



**NAPIER**  
CITY COUNCIL  
*Te Kaunihera o Ahuriri*

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# HEARINGS COMMITTEE (RESOURCE CONSENT HEARING)

## Open Agenda

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Meeting Date: Monday 18 July 2022

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Time: 9.30am (Applicant: Kwok and Janine Cheng)

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Venue: Breakout Room 2  
Napier War Memorial Centre  
Marine Parade  
Napier

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Committee Members Deputy Mayor Brosnan (in the Chair) and Councillor Simpson

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Officer Responsible Executive Director City Strategy (Richard Munneke)

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Administration Governance Team

# ORDER OF BUSINESS

## Apologies

Nil

## Conflicts of interest

## Agenda items

1	RM210183 - Section 42A Report .....	3
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# AGENDA ITEMS

## 1. RM210183 - SECTION 42A REPORT

Type of Report:	Legal
Legal Reference:	Resource Management Act 1991
Document ID:	1475207
Reporting Officer/s & Unit:	Christina Bunny, Senior Resource ConsentsPlanner Kathryn Hunt, Personal Assistant to Director City Strategy

### 1.1 Purpose of Report

To hear submissions to application RM210183 for Land Use Consent to remove a Group 3A Heritage Item, and replace this dwelling with a new two-storey building within the Hardinge Road Residential zone at 69 Hardinge Road, Ahuriri, Napier.

#### Officer's Recommendation

That the Hearings Commissioners resolve:

That pursuant to the requirements of Section 104, 104B of the Resource Management Act 1991, the Napier City Council **declines** Land Use Consent to the application by Janine and Sing Gheng for the removal of a Group 3A Heritage Item, and construction of a new building in accordance with the plans submitted under RM210183

### 1.2 Attachments

Section 42A Officer's Report (Doc Id 1475476) [↓](#)

Appendix A - Application Documents and Additional Information Received (Doc Id 1475530) (Under separate cover 1) [⇒](#)

Appendix B - Plan set (Doc Id 1475528) (Under separate cover 1) [⇒](#)

Appendix C - Building Condition Report (Doc Id 1475529) (Under separate cover 1) [⇒](#)

Appendix D - Notification Decision (Doc Id 1475527) (Under separate cover 1) [⇒](#)

Appendix E - Submission (Doc Id 1475526) (Under separate cover 1) [⇒](#)

Appendix F - Shading Diagrams (Doc Id 1475531) (Under separate cover 1) [⇒](#)

Appendix F - Shading Diagram video links (Doc Id 1475650) (Under separate cover 1)

[⇒](#)

Appendix G - Draft Condition set (Doc Id 1475625) (Under separate cover 1) [⇒](#)



## Recommendation on an application for resource consent under the Resource Management Act 1991

Discretionary Activity

Removal of Group 3A Heritage Item, and construction of New Dwelling

<b>Hearing Date</b>	18 July 2022
<b>To:</b>	Hearings Panel: Deputy Mayor Brosnan (Chair) Councillor Nigel Simpson <i>Appointed by Napier City Council</i>
<b>Reporting Officer:</b>	Christina Bunny Senior Resource Consents Planner, Napier City Council
<b>Application Number:</b>	RM210183
<b>Applicant:</b>	Janine and Sing Gheng
<b>Site address:</b>	69 Hardinge Road, Ahuriri, Napier
<b>Legal description:</b>	Lot 4 Deeds Plan 317 RT HBB4/251 253m <sup>2</sup> .

## Contents

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3. Site and Locality Description
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5. Reason for Consent & Activity Status
6. Notification and Submission
7. Actual and Potential Effects
8. Statutory Provisions
9. Conclusion
10. Recommendation

## Appendices

Appendix A- Application Documents and Additional Information Received

Appendix B- Plan set

Appendix C- Building Condition Report

Appendix D- Notification Decision

Appendix E- Submission

Appendix F- Shading Diagrams

Appendix G- Draft Condition Set

## Relevant Application Dates:

<b><i>Application Received:</i></b>	<i>20 October 2021</i>
<b><i>Notification Decision Made:</i></b>	<i>11 February 2022</i>
<b><i>Limited Notification:</i></b>	<i>23 February 2022</i>
<b><i>Submissions Closed:</i></b>	<i>23 March 2022</i>
<b><i>Submissions Received:</i></b>	<i>22 March 2022</i>

## 1. Executive Summary:

- 1.1 Janine and Sing Gheng (the applicant) has lodged an application for Land Use Consent to remove a Group 3A Heritage Item, and replace this dwelling with a new two-storey building.
- 1.2 The activity status of the proposed land use is discretionary under Rule 56.17(c) and Rule 8.12 of the Napier District Plan.
- 1.3 The proposed development was limited notified to one neighbour- the landowner of 68 Hardinge Road. One submission was received in opposition of the proposal in whole.
- 1.4 Actual and potential effects arising from the development relate to:
  - Heritage Values*
  - Amenity & Character*
  - Shading and Availability of Sunlight*
  - Outlook and Building Dominance*
  - Onsite Amenity (Open Space)*
  - Earthworks and Construction Effects*
  - Servicing Effects*
  - Natural Hazards*
  - Reverse Sensitivity*
  - Positive Effects*
- 1.5 The proposal has been assessed, in light of the submission and against the relevant provisions under Section 104 of the Act.
- 1.6 In regards to the neighbour, the new building is considered to generate adverse shading effects, availability of sunlight, dominance and outlook that I do not consider to have been mitigated to an appropriate level.
- 1.7 Broadly speaking the proposal is generally consistent with the objectives and policies of the Napier District Plan, however, I do not consider the proposal to be entirely consistent with these.
- 1.8 It is recommended the proposal to remove a Group 3A Heritage Item may be granted following further consideration of the proposed new dwelling.
- 1.9 It is recommended consent for the current proposal, being a new dwelling that will not meet all of the provisions within Chapter 8 of the Operative Napier City Plan, be declined.

## 2. Introduction:

- 2.1 This report has been prepared by Christina Bunny, Senior Resource Consent Planner, Napier City Council. I have a Bachelor of Environmental Management (Policy & Planning) 2005. I have 7 years of professional experience as a Resource Management Planner.
- 2.2 I have read and complied with the Code of Conduct for Expert Witness 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.
- 2.3 I can confirm that I have considered the material facts that I am aware of, that might alter or detract from the opinions expressed here. I also confirm that the opinions that I have expressed in my evidence are mine, unless I have specifically stated that I have relied on others in forming my opinions.
- 2.4 It is my role as the reporting officer to assess this application against the Operative City of Napier District Plan, the Resource Management Act 1991 and any other associated legislation and plans that are relevant to make recommendations to the Hearings Committee.
- 2.5 I reserve the right to amend my opinion and subsequent recommendation in whole or in part as a result of any evidence, information or other matters that are raised during the course of the hearing.

## 2.6 Report Status

- 2.6.1 This report is a s42A report prepared under the Resource Management Act 1991 (RMA). It provides an independent assessment and recommendations on the application made by Janine and Sing Gheng (the applicant).
- 2.6.2 This report does not represent any decision on the application and it only provides for professional assessment and opinions by the report author. This report will be considered by the Hearings Panel as delegated by Napier City Council, in conjunction with other evidence and submission which have been received to the application. It does not have greater weight than any other material or submissions that may be presented.

## 3. Site and Locality Description

- 3.1 The subject site is located at 69 Hardinge Road, Napier, legally described as Lot 4 Deeds 317, being 253 m<sup>2</sup> and held on Record of Title HBB4/251. The site is relatively narrow with Hardinge Road frontage of 10.6 m, and currently occupied by a single storey dwelling likely constructed in early 1900s.
- 3.2 There is currently no vehicle crossing or on-site parking provided. Provision for water, stormwater and wastewater connections are along Hardinge Road, with connection for water and wastewater established. The site is located within an area subject to flooding, therefore discussions have occurred with Napier City Council Engineers regarding the proposed finished floor level for the proposed dwelling.





*Image 1: Site Location (Source: Napier City Council Intramaps)*

### 3.3 Locality Description:

3.3.1 A description of the site and immediately surrounding locale is contained within the Assessment of Environmental Effects prepared by Rebecca Sutton, Strategy (**Appendix A**). In conjunction with reviewing this site description, I have also visited the site and surrounding locale on the following three occasions:

- 26 October 2021
- 23 May 2022
- 20 June 2022

#### 3.3.2 Comments:

3.3.2.1 The site contains a single storey dwelling, and is set amongst other single storey dwellings in the immediate vicinity. The existing dwelling is located close to the western boundary at single storey height.

3.3.2.2 Two storey dwellings are established alongside single storey dwellings, both modern and historic in character, towards the eastern direction where Hardinge Road meets Chatham Street.

3.3.2.3 The western end of Hardinge Road consists of a mixture of modern single storey dwellings and smaller cottages reflective of historic character of the area. There is a larger presence



of modern two storey dwellings, with noticeable departures from the permitted height recession planes west of the subject site.

- 3.3.2.4 In summary the character is generally a mix of housing styles, with cottages and modern housing dispersed alongside each other, along Hardinge Road.
- 3.3.2.5 The existing dwelling is part of a grouping of three dwellings which remain a cluster, all likely established in the early 1900s.
- 3.3.2.6 The site is opposite the ocean and public areas comprising the Foreshore Reserve to the north and is the vicinity of Napier Port and Port Industrial Zone 200 m to the east. The site is located within the Port Noise Outer Noise Boundary.
- 3.3.2.7 Land zoned Northern Residential zone is located further to the east, alongside land within the Hardinge Road and Battery Road Character overlays. Land zoned Mixed-Use is located south of Waghorne Street. Approximately 600m to the west is Mixed-Use zoning, foreshore commercial, with the boat harbour and Ahuriri hub further to the west.
- 3.3.2.8 The site is located within an established residential area, afforded beach front views, and it is noted in the District Plan as having more permissive development control standards than other residential zones of the Napier District, including a front yard allowance for buildings of 1m from the road boundary and permitted site coverage of 75%, landscaped area of 15%, and a lower threshold for on-site open space. This illustrates a tolerance for larger scale development along Hardinge Road.

### 3.4 District Plan:

- 3.4.1 The site is located within the Hardinge Road Residential zone where residential activities are permitted subject to compliance with performance standards/conditions listed in Chapter 8 of the Plan. The zone description for the Hardinge Road Residential Zone states:
- *The Hardinge Road Residential Zone applies to those properties fronting Hardinge Road and Waghorne Street. Some of the oldest buildings in the Ahuriri area lie on Hardinge Road, tightly grouped and close to the road. The early cottages are small in scale and simple in form. The traditional character of the Hardinge Road area is low rise, with spaces between small buildings being comparatively small. Many original buildings sit right on the road edge or have very narrow front yards. Traditionally, roof forms were simple gables or hips with lean-to verandas facing the road.*
  - *In recent times, very intensive new development has begun to replace the historic cottages, resulting in a mix of old and new styles. The Council considers that provision for intensive development should be maintained to enable development to take advantage of the waterfront location while recognising the historic character of the area.*
  - The site is also located within the Hardinge Road Character Overlay, and thus the existing dwelling is considered a Group 3A Heritage Item in the District Plan. Group 3A Heritage items are those buildings which contribute as a group, or by a recognised style, to the character of Ahuriri.

### 3.5 Consenting History

- 3.5.1 *RM970180*
- 3.5.2 Consent was granted for the erection of a bay window located within the 3.0 m front yard setback (at the time of consent this was the front yard requirement).
- 3.5.3 The bay window is along the front facade adjacent to Hardinge Road. Consent was not required for the modification of the Group 3A Heritage Item as modifications to Group 3A Heritage Items are permitted activities.

## 4. Summary of Proposal

- 4.1 The proposal seeks land use consent to remove an existing dwelling located within the Hardinge Road Residential Zone and the Hardinge Road Character overlay. The dwelling appears to be typically of the late 1800s/early 1900s era, and is one of the few remaining cottages along Hardinge Road. The existing building at 69 Hardinge Road contains 2 bedrooms, 1 bathroom, and has an estimated GFA of 110 m<sup>2</sup>.
- 4.2 A building condition report has been provided by Gary Pidd (refer **Appendix C**), and forms part of the application which states the building contains some modern modifications, both internally and externally, and would require substantial renovations for continued occupation of the dwelling. All buildings within the Hardinge Road Character overlay are listed as Group 3A Heritage Items under the Operative Napier District Plan and complete removal requires resource consent as a Discretionary Activity.
- 4.3 The application acknowledges an Archaeological Authority through Heritage New Zealand is required before works commence, due to the site's likely occupation prior to 1900. This is managed under the Heritage New Zealand Pouhere Taonga Act 2014, a separate piece of legislation that is not within the jurisdiction of the Resource Management Act 1991. This heritage authority will be required prior to any earthworks commencing (including for the inground pool).
- 4.4 Following demolition, the applicant's proposal includes the construction of a new two-storey dwelling with a gross floor area of 237.54 m<sup>2</sup> across both floors. The development will be in accordance with the submitted plan set (refer **Appendix B**). The ground floor will equate 117.01 m<sup>2</sup>, and includes an internally accessed garage, laundry and storage areas, pool room and two bedrooms. The first floor equates 120.53 m<sup>2</sup> and includes an open plan kitchen, lounge, and first floor deck access, with the master bedroom, ensuite, guest bathroom and fourth bedroom. Overall, proposed site coverage will equate a compliant 148 m<sup>2</sup> or 58.7%. The new dwelling allows for on-site garaging and parking on site and on the ground floor of the submitted plan set. This will include a new vehicle crossing on Hardinge Road to be constructed in accordance with the Code.
- 4.5 At the rear of the site, a 2-metre deep, 18 m<sup>2</sup> inground pool is proposed at the south-eastern boundary, with the nib wall extending above the existing ground level following excavation, within 1m of the rear/southern boundary of the site, over a maximum horizontal extent of 3 metres. The proposed swimming pool meets the definition of a building as it will exceed 25,000 litres in capacity, but is excluded from the site coverage calculation being an uncovered swimming pool, as per the definitions in Chapter 68 of the District Plan, therefore,

in addition to the nib wall, the pool itself is considered to be a building within the side yard. The earthworks associated with the pool are exempt under Chapter 52A of the District Plan.

- 4.6 The external portion of the site re-development includes fencing and landscaping. Proposed landscaping is illustrated on the site plan (ref. RC-1 dated 24 November 2021) located in Appendix B, with additional planting details regarding the landscaping along the northern boundary adjacent to Hardinge Road. The 6.72 m<sup>2</sup> landscaping shall include 3 *Laraestromeria (kimono)* trees, 5 *HS= Gaura white*, and 7 *Sedum Joy Pink*, with *Karl Forester Grass*. The external boundaries will include 2-metre-high solid fencing around the rear of the site, with 1.2 m high solid fencing along the northern front portion of the site as per the plans provided (refer **Appendix B**). The 1.2 m high solid fence will extend 2.45 m along the eastern boundary.
- 4.7 A total of 71 m<sup>2</sup> open space is proposed, with 37.32 m<sup>2</sup> of this located to the rear of the site adjacent to the proposed pool. The 4 m diameter outdoor living space is orientated to the front of the dwelling and open space includes the 20 m<sup>2</sup> balcony on the first floor.
- 4.8 The proposed dwelling and outdoor re-development will comply with the performance standards for land development within the Hardinge Road Residential zone, with the exception of side yards, height in relation to boundary, and a resultant shortfall in a total open space provided for residential activities. The infringements with the District Plan are as follows:
- 4.8.1 **Western Boundary:**
- The building is located 0.380 m from the western boundary, an infringement with standard 8.161(b) of 0.62 m.
  - The building is located with a maximum vertical height in relation to boundary infringement of 2 m over full dwelling extent (18.92 m).
- 4.8.2 **Eastern Boundary:**
- The building is located so the cladding is located 0.1 m into the side yard (0.9 m from the boundary), with the first-floor window located 0.7 m from the eastern boundary, a maximum infringement of 0.3 m.
  - The building is located with a maximum vertical height in relation to boundary infringement of 1.5 m over the full extent of the dwelling (15.20 m).
- 4.8.3 **Southern Boundary:**
- The proposed in ground pool is located adjacent to the southern boundary. The pool exceeds 25,000 cubic metres in capacity and thus is a structure located within the 1m side yard.
- 4.8.4 **Northern Boundary:**
- The proposed building is located with a maximum vertical height in relation to boundary infringement of 1.5 m at the building apex.
- 4.8.5 **Open Space:**
- The proposal results in a shortfall in open space provided of 24.75 m<sup>2</sup>.

## 5. Resource consent is required for the following reasons:

### 5.1 Napier Operative District Plan

#### 5.1.1 Heritage- Chapter 56:

- Rule 56.17(c) of the Heritage Chapter states the demolition, excluding partial demolition, or relocation of a Group 3A heritage item is a Discretionary Activity.

#### 5.1.2 Hardinge Road Residential Zone- Chapter 8:

##### 5.1.2.1 Condition 8.16 (b)- Side Yard

- The proposed new dwelling is to be located 0.380 m from the western boundary, an infringement of 0.62 m with condition 8.16 (b).
- The proposed new dwelling is to be located so the first-floor window facing east within the dining room extends 0.3m into the side yard, an infringement of 0.7 m with condition 8.16 (b).
- The nib wall around the inground swimming pool is located adjacent to the southern boundary, an infringement of 1m with condition 8.16(b).
- The swimming pool exceeds 25,000 litres capacity and is therefore considered a building within the side yard adjacent to the western and southern boundaries.

##### 5.1.2.2 Condition 8.18- Height to Boundary

- The proposed dwelling will be constructed where there is a maximum vertical infringement of 1.5 m at the building apex along the northern elevation, an infringement at the boundary shared with Hardinge Road.
- The proposed dwelling will be constructed where there is a maximum vertical infringement of 2 m for a length of 18.92 m along the western elevation, an infringement at the boundary shared with 68 Hardinge Road.
- The proposed dwelling will be constructed where there is a maximum vertical infringement of 1.5 m for a length of 15.20 m along the eastern elevation, an infringement at the boundary shared with 70 Hardinge Road.

##### 5.1.2.3 Condition 8.21 Open Space

- The proposed dwelling has a GFA of 237.6m<sup>2</sup>, therefore, to comply with condition 8.21(a) a total of 95.04 m<sup>2</sup> or 40% is required. The proposal provides a total of 70.29 m<sup>2</sup> open space, an infringement with Condition 8.21(a) of 24.75 m<sup>2</sup>.
- Hardinge Road Residential Zone – 8.12 Any subdivision, use or development of land referred to in Rules 8.2 to 8.11 that does not comply with all of the relevant conditions in the Hardinge Road Residential Zone activity table and condition table, is a restricted discretionary activity, unless stated by a rule elsewhere in this Chapter.

## 5.2 Activity Status of the Application:

- 5.2.1 Pursuant to Rule 56.17(c), the removal of the Group 3A Heritage Item requires resource consent as a **Discretionary Activity**.
- 5.2.2 Pursuant to Rule 8.12, the construction of a new dwelling that does not comply with all of the conditions/standards outlined in Chapter 8, requires resource consent as a Restricted Discretionary Activity.
- 5.2.3 It is considered appropriate in this instance to apply a bundling approach to the above resource consent application so that the most restrictive activity status applied to the entire proposal. This is due to the new dwelling not being able to be constructed without firstly considering the removal of the Group 3A Heritage Item.
- 5.2.4 Accordingly, the application is to be assessed as a **Discretionary Activity**.

## 6. Notification and Submissions

### 6.1 Notification

- 6.1.1 The application has been subject to a notification assessment approved for release under delegated authority by Mr Luke Johnson, Team Leader Planning and Compliance, on 11 February 2022 (**Appendix D**).
- 6.1.2 This report details the assessment of the effects activity both on the wider environment (in terms of Section 95D and 95D of the RMA) and the immediate adjacent environment (in terms of Section 95B and 95E of the RMA).
- 6.1.3 In terms of the effects on the wider environment, the adverse effects of the proposal were found to be no more than minor. Therefore, pursuant to Section 95A, the application was not publicly notified.
- 6.1.4 Effects were disregarded on the following landowners as written approval was received by all registered landowner's:
- 70 Hardinge Road.
  - 156 Waghorne Street.
- 6.1.5 It terms of the effects of the proposal on the adjacent properties, the effects on the adjoining landowner at 68 Hardinge Road were not considered to be less than minor. Subsequently notice of the application was served on the owners of the adjacent property along the western boundary on 23 February 2022.
- 6.1.6 As outlined in the Notification Decision dated 11 February 2022, potential adverse effects on the remaining nearby and adjacent landowner's were considered to be less than minor.

### 6.2 Submissions:

- 6.2.1 At the close of the notification period (being 23 March 2022), one submission in opposition had been received from the following persons:
- Mr Kevin Riddell, 68 Hardinge Road, Ahuriri, Napier

6.2.2 A copy of this submission has been included within **Appendix E** to this report, and I have summarised the matters of contention raised as follows:

<b>No:</b>	1
<b>Submitter Name:</b>	Kevin Riddell
<b>Submitter Address:</b>	68 Hardinge Road
<b>Oppose/Support/Neutral:</b>	Oppose
<b>Reasons:</b>	<ul style="list-style-type: none"> <li>• <i>The scale is not keeping with the heritage character.</i></li> <li>• <i>The scale would have significant adverse amenity and shading effects on the submitters dwelling that is beyond the level anticipated by the District Plan.</i></li> <li>• <i>The skylight located on the submitter's roof will be directly affected by additional shading caused by height recession plan infringement.</i></li> <li>• <i>The proposal would affect the current level of character, sunlight and daylight amenity enjoyed by the submitter's property.</i></li> <li>• <i>The submitter disagrees the proposal, including the complete demolition and removal of the single storey character villa, and replacement with the new two-storey dwelling acts to conserve the historic setting of the area.</i></li> <li>• <i>The submitter considers the proposal to be contrary to the objectives and policies of the District Plan. In particular:</i> <ul style="list-style-type: none"> <li>○ <i>Objective 4.5</i></li> <li>○ <i>Policy 4.5.4</i></li> <li>○ <i>Policy 4.5.5</i></li> <li>○ <i>Objective 56.2</i></li> <li>○ <i>Policy 56.2.2</i></li> </ul> </li> <li>• <i>The demolition of a building that contributes as part of a group to the character of Ahuriri, and replacement with an incongruous new two-storey modern building would undermine the integrity of the Character overlay.</i></li> <li>• <i>Complete demolition of the existing dwelling fails the assessment criteria set out under 56.17.4.</i></li> <li>• <i>Due to the proposals offending of the District Plan objectives and policies, the development is considered to be contrary to Part II of the RMA.</i></li> </ul>

## 7. Section 104 Assessment

7.1 Matters to be considered by the consent authority when assessing an application for resource consent pursuant to Section 104 of the Act include (subject to Part 2 of the Act):

- Any actual and potential effects on the environment; and
- 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.
- Any relevant provisions of a National Environmental Standard, or other regulations, National Policy Statement, New Zealand Coastal Policy Statement, a regional policy statement or proposed policy statement.
- Any relevant objectives, policies, rules or other provisions of a Plan or Proposed Plan; and
- Any other matter the consent authority considers relevant and reasonably necessary to determine the application.
- Section 104B of the RMA states that as a Discretionary Activity consent may be granted or refused, and, if consent is granted, that conditions may be imposed on the consent under Section 108.

## 7.2 Section 104(1) (a) and (ab) Assessment

7.2.1 The assessment of the above matters follows:

### 7.2.2 Permitted Baseline

7.2.2.1 Section 104(2) of the Act allows a consent authority to disregard an adverse effect of the activity on the environment if the District Plan permits an activity with that effect.

7.2.2.2 Due to the existing dwelling being located within the Hardinge Road Character Area, the dwelling is classified as a Group 3A Heritage Item. Therefore, the complete removal of the existing dwelling is not considered a permitted activity under the Plan.

7.2.2.3 Internal or external alteration, or redevelopment of a Group 3A Heritage Item is a permitted activity provided that the internal or external alteration or redevelopment complies in all respects with the relevant conditions of the respective zones activity table and condition table (in this instance Chapter 8).

7.2.2.4 The District Plan defines alteration to mean:

*Any change to, alteration to, or partial demolition of, any building, structure or site. In relation to a building or structure, it does not include general maintenance where that maintenance involves replacement with materials that are the same as the original materials of the building. Alteration does not include safety alteration works, which has a separate meaning in this Plan.*

7.2.2.5 Therefore, the Plan allows for partial demolition and alteration of a Group 3A Heritage Item, subject to compliance with performance standards/conditions of the Hardinge Road Residential zone as a permitted activity. Therefore, the plan would allow for a second storey to be constructed within the building envelope as a permitted activity.



- 7.2.2.6 Due to the proposal being the removal of a Group 3A Heritage item, it is not considered appropriate to apply the permitted baseline outright, however, the permitted baseline has been used as a tool throughout the assessment to understand the level of effects permitted under the Plan.

### 7.2.3 **Actual and Potential Effects**

- 7.2.3.1 The assessment of actual and potential effects on the environment requires consideration of both adverse effects of the proposal, as well as any positive effects of the application. With reference to both the assessment of the adverse effects of the proposal undertaken in notification Assessment (refer **Appendix D**) and the effects of the proposal raised in the submission, I provide the following assessment of the adverse and positive effects.

- 7.2.3.2 As a discretionary activity the Councils assessment is unrestricted and all actual and potential effects of this proposal must be considered. I consider that the potential adverse effects of the proposal on the environment relate to the following:

- A. Heritage Values
- B. Amenity and Character Effects
- C. Earthworks and Construction Effects
- D. Infrastructure Effects
- E. Natural Hazards
- F. Reverse Sensitivity Effects
- G. Positive Effects

#### **A. Heritage Values**

- A.1. The Hardinge Road Character overlay comprises developed areas dating back to the 1850s with some of the earliest cottages, characteristically small in scale and simple in form (as described in The Port Heritage Study). The existing dwelling is characteristic of a 1930s-1950s workers cottage/bungalow with an exact construction date unknown, but likely late 1800s/ early 1900s. The dwelling is single storey and conservative in bulk, and sitting amongst a cluster of three dwellings/villas, with the remaining two in the cluster immediately to the west. This grouping is reflecting the same era and as a group of three dwellings collectively, and as a dwelling within the overlay this cottage contributes to the character of Hardinge Road, and represents a piece of history, upholding an era when these dwellings were constructed.
- A.2. The District Plan states *'the heritage study identified these four areas (Character Overlays) as being of distinctive character. While individually all buildings may not warrant protection as heritage items, and they do not all share common features, the Council wishes to recognise those features which contribute to the overall character of Ahuriri and linkages to the past. Buildings which are considered to contribute to the essential character of the area are originally in the Port Heritage Study and these are now shown on the maps in Appendix 13A.* The subject building is within this area identified by the Port Heritage Study as having a particular building style/type that contributes to the character overlay.

- A.3. The dwelling itself or the collective of dwellings is not individually listed with Heritage New Zealand, or listed as a Group 1 or Group 2 Heritage Item in the District Plan.
- A.4. Being considered a Group 3A Heritage Item, the removal of the existing dwelling will remove an inevitable contribution to heritage values associated with the character overlay that requires consideration.
- A.5. It is acknowledged that many buildings have now been removed and replaced with modern townhouses, particularly along Hardinge Road further west, with many heritage components of the area having been lost. There are a higher proportion of remnants of the Hardinge Road character overlay along Waghorne Street, being slightly setback from the waterfront location of Hardinge Road. Along Hardinge Road there are modern larger buildings that have been constructed to maximise the oceanfront living of Ahuriri. It is noted that in the immediate vicinity of the subject site there is a cluster of smaller single storey dwellings.
- A.6. Removal of Existing Building (Group 3A Heritage Item):**
- A.6.I. Although not restricted to any matters due to the proposal's activity status as a discretionary activity, the assessment criteria in Chapter 56.17.4 of the Napier District Plan have been given particular regard when considering the potential adverse effects associated with the loss of heritage values and whether this will generate any potential adverse effects.
- A.6.II. *Assessment 56.17.4.1(a):*
- A.6.II.i. Any unusual circumstances including, but not limited to, those listed below:
- i. Inherent site considerations: including unusual size, shape, topography, substratum, vegetation or flood susceptibility;*
  - ii. Particular site development characteristics: including the location of existing buildings or their internal layout, achievement of architectural harmony, compliance with engineering or bylaw standards, enhancement of private open space, achievement of a better relationship between the site and the road, building renovation or restoration of demonstrable merit, the design and arrangement to facilitate access for the disabled, or legal impediments;*
  - iii. Unusual environmental circumstances: including adverse topography, unusual use or location of buildings on adjacent sites, improved amenity for neighbouring sites, the presence of effective on-site screening.*
- A.6.II.ii. The established sites along Hardinge Road are smaller in size than other residential sites. The subject site has a road frontage of 10.6m. However, I do not consider the site to have inherent unique characteristics, or unusual environmental constraints in comparison with the surrounding sites. The site is small in size, which by its nature does restrict development, however this is not considered a unique characteristic to allow for the removal of a Group 3A Heritage Item.
- A.6.II.iii. Under assessment matter 56.17.4.1(a) (ii) above, it is considered the building has had a number of alterations and is not in its original condition. Therefore, building renovation or restoration is not considered to be of demonstrable merit.
- A.6.III. *Assessment Criteria 56.17.4.4:*

- A.6.III.i. The Council will have regard to the relevant objectives and Policies of this Plan and in addition will consider the following.
- a. Whether the proposal follows appropriate conservation method.*
  - b. Whether the proposal respects existing evidence of the heritage item and to what extent.*
  - c. Whether the proposal conserves the historical setting of the place and to what degree.*
  - d. Whether the proposal will assist in risk mitigation, that is, in the prevention of potential risk from any natural process or event.*
  - e. Whether the contents of a place that contribute to its cultural heritage value are conserved.*
  - f. Whether works of art and special fabric will be retained. Carving, painting, weaving, stained glass and other arts and crafts associated with a place should be considered integral with a place. Where it is necessary to carry out maintenance and repair of any such material, specialist conservation advice appropriate to the material should be sought.*
  - g. Whether invasive investigation can be justified.*
  - h. Whether non-intervention is a desirable alternative.*

A.6.IV. *Comment:*

- A.6.IV.i. Conservation has not been selected as an option by the application. The building condition report provided as part of the application outlines reasons why this is not considered appropriate (**Appendix C**).
- A.6.IV.ii. The Group 3A heritage item is the collective of a number of buildings along the streetscape that attribute to heritage values rather than being individually listed. The building condition report prepared by Pidd Architecture (**Appendix C**) illustrates that should the building be retained significant works will be required to continue safe occupation. This includes re-piling, re-cladding, retrospective insulation, new roofing and new joinery, will be required to enable the building to be liveable into the future. The building condition report has been accepted as providing a sufficient assessment in that removal is an acceptable option in this instance. Invasive and non-invasive options including conservation, relocation and adaptation are not considered necessary.
- A.6.IV.iii. The building condition report and application state that *whilst the existing dwelling is included within Appendix 13A as a site identified within the Port Ahuriri Heritage Study, for the reasons identified within the submitted Building Condition Report, the original features of this dwelling are largely absent and as such, the dwelling itself cannot be considered to be of particular heritage value, other than its contribution to the streetscape.*
- A.6.IV.iv. It is my opinion that the removal of this dwelling will remove a building that contributes to the character of the Hardinge Road Character overlay. However, it is acknowledged that this would require significant works to allow for the continued occupation of the building and efficiency of the use of the site for continued residential occupation, therefore it is considered

the potential adverse effects on heritage values do not generate adverse effects that are more than minor.

- A.6.IV.v. The proposal is not being considered separately to the addition of the new building into the streetscape, and therefore I now draw attention to the construction of the new building on heritage values.

### **A.7. New Building:**

- A.7.I. There will be an inevitable change in the streetscape and reduction in heritage values of the character overlay due to the establishment of a modern building in this location, to replace the established cottage. The applicant states the architectural design has retained some key aspects of the Hardinge Road Residential zone and character overlay as part of the new development, such as:

- *Retention of the existing 7.5m building height/ similar scale to other buildings within the immediate adjacent locale (65 Hardinge Road to the west and 71 and 72 Hardinge Road to the east), combined with an increased building setback these dwellings do not dominate the surrounding locale;*
- *The proposed gable roof form is reflective of the character of some of the original cottages along Hardinge Road.*
- *Extensive areas of glazing (i.e. a lightening of the appearance to the street);*
- *Relocation of outdoor living are at first floor level and orientated towards the street, maintains connection with the adjacent streetscape whilst improving amenity for internal occupants. A front facing deck overlooking the street is common for a majority of houses (both old and new) along the street.*
- *The proposed dwelling will be set back consistent with the established dwelling at 68 Hardinge Road.*
- *The historical setting and place in terms of matters (c) of the Hardinge Road character area includes consistency of building scale, form and setback from the streetscape. The proposed removal of the existing dwelling will result in a change in building appearance, however not to an extent where the overall character or place would be discernibly altered beyond that which has already occurred within the character area.*

### **A.7.II. Submitters Comments:**

- A.7.II.i. The submitter expressed concerns on both the removal of the heritage item, and its inconsistency with the District Plan, and the construction of the new building being contrary to the objectives and policies, and character of the zone.

### **A.7.III. Comment:**

- A.7.III.i Although I do agree there will be the removal of a contributor to overall heritage values of the zone and the character overlay, I do not consider the Plan protects Group 3A heritage items where there is evidence that removal is an appropriate option. I also consider the plan allows for new buildings within the overlay where regard is given to the character of the overlay, thus contributing as a Group 3A Heritage Item.

- A.7.III.ii I consider that the applicant has had regard to the character overlay in the design of the new dwelling.

**B. Character & Amenity:**

- B.1. The proposal involves a new two storey dwelling to replace the current single storey building. The proposal will occupy a similar building platform, but will be greater in height (up to the maximum 7.5m in height at the apex), and extend further to the south of the site. The height of the proposal will fail the height to boundary recession plane along the front boundary, the western boundary directly adjacent to 68 Hardinge Road, and the eastern boundary directly adjacent to 70 Hardinge Road. The proposed building will also infringe the side yard requirement, particularly along the western boundary, of which the established single storey dwelling on the subject site also currently infringes.
- B.2. The potential adverse effects on 70 Hardinge Road and 156 Waghorne Street have been disregarded in this assessment due to the provision of written approvals.
- B.3. The permitted height to boundary and side yard development controls imposed in the Hardinge Road Residential Zone are imposed to achieve a certain and consistent level of amenity along the streetscape, to ensure height and bulk of buildings are compatible with the surrounding residential areas, and to ensure buildings are designed and located in a manner to ensure that adequate levels of sunlight and daylight reach adjacent residential properties throughout the year. Buildings that breach height recession planes have the potential to physically dominate the surrounding sites and compromise the level of protection from shading effects of development on adjacent sites that the plan seeks to protect. Departures from the District Plan have the potential to adversely affect character and amenity values.

**B.4. Visual Amenity & Character of the streetscape of the surrounding area**

- B.4.1. Streetscape Character of the immediate and surrounding environment is a mixture of larger modern buildings set alongside older cottages of more conservative built form. The subject dwelling is a grouping of three villas of a similar era located along Hardinge Road, which remain recognised within Appendix 13A of the District Plan. Image 2 illustrates the cluster of three buildings within the Hardinge Road Character overlay. Image 3 illustrates the proposed change in physical appearance, and streetscape character with the introduction of a new two-storey dwelling.



Image 2: Existing site (source: Applicants AEE)





Image 3: Proposed Building (source: Applicants AEE)

- B.4.II. The proposed building will affect the emerging character and amenity of the area, given there will be a change from the current character and scale of development on the site, set amongst single storey dwellings on Hardinge Road in the immediate vicinity.
- B.4.III. In terms of the relationship with the streetscape, when considering the height recession plane infringement along the northern boundary at the apex of the building on its own, it is considered that the potential adverse effects have been effectively mitigated, however when considering the increased dominance of the building due to the cumulative effect of more than one infringement, there is a presence of a larger and bulkier building along Hardinge Road.
- B.4.IV. The applicant has proposed 1.2 m high fencing, and landscaping within the front yard (**Appendix B**), along with the front façade providing variation and relief, with passive surveillance ensuring key urban design factors are considered, and ensure the relationship with the streetscape is enhanced through building design and site appearance.
- B.4.V. Wider along Hardinge Road, particularly to the west, there are other similar proposals consented and/or developed along Hardinge Road, with similar height recession plane infringements granted consent. Examples of other consented developments which are not constructed within the permitted building envelope along Hardinge Road include the following sites.
- 25 Hardinge Road (RM180201)
  - 26 Hardinge Road (RM180129 & RM190059).
  - 28 Hardinge Road (RM210176).
  - 47 Hardinge Road (RM010178).
  - 48 Hardinge Road (RM150024)
  - 56 Hardinge Road (RM140057 & RM16001).
  - 66 & 66A Hardinge Road (RM961051).
- B.4.VI. Following a review of these consent decisions along Hardinge Road, it is noted that buildings with a similar height in recession plane infringements have been consented and situated amongst a range of single storey and two storey buildings. These have contributed to a

character comprised of a mix of building design and scale. Building setbacks and placement, and building heights vary along Hardinge Road, however many buildings are situated close to the road boundaries.

- B.4.VII. With regard to the current proposal, the dwelling is located amongst smaller single storey buildings that are more reflective of the character overlay description in the Plan, than the proposed building. The buildings location on the site and in relation to the streetscape will not appear out of character.
- B.4.VIII. The following mitigating factors have been proposed to reduce the potential adverse visual effects of the proposal on streetscape amenity.
- As above, the front façade has been designed (in terms of bulk and materiality) to create visual interest and variation along the streetscape.
  - Landscaping is proposed, along with a reduced fencing height of 1.2 m.
  - The roofline is a gable form, reflective of other buildings within the character overlay.
  - The building is setback further than 1m from Hardinge Road, helping to reduce any visual domination to the streetscape. This setback is consistent with the dwelling at 68 Hardinge Road to achieve a certain level of consistency along the streetscape. The dwelling will be setback at least 2.45m from the boundary, with the western portion set back 6.56m from the boundary.
- B.4.IX. Streetscape characteristics, including a prevalence of more prominent buildings along Hardinge Road, results in a streetscape able to absorb the proposal without generating wider character effects.
- B.4.X. Submitter's Comments:
- The submitter disagrees with the statement that the *existing streetscape character is borrowed by the submitter when the development proposed would not just 'borrow', but permanently 'seize' the current level of character, sunlight and daylight amenity enjoyed by the submitters property.*
- B.4.XI. I consider the proposal to not be inconsistent with the wider streetscape characteristics, however when considering this more localised, there will be an evident change in appearance.
- B.4.XII. I consider potential adverse effects on wider streetscape character and amenity to not be more than minor.

#### **B.5. Dominance effects of the new building:**

- B.5.I. The inclusion of the proposed two-storey building into the streetscape does result in increased dominance effects on amenity values. This is due to the cumulative effect of the non-compliance with more than one condition (being more than one height recession plane infringement, combined with the side yard infringement along the western boundary).
- B.5.II. The height of the building located 0.380 m from the shared western boundary is 5.3 m, increasing to 7.5 m high at the apex of the building. The result of the combined yard infringement and height along this shared boundary is noticeably bulkier building, with building bulk located within a portion of a site not generally expected to be developed.



B.5.III. This dominance is most evident on the submitter's property along the southern portion of the site where the building adjoins an outdoor deck at the rear of their property and along the eastern façade of the submitters dwelling. This increased dominance is considered to have potential adverse effects on the amenity values of this site.

**B.5.IV. *Effect on Submitter:***

- The submitters concerns in relation to amenity and character include:
  - *The scale would have significant adverse amenity and shading effects on the submitters dwelling that is beyond the level anticipated by the District Plan.*
  - *The proposal would affect the current level of character, sunlight and daylight amenity enjoyed by the submitter's property.*

B.5.V. I have addressed shading effects below. I do consider there to be an increase in dominance effects on the submitter's property, particularly towards the rear of the site that cannot be considered as minor. I do not have any visual information to help demonstrate how the proposal would be seen from the submitter's property. However, in absence of this, I respond as follows:

B.5.VI. The key issue is the appropriateness of bulk within the side yard, and height recession planes adjacent to the western boundary. The proposal will result in a taller building, located within the side yard measuring up to 5.3m high, with up to 2m building bulk within the height recession plane.

B.5.VII. The submitter's property is situated on a flat site directly adjacent to the site, with both existing single storey buildings located close together at ground floor level. I consider the addition of the first floor, outside of the permitted building envelope would have potential adverse on the submitter's outlook, and results in an increased prominence of the building on the submitter's property, particularly in comparison to a building within the permitted building envelope.

B.5.VIII. Overall, it is considered that a more conservatively scaled building would have less dominance effects, and thus have lesser effects on amenity values overall.

**B.6. *Privacy Effects:***

B.6.I. The western façade has been designed with no western facing windows, therefore potential adverse effects on privacy are not considered to be to a level that requires further mitigation.

B.6.II. The presence of the second storey building protruding into the height recession plane includes part of the first floor deck. This is screened along the western end of the outdoor deck. The submitter has not raised any concerns regarding privacy in the submission received.

B.6.III. Overall, privacy effects are considered to remain less than minor.

**B.7. *Shading Effects & Availability of Sunlight***

**B.7.I. *Shading:***

B.7.I.i Potential adverse shading effects were identified on 68 Hardinge Road, as detailed within the Notification Decision (**Appendix D**), and have formed part of the submission received (**Appendix E**).

- B.7.I.ii Following receipt of the submission the applicant provided additional information and shading diagrams (**Appendix F**). This evidence includes shading of a permitted building envelope and proposed building envelope as comparison. This is in addition to shading information submitted as part of the application (**Appendix F**).
- B.7.I.iii The applicant assesses the majority of the shading arises from the apex of the building that is wholly within the permitted building envelope rather than that portion of the building located outside of the height recession plane.
- B.7.I.iv The shading studies submitted by the applicant also illustrate the difference in shading of the outdoor open space towards the rear of the site to the south.
- B.7.I.v I consider there is a noticeable increase in shading on the submitter's property as a result of the proposal. During the summer and winter months, the shading studies provided illustrate that shading is consistent with that of a building within the permitted building envelope. However, shading in March and September (Image 4), is more than that cast from a permitted building, particularly to the south of the dwelling at 68 Hardinge Road (**Appendix F**).
- B.7.I.vi The shading diagrams show a lesser effect on the skylight or to the front of the neighbour's site.
- B.7.I.vii Overall, the information provided shows that there is an increase in shading of the rear of the submitters' property than what can occur as a permitted activity, and therefore a reduction in availability of sunlight afforded to the submitters property. The permitted baseline has not been applied, however, having regard to the level of shading permitted in the plan, these effects are not considered to be minor.
- B.7.I.viii I do not consider that shading effects have been mitigated to an acceptable level.

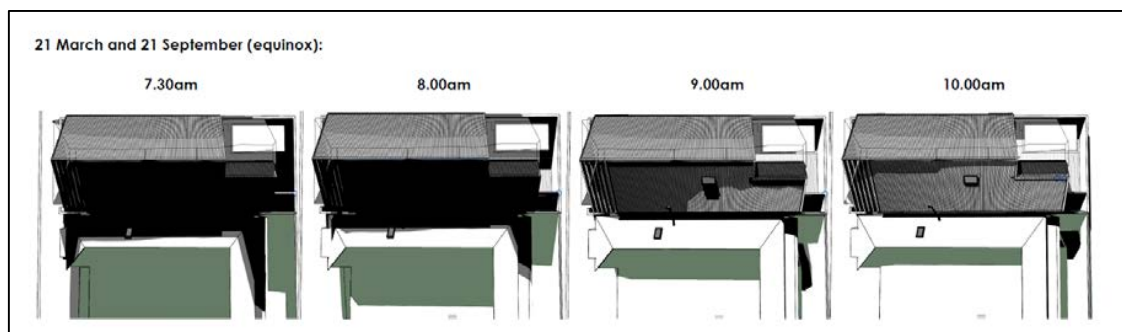


Image 4: Shading Diagrams provided by the applicant

**B.7.II. Availability of Sunlight:**

- B.7.II.i There is a portion of the submitter's building with windows that currently have unobstructed access to sunlight (Image 5). After reviewing the floor plans for the submitters dwelling these appear to be windows for a bathroom, laundry and bedroom.
- B.7.II.ii Image 6 illustrates the outdoor space on the submitter's property that will achieve less sunlight than a permitted building envelope based on the shading diagrams provided as part of the application documents.

- B.7.II.iii The location of the building, and increase in building footprint to the south of the site, will reduce the availability of sunlight to both the eastern façade of the submitters dwelling and the rear of the site, particularly the south facing decking, in comparison with a building within the permitted building envelope, I consider the effects on this landowner due to the reduction in availability of light, to be more than minor, and not mitigated to an acceptable level.



*Image 6: eastern façade of submitters building*



*Image 5: view from subject site to submitter's rear yard*

## **C. Open Space**

- C.1. The proposed site redevelopment results in a shortfall in open space provided of 24.75 m<sup>2</sup>. Open space is required under the District Plan to ensure adequate onsite amenity for occupants, and adequate open space and landscaped area dispersed amongst residential sites.
- C.2. The shortfall in open space is not considered to have an adverse effect on privacy and amenity of the occupants on site, or adversely affect the open space appearance of the neighbourhood, with overall effects considered to be less than minor. The submitter did not raise any concerns with regard to the open space shortfall.

## **D. Earthworks and Construction Effects:**

- D.1. Earthworks and construction will be temporary in nature and are localised. These is an expected level of nuisance effects due to construction (noise, vibration and dust) that is expected to occur for development associated with residential activities. Although, being within the side yard, this is brought closer to neighbouring properties, such effects are considered to be able to be managed to ensure effects remain less than minor.
- D.2. The submitter did not raise any concerns regarding these temporary effects.
- D.3. Overall, these effects are considered to be less than minor.

**E. Servicing Effects:**

- E.1. The new building is able to be adequately serviced, with connections currently available at the site. Napier City Council Development and Standards Team have reviewed the proposal and have no servicing concerns with the imposition of consent conditions that are relevant at the building consent stage. Therefore, servicing effects remain less than minor.

**F. Natural Hazards:**

- F.1. The site is located within the medium liquefaction vulnerability area, relative high earthquake amplification and 1% AEP (Year 2120) Coastal Inundation Extent. The site currently has a development right, with an established residential dwelling on the site. It is not considered that redevelopment of the site for residential use will exasperate any potential natural hazards.
- F.2. With regard to potential adverse effects due to flooding, Napier City Council have reviewed the proposal and have accepted the proposed minimum Finished Floor Level.

**G. Reverse Sensitivity**

- G.1. The site is located within the Port Noise Control boundary. The proposal is the replacement of a habitable building, where no additional development right is created. The habitable building will be required to have acoustic insulation to adequately mitigate potential adverse reverse sensitivity effects. Evidence of compliance with condition 8.22.2 will be required at building consent stage. It is recommended an advice note is include on an approved consent to ensure the applicant remains aware of this obligation.
- G.2. Compliance with condition 8.22.2 ensures any potential reverse sensitivity effects remain less than minor.

**H. Positive Effects:**

- H.1. The proposal enables the continued occupation of a residentially zoned site, with increased efficiency of the use of the site.

**I. Summary of Effects:**

- I.1. In relation to shading effects and availability of sunlight, I consider that these will be localised to the adjacent landowner at 68 Hardinge Road and the Hardinge Road corridor. I consider there to be potential adverse shading effects on this adjacent landowner that have not been adequately mitigated.
- I.2. In relation to dominance effects and outlook, I consider these effects to have been mitigated along the streetscape, however do not consider such effects to be mitigated to an acceptable level on the adjacent landowner at 68 Hardinge Road, particularly along the southern end of the site.
- I.3. In relation to privacy effects, I consider that these have been mitigated to a less than minor level.
- I.4. In relation to the open space shortfall, I consider the potential adverse effects to be less than minor.
- I.5. In relation to those effects on heritage values, I consider wider effects to not be more than minor.

- 1.6. In relation to vehicle access, servicing, temporary construction and earthworks effects, reverse sensitivity and long term effects on infrastructure, I consider these effects to be less than minor.

## 8. Section 104(1) (b) Assessment – Statutory Provisions:

### 8.1 National Policy Statements

- 8.1.1 The National Policy Statement for Urban Development (NPS-UD) applies to this proposal. The NPS-UD came into effect on 20 August 2020. The direction of the NPS-UD is to enable more housing and commercial developments, in particularly in higher density areas.
- 8.1.2 An overarching view is that the proposal is consistent with the NPS-UD. Although, there is increased bulk of building, there is no intensification of land use or residential occupation. The NPS-UD does state that development should be encouraged in already established residential areas.
- 8.1.3 No other National Policy Statements are relevant to the proposal.

### 8.2 National Environmental Standards

- 8.2.1 Overall, there are nine National Environmental Standards (NES) that require consideration, only the NESCS applies to the proposal.
- 8.2.2 ***National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health***
- 8.2.2.1 The proposal involves soil disturbance, which is considered an activity under the NES, when it takes place on a piece of land described under Regulation 5(7). The subject site has been used as a residential activity dating back to the 1930s.
- 8.2.2.2 As assessed as part of the application the removal of buildings that contain asbestos do not trigger a requirement under the NESCS should it not be of a degraded condition. The applicant has provided a PSI whereby it is considered unlikely a HAIL activity has occurred on the site.
- 8.2.2.3 Due to the evidence provided as part of the application, it is considered the site is unlikely to have contained a HAIL activity and is therefore not a piece of land under the NES.
- 8.2.2.4 No other National Environmental Standards (NES) are relevant to the proposal. Accordingly, consent is therefore not sought under the NESCS, or another NES.

### 8.3 Heretaunga Plans Urban Development Strategy (HPUDS)

- 8.3.1 The HPUDs document is non-statutory, however it is a strategic document that has been adopted by all three partner Councils, being Napier City Council, Hastings District Council and Hawkes Bay Regional Council. This document is predominantly concerned with protecting versatile soils and transition to a more compact city form. The proposal is considered to be consistent with this overarching strategic document.



## 8.4 Hawkes Bay Regional Policy Statement

- 8.4.1 The Hawkes Bay Regional Policy Statement and the specific section on managing the Built Environment has been developed to implement the principles and purposes of HPUD's. The specific objectives of the RPS have been adopted by Hawkes Bay Regional Council to set the overarching resource management framework for the Regions resources. The Napier City Council District Plan has been prepared to be consistent with this overarching document.
- 8.4.2 Objective UD1 and associated policies seek to ensure compact, and strongly connected urban form is established throughout the region. The desired built environment shall provide for a range of housing choices and affordability, have a sense of character and identity, retain heritage values and values important to tangata whenua, and demonstrates consideration of principles of urban design.
- 8.4.3 The proposal is considered to be consistent overall with this overarching direction as the proposal involves the continued use of an established residential site, which is well connected to community services. Potential adverse effects due to natural hazards have been considered, and also, those potential adverse effects on heritage values.

## 8.5 Objectives and Policies of the City of Napier Operative District Plan 2011

- 8.5.1 The relevant objectives and policies for the current application are included in the following chapters:
- Chapter 56- Heritage
  - Chapter 4- Residential
- 8.5.2 **Chapter 56- Heritage**
- 8.5.2.1 **Objective 56.2** and associated policies seek to *identify, conserve and enhance heritage features to ensure that the heritage of the City be reflected in the future.*
- 8.5.2.2 To achieve objective 56.2, the following relevant policies are applicable to the proposal.
- 8.5.2.3 **Policy 56.2.2** *Avoid the loss of heritage value associated with heritage resources listed in the Plan.*
- 8.5.2.4 **Policy 56.2.3** *Ensure that the adverse effects of land uses on heritage items listed in the Plan are avoided, remedied or mitigated.*
- 8.5.2.5 Submitter Comment:
- The submitter considered the proposal to be contrary to Objective 56.2 and Policy 56.2.2.
- 8.5.2.6 Report Officers Comment:
- Group 3A Heritage Items are heritage resources listed in the Plan. The heritage value attributed to Group 3A Heritage items relate to the contribution such buildings make to the character as a group of buildings rather than individual buildings. The policy seeks to avoid the loss of this heritage value. The removal of the building will have an inevitable effect on heritage values of the character zone that has not been avoided,

therefore, I consider the proposal to be inconsistent with Policy 56.2.2, due to the resultant heritage loss.

- 8.5.2.7 **Policy 56.2.4** *Manage heritage on a basis of partnership involving property owners, tangata whenua, heritage agencies, communities and individuals.*
- 8.5.2.8 **Policy 56.2.5** *Encourage public participation in the identification and protection of heritage values through education and increased public awareness.*
- 8.5.2.9 **Policy 56.2.7** *Ensure that, through the implementations of appropriate procedures within the Council's administration, all development and building proposals in the vicinity of an archaeological site are notified to Heritage New Zealand, in accordance with the Heritage New Zealand Pouhere Taonga Act 2014, in order to enable the implementation of the archaeological authority provisions of the Heritage New Zealand Pouhere Taonga Act 2014.*
- 8.5.2.10 **Policy 56.2.9** *To facilitate and encourage alterations to heritage items to improve structural performance, fire safety and physical access while minimising the significant loss of associated heritage values.*
- 8.5.2.11 Reporting Officer's Comment:
- The building is not individually listed, therefore, an overarching view of the above objectives and policies is the proposal is consistent with these. An archaeological authority in accordance with the Heritage New Zealand Pouhere Taonga Act 2014 will be sought.
- 8.5.2.12 **Objective 56.3** and associated policies seeks to *maintain and enhance the areas of the City that have a recognised special character.*
- 8.5.2.13 Relevant policies include:
- 8.5.2.14 **Policy 56.3.2** *Encourage any future development and use within the identified character areas to be sympathetic with the elements that make the areas special.*
- 8.5.2.15 Reporting Officers Comment:
- Policy 56.3.2 seeks to encourage developers within character areas to be sympathetic to these key elements. The proposal is not contrary to this policy, as the direction here has been encouragement rather than regulatory. Therefore, should the proposal be consistent with those provisions in the Residential Chapters (such as bulk and location provisions), the proposal would be consistent with this policy.
- 8.5.2.16 **Policy 56.3.3** *To maintain and enhance where appropriate the character of the Hardinge Road, Battery Road, Iron Pot and Coronation Street character areas identified in the Port Ahuriri Heritage Study (Refer to Appendix 13A for maps of character areas).*
- 8.5.2.17 The plan also makes the following statements underneath the above-mentioned policies.
- 8.5.2.18 *In the character areas development can have a negative impact on the existing streetscape. The Council's aim is to draw the community's attention to the importance of retaining the scale of existing buildings and in some instances to the importance of the positioning of buildings on the site.*



8.5.2.19 *The Port Ahuriri Heritage Study identifies a number of precincts of distinctive character and states that those features which are critical to that character should be preserved and protected. The Ahuriri Advocacy Area identified on the planning maps comprise four specific character areas; Iron Pot, Hardinge Road, Battery Road and Coronation Street. The heritage study identified these four areas as being of distinctive character. While individually all buildings in the character areas may not warrant protection as heritage items, and they do not all share common features, the Council wishes to recognise those features which contribute to the overall character of Ahuriri and the linkages to the past. Buildings which are considered to contribute to the essential character of the area are originally in the Port Ahuriri Heritage Study and these are now shown on the maps in Appendix 13A.*

8.5.2.20 Reporting Officers Comment:

- The plan is clear this is not an individual listing, and it is rather a grouping that contributes to the character of the Hardinge Road Character overlay. Therefore, although the removal of the individual building will generate potential adverse effects on heritage values due to the inevitable loss in a building that currently contributes to the character of Hardinge Road and Ahuriri, the removal is not inconsistent with the surrounding character or the District Plan overall, should the provisions of the residential chapters be met.

8.5.2.21 Chapter 56 Summary:

- In summary, I consider the proposal, although an inevitable loss in heritage values, not inconsistent with the objectives and policies of the Plan. This is primarily due to weighting the building holds in the plan, not being individually listed as a Heritage item.

### 8.5.3 Chapter 4- Residential Environments:

8.5.3.1 **Objective 4.2** and associated policies seek to *enable the diverse housing needs and preferences of the City's residents to be met while ensuring that the adverse effects on the environment of residential land use, development and subdivision are avoided, remedied or mitigated.*

8.5.3.2 Reporting Officers Comment:

- The proposal involves site redevelopment to allow for residential use. Therefore, should potential adverse effects be sufficiently mitigated, the proposal is considered to be consistent with this.

8.5.3.3 **Objective 4.3** and associated policies seek to *accommodate growth through residential intensification in appropriate areas and via planned development of identified residential greenfield growth area; and to create a City-wide settlement pattern that maintains the vitality of the City's commercial and community nodes, supports public transport and reduces private vehicle use in accordance with OBJ UD1 of the Hawke's Bay Regional Policy Statement as well as the 2020 National Policy Statement on Urban Design.*

8.5.3.4 *Policy 4.3.2 Restrict residential intensification in areas of special character.*

8.5.3.5 *Policy 4.3.3 Manage the intensity of residential settlement in all parts of the City to ensure that any adverse effects on the environment are avoided, remedied or mitigated.*

#### 8.5.3.6 Reporting Officers Comment:

- The proposal will not enable residential intensification or growth, but does enable the continued occupation and use of a site into the future. It is considered the proposal is consistent with Objective 4.3 and associated policies.

8.5.3.7 **Objective 4.4** and associated policies seek to *ensure that all developments and structures within the City's residential character areas maintain, enhance and are sympathetic to the dominant natural and physical features which contribute to the amenity and character of those areas.*

8.5.3.8 In particularly, Policy 4.4.6

8.5.3.8.1 *Along Hardinge Road and Waghorne Street:*

- Develop land use controls over development that are less restrictive while recognising the area's diverse building development, the smaller site sizes and the close proximity of many buildings to roads and adjacent sites.*
- Restrict land use and development to maintain and enhance the scale and design of the built environment that contributes to the area's character.*

8.5.3.8.2 *As the City of Napier has developed over time, a number of areas featuring distinctive architectural styles and streetscapes have emerged. Careful management, including the restriction of some land uses is required to ensure that the special character of these areas is maintained. In some instances, this character can be destroyed through modern redevelopment, while in other character areas, the blend of historical and modern architectural forms contributes to the area's special character.*

8.5.3.8.3 *The Council wishes to recognise both the historical styles of development as well as modern demands for the Hardinge Road and Waghorne Street residential area. The Hardinge Road area has experienced significant change over the last decade. Remaining historic buildings tend to be concentrated along Waghorne Street, but pressure for redevelopment and opportunities exist which may threaten the character of the area. The demand for waterfront locations has tended towards intensive modern developments on the small sites. This has created close-knit buildings with very small setbacks from the road and adjacent properties. Future development should recognise the scale and historic styles of buildings in the Hardinge Road and Waghorne Street area.*

#### 8.5.3.9 Reporting Officer's Comment:

- The above objective and policies, and descriptions in the District Plan quoted above, outline the desired environment for the Hardinge Road Residential zone.
- The plan allows for less development controls, such as site coverage, open space requirements and front yard requirements, than other residential environments across Napier. This is to promote more intensive development alongside smaller more traditional cottages to maximise the location of Hardinge Road. The proposal is not in keeping with the permitted building envelope of the plan.

8.5.3.10 **Objective 4.5** and associated policies seek to *maintain and enhance those qualities and characteristics that contribute to the wellbeing of the City's residents and the amenity of the residential zones.*

8.5.3.11 **Policy 4.5.4-** *control building height and bulk to ensure it is compatible with the height and bulk of the surrounding residential area.*

8.5.3.12 **Policy 4.5.5-** *Control buildings so they are designed and located in a manner to ensure that adequate levels of sunlight and daylight reach adjacent residential properties throughout the year.*

8.5.3.13 Submitter's Comment:

- The proposal is directly contrary to Objective 4.5, Policy 4.5.4 and Policy 4.5.5.

8.5.3.14 Reporting Officers Comment:

- Characteristics that contribute to the wellbeing of the City's residents include the framework for which development can occur as a permitted activity, whereby Plan provisions allow for a certain scale of development. Key development control measures include yard setback, height, height recession plane and site coverage requirements.
- It is noted that it is prevalent along Hardinge Road to see larger buildings on small sites, close together with small setbacks from the road and adjacent properties, with evident departures from these District Plan standards.
- As above there is a presence of larger scale buildings along Hardinge Road, however the surrounding residential area in this instance also includes those smaller, traditional cottages in the immediate vicinity, that this proposed building would sit amongst. Therefore, and as assessed above, the surrounding environment is a mix of building design and sizes.
- The proposed height recession plane infringement has the potential to adversely affect the amenity of City residents where this occurs directly adjacent to their sites. The height recession plane infringement together with the first floor encroaching into the yard setback, contributes to adverse shading, availability of sunlight, and dominance effects.
- I consider a building more conservative in scale would uphold such amenity values for adjacent landowners, and thus the wellbeing of the City's residents. Height recession planes have been included in the District Plan to uphold a certain level of amenity for zones, and the proposal does depart from this.
- There are other buildings of a similar scale in relation to their sites nearby, however allowing a height in relation to boundary and combined side yard departure along a shared boundary, of the proposed scale, whilst considering the effects of amenity on adjacent landowners, results in a proposal that is not considered to be consistent with the objectives and policies in Chapter 4.

8.5.3.15 Chapter 4 Summary:

- In summary, for the reasons above, I consider the proposal to not be entirely consistent with the objectives and policies in Chapter 4.

## 8.6 Other Matters (Section 104(1)(c))

### 8.6.1 Structure Plans and Plan Changes

8.6.1.1 There are no structure plans or other policy documents

## 8.7 Part II Matters

8.7.1 In Part II of the Act, Section 5 sets out the purpose and principles for the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being, while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems and avoiding, remedying or mitigating adverse effects on the environment.

8.7.2 Section 6 sets out Matters of National Importance. It is considered that there are no matters of national importance relevant to this application. Furthermore, the site is not individually listed as a Heritage Item, near any outstanding natural features or landscapes.

8.7.3 Section 7 sets out additional matters to be given particular regard by the Council in the consideration of any assessment for resource consent, and includes the efficient use of natural and physical resources and the maintenance and enhancement of amenity values.

8.7.4 Section 8 requires Council to take into effect the principles of the Treaty of Waitangi. In this case there are no known Treaty of Waitangi issues with the proposed development of the site for residential purposes at 69 Hardinge Road. The site is known to have been occupied prior to 1900.

8.7.5 It is considered the proposal does not compromise Part II of the Act. I note that the proposals inconsistency with parts of the policies relating to amenity values, do reduce the proposals ability to meet the intent of Section 7 of the Act.

8.7.6 On balance, the proposal is considered to be consistent with Part II matters.

## 9. Conclusion:

### 9.1 Removal of Group 3A Heritage Item:

9.1.1 The proposal will remove one of the buildings that form a cluster of three dwellings from Hardinge Road. As outlined above this building is not individually protected either by Heritage New Zealand or individually listed in the District Plan. It is also noted that Group 3A heritage items have a lower threshold for protection. Therefore, it is appropriate to consider the character as a collection of buildings rather than individual protection.

9.1.2 On balance, I consider that the removal of the Group 3A Heritage Item may be granted. As the proposal is being considered as a whole, I consider the proposal should not be granted until the proposed new building has been resolved.

### 9.2 Construction of a new dwelling in the Hardinge Road Residential zone:

9.2.1 Overall, I consider a building of the proposed scale to be at the higher end of what should be allowed to be constructed along Hardinge Road in relation to the proposed site area. I acknowledge the site is relatively narrow, and there is a desire along Hardinge Road to

construct larger close-knit dwellings. However, I do note that the proposed building breaches three height recession plane boundaries, resulting in a building that is bulkier than that generally allowed for. I consider the proposal to have been sufficiently mitigated along the streetscape.

- 9.2.2 With regard to adverse effects on the adjacent landowner, I do not consider to have been mitigated to an acceptable level.
- 9.2.3 I am not satisfied that the land use application for the new dwelling is consistent with the objectives and policies of the District Plan, particularly with regard to the Height Recession Plane and increased footprint of the side yard infringement adjacent to 68 Hardinge Road.
- 9.2.4 In summary, I do not consider the current proposal appropriate for granting. A proposal with a reduction of the yard infringements along the western boundary may be considered for granting.

### 9.3 Draft Conditions:

- 9.3.1 Should the hearings panel resolve to grant the proposal a draft set of conditions for discussion and consideration is provided as **Appendix H**.

## 10. Recommendation prepared by:



Christina Bunney  
Senior Resource Consents Planner  
City Strategy

Date: 27 June 2022

## 11. Approved for release

- 11.1 Recommendation approved for release to the Hearings Panel for determination.



Luke Johnson  
Team Leader Planning and Compliance  
City Strategy

Date: 27 June 2022