

18 May 2022

**KĀPITI COAST DISTRICT COUNCIL  
SECTION 95 NOTIFICATION REPORT**

<b>Applicant:</b>	Kāpiti Coast District Council
<b>Site Address:</b>	2 Marine Parade, Paraparaumu Beach
<b>Legal Description:</b>	Part Section 2 SO Plan 322370 in Record of Title 239464 (Recreation reserve under New Zealand Gazette 2005 p2837, vested in Kāpiti Coast District Council) Legal Road (Marine Parade)
<b>Proposal:</b>	Land use consent application to enable the construction and operation of new buildings and associated car parking. The activities within the building are primarily to facilitate visitors to Kāpiti Island, with some retail use sought. Earthworks are required to facilitate structures.
<b>Land Owner:</b>	Kāpiti Coast District Council
<b>Zone:</b>	Natural Open Space
<b>Overlays:</b>	Coastal Environment
<b>Activity Status:</b>	Non-Complying

Report prepared by: Tom Anderson, Consultant Planner

Report peer reviewed by: Yolanda Morgan, Team Leader Resource Consents.

**1. PREAMBLE**

This report assesses the potential adverse effects and potentially affected persons in respect to resource consent application RM21049 and includes a recommendation and decision on whether the application be processed on a non-notified, limited notified or publicly notified basis.

## 2. THE PROPOSAL

### 2.1 Description of Proposal

The applicant has applied for resource consent (land use) to construct new buildings and car parks on the site to facilitate activities associated with visiting Kāpiti Island. Proposed activities within the buildings include information about Kāpiti Island, biosecurity measures for visitors to Kāpiti Island, and a retail space.

Two new buildings are proposed (referred to in the application as 'Pod A' and 'Pod B'). These buildings will be located immediately south of Tikotu Stream. The western building ('Pod A') has a footprint of 112.5m<sup>2</sup> and a maximum height of 5.3m. The eastern building ('Pod B') has a footprint of 102m<sup>2</sup> and a maximum height of 5.3m. The finished floor level of each building is 3.4m above sea level Wellington Datum 1953, which is above the Q100 flood level for the site. 324m<sup>2</sup> of decking is proposed, which will link the two buildings as well as providing for circulation. A new footbridge will be constructed over the Tikotu Stream. The footbridge will have an area of approximately 32m<sup>2</sup>.

The above structures are shown in the following figure, which is an excerpt from the plan set submitted with the application.

An existing Council stormwater pipe traverses the location of the proposed buildings. The applicant proposes to upgrade this pipe and reroute it to follow the nearby road alignment.



Figure 1 – Excerpt from Plan Set showing structure layout south of Tikotu Stream

As can be seen from Figure 1, a 12 car park bay is proposed immediately south of the proposed buildings.

Further, two existing car parking areas to the south of the proposed buildings are proposed to be extended to accommodate more car parks. This includes the existing car park within the site (and approximately opposite 54 Marine Parade), which is referred to in the application as 'the northern car park' and an existing car park approximately opposite 61 to 63 Marine Parade (located in land which appears to be legal road), which is referred to in the application as 'The southern car park'. These two car parking areas are shown in the following figure:



*Figure 2 – Excerpt from Plan Set showing the location of the proposed northern and southern car park area extensions and offset mitigation planting*

The northern car park area will be extended by approximately 754m<sup>2</sup> and the southern car park area will be extended by approximately 56m<sup>2</sup>. Offset mitigation planting is also proposed in between these car parking areas, and the area between the road and the beach to the south of the southern car park, totalling an area of 1107m<sup>2</sup>.

Artwork is proposed around the buildings. This includes a Waharoa as part of the building entrance, a 6m high Pouwhenua on the western side of Pod A, a smaller Pouwhenua on the western side of the car park, and display panels framing the facility entrance. Landscaping is proposed around the buildings and car parks,

Earthworks are required to facilitate the above. Overall, these earthworks will have a volume of approximately 797.95m<sup>3</sup> and will have a maximum height of 1.4m<sup>1</sup>.

Lastly, the proposal is stated as being hydraulically neutral, through the use of soak pits and rain gardens.

The applicant has proffered the following as the basis for conditions:

- *That the landscape plans prepared by Wraight and Associates be implemented as part of the proposed development.*
- *That a lighting plan for the Te Uruhi building and associated outdoor carpark and new landscaping be developed in sympathy to the coastal urban park context and with consideration to residential neighbours.*
- *That the important screening and softening capabilities offered by the pōhutukawa trees surrounding the site be acknowledged and these attributes protected. A condition should be provided to protect the existing pōhutukawa trees during construction and should be developed with arboricultural input from the Council Parks Team. Such a condition should include (but not be limited to): cordoning -*

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<sup>1</sup> It should be noted that at Section 2.3 of the resource consent application, it is stated that the earthworks for the buildings will be 150m<sup>3</sup> and have a maximum cut height of 1.4m, with 550m<sup>3</sup> and a height of no more than 1m required for the northern and southern car parking spaces. The assessment of the Operative District Plan Standards in Section 2.4 of the resource consent application then states that earthworks for the building will be 247.95m<sup>3</sup> but with a height of 1m (no difference for the car park earthworks). For the purposes of this notification report, the 'worst case scenario' is adopted.

- off of trees, permitted proximity of excavations and earthworks, restrictions in level changes to trunk soil heights and limitations on pruning for machinery and vehicle access.
- *That further detail and methodology for the replacement of stream retaining structures, and the ihuwaka structure, materiality and finishes be submitted to Council in due course.*
  - *That at detailed design stage the potential passive recreational uses in association with the Zone 6 carpark be further enhanced through additional seating along the existing walkway that provides views out across and to the coastal environment in proximity to this location. Similarly that the back (dune abutting) edge be softened from straight to 'uneven' to lightly mimic dune slope undulation.*
  - *Strongly recommend consideration of permeable carparking surfaces or mixed surface combination which would allow the site to be more easily restored in future and lessen its sense of permanence.*
  - *That protection of existing dune land at both sites be integrated into their respective Construction Management Plans.*
  - *No dust nuisance shall occur beyond the boundary of the subject site*
  - *The consent holder shall comply with the requirements of the Kāpiti Coast District Council's Subdivision and Development Principles and Requirements 2012, unless alternatives are proposed by the consent holder and accepted by the Council's Development Engineer.*
  - *No nuisance effect may be caused by discharge of material beyond the boundary of the subject site.*
  - *The consent holder shall make adequate provision for the control of stormwater runoff during the construction period and shall apply the appropriate recommendations found in Greater Wellington Regional Council's Erosion and Sediment Control Guidelines for the Wellington Region" and "Small earthworks – Erosion and sediment control for small sites to the satisfaction of the Council's Development Engineer. Silt retaining structures or ponding areas where required shall be constructed and maintained throughout the duration of the works to the satisfaction of the Council's Development Engineer.*
  - *All batters shall be self-supporting.*
  - *Where the existing land or vegetative cover is disturbed along the Tikotu Stream banks, the consent holder shall establish suitable ground cover as soon as practicable following earthworks, or within 5 days of completion of any earthworks, whichever occurs first. For the purposes of this condition, "suitable ground cover" means the application of basecourse, topsoil grassing or mulch or other type of application to the satisfaction of the Council's Enforcement Officer.*
  - *The consent holder shall provide fish rescue data, including the number, length, and species of each captured fish, to Council's Enforcement Officer within 10 working days of completion of the works.*
  - *That in the event a lizard(s) is found, the consent holder shall submit a Lizard Management Plan prepared by a suitably qualified ecologist in accordance with the recommendation of the Cardno report (report no. NZ0119221, entitled 'Terrestrial and Stream Ecological Impact Assessment, Gateway Project', dated 23 September 2020 and held on file by Council). The Lizard Management Plan shall be submitted to Council's Compliance Officer, and must be certified by the Team Leader, Resource Consents prior to the commencement of works. This Lizard Management Plan shall include, but is not limited to:*
    - *Identification of lizard species to which the management plan applies;*
    - *A methodology for identifying and locating lizards on site; and*
    - *A methodology for the salvage and relocation of any lizards recovered.*

- *All works must be undertaken in accordance with the approved Lizard Management Plan.*

I note these are not conditions for the purposes of s104 of the RMA, as they would require more specific wording to ensure interpretation and enforceability. However, as they have been proffered in the application, it is appropriate to rely on them as potential mitigation measures for this assessment under s95 of the RMA

## **2.2 Application and Supporting Information and Further Information Requested**

The applicant has provided an assessment of effects of the activity on the environment (**AEE**). This includes as appendices, the following:

- Building Encroachment Plan, prepared by Cuttriss Consultants Ltd;
- Structural Engineer Letter, prepared by Miyamoto International NZ;
- Cultural Impact/Values Assessments, prepared by Te Āti Awa ki Whakarongotai and Ngāti Toa;
- Architectural plans, prepared by Athfield Architects Limited and Landscaping Plan prepared by Wraight and Associates Limited;
- Parking and associated earthworks plans, prepared by Cuttriss Consultants Limited;
- Stormwater Disposal Report, prepared by Cuttriss Consultants Limited;
- Landscape and Visual Effects Assessment, prepared by Beca Limited;
- Transport Impact Assessment, prepared by Beca Limited
- Geotechnical Assessment and Liquefaction Analysis Report, prepared by Miyamoto International NZ;
- District Plan Overlay Plans, prepared by Cuttriss Consultants Ltd;
- Letter of Support provided by Hon. Eugenie Sage;
- Design of Re-routed Stormwater Pipes, prepared by Christensen Consulting Ltd;
- Terrestrial and Stream Ecological Impact Assessment, prepared by Cardno (NZ) Ltd;
- Tree Removal Methodology, prepared by Treescape; and
- Proposed District Plan Objectives and Policies Assessment Table.

The AEE concludes that the effects are considered to be no more than minor<sup>2</sup>.

The original resource consent application to the Council was received on 20 May 2020. That application was then withdrawn by the applicant on 1 July 2021, and a new application lodged. This application was reviewed by Council's technical specialist peer reviewers.

A Request for Further information under s92 RMA was issued on 26 July 2021, which sought additional information regarding planning, transportation, development engineering and landscape and visual matters. This was responded to by the applicant on 15 February 2022. This information was reviewed by Council's technical specialist peer reviewers.

The applicant subsequently advised on 1 March 2022 that they wished to suspend the processing of the application. A meeting was then held on 22 March 2022 to discuss matters raised in the applicant's landscape assessment. A revised landscape

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<sup>2</sup> As stated in the applicant's planning consultants' letter to Kāpiti Coast District Council dated 13 April 2022

assessment, landscape plans and planning assessment was then submitted to Council on 13 April 2022. This application was reviewed by Council's landscape peer reviewer, who was satisfied with the conclusions reached.

The findings from the above applicant reports and the Council's technical specialist peer reviews of those reports are discussed in the following sections of this report.

## **2.3 Written Approvals**

The applicant has not provided any written approvals for the proposal.

## **3. SITE AND SURROUNDING ENVIRONMENT**

### **3.1 Site Description**

The site is somewhat described in Section 2.2 of the resource consent application. Section 2.2 is focussed on the area where the buildings are proposed to be constructed. This area is characterised by publicly accessible open space and an existing car park, with the topography being reflective of the natural dune system, which rises to a 'peak' in the foredunes to the west, before sloping down toward the beach.

The application site, including the building area and the car park extension areas to the south of the building, are accurately described Section 3.2 of the Landscape and Visual Assessment dated 11 April 2022. The key descriptors of the site at this section are replicated as follows:

#### *Te Uruhi*

*The site is an existing public carpark used to provide access to Maclean Park and Paraparaumu Beach. It is encircled by several mature pōhutukawa trees ranging in height from approximately 7 – 15 metres and rolling grassed areas to the west (connecting into the back dune) and south, with the Marine Parade urban streetscape running along its eastern boundary. The site is low – lying and has intermittent views out to Paraparaumu Beach, Kāpiti Island, and the Tikotu Stream. The site's low contour and proximity to the Tikotu Stream along its northern boundary, and lack of foredune mean that the site is more susceptible to coastal environmental effects such as storm surges, flooding and the effects of sea level rise.*

*The patterns of vegetation around the edges of the site are largely specimen tree plantings of pōhutukawa trees at various stages of maturity, with large expanses of grass, merging into low ribbons of dune land planting along the western boundary. The vegetative character and contouring of the site are representative of a highly modified European settlement, with pōhutukawa's not being endemic to the region, and the extensive flattening of what would previously have been back dunes.*

#### *Southern Car Park*

*This site is a gently sloped mown grass area running parallel to Marine Parade and its associated shoulder – parking to the east (inland). Towards the coastal side (west) the site includes existing dune vegetation, a mix of grasses, flax, occasional weeds, and Coprosma repens. This vegetation pattern extends north to south in a strip running parallel to Paraparaumu Beach and Maclean Park and abuts a long narrowing extent of mown grass included as part of Maclean Park.*

I agree with the above descriptions of the site.

I note that Part Section 2 SO Plan 322370, being the legal description of the site, has an area of 3.0337 hectares.

### **3.2 Surrounding Environment**

The surrounding environment is also described in Section 2.2 of the resource consent application and Section 3.2 of the Landscape and Visual Assessment dated 11 April 2022. The key points to note are:

- The Coastal Marine Area is located to the west of (and not within) the application site;
- Maclean Park, comprising pedestrian paths, playgrounds and open space, is located between the proposed building location and the proposed southern car park extensions;
- The properties on the opposite (eastern) side of Marine Parade include residential properties, visitor accommodation and the Paraparaumu Beach shopping area; and
- The area to the north (on the northern side of Tikotu Stream) is an existing boat launching area, and contains boat club buildings and car parks.

### **3.3 Consent History**

There are no relevant Kāpiti Coast District Council resource consents issued for this site. However, it is noted that the following resource consents have been granted for the proposal by Greater Wellington Regional Council on 3 December 2020 (under their references WGN200348):

- [36918] Land use – streamworks (expires 3 December 2055);
- [37316] Coastal permit – general structure (expires 3 December 2055);
- [36919] Discharge permit – discharge to water (expires 3 December 2025);
- [37221] Land use – soil disturbance (expires 3 December 2025); and
- [37292] Water permit – surface water diversion (expires 3 December 2025).

These consents relate to the installation of a new bridge crossing, retaining walls, rip rap and an outlet structure within and over the bed of the Tikotu Stream; to install debris arrestors in the coastal marine area to undertake earthworks within 5m of the stream (including the associated discharge of sediment to, and the diversion of, water).

I understand there are no further resource consents required from Greater Wellington Regional Council for this application.

## **4. DISTRICT PLAN PROVISIONS**

The Kāpiti Coast District Plan was made operative on 30 June 2021. As the resource consent application was lodged on 1 July 2021, it is the only Council statutory planning document which requires consideration.

The District Plans are assessed below.

### **4.1 Zoning and Overlays**

The application site has split zonings. 2 Marine Parade is zoned *Natural Open Space*. Adjacent to the proposed building location, and the northern car park location, Marine

Parade is zoned *General Residential*. The western portion of the southern car park is also zoned *Natural Open Space* with the eastern portion being zoned *General Residential*.

In terms of overlays:

- Marine Parade is identified as a *Major Community Collector Road* under the Transport Network Hierarchy as it passes the site;
- The building location in the northern part of the site is within a *Flood Hazard – Ponding* area. Tikotu Stream to the north is within a *Flood Hazard – Stream Corridor* area. Some earthworks are proposed to be undertaken in the a *Flood Hazard – Stream Corridor* overlay, alongside the construction of the bridge;
- The entire site area, excluding a small portion of the road adjacent to the proposed building location, is within *Special Amenity Landscape 29 – Southern Beaches*<sup>3</sup>; and
- The entire site area is within the identified *Coastal Environment*.

It is also noted that the area immediately west (but outside) of the site, being the western side of the dune system, is within an Area of High Natural Character.

#### 4.2 Relevant Rules and Standards

Resource consent is required under the following Rules of the District Plan:

- GRZ-R18 as a Discretionary Activity, as the building does not comply with the Residential Zone standards for height envelope and yards;
- NOSZ-R11 as a Restricted Discretionary Activity, as the buildings do not comply with the Natural Open Space Zone standards for front yard setbacks, height and height envelope;
- NOSZ-R14 as a Non-Complying Activity due to the proposed retail activity being provided for under this activity status in the Natural Open Space Zone;
- NH-FLOOD-R9 as a Restricted Discretionary Activity, as the deck associated with the building is within 10m of a stream corridor overlay;
- NH-FLOOD-R11 as a Restricted Discretionary Activity, as the earthworks in the ponding overlay do not comply with the permitted volume and change in height of the ground level standards;
- NH-EQ-R23 as a Restricted Discretionary Activity, as the building is a BIC Type 2c, 3 or 4 and on sand or peat soils;
- TR-R11 as a Discretionary Activity, as the permitted number of vehicles per day will be exceeded and a traffic plan was not provided with the application;
- TR-R13 as a Discretionary Activity, as the proposed parking areas do not comply with the permitted access widths and required landscaping.

#### 4.3 Activity Status

Overall, resource consent is required for the proposal as a Non-Complying Activity.

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<sup>3</sup> This is described in Schedule 5 of the District Plan as including *Beach and public areas of the foredunes extending from the settlement of Paekākāriki through to the northern edge of the Waikanae Beach settlement including the Wharemauku Stream, Tikotu Creek and Waimeha Stream mouths (excluding the Paekākāriki escarpment, Whareroa Dunes and Waikanae River Mouth beach and foredune areas that have been assessed separately)*. There are no rules in the District Plan that are relevant to this overlay.



#### 4.4 Objectives and Policies

The following objectives and policies of the District Plan are applicable to the proposal:

- DO-O3 Development Management;
- DO-O4 Coastal Environment;
- DO-O5 Natural Hazards;
- DO-O9 Landscapes, Features and Landforms;
- DO-O11 Character and Amenity Values;
- DO-O14 Access and Transport;
- DP-O15 Economic Vitality;
- DO-O17 Open Spaces/Active Communities;
- NOSZ-P2 Recreational Activities;
- NOSZ-P3 Activities (General);
- NOSZ-P4 Buildings and Structures;
- NOSZ-P5 Safety;
- NOSZ-P6 Indigenous Biodiversity;
- GRZ-P7 Development and Landforms;
- GRZ-P10 Residential Amenity;
- GRZ-P11 Residential Streetscape;
- GRZ-P12 Landscaping;
- GRZ-P19 Non-Residential Activities;
- CE-P3 Preservation of Natural Character;
- CE-P4 Restore Natural Character;
- CE-P5 Amenity and Public Access;
- CE-P6 Natural Coastal Processes;
- CE-P7 Natural Dunes;
- NH-P3 Managing Activities in Natural Hazard Prone Areas;
- NH-P4 Precautionary Approach;
- NH-P6 Public Open Space;
- NH-FLOOD-P11 Flood Risk Levels;
- NH-FLOOD-P12 High Hazard Flood Areas;
- NH-FLOOD-P13 Ponding, Residual Ponding, Shallow Surface Flow, Flood Storage and Fill Control Areas
- TR-P2 Sustainable Transport and Maximising Mode Choice;
- TR-P5 Effects of Land Use on Transport;
- TR-P6 Safety; and
- NFL-P2 Special Amenity Landscapes.

#### 5. RELEVANT NATIONAL ENVIRONMENTAL STANDARDS

There are currently nine operative National Environmental Standards, these relate to plantation forestry, air quality, drinking water, telecommunications, electricity transmission, contaminants in soil, freshwater, marine aquaculture and storing tyres outdoors.

The only potentially relevant National Environmental Standard is the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESC). The NESC is intended to ensure that land affected by contaminants in soil is appropriately identified and assessed before it is developed - and

if necessary, the land is remediated, or the contaminants contained to make the land safe for human use.

The applicant states that the allotment on which the proposal is located is identified in on the Greater Wellington Regional Council *Selected Land Use Register* (SLUR) as being contaminated or potentially contaminated. On reviewing the SLUR, the area identified is to the north of Tikotu Stream, and is identified as SN/01/085/02 as being an area where *storage tanks or drums for fuel, chemicals or liquid waste* were located, that were associated with the Kāpiti Boating Club.

As the SLUR area is north of the stream, the identified piece of land is outside of the parameters associated with the proposed land disturbance. Further, there is no known history of uses of activities on the subject piece of land which could cause it to be potentially contaminated.

As such, the NESCS does not require any further assessment.

## **6. RELEVANT NATIONAL POLICY STATEMENTS**

There are currently five operative National Policy Statements, these relate to the freshwater management, urban development, renewable electricity generation, the coastal marine area and electricity transmission.

The two relevant National Policy Statements are set out below.

### **6.1 New Zealand Coastal Policy Statement 2010**

As the site is located within the *Coastal Environment* overlay of the District Plan and is immediately adjacent to Paraparaumu Beach, the New Zealand Coastal Policy Statement 2010 (NZCPS) is applicable. The NZCPS contains seven objectives and 29 policies. Of relevance to this application are the following:

- Objective 1 – Safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems;
- Objective 2 – Preserve the natural character, and protect natural features and landscape values;
- Objective 3 – take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment;
- Objective 4 – maintain and enhance the public open space qualities and recreation opportunities;
- Objective 5 – ensure that coastal hazard risks taking account of climate change, are managed;
- Objective 6 – Enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:... the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits; some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities; and functionally some uses and developments can only be located on the coast or in the coastal marine area;

- Policy 1: Extent and characteristics of the coastal environment;
- Policy 2: The Treaty of Waitangi, tangata whenua and Māori;
- Policy 3: Precautionary approach;
- Policy 6: Activities in the coastal environment;
- Policy 13: Preservation of natural character;
- Policy 14: Restoration of natural character;
- Policy 15: Natural features and natural landscapes;
- Policy 18: Public open space; and
- Policy 25: Subdivision, use, and development in areas of coastal hazard risk.

## 6.2 National Policy Statement on Urban Development 2020

The National Policy Statement on Urban Development 2020 (NPSUD) also has some relevance to the proposal. The NPSUD contains eight objectives and 11 policies. Of relevance to this application is Objective 4, which states that *New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.*

There are no other National Policy Statements that are relevant to this application.

## 7. RELEVANT STATUTORY PROVISIONS

In considering whether or not notification is required, Sections 95A to 95E of the Resource Management Act 1991 must be considered. Sections 95F and G are not relevant to this application. Sections 95 to 95E are listed below:

- *95 Time limit for public notification or limited notification*
- *95A Public notification of consent applications*
- *95B Limited notification of consent applications*
- *95C Public notification of consent application after request for further information or report*
- *95D Consent authority decides if adverse effects likely to be more than minor*
- *95E Consent authority decides if person is affected person*

The full text of s95A, s95B and s95D is provided in Sections 7.2, 7.3 and 7.4 below. For the full text of the other above provisions, refer to the Resource Management Act 1991.

### 7.1 Determining if Notification is Required

There are two key steps in the process of determining whether an application should be publicly notified, or be processed on a limited or non-notified basis.

Step 1 requires the Council to decide if an application should be publicly notified (as set out below). If the Council determines that the activity should not be publicly notified then they revert to the second step in the process, which is to determine if there are any affected persons who need to be limited notified of the application.

A full list of the provisions for public notification is provided below. In summary, an application should be publicly notified if the adverse effects on the environment are more than minor (but not less than minor or minor) or where special circumstances exist that warrant public notification.

A person is considered to be an affected party, for the purpose of limited notification, if the effects on them are minor or more than minor, but not less than minor.

The steps for determining public and limited notification, as set out in s95A and s95B are provided below.

## 7.2 s95A Public Notification

s95A of the RMA is as follows:

- (1) *A consent authority must follow the steps set out in this section, in the order given, to determine whether to publicly notify an application for a resource consent.*

### Step 1: mandatory public notification in certain circumstances

- (2) *Determine whether the application meets any of the criteria set out in subsection (3) and,—*
  - (a) *if the answer is yes, publicly notify the application; and*
  - (b) *if the answer is no, go to step 2.*
- (3) *The criteria for step 1 are as follows:*
  - (a) *the applicant has requested that the application be publicly notified;*
  - (b) *public notification is required under section 95C;*
  - (c) *the application is made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977.*

### Step 2: if not required by step 1, public notification precluded in certain circumstances

- (4) *Determine whether the application meets either of the criteria set out in subsection (5) and,—*
  - (a) *if the answer is yes, go to step 4 (step 3 does not apply); and*
  - (b) *if the answer is no, go to step 3.*
- (5) *The criteria for step 2 are as follows:*
  - (a) *the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification;*
  - (b) *the application is for a resource consent for 1 or more of the following, but no other, activities:*
    - (i) *a controlled activity;*
    - (iii) *a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity;*

### Step 3: if not precluded by step 2, public notification required in certain circumstances

- (7) *Determine whether the application meets either of the criteria set out in subsection (8) and,—*
  - (a) *if the answer is yes, publicly notify the application; and*
  - (b) *if the answer is no, go to step 4.*
- (8) *The criteria for step 3 are as follows:*
  - (a) *the application is for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification;*

- (b) *the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.*

Step 4: public notification in special circumstances

- (9) *Determine whether special circumstances exist in relation to the application that warrant the application being publicly notified and,—*
  - (a) *if the answer is yes, publicly notify the application; and*
  - (b) *if the answer is no, do not publicly notify the application, but determine whether to give limited notification of the application under section 95B.*

**7.3 s95B Limited Notification**

s95A of the RMA is as follows:

- (1) *A consent authority must follow the steps set out in this section, in the order given, to determine whether to give limited notification of an application for a resource consent, if the application is not publicly notified under section 95A.*

Step 1: certain affected groups and affected persons must be notified

- (2) *Determine whether there are any—*
  - (a) *affected protected customary rights groups; or*
  - (b) *affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity).*
- (3) *Determine—*
  - (a) *whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11; and*
  - (b) *whether the person to whom the statutory acknowledgement is made is an affected person under section 95E.*
- (4) *Notify the application to each affected group identified under subsection (2) and each affected person identified under subsection (3).*

Step 2: if not required by step 1, limited notification precluded in certain circumstances

- (5) *Determine whether the application meets either of the criteria set out in subsection (6) and,—*
  - (a) *if the answer is yes, go to step 4 (step 3 does not apply); and*
  - (b) *if the answer is no, go to step 3.*
- (6) *The criteria for step 2 are as follows:*
  - (a) *the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes limited notification;*
  - (b) *the application is for a controlled activity (but no other activities) that requires consent under a district plan (other than a subdivision of land).*

Step 3: if not precluded by step 2, certain other affected persons must be notified

- (7) *In the case of a boundary activity, determine in accordance with section 95E whether an owner of an allotment with an infringed boundary is an affected person.*
- (8) *In the case of any other activity, determine whether a person is an affected person in accordance with section 95E.*
- (9) *Notify each affected person identified under subsections (7) and (8) of the application.*

Step 4: further notification in special circumstances

- (10) *Determine whether special circumstances exist in relation to the application that warrant notification of the application to any other persons not already determined to be eligible for limited notification under this section (excluding persons assessed under section 95E as not being affected persons), and,—*
  - (a) *if the answer is yes, notify those persons; and*
  - (b) *if the answer is no, do not notify anyone else.*

#### **7.4 Effects that must and/or may be disregarded**

When determining if an application has effects that are more than minor, which would require publicly notification, section 95D states that the effects on persons who are owners and occupiers of the land in, on or over which the application relates, or of land adjacent to that land must be disregarded. Any effects that are permitted by rules within a National Environmental Standards or Plan or Proposed Plan must also be disregarded.

Section 95D, which is titled *Consent authority decides if adverse effects likely to be more than minor*, states:

*A consent authority that is deciding, for the purpose of section 95A(8)(b), whether an activity will have or is likely to have adverse effects on the environment that are more than minor—*

- (a) *must disregard any effects on persons who own or occupy—*
  - (i) *the land in, on, or over which the activity will occur; or*
  - (ii) *any land adjacent to that land; and*
- (b) *may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and*
- (c) *in the case of a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard restricts discretion; and*
- (d) *must disregard trade competition and the effects of trade competition; and*
- (e) *must disregard any effect on a person who has given written approval to the relevant application.*

Under s95D(a)(ii) the adjacent land includes the following properties:

- 1, 3, 5, 6, 8, 9 and 10 Marine Parade, Paraparaumu; and
- 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, and 64 Marine Parade, Paraparaumu.

Under s95D(e), any effect on a person who has given written approval to the application must also be disregarded. No written approvals were provided with the application.

s95D(b) provides for the Council to disregard any effect if a rule in a plan or national environmental standard permits an activity with that effect, as a discretion. This is commonly referred to as the permitted baseline.

The application presents a permitted baseline for the proposed buildings. The District Plan allows for the construction of a new building up to 6m in height, a footprint which does not exceed a building coverage on the site of 2%<sup>4</sup> and a maximum gross floor area of 350m<sup>2</sup>, with a floor level above the 1 in 100-year flood extent. Limited earthworks (cut/fill of no more than 1m from original ground level and a volume of 20m<sup>3</sup> within the ponding area, or a cut volume of 10m<sup>3</sup> in the stream corridor (but no fill) are permitted.

The building size proposed is comparable to what the District Plan permits on the site (noting the location would need to be different to meet building setback requirements), however the facilitatory works, including earthworks are not able to comply.

The Act provides for the Council to disregard any effect that if a rule in a plan or proposed plan permits an activity with that effect, as a discretion.

On the basis of the above, some consideration can be given to the fact a building can be constructed on the site as of right, and it could be a similar size as to what is proposed. While the applicant makes mention of this, no plans have been provided which demonstrate the difference in effect between what is proposed and what is permitted, making it difficult to disregard the effects of the proposal (particularly when considering the earthworks it requires).

Under s95D(e), any effect on a person who has given written approval to the application must also be disregarded. No written approvals were provided with the application.

## **7.5 Receiving environment**

The effects of the activity are also required to be assessed against the “existing environment”. This includes existing use rights, existing activities carried out under existing consents and resource consents which have been granted where it appears those consents will be implemented.

The receiving environment is comprised of the following:

- The existing car parking on the site;
- The existing recreational activities on the site, including a children’s playground, bbq areas and walking pathways;
- The residential dwellings and commercial premises on the opposite side of Marine Parade.

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<sup>4</sup> 2% of the 3.0337ha of the site allows for buildings across the site of up to 606m<sup>2</sup>. Based on the District Plan’s definition of buildings, there buildings currently present on the site, have a total estimated combined footprint of 112m<sup>2</sup>. Therefore the estimated available ‘balance’ of site coverage remaining on the site is in the order of 494m<sup>2</sup>.

This is the reasonably foreseeable environment within which the adverse effects of the proposal are considered.

## 8. ASSESSMENT OF EFFECTS

The resource consent application assesses effects on:

- Character;
- Amenity;
- Traffic;
- Earthworks;
- Infrastructure;
- Natural Hazards;
- Contaminated Land; and
- Ecology and Biodiversity.

It also considers positive effects. In order to develop my understanding of the actual and potential effects associated with the application I have received advice from the Council's Development Engineer, Consultant Traffic Engineer and Consultant Landscape Architect.

I generally concur that the matters identified in the resource consent application are the matters which the assessment of effects must be focussed. However, with regard to character, rather than assessing character generally, I have split this into landscape and visual effects and natural character effects, following the advice received from both the applicant and the Council Landscape Architects.

With regard to Contaminated Land matters, the assessment provided in Section 5 of this report identifies that the proposed land disturbance works are outside of the potentially contaminated land that exists to the north of Tikotu Stream. Therefore, I do not consider it necessary to assess potential contaminated land effects.

I also consider that the retail activity proposed requires specific consideration.

I note that there is some interaction between the activities that have been considered as part of the aforementioned granted Greater Wellington Regional Council resource consents in terms of works within the stream. These resource consents consider the effects associated with diversions and discharges, as is the remit of the Greater Wellington Regional Council. The effects that I consider below in terms of the earthworks within the stream concern flood hazard effects, as required by the District Plan, rather than revisiting the effects for which the applicant has already obtained resource consent for.

My assessment of the actual and potential effects is as follows:

### 8.1 Landscape and Visual Effects

It is stated in section 4.2.1 of the resource consent application that the *character of the immediately surrounding area is varied and contrasting*. I agree with this statement.

In terms of the visual change that the proposal would facilitate, and as discussed in sections 7.4 and 7.5 above, in my view this must be considered in the context of what is



anticipated on the site in terms of built structures under the District Plan, and what already exists on the site.

The Natural Open Space Zone rules allow for buildings up to 6m high, with a footprint of 350m<sup>2</sup> (provided that a site coverage of 2% is not exceeded). The site already contains a number of built structures, in the immediate vicinity of the proposal, including amenity structures (a covered bbq area, toilets), playground equipment and car parking areas.

Given this context, the applicant and Council landscape architects have determined the following in terms of landscape and visual effects:

Visual Effects	Expert Assessment*
<b>Public View Points</b>	
McLean Park Users	Low-Moderate
<b>Private View Points</b>	
Properties in Manly Street, Kāpiti Road and Golf Road <sup>5</sup>	Low-Moderate
3 Marine Parade	Moderate
5 Marine Parade	Moderate-High <sup>6</sup>
55, 56, 57 and 58 Marine Parade	Low-Moderate

Both the applicant and Council landscape architects have assessed effects using the following rating scale, which they advise is consistent with the current best practice set out in the New Zealand Institute of Landscape Architects *Aotearoa Landscape Assessment Guidelines*.

Very Low	Low	Low – Moderate	Moderate	High – Moderate	High	Very High
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**'Minor' Test**

For the purposes of notification determination, an adverse effects rating of Moderate - Low corresponds to a 'minor' adverse effects rating.

Based on the expert evidence above, there is at least a minor adverse visual effect on McLean Park Users, properties in Manly Street, Kāpiti Road and Golf Road, and 3, 5, 55, 56, 57 and 58 Marine Parade.

Visual effects on the dwellings at 1 Marine Parade have been considered by the landscape architects. It is noted that the connection to the coast from these dwellings will be maintained. These dwellings have been assessed as being in an elevated position, with an outlook which will be above the proposed buildings, which provides appropriate mitigation, particularly when considering views from balconies associated with these dwellings. Further, any views of the proposed buildings will be seen in the context of vegetation, including that which is existing and to be retained, and that what is proposed to be planted as part of the proposal. The visual effects on 1 Marine Parade were therefore considered to be very low.

<sup>5</sup> These are defined by the Council's landscape architect as being *dwellings within a viewing distance of 150m* of the site. Utilising the Council's GIS, I consider that these properties are 1, 2, 4 and 6 Manly Street, 2 and 3 Golf Road, and 386 and 388 Kāpiti Road.

<sup>6</sup> With regard to 5 Marine Parade, the applicants landscape architect identifies the effect on this property as *Moderate* with the Council's landscape architect determining the effect as being *Moderate-High*.

The Council's landscape architect has raised concern that detail regarding the size of signs is not included in the application, and therefore cannot be assessed from a visual perspective. I note that the District Plan permits signs in the Natural Open Space Zone through Rule SIGN-R1. Should the final signs associated with the proposal not meet this rule, then the applicant would need to seek a further resource consent on these matters.

The Council's landscape architect has also raised concern that the application does not include an indicative lighting layout or parameters, and highlighted that *this aspect of the project could prove controversial for local residents*. Given the limited detail in the application, lighting also cannot be assessed from a visual perspective. On this matter, I note that the District Plan permits light emission from activities within the Natural Open Space Zone through Rule NOSZ-R1. Should the final lighting layout/parameters not meet this rule, then the applicant would need to seek a further resource consent on these matters.

From a landscape effects perspective, the advice received from both the applicant and Council's landscape architects is that the only portion of the development that could adversely affect landscape character is the southern carpark, and the resultant effect, using the above scale, is determined to be low-moderate, and therefore minor adverse effect.

## 8.2 Effects on Natural Character

It has been established that the entire site area, excluding a small portion of the road adjacent to the proposed building location, is within Special Amenity Landscape 29 – Southern Beaches of the District Plan. The entire site area is also within the identified Coastal Environment of the District Plan.

Both the Special Amenity Landscape Feature and the Coastal Environment are identified *Natural Character* areas within the District Plan.

The applicant's landscape architect has assessed the degree of natural character within the project area (as per the definition of *Natural Character* in the District Plan, and has determined that the land where the southern carpark is proposed has a significantly lower degree of naturalness and its value of natural character is primarily limited to providing a transition between a higher area of naturalness further south and the more built-up environment around Maclean Park. They also note that the effect on natural character resulting from the proposal is highly localised.

The Council's landscape architect agrees with the applicant landscape architect's assessment. The Council's landscape architect notes that the proposal will have minimal effects on what they consider to be an area of High Natural Character to the west, and the effects from the proposal are localised.

Both landscape architects are in agreement that the effect on natural character from a localised perspective (defined as being 55, 56, 57 and 58 Marine Parade) is moderate, and that on the wider environment, the natural character effects are low-moderate. The proposed offset mitigation planting proffered by the applicant is an important element in coming to these conclusions.

Based on this advice, there is at least a **minor** adverse natural character effect on 55, 56, 57 and 58 Marine Parade, as well as a **minor** natural character effect on the wider environment.

### 8.3 Traffic Effects

The applicant has provided a Traffic Impact Assessment (TIA) prepared by suitably qualified and experienced traffic engineers (Beca, 2021). This report was assessed by Council's traffic engineering consultant (Tonkin and Taylor).

On review post lodgement of the application, additional information was sought regarding the traffic effects of the proposal. On receipt of this information, Tonkin and Taylor have advised that *the application can be supported from a traffic and transport planning and safety perspective*. There are qualifying matters to this support, primarily relating to detailed design matters. In terms of the matters which the District Plan outlines in the Objectives and Policies framework, the traffic effects are no more than minor.

I also note that the applicant considered the effects of traffic resulting from the proposal on the amenity of the surrounding area (related to the increased in traffic movements that the proposal will generate). In considering whether the traffic associated with the proposal will create an adverse amenity effect, the applicant has considered the existing land uses surrounding the site (being residential properties, temporary accommodation – motel, and a commercial business), and suggested that a matter these have in common is that they all generate purposeful traffic movements (as will the proposal). They then consider that the vehicle movement activity associated with the proposal will fall within the existing environment, and resultant effects are considered to be less than minor. I agree with this conclusion.

Overall, for the reasons given above, I consider that, for the purposes of notification, the traffic effects (both roading and amenity effects) associated with the proposal are **less than minor**.

### 8.4 Earthworks Effects

The primary earthworks effects associated with the proposal are visual effects, erosion, dust and sediment control effects (including consideration of the adjacent Tikotu Stream and Coastal Marine Area), and stability effects. I note some of these effects, particularly relating to discharge and, formed part of the consideration of Greater Wellington Regional Council when they granted resource consents to the proposal, albeit from a regional council functions perspective.

The earthworks are temporary, will be covered by structures on their completion, and the applicant has stated in their application that they would accept conditions placed on any resource consent concerning nuisance effects and compliance with the Council's Subdivision and Development Principles and Requirements 2012. They have also stated that erosion and sediment effects will be managed in accordance with Greater Wellington Regional Council's *Erosion and Sediment Control Guidelines* 2021.

The visual effects have been considered by the landscape architects, neither of whom have raised any concern from an earthworks perspective. The proposed earthworks have also been reviewed by Council's Development Engineer, who has not raised any concern with erosion, dust and sediment control measures, as stability.

Overall, for the reasons given above, and with the applicants anticipation of conditions should a resource consent be granted, I consider that, for the purposes of notification, the earthworks effects associated with the proposal are **less than minor**.

## 8.5 Infrastructure Effects

In terms of servicing, the application includes details of stormwater and wastewater disposal, water supply, electricity connections and access. These have been reviewed by Council's Development Engineer, who has not raised any concerns.

It is noted that the proposal has been designed to be hydraulically neutral (through the provision of soak pits and rain gardens. It is also noted that the application includes the re-laying of a Council stormwater main. Again, no concerns have been raised by Council's Development Engineer.

The application proposes to attach solar panels to the building roof, in a manner which is compliant with the permitted activity rules in the District Plan.

Overall, for the reasons given above, and on the understanding that should resource consent be granted the proposal I consider that, for the purposes of notification, the effects on infrastructure associated with the proposal are **less than minor**.

## 8.6 Natural Hazard Effects

The proposed building locations are in a stream corridor and ponding flood hazard of the District Plan. Earthworks are also proposed within these areas.

The proposed buildings are to be located on piles, which will result in a proposed finished floor level of RL 3.4, which is above the predicted 1% Annual Exceedance Period (1 in 100 year) flood level of RL 3.2.

In terms of potential displacement of flood water resulting from the proposal, the application states that the piles on which the buildings will be placed equate to an area of less than 1% of the direct catchment area, and therefore considers any effect resulting from the potential displacement of the flood water to be negligible.

The earthworks proposed within Tikotu Stream, which essentially widen the stream channel, will assist the stream in conveying water.

The site is also located on sand or peat soils. The application includes a report from a geotechnical engineer<sup>7</sup> concerning the liquefaction risk and design and location risk that such soil gives rise to. The geotechnical engineer concludes that these risks can be managed through specific foundation design, with the applicant proffering a resource consent condition that final building plans should incorporate the findings of the geotechnical engineer report.

Further, it is acknowledged that the proposed building has been designed to be relocatable, should hazards, including coastal hazards, require it to be moved off site.

No concerns as to the proposed approach to hazards have been raised by Council's Development Engineer.

Overall, for the reasons given above, including the applicant's proffering of a resource consent condition that the final building plans should incorporate the finding of the

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<sup>7</sup> Undertaken by Miyamoto International New Zealand Limited, included as Appendix 10 to the resource consent application

aforementioned geotechnical engineer report , should resource consent be granted, I consider that, for the purposes of notification, the natural hazard effects associated with the proposal are **less than minor**, and will not exacerbate any natural hazard on any nearby property.

### 8.7 Ecology and Biodiversity Effects

As is stated in the application, the site is not located within any area identified for its ecological features in the District Plan. Nonetheless, the application included an ecological assessment<sup>8</sup>. This assessment concluded that the proposed works would likely benefit the instream habitat, ecological functioning and surrounding riparian zone of the Tikotu Stream, and have a less than minor adverse effect on the terrestrial habitat.

Overall, for the reasons given above and within the application I consider that, for the purposes of notification, the ecology and biodiversity effects associated with the proposal are **minor** within the application site and **less than minor** on the wider environment.

### 8.8 Effects from the Retail Activity

The application proposes to undertake retail activities from within the new buildings. The retail activity associated with the proposal is primarily for the targeted users of the building, being those that are visiting Kāpiti Island or enquiring about visiting Kāpiti Island. Further, the retail activities may be utilised by existing park users or walkers in the area. Due to the size of the area marked for retail activity within the application, I do not consider that the retail activity will become a 'destination' for people, but rather will be subsidiary to existing activities. Therefore, I consider that the actual and potential effects from the retail activity will be **less than minor**.

### 8.9 Positive Effects

The proposal will assist visitors to Kāpiti Island in a manner which is currently not available, will improve the amenities offered to those visitors, and will provide opportunities for public education regarding Kāpiti Island that are not currently available. These can be considered as positive effects.

### 8.10 Conclusion

Overall, the proposal is considered to have:

- At least a **minor** adverse visual effect on 3, 5, 55, 56, 57 and 58 Marine Parade, 1, 2, 4 and 6 Manly Street, 2 and 3 Golf Road, and 386 and 388 Kāpiti Road;
- At least a **minor** adverse natural character effect on 55, 56, 57 and 58 Marine Parade;
- A **minor** adverse visual effect on MacLean Park users;
- A **minor** natural character and landscape effect on the wider environment;
- A **minor** ecological and biodiversity effect within the application site; and
- **Less than minor** ecological and biodiversity effect on the wider environment, traffic, earthworks, infrastructure and natural hazard effects, and effects resulting from the proposed retail activity.

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<sup>8</sup> Undertaken by Cardno (NZ) Limited, included as Appendix 14 to the resource consent application

I consider it unlikely that the proposal will result in a cumulative effect.

## 9. PUBLIC NOTIFICATION RECOMMENDATION

I am of the opinion that the proposal need not be publicly notified for the following reasons:

- The applicant has not requested that the proposal be notified (s95A(3));
- Public notification is not required pursuant to section 95C;
- No exchange of recreation reserve is proposed;
- The adverse effects of the proposal, when disregarding effects on adjacent properties under s95A(8)(b)/s95D(a) will be minor; and
- There are no special circumstances associated with the proposed development which could warrant the application being publicly notified. While the proposal is a non-complying activity (due solely to the proposed retail use), buildings and structures in the Natural Open Space Zone are permitted under the District Plan, and therefore placement of a building and structures in the proposed locations is not considered to be an unusual circumstance).

## 10. LIMITED NOTIFICATION RECOMMENDATION

I am of the opinion that the proposal be subject to limited notification to the owners and occupiers of the following properties:

- 3, 5, 55, 56, 57 and 58 Marine Parade, Paraparaumu;
- 1, 2, 4 and 6 Manly Street, Paraparaumu;
- 2 and 3 Golf Road, Paraparaumu; and
- 386 and 388 Kāpiti Road, Paraparaumu.

This recommendation is due to the advice received from both the applicant and Council advisors that the proposal will result in at least minor adverse effects on these properties.

Reported and Recommended by: \_\_\_\_\_



Tom Anderson  
Consultant Planner

Peer review



Yolanda Morgan  
Team Leader Resource Consents

**Decision:** *"That the above recommendation be adopted."*



Delegated Officer \_\_\_\_\_

David McMahon  
Independent Commissioner