

# ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

## PROPOSED CENTRAL AREA BUILDING

### MICHAEL FOWLER CENTRE CARPARK

### 110 JERVOIS QUAY

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In March 2022 a resource consent application was lodged with the Wellington City Council for a proposed new building on the Michael Fowler Centre Carpark (MFC Carpark). The assessment of environmental effects (AEE) report submitted with the application was dated 3 March 2022.

Since lodging the application, the Applicant, MFC Development Limited Partnership, advanced some amendments to the proposal. The March 2022 AEE has been revised to address the amended proposal.

Also, on 18 July 2022 the Council publicly notified the Proposed District Plan (PDP). Consequently, the AEE has been revised to address the PDP provisions applicable to the MFC Carpark site, which is located within the proposed Te Ngākau Civic Square Precinct.

The revised AEE is dated 14 September 2022

## 1 INTRODUCTION

### 1.1 PREAMBLE

**MFC Development Limited Partnership** (the Applicant) proposes to construct a new Central Area building on the former Michael Fowler Centre carpark, currently the site of a temporary building occupied by the Royal New Zealand Ballet.

The purpose of this report is to describe the proposal and provide an assessment of environmental effects (AEE) report to support the resource consent application.

### 1.2 REPORT STRUCTURE

After this introduction, the report provides the following:

- Section 2 provides a description of the site and the proposal.
- Section 3 outlines the District Plan objectives, policies and rules applicable to the proposal, identifies the resource consents required, and confirms the matters for assessment.
- Section 4 summarises the consultation undertaken.
- Section 5 provides a resource management assessment of the proposal.
- Section 6 provides a notification assessment.
- Section 7 provides a conclusion.

### 1.3 ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

Section 88(2)(b) of the Resource Management Act 1991 (the “Act”) requires that the assessment of environmental effects (“AEE”) should be in such detail as corresponds to the scale and significance of the actual and potential effects that the activity may have on the environment and shall be in general accordance with the Fourth Schedule of the Act.

This AEE has been undertaken with these obligations in mind.

### 1.4 SCOPE OF ASSESSMENT OF ENVIRONMENTAL EFFECTS

Schedule 4 of the Act lists at Clause 6 the information required in an assessment of environmental effects, as follows:

#### 1.4.1 Clause 6 - Information Required

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

The proposed activity - i.e. a new Central Area building in a listed heritage area - activity will not result in significant adverse effects. Accordingly, it is not necessary to consider possible alternative locations or methods.

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

The AEE at Section 5.2 provides an assessment of the actual and potential effects on the environment in relation to:

- heritage;
- archaeology;
- landscape;
- urban design;
- CPTED;
- noise;
- transportation;
- wind;
- earthworks;
- civil works / infrastructure;
- contaminated land;
- construction-related effects; and
- positive effects.

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

Not applicable. The activities proposed to occupy the new building will not involve the storage and use of hazardous substances.

**1(d) if the activity includes the discharge of any contaminant. A description of -**

- (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
- (ii) any possible alternative methods of discharge, including discharge into any other receiving environment

Measures will be put in place to manage the potential for adverse effects - discharges of dust and/or sediment during the necessary but limited earthworks.

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

No on-going mitigation measures will be necessary.

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

This matter is addressed in Section 4 of the AEE.

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

During the construction phase monitoring will be undertaken in relation to construction-related effects, including noise and traffic effects, through the implementation of Council-approved management plans. Following completion of the construction phase, and the occupation of the building, no on-going monitoring will be necessary.

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

Not applicable. No protected customary rights will be affected.

#### **1.4.2 Clause 7 - Matters to be Addressed**

Schedule 4 of the Act lists at Clause 7 the matters that must be addressed by the assessment of environmental effects. They are:

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

This matter is addressed in Section 5.2 of the AEE.

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

This matter is addressed in Section 5.2 of the AEE.

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

A notable feature of the site is the mature Pohutukawa on both street frontages, particularly on the Jervois Quay frontage. A tree protection management plan is proposed to be implemented to avoid, where possible, any adverse effects on the health of the Pohutukawa during the construction phase.

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

The site is within the Civic Centre Heritage Area. A heritage assessment of the proposal has been undertaken.

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

Not applicable. There will be no discharge of contaminants associated with the proposed activities.

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

The proposed new building incorporates high resilience technologies (including a base-isolated diagrid structure) designed to respond safely to a 1-1000 year event; and raised floor levels to mitigate flooding associated with sea level rises and climate change.

## 2 SITE AND PROPOSAL

### 2.1 THE SITE

The site, with a future nominated street address of 110 Jervois Quay <sup>1</sup> is located within the former Michael Fowler Centre (MFC) carpark and is currently the site of a temporary building occupied by the Royal New Zealand Ballet.

The site is part of a wider lot, Lot 1 DP 4944594, which covers the whole of the Civic Centre Heritage Area/Te Ngākau Civic Precinct.



Figure 1: Te Ngākau Civic Precinct

#### 2.1.1 Te Ngākau Civic Precinct

In October 2021 the Council adopted the Te Ngākau Civic Precinct Framework, which is intended to:

*... provide an integrated and strategic guide for the future of the Te Ngākau Civic Precinct.*

Noting that the Precinct is “*entering a phase of transition*”, the Framework identifies spatially where change and transformation is required to deliver the Precinct’s vision, which is recorded as:

*Te Ngākau is the beating heart of our capital city: A thriving neighbourhood where creativity, culture, democracy, discovery and arts experiences collide on the edge of Te Whānganui-a-Tara.*

<sup>1</sup> Currently known as 115 Wakefield Street, the nominated street address of 110 Jervois Quay has been allocated pending a future subdivision of the site from the ‘parent title’.





Figure 2: Te Ngākau Civic Precinct - Key Spatial Elements <sup>2</sup>

Under the heading “Areas of Change and Development”, it is noted that:

*Three areas of change and development have been defined that represent significant opportunities for transformation in the precinct. These have been identified because they contain buildings or structures with poor seismic performance that require repair or have existing earthquake damage, poor design and/or they are underutilised parts of the precinct.*

[emphasis added]

As confirmed in Figure 2 above, the MFC Carpark area is confirmed as a “*development area*”.

<sup>2</sup> Te Ngākau Civic Precinct Framework, page 24, Wellington City Council, October 2021.



**Photo 1:** the site viewed from the city-to-sea bridge - 'marked' by the Pohutukawa in the middle of the photo



**Photo 2:** the site viewed from the MFC external staircase

## 2.2 THE PROPOSAL

The proposal involves the construction of a new eight-level Central Area building comprising three principal building components referred to as:

- The Lantern;
- The East Wedge; and
- The West Wedge.

The Lantern: is a ground + 8 levels component and is the highest and most prominent part of the building.

The East Wedge: is a ground + 5 levels component located within the 'sharper' eastern portion of the site.

The West Wedge: is a ground + 2 levels component with a roof terrace.

Full descriptions of the three components are provided in the Architectural Design Statement (**Appendix 1**) at pages 16-18.

The ground floor, which will incorporate an internal pedestrian link, will be occupied by entrance lobbies, retail/hospitality spaces, and some VUW School of Music teaching spaces. End-of-trip and building services areas are also located on the ground floor - refer Drawing RC\_1.01.

Levels 1, 2 and 3 will be occupied by the School of Music (with some sub-leased space to the NZSO).

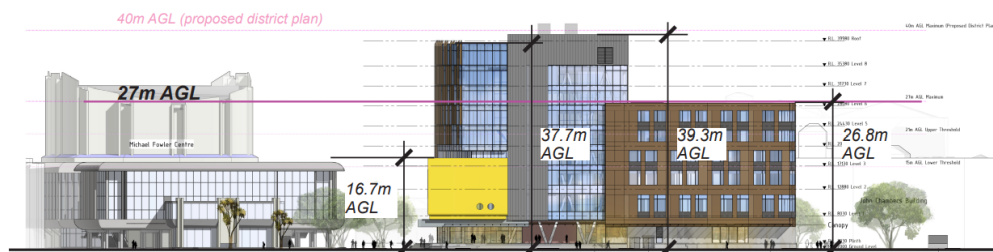
The upper levels will be commercial office space.

Extensive site landscaping is proposed as described in the Landscape Statement (refer **Appendix 2**).

As confirmed in Figure 3, for each of the three main components the building heights (measured above ground level) are:

- The West Wedge 16.7m
- The East Wedge 26.8m
- The Lantern 37.7m

with the plant room having a maximum height of 39.3m.

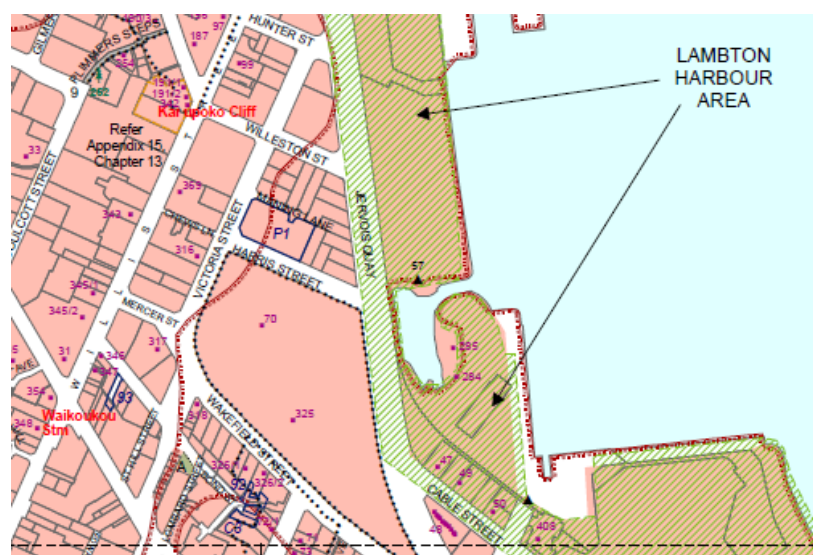


**Figure 3:** proposed building heights (refer Figure 57 page 23 of the Architectural Design Statement)

## 2.3 DISTRICT PLAN CONTEXT

### 2.3.1 Operative District Plan

Under the Operative District Plan (ODP) The site is within the Central Area (refer Planning Map 16) and within the Civic Centre Heritage Area (CCHA).



**Figure 4:** extract from Planning Map 15

There are two listed heritage buildings within the CCHA, the Wellington Town Hall and the former Wellington City Library. Two other buildings are 'contributory buildings', the Municipal Office Building (MOB) and the Michael Fowler Centre (MFC).<sup>3</sup>

The building height regime applying to the CCHA is:

|                         |     |
|-------------------------|-----|
| Lower Threshold         | 15m |
| Upper Threshold         | 21m |
| Absolute Maximum Height | 27m |

In relation to the Absolute Maximum Height, the District Plan notes that:

*... the absolute maximum height represents the maximum scale of buildings that could potentially be developed within each heritage area without significant impact on the heritage value and character of the area. Any building proposal that seeks to utilise the building height between the 'upper threshold' and the 'absolute maximum height' must be able to demonstrate that the additional building height can be appropriately treated so that it will not detract from the historic values of the site or the heritage area as a whole. Applications for resource consent for buildings and structures that exceed the upper threshold, but which comply with the absolute maximum height, will be assessed under Rules 13.3.4 and 13.3.8.*<sup>4</sup>

Note: developments that exceed the 'absolute maximum height' are a Discretionary Activity (Unrestricted) under Rule 13.4.9.

#### Other ODP Planning Map Notations

Both road frontages (Jervois Quay and Wakefield Street) are frontages where vehicle access is restricted (Planning Map 34) and frontages where verandahs and display windows are required (Planning Map 49E).

### **2.3.2 Proposed District Plan**

On 18 July 2022, the Proposed District Plan (PDP) was publicly notified, with a closing date for submissions of 12 September 2022.

In the Introduction to the City Centre Zone (CCZ) it is noted that:

*Also centrally located within the City Centre Zone is Te Ngākau Civic Square – a distinct civic precinct that abuts Victoria Street, Wakefield Street, Harris Street and Jervois Quay and acts as a key connector to the city's waterfront. The precinct is entering a phase of transition, with some of its associated civic buildings and assets requiring either earthquake strengthening or redevelopment. In addition to seismic resilience challenges, it also faces significant climate and water management related issues including flooding and inundation.*

*A long-term vision for the Te Ngākau Civic Square Precinct has been developed and approved by the Council, the focus of which is ensuring the precinct becomes a vibrant, safe and inclusive area that enables creative, cultural, civic and arts activities to flourish. The City Centre Zone aligns with this vision by enabling a level of redevelopment to occur that accommodates the range of activities anticipated.*

If the proposed Te Ngākau Civic Square Precinct is confirmed through the PDP submission, hearing and decision-making process it will replace the operative Civic Centre Heritage Area.

<sup>3</sup> In the explanation to Policies 20.2.1.5 to 20.2.1.8 (District Plan Chapter 20 "Heritage"), it is stated that:

*While heritage areas often contain a concentration of listed heritage items, they also contain other 'contributing buildings' that contribute to the character and coherence of the heritage area.*

<sup>4</sup> District Plan, Chpt 13, Central Area Rules, page 22.





**Figure 5:** proposed Te Ngakau Civic Square Precinct (Proposed District Plan)

## 3 DISTRICT PLAN PROVISIONS

### 3.1 OPERATIVE DISTRICT PLAN - STATUTORY CONTEXT

The principal operative District Plan (ODP) provisions that apply to the proposed development are:

1. Central Area - Chpts 12 and 13;
2. Heritage - Chpts 20 and 21;
3. Earthworks - Chpts 29 and 30; and
4. Contaminated Land - Chpts 31 and 32.

### 3.2 CENTRAL AREA

The Central Area provisions are contained in District Plan Chapters 12 and 13.

For the construction of new Central Area buildings, the principal rule is Rule 13.3.4. This rule provides for the construction of buildings and structures as a Discretionary Activity (Restricted) in relation to:

- design, external appearance and siting; and
- the placement of building mass.

Under Rule 13.3.4 a large number of objectives and policies that may be relevant to an assessment are listed. Those that are considered to have some relevance to the proposed development are:

#### ***Containment and Accessibility***

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

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

#### ***Activities***

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

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

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

*12.2.2.4 Control the adverse effects of noise in the Central Area.*

#### ***Urban Form and Sense of Place***

*12.2.3 To recognise and enhance those characteristics, features and areas of the Central Area that contribute positively to the City's distinctive physical character and sense of place.*

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

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

#### ***Effects of New Building Works***

*12.2.5 Encourage the development of new buildings within the Central Area provided that any potential adverse effects can be avoided, remedied or mitigated.*

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



- reinforce the high city/low city urban form; and
- ensure that new buildings acknowledge and respect the form and scale of the neighbourhood in which they are located; and
- achieve appropriate building height and mass within identified heritage and character areas.

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

~~12.2.5.3 Manage building mass in conjunction with building height to ensure quality design outcomes.<sup>5</sup>~~

12.2.5.4 To allow building height above the specified standards in situations where building height and bulk have been reduced elsewhere on the site to:

- provide an urban design outcome that is beneficial to the public environment; or
- reduce the impact of the proposed building on a listed heritage item.

*Any such additional height must be able to be treated in such a way that it represents an appropriate response to the characteristics of the site and the surrounding area.*

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

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

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

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

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

### **Buildings and Public Amenity**

12.2.6 To ensure that new building works maintain and enhance the amenity and safety of the public environment in the Central Area, and the general amenity of any nearby Residential Areas.

12.2.6.1 Enhance the public environment of the Central Area by guiding the design of new building development and enhancing the accessibility and usability of buildings.

12.2.6.2 Require high quality building design that acknowledges, and responds to, the context of the site and the surrounding environment.

12.2.6.3 Ensure that new buildings and structures do not compromise the context, setting and streetscape value of adjacent listed heritage items, through the management of building bulk and building height.

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<sup>5</sup> Note: these two policies, which are generally applicable to Central Area developments, have been 'deleted' (i.e. shown as ~~strikethrough~~) given the following statement:

#### *Building Mass (volume) in Heritage Areas*

13.6.3.2.2 *No building mass standards are used for identified heritage areas as building heights have been set to reflect the scale and character of the existing built form, and any new development will be expected to be designed and massed in a manner that protects the heritage values of the area.*

12.2.6.4 *Protect sunlight access to identified public spaces within the Central Area and ensure new building developments minimise overshadowing of identified public spaces during periods of high use.*

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

12.2.6.6 *Protect the panoramic view from the public viewing point at the top of the Cable Car.*

12.2.6.7 *Protect, and where possible enhance, identified public views of the harbour, hills and townscape features from within and around the Central Area.*

12.2.6.12 *Maintain and enhance the visual quality and design of ground floor level developments fronting onto streets, parks and pedestrian thoroughfares throughout the Central Area.*

12.2.6.13 *Maintain and enhance the commercial character and visual interface of ground floor developments facing the public space along identified frontages within the Central Area.*

12.2.5.15 *Improve the design of developments to reduce the actual and potential threats to personal safety and security.*

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

### ***Building Amenity***

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

12.2.7.1 *To promote a sustainable built environment in the Central Area involving the efficient end use of energy and the use of renewable energy, especially in the design and use of new buildings and structures.*

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

### ***Access***

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

12.2.15.6 *Manage the supply of commuter car parking.*

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

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

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

12.2.15.11 *Consider waivers from the servicing or loading requirements:*

- *where suitable alternative off-street provision can be made; or*
- *where site access restrictions apply and there is no suitable alternative means of access; or*
- *where it is necessary to protect any listed heritage item; or*
- *where the topography, size or shape of the site, the location of any natural or built features on the site, or other requirements such as easements, rights of way, or restrictive covenants impose constraints which make compliance impractical.*

12.2.15.13 *Require all vehicle access to sites to be safe.*

### ***Tangata Whenua***

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

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

*12.2.6.2 Enable a wide range of activities that relate to the needs and wishes of tangata whenua and other Maori, provided that physical and environmental standards in the Plan are met.*

### **3.2.1 Central Area Rules**

All new Central Area buildings require consent under Rule 13.3.4 for a Discretionary Activity (Restricted) in relation to 'design external appearance and siting'.

For any non-compliance with the standards applying the Central Area activities and buildings, consent is (additionally) required under Rule 13.3.8 for a Discretionary Activity (Restricted) in relation to any effects associated with the standard not met.

For buildings in a heritage area that exceed the specified 'absolute maximum height', consent is required under Rule 13.4.9 for a Discretionary Activity (Unrestricted).

## **3.3 HERITAGE**

As the MFC carpark (the site) is within the Civic Centre Heritage Area (CCHA), the proposed new building requires consent under the District Plan's heritage provisions.

### **3.3.1 Heritage Objectives and Policies**

For identified Heritage Areas the principal objective (and related policies) are:

*Objective 20.2.1 To recognise and protect the City's historic heritage and protect it from inappropriate subdivision, use and development.*

*Policy 20.2.1.5 Identify heritage areas to cover groups of buildings, structures, spaces and other features, which collectively have significant historic heritage value.*

*Policy 20.2.1.6 Protect buildings, structures, spaces and other features integral to the significance of a heritage area and allow demolition, destruction or relocation, where there are no significant effects on heritage values.*

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

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

In explanation of Policies 20.2.1.5 to 20.2.1.8, it is stated that:

*The construction of any new buildings and changes to existing buildings (other than repair and maintenance, internal additions and alterations, and some small-scale accessory buildings) has been made a Discretionary (Restricted) Activity to ensure that the proposed work can be fully assessed to maintain the character and qualities of the heritage area.*

*As the purpose of the rules giving effect to Policies 20.2.1.6-8 is to assess the effects of historic heritage, the Discretionary (Restricted) Activity classification has been used. This is consistent with the structure of the District Plan in that the Heritage Chapter is focused on the assessment of effects on historic heritage and the other Area-based chapters of the Plan still apply to all other elements of land use.*

### 3.3.2 Heritage Rules

#### 3.3.2.1 Heritage Areas

Rule 21B.2.1 states:

*21B.2.1 The construction of any new building or any modification to any existing building on a site within a heritage area that is not provided for as a permitted activity ... is a Discretionary Activity (Restricted) in respect of:*

*21B.2.1.1 Effects on historic heritage*

*21B.2.1.2 Design, height, siting and coverage and the bulk and massing of buildings (to the extent that these affect historic heritage).*

Rule 21B.2.1 is subject to the following statement:

*The written approval of affected persons will not be necessary in respect of items 21B.2.1.1 and 21B.2.1.2.*

Resource consent must also be sought and concurrently granted under the relevant Area-based rules (refer Section 3.2 above).

#### 3.3.2.2 Earthworks in Heritage Areas

Minor earthworks not exceeding 10m<sup>3</sup> or a surface area of 10m<sup>2</sup> are a permitted activity within a heritage area. Earthworks exceeding these standards require consent for a Discretionary Activity (Restricted) under Rule 21B.2.3 in relation to:

- *effects on historic heritage.*

The assessment criteria under Rule 21B.2.3 are:

*21B.2.3.2 Whether the earthworks will result in a loss of heritage values for which the area was listed.*

*21B.2.3.3 The extent to which earthworks will enhance the use or appreciation of a listed heritage area.*

*21B.2.3.4 The extent to which earthworks are necessary to provide for the protection or conservation of buildings, structures or features constituting a heritage area.*

*21B.2.3.5 Whether the site has or is likely to have significant archaeological values, and whether the effects on those values by the proposal can be adequately avoided, remedied or mitigated.*

## 3.4 EARTHWORKS

The District Plan's earthworks provisions address the following issues:

- stability
- erosion, dust and sediment control
- flood hazard areas
- character and amenity of streams and wetlands
- visually sensitive areas
- transport of material
- cultural and archaeological sites.

The objective and policies relevant to earthworks in the Central Area are:

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

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

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

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

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

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

Earthworks in the Central Area are a Permitted Activity under Rule 30.1.3, provided that they comply with the following conditions:

- the cut height or fill depth does not exceed 1.5m measured vertically; and
- the cut or fill is not on an existing slope angle exceeding 34 degrees; or
- the cut or fill is to be retained by a structure or building authorised by a building consent (which is obtained prior to any earthworks commencing);
- the area to be cut or filled does not exceed 250m<sup>2</sup>; and
- there is no visible evidence of settled dust beyond the boundaries of the site.

The necessary site development earthworks<sup>6</sup> will involve cuts exceeding 1.5m and be across an area greater than 250m<sup>2</sup> - accordingly, consent under Rule 30.2.2 for a Discretionary Activity (Restricted) will be required. The matters relevant to this application over which discretion is restricted are:

- earthworks stability;
- erosion, dust and sediment control; and
- the transport of material exceeding a 200m<sup>3</sup> limit.

### 3.5 CONTAMINATED LAND

As the MFC carpark is within the Civic Centre Heritage Area, which appears on the GWRC HAIL register, the earthworks require consent under the District Plan's contaminated land provisions.

#### 3.5.1 Contaminated Land Objective and Policies

For works involving potentially contaminated land the relevant objective and associated policies are:

*Objective 31.2.1 To manage the remediation, use, development and subdivision of contaminated and potentially contaminated land so as to avoid or mitigate the risk of adverse effects on ~~human health and~~ the environment.<sup>7</sup>*

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

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

#### 3.5.2 Contaminated Land Rules

Rule 32.2.1 states:

*32.1.1 Except as provided for in the Airport Precinct Rules, the remediation, use, development and subdivision of any contaminated land, or potentially contaminated land (unless it has been confirmed as not being*

<sup>6</sup> The site earthworks will consist of site levelling and scraping following removal of hard landscaping, building foundation works, placement of floor slabs and ground beams and excavation of lift pits. Although some piles are proposed, the definition of earthworks excludes "piling and trenching".

<sup>7</sup> Effects on human health are now subject to the [National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health \(NES\) 2011](#).

contaminated through investigations in a report forwarded in accordance with Rule 32.1.3.1), is a discretionary activity (restricted) in respect of:

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

### 3.6 CONSENTS REQUIRED

In summary, under the Operative District Plan (the 'primary' statutory document) consent is required in relation to:

1. Central Area Activity: consent for under Rule 13.3.3 for a Discretionary Activity (Restricted) for non-compliance with standard 13.6.1.3 in relation to on-site servicing.
2. Central Area Building: consent under Rule 13.3.4 for a Discretionary Activity (Restricted) in relation to:
  - design, external appearance and siting.

Regard should be had to the Central Area Urban Design Guide (CAUDG), including Appendix 3.5 (Civic Centre Heritage Area);
3. Central Area Building: consent under Rule 13.3.8 for a Discretionary Activity (Restricted) for non-compliance with standards relating to:
  - standard 13.6.1.3 in relation to on-site servicing;
  - 13.6.3.1.6 in relation to building height in a heritage area;
  - standard 13.6.3.5 in relation to wind; and
  - standard 13.6.3.6 in relation to verandahs.<sup>8</sup>
4. Central Area Building: consent under Rule 13.4.9 for a Discretionary Activity (Unrestricted) for the construction of a new building in an identified heritage area that exceeds the absolute maximum height standard specified in standard 13.6.3.1.6;
5. Heritage Area: consent under Rule 21B.2.1 for a Discretionary Activity (Restricted) for the construction of a new building on a site in a heritage area;
6. Earthworks within a Heritage Area: consent under Rule 21B.2.3 for a Discretionary Activity (Restricted) for earthworks within a heritage area;
7. Earthworks: consent under Rule 30.2.1 for a Discretionary Activity (Restricted) for earthworks in the Central Area; and

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<sup>8</sup> Consent is required under Rule 13.3.8 for the non-provision of a verandah on the Jervois Quay frontage, a direct consequence of the building being set back to provide for the retention of the existing Pohutukawa trees, which are dominant feature of the streetscape. As recorded in the Pre-Application Meeting Record (refer **Appendix 3**), the Council's urban designer confirmed that

*"... setting back from Jervois Quay is a positive move enabling the retention of the Pohutukawa trees which will continue to provide a positive edge and help to moderate the scale of the proposed development".*



8. Contaminated Land: consent for a Discretionary Activity (Restricted) under Rule 32.2.1 for earthworks involving potentially contaminated land.

### 3.6.1 National Environmental Standard

In addition to the Operative District Plan, the contamination provisions the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) 2011 also apply as the site is listed on the GWRC's SLUR database.

Accordingly, consent is sought under the NES Regulation 11.

## 3.7 PROPOSED DISTRICT PLAN

As noted in Section 2.3.2, the Proposed District Plan (PDP) was notified on 18 July 2022, and, as a "proposed" plan, under section 104(1)(b)(vi) of the Act regard must be had to relevant provisions.

Although the PDP rules proposed for the Te Ngākau Civic Square Precinct do not have immediate legal effect and are not, therefore, a resource consent trigger, the objectives and policies are relevant.

The proposed objectives are:

#### *CCZ-PREC 01 Purpose*

*The Te Ngākau Civic Square Precinct is a vibrant, safe, resilient, connected and inclusive environment supported by a range of activities that complement its primary civic function.*

#### *CCZ-PREC-02 Built form*

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

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

#### *CCZ-PREC-03 Integration with the City Centre, Waterfront and wider transport network*

*Safe and accessible pedestrian linkages through the Te Ngākau Civic Square Precinct, and to and from other parts of the city centre and waterfront, are maintained and enhanced.*

The proposed policies are:

#### *CCZ-PREC01-P1 Activities*

*Enable a range of activities and temporary events that support the civic purpose and ongoing vibrancy and amenity of Te Ngākau Civic Square Precinct, including:*

1. *Civic functions;*
2. *Arts, culture and entertainment activities;*
3. *Recreation activities;*
4. *Community activities;*
5. *Commercial activities; and*
6. *Residential activities above ground level to encourage activation of the precinct both day and night.*

#### *CCZ-PREC01-P2 Use and development of the Te Ngākau Civic Square Precinct*

1. *Enhancing the public function, pedestrian network and public spaces within the precinct;*
2. *Maintaining its special character by managing the form, scale and intensity of development;*

3. *Ensuring land use activities and development are planned and designed in a co-ordinated, site-responsive, comprehensive and integrated manner; and*
4. *Enabling new development and a range of activities that are integrated and compatible with existing buildings and land uses in the precinct.*

*CCZ-PREC01-P3 Access, connections and open space*

*Require that the use and development of the Te Ngākau Civic Square Precinct:*

1. *Provides attractive, safe and efficient and convenient connections to existing and planned transport networks;*
2. *Promotes existing and planned pedestrian access and connections between the precinct, the waterfront and the city centre; and*
3. *Provides well-designed, safe and accessible public and green open space, within the precinct.*

*CCZ-PREC01-P4 Amenity and design*

*Require development within the Te Ngākau Civic Square Precinct to contribute positively to its visual quality, amenity, interest and public safety by:*

1. *Requiring buildings and public spaces to incorporate high-quality visual and architectural design based on factors such as the bulk, form, scale, portion, location and detailing of the building/structure or building additions/alterations;*
2. *Ensuring building design respects the form, scale and style of heritage buildings and wider architectural elements within the precinct, including interface treatment with the Town Hall;*
3. *Responding to any identified significant natural hazard risks and climate change effects, including strengthening and adaptive reuse of existing buildings and requiring new buildings to be resiliently designed;*
4. *Recognising mana whenua cultural values in the design of public spaces;*
5. *Ensuring new development will result in overall improvements to the function, access and safety of the precinct, including enabling universal access and opportunities for formal and informal surveillance;*
6. *Providing an active edge along a portion of each building that addresses both the internal precinct area and externally towards adjoining streets;*
7. *Providing a comfortable micro-climate for precinct users;*
8. *Positioning new development and managing building height and form to ensure a high degree of sunlight access is achieved within the square;*
9. *Retaining and enhancing strong visual and physical connections between the square, waterfront, the city centre and streets surrounding the precinct; and*
10. *Incorporating public amenities, public artwork and means to assist wayfinding, including provision for interpreting and references to the area's cultural and historic heritage associations.*

### **3.8 PRELIMINARY ASSESSMENT**

Drawing on the Operative District Plan objectives and policies applicable to the site, the following questions can be posed for s104 assessment:

#### **Heritage**

Question 1: what effects will the proposed new building have on the historic heritage values associated with the Civic Centre Heritage Area?

Question 2: what effects, if any, will the associated earthworks have on the historic heritage values of the Civic Centre Heritage Area?

#### **Central Area Building**

Question 3: will the proposed building height result in an unacceptable outcome in relation to the bulk and form of buildings within and adjacent to the Civic Centre Heritage Area?

Question 4: will the proposed new building, as an 'over-height' building, achieve an appropriate level of design excellence?

**Wind**

Question 5: will the proposed new building result in unacceptable wind effects?

**Transportation**

Question 6: will the non-provision of on-site servicing result in any unacceptable transportation-related effects?

**Earthworks**

Question 7: will the site earthworks result in any adverse effects in relation to stability, dust and/or off-site sedimentation?

**Contaminated Land**

Question 8: will the site works result in any adverse effects on the site's ecological and amenity values and/or the wider neighbourhood as a consequence of the presence of any site contamination?

In addition to the ODP objectives and policies, regard is also to be had to the PDP objectives and policies.

**Proposed District Plan**

Question 9: is the proposed new building consistent with the overall planning strategy for the Te Ngākau Civic Square Precinct, as informed by the PDP objectives and policies for the Precinct?

**Positive Effects**

Question 10: will the proposed new building and site development result in positive effects?

These questions are addressed in Section 5 of this AEE as part of the overall RMA assessment.

## 4 CONSULTATION

### 4.1 SCOPE OF CONSULTATION

#### 4.1.1 Pre-Application Consultation Meeting

A pre-application consultation meeting with Council's officers (planning, heritage, urban design and traffic) was held on 26 October 2021. The meeting record is attached (**Appendix 3**).

As noted in the meeting record, principal outcomes supported/or of concern included:

- the pathways that shape the building at ground level follow existing desire lines and can therefore be supported [urban design]
- setting back from Jervois Quay is a positive move enabling the retention of the Pohutukawa trees which will continue to provide a positive edge and help to moderate the scale of the proposed development [urban design]
- there is a clear logic in the way the building form relates to the heights of buildings around the site [urban design]
- in this setting the overall building heights as proposed can be supported [urban design]
- site development and landscaping treatment must be done in a co-ordinated fashion [urban design]
- the proposal will be assessed in relation to the Central Area Urban Design Guide [urban design]
- the preponderance of any effects will be on the Michael Fowler Centre (MFC), the Cuba Street Heritage Area and the John Chambers Building [heritage]
- the siting, arrangement and design of the building will have no more than a modest effect on the Civic Centre Heritage Area. Specifically, it will be sufficiently removed from the MFC to give the latter the space to retain its status / however, the proposed height of the middle portion of the building (the 'lantern') at 36 metres is problematic [heritage]
- the setting of the John Chambers Building should not be significantly affected by the location and scale of the proposed building [heritage]
- the setting of the two closest buildings in the Cuba Street Heritage Area, Anvil House and Civic Chambers,<sup>9</sup> will be affected by the location and scale of the new building - however, given the existing height of the two buildings, the effect should not be significant [heritage]
- the new vehicle crossing on Wakefield Street will not be supported due to reverse manoeuvring [traffic]
- Wakefield Street is no longer a public transport route - so this space could be used to promote other modes of transport (taxi stand, car share, loading area, temporary bus bay) [traffic].

In relation to "planning", it was confirmed that the likely matters for consideration will be:

- design and external appearance;
- the effects of building height on the surrounding streetscape and the Civic Centre Heritage Area;
- effects on the heritage values of the Civic Centre Heritage Area;
- traffic;

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<sup>9</sup> Although located within the heritage area, neither building is a listed heritage building.

- wind; and
- contamination.

Each of these matters is addressed in Section 5 of this assessment of environmental effects (AEE) report.

With regard to the building height regime applicable to the Civic Centre Heritage Area, it was noted that:

*The effect of the height of the building in the context of the Civic Centre Heritage Area and the surrounding built environment will be a key consideration of the application, including the notification decision. The application will also need to demonstrate Design Excellence because the building will exceed the maximum permitted height standard.*

Note: these issues (building height and design excellence) are addressed in detail in Section 5 below.

#### 4.1.2 Design Panel <sup>10</sup>

With the support of the Council's Urban Design Team Leader (Dr Farzad Zamani), the Applicant presented the proposal to an independent Design Panel

The Panel's report and recommendations are attached at **Appendix 4**. Among the principal conclusions reached by the Panel are:

- building massing and overall form: the proposed building fits comfortably within the *"fine grained urban environment of the Te Aro area and the form and scale of adjacent civic and heritage buildings"*;
- building height: although the building height exceeds the height limit for the Civic Centre Heritage Area, *"the similarity of height and generous setback from the MFC ensures that it complements and does not visually dominate that building. The height is also appropriate in relation to the surrounding buildings"*;
- urban connectivity: the provision of a connection from Cuba Street to the waterfront is *"a key part of the scheme, and we feel this has been well considered"*;
- open space/landscaping: the northern garden is *"of significant importance to both the definition of the waterfront connection walk-way and the comfort of the western external space"*; and
- related public realm works beyond the site boundaries: noting that some of the landscaping outlined on the landscape concept plan falls outside the (future) boundary of the site to be occupied by the proposed building, the Panel recorded that *"whilst we would not describe this as critical to the proposal, the northern garden does contribute significantly to the success of the waterfront connection and the tenancies opening onto this space, and the possibility for a strong connection with the ground spaces of the MFC. We hope that the Council are able to progress this work concurrently with the site works around this building to ensure a high-quality urban outcome"*.<sup>11</sup>

A 'point of concern', for the Panel and consequent recommendation, related to the (then) proposal to incorporate a ground level on-site loading area accessed from Wakefield Street. The Panel commented:

*We question the need to have a truck dock within the building, and suggest the applicant investigates the possibility of the building being serviced from a loading zone on Wakefield Street. We believe this would allow for a stronger connection to the entry from the Cuba Street approach. The pre-app notes indicate that reversing onto Wakefield Street will not be supported by the WCC traffic engineers. We consider that provision of truck turning within the site/building footprint would significantly compromise the ground floor edge conditions and street activation to the Wakefield Street façade. Given the low traffic nature of Wakefield Street currently, and the*

<sup>10</sup> The Design Panel assessed the proposal subject to the March 2022 application and not the revised proposal/application submitted in September 2022

<sup>11</sup> Pursuant to the development agreement between the Applicant and WCC (as landowner), it is intended that the proposed new landscaping beyond the site boundary will be completed at the same time as the Applicant's works.

*limited pedestrian use of that section of the street (particularly on the northern side of Wakefield Street) we do not see this as inappropriate in the urban context.*

Note: following on from the Applicant's consideration of the Panel's concern, and after further engagement with the Council's traffic engineer, the ground floor was amended to remove the on-site loading area and 'replace' it with a loading zone on Wakefield Street - refer Drawing RC\_1.01 "Ground Floor Plan".

Additional adjustments were made to the Wakefield Street entry in response to the Panel's comments to open up and further activate this space.

#### **4.1.3 Third Parties**

Engagement and pre-application consultation was also undertaken with:

- Heritage New Zealand Pouhere Taonga
- Wellington Tenth's Trust; and
- Port Nicholson Block Settlement Trust.

##### **Heritage New Zealand Pouhere Taonga**

Dean Raymond, Area Manager, Central Region, Heritage NZ, noting that the District Plan specifically identifies the Michael Fowler Carpark as an area of future development within the Civic Centre Heritage Area, confirmed that:

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

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

Refer **Appendix 5** for the full statement.

##### **Wellington Tenth's Trust and Port Nicholson Block Settlement Trust**

Initial meetings have been held with both the Wellington Tenth's Trust the Port Nicholson Block Settlement Trust.

Following these meetings, the Wellington Tenth's Trust provided a letter which confirmed support for the proposed development - refer **Appendix 6**.<sup>12</sup>

The Applicant confirmed to both the Wellington Tenth's Trust and the Port Nicholson Block Settlement Trust that there would be on-going consultation and engagement during the developed design process, outside of the resource consent process.

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<sup>12</sup> The Wellington Tenth's Trust advised (8 September 2022) that the 14 March 2022 letter remains valid and confirms the Trust's support for the proposed development - refer **Appendix 6**.



## 5 RESOURCE MANAGEMENT ASSESSMENT

### 5.1 SECTION 104 RMA

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

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

Following the structure of s104(1) the approach of this AEE is to firstly consider environmental effects, followed by:

- (a) an assessment of national and regional policy;
- (b) an assessment of the relevant District Plan provisions (operative and proposed); and
- (c) a consideration of other relevant matters [s104(1)(c)]

all before considering Part 2 matters and making an overall judgment of the proposal against the over-arching purpose of the Act - i.e. the sustainable management of natural and physical resources, in this instance the sustainable management of a new Central Area building and associated landscaping within a heritage area.

### 5.2 ENVIRONMENTAL EFFECTS OF THE PROPOSAL

The environmental effects that have been assessed are:

- heritage effects;
- building height effects;
- urban design effects;
- landscape effects;
- wind effects;
- transportation effects;
- CPTED effects;
- noise effects;
- earthworks effects;
- contaminated land effects;
- civil works/ infrastructure effects; and
- construction effects.

The positive effects associated with the proposed new building and site landscaping have also been assessed.

#### 5.2.1 Historic Heritage Effects

The District Plan's heritage provisions are directed toward protecting historic heritage from inappropriate subdivision, use and development; while, at the same time, maintaining and enhancing the heritage values, qualities and character of heritage buildings and areas.

For the proposed building, the applicable Heritage rule is Rule 21B.2.1, given that the site is within the Civic Centre Heritage Area. The matters for discretion under the Discretionary Activity (Restricted) rule are:

- *21B.2.2.1 effects on historic heritage*
- *21B.2.1.2 design, height, siting and coverage and the bulk and massing of buildings (to the extent that these affect historic heritage)*

To address heritage effects, the Applicant commissioned an independent report from Adam Wild of Archifact, a heritage and conservation architecture practice. A copy of the report is attached, together with their Addendum - refer **Appendix 7 and 7A**.

Section 8 of the report records the overall conclusions as follows:

*The District Plan recognises the heterogeneous nature of buildings defining and framing the Civic Square. It also notes the inclusion of the MFC carpark and lloft Green within that area as development sites that can be "easily managed to protect the heritage values of the Civic Square and its buildings and features". While the District Plan also recognises that "contributing buildings in heritage areas" warrant "the same treatment and control as listed items", this is qualified to correspond with "demolition and the design of additions and alterations" to contributing buildings and does not govern matters of adjacent height on contributing buildings. The Guideline's sole Objective states:*

*"(CC) 01.1 To maintain and enhance the values of the area, and its special civic status, by protecting the special configuration of the **public space** [emphasis added] and preserving and conserving its **heritage buildings** [emphasis added]."*

*The proposed form and mass is compatible with the original architectural styles predominant in the CCHA.*

*The Design Guide identifies that "Good design is site and programme specific, and not all of the generic design guidelines in this design guide will necessarily apply to every site" and also that "sometimes, a design objective may be best achieved by means not anticipated in these guidelines. In this situation, it is justifiable to depart from a guideline if it can be demonstrated that the alternative design solution better satisfies the associated design objective".*

*There are no adverse effects on the Wellington Town Hall and City Art Gallery buildings and their settings. The settings of the Civic Centre Heritage Area and Cuba Street Heritage Area and individual heritage items are maintained and respected. The proposed built forms and height of the new building respond positively to the various built forms found within the CCHA. The height of the East Wing and the West Wing on Wakefield Street respond to the lower-scaled heights of the WTH and the MFC. The Lantern form relates to the height of the eight-storeyed MOB within the Civic Centre Heritage Area.*

*The CCHA statement in the District Plan anticipates development on the subject site and records that "both the MFC car-park and lloft Green have been included so that future development on those sites can be easily managed to protect the heritage values of Civic Square and its buildings and features".*

Referring to the revised proposal in the Addendum, it is noted that:

*The tallest part of the proposed revised development (the North Wing "Lantern") is a maximum of nine storeys (compared to the earlier eight storeys). While the number of storeys has increased, the overall height has remained approximately the same. This height continues to correspond to the eight-storey height of the nearby MOB within the Civic Centre Heritage Area (CCHA) and reflects the prevailing heights/forms of the buildings within the Cuba Street Heritage Area (CSHA) on the opposite side of Wakefield Street where the CSHA terminates along Wakefield Street. As such, the tallest section of the proposed building is not significantly higher than the surrounding buildings.*

Archifact's overall conclusion, as recorded in their 2021 report, is that:

*The recognised values for the area note that the values are fundamentally vested in the civic square space and the surrounding collection of civic buildings (including the two individual heritage buildings). The proposed development will make no change to these recognised heritage values.*

*This proposed development responds directly and appropriately to the recognised historic heritage values of the CCHA. It occupies a site anticipated in the CCHA as readily developable and responds positively to that and the wider heritage context.*

#### **5.2.1.1 Planning Assessment - Heritage Effects**

As noted above, given that the site is within the Civic Centre Heritage Area, Rule 21B.2.1 applies, with the matters for discretion being:

- 21B.2.2.1 effects on historic heritage; and
- 21B.2.1.2 design, height, siting and coverage and the bulk and massing of buildings (to the extent that these affect historic heritage).

The independent expert assessment concludes that the proposal has an acceptable effect on the heritage values of the Civic Centre Heritage Area. This conclusion is endorsed by Heritage New Zealand's statement that:

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

Overall, given the positive expert assessment, and the endorsement provided by Heritage New Zealand, it is considered that the proposal:

1. will not have any adverse effects on either of the listed heritage buildings within the Civic Centre Heritage Area (the Wellington Town Hall and the Wellington City Art Gallery/former Public Library 1939), or on the Municipal Office Building (MOB) a contributory building within the heritage area;
2. will not have any adverse effects that exceed a 'less than minor' threshold on the Michael Fowler Centre, a contributory building within the heritage area;
3. will not have any adverse effects on any nearby individually listed heritage buildings, including the John Chambers Building, or the Cuba Street Heritage Area.

As noted in Section 4 "Consultation", following the pre-application meeting the Council's heritage consultant opined that:

... *the proposed height of the middle portion of the building (the 'lantern') at 36 metres is problematic*

with the reference to "*problematic*" understood to be a concern about the relationship between the North Wing (the "Lantern") at 34.5m and the Michael Fowler Centre and a potential reduction in its "*landmark qualities*".

The reference to the MFC's landmark qualities is in the Central Area Urban Design Guide (Appendix 3.5) indicating that it is a matter for urban design assessment rather than heritage *per se* - although 21B2.1.2 does refer to the bulk and massing of buildings (to the extent that these affect historic heritage) - however, the MFC is not a listed heritage building - hence the focus on urban design and not heritage.

From an urban design perspective, and as concluded by the Design Panel, the overall building height of the proposed building and its relationship to the MFC is acceptable given that the MFC's townscape presence/landmark qualities are not unduly impacted - the proposed building does not "*visually dominate*" the MFC.<sup>13</sup>

### Conclusion

The proposed development on the Michael Fowler Centre carpark will not result in adverse effects on the historic heritage values the Civic Centre Heritage Area, the Cuba Street Heritage Area or any individually listed heritage building.

### **5.2.2 Building Height Effects**

As noted in Section 3 above, the building height regime applying to the Civic Centre Heritage Area sets an "*absolute maximum height*" of 27m above ground.

As the proposed height exceeds 27m, consent is required for a Discretionary Activity (Unrestricted) under Rule 13.4.9.

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<sup>13</sup> Refer also to Section 5 "Townscape Assessment" of the Urban Design Report (Appendix 7)

Although under Rule 13.4.9 discretion is not restricted, a helpful framework for the assessment of building height is provided by the matters listed under Rule 13.3.8.4.A and 13.3.8.4.B, the Discretionary Activity (Restricted) rules that apply when a development exceeds the standards set for new buildings in:

- (a) the Central Area (Rule 13.3.8.4.A); and
- (b) in Heritage Areas (13.3.8.4.B).

The identified matters of discretion are:

#### 13.3.8.4.A

- the amenity of surrounding streets, lanes, footpaths, and other public spaces;
- the historic value of any listed heritage in the vicinity; and
- the urban form of the city.

#### 13.3.8.4.B

- effects on historic heritage; and
- design, height, siting and coverage and the bulk and massing of buildings (to the extent that these affect historic heritage).

### **5.2.2.1 Planning Assessment - Building Height Effects**

Guided by the assessment criteria applicable under Rule 13.3.8.4.A and Rule 13.3.8.4.B, the assessment of the proposed building height will address the following matters:

- effects on the city's urban form;
- effects on historic heritage; and
- effects on the amenity of adjacent and nearby public spaces.

The assessment is necessary given that the maximum height of the North Wing (the Lantern) exceeds the absolute maximum height (27m) envisaged for new buildings in the Civic Centre Heritage Area.

The District Plan states that absolute maximum height:

*... represents the maximum scale of building that could potentially be developed within each heritage area without significant detrimental impact on the heritage value and character of the area. Any building proposal that seeks to utilise the building height between the 'upper threshold' and the 'absolute maximum height' must be able to demonstrate that the additional building height can be appropriately treated so that it will not detract from the historic heritage values of the site or the heritage area as a whole. Applications for resource consent that exceed the upper threshold, but which comply with the absolute maximum height will be assessed under rules 13.3.4 and 13.3.6.*

**Note:** where building height exceeds the 'absolute maximum height' consent is required under Rule 13.4.9:

*13.4.9 The construction of new buildings and structures, or the alteration of, and addition to existing buildings that:*

- *are located in an identified Heritage Area and which exceed the absolute maximum height standards specified in 13.6.3.1.6*

*are Discretionary Activities (Unrestricted)*

Although as a Discretionary Activity (Unrestricted) no specific matters for assessment are identified, as is the case with the Discretionary Activity (Restricted) rules, some additional guidance can be taken from the policies listed as "relevant policies for preparing resource consent applications", which, in relation to Rule 13.4.9, are:

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

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

- *reinforce the high city/low city urban form; and*

- ensure that new buildings acknowledge and respect the form and scale of the neighbourhood in which they are located; and
- achieve appropriate building height and mass within identified heritage and character areas.

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

~~12.2.5.3 Manage building mass in conjunction with building height to ensure quality design outcomes.<sup>14</sup>~~

12.2.5.4 To allow building height above the specified standards in situations where building height and bulk have been reduced elsewhere on the site to:

- provide an urban design outcome that is beneficial to the public environment; or
- reduce the impact of the proposed building on a listed heritage item.

*Any such additional height must be able to be treated in such a way that it represents an appropriate response to the characteristics of the site and the surrounding area.*

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

Drawing on the matters addressed in those policies, the following additional matters for assessment can be identified:

- sense of place as influenced by the character and quality of the built environment / new developments incorporating and enhancing positive urban design attributes [12.2.3.2];
- respecting the scale and form of development in the associated neighbourhood [12.2.5.1];
- urban design outcomes beneficial to the public environment [12.2.5.4]; and
- design excellence [12.2.5.5]

giving a total of seven matters to 'guide' the assessment under Rule 13.4.9.

#### Effects on the City's Urban Form

The proposal will not have an adverse effect on the urban form of either the Civic Centre Heritage Area or the low city generally.

The Pre-Application Meeting Record records that the Council's consultant urban designer confirms that *"In this setting the building heights as proposed can be supported"*.

The building at 34.5m will not strike a discordant note in the urban form of this part of the low city, which includes higher buildings, including the nearby One Market Lane and Elevate Apartments buildings in Lower Taranaki Street at 43m and 48m respectively, both higher than the proposed 37.7m; and within the Civic Centre Heritage Area, the Municipal Office Building at 8 storeys is of similar height.

Also, and given that the proposed building is of a similar height to the Municipal Office Building (MOB), it will not detrimentally affect the urban form of the Civic Centre Heritage Area itself. Being located at the south-eastern extreme of the CCHA, in relation to urban form the building relates more to the urban form of the low city south and east of the site, than to the CCHA itself.

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<sup>14</sup> Note: these policies, which are generally applicable to Central Area developments, have been 'deleted' given the following statement:

#### *Building Mass (volume) in Heritage Areas*

13.6.3.2.2 *No building mass standards are used for identified heritage areas as building heights have been set to reflect the scale and character of the existing built form, and any new development will be expected to be designed and massed in a manner that protects the heritage values of the area.*

### Effects on Historic Heritage

The additional height will not adversely affect the heritage values of the two listed heritage buildings or the heritage values of the Civic Centre Heritage Area generally.

The heritage assessment concluded that:

*The proposed development responds directly and appropriately to the recognised historic heritage values of the CCHA. It occupies a site anticipated in the CCHA as readily developable and responds positively to that and the wider heritage context.*

### Effects on the Amenity of Adjacent and Nearby Public Spaces

The additional height will not result in any shading on any of the protected public spaces (Civic Square and the Taranaki Wharf Lagoon area).

In terms of wind effects, as the Wind Report (refer Section 5.2.5) concludes, the development only causes a relatively small change in the local pedestrian wind environment. Significant areas providing shelter from the wind will be established.

### Sense of Place

The additional height above 27m will not result in any adverse effects on the building's contribution to establishing a positive 'sense of place' for this part of the Civic Centre Heritage Area. Rather, it is the building's overall form and design that will establish its 'identity'.

The additional building mass above 27m, which is limited to two storeys + the rooftop plant, will not detract from the Civic Centre Heritage Area heritage values, which are a major contributor to the CCHA's sense of place.

### Scale and Form

The additional height above 27m will not result in an overall scale and form of building that is inappropriate on the site, an opinion shared by both the Council's consultant urban designer and the Design Panel.

As a discretionary activity the focus is on the particular site context - i.e. is a building, a portion of which exceeds the 27m height, appropriate on this site?

The higher portion of the building is setback from the Michael Fowler Centre, a design response to mitigate any adverse effect on the landmark quality of the MFC.

In relation to the wider neighbourhood, other existing taller buildings sit comfortably within the low city urban form, such that the additional height above 27m will not result in a 'discordant note' being established in the established urban form of this part of the low city.

### Public Environment

The public environment of the Civic Centre Heritage Area is centred on its status as Wellington's civic 'heart'. The proposal will significantly add to the quality of the public environment, both in terms of the quality of the building's architecture and in the associated landscaping.

In the design of the proposal a key consideration has been establishing a positive relationship with the Michael Fowler Centre. To this end, the height of the building component closest to the MFC (the Western Wedge) has been restricted and, at 16.7m, is closely aligned in scale with the MFC's Renouf Foyer.

This approach and outcome are consistent with the outcomes anticipated Policy 12.2.5.4:

*12.2.5.4 To allow building height above the specified standards in situations where building height and bulk have been reduced elsewhere on the site to: [emphasis added]*

- *provide an urban design outcome that is beneficial to the public environment; or*
- *reduce the impact of the proposed building on a listed heritage item.*

*Any such additional height must be able to be treated in such a way that it represents an appropriate response to the characteristics of the site and the surrounding area.*



The varied height across the three components of the proposed building is an appropriate design response to the characteristics of the site, including the nature of the relationship of the new building to the MFC, which, based on its acknowledged 'landmark qualities', is a key contributor to the public environment of the Civic Centre Heritage Area.

### Design Excellence

The proposal incorporates a number of features which “go over and above what would normally be expected to satisfy the Central Area Urban Design Guide” - refer Section 5.2.3 below “Urban Design Effects”.

### 5.2.3 Urban Design Effects

The relevant Design Guide is the Central Area Urban Design Guide (CAUDG), including Appendix 3.5 to the CAUDG which relates specifically to the Civic Centre Heritage Area (CCAA).

An urban design assessment of the proposal has been undertaken by urban designer Deyana Popova - refer **Appendix 8**. The assessment covers:

- the CAUDG objectives and policies;
- townscape; and
- design excellence.

The report's overall conclusion is:

*The proposal is for the comprehensive development of an important and visually prominent site that is part of the Wellington's Civic Centre Heritage Area. The development has been developed with reference to the WCC Design Brief for the site and with reference to the specific contextual conditions of the site.*

*Part of the proposal goes through the height limit envisaged for the Civic Centre Heritage Area. This, plus the sensitivity of the site and its proximity to the MFC and the Civic Square, and its visual exposure in public views from the waterfront, calls for design which integrates well to its immediate and wider setting and contributes to the visual character of that setting.*

*Three separate assessments were carried out with reference to: (a) the response of the proposal to the Central Area Urban Design Guide (Design Guide); (b) the visual impact of the proposal on its immediate and wider townscape setting; and (c) the degree to which the proposed design is exemplary and capable of delivering 'design excellence'. These assessments established that:*

- *The proposal is based on a well-considered and context-driven design concept that has taken into account and appropriately addressed the relevant Design Guide objectives and guidelines.*
- *Notwithstanding the visual prominence of the site, the proposal will be experienced primarily in close-up and short-to-mid-distance views from within the locations up to 220m away. In those views the proposal will appear as a new element which integrates well to its visual setting while adding visual interest to the surrounding townscape and without impacting on views from within the Civic Square. The visual impact of the proposed 'extra' height of the Lantern has been appropriately moderated through the massing and façade treatment of the proposal as a whole, and further supported by the intended high-quality landscape enhancements.*
- *The proposal demonstrates a high level of professionalism and a commitment to building design quality. The outcome, in terms of an overall quality, clearly exceeds the quality of a development that merely satisfies the Design Guide. A condition of consent re making final choice of materials and associated detailing subject to Council's approval prior to lodging a building consent will provide a good level of certainty on the detailed aspects of building quality outcomes, should consent to the proposed development be granted.*

#### 5.2.3.1 Planning Assessment - Urban Design Effects

A key issue for all new Central Area buildings is 'captured' in Policy 12.2.6.2:

*12.2.6.2 Require high quality building design within the Central Area that acknowledges and responds to the context of the site and the surrounding environment.*

The anticipated environmental result is that the new building will contribute to a positive urban design outcome.

To this end, all new Central Area buildings require resource consent (Rule 13.3.4) in relation to ‘design, external appearance and siting’. A Design Statement which assesses the proposal against the provisions of the Central Area Urban Design Guide must accompany the application.

The report at **Appendix 8** was prepared in response to this requirement.

The Design Statement assesses in detail the proposal against all of the applicable CAUDG objectives and guidelines and concludes that the proposal has:

*... taken into account and appropriately addressed the relevant Design Guide objectives and guidelines.*

Nevertheless, it is acknowledged that:

*As with many similar Central Area projects, the challenge at the resource consent stage is providing a level of certainty on design quality (in terms of materials and detailing) while allowing the flexibility in the next stages of design development. This can be addressed via a condition of consent re making final choice of materials and associated detailing subject to Council's approval prior to lodging for building consent. This is an appropriate and well-used mechanism that will be offered by the Applicant.*

An appropriate resource consent condition is recommended - refer Section 5.7 below.

A second key issue for new Central Area buildings is ‘captured’ in Policy 12.2.5.5:

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

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

*Design excellence is also required for buildings that are tall in relationship to the surrounding neighbourhood. Though not ‘exceptionally’ tall, these buildings can still be highly visible and have a significant impact on the character of the surrounding neighbourhood. As such they require careful consideration and should display a quality of design that corresponds to their level of visibility.*

Section 5 of the Design Statement specifically addresses ‘design excellence’ and identifies a number of design responses and features that “go over and above what would normally be expected to satisfy the Central Area Urban Design Guide provisions”, including the provision of two high quality cross-block connections and ‘excellence’ in landscape, including referencing the site’s important cultural values, these features being in addition to the contextually-driven architectural design and the high level of seismic resilience achieved through the base-isolated structure - all contributors to design excellence.

As noted in the previous section of this AEE when addressing building height, a key driver of the Central Area building heights, including those applying to heritage areas, is the reinforcement of the high city/low city urban form.

Section 5 of the Design Statement provides an assessment of the visibility of the proposal from a series of viewpoints based on images that show the ‘existing’ and ‘proposed’ situation, with the 27m height limit superimposed on the proposed image.

As a start point, the 27m height limit can be accepted as being consistent with the low city urban form, given that the building heights within the ‘low city’ range from 10.2m to 43.8m.<sup>15</sup>

The 8-storey component of the proposal (the Lantern) has a maximum height of 37.75m (with the roof top plant having a maximum height of 39.3m). These heights are below the maximum height limit considered to be consistent with the ‘low city’ urban form.

Nevertheless, from an urban height/townscape perspective the issue is more about ‘visibility’ as opposed to compliance with height standards.

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<sup>15</sup> This excludes the 50m low city height limit north of the Wellington railway station.

High visibility is not necessarily a negative. Rather, the matter for assessment is the potential of a prominent building to adversely affect the visibility/prominence of other buildings that have an important townscape presence.

Based on an assessment of a total of 15 views,<sup>16</sup> the conclusion reached is:

*... the proposal will be seen primarily in close-up and short to mid-distance views from viewpoints located up to 250m away from the site. It will be experienced primarily in dynamic views obtained by motorists moving along the street edges of the site and by pedestrians in sequential views when approaching the site from either the city or the waterfront and when traversing the site.*

*The assessment established that the proposal relates well to the MFC, the wider Civic Centre Heritage Area and the surrounding setting in terms of scale and visual integration.*

*This has been achieved through breaking the building bulk into three distinctive building components and their differentiated design treatment. The massing and relative position between the building components, the articulation of their building forms and their specific façade treatments, assist to moderate/reduce the visual impact of the proposed height/bulk, while aiding the scale/visual relationship of the proposal to its immediate and wider setting.*

*Notwithstanding that the tallest building component exceeds the height limit for the site, the impact of the additional bulk has been sufficiently and appropriately moderated to create a well-balanced and visually interesting collective building form which will fit in well with and contribute to its immediate and wider setting.*

Based on the detailed visual assessment recorded in Section 5 of the Urban Design Assessment, any adverse effects in terms of townscape, including any effects on the 'landmark value of the Michael Fowler Centre, will be less than minor.

#### 5.2.4 Landscape Effects

A key feature of the proposed development is the site landscaping. Specialist landscape architects (Wraight Associates) were engaged by the Applicant to work alongside the project architects Athfield Architects to ensure an overall integrated approach to the site's development.

Note: the approach to ensuring an overall integrated landscape outcome resulted in some of the spaces between the Michael Fowler Centre and the new building, spaces which will be outside the 'site' to be secured by the Applicant/consent holder, to be incorporated into the overall landscape design, notably the area labelled 3A "Costal Garden" on the Landscape Drawing L1.01.

The landscape statement (refer **Appendix 2**) emphasises that:

*The site's ecological heritage and its landscape context are key contextual drivers shaping this landscape proposal.*

As recorded in Section 4 above, the proposed development was reviewed by an independent Design Panel as part of the pre-application process. In relation to the proposed site landscaping, the Panel recorded its overall support, including support for:

- the logic of the landscaping generally - wider to Jervois Quay and more formal to the Wakefield Street boundary - "*feels appropriate to the site*";
- the design of the northern garden - "*which is of significant importance to both the definition of the waterfront connection walkway and the comfort of the western external space*";
- the threshold between the public (waterfront connection) and the outdoor terraces; and
- the acknowledgement of the application of water sensitive design.

<sup>16</sup> For the Townscape Views - refer Appendix 8.

In relation to the existing site landscaping, the Landscape Statement records that:

*Along the site's eastern (Jervois Quay) boundary, 8 of the 9 existing pohutukawa are retained, with two specimens adjacent the crosswalk proposed to be relocated southward. The remaining pohutukawa is proposed to be removed as its form and proximity to the proposed building and existing retaining wall are not conducive to its retention. The existing planting is proposed to be further supplemented by new low growing shade tolerant natives. Four existing pohutukawa sited on the Wakefield Street edge of the site along with five exotic trees are proposed to be removed to accommodate the new building's footprint, while six new trees in tree pits with root barriers are proposed to the edge of the widened footpath along Wakefield Street's edge. No new trees are proposed over the existing stormwater culvert crossing the site.*

Given the significance of the existing Pohutukawa trees, the Applicant commissioned specialist arboricultural advice from Tend Trees Limited, with a particular focus on methodologies to avoid adverse effects on the health of the trees to be retained - refer **Appendix 10**.

The overall conclusion was that:

*The project can be carried out without detrimental effects to the retained trees providing care is taken around their root zones.*

To this end, it is recommended that a 'tree protection management plan' should be prepared and incorporate the tree protection measures to be implemented during the construction phase.

#### **5.2.4.1 Planning Assessment - Landscape Effects**

##### **Landscape Concept**

There is no specific Central Area rule relating to landscaping per se.

The proposed landscaping will enhance the site's 'sense of place' and its contribution to the public amenity of the Civic Centre Heritage Area.

The 'upgraded'/enhanced pedestrian pathway (Cuba-Te Whanganui-A-Tara Link) will also contribute to the site's sense of place.

##### **Pohutukawa Trees**

Although the Pohutukawa trees are not listed heritage trees, the landscape concept is based on incorporating the majority of them into the proposed landscaping, notably the Pohutukawa on the Jervois Quay frontage.

#### **5.2.5 Wind Effects**

Rule 13.6.3.5 requires that all new Central Area buildings above 18.6m must be designed to comply with specified standards and a wind report, which includes the results of a wind tunnel test, must be supplied with the resource consent application.

WSP was engaged to prepare the required wind report, a copy of which is attached - refer **Appendix 11**.

The conclusions reached were:

##### *Existing Wind Conditions*

- Existing wind conditions in the area around the development range from low to high, with maximum gust speeds at a small number of locations exceeding the 20m/s District Plan Safety Criteria.*

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

- The gust speed data shows that, taken overall, the development causes a relatively small change in the local pedestrian wind environment. However, it does cause a significant redistribution of wind flows in the surrounding area, causing some speeds to increase and others to decrease. Most of the increases identified occurred around the western end of the new building, while most of the reductions occurred around the eastern end.*

3. *There are twelve locations where the gust speeds are reduced with the original design, compared to eight locations where the gust speed is increased. At two of the locations the gust speeds are increased over the 20m/s District Plan safety criteria by the development, while at four locations existing gust speeds over 20m/s are reduced.*

*Frequency of Occurrence - Cumulative Effect Criteria*

4. *There are more locations where the development reduces the time that the mean speed equals or exceeds the District Plan Cumulative Effect thresholds of 2.5m/s and 3.5m/s by more than 20 days/year than where it increases the time by more than 20days/year. Overall, this represents a slight improvement in the amenity of the wind environment in the surrounding area.*

*Overall Assessment of Design*

5. *Taken overall, the original development design causes a relatively small change in wind conditions in the pedestrian areas surrounding the site. This is partly attributed to beneficial aspects of the massing distribution in the design, which includes setbacks and stepped facades on the eastern and western ends of the building.*

*Effects of Design Changes*

6. *Additional testing of design changes showed that wind conditions where speeds were increased above the District Plan Safety Criteria by the development could be somewhat improved. Of the options tested, (a) additional trees and planting, and (b) a canopy on the edge of the building undercroft, performed better.*

*Other Design Considerations*

7. *The decision was made to include the NZ Ballet building as part of the existing situation. While this building is considered a "temporary" building, it has been in place since 2018, and there is no defined date for its removal. Accordingly, the existing wind conditions are those determined, in part, by this building. It is expected that comparing the proposed development with the previously "vacant" carpark would result in relatively small changes in effects.*

### **5.2.5.1 Planning Assessment - Wind Effects**

The District Plan's policy framework relating to wind is set by Policies 12.2.5.6 to 12.2.5.9:

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

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

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

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

In the explanation to the policies it is commented, inter alia, that:

*The wind rules seek to encourage a safe and pleasant environment by decreasing the worst effects of wind. That is, a development should not make the existing wind environment dangerous or significantly worse for pedestrians.*

The initial wind tunnel test of the proposal demonstrated that:

*... while the wind tunnel data shows that the proposed development does cause significant changes in wind conditions, mostly due to redistribution of wind flows, the net overall effect is relatively small. Increases identified around the western end of the new building are more than offset by reductions around the eastern end of the building. This relatively small overall change in the wind environment can be partially attributed to*

*beneficial effects of the building design, which include the building massing with setbacks and stepped facades on the eastern and western ends of the building.*

However, and having identified two locations where the maximum gust speeds were increased above the 20m/s Safety Criteria, and consistent with Policy 12.2.5.9 which encourages wind mitigation measures to be assessed as part of the building design process, it was considered appropriate to investigate the effect of design configuration changes and potential wind mitigation options.

Accordingly, as described in Section 7.5 of the Wind Report, a range of potential mitigation options were developed, and additional wind speed measurements carried out.

This further testing demonstrated that a combination of additional trees and planting or the placement of a canopy on the edge of the undercroft had some beneficial effects on reducing gust speeds, including reducing speeds to 20m/s or below.

A canopy attached to the undercroft would significantly detract from the architectural aesthetic of the two-storey undercroft, for what would be a marginal benefit for a small, localised area.

The additional planting can be assessed as part of the developed design landscape plan.

As a consequence of the proposed amendments to the design, WSP were [re]engaged to investigate the effect of the revised design on wind conditions.

Attached at **Appendix 11A** is a letter dated 1 August 2022 which records the results of the further wind testing. The letter concludes:

*The wind tunnel study of the revised design for the 110 Jervois Quay development showed that it generally performed better than the original design that was tested. It reduced, or eliminated, some of the gust speed increases identified with the original design, including those locations where the original design increased the gust speeds over the 20m/s District Plan Safety Criteria.*

Further, under the revised design:

- gust speeds are reduced in 16 locations (compared to twelve locations in the original design) and there are only five locations where gust speeds increased (compared to eight in the original design);
- there are no areas where gust speeds are increased over the 20m/s District Plan Safety Criteria; as such, the further mitigation measures tested are not required; and
- one additional location (location O) had gust speeds reduced below 20m/s.

## **5.2.6 Transportation Effects**

An independent assessment of the proposed development from a transportation perspective has been undertaken by Stantec. A copy of the full report is attached - refer **Appendix 12**.

The overall conclusion is that:

*The proposal plans seek to redevelop land at 110 Jervois Quay to provide a new 8-storey commercial office building adjacent to the Michael Fowler Centre. Some changes to the wider MFC precinct are also proposed to provide landscaping works that will deliver more green space, improved pedestrian amenity, and an enhanced public realm environment.*

*This report has been prepared to examine and describe the traffic and transport arrangements of the proposed new development. Overall, it is assessed that the proposed development aligns well with the intent of the District Plan's Central Area zoning provisions, in not providing on-site parking and instead drawing on the active mode and public transport access benefits of the city centre location. Implementation of a kerbside loading bay on Wakefield Street (replacing the former GWRC bus stop that is no longer required), as proposed, will not cause the function, safety or capacity of the adjacent road network to be compromised.*

From discussions included in this report, it is recommended that:2



- *An on-street kerbside loading zone be established on Wakefield Street adjacent to the new building (to avoid the need to provide a new vehicle crossing on this restricted road frontage);*
- *A Travel Plan be developed with the Green Star building criteria, to promote and support sustainable transport modes for those traveling from the site; and*
- *A Construction Management Plan be developed which identifies construction phasing and associated traffic movements and management of construction activities on the adjacent network.*

*In addition to the above, some of the design aspirations anticipated with the proposal fall outside the scope of this Resource Consent application, but warrant specific mention given their role in providing the desirable interface between the proposal site, the MFC and surrounding precinct, and the adjacent public realm. Accordingly, and in line with the Council's roles as Road Controlling Authority, the following recommendations are put forward for consideration:*

- *narrow the Wakefield Street carriageway between Cuba Street and Opera House Lane to reduce vehicle speeds and provide improved pedestrian amenity and connectivity to, and through, the site; and*
- *reinstate a formal crossing point on Wakefield Street between Opera House Lane and the proposed new building's southern entrance (which it is understood to have been removed to facilitate underground services works).*

Stantec reviewed the amended proposal, and in an Addendum to their 1 March 2021 report (refer **Appendix 12A**), advised that:

*By way of summary, it is assessed that the revised development plans as now proposed, do not change any of the conclusions reached in the ITA and that the development proposal can continue to be supported from a transportation perspective.*

#### **5.2.6.1 Planning Assessment - Transportation Effects**

The resource consent trigger in relation to 'vehicle parking, servicing and site access' (13.6.1.3.1) is the non-provision of an on-site loading area.

Both Jervois Quay and Wakefield Street are restricted road frontages and so there is a general expectation that no new vehicle crossing will be established across those road frontages.

Policy 12.2.15.11 is relevant to an assessment of the non-provision of an on-site loading facility:

*12.2.15.11 Consider waivers from the servicing or loading requirements:*

- *where suitable alternative off-street provision can be made; or*
- *where site access restrictions apply and there is no suitable alternative means of access; or*
- *where it is necessary to protect any listed heritage item; or*
- *where the topography, size of shape of the site, the location of any natural or built features on the site, or other requirements such as easements, rights of way, or restrictive covenants impose constraints which make compliance impractical.*

In lieu of an on-site loading area it is proposed that site servicing demands will be met via a new on-street loading zone on Wakefield Street, which can be designed to accommodate a medium rigid vehicle.

Under the relevant restricted discretionary activity rule, Rule 13.3.8.1, the matter for assessment is "*the effects generated by the standard not met*" - i.e. the non-provision of on-site servicing.

The Stantec Report comments:

*... the nature of the predominant commercial office activity within the new building means the majority of service vehicles visiting the site would be courier vehicle/vans delivering small goods that can be easily transported by hand or trolley, and not large bulky goods that require dedicated lifting equipment. An accessible trolley route is provided via the pedestrian accessway at the building's southwest corner. In considering the variety of service trips, it can be reasonably expected that visits will be staggered throughout the day, such that multiple vehicles would not be arriving at once.*

*For rubbish/recycling collection activities, these are typically scheduled to occur early in the morning prior to the commuter peaks. All storage of waste will be handled within the dedicated rubbish room located on the building's ground floor, immediately adjacent to the proposed kerbside loading zone on Wakefield Street. It is proposed that the kerbside loading bay be constructed to sit flush with the footpath, to enable skip bins to be wheeled between the building's internal rubbish room and the back of the rubbish truck positioned within the loading zone.<sup>17</sup>*

The Applicant's investigation into the provision of an on-street loading zone in lieu of an on-site loading facility was prompted by observations made by:

1. the Council's traffic engineer who advised at the pre-application meeting that any reverse manoeuvring would not be acceptable; and
2. the Design Panel who opined that:

*... that provision of truck turning within the site/building footprint would significantly compromise the ground floor edge conditions and street activation to the Wakefield Street façade. Given the low traffic nature of Wakefield Street currently, and the limited pedestrian use of that section of the street (particularly on the northern side of Wakefield Street) we do not see this as inappropriate in the urban context.*

In the circumstances, the proposal to provide a loading zone on Wakefield Street is appropriate and consistent with providing a 'waiver' where:

- site restrictions apply (Wakefield Street being a restricted road frontage);
- there is no suitable alternative on site due to the shape and size of the site and with the other road frontage (Jervois Quay) also being a restricted road frontage; and
- there is a suitable opportunity to locate a roadside loading zone immediately adjacent to the site without adversely affecting the safety of either pedestrians or vehicles. Indeed, the provision of an on-site loading facility, which would require a new vehicle crossing, could well result in greater adverse effects, both for pedestrians and motorists.

Overall, it is concluded that any adverse effects associated with the non-provision of an on-site loading area will be less than minor.

In relation to parking, as the Stantec Report confirms:

*The proposal does not include any on-site parking, with the 11 parks within the development site removed along with the 15 car parks serving the adjacent MFC, as part of the wider improvement works and new landscaping design.*

This 'outcome' is consistent with Policy 12.2.15.6 which seeks to manage the supply of commuter carparking.

As to site accessibility generally, as the Stantec Report records:

*The development site's proximity to the key transport corridor at Manners Street and future secondary public transport spine route on Jervois Quay, along with the proposed on-site secure cycle parking and end of trip facilities, ensures that an overall sustainable transport outcome will be achieved. Supplementary to this, the recommended off-site improvements to pedestrian circulation and site connectivity on Wakefield Street, will further serve to benefit both visitors to the site, and wider active mode users in this part of the city.*

This 'outcome' is consistent with Policy 12.2.15.1 which seeks to improve access for all people, particularly people travelling by public transport, cycle or foot.

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<sup>17</sup> Integrated Transportation Assessment, **Appendix 12** to the AEE, page 13.

### 5.2.7 CPTED Effects

As part of the design process, the project architect Athfield Architects engaged Dr Frank Stoks, an acknowledged CPTED expert, to undertake a CPTED assessment of the proposal. Dr Stoks' subsequent report is attached (**Appendix 13**), together with his addendum dated 22 August 2022 (refer **Appendix 13A**).

Dr Stoks' overall conclusion is:

*... that prudent CPTED measures have been embedded and refined during the design process, to a level commensurate with a Resource Consent application, remains unchanged following the design amendments. Positive contributions to CPTED remain the same or better, and there does not appear to be any adverse CPTED conditions introduced by the changes.*

In the body of his report Dr Stoks identifies a small number of areas where, as part of the developed design process, some further amendments/refinements could be considered and addressed.

#### 5.2.7.1 Planning Assessment - CPTED Effects

Embedding CPTED principles into the design process has resulted in a development that is consistent with the District Plan's Guidelines for Design Against Crime.

This focus and commitment to embedding CPTED principles into the developed design process will further enhance the overall safety of both occupants of the building, and importantly the safety of persons enjoying adjoining public spaces.

As noted in the Guidelines for Design and Crime:

*Whether surveillance is coming from inside or outside buildings, the strategy to reduce crime and fear of crime is the same - to increase eyes on the street.*

Locating a significant day-time population in this location is a positive outcome in relation to this principle.

### 5.2.8 Noise Effects

An acoustical (noise) assessment has been undertaken by Marshall Day Acoustics (**Appendix 14**). The report addresses the following areas of potential noise effects:

- fixed plant noise;
- activity noise; and
- construction noise and vibration.

#### *Fixed Plant Noise*

In relation to noise emissions from fixed plant, Marshall Day comment that:

*The equipment located within the plant room will consist of pumps and handling units. These plant items can be attenuated sufficiently to ensure the cumulative effect noise levels do not exceed the District Plan noise limits. This would be done by ensuring the plant room construction has adequate sound insulation built into the design, and by installing attenuators to air handling units (if required). Attenuation options will need to be determined as the design progresses.*

*Similarly, extract fans elsewhere in the building can easily be designed to comply with the District Plan noise limits, when combined with the noise from other plant, by using attenuators.*

Marshall Day conclude that the noise levels are predicted to "easily comply" with the District Plan's noise limits for fixed plant.

#### *Noise Emissions for Activities*

Marshall Day considered potential 'activity noise' associated with people on the Level 4 rooftop terrace and concluded that predicted noise associated with up to 200 people would comply with the District Plan activity noise limits.

### *Vibration*

Although the proposed installation of piles using a ‘bottom driven impact methodology’ (the same methodology as used on the Takina (Wellington Convention Centre) development), rather than ‘bored piling’, can result in higher vibration levels, Marshall Day predicted that the limit of DIN 4150-32016 “*would be comfortably complied with*”; adding, however that:

*Final protocols for management of vibration will need to be developed prior to the commencement of piling operations.*

### *Consent Conditions*

In Section 6 of the report Marshall Day set out recommended consent conditions, adding that:

*The intention of these conditions is to ensure that the noise requirements of the District Plan are addressed, and that sufficient information is provided to the Compliance Monitoring Officer.*

#### **5.2.8.1 Planning Assessment - Noise Effects**

With the imposition of consent conditions recommended by Marshall Day, any adverse noise effects associated with the temporary construction phase, and any on-going external noise effects from fixed plant noise or activity noise, once the new building is completed and occupied, will be less than minor and will be compliant with the District Plan standards.

#### **5.2.9 Earthworks Effects**

As the site is both within the Central Area and within the Civic Centre Heritage Area, two earthwork rules are applicable:

Rule 21B.2.3 Earthworks which are not a Permitted Activity are a Discretionary Activity (Restricted) in respect of:

- effects on historic heritage

Rule 30.2.2 Earthworks that do not comply with the permitted activity conditions under 30.1.3 (Central Area) are a Discretionary Activity (Restricted) in respect of:

- earthworks stability;
- erosion, dust and sediment control; and
- transport of material (for amounts exceeding 200m<sup>3</sup>).

Dunning Thornton (refer Structural/Geotechnical Effects & Construction Methodology - **Appendix 15**) confirm that:

*The volume of excavation is expected to be approximately 3200m<sup>3</sup>. Excavation will typically be shallow [approximately 1200mm deep] with localised deeper zones at pilecaps and beneath the lifts [approximately 2.4m deep, maximum]. The proposed pile solution [bottom-driven steel-tubes] results in minimal spoil for disposal. Excavated material will be treated/disposed as appropriate. Bulk excavation will be carried out prior to piling to form a site bund.*

...

*Typical bulk-excavation levels are expected to be above ground-water levels. Localised de-watering may be required to enable formation of lift pits and possibly some of the deeper foundation beams. Deeper, localised excavations will be retained with sheet piling as required and no significant lowering of the water-table is anticipated. Any dewatering effects are expected to be extremely localised.*

Note: a separate application for a water permit for ground water take and potential discharge of water to land is to be made to the Greater Wellington Regional Council (GWRC).

#### **5.2.9.1 Planning Assessment - Earthworks Effects**

##### Rule 30.2.2 (Earthworks)

As the Introduction to Chapter 29 of the District Plan “Earthworks” notes:

*Earthworks are essential to the development of the City ... they are integral to the construction of foundations and buildings. For all these reasons, and more, earthworks are part of many development projects in the City*

and, as noted in the explanation to Objective 29.2.1:

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

earthworks are an integral component of Central Area development, and the proposed development of the new building in the former Michael Fowler Centre carpark is no exception.

Earthworks can result in adverse effects on the environment if they are not appropriately controlled and managed. Accordingly, consent is required for a Discretionary Activity (Restricted) in relation to:

- earthworks stability;
- erosion, dust and sediment control; and
- the transport of material (when exceeding a 200m<sup>3</sup> limit).

In relation to earthworks stability, prior to any works commencing building consent(s) will be required, at which point the bulk excavation works, temporary retaining, piling strategy and protection of existing infrastructure following works, as described in the Dunning Thornton Report, will all be assessed.

In relation to erosion, dust and sediment control measures will be implemented through the construction management plan (CMP) as outlined in Section 16 "Excavation Management Plan" of the DRAFT CMP prepared by L T McGuinness.

The preparation and approval of a FINAL CMP will be secured through the appropriate consent condition(s).

In relation to the transport of material, as with the majority of Central Area developments, material will need to be transported off site to an approved landfill. It is expected that the material will be transported to one of the southern landfills via Wakefield Street, Taranaki Street, Webb Street, Brooklyn Road and Happy Valley Road, thus avoiding the need to traverse any local/primarily residential streets.

The management of the transport of material off site to the approved landfill will be addressed in the FINAL CMP.

With the imposition of resource consent conditions addressing 'erosion, dust and sediment control' and 'transport of material', effects on the environment associated with the earthworks phase of the development will be less than minor. They will also be temporary effects.

#### Rule 21B.2.3 (Heritage)

As the site is within the Civic Centre Heritage Area, earthworks exceeding 10m<sup>3</sup> require consent under Rule 21B.2.3 in respect of 'effects on historic heritage'.

Section 7.1.2 of the Heritage Assessment Report (**Appendix 7**) concludes that:

- *The proposed earthworks will not cause any loss of heritage values for which the area is listed.*
- *The recognised values for the area note that the values are fundamentally vested in the civic square space and the surrounding collection of civic buildings (including the two individual heritage buildings). The proposed development will make no change to these recognised heritage values.*
- *It is noted that the CCHA statement in the District Plan states that development, and therefore associated earthworks, is specifically anticipated on the subject site (the MFC carpark), and so development in this location is in keeping with the recognised heritage values*

Following the completion of the building construction phase and the site landscaping there will be no visible evidence of the earthworks having been undertaken.

Under Rule 21B 2.3 one of the assessment criteria is:

*21B.2.3.5: Whether the site has or is likely to have significant archaeological values, and whether the effects on those values by the proposal can be adequately avoided, remedied or mitigated.*

To address this issue, the Applicant engaged Capital Heritage Limited to prepare an Archaeological Assessment report (refer **Appendix 16**).

At section 6.2 of the report, “Potential Effects of Proposed Work”, it is recorded that:

*The excavations may extend down into the 1880s reclamation soils, and also possibly into the interface between the original harbour and the reclamation. There may be cultural material present at this depth although this is most likely to be the case closer to the original shoreline on the Wakefield Street side of the site. There is low-moderate potential for disturbing pre-1900 cultural material over the new building footprint.*

The report concludes with a number of recommendations, including:

- 1. Application should be made to Heritage New Zealand Pouhere Taonga for a General Archaeological Authority (under Section 44a of the Heritage New Zealand Pouhere Taonga Act 2014) prior to any earthworks being carried out there. This is a statutory requirement.*
- 2. All contractors involved with earthmoving should be briefed prior to the start of the work about the nature of the site and what the archaeological potential might be.*
- 3. Monitoring should be carried out for initial excavation work.*
- 4. Any material identified to be archaeological should be sampled and recorded following general archaeological practice.*
- 5. Should any cultural material be uncovered by the excavation (such as artifacts) then the appropriate iwi and HNZPT authorities should be informed and the excavation reassessed prior to commencing.*

With the implementation of these recommendations, any effects on any archaeological resources will be appropriately avoided, remedied or mitigated.

Note: the Applicant will be applying to HNZPT under s44a of the Heritage New Zealand Pouhere Taonga Act 2014 for a General Archaeological Authority.

#### **5.2.10 Contaminated Land Effects**

In 2016 Tonkin & Taylor were commissioned by Willis Bond to undertake a ground contamination investigation of the MFC Carpark site. The “Introduction” to the report states:

*This report has been prepared and reviewed by a suitably qualified and experienced practitioner as required by the NES Soil and as described in the NES Soil Users’ Guide. This report meets the general requirements of a preliminary site investigation (PSI) and detailed site investigation (DSI) as outlined in the NES Soil User’s Guide.*

The full report is attached as an appendix to the Draft Construction Management Plan.

At Section 4.5 “Regulatory Implications” the report confirms that:

*HAIL activities have been undertaken at the site in the past which means that it will be regulated under the NES. Redevelopment will require consents under the NES Soil and potentially under the regional plan for discharges.*

Note: as previously stated, the Applicant will be applying to the Greater Wellington Regional Council (GWRC) for the necessary ‘ground water take’ and associated ‘discharge to land’ permits.

The application seeks consent under both the District Plan’s contaminated land provisions and the NES

#### **5.2.10. Planning Assessment - Contaminated Land Effects**

Section 16 of the DRAFT Construction Management Plan (CMP) details the proposed Excavation Management Plan, and, at page 40, notes that:



*A limited contamination survey has been conducted which has indicated the presence of contamination and not representative of the whole site as once the RNZB building is removed a full survey will be undertaken.*

[emphasis added]

Given this intention, it is recommended that a consent condition be imposed requiring the preparation of a Contaminated Site Management Plan (CSMP) before any site works commence.

In the meantime, the DRAFT CMP at page 48 under the heading “Contaminated Ground” records that:

*If there is ground contamination present, it may have the following implications:*

- *Additional health and safety requirements during the works.*
- *Landfill disposal of surplus soil that has to be disposed of off-site (i.e. not clean fill).*
- *Pre-treatment would be required if highly contaminated material is found.*
- *Odour management during works and to prevent odour entering buildings.*
- *Contaminated Site Management Plan before works begin and a Site Validation Report on completion of the works.*
- *A Long-Term Site Management Plan if contamination remains on site (e.g. below building or paving).*

*All of the above will be confirmed on final testing and an updated and agreed Construction Management Plan will be established prior to any construction activities commencing on site. This CMP will incorporate a detailed Contaminated Site Management Plan, and all ground works will be carried out in accordance with the CSMP, which will be reviewed and updated regularly.*

The situation whereby there is incomplete knowledge of the nature and level of any site contamination at the time of lodging for resource consent is not unusual. For this reason, consent is sought under both the District Plan’s contaminated land rules and the NES Regulation 11, the latter being for a Discretionary Activity.

Accordingly, consent conditions requiring the preparation of a Contaminated Site Management Plan and approval by Council prior to any works commencing will address the necessary methods to ‘avoid, remedy or mitigate’ any adverse effects on:

1. public health and safety (NES); and
2. the environment, including the ecological and amenity values associated with the site (District Plan).

### **5.2.11 Civil Design**

Aurecon NZ Limited were commissioned to provide a high-level assessment of the applicable design standards primarily in relation to civil services, drainage and flooding (refer **Appendix 17**). The report included a record of consultation with Wellington Water Limited.

Principal conclusions in relation to ‘environmental issues’ were:

- the area (including the site) is subject to flooding, with a >500mm depth of flood water predicted during a 1 in 100-year ARI storm event;
- the site sits within an overland flow path, and the construction of the proposed building may cause up to 30mm additional flood depth due to the displacement of flood water; and
- impervious areas are no greater than existing.

The report records (at page 11) that:

*The minimum Finished Floor level (FFL) is therefore to be 3.0, RL per WVD-53 or higher, being 200mm above the 100-year ARI + Climate Change flood level of 2.83m RL.*

### 5.2.11.1 Planning Assessment - Civil Design

In the Applicant's opinion the main 'resource consent' issue is potential site flooding. To this end, as confirmed in the Structural/Geotechnical Effects & Construction Methodology Report (refer **Appendix 15**):

*The ground floor slab level of the new building will be set approximately 1m above existing ground levels to mitigate potential inundation and sea-level rise flooding hazards as recommended in the Aurecon Civil Infrastructure Report. Note that the raised floor level also provides space for base-isolation bearings and reduces excavation volumes.*

Based on the above confirmation, any adverse effects associated with flood waters will be avoided.

### 5.2.12 Construction Effects

The principal contractor will be L T McGuinness & Co, one of Wellington's most experienced building contractors.<sup>18</sup>

L T McGuinness & Co will have full responsibility for determining, implementing and managing the site preparation and construction phases.

A comprehensive DRAFT construction management plan (CMP) has been prepared (refer **Appendix 18**).

The CMP objectives are:

- *To outline a construction methodology for the MFC Carpark Project.*
- *Identify any works during the course of the construction that have the potential to impact on the location environment.*
- *To demonstrate management procedures to deal with the potential effects of construction activity on the local environment.*
- *To establish how the public interface will be managed.*
- *To ensure the safety of the public at all times during the works.*
- *To outline potential issues and corrective procedures in consultation with neighbouring buildings, public and contractor.*

As is the standard approach for all Central Area development projects, a consent condition requiring the preparation of a FINAL CMP for Council's approval prior to works commencing on site would represent 'best practice'.

### 5.2.13 Positive Effects

The proposed new building and site landscaping will result in an overall positive outcome namely transforming the site from a hard surfaced carpark (currently occupied by a temporary building) into an architecturally designed building and landscape designed to accommodate a range of Central Area activities, including Victoria University of Wellington's School of Music, which will collectively add to the vibrancy and vitality of the Civic Centre Heritage Area.

### 5.2.14 Summary - Environmental Effects

When regard is had to the overall outcome the result is a positive one. Any adverse effects on the historic heritage values of the Civic Centre Heritage Area and the overall urban form and townscape of the Central Area will be less than minor and therefore acceptable.

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<sup>18</sup> Recent Central Area projects that L T McGuinness have completed include: Chews Lane Precinct, Clyde Quay (OPT) Wharf Redevelopment, One Market Lane, Farmers Redevelopment, Site 10 (PWC Centre) - all of which are major Central Area projects. Currently LT McGuinness are constructing several new Central Area buildings including (a) Site 9 waterfront building; (b) Victoria Lane Apartments (c) the new Convention Centre; and are contracted to build the new building for Archives New Zealand.

## 5.3 NATIONAL AND REGIONAL POLICY

### 5.3.1 National Policy

In July 2020 the National Policy Statement on Urban Development 2020 (NPS-UD) was approved by the Governor General under section 52(2) of the Act, with an operative date of 20 August 2020.

The NPS-UD directs local authorities to ensure that planning is responsive to changes in demand, while seeking to ensure that new development capacity enabled by councils is of a form and in locations that meet the diverse needs of communities and encourages well-functioning, liveable urban environments.

Under Part 4 of the NPS-UD, and in relation to urban ‘intensification’, the directive is that every tier 1, 2 and 3 local authority must amend its regional policy statement or district plan to give effect to the provisions of the NPS-UD as soon as practicable, but by no later than 2 years after commencement date - i.e. by 20 August 2022.

The forthcoming review of the Wellington City District Plan<sup>19</sup> will be required to incorporate objectives and policies that give effect to the provisions of the NPS-UD.

A key NPS-UD policy that both regional policy statements and district plans must incorporate is Policy 3(a):

*In city centre zones, building heights and density of urban form to realise as much development capacity, to maximise benefits of intensification.*

A related policy is Policy 6 which states that:

*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 (described in Policy 1).*
- d. *any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or raise development capacity.*
- e. *the likely current and future effects of climate change.*

Note: under the NPS-UD “*planning decisions*” include decisions on resource consent applications.

#### Comment

Overall, the NPS-UD’s objectives and policies direct intensive urban development.

The question that arises is: what ‘weight’ can be placed on UDS-UD in advance of the District Plan being amended to give effect to the provisions of the NPS?

<sup>19</sup> Expected to be publicly notified in July 2022.

Under s104(b)(iii) regard must be had to any relevant provisions of a national policy statement, and given the place of national policy statements in the 'hierarchy' of planning instruments, significant weight should be placed on relevant provisions.

The NPS-UD's identification of city centre zones as locations for intensive development should be had regard to in the s104 assessment of the proposed building height, notwithstanding that the NPS-UD's directives have not yet been given effect to through 'updated' District Plan provisions.

### 5.3.2 Regional Policy

The Regional Policy Statement for the Wellington Region (RPS) became operative on 24 April 2013. As for the District Plan, as noted above, the RPS will require amendment to accord with the NPS-UD directives by 20 August 2022.

Under the operative RPS, the provisions most applicable to the proposed development are found in Chapter 3.5 "Historic Heritage" and Chapter 3.9 "Regional Form and Function".

#### 5.3.2.1 Historic Heritage

In relation to historic heritage, the over-arching objective is to protect identified and protected historic heritage from inappropriate modification, use and development. In turn:

*Policy 46: managing effects on historic heritage values*

is a consideration for resource consent applications, namely whether "an activity may affect a place, site or area with historic heritage value".

As noted in the Archifact heritage assessment report, the:

*... proposed development responds directly and appropriately to the recognised historic heritage values of the CCHA. It occupies a site anticipated in the CCHA as readily developable and responds positively to that and the wider heritage context.*

As directed by Policy 46, managing effects on historic heritage values associated with the Civic Centre Heritage Area, and, in particular, the relationship of the proposed new building with the Michael Fowler Centre, a 'contributory building' within the heritage area, has been a central consideration during the design process, which resulted in the variable heights of the proposed development, including the lower form of the West Wedge, the part of the building closest to the Michael Fowler Centre.

#### 5.3.2.2 Regional Form and Function

In terms of regional form and function, the over-arching objective is Objective 22:

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

- a. a viable and vibrant regional central business district in Wellington city*
- b. an increased range and density of activities in and around regionally significant centres to \*maintain vibrancy and vitality.*

Several policies are advanced to achieve the objective, including

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

*Policy 31: Identifying and promoting higher density and mixed-use development - district plans*

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

*Policy 55: maintaining a compact, well designed and sustainable regional form - consideration*

The proposed new building in the MFC carpark site is closely aligned with and therefore consistent with the RPS 'regional form and function' policy, in that it will:

- utilise what is essentially a ‘brownfields’ site for a development envisaged by the District Plan provisions for the Central Area [regional form and function]; and
- deliver a strongly positive urban design and landscape outcome based around establishing a positive sense of place and delivering high quality ‘design excellence’ outcomes commensurate with the civic status and historic heritage values of the Civic Centre Heritage Area [historic heritage].

### 5.3.3 District Policy

The relevant Operative District Plan objectives and policies were identified in Sections 3.2 (Central Area), 3.3 (Heritage), 3.4 (Earthworks) and 3.5 (Contaminated Land). Drawing on the detailed assessment of objectives and policies summarised in **Appendix 19**, it is considered that the proposal to develop the MFC carpark site for a new building is appropriate, both in terms of its Central Area ‘zoning’ and its ‘site-specific’ context within the Civic Centre Heritage Area [historic heritage protection and enhancement].

Overall, it is generally consistent with the objectives and policies relating to:

- (a) containment and accessibility [Objective 12.2.1 and Policy 12.2.1.2]
- (b) activities [Objective 12.2.2 and Policies 12.2.2.1, 12.2.2.2 and 12.2.2.4]
- (c) urban form and sense of place [Objective 12.2.3, Policies 12.2.3.1 and 12.2.3.2]
- (d) effects of new building works [Objective 12.2.5 and Policies 12.2.5.1, 12.2.5.4, 12.2.5.5, 12.2.5.6, 12.2.5.7, 12.2.2.5.8 and 12.2.5.9]
- (e) buildings and public amenity [Objective 12.2.6 and Policies 12.2.6.1, 12.2.6.2, 12.2.6.3, 12.2.6.4, 12.2.6.5, 12.2.6.6, 12.2.6.7, 12.2.6.12, 12.2.6.13, 12.2.6.15 and 12.2.6.16]
- (f) building amenity [Objective 12.2.7 and Policies 12.2.7.1 and 12.2.7.2]
- (g) access and transportation [Objective 12.2.15 and Policies 12.2.15.6, 12.2.5.8, 12.2.15.9, 12.2.15.10, 12.2.15.11 and 12.2.15.13]
- (h) tangata whenua [Objective 12.2.16 and Policies 12.2.16.1 and 12.2.16.2]
- (i) heritage [Objective 20.2.1 and Policies 20.2.1.5, 20.2.1.6, 20.2.1.7 and 20.2.1.8]
- (j) earthworks [Objective 29.2.1 and Policies 29.2.1.1, 29.2.1.2, 29.2.1.3, 29.2.1.11 and 29.2.1.12]
- (k) contaminated land [Objective 31.2.1 and Policies 31.2.1.2 and 31.2.1.3]

in that the proposed development will:

1. make more efficient use of a Central Area site, which is currently significantly under-developed/under-utilised, thereby contributing to the District Plan’s containment and accessibility objective [containment and accessibility];
2. add a significant daytime population to the Central Area [activities] consistent with the Central Area principle - *sustain and enhance the economic heart of the Central Area*, thus adding to the overall vibrancy of the Central Area [activities];
3. establish a development with a strong ‘sense of place’ [urban form and sense of place] consistent with the Central Area principle - *enhance ‘sense of place’*;
4. through a considered approach to managing building height and mass, result in a development that is not contrary to outcomes anticipated for the Central Area, including the city’s high city/low city urban form, given that the District Plan does provide for heights up to 43.8m in parts of the low city, and also enables ‘over-height buildings’ that achieve design excellence [urban form and sense of place];
5. establish a building that achieves ‘design excellence’ in a location of high public amenity [urban form and sense of place] consistent with the Central Area principle - *enhance the built form of the Central Area*,

6. distribute building mass across the site in a manner that establishes an appropriate relationship with the adjacent Michael Fowler Centre [effects of new building works]; and
7. maintain and enhance the heritage values associated with the Civic Centre Heritage Area [heritage].

At the same time, any temporary adverse effects associated with site earthworks and site construction will be appropriately avoided and/or mitigated through consent conditions relating to the preparation and approval of a construction management plan (CMP), which will include measures to address construction noise and vibration, construction traffic, and dust and sediment control.

For these reasons, it is the Applicant's assessment that the proposal is consistent with the relevant District Plan objectives and policies applying to the Central Area and to Heritage Areas.

Note: these conclusions are drawn from the detailed assessment of the District Plan objectives and policies (Central Area and Heritage) to support the above conclusions is provided in **Appendix 19**.

The relevant Proposed District Plan objectives and policies were identified in Section 3.7. The proposal is consistent with the PDP objectives and policies in that the proposed new building will:

1. be resilient and safe [CCZ-PREC-01 - Purpose]
2. respect the form and landmark status of the Michel Fowler Centre [CCZ-PREC-02 - Built form];
3. enable both culture (school of music) and commercial activities to establish on an 'at present' brownfields site [CCZ-PREC01-P1 - Activities];
4. make a significant contribution to the 'staged redevelopment of Te Ngākau Civic Square Precinct [CCZ-PREC01-P2 - Use and development];
5. make a positive contribution to the enhancement of pedestrian access and connections between the precinct and the waterfront [CCZ-PREC01-P3 - Access, connections and open space]; and
6. deliver a building of high-quality visual and architectural design [CCZ-PREC01-P4 - Amenities and design].

In summary, both the proposed building and the associated landscaping will make a significant contribution to the 'phase of transition' anticipated for the Te Ngākau Civic Square Precinct.

## 5.4 OTHER MATTERS

Section 104(1)(c) requires that when considering an application for resource consent, regard shall be had to:

*any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

One such 'other matter', in the Applicant's opinion, is the Te Ngākau Civic Precinct Framework (the "Framework") adopted by Council in October 2021.

The Framework records that:

*Te Ngākau Civic Precinct is Wellington's unique civic place: an anchor point that connects the central city and the waterfront, both a place in its own right and a gateway between the city and the harbour.*

It also records that the Precinct is entering a "*phase of transition*".

Under the heading "Introduction and Purpose" it is stated that:

*The purpose of this framework is to provide an integrated and strategic guide for the future of the Te Ngākau Precinct. The framework provides a comprehensive vision, objectives and policies for the precinct which align with the spatial plan goals of a Wellington that is resilient, greener, compact, vibrant and prosperous, inclusive and connected.*



Section 7 of the Framework outlines “The Concept” stating that:

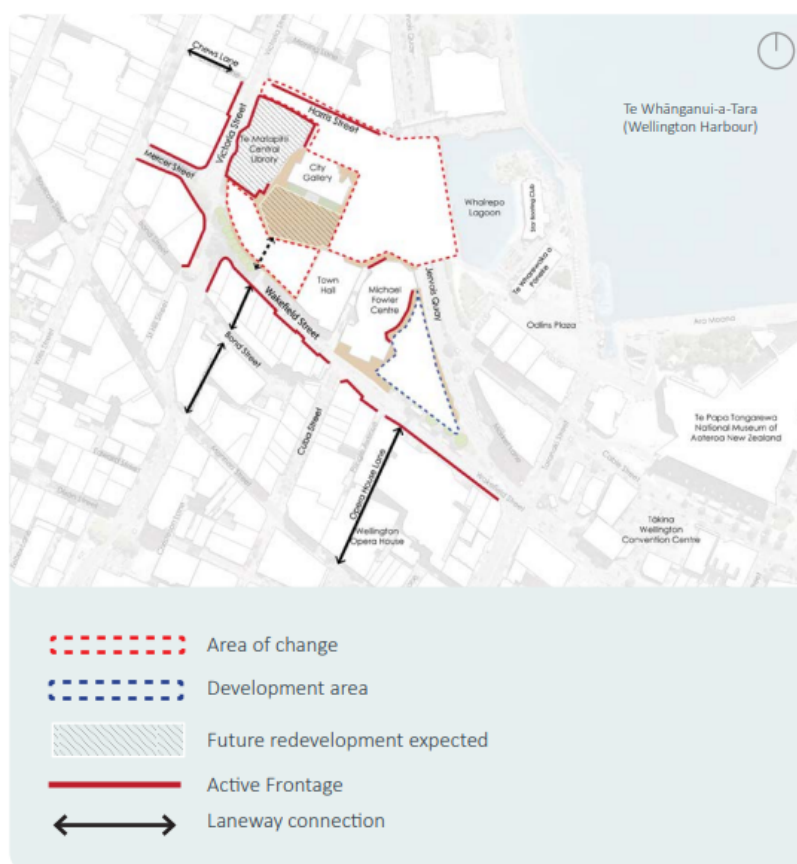
*The concept identifies spatially where change and transformation is required to deliver on the vision, objectives and policies.*

In turn, Section 8 “Key Spatial Elements” records that:

*Three areas of change and development have been defined that represent significant opportunities for transformation in the precinct. These have been identified because they contain buildings or structures with poor seismic performance that require repair or have existing earthquake damage, poor design and/or they are underutilised parts of the precinct.*

*Within these spaces there are opportunities for new development, new green open space, improved connectivity and improved access to support the integration of the precinct, the city and the waterfront.*

The MFC carpark is identified as a “development area” - refer Figure 5.



**Figure 5:** Te Ngākau Civic Precinct - Key Spatial Elements

In the context of the proposal for a new building on the MFC carpark site, the following Framework objectives and policies are directly relevant:

**Objective 2:** *Te Ngākau is a place that respects and incorporates experiences of architecture, design and heritage balanced with ensuring its functional role for the city.*

In the discussion that follows Objective 2 it is recorded, inter alia, that:

- *There needs to be an acknowledgement that change must be allowed for alongside respecting and enhancing heritage.*
- *The significance of this precinct warrants a careful and considered design and procurement process that ensures high quality design in both architecture and building performance.*

- *New or modified buildings and spaces should contribute to the heritage qualities of the precinct ... and new buildings and structures should not compromise the value of adjacent listed heritage items through dominating bulk and form or through reduction in visual connection for surrounding public spaces.*

*Objective 3: Te Ngākau is a place that is vibrant, welcoming and supports a range of uses to locate alongside its core role.*

In the discussion that follows Objective 3, it is recorded, inter alia, that:

- Increasing the activity and vibrancy of the Te Ngākau Civic Precinct will be achieved by encouraging more people to move through the Precinct and visit it as a destination to work, live or play.

Also, among the nine listed policies under Objective 3 are:

*5.3 The design of all buildings and structures must maintain sunlight access to and prevent shading of Civic Square between the hours of 12pm and 2pm though the year.*

*5.4 An increase in height above 27m can be considered along the southern edge of the precinct, provided the requirements for sunlight access and heritage outlined in Objective 2 of this framework can be achieved.*

*Objective 4: Te Ngākau is a place that integrates with the city and the waterfront.*

Sitting under Objective 4 is Policy 4.1:

- 4.1 Multiple connections are to be created for people to move from the precinct to the waterfront which are logical, safe and enjoyable*

*Objective 5: Te Ngākau is safe, inclusive, comfortable and green.*

Sitting under Objective 5 are several relevant policies, including:

*5.1 An increase in the quantum of green space in the precinct is to be achieved through site re-design. This should include provision of high-quality landscaping, greening of existing public spaces and creation of new usable green open space areas.*

*5.2 The amount of green space will be increased, located and sized to ensure safety, usability, and shelter.*

*5.3 Plant selection and landscape design should give preference to species native to the Wellington region and consideration of our climatic conditions. Planting and landscape design should encourage shade and shelter and support wayfinding in the precinct.*

*Objective 6: Te Ngākau is a place that is resilient, sustainable and enduring.*

In the discussion that follows Objective 6, it is recorded, inter alia, that:

*... Its location within close proximity to the harbour means sea level rise and resilience are key issues to be considered as part of every aspect of its redevelopment. This should be addressed across the precinct as a whole and also as part of each development.*

#### **5.4.1 Planning Assessment - Other Matters**

The Framework does represent the Council's up-to-date strategic planning vision for Te Ngākau Civic Precinct, including the application site. However, it is a non-statutory document, but a document that, in the Applicant's opinion, nevertheless comes with the scope of s104(1)(c) with the Council having regard to the Framework as a relevant other matter when determining the application.

In summary, it is the Applicant's opinion that the proposal strongly delivers on the outcomes anticipated for the Te Ngākau Precinct in the following ways:

1. the MFC carpark is identified as an "area of change" - thus, new development is clearly contemplated;

2. as an “*area of change*”, the MFC carpark provides an opportunity for a significant transformation of an under-utilised portion of the Precinct from a ‘brown fields’ site to a site that makes a strong positive contribution to the over-arching vision for the Precinct;
3. the proposal will deliver a high quality architecturally designed building set in adjacent landscaped open spaces that will make a positive contribution to the public amenity of the site and wider Precinct [Objective 2];
4. the proposal will bring a significant daytime population to the site and Precinct, including the Victoria University’s School of Music, which will add significantly to the vibrancy of the Precinct [Objective 3];
5. the proposal will increase and enhance the level of connectivity of the Precinct to both the wider city and the waterfront [Objective 4];
6. the proposal will deliver high quality landscaping and the quantity and quality of outdoor publicly accessible open spaces will be significantly enhanced [Objective 5]; and
7. the proposal will incorporate a high level of seismic resilience and mitigate effects of flooding associated with rising sea levels [Objective 6].

In relation to building height, the proposal is consistent with Policy 3.9, Objective 3, which states that:

*An increase in height above 27m can be considered along the southern edge of the precinct, provided the requirements for sunlight access and heritage outlined in Objective 2 of this framework can be achieved.*

In support of this the increased height, as anticipated by Policy 3.9, the following points are made:

1. the proposed building will not result in any shading on the Civic Square or any other protected sunlight space, including the Taranaki Wharf Lagoon area;
2. the proposed building will not be visible from within Civic Square and will therefore not adversely affect the visual amenities or heritage values associated with the Civic Centre Heritage Area (refer the townscape assessment); and
3. the proposed building will not undermine the ‘landmark qualities’ of the Michael Fowler Centre (refer to the heritage assessment).

In short, the proposed development is fully consistent with the outcomes encapsulated in the vision, objectives and policies for development within the Te Ngākau Civic Precinct.

## 5.5 SUMMARY SECTION 104 ASSESSMENT

In Section 3.6 above the following questions were identified from an analysis of the relevant District Plan objectives, policies and rules. Answers to these questions enables an assessment to be made of the ‘closeness of fit’ between the proposed development and the District Plan strategy for new Central Area buildings and for managing historic heritage resources.

***Question 1: what effects will the proposed new building have on the historic heritage values associated with the Civic Centre heritage Area?***

Any adverse effects will be less than minor. As the heritage assessment records:

*The recognised values for the area note that the values are fundamentally vested in the civic square space and the surrounding collection of civic buildings (including the two individual heritage buildings). The proposed development will make no change to these recognised heritage values.*

*This proposed development responds directly and appropriately to the recognised historic heritage values of the CCHA. It occupies a site anticipated in the CCHA as readily developable and responds positively to that and the wider heritage context.*

**Question 2: *what effects, if any, will the associated earthworks have on the historic heritage values of the Civic Centre Heritage Area?***

Any adverse effects will be less than minor.

The earthworks will not result in any adverse effects on the historic heritage values of the CCHA. There will be no visible evidence of the earthworks having been undertaken, once the development, including the landscaping, is completed

**Question 3: *will the proposed building height result in an unacceptable outcome in relation to the bulk and form of buildings within and adjacent to Civic Centre Heritage Area?***

No. This potential outcome has been assessed from both a heritage and urban design perspective. It is considered that any adverse effects on the historic heritage values of the Civic Centre Heritage Area and the landmark qualities of the Michael Fowler Centre, where they are adverse, are less than minor and therefore acceptable.

The Council's external urban designer and the Design Panel both concluded that the proposed building height was acceptable:

- *... in this setting the overall building heights as proposed can be supported<sup>20</sup>*
- *... the similarity of height and generous setback from the MFC ensures that it complements and does not visually dominate that building. The height is also appropriate in relation to the surrounding buildings<sup>21</sup>*

**Question 4: *will the proposed new building, as an 'over-height' building, achieve an appropriate level of 'design excellence'?***

Yes. The urban design assessment is that the proposed building not only responds positively to the objectives and guidelines of the Central Area Urban Design Guide (CAUDG), but in addition includes several design responses and features that:

*"... go over and above what would normally be expected to satisfy the Central Area Urban Design Guide provisions".*

**Question 5: *will the proposed new building result in unacceptable wind effects?***

No. The wind report concludes that the overall the development will result in a relatively small change in wind conditions, and while the initial wind assessment identified two areas where maximum gust speeds were increased above the 20m/s Safety Criteria, with some additional planting in the new/expanded 'northern garden' wind speeds in one of these locations were reduced to 20m/s or below. The development will also reduce wind speeds of the 'existing environment' below the 10m/s Safety Criteria in four locations.

Based on further wind tunnel testing of the revised design, WSP conclude that:

*The wind tunnel study of the revised design for the 110 Jervois Quay development showed that it generally performed better than the original design that was tested. It reduced, or eliminated, some of the gust speed increases identified in the original design, including all those locations where the original design increased the gust speeds over the 20m/s District Plan Safety Criteria.*

**Question 6: *Will the non-provision of on-site servicing result in any unacceptable transportation-related effects?***

No. As detailed in the transportation assessment report, the provision of a loading zone off site but immediately adjacent to the new building is an acceptable way to provide for the site's servicing needs and will avoid the need for a new vehicle crossing across a restricted road frontage.

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<sup>20</sup> As recorded in the Pre-Application Meeting Notes (refer **Appendix 3**).

**Question 7: will the site earthworks result in any adverse effects in relation to stability, dust and off-site sedimentation?**

No. Site earthworks will be managed through the implementation of a robust earthworks management plan (EMP) so that any off-site effects are avoided to the greatest practicable extent.

In relation to stability, a matter to be addressed through the building consent process, no issues are anticipated given the shallow depth of the necessary excavation. Some localised deeper excavations will be retained with sheet piling as required and no significant lowering of the water table is anticipated.

**Question 8: will the site works result in any adverse effects on the site's ecological and amenity values and/or the wider neighbourhood as a consequence of the presence of any site contamination?**

No. Any extant site contamination will be remediated through the implementation of a robust contaminated site management plan (CSMP) in a manner that will not impact the site's ecological and amenity values.

**Question 9: is the proposed new building consistent with the overall planning strategy for the Te Ngākau Civic Square Precinct, as informed by the PDP objectives and policies for the Precinct?**

Yes. As summarised above in Section 5.3.3 (District Policy), the proposed building and associated landscaping are consistent with the revised planning strategy for the Te Ngākau Civic Square Precinct, which clearly anticipates new development that contributes to the amenity and special character of the Precinct and is at an appropriate scale and intensity.

**Question 10: will the proposed new building and site development result in positive effects?**

Yes. The proposal will result in a positive transformation of the site from its current 'brown fields' nature, that will in turn significantly enhance the amenity and vitality of the Civic Centre Heritage Area. It will add a significant daytime population, including the Victoria University of Wellington's School of Music, which will enhance the ambience of the Te Ngākau Civic Precinct.

### 5.5.1 Summary

The proposal is consistent with the District Plan's strategy for the Central Area and for protecting historic heritage values.

## 5.6 PART 2 RMA

Part 2 of the Act "Purpose and Principles" comprises sections 5 to 8.

Section 5 sets out the Act's purpose as follows:

- (1) *The overall purpose of the Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while -*
  - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

In turn, sections 6 to 8 set out 'principles' relating to:

- Matters of National Importance (s6)
- Other Matters (s7)
- Treaty of Waitangi (s8)

The recent Court of Appeal decision in *R J Davidson Family Trust v Marlborough District Council*<sup>22</sup> confirms that decision-makers considering an application under s104(1) can have recourse to Part 2, although the extent to which Part 2 has a bearing on the outcome of a resource consent application will depend on the applicable planning instruments.

In the Applicant's opinion, although it is not necessary to have recourse to Part 2, the proposed new Central Area building at 110 Jervois Quay is consistent with the purpose of the Act, in that it will enable the more efficient utilisation of the site as encouraged by the District Plan provisions for Central Area development.

At the same time, potential adverse effects on the environment have been appropriately avoided and/or mitigated by the overall design approach.

Thus, the proposal is generally consistent with:

s6(f) the protection of historic heritage from inappropriate subdivision, use and development;  
s7(b) the efficient use and development of natural and physical resources;  
s7(c) the maintenance and enhancement of amenity values; and  
s7(f) the maintenance and enhancement of the quality of the environment.

Consultation with tangata whenua has been undertaken, and will continue through the developed design process, especially in relation to the proposed landscaping [s8].

### Overall Conclusion

The assessment (and conclusion) in its simplest form involves a weighting of the positive effects of the proposal against any actual or perceived adverse effects (post mitigation) to arrive at an overall assessment as to whether the proposal should be approved and, if so, what conditions if any should be imposed to mitigate actual adverse effects.

In making such an assessment, the High Court in *Elderslie Park v Timaru District Council* stated that:

*To ignore real benefits that an activity for which resource consent is sought would bring necessarily produces an artificial and unbalanced picture of the real effect of the activity.*<sup>23</sup>

For the reasons outlined above, it is considered that the proposed new Central Area building at 110 Jervois Quay is consistent with the purpose and principles of the Act, as stated in Part 2.

In reaching this conclusion, particular regard has been had to the ultimate outcome, which is the [re]development of the site in the manner proposed will transform the site from its current 'low quality' environment to a 'high quality' environment in a manner that will add positively to the amenity, ambience and vitality of the Civic Centre Heritage Area.

## 5.7 CONSENT CONDITIONS

As with all Central Area developments, including new buildings located within heritage areas, a number of consent conditions will be necessary to ensure that:

- (a) the inevitable adverse effects associated with the earthworks and construction phases are mitigated to the greatest practicable extent; and
- (b) the new building and the associated landscaping deliver on the outcomes reflected in the application drawings.

<sup>22</sup> *RJ Davidson Family Trust v Marlborough District Council* [2018] NZCA 316. Also refer *Planning Quarterly* Issue 210, September 2018, and the article "Part 2 is Back" at pps 37-40.

<sup>23</sup> *Elderslie Park v Timaru District Council* [1995] NZRMA 433 (HC).



Consequently, in relation to the current application by MFC Development Limited Partnership for a new Central Area building and associated landscaping on the Michael Fowler Centre carpark site, consent conditions are expected to address the following:

1. General: that the development proceeds in general accordance with the information and drawings submitted with the application.
2. Architectural Design Detail: prior to applying for building consent, plans showing the full and final details of the façade detail and materials to be submitted to the Council's Compliance Monitoring Officer (CMO) for final review.
3. Landscape Design Detail: prior to applying for building consent, a final landscape plan must be submitted to the Council's Compliance Monitoring Officer (CMO) for final review.

Note: the Applicant will be consulting with tangata whenua (Port Nicholson Block Settlement Trust and Wellington Tenth Trust) in regard to the final detail of the proposed landscaping and planting.

4. Management Plans:
  - (a) A Final Construction Management Plan (CMP) to be prepared and submitted to Council's Compliance Monitoring Officer (CMO) for certification prior to any works commencing on the site. The CMP to include:
    - a Construction Traffic Management Plan (CTMP); and
    - a Construction Noise and Vibration Management Plan (CN&VMP);
  - (b) Earthworks Management Plan (EMP) to be prepared and submitted to the Council's Compliance Monitoring Officer (CMO) prior to any works commencing on site; and
  - (c) Site Contamination Management Plan (SCMP) to be prepared and submitted to the Council's Compliance Monitoring Officer (CMO) prior to any works commencing on site.
5. Fixed Plant Noise: all fixed plant and associated equipment including heating, cooling and ventilation plant, to be designed and operated to comply with the District Plan's requirements for fixed plant noise, as per the recommendation in the Marshall Day Report.
6. Accidental Discovery Protocol: the standard accidental discovery protocol condition.
7. Monitoring and Review: the standard monitoring and review conditions.

## 6 NOTIFICATION

Against the statutory context for notification of resource consent applications (s95A - s95E RMA), the following is the Applicant's assessment of the application for resource consent for the proposed Central Area building to be located at 110 Jervois Quay.

### 6.1.1 Public Notification - s95A

Question 1: does the application meet any of the s95A(3) criteria? No. Specifically it is confirmed that the Applicant does not request public notification.

Question 2: does the application meet any of the s95A(4) criteria? No - i.e. public notification is not precluded by the District Plan.

Question 3: does the application require public notification under s95A(7) criteria? No - i.e. adverse effects on the environment will not be "*more than minor*" (s95(8)(b)).

Question 4: do "*special circumstances*" exist in relation to the application (s95A(9))? In the Applicant's opinion, no "*special circumstances*" exist that would warrant public notification of the application under s95A(9), because none of the circumstances of the application are exceptional or unusual. Rather, they are circumstances and outcomes that are fully anticipated by the District Plan provisions applicable to Central Area development and new buildings in Heritage Areas, including provisions for "*over height*" buildings. In relation to the Civic Centre Heritage Area, the development requires consent as a Discretionary Activity (not as a Non-Complying Activity) and therefore is reasonably contemplated subject to site specific considerations.

In summary, it is the Applicant's assessment that the application for the proposed new Central Area building at 110 Jervois Quay does not require to be publicly notified.

The next issue to be assessed is whether to give limited notification of the application under s95B.

### 6.1.2 Limited Notification - s95B

Question 5: does the proposed activity affect any of the groups or affected persons listed in s95B(2) or s95B(3)? No.

Question 6: does the application meet the criteria in s95B(6)(a)? No - i.e. there is no preclusion to limited notification, as not all of the applicable District Plan rules expressly preclude limited notification.

Question 7: does the proposed activity constitute a 'boundary activity' s95B(7)? No.

Question 8: is any person an affected person in accordance with s95E - i.e. the effects associated with the proposed new Central Area building at 110 Jervois Quay on a person are minor or more than minor (but are not less than minor)? No.

In answering "no" to Question 8, regard has been had to the following potential adverse effects:

- (a) any effects on the heritage values of the Civic Centre Heritage Area (assessed as being less than minor);
- (b) any effects on the low city urban form (assessed as being less than minor);
- (c) any effects on public/pedestrian amenity (assessed as being less than minor);
- (d) any wind or shading effects (assessed as being less than minor);
- (e) any adverse transportation effects (assessed as being less than minor);
- (f) any adverse effects associated with earthworks (assessed as being less than minor); and
- (g) any temporary demolition and construction-related effects (assessed as being less than minor).

For the reasons recorded in Section 5 of this AEE, and summarised above, it is considered that any adverse effects on any person in relation to each of the above matters will be less than minor.

Accordingly, limited notification is not required.

Question 9: are there “*special circumstances*” that warrant limited notification to any other person not already considered under subsections (7) and (8)? No. In the Applicant’s opinion, there are no “*special circumstances*” that would warrant limited notification of the application under s95B(10), because none of the circumstances of the application are exceptional or unusual.

Rather they are circumstances and outcomes anticipated by the District Plan’s provisions in relation to Central Area development, including the enablement of over height buildings (Policy 12.2.5.5) subject to achieving design excellence, which the proposed new Central Area building does.

### **6.1.3 Conclusion - Notification Assessment**

For the reasons summarised above, it is the Applicant’s opinion that the application does not require either public or limited notification.

#### **September 2022 Comment**

Notwithstanding the Applicant’s assessment, the Council’s notification assessment was that the effects of the proposal are more than minor in relation to the impact of height of the building on the surrounding streetscape and on the amenity of a number of neighbouring properties with respect to shading and outlook. Therefore, the Council concluded that the proposal required public notification for the purposes of section 95A(8(b) of the Act.

## 7 CONCLUSION

**MFC Development Limited Partnership** proposes to develop a new Central Area building at 110 Jervois Quay (aka the MFC Carpark site).

The site is part of the Te Ngākau Civic Precinct, which aligns with the Civic Centre Heritage Area.

A comprehensive assessment of effects in accordance with s88 and Schedule 4 of the Resource Management Act 1991 has been undertaken. The assessment draws on specialist advice and assessments prepared in relation to the following matters:

- architecture;
- landscape;
- heritage;
- urban design;
- transportation;
- noise;
- CPTED;
- archaeology;
- wind;
- civil design and infrastructure; and
- demolition and construction management.

The overall conclusion reached is that the proposal will deliver significant positive effects, most notably in relation to the development of a new building exhibiting design excellence that will add to the amenity and vitality of the Te Ngākau Civic Precinct, and high-quality landscaping, consistent with the Central Area principles:

- 12.1.1: Enhance ‘sense of place’;
- 12.1.2: Sustain the physical and economic heart of the Central Area;
- 12.1.5 Enhance the built form of the Central Area; and
- 12.1.6: Enhance the quality of the public environment.

Situated in the Civic Centre Heritage Area, through a considered design process, which has involved input from a range of technical advisors, including architectural, landscape, heritage and urban design, the proposed new building will not adversely affect the historic heritage values of the area.

A particular focus of the design process has been to ensure that the proposal achieves an appropriate relationship with the adjacent Michael Fowler Centre, a contributory building within the Civic Centre Heritage Area, a building which the District Plan identifies as having ‘landmark qualities’.

A second particular focus of the design process has been designing a building that fits into the low city urban form of this part of the Central Area.

As a consequence of the building exceeding the 27m ‘absolute maximum height’ applicable to the Civic Centre Heritage Area, resource consent is required for a Discretionary Activity (Unrestricted) under Rule 13.4.9.

Notwithstanding the additional height above 27m it remains below the maximum height envisaged for the ‘low city’ which is 43.8m.

The proposed building is a development that acknowledges and appropriately responds to its context, a conclusion endorsed by the Design Panel, who found that the building fits comfortably within the:

*“... fine grained urban environment of the Te Aro area and the form and scale of adjacent civic and heritage buildings”.*

The proposed new building is consistent with the Council’s long-term strategic plan for the Te Ngākau Civic Precinct, which identifies the site as a *“future development area”*. It is also consistent with the over-arching objective of the National Policy Statement - Urban Development (NPS-UD) toward achieving appropriate intensification within ‘city centre zones’.

The proposed new building is also consistent with the objectives and policies for the proposed Te Ngākau Civic Square Precinct under the Proposed District Plan publicly notified on 18 July 2022 and will make a significant contribution the phase of transition that the Precinct is entering

For the above reasons, it is concluded that Council would be entitled to exercise its discretion under s104B of the Act and grant consent, subject to the imposition of appropriate consent conditions under s108 of the Act, in the knowledge that:

1. pursuant to s104 of the Act, the effects of the proposal on the environment will be acceptable;
2. the proposal is in accordance with the relevant objectives and policies of the District Plan; and
3. the proposal is consistent with Part 2 and the purpose of the Act.



Alistair Aburn  
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3 March 2022

Revised  
 14 September 2022

#### APPENDICES

1. Architectural Design Statement
2. Landscape Design Statement (**Original**) and Landscape Drawings (**Revised**)
3. Pre-Application Meeting Notes
4. Design Panel Report
5. Third-Party Consultation
6. Wellington Tenth Trust Letter
7. Heritage Assessment
- 7A Heritage Addendum
8. Urban Design Assessment (**Revised**)
9. Townscape Views (**Revised**)
10. Arboricultural Assessment
11. Wind Report
- 11A Wind Addendum
12. Transportation Assessment
- 12A Transportation Addendum
13. CPTED Report
- 13A CPTED Addendum
14. Acoustical (Noise) Assessment
15. Structural/Geotechnical Effects and Construction Methodology (**Revised**)
16. Archaeological Assessment
17. Civil Design Report (**Revised**)
18. Draft Construction Management Plan (**Revised**)
19. District Plan Objectives and Policies