

IN THE MATTER OF:

Sections 104, 104B, 106 and 108 of the Resource Management Act 1991

AND

IN THE MATTER OF:

A resource consent application made by Urban Edge Planning Ltd on behalf of Clark Kennedy Investments Ltd for subdivision and land use consent to demolish existing buildings on site and construct a multi-unit development of six dwelling houses (comprising three principal dwelling units and three studio units) at 4-6 Bolton Street, Petone.
(Legally described as Lot 1 DP 75882 and Lot 24 DP 1533 in computer freehold registers WN42C/777 and WN363/91)
Council Reference RM180261

HEARINGS PANEL OF HUTT CITY COUNCIL

Hearing for the above matter, held in the Council Chambers, Hutt City Council on 1 February 2019

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1 Decision

- 1.1 In accordance with a delegation by Hutt City Council (HCC), pursuant to the provisions of section 34 of the Resource Management Act 1991 (the RMA), as there were not less than three members present, the Hearings Panel had power to act in determination of the following proceedings. The following resolution represents Council's decision on the resource consent application:

*That the Hearings Panel, acting under delegated authority from Council and pursuant to sections 10, 104B, and 108 of the Resource Management Act 1991, **GRANTS CONSENT, subject to conditions**, to the resource consent application made by Urban Edge Planning Ltd on behalf of Clark Kennedy Investments Ltd for subdivision and land use consent to demolish existing buildings on site and construct a multi-unit development of three dwelling houses (comprising three principal dwelling units and three studio units) at 4-6 Bolton Street, Petone.*

- 1.2 The reasons for the decision on the application are discussed more fully below.

2 The Site and Locality



Figure 1: Aerial photograph showing subject property at 4-6 Bolton Street, Petone

- 2.1 The site comprises two lots legally described as Lot 1 DP 75882 and Lot 24 DP 1533, the adjacent lots of the application site are situated at 4-6 Bolton Street, Petone. Both lots are flat and are rectangular in shape, with 4 Bolton Street being 390m² in area, and 6 Bolton Street being 579m² in area. The lots have a combined area of 969m² and are located towards the southern end of Bolton Street, on the eastern side, close to the intersection with The Esplanade. They each currently contain a single storey dwelling with an accessory building and have grassed open areas with mature planting primarily to the rear of the lots. The lots are zoned General Residential – Medium Density, with no further restrictions or notations listed with the City of Lower Hutt District Plan (the District Plan) that may affect the proposal.
- 2.2 The certificates of title have no interests registered on them that may affect the proposal.
- 2.3 The surrounding area is predominantly residential in character, with a combination of older bungalows interspersed with more modern two storey dwellings, including several multi-unit developments on the western side of the street. In general terms, the even-numbered (eastern) side of Bolton Street is characterised by standalone residential dwellings located towards the front of larger, rectangular sites, and there is evidence of more intensive development (for example, at 14-16 and 18-18A Bolton Street). The odd-numbered (western) side has a more varied streetscape, with several multi-unit developments and several dwellings that have accessory buildings or garages within their front yard, fronting the street.
- 2.4 To the south of the site is The Esplanade, Petone, foreshore and beach. Further to the north is the Jackson Street commercial area and heritage precinct. To the southeast of the site (being 7 Tory Street) is BK's Esplanade Motor Lodge on the corner of The Esplanade and Tory Street, comprising a large visitor accommodation building and a car park, the latter adjoining the rear of 4 Bolton Street. To the rear of 6 Bolton Street is a residential dwelling at 9 Tory Street.
- 2.5 Full details of the locality can be found in the application and the Council Planner's s42A report.

3 The Application

- 3.1 Full details of the proposal are contained in the application and in the Section 42A Council Planner's Report.
- 3.2 In summary, the applicant seeks resource consent to construct a multi-unit development and its subsequent subdivision. All existing structures on the two lots will be demolished, and vegetation cleared. In their place, three two-storey buildings are proposed, each containing a primary three-bedroomed dwelling unit and an attached one-bedroom studio unit. In accordance with the definitions of the District Plan, and as agreed to by all parties at the Hearing, this development will result in a total of six dwelling houses on the subject site.
- 3.3 The applicant is also seeking to subdivide 4 and 6 Bolton Street into three fee simple allotments to contain the three buildings: Lot 1 of 273m², Lot 2 of 271m² and Lot 3 of 426m². Access to Lot 1 will be via a private driveway directly from Bolton Street, whereas a shared right-of-way along the southern boundary of (currently) 4 Bolton Street will provide access to Lots 2 and 3. Each primary dwelling will include a single car garage integrated into the building, with no on-site parking being provided for the studio units.

- 3.4 The proposal includes landscaping across the subject site, as well as 127.5m³ of earthworks to prepare suitable building platforms, enable the installation of services, and provide adequate access to each dwelling. All dwellings will be fully serviced by three waters, power and telecommunications.
- 3.5 An existing power pole within the road reserve in front of 6 Bolton Street will be shifted to allow for the new vehicle crossing to proposed Lot 1. Shifting the pole is a permitted activity under the utility rules of the District Plan and as such does not require resource consent.

4 Consents Sought

- 4.1 Under the RMA, subdivision and land use of sites in Hutt City are managed under the District Plan. The site is within the General Residential – Medium Density Activity Area (GR – MDAA). The relevant rules are contained within Chapters 4A (General Residential), 11 (Subdivision chapter) and 14 (General Rules including earthworks and transport).

Subdivision Consent

- 4.2 The proposed subdivision is a **Discretionary (Unrestricted) Activity** in accordance with Rule 11.2.4(i). Subdivision is a controlled activity within this activity area, subject to compliance with several standards. However, the subdivision proposal does not meet the minimum allotment design requirements as the minimum size for a controlled activity subdivision (11.2.2.1(a)) is 300m² and proposed Lots 1 and 2 are less than 200m². Proposed Lot 3 does not meet the minimum shape factor. Furthermore, the proposal does not comply with right-of-way standards specified under 11.2.2.1(b), as the proposed access leg servicing proposed Lots 2 and 3 will be only 3m wide, instead of the required 6m (with a 5m formed width). The earthworks also require resource consent as part of the subdivision application as up to 127.5m³ of earthworks is proposed (the permitted maximum amount is 50m³ per lot, a total of 100m³).

Land Use Consent

- 4.3 The proposed land-use activity is a **Discretionary (Unrestricted) Activity** in accordance with Rules 4A 2.4(a), 4A 2.4(m) of the District Plan. Residential activity is a permitted activity within this activity area, subject to compliance with several permitted activity conditions. The permitted activity conditions that the proposal does not meet include 4A 2.1.1:
- (a) minimum net site area;
 - (b) yard setbacks;
 - (c) recession planes;
 - (e) site coverage;
 - (f) building length;
 - (g) permeable surfaces
- 4.4 In addition, the proposal does not meet the following permitted activity conditions under Chapter 14A:
- Standard 1(c) Service lanes, private ways, pedestrian accessways and walkways;
 - Standard 2(a) Vehicle access;

- Standard 4(a) Carparking

4.5 The proposal also does not meet the following permitted activity condition under Chapter 14I:

- Rule 2.1.1(b) Earthworks

Overall

4.6 Overall, both the subdivision and land-use consent are **Discretionary (Unrestricted) Activities** and have been assessed and determined as such. We note no parties were in dispute of this conclusion.

5 Notification and Submissions

5.1 The application was limited notified on 30th October 2018 to the owners and occupiers of 2 and 8 Bolton Street, Petone. Both these owners submitted in opposition to the proposal and were present at the Hearing.

5.2 We note the owner of 9 Tory Street (Ms K Wasley) was also present at the Hearing and had appended her written submission to that of the tabled written comments of Mr Serci, a submitter from 2 Bolton Street. We further note the Council's notification report determined that the only potentially affected properties to a minor or more than minor amount were those at 2 and 8 Bolton Street. In this case, the Council was satisfied under Sec 95E(3)(b) of the RMA that 9 Tory Street was not an affected property. We have no authority to alter that decision and, accordingly, we find that under Sec 96 (3) and (4) RMA, we can only have regard to submissions from the owners and occupiers of 2 and 8 Bolton Street. We further find that, while Mr Serci is quite entitled to call evidence in support of his submission, we are only able to consider that evidence insofar as it relates to either the effects on 2 Bolton Street or on the broader neighbourhood amenity and character.

5.3 The key issues raised in the submission from 2 Bolton Street (Mr Serci and Dr Archer) are as follows:

- The proposed development is not in keeping with the established architecture, streetscape, amenity or character of the area, and will dominate the surrounding area due to the relatively greater density and intensity of the development;
- The extent of non-compliance with the minimum allotment size and bulk and location rules will result in a development of a scale and intensity beyond that provided for by the District Plan;
- The cumulative building bulk and development density will have adverse effects regarding visual amenity (including a loss of views and outlook), building dominance, privacy and shading effects, and will set a precedent for further development of a similar scale within the surrounding area;
- Additional consideration must be given to the cumulative effects of the proposed development, given the number and scale of non-compliances with the District Plan;

- The proposed landscaping is insufficient to screen and soften the proposal, and will be exacerbated by the loss of the mature Pohutukawa to the rear of the subject site;
- The proposed development is not in keeping with the Design Guide for Medium Density Housing;
- The proposed parking shortfall will increase pressure on parking within Bolton Street, whilst the narrow width of the accessway will restrict on-site manoeuvring and create potential for conflict with pedestrians and cyclists;
- On-site provision must be made for waste management;
- The submitter does not want any disturbance of their property during the installation of services;
- Further consideration must be given to construction effects, including the phasing and duration of construction works, erosion and sedimentation effects, noise and vibration, and control of stormwater during earthworks - the submitter is concerned about loss of access to their property at 2 Bolton Street during construction, as well as the safety of family and pets during construction;
- Some or all of the proposed dwellings could be utilised for visitor accommodation, and/or the studio units could be rented independent of the primary dwelling and this would create additional adverse amenity and traffic effects for the surrounding area;
- Referring to the proposed dwellings as three dwelling houses and three studios (noting studios are not defined in the District Plan) diminishes the cumulative effects arising from the proposed six dwellings on the subject site; and
- Council's notification decision should have found additional persons affected, including the owners/occupiers of 9 Tory Street, and 3, 5 and 7 Bolton Street. Further consideration should be given to whether special circumstances apply that should have warranted wider notification of the proposal.

5.4 In regard to the last matter, as we outlined in paragraph 5.2, we are unable to consider whether the application should have been limited to other persons and are confined to considering the effects on 2 and 8 Bolton Street.

5.5 The key issues raised in the submission from 8 Bolton Street (Mr Eveleigh and Ms Perica) are as follows:

- The proposed development would result in six dwellings along the shared boundary;
- The proposed dwellings breach the recession plane along the shared boundary with 8 Bolton Street – this will adversely affect their amenity through loss of sunlight;
- Amenity will also be lost due to the intensive nature of the development both in terms of the number and scale of the buildings, including site coverage and the number of potential residents that may live next door – this represents a distinct change in outlook, will result in increased noise and activity levels next door, and will

result in loss of privacy due to overlooking, particularly over the backyard of 8 Bolton Street;

- The proposal will put additional pressure on parking within Bolton Street and will increase traffic movements; and
- The garage to the rear of the dwelling at 8 Bolton Street has been signed off by Council, and the property owners are not satisfied that this garage extends over the boundary – it is argued that the onus to fix this error falls on Council.

5.6 We were advised by the Reporting Officer that survey plans submitted with the application show that the garage at 8 Bolton Street extends across the boundary into 6 Bolton Street. Legal advice provided to Council has confirmed that this should be resolved via a civil process.

5.7 A pre-hearing meeting was held on Monday 14 January 2019; we were supplied with the minutes of this pre-hearing meeting. We note that this meeting did not result in any real agreement on the issues discussed or potential mitigation.

5.8 We record that we read the submissions and the above minutes in full, prior to the Hearing and had regard to them all as part of our evaluation of the application.

6 The Hearing

6.1 The resource consent application was heard by a panel comprising Councillor Margaret Cousins (Chair), Councillor Lisa Bridson and Mr Robert Schofield (Independent Planning Consultant).

6.2 The Hearing was held in the Hutt City Council Chambers, at Hutt City Council, 30 Laings Road, Lower Hutt, on Friday 1 February 2019. We closed the Hearing after deliberations occurred on the same day.

6.3 The following persons presented submissions and evidence to the Hearing:

For the Applicant: Mr James Beban, Director, Urban Edge Planning Ltd
Ms Baylee Pakau, Consultant Planner, Urban Edge Planning Ltd
Ms Jamie Devereaux, Urban Designer, Urban Edge Planning Ltd
Mr Grant Clark, Architectural Designer, Moore Architecture
Mr David Kennedy, Applicant

For the Submitter: Mr Kelly Parekowhai, Planning Consultant, 4Aight Consulting
Mr Joe Serci, Submitter 2 Bolton Street
Dr C Archer, Submitter, 2 Bolton Street
Mr Glenn Eveleigh, Submitter 8 Bolton Street
Ms Kristen Perica, Submitter 8 Bolton Street

For the Council: Ms Kerry Wynne, Resource Consents Planner
Mr Stephen Dennis, Principal Resource Consents Planner

Mr Bill Barclay, Consultant Traffic Engineer

Mr Morten Gjerde, Consultant Urban Designer

- 6.4 The section 42A officer's report was prepared by Ms Kerry Wynne. We were assisted in an administrative capacity by Mrs Heather Clegg, Hearings Administrator for HCC.
- 6.5 All of the material presented by the above parties is held on file at HCC. We took our own notes of the oral presentations and the answers to our questions. Mrs Clegg provided detailed written Minutes of the Hearing. For the sake of brevity, we have not produced that material verbatim in this decision. We do, however, refer to relevant matters raised in the material in subsequent parts of this decision.
- 6.6 All the Commissioners undertook a site visit on Wednesday 30 January 2019 before the Hearing. We record that we were not accompanied by the applicant, submitter or officers.

7 Statutory Requirements for Assessment

Relevant Statutory Provisions

- 7.1 As a Discretionary Activity, the application must be assessed in accordance with the provisions of sections 104 and 104B of the Resource Management Act 1991 (the Act). The process for considering a discretionary activity is as follows:
- (i) To identify the relevant section 104 matters;*
 - (ii) As part of the overall discretion in section 104B, weigh the relevant matters under section 104.*
- 7.2 We consider that the relevant section 104 matters are as follows:
- Any actual and potential effects on the environment of allowing the activity; and*
 - The relevant provisions of the District Plan, objectives, policies and rules; and*
 - The relevant provisions of a National Policy Statement; and*
 - The relevant provisions of the Regional Policy Statement; and*
 - Part II of the Act.*
- 7.3 In addition, section 108 sets out the requirements for imposing conditions of consent.
- 7.4 Section 106 of the Act provides for a territory local authority may refuse to grant subdivision consent if it considers that:
- The land in respect of which a consent is sought, or any structure on the land, is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source; or*
 - Any subsequent use that is likely to be made of the land is likely to accelerate, worsen, or result in material damage to the land, other land or structure by erosion. Falling debris, subsidence, slippage or inundation from any source; and*

- Sufficient provision has not been made for legal and physical access to each lot created by the subdivision.

7.5 We were advised by the Reporting Officer that there are no matters under section 106 which would warrant the proposed subdivision be refused.

7.6 We have undertaken an assessment of the effects of the proposal in section 8 below, focussing on the issues in contention. We then address the consistency of the proposal with the relevant objectives and policies of the District Plan and other relevant statutory documents, with our conclusions set out in section 9 of this decision. Finally, we turn to the question of whether the proposal is consistent with the purpose and principles of the RMA, contained in Part 2 of the Act; our conclusions are set out in section 11 of this decision.

Existing Environment and Permitted Baseline

7.7 Our assessment of the actual or potential adverse effects of the proposed development and subdivision must be based on the nature of the existing environment, which is outlined above under Section 2.

7.8 In addition, our assessment of effects may be informed by the nature of effects that would occur as-of-right by development that would fully comply with the permitted activity conditions of the District Plan. Section 104(2) states:

“...when forming an opinion for subsection 1(a) [in regard to any actual and potential effects on the environment of allowing the activity], a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.”

- 7.9 This is referred to as the 'permitted baseline'. While the ability to apply a permitted baseline is discretionary (i.e. we "may disregard"), the permitted baseline identifies what is permitted to occur on a parcel of land without needing consent, so often provides a useful tool to quantify the difference in effects between what is proposed and what is permitted to occur as-of-right.
- 7.10 We consider there is a relevant permitted baseline in that we were shown that the lots could be developed with two large two-storeyed dwelling houses with separate garages built on the road frontage. This type of development is entirely feasible and therefore it is appropriate to consider the adverse effects from a form of residential development that is provided for and permitted in the Medium Density Area and could occur as-of-right.
- 7.11 We find that there is no basis to exclude the use of the permitted baseline for considering resource consent applications for a discretionary activity or for a proposal involving multiple non-compliances with permitted activity conditions: neither the Act nor regulation directs that exclusion. Accordingly, we consider that the permitted baseline would be useful to identify what type and magnitude of effects could occur as-of-right to compare with the magnitude of effects that could be created by the proposed development. This comparison would assist in determine the extent to which the effects of the various non-compliances, individually and cumulatively, would exceed those that could be reasonably anticipated by a permitted activity development.
- 7.12 We find the permitted baseline to be:
- 40% site coverage per site, excluding eaves;
 - 4 Bolton Street: 156m² footprint;
 - 6 Bolton Street: 231m² footprint;
 - 1m side and rear yard setbacks, and no setback for accessory buildings up to 6m in length;
 - A front yard of 3m;
 - 8m in height;
 - Buildings up to 20m in length subject to compliance with building length requirements;
 - A minimum permeable surface area of 30% of the net site area;

- Recession plane requirements being 2.5m and 45 degrees on all boundaries; and
- Earthworks can be no greater than 50m² and must have cut or fill no greater than 1.2m in height.

7.13 We note that these conditions relate purely to building bulk and location, and that there are no permitted activity conditions around the appearance and design of the buildings. There is only guidance on design and appearance by way of the District Plan's *Design Guide for Medium Density Housing*, which applies to resource consent applications for multi-unit development: this guidance therefore cannot be considered as part of the permitted baseline.

7.14 We further note that there are no protected trees on the subject site and no controls over the proposed removal of the mature vegetation on the site, so the removal of this vegetation is also part of the permitted baseline.

7.15 We were provided with evidence on a possible development of the two lots that could occur as-of-right as a permitted activity, which was for two large two-storeyed fully complying dwelling houses, one on each lot, and with each having a garage fronting the street. We consider that such a development would not be fanciful as there are examples of such development in the neighbourhood. We therefore determined it is appropriate to disregard the effects of such a permitted development in determining the scale and magnitude of the effects of the proposed development.

Assessment Matters for Discretionary Activities

7.16 Under Rule 5A 2.3.1, the District Plan identifies the following assessment matters for discretionary activities:

- (a) *The matters contained in Sections 104 and 105, and Part II of the Act shall apply.*
- (b) *The degree of compliance or non-compliance with any relevant Permitted Activity Conditions.*

7.17 In addition, section 11.2.4.1 of the Subdivision Chapter identifies the following assessment matters for discretionary activities:

- (a) *The matters contained in sections 104 and 105, and in Part II of the Act shall apply.*
- (b) *Compliance with the engineering design standards.*
- (c) *The degree of compliance or non-compliance with any relevant Permitted and Controlled Activity Standards and Terms.*
- (d) *Those matters listed in the Assessment Criteria for Controlled Activities.*

7.18 The above matters have been considered in the following assessment as relevant.

8 Issues in Contention

8.1 Based on the material provided in the application, the submission, the s42A report and evidence presented to the Hearing, we consider that the principal issues in contention to be:

- Residential amenity effects;

- Residential character effects;
- Streetscape effects;
- Servicing and engineering Effects;
- Traffic and parking effects;
- Subdivision design and layout;
- Effects upon natural features and topography and sites of significance;
- Natural hazards and site contamination effects;
- Temporary construction effects, including noise effects; and
- Positive effects.

8.2 At this point, it is relevant to raise the issue of whether we are assessing three dwellings versus six dwellings. In terms of the definitions of the District Plan, the development is for six dwelling houses. However, the applicant contended that the development will be viewed primarily as being three buildings or dwelling houses, due to the integrated nature of the studio units with each main dwelling. We accept that point insofar as it is relevant to considering the design and appearance of the development and its effects on the neighbourhood character. It is also relevant to consider the special nature of these studio units, to take into account their intended and likely use as one-bedroomed units attached to the larger dwelling units and contained within the same title. However, for other purposes, we are bound to consider the development as six dwelling houses, such as in considering vehicle movements and parking.

8.3 We concur with both the Reporting Officer and the Applicant's Statements of Evidence with regards the degree of non-compliances with the District Plan bulk and location standards and note there was no disputing of these by the submitters. For a full description of all non-compliances, we refer to the information supplied with the application, and in the s42A Report.

Effects on Residential Amenity Values

8.4 We note the proposal breaches a number of bulk and location standards of the District Plan. The submitters raised concerns with the cumulative effect of these breaches, which, in their opinion, would create adverse effects on both their properties and the wider neighbourhood. We assess each of the following potential effects in terms of residential amenity: visual amenity, shading, vegetation, privacy and overlooking, noise and perceived activity levels. We also consider the cumulative effect of the proposed breaches of the permitted activity conditions.

Visual Amenity

8.5 Visual amenity includes the impact on views and the amount of building coverage (density).

8.6 We acknowledge the submitters' concerns in respect of loss of views, especially relating to the sky and mature trees. We however accept the Reporting Officer's advice that case law has established that there is no absolute right to the preservation of a view, although

consideration of matters such as building bulk, location and subsequent effects upon outlook are relevant to the maintenance of amenity values. Further, as noted, there are no controls to prevent the loss of the vegetation at any time.

- 8.7 The construction of a large two-storeyed complying dwelling house would have similar effects in terms of the impact on views. We acknowledge that the total amount of building visible from either neighbouring property would be larger than a permitted development but consider the effects on outlook would be mitigated by the well-articulated pattern of buildings, the variation in design and cladding, and the setback from boundaries. In addition, the proposed landscaping would include several trees that will grow between 3m-8m in height, which will aid in screening and reducing any perceived bulk of the proposed buildings. As well, the landscaping will incorporate a mix of soft and hard landscaping measures to help delineate private living areas for the inhabitants. We find that the proposed landscaping will help to maintain the visual amenity values of the area and have imposed a condition accordingly.
- 8.8 In terms of density, we find that the proposed development will be viewed as three buildings, and that the District Plan currently permits up to three dwellings on an allotment of the size of the subject site (albeit with compliance with the bulk and location standards). The proposed net site areas per dwelling range from 70.3m²-201.7m². However, the integrated nature of the primary and studio units reduces perceptions of density to three buildings on site whereby overall allotment size (271m²-323m²) provides a better guide as to perceived density and associated adverse visual amenity effects. We were advised that if the site was not being subdivided, there would be no net site area non-compliance. We were also advised that site coverage based on the proposed allotment sizes for three buildings results in figures for Lots 1 – 3 of 48.5%, 55.9% and 53.5% respectively, compared with the permitted site coverage in the MDAA of 40%.
- 8.9 The proposal includes fencing, private outdoor areas and compliance with all external yard setback requirements. The proposed buildings will all be sited further from the common boundaries with 2 and 8 Bolton Street than the existing dwellings are, leading to a wider degree of separation. We find that due to the alignment of the proposed buildings (north/south on Lot 1 and east/west on Lots 2 and 3), the higher site coverage non-compliances will not affect streetscape visual amenity. From our site visit, we agree with the Reporting Officer that the proposed buildings will not be fully visible in their entirety as viewed from any one direction, further limiting perceptions of building bulk.
- 8.10 We find that perceived density and associated adverse visual amenity effects are similar to those that could arise from a reasonably anticipated development on the subject site, particularly given the medium density overlay. We also note that there are other examples of multi-unit two-storeyed development in Bolton Street.
- 8.11 To address the cumulative effect concerns of the submitters, we have assessed the mitigating factors proposed by the applicant. Fencing is proposed along all external and internal boundaries. The applicant contended the fencing will provide privacy. At the Hearing, we learnt that the submitters from 2 Bolton Street were concerned that a 1.8m fence along the common boundary would create excessive shadowing and an enclosed feeling on their

property. They offered to accept a compromise on fence height between 1.5m and 1.8m in height. We concur with this and have imposed a condition accordingly.

- 8.12 The proposed landscaping includes a variety of trees, shrubs and plants which will soften the appearance of the proposed development, partially mitigating the effects of the higher site coverage (48.5% - 55.9% per allotment) and more intensive development form. Private outdoor living areas will be located to the north of the proposed dwellings and a 3.0m wide right-of-way to the south of the subject site will combine to provide buffers between the proposed buildings and the properties at 2 and 8 Bolton Street. Modest yards are also provided between all three buildings. Whilst the total separation between the buildings on Lot 2 and 3 will be 0.45m narrower than permitted under the District Plan, these separation distances will provide viewshafts from north to south through the site, breaking up building bulk. It is acknowledged that, when the dwellings are viewed at a more oblique angle, these view-shafts may not always be visible, thus restricting the outlook of persons at 2 and 8 Bolton Street and contributing to perceptions of building bulk.
- 8.13 The façades of the proposed dwellings have been modulated, with variable setbacks from allotment boundaries with distinct dwelling and roof forms. The first floor does not directly mirror the building footprint below but is oriented differently and/or recessed. These building elements ensure that portions of each building are single storey, providing visual interest and breaking up perceived building bulk.
- 8.14 The recession plan breaches are largely related to eaves and roofs of the buildings, except the north-facing gable ends on Primary Dwellings 1 and 3 adjacent to 8 Bolton Street, and the second storey of Dwelling 3 adjacent to 7 Tory Street, as well as the internal recession plane non-compliances. The slope of the roof is such that the scale of the breach reduces quickly partially mitigating perceived building bulk and associated adverse visual amenity effects. These larger recession plane breaches are well separated, with one towards the rear (east) and one towards the front (west) of the application site. We consider that this separation assists in mitigating the effects of cumulative building bulk along the southern boundary of 8 Bolton Street.
- 8.15 Cumulatively, we consider that the recession plane breaches are sufficiently small in scale whereby they make only a minimal contribution to building bulk and adverse visual amenity effects. Recession plane breaches along the internal site boundaries contribute only marginally to perceived building bulk and associated adverse visual amenity effects beyond the site boundary. Accordingly, we find that the effects of the proposed development on visual amenity would be no more than minor.

Shading

- 8.16 We were advised by the Reporting Officer that the District Plan does not seek to ensure that developments prevent all shading of neighbouring properties; rather, it uses recession planes to ensure development provides an acceptable level of daylight/sunlight to neighbouring properties. Any development, particularly of two-storeyed buildings, will create some level of shading on adjoining properties at certain times of the year, at certain times of the day.
- 8.17 The submitters expressed concern that the proposal could permanently reduce sunlight/ solar gain to the outdoor areas of their properties.

- 8.18 As we determined, the actual degrees of non-compliance with the recession planes on the external boundaries are small in scale and any effects be no more than minor. The applicant provided a set of diagrams highlighting the portions of the proposed buildings that would exceed the recession planes. They also provided a set of shading diagrams to demonstrate the shading effects at mid-summer, mid-winter and the equinox, along with a comparison of a complying development. The effects of shading from the proposed fencing are also provided. Upon analysis, these diagrams showed that the effects of shading on the property at 8 Bolton Street are comparable to the permitted baseline during most of the year. The extent of shading that occurs in mid-summer that is greater than the permitted baseline is limited to a portion of the rear yard for a limited time in the evening.
- 8.19 We note that the proposed fencing would produce much of the shading when the sun is at lower angles, and these fences could be erected as-of-right regardless of the type of development occurring.
- 8.20 Shading on 2 Bolton Street will be less than the permitted baseline in mid-winter with the exception of the gable pitch roof of the dwelling on Lot 1. This will shade the northern side of the roof of the dwelling on 2 Bolton Street from 9.30am and reduces over the day until 1pm. For the rest of the northern elevation, shading will be less or the same as the permitted baseline, with any shading arising from a complying perimeter fence. We consider the siting of the proposed dwelling on Lot 1 being at least 3m from the common boundary with 2 Bolton Street, and the separation provided by the right-of-way to be sufficient to mitigate adverse shading effects for persons at 2 Bolton Street to an acceptable level.
- 8.21 For these reasons, we find that the effects of additional shading from the proposed development, compared with a permitted development, will be no more than minor.

Vegetation

- 8.22 The submitter from 2 Bolton Street expressed concern about the proposed loss of an established Pohutukawa towards the east (rear) of the subject site, and the effects of that loss on their amenity. While the District Plan policies seek to retain existing vegetation where practicable, the removal of this tree allows for vehicle access to the rear site and the construction of the third building, and as such its retention is not considered practical.
- 8.23 We note that none of the trees on site are protected, and the mature specimens are not remnants of the original vegetation. Their loss will be comparable to a permitted activity on the site. We also accept that the proposed landscaping will mitigate the loss of existing vegetation to a degree.

Privacy, Overlooking, Noise and Perceived Activity

- 8.24 The submitters from both 2 and 8 Bolton Street noted that the density of the development will generate privacy and overlooking effects. The submitters from 8 Bolton Street further noted that the proposed development will increase the number of persons living immediately adjacent to their boundary and will result in additional noise and activity within the surrounding area.
- 8.25 It is noted that no windows breach the northern or southern recession planes, and thus will not exacerbate overlooking effects from a permitted development. From the first-floor level,

any overlooking of 2 Bolton Street would be from bedrooms and/or bathrooms, not principal living areas. The exception is the primary dwelling on proposed Lot 2 where additional windows associated with the first-floor landing/hallway and reading nook would be visible. The floor plan illustrates that any overlooking of 8 Bolton Street will be from bedrooms, bathrooms, and a stairwell/hallway 'void' at the first-floor level. These areas will have reduced activity levels during the day as they are not primary living spaces, thereby limiting actual overlooking effects.

- 8.26 With the exception of the outdoor area for Studio 1, the outdoor living spaces are located to the north of the proposed dwellings whereby associated noise effects will be screened from 2 Bolton Street by intervening development. At the ground floor level there is potential for adverse privacy due to a line of sight from living rooms associated with Studio 1 and Dwelling 2 to the south. However, these areas will be separated from No 2 by the right-of-way and will be screened by a 1.8m boundary fence, thereby mitigating potential privacy effects.
- 8.27 Fencing and hard and soft landscaping is proposed throughout the development, providing screening. Strategic placement of windows ensures there is no overlooking of neighbouring properties from the living areas of the proposed dwellings. In comparison, a fully complying 3 dwelling development could have living areas on the first-floor level, with no controls on the amount, orientation and size of windows.
- 8.28 There was no evidence that noise from activities that would occur on the site would be in breach of the noise standards in the District Plan or that the level of activity from the use of the residential units would be particularly unusual or out of character from that expected in a residential area.
- 8.29 In conclusion, we find that the cumulative effect of all breaches of permitted activity conditions on residential amenity values would not be significant. We find that any effects arising from these non-compliances will be less than minor.

Effects on Residential Character

- 8.30 A new development can have an adverse effect on the character of a residential neighbourhood, particularly if it is an established older suburb. Such effect can be created by being obtrusively out of the character with the existing nature of residential development, or by having an obtrusive impact on streetscape.

Neighbourhood Character

- 8.31 Our site visit confirmed that, within proximity of the site, there is a dominance of standalone residential dwellings and associated accessory buildings on individual allotments. On Bolton Street, sites and dwellings are generally oriented east-west, with dwellings fronting close to the street, with open gardens to the rear. Dwellings tend to be older bungalow houses and are generally (although not exclusively) single storey. In particular, the eastern side of Bolton Street between The Esplanade and Adelaide Street displays a very regular pattern of single storeyed older residences. Development forms along The Esplanade are generally more intensive with larger two-storey and often modern dwellings more prevalent, usually oriented north-south.

- 8.32 We note that the MDAA requires assessment against the provisions of the Design Guide for Medium Density Housing. The proposed development has been assessed against the Design Guide by Dr Morten Gjerde, Council's Urban Design Consultant, who concluded the proposal is consistent with the provisions of the Design Guide and specifically the requirements of "Fitting with the Neighbourhood", those clauses most relevant to character. In particular, we concur with the Urban Design Consultant that the dwellings are designed and arranged on the site in a rational manner, that adequate private outdoor areas are provided for each residential unit, and that appropriate landscaping is proposed to offset the number of fences, walls and impervious surfaces. We also concur that the proximity of the site to The Esplanade would assist in integrating the development into the neighbourhood, given the different scale, age and orientation of buildings along The Esplanade.
- 8.33 We heard from the Reporting Planner that, whilst the proposed dwellings are two-storeyed in an area of predominantly single storey dwellings, the neighbourhood has not been identified as being of special character (be it historic or otherwise) and nothing precludes the existing residential sites being redeveloped with two storey, more modern dwellings, or with forms of infill housing. Indeed, we saw some examples in the neighbourhood on our site visit.
- 8.34 We acknowledge that, while the existing Bolton Street residential character is characterised by dwellings predominantly built in a similar era, the residential permitted baseline enables the redevelopment of these properties into two-storeyed residences. We note the District Plan does not seek to control the architectural style or character of the area beyond the bulk and location standards and provisions of the Design Guide for Medium Density Housing. We find that the proposed two storey form and modern architecture of the proposed dwellings is generally consistent with the anticipated character of Medium Density Activity Area.
- 8.35 The submitter for 2 Bolton Street notes that the location of the garage on Lot 1 facing the street will undermine the residential character of the surrounding area. However, the proposed garage complies with the front yard setback provisions of the District Plan, and there are several sites including 1, 2, 3, 5, 7, and 14 Bolton Street with garages located within front yard setbacks and/or directly oriented towards the street. As such, we consider the proposed garage placement to not be inconsistent with the established residential character of the surrounding area and is therefore acceptable.
- 8.36 Another aspect of residential amenity is landscaping. We are satisfied the submitted plan with the application details the proposed landscaping and find the proposed landscaping to be sufficient to mitigate the perceived bulk of the buildings, and to add to the amenity of the area. The use of trees as well as smaller plantings will help to give a sense of scale to the development, denote the main entrance routes to the dwellings, and help to soften the appearance of the driveway areas. We note the landscaping plan has been prepared as an integral component of the development.
- 8.37 We have assessed all the non-compliances and the degree of each non-compliance. All the lots will be less than the permitted minimum for medium density residential developments. As part of this proposal, the applicant has provided the design of the units that will be constructed on the new lots. These designs show that the allotments are suitable in their size and shape to accommodate a good standard of residential development. We find that the allotment design and layout effects will be less than minor.

- 8.38 The submitter for 2 Bolton Street raised concerns about use of the proposed studio units as commercial visitor accommodation by future owners. It is noted that resource consent has not been sought for visitor accommodation on site and thus such a use could not be undertaken as-of-right under the current provisions of the District Plan, nor in accordance with this resource consent. If a future resident proposes to use the studio unit for commercial visitor accommodation, they would have to seek resource consent, and the effects of that proposed activity would be assessed at that time. Accordingly, we do not consider it necessary to impose a condition to restrict the use of these studio units but consider an Advice Note would be appropriate.
- 8.39 With regard to the proposed subdivision into 3 lots, we find that this proposal is offering another style of residential accommodation, and one that is consistent with the Design Guide. Despite the minimum net site areas not being met, we consider each allotment is of sufficient size to accommodate the proposed residential unit and provide a suitable living environment for their inhabitants.
- 8.40 A detailed landscape plan shows the proposed planting has been designed to help alleviate any perceived bulk of the buildings. We note the overall bulk and form of the proposal is consistent with what could be established on the site as a permitted activity, and that the development is planned as an integrated whole.

Streetscape Effects

- 8.41 Our site visit confirmed the information provided by the application and the submitters that dwellings within Bolton Street are generally oriented east-west on the underlying allotment. Many of the older bungalows within the surrounding area have large windows and clearly defined entrances oriented towards the street frontage, often with low picket or timber slab fences defining the front boundary and providing for passive surveillance and a visual connection to the public domain.
- 8.42 Proposed dwelling on Lot 1 complies with the minimum yard setbacks and recession plane requirements of the District Plan. Whilst it is slightly closer to the front boundary than the majority of dwellings in the street, the modulated front elevation produces varied front yard setbacks. A low front fence would mimic the rhythm of the surrounding streetscape. The front entrance to the dwelling faces the street and combined with the large living room doors opening onto the front courtyard area, provide passive surveillance of and visual connection to the street.
- 8.43 The proposed dwellings on the rear lots will be partly screened by the proposed front dwelling and sufficiently separated from the public domain so as to minimise adverse streetscape effects due to perceived building bulk.
- 8.44 We acknowledge many buildings in the vicinity are single storeyed, but we are mindful that two-storeyed construction is permitted by the District Plan and can be anticipated especially in the MDAA. This end of Bolton Street also contains a number of two-storeyed single and multi-unit developments.

- 8.45 For these reasons, we find that the proposed development would not be out of character with the neighbourhood, and that any effects arising from these non-compliances will be less than minor.

Servicing and Engineering Effects

- 8.46 The applicant has proposed to extend water supply, wastewater, stormwater, power and telecommunication services to all allotments. Where necessary these will be protected by easements, with additional easements proposed to provide access over the right-of-way. This is standard practice.
- 8.47 We note Wellington Water Ltd (WWL) had advised The Esplanade is part of an “inundation area under investigation”. To mitigate this, the applicant has ensured a finished floor level of all the buildings to be higher than the crown of Bolton Street carriageway. WWL did not raise any concerns with the increased demand upon the surrounding water, stormwater and wastewater networks, nor on the low level of permeable surface proposed by the development.
- 8.48 We note the proposal has been assessed and is supported by Council engineers, subject to the imposition of several conditions.
- 8.49 Based on the above, we find that any adverse effects arising from the servicing of the site and the proposed shortfall in permeable surfaces will be mitigated to an acceptable extent.

Traffic and Parking Effects

- 8.50 The proposal provides one on-site carpark for each primary dwelling by way of garages built as part of the principal units. In addition, the front unit would have a driveway that could accommodate a vehicle, although this was not included in the applicant’s assessment of parking. No on-site carparks are proposed for the studio units. The District Plan requirement is the provision on one on site carpark for each dwelling house, resulting in the proposal being short of 3 carparks, and thus non-complying with the permitted activity conditions.
- 8.51 Both submitters raised concerns about the extent of pressure this non-compliance may place on the on-street parking facilities within the surrounding area. They further raised concerns that the extra number of dwellings and associated vehicle movements could cause congestion on the surrounding network. As well, the submitters were concerned about the width of the proposed right-of-way: as this right-of-way would serve 4 dwellings, the Plan requires a 6m wide right-of-way, with a minimum of 5m of formed driveway. The proposal is for a 3m wide formed right-of-way. The submitters were concerned at possible adverse effects on circulation and manoeuvring this would present.
- 8.52 We were presented with numerous parking surveys by both the applicant and submitters. We were informed by the submitters that often Bolton Street has very few carparks available, due to the parking of workers’ cars, overspill from residents, and visitors to the beach and residents. We are mindful of the busyness of The Esplanade, and the proximity of the subject site to the Jackson Street shopping area and Weltec campus. We understand there may be an overall loss of one street carpark as a result of the proposed second road crossing providing access to the front dwelling.

- 8.53 Mr Bill Barclay, Council's Traffic Engineer, has assessed the proposal. He accepted the results of the applicant's survey and confirmed there is enough on-street parking available in the immediate vicinity to mitigate the effects of the 3 on-site carpark shortfall to an acceptable level. Mr Barclay also assessed the capacity of the roading network to accept the additional traffic movements anticipated from the proposal. He concluded the small number of vehicle movements per day expected to be generated from the proposal would generate very minor effects on road safety or efficiency. We accept his expert opinion.
- 8.54 The Reporting Officer advised Council's Network Operations Traffic Engineer had advised no alterations to on-street parking are proposed in the portion of roadway adjacent to the subject site, and that any proposed changes in the future may be centred around the Jackson Street and Adelaide Street intersections. We are satisfied these will not impact the immediate vicinity of the subject site.
- 8.55 We note that although the proposed right-of-way will service four dwellings, only two have designated on-site carparks (garages). As such, any circulation, access and manoeuvring effects arising from the proposed 3m right-of-way will therefore be comparable to those that could arise from a compliant right-of-way serving two dwellings on the subject site and are thus acceptable. These effects will be internal to the application site, and thus will have a negligible effect upon the owners/occupiers of any adjacent properties. Mr Barclay did provide his overall support for the proposal as there would be adequate visibility, with virtually indefinite sightlines, a wide footpath, lack of street trees, a flat site and large separation distance to the closet intersection. As well, Mr Barclay stated vehicles can manoeuvre on site so as to enter and exit in a front ways manner. He considered the right-of-way to be functional for its intended purpose and use.
- 8.56 In answer to questions from the Panel, Mr Barclay did advise that larger service vehicles (for example, fire trucks or large delivery trucks) would be unable to access the right-of-way. However, the Reporting Officer advised all proposed dwellings are located close enough to fire hydrants on Bolton Street.
- 8.57 We note the proposal will result in vehicular access to the rear of 8 Bolton Street being stopped: current access to the rear of 8 Bolton Street is via driveway to 6 Bolton Street. Whilst this is unfortunate, this situation could equally arise from a fully complying development on the neighbouring property, or with the erection of a legal fence along the boundary. We note that there is a parking pad for two vehicles in the front yard of 8 Bolton Street.
- 8.58 Overall, we find that the traffic and parking effects are acceptable, with any effects being minor or less than minor.

Subdivision Design and Layout

- 8.59 All proposed allotments comply with the minimum frontage standard of the District Plan. However, Lots 1 and 2 fall short of the 300m² minimum allotment size and proposed Lot 3 cannot comply with the relevant 9 x 14m shape factor. Nevertheless, we agree with the Council's Reporting Officer and Urban Designer that each allotment will be of sufficient size and shape to support the intended dwellings, on-site car parking proposed, outdoor living and

landscaping, and that the subdivision design and layout is generally consistent with the Design Guide.

- 8.60 All proposed dwellings will be connected to water, wastewater, stormwater, power and telecommunications, and physical and legal access to the road network.
- 8.61 We find the proposed subdivision design and site layout is acceptable, with the allotments fit for their intended residential purpose.

Earthworks Effects and Effects upon Natural Features and Topography

- 8.62 We heard that a minimal amount of earthworks is proposed for the development, due to the flat nature of the site. The depth of earthworks is within the permitted activity standard. An area of 127.5m³ of earthworks is proposed, which is 27.5m³ over the permitted baseline amount of 100m³ (50m³ per lot). The site is devoid of distinctive topographical features such as escarpments, steep hillsides, extensive tracts of native bush or coastal features, any adverse effects upon natural features and topography are considered to be less than minor and therefore acceptable.
- 8.63 Any temporary effects due to earthworks, such as dust or sediment control, can be mitigated through the Construction Management Plan that the applicant has proffered.
- 8.64 Once the development is complete, the effects of the earthworks on the flat site will not generate any adverse visual effects. The proposed landscaping will enhance the visual amenity of the site and screen any earthworks.
- 8.65 Overall, we find that any adverse effects of earthworks to be less than minor.

Effects on Sites of Significance and Heritage

- 8.66 The site is not known to contain any historical or cultural resources and has no natural character nor is it identified as being subject to any specific Statutory Acknowledgement Area. As such, we consider the likelihood of the proposed earthworks and construction disturbing sites of significance to be minimal and therefore acceptable.
- 8.67 Neither of the existing dwellings are scheduled Heritage items. We do note that much of Petone has been affected by pre-1900 activity, which means that an archaeological authority from Heritage New Zealand may be required for the proposed development. During the Hearing, the applicant agreed to conditions relating to accidental discovery and archaeological finds.
- 8.68 We find that with adherence to the conditions, the effects upon heritage to be less than minor.

Natural Hazards and Site Contamination Effects

- 8.69 We were advised that Council records do not indicate that the application site has a known history of erosion or land instability and is located well outside of the Wellington Fault Special Study Area. We find that due to the modest scale of earthworks proposed, they are unlikely to create or exacerbate natural hazard risk.

8.70 We acknowledge the subject site is within the 1:440 flood extent associated with the Hutt River. We were advised GWRC and WWL raised no concerns with the proposal and we consider any adverse effects due to loss of floodplain storage or flood risk to have been avoided or mitigated and therefore acceptable.

Temporary Construction Effects

8.71 Construction of any development will result in temporary disturbance for the surrounding area, with potential for noise, vibration, dust, sedimentation and traffic effects to be generated. Indeed, the submitters raised such concerns, including hours of work on the site.

8.72 In response, the applicant has proposed to develop a Construction Management Plan (CMP) prior to the commencement of site works to avoid, remedy or mitigate the adverse effects of construction. We agree that this would be an appropriate means to manage the effects of construction and have imposed a condition accordingly.

8.73 The CMP is to detail how traffic, dust, noise, vibration and machinery effects associated with construction activities will be managed, provide the contact details of person on-site should a complaint be lodged, as well as contact details of the Council's Monitoring and Compliance Officer. The CMP will also identify the hours of operation of the construction activity and require notification to neighbours prior to commencement of the most disruptive works (including pile driving and the commencement of demolition or earthworks).

8.74 In addition, the applicant offered to provide a copy of the CMP to both submitters for their comments, prior to lodgement with the Council Officers, and that any such comments will be forwarded to Council at the same time as the CMP is lodged for approval.

8.75 We acknowledge that any construction activity on such a large site would create noise. However, we are mindful of the construction of a permitted development on the lots could produce similar effects: for example, the construction of complying large dwellings and accessory garages could produce similar noise levels during construction. There are NZ Standards for construction noise, and the applicant has agreed to abide by such standards.

8.76 We acknowledge the estimated construction timeframe (up to 12 months for each building, due to contracting labour shortages) is probably longer than might be expected, and the fact that the residents of 2 Bolton Street often work from home. However, the District Plan sets no limits of construction periods, including for a fully complying development.

8.77 Accordingly, we find that, with adherence to the relevant conditions, adverse temporary effects arising from construction will be no more than minor and are therefore acceptable.

Positive Effects

8.78 We concur with the applicant's and Council's planners that the proposed development will provide for housing close to main transport links, a suburban shopping area and recreational opportunities; and will be using existing infrastructure. We also concur that the proposal allows for the development potential of the site to be met and will increase the city's supply of housing stock, within an area identified for more intensive housing developments. The development will also provide the opportunity to support flexible living arrangements for

larger families (for example, the studio units could accommodate dependent elderly persons), thereby widening the diversity of the City's housing stock.

Summary of Findings on Effects

- 8.79 Overall, we find that the adverse effects of the proposal will be minor or less than minor.
- 8.80 We consider the applicant has proposed adequate mitigation of the amenity effects of the proposed development through the layout and design of the dwellings and associated outdoor areas, accessway and parking and landscaping. We agree with the Council's Urban design adviser that the development is well designed and would provide a good level of amenity for its residents.
- 8.81 We also find that all other effects, including noise and earthworks effects, can be mitigated by way of imposing appropriate conditions. We find that there will not be adverse effects on the residential character of the area by consenting this multi-unit residential development. In addition, we consider this proposal will not detract from the amenity values of the wider area.

9 Assessment against Relevant Plan Provisions

- 9.1 We now turn to assessing the proposal against the relevant objectives and policies of the District Plan. There was agreement between the Reporting Planner and the Planning Consultant for the applicant as to the relevant District Plan Objectives and Policies. We concur with their views. Our assessment draws on the more detailed assessments of the proposal that were undertaken in the s42A report and the resource consent application.

Subdivision Objectives and Policies

Objective 11.1.1 - Allotment Standards

To ensure that land which is subdivided can be used for the proposed use or development.

Policy

(a) To ensure that allotments have minimum design standards such as minimum size, shape and frontage, which are suitable for the proposed use or development.

- 9.2 The subdivision layout was based on the design of the proposed dwellings within each proposed lot, resulting in lots of an appropriate size and shape for the development. Once final subdivision is complete, we acknowledge the lots will not comply with the net site area or shape factor requirements of the District Plan. However, the boundaries of these proposed lots will reflect the layout of the proposed dwellings. We have found these dwellings to be generally consistent with the outcomes sought by the Design Guide for multi-unit developments. We therefore find that the proposed lots are of a suitable size and shape to accommodate their proposed use for residential activities and, on this basis, we find the proposal is consistent with the above Objective and Policy.

Objective 11.1.2 - Engineering Standards

To ensure that utilities provided to service the subdivision protect the environment and that there are no adverse effects on the health and safety of residents and occupiers.

Policy

(a) To ensure that utilities provided comply with specified performance standards relating to such matters as access, street lighting, stormwater, water supply, wastewater, gas, telephone, electricity and earthworks.

- 9.3 The applicant informed the Hearing that all proposed dwellings will be serviced in terms of sewer, water, stormwater, power and telecommunications. Where necessary these will be protected via the necessary easements. We have imposed conditions accordingly.
- 9.4 The proposed right-of-way does not comply with the minimum access width requirements of the District Plan. However, we find that there is adequate room for resident's vehicles to manoeuvre on site, vehicles can enter and exit the site in a forward manner, and good lines of sight will be provided, thereby assuring traffic safety. We therefore find that the proposal is consistent with this Objective and Policy.

Objective 11.1.3 – Natural Hazards

To ensure that land subject to natural hazards is subdivided in a manner that the adverse effects are avoided, remedied or mitigated.

Policy

(b) Subdivision of land subject to flooding is discouraged as this can lead to greater intensity of use and development and have adverse effects on the environment.

- 9.5 The floor levels of the proposed buildings have been assessed by the relevant council engineers and consultants and deemed to be sufficient to mitigate any potential inundation risk associated with the development of the site to an acceptable level.

Land Use Objectives and Policies

Objective 4A 1.1.1 Residential Character and Amenity Values

To maintain and enhance the amenity values and residential character of the General Residential Activity Area of the City.

Policy

- (a) That opportunity be provided for a diversity of residential activities.*
- (c) To ensure residential amenity values are retained, protected and enhanced through the establishment of a net site area per dwelling house.*
- (d) That adverse effects arising from noise, dust, glare, light spill and odour be managed.*
- (e) That vegetation and trees which add to the particular amenity values of the area be retained where practicable.*
- (f) That the clearance of vegetation be managed to avoid, remedy or mitigate any adverse effects on the intrinsic values of ecosystems.*

- 9.6 The proposal is inherently residential in nature and scale and provides additional diversity in the City's housing stock through by of residential activities (various dwelling sizes). The boundaries of each lot have been designed to reflect the layout of the proposed dwellings. We acknowledge existing vegetation is to be removed but note the landscape plan submitted with the application proposes planting specimens suited to a residential seaside environment. We further note the site does not have any identified intrinsic ecosystems.
- 9.7 Temporary adverse effects arising from construction noise, dust, glare, light spill and odour can be managed by a Construction Management Plan.

4A 1.1.2 Medium Density Residential Development

Objective

To ensure opportunity is made for medium density residential development around some commercial centres, along major transport routes, and where amenity values will not be affected adversely and where there is appropriate servicing of development.

Policy

- (a) That opportunity for higher dwelling densities be made along major transport routes, around some commercial centres, in the residential area between Jackson Street and The Esplanade, Petone, where existing dwelling densities are higher, and where amenity values will not be affected adversely and where there is appropriate servicing of development.*
- (b) To avoid, remedy or mitigate the adverse effects of higher dwelling densities on the surrounding area, caused by height of buildings, intensity, scale and location.*
- (c) That medium density development be encouraged where it is in general accordance with the direction provided by the Design Guide for Medium Density Housing (Appendix 19) and maintains and enhances on site amenities and consistency with the surrounding residential character and minimises impact on the natural environment.*

4A 1.2.1 Building Height, Scale, Intensity and Location

Objective

To avoid, remedy or mitigate adverse effects caused by building height, intensity and location on the amenity values of adjacent residential sites and the residential character of the surrounding residential area.

Policy ...

- (b) To establish a minimum net site area and maximum site coverage to ensure opportunity is provided for higher density residential development where appropriate, without affecting adversely the amenity values.*
- (c) To ensure all new development is of a height and scale, which is compatible with surrounding residential development.*
- (d) To ensure a progressive reduction in height of buildings the closer they are located to a site boundary, to maintain adequate daylight and sunlight to adjoining properties.*
- (e) To manage the siting of all buildings so as to minimise detracting from the character and visual attractiveness of the surrounding residential activity area.*

- (f) *To manage the siting of all buildings so as to minimise detracting from the amenities of adjoining properties.*
 - (g) *To establish a minimum permeable surface area to assist with the sustainable management of stormwater.*
 - (j) *To ensure that the developments are in general accordance with the Design Guide for Medium Density Housing (Appendix 19) to control other aspects of design, such as quality of on-site amenity, integration of buildings and landscaping in respect to open space and compatibility with surrounding development patterns and low environmental impact.*
- 9.8 The proposal is located within easy walking, cycling and driving distance of major transport routes and a commercial centre. It would provide for a greater choice within the residential housing market through the provision of primary dwellings and attached studio units.
- 9.9 While the proposed development results in net site areas below that anticipated by the District Plan (70.3-201.7m²) we consider the lots to be of sufficient size to accommodate their intended residential use in a manner consistent with the Design Guide.
- 9.10 Due to the integrated nature of the proposed dwellings whereby they effectively read as three buildings, with the underlying site layout considered similar to that which can be reasonably anticipated for the General Residential – Medium Density activity area. The density of development is not out of character with other recent developments in the neighbourhood. The application proposes a number of mitigating factors to reduce any perceived adverse effects from intensity and scale including:
- Landscape treatment to soften the visual appearance;
 - Variation on the style, modulation, colour cladding, massing, and orientation of the proposed dwellings;
 - Complying with the side and rear setback requirements;
 - Having the driveway along the southern side, providing for the buildings to be setback from the southern boundary;
 - Making the second storeys smaller in size than the ground levels; and
 - Setting the second storey of the front dwelling setback further from the street boundary.

Transport Objectives and Policies

Objective 14A 3.1

A safe and efficient transport network that is integrated with land use patterns, meets local, regional and national transport needs and provides for all modes of transport.

Objective 14A 3.5

Adverse effects on the safety and efficiency of the transport network from on-site transport facilities (vehicle access, parking, manoeuvring and loading facilities) are managed.

Policy 14A 4.2

Land use, subdivision and development should not cause significant adverse effects on the connectivity, accessibility and safety of the transport network, and, where appropriate, should:

- *seek to improve connectivity within and between communities; and*
- *enable walking, cycling and access to public transport.*

Policy 14A 4.6

Vehicle access, parking, manoeuvring and loading facilities should be designed to standards that ensure they do not compromise the safety and efficiency of the transport network.

Policy 14A 4.7

The transport network, land use, subdivision and development should provide for all transport modes.

- 9.11 The proposed development is located within walking distance of the Jackson Street retail precinct and bus stops serviced by a number of routes to Hutt Central, Wellington Central, Upper Hutt, the Airport, Eastbourne and the wider Lower Hutt suburbs. Whilst the development provides for private vehicle use, it is considered to foster use of public and active transport modes due to its location.
- 9.12 The District Plan requirement is one vehicle park per dwelling, with which this proposal does not comply. All parking and manoeuvring areas are sealed in an attractive manner, resulting in a visually attractive development. The Consultant Traffic Engineer concluded that the 3-car-park shortfall can be adequately accommodated within the existing roading network as there are often vacant kerbside spaces available within a short walk of the site. We find the accommodation of the shortfall of on-site carparks on the existing roading network will not compromise the traffic safety and efficiency of the local area.
- 9.13 The proposal has been assessed by the Consultant Traffic Engineer on behalf of Council, who concluded there is adequate provision for on-site turning, and that the effect of a vehicle reversing from the single dwelling associated with dwelling 1 will be comparable to a permitted development and that there are adequate sightlines. We concur with his opinion and find that, overall, the proposal is not considered to be contrary to the above Transport related objectives and policies.

Other Relevant Objectives and Policies

Objective 14I 1.1 Natural Character Objective

To ensure that earthworks are designed to maintain the natural features that contribute to the City's landscape.

Policy

- (a) *To ensure that earthworks are designed to be sympathetic to the natural topography.*
- (b) *To protect significant escarpments, steep hillside areas, and the coastal area by ensuring that earthworks are designed to retain the existing topography, protect natural features, and prevent erosion and slips.*

Objective - 14I 1.2 Amenity, Cultural and Historical Values

To ensure earthworks do not affect adversely the visual amenity values, cultural values or historical significance of an area, natural feature or site.

Policy

- (a) *To protect the visual amenity values of land which provides a visual backdrop to the City.*
- (b) *That rehabilitation measures be undertaken to mitigate adverse effects of earthworks upon the visual amenity values.*
- (c) *To protect any sites with historical significance from inappropriate earthworks.*
- (d) *To recognise the importance of cultural and spiritual values to the mana whenua associated with any cultural material that may be disinterred through earthworks and to ensure that these values are protected from inappropriate earthworks.*

- 9.14 The subject site is flat, and does not contain any significant scarps, steep hillsides, coastal features and due to its location on the valley floor. The minimal earthworks will be hidden from view by the proposed buildings, landscaping and right-of-way. We were informed the application site is not situated in a Significant Natural Resource as identified in the District Plan and contains no ecologically significant stands of vegetation. The site is also not located in an identified Significant Cultural or Archaeological Resource as identified in the District Plan. Due to the previous history of development on site we consider the likelihood of works disinterring artefacts of historical, cultural or spiritual significance to be minimal. However, to cover the unexpected we have imposed a condition relating to the Accidental Discovery Protocol.
- 9.15 For these reasons the proposal is considered to be generally consistent with all the above objectives and policies.

Plan Change 43 to the District Plan

- 9.16 Plan Change 43 was publicly notified on 7 November 2017, with submissions closing on 9 March 2018. Subsequent opportunities to make further submissions closed on 5 September 2018. To date, no decision has been made in respect to this plan change. As such the plan provisions relevant to the application site do not have legal effect, and therefore we can give little weight to its provisions. Irrespective of the question of weighting, and for the reasons outlined in sections 7 and 8 above, the proposal is considered to be generally consistent with the following objectives and policies of Plan Change 43: Objective 4A 2.2, Policy 4A 3.2; Objective 4A 2.3, and Policies 4A 3.3 and 3.4; Objective 4A 2.4 and Policies 4A 3.5, 3.7 and 3.8; and Objective 4A 2.5 and Policies 4A 3.9 and 3.10. These provisions primarily relate to the form of buildings and the need to manage the height and bulk of development to protect on-site amenity, as well as the amenity of the street and surrounding properties and impacts upon infrastructure.

Section 106 of the Act

- 9.17 When assessing this section of the Act, we were informed by the applicant the site is within the 1:100-year flood extent as depicted on the maps prepared by the Greater Wellington Regional Council. We have assessed the mitigation measures proposed by the applicant and find these measures will ensure the land will be protected from inundation.
- 9.18 We have found that legal and physical access can be provide to the proposed lots via the proposed right-of-way.
- 9.19 We therefore find that none of the matters under s106 of the Act should lead to a refusal of subdivision consent.

Other Plans and Policies

Regional Policy Statement

- 9.20 The Wellington Regional Policy Statement (RPS) was made operative in April 2013.
- 9.21 We find there are several relevant objectives and policies of the Regional Policy Statement.

Objective 19 – The risks and consequences to people, communities, their businesses, property and infrastructure from natural hazards and climate change are reduced.

Objective 20 – Hazard mitigation measures, structural works and other activities do not increase the risk and consequences of natural hazard events.

Objective 21 – Communities are more resilient to natural hazards, including the impacts of climate change, and people are better prepared for the consequences of natural hazard events.

Policy 29 – Avoiding inappropriate subdivision and development in areas at high risk from natural hazards.

Policy 51 – Minimising the risks and consequences of natural hazards.

Policy 52 – Minimising adverse effects of hazard mitigation measures.

- 9.22 The applicant has demonstrated it will adequately reduce the impact of natural hazards (flooding) while avoiding exacerbating the effect on the surrounding area.

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

urban development in existing urban areas, or when beyond urban areas, development that reinforces the region’s existing urban form;

Policy 31 – Identifying and promoting higher density and mixed-use development.

Policy 54 – Achieving the region’s urban design principles.

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

- 9.23 The proposal is generally consistent with the relevant objectives and policies of the RPS in that it:

- Will not impact on air quality, fresh water, historic heritage, indigenous ecosystems or soils and minerals;
- Will not result in any significant modifications to the natural landforms;
- Will not impact on natural hazards or unnecessarily increase risk to people from natural hazards; and
- Will support a consolidated regional form, design and function with a development that is appropriate to the residential character of the area. This proposal helps to achieve that objective through providing infill development within an existing urban area. The subject site is close to public transport and shops and can be serviced by existing infrastructure.

National Policy Statements

- 9.24 The National Policy Statement for Urban Development capacity is relevant to the application. In particular, Policies PA1, PA2, PA3 and PA4 which state:

PA1 Local authorities shall ensure that at any one time there is sufficient housing and business land development capacity according to the table below:

- a) Short term development capacity must be feasible, zoned and serviced with development infrastructure.
- b) Medium term development capacity must be feasible, zoned and either:

- Serviced with development infrastructure; or
- The funding for the development infrastructure required to service that development capacity must be identified in a Long-Term Plan required under the Local Government Act 2002.

c) Long term development capacity must be feasible, identified in relevant plans and strategies, and the development infrastructure required to service it must be identified in the relevant Infrastructure Strategy required under the Local Government Act 2002.

9.25 The subject site is zoned for medium density residential development, and the development will contribute to the housing stock of the city and will be serviced using existing and proposed on site infrastructure. We consider the proposal is consistent with this policy.

PA2 Local authorities shall satisfy themselves that other infrastructure required to support urban development is likely to be available.

9.26 The proposal is able to be serviced within existing infrastructural networks, as confirmed by the relevant asset managers. We consider the development is consistent with this policy.

PA3 When making planning decisions that affect the way and the rate at which development capacity is provided, decision-makers shall provide for the social, economic, cultural and environmental wellbeing of people and communities and future generations, whilst having particular regard to:

- Providing for choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations, working environments and places to locate businesses;*
- Promoting the efficient use of urban land and development infrastructure and other infrastructure; and*
- Limiting as much as possible adverse impacts on the competitive operation of land and development markets.*

9.27 The site is within a medium density residential activity area, which allows for a range of housing developments to be provided. The proposal will provide housing choice that will meet the needs of people and their communities. The proposal will not adversely impact on the competitive operation of land. Therefore, we consider the proposal is consistent with this policy.

PA4 When considering the effects of urban development, decision-makers shall take into account:

- The benefits that urban development will provide with respect to the ability for people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing; and*
- The benefits and costs of urban development at a national, inter-regional, regional and district scale, as well as the local effects.*

9.28 This proposal achieves this policy through providing infill housing with minimal adverse effects on the surrounding communities to provide for their social, economic, cultural and environmental wellbeing. The subject site is close to public transport, local retail facilities and businesses, recreational facilities and community facilities, thereby providing for the social,

economic and cultural wellbeing of people. We find the benefits of the proposal are on a local and district level scale, providing additional and varied housing stock for the city. Therefore, we consider the proposal is consistent with this policy.

- 9.29 We consider there to be no other plans or policies relevant to this application, including relevant national environmental standards; other regulations; national policy statements; New Zealand Coastal Policy Statement 2010; or plan/proposed plan.

Non-Statutory Plans

- 9.30 We are aware of the non-statutory 2017 Petone Spatial Plan (Petone 2040), which states this area of Bolton Street is within area “3b”. The characteristics of this area are stated as being generally cohesive, intact residential environments, with older dwellings conforming to specific types. We do note the Plan cautions against multiple plot developments and loss of green space and gaps between houses. We find the proposal is for the redevelopment of just 2 lots and will provide greater distance between buildings on the adjacent sites than exists at present. We are satisfied the proposed landscaping will add to the green outlook for the area.
- 9.31 Whilst we acknowledge the proposal includes two-storey buildings, we are mindful this is not inconsistent with other dwellings in the street or neighbourhood. We observe the proposed dwellings will have gable ends, will face predominantly east/east, use a mix of buildings materials including weatherboard and metal roofing and have lower fencing to the street, all of which are stated characteristics of the existing built environment. We are also mindful of the assessment and conclusions from the Council’s Urban Designer, which found the proposal is largely consistent with the Design Guide for Medium Density Housing and that the development fits into the neighbourhood.
- 9.32 We find that we cannot place any weight on the 2017 Petone Spatial Plan, as it has no statutory status and there have been no Plan Changes associated with it.
- 9.33 The 2013 Hutt City Council Urban Growth Strategy encourages 6000 houses to be constructed over the next 20 years, with a significant number constructed through more intensive residential development of existing sites. While this Strategy has no statutory status in respect of this application, and this is made clear in the introductory statement of that document, we find the proposal is in line with the Urban Growth Strategy.

10 Part 2 of the Act

- 10.1 When considering an application for a resource consent and any submissions received, our assessment is subject to Part 2 of the Act, which includes:
- a) The purpose of the Act (section 5);
 - b) Matters of national importance that the consent authority must recognise and provide for when determining a resource consent (section 6);
 - c) Other matters the consent authority must have particular regard to (section 7); and
 - d) The principles of the Treaty of Waitangi that must be taken into account (section 8).
- 10.2 The purpose of the Act as set out in section 5 is to promote “the sustainable management of natural and physical resources while 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... avoiding, remedying, or mitigating any adverse effects of activities on the environment.”

- 10.3 We consider the proposal has positive effects in that it will provide infill housing on a residentially zoned site, close to public transport and amenities, thereby enabling people and communities to provide for their social, economic and cultural wellbeing.
- 10.4 Section 6 of the RMA sets out the matters of national importance. The scale and location of the proposal is such that there are no matters of national importance, other than 6(h), which is *“the management of significant risks from natural hazards”*. We have found that the risks from natural hazards (flooding) will be appropriately mitigated by the proposal.
- 10.5 Section 7 of the Act lists a number of other matters that Council shall have particular regard to when considering the application, with the following matters considered applicable:
- (b) The efficient use and development of natural and physical resources*
 - (c) The maintenance and enhancement of amenity values ...*
 - (f) Maintenance and enhancement of the quality of the environment*

- 10.6 We find the proposal is consistent with s7(b) as it makes use of an existing residentially zoned site, which is an efficient use and development of existing resources and infrastructure.
- 10.7 We also find that the proposal is consistent with sections 7(c) and (f) as the subdivision and development would maintain the amenity values of the surrounding area and the quality of the local environment.
- 10.8 In relation to section 8 of the Act, the site is not identified in the District Plan as containing any wāhi tapu or sites of significance to Māori. It is noted the subject site is not adjacent to any land subject to the Port Nicholson Block Settlement Act 2009.
- 10.9 In overall terms, we find the subdivision and proposed residential development to be consistent with the purpose of promoting the sustainable management of the City's natural and physical resources in accordance with section 5. It involves creating multiple medium density dwelling units within an established urban area. The units will be compact in form, well designed and on balance will meet the aims of the design guide for medium density housing providing for the development potential of the site to be achieved.

11 Conclusion and Decision

- 11.1 That the Hearings Committee, acting under delegated authority from Council and pursuant to sections 104, 104B, 106 and 108 of the Resource Management Act 1991, GRANTS CONSENT subject to conditions to the discretionary activity resource consent application made by Urban Edge Planning Ltd on behalf of Clark Kennedy Investments Ltd for subdivision and land use consent to demolish existing buildings on site and construct a multi-unit development of six dwellings (comprising three dwelling units and three studio units) at 4-6 Bolton Street, Petone.
- 11.2 This decision is made for the reasons discussed above and, in summary, because:
- (a) The activity that is granted is unlikely to have any significant adverse effects on the environment provided the conditions imposed are fully implemented;
 - (b) Subject to the imposition of appropriate conditions, the activity is consistent with the provisions of the operative City of Lower Hutt District Plan; and
 - (c) The activity is consistent with the purpose and principles of the Resource Management Act 1991.

Cr MJ Cousins (Commissioner) Chair

Dated this 25th day of February 2019

APPENDIX I – CONDITIONS OF CONSENT

Subdivision

1. That the proposal is carried out substantially in accordance with the information and approved plans (Scheme Plan ref # 1136 B, prepared by Survey Insight Limited and dated July 2018).
2. That the consent holder pays Council an engineering fee to meet the cost of work carried out by Council subdivision engineer in assessing, inspecting, testing and approving water, sewer and stormwater services, access or any other aspect of the proposal so assessed by the engineer or any representatives of the engineer (as distinct from work which must be monitored as a result of any building consent). That fee is **3.43** per cent of the consent holder's construction costs (including GST) and is calculated using a scale of engineering fees based on the number of new lots created. The minimum fee is **\$150.00**, irrespective of whether any construction work is necessary. Payment is necessary before or at the time of applying for a section 224(c) certificate.
3. That the consent holder installs the reticulation as necessary and connects separate minimum 100mm NB sewer and stormwater service leads to the public mains (or to the road kerb or other approved disposal point in the case of stormwater) for each residential lot (and adjust existing services where necessary) in accordance with Council's codes and standards.

Please note:

- All water, stormwater and sewer reticulation services shall be designed and constructed in accordance with the 'Regional Standard for Water Services', the 'Regional Specification for Water Services' and the 'Approved Products Register', including all associated amendments. Copies of the latest version of these documents are available on the following website: <https://wellingtonwater.co.nz/contractors/technical-information>
 - It is now Council policy that only existing sewer and stormwater laterals less than 25 years old can be utilised for a new dwelling or new vacant lot, otherwise they are to be renewed or sealed off at the mains if not replaced in the same location.
 - The stormwater lateral from lot 1 shall be located within lot 1 and not angle into the right-of-way as indicated on the Scheme Plan.
 - The proposed sewer manhole shall be located fully within road reserve (not in private property as indicated) and the proposed 150mm sewer pipe shall be laid perpendicular to the existing sewer main. This will require an additional manhole at the junction with the existing sewer main and the memorandum of easements in Gross for the sewer will not be required.
 - There is the possibility of services from N^o 8 Bolton St being located within the development site. If, during construction, any neighbouring services are found to be within the new lots, they shall be adjusted as necessary or protected by an easement.
4. That the consent holder supplies water reticulation as necessary and supplies separate minimum 20mm NB connections for each residential lot that meets Council's code for

domestic supply and the firefighting capability required under the New Zealand Fire Service code of practice (SNZ PAS 4509:2008).

Please note:

- It is now Council policy that only existing laterals of polyethylene material can be utilised for a new dwelling or new vacant lot. All existing non-polyethylene laterals, including the tobies, are to be renewed or sealed at the main if not replaced in the same position. **This will apply to both existing water connections.**

- The consent holder must apply for new water connections at the customer services counter of Council Building, 30 Laings Road, Lower Hutt. These applications are processed by Wellington Water Ltd., which is a Council-controlled company in charge of Council water and drainage assets. Their contact person is Chandra Koswatte (ph 04 912 4534). Wellington Water Ltd. may impose special requirements or conditions for new connections depending on, among other things, the existing reticulation system's condition and layout, flow rates, pressure zones and proposed future work. It is important the consent holder makes an application early in the design or construction phase. Council recommends that the consent holder makes this application before submitting engineering plans to Council subdivision engineer.

5. That the consent holder submits a copy of the approved water connection application form (signed by Wellington Water Ltd.) when applying for the section 224(c) certificate.
6. That the consent holder arranges for a certifying drainlayer or engineer to investigate and plot the alignment of the existing stormwater pipework from the existing dwellings through to its discharge points in order that this information is plotted on the required engineering plan and the end of the abandoned lines can be sealed in accordance with Council's requirements.
7. The existing sewer lateral for N^o 6 Bolton St (Lot 24 DP1533) is to be sealed off at its junction with the "live" pipe.

Please note:

- Council records indicate that the existing sewer lateral for N^o 6 Bolton St is a shared private connection with N^o 8 Bolton Street (Lot 23 DP1533) (Council record number GEN7820600-3) – the alignment of the existing sewer lateral for N^o 8 Bolton Street will need to be confirmed at the time of sealing off the abandoned pipework.
8. That the consent holder removes the existing concrete vehicle crossings and reinstates the kerb and footpath in accordance with Council's codes and standards. This will involve forming a new vehicle crossing haunch on the southern side of the existing vehicle crossing for N^o 8 Bolton St.
 9. That the consent holder constructs standard concrete vehicle crossings to serve lot 1 and the right-of-way in accordance with Council's codes and standards, including relocating the existing power pole clear of the proposed vehicle crossing for lot 1. If the right-of-way serves three or more lots, then the vehicle crossing shall be heavy duty.
 10. That the consent holder secures the ground-floor windows of the proposed dwelling on lot 1 where it adjoins the accessway so they do not open more than 100mm into the accessway.

Council will register a consent notice to this effect on the certificate of title of lot 1, as allowed for under section 221 of the Resource Management Act 1991.

11. That the consent holder submits two copies of engineering plans for the above construction work to Council subdivision engineer for approval; that the plans provide information on the materials to be used, including the size, type and class of pipes, as well as indicate pipe gradients; and that all this work is carried out in accordance with the approved plan.

Please note:

- This condition is necessary, even for minor works, as the engineering approval letter will list further engineering requirements in regard to Corridor Access Requests, pipe materials, inspections, as-built information, etc.
- Engineering approval of the proposed services and access up to the individual lot boundaries is completely separate from any approval given under building consent and must be requested prior to installation, irrespective of any building consent being issued.
- The engineering approval plans shall include the design of the proposed private way including proposed stormwater reticulation. The stormwater pipes may need to discharge to the stormwater main in the road depending on the final private way design.
- The proposed memorandum of easements table shall be updated and submitted with the engineering plans for approval.

12. That the consent holder appoints an approved contractor or contractors to complete the works to the approved design; and that the consent holder submits to Council subdivision engineer for approval the name, contact details and experience of the contractor(s) at the time of submitting engineering plans for approval. The approved contractor(s) must give a minimum of 24 hours' notice to Council subdivision engineer before starting work.

13. That the consent holder provides underground telephone and electrical services to each lot in accordance with the specifications and requirements of the relevant authority.

14. That the consent holder provides Council with written confirmation from Chorus (or the equivalent network supplier) and Wellington Electricity Lines Ltd that they are satisfied with the supply of their utilities to each lot.

15. That the consent holder provides Council with written confirmation from a surveyor that all existing services have been adjusted so they are contained within the lot (or are protected by an appropriate easement) and that the ends of all abandoned lines have been sealed in accordance with council requirements, or alternatively that the consent holder provides Council with written confirmation from a surveyor that no such adjustments and sealing are necessary.

Please note:

- This will apply to any services from neighbouring properties if, during construction works, these are found to be within the site.

16. That the consent holder provides appropriate easements for private services where necessary, with easements shown as a memorandum of easements on the land transfer title plan; and that the consent holder engages a lawyer at the consent holder's expense to prepare easement documents.

Please note:

- Easement "A" shall be extended to cover the sewer from lot 1 and the memorandum of easements amended to only include relevant services, maintenance and rights-of-way.
 - If lot 1 retains the rights-of-way over the private way, then the private way will have to be formed (including appropriate stormwater controls measures) in advance of requesting a section 224(c) certificate. If the private way only serves lots 2 and 3 then it will still be necessary for the design of the private way to be approved at engineering approval stage however it will not be necessary to complete the construction of the private way in advance of requesting a section 224(c) certificate.
 - Easement "B" is only to provide for services and rights-of-way for lot 2.
 - The memorandum of easements in gross for the sewer main is not needed as the proposed sewer manhole is to be located in road reserve.
17. That the consent holder provides appropriate easements of rights-of-way, shown as a memorandum of easements on the land transfer title plan; and that the consent holder engages a lawyer at the consent holder's expense to prepare easement documents.
 18. That the consent holder provides appropriate easements for maintenance, or modifies the right-of-way conditions as necessary, to allow for the maintenance of the southern side of the new dwelling on lot 1; and engages a lawyer at the consent holder's expense to prepare the easement or right-of-way documents.
 19. That the consent holder moves all buildings clear of the new boundaries before applying for a section 224(c) certificate.

Please note:

- The consent holder shall provide written confirmation from a surveyor or engineer that the eaves of the existing dwelling at N^o 8 Bolton St do not cross boundary into the site and that the existing garage has been altered / relocated clear of the boundary.
20. That, at the time of requesting a section 224(c) certificate, the consent holder provides a schedule of assets detailing each item to be transferred to Council ownership as part of the subdivision process; and that the consent holder supplies a full description of the item, material type, size, length, area, and volume following the format set out in Council form RASFORM-014.
 21. That the consent holder sets out the value of services to be taken over by Council to enable the creation of a buyer-created tax invoice, with the details provided to be in accordance with Council buyer-created tax invoice form RAS-FORM-015.
 22. The, in accordance with s221 of the Resource Management Act 1991, a consent notice be imposed on the certificate of title for Lots 1-3. This shall state that, unless permitted under

the District Plan or provided for through the resource consent process, the one-bedroom studio units shall not be utilised for the formal provision of visitor accommodation.

23. That the consent holder meets the cost of registering consent notices.
24. That the consent holder provides Council with two copies of the as-built plan, certified by a surveyor or engineer, showing, where applicable, the levels and alignment of all the new mains, the location of all service connections and new work within private property relative to the lot boundaries.
25. The consent holder shall pay a contribution to Council's Reserves Purchases and Development Account at Council's standard rate of 7.5% of the value of the additional residential allotments or capped at \$10,000 per allotment whichever is the lesser. The amounts required will be determined on the basis of a market value assessment from a registered valuer. It is the consent holder's responsibility to instruct the valuer and supply Council with this assessment. The amount to be paid will be determined when the consent holder submits the qualified valuer's assessment.

Please note:

- Where this cost is to be covered by remissions, a valuation must still be provided to determine the value of the reserves contribution that must be covered.

Land use

26. That the proposal is carried out substantially in accordance with the information and approved plans (Project no. J0577, sheets RC01, RC01.1, RC03-RC13, RC14A, and RC15RC18, all prepared by Moore Architecture and dated 25 October 2018) submitted with the application and held on file at Council.
27. The consent holder shall note that the neighbouring buildings such as the garage at 8 Bolton Street may be partially located on the adjoining boundary with 6 Bolton Street and are advised to seek advice of their obligations under the Property Law Act 2007.
28. That the consent holder undertakes all landscaping substantially in accordance with the information and approved plans (Project no. 2761, drawing no. 01, Rev.4, and drawing no. 02 and 03, both Rev.2, all dated 25 October 2018; and the 'Planting Schedule' and 'Planting Specification' dated 8 August 2108; all prepared by David Goodyear Landscape Architect) submitted with the application and held on file at Council. All planting must be undertaken as soon as the seasons make practicable, but within six months of completing construction on each dwelling. The consent holder shall replace any seeding or planting that fails to become fully established or perishes within 12 months of completing construction each residential dwelling.

Please note:

- Where the approved landscaping plan shows a 1.2m boundary fence along the northern boundary of proposed Lot 1 this shall be amended to a fence 1.8m in height.
29. Fencing, which should not affect access to neighbouring properties but be sufficient to contain dogs and provide a reasonable level of privacy at ground level, is to be established around the

works area prior to the work commencing. The nature of this fencing shall be specified in the Construction Management Plan under condition 31.

30. That in the event of an “accidental discovery” of suspected archaeological material, the consent holder is to undertake the following steps:
- a) All activity affecting the immediate area shall cease and the Regional Archaeologist of Heritage New Zealand shall be notified;
 - b) Steps shall be taken to secure the site and ensure that archaeological matter remains undisturbed;
 - c) Works at the site shall not recommence until an archaeological assessment has been made and archaeological material has been dealt with appropriately;
 - d) If any archaeological remains or sites of interest to Maori are identified, no further modification of those remains shall occur until Heritage New Zealand Regional Archaeologist and Tangata Whenua have been consulted and appropriate response has been advised.
 - e) For burials/koiwi, steps a) to d) above shall be taken and the Regional Archaeologist Heritage New Zealand, the New Zealand Police, and the Iwi representative(s) for the area contacted immediately.

Note: The consent holder is advised that under the Heritage New Zealand Pouhere Taonga Act (2014) an archaeological site is defined as a place associated with pre-1990 human activity where there may be evidence relative to the history of New Zealand. For pre-contact Maori sites this evidence may be in the form of bones, shells, charcoal, stones etc. In later sites of European origin artefacts such as bottle glass, crockery etc. may be found, or evidence of old fountains, wells, drains or similar structure. Burials/koiwi tangata may be found from any historic period.

31. Prior to the commencement of any works on site, the consent holder shall submit a Construction Management Plan to the Council for certification by the Team Leader Resource Consents. The purpose of the Construction Management Plan is to ensure construction effects including noise, dust and sediment control, vehicle traffic and vibration are effectively managed over the course of works. A copy of the Construction Management Plan shall be provided to the submitters who shall have 10 working days to comment on it in writing to the Team Leader Consents at Council.

The plan must address, but is not limited to, the following matters:

- Hours of operation and anticipated duration of works;
- Detail how any adverse effects arising from construction will be managed to avoid and mitigate effects from dust, noise, vibration and construction traffic, including fencing;
- Detail the installation and maintenance of sediment control measures in accordance with Greater Wellington Regional Council’s erosion and sediment control guidelines.
- Detail notification procedures that will be followed prior to the commencement of demolition, earthworks and pile driving;
- Contact details for site manager; and
- Complaints procedures and register.

Note: the consent holder is advised to consult with Council's Environmental Health Team to discuss the construction method and ways to minimise any noise and vibration disturbance to the surrounding properties.

32. That all construction works shall be undertaken in accordance with the approved Construction Management Plan.
33. That the consent holder ensures all development and construction work complies with the provisions of NZS 6803:1999 Acoustics - Construction noise and that notwithstanding this standard, machinery operating hours, including machinery start-up times, are limited to between 7am and 6pm Monday to Saturday, with no work on Sundays or public holidays except for remedial or preventive work as required.
34. That the consent holder undertakes all earthworks (including for trenching purposes) in such a way that no sediment leaves the site or enters streams or the stormwater system; and that the consent holder installs and maintains sediment control measures in compliance with Greater Wellington Regional Council's erosion and sediment control guidelines (issued in April 2003).
35. That the consent holder ensures earthworks do not affect the stability of adjoining properties.
36. That during site works the consent holder takes measures to ensure stormwater and surface water run-off does not affect adjoining properties, and that afterwards surface water is controlled, to the satisfaction of the Council, through the use of on-site management systems (which may include but is not restricted to, the use of curbing, channelling, permeable surface and/or installation of drains and pipes) to an approved outlet.
37. That the consent holder paves, metals, re-grasses, hydro-seeds or plants all areas exposed by earthworks, trenching or building work as soon as possible after excavation or, at the latest, within a month of completing earthworks to the satisfaction of Council subdivision engineer; and that the consent holder repeats any seeding or planting that fails to become fully established within 12 months of the completion of earthworks.
38. There shall be no deposition of earth, mud, dirt or debris on any public road or footpath resulting from earthworks and construction activity on the subject site. In the event that such deposition does occur, it shall immediately be removed. In no instance shall roads or footpaths be washed down with water without appropriate erosion and sediment control measures in place to prevent contamination of the stormwater drainage system, watercourses or receiving waters.

Note: If site conditions require, the following methods may be adopted to prevent, or address discharges should they occur:

- Provision of a stabilised entry and exit point for vehicles; and
- Provision of wheel wash facilities.

Notes

- This resource consent is subject to payment of a Development Contribution Fee under the Council's Development and Financial Contributions Policy.

- In accordance with section 125 of the Resource Management Act 1991, the consent lapses if not given effect to within five years from the date of the application being granted.
- The consent applies to the application as approved by Council. The consent holder should notify Council if there are changes to any part of the plans. Council may require that the consent holder submits a new resource consent application.
- The proposal has been assessed against the requirements of the City's District Plan. Bylaws may apply to the proposal that may require separate approval from Council before starting any site works. See huttcity.govt.nz for a full list of bylaws.
- The proposal has not been checked for compliance with the Building Act 2004. No associated building work should start without first getting a building consent.
- The consent holder is reminded that this resource consent is not a licence to create adverse effects. You still have a duty under the Act to avoid, remedy or mitigate adverse effects. Notwithstanding any resource consents held, section 17 of the Act continues to apply and will take enforcement action where necessary.
- The scope of this consent does not include the use of the dwelling houses for visitor accommodation.
- Council may issue an abatement notice if the conditions of this resource consent are not complied with. Contravention of an abatement notice may incur a fine up to \$300,000 or two years imprisonment for a natural person and a fine of up to \$600,000 to a person other than a natural person.
- Advice note from Heritage New Zealand: The property has, or is likely to have been occupied prior to 1900. Any disturbance of land or damage or destruction of any building or structure associated with human activity prior to 1900, may require an archaeological authority from Heritage New Zealand under the Heritage New Zealand Pouhere Taonga Act 2014. Please contact Heritage New Zealand for further information.
- Before commencement of any work within the legal road corridor, including the laying of services, application is to be made for a Corridor Access Request (CAR). A CAR request can be made through contacting beforeUdig either on their website: www.beforeudig.co.nz or 0800 248 344. Work must not proceed within the road reserve until the CAR has been approved, including the approved traffic management plan if required.
- Constructing, modifying or repairing a vehicle crossing requires separate Council approval, in addition to the approved resource consent. The vehicle crossing is to be constructed in accordance with Council's standards and codes. For more information contact the Transport Division via (04) 570 6881 or click the following link: <http://iportal.huttcity.govt.nz/Record/ReadOnly?Tab=3&Uri=3702089>.