

Date:	30 August 2024	Application Number:	LU-2023-112110-00; SG-2023-112111-00; NC-2023-112112-00
Reporting Planner:	Sarah Exley	Site Visit on:	11 th June 2024

Applicant:	NZHG Gisborne Limited
Property Address:	99A Stanley Road, Gisborne
Legal Description:	Lot 1 DP 5799 contained in Record of Title GS3D/818
District Plan:	Te Papa Tipu Taunaki o Te Tairāwhiti – Tairāwhiti Resource Management Plan
Zoning:	General Residential
Other Restrictions:	Land Overlay 1; Reticulated Services Boundary; Stanley Road – Principal Road
Activity Status:	Discretionary
Proposal:	Bundled Land Use and Subdivision consent to enable an 8-unit housing development

Report to Hearings Commissioner

NZHG Gisborne Limited has made an application for land use and subdivision consent to develop the subject site at 99A Stanley Road, Gisborne.

The Applicant seeks resource consent to construct eight residential units. These units are proposed to comprise:

- Six two-storey, two-bedroom dwellings constructed in duplex typology;
- Two single-storey, three-bedroom dwellings constructed in duplex typology;

Access is proposed to the site as follows:

- An average 5.7m legal and 4.0m physical width Joint Owned Access Lot (JOAL) providing access for Lots 1 – 8; and
- A dedicated carpark is provided within each lot; and
- A 1.2m width footpath is provided along the full length of the JOAL.

The Applicant seeks resource consent to subdivide the property at 556 and 560 Stanley Road as follows:

- Creation of 8 residential allotments, known as 'Lots 1 – 8';
- Creation of the JOAL known as 'Lot 100' for provision of access to be held in equal shares by the owners of Lots 1– 8.

The resource consent is also for the development to occur on a 'piece of land' as defined by the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS).

A set of technical reports and plans accompany the application. These include: an assessment of effects on the environment; engineering plans; stormwater calculations; geotechnical

assessment; landscape plans; transport assessment; and preliminary and detailed site investigations (PSI & DSI) under the NES-CS.

The proposed development will not comply with several General Standards of the Tairāwhiti Plan with regards to land use and subdivision. Therefore, the application has an overall a Discretionary Activity status.

The application was Publicly Notified and three submissions were received. All three submitters opposed the application, with key issues and concerns raised regarding the following themes:

- Density;
- Character;
- Bulk/dominance;
- Shading;
- Privacy;
- Noise; and
- Traffic impacts.

The following report outlines the proposal and provides an assessment of the actual and potential effects. The report also addresses the relevant planning instruments and an assessment against Part 2 of the Act.

I consider that the key issues relate to those matters raised by submitters as listed above; whether the scale, nature and design of the residential development compromises the amenity values and character of the surrounding properties; and secondly, whether there are any issues or adverse effects arising from the internal accessway design and additional traffic generation on the roading network.

I consider the proposed development is not consistent with the intent and provisions of the Tairāwhiti Resource Management Plan (TRMP), having considered the Objectives and Policies related to residential development and subdivision.

I ultimately conclude that the proposal will not maintain or enhance the amenity values of the existing environment and will adversely affect the operation of roading infrastructure.

I therefore recommend that consent be **declined**.

RECOMMENDATION

That Commissioner Lee Beattie

Declines land use and subdivision consent to the application by NZHG Gisborne Limited to construct eight residential units and create corresponding allotments at 99A Stanley Road, Gisborne, Gisborne.

Authorised for Distribution:



Kimberley Morete
Principal Planner



Awhina White
Consents Manager

1.0 INTRODUCTION

1.1 Report Status

1. This report is a s42A Report prepared under the Resource Management Act 1991 (RMA). It provides an independent assessment and recommendation on the application by NZHG Gisborne Limited for a land use and subdivision proposal at 99A Stanley Road, Gisborne. This report does not represent any decision on the application and only provides the professional assessment and opinion of the report author. This report will be considered by the Independent Commissioner in conjunction with all other technical evidence and submissions which have been received to the application. It does not have greater weight than any other material or submissions that may be presented and considered by the Commissioner.

1.2 Report Author

2. I, Sarah Exley, have prepared this S42A report. I am a Senior District Consents Planner at Gisborne District Council. I have a Postgraduate Qualification in Planning from Massey University and I am an associate member of New Zealand Planning Institute (NZPI). I have 3.5 years of professional experience in the resource management field. The opinions and assessment within this report are within my area of expertise, except where I have stated my reliance on other identified evidence.
3. I have read and complied with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 in preparing this report. I agree to comply with it in presenting this report and any evidence at the hearing. The opinions and assessment within this report are within my area of expertise, except where I have stated my reliance on other identified expertise. I have considered all material facts that are known to me which might alter or detract from the opinions I express in this report.
4. In preparing this report I have referred and taken into account the reports and advice from the following technical expert/s:

- Robin Beale Development Engineer
- Buddhika Kumarage Geotechnical Engineer
- Viveshen Murugan Senior Policy Planner
- Aaron Feast Principal 3 Waters Infrastructure Advisor
- Kate Sykes Team Leader, Monitoring and Compliance
- Dr. Dave Bull Director, HAIL Environmental (external consultant)

1.3 Proposal

5. As stated in the application, the Applicant seeks *"to construct eight residential dwellings at 99A Stanley Road which will constitute a multi-unit development within the General Residential Zone of the Tairāwhiti Resource Management Plan (TRMP). Additionally, a concurrent subdivision is proposed to obtain eight separate records of title for each of the eight dwelling units and one jointly owned access leg (JOAL) which will be subsequently amalgamated with some of the residential lots. (...) The application seeks dual land use and subdivision approval, and it is proposed that the*

construction of the dwellings will begin prior to the issue of Section 224C certification and titles." Three applications have been made and have been bundled.

6. The subdivision and land use applications have been bundled together, along with an application under the NES-CS for subdivision and disturbance of contaminated land.
7. A site plan, floor plans and elevation drawings are included in Appendix 2 of this report. A subdivision scheme plan is also included as Appendix 3.

1.3.1 Land Use consent

8. Eight dwellings are proposed:
 - Six two-storey, two-bedroom dwellings constructed in duplex typology; and
 - Two single-storey, three-bedroom dwellings constructed in duplex typology.
9. The Applicant proposes to not comply with the following General Standards:
 - Minimum site size;
 - Maximum site coverage;
 - Recession planes;
 - Infrastructure requirements (i.e. access).
10. TRMP Rule *DD1.6.1(2) Yard Distances (c)*, provides that a building may be erected closer to a boundary "if the written consent of the adjoining property owner is obtained". The Applicant is seeking to utilise this proviso to infringe multiple yard distances on the basis that it will be the adjoining property owner for each Lot / dwelling once subdivision occurs.
11. One vehicle access is proposed:
 - A vehicle crossing (legal width of 7.2m and physical width of 5.5m);
 - An averaged 4.0m physical and 5.7m legal width Joint Owned Access (JOAL) providing access for Lots 1 – 8;
 - A dedicated carpark is provided within each lot; and
 - A 1.2m width footpath is provided along the full length of the JOAL.
12. The proposal does not achieve the sight lines required per General Standards C2.1.7(H)(2).
13. Stormwater attenuation and contaminant reduction is proposed to be installed at the point of stormwater discharge to the reticulated network. Impervious paving is also proposed to be installed as the JOAL.

1.3.2 Subdivision consent

14. The lot sizes created by the development are proposed as follows:

Proposed Lot	Proposed site size (m²) Net	TRMP minimum site size (m²) Net
Lot 1	142	320
Lot 2	127	320

Lot 3	127	320
Lot 4	128	320
Lot 5	131	320
Lot 6	132	320
Lot 7	239	320
Lot 8	255	320
Lot 100 (JOAL access)	309	

1) Figures have been rounded to the nearest whole number.

15. Thus the Applicant proposes:
- Eight lots of an average of 160m², where each unit is attached on one side to another dwelling-unit.
16. The TRMP specifies a minimum site area of 320m² for the 8 attached dwellings.
17. The subdivision scheme plan includes a Schedule of Easements and Easements in Gross. Easements are proposed to facilitate rights-of-way over the JOAL (Lot 100) for Lots 1 - 8. Rights are also conferred to facilitate three waters supply and the transmission of electricity and telecommunications, as well as party wall easements.

1.3.3 Contaminated Land

18. A Detailed Site Investigation (DSI) has been completed for the site and this has identified that the site is a 'Piece of Land' per s5(7) of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS).
19. Subdivision is an activity per s5(5) NES-CS as well as remediation/disturbance per s5(4).

1.4 **The Site**

20. The site is located at 99a Stanley Road, legally described as Lot 1 DP 5799 with an area of 1,590m². It is zoned General Residential.
21. The nearby surrounding area comprises residential dwellings (zoned General Residential), on lots that range in size from 500m² to 1100m². Gisborne Boys' High School is located approximately 100m to the north-east; Gisborne Girls' High School is located approximately 450m to the north. The General Residential zone continues for at least 1km north and west but becomes Outer Commercial 600m to the east and Industrial zone 450m to the south.
22. Within a 10-minute walking distance from the site there are food outlet stores, early child-care centres, a church, Sports Centre and schools as above.
23. The site has 20m frontage to Stanley Road which is classed as a Principal Road. The site is located approximately 20m from the intersection with Childers Road (Principal Road) and is approximately 2kms west of the Gisborne CBD. The site is relatively flat.
24. The site is within the reticulated services boundary. The site is not subject to any natural hazard overlay (flood or stability). The Heritage Alert overlay is applicable. The site is

subject to Land Overlay 1 and Rongowhakaata (Rongowhakaata Claims Settlement Act 2012) and Te Aitanga-a-Māhaki areas of interest.

25. The site is currently occupied by one modest dwelling with an accessory building. There is one formed vehicle crossing and accessway to the site from Stanley Road and the remainder of the site is grassed with several mature trees.
26. A Detailed Site Investigation prepared by EAM Environmental Consultants was provided with the application. The report stated the dwelling is of painted weatherboard construction with a tiled roof. It has aluminium windows. Some asbestos is present in the eaves, and as exterior cladding on the north-facing porch.
27. The report also outlines that soil sampling was undertaken in eight different locations across the site, with all locations returning elevated levels of lead and one location returning elevated levels of zinc. Lead levels in all eight sample locations were above the residential land use standard applicable per the NES-CS and one sample contained zinc level above the residential land use standard. As such, the site is identified to be a 'piece of land' subject to the NES-CS regulation 5(7)(b).
28. Images 1 and 2 below are aerial photographs of the site and surrounding area. Images 3 and 4 below are photographs of the site from Stanley Road. Photographs of the site taken during a site visit are found in Appendix 1 to this report.



Image 1. Aerial photograph of site (blue boundaries) and surrounding area.



Image 2. Aerial photograph showing closer detail of site and surrounds.



Image 3 – Facing west: The existing vehicle crossing, dwelling in the background. 99 Stanley to the right.

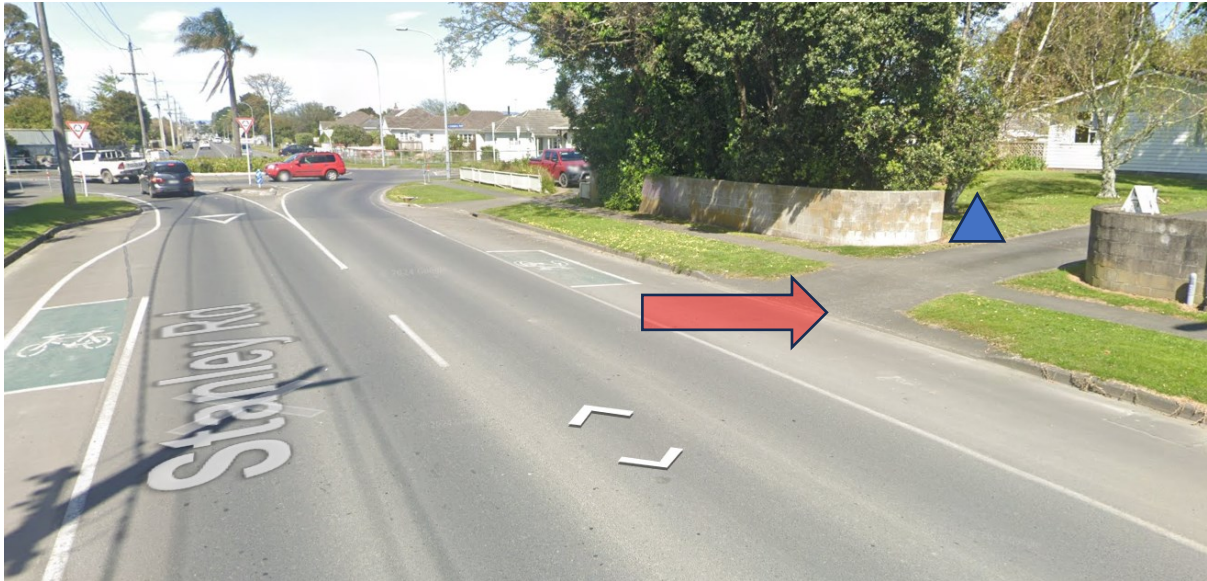


Image 4 – Facing south: Google Streetview image showing 99a Stanley Road vehicle crossing (red arrow) proximity to Childers Road intersection. Blue triangle shows proposed Lot 1 vehicle entrance.

1.5 Legal Interests in the Property

29. The following relevant interests are registered on the Record of Title:
- None identified.

1.6 Process Matters

30. Since the lodgement and notification of the application, several updates and amendments to the technical information (for infrastructure servicing) were received. Ultimately these have been accepted by Council.
31. On Friday 16th August, a set of amended drawings were lodged. The changes were:
- Altered yard distances;
 - Amended landscaping plans;
 - The fence screening the patio area of lot 1 has been reduced to 1.2m to promote the street frontage and passive surveillance.
 - A gable roof end has been introduced to Lot 1 facing Stanley Street.
 - Gable roof ends have been introduced to Lots 3-6 facing the JOAL.
 - Fencing has been amended to incorporate a 300mm permeable fence section for Lots 7 & 8 facing the JOAL.
 - Garden sheds have been internalised within the dwelling for Lots 1 – 6 (only accessible from the outside of the house in the service area).
 - Service areas have been condensed.
32. At the time of writing this decision, contaminated land matters were still unresolved. The original application included a Detailed Site Investigation which identified that the site is a 'Piece of Land' per s5(7) NES-CS. Further detail was provided throughout the processing of the application. An options assessment, to remediate the soil, was provided by the Applicant in the revised information submitted in response to the s92 request, and included disposal to landfill and/or soil mixing onsite and/or soil encapsulation.

33. Council has relied on a technical assessment from Dr. Dave Bull of HAIL Environmental Ltd with regards to contamination. Dr. Bull identified:
- a. There was insufficient leaching assessment undertaken, to be able to determine landfill disposal as acceptable;
 - b. Further assessment on presence of asbestos is required;
 - c. Further detail on the volume of soil to be disturbed (through geotechnical earthworks for building platforms and for contaminated soil removal) is required;
 - d. The Applicant provided insufficient assessment of soil mixing methodology and calculations of predicted concentrations.
34. The Applicant was informed of the above comments from Dr Bull prior to the notification decision (29th May 2024) and again on 24th July 2024. On the 13th August 2024, the Applicant wrote to inform me they would undertake Toxicity Characteristic Leaching Procedure (TCLP) testing (leaching assessment above) but the remaining aspects were not discussed. At the time of writing this s42A report, I had not received any further documentation regarding this. While this may be submitted in the Applicant's pre-hearing evidence, at the time of writing, I cannot conclude that contaminated land matters under the NES-CS have been resolved, but I accept an agreed resolution may be reached before the hearing date.

2.0 REASON FOR THE APPLICATION

2.1 Land Use (Restricted Discretionary)

35. The proposal will not comply with several General Standards and therefore triggers Rule DD1.6.1(17) for the "*Construction of residential dwelling units and residential accessory buildings which do not comply with the rules for permitted activities in respect to*":

(d) Minimum Site Area

36. The Applicant proposes:
- Eight lots of an average of 160m², where each unit is attached on one side to another dwelling-unit.
 - The TRMP specifies a minimum site area of 320m² for the eight attached dwellings.
 - Therefore, the attached dwellings fall short of the required minimum size by 50%.

(e) Recession Planes

37. The proposed dwellings will infringe the recession planes as they relate to the JOAL boundary as follows:
- Unit 1 by a height of 1.6m;
 - Unit 2 by a height of 1.5m;
 - Unit 3 by a height of 2.5m;
 - Unit 4 by a height of 2.6m;
 - Unit 5 by a height of 1.1m;
 - Unit 6 by a height of 2.6m.

(f) Site Coverage

38. Proposed Lots 7 and 8 exceed the maximum site coverage of 35%, at an average of 39.7% coverage.

(h) Infrastructure/works/services (vehicle access)

39. The proposal does not comply with General Standards C2.1.7.1 (H)(2) in respect of clear and unobstructed sight lines, caused by the expected overflow parking onto Stanley Road.
40. TRMP Rule *DD1.6.1(2) Yard Distances (c)*, provides that a building may be erected closer to a boundary "if the written consent of the adjoining property owner is obtained". The Applicant is seeking to utilise this proviso to infringe multiple yard distances on the basis that it will be the adjoining property owner for each Lot / dwelling once subdivision occurs.

2.2 Subdivision – (Discretionary)

41. Even though the subdivision component is proposed to occur after the construction of the dwellings, the proposal must be considered as a Discretionary Activity under C10.1.6(9) "Activities which do not comply with the General Standards and are not listed as Controlled or Restricted Discretionary activities" are Discretionary Activities, for the same reasons above.
42. If the subdivision were to occur prior to the construction of the dwellings, the activity status would remain the same, as subdivisions which do not meet the Minimum Site Area must be considered as a Discretionary Activity under C10.1.6(9).

2.3 NES-CS – (Restricted Discretionary)

43. The proposal involves subdivision and earthworks therefore the NES-CS must be addressed. A Detailed Site Investigation (DSI) undertaken on the site identifies concentrations of arsenic, cadmium and/or lead exceed the soil contaminant standards for a residential land-use. Therefore, Regulation 10(2) of the NES-CS applies to the "undertake earthworks within, and to subdivide the piece of land" portion of the application.

2.4 Overall Activity Status (bundled)

44. As set out above, the application requires resource consents for land use, subdivision and soil disturbance of contaminated land. Given the connection between the proposed activity and the consent required, it is appropriate that the consents be bundled and the proposal be assessed as a whole. Accordingly, the application is considered to be a Discretionary Activity under the TRMP as this is this most restrictive activity status triggered.

3.0 Section 95-95E Public and Limited Notification of Applications

45. A decision was made under sections 95A – 95E of the Resource Management Act 1991 to process the application on a Publicly Notified basis. This decision is subject to a separate report (Reference A3390380 dated 29th May 2024). The notification decision identified that the following effects were likely to be more than minor:
- Density (minimum site area, yard distances, site coverage);
 - Amenity (overall scale and bulk, landscaping);
 - Traffic and parking;
 - Cultural effect from stormwater discharge to nearby Statutory Acknowledgement.
46. The proposal was notified on Saturday 1st June, and the closing date for submissions was Tuesday 2nd July 2024.

4.0 Section 96 – 99 Submissions on Applications

47. Three submissions were received. All submissions received were in Opposition to the development.
48. The following is a summary of the submissions:

Submission No.	Submitter Name	Address	Summary of Submission	Wish to be Heard
1	Melanie Cheetham	509 Childers Rd	<ul style="list-style-type: none"> • High density not appropriate against permitted baseline consideration; • Amenity not in keeping with surrounding character; • Access to sunlight concerns; • Density effects on traffic considering proximity to high-thoroughfare intersection and reduced visibility; • Carparking not sufficient; traffic impacts externalised beyond boundaries. 	No

2	Arun Ramachandrakurup	97 Stanley Rd	<ul style="list-style-type: none"> • Social housing concerns within school zone and general public safety; • High-density; • Density effects on traffic safety, considering proximity to high-thoroughfare intersection and reduced visibility; • Carparking not sufficient; traffic impacts externalised beyond boundaries 	Yes
3	Ron More	507A Childers Rd	<ul style="list-style-type: none"> • Density effects on traffic safety, considering proximity to high-thoroughfare intersection and reduced visibility; • Carparking not sufficient; traffic impacts externalised beyond boundaries; • High density concerns including site coverage; • Amenity; • Density effect on noise; • Inadequate provision of open/ green space and access to sunlight; • Social housing concerns. 	No

49. Notification was to the owner of each property listed above.

50. There are themes of consistency between the submissions. Density, character, bulk/dominance, privacy, noise and traffic were raised in all three submissions.
51. I have addressed each of these concerns in my assessment of effects, section 5 of this report.
52. Submitters 2 and 3 raised concerns about the effect of the social housing on local character including a perceived safety concern. Section 104(1) identifies that when considering any submissions received, the consent authority must have regard to any actual and potential effects on the environment of allowing the activity. The possibility the development may be for social housing (or the character of potential tenants), are not effects on the environment and therefore cannot be considered when determining this application.

5.0 Section 104

53. When considering applications for resource consent and any submissions received, the Consent Authority must have regard to any actual and potential effect on the environment. An assessment of the application under section 104 of the Act is provided below.

5.1 Effects Disregarded

54. Pursuant to Section 104(2) of the Act, when forming an opinion for the purposes of Section 104(1) (a), a Council may disregard an adverse effect of the activity on the environment if a plan or national environmental standard permits an activity with that effect. This is commonly referred to as the permitted baseline.
55. A permitted baseline occurs for the land-use development of:
 - Three Lots of 400m² where each unit is detached (noting the applicant would still be short 10m² for a fourth Lot of 400m²); **or**
 - Four dwellings each adjoined to one side (Lots of 320m²); **or**
 - Three dwellings (two attached to one side and one attached to two side) plus another 2 dwellings (both attached to one side), for a total of five dwellings.
56. Importantly, this permitted baseline would also require compliance with internal boundaries such as yard setbacks and recession planes. Therefore, it is important to note that the above formula is simplistic and may not provide for double-storied dwellings or a sufficient provision of vehicle access.
57. To reiterate, the Applicant proposes:
 - Eight lots of an average of 160m², where each unit is attached on one side to another dwelling-unit.
58. The Applicant has posited a permitted baseline of three detached dwellings with 400m² Lot size each, or four duplex dwellings with 320m² each. However, the Applicant also posits that each of these lots could additionally incorporate a minor dwelling as a permitted activity and therefore the site could host 6-8 dwellings. I consider this fanciful, noting that without detailed information we cannot assume to know the compliant size of each minor/dwelling or compliance with yard setbacks, site coverages, recession

planes and vehicle manoeuvrability and therefore whether or not a permitted baseline for 6-8 buildings is applicable to this proposal.

59. The Applicant has also posited a permitted baseline of “several conjoined dwellings with no internal separation through the provision of minimum net site areas for dwellings that can be attached on two sides in Rule 1.6.1(2)(b)”.¹ The Applicant reasons that comparatively, the proposal offers mitigation to the bulk of buildings that this permitted baseline would allow.
60. However, I again consider this baseline fanciful and therefore not an accurate permitted baseline assessment. The dimensions of the site could not host several conjoined dwellings with no internal separation, whilst achieving 320m² net per dwelling attached on one side (either side of the conjoined dwellings) and 250m² net for the dwellings attached on two sides.
61. I therefore consider the proposed 8 lots, of an average of 160m², a significant departure from the 320m² permitted baseline for attached units. Six of eight lots are less than 150m², with the two smallest lots being 127m².
62. Additionally, the proposal fails to meet permitted baseline requirements for internal recession planes, site coverage and access. Taken together these non-compliances indicate that the effects of the proposed development (eight total dwellings with several non-compliances) will be significantly greater than what is permitted by the TRMP and not comparable to a permitted baseline scenario as outlined above.
63. The above ‘permitted baseline’ does not consider whether the dwellings are single or double-storied, or any layout or configuration of units, as this would likely alter (i.e. reduce the number) based on compliance with setbacks and recession planes.
64. TRMP Rule *DD1.6.1(2) Yard Distances (c)*, provides that a building may be erected closer to a boundary “if the written consent of the adjoining property owner is obtained”. The Applicant is seeking to utilise this proviso on the basis that it will be the adjoining property owner for each Lot / dwelling once subdivision occurs.
65. The proposal cannot comply with the General Residential zone yards as follows:
- As a ‘front site’, Unit 1 is required to be 4.5m from its front boundaries and 2m from its ‘other yards’ (side and rear boundaries). Unit 1 complies with this, except on its north-eastern corner where it the yard is between 0.6m – 1.5m from the JOAL.
 - A ‘rear site’ is required to provide a yard of 3m to all boundaries;
 - The units on Lots 2 - 6 will infringe their northern 3m yard setback, being setback from the JOAL by 1.5m.
 - The units on Lots 7 & 8 will infringe their southern 3m yard setback, being setback by between 1m – 2.4m as the boundary curves . The southern-most point of the units will be setback from the boundary by 1m.
66. I consider the proposed use of this *DD1.6.1(2) Yard Distances (c)* proviso across **multiple** yard distance infringements to be an incorrect understanding of the intent of the rule.

¹ Application, p.33

At the time of Notification of the TRMP, high-density developments with multiple non-compliances of the General Standards or Activity Standards were not envisaged.

67. Additionally, at the time of application, the Applicant is the owner of the land but is not the owner of each adjoining subdivided lot; those lots not having yet been created. Compliance with external boundaries does not permit a disregard of the **effects** of internal infringements.
68. Further, the Applicant has applied for subdivision consent and in the application appendix material discusses on-sale specifically to Kāinga Ora. This has also been stated in verbal conversations to Council staff. This means that in reality, the Applicant will be the affected party 'on paper' only for the duration of the build stage, if subdivision consent is granted.
69. I do not consider that it is the intention of Rule DD1.6.1(2) Yard Distances c), to extend the ability of an owner to provide written consent to non-complying yard distances, to a situation where the lots concerned have yet to be created. I consider that it would be **inappropriate** to disregard internal infringement **effects** on this basis.
70. Pursuant to Section 104(3) (a) of the Act, when forming an opinion for the purposes of Section 104(1) (a), a Council must also not have regard to any effect on a person who has given written approval to the proposal, nor any trade competition or effects of trade competition. No written approvals have been obtained, and trade competition is not a relevant consideration.

5.2 Actual and Potential Effects Relevant to This Proposal

71. For the purpose of this report, the assessment of effects is presented under the following topics:
 - Minimum Site Area (Density);
 - Yard Distances;
 - Scale and Bulk;
 - Privacy;
 - Noise;
 - Access to Sunlight;
 - Landscaping;
 - Mitigations;
 - Infrastructure, Works and Servicing;
 - Construction
 - Natural Hazards; and
 - Other Considerations.

5.2.1 Minimum Site Area (Density)

72. The TRMP does not provide a definition for what is meant by medium density housing, and a review of the literature suggests that there is no universal standard of application

of the term 'medium density'. A common definition (or variants thereof) of medium density housing in use in New Zealand (used by Kāinga Ora and a number of District and City Councils) is: Housing at densities of more than 150m²/unit and less than 350m²/unit, or 30-66 dwellings per hectare (dph).² Using this meaning, the proposal under consideration could be considered high density residential development, being more intensive than the minimum density of 150m²/unit as 6 of the 8 lots are less than this, with the smallest lots both being 127m². BRANZ, provides an alternative definition as follows:

"On the housing-density scale, MDH sits between low-density housing (LDH) and high-density housing (HDH).

In New Zealand, LDH includes stand-alone dwellings, generally 1–2 storeys, on an individual section where the size is greater than 400m². HDH includes apartment buildings greater than 6 storeys, with individual dwelling unit sizes ranging from studio apartments to 3–4-bedroom apartments.

*The BRANZ MDH definition above excludes stand-alone buildings, including those erected on a larger site that has been subdivided, and but includes apartment buildings up to 6 storeys high."*³

73. A review of the Ministry of Business Innovation and Employment (MBIE) website reveal that it similarly considers apartment buildings up to six storey as medium density.⁴ While the lack of uniformity with regard to what might be considered medium density is unhelpful, for the purpose of this report in my opinion it is more pertinent to focus on the effects of the proposal in the context of what the TRMP is trying to achieve. With this view, it is clear the proposed development is in fact high density with 6 of the 8 lots being less than this, with the smallest lots both being 127m².
74. While the TRMP does not provide a definition for what is meant by high or medium-density housing, in light of the above guidance I have looked to the various densities provided for in this zone. In Gisborne's General Residential zone (where reticulated), the minimum site size is 400m² per dwelling. For a dwelling attached on one side the minimum site size is 320m²; and for a dwelling attached on two sides to another the minimum site size is 250m² (therefore each 'side' dwelling would be allowed the 320m²).
75. Loosely, 400m² could be interpreted as low-density, 320m² as medium and 250m² as higher-density, for Gisborne's General Residential zone. In my consenting experience, sites in this zone more often exceed the 400m² area (often 800m² or more) and only recently have infill subdivisions of 400m² become so prevalent.
76. The TRMP reiterates in DD1.5 *Methods*, in that denser forms of residential development is more appropriate for the Inner Residential zone and inner-city surrounds where the environment would accept this. The Inner Residential zone begins approximately 800m distance from the site.
77. The Future Development Strategy (FDS) adopted by Council on 14th March 2024 is silent on what ratio Council and the Gisborne community considers medium or high-density intensification (as a plan change process is the appropriate mechanism), but the FDS

² Hastings Medium Density Housing Strategy- Part 2, April 2014, p.3

³ BRANZ Facts Medium-Density Housing #1, October 2017, p.1

⁴ MBIE, [Case study three: 3–6-storey apartments](#)

maintains medium-density may be appropriate for the wider suburbs, such as Elgin and Te Hapara (including Stanley Road). The FDS identifies a principle of “*Higher density and mixed-use developments within the inner city and surrounds that supports the revitalisation of the city centre*” and reasons:

“Intensifying appropriate areas will also mean there is less population and growth pressure on areas that should be retained as low-density suburban areas or at risk to natural hazards. Medium density housing works with the city’s strengths rather than spreading the need for community resources over an ever-expanding area.”⁵

78. I consider relevant the clear discrepancy between the three factors present: the high-density proposal at the site; the TRMP currently identifying the Inner Residential zone (and not the General Residential zone) as the appropriate zone for ‘denser forms of residential development’; and that a view to Gisborne’s future, in terms of residential development, can be understood from the FDS’s assertion that higher-density is appropriate for those sites in proximity to the Central Business District and social infrastructure such as public reserves.
79. While discussed further in Section 6.2 of this report, I note here that as a Tier 3 Council, the Medium Density Residential Standards guidelines are not mandatory requirements of Gisborne District Council.
80. While the proposal may meet, in the Applicant’s opinion, an appropriate level of amenity for medium density housing, this premise does not inherently mean the development is appropriate for the site, the neighbourhood or General Residential zone in general. As a whole, the TRMP policies are weighted towards protecting the existing amenity and character of an area. The emphasis is on ensuring new activities are sensitive to, and compatible with, the existing environment.
81. There may be situations where increased density and a change in building typology is appropriate and fits into the surrounding environment and infrastructure regardless of a medium or high-density categorisation. Therefore, consideration must be given to how the design contributes to the existing level of amenity in the neighbourhood or contributes to a preferred neighbourhood character.
82. The provisions of the TRMP provide for a variety of built form while the density/lot size provisions establish a key performance standard which has a significant bearing on the overall density and character of residential development that may be anticipated on a residential site. The density standard must be considered alongside the bulk and location standards (i.e. yard distances, site coverage and recession planes) which control the nature and scale of building form at the boundary interface.
83. Site size is a means of controlling effects associated with regards to density. Such effects could include increased noise – whether from human activity or vehicle traffic; decreased access to sunlight and increased shading; loss of vegetation; loss of residential amenity and loss of privacy. These effects are expanded upon in the below assessments.

⁵ Tairāwhiti Future Development Strategy 2024-2054, p.12

84. The Applicant has reasoned *"The utilisation of two storey, duplex dwellings additionally enable smaller lot sizes to be employed provided the amenity outcomes discussed above are met."*⁶
85. The amenity outcomes referred to by the Applicant are *"the provision of relatively compliant service spaces and high-quality outdoor living areas"*.⁷
86. The Applicant therefore reasons the provision of 'relatively' compliant (i.e. not compliant, with regards to recession planes) two-storied dwellings mitigates site sizes which are less than 50% of the required minimum.
87. In addition, the required 2m yard setback between Lot 1 and the JOAL is not provided nor are the 3m yard setbacks between Lots 2 - 8 and the JOAL provided.
88. Similarly, the recession planes from Lots 1, 2, 3, 4, 5, and 6 on the JOAL are infringed. This further indicates a development which is too dense and Lot sizes are insufficient.
89. The JOAL offers no privacy or security for users in the manner an individual access would. I therefore do not consider that in this proposal, a shared accessway provides the same private area per resident as an increased site area; and a JOAL does not mitigate sub-standard sized lots.
90. When recalling the Lot areas are an average of 160m², which is 50% of the required minimum, I consider the Applicant's reasoning inappropriate and that there is no mitigation to the fact that the site will be over-developed compared to a permitted baseline. I do not agree that *"the onsite amenity for each dwelling will not be compromised as a result of the reduced lot sizes."*⁸
91. I consider that the use of double-storied dwellings on sub-standard sized lots in fact contributes to the compromise of onsite amenity, for each dwelling and as an overall feel for the site and wider environment. The amenity will be that of 'over-developed'.

5.2.2 Yard Distances

92. The following yards are proposed:

Lot / Unit	TRMP Required Yard	Proposed Reduced Yards
1	2m side or rear	0.6m north-east side 1.5m north side
2	3m all	1.5m north
3	3m all	1.5m north
4	3m all	1.5m north
5	3m all	1.5m north
6	3m all	1.5m north 0m north-west
7	3m all	1m south
8	3m all	2.4m south

93. As a 'front site', Unit 1 is required to be 4.5m from its front boundaries and 2m from its 'other yards' (side and rear boundaries). Unit 1 complies with this, except on its north-eastern corner where it the yard is between 0.6m – 1.5m from the JOAL.

⁶ Application, p.31

⁷ Ibid.

⁸ Ibid.

94. The units on Lots 2 - 6 will infringe their northern 3m yard setback, being setback from the JOAL by 1.5m.
95. The units on Lots 7 - 8 will infringe their southern 3m yard setback, being setback by between 1m – 2.4m. The southern-most point of the units will be setback from the boundary by 1m.
96. As discussed above in s5.1 Effects Disregarded, the Applicant has used the ability under TRMP Rule *DD1.6.1(2) Yard Distances (c)*, to erect a building closer to a boundary if the written consent of the adjoining property owner is obtained, on the basis that the Applicant considers they are the 'adjoining property owner' for each Lot / dwelling.
97. While the Applicant considers that they are able to give themselves approval for these 'infringements', I consider the use of this across **multiple** yard infringements, on sub-standard sized sites, an unreasonable use of the rule.
98. The use of Rule *DD1.6.1(2) Yard Distances (c)* does not permit a disregard of the overall **effects** of the over-density development.
99. Additionally, at the time of application, the Applicant is the owner of the land but is not the owner of each adjoining subdivided lot; those lots not having yet been created. Compliance with external boundaries does not permit a disregard of the **effects** of internal infringements.
100. Further, the Applicant has applied for subdivision consent and in the application appendix material discusses on-sale specifically to Kāinga Ora. This has also been stated in verbal conversations to Council staff. This means that in reality, the Applicant will be the affected party 'on paper' only for the duration of the build stage.
101. The Gisborne Combined Regional Land and District Plan was notified in 1997, with district chapters made operative in 2006 (and significant regional chapters operative in 2008 and 2010). Subsequent Plan Changes have not amended the General Residential zone rules, bar the removal of requiring a minimum number of car parks under Plan Change 5 in 2021. Considering the age of the General Residential zone rules, it is unlikely the use of Rule *DD1.6.1(2) Yard Distances (c)* was envisaged to be used by developers of high-density proposals to disregard all yard infringements.
102. I do not consider that it is the intention of Rule *DD1.6.1(2) Yard Distances (c)*, to extend the ability of an owner to provide written consent to non-complying yard distances, to a situation where the lots concerned have yet to be created. I consider that it would be **inappropriate** to disregard internal infringement **effects** on this basis.
103. It is important to acknowledge that the bulk and location standards form a collective set of residential plan provisions which sit alongside the standards for density and minimum lot size. The proposal is seeking a development which maximises the level of permitted building envelope to each internal and external boundary **as well as** seeking additional density.
104. The existing environment includes a yard infringement of the accessory shed at the rear of the site. The shed incorporates a structural wall on the common boundary fence with

507a Childers Road. This structure is single-storied and being an accessory structure, does not create comparable residential effects anticipated by a dwelling.

105. I consider reduced yard distances, in conjunction with recession plane and site size infringements, create decreased provision of privacy, provision of sunlight, protection from perceived increase on noise and opportunity for natural vegetation.

5.2.3 Scale and Bulk

106. The scale and bulk of a development is an important part of maintaining the character and amenity of residential areas. The wording of the Issues, Objectives, Policies and Methods reflects this. *Amenity Values Policy DD1.4.2(1)b* specifically states the scale must be appropriate for the site and must not cause a loss of amenity (visual, acoustic, privacy) for surrounding residents. I consider the recession planes and site coverage rules work in tandem (and with the site sizes and setbacks above) to set a standard expected for scale and bulk and have addressed these below.

Recession Planes

107. The site is currently occupied by one older, single-storey dwelling and accessory building. Together these buildings occupy 26.5% of the total site area. The nearby surrounding area comprises residential dwellings on lots that range in size from 500m² to 1100m² (all zoned General Residential). These residential dwellings are single-storey, excepting 97 Stanley Road which is double-storied, with a recessed top story.
108. The layout of the proposed development has complied with the required recession planes and yard setbacks with external boundaries, thus achieving the permitted baseline for shading on adjacent properties.
109. However, the Applicant has chosen to reduce the internal yard setbacks and breach required recession planes for internal boundaries. While the Applicant considers that they are able to give themselves approval for these infringements, I consider the effects of them still important to consider for a proposal where the attached dwellings fall short of the required minimum site size by 50%. Compliance with external boundaries does not permit a disregard of the effects of internal infringements.
110. The proposed dwellings will infringe the recession planes as follows:
- Unit 1 as it relates to the JOAL boundary by a height of 1.6m for the length of the dwelling,
 - Unit 2 as it relates to the JOAL boundary by a height of 1.5m for the length of the dwelling,
 - Unit 3 as it relates to the JOAL boundary by a height of 2.5m for the length of the dwelling,
 - Unit 4 as it relates to the JOAL boundary by a height of 2.6m for the length of the dwelling,
 - Unit 5 as it relates to the JOAL boundary by a height of 1.1m for the length of the dwelling,
 - Unit 6 as it relates to the JOAL boundary by a height of 2.6m for the length of the dwelling.
111. Furthermore, Units 1 – 6 are located so that their building envelope is maximised to the applicable recession plane with the southern boundary of 495-501 Childers Road. The

remaining building envelopes of these Units (i.e. between one another) are also notably maximised to the applicable recession planes.

112. Units 7 and 8 comply.
113. The Applicant has stated "*Given that the infringements are internal to the site and compliance can be achieved with the external site boundaries, adverse shading, privacy and dominance effects on adjacent sites will be avoided.*"⁹ The Applicant has thus not considered future residents of the site, only adjacent properties.
114. The TRMP contains no maximum height limit for the General Residential zone. However, the TRMP relies upon its recession planes rules to address potential shading effects on adjacent properties, caused by dwelling height and/or boundary proximity. As well as shading effects, the recession plane rules also protect privacy. Together, these aspects contribute to amenity. These recession planes protect access to daylight and privacy (amenity) by requiring taller structures to be progressively set back from boundaries.
115. While the proposal complies with recession plane requirements on external boundaries, I do not consider this mitigates the scale or bulk visual effects generated from the above internal infringements. Only a compliant proposal – compliant with recession planes to **all** boundaries, with a compliant number of units and with compliant site sizes – would manage potential effects which could be generated from overly tall or bulky buildings – on both internal and adjacent properties. I consider these infringements create restriction on access to daylight and privacy for the proposed dwellings and their associated outdoor areas for internal residents, and scale and bulk amenity concerns for adjacent sites.
116. The Applicant has stated that "*the proposal does not result in unreasonable overlooking of boundaries.*"¹⁰ I disagree with this as the reduced yard setbacks and breached recession planes mean rooms do overlook into the shared JOAL, especially from upper stories into other property windows and outdoor areas, as demonstrated by the below elevation plans in Figures 1 and 2.
117. As noted earlier, the Applicant has reasoned the provision of 'relatively' compliant (i.e. not compliant, with regards to recession planes) two-storied dwellings mitigates the effects of site sizes which are less than 50% of the required minimum.
118. However the infringed recession planes reduce privacy and amenity for users in the manner an individual access would. This would be most notably felt by residents of Units 7 and 8 (single-storied), considering the substantial infringements on the JOAL (1.1m and 2.6m heights) caused by opposite Units 5 and 6 (double-storied).
119. Further effects on shading and access to sunlight are discussed below in section 5.2.6.

⁹ Application, p.32

¹⁰ Application, p.44

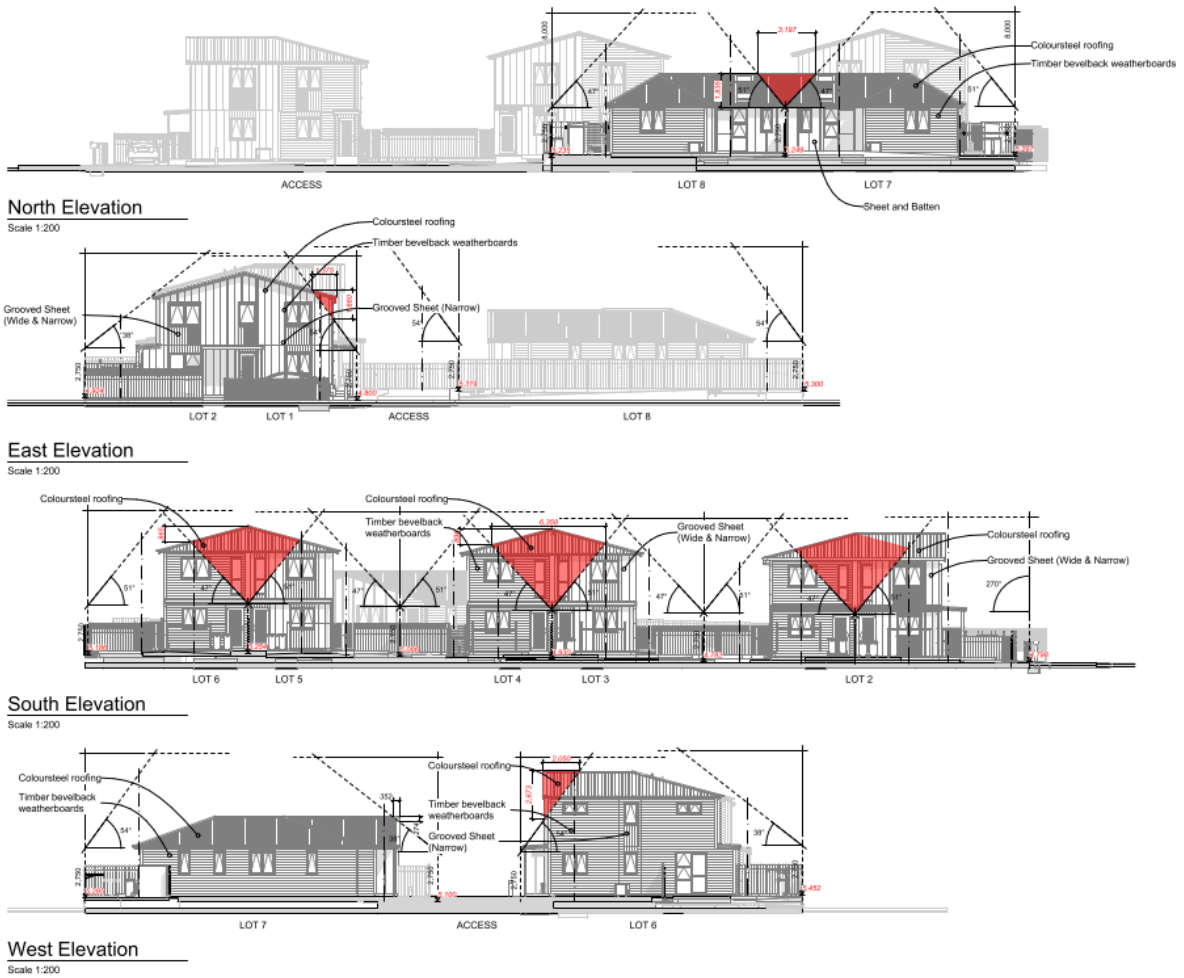


Figure 1. Elevations; red indicates height recession plane infringements on boundaries. Some are duplex boundaries and so not applicable. Yard infringements not shown.



Figure 2. Elevations; red indicates height recession plane infringements on boundaries. Some are duplex boundaries and so not applicable. Yard infringements not shown.

Site Coverage

120. Site coverage in terms of buildings and structures is limited to a maximum of 35%. Per DD1.6.1(2), this is typically required to be of a Net Area, which as defined by the TRMP 'is the area of a site excluding any access strip used to obtain access to a rear site'. This therefore cannot include the JOAL or carparks within the JOAL.
121. DD1.6.1(2) also provides that where a site within a residential zone abuts an access strip or right of way to an adjoining rear site, a portion of the area of that access strip may be added to the area of that site for the purpose of assessing the site coverage.
122. The restriction of site coverage is to limit the effects of impervious surfaces as well as provide for open space and amenity for residents. A dense development also affects residents due to increased noise and less space able to provide for natural vegetation, which provides softening features.
123. The site is currently occupied by one older, single-storey dwelling and accessory building. Together these buildings occupy 26.5% of the total site area. The nearby surrounding area comprises residential dwellings on lots that range in size from 500m² to 1100m² (all zoned General Residential). These residential dwellings are single-storey, excepting 97 Stanley Road which is double-storied, with a recessed top story.
124. Proposed Lots 7 and 8 exceed the maximum site coverage of 35%, at an average of 39.7% coverage.
125. This exceedance on already sub-standard lot sizes, in conjunction with infringements on yards and recessions planes, indicates a dense development with lack of open space for each dwelling.
126. The Applicant has stated that via compliance with external yard, height and height in relation to boundary controls, the overall perceived built dominance of the site is reduced.¹¹
127. The Applicant has stated in particular that:
*"Through the compliance achieved with external boundaries by the dwellings and also the open space provided within the centre of the site afforded by the parking and manoeuvring areas, the development will retain a sense of spaciousness when viewed from the surrounding area."*¹²
128. I disagree with this assessment. Spacious means vast or ample in extent, or roomy. My assessment of the site in its current form is that its open space is vast or ample (refer Images in Appendix 1), and therefore the site is spacious. If the proposed eight units were constructed – six being two-storied – with multiple reduced internal yard distances and exceedances in site coverage, I conclude that the site would cease to have a spacious feel. A hard-sealed parking and manoeuvring area offers no mitigation of such to residents and to a lesser extent, viewers in the surrounding area. Additionally, it does not add to a sense of open space given that it is proposed to be hard-surfaced and therefore would visually have the appearance of being 'developed'. A lack of

¹¹ Application, p.33

¹² Ibid.

sufficient landscape (as a means to mitigate this effect) is discussed further in 5.2.7 of this report.

129. Conversely, the “open space provided within the centre of the site afforded by the parking and manoeuvring areas” referenced above, may not be easily visible to viewers in the surrounding area as the scale of Units 1 and 2 are likely to be more dominant.

Submissions – Scale and bulk

130. All three submitters outlined their concern for the inappropriate scale and bulk of the proposal. Some excerpts are:

- *“The development is inappropriate in its scale and density for the surrounding environment. As identified by the processing planner, this represents a “high density” development with each section being less than 150m² and is totally out of character with the existing urban environment and well below the TRMP minimum site size for the general residential zone. There is no policy provision for “high density” housing developments of this type in the inner-city area of Gisborne, let alone in the outer suburbs such as Te Hapara.*

“I disagree with the applicant’s assessment of the permitted baseline assuming that if the site were subdivided down to the minimum lot sizes currently permitted under the TRMP then 6-8 dwellings could be constructed due to each lot being able to host a minor dwelling along with a main dwelling. I contest that 400m² (or 320m² for duplex dwellings) is too small to reasonably facilitate a minor dwelling in addition to a main dwelling and this argument is neither realistic nor feasible.” (Submitter 1)

- *“Being a 244 Stout Street homeowner, facing the privacy issues of two story buildings. Very uncomfortable to stay as a neighbour especially those having teenage kids. High density housing development is forced upon adjoining home owners, this is very unwelcome.” (Submitter 2 with regard to effect from a similar development at 240-242 Stout Street)*
- *“Notwithstanding the infill housing of later years, site areas of 128m² or any that approach this truncated size are not to be found in the nearby neighbourhood or as far afield as several blocks away regardless of whether they support standalone or some combination of conjoined dwellings. The proposed site areas are incompatible with the intended neighbourhood.*
- *“The Applicant intends to build what is an extremely dense style of housing that will be quite foreign to not just nearby neighbourhoods but to nearly all the rest of the city. But by Gisborne standards in particular, the housing density well exceeds what may be considered to be medium-density housing and as such is not permitted and has no place in Te Hapara or anywhere else in our city.” (Submitter 3)*

5.2.4 Privacy

131. Concerns on privacy was specifically identified in two of three opposing submissions; a concern for loss of privacy for neighbouring sites as well as internal residents. Principally the concerns on loss of privacy were in regard to the double-storied nature of the developments, but additionally the concerns were also in regard to the density of the development:

“The predominance of two storey construction on a relatively small site ensures that outdoor activity on the part of other residents and immediate offsite neighbours will be anything but private.” (Submitter 3)

132. To clarify with regards to Submitter 2, the TRMP does not prevent the construction of multi-storied dwellings. Dwellings of two storeys and more can be constructed as permitted, in instances where the remaining General Standards can be achieved.
133. Other development in the locality is predominantly single-story detached residential dwellings.
134. I am unable to calculate or identify a specific loss of privacy on neighbouring sites from the double-storied proposals, as the dwellings do comply with setbacks and recession planes with those shared boundaries, and therefore the TRMP permits some ability for double-storied windows to view into their properties. However, I do share a concern with the submitters that the sheer number of inhabitants, which is approximately twice a reasonable permitted baseline, will perceivably have an effect on privacy both for the submitters, and the inhabitants themselves.
135. While I accept that the TRMP may not have a rule or other provision specifically named 'privacy', I consider that privacy is clearly identified as a consideration of the TRMP in Policy DD1.4.2.5, and is my view clearly linked to Objective DD1.4 relating to amenity. In my opinion Issues DD1.2.1-3 and the identified Principal Reasons, when taken together give further clarity on the TRMPs intent. Objectives DD1.3.1, DD1.3.2 and associated Policies DD1.4.1.1 and DD1.4.2.5 are in my view clearly relevant when considering impacts on privacy from infringements on rules relating to not only setbacks, but also recession planes and the density of development.
136. The Application assesses privacy effects in the following:
*"Given that the infringements are internal to the site and compliance can be achieved with the external site boundaries, adverse shading, privacy and dominance effects on adjacent sites will be avoided."*¹³
137. I have noted above in section 5.1 that only a compliant proposal – compliant with recession planes to boundaries, with number of units and with site coverage – would manage potential privacy effects which could be generated from overly tall or bulky buildings (i.e double-storied). I also consider there is little to no assessment on internal privacy offered to future inhabitants.
138. Landscape planting and fencing at ground floor level may adequately mitigate potential impacts on visual privacy for adjoining neighbours from proposed ground floor units in the development, but I do not concur that this offers mitigation on lack of acoustic privacy.
139. Furthermore, considering the internal infringements on recession planes and yard setbacks, in my opinion the proposal (fencing, and some landscaping discussed above) does not adequately endeavour to mitigate the potential adverse effects from upper storey apartments on the privacy of the adjoining dwellings and their outdoor living spaces.

5.2.5 Noise

140. Effect on noise was raised in 1 submission, with concerns regarding noise effect both from increased persons on site as well as increased vehicle traffic.

¹³ Application, p.32

141. The submission identified concerns that additional noise from the scale of development will adversely affect the development and adjacent properties. I note that as with privacy, Objectives such as DD.1.3.2.1 and Policies DD1.4.1.1, DD1.4.2.2, and DD1.4.2.3 all relate to the TRMPs intent to protect against noise effects from development.
142. The Application made no assessment of the likelihood of effect on amenity values from noise, other than to state the short-term construction of the dwellings would require with TRMP requirements. I agree that it is reasonable to expect the operational or construction noise will comply with the provisions of the TRMP and that imposition of conditions (i.e. hours, noise) and regular monitoring can ensure this is achieved.
143. However, the intensity of development may result in a greater number of people resident, and a *perceived* increase in the frequency, intensity and duration of activities on the site than would otherwise be *anticipated* to occur.
144. In assessing the potential for noise effects I note that outdoor living areas are situated between the dwellings and external boundaries. While this may offer some mitigation of effect on noise on adjacent properties, I consider it does not offer the same mitigation to future inhabitants as while the internal separation between dwellings is of the minimum distance required, there are more dwellings proposed than the permitted baseline.

5.2.6 Access to Sunlight

145. All of the dwellings are considered to be provided with outdoor service areas in line with the TRMP permitted baseline of 15m² for washing lines and other amenities such as outdoor sheds. Per the General Standards, these are separate in the total area provided for outdoor living area.
146. The Applicant has stated: "*private outdoor spaces are oriented to the east, west or north of the dwellings so as to maximize sunlight year round*".¹⁴
147. However, I cannot yet conclude that these outdoor service and outdoor living areas will offer sufficient privacy or sunlight, when considering the above effects of reduced site sizes, yards and breached recession planes, and the dwellings positioned against one another within the minimum building envelope available to them. I consider that without a solar / shading model, a conclusion in agreement or opposition cannot be determined.

Submissions – Access to sunlight

148. Two of three submitters voiced concern to shading:

"The two-story duplex dwellings are to be constructed on the southern boundary of the site. The dwelling on Lot 2 will receive no direct sunlight, except maybe in the early hours of the morning in summer. The main outdoor living areas for Lots 1-6 are predominantly south facing and will therefore receive no direct sunlight." (Submitter 1)
"The high sunshine hours which Gisborne is noted for will irradiate the open yard spaces of Lots 1-6 for but a brief period each day and only at the height of summer when the

¹⁴ S92 Response by Applicant (Design Response to the Hastings Residential Intensification Design Guide), p.6

sun is to the north and able to shine down the corridor between the buildings from an elevation that prevents the nearby internal and/or external fencing from getting in the way. Lots 7 and 8 will benefit from the sun for longer hours during the summer because the open yard spaces face north.

At such times however, the hard concrete surfaces will become unpleasantly hot and areas to avoid, radiating the heat they have absorbed well into the evening.

During the rest of the year and particularly in colder months, the nearby internal and external fencing will cast varying lengths of shadow over all the yard spaces, ensuring that during these periods, they will be cold, damp and uninviting places in which to sit or relax, and in respect to Lots 1-6, more akin to living in an alleyway.

"In summer, the hard surfaces will not only be visually and physically uncompromising, but on sunny days, they will exacerbate the heating effect by absorbing and continuing to radiate the sun's energy well into evening. In winter when the sun is lower in the sky, the buildings and internal fencing will ensure that outdoor living spaces adjacent to the dwellings will be cold, uninviting and damp." (Submitter 3)

149. As above, I cannot conclude that these outdoor service and outdoor living areas will offer sufficient privacy or sunlight, when considering the above effects of reduced site sizes, yards and breached recession planes. A modelled solar/shading study would be necessary to draw a conclusion.

5.2.7 Landscaping

150. The Applicant has submitted a landscaping plan showing <20% of the site will be planted in various species. This is 200m² of 'grass and planting' in area, compared to over 750m² (48%) impervious surface area and 530m² (or ~35%) total building coverage. I also note approximately 60% of each Lot's outdoor living area is proposed to be of a hard surface ('patio').



Figure 3. Snip of proposed 24% site coverage landscaping.

151. The Applicant asserts "*The proposal has included a high level of landscaping (including specimen trees and lower growing ground cover plants) to ensure that the presence of buildings does not predominate the site.*"¹⁵
152. I agree with the Applicant that the intent of landscaping is to integrate the development into the site and/or soften the appearance of the built environment and to assist on maintaining or improving visual amenity. ¹⁶ In some instances, this requires an integration of larger tree species with smaller growing species.
153. The Applicant submitted a revised landscaping design, reducing the number of proposed species which are small 'underplanting' shrubs or compact hedging and increasing the number of specimen trees and species which will reach more than 750mm height at maturity (12 of 19 species).
154. The landscaping within Lot 1 (along the road frontage) contains a varied hedge and two Ornamental Pear trees which will reach 6m at maturity. This will soften the appearance of the southern boundary of the development, when viewed east from Stanley Road.
155. The landscaping area between the JOAL and the Lot 7 and 8 dwellings (approximately 6m² each) both contain a specimen tree which will reach at 4m height at maturity. This will soften the north-western appearance of the hard-surfaced JOAL when viewed within the site boundaries.
156. The remainder of planting within the JOAL will not assist to mitigate the effects of combined impervious surface area and dense building coverage. This is because the species proposed along the JOAL and sparsely in front of the remaining dwelling units are primarily small, low growing species; and the planting bed widths are in most instances very narrow, which potentially would not facilitate larger growing species to thrive. A wider bed depth provides greater opportunity for variation and better visual integration of the planting to offset the scale of development. I therefore cannot consider the remaining landscaping assists to 'soften' the impervious area and two-storied nature (bulk and scale) of the development.
157. In addition, the majority of the amenity to external viewers (e.g. passersby to the site) is of the sealed JOAL, the individual sealed carparks within each Lot and the dwellings. The remaining landscaping for each Lot is behind closed fences.
158. Overall, I do not consider the proposed landscaping will assist to mitigate the visual effects of combined impervious surface area and dense building coverage.
159. Within the neighbourhood of the site, there is a mix of street boundary treatments consisting of landscaping, variable fencing heights and styles, and open yards. Landscaping within front yards is varied, and rear yards generally contain outbuildings of varying size and more extensive plantings. The application asserts that the proposed units will not dominate the streetscape in a manner that reduces the amenity of the wider environment. Further to this, the Applicant considers that landscaping of the front yard with shrubs will have a notable softening effect on the buildings when viewed from

¹⁵ Application, p.32

¹⁶ Ibid., p.33

the street and will contribute significantly to streetscape amenity as well as onsite amenity for residents.

160. I am unable to agree with the Applicant's assessment. The intent of the landscaping is not to completely screen visibility of the buildings however, landscaping should provide a reasonable level of amenity against the bulk and density of the development, not just when viewed from sites external to the property. I do not believe that this can be achieved in a manner which offsets the hard-surface bulk and scale of development nor will the landscaping achieve a similar level of amenity to the present landscaping experienced in the wider environment of Stanley Road and the General Residential zone.

5.2.8 Mitigation of Effects

161. There are instances where high-density may be appropriate, such as adjoining a public reserve or with *walking* proximity to amenity reserves or to social infrastructure. Public and communal open space, if well-designed, can add significant benefits and value to a residential development. Open space can provide an opportunity to enhance the character of a site and helps neighbourhoods to absorb additional density. Controls on outdoor living and co-location with public or communal open spaces and reserves ensure residents have access to sufficient private green space as well as *walking* access to local neighbourhood recreational opportunities.¹⁷

162. The site does not adjoin a public reserve.

163. I have undertaken a proximity assessment in relation to public parks and reserves, as well as nearby schools. The following are walking or driving route distances:

- Gisborne Boys' High School – 100m
- Gisborne Boys' High Rugby Field – 180m
- Gisborne Boys' High Rectory Field – 450m
- Oval Reserve – 340m
- Childers Road Netball Courts – 430m
- Centennial Crescent Park – 500m
- Gisborne Intermediate School – 550m

164. I note both pedestrians and vehicle users are required to cross a main road or intersection to access the Oval Reserve (no playground equipment), Netball Courts and Centennial Crescent Park. While a walking distance of 180m to the closest local 'open' space (rugby field) may be considered to be reasonable walking access to public or communal recreational space, I note that all of the above are sports fields without amenity planting, shelter, tables or seating, and no playground equipment. I consider there are no other public amenity reserves within a reasonable walking distance to the site.

165. The above distances and the image below shows the site location is inappropriate for the effects of high-density are not mitigated by proximity to neighbourhood reserves or recreation areas.

¹⁷ Hastings Residential Intensification Design Guide, p.17, p.38 and p.42

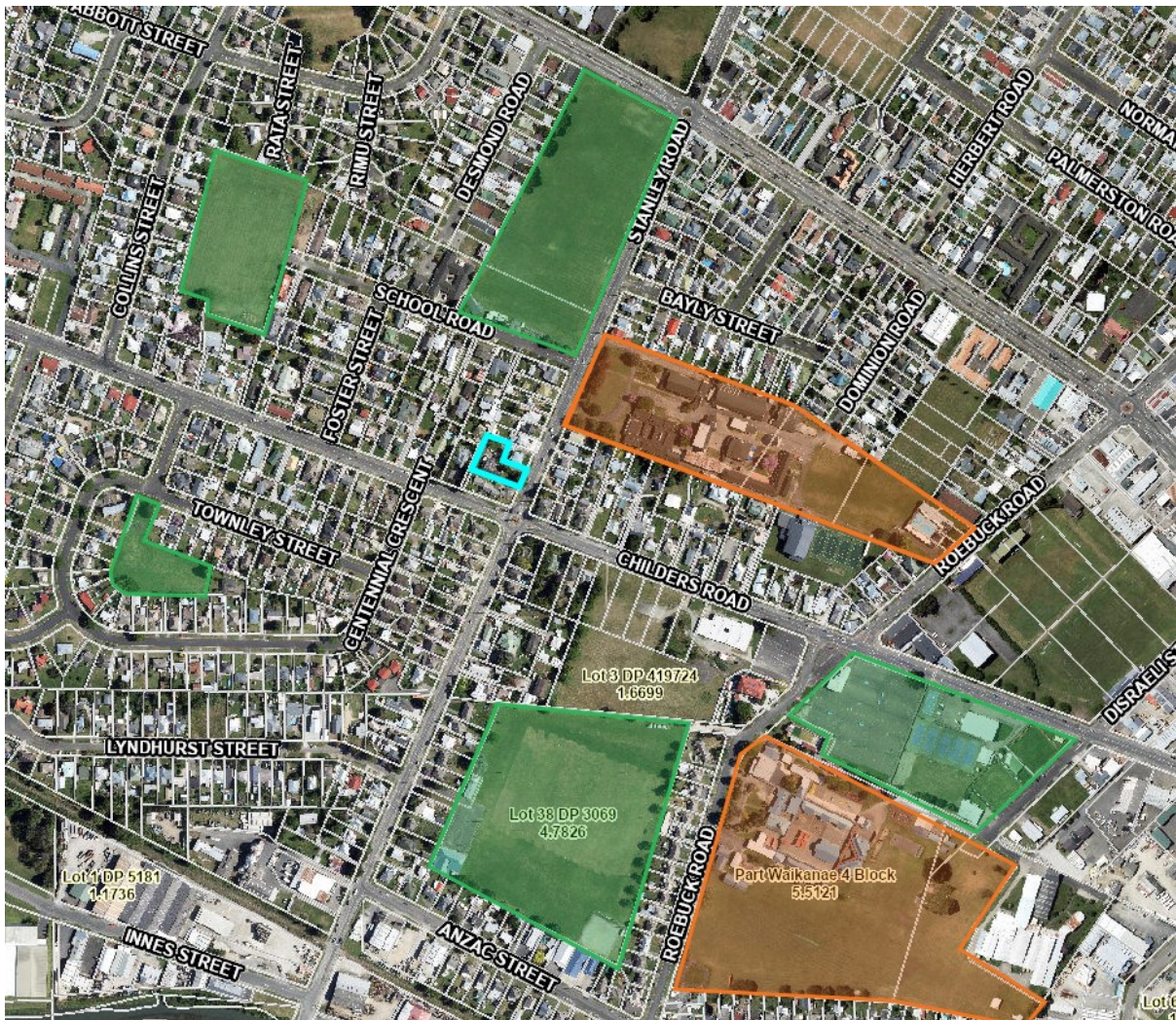


Figure 4. Site (blue boundaries) in proximity to public reserves (green) and public schools (orange).

5.2.9 Infrastructure, Works and Services

166. The Applicant has supplied a servicing proposal of which water, wastewater and stormwater connection to Council's reticulated services has been accepted. The Applicant's Geotechnical design has also been accepted. However, the Applicant's traffic proposal has not been accepted as having less than minor effect on the environment (adjacent properties and other road users) nor as having less than minor effect on future residents themselves. This is discussed below.

Traffic – carparking demand

167. The National Policy Statement for Urban Development 2020 (NPS-UD) directs the TRMP to be amended to remove the set minimum carparking rate requirements, other than for accessible car parks.

168. The TRMP has given effect to the NPS-UD in that it no longer specifies a minimum number of carparks for developments. While 'planning decisions' is defined in the NPS-UD as including a decision on a resource consent, the Environment Court has held that the NPS-UD requires a planning response by councils but not in relation to each individual consent application "in the meantime".¹⁸ Therefore, the effect from not providing a certain number of carparks may still be assessed.

¹⁸ Drive Holdings Limited v Auckland Council [2021] NZEnvC 129 at paragraph [23]

169. Council is still able to consider car parking and traffic effects for any resource consents with a discretionary or non-complying activity status, irrespective of whether the minimum car parking requirements have been removed from the TRMP. Part of the purpose of the NPS-UD removal of minimum car parking requirements is to enable development to be undertaken *relative to the demand it generates*. As such, there is still onus on the developers to demonstrate that adverse effects will not be generated by the lack of car parking availability.
170. Council's Development Engineer has assessed the proposed parking and manoeuvring plan. The plans submitted are understood by Council to create an overflow of parking demand onto Stanley Road by **three** vehicles (based on an average 1.4 vehicles required for every 65m²). This reduces the length of visibility along Stanley Road for vehicles exiting the site if parking occurs within the sealed shoulder, close to the vehicle crossing.
171. Therefore, Council's Development Engineer has commented the following regarding the implications on the public road:
- "The site density for the development has resulted in a lack of space to accommodate the expected parking demand by 3-4 vehicles.*
- The unmet parking demand will result in kerb side parking on Stanley Rd on either side of the vehicle crossing, which reduces the sight distance to the traffic lanes to below TRMP requirements. Traffic exiting the nearby Childers Rd roundabout will struggle to see a car on the vehicle crossing if utes or SUVs are parked on the roadside."*
172. This is especially important considering the proximity to the Childers Road intersection (38m south). As Stanley Road has a Principal Road status under the TRMP, General Standard C2.1.7(H)(2) requires all **new** vehicle crossing /accessways to be designed, located and developed to ensure sight lines are established and maintained with no obstructions, whether temporary or permanent.
173. Although the location of the vehicle crossing and its distance to the intersection is existing and therefore not 'new', it is considered the increased usage of the crossing (as a result of the proposal) is new. The crossing has increased from one user to eight, and therefore I consider the General Standards under C2.1.7(H)(2) applicable. I do not consider existing use rights apply under s10(1) RMA, to the change in effect from the new, increased use.
174. During the consent process the Applicant submitted revised plans showing recessed parking on Stanley Road. This recessed parking was proposed as a means to resolve the above issues.
175. However, any measures to reduce the traffic effects, by relocating car parking adjacent to the driveway, recessed in the public road berm, cannot be accepted as this would be outside the boundary of the private development. The Council cannot accept such a mitigation measure for effects created by the proposed development, as any applicable consent conditions would be outside the control of the Applicant as consent holder and would not be able to be enforced against the third party landowner (in this case the Council).

176. As the local road controlling authority, the Council has obligations in relation to roading under the Local Government Act 1974 and 2002. If consent conditions were imposed to require the construction of carparking spaces within the road reserve berm so as to mitigate any parking overspill generated by the proposal, there would be no obligation by Council to retain the recessed parking in perpetuity. If the recessed parking were ever removed (say for road widening, beautification or a new cycleway etc.), this would remove the mitigation measure and fail to address the adverse traffic effects created by the carparking demand generated by the development.
177. Per s31 RMA, a district plan enables a territorial authority to, among other matters, prevent or mitigate adverse effects of development, subdivision or use of the district's land and has been developed through the democratic process set out in the RMA to do so per s73 and Schedule 1 RMA. The Council is under duty to ensure that the plan is upheld and while a person may apply to Council for resource consent to depart from the district plan rules, the Council cannot offer to accommodate the effects of a proposed private development within the adjoining road reserve.
178. In addition, the replacement of currently grassed berm for the creation of sealed carparking could reduce the current sense of open space at the front boundary streetscape. This has potential visual amenity effects for neighbours, passers-by and future residents of the site.
179. During the consent process the Applicant submitted revised plans showing the use of double-yellow lines on Stanley Road. This was proposed as a means to prevent the overflow of cars parking either side of the vehicle access and preventing obstruction to sight lines.
180. I note the NPS-UD requires Councils to respond to changes in demand by enabling denser housing in the walkable distances in areas such as around city centres and rapid transit stops. The abolition of car parking requirements (except for accessible parking) acknowledges that people do not necessarily need to own or use a car to access jobs, services, or amenities.
181. The site is serviced by a public bus route which transits between the western suburbs, the Hospital and the city centre. This works some way to mitigate the effect of the lack of parking. The closest to-town bus stop is 250m east of the site along Childers Road, with the closest from-town bus stop 110m west along Childers Road. This may be within reasonable walking distance for residents of 99A Stanley.
182. However, this option is limited in that neither route extends beyond the urban fringes of the town, and the buses run between the hours of 7am – 5pm only.
183. I reiterate that the NPS-UD requires a planning response by councils; not in relation to each individual consent application but rather *“Tier 1, 2, and 3 local authorities are strongly encouraged to manage effects associated with the supply and demand of car parking through comprehensive parking management plans”*.¹⁹ The role of local authority spatial planning remains to identify appropriate sites for intensification, associated lack of carparking and creation of parking management plans. The

¹⁹ Policy 11 National Policy Statement on Urban Development 2020

directive by the NPS-UD was never intended for developers to be able to locate intensification 'simply anywhere' and discount the effect of reduced carparking.

Traffic – width of accessway

184. Under the TRMP and Engineering Code of Practice, Council has set physical widths for shared vehicle accessways which allows for 2-way traffic to avoid conflict. As the number of dwelling units sharing an access in a development increases, the number of vehicles using the access increases, and the probability of conflict increases, wherein vehicles must wait for an oncoming vehicle, or themselves reverse along the access and/or back onto the road. In addition, when a vehicle turns into the access from the street and meets a vehicle exiting the site, the risk increases for conflict with traffic on the road through vehicles reversing out into the traffic lane and/or driving over kerbs or footpaths.
185. Council's Development Engineer has noted the Applicant has used the minimum standards available to comply with the TRMP and Engineering Code of Practice, but that it is unclear what standard of vehicle is used in the tracking curves provided, and what side clearance is provided for the vehicle swept paths. The Development Engineer also notes the use of the minimum width standards and with no additional space for turning while manoeuvring into and out of parking spaces, results in vehicles driving over the footpath to pass waiting vehicles, which is a risk from vehicles to young persons and differently abled persons using the footpath. The Development Engineer has suggested in this instance, an 'unmarked' footpath would reduce the safety risk.
186. Therefore, while Council has concerns about the standard of vehicle used in the tracking curves as above, I again note the vehicle crossing complies with the minimum General Standards under the TRMP with regards to width of access.

Traffic - Submissions

187. All three submissions voiced concern to the effect of traffic generation. The theme of these submissions was that the effect of the traffic generation was too great for the site, and would spill externally and not be contained to the site boundaries. Concern was raised in particular to reducing visibility to the nearby intersection with Childers Road, and with potential safety effect from the high-volume nature of the traffic accessing nearby schools and using the route as a main access to the central business district. For example:

"The site is located on a principal road, approximately 20m from a major intersection (roundabout) with another principal road and approximately 70m from a large school, with 2 other major schools being within a 500m radius. The combined roll of these 3 schools is approximately 2000 students. Traffic in this location reaches gridlock levels at peak rush hours around school pick-up and drop off on most days and there is a very high level of pedestrian traffic from all 3 schools.

"It is impossible to see oncoming traffic from all directions from the proposed driveway locations due to the nature of the Childers Rd/Stanley Road roundabout.

"With the provision of only one car park per duplex dwelling unit and no provision at all for visitor parking there will almost certainly be a number of vehicles belonging either to residents or their visitors being parked on the road, presenting an additional hazard particularly at these peak traffic times.

"I would argue that the sheer volume of traffic at this location at peak times is fairly unique for Gisborne" (Submitter 1).

188. Council's Development Engineer has agreed the traffic volumes at the site are busy and congested at peak times, noting the proximity to the Central Business District, nearby high schools, the industrial area and State Highway 35:

"Proximity to Childers Rd roundabout 40 m – queuing and exiting traffic at busy times will cause congestion in the area, and limit access to/from the site. Traffic peaks occur at the start and end of the school day and start and end of the workday plus lunch hour. Stanley Rd is a major link to the industrial area and SH35 Awapuni Rd."

189. Considering the density concerns of the proposal and the potential for carparking overflow beyond the site boundaries, in combination with the unique factor of the site location I am unable to conclude the proposed property access for the density of the development has been designed according to the environment context and surrounding land uses in accordance with C2.1.7.1(H2).

Servicing

190. The site is located within the Reticulated Services Boundary therefore must connect to Council services.
191. The Applicant has supplied a servicing proposal of which water, wastewater and stormwater connection to Council's reticulated services has been accepted by the various Council departments, subject to specific conditions of consent.
192. Provision of reticulated infrastructure is therefore considered to comply with the TRMP servicing requirements and can be deemed appropriate for the development.
193. The stormwater servicing proposal includes attenuation devices, to avoid creating or exacerbating flooding of land upstream or downstream of the discharge up to the 10-year rainfall event, and no exacerbation of flooding of dwellings up to the 100-year rainfall event.
194. Council has accepted the proposed stormwater servicing plan which calculates stormwater attenuation and discharge to the reticulated network, to ensure post-development stormwater runoff levels remain the same as pre-development. The design uses attenuation tanks, permeable paving within the JOAL, a First Defender (contaminant reduction device) and a Rainsmart soakage device, before discharging to the kerb.
195. The Rainsmart tanks proposed for the development perform a critical function in stormwater mitigation for the site, and so Council requires high confidence that the system will operate as required. Therefore, Council will require additional soil and water table testing to confirm the final design of the Rainsmart system (which is able to be confirmed with Council during Building Consent stage). The additional testing and design detail is required on account of inconsistencies between soil auger tests provided in the application, where the soakage is close to the groundwater table. An increased size of Rainsmart system may therefore be required, but there is sufficient space within the development to accommodate this.

196. However, provided the Rainsmart system is appropriately sized, Council has confidence that the overall stormwater mitigation proposal will ensure flooding is not exacerbated up to the 10-year rainfall event, and no exacerbation of flooding of dwellings up to the 100-year rainfall event.
197. In addition, if consent is granted, Council would require the provision of engineering Producer Statement 4 (construction review). Producer statements give authorities confidence that building work will be or has been constructed to meet the Building Code and approved consent requirements.
198. The maintenance responsibility of the First Defender and Rainsmart systems would be shared across the part-owners of the JOAL. If consent is granted, Council would impose a condition of consent (through consent notices imposed per s221 RMA) requiring the part-owners to submit proof of regular maintenance and continued performance of the systems (in line with TP10 / GD01 standards) or alternately proof of 5-yearly maintenance, sent to GDC consents manager.
199. Similarly, the ongoing performance of the permeable paving is critical to mitigating downstream flooding effects. As above, a necessary consent condition would be to submit proof of continued maintenance (e.g. hydrovac) and performance of the permeable paving.

5.2.10 Construction

200. I have considered the potential for noise and dust effects arising from construction. The application states the construction will comply with the TRMP Permitted Activity standards (e.g. noise, timing). Council often also imposes a condition requiring contractors to provide adjacent properties with contact details; to maintain a complaints register; and to record action taken to address complaints.
201. Considering the flexibility within the TRMP to create short-term and long-term noise and vibration effects associated with construction, I consider the provision of a Site Management Plan would be appropriate, should consent ultimately be granted. The Site Management Plan would identify Construction Dust, Noise and Vibration Plan and be 'certified' by Council's Compliance and Monitoring Team prior to works starting. I find no concern for the construction phase of the development.

5.2.10 Natural Hazards

Geotechnical

202. A geotechnical assessment prepared by Land Development & Engineering Ltd accompanies the application. The assessment makes a number of recommendations with respect to foundation design. Further information was requested regarding lateral spreading assessment but this was eventually deemed satisfactory. The assessment has been reviewed by the Council's Geotechnical Engineer who has recommended the imposition of several conditions, should consent be granted, to address the matters raised in the geotechnical assessment.

5.2.11 Other Considerations

203. Gisborne city has experienced population growth since 2018, and growth exceeded the forecasts prepared for the 2021-2031 Long Term Plan.²⁰ I acknowledge the Ministry of Social Development March 2024 data showing 639 persons on the Gisborne District housing register ('waitlist').²¹ I acknowledge the proposal provides additional housing.

5.2.12 Cultural Effects

204. Possible cultural effect from stormwater discharge to the nearby Statutory Acknowledgement for Rongowhakaata was included in the s95 Notification decision. The site is subject to the Rongowhakaata area of interest (Rongowhakaata Claims Settlement Act 2012). Section 33 of the Rongowhakaata Claims Settlement Act 2012 requires the consent authority (GDC) to have regard to the statutory acknowledgment when making assessments. The Waikanae Creek is 620m south of the site; the Taruheru River is approximately 1km from the site and both are subject to a Statutory Acknowledgement for Rongowhakaata. The waterbodies both receive stormwater from the area. Stormwater discharge is therefore a matter for assessment.

205. At the time of the Notification decision, contaminated land and stormwater discharge effects were not yet resolved. I could therefore not be confident the proposed stormwater discharge would avoid cause erosion of the banks or bed of the watercourses at, or downstream of, the discharge point and therefore the Statutory Acknowledgements.

206. Rongowhakaata Iwi were a Notified party but did not submit. Considering that stormwater matters have since been resolved, and contaminated land matters are likely able to be resolved, I do not consider there to be any effect on the Statutory Acknowledgements.

6.0 SECTION 104(1)(b) – RELEVANT PROVISIONS

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

207. The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) came into effect in January 2012. The NES seeks to manage actual and potential adverse effects of contamination in soil on human health from particular activities that have occurred on the site. The NES includes a Hazardous Activities and Industries List (HAIL) that sets out which activities may have potentially contaminated the soil. The NES applies when a person wants to undertake an activity described in subclauses 5(2) to 5(6) on a piece of land described in subclause 5(7) or 5(8).

208. Analysis of soils tested for heavy metal contaminants has determined that ten test locations have returned elevated levels of lead and one sample with elevated levels of arsenic. Remediation of the soil prior to construction is therefore required.

209. Disturbance of soil is an activity described by regulation 5(4) and subdivision is an activity described by regulation 5(5). The subdivision and land disturbance activities are not provided for as permitted or controlled activities. This is because the Detailed

²⁰ 2024-2027 Three Year Plan Te Rautaki Hanganga Infrastructure Strategy, p.27

²¹ [Ministry of Social Development Housing Register](#)

Site Investigation states that the soil contamination exceeds the applicable soil contaminant standards.

210. At the time of writing this decision, contaminated land matters were still unresolved. Further detail was provided throughout the processing of the application. An options assessment, to remediate the soil, was provided by the Applicant in the revised information submitted in response to the s92 RMA, and included proposed disposal to landfill and/or soil mixing onsite and/or soil encapsulation.
211. Council has relied on a technical assessment from Dr. Dave Bull of HAIL Environmental Ltd with regards to contamination. Dr. Bull identified:
- e. There was insufficient leaching assessment undertaken, to be able to determine landfill disposal as acceptable;
 - f. Further assessment on presence of asbestos is required;
 - g. Further detail on the volume of soil to be disturbed (through geotechnical earthworks for building platforms and for contaminated soil removal) is required;
 - h. The Applicant provided insufficient assessment of soil mixing methodology and calculations of predicted concentrations.
212. The Applicant was informed of the above comments from Dr Bull prior to the notification decision (29th May 2024) and again on 24th July 2024. On the 13th August 2024, the Applicant wrote to inform me they would undertake Toxicity Characteristic Leaching Procedure testing (leaching assessment above) but the remaining aspects were not discussed. At the time of writing this s42A report, I had not received any further documentation regarding this. While this may be submitted in the Applicant's pre-hearing evidence, at the time of writing, I cannot conclude that contaminated land matters under the NES-CS have been resolved.
213. However, remediation of contaminated land, when confirmed as feasible and undertaken appropriately in accordance with any recommended consent conditions, is likely to have a less than minor effect on the environment. The remediation of contaminated land in an appropriate manner, would be a positive effect of the proposal for Gisborne.

6.2 National Policy Statement on Urban Development 2020

214. The Application makes reference to the National Policy Statement on Urban Development 2020 (NPS-UD). The NPS-UD came into effect on 20 August 2020; it directs councils to remove overly restrictive planning rules that make it more difficult to build homes. It also requires councils to respond to changes in demand by enabling denser housing in the walkable distances in areas such as around city centres and rapid transit stops.
215. Gisborne is classified as a Tier 3 urban environment. While not required, Tier 3 local authorities are strongly encouraged by the NPS-UD to do the things that Tier 1 or 2 local authorities are obliged to do under Parts 2 and 3.
216. The time frames identified for Tier 1 and 2 local authorities are not mandatory for Tier 3 local authorities.

217. There is an assertion within the application that the provisions of the NPS-UD overrule the provisions of the District Plan. However, while the NPS-UD sets policy direction, until such time as a plan change has been notified by Council to give effect to the NPS-UD, any application must be assessed under the operative TRMP General Residential zone rules and standards.
218. The NPS-UD sets policy direction, and while Gisborne District Council may be the early stages of reviewing the TRMP, the NPS-UD has not yet been implemented by new provisions in the TRMP.
219. This is pertinent as the Applicant (in the application and reiterated in subsequent correspondence directly to me) has considered Policy 1, Policy 5 and Policy 6 of the NPS-UD are applicable to the proposal:

Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:

- (a) have or enable a variety of homes that:
 - (i) meet the needs, in terms of type, price, and location, of different households; and*
 - (ii) enable Māori to express their cultural traditions and norms; and National Policy Statement on Urban Development 2020 – updated May 2022 11**
- (b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and*
- (c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport*

Policy 5: Regional policy statements and district plans applying to tier 2 and 3 urban environments enable heights and density of urban form commensurate with the greater of:

- (a) the level of accessibility by existing or planned active or public transport to a range of commercial activities and community services; or*
- (b) relative demand for housing and business use in that location.*

Policy 6: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:

- (a) the planned urban built form anticipated by those RMA planning documents that have given effect to this National Policy Statement*
- (b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:
 - (i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and*
 - (ii) are not, of themselves, an adverse effect**
- (c) the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1)*

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

220. In 2021 the Council prepared a Spatial Plan and began consideration of a Future Development Strategy. Council has now adopted its first Tairāwhiti Future Development Strategy 2024-2054 (FDS), under the NPS-UD. The purpose of the Tairāwhiti FDS is to provide guidance for where the region's housing and business growth happens over the next 30 years. The FDS outlines broad spatial areas that can support growth if infrastructure is upgraded or added over the short, medium and long term. The FDS identifies that a plan change to the TRMP to support intensification will occur within the 'next few years'.
221. While future changes to the TRMP that implement the NPS-UD may result in significant changes in planned urban built form, this has not yet occurred, and a statutory process will need to be followed before such changes can be made operative. It would in my view be premature and inappropriate to anticipate or guess what those changes might be, or to apply Policy 6 as requested in the application.
222. Council is thus required to apply the law and the TRMP as it stands at the time of making its notification and substantive decisions. Any application must be assessed under the operative TRMP General Residential Zone rules and standards.

6.3 Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021

223. The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (RMA-EHS) became law in December 2021. It is designed to increase housing supply in New Zealand's main urban areas by speeding up implementation of the NPS-UD and enabling more medium-density homes through the Medium Density Residential Standards.
224. The RMA-EHS seeks to remove barriers to development to allow for a wider variety of housing in the main urban centres, that being Auckland, Hamilton, Tauranga, Wellington and Christchurch. The Medium Density Residential Standards allow for building up to three homes of up to three storeys on each site in relevant residential zones without needing resource consent. However, the construction and use of four or more residential units that comply with the density standards, or one to three residential units that do not comply with the density standards, needs a resource consent (land-use consent) as a restricted discretionary activity.
225. Gisborne District Council is a Tier 3 Council and is not required to apply the Medium Density Residential Standards. Therefore, while the proposal may comply with a number of the proposed standards, there is no requirement for Council to adopt or accept these, even if there is an acute housing need. As such, the RMA-EHS is not relevant for urban intensification in the Gisborne context. In addition, in my opinion, the nature of what the Applicant proposes constitutes high density, not medium density, as 6 of 8 lots are more intensive than the high density of 150m²/unit, and with the smallest lots both being 127m².

6.4 Tairāwhiti Resource Management Plan

226. I have set out the rules and standards of the Tairāwhiti Resource Management Plan (TRMP) and reasons why consents are required in section 5 of this report. In this section I set out what I consider to be the other relevant provisions of the TRMP, in particular the relevant Issues, Objectives, Policies and Methods. I consider through these that the Plan has set a baseline expectation of the scale, intensity, and form of development on a site of this size and environment, that can be reasonably anticipated within this zone.

6.4.1 General Residential Zone Issues

227. Section DD1 Residential Zones 'Introduction' provides valuable guidance as to the intent of the Residential Zones. The 2nd and 3rd paragraphs state:

"This chapter seeks to enable individuals to live and use their lands as they wish, whilst ensuring that the impacts of any activities shall avoid, remedy or mitigate any adverse effect on the environment including surrounding residents and land users.

The rules within the residential chapter endeavour to maximise the freedom of individuals to determine and provide for their physical and social needs whilst ensuring that the residential environment, which is potentially affected by each individual's decisions to meet his or her needs, is preserved and enhanced for the benefit of present and future generations."

228. Amenity and potential conflicts related to varied housing needs and densities are specifically referenced in the first three Issues, as below.

DD1.2 Issues

1. *Individuals and communities within the district have varied housing needs and aspirations, which may conflict with each other and the sustainable management of resources.*
2. *The location, density and type of buildings, signage, traffic and noise may have adverse environmental effects on the amenity values of residential areas.*
3. *Compromise of the use and enjoyment of individual properties as a consequence of on-site and neighbouring development which may adversely affect amenity values such as access to daylight, openness and peacefulness.*
4. *N/A*
5. *Urban sprawl will reduce the potential productive values of high-quality soils.*
6. *New development which increases the density of settlement within the Gisborne urban area could lead to an overload of the existing service infrastructure – particularly stormwater collection – which presently operates at or near capacity in some areas which may lead to contamination of land and/or waterways.*
7. *Advances in wastewater treatment systems will enable denser settlement in non-reticulated areas and may lead to a loss of the environmental openness and pleasantness that presently characterises such settlements.*
8. *The pattern of development in residential areas may not promote resource efficiency, energy efficiency or a high level of amenity values.*

229. The intent of Gisborne's General Residential zone is clear: housing development must be at a density and located in a way which does not compromise neighbourhood amenity or infrastructure.

6.4.2 Residential Objective and Policies

230. The Objectives and Policies in my view help understand the outcomes sought for the zone in light of the Issues above. This gives context to the assessment of effects and my assessment pursuant to sections 104 and 104B RMA. The Objectives and Policies rely on a strong theme of protection of amenity values, avoiding adverse effects on adjoining properties and maintaining a cohesive residential character.

DD1.3.1 Residential Styles Objective

1. Enable a diversity of residential styles based on the differing characteristics of areas within the district, and the varied housing needs of the community.

DD1.3.2 Amenity Values Objective

1. Maintain or enhance residential amenity values.

DD1.3.4 Location and Density Objective

1. To enable the community to be mobile, and locate anywhere that does not compromise the capacity of the infrastructure systems to function, the amenity of the residential environment or the highly productive and fertile soils within the region.

DD1.4.1 Residential Styles Policy

1. Provide for flexibility in site development and building design provided that:
 - a) the development integrates the design of residential units and any subdivision of the site;
 - b) the development presents a high standard of on-site and off-site amenity;
 - c) the development avoids, remedies or mitigates any adverse effect on the amenity values of neighbouring sites;
 - d) the development is designed with regard to the character of the area;

DD1.4.2 Amenity Values Policies

1. Manage the adverse effects of activities in residential areas by ensuring that:
 - a) buildings and structures are located so as to avoid, remedy or mitigate any adverse effect on the adjoining properties;
 - b) the scale of the development is appropriate for the site and the location of the site in the street, and will not cause a loss of residential amenity values for surrounding residents;
 - c) the safety and amenity values of the neighbourhood are protected;
 - d) the character and amenity of the residential environment shall be maintained or enhanced and conflicts with adjoining land users avoided, remedied or mitigated.
2. Manage the effects of traffic generated by activities in residential areas by:
 - a) ensuring that adequate on-site vehicle parking and manoeuvring areas are provided for all developments;
 - b) ensuring that the level of traffic potentially generated by the proposal can be accommodated without compromising the safety of traffic and residents on the district's roads;
 - c) ensuring that the provision of on-site parking does not significantly detract from the visual appearance of the property or lessen the quality of outdoor

living environments and, in these situations, consider whether suitable alternative provision for parking can be made;

- d) *giving consideration to the nature of adjacent roads, to ensure that entry, exit and manoeuvring of vehicles onto a public road can be conducted safely from all sites in a residential zone.*
3. *Limit activities in residential areas to those which will not significantly alter the existing background noise level of the surrounding residential area.*
 4. *Preserve access to daylight and privacy for existing dwelling-units on adjoining properties, and for future occupants of any new dwelling-unit by ensuring that:*
 - a) *each dwelling-unit has a private outdoor area orientated to the sun;*
 - b) *buildings or structures are designed and located so as not to cause significant loss of daylight or privacy to adjoining sites.*
 7. *Enable innovative design which reflects the character of the surrounding area by ensuring that:*
 - a) *the scale and design of additions, alterations and new buildings are compatible with the character and amenity, particularly visual amenity, of the site and the surrounding area;*
 - b) *the location, form and scale of new buildings are compatible with that of buildings in the immediate vicinity of the site, and streetscape amenities can be maintained.*

DD1.4.4 Location and Density Policies

1. *New development to be encouraged to areas where the effects on the physical infrastructure and/or life supporting capacity of the district's soils can be avoided, remedied or mitigated.*
 2. *Limit the density of development in urban residential areas according to the ability of the stormwater infrastructure system servicing the site to dispose of the potential run-off generated by the coverage of the site with buildings.*
231. In my opinion it is clear that the TRMP intends to provide some flexibility for residential development, while ensuring that amenity is maintained or even enhanced, and adverse effects are avoided, remedied or mitigated. Amenity and potential conflicts related to varied housing needs and densities are specifically referenced in the first three Issues. The location, scale, density and intensity of buildings and development are specifically identified as relevant to the protection of amenity values. There is an emphasis on ensuring new activities are sensitive to, and compatible with the existing environment, and do not fundamentally change the character of an area.

6.4.3 Methods

232. The description of the Methods in the TRMP also provides some context for density in residential zones. The methods at DD1.5 clarify that the Inner Residential zone is the more appropriate zone for '*denser forms of residential development*'. However, the methods do leave open the possibility of medium-density housing in the General Residential zone if the adverse effects can be avoided, remedied or mitigated.
233. These Methods implement the intent of the TRMP to its Outcomes and Objectives and Policies, and how it responds to identified Issues. An understanding of the Outcomes,

Objectives, Policies, and Issues in my view better informs understanding and context of the TRMPs Methods such as Rules.

234. I consider the TRMP has set a baseline expectation of the scale, intensity, and form of development on a site of this size and environment, that can be reasonably anticipated within this zone.

6.4.4 General Residential Zone Conclusion

235. My interpretation is that the Issues, Objectives, Policies and Methods for the zone are weighted towards protecting the existing amenity and character of an area. The emphasis is on ensuring new activities are sensitive to, and compatible with, the existing environment.

236. Amenity is an important consideration for development at densities higher than anticipated in the TRMP and 'amenity values' refers to environmental characteristics of an area that contribute to the pleasantness and attractiveness of that area as a place to live, work or visit. The amenity values of Gisborne's General Residential zone include a mix of dwelling densities on the 'lower' end of the density scale; open space; established landscaping, gardens and trees; low noise levels, limited traffic generation and other characteristics people usually associate with domestic life. Sufficient privacy and access to sunlight are highly valued.

237. While residential in nature, I consider the density proposed in this application is a 'new activity' to the area and considering the multiple General Standard infringements, notably on bulk and scale, it is one which is not entirely sensitive to or compatible with the existing environment's amenity. The Rules and General Standards provide a guideline as to the level of amenity considered to be appropriate, which the proposal is in disregard of.

238. The Applicant considers the compliance with external site boundaries avoids, remedies or mitigates any adverse effect on the amenity values of adjoining sites.

239. This may be technically correct. However, I consider this a surface-level assessment. The intensity of development will result in a greater number of people resident, and a comparable increase in the frequency, intensity and duration of activities on the site than would otherwise be anticipated to occur.

240. I therefore do not consider compliance with external site boundaries, means a proposal achieves the TRMP Objectives and Policies by default. I consider that the scale of the development and the cumulative effect from multiple infringements of the TRMP General Standards results in a development not consistent with the TRMP Objectives and Policies.

241. While the TRMP does seek in Objective DD1.3.1 to enable '*a diversity of residential styles based on the differing characteristics of areas within the district, and the varied housing needs of the community*' and in Objective DD1.4.1 to '*provide for flexibility in site development and building design*', the TRMP does not intend that this be done without avoiding, remedying or mitigating adverse effects on neighbouring sites.

242. The TRMP does not intend for flexibility in development and design unless developments are designed with regard to the character of the surrounding area; do not fundamentally change that character; and do not compromise the effectiveness of infrastructure. I note the use of "provided that" as a control mechanism; flexibility in site development and building design is provided for in the TRMP, **so long as** the development and design **also** achieves a) – d) of the following:

DD1.4.1 Residential Styles Policy

1. *Provide for flexibility in site development and building design provided that:*
 - a) *the development integrates the design of residential units and any subdivision of the site;*
 - b) *the development presents a high standard of on-site and off-site amenity;*
 - c) *the development avoids, remedies or mitigates any adverse effect on the amenity values of neighbouring sites;*
 - d) *the development is designed with regard to the character of the area;*
 - e) *the cumulative effects of such developments do not fundamentally change the character of the area;*
 - f) *the development does not compromise the effectiveness of urban infrastructure services.*
243. The preservation of the character of the residential area is a clear intent of the TRMP. The scale of the proposed development is significantly greater than would be consistent in much of the General Residential Zone, and the character of development in the vicinity of the site is consistently low-density. Most surrounding sites accommodate single-storey residential developments on sites greater in size than the minimum requirement.
244. Although development of two-stories may be reasonable in the General Residential zone; when considering that the TRMP requires compliance with internal setbacks and recession planes, I conclude it that a development of eight double-storied dwellings on an *undersized site and with multiple internal infringements*, is not compatible with the aforementioned Objectives and Policies.
245. I am also of the view that the proposal as submitted is also not fully consistent with DD1.4.2 given the assessments above on residential amenity values of immediately adjoining properties, particularly related to the location, form and scale of the proposed development, the potential for perceived increase on noise, and the potential for loss of privacy. I therefore conclude the proposal will also not achieve the following:

Amenity Values Policy DD1.4.2(1):

1. *Manage the adverse effects of activities in residential areas by ensuring that:*
 - a) *buildings and structures are located so as to avoid, remedy or mitigate any adverse effect on the adjoining properties;*
 - b) *the scale of the development is appropriate for the site and the location of the site in the street, and will not cause a loss of residential amenity values for surrounding residents;*

- c) *the safety and amenity values of the neighbourhood are protected;*
- d) *the character and amenity of the residential environment shall be maintained or enhanced and conflicts with adjoining land users avoided, remedied or mitigated.*

246. When considering the effects of the unmet carparking demand on traffic safety (clear sight lines) and amenity; the proximity of the high-density development to the Childers Road intersection and with regard to the surrounding land uses, I haven't been able to conclude the proposal will achieve the following provision of *Amenity Values Policy DD1.4.2(2)*:

2. *Manage the effects of traffic generated by activities in residential areas by:*
 - b) *ensuring that the level of traffic potentially generated by the proposal can be accommodated without compromising the safety of traffic and residents on the district's roads;*
 - c) *ensuring that the provision of on-site parking does not significantly detract from the visual appearance of the property or lessen the quality of outdoor living environments and, in these situations, consider whether suitable alternative provision for parking can be made;*
 - d) *giving consideration to the nature of adjacent roads, to ensure that entry, exit and manoeuvring of vehicles onto a public road can be conducted safely from all sites in a residential zone.*

247. I conclude the proposal presents a level of development which has associated internal effects that will not be entirely contained within the site boundaries. I conclude this is an 'issue' at DD1.2 which the TRMP has specifically identified, and through subsequent Methods, Objectives and Policies strongly seeks to avoid.

248. I do not consider the proposed development achieves the intent of Gisborne's General Residential zone.

6.4.5 Infrastructure, Works and Services Issues

249. The provision of works and services for subdivision and development activities is a mechanism whereby the community is provided with the services and facilities that are necessary to provide for and enhance its well-being, health and safety; and the adverse effects on the environment from subdivision and development can be avoided, remedied or mitigated.

250. C2.1.2 *Issues* identifies that inappropriate land use, development and subdivision has the potential to adversely affect the provision and operation of infrastructure, and to adversely effect amenity values and health and safety. Issue C2.1.2(3) articulates that these effects will have long-term social, economic and environmental implications for the community and the environment.

C2.1.2 Issues

1. *Infrastructure provides essential services and is an important physical resource, which enables people and communities to provide for and enhance their environmental, social, cultural and economic well-being.*
2. *The provision and operation of infrastructure has the potential to adversely affect:*

- Amenity values.
 - Natural values.
 - Heritage values.
 - Health and safety.
 - Natural hazards.
3. *The long lifespan of development layouts and the associated infrastructure has long term social, economic and environmental implications for the community and the environment.*
 4. *Additional demand caused by growth and development may place pressure on the capacity of existing infrastructure systems, which are already at capacity in some areas.*
 5. *There are benefits from providing an integrated and co-ordinated approach to the provision of infrastructure.*
 6. *Given the diverse nature of the district it is difficult to prescribe infrastructure and engineering standards that cover all possible development scenarios and aspirations.*
 7. *Network utility operations have technical and operational requirements that constrain their design and location.*
 8. *Inappropriate land use, development and subdivision has the potential to adversely affect the provision and operation of infrastructure.*

6.4.6 Infrastructure, Works and Services Objective and Policies

251. The Objectives focus on providing infrastructure that supports well-being, ensures safety, efficient resource use, compatibility with existing networks, and promotes good urban and low-impact design. The Policies emphasize the balance of ongoing maintenance and provision of infrastructure, with environmentally conscious design.

C2.1.3 Objectives (Infrastructure)

1. *Infrastructure that enables people and communities to provide for and enhance their environmental, social, cultural and economic well-being.*
2. *Infrastructure that is designed, located, constructed, operated and maintained to ensure:*
 - *A safe and healthy environment.*
 - *The efficient use of energy and resources.*
 - *Adverse effects are avoided, remedied or mitigated.*
3. *Infrastructure associated with subdivision, use and development be provided in an integrated and co-ordinated manner to ensure:*
 - *Compatibility with existing infrastructure networks.*
 - *Adequate capacity for the anticipated land use.*
 - *Ongoing management and lifecycle costs are taken into account.*
 - *Unanticipated costs to the community are avoided.*
 - *The requirements of infrastructure providers are taken into account.*
4. *Enable and promote subdivision and development of infrastructure that:*
 - *Allows the implementation of good urban design practice.*
 - *Allows the implementation of low impact design principles.*
 - *Reflects the environmental and social context of the location.*
5. *Efficient and effective provision of network utility operations, including investment in that infrastructure, is not adversely affected by inappropriate land use, development and subdivision activities.*

C2.1.4 Policies

C2.1.4.1 Policies: (Network Utility Operations)

1. Provide for the ongoing operation, maintenance, replacement and upgrading of network utilities and for the future development and operational requirements of new network utilities.
2. Recognise the benefits of efficient network utility infrastructure and, that in order to achieve sustainable management given the technical and physical constraints which may be experienced by network utility operations, including those associated with their scale, location, design and operation, a compromise of the natural and physical environment may occur.
3. To enable the development, maintenance and use of network utility infrastructure (including individually owned and operated systems) in a manner that avoids, as far as practicable, remedies or mitigates any adverse effects on the environment.
4. To enable network utility activities in the road reserve that have minor adverse environmental effects.

C2.1.4.2 Policies (Funding and Provision of Infrastructure)

1. To generally require developers to ensure that appropriate infrastructure will be provided to and within subdivisions and developments so that the service level standards for the proposed activity can be met.
3. To use development contributions as the primary method to provide funding for Council's capital expenditure on water, wastewater, stormwater, land transport and reserve infrastructure related to developments. To also consider, in special circumstances, other funding methods such as financial contributions and special rating areas.
4. To determine financial contributions for water, wastewater, stormwater, land transport infrastructure on a case-by-case basis.
5. To consider other means to address infrastructure issues before imposing any financial contribution for water, wastewater, stormwater, land transport e.g. alternative design or works and service conditions.
10. To ensure the rational and co-ordinated provision of infrastructure to serve the subdivision or development site and, where necessary, the wider area within which the subdivision or development is located, without involving the Council in expenditure or financial responsibility not provided for in its capital works programmes.

C2.1.4.3 Policies (Design and Reticulation of Infrastructure)

1. To ensure the infrastructure associated with subdivision and development is designed and constructed in a manner that promotes:
 - Environmental and community well-being.
 - The efficient use of natural and physical resources.
 - An integrated approach to the provision of works and services.
 - The avoidance, remedying or mitigating of any adverse effects on the environment.
 - Responsiveness to the environmental and social context of the development site.
 - The minimisation of lifecycle costs while recognising the above matters.

C2.1.4.5 Policies (Works and Services)

1. The road reserve provides a range of environmental and community functions that shall be recognised and provided for in an integrated manner, including:
 - The safe and efficient movement of people, goods and services.
 - A corridor for network utility operators and their operations.
 - A space for community interaction and recreation.

- *Amenity, streetscape and character values.*
2. *To ensure that property access occurs in a manner that does not adversely affect the wider functions of the road reserve.*
 3. *To encourage roads and accessways to be designed according to their environment context and surrounding land uses.*

Stormwater

6. *To require stormwater systems to be designed and constructed to:*
 - *Protect people, infrastructure, land and buildings against flooding and nuisance effects.*
 - *Avoid, remedy or mitigate adverse environmental effects – including the pollution, sedimentation and erosion of receiving environments.*
 - *Provide adequate capacity and design standards to service the catchment within which they occur, taking into account foreseeable growth and development.*

Water

7. *To ensure that there is an adequate supply of water in terms of volume and quality for the anticipated land use.*
8. *To promote and encourage the efficient use of water through subdivision and land development activities.*
9. *To ensure new reticulated sites within the Reticulated Services Boundary are provided an adequate supply of water for fire-fighting for the reasonably anticipated land use, in accordance with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ 4509:2008*

Wastewater

10. *To ensure that the treatment and disposal of wastewater is adequate for the anticipated land use and appropriate to the location of the subdivision and/or development.*
11. *To ensure that the treatment and disposal of wastewater is undertaken in a manner that avoids, remedies or mitigates adverse effects on the environment and is consistent with maintaining public health and safety.*

Energy and Telecommunications

12. *To ensure that the supply of energy and telecommunications is reliable and appropriate for the anticipated land use and the particular circumstances of the subdivision or development.*

6.4.7 Infrastructure, Works and Services Conclusion

252. I conclude the proposal achieves the *Design and Reticulation of Infrastructure* policies at C2.1.4.3; and the specific water, wastewater, stormwater and electricity and telecommunications Objectives and Policies of the TRMP.
253. The Works and Services policies at C2.1.4.5 identify Council's intent to ensure that property access occurs in a manner that does not adversely affect the wider functions of the road reserve, and to encourage roads and accessways to be designed according to their environment context and surrounding land uses. I cannot conclude the proposal achieves each of these policies. Considering the potential compromise

on the sight lines, I cannot conclude the proposal achieves the following Works and Services policies at C2.1.4.5 Policies:

1. *The road reserve provides a range of environmental and community functions that shall be recognised and provided for in an integrated manner, including:*
 - *The safe and efficient movement of people, goods and services.*
 - *A corridor for network utility operators and their operations.*
 - *A space for community interaction and recreation.*
 - *Amenity, streetscape and character values.*
2. *To ensure that property access occurs in a manner that does not adversely affect the wider functions of the road reserve.*
3. *To encourage roads and accessways to be designed according to their environment context and surrounding land uses.*

6.4.8 Contaminated Land

254. Contaminated land where hazardous substances occur at concentrations above background levels and where it poses an immediate or long-term hazard to human health or to the environment must be remediated to make the land safe for human use. Any use of or activities on contaminated land, including but not limited to contaminated sites mapped in the TRMP, must comply with the NES-CS.

C5.1 Contaminated Land

C5.1.3 Objectives

1. *Adverse effects of use and development of contaminated land on human health are reduced to acceptable levels or prevented.*
2. *Contaminated land is used and developed in a way that ensures adverse effects on the environment are avoided, remedied or mitigated.*

C5.1.4 Policies

1. *To ensure that contaminated land is utilised in a manner appropriate for the level and type of contamination by relying on guidelines where appropriate, to assist in decision-making with respect to management of the site.*
2. *When assessing applications for resource consents or plan provisions for use or development of known sites containing contaminated land, regard shall be had to the following assessment criteria as appropriate:*
 - a) *the zone provisions of the site and any potential alternative uses for the site consistent with zone providers;*
 - b) *the extent that the proposed activity may increase the risk that the contaminated land poses to the community or the environment including consideration of:*
 - *level, location and type of contaminants, including the toxicity of contaminants;*
 - *whether the activity will establish or increase the means of exposure between the contaminants and the community or environment. Consideration shall include assessment of the extent that activities may exacerbate the likelihood of sensitive natural resources (e.g. groundwater) being exposed to contaminants;*
 - *the sensitivity of humans and the environment exposed (directly or indirectly, such as through bioaccumulation) to the contaminants;*
 - *the extent the activity exacerbates the adverse effects of the contaminant on site or disperses the contaminant off site.*

6.4.9 Contaminated Land Conclusion

255. In accordance with the NES-CS, there is strong direction on the matters that Council shall have regard for in a consent assessment, notably any increased risk to the community or environment from the proposed activity.

256. As above in s6.1 of this report, I cannot conclude that contaminated land matters have been resolved. However, remediation of contaminated land, when confirmed as feasible and undertaken appropriately in accordance with any recommended consent conditions, , would be a positive effect of the proposal for Gisborne and would achieve the Objectives and Policies above.

6.4.10 Subdivision Objectives and Policies

257. The process of subdivision relates to a number of chapters in the TRMP as the process gives rise to land use expectations which can have adverse environmental effects. Therefore, subdivision requires the assessment of the relationship between land use, site areas, dimensions and related standards for buildings and surrounding space, and access onto roads.

C10.1.3 Objectives

1. *To enable subdivision provided that any consequent adverse environmental effects can be avoided, remedied or mitigated.*
2. *Subdivision is consistent with high quality urban environments. Subdivision should encourage a pattern of land use integrated with the provision of infrastructure to:*
 - a) *promote a high level of amenity value, especially in residential and commercial zones.*
 - b) *promote a safe and healthy urban environment.*
 - c) *encourage resource and energy efficiency.*
 - d) *avoid, remedy or mitigate adverse effects on the environment.*

C10.1.4 Policies

1. *When considering whether to grant consent or impose conditions in respect of any subdivision the Council shall have regard to the relevant policy contained in C2, C4, C7, C8, C9 as well as any relevant zone policy in addition to the following:*
 - *Network Utility Infrastructure*
the potential adverse effects the subdivision activity may have on the ongoing operational maintenance, upgrading and protection requirements of any network utility infrastructure.
 - *Building Platform*
the ability to provide at least one stable building platform on each allotment whose formation does not cause or contribute to land instability

6.4.11 Subdivision Conclusion

258. The subdivision chapter identifies the strong correlation between subdivision and land use, in that it is not intended to repeat the rules in other chapters that exist and relate to subdivision such as every one of those listed above. Ultimately any subdivision proposal requires the assessment of the relationship between land use, site areas, site access onto roads, dimensions and related standards for buildings and surrounding space. I therefore refer back to my General Residential Zone Conclusion above at s6.4.4, in that I do not consider the proposed development achieves the intent of Gisborne's General Residential

zone. The subdivision is a pattern of land use in a manner which disregards many General Standards of the TRMP and does not promote a high level of amenity value.

7.0 SECTION 106 – CONSENT AUTHORITY MAY REFUSE SUBDIVISION CONSENT IN CERTAIN CIRCUMSTANCES

259. A Consent Authority may refuse to grant a subdivision consent, or may grant the subdivision subject to conditions, if it considers that there is a significant risk from natural hazards and any subsequent use is likely to accelerate, worsen or result in material damage to the land. In addition, the Consent Authority may refuse to grant a subdivision consent if sufficient provision has not been made for legal and physical access to each allotment that is created by the subdivision.
260. Each lot will be provided with both legal and physical access.
261. A geotechnical assessment prepared by Land Development & Engineering Ltd accompanies the Application. The assessment makes a number of recommendations including with respect to foundation design.
262. The assessment has been reviewed by the Council's Geotechnical Engineer who has recommended the imposition of several conditions to address the matters raised in the geotechnical assessment.
263. I am satisfied that with these geotechnical matters addressed and with no other significant risk from natural hazards to the site or development, there is no reason to withhold consent with regard to s106 RMA.

8.0 PART 2 MATTERS

264. Part 2 of the RMA contains its Purpose and Principles, all other sections of the RMA including section 104 are subject to Part 2.

5 Purpose

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

6 Matters of national importance

265. Section 6 describes matters of national importance to be recognised and provided for. The matters of national importance relevant to this proposal are:

(h) *the management of significant risks from natural hazards.*

7 Other matters

266. Section 7 of the RMA describes other matters that are relevant. In relation to this proposal these matters include:

(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:*

(g) *any finite characteristics of natural and physical resources:*

8 Treaty of Waitangi

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

267. With regards to Section 6, I consider the management of significant risks from natural hazards has been provided for through thorough geotechnical design. In my opinion that are no matters arising with respect to Section 8.

268. The proposed development will result in the redevelopment of a currently underutilised site in the General Residential Zone and will contribute to addressing the housing needs of the community.

269. However with regards to Section 7, when considering cumulative effects from multiple bulk and scale infringements, I do not conclude that overall amenity values and the quality of the environment will be maintained nor enhanced.

270. Therefore, in my view the proposal is not consistent with Section 5, in that it is not a sustainable use of the land resource. I do not consider the proposed development will convincingly enable the Gisborne community, whether future residents of the development or as neighbours in the wider environment, to provide for their well-being, while avoiding, remedying, or mitigating any adverse effects of the activity on the environment.

9.0 CONCLUSIONS AND RECOMMENDATION

Conclusion

271. The District Plan intends to provide some flexibility for residential development, while ensuring that amenity is maintained or even enhanced, and adverse effects are avoided, remedied or mitigated. The location, scale, density and intensity of buildings and development are specifically identified as relevant to the protection of amenity values. There is an emphasis on ensuring new activities are sensitive to, and compatible with the existing environment, and do not fundamentally change the character of an area.

272. The proposed buildings are a different housing typology from the general urban context of standalone houses in Te Hapara. While provision of a new or different

housing typology is not always inappropriate, the scenario presented is unusually dense in regard to surrounding scale and intensity of the area. In the Gisborne TRMP context, the proposed site sizes are of 'high-density'.

273. Cumulatively the non-compliances outlined previously, indicate that the proposed development, whether of high or medium density, is significantly greater than what is permitted (and therefore anticipated by) the TRMP for this site and as such, is therefore not consistent with many of the TRMP Objectives and Policies for the General Residential zone. In particular, the proposal will not achieve Residential Styles Policy DD1.4.1(1):.
274. Nor can the proposal achieve Amenity Values Policy DD1.4.2(1)(a) and (b):.
275. I conclude that the TRMP has not yet given effect to the NPS-UD and therefore the TRMP's current provision on density and protection of existing residential amenity, are the available representation on such community values.
276. I conclude the proposal will have adverse effects on residential amenity values that are more than minor and may have traffic safety effects which are more than minor, in the context of the surrounding environment.

Recommendation

277. I consider that the adverse effects arising from the density of the development are inappropriate at this location and I recommend that the severity of the cumulative effects and the departure from the intent of the Tairāwhiti Resource Management Plan warrant the proposal being **declined**.

Appendix 1 – Site Visit Photographs



Image 1 – Facing west: The existing vehicle crossing, dwelling in the background. 99 Stanley to the right.



Image 2 – Facing south: Photo taken on the existing driveway. 495 Childers Road in the background.



Image 3 – Facing north: Photo taken on the existing driveway towards Stanley Road.



Image 4 – Facing north-west: Photo taken on the existing driveway towards neighbouring site at 99 Stanley Road.



Image 5 – Facing north: Photo taken on the existing driveway looking at the existing dwelling and garage to the left and 99 Stanley to the right.



Image 6 – Photo taken on the existing driveway looking south.



Image 7 – Facing north: Photo taken standing to the north of the existing dwelling looking toward 97 Stanley Road.



Image 9 – Facing west: The existing garage.



Image 10 – Facing south: The existing dwelling.



Image 11 – Facing south: The existing west rear yard.