

Application for Resource Consent RMA/2019/1330

Being an application for land use consent to establish and operate a new three-storey building containing a health spa, restaurant, gymnasium, offices, retail activity and 20 residential units or guest accommodation (revised from 26 units after notification)

25 Oxford Street and 3, 5, 7 and 9 London Street, Lyttelton

Notice of Decision by Independent Commissioner

20 March 2020

CONTENTS

1.0	Introduction	2
2.0	Hearing sequence	5
3.0	Statutory & planning policy considerations	8
4.0	Principal issues in contention	11
	Preamble	11
	Matters beyond my jurisdiction.....	11
	Positive effects.....	12
	Built form, streetscape and townscape.....	13
	Transportation effects	16
	Synopsis of transportation matters	20
	Safety and accessibility.....	20
	Noise insulation	21
5.0	Decision	23

SCHEDULE OF APPENDICES

- **APPENDIX 1:** Schedule of appearances / attendees
- **APPENDIX 2:** Conditions of Consent

INTERPRETATION

This report uses the following abbreviations and acronyms.

TERM	MEANS
the Act	Resource Management Act 1991
AEE	The assessment of environmental effects appended to the application
Applicant	Collett's Corner Limited
CPTED	Crime Prevention Through Environmental Design
Council	Christchurch City Council
EiC	Evidence in Chief
Plan	Christchurch District Plan 2017
RMA	Resource Management Act 1991
RPS	Canterbury Regional Policy Statement
Site	The property to which the application relates as described in the application

**Christchurch City Council
Decision of Independent Commissioner
RMA/2019/1330**

Proposal Description:

Establish and operate a new three-storey building containing a health spa, restaurant, gymnasium, offices, retail activity and 20 residential units or guest accommodation (revised from 26 units after notification)

Applicant:

Collett's Corner Limited

Site Details:

25 Oxford Street and 3, 5, 7 and 9 London Street, Lyttelton

Zoning:

Commercial Banks Peninsula Zone

Overlays & map notations:

Liquefaction Management, Banks Peninsula District Plan Coastal Hazards, Coastal Environment

Activity Status:

Discretionary

Date of Hearing:

Thursday 5 March 2020 (closed 11 March 2020)

Independent Commissioner:

DJ McMahon

Summary of Decision:

Having considered all relevant matters under s104 of the RMA, and based on the evidence and submissions presented at the hearing I find that:

- any actual and potential adverse environmental effects of allowing the activity will be sufficiently managed, including by the proposed conditions of consent, such that the effects are minor;
- moreover, the proposal will result in positive effects on the site and local environment; and
- the proposal is generally well-aligned with the relevant District Plan objectives and policies when read as a whole and there are no directive policies relevant that are challenged by the proposal such that consent need be withheld.

Accordingly, consent is granted subject to the conditions set out in **Appendix 2**.

1.0 Introduction

Report purpose, requirements & outline

- 1.1 The purpose of this report is to outline my decision on the publicly notified resource consent application from Collett's Corner Limited to construct a new three-storey building in central Lyttelton which will contain a health spa, restaurant, gymnasium, offices, retail activity and 20 residential units or guest accommodation¹.
- 1.2 Of particular relevance, the RMA² requires that decisions on notified applications state:
- a. the reasons for the decision;
 - b. the relevant statutory provisions considered;
 - c. the relevant national, regional and district planning policy documents considered;
 - d. the principal issues in contention;
 - e. a summary of evidence heard; and
 - f. the main findings on principal issues in contention.
- 1.3 The RMA also enables me to cross-refer to or adopt parts of the AEE and the s42A Report so as to avoid repeating material.³ I have done so extensively below for the sake of brevity.
- 1.4 The remainder of this report is organised as follows:

Section 1: Introduction

Section 1 provides a factual basis for the report, including a brief description of the site and existing environment, the proposal, submissions received and my role.

Section 2: Account of the pre-hearing/hearing proceedings

Section 2 provides a brief factual summary of the hearing proceedings, including the actions of various parties in the pre-hearing sequence.

Section 3: Outline of statutory considerations and relevant planning policy

This part of the report sets out a short summary of the proposal's compliance against the relevant provisions of the Plan, and includes a factual description of the provisions of the RMA that frame my decision-making and of the relevant national, regional and district planning policy framework I have considered.

Section 4: Principal issues in contention

Section 4 summarises the key issues in contention, the evidence presented by the parties, and my findings on the key issues.

Section 5: Decision

The final brief section of the report formally records my decision.

¹ The application as lodged sought 26 residential / guest accommodation units. This was revised to 20 units after the proposal was publicly notified.

² s113(1), RMA

³ s113(3), RMA

Site and existing environment

- 1.5 The site is located on the southwest corner of Oxford and London Streets in central Lyttelton.
- 1.6 The site and existing environment are comprehensively described in Section 3 of the AEE⁴. I adopt that description and highlight the following salient aspects of the site and existing environment for contextual purposes:
- a. the site comprises 974m², located entirely within the Commercial Banks Peninsula Zone;
 - b. it slopes from north to south and is currently vacant after the demolition of previous buildings following the 2010/2011 Canterbury earthquakes;
 - c. a historic brick barrel drain traverses the site in a southerly direction from London Street;
 - d. the site anchors the western end of London Street, being Lyttelton's main commercial thoroughfare;
 - e. in the site's immediate vicinity are a mixture of low-rise buildings used for commercial, hospitality, convenience, retail, guest accommodation and residential use; and
 - f. diagonally opposite the site is Lyttelton Primary School, which was comprehensively redeveloped after the Canterbury earthquakes and reopened in 2016.

The Applicant's proposal

- 1.7 The proposal is also well described in the AEE⁵. I adopt that description, but note also that the proposal was amended by the applicant following public notification. As at the time of the hearing, the proposal involved the following key elements:
- a. construction of a new three storey building complex comprising a mix of commercial, retail and residential activities in four distinct building forms connected by common internal circulation spaces; with
 - b. a basement level comprising 6 vehicle parking spaces, storage area for 20 bicycles, wellness centre / health spa and additional storage and plant rooms;
 - c. a ground floor comprising 5 commercial tenancies between 73m² and 134m², concierge, toilets, additional cycle parking and security gating;
 - d. first and second floor apartment / guest accommodation units comprising a mix of studio, 1-bed and 2-bed apartments, with internal circulation space and landscaping; and
 - e. rooftop plant, landscaping, deck, communal cooking, dining and lounge areas.
- 1.8 The proposal will presumably involve some form of cross lease or unit title subdivision (or similar), but that is not something I was required to consider.

⁴ AEE, p.1-2

⁵ AEE, p.2-3

Submissions

- 1.9 After notification, 169 submissions were received, with 135 being in support, 32 in opposition and 2 neutral.
- 1.10 A summary of the key issues raised in all submissions was provided in the Council's s42A Report⁶, which I adopt. In summary, some of the key themes included:
- a. support for the building's design, scale and mix of activities;
 - b. opposition to the building's design, scale, appearance, and lack of carparking;
 - c. concern about safety effects arising; and
 - d. concern that inadequate detail had been presented regarding noise insulation and archaeological assessments.

Role of Commissioner

- 1.11 I was appointed by the Council by delegation dated 20 March 2020.
- 1.12 Several matters were provided for under the delegation, but of most relevance to my role is:
- a. to determine all notification matters under sections 95A-95F;
 - b. to consider and make a decision on any resource consent application, including hearing the application if required under sections 104A-104D, 105 and 106; and
 - c. if consent is granted, to impose conditions under section 108.
- 1.13 I record that it was not my role to introduce evidence about the proposal, but to hear the submissions and evidence of others and to make a decision on the basis of that information.

⁶ s42A Report, p.3-4

2.0 Hearing sequence

Pre-hearing Procedural Matters

- 2.1 Following my formal engagement, I issued a minute⁷ to the parties to set out some preliminary matters in preparation for the hearing. More specifically, the minute:
- a. set out directions for parties to indicate whether they would be calling expert evidence, and whether those experts would be available for conferencing;
 - b. outlined a process and timetable for expert conferencing;
 - c. described the sequence for evidence exchange;
 - d. set out my expectations for hearing presentations; and
 - e. invited parties to suggest any particular sites or localities that I should visit to inform my understanding of the proposal and the local environment.
- 2.2 After receiving responses to Minute 1, I issued a second minute to confirm the hearing date and evidence exchange timetable⁸. In response to a question of clarification from the applicant, and following the circulation of the Officers' s42A report, I then issued Minute 3⁹ to confirm my expectations for expert evidence participation and presentations at the hearing.

s42A report

- 2.3 The Officers' s42A report was circulated on Thursday 13 February 2020. It comprised the planning report authored by CCC Consent Planner, Ms Shona Jowett. Attached to Ms Jowett's report were several appendices which contained:
- a. recommended draft conditions;
 - b. an index of submissions received;
 - c. an urban design assessment from CCC Senior Urban Designer, Mr David Hattam;
 - d. evidence of Mr Andy Carr, an independent transportation engineer and Director of Carriageway Consulting Ltd;
 - e. a summary of the key design changes adopted by the applicant after public notification and associated updated plans and drawings; and
 - f. an index of the relevant objectives and policies in the Plan.
- 2.4 Having drawn on the information and views expressed in the various appendices and carried out her own assessment of the application, Ms Jowett concluded that the proposal would result in adverse environmental effects that will be acceptable. She also found the proposal to be consistent with the objectives and policies in the Plan and Part 2 of the RMA. For those reasons she recommended that consent be granted.

Applicant's evidence

- 2.5 The week after the s42A Report was provided, the applicant circulated its expert evidence.

⁷ Minute 1 dated 30 January 2020

⁸ Dated 4 February 2020

⁹ Dated 17 February 2020

- 2.6 This included statements from Ms Emily McDonald, a planning consultant, and Ms Lisa Williams, a transportation engineer. An independent urban design assessment by Ms Nicole Lauenstein of a+urban, was attached to Ms McDonald's evidence.
- 2.7 The applicant's evidence outlined initial investigations carried out in support of the application, responded to matters raised in the s42A Report and submissions, and proposed various amendments to the proposal (among other matters).
- 2.8 I discuss the substance of the applicant's evidence in greater detail in section 4 below.

Submitter expert evidence

- 2.9 No expert evidence was called by submitters. The substance of submitter presentations is discussed further in section 4 below.

Hearing Proceedings

- 2.10 The hearing convened at 9:30am on Thursday 5 March 2020 at the Lyttelton Community Boardroom at 25 Canterbury Street in Lyttelton.
- 2.11 A list of attendances is provided at **Appendix 1**.
- 2.12 After I set out some procedural matters, the applicant opened its case with a presentation from Ms McDonald and Ms Williams of the amendments adopted by the applicant following notification. They were accompanied by Ms Camia Young and Mr Rob d'Auvergne – the applicant's representative and architect, respectively – the latter who further described the proposal and amendments adopted over the course of the project.
- 2.13 I then heard from Mr Brent Stanaway and Ms Julian Frater in support of the proposal. Both of these submitters were presenting on behalf of themselves and several other submitters in support who indicated in writing to the Council that they were happy to be represented by Mr Stanaway and/or Ms Frater.
- 2.14 Submitters in opposition followed the supporting parties. I discuss those presentations in further detail below.
- 2.15 Finally, the Council experts made their respective presentations and addressed various matters that arose during the day.
- 2.16 The hearing was then adjourned, pending the circulation of additional material before the ultimate closing of the hearing, as discussed further below.

Hearing adjournment

- 2.17 On Friday 6 March, I issued Minute 4, which outlined the remaining steps necessary to close the hearing. Specifically, it noted:
- a. an updated set of draft recommended conditions was to be produced by the planners for the applicant and CCC, in the event that my decision would be to grant consent; and
 - b. the applicant's right of reply would be circulated.
- 2.18 Both of those deadlines were met by the relevant parties in the time stipulated and I duly commenced my deliberations.

Hearing Closure

- 2.19 Having received all of the further information sought through the post-hearing dialogue, I was satisfied that I had sufficient information to complete my deliberations and deliver a decision on the application. I accordingly closed the hearing on 11 March 2020, via Minute 5.

3.0 Statutory & planning policy considerations

District Plan compliance

- 3.1 The application and s42A Report identified the full extent of consequent requirements under the plan. When all requirements are bundled together – as summarised in Table 1 below – the proposal is to be assessed as a **discretionary activity**.

Table 1 – Summary of consent requirements

Activity Rule	Standards not met	Reason
7.4.2.3 RD1 Transport	<ul style="list-style-type: none"> • 7.4.3.1 Minimum and maximum number and dimensions of car parking spaces • 7.4.3.2 Minimum number of car parking spaces • 7.4.3.3 Minimum number of loading spaces required • 7.4.3.7 Access design • 7.4.3.8 Vehicle crossings • 7.4.3.10 High trip generators 	<ul style="list-style-type: none"> • 63-68 carparks are required, whereas 6 are provided. • 19-36 cycle parks are required, whereas 26 are provided. • Up to 2 on-site loading spaces may be required, whereas no spaces are proposed. • A 4m minimum access width is required, whereas a width of 3.6m is proposed. • the vehicle crossing is required to be a minimum of 30m from the Oxford/London Street intersection, whereas the distance proposed is 21m. • the peak hour trip generation is estimated at 69-76 movements and is therefore a high traffic generator under the Plan.
15.6.1.4 D1 Any activity involving erection of a building that does not meet one or more of the built form standards in Rule 15.6.2 or activity standards in Rule 15.6.1.1	<ul style="list-style-type: none"> • 15.6.2.1 Minimum building height • 15.6.2.2 Maximum site coverage 	<ul style="list-style-type: none"> • 12m is the maximum height, whereas the proposed height is up to 13.2m. • Maximum site coverage is 65%, whereas the proposed coverage is 95%.

- 3.2 The applicant originally applied for consent under Rules 6.6.4.3 RD1 and RD2 to undertake earthworks and erect new structures in proximity to the brick barrel drain, which was deemed at that time to be a 'waterway' for the purposes of the Plan.
- 3.3 It was subsequently clarified in the Right of Reply, however, that the drain does not amount to a waterway, and consent is not required for the proposed works. The applicant and Ms Jowett acknowledged that the proposal will require a separate authorisation from the Council under the relevant bylaw, and they recommended an advice note to be included in the conditions of consent to reflect that.
- 3.4 Along similar lines, the original design of the basement carpark was such that one stall would require the vehicle using it to make an additional reversing movement. Consent was accordingly sought by the applicant for the associated contravention of Rule 7.4.3.4.
- 3.5 With the changes to the basement layout adopted by the applicant, Mr Carr advised during his verbal presentation at the hearing that this issue was resolved such that consent is no longer required under that particular rule. Mr Carr's view was not contested, and I have adopted his finding that consent is not required for the parking layout.

Resource Management Act 1991

- 3.6 Section 104 of the RMA sets out the matters I must have regard to in considering the application. Section 104B is also relevant given the classification of the activity as a discretionary activity. For completeness, the components of these statutory provisions which are relevant for this decision are as follows:

104 Consideration of applications

(1) *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—*

(a) *any actual and potential effects on the environment of allowing the activity; and*

(ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*

(b) *any relevant provisions of—*

(i) *a national environmental standard:*

(ii) *other regulations:*

(iii) *a national policy statement:*

(iv) *a New Zealand coastal policy statement:*

(v) *a regional policy statement or proposed regional policy statement:*

(vi) *a plan or proposed plan; and*

(c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

(2) *When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.*

...

(5) *A consent authority may grant a resource consent on the basis that the activity is a controlled activity, a restricted discretionary activity, a discretionary activity, or a non-complying activity, regardless of what type of activity the application was expressed to be for.*

104B Determination of applications for discretionary or non-complying activities

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—

(a) *may grant or refuse the application; and*

(b) *if it grants the application, may impose conditions under section 108.*

Policy Statements and Plans

- 3.7 In considering the relevance of the various matters under RMA s104(1)(b), I record my understanding that the Plan has been recently reviewed, and deemed to give effect to all higher order statutory directions such that:

- a. no National Policy Statement nor the New Zealand Coastal Policy Statement need be specifically considered for this proposal; and

- b. while I have considered the relevant provisions of the RPS, no specific assessment of the proposal against those provisions is necessary.
- 3.8 I note the similar approach adopted in the AEE and by Ms Jowett, and record that there is no evidence before me to otherwise reach any alternative interpretation.
- 3.9 The balance of the matters under s104 – including in particular the actual and potential effects on the environment and the proposal’s fit with the relevant provisions of the Plan – are considered in detail under section 4 below.

4.0 Principal issues in contention

Preamble

- 4.1 For this section of the report, I have intentionally focussed my assessment on the key issues in contention. As at the close of proceedings, there was wholesale agreement amongst experts about the proposal's effects, its fit with the relevant Plan provisions and the conditions of consent that should be imposed. Where those expert findings are also not in contention by submitters, I have adopted the consensus view for the reasons expressed by the respective experts.
- 4.2 My focus below is therefore on the remaining matters that were subject to submissions in opposition, including those matters voiced at the hearing. These issues broadly relate to the following topics:
- a. built form, townscape and streetscape effects;
 - b. transportation effects;
 - c. safety and accessibility; and
 - d. noise insulation.
- 4.3 For the sake of economy, I have considered environmental effects and relevant Plan provisions collectively under the above applicable topic heading – rather than considering them separately.
- 4.4 Before setting out my consideration of those issues in contention, however, I briefly canvas the following two matters for completeness:
- a. issues raised in submissions that are beyond my jurisdiction; and
 - b. positive effects.

Matters beyond my jurisdiction

- 4.5 Ms Jowett helpfully identified a range of matters raised by submitters which are outside of my decision-making authority. I adopt her reasoning¹⁰ for excluding those matters, which included submitter support and/or opposition to:
- a. the community-based development that involved the community in processes and investment;
 - b. design changes made in response to Council feedback or during the design competition run prior to the resource consent process;
 - c. Council taking a compliance led approach which is constraining the development and not thinking broadly enough or taking the innovative or positive aspects into account sufficiently;
 - d. public confidence in the applicant;
 - e. car parking requirements in the Plan, which were considered to be archaic;
 - f. property values being affected by the proposal, including changes to on-street parking availability; and
 - g. time-limited parking in Lyttelton not being well enough enforced.

¹⁰ s42A Report, p.4

- 4.6 I made clear at several junctures during the hearing that I was unable to take account of these matters, but record that finding again here for the formal hearing record.

Positive effects

- 4.7 The benefits of the proposal were acknowledged by the applicant, the Council and submitters.

- 4.8 For example, Ms Jowett said:

There have been a significant number of submissions in support of the proposal, which have helpfully identified a range of positive effects of allowing the proposal. Most prominent in my view (in terms of the RMAs definition [sic] of effect) include the redevelopment of a prominent corner site in the centre of Lyttelton, adding to the supply of small housing in Lyttelton (which some submitters consider to be in short supply), and accommodating more commercial activities to London/Oxford streets. These are elaborated on in the submissions summary above. For clarity as noted in the summary above a number of submissions identified positive features of the proposal that fall outside the RMAs definition of effect, and consequently I have not considered these as positive effects.¹¹

- 4.9 The AEE noted that the proposal would provide significant improvement to the amenity of the site and local environment and is well located for the proposed mix of uses relative to surrounding amenities.¹²

- 4.10 In his presentation, Mr Stanaway highlighted several positive effects identified by himself and other submitters he was speaking for. Those benefits included:

- a. generating further vitality, business activity, security, pride and energy to the town;
- b. filling genuine need for additional businesses to service tourists and other visitors to the town;
- c. filling genuine need for small, low-maintenance housing units in Lyttelton;
- d. provision of community space in London Street;
- e. making excellent use of the site's proximity to a school, post office, supermarket, chemist and other amenities;
- f. providing uplift in business and developer confidence; and
- g. a larger, striking building on the site will help reinforce its prominent corner location.

- 4.11 Ms Frater echoed Mr Stanaway's observation about the site's prominence and the appropriateness of the building in that context. In Ms Frater's view, the proposal's relatively low on-site provision for carparking is a benefit in that it encourages alternative transportation options to be utilised.

- 4.12 In addition to the above and to the benefits related to the building's design which I discuss below, I adopt the assessment in the AEE that the proposal will proactively assist with the achievement of the Plan's objectives that seek:

- a. increased supply of housing that enables variety in housing type, size and density; to meet the diverse needs of the community during recovery and over the longer term, and assists with improved housing affordability;¹³ and

¹¹ S42A Report, p.5

¹² AEE, p.18

¹³ Objective 14.2.1

- b. recognition and facilitation of the critical importance of commercial activity to the recovery and long-term growth of the City¹⁴.
- 4.13 With those benefits recorded, I now focus on the key matters in contention as indexed in the list of four topics in para 4.2.

Built form, streetscape and townscape

- 4.14 The key issues raised by submitters in relation to the building design and its impact on the surrounding area included:
- a. that the building's height is not in keeping with townscape values, will dominate the streetscape and will block views and sunlight to the street and adjoining sites;
 - b. that the design is not consistent with the design guidelines for Lyttelton, and will be out of character.
- 4.15 Dr Bruce Russell, who is a member of the Lyttelton Urban Design Panel but was presenting as a local resident, addressed the building's form and design in his presentation. He commended the applicant for adopting design changes to mitigate its adverse effects, but gave his view that the building remains out of scale notwithstanding those amendments. Dr Russell observed that the building would be taller than its predecessors and also taller than other buildings in Lyttelton. In his view, the 'breaking up' of the built form into four buildings is not as successful as it could be; and the building will read as one mass in his opinion.
- 4.16 In response to a question from me about the similarity of the building's maximum height to that anticipated in the Plan, Dr Russell clarified that his concern was mainly about the effect of a building's singular mass on streetscape.
- 4.17 Mr Greg Allison – also a local resident – shared Dr Russell's view that the building would be larger than others in Lyttelton apart from the new primary school, and out of scale with the neighbourhood. Mr Allison also expressed concern about the bulk and shading effects that the building would have on the property at 11A London Street where he is a tenant.
- 4.18 Mr Jason Campbell¹⁵ and Mr Gary Horan also were concerned about the bulk and shading of the building. Their interest was particularly in the impact of the proposal on the adjoining site to the south at 19 Oxford Street, which is occupied by a guest accommodation facility. The business was established in late 2019 by the Maritime Union, who Mr Campbell represented, and it is managed by Mr Horan.
- 4.19 Mr Campbell and Mr Horan expressed the view that the proposed building's dominance and shading would have an adverse effect on the amenity of their property and impact on the success of the guest accommodation units. Mr Campbell added in his view, even a building that fully meets the maximum height requirements would be too large and cause unacceptable shading impacts.
- 4.20 In her hearing presentation, Ms Imke Janus – a local resident of 32 years – also expressed the view that the proposed building is too large for its context, and is out of character with the surrounding area. She was also concerned that its approval would create an unsatisfactory precedent for the many vacant sites that are within the town centre.

¹⁴ Objective 15.2.1

¹⁵ Mr Campbell was presenting for Mr G Loader who was unable to attend.

- 4.21 Mr Hattam carried out a comprehensive assessment of the proposal against the relevant design-related matters in the District Plan, including the Lyttelton Design Guide. While Mr Hattam found aspects of the proposal as notified to be undesirable, he considered the revised design largely resolved those concerns. In his view, the revised proposal meets the matters in the design guide and the general design-based matters in the Plan.¹⁶
- 4.22 In support of that conclusion, Mr Hattam expressed the following expert opinion about the bulk and appearance of the building (in summary):
- a. while the building is relatively large, it is successfully broken into four separate forms with reasonable levels of detailing and it provides good 'corner definition' and a high level of interest on all four elevations;¹⁷
 - b. the additional height will read as a 'step-up' relative to the character building next door, rather than be dominant of the neighbour;¹⁸
 - c. similarly, the additional height will not create a strong adverse visual impact in and of itself in terms of streetscape and townscape effects;¹⁹
 - d. the effect of the 0.6m (approx.) height breach along the southern and eastern facades will be modest in scale and mitigated by the generally high standard of design;²⁰ and the amount of visual interest provided in the built form.
 - e. the proposal has good levels of glazing on both frontages and will promote good interaction with the streets;²¹
 - f. the proposal is a contemporary building that takes cues from its setting but is distinctive in its own right;²² and
 - g. the building is generally designed to provide continual frontage to the road.²³
- 4.23 Ms Jowett drew my attention to the Plan's expectations as relates to the building's scale and visual impact²⁴. She emphasised Objective 15.2.4 in particular, which aims to achieve a scale, form and design of development that is consistent with the role of the centre it is located in and which:
- a. contributes to an urban environment that is visually attractive, safe, easy to orientate, conveniently accessible, and responds positively to local character and context;
 - b. recognises the functional and operational requirements of activities and the existing built form; and
 - c. manages adverse effects on the surrounding environment.
- 4.24 In the context of Objective 15.2.4 and the policies that implement it, Ms Jowett concluded that the proposal will be appropriate and that any associated adverse effects would be acceptable. Her reasons for this were:

¹⁶ S42A Report, Attachment 2, p.28-29

¹⁷ S42A Report, Attachment 2, p.30

¹⁸ S42A Report, Attachment 2, p.34

¹⁹ S42A Report, Attachment 2, p.34

²⁰ S42A Report, Attachment 2, p.38

²¹ S42A Report, Attachment 2, p.30-31

²² S42A Report, Attachment 2, p.33

²³ S42A Report, Attachment 2, p.35

²⁴ S42A Report, p.8-9

Building height has been reduced so that the main roof form is approximately 0.7m above the 12m height limit (excluding the roof top pergola structure which is towards the centre of the building, but which would let light through and not appear visually dominant);

The building would cast a shadow over the adjoining site to the south, but I consider it is reasonable to expect the application site to be redeveloped to at least two storeys and to be built up to road frontages of both London and Oxford Streets. The amenity of adjoining sites is relevant (matters of discretion 15.13.3.7 and 15.13.3.1), though the redevelopment of 19 Oxford Street with a single storey building to the south of the application site leaves little reasonable potential for the application site to be developed in a way that would not shade the building on 19 Oxford Street to some extent;²⁵

- 4.25 In response to questioning, Ms Jowett noted that articulation and massing mitigation could be adopted to reduce potential effects on southern neighbours; however, the portion of the site where this would be of most benefit is at the street corner. To that end, a development alternative on the site with a lower height would be in conflict with the expectations of Policy 15.2.4.1, which anticipates prominent buildings on street corners. Similarly, if the building was setback from the corner to allow more light into 19 Oxford Street, such an arrangement would be in contrast to the benefit cited by Mr Hattam of continuous building frontage up to the street edge.
- 4.26 I also note that the applicant obtained an independent urban design assessment by Ms Nicole Lauenstein of a+urban, and Ms Lauenstein's associated report was attached to Ms McDonald's evidence. Ms Lauenstein did not attend the hearing but signalled in her report her general agreement with Mr Hattam's assessment and reached similar conclusions regarding the actual and potential effects of the building on the surrounding environment.
- 4.27 I do accept the position of Mr Campbell and Mr Horan about the bulk and shading of the proposed building having a potential effect on the amenity of their property at 19 Oxford Street - a guest accommodation facility. However, and as Mr Campbell conceded, the topography of the area compounds the problem and any building that fully meets the maximum height requirements in the District Plan would cause the same or similar shading impacts. In this respect Mr Campbell's concern (and to a similar extent Mr Allison's concern regarding 11A London Street), whilst valid, is essentially a concern with what the District Plan enables and I have no jurisdiction over that. Also I was not provided with any evidence of the likely impact of the shading on the success of the guest accommodation units so was unable to place much weight on that claim.
- 4.28 Overall, and for the reasons expressed by Mr Hattam and Ms Jowett, I consider that the adverse effects of the proposed building on local character, amenity, streetscape and townscape values will be acceptable and generally consistent with the relevant provisions in the Plan.
- 4.29 I adopt their collective view that the proposal will be generally complimentary to its setting and the unique character of Lyttelton. The proposed bulk and positioning of the building will result in shading effects on adjoining properties, which is unfortunate; however, I consider the building design overall will be appropriate to the site's corner location consistent with the expectations of the District Plan.

²⁵ S42A Report, p. 9

Transportation effects

- 4.30 The main transport-related issues raised by submitters were owing to concerns regarding the limited provision of on-site carparking. Key themes presented on in respect to this matter related to the potential for:
- a. increased congestion;
 - b. the future residents being forced to park elsewhere, thereby:
 - i. affecting local businesses whose customers would struggle to find public carparks;
 - ii. reducing kerbside parking availability for existing residences in the vicinity; and
 - iii. transferring a cost onto the community as parking demand will use up public spaces.
- 4.31 Submitters also questioned the accuracy of carparking survey data used as a basis for assessing effects. In addition, it was suggested that covenants or other encumbrances should be used to prevent future residents from owning cars.
- 4.32 I expand upon these carparking issues immediately below before addressing other transportation matters raised at the hearing.

Carparking issues raised in submitter presentations

- 4.33 While he clarified that he is not an advocate for car travel, Dr Russell gave the view based on his experience as a local resident that new residents will need to use private vehicle transport. If on-site parking is not provided for them, his view was that the net result will be less parking available elsewhere in the town. Dr Russell also noted that the new school does not contain any off-street parking or loading areas. When it and the associated Lyttelton Arts Factory experience peak traffic flows, Dr Russell said there is a demonstrable effect on the number of vehicles in the area and an associated decrease in available kerbside parking. He noted also that the local medical centre adds to this as another generator of traffic to the London/Oxford Street corner.
- 4.34 In addition to presenting his own submission, Dr Russell read a statement from Ms Nikki Clay who was unable to attend the hearing. Ms Clay's own observations are that finding a carpark in the Oxford/London Street vicinity is already difficult, and she fears that the proposal will exacerbate that effect.
- 4.35 Mr Allison, Mr Campbell and Mr Horan all advised that they regularly experience motorists blocking their respective driveways and on-site parking areas temporarily under current conditions. They consider that this situation would become worse with fewer public parking options available due to greater competition for spaces from new residents.
- 4.36 Ms Janus noted her experience that kerbside parking is already at a premium in central Lyttelton. She expressed concern that the proposed development would worsen the situation. As touched on earlier in this decision, Ms Janus also advised me that there are 23 vacant sites in the centre of the town. In her view there is the potential for cumulative effects arising from the future development of those sites that would make the issue severe.

Amendments to carparking requirements

- 4.37 In the Integrated Transportation Assessment attached to the AEE, it was noted that the proposal's parking demand under the (then) operative District Plan would require between 64-73 on-site spaces. The range of parking numbers required is due to the flexibility inherent in the proposal for the apartment units to be used as residential accommodation or guest accommodation, which have different associated parking requirements.
- 4.38 Ms Jowett clarified in her s42A Report that those car parking requirements outlined above were subsequently superseded in December 2019 (after the application was lodged) by a change to the District Plan made under earthquake recovery legislation ('the plan change'). She advised:

Through section 71 of the Greater Christchurch Regeneration Act 2016, there has been a change to the Christchurch District Plan parking requirements under chapter 7 which is now fully operative, exempting all activities in the Commercial Banks Peninsula zone in Lyttelton from the parking space requirements in rule '7.4.3.1 Minimum and maximum number and dimensions of car parking spaces required' and 'Appendix 7.5.1 Parking space requirements,' apart from residential activities and only to the third and subsequent residential units on the same site (parking requirements still apply to the first two residential units on the same site). Pursuant to section 88A of the RMA the parking requirement rules at the time of the application's lodgement still set the activity status for the application (requiring parking for all activities as set out in Appendix 7.5.1), however the operative rule must be had regard to in accordance with s104(1)(b) and I afford it significant weight in the assessment that follows.²⁶

- 4.39 The upshot of the plan change is that the minimum parking requirements are dramatically reduced under the (now) operative rules in the District Plan. Mr Carr explained at the hearing that under the new rules, the Plan anticipates a minimum on-site provision of between 0-11 carparks depending on the distribution of residential and guest accommodation facilities.
- 4.40 As noted above by Ms Jowett, given the sequence of the application's lodgement before the change came into effect, the activity status and consent requirement are dictated by the previous rules and the extent to which the new provisions are applied is a matter of weight for me to apply.
- 4.41 I adopt Ms Jowett's view that "significant" weight should be applied to the new plan provisions; however, as I detail below, even in the absence of that weighting exercise, I find the expert evidence demonstrates that the anticipated impact of the proposal on surrounding parking supply will be acceptable.
- 4.42 Before detailing that discussion, however, I am compelled to note the work that underpins the plan change, both by the Department of Prime Minister and Cabinet and by the Council. For example, the proposal document²⁷ for the plan change notes that the drivers for the plan change are:

- *The urgent need to address the issues surrounding the regeneration and redevelopment of the Lyttelton town centre in particular, as opposed to any other neighbourhood centre. These issues are in part created by the current on-site parking provision requirements in the District Plan. The requirements are causing uncertainty, costs and delays for potential commercial developments, and a plan change that is narrow in focus and scope is needed to address the particular issues faced.*

²⁶ S42A Report, p. 2

²⁷ *Removal of Minimum Car Parking Spaces Provision for the Lyttelton Commercial Banks Peninsula Zone. Proposal to exercise power under section 71 of the Greater Christchurch Regeneration Act 2016.* Christchurch City Council (September 2019)

- *The importance of expediting the redevelopment of sites that have been vacant since the Earthquakes. This redevelopment, which is currently moving very slowly or not at all in some cases, will stimulate the local economy, contribute to the urban design and amenity of London Street and surrounds, and help meet the social needs of the community.*
- *This process would be the most efficient way to deal with these issues. Any other possible alternative would not address the problem in the direct, focused and efficient way that is required to encourage the regeneration outcomes outlined in section 5 above. The narrow scope of this change is also best approached using a section 71 process.²⁸*

4.43 In the Minister's decision on the plan change proposal²⁹, the issues above were acknowledged along with acceptance from the Minister that there will be some potential for additional 'overspill' parking in the town centre and surrounding residential streets as a result of the plan change. The Minister also noted, however, that the Council considered the potential effects overall on the safety and efficiency of the transport network would not be significant – and furthermore, that Council would respond to any issues arising in the future through appropriate parking management solutions.³⁰ The Minister concluded:

I do consider that exercising my power to approve the Proposal is necessary. My approval is necessary to enable a focused and expedited regeneration process and facilitate the ongoing planning and regeneration of the Lyttelton town centre and greater Christchurch given that:

- *The Proposal is the most efficient way to address these issues and other possible alternatives would not address this in such a direct, focussed, efficient or certain way.*
- *That the status quo (i.e. the resource consent process) is not working efficiently.*
- *It will facilitate the necessary and discrete amendment to the District Plan.*
- *It will provide greater development certainty and enable regeneration of the Lyttelton town centre.³¹*

4.44 That the matter has been resolved under the regeneration legislation points to a need for a pragmatic approach to the matter before me. In that respect, I acknowledge that the applicant could withdraw the current proposal, re-lodge it tomorrow and be considered under the now operative regime which anticipates far fewer parks than the Plan did at the time of lodgement.

4.45 As far as that goes, I apply little weight to the shortfall in parking relative to the now superseded rules. Irrespective, I have considered the issue on its merits based on the evidence before me, which I discuss now.

Expert transportation evidence

4.46 The transportation assessment attached to the AEE identified that the anticipated demand for carparking associated with the proposed use of the new building would be around 32-39 spaces at any one time, with variable demands throughout each day for

²⁸ At page 12

²⁹ Ministerial Decision Report Approving the Lyttelton Carparking Proposal to Exercise Power Under Section 71 of the Greater Christchurch Regeneration Act 2016. DPMC (December 2019)

³⁰ At page 2

³¹ At page 6

each proposed activity. With six on-site spaces provided by the proposal, the resulting shortfall in average demand would therefore be 26-33 spaces.³²

- 4.47 A parking survey carried out by the applicant's transportation experts demonstrated that in the immediate vicinity of the site, there are approximately 54 parking spaces available, with 31 of those being available during peak periods. Within a wider walkable³³ catchment, the survey identified an average of 109 spaces available with 87 of those available during peak times.³⁴
- 4.48 Mr Carr observed that the applicant's survey findings were very similar to the results of a survey carried out by the Council after the application was lodged. In comparing the two, Mr Carr concluded that *'in each case, the amount of unrestricted on-street spaces vastly exceeds the demand generated by the proposed development even when a higher amount of parking associated with the residential development is allowed for.'*³⁵
- 4.49 Mr Carr added that, in his experience it is common to consider that parking stock operates at its practical maximum capacity at around 90% of the maximum overall capacity – and even allowing for this, there is ample on-street parking available to accommodate the demand of the facility.³⁶
- 4.50 From a safety perspective, Mr Carr also advised that there is no adverse road safety record associated with parking activity near the site – and accordingly, there is no reason to expect that adverse safety effects would arise with increased uptake of on-street resources.³⁷
- 4.51 In response to suggestions from submitters that the survey information might not be accurate, Mr Carr spoke to the commonality between the applicant's survey and the Council's, which were conducted independently of one another. Furthermore, he noted that skewed survey results are often due to such factors as the survey day being rainy or through the survey times/days being too short, at odd times or otherwise not obtaining representative data.
- 4.52 In Mr Carr's view, both surveys relied upon for this proposal were carried out appropriately, without any suggestion that the results are in anyway skewed. He added that were he to have conducted the surveys himself, the methods he would use would not be materially different to those adopted by both the applicant and the Council.
- 4.53 I asked Mr Carr's view on the point made by Ms Janus that cumulative effects may arise if the many vacant sites in Lyttelton are developed over time. He acknowledged that point made by Ms Janus, and said that the acceptability of any future proposal would be assessed on a case-by-case basis, and the outcome may well be a 'first come – first serve' scenario. As far as this proposal goes, Mr Carr was satisfied that sufficient supply is currently available to meet the demand of the proposal such that the effects would be acceptable.

Overall evaluation of shortfall in carparking provision

- 4.54 Having considered all of the submissions and evidence before me, I adopt the expert view of Ms Williams and Mr Carr that the proposed parking shortfall will result in acceptable effects for the reasons they have expressed.

³² AEE, Appendix 4, p.11

³³ 'Walkable' in this instance being assessed within 280m of the site.

³⁴ AEE, Appendix 4, p.11

³⁵ S42A, Appendix 3, p.5

³⁶ S42A, Appendix 3, p.5

³⁷ S42A, Appendix 3, p.6

- 4.55 While there is anecdotal evidence from submitters before me that parking in the vicinity of the site can be at a premium at times, the compelling evidence based on two independent surveys is that there is sufficient supply to meet the demand from the proposal.
- 4.56 I adopt Mr Carr's evidence that both surveys are fit-for-purpose and that the results support a finding that any adverse effects will be no more than minor. By extension, I find the proposal will be consistent with the Plan's expectations for the management of carparking, and in particular under Objective 7.2.1, and supporting Policies 7.2.1.2, 7.2.1.4 and 7.2.1.6.

Other transportation matters

- 4.57 In his evidence, Mr Carr also recommended some conditions be adopted to minimise the potential for adverse effects to arise, including:
- a. assigning the on-site parking spaces to specific units/tenancies so as to avoid drivers speculatively entering and exiting the basement;
 - b. provision of signage to alert drivers to cyclists also using the access ramp to/from the basement; and
 - c. ensuring the roller security door for the carpark operates quickly to minimise the queue time for vehicles entering/exiting.³⁸
- 4.58 The applicant has agreed that all of the above matters are appropriate to be addressed by conditions, though it sought modification to the first matter to enable either assignment of the spaces to specific units or an alternative management regime to ensure exclusive use.
- 4.59 Furthermore, the revised conditions attached to the applicant's reply (and agreed to by the council reporting officer) have adopted additional drafting clarifications to enhance their efficacy, and a further condition was added to require the installation of a convex mirror to assist with visibility for vehicles and cyclists using the access ramp.
- 4.60 I am satisfied the conditions are appropriate, and I adopt Mr Carr's evidence that with these measures imposed, any safety or efficiency effects from the proposed access arrangements will be appropriately managed.

Synopsis of transportation matters

- 4.61 For all the reasons set out above and given the proposed condition framework, I consider the proposal's effects on the safety and efficiency of the transport network will be acceptable.
- 4.62 I also find the proposal is suitably aligned with the relevant objectives and policies in Chapter 7 of the Plan.

Safety and accessibility

- 4.63 The third key issue in contention is the tension between enabling generous public access to the building, whilst also ensuring a reasonable level of safety is achieved.
- 4.64 I note here that this was clearly an issue of some frustration for many submitters. I heard from several parties who amplified the point made in submissions that the

³⁸ S42A, Appendix 3, p.11-12

proposal has evolved in multiple ways since it was subject to a public design competition some years ago. In particular, those parties stressed the desirability of the building including a strong community focus and/or being highly accessible to the community – including the rooftop deck.

- 4.65 Mr Allison and Mr Maynard each spoke to this at the hearing, both expressing high disappointment with the resulting proposal relative to initial plans. That latter submitter even postulated that some of the opposition to the proposal might well be appeased should public access to the rooftop be enabled.
- 4.66 The problems arising with the previous design that the submitters favoured were voiced by Mr Hattam at the hearing and in his report, and primarily related to the following:
- a. allowing full public access to the shared roof space undermines the availability of its use for future residents, who are not provided with any on-site outdoor space apart from that achieved through flexible indoor/outdoor use of Juliet balconies;
 - b. uncontrolled access also presents safety risks such as entrapment and limited oversight, particularly during night time hours; and
 - c. relatedly, the rooftop setting could present a risk for suicide attempts if openly accessible.
- 4.67 The applicant volunteered internal design changes to enhance visibility and passive surveillance, and to minimise the potential for entrapment as part of its redesign package. It also proposed the installation concertina mesh gates at ground floor to restrict access to the roof. In the revised conditions attached to the right of reply, the applicant volunteered that details of the gates' operation would be subject to future certification processes within the Council.
- 4.68 Mr Hattam noted at the hearing that with the proposed design revisions adopted by the applicant, a reasonable level of safety would be achieved, and future residents would have access to an acceptable level of on-site open space via the Juliet balconies and rooftop terrace.
- 4.69 While I understand the submitters' frustrations that their expectations for the facility may not be realised by the amended design, the building's departure from earlier plans is not ultimately a matter that I can place any weight on.
- 4.70 There is expert evidence before me from Mr Hattam and Ms Lauenstein that the design and conditions now proposed by the applicant are appropriate to ensure acceptable safety and amenity levels for residents and the public, and I have ultimately adopted that evidence for the reasons Mr Hattam expressed.
- 4.71 As a result, I consider the proposal will be consistent with the Plan's expectations for on-site outdoor living space and safety – in particular under Policy 15.2.4.2.

Noise insulation

- 4.72 The final key issue relates to the submission from Lyttelton Port Company, which requested further detail to be provided to ensure compliance with the Plan requirements for noise insulation from the effects of major road and rail activity.
- 4.73 In her s42A Report, and based on advice from her Environmental Health Team, Ms Jowett gave the view that the noise effects on residents and guests in the new building

would be acceptable, and the risk of reverse sensitivity effects for the Port would be managed as long as the building meets the permitted activity expectations of the Plan.³⁹

- 4.74 The applicant's acoustic advisor demonstrated in the response to the Council's further information request that the relevant noise standards could be met. Furthermore, the applicant advised that a condition of consent would be volunteered to require a design report from a suitably qualified expert demonstrating the building is capable of meeting the standards. On that basis, the Port Company signalled that they would not need to present any evidence at the Hearing.
- 4.75 Ms McDonald appended an annotated version of the draft conditions recommended by Ms Jowett to her EiC. The annotated document included seven conditions for the purposes of addressing noise insulation, including a condition requiring the permitted activity standards of the Plan to be met.
- 4.76 I expressed some concern about the efficacy of such a condition at the hearing, and asked the planning witnesses whether the seven conditions overall could be rationalised into a clearer framework – or even dispensed with altogether given they are requiring compliance with the permitted activity rules in the Plan. Ms McDonald and Ms Jowett agreed to confer with a view of simplifying the noise conditions after the hearing adjournment.
- 4.77 The resulting suite of conditions attached to the applicant's Right of Reply replaced the seven conditions proposed by Ms McDonald with the following advice note:

This application has been processed on the basis of compliance with Rule 6.1.7.2.1 Sensitive activities near roads and railways. Compliance with the acceptable solutions in Appendix 6.11.4 or a design report in accordance with 6.1.7.2.1 a. ii. A. must be provided with the application for Building Consent. If compliance is not demonstrated at building consent stage then another resource consent would be required.

- 4.78 I consider this to be an appropriate response by this process to address the Plan's requirements for noise mitigation. The applicant has demonstrated that the building can be designed to meet the permitted standard, and the necessary detail to confirm that will be forthcoming at the building consent stage. It would, in my view, be artificially and unnecessarily duplicative for this resource consent process to require any additional imposition on the applicant to repeat that process.
- 4.79 There is no evidence before me that the proposed building will be unable to meet the Plan's expectations for noise mitigation. If, however, that proves to be the case for whatever reason in the future, then a resource consent will be required and any effects can be suitably managed through that process.

Other matters (s104(1)(c), RMA)

- 4.80 No party drew my attention to any 'other' matters that may be relevant to the determination of this proposal.

Part 2

- 4.81 Decisions on resource consent applications are "subject to Part 2" of the RMA, which sets out the Act's sustainable management purpose.
- 4.82 I have not felt any need to revert to Part 2 in order to determine this application, owing to the substance of the relevant objectives and policies in the Plan. The Plan was

³⁹ S42A, p.11

competently prepared via a recent independent hearing and decision-making process, with express assessment and implementation of the matters in Part 2.

- 4.83 There is no evidence before me to suggest there are areas of invalidity, incomplete coverage or uncertainty in the Plan or intervening statutory documents such that any detailed evaluation of Part 2 is required.

5.0 Decision

- 5.1 For the reasons set out above, and acting under delegated authority on behalf of the Christchurch City Council, consent is hereby **granted** to Collett's Corner Limited to establish and operate a new three-storey building containing a health spa, restaurant, gymnasium, offices, retail activity and 20 residential units or guest accommodation.
- 5.2 Consent is granted subject to the conditions set out in **Appendix 2**.

DATED AT WELLINGTON THIS 20th DAY OF MARCH 2020



DJ McMahon
Independent Commissioner

ATTACHMENT 1
Schedule of Appearances

HEARING RECORD OF APPEARANCES RMA/2019/1330

Applicant

- Ms C Young – applicant's representative
- Mr R d'Auvergne – architect
- Ms L Williams – transportation planning consultant
- Ms E McDonald – planning consultant
- Mr J Phillips – planning consultant (observing)

Christchurch City Council

- Ms S Jowett – planner
- Mr A Carr – independent transportation engineer
- Mr D Hattam – senior urban designer
- Mr K Wilson – senior planner (observing)

Submitters

- Mr B Stanaway – Lyttelton Resident (on behalf of himself and several other submitters in support)
- Ms J Frater – Lyttelton Resident (on behalf of herself and several other submitters in support)
- Dr B Russell – Lyttelton Resident (on behalf of himself and another submitter in opposition)
- Mr G Allison – Lyttelton Resident
- Mr J Campbell – appearing in lieu of Mr G Loader for the Maritime Union of New Zealand
- Mr G Horan – property manager of 19 Oxford Street
- Mr Ken Maynard – chair of the Lyttelton Community Association
- Ms I Janus – Lyttelton Resident

Other Attendees

- Ms S Staples
- Ms V Paton
- Ms J Villard

ATTACHMENT 2
Conditions of Consent

Consent Conditions – RMA/2019/1330

General

- i. Except as required otherwise by the conditions of this consent, the development shall proceed in accordance with the information and plans submitted with the application, including the amended plans dated 04/03/2020. The approved plans include:
- Concept site plan SK 01, dated 04/03/2020;
 - Basement / site concept plan SK10, dated 04/03/2020;
 - Ground floor / site concept plan SK11, dated 04/03/2020;
 - First floor concept plan SK12, dated 04/03/2020;
 - Second floor concept plan SK13, dated 04/03/2020;
 - Roof deck concept plan SK14, dated 04/03/2020;
 - Balcony and window details SK21, dated 04/03/2020; and
 - Elevations SK20, dated 04/03/2020.

Detailed Design Certification

- ii. Prior to application for Code Compliance for buildings, the consent holder shall submit (by email to rcmon@ccc.govt.nz) for certification:
- a. Details of the methods for ensuring that the ground floor concertina mesh gates shown on the approved plans shall be closed and locked outside of opening hours for the ground floor tenancies. Examples of such methods may include but are not limited to: directives to ground floor tenants, engagement of security contractors, or automated solutions.
 - b. Details of exterior concrete walls at the ground floor and basement level to confirm that a fine-grain pattern shall be inscribed across the full extent of the walls, except where covered by a cladding material.
 - c. Details of the building cladding, at first floor level and above to confirm that each of the four building modules has different, distinct patterns and/or colours.
 - d. Plans and details of the location and type of lighting to be provided at ground floor level demonstrating compliance with the NZ lighting standards *AS/NZS 1158:2005* Standard P7 for “Public Activity Areas” in respect of pedestrian safety (an average horizontal illuminance of 14 lux and a point horizontal illuminance of 4 lux). The certified lighting plan shall be implemented in full prior to the ground floor access way being open to the public.

Where there is dispute over certification of matters b and c above, the Council shall appoint an independent urban designer to certify whether the objectives set out in matters b and c have been satisfied. In such circumstances, the independent certifier’s decision shall be final. In the event that the details proposed by the consent-holder are not certified, or any future changes are proposed, re-certification shall be sought in accordance with this

condition. Where there is dispute over certification the costs associated with obtaining the decision of an independent urban designer shall be borne by the applicant.

The activity shall be undertaken in accordance with the certified specifications on an ongoing basis.

Security

- iii. Automatic security measures shall be provided on the stairwell and lift to limit access to the first and second floors, and rooftop, to persons residing or staying on-site, and their visitors.

Access & Parking

- iv. Parking spaces within the basement shall be allocated to specific units, or each space shall be managed to ensure it is exclusively available for one user at any one time, to avoid drivers speculatively entering the basement and then having to exit again.
- v. Signs to warn drivers of the possible presence of cyclists shall be provided in the following locations:
 - Above the accessway ramp, either affixed to the ceiling or a bulkhead, facing and clearly visible to oncoming drivers; and
 - On the southern wall of the car park midway between the bottom of the accessway ramp and the end of car park 6, facing north.

The signs shall comprise a yellow diamond measuring 0.6m by 0.6m, and show a black cycle symbol on a yellow background.

- vi. The roller door at the access shall open, to its full extent to enabling a vehicle to enter the site, within a maximum of 3 seconds after being activated.
- vii. A convex mirror shall be affixed to the southern wall of the car park and positioned such that car drivers and cyclists travelling down the ramp can see vehicles and cyclists manoeuvring within the basement.

Advice Notes:

- A. *This site may be an archaeological site as defined and protected under the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. Archaeological sites are defined in the HNZPTA as any place in New Zealand where there is physical evidence of pre-1900 occupation, regardless whether the site is known or not, recorded in the NZAA Site Recording Scheme or not, or listed with Heritage New Zealand or the local council. Authority from Heritage New Zealand is required for any work that affects or may affect an archaeological site. Please contact the Heritage New Zealand regional archaeologist on 03 363 1880 or archaeologistcw@heritage.org.nz before commencing work on the land.*
- B. *It is unlawful for any person to destroy, damage, or modify the whole or any part of an archaeological site without the prior authority of the Heritage New Zealand Pouhere Taonga. This is the case regardless of the legal status of the land on which the site is located, whether the activity is permitted under the District or Regional Plan or whether a resource or building consent has been granted. The*

Heritage New Zealand Pouhere Taonga Act 2014 provides for substantial penalties for unauthorised damage or destruction.

- C. Building over a drain will require a separate application to Council in respect of Clause 26 of the Water Supply, Wastewater and Stormwater By-law.*

- D. This application has been processed on the basis of compliance with Rule Rule 6.1.7.2.1 Sensitive activities near roads and railways. Compliance with the acceptable solutions in Appendix 6.11.4 or a design report in accordance with 6.1.7.2.1 a. ii. A. must be provided with the application for Building Consent. If compliance is not demonstrated at building consent stage then another resource consent would be required.*