SUPPORTING DOCUMENTATION



Crowe Horwarth Feasibility





Hundertwasser and Wairau Maori Art Centre ("HWMAC")

Feasibility Study - UPDATE

9/10/2014



Executive Summary

- The architecture has the "Disneyland" ... "Hobbiton" ... or ... "Guggenheim" factor
- The Maori connection adds depth, intrigue and cultural authenticity
- Hundertwasser's "sustainability" philosophies have enduring contemporary relevance for all of Northland
- assessment are conservative (the latter very) community than it costs. Our analysis concludes that both the previous Deloitte feasibility study and economic impact The HWMAC will attract significantly more visitors and can create significantly more economic benefits in the wider
- International economic development research argues a regional growth story should be founded on sustainability, place and inclusiveness. As one symbol for the excitement, unity, pride and self esteem that must take hold (as it has in philosophies that it represents? Kawakawa) around this, is there a more contemporary heart for Northland than the HAC and the 'sustainable

One research observation: A google search on "Friedensreich Hundertwasser" returned 660,000 hits. In comparison, the "Poor Knights" returned 454,000 hits, Tutukaka 336,000, KiwiNorth 19,000, Claphams Clock Museum 12,000 and Hobbiton 571,000 (and Hobbiton appeared in a series of recent global blockbuster movies and an international visitor campaign)





Understanding The Problem

impact of an iconic building and art gallery are: As per the Deloitte feasibility report, and our peer review of it, the elements of the analysis in assessing the economic

- Estimating the number of visitors which will be attracted at a given price to a facility
- accommodation, food and other daily spend up) Estimating the proportion of visitors which will stay extra nights solely as a consequence of the facility (driving their
- boutique shops) Estimating the number of visitors who will be attracted to stop/stay in Whangarei because of the presence of the facility, and proportion that will observe it rather than entering it (e.g. additional parking revenue, greater demand for food and
- Estimating the impact on airport, transport and attendance at other attractions
- Whangarei (due to greater local self esteem and self belief) Estimating the impact, on a 'creative knowledge economy', of businesses and workers decisions to choose to locate in
- to further investment) Estimating impacts on the value of land in the central city and beyond (due to all of the above, along with catalyst effects
- The degree of addition, as opposed to displacement, of economic activity and so on

One can see why big data has the potential to be a game changer in provide access to Whangarei specific spend. which granularity was not this context and while that is some way ob. recent advancements do



Deloitte's economic impact approach and our critique

particularly, we recommended that the following be further explored: modelling approach, as far as it went, though noting that key assumptions could be improved in certain respects. More Deloitte approached the key difficulties by focusing solely on "Tourism induced by the HWMAC". We endorsed the general

Visitor capture rates

- Whangarei specific visitor profiles (not available at the time); The condition of the wider and Northland Understanding HWMAC as part of a wider network. HVMAC business model are foundational

 - Drawing comparisons with comparative venues;

Pricing and Revenue Streams

- Museum v art centre admission prices
- Levels of government/local government support for comparator facilities;

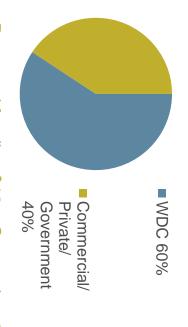
- Whether art and culture are viable strategies independent of natural features;
- More balanced sharing of risks and rewards with private interests:
- CBD land owner contributions as major beneficiaries of waterfront re-development and town centre rejuvenation.

benefits adding to the regional offering, assumptions around visitor numbers and land value impacts along with: HWMAC as a catalyst for other economic development opportunities (hotels, cruise ships), wider regiona Our terms of engagement for the present work go to revisiting the funding assumptions in light of developments,



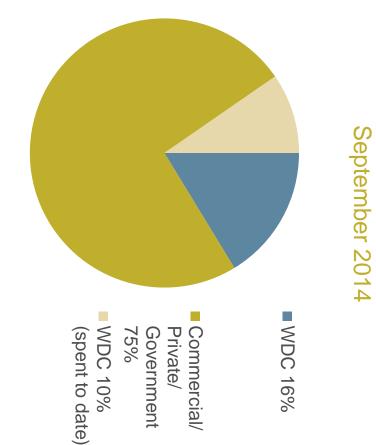
Funding model reworked

increasing the net public benefit to on WDC ratepayers and substantially government and commercial/private strongly weighted in favour of central Northland. interests, substantially reducing reliance The balance of capital funding is now



Proposed funding \$13m September 2011

Proposed funding \$13.5m September 2014





Economy and national tourism

slow and fragile economic recovery offshore. continue to be Auckland and Christchurch. The major drag on wider NZ growth remainsto continue to do so, much as was the case in September 2011. The major drivers of growth Further, September 2014 has the New Zealand economy growing above trend and predicted

Nevertheless, September 2014 versus September 2011:

- At least for now, the NZ dollar is heading back towards 2011 levels
- More expensive for domestic tourists to travel overseas
- Cheaper for foreign tourists to visit NZ
- Auckland is bursting at the seams
- (from 2.5m)
- Total visitor spend is up, though per visitor spend is down



International Visitor Survey projections – All NZ

	offerings	y as offe	if they c			levels	lude: arthquake	above inc orical pre-e	within the a	growth stories within the above include: ristchurch tracks back towards historical pre-earthquake levels
theor	for Northland reposition theor	rthland	for No			L3-2020).	year (201	Rate per	age Growth	3. Compound Average Growth Rate per year (2013-2020).
	in Muand	000	Tittu		visitors,	education	xcludes e	IVA that e	re from the	2. Visitor arrivals are from the IVA that excludes education visitors,
arei	nd this is positive	at this			2012	n 2013 for	revised i	or Survey,	ational Visit	1. From the International Visitor Survey, revised in 2013 for 2012 and earlier years;
				aland	istics New Zea	loyment, Stati	on and Emp	ness, Innovati	Ministry of Busi	Notes: Source: MBIE ("Ministry of Business, Innovation and Employment, Statistics New Zealand
-0.20%	-1%	19	19.1	19.3	19.4	19.6	19.8	19.7	19.2	Length of stay
-4% -0.50%		124	124	124	124	124	123	125	128	Spend per day
3.80%	30%	67483	65124	62894	60826	58997	57947	55207	52061	Total Days (000s)
3.90%	31%	3553	3404	3265	3134	3013	2932	2805	2710	Total visitors $(000s)_2$
3.20%	25%	8337	8047	7777	7528	7300	7157	6885	6673	Total spend (\$m) ₁
CAGR ₃	2020 2013-20 CAGR ₃	2020	2019	2018	2017	2016	2015	2014	2013	Year

Key growth stories within the above include:

- Christchurch tracks back towards historical pre-earthquake levels
- Chinese visitors now second (behind Australians) but non-existent in Northland
- Traditional European markets expected to continue a steady decline
- worldwide US market) but, from Northland's perspective, Hobbiton turns more foreigners south from Auckland Hobbiton was an important factor in visitors choosing NZ (contributing to a 13% gain in US visitor numbers as against 2% growth in
- Increased international flight capacity



Total visitor spend actual and projections for Northland

	2009 Actual	2014 Actual	2020 Forecast
International	\$153m	\$157m	\$189m (3.2%CAGR)
Domestic	\$440m	\$430m	\$484m (2%CAGR)
Total	\$593m	\$587m	\$673m
International Visitor numbers @ \$100 (median) per day & average 2 days (in Northland)	765,000	785,000	945,000
Domestic Visitor numbers @ \$100 (median) per day & average 1.8 days (in Northland)	2,444,444	2,388,889	2,688.889
Total	3,209,444	3.173,889	4,578,889
Spending data is the most reliable source of visitor information due to the fact that it is hard to arrue with the fact acard has been used where for what and to whom Still cash transactions talendades and	to the fact that it is hard to aroun with the fact	a card has been used where for what and by wh	om Otill coch transactions telephone and

Spending data is the most reliable source of visitor information due to the fact that it is hard to argue with the fact a card has been used where, for what and by whom. Still, cash transactions, telephone and internet sales where the card is not presented at POS and various other sources. Various adjustments are thus still made by MBIE to arrive at the above.

Source: Ministry of Business and Innovation, Statistics New Zealand together with some extrapolation

Reasonableness checks:

- calculation method suggests similar total numbers to those above (We are awaiting more granular data around this from NZTA, but this might take a month) individual visitors to Northland via road. On top of this we need to add an estimated 100,000 fly-in travelers along with a number of arrivals by boat, including cruise ships. This Walkworth or are in and around Puhoi, Northlanders make one in every four trips and that on average there are 1.5 people in each vehicle - all this would imply approximately 2.95m between these points. Assume HWY16 to the West captures 5% of equivalent traffic, traffic volumes are equal in both directions, 20% percent of north-bound trips terminate at Alternatively, the toll road between Puhoi and Silverdale recorded approximately 5m trips (excluding heavy vehicle) in the year to June 2013 and reputedly captured 79% of all travel
- accommodation (i.e. on boats, in a family/friend's holiday home) not captured by the commercial accommodation monitor. This does not seem unreasonable Cross-matching the combined international and domestic visitor numbers with annual guest nights of 1.64m implies one out of two visitors stay with friends, relatives or in other

2014 data shows Northland visitor spend has stalled since 2009 and this is despite continued population growth in Auckland, which accounts for 34% of Northland's total visitor spend

than average (cash spend is not captured in the present data) Rotorua's \$71m, Queenstown's \$99m and Auckland's \$453. We note that care needs to be taken with these numbers as Northland may be a first stop where cash spending is higher As concerning, Whangarei has captured insignificant tourism dollars from Chinese and Asian tourist numbers growth (the Far North hasn't fared much better at \$3m): this compares to

beaten tourist track (Auckland to Queenstown). Northland needs to continuously freshen up it's offering to become/remain relevant The message appears clear. Competition is fierce and growth will not happen as a matter of course; particularly since Whangarei and Northland are at the end of the line and not on the

Promoting creation of a promoting creation of help



Some observations from and on the spending data

Whangarei 2013 (refer MBIE's interactive Regional Economic Activity Report 2014)

- \$190m visitor spend (compares to \$349m for the Far North and \$49m for Kaipara)
- Approximately 79% of visitor spend (\$150m) is domestic (slightly higher than for all of Northland)
- Over 43% (\$65m) of this is by visitors from Auckland (Aucklanders spend \$72m in the Far North)
- Northlanders 29% (\$43m). This is consistent with Whangarei being the Northland hub
- The rest of New Zealand 29% (\$42m)
- Australian based visitors make up 40% of international visitors, their spending totalling \$40m
- European and Amercian continent origin tourists make up the vast majority of the balance
- Various asian countries, including China and Japan, barely register at \$2m (In the Far North these countries are similarly poorly represented at \$8m)

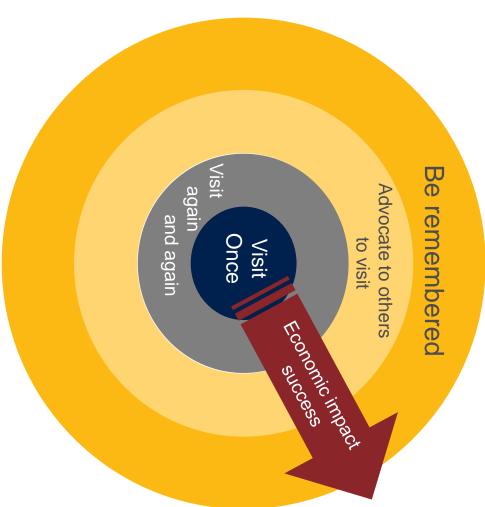
Observations

- The spend numbers for Whangarei District suggest it is more than a stop on the way to the Far North
- Getting more Aucklanders to come as far as Whangarei is highly likely to translate into more Aucklanders continuing. in approximately equal parts, into the Whangarei District and further north
- A 10% sustainable lift solely in Auckland visitor numbers/spend represents \$6.5m p.a. economic benefit to the Whangarei District Whangarei district. Only 4.1% of Auckland spending as visitors outside Auckland is currently incurred in the
- Chinese visitors represent a great and growing opportunity

As Auckland makes up a $1/S^{rd}$ of visitor spending (#65m). they are the key target for visitor spending growth



The HWMAC business model (What we are assessing)



Productivity:

More visits to other venues and attractions?
Attract visitors in the low season?
Extended opening hours?

#1 ARCHITECTURE



#2 CAFE/RESTAURANT #3 ART GALLERY

_onger stays:

Get more visitors to stop in Whangarei?

Get more visitors to spend a night?

Hundertwasser's architecture is marketing gold in being so memorable as to be unforgettable. For present purposes we have to assume the HWMAC will be constructed to the highest standards, the art gallery will be top notch and the café/restaurant will target the visitor markets that deliver economic impact.



HWMAC Critics and concept context

Chief criticisms

- Hundertwasser was about art by, with, and for the community
- Pitching as an economic development initiative was inconsistent with Hundertwasser's philosophy, lacked integrity and distanced the community
- Late addition of Maori Arts Gallery seen as cynical
- The costs could blow out beyond \$13m and we don't want to end up like Kiapara
- A phone survey recorded 53% opposition and only 28% public support. The four main reasons for opposition were:
- Higher priorities for ratepayer money
- Too expensive. Waste of money
- Not right for Whangarei. Won't attract tourists
- Hundertwasser is not well known. Irrelevant in NZ and Whangarei

And yet:

- The building was always designed as an art gallery. A Hundertwasser design
 is host to a MacDonalds franchise. Another is a block of apartments. His
 belief was that art should be functional and engaged with daily. His NZ flag
 design was a tribute to his esteem for Maori culture.
- Cost is a function of sound management, verifiable and able to be locked down pre-start (by contractual allocation of risk).

- The two main phone survey counter arguments, being expense and use of ratepayer money were well made. However, they have been answered with a much more balanced proposition
- People visit, time-and-again, compelling architecture the world over, from the Egyptian pyramids to the Eifel Tower, to castles, the Sydney Opera House, the Sky Tower, Te Papa and Hobbiton.

Picture: La Pedrera is one of the best-known works of Antoni Gaudí, to which Hundertwasser's architecture has been likened. La Pedrena is one of the symbols of Barcelona.

A google search on "Freidensreich Hundertwasser" returned 477,000 hits. In comparison, the "Poor Knights" returned 222,000 hits, Tutukaka 333,000, KiwiNorth 19,000, Claphams Clock Museum 12,000 and Hobbiton 526,000 (and Hobbiton appeared in a series of recent global blockbuster movies and an international visitor campaigned).

Parallel: "The history surrounding the design and construction of the [Sydney Opera House] became as controversial as its design. Reputedly rescued from a pile of discarded submissions, Jørn Utzon's winning entry created great community interest and the NSW Government's decision to commission Utzon as the sole architect was unexpected, bold and visionary."



Hundertwasser architecture: Early stage of development critics are not unusual for

Controversy

public and soon started to attract visitors to this otherwise quiet residential area." work as kitsch. However, the Hundertwasserhaus - as it became known - was a hit with the general years later, his fantastical creation caused quite a stir and some architecture critics quickly dismissed his looking colorful patchwork with irregular patterns and varied window shapes. When it was completed two "In 1983 Hundertwasser started with the conversion of a complex of public housing units into a bizarre

Tourist Attraction

Just as unconventional as Hundertwasserhaus itself." arcade was constructed opposite Hundertwasserhaus. The arcade, also designed by Hundertwasser, is the building soon started to attract visitors. To relieve the inhabitants of the tourist overload, a shopping "Soon after the conversion of the private apartment complex into the colorful patchwork we see today,

The HWMAC is likely to have the pulling power to cause significantly more people to at least day trip to and stop in Whangarei. Hobbiton, an hour from anywhere in the Waikato, attracts 47,000 from \$10 for young children, \$37.50 for young adults and \$75 for adults. Hobbiton tours from international visitors a year and 80,000 in total, with tour prices (including transport) ranging Auckland range from \$250 and up.

The project has abready attracted both French and Japanese The project has abready teams to Kawakawa, together with television documentary teams to keginning to number in the international visitors abready beginning to

The Kawakawa 'cluster' effect

"There's something special about this little town; cultural identity and the legacy of Hundertwasser in Kawakawa, New Zealand", L. Kaino, School of Communications and Arts, Edith Cowan University, Banbury Australia, Published online 11 November 2013, contains a highly proximate and successful reference case for both the economic development value of architecture and the conditions for its success.

Thus, one can envisage being asked to complete the feasibility study for redeveloping a rundown public toilet block as a Hundertwasser Toilet block in Kawakawa in 1999:

- A rundown town with rundown vintage railway, soon to lose its status as a service centre for the Bay of Islands and nearby Moerewa, which itself had declined since the 1980s
- Cost high for location
- Projected revenue ni

The economic impact of a toilet block:

- Difficult to quantify whether any more people will stop and if they do will be a pit stop and a bite to eat
- Maybe increase vintage railway patronage (if it still exists) but hard to see this being material

Unsurprisingly, the toilet block redevelopment was gifted by Hundertwasser, gladly accepted by the Kawakawa Community Board and was built substantially through donated time and materials. On reflection one must suspect it was a good thing return on investment and economic impact were not top of mind in the planning process.

Roll forward to 2014 and, following further population decline to 2006, Kawakawa's population appears to be back up to 2001 levels (1400) – increasing where most rural towns continue to decline. Actual economic impact on sustaining, if not growing, the value of Kawakawa's

residential property? high. Vintage rail? Critical. The Town? The Moerewa meatworks remains economically key but the toilets, and their wider effect on the town, appear difficult to argue with as the catalyst for growth. Wider impacts of 120,000 plus visitors a year? See note above

Hundertwasser toilet block, Kawakawa: Northland's Hobbiton, or Bilbao, Effect, at work

Key themes inherent in the Kawakawa Hundertwasser toilet block redevelopment (with certain parallels to Bilbao Spain) explain their success in comparatively short economic development time:

- Functional people engage with them daily as a matter of course
- Fun, unique, eccentric and attractive
- Global brand tie up
- World class (as voted by travellers –'the best loos in the world')
- Contemporary relevance Hundertwasser's 'sustainability'
 ethos (the economic relevance of this is, arguably, a step ahead of the
 Guggenheim Museum in Bilbao Spain)
- The back story is interesting and adds mystery, intrigue and depth to the initial appeal of the edifice
- Local community, including indigenous, behind it, deeply involved from the beginning – increasing local pride and self-esteem associated with place
- A wider vision, so the story is alive and still being written
- Unique in this part of the world



HWMAC as a catalyst for further economic development – contextual fit

- The building design is interesting, inviting and attention grabbing. Built to the highest standards it will undoubtedly attract visitors in its own right. Children friendly explorability and photographic interest inside and out are assured, making Whangarei a must stop for bus loads of school kids, foreigers and others, travelling to Whangarei and/or to Waitangi.
- Hundertwasser's Art remains relevant, with reported prices upwards of Euro0.25m for individual pieces and his architecture well represented on visitor attraction websites.
- World class has to be earnt through attention to detail in construction.
 The design itself appears to meet the brief.
- It is a very reasonable proposition that 'sustainability' will be the contemporary issue of the 21st century, thus ensuring the ongoing relevance of Hundertwasser's fundamental philosophy.
- The back story is added to by building Hundertwasser's last design
- HWMAC adds to a tourist trail from the Kauri House, to the south west
 of Northland, to the Stone Store in Keri Keri; with less than an hour's
 drive between each significant cultural and artistic attraction along the
 way.
- Commercial interests in Whangarei have projects in planning (such as a 4 star hotel, conference facilities and apartmenting) to directly leverage interest in the HWMAC and projected increased visitor numbers stopping in Whangarei. There is significant public support. More particulary, key market Auckland is strongly supportive.

- HWMAC extends the existing wider vision in a way sympathetic to the architect's vision, including his relationship with Maori art and Maori culture. It is further noted:
- The proposed Maori art gallery, to be housed within the HWMAC, will complement a Maori Cultural Centre (Hihiaua) proposal;
- There is a strategically valuable coincidence that Hundertwasser translates to 'Hundred Water' ('Wairau' in Maori)—water sustainability being a defining objective to be pursued by an innovation centre proposed for development in Northland;
- Making visible the strong links between Northland aspects of european and maori sustainability, art and culture constitutes a real opportunity for Northland to convey a differentiated, strong, unique, networked, culturally progressive and positive brand to the world.
- The building will be unique in Whangarei and, indeed, in the Southern hemisphere. It will make both the Hundertwasser story and Maori artistic and cultural history more accessible to a wider audience, establish and grow the coherency of the related art network and act as a rediating hub for the contemporary story it represents.

Kawakawa (as do Queenstown) residents show the way to success

For maximum effect, the implicit vision and for maximum effect, the implicit vision and consequent culture must resonate for enough of Northland must, over Northland, or enough of Northland.



HWMAC as a catalyst for further effects?

It is undeniable cluster effects significantly increase the efficiency of accessing multiple attractions, reduce the cost, in time and money, of transition from one to the next and increase customer flexibility/choice vis a vis weather and unforeseen disruption. Egypt, Vegas, shopping centres, Queenstown, restaurants, extreme activities, the Poor Knights, ski slopes, cycle ways, vineyards, Iconic architecture, boutique shops and most other attractions, are rewarded by proximity to multiple attractions.

HWMAC has the potential to be the premier visitor attraction in Whangarei, not only feeding off existing visitor volumes but generating them, being the main entrée into the wider Whangarei District.

The "Bilbao effect" is used to describe the very successful reinvention of an area enhanced by the construction of an iconic building, such as the HWMAC, in an in-decline, 'off the beaten tourist track' city.

Footnote: The Guggenheim Museum Bilbao was instantly labelled the most important structure of its time, and is credited with contributing to a sustained 40%+ increase in tourist numbers visiting Bilbao.

In addition, an M.E Spacial report for the NZ Cruise industry estimated 2013 economic impacts for Northland of \$10m, Auckland over \$100m, Bay of Plenty \$32m and Hawkes Bay over \$18m. Those impacts currently bypass Whangarei and, very conservatively, there is no allowance for this changing in the economic impacts analyses completed to date.

Similarly not factored is the rise of Asian, including Chinese, NZ visitor numbers. A 2012 Government report entitled "China Market Review" observed:

"There is also significant scope to further leverage a natural affinity between Māori and Chinese. Chinese ways of doing business have a strong focus on relationships and long-term investment which are closely aligned with Māori business strengths. In this way cultural connections will only strengthen tourism business relationships."

Northland would seem to be extremely well placed to make the most of these "cultural connections", connections to which both Hihiaua and HWMAC are strongly aligned (provided both add 'experiential' elements to their offerings) and which are currently untapped. However, currently, the Chinese visitor can only be factored as potential 'cream on top' to what the travel data directs should be the near-field target of capturing more Auckland visitors.



Hundertwasser Art Centre - visitor profile

In order to estimate visitor numbers we need to understand the behaviour of visitors in respect of both architecture and cultural art.

reinforces the preference of cultural tourists for experiential/participative, as opposed to passive, activities. This is strongly reinforced museums typically provide interactive experiences such as cultural performances and demonstrations and the Tourism Report 2013 within the business case and so do not agree "museum tourist" is the correct visitor profile to use for the HWMAC when reference is made to the equivalent "Maori Cultural Tourism" profile from the same time. We do not see the provision of such Tourism 2009) to derive 2% domestic visitors and 11.125% of foreign visitors as being interested in visiting a HWMAC. However, Deloitte chose to ignore the iconic architecture angle as being too complex. Instead it used a profile for "Museum Tourism" (Ministry of

reported this was the main reason for taking at least one over night or longer trip in the past two years museums and art galleries while on trips" report observed that, for adult Canadians and Americans, strolling around a city observing New Zealand's domestic tourists (though perhaps the best reference we have) "TAMS 2006-US activity profile: visiting historical sites, We have not found a NZ visitor profile for architecture or specifically in respect of art galleries. Whilst obviously not a direct profile of known sites and buildings), visits to well-known natural wonders (16.3%) and visits to art galleries (11.1%). 32.8% (29,941,969) buildings and architecture (25.6%) was the most popular activity, followed by visits to historical sites or buildings (23.1% well-

new identifiable shifts in visitor behaviour. Hobbiton is considered particularly relevant for present purposes due to being both eccentric and closer to home, the immense and sustained popularity of Hobbiton/Middle Earth are examples translating into substantial and suggests both attributes are likely to hold true for tourists in general. The examples of the Guggenheim Museum in Bilbao Spain and, with almost one in three having these as a main reason for at least an overnight trip during a two year period. Anecdotal evidence The above suggests almost 60% of over-night visitors would make observing or visiting iconic architecture or an art gallery a priority,



By the numbers



Feasibility Model revision — Domestic (non-local) visitors

Visitors	2014	Disaggregating Whangarei (based on proportion of spend)	Architecture, iconic building and art gallery visitors (assume 60%)
Domestic Visitors	2,388,889	833,333	500,000
Assume a 25% uplift in domestic visitors stopping in Whangarei on their way through to the Far North due to the iconic nature of the Hundertwasser (the Hobbiton effect)	s stopping in Whangarei on t e Hundertwasser (the Hobbito	their way through to the on effect)	625,000
Assume a 5% lift in domestic visitors choosing to visit Whangarei and the HWMAC	noosing to visit Whangarei an	nd the HWMAC	656,250
Assume half will enter the building			328,125
Assume a quarter of those will pay to visit the art gallery (1)	isit the art gallery (1)		82,031
(1) Assuming a fair price			

We think it a very conservative assumption that only 50% of domestic visitors stopping in Whangarei will enter the HWMAC at least once a year.

HWMAC on more than one occasion and this is not counted in the visitor numbers. In this way one in four is also conservative Whilst assuming one in four of those who enter the HWMAC will pay to visit the art gallery sounds a lot, many visitors can be expected to visit the

Notes for reasonableness check:

- 656,250 equates an average of 1,797 domestic visitors per day, or 149 per daylight hour (Kawakawa toilets get over 120,000 p.a.)
- 82,031 equates an average of 224 domestic visitors per day, or 18 per daylight hour
- The restaurant and café should attract repeat foot traffic, assisting achievement of these numbers
- Whilst different types of visitor can be expected to have different spending patterns (e.g. business travellers spend less than conference goers), adjustment is appropriate for this factor in the present context the lower spending business traveller is a relatively small minority in the Whangarei region and the central nature of the proposed HWMAC site, including being within a relatively small town centre, can be expected to counter this to some degree. It follows that we do not believe that any



Feasibility Model revision — International paying visitors

			(1) Assuming a fair price
41,372		t the art gallery (1)	Assume a third of those will pay to visit the art gallery (1)
125,369			Assume 80% will enter the building
156,712	the HWMAC	osing to visit Whangarei and t	Assume a 5% lift in foreign visitors choosing to visit Whangarei and the HWMAC
149,250	on their way through to the on effect)	sitors stopping in Whangarei on Hundertwasser (the Hobbito	Assume a 25% uplift in international visitors stopping in Whangarei on their way through to the Far North due to the iconic nature of the Hundertwasser (the Hobbiton effect)
119,400	199,000	785,000	International
Architecture, iconic building and art gallery visitors (assume 60%)	Disaggregating Whangarei (based on proportion of spend)	2014	Visitor

else to see such architecture of this scale. We think it a conservative assumption that 80% of international visitors stopping in Whangarei will enter the HWMAC as there will be nowhere

direct ways in which international visitors will be willing to pay (including via donation box) Whilst assuming one in three of those who enter the HWMAC will pay to visit the art gallery sounds a lot, we think there are a range of other

Notes for reasonableness check:

- 119,400 equates an average of 327 international visitors per day, or 27 per daylight hour (Kawakawa toilets get over 120,000 visitors p.a.)
- 41,372 equates an average of 113 international visitors per day, or 9 per daylight hour
- The restaurant and café should attract repeat foot traffic, assisting achievement of these numbers
- Once again lower spending business travellers are a small minority in the Whangarei region and no adjustment for variable visitor spending patterns is considered necessary.



Feasibility Model Revision - Local and total paying visitor numbers

Local paying visitors

a year, including especially with visiting friends and family. number of locals would pay a reasonable price to explore the inside of the Hundertwasser and/or the art centre at least once percentages are consistent with those in our revisions for foreign and domestic tourists and it seems reasonable that this Deloitte used the same estimate of local visitor numbers as an earlier Visitor Solutions analysis being 29,500. These

Total paying visitors (Hundertwasser and/or gallery)

Local paying visitors29,500Domestic paying visitors82,031International paying visitors41,372Total from existing visitor base152,903

The above compares to Deloittes calculation of 163,506 (on a quite different basis in September 2011), being 6.5% lower.

economic impact at a regional level is substantially better than previously forecast. That is, the challenge will not be to attract the visitor volumes, but to capture the economic rewards required to sustain the building and to further develop it. However, assuming 3.9% annual visitor number growth to 2017, when the HWMAC might be operational, we consider the Achieving this will require the right leadership, management and operational team



Feasibility Model revision — Financial Forecast and sensitivity

torecasts, are conservative Assuming all other matters equal, our analysis confirms that the Deloitte numbers, including

As such, we have not recast the Deloitte forecast business model numbers

Note

- 1. Visitor spend has stalled to 2014 but is showing early signs of more rapid growth, particularly as the NZ dollar falls
- from Auckland should substantially improve Northland's ability to capture its share of NZ Whangarei having its own 'Hobbiton effect', being the HWMAC, to divert visitors north tourism growth
- used to capture this (from higher parking charges, donation boxes, wedding venue tees, opinion is not whether the forecast revenue can be reached but what options will be Deloitte's pricing and cash flow projections appear conservative, the question in our restaurant profit share, etc)



What the feasibility model still omits

- Any lease income premium to reflect both the location and iconic nature of the venue
- Ongoing funding that central and/or local government might commit and internationally (due to local and central government being the in line with what is typical (e.g. Te Papa and the Auckland Art Gallery through rates and taxes captured across the economy) main actors able to benefit from wider economic impacts - i.e being two of many examples) for other art galleries in New Zealand



Economic Impact - notes

The economic impact of the construction and operation of the HWMAC is essentially unchanged.

encouraging more visitors to stop in Whangarei. developments/upgrades in, and in the vicinity of, the town basin, much of which is highly dependent on to this and maybe it is the HWMAC together with Hihiaua and the multiple other The economic impact of cruise ship visits has not been factored in. Maybe the HWMAC is the catalyst

in the Deloitte economic impact report. Whangarei and not paying to visit the HWMAC but adding to retail and café spend. This is not captured There is significant economic impact for Whangarei in the two thirds of foreign visitors stopping in

Increased visitors can mean increased parking revenue for WDC.

otherwise) and attend further options in the vicinity Once visitors stop to visit one attraction, it is much more likely they will investigate (on the web or

creating reason for activity. currently owned but not income earning). Growth is ultimately a numbers game and this starts with local government land ownership, this adds significant value to their respective land-banks (land increasing property values and increasing support services/office space occupancy. Given significant More activity in the center city means more opportunities, higher demand for space, increasing rents,





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Disclaimer

and economic impact profile. It should not be construed as recommending a course of action. This report is for general information only. It has been prepared solely for the use of Northland Inc to assist in evaluating the HWMAC business case

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Mike Brunner

Associate Principal - Author

Wellington

Tel +64 4 587 0803

Mobile +64 27 274 0529

Mike.brunner@crowehorwath.co.nz

Financial Performance Projections

PROJECT MANAGEMENT AND FACILITATION

This submission differs materially from the previous HAC project under which the project was carried out under WDC management. Under our proposal the HWMAC project would be a community based project with the Prosper Northland Trust taking the lead role in funding and project facilitation.

Key elements of the project management structure are:

- PNT to engage with funders using its widespread networks and contacts to raise the
 outstanding balance of funds required. It should be noted that through its contacts
 PNT has already secured significant commitments to materials and services, well in
 excess of that available under the previous WDC model, as part of the funding
 contribution.
- 2) Funding contributions would be paid to the Whangarei Art Museum Trust. This ensures that existing pledges and funds raised do not have to be withdrawn and then reapplied to a new entity and uses WAMs established charitable status.
- 3) PNT act as advisor and facilitators to the project on behalf of the Whangarei Art Museum Trust (who will be the operators of the HWMAC) and assist the Project Managers in the project execution. The PNT trustees and their networks include significant experience and contacts in the construction industry.
- 4) The previous Project Managers, Griffiths and Associates, would be retained and report to the WDC as client. This continuity is seen as important for the project success given WDC's ownership of the building, Griffith's detailed knowledge of the project, and their strong and important relationship with the Hundertwasser Foundation. As detailed in the Project Cost Budget WDC would be responsible for the remaining Griffiths and professional fees not already paid.
- 5) In addition to fees WDC would provide a fixed lump sum contribution to demolition and seismic strengthening, and cover the costs of the items which were included in Griffiths original project cost estimates as requested by Council. Most of these items relate to WDC controlled areas surrounding the building such as landscaping the surrounds, the Folly, traffic management, wharf access road and peripheral lighting, furniture etc

It is PNT's intent to engage widely and ensure the community is involved to the greatest extent possible. For example both artists and schools have approached PNT and expressed strong interest in producing the many ceramic tiles for the project. This is a strongly community based proposal but the structure outlined ensures tight and effective construction management.

Hundertwasser and Wairau Maori Art Centre Project Cost and Funding Budget

(Based on updated costing as at October 2014)

Construction Cost Breakdown

\$

Construction 11,462,000 (Includes \$1,000,000 contingency)

Sundry Works 440,000 (See Note 1 below)

Fees 1,643,000 (Note - \$1,350,000 has already been spent by

WDC)

Pre Opening and Start Up 500,000

TOTAL 14,045,000

Note 1 – Includes folly, surrounding, landscaping, wharf access road, external lighting, traffic control and all originally requested WDC sundry items per Griffiths Associates estimates.

Funding breakdown

\$

WDC contribution: Fees 1,643,000 (Note - \$1,350,000 of this has already been spent by

WDC)

Sundry 440,000

Other 2,060,000 (See Note 2 Below)

Community Funding (PNT) 9,902,000 (Note that \$4,500,000 has been raised previously)

TOTAL 14,045,000

Note 2 – Fixed Lump sum contribution to demolition and seismic strengthening

Effective WDC contribution:

\$

Fees 1,643,000 (Per Griffiths and associates fee estimates)

 Sundry Works
 440,000

 Other
 2,060,000

 Less already spent by WDC
 (1,350,000)

Net Contribution 2,793,000

be seen in the following pages: The key assumptions used in developing the financial projections can be found in Appendix 3. The results of the financial projections can

NET PROFIT AFTER TAX	Taxation	NET PROFIT BEFORE TAX	Interest (Owndraft)	EBIT	Depreciation	EBITDA	TOTAL OVERHEADS	Other Personnel Expenses	Salary & Wage Expenses	Property Maintenance Expenses	Security	Exhibition & Fasinte	Chemical Expenses	In-House Cale/Restaurant Uther Expenses	OVERHEADS	GROSS MARGIN %	GROSS MARGIN	TOTAL DIRECT COSTS	DIRECT COSTS Souvenir Shop Cost of Goods Sold	TOTAL REVENUE	Cale/Restaurant Lease Income	Souvenir Shop Income	Grant Income	Admissions Revenue	REVENUE	E1.00 Profit & Loss Statement	Period End	STATEMENT OF FINANCIAL PERFORMANCE
2,755,000		2,755,000		2,755,000		2,755,000										100.00%	2,755,000		1	2,755,000			2,755,000				30 Jun 12	
5,699,000		5,699,000	,	5,699,000	,	5,699,000							1			100.00%	5,699,000			5,699,000			5,699,000				30 Jun 13	
8.697,384	,	8,697,384	į.	8,697,384	20,040	8,717,423	200,577	72,721	35,283	7,799	6,966	63.284	1830	3 .		100.00%	8,918,000		,	8,918,000	,		8,918,000				30 Jun 14	No. of Concession, Name of Street, or other party of the Concession, Name of Street, or other pa
259,365		259,365		259,365	519,670	779,035	924,064	26,064	434,405	96,109	85,855	54 160	22 555	201 046		88.10%	1,703,099	230,042	230,042	1,933,140	122714	575,104	15,132	1,220,189			30 Jun 15	
97,310	ì	97,310		97,310	510,286	607,596	946,214	26,142	445,700	98,704	88,173	55.623	23 164	200 200		86.89%	1,553,810	194.299	194,299	1,748,108	122,714	485,746	15,541	1,124,107			30 Jun 16	
23,131	,	23,131	,	23,131	515,421	538,563	970,294	21,431	457,288	101,369	90,564	57,124	23 789	200 700		89.15%	1,508,847	183,627	183,627	1,892,473	122,714	459,067	15,961	1,094,732			30 Jun 17	
3,513		3,513		3,513	517,943	521,456	986,692	151,82	469,177	104,106	92,999	58.667	24.431	345 464		89.07%	1,517,148	186,194	186,194	1,703,341	122,714	455,454	16,392	1,088,751			30 Jun 18	
(3,401)		(3,401)	ė	(3,401)	507,555	504,154	1,021,766	28,883	481,376	106,917	95,510	80.251	25,081	200 700		88.99%	1,525,919	188,822	188,822	1,714,741	122,714	472,064	16,834	1,103,139			30 Jun 19	
9,317	A	9,317		9,317	513,294	522,611	1,048,769	29,036	493,892	109,804	98,088	61,878	25,788	305 000		88.89%	1,571,380	196,451	196,451	1,767,831	140,200	491_127	17,289	1,119,215			30 Jun 20	
7,374		7,374		7,374	516,393	523,767	1,076,491	30,404	506,733	112,768	100,737	83.548	26.464	326 837		88.67%	1,600,258	204,417	204,417	1,804,675	140,200	511,042	17,755	1,135,678			30 Jun 21	
19,538		19,538	i.	19,538	505,585	525,123	1,104,951	31,196	519,908	115,813	103,457	65.264	27.179	367 686		88.46%	1,630,074	212,735	212735	1,842,809	140,200	531,837	18,235	1,152,537		100 CO 100 CO	30 Jun 22	
4,382	·	4,382	,	4,382	522,311	526,693	1,134,169	32,000	533,426	118,940	106,250	67,026	27.912	248 600		88.24%	1,660,862	221,422	221,422	1,882,284	140,200	553,556	18,727	1,169,802			30 Jun 23	
(8.219)		(8,219)		(8,219)	536,714	528,495	1,164,164	32,036	547,295	122,151	109,119	68,836	28.666	195 335		88,01%	1,692,659	230,497	230,497	1,923,156	140,200	576,241	19,233	1,187,482			30 Jun 24	
58,544		58,544		58,544	491,978	550,522	1,194,969	33,081	561,524	125,450	112,065	70,686	29 440	360 036		87.91%	1,745,481	239,976	239,976	1,985,457	160,177	569,939	19,752	1,205,589			30 Jun 25	

HWMAC Parking Assessment

The Prosper Northland Trust Application to Whangarei District Council

Hundertwasser and Wairau Maori Art Centre Proposal

Assessment of Parking

Prepared for Prosper Northland Trust
by Geoffrey Stevens Gibson
Northern Civil Consulting Engineers Ltd
Dated 12 September 2014



INTRODUCTION

- My name is Geoffrey Stevens Gibson. I am a Director of Northern Civil Consulting Engineers Ltd.
- 2. I hold the degree of Bachelor of Engineering. I am a member of the Institution of Professional Engineers of New Zealand and I am a Chartered Professional Engineer. I have worked in the fields of road and traffic engineering for 36 years and have a wide experience of road and parking design and traffic engineering. I have undertaken road and traffic engineering design for New Zealand Transport Agency (NZTA) (or its predecessors) and all Northland Local Authorities over the past 28 years.
- This parking assessment is in support of the application by Prosper Northland Trust. The application seeks support for the Hundertwasser and Wairau Maori Art Centre (HWMAC) proposal.
- 4. I confirm that I have no financial interest in the proposed centre and this report has been prepared pro-bono.

SUMMARY OF SUBMISSION

- 5. The purpose of this assessment is to address the following matters:
 - a. Conclusion and Reality Check
 - b. Overview of the project
 - c. Parking assessment
 - d. Parking Availability
 - e. Parking Management

CONCLUSION AND REALITY CHECK

6. The surveys of parking show that there is sufficient parking in the Town Basin area to accommodate the projected numbers of visitors to HWMAC (see para's 13 to 19 below). This conclusion of mine is the same as that reached by Council staff in evaluating the original Hundertwasser Arts Centre proposal. This also aligns with the conclusions of Councils Consultant Engineer, who, in undertaking the assessment of effects on the Resource Consent application, considered that there was adequate parking available nearby and parking was considered to have nil adverse effect.

- 7. The Deloites feasibility Study based its visitor numbers on the projections from the Ministry of Economic Development which relied on existing data. It is logical to assume that some of these visitors already use the Town Basin as a destination and visit such facilities as the clock museum, cafes and art shops. The parking surveys confirm that this is indeed the case. Moreover the evidence from the parking surveys shows that current visitor parking in February and September are 159 and 114 respectively compared to the predicted HWMAC visitor parking of 116 in February and 54 in September. So if even 50% to 70% of existing Town Basin visitors also visit the HWMAC then the projections will be met (see Town Basin and Clock Museum parking surveys Attachments 2 and 3).
- 8. As some of the projected HWMAC visitors in all likelihood already park at the Town Basin the additional spaces required for these visitors represent an extended stay to visit the new facility. The assessed average 2.5 hour stay (see 11 below) is therefore likely to be conservative because extended stays are likely to be shorter than new visitor stays.

OVERVIEW OF THE PROJECT

9. This project proposes to convert the existing ex Northland Harbour Board NRC building into an Arts centre, developing the architectural concept designed by Friedensreich Hundertwasser. The building will contain exhibition space, café and restaurant, shop, cultural art space, learning centre space and ancillary facilities. In total some 1800 m² of floor space.

PARKING ASSESSMENT

- 10. I have reviewed the methodology used by Deloites to estimate the visitor numbers and consider this to be soundly based. This forms the basis for WDC staff estimates of visitor vehicle parking demand. I have reviewed the WDC methodology and estimates of projected visitor parking demand and accept that their estimates of daily vehicles (max of 344 in January) are reasonable.
- 11. The design parking demand is commonly the 90th percentile but because there isn't sufficient data to determine this, I have taken the daily demand as the daily average during the maximum visitor month (January). The

projected design parking demand from these daily visitors is dependent on when they arrive and how long they stay. Weekend traffic distributions are likely to be representative of visitor travel patterns and such a distribution is attached (Attachment 1). Using this distribution and allowing for a 2.5 hour average stay would result in a January design parking demand of 145 spaces. Average stays of 3 and 3.5 hours would require 172 and 196 spaces respectively. The 2.5 hour average stay (ie 145 spaces) is however considered to be the most likely.

12. Staff and servicing parking for the centre is assessed at additional 15 spaces. The total assessed design demand for the HWMAC is for 160 spaces. This differs little from the demand assessed by WDC staff but it is sensitive to the length of stay by visitors.

PARKING AVAILABILITY

- 13. The parking demand for the HWMAC is considered to inter relate with the parking demand for the whole of the Town Basin area. This is for several reasons.
 - a. Visitors to HWMAC may also visit a number of other facilities in the Town Basin. Conversely visitors to the other Town Basin attractions may also visit the HWMAC.
 - b. The parking provided serves a multitude of facilities and purposes and is not specifically delineated for any particular use.
- 14. The WDC Parking Management Strategy carried out a weekday parking survey from 22 to 28 February 2011 (Attachment 2). This survey showed very high occupancy rates in the parking areas serving the Town Basin area. This is to be expected as it is at the height of the tourism season. The results are tabulated below:

Carpark	Entry Location	Spaces	Vacant
Hatea Drive	Hatea Drive W	125	2
Bridgeway	Hatea Drive E	213	9
Quay Street	Dent Street E	229	9
Town Basin	Dent Street E	50	6
Clock Museum	Dent Street E	142	8
		759	33

- 15. Since that survey the car park occupancy has declined substantially. The primary reason for this is that the Hatea Drive, Bridgeway and Quay Street car parks are no longer free. Even though the cost is nominal (\$2.00 per day), all day parking is very price sensitive and occupancy has fallen to less than 50%. The demand for free parking has relocated to the car park at the Rail Station on Railway Rd.
- 16. A recent survey in September 2014 shows the Bridgeway and Quay Street car parks largely vacant. The Town Basin and Clock Museum have changed layouts and the higher vacancy rates reflect the low season for Tourism.

Carpark	Entry Location	Spaces	Vacant
Hatea Drive	Hatea Drive W	125	6
Bridgeway	Hatea Drive E	213	168
Quay Street	Dent Street E	229	179
Town Basin	Dent Street E	59	5
Clock Museum	Dent Street E	113	53
		739	411

- 17. The summer demand in the Town Basin and Clock museum is for 178 spaces (192 available minus 14 vacant). The winter demand is 114 spaces (172 available minus 58 vacant)
- 18. The additional demand from the HWMAC can be accommodated in the Bridgeway car park. The Quay Street carpark is proposed to be reduced to 66 spaces. If these are time restricted then they will be available for HWMAC visitors and the current all day parking will move to Bridgeway.
- 19. Attachment 3 shows the availability of parking within easy walking distance of the Town Basin. As of September 2014 there were 437 spaces vacant (assuming that the Quay Street car park is reduced to 66 spaces). To be useful for visitors there would need to be effective signage to enable visitors to locate some of this parking. The parking demand that the proposed HWMAC would generate is unlikely to need significant signage as it can be accommodated in the Bridgeway carpark. The attachment 3 shows that there is substantial underutilised parking resource available.

PARKING MANAGEMENT

20. Allocation of parking for visitors can be easily achieved by a combination of parking charges and time restriction. If any time restriction less than 4 hours is imposed then all day parking servicing employees is impractical. These spaces then become available for visitors and shoppers. All parking demand is very price and convenience sensitive. If expedient, parking price can be used to further control demand for the most valuable space.



Geoffrey Stevens Gibson 17 September 2014

Attachments

- 1. Daily Visitor Distribution
- 2. Town Basin Parking Occupancy Survey 2011
- 3. Summary of parking within easy walking distance of Town Basin

Prosper Northland Trust Documentation



CERTIFICATE OF INCORPORATION

PROSPER NORTHLAND TRUST 2613283

This is to certify that PROSPER NORTHLAND TRUST was incorporated under the Charitable Trusts Act 1957 on the 19th day of September 2014.

Mandy McDonald

Registrar of Incorporated Societies 22nd day of September 2014



For further details visit www.societies.govt.nz

Certificate printed 22 Sep 2014 17:41:47 NZT

Barry James Trass

John Gregory Guy

Andrew Smith

Pamela Anne Tothill

Andrew Keith Garratt

Jennifer Rae Hill

Nicholas William Keene

Todd Raymond Barrell

Christine Anne King

Ian James Stewart Reeves

Trustees

DEED of DECLARATION of TRUST

for

PROSPER NORTHLAND TRUST

HENDERSON REEVES CONNELL RISHWORTH LAWYERS LIMITED WHANGAREI

CONTENTS

	BACKGROUND	3
1.	INTERPRETATION	3
2.	NAME OF TRUST	5
3.	PURPOSES OF TRUST	5
4.	POWERS OF TRUSTEES	7
5.	TRUSTEES	7
6.	APPOINTMENT AND REMOVAL OF TRUSTEES	7
7.	ADMINISTRATION OF THE TRUST	9
8.	LIABILITY OF TRUSTEES	13
9.	INDEMNIFICATION OF TRUSTEES	14
10	TRUSTEE REMUNERATION AND EXPENSES	14
11.	NO PRIVATE PROFIT	15
12.	RESTRICTIONS RELATING TO BUSINESS INCOME	15
13.	MODIFICATIONS OF TRUST TERMS	16
14.	WINDING UP OF THE TRUST	16
15.	GOVERNING LAW	17
EXE	CUTION	17

THIS DECLARATION OF TRUST IS MADE

The Ist, day of September 2014

BY

Barry James Trass of Whangarei, Company Director

John Gregory Guy of Whangarei, Company Director

Andrew James Smith of Auckland, Company Director

Pamela Anne Tothill of Whangarei, Company Director

Andrew Keith Garratt of Whangarei, Manager

Jennifer Rae Hill of Whangarei, Fabric Artist

Nicholas William Keene of Whangarei, Company Director

Todd Raymond Barrell of Whangarei, Master Jeweller

Christine Anne King of Whangarei, Draughtsperson

lan James Stewart Reeves of Whangarei, Solicitor

BACKGROUND

("Trustees")

- A. The Trustees wish to establish a trust for the charitable purposes set out in this deed.
- B. The Trustees hold the sum of \$10.00 upon the terms and with and subject to the powers and discretions set out in this deed.
- C. It is anticipated that further money, property and investments will be acquired by the Trustees for the purposes of the Trust.
- **D.** The Trustees intend to register the Trust as an incorporated body under the Charitable Trusts Act 1957.

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TRUST TERMS

1. INTERPRETATION

In this deed unless the context indicates otherwise:

1.1 Definitions:

"Balance Date" means 31 March or any other date adopted by the Trustees as the end of the Trust's Financial Year;

"Board" means the board of the Trust;

"Chairperson" means the Trustee appointed in accordance with clause 7.4 as chairperson of the Trust;

"Concessionary Provisions" means sections CW 41 (Charities: non-business income), CW 42 (Charities: business income), CX 25 (Benefits provided by charitable organisations), DB 41 (Charitable or other public benefit gifts by company) and DV 12 (Maori authorities: donations) and subpart LD (Tax credits for charitable or other public benefit gifts) of the Income Tax Act 2007; section 73(1) of the Estate and Gift Duties Act 1968; and, if the Trustees are registered under the Goods and Services Tax Act 1985, the provisions of that Act relating to non-profit bodies, as defined in section 2(1) of that Act;

"Deed" means this trust deed;

"Financial Year" means any year or other accounting period ending on the Balance Date;

"Hundertwasser Foundation" means the Hundertwasser Foundation Non-profit Foundation in Vienna

"Hundertwasser and Wairau Maori Art Centre" means the arts centre intended to be constructed in the old Northland Regional Council building located in the Town Basin, Whangarei to a design approved by the Hundertwasser Foundation;

"Property" means real or personal property of any kind and includes any right or interest in such property and any "thing in action";

"Northland Region" means the area north of the area administered by the Auckland City Council;

"Secretary" means the person appointed in accordance with clause 7.5;

"Trust" means the trust created by this deed;

"Trust Fund" means any Property, which may be paid to or held under the control of or vested in or acquired by the Trustees for the Trust from any source on or after the date of this deed; and

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"Trustees" means the trustees for the time being of the Trust and, where the trustees of the Trust have incorporated as a board under the Charitable Trusts Act 1957, either the trustees acting as a board or the trustees for the time being constituting the board, as the context requires.

- 1.2 Clauses: references to clauses are references to this deed's clauses;
- 1.3 **Defined Expressions:** expressions defined in the main body of this deed have the defined meaning in the whole of this deed including the background;
- 1.4 Gender: references to one gender include the other gender;
- 1.5 **Headings:** headings of clauses are for ease of reference only and do not form any part of the context or affect this deed's interpretation;
- 1.6 **Negative Obligations:** any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;
- 1.7 **No Limitation:** references to anything of a particular nature either before or after a general statement do not limit the general statement unless the context requires;
- 1.8 **Persons:** references to persons include references to individuals, companies, corporations, partnerships, firms, joint ventures, associations, trusts, organisations, governmental or other regulatory bodies or authorities or other entities in each case whether or not having separate legal personality;
- 1.9 Plural and Singular: singular words include the plural and vice versa; and
- 1.10 **Statutes and Regulations:** references to any statutory provision include any statutory provision, which amends or replaces it, and any subordinate legislation made under it.

2. NAME OF TRUST

2.1 Name of the Trust: The name of the Trust is the Prosper Northland Trust or such other name as the Trustees shall from time to time determine.

PURPOSES OF TRUST

3.1 Charitable Purposes: The Trustees hold the Trust Fund on trust to pay or apply so much of the capital and income of the Trust Fund as the Trustees think fit exclusively for or towards any one or more of the

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following charitable purposes, which are declared to be the purposes of the Trust, namely:

- 3.1.1 First Object: to educate local government, central government, other institutions and the public of the benefits of the establishment of the Hundertwasser and Wairau Maori Arts Centre to the Northland Region;
- 3.1.2 **Second Object:** to promote engagement and support of local government, central government, other institutions, and the public in the Northland Region to establish the Hundertwasser and Wairau Maori Arts Centre;
- 3.1.3 **Third Object:** to assist the Whangarei Art Museum Trust to raise funds for the establishment of the Hundertwasser and Wairau Maori Arts Centre;
- 3.1.4 **Fourth Object:** to take all necessary steps to establish the Hundertwasser and Wairau Maori Arts Centre;
- 3.1.5 **Incidental Matters:** all things incidental to the purposes described in this clause 3.1.
- 3.2 Change in Law: If, because of any change in the law brought about by the enactment of new legislation and/or the amendment or repeal of existing legislation, or by any change in the official interpretation or official application of any such legislation, it is at any time necessary to amend the terms of this deed in order to achieve or preserve the availability of any concession in relation to the Trust under any of the Concessionary Provisions, which would otherwise be available were it not for the change in the law, then, despite clause 13, the terms of this deed will at that time be deemed to be amended to the extent necessary.
- 3.3 Purposes Not Limited: None of the purposes of the Trust will be:
 - 3.3.1 Not Limited or Restricted: in any way limited or restricted by reference to or inference from the terms of any other clause or the name of the Trust, except where the context specifically or expressly requires it; and
 - 3.3.2 **Subsidiary or Ancillary:** treated as subsidiary or ancillary to any other purpose of the Trust.
- 3.4 **Purposes Independent:** The Trustees are empowered to carry out any one or more of the purposes of the Trust independently of any other purpose of the Trust.

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3.5 **Purposes within New Zealand:** All the purposes of the Trust must be carried out exclusively for charitable purposes within New Zealand.

4. POWERS OF TRUSTEES

- 4.1 **Promotion of Purposes:** The Trustees will only promote the purposes of the Trust.
- 4.2 Extent of Trustees' Powers: In particular and in addition to all other powers conferred by law, but subject to the restrictions contained in this deed:
 - 4.2.1 **Powers:** the Trustees will have the same powers as if they were the beneficial owners of the Trust Fund; and
 - 4.2.2 Powers Not Limited: the Trustees' powers will not be limited or restricted by any principle of construction or rule of law or statutory power or provision except to the extent that it is obligatory.

5. TRUSTEES

- 5.1 Trustees: Trustees shall hold office for an initial term of four years.
- 5.2 **Number of Trustees**: The numbers of Trustees will be not less than 5 and not more than 11.

6. APPOINTMENT AND REMOVAL OF TRUSTEES

- 6.1 **Appointment:** At any time there are less than 5 Trustees, additional Trustees must be appointed as soon as is reasonably practicable. The role of appointment and removal of Trustees will be performed by the Trustees.
- 6.2 **Reappointment:** The Trustees may reappoint any retiring or retired Trustee:
 - 6.2.1 For a second term of three years, but Trustees shall not hold office for more than seven consecutive years.
 - 6.2.2 Any Trustee who has held office for seven consecutive years, must retire for at least one year before being eligible for reappointment.
 - 6.2.3 Following the lapse of one year the retired trustee may be reappointed for a further term of three years, subsequently a

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break of one year is required before further reappointment for three years.

- 6.3 **Power of Removal:** The Trustees may remove any Trustee at their discretion without being required to give any reason for the removal, at any time upon a vote of not less than 60% of the trustees in favour of removal.
- 6.4 **Eligibility of Trustees:** The following persons may not hold office as a Trustee:
 - 6.4.1 Under 18 years: an individual who is under the age of 18 years;
 - 6.4.2 Bankruptcy: an individual who is an undischarged bankrupt or who is a discharged bankrupt but is prohibited by the Court from engaging in any form of business activity;
 - 6.4.3 **Corporate Body:** a company, incorporated society or any other body corporate.
 - 6.4.4 Criminal Conviction or Sentence: a person who has been:
 - (a) Crime Involving Dishonesty: convicted of any crime involving dishonesty, within the meaning of section 2(1) of the Crimes Act 1961, and sentenced for that crime within the last seven years; or
 - (b) Other Offences: convicted of any offence punishable by a term of imprisonment of two or more years, or sentenced to imprisonment for any offence.
 - 6.4.5 Disqualification from Company Positions: a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, a company under the Companies Act 1993, the Securities Act 1978, the Securities Markets Act 1988 or the Takeovers Act 1993;
 - 6.4.6 Incapacity: a person who is subject to a property order made under the Protection of Personal and Property Rights Act 1988 or whose Property is managed by a trustee corporation under section 32 of the Protection of Personal and Property Rights Act 1988; or
 - 6.4.7 Order under section 31 Charities Act 2005: a person who is subject to an order made under section 31 of the Charities Act 2005 disqualifying the person from being an officer of a charitable entity.
- 6.5 **Term of Office:** A Trustee will cease to hold office if that Trustee:

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- 6.5.1 **Resignation:** resigns by giving 30 days' written notice to the Secretary, who must circulate that written notice to the remaining Trustees within 10 days of receipt;
- 6.5.2 **Expiry of Term:** has held office for the term of years expressed in clause 6.2;
- 6.5.3 **Ineligibility:** is precluded from holding office as a Trustee under clause 6.3:
- 6.5.4 **Failure to Attend:** fails to attend three successive meetings of Trustees without being granted leave by the Board; and
- 6.5.5 Removal: is removed by the Trustees pursuant to clause 6.3.
- 6.6 **Recording:** On every appointment, reappointment, removal or cessation of office of any Trustee, the Trustees must cause an entry to that effect to be recorded in the Trust's minute book.

7. ADMINISTRATION OF THE TRUST

- 7.1 **Meetings:** The Trustees must regulate and conduct meetings as follows:
 - 7.1.1 Annual General Meeting: within six months of the end of each Financial Year, the Trustees must hold an annual general meeting;
 - 7.1.2 **Notice:** the Secretary must give no less than 21 days written notice of the annual general meeting to the Trustees;
 - 7.1.3 **Business:** the business to be transacted at the annual general meeting will be the:
 - (a) receipt of the financial statements; and
 - (b) appointment of an auditor (if any); and
 - (c) any other business, which will be treated as special business in accordance with clause 7.1.4:
 - 7.1.4 Special Business: written notice of any special business must be given to the Secretary no less than 14 days before the annual general meeting and the Secretary must circulate a written agenda including all special business to the Trustees no later than 7 days before the annual general meeting;

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- 7.1.5 Other Meetings: the Trustees may otherwise meet at any times and places, which they may agree, provided that any two or more Trustees may at any time requisition a meeting of Trustees by giving written notice to the Secretary and the Secretary must, within 5 days of receipt of that notice, convene a special general meeting by giving, subject to clause 14.1, not less than 5 days' notice of the meeting to the Trustees; and
- 7.1.6 **Particulars of Notice:** every notice of meeting given by the Secretary to the Trustees must:
 - (a) be in writing; and
 - (b) state the date, time and place of the meeting;

and every notice of a meeting requisitioned under clause 7.1.5 must state the matters to be discussed at that meeting, but notice of any meeting may be abridged or waived if all the Trustees consent in writing to that abridgment or waiver.

- 7.2 **Quorum:** A quorum at meetings of the Trustees will comprise no less than 60% of the Trustees.
- 7.3 **Validity of Proceedings:** All acts done by any meeting of Trustees or by any person acting as Trustee will be as valid and effectual as if those Trustees or that Trustee:
 - 7.3.1 **Duly Appointed:** had been duly appointed;
 - 7.3.2 Qualified: were qualified to hold office as Trustee; and
 - 7.3.3 **Complied With Rules:** had complied with clause 7.1 even if it is later discovered that:
 - 7.3.3.1 **Defect in Appointment:** there was some defect in the appointment of any Trustee;
 - 7.3.3.2 **Trustee Disqualified:** any Trustee was for any reason disqualified from holding office as Trustee; or
 - 7.3.3.3 **Failure to Comply:** there was accidental failure to comply with clause 7.1.
 - 7.3.3.4 Actions Pending Increase:

Pending increase to 5 Trustees the current Trustees will be entitled to act until the number of Trustees is increased and no act or decision of the Trustees will be called into question because there were less than 5 Trustees when that act or decision was carried out or made.

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- 7.4 **Chairperson:** The Trustees must appoint a Chairperson each year from among their number. The Chairperson will hold office at the Trustees' pleasure, but for no longer than one year. The trustees may appoint as chairperson a trustee who has previously held that position.
- 7.5 **Secretary:** The Trustees must appoint either one of their number or some other person to be Secretary who shall hold office at the Trustees' pleasure.
- 7.6 **Majority Decisions:** Except as otherwise provided, and subject to clause 7.2, all resolutions passed at a meeting of the Trustees may be by a majority of Trustees present at that meeting and any such resolution will be binding on all Trustees. The Chairperson will not have a casting as well as a deliberative vote if there is a tie and equality of votes.
- 7.7 **Written Resolution:** A written resolution, signed by all the Trustees, will be as valid and effectual as if it had been passed at a meeting of the Trustees. Any such resolution may consist of several documents in like form each signed by one or more Trustees.
- 7.8 **Rescission of Resolutions:** The Trustees may from time to time rescind or vary any resolution of the Trustees by the same majority as was necessary to pass the resolution being rescinded or varied.
- 7.9 **Minutes:** The Trustees must keep a minute book. The Secretary must prepare and enter a record of all resolutions of the Trustees in the minute book. If confirmed by the Trustees, the Chairperson must sign those minutes as a true and correct record. Every minute purporting to be so signed will be prima facie evidence of the facts stated in those minutes.
- 7.10 **Bank Accounts:** The Trustees must keep a bank account. Cheques must be drawn, signed and endorsed by any person whom the Trustees authorise in writing.
- 7.11 Accounts and Audits: The Trustees must ensure that:
 - 7.11.1 **Keep Records and Accounts:** full and correct records and accounts are kept of all their receipts, credits, payments, assets, liabilities, transactions and all other matters necessary for showing the true state and condition of the Trust Fund; and
 - 7.11.2 Financial Statements: financial statements are prepared as soon as practicable after the end of each Financial Year. Those statements must include:
 - (a) Financial Position: a statement of financial position;

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- (b) Financial Performance: a statement of financial performance;
- (c) Cash Flows: a statement of cashflows; and
- (d) Notes: notes to those statements;

giving a true and fair view of the financial position of the Trust Fund for that Financial Year and, if the Trustees so resolve, a chartered accountant appointed for the purpose by the Trustees will audit those financial statements.

- 7.12 **Execution of Documents:** Subject to clause 7.13, all documents required to be executed by the Trustees will be deemed to be validly executed and binding if those documents have been signed by at least two persons either being Trustees or any other person whom the Trustees authorise in writing.
- 7.13 **Common Seal:** If the Trustees become incorporated as a board under the Charitable Trusts Act 1957, then:
 - 7.13.1 **Provision and Use of Seal:** the Trustees will provide a common seal for the Board, which will be:
 - (a) Held by Secretary: held by the Secretary; and
 - (b) Use of Seal: affixed with the authority of the Board to any document requiring execution by the Board under common seal: and
 - 7.13.2 **Affixation of Seal:** every affixing of the common seal must be:
 - (a) Authorisation: performed in the presence of and accompanied by the signatures of two Trustees, which will be sufficient evidence of authority to affix the seal; and
 - (b) Seal Register: recorded in a seal register retained for such purpose.
- 7.14 **Preparation and Filing of Documents and Other Information:** The Trustees must cause to be prepared and retained or filed with any relevant person, including:
 - 7.14.1 **Commissioner of Inland Revenue:** the Commissioner of Inland Revenue, pursuant to any revenue legislation; and
 - 7.14.2 **Charities Board:** the Board established under the Charities Act 2005:

12

all necessary tax accounts, returns, reports, declarations, notices, certificates, reconciliations, applications, forms and other information required to be prepared or filed so as to achieve or preserve the availability of any concession in relation to the Trust under any of the Concessionary Provisions.

- 7.15 **Notices:** Any notice to be given to the Secretary under this deed must be in writing signed by the person giving the notice and served at the office of the Trust. Any notice or document so served will be deemed to be duly given:
 - 7.15.1 By Hand: if delivered by hand, when so delivered;
 - 7.15.2 **By Facsimile:** if delivered by facsimile, when receipt is confirmed;
 - 7.15.3 **By Post:** if delivered by post, on the third working day after posting; or
 - 7.15.4 **By E-mail:** if sent by e-mail, on the sender's receipt of an e-mail message indicating that the e-mail has been opened at the recipient's terminal.

8. LIABILITY OF TRUSTEES

- 8.1 **Liability for Loss:** No Trustee will be liable for any loss to the Trust Fund arising from any act or omission of the Trustee unless it is attributable to that Trustee's own dishonesty or to the wilful commission or omission of any act known by that Trustee to be a breach of trust.
- 8.2 Trustee Act 1956: Subject to clause 8.1, despite:
 - 8.2.1 **Section 13C:** the provisions of section 13C of the Trustee Act 1956; and
 - 8.2.2 **Professional Trustees:** the likelihood that the Trustees will from time to time include persons whose profession, employment or business is or includes acting as a trustee or investing money on behalf of others;

the care, diligence and skill to be exercised by those persons will not be that required by section 13C of the Trustee Act 1956 but will at all times be the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others.

8.3 **Proceedings:** No Trustee will be bound to take, or be liable for failure to take, any proceedings against any other Trustee or former Trustee for any breach or alleged breach of trust committed by that other Trustee or former Trustee.

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8.4 **Receipt of Money:** Subject to clauses 8.1 and 8.2, a Trustee will be chargeable only for any money, which that Trustee has received. For the purposes of this clause, a Trustee is deemed to have received money, even if not actually paid to that Trustee, if that money has been credited in account, reinvested, accumulated, capitalised, carried to any reserve, sinking or insurance fund, or otherwise dealt with on that Trustee's behalf.

9. INDEMNIFICATION OF TRUSTEES

- 9.1 **Indemnification:** Each Trustee or former Trustee is entitled to be indemnified out of the Trust Fund against all actions, proceedings, claims, damages, losses, demands, calls, liabilities, costs (including legal costs) and expenses (together called "liabilities") suffered or incurred by that Trustee or former Trustee in connection with the Trust, except to the extent that those liabilities are due to:
 - 9.1.1 **Dishonesty:** that Trustee's or former Trustee's own dishonesty or lack of good faith; or
 - 9.1.2 Wilful Breach of Trust: that Trustee's or former Trustee's wilful commission or omission of an act known by that Trustee or former Trustee to be a breach of trust.

10. TRUSTEE REMUNERATION AND EXPENSES

- 10.1 Professional Remuneration: Subject to clause 10.3, any Trustee being a lawyer, accountant or other person engaged in any profession, business or trade is entitled to be paid all usual professional, business and trade charges for services provided by that person or that person's employee or partner in connection with the Trust including acts, which a Trustee, not being in any profession, business or trade, could have done personally.
- 10.2 **General Remuneration:** Subject to clause 10.3, each Trustee is entitled to such remuneration for services provided as may be reasonable having regard to that Trustee's duties and responsibilities and to any remuneration paid to that Trustee in accordance with clause 10.1 for those services.
- 10.3 **Proviso:** Any payment to a Trustee referred to in clauses 10.1 and 10.2 must not exceed fair market value for services provided and, where any such payment is a benefit or advantage to which clauses 12.2 to 12.4 apply, no Trustee receiving such payment and no person associated with such Trustee may:

10.3.1 Take Part: take part in any deliberations or proceedings relating to that payment; or

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- 10.3.2 **Determine or Influence:** in any way determine or materially influence directly or indirectly the nature or amount of that payment or the circumstances in which it is to be paid.
- 10.4 **Expenses:** Each Trustee is entitled to be indemnified against, and reimbursed for, all travelling, hotel and other expenses properly incurred in connection with the Trust.

11. NO PRIVATE PROFIT

Nothing expressed or implied in this deed will permit:

- 11.1 Trustees' Activities: the Trustees' activities; or
- 11.2 **Business:** any business carried on by or on behalf of or for the benefit of the Trustees; in connection with the Trust;

to be carried on for the private profit of any individual.

12. RESTRICTIONS RELATING TO BUSINESS INCOME

- 12.1 **General Restrictions:** In any tax year, for the purposes of the Income Tax Act 2007, where any business, within the ambit and scope of the Income Tax Act 2007 and in particular section CW 42 of that Act, is carried on by or for the benefit of the Trust:
 - 12.1.1 **Tax Exempt Business Income:** the Trustees must not derive directly or indirectly from any such business any amount of income that is not exempt from income tax under section CW 42 of the Income Tax Act 2007; and
 - 12.1.2 Benefits/Advantages to Certain Persons: within the ambit and scope of clauses 12.2 to 12.4, no person with some control over the business may direct or divert, to their own benefit or advantage, any amount derived from that business.
- 12.2 **Persons who may have Control:** For the purposes of clause 12.1.2, a person who may have some control over the business is a person who is, within the ambit and scope of sub-sections CW 42(5) to (7) of the Income Tax Act 2007:
 - 12.2.1 **Settlor or Trustee:** a settlor or trustee of a trust carrying on the business or of a trust that is a shareholder in a company carrying on the business; or
 - 12.2.2 **Director or Shareholder:** a director or shareholder of a company carrying on the business; or

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- 12.2.3 **Associated Person:** a person associated with any person described in clauses 12.2.1 and 12.2.2.
- 12.3 Relevant Benefits/Advantages: For the purpose of clause 12.1.2, an amount is directed or diverted to the benefit or advantage of a person described in clause 12.2 if that person is given or receives from the business any benefit or advantage, whether or not convertible into money, within the ambit and scope of sub-sections CW 42(6) to (8) of the Income Tax Act 2007, or any income of a kind specified in and not excluded by those sub-sections.
- 12.4 Control over the Business and Ability to Direct or Divert Amounts: For the purpose of clause 12.1.2, a person described in clause 12.2 has some control over the business and is able to direct or divert amounts from the business to their own benefit or advantage if, by virtue of their position described in clause 12.2 and within the ambit and scope of sub-sections CW 42(5) to (8) of the Income Tax Act 2007, that person is, in any way, whether directly or indirectly, able to determine or materially influence in any way the determination of:
 - 12.4.1 Nature/Extent of Benefit/Advantage: the nature or extent of any benefit, advantage or income described in clause 12.3; or
 - 12.4.2 **Circumstances of Receipt:** the circumstances in which any benefit, advantage or income described in clause 12.3 is, or is to be, given or received.

13. MODIFICATION OF TRUST TERMS

The Trustees may from time to time by resolution carried unanimously modify or amend any term of this deed, but no modification may at any time be made which would:

- 13.1 **Charitable Purposes:** allow the Trust to operate other than for exclusively charitable purposes in New Zealand or to operate for private profit; or
- 13.2 Concessionary Provisions: affect the eligibility of the Trust for the benefit of any of the Concessionary Provisions, unless in relation to any such provision the Trustees have unanimously determined that eligibility for the benefit of that provision is not required in the best interests of pursuing the purposes of the Trust.

14. WINDING UP THE TRUST

14.1 **Resolution:** The Trustees may wind up the Trust by a unanimous resolution of the Trustees, provided:

- 14.1.1 Resolution at Meeting: that resolution must be passed at a Trustees' meeting called for that purpose;
- 14.1.2 Notice of Meeting: the Secretary must give not less than 30 days' notice of that meeting to the Trustees; and
- 14.1.3 Confirmation: the resolution is unanimously confirmed at a subsequent meeting called for that purpose within 60 days on 30 days' notice.
- 14.2 Surplus Property: If, on the winding up of the Trust, any portion of the Trust Fund remains after satisfaction of all the debts and liabilities of the Trust, none of that portion may be paid out or distributed other than for charitable purposes carried out exclusively within New Zealand and at the direction of a Judge of the High Court of New Zealand.

15. **GOVERNING LAW**

This deed is governed by New Zealand law. The Trustees submit to the nonexclusive jurisdiction of all courts having jurisdiction in New Zealand.

Executed as a deed.

SIGNED by BARRY JAMES TRASS as Trustee in the presence of:

Barry James Trass

Witness:

Signature of witness

Occupation of witness

26 High Red Way Mayny, Address of witness

as Trustee in the presence of:	
	John Gregory Guy
Witness:	
Signature of witness	
Full name of witness	g 1 6
Occupation of witness	
Address of witness	Ω
SIGNED by ANDREW JAMES SMITH as Trustee in the presence of:	
Witness:	Andrew James Smith
Signature of witness	
SOHW CUNTER WIGGLEST &	22714
relived	
Occupation of witness	
118 LONG DRIVE AUGLUA	ND 1071
Address of witness	

SIGNED by PAMELA ANNE TOTHILL as Trustee in the presence of:	Potalle
	Pamela Anne Tothill
Witness:	
Signature of witness 15.5.Reeves	
Full name of witness	
Occupation of witness Address of witness	
SIGNED by ANDREW KEITH GARRATT as Trustee in the presence of: Witness:	Andrew Keith Garratt
Signature of witness TTS RETVES Full name of witness Occupation of witness	

Address of witness

SIGNED by JENNIFER RAE HILL as Trustee in the presence of:	Jennifer Rae Hill	Rae Hil
Witness:	definite Rae Fini	
Signature of witness Vick? Mayis Plaisted Full name of witness Occupation of witness Whangare Address of witness		
SIGNED by NICHOLAS WILLIAM KEENE as Trustee in the presence of: Witness:	Nichojas William Ko	eene
Signature of witness Vicki Maris Plaisted Full name of witness Cocupation of witness		
Address of witness		

SIGNED by TODD RAYMOND BARRELL as Trustee in the presence of:	
T-11D-1D-11D-11D-11D-11D-11D-11D-11D-11D	
Witness:	
Signature of witness	
T.J.S. REEVES	
Full name of witness	
Adicita	
Occupation of witness	
Address of witness	
SIGNED by IAN JAMES STEWART	
REEVES as Trustee in the presence of:	
Vitness:	
VILITESS.	
Signature of witness	
Signature of witness	
Patricia Grace Legal Secretary	
Full name of witness Henderson Reeves Connell Rishworth Lawyers Ltd WHANGAREI Ph: 09 430 - 4350	
Occupation of witness	

Address of witness

SIGNED by **CHRISTINE ANNE KING** as Trustee in the presence of:

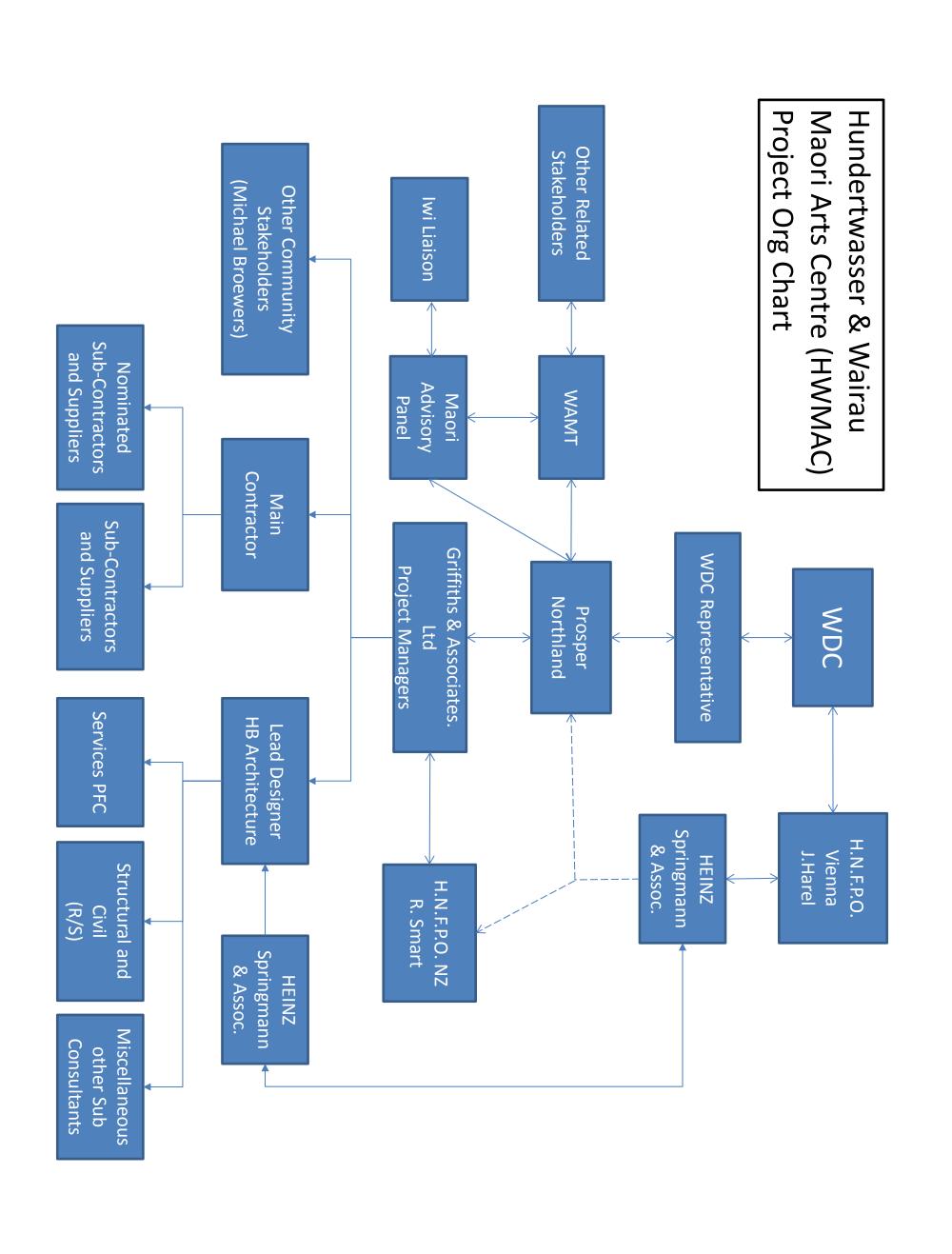
Christine Anne King

Witness:

Signature of witness

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Address of witness





6 October 2014

Ian Reeves Prosper Northland Trust Whangarei

HUNDERTWASSER AND WAIRAU MĀORI ART CENTRE PROPOSAL

Dear Ian

It was a great pleasure to meet you and your colleagues from the Prosper Northland Trust during your recent visit to Vienna and to hear about the exciting plans to build the last Hundertwasser-designed building in the world in Whangarei.

Friedensreich Hundertwasser is of course a very well-known and highly respected Austrian. His connection with New Zealand, where he spent so much of his life, provides a concrete link between our two countries and has stimulated an interest in New Zealand among many Austrians. His affinity for New Zealand is a genuine point of connection for us in our dealings with Austria and a great illustration of our culturally diverse country – one that respects and appreciates the achievements of a native of Austria that also called New Zealand home.

I am pleased to voice my support for the Hundertwasser and Wairau Māori Art Centre proposal. The buildings Hundertwasser has designed here in Vienna are great draw cards for tourists from all over the world. Like the famous Kawakawa toilets the Art Centre would similarly attract tourists to Northland and provide a highly visible demonstration of New Zealand's ongoing connection with Austria, building on other strands such as the Working Holiday Scheme established in 2012, which enables young citizens from Austria to live, work and study in New Zealand for up to six months – and vice versa.

The Art Centre would strengthen the people to people links between our countries and provide impetus for growing further connections. With this in mind I have been talking to my colleagues at the Austrian Federal Ministry for Europe, Integration and Foreign Affairs about possible ways we could use the project to leverage other events, for example in connection with the Austrian team coming to New Zealand next year for the FIFA under 20 World Cup. We would be pleased to keep in touch with you as the project progresses on other potential opportunities of benefit to both Whangarei and Vienna.

Yours sincerely,

Deborah Geels

New Zealand Ambassador to Austria

DIE HUNDERTWASSER AGEMEIN NUETZIGE APRIVATA STIFTUNG

Vienna, 19 September 2014

The Mayor Whangarei District Council Private Bag 9023 WHANGAREI 0140

HUNDERTWASSER ART CENTRE, WHANGAREI

- Over a period of 20 years, Friedensreich Hundertwasser and the Hundertwasser Non Profit Foundation worked collaboratively with the WDC to establish the planned Hundertwasser Art Centre in the old NRC building, in Whangarei.
- A contract was signed between the WDC and the Hundertwasser Non Profit Foundation on 20th of December 2012 as well as between the WDC and the Gruener Janura from 28.12.2008, to proceed with the project.
- In spite of deposit of funds being raised by the WDC have recently resolved to not proceed with the project by breaching a valid contract one sided and have betrayed confidence, trust, and cooperation of many years.
- I have been advised that a recently formed a charitable trust, Prosper Northland Trust (PNT), is preparing a new submission to be considered by the WDC for the advancement of the Hundertwasser original plan and concept based on the contract with the WDC.
- I have been advised that certain invented fears should be debugged by a reputable organisation who offered to cover any losses occurring in the first 4 years of trading, to address that concern. This will be covered in the submission of the PNT.
- On the basis the WDC will resolve to accept the amended proposal to proceed with the Hundertwasser project as planned and agreed upon, I confirm the Hundertwasser Non Profit Foundation will agree to its development under the supervision of PNT, with ultimate operation resting with WAMT after completion, as previously intended.

We hope responsibility and duty as well as purpose in honesty and with respect by the Council for Hundertwasser's gift and vision for the benefit of the people of Whangarei and New Zealand will be given a chance by allowing the private PNT initiative in harmony with the reputation of the members of its board to take place.

Yours faithfully

Joram Harel

Chairperson of the Board

Hundertwasser Non Profit Foundation



Vienna, 19th September 2014

Prosper Northland Trust Attention Mr. Ian Reeves

Dear Ian Reeves,

I am looking forward to our meeting on 29th September of this year in Vienna.

I would like to thank you once more for the effort coming for this purpose. This will be a very good opportunity to meet all of you and also to discuss all relevant subject matters and selective information you might wish and might be of importance for us.

I am so sorry that there is no serious, reliable possibility for shortcuts to your respected and understood questions which cannot be answered with a "yes" and "no" and a "maybe" would not be fair.

That is why I would like herewith to proclaim on behalf of the Hundertwasser Non-Profit Foundation the following:

We have interest in your proposal, your initiative and in your vision in connection with the Hundertwasser Museum and Art Centre.

In order to finalise a possible cooperation and a continuation of activities with the purpose of realisation of the original Hundertwasser plans and his legacy for Whangarei, we are looking forward to our projected meeting on the 29th of September in great interest and joy.

Nevertheless and due to the fact that you represent a private initiative, the agreement between the WDC and the Hundertwasser Foundation from 20.12.2012 as well as the agreement between the WDC and the Gruener Januar from 28.12.2008 are the basis and content which is valid as point of departure also for your initiative.

In continuation I would like to declare that the Hundertwasser Non-Profit Foundation never ever has had since its establishment any kind of debts or financial commitments or threats and the situation is the same today.

Whoever had the audacity to claim that there are such or some of them by a Heidi Trimmel is a liar or just uses invented rumours that have never been checked for its trueness or validity and thus is a proof for the quality and character of the one who raised these allegations and confirms his fitness as a politician and an opportunist who uses lies to promote his otherwise not reasoned concerns.

I am looking forward to meeting you

Joram Harel

Chairman of the board

The Hundertwasser Non Profit Foundation

Enclosure:

Letter to WDC, Mayor



WDC Resource Consents

Private Bag 9023 | Whangarei 0148 | New Zealand T: 09 430 4200 | 0800 WDC INFO | 0800 932 463 | F: 09 438 7632 W: www.wdc.govt.nz | E: mailroom@wdc.govt.nz



Notice of Decision

LU1200155 and PID 12554

IN THE MATTER of the Resource Management Act 1991 and

IN THE MATTER of an application under Section 88 of the Resource Management Act 1991 by Whangarei District Council

Application

Application for Resource Consent by Whangarei District Council at Dent Street, Whangarei being legally described as Pt DP 20091, Lot 1 DP 176655, Sec 3 SO Plan 66896, Sec 2 SO Plan 435786 and Allot 215 Psh of Whangarei and Pt Lot K Sec 3 Blk IX Whangarei Survey District to establish and operate an Arts Centres involving the remodelling of an existing building located on the site which infringes the maximum height, yard setback and building line restriction development controls.

Decision

The application has been considered and determined under authority delegated to an Independent Commissioner for Whangarei District Council, pursuant to Section 34A of the Resource Management Act 1991. The decision is as follows:

Determination

That pursuant to Sections 104, 104B, 104D and 108 of the Resource Management Act 1991, Council grants consent subject to the following conditions:

- 1 That the proposed development shall proceed in general accordance with the following drawings and information submitted with this application:
 - Site Plan prepared by HB Architecture ref RC-01 dated 7 December 2012
 - Ground Floor Level Plan prepared by HB Architecture ref RC-01 dated 7 December 2012
 - First Floor Level Plan prepared by HB Architecture ref RC-01 dated 7 December 2012
 - Roof Level Plan prepared by HB Architecture ref RC-01 dated 7 December 2012
 - Northwest and Southwest Elevations prepared by HB Architecture ref RC-01 dated 7
 December 2012 prepared by HB Architecture ref RC-01 dated 7 December 2012
 - Northeast and Southeast Elevations
 - AEE prepared by Reyburn and Bryant, re, 12764 and dated December 2012
 - S92 response and accompanying plans prepared Rayburn and Bryant, ref 12764 and dated 8 February 2013.
- 2 (<u>Landscape Plan</u>) Prior to commencement of the activity a landscape plan shall be lodged with Council and be to the satisfaction of the Resource Consent Manager. The landscape plan shall detail pedestrian connections and include details of hard and soft landscaping elements; including the species, numbers and size of plants and the materials to be used in hard landscaping. The purpose of the landscape plan is to ensure that the proposal is suitably integrated into the site and the adjacent environment.
- 3 (<u>planting</u>) The tree planting required by condition 2 shall be undertaken within the next annual planting programme immediately following completion of works on site.



- 4 (<u>Tree Maintenance</u>) The trees planted on site shall be suitably maintained after planting (i.e. watered, staked, pruned and fertilised) to allow for their health and growth. The maintenance shall be carried out thereafter planting.
- 5 (<u>Landscape</u>). The landscape planting required by condition 2 shall remain in perpetuity. Any trees that die shall be replaced at the consent holder's expense
- 6 (<u>loading space</u>) Prior to the commencement of the activity details of the location and manoeuvring area of the proposed loading space adjacent to the eastern side of the proposed building shall be lodged with Council and to the satisfaction of Councils Senior Environmental Engineering Officer (SEEO). The proposed dimensions and construction of the loading space shall comply with the WDC Environmental Engineering Standards 2010.
- 7 (minimum habitable floor level) The building shall have a minimum (habitable) floor level of 2.85m RL. The minimum habitable floor level shall be confirmed by a suitable qualified engineer to the satisfaction of Councils Monitoring Department within one month of construction finishing.
- 8 (<u>road closure</u>) The necessary road closure to enable the construction of a portion of the building in the Dent Street road berm shall have been completed prior to the construction of the building with evidence of approval supplied to Councils Roading Manager.
- 9 (damage to roads) That any damage to the street footpath, kerb and channel, berm, road carriageway and services by the demolition and construction of the arts centre shall be reinstated at the expense of the consent holder, to the approval of Council's Roading Manager within one month of construction finishing.

Reasons for the Decision

Pursuant to Section 113 of the Act the reasons for the decision are:

- Pursuant to section 104D (1)(a) any actual or potential effects on the environment are
 considered to be less than minor because the overall design of the building is compatible
 with the existing visual amenity values of the surrounding area. Any adverse effects on the
 visual amenity, character, street scene and car parking loss are assessed to be less than
 minor.
- Pursuant to section 104D(1)(b) it is considered that the proposal will not be contrary to the relevant objectives and policies of the of the operative District Plan because a new arts centre in the Town Centre Basin will assist with providing a diverse range of land use activities in this area which will assist with creating additional vibrancy and will provide a community based facility that will attract visitors to this part of Whangarei. Furthermore the overall design will create a unique building which at the same time is of a scale, intensity and character that is compatible with surrounding activities and the maritime setting of the Town Basin Environment.
- There are no other relevant matters relevant to the consideration of this application.
- The proposal is consistent with Part 2 of the Act

Advice Notes

1 Council determined that the application need not be notified as:



- The overall adverse effects on the environment including any adverse, visual or amenity effects will be less minor because the proposed building will be compatible with the character and visual amenity of the surrounding area.
- No persons have been determined to be adversely affected by the proposed development.
- There are no special circumstances to warrant public notification.
- This resource consent will lapse five years after the date of commencement of this consent (being the date of this decision) unless:
 - It is given effect to before the end of that period; or
 - An application is made to Council to extend the period after which the consent lapses, and such application is granted prior to the lapse of consent. The statutory considerations which apply to extensions are set out in Section 125 of the Resource Management Act 1991.
- 3 Section 357 of the Resource Management Act 1991 provides a right of objection to this decision. An objection must be in writing, setting out the reasons for the objection and delivered to Council within 15 working days of the decision being notified to you. A fee may be payable to cover the costs of processing any objection.
- A copy of this consent should be held on site at all times during the establishment and construction phase of the activity.
- All archaeological sites are protected under the provisions of the Historic Places Act 1993. It is an offence under that act to modify, damage or destroy any archaeological site, whether the site is recorded or not. Application must be made to the New Zealand Historic Places Trust for an authority to modify, damage or destroy an archaeological site(s) where avoidance of effect cannot be practised.
- The Consent Holder shall pay all charges set by Council under Section 36 of the Resource Management Act 1991, including any administration, monitoring and supervision charges relating to the conditions of this resource consent. The applicant will be advised of the charges as they fall.
- Pursuant to Section 102 of the Local Government Act 2002, Whangarei District Council has prepared and adopted a Development Contributions Policy. Under this policy, the activity to which this consent related is subject to Development Contributions. You will be advised of the assessment of the Development Contributions payable under separate cover in the near future. It is important to note that the Development Contributions must be paid prior to commencement of the work or activity to which consent relates. Further information regarding Councils Development Contributions Policy may be obtained from the Long Term Community Consultation Plan (LTCCP) or Council's web page at www.wdc.govt.nz.
- Any works carried out within the WDC road reserve will require an approved road opening notice / traffic management plan.

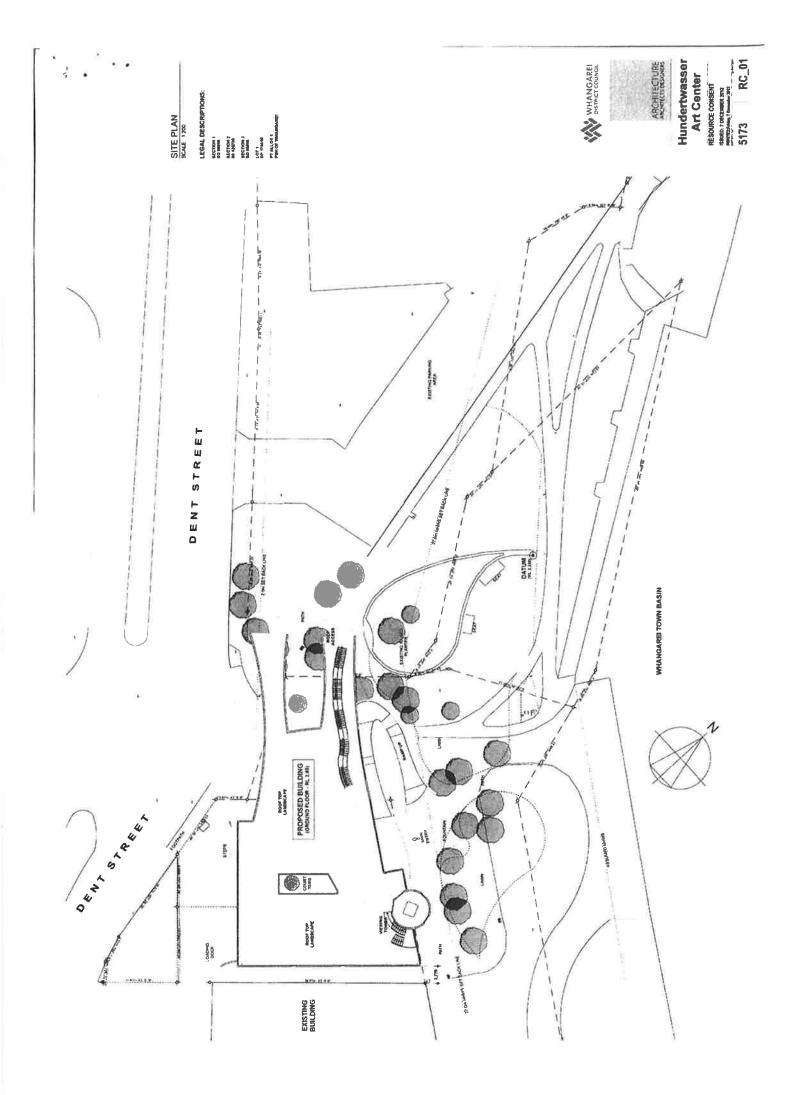


OIHN FORC	
	26 February 2013
Dylan Pope – Consultant Environmental Planner (Consents)	Date
Cobrell.	
	13 March 2013
Giles Bramwell – Independent Planning Commissioner	Date

under the section 75(2) of the Building Act.

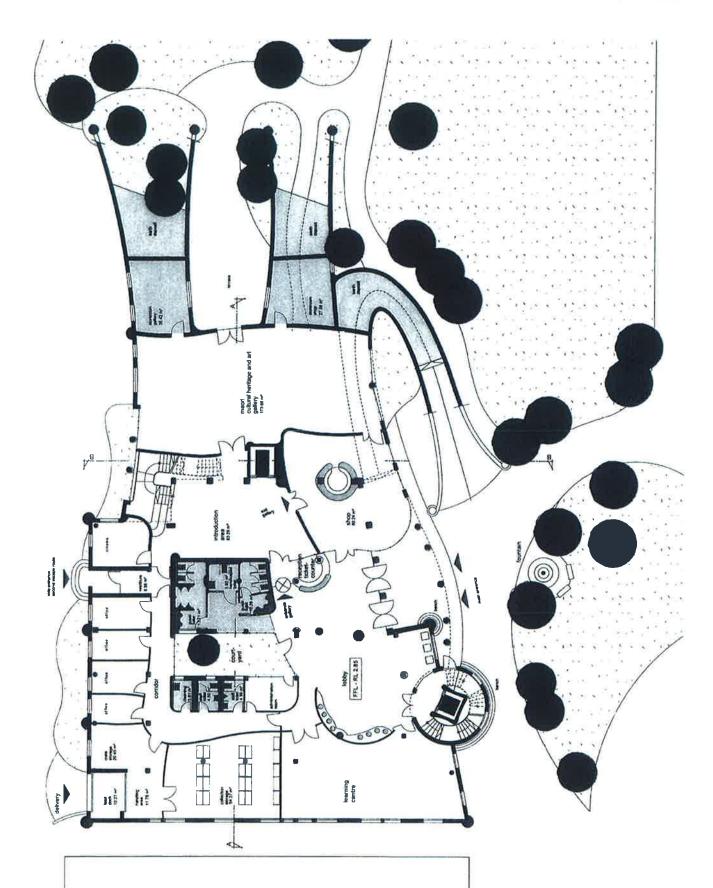
The consent holder is advised that the proposal is located over a number of sites. Therefore the certificates of title that are subject to this application will be held together

12





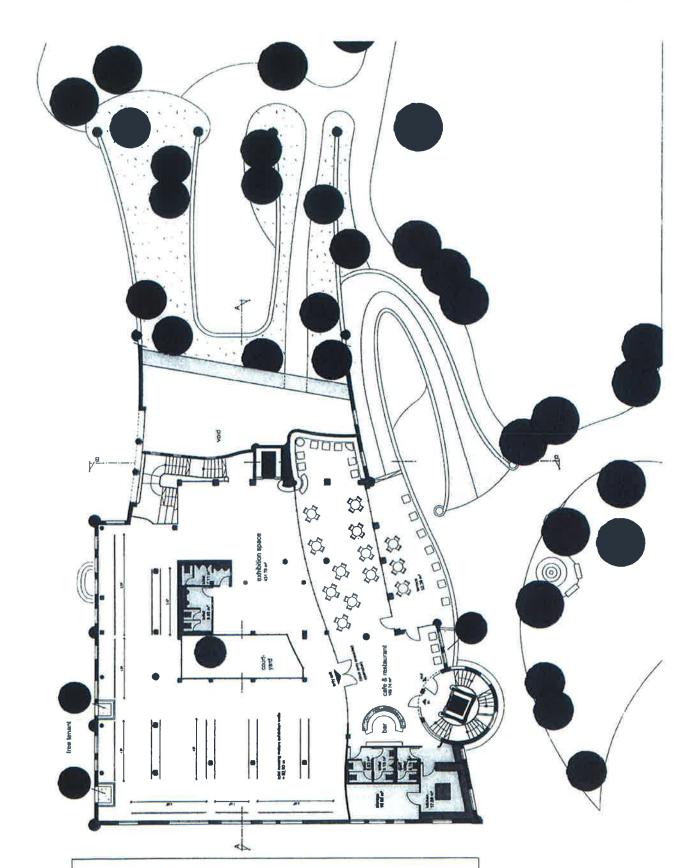






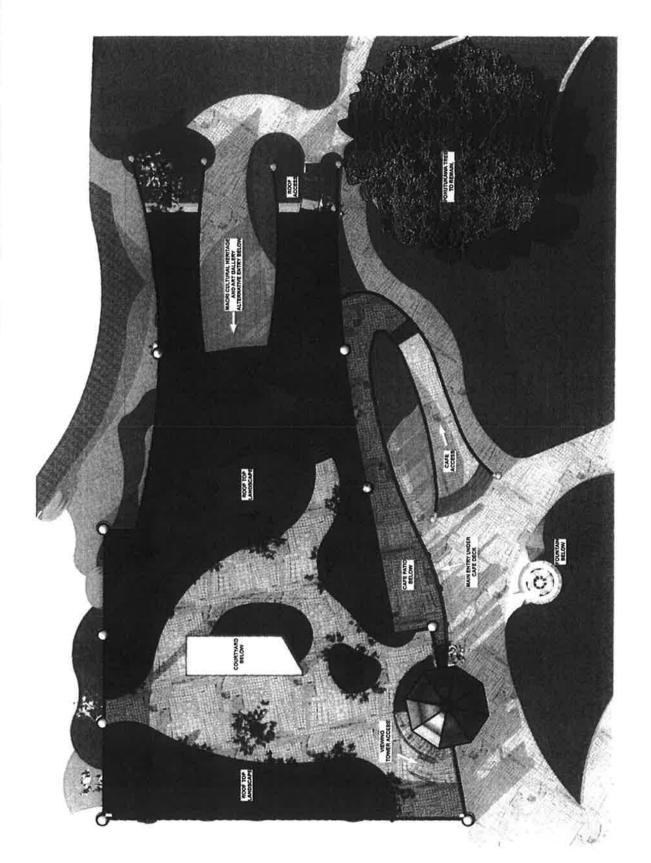




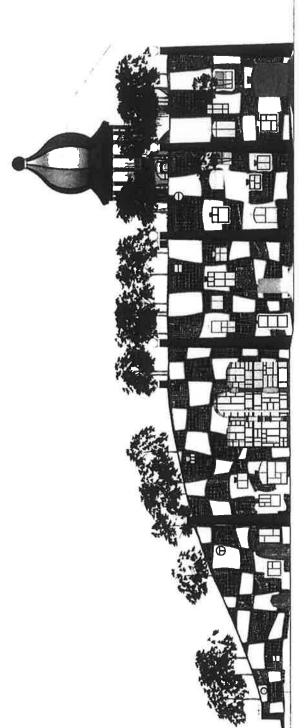




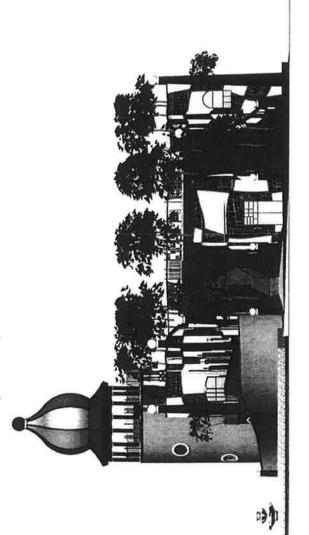




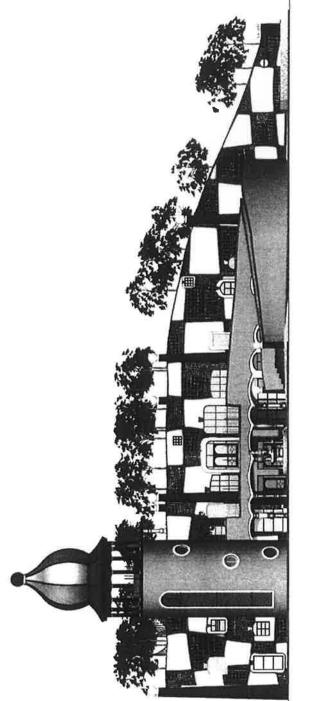




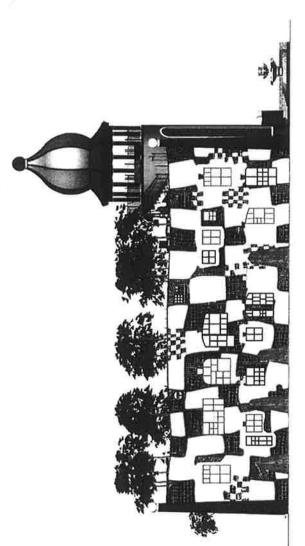
SOUTH WEST ELEVATION



NORTH WEST ELEVATION



NORTH EAST ELEVATION



SOUTH EAST ELEVATION



Notification Assessment - Non-Complying Activity

1 Consent Application

Council Reference LU1200155 and PID 125554

Reporting Planner Dylan Pope – Consultant Planner

Applicant Whangarei District Council

Application Consent is sought to establish and operate an Arts Centre. This will involve

remodelling the existing Northland Harbour Board building located on the site. The design of the proposed Arts Centre building is based on a design by Friedensreich Hundertwasser and will infringe the maximum height, yard setback

and building line restriction development controls.

Property Address Dent Street, Whangarei.

Legal Description Pt DP 20091, Lot 1 DP 176655, Sec 3 SO Plan 66896, Sec 2 SO Plan 435786

and Allot 215 Psh of Whangarei and Pt Lot K Sec 3 Blk IX Whangarei Survey

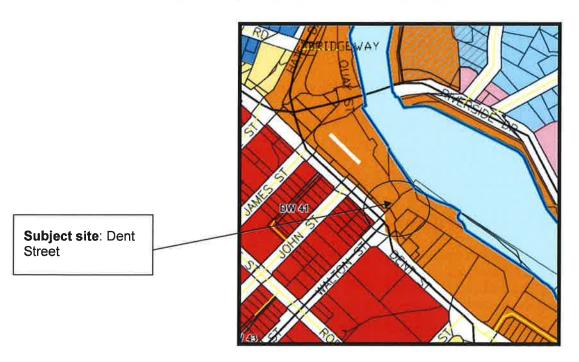
District.

Date Lodged 13 December 2012.

Site Visit 18 December 2012 and 21 February 2013.

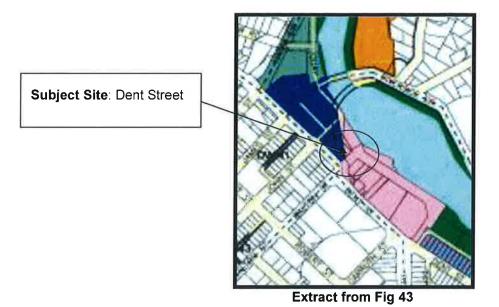
Environment Town Basin Environment

Town Basin Sub-Environment and Western Town Basin Sub-Environment



Extract from Environment Map 39

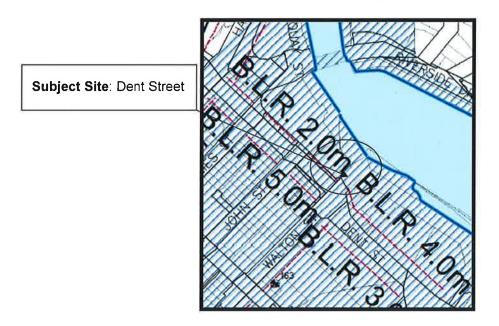




Resource Notations Flood Susceptible Area; and

A 2.0 metre Building Line Restriction located adjacent to the Dent Street road frontage.

- please refer to District Plan Resource Area Map below:



Other

Dent Street is classified as an Arterial Road.

Plan Changes

There are no Plan Changes that are relevant to this application

Distributions

Internal John Smith,

Kennedy and Associates Ltd

Date sent

20 December 2012

Amendments sent

Comments received

14 January 2013



2 Further Information

Requested

Received

14 January 2013

8 February 2013

3 Description of Proposal

Consent is sought for a new Arts Centre at Dent Street, Whangarei. The proposal will involve remodelling the existing Northland Harbour Board building which is located on Lot 1 DP 176655 and Pt DP 20091. The existing building will be retained in its current position with comprehensive alterations and additions proposed.

The proposed building has been based on a design by Friedensreich Hundertwasser and is intended to be an iconic building for Whangarei. The design will be an unconventional building with the external finishing materials being multicoloured tiles. The building will incorporate an external spiral staircase leading to a turret located in the south-eastern corner. The height of the turret, being the tallest part of the building, will be 24 metres.

Two external ramps are located on the western side of the building and these will provide access to the roof garden area. The building will also include an internal courtyard area. A new access ramp is proposed from the northern elevation of the building which will provide access to a cafe area at the first floor level.

The proposed building will include a Maori heritage centre and art gallery, exhibition space, a museum, administrative offices, a cafe / restaurant with indoor and outdoor seating capacity for up to 60 patrons and a retail shop. These activities occupy the following Gross Floor Areas:

Ground Floor Level

Retail - 80m²

Exhibition space / Gallery – 841m²

First Floor Level

Cafe/Restaurant (including outdoor terrace area) -180m² Exhibition space / Gallery - 448m²

With the exception of the proposed turret the main part of the building will be two storeys in height.

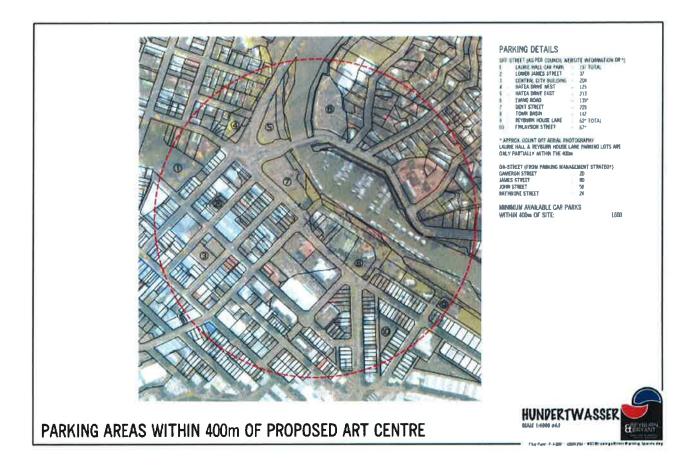


SOUTH WEST ELEVATION

South west Elevation of Proposed Building



No on-site car parking spaces are proposed. However the applicant has stated that there are in excess of the 43 required car parking spaces located within 400 metres of the site and confirmation has been provided from Councils Roading Division in this regard. These available spaces are identified on the plan below:



The proposed site plan identifies indicative hard and soft landscaping around the proposed building, however Paul Dell (WDC – Group Manager District Living) has confirmed at a meeting on 17 December 2012 that the landscaping plan has not yet been finalised.

The applicant has confirmed that no trees are proposed to be removed.

Two loading spaces are proposed. One of these will be located to the south-western side of the building and the other adjacent to the eastern side of the building.

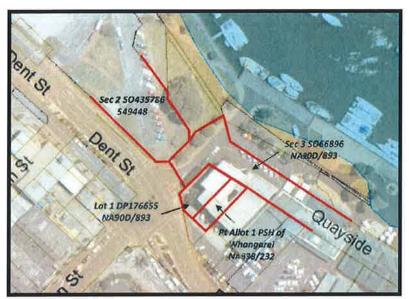
The application has confirmed that no signage is proposed as part of this application and if resource consent is required then a separate application will be made.

4 Site and Surroundings

The application site ("the site") comprises five (5) Certificates of Title with the following site sizes:

- Pt DP 20091 (NA838/232)- 478m²
- Lot 1 DP 176655 (NA105B/441)- 630m²
- Sec 3 SO Plan 66896 (NA90D/893)– 6540m²
- Allot 215 Psh of Whangarei and Pt Lot K Sec 3 Blk IX Whangarei Survey District (NA24B/372) – 4730m²
- Sec 2 SO Plan 435786 (549448) 7476m²





Location Plan

The site is located on the north-western side of Dent Street, within the Whangarei Town Basin. The land is owned by Whangarei District Council and has a split zoning with the majority of the site zoned as Town Basin Sub-Environment (on which the proposed building is located) and a smaller western part of the site zoned as Western Town Basin Sub-Environment.

The Whangarei Town Basin contains a range of retail shops and cafes, the Whangarei Art Museum and information centre (The Hub), as well as areas of open space located to the southeast of the site.

The topography of the land is flat; and with the exception of a large Pohutukawa tree located adjacent to the north of the building and some smaller adjacent trees to the west of the building (all to be retained) there are no other trees located on the site.

The applicant has confirmed that a small portion of Dent Street is required to be "stopped" and that the necessary road stopping is being undertaken independent from the resource consent process. This has been confirmed by Councils Roading Division. Once the road has been stopped then the land will be amalgamated into one of the existing titles. This amalgamation does not form part of this application.

Part of Sec 3 SO Plan 66896 and SEC 2 SO435786 contain car parking spaces. The car parking spaces located on part of Sec 3 SO Plan 66896 will be required to be removed to enable construction of the proposed building and associated landscaping.

Lot 1 DP 176655 and Pt DP 20091 contain the Old Northland Harbour Board building which is vacant and in poor condition. This building is proposed to be retained in its current position and remodelled as part of the proposed building process.

The site is located adjacent to the Hatea River, which forms part of the Coastal Marine Area (CMA), noting that this is separated from the Mean High Water Spring Mark (MHWS) by an esplanade strip. This esplanade strip is zoned as Town Basin Environment under the Whangarei Operative District Plan 2007. The Town Basin Marina is located to the north of the site.

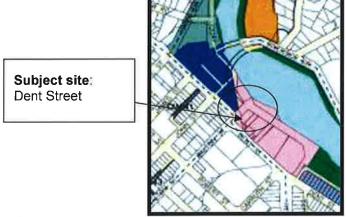
5 Reasons for Consent



The site is zoned as Town Basin Environment under the Whangarei District Plan 2007. Please refer to Environment Map 39 below:



The site is located within two Sub-Environments with the western part of the site within the Western Town Basin Sub-Environment and the south-eastern part of the site, on which the proposed building is located, within the Town Basin Sub-Environment.



Activities Generally

Rule 43.3.1D (Activities Generally) relating to the Western Town Basin Sub-Environment refers to the Business 1 Environment Rules (Rule 39.3.1). The proposed activities will meet all of the requirements listed in Rule 39.3.1 and therefore the proposed activities are permitted.

Rule 43.3.1E (Activities Generally) relating to the Town Basin Sub-Environment refers to the rules of the Business 3 Environment. The proposed activities will meet all of the requirements listed in Rule 41.3.1 and therefore the proposal is a permitted activity.

Car Parking

Rule 43.3.4 requires a total of 43 car parking to be provided on site. No car parking is proposed on site in this instance. However in accordance with Rule 43.3.4(d) the total or balance of the required car parking spaces are able to be provided within a 400m walking distance from the site where there is a legal agreement with Council. The applicant has provided confirmation from Council's Roading Division that there are in excess of 43 spaces available within 400m of the site and there will be an inter-department agreement with Council. In accordance with Rule 43.3.4(d) this is a permitted activity.



Furthermore there are 5 "informal" car parking spaces located on the site that will be displaced by the proposal. The applicant has confirmed that these spaces are informal space and have not been considered as part of any car parking strategy. Furthermore the application has demonstrated that these spaces are able to be provided within 400 metres of the site.

Loading Spaces

Two on-site loading spaces are proposed and these will comply with Rule 47.2.1 and the WDC Environmental Engineering Standards 2010.

Building Height

In accordance with Rule 43.4.1D buildings within the Town Basin Sub-Environment are a permitted activity if the height does not exceed 11 metres. Where buildings have a height greater than 11 metres, but do not exceed 20 metres, they are required to be assessed as a Discretionary Activity. The spheres (x 7) located on the proposed columns will be 12 metres in height and are therefore required to be assessed as a Discretionary Activity.

The proposed turret/external spiral staircase will have a maximum height of 24 metres. Because this part of the building exceeds 20 metres in height the proposal overall is required to be assessed as a Non-complying activity.

Building Setback

In accordance with Rule 43.3.4(a) buildings are required to be setback a minimum distance of 27 metres from the MHWS. Part of the proposed access ramp will be setback 26 metres from the MHWS and this is required to be assessed as a Restricted Discretionary activity.

Building Line Restriction

The Resource Area Planning Maps identify a 2.0 metre building line restriction along the Dent Street road frontage of the site. Part of the western end of the building is located within the building line restriction. There is no District Plan Rule that corresponds to the building line restriction in the Town Basin Environment. Therefore it is not possible to determine the activity status for this infringement. However because the application is overall non-complying the building line restriction infringement will not alter the overall activity status of the application.

Overall, the application is considered to be for a Non-Complying activity.

6 Notification Assessment (Sections 95A to 95E)

Statutory matters – Public Notification section 95A to 95D

Section 95A of the Resource Management Act 1991 (the Act) gives a council discretion to decide whether or not to publicly notify an application. However, an application must be notified if:

- 1. the activity will have, or is likely to have, adverse effects on the environment that are more than minor
- 2. the applicant requests public notification of the application
- a rule or national environmental standard requires public notification.

Section 95A (3) provides that an application must not be notified if a rule or national environmental standard precludes public notification and the applicant has not requested public notification.

Section 95B provides that if an application is not publicly notified, a council must decide if there are any affected persons (or affected order holders) in relation to the activity. Limited notification of the application



must be given to affected persons unless a rule or national environmental standard precludes limited notification.

Section 95D In determining whether to publicly notify an application, section 95D specifies a council must decide whether an activity will have, or is likely to have, adverse effects on the environment that are more than minor. In making this decision, a council:

- 1. must disregard any effect on persons who own or occupy:
 - the land in, on, or over which the activity will occur; or
 - any land adjacent to that land; and
- 2. may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and
- in the case of a controlled or restricted discretionary activity, must disregard an adverse effect of the
 activity that does not relate to a matter for which a rule or national environmental standard reserves
 control or restricts discretion; and
- 4. must disregard trade competition and the effects of trade competition; and
- 5. must disregard any effect on a person who has given written approval to the relevant application.

Land excluded from public notification assessment

Pursuant to Section 95D(a)(ii) and (e) it is considered that effects on the following adjacent properties, should be excluded from an assessment of the wider potential and actual effects on the environment required for public notification, noting that those parts of Dent Street and other surrounding roads (which are also owned by the applicant – WDC) are not considered to be adjacent sites for the purposes of this part of the assessment. This is because the adjacent land is a "road".

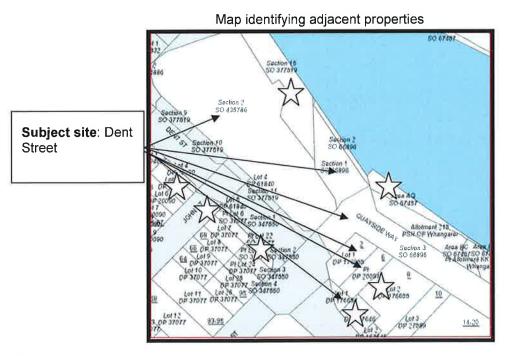




Table 1 – Adjacent Sites			
Address	Legal Description		
8 Quayside Way	Lot 2 DP 176655		
No Physical Address	Lot 1 DP 167646		



No Physical Address	Lots 4 and 5 DP 29090
No Physical Address	Pt Lot 6 DO 61840
No Physical Address	Pt Lot 6 SO 37077
No Physical Address	Pt Lot 22 SO 37077
No Physical Address	Area AQ SP 67457

Permitted baseline – section 95D(b)

Pursuant to section 95D(b) of the Act a consent authority may disregard an adverse effect of an activity on the environment if the plan permits an activity with that effect (the 'permitted baseline' test). There are three categories to the permitted baseline test, these being:

- what lawfully exists on the site at present
- 2. activities (being non-fanciful activities) which could be conducted on the site as of right; i.e. without having to obtain resource consent
- 3. activities which could be carried out under a granted, but as yet unexercised, resource consent.

Having regard to the above, the following points are relevant to the consideration of this application:

There are a range of permitted activities in the Town Basin Environment of the Whangarei District Plan 2007, including the Western Town Basin Sub-Environment and the Town Basin Sub-Environment in which the site is located. The District Plan does not provide activity lists however there are criteria and performance standards provided to determine the activity status of activities. The applicant has confirmed that the proposal will comply with these criteria and therefore the activities proposed, being an arts centre with associated activities (retail and cafe floor space), are permitted activities.

The existing building on the site forms part of the existing environment. However because the height and siting of the proposed remodelled building will not comply with Rule 43.4.1D (Maximum Building Height - Town Basin Sub-Environment), Rule 43.3.4(a) (Building Setback) and the building line restriction, resource consent is required. In respect to the height of the building, a building is able to be constructed on the site up to a height of 11 metres and this height forms part of the permitted baseline. This is considered relevant in this instance as the main part of the building will comply with the maximum building height development control and it is only the spheres located on the columns and the turret/external staircase that do not comply with the maximum building height control. Furthermore Rule 43.3.4(a) requires buildings to be setback a minimum distance of 27 metres from the MHWS. In this instance only a small part of the building will extend into this yard setback by 1 metre. With respect to the building line restriction the majority of the building complies with the 2.0 metre building line restriction along the Dent Street road frontage and only a small part of the building measuring 1.0 metre x 1.0 metre will encroach beyond the building line restriction. These matters are discussed in further detail below.

I am not aware of any current resource consents that relate to the site and which have not been exercised.

Assessment of wider environmental effects

Having regard to the above, and after undertaking an analysis of the application, including any proposed mitigation measures, the adverse effects of the activity on the wider environment are discussed below. As a non-complying activity the full range of adverse effects must be considered, however given the specific nature of the infringements that result in resource consent being required and the activity status being non-complying; the assessment focuses on those adverse effects directly relating to the ifnirngements for which consent is required.

Character, Street scene and Visual Amenity



The proposal is for an unconventional Arts Centre building that is typical of Hundertwasser's unusual architectural style. Notwithstanding the unusual style of the building it is necessary in this instance to specifically consider the permitted baseline in respect to the bulk and location of buildings that are permitted on the site. In particular Rule 43.4.1D that relates to the Town Basin Sub-Environment on which the building is located provides for buildings up to 11 metres in height as a permitted activity. With the exception of the building line restriction and building setback infringements, which are discussed further below, the only parts of the buildings not complying with the permitted bulk (height) are the 7 x small spheres located on the columns with a height of 12 metres and the turret/external staircase with a height of 24 metres. The main component of the building, which is in essence the retained building on the site, will be less than 11 metres in height and taking into account the permitted baseline in regards to the maximum height the majority of the building could exist on the site as a permitted activity. Therefore the proposed building is considered to be comparable to a complying development on the site.

The application site is located over the boundary between the Western Town Basin Sub-Environment and the Town Basin Sub-Environment. It is relevant to establish the permitted heights for buildings on adjacent sites and in particular adjacent sites located to the west of the site which form part of the Western Town Basin Sub-Environment which have a permitted maximum height of 20 metres. Whilst these sties are currently vacant, buildings up to a height of 20 metres could be constructed as a permitted activity and therefore the height of the turret element being 24 metres will not be dissimilar to the heights of future buildings located adjacent to the western boundary of the site. Likewise land that is located directly opposite on Dent Street is zoned as Business 1 Environment and this also has a maximum height limit of 20 metres (Rule 39.4.1).

Given the minor extent and bulk of the parts of the building that infringe the maximum height control, and the adjacent "zonings" which provide for buildings with a maximum height of 20 metres it is considered that the overall height and bulk of the proposed building will be compatible with the height of future buildings on adjacent sites.

A Visual Assessment prepared by Simon Cocker Landscape Architect has been lodged with the application. This has assessed the visual effects of the proposed building and specifically those parts of the building not complying with the maximum height control. This Visual Assessment has concluded that:

"The non-complying elements of the proposal comprise spheres with top buttress piers on the facades of the building, and a tower/turret which principally will serve as a stair access to the roof and a lookout, as well as forming a key architectural feature of the building.

The first of these non-complying elements will represent only a minor infringement and whilst visible from some locations will not result in any marked difference in effect above that generated by the complying portion of the proposal.

The tower turret will be more widely visible and will be a recognizable and often prominent feature from many locations within the visual catchment. It will not however obscure any views of importance from any viewpoint and will only create short duration shading above that created by the permitted structure. Primarily it is considered that the tower/turret forms a key element and will act as [sic] orientating feature that contributes to the character of the Town Basin precinct. Despite exceeding the maximum permitted building height it is considered that this element of the proposal will result in a positive effect.

I have reviewed the Visual Assessment prepared by Simon Cocker and generally agree with this assessment and the conclusions that have been reached. However whilst it is recognised that the turret feature could result in some positive effects in terms of acting as a way-finding feature, it is also considered that this will result in some adverse visual effects. However as discussed above any adverse visual effects will be less minor, particularly taking into account the turret is a subordinate feature to the main part of the



building; and the location of the site adjacent to Environments (Business 1 and Western Town Basin Sub-Environment) that provide for a building height of up to 20 metres. Whilst the proposed turret will be 13 metres above the maximum height development controls for the Town Basin Sub-Environment, because this is a subordinate feature to the main part of the building that this will not be visually over dominant when viewed from adjacent sites or other viewpoints from the wider surrounding area including those along Dent Street and the coastal marine area. Additionally in the context of the built environment, and the purpose of the building to be an iconic feature with the Whangarei town centre, the visual impact of the turret is considered appropriate and the effects to be less than minor.

The proposed building will not adversely affect the open space character of the Town Basin Environment, particularly given that the majority of the site will be retained as open space and only a small area of the site will be developed with building. The proposed building will have a total footprint within the Town Basin Sub-Environment part of the site of 921m² or 12% of the total site area. This is significantly below the 50% permitted building coverage, and given the relatively low building coverage it is considered the site will retain an overall sense of spaciousness, and provide appropriate areas for future landscaping.

Because the main part of the building is setback at least 26 metres from the MHWS and the proposal will be remodelling an existing building on the site, it is considered that any adverse effects on the natural character of the adjacent coastal environment will be less than minor.

Given the minor extent of the infringements which are relatively small areas and subordinate features of the building it is considered that any adverse visual effects will be less than minor. Furthermore it is considered that the overall scale and bulk of the building will be compatible with other existing buildings and future buildings on adjacent sites and the proposal will provide visual interest to the site in a manner than is consistent with the Town Basin Environment. For these reasons it is considered that the overall visual effects including effects on the urban character, street scene and visual amenity of this part of the Town Basin will be less than minor.

Landscape Effects

The proposal will not involve the removal of any trees on the site and in fact the proposal has incorporated existing trees into the overall design of the development. Furthermore the site plans have indicated additional landscape planting around the building and on the roof top garden area of the building. It is considered that additional planting around the building will enhance the existing amenity on the site and that this will enable the building to visually integrate into the surroundings. However because the landscape plan provided with the application does not provide sufficient detail in terms of species, number, and size of planting it is considered reasonable for a detailed landscape plan to be submitted and this can be secured by a condition of consent. The landscape plan should also provide details of hard landscaping so that hard/paved surfaces such as footpaths and pedestrian linkages are consistent with the surfaces on adjacent sites within the Town Basin Environment and to ensure that there is an integrated approach to the soft and hard landscaping components.

Public access to and along Esplanade Reserves and MHWS

The majority of the building will be setback a minimum distance of 27 metres from the MHWS, however a small part (external ramp) of the proposed building will be setback only 26 metres from the MHWS. Given the minor extent of the infringement and the fact that the majority of the building will be setback at least 27 metres from the MHWS it is considered that the proposal will not adversely affect public access along the coastal marine area. The proposed building will obstruct the existing pedestrian connections through the site from Dent Street to the esplanade strip located adjacent to the MHWS, however the proposal has included pedestrian linkages which will enable public access to be provided. It is considered that any adverse effects regarding public access will be less than minor and able to be mitigated by way of the proposed pedestrian connections.



Effects on the operation of the existing marina within the Hatea River.

The proposed building and activities will be setback 26 metres from the MHWS and given this separation distance it is considered that the proposal will not adversely affect the safe efficient operation of the existing marina located within the Hatea River in any way.

Natural Hazards including Flooding and Instability

The site is identified on the Natural Resources Maps as being located within a "Flood Susceptible Area". A Flood Report prepared by Richardson Stevens Ltd and dated 4 December 2012 was lodged with the resource consent application. A copy of the application has been reviewed by Councils Consultant Engineer, John Smith (Kennedy and Associates), who has provided the following comments in respect to natural hazards:

The report concludes that, with a proposed floor level of 2.85m RL, there will be an approximate 200mm freeboard in a 100 year ARI flood event and that the building will not accelerate, worsen or result in inundation on the land or any other property. It is noted that there is no existing effective overland flowpath in the Town Basin area, and that this proposal will not alter (neither improve nor worsen) this fact.

Given the above assessment it is considered that the proposal will not exacerbate flooding and therefore any adverse effects will be neutral/nil.

Parking and Traffic

The Resource Area District Maps identifies a 2.0 metre wide Building Line Restriction along the Dent Street road frontage of the site. A small part of the proposed building measuring 1.0m x 1.0m will be located within this Building Line Restriction. A copy of the application has been forwarded to Councils Consultant Engineer, John Smith for his review and he has stated that:

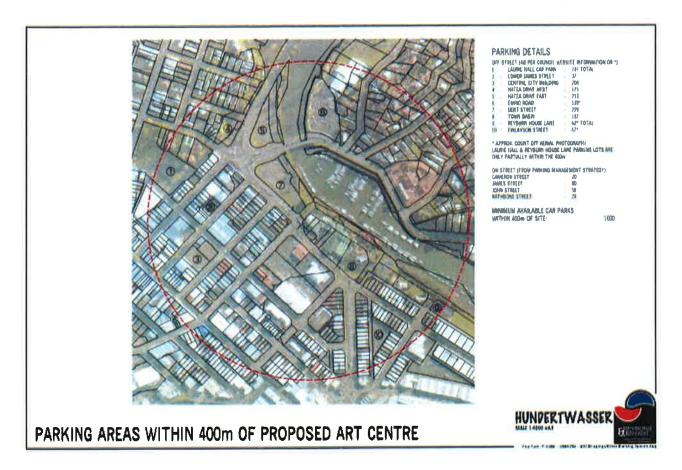
There is an existing 2m building line restriction which will be marginally encroached by the proposed building and a small portion of the existing road reserve will also be encroached in the same location. It is proposed to close the road where this encroachment occurs. The written consent of Council's Roading Manager has been received to allow for the encroachments.

Given the very minor extent of the infringement and that the written approval of WDC's Roading Division has been obtained it is considered that any adverse effects in respect to traffic safety as a result of the proposed infringement to the building line restriction will be less than minor.

The applicant has confirmed that the proposal will comply with Rule 43.2.5(b) (Traffic Movements) and specifically those relating to sightlines for Arterial Roads. Whilst no car parking is provided on-site the existing areas of car parking that are likely to be used by the Arts Centre will provide vehicle entrances that comply with the required minimum sight distances.

It is considered that any adverse effects in respect to parking and traffic will be less than minor. Rule 43.3.4(d) provides for car parking standards in the Town Basin Environment. In this instance where the required (43) car parking spaces are not able to be provided on site that Rule 43.3.4(d) enables these to be provided on an alternative site (or sites) within a 400m walking distance where there is a legal agreement in place. In this instance the applicant has provided confirmation that that there are in excess of 43 spaces available in various Council owned parking buildings and areas that are located within 400 metres of the site. A letter has been provided with the application from WDC Roading confirming the availability of spaces. These spaces are identified on the plan below:





The available spaces include off-street parking and on-street parking. In total there are approximately 1600 spaces within 400 metres of the site. This includes 229 car parking spaces located immediately adjacent to the west of the site, labelled as "7" on the above plan.

This is considered acceptable in this instance and a legal agreement is not necessary, given the Council is both the applicant and the consent authority. Because the car parking will comply with Rule 43.3.4 any adverse effects relating to car parking will be nil.

With respect to functions within the building, the applicant has confirmed that these will be infrequent and limited to gallery openings only. The applicant has also confirmed that there will be no events such as conferences or theatrical shows that could attract large numbers of people and therefore would not generate a higher car parking demand. Furthermore it is noted that the ancillary activities such as the cafe and retail will be directly associated with the Arts Centre and the car parking requirement for the proposal has been calculated to include these activities.

The proposal will result in 5 existing spaces being "displaced". The applicant has confirmed that these are informal spaces which have not been included in as part of the Councils Car Parking Management Strategies. Notwithstanding the above, it is considered given the availability of parking in the immediate vicinity, including on the adjacent land to the west of the site, that the loss of these spaces will not result in any adverse amenity or car parking effects.

Cumulative Effects

In this instance the proposed activities will not generate any cumulative effects of an adverse nature that could be described as minor (or more than minor). This is because of the proposed infringements to the development controls, and in particular the maximum height control will not result in a cumulative adverse visual impact. The overall scale of the proposed building is considered to be compatible with the existing and future scale of development on adjacent sites. Furthermore the scale and nature of the proposed activities



are considered compatible with the activities within the Town Basin Environment. The proposed car parking is also considered acceptable as this will comply with Rule 43.3.4(d) and will not result in any cumulative adverse effect. This is because there are approximately 1600 car parking spaces available within 400metre of the site, which include 229 car parking located immediately adjacent to the western boundary.

Further to this, all of the effects associated with the proposed activity have been assessed to be less than minor. These effects will largely be entirely confined within the site and therefore will not act together with, or combine with, the effects from other activities occurring in the surrounding area.

Conclusion

In summary, having assessed the adverse effects of the activity on the environment, it is considered that the activity will have less than minor adverse effects on the environment. It is therefore recommended that the application proceed without full public notification.

Special circumstances - section 95A(4)

Section 95A(4) of the Act states that a consent authority may also publicly notify an application for resource consent if it decides that special circumstances exist in relation to the application.

Special circumstances" have been defined by the Court of Appeal as those that are unusual or exceptional, but they may be less than extraordinary or unique (Peninsula Watchdog Group (Inc) v Minister of Energy [1996] 2 NZLR 529). With regards to what may constitute an unusual or exceptional circumstance, Salmon J commented in Bayley v Manukau CC [1998] NZRMA 396 that if the district plan specifically envisages what is proposed, it cannot be described as being out of the ordinary and giving rise to special circumstances.

In Murray v Whakatane DC [1997] NZRMA 433, Elias J stated that circumstances which are "special" will be those which make notification desirable, notwithstanding the general provisions excluding the need for notification. In determining what may amount to "special circumstances" it is necessary to consider the matters relevant to the merits of the application as a whole, not merely those considerations stipulated in the tests for notification and service.

It is considered in this instance that there are no special circumstances surrounding this application to warrant public notification under s95A(4). Firstly the proposed activities being a art centre will provide activities that are anticipated by the District Plan on this site within the Town Basin Environment and therefore the activities themselves are not considered to be out of the ordinary or giving rise to special circumstances.

Whilst the proposed building is an unconventional design, the only reasons why resource consent is required relate to development control infringements (building height, setback and building line restriction). The design of the building whilst being unusual is not considered to be a "special circumstance" as defined by RMA case law and in fact the design could be easily altered to comply with the relevant development controls of the Town Basin Environment so that resource consent is not required. Those parts of the building that do not comply with the development controls, in particular the maximum height control, have been assessed to have less than minor adverse visual effects and the building is considered to be compatible with the scale and heights of existing and future buildings on adjacent sites.

It is also acknowledged in this instance because of the "iconic" design of the proposed building that there is likely to be a high level of public interest in the application. However this in itself is not considered to be a special circumstance, particularly given the generally minor extent of the development control infringements and the assessment above which has concluded that any adverse effects including visual effects will be less than minor.



Thus for these reasons, it is considered that there are no special circumstances to warrant public notification under section 95A(4).

Limited notification - sections 95B and 95E

If the application is not publicly notified, a council must decide if there are any affected persons and give limited notification to those persons.

In deciding who is an affected person under section 95E, a council:

- 1. may disregard an adverse effect of the activity on a person if a rule or national environmental standard permits an activity with that effect (i.e. council may consider the 'permitted baseline')
- 2. must disregard an adverse effect of the activity on a person that does not relate to a matter for which a rule or environmental standard reserves control or restricts discretion
- 3. must have regard to every relevant statutory acknowledgement made in accordance with a statue set out in Schedule 11 of the Act.

Further, and pursuant to s95E(3)(a), a council must not consider that a person is affected if they have given their written approval or pursuant to s95E(3)(b) it is unreasonable in the circumstances to seek that person's approval.

Assessment of localised environmental effects

Having regard to the above and after undertaking an analysis of the application, including any proposed mitigation measures, the adverse effects of the activity on the localised environment are discussed below:

In this instance, the matters discussed in the above effects assessment on the wider environment also apply to the localised environment. The proposed art centre activities are permitted activities in the Town Basin Environment (Western Town Basin and Town Basin Sub-Environments) and it can reasonably be expected that these are able to be located on the subject site. The scale and extent of the adverse localised effects as a result of the proposed building are considered to be compatible with the existing visual amenity values of properties along Dent Street and the surrounding area.

The proposed building will be compatible with the scale of buildings that are anticipated on adjacent sites within this part of the Town Basin Environment and the adjacent Business 1 Environment. The proposed infringements to the development controls including the maximum height and yard setbacks are relatively minor in terms of degree and extent and therefore any adverse localised effects considered to be less than minor in this regard.

Furthermore the application has demonstrated that the proposal will comply with the relevant traffic movements and parking standards for sites within the Town Basin Environment and therefore taking into account the permitted baseline any adverse effects on the existing road network will be acceptable in terms of what the district plan provides for,

Adversely affected parties

Having regard to the above assessment, whereby the adverse effects on the localised environment were found to be less than minor, the only person/party considered to be adversely affected by the proposal is the WDC Roading Division in respect to the Building Line Restriction infringement. The applicant has obtained their written approval and therefore in accordance with ss95D(1)(e) and 95E(3)(a)) of the RMA no adverse effects shall be considered in respect of this person/party.

The site is located within a Town Basin Environment with all adjacent sites to the west and east zoned as Town Basin Environment and those located directly opposite on Dent Street zoned as Business 1 Environment. The proposed building is considered to be suitably positioned on the site in relation to adjacent



properties, and as discussed above the overall scale and height of the proposed building is considered to be compatible with the anticipated scale of buildings on adjacent sites.

Because the infringements to the maximum height control relate to a small turret feature and spheres located on the columns it is considered that these elements of the building will not result in the building being visually over dominant when viewed from adjacent sites. Furthermore any shading of adjacent sites is considered to be negligible particularly when the permitted baseline is taken into account. This has been confirmed by the Visual Assessment prepared by Simon Cocker that was lodged with the application, who has stated that: "It [the turret[] will not however, obscure any views of importance from any viewpoint and will only create short duration shading above that created by the permitted structure."

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That pursuant to Sections 95A- 95F of the Act, this application proceed on a non-notified basis because:

- 1. The overall adverse effects on the environment including any adverse, visual or amenity effects will be less minor because the proposed building will be compatible with the character and visual amenity of the surrounding area.
- 2. No persons have been determined to be adversely affected by the proposed development.
- 3 There are no special circumstances to warrant public notification.

M141804C	
Daylor action	26 February 2013
Dylan Pope Environmental Planner (Consents)	Date
Asbrell.	
	13 March 2013
Giles Bramwell Independent Planning Commissioner	Date



Consideration Assessment - Non-Complying Activity

1 Processing Details

Reporting Planner Dylan Pope

Date of Report 27 February 2013

Section 37 n/a

2 Application Details

The application details, including the proposal have been detailed in Section 1 of the attached Notification Assessment. In addition, the reasons for consent, and the application site and the surrounding environment have been detailed in Sections 4 and 5 respectively of the attached Notification Assessment report.

3 District Plan Zoning/Environment and other Notations

The District Plan zoning/environment and other notations affecting the site have been detailed in Section 1 and 5 of the attached Notification Assessment.

4 Statutory Context

Section 104 of the Act sets out those matters that, subject to Part 2, a consent authority must have regard to when considering an application for resource consent. These matters include any actual or potential effects on the environment of allowing the activity, any relevant provisions of a plan or proposed plan, and any other matter the consent authority considers relevant and reasonably necessary to determine the application.

Pursuant to Section 104B of the Act, after considering an application for resource consent, a consent authority may grant or refuse the application, and if it grants the application, may impose conditions under Section 108 of the Act.

Pursuant to section 104D, Council must consider the 'threshold tests' for non-complying activities. Therefore Council may only grant a consent for a non-complying activity if it is satisfied that either:

- the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or
- the application is for an activity that will not be contrary to the objectives and policies of
 - o the relevant plan, if there is a plan but no proposed plan in respect of the activity; or
 - the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or
 - o both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.

5 Actual or Potential Effects on the Environment (Section 104(1)(a))

Section 104(2) of the Act allows the consent authority to disregard an adverse effect of the activity on the environment if the Plan permits an activity with that effect (i.e. the permitted baseline principle). This matter has been addressed in Section 6 of the Notification Assessment report and also applies to this consideration



The adverse effects of this activity have been addressed in Section 6 of the Notification Assessment report. This assessment also applies to this consideration. In order to mitigate these adverse effects conditions of consent relating to the following matters are recommended:

- 1. General Accordance Condition in order to ensure the effects considered within this application are consistent with those that result, a condition shall require the proposal to be given effect to in accordance with the information and details provided in support of the application.
- 2.Engineering Conditions required to ensure all engineering works are carried out in accordance with Council's Environmental Engineering Standards. In addition, Council's Consultant Engineering Officer, whose full report is on file, has recommended the additional conditions, which are summarised below:
- 3.Other Conditions such as requiring loading spaces to be identified; and a landscaping plan to be submitted for Councils approval;

The recommended conditions of consent from Councils Consultant Engineer relate primarily to the building having a minimum (habitable) floor level of 2.85m RL; and that a Council inter-departmental agreement be prepared to the satisfaction of the Senior Environmental Engineering Officer (SEEO) or their delegated representative which addresses the requirement to allocated not less than 43 existing parking spaces within 400m walking distance of the site. It is noted the applicant has now provided written confirmation from Councils Roading Manager that 43 spaces are available within a 400 metre walking distance of the site and therefore this recommended condition is not considered necessary in this instance.

The proposed redevelopment of the site will also result in some positive effects. This will include a public/community arts centre which will provide an important community facility which will create additional vibrancy to the site and surrounding area. The proposed Hundertwasser building is also likely to attract tourists and visitors to the area which would generate some economic benefits for Whangarei. In addition the visual amenity of the site will be improved by a new iconic building and as well as landscaping of the site.

The adverse effects have previously been assessed in section 6 of the notification assessment to be less than minor and certainly no more than minor. This includes adverse effects in respect of visual amenity values. There only person who is considered to be adversely affected in the WDC's Roading Division and the written approval of this person has been obtained. In accordance with ss95D(1)(e) and 95E(3)(a)) of the RMA no adverse effects shall be considered in respect of this person/party. No others persons are considered to be directly adversely affected to a minor (or more than minor) extent.

Subject to conditions of consent, the overall effects of the activity are considered to be acceptable, as the proposed redevelopment of the will be compatible with the existing visual amenity values in the surrounding environment.

6 Relevant Provisions of the Operative/Proposed Plan (Section 104(1)(b)(vi))

The Objectives and Policies of relevance to this application are contained in Chapters 5 and 26 of the Whangarei District Plan 2007. Because the District Plan is an effects based plan that many of the objectives and policies are not zone/environment specific. However the District Plan does contain specific objectives and policies for the Town Basin Environment and together with the effects based provisions these are considered to be most relevant to this application and this provides a clear direction for the type and form of development in this area of Whangarei:

Amenity Objectives

• 5.3.1

The characteristic amenity values of each Environment are maintained and, where appropriate enhanced.



• 5.3.2

Adverse effects on amenity values do not result in a reduction of amenity value below that which is desirable for people's health and safety.

Town Basin Objectives

• 26.3.1

A successful and cohesive staged development process for the wider Whangarei Town Basin.

26.3.2

The maintenance and enhancement of the special amenity, recreation and cultural values, including those of tangata whenua and sense of place unique to the maritime setting of Whangarei Town Basin and valued by the District.

26.3.3

Enhancement of diverse and compatible land use opportunities by taking advantage of the distinctive physical resources and natural precincts of the Town Basin area.

26.3.4

The avoidance, remediation or mitigation of the effects of staged development on the existing roading, amenity, landscape quality and sense of place of the Town Basin.

Town Basin Policies

26.4.1 Physical and Visual Linkages

To enhance physical and visual linkages between the Town Basin Environment and the coastal marine environment and between the Town Basin and the City Centre.

• 26.4.2 Amenity values

To protect and enhance the special amenity values (including the open space, nautical themes, human scale, cultural values (including those of tangata whenua) and cohesive development) of the Town Basin Environment.

26.4.3 Town Basin Activities

To provide for diverse and flexible land use activities, within the context of the predominant maritime and open space themes and the existing focus to activities which attract visitors to this Environment.

26.4.4 Adverse Effects

To carefully manage and mitigate effects of mixed use development in the Town Basin Environment, including, but not limited to, traffic generation, bulk and location of buildings, and cross boundary conflicts (e.g. glare and noise).

26.9 Western Town Basin Sub-Environment

• 26.9.1 Town Basin Activities

To provide for the complementary westward expansion of the existing Town Basin commercial and community precinct, subsequent to the reconfiguration of the arterial roading network.

• 26.9.2 Adverse Effects

To ensure development within the Western Town Basin Sub-Environment of a scale, intensity and character that is compatible with surrounding activity and the maritime setting of the Town Basin Environment.

26.10 Town Basin Precinct Sub-Environment



• 26.10.1 Town Basin Activities

To maintain the integrity and sense of place of the successful heart of the Town Basin, founded on the existing infrastructure, urban design and amenity resources.

In assessing the proposal against the relevant objectives and policies of the Plan it is considered that the proposal is consistent with these for the following reasons:

- The proposed arts centre will assist with providing a diverse range of land use activities within
 the Town Basin Environment. Furthermore the proposal will provide a community facility that
 will attract visitors to this part of Whangarei and will assist with creating additional vibrancy
 within the Town Basin area.
- The proposal will not result in adverse effects that extend beyond the boundaries of the site that are incompatible with the amenity values that are characteristic of, and anticipated within the Town Basin Environment. This includes visual amenity effects, which have been assessed to be less than minor. The design and location of the proposed building on the site is considered to be compatible with the existing visual amenity values of the surrounding area, which contains a range of commercial and community activities.
- The overall design of the building will assist with creating a sense of place. This will be achieved by providing a unique building which at the same time is of a scale, intensity and character that is compatible with surrounding activities and the maritime setting of the Town Basin Environment.
- The overall scale and height of the proposed building is considered to be appropriate having regard to the existing visual amenity values of the surrounding area. The building has been sited so that pedestrian and visual connections from Dent Street and the surrounding environment to the coastal marine area/MHWS are maintained. Furthermore this proposal will not restrict public access along the CMA as the building is setback a minimum distance of 26 metres from the MHWS.

7 Other Relevant Matters (Section 104(1)(c))

The following matters are considered relevant to making an appropriate consideration of this application:

Whangarei District Council - Arts Culture and Heritage Policy April 2009

The Whangarei District Council, Arts Culture and Heritage Policy April 2009 is considered to be a non-statutory planning document that is relevant to this application. This policy contains a number of 'goals' which include:

Goal 1 Council endorses the precinct concept outlined in Tapapa Toi and supports: the Town Basin as a heritage and culture experience precinct.

Comment In this context Council is endorsing these areas as general locations where activities and/or attractions of a similar nature form a natural cluster. There is no specific expectation that all new developments within a category are allocated within these precincts; it is simply acknowledged that there are benefits in locating similar activities in close proximity to each other.

Goal 2 Council fully supports development of the Town Basin as an experience precinct.

Comment The Town Basin should become a 'must see' component of the City, creating a big draw card both for the community and visitors. A significant building such as the proposed Hundertwasser Museum could be a compelling experiential building and could be supported with other Town Basin buildings for the Museum and Heritage Park exhibits and those of the Whangarei Art Museum. Tangata Whenua also want a



presence in this area. Clapham's Clock Museum and Reyburn House also add a significant component of the overall experience.

It is considered that the proposed arts centre within a building designed by Hundertwasser will be entirely consistent with the goals of the Whangarei District Councils Arts, Culture and Heritage Policy April 2009 as this will provide a community arts centre/facility in the Town Basin Environment and will assist with the town basin becoming an important attraction for the community and visitors.

8 Part 2 Matters

When considering matters pursuant to section 104, Council must give effect to Part 2 of the Act. As such the following comments are made in regards to Part 2 matters:

Section 5- Purpose of the Act

In terms of Part 2 of the Act, the proposed activity must meet the purpose of the Act set out in section 5 which is "to promote the sustainable management of natural and physical resources." A definition of sustainable management is provided within Part 2 of the Act. It is considered that the proposal is in accordance with the purpose of the Act as it is promoting the sustainable management of natural and physical resources i.e. land and buildings. Furthermore the proposed activity constitutes development of land which enables people to provide for their social, cultural and economic wellbeing.

Section 6- Matters of National Importance

Section 6 of the Act highlights matters of national importance that shall be recognised and provided for in order to achieve the sustainable management purpose of the Act. In this instance Section 6(a) and Section 6(d) are both considered to be matters of national importance that are relevant to this application. These are:

- Section 6(a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them inappropriate subdivision, use and development
- Section 6(d) The maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers.

Because the site is located within an urban environment the degree of natural character has been significantly modified. This includes the site containing an existing building, car parking spaces and other impermeable surfaces. Therefore the degree of natural character is at the lower end of the spectrum. Furthermore the building is setback 26 metres from the MHWS and this separation distance will ensure that the building is not visually over dominant and that an appropriate area/width is maintained adjacent to the MHWS for public access.

Section 7- Other matters

Section 7 of the Act lists other matters that particular regard shall be given to in order to achieve the purpose of the Act. The matters that relate to this proposal are the efficient use and development of physical resources and the maintenance and enhancement of amenity values. The proposal is considered an efficient use and development of the existing natural and physical (land and existing buildings) resources as it enables land to be used for community purposes in a manner that is compatible with the physical environment in which the site is located, while resulting in less than minor effects on the site and surrounding locality. It is also considered that the proposal maintains the existing visual amenity values in the area as the building will be consistent with the visual amenity values that are currently present in the surrounding area.

Section 8- Treaty of Waitangi

Section 8 is considered irrelevant to this application as the proposal does not relate to the principles of the Treaty of Waitangi.



9 Conclusion and Recommendation

Having considered the application against the relevant provisions of the Act, it is recommended that this application be granted, subject to the conditions identified in Part 5 of this report that will avoid, remedy or mitigate any adverse effects of the activity on the environment.

The reasons for this recommendation are as follows:

- Pursuant to section 104D (1)(a) any actual or potential effects on the environment are considered to be **less than minor** because the overall design of the building is compatible with the existing visual amenity values of the surrounding area. Any adverse effects on the visual amenity, character and streetscene are assessed to be less than minor.
- Pursuant to section 104D(1)(b) it is considered that the proposal will not be contrary to the relevant objectives and policies of the of the operative District Plan because a new arts centre in the Town Centre Basin will assist with providing a diverse range of land use activities in this area which will assist with creating additional vibrancy and will provide a community based facility that will attract visitors to this part of Whangarei. Furthermore the overall design will create a unique building which at the same time is of a scale, intensity and character that is compatible with surrounding activities and the maritime setting of the Town Basin Environment.
- 3 There are no other relevant matters relevant to the consideration of this application.
- 4 The proposal is consistent with Part 2 of the Act



Prosper Northland Trust

Contact details