

**SUMMARY STATEMENT OF MACIEJ WIKTOR LEWANDOWSKI ON BEHALF OF
WELHOM DEVELOPMENTS LTD**

PLANNING

1. SUMMARY OF EVIDENCE

- 1.1 My planning assessment relates to the proposed Private Plan Change ("**Plan Change**") to rezone approximately 14.7ha of land in the northern fringe of the Masterton township ("**Site**"). The purpose of this statement is to provide the Hearing Panel ("**Panel**") with a summary of my evidence.
- 1.2 With reference to the assessments prepared by various subject matter experts, I consider that the environmental effects resulting from the Plan Change will be no more than minor. The Plan Change appropriately seeks to rezone the Site for residential purposes. Further, I also consider that a range of positive effects will result from the Plan Change.
- 1.3 In respect of traffic and infrastructure effects, with reference to the evidence of Mr Georgeson, Ms Muirson and Mr Brents, I consider that the provisions of the Combined Wairarapa District Plan ("**District Plan**"), including the changes proposed through the Plan Change, can appropriately address any remaining effects through a subsequent resource consent process.
- 1.4 The Plan Change is consistent with the relevant statutory requirements and policies. I consider that the National Policy Statements on Urban Development ("**NPS-UD**"), and National Policy Statement for Highly Productive Land ("**NPS-HPL**"), are of primary relevance to the Plan Change.
- 1.5 In respect of the NPS-UD, I assess that the Plan Change is consistent with the relevant objectives and policies. In particular, I consider that the Plan Change will achieve a well-functioning urban environment as defined by Policy 1. I consider, with reference to the evidence of Mr Georgeson, that resulting development will achieve an appropriate level of accessibility between the Site, the Masterton town centre and other amenities. This will include by active modes through existing connections to existing transport corridors, and by not precluding future improvements and the provision of future public transport services.
- 1.6 In respect of the NPS-HPL, and with reference to the evidence of Messrs Allen and Heath, I consider that the Plan Change meets the particular

considerations of Clause 3.6 relating to the rezoning of highly productive rural land as outlined in my evidence.

- 1.7 Under Subclause 3.6(5) of the NPS-HPL, territorial authorities must ensure that the spatial extent to be rezoned is the minimum necessary to provide for the required development capacity while achieve a well-functioning urban environment. I consider that it is appropriate to rezone the Site as a whole to provide for the balance of the Site as residential development. Doing so will ensure that a future retirement village sits within a broader residential context and a variety of housing, consistent with a well-functioning urban environment. To leave a small portion of the Site rurally zoned would further exacerbate the fragmentation seen in the area, it would be incredibly difficult to utilise the small balance lot for productive purposes without disrupting the numerous residential neighbours. Therefore, it is crucial to ensure that whole Site is rezoned.
- 1.8 Regarding the Regional Policy Statement for the Wellington Region ("**RPS**"), my assessment in the Request application finds that the Plan Change achieves consistency with the RPS.
- 1.9 I have noted in my evidence that a Proposed Change ("**PC1**") has been notified to the RPS. In my assessment limited weight should be afforded to PC1 given its stage of development. Notwithstanding that view, I consider that the Plan Change nevertheless achieves consistency with PC1.

2. MATTERS OF AGREEMENT

- 2.1 I agree with Ms Barr that the Masterton Urban Growth Strategy ("**MUGS**") is not a required consideration under section 74(2)(b)(i). Similarly, I also agree that the Draft District Plan ("**DDP**") is not a statutory document under the Resource Management Act 1991 ("**RMA**"). However, as discussed in further detail below I disagree that they should be ignored.
- 2.2 Ms Barr accepts the Council's advisor's opinion that the infrastructure concerns raised in the s42A Report can be considered at the resource consenting stage, rather than during the plan change process. I agree with this conclusion.
- 2.3 Ms Barr proposed changes to Standard 5.5.2(o) of the Residential Zone provisions to clarify the applicability of this standard to the area of the Site where the retirement village is proposed. Ms Barr also proposed minor changes to other proposed amendments to improve legibility. I agree with

these changes as detailed in my evidence and have incorporated these into the amendments to the plan change provisions in Appendix 2 to my evidence.

3. KEY OUTSTANDING ISSUES

Consideration of Masterton Urban Growth Strategy and Draft Combined Wairarapa District Plan

- 3.1 I note my disagreement with Ms Barr regarding the relevance of the MUGS and DDP. While I accept that there is a determination needed as to what weight should be afforded to these documents, I disagree that they should be ignored. Both documents provide useful context on the Council's strategic approach to future growth.

Response to submitter evidence

- 3.2 I have reviewed the four statements of evidence provided by Waka Kotahi. I comment on these below, in particular those from Ms St Amand and Ms Speight.
- 3.3 Ms St Amand is correct¹ that the sole vehicular connection of the Site is through the Cashmere Oaks Drive and SH2 intersection. However, pedestrian and bicycle connection is also available through to Miro Street to the south as shown in **Figure 1** below.



¹ Paragraph 6.1.

Figure 1. View of the constructed pedestrian and bicycle connection from Cashmere Oaks towards Miro Street.

- 3.4 In turn, that will also lead towards SH2 and the Masterton town centre, and connect to SH2 where it operates at a 50km/h speed limit. Mr Georgeson has highlighted the proximity from Miro Street to other potential transport network connections.
- 3.5 I note as a matter of interest that the letter of assurance provided by Waka Kotahi, as appended to Ms St Amand's evidence, outlined the majority of the Site as (then) forming a part of the Opaki Growth Area. While ultimately not included in the District Plan, it highlights the long standing consideration of the Site as a location for urban development.
- 3.6 At paragraph 6.8 of her evidence, Ms St Amand agrees with Ms Barr regarding the applicability of the DDP and MUGS. For the reasons I have outlined in my evidence, and paragraph 3.1 above, I disagree. Both are relevant documents that can and should be considered.
- 3.7 At paragraph 7.2 Ms St Amand queries how the northern and southern transport connections (I presume those identified on the proposed Outline Development Plan ("ODP")) are intended to interact, spread traffic through the roading network, address traffic safety or how they might relate to urban form and function.
- 3.8 The purpose of the ODP is to indicate the potential for future connections. It outlines the proposed connection into the Site. Further connections beyond that are not confirmed through the ODP, but the possibility for such connections is highlighted, and would support the direction of the DDP in identifying the Site as part of a Future Urban Zone.
- 3.9 At Section 9 of her evidence, Ms St Amand discusses the activity status and consent requirements of future development. At paragraph 9.2, she considers that a controlled activity subdivision would not provide for the consideration of safety effects at the intersection of Cashmere Oaks Drive and SH2 or wider transport effects.
- 3.10 I have considered Rule 20.1.1 and the matters of control provided by it. Matter (i) is relevant, and sets out the following matter of control (emphasis added):

The design and layout of the subdivision, including the size, shape and position of any lot, any new road, the provision of footpaths and cycleways, provision of linkages to existing roads, access over the railway, access, passing bays and

manoeuvring standards, any necessary easements, or the diversion or alteration to any existing roads.

- 3.11 This matter of control should also be read with reference to the assessment criteria contained in Section 21.1.1. Clause 21.1.1(a)(ix) states (emphasis added):

The cumulative impacts on infrastructure and its efficient use and development, including the capacity, safety and efficiency of the roading and rail network, and the ability of the area's utility services to function efficiently.

- 3.12 I disagree with Ms St Amand that cumulative and safety effects cannot be considered under this rule, or that effects on the wider traffic network cannot be considered.

- 3.13 In respect of proposed Rule 5.5.3(e), Ms St Amand considers that the scope of the matters of control are unclear, it only applies to a part of the Site, safety interventions may not align with Waka Kotahi requirements, and that not all transport infrastructure issues are considered. I disagree. The relevant matter, as amended by my suggested changes in **Appendix 2** of my evidence, addresses:

Roading, road safety, and the provision of access and parking spaces, specifically including:

- (a) Improvements and alterations to existing roads.
- (b) Safety improvements to the intersection of State Highway 2 and Cashmere Oaks Drive.
- (c) The provision for public transport facilities and infrastructure.
- (d) The provision of safe pedestrian and cycle access and connections to existing transport corridors and within the site.
- (e) The management of construction traffic effects.

- 3.14 The rule establishes that at a broad level roading and road safety matters are a matter of control. It then identifies a range of detailed matters to ensure that a higher degree of specificity in the Council's control is apparent. I consider such an approach to be appropriate.

- 3.15 Ms St Amand disagrees that Rule 20.1.5(j) as a discretionary activity subdivision rule would apply to the Site through its connection to SH2. While I note her view, it is the opinion of the Council, and its application of this rule

that is relevant. The Council has confirmed that the rule would apply to a subdivision of the Site. Access to the Site would be a direct extension of Cashmere Oaks Drive which is the road connecting to SH2.

- 3.16 I do not agree with her comment at paragraph 9.13 that all subdivision within Cashmere Oaks would have needed to be processed under this discretionary rule. The Cashmere Oaks subdivision was first consented, as a discretionary activity, through a Development Concept Plan. Subsequent stages of that Development Concept Plan were then consented as a controlled activity. If those latter stages were inconsistent with the Development Concept Plan overall, then Rule 20.1.5(j) may have been triggered.
- 3.17 In respect of her comment at paragraph 9.14 that a recent subdivision of the Site did not result in Waka Kotahi being notified of the subdivision, I understand that the subdivision was a boundary adjustment that did not create a new parcel. I see no reason why Waka Kotahi would have been notified in those circumstances.
- 3.18 Even in the event that Rule 20.1.5(j) were not applicable, I consider that the matters of control as outlined at 3.10 and 3.11 above, provide the Council with sufficient control to address related transport matters based on the density of development and resultant yield that could be provided for as a controlled activity.
- 3.19 Ms St Amand and Mr Connelly both comment on the degree of otherwise permitted development enabled by the Residential zone, and the ability to consider the traffic effects of that development. In particular they focus on non-residential development highlighting healthcare activities, community facilities, and education and childcare. I note that a key standard relating to non-residential activities is a limitation of no more than 2 non-resident employees (Standard 5.5.2(j)(iii)).
- 3.20 Non-compliance with that standard requires a resource consent as a restricted discretionary activity under Rule 5.5.4. The Council's discretion is restricted to:
- Avoiding, remedying or mitigating of any effects deriving from non-compliance with the particular standard(s), that is not met.
- 3.21 Traffic considerations would clearly become relevant where a non-residential activity were in breach of this standard through a non-compliance with off-site staff. This limits the scale of potential non-residential activities which is not acknowledged by Ms St Amand or Mr Connelly. I otherwise agree that some

non-residential activities are an expected part of any residential environment and consider that they add to the qualities that provide for a well-functioning urban environment. It is possible that some might establish on the Site. I do not however expect a proliferation of non-residential activities to establish in this area that fundamentally affect Mr Georgeson's traffic considerations.

3.22 Ms St Amand also seems to suggest that the overall Site could be developed with housing as a permitted activity without a resource consent. While I consider that the likelihood of such a scenario is negligible for practical reasons, if there is a concern about such a situation, a simple amendment could be made to standard 5.5.2(f) as follows:

(f) Number of dwellings

(i) The total number of dwellings per site shall be limited to that which enables each dwelling to meet the minimum lot area subdivision requirements for that site (Rule 20.1.2(a)).

(ii) For the land identified in Appendix 16, the total number of dwellings per site, not associated with a retirement village, is limited to 1.

3.23 I consider such a change can be made within the scope of the relief sought by the submission of Waka Kotahi, and/or as a consequential amendment. It would limit the number of dwellings to 1 per site, thereby ensuring that any further residential development (not related to a retirement village) would need to be preceded by a subdivision.

3.24 Relatedly, Mr Connelly at paragraph 55, states:

Additionally, the plan allows for (sic) two dwelling (sic) per lot.

3.25 The Plan does not allow two dwellings per lot. The Plan enables multiple dwellings per site, provided that each dwelling meets the minimum lot size for the zone.

3.26 At paragraph 10.11, Ms St Amand considers that the inclusion of matter (iv) within the proposed rule 5.5.3(e) confuses the rule because the rule applies "within the land identified as Residential/Retirement Village Development at Appendix 16". This is the heading of the rule, and she then omits the end of the heading which states:

Within the land identified as Residential/Retirement Village Development at Appendix 16, the construction and operation of a retirement village.

- 3.27 This is the heading of the rule which identifies its purpose. There is nothing about the heading of the rule that precludes the matters of control being applied on their face i.e. for safety improvements to occur at the intersection of Cashmere Oaks Drive and SH2.
- 3.28 I note that Mr Connelly addresses construction management at paragraphs 126 and 127 of his evidence. An updated set of District Plan changes, outlined at **Appendix 2** of my evidence, specify construction traffic effects as a matter of control relative to a retirement village.
- 3.29 At paragraph 10.13, Mt St Amand considers that Waka Kotahi may withhold its approval to any safety improvements at the intersection of SH2 and Cashmere Oaks Drive. Or that such an approval may be provided with conditions that fetter the ability of a resource consent to be given effect to. Ms St Amand is suggesting that Waka Kotahi would oppose safety improvements because those improvements do not satisfy the demands of Waka Kotahi, notwithstanding that Mr Muirson's and Mr Georgeson's evidence is that such interventions are appropriate.
- 3.30 Ms St Amand considers that a more appropriate rule framework to be based on a discretionary activity standard for both subdivision and a retirement village, and an associated structure plan.
- 3.31 This view is grounded in a more fundamental disagreement as to what improvements are required to the SH2 and Cashmere Oaks Drive intersection. Mr Georgeson and Ms Muirson are of the view that the intersection can safely and efficiently accommodate the additional traffic generation from subsequent development. Resultingly, I consider that the nature of any intervention required can be provided for under the proposed controlled activity rule for the retirement village, and the discretionary (or controlled) subdivision rule.
- 3.32 I do not agree that a structure plan is a necessary precursor to development of the Site. The Site is a 14.7 hectare allotment, the majority of which is proposed to be developed for the purposes of a retirement village. Such a village will be master planned. The Plan Change seeks to insert an ODP which serves to identify the Site, but also picks up some key elements of what a structure plan would achieve in any event.

- 3.33 I do not consider that there are sufficient matters requiring specific management that necessitate a structure planned approach. A zone based approach, as proposed, is in my view appropriate. I consider, again in reliance on Mr Georgeson and Ms Muirson, that the scope of interventions required to address traffic safety matters are appropriately provided for. Existing and proposed District Plan provisions provide for other mode share considerations, along with existing infrastructure that includes the Miro Street connection.
- 3.34 I do not consider that the retirement village rule requires specific reference to cumulative effects as suggested by Ms St Amand. The rule provides for the consideration of roading effects at a broad level. The definition of effect includes cumulative effects. As already addressed at 3.10, cumulative effects will be considered through any subdivision resource consent process.
- 3.35 Ms St Amand considers the NPS-UD at section 11 of her evidence. She notes at paragraph 11.4 that an “overall theme in part 2 is to achieve a well-functioning urban environment”. She considers that there are a number of ways in which that can be achieved, and she suggests that the NPS-UD calls for integrated planning decisions in order to achieve that outcome, with reference to Objective 6.
- 3.36 Objective 1 of the NPS-UD seeks that New Zealand has well-functioning urban environments. A well-functioning urban environment is defined by Policy 1, not Objective 6 or other objectives or policies. Objective 1 does not have any primacy in the structure of the NPS-UD and there is no overall purpose statement to the NPS-UD (unlike, for instance, the National Policy Statement for Freshwater Management). Objective 6 does not speak to whether a well-functioning urban environment is achieved.
- 3.37 At paragraph 11.10, Ms St Amand highlights Policy 1(c) and Policy 5. Policy 1(c) requires that urban environments have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport. Ms St Amand acknowledges at paragraphs 4.8 and 11.14 that the Site is in good proximity to these amenities, but it is the nature of the connections with which she isn’t satisfied. Ms Speight also notes at paragraph 1.8 of her evidence that Waka Kotahi is not opposed to development occurring to the north of Masterton.
- 3.38 As detailed in my evidence, and the evidence of Mr Georgeson, the Site will link to existing connections via Cashmere Oaks Drive, and through Miro Street. I consider these connections to be suitable and note that they can also

be improved in future along with wider network improvements and additions. It is not uncommon that infrastructure investment is an ongoing issue, as evidenced by comprehensive investment in cycleways occurring across New Zealand, including through changes to State Highway environments.

- 3.39 I do not see the relevance of Ms St Amand's reference to Policy 5. The policy speaks to enabling height and density requirements. As noted in my evidence, the Council will appropriately consider this policy through its District Plan review.
- 3.40 Ms St Amand considers the RPS at section 12 of her evidence. I have provided an assessment of the RPS where I consider that the Plan Change achieves consistency with it. Ms St Amand's difference of opinion is borne out of a fundamental disagreement on the efficient and safe operation of the transport network, and the suitability of multi-modal and public transport options. I have addressed these matters and reach a different conclusion in reliance on the views of Mr Georgeson and Ms Muirson.
- 3.41 Ms St Amand also raises Objective 10, and Policies 7, 8 and 39 relating to regionally significant infrastructure. Again, the genesis of her concerns in respect of these provisions lies in a disagreement on the safe and efficient operation of the SH2 and Cashmere Oaks intersection. Based on the evidence of Mr Georgeson and Ms Muirson, I disagree. She also notes at paragraph 12.5 that the Plan Change "will not result in good urban form and function or promote a compact, well designed urban form". I consider her views around not resulting in a good urban form, or maintaining a compact urban form, inconsistent with her views expressed at paragraphs 4.8 and 11.14 of her evidence, and that of Ms Speight at her paragraph 1.8.
- 3.42 At paragraph 12.10 Ms St Amand describes the proposal as relying on existing infrastructure designed for a future urban area in a rural context. Designing for a future urban area would suggest to me that the area is no longer rural in nature. Ms Speight at her paragraph 8.6 also describes the road as being in a rural context. The urban development along this stretch of SH2 is plainly evident, and this ongoing change does not appear to have been responded to through the management of the State Highway. A quick review of the zoning for this area clearly shows a strong urban context from the south, to the north of the Cashmere Oaks Drive intersection, before changing to a rural environment.
- 3.43 Relatedly, Ms St Amand highlights Policy TT1(a) of the District Plan at paragraph 12.12. The policy states:

Identify and manage a hierarchy of roads within the Wairarapa to ensure that the function of each role is recognised and protected in the management of subdivision and land use.

- 3.44 The District Plan has given effect to this policy through its roading classification. It is the evidence of Mr Georgeson and Ms Muirson that the Plan Change can be accommodated within the existing environment. Contrary to her statement at paragraph 12.16, the Plan Change does provide for intervention in the wider roading environment. The point of disagreement concerns the nature of the intervention required.
- 3.45 Ms St Amand then considers that utilising the Future Development Area framework of the District Plan to be more appropriate. I agree that a Future Development approach can be warranted at times. Clearly there were a number of areas that were identified as such during the development of the current District Plan.
- 3.46 I am not sure why Ms St Amand has referenced Policy 18.3.11(e) relating to the Greytown Future Development Area. I assume as the policy references the need for a structure plan to be prepared, she considers such an approach is required here. I note that the Opaki Future Development Area, where Cashmere Oaks has been developed, does not have an equivalent policy and has been developed without a structure plan.
- 3.47 Rather, the approach in the Opaki Future Development Area was through the District Plan framework requiring a Development Concept Plan to be prepared and approved, as a precursor to future development. I note the findings of the Environment Court in *Queenstown Airport Corporation Limited v Queenstown Lakes District Council* in considering such a two-stage approach to be *ultra vires*.²
- 3.48 Notwithstanding those views, I do not consider that a structure planned approach is necessary. The Site is comparatively small at 14.7 hectares and will be principally occupied by a retirement village. A small balance of the Site will be available for traditional residential development. There are no special features to be managed, infrastructure connections are available at the boundary and (notwithstanding differing views) Mr Georgeson and Ms Muirson consider that the traffic effects can be suitably addressed.
- 3.49 Relatedly, I do not support Ms St Amand's view at paragraph 11.7 that rezoning of the Site is more appropriately considered through the review of

² [2014] NZEnvC 93.

the District Plan. One of the drivers for the Request was as a result of the timing of the review process. The Requestor is entitled to rely on the private plan change process as a means to advance this proposal.

- 3.50 Ms Speight also notes, including at her paragraph 5.19 that the Site is not identified by the Wellington Regional Growth Framework (“**WRGF**”). As I have noted in my evidence, the WRGF maps growth locations very coarsely. I accept that the Site is not specifically identified at this scale. The WRGF does appear to identify greenfield growth at the northern edge of Masterton. It is suggested that this references the existing Cashmere Oaks subdivision. I simply note therefore that the WRGF, as a future growth strategy, appears to map an area already consented, and in large part developed, for future growth purposes. I also highlight the advice recorded in my evidence that the Draft District Plan is superseding the WRGF.
- 3.51 Requiring future development to be recognised in the WRGF or other planning document is inconsistent with Policy 8 of the NPS-UD which requires local authority decisions to be responsive to plan changes that would add significant development capacity.
- 3.52 Ms St Amand also references the inclusion of the Waingawa Structure Plan in the District Plan, with reference to necessary roading improvements in that area. I do not have a detailed familiarity with the area and accept the Structure Plan at face value. I simply note that Mr Georgeson and Ms Muirson do not consider there is a necessity for greater interventions in this instance than what are provided for.
- 3.53 I also note that the Plan Change seeks to include an ODP to guide future development of the Site and note that the development of the site for retirement village purposes, as evidenced by Mr Smail, would occur promptly. The necessity for a Future Development Area overlay over an underlying residential zone in this context is further unnecessary. This situation contrasts with the delay between the Opaki Development Area being identified in the District Plan and subsequently developed.
- 3.54 Ms St Amand concludes with an examination of the financial contributions chapter of the District Plan. She focusses on 23.4.2(e) of the District Plan which provides:

A reasonable share of the cost of new or upgraded roads or access where additional capacity or safety improvements are necessary to accommodate the cumulative effects of the development within an area. The share will be calculated on

the proportion of additional traffic likely to be generated by the development.

3.55 Her concern is that there is a need to agree on the infrastructure required to accommodate that additional growth in order to determine a reasonable share. Ms Speight at paragraph 1.9(d) of her evidence also notes that the development will put financial pressure on road controlling authorities. I note again that Mr Georgeson and Ms Muirson disagree with the nature of interventions required.

3.56 I also note that Ms St Amand ignores the financial contribution that would apply in respect of roading. Standard 23.4.1(a) requires (emphasis added):

As a condition of a land use resource consent for any residential, commercial, or industrial activity towards particular works of one or more of the types referred to in sections 23.4.2(a) to (f) and a contribution under section 23.4.2(g) provided that a roads, access and loading contribution towards those particular works and a contribution under 23.4.2(g) have not already been made at the time of the subdivision creating that lot or under the relevant Council's Long Term Council Community Plan.

3.57 An equivalent standard applies to subdivision under 23.4.1(b), and to permitted activity development (23.4.1(c)).

3.58 Standard 23.4.2(g) then provides for:

For subdivision, a general district-wide roads, access and loading contribution of 2% of the land value of each allotment to be created in the Residential, Commercial and Industrial Zones (plus GST).

3.59 While I note that 23.4.2(g) refers to 'subdivision' I consider that because 23.4.1(a) refers to 23.4.2(g) in the context of a land use consent, that 23.4.2(g) would be applicable to a land use consent. In particular, 23.4.1(a) specifically contemplates a contribution under 23.4.2(g) for land use consent applications where a contribution has not already been made under 23.4.2(g) at subdivision stage.

3.60 I also note that the purpose of such contributions, as set out in 23.4.4(a) is to:

[P]rovide for the safe and convenient movement on roads of motor vehicles, bicycles and pedestrians within and through the Wairarapa.

3.61 Resultingly, both a future retirement village, and a subdivision of the balance of the site will make a general roading financial contribution. I do not agree

with Ms St Amand, based on the evidence of Mr Georgeson and Ms Muirson, that such a contribution is required under standard 23.4.2(e) relating to a specific infrastructure upgrade. I note that Ms Barr considers that the development is not unusual in the type of financial contributions that might be considered necessary and section 23 covers the circumstances where a contribution is required.

4. CONCLUSION

- 4.1 In my assessment the Plan Change appropriately seeks to rezone the Site for residential purposes. It provides a framework to appropriately manage the environmental effects of resultant development, will achieve a well-functioning urban environment as required by the NPS-UD, and appropriately seeks to rezone land identified as being highly productive through the NPS-HPL.

Mitch Lewandowski

8 March 2022