

In the Environment Court
At Wellington

ENV-2023-WLG-

I te Kōti Taiao o Aotearoa
Ki Te Whanganui-a-Tara

In the matter of the Resource Management Act 1991 (RMA)

And

In the matter of a direct referral of an application for resource consent for the construction of a building and associated earthworks at 1 – 24 Tasman Street, Mount Cook, Wellington

Between One Tasman Development Limited Partnership

Applicant

**AFFIDAVIT OF NICHOLAS GEOFFREY OWEN IN SUPPORT OF NOTICE OF MOTION
FOR DIRECT REFERRAL**

AFFIRMED 21/06/2023

**SIMPSON
GRIERSON**

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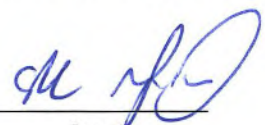
I, **NICHOLAS GEOFFREY OWEN** of Wellington, Senior Development Manager, affirm:

Introduction

1. I am a Senior Development Manager at Willis Bond and Company Limited (**Willis Bond**), which has been appointed by One Tasman Development Limited Partnership (**Applicant**) to manage the project described below. I am authorised to make this affidavit on behalf of the Applicant.
2. I make this affidavit in support of the Applicant's notice of motion for its application for resource consent to be decided by the Environment Court.

Background

3. The Applicant has applied for the following resource consent:
 - (a) SR number. 528330 to Wellington City Council (**Council**) (**Application**).
4. The Application relates to an earlier consent granted for the site at 1 - 23 Tasman Street. The earlier consent (**Consent 500876**) was granted for a residential development with a cafe and associated earthworks. Consent 500876 was granted for two tower buildings, one at eight storeys (**Northern Apartments**) and one at five storeys (**Southern Apartments**), and their ancillary buildings, Pukeahu Terrace Houses (five dwellings), Buckle Street Terrace Houses (five dwellings) and the Courtyard Terraces & Carpark (8 dwellings + ancillary carpark structure). The Application is for an increase in the height of the two consented tower buildings to



ten and nine storeys respectively, and an additional level of basement carparking beneath the consented carpark building.

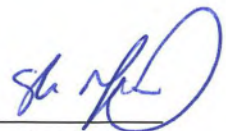
5. The Applicant acquired 1 Tasman Street in February 2021, and commenced concept design work immediately. Following early engagement with the Wellington City Council Urban Design Panel and Heritage New Zealand, the Applicant acquired the neighbouring 23 Tasman Street in July 2021 to address key feedback from these sessions – this is further discussed below.

Stakeholder consultation

6. Prior to lodging the Application, I (or other members of our development team) met with primary stakeholders that the Applicant had identified as important stakeholders regarding the proposal, with the intention to proactively engage with these stakeholders to identify and address feedback as the scheme evolved in the concept stages of the project.

7. These stakeholders included:

- (a) Wellington City Council Urban Design Panel;
- (b) Wellington Tenth's Trust;
- (c) Heritage New Zealand Pouhere Taonga;
- (d) Ministry of Culture and Heritage;



(e) Massey University; and

(f) Wellington High School.

8. As a result of the stakeholder engagement with the Wellington City Council Urban Design Panel and Heritage New Zealand Pouhere Taonga, the Applicant acquired 23 Tasman Street in July 2021. This was to address feedback from these stakeholders that they desired the direct sight line from the Mount Victoria tunnel to the Carillon to be maintained. The Applicant's purchase of 23 Tasman Street allowed the Southern Apartments to be relocated slightly south, widening the gap between the towers and therefore preserving this sight line.
9. Overall, the stakeholder engagement process culminated in letters of support (or no objection) provided by each of the above parties. These letters are included in Appendix 6 of the Assessment of Environmental Effects.¹

Public notification, submissions and further consultation

10. The Application was made on 1 February 2023 and was publicly notified on 17 February 2023 in the Dominion Post and on the Council's website. In addition to the public notification, 267 identified parties were served notice. A copy of the public notification is annexed to this affidavit and marked "Exhibit A".

1 The Assessment of Environmental Effects is available at the following link <<https://wellington.govt.nz/property-rates-and-building/building-and-resource-consents/resource-consents/submitting-on-or-approving-a-resource-consent-application/publicly-notified-resource-consents/public-notification-1-23-tasman-street>>.

11. Eighteen submissions were received on the current Application, seven in support, eight opposed, two neutral and one submission partially in support and partially in opposition. The reasons provided for support or opposition varied.

12. We have attempted to meet with all eight submitters who opposed the Application. Despite our attempts, five submitters either did not engage or stated that they did not wish to meet:

(a) Peter McLuskie (an employee of Wellington City Council in the Consents team);

(b) Tyrone Anderson;

(c) Stuart Gray;

(d) Alyssa Hatton; and

(e) Nicola Bennett (on behalf of the National Army Museum).

13. We met with the following three submitters in opposition:

(a) Todor Koleff: Ms Koleff raised concerns relating to light and height. We met with Ms Koleff but were unable to resolve the issues. Ms Koleff requested not to be contacted again.

(b) Graeme Hildred and Richard Cooke, representing themselves and Aaron Burke, who together submitted duplicate submissions as owners and/or property managers of 4 Sussex Street.

(i) Graeme Hildred: Mr Hildred submitted as the owner of the neighbouring student accommodation at 4 Sussex Street. He raised concerns with the impact of construction on neighbouring properties and residents. He responded with further questions in respect of construction effects, which we answered.

(ii) Richard Cooke: Mr Cooke (support and oppose) who spoke on behalf of all owners, including Mr Aaron Burke (oppose). We did not meet Mr Aaron Burke personally, but were advised in our meeting with Mr Hildred and Mr Cooke that he was represented by them. Mr Cooke (and Mr Burke) similarly raised concerns regarding construction effects, but indicated that the owners support the design of the building other than the wall of the car park building on the boundary with 4 Sussex Street.

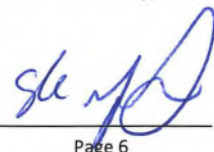
14. At this stage we have not been able to resolve any of the issues raised to the submitters' satisfaction.

Reasons for seeking direct referral

15. The Council granted the Applicant's request to allow the application to be determined by the Environment Court instead of by the Council, under section 87E of the Resource Management Act 1991 on 15 March 2023. A copy of the Council's decision is annexed to this affidavit and marked "Exhibit B".

16. The Council prepared a report on the application under section 87F(3) of the Resource Management Act 1991 dated 30 May 2023. A copy of the Council's report is annexed to this affidavit and marked "Exhibit C".

17. The Applicant has considered the Council's report and wishes to proceed to have the application heard by the Environment Court. The reasons for the Applicant's notice of motion are as follows:
 - (a) Willis Bond has previously managed a number of developments across high profile sites in Wellington, including within the Cuba Precinct and on the Wellington Waterfront. The Cuba Precinct has, to date, involved the restoration of the ex-Farmers heritage site at 100 Cuba Street (now occupied by Greater Wellington Regional Council and a selection of retail tenants) and development of the Te Auaha campus and recently-completed Victoria Lane Apartments. Our Wellington Waterfront developments include the restoration of the Wellington Free Ambulance Building, the former Odlins Building (now the NZX Centre) and Shed 22 (now Macs Brewbar), the development of Clyde Quay Wharf on the site of the former Overseas Passenger Terminal and, more recently, the



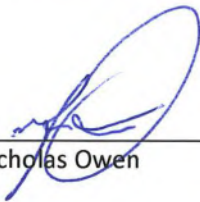
development of the PWC Centre on Site 10, and the Bell Gully Building on Site 9, North Kumutoto.

- (b) For Site 10, because of the expected level of interest, Willis Bond sought that the application be directly referred to the Environment Court. Direct referral was granted for the application and there were ten section 274 parties (including the consent authorities) to the proceedings.
- (c) For the development of Site 9, given its close relationship with Site 10, we also undertook the same process. In that instance, there were nine submissions and ultimately four section 274 parties (including Wellington City Council as consent authority) to the proceedings.
- (d) In terms of the development of Clyde Quay Wharf, resource consents were granted and then appealed to the Environment Court with strong opposition from interest groups, resulting in a two-year consenting process.
- (e) Willis Bond and myself are therefore aware of the high degree of interest (and sometimes controversy) that generally surrounds developments in Wellington. We are aware that Wellingtonians wish to ensure that sites like this one are developed in a conscientious way that benefits the Wellington community. We are conscious of the need for new development on this site to be of a high-quality and considerate design. It was for this reason we undertook substantial stakeholder engagement proactively, as outlined above.



- (f) There is additional complexity arising from the consenting environment for this Application, including the fact that there is both an Operative District Plan and a Proposed District Plan applying to the site.
- (g) Because of the nature of the issues raised in relation to the Application and the location of the site, if the Application was heard at first instance by the Council, it is possible, if not likely, that there would be appeal(s) and the Application would end up being heard de novo by the Environment Court in any event. Therefore, it is my belief that it will be more efficient in terms of cost and time for all parties and interested persons to have the matter referred directly to the Environment Court.

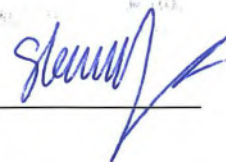
Signature of deponent:



Nicholas Owen

AFFIRMED at Wellington)
this 21st day of June 2023)
before me)

Samuel Liam Kenneally
Solicitor
Wellington



A Solicitor of the High Court of New Zealand

Exhibit A: Council Public Notification Dated 17 February 2023



Resource consent application – 1-23 Tasman Street, Mount Cook

Wellington City Council has received an application from Urban Perspectives on behalf of One Tasman Development Limited Partnership for a resource consent.

Site Address : 1-23 Tasman Street, Mount Cook

Type of consent sought: Land Use

Description of proposal: Construction of a multi-unit development comprising two apartment blocks: one at 10 storeys and one at nine storeys.

Service request number: 528330

Activity status: Land Use – Non-complying Activity

Viewing the application

You can view the full application, including the applicant's Assessment of Environmental Effects, the plans and all supporting information during normal business hours at:

- Arapaki Manners Library and Service Centre - 12 Manners Street, Te Aro
- Te Awe Library - 29B Brandon Street, Wellington Central
- Brooklyn Library – 1 Harrison Street, Brooklyn
- Newtown Library – 13 Constable Street, Newtown

You can also view or download the full application from the Council website via: <https://wellington.govt.nz/have-your-say/public-notice>

If you have any questions about the application, please contact the Planning Helpdesk - phone 04 801 3590 or email planning@wcc.govt.nz

How to make a submission

Any person may make a submission on the application. A person who is a trade competitor of the applicant may do so only if they are directly affected by an effect of the application that adversely affects the environment and does not relate to trade competition or the effects of trade competition.

You may make a submission by sending a written or electronic submission to Wellington City Council at consent.submissions@wcc.govt.nz or Resource Consents Team, Wellington City Council, PO Box 2199, Wellington 6140. The submission must be in form 13. Copies of this form are available from Wellington City Council and on the Council website via: <https://wellington.govt.nz/property-rates-and-building/building-and-resource-consents/forms-and-guidance>.

Please note that submissions are public information. If we receive a request for the submissions under the Local Government Official Information and Meetings Act 1987 your submission will be made available.

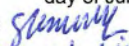
Submissions close at 11:59pm on Friday 17 March 2023.

You must serve a copy of your submission to Urban Perspectives (the applicant) as soon as reasonably practicable after serving your submission on the Council. The applicant's address for service: Alistair@urbanp.co.nz or Urban Perspectives, PO Box 9042, Wellington 6140.

Barbara McKerrow
Chief Executive Officer, Wellington City Council
17 February 2023

Exhibit Note

This is the exhibit marked "Exhibit A" referred to in the annexed affidavit of Nicholas Geoffrey Owen affirmed at Wellington this day of June 2023.

Signature: 
Name: Samuel Liam Kenneally
A Solicitor of the High Court of New Zealand

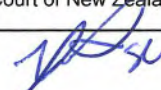


Exhibit B: Council Section 87E Decision



Request to Refer Resource Consent Application to the Environment Court

Wellington City Council Decision on Request (Section 87E)

REQUEST FOR DIRECT REFERRAL TO THE ENVIRONMENT COURT

1. Pursuant to section 87D(1) of the Resource Management Act 1991 ('the Act'), the applicant (One Tasman Development Limited Partnership) has requested that Wellington City Council ('WCC') allows the resource consent application for One Tasman Pukeahu Park ('One Tasman') Project lodged under Service Request No. 528330 to be determined by the Environment Court rather than WCC. This is commonly referred to as a 'request for direct referral'.
2. The One Tasman Project relates to the construction of a multi-unit development containing two apartment blocks at 10 and nine storeys, two and three-storey terrace houses (13 units), a café, over 138 onsite parking spaces and associated earthworks. The project requires resource consent from WCC.
3. The direct referral request relates to the application that was received by WCC on 1 February 2023.

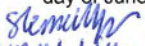
SUMMARY OF RESOURCE CONSENTS SOUGHT FROM WCC

One Tasman Pukeahu Park:

<u>Site Address:</u>	1 - 23 Tasman Street, Mount Cook
<u>Legal Description:</u>	Section 1219 Town of Wellington and Part Section 665 Town of Wellington
<u>Applicant:</u>	One Tasman Development Limited Partnership C/- Urban Perspectives Ltd
<u>Application Reference:</u>	Land use consent sought from WCC
<u>Approx. Map Reference:</u>	NZTM: 1748895.5426482
<u>Service Request No:</u>	528330
<u>File Reference:</u>	1014088

Exhibit Note

This is the exhibit marked "Exhibit B" referred to in the annexed affidavit of Nicholas Geoffrey Owen affirmed at Wellington this
day of June 2023.

Signature: 
Name: Samuel Liam Kennelly
A Solicitor of the High Court of New Zealand

Application Summary:

4. Land use consent to construct a new multi-building multi-storey residential development, with a café; car parking along with associated earthworks.
5. The proposal relates to the construction of over-height and over-mass buildings in the Central Area, with building, parking and site access non-compliances, and associated earthworks.



6. Overall, the land use consent sought from WCC is being considered as a Non-complying Activity under the Operative Wellington District Plan.

APPLICANT'S REASONS FOR DIRECT REFERRAL

7. The applicant has given the following reasons for the request for the application to be referred to the Environment Court:
 - a) *The site at 1-23 Tasman Street is adjacent to an area of historic heritage significance, an area which includes a number of listed heritage buildings and the Pukeahu National War Memorial Park, overall, an area of significance to the people of Wellington. The application is therefore likely to be of significant public interest; and*
 - b) *It will be more efficient in terms of cost and time for all parties and interested persons to have the matter referred directly to the Environment Court, as the matter may come before the Environment Court in any event through an appeal of any decision made by the Council.*

STATUTORY PROVISIONS RELATING TO THE REQUEST

8. Sections 87C and 87D of the Act allow the applicant to request that a notified resource consent application be processed by the Environment Court, rather than the consent authority. The applicant must make this request within the period commencing on the day the application is first lodged and ending 5 working days after submissions close.
9. This application was publicly notified on 17 February 2023. The submission period closes on 17 March 2023. The applicant's request was made using the prescribed form (Form 7A) and was received by WCC on 22 February 2023.
10. The request for direct referral is therefore an 'eligible' request under section 87D of the Act.
11. In my view, the application is complete for the purposes of section 87E of the Act. We note there is no provision under s92 to allow the clock to stop under this process, and there are a small number of outstanding matters raised by Council advisors which require addressing, and without precluding this to enable WCC to undertake a full substantive assessment of the application, WCC is in a position to make a fully informed decision on the applicant's request for direct referral.

STATUTORY PROVISIONS RELATING TO THE DECISION

12. There are no specific criteria set out within the Act to guide WCC in deciding whether it grants or declines an eligible request for direct referral. WCC retains full discretion in this regard.
13. Section 87E(7) of the Act states that no submitter has a right to be heard on the request received from the applicant.

CONSIDERATION OF THE REQUEST

14. WCC considers the following criteria to be relevant in considering whether to agree to, or decline the request:



The reasons set out by the applicant:

15. The reasons given by the applicant for the request, outlined above, are considered to be reasonable in the circumstances.
16. The subject site adjoins Pukeahu Park containing buildings and structures with national heritage value (as identified in the District Plan and by Heritage New Zealand Pouhere Taonga) as it is likely that there will be a high level of public interest, the proposed development in this location is contentious.
17. The development is also over-height and exceeds mass in relation to the Operative District Plan.
18. I agree that having the application determined by the Environment Court will be more efficient in terms of cost and time for most (if not all) parties as it is highly likely that any decision on the application made by the consent authority will come before the Environment Court in any event through an appeal. In such case, the Environment Court would rehear the application on a *de novo* basis. In my view, having the application determined by the Environment Court in the first instance will avoid duplication, cost and delays in processing the application relating to the FAS Project. This aligns with the very purpose of sections 87D and 87E, which is discussed further below.

The extent and nature of submissions:

19. A total of eleven submissions were received to date in relation to this application. Five submissions are in opposition (either in full or in part). Six submissions are in support (either in full or in part). No submissions are neutral.
20. It is clear from the nature and content of these submissions that the application is contentious.
21. A total of two submitters have requested to be heard in relation to their submissions and therefore a hearing will be required.

Impacts on any persons:

22. I have given consideration to the impacts on the persons involved in the application in terms of time and costs of the application being determined by the Environment Court, as opposed to a Council hearing. As set out above, my view is that direct referral will allow for a single process and is therefore likely to reduce costs, duplication and delays for all persons.
23. It is possible that some submitters may be deterred from participating through an Environment Court hearing, as may be the case with any subsequent appeal of a Council decision. However, the Environment Court is well practiced in hearing the submissions and evidence of lay submitters and the direct referral process recognises this is all persons 'first' chance to make submissions and call evidence (if any) on the proposal. It has been specifically designed for this purpose. I do not consider that submitters or the applicant will be unduly prejudiced by the application being determined by the Environment Court in the first instance. Submitters have the right to continue their participation in the application process (if they wish) as they would in any Council process. In any case, should any submitter wish not to appear in Environment Court proceedings, their respective written submissions will still be considered by the Court in determining the application.



24. In my view, the concerns above must be balanced with the intentions and purpose of the 'streamlining decision-making' provisions of the Act introduced by the Resource Management (Simplifying and Streamlining) Amendment Act 2009, namely, to improve efficiency in the decision-making process and to reduce duplication, costs and delays, particularly where an appeal seems likely. In my view, the intentions of these provisions are best met through granting the direct referral request and does not unreasonably impact on any person.

Complexity of the matters for determination:

25. Although the matters to be determined are not necessarily 'complex' in a planning sense, the matters to be determined are contentious, have been the subject of much debate in the past, and involve an area of special significance to the Wellington and nationwide community.
26. Expert evidence will be required to assist in the determination of the application, which in my view would be best tested through cross examination and through other procedures available in the Court.

Any other relevant matters:

27. There are no other relevant matters or special circumstances that I consider warrant the request for direct referral to be declined by WCC.

RECOMMENDATION

28. Having considered the applicant's reasons for the request; the relevant statutory provisions of the Act; the criteria outlined above as relevant to this decision; and the intentions/purpose of the 'streamlining decision-making' provisions of the Act, it is recommended that WCC **grants** the applicant's request for the application to be determined by the Environment Court rather than WCC.

Report prepared by Monique Zorn



Mark Pattemore
Manager City Consenting & Compliance, Wellington City Council (acting under delegated authority from Wellington City Council dated 5 December 2022)

Date of Decision: 15 March 2023

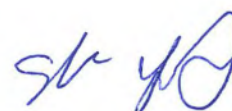


Exhibit C: Council Section 87F(3) Report Dated 30 May 2023

Two handwritten signatures in blue ink, one appearing to be 'Sh' and the other a more complex cursive signature.

One Tasman Development Limited Partnership

**Construction of a multi-unit development containing two
apartment blocks at ten and nine storeys**

Section 87F(4) Report

Wellington City Council

Monique Zorn

Exhibit Note

This is the exhibit marked "Exhibit C" referred to in the annexed affidavit of
Nicholas Geoffrey Owen affirmed at Wellington this day of June
2023.

Signature: 

Name: 

A Solicitor of the High Court of New Zealand

30 May 2023



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One Tasman Pukeahu Park

Proposal: Construction of a multi-unit development containing two apartment blocks at ten and nine storeys, three two and three-storey terrace house blocks, a café, over 138 onsite parking spaces and associated earthworks.

WCC Reference No: 528330
Applicant: One Tasman Development Limited Partnership
Address: 1 and 23 Tasman Street, Mount Cook
Legal Description: Section 1219 Town of Wellington and Part Section 665 Town of Wellington
Approx. Map Reference: NZTM: 1748895.5426482

Report prepared by:	Monique Zorn	Senior Consents Planner, Resource Consents Team		30 May 2023
Report reviewed by:	Hamish Dean	Team Leader Resource Consents, Resource Consents Team		30 May 2023



PREAMBLE

1. My name is Monique Zorn. I hold the position of Senior Consents Planner at Wellington City Council ('WCC') where I have been employed since 2018. My role involves processing a variety of applications sought under the Resource Management Act 1991 ('the Act') through various parts of Wellington City.
2. I hold the qualification of Master of Social Science (Geography and English) from the University of Waikato. I am an associate member of the New Zealand Planning Institute.
3. My involvement in this project commenced on 28 April 2022, when I took over the first, smaller, application (granted non-notified) as the original processing officer left the consenting team. I have visited the application site on numerous occasions since then, and I am familiar with the surroundings.

SCOPE OF ASSESSMENT

4. This report is completed as required under sections 87F(3) and 87F(4) of the Resource Management Act 1991 ('the Act') and will focus on the assessment of the land use consent application within the jurisdiction of WCC.
5. There are certain aspects of the assessment where I have relied on the expert advice (attached as Annexure 1 to 8 to this report) from the following advisors:
 - Andrew Burns – Consultant Urban Design Advisor (**Annexure 1**)
 - Chessa Stevens – Heritage Advisor (**Annexure 2**)
 - Mike Donn – Consultant Wind Advisor (**Annexure 3**)
 - John Davies – Earthworks/ Contamination (**Annexure 4**)
 - Lindsay Hannah – Noise/Acoustics Engineer (**Annexure 5**)
 - Patricia Wood – Transport and Vehicle Access Engineer (**Annexure 6**)
 - Zeean Brydon – Consultant Land Development Engineer for Wellington Water (**Annexure 7**)
 - Stephanie Steadman – Senior Waste Planner (**Annexure 8**)

STRUCTURE OF THIS REPORT

6. The structure of this report is as follows:
 - Section 1 sets out a **Description of One Tasman Pukeahu Park**
 - Section 2 provides a **Description of the Site and Surrounds**
 - Section 3 sets out the **Relevant Planning Framework**
 - Section 4 outlines **Written Approvals and Consultation**
 - Section 5 addresses **Notification and Submissions**
 - Section 6 provides an overview of the **Statutory Considerations**
 - Section 7 provides an **Assessment under Section 104 of the Act**
 - Section 8 provides an **Overall Evaluation under Part 2 of the Act**

7. In addition to the expert advice listed above, the following documents are also attached to this report:
- List of Submitters and Copies of Submissions (**Annexure 9**)
 - Suggested Conditions of Consent (**Annexure 10**)
 - Council Arborist and Reserves Planner advice (**Annexure 11**)
 - Email regarding notification matters for SR No. 500876 (**Annexure 12**)
 - Resource Consent for 8 & 5 storey development (SR No. 500876) (**Annexure 13**)
 - Resource Consent for demolition (SR No. 513053) (**Annexure 14**)
 - Operative District Plan Map 32 – Height Controls (**Annexure 15**)
 - Pre-Application Notes (**Annexure 16**)
 - Landmark status update from HNZPT (**Annexure 17**)
 - Isthmus Assessment of Viewshafts (**Annexure 18**)
 - Urban Design Panel emails and minutes dated 26 May 2021 (**Annexure 19**)
 - Contamination Assessment 2021 (**Annexure 20**)
 - Urban Design Assessment for SR No. 500876 (**Annexure 21**)
 - S92 Matters (**Annexure 22**)
 - Cordon Pedestrian Count 2021 data (**Annexure 23**)

CONSENTED BUILDING

8. On 3 March 2021 a pre-application meeting was held to discuss the future redevelopment of the site at 1 Tasman Street and the proposal for a 10 and 9 storey multi-unit development.
9. On 20 May 2021 Willis Bond and Athfield Architects met with WCC Advisors in the Urban Design Panel (UDP) in which Athfield Architects presented the proposal and explained their design rationale for the proposed development of 180 units with five dwelling typologies and WCC Urban Design Advisors provided their feedback (**Annexure 19**).
10. This was followed on 18 June 2021 with another pre-application meeting to discuss the updated plans and receive additional feedback.
11. The application was lodged on 21 October 2021 for the development with Building A at 10 storeys and Building E at nine storeys.
12. On 2 December 2021 the Applicant requested and received a draft notification assessment for the lodged ten and nine storey development. The Processing Planner at the time noted there were a number of minor effects, and when these effects were considered collectively, the proposal would cumulatively create a more than minor effect. The outcome would be public notification.
13. On 22 June 2022 consent (SR No. 513053, refer **Annexure 14**) was approved to demolish the existing buildings on the sites, at both 1 and 23 Tasman Street.
14. Following several more meetings, on 21 August 2022 the Applicant re-submitted an amended plan showing the reduced heights of Building A (eight storeys) and E (five storeys). The remainder of the development was largely unchanged.
15. On 15 November 2022 consent (SR No. 500876, refer **Annexure 13**) was approved to construct a new multi-building, multi-storey residential development, with a café; along with associated earthworks with Building A being, as noted, eight storeys and Building E being five storeys. The consented development comprises 171 residential units and one commercial unit (café), within five buildings. Earthworks were to be undertaken to

clear the site and facilitate the construction of the new buildings. Signage was also consented.

APPLICATION

16. On 1 February 2023 Alistair Aburn of Urban Perspectives lodged, on behalf of One Tasman Development Limited Partnership ('the Applicant'), an application for resource consent from WCC for One Tasman Pukeahu Park ('One Tasman') Project (SR No. 528330). The application was to increase the height of Buildings A and E, change the layout of the basement, increase the car parking on-site and undertake a number of smaller design changes as set out in the Applicant's AEE. The Applicant requested public notification.
17. On 17 February 2023 the application was publicly notified in the Dominion Post and on WCC's website. In addition, 267 identified parties were served notice of the application and three signs advertising the consent application were erected at the site's frontage in Tasman and Buckle Streets.
18. On 22 February 2023 WCC received a request from the Applicant for the application to go directly to the Environment Court for determination under the direct referral process.
19. On 15 March 2023 the request for direct referral was granted by WCC to allow the publicly notified resource consent application relating to the One Tasman Pukeahu Park to be determined by the Environment Court.
20. By close of the submission period at 11.59pm on 17 March 2023 a total of 18 submissions were received. Seven submissions were received in support (either in full or in part) and eight submissions were received in opposition (either in full or in part). Two submissions were neutral, and one was split partially in support and partially in opposition. No late submissions were received.
21. On 24 March 2023 WCC made a request to the applicant for further information under section 92(1) of the Act.
22. On 12 April 2023 (Day 14 of 20 working days) the final response was provided to this request.

SECTION 1 – DESCRIPTION OF THE ONE TASMAN PUKEAHU PARK PROPOSAL

23. A full description of the proposal is provided in section 2.2 of the applicant's Assessment of Environmental Effects (AEE). I consider the description provided in the AEE report to be an accurate representation of the proposal. Therefore, I adopt this description.
24. Additional details are provided within the AEE and appendices, and in the application plans titled 'One Tasman Pukeahu Park, Resource Consent, Architectural Drawings 13 January 2023', all of which should be read in conjunction with this report.
25. The site layout is shown in Figure 2:





Figure 2: Site Plan (reference RC_1.03)

26. Details of the proposed buildings are provided at Table 1 below:

Table 1: Building Details

Building	Building Name	Apartments	Storeys	Maximum Height (m)
A	Northern Apartments	106	10 (G+9)	36m 37.7 (lift overrun)
B	Pukeahu Terrace Houses	4 + cafe	3 (G+2)	12.1m
C	Buckle Street Terrace Houses	5	3 (G+2)	12.3m
D	Courtyard Terrace Houses	8	2 (above car-park)	13.1m
E	Southern Apartments	98	9 (G+8)	33m 33.7m (lift overrun)

27. Buildings A and E will be base-isolated. Ground floor units in Building E will be configured to facilitate live/work opportunities.

SECTION 2 – DESCRIPTION OF THE SITE AND SURROUNDS

28. The applicant sets out a thorough description of the site and the surrounds within Section 2.1 of the AEE and comprehensively in the Athfield Architect's Design Statement (Appendix 7 of the Application). The site is located at the north-western corner of the Central Area block that is bounded by Buckle Street to the north, Tasman Street to the west, Sussex Street to the east and Rugby Street to the south.

29. The site comprises the following:

- a. No. 1 Tasman Street – the 4733m² corner parcel of land, that contains the 'Tasman Gardens' residential complex. The apartments, which remain

occupied, are in three buildings. The units are held in a unit title arrangement, with 42 principal units, 76 accessory units and common property. There is also an on-site gymnasium within the north-eastern corner of the site.

- b. No. 23 Tasman Street –the 665m² parcel to the immediate south of 1 Tasman Street, which contained the Tasman Street Vet Clinic prior to being purchased by the Applicant.

30. The site slopes gently downwards from the west towards the east.
31. The site sits at the interface between the Central Area (Te Aro) and Mt Cook.
32. The immediate context is most notable for the National War Memorial and associated Pukeahu National War Memorial Park (to the west/north-west), the Basin Reserve (to the east) and the former Home of Compassion Crèche (to the north-east).

The National War Memorial

33. The land to the west of Tasman Street is elevated above the road carriageway and contains the National War Memorial, which includes the Carillon, Hall of Memories, Tomb of the Unknown Warrior, steps, pool and forecourt. Most immediately adjacent is the pohutukawa-clad escarpment (containing pedestrian routes at various levels) and heritage listed brick wall.
34. Also, within this site is the former National/Dominion Museum and National Art Gallery building (which until recently has been occupied by the Great War Exhibition), along with associated car-parking and landscaping. This is jointly owned by Massey University and the Wellington Tenth Trust (through Capital Hill Limited).
35. To the south of the former National/Dominion Museum and National Art Gallery building, also elevated above the subject site, are the Massey University Wellington campus and Wellington High School.
36. All of the land described above is zoned Institutional Precinct in the Operative District Plan and Special Purpose Tertiary Education Zone under the Proposed District Plan notified in July 2022.

Pukeahu National War Memorial Park

37. Pukeahu National War Memorial Park comprises the land between Cambridge Terrace (to the east) and Taranaki Street (to the west). This land is currently zoned Central Area and forms part of the Te Aro Corridor. The park is a public space associated with the National War Memorial and has a collection of national memorials. It is used for events such as ANZAC day celebrations.
38. The closest national memorials to the subject site are the U.S. Memorial and Belgian 'Laurel Wreath Memorial' (to the north). The Pacific Islands Memorial 'Te Reo Hotunui of Te Moana-nui-a-Kiwi' is also in close proximity (to the north-east).
39. While Pukeahu National War Memorial Park was established under its own legislation¹, with the exception of the former Home of Compassion Crèche, neither Pukeahu National War Memorial Park nor any items within it are listed heritage items in the Operative District Plan or by Heritage New Zealand Pouhere Tāonga (HNZPT).

¹ National War Memorial Park (Pukeahu) Empowering Act 2012

40. It is also noted that State Highway 1 continues underneath Pukeahu National War Memorial Park via the Arras Tunnel.

Basin Reserve

41. The Basin Reserve is located on the eastern side of Sussex Street, at a distance of approximately 50 metres from the subject site. The Basin Reserve is zoned Open Space A.

Existing development on other sites

42. The remainder of the block containing the subject site contains a mixture of activities, including the residential apartment complexes at 4 Sussex Street to the immediate east (Basin Reserve Apartments), 22 Sussex Street to the southeast and 25 Tasman Street to the south (Te Awhina Apartments are across both of these sites). To the south of 22 Sussex Street/25 Tasman Street is the Seventh Day Adventist Church (27 Tasman Street), with the church building at the Tasman Street frontage and car-parking/access at Sussex Street. The site to the south of the carpark on Sussex Street contains the Marksman Motor Inn. The southern part of the block contains smaller scale residential development (Tasman Apartments). No. 2 Sussex Street, at the northern end of the block (Part Section 664 Town of Wellington) is owned by NZ Transport Agency (Waka Kotahi), zoned Central Area but is utilized as road reserve.
43. All of the land in the block containing the subject site is zoned Central Area, with all properties being residential in use other than the motel and the church.
44. The land to the south of Rugby Street is zoned Central Area and contains a mix of activities, including residential development and vacant land awaiting development. Resource consent has been granted for the construction of a new Chinese Embassy on the vacant land at 53, 55, 57, 59, 61, 63, 65-69, 81, 83, 85 Rugby Street, 45, 49, 51, 53, 55-59, 69-71, 75 Tasman Street, 16-22 Douglas Street and 2 Belfast Street.
45. The land to the south-west (beyond the Massey University campus) is the closest residentially zoned land. This is at a distance of approximately 160 metres from the southern boundary of 23 Tasman Street.
46. Further details of the site and surrounds are provided in the applicant's AEE and associated plans and technical document, in particular the Architectural Design Statement.

SECTION 3 – RELEVANT PLANNING FRAMEWORK

Operative Wellington District Plan

47. The site is located within the Central Area. The following Operative District Plan ('ODP') notations apply to the subject site:
- Low City Area – 18.6 metre maximum height limit (1 Tasman St) and 10.6m 23 Tasman St
 - Tasman Street is a Local Road in the District Plan Hierarchy of Roads
 - Buckle Street is part of State Highway 1
48. The following non-District Plan notations also apply to the subject site:
- Let's Get Wellington Moving overlay
 - Rainfall flood risk (Wellington Water Ltd modelling) - partial only

49. One Tasman requires consent under the ODP for the following activities:

Central Area	
<p>Rule 13.3.1 – Provision of more than 70 carparks</p> <p>As the proposal involves the provision of more than 70 on-site carparks on the site at 1 Tasman Street (112 in total), consent is required under Rule 13.3.1.</p> <p>There are no conditions under this rule.</p>	Restricted Discretionary
<p>Rule 13.3.3 – Activities not meeting standards</p> <p>The proposal involves activities that do not meet the following standards in section 13.6.1, which requires consent under Rule 13.3.3:</p> <ul style="list-style-type: none"> - Standard 13.6.1.3.4 – As the distance between the outdoor loading area and the lift exceeds 15 metres. - Standard 13.6.1.3.11 – As there will be two vehicle accesses along Tasman Street. <p>There are no conditions under this rule.</p>	Restricted Discretionary
<p>Rule 13.3.4 – Construction of a new building</p> <p>Resource consent is required under Rule 13.3.4 for the construction of a new Central Area building.</p> <p>There are no conditions under this rule.</p>	Restricted Discretionary
<p>Rule 13.3.7 – Buildings involving more than 70 carparks</p> <p>As the proposal is for the construction of a building that involves the provision of more than 70 on-site carparks, consent is required under Rule 13.3.7 (in conjunction with Rule 13.3.1). There are no conditions under Rule 13.3.7.</p> <p>There are no conditions under this rule.</p>	Restricted Discretionary
<p>Rule 13.3.8 – Buildings not meeting standards</p> <p>In addition to Rule 13.3.4 the construction of a new Central Area building requires resource consent under Rule 13.3.8, as the proposal does not meet the following standards:</p> <ul style="list-style-type: none"> - Standard 13.6.1.3.4 – Servicing - Standard 13.6.1.3.11 – Site access - Standard 13.6.3.1.1 – As detailed at Table 1, the tower buildings exceed the maximum height specified on ODP 	Restricted Discretionary

<p>planning map 32 (being 18.6 metres at 1 Tasman Street, which is where the buildings will be located).</p> <ul style="list-style-type: none"> - Standard 13.6.3.5.2 – As the proposed building does not achieve the specified requirements in relation to wind. <p>Condition 13.3.8.14 states that the maximum building height must not be exceeded by more than 35% and the building mass standard must not be exceeded (or that neither the height nor mass are exceeded by more than 15%).</p> <p>In this case, the building mass standard for the site is exceeded; Building A (Northern Apartments) exceeds the maximum height of 18.6 metres by more than 35%. Building E exceeds the height by 1m. Therefore, condition 13.3.8.14 under Rule 13.3.8 is not met.</p> <p>Where the breach is related to height (standards 13.6.3.1 to 13.6.3.1.4, and 13.6.3.1.7 to 13.6.3.1.10) or mass (Standard 13.6.3.2) discretion is limited to the effect of building height and mass on:</p> <ul style="list-style-type: none"> • the amenity of surrounding streets, lanes, footpaths and other public spaces; and • the historic heritage value of any listed heritage item in the vicinity; and • the urban form of the city; and • the character of the surrounding neighbourhood, including the form and scale of neighbouring buildings; and • any adjacent Residential Area 	
<p>Rule 13.3.9 – Signage</p> <p>Resource consent is required under Rule 13.3.9 for the installation of signage, comprising marketing information on the construction hoardings which does not meet one or more of the standards in section 13.6.4.1 are discretionary (restricted) activities in respect of:</p> <p>13.3.9.1 moving images, text or lights 13.3.9.2 position 13.3.9.3 dimensions 13.3.9.4 number of signs 13.3.9.5 sign display of:</p> <ul style="list-style-type: none"> • temporary signs, or • signs located on buildings above 18.6m above ground level, or • signs adjoining or opposite the Parliamentary Precinct Heritage Area. 13.3.9.6 duration (for temporary signs) 	<p>Restricted Discretionary</p>
<p>Rule 13.4.10 – Building not meeting height exceedance</p>	<p>Discretionary</p>

<p>Where condition 13.3.8.14 under Rule 13.3.8 is not met, Rule 13.4.10 applies.</p> <p>Max building heights are 18.6m and 10.2m (as shown in ODP map 32). Buildings must not be exceeded by more than 35% of 18.6m (which is 6.51m). The buildings exceed this.</p> <ol style="list-style-type: none"> 1. Northern Apartment is proposed 36m, exceeding the maximum height by 18m 2. Southern Apartment is proposed 33m (but not within 10.2m area) so exceeds maximum height by 14.4m <p>Condition 13.4.10.1 states that the maximum building height must not be exceeded by more than 35% with complying building mass (it is) and building mass must be compliant (it isn't). This part of the condition is not met.</p> <p>Condition 13.4.10.1 states that the maximum building height must not be exceeded by more than 15% (it is) and the building mass standard must not be exceeded by more than 15% (it is). This part of the condition is not met.</p>	
<p>Rule 13.5 – Non-complying activity</p> <p>As condition 13.4.10.1 is not met the proposal requires resource consent under Rule 13.5.</p>	<p>Non-complying</p>
<p>Earthworks</p>	
<p>Rule 30.2.2 – Earthworks</p> <p>The earthworks were assessed under this rule for exceeding the permitted activity requirements for the Central Area as the total area of the earthworks exceeds 250m².</p> <p>There are no conditions under this rule.</p>	<p>Restricted Discretionary</p>

50. Overall, the proposal is a **Non-complying** under the Operative District Plan.

Proposed Wellington District Plan

51. On 18 July 2022 WCC notified the Wellington City Proposed District Plan (PDP). As this consent was lodged following the notification of the Proposed District Plan it is considered that while the objectives and policies are to be considered/assessed in relation to the proposal there are no rules with legal effect pertaining to the City Centre Zone and this proposal. At the time of writing (May 2023) the hearings for the City Centre Zone had been set down for 20 June 2023.

52. Also, as part of the hearings process for the City Centre Zone chapter the finalising of the Design Guide has been postponed subject to expert witness agreement on their content².

² https://wellington.govt.nz/-/media/your-council/plans-policies-and-bylaws/district-plan/proposed-district-plan/files/hearing-minutes/april/wellington-pdp-minute-15_design-guides_11-april-2023.pdf



53. However, for completeness, the site is located in the City Centre Zone. The following PDP notations apply to the subject site:

Specific Controls:

- Height Control Areas: 28.5m

Hazards and Risks Overlays:

- Height control: 28.5m
- Flood hazard (inundation) area

Designations:

- WIAL – Wellington International Airport Ltd: Wellington Airport Obstacle Limitation Surfaces (WIAL1)

Wellington Regional Plans

54. In section 5.3.10.1 of their AEE the applicant outlines that regional consent will be sought from Greater Wellington Regional Council ('GWRC') for ground water take and discharge as the piles will intercept the groundwater. I am satisfied that this consent can be sought as a separate consideration to the WCC land use consent, and that the applicant's approach is reasonable in this regard. I do not consider that deferral under section 91 of the RMA is necessary or appropriate.

Overall Activity Status

55. Overall, applying the most stringent activity status outlined above on a 'bundled' basis, the application is a **Non-complying Activity** under the WCC ODP.

SECTION 4 – WRITTEN APPROVALS AND CONSULTATION

56. No written approvals have been provided as part of this application.
57. Attached to the application as 'Appendix 6' is a series of signed letters received as part of the pre-lodgement consultation on the design of the buildings for One Tasman:
- Heritage New Zealand Pouhere Taonga (dated 8 October 2021)
 - Wellington Tenth Trust (dated 15 June 2021)
 - Te Kunenga Ki Purehuroa Massey University (dated 23 September 2021)
 - Te Kura Tuarua o Tararika ki Pukeahu Wellington High School (dated 17 September 2021)
 - Manatū Taonga Ministry for Culture and Heritage (16 December 2021)
58. Given that the statement of support that was signed by these parties was preliminary and as part of the pre-lodgement consultation process; it is my opinion that these statements should not be considered as formal written approvals under Section 104(3)(a)(ii).
59. Notice was served on all of these parties (directly or indirectly) and only Heritage New Zealand Pouhere Taonga (HNZPT) and Massey University provided a submission.

60. Details of this consultation are outlined in section 4.1.2 of the Applicant's AEE.

SECTION 5 – NOTIFICATION AND SUBMISSIONS

61. The application was notified on the 17 February 2023. As detailed above the submission period ran from 17 February to 17 March 2023; a total of 18 submissions were received in relation to the application. The general positions of the submissions are outlined below:

General Position of Submission	Total
Oppose	8
Support	7
Partially in support and partially in opposition	1
Neutral	2
Total Submissions received	18

62. These submissions have been attached as **Annexure 9** to this report.

63. The issues raised by the submissions include:

Issues	No. of times raised
Blocks all light / loss of sunlight	2
Compromises/disrespects heritage values in area	3
Create a sense of overcrowding	1
Overwhelm/dominate heritage buildings/site	4
Out of keeping with surrounding area	1
'In the balance' negative outweighs positive	1
Long views of heritage will be lost	3
Height	3
Bulk in a low-rise area of the city	1
Create congestion at street level	1
Reduces amenity of surrounding properties	1
Reverse sensitivity	1
Impact of construction on memorial events in Pukeahu Park	1
Construction disruption (including traffic, dust and noise)	4
Ventilation, noise and light from the car park building/basement/area	3
Compensation for adjoining owners for disruption or financial loss	3
Wellbeing and health of abutting neighbours	3
A comprehensive geotechnical and structural effects assessment needs to be carried out	1

64. The following positive issues raised by the submissions include:

Issues	No. of times raised
Visual appearance of the proposed building/s	2
A significant investment in our community	1
Provides more housing	4
Seismic technology (base-isolation)	1

slc up

Meets Wellington strategy/requirement for sustainable urban development	1
Provides high-quality development in a heritage rich area	1
Is respectfully designed for the context	1
Contributes to compact urban form	2
Encourages a shift in transport modes and emission reduction outcomes	1

65. On 3 April 2023 Submitter 4 emailed the Council stating, 'Now the Block will only be eight stories high and is 13 metres inside the boundary, and there will be no sun encroachment onto my property Provided that they keep to that plan, and they do not do any more changes to the height(sic) and width, I am happy to withdraw my submission'. Subsequently Council sought clarification as a conditional withdrawal is not acceptable. The submitter was directed to the plan set and clarified in another email, dated the same day, that she withdrew her withdrawal.
66. Submitter 11, as owner of a unit at 29/4 Sussex Street, was served notice of this development and made a submission. Submitter 11 is an employee of WCC within the Consenting Team. When this was identified we took steps to ensure that Submitter 11 did not have access to the application file or otherwise discuss this report with him.

SECTION 6 – STATUTORY CONSIDERATIONS

67. Section 87F of the Act outlines that if a consent authority grants a request for direct referral, it must prepare a report on the application and in the report, the consent authority must—
- (a) address issues that are set out in sections 104 to 112 to the extent that they are relevant to the application; and
 - (b) suggest conditions that it considers should be imposed if the Environment Court grants the application; and
 - (c) provide a summary of submissions received.
68. The application is for a non-complying activity overall. Accordingly, consent may be granted or refused under section 104B of the Act and, if granted, conditions may be imposed under section 108 of the Act. As a non-complying activity, section 104D is also relevant, which requires the application to meet one of the two “gateways”: either the adverse effects will be minor; or the application is not contrary of the objectives and policies of both the ODP and PDP.
69. Section 104(1) of the Act sets out matters a consent authority shall have regard to in considering an application for resource consent and any submissions received. Subject to Part 2 of the Act, the matters relevant to this proposal are:
- (a) any actual and potential effects on the environment of allowing the activity; and
 - (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and
 - (b) any relevant provisions of—
 - (i) a national environmental standard:

- (ii) other regulations:
 - (iii) a national policy statement:
 - (iv) a New Zealand coastal policy statement:
 - (v) a regional policy statement or proposed regional policy statement:
 - (vi) a plan or proposed plan; and
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

SECTION 7 – ASSESSMENT UNDER SECTION 104 OF THE ACT

70. In this section of the report, I undertake an assessment of the effects of the proposal on the environment, noting, where relevant, the impact of my assessment for other provisions, such as section 104D.

Permitted Baseline:

71. As the Applicant acknowledges in the AEE any new building in the Central Area would require resource consent under the ODP; and therefore, there is no applicable 'permitted baseline'.
72. I further note the rules relevant to this site under the PDP do not have legal effect.
73. It is my view that there is no helpful permitted baseline which can be used to readily assess the effects of the proposal in comparison to the effects of an activity permitted by the Operative District Plan.

Consented Environment:

74. Consent was granted under WCC Ref No. SR 500876 for a multi-unit development at 1 – 23 Tasman Street which comprised the construction of a new multi-building, multi-storey residential development, with a café and signage; along with associated earthworks. The northern apartment block was consented at a height of eight storeys (29.3m) and the southern apartment block being five storeys (19.5m). There were 171 residential units and one commercial unit as part of this approval.
75. Consent has also been granted for the demolition of the all the buildings at 1 Tasman Street and the building at 27 Tasman Street in preparation for the redevelopment (SR No. 513053, refer **Annexure 13**).
76. The impact of consent SR No. 500876 is that part of the activity proposed is already able to be undertaken by the applicant on the site, subject to the conditions of the consent. In section 2.4 of the AEE the Applicant provides the following rationale around the scope of the application:

With the granting of the consents under SR 513053 and SR 500876, and the 'soon to commence' start of the works in accordance with those consents, the outcome of a comprehensive residential development incorporating northern and southern apartment buildings at eight and five levels respectively is part of the 'environment' for the purposes of assessing the environmental effects associated with the current application.

Consequently, the principal difference between the approved development (SR 500876) and the current application is the increase in the height of the Northern and Southern Apartments buildings from eight and five levels to ten and nine levels respectively.

The other changes to the development approved under SR 500876 are:

1. an increase in the number of on-site carparks in an additional basement level car park, an increase from 112 spaces consented under SR 500876 to a now proposed total of 138; and
2. some minor changes to the façade treatment of the Northern and Southern Apartment buildings.

77. This approach relies on *Queenstown Lakes District Council v Hawthorn Estate Ltd.* I am familiar with this case. In order to consider this as part of the 'consented environment' it must be demonstrated that it is intended to give effect to the consent granted.
78. I understand that the intent is to undertake either the consented development or the proposed development although I note the website <https://www.onetasman.co.nz/> does not provide any details as to which development will be undertaken.
79. I accept that the Applicant will construct the development and therefore in general terms that it is appropriate to take the *Hawthorn* approach.
80. So, for the purposes of clarity I, and my advisors, have addressed the buildings and development accepting that the consented building is likely to be constructed and therefore can be relied on as part of the consented environment.

Section 95 Assessment

81. As the applicant requested notification the Council was not required to undertake an assessment under Section 95.
82. It will be apparent that the request for public notification reflected the position the Council had taken for the first consent application. There the applicant had reduced the height of the buildings to a point where it was considered that the effects on the environment were less than minor.

Section 104(1)(a) Effects Assessment

83. The assessment of environmental effects below considers the key effects arising from the activity. These effects include:
 - Historic Heritage Effects
 - Wind Effects
 - Urban Design Effects:
 - Noise and Vibration Effects
 - Earthworks Effects
 - Transport and Access Effects
 - Contamination Effects
 - Three-Waters Servicing Effects
 - Cultural Effects
 - Positive Effects

84. I have reviewed the Applicant's AEE and the following plans, technical reports and information:

Appendix 1	Architectural Design Statement, prepared by Athfield Architects Limited (reference 20.42, 20 January 2023)
Appendix 2	Landscape Design Statement and Plans, prepared by Wraight + Associates Landscape Architects (Revision B, 21/12/2022)
Appendix 3	Consent Scope Diagrams
Appendix 4	District Plan Objectives and Policies Assessment
Appendix 5	District Plan Audit
Appendix 6	Record of Pre-application Consultation
Appendix 7	Urban Design Assessment, prepared by Deyana Popova of Urban Perspectives Limited (January 2023)
Appendix 8	Townscape Views, prepared by Athfield Architects Limited (reference 20.42, 9 February 2023 – rev 1)
Appendix 9	Heritage Assessment, prepared by Adam Wild of Archifact Limited (20 January 2023)
Appendix 10	Heritage Peer Review by Richard Knott of Richard Knott Limited (29 January 2023)
Appendix 11	Cultural Effects Assessment, prepared by Raukura Consultants (September 2021).
Appendix 12	Wind Tunnel Study, prepared by WSP (reference 21-529P79.00, 17 September 2021).
Appendix 12A	Wind Mitigation Study (Consented Scheme) prepared by WSP (reference 529P79.00, 16 January 2023).
Appendix 12B	Wind Mitigation Study (Amended Scheme) prepared by WSP (reference 529P79.00, 17 January 2023).
Appendix 13	Sun Studies, prepared by Athfield Architects Limited (reference 20.42, 13 January 2023)
Appendix 13A	Additional shading commentary by Alistair Aburn of Urban Perspectives Limited (6 July 2022)
Appendix 14	Acoustic Report prepared by Marshall Day Acoustics (ref Rp 002 20210604, 21 December 2022)
Appendix 15	Transportation Assessment Report, prepared by Stantec (project no. 310204761, January 2023)
Appendix 16	CPTED Assessment, prepared by Stoks Limited (v3, 17 September 2021)
Appendix 17	Contaminated Land Status Letter, prepared by Tonkin + Taylor (job no. 1017965, 13 September 2021)

Appendix 18	Structural Effects and Construction Methodology, prepared by Dunning Thornton Consultants
Appendix 19	Civil Engineering Services Report, prepared by Aurecon (reference 512101 rev C, 25 January 2023).
Appendix 20	Draft Construction Management Plan, prepared by LT M ^c Guinness (January 2023)
Appendix 21	Consent Conditions for SR No. 500876

85. In addition, I have reviewed the following information submitted by the Applicant in response to a request for further information made in accordance with section 92 of the Act.

Annexure 22:

1. Correspondence addressing s92 matters (dated 28 March 2023)
2. Amended mass calculations (dated 20.03.2023)
3. Aurecon correspondence with Wellington Water Limited (dated 21 September 2022)
4. Aurecon wastewater and stormwater calculations
5. Waste management information
6. One Tasman Mt Victoria Animation (Fly through)

Urban Design Effects (including design, and bulk and dominance):

86. The proposal involves the construction of new buildings within the Central Area under the ODP and therefore requires consideration of design and visual amenity effects. On behalf of the applicant, the urban design effects of the proposal have been assessed by urban design expert Deyana Popova of Urban Perspectives Ltd. The Architectural Design Statement (Appendices 1 of the Application) summarises the design process of the development and the Urban Design Assessment (Appendix 7 of the Application) assesses the proposal against the Central Area Urban Design Guide ('CAUDG') of the ODP, townscape views, design excellence and the proposal against the PDP.
87. The Applicant's planner thereafter summarises these assessments in sections 5.3.2 of the AEE. The applicant's combined analyses finds, *'that any urban design effects, including effects on townscape and visual amenities, associated with the increased building height for the [Buildings A and E], as sought under the current application, will not result in unacceptable urban design effects, including townscape effects.'*
88. A design assessment for Council has been undertaken by Andrew Burns from McIndoe Urban Ltd. His assessment of the application is included as **Annexure 1** of this report. Mr Burns has assessed the proposal in the context of the relevant objectives and policies of the District Plans both Operative and Proposed, the Central Area Design Guide (CAUD) and policy 12.2.5.5 for Design Excellence, and site-specific conditions. For completeness Mr Burns has also considered the proposal against the Proposed District Plan guidelines where they are considered applicable.
83. A full assessment of the design quality of the building is provided within Mr Burns' assessment and I accept his conclusions in this regard. In summary, I agree with Mr Burns' statement that the design is a *'resilient and sustainable design ... strongly supported through improvements to pedestrian environments supporting active modes,*

close proximity of city centre facilities, structural base isolation solutions and layouts that optimise daylight and outlook. The proposal deploys an 'overs and unders' approach that enables taller buildings by suppressing height to street-edge buildings elsewhere'.

84. Mr Burns concludes in his assessment that the proposal has a generally high level of consistency with the assessment framework however identifies the following exceptions:
1. The ODP Policy related to 'high city/low city' is poorly supported by the Proposal.
 2. The height and/or design to the top of Building E should be adjusted to achieve a better contextual response, particularly in views from the east.
 3. Adverse shading effects on the residential amenity of Tasman Street properties to the south of the site have been assessed as more than minor.
 4. The proposal does not meet CAUDG G3.6 related to increased height of the ground floor.

High Low City

85. The ODP Policy related to 'high city/low city' is discussed further in paragraphs 248 to 259. In summary Mr Burns acknowledges that the buildings are lower than those provided for as 'high city' however he considers the proposal poorly supports this policy which seeks retention of the high/low city form.

Townscape Views

86. With regard to townscape views, it is acknowledged by Mr Burns and Ms Stevens, Council's Heritage Advisor that there are no protected viewshafts under the ODP or PDP relevant to this proposal. Appendix 8 in the application shows a number of townscape views that were discussed and formalised in agreement between the Applicant and WCC during discussions in 2021 - 2022. Neither Mr Burns nor Ms Stevens provide a Visual Assessment of the proposal but have reviewed the Applicant's Townscape Assessment that addresses visual effects.
87. Mr Burns highlights this further in that the UDA includes a Townscape Assessment³ that provided an analysis of the visual impact of the proposal. In his professional opinion he notes there is no clear methodology and recommends a robust Visual Assessment (VA) as this is important given the sensitivity of the site, the relationship to heritage structures and the over-height nature of the proposal.
88. With regard to townscape views, Mr Burns' assessment against the CAUDG notes the proposal generally supports the guidelines other than G5.9 which requires a proposal to *'avoid' degrading the value of heritage area skylines by changing the parapets and roofs of heritage buildings or adding to buildings within or immediately adjacent to heritage areas.* He notes:

The relevant heritage skyline comprises the Carillon and former Dominion Museum. These relate in height, stepping from north to south. I understand the Proposal has been through various iterations with Council Officers and a significant adjustment occurred with the purchase of 23 Tasman Street that enabled the opening up of a view shaft between Buildings A and B. I support this adjustment that resulted in improved visual connections from the east (Views 01, 04). Nevertheless, I refer to my previous assessment⁴ (G2.3, 3.8) that identifies the benefit of achieving a visual step down from Building A to E.

³ UDA, Townscape Assessment, section 5, pages 24 -34.

⁴ Annexure 21 Urban Design Assessment for SR No. 500876

CAUDG assessment

89. Mr Burns' overall findings indicated close alignment between the proposed development and relevant objectives and guidelines within the CAUDG. He notes the key design elements that relate the proposal to its context, including alignment with the Te Aro grid, the scale and design relationships between Buildings B, C and the Police Station building, the modulation and setback to Building A that achieves a sympathetic design relative to the Carillon; positive frontage alignments and configuration of street-edge buildings relative to streets and spaces; and the network of streets, paths and open spaces. In his opinion these attributes combine to support a well-functioning site.
90. Mr Burns additionally considers that the development will enable a diversity and a wider demographic profile through a mix of housing typologies of varying bed sizes, which are delivered across a number of building forms. Housing will be of high environmental quality for residents complemented by café and live/workspace. I agree the housing options and outcomes are supported and meet higher order requirements such as the NPS-UD.

Bulk and dominance

91. Bulk and dominance have been assessed by Mr Burns in section 3 (G3.8). He notes Buildings A and E are larger relative to the neighbouring buildings although not as bulky as the Dominion Museum or as tall as the Carillon. He agrees with Ms Popova (page 9) that by splitting the form of Building A with stepped roof reduces bulk/height and enables views through the site from the northeast and east and moderates the impact on visual connections to the Carillon. He considers increasing the stepping down to eight-storeys for Building E to improve the relationship between the Carillon and Dominion Museum in view from the east as well as providing a transition to a human scale along Buckle Street between Buildings B and C that relate to the Police Station.
92. Submitter 4 raised concerns around sunlight access to her property at 22 Sussex Street due to the increased bulk associated with the increased height. Based on the consented environment in spring, autumn and winter they will receive no sunlight access along the northern elevation of her units from 2pm each day.

Shading

93. Mr Burns raises concerns in his report around the additional shading generated due to the bulk and height addition of four levels of Building E and he agrees with one submitter with regard to the elimination of sunlight from her north facing elevation and outdoor area as noted in paragraph 92. There will be an increase in shading and elimination of light for the residential houses to the south and southeast of the subject site. This can clearly be seen in the shading diagrams (Appendix 13 of the Application) and detailed in Mr Burns' report. I acknowledge as Mr Burns does, that there is no ODP standard governing shading on residential properties in the Central Area, however as this is a non-complying activity this effect has been assessed.
94. The shading generated is beyond the consented environment. However, if the Spatial Plan height and the subsequent Proposed District Plan height was weighted the difference of 7.5m and 4.5m respectively, would create only a small amount of shading. At this point in time with weighting towards the ODP the shading and elimination of light for these properties is concerning and largely unacceptable. However, as weighting changes towards the PDP, and height controls are unlikely to change across this site, the additional shading is considered to still be concerning, but is less of an effect.

Design Excellence

95. With regard to design excellence (ODP Policy 12.2.5.5) Mr Burns' assessment concludes that once the matter of Building E's height has been addressed, he considers the proposal to achieve design excellence. It a recommendation I accept.
96. I acknowledge that a number of submitters considered the design to be of high quality and would address the requirement for additional housing. However, some submitters raised concerns around the effects of the additional height and mass on their properties. Mr Burns has addressed these matters in his report and considers them in accordance with the CAUDG and design excellence subject to his recommendation noted in paragraph 2.2.
97. The height of the ground floor which does not meet CAUDG G3.6 has been consented under SR No. 500876 as there is no change to this aspect in this application.
98. Mr Burns has three recommendations:
1. The stepping of height north to south of the Buildings A and E from 10 storeys to 8 storeys respectively creates a better contextual response and that the lower Buildings B and C achieve a successful scale transition from the tower of Building A.
 2. A Visual Assessment (VA) be undertaken to clarify effects as this is important given the sensitivity of the site, the relationship to heritage structures and the over-height nature of the proposal.
 3. The 'stoop' condition for dwellings in Building B should be enhanced by lowering parts of the front wall close to each entry.
99. Both Mr Burns and I have concerns around the limited access to sunlight for the residential properties to the south and southeast under the ODP. I consider this is unacceptable under the ODP, however given the anticipated height changes with the PDP, this concern is lessened.
100. In conclusion, I have read and accept the assessment and conclusions reached by Mr Burns. Based on the advice of Mr Burns, I consider that the overall design, materiality and functionality of the proposed buildings is meets design excellence, and note his recommendations regarding the height step-down with Building E and the provision of a VA.

Historic Heritage Effects:

101. The application is accompanied by an assessment from conservation architect, Adam Wild of Archifact Ltd (Appendix 9 of the Application) and an independent historic heritage review undertaken by Richard Knott, an urban designer, heritage specialist and town planner, of Richard Knott Limited (Appendix 10 of the Application). Mr Wild was briefed with providing an assessment to consider the effects on nearby historic heritage elements and values arising from the proposed One Tasman development.
102. Mr Wild and Mr Knott, on behalf of the applicant, consider that the proposed new buildings will have a less than minor effect on historic heritage noting the proposed development will maintain the values of its wider heritage setting⁵. In particular, Mr Wild notes that the proposed massing, height, scale and proportions, architectural forms, detailing and materiality of the new development are designed to respect and be sympathetic to nearby heritage. In section 7.0 of his assessment, Mr Wild considers this

⁵ Independent Historic Heritage Review, Richard Knott Limited, page 20.



proposal provides a positive and appropriate outcome with a resultant less-than-minor adverse effect on heritage values.

103. Mr Wild concludes in his executive summary:

Overall, the proposed works demonstrate a commitment to respecting, maintaining, and enhancing the nearby heritage buildings, and the wider heritage and urban context, providing a positive and appropriate outcome with a resultant less-than-minor adverse effect on heritage values. The proposed One Tasman Pukeahu Park development at 1 & 23 Tasman Street represents an appropriate and supportable scheme that respects the identified historic heritage values of the adjacent and nearby heritage buildings, elements, and spaces, minimises effects, and enhances those values and the wider public benefit.

104. Both heritage reports have been reviewed and analysed by the Council's consultant Heritage Advisor Chessa Stevens from WSP Architecture, whose assessment is attached as **Annexure 2** to this report. Ms Stevens' report outlines further the heritage significance of the additional height on the neighbouring heritage values.

105. With regard to discretion, I note rule 13.3.8 requires an assessment specifically against the effect of building height and mass on the historic heritage values of any listed heritage item in the vicinity. Ms Stevens has provided this assessment.

106. Ms Stevens' report is structured to assess the proposal in context of the Te Aro Corridor as the property abuts Buckle Street which is within the corridor. She follows this with an assessment on various viewpoints towards the Carillon and heritage items, an assessment against the Central Area Urban Design Guide (CAUDG) and lastly addresses matters raised by submitters.

107. Ms Stevens has raised the following matters in her report and in reviewing Mr Wild and Mr Knott's assessments:

- The heritage landscape in which the proposal is located is of the highest level of national significance
- Any development in this position will impact on heritage values
- The relationship between the former National/Dominion Museum and National War Memorial and Carillon will be obscured and diminished by the proposed development when viewed from the east.
- The Carillon tower will be partially – and in some cases entirely - obscured from view from key vantage points to the east.
- The skyline along Pukeahu ridge will be permanently altered by the proposal.
- Building A and E interrupted long held and understood views

108. Ms Stevens acknowledges this proposal is 'additional to' the consented heights of eight and five storeys. She considered the underlying consent to be very finely balanced in terms of whether the effects of the underlying consent on heritage were acceptable.

109. Ms Stevens and Mr Wild both agree that the surrounds and setting are rich in historic heritage. As outlined in paragraphs 37 to 40 above, Pukeahu National War Memorial Park, which opened in April 2015, was built to create a space around the National War Memorial. The National War Memorial and the National Art Gallery Museum and Dominion Museum are nationally significant both as a gathering place of national remembrance and a site containing monuments to those New Zealanders who have served and died in overseas wars.

110. Ms Stevens accepts that using a mixture of forms, mass and proportions as proposed in the development is an effective way of managing the relationship between the buildings and the surrounding context in this case. Ms Stevens does not, however, agree with Mr Wild that the adverse effect on heritage values in this case is “less than minor” and considers the proposed development dominates the heritage landscape and obscures heritage items from certain viewpoints.
111. One matter raised in Mr Knott’s assessment of relates to the relevance/importance of the Te Aro Corridor as it relates to the application site. Ms Stevens does not agree with Mr Knott’s position with regard to the geographic intent of the Te Aro Design Guide (TADG). She paraphrased Mr Knott’s comments, *‘because the intention of the design guide was to influence the effects of development alongside the Wellington Inner City Bypass route (now recognised as Karo Drive, Buckle Street and the Arras Tunnel) it is not appropriate to use the Te Aro Design Guide to consider views from wider locations that fall outside this “boundary” and therefore outside of the “intent” of the Guide’*. Ms Stevens concludes, *‘If a boundary were to be strictly applied in this sense, there would be no requirement to consider “good visual connections with the city” – it would only be “good visual connections with the immediate setting” (paragraph 85)*. I agree with Ms Stevens that as a non-complying activity allow for a wider setting effect to be considered.
112. With regard to addressing Objective 1.1 in the TADG requiring *the retention of the landmark significance of the Carillon and National War Memorial and respect its symbolic status*. I note there is no stated geographic context to this policy and agree from the western side generally, and views are not substantially different to the consented proposal (paragraph 98).
113. With regard to the increased bulk associated with the additional height as viewed from the east Ms Stevens’ asserts *‘the townscape views provided in the Application clearly demonstrate that the landmark significance of the Carillon from the east will be diminished by the two proposed towers at 9 and 10 storeys in a way that they are not diminished by the consented development (with towers at 5 and 8 storeys)’*. She goes on to say *‘The design of the towers certainly does not “enhance” the prominence of the Carillon when viewed from the Basin Reserve and the Mt Victoria Tunnel. Rather, it appears to be squeezed between the towers, and does not read as being “significantly higher” than the proposed development or as the “primary skyline element.’*
114. With regard to views across the Basin Reserve as shown in Appendix 8 of the Application, Ms Stevens has reviewed additional information which was commissioned by WCC’s Planning and Environment Committee to identify significant viewshafts for protection before the publication of the Notified District Plan (the PDP). This review, although not carrying any statutory weight including significant views to and from the Carillon and the Basin Reserve. This assessment was undertaken by Isthmus Group can be found in **Annexure 18**. This assessment clearly describes the view of the Carillon and the former National Museum from the entrance to the Mount Victoria tunnel in section 4.11, 4.14 and 4.16 as important in their assessment of the viewshaft for inclusion in the PDP. Isthmus Group noted development could take place in the foreground *‘so long as it provided for maintenance of the visual relationship between the two buildings.’* WCC officers agreed with this statement in their report and WCC responded with a height control of 28.5m across the block.
115. In the outcome the Council decided not to include this as a protected viewshaft in the PDP. Nonetheless I consider the information relevant to the issue of protection of historic heritage in the context of a non-complying application and because, as Ms



Stevens notes, while the views of the Carillon from Mt Victoria or across the Basin are not necessarily 'formalised' viewshafts or viewpoints 'intended by the original design' of the National War Memorial, they have in fact become established and understood views over the course of 90 years.

116. Ms Stevens notes the skyline along Pukeahu ridge will be permanently altered by the proposal. The ridge-top setting of the National War Memorial, and the relationship between the Carillon tower and the former National/Dominion Museum building is obstructed by the proposed towers and bulk when viewed from the east and north-east and is contrary to Objective 1.2 (TADG).
117. Ms Stevens assesses that visual links to the surrounding context are important in this case to ensure that the development sits comfortably within, rather than competing with, the heritage landscape in which it is located. She notes, '*By increasing the height and, accordingly, the bulk of the apartment towers as proposed... the compositional and dimensional relationship of the development to the existing built context would change, and it would no longer be complementary*' (paragraph 112).
118. Ms Stevens notes the proposed height of Buildings A and E serves to emphasise this increased mass, and this is not ameliorated by the "modulation" or the "breaking up of visual bulk" as described by Mr Wild in his assessment. Mr Burns notes in the conclusion of his report, '*The height and/or design to the top of Building E should be adjusted to achieve a better contextual response, particularly in views from the east.*' I agree with Mr Burns, that to achieve the outcome sought by Ms Stevens, the height of Building E should be reduced to break up the visual bulk.
119. Further Mr Wild noted the 'ripping' of the towers (both Buildings A and E) as providing a scale and relief to the tower forms. Mr Burns, in his assessment goes on to state the rift should be more clearly defined and suggests the removal of a level would address this ripping issue, Ms Stevens agrees (paragraph 113) this will help to break up the forms that mitigate the impact of the proposed additional height, especially when viewed from the west.
120. Overall Ms Stevens concludes:

By re-elevating the Southern Apartments to 9 storeys and the Northern Apartments to 10 storeys, the proposed development would effectively undo what was successfully achieved in the consented design. It would once again diminish the landmark status of the former National/Dominion Museum and the National War Memorial and Carillon – particularly the Carillon tower – and obscure the relationship between them when viewed from the east. The skyline along Pukeahu ridge would be permanently altered by the proposal. The towers would interrupt viewshafts that, while they are not formally protected features, may be regarded as important established views with some significance in the overall heritage landscape.

121. Based on the expert advice outlined above, I consider that the proposal, in particular the additional height and mass of Buildings A and E will result in unacceptable effects on its heritage values due to diminishing of the context and setting of the Carillon and National War Memorial.
122. Some submitters raised concerns with respect to historic heritage values and Ms Stevens has addressed these in detail in her report. In summary the submitters consider

the development will negatively impact the iconic status and meaning of the Carillon tower as the proposal would undermine and distract from these values. I agree with Ms Stevens that the consented development was considered to find the balance between higher level housing requirements and respecting the historic heritage values of this landmark building and context.

Wind Effects:


123. A wind tunnel test and analysis has been completed by Neil Jamieson of WSP and his findings are included within the application (Appendices 12, 12A and 12B). Council's Wind Expert, Michael Donn has reviewed all the relevant documents, as listed on page 4 and 5 of his assessment. His report is included as **Annexure 3**.
124. As noted by Mr Jamison and confirmed by Mr Donn, the buildings for which consent is sought differ from the buildings that were subject to this wind test.
125. The design of these buildings was subsequently amended as summarised in the Architectural Design Statement (Appendix 1 of the Application, page 36). Mr Jamieson has advised that in his opinion the amended design, as opposed to the original design, would perform the same or slightly better than the design of the building tested.
126. Mr Donn begins his formal assessment by making some observations about the site and the development, *'The wind tunnel tests demonstrate this is a very exposed site compared to other sites around the city. It experiences high winds at present, and the wind flow is not complicated by adjacent large-scale buildings. On a strict interpretation of the intent of the District Plan, any intervention of tall buildings on the site ought to be referenced to the WCC Design Guide. This does not seem to have been the case. The most obvious evidence of this lack of reference to the [Wind] Design Guide is the placement of the taller buildings in the development closer to the street than would be considered advisable.'*
127. He considers more design is required to resolve the impact on the local pedestrian environment.
128. Mr Donn notes that the proposed extra height of the buildings will make the areas of concern⁶ from the consented building worse. He goes on to state that the form, scale and placement of the buildings appears to not consider the added risk. The earlier proposed off-site amelioration measures and the condition of consent requiring re-testing for the eight and five storey consented development were considered just 'sufficient to deal with the added risk' due to the increased height on this exposed site.
129. Moving to the Tasman Street pedestrian environment, Mr Donn notes WSP's results indicate the increased height of the proposal makes the west side of Tasman Street, alongside the Tasman Street Brick Wall, worse from a wind point of view by comparison of the consented design.
130. I have reviewed the Council's pedestrian count data (**Annexure 23**), which shows that Tasman Street has higher than average pedestrian count at 224 pedestrians per hour (inbound to City) compared to the average of 194. Thus, the wind effects in this location have the potential to detract from the public's safe use of this highly used route between the southern suburbs and the City.

⁶ Refer: WSP Wind Report, figure 7, page 14 and figure 8, page 17 (Appendix 12 of Application)



131. As shown in Table 7 (Appendix 12 of the Application) almost all the locations on the western side of Tasman Street have an increase in frequency of days per year that the 2.5m/s⁷ mean speed is exceeded. These range from location R alongside the Old Mt Cook Police Station with an increase of 41 days (under Option 1) to location J1 with an increase of 28 days/year under Option 1 and 25 days/year under Option 2. J1 is located opposite the church site. These are noticeable changes.
132. In his report Mr Donn notes the area under the canopy on Tasman Street to the south of the Building A is apparently subject to increased horizontal wind flows that were queried in previous design iterations and remain unresolved.
133. With regard to the northern end of the site and Buckle Street he notes the scale of the trees proposed as off-site amelioration on the northeast corner of the site, and further along Buckle Street towards the Basin Reserve is unclear. He queries whether the trees were modelled in the wind tunnel as 5m diameter, or 5m radius which produce differing results.
134. The off-site amelioration planting scheme proposed for the northeast corner of the development (No. 2 Sussex Street) does not recognize the direction from which the problem wind accelerations arises. It is important that the scale of the planting, the necessity for underplanting and the question of the long-term viability of planting as a wind shelter solution to be maintained by the Wellington City Council is resolved. I also note No. 2 Sussex Street is not owned by the Applicant or WCC.
135. With regard to this proposed off-site amelioration, I have discussed tree survival and effectiveness with Council's Senior Reserves Planner Kate Brown and Team Leader Arboriculture Ben Young who both confirm that trees on legal road and within the road reserve could not really be protected for perpetuity and Council, as landowner, has the right to remove or replace them.
136. Mr Young also stated that mature trees do contribute to wind dampening, however a newly planted small tree (5m) that has not grown in this position will have minimal structural roots to withstand wind loading, and therefore is at an increased likelihood of partial/whole tree failure. Their emails can be found in **Annexure 11**.
137. Additional to this off-site mitigation is the number of water, sewer and stormwater mains located in the berm of Old Buckle Street and the ability to meet Council's requirement that all newly planted trees need to be planted in WCC standard structural cell tree pits.
138. As stated by Mr Donn, the maximum gust speed increases from 21m/s (76km/hr) to 24 m/s (86km/hr) with the proposed development, means that there will be many more times per year that the lower wind speed of the actual safety limit (20m/s (72km/hr)) will be exceeded.
139. Mr Donn, in his final assessment concludes more design work is required to resolve the impact of the proposed design on the local pedestrian environment. I summarise his closing points as below:

⁷ Refer to page 7 of M Donn's report - The threshold of tolerable wind for sitting outside for a long period of time is 9km/hr (2.5m/s in the District Plan).



- The extra height of the proposed buildings will make the areas of concern from the consented building worse. What is proposed seems insufficient to deal with the demonstrated impact.
 - The area under the canopy to the south of the Building A is apparently subject to increased horizontal wind flows that were queried in previous design iterations and remain unresolved.
 - The west side of Tasman Street is made significantly worse with the proposed taller buildings, and no solution is proposed for this worsening; with the lower, consented, buildings this was not so much of an issue.
 - The scale of the trees proposed as off-site amelioration on the northeast corner of the site, and further along Buckle Street towards the Basin Reserve need clarification.
 - The off-site amelioration planting scheme proposed for the northeast corner of the development does not seem to recognize the direction from which the problem wind accelerations arise.
140. In summary, drawing from the advice of Mr Jamieson and Mr Donn, there is an acknowledgement that this site is particularly windy and challenging. The proposed development at the additional height will likely result in a notable change to the pedestrian environment in both Buckle and on the western side of Tasman Street.
141. The outstanding concern in relation to the proposed height of Building A and E will result, in the view of Mr Donn, in a worsening of the wind due to the extra height in public spaces. This is considered unacceptable. It is noted that additional information or clarification could be provided by the Applicant to resolve a number of the questions/concerns raised by Mr Donn.
142. I note here that given these issues, and the need for additional information and clarification from the Applicant, at this stage I have not been able to draft suitable wind conditions.

Noise Effects:

143. The proposal has increased from 171 residential units and one commercial unit to 221 plus one commercial. Marshall Day Acoustics (MDA), for the applicant, assesses potential noise from the proposal (Appendix 14 of the Application). In that 15 September 2021 report, MDA assessed that the project as described in section 1.0 of their report, could be designed to comply with the noise provisions of the Wellington City Council District Plan to the same extent.
144. No changes to their assessment were made as this amendment did not have any impact on the (original) assessment. Therefore, the conclusions of MDA's 15 September 2021 report remained valid. The same MDA report has been submitted to address the third iteration in design which is largely the same as the first one.
145. Council's Acoustic Engineer Lindsay Hannah undertook a comprehensive assessment of the proposal at ten and nine storeys submitted in 2021 and the two subsequent iterations. Mr Hannah has also sighted the submitted plans and considers his original assessments still stands. His addendum is Acoustical Design Report, and the original report are attached as **Annexure 5** and dated 21 October 2021 with his amended report dated 30 March 2023.

146. Mr Hannah notes, 'Day to day operation activity noise effects can be suitably managed by the applicant so that noise effects remain reasonable' and in terms of vibrations 'we are unable to comment further as no detailed assessment is provided by the applicant. We can however note that the proposed impact piling and certain activities such as a vibration roller (if used) would cause a level of vibration and depending upon the final locations of these sources could result in effects that are perceptible at times.'
147. Mr Hannah's report assessed the potential noise effects that will be associated with the development including external sound insulation, noise from fixed plant and on-site activities (specifically the café and carparking). His conclusions over potential noise effects remain the same. He acknowledges that the Applicant's has endorsed a set of conditions (Appendix 21 of the Application) to confirm compliance with the Operative District Plan standards in relation to noise insulation, ventilation and fixed plant noise and considers this to be acceptable.

Construction Noise

148. With regard to construction noise the MDA assessment notes in section 4.3, 'At this stage, a construction methodology has not been developed sufficiently to carry out a noise assessment and specifics of any exceedances cannot be reliably determined. Due to the close proximity of the some of the surrounding sites, it is highly unlikely that the construction noise limits would be complied with at all times.' The Applicant has offered conditions that require the compliance with NZS6803:1999 Acoustics – Construction' and DIN 4150-3:2016 'Structural Vibration – Part 3'. In addition, the recommendation for the preparation of draft CNVMP, will be reviewed by Council, prior to construction.
149. I note various submitters have raised concerns in relation to disruption and disturbance during the construction phase of the project, particularly noting the presence of nearby residential units at 4 Sussex Street. Mr Hannah addresses the submitters concerns in detail in his report.
150. In response to one submitter's concerns regarding early morning, late at night and weekend work Mr Hannah responds there are already requirements limiting noise limits during mornings and at night and provisions to manage Saturdays, Sundays and Public Holidays. He considers adequate conditions have been offered to mitigate noise in the early morning, late at night and weekend and on days with notable events in Pukeahu Park.
151. One submitter was concerned about the effect a large building project would have on the Memorial, and where future residents of these proposed buildings may object to dawn and other memorial events taking place at Pukeahu Park. I note the existing site contains a six-storey building with 42 residential units, so this effect is existing. To this 'reverse sensitivity' issue Mr Hannah responds that the residential units will be required to have adequate sound insulation and protection from external sound as well as suitable air changes via ventilation to the apartments' habitable rooms.
152. Submitters 13 and 18 sought the boundary car park wall to be soundproofed so car parking activities comply with the District Plan noise levels for tenants in the bedrooms in the residential complex at 4 Sussex Street. As noted, the MDA has assessed this as complying, Council's Acoustic Advisor has agreed with this assessment and no condition is therefore required.
153. As noted above, Mr Hannah accepts in his summary the noise and vibration associated with construction will be managed through a Construction Management Plan and compliance with the conditions relating to noise and vibration. I agree with section 5.3.7.1 of the Applicant's in the AEE.



154. The owners of the church (at No. 27 Tasman Street) submitted their preference to conduct services without undue interference from noise and vibration, specifically with respect to conducting funerals. Mr Hannah notes the Applicant can as of right conduct works that comply with the permitted limits set out in the noise and vibrations standards, which includes work on Saturdays from 7.30am to 6.00pm. He recommends the Applicant engaging in discussions with the Church regarding services, including funerals.
155. I accept the assessment provided by the experts discussed above and, on this basis, I am satisfied that the noise effects arising from the proposed residential and café activities, including fixed plant noise, and construction related noise and vibration will be acceptable. I agree with Mr Hannah's recommendation regarding noise during funerals.

Earthworks Effect:

156. I note that consent has been granted for the earthworks component of development under SR No. 500876. However, Council's Earthworks Engineer, John Davies has reviewed the proposal to ascertain any differences given there is change to the basement and he reached the same conclusions. His assessments for this proposal are attached as **Annexure 4** to this report. The earthworks effects of the proposal relate to ground stability, visual effects, dust, silt and sediment run-off, and the transportation of excavated material. The principal area of earthworks proposed is that associated with the basement excavation, with an estimated cut volume of 6,500m³ with cut heights over 3m. Piles will be to depth of 15-25m. The extent of earthworks proposed and how this work will be managed are outlined further in the Tonkin and Taylor Ltd Report and Dunning Thornton Geotechnical Report (Appendices 17 and 18 of the application), the LT McGuinness Draft Construction Management Plan Report (Appendix 20 of the application), and the Aurecon Civil Resource Consent Report (Appendix 19 of the application).
157. Regarding stability, Mr Davies has reviewed and agrees with the assessment supplied as part of the application. Mr Davies notes, '*No specific recommendations are made for the development [in the submitted reports]. However, the potential risk of localised liquefaction was identified and will need to be addressed as part of the foundation design at the building consent stage.*'
158. It is noted that the earthworks are to be stabilised by building consented retaining walls and structures on site.
159. Further, Mr Davies has recommended the same suite of consent conditions imposed under SR No. 500876 specifically to ensure the works be monitored by a geotechnical professional, and that a construction management plan be finalised and employed to avoid ground stability, visual effects, dust, silt and sediment run-off effects. These conditions are considered by Mr Davies to be robust and have been developed to address the earthworks risks associated with the proposed development.
160. It is considered that there is no change with regard to potential visual effects of the earthworks from SR No. 500876, as such effects will be temporary, and the proposed excavations will be built upon by the proposed buildings. Appropriate use of hard and soft landscaping will be incorporated into the design for the areas surrounding the buildings.



161. Traffic effects associated with the earthworks activity has been assessed by Council's Transport and Vehicle Access Engineer, Ms Patricia Wood, whose assessment is attached as **Annexure 6** to this report. Ms Wood considers that the transportation of excavated material can be adequately managed by a construction traffic plan (CTP) submitted via conditions of consent to minimise effects on the road network. This is also considered warranted given the large volume of material to be excavated and high number of vehicle movements expected, and the location of the site. Overall, Ms Wood advises that the proposal is acceptable from a traffic and vehicle access perspective subject to the conditions included in **Annexure 10** to this report.
162. Mr Davies responds to the concerns raised by a number of submitters in his report. In summary submitters raised concerns about construction dust. Mr Davies notes that standard industry methodologies will be utilised to control this potential effect.
163. Submitters 13, 14 and 18 were from the adjoining properties to the east (4 Sussex Street) and had amenity concerns around dust as any ventilation was provided by opening windows and there is no mechanical ventilation option. It is acknowledged that avoiding dust effects all together is unfeasible, especially on windy days. Mr Davies considers that this can be appropriately addressed through requirements of the conditions including details of how dust in relation to earthworks will be managed and monitored as part of the ESCP. This would ensure that dust effects would be kept to a minimum.
164. Waka Kotahi, as a submitter, raised concerns of stability beyond the site at the Arras Tunnel and State Highway 1. Representatives of Willis Bond and Waka Kotahi met on 29 March 2023 and discussed the matter. Mr Davies has further reviewed the record of this meeting and the Tonkin and Taylor Advice Note (**Annexure 22**) which provides a specific geotechnical assessment relevant to the submission. Mr Davies considers that stability does not normally form part of the earthworks discretion, as per the ODP rule for earthworks 30.2.2.1 and as such has not been considered in this assessment, however he agrees a condition requiring a Ground Movement Monitoring Plan should be included in the consent conditions suite.
165. Provided the conditions of consent are adhered to, Mr Davies is satisfied that the risk of instability can be mitigated, subject to the conditions of consent included in **Annexure 10** to this report.
166. Overall, having regard to the specialist advisor input above, and noting the relevant conditions that have been suggested, adverse effects associated with the earthworks will be suitably minimised and are acceptable.

Contamination Effects:

167. The Applicant provided a Contaminated Land Status Letter from Tonkin and Taylor (Appendix 17 of the Application) dated 13 September 2021 which confirmed that the site is not contained in the Greater Wellington Regional Council Selected Land Use Register (SLUR) and that Hazardous Activities and Industries List (HAIL) activities have not occurred there. Therefore, the proposal does not need to be assessed against the Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS) or Chapter 32 of the District Plan.
168. Nonetheless, the Applicant confirms in section 5.3.11 of the AEE that the earthworks material will be tested for contamination and treated/disposed of as necessary. The



applicant has noted that the (Construction Management Plan) CMP will outline the process that will be followed if contaminated material is discovered during the construction phase.

169. There is no change from 2021 when Mr Davies reviewed the application in his capacity as the Council's contaminated land expert (**Annexure 20**). Noting that the site is not contaminated, Mr Davies is in general agreement with the Tonkin and Taylor's assessment.

Transport and Access Effects

170. The Applicant has submitted a Transport Assessment Report (TAR) prepared by Stantec with the application (Appendix 15 of the Application). The TAR has been prepared to assess and describe the transportation effects associated with the proposed redevelopment of 1 to 23 Tasman Street, Mount Cook, on the edge of Wellington CBD, and includes assessment of these of the following matters:

- The form and function of the existing local transport network
- The traffic related components of the proposal
- The servicing demands, arrangements, and practices
- The expected construction management practices and considerations

171. Overall, the TAR concludes in section 12.0, that that the transport related needs of the proposed new residential activity can be accommodated at the site, and in the manner proposed, with little adverse effects on the surrounding transport network. The proposed redevelopment of this Site to provide a high-quality mixed typology of residential housing, can be supported from a traffic engineering and transportation planning perspective.

172. The application, including the TAR, has been assessed by Patricia Wood, Council's Transport and Vehicle Access Engineer. Ms Wood's assessment's dated 7 March and 14 April 2023 are included in **Annexure 6**. She makes the following comments:

- The proposal includes changes to street parking including a loading/pick up zone. An application to Council for a traffic resolution must be made and there is no guarantee of its approval.
- On-site waste management service area is smaller than it should be however it is similar in size to the consented area.
- The café will need to be serviced in the same manner as allowed for in the approved plans
- The proposal includes 184 bike parks located within a covered and secure area and provided with electric vehicle charging facilities.
- The proposal would include 138 carparks accessed from three levels of carparks. This represents an additional level of parking to that previously approved. The approved plans allowed for 112 carparks on two levels of carparks.
- Two vehicle crossings are proposed, and other site access aspects are similar to those previously approved.
- Pedestrian access is available off both Buckle and Tasman Streets.
- The previous concerns about pedestrians using the basement driveway are now reduced, and the previous condition regarding warning signs is not considered necessary now.

173. I note additionally there will be an increase in on-street parking spaces as a result of the removal of four of the existing vehicle crossings.
174. Overall, Ms Wood concludes in her assessment that the proposal is acceptable from a transport perspective, subject to conditions outlined in her report.
175. There were no submissions that required any assessment with regard to access or transport matters.
176. I accept the assessment provided by the experts discussed above. On this basis, I am satisfied that the transport and servicing effects of the proposal will be acceptable.

Cultural Effects

177. The Applicant has undertaken an assessment of Māori cultural effects in section 5.3.4 of the AEE, which should be read in conjunction with this report. This assessment is based on the Cultural Impact Report (CIR) carried out by Raukura Consultants (Appendix 11 of the Application) which provides a summary of the Māori cultural context to this development.
178. During the design process the Applicant engaged with the Wellington Tenth Trust to outline the proposal and seek feedback from the Trust. The Trust sought the following recommendations:
- Future guidance and provision of cultural advice and the Applicant responded by preparing a cultural impact assessment report on behalf of the Wellington Tenth Trust and the Port Nicholson Block Settlement Trust.
 - The decision to name the development *One Tasman Pukeahu Park* was shared with the Wellington Tenth Trust and endorsed by the Trust.
 - The proposed landscape plan reflects a cultural acknowledgement and connection to the Pohutukawa trees on the Pukeahu Ridge
 - the Applicant endorses the imposition of an Accidental Discovery Protocol as a consent condition
 - The Trust can advise on appropriate cultural ceremony for the site and the project prior to the start of works and then at the completion of the project.
179. The site is not subject to a statutory acknowledgement area under Schedule 11 of the Act however it sits alongside the underground Waitangi Stream (WCC Ref #145) which flowed from Hauwai (WCC Ref #66), the historic wetland now known as the Basin Reserve along Kent and Cambridge Terraces to Waitangi Park, at the waterfront.
180. The site also neighbours Puke Ahu - Ngā Tapuae o Kāhui Maunga (Sites and Areas of Significance to Māori Ref #121), the gardens below the National War Memorial steps.
181. As part of the notification process for the application, notice was serviced directly on Ngāti Toa and Taranaki Whānui ki Te Upoko o Te Ika (Port Nicholson Block Settlement) Trust. I note that no submissions were received from these parties.
182. An archaeological authority has been granted by Heritage New Zealand Pouhere Taonga for the proposed development (authority granted 17 June 2022).



183. Based on the CIR conclusion it is unlikely that any Māori cultural archaeology would be found on the site and a pre-development archaeological examination of the site is not required.
184. Having regard to the above, and subject to the consultation, I consider that the adverse effects of the proposal in terms of Māori cultural effects will be acceptable.

Three-Waters Servicing Effects

185. The applicant has provided a Civil Resource Consent Report by Aurecon (Appendix 19 in the application) which assesses the servicing of the proposed development in terms of stormwater drainage, water supply and wastewater drainage, collectively referred to as three-waters. The report outlines the proposed three-waters servicing design in accordance with the applicable design standards and code of practice requirements, and makes recommendations where mitigation is necessary. The amended report reflects discussions with WWL regarding the servicing arrangement.
186. The report and servicing strategy has been reviewed by WWL Land Development Engineer Zeean Brydon, whose assessment is attached as **Annexure 7** of this report.
187. With regard to changes to the servicing between the consented and proposed plans, Ms Brydon notes the basement is smaller with the lockers removed, however an additional link has been provided to Block A and additional servicing rooms provided between the basement and block A. These will significantly restrict servicing options between Block A and D, and she notes the servicing within this area will be private and it will be the applicant's responsibility to ensure sufficient space for the servicing.
188. In terms of water supply, Ms Brydon notes detailed design is required and residual pressure, pressure change, and water supply calculations are not included within the application and these documents will be required to support the final design, including confirmation of the fire rating of the building by a fire engineer.
189. In terms of wastewater, the consented demand of 10.4 L/s is based on 212 units. With the increase to 221 units the increase in wastewater flow will be 0.08 L/s with an overall peak estimate of 10.48 L/s. Given the spare capacity within the local network wastewater mitigation is still not considered to be required for this development.
190. In terms of stormwater, both Ms Brydon and Aurecon⁸ note that due to the age of the site the proposed infrastructure will need to be constructed new.
191. Stormwater neutrality will not be required for the development.
192. Ms Brydon advises for both wastewater and stormwater, *'the proposal is generally in accordance with the advice provided by WWL, however the creation of a shared private drain with the public road reserve would not be acceptable and this would either need to be a public main (which would be acceptable) or each townhouse for Blocks C and B would need a separate and individual connection to the existing public stormwater main or the common shared private drain would need to be located within the site boundary.'*
193. Ms Brydon also noted in her report that the applicant has not addressed THW-Objective 1 or THW-Policy 1 within the application even when asked in an email dated 24 March

⁸ Civil Resource Consent Report by Aurecon, section 3.3



2023 (**Annexure 7**). She goes on to say Wellington Water would not recommend the granting of this resource consent until such time as a concept proposal for Water Sensitive Urban Design (WSUD) addressing THW-01 and THW-P1 is provided by the applicant to demonstrate that a compliant scheme can be achieved on site. The Applicant may wish to address this recommendation.

194. There were no submissions that required any assessment with regard to servicing the site.
195. Overall, Ms Brydon has also suggested a standard suite of three-waters servicing conditions that I have included in **Annexure 10** to this report, and having regard to the above assessment, adverse three-waters servicing effects will be acceptable.

Positive Effects:

196. The applicant has undertaken an assessment of positive effects in section 5.3.14 of the AEE. These can be summarised as follows:
 - provide an increase in the supply of housing units;
 - establish a quality 'built environment' combining architectural design excellence along with seismic resilience; and
 - provides for the economic and social wellbeing of future owners and occupiers.
 - providing intensification within the central area, adding vibrancy to the city and utilising an otherwise underutilised site.
197. I agree that these are positive effects related to the proposal. Other positive effects of the proposal have been acknowledged by the submissions in support of the proposal.

Effects Conclusion:

198. Effects are not assessed in a vacuum. The assessment is guided by the planning framework in place at that time. In this instance there are two plans in place, the Operative District Plan as well as the Proposed District Plan.
199. The effects generated by the height over and above that consented creates a tension with the Operative District Plan but generally sits more comfortably with the strategic direction shift in the Proposed District Plan for greater intensification.
200. Notwithstanding this acknowledgement, Ms Stevens has identified concerns with regard to heritage value effects where the Carillon and National War Memorial views are impacted to the east while Mr Burns has identified concerns with Building E suggesting changes to create a step-down which better reflects this relationship.
201. The effects on wind have been set out by Mr Donn who expresses concern over the resulting wind environment, in particular the wind speed of 24m/s on the western side of Tasman Street. It is acknowledged that clarification or additional mitigation may be offered however on the basis of the advice of Mr Donn, the wind effects are considered to be unacceptable and more than minor considering section 104D.
202. Based on Ms Stevens' advice, I consider that the proposal, in particular the additional height and mass of Buildings A and E will result in unacceptable adverse effects on heritage values due to diminishing the context and setting of the Carillon and National

War Memorial. This is considered unacceptable and more than minor considering section 104D.

203. Taking into account the assessment above of the actual and potential effects of the proposal (including both adverse and positive effects), I consider the effects of the additional height, and bulk will result in unacceptable heritage and wind effects particularly in the context of the Operative District Plan framework. I consider that the positive effects of the proposal while meeting the requirement to provide additional density, do not outweigh the adverse effects of the proposal.
204. I note that my conclusion that the heritage and wind effects are more than minor means that the proposal fails the effects gateway under section 104D.

Section 104(1)(ab) Measures to ensure Positive Effects to Offset or Compensate for any Adverse Effects

205. The applicant has not proposed or agreed to any measures to ensure positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity. In this case I consider that no measures are necessary as the overall effects on the environment will be acceptable.

Section 104(1)(b) Relevant Planning Provisions

206. Relevant to the assessment of the application is a hierarchy of planning instruments, each intended to give effect to the Purpose and Principles of the Act. In considering this application, I have had regard to provisions of the following planning documents as specified in section 104(1)(b)(i)–(vi) of the Act:
- National Policy Statements
 - The New Zealand Coastal Policy Statement
 - The Wellington Regional Policy Statement
 - The Operative District Plan
 - The Proposed District Plan

207. The objectives and policies of the Operative and Proposed District Plans are relevant to the second gateway test under section 104D. To meet the gateway the proposal must not be contrary to those objectives and policies. Inconsistency with the objectives and policies is not enough – the issue is whether the proposal is contrary in nature to the objectives and policies considered in a broad way. I address this further below when considering the objectives and policies of the two plans.

Higher Order Planning Documents

208. Other than the NPS-UD and Wellington Regional Policy Statement discussed below, there are no National Environmental Standards, other regulations that are directly relevant to the consideration of this proposal. Similarly, the New Zealand Coastal Policy Statement is not relevant.



National Policy Statement on Urban Development 2020 (NPS-UD)

209. The objectives of the NPS-UD most relevant to this proposal are:

- **Objective 1:** New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future
- **Objective 2:** Planning decisions improve housing affordability by supporting competitive land and development markets.
- **Objective 4:** New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.
- **Objective 5:** Planning decisions relating to urban environments take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).
- **Objective 6:** Local authority decisions on urban development that affect urban environments are:
 - (a) integrated with infrastructure planning and funding decisions; and
 - (b) strategic over the medium term and long term; and
 - (c) responsive, particularly in relation to proposals that would supply significant development capacity.
- **Objective 8:** New Zealand's urban environments:
 - (a) support reductions in greenhouse gas emissions; and
 - (b) are resilient to the current and future effects of climate change.

210. In addition to this Policies 1, 6, 9(c), 9(d) and 11 apply to resource consent decisions.

211. The requirements of the NPS-UD are incorporated into the Proposed District Plan.

212. As a higher order planning document, the relevant objectives and policies of the NPS-UD are considered further below.

213. The emphasis on changing amenity values set out in **Objective 4**, in response to diversity and changing needs is considered relevant to this development.

214. **Policy 3** of the NPS-UD requires that the Council (as a Tier 1 Council) sets building and density controls so as to "*realise as much development capacity as possible, to maximise benefits of intensification*".

215. Under the ODP the height overlay for the site is 18.6m other than for 27 Tasman Street which is 10.2m. I note under the PDP the height overlay for this site of 28.5 metres, consistent with the Wellington Council Spatial Plan (the Spatial Plan), adopted on 24 June 2021. This height increase sought to intensify development potential to meet the housing needs of the City's population and the requirements of the NPS-UD. The heights provided for in the Proposed District Plan, in conjunction with the PDP Design Guides, are yet to be confirmed, do not have immediate legal effect, and therefore provide guidance only. At this point in time this proposal for the additional height could be considered to extend beyond the *development capacity* supported by the ODP, however, under both the Spatial Plan and the PDP there is a clear signal, in line with the NPS-UD for greater intensification and heights on this and surrounding sites is largely anticipated but not set.

216. I note there is one submitter to the Wellington City Proposed District plan process with regard to this site. The submitter seeks a height increase across the site to match the neighbouring area to the south, to a height of 42.5m height control. This means the height control is not beyond challenge and may stay the same or increase. It is not likely to decrease, though this cannot be said categorically because unlike a usual plan making process, the commissioners appointed may make out-of-scope recommendations. All of this creates uncertainty and I consider it hard to put weight on the height in a specific sense until recommendations are made, or Council makes its decisions on recommendations.
217. **Policies 1, 9(c) and 9(d)** of the NPS-UD require that the Council enables a variety of homes to meet the needs of a changing community, to modify heights and density. This policy is met.
218. **Policy 6(b)** requires decision makers to have particular regard to the notion that: *“the planned urban built form may involve significant changes to an area, and those changes: (i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and (ii) are not, of themselves, an adverse effect”*. I have paid particular attention to this policy, noting that the amenity effects on neighbouring sites (and those highlighted by neighbouring submitters), in the context of the ODP objective and policy framework may not be appreciated by those submitters, but may be appreciated by others, including future communities, and *are not, of themselves, an adverse effect*. I do not take this to mean that increased shading, wind effects, or impacts on heritage are not able to be considered adverse, only that I need to specifically note and give weight to the fact that change is not in and of itself a bad thing.
219. It is acknowledged, that in implementing Policy 6b in particular, council's and communities will need to accept that there will invariably be a reduced access to amenity as protected by previous planning provisions. It should be noted that the concerns raised above in relation to wind by Council's expert predominantly relate to community safety.
220. Overall, the proposal is considered to achieve the outcomes sought by the NPS-UD. Notably, the proposal facilitates additional housing capacity (221 household units)
221. If these the safety concerns can be resolved, I consider the overall proposed height and mass could be considered consistent with the NPS-UD and anticipated heights as directed by the Spatial Plan.

Wellington Regional Policy Statement

222. The Regional Policy Statement for the Wellington Region ('RPS') provides an overview of the resource management issues significant to the region and outlines the objectives, policies and methods required to achieve the integrated management of the region's natural and physical resources.
223. Section 4.2 of the RPS contains regulatory policies which need to be given particular regard (where relevant) when assessing and deciding on a resource consent application. The most relevant policies to consider in assessing this application are listed below. I note that the RPS was adopted before the NPS-UD and so it needs to be considered in that light. I also note the Regional Council has notified Proposed Change 1 to the RPS seeking to give effect to the NPS-UD.

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Policy 54: Achieving the region's urban design principles

Policy 55: Maintaining a compact, well designed and sustainable regional form

224. I adopt the applicant's assessment in section 5.4.2.2 of the AEE with regard to these two policies and consider the proposal accords with them.

Policy 41: Minimising the effects of earthworks and vegetation disturbance

225. Appropriate silt, sediment and erosion controls will be required to be implemented during the earthworks. Policy 41 recognises that erosion, siltation and sedimentation cannot always be avoided, I consider that based on the advice of Mr Davies appropriate management techniques are necessary to ensure that these effects will be minimised.

Policy 42: Minimising contamination in stormwater from development

226. Ms Brydon of WWL has assessed the proposal with respect to stormwater management. Considering her assessment above, conditions of consent have been suggested that will minimise contamination of stormwater runoff through providing on-site stormwater quality treatment and through the minimisation of galvanised, zinc alum or unpainted metal for exterior construction to further manage this effect.

Policy 46: Managing effects on historic heritage values.

227. The adjacent site is an area of national significance to all New Zealanders, contains HNZPT listed buildings and structures and is currently under review to be given Landmark status alongside Te Pitowhenua Waitangi Treaty Grounds.

228. Effects on neighbouring historic heritage values have been assessed extensively by the Applicant's and Council's experts with particular regard for Policy 46 (e) the probability of damage to immediate or adjacent heritage values and (f) the magnitude or scale of any effect on heritage values. Ms Stevens (paragraph 96) notes that the proposed development becomes a dominant feature within the heritage landscape from a variety of viewpoints and severs the visual connections with and between the Carillon tower and the former National/Dominion Museum.

229. Both Ms Stevens and the HNZPT letter, dated 8 October 2021 (Appendix 6 of the Application) consider the bulk of the development *remains considerable. The mass of the public monuments, which desirably should stand out, only just manage to hold their own* (paragraph 4, page 2).

230. As assessed by Mr Wild, Mr Burns and agreed with by Ms Stevens the alignment of the larger buildings with the historic Te Aro grid, and the brick-clad terraced housing on Buckle and Tasman Streets, are an appropriate response and manage the effects of historic heritage at street level.

231. Overall, with regard to policy 46, based on the advice of Ms Stevens, I consider the proposal at this height and mass will create an effect on historic heritage which does not entirely meet with the intent of this policy.

232. With regard to Policies 30, 31, 54 and 55 under Objective 22: regional form and function, I adopt the applicant's assessment in section 5.4.2.2 and 5.4.2.3 of the AEE.

Policy 48: Principles of the Treaty of Waitangi

233. The application included a Cultural Impact Assessment (Appendix 11 of Application). Conditions have been suggested to ensure accidental discovery protocols are implemented as required ensuring on-going participation by the relevant iwi groups in the event that any material of significance to iwi is discovered during the works.
234. Further, the applicant has consulted with the Tenth Trust at the development stage of the proposal and has offered to retain the large pohutukawa on Buckle Street frontage, proposed conditions ensuring the on-going consultation and the accidental discovery protocol is observed.

Policy 57: Integrating land use and transportation

235. The proposal has been designed with the intention of integrating the land use development with transport considerations, particularly as the proposal provides some on-site parking for both vehicles and bicycles away from the frontages and EV chargers. Further, given the Central Area location of the site, it has good access to public transport (bus in particular) and good connections to the wider CBD.
236. Further, the applicant's Transportation Assessment Report concludes that the traffic generated by the proposed development can be adequately accommodated within the existing transport network and that there will be minimal impacts on the efficiency, reliability and safety of the network and it will not have a material impact on Tasman Street or the performance of local intersections along this corridor when compared to the existing site traffic generation (section 8.2).

Proposed Change 1

237. Proposed Change 1 to the RPS was notified by GWRC on 19 August 2022. The focus of Proposed Change 1 to the RPS is to implement and support the National Policy Statement on Urban Development 2020 ('NPS-UD') and to start the implementation of the National Policy Statement for Freshwater Management 2020 ('NPS-FM'). The change also addresses issues related to climate change, indigenous biodiversity and high natural character. I have had regard to Proposed Change 1 and consider that no further analysis is required.
238. Overall, I consider that the proposal generally accords with the general strategic direction of the Wellington Regional Policy Statement, other than Policy 46 (Historic Heritage) where I consider it does not.

Operative Wellington District Plan

239. The Operative Wellington District Plan (ODP) sets out the environmental outcomes the Council seeks to achieve as a requirement of the Resource Management Act 1991. This is done by 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.
240. The subject site is located within the Central Area of the ODP, which sets a vision for a vibrant, prosperous, liveable city. The eight principles that guide the growth of the central city include enhancing 'sense of place' [includes heritage buildings], 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, enhance the quality of the public environment, enhance



city/harbour integration, and enhance sustainability. The objectives and policies below are informed by these principles.

241. The District Plan notations for this site are listed in paragraph 47.

Central Area

Containment and Accessibility

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 12.2.1.1: Define the extent of the Central area in order to maintain and enhance its compact, contained physical character.

Policy 12.2.1.2: Contain Central Area activities and development within the Central Area.

242. Objective 12.2.1 and the underlying policies relate to containment and accessibility within the Central Area. The site is within the Central area and the redevelopment allows for the efficient and ongoing use of the existing land resource. Mr Burns' assessment notes that the proposal enhances the perception of a highly urbanised environment and consolidates the Central Area by utilising the site for medium and higher density forms of development.

243. I agree with the Applicant's assessment and consider the proposal to be an efficient use of the Central Area land.

244. Development happens within land zoned Central Area but is located on the outskirts of CBD and on a ridge which is considered the 'southern edge of the central area' meeting Policy 12.2.1.1.

Activities

Objective 12.2.2: *To facilitate a vibrant, dynamic Central Area by enabling a wide range of activities to occur, provided that adverse effects are avoided, remedied or mitigated.*

Policy 12.2.2.1: Encourage a wide range of activities within the Central Area by allowing most uses or activities provided that the standards specified in the Plan are satisfied.

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

Policy 12.2.2.4: Control the adverse effects of noise in the Central Area.

Policy 12.2.2.5: Ensure that appropriate on-site measures are taken to protect noise sensitive activities that locate within the Central Area from any intrusive noise effects.



245. Mr Burns considers that the proposal is primarily a residential outcome but/that will introduce limited commercial (café) and live/work along street edges. This combination of activities and frontages will create a sufficiently vibrant public realm.
246. The proposal enables a range of activities within the Central Area providing both accommodation and a retail operation (café). Further it provides a range of accommodation options within the city. It therefore accords with policies 12.2.2.1. I agree with the applicant that the activities in themselves are permitted in the Central Area.
247. Policy 12.2.2.2 recognises that activities within the Central Area have the potential to have effects both within the Central Area and to nearby residential zones. I note that the nearest residential zoned areas are some 170m to the southeast and the Mt Victoria suburb approximately 280m to the east. Based on the advice from the various experts I agree that an appropriate balanced design response has been largely achieved which allows the site to maximise the development potential in line with the intent of the NPS UD. However, it was considered that the consented height of eight and five storeys and resultant mass was appropriate and carefully managed the diminishing of the outlook for the residentially zoned properties and their outlook. I agree with Mr Burns the proposal is consistent with policy 12.2.2.2 with regard to neighbouring residential areas.
248. With regard to policy 12.2.2.4 and 12.2.2.5, the proposal has been reviewed by Mr Hannah, Council's Acoustic Engineer and he considers that the adverse effects of both the construction noise and development noise to be acceptable (**Annexure 5**). A number of conditions have been offered by the applicant to manage these effects. I accept these conclusions and the above policies are met.

Urban Form and Sense of Space

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.

249. With regard to policy 12.2.3.1, retention of the high city/low city urban form conveys a range of benefits to the City and enhances the valley shape of the city. The ODP principle 12.1.2⁹ states *'The city has a natural tendency towards physical containment, with an amphitheatre of hills leading down to the inner harbour'*. The policy is pivoted on the topography with the high city being located in front of the steeply sloped terrace escarpment and towards Lambton Quay. The subject site is located within the 'low city' area which is reinforced by the heights of 10.2m and 18.6m applying to the site. This is shown on Map 32 Central Area Building Heights (**Annexure 15**). Neighbouring buildings to this subject site largely comply with the 'low city' height requirement.
250. Map 32 shows the high city is located within the geographic form of the basin and the subject site sits on a ridge and at the southern edge of the city. Heights are shown according to location away from Lambton Quay and in response to the neighbouring

⁹ <https://wellington.govt.nz/-/media/your-council/plans-policies-and-bylaws/district-plan/volume01/files/v1chap12.pdf?la=en&hash=2FBD747215A845715E8EC27AC8991DC03D1803C9>

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non-Central Area zones. There is a clear difference between the sites within the basin and those at the edge in terms of the transition to residential heights beyond.

251. I note in the s32A report/guidance for District Plan Change 48 (2007) Te Aro Corridor (Karo Drive)¹⁰ the building heights *'were set to reinforce the overall 'high city/low city' urban form of the Central Area. Council analysis of these building heights showed that they were appropriate and would allow sufficient capacity to accommodate future growth. Further 'The Council's discretion to consider additional height was increased to up to 35% across the Central Area's 'low city', subject to the appropriate management of effects (emphasis added).* As a result of the above policy and height controls the surrounding area is generally typified by low to mid rise buildings in the order of 2-5 storeys. The inclusion of ten and nine storey buildings will introduce and change to this urban landscape not anticipated by the above policy.
252. From the same s32A report I note, *'building mass can also cause poor outcomes for adjoining heritage buildings as well as reduce the Council's ability to satisfactorily manage the effects of wind on the public environment.'* This informs my understanding of the high/low policy.
253. In summary the proposal does not *preserve* (emphasis added) the present 'high city/low city' general urban form for the following reasons:
- *Preserve*¹¹ is a clear directive word and stronger than respond, enable or promote.
 - The proposed height is well in excess of 18.6m or the consented height of 29.5m which is in excess of the additional allowable 35%.
 - Geographically the site is located on a ridge at the southern end of the Central Area in the 'low city' where there is a clear step down to the non-Central Area height controls.
 - The proposal does not retain the low city height within proximity to the Te Aro Corridor as directed by the s32A report.
254. While Mr Burns acknowledges that the buildings are lower than those provided for as 'high city' he has concerns with how the proposed heights fit within the high/low city context concluding the proposal poorly supports this policy.
255. The Applicant has noted in his assessment (Appendix 4 of the Application) that in relation to preserving the "general urban form" of southern Te Aro and given that 62% of the site will accommodate buildings below 18.6m and/or be occupied by ground level open spaces and pedestrian and vehicle entrances and access, the proposed One Tasman is not inconsistent with preserving the general urban form of this part of the low city.
256. It is considered that it is not the low buildings in the development which are inconsistent with this policy rather Building A and E. It is these two buildings for which the extra height is sought not the remaining 62% of the site. Buildings A and E do not transition to the lower heights outside the CBD. Mr Burns recommends in his policy 12.2.3.1 assessment

¹⁰ <https://wellington.govt.nz/-/media/your-council/plans-policies-and-bylaws/district-plan/changes/completed-changes/files/change48-decision-summary.pdf?la=en&hash=FFFE157A331B4DAFE808FE0AD36AB5474A962AEC>

¹¹ **Preserve** (verb) to keep safe from harm or injury; protect or spare <https://www.dictionary.com/browse/preserve>

that a step-down to a lower height for Building E would improve this transition. I would agree with The Applicant and consider the lower Buildings B, C and D are consistent with this policy, however, Buildings A and E are not.

257. I consider the proposal to be contrary with policy 12.2.3.1 given its location on the ridge, height and additional mass in contrast to the heights provided for in the Plan at 18.6m and 12m. I support Mr Burns' recommendation to create a better transition between the 'overs and unders' in the context of this policy.
258. Policy 12.2.3.2 requires any development or activity to promote a strong sense of place with special reference to two sensitive development areas within the Central Area. One of which is the Te Aro Corridor which One Tasman neighbours. The policy description goes on to note. '*Special care must be taken in developing these areas to ensure that new works enhance character and sense of place and assist in integrating each area into the wider urban fabric integrating each area into the wider urban fabric of the Central City*'.
259. Mr Burns notes the policy seeks differentiation of character across the Central Area informed by local social and physical attributes and considers the development to achieve a high level of architectural design quality acknowledges the significance of the site.
260. Overall, I consider that the proposal is contrary to Objective 12.2.3 and Policies 12.2.3.1 and does not align with the high/low city aspiration with regard to the increased height and bulk above the consented development. The proposal is not inconsistent with policy 12.2.3.2.

Sensitive Development Areas

Objective 12.2.4. *To ensure that any future development of large land holdings within the Central Area is undertaken in a manner that is compatible with and enhances the contained urban form of the Central Area.*

Policy 12.2.4.5 *Ensure that development within the Te Aro Corridor assists to integrate the inner city bypass in to the urban fabric of southern Te Aro.*

261. Based on the assessments undertaken by Mr Burns and the Applicant's experts there is agreement that the development of this site is largely compatible with and enhances the contained urban form of the Central Area.
262. I agree with the Applicant's statement that Pukeahu National War Memorial Park is now completed as part of the Te Aro Corridor works. One Tasman Street has frontage to the 'now closed to motorists' Old Buckle Street, which forms part of the Park.
263. Based on the guidance provided by the CAUDG with regard to the Te Aro Corridor and that this is a non-complying activity it is considered that an assessment of the additional height impacts on the elements within the corridor is appropriate. I agree with Ms Stevens and not Mr Knott, who asserts it is not appropriate to assess [the site] given the proposal does not fall *within* the intent of this policy. Ms Stevens, Mr Burns and the Applicant consider the site within the wider neighbouring area in their assessments.

264. Mr Burns notes in his assessment (under G2.3) the Te Aro Corridor guidelines seek to manage height of adjacent buildings to the north and west of the Carillon only, and the development will not challenge the prominence of the Carillon in views from the north and northwest. He concludes:

I consider that the Proposal supports the guideline in part except for the height for Building E that should present a visual step down from Building A through removal of one level or noticeable design change to the top level.

265. The design experts acknowledge the new development will provide a 'quality edge' to Old Buckle Street thereby integrating the development into the urban fabric of this part of the Central Area. I do however note the concerns raised by Ms Stevens about the wider impacts on the context and setting of the elements within the Corridor however accepting that the policy wording is specific to development within the Corridor.

266. On this basis the effects of height on the Te Aro Corridor should be considered to be limited to the east and the overall design of the proposal is not inconsistent with this policy.

Effects of New Building Works

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.*

267. As guidance for this policy, I include this extract from the policy explanation as key, 'The focus of the District Plan is therefore not to control building height absolutely, but rather to manage the scale of new buildings to ensure that they respect and reinforce the Central Area's 'high city/low city' urban form, and the scale and character of existing neighbourhoods and identified heritage areas.'

268. The Applicant contends the proposal is not inconsistent with Policy 12.2.5.1 given 'the District Plan provides for building height above specified standards when building height is reduced elsewhere on the site (Policy 12.2.5.4). While it is acknowledged that the policy does in part provide for this, the remainder of the explanation to policy 12.2.5.4 states any such additional height must be able to be treated in such a way that it represents an appropriate response to the characteristics of the site and the surrounding area. This provides a qualifier and (distribution of mass) is not a given to increase height in the low city.

269. As guided by the policy 12.2.5.1 above, an application to exceed the height standards specified in the District Plan needs to be considered on a site-specific basis, acknowledging the context *at the time the proposal is being developed* and whether the proposal reinforces the Central Area's 'high city/low city' urban form. In this case it is considered that it does not.

270. The height, scale and mass of the proposal does not result in buildings that will be complementary to, and of a scale appropriate to, existing buildings on adjacent sites. I consider at street level this is achieved with the townhouse designs and this will be at a high standard however the scale and mass associated with the height are not consistent with the intent of this policy.
271. While the adjoining heritage items are not considered a heritage area under the District Plan it is agreed by all advisors, they make up the form of the neighbourhood. Ms Stevens does not consider the proposal, at this height, scale and mass of the proposal does acknowledges and respects the scale and form of any adjacent listed heritage items on the neighbouring site. Mr Burns and the Applicant's experts considers the development does respect the heritage values of the area.
272. As noted above, while the proposal meets a number of policies with regard to high quality development it does not have regard for the high city/low city policy 12.2.5.1. Additionally, it does not respect the form and scale neighbourhood to the south Tasman Street to Rugby Street with the increase of shading/access to sunlight above the consented baseline from these properties (Appendix 13 of the Application). A number of properties to the south will receive little sunlight over autumn, winter and spring due to the increase in height over the consented height.
273. Mr Burns also considered that the city block bordered by Tasman, Buckle, Sussex and Rugby Streets is as mixed use and style, and height. I consider the proposal has increased its scale beyond that of both the height set out in Map 32 and no longer acknowledges or respects the neighbourhood form and scale.
274. I therefore consider the proposal, at this height and bulk, does not reinforce the high/low city urban form; instead, it undermines it and is contrary to Policy 12.2.5.1.

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.

275. As indicated by the Applicant the design sought to achieve appropriate building height and mass with reference to the adjoining heritage area and still meet quality design outcomes. Mr Burns considers in his design assessment that this is largely achieved.
276. The Applicant in the objectives and policies assessment (Appendix 4 of the application) and Ms Stevens and Mr Burns note the massing of the townhouses do respond to the scale of the former Police Station and the Tasman St Brick Wall. However, for the reasons outlined in Ms Steven's assessment, with regard to the increased mass of the taller buildings (paragraph 100), Building A and E do not respond as well by interrupting and obscuring views. It is noted Mr Burns has recommended the step-down between the two buildings is increased to create a better design outcome and this may alleviate some of the effects of mass on neighbouring heritage values.
277. With regard to policies 12.2.5.2 and 12.2.5.3, Ms Stevens, in her capacity as heritage expert considered the effects of mass as proposed, *'I do not agree that this is ameliorated by the "modulation" or the "breaking up of visual bulk" as described [by Mr Wild]; or by the "placement of the towers and the gap between them" as contended by Mr Knott. The proposed 9 and 10 storey apartment towers compete with the Carillon*

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and the former National/Dominion Museum for dominance on the Pukeahu ridgeline in a way that the consented 5 and 8 storey apartment towers do not.'

278. Mr Donn has also assessed the proposal to ensure the adverse effects on wind can be avoided, remedied, or mitigated in the Central Area. Mr Donn notes the wind speed safety limit will be exceeded more frequently than if the proposal had remained at eight and five storeys. The proposal is inconsistent with Policy 12.2.5.2.

279. In the balance, as guided by policy, I consider the consented development met this requirement however the proposed development, the additional height and subsequent mass, is inconsistent and does not manage that balance.

Policy 12.2.5.4: To allow building height above the specified height standards in situations where building height and bulk have been reduced elsewhere on the site to reduce the impact of the proposed building on a listed heritage item. Any such additional height must be able to be treated in such a way that it represents an appropriate response to the characteristics of the site and the surrounding area.

280. Mr Burns considers Policy 12.2.5.4 and the proposed Buildings B, C and D have been suppressed in terms of height to achieve critical scale integration with the Police Station, to deliver a human scale street outcome and on-site amenity. In his opinion the taller Buildings A and E are supported by the height-suppression of Buildings B, C and D. I defer to Mr Burns with regard to the urban design layout.

281. Ms Stevens comments (paragraph 106) that the consented development is composed of buildings of varying heights and masses that are finely balanced to reduce the impact that the development will have on listed heritage items in the vicinity. As discussed in her report she concludes she does not agree with the Mr Wild or Mr Knott that the additional height proposed is an appropriate response to the heritage items in the surrounding area, particularly when the development is viewed from the east and northeast in the context of this policy.

282. In this regard, the proposed buildings exceed the height standard of 18.6m by up to 18.4m and 14.4m¹². The District Plan objectives and policies assessment provided by the Applicant notes the proposal is not inconsistent with the policy as it provides for lower heights elsewhere on the site. To meet the policy and balance mass with height within the site the development must meet condition 13.3.8.14 and it does not. Additionally, the applicant states that over height buildings are anticipated where design excellence is met. This requires the proposal to also *represent an appropriate response to the characteristics of the site and the surrounding area*, which I do not agree it does at this height and bulk.

283. The effects on *the surrounding area* with particular reference to the adjoining heritage values is further detailed by Ms Stevens and I agree the proposal at ten and nine storeys is contrary to the policy.

Policy 12.2.5.5: Require design excellence for any building that is higher than the height standard specified for the Central Area.

¹² The height limit for 27 Tasman Street (Lot 1 DP 68221) is 10.2m (Map 32). Proposed development on this site is generally within this height limit.



284. I generally agree with the conclusions reached in Mr Burns' assessment the proposal as a whole is consistent with Policy 12.2.5.5 with the buildings meeting design excellence (pending the reduction in the height of Building E).

Policy 12.2.5.6: Ensure that buildings are designed to avoid, remedy or mitigate the wind problems that they create and where existing wind conditions are dangerous, ensure new development improves the wind environment as far as reasonably practical.

Policy 12.2.5.7: Ensure that the cumulative effect of new buildings or building alterations does not progressively degrade the pedestrian wind environment.

Policy 12.2.5.8: Ensure that the wind comfort levels of important public spaces are maintained.

Policy 12.2.5.9: Encourage consideration of wind mitigation measures during the early stages of building design and ensure that such measures are contained within the development site.

285. As noted in Mr Donn's report, as outlined in Policy 12.2.5.6, he does not consider Building A and E, at the additional height are designed to avoid, remedy or mitigate the wind problems that they create. The existing wind environment is described as a *high wind area* and the development does not create an overall improvement in the wind environment [as far as reasonably practical].

286. Policy 12.2.5.7 requires that the cumulative effect of new buildings to not progressively degrade the pedestrian wind environment. In regard to this, Mr Donn notes in his report, page 16, that '*there will be many more times per year that the lower wind speed of the actual safety limit will be exceeded*'. Based on the conclusions reached by Mr Donn I do not consider that this policy has been met.

287. Further, given the site is particularly windy the proposal at both the consented and proposed height struggled to maintain wind comfort levels in public spaces. I do note there is little effect on the wind in Pukeahu Park which is different to the localised pedestrian environment. The proposal is consistent with policy 12.2.5.8.

288. Council's Wind Expert has raised a number of concerns around the application of the WCC Design Guide for Wind¹³ in his assessment. Based on this and Mr Donn's consideration that the addition height is not supported I consider the proposed design is inconsistent with Policy 12.2.5.9

Policy 12.2.5.10: Provide for consideration of 'permitted baseline' scenarios relating to building height and building bulk when considering the effect of new building work on the amenity of other Central Area properties.

289. The purpose of this policy is understood to manage expectation for surrounding landowners that there is an expectation for taller buildings in the CBD that will by their nature impact on the amenity of neighbouring properties. This policy has been taken into consideration in the assessment on neighbourhood amenity undertaken in the

¹³ <https://wellington.govt.nz/-/media/your-council/plans-policies-and-bylaws/district-plan/volume02/files/v2wind.pdf?la=en&hash=907A1A9CA34E6F493D27553B7625CF68554C31FF>

section 104(1)(a) assessment above. The properties surrounding the development will experience more shading than the consented environment. The 8-storey and 5-storey development was assessed as largely being consistent with the permitted baseline scenario for 18.6m and not dissimilar to the existing buildings at 6-storey. However, I note the additional two storey to a total of 10-storeys and additional 4-storey height, to a total of 9-storeys increase the overall bulk of the site and reduce the amenity for neighbouring properties through shading and reduced sunlight access.

290. In consideration of the consented baseline the ODP 18.6m height requirement provided guidance however I note the proposed additional height and subsequent mass of the Building E is some 14.4m higher, almost double the height of the standard. The additional shading or absence of sunlight for the neighbouring properties is therefore more significant and does affect their amenity to a greater degree. Submitter 4 will indeed be losing access to sunlight in autumn, winter and spring from midday to sunset on the northern elevation of her unit and there is reduced sun in that same courtyard/ the northern elevation of her unit from 12pm in summer (Appendix 13 of the Application). Submitter 11 has a unit facing the Basin Reserve and shading will be similar, but I note they have a west facing unit.
291. As demonstrated in the Applicant's shading diagrams (Appendix 13) and as noted by Mr Burns in his assessment 33, 35 and 37 Tasman Street to the south, will receive no sunlight access across their properties until *after* 12.30pm in winter with the 'additional proposed' shade tracking across their backyards until 2pm where after that, the topographic shading makes the difference difficult to discern. Further the shading diagrams provided by the Applicant (Appendix 13 of the Application) clearly show large periods of time when the neighbours to the south-east will also receive reduced access to sunlight access to their north facing elevations. One submitter at 4 Sussex Street, will lose almost all access to sunlight on her northern (primary living area) elevation across all seasons. I consider this amenity effect to be of concern for these owners and occupiers. Mr Burns also notes this effect and recommends the stepping down of Building E which may address this effect.
292. As a consented environment/baseline Building E was considered to not overlook the neighbouring properties, particularly to the south, at 19.5m in height. The additional four levels of apartments constitute an additional 20 residential units with views from their primary living area over the neighbourhood to the south. While none of the apartments with a view to the south have balconies, I consider the additional height above the consented baseline to provide opportunities to overlook the south.
293. Based on the non-complying nature of this application for height, and height and mass exceeding 35%, I consider relying on the consented environment as a baseline loses relevance. It is therefore considered the proposal is inconsistent with policy 12.2.5.10 the additional height and mass.

Buildings and Public Amenity

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 with 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.

294. Based on the expert advice of Mr Burns discussed elsewhere in this report, and having regard to the applicant's assessments, I consider that the proposed new build is of a high quality and design. The new build does generally meet the policy 12.2.6.1 and *enhance the public environment of the Central Area* especially when considered in relation to the existing environment.

However, the policies require an assessment of the new building within the context of the neighbourhood and streetscape value of adjacent listed heritage items. As noted by Ms Stevens, she accepts, in accordance with policy 12.2.6.3 that *the proposed increase in the height of the towers does not notably increase any severance effects within Pukeahu National War Memorial Park. However, it is from the east, rather than from Pukeahu National War Memorial Park, that the proposal does not achieve a positive scale relationship within the wider heritage landscape.*

295. Ms Stevens states, *'generally, I accept the assessment made [by Mr Wild], insofar as it relates to direct effects on individual heritage items in the vicinity. However, the assessment is focussed on directly impacting each item and its immediate context, not on the relationship that these items have with the wider heritage landscape.'* The policy refers to context, setting and streetscape value which infers that the proposal and its impacts can't be considered in isolation, that they do impact on the setting of that individual item.

296. Neither Ms Stevens nor I agree with the Applicant's statement that, *'the architectural massing and relationship of the various built scale and form within the site have been carefully considered so that the overall proposed development sits appropriately within the site and does not dominate the surroundings (both the surrounding heritage elements and the National War Memorial setting).'* Mr Burns defers to the heritage assessment but concludes the development will support this policy once the height of Building E has been reduced

297. It is therefore considered the proposal, as submitted, is consistent with this policy at street level but not in relation to the additional height and mass.

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.

298. Pukeahu Park is not identified as a public space in the ODP (i.e. listed in Central Area Appendix 7) however it is a public place of prominence as described in policy 12.2.6.5. The proposal does not shade Pukeahu Park other than a minimal (less than minor) amount of shading the north-eastern corner of Pukeahu National War Memorial Park. The shading is limited to short periods late afternoon during mid-winter.

299. The Basin Reserve will also receive shading although this is late in the day and in winter and is considered acceptable. The proposal is consistent with this policy

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.

300. The 'identified public views' in this policy refer to the Central Area viewshafts shown in Appendix 11 of the Central Area provisions.

301. The Applicant, in his AEE states that no Appendix viewshaft crosses the site. The left margin of Viewshaft Vs20 (Tory Street) aligns with the mid-point of Tasman Street and the proposed development does not intrude into the viewshaft.

302. With regard to protecting public views in policy 12.2.6.7, as noted in the discussion for the consented development the Carillon and the National Museum and other heritage items, including Pukeahu Park, which is not a listed heritage area, have no protected District Plan viewshafts assigned to them in the ODP (as impacted by this proposal). However, views of (and towards) the heritage items have been considered throughout the development of this proposal, particularly in light of the direction provided by the Design Guide, Te Aro Corridor (CAUDG, Appendix 2) which provides useful guidance around how proposed buildings should respond to the context and setting of the nearby heritage buildings.

303. While acknowledging that the site does not impact on any identified viewshaft in the District Plan I do note the conclusions/concerns expressed by Mr Burns and Ms Stevens as to how the proposed additional height impacts/compromises on the general views from the east to the heritage buildings/items.

304. Overall, I accept the conclusions of Ms Stevens' that '*generally, developments of great height that are adjacent to heritage places, or are within heritage settings or landscapes, are not considered to enhance these places or landscapes.*' In saying that I acknowledge there is no protected public view, and the proposal is therefore considered to be consistent with this policy in regard to identified public views.

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 12.2.6.14 Encourage new building development in the Central Area to provide ground floor stud heights that are sufficient to allow retrofitting of other uses.

305. While these two policies are not relevant to the additional height, for completeness I agree with Mr Auburn's comment in Appendix 4 of the Application, and Mr Burns' design assessment at G3.6.

Policy 12.2.6.15: Improve the design of developments to reduce the actual and potential threats to personal safety and security.

Policy 12.2.6.16: Promote and protect the health and safety of the community in development proposals.

306. The proposal has been designed to incorporate Crime Prevention Through Environmental Design (CPTED) principles as described in the Stoks Limited Report (Appendix 16 of the application). A number of recommendations were implemented at the design phase and "the prudent CPTED measures have been embedded and refined during the design process". Conditions of consent have been suggested to ensure the measures outlined in the report be implemented accordingly.
307. The Stoks Limited report concludes that no known adverse CPTED effects arise from the development, and indeed the development is likely to be a significant source of activation and natural supervision for the receiving environment and community. I agree with Mr Stoks in his conclusion and consider the proposal accords with these policies.
308. I agree with the Applicant and Mr Burns who both note the proposal has been designed with close attention to seismic resilience and CPTED principles have been incorporated into the design process - refer Appendix 16 to the AEE.

Building Amenity

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 within the building.

309. The proposal includes sustainable design and energy efficiency measures as summarised in the reports appended in the application. Further, the applicant outlines that the residential units will be 7-star Homestar v4 certified. The buildings will have a high-performance thermal envelope including low e-solar control double glazing and enhanced wall, roof and floor thermal insulation and provide for bicycle parking and electric vehicle charging.

310. I note a condition has not been offered by the Applicant to ensure the sustainable outcomes can be met.

311. I consider that the proposal positively contributes to promoting a sustainable built environment in the Central Area and is consistent with this objective/policy.

Signs

Objective 12.2.10: *To achieve signage that is well integrated with and sensitive to the receiving environment, and that maintains public safety.*

Policy 12.2.10.1: Guide the design of signs (and their associated structures and affixtures) to enhance the quality of signage within the Central Area.

Policy 12.2.10.2: Manage the scale, intensity, and placement of signs to:
• maintain and enhance the visual amenity of the host building or site,
and

Policy 12.2.10.3 • ensure public safety.
Ensure signs in the Central Area do not adversely affect the architectural integrity of the building on which the sign is located.

312. The signage is consented under SR No. 500876 and there is no proposed change in this application. The proposal is consistent with this objective and policies.

Natural and Technological Hazards

Objective 12.2.13: ***To avoid or mitigate the adverse effects of natural and technological hazards on people, property and the environment.***

Policy 12.2.13.1: *Identify those hazards that pose a significant threat to Wellington, to ensure that areas of significant potential hazard are not occupied or developed for vulnerable uses or activities.*

Policy 12.2.13.3: *Ensure that the adverse effects of hazards on critical facilities and lifelines are avoided, remedied or mitigated.*

313. Both this objective and these policies are not directly related to the additional height. I include a comment based on the Applicant's assessment in Appendix 4. The proposal has been assessed by Ms Brydon of Wellington Water in relation to the flood hazard and the site and confirms that the flooding is shallow and not expected to extend into the site. The WWL modelling team have not recommended any floor level requirements.

314. Further, the applicant is committed to installing base-isolation in the northern and southern apartment blocks to increase their seismic resilience during an earthquake hazard. Overall, I consider that the proposal is consistent with these objectives and policies.

Access

Objective 12.2.15: ***To enable efficient, convenient and safe access for people and goods within the Central Area.***

Policy 12.2.15.1: *Seek to improve access for all people, particularly people travelling by public transport, cycle or foot, and for people with mobility restrictions.*

Policy 12.2.15.2: *Manage the road network to avoid, remedy or mitigate the adverse effects of road traffic on the amenity of the Central Area and the surrounding Residential Areas.*

Policy 12.2.15.6: *Manage the supply of commuter car parking.*

Policy 12.2.15.8: *Manage on-site parking to ensure any adverse effects on the surrounding street network are avoided, remedied or mitigated.*

Policy 12.2.15.9: *Require the provision of servicing or loading facilities for each site in the Central Area.*

Policy 12.2.15.10: *Ensure that the design and location of servicing or loading facilities is appropriate having regard to the nature of the development and the existing or likely future use of the site.*

Policy 12.2.15.13: Require all vehicular access to sites to be safe.

Policy 12.2.15.14: Protect and enhance access to public spaces in the Central Area.

315. These objectives and policies have been reviewed given the increase in unit and the cumulative traffic and access effects.

316. In reference to Policy 12.2.15.2, it has been demonstrated by the transport experts referenced in this report that the proposal will provide safe ingress and egress, options for people travelling by public transport, cycle or on foot, and adequate loading areas for both goods deliveries, people and waste management.

317. In reference to Policy 12.2.15.2, Ms Wood agrees with the applicant's findings that the road network can accommodate the increase in expected traffic movements and that adverse effects will be appropriately avoided or mitigated. Similarly, as per Policy 12.2.15.6, commuter parking will be significantly reduced which is consistent with the Council's Parking Policy, the Operative District Plan, and the promoting of sustainable alternative modes of transport.

318. In terms of Policy 12.2.15.8, the proposal will reduce the potential for adverse effects in relation to on-site parking and enhances the positive effects on the surrounding street network for the reasons discussed in this report.

319. In terms of Policies 12.2.15.9 and 12.2.15.10 in relation to servicing and loading, the BAL building will create a centralised and dedicated goods delivery and goods/rubbish/recycling pick-up facility serving the whole site. In her assessment, Ms Wood has reviewed the servicing arrangement and finds it acceptable from a transport perspective. This was also reviewed by Ms Steadman, Senior Waste Planner on the Council Waste Management team who concluded that based on four collections a week for the proposed number of units, a waste storage area of 50m² is adequate (**Annexure 8**).

320. Overall, having regard to the above, I consider that the proposal is consistent with Objective 12.2.15 and the accompanying policies.

Tangata Whenua

Objective 12.2.16: To facilitate and enable the exercise of tino rangatiratanga and kaitiakitanga by Wellington's tangata whenua and other Māori.

Policy 12.2.16.3: In considering resource consents, Council will take into account the principles of the Treaty of Waitangi/Te Tiriti o Waitangi.

321. As set out in the applicant's AEE section 5.3.4.1 the design process involved the engagement with the Wellington Tenth Trust. I note the applicant stated, 'To acknowledge and reinforce the importance of this recommendation, with the endorsement of the Wellington Tenth Trust, Raukura Consultants were subsequently engaged to prepare a cultural impact assessment report on behalf of the Wellington Tenth Trust and the Port Nicholson Block Settlement Trust.' I consider the proposal is generally consistent with this objective and policy.

Earthworks

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.*

Policy 29.2.1.1: *Ensure that the design and assessment of earthworks and associated structures is coordinated with future land development and subdivision.*

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 29.2.1.7: *Ensure that earthworks and associated structures are designed and landscaped (where appropriate) to reflect natural landforms and to reduce and soften their visual impact having regard to the character and visual amenity of the local 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.*

Policy 29.2.1.12: *Protect koiwi (human remains), taonga, Māori and Non-Māori material and archaeological sites dated from before 1900, by advising Applicant's of their obligations under legislation and using enforcement powers where necessary.*

322. I have consulted with Mr Davies whose expert advice I have relied on; Mr Davies has reviewed this application based on the possibility of incremental changes from that already consented.

323. The earthworks proposed are of a scale that is reasonably expected for a Central Area development such as this. Mr Davies reviewed the proposal to assess any difference between that which is consented and that which is proposed. He notes that the proposal will be managed in terms of minimising instability, and the proposed earthworks and construction methodology design will manage the works such as to minimise erosion, and the movement of dust and sediment beyond the area of the work. Further, the suite of conditions of consent provided for the consented development will mitigate the effects. As with the consented development, the removal of material from the site can be appropriately managed by a Construction Traffic Plan as opined by Ms Wood. I consider, based on Mr Davies and Ms Wood advice, that the proposal is consistent with these objectives and policies.

324. In regard to Policy 29.2.1.12, the archaeological authority granted by HNZPT will appropriately manage the potential for disturbance to the underlying archaeological site present in the locality regardless of the height of the proposal.

Operative District Plan Conclusion

325. I consider that the proposal is generally consistent with the design related objectives and policies of the Operative District Plan: objective 12.2.2 and associated policies, objective

12.2.4 and policy 12.2.4.5, policy 12.2.5.5, objective 12.2.6 and policies 12.2.6.1 to 12.2.6.3 (partially), policies 12.2.6.15 and 12.2.6.16, and objective 12.2.7 and policies 12.2.7.1 and 12.2.7.2. The proposal is also considered to be consistent with the earthworks objectives and policies contained within chapter 29.

326. I consider that the proposal is inconsistent to the following related objectives and policies of the Operative District Plan: objective 12.2.5 and policies 12.2.5.2, 12.2.5.3, 12.2.5.4, 12.2.5.6 to 12.2.5.9 and policy 12.2.5.10.
327. It is considered contrary to objective 12.2.3 and policies 12.2.3.1 and 12.2.5.1 which seek to preserve the 'high/low' city urban form.
328. In summary the proposed additional height and subsequent bulk is contrary with the high/low city policies and inconsistent with the policies which require new buildings to not *compromise the context, setting and streetscape value of adjacent listed heritage items* as outlined in the above assessment.
329. Having considered the objectives and policies in the round, given on the word '*preserve*' used in the high/low city policy, which I consider to be directive; and given the concerns over the effects on wind and heritage values, I consider the proposal is contrary to the ODP policies and objectives.

Proposed Wellington District Plan

330. The Proposed Wellington District Plan (PDP) gives effect to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (the Amendment Act), enacted in December 2021, as well as the NPS-UD policies 3 and 4 (intensification and qualifying matters).
331. The Spatial Plan provides the overarching vision for the PDP and provided direction for how the City will evolve over the next 30 years. The PDP distils this vision and direction through a regulatory framework and strategic direction.
332. The strategic direction of the PDP is to manage growth, land use and development in Wellington City. There are six strategic City goals – compact, greener, vibrant and prosperous, inclusive and connected, resilient, and partnership with mana whenua. The City goals are a critical part of a well-functioning Capital City and it is the Council's expectation that they underpin how development is planned and how decisions are made.
333. The subject site is located within the City Centre Zone (CCZ) where the vision continues to enable and reinforce the continued primacy of the Wellington central city area as the principal commercial and employment centre servicing the city and metropolitan region. As acknowledged in the CCZ Introduction¹⁴ this zone exhibits a heightened intensity and scale of development with an intent to maximise development capacity to accommodate projected growth, an increase in the scale and intensity of development is enabled across the zone.
334. This represents a significant policy shift for greater intensification, particularly in the city centre.

¹⁴ <https://eplan.wellington.govt.nz/proposed/rules/0/228/0/0/0/32>

335. The Proposed District Plan notations for this site are listed in paragraph 53.

He Rohe Pokapū Tāone / City Centre Zone

Objective CCZ-O1: *The City Centre Zone (CCZ) continues to be the primary commercial and employment centre servicing Wellington and the wider region, supported by residential and a diverse mix of other compatible activities that reflect its role and function in the hierarchy of centres.*

Objective CCZ-O2: *The City Centre Zone plays a significant role in accommodating residential, business and supporting community service growth, and has sufficient serviced development capacity to meet its short, medium and long term residential and business growth needs, including:*

- 1. A choice of building type, size, affordability and distribution, including forms of medium and high-density housing;*
- 2. Convenient access to active and public transport activity options;*
- 3. Efficient, well integrated and strategic use of available development sites; and*
- 4. Convenient access to a range of open space, including green space, and supporting commercial activity and community facility options.*

336. By providing a diverse mix of compatible services in an area ear marked for greater intensification and located in close proximity to high levels of amenity the proposal is consistent with these objectives.

Objective CCZ-O3: *The scale and form of development in the City Centre Zone reflects its purpose as Wellington's primary commercial and employment centre, with the highest and most intensive form of development concentrated in the zone relative to other parts of the city.*

337. The proposal is largely consistent with Objective CCZ-O3 in that the proposed development, which is higher and more intense than the neighbouring zones, is located in the CCZ and therefore it is anticipated that there will be a transition to taller buildings within this zone. It is acknowledged that the site does sit within a lower height control limit area, and it is considered that the proposal generally respects this noting however Mr Burns' recommendation relating to Building E.

Objective CCZ-O4: *Taranaki Whānui and Ngāti Toa Rangatira are acknowledged as the mana whenua of Te Whanganui ā Tara (Wellington) and their cultural associations, and landowner and development interests are recognised in planning and developing the City Centre Zone.*

338. The Applicant has undertaken the planning and design of the proposal in conjunction with mana whenua – Wellington Tenth Trust (WTT). This was undertaken early on in the process, and I note there has been no update from WTT based on the change in the application. The proposal is still considered consistent with CCZ-O4.

Objective CCZ-O5: *Development in the City Centre Zone positively contributes to creating a high quality, well-functioning urban environment, including:*

- 1. Reinforcing the City Centre Zone's distinctive sense of place;*
- 2. Providing a quality and level of public and private amenity in the City Centre Zone that evolves and positively responds to anticipated growth and the diverse and changing needs of residents, businesses and visitors;*
- 3. Maintaining and enhancing the amenity and safety of public space;*
- 4. Contributing to the general amenity of neighbouring residential areas;*
- 5. Producing a resilient urban environment that effectively adapts and responds to natural hazard risks and the effects of climate change;*
- 6. Protecting current areas of open space, including green space, and providing greater choice of space for residents, workers and visitors to enjoy, recreate and shelter from the weather; and*
- 7. Acknowledging and sensitively responding to adjoining heritage buildings, heritage areas and areas and sites of significance to Māori.*

339. The proposal is assessed as a whole by Mr Burns who considers, 'it does reinforce the distinct sense of place of the CCZ as it responds well to local contextual conditions as described under CAUDG GG2.3 and G2.4 and the relevant TA Corridor guidelines.'

340. A high level of on-site amenity remains largely unchanged from the consented development and is still considered likely to be achieved through the arrangement of buildings that enable outlook, daylight, shared space, safety, dwelling diversity, and quality architectural design consistent with Objective CCZ-O5.2

Mr Burns noted adjoining public streets and spaces have also been assessed relative to CPTED by Stoks Limited¹⁵ and found to perform well meeting CCZ-O5.3.

341. I acknowledge the zone is Central City and there is generally less weight/consideration given to protecting residential amenity, I also note the proposal is already consented at a height considered acceptable for amenity effects (**Annexure 13**). With regard to effects on wind, the additional height, as determined by Mr Donn the proposal does not positively contribute to creating a high quality, well-functioning urban environment rather it worsens the wind situation. This proposal is considered to be inconsistent with CCZ-O5.3 and discussed further under the relevant wind objectives and policies in paragraph 381 to 384.

342. With regard to CCZ-O5.4, I consider the additional height and bulk which is in excess of the 28.5m height does create effects on the neighbouring residential properties as discussed in paragraphs 93 and 94, especially to the south but does not extend to the neighbouring residential areas/zones. Therefore, based on the wording of the policy the proposal is considered to be consistent with the policy.

343. The development responds appropriately to CCZ-O5.5 with base isolation and quality building standards, provision of charging for bikes and cars. This remains the same as the consented development.

¹⁵ CPTED report, AEE Appendix 16.

344. The addition to the development does not physically affect Pukeahu Park other than creating a small amount of shading in midwinter which is considered to be acceptable and is consistent with objective CCZ-O5.6.
345. CCZ-O5.7 requires a development to acknowledge and sensitively responding to adjoining heritage buildings, heritage areas and sites of significance to Māori. This is discussed in paragraphs 176 to 183 and heritage effects are extensively assessed in Ms Stevens' report. In short, the additional height to ten and nine storeys, according to Ms Stevens it severs views, creates bulk at height to interrupt the relationship between the heritage items and the context as shown in the viewpoints provided by the applicant.
346. Putting aside height, based on the advice of Mr Burns and as noted by Ms Stevens it is acknowledged that the development has been well designed and articulated to respond to the heritage items (i.e. brick wall etc). Especially at street level there is good connectivity and acknowledgement of heritage building fabric.
347. With regard to sensitivity towards sites of significance to Māori, the Applicant provided a letter from Wellington Tenth Trust (Appendix 6 of the Application) noting One Tasman is in close proximity to 217 Taranaki Street and the former Dominion Museum at Pukeahu. The area was used by Iwi as its proximity to the normal activities of Te Aro Pa and possibly Kumutoto Pa as an area for cultivation and mahinga kai or food gathering. This awareness and engagement enables the development to be sensitive towards mana whenua and the proposal is consistent with this part of CCZ-O5.7.
348. Overall, I consider in the round, and subject to Mr Burns' recommendation being implemented the proposal is largely consistent with this objective CCZ-O5.

Objective CCZ-O6: *Activities and development near existing and planned rapid transit stops:*

- 1. *Are located to enable convenient access by local residents, workers and visitors, particularly around transport hubs;***
- 2. *Are of sufficient residential scale and intensity to support a frequent and rapid transit network and associated mixed use development; and***
- 3. *Provide vibrant, attractive and easily accessible public space.***

349. One Tasman is located within the Let's Get Wellington Moving mass rapid transit area of interest as shown on Council's OneMap¹⁶. No rapid transit stops have been finalised. The development is conveniently located to enable movement via the existing bus network with stops immediately available in Cambridge Terrace and Taranaki Street. I would consider the intensity can support a future frequent and rapid transit network and associated mixed use development. The proposal is consistent with this objective.

Objective CCZ-O7: *Adverse effects of activities and development in the City Centre Zone are managed effectively both within the City Centre Zone, and at interfaces with:*

- a. *Heritage buildings, heritage structures and heritage areas;***
- b. *Scheduled sites and areas of significance to Māori;***

¹⁶ <https://onemap.net.ad.wcc.govt.nz/viewer/?map=94d1a6cf3d45421a8e3a3926afb99bf3>

- c. Identified public spaces;**
- d. Identified pedestrian streets;**
- e. Residential Zoned areas;**
- f. Open Space and Recreation Zoned areas; and**
- g. The Waterfront Zone.**

350. The proposed district plan seeks to ensure that adverse effects associated with the new development are managed effectively both within the City Centre Zone (CCZ), and at interfaces. This site is within the CCZ however it sits on the interface between the CCZ and the Special Purpose Tertiary Education Zone (TEZ) to the west and the Open Space Zone (OSZ) to the north and east. In this context the policy seeks to ensure new development manages adverse effects on the neighbouring heritage buildings and structures and Pukeahu Park.
351. It is noted that the PDP height control proposed (as notified) is 28.5m to the immediate east and west of the Carillion and War Memorial Museum to ensure a compatible scale of development that still allows for appreciation of the form of these heritage buildings. This is an increase from 25m (maximum height 18.6m plus 35% height exceedance) enabled under Central Area rules in the ODP and recognises the imperatives of the NPS-UD to enable maximum development capacity while also requiring management of the effects on neighbouring heritage buildings and structures, in this instance.
352. It is noted this height control 'band' is less enabling than heights in Te Aro and Adelaide Rd (42.5m) but appropriately steps down to the OSZ, the TEDZ and neighbouring residential zones. The proposal has, in general respected this signal noting Mr Burns suggestions for Building E
353. It is also noted that the policy requires adverse effects are also managed on scheduled sites and areas of significance to Māori. Raukura Consultants undertook a Cultural Impact Assessment (CIA) (Appendix 11 of the Application) and concluded '*The Port Nicholson Block Settlement Trust and the Wellington Tenth Trust believe it is unlikely that any Māori cultural archaeology would be found on the site*' and an accidental discovery protocol has been included in the suite of conditions. I consider the CIA has ensured consistency with this part of the policy.
354. With regard to CCZ-O7(a) Council's heritage advisor has indicated in her assessment that the proposal and the effects associated with the additional height and subsequent mass on the heritage buildings and structures is not consistent with this objective. She does however note the street level effects on heritage, specifically the Tasman Street Brick Wall and Mt Cook Police Station, are acceptable.
355. It is noted in his assessment (Appendix 4 of the Application) the Applicant considers the open space values associated with Pukeahu Park and the Basin Reserve are not adversely affected. I agree that the effects on the two open public spaces are not adversely affected by this proposal, and the proposal is consistent with CCZ-O7 (c) and (f).
356. In Mr Donn's assessment he considers the effect of the proposal, specifically the increased height on the wind. He highlights safety and amenity concerns for west side of Tasman Street and Buckle Street with regard to wind speed and gusts. In this context CCZ-O7 (d) is currently considered to have not been met.
357. The proposal is not relevant to CCZ-O7(e) and (g)

358. Overall, with regard to objective CCZ-O7, I consider the proposal is consistent with these policies other than CCZ-O7 (a); which could be better met by following Mr Burns' recommendation and CCZ-O7 (d), and Mr Donn's recommendations to mitigate wind effects of the proposal on the pedestrian environment.

Policy CCZ-P1: Enable a range and diversity of activities that support the purpose and ongoing viability of the City Centre Zone and enhances its vibrancy and amenity, including:

1. Commercial activities;
2. Residential activities, except;
 - a. Along any street subject to active frontage and/or verandah coverage requirements;
 - b. On any site subject to an identified natural hazard risk;
3. Community facilities;
4. Educational facilities;
5. Arts, culture and entertainment activities;
6. Emergency service facilities;
7. Marae activities;
8. Community corrections activities;
9. Public transport activities;
10. Visitor accommodation;
11. Repair and maintenance service activities; and
12. Recreation activities.

Policy CCZ-P2: Only allow activities that are potentially incompatible with the purpose of the City Centre Zone, where they will not have an adverse effect on its vitality, vibrancy and amenity. Potentially incompatible activities include:

1. Industrial activities;
2. Yard-based retail activities;
3. Carparking at ground level;
4. Demolition of buildings that result in the creation of vacant land; and
5. Ground floor residential activities on streets identified as requiring either an active frontage or verandah coverage and sites subject to an identified hazard risk.

359. The proposal is consistent with CCZ-P1 and CCZ-P2

Policy CCZ-P4: Enable high density, good quality residential development that:

1. Contributes towards accommodating anticipated growth in the city; and
2. Offers a range of housing price, type, size and tenure that is accessible to people of all ages, lifestyles, cultures and abilities.

360. Mr Burns and the Applicant consider the proposed housing is close to city centre amenities, public transport and city-wide recreational and civic spaces. The provision of additional housing of mixed typologies provides for the anticipated growth of the city and meets the higher-level requirements of the NPS-UD. The proposal comfortably consistent with this policy.

Policy CCZ-P5: Recognise the benefits of intensification by:

1. *Enabling greater overall height and scale of development to occur in the City Centre Zone relative to other centres; and*
2. *Requiring the available development capacity of land within the zone to be efficiently optimised.*

361. CCZ-P5 requires the enabling of greater overall height and scale of development to occur in the City Centre Zone relative to other centres. The height control, although carrying no legal weight at this stage, for this block is 28.5m.

362. CCZ-P5.2 is to ensure the city does not have underdevelopment. The proposal is consistent with this policy as it seeks to enable greater overall height.

Policy CCZ-P7: Recognise and enable Taranaki Whānui and Ngāti Toa Rangatira cultural associations and landowner and development interests in the City Centre Zone by:

1. *Providing for the development of papakāinga, kaumātua housing and affordable Māori housing on their landholdings;*
2. *Managing new development adjoining scheduled sites of significance to Māori; and*
3. *Collaborating on the design and incorporation of traditional cultural elements into public space within the zone.*

363. The proposal does not provide for papakāinga nor does it incorporate any Māori culture into the design. The subject site is not within a scheduled Māori site. Wellington Tenths Trust (WTT) has been involved in the early planning of this development (Appendix 6 of the Application). The proposal has enabled WTT to have an interest in the development as is consistent with the intent of this policy.

364. As noted in paragraph 176 to 183 the overall proposal does manage the development adjoining scheduled sites of significance to Māori and is consistent with CCZ-P7.

Policy CCZ-P8: Provide for good quality new development and supporting public space that reinforces the City Centre's identity and unique sense of place at a city scale, including its:

1. *Surrounding topography and harbour setting;*
2. *Rich Māori and tauwiwi/non-Māori history;*
3. *Compact, walkable city structure;*
4. *Diversified and vibrant mix of activities;*
5. *Visually prominent buildings and variety of architectural styles;*
and
6. *Diversity of accessible, well designed civic and public space.*

365. I agree with the Applicant's comment in Appendix 4 of the Application, that the proposed development will provide good quality housing contribute to a 'compact, walkable city'. I also rely on the advice of Mr Burns in concluding that the proposal is consistent with this policy.

Policy CCZ-P9: Require new development, and alterations and additions to existing development, at a site scale to positively contribute to the sense of place and distinctive form, quality and amenity of the City Centre Zone by:

1. *Recognising the benefits of well-designed, comprehensive development, including the extent to which the development:*

- a. Acts as a catalyst for future change by reflecting the nature and scale of the development proposed within the zone and in the vicinity and responds to the evolving, more intensive identity of the neighbourhood;
 - b. Optimises the development capacity of the land, particularly sites that are:
 - i. Large; or
 - ii. Narrow; or
 - iii. Vacant; or
 - iv. Ground level parking areas;
 - c. Provides for the increased levels of residential accommodation anticipated; and
 - d. Provides for a range of supporting business, open space and community facilities; and
2. Ensuring that development, where relevant:
- a. Responds to the site context, particularly where it is located adjacent to:
 - i. A scheduled site of significance to Māori;
 - ii. A heritage building, heritage structure or heritage area;
 - iii. An identified character precinct;
 - iv. A listed public space;
 - v. Identified pedestrian streets;
 - vi. Residential zones;
 - vii. Open space zones; and
 - viii. The Waterfront Zone;
 - b. Responds to the pedestrian scale of narrower streets;
 - c. Responds to any identified significant natural hazard risks and climate change effects, including the strengthening and adaptive reuse of existing buildings;
 - d. Provides a safe and comfortable pedestrian environment;
 - e. Enhances the quality of the streetscape and the private/public interface;
 - f. Integrates with existing and planned active and public transport activity movement networks, including planned rapid transit stops; and
 - g. Allows sufficient flexibility for ground floor space to be converted to a range of activities, including residential along streets that are not subject to active frontage and/or verandah coverage requirements and sites free of any identified natural hazard risk.

366. Mr Burns has reviewed Policy CCZ-P9.1 (a) – (d) and he notes the development positively contributes to the sense of place, quality and amenity of the location, especially noting the close proximity of heritage structures. He has recommended the removal of one level and/or design treatment of Building E to achieve noticeable setback, material and colour change and improve the contextual response.

367. With regard to Policy CCZP9.2 Ms Stevens notes she does not agree with the statement made by Mr Wild that *“the proposed height of the apartment tower blocks lends greater value to the nearby lower-scale heritage assets ... reinforcing their distinctive form and scale within an urban cityscape that anticipates and warrants greater intensification”*. Ms Stevens goes on to say;

Generally, developments of great height that are adjacent to heritage places, or are within heritage settings or landscapes, are not considered to enhance these places or landscapes.’ This is recognised by the objectives, policies, and rules of the ODP and the objectives and policies of the PDP which identify those developments of considerable height, bulk and mass impacting on heritage values in a negative way, and places limits on these to avoid such impacts (paragraph 136).

368. Ms Stevens notes that *‘from a distance, the building is still distinctly read as one mass’* (paragraph 143). Building E may be perceived as “two tall/narrow forms” when viewed from the east as depicted in the townscape views provided with the Application. With regard to design, Ms Stevens further notes there is discernible setback between the northern and southern ends this is not sufficient to ameliorate the effect of the distinct horizontal banding created by the rows of windows and solid off-white cladding which make it easy to discern that the building is one structure (paragraph 142). Nor does she consider the proportions of the southern half bay and position of the balcony stacks on Building A break down the perceived volume of the building or reference the Carillon tower. The additional height and design elements as noted above have an effect on heritage and cannot be said to be entirely consistent with CCZ-P9.2 (a) ii
369. It is however agreed by Ms Stevens that the terraced housing along Buckle and Tasman Streets create a “positive scale transition” which “responds directly to the lower scale of the historic former Mount Cook Police Station building and provides an appropriate height transition from the street edge”. However, the terraced housing is already part of the consented development and does not mitigate the dominance that the apartment towers will have in the wider heritage landscape if their heights are increased as proposed.
370. The proposal is consistent with Policy CCZ-P9.2(c) with base isolating in Buildings A and E.
371. With regard to wind, it is considered that based on the assessment of Mr Donn, Policy CCZ-P9.2 (d) is not met. Mr Donn notes in his assessment the existing pedestrian environment is already windy, and the proposed additional height does not contribute to a safe and comfortable pedestrian environment albeit under the canopy in Tasman Street.
372. Policy CCZ-P9.2 (f) requiring the development to integrate with existing and planned active and public transport activity movement networks, including planned rapid transit stops and has been discussed in paragraph 349 (CCZ-O6). I reach the same conclusion and the proposal is consistent with this policy.
373. With regard to Policy CCZ-P9.2 (g) Mr Burns considers the policy is supported despite not all units, including the units that are in the additional height, having private outdoor spaces¹⁷ and generally only those with west or north orientations including balconies. South or east facing units rely on outlook, and large areas of glazing for amenity. This approach is acceptable given that indoor space may be considered more usable/valuable by future occupants, especially with Wellington’s highly varied weather patterns.
374. In summary the policy has many components requiring a new development, at a site scale, to positively contribute to the sense of place and distinctive form, quality and

¹⁷ Building A: 68% include private outdoor space (86% Level 9 & 10); Building E: 42% (50% Levels 6-9); Buildings B,C,D: 100%. Overall, 59% (130 of 221 units) include private outdoor space.

amenity of the City Centre Zone. The proposal is largely consistent with the intent of the sense of place policy however based on expert advice with regard to CCZ-P9.2 (a) ii and Policy CCZ-P9.2 (d) I consider the proposal is inconsistent with the policy in consideration of the neighbouring heritage buildings and safe pedestrian environment.

Policy CCZ-P11: Require over and under height, large-scale residential, non-residential and comprehensive development in the City Centre Zone to deliver City Outcomes Contributions as detailed and scored in the Centres and Mixed Use Design Guide (CMUDG) guideline G107, including through either:

- 1. Positively contributing to public space provision and the amenity of the site and surrounding area; and/or*
- 2. Incorporating a level of building performance that leads to reduced carbon emissions and increased climate change resilience; and/or*
- 3. Incorporating construction materials that increase the lifespan and resilience of the development and reduce ongoing maintenance costs; and/or*
- 4. Incorporating assisted housing into the development; where this is provided, legal instruments are required to ensure that it remains assisted housing for at least 25 years; and/or*
- 5. Enabling ease of access for people of all ages and mobility.*

375. This policy requires large scale residential developments to deliver City Outcomes Contributions (COC) as set out in the relevant Design Guide. The Hearings process for the PDP has noted some difficulties with the overlapping nature of the Design Guides and it is clearly signalled that this particular aspect is subject to change. Minute 15¹⁸, in paragraph 4 of this document, notes, 'To facilitate [the] process, submissions on the Centres and Mixed Use Design Guides will not be heard as part of Stream 4 as originally intended, but will rather be heard in the ISPP wrap-up hearing'. This means the Design Guides may not be finalised until after November 2023 and the content not resolved. In this context, at this point in time, and based on insufficient detailed information to assess the City Outcome Contribution it is not possible to resolve consistency or not with this policy.

376. To balance out the absence of the COC and the weighting of the Plans at the moment towards the Operative Plan, Mr Burns has relied on the assessment for Design Excellence under the ODP at section 2.2 of his report and considers the proposal has design excellence (pending the step-down amendment of Building E) as laid out in the CAUDG and as supported by the relevant policies.

CCZ-P12: Recognise the evolving, higher density development context anticipated in the City Centre Zone, while managing any associated adverse effects including:

- 1. The impacts of building dominance and the height and scale relationship;*
- 2. Building mass effects, including the amount of light and outlook around buildings; and*
- 3. The impacts on sunlight access to identified public space; and*
- 4. The impacts of related construction activity on the transport network.*

¹⁸ https://wellington.govt.nz/-/media/your-council/plans-policies-and-bylaws/district-plan/proposed-district-plan/files/hearing-minutes/april/wellington-pdp-minute-15_design-guides_11-april-2023.pdf

377. The higher density development context anticipated by the Proposed Plan for this zone is as informed by both the Spatial Plan and the NPS-US. The density is not inappropriate in this zone and is consistent with CCZ-P12.1.
378. Higher density development however does not mean development without constraint. Rules, overlays and limits are informed by the relevant objectives and policies to manage effects. In this case the rules have no legal effect, and the objectives and policies guide the assessment. I consider, based on the assessment by Council's experts, the consented development meets CCZ-P12 while the ten and nine storey proposal, with its additional height and bulk, has an adverse effect on heritage values and is not consistent with policy.
379. As noted by Mr Burns there is an unacceptable effect on the residential properties to the south of the development with regard to the amount of light they will receive above the consented environment. However, if his recommendation of reducing the height of Building E to create a step-down is implemented, the proposal would achieve consistency.
380. There is no discernible impact on any identified public space and as advised by Mr Davies and Ms Wood the construction traffic has been mitigated to a safe level for the transport network
381. This policy recognises the evolving, higher density development context anticipated in the City Centre Zone, while managing any associated adverse effects including the impacts of building dominance and the height and scale relationship, and building mass effects, including the amount of light and outlook around buildings. This policy requires the management of the impact. Council advisors consider there are two main impacts which have not been mitigated or managed to an acceptable level – these are respect to neighbouring heritage and effects on the wind under CCZ-P12(1). Otherwise, the effects have been largely mitigated to an acceptable level to accommodate the higher density development and the proposal is considered to be generally consistent with this policy.

Ngā Hau / Wind:

WIND-O1: *The adverse impact of wind from new developments, additions and alterations on public spaces is managed to:*

- 1. Provide comfortable conditions for pedestrians, whilst acknowledging that not all wind effects can be mitigated;*
- 2. Ensure that new developments, additions and alterations do not generate unsafe wind conditions in public spaces and, where possible, ameliorate existing unsafe wind conditions; and*
- 3. Prevent the gradual degradation of Wellington's pedestrian wind environment over time.*

382. As noted by Mr Donn, Council's wind expert '*what is proposed seems insufficient to deal with the demonstrated impact.*' The resulting deterioration of wind environment as described by Mr Donn creates unsafe wind conditions, particularly along the opposite side of Tasman Street. Based on his assessment I consider the proposal, as submitted, is inconsistent with this objective.

WIND-P1: Encourage consideration of wind effects during the early stages of building design to achieve:

- 1. Optimum design for wind that minimises the impact of the development on the public realm; and*
- 2. Wind mitigation that is contained within the site.*

383. Mr Donn has assessed the proposal and raised concerns that there appears to have not been early consideration of wind in design, therefore the proposal is inconsistent with this policy. He suggests '*more design work is required to resolve the impact of the proposed design on the local pedestrian environment*'. I agree with this suggestion.

WIND-P2: Require that larger-scale buildings, including additions and alterations, are designed to:

- 1. Manage adverse wind effects that they create;*
- 2. Improve the wind environment as far as practical where existing wind conditions are dangerous; and*
- 3. Limit any deterioration of the wind environment that effects:*
 - a. Safety and amenity of pedestrians; and*
 - b. Existing wind mitigation measures.*

384. As noted above Mr Donn has reviewed all the relevant documentation and Mr Donn notes the wind speed safety limit will be exceeded more frequently than if the proposal had remained at eight and five storeys. He raises concerns about the deterioration of the wind environment due to the additional height which will worsen areas of concern.

WIND-P3: Require building design and wind mitigation measures to maintain and where possible enhance pedestrian safety and comfort of public space.

385. Mr Donn notes the actual [wind] safety limit will be exceeded (page 16 of his report) as a result of the additional height of the proposed development. Overall, with regard to effects on wind from the new development and the safety and comfort of the public, I consider the proposal is inconsistent with the objective and policies noting additional mitigation may be required.

Other PDP Chapters

386. Additionally, I have considered the objectives and policies noted below. Based on the Aurecon and Stantec reports and the engagement with WWL and subsequent conditions to enable servicing of this site, the proposal can be generally serviced to meet the Three Waters and Transport objectives and policies.

387. Ms Brydon also notes in the absence of any formal assessment from the applicant against the PDP objectives and policies it is considered to comply with the Regional Policy Statement and the PDP.

388. The Council's other relevant advisors have reviewed the relevant issues and consider the proposal is generally consistent with the PDP objective and policies as set out below. They have provided appropriate conditions which have been included in **Annexure 10** to this report.

Te Tūāhanga o Ngā Wai e Toru / Three Waters:

- Objectives THW-O1 to THW-O3
- Policies THW-P1 to THW-P5

Tūnuku / Transport:

- Objective TR-O1
- Policies TR-P1 to TR-P3

Ngā Mōrearea ā-Taiao / Natural Hazards:

- Objective NH-O1
- Policies NH-P2 and NH-P6

Ngā Mahi Apu Whenua / Earthworks:

- Objective EW-O1
- Policies EW-P2 to EW-P7 and EW-P16

Te Oro / Noise:

- Objective NOISE-O1
- Policies NOISE-P1 to NOISE-P4

Ngā Tohu / Signs:

- Objective SIGN-O1
- Policies SIGN-P1 and SIGN-P3

Proposed District Plan Conclusion

389. Overall, I acknowledge the objectives and policies of the PDP are more permissive around density and height in response to NPS-UD and other higher-level documents.
390. I also consider that there is specific enough direction from the objectives and policies to consider the effects in context of increased height and density on heritage buildings and structures in the neighbouring site as well as the effects of the height and mass on wind in public places and spaces.
391. As noted earlier there was one submitter to the Wellington City Proposed District Plan process with regard to heights across this site. Introducing this challenge to height control means it may stay the same or increase and the uncertainty means it is hard to put much weight on the proposed height.
392. In summary the additional height and bulk of the proposal is largely consistent with the objectives and policies relating to design, but does not satisfactorily address matters related to heritage and wind, and therefore is inconsistent with the objectives and policies that require mitigation. Should the Applicant implement Mr Burns' recommendation around stepping down Building E and Mr Donn's recommendations around wind mitigation the proposal could be considered to be generally consistent with the overall intent of the PDP objectives and policies.
393. As it stands at this point in time, while acknowledging the context of PDP's move towards intensification and increased density, the proposal remains finely balanced with regard to all objectives and policies. The ability to provide housing does accord with the outcomes sought by the Proposed District Plan.

Section 104D Assessment – “Gateway Test”

394. As the proposal is for a Non-Complying Activity under the Operative District Plan and the gateway test of section 104D must be fulfilled, namely that either the effects are minor or that the proposal is not contrary to the objectives and policies of both the ODP and PDP before the application can be granted under section 104B of the Act.
395. As discussed earlier the proposal is generally consistent with the design objectives and policies across both plans but is inconsistent or contrary to the policies which seek/relate to ensure public safety (wind), preserve the high/low city urban form (ODP) and respect the neighbouring heritage values.
396. Overall, in the context of the ODP’s guiding principles to create a sustainable and liveable City as outlined in paragraph 239, the mandate to enhance urban form, and based on the advice of the Wind and Heritage advisors, I consider that the proposal overall is contrary to the objectives and policies of the Operative District Plan.
397. The objectives and policies of the Proposed District Plan, which are more permissive, carry some weight and must also be considered in the gateway test. While the proposal is generally consistent with the more permissive design and density objectives and policies, there are still policies the proposal is inconsistent with regarding wind effects and responding to neighbouring heritage items.
398. With regard to neighbouring heritage values, I note the proposed CCZ objectives and policies afford lesser regard for protection, rather requiring a development to ‘acknowledge and sensitively response’ and ‘effectively manage’ neighbouring heritage items. I have also had regard to the fact that HNZPT and the Ministry for Culture and Heritage have raised no concerns.
399. With regard to wind, I remain concerned that the proposal, as submitted, does not have the support of Council’s Wind expert and he has concerns around public safety and comfort. I note the proposal is inconsistent with the objectives and policies in both the ODP and the PDP as it relates to wind. As discussed under the ODP the effect on wind is a function of height and the ‘high/city low city’ urban form. The proposal is contrary only as a function of height. Potentially if the Applicant can resolve wind issues, the assessment might be considered merely inconsistent with these ODP objectives and policies.

Assessment of Effects

400. Under the *section 104 assessment* (Section 7 of this report), effects on heritage values and wind have been determined to be unacceptable. Taking into account the relevant matters under section 104 of the Act, I have determined that the overall adverse effects of the proposal will be more than minor. Accordingly, the proposal does not pass through this limb of the “gateway test”.
401. Overall, at this point in time, I consider the proposal is contrary to the objectives and policies of the Operative District Plan and fails the “gateway test”.

Section 104(1)(c) Other Matters

Wellington Council Spatial Plan



402. Wellington Council Spatial Plan¹⁹ (the Spatial Plan), is a non-statutory document adopted on 24 June 2021. It sought to intensify development to meet the housing needs of the City's population and the requirements of the NPS-UD. It sets the vision for how the city will accommodate 50,000-80,000 more people over the next 30 years. The Operative District Plan does not provide enough houses to meet this growth, so the Spatial Plan proposed how to increase development potential across the City. The Spatial Plan informed the Proposed District Plan.

403. I note the proposal generally gives effect to the intent and specifics of the Spatial Plan.

Heritage New Zealand Pouhere Tāonga

404. As noted, the subject site does not include any HNZPT listed sites. The Applicant has consulted with HNZPT in the early stages of the design and development phase, and its advice is included in Appendix 6 of the Application, along with its submission on the resource consent application.

405. Further, the site is a known place of pre-1900 human activity and is defined as an archaeological site under the Heritage New Zealand Pouhere Tāonga Act 2014. The applicant has obtained an archaeological authority (consent) from HNZPT to undertake the earthworks and construction work for this project. The archaeological authority includes conditions that must be met in addition to any conditions of the resource consent if granted. Ultimately, it would be the consent holder's responsibility to ensure that any HNZPT requirements are satisfied should resource consent be granted.

Code of Practice for Land Development

406. The Council's 2012 Code of Practice for Land Development, operative from December 2012, is a revision of the former Code of Practice for Land Development 1994 that is referred to in the District Plan. It is the Code of Practice for Land Development 2012 that holds the current technical standards required by the Council for the design and construction of earthworks, roading, water supply, wastewater, stormwater, and public open spaces. Whether the infrastructure will be vested with the Council or be a private asset, it is important that these assets are constructed to the Council's current standards.

407. With particular regard to water supply and wastewater, these standards must be met before the Council will allow a property to be connected to the City's water supply and wastewater system. However, it is not the intention of the Council to stifle innovation and ingenuity of design. Where the outcome will be a better-quality living environment, proposed alternative solutions for infrastructure design, other than for water supply and wastewater, should be negotiated with the Council to ensure that the Code of Practice for Land Development 2012 basic requirements are met.

408. Based on the advice provided by Wellington Water, Mr Davies and Ms Wood, it is considered that the proposal can generally be constructed to meet the standards contained in the Council's Code of Practice for Land Development 2012.

Any Other Matters

¹⁹ <https://www.mdh.org.nz/resourcepage/a-spatial-plan-for-wellington-city/>

409. I have considered whether there are any other matters other than those identified above which need to be considered when assessing the application. It is my opinion that there are no other matters which need to be taken into account.

SECTION 8 – OVERALL EVALUATION OF PART 2 OF THE ACT

410. Consideration of an application under section 104 of the Act is subject to Part 2 (sections 5, 6, 7 and 8) of the Act. Part 2 sets out the purpose and principles of the Act. 'Subject to' gives primacy to Part 2 and is a primary consideration when applying the provisions of the Act.

411. In achieving the purpose of the Act, Part 2 requires the consent authority to recognise and provide for matters of national importance (section 6); have particular regard to other matters (section 7); and to take into account the principles of the Treaty of Waitangi (section 8).

412. A detailed evaluation of Part 2 matters is mostly helpful where there are deficiencies in the lower order planning documents. I have carried out an assessment against the relevant Part 2 matters below.

Section 5: Purpose

413. The purpose of the Act as stated in section 5 is *'to promote the sustainable management of natural and physical resources'*. Section 5(2) goes on to state that 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 well-being 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.*

Section 6: Matters of National Importance

414. In relation to managing the use, development, and protection of natural and physical resources, section 6 sets out the matters of national importance which are to be recognised and provided for in relation to all decisions under the Act, including this resource consent application. I consider that the following provisions of section 6 are relevant and provide my view and reasoning on each of these provisions accordingly.

- (f) the protection of historic heritage from inappropriate subdivision, use, and development.*

415. The neighbouring site contains the National War Memorial and is described as nationally significant²⁰. The site is in the process of being recognised as a National Historic

²⁰ <https://www.heritage.org.nz/list-details/1410/National-War-Memorial>
<https://mch.govt.nz/national-war-memorial-proposed-national-historic-landmark-heritage-nz>

sh f

Landmark/Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu (NHL) as part of the National Historic Landmarks/Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu programme, alongside the Te Pitowhenua Waitangi Treaty Grounds, the first National Historic Landmark. Kerryn Pollock, Area manager for Heritage New Zealand Pouhere Taonga noted they had received 300 submissions with 98% in support (**Annexure 17**).

416. Protection of historic heritage from inappropriate subdivision, use and development is the recurring aim of the lower-order planning documents to give effect to section 6(f) of the Act. Particular regard has been had for achieving this outcome. There are adverse effects of the proposal on historic heritage values where the long held, but unprotected views of the Carillon and Dominion Museum are significantly obscured from the west, and the ridgeline is changed with the height and bulk of the proposal.

417. The proposed change to height and mass is supported by Mr Wild, Mr Knott, HNZPT and the Ministry of Heritage and Culture. However, Ms Stevens has reviewed the proposed height increase and maintains her position that the additional height and subsequent mass remains unacceptable and has an effect on the heritage values of this important site. Under the Operative District Plan this deviation in outcomes sought is significant while in light of the policy shift towards intensification these impacts are lessened.

(h) the management of significant risks from natural hazards.

418. One of the primary objectives of the proposal as outlined by the applicant is to make Building A and E resilient and reduce risks from natural hazards. I accept that the buildings have been designed to manage/reduce risks from natural hazards.

Section 7: Other Matters

419. Section 7 includes matters that the consent authority shall have particular regard to in relation to all decisions under the Act, including this resource consent application. I consider that the following provisions of section 7 are relevant and provide my view and reasoning on each of these provisions accordingly.

(b) the efficient use and development of natural and physical resources.

420. The proposed development and the construction of the proposed buildings will be appropriately located within the Central Area where the infrastructure and transport services are provided to service the activities. It is also located in an area containing a mix of public open space and residential development.

(c) the maintenance and enhancement of amenity values.

421. 'Amenity values' is defined under section 2 of the Act as 'those natural or physical qualities or characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes'.

422. Based on Mr Burns' urban design report and the overall s104 assessment, the proposal will have regard for the on-site amenity values however the additional height and bulk may detract to people's appreciation of the western part of Pukeahu Park, and there remain safety considerations with regard to the building's effects on wind.

(f) the maintenance and enhancement of the quality of the environment.

423. I note that under the Act, 'environment' includes (a) ecosystems and their constituent parts (including people and communities); (b) all natural and physical resources; and (c) amenity values. 'Environment' also includes the social, economic, aesthetic and cultural conditions which affect matters (a) to (c) or which are affected by those matters. In a similar vein to the paragraph above, the proposal will maintain and enhance the quality of the on-site environment however the immediate pedestrian environment and western end of Pukeahu Park is not enhanced by the proposal at the new height and mass.

424. In addition, the existing land resource will be more efficiently use of the land providing an additional 50 residential units.

(g) any finite characteristics of natural and physical resources.

425. The availability of land is a finite resource, particularly land within an existing urban environment served by existing infrastructure and services. This proposal, like the consented proposal uses this large lot efficiently and effectively.

(j) the benefits to be derived from the use and development of renewable energy.

426. In section 3 of Architectural Design Statement (Appendix 1 of the Application) the Applicant outlines the resilience and sustainable component of the proposal. These positive contribute to utilising renewable energy and reducing reliability on energy generated by non-renewable sources.

Section 8: Te Tiriti o Waitangi /Treaty of Waitangi

427. Section 8 states that all persons exercising functions and powers under the Act shall take into account the principles of the Tiriti o Waitangi /Treaty of Waitangi. The Treaty and its principles are an important part of the cultural and constitutional identity of New Zealand. Treaty principles interpret the Treaty as a whole, its underlying meaning, intention and spirit to provide further understanding of the expectations of the signatories.

428. I consider the development of the proposal has taken into account the Tiriti o Waitangi through their engagement with The Tenth Trust.

Part 2 of the Act: Conclusion

429. Drawing from the conclusions of this report, I consider that the proposed development largely meets the purpose of the Act (Section 5), and Part 2 more generally. Specifically:

430. The proposal will promote the sustainable management of natural and physical resources through the development of quality residential accommodation within the appropriate zone which will enable people and communities to provide for their social, economic and cultural well-being.

431. The proposed well-designed development will have high level of internal amenity.

432. Whilst the proposed development will provide for a number of positive effects, there are adverse effects on heritage values and concerns around safety from the generation of wind particularly on Tasman Street. Additionally, as discussed within the report, I have outstanding concerns in relation to the adverse effects of the proposal on the local wind environment and invite the applicant to comment/resolve further in this regard.



433. Subject to a satisfactory outcome in relation to the effects of the proposal on the public wind environment, and changes as suggested by Mr Burns, which may require further information and analysis, and addressing the effects of the additional height on heritage values, I am satisfied that the proposal will promote the sustainable management of natural and physical resources in accordance with the purpose of the Act, and in accordance with Part 2 of the Act more generally.

FINAL CONCLUSION and recommendations

434. The planning framework in which applications such as this are assessed against is in a state of change. Effects and proposals are not considered in a vacuum but a planning framework in effect at that time. In particular the notification of the Proposed District Plan represents a significant policy shift in the urban landscape in the CDB towards more intensive developments such as this. I consider that the already consented heights of eight and five were acceptable and avoided, remedied, or mitigated any adverse effects on the environment under the Operative and Proposed District Plans, in particular responding to the high/low city direction in the ODP.
435. The additional height of this proposal deviates significantly from the height expectations for the site and zone under the ODP and there is an overall tension with the outcomes controlled by the objectives and policies of the ODP. In this context, the proposal creates adverse effects on neighbouring heritage and public spaces and places, as well as wind effects and is not considered to be consistent with the relevant objectives and policies broadly speaking.
436. The proposal is consistent with the intent in the relevant statutory planning documents which seek to maximise residential development potential. Additionally, the proposal will promote the sustainable management of natural and physical resources in accordance with the purpose of the Act.
437. As referenced in paragraph (375) the status of the PDP draft Design Guides and City outcome policy is subject to change through the District Plan Hearings process and therefore little weight has been applied and it is considered that these cannot be entirely relied upon.
438. It is acknowledged at the time of writing (May 2023) that there are number of other outstanding relevant matters to be resolved within the PDP including the Design Guides. In light of this, I consider that the design recommendations as offered by Mr Burns would better reflect the balance in the PDP of providing for additional height whilst managing those effects. Progression of the PDP hearings and decisions over time may very well provide greater clarity on how to assess this proposal. I consider the proposal for the additional height is still not entirely consistent with a number of relevant PDP objectives and policies, in particular as it relates to wind effects. I remain concerned about the context of this development alongside a nationally significant site and the cumulative effects of the additional height.
439. It is acknowledged that any group with particular interests associated with protecting the Carillon and National War Memorial had the opportunity to make a submission. Very few submissions were received opposing the development on the grounds of heritage, and HNZPT and the Ministry for Culture and Heritage did not oppose the proposal.
440. Matters pertaining to public safety in the context effects on wind, raised by Mr Donn are of concern and in my view need to be resolved/clarified. These may be able to be



clarified or resolved by the Applicant resulting in a more consistent proposal under the PDP.

441. In my view, the proposal is not supportable under the Operative District Plan however under the Proposed District Plan, which is less restrictive, the proposal may be able to be supported subject to:

- Confirmation of the heights and design guide requirements within the Proposed District Plan.
- Provide a concept proposal for Water Sensitive Urban Design (WSUD) addressing THW-01 and THW-P1 to demonstrate that a compliant scheme can be achieved on site.
- Confirmation works will be halted for solemn events at the neighbouring church
- A condition offered to achieve Objective 12.2.7 (Internal Amenity) and associated policies.
- Achieve the step-down between Building A and E as recommend by Mr Burns and supported by Ms Stevens.
- Further detail design to mitigate the effects of the buildings on the wind environment to an acceptable level.

442. As recommended by Mr Burns a formal Visual Assessment using a methodology which is acceptable to both the Applicant and the Council is supported.

SUGGESTED CONDITIONS

443. Suggested conditions have been provided. I note that I have not been able to draft suitable wind conditions given the wind issues. I will be in a position to do so once further information and a mitigation package have been provided and reviewed by Council's Wind Advisor.

444. Should the consent be granted, I have included a set of suggested conditions at **Annexure 10** to this report.