

**Proposal:**                               **Construction of a Central Area building within a listed Heritage Area with associated earthworks**

Application:                               WCC Reference No: 510418

Applicant:                                 MFC Development Limited Partnership

Address:                                  110 Jervois Quay, Wellington Central

Legal Description:                      Lot 1 DP 494594

Approx Map Reference:   NZTM: 1748878.5427525

### **Preamble**

1. My name is Angela Jones. I am a planning consultant and have been engaged by Wellington City Council to process this resource consent application on their behalf. I hold the position of Wellington Planning Manager with The Property Group Limited, where I have been employed since 2015. Prior to this I was a Senior Planner at Wellington City Council (WCC). My role includes processing a variety of applications sought under the Resource Management Act 1991 ('the Act') through various parts of Wellington City, including more specifically developments within the 'Central Area' of Wellington.
2. I hold the qualification of a Bachelor of Planning (Hons) from the University of Auckland. I am a full member of the New Zealand Planning Institute. I am also an Independent Commissioner accredited through the Making Good Decision programme.
3. My role in this project commenced in September 2021 when the applicant sought pre-application advice on the project and then continued from March 2022 when the application for resource consent was lodged with Wellington City Council. I can confirm that I have visited the application site on numerous occasions and I am familiar with the surroundings.

### **Scope of Assessment**

4. This report is completed as required under Section 87F(4) of the Resource Management Act ('the Act) and will focus on the assessment of the resource consent application.
5. In the assessment of the application, I have also relied on the expert advice (attached as Annexure 1 to 8 to this report) from the following advisors:

- Morten Gjerde – Urban Design (Annexure 1)
- Michael Kelly – Heritage (Annexure 2)
- Anbuselvan Pungiah – Traffic (Annexure 3)
- Lindsay Hannah – Noise/Acoustics (Annexure 4)
- Angela McArthur – Landscape (Annexure 5)
- John Davies – Earthworks (Annexure 6)
- Suzanne Lowe – Contamination (Annexure 7)
- Zeean Brydon – Infrastructure Services (Annexure 8).

## Structure of this Report

6. The structure of this report is as follows:
- Section 1 sets out a **Description of the Proposal**
  - Section 2 provides a **Description of the Site and Surrounds**
  - Section 3 sets out the relevant **Planning Framework**
  - Section 4 provides details of **Consultation**
  - Section 5 provides an overview of the **Notification and Submissions**
  - Section 6 outlines the relevant **Statutory Considerations**
  - Section 7 provides an assessment under **Section 104 of the Act**
  - Section 8 provides an **Overall Evaluation of Part 2 of the Act**.
7. In addition to the expert advice listed above, the following documents are also attached to this report:
- Copy of Submissions (Annexure 9)
  - Summary of Submissions (Annexure 10)
  - Recommended Conditions of Consent (Annexure 11).

## SECTION 1 – DESCRIPTION OF THE PROPOSAL

8. Details of the proposal are provided in the AEE and application plans. I adopt the applicant's proposal description that should be read in conjunction with this report.
9. In summary, the applicant proposes to construct a new nine-level building comprising three principal building components, which are described below:
- The Lantern: a ground + 8 levels component and is the highest and most prominent part of the building.
  - The East Wedge: a ground + 5 levels component located within the 'sharper' eastern portion of the site.
  - The West Wedge: a ground + 2 levels component with a roof terrace.
10. The ground floor, which will incorporate an internal pedestrian link, will be occupied by entrance lobbies, retail/hospitality spaces, and some Victoria University of Wellington (VUW) School of Music teaching spaces. End-of-trip and building services areas are also located on the ground floor.
11. Levels 1 and 2 will be occupied by the School of Music (with some sub-leased space to the NZSO). Levels 3 to 7 will be commercial office space. Extensive site landscaping will occur around the building. The landscaping is described in more detail later in this report.

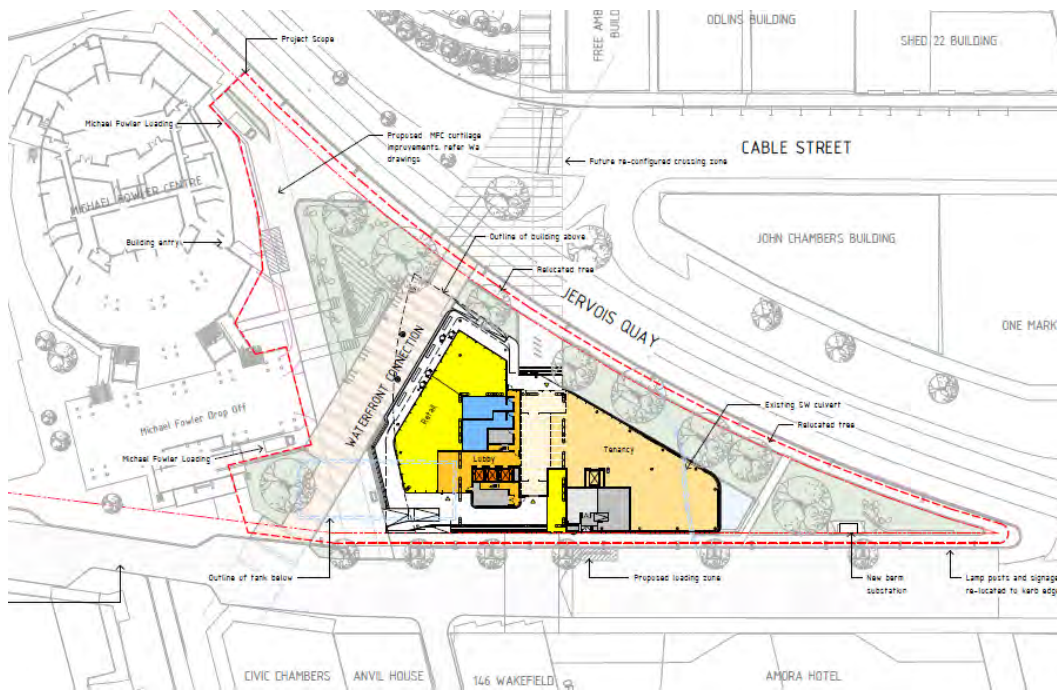


Figure 2: Site Plan, reference RC\_1.00

12. Proposed buildings heights for the proposal for each of the three main components, the building heights (measured above ground level) are:
  - The Lantern: 37.7m
  - The East Wedge: 26.8m
  - The West Wedge: 16.7m

The plant room has a maximum height of 39.3m.



Figure 3: Wakefield Street Context Elevation, reference RC\_2.00

13. Additional details are provided with the AEE, the Architectural Design Statement and the application plans titled '16.10 110 Jervois Quay Resource Consent Architectural Drawings' (dated 12 August 2022 2022), all of which should be read in conjunction with this report.
14. It is noted that the design of the building has been amended from the original proposal that was submitted. These changes include a reduced scale and height

of the west wing, adjusted floor to floor heights, an additional part floor level 8 to the lantern, façade refinement and design, and rearrangement of the ground floor.

## SECTION 2 – SITE DESCRIPTION AND SURROUNDS

15. The applicant’s Assessment of Environmental Effects (AEE) includes a description of the site and its immediate surroundings. I consider that this description is accurate and it should be read in conjunction with this report.
16. In summary, the site is located at the southern end of Jervois Quay, and is bound by Harris Street to the north, Jervois Quay to the east, Wakefield Street to the South and Victoria Street to the west. It is in the Central Area zone, covers the whole of the Te Ngākau Civic Precinct and has an area of 3.3645ha.
17. The relevant area of the subject site is on the corner of Jervois Quay and Wakefield Street and has a future nominated address of 110 Jervois Quay. It is located within the former Michael Fowler Centre (MFC) carpark and is currently the site of a temporary building occupied by the Royal New Zealand Ballet. The relevant portion of the site is generally flat.
18. The surrounding environment is also within the Central Area and consists of a combination of commercial and residential apartment buildings, with the Whairepo Lagoon to the north.



Figure 1: Aerial photograph of site and surrounding area

## **SECTION 3 – PLANNING FRAMEWORK:**

### **National Environmental Standard:**

19. The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS) enabled the establishment of the Hazardous Activities and Industries List (HAIL). HAIL is a list of activities and industries that are likely to cause land contamination resulting from hazardous substance use, storage or disposal. It has been identified that HAIL activities have (or are likely to have) occurred on the site.
20. In particular, if a person wishes to change the use of land, undertake land disturbance or subdivide a site that is, has been, or is more likely than not to have been subject to an activity or industry described in the HAIL and is reasonably likely to harm human health, that activity must be assessed for compliance in accordance with the NES-CS.
21. Two areas of the subject site are listed on Greater Wellington Regional Council's Selected Land Use Register (SLUR) as being, or potentially being, on land that contains a Hazardous Activity or Industry. The relevant area of the site is listed under file number: SN/05/1378/02.

### **National Policy Statements:**

22. The National Policy Statement on Urban Development (NPS-UD) came into effect on 20 August 2020 and is relevant to this proposal. The NPS-UD supersedes the National Policy Statement on Urban Development Capacity (NPS-UDC), which came into effect from 1 December 2016. Both the NPS-UD and earlier NPS-UDC recognise the national significance of urban environments and the need to enable such environments to develop and change, and to provide sufficient development capacity to meet the needs of people and communities and future generations in urban environments.
23. The purpose of the NPS-UD is to enable development by maximising the benefits of intensification. The NPS-UD directs decision making under the Act to ensure that planning decisions enable development through providing sufficient development capacity for housing and business.
24. The New Zealand Coastal Policy Statement 2010 (NZCPS) took effect on 3 December 2010. The purpose of the NZCPS is to state policies in order to achieve the purpose of the Act in relation to the coastal environment of New Zealand. It recognises that the coastal environment has characteristics, qualities and uses that mean there are particular challenges in promoting sustainable management.

### **Proposed District Plan:**

25. On 18 July 2022 the Council notified the Wellington City Proposed District Plan (PDP).
26. The 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).

27. The following provisions in the PDP have immediate legal effect:
1. Historic Heritage
  2. Significant Natural Areas
  3. Medium Density Residential Standards (MDRS) – being intensification provisions within the Medium Density Residential Zone (MRZ) and High Density Residential Zone (HRZ) that give effect to the Amendment Act.
28. Decision making processes for the PDP will follow both the Resource Management Act 1991 (RMA) Intensification Streamlined Planning Process (ISPP) and the Part One, Schedule One process. This means that the PDP will be split into two separate processes:
- The ISPP process uses an independent hearings panel, has no merit appeals to the Environment Court and must be completed in around one year.
  - The First Schedule process follows the normal Plan Change process and can be subject to appeals to the Environment Court.
29. Provisions relevant to the Resource Management (Enabling Housing supply and other matters) Amendment Act 2021 and NPS-UD will be determined through the ISPP. The remaining provisions will be determined through the Schedule 1 process.
30. The application was submitted prior to the notification of the PDP and for the purposes of recommendation has no relevance to the activity status of the proposal. The objectives and policies of the PDP are however relevant.

#### **Operative District Plan:**

31. The site is located within the Central Area of the District Plan and the following notations are applicable to the site:
- Heritage Area: Civic Centre
  - Heritage Buildings: Ref 70 and 325
  - Sunlight Protection Area: Civic Square
  - Hazard (Ground Shaking) Area
  - Verandahs and Display - Windows Required (Map 49E)
  - Frontage where vehicle access is restricted (Map 34).

#### **Activity Status - Operative District Plan:**

##### Activities

32. *Rule 13.3.3*  
Resource consent is required as a Discretionary (Restricted) Activity under Rule 13.3.3. In particular the proposal does not provide on-site servicing and thereby does not comply with standard 13.6.1.3.

##### Construction of a Central Area Building

33. *Rule 13.3.4*  
Resource consent is required as a Discretionary (Restricted) Activity under Rule 13.3.4 for the construction of a new Central Area building. There are no conditions under this rule.

34. *Rule 13.3.8*

In addition to Rule 13.3.4 the construction of a new Central Area building requires resource consent as a Discretionary (Restricted) Activity under Rule 13.3.8, as the proposal does not meet the following standards:

- Standard 13.6.3.5 in relation to wind as the proposal will result in wind conditions that exceed 20m/s.
- Standard 13.6.3.6 in relation to verandahs as the building will not provide verandahs in accordance with this standard.

35. *Rule 13.4.9*

As the proposal exceeds the absolute maximum height of 27m, resource consent is required as a Discretionary (Unrestricted) Activity under Rule 13.4.9 for the construction of new buildings that are located in an identified Heritage Area, and which exceed the absolute maximum height standards specified in 13.6.3.1.6. The maximum building height proposed is 39.3m.

### Heritage

36. *Rule 21B.2.3*

Resource consent is required as a Discretionary (Restricted) Activity for earthworks in a heritage area as the proposed earthworks exceeds 10m<sup>2</sup>.

37. *Rule 21B.2.1*

Resource consent is required as a Discretionary (Restricted) Activity for the construction of a new building on a site in a Heritage Area. There are no relevant conditions.

### Contamination

38. *Rule 32.2.1*

As the area for development is listed on Greater Wellington Regional Council's SLUR database as being contaminated, consent is required under Rule 32.2.1 for activities on contaminated land. There are no relevant conditions.

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

39. *Regulation 11*

Resource consent is required under the NESCS as a Discretionary Activity.

40. Note: The Tonkin + Taylor assessment provided with the application is limited in terms of soil sampling and testing with the majority of the boreholes unable to reach target depths. For this reason it is not considered to be a complete Detailed Site Investigation. Regulation 10 of the NES is therefore not applicable.

### **Overall Activity Status:**

41. Overall, the proposal must be assessed as a **Discretionary Activity** under the Operative District Plan and a **Discretionary Activity** under the NESCS.

## SECTION 4 – CONSULTATION:

42. Attached to the application as 'Appendix 5' is a copy of an email from Heritage New Zealand Pouhere Taonga (Heritage New Zealand). This email provides feedback from Heritage New Zealand on the proposal. The feedback concludes:

*“In our view the proposed development appropriately respects the form and location of the Michael Fowler Centre and will be a welcome addition to the urban form in this part of the Wellington.”*

43. It is also noted that notice was served on Heritage New Zealand and a submission has been received in support of the proposal (see Submission No: 1).
44. The application also included with a letter of support from the Wellington Tenth Trust. The Wellington Tenth Trust state that they are delighted to see references in the landscape design to the Waimapihi Stream, particularly the proposed water garden and stream mouth garden. They also note that given the site is on reclaimed land it is extremely unlikely that archaeological artefacts or kōiwi will be unearthed. The letter concludes with a statement of support for the consent application and acknowledges that they are happy to assist the applicant with any future cultural advice or guidance on the development.
45. The application has stated that the applicant also undertaken consultation with the Port Nicolson Block Settlement Trust. Agreement was reached with the applicant that there would be on-going consultation and engagement during the developed design process outside of the resource consent process.

## SECTION 5 – NOTIFICATION AND SUBMISSIONS

46. The resource consent application was publicly notified under Section 95A of the RMA on 21 October 2022. The submission period was to close on Monday 21 November 2022. An administration error was brought to the Council's attention that not all of the potentially affected parties identified in the section 95A-95F notification report (as the upper level apartments had a different street address from the lower level retail unit) had received direct notification of the application. The applicant agreed to a section 37 time extension to extend the submission period for these parties until Friday 13 January 2023.
47. A total of 17 submissions were received in relation to the application at the close of the amended submission period. Four submissions were in support of the proposal, 12 submissions were opposed to the development and one submission was neutral.
48. A full list of submitters is attached as Annexure 9 of this report. For convenience, these submissions have been summarised in Annexure 10.
49. The main issues raised by submissions in opposition include:

<b>Issues raised by submissions in opposition</b>
The height of the development, causing shading.
Height restrictions are in place to ensure development respects the surrounding townscape, heritage and built environment.
The height of the building will disrupt views and outlook from the buildings



behind the site toward the waterfront and harbour.
Not all of the floors will be used for the school of music.
Aging stormwater infrastructure will need to be replaced and cost will be in the ratepayer.
Concerns with construction effects such as dust, vibration and noise.
Concerns raised for the groundwater aquifer below the site.
Could give rise to safety issues noting earthquake risk and reclaimed land.
Concerns for streetscape, heritage value, character and safety of the area.
Concerns for the roots of the Pohutukawa which is a habitat for bird life.
The proposal is inconsistent with objectives and policies of the Operative District Plan.
Wind speeds exceed 20m/s at a number of locations. Wind effects should be mitigated.
Incongruous with the recommendations of the Central Urban Design Guide.
Financial impacts of business' future operations.
Concern for the removal of existing trees.
Will devalue central apartments.
Does not support cultural activities around the site.
Building does not respect the Michael Fowler Centre and Town Hall.
Site is more suitable for green space.
Impacts access to Michael Fowler Centre and the Town Hall.
Affects servicing for Michael Fowler Centre.
Traffic effects and conflicts of traffic modes. Further detailed study required.
The Council has a conflict of interest as landowner.
The proposal will almost guarantee Amora will never open due to the building's height.
Lacks design diversity in look and from other Willis Bond developments.
Concerns with notification process where some affected properties were not served notice.
Poor use of public space.
The dominance of the building is not in keeping with the scale of neighbouring buildings.
Concerns raised with decisions and process of the lease of the land.
Impacts on the Cuba Heritage Area.
The landscape concept needs to be better integrated with the building plan.

50. Issues raised by submissions in support include:

<b>Issues raised by submissions in support</b>
Because the building does not front onto Civic Square it will not have effect on individually listed buildings within the square. It also respects the form and location of the Michael Fowler Centre.
Supports the residential and commercial intensification in the Central Area. This will improve the site and surrounding buildings.
Positive about the direct path to the waterfront.
Appropriate thought given to end of trip and bike parking facilities.

51. Issues raised by submissions that were neutral include:

<b>Issues raised by submissions that were Neutral</b>
Will result in loss of sunlight and change to outlook. Although the building

appears high quality and supports school of music occupation.
Concerns with construction effects such as noise, vibration and dust.
Concerns with access to Michael Fowler Centre.
Acknowledges the applicant must still development a plan with Wellington Water for the protection of the retention tank/underground stream.

## SECTION 6 – STATUTORY CONSIDERATIONS:

52. 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.*

53. The application is for a Discretionary (Unrestricted) Activity under the District Plan and the NESCS. The consent authority may grant or refuse consent under section 104B of the Act and, if granted, may impose conditions under section 108 of the Act.

54. 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:

*Section 104 (1)(a) any actual and potential effects on the environment of allowing the activity;*

*Section 104 (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment are offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*

*Section 104 (1)(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.*

*Section 104 (1)(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

## SECTION 7 – SECTION 104 OF THE ACT

### Section 104(1)(a) Effects Assessment

55. The assessment of environmental effects below considers the key effects arising from the application. These effects include:

- Building design, including CPTED
- Building height

- Heritage
- Amenity of Neighbouring Properties
- Wind
- Transportation and Servicing
- Noise
- Earthworks
- Contamination
- Construction.

Permitted Baseline:

56. The Central Area provisions of the District Plan encourage a wide range of activities by allowing most uses or activities to occur as a permitted activity, provided that standards relating to these activities (such as noise) are met. Hence under the District Plan the use of the proposed building for education and commercial office space are Permitted Activities. Effects associated with these activities can be disregarded.
57. The construction of any new building (other than minor structures) in the Central Area requires resource consent under Rule 13.3.4 with discretion in assessing the application restricted to design, appearance and siting, and the placement of building mass. This assessment is undertaken in the context of the Central Area Design Guide (CAUDG), which sets out the desirable urban design outcomes and provides guidance on achieving those outcomes. This consent requirement is irrespective of whether the permitted activity standards for activities, building or structures are met. In addition, the site is within a Heritage Area, and the construction of any new building requires resource consent under Rule 21B.2.1. On the basis that the proposed building would require resource consent, there is no 'permitted baseline' for the new building.
58. In Heritage Areas the District Plan permits earthworks up to 10m<sup>2</sup>.
59. Disregarding permitted activity effects is appropriate in this case as use of the permitted baseline scenario is not inconsistent with the wider context of the District Plan and Part 2 of the Act. Accordingly, in assessing the effects of the proposal, I have focussed on the additional effects of the proposal beyond the effects of a credible permitted scenario.

**Building Design and CPTED:**

*Building Design*

60. As all buildings contribute to the character and public environment of central Wellington, design quality is a fundamental consideration in the assessment of any resource consent application. The primary reference for assessing the design of any new building is the Central Area Urban Design Guide (CAUDG).
61. The Architectural Design Statement submitted with the application describes the proposal in detail noting in the client's brief to the design team was: *"to provide a high quality comprehensive commercial workspace development commensurate with the value, quality, amenity and premium location within Wellington"*.

62. The proposed design was developed from the winning scheme in a WCC-led design/ tender competition held in 2016 and has been developed through 2016-2022 by the design team.
63. The Architectural Design Statement notes that the design process has included engagement, input, and review by Council officers (including an independent Urban Design Panel assessment), HNZPT, Wellington Water Limited and Wellington Tenth Trust.
64. The design approach is discussed in the Architectural Design Statement where it is noted that: *“Because of the scale of the site, and the varying and specific contextual conditions on each side, the design approach has considered the project as a series of inter-connected building and landscape parts. The scale, form and articulation of each part has been determined by its local context and the nature of activity within or adjacent to it.”*
65. The application provides an Urban Design Assessment, prepared by Ms Popova, which assesses the application against the CAUDG. As identified by Ms Popova, the intention of the CAUDG is: *“to achieve high quality buildings, places and spaces in the Central Area of the City”* by ensuring these:
- *Are coherently designed*
  - *Make a considered response to context*
  - *Address heritage values*
  - *Establish positive visual effects*
  - *Provide good quality living and working environments*
  - *Integrate environmental sustainability principles, and*
  - *Provide conditions of safety and accessibility.*
66. Ms Popova assesses the proposal against the urban design outcomes. Some key points of her assessment include:
- *proposed site-planning and design, while taking into account the Design Guide objectives, also responds to the comments/recommendations of the Urban Design Panel review and issues raised by the Council at pre-application meetings.*
  - *The proposal has responded to the key contextual conditions of the site in a considered way while taking into account the relevant ‘relationship to context’ design objectives/guidelines. This has been achieved through: (a) the proposed site planning/massing into three distinctive and yet well-integrated components; (b) the form and external design of the individual components which reference the scale and character of their neighbours; (c) the configuration, treatment and spatial quality of the proposed pedestrian through-links; and (d) the proposed landscape treatment/enhancements that complement the collective built form and facilitate the integration of the proposal to its setting.*
  - *The proposed landscape treatments (as illustrated and documented in the Landscape Plans) have been approached in an integrated manner to aid the integration of the development to its site and setting while promoting the ecological and cultural significance of the historic Waimapihi Stream.*
  - *The proposal is aligned with but setback from the Jervois Quay street edge. This is an appropriate response to the context of the site as it recognises the street alignment, while maintaining the existing characteristic line of Pohutukawa trees that currently define the street edge. Retaining the Pohutukawa trees provides a soft background to views from the north/east which will aid the integration of the building bulk to its visual setting.*
  - *Positive open space & pedestrian block permeability.*

- *the building form and façade composition of each building component have been appropriately resolved as part of an overall design concept to create a coherent collective building form.*
67. Ms Popova provides an assessment in relation to design excellence and states that the proposal will achieve this outcome (which will be further discussed below).
68. Regarding her assessment of the CAUDG, Ms Popova concludes that: *“The proposal is based on a well-considered and context-driven design concept that has taken into account and appropriately addressed the relevant Design Guide objectives and guidelines.”*
69. The application, along with Ms Popova’s urban design assessment, has been reviewed by the Council’s consultant urban designer advisor, Morten Gjerde. Mr Gjerde notes:
- The overall design of the Michael Fowler Centre (MFC) commercial development is coherent and responsive. In my opinion, it satisfies this part of the design guide to a high standard.
  - The interface between the MFC and the proposed building creates a new public space, not only to enhance movement between the city and the waterfront but also as a space to linger in. This is enabled by the form of the building along this edge, which creates a form of loggia or covered area in which people are invited to sit informally on steps. In my opinion, the proposal meets the guidelines for street edge definition.
  - The arrangement of building volumes across the site effectively addresses G3.5 to G3.8 in the design guide.
  - The design manages these opportunities well to create accommodation that will be light filled with plenty of outlook. In my view, guideline G3.9 is clearly met.
  - The primary public open space is the one linking the Cuba/Wakefield Street to the waterfront, utilising the existing crossing point with some enhancements. This space is oriented to receive sunlight, set up to enable people to sit and linger in and is highly legible, helping people to move between the city and the waterfront more easily. In my opinion, the design responds effectively to G3.10 and G3.12.
  - In this case, comparatively smaller proportions of the building perimeter are given over to cars and servicing. The urban design outcomes, and conformance with G4.6, are enhanced.
  - The drawings provide little understanding of the mechanical plant, noting that figs. 59 and 60 of the ADS present conflicting representations of the size of this plant. Should resource consent be granted, it would be important to allow a condition requiring this aspect of the design to be checked early on, with a view to minimising visibility from surrounding public spaces and from elevated positions. There is a distinct lack of parapet around the edges of the various roof surfaces, which can lead to unintended visibility of minor roof mounted elements. This should also be carefully considered as the design continues to be developed and certainly should be incorporated into the roof design consent condition referred to above. At ground level, there is sufficient transparency in the shopfront design to help ensure communication of human scale. Above ground level, the setout of openings across the façade and set out of the curtainwall module will also help convey a sense of human scale. (G5.11).

70. Overall, Mr Gjerde notes that the proposed development has been found to meet expected urban design outcomes, as outlined by the CAUDG. I concur with this assessment.

#### *Design Excellence*

71. District Plan policy 12.2.5.5 requires that over-height buildings achieve 'design excellence'. This is because over-height buildings can have a significant impact on the city from both at street level and in the distance and are therefore required to visually enhance the cityscape.
72. Both Ms Popova and Mr Gjerde have provided an analysis design excellence and conclude that the proposal achieves this. Mr Gjerde's assessment is that the project achieves Design Excellence, concluding that: *"The proposal goes beyond the CAUDG expectations in the way it responds and contributes to public open spaces around and across the site; the physical qualities of the proposed building and in the quality of the relationships formed with the setting."*
73. I acknowledge Mr Gjerde's assessment in this respect but note that design excellence is a matter that is more relevant to the substantive assessment under section 104 of the Act (as it relates to the assessment of the application against the policies).

#### *CPTED*

74. The application included a CPTED Statement prepared by Stoks Limited. This statement considers the receiving environment crime profile, CPTED related features of the receiving environment and the CPTED observations of the proposed development. Overall, the statement concludes that prudent CPTED measures have been embedded and refined into the design process.

#### *Overall Building Design and CPTED Conclusion*

75. The design quality of the building was not a main matter that come through in the submissions. One submission however, noted that the building design looks the same as other Willis Bond developments, resulting in the lack of diversity in the city in terms of look and form. Another submitter in contrast was of the view that the building will be high design quality.
76. For the reasons discussed above, I agree with the urban design and CPTED experts that the proposal represents a high quality building design that is appropriate for the visually prominent site and will align with CPTED design principals. I am therefore of the opinion that any effects directly attributed to the design quality of the building and CPTED will be acceptable.

#### **Building Height:**

77. The height of the building was a main matter of concern for the submitters in opposition to the proposal. Many of these concerns related to the impact that the height of the building will have on the amenity of neighbouring properties in terms of loss of sunlight (shading), outlook and views. These will be discussed later in this report specific to neighbouring amenity effects. Other submitters however raised concerns that the height of the building results in adverse effects on

streetscape, character and will be 'out of place' in the context of the surrounding environment.

78. The height of the three proposed buildings is:
- The Lantern: 37.7m
  - The East Wedge: 26.8m
  - The West Wedge: 16.7m
- The plant room has a maximum height of 39.3m.
79. As noted in the Activity Status section, the building height regime applying to the Civic Centre Heritage Area sets an absolute maximum height of 27m, and therefore requires resource consent as a Discretionary (Unrestricted) Activity under Rule 13.4.9. Resource consent with respect to building height is required for any building that exceeds 15m in height.
80. An over-height building has the potential to create adverse effects of the level of amenity experienced with surrounding streets and public spaces. It is also necessary to consider whether the building will detract from the townscape character and underlying urban form. As noted above, these were matters of concern to some submitters.
81. As has been discussed above, given the large area of the site, and the varying and specific contextual conditions on each side, the design approach has considered the project as a series of inter-connected building and landscape parts. The scale, form and articulation of each part has been determined by its local context and the nature of activity within or adjacent to it.
82. Effects associated with the over-height buildings are discussed in the AEE and in the urban design assessments provided by both Ms Popova and Mr Gjerde. The applicant has also provided a number of townscape images that show the proposed buildings against the backdrop of the existing urban form.
83. In relation to townscape views, Ms Popova concludes: *"the proposal will be seen primarily in close-up and short to mid-distance views from viewpoints located up to 250m away from the site. It will be experienced primarily in dynamic views obtained by motorists moving along the street edges of the site and by pedestrians in sequential views when approaching the site from either the city or the waterfront and when traversing the site.*
- The assessment established that the proposal relates well to the MFC, the wider Civic Centre Heritage Area and the surrounding setting in terms of scale and visual integration".*
84. In terms of building height, Mr Gjerde has commented that *"The proposed height of the Lantern is important to the success of the architectural composition, in purely compositional terms. During a meeting prior to lodgement, the applicant presented images with the Lantern height set lower. These images helped convey that a key factor in the success of the current proposal is the relationship of heights between the three constituent parts. The relationships between the different components help to set up a visually pleasing sculptural form."*
85. Whilst I acknowledge both Ms Popova's and Mr Gjerde's urban design assessments with respect to building height in terms of how the building sits within the context with the wider townscape views, I am of the view that the degree in which the building exceeds the absolute maximum height limit of 27m has the

potential to result in adverse effects on the immediately surrounding environment experienced by the general public. These effects however must be balanced against the high quality of the design as well as the vibrancy that the proposal will have on the city centre. These are positive outcomes for the immediately surrounding area. Overall, I am therefore of the view that the effects associated with the height of the building will be acceptable.

#### **Effects on Heritage Values:**

86. District Plan Policy 20.2.1.8 seeks to: *“Maintain and enhance the heritage values, qualities and character of listed heritage areas.”*
87. The subject site contains two listed heritage items and is in the Civic Centre Heritage Area. The development also adjoins the Michael Fowler Centre which is a ‘contributing building’ in the heritage area.
88. The application includes a Heritage Assessment prepared by Archifact Architecture & Conservation Limited. The heritage assessment concludes:
  - The District Plan recognises the heterogeneous nature of buildings defining and framing the Civic Square. It also notes the inclusion of the MFC carpark and Llott Green within that area as development sites that can be “easily managed to protect the heritage values of the Civic Square and its buildings and features”. While the District Plan also recognises that “contributing buildings in heritage areas” warrant “the same treatment and control as listed items” this is qualified to correspond with “demolition and the design of additions and alterations” to contributing buildings and does not govern matters of adjacent height on contributing buildings”.
  - While the eight-storey North Wing exceeds the absolute maximum height standard specified for the area, the overall building design (height, forms, scale, massing, materiality) has been carefully managed to reduce the impact on the surrounding Civic Centre Heritage Area, nearby individually listed heritage buildings, the immediately adjacent MFC building, and the nearby Cuba Street Heritage Area.
  - The recognised values for the area note that the values are fundamentally vested in the Civic Square space and the surrounding collection of civic buildings (including the two individual heritage buildings). The proposed development will make no change to these recognised heritage values.
  - This proposed development responds directly and appropriately to the recognised historic heritage values of the Civic CCHA [Civic Centre Heritage Area]. It occupies a site anticipated in the CCHA as readily developable and responds positively to that and the wider heritage context.
89. As noted earlier, the applicant has also undertaken consultation with Heritage New Zealand and has included correspondence in their application. The letter from Heritage New Zealand (dated 14 February 2022) supports the proposal and notes:

*“While the Michael Fowler Centre is not currently individually recognised by Heritage New Zealand, its distinctive architecture and august contribution to the cityscape mean it will undoubtedly be considered in the future. With this in mind and to honour its civic and celebratory presence, our primary advice for any development on the adjacent parcel should neither crowd the Michael Fowler Centre nor overwhelm it with excessive height.*”



*In our view the proposed development appropriately respects the form and location of the Michael Fowler Centre and will be a welcome addition to the urban form in this part of Wellington.”*

90. Heritage New Zealand also submitted on the proposal in support of the development. Their submission expressed Heritage New Zealand’s opinion that the development appropriately respects the form and location of the Michael Fowler Centre and will be a welcome additional to the urban form in this part of Wellington.
91. The Council’s Consultant Heritage Advisor, Michael Kelly, has also assessment the application and makes the following key points in his assessment:
- The design guide anticipates development of this portion of the heritage area, but specifically states an absolute maximum height limit of 27 metres to protect the status of the MFC.
  - The site is at the far south-eastern end of the heritage area and is sufficiently removed and blocked from the view of the main part of the heritage area that the effects of any new building are mainly confined to the MFC and heritage buildings outside the heritage area.
  - The MFC is not a listed heritage building, which reduces the oversight of some rules and policies contained in Chapter 12 of the design guide.
  - The design achieves many of the outcomes required under Chapter 12, thereby mitigating, to some extent, the impact on the MFC.
  - At nine metres beyond the Design Guide’s specified threshold for a new building on the site, the proposed building is undoubtedly going to be a significant presence alongside the MFC. Although attempts have been made to move mass to avoid the worst effects of this bulk on the MFC, I am not persuaded that it will not diminish the status of the MFC. However, balanced against that are the limited impact of the proposal on the wider heritage area, the urban design benefits of the proposal and the additional height allowed under Chapter 12 rules and policies. This reduces the effects of the proposal significantly.
92. Whilst I acknowledge both the applicant’s and Mr Kelly’s assessments with respect to heritage, I agree with the applicant and Heritage New Zealand that the development is acceptable in terms of the actual and potential effects on historic heritage.

#### **Neighbouring Amenity Effects:**

93. A major matter of concern for the submitters opposing the development was the impact that the height of the building would have on the amenity of neighbouring properties, particularly with regard to loss of sunlight, resulting in shading effects and the loss of outlook and harbour views.
94. When considering the amenity effects on neighbouring residential properties District Plan policy 12.2.5.10 is it states: *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.* For the purpose of assessing amenity on other Central Area properties the ‘permitted baseline’ would be a building of 15m in height. I note that the applicant in their assessment has incorrectly used a 27m building for the permitted baseline scenario because buildings up to 27m require resource consent as a Discretionary

(Restricted) Activity. This also discussed further when considering the outlook effects of the development.

95. The application site is located on the eastern corner of the Heritage Area being largely bounded by Jervois Quay and Wakefield Street. The nearest neighbouring properties being properties to the northeast on the opposite side of the road on Market Lane and the properties to the south on the opposite side of Wakefield Street. The development has the potential to result in amenity effects on these properties with respect to shading and outlook. I don't believe there is any potential for loss of privacy or daylight given the separation of the proposed building from surrounding properties. The potential for shading and outlook effects is discussed in turn.

### *Shading*

96. The application includes shading diagrams that demonstrate the proposed building will result in shading on the properties to the south, opposite the site on Wakefield Street, and to the elevation of properties immediately opposite on Market Lane. I note the shading diagrams only illustrate the shading from 10am through to 4pm at 2 hourly intervals so it would be expected that shading would also occur on neighbouring properties outside of these times and possibly to properties beyond those identified on the shading diagrams. It is also difficult to determine the exact extent of shading on these properties including how high on the building elevations the shading occurs and for exactly what duration. It is recommended that the applicant present more detailed shading diagrams and analysis on the exact shading impacts on neighbouring properties.
97. Notwithstanding this, the shading diagrams presented illustrate that the building will cause shading on properties to the south, opposite the site on Wakefield Street, at mid-winter. At the spring and autumn equinox there is some shading, however this is substantially reduced from that experienced during mid-winter. The building will not cause any shading on the properties to the south at the summer solstice. Given the central city location of these neighbouring properties, the District Plan anticipates a level of amenity, including access to direct sunlight, to be less than what would be expected in the residential zones. In addition, whilst the development will have impacts on shading on these properties, there will be no impacts on access to daylight, given these properties are separated by the road carriageway of Wakefield Street.
98. I am therefore of the view that there is the potential for shading effect to occur on neighbouring residential properties is acceptable.

### *Outlook*

99. With regard to outlook, the applicant has provided an outlook assessment which illustrates that impact the proposed building will have on the outlook of neighbouring properties to the south. As noted earlier, these illustrations incorrectly compare the outlook from the proposed building to a 27m height plane.
100. It is important to note that the neighbouring properties to the south of the application site currently have a relatively open outlook over the temporary Royal New Zealand Ballet building toward the Wellington Harbour. Whilst these harbour views are not protected, the current open outlook contributes to the amenity of these properties and that the proposal has on this outlook can be considered. The building which is up to 39.3m in height is significantly above the 15m height that

the District Plan anticipates for buildings on this site. Because of this height, and the extent of the building that exceeds 15m the proposal has the potential to result in adverse effects on the outlook from the following neighbouring properties to the south of the application site.

101. Whilst the bulk and form of a building can impact on the existing outlook experienced by neighbouring properties. Their outlook will change, with many having an outlook to the new building instead of a relatively large open space that currently only accommodates a low level temporary building. The separation distance of the proposed building to these properties (being separated by Wakefield Street), the central city location of the neighbouring properties assists to mitigate this loss of outlook as well as the open nature of the landscaped areas around the proposed building.
102. I am therefore of the view that any effect on the neighbouring properties with respect to outlook is acceptable.

#### *Amenity of Neighbouring Properties Conclusion*

103. I acknowledge the submitters concerns with respect to shading and outlook effect. I also accept that the development will result in some additional shading and a diminished long range outlook toward to the harbour. The expectation for residential amenity effects is balanced against the expectations of a city centre urban environment. It is also noted that the proposed building will be separated from the neighbouring properties to the south by the Wakefield Street carriageway and does not fully develop the site and includes open landscaping areas. The separation distance ensures that the development will not impact the daylight received to the neighbouring properties. For these reasons I am of the opinion that the potential for neighbouring amenity effects will be acceptable given the central area urban context of the immediately surrounding environment.

#### **Wind Effects:**

104. The applicant has submitted a Wind Tunnel Study prepared by WSP. This study presents the results of a wind tunnel study of the pedestrian wind conditions around the development. The wind tunnel study makes the following conclusions:
- The existing wind conditions around the development site range from low to high, with maximum gust speeds at a small number of locations exceeding the 20m/s District Plan Safety Criteria.
  - Overall, the development causes a relatively small change in the local pedestrian wind environment. It does however cause a significant redistribution of wind flows in the surrounding area, causing some speeds to increase and others to decrease.
  - The amended proposal generally performed better than the original design that was tested.
  - Overall, the proposal results in a slight improvement in the amenity of the wind environment in the surrounding area.
105. Some submitters raise concerns with respect to the wind. Particularly that some wind speeds will increase. One submitted also noted that the wind effects inside the MFC porte cochere does not appear to be studied. Without any other expert advice I accept the conclusions reached by WSP that overall, the proposal results in a slight increase in the amenity of wind environment in the surrounding area and is therefore acceptable. Notwithstanding this, I encourage the applicant to

undertake some further investigation to see if any mitigation is appropriate to mitigate any increases in the wind environment, particularly around the Michael Fowler Centre which experience high pedestrian volumes.

### **Transportation and Servicing Effects:**

106. The applicant has submitted an Integrated Transport Assessment (ITA) prepared by Stantec with the application. The ITA has been prepared to examine and describe the assessment undertaken of the transportation features and effects of the proposal, 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.
107. Overall, the ITA concludes that the proposal aligns well with the intent of the District Plan, and that development of this site to deliver a new commercial office building will achieve good transportation outcomes, including with associated improved active mode facilities and connections. To achieve this the ITA recommends:
  - An on-street kerbside loading zone is established on Wakefield Street.
  - A Travel Plan be developed in line with the Green Star building criteria, to promote and support sustainable transport modes for those travelling to/from the site
  - A Construction Traffic Management Plan be developed.
108. These recommendations form part of the application.
109. The application, including the ITA, has been assessed by Anbuselvan Pungiah, the Council's Transportation Engineer. Mr Anbuselvan makes the following comments:
  - The proposal includes changes to street parking and existing roading infrastructure. Detailed plans showing the design and specifications will be required to be provided prior to the commencement of works.
  - It is acceptable to not provide an on-site service area due to the location and demand of the site.
  - The proposal includes a loading area on the street which will need a traffic resolution.
110. Overall, Mr Anbuselvan concludes his assessment that the proposal is acceptable from a transport perspective, subject to conditions requiring a detailed roading changes plan and a construction traffic plan.
111. 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.

### **Operational Noise and Construction Noise/Vibration:**

112. A number of submitters raised concerns with the potential for construction noise and vibration effects.
113. The Acoustic Report prepared by Marshall Day Acoustics submitted with the application assesses the potential noise effects that will be associated with the development including operational noise from fixed plant and from the site

activities, and construction noise and vibration. The applicant's assessment is as follows:

- *Noise emissions from fixed plant* – the equipment located within the plant room will consist of pumps and air handling units. These plant items can be attenuated sufficiently to ensure the cumulative noise level does not exceed the District Plan noise limits. Similarly, extract fans elsewhere in the building can easily be designed to comply with the District Plan noise limits, when combined with noise from other plant, by using attenuators.
- *Noise emissions from activities* – activity noise includes from people on the level 4 rooftop terrace. The predicted noise levels comfortably comply with the District Plan activity noise limits.
- *Construction noise* – at this stage, a construction methodology has not been developed sufficiently to carry out a noise assessment. This distance between the proposed building and the closet occupied building is 20 metres. Therefore, it is highly unlikely that the construction noise limits would be complied with at all times. We consider that the noise limits will be generally reasonable with the application of BPO measures that would be set out in a Construction Noise and Vibration Management Plan.
- *Vibration* – we understand that currently the contractor is considering installing piles using a bottom driven impact methodology. This method has been selected as it provides the highest level of resilience for the building. This method also causes higher vibration levels than other methods. It is intended to implement protocols to monitor and limit the effect of vibration on the surrounding environment.

114. The applicant offers a number of conditions of consent to mitigate the potential for noise effects. These include:

- A Construction Noise and Vibration Management Plan.
- A condition requiring that all fixed plant is located, specified and operated so that the cumulative noise emissions does not exceed District Plan standards.
- An Acoustic Design Certificate being submitted to the Council for approval prior to or at the same time as an application is made for building consent.

115. Mr Hannah, the Council's Acoustic Officer, has reviewed the proposal, and the applicant's Acoustic report. Mr Hannah notes that the applicant provides only a limited preliminary assessment only, however, agrees with the applicant with respect to their offered conditions of consent. Mr Hannah has raised no concerns with respect to noise effects.

116. I accept the assessment provided by the experts discussed above. On this basis, I am satisfied that the noise and vibration effects arising from the proposal, including fixed plant noise and construction, will be acceptable and appropriately mitigated by the recommended conditions of consent.

### **Landscape Effects:**

117. The development includes comprehensive landscaping around the building. The application includes a landscape concept developed by Wraight + Associates Ltd. The site's ecological heritage and landscape context are the contextual drivers shaping the landscape design. To ensure an overall integrated landscape approach, the landscape design includes some spaces that are outside of the defined application site, namely the coastal gardens to the northwest. Being

outside of the application site, this area doesn't fall within the proposal. Key features of the landscape concept include:

- A Cuba St - waterfront link that allows pedestrians to connect through the site located between the proposed building and the Michael Fowler Centre.
- Terraces around the western corner of the building.
- Widening the Wakefield Street footpath and relocation of streetlighting.
- Te Waimapihi Water Garden to the east of the building.
- Linkages to the pedestrian connection through the building.
- Relocating the Guy Ngan Sculpture.
- Gardens along the north and east side of the site retaining existing trees where possible.

118. The landscape concept has been reviewed by Angela McArthur, the Council's Consultant Landscape Architect. Overall, Ms McArthur supports the landscape design concept noting that it includes design elements such as rain gardens and riparian planting as interpretation of Waimapihi Stream and retention of mature Pohutakawa trees with overall views out to the waterfront being enhanced and boarded. Mr McArthur recommends conditions of consent with respect to tree maintenance and protection and the requirement for a final landscaping plan.
119. One submitter raised the concern that the landscape concept needs to be better integrated with the building plan, particularly in relation to the south side. Another submitter raised the concern with the roots of the Pohutukawa trees. I am satisfied with the experts view that the landscaping outcome is appropriate for the development and the surrounding environment and that the recommended conditions of consent ensure maintenance and protection of the trees that will remain on site.
120. I accept the assessment provided by the experts discussed above. On this basis, I am satisfied that the landscaping effects of the proposal will be acceptable.

#### **Earthworks:**

121. To enable the site redevelopment earthworks are required to enable construction foundations works as well as site landscaping. Following construction, all earthworked areas will be covered by the building or appropriately landscaped. This will ensure that following construction there will be no adverse visual effects from the earthworks.
122. With regard to erosion, dust and sediment controls measures, the applicant has submitted a draft Construction Management Plan and has offered condition of consent for a final Construction Management Plan to be submitted for certification prior to the commencement of construction.
123. Excess site material will be transported to an approved landfill. Details of construction transport will also be detailed in the final Construction Management Plan.
124. The earthworks effects of the construction have been assessed by John Davies, the Council's Earthworks Engineer. Mr Davies concludes his assessment that the earthworks are supported as it is expected that standard industry methodologies will be implemented to minimise any potential earthworks effects.

125. Given any potential for earthworks effects will be temporary in nature and that all earthworked areas will be covered by the building or appropriately landscaped, the earthworks will not have any adverse effects on the heritage values of the Civic Centre Heritage Area.
126. For the reasons discussed above, any actual or potential earthworks effects will be acceptable.

**Contamination:**

127. As noted earlier, two areas of the site are listed on Greater Wellington Regional Council's Selected Land Use Register (SLUR) Database as being, or potentially being, on land that contains a Hazardous Activity or Industry. The relevant area of the site is listed under file number: SN/05/1378/02.
128. The applicant has submitted a Ground Contamination Assessment prepared by Tonkin + Taylor. This assessment identifies that HAIL activities have been undertaken on the site. The applicant proposes to undertake a full contamination survey of the site once the Royal New Zealand Ballet building is removed from the site. The applicant has offered a condition of consent requiring that a Contaminated Site Management Plan is submitted and certified prior to the commencement of construction works.
129. With respect to contamination, the draft Construction Management Plan also states that if contamination is present on the site, it may have following implications:
  - Additional health and safety requirements during the works.
  - Landfill disposal of surplus soil that has to be disposed of off-site (i.e. not clean fill).
  - Pre-treatment would be required if highly contaminated material is found.
  - Odour management during works to prevent odour entering buildings.
  - Contamination Site Management Plan before works being and a Site Validation Report on completion of the works.
  - A Long-Term Site Management Plan if contamination remains on site (e.g. below the building or paving).
130. On behalf of the Council AECOM were engaged to undertake a technical peer review of the above documentation provided with the application with respect to contamination. The AECOM review that Tonkin + Taylor assessment is limited in terms of soil sampling and testing with the majority of the boreholes unable to reach target depths. It also notes that the Tonkin + Taylor assessment was completed in 2016 and states that the site is not on the Greater Wellington SLUR. However, as of April 2022, the site is listed on the SLUR with the HAIL categories slightly different to those detailed in the Tonkin + Taylor assessment. Notwithstanding this, the AECOM review generally aligns with the applicant in that further soil sampling is required, a Contaminated Land Management Plan is required prior to the commencement of works and if remedial works are required then a Site Validation Report will also be required at the completion of the works.
131. I accept the assessment provided by the experts discussed above. On this basis, I am satisfied that the potential for contamination effects from the proposal will be acceptable and appropriately managed by the recommended conditions of consent.

## **Construction Effects:**

132. With a development of this nature and scale the potential for construction effects is inevitable. Construction noise and earthworks effects are discussed above. More generally, construction effects by nature are also temporary. The applicant's contractors will use construction best practice to ensure construction effects will be minimised as much as reasonably possible. The applicant has offered conditions of consent for a final Construction Management Plans to be submitted for certification prior to the commencement of construction.
133. For these reasons the actual and potential construction effects will be appropriately managed, are temporary in nature, and are therefore acceptable.

## **Positive Effects:**

127. The proposal will result in many positive effects. Most importantly the proposal will result in the construction of new Central Area building utilising a what would otherwise be a vacant site adding vibrancy and vitality to the immediately surrounding area. Other positive effects of the proposal have been acknowledged by the submission in support of the proposal, including, the intensification of the central area, adding vibrancy to the city and utilising an otherwise underutilised site.

## **Section 104(1)(b) Assessment**

### **Higher Order Planning Documents**

134. Relevant to the assessment is a hierarchy of statutory 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 higher order planning documents:

#### National Planning Instruments:

- The New Zealand Coastal Policy Statement (2010)
- The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations (2011)
- National Policy Statement on Urban Development (2020)

#### Regional Planning Instruments:

- The Regional Policy Statement for the Wellington Region (2013)

#### District Planning Instruments:

- The Wellington City District Plan (2000)
- The Wellington Proposed District Plan

### **National Planning Instruments:**

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

135. The New Zealand Coastal Policy Statement 2010 (NZCPS) took effect on 3 December 2010. The preamble states that the New Zealand coastal environment is facing a number of key issues, including:



- *loss of natural, built and cultural heritage from subdivision, use, and development;*
  - *compromising of the open space and recreational values of the coastal environment, including the potential for permanent and physically accessible walking public access to and along the coastal marine area;*
  - *continuing coastal erosion and other natural hazards that will be exacerbated by climate change and which will increasingly threaten existing infrastructure, public access and other coastal values as well as private property.*
136. The purpose of the NZCPS is to achieve the purpose of the Act in relation to the coastal environment of New Zealand. It recognises that the coastal environment has characteristics, qualities and uses that mean there are particular challenges in promoting sustainable management.
137. Under Section 104(1)(b)(iv) of the Act a consent authority must, subject to Part 2 of the Act, have regard to the relevant provisions of the NZCPS (amongst other things) when considering an application for a resource consent.

#### Objectives

138. The site is on reclaimed land and is set back from the coastal and waterfront environment. This coastal environment is an already a highly modified, urban, coastal environment. This setback further ensures qualities of the natural coastal environment are not further eroded whilst encouraging access and recreation opportunities on and around the waterfront. The applicant has undertaken consultation with the Wellington Tenth Trust which supports the proposal with respect to the potential for cultural effects. In this regard the proposal is consistent with the Objectives 1,2, 3, 4, 6 and 7 of the NZCPS.
139. Objective 5 of the NZCPS seeks to ensure that coastal hazard risks taking account of climate change are managed. The building has been designed with a raised ground floor level in response to sea level rising and flooding. I consider that this will be an appropriate response to manage any coastal hazard risk posed from future inundation from the sea, taking into account predicted sea-level rise as a result of climate change. Based on the technical reports provided with the application, I consider that coastal hazard risks will be appropriately managed and is consistent with this objective.

#### Policies

140. A total of 29 policies are identified under the NZCPS which are intended to achieve the purpose of the Act in relation to the coastal environment. Those of particular relevance are outlined below:

##### *Policy 2: The Treaty of Waitangi, Tangata Whenua and Maori Heritage:*

141. As discussed in greater detail under the assessment of Cultural Effects under the Section 104(1)(b) assessment above, the applicant has consulted with Wellington Tenth Trust which has raised no concerns with the proposal with respect to cultural effects.

##### *Policy 6: Activities in the coastal environment*

142. The setback of the site from the coastal environment and waterfront ensures the protection of the natural character, open space, public access and amenity values of the coastal environment are maintained.

*Policy 17: Historic heritage identification and protection*

143. Consultation with the Tenth Trust has confirmed that the site is on reclaimed land it is extremely unlikely that archaeological artefacts or kōiwi will be unearthed. In addition, the effects on the heritage values of the adjoining heritage building and wider Heritage Area have been assessed earlier in this report and considered to be acceptable. The proposed use and development is not considered to be inappropriate in relation to historic heritage.

*Policy 18: Public open space*

144. The need for public open space within and adjacent to the coastal marine area is recognised under this policy. The waterfront is currently an area used for both passive and active recreation. Whilst the application site is not located on the waterfront, it will provide a connection between the Cuba Street and the waterfront with pedestrian access.

*Policy 19: Walking access*

145. The works will enhance pedestrian connections through to the waterfront from the City Centre. Temporary restrictions on walking access may be required during the construction period but once complete, no existing area of walking access will be lost.

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

146. Given the site's low-lying coastal location, the site is susceptible to risks of Tsunami, wave height, storm surges and coastal inundation (including those effects from climate change). As noted above, the design of the building mitigates these potential effects through a raised ground floor level.

Conclusion on NZCPS:

147. Overall, having considered the relevant provisions of the NZCPS, I consider that the proposal will be consistent with the strategic intent of the NZCPS.

NES for Assessing and Managing Contaminants in Soil to Protect Human Health

148. The proposal requires resource consent under the NESCS in relation to soil disturbance. An assessment of the proposal in this regard has been provided above. It is noted that there are no relevant objectives or policies under the NESCS. However, the stated policy objective of the NESCS is explained within the User Guide as follows<sup>1</sup>:

*“to ensure land affected by contaminants in soil is appropriately identified and assessed when soil disturbance and/or land development activities take place and, if necessary,*

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<sup>1</sup> NES User Guide, ME 1092, Ministry for the Environment 2012, Page 7.

*remediated or the contaminants contained to make the land safe for human use. The NES enables the safe use of affected land by:*

- *establishing regulations for five activities that ensure district planning controls relevant to assessing and managing public health risks from contaminants in soil are appropriate and nationally consistent*
- *establishing soil contaminant standards protective of human health and requiring their use when decisions are made under the NES*
- *ensuring best practice and consistent reporting on land affected or potentially affected by contaminants is applied that enables efficient information gathering and consistent decision-making."*

149. I have had regard to the NESCS and in particular, the policy objective above. I consider that the proposed works will be consistent with this stated policy objective in that: further testing will be undertaken to so contaminants in soil are identified and assessed when land development is to occur; the site will be remediated and/or contained following the works and made safe for human use; and the use of the Soil Contaminant Standards under the NES has been applied.

#### National Policy Statement on Urban Development (2020)

150. The National Policy Statement on Urban Development (NPSUD) sets out the objectives and policies for planning for a well-functioning urban environment. The objectives of the NPSUD 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 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.

151. In addition to this, Policies 1(b) – (f), 6, 9(c) and 9(d) apply to resource consent decisions.

152. As a higher order planning document, the relevant objectives and policies of the NPS-UD have been taken into consideration within this recommendation. Overall, I am of the view that the proposal achieves the outcomes sought by the NPSUD. Notably, the development utilises an existing underutilised central area site contributing to a well-functioning urban environment and contributes to the

changing urban environment in response the city's needs for this and future generations.

## **Regional Planning Instruments**

### Regional Policy Statement for the Wellington Region (2013)

153. 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. It is considered to be the dominant statutory planning instrument for the Wellington region.
154. The 'issues' to be addressed in the RPS include the following topics:
- 3.2: The Coastal Environment (including public access);
  - 3.5: Historic Heritage;
  - 3.8: Natural Hazards;
  - 3.9: Regional Form, Design and Function; and
  - 3.10: Resource Management with Tangata Whenua.
155. 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:
- Policy 35: Preserving the natural character of the coastal environment.
  - Policy 41: Minimising the effects of earthworks and vegetation disturbance.
  - Policy 42: Minimising contamination in stormwater from development.
  - Policy 46: Managing effects on historic heritage values.
  - Policy 48: Principles of the Treaty of Waitangi.
  - Policy 49: Recognising and providing for matters of significance to tangata whenua.
  - Policy 51: Minimising the risks and consequences of natural hazards.
  - Policy 52: Minimising adverse effects of hazard mitigation measures.
  - Policy 53: Public access to and along the coastal marine area, lakes and rivers.
  - Policy 54: Achieving the region's urban design principles.
  - Policy 55: Maintaining a compact, well designed and sustainable regional form.
  - Policy 57: Integrating land use and transportation.
  - Policy 58: Co-ordinating land use with development and operation of infrastructure.
156. It is noted that in accordance with Policy 42 the use of galvanised, zinc alum or unpainted metal (including copper) for exterior cladding may result in contamination of stormwater runoff and a recommended condition of consent has been included to manage this effect.
157. The proposal is considered to accord with the general strategic direction of the RPS and is not contrary to any of the relevant objectives or policies, noting that these are generally reflected in the objectives and policies of the District Plan.

## District Planning Instruments

### Operative Wellington City District Plan

158. The site is located within the Central Area of the District Plan. The site is subject to the following District Plan notations:
- Heritage Area: Civic Centre
  - Heritage Buildings: Ref 70 and 325
  - Sunlight Protection Area: Civic Square
  - Hazard (Ground Shaking) Area
  - Verandahs and Display Windows Required (Map 49E)
  - Frontage where vehicle access is restricted (Map 34)
159. The Central Area provisions of the District Plan are outlined in both Chapter 12 (Objectives and Policies) and Chapter 13 (Rules, Standards and Appendices). In addition to the Central Area based provisions mentioned in the paragraph above, the proposal is also subject to provisions for certain activities which apply across all areas of the city, including: Heritage under Chapter 20 (Objectives and Policies) and Chapter 21 (Rules), Earthworks under Chapter 29 (Objectives and Policies) and Chapter 30 (Rules); and, Contaminated Land under Chapter 31 (Objectives and Policies) and Chapter 32 (Rules). All of these Chapters are fully operative.
160. The Introduction section (12.1) of the objectives and policies explains that:
- “The District Plan sets a vision for a vibrant, prosperous, liveable city. At its heart is a contained Central Area comprising a commercial core with a mix of related activities”*
161. The Plan’s Central Area provisions are based on eight principles that will guide future development”<sup>2</sup>. These eight principles are:
- Enhance ‘sense of place’
  - Sustain the physical and economic heart of the Central Area
  - Enhance the role of the ‘Golden Mile’ and ‘Cuba’
  - Enhance the Central Area as a location for high quality inner city living
  - Enhance the built form of the Central Area
  - Enhance the quality of the public environment
  - Enhance city/harbour integration
  - Enhance the sustainability of the Central Area

### Wellington City Proposed District Plan

162. On 18 July 2022 the Council notified the Wellington City Proposed District Plan (PDP).
163. The 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).

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<sup>2</sup> Wellington City District Plan, Chapter 12, Central Area, pg 12/2

164. The following provisions in the PDP have immediate legal effect:
- Historic Heritage (there the PDP is more restrictive)
  - Significant Natural Areas
  - Medium Density Residential Standards (MDRS) – being intensification provisions within the Medium Density Residential Zone (MRZ) and High Density Residential Zone (HRZ) that give effect to the Amendment Act.
165. Decision making processes for the PDP will follow both the Resource Management Act 1991 (RMA) Intensification Streamlined Planning Process (ISPP) and the Part One, Schedule One process. This means that the PDP will be split into two separate processes:
- The ISPP process uses an independent hearings panel, has no merit appeals to the Environment Court and must be completed in around one year.
  - The First Schedule process follows the normal Plan Change process and can be subject to appeals to the Environment Court.
166. Provisions relevant to the Resource Management (Enabling Housing supply and other matters) Amendment Act 2021 and NPS-UD will be determined through the ISPP. The remaining provisions will be determined through the Schedule 1 process.
167. The application was submitted prior to the notification of the PDP and therefore was not relevant to the earlier notification decision. The objectives and policies of the PDP are however relevant to the substantive assessment under section 104 of the Act.
168. Under the PPD the site is located within the City Centre Zone and the following notations apply to the site:
- Te Ngākau Civic Square Precinct
  - Active Frontage
  - Verandah Control
  - Coastal Inundation Hazard – Medium Coastal Inundation Hazard
  - Flood Hazard Overlay – Inundation Area
  - Flood Hazard Overlay – Overland Flowpath
  - Liquefaction Hazard Overlay
  - Tsunami Hazard Overlay – High Coastal Tsunami Hazard

## **Operative District Plan Objectives and Policies Assessment:**

### Containment and accessibility

#### *Objective 12.2.1*

*To enhance the Central Area's natural environment, accessibility, and highly urbanised environment by promoting the efficient use and development of natural and physical resources.*

#### *Policies*

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

*12.2.1.2 Contain Central Area activities and development within the Central Area.*

169. Objective 12.2.1 and related policies relate to containment and accessibility within the Central Area. The proposed building will become prominent landmark on what is currently a significantly underutilised, highly visible site. The site currently accommodates a building which was used by the Royal New Zealand Ballet while their permanent home at the St James Theatre was being strengthened. This was constructed as a temporary building, with the long term intention for the site to be developed. The proposal is therefore consistent with this objective and related policies as the new building (and associated activities) will contribute to enhance the highly urbanised city with the development of the site.

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.*

*Policies*

- 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.*
- 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.*
- 12.2.2.4: Control the adverse effects of noise in the Central Area.*
- 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.*
170. The proposed building will accommodate retail/hospitality space at ground floor, with the school of music and commercial office space being accommodated on the upper levels. These activities contribute to a wide range of activities within the Central Area.
171. With regard to policy 12.2.2.2 I note that the nearest Residential Zoned properties to the application site is at a distance of approximately 500m in Kelburn and approximately 640m in Mt Victoria. At this distance the development will have no adverse effects on these properties. There are residentially occupied apartments in close proximity to the site application. The effects on these properties primarily relate to shading, outlook and construction effects. These are discussed in more detail earlier in this report. Whilst it is acknowledged that the building will result in some residential amenity effects on these apartments, I consider these effects to be of a degree that is acceptable, particularly given the Central Area urban context of the surrounding environment.
172. The proposal has been reviewed by Mr Hannah, Council's Acoustic Engineer and he considers the effects of both the construction noise and operational noise to be acceptable. He recommends a number of conditions to manage these effects.
173. I therefore consider that the proposal is consistent with the Objective 12.2.2 and related policies.

## Urban form and sense of place

### *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.*

### *Policies*

*12.2.3.1 Preserve the present 'high city/low city' general urban form of the Central Area.*

*12.2.3.2 Promote a strong sense of place and identity within different parts of the Central Area.*

174. The site is located within the Civic Centre Heritage Area which sits between the low city and high city parts of the central city. The permitted height limit for the site is 15m with an 'absolute maximum' height of 27m. The proposed maximum height of 39.3m significantly exceeds these heights. The exceedance in the height standards has meant that the building will be taller than the immediately surrounding buildings and be a prominent feature in the surrounding streetscape. Notwithstanding this, the proposal has been assessed by the applicant's urban designer Ms Popova and the Council's urban designer Mr Gjerde whom both agree that the buildings high quality design and articulation ensures that it responds positively to the surrounding built environment.

175. I therefore consider that the proposal is consistent with objective 12.2.3 and related policies in that it will contribute positively to the City's character and promote a strong sense of place. The building will not erode the high city/low city general form of the Central Area.

## 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.*

### *Policies*

*12.2.5.1 Manage building height in the Central Area in order to:*

- Reinforce the high/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.*

*12.2.5.2 Manage building mass to ensure that the adverse effects of new building work are able to avoided, remedied or mitigated on site.*

*12.2.5.3 Manage building mass in conjunction with building height to ensure quality design outcomes.*

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



- 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.*
  - 12.2.5.7 *Ensure that the cumulative effect of new buildings or building alterations does not progressively degrade the pedestrian wind environment.*
  - 12.2.5.8 *Ensure that the wind comfort levels of important public spaces are maintained.*
  - 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.*
  - 12.2.5.10 *Provide 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.*
176. As discussed above, the building will not erode the high/low city urban form of the Central Area given the site is located between these two areas the unique characteristics of the site, and high quality of the development. The building will acknowledge and respect the form and scale of the surrounding urban environment. The building mass is appropriate for the site and surrounds resulting in a high quality town and streetscape.
177. With respect to the wind environment, the applicant has undertaken a wind tunnel study prepared by WSP. Whilst development will result in very little change to the local pedestrian wind environment, with some wind speeds increasing and others decreasing. Overall, the proposal will result in a slight improvement in the amenity of the wind environment in the surrounding area. The proposal is considered consistent with this objective and the related policies.
178. Policy 12.2.5.3 requires the management of building mass and building height to ensure quality design outcomes. Policy 12.2.5.5 goes on to require design excellence for any building that higher than the height standard specified in the Central Area. As noted above, the building, with a maximum height of 39.3m significantly exceeds the permitted height standard of 15m for the building and the 'absolute' maximum height of 27m. The proposal is a good quality design outcome for a prominent site and will replace a temporary building on a currently underutilised site. Both Ms Popova and Mr Gjerde are aligned in their support of design, including height, that the building sits positively in the context of the environment, including wider townscape views. It is also important to note that the building will site within a wider landscaped area with only the lantern part of the building extended to the full maximum height. Mr Gjerde also specifically acknowledges that the height of the lantern is important to the success of the architectural composition of the building. Both Ms Popova and Mr Gjerde agree the given the high quality of the design the building will achieve design excellence. I accept the conclusions reached by these urban design experts.
179. Policy 12.2.5.10 provides 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. Whilst it has been noted that that there is no permitted baseline applies to the site consideration has

been given to an anticipated 15m high building. Given the height of the building considerably exceeds 15m the permitted baseline the proposed building will result in greater effects on neighbouring properties. However, given all neighbouring properties are separated from the application site by the road carriageway, all adjoining properties will not have their access to daylight diminished by the development. There will be some impacts in terms of loss of direct sunlight and shading, however these are balanced against degree of impact and the central city environment. This is discussed in more detail earlier in this report in terms of the assessment of effects. I am therefore satisfied that the proposal is consistent with policy 12.2.5.10.

180. I therefore consider that the proposal is consistent with objective 12.2.5 and related policies.

### 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.*

#### *Policies*

- 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.*
- 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.*
- 12.2.6.3 *Ensure that new buildings and structures do not compromise the context, setting and streetscape values of adjacent listed heritage items, through the management of building bulk and building height.*
- 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 use.*
- 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 of where people regularly congregate.*
- 12.2.6.7 *Protect, and where possible enhance, identified public views of the harbour, hill and townscape features from within and around the Central Area.*
- 12.2.6.8 *Ensure that pedestrian shelter is continuous on identified streets where there are high volumes of pedestrians, and on identified pedestrian access routes leading to the Golden Mile from the outskirts of the Central Area.*
- 12.2.6.9 *Ensure that in providing pedestrian shelter in any adverse effects on the architectural integrity and historic heritage value of a building to which the shelter is affixed, and any adverse effects on public safety*

*and the informal surveillance of public spaces are avoided, remedied or mitigated.*

- 12.2.6.10 *Encourage the provision of pedestrian shelter along streets and public spaces throughout the Central Area (including within the Pipitea Precinct).*
- 12.2.6.11 *Enhance the informal pedestrian network within the Central Area, by encourages the retention and enhancement of existing pedestrian thoroughfares, and promoting the creation of new thoroughfares where they would enhance walkability and permeability for pedestrians.*
- 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.*
- 12.2.6.14 *Encourage new building development in the Central Area to provide ground floor stud heights that are sufficient to allow retro-fitting for other uses.*
- 12.2.6.16 *Promote and protect the health and safety of the community in development proposals.*
181. The proposed building and associated activities adds to the vitality of the immediately surrounding environment and enhances the amenity and safety of the public environment by increasing the extent of 'active edge' on both the Jervois Quay and Wakefield Street frontages. For the reasons outlined in the effects assessment above, the building represents a high quality design. The building includes pedestrian shelter through the site and will provide a pedestrian connection from Wakefield Street through to the waterfront.
182. The applicant notes that the building has been specifically designed, in terms of height, form, scale, massing and materiality, to respond to the immediately surrounding environment, including the adjoining Michael Fowler Centre which is a contributing heritage building in the heritage area. This endorsement of the proposal has not been fully accepted by the Council's heritage advisor, Mr Kelly. Mr Kelly acknowledges that whilst attempts have been made to move the mass of the avoid the worst effects of the building bulk on the Michael Fowler Centre, he is not persuaded that it will not diminish the Michael Fowler Centre to some extent. However, when balanced against the wider heritage effects and the urban design benefits of the proposal, Mr Kelly accepts the heritage effects on the Michael Fowler Centre.
183. The building has a taller ground floor stud height to enable a range of tenancies to be use this space in the future.
184. The application included a CPTED Statement prepared by Stoks Limited. This statement concludes that prudent measures have been embedded and refined into the building design to protect the safety of the community.
185. I consider the proposal is consistent with this objective and related policies.

### Building Amenity

#### *Objective 12.2.7*

*To promote energy efficiency and environmental sustainability in new building design.*

*Policies*

12.2.7.1 *To 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.*

12.2.7.2 *Ensure all new buildings provide appropriate levels of natural light to occupied spaces within the building.*

12.2.7.3 *Enhance the quality and amenity of residential buildings in the Central Area by guiding their design to ensure current and future occupants have adequate ongoing access to daylight and an awareness of the outside environment.*

186. The applicant identifies that the design of the proposal incorporates environmentally sustainable design elements and will achieve NZ Green Building Council design and as built 5 star green rating, and a minimum 5 star NABERS NZ rating with the associated energy monitoring throughout the building.

187. This objective and the related policies are met.

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.*

*Policies*

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.*

12.2.13.4 *Ensure that the adverse effects on the natural environment arising from a hazard event are avoided, remedied or mitigated.*

188. Objective 12.2.13 relates to natural and technological hazards. The building design incorporates high resilience measures including base-isolated diagrid structures, designed to respond to a 1-in-1000 year event and raised ground floor in response to sea level rising and flooding.

189. This objective and the related policies are met.

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.*

- 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.*
- 12.2.15.3 *Manage the road system in accordance with a defined road hierarchy.*
- 12.2.15.9 *Require the provision of servicing or loading facilities for each site in the Central Area.*
- 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.*
- 12.2.15.11 *Consider waivers from the servicing or loading requirements:*
- *where suitable alternative off-street provision can be made; or*
  - *where site access restrictions apply and there is no suitable alternative means of access; or*
  - *where it is necessary to protect any listed heritage item.*
  - *where the topography, size or shape of the site, the location of any natural or built features on the site, or other requirements such as easements, rights of way, or restrictive covenants impose constraints which make compliance impractical.*
- 12.2.15.13 *Require all vehicular access to sites to be safe.*
- 12.2.15.14 *Protect and enhance access to public spaces in the Central Area.*
190. The proposal enhances pedestrian connections through the site which will improve pedestrian access within the Central Area, particularly to and from the waterfront. In addition, it will increase the number of pedestrians travelling to this part of the CBD, in an area of the City that has convenient access to public transport.
191. Based on the applicant's Integrated Transport Assessment (prepared by Stantec) submitted with the application, and the advice received by Mr Pungiah, Councils Transportation Engineer, I am satisfied that the building can be appropriately serviced via an on-street kerbside loading zone on Wakefield Street. The development also incorporates on-site bike parking to encourage sustainable transport modes.
192. I am therefore of the view that is consistent with Objective 12.2.15 and related policies.

## Heritage

### *Objective 20.2.1*

*To recognise the City's historic heritage and protect it from inappropriate subdivision use and development.*

### *Policies*

20.2.1.4 *Protect the heritage values of listed buildings and objects by ensuring that the effects of subdivision and development on the same site as any listed building or object are avoided, remedied and mitigated.*

20.2.1.7 *Ensure additions and alterations to existing buildings, and any new buildings or subdivision within a heritage area avoid, remedy or mitigate the adverse effects on the heritage values of the heritage area.*

20.2.1.8 *Maintain and enhance the heritage values, qualities and character of listed heritage areas.*

193. As noted above, the applicant has designed the building specifically, in terms of height, form, scale, massing and materiality, to respond to the immediately surrounding environment, including the adjoining Michael Fowler Centre which is a contributing building within the Heritage Area. This endorsement of the proposal has not been fully accepted by the Council's heritage advisor, Mr Kelly. Mr Kelly acknowledges that whilst attempts have been made to move the mass of the avoid the worst effects of the building bulk on the Michael Fowler Centre, he is not persuaded that it will not diminish the Michael Fowler Centre to some extent. However, when balanced against the wider heritage effects and the urban design benefits of the proposal, Mr Kelly accepts the heritage effects on the Michael Fowler Centre.
194. Both the applicant heritage advisor and Mr Kelly are in agreement that given the location of the site outside of the main Civic Square, the wider values of the Heritage Area will not be adversely affected.
195. In addition, the applicant has undertaken consultation with Heritage New Zealand which supports the proposal from a heritage perspective.
196. I am therefore of the view that the proposal is consistent with objective 20.2.1 and related policies.

*Objective 20.2.2*

*To facilitate and enable the exercise of tino rangatiratanga and kaitiakitanga by Wellington's tangata whenua and other Maori.*

*Policies*

20.2.2.1 *Identify, define and protect sites and precincts of significance to tangata whenua and other Maori using methods acceptable to tangata whenua and other Maori.*

20.2.2.2 *Require that the tangata whenua be consulted where a resource consent is required for any activity within a Maori precinct.*

197. The application site is not located within a Maori precinct. Notwithstanding this, the applicant submitted the application with a letter of support from Wellington Tenth's Trust. The Wellington Tenth's Trust state that they are delighted to see references in the landscape design to the Waimapihi Stream, particularly the proposed water garden and stream mouth garden. They also note that given the site is on reclaimed land it is extremely unlikely that archaeological artefacts or kōiwi will be unearthed. An accidental discovery protocol condition has been recommended in the unlikely event that any items of interest are discovered.
198. I am therefore of the view that the proposal is consistent with Objective 20.2.2 and related policies.

## Earthworks

### *Objective 29.2.12*

*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.*

### *Policies*

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

*29.2.1.2 Provide for minor earthworks to allow for the use and development of land where the risk of instability is minimal.*

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

*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 work, particularly to streams, rivers, wetlands and the coastal marine area.*

*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.*

199. The earthworks are required for foundations for the new building and base isolation. The stability of the earthworks will be assessed through the building consent process. The applicant has offered conditions of consent for a Construction Management Plan to demonstrate how the earthworks will be designed and managed to minimise erosion, dust and sediment and the transport of material from the site.
200. In addition, the proposal has been reviewed by the Council's Earthworks Engineer, Mr Davis supports the proposal from an earthworks proposal as it is expected that standard industry methodologies will be implemented to minimise any potential for earthworks effects.
201. The proposal will therefore be consistent with objective 29.2.12 and related policies.

## Contaminated Land

### *Objective 31.2.1*

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

### *Policies*

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

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

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

202. As noted above the applicant has provided a Ground Contamination Assessment prepared by Tonkin and Taylor, which addresses contamination on the site. A full contamination survey will be undertaken once the temporary building is removed from the site. The applicant has offered a condition of consent requiring a Contamination Site Management Plan is submitted and certified prior to the commencement of construction works.
203. AECOM were engaged by the Council to undertake a technical peer review of the documentation submitted and is in agreement with the applicant on the necessary conditions of consent to manage any potential for contaminated land effects.
204. I am satisfied that with appropriate conditions of consent, the proposal satisfies this objective and related policies.

#### Objectives and Policies Summary

205. Overall, for the reasons discussed above, I consider that the proposal is entirely consistent with the objectives and policies as set out above.

#### Contaminated Land Assessment Criteria:

206. The following assessment criteria are also considered relevant in considering the proposal and what conditions to impose, as identified under Rule 31.2.1. The criteria relevant to human health has been struck out as this is now managed through the NESCS.

32.2.1.5 *The proposed methodology for the remediation of the land, including as appropriate the provision of a Remediation Plan that addresses:*

- *How any adverse effects on the surrounding environment resulting from earth moving or removal and any potential discharges from the site will be managed (eg sediment control, site covering and dust control),*
- *Where soil is to be removed from the land, the appropriate tracking and safe transport to land that is authorised and / or consented for the disposal of any contaminated soils.*
- *How the ~~health and~~ safety of the workers and the wider community will be provided for during works, including, if necessary, the presence of public exclusion zones, site security and location of worker amenity facilities.*
- *The standard of remediation on completion.*
- *The potential for recontamination to occur, where the land may become contaminated due to the presence of contamination on adjacent land or sites.*
- *Any alternatives to remediation, where there are more appropriate mitigation techniques to remediation that will avoid risk to ~~public health and~~ safety and prevent exposure to the contaminated soil.*



- *Any potential long-term or cumulative effects of discharges from the land.*

*32.2.1.6 The extent to which any proposal for the remediation and / or ongoing management of contaminated land meets the Ministry for the Environment's Contaminated Land Management Guidelines 1 to 5, any relevant Ministry for the Environment industry-specific contaminated land guidelines, ~~the Ministry of Health's Guidelines for Public Health Services for Managing Lead Exposed Persons and the Management of Asbestos in the Non-Occupational Environment, and the Department of Labour's Health and Safety Guidelines on the Cleanup of Contaminated Sites.~~*

*32.2.1.7 The extent to which any potential adverse effects of remediation and / or ongoing management are acceptable.*

*32.2.1.8 The suitability of the land for its proposed end use, including whether adequate measures are proposed to ensure the on-going safe use of the land.*

*32.2.1.9 The nature of any relevant Regional Council requirements or consent conditions.*

207. I have had regard to the relevant assessment criteria above and for the reasons concluded earlier in this assessment, I consider that the proposed remediation of the site and subsequent land use will be appropriate. Effective onsite measures will be required to be implemented to control the potential effects of contaminated or potentially contaminated material on the environment, and these are recommended as consent conditions.

#### **Overall Summary of Operative District Plan provisions:**

208. Having considered the relevant objectives and policies within the Central Area, Heritage, Earthworks and Contaminated Land Chapters of the District Plan; and, having regard to the relevant assessment criteria, I consider that the proposal will be consistent with the strategic direction of these provisions.

#### **Proposed District Plan Objectives and Policies Assessment:**

##### City Centre Objectives

209. In the introduction of the City Centre Zone (Part 3) of the Proposed Plan the direction is clearly spelled out: *to maximise development capacity to accommodate projected growth, an increase in the scale and intensity of development is enabled across the zone. This includes building height, density and urban form tailored to align with the outcomes sought by the National Policy Statement – Urban Development (NPS-UD) and to reflect the higher, denser nature of development within the City Centre Zone.*

##### *Objective CCZ-O1:*

*The City Centre Zone 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.*

210. The proposal is in accordance with this objective.

*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*

211. This objective is met with the provision of a new City Centre building to support the business growth needs of the city. In addition, some floor space is proposed to be occupied by the School of Music. The site is located in close proximity to Civic Square and the Wellington Waterfront offering convenient access to a range of open spaces and public transport.

*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.*

212. The proposal accords with this objective. In particular, the development is of a height and scale that aligns with the permitted height of 40m for the site which is significantly above the anticipated building heights for this site in the Operative District Plan.

*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.*

213. The applicant has consulted with Wellington Tenth Trust (WTT) which supports the development.

*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.*

214. As discussed earlier, the development represents a high quality development that is supported by the urban design assessments of Ms Popova and Mr Gjerde that responds to the anticipated growth and changing needs of the city. It's design accords with CPTED principles, responds to the natural hazard risks and the effects of climate change, and sensitively responds to the adjoining heritage listed Michael Fowler Centre. The development is therefore 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;*
- c. Identified public spaces;*
- d. Identified pedestrian streets;*
- e. Residential Zoned areas;*
- f. Open Space and Recreation Zoned areas; and*
- g. The Waterfront Zone*

215. It is acknowledged that any building on this site has the potential to adversely impact on the setting of the adjoining Michael Fowler Centre. As noted earlier, the applicant has specifically designed, in terms of height, form, scale, massing and materiality, to respond to the immediately surrounding environment, including the adjoining Michael Fowler Centre. This endorsement of the proposal has not been fully accepted by the Council's heritage advisor, Mr Kelly. Mr Kelly acknowledges that whilst attempts have been made to move the mass of the avoid the worst effects of the building bulk on the Michael Fowler Centre, he is not persuaded that it will not diminish the Michael Fowler Centre to some extent. However, when balanced against the wider heritage effects and the urban design benefits of the proposal, Mr Kelly accepts the heritage effects on the Michael Fowler Centre.

216. The site does not impact on any Residential Zoned, Open Space, Recreation Zone or Waterfront Zone area.

*CCZ-PREC-02: The scale, form and positioning of development within the Te Ngākau Civic Square Precinct:*

- 1. Respects and reinforces the distinctive form and scale of existing associated historic heritage buildings, architecture and public spaces*
- 2. Integrates mana whenua values into the design*
- 3. Frames the square*
- 4. Ensure a high degree of sunlight access is achieved within the precinct*
- 5. Provides multiple connections which enable people to conveniently move between the city centre and the waterfront; and*
- 6. Is sustainable and resilient.*

217. Whilst the site is located within the Te Ngākau Civic Square Precinct it is on the fringe of the Precinct and does not sit alongside the square. The building will not impact on the sunlight access to the square. The development has been designed

to enable connections between the city centre and the waterfront. The building design incorporates high resilience measures including base-isolated diagrid structures, designed to respond to a 1-in-1000 year event and raised ground floor in response to sea level rising and flooding.

### City Centre Policies

*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.*

218. As discussed in the earlier assessment the building will have a maximum height of 39.3m (including plant room) which significantly exceeds the ODP maximum permitted height standard of 15m. The PDP height control for the site is however significantly greater with a height control of 40m above ground level. Specific heights under the PDP do not yet have legal effect but it is directed by the NPS-UD to look towards a *greater overall height and scale of development* and in the balance *the land is used to its capacity*. In the light of the direction of both the NPS-UD and this policy I consider the proposal is generally in accordance with it and the overall intent of providing for greater intensification in the CBD.

*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.*

219. This policy requires a well-designed, comprehensive development which embodies the future change to scale and nature in this zone as indicated by the height overlay and the proposed rules. I consider for all the reasons discussed in this report the proposal does optimise development for a site adjoining a heritage building. As set out by the relevant technical advisors the height of the building, coupled with high quality of the overall site design.

*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.*

220. While the City Outcomes Contributions as laid out in the CMUDG has not been 'scored' I do note the proposal does address 1 – 3 above including a building design that incorporates high resilience measures including base-isolated diagrid structures, designed to respond to a 1-in-1000 year event and raised ground floor in response to sea level rising and flooding.

*Policy 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.*

221. 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. For the reasons discussed above this proposal has Council advisors' support for the height and placement of the building. The overall design has been accorded design excellence. Overall, this policy is met.

#### Other Proposed District Plan Objectives and Policies

222. Additionally, I have considered the objectives and policies noted below. The proposal can be serviced to meet the Three Waters objectives and policies as the applicant has provided a Civil Engineering Design Report which has been reviewed by Zeean Brydon of Wellington Water and has provided conditions to enable servicing of this site.

223. The proposal is generally in accordance with the PDP objective and policies as set out below, and the Council advisors: Mr. Hannah, Mr Davies and Mr Pungiah have reviewed the relevant issues and are in support with the provision of conditions which have been accepted and now form part of the proposal.

##### *Three waters:*

- *THW-O1 to THW-O3 and THW-P1 to THW-P5.*

##### *Noise:*

- *NOISE-O1, NOISE-O3 and NOISE -P1 to NOISE-P4.*

##### *Transport:*

- *TR-O1 and TR-P1 to TR-P3.*

##### *Wind:*

- *WND-O1 and WND-P1 to WND-P4.*

##### *Earthworks:*

- *EW-O1 and EW-P1 to EW-P6, EW-P8.*

##### *Coastal Hazards*

- *CE-05, CE-08, CE-09 and to CE-P2, CE-P6, CE-P10*

##### *Natural Hazards*

- *NH-01 and NH-P2, NH-P3*

#### **Section 104(1)(c) Other Matters**

224. The Te Ngākau Civic Precinct Framework was adopted by the Council in October 2021. The purpose of the framework *is to provide an integrated and strategic guide for the future of the Te Ngākau Civic Precinct.* This framework fed into the District Plan review. The application site is identified in the framework as a site where redevelopment is expected, while providing a connection from Wakefield

Street through to Jervois Quay. The proposed development aligns with the outcomes sought, as well as the objectives and policies of the Te Ngākau Civic Precinct Framework.

## SECTION 8 – OVERALL PART 2 EVALUATION

225. Part 2 of the Act sets out the purpose and principles of the legislation, which as stated in section 5, is “*to promote the sustainable management of natural and physical resources*”. Section 5 goes on to state that sustainable management should enable “*people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while (amongst other things) avoiding, remedying or mitigating any adverse effects of activities on the environment*”.
226. In addition, Part 2 of the Act requires the Council 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).
227. For the reasons outlined in this report, I consider that the proposed development will be consistent with the purpose of the Act (Section 5), and Part 2 more generally. Specifically:
- The proposal will promote the sustainable management of natural and physical resources through the use and development of a currently underutilised Central Area site which will enable people and communities to provide for their social, economic and cultural well-being. The proposed building will be of high quality design achieving design excellence making a significant contribution immediately surrounding environment.
  - Whilst the proposed development will provide for a number of positive effects, the adverse effects of the proposal on the environment can be appropriately avoided, remedied, or mitigated.

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