

Date:	26 th August 2024	Application Number:	LU-2023-112105-00; SG-2023-112106-00; NC-2003-112107-00;
Reporting Planner:	Sarah Exley	Site Visit on:	20 th March 2024

Applicant:	NZHG Gisborne Limited
Property Address:	556 – 560 Aberdeen Road, Gisborne
Legal Description:	Lot 2 DP 1585 contained in Record of Title GS2B/162; Part Lot 1 DP 1585 contained in Record of Title GS110/25; Lot 1 DP 1817 contained in Record of Title GS2B/282
District Plan:	Te Papa Tipu Taunaki o Te Tairāwhiti – Tairāwhiti Resource Management Plan
Zoning:	General Residential
Other Restrictions:	Land Overlay 1; Reticulated Services Boundary; Aberdeen Road – Collector Road
Activity Status:	Discretionary
Proposal:	Bundled Land Use and Subdivision consent to enable a 12-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 556 – 560 Aberdeen Road, Gisborne.

The Applicant seeks land use resource consent to construct 12 residential units. These units are proposed to comprise:

- Eight two-storey, two-bedroom dwellings constructed in duplex typology;
- Two single-storey, two-bedroom dwellings constructed in duplex typology;
- One detached single-storey, two- bedroom dwelling; and
- One detached single storey three-bedroom dwelling.

Two vehicle accesses are proposed to the site as follows:

- A 3m wide single-vehicle crossing in the northeastern corner of the site providing direct access to a parking space provided for Lot 2;
- A 5.5m wide Joint-Owned Access Lot (JOAL) providing vehicle access for Lots 1 and 3–12; and
- A dedicated carpark is provided along the western extent of the JOAL for Lots 4 – 12. Lots 1 and 3 include carparking within their own lots.

The Applicant also seeks subdivision resource consent to subdivide the subject site as follows:

- Creation of 12 residential allotments, known as 'Lots 1 – 12';
- Creation of 1 Joint Owned Access Lot (JOAL) known as 'Lot 100' for provision of access to be held in equal shares by the owners of Lots 1 and 3-12; and
- Creation of 9 individual carpark Lots to be amalgamated with a corresponding residential Lot.

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 Discretionary Activity status.

The application was Publicly Notified and 10 submissions were received. All 10 submitters opposed the application, with key issues and concerns raised regarding the following themes:

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

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 12 residential units and create corresponding allotments at 556 – 560 Aberdeen Road, Gisborne.

Authorised for Distribution:



Kimberley Morete
Principal Planner
26/08/2024



Awhina White
Consents Manager
26/08/2024

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 556 – 560 Aberdeen 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 twelve residential dwellings at 556 and 560 Aberdeen Road, Gisborne within the General Residential Zone of the Tairāwhiti Resource Management Plan (TRMP). Additionally, a concurrent subdivision is proposed to obtain twelve separate records of title for each of the dwellings, a jointly owned access lot (JOAL) which will be subsequently amalgamated with eleven of the lots and nine titles around carparks which will additionally be amalgamated with their respective 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."

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. 12 dwellings are proposed:
 - Eight two-storey, two-bedroom dwellings constructed in duplex typology;
 - Two single-storey, two-bedroom dwellings constructed in duplex typology;
 - One detached single-storey, two-bedroom dwelling; and
 - One detached single storey three-bedroom dwelling.
9. The Applicant proposes to not comply with the following General Standards of the Tairāwhiti Plan:
 - 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. Two vehicle accesses are proposed:
 - A 3m wide single-vehicle crossing in the northeastern corner of the site providing direct access to a parking space provided for Lot 2;
 - A 5.45m wide Joint-Owned Access Lot (JOAL) which has a vehicle crossing width of 5.5m, providing vehicle access for Lots 1 and 3 – 12; and
 - A dedicated carpark is provided within the western extent of the JOAL for Lots 4 – 12. Lots 1 and 3 include carparking within their own lot.
12. Where a vehicle access is proposed to serve more than 10 units, the access is required to be constructed to a minimum 12m legal width, vested with Council as a public road (General Standards (C2.1.7.1, (I8) b) & C2.1.7.1(H1)). The Applicant proposes the access to be a private, Jointly Owned Access Lot which will not be constructed to the required General Standard minimum 12m legal width for the number of users, but will be less than half this at 5.45m legal width. The required physical width is 5.5m, meaning the access is also undersized by 0.05m.
13. The finished development will comprise over 1,000m² in impervious surface area (buildings and vehicle hardstands) and so stormwater attenuation and contaminant reduction is proposed to be installed at the point of stormwater discharge to the reticulated network.

1.3.2 Subdivision consent

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	171	320
Lot 2	157	320
Lot 3	328	400
Lot 4	255	400
Lot 5	215	320
Lot 6	167	320
Lot 7	114	320
Lot 8	115	320
Lot 9	144	320
Lot 10	124	320
Lot 11	123	320
Lot 12	127	320
Lot 100 (JOAL access)	631m ²	

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

14. Thus the Applicant proposes:
 - 10 lots of an average of 146m², where each unit is attached on one side to another dwelling-unit; and
 - Two lots of an average of 291m², for two detached units.
15. The TRMP specifies a minimum site area of 320m² for the 10 attached dwellings and 400m² for the two detached dwellings.
16. 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 and 3 - 12. 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

17. 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).
18. Subdivision is an activity per s5(5) NES-CS as well as remediation/disturbance per s5(4). Consent is therefore required per Regulation 10(2) NES-CS.

1.4 **The Site**

The site spans three separate Records of Title at 556 – 560 Aberdeen Road in Gisborne. The lots are legally described as Part Lot 1 DP 1585, Lot 2 DP 1585 and Lot 1 DP 1817 and cover an area of 2,671m².

19. The site is zoned General Residential.

20. 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 700m to the south-east; Gisborne Girls' High School is approximately 300m to the south. Barry Park Reserve recreation field is located approximately 150m to the east. The General Residential zone continues for at least 1km either direction.
21. Within a 10-minute walking distance from the site there are food outlet stores, an early childcare centre, a church, Sports Centre and Te Kura Kaupapa Māori o Horouta Wananga school.
22. The site has frontage only to Aberdeen Road which is classed as a Collector road. Aberdeen Road is also on public transport bus route '1A'. The site is located on the southern side of Aberdeen Road, approximately 50m from the intersection with Stanley Road and approximately 2km west of the Gisborne CBD.
23. The site is relatively flat and currently occupied by three modest, older dwellings and accessory buildings (sheds). The dwellings are empty and have been for some time. There are two formed vehicle crossings from Aberdeen Road although these are not constructed to current TRMP standards and the remainder of the site, except for the dwellings and sheds, is grassed with several mature trees.
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.
25. A Detailed Site Investigation prepared by EAM Environmental Consultants was provided with the application. The report outlines that soil sampling was undertaken in twelve different locations across the site, with ten locations returning elevated levels of lead and one location returning elevated levels of arsenic, above the residential land use standard applicable per the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS). As such, the site is identified to be a 'piece of land' subject to the NES.
26. Images 1 and 2 below are aerial photographs of the site and surrounding area. Images 3 – 5 below are photographs of the site from Aberdeen Road. Additional 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. The Sports Centre is visible to the northeast, and the Turanganui River is visible further north.



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



Image 3. Facing south: 554 Aberdeen Road to the left and subject site to the right.



Image 4. Facing south: the subject site at 556 Aberdeen Road to the left and 560 Aberdeen Road to the right.



Image 5. Facing west: the subject site to the left and Aberdeen Road to the right.

1.5 Legal Interests in the Property

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

1.6 Process Matters

28. Since the lodgement of the application, several updates and amendments to the technical information (for infrastructure servicing) were received. Ultimately these have been accepted by Council.
29. On Friday 16th August, a set of amended drawings were lodged. The changes were:
- Altered yard distances;
 - Gable ends have been introduced to Lots 1, 2 and 9 – 12 to face the street.
 - Gable ends introduced to rear lots to face the JOAL.
 - Fencing has been adjusted for Lots 5-8 to increase the landscaping provided.
 - Increased vehicle accessway and pedestrian footpath;
 - Carparks 5 – 8 have been shifted south to introduce landscaping to break up the carparks.
 - Fencing between Lot 4 and the carpark amended to reduce hard edges and increase permeability.
 - Pedestrian path to enter the site has been shifted to the eastern side of the access.
 - Increased the separation distance between Lots 10 and 11.
 - Internalised garden sheds for Lots 7 – 8.
 - Raised 2nd floor windows to reduce potential to overlook to 1.6m above the floor level.

30. 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 and included disposal to landfill and/or soil mixing onsite and/or soil encapsulation.
31. Council relied on technical assessment from Dr. Dave Bull of HAIL Environmental Ltd. 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 volume of soil to be disturbed (through geotechnical earthworks for building platforms and for contaminated soil removal) is required;
 - d. Soil mixing methodology and calculations of predicted concentrations is required.
32. The Applicant was informed of the above prior to the Notification decision (29th May 2024) and again on 24th July 2024. On 13th August 2024, the Applicant wrote to inform me they would undertake TCLP testing (leaching assessment above) but the remaining aspects were not discussed. At the time of writing this s42A report, I had not received documentation of 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)

33. 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*":
34. *(d) Minimum Site Area*
- The Applicant proposes:
- 10 lots of an average of 146m², where each unit is attached on one side to another dwelling-unit; and
 - Two lots of an average of 291m², for two detached units.
35. The TRMP specifies a minimum site area of 320m² for the 10 attached dwellings and 400m² for the two detached dwellings.
36. Therefore, the attached dwellings fall short of the required minimum size by more than 50%, and the detached dwellings by more than 25%.
37. *(e) Recession Planes*
- Proposed units 1 and 12 will infringe the recession planes to the internal boundaries with the JOAL. Additionally, the proposed units 2, 7, 8, 9, 10, 11 and 12 will infringe the recession planes to the internal boundaries with other lots.

38. *(f) Site Coverage*
Proposed Lots 10 and 11 exceed the maximum site coverage of 35%, at an average of 40.4% coverage.
39. *(h) Infrastructure/works/services (vehicle access)*
The proposal does not comply with General Standards C2.1.7.1(H1) and (I8) in respect of access and parking. Specifically, 11 of the 12 units will share a single access, and the access will not be a road that is vested in Council; and the legal and physical width of the access is less than half the required width for the number of units being served (at 5.45m proposed legal and physical width, compared to a required 12m legal and 5.5m physical width).
40. The Applicant proposes a 1.5m-wide footpath, to be raised.

2.2 Subdivision – (Discretionary)

41. The subdivision is proposed to occur after the construction of the dwellings. The proposal is 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 non-compliances 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, as this exceeds the applicable standard in regulation 7, Regulation 10(2) of the NES-CS applies to "*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 consents 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 A3385896 dated 24th 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 Wednesday 29th May, and the closing date for submissions was Thursday 27th June 2024.

4.0 Section 96 – 99 Submissions on Applications

47. 10 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	Anna & Matt McLeod	553 Aberdeen Rd	<ul style="list-style-type: none"> • Stormwater concerns (flooding effect from increased impervious surfaces); • Wastewater capacity concerns; • Environmental concerns (light, noise, vegetation); • Pressure on social infrastructure (i.e. schools); • Increased density, inadequate living space for occupants to prevent public nuisance (i.e. noise, privacy). 	No
2	Susan Taylor	2 Asquith St	<ul style="list-style-type: none"> • Concern that double-storied density will reduce privacy; • Concern for impacts from increased density on noise, smells, traffic generation; • Fencing concerns; • Amenity of existing environment not maintained. 	Yes

3	Bronwyn Kearns	3 Asquith St	<ul style="list-style-type: none"> • High density not appropriate (amenity and character not maintained); • Privacy concerns; • Carparking not sufficient; traffic impacts externalised beyond boundaries; • Wastewater and stormwater servicing concern; • Effect on property values. 	No
4	Robert de Vries	559 Aberdeen Rd	<ul style="list-style-type: none"> • Vehicle accessway not sufficient and not enough carparking; • Traffic impacts externalised beyond boundaries (i.e. noise); • Concern for pressure on reticulated network i.e. stormwater and wastewater; • Double-stories will affect existing amenity - "overpowering". • Effect on property values. 	No
5	Jaclyn Findon	5 Asquith St	<ul style="list-style-type: none"> • High density not appropriate; • Amenity (character) not maintained; • Safety concern from high density; • Lack of open space, privacy, sunlight caused by internal infringements; 	Yes

			<ul style="list-style-type: none"> • Increased noise levels above permitted baseline; • Traffic impacts externalised beyond boundaries. 	
6	Trevor & Caroline Hawkins	562 Aberdeen Rd	<ul style="list-style-type: none"> • Lack of initial consultation with neighbours; • Impact on sunlight from internal infringements; • High density not appropriate; • Traffic impacts externalised beyond boundaries. 	Yes
7	Marie Mouterde	565 Aberdeen Rd	<ul style="list-style-type: none"> • High density not appropriate; • Traffic generation effects; • Increased noise; • Effect on property values. 	No
8	Sapphire Hawes & Sean Ruru	555 Aberdeen Rd	<ul style="list-style-type: none"> • Stormwater flooding concerns; • Impact on amenity (i.e. noise, light, vegetation); • High-density not suitable (i.e. lack of living space for tenants); • Traffic impacts externalised beyond boundaries; • Social housing concern on local character; 	No

			<ul style="list-style-type: none"> • Two-storey not suitable for neighbourhood amenity. 	
9	Ronald Clancy	6 Asquith St	<ul style="list-style-type: none"> • Several General Standard non-compliances; • No sufficient factors to mitigate the effects of non-compliances; • Scale, density, bulk; • Cumulative scale and intensity different to amenity of surrounding environment; • Does not achieve Policy DD1.4.2(b) as scale will not be appropriate for the site and will cause loss of amenity values for existing residents; • Privacy; • Traffic concern from increased density and associated vehicles vs. proximity to nearby intersections / visibility; • Stormwater concerns (flooding effect from change in ground level and from increased impervious surfaces); • Application silent on effect of removal of shared boundary wall. 	Yes
10	Terrence & Andre Cornelius	4 Asquith St	<ul style="list-style-type: none"> • High density not appropriate for area; • Effect from density on noise; 	Yes

			<ul style="list-style-type: none"> • Bulk and scale will affect mental wellbeing and privacy; • Traffic concern from increased density and associated vehicles vs. proximity to nearby intersections / visibility; • Double-storey not appropriate for area; • Stormwater flooding concerns; • Wastewater servicing concerns. 	
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49. Notification was to the owner of each property listed above, though the Application was Publicly Notified if these were different.
50. There are themes of consistency between the submissions. Density, character, bulk/dominance, shading, privacy and noise raised in all 10 submissions. Traffic impacts were raised in 9 submissions. Servicing effects (notably as stormwater flooding effects) were raised in 6 submissions.
51. I have addressed each of these concerns in my assessment of effects, section 5.2 of this report.
52. Submitters 3, 4 and 7 raised concerns about the effect of the proposal on property values. Submitter 1 raised concern about pressures on social infrastructure such as schools and Submitter 8 raised concern about the effect of 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. Property values, effects on the ability of schools to accommodate additional students and the possibility the development may be for social housing, are not effects on the environment and therefore cannot be considered when determining this application.
53. Lack of initial consultation was also raised by Submitter 6. I acknowledge that per s36A RMA, there is no statutory duty to consult on resource consent applications.

5.0 SECTION 104

54. 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

55. 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.

56. A permitted baseline occurs for the land-use development of:
- Eight lots of 320m² where each unit is attached on one side to another dwelling-unit; **or**
 - Nine lots of 250m² where each unit is attached on two sides to other dwelling units (i.e. three conjoined units), plus one lot of 400m² for a detached unit.
57. 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.
58. To reiterate, the Applicant proposes:
- 10 lots of an average of 145m², where each unit is attached on one side to another dwelling-unit; **and**
 - Two lots of an average of 291m², for two detached units.
59. 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.
60. The Applicant also asserts that the internal infringements can be 'disregarded' as the only affected party will be the Applicant.¹ Internal infringements – and in this application there are several – create a cumulative effect and a standard of development which is not in accordance with the TRMP.
61. 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.
62. I consider the proposed use of this proviso across **multiple** yard distance infringements to be an incorrect understanding of the intent of the rule. 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.
63. 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.
64. 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.

¹ Email from Agent dated 5th April 2024 and 21st August 2024.

65. 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.
66. 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

67. 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;
 - Infrastructure, Works and Servicing;
 - Construction
 - Natural Hazards;
 - Mitigations; and
 - Other Considerations.

5.2.1 Minimum Site Area (Density)

68. 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. 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 400 m². HDH includes apartment buildings greater than 6 storeys, with individual dwelling unit sizes ranging from studio apartments to 3-4-bedroom apartments.

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

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

69. A review of the Ministry of Business Innovation and Employment (MBIE) website reveals 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.
70. 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. A dwelling attached on one side is allowed 320m²; a dwelling attached on two sides to another is allowed 250m² (therefore each 'side' dwelling would be allowed the 320m²).
71. Loosely, 400m² could be interpreted as low-density, 320m² as medium and 250m² as higher-density, for Gisborne's 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.
72. The TRMP reiterates in DD1.5 *Methods*, in that higher-density intensification is appropriate for the Inner Residential zone and inner-city surrounds.
73. 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 maintains medium-density may be appropriate for the wider suburbs, such as Elgin and Te Hapara (including Aberdeen 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*
74. I consider relevant the clear discrepancy between three main factors of this proposal: 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 can be understood from the FDS's assertion that higher-density is appropriate for those sites in proximity to the Central Business District (Inner Residential Zone).
75. While discussed further in Section 6.2 of this report, I note here that as a Tier 3 Council, the MDRS guidelines are not mandatory requirements of Council.

³ [BRANZ Facts Medium-Density Housing #1, October 2017](#), p.1

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

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

76. 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.
77. 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.
78. 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.
79. The Applicant proposes:
- 10 lots of an average of 145m², where each unit is attached on one side to another dwelling-unit; and
 - Two lots of an average of 291m², for two detached units.
80. The TRMP specifies a minimum site area of 320m² for the 10 attached dwellings and 400m² for the two detached dwellings.
81. Site size is a means of controlling effects associated with density. Such effects could include increased noise – whether from human activity or vehicle traffic; decreased access to sunlight and increased shading; loss of vegetation; and loss of privacy. There is also the potential for increased odour or vermin from outdoor service areas. These effects are expanded upon in the below assessments.
82. The Applicant has stated: "*vehicle access and parking are situated within the JOAL, therefore smaller lot sizes can be utilised as they do not need to accommodate access, parking and manoeuvring spaces.*"⁶ I do not consider that in this proposal, a shared JOAL or 15m² of carpark per Lot will offset a sub-standard sized site. The JOAL results in residents of Lots 9 and 10 having no direct access to their designated carpark in the manner offered to the other Lots, who can access the JOAL through their back fence or front door. Lot 9 and 10 also do not have direct visibility from their dwelling to their carpark. The JOAL offers no privacy or security for users in the manner an onsite carpark would.
83. Onsite outdoor areas are often used within private properties for other purposes than a purely dedicated carparking area, e.g. landscaping amenity, storage or recreation. I do not consider that in this proposal, a JOAL and 15m² of carpark per Lot within the JOAL provides the same private area per resident as an increased site area; and a JOAL and carpark therefore cannot be used to offset sub-standard sized lots.

⁶ Email from Agent dated 5th April 2024.

84. The vehicle access is undersized, 5.45m width compared to the required 12m legal and 5.5m physical width. The required legal width includes a road reserve. The TRMP explains at *Works and Services Policy C2.1.4.5* that 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.
85. Considering a road reserve with these functions is not provided for, I do not agree a JOAL and carpark offsets sub-standard sized lots.
86. Finally, the 3m yard setback between Lots 3 and Lot 1; between Lot 3 and the JOAL; between Lots 5, 6, 7 and 8 and the JOAL; between Lots 6 and 7; and between Lots 8 and Lots 9, 10 and 11, are not provided and recession planes from these lots and Lots 11 and 12 are infringed. This further indicates a development which is too dense and lot sizes are insufficient.
87. I also consider the proposed lot sizes are not of sufficient size to host the proposed stormwater attenuation tanks without impeding outdoor service or outdoor living areas.
88. I consider the proposed 10 lots of an average of 145m² a significant departure from the 320m² permitted baseline for attached units, at approximately 50%.
89. I also consider the 291m² a significant departure from the 400m² permitted baseline for standalone units, at approximately 75%.
90. 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 (12 total dwellings with several non-compliances) will be significantly greater than what is permitted by the TRMP.

5.2.2 Yard Distances

91. 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 is the adjoining property owner for each Lot / dwelling.
92. The following yards are proposed:

Lot / Unit	TRMP required yard	Proposed Reduced Yards
3	3m all	1.8m front 2.5m west
5	3m all	2.1m east
6	3m all	1.8m east 1.25m south
7	3m all	2.1m east 1.25m south
8	3m all	1.25m north

		2.1m east
12	4.5m front 2m other	1.25m east

93. As a 'front site', Unit 12 is required to be 4.5m from its front boundaries and 2m from its 'other yards' (side and rear boundaries). Unit 12 complies with this, except on its south-eastern corner where it the yard is 1.25m from the JOAL.
94. As 'rear' sites, Units 6 and 7 are required to be minimum 3m each from their shared boundary. The Applicant proposes a distance of 1.25m each. Unit 8 is similar at only 1.25m distance from its shared boundary with Lot 9, 10, 11 and 12.
95. Additionally, as 'rear' sites, Units 5, 6 7 and 8 are required to be a minimum 3m each from the shared boundary with the JOAL. The Applicant proposes these units to be 1.8m distance from the JOAL for Unit 6, 2.1m for Unit 5 and 2m distance for Units 7 and 8.
96. Similarly, Unit 3 is less than the required 3m distance from the shared boundary with Lot 1, at 2m and less than the required 3m distance from the JOAL, at 2.5m.
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, if subdivision consent is granted.
101. 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.
102. 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.
103. I consider reduced yard distances, in conjunction with recession plane and site size infringements, create decreased provision of privacy, provision of sunlight, protection from noise and opportunity for natural vegetation.

5.2.3 Scale and Bulk

104. 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 for the residential zone 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

105. The site is currently occupied by three older, single-storey dwellings and accessory buildings. Together these buildings occupy 21% 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). Seen during a drive within a 1km radius of the site, >90% of these residential dwellings are single-story.
106. 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. Compliance with external boundaries does not permit a disregard of the effects of internal infringements.
107. 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 size by more than 50%, and the detached dwellings by more than 25%.
108. Due to the duplex layout, Lots 1, 2 and 5 – 12 will infringe the relative height in relation to boundary recession plane along the common party wall boundary. Additionally, the proposed dwellings will infringe the recession planes to the internal boundaries as follows:
 - Unit 1 as it relates to the western JOAL boundary by a height of 0.67m for the length of the dwelling,
 - Unit 2 as it relates to the southern boundary with Lot 3 by a vertical height of 1.96m,
 - Unit 7 as it relates to the southern boundary with Lot 6 by a vertical height of 3.92m for the length of the dwelling (an imposing 5.12m infringement)
 - Unit 8 as it relates to the northern boundary by a vertical height of 2.11m for the length of the dwelling,
 - Unit 9 as it relates to the southern boundary by a vertical height of 0.736m,
 - Unit 10 as it relates to the eastern boundary by a vertical height of 1.65m for the length of the dwelling,
 - Unit 11 as it relates to the western boundary by a vertical height of 0.83m, and
 - Unit 12 as it relates to the eastern JOAL boundary by a vertical height of 1.86m for the length of the dwelling and the southern JOAL boundary by a height of 1.1m.
109. The proposed structures – with 8 units (four duplexes) being two-storied – are significantly greater than the existing development on the site and within the neighbourhood. 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.

110. The Applicant has acknowledged as much, stating “the District Plan does not specify a maximum height for the Residential Zone, however recession planes can be utilized to control heights of buildings as they relate to adjacent sites.”⁷ However, I do not concur that “the proposal complies with all recession planes to external boundaries and therefore appropriately manages potential effects which could be generated from overly tall or bulky buildings” as this is in disregard of the number of units or maximum site coverage ratio which would also restrict effects from overly tall or bulky buildings. Only a compliant proposal – compliant with recession planes to all boundaries, with number of units and with site coverage – would manage potential effects which could be generated from overly tall or bulky buildings. I consider these infringements create significant restriction on access to daylight and privacy for the proposed dwellings and their associated outdoor areas.
111. The Applicant has stated that “onsite privacy will not be compromised as a result of the proposed lot sizes noting that living rooms do not overlook each other.”⁸ I disagree with this as the reduced yard setbacks and breached recession planes mean other rooms do overlook into other properties, especially from upper stories into other property windows and outdoor areas.
112. Effects on shading and access to sunlight are discussed below in section 5.2.6.

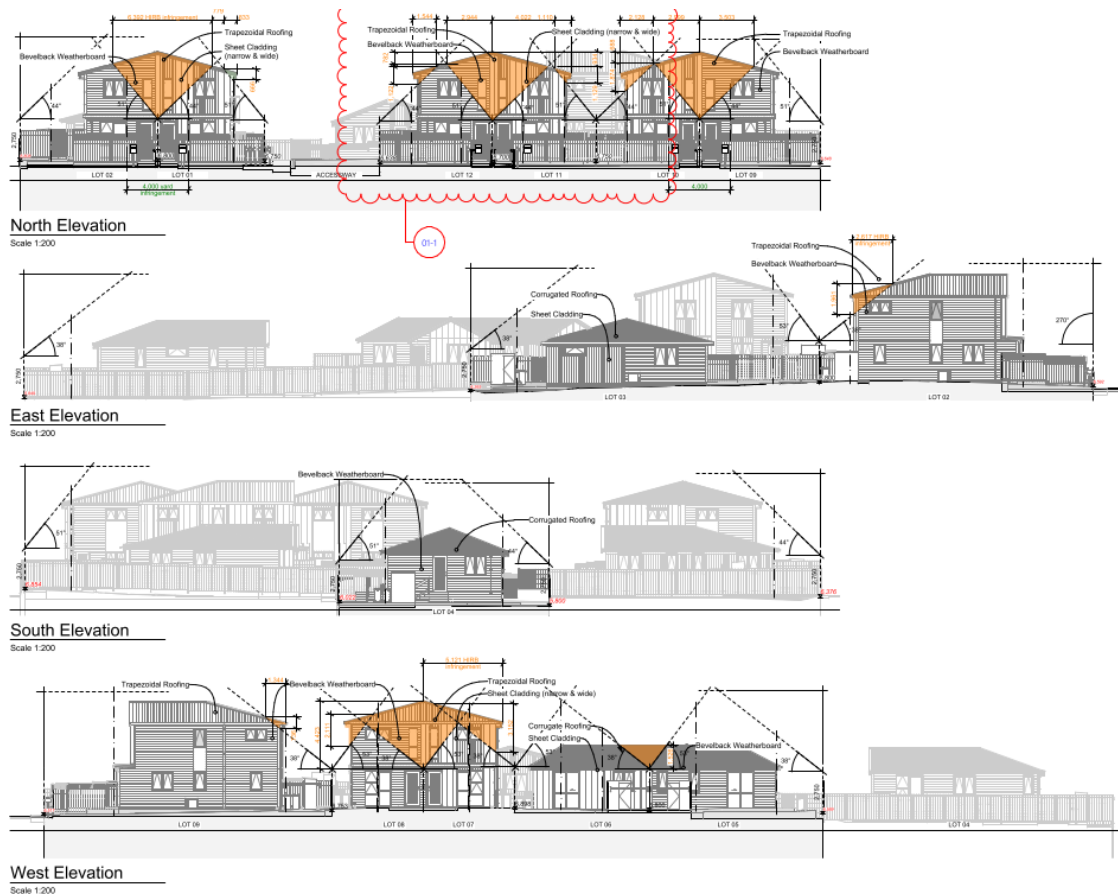


Figure 1. Elevations; orange indicates height recession plane infringements on boundaries. Some are duplex boundaries and so not applicable. Yard infringements not shown.

⁷ S92 Response by Applicant (Design Response to the Hastings Residential Intensification Design Guide), p.2

⁸ Email from Agent dated 5th April 2024.

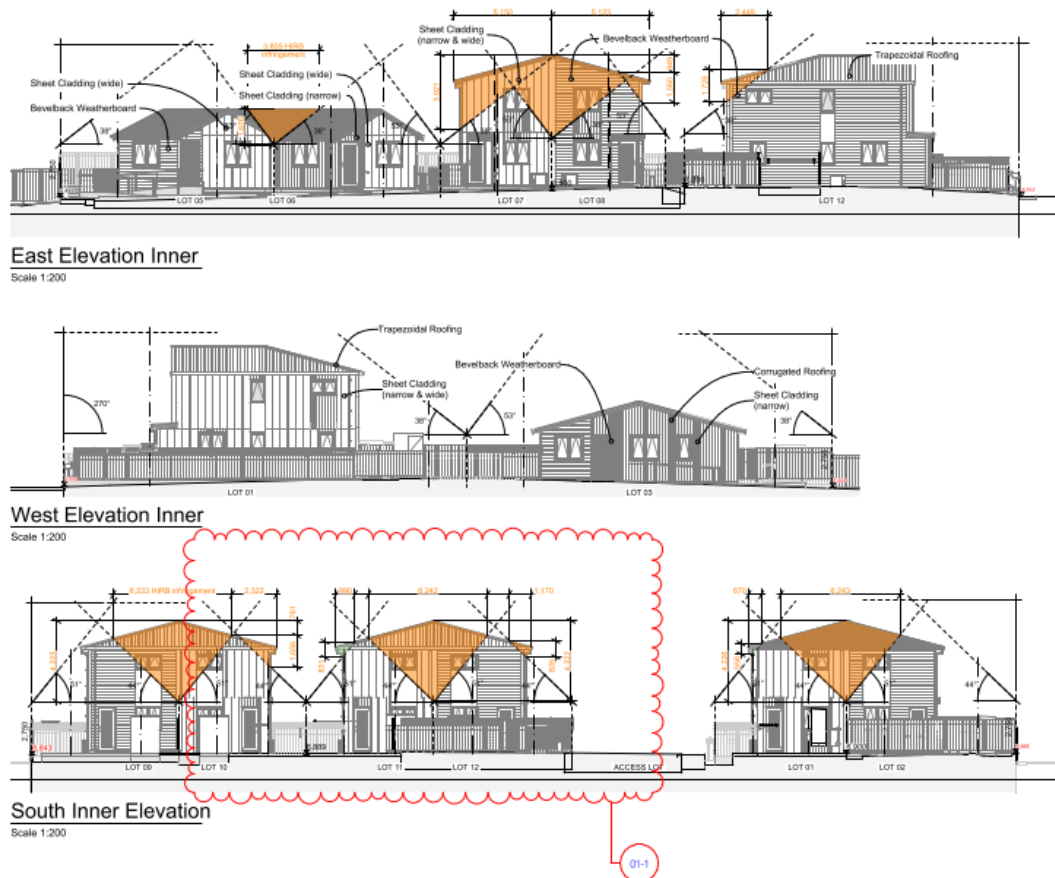


Figure 2. Elevations; orange indicates height recession plane infringements on boundaries. Some are duplex boundaries and so not applicable. Yard infringements not shown.

Site Coverage

113. 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.
114. 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.
115. 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.
116. The site is currently occupied by three older, single-storey dwellings and accessory buildings. Together these buildings occupy 21% of the site area. The nearby surrounding area comprises residential dwellings on lots that range in size from 500m² to 1,100m² (all zoned General Residential) and occupy a similar coverage of the site area; it appears none or few breach the site coverage restriction.
117. Proposed Lots 10 and 11 exceed the maximum site coverage of 35%, at an average of 40.4% coverage.

118. 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.
119. 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.”⁹*
120. 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 12 units were constructed – eight 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 nor 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 sufficient landscape (as a means to mitigate this effect) is discussed further in 5.2.7 of this report.

Submissions – Scale and bulk

121. All 10 submitters outlined their concern regarding the scale and bulk of the proposal. Some submissions are:
- *“Increasing density places impacts on the ability for occupants to have adequate living space to prevent public nuisance.” (Submitter 1).*
 - *“This is a high density proposal in an area that is on the lower end of the density scale. The scale of the development should be appropriate for the site and location – this is not. The site coverage of the proposed development is far greater than surrounding properties. There is also lack of open space with the proposed development.” (Submitter 5)*
 - *“We as opposite neighbours would be looking at 2 storey high, will be to (sic) overpowering (...) and it won’t suit in this neighbourhood with all single storey houses” (Submitter 4)*
 - *“We would be more supportive of a proposal reducing the number of residential units to a maximum of six-single storey units. Lower density would alleviate some of the pressure on local infrastructure, social services and neighbouring residents. A single-storey design would be more appropriate. (Submitter 8)”*
 - *“12 (dwellings) is detrimental to the area”. (Submitter 7)*
122. To clarify, 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 General Standards can be achieved. In fact, the two-storied dwellings in the area are an existing concept, as the dwellings diagonally opposite (north-east) of the site at the Stanley Road / Aberdeen Road intersection, are two-storied. However, these comply with the minimum site sizes and are therefore not considered to be over-density.

⁹ Application, p.29

In addition, the dwellings are below the maximum site coverage allowed (26% vs. 35%) and are located in a manner which provides for compliant yard setbacks on all boundaries. The scale and bulk of those dwellings are not visually dominant.

5.2.4 Privacy

123. Concerns on privacy was specifically identified in **all** opposing submissions, though this was a concern for loss of privacy for neighbouring sites rather than internal residents as above. Principally the concerns on loss of privacy was in regard to the double-storied nature of the developments, but additionally the concerns were also in regard to the density of the development.
124. Other development in the locality is predominantly single-story detached residential dwellings.
125. 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 have an effect on privacy both for the submitters, and the inhabitants themselves.
126. 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.”¹⁰
127. I have noted above in section 5.1 that only a compliant proposal – compliant with recession planes to external 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.
128. The revised design received 16th August 2024 includes *“raised 2nd floor windows which mitigates the potential to overlook to 1.6m above the floor level”*.¹¹ It is unclear at what height and dimensions these windows will be, and so I am unable to conclude whether raised windows would prevent overlooking to ground level.
129. The revised design also details internal fencing of 1.85m with 300mm visually permeable timber portion to the top between the front boundary of the site with Aberdeen Road, and along the JOAL adjacent to Lots 1-12. I concur that 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.
130. 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

¹⁰ Application, p.28

¹¹ Email from Applicant 16th August 2024

upper storey apartments on the privacy of the adjoining dwellings and their outdoor living spaces.

5.2.5 Noise

131. Effect on noise was raised in 6 submissions, with concerns regarding noise effect both from increased persons on site as well as increased vehicle traffic.
132. The submissions identified concerns that additional noise from the scale of development will adversely affect those 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.
133. 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.
134. 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 permitted to occur.
135. 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 there is little separation between dwellings.

5.2.6 Access to Sunlight

136. 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.
137. However, I cannot conclude that these outdoor service and outdoor living areas will offer sufficient privacy or sunlight, when considering the above effects of reduced setbacks and breached recession planes.
138. The Applicant provided a solar study of Lots 6, 7, 8, 10 and 11, for the originally lodged proposal. I noticed in these studies that Lots 5 & 6 experienced considerable shading cast by their orientation and proximity to Lots 7 & 8. In summer, Lots 5 & 6 experienced partial sunlight in the front outdoor areas by 10am, direct sunlight through the living room windows by 1pm but the kitchen was in shade by midday. While the proposal has now changed slightly in that the building footprint for each of these dwelling has reduced, I consider the shading was so substantial that it is likely to still be present and of considerable extent.
139. The Applicant has asserted that "each site is provided with an area of open space which achieves sunlight at all times of the year."¹² While this may be technically accurate, according to the original solar study the open space is not the entire open space of each Lot, but for the above-numbered Lots is only between 5m²-10m² of open

¹² Email from Agent dated 5th April 2024.

space which is not in shadow. Eventual residents of Lots 5-11 will have almost no sunlight in the small backyards during the winter months as demonstrated by the solar studies. It is my conclusion that the provided solar study showed undesirable extents of shading experienced by Lots 5, 6, 7, 8, 10 and 11 throughout all times of the year. This may have reduced due to the slightly reduced building footprints; but when considering the site sizes remain significantly sub-standard, that undesirable shading likely remains.



Figure 3. Solar Study Lot 7 & 8 Winter 9am, facing West (Lots 5 & 6 to the left, Lots 9-12 to the right)



Figure 4. Solar Study Lot 7 & 8 Winter 12pm



Figure 5. Solar Study Lot 7 & 8 Winter 3pm



Figure 6. Solar study Lot 7 & 8, facing East Winter 9am (Lots 9-12 to the left, Lots 5&6 to the right)



Figure 7. Solar study Lot 7 & 8, Winter 12pm



Figure 8. Solar study Lot 7 & 8, Winter 3pm

140. The solar studies also demonstrate the proposed service areas will not receive sufficient sunlight to fulfil their function (e.g. washing lines), but would in fact potentially remain in shade throughout winter.

Submissions – Access to sunlight

141. Three of 10 submitters voiced concern to shading on their properties (understood differently to 'lack of open space'). Principally the concerns regarding shading was in regard to the double-storied nature of the developments, but additionally the concerns were also in regard to the density of the development. Other development in the locality is predominantly single-story detached residential dwellings.
142. I am unable to calculate or identify a specific effect of shading 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 dwellings to be constructed on the site which could cause shading on their properties.
143. Three submitters also voiced concern to a change in their view shaft:
- "I will not be able to see the sunrise nor the fireworks at New Years"* (Submitter 3);
- "It will have an impact on my mental wellbeing as it will block my view and shadow my backyard which I spend time in over the weekends, no more morning sun"* (Submitter 10);
- "With the proposed development this skyline will be greatly altered as existing trees will be removed and double-storied structures erected, impeding this view forever, another impact upon my amenity of my existing property. (...) The increased ambient light proposed (...) would negatively impact on the darkness of this area, again impacting my amenity."* (Submitter 9)
144. There is no specific provision within the TRMP to protect view shafts, and I note the proposal complies with external boundary standards for yards and recession planes.

5.2.7 Landscaping

145. The Applicant has submitted a landscaping plan showing 24% of the site will be planted in various species. This is 642m² of 'grass and planting' in area, compared to over 1,200m² (>47.5%) impervious surface area and 759m² (or 28.4%) total building coverage.

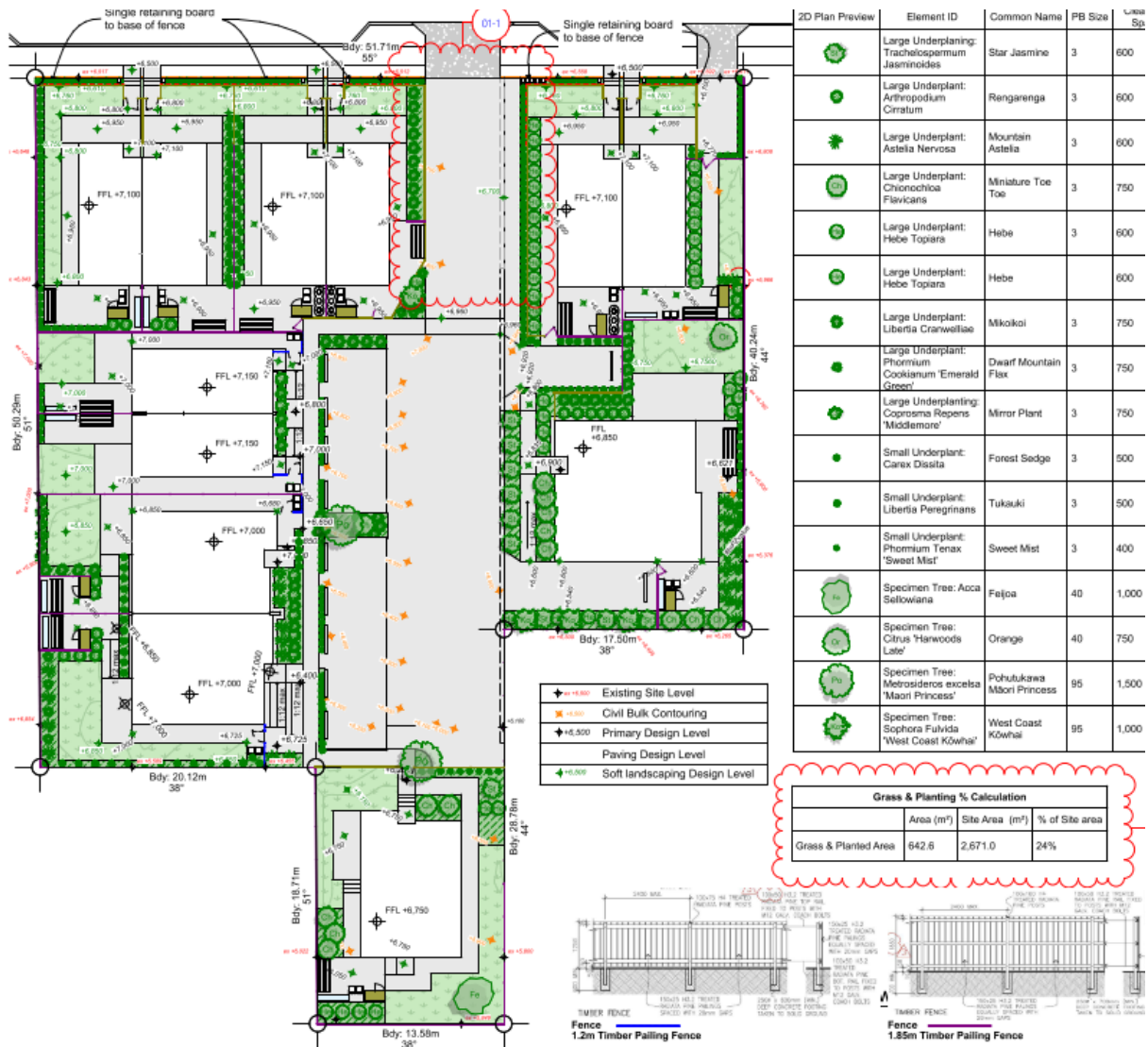


Figure 9. Snip of proposed 24% site coverage landscaping.

146. The Applicant asserts:

“Specimen trees and assorted screen planting interspersed along the external boundaries and throughout the site provide added value in softening the interface of the development with adjoining sites, reducing perceived bulk of the dwellings and assisting in privacy screening.”¹³

147. It is my understanding that the provision of landscaping is not intended to completely screen developments but instead, is a useful mechanism to help integrate development into the site and/or soften the appearance of the built environment and to assist in maintain or improving visual amenity. In some instances, this requires an integration of larger tree species with smaller growing species. The majority of the proposed species are small ‘underplanting’ shrubs or compact hedging (12 of 16 species do not reach more than 750mm height at maturity). I do not consider the

¹³ Application, p.39

proposed landscaping will assist to mitigate the effects of combined impervious surface area and dense building coverage. This is because the species proposed within the public/private interface (along the road frontage and between the JOAL and 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.

148. 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 the street and will contribute significantly to streetscape amenity as well as onsite amenity for residents.
149. 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 scale of development nor will the landscaping achieve a similar level of amenity to the present landscaping experienced in the wider environment of Aberdeen Road and the General Residential zone.
150. Considering the 1.8m high fencing proposed between sites, four of the only five trees which will reach 2m height at maturity are screened behind these fences and therefore will largely not be visible from an external perspective.

5.2.8 Mitigation of Effects

151. There are instances where high-density may be appropriate, such as *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.¹⁴
152. 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:
- Barry Park (no playground equipment) – 375m
 - Botanical Gardens – 830m
 - Ayton Reserve – 860m
 - Harry Barker Reserve (no playground equipment) – 1,200m
 - Gisborne Girls' High School – 270m
 - Te Hapara Primary School – 950m

¹⁴ Hastings Residential Intensification Design Guide, p.17, p.38 and p.42

153. I note both pedestrians and vehicle users are required to cross a main road or intersection to access the Botanical Gardens and Harry Barker Reserve. While a walking distance of 375m to the closest local reserve (Barry Park) may be considered to be reasonable walking access to public or communal recreational space, I note that Barry Park is a sports field without amenity planting, shelter, tables or seating, and no playground equipment. I consider the distance to the other public reserves (such as the Botanical Gardens) is not within a reasonable walking distance to the site.
154. 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.



Image 6. Site (blue boundaries) in proximity to public reserves (green) and public schools (orange).

5.2.9 Infrastructure, Works and Services

155. 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.

Traffic – carparking demand

156. Prior to the introduction of the NPS-UD and Plan Change 5 to the TRMP, General Standard C2.1.7.1J1(a) required the provision of 2 parking spaces for residential units having a Gross Floor Area 65m² or greater, and 1 parking space for less. The NPS-UD which came into force in 2020 directs the TRMP to be amended to remove the set minimum carparking rate requirements, other than for accessible car parks.
157. 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*”.¹⁵ Therefore, the effect from not providing a certain number of carparks may still be assessed.

158. 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.
159. The initial parking and manoeuvring plan submitted was understood by Council to create an overflow of parking demand onto Aberdeen Road by **six** vehicles (based on an average 1.4 vehicles required for every 65m²). In addition, it was noted that the proposed private JOAL precluded access by postal or waste-collection vehicles (no space for kerb-side waste and recycling-collection without causing undue hazard to oncoming traffic). Throughout the consent process the Applicant submitted revised plans showing recessed parking on Aberdeen Road and to locate post boxes to the front of the site. This recessed parking was initially accepted by Council’s Development Engineer as a means to resolve the above issues.
160. 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).
161. 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.
162. 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.
163. In addition, the replacement of currently grassed berm for the creation of sealed carparking would 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.

¹⁵ *Drive Holdings Limited v Auckland Council* [2021] NZEnvC 129 at paragraph [23]

164. Ultimately, not providing enough car parks at the site may lead to several issues where effects will not remain internalised to the site boundaries. These include safety concerns, where residents of the site who own more than one vehicle (e.g. families) or visitors to the site may park in unsafe or illegal spots; reduced accessibility for people who rely on vehicles for mobility (e.g. young families or older persons) and increased congestion at the road frontage.
165. Therefore, Council's Development Engineer has concluded the following in regard to effects on traffic:
- "An unresolved issue for the proposal is the detrimental effects of the unmet carparking demand on the sight lines from the proposed driveway entrance to the development. Utes or cars parked along the kerb will obstruct the intervisibility between approaching traffic and vehicles exiting the proposed driveway.*
- Any measures to reduce this risk by restricting car parking adjacent to the driveway may not be accepted as this would be outside the boundary of the development.*
- My conclusion is that the only effective way to reduce parking demand is by reduction of the total number of dwellings in the development."*
166. Additionally, measures to reduce this risk within the site boundaries by increasing the number of onsite car park spaces will reduce the area available for onsite landscaping which is already limited.
167. 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.
168. The site is serviced by a public bus route which transits between the Hospital and the city centre. This works some way to mitigate the effect of the lack of parking. However, the bus route is limited in it connects with only one other route across town, and services are between 7am – 5pm only. Neither route extends beyond the urban fringes of the town. In addition, while the closest bus stop for the from-town route is close by at 537 Aberdeen Road, the routes do not run in reverse. Therefore, the closest to-town bus stop is 400m south, at the corner of Stanley and Gladstone roads.
169. There is also no dedicated cycle lane or cycleway through the western suburbs of Gisborne.
170. 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"*.¹⁶ 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

¹⁶ 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

171. Under the TRMP Infrastructure General Standards (C2.1.7.1(H1) & C2.1.7.1 (I8)(b)), accessways to serve more than 10 dwellings are required to be served by a public road vested in the Council, with a legal width of 12m and physical width of 5.5m. The Applicant proposes an accessway serving 11 dwellings but does not propose the accessway to be vested with Council, and does not comply with these General Standard measurements. The legal and physical width of the accessway will be less than half the required width, at 5.45m legal and physical width.
172. The following assessment is based on technical comment received from Council's Development Engineer.
173. 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.
174. Narrow access ways which do not allow for 2-way traffic increase the risk of vehicles reversing out into the traffic lane, or driving over kerbs or footpaths.
175. As traffic numbers increase, and vehicles are manoeuvring more to enter and leave carparks, the stresses and wear on the pavement increases, and maintenance needs increase. Vesting an accessway which serves 10 or more dwellings in Council means the access road is added to the Council roads database for inspection, maintenance and renewal. Instead, multiple ownership can make carrying out effective maintenance work problematic when owners have differing views. The Applicant proposes to depart from vesting the access and proposes multiple ownership.
176. Waste contractors will not collect rubbish and recycling from privately owned accesses, which may result in a proliferation of recycling bins and rubbish outside the development.

Traffic - Submissions

177. Eight of 10 submissions voiced concern to the effect of traffic generation. The theme of these submissions was that the effect of the traffic generation would spill externally and not be contained to the site boundaries. Concern was raised in particular to reducing visibility to the nearby intersections with Asquith Street and with Stanley Road, and with potential safety effect on pedestrians (particularly young children) using the nearby Sports Centre. For example:

"On road parking of vehicles is already causing a blind spot" (Submitter 10)

"The probability of additional cars (even if legally parked) as an overflow of either residents of the proposed development or of visitors to the proposed development will increase the likelihood of the occurrence of this reduced visibility and pose a danger

to motorists exiting Asquith Street and pedestrians seeking to cross Aberdeen Road between Asquith Street and Stanley Road" (Submitter 9)

"The additional traffic generated by this development will impact not only surrounding residents but any road or footpath user. The intersection of Stanley Road and Aberdeen Road can be a traffic-flow issue during peak school times and during sport events at the (Sports Centre). This development will only add to that issue." (Submitter 5)

"There will not be enough parking at the property, these days households have 2 or more cars which means opposite us will be packed with cars parked on Aberdeen Road, which will cause way more street noise" (Submitter 4)

"It is common for households to have more than one vehicle, and the current proposal does not seem to adequately address the increased demand for parking. (...) This could lead to congested streets and further impact the local community" (Submitter 8)

178. I have also asked Council's Development Engineer for comment with regard to the effects extending as far as the Asquith Street and Stanley Road intersections. Asquith Street is 50m to the east of the proposed main access, and Stanley Road is 75m to the west.



Image 7. Aerial photograph of site (blue boundaries) and surrounding area. The Sports Centre is visible to the northeast at 537 Aberdeen Road. Asquith Street and Stanley Road intersections are within 75m of the site.

179. The Development Engineer has commented that Aberdeen Road is often used by through traffic to avoid delays on Gladstone Road and parallel streets. As a "rat run", speeds can be higher than average. Increased numbers of parked vehicles outside the proposed development could reduce the sight distance:

- from Asquith St of traffic approaching from the east; and
 - from Stanley Rd of traffic approaching from the west.
180. He has noted there is already an effect on the visibility due to overflow parking for events at the Sport Centre.
181. In addition, there is a bend in Aberdeen Road at the Stanley Road intersection. This affects visibility:
- to the west for pedestrians crossing Aberdeen Rd on the east side of Stanley Road; and
 - to the east for pedestrians crossing Aberdeen Rd on the west side of Stanley Road.
182. Noise effect from increased traffic was also raised, and I have assessed this earlier in section 5.2.5 of this report.

Servicing

183. The site is located within the Reticulated Services Boundary therefore must connect to Council services.
184. Four of 10 submissions voiced concern to the increased pressures on Council's reticulated services, repeatedly regarding stormwater and wastewater. 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. Importantly, the stormwater servicing proposal includes attenuation devices, to avoid creating or exacerbating flooding of land upstream or downstream of the discharge point in rainfall events.
185. Submitters are concerned that the increased impervious surfaces will overload Council's reticulated stormwater network. As above, Council staff have determined that through the provision of attenuation, the result of the development will remain neutral and will not overload Council's reticulated network. Council's requirements are strict in that we require the avoidance of 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.
186. Provision of reticulated infrastructure is therefore considered to comply with the TRMP servicing requirements and can be deemed appropriate for the development.
187. Further stormwater assessment is made below in s5.2.11.

5.2.10 Construction

188. I have considered the potential for noise and dust effects arising from construction. Submitter 9 has expressed concern in relation to construction noise. 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.
189. 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.

5.2.11 Natural Hazards

Geotechnical

190. 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.

Stormwater

191. Submitters are also concerned that the re-contouring of the ground level (remediation of contaminated soils; multiple building platforms; and the impervious surface areas) will divert floodwaters onto their properties. Submitter 9 in particular advised of an already occurring problem from severe weather events (most recently Cyclone Gabrielle) and voiced concerned the proposed development will accelerate, worsen, or result in material damage to their properties.

192. The properties are situated within a localized depression, with pre-development surface water flowing south-west. Any increase in discharged stormwater volume could potentially exacerbate existing known flood issues, including south-west to Submitter 9's property.

193. 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, a First Defender (contaminant reduction device) and a Rainsmart soakage device, before discharging to the kerb.

194. 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. More detail will also be required on the connection / conveyance system between the bubble-up sump and the First Defense treatment device.

195. 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.

196. 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.

197. 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.

5.2.12 *Other Considerations*

198. Gisborne city has experienced population growth since 2018, and growth exceeded the forecasts prepared for the 2021-2031 LTP.¹⁷ I acknowledge the Ministry of Social Development March 2024 data showing 639 persons on the Gisborne District housing register ('waitlist').¹⁸ I acknowledge the proposal provides additional housing.

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)

199. 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).
200. 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.
201. 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 Site Investigation states that the soil contamination exceeds the applicable soil contaminant standards.
202. Council relied on technical assessment from Dr. Dave Bull of HAIL Environmental Ltd. 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;
 - c. Further detail on volume of soil to be disturbed (through geotechnical earthworks for building platforms and for contaminated soil removal);
 - d. Soil mixing methodology and calculations of predicted concentrations.

¹⁷ 2024-2027 Three Year Plan Te Rautaki Hanganga Infrastructure Strategy, p.27

¹⁸ [Ministry of Social Development Housing Register](#)

203. The Applicant was informed of the above prior to the Notification decision (29th May 2024) and again on 24th July 2024 via email. On 13th August 2024, the Applicant wrote to inform me they would undertake TCLP testing (leaching assessment above) but the remaining aspects were not discussed. At the time of writing this s42A report, I had not received documentation of this. While this may be submitted in the Applicant's pre-hearing evidence, I cannot conclude that contaminated land matters under the NES-CS have been resolved.
204. 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

205. 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.
206. 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.
207. The time frames identified for Tier 1 and 2 local authorities are not mandatory for Tier 3 local authorities.
208. 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.
209. 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.
210. 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.*

211. 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'.
212. 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.
213. 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

214. 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.
215. 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.
216. 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.

6.4 Tairāwhiti Resource Management Plan

217. 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

218. 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."

219. 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.*

220. 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

221. 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.*
222. 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

- 7.0 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 intended 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.
223. 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.

DD1.5 Methods

1. Rules:

- a) *Develop rules which identify and protect the amenity values of the residential environment.*
- b) *Zoning of appropriate areas for residential purposes:*
 - i. *establish a Residential Protection zone to identify and protect sites of architectural, historical, cultural or particular amenity value which are perceived to be at risk from destruction, diminution or subdivision;*
 - ii. *establish an Inner Residential zone to identify residential sites close to the commercial core or Waikanae Beach where the environment would accept denser forms of residential development.*
 - iii. *establish a General Residential zone to include areas of predominantly residential development within the urban and township areas of the district where they have similar amenity values.*

224. 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.

225. My view is that these TRMP Methods (and subsequent Rules) clarify that the Inner City Residential zone is the intended zone for higher density residential activities. The General Residential zone is expected to have cohesive amenity values.

6.4.4 General Residential Zone Conclusion

226. 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.

227. 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.

228. 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.

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

230. 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 permitted to occur.

231. 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.

232. 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.

233. 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.

234. 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.
235. The TRMP also considers the potential for noise and loss of privacy. The eight buildings being two-storey will have the potential to look out over adjoining properties. The TRMP identifies privacy as a consideration and uses Rules or Standards to protect privacy, through density limits, daylighting (recession planes) and yards setbacks. These potential effects have not in my view been adequately addressed in the proposal and in my view the proposal is inconsistent with DD1.4.2.3-4.
236. 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.
237. 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 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.

238. When considering the detrimental effects of the unmet carparking demand on traffic safety and amenity, I conclude the proposal will not 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:*
 - 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.*

239. I conclude the proposal presents a level of development which has associated internal effects that will not be 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.

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

6.4.5 Infrastructure, Works and Services Issues

241. 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.

242. 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

243. 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

244. 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.
245. 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.

246. Considering the detrimental effects of the unmet parking demand and of the insufficient width of the accessway on safety and amenity, 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

247. 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

248. 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.
249. 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, 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 and would achieve the Objectives and Policies above.

6.4.10 Subdivision Objectives and Policies

250. 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

251. 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

252. 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.
253. 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.
254. 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.
255. 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

256. 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

257. 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

258. 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).

259. 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.

260. 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.

261. However with regards to Section 7, I consider the proposal is not an efficient use of roading infrastructure. 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.

262. Therefore, in my view the proposal is not consistent with Section 5, in that it is not a sustainable use of the roading or 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 Recommendations

Conclusion

263. 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.

264. 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 large in regard to surrounding scale and intensity of the area. In the Gisborne TRMP context as well as the Housing New Zealand context, the proposed site sizes are of 'high-density'.
265. It is difficult to reconcile the high-density proposal against the TRMP identifying the Inner Residential zone (and not the General Residential zone) as the appropriate zone for '*denser forms of residential development*'.
266. To reiterate, due to the density, the dwellings are unable to comply with height recession planes (and yard setbacks) on internal boundaries. Each lot and dwelling, post construction and subdivision, will experience more than minor effects on access to sunlight, privacy and amenity, from infringements.
267. Cumulatively the non-compliances outlined above, 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):

1. Provide for flexibility in site development and building design provided that:

c) the development avoids, remedies or mitigates any adverse effect on the amenity values of neighbouring sites;

e) the cumulative effects of such developments do not fundamentally change the character of the area;

268. Nor can the proposal achieve Amenity Values Policy DD1.4.2(1)(a) and (b):

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;

269. 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.
270. I conclude the proposal will have adverse effects on residential amenity values that are more than minor in the context of the surrounding environment.
271. 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 10 –Facing west: the subject site to the left and Aberdeen Road to the right.



Image 11: Facing south: 554 Aberdeen Road to the left and subject site to the right.



Image 12: Facing south: the subject site at 556 Aberdeen Road.



Image 13: Facing south-east: 554 Aberdeen Road to the left, intersection with Stanley Road to the right.



Image 14: Facing south: the subject site at 556 Aberdeen Road to the left, 560 Aberdeen Road to the right.



Image 15: Facing south-west: the subject site at 560 Aberdeen Road to the left.



Image 16: Facing south: the subject site at 556 Aberdeen Road to the left and 560 Aberdeen Road to the right.



Image 17: Facing south: the subject site at 560 Aberdeen Road.



Image 18: Facing south: adjacent property 562 Aberdeen Road.



Image 19: Facing north-east: road reserve which would receive carparking overflow. This is now proposed to be recessed to increase visibility for exiting vehicles into oncoming traffic.



Image 20: Facing north-west: road reserve in front of proposed Lots 9-12 and wider amenity of Aberdeen Road (detached, single-storied dwellings).



Image 21: Facing north: from left to right, 559, 555 and 553 Aberdeen Road.



Image 22: Facing north-west: current front yard at 560 Aberdeen Road.



Image 23: Facing south: area for proposed JOAL and Lot 4.



Image 24: Facing south-east: area for proposed Lot 3 and Lot 4 to the right.



Image 25: Facing south-west: area for proposed Lots 5 & 6.



Image 26: Facing west: proposed Lot 9 boundary with 562 Aberdeen.



Image 27: Facing west: proposed Lots 7 & 8 boundary with 2 Asquith Street.



Image 28: Facing south-west: proposed Lot 5 boundary with 4 Asquith Street in the foreground; 6 Asquith Street in the background.



Image 29: Facing south-east: current low density amenity of neighbouring sites.



Image 30: Facing west: current amenity at 9 and 11 Stanley Road.



Image 31: Facing south- Stanley Road.



Image 32: Facing south- Stanley Road.



Image 33: Facing east- Stanley Road.



Image 34: Facing east- Stanley Road.



Image 35: Facing north- Aberdeen Road.



Image 36: Adjacent properties on Asquith Street.



Image 37: Adjacent properties on Asquith Street.



Image 38: Adjacent properties on Asquith Street.



Image 39: Adjacent properties on Asquith Street.



Image 40: Adjacent properties on Asquith Street.



Image 41: Adjacent properties on Asquith Street



Image 42: Adjacent properties on Asquith Street.



Image 43: Adjacent properties on Asquith Street.



Image 44: Adjacent properties on Asquith Street.