

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF an application for resource consent by Gresham Trustees Limited under section 88 of the Act, to undertake a 302-lot fee simple subdivision, the construction of 135 dwellings, associated carparking and earthworks at 240 Kāpiti Road, Paraparaumu. (Lot 1 DP 88870)

Kāpiti Coast District Council Reference
RM220070

DECISION OF THE HEARING COMMISSIONER

9 December 2022

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Introduction

1. This is the decision on a resource consent application made by Gresham Trustees Ltd for a 302-lot fee simple subdivision, the construction of 135 dwellings, associated carparking and earthworks at 240 Kāpiti Road, Paraparaumu. (Lot 1 DP 88870). The property is zoned General Residential in the operative Kāpiti Coast District Plan. Within the proposed subdivision Lots 1 to 135 are for proposed house sites and Lots 201 to 370 are for carparking spaces associated with the development. Lot 500 is communal open space as an internal park for the development. Consent is sought for both the subdivision and for the land use components of the application.
2. I have been delegated the authority from Kāpiti Coast District Council (KCDC or Council) to hear and determine this application on behalf of the Council as consent authority.
3. In making this decision I firstly record that, in determining this resource consent I have read and considered the application and further information supplied to KCDC, the submissions received and the s42A report prepared by Council planner Ms Sarah Banks which incorporates other Council adviser comments. In addition, I have taken account of the applicant's evidence and legal submissions, the submitters representations and the further Council advice presented at the hearing that was held on 10 November 2022.
4. I visited the site and the surrounding area prior to the hearing and visited six adjoining properties on 14 November 2022. After receipt of the applicant's written closing, the proceedings were formally closed on 18 November 2022.

The Site and Surrounds

5. The s42A report¹ accurately describes the site and environment surrounding 240 Kāpiti Road which is paraphrased below.
6. The site is a 1.89ha parcel on the north-eastern side of the road opposite Kāpiti Airport. Currently, the site contains a single dwelling and associated garage, which is located toward the south-western or Kāpiti Road boundary.
7. The site is legally described as Lot 1 DP 88870 held in Record of Title WN56D/9. Ms Banks advised that there are no interests on the title which are relevant to, or would impact on, this proposal.
8. The topography of the site is undulating which I was advised is reflective of the historic coastal dune system and includes varying stands of vegetation.
9. Vehicular access to the site is via Halsey Grove which is a stub street providing access to the site rather than from Kapiti Road, the primary arterial from Paraparaumu Town Centre to Paraparaumu Beach. It is presumed that this stub street was specifically provided for on subdivision of the surrounding streets of Cedar Drive and Regent Drive.
10. The existing environment is largely residential in scale, with predominantly detached dwellings of primarily single storey housing, (with some houses being two storeys), in the general locality. I was advised that these surrounding properties were constructed in the 1990's and early 2000's. St Paul's Anglican

¹ S42A report paras 7 to 11.

Church is to the south, Kāpiti Airport on the southern side of Kapiti Road, Sevenoaks Retirement Village is on the western side of Cedar Drive, and a mix of commercial and light industrial to the east and west.

11. An aerial photograph of the site is shown below.



Figure 1. Aerial Photograph from KCDC E-plan.

The Proposal

12. Ms Banks also outlines² the proposal for which resource consent is sought in her report.

- a. *In Summary the applicant seeks resource consent to undertake a 302-lot fee simple subdivision, 135-lots are for residential dwellings and the remainder of lots 165 are for car parks to be allocated with the residential lots. Associated earthworks are also proposed totalling 23,940m³ with a maximum depth of 4.4m. A private road is proposed to serve the dwellings with the main access from Halsey Grove.*
- b. *The proposal includes;*
 - *117 two-bedroom units, ranging from 72m² to 75m² in area;*
 - *22 three-bedroom units, ranging from 106m² to 109m² in area;*

² ² S42A report paras 12 to 20.

- 165 car parks;
 - an internal private two-way road network; and
 - communal open space.
- c. *The ownership of the road is to be via a Residents Society, requiring building owners to be jointly responsible for maintenance of the 'communal' use areas.*
- d. *The proposed medium density development includes the construction of 135 residential units on the residentially zoned land at 240 Kapiti Road, Paraparaumu.*
- e. *The 135 units are proposed to be constructed in 22 blocks which comprise between to 3-10 units each. The units have been designed to orientate internally to the site, with the units primary outdoor living areas located adjoining the external boundaries with the exception of units 79 – 97 which have been designed to face Kapiti Road with the outdoor living areas facing internally to the site.*
- f. *There are six-unit blocks placed centrally on the site internal to the ring road, along with a large communal open space area which functions effectively as a private park for the residences of the development. All vehicular access will be via Halsey Grove with a two-way internal private ring road providing on-site circulation. Adjacent to the ring road are areas for car parking including visitor parking, landscaping and bin storage areas.*
- g. *Landscaping is proposed to be undertaken on the proposed residential lots, surrounding the ring road, separating carparking areas and around the proposed park. The landscaping is designed in three varieties: unit front planting, carparking planting and public walkway/central park planting. All planting will comprise native vegetation, generally low maintenance for future occupiers. A planting palette is included in the architectural plans on sheet RC45 at Appendix 3. Unit front planting will include low-lying ground covers or shrubs such as NZ Iris and Golfball.*
- h. *This planting will provide variety in scale from vehicle, built structures and hard surfacing. Carparking planting and landscaping within the communal open space will include similar planting to unit front planting, but with added shrub species. This planting will be interspersed with native specimen trees that have the ability to grow to up to 5m in height.*
- i. *These finishes include exposed aggregate concrete for the outdoor living areas, asphalt for parking and roading, and brushed concrete for the pathways. Timber fencing is proposed to be erected along each boundary to ensure these areas are private, with some locations requiring a combination of concrete retaining wall and timber fence. All planting is proposed to be undertaken in the first planting season following the completion of the construction of the dwellings and roading.*

13. Ms McLean³ the planner for the applicant, also concurred that the description was accurate while also emphasising that there had been design changes to the proposal that was subject to limited notification.

³ Evidence of Emma McLean para 24

Since the application was lodged, a number of submitters (and the landscape architect and urban designer advising the consent authority, Ms McRae and Ms Moore) have commented on the potential for the Project to have adverse effects on amenity values from bulk and dominance. As discussed further below, the applicant now proposes a reduction in dwellings, additional breaks in the perimeter blocks, variation in roof form and greater variation of façade colours, in order to minimise any potential adverse effects on neighbours.

14. Ms Banks also outlined the two other matters within the consent matters applied for.
15. In respect of the proposed earthworks these are required to create suitable building and outdoor living platforms, suitable grades for the servicing of the development and where possible to minimise any perceived or additional dominance effects from the development. Earthworks volumes are 12,480m³ of cut with a maximum vertical ground level change of 4.4m and 11,460m³ of fill with a maximum vertical ground level change of 3.1m.
16. I also note the advice that:
 - Due to unsuitable material, it is estimated that approximately 1,000m³ of material will be removed off site.
 - The proposed earthworks will be suitably retained by either timber retaining walls or secant pile walls, or covered by the proposed residential development (i.e. roading, and dwellings).
 - The timber retaining walls will have a maximum height of 2.0m, with the secant pile retaining wall having a maximum height of 3.0m. These retaining walls are located on the external boundaries.
 - Where the works comprise cut, the retaining walls will include a 1.8m timber fence on top (above ground level), and where the works comprise fill, the retaining walls will include a 1.0m timber fence on top. With a maximum combined height not exceeding 2.0m above existing ground level, these structures are not considered a building under the District Plan.
17. In respect of the subdivision, resource consent is sought to undertake a staged 302-lot fee-simple subdivision of the site associated with the unit development that incorporates the following features:
 - 135 residential allotments ranging in size from 58m² to 205m² (shown as Lots 1 to 135);
 - 165 carpark allotments of 11m² each (shown as Lots 201 to 370). Each of the carparks will be created as allotments on individual titles;
 - One communal allotment of 7,310m² (shown as Lot 500). This will contain a central vehicular access, pedestrian access, landscaping and a communal open space area; and
 - One allotment to be vested as road of 13m² (shown as Lot 501) which would contain a transformer to supply electricity to the development and will be vested in Kapiti Coast District Council as Road.
 - Each residential allotment will have at least one carpark, with no internal garages.
 - Proposed Lot 500, providing access from Halsey Grove to the north, will be held in common ownership between the owners of Lots 1-135.
18. I also note the applicant's commitment that a residents' society will be constituted that will require all building owners to be jointly responsible for maintenance of the 'communal' use areas and will require

all building owners to maintain insurance through the same insurer. It will also arrange rubbish collection from the communal refuse areas.

19. The proposal is represented further in the revised Scheme Plan submitted by the applicant, an extract of which is shown below from the s42A report⁴. This shows the lot configuration and lot boundaries with proposed building platforms.



Figure 3: Ground Floor – Design Changes

20. Information from the applicant also contains detail on, geotechnical and related engineering matters and servicing for potable water, wastewater, stormwater, power and telecommunications supply.

District Plan Rules and Activity Status

21. The application site is zoned General Residential in the operative Kapiti Coast District Plan as are properties that surround the site on Cedar Drive, Regent Drive, the 2 existing properties with access to Halsey Drive and Langdale Avenue to the southeast. Ms Bank's s42A report contains a summary of the consent status of the activity with Ms McLean⁵ concurring that the summary was accurate.

⁴ S42A report page 8.

⁵ Evidence of Emma McLean para 29.

Proposed Activity	Rule reference/ description Activity	Activity Status
Subdivision	Rule SUB-RES-R32. The parent lot area exceeding 3000m ² , additionally the minimum and average lot size, shape factor and block length standards will not be met under SUB-RES-R26.	Non-complying activity
Dwelling Units	Rule GRZ-R18. For a Permitted Activity that does not comply with the requirements of Rule GR-3 and GR-R6 for site coverage, outdoor living areas, height in relation to boundary, side yard, setbacks from and access and fencing.	Discretionary Activity
Medium Density Housing Development	Rule GRZ-R22. For a Medium Density Housing Development outside of a Medium Density Housing Precinct.	Non-complying Activity
Development and Earthworks	Rule NH-FLOOD-R11. The site is within the Flood Hazard Ponding overlay and has floor levels above the 1% AEP are proposed.	Restricted Discretionary Activity
Subdivision of land in residential and working zones	Rule SUB-DW-R5. For a development that is proposed to achieve hydraulic neutrality.	Restricted Discretionary Activity
Subdivision in a Flood Hazard Ponding	Rule SUB-DW-R7. The site is located in a Flood Hazard Ponding Area.	Restricted Discretionary Activity ⁶
Subdivision containing Peat/Sand	Rule SUB-DW-R9. The site contains Sandy soils.	Restricted Discretionary Activity
Earthworks	Rule EW-R5. The cut and fill balance will involve approximately 12,480m ³ of excavated material (4.4m maximum height/depth); and 11,460m ³ of fill material (3.1m maximum height/depth) to be placed within the site.	Restricted Discretionary Activity
Transport	Rule TR-R10. The integrated transport assessment has been provided in this regard. This states that 140vph would result during peak times, which could be up to 1680vpd	Restricted Discretionary Activity

22. Overall, based on the advice I received at the hearing in relation to bundling of these activities, I have considered the application as a **Non-Complying Activity** under the Kapiti Coast District Plan.

⁶ This rule has 4 standards and number 4 says that all other relevant subdivision standards in other chapters need to be met, If they are not met the application would be a discretionary activity.

Relevant RMA Provisions

23. Under section 9(3) of the Act:

"No person may use land in a manner that contravenes a district rule unless the use-

(a) is expressly allowed by a resource consent; or

(b) is allowed by section 10; or

(c) is an activity allowed by section 10A."

24. Under section 11(1A) of the Act:

"A person may subdivide land under subsection (1)(a) if—

(a) either—

(i) the subdivision is expressly allowed by a resource consent; or

(ii) approved as described in section 228 by the Chief Surveyor, in the case of a survey plan described in paragraph (a)(ii) of the definition of survey plan in section 2(1)."

25. As stated, the application is for a Non-Complying Activity under the District Plan. My discretion to grant or refuse the application is set out in section 104B of the RMA, which states:

Section 104B – Determination of applications for discretionary or non-complying activities

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority-

(a) may grant or refuse the application; and

(b) if it grants the application, may impose conditions under section 108.

Section 104 Considerations

26. Section 104 of the RMA sets out the matters to which I must have regard when considering the applications and submissions received. For this application, they are:

a. The actual and potential effects on the environment of allowing the proposed activity - s104(1)(a); and

27. Actual and potential effects are considered in detail later in this decision.

b. s104(1)(b) - The relevant provisions of:

i. A national environmental standard.

ii. Other regulations;

28. No national environmental standards or other regulations are applicable.

iii. A national policy statement

29. The National Policy Statement on Urban Development 2020 (NPS-UD) is particularly relevant to this proposal and is discussed more in my analysis of the relevant planning documents.

iv. The New Zealand Coastal Policy Statement 2010;

30. This has broad applicability as the site is within a Coastal Environment Overlay in the District Plan although I note that the site is a considerable distance from the sea.

v. A regional policy statement or proposed regional policy statement.

31. The applicable document is the Regional Policy Statement (RPS) for the Wellington Region 2013. I also note that Plan Change 1⁷ to the RPS also includes measures to implement and support the National Policy Statement on Urban Development 2020 (NPS-UD). This is through the inclusion of a new objective:

To achieve sufficient development capacity to meet expected housing demand in the short-medium and long term in any tier 1 urban environment within the Wellington Region, the housing bottom lines in Table 9A are to be met or exceeded in the short-medium and long term in the tier 1 urban environment.

32. Table 9a includes Housing Bottom Lines that apply to Kapiti Coast District Council as a Tier 1 local authority. While submissions on the proposed change to the RPS have been received there has been no hearing on submissions at this point.

vi. A plan or proposed plan

33. While the operative Kapiti Coast District Plan is the primary document of relevance in terms of determining the application, I have also considered Proposed Plan Change 2 (Intensification) to the operative plan that:

...responds to Government requirements to change the District Plan to accommodate more residents, businesses and community services in Kāpiti. It is also a significant step towards implementing our Growth Strategy, Te Tupu Pai – Growing Well⁸.

Submissions and further submissions have been received and a hearing will be held in the New Year. The Plan Change enables significantly higher residential capacity within the Kāpiti Coast district.

c. Any other matter the consent authority considers relevant and reasonably necessary to determine the application - s104(1)(c).

34. Aside from the Growth Strategy referred to above there are no other documents that are determinative in making a decision on this application.

Particular restrictions for non-complying activities

35. s104(D) states that a decision maker must only grant consent for a Non-Complying Activity if it is satisfied that either:

- a. the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or*
- b. the application is for an activity that will not be contrary to the objectives and policies of the relevant plan, if there is a plan but no proposed plan in respect of the activity.*

36. This is often referred to as the 'gateway' test.

⁷ From GW website <https://www.gw.govt.nz/your-region/plans-policies-and-bylaws/policies/regional-policy-statement/>

⁸ From KCDC website <https://www.kapiticoast.govt.nz/your-council/forms-documents/district-plan/closed-for-further-submissions/proposed-plan-change-2-intensification>

37. My conclusions on s104(1) (a), (b) and (c) and s104(D) matters are included in a section of this decision prior to my conclusions.

Notification and Submissions Received

38. The application was limited notified to 17 adjacent properties in accordance with sections 95-95F of the Resource Management Act. Ms Banks⁹ outlined that seven submissions were received all in opposition from the following parties.

Submitter	Address	Position/Summary
M & B Arcus	2D Cedar Drive, Paraparaumu	Oppose in Full – Traffic Increases, Incompatibility with existing housing in area.
G & M Thompson	2C Cedar Drive, Paraparaumu	Oppose in Full – Traffic Increases, Incompatibility with existing housing in area.
P & D Jackson	4C Cedar Drive, Paraparaumu	Oppose in Full - Incompatibility with existing housing in area.
B. Bloemgarten	2 Regent Drive, Paraparaumu	Oppose in Full – Access through Halsey Grove, Earthworks, Water storage, Proximity of Houses.
P & M Ward	2 Halsey Grove, Paraparaumu	Oppose in Full – Incompatible scale of development.
D & A Gilden	12 Regent Drive, Paraparaumu	Oppose in Full – Lack of contribution to zone and Increased Traffic
L & P Grout	14 Regent Drive, Paraparaumu	Oppose in Full – Mass Dominance of unbroken structures, shading, offstreet parking.

39. Three of the submitters chose to appear at the hearing but I have taken all of the submissions and representations made at the hearing into account in making this determination.

Section 42A Report

40. Prior to the hearing, I received and reviewed the s42A report prepared by Ms Banks. Attached to this report were:

- a. Recommended conditions;
- b. Application further information and updated application details;

⁹ S42A report page 11.

- c. Copies of the submissions received;
- d. Evidence of Colin Shields of Tonkin and Taylor in relation to a review of transport matters;
- e. Evidence of Emma McRae and Miriam Moore of Boffa Miskell in relation to landscape and urban design matters;
- f. Peer Review CGW Geotechnical Assessment 13 September 2022; and
- g. Jacobs Assessment of Stormwater Disposal dated 13 October 2022.

41. The reporting officer Ms Banks concluded in relation to Part 2 of the Act that:

Overall, I consider the proposed 135 lot residential unit development including a fee simple subdivision and associated earthworks to be consistent with Part 2 matters because this proposal allows for the creation of a new residential lots and dwellings which will have minor effects and these are in short supply across the District.

42. Ms Banks therefore recommended that resource consent should be granted for both the land use and subdivision components of the application subject to conditions.

The Hearing

43. I held the hearing on 10 November 2022 at the Kāpiti Emergency Management Office after the original venue became unavailable for use prior to the hearing commencing. After hearing preliminary matters, the evidence from the applicant, the submitters representations, the views of Council officers and advisers and a brief applicant's right of reply, I adjourned the hearing. This adjournment was for:

- the applicant's right of reply to be put in writing,
- the applicant's and council's planners to confer on an agreed set of conditions should consent be granted; and
- for me to visit the submitters properties which I did on Monday 14 November 2022.

Preliminary Matters

44. There are two preliminary matters that I wish to comment on prior to discussing the applicant's evidence and my evaluation of the proposal under the District Plan and the Act.

45. The first relates to whether the application should have been publicly notified as opposed to being limited notified. There were a number of observers who told me at the start of the hearing when I was establishing appearances, that they were unhappy that they had no ability to lodge a submission or to explain to me their reasons for opposing the application.

46. The decision to limited notify the application to immediately adjoining properties was made by Council officers under delegated authority and I am satisfied that they did that appropriately under the notification provisions of the Act. In any event I consider that the issues likely to be raised were common with many of the issues actually raised by those adjoining property owners that were limited notified and made a submission.

47. The second matter is that at the beginning of the hearing a Mr Conrad Peterson announced that he was opposed to my appointment on the basis of my company being a contractor for the council, stating that this was a conflict of interest. Council through its solicitor Mr Power confirmed that KCDC is confident that

I am a suitable commissioner while Ms Banks confirmed that Council did check if I had any conflict of interest, which I do not.

48. For the record I have no actual or potential conflict of interest in being able to determine this matter without bias as neither myself or any of my work colleagues have been involved in this application. In addition, as a professional planner, who has carried out commissioner functions for many Councils over a 12-year period, I am fully aware of the NZ Planning Institute's code of ethics when conflicts of interest issues may apply. Indeed, I was offended by the allegations made that there could be bias in discharging my responsibilities as a certified commissioner. After Mr Peterson left the hearing, I proceeded with the hearing of the evidence and submitter representations.

Applicant's evidence

49. At the hearing briefs of evidence on behalf of the applicant were provided by:

- Stephen Sutorius – On behalf of the applicants the Gresham Trust;
- Lauren White - Urban Acumen Ltd - Urban Design;
- Jamie Whitaker – Stantec – Traffic and Transport;
- Nicola Todd – Cuttriss – Water re-use; and
- Emma McLean – Cuttriss - Planning and Conditions.

50. Each of these experts summarised their evidence at the hearing and were supported by Craig Stevens legal counsel for the applicant who gave opening submissions.

51. Pre-submitted evidence from Neil Charters – Engeo – Geotechnical Engineering and Neil Johnstone – Cuttriss – Civil Engineering including stormwater were also provided but they did not present evidence. They were available to answer any specific engineering matters should that have been required.

Submitters Representations

52. Three submitters spoke at the hearing being:

- Mr Malcolm Ward on behalf of himself and Mrs Pamela Ward of 2 Halsey Grove.
- Ms Bernadine Bloemgarten representing her mother at 2 Regent Drive.
- Mr Paul Grout on behalf of himself and Mrs Leanne Grout of 14 Regent Drive.

53. Through Mr Grout I also allowed Trevor Anders to briefly speak. He lives in Regent Drive but was not notified. Mr Anders did not in my view add anything substantive to the matters raised by submitters.

Actual and Potential Effects - s104(1)(a)

54. The following is my assessment of the evidence and my findings on what I consider to be the actual and potential environmental effects of the proposal. Setting aside positive effects which I discuss later in this decision, I now focus on the matter of potentially adverse effects and available methods of avoiding, remedying or mitigating any adverse effects.

55. I consider that the categories of effect which are of relevance are:

- Design, Character and Landscape Effects;
- Residential Amenity Effects particularly;
 - i. Shading;
 - ii. Privacy;
 - iii. Bulk and Dominance; and
 - iv. Internal Amenity Effects;
- Traffic and Parking Effects;
- Natural Hazard Effects;
- Effects relating to the provision of services; and
- Construction Effects.

Design Character and Landscape Effects

56. An explanation of the site and its context is provided in the application and in the description of the proposal. In simple terms the proposal represents a series of residential blocks containing varying numbers of two storey units placed around the edges of the site with other blocks placed internally within the site. Vehicle access and circulation is provided for within the externally facing building blocks while a central common area is also provided. This form of development contrasts with the existing pattern of development of usually single storey dwellings with much larger footprints and much larger lots than proposed.
57. Evidence on Design and Character Effects was presented by Ms White Urban Design Consultant for the applicant with an urban design review by Miriam Moore adviser to the s42A author. Landscape advice was not provided for at the hearing by the applicant but Ms McRae, landscape adviser to the s42A author, provided assistance on establishing the extent of landscape effects. It is however noted that further refinements were carried out on behalf of the applicant in relation to a request for further information.
58. All submitters at the hearing were concerned with the density and overall 'fit' of the proposal within the context of the existing residential environment.
59. In response to submissions and to Ms Moore's Urban Design peer review, Ms White had prepared a useful report entitled Interface Assessment and Proposed Design Amendments¹⁰ and followed that up with evidence as to the key Urban Design matters. The report¹¹ identified the following key concerns and recommendations relating to urban design outcomes.
- *the development is not consistent with the existing surrounding character;*

¹⁰ Urban Acumen Ltd. September 2022.

¹¹ At page 3.

- *the development will cause negative visual effects due to the proposed scale, mass and form of the buildings; and*
- *the development will result in adverse effects on the amenity, privacy and solar access of adjacent residents.*

With respect to the potential impact on context/neighbours, the landscape and urban design peer review undertaken by Boffa Miskell (dated 9 June 2022) recommended that:

- *perimeter blocks be further broken or staggered to reduce bulk as perceived from neighbouring properties;*
- *reducing the number of units; and*
- *screening be used on some first floor windows of boundary-facing blocks to improve privacy of adjoining existing neighbours*

60. It is noted that Ms White’s evidence considered specifically the criticisms raised in submissions that the development is out of character with the surrounding development. In her evidence she responds to these matters as follows¹²:

The site’s context is comprised of both the wider environment as well as the immediate adjoining properties. With respect to the wider surrounding environment, the site is relatively contained as the Kapiti Road frontage is the only frontage which will be perceived by the wider community. The context and character of Kapiti Road is shown to be varied and includes several different non-residential uses as well as higher density developments such as apartments. As such, and in my opinion, the proposal cannot be deemed to be “out of character” with its wider context.

61. Further in relation to the style of development and the relationship with adjoining properties Ms White states¹³:

The proposed terraced blocks are all double storey and the longest block measures approximately 25m. I do not consider their bulk and mass to be significantly different from adjacent residential development, the residents of which will only perceive two or three blocks at a time. All proposed dwellings easily comply with maximum permitted building height.

62. Ms Moore as Urban Design adviser states:

In summary, I consider the updated proposal to be an improvement on the original proposal. I do consider that a further reduction in units would enable the applicant to provide a design that requires less earthworks (and therefore a less intense retaining strategy), has more room for storage and amenity, and reduces the overall site intensity. However, I do consider a development of this type appropriate for the site.

63. At the hearing Ms White remained firmly of the view that the design changes had gone a long way to resolving the concerns and when questioned by me, Ms Moore agreed that while some improvements could have been made the proposal has displayed acceptable character outcomes in this location.

¹² Evidence of Lauren White para 26.

¹³ Evidence of Lauren White para 31

64. I have carefully considered whether the proposal as amended is acceptable from a character perspective and I am guided by the fact that the site is zoned residential and that the proposed dwellings are all two storeys which is comfortably within the height limits that apply to the zone. The overall site achieves the 40% coverage standard although for the small lots created this would individually be exceeded while minimum boundary setbacks under the District Plan can be met. While I understand the submitters concern about density of development and the impact on established character, this form of development can be anticipated in the future in accordance with the National Direction provided for by the National Policy Statement on Urban Development 2020 and I recognise that both Ms White and Ms Moore agree that a development of this type is appropriate for the site.
65. The application included a Landscape and Visual Assessment that was peer reviewed by Ms McRae landscape adviser to the s42A author. The applicant chose not to call specific landscape evidence. At the hearing Ms McRae made the comment that she peer reviewed the Landscape and Visual Assessment that concluded the effects would be low and the visual effects would be minimal. Ms McRae disagreed, and suggestions were made to remedy this i.e., to provide breaks in the blocks, stagger them and reduce the number of units. However, Ms McRae also stated that the intensification standards have been introduced so these effects have also been re-assessed according to these. Ms McRae concluded that the landscape and visual effects are similar to what would be permitted in a similar location.
66. My view is that landscape effects can be anticipated in a residential zone where earthworks are required to achieve building sites that work in the context of the development. Even a subdivision of the same nature as properties to the north on Cedar and Regent Drives would likely have changed the current natural form of the landscape. Therefore, on the basis of the evidence and what could be anticipated under the District Plan it is my view that landscape effects are no more than minor.
67. Overall, I agree with Ms White's¹⁴ analysis on character and form that:

In summary, it is my opinion that the proposal presents a positive change to the wider context and character of Paraparaumu, providing greater choice and promoting more efficient use of land and existing infrastructure (including public transport).

Residential Amenity Effects

68. Leading on from and closely related to character matters is whether there are any unreasonable effects on residential amenity. In my view this aspect can be broken down into four components being:-
- Shading;
 - Privacy;
 - Bulk and Dominance; and
 - Internal Amenity Effects.

Shading

69. Firstly, in respect of shading I was informed that the proposal meets all of the recession plane (or height in relation to boundary) standards with the exception of small breaches on the Kapiti Road frontage and

¹⁴ Evidence of Lauren White para 39

a small recession plane breach at the northern point adjoining 4C and 8 Cedar Drive. In addition, permitted setbacks and permitted heights can be met.

70. The Kapiti Road frontage has breaches adjoining a busy arterial road with any minor additional shading falling on the legal road. The minor breach on the northern corner adjacent to the Cedar Drive properties is also to the south of these houses. On this basis I consider that any shading effects over and above that which is anticipated by the District Plan are less than minor.

Privacy

71. Privacy was the second aspect of residential amenity that was a concern to most submitters. This is as a result of two storey development with second storey windows being able to potentially see into the rear open space of the adjoining properties particularly to the north and west of the site.
72. This was a matter addressed by Ms White in her evidence and in the revisions proposed to the proposal. Ms White states¹⁵:

51. It is agreed that the proposed louvres assist with limiting real and perceived overlooking of indoor and outdoor living spaces on adjacent properties.

52. The proposed windows to bedrooms on rear elevations are relatively large and have low sill heights. I agree with Ms Moore that additional treatment to the lower half of some windows would further reduce potential effects on properties on the northern eastern boundary which have living spaces with outlook towards the development.

53. As such, a condition of consent that an opaque treatment be applied to the lower half of first floor windows (without louvres) along the north-eastern units is proposed by the applicant, namely Units 23, 25, 26, 28, 30, 35, 37 and 39. It is recommended that in order to meet the requirement for natural light, the treatment is applied only to glazing below a height of 900mm above the internal floor level.

54. In order to achieve visual consistency and symmetry on the rear facades of blocks along the north-eastern boundary (which have upper floors visible when you drive into the development from Halsey Grove), the opaque window treatment has also been applied to Units 32 and 34.

55. As a result, all units which adjoin 10 Cedar Drive, 2 Regent Drive, 2 Halsey Grove and the outdoor space of 12 Regent Drive have either louvres or the opaque window treatment on the rear bedroom windows which limits real and perceived overlooking.

73. Ms Moore agreed that these measures will improve privacy to adjoining residential occupiers.
74. The second matter is the privacy of the units which adjoin the southern (or south eastern) boundary which, as a result of the proposed earthworks, are on a lower level than the adjoining properties accessed off Langdale Avenue. This results in the rear open space being shaded to a degree and adjoining a retaining wall of varying heights. In her peer review Ms Moore¹⁶ stated:

The orientation of homes along the south eastern boundary could be reconsidered to provide the primary living area at the front of the affected units in order to reduce the impact of the large cut

¹⁵ Evidence of Lauren White paras 51 to 55

¹⁶ Landscape and Urban design peer review page 9

and retaining wall/ perimeter fence. While front living areas are not considered optimal due to privacy issues, these units are 500mm elevated from the communal drive and footpath area with a patio buffer space (which would then provide better connectivity between indoor and outdoor living for residents).

75. In response Ms White¹⁷ stated:

I note that the height of the retaining wall varies along this boundary and only a small number of units have outlook onto a wall which is over 2m high. A level change has been employed along the front boundary to raise the dwellings above the street to avoid or reduce the height of the retaining wall at the rear. This level change increases the privacy of private outdoor spaces located on the front of these dwellings which enjoy good sunlight and outlook over the shared space or loop road.

76. I consider that the privacy aspects in relation to the north eastern boundary have been mitigated by the addition of louvres and by the installation of opaque glazing above 900mm of the first floor level. Similarly, the orientation of the buildings on the south eastern boundary has been considered. The rear open space has limited utility for open space purposes due to the orientation of these properties, but the front open space has reasonable utility being north west facing and raised above the internal street.

77. Therefore, my assessment is that any privacy effects are no more than minor on adjoining property owners or for future occupiers of the development..

Bulk and Dominance

78. Closely related to shading is bulk and dominance effects. Ms White addressed this matter in her evidence¹⁸ where:

The proposed terraced blocks are all double storey and the longest block measures approximately 25m. I do not consider their bulk and mass to be significantly different from adjacent residential development, the residents of which will only perceive two or three blocks at a time. All proposed dwellings easily comply with maximum permitted building height.

79. Further Ms White¹⁹ stated that the architectural design employed a number of features which assist in reducing perceived bulk and mass including:

- a. Using different unit types in each terrace block (at least three in each block) which creates some visual interest and reduces repetitive pattern;*
- b. Cantilevered upper floors which create further variation and shadows on the facades;*
- c. Protruding window screens which also add interest and dimension; and*
- d. Colour variation which visually divides the terraced blocks and visually reduces bulk/mass.*

80. In response to recommendations raised by the Boffa Miskell peer review and some of the submitters with respect to the visual impact of the bulk and mass of the development and the potential visual dominance,

¹⁷ Evidence of Lauren White para 58

¹⁸ Evidence of Lauren White para 31

¹⁹ Evidence of Lauren White para 38

I was advised by Ms White²⁰ that a number of design amendments have been made which further assist in mitigating the potential visual impact. These are:

- a. *Adding in four more breaks in the perimeter blocks, thereby reducing the maximum length of any terrace block and reducing perceived bulk; and*
- b. *Changing the direction of roof fall on some blocks in order to vary the roof line/building height on adjacent blocks and create more variation.*

81. Ms White gave a detailed assessment of these breaks in buildings in the Interface Assessment and Proposed Design Amendments. I also note Ms White's concluding view on bulk and dominance matters that:

In my opinion, the proposed design has successfully managed the potential for visual dominance on adjacent properties. Given the limited outlook towards the development of primary living areas on adjacent properties on north-west and north-east boundaries, the level change on the southern boundary which reduces perceived building height and the design measures proposed to mitigate any potential perceived visual dominance, I support the proposal.

82. Ms Moore²¹ also considered the design measures:

The updated urban design assessment adequately assesses the impacts on the neighbouring properties at the north-western, north-eastern and southern boundaries. The neighbouring north-western properties on Cedar Drive mostly do not have their private outdoor spaces adjacent to the development (apart from 4E, which has a secondary garden to the north). The breaks in the proposal align well with key outlooks from these dwellings. The views from the dwellings to the north-east at 10 Cedar Drive, 2 Regent Drive and 2 Halsey Grove will be to the dwellings, the blocks now are a similar length to the existing dwellings on Regent St, with the breaks reducing the bulk of the blocks as perceived from the habitable rooms. Privacy for all these neighbouring properties has been improved through the louvre strategy as mentioned – although it is considered this could be further improved.

83. Overall, I consider that the applicant has responded to the site and to its context and has made changes to the design that assist in mitigating bulk and dominance effects to adjoining occupiers. As a large 1.89 hectare residentially zoned site and within the framework of residential intensification for Councils such as Kapiti Coast, the built form of the proposal can be reasonably anticipated and that edge effects have been addressed.

Internal Amenity Effects

84. The final matter in respect of amenity relates to the internal arrangements within the site layout to ensure that amenity for future occupiers of the development has been appropriately considered. I am satisfied based on the evidence of Ms White and the peer review of Ms Moore that these matters have been addressed as far as is possible with the layout. While Ms Moore considers that there are some details which are not ideal particularly the rear open space of the south eastern boundary units, other factors such as accessibility to bin and bike storage, the aspect of the primary living areas, pedestrian and cycle

²⁰ Evidence of Lauren White para 38 and 39

²¹ Landscape and Urban design peer review addendum page 13.

accessibility to Kāpiti Road and the provision of the internal park lead me to conclude that internal amenity matters have been appropriately addressed.

Traffic and Parking Effects

85. The applicant provided an Integrated Transportation Assessment²² with the application and followed up with further information that was subsequently reviewed by KCDC. I also recognise that all of the submitters at the hearing raised traffic safety and traffic capacity as issues. Mr Ward in particular did not consider that traffic issues had been addressed adequately particularly with the amount of new traffic from the development all having to use the Kāpiti Road/Cedar Drive intersection. However, I do note that the traffic experts (Mr Whitaker for the applicant and Mr Shields for the Council), were in agreement that the proposal is acceptable from a traffic perspective.
86. Mr Whitaker provided a comprehensive brief of evidence that addressed a number of matters. He firstly considered the site location and existing transport environment. In this regard it is noted that Kāpiti Road is classified as a Major Community Arterial with Cedar Drive, Regent Drive and Halsey Grove being local /neighbourhood Access Routes.
87. The primary access to the area from Kāpiti Road is via the existing intersection with Cedar Drive. Mr Whitaker²³ confirmed that given the straight alignment of Kāpiti Road in this location, sightlines for vehicles exiting Cedar Drive comfortably exceed the industry standards for safe intersection sight distances. In his opinion current traffic volumes accommodated on the surrounding streets are entirely in keeping with the form and function of the roads. Mr Whitaker²⁴ also stated that the established streets in the vicinity of the site include footpath, shared path, and cycle lane provisions on Kāpiti Road, which provide for active mode connection while bus stops to Paraparaumu Town Centre and Paraparaumu Beach are located adjacent to the site on Kāpiti Road.
88. After a brief description of the proposed development plans, Mr Whitaker²⁵ commented on why the site access was to be from Halsey Grove as Council officers were opposed to a Kāpiti Road connection due to the introduction of additional traffic conflict points with the adjacent cycle path. Therefore the proposal plans were developed with access off the lower hierarchy road frontage of Halsey Grove and that in his opinion the location and design of the connections are appropriate to accommodate the proposed activity safely and efficiently. Mr Shields agrees with this view as do I.
89. Mr Whitaker then discussed traffic generation and the performance of the intersection with Cedar Drive and Kāpiti Road where he could see no reduction in existing levels of service nor any indication of any

²² Stantec February 2022.

²³ Evidence of James Whitaker para 22.

²⁴ Evidence of James Whitaker paras 29 and 30.

²⁵ Evidence of James Whitaker paras 32-34

adverse existing safety concerns²⁶. Other aspects of his evidence included the internal movement network and provision for active modes of walking and cycling.

90. Finally, and in response to submissions Mr Whitaker²⁷ considered parking. It is noted that there is no minimum carparking provision in the District Plan. The revised proposal includes a total of 166 on-site spaces to support the 135 dwelling units, with these designed to satisfy the parking bay dimension and manoeuvre aisle widths set out in the District Plan with further provision for 10 accessible car parks.
91. In relation to parking overspill into the adjacent streets he considered that this will not adversely impact on the current kerbside parking amenity, and that any potential impacts on the traffic sightlines are able to be adequately controlled through the implementation of kerbside parking restrictions.
92. Factors raised in submissions such as inadequate service vehicle and rubbish truck access were also addressed by Mr Whitaker.
93. Mr Shields supported Mr Whitaker's findings and made a number of recommendations as to conditions which have been accepted by the applicant.
94. The submitters all raised concerns about the local conditions based upon their own observations of living in the area. However, the traffic evidence from the applicant and supported by Councils own transport adviser lead me to the conclusion that traffic effects can be appropriately managed and any residual effects are less than minor on the safety and effectiveness of the transport network and internally within the site.

Natural Hazard Effects

95. There was little discussion about ongoing geotechnical and Natural Hazards effects from earthworks and site development other than in relation to potential construction nuisance effects. The evidence of Mr Charters for the applicant, included:
 - a. Commentary on geotechnical investigations and the ground conditions on site.
 - b. Geotechnical hazards affecting the site.
 - c. Mitigation measures for these hazards.
 - d. Construction sequence for retaining walls that will be required on site boundaries.
96. The s42A report considered natural hazard effects and it is noted that the site is subject to the ponding flood hazard overlay as per the ODP latest flood hazard maps and it is not within any of the fault avoidance areas. I also note that the applicant provided a report from Engeo²⁸ and this was reviewed by CGW²⁹.

²⁶ Evidence of James Whitaker paras 36 and 37

²⁷ Evidence of James Whitaker paras 42-44 and 59 to 64.

²⁸ Site Investigation and Geohazard Assessment Engeo 28 January 2022

²⁹ Geotechnical Peer Review CGW Consulting Engineers 13 September 2022

97. Ms Banks advised that CGW concluded that the Engeo Report is of a professional standard and has been undertaken with respect to current standards and guidelines. CGW consider the Engeo Recommendations are pragmatic and sensible.

98. In relation to Ponding Flood Hazards Ms Banks³⁰ states:

The conceptual stormwater disposal design prepared by Cuttriss states that the two ponding locations being filled in and raised to meet the required ground levels for construction will not increase the flood hazard beyond or within the site because all of the post-development runoff will be contained within the site boundaries and directed to the proposed soakage device (located in the communal open space area).

The applicant has also stated that "the Q100 flood level for the property is RL4.4 and 5.2. Effects that are considered to be associated with flood hazards include the risk to human life and the displacement of properties. Each of the proposed dwelling will have a finished floor level above R6.16 and therefore, will allow for all habitable rooms to be located above the 1% flood event. As such the risk to human life on the subject site considered to be less than minor."

99. Council sought comment from Jacobs who are Hydraulic Engineering specialists. They have made a number of recommendations which have been largely accepted by the applicant. Mr Johnstone³¹ provided evidence and advised that:

Cuttriss Consultants Ltd have completed a conceptual stormwater disposal design for the proposed development. The conceptual design is based on site investigations and climate affected (2090) Isohyet rainfall depths have been used. Consideration has been given to managing the 1% Annual Exceedance Probability (AEP) rainfall event which is the Kapiti Coast District Council standard benchmark for managing flooding effects on residential development.

Based on the conceptual stormwater disposal design prepared by Cuttriss Consultants and subsequent amendments, I consider that stormwater runoff from on site will be appropriately managed for events up to the 1% AEP rainfall event, and off-site properties will not be impacted by the proposed development.

100. Based on the advice received and the imposition of conditions of consent I am satisfied that natural hazards effects, geotechnical matters and retaining wall design can be appropriately managed through industry standard best practices and the conditions of consent. Therefore, such effects are considered to be less than minor.

Effects relating to the provision of services

101. Aside from the management of stormwater and the management of grey water which require particular attention, all other aspects of the proposal can be provided for including power supply, telecommunications, potable water and wastewater. I also note that the applicant has stated that the proposal will be undertaken in accordance with Council's Subdivision and Development Principles and Requirements 2012.

³⁰ S42A report paras 90-91

³¹ Evidence of Neil Johnstone paras 10 and 11

102. The applicant has provided additional detail, regarding the Reduction in Water Tanks/Water Demand. The applicant is not proposing any greywater re-use, all units will have a water meter and there will be a focus on water efficient plumbing. Additionally, there will be no rainwater storage of 10,000l per dwelling unit.
103. Ms Todd for the applicant prepared a water tank reduction report submitted as part of the section 92 further information request and provided evidence for me at the hearing. I was advised³² that the applicant proposes an alternative solution of communal tanks with a combined volume of 80,000 litres to provide irrigation to the central park and communal gardens and to supply water to outdoor taps at the refuse areas.
104. Ms Todd also advised that the applicant is not proposing to re-use any water on site for indoor toilet use in each dwelling, nor are they proposing to provide outdoor taps connected to the potable water supply on any dwellings.
105. Ms Todd recommended a condition that would comprise:
- a. Installation of a minimum of 80,000L tank(s) for water re-use on site to be utilised for communal garden irrigation and dwelling washing as required.
 - b. The proposed tank(s) shall collect all roof areas within the development.
 - c. Management of the communal water supply shall be the responsibility of the residents' society.
 - d. No outdoor taps are permitted to be connected to the potable water supply.
 - e. All dwellings will be fitted with water efficient plumbing fixtures which are marked as 3 stars or more under the Water Efficient Labelling Scheme.
 - f. Outdoor taps at refuse areas must have signage to state that tap water is not for human consumption.
106. In my view the condition, that has been accepted by Ms Banks, is efficient in that it is in accordance with the intent of Council's water policies but necessarily adapted to a more intensively used development site than those that exist in the vicinity currently. Therefore I do not accept the need for an additional condition that reticulation of stored rainwater is to form a non-potable supply to all (OR a majority of) dwellings across the entire site to provide a supply to water closets and outdoor taps at each dwelling. Ms Todd explained the reasons why in her evidence that the proposal will manage water re-use on site appropriately and that the use of potable water supply for indoor toilets will have a negligible effect on the capacity of the wider network.

Construction Effects

107. Construction effects such as noise, dust, construction traffic were a part of many submissions. Given the scale of the earthworks it is important that such effects are well managed to avoid nuisance effects to the greatest degree possible.
108. The applicant provided a preliminary environmental construction management plan which covers many typical matters relating to site development and these matters have been included in the

³² Evidence of Nicola Todd para 14

conditions of consent. I particularly note the requirement to certify a Final Construction Environmental Management Plan to the satisfaction of the Council and specific conditions relating to management of dust and construction traffic.

Conclusion as to Effects

109. Based on the application and the evidence I consider that effects have been appropriately addressed and if effects cannot be avoided they have been adequately mitigated.

Positive Effects of the Proposal

110. The definition of effect under the RMA includes positive effects. Mr Sutorius provided evidence at the hearing as to the reasons why the applicant wishes to carry out the subdivision. He considered³³ that:

We believe this is accurate in terms of our goal to achieve a development with a sense of community and belonging. We want our occupiers to engage with their neighbours and mingle with each other rather than being part of a large-scale spread-out house and land development where you only have limited interaction with your immediate neighbour.

111. Other positive effects were outlined by Ms McLean³⁴.
- a. 135 new dwellings in Paraparaumu during a time when housing supply and urban land is a scarce resource resulting in high levels of housing unaffordability;
 - b. Dwellings that are affordable by design;
 - c. a new housing choice in an existing neighbourhood; and
 - d. a residential development within proximity to the full range of retail, commercial, recreational and transport options within Paraparaumu.

112. Ms Banks concurred³⁵ and concluded:

The proposal will make a significant positive contribution of 135 additional dwellings to address the housing shortage across the region. It is considered that the proposal meets the intent of the National Policy Statement for Urban Development (NPS-UD) and the Resource Management Enabling Housing Supply and Other Matters Act.

113. I received no contrary evidence to the applicant's view that the proposal will have positive effects due to the provision of additional housing in Kāpiti and that it would provide for the social and economic wellbeing of the wider community as well as to the applicant.
114. Therefore, I consider that the positive effects of the proposal in general terms are clear. The key matter is one of whether any adverse effects of the subdivision and the built structures themselves and whether the proposal is consistent with the planning direction sought in the operative District Plan and the NPSUD.

³³ Evidence of Stephen Sutorius para

³⁴ Evidence of Emma McLean para 120

³⁵ S42A report para 113.

Statutory Instruments – s104(1)(b)

115. Ms Banks and Ms McLean both provided an analysis of the relevant statutory instruments, particularly the KCDC District Plan Objectives and Policies which the proposal is required to be assessed against. The Wellington Regional Policy Statement is also broadly applicable although not determinative in my view. The NPSUD is however very important.
116. Ms Banks³⁶ also outlined her position with regard to whether I can take into account Plan Change 2 that acts as the Intensification Planning Instrument that all Tier One Councils must follow under the National Policy Statement the Resource Management Enabling Housing Supply and Other Matters Act that gained royal ascent 20 December 2021.

The Council released a Plan Change in respect of the requirements of this Policy Statement, that was notified on 18 August 2022. This alters the District Plan in a way that it will create the ability to undertake development at a density not previously anticipated by the District Plan.

The application was lodged on 8 March 2022, this means that the new rules will not apply to this application and only the objective and policies can be taken into account in the substantive 104 assessment.

There is a recognised housing shortage across New Zealand, because of this shortage it is appropriate that we consider housing affordability by supporting competitive land and development markets.

Kapiti is a tier one Council, I consider that this site as an unanticipated or out of sequence site as discussed by the NPS-UD, continuing to achieve the same levels of density would be inefficient use of this land which is infrastructure-ready. Especially given its location in close proximity to bus routes and local amenities/facilities such as shops.

117. I agree with this position. As the application was lodged prior to the release of Plan Change 2 I can only consider the overarching objectives and policies which specifically promote residential intensification.

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

118. The relevance of the NPS -UD which came into force in August 2020 is applicable. Both Ms Banks and Ms McLean provided comment on the higher level direction given by this Policy Statement. It lists eight objectives, of which two are particularly relevant as well as two applicable policies. I comment on these as follows:

Objective 3: *Regional policy statements and district plans enable more people to live in, and more business and community services to be located in, areas of an urban environment in which one or more of the following apply:*

(a) the area is in or near a centre of other area with many employment opportunities;

119. The area is well located in relation to Kapiti Coast employment centres and relatively close to Paraparaumu Town Centre.

³⁶ S42A Report paras 130 to 133

(b) the area is well-serviced by existing or planned public transport;

120. I note that there are Bus Stops in close proximity to the site for the #260 bus between Raumati Beach, Paraparaumu Beach and Paraparaumu town centre/rail station³⁷.

(c) there is a high demand of housing or for business land in the area, relative to other areas within the urban environment.

121. It is well understood from the that there is a housing undersupply and that residential growth capacity needs to be provided for. Growth expectations including areas of high demand in Kāpiti are reflected in the *Growth Strategy, Te Tupu Pai – Growing Well*. The site is an undeveloped residentially zoned site and it can be expected that it will be utilised for housing at some density

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.*

122. This outlines that there is an expectation that urban environments including their existing amenity values will change over time to meet future needs. The proposal will change the existing environment but that can be anticipated and any adverse effects have been appropriately addressed.

Policy 1: *Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:*

(a) have or enable a variety of homes that:

— *(i) meet the needs, in terms of type, price, and location, of different households.*

— *(ii) enable Māori to express their cultural traditions and norms; and*

(b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and

(c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and

(d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and

(e) support reductions in greenhouse gas emissions; and

(f) are resilient to the likely current and future effects of climate change

123. While each of the house sites are relatively small, the proposal provides for a different typology from the existing lower density residential environment. There is also good accessibility between housing,

³⁷ Evidence of James Whitaker para 30

jobs, community services, natural spaces, and open spaces, including by way of public or active transport

Policy 6: *When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:*

- a. *the planned urban built form anticipated by those RMA planning documents that have given effect to this National Policy Statement*
- b. *that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:*
 - i. *may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and*
 - ii. *are not, of themselves, an adverse effect*
- c. *the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1)*
- d. *any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity*
- e. *the likely current and future effects of climate change.*

124. I agree with Ms McLean's view on Policy 6 particularly in relation clause b(i) where she states³⁸:

The NPS-UD guides, through objective 4 and policy 6 that there is not an expectation that the environment will remain the same; it is subject to change over time and those changes may reasonably include the establishment of the whole Project. It states that within urban environments, the planned urban built form may involve significant changes which "may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations...". While it has been acknowledged by Ms Banks and Council's consultant landscape architect and urban designer, that the Project will be a change to the existing character pattern, the NPS-UD directs that change is inevitable and cannot be considered an adverse effect.

125. From the submitters perspective I understand that they currently enjoy having an undeveloped block of land adjacent. However, there can be no expectation that the current environment will remain the same or that the form and layout of a residential use on the site will be at the same density as what exists currently.

126. I therefore consider that the proposal is consistent with and gives effect to the NPS-UD.

New Zealand Coastal Policy Statement 2010 (NZCPS)

127. The site is located within the Coastal Environment Overlay, so for the NZCPS is a relevant consideration. However, I consider that the site is well removed from the actual coast and as such the NZCPS is not overly determinative on the use of a residential site for residential purposes.

³⁸ Evidence of Emma McLean para 123

128. I also note Ms Banks³⁹ advice that there are no protected features/ecological sites as a result of the coastal overlay, including the dunes and sandy soil type. Ātiawa ki Whakarongotai have commented that they are accepting of the proposal following receiving clarification from the applicant on the matters detailed in the Mana Whenua Assessment.

The Wellington Regional Policy Statement (RPS)

129. Ms Banks identifies applicable objectives and policies in the RPS relating to:

- Natural hazards;
- Regional form, design, and function; and
- Resource management with Tāngata Whenua

130. I have also taken into account RPS change 1 particularly the changes sought to Objective 22 to give effect to the concept of a well-functioning urban environment as articulated by the National Policy Statement on Urban Development 2020.

131. I adopt Ms McLean's position on the Wellington Regional Policy Statement (RPS), that the Project accords 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 Plan⁴⁰.

District Plan Objectives and Policies

132. The objectives and policies of the District Plan require particular consideration as they express the intentions of the Council and community in relation to the General Residential Area and the outcomes that the community seeks to achieve through the District Plan.

133. There has however been a shift in alignment with the notification of Plan Change 2 Intensification. Ms McLean⁴¹ states:

This application was lodged prior to the notification date, and comprises a qualifying matter area, therefore the above does not apply. However, it is considered appropriate to consider the proposed provisions alongside the operative District Plan objectives and policies as per the usual process when a proposed plan is notified. In this case, we consider this particularly pertinent given the significant shift in Council policy (to align with national direction). For ease of reference, the objectives, and policies from Plan Change 2 are italicised.

134. Ms Banks carried out a comprehensive review of the District Plan objectives and policies being:

- District-Wide Matters relating to Strategic Direction;
- District-Wide Matters relating to Energy Infrastructure and Transport;
- District-Wide Matters relating to Hazards and Risks;

³⁹ S42A report para 137

⁴⁰ Evidence of Emma McLean para 136

⁴¹ Evidence of Emma McLean para 145

- District-Wide Matters relating to Subdivision;
- General District-Wide Matters; and
- Area Specific Matters relating to the General Residential Zone.

135. I generally adopt Ms Banks assessment in relation to these matters where I comment as necessary on whether the proposal meets the relevant objectives noting that the policies need to give effect to objectives.

Objective DO-03 Development Management - To maintain a consolidated urban form within existing urban areas and a limited number of identified growth areas which can be efficiently serviced and integrated with existing townships that provides a variety of areas for business/employment.

136. This is the pivotal objective where I agree with Ms Banks that the proposal meets this objective because it includes a compact urban form and within the cluster a significant number of homes will be created. This site is within an existing urban area and is infrastructure ready.

137. I also agree with her assessment of DO-01 Tāngata Whenua, DO-04 Coastal Environment, and DO-08 Strong Communities.

138. In respect of DO-05 Natural Hazards, the proposal increases the intensity of use on this site, which is subject to some Ponding Flood Hazard Areas. With the two ponding locations being filled in and raised to meet the required ground levels for construction I agree that the proposal will not increase the flood hazard beyond or within the site because all of the post development runoff will be contained within the site boundaries and directed to the proposed soakage device (located in the communal open space area⁴²).

Objective DO-011 Character and Amenity Values - To maintain and enhance the unique character and amenity values of the district's distinct communities.

139. This is a residentially zoned site and there will be a change from what exists and what is the general residential development typology that exists currently. As stated under the section of effects above I consider that visual amenity and character values have been considered and are acceptable.

140. In respect to Objective DO-012 Housing Choice and Affordability the proposal directly gives effect to this objective as it creates 135 houses with a range of dwelling types that may be well suited for some parts of the community looking for smaller plots of land and low maintenance new housing. The site is also well located for public transport and local facilities.

141. Objective DO-013 Infrastructure where the application provides for access to public utilities and provides for a bespoke engineering design relating to stormwater management and reasonable reuse of rainwater for irrigation of common areas.

142. Similarly based on the evidence of Mr Whitaker and Mr Shields Objective DO-014 relating to Access and Transport can be met as can Objective DO-018 Renewable Energy, Energy Efficiency and Conservation.

⁴² S42A report para 153

143. The proposal also gives effect to Objective DO-O19 Housing Bottom Lines - To achieve sufficient development capacity as required by the National Policy Statement on Urban Development 2020 by contributing to meeting housing bottom lines of in the 2021-2031 period.

Proposed Plan Change 2

144. Ms Banks also outlines two relevant objectives from Plan Change 2 being.

DO-Ox1 Well-functioning Urban Environment - A well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

190) DO-Ox2 Housing in Relevant Residential Zones - Relevant residential zones provide for a variety of housing types and sizes that respond to:

- *Housing needs and demand; and*
- *The neighbourhood's planned urban built character, including 3-storey buildings.*

145. I agree that these two objectives are met and I note that Ms Banks⁴³ support for the proposal meeting these objectives particularly a well-functioning urban environment is based on the following:

- Only 2 storeys are proposed;
- Each residential unit provides for outdoor living;
- Parking is available;
- There is a common area which also acts as a stormwater retention area that provides a communal open space area; and
- The site is in close proximity to a bus route and local facilities such as shops.

146. Ms McLean⁴⁴ also considers that the proposal is consistent with the outcomes in GRZ-P1 although it is outside of the areas for medium density housing in the operative plan However, she states:

It is also important to note that Plan Change 2 proposes to remove this policy and include five new policies in relation to medium density residential standards (GRZ-Px1 to GRZ-Px5). The proposal will be consistent with these policies in that it:

- a. Will provide for a variety of housing typology to the current surrounding residential area at a density not presently provided for;*
- b. Is on a site that will be capable of applying the MDRS;*
- c. Will achieve an attractive private streetscape, and enhance the values along Kāpiti Road;*
- d. Meets the day-to-day needs of residents, being close to public amenities, is low maintenance, designed to provide solar gain to outdoor living areas, and allow for private vehicle ownership; and*

⁴³ S42 A report para 191

⁴⁴ Evidence of Emma McLean para 153

- e. *Will be a development that won't meet the permitted activity standards but is design to be of high-quality, with appropriate materials and finishes to buildings and landscaped areas.*

Conclusion on Statutory Instruments

147. I agree with conclusions of both Ms Banks and Ms McLean that the proposal meets the intent of PC2 and can also meet the Objectives and Policies of the Operative District Plan. Importantly I also consider that the proposal gives effect to the NPS-UD.

Other Matters - s104(1)(c)

148. There is support in a number of national documents for the provision of additional housing, but these are not overly directive in respect of the site-specific development of 240 Kāpiti Road where the issues of contention are largely around submitter concerns with the scale proposed.
149. As stated, I have had regard to District Specific Growth Strategy, Te Tupu Pai – Growing Well. There are no other matters which I need to have particular regard to.

Conditions

150. As my decision is to grant resource consent subject to conditions, the conditions are a fundamental part of avoiding, remedying or mitigating adverse effects on the environment and as such have been given due consideration.
151. The planners, Ms Banks and Ms McLean, conferred on conditions after the hearing was adjourned and have provided a set of recommended conditions with one exception being the use of collected rainwater for toilets. I have stated my position on the necessity for this condition. In addition I have altered some wording and numbering to make conditions more clear but have not changed the substance of the recommended conditions.

S104 Assessment

152. Based on the above I consider that the actual and potential effects on the environment of allowing the proposed activity to be acceptable under s104(1)(a).
153. I also consider that the application is consistent with the relevant policy statements and plans as required under s104(1)(b).
154. I have had taken account of other matters as required under s104(1)(c), in particular the Councils growth strategy.
155. s104(D) states that I must only grant consent for a Non-Complying Activity if I am satisfied that either:
- a. *the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or*
 - b. *the application is for an activity that will not be contrary to the objectives and policies of the relevant plan, if there is a plan but no proposed plan in respect of the activity.*
156. For the reasons outlined previously I am satisfied that the adverse effects on the environment of allowing the subdivision and the construction of the development will be minor and that the proposal

is not contrary to the objectives and policies of the District Plan. Therefore, the proposal passes through both arms of the “gateway” test.

Part 2 Considerations

157. In terms of whether the proposal represents the sustainable management purpose of the Act I have outlined above the principal matters and constituent parts of s104.
158. In terms of Part 2, in accordance with caselaw⁴⁵, decision makers can no longer refer to matters under Part 2 of the RMA when considering resource consent applications, unless there is a ‘gap’ in the lower order planning document provisions. This includes section 5 purpose, section 6 matters of national importance, section 7 other matters and section 8 Treaty of Waitangi under the RMA. The reliance on specific sections under Part 2, for example section 7(c) the maintenance and enhancement of amenity values, is no longer be able to be considered unless the relevant district plan is invalid, has incomplete coverage or is uncertain.
159. I have not been provided any evidence which states that the District Plan or Plan Change 2 does not have complete coverage of the relevant Part 2 matters recognising the stage in the process that Plan Change 2 is at.
160. As such, I consider that the Kāpiti Coast District Plan is a valid planning document, has complete coverage over the proposed activities and anticipated effects, and is of sufficient certainty to not require an assessment of the activity against Part 2 matters. If I had to have assessed Part 2 matters, I would conclude that the proposal meets the sustainable management purpose of the Act.

Decision

161. In accordance with the authority delegated to me by the Kāpiti Coast District Council, and pursuant to sections 104 and 104D of the Resource Management Act 1991, I **grant** resource consent to the application made by the Gresham Trust subject to the conditions set out in Appendix A (Council reference RM No. 220070).



Lindsay Daysh

Independent Commissioner

Decision dated **9 December 2022**

For the Kapiti Coast District Council

⁴⁵ R J Davidson Family Trust v Marlborough District Council [2017] NZHC 5

Appendix A

Conditions

RM220070 - Approved Conditions

Decision One: Subdivision

General

1. The proposed activity shall be undertaken in general accordance with the plans, information and specifications lodged with the application and the information and further information supplied by the consent holder and held on the file RM220070 except where modified by conditions of consent with reference to the following plans stamped as “Final Approved Plans” on 9 December 2022;
 - Prepared by Cuttriss dated 10/2022;
 - Scheme Plan set 22930SCH1 sheet 1 Rev. B;
 - Scheme Plan Development Layout 22930SCH1 sheet 2 Rev. B;
 - Scheme Plan Legal Overall 22930SCH1 sheet 3 Rev. B;
 - Scheme Plan Proposed Development (Easements) 22930SCH1 sheet 4 Rev. B;
 - Scheme Plan Legal 22930SCH1 sheet 5 Rev. B;
 - Scheme Plan Legal 22930SCH1 sheet 6 Rev. B;
 - Scheme Plan Legal 22930SCH1 sheet 7 Rev. B;
 - Scheme Plan Legal 22930SCH1 sheet 8 Rev. B;
 - Scheme Plan Legal 22930SCH1 sheet 9 Rev. B;
 - Scheme Plan Legal 22930SCH1 sheet 10 Rev. B;
 - Scheme Plan Legal 22930SCH1 sheets 11 Rev. B;
 - Scheme Plan Legal 22930SCH1 sheets 12 Rev. B;
 - Scheme Plan Legal 22930SCH1 sheet 13 Rev. B;
 - Scheme Plan Legal 22930SCH1 sheets 14 Rev. B;
 - Scheme Plan Earthworks set 22930SCH1 sheet 16 Rev. B;
 - Scheme Plan Services Overall 22930SCH1 sheet 17 Rev. B;
 - Scheme Plan Services Water 22930SCH1 sheet 18 Rev. B;
 - Scheme Plan Services Sewer 22930SCH1 sheets 19 - 27 Rev. B;
 - Scheme Plan Services Stormwater 22930SCH1 sheet 20 - 27 Rev. B;
 - Scheme Plan Services Stormwater 22930SCH1 sheet 21 Rev. B;
 - Scheme Plan Services Water 22930SCH1 sheet 22 Rev. B;
 - Scheme Plan Services Water 22930SCH1 sheet 23 Rev. B;
 - Scheme Plan Roding 22930SCH1 sheet 24 Rev. B;

- Scheme Plan Rooding 22930SCH1 sheet 25 Rev. B;
 - Scheme Plan Long Section 22930SCH1 sheet 26 Rev. B;
 - Scheme Plan Rooding 22930SCH1 sheet 27 Rev. B;
2. The e-survey dataset shall be in general conformity with the Scheme Plan set 22930 SCH1 sheets 1-27 Rev. B prepared by prepared by Cuttriss Consultants and dated October 2022 with the application RM220070, except where modified by these conditions of consent.

Note: Individual certifications pursuant to sections 223 and 224(c) of the Resource Management Act 1991 will be issued for stages and sub-stages of the subdivision, provided that the following criteria are met:

- Each individual allotment must be consistent with the proposal as approved and must have frontage or legal access to legal road by way of the private way/road.
- Each allotment shown on any survey plan, including any balance allotment, must be adequately serviced as required by and in terms of the relevant conditions of this consent;
- All conditions pertaining to the allotments shown on the survey plan must be satisfied prior to the execution of a section 224(c) certificate.

Fees, Levies and Contributions

3. A Reserve Contribution for the 134 additional residential lots is payable and has been assessed at \$15,223.67 including GST per lot (total to pay \$2,039,971.78).
The contribution must be paid prior to the issue of any certificate pursuant to section 224(c) of the Resource Management Act 1991.
4. Prior to the issue of a Section 224(c) certificate under the Resource Management Act 1991, the consent holder shall pay Council Engineering Fees of \$628 plus \$314 per lot (totalling \$42,704.00) for work that may be required for plan approvals, site inspections and consent compliance monitoring, plus any further monitoring charge or charges to recover the actual and reasonable costs that have been incurred to ensure compliance with the conditions attached to this consent.

Transport

5. Prior to works commencing, the consent holder shall submit detailed design drawings of the site layout, in particular traffic and transport related details and landscape planting/maintenance for driveway access visibility for certification by the Kāpiti Coast District Council's Access and Transport Team. Detailed design shall include design of speed reduction measures and pedestrian crossing measures supported through a safe system assessment to establish and agree the format that these

should take and detailed design and post construction road safety audits (carried out in accordance with Waka Kotahi standards). These plans must include, at a minimum:

- a. car park designs in compliance with the District Plan standards, in particular the requirements of the AS/NZS2890.1 Parking Facilities standard, unless an alternative is agreed to by the consent authority.
 - b. links to external pedestrian/cycling routes and bus stops in accordance with Drawing numbers SK002-1 A, SK002-2 A and SK002-3 A.
6. The consent holder shall submit to Council's Development Engineer a road safety audit in accordance with the New Zealand Transport Agency's publication 'Road Safety Audit Procedures for Projects Guidelines' for the development during the following stages of construction:
- a. detailed design stage when engineering drawings are submitted for approval. The detailed design of the road and intersections shall take into account the findings of the road safety audit report.
 - b. Post construction stage. A post-construction road safety audit report shall be submitted for acceptance prior to the issue of the section 224(c) certificate.
- Both reports shall be undertaken by a suitably qualified person and audit recommendations incorporated into the works, unless otherwise accepted by the Council's Development Engineer.
7. The consent holder shall meet the costs of the creation of the road marking and signage, which includes:
- a. No Stopping At All Time (NSAAT) lines (broken yellow lines) proposed at the Regent Drive/Halsey Grove intersection to maintain safe sightlines for turning traffic and to prevent the risk of vehicles blocking residential driveways.
 - b. Converting the current uncontrolled Halsey Grove / Regent Drive tee-intersection to a give-way (with priority given to traffic on the latter) to formalise the traffic priorities at the intersection.
 - c. remark / extend the green coloured surfacing of the cycle lane at the tee-intersection of Kāpiti Road and Cedar Drive across the full intersection.
8. The consent holder shall provide for wayfinding signage in the development.
9. The consent holder shall provide a communal space for cycle parking that is secure/enclosed, with good passive surveillance, that is not obscured by vegetation and is well lit.

Prior to Works Commencing

10. The consent holder shall comply with the requirements of the Kapiti Coast District Council's (KCDC's) Subdivision and Development Principles and Requirements 2012 (SDPR: 2012) unless alternatives are proposed by the consent holder and accepted by the Council's Development Engineer.

11. Prior to works commencing, the consent holder shall submit copies of the plans and specifications for the engineering development for approval to the satisfaction of the Council's Development Engineer. The engineering development must be in accordance with Paragraphs 1 to 5 of Schedule 1 contained in Part 4 of the Kapiti Coast District Council's Subdivision and Development Principles and Requirements, 2012. No works shall commence until the plans are approved by KCDC's Development Engineer.

Note: Engineering drawings shall contain sufficient detail to clearly illustrate the proposal to enable assessment of compliance with the Kapiti Coast District Council's Subdivision and Development Principles and Requirements, 2012 and to enable accurate construction.

12. Prior to works commencing, the consent holder shall provide the Council's Development Engineer with the names of the Developer's or Owner's Representative(s) appointed in terms of Clause B(ii) of Part 3 of the Kapiti Coast District Council's Subdivision and Development Principles and Requirements, 2012.

13. The consent holder shall advise the names and professional qualifications of any Suitably Qualified Persons required in terms of Clause B(iii) of Part 3 of the Kapiti Coast District Council's Subdivision and Development Principles and Requirements 2012. Suitably Qualified Persons are required for, but not necessarily limited to, the following areas:

- Civil Engineering;
- Stormwater Design and construction;
- Street Lighting Design;
- Earthworks design & construction;
- Road design & construction;
- Geotechnical Engineering;
- Water and wastewater design & construction;
- Landscape design and construction; and
- Road Safety Audits.

Note: If the Council considers any of the nominated persons are not acceptable then the consent holder shall nominate alternative persons, or the Council may require the consent holder to employ a specified Suitably Qualified Person or Persons at the consent holder's cost.

14. Prior to works commencing, the consent holder or their authorised representative, shall submit a Quality Assurance Plan (QA plan) for certification to the satisfaction of the Council's Development Engineer.
15. The consent holder shall notify the consent authority prior to commencement of the following stages of work, so that the Council's Development Engineer, or their authorised representative, are present on site to inspect certain stages of the works. These stages are as follows:
 - Commencement of works or recommencement after a substantial lapse;
 - Water reticulation connections and services prior to back fill;
 - Wastewater services and construction of new manholes prior to back fill;
 - Completed earthworks and prepared subgrade (roading and footpaths);
 - Finished base course before the commencement of road sealing;
 - Roads during Benkelman Beam testing (and NDM if required);
 - Road sealing – waterproof and final seal coat;
 - Final inspection.
16. Prior to works commencing, the consent holder shall prepare and submit a final Construction Environmental Management Plan for certification to the satisfaction of the consent authority, which shall include how the construction effects will be managed throughout the construction period.
17. All earthworks and construction activities shall be undertaken in accordance with the construction environmental management plan (CEMP) under Condition 16 above. Any proposed amendments to the CEMP shall be submitted to the Council's Development Engineer for consideration and certification. No work shall commence until amendments to the CEMP has been certified by the Council's Development Engineer.
18. Prior to works commencing the consent holder shall ensure that a Construction Traffic Management Plan is certified by Kāpiti Coast District Council.
19. The consent holder shall arrange and conduct a pre-construction on site meeting prior to any work authorized by this consent commencing and must invite, with a minimum of 10 working days' notice, the Development Control Engineer (or its representative) and a representative from each key contractor undertaking the works.

Earthworks, Retaining structures & Foundation Design

20. The consent holder shall undertake earthworks in accordance with Part 3C & Part 4 Schedule 2 of the SDPR:2012 and the requirements & intents of report titled "Site investigation and Geohazard Assessment" by ENGEO dated 28/012022 Upon completion of the earthworks the consent holder shall provide geotechnical completion report and a certificate in the form of Schedule 2A of NZS4404:2010 by the geo-professional and a certificate in the form of Appendix A of NZS4431:2022 by the inspecting engineer to the Council's Development Engineer.

Note: If the report identifies development limitations that need to be raised with future property owners, the Manager Resource Consents may require a consent notice to be registered on the Computer Freehold Register of the lot giving notice of the limitations or specific development requirements relating thereto. The limitations and ability to identify the limitations on consent notices will be considered by Council prior to the of issuing of a Section 224(c) certificate under the Resource Management Act 1991 and the Manager Resource Consents shall retain discretion of whether consent notices are applicable in this regard.

21. Construction of retaining wall(s) and earthworks (cut/fill) along the boundary line shall be in general accordance with the Geotechnical response provided by ENGEO as part of Further information response dated 24 May 2022.

22. Foundation design and construction for any new building or additions and alterations to a building on each lot shall take into account the findings and recommendations within the Geo-Technical Engineering Report Re: ""Site investigation and Geohazard Assessment" by ENGEO dated 28/012022.

Note: A Consent Notice under Section 221 of the Resource Management Act will be issued to facilitate the recording of this condition which is to be complied with on an on-going basis.

Water Supply

23. The water mains shall have a meter and an RPZ at the boundary as shown on approved Scheme Plan set 22930SCH1 sheets 1-27 Rev. B and each lot shall have a metered water supply which complies with the requirements of OIML R49 (International Organization of Legal Metrology R49:2006 Water Meters Intended for the Metering of Cold Potable Water and Hot Water - Parts 1 to 3).

Note: The Consent Holder's attention is drawn to the 'Approved Water Supply Products & Materials List, WS-10: Water Meters (<http://www.kapiticoast.govt.nz/Planning/Resource-Consents/Standard-Drawing/Water-Standard-Drawings>). Installing an approved water meter is a means of compliance with this condition.

24. Firefighting requirements shall comply with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008.
25. The construction of water reticulation systems shall only be undertaken by an approved contractor as defined in Part 3, section F(ix) of the Subdivision and Development Principles and Requirements, 2012.
26. The consent holder shall ensure that existing water service connections to the lots that are being abandoned shall be capped on the main.

Wastewater

27. Prior to the issue of a Section 224(c) certificate under the Resource Management Act 1991, the consent holder shall provide each residential lot with a new wastewater lateral which complies with the Council wastewater standard drawings and Part 3, section F & Part 4 Schedule 5 of SDPR: 2012.
28. The construction of wastewater reticulation systems shall only be undertaken by an approved contractor as defined in Part 3, section F(ix) of the Subdivision and Development Principles and Requirements, 2012.

Stormwater

29. The stormwater from the communal bin storage area shall be treated and disposed separately and no discharge from the communal bin storage area shall enter the overall stormwater system.

Notes:

- Following cleaning of the bin area, the discharge shall be free of debris and rubbish prior to discharging into the wastewater system;
 - The wastewater design for the bin's washdown shall exclude stormwater from beyond the communal bin area entering the wastewater system.
30. On completion of earthworks and prior to commencing construction of the stormwater disposal system, further soakage testing should be carried out in the location of the stormwater disposal system for the purpose of confirming the soakage rate used to determine the size of the stormwater disposal system.
 31. Prior to works commencing the consent holder shall submit a detailed stormwater design for certification to the satisfaction of the Council's Development Engineer. The detailed stormwater design shall be in accordance with the principles contained in Part 3 Section E of the Council's Subdivision and Development Principles and Requirements 2012 and should align with the conceptual stormwater design lodged with the resource consent and updated as following:

- a. Updated calculations to confirm final roof and impervious areas;
- b. Updated calculations to confirm pipe capacities for a 10 minute duration rainfall event;
- c. Confirmation that the design solution accounts for water table fluctuations;
- d. Confirm the performance of the collection network (pipes and overland flow paths) for the 1% AEP event through hydraulic modelling;
- e. provision for effective operation and maintenance;
- f. protect and maintain existing and proposed flow paths, and natural drainage paths (including vehicular access for maintenance and operational activities), unless otherwise certified by Council's Development Engineer.
- g. Provision of details required by conditions (a-d) above will confirm the performance of the stormwater disposal system and if any further detailed design criteria provided impact the performance then an alternative solution which may include surface storage within the site will be provided;
- h. Confirm finished floor levels are at or above the 1% annual exceedance probability water levels along overland flow paths within the site (including climate change allowance) and confirm compliance with the Building Code Clause E1 Surface Water.

Note 1: Prior to the issue of the approval of engineering drawings, the finalised stormwater design and report shall be re-submitted that includes:

- The finalised stormwater design; and
- Hydraulic modelling of the pipe network and overland flow paths for the 1% AEP event.

Hydraulic modelling undertaken by persons other than a suitably qualified hydrologist or hydraulic modelling specialist will only be accepted if accompanied by a peer review from a suitably qualified hydrologist or hydraulic modelling specialist.

Note 2: In the event that the certified stormwater disposal design denoted in Note 1 above is not installed prior to the issue of the 224(c) certificate, a Consent Notice under Section 221 of the Resource Management Act will be issued to facilitate the recording of this condition, which is to be complied with on an on-going basis. The Consent Notice shall include reference to the following:

- the certified stormwater disposal design as an option for compliance;
- the owners' responsibility to construct a system to meet the above performance standard; and
- the owners' responsibility to maintain the system on an on-going basis to meet the above performance standard as it applied at the time of approval.

32. Detailed 'as-built' plans shall be provided of all earthworks and overflow paths on application for the 224(c) certificate to confirm they are constructed as designed.

Note: Fences crossing the overflow path shall be either farm type post and wire fences or pool type metal bar fences with a minimum gap of 100mm between the vertical bars.

33. Overflow paths identified under condition 32 shall be maintained free from obstructions or impediments that prevent the overland flow path from conveying water in the manner which is was designed.

Note: A Consent Notice under Section 221 of the Resource Management Act will be issued to facilitate the compliance with this condition.

Power and Telecommunications

34. Prior to the issue of a Section 224(c) certificate under the Resource Management Act 1991, the subdivision shall be serviced with electric power & telecommunication to the boundary of each individual allotment complying with the Part 3 Section I & Part 4 Schedule 8 of SDPR: 2012.

Note: For the avoidance of doubt, 'serviced to lot boundary' shall mean that the supply of electric power is available from an underground system, and for telecommunications, shall mean that the reticulation of telecommunications facilities is available, which can be satisfied by a direct installation, or a fibre ready network facility being available.

Easements

35. Easements are required over any rights of way and utility services serving an allotment within the subdivision, where contained within another allotment of this subdivision. The easements, as necessary and subject to other conditions of this consent, are to ensure that the lots can be serviced for water supply, drainage, domestic energy supply, and telecommunications (including broadband) and that access is provided to lots. Any easement must be subject to Section 243 of the Resource Management Act 1991.

Completion Requirements

36. Completion documentation, including operation and maintenance manuals, shall be submitted in support of an application for Section 224(c) certification in accordance with Part 1 of NZS 4404:2010 and Part 4, Schedule 1 of KCDC's SDPR: 2012. The consent holder shall provide Council with an itemised schedule of quantities and costs, and the CCTV inspection reports for the services.

Note: As-built of new road/ access way to vest in Kapiti Coast District Council to be included in RAMM as part of Roading as-built data transfer.

37. The consent holder shall supply a copy of the title sheets of the e-survey dataset and shall list and indicate how each condition has been met to the satisfaction of the Council.

38. The consent holder shall form a resident's society this will detail the ownership and use of communal facilities, carpark management and a ride share initiative, scheduled maintenance as detailed/submitted in the resource consent application.

Note: This condition shall be complied with on an ongoing basis and shall be included on a consent notice for all the proposed lots.

Decision 2 Land Use Consents

39. The proposed activity shall be undertaken in general accordance with the plans, information and specifications lodged with the application and the information and further information supplied by the consent holder and held on the file RM220070 except where modified by conditions of consent with reference to the following plans stamped as "Final Approved Plans" on 9 December 2022;

- Prepared by Design Group Stapleton Elliott dated 5/10/2022:
 - Reference Plan RC03 Rev.6;
 - Reference Plan -Ground Floor Design Changes RC04 Rev.6;
 - Reference Plan - First Floor Design Changes RC05 Rev.6;
 - Reference Plan – Block Plan Ground Floor RC06 Rev.6;
 - Block Plan First Floor RC07 Rev.6;
 - Type Plan Ground Floor RC08 Rev.6;
 - Type Plan First Floor RC09 Rev.6;
 - Unit Plan – Ground Floor RC10 Rev.6;
 - Unit Plan – First Floor RC11 Rev.6;
 - Context Plan Ground Floor RC12 Rev.6;
 - Context Plan – Level 1 RC13 Rev.6;
 - Site Plan – Ground Floor Rev.6;
 - Site Plan – First Floor RC15 Rev.6;
 - Elevations RC16 Rev.6;
 - Elevations RC17 Rev.6;
 - Elevations RC18 Rev.6;
 - Elevations RC19 Rev.6;
 - Elevations RC20 Rev.6;

- Elevations RC21 Rev.6;
- Elevations RC22 Rev.6;
- 2 Bedroom Unit – Type A RC23 Rev.6;
- 2 Bedroom Unit – Type B RC24 Rev.6;
- 2 Bedroom Unit – Type C RC25 Rev.6;
- 2 Bedroom Unit – Type D RC26 Rev.6;
- 3 Bedroom Unit – Type E RC27 Rev.6;
- 3 Bedroom Unit – Type E Bath Option RC28 Rev.6;
- 3 Bedroom Unit – Type F RC29 Rev.6;
- 3 Bedroom Unit – Type G RC30 Rev.6;
- 2 Bedroom Unit – Type A RC31 Rev.6;
- 2 Bedroom Unit – Type A RC32 Rev.6;
- 2 Bedroom Unit – Type A RC33 Rev.6;
- 2 Bedroom Unit – Type A RC34 Rev.6;
- 2 Bedroom Unit – Type B RC35 Rev.6;
- 2 Bedroom Unit – Type B RC36 Rev.6;
- 2 Bedroom Unit – Type B R37 Rev.6;
- 2 Bedroom Unit – Type B RC38 Rev.6;
- 2 Bedroom Unit – Type C RC39 Rev.6;
- 2 Bedroom Unit – Type C RC40 Rev.6;
- 2 Bedroom Unit – Type C RC41 Rev.6;
- 2 Bedroom Unit – Type C RC42 Rev.6;
- 2 Bedroom Unit – Type D RC43 Rev.6;
- 2 Bedroom Unit – Type D RC44 Rev.6;
- 2 Bedroom Unit – Type D RC45 Rev.6;
- 2 Bedroom Unit – Type D RC46 Rev.6;
- 3 Bedroom Unit – Type E RC47 Rev.6;
- 3 Bedroom Unit – Type E RC48 Rev.6;
- 3 Bedroom Unit – Type E RC49 Rev.6;
- 3 Bedroom Unit – Type F RC50 Rev.6;
- 3 Bedroom Unit – Type F RC51 Rev.6;
- 3 Bedroom Unit – Type F RC52 Rev.6;

- 3 Bedroom Unit – Type G RC53 Rev.6;
- Landscape Masterplan RC54 Rev.6;
- Landscape Plans Units 1-17 RC55 Rev.6;
- Landscape Plans Units 18-29 RC56 Rev.6;
- Landscape Plans Units 30-39 RC57 Rev.6;
- Landscape Plans Units 40-49 RC58 Rev.6;
- Landscape Plans Units 50-61 RC59 Rev.6;
- Landscape Plans Units 62-73 RC60 Rev.6;
- Landscape Plans Units 74-82 RC61 Rev.6;
- Landscape Plans Units 83-92 RC62 Rev.6;
- Landscape Plans Units 93-98 RC63 Rev.6;
- Landscape Plans Units 99-105 RC64 Rev.6;
- Landscape Plans Units 106-112 RC65 Rev.6;
- Landscape Plans Units 113-118 RC66 Rev.6;
- Landscape Plans Units 119-127 RC67 Rev.6;
- Landscape Plans Units 128-135 RC68 Rev.6;
- Landscape Plans Central Park RC69 Rev.6;
- Planting Palette RC70 Rev.6;
- Material Palette RC71 Rev.6;
- Typical Planting Details RC72 Rev.6;
- Typical Refuse Plan RC73 Rev.6;
- Transformer RC74 Rev.6;
- Aerial Overview RC89 Rev.6;
- Aerial Overview RC90 Rev.6;
- Street View Halsey Grove RC91 Rev.6;
- Street View Kapiti Road RC92 Rev.6;
- Street View Kapiti Road RC93 Rev.6;
- Street View Kapiti Road RC94 Rev.6;
- Exterior View Kapiti Road – Entrance RC95 Rev.6;
- Exterior View Kapiti Road – Entrance RC96 Rev.6;
- Exterior View Kapiti Road – Entrance RC97 Rev.6;
- Exterior View Halsey Grove – Entrance RC98 Rev.6;

- Exterior View Central Spine South RC99 Rev.6;
- Exterior View Central Spine South RC100 Rev.6;
- Exterior View Central Spine North RC101 Rev.6;
- Exterior View Central Spine North RC102 Rev.6;
- Exterior View Blocks G2 and H1 RC103 Rev.6;
- Exterior View– Blocks F1 and F2 RC104 Rev.6;
- Exterior View– Loop Road RC105 Rev.6;
- Exterior View – Block F2 and Central RC106 Rev.6;
- Exterior View – Central RC107 Rev.6;
- Exterior View – Central RC108 Rev.6;
- Exterior View – Central RC109 Rev.6;
- Exterior View – Central RC110 Rev.6;
- Exterior View – Central RC111 Rev.6;
- Exterior View – Central RC112 Rev.6;
- Exterior View – Blocks A1 & A2 RC113 Rev.6;
- Exterior View – Blocks A1 & A2 RC114 Rev.6;
- Exterior View - Blocks C2, C3 and D1 RC115 Rev.6;

40. An opaque treatment must be applied to the first-floor windows on the rear facade on dwellings 23, 25, 26, 28, 30, 32, 34, 35, 37 and 39 up to a height of 900mm from the finished first-floor level.
41. Prior to works commencing, the consent holder shall prepare and submit a final Construction Environmental Management Plan for certification to the satisfaction of the Council's Development Engineer, which shall include how the construction effects will be managed throughout the construction period.
42. All earthworks and construction activities shall be undertaken in accordance with the approved construction environmental management plan (CEMP) under Condition 49 above. Any proposed amendments to the CEMP shall be submitted to the Council's Development Engineer for consideration and certification. No work shall commence until amendments to the CEMP has been approved by the Council's Development Engineer.

Nuisance Effects

43. The consent holder must ensure that no nuisance effect, including dust, may be caused by discharge of material beyond the boundary of the subject site. For the avoidance of doubt material includes but is not limited to silt, sediment, vegetation, and aggregate.
44. Construction of retaining wall(s) and earthworks (cut/fill) along the boundary line shall be in general accordance with the Geotechnical response provided by ENGEO as part of Further information response dated 24 May 2022.

Water Demand Management

45. Water re-use for the development shall take the form of the following:
 - a. Installation of a minimum of 80,000L tank(s) for water re-use on site to be utilised for communal garden irrigation and dwelling washing as required.
 - b. The proposed tank(s) shall collect all roof areas within the development.
 - c. Management of the communal water and lifetime water use as a responsible outcome, supply shall be the responsibility of the resident's society.
 - d. No outdoor taps are permitted to be connected to the potable water supply.
 - e. All dwellings will be fitted with water efficient plumbing fixtures which are marked as 4 3 stars or more under the Water Efficient Labelling Scheme.
 - f. Outdoor taps at refuse areas must have signage to state that tap water is not for human consumption

Landscaping

46. All landscaping provided shall be native vegetation.
47. Root barriers shall be installed around specimen trees to protect services and carriageways from potential root spreading.