

## **Fourth Further information request**

### **Revised and updated Plans**

We are now providing the updated plans. Please see the hyperlinks to the hi resolution plans. These provide two sets of plans. An 11 storey and a 13 storey version. The applicant maintains that the higher version is the preferred option and that this higher version is more consistent with the outcomes required in the city under the National Policy Statement on Urban Development (NPSUD).

**[61 Molesworth St - RC - Design Statement - 11 Storey Tower - RevA.pdf](#)**

**[61 Molesworth St - RC - Design Statement - 13 Storey Tower - RevE.pdf](#)**

**[61 Molesworth St - RC - Drawing Set - 11 Storey Tower - RevA.pdf](#)**

**[61 Molesworth St - RC - Drawing Set - 13 Storey Tower - RevE.pdf](#)**

Should there be any issue with the links to the plans, please advise me as soon as practical.

### **Massing Calculation**

I note that the architect has provided further brief comment on the massing calculations which are set out in the attached plans.

I have also obtained a memo from Mr Mark St Clair in respect to the application massing permitted standard. I received a copy of this memo through the architects, who I understand were provided it as part of the Urban Design conferencing. I was not directly provided with the document, or asked to comment, but I do note that Mr St Clair did recommend we are able to comment.

Mr St Clair does not agree that Collina Tce should be included in the overall area used to calculate compliance with the massing standard. He makes reference to the Legal Opinion previously provided to the panel. I have already commented on the legal opinion. My view remains the same, however I will make several additional comments in respect to the Memo from Mr St Clair.

Firstly, the inclusion of Collina Tce in the area was not an arbitrary decision by the design team and myself. The panel would be aware that this is actually the second application for this site. The first was started in 2017 and a resource consent was lodged with Wellington City Council in 2018. During pre-application consultation, the design team requested a response from WCC as to whether Collina Tce should be included in the site area. I note that Mr St Clair has a "clip" from the record of title

(RoT) in his memo which shows the site area to be Lot 1 DP 23575 and be more or less 2105m<sup>2</sup>. This “clip” does not tell the full story. I attach another below which is from the RoT.

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

**Prior References**

[WN119/248](#) [WNB2/1404](#)

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

**Registered Owners**

61 Molesworth Street Limited

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Type	Fee Simple - 1/8 share
Area	438 square metres more or less
Legal Description	Lot 5 Deposited Plan 1265

**Registered Owners**

61 Molesworth Street Limited

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[539162](#) Conditions of Consent (as to the part formerly in CT WNB2/1404) of the The Wellington City Council to the Construction of a cellar on the within land - 25.9.1962 at 12.18 pm

[10017681.2](#) Mortgage to ANZ Bank New Zealand Limited - 31.3.2015 at 4:25 pm

The RoT for this site, includes an additional 438m<sup>2</sup> area of land and a parcel described as Lot 5 DP 1265. As Collina Tce is included in the same RoT as the rest of the subject site. Under the WCC definition of ‘site’ WCC officers agreed that massing should apply to both parcels in the RoT. The previous application went forward on that basis. The WCC officers prepared a notification report for the previous application. That application was known as SR 417483. The notification report contained the following:

*The building will have a mass of 71701m<sup>3</sup>. The applicant has calculated the allowable building mass for the site as 83537m<sup>3</sup>. This is based on the total site area, which benefits from the additional site area provided by Collina Terrace (which cannot be built on as it is owned by multiple parties to be used for access purposes). I agree that the applicant is correct to include Collina Terrace in their site area for the purposes of calculating the building mass.....* Section 95A-95F of the Resource Management Act 1991 Notification Decision Report SR417483 dated 20<sup>th</sup> December 2018, Page 15, paragraph 3

I have already discussed Policy 12.2.5.2 *Manage building mass to ensure that the adverse effects of new building work are able to be avoided, remedied or mitigated on site* in the application and in the responses to queries from the panel. This is the policy which supports the massing rule. Under the policy, it has discussion text which can be used to interpret the way in which the policy and the relevant rule is interpreted. In this case, policy 12.2.5.2 states:

Managing building mass is important in ensuring that new building works do not create adverse environmental effects. The total mass and bulk of a building on site, and the location and placement of the mass relative to adjoining buildings and structures, will determine how successfully potential adverse effects relating to wind, amenity (access to light), impacts on adjacent heritage items, viewshafts, and urban design can be managed.

For this reason the District Plan imposes standards on the total building mass (volume) that can be developed on sites in the Central Area

The mass standards have been set at levels that will allow potential adverse effects relating to amenity (access to daylight for the proposed new building), heritage and design, to be avoided, remedied or mitigated on site. It is important to note that the development of new buildings in the Central Area is not a case of 'first in, first served'.....

The policy is clearly discussing the placement of mass, adjacent to buildings, directly on the boundary. The massing standards in conjunction with the Central Area Design Guide work to protect the amenity of the subject building and the neighbouring buildings, where there is a potential for them to be placed directly adjacent. In this case, there is no potential for buildings to be placed right against the boundary of the adjoining buildings to the north and west due to Collina Terrace being there. So it is not illogical for Collina Terrace to be used to calculate overall mass.

Lastly I note that the discussion text under this policy states:

Because building mass is calculated using the area of the development site, care must be taken to ensure that overall development potential is not increased through manipulation of property boundaries. For this reason, in instances **when a development site comprises multiple titles (or computer freehold registers), consideration will be given to the need to amalgamate into one title (or computer freehold register)** all of the land parcels that were used to calculate the maximum mass of the development. Similarly there may be occasions when it is necessary to register a consent notice on a vacant or developable lot to maintain compliance with the building mass standards across the site. [my emphasis]

The main 61 Molesworth Street site and the share in Collina Terrace are in one title.

I also note that in the legal opinion, there was discussion of the definition of "Site Area" There are actually two definitions of "Site Area" in the plan. The Site Area in chapter 3 is for the purpose of calculating site coverage, which applies in the Residential Areas of the Plan.

The Site Area definition applied to the calculation of mass is included in the Central Area chapter itself. In my years of interpreting and implementing the provisions of the District Plan, there has never been an occasion where I have seen the Central Area and Residential Area definitions, ride over each other (or be overlaid). They are applied separately and only to their relevant chapter. The site area definition in the Central Area states:

Site Area - means the total area of the site (or sites) that forms part of the development, but does not include any portion of the site subject to a strata title. See also the definition of site.

To reiterate my point, I note that in the Residential Areas, Site Area always excludes the area of the site which are subject to rights of way. But that restriction/modification has never been applied to the Central Area massing rule in my experience. This indicates that the consistent application of the Plan over many years has been that there are two definitions of Site Area, applied to different zones of the Plan.

Clearly, the District Plan envisages that the site area be in one RoT (or CT) in the Central Area as discussed above. That is the case with this land and it is both legally and logically sensible to interpret the site area for the application of the massing rule as has been done in the application. I re-iterate that WCC planning officers accepted this in the previous application.