

BEFORE COMMISSIONER DAYSH APPOINTED BY NEW PLYMOUTH DISTRICT COUNCIL

UNDER

the Resource Management Act 1991
("RMA")

IN THE MATTER

of an application under section 88 of the Act by **KD HOLDINGS LTD** to the **NEW PLYMOUTH DISTRICT COUNCIL** for land use consent application to construct a six-storey mixed use building and remove a notable tree at 45, 49 and 51 Brougham Street and 33 Devon Street West, New Plymouth.

STATEMENT OF EVIDENCE OF DANIEL CONRAD MCEWAN ON BEHALF OF KD HOLDINGS LTD

1. INTRODUCTION

- 1.1 My full name is Daniel Conrad McEwan. I am a Senior Landscape Architect at Boon Team Architects Limited, New Plymouth and hold a B.LA with membership in the NZILA. My experience includes 8 years in the Landscape Architectural Industry working for a commercial construction company in Auckland, Local Collective, a prominent Wellington landscape architecture firm, and now for BOON design thinkers in New Plymouth. Recently I have worked on the ARO Apartments, The Paddington, Wellington Children's Hospital and Several of Kāinga Ora's larger Developments all in Wellington prior to joining BOON. These recent projects all contribute various elements that provide relevant experience to the commercial development proposed by KD Holdings Ltd.
- 1.2 This evidence is given in support of the land use consent application ("the application") lodged by KD Holdings Ltd ("the applicant"), to construct a six-storey mixed use building and remove a notable tree at 45, 49 and 51 Brougham Street and 33 Devon Street West, New Plymouth.
- 1.3 I am authorised to give this evidence on behalf of the applicant.

2. INVOLVEMENT IN THE PROJECT

- 2.1 My involvement in the application has included:
 - (a) Meeting with Council officers and their appointed Landscape Architect, Richard Bain as peer review for the Landscape & Visual Impact Assessment (LVIA), to establish and agree on receptor locations/potential affected parties in undertaking my LVIA report.

- (b) Preparation of a LVIA dated 1st September 2020 (included as Appendix L in the application), which included several site visits/investigations, analysis of the wider visual catchment, research into the existing urban form and heritage areas and research into cultural aspects relating to the site. I have additionally contributed input into the architectural form and aesthetics of the building to provide mitigation measures to remedy any potential adverse effects the building affords.
- (c) Participation in design team meetings to work through mitigation measures.
- (d) Participation in a hikoi and workshop with Te Atiawa Iwi and Ngati te Whiti as part of their CIA, and to gain understanding on significant history of the area and form appropriate cultural narrative to the commercial development.

2.2 I have also reviewed the material produced with the application, including the application and assessment of environmental effects dated 04 September 2020 and the section 92 RMA response dated 20th January 2021.

3. CODE OF CONDUCT

3.1 I confirm that I have read the Code of Conduct for expert witnesses contained in the 2014 Environment Court Practice Note and that I agree to comply with it. I confirm I have considered all the material facts that I am aware of that might alter or detract from the opinions I express. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

4. PURPOSE AND SCOPE OF EVIDENCE

4.1 In this matter, I have been asked by the applicant to address the visual impact of the proposed development on landscape and urban character through my experience as a Senior Landscape Architect.

4.2 I confirm that I have read the submissions on the Application and the Council Officer's Report. The assumptions, assessment and conclusions set out in my LVIA remain valid.

4.3 Except where my evidence relates to contentious matters, I propose to only summarise the conclusions set out in my expert technical report (LVIA).

4.4 My evidence is structured as follows:

- (a) Summary (Section 5);
- (b) Visual Impact on Landscape Character (Section 8);

- (c) Visual Impact on Urban Character (Section 9);
- (d) Visual Catchment Area (Section 10);
- (e) Landscape perspective on Cultural Heritage (Section 11);
- (f) Visual Assessment methodology and outcomes (section 12);
- (g) Matters raised in submissions (Section 13);
- (h) Council Officer's Report (Section 14);
- (i) Proposed conditions of consent (Section 15); and
- (j) Concluding comments (Section 16).

5. SUMMARY

5.1 The key LVIA related issues in my opinion are:

- (a) Impact of the over height portion the proposed building has within the Operative District Plan View Shafts.
- (b) The impact the proposed building may have on the existing landscape and urban character.
- (c) The impact of the proposed building and its height on the Heritage Character Area (HCA).
- (d) The impact the proposed building may have on cultural heritage of the area.
- (e) Shade cast on neighbouring properties and Sir Victor Davies Park.
- (f) The proposed removal of the notable 'Agonis flexuosa' tree.

5.2 By way of a summary, my detailed analyses and assessments enable me to confidently conclude that:

- (a) The proposed buildings height has adverse impact on the Victoria Road view shaft and potential adverse effects on the Marsland Hill/Pūkākā view shaft are considered to be low/minor. As demonstrated in **Appendix A** of my evidence, a permitted activity within the Operative District Plan (ODP) (red dashed line) and proposed permitted activity within the Proposed District Plan (PDP) (blue dashed line) will both afford considerable bulk as indicated within this view. With the proposed setbacks and cladding materials intended to mitigate the additional height of the proposed building; it is considered that the additional height of the

top level may not add substantial mass and scale to that of a permitted and proposed activity within this view. Considering the proposed mitigation measures introduced into the building's form and aesthetics, with a strong cultural narrative incorporated into the design of the building, along with benefits/attributes outlined in the architects design statement, and the majority of the New Plymouth District Councils (NPDC) future policies and objectives, it is my view that the potential adverse effects on these two view shafts are mitigated to an acceptable level; resulting in a 'Low' overall adverse effect.

- (b) The proposed building exceeds the permitted building height within both the ODP and the PDP, which will result in a noticeable change in the existing built form. It is my view that this change can primarily be absorbed into the existing urban form and aligns with key objectives and policies that NPDC propose to ensure successful growth of New Plymouth's CBD.
- (c) The proposed building sits just outside the HCA but is directly adjacent to the Area 41 historic building, directly across Brougham Street from the historic Salvation Army Citadel (heritage building H-110) and in proximity to other listed buildings including heritage building H-133 (Social Kitchen – Salvation Army Young Peoples Hall) further along Powderham Street and heritage building H-31 (Key Lime Pie Salon, and Area 41 Restaurant) further down Brougham Street. It is my view that with the mitigation measures implemented in the building's design, along with the wider amenity value that the development will afford, the existing heritage buildings are still celebrated and any potential adverse effects on the HCA will be appropriately mitigated.
- (d) The proposed building is positioned adjacent to the Huatoki Awa and is in close proximity to significant historic Māori Pā/papakāinga including Puke Ariki, Te Kawau, Mawhera, Mataipu and Okoare, and two toka tapu (sacred stones). Evidence of this pre-European history is indistinguishable or simply no longer present in the sites existing condition (as discussed in Mr Bruce's evidence). It is my view that the proposed building's design and incorporated cultural narrative benefits greatly to restoring reference and knowledge of these lost historical elements, which have been generated in collaboration with Ngati Te Whiti to ensure appropriate representation is given to these elements.
- (e) The height of the proposed building will cast additional shade on neighbouring buildings and open space compared with that of a permitted and or proposed permitted activity within the ODP and PDP. The shading analysis provided by the architects (discussed in Mr Murphy's evidence) indicates that any shading effects will be less than minor and only during the winter months. The existing trees at the entrance of Sir Victor Davies Park mean that additional shading will have

insignificant impact on the open space portion of this park. It is in my view that shading effects of the proposed building will be to an acceptable level in considering the existing vegetation cover that already casts shade, the limited time during winter months when this may occur and the less utilised portion of the park that the potential additional shade will affect.

- (f) The notable 'Agonis flexuosa' tree or 'Willow myrtle' is to be removed with the proposed building development. The assessment of this tree provided in the arborist report as part of the application (and discussed in Mr MacDonald's evidence) states that the tree is in decline, and has an estimated life expectancy of approximately twenty years. The architects' documents within the application show that alternative solutions were considered to retain the tree, but feasibility of these solutions proved unviable options from construction and cost perspectives. With the proposed development's landscape opportunities adjacent to the Huatoki Awa, along with the sustainable features in the building design and the mitigation measures implemented to date, it is my view that the unfortunate removal of the notable tree is an acceptable compromise given the benefits provided in the building design, with its removal offset by proposed landscape elements on the Eastern side of the building along with the mitigation measures that assist in reconnecting this portion of the Huatoki Awa with the general public.

6. THE APPLICATION

- 6.1 Details of the application are well described in the section 42a report which I agree with and don't believe requires further comment on my part.

7. THE APPLICATION SITE AND RECEIVING ENVIRONMENT

- 7.1 The application site and receiving environment are well described in the section 42a report which I agree with and don't believe requires further comment on my part.

8. VISUAL IMPACT ON LANDSCAPE CHARACTER

- 8.1 The proposal sits down adjacent to the Huatoki Awa on the corner of Brougham Street in the Huatoki basin. Due to the topography of New Plymouth consisting of ridges and valleys that raise from North to South towards Mount Taranaki, the proposed building will be visible but the change to existing landscape character will primarily be well absorbed with key natural landscape views/vistas mostly unchanged, with the exception of the Victoria Road view shaft which is described in further detail in Section 8 (Viewshaft 2) of my LVIA report. The proposed building does impact on the visible portion of sea within this view shaft having an adverse impact on landscape character from this vantage point. It is considered that whilst this has an impact on this view, a

building constructed within the ODP or PDP permitted activity constraints would afford a similar type of impact on this view as well. Therefore the proposed building can be viewed as an appropriate consideration to inform future growth of the CBD while maintaining a good level of existing landscape character integrity.

9. VISUAL IMPACT ON URBAN CHARACTER

- 9.1 The existing urban fabric has some capacity to absorb the proposed building, but with its height the proposed building will afford a change within the existing urban character. As demonstrated within the visual analysis of my LVIA report this change is not extreme, and in my view is consistent and/or sits well within the existing built form of the CBD. With the PDP future growth strategy there is an obvious need and or desire to increase the density of New Plymouth City, whilst maintaining a good level of integrity with the various mechanisms in place, such as the view shaft overlays and the HCA, to ensure growth of the city's built form is well considered and appropriate in its relationship to the existing urban fabric. It is my view that although the building exceeds the permitted height restrictions, it has been considered and assessed against its impact on the existing urban character in order to balance adverse impacts with its positive contributions to the city's built form.

10. VISUAL CATCHMENT AREA

- 10.1 The visual catchment area extends approximately 4.5kms to the west of the CBD and 3kms east and south of the CBD as indicated within figure 3 in section 6 of my LVIA report. The visual catchment area is defined using a zone of theoretical visibility (ZTV) mapping technique and considers the topography, only ignoring any vegetation or built objects. This creates a guide to assume potential receptor locations that may have line of sight of the proposed development. As this catchment naturally falls from the west, east and south towards the Huatoki basin, analysis to date concludes that any visible portion of the proposed building will be either marginal or at a distance where it is consistent with, or complementary to, the existing urban/built form.

11. LANDSCAPE PERSPECTIVE ON CULTURAL HERITAGE

- 11.1 The landscape attributes of the area in proximity of the proposed building site had significant value to Māori pre European settlement. These land forms, historical sites with associated tradition and use of these areas have primarily been decimated and lost with colonisation of Ngamotou/New Plymouth. Both Māori and European settlers saw this area as a significant resource and landscape pivotal to sustaining early settler life. The significance and importance of this landscape and heritage is described in detail within the CIA prepared by Te Atiawa. It is my view that cultural heritage is not well addressed within the existing site context and that the proposed building positively contributes to restoring this portion of heritage that will provide context and narrative

to the existing heritage buildings adjacent and in proximity to the site. The importance of re-instating this cultural heritage aligns with objectives within the NPDC PDP objectives and Urban Design Framework.

12. VISUAL ASSESSMENT METHODOLOGY AND OUTCOME

- 12.1 The visual assessment portion of my LVIA report considers twelve viewpoint locations from a public receptor perspective along with three view shaft locations from a public receptor perspective. Visual simulations were produced for these receptors using a mix of Trimble's mixed reality technology, Revit 3D models and visualisation software provided by BOON architects and Photoshop to produce accurate representations of the proposed development. This was undertaken in close reference to NZILA's best practice guide (BPG 10.2) for visual simulations along with the NZTA 'Landscape and Visual Assessment Guidelines.
- 12.2 These locations were decided and agreed upon with NPDC and their appointed landscape architect for peer review of the LVIA (Richard Bain, Bluemarble). These chosen locations consider the most likely affected views of the proposed development from a public perspective. Primarily the visual simulations within this assessment show a change in the urban fabric with the introduction of the proposed building that, in my view, informs an acceptable contribution to the urban growth of the city with the positive attributes of the building and its associated mitigation measures providing minimal adverse effects. These effects along with mitigation measures are described in more detail within my LVIA report.

13. SUBMISSIONS

- 13.1 I have reviewed the submissions in opposition of the proposed commercial building received from Mrs Mosely, Mrs Sanderson, Mr Collins and Mrs Laird which raise the following particular matters within my field of expertise:
- (a) The over height portion of the proposed building;
 - (b) Removal of the notable tree;
 - (c) The proposed buildings impact on view shafts;
 - (d) The proposed buildings impact on the Heritage Character Area;
 - (e) The additional shade effects of the proposed buildings height.
- 13.2 In my view the above issues have been adequately addressed within the context of my LVIA and this further evidence, along with Mr Murphy's evidence relating to the additional shade effects; Mr MacDonald's evidence relating to the health and life

expectancy of the notable tree, and Mr Cullen's evidence relating to the potential impact on the Heritage Character Area.

14. COUNCIL OFFICER REPORT

14.1 I have reviewed the Section 42A Report for the Application as well as the Peer Review Reports relating to my area of expertise. I will comment on these reports separately as follows.

Appendix B(1) – Peer Review Landscape and Visual Impact Assessment, Richard Bain, Bluemarble, Landscape Architects, 30th July 2020.

14.2 Richard Bain from Bluemarble prepared a report dated 30th July 2020, reviewing the initial LVIA Report, which raised the following matters that I wish to address:

- (a) Analysis of how the buildings height and scale relates to the pattern of development within the CBD.
- (b) How does the buildings height contribute to the character of the area?
- (c) To what extent the proposal fits within the City Centre Zone of the Proposed District Plan with reference to the City and Town Centre Design Guide?

14.3 In relation to those issues I wish to highlight the following matters:

- (a) This issue is described in further detail in sections 7 and 8 within my LVIA report post Mr Bain's peer review of this report on behalf of NPDC. My response and professional opinion relating to this question is that the scale of the proposed development is in keeping with that around the CBD where buildings often occupy the entire footprint of the site with direct interaction with the street edge. Examples of the pattern of scale are present in the 'Grand Central Hotel', Powderham Street Public Car parking building and lift shaft and portions of the ANZ building on Brougham Street. The proposed building's height is taller than the current pattern of development within the CBD, informed largely by height restrictions associated with the various business areas and view shaft overlays within the ODP. It is of my professional opinion that with NPDC future growth strategies to increase vibrancy and density within the CBD, this low rise pattern of use restricts feasible development opportunities on certain sites that would meet the majority of policies and objectives outlined within the NPDC City and Town Centre Design Guide as well as those included within the PDP. It is my view that the proposed building sits outside the current pattern of development within

the CBD from a height perspective but fits within this pattern in terms of scale and perceived bulk.

- (b) The building height adds some variance to this part of the city centre but, as it has a small footprint and due to the buildings glazed façade and design, I do not believe it overwhelms the surrounding and adjacent buildings. Key views/line of sight to these buildings are still well maintained. I believe these adjacent heritage buildings are still celebrated through the proposed building design which has a clean uniform finish to its form and exterior, as to not be a bold architectural gesture, and is proposed to have a good balance of visual permeability and reflectivity which will likely capture new views of these heritage buildings. The mitigation implemented into the design of the top apartment level of the building aids in reducing any adverse impact the height the building may afford.

(c)

In relation to the City and Town Centre Design Guide and how the proposed building fits within the Centre City Zone it meets the following outcomes sought within this guide:

- It is coherently designed with positive visual effects;
- It responds well to its context and sense of place through incorporated cultural narrative, opening up on its eastern side to connect to the Huatoki Awa, activated pedestrian frontage to 70 percent of the buildings street edge;
- It encourages street activity, especially on the eastern side with its proposed interaction with the Huatoki Awa;
- It provides high quality working environments with one high quality living environment on the top floor;
- The building will set a good example and precedent in integrating environmental sustainability principles;
- It will provide a high level of safety and accessibility.

The site in its current state is a poor quality brownfields site used as a carpark. In my opinion it detracts from the overall objectives sought for the centre city zone providing no amenity value, no human occupancy and affords no connection/interaction to the Huatoki Awa.

The site in its current state possibly detracts for the outcomes sought by the above mentioned design guide including those associated with the HCA.

The proposed buildings impact on the HCA is further described in Mr Cullen's statement which I agree with in its entirety.

S42A Report

14.4 Based on Mr Balchin's comments in paragraph 175 in his report, along with Mr Bain's specialist report in **Appendix B (2) – Peer Review of Landscape & Visual Impact Assessment, Richard Bain, Bluemarble, Landscape Architects, 2nd February 2021**, the Council's section 42A report raises the following matters that I wish to address:

- (a) Building Height Management Area;
- (b) Victoria Road View shaft; and
- (c) Potential beneficial effects of the proposed development.

14.5

(a) Building Height Management Area:

Mr Bain refers to the height management areas based on his own 'Building Heights in New Plymouth's City Centre' report from 2018 which is an extensive, thorough report listed as part of the PDP appendices. My only comment on this matter is to note the potential conflict where the risk of reference to a sole practitioner's own findings and views from this report if no peer, or external, review input has informed this report. My concern is that when referencing this report within Mr Bain's evidence, there is potential for re-iteration of a single sided professional view/opinion albeit one that has stemmed from a substantial body of research. I disagree that a reduced building height (to further mitigate potential adverse effects) will provide substantial reduction, primarily concerning the Victoria Road Viewshaft, of any adverse effect as perceived by public receptors than that of a 17m permitted building activity for the reasons I have previously set out in my LVIA and this evidence (and further below).

(b) Victoria Road View Shaft:

Mr Bain addresses the Victoria Road viewshaft and talks to the building's height being at 25.5m on the northern boundary, and suggests a height of 21.5m might be more appropriate, which is a valid opinion on his part. In response to this I note that the visible portion of the proposed building from the Victoria Road view shaft is the southern boundary - which is 22.8m in height, where the additional 2.7m is below ground basement level. Mr Bain's argument that the building is one level too high may be valid, in his view, but the question I raise is - what affect the proposed 22.8m height building height has, in terms of adverse effects, over that of a proposed 17m

permitted activity (within the PDP) in the Victoria Road viewshaft? It is my view that a proposed 17m permitted activity will afford similar adverse effect on public receptors, in terms of bulk and scale within this view as that which the proposed 22.8m high (on the southern boundary) will potentially have. This re-iterates Mr Bain's question (at paragraph 1, page 7) of "*how tall is too tall*" - where our professional opinions may differ slightly.

(c) Potential beneficial effects of the Proposed Development:

In his report Mr Bain states (at paragraph 3, page 6, LVIA Conclusion) the building's benefits in his view to be, "*cultural expression, urban vibrancy through increased worker density in the heart of the CBD, positive orientation and access to the Huatoki Stream, and a well designed aesthetically pleasing architecture.*"- with which I agree. This being said, it is my view that the term "*cultural expression*" as stated in Mr Bain's report does not adequately highlight, or plays down, the importance in the cultural and historic elements that now strongly inform the design - as the narrative elements within the proposed development do not only 'express' Iwi culture - but help restore lost portions of Iwi cultural and landscape history and values associated with the immediate area. In my view the cultural elements provide for a significant level of restoration to the heritage lost through colonial development of the land/area - which I believe enables another layer of heritage that enriches the existing heritage buildings that are part of the HCA.

15. PROPOSED CONDITIONS OF CONSENT

15.1 I have reviewed the proposed conditions of consent, within the context of my expertise, and consider that the following changes need to be made, for the following reasons:

(a) I propose **condition 22** "*Public pedestrian access through the buildings ground floor connection between brougham Street and the sites eastern elevation shall be maintained at all times*" be deleted for the following reasons:

1. This access will potentially not be well utilised from a general public perspective - as the approach to the Huatoki Awa will be from across or along Powderham Street - or from Devon Street, if further development of the Huatoki Awa is implemented (as the Council is intending). From Brougham Street, the access between the proposed building and the Area 41 building, in my view, will be more utilised from the western side of the building - as it is an external connection and likely won't read as part of the building; and, is adequate and appropriate to provide the connection sought in proposed condition 22.

2. Having the proposed building's ground floor as an access publicly available at all times - will compromise the ability to convey the cultural narrative in this public corridor, as more robust materials will have to be used for safety and

security reasons - which would render items like Tukutuku panels and artworks unfeasible in this location. A more appropriate condition in my view would be to have lighting and narrative implemented in the narrow access between the proposed building and the Area 41 building to emphasise the access - and further add to the cultural narrative already present within the design. Especially on the southern façade of the Area 41 building - as this is currently clad in corrugated steel with little provided amenity value, potentially even detracting from the aesthetic provided by the heritage building it is on.

16. CONCLUSION

16.1 My evidence has assessed the Landscape and Urban Visual Impact matters that I am aware of in relation to the application and I can safely conclude that:

- (a) The proposed building will predominantly be received well within the existing urban and landscape context.
- (b) The proposed building will contribute greatly to meeting the majority of objectives proposed by NPDC for future growth and enhancement of the CBD.
- (c) The implemented mitigation measures for the proposed building will satisfy any adverse effects to an acceptable level considering all aspects of the above points.
- (d) That I am in agreement with the statement provided by Mr Cullen and the additional arborist information within Ms Martin's response to RMA Section 92 Request for further information - LUC20/47704 - Part Two, along with the additional shading analysis provided in Mr Murphy's statement.

A handwritten signature in black ink, consisting of a large, stylized 'D' shape with a vertical line through it and a horizontal line at the bottom.

Daniel McEwan
Senior Landscape Architect
BOON Limited

10th February 2021

Appendix A

Viewshaft 2 Visual Simulation - Extract from LVIA report.



Viewshaft 2 Simulation Option 1 - Victoria Road. As per ODP - Public Receptor

A3 viewing distance - 854mm

BOON
LANDSCAPE