

**BEFORE INDEPENDANT HEARING COMMISSIONERS
APPOINTED BY THE TIMARU DISTRICT COUNCIL**

UNDER: the Resource Management Act 1991

IN THE MATTER OF: Submission in relation to the Timaru
Proposed District Plan

**STATEMENT OF EVIDENCE OF TIMOTHY MICHAEL GRESSON
ON BEHALF OF 22 THE TERRACE TIMARU LIMITED
(SUBMITTER NO. 202)**

**HEARING STREAM F: HAZARDS AND RISKS (NATURAL HAZARDS ONLY) –
OTHER DISTRICT-WIDE MATTERS**

Dated: 09 April 2025

GRESSON DORMAN & CO
Solicitors
PO Box 244, Timaru 7940
Telephone 03 687 8004
Facsimile 03 684 4584
Solicitor acting: Georgina Hamilton / Lucy O'Brien
georgina@gressons.co.nz / lucy@gressons.co.nz

INTRODUCTION

1. My full name is Timothy Michael Gresson.
2. I am a retired Barrister and Solicitor of the High Court, and practised for over 40 years in Criminal and Civil litigation. During my tenure, I was Crown Prosecutor and held the Crown's Warrant of Appointment for the North Otago, South Canterbury, and Mid Canterbury regions for 34 years.
3. I am a director of 22 The Terrace Timaru Limited (**22 The Terrace** or the **Submitter**) alongside my wife Joanna Gresson, and Ross and Virginia Wells. Our respective companies, Terrace Investments Limited and Mayshiel Properties Limited, are equal shareholders of 22 the Terrace.
4. 22 The Terrace purchased the property located at 22 The Terrace, Timaru (the **Property**) in 2021. This Property is currently used as a private leased carpark, but the Submitter holds Resource Consent 102.2022.160.1 (attached as **Annexure A**) authorising the construction of a four-storey mixed-use commercial and residential building. Under the Proposed District Plan (**PDP**), the Property is:
 - (a) Located within the City Centre Zone;
 - (b) Subject to Standard CCZ-S1, which increases the permitted building height to 20 metres above ground level; and
 - (c) Subject to the Port Outer Noise Control Boundary Overlay.
5. The Submitter also owns the adjoining property located at 24 The Terrace. The office building on that property is currently leased to two commercial tenants. This building at 24 The Terrace was completed in 2016.
6. The Submitter made a primary submission on the PDP. This evidence relates to 22 The Terrace's submission point 202.3 noted on Timaru District Council's PDP website as being part of Hearing Stream F – Hazards and Risks (Natural Hazards only) – Other District-wide matters.¹

¹ <https://www.timaru.govt.nz/services/planning/district-plan/proposed-district-plan/hearings-information/hearing-f-other-district-wide-matters,-hazards-and-risks-natural-hazards-only,-designations>

7. I am authorised to give this evidence on behalf of 22 The Terrace in relation to that submission. In preparing this evidence, I have reviewed:
- (a) The Port Noise Contours Report commissioned by PrimePort Timaru;²
 - (b) Malcolm Hunt Associate's subsequent review of the Port Noise Contours Report;³ and
 - (c) The Section 42A Report for Noise and Light, prepared by Liz White⁴ and the associated appendices, including in particular, Appendix 3 – Noise and Light, Memorandum from Malcolm Hunt.⁵

SUMMARY OF EVIDENCE

8. This evidence relates to 22 The Terrace's submission point 202.3, relating to the proposed Port Outer Noise Control Boundary Overlay that extends over the Property (ID:7799), as shown in the figure below.



Figure 1 - 22 The Terrace, Timaru, overlayed with the PDP Port Outer Noise Control Boundary Overlay in orange shading.

² PrimePort Timaru Port Noise Contours – Report Number AC18314-05-R1, issued 11 February 2022 (the **PrimePort Report**).

³ Proposed Timaru District Plan Noise Provisions, Review of Port Noise Report & Noise Contour Recommendations, authored by Malcolm Hunt Associates, dated 24 February 2022 and commissioned by Timaru District Council.

⁴ Section 42A Report: Noise and Light – Report on submission and further submissions – Authored by Liz White, dated 24 March 2025 (**Section 42A Report**).

⁵ Proposed District plan – Response to technical noise issues raised for inclusion in Council's section 42A report – Authored by Malcolm Hunt, Malcolm Hunt Associates, dated 24 March 2025 (**MHA Report**).

9. I understand the intention of this overlay is to mitigate reverse sensitivity effects on noise sensitive activities (which includes residential activities but not commercial activities) from the Port, which is an existing noise-generating activity, by managing how new noise sensitive activities can be established within the Port Outer Noise Control Boundary Overlay. I understand that under this proposed overlay, any new building or any addition to an existing building for a noise sensitive activity will be required to be acoustically insulated and ventilated in accordance with NOISE-S3 and NOISE-S4, and comply with the permitted activity standards set out in NOISE-R9 for either assessment or certification as to the acoustic insulation or ventilation. Otherwise, a resource consent is required as a restricted discretionary activity.

10. The proposed building to be located at 22 The Terrace is able to be constructed without such acoustic insulation and ventilation in reliance on Resource Consent 102.2022.160.1. However, as the Property is subject to the Port Outer Noise Control Boundary Overlay:
 - (a) If Resource Consent 102.2022.160.1 were to lapse without having been given effect to; or
 - (b) If there was a desire to change the consented use of the building authorised by Resource Consent 102.2022.160.1, i.e., a change to the use of commercial space to residential;

any future building development for noise sensitive activities on the Property would be required to comply with Rule NOISE-R9 and associated standards.

11. I consider that the Port Outer Noise Control Boundary Overlay presents an unnecessary and unjustified burden, which will result in increased costs associated with compliance or consenting. In this regard, I consider:
 - (a) The consenting burden is inconsistent with the PDP's objectives, which encourage development of both residential and commercial activities within the City Centre Zone to revitalise the inner-city area, and will limit options for development such that it will be unattractive for developers or potential purchasers.

- (b) The Port Outer Noise Control Boundary Overlay has been mapped in an ad hoc manner, with no consideration of the actual reality of port noise affecting the Property or site-specific scientific acoustic modelling.
12. In its submission, 22 The Terrace therefore sought the Port Outer Noise Control Boundary Overlay affecting the Property be deleted. I support that view and request that the Panel give appropriate consideration to the concerns raised in the submission and my evidence that follows.

SUBMITTER'S CONCERNS

Section 42A Report

13. The Reporting Officer has not recommended any changes to the Port Outer Noise Control Boundary Overlay in response to 22 The Terrace's submission. The Reporting Officer's recommendation is based on the response of Mr Malcolm Hunt, being:⁶

"In relation to the submissions seeking removal of the Port Outer NCB overlay, Mr Hunt notes that the contours have been predicted using NZS6809:1999, with the contours in some areas having been snapped to property boundaries. He states that this is a widely accepted practice to ensure the plan provisions relating to port noise are efficiently applied with certainty and clarity in urban areas. In particular, he notes that having contour lines passing through small sites can lead to uncertainty and difficulty in establishing where acoustic protection measures need to be applied. Aligning the contour with property boundaries ensures clarity on when the acoustic mitigation measures apply to any given site.

In response to the request for 20 [sic] The Terrace to be removed from the contour due to acoustic screening by terrain and the presence of structures on the north side of The Terrace, Mr Hunt has reviewed the background acoustic report which sets out how port noise levels have been predicted. He considers there to be no reason to suggest the usual algorithms used in the modelling to predict acoustic screening are faulty. In relation to 12, 14 and 22 The Terrace, Mr Hunt states that the submitter provides no

⁶ Section 42A Report, at [8.3.6] and [8.3.7].

justifiable, noise-related reasons for why the Port Outer NCB overlay should be removed from these properties.”

14. I disagree with the Reporting Officer’s and Mr Hunt’s recommendations, and accordingly, remains of the view that the Port Outer Noise Control Boundary Overlay should be deleted from over the Property.

Ad hoc approach to setting of boundaries

15. As stated in its original submission, 22 The Terrace has concerns relating to the ad hoc approach to the setting of the Port Outer Noise Control Boundary Overlay.
16. In the MHA Report, Mr Hunt expresses that in assessing 22 The Terrace’s submission, he only reviewed the PrimePort Report for *“fault in how port noise levels have been predicted.”* In that regard, he states *“there is no reason to suggest the usual algorithms used in the modelling to predict acoustic screening are faulty.”*⁷
17. With respect, 22 The Terrace did not suggest that the modelling used to predict acoustic screening was faulty. Rather, it understands that the acoustic modelling was based on data collected by or on behalf of PrimePort during site visits in 2018 and 2021, and 22 The Terrace considers the development of structures on the northern side of the Terrace occurring post-commissioning of the PrimePort Report (i.e., the housing development directly across from and adjacent to the Property) provide further acoustic screening which supports 22 The Terrace’s position that the Property can be excluded from the overlay.
18. I also question the reliance of Mr Hunt and Ms White on the PrimePort Report as support for rejecting 22 The Terrace’s submission, given that PrimePort have an interest in protecting port noise generating activities from reverse sensitivity effects, and therefore have a vested interest in a more extensive overlay. I consider the modelling in the Report to be out of date in relation to activities on the Terrace, considering the large amount of development that has occurred since the Report was commissioned.

⁷ MHA Report, at page 14.

19. The ad hoc approach to the overlay mapping can be seen in Figure 1, which excludes 20 The Terrace, but applies to both 22 and 24 The Terrace.

Lived experience of port noise at the Terrace

20. Two of the Directors of 22 The Terrace (Ross Wells and myself) worked in the office building located at 24 The Terrace for a period of about 3 years after the building was completed. Due to the nature of our work, we worked both during standard business hours as well as late evenings. At no stage was noise emanating from the port an issue.
21. Further, the feedback from our commercial tenants (Gresson Dorman & Co Barristers and Solicitors, and KPMG) is that port noise has not in any way affected their working conditions or the operation of their businesses.

City Centre Zone purpose

22. I understand the intent of the City Centre Zoning of the Terrace is to “... *enable and focus the district’s new retail, commercial and residential development in the City Centre Zone [...] to ensure its continued viability and primacy as the district’s key commercial centre.*” This need has arisen because of “... *the relatively recent dispersal of commercial activities out of the City Centre Zone, high vacancy rates, changing retail behaviour, and the challenges of earthquake prone buildings.*”⁸
23. The relevant City Centre Zone objectives also provide insight as to the purpose of the City Centre Zone:

CCZ-O1 The purpose of the City Centre Zone

The City Centre Zone is the main commercial and civic centre for the District and wider South Canterbury sub-region and the primary destination for retail activity, dining and entertainment, and:

- (1) Provides for a diverse range of activities, including commercial, visitor accommodation and community facilities; and
- (2) Accommodates higher density residential activities which support the viability and vibrancy of the zone.

⁸ Proposed District Plan, City Centre Zone, Introduction.

CCZ-O2 Character and qualities of the City Centre Zone

The City Centre Zone:

- (1) Is a vibrant area that provides an attractive place to live, work and visit; and
- (2) Contains built form that contributes to a high-quality streetscape that maintains the character associated with scheduled heritage items and historic heritage areas; and
- (3) Accommodates large volumes of people; and
- (4) Includes sites used for centralised car parking; and
- (5) Contains large-scale, high density buildings; and
- (6) Contains activities that are compatible with the amenity values of adjoining Residential Zones and Open Space and Recreation Zones.

24. I consider the Port Outer Noise Control Boundary Overlay creates an unnecessary consent burden for new residential activities, such that it will act as a deterrence for future residential and mixed-use development within the City Centre Zone, which is clearly not in Timaru District Council's interest and which goes against the very purpose of that Zone as stated in objectives CCZ-O1 and CCZ-O2. I do not consider the effects of port noise to be such that additional acoustic insulation and ventilation is required.

CONCLUSION

25. The Submitter is of the view that the Reporting Officer's recommendations made in reliance of the MHA Report, which in turn rely on the PrimePort Report, do not sufficiently address the matters raised in 22 The Terrace's submission, or gives due recognition to the purpose and intent of the City Centre Zoning of the Property.
26. Accordingly, on behalf of 22 The Terrace Timaru Limited, I respectfully request the Hearings Panel:
- (a) Reject the Reporting Officer's recommendations in relation to submission point 203.3; and

- (b) Accept the Submitter's request to remove the Port Outer Noise Control Boundary Overlay from 22 The Terrace.



Timothy Michael Gresson

09 April 2025

ANNEXURE A – RESOURCE CONSENT 102.2022.160.1



7 September 2022

Georgina Hamilton
Gresson Dorman & Co
PO Box 244
Timaru

Dear Georgina,

Land Use Consent No. 102.2022.160.1

Description of proposal: Mixed Use Development Exceeding Maximum Height Limit and Non-Compliant Access

Address of site: 22 The Terrace, Timaru

I advise that consent was granted for Land Use Consent under delegated authority by Timaru District Council on 7 September 2022.

Please find attached with this letter:

- The decision and any conditions of consent;
- the officers report or 'planning assessment'; and
- any approved plan.

If you have any queries on this matter please contact me at the details listed below.

Yours faithfully,

Alex Wakefield
Team Leader Consents and Compliance



Decision of Timaru District Council Land Use Consent 102.2022.160.1

Acting under the delegated authority from Timaru District Council, I have considered the subject application for a mixed use development exceeding maximum height and non-compliant access and determined:

- A. That the application is processed on a **non-notified** basis in accordance with Sections 95A – 95G of the Resource Management Act 1991.
- B. That land use consent is **granted** pursuant to Sections 104, 104B, and 108 of the Resource Management Act 1991, for the reasons contained in the officers report subject to conditions (listed below):

Land Use Consent Conditions

General

1. The development shall proceed in general accordance with the information submitted for the application (Council reference 102.2022.160.1) including:
 - *Assessment of Environmental Effects, prepared by Gresson Dorman & Co;*

And the Council approved plans dated 7 September 2022.

Construction

2. Prior to construction the applicant shall provide confirmation from a suitably qualified Acoustic Engineer specifying that construction works for the proposed building can comply with New Zealand Standard 6803P:1984 - The measurement and assessment of noise from construction, maintenance, and demolition work.

Alex Wakefield
Team Leader: Consents and Compliance

Date: 7 September 2022

Notification Decision

With regard to notification, the officers report considered the application in respect to the steps prescribed by sections 95A-95G of the Act and recommended that the application be processed on a non-notified basis because:

- The proposed activity will have or is likely to have adverse effects on the environment that are no more than minor.
- There is no rule, or National Environmental Standard that requires public or limited notification of the application.
- The applicant did not request public notification of the application.
- There are no special circumstances that exist in relation to the application.
- The activity will NOT have adverse effects that are minor or more than minor on any person(s) or order holders(s)
- No further information was requested or report commissioned in relation to the application to which the applicant refused to provide or did not provide within the given deadline.

Having reviewed the recommendation, I concur with that assessment.

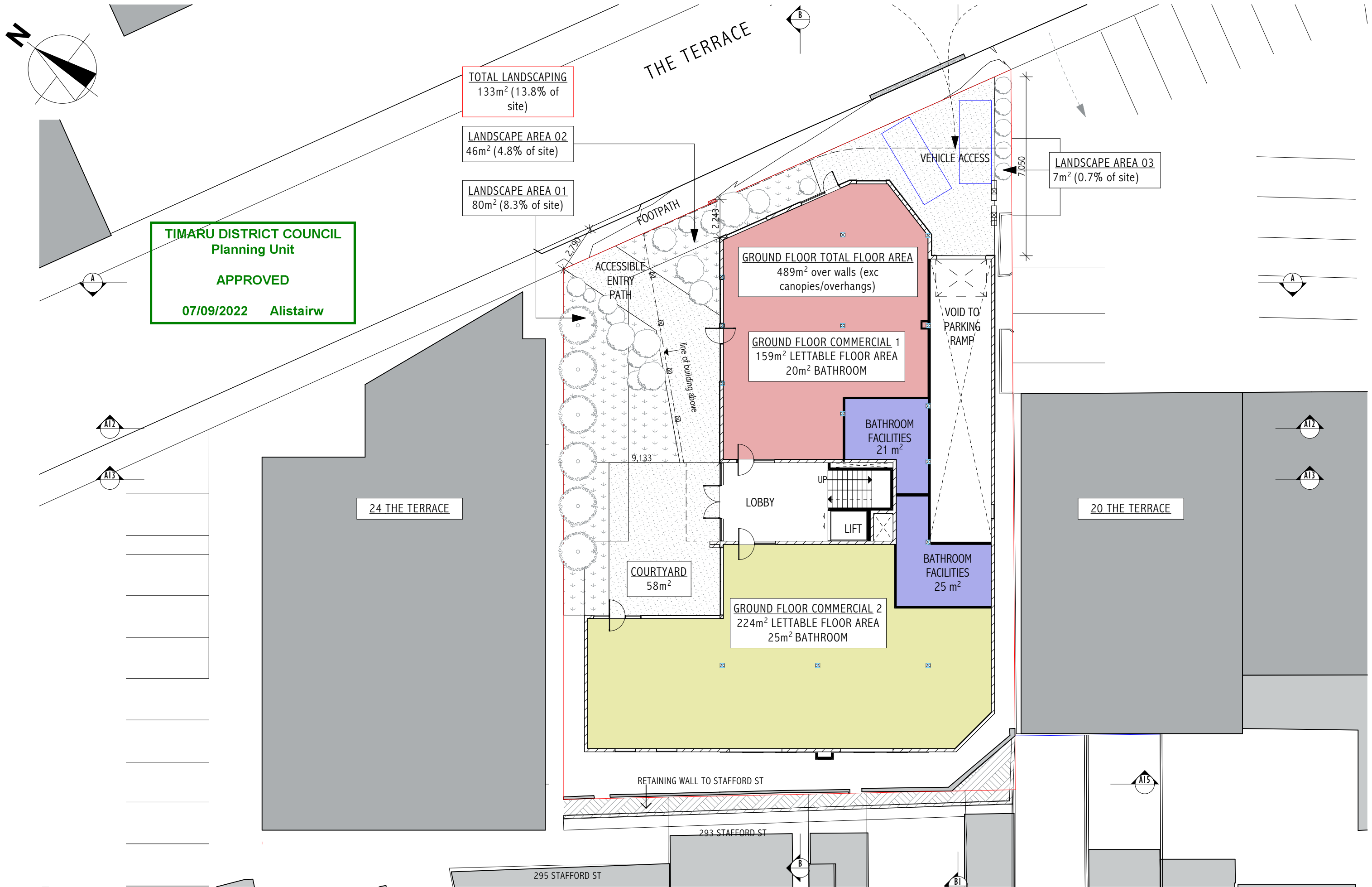
Acting under the delegated authority from Council, it was decided, pursuant to sections 95A-95G of the Resource Management Act 1991 that the application be processed on a non-notified basis.



Alex Wakefield

Team Leader Consents and Compliance

Date: 7 September 2022





STREET ELEVATION (EAST) 1.200



STREET ELEVATION (EAST) 1.100

TIMARU DISTRICT COUNCIL
Planning Unit

APPROVED
07/09/2022 Alistairw



DESMOND PRISK
ARCHITECTS

20 STRATHALLAN STREET PO BOX 10 TIMARU 7940 NEW ZEALAND
E info@desmondprisk.co.nz P 03 684 7404 WWW.DESMONDPRISK.CO.NZ

Issues & Revisions

© Copyright Reserved

Drawing Title

East Elevations

Job Title

THE TERRACE MIXED USE DEVELOPMENT | TIMARU

Drawing Scale:

(at A2 size)

Drawing Date:

Job Number:

1:100, 1:200, 1:500

31/05/2022

2102

Sheet No.

C111



NORTH ELEVATION 1.200



NORTH ELEVATION 1.100

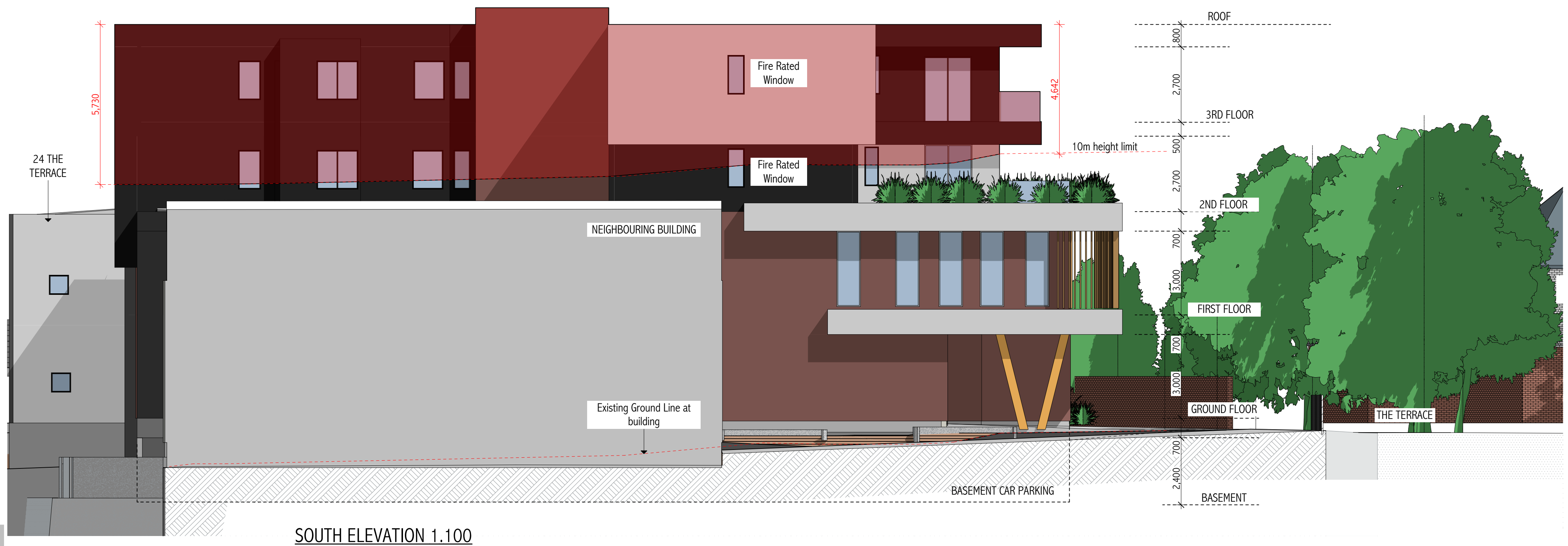
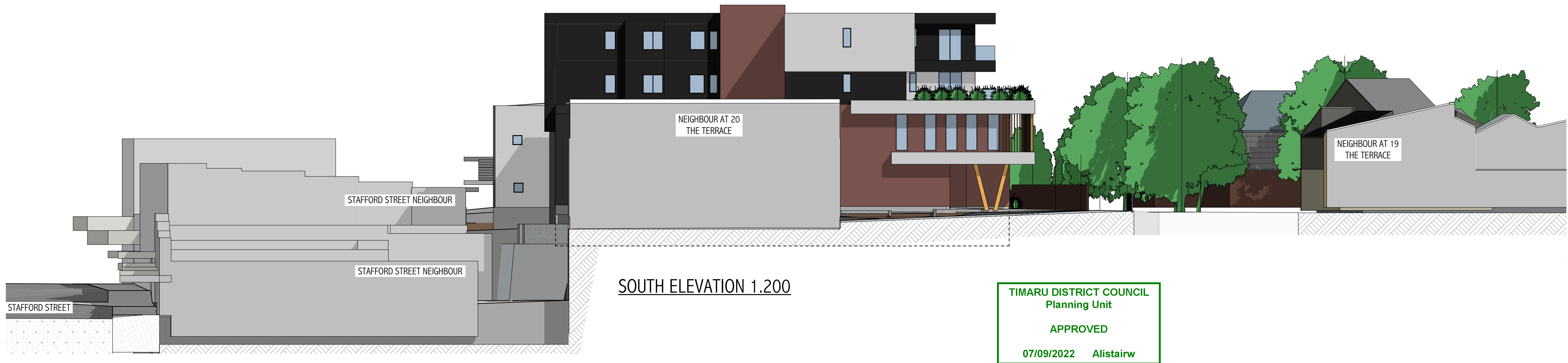


WEST ELEVATION 1.100

TIMARU DISTRICT COUNCIL
Planning Unit

APPROVED

07/09/2022 Alistairw



DESMOND PRISK
ARCHITECTS

20 STRATHALLAN STREET PO BOX 10 TIMARU 7940 NEW ZEALAND
E info@desmondprisk.co.nz P 03 684 7404 WWW.DESMONDPRISK.CO.NZ

Issues & Revisions

© Copyright Reserved

Drawing Title

South Elevations - part

Job Title

THE TERRACE MIXED USE DEVELOPMENT | TIMARU

Drawing Scale:
(at A2 size)

Drawing Date:

Job Number:

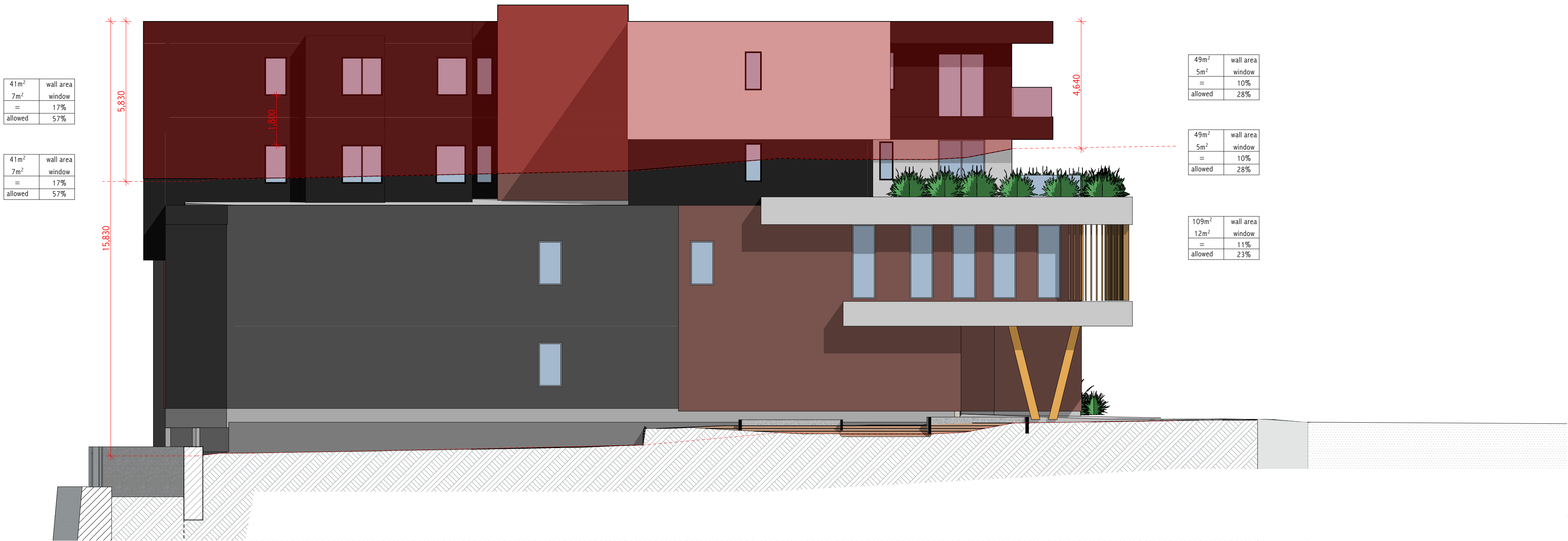
1:200, 1:100ts @ A3

31/05/2022

2102

Sheet No.

C114



TIMARU DISTRICT COUNCIL
Planning Unit

APPROVED

07/09/2022 Alistairw

GENERAL ADVICE NOTES

Commencement

This resource consent commences on the date the decision was notified, or on such later date as stated in the consent, unless an appeal or an objection has been lodged, at which time the consent commences when this has been decided or withdrawn, or in the case of an appeal to the Environment Court on such later date as the Court may state in its decision.

Right of Objection

If you do not agree with any of the conditions of this consent, you have a right to object to the condition under section 357A of the Resource Management Act. Notice of any objection must be in writing, set out the reasons for the objection, and be lodged with the Timaru District Council within 15 working days of receipt of this decision.

You may, when making an objection, under section 357A(1)(f) or (g), request that the objection be considered by a hearings commissioner(s), who is not a member of the consent authority.

Subsequent Right of Appeal to the Environment Court

Any person who has made an objection under section 357A of the Act may appeal to the Environment Court against the decision on the objection pursuant to section 358 of the Act.

Notice of such an appeal must be in the prescribed form, state the reasons for the appeal and be lodged with the Environment Court (PO Box 2069, Christchurch 8013) within 15 working days after the decision on the objection being notified to that person, or within such further time as the Environment Court may allow.

Appeal Direct to the Environment Court

If you do not agree with the decision, an alternative to a section 357A objection, or if section 357A does not apply, is to appeal the decision under section 120 of the Act to the Environment Court.

However, there is no right of appeal under this section against the whole or any part of a decision of a consent authority to the extent that the decision relates to 1 or more of the following, but no other, activities:

- (a) a boundary activity, unless the boundary activity is a non-complying activity;
- (b) a subdivision, unless the subdivision is a non-complying activity;
- (c) a residential activity as defined in section 95A(6), unless the residential activity is a non-complying activity.

A person who made a submission on the application or review of consent conditions may appeal only in respect of a matter raised in the person's submission (excluding any part of the submission that is struck out under section 41D).

The notice of appeal shall be in the prescribed form; state the reason for the appeal and the relief sought; state any matters required by the regulations; and be lodged with the Environment Court (PO Box 2069, Christchurch 8013) within 15 working days notice of the decision being received. Notice of the appeal must also be served on Timaru District Council within 15 working days within the same period. Notice of the appeal must also be served on any person who made a submission in relation to the application within 5 working days of the notice being lodged with the Environment Court. If you are in any doubt about the correct procedures, you should seek legal advice.

Minor Correction of Resource Consents

Section 133A of the Act provides the consent authority may at its discretion issue an amended consent that corrects minor mistakes or defects in the consent within 20 working days of the grant. If you consider that the consent contains a minor mistake or defect you may advise the Timaru District Council of the same.

Lapsing of Consents

A resource consent lapses on the date specified in the consent or, if no date is specified, 5 years after the date of commencement of the consent unless, before the consent lapses: the consent is given effect to; or, an application is made to the consent authority to extend the period after which the consent lapses, and the consent authority decides to grant an extension.

Change or Cancellation of Conditions

An application to change or cancel a condition of this consent can be made under section 127 of the Act.

Review of Consent

A consent authority may, in accordance with section 129 of the Act, serve notice on a consent holder of its intention to review the conditions of a resource consent.

Monitoring of Consent

Pursuant to section 35 of the Act, the local authority shall monitor the exercise of this resource consent. Should all the conditions of consent be complied with, a single monitoring visit will occur and therefore no further monitoring charges will be incurred. However, should conditions of consent not be met, further monitoring will be required which will generate additional costs as outlined above. Please note that some consents will require periodic or on-going monitoring and therefore despite compliance, monitoring will occur and costs will be charged for that monitoring.

Charges

Charges, set in accordance with section 36 of the Act, shall be paid to the Timaru District Council for the carrying out of its functions in relation to the administration and monitoring of resource consents and for carrying out its functions under section 35 of the Act.

Other Consents May Be Required

This resource consent authorises the Land Use or Subdivision applied for only. The consent does not give the consent holder the right to:

- Use, subdivide or develop land that contravenes a rule in the District Plan other than that which has been consented to by way of the subject application, or that which has already been legally established.
- Conduct any activity that requires resource consent from Environment Canterbury (ECan). You are advised to contact ECan to ascertain if consent is required for the proposed development.
- Authorise building or utility services construction work that requires separate consent/approval.

District Services Advice Notes

In accordance with TDC Bylaws, Clause 1003.1, no person shall drive or operate any vehicle over any footpath or berm other than at a specifically designed and constructed vehicle crossing.

- In accordance with TDC Bylaws, Clause 1004.1, any proposed new vehicle access to a private property or any modification to any such existing vehicle access shall require specific approval by Council.
- In accordance with TDC Bylaws, Clause 1502.1, every person who proposes to:

- (a) Draw water from the water network infrastructure; or
- (b) Discharge sewage to the sewer network infrastructure; or
- (c) Discharge stormwater to the stormwater network infrastructure; or
- (d) Discharge to the sewer network infrastructure any trade waste (either continuously, intermittently or temporarily); or
- (e) Vary the characteristics of a consent or approval to discharge that has previously been granted; or
- (f) Vary the conditions of consent or approval that has previously been granted; or
- (g) Vary the location of the point of supply or discharge that has previously been granted; or
- (h) Significantly change the method or means of pre-treatment for discharge under an existing consent; or
- (i) Disconnect from any network infrastructure service;

shall complete an application on an approved form for the supply of such service, together with payment of any prescribed charges. The applicant shall provide all of the details required by Council.

- In accordance with TDC Bylaws, Clause 1505.3, no person shall provide any network infrastructure service to any other party without approval from Council.
- In accordance with TDC Bylaws, Chapter 15, Clause 1515.4, no person shall carry out excavation work in a road reserve or public place without approval from Council.
- Downlands Water Supply reallocation requires new tanks for each unit supplied to a record of title with the tank being the responsibility of the landowner and the supply line up to the ball caulk being an asset of the Downlands Water Supply Scheme.
- In accordance with the Canterbury Land and Water Regional Plan, Chapter 5, Section 96, on-site stormwater from up to and including a 10 year rain event is not permitted to enter a neighbouring property, therefore appropriate attenuation is required.



**OFFICERS REPORT ON A RESOURCE CONSENT APPLICATION
(s95A and 95B and s104 and 104B)
OF THE RESOURCE MANAGEMENT ACT 1991**

Consent No:	102.2022.160.1
Applicant:	22 The Terrace Timaru Limited
Application:	Application under section 88 of the Resource Management Act 1991 (RMA) to undertake a Mixed Use Development Exceeding Maximum Height Limit and Non-Compliant Access
Location:	22 The Terrace, Timaru
Zoning:	Commercial 1B
Legal Description:	Part Lot 126 and Part Lot 128 DP 1 held in Record of Title CB23A/1142
Activity Status:	Discretionary Activity
Lodgement date	7 June 2022

This report has been prepared under section 42A of the Resource Management Act 1991 to document the assessment of the subject resource consent application. This report also constitutes the decision and reasons for the decision as required under section 113 of the RMA.

Introduction

The application proposes to construct a four storied building with a basement car park at 22 the Terrace, Timaru. The proposed building will be constructed on a site historically used for car parking. Treatment of the site includes boundary fencing, retaining walls, car parking infrastructure and an LPG storage facility associated with activities at 293 Stafford Street.

The proposed building is intended to include a mix of commercial and residential activities. Specifically, the ground floor and the first floor are to provide for commercial activities for four tenancies. The remaining two floors are to include four residential apartments. The proposed building has a maximum height of building 16 metres above natural ground level. Due to the sloping nature of the site the overall height of the building varies between 14 metres and 16 metre with the high side of the site being located on the road side of the site.

Approximately 1,861sqm of earthworks will be required to prepare the site for construction and to complete foundations for the proposed building. There is an existing single stormwater sump located within the site which is intended to be utilised for stormwater disposal. New connections to Council's water supply and wastewater network are anticipated to service the development.

Access is proposed via a new access at the north eastern end of the site to a basement carpark that provides for 14 car parking spaces. The access provides a wide area at the entrance allowing two vehicles to pass each other, leading into a single lane ramp that enters the basement carpark.

Consenting matters relate to the following:

- Exceeding the maximum height limit; and
- Non-compliant access width.

The applicant has provided a description of the proposal, the site and locality in the report entitled *"Assessment of Environmental Effects"*, prepared by Gresson Dorman & Co, and submitted as part of the application. This description is considered adequate and is adopted for the purpose of this report.

Supporting the application is an Urban Design Statement, prepared by Desmond Prisk Architects. This assessment has been reviewed by Nic Williams, Senior Urban Designer of Christchurch City Council

Planning Framework

Operative Timaru District Plan

The subject site is zoned Commercial 1B in the Timaru District Plan and the proposed activity requires resource consent for the following reason:

- A **Discretionary Activity** pursuant to Part D, Section 3.5.2, Rule 3.6 to exceed the maximum permitted building height. Performance Standard 5.1 provides for a maximum building height of 10 metres whereas the maximum height proposed varies between 14 and 16 metres.

- A **Discretionary Activity** pursuant to Part D, Section 6.7, Rule 6.7.5 (1) as the proposal does not comply with Performance Standard 6.7.3 (2) which requires vehicle access servicing three or more residential units to have a width of 6 metres for a minimum of 9 metres from the road boundary. The proposed access ramp is only 3.6m in width.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NESCS)

The Environment Canterbury Listed Land Use Register does not hold any information about any Hazardous Activities and Industries List site on the Application Site. Accordingly, the National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 does not apply.

Activity Status Determination

Overall, the application is being considered and processed as a **Discretionary** activity.

Notification consideration under Sections 95A of the Resource Management Act

Section 95A – Public Notification

Section 95A of the RMA requires a decision on whether or not to publicly notify an application. The following steps set out in this section, in the order given, are used to determine whether to publicly notify an application for a resource consent.

Step 1 – Mandatory public notification

The applicant has not requested public notification of the application (s95A(3)(a)).

Public Notification is not required as a result of a refusal by the applicant to provide further information or refusal of the commissioning of a report under section 92(2)(b) of the RMA (s95A(3)(b)).

The application does not involve exchange to recreation reserve land under section 15AA of the Reserves Act 1977 (s95A(3)(c)).

Therefore, public notification is not required by Step 1.

Step 2 – Public notification precluded

Public notification is not precluded by any rule or national environmental standard (s95A(5)(a)).

The proposal is not:

- a controlled activity; or
- a boundary activity as defined by section 87AAB that is restricted discretionary, discretionary or non-complying.

Therefore, public notification is not precluded (s95A(5)(b)).

Step 3 – If not precluded by Step 2, public notification is required in certain circumstances

Public notification is not specifically required under a rule or national environmental standard (s95A(8)(a)).

A consent authority must publicly notify an application if notification is not precluded by Step 2 and the consent authority decides, in accordance with s95D, that the proposed activity will have or is likely to have adverse effects on the environment that are more than minor (s95A(8)(b)).

Effects that must / may be disregarded (s95D(a)-(e))

Effects that must be disregarded:

- Effects on the owners or occupiers of land on which the activity will occur and on adjacent land (s95D(a)).
- Trade competition and the effects of trade competition (s95D(d)).

Effects that may be disregarded:

- An adverse effect of the activity if a rule or national environmental standard permits an activity with that effect (s95D(b)) – referred to as the “permitted baseline”. The relevance of a permitted baseline to this application is provided in Section 3.3.2 below.

Permitted Baseline (s95D(b))

The consent authority may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect. The permitted baseline is relevant to this application and is well described in the application and is considered accurate and is adopted for the purposes of this report.

Section 95D – Are adverse effects likely to be more than minor?

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

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

Actual and Potential Effects on the Environment

Building Height

To assess the effects of the building encroaching into the 10 metre height limit the applicant has provided an urban design statement from Mr Desmond Prisk of Desmond Prisk Architects. In this assessment it is considered that the proposed building is of an appropriate scale for a central city location, that the scale of the proposed building responds to existing buildings on Stafford street, that the stepping back of the top two levels will reduce the perceived scale of the building. Other comments are also made in respect to the proposed use reflecting the historical use of The Terrace for residential purposes and that the articulation of materials and colours will integrate the building in with the surrounding environment.

Mrs Nic Williams, Senior Urban Designer of Christchurch City Council has reviewed the application and the assessment provided by Mr Prisk. In her comments on the application it is specified that the building above 10 metres was considered to be generally positive and not intrusive with the potential exception of black elements of the balconies when viewed from the Terrace. Where assessment differs is in respect to the western façade of the proposed

building where Mrs Williams considers that there is excessive visual bulk when viewed from Stafford Street. This bulk is considered to be exacerbated by the step up of the building towards The Terrace and the architectural elements such as the gables on the western façade which draws unnecessarily draws attention to this façade and the overall bulk of the building. Mrs Williams in her comments provides some alternative design solutions to reduce the bulk of the western façade, including consolidating the top story back from this façade.

In considering the above it is noted that for the purposes of this assessment only effects of the proposed building on the environment above the height limit have been considered and not stated positive effects or off sets created through the overall design of the building below the height limit. In respect to the proposed building when viewed from The Terrace the assessment provided by Mr Prisk and Mrs Williams is accepted and adopted for the purposes of this report. It is noted that there is some contention between Mr Prisk and Mrs Williams in respect to the western facade of the building when viewed from Stafford Street. In regard to this the applicant has identified the areas in the immediate environment where the proposed building will be visible. This includes a portion along the southern side of Stafford Street and a portion along the northern end of Cannon Street. These areas cover a short distance and will not dominate people's views while occupying Stafford Street. On this basis it is not considered that the proposed height breach will detract from character of the town centre or associated heritage values of the town centre. From other areas in the surrounding environment it is considered that there will be sufficient separation to ensure that views are not prominent or intrusive.

The applicant has submitted shade diagrams with the application. These diagrams demonstrate that the proposed building including the area above 10 metres will create similar shading to a building constructed to height of 10 metres covering the entirety of the site. This comparison is considered to be relevant and non-fanciful. In Mrs Williams comments it is noted that equinox information should be provided and that diagrams should be provided for hourly intervals. In respect to this it is considered that the diagrams provided sufficiently demonstrate that shading created by the proposed building will be similar to a permitted building utilising the entirety of the site. On this basis effects on the environment from the proposed building in terms of shading are considered to be no more than minor.

To address privacy the proposed building above the 10 metre height limit will not create any overlooking over pedestrians on Stafford Street based on the aerial views provided with the application. In respect to The Terrace it is noted that the general view shaft from the residential apartments will look beyond the street level. Additionally, any overlooking created by the additional height will be similar to that permitted below ten metres in height.

On the basis of the above assessment, it is assessed that the proposed activity will not or is not likely to have adverse effects on the environment that are more than minor.

Non-Compliant Access

The District Plan requires accesses servicing three or more residential units to have an access which is 6 metres in width for the first 9 metres then 5 thereafter. In respect to this non-compliance it is noted that the entrance does allow for two vehicles to pass each other if required. Further, as mentioned in the application where the access only allows for one way access there will be an electric roller door which will alert users of instances where there is a potential conflict. On this basis it is not considered that the non-compliant access will result in a traffic hazard. As such, effects are considered to be no more than minor.

Step 4 – Public Notification in Special Circumstances

There are no special circumstances in relation to this application.

Notification consideration under Section 95B of the Resource Management Act

Section 95B – Limited Notification

Section 95B(1) requires a decision on whether there are any affected persons (under s95E). The following steps set out in this section, in the order given, are used to determine whether to give limited notification of an application for a resource consent, if the application is not publicly notified under section 95A.

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

Determination under s95B(2)

The proposal does not affect protected customary rights groups, and does not affect a customary marine title group; therefore limited notification is not required.

Determination under s95B(3)

Limited notification is not required under Step 1 as the proposal is not on or adjacent to, or may affect land subject to a statutory acknowledgement under Schedule 11, and the person to whom the statutory acknowledgement is made is/ is not determined an affected person under section 95E (s95B(3)).

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

Limited notification is not precluded under Step 2 as the proposal is not subject to a rule in the District Plan or is not subject to a NES that precludes notification (s95B(6)(a)).

Limited notification is not precluded under Step 2 as the proposal is not a controlled activity land use (s95B(6)(b)).

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

If limited notification is not precluded by Step 2, a consent authority must determine, in accordance with section 95E, whether the following are affected persons:

Boundary activity

The proposal is not a boundary activity where the owner of an infringed boundary has not provided their approval.

Any other activity

The proposal is not a boundary activity and therefore the proposed activity falls into the 'any other activity' category (s95B(8)), and the adverse effects of the proposed activity are to be assessed in accordance with section 95E.

Section 95E – Considerations in assessing adverse effects on Persons

- (1) *For the purpose of giving limited notification of an application for a resource consent for an activity to a person under section 95B(4) and (9) (as applicable), a person is an affected person if the consent authority decides that the activity's adverse effects on the person are minor or more than minor (but are not less than minor).*
- (2) *The consent authority, in assessing an activity's adverse effects on a person for the purpose of this section, —*
 - (a) *may disregard an adverse effect of the activity on the person if a rule or a national environmental standard permits an activity with that effect; and*
 - (b) *must, if the activity is a controlled activity or a restricted discretionary activity, disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a*

	<i>rule or a national environmental standard reserves control or restricts discretion; and must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11.</i>
(3)	<i>A person is not an affected person in relation to an application for a resource consent for an activity if—</i>
(a)	<i>the person has given, and not withdrawn, approval for the proposed activity in a written notice received by the consent authority before the authority has decided whether there are any affected persons; or</i>
(b)	<i>the consent authority is satisfied that it is unreasonable in the circumstances for the applicant to seek the person's written approval.</i>
(4)	<i>Subsection (3) prevails over subsection (1).</i>

Persons who have provided written approval (s95E(3))

No persons have provided written approval for the application.

Assessment: Effects on Persons

Taking into account the exclusions in sections 95E(2) and (3), the following outlines an assessment as to whether the activity will have or is likely to have adverse effects on persons that are minor or more than minor:

20 The Terrace

This property is located immediately adjacent to the subject site. The site has frontage to The Terrace and Stafford Street. On this site within the vicinity of the subject site is a building utilised for mattress manufacturing and a building operating as a gym. In front of the building adjacent to The Terrace is a parking area. In respect to effects on this property the proposed building above height is broken up along the southern boundary with portions of the building being setback from the boundary. In terms of shading the applicant has demonstrated through shading diagrams that shading effects will be similar to a permitted building. While there are no sensitive land uses on this site it is noted that construction of the building will be done in accordance with the construction noise standard listed in the District Plan. Overall, effects of the proposal on 20 The Terrace will be less than minor.

21 The Terrace

This property is located across the road from the subject site. Currently operating on the site is an optometrist. There also appears to be residential activities occurring on the site with an amenity area provided at the northern end of the site. In assessing effects of the proposal it is considered that the stepping back of residential stories will ensure that the building is not visually intrusive or dominant when viewed from this site. In terms of shading the applicant has demonstrated through shading diagrams that shading effects will be similar to a permitted building. To address privacy the proposed building above the height limit will not look directly into any residential space in the building. Additionally, the residential amenity area on the site will largely be screened by the residential unit and is located some distances away from the residential apartments. Overall, effects on 21 The Terrace are considered to be less than minor.

21A – 23 The Terrace

This property is located across the road from the subject site. The site is currently under development for residential purposes with a residential unit being constructed on the site. Within this site the proposed building above the height limit will not be visible from any sensitive living areas such as bedroom and communal lounge areas within the residential unit

including bedrooms and lounge areas. In respect to privacy the proposed residential stories will not look directly into any residential space within the residential unit given there are no large openings on the southern elevation of the building. It is further noted that the residential stories are a considerable distance from the outdoor amenity area and the residential unit on the site will largely screen views into this space. In respect to shading the residential unit on this site is located a substantial distance away from the proposed building. The applicant has also demonstrated that shading from the proposed building will be comparable to a permitted building on the subject site. To address noise the applicant has specified that it is intended to comply with the construction noise standard listed in the District Plan. Overall, effects on 21A – 23 The Terrace are considered to be less than minor.

24 The Terrace

This property is located immediately adjacent to the subject site. The site was recently developed and includes an office building. The building is two stories in height and is built closely to the shared boundary with the subject site. In respect to effects of the proposal on this property the proposed building including the portion of the building above the height limit is setback from the shared boundary reducing visual effects of the proposal. Further, when compared to a permitted building constructed up to the shared boundary it is considered that the proposal building will be less visually intrusive. In respect to construction noise the applicant has specified that works will comply with the construction noise standard listed in the District Plan. Overall, effects on 24 The Terrace are considered to be less than minor.

Decision: Effects on Persons (s95E(1))

In terms of section 95E of the RMA, and on the basis of the above assessment, no person is considered to be adversely affected. Therefore, limited notification is not required under Step 3.

Step 4 – Further Notification in Special Circumstances (s95B(10))

Special circumstances do not apply that require limited notification.

Section 104 Requirements

This section of the report details the provision of the RMA that are relevant to the consideration and determination of the application. The remainder of this report has been set out to address these provisions.

Consideration of Applications

When considering a resource consent application and any submissions, section 104 of the RMA provides that the consent authority, must, subject to Part 2, have regard to the following:

- any actual and potential effects on the environment of allowing the activity;
- any relevant provisions of:
 - a national environmental standard:
 - other regulations:
 - a national policy statement:
 - a New Zealand coastal policy statement:
 - a regional policy statement or proposed regional policy statement:
 - a plan or proposed plan;
- any positive effects;

- any other matter it considers relevant and reasonably necessary to determine the application.

When forming an opinion for the purposes of actual and potential effects on the environment of allowing the activity, subsection 104(2) RMA states that 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.

Subsection 104(3) RMA states that a consent authority must not when considering an application have regard to trade competition or the effects of trade competition, or any effect on a person who has given written approval to the application.

Subsection 104(3) RMA also provides that a consent authority must not grant a resource consent:

- To do something that will, or is likely to, have a significant adverse effect on a recognised customary activity, unless written approval is given to conduct the activity from the holder of the customer rights order.
- If the application should have been notified and was not.

Subsection 104(6) RMA states that a consent authority may decline an application for a resource consent on the grounds that it has inadequate information to determine the application.

Assessment for the purpose of making a decision on the application

Actual and potential effects on the environment have been outlined in the section 95 report. Conditions of consent can be imposed under s108 of the RMA as required to avoid, remedy or mitigate adverse effects (s104)(1)(a)).

How do any relevant objectives, policies, rules or other provisions of the District Plan relate to the proposal?

District Plan

The relevant objectives and policies are contained within Part B, Section 8 (Roading), Part B, Section 11(b) (Amenity Values) and Part D, Section 3 (Commercial Zones). The assessment against the objectives and policies provided in the applicants AEE in respect to Part B, Section 11(b) and Part D, Section 3 is considered accurate and is adopted for the purposes of this report. In terms of Part B, Section 8 it is considered that the proposed access arrangement will allow for circulation within the site and will not result in the creation of a traffic safety hazard on The Terrace. Overall, the proposal is considered to be consistent with the objectives and policies of the District Plan.

Is the application consistent with Part II of the Act, and are there any other matters which are relevant and reasonably necessary to determine the application? [Section 104]

Part II sets out the purpose and principles of the Resource Management Act. The purpose of the Act is to promote the sustainable management of natural and physical resources. The various principals listed in Part II support this purpose.

In terms of Section 5, the development will result in sustainable management of natural and physical resources, whilst also not affecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment. The application therefore accords with Section 5.

Section 6 includes matters of national importance. In this case there are no matters of national importance pertaining to this application.

Section 7 sets out other matters that must be had particular regard to. Of relevance are the maintenance and enhancement of amenity values (s7(c)) and of the quality of the environment (s7(f)). The proposal is assessed as not having particular adverse effects on either.

Section 8 requires that the principles of Te Tiriti o Waitangi are taken into account. This proposal has no effect on the Treaty principles.

In summary, it is considered that grant of consent is consistent with Part II of the Act.

Recommendation

Consent be granted subject to the conditions outlined at the front of the decision imposed pursuant to Section 108 of the RMA.

Reported and Recommended by: Hayden Blackler, Senior Planner

Date: 7 September 2022