

**PROPOSED NEW BUILDING
SITE 9
NORTH KUMUTOTO
WELLINGTON WATERFRONT**



**RESOURCE CONSENT APPLICATION
WILLIS BOND CAPITAL PARTNERS NO 3 LTD
JULY 2018**

Resource consent application/ Fast-Track resource consent

Absolutely Positively
Wellington City Council
Me Heke Ki Pōneke

Under Sections 87AAC, 88, Resource Management Act 1991

Notes for the applicant

Use this form to apply for resource consent. It gives us your contact information, details about your proposal and a checklist to help you with your application.

If you have any questions, visit Wellington.govt.nz/resourceconsents, email planning@wcc.govt.nz or phone us on 04 801 3590

Send the completed application or hand it in to us at:

Resource Consents

Wellington City Council

PO Box 2199, 101 Wakefield Street, Wellington

General details

This application is for: land use consent subdivision consent fast-track application
 combined land use/subdivision consent

Omit this paragraph if the application does not qualify as a fast-track application under section 87AAC.

I opt out/ do not opt out* of the fast-track consent process.

*Select one.

The site to which this application relates is described as (*legal description*) Part of Lot 1 DP490659, plus Part Legal Road.

Any other commonly known name? Site 9, North Kumutoto

No: 15

Street: Customhouse Quay

Suburb: Wellington Central

Applicant details

Full name: Willis Bond Capital Partners No. 3 Limited

Postal address: c/- Willis Bond & Co Ltd, P O Box 24137, Wellington
(or alternative method of service under s352 of the Act) Attention: Rosalind Luxford

Phone: (day) (04) 805 0027

Mobile: 027 535 3045

Email address for service: rosalind@willisbond.co.nz

Note an electronic address for service must be provided if you are applying for a fast-track resource consent application.

Your agent (if applicable)

Name: Alistair Aburn

Postal address: Urban Perspectives Ltd
(or alternative method of service under s352 of the Act) P O Box 9042, Wellington

Phone: (day) (04) 474 4111

Mobile: N/A

Email address for service: alistair@urbanp.co.nz

Owner of the site that is the subject of this application

Name: Wellington Waterfront Limited

Postal address: c/- Build Wellington
(or alternative method of service under s352 of the Act) Wellington City Council, P O Box 2199, Wellington
Attention: Michael Faherty

Phone: (day) (04) 495 7894

Mobile: 027 278 2459

Email address for service: michael.faherty@wcc.govt.nz

Occupiers(s) of the site that is the subject of this application

Name: Wellington Waterfront Limited

Postal address: As above for Owner
(or alternative method of service under s352 of the Act)

Phone: (day)

Mobile:

Email address for service:

Important

Send additional invoices to

Applicant

Agent

Owner

Site description

Describe the site including its natural and physical characteristics and any adjacent uses that may be relevant to the consideration of the application.

Site 9 North Kumutoto lies to the immediate north of Shed 13 and has frontage to Customhouse Quay (to the west) and Lady Elizabeth Lane (to the east). North of Site 9 is Whitmore Plaza and the Whitmore Street gates. On the north side of the Whitmore Street gates is Site 10 with the recently completed PWC Centre.

East of Site 9 on the harbourside of Lady Elizabeth Lane is Site 8 which has been developed as a public open space.

Description of activity

Describe clearly the proposal to which this application relates.

Site 9 Building:

The proposal is the construction, use and maintenance of a new 5-level building. The ground floor level will be principally occupied by publicly accessible activities, including cafes, along with lobby space and building services and waste storage/recycling area.

No on-site car parking is proposed

A temporary construction yard will be established - refer attached Drawing RC-A "Site Plan".

A more detailed description of the proposal is provided in Section 2 of the assessment of environmental effects (AEE) report submitted with the application, and the Architect's Design Report, which is Appendix 2 to the AEE.

There are no other activities that are part of the proposal to which this application relates; or

The other activities that are part of the proposal to which the application relates are as follows:

[Describe the other activities that are part of the proposal to which the application relates. For any activities that are permitted activities, explain how the activity complies with the requirements, conditions, and permissions for the permitted activity so that a resource consent is not required for that activity under section 87A(1) of the Resource Management Act 1991.]

(Continue on another page if necessary.)

Are any other resource consent(s) required/granted for this proposal? Yes No
 (To find out, please contact a planning technician on 801 3590)

If yes, show any other resource consent(s) required as part of this proposal by ticking the relevant boxes

	Resource consent required/granted	Description of required/granted consent	Information attached
Land use consent	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No
Subdivision consent	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No
Coastal permit (Wellington Regional Council)	<input type="checkbox"/>		
Water permit (Wellington Regional Council)	<input type="checkbox"/>		
Discharge permit (Wellington Regional Council)	<input checked="" type="checkbox"/>	Discharge to Land - piling works	
Land use consent (Wellington Regional Council)	<input type="checkbox"/>		

Information which must be submitted with this application

Attach **two copies** of the following information to support this application, to satisfy the requirements of Section 88(2) of the Resource Management Act 1991 (RMA) and rule 3.2.2 in the District Plan. If all of the required information is not provided we may be unable to accept your application and it will be returned to you. Note: all plans must be to a measurable scale.

Permitted activities existing use rights

Where relying on permitted activities and/or existing use rights, these must be supported by:

1. sufficiently detailed plans; and
2. a compliance schedule and/or other supporting information that explains how the activity complies with the requirements of the District Plan or demonstrates how existing use rights are retained.

Assessment of environmental effects (AEE)

If you don't provide an AEE the Council cannot accept your application. The AEE should discuss all the actual and potential effects on the environment arising from this proposal. The amount of detail provided must reflect the nature and scale of the development and its likely effects. For example, if there are major effects arising from the proposal, a detailed analysis and discussion of these effects should be included in the AEE. You may have to provide information from experts such as an acoustic consultant or traffic engineer. If the effects of the proposal are very minor then a less-detailed AEE can be submitted.

For more information see clauses 6 and 7 of the Fourth Schedule of the Resource Management Act 1991, which includes information requirements and lists the matters to be addressed in an AEE.

Part 2

I attach an assessment of the proposed activity against the matters set out in Part 2 of the Resource Management Act 1991.

Other relevant provisions

- I attach an assessment of the proposal against the provisions of any documents referred to in s104(1)(b) if relevant. Refer to clause 2(2) of Schedule 4. Please note that these documents include:
- National Environmental Standards and other regulations
 - National Policy Statements
 - the NZ Coastal Policy Statement
 - the Regional Policy Statement or proposed Regional Policy Statement
 - the District Plan or proposed District Plan

Computer freehold registers (certificates of title) for the subject site (no more than three months old):

- including any relevant consent notice(s) registered on the computer register
- any encumbrances or any other registered instruments, including such things as right of way documents, esplanade instruments, etc

Locality plan (1:500) or aerial photograph (1:500) showing:

- the location of the site in relation to other streets or landmarks
- street number of the subject site and those of adjoining sites, (*rural sites can be shown at 1:1000 if required*)

Site plan (1:100/200) showing the EXISTING situation on the subject site, including (where relevant):

- layout and location of proposed structures and buildings or alterations to existing structures and buildings (*including fences, walls, retaining walls 2.5m or higher*), depth of front yards and distances from existing buildings on adjoining sites
- existing floor plans and elevations
- design of earthworks and final levels and contours of the site
- road frontages (*including any pedestrian crossings, steps or paths*)
- buildings on adjacent sites
- topography
- watercourses and catchment orientation
- all significant vegetation (*including vegetation on adjacent road reserve or surrounding properties*)
- hazardous areas

- Plan/s showing the PROPOSED development including (where relevant):**
- layout and location of proposed structures and buildings or alterations to existing structures and buildings (*including fences, walls, retaining walls 2.5m or higher*), depth of front yards and distances from existing buildings on adjoining sites
 - design of earthworks and final levels and contours of the site
 - vehicle parking, servicing, circulation and manoeuvring, pedestrian crossings and number and width of kerb crossing/s
 - roads or right-of-way proposals
 - calculation of total site coverage
 - for a non-residential site, the gross floor area of all buildings on the site (*for assessing car parking requirements*)
 - for a subdivision, the position of all allotment boundaries, the area of all allotments, location and areas of any new roads, any further information requirements such as esp reserves/strips, access strips or any land to be vested in the territorial authority under S237A of the RMA.
 - details of any signs
 - all landscape design proposals, site planting and fencing
 - photo montages

- Elevation drawings (1:50/1:100) of all structures to be built or altered (existing and proposed), showing:**
- relationship of buildings to the natural ground level, existing and finished ground levels and certificate of title boundaries
 - relevant District Plan sunlight access planes and maximum height, the street elevation, and the relationship of proposed structures to structures on adjacent sites, including the location of existing private outdoor spaces and main living area windows (*where these overlook the development*)

- Other information which may be required by the District Plan including:**
- design statement where design guides apply (*multi-units, Central Area buildings, character areas, etc*)
 - Noise report
 - Other
 - wind report for Central Area buildings above 18.6 metres
 - Traffic report

- Written approvals from affected parties:**
- letter or neighbours' approval form dated and signed by the affected parties AND their signature and the date on the plans submitted with this application. Please note conditional written approvals cannot be accepted.

Information required to calculate any development contribution:

Household units: number existing	Nil	Number proposed	Nil
Commercial: gross floor area existing	Nil	Gross floor area proposed	4,283sqm
Residential subdivision: allotments existing	Nil	Allotments proposed	Nil

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

This site may be subject to or covered by the NES for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011. This is determined by reference to the Hazardous Activities and Industries List (HAIL) which identifies those activities and industries which are more likely to use or store hazardous substances and therefore have a greater probability of site contamination. A full list can be found on the Ministry for the Environment's website www.mfe.govt.nz/issues/hazardous/contaminated/hazardous-activities-industries-list.pdf

Has the piece of land subject to this application been used for (*including its present use*), or is it more likely than not to have been used for an activity on the HAIL? Yes No

If 'Yes', and your application involves subdividing or changing the use of the land, sampling or disturbing soil, or removing or replacing a fuel storage system, then the NES may apply and you may need to seek consent for this concurrently in your application.

Site visit requirements

In order to assess your application it will generally be necessary for the planning officer to visit your site. This typically involves an outdoor inspection only, and there is no need for you to be home for this purpose.

Are there any locked gates, security systems or anything else restricting access by Council staff? Yes No

Are there any dogs on the property? Yes No

Do you require notice prior to the site visit eg if the property is tenanted? Yes No

Are there any other health and safety issues Council staff should be aware of before visiting your site?
If so please provide details so Council staff can take the necessary precautions:

Currently there are construction works in the immediate vicinity of the site associated with the public open space landscaping being undertaken by the Wellington City Council.

Fees

An initial fee must be paid before we can process your application.

I enclose the initial fee of \$ 16,000.00 paid by (please tick the applicable box):

Credit card Cheque attached Internet banking Service Centre (receipt attached)

I understand that the Council may invoice me for the actual and reasonable costs incurred to process this application – as identified in Section 36 of the Resource Management Act and the Council's current fee schedule.

Additional fees

If we spend additional time processing requests or incur expenses we need to invoice additional fees. This may happen during processing or once a decision on your application is made. We only charge for amounts over \$65. Likewise, refunds will only be made for unused amounts over \$65.

Our payment terms

Additional fees are due by the 20th of the month following an invoice. If payment is not received, you will be liable for all legal and collection fees.

The declaration below must be signed by the person(s) or entity responsible for paying the application processing costs. If you are an agent, you will need to obtain the signature of the person(s) responsible for paying the fees before submitting the resource consent application to the Council.

How to pay

Internet banking

The Council's bank account number is 06 0582 0106111 00. Use "RC" followed by the site address as a reference.

Cheque

Attach a cheque with your application and send it or hand it in to us at:
Resource Consents
Wellington City Council
PO Box 2199
101 Wakefield Street, Wellington

Online

Pay online using your credit card. Visit Wellington.govt.nz/payonline, choose Property from the dropdown box and follow the instructions.

In person

You can make payments by cash, cheque or EFTPOS at:
Wellington City Council Service Centre
101 Wakefield Street
8am-5pm, Monday to Friday.

We also accept Visa, MasterCard and American Express.

Phone

You can pay over the phone with your credit card.
Phone us on 04 801 3718.

Declaration

Subject to my rights under sections 357B and 358 of the RMA to object to any costs, I undertake to pay all costs associated with this application. I also agree to pay all the costs (including debt collection or legal fees) of recovering any unpaid costs.

Send all additional invoices to

Full name	Willis Bond Capital Partners No 3 Limited	
Postal address	c/- Willis Bond & Co, P O Box 24137, Wellington. Attention: Rosalind Luxford	
Applicant/Agent/Other (give details)	Alistair Aburn, Urban Perspectives Ltd, P O Box 9042, Wellington	
Phone (day)	(04) 474 4111	Mobile N/A
Email	alistair@urbanp.co.nz	
I have read and understand the above conditions.		
Signed		Date 26/7/18

NB: A signature is not required if the application is made by electronic means.

Notes for the applicant

Incomplete applications will be returned. The Council may also request further information under Section 92 of the Resource Management Act 1991, to better understand the potential effects of the proposal.

Once this application is lodged with the Council, it becomes public information. If there is sensitive information in the proposal, please let us know.

The Council may require a registered surveyor to certify contours, natural ground level, building site(s) or structure(s), location of boundaries or any other feature which may affect this proposal.

Fast-track application

Under the fast-track resource consent process, notice of the decision must be given within 10 working days after the date the application was first lodged with the authority, unless the applicant opts out of that process at the time of lodgement.

A fast-track application may cease to be a fast-track application under section 87AAC(2) of the Act.

Privacy information

The information you have provided on this form is required so that your application can be processed under the Resource Management Act 1991, and so that statistics can be collected by Wellington City Council. The information will be stored on a public register and held by Wellington City Council.

Under the Privacy Act 1993, you have the right to see and correct personal information.

Signature of applicant(s) or agent

Declaration for the applicant or authorised agent or other

I/we confirm that I/we have read and understood the notes above. If a private or family trust is the applicant, at least two New Zealand-based trustees are required to provide contact details and sign this form.

Applicant's name: Willis Bond Capital Partners No 3 Limited

Applicant's signature: 

Date: 26/7/18

Applicant's name: ROSALIND WXFORD

Applicant's signature:

Date:

Applicant's name:

Applicant's signature:

Date:

NB: A signature is not required if the application is made by electronic means.

Declaration for the agent authorised to sign on behalf of the applicant

As authorised agent for the applicant, I confirm that I have read and understood the above notes and confirm that I have fully informed the applicant of their/its liability under this document, including for fees and other charges, and that I have the applicant's authority to sign this application on their/its behalf.

Agent's full name: Alistair Aburn

Agent's signature: 

Date:

26/7/18

NB: A signature is not required if the application is made by electronic means.

How do you wish to be served with any correspondence

via electronic address for service
(please ensure you have provided an address on page 1)

via post, ie hardcopy, (or alternative method of service under s352 of the Act)

ANNEXURES TO RESOURCE CONSENT APPLICATION

- 1. SITE PLAN**
- 2. COMPUTER FREEHOLD REGISTER FOR LOT 1 DP 363596 AND ACCOMPANYING AERIAL PHOTOGRAPH**
- 3. ASSESSMENT OF ENVIRONMENTAL EFFECTS (AEE) REPORT**
- 4. APPLICATION DRAWINGS**

ANNEXURE 1

SITE PLAN

ANNEXURE 2

COMPUTER FREEHOLD REGISTER FOR LOT 1 DP 363596 AND ACCOMPANYING AERIAL PHOTOGRAPH



COMPUTER FREEHOLD REGISTER UNDER LAND TRANSFER ACT 1952



Search Copy

Identifier 709062
Land Registration District Wellington
Date Issued 21 March 2016

Prior References

258479 WN33C/718

Estate Fee Simple
Legal Description Lot 1 Deposited Plan 490659

Proprietors
Wellington Waterfront Limited

Interests

For area and dimensions see DP 490659

Subject to Section 8 Mining Act 1971 (Affects part formerly in CT WN14A/1034)

Subject to Section 168A Coal Mines Act 1925 (Affects part formerly in CT WN14A/1034)

Subject to stormwater drainage rights (in gross) over parts marked AG, AH, AI, AJ, AK, AL and AN on DP 490659 in favour of Wellington City Council created by Transfer 299412.1 - 12.2.1980 at 9:30 am

B346971.1 Mortgage (Encumbrance) to The Wellington City Council - 8.3.1994 at 2:45 pm (Affects parts formerly in CT WN36D/599 and Lot 8 DP 330297)

Subject to a right of way over parts marked M, T, U, V, W, Z, AA, AB, AC, AD, AI, AJ, AL, AM, AN, AO, AR, AS, AY and L on DP 490659 until the termination date or sooner expiry of Lease B810070.1 created by Transfer 5297344.2 - 26.7.2002 at 9:46 am

Appurtenant to part formerly Lot 102 DP 65083 is a pedestrian right of way (restricted as to height) created by Transfer 5324535.6 - 23.8.2002 at 2:41 pm (until the termination date or sooner expiry of Lease B810070.1)

Subject to a right of way over parts marked M, T, U, V, W, Z, AA, AB, AC, AD, AI, AJ, AL, AM, AN, AO, AR, AS, AY and L on DP 490659 specified in Easement Certificate 5324535.7 - 23.8.2002 at 2:41 pm

Appurtenant to parts formerly in CsT WN36D/599, WN14A/1034 and Lot 102 DP 65083 is a right of way specified in Easement Certificate 5324535.7 - 23.8.2002 at 2:41 pm

Subject to an electricity right (in gross) over parts marked BY, BZ, CC, CI, CE and CD on DP 490659 in favour of Vector Wellington Electricity Network Limited created by Transfer 6697280.9 - 19.12.2005 at 9:00 am

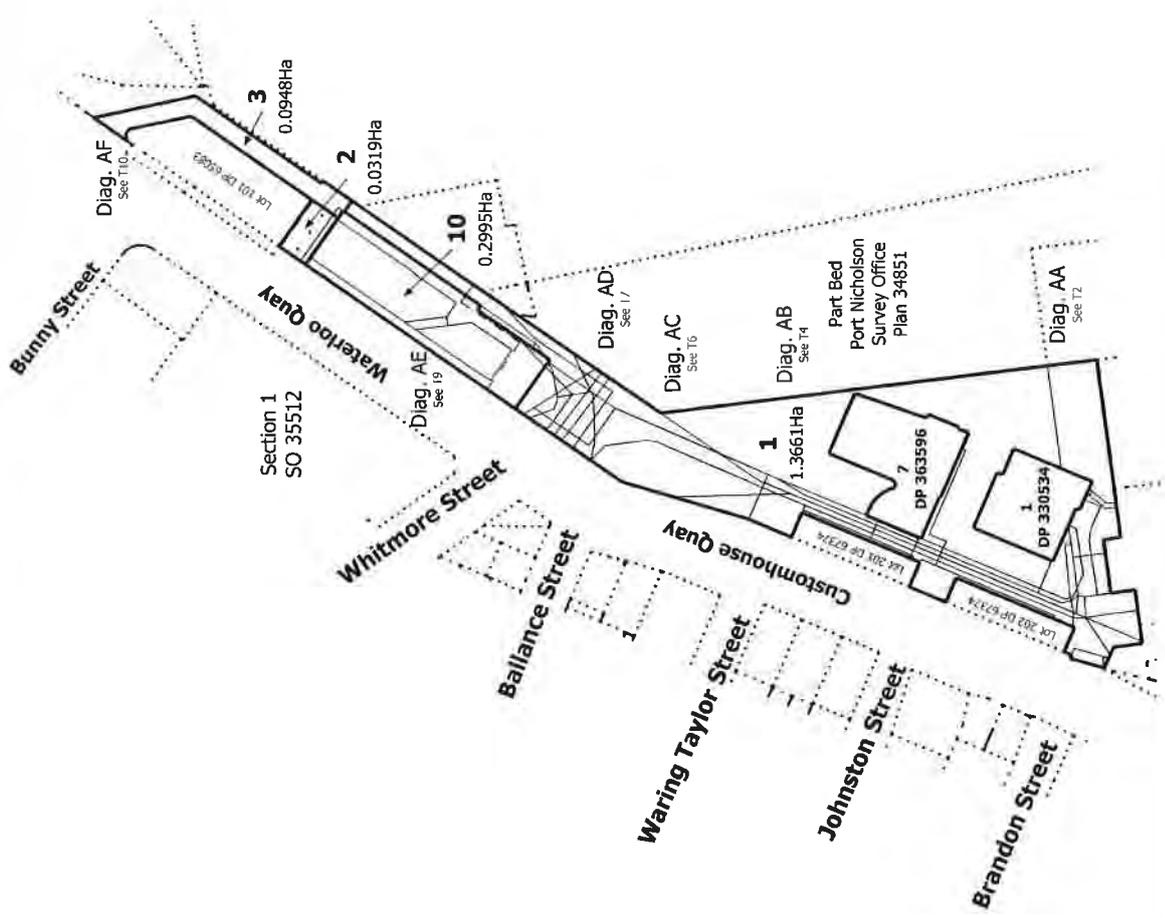
Subject to a telecommunication and computer media easement (in gross) over parts marked BX, BY, BZ, CA, CB, CC, CI and CD on DP 490659 in favour of Telecom New Zealand Limited created by Easement Instrument 6697280.10 - 19.12.2005 at 9:00 am

Subject to a right of way over parts marked V, W, X, Y, Z, AA, AB, AC, AD, AE, AF, AG, AH, AI, AJ, AK, AL, AM, AN, AO, AP, AQ, AR, AS, AT, AU, AV, AW, BE and BD right of way and parking over parts marked CG, CH, CJ, CK, CL, CO, DB, BA, BB, BC, BH, BI, BM, BN, BO, BR, BS, BV, BW, BX, BY, BZ, CA, CB, CC, CI and CQ, sewage drainage rights over parts marked CG, CH, CJ, CK, CL, CO, DB, BY, BZ, CC, CD, CF, CI and CP and water drainage rights over parts marked BY, BZ, CC, CG, CH, CI, CJ, CK, CL, CO, DB, CD, CF and CP and ventilation right over parts marked CN and CM all on DP 490659 created by Easement Instrument 6697280.12 - 19.12.2005 at 9:00 am

Subject to a right of way (in gross) over parts marked V, W, X, Y, Z, AA, AB, AC, AD, AE, AF, AG, AH, AI, AJ, AK, AL, AM, AN, AO, AP, AQ, AR, AS, AT, AU, AV, AW, BE and BD and right of way and parking (in gross) over parts marked BA, BB, BC, BH, BI, BM, BN, BO, BR, BS, BV, BW, BX, BY, BZ, CA, CB, CC, CI, CQ, CG, CH, CJ, CK, CL, CO and DB and a water supply rights (in gross) over part marked CD, CP, BY, BZ, CC and CI and



Diag. A



T 1/10

Land District: Wellington
 Digitally Generated Plan
 Generated on: 20/04/2016 10:39am Page 19 of 28

LOTS 1 - 3 & 10 BEING A SUBDIVISION OF LOT 1 DP 363596 AND LOTS 9 & 102 DP 65083

Surveyor: Christopher Brent Rodgers
 Firm: Cardno

Title Plan
 LT 490659
 Approved on: 20/04/2016

Identifier**709062**

water drainage rights (in gross) over parts marked CD, CP, BY, BZ, CC, CI, CJ, CK, CL, CM, CO and DB all on DP 490659 in favour of the Wellington City Council created by Easement Instrument 6697280.13 - 19.12.2005 at 9:00 am

The easements created by Easement Instrument 6697280.13 are subject to Section 243 (a) Resource Management Act 1991

Subject to a right to convey water (in gross) over parts marked AZ, BA, BC, BD, BE, BF, BG, BH, BI, BJ, BK, BM, BN, BO, BP, BQ, BS, BT, BU, BW, BX, CA, CB and CQ on DP 490659 in favour of Wellington City Council created by Easement Instrument 6851097.6 - 4.5.2006 at 9:54 am

The easement created by Easement Instrument 6851097.6 is subject to Section 243 (a) Resource Management Act 1991

Subject to a right to drain sewage and stormwater and right to convey water over parts marked BH, BI, BM, BN and BO on DP 490659 created by Easement Instrument 6851097.7 - 4.5.2006 at 9:54 am

The easements created by Easement Instrument 6851097.7 are subject to Section 243 (a) Resource Management Act 1991

Subject to a right of way over parts marked W, Z, AA, AB, AK, AL, AM, AN, AO, AP, AR, AS, AT, AV, BA, BB, BC, BD, BF, BH, BI, BJ, BN, BO, BP, BR, BS, BT, BZ, CA, CB, CC, CH, CK, CP and CQ on DP 490659 created by Easement Instrument 7531033.1 - 6.9.2007 at 9:00 am

Subject to a right (in gross) to telecommunications and computer media easement over parts marked AZ, BB, BC, BD, BE, BF, BH, BI, BJ, BL, BM, BN, BO, BP, BQ, BR, BS, BT, BW, BZ, CA, CB, CC, CG, CH, CK, CP and CQ on DP 490659 in favour of TelstraClear Limited created by Transfer 7531033.2 - 6.9.2007 at 9:00 am

Subject to a right (in gross) to convey gas over parts marked AZ, BB, BC, BD, BE, BF, BH, BI, BJ, BL, BM, BN, BO, BP, BQ, BR, BS, BT, BW, BZ, CA, CB, CC, CG, CH, CK, CP and CQ on DP 490569 in favour of Powerco Limited created by Easement Instrument 7531033.3 - 6.9.2007 at 9:00 am

Subject to a right (in gross) to convey electricity over parts marked BB, BC, BD, BF, BH, BI, BJ, BM, BN, BO, BP, BR, BS, BT and CQ on DP 490659 in favour of Vector Wellington Electricity Network Limited created by Easement Instrument 7531033.4 - 6.9.2007 at 9:00 am

Subject to a right (in gross) to convey telecommunications and computer media over parts marked AZ, BB, BC, BD, BE, BF, BH, BI, BJ, BL, BM, BN, BO, BP, BQ, BR, BS, BT, BW and CQ on DP 490659 in favour of Telecom New Zealand Limited created by Easement Instrument 7531033.6 - 6.9.2007 at 9:00 am

Subject to a right of way over parts marked L, M, O, S, T, AA, AB, AC, AD, AE, AH, AI, AJ, AK, AL, AM, AN, AO, AP, AQ, AX and N on DP 490659 created by Easement Instrument 10361672.3 - 21.3.2016 at 5:04 pm

The easements created by Easement Instrument 10361672.3 are subject to Section 243 (a) Resource Management Act 1991

11000759.4 Surrender of the right of way over parts marked CX, CY, DA & CZ on DP 490659 specified in Easement Certificate 5324535.7 appurtenant hereto - 6.7.2018 at 1:24 pm

11000759.6 Encumbrance to Wellington City Council - 6.7.2018 at 1:24 pm



Property Information

Search Result:
 Date of Imagery: March 2017
 Report Date: 12 Jul 2018

Copyright Notice

Copyright, 2006-2016 CoreLogic NZ Limited.
 Certain information in this report is sourced
 from LINZ. Crown copyright reserved.

Data Statement

Accuracy of aerial imagery +/-0.5m. Accuracy of property
 boundaries 1-3m in urban areas, up to 30m in rural areas.
 Property boundaries and legal descriptions sourced from LINZ.

ANNEXURE 3

ASSESSMENT OF ENVIRONMENTAL EFFECTS (AEE) REPORT

ANNEXURE 4

APPLICATION DRAWINGS

ARCHITECT'S DESIGN REPORT (APPENDIX 2 TO THE AEE)

ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

PROPOSED NEW COMMERCIAL BUILDING

SITE 9

NORTH KUMUTOTO

WELLINGTON WATERFRONT

1 INTRODUCTION

1.1 PREAMBLE

This report covers the proposed development of Site 9 at North Kumutoto on the Wellington Waterfront.

The proposal is to construct a new five-level building which will accommodate publicly accessible activities (cafes and retail uses) on the ground floor and commercial offices on Levels 1 to 4.

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

The Applicant, Willis Bond Capital Partners No 3 Limited, is requesting that the application be publicly notified.

1.1 REPORT STRUCTURE

After this introduction, the report provides the following information:

- Section 2 outlines the proposal and the consents required, along with a description of the land that is the subject of the application (“the site”). The section also provides a brief summary of the planning history of North Kumutoto.
- Section 3 outlines the statutory context, with a specific focus on the District Plan objectives, policies and rules applicable to the site.
- Section 4 describes the consultation undertaken.
- Section 5 provides a resource management assessment of the proposal.
- Section 6 provides a conclusion.

This AEE, plus the Applications for Resource Consent (Form 9) and the attached drawings, addresses the requirements of Section 3.2 of the District Plan, which identifies what information is to be supplied with a resource consent application.

1.3 ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

An assessment of environmental effects (AEE) is required under s88 of the Resource Management Act 1991 (the Act) for an application for resource consent, as specified in Schedule 4. In turn, at Clause (3)(c) of Schedule 4, it is stated that an AEE must include:

“ ... such detail as corresponds with the scale and significance of the effects that the activity may have on the environment”.

This AEE has been prepared in response to this requirement.

1.4 SCOPE OF ASSESSMENT OF ENVIRONMENTAL EFFECTS

1.4.1 CLAUSE 6 – INFORMATION REQUIRED

Schedule 4, as amended by the Resource Management Amendment Act 2013, lists at Clause 6 the information required to be provided in an assessment of environmental effects (AEE) as follows:

1(a) if it is likely that the activity will result in any significant adverse effects on the environment, a description of any possible alternative locations or methods for undertaking the activity

The proposed new building on Site 9 will not give rise to any significant adverse effects. Accordingly, it is not necessary to consider possible alternative locations or methods.

Rather, the outcome will be a new building consistent with the Wellington Waterfront Framework (2001), which is the Wellington City Council's strategic plan for the Wellington Waterfront.

1(b) an assessment of the actual and potential effect on the environment of the activity

The AEE at Section 5 provides an assessment of the actual and potential effects on the environment in relation to:

- urban design effects
- heritage effects
- archaeological effects
- cultural effects
- ecological effects
- traffic effects
- natural hazard effects
- public safety (CPTED)
- earthworks effects
- contaminated land effects
- construction effects
- positive effects

1(c) if the activity includes the use of hazardous substances and installations, an assessment of any risks to the environment that are likely to arise from such use

Not applicable. No hazardous substances will be stored on site.

**1(d) if the activity includes the discharge of any contaminant. A description of -
(i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
(ii) any possible alternative methods of discharge, including discharge into any other receiving environment**

Not applicable. There will be no discharge of contaminants associated with the proposed Central Area activities (café, retail and office activities) to be established in the new building.

1(e) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to prevent or reduce the actual or potential effect

Given the proposal is to develop the site in accordance with the District Plan's Central Area zoning, which covers the Lambton Harbour Area (aka Wellington waterfront), no specific mitigation measures (post construction) are deemed necessary.

1(f) identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted

Pre-application consultation with Council planning, urban design and heritage advisors has been undertaken.

Consultation has also been undertaken with the Council's Technical Advisory Group (TAG) and with Heritage New Zealand; and also with a number of Central Area building owners, as further described in Section 4.

1(g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how and by whom the effects will be monitored if the activity is approved

The site works, including the building construction works, will be undertaken in accordance with an approved construction management plan (CMP). It is acknowledged that monitoring of the implementation of the approved CMP may be necessary. However, following completion of the construction of the building and its occupation with permitted activities, no on-going monitoring will be necessary.

1(h) if the activity will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right, a description of possible alternative locations or methods for the exercise of the activity (unless written approval for the activity is given by the protected customary rights group)

Not applicable. No protected customary rights will be affected. Nevertheless, a cultural impact assessment (CIA) report has been prepared on behalf of the Wellington Tenth Trust and the Port Nicholson Block Settlement Trust.

1.4.2 CLAUSE 7- MATTERS TO BE ADDRESSED

Schedule 4, as amended by the Resource Management Amendment Act 2013, lists at Clause 7 the matters that must be addressed by the assessment of environmental effects.

1(a) any effect on those in the neighbourhood and, where relevant, the wider community, including any social, economic, or cultural effects

This matter is addressed in Section 5 of the AEE.

1(b) any physical effect on the locality, including any landscape and visual effects

This matter is addressed in Section 5 of the AEE.

1(c) any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity

Not applicable. As the site is effectively a 'brown-fields' site, which has long been used for commuter car parking, and more recently as a construction site for the development of the public open space on the adjacent Site 8 and Whitmore Plaza - there is no extant plant or animal ecosystems on the site.

1(d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual or cultural value, or other special value, for present or future generations

This matter is addressed in section 5 in relation to heritage, archaeological and cultural resources and values.

1(e) any discharge of contaminants into the environment, including any unreasonable emission of noise, and the options for the treatment and disposal of contaminants

All construction works will be subject to an approved construction management plan (CMP), which will include measures to minimise the discharge of dust, water-borne sediment and the emission of noise. A draft CMP is included in the application documents.

1(f) any risk to the neighbourhood, the wider community, or the environment through natural hazard or the use of hazardous substances or hazardous installations

The new building will be base isolated and constructed to meet a seismic, life safety performance in excess of Importance Level 3 (IL3), and also have a minimum floor level to mitigate any rise in sea level over the life of the building.

2 THE SITE AND THE PROJECT

2.1 THE SITE

North Kumutoto is the area of the Wellington Waterfront that lies between Shed 21 to the north and the Meridian Building and Shed 13 to the south.

The proposed new 5-level commercial building will occupy Site 9 which lies to the immediate north of Shed 13 with frontage to Customhouse Quay to the west and to Lady Elizabeth Lane (formerly Kumutoto Lane) to the east.

The building on Site 9 will occupy an area of some 900m². This will include a small portion of legal road (refer Drawing RC 1.000-A).

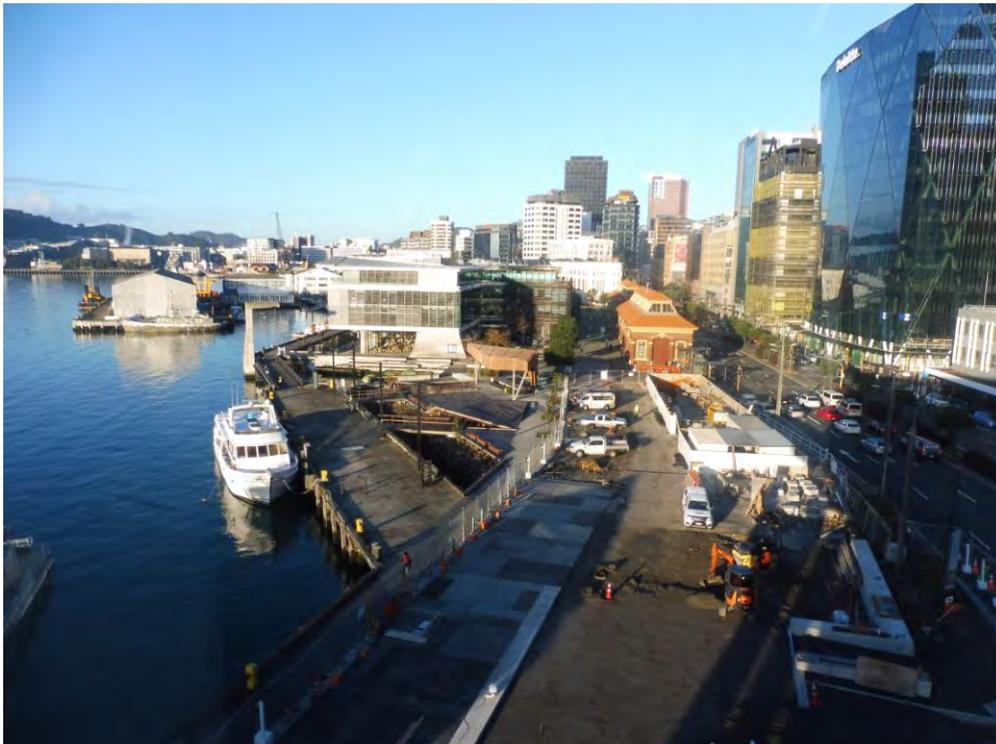


PHOTO 1: Site 9 (in middle of photo - behind the white hoardings) - looking south

Further photographs of the site and locality are in **Appendix 1**.

During the construction of the building an area larger than the 900m² building site will be occupied by construction-related activities - refer Drawing RC-A attached to the application form (Form 9). This area will be some 1,450m². Following completion of the construction of the Site 9 building, the landscaping consented in October 2015¹ will be completed.

¹ Decision [2015] NZEnvC 173

2.2 PROJECT

The Project involves the construction of a new five-level building. A full description is provided in the Architect's Design Report - refer **Appendix 2**. However, in summary the key features are:

- Ground Floor - retail and cafe, along with the main foyer/entry to the upper floors; and
- Levels 1 to 4 - commercial offices.

The building will have a maximum height of 19.98m above mean sea level (amsl) to the roofline of the northern section of the building. The southern section has a maximum height of 16.5m amsl. Roof top plant, which has a small footprint and which is setback from the building edge, rises between 1.2m and 2.5m above the roofline to a maximum height of 22.48m amsl.

The building does not have a basement level and no on-site parking is proposed.

Some minor amendments are proposed to the immediately adjacent public spaces which were consented by the Environment Court in 2015 as part of the wider North Kumutoto public space development ² - further detail of the proposed changes is provided in **Appendix 3**.

2.3 DISTRICT PLAN MAPS

The site is within the Lambton Harbour Area, which is part of the Central Area (Planning Map 17), where the height limit is zero metres above means sea level (Planning Map 32).

The site is also within the Hazard (Ground Shaking) Area. ³

There are no other District Plan notations applying to the site, although a heritage notation (Symbol Ref 333) applies to Shed 13 to the south of the site.

2.4 PLANNING HISTORY

An outline of the planning history of the Wellington waterfront is provided in **Appendix 4**.

Specifically in relation to Site 9, the more recent 'steps' in this planning history are:

2.3.1 Wellington Waterfront Framework (2001) - the WWF

In the WWF North Kumutoto is referred to as North Queens Wharf and is identified as an area with a strong connection to the city's Central Business District, noting that:

"... 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". ⁴

Under the heading "Building relationship to open spaces", it is commented 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. ⁵

It is emphasised that *"the ground floor of buildings will be accessible to the public"*, and that they will have a range of uses that could include *"recreational, retail, commercial residential and institutional uses"*.

² Decision [2015] NZEnvC 173

³ The location of the site within the Hazard (Ground Shaking) Area does not have any District Plan/resource consent implications as no "critical facilities" are proposed to be located within the building.

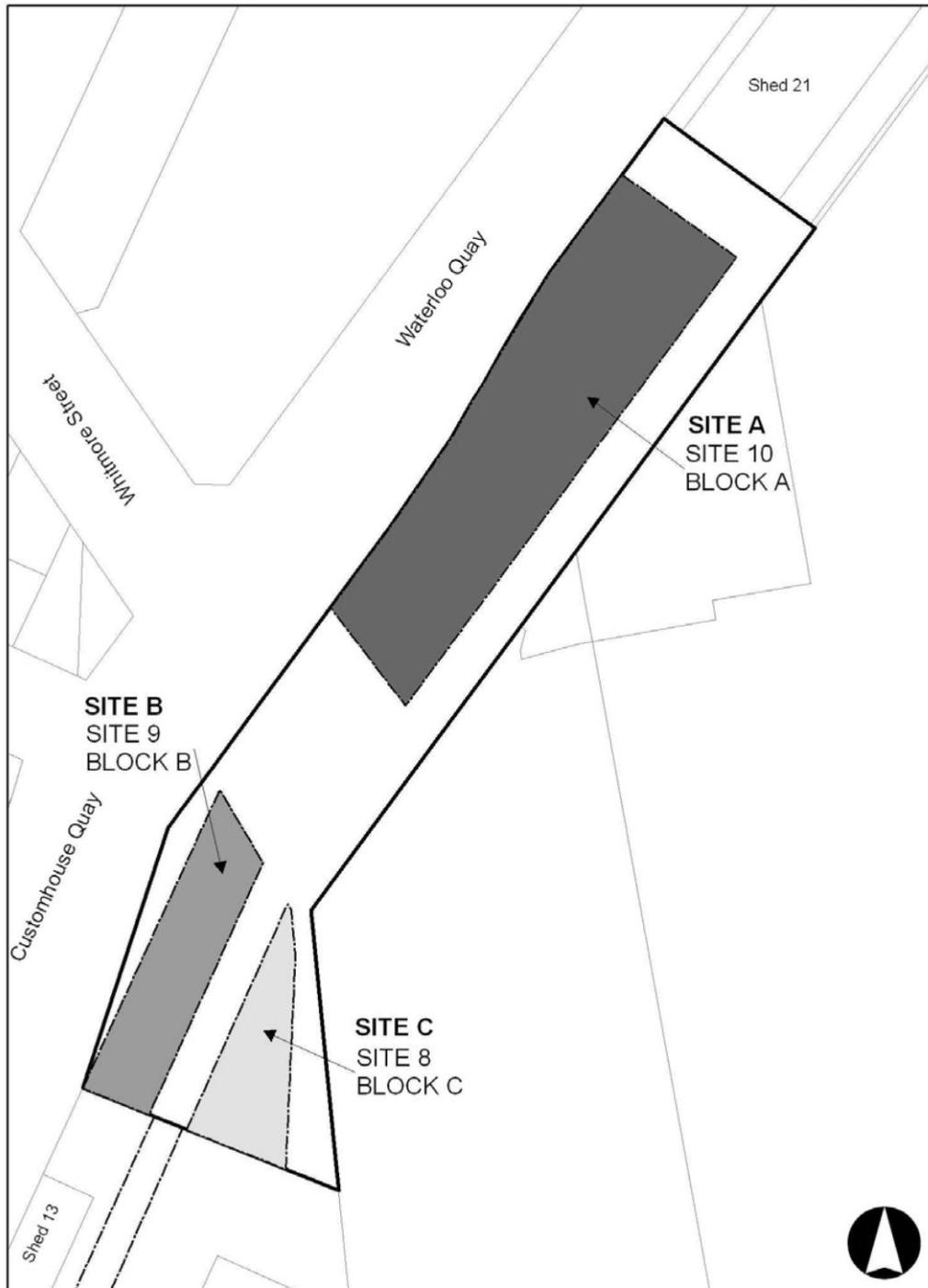
⁴ Wellington Waterfront Framework (April 2001), page 32

⁵ Op cit, page 33

2.3.2 Variation 11

Variation 11 was publicly notified on 1 February 2009. It sought to introduce some more specific provisions relating to North Kumutoto, including the identification of three development sites (Sites 8, 9 and 10) - refer Drawing below.

FIGURE 1



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



Following a successful appeal to the Environment Court by Waterfront Watch Inc against the Wellington City Council's decision, Variation 11 was cancelled and withdrawn.

However, in its Decision, and referring to "Block B" (aka Site 9), the Court recorded that:

[115] *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).*⁶

2.3.3 Site 10 and Open Space Development

In October 2015 the Environment Court released its decision on the development of Site 10 (for a five-level commercial building) and the redevelopment of adjacent areas, including Site 8, for public open spaces.⁷

One of the issues raised during the Site 10 hearing was the reference in the Environment Court's earlier 2012 decision on Variation 11 to building heights; and whether (or not) the Court's reference to "*appropriate heights*" was to be taken as an indication of the Court setting "*dimensional maxima*".

In its Decision on the Site 10 development, the Court stated, at paragraph [125], that "*We do not see it as doing so in any absolute sense*", adding that:

At paragraph [125] of its 2105 Decision, the Court stated that "*We do not see it as doing so in any absolute sense*", adding that:

"It is important to recall that the Court was there dealing with a Variation, setting guidelines for what may be acceptable on the site, rather than dealing with a specific proposed building"

with further clarification provided at paragraph [126]:

[126] *Further we consider that Mr Aburn summed up what should be made of the 2012 decision in this respect, in pointing out that what the Court then described as a 'permissible' height could be regarded as an indication of a 'permitted' activity maximum, with loftier structures being subject to the discipline of obtaining of a resource consent of the appropriate activity status.*⁸

⁶ Waterfront Watch Inc v Wellington City Council [2012] NZEnvC 74, page 35

⁷ Decision [2015] NZEnvC 173 (heights referred to in the Decision are heights above mean sea level)

⁸ Op cit, page 39

3 STATUTORY CONTEXT

3.1 POLICY AND PLAN FRAMEWORK

The policy and plan framework for the proposed development of Site 9 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 Region; and
- at the district level - the Wellington City District Plan.

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

3.2 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 development of Site 9, the following are considered relevant:

- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011);
- National Policy Statement for Urban Development Capacity (2016); and
- New Zealand Coastal Policy Statement (2010).

3.2.1 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011) - the (NES)

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, as NES activity types are proposed to occur on Site 9 (for both disturbance of soil and change in use), the NES is applicable.

The focus of the NES is to protect human health, and therefore it 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) activities on land affected by 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.

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 are found, the activity status is restricted discretionary. Finally, where a full DSI has not been completed, the activity status is discretionary.

Overall, a discretionary activity consent is required under the NES for the Site 9 development as the activity proposed is not a permitted, controlled or restricted discretionary as set out in the NES.

3.2.2 National Policy Statement on Urban Development Capacity (2016) - the NPSUDC

The stated purpose of the NPSUDC is to recognise the national significance of:

- (a) *urban environments and the need to enable such environments to develop and change; and*
- (b) *providing sufficient development capacity to meet the needs of people and communities and future generations in urban environments:*

The NPSUDC's objectives in relation to "Outcomes for planning decisions" are:

- OA1: *Effective and efficient urban environments that enable people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing.*
- OA2: *Urban environments that have sufficient opportunities for the development of housing and business land to meet demand, and which provide choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations, working environments and places to locate businesses.*
- OA3: *Urban environments that, over time, develop and change in response to the changing needs of people and communities.*

3.2.3 New Zealand Coastal Policy Statement (2010) - the NZCPS

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.*⁹

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*

⁹ New Zealand Coastal Policy Statement 2010, page 6

- *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; and*
- *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 proposed development of Site 9 include:

Policy 6: Activities in the coastal environment;

Policy 17: Historic heritage identification and protection;

Policy 19: Walking access;

Policy 24: Identification of coastal hazards; and

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

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

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*

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;*

Identification of Coastal Hazards

Policy 24(1) *Identify areas in the coastal environment that are potentially affected by coastal hazards (including tsunami), 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.*

3.3 REGIONAL POLICY STATEMENT FOR THE WELLINGTON REGION - RPS

The 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".*¹⁰

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

The highlighted topics are those that are considered to be relevant to an assessment of the Site 9 development.

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 proposed new building on Site 9 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 Site 9 development 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.

¹⁰ Regional Policy Statement for the Wellington Region, 24 April 2013, page 12

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.¹¹*

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.

¹¹ Op cit, page124

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:

For 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;*¹²
- (h) *the potential need for hazard adaptation and mitigation measures in moderate risk areas; and*
- (i) *the need to locate habitable floor areas and access routes above the 1:100 year flood level, in identified flood hazard areas.*

For Policy 52

- (a) *the need for structural protection works or hard engineering methods;*
- (b) *whether non-structural or soft engineering methods are a more appropriate option;*
- (c) *avoiding structural protection works or hard engineering methods unless it is necessary to protect existing development or property from unacceptable risk and the works form part of a long-term hazard management strategy that represents the best practicable option for the future;*
- (d) *the cumulative risk of isolated structural protection works; and*
- (e) *residual risk remaining after mitigation works are in place.*

Regional Form, Design and Function

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

- poor quality urban design;
- sporadic, uncontrolled and/or uncoordinated development; and
- integration of land use and transportation.

¹² 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”.*

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 proposed development of Site 9 with a new commercial building is 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.

3.4 DISTRICT PLAN - OVERVIEW

Site 9 is located within the Lambton Harbour Area (LHA), 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.

Section 12.1 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".¹³

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

¹³ Wellington City District Plan, Chapter 12, page 12/1

“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”.*¹⁴

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:

“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”.*¹⁵

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

¹⁴ Op cit, page 12/2

¹⁵ Op cit, page 12/4

commitment is further described in the Framework, which also proposes governance arrangements requiring ongoing monitoring by a group of both professional and community representatives".¹⁶

3.5 DISTRICT PLAN OBJECTIVES AND POLICIES

3.5.1 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.*
- 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.*

¹⁶ Op cit, page 12/4 - Note: the Council adopted the Wellington Waterfront Framework in April 2001 – not 2004 as stated in the quoted passage.

- 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.*
- 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.*
- 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 12.2.6.12* *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.*

3.5.2 Earthworks and Contaminated Land

Given the proposed earthworks, and given that the Site 9 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 development of Site 9:

- 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.

3.6 DISTRICT PLAN RULES

3.6.1 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

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

3.6.2 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, new buildings in the Lambton Harbour Area, such as that proposed for Site 9, are a Discretionary Activity (Unrestricted) under Rule 13.4.7.

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 9 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 **Appendix 5**. The areas of non-compliance with the applicable standards are in relation to:

- on-site servicing;
- 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;
- 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;¹⁷
- whether the addition or alterations [new building] will have a material effect on sunlight access to any open space;
- whether the addition or alterations [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.

3.6.3 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 250m², 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 installation of building foundations, including piling works, will exceed the cut height and also 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:

- (a) earthworks stability (where no building consent for a structure or building is obtained);
- (b) erosion, dust and sediment control; and
- (c) the transport of material where the following limits are exceeded (Central Area 200m²).

¹⁷ 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.

3.6.4 Contaminated Land

The specialist site contamination report prepared by Tonkin and Taylor confirms the presence of some contamination on Site 9.

Consequently, consent is sought for a Discretionary Activity (Restricted) under Rule 32.2.1,¹⁸ with discretion restricted to:

- (a) the level, nature and extent of contamination in relation to the proposed use, development or subdivision;
- (b) the methods to address the risks posed by contaminants to public health and safety;
- (c) the effects of contamination on built structures, ecological and amenity values, soil quality and the wider environment and
- (d) 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.

3.6.5 Summary of District Plan Position

The proposal requires assessment and consent under the District Plan as a Discretionary Activity (Unrestricted) for the new building on Site 9. Consent is also required for a Discretionary Activity (Restricted) for:

- (a) non-provision of on-site loading;
- (b) building height;¹⁹
- (c) wind;
- (d) site earthworks; and
- (e) the use of potentially contaminated land.

Overall consent is required for a Discretionary Activity (Unrestricted).

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.

3.7 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.²⁰ In turn, these themes assist in establishing the planning framework for developments in the Lambton Harbour Area. The policy themes are:

¹⁸ In addition to the consent sought under the NES.

¹⁹ Note, however, that all new buildings in the LHA, no matter what their height, require consent under Rule 13.4.7 for a Discretionary Activity (Unrestricted).

²⁰ 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 ..."

- appropriate use and development
- increasing the range and diversity of activities
- maintenance and protection of significant heritage features and values
- quality design outcomes
- 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

3.8 OTHER MATTERS

Two other matters that are considered to be relevant considerations to an assessment of the proposed development of Site 9 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 5.

3.9 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 3.7, the following questions can be posed for s104 evaluation:

- Question 1: can the development of a new building on Site 9 be considered to be an 'appropriate' development within the Lambton Harbour Area?
- Question 2: will the proposed new building on Site 9 contribute positively to the Central Area's urban form and the waterfront's 'sense of place'?
- Question 3: will the proposed new building on Site 9 contribute to the Wellington Waterfront Framework's vision of buildings being in scale with and sympathetic to adjacent heritage buildings?
- Question 4: will the proposed new building on Site 9 give rise to any adverse effects on waterfront amenities as a consequence of significant environmental effects (wind and shading)?
- Question 5: will vehicular and pedestrian traffic and movement be accommodated in a safe and efficient manner?
- Question 6: will there be any adverse effects associated with the site earthworks, including the removal of any contaminated material?
- Question 7: will there be any short-term effects during construction?

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 8: will the new building on Site 9 appropriately address the risks and consequences of natural hazard events, having regard to sea level rise?

Question 9: is the proposed new building on Site 9 consistent with national, regional and district policy?

Question 10: will the new building on Site 9 be a positive outcome for the overall development of the Wellington waterfront?

'Answers' to these questions are provided in the resource management assessment to follow (refer Section 5).

4 CONSULTATION

This section provides a brief summary of the consultation undertaken in the lead up to the preparation of the resource consent application.

No written approvals are being provided. As previously noted, the Applicant is requesting that the application be publicly notified.

4.1 COUNCIL CONSULTATION

Initial consultation under the Local Government Act was undertaken by the Wellington City Council during July 2017.

In the Officer's Report to the Council dated 1 November 2017 it is recorded that:

At its meeting on 22 June 2017 the City Strategy Committee assessed the preliminary concept design and main legal and commercial terms of a Willis Bond & Co development proposal for Site 9 at North Kumutoto on Wellington's waterfront.

The City Strategy Committee agree with officers' recommendation to seek public views on the development proposal and preliminary concept design.

Public consultation was conducted from 3 - 28 July (inclusive) followed by submitters oral hearings on 17 and 24 August 2017.

The total number of submissions received was 127 of which 54% were either 'Supportive' or 'Very Supportive' of the proposal; 37% were either 'Not really Supportive; or 'Not at all Supportive' of the proposal; and 10% were neutral.

The upper-most concern of opposing submissions was the building height exceeding the recommended maximum of 16-19 metres for Site 9 made by the Environment Court in its 2012 decision on District Plan Variation 11 (DPV 11).

Willis Bond & Co has considered the public feedback and modified its design reducing the height from 17.1 metres to 16.5 metres at the southern end, and from 20.9 metres to 19.9 metres at the northern end. The height of the building's plantroom has also been reduced to 1.3 metres from 2.8 metres previously.²¹

4.2 CONSULTATION BY THE APPLICANT

In addition to the Council initiated consultation, the Applicant also directly met with the following persons/organisations:

- Heritage New Zealand; and
- owners and/or managers of the following buildings:
 - Meridian Building (Stride Properties)
 - 20 Customhouse Quay (Newcrest Holdings Ltd)
 - Maritime Tower (Brian Galt)
 - 109 Featherston Street (AMP Capital)

The Applicant also engaged in pre-application consultation with Council planning, heritage, urban design and traffic advisors; in addition to meetings with the Technical Advisory Group (TAG) as technical advisors to the owner of the site, Build Wellington/Wellington City Council.

Attached at **Appendix 6** are the Pre-Application feedback notes from the pre-application consultation meeting held on Thursday 1 March 2018; and the Minutes issued by TAG following its meeting on 26 June 2018.

²¹ City Strategy Committee, 1 November 2017, Item 2.1 "Development Proposal for Site 9 North Kumutoto Wellington Waterfront".

5 RESOURCE MANAGEMENT ASSESSMENT

5.1 STATUTORY CONTEXT & APPROACH

This section of the AEE presents an assessment of the proposed new building on Site 9 in relation to:

- national and regional policy;
- the District Plan provisions; and
- the statutory requirements of the RMA.

5.2 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.

5.2.1 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”*.

However, in this instance, given that the new building on Site 9 requires consent under Rule 13.4.7 for a discretionary activity as a new building in the Lambton Harbour Area, a ‘permitted baseline’ assessment is not relevant or applicable. Consequently, all actual and potential adverse effects need to be assessed.

5.2.2 Assessment of Positive Effects

When assessing the effects of an activity, there can be a tendency to focus on the negative or adverse effects, particularly given the obligation under s5(2)(c) of the Act to avoid, remedy or mitigate 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:

“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”.²²

Accordingly, the assessment below includes an assessment of the positive effects of granting resource consent to the proposed new building on Site 9.

5.2.3 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 proposed new building on Site 9 (5.3 below);
- assess the proposal against National Environmental Standards, Policy, and Plan provisions (5.4 below);
- assess other relevant “other matters” (5.5 below);
- summarise s104 considerations (5.6 below)

²² [Elderslie Park Limited v Timaru District Council \[1995\] NZRMA 433](#)

- assess the proposal against Part 2 of the Act if necessary (5.7 below); and
- assess s104B matters (5.8 below).

5.3 ENVIRONMENTAL EFFECTS

The potential environmental effects associated with the Project are:

- Cultural
- Archaeological
- Heritage
- Building height and scale
- Urban design and townscape
- Pedestrian access and amenities (including building ground floor amenities)
- Environmental effects (wind and shading)
- Traffic
- Ecology
- Hazardous substances
- Natural hazards and sea level rise
- Public safety (CPTED)
- Construction activities and management
- Positive effects

5.3.1 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 the development of Site 9. The report was prepared by Raukura Consultants in association with the Wellington Tenth's Trust and Port Nicholson Block Settlement Trust - refer **Appendix 7**.

The report confirms that Site 9 is in 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 Site 9 area of the waterfront is reclamation, there are no wahi tapu or urupa directly in the site.

Given the proximity of the site to Lambton Harbour, the report notes that issues of "water quality in the harbour" could be affected by construction or perhaps even runoff from the building. However, with appropriate consent conditions the report concludes that it is unlikely that there will be any construction runoff into the harbour; and that the building itself will be designed with stormwater managed to ensure no adverse effects on the harbour.

At page 8 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 the streams that still flow under the area including Kumutoto, Tutaenui and Waipiro.

In concluding, the report comments that:

47. 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.

48. The proposed building on Site 9 raises no particular Maori cultural issues in an area where large buildings were the norm for the last 100 years or more. The building's bulk and form raise no particular cultural issues.

49. 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. 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.²³

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

5.3.2 Archaeological Values

The Applicant commissioned archaeologist Mary O’Keeffe of Heritage Solutions to undertake an assessment of any archaeological values that might be associated with Site 9. The results of the assessment are presented in the report “North Kumutoto Precinct Project, Wellington: Archaeological Assessment of Proposed Redevelopment of Site 9” - refer **Appendix 8**.

At Section 4.1 (page 29) under the heading “Assessment of Values”, it is recorded that:

The area beneath Site 9 Kumutoto was reclaimed in 1901-03. The site itself is therefore not archaeological as it falls outside of the 1900 date of the definition contained in the Act. However, monitoring and recording using archaeological methods would be appropriate to record the probable extant heritage material that may be present, based on what has already been revealed through adjacent work.

... construction work on Site 9 has the potential to reveal subsurface heritage features associated with previous buildings and structures.

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

Site 9 is not an archaeological site in its own right, as it was reclaimed after 1900AD, and thus does not fulfil the definition of archaeological sites contained within the Heritage New Zealand Act 2014.

Site 9 sits within a wider heritage and cultural 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. Commercial wharves followed, required by a growing city’s need for trade and commerce.

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.

Because there are no known or probable features being adversely affected that pre-date 1900AD, the archaeological provisions of Part 3 of the Heritage New Zealand Pouhere Taonga Act 2014 are not triggered.

The developer (Willis Bond Capital Partners No 3 Limited) therefore has 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 9, 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.

The developer is encouraged to incorporate typical archaeological practice that would be undertaken if an authority was in place. Such practice would include:

- *Having an archaeologist monitor all surface clearing, removal of building foundations, trenching or other invasive subsurface groundwork required for site modification or construction.*
- *The archaeologist should be given the opportunity to examine any archaeological deposits disturbed by the development work, and to make recommendations for further detailed examination of these deposits where appropriate.*

²³ Cultural Impact Report: Kumutoto Site 9 Development, Kumutoto North, March 2018, page 19

- *That the developer considers incorporation of heritage fabric or features recovered and recorded by the archaeologists into historical displays or interpretation within the new building wherever possible.*²⁴

5.3.3 Historic Heritage Values

A heritage assessment of the proposed new building on Site 9 has been undertaken by Archifact Limited - refer **Appendix 9**.

The report provides a comprehensive assessment of the heritage context of the proposed new building, the historic heritage values associated with the listed items in the vicinity, and the extent to which the proposed new building might affect historic heritage.

The report's Executive Summary records:

This Assessment of Environmental Effects (AEE) with respect to heritage considers matters arising from the proposed development on Site 9 within the North Kumutoto area of the Wellington waterfront.

The proposed development of Site 9 should be read within the emerging development already consented and under construction in this area including the Site 10 PWC building and the encompassing Kumutoto North public landscaping project, as this reflects many of the principles found in the Wellington Waterfront Framework, and objectives, policies and rules of the Operative District Plan. In that context the proposed Site 9 development has been carefully designed as part of a collective response to the existing historic heritage values to be found in the area. The proposal makes a conscious response to those wider area values (including heritage, building height, bulk, and scale in that context) and in doing so will enhance the overall public and environmental quality and general amenity of the wider North Kumutoto Area and the waterfront as a connected whole.

The range of heritage buildings, features and elements (including gates, fences, wharves, wharf, and reclamation edges) lend the area a distinctive historic heritage and amenity values collectively and the proposal enhances those values by responding to those heritage elements and extending the opportunity for the public to engage with them and the amenity of the area. Site 9 is not formally recorded as an archaeological site and there are no structures on it, extant or demolished, that predate 1900. The following physical resources are recognised as contributing to the understanding and appreciation of the historic heritage associated within the wider area or adjacent to the proposed site, and all are relevant:

- *the former Eastbourne Ferry Terminal Building and wharf;*
- *wharves and wharf edges;*
- *the reclamation edge (rip-rap wall);*
- *Shed 13 (and its partner Shed 11) and Shed 21;*
- *Iron gates and railings; and,*
- *the potential for sites of archaeological value.*

In terms of the District Plan there is no specific rule or assessment criteria with respect to effects on heritage that applies to this application. Consent is required for a Discretionary Activity (Unrestricted). The consent authority's discretion is not restricted, therefore regard can be had to any effects on historic heritage. It is principally for these reasons that this assessment is more appropriately a 'contextual' assessment given the presence of listed buildings and other heritage assets in the wider area within which the proposed development is read.

The proposed development of Site 9 retains the heritage buildings, features and elements that have been recognised in the area. In accordance with guidelines promoted by the Wellington City Council the proposed building development has chosen to respond architecturally to the existing heritage of adjacent buildings in a manner consciously of its own time, rather than mimic those buildings and their fabric which, in doing so, would risk lessening the values of both the authentic historic heritage and the qualities of the new as a building of its time.

Proposed works within Site 9 and in the integrated landscaping approach across and between Sites, 8, 9, 10, and adjoining waterfront areas will not present any adverse effects on heritage, and will enhance the amenity of the area.

²⁴ North Kumutoto Precinct Project, Wellington: Archaeological Assessment of Proposed Redevelopment of Site 9, June 2018, page 32

5.3.4 Building Height and Scale

The proposed building on Site 9 has a maximum height of 19.98m above mean sea level (amsl) level to the roofline of the northern section,²⁵ with the rooftop plant having a maximum height of 22.48 (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.²⁶

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 9]*
- *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 alterations 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 points 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 9 building.

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

Wellington Waterfront Framework (First Bullet Point)

The WWF 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 WWF 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.

²⁵ The southern section of the building has a maximum height of 16.5m amsl

²⁶ Waterfront Watch Inc v Wellington City Council [2012] NZEnvC 74

Scale Appropriate to Existing Buildings Adjacent (Third Bullet Point)

In the North Kumutoto Precinct, existing buildings include:

- (a) Shed 21 at the north end, which is 21m amsl;
- (b) the new PWC Centre building on Site 10, on the north side of the Whitmore Plaza, which is 22.85m amsl;
- (c) to the immediate south of Site 9, Shed 13 has a maximum height of 14.92m amsl; and
- (d) the Meridian Building to the south east, which is 20.25m amsl (21.7m to the top of the plant room).

In its decision on Variation 11, the Environment Court stated that a building height of 19m at the northern end and 16m at the southern for any future building on Site 9 would be 'permissible' - i.e. appropriate.²⁷

The proposed height of the Site 9 building achieves an appropriate 'relativity' to its nearest neighbour, Shed 13; or in the words of the heritage assessment:

"... to its southern end the Site 9 building undergoes a transition in height to align with the general scale of Shed 13".²⁸

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 shading analysis that has been undertaken confirms that there is no shading on Kumutoto Plaza during the protected times - refer page 20 of the Architect's Design Statement (**Appendix 2**).

There will be shading on other public open spaces, including Site 8. 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 important during periods of regular use, and should include public open spaces such as pocket parks, paved seating areas or places of civic importance"²⁹ [emphasis added]*

²⁷ 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".

In its subsequent decision on the proposed Site 10 building, the Environment Court further explained that:

Further we consider that Mr Aburn summed up what should be made of the 2012 decision in this respect, in pointing out that what the Court then described as a 'permissible' height could be regarded as an indication of a 'permitted' activity maximum, with loftier structures being subject to the discipline of obtaining of a resource consent of the appropriate activity status.

Decision [2015] NZEnvC 173, 9 October 2015, page 39

²⁸ Archifact Limited, June 2018, Assessment of Environmental Effects on Historic Heritage, Site 9 North Kumutoto, page 21

²⁹ Wellington City District Plan, Central Area, page 12/30

An important consideration is that when there is some shading on Site 8 (and not only due to the new Site 9 building, but also from existing Central Area buildings, notably Maritime Tower), other close-by public spaces, including the new Whitmore Plaza immediately north of Site 8/Site 9, will be receiving sun.

Identified Viewshafts (Fifth Bullet Point)

The new building will not intrude on either of the adjacent viewshafts - VS 4 (Whitmore Street) and VS 5 (Waring Taylor Street - refer (Appendix 10).

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 9 will potentially result in some ‘amenity’ effect on the lower floors of some Central Area buildings to the west on sites between Johnstone Street to the south and Whitmore Street to the north.

However, given the long-standing expectation that a new building would be constructed on the site, and, as confirmed by the Environment Court that a building to 16m/19m as a ‘permitted activity’ was appropriate, any loss of outlook and view is not considered to be an unacceptable outcome in terms of amenity. The Central Area, including the Lambton Harbour Area, is an area where the District Plan encourages new building development (e.g. Objective 12.2.5). Therefore, it is inevitable that there will be change in the level of amenity experienced by the occupants of existing buildings as new Central Area development takes place.

In the Hilton Hotel case the Environment Court concluded that outlook and views from Central Area buildings was 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.³⁰

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 9, and also given the Environment Court’s statement in its decision on the Variation 11 appeals that a building to 16m/19m (amsl) could be appropriate on the site, 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 existing buildings fronting Customhouse Quay between Johnstone Street and Whitmore Street will be minor and limited to the lower floors.

Loss of daylight will not be an issue, nor will shading or sunlight loss.

Summarising therefore, based on the above comments it is concluded that the proposed new building on Site 9 at 16.5 m amsl (south end) and 19.98m (north end) is appropriate in relation to its context, with particular reference to the adjacent Shed 13 heritage building.

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 the Site 8 public open space;³¹ and
- some restriction on outlook and views from the lower floors of 20 Customhouse Quay, 109 Featherston Street (podium fronting Customhouse Quay), and Maritime Tower.

³⁰ *Intercontinental Hotel & Others v Wellington Regional Council*, NZEnvC Decision W015/2008, page 65

³¹ However, other existing Central Area buildings fronting Customhouse Quay create shading on Site 8

In respect of both matters, it is concluded that any effects will not be significant.

5.3.5 Urban Design

An urban design assessment of the proposed Site 9 building against the objectives and guidelines of the Central Area Urban Design Guide has been undertaken by urban designer Deyana Popova - refer **Appendix 11**.

The assessment also considered the building's:

- (a) consistency with the 'values, principles and objectives' of the Wellington Waterfront Framework;
- (b) "design excellence" profile; and
- (c) overall effect on townscape.

The assessment concluded:

The proposal is for a new office building with a publicly accessible ground level on Site 9, North Kumutoto Area of the Wellington Waterfront. An assessment carried out against the relevant provisions of the District Plan (including the Central Area Urban Design Guide and 'design excellence' criteria) and the Wellington Waterfront Framework established that the urban design outcome of the proposal is consistent with the stated intent, principles and objectives of those documents. The result will be a building with a coherent and integrated form which:

- *acknowledges the interface city/harbour location of the development site;*
- *responds to the range of contextual conditions around the development site while referencing characteristic waterfront-wide patterns;*
- *contributes to the definition and activity of adjacent public space and the Quays;*
- *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 desire lines; and*
- *provides a high-quality office space located close to the Railway Station, the Government Precinct and the CBD.*

Further to this, a visual impact assessment carried out to assess the visual impact of the proposal on the wider townscape setting and on people's experience, showed that the proposed building fits in well with that setting and will enhance the visual experience of both pedestrians and motorists.

The full assessment report provides the support for the above conclusions. However, the following principal conclusions in relation to the following matters:

- Central Area Urban Design Guide;
- Wellington Waterfront Framework;
- design excellence; and
- townscape

can be highlighted.

5.3.5.1 Central Area Urban Design Guide (CAUDG)

- *Relationship to context*

Overall, the proposal is cognisant of the scale/character of nearby buildings and contributes to the quality, safety and activity of adjacent public space (Whitmore Plaza and adjacent Site 8 landscape). The overall massing of the built form and varied treatment of the southern and eastern facades respond well to the scale/heritage value of Shed 13 and to the waterfront setting to the east, while the design of the west/Waterloo Quay facade recognises its interface location between the CBD and the Harbour. The northern end of the building relates well to the PWC Centre and defines the southern edge of Whitmore Plaza. As a whole, the design of the proposed building has been informed by and makes

clear references to the historical maritime context, while also acknowledging the changing character of the North Kumutoto area with its historical and emerging contemporary building and spaces working together [page 6]

- *Siting, height, bulk and form*

Overall, the approach to the massing into two offset components with varying height and facade composition assists the height/scale integration of the proposal to its context. The proposal will create a building of horizontal form/bulk that references the height/plan dimensions of Shed 13 and is similar in height to the Meridian Building and lower and smaller in scale than the PWC Centre (Site 10).

The juxtaposition of the two primary building components creates a compositionally balanced and integrated building form. The scale relationship of the building form to its context is further assisted by the proposed facade composition and detailing that varies along each side of the building in response to the scale and character of adjacent buildings [page 8]

- *Facade composition and building tops*

The proposal is based on a concept where the building form/facade composition and detailed treatment along each side of the building respond to the varied conditions around Site 9 and its interface location between the Harbour and the city. The east and south sides of the building are characterised by more texture, finer scale facade articulation and more 'informal' composition recognising the proximity of Shed 13, the open space context of Site 9 and the pedestrian nature of the waterfront. Conversely, the modelling of the western/city side facade is based on larger format articulation and greater level of transparency that reflects the street context and vehicle-oriented nature of the Quays, while addressing thermal performance requirements. The varied facade composition/treatment of the two building components has been carefully considered at both conceptual and more detailed design level to achieve a sense of differentiation while maintaining the compositional integrity of the building as a whole [page 11].

5.3.5.2 Wellington Waterfront Framework

... it is considered that the proposal is consistent with the character identified by the Wellington Waterfront Framework for the North Kumutoto Area. Regarding design detail the proposal is consistent with the themes, values, principles and objectives for the waterfront, as well as with the specific intentions for North Kumutoto and associated Design Brief [page 13].

5.3.5.3 Design Excellence

A building of the scale/function as the proposed Site 9 building, and its place within both the wider waterfront and the specific North Kumutoto context, does not call for an iconic or landmark type architecture. The immediate context of the proposal is diverse and visually complex. It has a long history and includes variable in scale, age and character buildings, some of which have a strong heritage value, others with a distinctive contemporary image on their own. The sense of complexity is further reinforced by the visually interesting landscape treatment of the adjacent spaces (Site 8 space and Whitmore Plaza). This suggests that while establishing its own presence and identity is important for any new building on Site 9, the sensitive integration to its context is the overriding objective towards achieving design excellence.

The proposal has achieved that through a commitment to design excellence expressed both at conceptual level as well as at the level of architectural design and materials. It provides a sensitive response to the underlying context with the aim of completing the linear pattern of buildings along the Quays and defining the emerging network of open spaces while referencing the working port history of the waterfront.

Technically, because of the current 0 m height limit and the Environment Court decision, the proposal requires a 'design excellence' assessment. Urban form and height issues were discussed in the Design Guide assessment which established that the proposal in terms of form and massing relates well to and is comparable to the height/scale of adjacent buildings and will contribute positively to the surrounding public spaces. The proposal will not impact on the identified viewshafts and will not appear as an out-of-context/character building. Although technically an 'over-height' building, the proposal, as experienced on the ground, will read as a well-considered addition to the building fabric of the waterfront that completes and reinforces important spatial, historical and activity patterns and complements both the character of the wider waterfront as well as that of the North Kumutoto area.

The overall quality of the proposal as a whole, as discussed throughout this report, shows that the outcome will exceed the quality of a development that merely satisfies the Design Guide. As already discussed. A condition of consent re making final choice of materials and associated detailing subject to Council's approval prior to lodging a building consent application will provide a good level of certainty on building design quality outcomes [pages 15-16].

5.3.5.4 Townscape

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 **Appendix 12**).

The overall conclusion was that:

The analysis of public views from representative viewing points (as illustrated on the photomontages) shows that while prominent from certain areas, the proposal fits in well with its visual context. Its massing will create a building of height/overall scale that relates well to that of nearby buildings, while also referencing important patterns and alignments of the surrounding context - this will be noticeable in both distance and close-up views. The context-specific detailed facade modelling of the proposal, which will be in focus in the close-up views, reduces the impact of its bulk, enhances its visual quality and assists its integration with the surrounding building and spaces. Overall, in terms of visual impact, the proposal will make a positive contribution to both people's visual experience and to the character of its immediate and wider visual setting [page 19]

5.3.6 Pedestrian Access and Amenities (including ground floor amenities)

Access along the waterfront is a key objective for the Lambton Harbour Area. For example, Central Area Policy 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 new Site 9 building will enhance pedestrian amenity in the northern part of the Kumutoto Precinct. This enhancement will be achieved through:

- removal of an at-grade commuter car park and associated vehicle movements;
- providing a building overhang / covered pedestrian 'colonnade' along the Customhouse Quay frontage and on the frontage to Lady Elizabeth Lane; and
- enhancing the quality of the pedestrian experience through activating the ground floor of the new building with publicly accessible activities.

As a consequence of the above improvements to the existing environment, the development of Site 9 in the manner proposed will result in an overall positive outcome in terms of pedestrian access and amenity.

5.3.7 Environmental Effects (Wind and Shading)

5.3.7.1 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 - refer **Appendix 13**.³²

The report's conclusions were:

³² Rule 13.6.3.5 states that buildings that are above 18.6 metres in height will be designed to comply with the standards specified in the rule. The proposed Site 9 building is 17.48m above ground and therefore below the 18.6m 'trigger'. However, given that the new Site 9 building requires consent for a Discretionary Activity (Unrestricted) the Applicant choose to commission a wind report incorporating the results of a wind tunnel test.

- (1) *Existing wind conditions in the immediate area range from quite low to very high. At many locations, and for many wind directions, the gust speeds are moderate, but there are a significant number of locations where the gust speeds are around, or above, the Safety Criteria threshold of 20m/s.*
- (2) *As the development site is currently vacant, any building of significant size will change the wind flow patterns because the wind that currently blows across the site will be forced to take other paths around or over the building. Accordingly, significant changes in wind conditions, both increases and reductions, are typically expected in this sort of situation.*

Gust Speeds - Safety Criteria

- (3) *Existing gust wind speeds varied from a low value of 4m/s to a maximum of 25m/s, and this range was similar for the proposed building, with a minimum value of 5m/s and a maximum value of also 25m/s.*
- (4) *Taken over all locations and directions, the average gust speed was lower for the proposed development than for the existing situation.*
- (5) *Gust speeds exceeded the 20m/s Safety criteria in the Wellington District Plan at six locations for the existing situation, which was reduced to five for the proposed development. There were two locations where gust speed was increased over the 20m/s threshold, where the resulting speeds were both 22m/s.*
- (6) *There are five locations where the maximum gust speed is increased by 2m/s or more, compared to thirteen locations where the gust speed is reduced by 2m/s or more.*

Frequency of Occurrence - Cumulative Effect Criteria

- (7) *The average number of days per year over all locations and wind directions that the mean speeds exceed the Cumulative Effect Criteria thresholds is lower for the proposed development compared to the existing situation.*
- (8) *There were only three locations where the increase in the amount of time that the Cumulative Effect Criteria thresholds exceeded 20 days/year.*

Overall Assessment of Building Design

- (9) *Overall, the proposed development caused a significant improvement in the local wind environment.*

Design Configuration Changes

- (10) *Additional testing showed that any building of substantial size on this site will typically cause significant redistribution of wind flow patterns and wind speeds.*
- (11) *The additional testing also showed that the very localised increases in wind speeds and frequency of occurrence could be largely ameliorated through targeted use of a combination of screens and landscaping to be balanced against other design considerations.*

Subsequent to OPUS undertaking the wind tunnel assessment (June 2017), some amendments were made to the building, including some reductions in overall height.

These changes are detailed in a letter dated 29 September 2017 - refer **Appendix 13** - in which OPUS confirmed that:

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. This is because the changes have slightly reduced the area exposed to direct wind flows.

In relation to wind effects, the overall conclusion is that the development of Site 9 with a new building as proposed will result in a “significant improvement in the local wind environment”.

5.3.7.2 Shading

As could be expected, a new building in the Central Area, including the Lambton harbour Area, will inevitably result in some additional shading.

Importantly, there will be no shading on the 'protected' open space, Kumutoto Plaza during the protected hours.

While there will be some shading on Site 8 (which in any case is subject to shading from other Central Area buildings) other close-by public spaces (Whitmore Plaza) will not be shaded at the same time. Thus, there will be opportunities for members of the public to enjoy sun or shade in quality open spaces, depending on their preference.

5.3.8 Traffic

A traffic assessment of the proposed development of Site 9 has been undertaken by Traffic Design Group (TDG) - refer **Appendix 14**.

In Section 8 of the report it is concluded that:

A new five-storey office development is proposed to be developed on land referred to as 'Site 9' on Wellington's Waterfront, to the southeast of the Whitmore Street / Customhouse Quay / Waterloo Quay intersection.

Specifically, this report has been prepared in a manner that addresses the various requirements and assessment of the new building's 'fit' within the existing transport environment, having particular regard to the characteristics of Lady Elizabeth Lane and the Waterfront's 'shared space' setting. In doing so, and with no on-site parking or access proposed, the report includes particular assessment of the servicing needs of the new development, which are shown to be relatively minor, and can be appropriately and safely accommodated by the nearby kerbside loading bay.

On the basis then of this assessment and its findings, it is shown that the traffic aspects of the development, as proposed, will not adversely affect the amenity or safety of the Waterfront environment.

Support for the above conclusions is contained in the report.

In relation to the District Plan standards for 'servicing' (13.6.1.3) applying to Central Area development, the following further detail/comment is noted:

It is proposed that all servicing associated with the new development will be achieved via Lady Elizabeth Lane. There is an established loading bay immediately adjacent to the site on the eastern side of Lady Elizabeth Lane ...

For rubbish collection activities, which are contracted to occur early in the morning prior to the commuter demands on the waterfront, rubbish trucks will likely position themselves at the kerbside within Lady Elizabeth Lane, adjacent to the building's recycling area (identified within the site plans), for the short period of time it would take to empty the wheelie bins. With the 6m carriageway width available on Lady Elizabeth Lane, there is sufficient width for vehicles to pass a stationary rubbish truck, should the need arise. As is the current practice for other local activities, such management at early morning hours does not adversely affect either safety or convenience of other laneway users, including cyclists and pedestrians.³³

In relation to servicing volumes, it is noted that:

In terms of demand, it has been determined from various surveys undertaken at other equivalent central area office developments, that this particular site would likely generate a need for around 10-15 servicing visits per day. The majority of these visits will be undertaken by courier vans and other similar sized vehicles. With their typically short duration, such courier/drop-off demands can readily be accommodated by the adjacent loading bay in the manner proposed. In addition, and considering their nature of providing drop-off / pick-up at similar activities, courier visits to the nearby Meridian Building will likely serve the new building at the same time, such that no new trip generation or parking demand at the loading bay would be created.

A similar scenario is likely for rubbish collection, with rubbish trucks already visiting the adjacent activities on the Waterfront having their contracts extended to collect waste and recycling at the proposal site at the same time, with no additional demands on Lady Elizabeth Lane at the adjacent intersections.

³³ Transportation Assessment Report (refer **Appendix 14**) - page 18

A recommendation is made that an appropriate servicing management plan (SMP) is put in place for servicing the new building (a draft SMP is appended to the TDG report).

A consent condition is proposed (refer Section 5.8 below) to require the preparation and implementation of an SMP.

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 Site 9, with the consequent reduction in traffic movement to and from the area.

Site servicing will be managed in a manner to avoid any significant disruption to pedestrian or vehicular movement past the site.

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

5.3.9 Ecology

An assessment of potential effects on the ecology of the coastal marine area was undertaken by Dr Jeremy Helson - refer **Appendix 15**.

In an Executive Summary Dr Helson records that:

- 1 *The proposed development at Site 9 Kumutoto consists of the construction of a new building on vacant land. The site of the development is situated entirely landward of the shoreline so there would be no direct alteration of the seabed or foreshore.*
- 2 *As part of the development, fill will be excavated from the site. It is likely that this fill contains contaminants and therefore there is potential for indirect effects caused by contaminants leaching into the sea.*
- 3 *I consider that this development, as proposed, is not likely to significantly affect the marine environment for the following reasons:*
 - 3.1 *There are no proposed works in or above the marine environment that may result in direct effects;*
 - 3.2 *The relatively low likelihood of indirect contamination occurring;*
 - 3.3 *The already contaminated nature of the receiving environment; and*
 - 3.4 *The capacity to mitigate such effects.*

The conclusion therefore is that any effects on the ecology of the coastal marine area will be less than minor.

6.3.10 Earthworks and Contaminated Land

The development of Site 9 will involve earthworks associated with the installation of building foundations and associated piling.

Consent is required for a Discretionary Activity (Restricted) 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 200m³).

Consent is also required in relation to contaminated land/soil under:

- (a) the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011); and
- (b) District Plan Rule 32.2.1.

In response to these requirements, Dunning Thornton were commissioned to prepare a 'preliminary earthworks methodology'; and Tonkin & Taylor Ltd were commissioned to prepare a ground contamination assessment report.

6.3.10.1 Earthworks

Dunning Thornton confirmed that excavation will typically be shallow, approximately 400mm deep, with the exception of the piles. Where existing building foundations are encountered, these will be removed, but only if they obstruct the new works.³⁴

5.3.10.2 Ground Contamination

As noted above, 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 remediated in a manner that does not pose any risk to human health. Based on the analysis and conclusions in the T&T report (refer **Appendix 17**) 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 site was reclaimed in the early 1900s using a mixture of quarried fill and demolition waste. The site was originally adjacent to the harbour waterfront, until land to the east and south-east was reclaimed in the 1970s using quarried gravel.

Shed 15 was constructed on the site in 1904. Shed 15 had asbestos sheeting installed in the roof in late 1943, fuel burners installed in 1944 (with a small storage tank) and possibly oil drum storage in 1977. It was used as a cafeteria, offices, storage and recreation. Shed 15 was demolished in 1985 and the site has been used as a parking lot since that time.

Dependent on the results of the intrusive investigation works and the volumes of soil to be disturbed, ground contamination related consents may be required for the proposed site development:

- NES soil consent for soil disturbance of contaminated soil
- District Plan Rule 32, as it applies to the protection of the environment
- Regional Plan rules for discharges to land - dewatering works³⁵
- Permit from WCC to discharge groundwater to stormwater or to sewer (trade waste)
- Requirements of the Health and Safety at Work (Asbestos) Regulations, if intrusive works identify asbestos to be present in the soils.

Note: consent is sought for the first two items as part of the current application. A separate application is to be made to the Greater Wellington Regional Council in relation to the third item.

A draft site management plan (SMP) has been prepared to provide methods and procedures for the management of contaminated material, health and safety procedures and measures for mitigating possible discharges during the development of the site - refer **Appendix 18**.

Any resource consent granted for the development of the Site 9 building should be subject to conditions relating to:

- reparation and approval of a FINAL site management plan (SMP) prior to any earthworks commencing on site; and
- following completion of the works, confirmation in a 'validation report' that works were completed in accordance with the SMP and that no environmental or human health incidents occurred during the works.

³⁴ The possibility exists that not all of the building foundations associated with Shed 15 which was demolished in 1985 were removed.

³⁵ It may also be necessary to obtain regional consent for the diversion of ground water.

Refer Section 5.8 below.

5.3.11 Natural Hazards and Sea Level Rise

The matters of natural hazards and sea level rise have been assessed by Beca Ltd - refer **Appendix 18**. In the report's Executive Summary it is recorded that:

This report has been prepared by Beca Ltd (Beca) for Willis Bond Capital Partners No. 3 Ltd (Willis Bond) to provide an assessment of climate change/sea level rise issues with respect to the currently-proposed development of Site 9 Kumutoto on the Wellington waterfront.

The Wellington City Council has indicated to Willis Bond that, for resource consent purposes, this report may be a modifying document to be read in conjunction with the similar report undertaken for the adjoining Site 10 in 2014, and appended.

The proposed ground floor level of the development is the same as that for the building on Site 10 - 2.5 metres above New City Datum (the same datum as Mean Sea Level and the 1953 Wellington Local Datum).

It is proposed that the building be of "Normal Importance" as defined by the New Zealand Building Code. This is the same as for the Site 10 building nearing completion, and leads to the use of a design life of 50 years in determining the appropriate mitigation of risks arising from natural hazards.

The proposed foundation extends down through the reclamation to firmer original soils. The building is to be founded on a series of parallel contiguously-piled walls perpendicular to the seafront. This configuration mitigates the effect of any soil liquefaction and material spreading that might occur in an earthquake.

Available predictions on sea-level rise and tsunami hazard have not changed significantly since the 2014 report. In the wake of the November 2016 Kaikoura earthquake, there are suggestions that seismic design levels be further raised for the Wellington waterfront. It should be expected that the structural designer will take any such changes into account in the final design.

During the consent process for the Site 10 building, there was some additional information put forward by expert witnesses re concurrency of components of sea level rise at any one time, and the relevance of Mean Sea Level with respect to the City Datum to which the ground floor is referenced. This has been recorded in this report.

Unlike the Site 10 building, this building will not have a below-ground basement. In all other respects, the natural hazards and their mitigation are comparable to those reported in the Site 10 report appended.

In a separate statement, Dunning Thornton the structural designers, confirm that:

Above ground floor the building superstructure will be base-isolated to provide a high level of seismic life-safety protection coupled with damage avoidance, improved business continuity and protection of contents. Base isolation will provide seismic, life-safety performance in excess of Importance Level 3 (IL3).³⁶

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

... Future mitigation to prevent flooding of the ground floor will be possible by simply raising the building at the isolator level. Lifting technologies capable of raising the building structure are already in existence.

5.3.12 Public Safety (CPTED)

A CPTED (crime prevention through environmental design assessment was commissioned from Stoks Limited - refer **Appendix 20**.

In the report's conclusion, Dr Stoks records that:

³⁶ Site 9 – Structural Effects & Construction Methodology", refer **Appendix 19**

From the CPTED perspective, the proposed Site 9 development is considered to be a significant contribution to the safety, activation, appearance and success of the Kumutoto Precinct. Development of Site 9 would allow Kumutoto Precinct to be finished. Site 9 and the extension of Kumutoto Lane (outside of this application, but practically enabled by this project) would also round out the suite of completed and imminently completed developments within the precinct that are individually and collectively expected to create a safe and successful part of the waterfront.³⁷

5.3.13 Construction Activities and Management

A draft Construction Management Plan has been prepared by LT McGuinness which covers the proposed construction works - refer **Appendix 21**.

The draft CMP objectives are to:

- outline a construction methodology for the Site 9 Project;
- identify any works during the course of the construction that have the potential to impact on the local environment;
- demonstrate management procedures to deal with the potential effects on construction activity on the local environment;
- establish how public interface will be managed;
- ensure the safety of the public at all times during the works; and
- outline potential issues and corrective procedures between neighbouring buildings, public and contractors.

It is anticipated that the construction period for the project will be around 16-18 months.

Any consent granted for the proposed development should be subject to a consent condition requiring the preparation and approval by Council of a FINAL Construction Management Plan (CMP).

Refer Section 5.8 below.

5.3.14 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".³⁸

The Site 9 development will deliver a number of positive effects, including:

1. providing certainty as to the future development of Site 9 which, for more than 15 years has been identified as a site for an appropriate waterfront building;³⁹
2. providing a high quality building which is appropriate to its site and with publicly accessible ground level activity and sheltered pedestrian amenity;
3. removing at-grade commuter parking and associated vehicle movements; and
4. 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 development of Site 9 with a new waterfront building.

³⁷ Kumutoto 9: CPTED Statement, Stoks Limited, 11 June 1018, page 5

³⁸ Elderslie Park Ltd v Timaru District Council [1995] NZRMA 433

³⁹ The Wellington Waterfront Framework adopted by Council in April 2001 referenced "new buildings in scale with heritage buildings"

5.3.15 Summary - Environmental Effects

The assessments that have been undertaken conclude that actual and potential adverse effects on the environment of allowing the development of Site 9 with a new building - 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 5.3.15 above, and relate in particular to certainty of the future development of Site 9, a high quality building, removal of at-grade parking and associated vehicle movements, and enhanced pedestrian amenity on the waterfront.

5.4 NATIONAL ENVIRONMENTAL STANDARD, POLICY STATEMENT AND PLAN PROVISIONS

5.4.1 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 3 "Statutory Context", due to the scale, nature and location of the proposed development there are several relevant statutory instruments (national environmental standard, policy statements and plans) as follows:

- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health
- National Policy Statement Urban Development Capacity
- The NZ Coastal Policy Statement
- The Regional Policy Statement for the Wellington Region
- 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.⁴⁰

The identified themes were:

- appropriate use and development
- increasing the range and diversity of activities
- maintenance and protection of significant heritage features and values
- quality design outcomes
- 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

Referring to each of the themes in turn, the following comments are made in relation to the proposed development of Site 9's consistency with the policy and plan provisions.⁴¹

⁴⁰ Refer Footnote 55 above at page 40

⁴¹ While the thematic approach has been adopted as the basis for assessing the consistency or otherwise of the proposed Site 9 building against relevant objectives and policies (national, regional and district), nevertheless, and given that the District Plan is considered to be the primary statutory instrument, an assessment of the proposed development against the District Plan objectives and policies is provided in **Appendix 22**.

5.4.2 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 wharf sheds, a number of which were significant buildings and which remain today and are now an essential part of the waterfront's heritage character.

However, 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 the district level, which is the primary focus given the consistency of the District Plan with the NZ Coastal Policy Statement and the Regional Policy Statement, guidance is provided by Objective 12.2.8 and Policies 12.2.8.1 to 12.2.8.6.

The development of a new building on Site 9, is considered to be appropriate in the context of the Lambton Harbour Area (aka Wellington waterfront) and therefore consistent with the relevant statutory instruments.

5.4.3 Enhancement of Public Access along the Coastal Marine Area

The Site 9 building per se will not directly enhance public access to the waterfront, however, nor will it impede it - but it will add to the overall pedestrian amenity of the waterfront by removing an existing at-grade commuter carpark and associated vehicle movements, and through providing covered pedestrian spaces on both sides of the building (there is presently no footpath on the west side of the site adjacent to Customhouse Quay). There will also be a 'short-cut' through the building during daylight hours.

The development of Site 9 will not result any diminution in the quality of public access to and along and adjacent to the coastal marine area.

5.4.4 Increasing the Range and Diversity of Activities

The development of Site 9 is consistent with the NZCPS (development that maintains the character of the existing built environment), the RPS (an increased range and diversity of activities), and the District Plan (facilitating a vibrant, dynamic Central Area by enabling a wide range of activities to occur).

5.4.5 Maintenance and Protection of Significant Heritage Features and Values

Given the conclusions of the specialist heritage assessment, it can be concluded that the development of Site 9 is consistent with the NZCPS (protecting historic heritage from inappropriate use and development), the RPS (protecting historic heritage values), and the District Plan (maintaining and enhancing the heritage values associated with the waterfront).

5.4.6 Quality Design Outcomes - Built Form

The new Site 9 building incorporates significant quality design outcomes, both in relation to the building and its relationship to the adjacent 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).

5.4.7 Enhancing the 'Sense of Place' of the Waterfront

The new Site 9 building 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, but with buildings that support the public amenity of the area, both in their design and their associated uses and activities.

The Site 9 development 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 the proposed new building on Site 9 is consistent with the District Plan's intended 'sense of place' for North Kumutoto.

5.4.8 Managing Earthworks in Areas Adjacent to the Coastal Marine Area

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 during construction.

The proposed construction-related management plans will ensure that measures are in place to minimise disruption to 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 that the:

- 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); 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 Site Management Plan (SMP) that outlines procedures that will be implemented during earthworks (refer **Appendix 17**). The SMP sets out procedures for establishing the site and associated management structures/systems, handling and managing contaminated materials, including soil that contains asbestos.

5.4.9 Managing the Remediation of Contaminated Land

In a similar manner to earthworks generally, the removal and remediation of contaminated material from Site 9 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 SMP.

Appropriate consent conditions will be the means by which this result is achieved.

5.4.10 Appropriately Addressing Risk and Consequences of Natural Hazards

As previously noted (refer section 5.3.12 above), the proposed new 'base-isolated' building on Site 9 has been designed to provide:

... seismic, life-safety performance in excess of Importance Level 3 (IL 3).

This is a high level of seismic performance.

In relation to sea level rise, Dunning Thornton confirm 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 lift pits may become susceptible to occasional inundation as a result of sea-level rise after approximately 100 years. Future mitigation to prevent flooding of the ground floor will be possible by simply raising the building at the isolator level. Lifting technologies capable of raising the building structure are already in existence.

The Beca report (refer **Appendix 16**) 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.*⁴²

In the Site 9 Report, Beca refer to the Environment Court's consideration in 2015 of the then proposed Site 10 building development, noting that:

Three matters applicable to natural hazards assessment for this Site 9 were raised in the consent hearings for Site 10.

The Environment Court in paragraph 107 of their decision, stated:

[107] ... the building has been designed to manage the possible effects of a sea-level rise of 1 metre between now and 2115. That allowance accords with a good body of expert opinion, and, having regard to the expected lifetime of a commercial city building seems to us to be quite in accord with reasonable precaution. In terms of possible risk from tsunami or storm surge, the building will be no more, and possibly somewhat less, at risk than any other building along the waterfront. We see nothing of substance in this issue and do not take account of it.

Beca stated that they support the Court's observation and then recorded the Court's Conditions 37 and 38 re coastal inundation, which were:

[37] The ground floor level of the building must be constructed in a manner to ensure that any coastal water up to an elevation of 2.50m above Wellington Vertical datum shall not enter the building through any opening (including doors).

[38] Prior to the occupation of the building, certification from a registered Cadastral Surveyor must be provided to the CMO to confirm compliance with condition [37] above.

The Applicant accepts that these consent conditions should also be applied to any grant of consent for the Site 9 building.

5.4.11 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 Wellington Tenth Trust and Port Nicholson Block Settlement Trust.

As the cultural impact report records (**Appendix 7**), Site 9 is within an area:

*"... with strong association with the Te Atiawa/Taranaki Whanui ki te Upoko o te Ika and the hapu of Ngati Te Whiti..."*⁴³

whose descendants are today represented by the Wellington Tenth Trust and the Port Nicholson Block Settlement Trust.

Given the process of consultation that has been undertaken through the preparation of the cultural impact assessment in association with the Wellington Tenth Trust and the Port Nicholson Block Settlement Trust, proper recognition has been given to the role of tangata whenua in decision-making.

5.5 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':

⁴² Site 10 - Kumutoto - Natural Hazards Assessment, Beca Ltd, 22 October 2014, page 7 - Appendix to Beca Site 9 Report (**Appendix 18**)

⁴³ Cultural Impact Report, Kumutoto Site 9 Development, Kumutoto North, prepared in Association with Wellington Tenth Trust and Port Nicholson Block Settlement Trust, March 2018 2014, page 6

- The Wellington Waterfront Framework (2001); and
- Environment Court Decisions on Variation 11 and the Site 10 development.^{44 45}

5.5.1 The Wellington Waterfront Framework (2001)

In the Applicant's opinion (an opinion supported by the Environment Court's comments in the Hilton Hotel case)⁴⁶ the Wellington Waterfront Framework can be had regard to as a relevant "other matter".

The Kumutoto Precinct (aka North Queens Wharf) is one of five sub-areas making up the Wellington waterfront, and is seen as having an identifiable character based on, inter alia:

- strong connection to CBD;
- maritime character; and
- new buildings in scale with heritage buildings and enhanced with squares and lanes.

In relation to "building relationship to open spaces", 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 ...

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..⁴⁷

The proposed new building on Site 9 is assessed as being consistent with this 'vision' for the Kumutoto Precinct.

5.5.2 Environment Court Decision on Variation 11 and Site 10 Development

In relation to Site 9 (aka Block B), in its decision on Variation 11 the Environment Court observed that:

[115] 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 to 19m which would equate to the Meridian Building annex and provide relativity to Shed 13).

Subsequently, in its decision on the Site 10 development, when referring to its earlier decision on Variation 11, the Environment Court recorded that:

*[125] The general area surrounding and including the site has been the subject of the relatively recent decision of the Court mentioned earlier - on what was Variation 11 of the City's District Plan. It proposed a change of the specific provisions relating to the Lambton Harbour Area, including the site of the present proposals. For the reasons set out, the Court did not agree with the proposed variation, and allowed the appeals against it - see *Waterfront Watch Inc and Queens Wharf Holdings v Wellington CC [2012] NZEnvC 74*. This decision was cited by some objectors to the current proposal as, in effect, setting dimensional maxima for a building on Site 10. We do not see it as doing so in any absolute sense ...*

adding at paragraph 126 that

⁴⁴ *Waterfront Watch Inc and Queens Wharf Holdings v Wellington City Council*, NZEnvC, 74/2012

⁴⁵ *Site 10 Redevelopment Limited Partnership and Wellington City Council*, NZEnvC, 173/2015

⁴⁶ *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.

⁴⁷ Wellington Waterfront Framework, page 33

[126] Further, we consider that Mr Aburn summed up what should be made of the 2012 decision in this respect, in pointing out that what the Court then described as a permissible height should be regarded as an indication of a permitted activity maximum, with loftier structures being subject to the discipline of obtaining of a resource consent of the appropriate activity status.

While there is no 'permitted baseline' against which to assess the proposed Site 9 building, the observations made by the Environment Court in its decision on Variation 11, and in its decision on the Site 10 building, can be had regard under s104(1)(c) of the Act.

5.6 SUMMARY - S104 EVALUATION

In Section 3 "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 development of a new building on Site 9 be considered as an 'appropriate' development within the (Lambton Harbour Area)?

Yes. The Lambton Harbour Area 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 new building now proposed for Site 9 is 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".⁴⁸

The proposed Site 9 building, along with the new building on Site 10, and the adjacent public spaces, including Site 8, will add to the viability and vitality of the waterfront by bringing adding an additional 'daytime population' to North Kumutoto.

Question 2: will the proposed new building on Site 9 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 historic Shed 13.

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, including the newly established Whitmore Plaza to the immediate north.

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, for sites on the opposite side of Customhouse Quay, the permitted activity height is 60m above mean sea level.

Question 3: will the proposed new building on Site 9 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 good relationship with the adjacent Shed 13. As the heritage assessment commented:

The proposed development of the bare Site 9 site retains the heritage values found adjacent to the site (the former Wellington Harbour Board gates and fences) and more widely the buildings, features and elements that have been recognised in the immediate surrounding area.

⁴⁸ Op cit, page 11

... the proposed building development has chosen to reference the materiality of Shed 13 and then transition that materiality as contrast and in deference to the existing heritage fabric of adjacent buildings that than appear to mimic those buildings and their fabric which, in doing so, would risk lessening the values of both the authentic historic and qualities of the new as a building consciously of its time.⁴⁹

Question 4: will the proposed new building on Site 9 give rise to any adverse effects on waterfront amenities as a consequence of significant environmental 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, Kumutoto Plaza will not be shaded during the 'protected' hours. While there will be some shading on Site 8, which in any case is subject to shading from other Central Area buildings at those times, other close-by public spaces (Whitmore Plaza) will not be in shade. 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 9 will result in an overall improvement in the local wind environment.

Question 5: will vehicular and pedestrian traffic and movement be accommodated in a safe and efficient manner?

Yes. The only vehicular traffic 'attracted' to the site will be service vehicles, and these can be readily accommodated in Lady Elizabeth Lane.

The positive outcome will be the removal of the at-grade commuter car park and the associated vehicle movements resulting in an increased level of pedestrian amenity and safety consistent with the vision laid down in the Wellington Waterfront Framework.

Question 6: 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 works, the earthworks 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. This will be achieved through comprehensive and robust construction measures such as the implementation of a sediment control plan approved by the consent authorities. As the other parts of the waterfront that have been developed confirm, construction effects, including earthworks, although they may result in some short-term inconvenience and disruption, result ultimately 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 7: will there be any short-term effects during construction?

As with any major construction project there will be disruption and inconvenience and some temporary adverse effects, including construction noise. However with the implementation of a robust construction management plan such effects will be avoided, remedied or mitigated to the greatest extent practicable.

Question 8: will the new building on Site 9 appropriately address the risks and consequences of natural hazard events, having regard to 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.

As the building will be base-isolated, it will be possible to mitigate the effects of sea level rise by raising the building at the isolation level.

⁴⁹ Archifact Limited, June 2018, Assessment of Environmental Effects on Historic Heritage, Site 9 North Kumutoto, page 14

Question 9: is the proposed new building on Site 9 consistent with national, regional and district policy?

Yes. The conclusion of this AEE is that the proposed new building on Site 9 is consistent with the policy framework for the Lambton Harbour Area, as ‘informed’ by the relevant national, regional and district level instruments.

Question 10: will the new building on Site 9 result in positive effects for the overall development of the Wellington waterfront?

Yes. The new building on Site 9 will bring about significant positive outcomes including improved pedestrian amenity and a high quality building that will add a significant daytime population thus enhancing the vitality and viability of the waterfront.

The overall conclusion of this AEE is that the proposed Site 9 building will result in the development and use of one of the few remaining sites on the Wellington waterfront where new buildings are anticipated, and in a manner that positively reinforces the harbour/city interface.

5.7 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.*
- (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)

The recent High Court decision in *R J Davidson Family Trust v Marlborough District Council*⁵⁰ confirms that decision-makers considering an application under s104(1) should only have recourse to Part 2 if the relevant statutory planning documents (in this case the operative Wellington City District Plan) is:

“...invalid, incomplete or uncertain”.

In respect of Central Area development, the operative Wellington City District Plan is neither ‘invalid’, nor ‘incomplete’ nor ‘uncertain’. Indeed, quite the reverse is true.

The District Plan has a robust set of objectives, policies, rules and associated standards which seek to ensure that social, economic and technological change in the Central Area, including the Lambton Harbour Area, is managed in a way that encourages positive growth. New Central Area buildings that respond positively to the Central Area Urban Design Guide are encouraged [Objective 12.2.5].

In short, the Central Area provisions are comprehensive, robust and fully aligned with Part 2 obligations.

Consequently, in assessing and deciding the application for the proposal, no regard need be given to Part 2.

⁵⁰ [RJ Davidson Family Trust v Marlborough District Council \[2017\] NZHC 52](#)

Nevertheless, if regard were to be had to Part 2, then it is considered that the proposed new building on Site 9 would be consistent with Part 2 directives.

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 proposed new building on Site 9 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:*

The site 9 building will not place any constraints on public access to and along the coastal marine area.

- *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 **Appendix 7**), North Kumutoto 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 Wellington Tenth Trust and Port Nicholson Block Settlement 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 for the Site 9 building 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. Adjacent to the site is Shed 13 a listed heritage building. As the independent heritage assessment comments:

*"The development of Site 9 maintains and enhances the site's relationship between distinct elements of the wider area including its heritage assets and its public landscaped areas. In establishing an appropriate building form, bulk and materiality on Site 9 the visual connection to the sea from Shed 13 at its scale is maintained, as is the framing of the Central Area Viewshaft No. VS5 (Waring Taylor Street) to the harbour across the north end of Shed 13"*⁵¹

and elsewhere:

*"The proposed building provides important and relevant transition in scale between the historic heritage scales of Shed 13 and Shed 21 (referencing also the emerging Site 10 development scale)".*⁵²

Accordingly, the proposed new building on Site 9 is considered to be consistent with s6(f).

Section 7: Other Matters

The following s7 "other matters" are considered to be relevant to an assessment of the Project:

- *s7(a): kaitiakitanga / s7(aa): the ethic of stewardship*

⁵¹ Archifact Limited, June 2018, Assessment of Environmental Effects on Historic Heritage, Site 9 North Kumutoto, page14

⁵² Op cit, page 16

Input by Maori into the assessment process (principally through 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 9 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 15 in 1986), been principally used for car parking (and currently as a construction site for the North Kumutoto public open spaces development).

The use of the ground floor of the new building for publicly accessible activities and the commercial office spaces on Levels 1 to 5 will all contribute to the economic viability of the development. In turn, the significant capital sum payable by the Applicant for the long-term lease will enable the Council to fund other public development.

- *s7(c): the maintenance and enhancement of amenity values*

The new Site 9 development, which will replace an 'at-grade' carpark, will contribute to an overall enhancement of the amenity values of North Kumutoto.

- *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 development of the new building on Site 9 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 that will be affected by the development.

- *s7(f): the maintenance and enhancement of the quality of the environment*

The Site 9 development will make a contribution to the overall enhancement of the quality of the environment in the North Kumutoto Precinct 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 the adjacent Whitmore Plaza public space. The quality of the public and pedestrian environment will be enhanced with the removal of the vehicle movements associated with the commuter carpark.

- *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:

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.⁵³

Section 8: Treaty of Waitangi

The commissioning of the cultural impact report and the consultation with the Wellington Tenth Trust and Port Nicholson Bock Settlement Trust is consistent with the 'partnership principles in the Treaty of Waitangi.

⁵³ Site 10 - Kumutoto - Natural Hazards Assessment, 22 October 2014, page 9. Note: the Site 10 report is attached as the Appendix to the Site 9 - Kumutoto - Natural Hazards Assessment (**Appendix 18**)

Section 5: Purpose of the Act

The new building on Site 9 will actively promote the purpose of the Act in that it will provide for the sustainable management of a significant natural resource (Site 9) 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.

At the same time, the potential for any adverse effects associated with the development 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.

Overall Conclusion Part 2

In the Applicant's opinion, the proposed development of Site 9 in the manner proposed is consistent with Part 2, for the reasons summarised above.

5.8 SECTION 104B RMA

Section 104B states:

Determination of applications for discretionary or non-complying activities –

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 authority would be fully entitled to exercise their discretion and grant consent to the application. In summary, those reasons are:

1. The development of Site 9 with a new building will result in positive effects.
2. The development, 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 development is consistent with the objectives and policies of the relevant statutory instruments, including the National Policy Statement on Urban Development Capacity, the New Zealand Coastal Policy Statement, the Regional Policy Statement for the Wellington Region and the Wellington City District Plan.
4. The new building will enhance the amenities of the Lambton Harbour Area in the manner promoted by the Wellington Waterfront Framework.
5. The development will promote the sustainable management of the natural and physical resources of the waterfront.
6. 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 development of Site 9 in the manner proposed will result in some temporary adverse effects 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 Applicant accepts that consent conditions should be imposed to address the following principal matters:

General

The developments should proceed in accordance with the application drawings.

Specific consent conditions should address:

1. Urban design audit: requirement for the consent holder to submit 'developed design drawings' to the Council's Compliance Monitoring Officer (CMO) prior to lodging for building consent to confirm that design detail including materials represents 'design excellence' standards.

Note: the Compliance Monitoring Officer will liaise with the Council's Technical Advisory Group (TAG) in approving the developed design drawings;

2. 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;
3. site contamination remediation (a Contamination Site Management Plan and a Site Validation Report);
4. site servicing management plan; and
5. accidental discovery protocol.

6 CONCLUSION

Willis Bond Capital Partners No 3 Limited is applying for resource consents to enable the development of a new commercial building on Site 9. The development of Site 9 in the manner proposed will complete the development of the Kumutoto Precinct.

This AEE has described the Site 9 development, 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 new Site 9 building will make a positive contribution to the overall quality and attractiveness of the Kumutoto Precinct.



Alistair Aburn
Environment and Resource Management Consultant
Director
URBAN PERSPECTIVES LTD

26 July 2018

APPENDICES

1. Site and Locality Photographs
2. Architect's Design Report
3. North Kumutoto Public Space Development
4. Wellington Waterfront - Planning History
5. District Plan Audit
6. Pre-Application Meeting Notes
7. Cultural Impact Report
8. Archaeological Assessment
9. Heritage Assessment
10. Viewshaft Photographs
11. Urban Design Assessment
12. Townscape Photomontages
13. Wind Report
14. Transportation Assessment
15. Ecology Report
16. Ground Contamination Assessment
17. Site Management Plan
18. Natural Hazards Report
19. Structural Effects and Construction Methodology
20. CPTED Statement
21. Draft Construction Management Plan
22. District Plan Objectives and Policies

