

MEMO

To: The Panel **Company:**

CC: Ella Jaspers **Company:** EPA

File No: EPA 3499 **Date:** 27 October 2021

From: Mark St Clair

Re: **61 Molesworth Street – Activity Status for Lowered Tower Scheme**

This memorandum is in response to a request from the Panel that I advise on the resulting activity status of the height and the mass calculations for the Lowered Tower Scheme, offered in the alternative by the Applicant (email dated 15 October 2021).

In relation to height, Map 32 – Central Area Building Heights of the Operative District Plan shows that the height limit at 61 Molesworth Street is 43.8m (above ground level). The height shown on the plan included in the Lowered Tower Scheme is 42.2m, which therefore complies with the height limit.

In relation to the mass calculation I have used Rule 13.6.3.2.1 A which states:

13.6.3.2 Building Mass

13.6.3.2.1 No building (or buildings) shall have a mass in excess of the total building mass (volume) for the site. Total building mass (volume) is calculated using the following formula:

A. In areas where building heights are measured above ground level:

Total mass = site area x height x .75

B. In areas where building heights are measured above sea level:

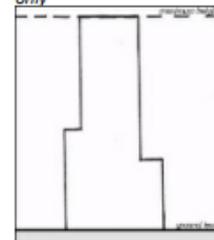
Total mass = site area x (height - assessed ground level) x .75

C. For freehold sites in strata (or portions of a site subdivided by strata):

Total mass = strata area x (upper height – lower height) x .75

D. For buildings that were constructed prior to July 1994, building mass will be calculated using the appropriate formula above, but any building mass that is located above the 'height' that applies to the site shall be excluded from the total mass for the site.

For illustrative purposes only



I observe that the Applicant has used the same formula. However, I also observe that the Applicant has relied on the interpretation of site area from the original application (Paragraph 1, Page 10 of 42) which includes area on which the development is to occur (2105m²) plus the area of Collina Terrace (438m²) of which the Applicant owns a 1/8 share, to give a total of 2534m² as the site area, for the mass calculation.

Conversely, I have relied on interpretation of site area for the mass calculation as set out in Legal Opinion to the Panel dated 5 August 2021 Paras 39-55. Using that interpretation, the area to be used is 2105m² which does not include the addition of the area of Collina Tce. The area of the site as recorded as follows;

Identifier **WN36D/158**
Land Registration District **Wellington**
Date Issued 28 February 1990

Prior References

WN119/248 WNB2/1404

Estate Fee Simple
Area 2105 square metres more or less
Legal Description Lot 1 Deposited Plan 23575

Registered Owners
61 Molesworth Street Limited

Rule 13.3.8.14 sets out the conditions that must be complied with in order for proposal to be considered under 13.3.8.4A as a Discretionary Activity (Restricted).

Rule 13.3.8.14 states;

13.3.8.14	maximum building height assessed under 13.3.8.4.A and 13.3.8.4.B must not be exceeded by more than 35 percent, and the building mass standard must not be exceeded, or; maximum building height must not be exceeded by more than 15 percent, and the building mass standard must not be exceeded by more than 15 percent.	<i>For the purpose of condition 13.3.8.14 the 15 percent increase in building mass shall be calculated using the total building mass for the site (see section 13.6.3.2)</i>
------------------	---	--

Under both of the options set out in the rule above, the maximum height of the Lowered Tower Scheme is not exceeded and so therefore complies.

The proposed building mass of the Lowered Tower Scheme is stated on the Applicant's plan as 75,150m³. In addition, the Applicant calculates the allowable building mass as 2543m² x 43.8 x 0.75 = 83,537m³ (Page 3, Massing, Height and Scale – 61 Molesworth St – Lowered Tower Scheme).

Whereas, I calculate the allowable building mass as 2105m² x 43.8 x 0.75 = 69,149.25m³. Therefore, using the Applicant's stated building mass of 75,150m³, the proposal is above the first option of Rule 13.3.8.14 as the building mass standard is exceeded.

Turning to the second option of Rule 13.3.8.14, the allowable building mass maybe not be exceeded by more than 15 percent. Therefore. the calculation would be $69,149.25\text{m}^3 \times 15\% = 79,521.63\text{m}^3$. The Applicant's proposed building mass is $75,150\text{m}^3$ which is less than $79,521.63\text{m}^3$, and therefore the second option of Rule 13.3.8.14 is met. I conclude that the application would therefore fall to be considered as a Discretionary Activity (Restricted) under Rule 13.3.8 of the operative Wellington District Plan.

In my view, the Applicant does not provide this level of detail in their email dated 15 Oct 2021 as to the activity status. The relevant paragraph of the email states (emphasis added);

The applicant remains strongly desirable of the higher building option, however, if the commissioners were of the view that the additional height was a barrier to consent, the applicant has provided a lower option which is shown on the attached plans by Jasmox and entitled *61 Molesworth St Lowered Tower Scheme*. This scheme is to all 'purpose and intents' a similar scheme to that already lodged with the EPA. The proposal is simply lowered by two stories. Whilst this is not a resource consent under the RMA, in respect to the District Plan provisions, this would reduce the overall massing and take the development under the level where design excellence would be required. As already outlined in the assessments to date, "design excellence" is an abstract term. The applicant's position is the resilience and efficiencies (sustainable) that will be achieved from the building, would meet this definition.

I would recommend that the Panel provide my calculations and rule assessment to the Applicant so that they have the opportunity to comment on it.

The term used by the Applicant, "*take the development under the level where design excellence would be required.*", is I understand a reference to Policy 12.2.5.5, which states:

The environmental result will be building work that is designed to provide a positive public environment and heritage outcomes.

12.2.5.5 **Require design excellence for any building that is higher than the height standard specified for the Central Area.**

METHODS

- Rules
- Design Guides

In relation to the Lowered Tower Scheme, this policy would not apply as the proposal would meet the height standard specified for this site in the Central Area, namely 43.8m. Similarly, Rule 13.3.8.4 A, height would not apply as a matter of discretion, because Rule 13.3.8 records that "... *discretion is limited to the effects generated by the standards(s) not met.*"

However, mass remains an issue in terms of Rule 13.3.8.5; which states;

13.3.8.5 mass (standard 13.6.3.2) discretion is limited to the effect of building mass on:

- the amenity of surrounding streets, lanes, footpaths and other public spaces; and
- the historic heritage value of any listed heritage item in the vicinity; and
- the character of the surrounding neighbourhood, including the form and scale of neighbouring buildings; and
- whether the proposed building will have on-going access to daylight; and
- any adjacent Residential Area

In conclusion, it is my view that the applicable activity status for the Lowered Tower Scheme is Discretionary Activity (Restricted) under Rule 13.3.8.

For the sake of completeness, I provide below my calculation of building mass for the Higher (original) Tower Scheme based on the interpretation of site area as set out in the Legal Opinion to the Panel dated 5 August 2021 (as above):

$$2105\text{m}^2 \times 43.8 \times .75 = 69,149.25\text{m}^3$$

$$15\% \text{ for design excellence is } 10,372.4\text{m}^3$$

$$\text{Total Allowable mass is } 79,521.63\text{m}^3$$

$$\text{Mass achieved is } 88,724\text{m}^3$$



M. L. St. Clair