’ Association, Royal Port Nicholson Yacht Club and Chaffers Marina, Victoria University Students’ Association, Wellington Polytechnic Students’ Association, Wellington Playcentre Association and Kindergarten Association, Wellington Residents’ Association and three Wellington residents.



The CCC adopted as an ‘over-arching vision’ for Lambton Harbour:

*“Lambton Harbour is a special place that welcomes all people to walk our waterfront history through an exciting playground of beautiful and inspiring spaces that connect our city to the sea, and protect our heritage for future generations”.*

In the Preface to its November 1996 Report, the CCC recorded that:

*“People know what they want. The same themes emerge whoever is talking:*

- *A wide, welcoming promenade on the water’s edge*
- *Exciting new buildings that are in scale and sympathetic to their surroundings*
- *A faithful restoration and creative use of old buildings*
- *Lots of quality, people friendly public space - particularly green space*
- *A network of walkways with opportunities for access to the water*
- *A wide variety of vibrant activities, exciting uses and imaginative developments*
- *The very best of design*
- *Quality development which maximises the potential of the site*
- *Visionary planning*
- *Effective and responsive management”*.<sup>15</sup>

In relation to Site 10, the CCC Report recorded:

*“Site 102”*<sup>16</sup>

*The CCC considers that Site 102 is suited to a greater density and height because of the scale of surrounding buildings, including Shed 21 and the commercial buildings on the opposite side of Jervois Quay.*

*The height of any new development should reflect the scale of Shed 21 with a built environment against the edge of Jervois Quay.*

*A variety of office and mixed uses would be appropriate depending on the level of market demand”*.<sup>17</sup>

This led to Recommendation 54:

*“54. A higher-density medium/high rise built environment be created, in similar scale to Shed 21, on site 102. The built environment be positioned against the edge of Jervois Quay with ground floor as public space”*.<sup>18</sup>

The Committee also recorded that:

*“There is a need to ensure effective pedestrian access from the Northern Gateway Transport hub across Customhouse Quay to Lambton Harbour. The ground floor level of any new buildings need to be designed in a way to incorporate*

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<sup>15</sup> Community Consultative Committee, Report on Lambton Harbour, November 1996, page 1

<sup>16</sup> Site 102, now known as Site 10

<sup>17</sup> Community Consultative Committee, Report on Lambton Harbour, November 1996, page 57

<sup>18</sup> Op cit, page 62

*potentially large pedestrian volumes which may enter Lambton Harbour either from the Railway Station area across Customhouse Quay or from buses, trains, Interisland ferries and users of the planned Regional Sports Stadium”.*<sup>19</sup>

On 29 May 1997 the Wellington City Council accepted the recommendations of the CCC and adopted the vision identified by the committee as its own.

Subsequently, in July 1997 the CCC was reconstituted specifically to provide public input into the design phase of the Lambton Harbour project.<sup>20</sup>

### 3.5 LAMBTON HARBOUR CONCEPT PLAN

In December 1998 the Wellington City Council endorsed the Lambton Harbour Concept Plan, which had been prepared following a period of public consultation and design development led by the Community Consultative Committee commencing back in mid-1996.

Subsequently, in March 1999 the Council resolved to prepare a District Plan variation to provide for the development of the Lambton Harbour Area in accordance with the approved Concept Plan.

### 3.6 VARIATION 17

Variation 17, like Variation 2, was a variation to the 1994 Proposed District Plan. It proposed to incorporate new provisions for the Lambton Harbour Area. The principal changes the variation proposed were new objectives and policies, a new rule requiring a minimum ‘public access area’ of 65%, a Lambton Harbour Design Guide and a new map identifying “maximum building heights and public access areas”, which included for Site 10 a 34 metre amsl maximum building height.

Variation 17 was publicly notified with a closing date for submissions of 7 February 2000.

The public notice stated that Variation 2 was withdrawn by resolution of Council on 11 October 1999, for the reason that:

*“... a new variation for Lambton Harbour (Variation 17) has been prepared which reflects the latest design proposals for the area”.*

As subsequently recorded in the Wellington Waterfront Framework (refer section 3.5 below):

*“By 7 February the original closing date for submissions, the Council had received some 2,500 submissions - the highest number ever recorded on a planning issue in Wellington. Some 94% of those submissions opposed Variation 17 proceeding without modification. Under intense political pressure, the Council voted to extend the submission date.*

*Finally, in April 2000, the Council agreed to withdraw Variation 17 and asked for a new process to be developed to find a way forward for the waterfront”.*<sup>21</sup>

Following the withdrawal of Variation 17 the Council appointed a 10-member Waterfront Leadership Group consisting of three councillors and seven community and interest group representatives. The Group was tasked with developing a framework for the waterfront. The framework was to be Stage 1 in a three-stage process, with Stage 2 to follow to propose more detailed plans for each part of the waterfront. The Council also appointed a technical advisory group (TAG) which would advise on the detailed plans as they were developed and then, in turn, would monitor the implementation of those plans (Stage 3).

<sup>19</sup> Op cit, page 57

<sup>20</sup> A 13-member design team was established to assist the Committee.

<sup>21</sup> The Wellington Waterfront Framework, Wellington City Council, April 2001, page 9

### 3.7 WELLINGTON WATERFRONT FRAMEWORK

The Wellington Waterfront Framework (“Framework”) was adopted by Council in April 2001. The Introduction to the Framework states that its purpose was threefold:

*“... firstly to record the Leadership Group’s work; secondly to describe what the Group recommends should be done on the Wellington Waterfront; and thirdly to present how it believes this future work should be undertaken”.<sup>22</sup>*

The Framework stated an overarching vision supported by five themes which were considered to give the waterfront its ‘flavour’ or identity. Values and principles to reinforce the themes were also stated.

The overarching vision was:

*“Wellington’s Waterfront is a special place that welcomes all people to live, work and play in the beautiful and inspiring spaces and architecture that connect our city to the sea and protect our heritage for future generations”.<sup>23</sup>*

The five inter-linking themes to apply throughout the waterfront were:

- Historical and contemporary culture
- City to water connections
- Promenade
- Open space
- Diversity

Section 3 of the Framework set out the “values” to guide the development of the waterfront. The values were:

- Expression of heritage and history
- Expression of Maori heritage and presence
- “Sense of place” for Wellingtonians
- Diversity of experience
- Sense of collective ownership and involvement
- Experience of space and openness
- Ease of access for all.

Key principles were identified for each of the values, including the following that are relevant in the context of the Project:

#### *“Sense of place” for Wellingtonians*

- Any development will be of high quality
- Any new buildings will be complementary to, and in a scale appropriate to, the existing buildings around them
- The identity developed for each area will be in character with the waterfront as a whole
- The design and use of buildings should be orientated outwards to maximise the unique value of the waterfront location
- The waterfront is part of Wellington and new work will complement the buildings and public spaces in the adjacent city

#### *Diversity of experience*

- There will be an allowance for some commercial development on the waterfront
- Public space development does not depend for funding on commercial development
- New buildings can be considered for the waterfront

#### *Sense of collective ownership and involvement*

- The waterfront is predominantly a public area

<sup>22</sup> Op cit, page 5

<sup>23</sup> Op cit, page 11

- The public should be consulted - either through the Stage 2 process or through a statutory planning process - about any proposed new buildings and any significant changes to existing buildings
- Ground floors of buildings will be predominantly accessible to the public

#### *Experience of space and openness*

- The harbour is the primary open space on the waterfront
- There will be a network of paths throughout the area
- A series of different open spaces that cater for diverse uses and activities will predominate
- There will be a variety of open spaces - some green, some sheltered and some paved
- Important views and vistas from the city to the sea will be protected and important new ones created
- Buildings will support the open spaces, both in their design and their associated uses and activities

#### *Ease of access for all*

- There will be a public walkway/promenade along the full length of the waterfront, predominantly at the water's edge
- There should be opportunities for people to gain access to and from the water
- The waterfront should be accessible for people with special needs
- The waterfront will be designed with safety and security in mind
- Ideally, surface parking should be progressively removed as development takes place
- Parking provided on the waterfront will be primarily for waterfront users

Seven objectives to guide the overall design of identified 'sub-areas' within the waterfront were stated. They were:

- The waterfront is locally and internationally recognised for its design
- The waterfront is readily accessible for all people
- The waterfront is, and is perceived to be, safe at all times
- The waterfront is seen as an attractive place that draws Wellingtonians and visitors alike
- The waterfront successfully caters for a wide range of events and activities
- Significant heritage buildings are protected on the waterfront
- Activities on the waterfront are integrated with those on the harbour

Section 4 of the Framework identified the five 'sub-areas' within the waterfront which were seen to have a recognisable character that relates to both built form and open spaces. The Framework stated that:

*"Making each area distinct will allow the development of a unique 'sense of place' or local character for each area".<sup>24</sup>*

The five sub-areas were:

North Queens Wharf (now known as North Kumutoto)  
Queens Wharf  
Frank Kitts Park  
Taranaki Street Wharf/Lagoon  
Chaffers

For North Queens Wharf/North Kumutoto the key features that were identified were:

- Strong connection to CBD
- Maritime character
- New buildings in scale with heritage buildings and enhanced with squares and lanes
- Sheltered route from Railway Station along Customhouse Quay
- Underground parking preferred - an alternative could be above-ground parking in a building on Site 102
- Views from city streets preserved, and improved where possible
- "Two parts" promenade - one path along the Tug Wharf and a more sheltered path incorporated by new buildings along the inner water's edge
- Tug Wharf refurbished and access to water for fishing and pleasure boats improved.<sup>25</sup>

<sup>24</sup> Op cit, page 23

<sup>25</sup> Op cit, page 27

Section 4.2 of the Framework, “North Queens Wharf”, further describes the existing character of the area now known as North Kumutoto and identified future opportunities. It states that:

*“North Queens Wharf has a strong connection to the city’s Central Business District. This will be reflected with a stronger sense of the city form being developed in this area through a higher proportion of buildings than on the rest of the waterfront.*

*The character of the area will be of squares, lanes and new buildings in scale with the heritage buildings, such as Shed 21 at the northern end and the Queens Wharf Apartments and Sheds 11 and 13 at the other end”.<sup>26</sup>*

In relation to “building relationship to open spaces” it is stated that:

*“New buildings in this area will have a range of uses, and could include recreational, retail, commercial, residential and institutional uses. An option to be further explored in this area is the idea of a contemporary maritime museum.*

*New buildings in the North Queens Wharf area will be sympathetic to, and relate to the scale and size of, the heritage buildings, bearing in mind that Shed 21 at the northern end is higher than the heritage buildings at the southern end. They will also be designed in a coherent fashion so they relate to and complement each other”.<sup>27</sup>*

### 3.8 VARIATION 22

Variation 22 was notified on 15 August 2001.<sup>28</sup> The variation essentially sought to incorporate the substance of the Wellington Waterfront Framework into the District Plan. The public notice noted that the “*Framework becomes an over-arching strategy for the waterfront that will guide its development*”. The public notice further stated that:

*“Incorporating the substance of the Framework into the District Plan provides a clear expression of the Council’s policy direction for the waterfront. Variation 22 will replace the Transitional District Plan provisions (the 1989 Lambton Harbour Combined Planning Scheme and Concept Plan)”.*

The principal changes proposed by Variation 22 were:

- the waterfront, described as the Lambton Harbour Area (LHA), was incorporated into the District Plan as part of the Central Area rather than by creating a separate waterfront zone. Specific objectives, policies, and in some cases, rules were set for the LHA;
- new rules that required resource consents for all new buildings and the development of open space in the LHA; and
- a zero height limit set for new buildings.

The public notice stated that the zero height limit meant that:

*“... there is no new site on the waterfront that carries an automatic right to build to a particular height without a resource consent being granted”.*

Following the submission and hearing process the Council resolved to confirm the recommendations of the independent Hearing Commissioners and issued its Decision on 7 May 2002.

In the Hearing Commissioner’s Report it was recorded that:

*“The purpose of Variation 22 as notified is to incorporate into the District Plan the vision, values, principles and themes to guide the development of Wellington’s waterfront area. Under the Variation, the Framework becomes an over-arching strategy for the waterfront. Variation 22 can be seen as the culmination of Stage 1 of the waterfront design process.*

*The aim of incorporating the substance of the Framework into the District Plan is to give the Framework statutory weight as an indicator of the Council’s policy direction for the waterfront. Variation 22 is intended to replace the Transitional*

<sup>26</sup> Op cit, page 32

<sup>27</sup> Op cit, page 33

<sup>28</sup> Variation 22 was a variation (or ‘change’) to the Proposed District Plan.

*District Plan provisions (the 1989 Lambton Harbour Combined Planning Scheme and Concept Plan) and remove the risk that out-of-date provisions could carry weight by default.*

*Variation 22 introduces less detailed provisions than the earlier withdrawn variations. More detailed plans for the waterfront are being developed as part of the next stage of the waterfront planning process. We understand that when this design work is completed, a further District Plan change or changes may be initiated to incorporate specific proposals for development of the waterfront.*

*Variation 22 can therefore be seen as introducing a transitional set of provisions that create a holding situation while more detailed plans are prepared. Under Variation 22, all significant new development will require resource consent. By this mechanism, the Council can ensure that there is opportunity for public scrutiny of any significant new development on the waterfront - particularly during the period while detailed design plans are being finalised during Stage Two. The Council's commitment to continued public involvement in decision-making on the waterfront is recorded in the Variation".<sup>29</sup>*

The new provisions for the waterfront introduced through Variation 22 also cited the Wellington Waterfront Framework as a Design Guide.<sup>30</sup>

### 3.9 OPERATIVE DISTRICT PLAN

The proposed District Plan (first publicly notified in July 1994) was made operative on 27 July 2000. The new Lambton Harbour Area provisions confirmed through Variation 22 were subsequently incorporated in the operative District Plan in July 2004.

### 3.10 VARIATION 11

Variation 11 was a variation which sought to incorporate changes to Proposed District Plan Change 48 (Central Area Review). DPC 48 was notified on 23 September 2006. Variation 11 was publicly notified on 1 February 2009.

In the Section 32 Report on Variation 11 it was recorded that:

*"In 2000 the Council commenced work on the preparation of a non statutory framework for the waterfront area. The Waterfront Framework which was adopted in April 2001 sets out the vision, values and principles that have continued to guide the ongoing development of the waterfront.*

*The current operative District Plan provisions were developed with reference to the Framework and promulgated as Proposed Variation 22 in August 2001. This variation generated over 100 submissions and resulted in only one appeal relating to the existing buildings on Queens Wharf. The variation proposals were adopted into the Plan in July 2004.*

*More recently the waterfront area was subject to review under District Plan Change 48 (Central Area Review) which was notified in September 2006. This review raised few submissions relating to the waterfront and no specific waterfront appeals were lodged.*

*In light of this planning history and the comprehensive nature of both the Variation 22 and District Plan Change 48 processes it was accepted that the waterfront provisions were in accordance with the legislation and were working appropriately to give effect to Council's policy as expressed in the Waterfront Framework (April 2001).*

<sup>29</sup> District Plan Variation 22 - Report of Hearing Commissioners (20 February 2002), page 3

<sup>30</sup> Subsequently the Environment Court concluded that:

[56] *We are of the view that the Waterfront Framework has no status as a component of the District Plan and those provisions of the Plan which purport to incorporate the Framework into it are ultra vires. Nor do we agree with the statement contained in the Agreed Statement of planning experts that the Waterfront Framework is the 'dominant design guide' for the waterfront. The Waterfront Framework does not purport to direct design matters but rather to be a policy document.*

Intercontinental Hotel v Wellington Regional Council (the 'Hilton Hotel' case), Environment Court, 14 March 2008, Decision No W015/2008, page 15



However, on 14 March 2008 the Environment Court issued its decision on the resource consent appeals relating to the proposal to construct a new Hilton hotel on the Outer-T of Queens Wharf (Decision No 015/2008). This decision raised important issues relevant to the operation of the existing District Plan provisions and the future determination of resource consents on the waterfront.

With regard to the District Plan, the Court found that provisions that purport to incorporate the Waterfront Framework into the operative District Plan were 'ultra vires' or beyond the law. Specifically this related to.

- The provisions that refer to the Waterfront Framework as a design guide (meaning a design guide similar to the existing guides in Volume 2 of the District Plan)
- The references to the Waterfront Framework applying as assessment criteria for the consideration of resource consent applications.

The decision also commented on various matters relating to the protection of both public and private views. On this matter the height and bulk of buildings are the most important considerations. Currently a zero height limit applies over most of the waterfront. This limit was imposed as a trigger to activate resource consents for new building development and not as a means to prevent development. It is now considered that to continue with a zero height limit in areas of the waterfront identified for development would be problematic. As a zero height limit provides no permitted baseline for the assessment of resource consents it is possible that future resource consent applications could face significant planning and legal obstacles if issues such as building height and the intensity of development were to be raised by submitters.

To activate the original intention of devising tailored District Plan provisions for identified areas on the waterfront and to address the issues arising from the Hilton decision it has been recommended that appropriate changes to the District Plan be initiated before further resource consent applications for new developments are made".<sup>31</sup>

Variation 11 was publicly notified on 1 February 2009.

In the public notice it was recorded that:

"Variation 11 proposes to amend District Plan Change 48 - Central Area Review. Existing provisions will be revised to establish a suitable regulatory framework for the assessment of any new development in identified areas on the waterfront, including:

- the inclusion of more detailed policy provisions for future building development on the waterfront - particularly in the North Kumutoto Area;
- the introduction of defined limits including building height and 'footprints' for development in the North Kumutoto Area;
- the inclusion of a new rule 13.3.4A to provide for new building development within defined limits to be considered by the Council on a 'restricted discretionary' basis without the requirement for public notification - proposals that do not meet this rule will be dealt with on a fully discretionary basis and are likely to be notified; and
- a new design guide that recognises the special character of the North Kumutoto Area and the need for outstanding design of new buildings and related public space".

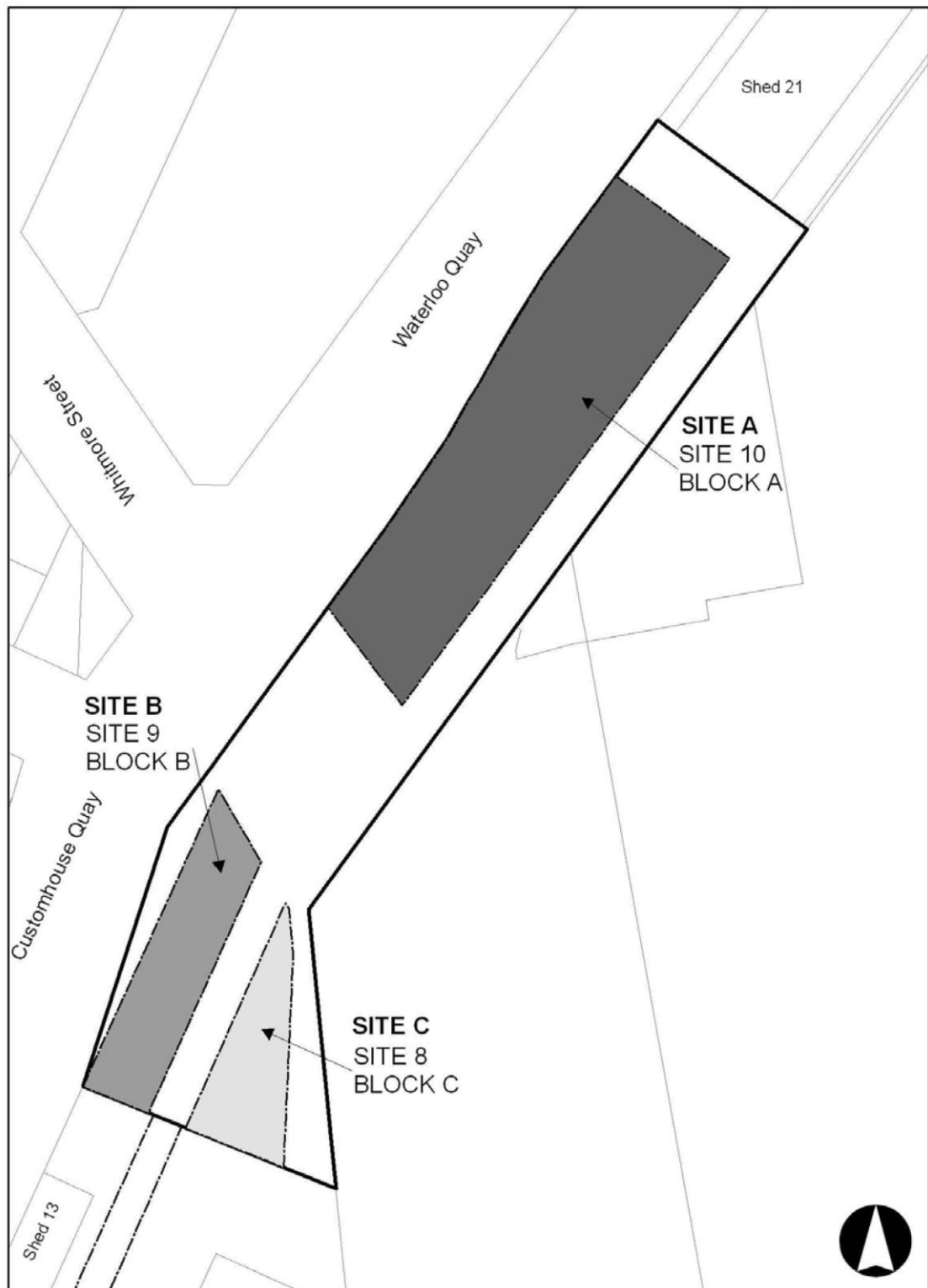
Variation 11 identified the three 'sites' that are now referred to in many subsequent reports, including this AEE, as Sites 8, 9 and 10. For ease of reference a copy of diagram (Figure 1) identifying the sites follows this page.<sup>32</sup>

Following the submission and hearing process two appeals were lodged with the Environment Court by Waterfront Watch Inc and Queens Wharf Holdings.

In its decision issued on 24 April 2012 the Court found that Variation 11 did not meet the relevant statutory tests. Consequently, the Court upheld the appeals against Variation 11, recording that it would:

<sup>31</sup> Section 32 Report Proposed District Plan Variation 11, December 2008, pages 2-3

<sup>32</sup> Figure 1 was a drawing attached to the Council Commissioner's Decision Report on Variation 11

**FIGURE 1**

**NORTH KUMUTOTO AREA  
PROPOSED DEVELOPMENT AREAS REFERENCED  
IN THE REPORT**

0 5 10 20 30 40  
Meters

*“... leave it to the Council, if it so wishes, to propose a new set of plan provisions for this area, considered against the background of what, hopefully has been learnt from this rather frustrating exercise ...”<sup>33</sup>*

In the body of its decision a number of comments that were made by the Court could have some relevance to an assessment of the current Project.

*The ‘zero permitted height rule’*

*[33] Currently the District Plan does not provide a permissive height limit for buildings in the Lambton Harbour Area. It adopts this technique as a mechanism to trigger a requirement for a resource consent. Such development would be publicly notified. The present Plan provisions do not have any height below which a development would be a ‘permitted activity’. Somewhat misleadingly, this is occasionally referred to as the ‘Zero Height Rule’, but there is no ‘Rule’ so-called - there is just no permitted building height below which resource consent is not required. Following the Hilton decision the Council formed the view (as recorded in its s32 Report for Variation 11) that the zero height mechanism was ‘problematic’ because it meant that there was no relevant permitted baseline. We share the doubt expressed by that conclusion. Of itself, we would not have thought that the absence of a ‘permitted baseline’ is likely to raise a question about the validity or workability of a Plan. Appendix 13 to the variation is proposed as a height rule and links to existing District Plan maps 32 and 32A.*

*Design Guidelines*

*[68] As we have discussed, one of the objectives of Variation 11 was to introduce the Central Area Urban Design Guidelines as a tool for assessment at the waterfront. The Council had up until this point relied upon the (non-statutory) Wellington Waterfront Framework for assessment of new development. Thus, throughout the relevant sections of the Plan the variation replaces the words ‘Wellington Waterfront Framework’ with ‘Central Area Urban Design Guidelines’. However, it retains references to the ‘Framework’ document where it refers to methods to be used to give effect to certain policies in relation to ‘operational activities’, which we understand to mean Council’s own activities that it conducts in this area, for instance through Wellington Waterfront Ltd.*

Referring to “Block A” (aka Site 10), and noting that Variation 11 proposed a 30m amsl maximum building height, the Court at paragraph [112] stated that it considered a “*permissible height of 22m is appropriate*” adding that this should be referenced to the inter-storey height (6m ground floor and 4.2m above), the result being a four storey building(s) with scope for rooftop plant.

Referring to “Block C” (aka Site 8) the Court’s conclusion was that the area was better left as open space adding that:

*[123] We consider that Block C will provide a useful enlargement of the existing open space which has been established particularly around the stream and is presently focused towards the Meridian Building.<sup>34</sup>*

### 3.11 OVERVIEW OF RECENT HISTORY

Over the last 30 years or so since the Harbour/City Conference, when the process for establishing a planning framework for the [re]development of the Wellington waterfront was initiated, there has been a continuing debate about what form the [re]development should take.

A significant step in the process was the adoption by the Wellington City Council in April 2001 of the Wellington Waterfront Framework as the city’s vision for the waterfront.

Either side of the adoption of the Wellington Waterfront Framework there have been a number of initiatives that have sought to establish the District Plan framework for guiding the [re]development of the waterfront (aka Lambton Harbour Area), some of which were controversial (e.g. Variation 17), while others, particularly Variation 22, were generally accepted.<sup>35</sup>

<sup>33</sup> Waterfront Watch Inc and Queen Wharf Holdings v Wellington City Council, Decision [2012] NZEnvC 74 dated 24 April 2012, [149] page 44

<sup>34</sup> Op cit, page 37

<sup>35</sup> Variation 22 was a variation or change to the proposed District Plan which introduced the now operative objectives, policies and rules for the Lambton Harbour Area.

For the area now referred to as North Kumutoto, previously known as North Queens Wharf, this recent history of District Plan changes and variations comes to a conclusion with the Environment Court's decision on Variation 11, with the decision rejecting more detailed provisions, including building locations and heights and urban design guidelines for North Kumutoto.

Nevertheless, the Court's 2012 decision did include comment which has some relevance to the current applications, including the comments that:

- (a) Site 8 should not be a building site, but should be developed as open space; whereas
- (b) Site 10 could be a building site, with a permissible height of 22m being appropriate.

Other comments made by the Court that have been taken-up in the design process for the Project relate to:

- (a) the depth of the setback of the building on Site 10 from the CentrePort land (south-eastern boundary of the Wellington Waterfront 'lands'). The Court considered that the 9m setback of a [then] proposed building on Site 10 was "*too susceptible to an outcome which might not provide for both types of spaces*"<sup>36</sup> The Court considered that a setback of more than 9m was required, given the available depth of building from Waterloo Quay; and
- (b) the 'form' of a building on Site 10, which the Court considered should read "*as more than one building*".<sup>37</sup>

### ***Thirty Years of Planning Guidance***

Throughout the last thirty years of planning history a consistent 'intention' has been the [re]development of North Kumutoto for a mix of buildings and public open spaces, all as part of a revitalised Wellington waterfront.

Furthermore, this intention has always identified Site 10 (previously known as Site 102), as a potential site for a new waterfront building, an intention confirmed in the Wellington Waterfront Framework.

The present North Kumutoto Project seeks to bring this intention to reality.

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<sup>36</sup> Waterfront Watch Inc and Queen Wharf Holdings v Wellington City Council, Decision [2012] NZEnvC 74 dated 24 April 2012, [113] page 34. The two types of 'places' the Court was referencing were "*places to be and places to move through*".

<sup>37</sup> Op cit, [112] page 33

## 4 STATUTORY CONTEXT

### 4.1 POLICY AND PLAN FRAMEWORK

The policy and plan framework for the Project is established by:

- at the national level - any relevant National Policy Statements and any relevant National Environmental Standards;
- at the regional level - the Regional Policy Statement for the Wellington Regional (and any relevant Regional Plans); and
- at the district level - the Wellington City District Plan.

The following sections outline the relevant provisions of the applicable statutory documents.

### 4.2 NATIONAL POLICY

When considering resource consent applications the consent authority must, subject to Part 2, have regard to relevant provisions of:

- a national environmental standard;
- a national policy statement; and
- a New Zealand coastal policy statement.

In relation to the Project the following are considered relevant:

- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011); and
- New Zealand Coastal Policy Statement (2010).

#### **National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011)**

The NES seeks to ensure that land affected by contaminants in soil is appropriately identified and assessed at the time of development, and, if necessary, remediated or the contaminants contained to make the land safe for human use. Development activities that might trigger the need for consent under the NES include land-use change and disturbance of soil. Therefore NES activity types are proposed to occur on both Sites 8 and 9 (for disturbance of soil), and 10 (for both disturbance of soil and change in use).

As the focus of the NES is to protect human health, and therefore only relates to the actual or potential adverse effects of contaminants on human health, it does not address the wider adverse effects of contaminants on the environment, or relate to assessing or managing the actual or potential adverse effects of contaminants on other receptors such as ecology, water and amenity values.

The NES either allows (as a permitted activity) or controls (through resource consents) these activities on land affected or potentially affected by soil contaminants. The activity status of the activities is then set by the NES depending upon the nature and scale of the activity, and its potential risks to human health, ranging from permitted through to discretionary.

Where a Detailed Site Investigation (DSI) can demonstrate that any contaminants in or on the piece of land are at, or below, background concentrations, the activity status is Controlled. Where above background concentrations, the activity status is Restricted Discretionary. Finally where no full DSI has been completed, the activity will be a Discretionary status.

Overall a Discretionary Activity consent is required under the NES as the activity proposed is not a permitted, controlled or restricted discretionary as set out in the NES.

## **New Zealand Coastal Policy Statement (2010)**

The purpose of the NZCPS is to state policies in order to achieve the purpose of the Act in relation to the coastal environment. In the Preamble it is noted that New Zealand's coastal environment is facing a number of key issues, including:

- *loss of natural, built and cultural heritage from subdivision, use and development; and*
- *compromising of the open space and recreational values of the coastal environment, including the potential for permanent and physically accessible walking public access to and along the coastal marine area.*<sup>38</sup>

There are seven objectives in the NZCPS, with the following being relevant (in that they must be had regard to):

### *Objective 3:*

*To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:*

- *recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;*
- *promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;*
- *incorporating matauranga Maori into sustainable management practices; and*
- *recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.*

### *Objective 4*

*To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by:*

- *recognising that the coastal environment is an extensive area of public space for the public to use and enjoy;*
- *maintaining and enhancing public walking access to and along the coastal marine area without charge, and where there are exceptional reasons that mean that this is not practicable providing alternative linking access close to the coastal marine area; and*
- *recognising the potential of coastal processes, including those likely to be affected by climate change, to restrict access to the coastal environment and the need to ensure that public access is maintained even when the coastal marine area advances inland.*

### *Objective 5*

*To ensure that coastal hazard risks taking account of climate change, are managed by:*

- *locating new development away from areas prone to such risks;*
- *considering responses, including managed retreat, for existing development in this situation; and*
- *protecting or restoring natural defences to coastal hazards*

### *Objective 6*

*To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:*

- *the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;*
- *some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;*
- *functionally some uses and developments can only be located on the coast or in the coastal marine area;*

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<sup>38</sup> New Zealand Coastal Policy Statement 2010, page 6



- *historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development.*

Additional to the seven objectives, the NZCPS outlines a total of twenty nine policies to guide the sustainable management of the coastal environment.

Policies that are considered to be of actual or possible relevance to an assessment of the Project include:

Policy 4: Integration

Policy 6: Activities in the coastal environment

Policy 17: Historic heritage identification and protection

Policy 18: Public open space

Policy 19: Walking access

Policy 24: Identification of coastal hazards

Policy 25: Subdivision, use and development in areas of coastal hazard risk

Policy 27: Strategies for protecting significant existing development from coastal hazard risks

Specific considerations or matters to be recognised as promoted by the above policies include:

### ***Integration***

*Policy 4 Provide for the integrated management of natural and physical resources in the coastal environment, and activities that affect the coastal environment. This requires:*

*(c) particular consideration of situations where:*

- (i) subdivision, use, or development and its effects above or below the line of mean high water springs will require, or is likely to result in, associated use or development that crosses the line of mean high water springs;*

### ***Activities***

*Policy 6(1)(f): Consider where development that maintains the character of the existing built environment should be encouraged, and where development resulting in a change in character should be acceptable;*

*Policy 6(1)(i): Set back development from the coastal marine area and other water bodies, where practicable and reasonable, to protect the natural character, open space, public access and amenity values of the coastal environment;*

*Policy 6 (2)(a): Recognise potential contributions to the social, economic and cultural wellbeing of people and communities from use and development of the coastal marine area, including the potential for renewable marine energy to contribute to meeting the energy needs of future generations;*

*Policy 6(2)(b): Recognise the need to maintain and enhance the public open space and recreation qualities and values of the coastal marine area.*

### ***Historic Heritage***

*Policy 17: Protect historic heritage in the coastal environment from inappropriate subdivision, use and development by:*

*...*

*(c) initiating assessment and management of historic heritage in the context of historic landscapes; and*

*...*

*(e) facilitating and integrating management of historic heritage that spans the line of mean high water springs.*

### **Public Open Space**

- Policy 18: Recognise the need for public open space within and adjacent to the coastal marine area. For public use and appreciation including active and passive recreation, and provide for such open space, including by:*
- (a) ensuring the location and treatment of public open space is compatible with the natural character, natural features and landscapes, and amenity values of the coastal environment;*
  - (b) taking account of future need for public open space within and adjacent to the coastal marine area, including in and close to cities, towns and other settlements;*
  - (c) maintaining and enhancing walking access linkages between public open space areas in the coastal environment;*
  - (d) considering the likely impact of coastal processes and climate change so as not to compromise the ability of future generations to have access to public open space;*
  - (e) recognising the important role that esplanade reserves and strips can have in contributing to meeting public open space needs.*

### **Walking Access**

- Policy 19 (1): Recognise the public expectation of and need for walking access to and along the coast that is practical, free of charge and safe for pedestrian use.*
- Policy 19(2) Maintain and enhance public walking access to, along and adjacent to the coastal marine area, including by:*
- ...*
- (b) avoiding, remedying or mitigating any loss of public walking access resulting from subdivision, use, or development;*
  - (c) identifying opportunities to enhance or restore public walking access, for example where:*
    - (i) connections between existing public areas can be provided.*

### **Identification of Coastal Hazards**

- Policy 24(1) Identify areas in the coastal environment that are potentially affected by coastal hazards (including tsunamis), giving priority to the identification of areas at high risk of being affected. Hazard risks, over at least 100 years, are to be assessed having regard to:*
- (a) physical drivers and long-term natural dynamic fluctuations of erosion and accretion;*
  - (b) short-term and long-term natural dynamic fluctuations of erosion and accretion;*
  - (c) geomorphological character;*
  - (d) the potential for inundation of the coastal environment, taking into account potential sources, inundation pathways and overland extent;*
  - (e) cumulative effects of sea level rise, storm surge and wave height under storm conditions;*
  - (f) influences that humans have had or are having on the coast;*
  - (g) the extent and permanence of built development; and*
  - (h) the effects of climate change on:*
    - (i) the matters (a) to (g) above*
    - (ii) storm frequency, intensity and surges; and*
    - (iii) coastal sediment dynamics*
- taking into account national guidance and the best available information on the likely effects of climate change on the region or district.*

### **Coastal Hazards Risk**

*Policy 25 In areas potentially affected by coastal hazards over at least the next 100 years:*

- (a) avoid increasing the risk of social, environmental and economic harm from coastal hazards;*
- (b) avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards.*

### **Strategies for Protecting Significant Existing Development from Coastal Hazard Risk**

*Policy 27(1): In areas of significant existing development likely to be affected by coastal hazards, the range of options for reducing coastal hazard risk that should be assessed includes:*

- (a) protecting and identifying long-term sustainable risk reduction approaches including the relocation or removal of existing development or structures at risk;*
- (b) identifying the consequences of potential strategic options relative to the option of 'do-nothing'.*

*Policy 27(2): In evaluation options under (1):*

- (a) focus on approaches to risk management that reduce the need for hard protection structures and similar engineering interventions;*
- (b) take into account the nature of the coastal hazard risk and how it might change over at least a 100 year timeframe, including the expected effects of climate change, and*
- (c) evaluate the likely costs and benefits of any proposed coastal hazard risk options.*

## **4.3 REGIONAL POLICY STATEMENT**

The Regional Policy Statement for the Wellington Region (RPS) was made operative on 24 April 2013. Under the heading 'Integrating management of natural and physical resources' in 2.4 it is stated that:

*"This Regional Policy Statement for the Wellington region has a key role in integrating the management of natural and physical resources. It identifies the resource management issues of regional significance, recognising the shared responsibility and the need for a common understanding of issues. It then sets out objectives, policies and methods that recognise the interaction and connection between different resources, the range of scales in which an issue can be addressed and the need to consider the social, economic, cultural and environmental factors alongside one another. Ultimately, the Regional Policy Statement focuses on the matters that it can influence to make progress towards a sustainable region".*<sup>39</sup>

In turn, the RPS organises the Region's resource management issues, objectives, policies and methods under the following topic headings or themes:

- Air quality
- **Coastal environment, including public access**
- Energy, infrastructure and waste
- Fresh water, including public access
- **Historic heritage**
- Indigenous ecosystems
- Landscape
- **Natural hazards**
- **Regional form, design and function**
- **Resource management with tangata whenua**
- Soils and minerals

<sup>39</sup> Regional Policy Statement for the Wellington Region, 24 April 2013, page 12

The highlighted topics are those that are considered to be relevant to an assessment of the Project.

### Coastal Environment

Notwithstanding that the Lambton Harbour Area is within the coastal environment it is nevertheless a highly modified / highly developed environment. Whilst further development along the lines proposed by the Project would not constitute 'inappropriate activities and development', considerations that are nevertheless relevant include:

- the maintenance and enhancement of public access to and along the coastal marine area (a matter of national importance - s6 of the RMA);
- protecting historic heritage values associated with the coastal environment;
- supporting life-supporting capacity of coastal ecosystems; and
- the implications of sea-level rise on new use and development within the coastal environment.

Thus, RPS objectives and policies for the coastal environment which are relevant to an assessment of the proposed developments are:

*Objective 3: Habitats and features in the coastal environment that have recreational, cultural, historical or landscape values that are significant are protected from inappropriate subdivision, use and development.*

*Policy 22 Protecting historic heritage values - district and regional plans.*

*Objective 8: Public access to and along the coastal marine area, lakes and rivers is enhanced.*

*Policy 53 Public access to and along the coastal marine area, lakes and rivers - consideration.*

### Historic Heritage

The RPS identifies historic heritage as a regionally significant issue and an issue of significance to the region's iwi authorities, and seeks to protect historic heritage from inappropriate modification, use and development.

The relevant objective and policies are:

*Objective 15: Historic heritage is identified and protected from inappropriate modification, use and development.*

*Policy 22: Protecting historic heritage values - district and regional plans.*

*Policy 46 Managing effects on historic heritage values - consideration.*

The assessment matters under Policy 46 to which particular regard should be given when determining whether a development is inappropriate in respect of managing effects on historic heritage values are:

- (a) *the degree to which historic heritage values will be lost, damaged or destroyed;*
- (b) *the irreversibility of adverse effects on heritage values;*
- (c) *the opportunities to remedy or mitigate any previous damage to heritage values;*
- (d) *the degree to which previous changes that have heritage value in their own right are respected and retained;*
- (e) *the probability of damage to immediate or adjacent heritage values;*
- (f) *the magnitude or scale of any effect on heritage values;*
- (g) *the degree to which unique or special materials and/or craftsmanship are retained;*
- (h) *whether the activity will lead to cumulative adverse effects on historic heritage; and*

- (i) *whether the relationships between distinct elements of an historic place, site or area will be maintained.*<sup>40</sup>

### **Natural Hazards**

The RPS identifies a number of natural hazard issues that may affect development in the region, including earthquake, coastal erosion and inundation. The RPS notes that in the medium to long-term, climate change effects have the potential to increase both the frequency and magnitude of natural hazard events that already occur in the region, with a major consequence of climate change being a rise in sea level and associated coastal erosion and inundation, especially during storm surge events.

Relevant objectives and policies are:

*Objective 19: The risks and consequences to people, communities, their businesses, property and infrastructure from natural hazards and climate changes are reduced.*

*Policy 51: Minimising the risks and consequences of natural hazards - consideration.*

*Objective 21: Communities are more resilient to natural hazards, including the impacts of climate change, and people are better prepared for the consequences of natural hazard events.*

*Policy 51: Minimising the risks and consequences of natural hazards - consideration.*

*Policy 52: Minimising adverse effects of hazard mitigation measures - consideration.*

The assessment matters under Policy 51 and 52 to which particular regard should be given when determining whether: (a) a development is inappropriate in respect of the risks and consequences of natural hazards (Policy 51); and (b) minimising adverse effects of hazard mitigation measures (Policy 52) are:

#### *Policy 51*

- (a) *the frequency and magnitude of the range of natural hazards that may adversely affect the proposal or development, including residual risk;*
- (b) *the potential for climate change and sea level rise to increase the frequency or magnitude of a hazard event;*
- (c) *whether the location of the development will foreseeably require hazard mitigation works in the future;*
- (d) *the potential for injury or loss of life, social disruption and emergency management and civil defence implications - such as access routes to and from the site;*
- (e) *any risks and consequences beyond the development of the site;*
- (f) *the impact of the proposed development on any natural features that act as a buffer, and where development should not interfere with the ability to reduce the risks of natural hazards;*
- (g) *avoiding inappropriate subdivision and development in areas of high risk from natural hazards;*<sup>41</sup>
- (h) *the potential need for hazard adaptation and mitigation measures in moderate risk areas; and*

<sup>40</sup> Op cit, page124

<sup>41</sup> Note: Policy 51(g) will cease to have effect once Policy 29 has been given effect to in the relevant district plan. Policy 29 is as follows:

*“Policy 29: Avoiding inappropriate subdivision and development in areas at high risk from natural hazards - district and regional plans*

*Regional and district plans shall:*

- (a) *Identify areas at high risk from natural hazards; and*
- (b) *Include policies and rules to avoid inappropriate subdivision and development in those areas”.*

- (i) *the need to locate habitable floor areas and access routes above the 1:100 year flood level, in identified flood hazard areas.*

### **Regional Form, Design and Function**

The RPS records that central Wellington city contains the central business district for the region and that it's continued viability, vibrancy and accessibility is important for the whole region. Issues that are identified under the heading include:

- Poor quality urban design
- Sporadic, uncontrolled and/or uncoordinated development
- Integration of land use and transportation.

Relevant objectives and policies include:

*Objective 22: A compact well designed and sustainable regional form that has an integrated, safe and responsive transport network and:*

- (a) a viable and vibrant regional central business district in Wellington city;*
- (b) an increased range and diversity of activities in and around the regionally significant centres to maintain vibrancy and vitality;*
- ...*
- (h) integrated public open spaces.*

*Policy 30: Maintaining and enhancing the viability and vibrancy of regionally significant centres - district plans.*

*Policy 54: Achieving the region's urban design principles - consideration.*

### **Resource Management with Tangata Whenua**

The RPS acknowledges the special relationship that tangata whenua have with the land, air, water and natural resources.

Of particular relevance in the context of the Project are the potential for loss of mauri in relation to coastal waters and the degradation and destruction of places, sites and areas with spiritual, cultural or historic heritage value to tangata whenua.

Relevant objectives and policies include:

*Objective 24: The principles of the Treaty of Waitangi are taken into account in a systematic way when resource management decisions are made.*

*Objective 25: The concept of kaitiakitanga is integrated into the sustainable management of the Wellington region's natural and physical resources.*

*Objective 26: Mauri is sustained, particularly in relation to coastal and fresh waters.*

*Objective 28: The cultural relationship of Maori with their ancestral lands, water sites, wahi tapu and other taonga is maintained.*

*Policy 48: Principles of the Treaty of Waitangi - consideration.*

*Policy 49: Recognising and providing for matters of significance to tangata whenua - consideration.*

## **4.4 REGIONAL COASTAL PLAN**

The Regional Coastal Plan for the Wellington Region (operative 19 June 2000) applies within the coastal marine area.

### **4.4.1 Regional Coastal Plan Issues**

One of the management 'issues' identified in the RCP is:



2.1.18 *The Lambton harbour area has special characteristics which set it apart from the remaining coastal marine area. The area itself spans the line of mean high water springs, and the area has its own development plan. It is important that the management of the coastal marine area recognises the special nature of this area.*<sup>42</sup>

#### 4.4.2 Regional Coastal Plan Objectives and Policies

One of the general Objectives for management is:

4.1.24 *The comprehensive development of the Lambton Harbour Development Area is provided for.*

In turn, Policy 4.2.45 states:

4.2.45 *In the Lambton Harbour Development Area to:*

- *provide for a wide range of activities appropriate to the harbour/city interface;*
- *provide for development compatible with the urban form of the city;*
- *recognise the heritage character, development and associations of the area;*
- *develop and have particular regard to any design guides for the area which are contained in any proposed or operative Wellington City District Plan;*
- *provide for a range of public open spaces, access and through-routes, and to ensure that their nature, purpose and function is maintained;*
- *ensure that the effects of development and activities do not detract from people's enjoyment of the area; and*
- *ensure that the area is an integral part of the working port of Wellington*
- *[ensure structures containing noise sensitive activities are adequately acoustically insulated]*<sup>43</sup>

In the explanation of Policy 4.2.45, it is stated that:

*"The intention of bullet point 1 is to limit activities only if their effects make them incompatible with the other activities appropriate to the location, or if they detract from the amenities of the area.*

*Bullet point 2 refers to urban form. The overall urban form of the city provides for an enhancement of the amphitheatre where the built form reflects the stepping down of the topography from the Kelburn area to the sea. As a result, development in the Lambton Harbour Development Area will generally be lower than the adjacent city centre.*

*Bullet point 3 refers to the retention of buildings and other features which have recognised heritage value.*

*Design guides have been prepared for the Lambton Harbour Development Area, and point 4 requires that new development be assessed against these guides.*

*Bullet point 5 recognises that the Lambton Harbour Development Area provides the main area of open space near the City Centre, and that such open space should be retained.*

*Bullet point 6 recognises that the Lambton Harbour Development Area is primarily a "place for people". This point must be given due weight when considering development proposals.*

*The Lambton Harbour Development Area draws much of its character and present activity from its port related function, structures and open space. This is recognised in bullet point 7 which provides for the area to continue to be used for port related activities.*

*[Bullet point 8 recognises that the noise environment in the Lambton Harbour Development Area is similar to the noise environment of the Central Area of the Wellington City Council District Plan and that any adverse effects of noise on noise sensitivities should be mitigated]"*<sup>44</sup>

In relation to Structures (section 6 of the RCP), Policy 6.2.1 states:

6.2.1 *To consider the following as appropriate in the coastal marine area:*

<sup>42</sup> Regional Coastal Plan for the Wellington Region, page 5

<sup>43</sup> Op cit, page 36

<sup>44</sup> Op cit, pages 36-37

- *the use and development of structures in the Lambton Harbour Development Area.*

In the explanation to Policy 6.2.1 it is stated that:

*“Policy 6.2.1 lists criteria for the appropriate use and development of structures in the coastal marine area. Uses and developments which do not meet these criteria are inappropriate. Except for in the Lambton Harbour Development Area, any structure associated with a use that does not have to be located in the coastal marine area is considered inappropriate”.*<sup>45</sup>

#### 4.4.2 Regional Coastal Plan Rules

The proposed open space development components of the Project result in the need for consent for:

- occupation of structures in the coastal marine area (note, this is a controlled activity under the RCP);
- construction, maintenance and use of structures in the coastal marine area; and
- works that will involve the modification of the ‘protected’ wharf edge and reclamation edge (Appendix 4 and Planning Map 4D of the Regional Coastal Plan).

Rule 16 of the Regional Coastal Plan states that:

*“The occupation of any lawful structure of any land of the Crown or any related part of the coastal marine area, is a **Controlled Activity** provided that activity complies with the terms listed below:*

*Terms:*

- (1) The person responsible for the structure shall at all times throughout the period when the structure occupies land of the Crown or any related part of the coastal marine area, pay to the consent authority, on behalf of the Crown, any sum of money required to be paid by regulations made under section 360(1)(c) of the Act.*
- (2) The activity shall comply with the general terms listed in section 14.2.*

*The matters over which “control” is exercised are:*

- (1) The duration of the consent; and*
- (2) The information and monitoring requirements; and*
- (3) The administrative charges payable; and*
- (4) The degree of exclusivity of the occupation; and*
- (5) Any maintenance requirements”.*

The works/structures that require consent under Rule 16 are two new ‘narrow’ (2m wide) pedestrian bridge structures that will connect the new public open space to be developed on Site 8 with the existing Tug Wharf and the waterfront promenade extension. The new pedestrian bridges will provide for public access between the waterfront promenade and Site 8 thus enhancing the integration of the public amenity spaces.

In relation to the matters over which control is retained under Rule 16, the maximum duration for an occupational consent is sought on the understanding that their presence will not impact on any other lawful activity in the coastal marine area. Nevertheless they could be removed if necessary, notwithstanding that this would reduce the degree of public access to and along the coastal marine area.

Overall the consent required is a Discretionary Activity consent for the following works which both fall under Rule 25 of the RCP:

- construction, maintenance and use of structures in the coastal marine area ; and
- works that will involve the modification of the ‘protected’ wharf edge and reclamation edge (Appendix 4 and Planning Map 4D of the Regional Coastal Plan).

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<sup>45</sup> Op cit, page 50

Rule 25 of the RCP provides for all remaining activities involving the use and development of structures outside any Area of Significant Conversation value.

Consent is also required in relation to potential temporary discharges to the coastal marine area during the construction of the public open spaces in and adjacent to the coastal marine area. The required consent is for a Discretionary Activity under Rule 61 (Discharges to Land or Water) of the Regional Coastal Plan.

## 4.5 OTHER REGIONAL PLANS

Two other relevant regional plans are:

- Regional Freshwater Plan for the Wellington Region; and
- Regional Plan for Discharges to Land.

These Plans are relevant given that the construction of the basement for the Site 10 building may: (i) impact on ground water and may result in discharges to ground water and/or the stormwater system (Regional Freshwater Plan); (ii) may involve removal of contaminated soil; and (iii) may result in discharges of contaminated water (Discharges to Land Plan).

### 4.5.1 Other Regional Plans - Objectives and Policies

Relevant objectives and policies are:

#### **Regional Freshwater Plan**

*Objective 4.1.12 The adverse effects of the use and development of freshwater resources are avoided, remedied or mitigated.*

*Policy 4.2.34 To avoid, remedy or mitigate adverse effects which are associated with, or are a consequence of, an activity by placing conditions on resource consents, particularly where adverse effects are likely to occur on the following:*

- characteristics of spiritual, historical or cultural significance to tangata whenua; or
- natural values; or
- amenity or recreational resources; or
- lawful public access.

*Policy 4.2.35 To have regard to the following matters when determining the nature and extent of any conditions to be placed on a resource consent:*

- the significance of the adverse effects arising as a consequence of, or in association with, the proposed activity; and
- the extent to which the proposed activity contributes to the adverse effects; and
- the extent to which the adverse effects of the proposed activity can be, and have been, dealt with by other means; and
- any proposals by the applicant to avoid, remedy or mitigate adverse effects, and any agreements reached at pre-hearing meetings; and
- the monitoring proposed to be carried out by the applicant; and
- the extent to which the community as a whole benefits from the proposed activity and from any proposed conditions on a consent; and
- the extent to which the community as a whole benefits from the proposed activity and from any proposed conditions on a consent; and
- the financial cost of complying with any conditions on a consent; and
- the extent to which a condition placed on a consent will avoid, remedy or mitigate any adverse effects.

#### **Regional Discharges to Land Plan**

*Objective 4.1.10 Any risk to human and environmental health presented by contaminated sites is lowered to an acceptable level or the site is otherwise managed in an appropriate and timely manner.*

*Policy 4.2.19 To allow discharges of liquid contaminants to land which are not likely to have adverse effects on soil, water quality and amenity values, particularly where the effects of the contaminants would be greater if they were discharged directly into water.*

*Policy 4.2.28 To ensure that facilities where hazardous substances are used or stored have appropriate structures, procedures and contingency plans in place in order to:*

- (1) reduce the potential for an unplanned discharge to occur; and*
- (2) in the event of an unplanned discharge, prevent or minimise:*
  - (a) any adverse effects beyond the boundary of the site; and*
  - (b) any discharge of a hazardous substance into water, whether directly, through land, or through a drainage system.*

*Policy 4.2.29 To recognise the range of complementary legislation, regulations and bylaws available to territorial authorities to avoid, remedy or mitigate any adverse effects from the storage or use of hazardous substances, and to promote a co-ordinated approach to the use of alternative means of control.*

*Policy 4.2.48 To give particular consideration to the following matters when assessing applications for permits for discharges associated with contaminated sites:*

- (1) the nature, concentration and quantity of contaminants at the site;*
- (2) the potential for contaminants from the site to contaminate surrounding:*
  - groundwater;*
  - surface water;*
  - soil; or*
  - air;**and any effects of that contamination;*
- (3) the potential for direct or indirect contact of humans or animals with contaminants on the site;*
- (4) any actual or potential adverse effects on:*
  - human health;*
  - the health and functioning of plants, animals or ecosystems; or*
  - existing or future uses of water or land on the site and in the surrounding area;*
- (5) any potential long-term or cumulative effects of discharges from the site;*
- (6) any remedial action planned or required in relation to the site, and the potential adverse effects of any remedial action on the matters listed in (1)-(5) above, whether at the site or at another location; and*
- (7) the ANZECC Guidelines for the Assessment and Management of Contaminated Sites and the Draft Health and Environmental Guidelines for Selected Timber Treatment Chemicals, and any other relevant national or international guidelines of standards [sic].*

#### **4.5.2 Other Regional Plans - Rules**

##### ***Regional Freshwater Plan***

The proposed building on Site 10 results in the need for consent for:

- diversion of, and/or take of ground water during the construction of a new commercial building, including a basement level, on Site 10.
- the potential discharge of contaminants to land, including to the reticulated stormwater system, and for the potential discharge of contaminants to ground water.

Rule 16 of the Regional Freshwater Plan states that the following is a Discretionary Activity:

*The taking, use, damming, or diversion of any fresh water, or the transfer to another site of any water permit to take or use water:*

- *that is not specifically provided for in any other rules in this Plan; and*
- *which cannot meet the requirements of those rules; and*

...

- which is not a non-complying activity in Rules 17, 18, [19, 19A or 19B]

Rule 5 of the Regional Freshwater Plan addresses all remaining discharges to fresh water that are not provided for in Rules 1-4, which cannot meet the requirements of Rules 1-4, and which is not a non-complying activity in Rule 6. Such activities are Discretionary Activities.

#### ***Regional Discharges to Land Plan***

Finally, Rule 2 of the Regional Discharges to Land Plan is the default Discretionary Activity rule for discharges of contaminants to land, where the discharge will contaminate water in a water body or the coastal marine area, or for discharges that are specifically provided for in a regional rule, but do not meet the conditions or standards in the rule.

## **4.6 DISTRICT PLAN - OVERVIEW**

The Project is located within the Lambton Harbour Area, which is part of the Central Area (reference Planning Map 17).

The provisions covering the Central Area are found in Chapters 12 and 13 of the District Plan.

These provisions were recently reviewed / updated under District Plan Change 48 (DPC 48), which was made operative on 16 October 2013. Accordingly, all references to the District Plan in this AEE are to the Central Area provisions as amended by DPC 48.

Section 12.1 of the District Plan provides an introduction to the Central Area, its various constituent parts and the Council's aspirations for the management of these physical and natural resources. Under the heading "The character and functions of the Central Area" it is stated that:

*"The Central Area is the commercial heart of Wellington City and the region, and also the nation's seat of government. It is a vibrant mix of inner city living, entertainment and commercial activity. It attracts arts, cultural and recreational events of local, national and international repute. The diversity of activities within the Central Area is a successful outcome of the 'first generation' District Plan prepared under the Resource Management Act, and the approach set out in that plan will continue".<sup>46</sup>*

Then, under the heading "The Central Area and the District Plan" it is noted that:

*"Rapid social, economic and technological change is prompting changes in the form and function of the Central Area. Council intends to encourage positive growth that promotes the City's advantages. This process will be guided by strategic planning and by the District Plan.*

*The District Plan sets a vision for a vibrant, prosperous, liveable city. At its heart is a contained Central Area comprising a commercial core with a mix of related activities. The Plan's Central Area provisions are based on eight principles that will guide future development".<sup>47</sup>*

The eight principles are:

- Enhance 'sense of place'
- Sustain the physical and economic heart of the Central Area
- Enhance the role of the 'Golden Mile' and 'Cuba'
- Enhance the Central Area as a location for high quality inner city living
- Enhance the built form of the Central Area
- Enhance the quality of the public environment
- Enhance city/harbour integration
- Enhance the sustainability of the Central Area

The Plan notes under the heading 'sustain the physical and economic heart of the Central Area' that:

<sup>46</sup> Wellington City District Plan, Chapter 12, page 12/1

<sup>47</sup> Op cit, page 12/2

*“The city has a natural tendency towards physical containment, with an amphitheatre of hills leading down to the inner harbour. This containment makes the city more accessible, and accentuates its urban feel. Maintaining the strategic role of transport infrastructure leading to and from the city centre is crucial to this goal.*

*Wellington’s downtown is the commercial base of the city and region. Encouraging flexible and diverse activities will sustain the economic viability of the centre. This includes capitalising on cultural and recreational facilities and events the city has to offer, including the Stadium, Te Papa and the waterfront. Ultimately this will lead to an adaptive city centre that encourages positive growth and the city’s comparative advantage. Development in the fringes of the Central Area should complement the vitality and viability of downtown Wellington.*

*Continuing to contain Central Area development will help to achieve a compact, viable city centre”.*

In relation to ‘enhance city/harbour integration’ it is stated that:

*“The city and sea relationship that characterises Wellington makes for a dynamic cityscape. The waterfront is an integral and defining feature of the city. However, accessibility between the city and the waterfront, and access to the water’s edge itself, needs to be improved so that the waterfront becomes part of the ‘pedestrian flow’ that extends across the whole city. Better links are needed, including physical connections and visual links such as views and signage. A promenade that connects the different parts of the waterfront and provides a sequence of changing, rich and interesting experiences would enhance people’s ability to move around the waterfront itself”.*<sup>48</sup>

The Introductory Statement under the heading ‘special areas’ notes that:

*“Several unique neighbourhoods and precincts crucial to the Central Area’s cultural heritage and sense of place are identified in the Plan as heritage and character areas. Rules and design guidance are included to help to maintain and enhance the character of these special neighbourhoods.*

*Reflecting the importance of Wellington’s waterfront, in 2004 [sic] Council adopted the Wellington Waterfront Framework to guide waterfront development in a way that makes the most of this unique and special part of the city. The principles and values of the Framework underpin the District Plan’s objectives and policies for the Lambton Harbour Area. The Framework aims to bring coherence along the waterfront and express its connections with the city and the harbour. To this end, the Framework is based around several inter-linking themes: historical and contemporary culture, city to water connections, promenade, open space, and diversity. Because the waterfront is predominantly a public area in public ownership, Council is committed to engage fully with the public on decisions relating to waterfront developments. This commitment is further described in the Framework, which also proposes governance arrangements requiring ongoing monitoring by a group of both professional and community representatives”.*<sup>49</sup>

## 4.7 DISTRICT PLAN OBJECTIVES AND POLICIES

### 4.7.1 Central Area

The following Central Area objectives and policies set the District Plan’s ‘planning framework’ for the Lambton Harbour Area:

- Objective 12.2.8** *To ensure that the development of the Lambton Harbour Area, and its connections with the remainder of the city’s Central Area, maintains and enhances the unique and special components and elements that make up the waterfront.*
- Policy 12.2.8.1** *Maintain and enhance the public environment of the Lambton Harbour Area by guiding the design of new open spaces and where there are buildings, ensuring that these are in sympathy with their associated public spaces.*
- Policy 12.2.8.2** *Ensure that a range of public open spaces, public walkways and through routes for pedestrians and cyclists and opportunities for people, including people with mobility restrictions, to gain access to and from the water are provided and maintained.*

<sup>48</sup> Op cit, page 12/4

<sup>49</sup> Op cit, page 12/4 - Note: the Council adopted the Wellington Waterfront Framework in April 2001



- Policy 12.2.8.3 Encourage the enhancement of the overall public and environmental quality and general amenity of the Lambton Harbour Area.*
- Policy 12.2.8.4 Maintain and enhance the heritage values associated with the waterfront.*
- Policy 12.2.8.5 Recognise and provide for developments and activities that reinforce the importance of the waterfront's Maori history and cultural heritage.*
- Policy 12.2.8.6 Provide for new development which adds to the waterfront character and quality of design within the area and acknowledges relationships between the city and the sea.*
- Policy 12.2.8.7 Maintain and enhance the Lambton Harbour Area as an integral part of the working port of Wellington.*
- Policy 12.2.8.8 To provide for and facilitate public involvement in the waterfront planning process.*
- Policy 12.2.8.9 Encourage and provide for consistency in the administration of resource management matters across the line of mean high water springs (MHWS).*

In addition, from the objectives and policies applicable to the Central Area as a whole, the following are considered relevant:

- Objective 12.2.1 To enhance the Central Area's natural containment, accessibility, and highly urbanised environment by promoting the efficient use and development of natural and physical resources.*
- Policy 12.2.1.2 Contain Central Area activities and development within the Central Area.*
- Objective 12.2.2 To facilitate a vibrant, dynamic Central Area by enabling a wide range of activities to occur, provided that adverse effects are avoided, remedied or mitigated.*
- Policy 12.2.2.1 Encourage a wide range of activities within the Central Area by allowing most uses or activities provided that the standards specified in the Plan are satisfied.*
- Policy 12.2.2.2 Ensure that activities are managed to avoid, remedy or mitigate adverse effects in the Central Area or on properties in nearby Residential Areas.*
- Policy 12.2.2.5 Ensure that appropriate on-site measures are taken to protect noise sensitive activities that locate within the Central Area from any intrusive noise effects.*
- Objective 12.2.3 To recognise and enhance those characteristics, features and areas of the Central Area that contribute positively to the City's distinctive physical character and sense of place.*
- Policy 12.2.3.1 Preserve the present 'high city/low city' general urban form of the Central Area.*
- Policy 12.2.3.2 Promote a strong sense of place and identity within different parts of the Central Area.*
- Objective 12.2.5 Encourage the development of new buildings within the Central Area provided that any potential adverse effects can be avoided, remedied or mitigated.*
- Policy 12.2.5.1 Manage building height in the Central Area in order to:*
- *reinforce the high city/low city urban form;*
  - *ensure that new buildings acknowledge and respect the form and scale of the neighbourhood in which they are located; and*
  - *achieve appropriate building height and mass within identified heritage and character areas.*
- Policy 12.2.5.2 Manage building mass to ensure that the adverse effects of new building work are able to be avoided, remedied or mitigated on site.*
- Policy 12.2.5.3 Manage building mass in conjunction with building height to ensure quality design outcomes*

- Policy 12.2.5.5*      *Require design excellence for any building that is higher than the height standard specified for the Central Area.*
- Policy 12.2.5.6*      *Ensure that buildings are designed to avoid, remedy or mitigate the wind problems that they create and where existing wind conditions are dangerous, ensure new development improves the wind environment as far as reasonably practical.*
- Policy 12.2.5.10*      *Provide for consideration of 'permitted baseline' scenarios relating to building height and building bulk when considering the effect of new building work on the amenity of other Central Area properties.*
- Objective 12.2.6*      *To ensure that new building works maintain and enhance the amenity and safety of the public environment in the Central Area, and the general amenity of any nearby Residential Areas.*
- Policy 12.2.6.1*      *Enhance the public environment of the Central Area by guiding the design of new building development, and enhancing the accessibility and usability of buildings.*
- Policy 12.2.6.2*      *Require high quality building design within the Central Area that acknowledges, and responds to, the context of the site and the surrounding environment.*
- Policy 12.2.6.3*      *Ensure that new buildings and structures do not compromise the context, setting and streetscape value of adjacent listed heritage items, through the management of building bulk and building height.*
- Policy 12.2.6.4*      *Protect sunlight access to identified public spaces within the Central Area and ensure new building developments minimise overshadowing of identified public spaces during periods of high use.*
- Policy 12.2.6.5*      *Advocate for new building work to be designed in a way that minimises overshadowing of any public open space of prominence or where people regularly congregate.*
- Policy 12.2.6.7*      *Protect, and where possible enhance, identified public views of the harbour, hills and townscape features from within and around the Central Area.*
- Policy 12.2.6.10*      *Encourage the provision of pedestrian shelter along streets and public spaces throughout the Central Area (including within the Pipitea Precinct).*
- Policy 12.2.6.11*      *Enhance the informal pedestrian network within the Central Area, by encouraging the retention and enhancement of existing pedestrian thoroughfares, and promoting the creation of new thoroughfares where they would enhance walkability and permeability for pedestrians.*
- Policy 12.2.6.12*      *Maintain and enhance the visual quality and design of ground floor level developments fronting on to streets, parks and pedestrian thoroughfares throughout the Central Area.*
- Policy 12.2.6.13*      *Maintain and enhance the commercial character and visual interface of ground floor level developments facing the public space along identified frontages within the Central Area.*
- Policy 12.2.6.14*      *Encourage new building development in the Central Area to provide ground floor stud heights that are sufficient to allow retro-fitting of other uses.*
- Policy 12.2.6.17*      *Ensure that public spaces in the Central Area (including privately owned) places that are characterised by public patterns of use) are suitably lit at night time to improve the safety and security of people.*
- Objective 12.2.7*      *To promote energy efficiency and environmental sustainability in new building design.*
- Policy 12.2.7.1*      *Promote a sustainable built environment in the Central Area, involving the efficient end use of energy and other natural and physical resources and the use of renewable energy, especially in the design and use of new buildings and structures.*
- Policy 12.2.7.2*      *Ensure all new buildings provide appropriate levels of natural light to occupied spaces with the building.*

*Objective 12.2.12 To maintain and enhance access to, and the quality of the coastal environment within and adjoining the Central Area.*

*Policy 12.2.12.1 Maintain the public's ability to use the coastal environment by requiring that, except in Operational Port Areas, public access to and along the coastal marine area is maintained and enhanced where appropriate and practicable.*

*Policy 12.2.12.3 Ensure that any developments near the coastal marine area are designed to maintain and enhance the character of the coastal environment.*

#### **4.7.2 Earthworks and Contaminated Land**

Given the proposed earthworks (both in association with the Site 10 building and the public open spaces) and given that the site does contain some contaminated soil, the District Plan's objectives and policies in relation to both "earthworks" and "contaminated land" are relevant.

##### **Earthworks**

The District Plan's earthworks provisions acknowledge that earthworks are essential to the development of the city, but in turn they can create adverse effects on the environment which may be short-lived or more long-term. Consequently, objectives and policies (and rules) have been developed to detail how the adverse effects of earthworks can be acceptably avoided, remedied or mitigated.

The earthworks objective is:

*Objective 29.2.1 To provide for the use, development and protection of land and physical resources while avoiding, remedying or mitigating any adverse effects of earthworks and associated structures on the environment.*

A total of 12 policies are listed, including the following that are considered to be relevant in the context of the earthworks associated with the Project:

*Policy 29.2.1.3 Ensure that earthworks are designed to minimise the risk of instability.*

*Policy 29.2.1.4 Require earthworks to be designed and managed to minimise erosion, and the movement of dust and sediment beyond the area of the work, particularly to streams, rivers, wetlands and the coastal marine area.*

*Policy 29.2.1.11 Ensure the transport of earth or construction fill material, to and from a site, is undertaken in a way that is safe and minimises adverse effects on surrounding amenity and the roading network.*

##### **Contaminated Land**

The District Plan objective and policies for contaminated land are contained in Chapter 31. The objective is:

*Objective 31.2.1 To manage the remediation, use, development and subdivision of contaminated and potentially contaminated land so as to avoid or mitigate the risk of adverse effects on human health and the environment.*

The related policies (four in total) include:

*Policy 31.2.1.2 Minimise and control the adverse effects that may arise from the use, development and subdivision of any contaminated or potentially contaminated land.*

*Policy 31.2.1.3 Encourage the remediation and/or ongoing management of contaminated or potentially contaminated land as is appropriate for any likely future use of the land.*

*Policy 32.2.1.4 Ensure that the exposure from the ongoing use of land affected by soil contaminants is managed in a manner that avoids or mitigates the risk of adverse effects on human health and the environment.*

### 4.7.3 Hazardous Substances

Given the proposal to establish an on-site standby/emergency generator, with associated fuel storage (a 1,000 litre storage vessel), consent is required under the Central Area rules (Rule 13.3.3.9) for a Discretionary Activity (Restricted) for the 'use, storage, handling or disposal of hazardous substances'.

The applicable District Plan objective is:

*Objective 12.2.14 To prevent or mitigate any adverse effects of the storage, use, disposal, or transportation of hazardous substances, including waste disposal.*

The relevant applicable policies are:

*Policy 12.2.14.1 Ensure that the use, storage, handling and disposing of hazardous substances does not result in any potential or actual adverse effects on the environment, by requiring that the proposed activity is assessed using the Hazardous Facilities Screening Procedure, and where appropriate, the resource consent process.*

*Policy 12.2.14.2 Reduce the potential adverse effects of transporting hazardous substances.*

*Policy 12.2.14.3 Control the use of land for end point disposal of waste to ensure the environmentally safe disposal of solid and hazardous waste.*

*Policy 12.2.14.4 To require hazardous facilities to be located away from Hazard Areas.*

In explanation of Policy 12.2.14.1 it is stated, inter alia, that:

*"Council is concerned that the community and environment should not be exposed to unnecessary risk from hazardous substances. The District Plan, using the HFSP, aims to control use of land in order to prevent or mitigate any potential adverse effects of hazardous substances by considering the appropriateness of the site location and other site requirements to minimise the risk of accidental release.*

*The hazardous substance provisions of this Plan work in conjunction with the provisions for hazardous substances under the Hazardous Substances and New Organisms Act 1996. Controls imposed on hazardous substances under the Resource Management Act cannot be less stringent than those set under the Hazardous Substances and New Organisms Act 1996. This requirement is reflected in the rules for hazardous substances in this Plan".<sup>50</sup>*

A further relevant policy is:

*Policy 12.2.2.2 Ensure that activities are managed to avoid, remedy or mitigate adverse effects in the Central Area or on properties in nearby Residential Areas.*

## 4.8 DISTRICT PLAN RULES

### 4.8.1 Activities

The District Plan adopts a generally permissive approach for the Central Area, whereby all activities (with a few exceptions) are permitted by Rule 13.1.1, subject to compliance with the standards of 13.6.1 (Activities, Buildings and Structures) and 13.6.2 (Activities).

#### 13.6.1

- Noise (fixed plant)
- Noise insulation and ventilation
- Vehicle parking, servicing and site access

<sup>50</sup> Op cit, page 12/55

### 13.6.2

- Noise
- Lighting
- Use, storage or handling of hazardous substances
- Screening of activities and storage
- Dust
- Electromagnetic radiation
- Discharge of contaminants
- Street car race

## 4.8.2 Buildings

Aside from minor additions and alterations to existing buildings in the Lambton Harbour Area, which are a Discretionary Activity (Restricted) under Rule 13.3.5 in relation to 'design, external appearance and siting', 'height and the placement of building mass' and 'historic heritage'; new buildings in the Lambton Harbour Area are a Discretionary Activity (Unrestricted) under Rule 13.4.7.<sup>51</sup>

The Permitted Activity standards applying to new Central Area buildings are stated in 13.6.1 and 13.6.3 and include:

### 13.6.1

- Noise (fixed plant)
- Noise Insulation and ventilation
- Vehicle parking, servicing and site access

### 13.6.3

- Height
- Mass (Volume)
- View protection
- Sunlight protection
- Wind
- Verandahs
- Ground floor frontages
- Site coverage
- Coastal Yards
- Windows

Although the proposed building on Site 10 requires consent for a Discretionary Activity (Unrestricted) under Rule 13.4.7, an audit of the building in relation to each of the above standards is presented in Volume 3, **Appendix 5**. The areas of non-compliance with the applicable standards are in relation to:

- vehicle parking, servicing and site access;
- height (for sites in the Lambton Harbour Area); and
- wind.

In the explanation to Policy 12.2.8.6, it is stated that the following matters will be considered in relation to any application for a new building or structure on the waterfront:

- the objectives and principles of the Wellington Waterfront Framework;
- whether the ground floor of the building has an 'active edge' that supports the public use of the space and which is predominantly accessible to the public;

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<sup>51</sup> Note: consent under Rule 13.4.7 is required for the new building on Site 10 (Application 1) and also for the proposal to locate an existing building (former Toll Building) at the Whitmore Street entrance to North Kumutoto (Application 3).

- whether the addition or alterations [new building] will result in a building that will be complementary to, and of a scale appropriate to, other existing buildings adjacent and nearby;<sup>52</sup>
- whether the addition or alterations [new building] will have a material effect on sunlight access to any open space;
- whether the addition or alteration [new building] will intrude on an identified viewshaft; and
- the adverse effect of the building work on wind, views, shading and sunlight on adjacent properties in the Central Area.

#### 4.8.3 Public Open Space Development

Aside from the maintenance of existing open space (which is a Permitted Activity) the development of new, or the modification of existing open space in the Lambton Harbour Area is a Discretionary Activity (Unrestricted) under Rule 13.4.5.

While there are no applicable standards or assessment criteria for open space development, guidance can, however, be taken from the explanations to Policies 12.2.8.1, 12.2.8.2 and 12.2.8.3 where the following statements are found:

- the main focus of the Lambton Harbour Area is to reinforce its role as a primary open space on the waterfront [12.2.8.1];
- a series of different open spaces - some green some sheltered and some paved - that cater for diverse uses and activities will predominate [12.2.8.1]
- there will be a network of paths through the area, including a promenade along the length of the waterfront, predominantly at the water's edge [12.2.8.1]
- substantial and varied areas of open space near and adjacent to the water are important to ensure that uninterrupted public access to the water's edge is maintained and enhanced [12.2.8.2]
- a series of different open spaces that cater for diverse uses and activities will predominate [12.2.8.2]
- the fundamental aim of future development in the Lambton Harbour Area is the achievement of a high quality public environment that provides and supports a range of public spaces and opportunities for vibrant activities, existing uses and imaginative developments, which in turn encourage an improvement of the amenities of the waterfront for use and enjoyment by the public [12.2.8.3].

#### 4.8.4 Earthworks

Earthworks in the Central Area are a Permitted Activity where the cut height or fill depth does not exceed 1.5m measured vertically, the area to be cut or filled does not exceed 250m<sup>2</sup>, the cut or fill is no closer than 5m to the coastal marine area, and there is no visible evidence of settled dust beyond the boundaries of the site [Rule 30.1.3].

The earthworks associated with the excavation of the basement for the building on Site 10 will exceed the cut height and also the area covered dimension; and the earthworks associated with the development of the public open spaces will also exceed the area covered dimension. Consequently, consent for the earthworks is required under Rule 30.2.2 for a Discretionary Activity (Restricted), with discretion restricted to:

- earthworks stability (where no building consent for a structure or building is obtained)
- erosion, dust and sediment control
- the transport of material where the following limits are exceeded (Central Area 200m<sup>2</sup>).

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<sup>52</sup> It is noted that several of the assessment criteria refer only to 'addition and alterations' and not to new buildings. However, it is considered that the assessment criteria could also apply to new buildings and it is for this reason that the reference to new building has been placed in [square brackets] in the assessment criteria.

The District Plan confirms that applications under Rule 30.2.2 do not need to be publicly notified and do not need to be served on affected persons.

#### **4.8.5 Contaminated Land**

The specialist site contamination report prepared by Tonkin and Taylor (refer Volume 4, **Appendix 18**) confirms the presence of some contamination on Site 10. It is also probable that some further contaminated material may be located within the area to be developed as public open spaces given the previous use of the land for Port activities.

Consequently, consent is sought for a Discretionary Activity (Restricted) under Rule 32.2.1, with discretion restricted to:

- (i) the level, nature and extent of contamination in relation to the proposed use, development or subdivision;
- (ii) the methods to address the risks posed by contaminants to public health and safety;
- (iii) the effects of contamination on built structures, ecological and amenity values, soil quality and the wider environment and
- (iv) the approach to the remediation and/or on-going management of the contaminated land and the mitigation measures (including monitoring) proposed to avoid adverse effects on public health, safety and the environment including the provisions of a Remediation Plan or a Site Management Plan.

The District Plan confirms that applications under Rule 32.2.1 do not need to be publicly notified and do not need to be served on affected persons.

#### **4.8.6 Hazardous Substances**

The proposal includes the installation of an emergency generator and associated on-site storage. The facility has been confirmed by Aecom as follows:<sup>53</sup>

##### **Generator Scope**

The Site 10 development design includes for the capability to add a circa 360 kW / 450 kVA standby rated generator set to support a proportion of the building load during periods when the mains power supply has failed. The preliminary scope for the complete generator and essential power system is outlined below:

- provision of a new generator set within an acoustically rated enclosure;
- provision of a dedicated ground floor plantroom, into which the generator enclosure would be installed to achieve 45dBA at 7m;
- provision of new generator 'essential' switchboard and cabling; and
- new 1,000 litre bulk fuel tank, 4-hour fire rated, double skin tank with gravity feed fuel distribution to generator. This provides a minimum 8 hrs storage with the generator running at full load.

##### **Fuel Storage**

To comply with Hazardous Substances and New Organisms (HSNO) regulations the fuel tanks will be provided with integral secondary containment and four hour fire rating. They will be located inside the generator room which will also be a "bunded" room. The fuel fill point will be located on the outside wall of the generator room, accessible from the loading bay with pipework running from the fill point to the bulk tank within the "bunded" generator room.

The fuel storage and transfer system will be installed and certified by a specialist contractor in full compliance with the HSNO Regulations. A HSNO certificate will be required to be provided by this contractor prior to completion of the work.

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<sup>53</sup> Refer Volume 4, **Appendix 19**



### Engine Exhaust

The generator engine and its exhaust design / specifications will meet the Wellington Regional Council planning requirements for such equipment. This is understood to comply with Rule 6 “Small internal or external combustion engines, heating appliances and electrical generation plants” of the Regional Air Quality Management Plan.

To meet these requirements it is proposed that the:

- engine specifications will produce no discharge of particulates of a concentration greater than 250 mg/m (at STP), measured at the point of discharge; and
- engine exhaust discharge will be at a high level on the ground floor (final location to be confirmed) which will be at least 3 metres above the adjacent ground level and designed to ensure the uninterrupted vertical discharge of vapours.

### Hazardous Substances Assessment

In the Central Area, including the Lambton Harbour Area, all activities must meet standards for the use, storage or handling of hazardous substances. The Permitted Activity standards, which are based on a ‘hazardous facilities screening procedure’, are set in Rule 13.6.2.3.<sup>54</sup>

Activities that do not meet the effects ratio criteria require consent for a Discretionary Activity (Restricted) under Rule 13.3.3 - as is being sought in Application 1.

The relevant District Plan objective (12.2.14) and related policies (12.2.14.1 - 12.2.14.4), and explanatory text to those policies, are set out above in Section 4.7.3.

As the site of the proposed new building is within the area shown on the Planning Maps as “hazard (ground shaking) area”, particular regard should be had to Policy 12.2.14.4:

*Policy 12.2.14.4: To require hazardous facilities to be located away from Hazard Areas.*

### 4.8.7 Summary of District Plan Position

The Project requires assessment and consent under the District Plan as a Discretionary Activity (Unrestricted) for:

- the new building on Site 10; and
- the landscaped public open spaces.

Consent is also required for a Discretionary Activity (Restricted) for:

- the associated earthworks;
- the use of potentially contaminated land; and
- the on-site storage of diesel fuel.

Note: consent is not being sought for any signage as the details of any future signage are not at present known. Any signage will need to comply with the applicable standards (for the Central Area) or resource consent will be required.

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<sup>54</sup> Refer District Plan, Chapter 13, page 13/36

## 4.9 SUMMARY - POLICY CONTEXT

Drawing on the objectives and policies of the relevant policy statements and plans, at national, regional and district levels, a number of 'themes' can be identified.<sup>55</sup> In turn, these themes assist in establishing the planning framework for developments in the Lambton Harbour Area. The policy themes are:

- appropriate use and development
- enhancement of public access along the coastal marine area
- increasing the range and diversity of activities
- enhancing the public open space environment of the Lambton Harbour Area
- maintenance and protection of significant heritage features and values
- quality design outcomes - both built form and open spaces
- enhancing the 'sense of place' of the waterfront
- managing earthworks in areas adjacent to the coastal marine area
- managing the remediation of contaminated land
- appropriately addressing risks and consequences of natural hazards having regard to sea level rise
- recognising the role of tangata whenua in decision-making
- managing natural and physical resources across the line of high water springs in an integrated manner.

## 4.10 OTHER MATTERS

Two other matters that are considered to be relevant considerations to an assessment of the proposed developments are:

- The Wellington Waterfront Framework (2001); and
- Environment Court Decision Waterfront Watch Inc and Queens Wharf Holdings v Wellington City Council (re Variation 11).

Reference is made to both matters as part of the s104 assessment in section 6.

## 4.11 PRELIMINARY EVALUATION

Drawing on the relevant objectives, policies rules and assessment criteria derived from the applicable statutory instruments (national, regional and district), and the 'themes' identified in Section 4.8, the following questions can be posed for s104 evaluation:

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<sup>55</sup> The reference to 'themes' draws on the case Living Earth Limited v Auckland Regional Council wherein the Environment Court recorded that:

*"Having previously identified the relevant provisions of the applicable planning instruments, we have now to have regard to them by considering the proposal by reference to themes. To do so in a reasonably concise way, without making a point-by-point examination in respect of each provision, we have identified the important themes of the regional and district instruments. The themes are ..."*

The Court then listed eight themes, adding that:

*"We consider the proposal by these themes ..."*

EnvC, Decision No A126/2006, page 110.

Subsequently at the Court of Appeal the approach of the Environment Court was endorsed when the Court stated that:

*"[45] ... while its thematic approach necessarily provides no more than a summary of the relevant planning documents, there can be no suggestion that it was in any respect materially in error. Indeed, dealing with the planning instruments on a thematic basis seems to us to have been entirely sensible and desirable ..."*

Court of Appeal (2008) CA651/2007

- Question 1: can the Project be considered to be an 'appropriate' development within the Wellington Waterfront (Lambton Harbour Area) and adjacent to and within the coastal marine area?
- Question 2: will the Project enhance public access to and along the harbour edge / coastal marine area?
- Question 3: will the Project enhance the quality of public open spaces on the waterfront?
- Question 4: will the proposed new building on Site 10 contribute positively to the Central Area's urban form and the waterfront's 'sense of place'?
- Question 5: will the proposed new building on Site 10 contribute to the Wellington Waterfront Framework's vision of buildings being in scale with and sympathetic to heritage buildings?
- Question 6: will the proposed new building on Site 10 give rise to any adverse effects on waterfront amenities as a consequence of significant environmental effects (wind and shading)?
- Question 7: will the Project accommodate vehicular and pedestrian traffic and movement in a safe and efficient manner?
- Question 8: will there be any adverse effects associated with the Project earthworks, including the removal of any contaminated material?
- Question 9: will there be any short-term effects on harbour waters during construction?
- Question 10: will the Project appropriately address the risks and consequences of natural hazard events, having regard to sea level rise?
- Question 11: will the Project result in positive effects for the overall development of the Wellington waterfront?
- Question 12: is the Project consistent with national, regional and district policy that provides for the integrated/co-ordinated management of natural and physical resources across the line of mean high water springs?

'Answers' to these questions are provided in the resource management assessment to follow (refer Section 6)

## 5 CONSULTATION

This section of the report records the preliminary consultation that has been undertaken and summarises the issues raised and the responses.

### 5.1 BACKGROUND

Consultation on the Project, both the Site 10 building and the public open spaces, was undertaken by the Wellington City Council during January and February 2014.<sup>56</sup> The process included:

- a detailed information display initially located on Site 8 and later relocated to a site near Te Papa. The display included 18 x A2 panels showing perspectives, plans and sections, plus 2 x A1 size panels of introductory text and options for Site 8;<sup>57</sup>
- a second display was set up in the Wellington Waterfront Limited (WWL) Project information office, Shed 6. This display included a 1:500 architectural model;
- 'advertorials' were published in the Dominion Post on 17 December 2013 and Tuesday 21 January 2014, while a press release and Dominion Post article were published on Wednesday 22 January 2014;
- information relating to the building and public open space was placed on the WCC website;
- letters were sent to 15 key stakeholders describing the proposed development with an offer to brief them in more detail if requested. Detailed briefings were subsequently held with 10 stakeholder groups.<sup>58</sup>

Several stakeholders did not avail themselves of the opportunity to meet, with Waterfront Watch Inc advising that it had decided that it was *"inappropriate to attend the proposed consultation meeting with Wellington Waterfront Limited"*, adding that they were perfectly clear as to what was proposed for Site 10, which was their main concern and that they were concerned with many aspects of the proposed building and that they would be making their submission directly to Council.<sup>59</sup> The Architectural Centre Inc advised that it was unable to meet it was heavily committed to the Basin Reserve 'flyover' project.

Feedback was sought on six questions:

1. What do you like/dislike about the building design?
2. How could the design of the building be improved?
3. What do you like about the outdoor public space design?
4. How could the design of the outdoor public space be improved?
5. Do you have any specific ideas about the use of Site 8 and how it should be developed as public space?
6. Do you have any other comments?

By the end of the submission period a total of 196 submissions had been received.

<sup>56</sup> The consultation ran from 21 January 2014 until 28 February 2014.

<sup>57</sup> In a subsequent report to the Council reporting on the consultation process and results it was noted that:

*"The objective of the consultation process was to get public feedback on a proposed design for a building and public space development in the North Kumutoto precinct, including Site 10. Note that the scope of the consultation did not include the question of whether or not there should be a commercial building on Site 10 as this decision had been made initially in the Waterfront Framework (2001), and reconfirmed in the Framework review (2011) and North Kumutoto Design Brief (2012)".*

Wellington City Council, 20 March 2014, North Kumutoto Building and Public Space Development Proposal: Consultation Process and Results, page 2

<sup>58</sup> The Groups were: Shed 21 Body Corporate, Argosy Property (owners of the NZ Post House), Wellington Civic Trust, Accessibility Advisory Group, Wellington Chamber of Commerce, Ambitious for Wellington and NZ Property Council, Wellington Tenth Trust, Brian Galt (owner of the Maritime Tower Building), and New Zealand Historic Places Trust (now Heritage NZ).

<sup>59</sup> Letter Waterfront Watch Inc to Michael Faherty, Project Manager, Wellington Waterfront Limited, 12 February 2014

In a subsequent report to the Council's Transport and Urban Development Committee (Section 6.4 "Key Themes from Submissions") it was recorded that:

*"With respect to building design, of the 196 submissions, 44 (22%) stated directly that there should be no building on the site, which was not the issue for consultation. From the 152 remaining submissions, 97 (64%) were supportive and 55 (36%) were not supportive of the building design.*

*Of the 55 non-supportive responses, while not mentioning directly that there should be no building on the site, most took the position that the whole North Kumutoto precinct should be public space and did not address at all the questions about the design of the building.*

*Feedback from the submissions presented a number of ideas and issues of concern. However, none attracted a high number of responses. The two most prevalent concerns raised were those of aesthetic approach and the design (26 responses or 13%) and blocking of views of the harbour (15 responses or 8%).*

*Officers have undertaken an analysis of the collated data. The comments that emerged as the key issues are as follows:*

1. *Public access to the roof area and active use of top floor*
2. *Vehicle and pedestrian movement on the promenade and in public space areas*
3. *Lighting and safety in public space areas*
4. *Environmental (wind and shade) issues*
5. *Options to improve access across the quays*
6. *The future of the motor home park*
7. *Building height".<sup>60</sup>*

During the review and Council decision-making process (following the conclusion of the public submission process) a number of design matters were further developed. This review culminated in a decision taken by Site 10 RLP, in association with WWL, to reduce the height of the building by the removal of the top (sixth) floor.

At its April 2014 meeting the Transport and Urban Development Committee requested that Council officers give further consideration to a number of design issues, including:

- undertaking further wind effects investigations so as to inform the planning and location of shelter for public open space users;
- undertaking shade diagrams so as to inform planning and the location of shade for public open space users;
- continuing to seek input from iwi and the Council's Accessibility Advisory Group;
- ensuring that the Creative Business Hub feature is retained as building design is developed; and
- ensuring that issues of vehicle and pedestrian movement, lighting and safety are addressed.

In turn, at its 21 August 2014 meeting, the Transport and Urban Development Committee considered a report that provided an update on the revised design for the Site 10 building and also the design proposal for the public open space, including Site 8.

The report recorded, inter alia, that:

*"On 8 April 2014, the Transport and Urban Development Committee (TUDC) agreed to recommend to the Council that it approve the preliminary design proposal for a building on Site 10 and associated development of North Kumutoto open space (including Site 8) subject to further consideration of a number of design matters raised by the TUDC.*

*Officers have advanced the Committee's recommendations on Site 10 design issues and have worked with the developer to achieve an updated design. The fundamental change relative to the previous proposal is a reduction from 6 to 5 storeys, with other consequential facade and internal planning changes. The height of the building will now be 22.4m at mean sea level (AMSL) which brings it almost in line with the recommendation in the Environment Court decision.*

*The updated design has been considered by the Council's Technical Advisory Group (TAG) which has found the amended proposal to be positive".<sup>61</sup>*

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<sup>60</sup>Transport and Urban Development Committee (8 April 2014) - Report 3, North Kumutoto (Site 10) Proposal - Approval of Preliminary Concept Design.

The Transport and Urban Development Committee agreed to recommend to Council that it approves the updated design for the Site 10 building. It also agreed to recommend that Council agree the associated development of public space in the North Kumutoto precinct subject to encouraging the next phase of design to add:

- some pocket planting;
- some sculpture sites;
- explicit accessibility assessment; and
- one or more drinking water fountains.

Subsequently, at its meeting on 27 August 2014, Council resolved to approve the updated design for the Site 10 building and the associated development of public space in the North Kumutoto Precinct.<sup>62</sup>

Among the Officer recommended conditions on the proposed development agreement and lease to be entered into between Council and Site 10 RLP, endorsed by Council, were:

- ground floor public use and accessibility is guaranteed for the duration of the lease;
- the inclusion of a 'creative business hub' to allow a cluster of spaces which provide for creative or innovative services to suit boutique or start-up enterprises for the duration of the lease; and
- TAG to continue to oversee the development of design issues for the building and associated public space.

In the conclusion to the Officer Report it was opined that:

*"28. The proposal is consistent with the Waterfront Framework. The combined development of a building on Site 10 and adjacent public space will radically transform and largely complete the development of this part of the waterfront".<sup>63</sup>*

At its August 2014 meeting the Council also resolved to approve a 125 year lease of Site 10 to Site 10 RLP.

## 5.2 FURTHER CONSULTATION BY SITE 10 REDEVELOPMENT LIMITED PARTNERSHIP

Following on from the Council-led consultation, Site 10 RLP has undertaken further consultation with the following interests and stakeholder groups:

### ***Central Area Building Owners***

- Brian Galt (owner of Maritime Tower, 10 Customhouse Quay)
- Z Energy and Casata Limited (part owners of the site occupied by the Z Harbour City, corner Whitmore Street and Customhouse Quay)
- Argosy Property (owner of the NZ Post House, 7 Waterloo Quay).
- The Body Corporate of Waterloo on Quay Apartments (ex Shed 21)
- Accessibility Advisory Group
- Wellington Civic Trust
- Centreport

Written approvals have been provided by Brian Galt, Tim Dryborough (on behalf of Z Energy) and Andrew Wall (on behalf of Casata Limited) - refer Volume 3, **Appendix 6**.

### ***Iwi, Public Interest and Stakeholder Groups***

- Port Nicholson Block Settlement Trust and Wellington Tenth's Trust (the Cultural impact Assessment was prepared in association with both of the Trusts)
- Heritage New Zealand

<sup>61</sup> Transport and Urban Development Committee (21 August 2014) - Update on Developing the North Kumutoto Precinct Sites, 8, 9 and 10

<sup>62</sup> Minutes, Council Meeting 27 August 2014, Item 3.6, page 30

<sup>63</sup> Council (27 August 2014) North Kumutoto Report 1 - Authorisation of a 125 Year Ground Lease for Site 10 and Approval of North Kumutoto Public Space.

A written letter of support has been provided by Heritage New Zealand - refer Volume 3, **Appendix 6**.

***CentrePort***

The consultation undertaken with CentrePort has been principally in relation to the design detail of the vehicle access in front of Shed 21 and a related lease of CentrePort land to facilitate two-way access along the lane in front of Shed 21 and the Site 10 building between the Waterloo Quay/Bunny Street and Waterloo Quay/Whitmore Street intersections.<sup>64</sup>

The Transportation Assessment Report confirms that, with respect to transport access, the proposed design supports CentrePort's preference for a two-lane, two-way access configuration.

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<sup>64</sup> Further detail on this matter is provided in the traffic assessment - refer Volume 4, **Appendix 15**



## 6 RESOURCE MANAGEMENT ASSESSMENT

### 6.1 STATUTORY CONTEXT & APPROACH

As outlined in Section 4 above, a number of resource consents are required some of which are District Plan land use consents, some of which are regional consents (coastal permits, discharge permits and water permits); while consent is also required under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011).

The consents are for the most part for Discretionary Activities (Restricted and Unrestricted). The regional consents are for Discretionary Activities (with one Controlled Activity consent) - consequently consent is required for the overall Project under s104(1) of the Act for a Discretionary Activity.

### 6.2 SECTION 104 RMA

Section 104(1) of the Act states that, subject to Part 2 and any submissions, when considering an application for resource consent the consent authority must have regard to:

- (a) any actual and potential effects on the environment of allowing the activity; and
- (b) any relevant provisions of a national environmental standard, national policy statement, other regulations, New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement, and a plan or proposed plan; and
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

#### 6.2.1 Assessment of Adverse Effects

Section 104(2) states that when forming an opinion as to any actual or potential effects a consent authority may disregard an adverse effect *“if the plan permits an activity with that effect”*.

The District Plan provisions contain *“permitted activities”* and *“permitted activity conditions”* that of themselves generate adverse effects that are anticipated and provided for by the District Plan. It is considered that these adverse effects should be disregarded because this will result in a properly focused identification and assessment of any adverse effects that are over and above those considered acceptable by the District Plan. This assessment approach is consistent with the practice of the Environment Court.

In this instance, given that both new buildings and new public open spaces in the Lambton Harbour Area require consent, a ‘permitted baseline’ assessment is not relevant or applicable. Consequently, all actual and potential adverse effects need to be assessed.

#### 6.2.2 Assessment of Positive Effects

When assessing the effects of an activity, there can be a tendency to focus on the negative or adverse effects. However, effects on the environment include positive effects. Indeed, the High Court in its decision in *Elderslie Park v Timaru District Council* stated that:

*“To ignore real benefits that an activity for which resource consent is sought would bring necessarily produces an artificial and unbalanced picture of the real effect of the activity”*.<sup>65</sup>

Accordingly, the assessment below includes an assessment of the positive effects of granting resource consent to the proposal.

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<sup>65</sup> *Elderslie Park Limited v Timaru District Council* [1995] NZRMA 433

### 6.2.3 Overall Assessment Approach

In view of the above matters, the approach taken in this AEE report is as follows:

- assess the environmental effects of the Proposal (6.3 below);
- assess the proposal against National Environmental Standards, Policy, and Plan provisions (6.4 below);
- assess other relevant “other matters” (6.5 below);
- summarise s104 considerations (6.6 below)
- assess the proposal against Part 2 of the Act (6.7 below); and
- assess s104B matters (6.8 below).

## 6.3 ENVIRONMENTAL EFFECTS

The potential environmental effects associated with the Project are:

- Cultural values
- Archaeological values
- Landscape and open space
- Building height and scale
- Urban design and townscape
- Heritage
- Pedestrian access and amenities (including building ground floor amenities)
- Environmental effects (wind and shading)
- Traffic
- Ecology
- Earthworks and contaminated land
- Ground water
- Hazardous substances
- Natural hazards and sea level rise
- Construction activities and management
- Positive effects

### 6.3.1 Cultural Values

In recognition of the cultural significance of the waterfront and coastal marine area, a cultural impact report was commissioned by the Applicant to address both the development of Site 10 and the public open spaces. The report was prepared by Raukura Consultants in association with the Port Nicholson Block Settlement Trust and the Wellington Tenth Trust. The full report is included in Volume 3 (refer Volume 3 **Appendix 7**).

The report confirms that the Project site is an area with strong association with Te Atiawa/Taranaki Whanui ki te Upoko o te Ika and the hapu of Ngati Te Whiti.

It is noted however that because the area of the waterfront is reclamation, there are no wahi tapu or urupa directly in the area. However, the area was close to Kumutoto Pa and Pipitea Pa and consequently the area would have been heavily used by the people of the Pa prior to colonisation and reclamation.

Given the proximity of the area to Lambton Harbour, the report notes that issues of “water quality in the harbour” could be affected during construction. However, with the imposition of appropriate consent conditions the report concludes that it is unlikely that there will be any significant effect.

At page 7 of the Report it is stated that:

*“With careful design and planned usage of the area this development can have a positive cultural impact by including various features that recognise the ancestral connection with the area (including reference to the former pā site), and in particular the stream”.<sup>66</sup>*

In concluding, the report comments that:

55. *The reconnection of the people of Wellington with te moana o te Whanganui a Tara (the waters of Wellington Harbour) in a positive way is important, not only in terms of Maori culture, but also in terms of the overall culture of the City of Wellington. The Kumutoto stream and its discharge to the harbour is now highly visible to all visitors to this end of the waterfront. The Waipiro stream and the Tutaenui stream however, are much less evident from the waterfront. This report does not suggest that the other two stream [sic] require any special treatment.*
56. *The proposed building on Site 10 raise [sic] no particular Maori cultural issues in an area where large buildings were the norm for the last 100 years or more. The buildings bulk and form raise no particular cultural issues.*
57. *There is however some possibility that Maori cultural artefacts or archaeological items from the site and it would be prudent to have an accidental discovery protocol in place [sic]. A draft protocol is attached to this report. Although there appears to be no need for a full archaeological examination of the site on the grounds of the possible finding of Maori archaeological material, that may not be the case for all possible archaeological remains. The presence of the old Customhouse would suggest this is likely to be a site of interest archaeologically”.<sup>67</sup>*

A consent condition covering the accidental discovery protocol is appropriate and supported by the Applicant.

### 6.3.2 Archaeological Values

As the Wellington waterfront contains structures and buildings that predate 1900 an archaeological assessment in terms of the Heritage New Zealand Act 2014 is required. Accordingly, the Applicant commissioned archaeologist Mary O’Keefe of Heritage Solutions to prepare the necessary report. The full report is included in Volume 3 (refer **Appendix 8**).

The report’s conclusions and recommendations are contained in Section 5 where it is recorded that:

*“Sites 8 and 10 Kumutoto and the Whitmore Plaza are not archaeological sites, as they were reclaimed after 1900AD, and thus do not fulfil the definition of archaeological sites contained within the Heritage New Zealand Act 2014. There are no structures on them, extant or demolished, that predate 1900AD.*

*Sites 8 and 10 and the Whitmore Plaza sit within a wider heritage landscape. Wellington harbour was the means by which all settlers, Polynesian and European, arrived in the Wellington region, and formed the basis of the settlement that followed. Very soon after the establishment of the European settlement of Wellington, small private wharves were built for landing goods and people.*

*The entire harbour and waterfront area, with the reclaimed land, the wharves, the buildings and other structures represents the vital role played by the harbour in the growth and development of the city, through trade and transport.*

*As the proposed area for redevelopment does not fall within the requirements of Part 3 of the Heritage New Zealand Act 2014, no application for an archaeological authority to modify or destroy archaeological sites is required.*

*The developer (Site 10 Redevelopment Limited Partnership and WWL) therefore have no statutory obligations in terms of Part 3 of the Heritage New Zealand Act 2014.*

*However, as heritage fabric is very likely to be revealed by site clearance and excavation work for the proposed new building on Site 10, the developer is encouraged to engage an archaeologist to monitor and record heritage fabric and features as they are revealed. This material has the potential to contribute to our understanding of the use and development of the Wellington waterfront”.<sup>68</sup>*

<sup>66</sup> The stream referred to is the Tutaenui Stream which discharges near Site 8

<sup>67</sup> Cultural Impact Report: Kumutoto Site 10 Development, Kumutoto North, September 2014, page 18 and 19

<sup>68</sup> North Kumutoto Precinct Project, Wellington: Archaeological Assessment of Proposed Redevelopment of Site, 16 October 2014, page 19

The Applicant accepts that it would be appropriate to have a consent condition requiring an 'accidental discovery protocol' to be in place for the duration of the site works.

### 6.3.3 Landscape and Open Space

The two proposed bridges are to enable public access from the Site 8 public open spaces to the waterfront promenade (Tug Wharf). They will be maintained by the consent holder (Wellington Waterfront Limited) as part of the maintenance programme for the waterfront area.

The alternative that was investigated was the 'do nothing' option and to not provide any connection between the waterfront promenade and Site 8. However, it was concluded that providing the bridge connections would be consistent with the objective of the Wellington Waterfront Framework of enhancing public access to and along the waterfront promenade. In the absence of any adverse effects on the coastal marine area as a consequence of constructing the bridges, the decision was taken to incorporate them as part of the overall public open spaces development of the North Kumutoto Precinct.

Isthmus were commissioned by the Applicant to provide a Landscape and Urban Design Assessment of the Proposal, which focuses in particular on the public open space design of North Kumutoto. The full Landscape Report is included in Volume 3 (**Appendix 9**). Isthmus confirm that the design proposals for the public open space have responded to consultation feedback, the site context and the various strategic planning and design documents that relate to North Kumutoto and Wellington Waterfront. Isthmus conclude that:

- "4.1 *North Kumutoto is a contemporary extension of the existing Kumutoto Precinct works and the wider Wellington Waterfront project.*
- 4.2 *The design is visually appealing and provides [an] appropriate level of visual coherency and connectivity between the CBD and the waterfront.*
- 4.3 *The North Kumutoto design responds positively to the Central Area Urban Design Guide through the provision of a design that is coherent in connecting the various elements within and on the edges of the site; responds to its' context and in particular the CBD to waterfront and wharf environment; co-ordinates the height, bulk and form of the development to be complementary and sympathetic; provides a strong edge to the CBD and an open transition to the wharves and the [harbour]; accentuates the build facades of the heritage and contemporary architecture of the area; and utilises materials and details that are simple, robust and appropriate.*
- 4.4 *The Wellington Waterfront Framework objectives are promoted and achieved through the design. In particular the design continues the tradition of local and international recognition of the quality of the design of the waterfront; provides increased and improved access to the waterfront and the [harbour]; increases the safety of the site; will provide a point of difference and draws visitors to the site; can cater for a range of events; is sympathetic to the local heritage architecture; and will integrate the activities on the waterfront with those on the [harbour].*
- 4.5 *The urban design outcomes of the North Kumutoto design are very high quality and are both appropriate and highly contextual to the local urban and harbour edge environment."*

The North Kumutoto CPTED Statement also concludes that the landscape redevelopment design appears to respond to a number of principal mandates for CPTED, including the New Zealand Urban Design Protocol, the WCC Public Space Design Policy, the Wellington City Plan, Qualities and Values, the WCC Footpath Management Policy, the WCC Walking Policy, and the Ministry of Justice 'seven qualities' of safer spaces set out in the "*Crime Prevention through Environmental Design*" - Draft New Zealand Guidelines.

### 6.3.4 Building Height and Scale

#### 6.3.4.1 Site 10 Building (Application 1)

The proposed building on Site 10 has a maximum height of 22.4m (amsl) level to the roofline, with the rooftop plant having a maximum height of 26.25m (amsl).

The District Plan context for assessment of height is the 'so-called' zero permitted height rule which the Environment Court described in the following terms:

[33] *Currently the District Plan does not provide a permissive height limit for buildings in the Lambton Harbour Area. It adopts this technique as a mechanism to trigger a requirement for a resource consent. Such development would be publicly notified. The present Plan provisions do not have any height below which a development would be a 'permitted activity'. Somewhat misleadingly, this is occasionally referred to as the 'Zero Height Rule', but there is no 'Rule' so-called - there is just no permitted building height below which resource consent is not required.*<sup>69</sup>

Consequently, building height is a primary resource consent trigger.

The policy context for assessing new buildings in the Lambton Harbour Area is set out in the explanation to Policy 12.2.8.6.

*Policy 12.2.8.6 Provide for new development which adds to the waterfront character and quality of design within the area and acknowledges relationships between the city and the sea.*

In the explanation to the policy it is stated, inter alia, that:

*The following matters will be considered in relation to any application for a new building or structure on the waterfront:*

- *the principles of the Wellington Waterfront Framework;*
- *[relates to the Queens Wharf Special Height Area - not applicable to Site 10]*
- *whether the ground floor of the building has an 'active edge' that supports the public use of the space and which is predominantly accessible to the public;*
- *whether the addition or alterations will result in a building that will be complementary to, and of a scale appropriate to, other existing buildings adjacent and nearby;*
- *whether the addition or alterations will have a material effect on sunlight access to any open space;*
- *whether the addition or alteration will intrude on an identified viewshaft; and*
- *the adverse effect of the building work on wind, views, shading and sunlight on adjacent properties in the Central Area.*

Note: the fourth, fifth and sixth bullet point refer to "addition and alterations" and not new buildings, but the introductory words refer to new buildings or structures. It is considered that the matters covered in these bullet points are relevant considerations to any assessment of the proposed Site 10 building.

Referring to each of the above bullet points ('assessment criteria') relevant to building height and scale, the following points are made:

#### ***Wellington Waterfront Framework (First Bullet Point)***

The Framework envisages new buildings in the North Kumutoto Precinct, with the 'proviso' that they will be "complementary to, and in a scale appropriate to, the existing buildings around them".

More specifically at page 33 of the Framework it is stated that:

*"New buildings in the North Queens Wharf Area will be sympathetic to, and relate to the scale and size of, the heritage buildings, bearing in mind that Shed 21 at the northern end is higher than the heritage buildings at the southern end. They will also be designed in a coherent fashion so they relate to and complement each other".*

While the Framework is 'silent' on specific appropriate building heights, the above statement confirms that new buildings in the North Kumutoto Precinct are anticipated.

#### ***Scale Appropriate to Existing Buildings Adjacent (Third Bullet Point)***

In the Kumutoto Precinct the existing buildings include:

To the immediate north Shed 21 (21m amsl), to the east the former Eastbourne Ferry terminal building, to the south Sheds 11 and 13 and the Meridian Building (20.25m amsl to the main roofline).

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<sup>69</sup> Waterfront Watch Inc, *ibid*, see Footnote 30

A building height of 19m at the northern end and 16m at the southern for the future building on Site 9 to the immediate south has been found to be appropriate by the Environment Court.<sup>70</sup>

The proposed height of the Site 10 building achieves an appropriate 'relativity' to its principal point of reference, namely Shed 21 and can therefore be considered to be complementary to and in scale with Shed 21.

As the Architect's Design Report notes:

*"Although a single building, the mass has been broken into two lower podium forms, split by the cross-site Harbour Wharf link, with a third continuous upper level form spanning over the top, like a working waterfront gantry. While the scale and form of this flying gantry is celebrated at the southern end as a gateway marker and civic portico to Whitmore, it transitions at the North end to meet the scale, elevational orders, and modulation of Shed 21" [emphasis added]*<sup>71</sup>

The other important 'close-by' building, which is also a listed heritage building, is the former Eastbourne Ferry terminal building. The building design at the southern end includes the significant ground level cantilever/'cut-out' which assists in achieving a positive relationship between both buildings and also maintains views to the ferry terminal building from Whitmore Street/Waterloo Quay.

As Heritage New Zealand opine:

*"There is sufficient separation of the proposed building from the Ferry Terminal to enable the heritage building to be approached, seen and understood in its three dimensional manner.*

*The proposed building is cantilevered over open space. This overhang, and the path through the building, offer sheltered public space on the waterfront with an opportunity to appreciate the waterfront heritage – to enjoy views of the harbour area and Former Eastbourne Ferry Terminal. Views of the Ferry Terminal can also be seen from a further distance successfully"*<sup>72</sup>

#### **Sunlight Access to Open Spaces (Fourth Bullet Point)**

Kumutoto Plaza is an open space which is 'protected' in terms of sunlight access between 12 noon and 2.00pm, measured at either of the equinoxes (Rule 13.6.3.4).

The independent shading analysis undertaken by Spencer Holmes has confirmed that there is no shading (at any time of the day or year - not just the protected hours) on Kumutoto Plaza from the proposed Site 10 building. Indeed, Site 8, to be developed as a landscaped public open space, is also clear of any shading from the new building.

There will be shading on the public open spaces immediately adjacent to the new building, including on Whitmore Plaza. However, it is inevitable that any new building will result in some shading and this is acknowledged by the District Plan. For example, in the explanation to Policy 12.2.6.5:

**Policy 12.2.6.5** *Advocate for new building work to be designed in a way that minimises overshadowing of any public open space of prominence or where people regularly congregate.*

It is stated that:

*"There may be opportunities to design new building work in a way that minimises overshadowing of public open spaces of prominence or where people frequently congregate. Not all public spaces are listed for sunlight protection. In some cases, overshadowing of public space from new building work is inevitable. Where it is possible to design new building work to achieve an improved sunlight amenity this should be encouraged. Protecting sunlight access is more*

<sup>70</sup> Waterfront Watch Inc and Queens Wharf Holdings v Wellington City Council, NZEvC 74, 24 April 2012, page 35. Referring to Site 9 (aka Block B) the Court stated at [115] that:

*"The footprint of Block B was generally considered as quite satisfactory across the relevant witnesses, and we agree. However, in relative terms its height should be adjusted downwards to complement the lowered height of Block A. The maximum height of Block B should be 16m and 19m accordingly (a lowering of the 25m allowance to 19m which would equate to the Meridian Building annex and provide relativity to Shed 13".*

<sup>71</sup> Architectural Design Report, Volume 3, **Appendix 1**, page 8

<sup>72</sup> Heritage New Zealand, 25 September 2014, refer Volume 3, **Appendix 6**

*important during periods of regular use, and should include public open spaces such as pocket parks, paved seating areas or places of civic importance”<sup>73</sup> [emphasis added]*

As the shading assessment identifies, the shading on Whitmore Plaza is evident from mid morning to early afternoon for much of the year; however such shading is inevitable given the proximity of the building to the public open space.

An important consideration is that when the Whitmore Plaza area is shaded, other close-by public spaces, including the new public open spaces on Site 8, will be receiving sun.

#### **Identified Viewshafts (Fifth Bullet Point)**

The new building will not intrude on viewshaft VS 4 - refer Volume 3 (**Appendix 10**).<sup>74</sup>

#### **Adjacent Central Area Buildings (Sixth Bullet Point)**

The bullet point states that:

*“ ... the adverse effect of the building work on wind, views, shading and sunlight on adjacent properties in the Central Area”*  
will be a matter for assessment.

Any new building on Site 10 will potentially result in some ‘amenity’ effect on adjacent properties, in this case Shed 21 to the immediate north and NZ Post House on the opposite side of Waterloo Quay.

Other Central Area buildings to the south west (including Maritime Tower and any future new building on the Z Energy service station site) will not be affected.<sup>75</sup>

In relation to Shed 21 there will be some minor loss of outlook and view from the south facing windows for the upper two levels above ground level. However, this change is not considered to be a major loss of amenity. The 12m gap between the two buildings (at ground level the area will be developed as the Woolstore Plaza) will ensure continuity of daylight to the southend apartments. Furthermore, this gap will enable oblique angle views to the harbour to be retained. The view that will be lost from these upper levels is the view south towards Sheds 11 and 13 and the Meridian Building.

In relation to NZ Post House, there will be a loss of view across the site to the inner harbour from the lower levels of the building podium. The point has now been reached in the development of the waterfront where a new building is to be constructed in accordance with the waterfront strategy laid down in the Wellington Waterfront Framework.

In the Hilton case the Environment Court concluded that outlook and views from Central Area buildings were a consideration when assessing new building development on the waterfront:

*[282] As a general proposition it may be accepted that the protection of private views is not guaranteed by the District Plan nor by the Regional Coastal Plan. However the availability of views from private spaces across the waterfront to the harbour is clearly something which may contribute to the amenity values enjoyed by the owners and occupants of some buildings in the CBD.*<sup>76</sup>

Notwithstanding the absence of a ‘permitted baseline’ for consideration of effects of building height (the consequence of the current zero permitted activity height standard) given the long-held expectation of a new building on Site 10, and also given the Environment Court’s statement in its decision on the Variation 11 appeals that a building to 22m (amsl) could be appropriate on the site,<sup>77</sup> a matter to which regard can be had under s104(1)(c) as a relevant ‘other matter’, it is concluded that any loss of outlook and view from the NZ Post House building will be minor. NZ Post House is a substantial building (to 60m (amsl)) which has five floors in the lower level podium and a further eight floors in the tower above. The floors that would be affected in terms of outlook and view are the lower podium floors (ground plus Levels 1 to 3). All other floors, including the top floor of the podium, will continue to have wide views across the top of Shed 21 and the Site 10 building to the inner harbour, Oriental Bay/ Mt Victoria and the Miramar Peninsula and Orongorongos beyond.

<sup>73</sup> Wellington City District Plan, Central Area, page 12/30

<sup>74</sup> Appendix 10 also includes the photomontages referred to in the Urban Design Assessment.

<sup>75</sup> Written approvals have been provided in relation to these properties.

<sup>76</sup> *Intercontinental Hotel & Others v Wellington Regional Council*, NZEnvC Decision W015/2008, page 65

<sup>77</sup> *Waterfront Watch Inc and Queens Wharf Holdings v Wellington City Council*, NZEnvC 74/2009, page 34



From the ground floor and Level 1 the view across Waterloo Quay is dominated by the campervan-park and the shed (Shed 19) on Waterloo Wharf. On Levels 2 and 3 the view (from the north end) is across the Site 10 to the harbour and the Clyde Quay Wharf and Mt Victoria beyond. From the middle to south end of the building the view also is to the Miramar Peninsula and the Orongorongos beyond. On these views the new building on Site 10 will have a similar effect to the present Shed 21.

The loss of view is more pronounced for Levels 2 and 3. However, in the overall context of NZ Post House this loss is considered to be less than minor, and not unlike the change in outlook that occurs across the Central Area as new buildings are erected.

Loss of daylight will not be an issue.

#### **6.3.4.2 Former Toll Building and Site 8 Pavilion**

Application 3 which seeks consent for the development of the public open spaces also seeks consent for the placement of an existing building (former Toll Building refer photograph on following the page) at the Whitmore Street entrance to North Kumutoto, adjacent to the north side of Site 9.<sup>78</sup>

The former Toll Booth building, built circa 1910, was previously located at the entrance to Queens Wharf, but since 1976 has been located at the Silver Stream Railway heritage museum in Upper Hutt. The building has now been secured by the Wellington City Council and the Project seeks to [re]establish the building on the waterfront.

A small single-level building (3.4m x 7.96m footprint / 3.5m maximum height), refer photograph on following page, the building will act as a 'gateway' entrance building. As the Landscape Statement notes:

*It is proposed that the historic Toll Booth that was once located on Queens Wharf (refer to Isthmus Drawing 2.050) is temporally located to the south of the Plaza (reference is to the Whitmore Plaza) serving as a sculptural element within the space and helps to define its southern edge. The use of the building is yet to be confirmed but could provide space for temporary exhibitions, micro events, pop-up retail or a supplementary i-Site with information for cruise ship and other waterfront visitors.*

*The Toll Booth, built circa 1910 and originally located at the entrance to Queens Wharf, has been resident at the Silver Stream Railway since 1976 when the Harbour Board had the booth replaced with a larger and more efficient tolls office.*

*The Toll Booth remains almost entirely original and has been purchased and temporally stored on the 'outer T' by Wellington City Council. It is probably the only opportunity to have an historic harbour Board building returned to the waterfront. The kiosk will be restored (including painting of the exterior and refurbishment of the interior) and re-used in a way that respects its heritage and retains its integrity.*

*The opportunity to 'return home' and restore the former Toll Booth into a prominent position within Whitmore Plaza will ensure it is seen, used and appreciated by those who visit the area. On-going preservation and custodial care of the building will be provided and when Site 9 is developed a future home will be found either within the Whitmore Plaza or on Queens Wharf".<sup>79</sup>*

<sup>78</sup> Refer Isthmus Drawings 0.010, 0.012 and 2.050 (refer Volume 1, Annexure C, Application Drawings, Applications 3 and 4)

<sup>79</sup> Landscape Design Statement, Isthmus Group, Volume 3, Appendix 2, pages 8 and 9.



**PHOTO 3:** former Toll Booth building

The only other significant structure, aside from waterfront furniture, is the Site 8 Pavilion (refer Isthmus Drawings 0.012, 2.051-2.054).

As noted in the Landscape and Urban Design Statement, the Pavilion:

*“... is a light architectural structure that offers shelter within the otherwise open site. The Pavilion is an intermediate scale structure that relates to the smaller scale of the Kumutoto Lane ‘follies’”.*<sup>80</sup>

Unlike the former Toll Building which requires resource consent under Rule 13.4.7 as a ‘new’ building in the Lambton harbour Area, the Pavilion is a ‘Permitted Activity’ and does not require consent as a separate element; although it is part of the overall ‘public open spaces’ for which consent is required under Rule 13.4.5 as ‘new’ open space in the Lambton Harbour Area.<sup>81</sup>

The Pavilion is a positive feature of the public open space opportunities provided at Site 8, including the provision of shaded outdoor sitting areas for those members of the public who seek to avoid the effects of direct sun.

<sup>80</sup> Landscape Assessment, Isthmus Group, Volume 3, Appendix 9

<sup>81</sup> Under Rule 13.1.2.6 in the Lambton Harbour Area “structures, including waterfront furniture, play equipment and sculptures, former cargo handling equipment, cranes and similar port-related equipment” are a Permitted Activity. Structure is defined as:

*“Any equipment, device, or other facility made by people and which is fixed to the land, and includes fences and walls. For the purposes of the District Plan, this definition excludes any building”.*

In turn, “building” is defined as:

*“an enclosed structure built with a roof and walls”*

#### 6.3.4.3 Summary - Building Height and Bulk

Drawing on the above comments and analysis it is concluded that the proposed new building on Site 10 at 22.4m amsl is appropriate in relation to its context, with particular reference to the adjacent heritage buildings.

Furthermore, any adverse effects will not be significant in the context of the 'sense of place' envisaged for the North Kumutoto Precinct and will be limited to:

- shading on immediately adjacent public open space (Whitmore Plaza); and
- some restriction on outlook and views from the lower floors of NZ Post House on the opposite side of Waterloo Quay.

In respect of both matters, it is concluded that any effects will be adequately avoided, remedies or mitigated.

In respect of the former Toll Booth, the effects will be positive both in terms of 'historic heritage' and in terms of providing an opportunity for some public amenity activity to establish at the gateway to North Kumutoto.

#### 6.3.4 Urban Design and Townscape

An urban design assessment of the proposed Site 10 building against the objectives and guidelines of the Central Area Urban Design Guide has been prepared by urban designer Deyana Popova. A copy of the full report is contained in Volume 3, **Appendix 11**.<sup>82</sup>

The assessment also considered the overall effect on townscape.

The assessment concluded:

*"The proposal is for a new office building with a publicly accessible ground level at the northern end of the North Kumutoto Area of the Wellington Waterfront.*

*An assessment against the relevant Central Area Urban Design Guide provisions has established that the urban design outcome of the proposal is consistent with the stated intent and objectives of the Design Guide. The result will be a building with a coherent and integrated form and memorable image which:*

- *acknowledges the interface city/harbour location of the development site;*
- *responds to the range of contextual conditions around the development site;*
- *creates positive new public space and enhances existing public space;*
- *adds to the activity and vitality of the waterfront and its CBD context;*
- *improves the accessibility to the waterfront by providing public sheltered accessible routes on established and new desire lines; and*
- *provides a high quality office space located close to the Railway Station, the Government Precinct and the CBD".*<sup>83</sup>

The townscape assessment was based on an analysis of 15 photomontages which showed the proposed building from 'distant', 'mid range' and 'close-up' viewpoints (the photomontages are contained in Volume 3, **Appendix 10**).

Principal conclusions that can be taken from the analysis include:

Distant Views: in distant views from the south/east the proposal will be seen against the backdrop of the CBD buildings as a small element in the wider harbour setting and with the hills in the background. The focus is on the overall building form and its large scale modelling.

<sup>82</sup> With the withdrawal of Variation 11, consequent upon the Environment Court's decision, the proposed North Kumutoto Precinct Design Guide (Central Area Urban Design Guide Appendix 4) was also withdrawn. Consequently, the relevant statutory design guide currently applying to building development in the Lambton Harbour Area is the Central Area Urban Design Guide.

<sup>83</sup> Site 10 North Kumutoto, Appendix 11, Urban Design Assessment, page 15

In summary, due to distance, foreground elements and the dense backdrop of CBD buildings, the visual impact of the proposal in distant views will be minor and the new building will blend into its visual context.

**Mid-Range Views:** from Queens Wharf (northern end) there will be a clear view of the south/east part of the building with the former Eastbourne Ferry terminal building in the foreground. The civic scale of the portico and its relationship to the former Eastbourne Ferry terminal building will be clearly understood. Similarities in height and building form between Shed 21 and the new building are noticeable.

**Close-Up Views:** in close-up views (200m or closer) the focus is more clearly on the detailed design of the building. With the lack of foreground buildings the visibility of the proposal increases. The detailed facade modelling, which is the focus in close-up views, reduces the impact of the building's bulk, enhances its visual quality, and assists its integration with the surrounding context.

From an overall townscape perspective the new building establishes a positive relationship with adjacent and nearby buildings and introduces a high standard of architectural design consistent with the aspirations of the Wellington Waterfront Framework, which include:

- new buildings will be complementary to and in scale appropriate to, existing buildings around them; and
- development will be of a high quality.<sup>84</sup>

### 6.3.5 Heritage

A heritage assessment of the Project has been undertaken by Archifact Limited. The report is included in Volume 3 (refer **Appendix 12**).

The report provides a comprehensive assessment of the heritage context of the Project and the particular historic heritage values associated with the listed items and the extent to which the Project might affect historic heritage.

The overall conclusion reached is as follows:

*“The integrated approach to development including landscaping across both development sites and the existing developed waterfront lands expressed in the Sites 8 and 10 proposals shows a commitment to maintaining and enhancing the public environment in this area.*

*The proposed development on Site 8 and Site 10 includes provision for a range of accessible public open spaces which, importantly, connect and complete existing public open spaces and pedestrian-prioritised routes. The integrated approach provides a seamless continuity to the Waterfront walkway and the junction at Site 8 and the Whitmore Street Plaza to the existing pedestrian waterfront approaches and the shared pedestrian space to the east of Sheds 11 and 13. This environment is further enhanced by a visual and textural strengthening of the wharf and rip-rap reclamation edge, enhanced pedestrian links between city and sea and the Site 8 landscaping works which resolve the currently unresolved junction of land and sea at the mouth of the Kumutoto Stream as an active element in the public environment of this special area.*

*Together with the proposed Site 8 and wider landscaping works, development in the Site 10 area responds in the round to adjacent heritage, the harbour and the broader city heritage context”.*<sup>85</sup>

In relation to the listed rip-rap, the report states:

*“The range of heritage buildings, features and elements (including gates, fences, wharves, and reclamation edges) lend the area a distinctive amenity collectively and the proposals add to and enhance those values by responding to those heritage elements and extending the public opportunity to appreciate the amenity of the area.*

*The following physical resources are recognised as contributing to the understanding and appreciation of the subject sites and their distinctive context with respect to their contribution to the understanding and appreciation of the historic heritage associated with the subject area or adjacent to it, and all are relevant:*

<sup>84</sup> Wellington Waterfront Framework (2001), page 18

<sup>85</sup> Assessment of Environmental Effects on Heritage, Archifact Limited, October 2014, page 21

- ...
- Wharves and wharf edges;
  - The reclamation edge (rip-rap wall)
- ...

*Proposed works [at] adjoining waterfront areas is not expected to have an adverse effect on heritage*<sup>86</sup>

Consultation with Heritage New Zealand (formerly the New Zealand Historic Places Trust) during the design development phase of the Site 10 building, culminated in a 'written approval' letter being provided (refer Volume 3, **Appendix 6**).

In the letter, Heritage New Zealand note that the site is rich in heritage. In particular:

- *Site 10 is located within the proposed Wellington Harbour Board Historic Area. This registration proposal has been publicly notified and is in the last stages before being considered by the Heritage New Zealand Board.*
- *The site is also adjacent to a number of registered historic places, including:*
  - *Wellington Harbour Board Shed 21, Category 1 (to the north of the proposed building)*
  - *Eastbourne Ferry Terminal Building (former) and Ferry Wharf, Category 2 (to the east of the site)*
  - *Wellington Harbour Board Wharf Gates and Railings, Category 2 (nearby)*
  - *The area has potential for archaeological material to be discovered - to be assessed by Heritage New Zealand under the archaeological authority process.*

Referring to the Variation 11 proceedings, Heritage New Zealand comment that:

*"As expressed in our appeal to Variation 11, Heritage New Zealand's primary interest in Site 10 is the potential for a large building to be built in close proximity to heritage structures, such as those above, which would adversely affect their heritage values and the values of the historic area. The latest proposal has been assessed with this in mind".*

Under the heading "Effect of the New Building on Historic Heritage", Heritage New Zealand make four principal points:

1. *The overall size of the new building is within the plan perimeter of Site 10. The height and bulk of the proposed building are in comparative proportion to Shed 21. The new building neither overwhelms Shed 21 in size, nor in appearance of the external fabric. There have been distinctive efforts to align elevation features of the new building to detailing of Shed 21 and, in this subtle way, show sensitivity to heritage in the new building. The building alignment along Jervois Quay (sic) ensures views of Shed 21 can be seen from the roadway.*
2. *There is sufficient separation of the proposed building from the Ferry Terminal to enable the heritage building to be approached, seen and understood in its three dimensional nature.*
3. *The proposed building is cantilevered over open space. This overhang and the path through the building, offer sheltered public space on the waterfront with the opportunity to appreciate the waterfront heritage - to enjoy views of the harbour area and Former Eastbourne Ferry Terminal. Views of the Ferry terminal can also be seen from a further distance successfully.*
4. *Use of the historic wharf gates and fences currently in storage is recommended. These are historic ironware and offer increased understanding and interpretation of the area as an historic place. It is understood that the gates and railings need ongoing maintenance however their value to the aesthetic of the waterfront would be positive. Any locations where pedestrian traffic is firmly guided would be suitable for locating the historic gates and rails.*

The Heritage New Zealand letter concludes with the statement:

*"Heritage New Zealand considers that this proposal for a waterfront building respects the nearby heritage. The bulk and location of the building is suited to its heritage neighbours and its exterior appearance is not dominant or overwhelming. The open spaces offer opportunities for locating interpretation".*

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<sup>86</sup> Op cit, page 5

### 6.3.7 Pedestrian Access and Amenities (including ground floor amenities)

Access to along the waterfront is a key objective for the Lambton Harbour Area. For example, Central Area Objective 12.2.8.2 states:

*“Ensure that a range of open spaces, public walkways and through routes for pedestrians and cyclists and opportunities for people, including people with mobility restrictions, to gain access to and from the water are provided and maintained”.*

Although the explanation to the policy stresses the importance of achieving a “public walkway/promenade along the length of the waterfront”, the Wellington Waterfront Framework refers also to providing a network of paths through the waterfront area.

The Project will significantly enhance pedestrian access and amenity in the northern part of the Kumutoto Precinct. This enhancement will be achieved through:

- enhancing the quality of the waterfront promenade through to the former Eastbourne Ferry terminal building and its extension as a shared pedestrian/vehicle space north to the Bunny Street/Waterloo Quay intersection at the north end of Shed 21;
- providing a covered pedestrian colonnade along the Waterloo Quay frontage of the new Site 10 building, thus ‘extending’ the Shed 21 colonnade, and then providing a cross link from Waterloo Quay to the waterfront promenade through the building;
- enhancing the quality of the pedestrian experience through activating the ground floor of the new building with publicly accessible activities;
- significantly ‘lifting’ the quality of the pedestrian experience by removing current at grade car parking (and associated vehicle movements), in particular the at-grade parking on Site 8; and
- to provide further opportunities to access the water’s edge.

The Project will result in an overall positive outcome in terms of pedestrian access and amenity

### 6.3.8 Environmental Effects (Wind and Shading)

Two independent reports were prepared in respect of wind (OPUS International Consultants) and shading (Spencer Holmes). The reports are included in Volume 3 (**Appendix 13** and **Appendix 14** respectively).

#### 6.3.8.1 Wind

The wind assessment undertaken by OPUS involved a full wind tunnel test in accordance with the requirements of the District Plan’s Central Area provisions, as amended by DPC 48.

Firstly it is noted that the wind tunnel test undertaken by OPUS was of the earlier proposed six-level building that was subject to public consultation during January-February 2014 (refer Section 5 of this AEE). Subsequently OPUS reviewed the findings following the post-consultation decision to remove one floor from the building. In an ‘addendum’ letter dated 1 July 2014, Neil Jamieson, Research Leader - Aerodynamics for OPUS, advised:

*“I have reviewed the most recent plans for the proposed development for Site 10 that you provided yesterday. This shows that Level 5, which in the earlier design was around half the area of the floors below and had significant setbacks, has been replaced by a plant room and lift over-run of the same height but significantly smaller plan. The northern end of the building has also been reshaped in a relatively minor way. In considering the wind effects of the latest design I would assess that it will perform around the same or slightly better than the design that was originally wind tunnel tested (Opus Research Report 14-529D91.00). This is because there will be somewhat less area exposed to direct wind flows”.*<sup>87</sup>

<sup>87</sup> The letter is included in Volume 3 (**Appendix 13**)



In the Conclusion to the initial report it was stated that:

- (1) *Wind conditions around the proposed development site currently range from very low to extremely high. The open nature of the area, with few buildings to provide significant shelter, means that there is considerable exposure to strong wind flows for some or all of either the prevailing northerly or southerly wind directions. What wind shelter that is available depends significantly on the wind direction, occurring mostly at locations downwind of buildings for particular wind directions.*
- (2) *The development site is currently vacant. Any building on the site will change the local wind flow patterns because the wind that currently blows across the open site will be forced to take other paths. Accordingly, some changes to the existing wind environment, both increases and reductions, were expected.*

#### **Gust Speeds - Safety Criteria**

- (3) *Existing gust wind speeds varied from a low value of 7m/s to a very high 29m/s, compared with a range of 4m/s to 30m/s for the proposed building. This shows that the windiest conditions with the proposed development are no worse than they are currently. Taken over all directions and locations the average gust speed is slightly lower for the proposed development.*
- (4) *There were seventeen locations for the existing situation where the gust speeds exceeded the 20m/s Safety Criteria in the Wellington District Plan. This compares with fifteen locations for the new building.*
- (5) *There were no locations where the gust speed was increased significantly, such that they exceeded the 20m/s Safety Threshold. There were ten locations where existing wind speeds over the 20m/s threshold were significantly reduced.*

#### **Frequency of Occurrence - Cumulative Effect Criteria**

- (6) *The average number of days per year over all locations and wind directions that the gust speeds exceed the Cumulative Effect Criteria thresholds was notably lower with the new building.*
- (7) *There were only a small number of locations where the increases in the amount of time that the Cumulative Effect Criteria thresholds were exceeded were greater than 20 days. There were many more locations where the decreases in the amount of time that the Cumulative Effect Criteria thresholds are exceeded were greater than 20 days.*

#### **Overall Assessment of Building Design**

- (8) *Overall, the proposed development caused a notable improvement in the local wind environment over quite sizeable areas around the building, primarily due to the redistribution of existing horizontal wind flow patterns.*

#### **Design Configuration Changes**

- (9) *Additional testing showed that any building of substantial size on this site will typically cause significant redistribution of wind flow patterns and wind speeds, and that the new building's setbacks help it to perform better than a lower slab-sided building at some locations.*
- (10) *The additional testing also showed that vertical screens could potentially be used to provide localised screening at specific locations if considered appropriate, although it is realised that the desire for wind shelter would be needed to be balanced against other design considerations.<sup>88</sup>*

#### **6.3.8.2 Shading**

The Spencer Holmes shading analysis confirms that the proposed new building will not cause shading on Kumutoto Plaza, a 'sunlight protected' public space, nor on the proposed new public open spaces to be developed on Site 8.

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<sup>88</sup> Wind Tunnel Study of the Proposed Site 10 Development, Wellington, Opus Research Report 14-529D91.00, 10 February 2014, pages 22-23



However there will be shading on a section of the waterfront promenade and on the proposed new public open space (Whitmore Plaza) immediately adjacent to the building on its sought/southeast corner.

As the shading analysis notes, the District Plan recognises that some shading of public spaces is inevitable when development occurs, including development on the waterfront. If Site 10 was developed as public open space (as some interest groups have suggested) the open space would be significantly shaded by shadows cast by the NZ Post House.

The conclusion reached in the shading analysis is that the shading effects resulting from the new building on Site 10 are less than minor.

### 6.3.9 Traffic

A traffic assessment of the Project has been undertaken by Traffic Design Group. A copy of the report is provided in Volume 4, **Appendix 15**.

In Section 8 of the report it is concluded that:

*The effects of the following two developments have been considered with respect to traffic matters:*

- *Open space development for the North Kumutoto Precinct; and*
- *Site 10 commercial building development within the same Precinct.*

*The Applications are the responsibility of [Wellington Waterfront Limited and] Site 10 Redevelopment Limited Partnership, and are intrinsically linked with respect to traffic and transportation matters.*

*The existing site provides primarily for surface level parking (and a campervan park) that is poorly developed with respect to clear and safe connections for pedestrians and cyclists.*

*The open space application will result in the removal of surface level parking, and will enable an improved public Open Space area to be established, providing the opportunity for the development of an attractive Shared Space for use by all modes of travel through the precinct.*

*A safer and more efficient intersection with the Quays at Whitmore Street will be developed, with the removal of unnecessary approach lanes, better alignment of the new lanes, less exposure of pedestrians to vehicle traffic when crossing at the intersection and enabling better vehicle delineation and pedestrian connections through the Kumutoto Precinct.*

*The Site 10 commercial building will remove a large section of surface level carparking, as well as the campervan park. A basement level carpark will partially off-set the loss of commuter parking spaces, and will be provided for the exclusive use of the building tenants.*

*Overall, the combined developments result in a reduced level of commuter parking, in keeping with the guidelines within the Waterfront Framework. The internal laneway and intersection connections will continue to cater for the anticipated needs of the future users of the area. Servicing will be provided to the new building by way of an internal shared loading dock, to be managed in accordance with a Servicing Management Plan, similar to other mixed use CBD developments in the City.*

Support for the above conclusions is contained in the report. In relation to the District Plan standards for 'vehicle parking, servicing and site access' (13.6.1.3) applying to development in the Central Area, the following further detail/comment is noted:

#### Vehicle Parking

In relation to Standard 13.6.1.3.1 at some 13,300m<sup>2</sup> gfa up to 133 on-site car parks could be provided as a permitted activity (1 space per 100m<sup>2</sup> gfa). The proposed 66 spaces equate to 0.50 spaces per 100m<sup>2</sup> gfa. This 'low level' of on-site car parking is consistent with Policy 12.2.15.6 "Manage the supply of commuter car parking". In the explanation of Policy 12.2.15.6 it is stated that:

*"Council's strategies on transportation and parking for the central city area seek to manage the volume of commuter traffic, both to avoid, remedy or mitigate congestion and to improve the Central Area environment. The strategies promote central city accessibility and the use of a variety of transport modes, including modes other than private vehicles. In particular, Council seeks a high standard of public transport, pedestrian and cyclist accessibility. One way of managing the growth of commuter traffic is by managing parking supply. While the District Plan does not require parking to be provided for activities in the Central Area, where it is provided, a maximum level is set. This is established through a*

*standard that sets a ratio between parking and the gross floor of buildings. Any additional provision will generally be considered where this can be justified for the type of activity proposed or for short stay parking where this is appropriate for certain activities, such as shopping”.*

The proposal is consistent with this policy, not only in relation to the number of car parks provided, but also in relation to on-site provision for cycle parks, enhanced pedestrian linkage to the Wellington Railway Station, as well as to the waterfront promenade, a popular pedestrian route for CBD employees.

The removal of at-grade car parking is also consistent with the District Plan’s intention of not creating (and by ‘association’) of removing parking areas (at ground level) within the Central Area.<sup>89</sup>

Standard 13.6.1.3.2 requires compliance with sections 1, 2 and 5 of the joint Australian and New Zealand Standard 2890.1-2004, Parking Facilities, Part 1: Off-Street Car Parking.

The TDG report (at section 5.1.1) records some non-compliance with the standards, including some parks suitable only for small cars (B50) and some stacked parks. The assessment notes, however, that given that the users will be regulars using allocated parks, they will be familiar with the car park ‘limitations’.

### Servicing

A loading bay to accommodate an 8m rigid truck is proposed with access from the shared lane on the east side of the building. As the TDG report (at section 7.1) notes, there is some non-compliance with the standards for servicing. Consequently the report recommends the preparation of a Servicing Management Plan covering:

- hours of operation (noting that the proposed building is adjacent to a residential building);
- frequency of deliveries;
- duration of deliveries;
- rubbish collection; and
- mitigation measures should a secondary vehicle arrive while the loading area is in use.

Given that the service access is not directly from the road network, unlike the majority of Central Area sites, the aspects of non-compliance will not result in any effect on the safety or efficiency of traffic on Waterloo Quay.

### Site Access

Site access to Site 10 will continue to be from the lights-controlled intersections at Bunny Street/Waterloo Quay intersection (at the north end) and from Customhouse Quay/Whitmore Street intersection (at the south end).

As the traffic report confirms (at section 6.1), there is no proposed alteration to the Bunny Street intersection; however, the Whitmore Street intersection will be improved so as to provide a better alignment with Customhouse Quay.

In terms of the harbour-side laneway between the two intersections, the traffic assessment explains that:

*“The existing laneway connection between the Bunny Street and Whitmore Street intersections will be more formally established, providing a clearly defined vehicular path through this area. A defined laneway will be established, with kerbside parking provided on its western side. The area will include contrasting materials and raised thresholds (rather than the more traditional asphalt, paint and markings utilised in solely vehicle trafficked areas)”.*

### *Summary - Traffic Effects*

In summary, the transportation outcomes will be positive through the removal of a significant number of at-grade car parking spaces from the Project Area, with the consequent reduction in traffic movement to and from the area.

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<sup>89</sup> Policy 12.2.6.19: Maintain and enhance streetscape by controlling the creation of vacant or open land and ground level parking areas. In explanation of the policy it is stated, inter alia, that the creation of parking areas on sites in the Central Area (which includes the Lambton Harbour Area) can have a detrimental effect on the amenity and streetscape of the city through the ‘erosion of streetscape’. Furthermore, the Wellington Waterfront Framework includes two relevant principles:

- parking provided on the waterfront will be primarily for waterfront users; and
- ideally surface parking should be progressively removed as development takes place.

The main vehicle entry (Customhouse Quay/Whitmore Street) will be improved; while the parking and servicing needs of the new building on Site 10 can be handled effectively and efficiently.

A strongly positive outcome is the significant enhancement in pedestrian connection and amenity for people moving to and through the area.

### 6.3.10 Ecology

An assessment of potential effects on the ecology of the coastal marine area was undertaken by Dr Jeremy Helson. A copy of the full report is included in Volume 4 (**Appendix 16**).

In an Executive Summary Dr Helson records that:

5. *The proposed development at Site 10 at Kumutoto consists of the construction of a new building on a vacant lot. This is not likely to significantly affect the marine environment.*
6. *Also proposed is some modest landscaping work along the existing foreshore at Whitmore Plaza, the laneway, and Site 8. This landscaping is not likely to significantly affect the marine environment.*

#### *New Construction on Site 10*

7. *The site of the building construction is landward of the shoreline. No change to the seabed or foreshore is proposed during the development of Site 10. As such, there will be no direct effect on the marine environment.*
8. *It is proposed that some of the reclamation fill will be excavated during this development. This fill has been shown to contain contaminants such as hydrocarbons and asbestos. As such, there is potential for indirect effects on the marine environment by contaminants associated with the development leaching into the sea.*
9. *The marine environment in the vicinity of the development has been the source of storm water discharge and is a working commercial wharf. This has resulted in contaminants being introduced into the marine environment and elevated levels of heavy metals have been detected as a consequence of these uses.*
10. *I consider any further and indirect contamination as a result of the proposed development is not likely to have a significant effect on the marine environment. This is due to the relatively low likelihood of contamination occurring, the already contaminated nature of the receiving environment and the capacity to mitigate such effects.*

#### *Landscaping*

11. *The proposed landscaping involves re-contouring, excavation and filling to prepare open spaces. Also proposed is a re-alignment of an existing rip-rap and a minor extension to an existing wharf.*
12. *The effect on the marine environment is likely to be negligible as a result of this work.*<sup>90</sup>

### 6.3.11 Earthworks and Contaminated Land

The Project will involve significant earthworks including the excavation of a basement level. The basement will involve excavation over a 2,288m<sup>2</sup> area to a maximum depth of 3.7m. Some 7,600m<sup>3</sup> of material will be removed and deposited at an approved landfill, most likely the Southern Landfill at Happy Valley Road.

Other earthworks will be involved with the development of the public open spaces, especially on Site 8. These earthworks are described in the Landscape Design Statement (refer Volume 3, **Appendix 2**), where it is confirmed that:

*"8.4 The earthworks and site contouring will result in approximately 1,000m<sup>3</sup> of cut material being removed from Site 8. Approximately 750m<sup>3</sup> of fill material will be required within Whitmore Plaza and the Wool Store Plaza. It is proposed to retain as much of the cut from Site 8 as possible on site, but due to unsuitable material there may be a need to dispose of up to 1,000m<sup>3</sup> of the surplus material to licensed landfills. Suitable sub-base material will be imported to form a solid base for paving and built environments".*<sup>91</sup>

<sup>90</sup> Helson J G, The Likely Effect on the Marine Environment of the Proposed Redevelopment at Site 10 Kumutoto, September 2014

<sup>91</sup> North Kumutoto Landscape Design Statement, page 14

Cuts of up to 1m maximum are restricted to Site 8, while fill with a maximum depth of less than 1m is required within Whitmore Plaza and the Wool Store Plaza. Some of the Site 8 earthworks will be associated with the 're-alignment' of the rock rip-rap at the reclamation edge.

Specific consents for a Discretionary Activity (Restricted) are required for the proposed earthworks under Rule 30.2.2 of the District Plan. The matters over which discretion is retained are:

- earthworks stability (where no building consent for a structure or building is obtained);
- erosion, dust and sediment control; and
- the transport of material where the following limits are exceeded (Central Area 200m<sup>3</sup>).

Overall a Discretionary Activity consent is also required under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011) for the use of potentially contaminated land.

In response to these requirements, Dunning Thornton were commissioned to prepare a 'preliminary excavation methodology' in relation to the construction of the Site 10 building basement; and Tonkin & Taylor Ltd were commissioned to prepare a ground contamination assessment report.

#### 6.3.11.1 Preliminary Excavation Methodology

As the Dunning Thornton methodology statement (refer Volume 4, **Appendix 17**) notes:

*"The Site 10 basement will be constructed in reclamation fill, adjacent to the harbour edge but inside the existing Seawall. Construction activities will include excavation, removal of existing foundations (from previous structures on the site), piling, Deep-Soil-Mixing [DSM], de-watering and construction of the reinforced concrete basement slab and walls".*

The methodology statement then describes the construction methodology / steps that will be used.

The potential adverse effects that could result from this methodology are:

- ground settlement on adjacent sites as a consequence of de-watering and/or construction vibration; and
- discharge of contaminants to ground water, stormwater and to harbour waters.

These potential effects can be avoided or mitigated through appropriate consent conditions such as:

- a survey of, or reliance on an existing survey of the adjacent land and buildings (to provide a 'baseline' for measuring any construction-related settlement);
- preparation and implementation of robust management plans incorporating measures to prevent or control discharge of contaminated water or material to ground water, stormwater or harbour waters. A consent condition should require compliance with the GWRC's guidelines.

#### 6.3.11.2 Ground Contamination

As noted in section 6.3.11 consent is being sought under the NES for a Discretionary Activity for the proposed earthworks and associated soil disturbance.

The objective will be to ensure that any contaminated soil is removed and disposed of, and the site therefore remediated, in a manner that does not pose any risk to human health. Based on the analysis and conclusions in the T&T report (Volume 4, **Appendix 18**) and the accompanying draft CSMP, it is considered that the objectives above can and will be met.

The T&T report concluded as follows:

*The proposed development involves excavation at Site 10 for a basement and foundations. Excavated fill and groundwater extracted during dewatering at Site 10 will be disposed off-site. Soil disturbance will also be required at Site 8 and possibly other parts of the Landscape Areas for landscaping works. We understand approximately 1,000 m<sup>3</sup> of cut material may need to be removed from Site 8 (if it is geotechnically unsuitable), with cuts a maximum of 1 m deep. No significant cut is proposed elsewhere in the public space areas, however, it is expected that limited soil disturbance will be required for surface preparation works. The public space areas shall be finished with either paving underlaid by imported fill or imported clean landscaping fill materials. There will be no earthworks on Site 9.*

*No contaminated material has been identified at Site 8 (1970s fill), but contaminated fill is present at Sites 9 and 10 (1903 reclamation: metals, polycyclic aromatic hydrocarbons). Similar material is expected to be present in the remainder of the Landscape Areas, which are also on the 1903 reclamation. In addition, asbestos has been identified in part of Site 10. A Contamination Site Management Plan (CSMP) will be implemented to control discharges of contaminants during the works to minimise potential effects on human health and the environment. A draft CSMP is appended (Appendix D).*

*Investigations have confirmed that after removal of the excavated basement material at Site 10, concentrations of contaminants will be below human health guidelines for the proposed site use (commercial, paved site).*

*As some of the fill to be excavated contains contaminants above background levels (metals, polycyclic aromatic hydrocarbons, asbestos), it must be disposed to an appropriately consented landfill (e.g., Southern Landfill or Silverstream Landfill). This investigation indicates that fill should be acceptable to landfill without pre-treatment, but this would have to be approved by the landfill manager. The draft CSMP (Appendix D) includes controls to minimise discharges during the works (e.g., dust, runoff in stormwater).*

*Some of the fill to be excavated from Site 10 is clean. If additional areas are to be checked for suitability as clean fill (either at Site 10 or in the Landscape Areas), additional testing would be needed to confirm it is clean. This testing can be done either in situ before excavation, or in stockpiled soil if the excavation programme and space permits. Controls will need to be in place during the works to ensure no cross-contamination of clean material occurs.*

*Because the excavated fill will be disposed off-site and the site will be paved on completion, there is minimal potential for exposure of future site users to contaminated fill at the site.*

*Preliminary groundwater testing at two boreholes on the site has not identified significant contamination in shallow groundwater, which is consistent with the type of contaminants present in the fill. Further groundwater testing is required to confirm this for the remainder of the site.*

*Preliminary groundwater testing at two boreholes on the site has not identified significant contamination in shallow groundwater, which is consistent with the type of contaminants present in the fill. Further groundwater testing is required to confirm this for the remainder of the site. Groundwater extracted during dewatering may need treatment before discharge to stormwater or trade waste. The type of treatment (if any) would be dependent on the results of further testing, as set out in the draft CSMP (Appendix D). Implementing appropriate controls (based on the results of testing) would ensure that effects of the discharge on harbour water quality are less than minor.*

### 6.3.12 Ground Water

As the Structural Engineering assessment confirms, localised de-watering will occur during construction of the basement level of the Site 10 building. However, the dewatering will be temporary and restricted to zones within the 'deep-soil-mixing' (DSM) walls to be established such that the water table will only lower by 1m to 1.5m.

*"This will be a localised effect, due to the presence of the DSM walls and the ready re-supply of water from ground water and the sea. Accordingly, water-tables beneath neighbouring buildings will not undergo significant change. In any event, the buildings in the immediate vicinity are deep-founded and so would not experience loss of support as a result of ground water changes".<sup>92</sup>*

Notwithstanding the very low likelihood of any damage to adjacent lands or buildings as a consequence of ground water changes, a consent condition covering the requirement for a pre-construction survey of adjacent lands and buildings is recommended.

Ground water is expected to be suitable to discharge to the storm water or trade waste, subject to the necessary permits being in place.

### 6.3.13 Hazardous Substances

As previously noted, an on-site emergency generator and fuel storage is proposed. A description of the proposed installation is provided in a statement from Aecom (refer Volume 4, **Appendix 19**). As the statement confirms, the installation will consist of:

- a circa 360 kW/450 kVA standard rated generator set within an acoustically rated enclosure; and
- a 1,000 litre bulk fuel tank, 4-hour rated, double-skin tank with gravity feed fuel distribution to the generator.

In relation to the proposed fuel storage, the Aecom statement confirms that:

*"To comply with Hazardous Substances and Noxious Organisms (HSNO) regulations the fuel tanks will be provided with integral secondary containment and four hour fire rating. They will be located inside the generator room which will also be a "bunded room". The fuel fill point will be located on the outside wall of the generator room, accessible from the loading bay with pipework running from the fill point to the bulk tank within the "bunded" generator room.*

*The fuel storage and transfer system will be installed and certified by a specialist contractor in full compliance with the HSNO Regulations. A HSNO certificate will be required to be provided by this contractor prior to completion of the work".*

Given the measures to be put in place, and that given compliance will be achieved with the HSNO Regulations prior to completion of the work, it is considered that potential adverse effects resulting from the storage, use and handling of hazardous substances (diesel fuel) will be appropriately avoided, remedied and mitigated.

As previously noted (refer section 4.7.3 above) Site 10 is located within the area shown on the Planning Maps as "hazard (ground shaking) area". Also as noted in section 4.7.3, Policy 12.2.14.4 in relation to hazardous substances requires "hazardous facilities to be located away from Hazard Areas".

As Planning Map 17 confirms not only is Site 10 within the hazard (ground shaking) area, but indeed the whole waterfront and large parts of the Central Area are as well.

The engineering approach to the development of Site 10 will include significant sub-ground mitigation to address the liquefaction/lateral spreading potential through:

*"... the use of Deep-Soil-Mixing [DSM] a technology that uses a deep drilling auger to mix cement with the underlying soils to form a grid of weak-concrete walls, spaced at around 4m centres, over the whole site".<sup>93</sup>*

Among the functions of this grid of walls are confinement of liquefiable soils, lateral bracing down to the non-liquefiable sub-strata and a platform on which to found the new structure.

<sup>92</sup> Site 10 - Structural Effects, Dunning Thornton, Volume 4, **Appendix 20**

<sup>93</sup> Op cit

Above the foundation the building superstructure will be base-isolated to provide an extremely high level of seismic life-safety protection coupled with damage avoidance, business continuity and protection of contents.

With these engineering solutions to mitigate the potential for significant ground shaking and seismic generated damage to the building, along with the design and installation parameters for the 'double skin' diesel storage vessel, which will be located in a bunded room, the potential for any adverse effects of hazardous substances (in this case accidental release of diesel fuel) are assessed as being less than minor.

The measures incorporated in ground stabilisation, building design and in the design and implementation of the 'hazardous facility' are consistent with methods that are appropriate given the District Plan's stated 'environmental result' in relation to hazardous facilities in Hazard Areas, which is:

*"... the minimisation of hazards and risks to the environment and people in Hazard Areas".<sup>94</sup>*

### 6.3.14 Natural Hazards and Sea Level Rise

The matters of natural hazards and sea level rise have been assessed respectively by Dunning Thornton Consultants (from a construction perspective) and Beca Ltd. The reports are included in Volume 4 (refer **Appendix 20** and **Appendix 21** respectively).

Dunning Thornton specifically addresses natural hazards in terms of seismic shaking and liquefaction, and the susceptibility of the site to tsunamis.

The report confirms that the building will be designed to exceed minimum code requirements. The above ground structure will be base-isolated to provide an extremely high level of seismic life-safety protection, coupled with damage avoidance, business continuity and protection of contents.

In relation to the future mitigation of inundation as a result of sea-level rise, the Dunning Thornton report explains that:

*"The new building ground floor will be set as high as practicable while also providing access from existing waterfront levels. This means that the ground floor and basement levels may be susceptible to occasional inundation as a result of sea-level rise after approximately 100 years. Future mitigation will be possible by simply raising the building at the isolator level and the corresponding raising of the surrounding ground surface levels. Lifting technologies capable of raising the building structure are already in existence. Mitigation options to prevent flood waters from entering the basement will include raising the crest to the vehicle ramp, together with the surrounding ground surface levels and/or installation of flood-gates that could be used for the duration of an exceptionally high tide event".<sup>95</sup>*

In relation to tsunami or seiching waves, the Dunning Thornton report notes that:

*"As with other low-lying properties around the Wellington region, ground floor spaces may be inundated during Tsunami or Seiching waves. The first floor level has been set sufficiently high to avoid damage, based on maximum wave height predictions. While significant damage could be expected to the ground floor non-structural elements, the primary structure will have sufficient resilience to resist the wave actions".<sup>96</sup>*

The Beca report provides an assessment of the proposed Site 10 development in relation to climate change / sea level rise. The report recommends that:

*"... it would be prudent for the designers to allow for a one-metre increase in mean sea level over the economic life of the building ...".<sup>97</sup>*

Consistent with the Dunning Thornton opinion, the Beca report accepts that:

*"The proposed foundation of the building is of a form that would make the raising of the whole building a relatively easy matter if some predictions of climate change-induced sea-level rise are realised".<sup>98</sup>*

<sup>94</sup> Wellington City District Plan, page 12/56

<sup>95</sup> Dunning Thornton, Site 10 - Structural Effects, page 2

<sup>96</sup> Op cit, page 2

<sup>97</sup> Beca Ltd, Site 10 - Kumutoto - Natural Hazards Assessment, 22 October 2014, page 5



### 6.3.15 Construction Activities and Management

A draft Construction Management Plan has been prepared by LT McGuinness which covers the proposed construction works (refer Volume 4, **Appendix 22**). This draft CMP outlines a construction methodology for the Site 10 development, identifies works during the course of the construction that have the potential to impact on the immediate environment, demonstrates management procedures to deal with the potential effects of construction activity on the environment, established how public interface will be managed and outlines potential issues and corrective procedures in consultation being neighbouring buildings, public, contractors and Wellington City Council. The CMP will ensure the safety of the public at all times during the works, for example through the use of hoardings to separate the public areas and the construction zone, signage on the Whitmore entrance to direct public traffic and to educate the public on the environment, and gantries in Stage 2 along Waterloo Quay to enable public egress.

### 6.3.16 Positive Effects

Under the RMA there tends to be a focus on the avoidance, remediation or mitigation of adverse effects, given the requirement of s5(1)(c). However, the RMA definition of effect includes 'any positive effect'.

In Elderslie Park v Timaru District Council the High Court stated that:

*"To ignore real benefits that an activity for which resource consent is sought would bring necessarily produces an artificial and unbalanced picture of the real effect of the activity".<sup>99</sup>*

The Project will deliver a number of positive effects, including:

1. providing certainty as to the future development of Site 10 which, for close on 25 years, has been identified as a site for an appropriate waterfront building;
2. providing a high quality building which is appropriate to its site and with strong publicly accessible ground level activity and connections;
3. removing surface parking and associated vehicle movements;
4. providing significant additional areas of high quality public open spaces;
5. strengthening the waterfront promenade and enhancing pedestrian amenity;
6. facilitating a better connection with the water's edge; and
7. bringing to the waterfront a significant daytime population that will add to the vitality of the waterfront.

These positive effects should be had regard to when forming a broad judgement on the overall impact of the Project.

### 6.3.17 Summary - Environmental Effects

The assessments that have been undertaken conclude that actual and potential adverse effects on the environment of allowing the activity, given appropriate mitigation measures on the topics proposed, will be acceptable in the context of the sustainable management purpose of the RMA.

This conclusion can be reached before regard is had to positive effects as part of an overall 'balanced' assessment of all effects. Those positive effects are set out in section 6.3.15 above, and relate in particular to certainty of the future development of Site 10, a high quality building, removal of surface parking and associated vehicle movements, significant additional high quality public open spaces, enhanced pedestrian amenity on the waterfront and a better connection with the water's edge. Finally the proposal will bring a significant day time population to the waterfront.

<sup>98</sup> Op cit, page 9

<sup>99</sup> Elderslie Park Ltd v Timaru District Council [1995] NZRMA 433

## 6.4 NATIONAL ENVIRONMENTAL STANDARD, POLICY STATEMENT AND PLAN PROVISIONS

### 6.4.1 Section 104(1)(b)

Section 104(1)(b) of the Act requires the consent authority to have regard to the provisions of relevant national, regional and district level policy statements and plans.

As summarised in Section 4 “Statutory Context”, due to the scale, nature and location of the Project there are several relevant statutory instruments (national environmental standard, policy statements and plans) as follows:

- The NZ Coastal Policy Statement
- The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health
- The Regional Policy Statement for the Wellington Region
- The Regional Coastal Plan
- The Regional Freshwater Plan
- The Regional Discharges to Land Plan
- The Wellington City District Plan.

Based on an identification and analysis of the relevant objectives and policies from these statutory instruments, a number of themes were in turn identified. These themes provide an overall ‘high-level’ summary of the relevant policy and plan provisions in line with the approach approved by the Environment Court in Auckland Regional Council v Living Earth Limited.<sup>100</sup>

The identified themes were:

- appropriate use and development
- enhancement of public access along the coastal marine area
- increasing the range and diversity of activities
- enhancing the public open space environment of the Lambton Harbour Area
- maintenance and protection of significant heritage features and values
- quality design outcomes - both built form and open spaces
- enhancing the ‘sense of place’ of the waterfront
- managing earthworks in areas adjacent to the coastal marine area
- managing the remediation of contaminated land
- appropriately addressing risks and consequences of natural hazards having regard to sea level rise
- recognising the role of tangata whenua in decision-making
- managing natural and physical resources across the line of mean high water springs in an integrated manner.

Referring to each of the themes in turn, the following comments are made in relation to the Project’s consistency with the policy and plan provisions.

### 6.4.2 Appropriate Use and Development

In relation to the ‘coastal environment’, at both the national and regional level, there is a focus on encouraging appropriate development and (equally) discouraging development where it may be inappropriate.

The Wellington waterfront is a significantly ‘urbanised’ part of the coastal environment. For many decades from the early settlement of Wellington through into the 1980s it was the City’s port with all its associated infrastructure, including many wharf sheds, a number of which were significant buildings, many of which remain today and are now an essential part of the waterfront’s heritage character.

Since the late 1980s the focus has been on the ‘[re]development’ of the waterfront as a public open space supported by appropriate buildings and activities.

At a regional and district level the applicable plans provide guidance on the development of the waterfront (Lambton Harbour Development Area in the Regional Coastal Plan - the area on the seaward side of mean high water springs; and

<sup>100</sup> Refer Footnote 55 above at page 40

Lambton Harbour Area in the District Plan - the area landward of mean high water springs). This guidance is emphasised in the following provisions: Policy 4.2.45 and Policy 6.2.1 of the Regional Coastal Plan; and Objective 12.2.8 and Policies 12.2.8.1 to 12.2.8.6 of the District Plan.

The Project involving the development of a new building on Site 10 and the development of public open spaces, including Site 8, is considered to be appropriate to the Lambton Harbour Development Area/Lambton Harbour Area waterfront and therefore consistent with the relevant statutory instruments.

#### **6.4.3 Enhancement of Public Access along the Coastal Marine Area**

A key component of the Project is extending and enhancing the waterfront promenade and generally enhancing public access and amenity.

The Project is consistent with the NZCPS and the RPS (maintaining and enhancing public access to and along and adjacent to the coastal marine area), the Regional Coastal Plan (providing for a range of opportunities for public access and through-routes) and the District Plan (ensuring that a range of public walkways and through routes are available and provided and maintained).

#### **6.4.4 Increasing the Range and Diversity of Activities**

The Project is consistent with the NZCPS (development that maintains the character of the existing built environment), the RPS (an increased range and diversity of activities), the RCP (providing for a wide range of activities appropriate to the harbour/city interface), and the District Plan (facilitating a vibrant, dynamic Central Area by enabling a wide range of activities to occur).

#### **6.4.5 Enhancing Public Open Space**

The Project is consistent with the NZCPS (recognising the need for public open space within and adjacent to the coastal marine area), the RCP (providing for a range of public open spaces) and the District Plan (ensuring a range of public open spaces are provided as part of enhancing the overall public and environmental quality and general amenity of the Lambton Harbour Area).

#### **6.4.6 Maintenance and Protection of Significant Heritage Features and Values**

Given the conclusions of the specialist heritage assessment, it can be concluded that the Project is consistent with the NZCPS (protecting historic heritage from inappropriate use and development), the RPS (protecting historic heritage values), the RCP (recognising heritage character), and the District Plan (maintaining and enhancing the heritage values associated with the waterfront).

#### **6.4.7 Quality Design Outcomes - both built form and open spaces**

The Project incorporates significant quality design outcomes, both in relation to the building and the public open spaces. It is therefore consistent with the RPS (achieving the region's urban design principles) and the District Plan (providing for new development which adds to the quality of design within the waterfront area / enhancing the quality of the public environment).

#### **6.4.8 Enhancing the 'Sense of Place' of the Waterfront**

The Project will enhance and reinforce the 'sense of place' of the waterfront as an area with 'unique and special components and elements', with a primary focus on its role as an open space with buildings that support the public amenity of the area, both in their design and their associated uses and activities.

The Project is consistent with the District Plan's objective of enabling the North Kumutoto Precinct (North Queens Wharf Area) as one of the five distinct areas that make up the waterfront, to establish its own 'sense of place' and local character; and consistent with the values and principles of the Wellington Waterfront Framework which identifies North Kumutoto as an area with a strong connection to the CBD. This connection to the CBD is envisaged to be reflected in a stronger sense of the city form being developed in this area through a higher proportion of buildings than on the rest of the waterfront.

Accordingly, both the proposed building and the proposed public open spaces are consistent with the District Plan's intended 'sense of place' for North Kumutoto.

#### 6.4.9 Managing Earthworks in Areas Adjacent to the Coastal Marine Area

The Project related earthworks consist principally of the construction of the basement level for the Site 10 building and the earthworks involved in developing the public open spaces above MHWS, especially the three main areas of Site 8, Whitmore Plaza and the Wool Store Plaza.

As with all major projects involving site earthworks, there will be some disruption to current patterns of use and also (potentially) some adverse environmental effects.

The proposed construction-related management plans will ensure that measures are in place to minimise disruption to the public passage through the area, and also to avoid or minimise to the greatest extent practicable off-site effects from dust or contaminated discharges.

The earthworks will be managed to enable the anticipated environmental results sought by the District Plan to be achieved, namely the:

- earthworks are designed to minimise the risk of instability (particularly in relation to the construction of the Site 10 building basement - refer Volume 4, **Appendix 17** "Preliminary Excavation Methodology");
- earthworks are designed and managed to minimise effects of erosion and the movement of dust and sediment beyond the area of the work (particularly in relation to the coastal marine area);
- earthworks are designed to reflect the visual character of the area (particularly in relation to the development of the public open spaces which will involve some 're-contouring' to establish appropriate gradients); and
- earthwork material is transported in a way that is safe and does not detract from the amenity of an area.

Tonkin & Taylor have prepared a draft Contamination Site Management Plan (CSMP), that outlines procedures that will be implemented during earthworks (refer to Appendix D of the Ground Contamination Assessment in Volume 4, **Appendix 18**). The CSMP sets out procedures for establishing the site and associated management structures/systems, handling and managing contaminated materials including soil that contains asbestos, health and safety controls to augment the Contractor's health and safety plans, monitoring of the effectiveness of mitigation measures implemented during the earthworks, and validation of the site following removal of material containing asbestos.

#### 6.4.10 Managing the Remediation of Contaminated Land

In a similar manner to earthworks generally, the removal and remediation of contaminated material from the Project Area will be undertaken in a manner to avoid any risk of adverse effects on human health and the environment. This is covered in the draft CSMP.

Appropriate consent conditions will be the means by which this result is achieved.

#### 6.4.11 Appropriately Addressing Risk and Consequences of Natural Hazards

As previously noted (refer section 6.3.13 above), the proposed new building on Site 10 has been designed to achieve a high level of seismic performance. As the Dunning Thornton 'structural engineering assessment' comments:

*"Above the foundation the building superstructure will be base-isolated to provide an extremely high-level of seismic life-safety protection coupled with damage avoidance, business continuity and protection of contents. Base isolation will provide seismic, life-safety performance in excess of Importance Level 3 [IL3]. Above the base isolators the structure will be predominantly steel-framed to provide the strength and resilience at the least weight. The upper floor slabs will be reinforced concrete".*<sup>101</sup>

In relation to sea level rise, the Dunning Thornton assessment confirms that:

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<sup>101</sup> Site 10 - Structural Effects", Volume 4, **Appendix 20**, page 1

*“The new building ground floor will be set as high as practicable while also providing access from existing waterfront levels. This means that the ground floor and basement levels may become susceptible to occasional inundation as a result of sea-level rise after approximately 100 years. Future mitigation will be possible by simply raising the building at the isolator level and the corresponding raising of the surrounding ground surface levels. Lifting technologies capable of raising the building structure are already in existence. Mitigation options to prevent flood waters from entering the basement will include raising of the crest to the vehicle ramp, together with the surrounding ground surface levels and/or installation of flood gates that could be used for the duration of an exceptionally high tide event.”*<sup>102</sup>

The Beca report (refer Volume 4, **Appendix 21**) also addresses sea level rise consequent upon climate change, commenting that *“it would be prudent for the designers to allow for a one-metre increase in mean sea level over the economic life of the building”*.

Referring to the possibility of a combination of events and therefore a ‘combination of effects’, the Beca report comments that:

*“If one metre of sea-level rise were to occur in the latter half of the proposed building’s economical life, it is possible but unlikely that a combination of maximum tide, maximum surge and maximum wave height would lead to inundation of the ground floor of the proposed building for a few hours. Well before this would occur, the same effect would presumably be causing some longer-duration inundation of the general waterfront area, and the occasional flooding of Waterloo Quay and the CBD, if no mitigation had been undertaken prior to the event”*.<sup>103</sup>

#### **6.4.12 Recognising the Role of Tangata Whenua in Decision-Making**

The role of tangata whenua in decision-making is central to all planning instruments.

Consultation with tangata whenua has been undertaken. This consultation included the preparation of a cultural impact assessment that was prepared in association with the Port Nicholson Block Settlement Trust and the Wellington Tenth Trust.

As the cultural impact report records (Volume 3, **Appendix 7**), the Project Area:

*“... is an area with strong association with the Te Atiawa/Taranaki Whanui ki te Upoko o te Ika and the hapu of Ngati Te Whiti...”*<sup>104</sup>

whose descendants are today represented by the Wellington Tenth Trust and the Port Nicholson Block Settlement Trust.

The Project and the process of consultation that has been undertaken is consistent with the relevant provisions of the statutory instruments.

#### **6.4.13 Integrated Management of Resources Across the Line of Mean High Water Springs**

The statutory instruments at all three levels (national, regional and district) encourage and provide for the integrated management of natural and physical resources within the coastal environment, both within the coastal marine area and across the line of mean high water springs (MHWS).

##### **New Zealand Coastal Policy Statement**

*Policy 4 Integration:*

*Provide for the integrated management of natural and physical resources in the coastal environment, and activities that affect the coastal environment. This requires:*

- (a) co-ordinated management or control of activities within the coastal environment, and which could cross administrative boundaries, particularly:*

<sup>102</sup> Op cit, page 2

<sup>103</sup> Site 10 - Kumutoto - Natural Hazards Assessment, Beca Ltd, 22 October 2014, page 7

<sup>104</sup> Cultural Impact Report, Kumutoto Site 10 Development, Kumutoto North, prepared in Association with Wellington Tenth Trust and Port Nicholson Block Settlement Trust, September 2014, page 6

(j) *the local authority boundary between the coastal marine area and land*

### **Regional Coastal Plan**

#### **Policy 4.1.20**

*In promoting the sustainable management of the coastal marine area, appropriate recognition is given to integrating management of land, water and air, both within the coastal marine area and across the line of mean high water springs.*

#### **Policy 4.1.25**

*Activities which span the line of mean high water springs are managed in accordance with the provisions of both this Plan and any requirements in the relevant District Plan.*

### **Wellington City District Plan**

#### **Policy 12.2.8.9**

*Encourage and provide for consistency in the administration of resource management matters across the line of mean high water springs (MHWS).*

The co-ordinated approach to the applications has involved close collaboration between the design teams responsible for the Site 10 building (Athfield Architects) and the public open spaces (Isthmus Group), and the request to the key technical advisors that they should view and assess the Project as an integrated development.

This co-ordinated approach is consistent with the policy guidance of the statutory instruments.

## **6.5 OTHER MATTERS**

Section 104(1)(c) states that a consent authority can have regard to any 'other matters' it considers relevant and reasonably necessary to determine the application.

There are two matters that the Applicant considers are relevant 'other matters':

- The Wellington Waterfront Framework (2001); and
- Environment Court Decision on Variation 11.<sup>105</sup>

### **6.5.1 The Wellington Waterfront Framework (2001)**

In the Applicant's opinion, an opinion shared by the Environment Court in the Hilton Hotel case,<sup>106</sup> the Wellington Waterfront Framework can be had regard to as a relevant "other matter".

As summarised in section 3.5 of this AEE, the Kumutoto Precinct (aka North Queens Wharf) was one of five sub-areas making up the Wellington waterfront which were seen as having an identifiable character based on:

- Strong connection to CBD
- Maritime character
- New buildings in scale with heritage buildings and enhanced with squares and lanes
- Sheltered route from Railway Station along Customhouse Quay

<sup>105</sup> Waterfront Watch Inc and Queens Wharf Holdings v Wellington City Council, NZEnvC, 74/2009

<sup>106</sup> In Intercontinental Hotel v Wellington Regional Council, NZEnvC, W015/2008, the Court recorded that:

[59] *All of the parties to the proceedings accepted that the Waterfront Framework was a document to which we might have regard as an 'other matter' pursuant to s104(1)(c) RMA. To that extent it has relevance in our considerations. It contains a series of statements of fact and desirable outcomes which no party sought to challenge and which we regard as 'givens' for the purpose of our considerations. The Waterfront Framework is a Council document however we note that its provisions are not inconsistent with those of the Regional Coastal Plan.*

- Underground parking preferred - an alternative could be above-ground parking in a building on Site 102
- Views from city streets preserved, and improved where possible
- “Two parts” promenade - one path along the Tug Wharf and a more sheltered path incorporated by new buildings along the inner water’s edge
- Tug Wharf refurbished and access to water for fishing and pleasure boats improved.

In relation to “building relationship to open spaces”, a key feature of the Project, it is recorded that:

*“New buildings in this area will have a range of uses, and could include recreational, retail, commercial, residential and institutional uses. An option to be further explored in this area is the idea of a contemporary maritime museum.*

*New buildings in the North Queens Wharf Area will be sympathetic to, and relate to the scale and size of, the heritage buildings, bearing in mind that Shed 21 at the northern end is higher than the heritage buildings at the southern end. They will also be designed in a coherent fashion so they relate to and complement each other”.*<sup>107</sup>

The Project is assessed as being consistent with this ‘vision’ for the Kumutoto Precinct.

### 6.5.2 Environment Court Decision on Variation 11

Several of the ‘findings’ of the Environment Court that are considered to be relevant “other matters” to which regard can be had. Those matters are the Court’s observations that:

1. Site 8 (aka Block C) is “better left as open space”;
2. a “permissible height of 22m is appropriate” for Site 10 (aka Block A);
3. a setback of the Site 10 building from the edge of the CentrePort land to the south-east should be more than 9m; and
4. any building on Site 10 should ‘read’ as more than one building.

Given that the Court in the Waterfront Watch case was considering an appropriate planning regime for the North Kumutoto Precinct, it is considered that the above observations have some relevance to an assessment of the ‘appropriateness’ of the Project, both the new building component and the public open space component.

In respect of the above four items the following comments/observations are made:

1. Site 8 is to be developed as a high quality public open space which will significantly enhance the public amenity of this part of the waterfront.
2. The Site 10 building is very largely compliant with the 22m height the Court deemed to be appropriate.
3. The Site 10 building (at its northern end) is set back a minimum (at ground floor level) of 10.1m.<sup>108</sup> This provides for an appropriate depth of area to enable the space to ‘shared’ by active modes (pedestrians and cyclists) travelling along the waterfront area, plus vehicles. However, the laneway is not intended to provide through-access for vehicles, other than vehicles associated with the occupiers of both the proposed Site 10 building and the adjacent Shed 21.

As the independent transportation assessment notes:

*“The existing laneway connection between the Bunny Street and Whitmore Street intersections will be more formally established, providing a clearly defined vehicle path through this area. The defined laneway will be established, with kerbside parking provided on its western side. This area will include contrasting materials and raised thresholds (rather than the more traditional asphalt, paint and markings used in solely trafficked areas)”.*<sup>109</sup>

<sup>107</sup> Wellington Waterfront Framework, page 33

<sup>108</sup> The setback of Shed 21 (to the north) from the CentrePort land is 9.2m.

<sup>109</sup> Transportation Assessment Report, Volume 4, Appendix 15, page 19



4. For the approximately southern third of the building frontage the set back is essentially the full width of the site to Waterloo Quay as a consequence of the ground level 'cut out', with only the upper levels ('flying gantry') spanning this area. At the upper level at the south end the set back is 13.5m.
5. At ground level the space from the eastern edge (former Eastbourne Ferry terminal building) to Waterloo Quay will be developed as public open space (Whitmore Plaza).
6. In relation to the Environment Court's comment that the building should read as more than one building, as the Architectural Statement notes:

*"Although a single building, the mass has been broken down into two lower podium forms, split by the cross-site Harbour Wharf link, with a third continuous upper level form spanning over the top, like a working waterfront gantry. While the scale and form of this flying gantry is celebrated at the southern end as a gateway marker and civic portico to Whitmore Plaza, it transitions at the North end to meet the scale, elevational orders, and modulation of Shed 21.*

*These three inter-linked forms combine to form a cohesive whole that integrates with the various conditions of open space, water's edge, street, existing and anticipated built form in the area".<sup>110</sup>*

While there is no 'permitted baseline' against which to assess the proposed Site 10 building, the observations made by the Environment Court in its decision on Variation 11 (a variation to the District Plan's Central Area/Lambton Harbour Area provisions), which sought to introduce an appropriate planning framework for North Kumutoto, can be had regard to as relevant other matters under s104(1)(c) of the Act.

## 6.6 SUMMARY - S104 EVALUATION

In section 4 "Statutory Context" a series of questions were framed for s104 evaluation. In turn, it was noted that answers to the questions would form part of the overall resource management assessment.

The questions were:

*Question 1: can the Project be considered as an 'appropriate' development within the Wellington Waterfront (Lambton Harbour Area) and adjacent to and within the coastal marine area?*

Yes. The Wellington waterfront (LHDA/LHA) is part of the waterfront that has long been utilised for commercial port operations (for close on 100 years) and more recently since the mid to late 1980s has been undergoing a transformation to a more 'urban amenity' waterfront following the shift of the majority of the commercial port operations to the new container port to the north.

The developments now proposed for Site 10, a new five-level commercial building and North Kumutoto public open spaces, including Site 8, are consistent with the long-term strategic vision for the waterfront, which is that Wellington's waterfront:

*"... is a special place that welcomes all people to live, work and play in the beautiful and inspiring spaces and architecture that connect our city to the sea and protect our heritage for future generations".<sup>111</sup>*

The North Kumutoto Project will make a significant contribution to the realisation of this vision. Consequently, the proposed Site 10 building, which will add to the viability and vitality of the waterfront by bringing a significant 'daytime population' to the waterfront, and the enhanced public open spaces, are 'appropriate developments' and consistent with the statutory instruments that guide development in this part of the waterfront and adjacent coastal marine area.

*Question 2: will the Project enhance public access to and along the harbour edge / coastal marine area?*

Yes. The Project will add significantly to the public and pedestrian amenity of North Kumutoto through enhancing (through extension) the waterfront promenade and by providing significantly enhanced pedestrian linkages to and through the area, including the new pedestrian link through the Site 10 building from Waterloo Quay to the waterfront promenade.

<sup>110</sup> Architectural Design Report, Volume 3, Appendix 1, page 8

<sup>111</sup> Op cit, page 11

At Site 8 the development of the public open spaces will provide opportunities for closer access to the water's edge - particularly through the two new bridges over the water - a key principle of the Wellington Waterfront Framework.

*Question 3: will the Project enhance the quality of public open spaces on the waterfront?*

Yes. There will be a significant lift in the public amenity of the North Kumutoto Precinct, which will involve the removal of significant areas of surface-level car parking and the associated vehicle accesses and their 'replacement' with quality public open spaces which will carry forward the high standard of landscaped public open space(s) achieved elsewhere on the waterfront.

*Question 4: will the proposed new building on Site 10 contribute positively to the Central Area's urban form and the waterfront's 'sense of place'?*

Yes. The proposed new building establishes a high level of architectural design, with strong maritime references, and an overall urban form that enables it to establish a positive relationship with the character/heritage buildings in the North Kumutoto Precinct, including Shed 21 and the former Eastbourne Ferry terminal building.

The high level of ground floor 'public' permeability and active edge will enable the building to establish a positive relationship with the adjacent public open spaces. The building at the northern end of the waterfront will establish a strong sense of place and connection to the CBD, as envisaged by the Wellington Waterfront Framework.

Its overall height and 'urban form' is consistent with the principle of buildings 'stepping down' from the height of buildings in the Central Area where the permitted activity height is 60m above mean sea level.

Heritage New Zealand has stated:

*"The proposed building is cantilevered over open space. This overhang, and the path through the building, offer sheltered public space on the waterfront with an opportunity to appreciate the waterfront heritage – to enjoy views of the harbour area and Former Eastbourne Ferry Terminal"* - refer Volume 3, **Appendix 6**.

*Question 5: will the proposed new building on Site 10 contribute to the Wellington Waterfront Framework's vision of buildings being in scale with and sympathetic to heritage buildings?*

Yes. The building does establish a strong positive relationship with the adjacent heritage buildings. As Heritage New Zealand states:

*"The overall size of the new building is within the plan perimeter of Site 10. The height and bulk of the proposed building are in comparative proportion to Shed 21. The new building neither overwhelms Shed 21 in size, nor in the appearance of the external fabric. There have been distinctive efforts to align elevation features of the new building to detailing of Shed 21 and, in this subtle way, show sensitivity to heritage in the new building. The building alignment along Jervois Quay ensures views of Shed 21 can be seen from the roadway".*

*"There is sufficient separation of the proposed building from the Ferry Terminal to enable the heritage building to be approached, seen and understood in three dimensional nature"* - refer Volume 3, **Appendix 6**.

In the Assessment of Environmental Effects on Heritage (Volume 3, **Appendix 12**), in regards to the Wellington Waterfront Framework it is stated that:

*"While the Framework is not a statutory document, it anticipates a "stronger sense of the city form being developed in this area [the North Queens Wharf area] through a higher proportion of buildings than on the rest of the waterfront." New buildings will be "in scale" with heritage buildings. In its decision on appeals on the Wellington City Council Variation 11 the Environment Court helpfully confirmed that "being in scale is not an absolute requirement for dimensional equality". The Court recognised that "scale relates to a number of features which are likely to influence relative acceptable proportionality".<sup>112</sup>*

In relation to scale generally, the Assessment of Environmental Effects on Heritage (Volume 3, **Appendix 12**) states:

<sup>112</sup> Assessment of Environmental Effects on Heritage, Archifact Limited, October 2014, pages 20 and 21

*“This Assessment of Environmental Effects is primarily focussed on effects arising from the proposed development on adjacent heritage values. In this case focus is given to effects from the proposed development on Sheds 11, 13 and 21, on the former Eastbourne Ferry Terminal building, on the Wharves and Wharf Edges, and on the reclamation edge (rip-rap). With these buildings, elements, and features in mind the proposed building and open space developments have paid particular attention to matters of height, scale, form and overall context.*

*The proposed development of both Sites 8 and 10 are not considered to have any significant negative effect on surrounding heritage values. The scale (height, bulk), articulation, public and visual permeability of the development on Site 10 adheres to the decision of the Environment Court when it considered the appeal on the Wellington City Council’s Variation 11 and particularly to the Court’s consideration of appropriate height and bulk on that Site. The development of public open space on Site 8 also reflects some of the observations of the Environment Court with respect to the sensitive interface between new built form and the adjacent heritage buildings and heritage values of the surrounding area”.*<sup>113</sup>

*“The matters of form, mass, proportion and materials relate to scale and predominant architectural style, but are themselves separate points whose detail is addressed in the Athfield Architects Limited Architectural Design Report. The proposed gantry element of the Site 10 building and its related public portico space to Whitmore Plaza which it overhangs articulates the perception of bulk, mass, and proportion with open space at the south of the building while acting as an important transition to meet the scale, elevational orders, and modulation of Shed 21 to the north. The form, mass, proportion and materials of the proposed building on Site 10 are considered to be compatible with the original architectural style predominant in the area and take their lead from a number of area and site specific generators including Shed 21, the Whitmore Street view shaft towards the former Eastbourne Ferry Terminal building and the harbour, and historic lines associated with the working port and its wharves”.*<sup>114</sup>

*“The scale (height, bulk), articulation, public and visual permeability of the development on Site 10 adheres closely to the decision of the Environment Court when it considered the appeal on the Wellington City Council’s Variation 11 and particularly to the Court’s consideration of appropriate height and bulk on that Site. The matters of height and bulk each relate to scale, but are themselves separate points whose detail is addressed in the Athfield Architects Limited Architectural Design Report. It is fair to say in recognising the effects the proposed gantry element of the Site 10 building and its related public portico space to Whitmore Plaza which it overhangs articulates the perception of bulk and mass with open space at the south of the building while acting as an important transition to meet the scale, elevational orders, and modulation of Shed 21 to the north”.*<sup>115</sup>

**Question 6:** *will the proposed new building on Site 10 give rise to any adverse effects on waterfront amenities as a consequence of significant micro-climatic effects (wind and shading)?*

As could be expected, a new building will result in some additional shading and changed wind effects, as the District Plan acknowledges. However, in terms of shading, while the immediately adjacent Whitmore Plaza will receive significant shading, the ‘protected’ Kumutoto Plaza will not be shaded at any time of the day or year; nor will the new public open spaces on Site 8. Thus, even when the immediately adjacent Whitmore Plaza is in shade, other close-by public spaces will not be. Thus, there will be opportunities for members of the public to enjoy sun or shade in quality open spaces, depending on their preference.

In terms of wind, presently the area is exposed. The new building on Site 10 will result in a notable improvement in the local wind environment and the public open spaces have been designed to provide areas of shelter. Overall therefore, there will be an improvement in the local wind environment.

**Question 7:** *will the Project accommodate vehicular and pedestrian traffic and movement in a safe and efficient manner?*

Yes. The general ‘transformation’ of the Project Area from one dominated by motor vehicles to one with a significant emphasis on pedestrian amenity is a strongly positive outcome.

Where there has to be a continuation of vehicle access and movement, as with most other parts of the waterfront this use and access will be much more ‘controlled’ with general priority being given to active transport modes (pedestrians and cyclists) rather than vehicles.

<sup>113</sup> Op cit, page 11

<sup>114</sup> Op cit, page 15

<sup>115</sup> Op cit, page 18

This 'priority' is signalled and managed by providing clearly defined vehicle paths through use of contrasting materials and raised thresholds, with the design approach focusing on the delivery of 'shared spaces' as well as pedestrian and cyclist 'only' spaces, including the waterfront promenade.

Overall there will be a reduction in vehicle movement to and from the Project Area and this reduction, along with the realignment of the principal access at the Whitmore Street intersection, will shift the focus from vehicle amenity to pedestrian amenity and safety, consistent with the vision laid down in the Wellington Waterfront Framework.

*Question 8: will there be any adverse effects associated with the Project earthworks, including the removal of any contaminated material?*

Yes. While there will be some short-term disruption to public access to this part of the waterfront during the construction earthworks the earthworks themselves will be undertaken to ensure that any potential adverse effects, including dust and sedimentation discharge to stormwater and the coastal marine area, are 'avoided' to the greatest extent practicable through comprehensive and robust construction measures such as the implementation of a sediment control plan and construction management plan approved by the consent authorities. As the other parts of the waterfront that have been developed confirm, short-term construction effects, including earthworks, although they may result in some short-term inconvenience and disruption, result in a strongly positive outcome.

The removal of any contaminated material will be handled in a manner to ensure there is no risk to human health or the environment.

*Question 9: will there be any short-term effects on harbour waters during construction?*

Yes. However, the potential for discharge of any contaminants to the coastal marine area, including sediment laden water, will be a specific focus of the construction-related management plans to be implemented through the consent conditions.

*Question 10: will the Project appropriately address the risks and consequences of natural hazard events, including events associated with sea level rise?*

Yes. As the specialist reports confirm, the new building has been designed to achieve a high level of seismic performance thereby addressing the risk and consequences of ground shaking/seismic events.

Structural engineers, Dunning Thornton, have confirmed that the structural and architectural design mitigates issues of high shaking hazard, liquefaction/lateral spreading potential, and the site's susceptibility to tsunami/seiche waves, through a proposed high-performance structure that is expected to perform well in excess of minimum code requirements. The building will be base-isolated to provide seismic, life-safety performance in excess of Importance Level 3. Above the base isolators, the structure will be predominantly steel framed to provide the strength and resilience at the least weight.

As the building will be base-isolated, it will be possible to mitigate the effects of sea level rise by raising the building at isolation level. Other mitigation measures could be used to prevent flood waters entering the basement, including the raising of the crest to the vehicle ramp, together with the surrounding ground surface levels and/or installation of flood-gates that could be used for the duration of an exceptionally high tide event.

Referring to the potential for a combination of events and hence combination of effects, the Beca report concludes that:

*"If a one-metre sea-level rise over 100 years is considered (which would require a six-fold increase in the long-term average rate of sea level rise over the past 100 years), then in combination of other effects it is possible but unlikely that the site itself will be inundated. There is a low likelihood of the ground floor of the proposed building being inundated on occasions in the second 50-year period of the building's life under extreme sea-level events in combination with sea level rise.*

*However, it should be noted that the inundation that affects the site and the proposed building will also affect much of Waterloo Quay and the CBD to the west of the site to the same extent".*

Thus, the question is answered in the affirmative - the Project has addressed the consequences of natural hazards, including sea level rise, through incorporating appropriate measures such as base-isolation and the ability to lift the building if necessary.

Nevertheless, and although there will be no residential occupation of the building, the Applicants consider it appropriate to have an 'emergency management plan' (EMP) prepared prior to the occupation of the building. The EMP should outline the

actions and contingencies to be taken in the event of an emergency including a strong earthquake, locally generated tsunami and a storm surge. The EMP should consider and address all options for managing building occupants and visitors in the event of such natural hazard events occurring.

*Question 11: will the Project result in positive effects for the overall development of the Wellington waterfront?*

Yes. The Project will bring about significant positive outcomes including a waterfront building that will add a significant daytime population thus enhancing the vitality and viability of the waterfront. The development of the public open spaces will add significantly to the public and pedestrian amenity of a part of the waterfront currently dominated by parked vehicles.

The existing campervan facility will not be 'lost' to the waterfront. Rather, it will be [re]located to a close-by site on CentrePort land.<sup>116</sup> Thus, no positive amenities associated with the project area will be lost.

The developments now proposed will bring certainty to this part of the Lambton Harbour Area after almost 30 years of 'uncertainty', and thus complete an important part of the overall vision for the waterfront.

*Question 12: is the Project consistent with national, regional and district policy that provides for the integrated/co-ordinated management of natural and physical resources across the line of mean high water springs?*

Yes. A key consideration underpinning the decision to lodge the four consent applications concurrently was the need to ensure a co-ordinated approach to development across the line of mean high water springs. This approach is in line with the statutory instruments at all three levels (national, regional and district) encourage and provide for this approach (refer Section 6.4.13 above).

The co-ordinated approach to the applications has included a close collaboration between the design teams responsible for the Site 10 building (Athfield Architects) and the public open spaces (Isthmus Group), and the request to the key technical advisors that they should view and assess the Project as an integrated development.

This approach was subsequently followed through into the overall assessment of the Project, as detailed in this AEE report.

This approach has its 'genesis' in the former transitional District Plan - the Lambton Harbour Combined Scheme (refer section 3.1 of this AEE) - which sought to:

*"Create a high quality built environment within the Lambton Harbour Development Area with uses appropriate to a waterfront location and complementary to the Central Area of the City and which is financially viable".<sup>117</sup>*

This coordinated approach to the development and management of the Wellington Waterfront was reaffirmed in the Wellington Waterfront Framework (2001).

The conclusion of this AEE is that the North Kumutoto Project is consistent with the policy frameworks of the national, regional and district instruments, and will result in the development and use of a key part of the Wellington Waterfront in a manner that positively reinforces the harbour/city interface.

## 6.7 PART 2 RMA

Part 2 of the Act "Purpose and Principles" comprises sections 5 to 8.

Section 5 sets out the Act's purpose as follows:

*(1) The overall purpose of the Act is to promote the sustainable management of natural and physical resources.*

<sup>116</sup> This proposed relocation of the campervan park to adjacent CentrePort land is not part of the current resource consent applications. The relocation is being organised by Wellington Waterfront Limited as a separate matter.

<sup>117</sup> Lambton Harbour Combined Scheme, page 13

- (2) In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while –
- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
  - (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
  - (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

In turn, sections 6 to 8 set out ‘principles’ relating to:

- Matters of National Importance (s6)
- Other Matters (s7)
- Treaty of Waitangi (s8)

Turning first to sections 6 to 8 the following comments are made:

### Section 6: Matters of National Importance

The following s6 matters of national importance are considered to be relevant to an assessment of the Project:

- s6(a): the preservation of the natural character of the coastal environment (including the coastal marine area) and its protection from inappropriate subdivision, use and development.

The North Kumutoto Precinct is an integral part of the Wellington waterfront that was initially developed for commercial port purposes but is now undergoing a ‘transformation’ to a publicly accessible waterfront with a strong emphasis on public amenity and public use. The Project is an ‘appropriate’ development in line with the planning framework that has been established to guide this transformation.

- s6(d): the maintenance and enhancement of public access to and along the coastal marine area:

Public access to and along the waterfront, including access to the water’s edge and the wharves (the coastal marine area), is a principal objective of the Wellington Waterfront Framework. The public walkway (promenade) is the spine of the waterfront. The Project will add to and enhance the promenade as it passes along and through North Kumutoto.

During the construction phase there may be some temporary restrictions on public access along sections of the promenade. However, alternative public access through or adjacent to the Project site will be available at all times.

- s6(e): the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

As stated in the cultural impact report (refer Volume 3, **Appendix 7**), the Project Area is an area with strong association with the Te Atiawa/Taranaki Whanui ki te Upoko o te Ika and the hapu of Ngati Te Whiti. The cultural impact report, prepared in association with the Port Nicholson Block Settlement Trust and the Wellington Tenth Trust, confirms that the reconnection of the people of Wellington with te moana o te Whanganui a Tara (the waters of Wellington Harbour) in a positive way is important, not only in terms of Maori culture, but also in terms of the overall culture of the City.

The report does not identify any particular cultural issues; but does identify the possibility of some Maori cultural artefacts or archaeological items being discovered during site works and therefore recommends that it would be prudent to have an accidental discovery protocol in place.

- S6(f): the protection of historic heritage from inappropriate subdivision, use and development

The Wellington waterfront has important historic heritage values that should be protected from inappropriate development. In the near vicinity of the Project are a number of listed buildings and items, including Shed 21, the former Eastbourne Ferry terminal building, Sheds 11 and 13, the Tug Wharf, and the wharf edge and reclamation edge, all of which are listed heritage items in either the District Plan or the Regional Coastal Plan.

The Project has been designed to avoid any loss of historic heritage values. The new building on Site 10 achieves an appropriate relationship with Shed 21 and the former Eastbourne Ferry terminal building. The proposed public open space development, although some of the works will impinge on the historic reclamation edge in front of Site 8, will add a more appropriate setting for appreciating the historic heritage of the North Kumutoto Precinct.



Relevant to the Proposal is the wharf edge from Tug Wharf along to the recently completed Clyde Quay development (including the reclamation edge from the Lagoon to the Tug Wharf vicinity). This stretch of wharf is recognised in the Regional Coastal Plan in the list of buildings and features of historic merit.<sup>118</sup>

Heritage New Zealand have advised that, the proposal for the waterfront building respects the nearby heritage, that the bulk and location of the building is suited to its heritage neighbours and its exterior appearance is not dominant or overwhelming. Further, Heritage New Zealand confirms that the open spaces offer opportunities for locating interpretation, and recommends the use of the historic gates and railings in the Project which form part of the preliminary design.

Accordingly, the Project is considered to be consistent with s6(f).

## Section 7: Other Matters

The following “other matters” are considered to be relevant to an assessment of the Project:

- s7(a): kaitiakitanga / s7(aa): the ethic of stewardship

Input by Maori into the assessment process (principally through consultation and the preparation of the cultural impact report) is consistent with the principle of kaitiakitanga; while the incorporation of an accidental discovery protocol in any consents granted is consistent with the ethic of stewardship.

- s7(b): the efficient use and development of natural and physical resources

The use of Site 10 for a building, as has long been envisaged through the applicable planning instruments, is an efficient use of a site that has, since the demolition of the former Harbour Board building (Shed 17 in 1986), been principally used for car parking (and currently as a camper van park).

The use of the ground floor of the new building for publicly accessible activities, the incorporation of the creative business hub accommodation and the commercial office space will all contribute to the economic viability of the Project. In turn, the significant capital sum payable by the Applicant (Site 10 RLP) for the long-term lease will enable the Council to fund the development of the North Kumutoto public spaces, which is budgeted at \$5 million in the Council’s capex programme. This expenditure will result in a ‘transformation’ of much of the North Kumutoto Precinct from an area currently largely occupied by car parks to a series of vibrant, high amenity public open spaces. This transformation represents an efficient use of resources to achieve a high quality ‘urban waterfront’ environment, consistent with the vision laid down in the Wellington Waterfront Framework.

- s7(c): the maintenance and enhancement of amenity values

The amenity values of the immediate area will overall be enhanced by bringing a significant daytime population to the area and developing open space, which in turn promotes public and pedestrian amenity. Overall, the Project will result in a significant enhancement of the public amenities of the North Kumutoto section of the Wellington Waterfront.

- s7(d): the intrinsic value of ecosystems

The waters of the inner harbour and the seabed have been significantly affected over the years by port activities and as a result of storm water discharge. The coastal marine area is a highly modified environment and not one with significant intrinsic value in terms of coastal ecosystems.

The Project will not result in any significant (further) deterioration of the water or ecosystems of the coastal marine area.

Furthermore, there are no extant land-based ecosystems. Rather, significant areas of car parking and associated vehicle accesses will be removed and replaced by landscaped open spaces.

- s7(f): the maintenance and enhancement of the quality of the environment

<sup>118</sup> Assessment of Environmental Effects on Heritage, Archifac Limited, October 2014, page 8



The Project will result in a significant enhancement of the quality of the environment in the North Kumutoto Precinct, principally through an enhancement of the landscaped public open spaces, but also through the construction of a new building consistent with the Wellington Waterfront Framework's principle of 'high quality' development.

The ground floor of the building will be accessible to the public and will open out onto sheltered public spaces. The quality of the public and pedestrian environment will be significantly enhanced.

- s7(i): the effects of climate change

Dunning Thornton has confirmed that the building has been designed to take account of the likely rise in sea level as a consequence of climate change (refer Volume 4, **Appendix 20**):

*The proposed foundation of the building is of a form that would make the raising of the whole building a relatively easy matter if some predictions of climate change-induced sea-level rise are realised.<sup>119</sup>*

Mitigation measures are also available to prevent any flooding of the basement, including raising the crest to the vehicle ramp, together with the surrounding ground surface levels and/or the installation of flood gates that could be used for the duration of an exceptionally high tide event.

### **Section 8: Treaty of Waitangi**

The commissioning of the cultural impact report and the consultation with the Port Nicholson Block Settlement Trust and the Wellington Tenth Trust is consistent with the 'partnership principles in the Treaty of Waitangi.

The Applicants are committed to on-going consultation with tangata whenua and anticipate that representatives of the Port Nicholson Block Settlement Trust and the Wellington Tenth Trust will participate in the decision-making on the resource consent applications submitted for the Project.

### **Section 5: Purpose of the Act**

The Project will actively promote the purpose of the Act in two important ways:

1. it will provide for the sustainable management of a significant natural resource (Site 10) in a manner consistent with the relevant planning instruments and the Wellington Waterfront Framework. The building, and the activities that it will enable to establish on the waterfront, will make a significant contribution to the amenity and vitality of the North Kumutoto Precinct; and
2. it will provide for the sustainable management of a significant natural resource (Site 8) and other adjacent areas, which are currently principally occupied by car parks and associated vehicle accesses, in a manner that will enhance the opportunity for members of the public to enjoy the open space amenities of the waterfront and therefore better provide for their social, cultural (and recreational) needs.

At the same time, the potential for any adverse effects associated with the Project on the public amenities of the waterfront, and on the private amenities of the owners and occupiers of other Central Area buildings, have been appropriately avoided, remedied or mitigated. Any residual effects will not be more than minor. Indeed, in relation to the public amenities of the waterfront, the overall outcome will be strongly positive.

Accordingly, it is concluded that the Project is consistent with the Act's sustainable management purpose.

## **6.8 SECTION 104B RMA**

Section 104B states:

*Determination of applications for discretionary or non-complying activities –*

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<sup>119</sup> Site 10 - Kumutoto - Natural Hazards Assessment, 22 October 2014, page 9. Refer Volume 4, **Appendix 21**

*After considering an application for resource consent for a discretionary activity or non-complying activity, a consent authority -*

- (a) may grant or refuse the application; and*
- (b) if it grants the application, may impose conditions under section 108.*

For the reasons outlined in this assessment of environmental effects (AEE) report, it is considered that the consent authorities would be fully entitled to exercise their discretion and grant consent to the applications. In summary, those reasons are:

1. The Project will result in significant positive effects.
2. The Project, given the implementation of consent conditions on the recommended topics (see below), will not result in any adverse effects on the environment that are more than minor.
3. The Project is consistent with the objectives and policies of the relevant statutory instruments, including the New Zealand Coastal Policy Statement, the Regional Policy Statement for the Wellington Region, the Regional Coastal Plan, the Regional Freshwater Plan, the Regional Discharges to Land Plan and the Wellington City District Plan.
4. The Project will enhance the amenities of the Wellington waterfront in the manner promoted by the Wellington Waterfront Framework.
5. The Project will promote the sustainable management of the natural and physical resources of the waterfront.
6. The Project will contribute to the social, economic and cultural welfare of the communities of Wellington City and the wider Wellington Region,
7. No individual person or key stakeholder could reasonably claim to be adversely affected to more than a minor degree.

Notwithstanding the above conclusions, it is nevertheless acknowledged that the Project will result in some adverse effects, especially during the construction phase. Accordingly, it is appropriate that consent conditions addressing the following matters should form part of any consents granted:

### **Section 108 - Recommended Consent Conditions**

As with any project of the nature and scale proposed it is expected that there will be a number of consent conditions which are directed to enabling the implementation of the consents in a manner that will ensure that any adverse effects are appropriately 'avoided, remedied and mitigated'.

The Applicants accept that consent conditions should be imposed to address the following principal matters:

#### *General*

The developments should proceed in accordance with the application drawings (both in respect of the Site 10 building and the public open spaces).

#### *Site 10 Building*

Consent conditions should address:

1. earthworks and construction management covering, among other matters:
  - public access and public safety;
  - earthworks stability;
  - erosion and sediment control;
  - dust control;
  - transport of material;
  - construction noise; and
  - construction traffic management;
2. site contamination remediation (a Contamination Site Management Plan and a Site Validation Report);
3. accidental discovery protocol;

4. pre-construction survey of adjacent land and buildings;
5. post-construction traffic management;
6. natural hazards (emergency management) plan;
7. complaints and incidents records; and
8. standard monitoring and review.

*Public Open Spaces*

1. earthworks and construction management covering, among other matters:
  - public access and public safety;
  - earthworks stability;
  - erosion and sediment control;
  - dust control
  - transport of material;
  - construction noise; and
  - construction traffic management;
2. site contamination remediation (a Contamination Site Management Plan and a Site Validation Report);
3. landscape plan;
4. accidental discovery protocol;
5. post-construction traffic management;
6. complaints and incident records; and
7. standard monitoring and review.

## 7 CONCLUSION

**Site 10 Redevelopment Limited Partnership** and **Wellington City Council** (the Applicants) are applying for all necessary resource consents to enable the development of a new commercial building on Site 10 and public open spaces at North Kumutoto. These developments, referred to in this AEE as the “Project”, will complete the development of the Kumutoto Precinct, with the exception of a future building on Site 9.

This AEE has described the Project, summarised the relevant planning history for the waterfront, established the overall planning framework to guide the development of the waterfront, and assessed the actual and potential environment effects, all in accordance with the Fourth Schedule of the Resource Management Act 1991. The assessment has concluded that the Project will make a positive contribution to the overall quality and attractiveness of the waterfront environment.

The AEE has been prepared on the basis that it will support the assessment of applications made to the Wellington City Council and applications made to the Greater Wellington Regional Council. This approach has been adopted to facilitate consistency in the administration of resource management matters across the line of mean high water springs, as encouraged by both the Wellington City District Plan and the Regional Coastal Plan.

Notwithstanding the jurisdictional boundary, the Applicants and their project architects and the project landscape architects have worked closely together to achieve an integrated development that delivers a high quality public environment.

This approach is consistent with:

1. the objectives and policies of the applicable statutory instruments; and
2. the vision statement for the Wellington Waterfront; and
3. the sustainable management purpose of the Resource Management Act 1991.

Accordingly, it is appropriate that the consents are granted subject to appropriate consent conditions on the subjects as outlined in section 6.8.

Alistair Aburn  
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Director  
**URBAN PERSPECTIVES LTD**

10 November 2014

**APPENDICES**

1. Architectural Design Report
2. Landscape Design Statement
3. Lambton Harbour Combined Scheme - Map 2.1
4. Lambton Harbour Combined Scheme - Concept Plan
5. District Plan Audit (Site 10 Building)
6. Written Approvals / Letters of Support (Site 10 Building)
7. Cultural Impact Report
8. Archaeological Assessment
9. Landscape Assessment
10. BuildMedia Photomontages
11. Urban Design Assessment
12. Heritage Assessment
13. Wind Report
14. Shading Assessment
15. Transportation Assessment
16. Ecology Report
17. Preliminary Excavation Methodology
18. Ground Contamination Assessment
19. Fuel Storage (Hazardous Substances) Statement
20. Structural Engineering Assessment
21. Natural Hazards Assessment
22. Draft Construction Management Plan
23. CPTED Statement