

**WELHOM DEVELOPMENTS LIMITED PRIVATE PLAN CHANGE HEARING**  
**S42A ADDENDUM OF MEGAN BARR ON BEHALF OF MASTERTON DISTRICT**  
**COUNCIL**

**1.0 INTRODUCTION**

- 1.1 This s42A Addendum covers the following matters:
- Masterton Urban Growth Strategy 2019 (MUGS);
  - Draft Combined Wairarapa District Plan 2022 (DDP);
  - Rule 20.1.5(j) of the Operative Combined Wairarapa District Plan;
  - Matters arising during the hearing and rebuttal evidence;
  - Outstanding issues; and
  - Conclusion and recommendations.

**2.0 MASTERTON URBAN GROWTH STRATEGY 2019 (MUGS)**

- 2.1 At the request of the Hearing Panel, I sought additional information from Masterton District Council about the Masterton Urban Growth Strategy 2019 (MUGS). Council officers provided the following additional information:
- MUGS was commissioned by Sue Southey (then Planning Manager) in 2018 as a document to inform Council about why a review of the Operative District Plan was required.
  - Boffa Miskell was engaged by Council to prepare the MUGS report and Ms Southey was involved in the report's development.
  - The MUGS report was an internal document only and was not shared with the community or notified for submissions.
  - The MUGS report is not publicly available. It is not clear how Welhom became aware of the report, but Council supplied a copy of the report to Welhom when they requested it.
  - The MUGS report was not presented to elected Council members until 2022 and has not been adopted or endorsed by Council. Instead, Council has decided to have the document reviewed and updated.
- 2.2 The Hearing Panel specifically asked what the functional relationship is between MUGS and the Draft Wairarapa Combined District Plan, and between MUGS and the Wellington Regional Growth Framework. As noted above, MUGS was commissioned to inform Council as to why a review of the Operative District Plan (ODP) was required. The MUGS report was used as an internal document only and was not presented to elected Council members until 2022.
- 2.3 Regarding the Wellington Regional Growth Framework (WRGF) I sought advice from Joanna Laurenson, Principal Planner at 4Sight Consulting, who was one of the principal authors of the WRGF. Ms Laurenson advised that she was not aware of the MUGS report and that it was not reviewed or referenced in the development of the WRGF. This is consistent with the advice from Council that MUGS is not

publicly available and the fact that Council hasn't adopted or endorsed the MUGS report.

- 2.4 I confirm that it remains my opinion that MUGS is not a relevant consideration for the purposes of this Plan Change. Further, even if MUGS is considered relevant, it should be considered to have lesser status when weighed against the policy direction of the Draft Wairarapa Combined District Plan 2022 (DDP).

### 3.0 DRAFT COMBINED WAIRARAPA DISTRICT PLAN 2022 (DDP)

3.1 The Hearing Panel also requested additional information regarding the development of the Draft Wairarapa Combined District Plan 2022 (DDP). The chronology and current status of the DDP is as follows:

- The first phase of the DDP was a review of the Operative Wairarapa Combined District Plan (ODP), which commenced in January 2021.
- The second phase of the DDP was District Plan drafting, which commenced in January 2022.
- The DDP was publicly notified on 25 October 2022 with feedback from the public invited from 25 October 2022 to 6 December 2022.
- The third and final phase of the DDP is notification and finalisation. The DDP is expected to be formally notified as the Proposed Wairarapa Combined District Plan in mid-August 2023.

3.2 The DDP includes a Future Urban Zone (FUZ), as a Special Purpose Zone, that corresponds to area C03 identified in the MUGS report. This FUZ includes the Site.



Figure 1: Excerpt from Draft Wairarapa Combined District Plan Zoning Map (FUZ shown in grey)

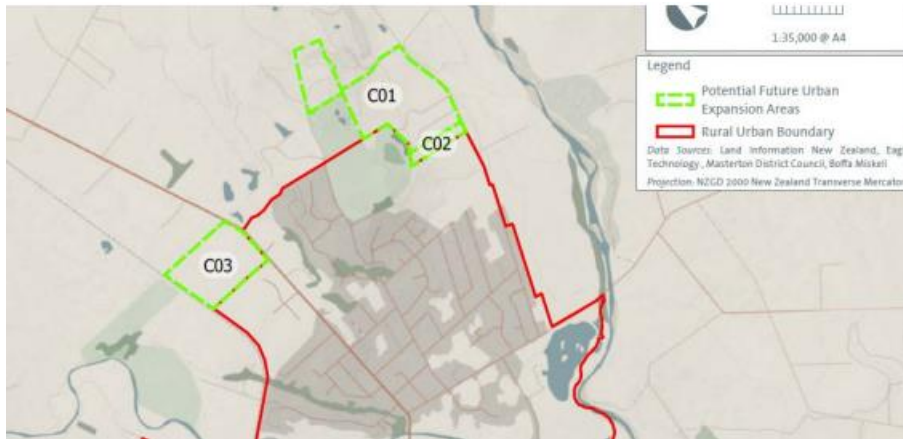


Figure 2: Excerpt from Map 5 of MUGS showing area C03

3.3 The description of FUZ in the DDP includes the following statements:

*“The Future Urban Zone applies to land that has been identified as being suitable for future urbanisation and seeks to manage the transition from rural to urban uses.”*

*“Each of these areas requires further consideration of specific matters for future land development. This can include matters such as potential development capacity, ease of integration with existing or planned infrastructure, funding and availability of community services, and natural hazards.”*

*“When the land is ready to be developed for urban purposes, it will be rezoned to enable that to occur (e.g., to a residential or commercial zone). The strategies, plans, and other work undertaken to identify areas suitable for future development have also identified that some further requirements such as structure planning or master planning for infrastructure and transport networks will be required. These requirements ensure that development progresses in an integrated and cohesive way.”*

*“Until such time as the additional requirements are completed and the land is rezoned, land within this zone may be used for a range of rural activities such as agricultural, pastoral, and horticultural activities. Ad hoc subdivision and urban development, intensive rural activities, rural industries, and rural-lifestyle subdivisions are discouraged in the Future Urban Zone. These types of activities are restricted to limit the fragmentation of land so as to maintain the land’s character, amenity, and productive capability in the interim, and to ensure that land uses do not compromise the future urban use of the land.”*

3.4 Council has advised that this specific FUZ was envisaged as potentially providing additional development capacity in the medium term some 5-10 years from now.

3.5 Mr Lewandowski states, at point 3.1 of his summary statement, that the DDP should not be ignored and is of relevance to this Plan Change, noting that a determination is required as to the weight to be afforded to the DDP. It is my opinion that if the DDP is to be considered, then it should be considered holistically, and consideration should be given to the provisions of the DDP as well as the zoning.

3.6 I set out below the provisions of the DDP for FUZ that I consider to be of particular relevance to this Plan Change.

<b>FUZ-O1</b>	<b>Purpose of the Future Urban Zone</b>
<p>The Future Urban Zone enables existing uses and ensures that inappropriate subdivision and development does not compromise the efficient and effective transition from rural to urban environments and any necessary development of strategic three waters and transport <i>infrastructure</i>.</p>	

<b>FUZ-O3</b>	<b>Maintaining the development potential of the Future Urban Zone</b>
<p>Use and development in the Future Urban Zone does not result in any of the following:</p> <ul style="list-style-type: none"> <li>a. <i>structures</i> and <i>buildings</i> of a scale and form that will restrict or prevent future urban development;</li> <li>b. the efficient and effective operation of the local and wider transport network being compromised;</li> <li>c. the need for significant upgrades, provision, or extension to the wastewater, water supply, or stormwater networks, any other <i>infrastructure</i> in advance of planned future urban development, or any planned <i>infrastructure</i> upgrades;</li> <li>d. the efficient provision of <i>infrastructure</i> being compromised;</li> <li>e. <i>reverse sensitivity</i> effects when urban development occurs;</li> <li>f. <i>reverse sensitivity</i> effects on existing rural activities or infrastructure;</li> <li>g. the efficient form or nature of future urban development being compromised; or</li> <li>h. development that does not align with or compromises the outcomes of any relevant growth strategy, master plan, or structure plan regarding provision of <i>infrastructure</i> and roading corridors.</li> </ul>	

<b>FUZ-P3</b>	<b>Avoid activities that are incompatible with the Future Urban Zone</b>
<p>Avoid use and development that may result in one or more of the following:</p> <ul style="list-style-type: none"> <li>a. <i>structures and buildings</i> of a scale and form that will hinder or prevent future urban development;</li> <li>b. compromising the efficient and effective operation and provision of the local and wider transport network and/or three waters <i>infrastructure</i>;</li> <li>c. require significant unplanned and/or unfunded upgrade, provision, or extension to the wastewater, water supply, or stormwater networks or other <i>infrastructure</i>;</li> <li>d. give rise to <i>reverse sensitivity</i> effects when future urban development occurs;</li> <li>e. give rise to <i>reverse sensitivity</i> effects in relation to existing rural activities or <i>infrastructure</i>;</li> <li>f. undermine the form or nature of future urban development; or</li> <li>g. are in advance of detailed <i>infrastructure</i> planning, design funding, and/or commissioning.</li> </ul>	

<b>FUZ-P4</b>	<b>Avoid subdivision within the Future Urban Zone</b>
<p>Avoid subdivision that will result in the fragmentation of land compromising future urban development, in particular urban form and the provision of three waters and transport <i>infrastructure</i>.</p>	

- 3.7 I particularly draw the Hearing Panel’s attention to the reference to transport infrastructure in FUZ-O1, clauses b and c of FUZ-O3 and clause c of FUZ-P3; and to the wording of policies FUZ-P3 and FUZ-P4, which are strong avoid policies.
- 3.8 It is my opinion that the proposed Plan Change is not consistent with the objectives and policies of the FUZ in the DDP. I consider the proposed Plan Change to be contrary to clauses b and c of FUZ-O3; clauses b, c and g of FUZ-P3; and FUZ-P4.
- 3.9 I agree with the evidence of Submitter 07 Ted Taylor that the proposed Plan Change is “*very much in the nature of an ad hoc development which the DDP discourages*”.
- 3.10 Regarding activity status, I note that under the Rules of the FUZ (FUZ-R16, FUZ-R19 and FUZ-R21) a retirement village and associated activities as proposed by Welhom would be a non-complying activity.

<b>FUZ-R16</b>	<b><i>Retirement village</i></b>
	1. Activity status: <b>Non-complying.</b>

<b>FUZ-R19</b>	<b><i>Healthcare activity</i></b>
	1. Activity status: <b>Non-complying.</b>

<b>FUZ-R21</b>	<b><i>Commercial activities</i></b>
	1. Activity status: <b>Non-complying.</b>

#### **4.0 RULE 20.1.5(j)**

- 4.1 Regarding discretionary activity Rule 20.1.5(j) of the Operative Combined Wairarapa District Plan and the discussion around its interpretation and application, I would like to clarify that I was asked for my professional opinion about the interpretation of this rule without context. I was not aware that the rule was a point of disagreement between Welhom and Waka Kotahi. I provided my professional opinion, looking to the linked policies for guidance as the drafting of the rule itself is unclear and open to interpretation. I could not comment on how Council applies, or has applied this rule in the past, as I am an external contractor.
- 4.2 Subsequent investigations have revealed that this rule has not been applied consistently to subdivisions of land such as the Site. Therefore, there is little certainty it would be applied to a future subdivision of the Site. I support the Hearing panel's suggestion that, if the Plan Change is to be approved, this rule could be amended to make it clear that the rule applies to subdivision of the Site. I note, however, that this would not have the effect of making the development of a retirement village a discretionary activity, as a retirement village could be developed on the Site without further subdivision. An amended rule would primarily be of relevance to the residual residential land or the development of the Site if a retirement village does not proceed.
- 4.3 I accept the evidence of Mr Bullen (for Waka Kotahi) and Ms Conner (for Council) that Rule 20.1.5(j) as currently worded does not apply to subdivision of the Site.
- 4.4 Rather than amending Rule 20.1.5(j) to clarify that it applies to subdivision of the Site, I recommend adding a new discretionary activity rule 20.1.5(l) specifically for the subdivision of land within Appendix 16 with a clause requiring notification of Waka Kotahi.

4.5 Regarding the recent subdivision Mr Lewandowski refers to at point 3.17 of his summary statement, I note that although this subdivision was technically a boundary adjustment it also involved the creation of a right of way conferring access rights to the extension of Cashmere Oaks Drive to the Site. The subdivision could also be seen as preparatory to the development of the Site, as it rearranges the allotments that make up the Site to roughly follow the split of retirement village land and standard residential land outlined in the Outline Development Plan.

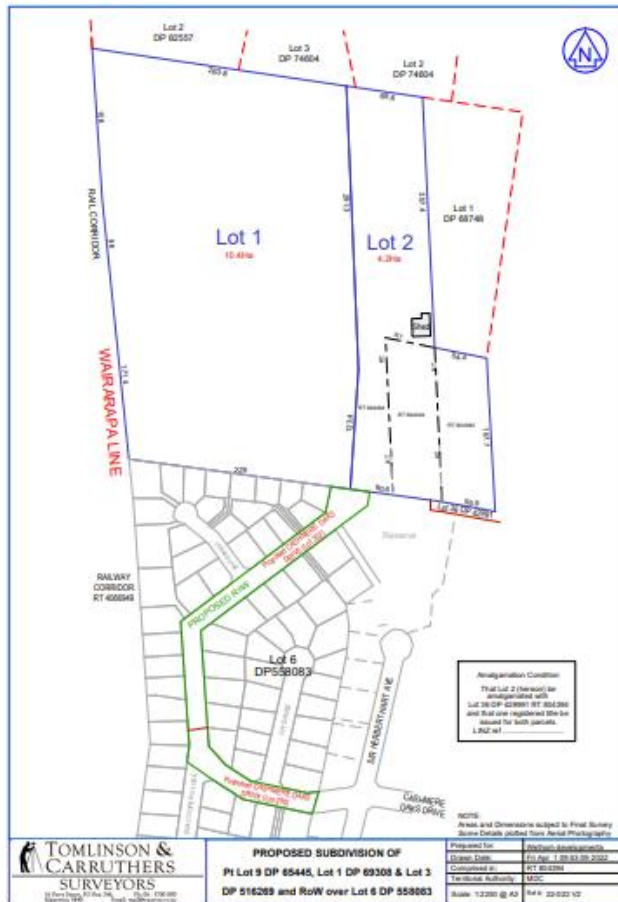


Figure 3: Scheme Plan for proposed subdivision 220077

4.6 I note that the scheme plan for subdivision 220077 differs from the ODP in that Lot 1, which would contain the proposed retirement village, is 10.4ha in area rather than 9ha and Lot 2, which would form the balance residential land, is 4.2ha in area rather than 5.7ha. The sole legal and physical access to Lot 1 would be via a right-of-way over the proposed extension of Cashmere Oaks Drive. Lot 2 would have legal and physical access via both the existing right-of-way over Lot 36 DP 42991 from Roger Renall Avenue and a right-of-way over the proposed extension of Cashmere Oaks Drive.

## 5.0 MATTERS ARISING DURING THE HEARING AND REBUTTAL EVIDENCE

### NPS-HPL – requirements of 3.6(4)(a)

- 5.1 Mr Smail states at point 1.7 of his summary statement that the Plan Change will “*allow for purpose-built housing for the elderly and also provide much-needed general residential land in Masterton*”. However, Mr Heath’s summary statement refers solely to a shortfall in the supply of retirement village units. I note that, in response to questioning from the Hearing Panel, Mr Heath referred to an assessment of general residential capacity contained in his evidence in chief.
- 5.2 Mr Heath’s evidence in chief references Sense Partners Population and Household Growth Projections, which – forecast “*a net increase in the population of the Masterton and Carterton Districts around 20,720 people (or +54%) over the current population base of 38,250 people by 2051 under the Median projection scenario. Under Sense Partners Projections – Median growth scenario, 8,520 net additional dwellings, over the current 16,160 dwellings, are estimated to be required to accommodate the net new residents. This is equivalent to around 280 net additional dwellings, on average, each year out to 2051.*”
- 5.3 Mr Heath’s evidence in chief states, at point 7.7, that “*Property Economics’ assessment of vacant, zoned residential greenfield capacity within the combined Masterton and Carterton Districts residential zones estimates around 1,880 dwellings capacity*” and at point 7.8 that “*Given the above context, the provision for 99 general residential lots at the Site would only marginally increase the existing greenfield capacity within the Masterton District*”.
- 5.4 I note Mr Heath’s advice that there is not currently a Housing and Business Development Capacity Assessment (HBA) for the Masterton District, although one is being prepared for the Greater Wellington Region as part of the Regional Growth Framework.
- 5.5 Given Mr Heath’s evidence that there is sufficient existing vacant, residential zoned greenfield land available within the Masterton and Carterton Districts to provide approximately 1,880 dwellings of capacity, I do not consider a need for an additional 99 residential lots (being estimated capacity of the balance residential land) has been adequately demonstrated.
- 5.6 It is my opinion that while a strong case has been made for the need for additional retirement village capacity in Masterton, sufficient justification has not been provided for the residential rezoning of the balance land.
- 5.7 I consider that, should the Hearing Panel recommend approving the Plan Change, it would be possible to rezone only that land required for the retirement village (being Lot 1 of subdivision 220077). The balance land could then be rezoned with the remainder of the FUZ at such time as the completed HBA indicates that it is required.



## MUGS

5.8 Mr Bentley states, at point 1.2 of his summary statement, that the local area (including the Site) is identified as an area of potential change in the future as a result of urban growth in Masterton. A footnote clarifies that this statement is a reference to the MUGS report. As discussed above, it is my opinion that MUGS is not a relevant matter for consideration. Further, even if MUGS is considered relevant, it should be considered to have lesser status when weighed against the policy direction of the DDP.

## Outline Development Plan

5.9 Mr Bentley states, at point 1.1 of his summary statement, that the Outline Development Plan (ODP) “*illustrates what the development of the Site could look like*”. I do not agree with this statement. The ODP contains very limited information, is not to scale and, as noted by the Hearing Panel, is too small to read. The road connection, key connections, potential future road connection and stormwater management area identified in the ODP are all indicative only. As such, they are of little value for assessment purposes.

5.10 I note that this is the second iteration of the ODP and was submitted in response to a further information request from Council dated 8 June 2022, which is set out below.

### **Please provide a better quality, more comprehensive Outline Development Plan.**

Ideally this plan would be to scale and include dimensions and areas. This is particularly relevant for the area of the site where an increased maximum height limit of 14m is sought. In order to properly consider the potential effects of this increased height it is necessary to know the area of the site (in m<sup>2</sup>) that an increased height limit is sought for and how far from external site boundaries this area will be.

I note that, as a result of discussion at the Project Inception meeting, prior to lodgement of the Private Plan Change Request, a more comprehensive concept plan (similar to that provided for The Orchards Retirement Village Character Area) was expected.

Given the size of the site and the scale of potential future development, a more comprehensive plan is required. Technical experts have identified the following elements that should be included in the plan:

- Information relating to the size and location of the high building area, the retirement village and general residential areas including collector roads and shared space.
- Key internal transport routes.
- Transport corridors and connections showing how and where connections to other streets, railway station and mixed-use pathways could be achieved.
- Internal recreation and green spaces.
- Buffer zones along the rural/urban interface (northern boundary of the site) and the railway line (western boundary of the site).

5.11 It remains my opinion that the ODP is unclear, does not adequately respond to the matters set out in the further information request, and does not contain sufficient information for insertion into the District Plan or for use for assessment purposes. I note that the areas of land denoted for ‘Residential/Retirement Village Development’ and ‘Residential Development’ in the ODP do not match the boundaries of proposed Lots 1 and 2 of subdivision consent 220077. Therefore, the accuracy of the ODP is questionable.

5.12 Should the Plan Change be approved, I consider that a higher quality plan, including at least those matters raised in the further information request, should be required. A structure plan, as recommended by Council and Waka Kotahi, could replace the ODP and would be preferable to the ODP.

#### 14m Maximum Height Area

5.13 At points 1.4 and 1.9 of his summary statement Mr Bentley refers to a singular main building located within the 14m maximum height area. However, this is not consistent with the amendments to standard 5.5.2(o)(1) proposed by Mr Lewandowski after the first day of the hearing, which provide for “*a building or buildings comprising the main building*”.

5.14 I consider the visual effects of one 14m high building to be considerably different to those of multiple 14m high buildings. As the 14m maximum height area denoted on the ODP is 6,512m<sup>2</sup> in area, allowing multiple buildings within this area of the Site could result in adverse visual effects not contemplated in the Landscape and Visual Assessment (LVA), noting that Mr Bentley’s assessment has been consistently based on a singular main building.

5.15 It is my opinion that, should the Plan Change be approved, standard 5.5.2(o)(1) should be amended to relate to one singular main building, as per the assessment in the LVA.

#### Rangiora Summerset example

5.16 I do not consider the Rangiora Summerset example provided by Welhom to be comparable to the proposed Plan Change or the Site because, as noted by the Hearing Panel, it involves a different roading environment and does not rely on access from a State Highway.

#### Arvida Masterton

5.17 I do not consider the Arvida Masterton development further north on SH2 to be comparable because it is a much smaller scale of development at 55 units and, crucially, it is located on the opposite side of SH2 with predominant turning directions onto and off SH2 being in the opposite direction to those at the intersection of Cashmere Oaks Drive / SH2.

5.18 Notwithstanding the differences in the scale of development and the traffic effects associated with the Arvida development, I note that Arvida funded the entirety of the improvements to the intersection with SH2 that were required to facilitate the development.

## 6.0 OUTSTANDING ISSUES

### Connectivity

- 6.1 I consider that the additional information about connectivity and provision for multi-modal transport provided by Mr Georgeson on behalf of Welhom has not fundamentally changed the proposal or the assessment in my s42A report. It remains my opinion that Welhom is relying on existing connectivity within Cashmere Oaks and the wider Lansdowne environment and is not specifically providing for connectivity or multi-modal transport as part of the proposed Plan Change.
- 6.2 In relation to the potential pathway along the rail corridor referred to by Mr Georgeson, I concur with the Hearing Panel that this is hearsay only as it is not able to be verified. Mr Georgeson's suggestion regarding a potential pedestrian crossing at Fourth Street is similarly unconfirmed with no planning or funding in place.
- 6.3 I do not agree with Mr Lewandowski's statement, at point 1.5 of his summary statement, that "*resulting development will achieve an appropriate level of accessibility between the Site, the Masterton town centre and other amenities*". No additional connectivity is proposed as part of the Plan Change and the development would be heavily reliant on private vehicle use.
- 6.4 I note that in response to questioning from Commissioner McMahon, Mr Lewandowski stated that the Plan Change does not preclude future connectivity. I do not agree that not precluding connectivity is the correct test or sufficient to achieve consistency with the relevant strategic framework, including Objective 22 and Policy 57 of the Wellington Regional Policy Statement 2013 as set out below (emphasis added).

#### **Objective 22**

*A compact well designed and sustainable regional form that has an integrated, safe and responsive transport network and:*

- (e) urban development in existing urban areas, or when beyond urban areas, development that reinforces the region's existing urban form;*
- (g) a range of housing (including affordable housing);*
- (i) integrated land use and transportation;*
- (k) efficiently use existing infrastructure (including transport network infrastructure).*

#### **Policy 57: Integrating land use and transportation**

*When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district plan, for subdivision, use or development, particular regard shall be given to the following matters, in making progress towards achieving the key outcomes of the Wellington Regional Land Transport Strategy:*

- (a) whether traffic generated by the proposed development can be accommodated within the existing transport network and the impacts on the efficiency, reliability or safety of the network;*
- (b) connectivity with, or provision of access to, public services or activities, key centres of employment activity or retail activity, open spaces or recreational areas;*
- (c) whether there is good access to the strategic public transport network;*

- (d) provision of safe and attractive environments for walking and cycling; and
- (e) whether new, or upgrades to existing, transport network infrastructure have been appropriately recognised and provided for.

6.5 Clauses (c) and (d) of Policy 57 are of particular relevance as they relate to good access to public transport and provision of safe and attractive environments for walking and cycling. Clause (d) of Policy 57 includes the words “*provision of*”, which I consider to be the relevant test. It remains my opinion that the Plan Change is not consistent with and does not give effect to Objective 22 and the related policies of the RPS, including Policy 57.

#### Buffer planting

6.6 Council's Landscape and Visual expert Ms McArthur is of the opinion that, if the Plan Change is approved, the 1.5-2m wide planted buffer treatment should be extended to the eastern and southern boundaries of the Site as well as the northern boundary.

6.7 At point 2.4 of Ms McArthur's summary statement she states:

*“Planting of native trees and shrubs up to 3-4m tall inside these boundaries will provide a vegetated character for existing residents within view of the site. The planting is not designed to maintain rural character but to reduce or soften the change in landscape character within the site for residents adjacent, many currently having open view over the site. Cashmere Oaks Subdivision has a character quite unlike a contemporary retirement village in building density and height.”*

6.8 I agree with Ms McArthur's assessment and support this position. I note Submitter 06 John Sexton's statement, as a resident of Cashmere Oaks, that he would rather see trees than buildings.

#### Water supply

6.9 I note the joint statement of Mr Brents and Mr Rose, which concludes that the water supply issues identified in Mr Rose's evidence are no longer considered to be an issue. However, I would like to clarify that this does not mean that Council agrees that water supply can be addressed at resource consent stage. Mr Rose and I are of the opinion that, should the Plan Change be approved, a private booster pump located within the Site should be installed prior to any residential development of the Site. It is our opinion that this should become a pre-condition and could be included in the District Plan as part of a Structure Plan with an associated site-specific permitted activity standard.

## Traffic and transportation effects

- 6.10 It remains my opinion that the development of the Site that would be enabled by the Plan Change would result in adverse traffic effects that are more than minor and that the safety and performance of the intersection of Cashmere Oaks Drive and SH2 would be directly affected by the development. I consider that the proposed Plan Change provisions (as amended by the Requestor during the hearing) do not adequately address these traffic effects or allow for appropriate mitigation of traffic effects.
- 6.11 I prefer the evidence of Ms Fraser, Mr Connelly and Mr Landon-Lane to that of Mr Georgeson and Ms Muirson. I prefer the evidence of the Council and Waka Kotahi transportation experts because their evidence is more nuanced and considers the context of the site and the nature of the proposed development, including the predominant turn directions at the intersection and the vulnerability of future road users. I note that it is not clear from Ms Muirson's evidence in chief or her summary statement, whether she has visited the Site.
- 6.12 In addition, Council and Waka Kotahi are the relevant road controlling authorities, as defined in the Land Transport Act 1998, and have statutory obligations relating to the roading network, including the intersection of Cashmere Oaks Drive and SH2.
- 6.13 I note the following provisions of the Wairarapa Combined District Plan, which I consider to be particularly relevant to this issue (emphasis added):

### **Chapter 17 - Transportation**

#### **17.3 Objectives, Policies and Methods**

##### **17.3.3 Explanation**

*...Where there are constraints and safety issues arising from further development and growth, a coordinated approach will be needed to undertake the necessary actions to address such matters. This will include working with New Zealand Transport Agency in regard to State Highways...*

##### **17.3.10 Methods to Implement the Transportation Rules**

*(g) Coordination with New Zealand Transport Agency, ONTRACK and other key agencies with responsibilities for the transportation network to identify and address issues.*

This is the policy basis on which I prefer the evidence of the Council and Waka Kotahi transportation experts.

- 6.14 During my involvement with the Plan Change, both Council's transportation experts and Waka Kotahi have clearly and consistently raised concerns about the effects of the Plan Change on the safety and performance of the intersection of Cashmere Oaks Drive and SH2. I note that submitters who live in Cashmere Oaks raised the same concerns, including Submitter 06 John Sexton and Submitter 07 Ted Taylor who both spoke to their lived experience of using this intersection.

- 6.15 I draw the Hearing Panel's attention to point 3 of Mr Landon-Lane's summary statement and the site-specific risk factors that he has considered in his assessment, including the predominant right turn out and left turn in vehicle movements, and the vulnerable users associated with a retirement village. I also note Mr Landon-Lane's verbal evidence that the site-specific risk factors justify more conservative modelling and that the latest traffic counts are higher than expected, so a 2% growth figure is light.
- 6.16 I concur with the advice of Mr Landon-Lane and Ms Fraser that the mitigation measures proposed by Ms Muirson are insufficient. I also share Mr Connelly's concern that Ms Muirson is suggesting an increase in deaths and serious injuries (DSIs) is acceptable. It is my opinion that the predicted increase in DSIs should not be considered acceptable just because it is statistically minor.
- 6.17 I note Mr Georgeson's evidence that, in his opinion, traffic effects can be appropriately assessed and mitigated at resource consent stage. In support of this position Mr Georgeson stated that the roading environment, including speed limits, may have changed by the time resource consent is applied for. I do not agree with Mr Georgeson's opinion, and I consider his reasoning to conflict with the evidence of other Welhom experts.
- 6.18 I note that the speed reduction being considered under the Interim State Highway Speed Management plan (ISHSMP) that is currently in progress is a reduction from 100km/h to 80km/h and that no decisions have yet been made.
- 6.19 Ms Speight provided supplementary evidence on 21 March 2023 in response to a government announcement about changes to the speed limit programme made on Monday 13 March 2023. As a result of changes to the speed limit programme fewer roads are being included in the ISHSMP this year and the Director of Land Transport will make the decision on which roads across New Zealand, and already identified under the ISHSMP, will be considered this year.
- 6.20 Ms Speight advised that until any decision is officially made by the Director of Land Transport to reduce the speed limit, the road should be treated for traffic safety assessment purposes, as a 100kph road. Whether this road section is included for speed management this year, will have implications for how mitigation of effects is approached and designed, and mitigation of traffic effects by the Requestor and simultaneously moving the urban road speed threshold (assuming sufficient mitigation occurs) may be more difficult if the state highway road speed remains at 100kph versus if it drops to 80kph.
- 6.21 The 2024-2027 Speed Management Plan that Mr Georgeson referred to is unlikely to have commenced by the time resource consent is applied for given Welhom's evidence regarding their development aspirations, namely that the District Plan review did not meet their timeframes and that the resource consent for the Rangiora Summerset was applied for 3 months after the Plan Change was approved.

- 6.22 Mr Lewandowski states, at point 3.53 of his summary statement, that “...*the development of the site for retirement village purposes, as evidenced by Mr Smail, would occur promptly*”. I note that resource consent for a preparatory subdivision rearranging the allotments that comprise the Site, to generally match the Outline Development Plan and grant access via the Cashmere Oaks Drive extension, has already been obtained.
- 6.23 Ms Speight confirmed in her supplementary evidence that the next official opportunity to consult on the speed limit will come with the full Speed Management Plan (SMP), which aligns with the National Land Transport Programme cycle 2024-2027. Consultation for the SMP is now likely to be delayed to late 2023 and will not be implemented until between 2024-2027.
- 6.24 Regarding Mr Georgeson’s statement that it is best practice for consultation to be undertaken with road controlling authorities when preparing Integrated Traffic Assessments, I note that this is not a mandatory requirement and consider that it does not provide sufficient certainty.
- 6.25 I note that this information requirement is formalised by the proposed amendment to 26.3.5(i) submitted by the Requestor after the first day of the hearing, which includes a requirement for an Integrated Transport Assessment that addresses “The outcomes of consultation with Waka Kotahi/New Zealand Transport Agency”.
- 6.26 The wording of 26.3.5(i)(ii)(f) is such that the outcomes of consultation with Waka Kotahi could be that Waka Kotahi strongly oppose the development, but the information requirement is met.
- 6.27 It is my opinion that the proposed information requirement is not appropriate or effective and is not consistent with the policy direction of Chapter 17 of the District Plan, which states “*Where there are constraints and safety issues arising from further development and growth, a coordinated approach will be needed to undertake the necessary actions to address such matters. This will include working with New Zealand Transport Agency in regard to State Highways*”.
- 6.28 Considering the nature and scale of the development enabled by the Plan Change and the associated traffic effects, it is my opinion that proposed controlled activity rule 5.5.3(e) would not enable appropriate assessment or mitigation of these effects. As a controlled activity, resource consent must be granted and while Council can impose conditions of consent, the consent holder can object to and appeal these conditions. I note that, in Welhom’s own evidence, this situation has already occurred in the Rangiora Summerset example.

6.29 It is my opinion that, should the Plan Change be approved, the site-specific land use rule providing for development of a retirement village on the Site (currently rule 5.5.3(e)) should become a restricted discretionary activity rule with an associated structure plan and a specific notification clause requiring all resource consents submitted under the rule to be notified to Waka Kotahi (New Zealand Transport Agency).

Appropriate activity status for retirement village

6.30 As discussed in the joint statement of the planning experts for all parties, Council's position is that restricted discretionary activity status is the least restrictive activity classification that would be appropriate for a land use rule providing for a retirement village on the Plan Change site.

6.31 It is my opinion that a restricted discretionary activity rule with an associated structure plan, a comprehensive list of matters of discretion, and a clause requiring notification of Waka Kotahi (New Zealand Transport Agency) would be both efficient and effective and is necessary in the context of the Site and roading environment.

6.32 I consider the notification clause necessary because State Highway 2 in the vicinity of the SH2/Cashmere Oaks Drive intersection will be directly affected by the increased traffic generated by residential development of the Plan Change site, which will more than double the number of residential units that are reliant on access via this intersection.

6.33 It is my opinion that, as the road controlling authority for SH2, Waka Kotahi is an affected party and should be notified. The notification clause would be limited to Waka Kotahi and thereby not draw in other parties and complicating factors.

6.34 This approach would:

- provide certainty and clear direction to all parties, including processing planners;
- ensure that the rule is interpreted correctly and consistently; and
- give Council the ability to impose conditions or decline consent on a matter of discretion.

6.35 It is my opinion that a structure plan is required to ensure that necessary infrastructure improvements and interventions required to facilitate residential development of the Plan Change site are delivered when and where they are necessary and in a coordinated fashion. These improvements and interventions include changes to the roading network both within Cashmere Oaks and at the intersection of Cashmere Oaks Drive and SH2.

6.36 I accept the evidence of Messrs Lewandowski and Minhinnick that it is not possible to add a requirement for a structure plan to Information Schedule 5. I consider requiring a structure plan through a restricted discretionary activity rule to be appropriate, effective and efficient.



## 7.0 CONCLUSION AND RECOMMENDATIONS

- 7.1 It remains my overall conclusion and recommendation that the proposed Plan Change be declined. It is my opinion that the provisions of the proposed Plan Change (as amended by Welhom after the first day of the hearing) do not establish an appropriate framework to allow effects to be adequately mitigated.
- 7.2 Should the Hearing Panel decide to recommend the Plan Change be approved, I consider the amendments to the Plan Change provisions set out in Appendix 1 to be necessary to ensure the provisions are appropriate, effective and efficient.

A handwritten signature in black ink, appearing to read 'Megan Barr', with a long horizontal stroke extending to the right.

Megan Barr  
**Principal Planner**  
**4Sight Consulting Limited**

## Appendix 1 – Plan Change wording (including officer amendments)

### Guide to the Plan Change

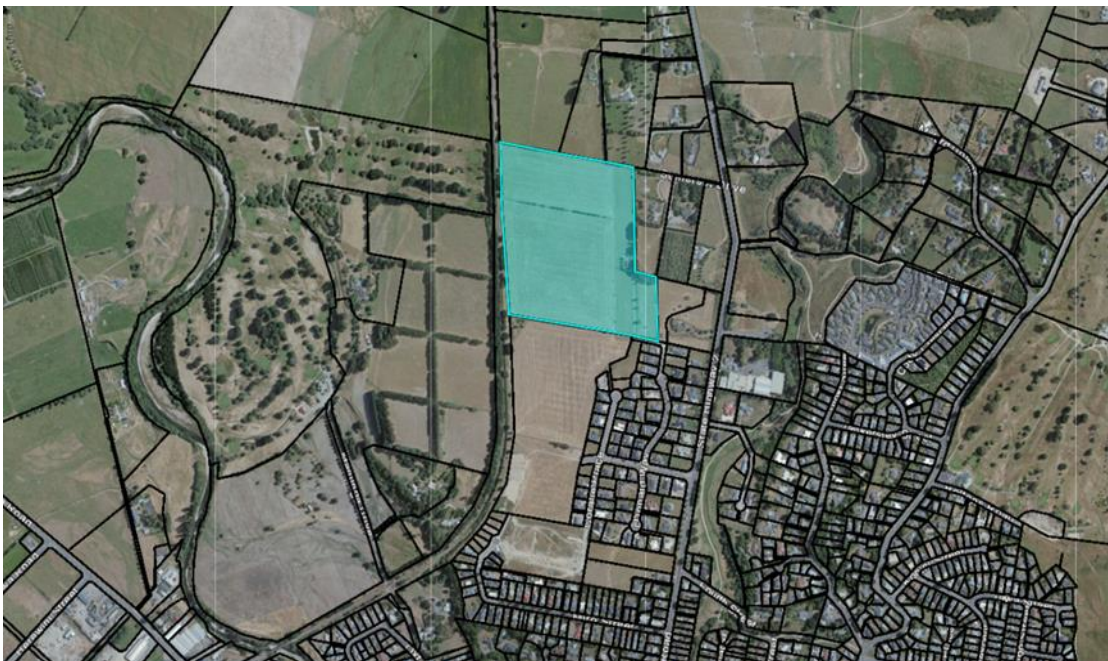
- Existing District Plan text is in normal font.
- Changes originally proposed by Welhom Developments Ltd as part of the Request are shown underline and ~~strikethrough~~.
- Changes proposed by officer recommendations are **red underline** and **red strikethrough**.
- Further changes proposed by Welhom Developments Ltd in response to Council section 42A report and submissions are shown in **blue underline** and **blue strikethrough**.
- Further changes proposed by Welhom Developments Ltd in response to Waka Kotahi evidence are shown in **green underline**.
- Further changes proposed by officer recommendations in s42A addendum are **yellow highlighted**.

### Amendment 1

#### Amend Masterton Edition Volume 2 Maps of the District Plan as follows:

Change the zoning of the Site from Rural (Primary Production) to Residential.

Move the Rural-Urban Boundary notation to include the Site.



## Amendment 2

### Amend Masterton Edition Volume 1 Text – Part C – Consent Process and General Provisions - Section 27 Definitions of the District Plan as follows:

Delete the existing definition of retirement village:

~~Retirement village – means any land building or site used for a comprehensive residential development that contains two or more residential units, together with services and/or facilities for on-site residents and staff and which may include staff accommodation, advanced residential care facilities, such as nursing, medical, hospital or dementia care, recreation, leisure, welfare facilities and activities, and other non-residential activities ancillary to the retirement village, predominantly for persons in their retirement and their spouses or partners.~~

Insert a new definition of retirement village as follows:

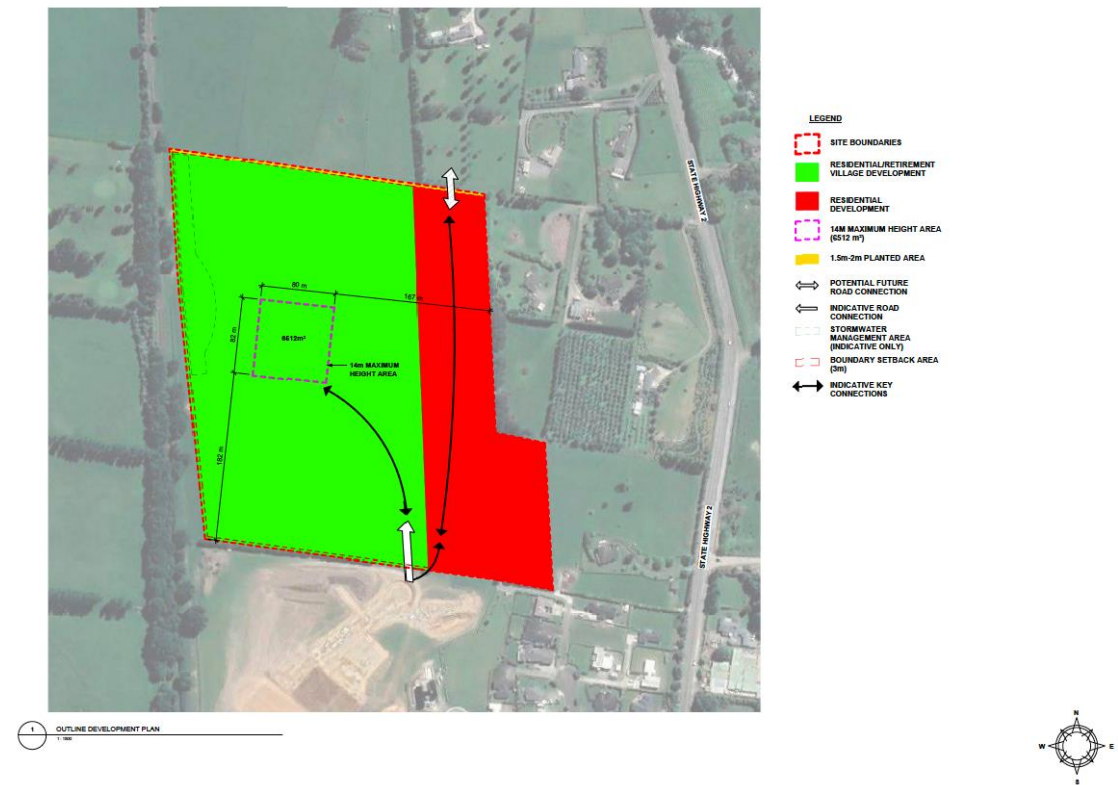
Retirement village – means a managed comprehensive residential complex or facilities used to provide residential accommodation for people who are retired and any spouses or partners of such people. It may also include any of the following for residents within the complex: recreation, leisure, supported residential care, welfare and medical facilities (inclusive of hospital care) and other non-residential activities.

### Amendment 3

Amend Masterton Edition Volume 1 Text – Part D – Appendices of the District Plan as follows:

Insert new Appendix 16:

#### Outline Development Plan



~~Modified by: extending the 1.5m-2m planted buffer around all external site boundaries.~~

Delete Outline Development Plan and replace with a Structure Plan to be added to Appendix 16 of the District Plan that includes (and clearly delineates and labels):

- (a) Site boundaries;
- (b) Residential/retirement village development;
- (c) Residential development;
- (d) 14m Maximum Height Area;
- (d) Where higher and lower density residential development will occur;
- (e) Boundary setback area (3m);
- (f) A 1.5-2.0m wide planted buffer zone around the northern, eastern and southern external boundaries of the site;
- (g) Stormwater management area;
- (h) A private booster pump for water supply;

- (i) Infrastructure interventions at the intersection of Cashmere Oaks Drive and SH2 to address traffic safety effects; and
- (j) The internal transport network (roads, footpaths and cycleways) and external connections.

## Amendment 4

### Amend Masterton Edition Volume 1 Text - Part A – Environmental Zones – 5 Residential Zones of the District Plan as follows:

Amend Policy 5.3.2(k) as follows:

- (k) Provide for the development and operation of a retirement village in the Orchards Retirement Village Character Area shown on the indicative Concept Plan (Appendix X) and on the land identified as 'Residential/Retirement Village Development' in Appendix 16 subject to such environmental standards as necessary to avoid, remedy or mitigate any adverse effects.

Amend standard 5.5.2(f):

#### (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.

Insert new standard 5.5.2(n):

#### **Mitigation of noise and vibration on land identified in Appendix 16**

##### (1) Indoor railway noise

Within 100m of the legal boundary of a railway network:

- (a) any new building or alteration to an existing building that contains ~~an activity sensitive to noise~~ a noise sensitive activity where the building or alteration:
  - (i) is designed, constructed and maintained to achieve indoor design noise levels resulting from the railway not exceeding the maximum values in the following table; ~~or~~

<u>Building Type</u>	<u>Occupation/Activity</u>	<u>Maximum railway noise level LAeq(1h)</u>
<u>Residential</u>	<u>Sleeping spaces</u>	<u>35dB</u>
	<u>All other habitable rooms</u>	<u>40dB</u>
<u>Health</u>	<u>Overnight medical care, wards</u>	<u>40dB</u>
	<u>Clinic, consulting rooms, theatres, nurses stations</u>	<u>45dB</u>

or

- (b) is at least 50 metres from any railway network, and is designed so that a noise barrier completely blocks line-of-sight from all parts of doors and windows, to all points 3.8 metres above railway tracks, or
- (c) is a single-storey framed residential building with habitable rooms designed, constructed and maintained in accordance with the construction schedule in Schedule 1.

(2) Mechanical ventilation

If a building is constructed in accordance with 1(c), or if windows must be closed to achieve the design noise levels in 1(a), the building is designed, constructed and maintained with a mechanical ventilation system that:

- (a) For habitable rooms for a residential activity, achieves the following requirements:
  - (i) Provides mechanical ventilation to satisfy clause G4 of the New Zealand Building Code; and
  - (ii) Is adjustable by the occupant to control the ventilation rate in increments up to a high air flow setting that provides at least 6 air changes per hour; and
  - (iii) Provides relief for equivalent volumes of spill air;
  - (iv) Provides cooling and heating that is controllable by the occupant and can maintain the inside temperature between 18°C and 25°C; and
  - (v) Does not generate more than 35 dB LAeq(30s) when measured 1 metre away from any grille or diffuser.
- (b) For other spaces, is as determined by a suitably qualified and experienced person.

(3) Indoor railway vibration

Any new buildings or alterations to existing buildings containing ~~an activity sensitive to noise~~ a noise sensitive activity, closer than 60 metres from the boundary of a railway network:

- (a) Is designed, constructed and maintained to achieve rail vibration levels not exceeding 0.6 mm/s vw,95 or
- (b) Is a single-storey framed residential building with:
- (i) A constant level floor slab on a full-surface vibration isolation bearing with natural frequency not exceeding 10 Hz, installed in accordance with the supplier's instructions and recommendations; and
  - (ii) Vibration isolation separating the sides of the floor slab from the ground; and
  - (iii) No rigid connections between the building and the ground.
- (4) A report is submitted to the Council demonstrating compliance with (1) to (3) above (as relevant) prior to the construction or alteration of any building containing ~~an activity sensitive to noise~~ a noise sensitive activity. In the design:
- (a) Railway noise is assumed to be 64dB LAeq(1h) at a distance of 12 metres from the track, and must be deemed to reduce at a rate of 3 dB per doubling of distance up to 40 metres and 6 dB per doubling of distance beyond 40 metres.

Schedule 1. Construction schedule for indoor noise control

<u>Elements</u>	<u>Minimum construction for noise control in addition to the requirements of the New Zealand Building Code</u>	
<u>External walls</u>	<u>Wall cavity infill of fibrous insulation, batts or similar (minimum density of 9 km/m<sup>3</sup>)</u>	
	<u>Cladding and internal wall lining complying with either Options A, B or C below:</u>	
	<u>Option A – Light cladding: timber weatherboard or sheet materials with surface mass between 8kg/m<sup>2</sup> and 30kg/m<sup>2</sup> of wall cladding</u>	<u>Internal lining of minimum 17kg/m<sup>2</sup> plasterboard, such as two layers of 10mm thick high density plasterboard, on resilient/isolating mountings</u>
	<u>Option B - Medium cladding: surface mass between 30 kg/m<sup>2</sup> and 80 kg/m<sup>2</sup> of wall cladding</u>	<u>Internal lining of minimum 17 kg/m<sup>2</sup> plasterboard, such as two layers of 10 mm thick high density plasterboard</u>

	<u>Option C - Heavy cladding: surface mass between 80 kg/m<sup>2</sup> and 220 kg/m<sup>2</sup> of wall cladding</u>	<u>No requirements additional to New Zealand Building Code</u>
<u>Roof/ceiling</u>	<u>Ceiling cavity infill of fibrous insulation, batts or similar (minimum density of 7 kg/m<sup>3</sup>)</u>	
	<u>Ceiling penetrations, such as for recessed lighting or ventilation, shall not allow additional noise break-in</u>	
	<u>Roof type and internal ceiling lining complying with either Options A, B or C below:</u>	
	<u>Option A - Skillion roof with light cladding: surface mass up to 20 kg/m<sup>2</sup> of roof cladding</u>	<u>Internal lining of minimum 25 kg/m<sup>2</sup> plasterboard, such as two layers of 13 mm thick high density plasterboard</u>
	<u>Option B - Pitched roof with light cladding: surface mass up to 20 kg/m<sup>2</sup> of roof cladding</u>	<u>Internal lining of minimum 17 kg/m<sup>2</sup> plasterboard, such as two layers of 10 mm thick high density plasterboard</u>
	<u>Option C - Roof with heavy cladding: surface mass between 20 kg/m<sup>2</sup> and 60 kg/m<sup>2</sup> of roof cladding</u>	<u>No requirements additional to New Zealand Building Code</u>
<u>Glazed areas</u>	<u>Aluminium frames with full compression seals on opening panes</u>	
	<u>Glazed areas shall be less than 35% of each room floor area</u>	
	<u>Either, double-glazing with:</u> <ul style="list-style-type: none"> <li>• <u>a laminated pane of glass at least 6 mm thick; and</u></li> <li>• <u>a cavity between the two panes of glass at least 12 mm deep; and</u></li> </ul>	



	<ul style="list-style-type: none"> <li>a second pane of glass at least 4 mm thick</li> </ul> <p>Or, any other glazing with a minimum performance of Rw 33 dB</p>	
Exterior doors	Exterior door with line-of-sight, to any part of the state highway road surface or to any point 3.8 metres above railway tracks	Solid core exterior door, minimum surface mass 24 kg/m <sup>2</sup> , with edge and threshold compression seals; or other doorset with minimum performance of Rw 30 dB
	Exterior door shielded by the building so there is no line-of-sight to any parts of the state highway road surface or any points 3.8 metres above railway tracks	Exterior door with edge and threshold compression seals

Insert new standard 5.5.2(o):

**Land identified as 'Residential/Retirement Village Development' in Appendix 16**

All buildings and activities associated with the development and operation of a retirement village within the land identified as 'Residential/Retirement Village Development' in Appendix 16 shall comply with all Residential Zone and District-wide permitted activity standards, except where the following apply:

- (1) The maximum height of ~~buildings~~ ~~the hospital care building~~ ~~a building or buildings comprising the main building used for retirement village or aged care uses~~ shall be 14 metres in the area identified as '14m Maximum Height Area' in the ~~Outline Development Structure~~ Plan in Appendix 16

*Note: For the purposes of this standard, only one building within the 14m Maximum Height Area is permitted to have a maximum height of 14m.*

- (2) Minimum building setbacks shall be 3m from all external boundaries
- (3) Stormwater from buildings and hard surfaces from within the retirement village area identified in Appendix 16 shall be managed and attenuated on-site using low impact urban design measures such that post-development peak flow and total discharge from the site does not exceed a pre-development scenario, and all stormwater from the site shall be managed and disposed of in accordance with NZS 4404:2010 Land Development and Subdivision Infrastructure

- (4) Any permanent sign shall be permitted provided it complies with the following standards:
- (a) A maximum of three signs per frontage with the public road, with a total face area per sign of no more than 4m<sup>2</sup>
  - (b) The sign must relate to the activity undertaken on the site and be located fully within the site of the activity to which it relates.
  - (c) Where a sign is affixed to a building, the sign shall comply with the maximum height and setback requirements.
  - (d) All signs must comply with the sight distance requirement in Appendix 5.
  - (e) No sign shall be located where it conceals the visibility of an existing official sign or traffic-controlling device.
  - (f) No sign shall use reflective materials, be flashing or moving.

**Insert new standard 5.5.2(p):**

**Land identified in Appendix 16**

- (1) A private booster pump for water supply must be installed within the land identified in the Structure Plan in Appendix 16 prior to any development of the land for residential or retirement village activities.

Insert new Rule 5.5.3(e)4(b):

#### 5.5.34 **Controlled Restricted Discretionary** Activities

The following are **Controlled Restricted Discretionary** Activities:

[...]

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

##### Notification

Waka Kotahi New Zealand Transport Agency must be given limited notification of an application under Rule 5.5.4(b).

The matters over which ~~control~~ discretion is reserved are:

(i) The extent to which the development is consistent with the Structure Plan in Appendix 16

(ii) The design, scale and appearance of all buildings

(iii) The provision of adequate supply of water for firefighting in accordance with the Code of Practice SNZ PAS 4509:2008

(iv) The provision of water supply, wastewater disposal and for stormwater collection and disposal

(v) Rooding, road safety, and the provision of access and parking spaces, specifically including:

(a) Whether the activity provides for the rooding and street layout shown on the structure plan.

(b) The impact of additional traffic generated by the activity on the safe and efficient operation of the rooding network, with specific reference to:

(i) The internal rooding network within Cashmere Oaks;

(ii) The intersection of State Highway 2 and Cashmere Oaks Drive; and

(iii) The section of State Highway 2 located between Opaki Meadows Drive and the 50km/h speed limit sign to the north of Fourth Street.

(c) Whether the activity will have an adverse cumulative effect on the safe and efficient operation of the rooding network.

(d) The extent to which the proposal will avoid, remedy, or mitigate effects on the safe and efficient operation of the rooding network, including:

(i) Improvements and alterations to existing roads;

(ii) Safety improvements to the intersection of State Highway 2 and Cashmere Oaks Drive; and

- ~~(iii) The management of construction traffic effects.~~
- ~~(e) The provision of access and on-site car parking.~~
- ~~(f) Whether the activity provides appropriate opportunities for people to use non-vehicular modes of transport, including:
 
  - ~~(i) The reasonable provision of access to public transport services; and~~
  - ~~(ii) The provision of safe pedestrian and cycle access and connections to existing transport corridors, including State Highway 2, and within the site.~~~~
- ~~(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.~~
- ~~(v) The provision for safe pedestrian and cycle access throughout the site~~
- ~~(vi) The provision of landscaping, screening and open spaces.~~
- ~~(vii) Signage~~
- ~~(viii) Earthworks, sediment and dust management.~~
- ~~(ix) Financial contributions~~

## Amendment 5

Amend Masterton Edition Volume 1 Text - Part C – Consent Process and General Provisions – 22 Assessment Criteria of the District Plan as follows:

Insert new assessment criteria at 22.2.25.

### **22.2.25 Retirement Village on land identified as ‘Residential/Retirement Village Development’ in Appendix 16**

- ~~(i) The ability of the proposal to integrate with surrounding land uses, with regard to:
 
  - ~~(1) fencing and boundary treatments;~~
  - ~~(2) connectivity, including the configuration and location of pedestrian and vehicle accesses.~~~~
- ~~(ii) Creation of visual quality and variety as assessed from the public realm through the separation of buildings, building orientation, and in the use of architectural design, detailing, glazing, materials, colour and landscaping.~~

- (iii) The extent to which the development is consistent with the **indicative Outline Development Structure** Plan **contained** in Appendix 16.
- (iv) The safety, effectiveness and efficiency of utilities and services.
- (v) The proposed stormwater management within the site.

## Amendment 6

**Amend Masterton Edition Volume 1 Text - Part C – Consent Process and General Provisions – 26 Information to be Supplied with Resource Consent Applications of the District Plan as follows:**

Insert the following into 26.3.56 'Information Schedule 56: ~~Controlled-Restricted Discretionary~~ Activities' at 26.3.56(ic)

**(ic) Retirement Village on land identified as 'Residential/Retirement Village Development' in Appendix 16**

- (i) A landscape plan showing the proposed landscaping and screening treatment for the proposal. ~~The landscape plan should include the following:~~
  - Street tree and amenity planting, including proposed buffer planting along the northern, eastern and southern external boundaries of the Site;
  - Reserves/open space design;
  - Transport network (roads, pedestrian and cycle links); and
  - Stormwater basin and swale design.
- (ii) An Integrated Transportation Assessment, which shall address but is not limited to:
  - (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 within the site;
  - (e) The management of construction traffic effects; and
  - (f) The outcomes of consultation with Waka Kotahi/New Zealand Transport Agency
- ~~(iii) The first resource consent application (either subdivision or land use) for a retirement village within this land shall include a Structure Plan to be added to Appendix 16 of the District Plan that includes:~~

- ~~(a) Infrastructure interventions at the intersection of Cashmere Oaks Drive and SH2 to address traffic safety effects;~~
- ~~(b) The internal transport network (roads, footpaths and cycleways) and external connections;~~
- ~~(c) Where higher and lower density residential development will occur; and~~
- ~~(d) A 1.5-2.0m wide planted buffer zone around external site boundaries.~~

## **Amendment 7**

**Amend Masterton Edition Volume 1 Text - Part B – District-Wide Issues – 20 District Wide Subdivision Rules and Standards of the District Plan as follows:**

Insert new discretionary activity rule at 20.1.5(l), as follows:

(l) Any subdivision of the land identified in the Structure Plan in Appendix 16.

Notification

Waka Kotahi New Zealand Transport Agency must be given limited notification of an application under Rule 20.1.5(l).

## **Appendix 2 – Masterton District Council Legal Submission**

**Before the Independent Hearings  
Panel  
At Masterton**

**Under**

**the Resource Management Act  
1991 (the Act)**

**In the matter of**

**a request by Welhom  
Developments Limited to  
Masterton District Council for a  
private plan change to the  
Combined Wairarapa District  
Plan**

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**Legal Submission for Masterton District Council**

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legal submission - mdc



1. Masterton District Council ('the Council') is the territorial authority responsible for processing the private plan change request ('the Request') made by Welhom Developments Limited ('Welhom'), which is the subject of this hearing.
2. Ms Barr, who has been engaged by the Council to act as reporting officer, recommends in her s 42A Report that the Council decline the Request.
3. Alternatively, if the Council is minded to approve the Request, Ms Barr recommends modifications to the proposed plan change provisions.
4. At a general level, the legal framework under which the parties are operating is uncontroversial.
5. That is to say, there is no statutory impediment to a private plan change along the lines proposed.
6. The issue is whether, in its current form, the proposed plan change sets up an appropriate framework to allow effects to be adequately mitigated. That is an evidential matter.
7. However, there are a few discrete areas on which legal submission is required. Some of these have arisen throughout the course of this hearing.

#### **Section 74 (2), Resource Management Act**

8. Section 74 of the Resource Management Act 1991 ('RMA') addresses matters to be considered when preparing and changing a district plan.
9. Section 74(2) sets out those matters that a territorial authority shall have regard to when preparing or changing a district plan. These are expressed as being in addition to the requirements of sections 75(3) and (4).
10. The relevant parts of section 74(2) read as follows:

#### **74 Matters to be considered by territorial authority**

(1) In addition to the requirements of section 75(3) and (4), when preparing or changing a district plan, a territorial authority **shall have regard to**—

(a) any—

(i) proposed regional policy statement; or

(ii) proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4; and

(b) any—

(i) management plans and strategies prepared under other Acts; and...

to the extent that their content has a bearing on resource management issues of the district; and...

[EMPHASIS added].

11. During the hearing, there was some discussion about the relevance or otherwise of three non-statutory documents referred to in the application and/or during the hearing and, whether they can appropriately be considered by the Hearings Panel as relevant matters under section 74(2)(b).
12. Those documents are:
  - (a) The Masterton Urban Growth Strategy (“MUGS”);
  - (b) Draft District Plan; and
  - (c) Waka Kotahi’s “Road to Zero” Strategy.
13. While we agree with Counsel for the Applicant’s submission that the latter two documents appropriately fall within the ambit of s 74(2)(b)(i) as management plans and strategies prepared under other Acts. We do not agree with the Applicant’s assessment of the relevance and usefulness of the MUGS report under s 74(2).

#### **Draft Wairarapa Combined District Plan**

14. With respect to the Draft District Plan, it is submitted that the weight to be given to this document is low, given that the Council is yet to commence the formal statutory process that is started by notification of a Proposed District Plan.
15. To that end, the Draft District Plan represents what we currently know of the Council’s current position on the future direction of urban growth in the area. Notably, the Draft District Plan was introduced prior to the introduction of the National Policy Statement on Highly Productive Land (NPS-HPL). While there has been a level of community consultation in relation to the Draft Plan document and work is currently being advanced in terms of preparing and notifying a Proposed Plan, as Ms Barr points out in the section 42A Report<sup>1</sup>, the Draft Plan is just that - *draft*, and no decisions have been made.

#### **Masterton Urban Growth Strategy (“MUGS”)**

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<sup>1</sup> At paragraph 69.

16. It is acknowledged that MUGS may *technically* fit within the class of document contemplated by s 74 (2) as relevant to the Council's decision-making and that the list within s 74(2) is not intended to be exhaustive.
17. However, central to an assessment of relevance under section 74(2) is the *extent that their content has a bearing on resource management issues of the district*.
18. It is submitted that MUGS has very little (if any) bearing on resource management issues of the district.
19. As Ms Barr notes:
  - (a) MUGS was commissioned in 2018 by the then Planning Manager to inform the Council about why a review of the Operative District Plan was required.
  - (b) Boffa Miskell was engaged to prepare the MUGS report and upon completion, the report was not shared with the community or notified for submissions and was used by Council staff for internal processes only.
  - (c) The MUGS report is not publicly available. It is unclear how Welhom became aware of the report, but Council did supply a copy of it to Welhom upon request.
  - (d) The MUGS report was not presented to elected Council members until 2022 and has not been adopted or endorsed by Council. Council has instead decided to have the document reviewed and updated.
20. While it may seem "odd to simply ignore" the MUGS report to adopt the terminology of Judge Kirkpatrick in the *Landco Mt Wellington Ltd* decision referred to by Counsel for the Applicant in submissions during the hearing, it is submitted that the limitations of the MUGS report are significant and are such that the report should be given no weight in the Panel's decision making at all.
21. Certainly, the reliance placed on the MUGS report by the Applicant (both in the Private Plan Change proposal and in evidence presented to the Hearing Panel) is unwarranted.
22. Rather, it is submitted that MUGS should be treated as a *technical document* at best. It does not reflect the Council's strategic position on the direction of urban growth throughout the district and is not intended to provide any directive to that effect.
23. Importantly, themes found in the MUGS report do not mirror those in any statutory regional or district planning document.

24. As Ms Barr sets out in the s 42A Report, the site is not currently identified as an area for future urban growth in the Operative Wairarapa Combined District Plan, a published Future Development Strategy as provided for by the NPS-UD, or a strategic planning document.
25. While the Site is included in the Draft District Plan as part of an area of Future Urban Zone, this work is only at the draft stage and no decisions have been made.
26. With those factors in mind, the MUGS report is very different to the material contemplated by the Environment Court in the *Landco Mt Wellington* case and in other decisions on the point.
27. In *Landco Mt Wellington*, the management strategy being looked at by the Environment Court was a document that represented the Council's clear strategic position on the management of Auckland city's volcanic landscapes and features at the time and was unquestionably relevant to the Court's assessment.
28. While a non-statutory document, the management strategy at issue in *Landco Mt Wellington* was clearly relevant to the matter before the Court and a useful indicator of the Council's strategic approach to the matter at hand.
29. Similarly, in *Kiwi Property Holdings Ltd v Christchurch CC* [2012] NZEnvC 92, the Court considered the relevance of 8 management plans and strategies prepared under other Acts to a proposed Plan Change to the Christchurch City Plan. The Court noted that there were '*a number of themes found in the regional and district planning documents [that] also find expression in plans and strategies drawn up under other Acts.*'<sup>2</sup>
30. For the reasons already outlined (and as covered by Ms Barr in the s42A addendum), the MUGS report simply does not sit in the same class of document as those considered in *Landco Mt Wellington* and *Kiwi Properties*. It is a piece of work commissioned by the Council for internal purposes and to inform its approach on the pending District Plan review process. It is entirely untested and undeveloped and has been earmarked by the Council to be reviewed and updated.
31. To use the parlance of section 74(2)(b), the content of the MUGS report has little or no bearing on resource management issues of the district. This means that although it is appropriate for the Council to have regard to the report as a potentially relevant document, the limitations of the report are such that its content can be effectively ignored.

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<sup>2</sup> *Kiwi Property Holdings Ltd v Christchurch CC* [2012] NZEnvC 92 at paragraph [109].

**Appropriate activity status - *Royal Forest and Bird Protection Society v Whakatāne District Council***

32. Throughout the course of this hearing, there was some discussion around whether the Plan Change could be approved subject to any underlying resource consent for the retirement village component of the development having a higher activity status.
33. The parties' attention was drawn by Commissioner McMahon to comments made by Judge Kirkpatrick in *Royal Forest & Bird Protection Society of New Zealand Incorporated v Whakatāne District Council* [2017] NZEnvC051 at paragraph [59]:

*[59] In considering what rule may be the most appropriate in the context of the evaluation under s 32 of the Act, we consider that notwithstanding the amendments that have been made to that section in the meantime, the presumptively correct approach remains as expressed in Wakatipu Environmental Society Inc v Queenstown Lakes District Council: that where the purpose of the Act and the objectives of the Plan can be met by a less restrictive regime then that regime should be adopted. Such an approach reflects the requirement in s 32(1)(b)(ii) to examine the efficiency of the provision by identifying, assessing and, if practicable, quantifying all of the benefits and costs anticipated from its implementation. It also promotes the purpose of the Act by enabling people to provide for their well-being while addressing the effects of their activities.*

[Emphasis added]

34. In Ms Barr's view as the Council's Planning Officer, the purpose of the Act and the objectives of the Plan cannot be met by a Controlled Activity status for the retirement village proposal. This is confirmed by Ms Barr in the Joint Planning Witness statement prepared following the hearing adjournment and in the section 42A Report addendum.
35. It is a view shared by Ms St Amand, Waka Kotahi's expert planning witness and echoed in the evidence presented by the expert Traffic and Transport witnesses for both the Council and Waka Kotahi.
36. Primarily, this is because the Council does not have any power under the Act to decline consent for a Controlled Activity. There are very valid reasons for the Council to need to retain a discretion to decline consent in this case.
37. There are also very valid concerns as to whether, and the extent to which, Waka Kotahi can have any ongoing involvement in the consenting process for a Controlled Activity proposal. In this respect, Mr Bullen's legal submission on behalf of Waka Kotahi that there is no "hook" to ensure notification of Waka Kotahi as an affected party on a Controlled Activity consent is correct.
38. Given the now well-traversed traffic safety issues associated with the proximity of the site to SH 2 and its use of the Cashmere Oaks

intersection, providing for the meaningful future involvement of Waka Kotahi at the consent stage is critical. This is something that a Controlled Activity framework, even with well-worded Matters for Control does not adequately provide. The Resource Management Act (s95A) specifically precludes public notification of Controlled Activity applications, unless:

- (a) the Applicant requests a public hearing; or
  - (b) s95C (relating to the provision of further information) applies; or
  - (c) there are special circumstances that warrant public notification.
39. Limited notification is also precluded under s 95B (6)(b) because the application is for a controlled activity (but no other activities) that requires a resource consent under a district plan and is not for the subdivision of land.
40. As Mr Bullen points out (at 3.19 (d) of legal submissions), it is too uncertain whether there is scope for Waka Kotahi to be notified based on “special circumstances” - particularly in the context of a Controlled Activity rule which by its very nature, assumes resource management issues have been addressed and that development of the sort proposed is specifically contemplated by the Plan in the subject location.
41. As a final point on this, there is real concern that the proposed Controlled Activity matters for control are not robust enough to sufficiently capture the various matters over which the Council would need to have input (in the form of conditions of consent), nor can they be.
42. Ms Barr’s conclusion is that a Restricted Discretionary activity status with a structure plan and a clause requiring notification of Waka Kotahi is appropriate in the circumstances, noting the directive of the Court set out above.

#### **Rule interpretation - Rule 20.1.5 (j)**

43. Another issue drawn to the attention of the parties during the hearing was in relation to matters of rule interpretation - particularly pertinent to the applicability (or otherwise) of Rule 20.1.5 (j) of the Operative Wairarapa Combined District Plan (‘the Operative Plan’).
44. This is relevant in the context of considering whether the District Wide rules for subdivision, set out in Section 20 of the Operative Plan provide an opportunity for wider transport effects or traffic safety effects at the Cashmere Oaks/SH 2 intersection be addressed in relation to any development at the site beyond the proposed retirement village.
45. The answer to this depends on whether such subdivision would trigger need for a discretionary activity consent under Rule 20.1.5 (j) on the

basis that it would be a subdivision with access to the State Highway under that rule.

46. Rule 20.1.5(j) reads:

20.1.5(j) Discretionary activities

The following are Discretionary Activities:...

*(j) Any subdivision with access to a State Highway, Limited Access Road, Masterton heavy Traffic Bypass or over or under the Wairarapa Railway, provided that the standards for Discretionary Activities are met.*

47. Of importance, if the proposed Plan Change is approved, Rule 20.1.5 is not triggered in relation to any development of the site associated with the retirement village, irrespective of the activity status for such land use. This is because there is no subdivision of land associated with that activity.
48. In oral submission and supplementary written submission on behalf of Waka Kotahi, Mr Bullen provides a summary of the law in relation to rule interpretation. I agree with his submission and his ultimate conclusion on the point. However, I get to that conclusion in a slightly different way.
49. In my submission, the “access” rule is not clearly drafted - and is capable of two different interpretations as demonstrated by the different views expressed on the matter in the planning evidence.
50. To that end, I disagree with Mr Bullen that the plain and ordinary meaning of the word “access” is “direct access”. To illustrate the point, a development of the sort envisaged under this proposal might reasonably be described as having access to a State Highway, where there is a clear and obvious link to the State Highway representing the quickest and most straightforward way out of the area. While I acknowledge the comment made by Ms St Amand that such an interpretation potentially opens up a much wider “pool” of subdivisions as being subject to the rule (which may or may not be the Plan’s intention), I do not consider it to be a “strained” interpretation of the word “access”.
51. The start point for determining the proper approach to be taken to the interpretation of plans where there are issues of uncertainty in the drafting is the Court of Appeal’s decision in *J Rattray & Son Ltd v Christchurch City Council (1984) 10 NZTPA 59 at 61*.
52. In that case, the Court considered the interpretation of predominant uses in a plan subject to the Town and Country Planning Act 1977. The Court said:

*“We would accept that language used to describe predominant uses within a particular zone will have an immediate significance and must be given its intended effect when that is unmistakable and can be clearly ascertained within the same close environment. But words take flavour and colour from their general context and can carry so many shades of meaning that it is frequently impossible to be dogmatic about any single normal or everyday meaning. So that where there is any uncertainty, or doubts arise, it would put at risk or even stultify the process of construction if an answer were to be given that itself was uncertain, or if doubt had to be left unresolved simply because it was thought necessary to cut away the language of the ordinance from the other parts of the same instrument. ... For those general reasons we are satisfied, ... that assistance not only may but ought to be sought from the composite planning document taken as a whole whenever obscurities or ambiguities might seem to arise.”*

[Emphasis added]

53. This ‘purposive’ approach to interpretation was confirmed by the Court of Appeal again 20 years later in *Powell v Dunedin CC* [2005] NZRMA 174 - ie that one should look to the plain meaning of the words used in the provision itself, assisted by the immediate context and, if there is ambiguity or obscurity, the wider provisions such as the objectives and policies of the Plan.
54. Most recently applied by the Environment Court in the 2010 decision of *Lovegrove v Waikato District Council* [2010] NZEnvC 54 - where the Court confirmed that plan rules must be clear and precise, if they are ambiguous not interpreted in isolation, with words considered first in their immediate context and then with other plan provisions.
55. I agree with Mr Bullen that, from a legal perspective, a purposive approach to interpretation taking account of both the provision itself and the wider plan context (including the relevant objectives and policies of the Plan), support a conclusion that Rule 20.1.5 (j) is not intended to apply to subdivisions that do not have direct access to a State Highway.
56. The Council’s approach to date in interpreting Rule 20.1.5 (j) as not applying to subdivisions without direct access to a State Highway confirms this.
57. I agree with Ms Barr that any uncertainty relating to the applicability of the rule can be cured by amending Rule 20.1.5 (j) to clarify that the rule applies to any subdivision of the site. Provided that any amendment to the rule is restricted to this site only, I do not see any issue, from a legal perspective, with this being treated as a consequential amendment to the Operative Plan arising directly out of the Plan Change.

## Section 23 - Financial contributions



58. Section 23 of the District Plan sets out the nature of financial contributions that can be imposed either as a standard of a permitted activity, or as a condition of a resource consent.
59. As Ms Barr confirms in the s 42A report, the nature of the future residential development (including a retirement village) that would be enabled under the proposed Plan Change is not especially unusual in the type of financial contributions that might be considered necessary.
60. Where a financial contribution is or may be required, the circumstances in which it can be imposed, and the amount of the contribution are specified in that section.
61. Section 23.4.1 sets out those circumstances when a roads, access and loading contribution is required as a standard of a permitted activity or as a condition of a resource consent.
62. Of direct relevance to this proposal, section 23.4.1 (a) states:
- (a) 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 section 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.*
63. Section 23.4.2 sets out the amount of any contribution for roads, access and loading as a standard of a permitted activity or as a condition of a resource consent.
64. The following provisions are of relevance to this proposal:
- ...
- (d) A share of the cost of the existing roads and access where additional capacity has been created in anticipation of future subdivision or development. The share will be calculated on the proportion of that additional capacity which is to serve the development; and*
- (e) 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; and*
- ...
- (g) 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), and 3% of the land value of each allotment to be created in the Rural Zone (plus GST).*

65. During the hearing, the Hearing Panel queried whether there is some ambiguity in the provisions of section 23 and how the provisions operate together.
66. It is submitted that there is no such ambiguity, and that the operation of the section is clear. In particular, the Council is empowered by section 23.4.1 to require the payment of roading, access and loading contributions under:
- (a) one or more of section 23.4.2 (a) - (f) as applies to the specific development proposal at issue; and
  - (b) a general district-wide roads, access and loading contribution under section 23.4.2(g) where a contribution under that section has not already been made, either at the time of the subdivision creating the lot, or under the Council's LTCCP.
67. In this way, the provisions capture payment of the general district-wide roads, access and loading contribution *for subdivision* in circumstances where it has been missed at the time the subdivision was carried out, or where the subject lot was created without the Council being alerted to the need for payment of such sum.
68. Under the Operative District Plan, payments are made directly to the Council to be held for use in line with the purposes for which they are taken. For sums paid under sections 23.4.2 (a) - (e), these are directed to specific items of work generated by the proposal. For sums paid under sections 23.4.2 (g), contributions are used more generally toward district-wide roads, access and loading matters.
69. While I am not a Planner, I agree with Waka Kotahi that the Operative Plan does not presently allow for it to have any say in how the district-wide contributions are used by the Council, or the matters to which those contributions are directed. The State Highway network is not given any priority or "special status" under the District Plan when it comes to the use of financial contribution funds.
70. Ultimately, it is a matter of discretion for the Council as where this funding is spent, noting that there will be other directives applicable to decisions made by the Council on spending in these areas.

Dated this 5 April 2023



Counsel for Masterton District Council  
RP Conner

## **Appendix 3 – Summary Statement of Harriet Fraser**

**RE: WELHOM DEVELOPMENTS LIMITED PRIVATE PLAN CHANGE HEARING**

**SUMMARY STATEMENT OF HARRIET FRASER ON BEHALF OF MASTERTON DISTRICT COUNCIL**

**TRANSPORTATION EVIDENCE**

**1.0 TRANSPORTATION MATTERS ARISING DURING THE HEARING**

1.1 I have summarised below the key transportation matters that came up during the hearing.

**Road to Zero and GPS Land Transport**

1.2 The weight to be given to the Road to Zero and the GPS Land Transport has been discussed. My view is that these documents provide very clear guidance on the nation-wide transport priorities and these priorities are then reflected in the Regional and Local Plans as they come up for review.

1.3 I note that as a result of these directions there has been a change in the priority given to road safety during the years since resource consents have been granted within the Cashmere Oaks area. As indicated by Ms St Amand, the earlier subdivisions would be unlikely to be supported without mitigation at the SH2 intersection, in the current road safety context, and I agree.

**SH2 Speed Limit**

1.4 The existing speed limit at the SH2 intersection with Cashmere Oaks Drive is 100km/h and this is the context that the requested plan change needs to be considered in. While it is possible that the speed limit will get reduced to 80km/h this is not certain. My understanding is that Waka Kotahi will be able to introduce an 80km/h speed limit with little if any changes other than to the signage because the 85<sup>th</sup> percentile vehicle speeds are already below 100km/h and close to 80km/h. This was confirmed by Ms Speight. Possible future further speed limit reductions would not be able to rely on signage alone as drivers can be expected to continue to travel this section of road at around 80km/h.

**DSIs**

1.5 While I am qualified to undertake road safety audits and regularly undertake audits of residential streets and intersections within the local urban road network, I do not have experience with predicting crashes. I have relied on the assessments by Mr Langdon-Lane and Ms Muirson. Any road safety training I have undertaken has been run by Waka Kotahi and the procedures for undertaking road safety audits are set by Waka Kotahi. As such, I place considerable weight on their assessment of safety matters.

1.6 My understanding of the DSI analysis, largely as a result of material presented at the hearing, is that:

- 1.6.1 The key inputs are daily traffic volumes on approach roads, the speed environment (albeit grouped into 50-70km/h and above 70km/h), the intersection form (T or roundabout) and the rural or urban context.

- 1.6.2 The analysis does not consider vehicle turning patterns, pedestrian and cyclist volumes and desire lines, particular characteristics of the road users (elderly in the case of the retirement village scenario).
  - 1.6.3 It is a blunt tool that allows for some comparison of treatments but that the margins of error will be significant.
  - 1.6.4 The analysis has shown that within an 80+km/h speed environment a roundabout will be noticeably safer. Within the lower 50 to 70km/h speed limit there is little difference in the DSIs for a T intersection and a roundabout.
- 1.7 As such the appropriateness and scale of an intervention will depend on the speed environment at the time of the resource consent application. My understanding is that a roundabout is one of the preferred ways to assist with reducing vehicle speeds to support the introduction of lower speed limits. As Mr Langdon-Lane commented the size of the roundabout would vary depending on the speed environment, effectively reducing in size as the speed environment lowers. The DSI analysis indicates that if treatments were used to bring vehicle speeds to 70km/h or less that a priority T intersection might result in a similar level of DSIs to a roundabout. I note and agree with Mr Connelly's evidence that speeds need to be managed to around 50km/h to manage the risk of death and serious injury from side impact crashes, as would occur between a vehicle turning right out of Cashmere Oaks Drive and a through vehicle on SH2.
- 1.8 There is also the need for judgement with regard to interpreting the significance of the difference between forecast DSIs. This needs to be considered in the context that a death or serious injury crash is a high consequence incident, even if the risk might be considered low, and that there is a clear direction through the Road to Zero Strategy that there is a shared responsibility to reduce DSIs.
- 1.9 Given that the DSI analysis does not take into account the predominance of right turns out, the increase in elderly drivers who are likely to be more risk averse and are also more vulnerable to injury in the event of a crash along with not specifically considering pedestrian and cyclist safety, I consider that the forecasting may underestimate the risk at this particular site and should not be taken as the only measure of traffic safety effects.
- 1.10 With regard to ensuring that any changes to SH2 are safe, it is my expectation that independent detailed design and post-construction road safety audits, or the equivalent under the Safe System Audit process, would need to be included as a condition on a future consent and that Waka Kotahi as the asset owner would typically be considered 'the client' in that process.

### **Minor Safety Improvements**

- 1.11 Ms Muirson has outlined a number of minor safety improvements that she considers could assist with ensuring the safe performance of the SH2/ Cashmere Oaks Drive intersection. I agree with Mr Langdon-Lane that these treatments will have little if any effect on improving the DSIs at the intersection. My understanding is that the main crash type that would contribute to DSIs as forecast by Mr Langdon-Lane and Ms Muirson is side impact crashes with speed being a key factor in the severity of a crash. Hence speed

reduction, whether through the introduction of a roundabout or another treatment, is the key mitigation measure.

#### **Acceleration and Deceleration Lanes**

1.12 The possibility of including acceleration and/or deceleration lanes has been discussed during the hearing. My experience over a number of projects has been that Waka Kotahi have a preference for a simple Give Way arrangement rather than an acceleration lane. With regard to a deceleration lane this would need to be very carefully designed to avoid a vehicle turning left into Cashmere Oaks Drive hiding a following through vehicle from a driver turning out of Cashmere Oaks Drive. I note that the need for a deceleration lane would reduce and most likely be removed with a slower speed limit and/or other interventions to reduce vehicle speeds in the vicinity of the intersection.

#### **SIDRA Intersection Analysis**

1.13 I note that SIDRA is used to model the efficiency of an intersection, that is delays and queues, and not the safety performance of intersections. That said, excessive delays can result in increased risk taking by drivers. Mr Georgeson's analysis based on a gap acceptance of 5.5 seconds and headway of 3.2 seconds for the right turn out with traffic flows associated with either 254 residential lots or a retirement village with 215 independent units, 119 care suites and 99 residential lots on the balance land, shows the intersection performing satisfactorily.

1.14 I consider that these results should be treated with some caution given that there are no provisions controlling the yield of units (either independent or care) within the retirement village and therefore larger traffic volumes could be generated. Also, I consider that larger gap acceptances may be needed in practice due to the variable speeds of approaching vehicles on SH2, that is accelerating from or decelerating towards the speed limit signs, and also in the case of the retirement village scenario, the more cautious nature of elderly drivers (both residents and some of their visitors).

1.15 At the resource consent stage, there will be certainty around the nature of the development and the associated residential yield and therefore traffic generation. Depending on the timing of the lodgement of the resource consent, traffic will continue to grow on Cashmere Oaks Drive as a result on the ongoing subdivision and better queuing and delay data may become available to assist with calibrating any SIDRA model.

#### **Scenario 1 versus Scenario 2**

1.16 Commissioner Daysh asked whether Scenario 1 (full residential) from an access point of view would be considered the worst case scenario. My understanding is that the residential yield and therefore traffic activity associated with Scenario 1 is more certain than that for Scenario 2. The proposed provisions do not constrain Summerset to a particular number of dwelling units and the building height allowance presumably provides them with some flexibility. I also consider that Scenario 2 with the likely introduction of a greater proportion of elderly drivers results in it not being clear cut as to which would be the worse case scenario. I would expect a similar level of assessment for either scenario at the resource consent stage and that Waka Kotahi would be considered an affected party in both cases.

## **Public Transport - Buses**

1.17 I agree that the proposed plan change does not preclude bus services accessing Cashmere Oaks Drive in the future. An increase in population within the area will increase the viability of introducing a service with benefits for existing and future residents, and future staff of a possible retirement village. My only concern is that buses typically operate within an urban environment and the need to turn right out into a 100km/h (or future 80km/h) speed zone may raise concerns for the Regional Council.

## **Pedestrian and Cyclist Paths**

1.18 There is a footpath along the western side of SH2 that connects the footpaths within Cashmere Oaks with the external footpath network. I have measured the width of the footpath to be 1.4m. This compares with the current guidance from Waka Kotahi that minimum footpath widths of 1.8m should be used. In my view the existing path is a footpath and does not have sufficient width for cyclists to interact safely with pedestrians and other cyclists. Cyclists wishing to access SH2, need to travel along the shoulders which for southbound cyclists means crossing SH2.

1.19 I have made a site visit to the recently constructed shared path link between Cashmere Oaks and the end of Miro Street. This appears to have a width of around 2.5m and as such I consider that it is appropriate for shared use by pedestrians and cyclists. In my view this provides a useful link for recreational or cautious cyclists, but I would expect commuter and sports cyclists to want to access SH2.

1.20 The Strava data provided by Waka Kotahi shows an existing demand for movement across SH2 to access the shared path along the eastern side of SH2. This demand can be expected to increase as a result of increased residential activity along the western side of SH2. I recognise that there is a level difference between the highway and the path but do not discount the possibility that a link could be engineered.

1.21 Increased residential activity along the western side of SH2 will increase the demand for pedestrians and cyclists to cross the highway whether to cycle along the shoulder on SH2 towards Masterton or to access the shared path on the eastern side. Pedestrians and cyclists crossing SH2 in the vicinity of the Cashmere Oaks Drive intersection is not aligned with Safe System principles with the most notable challenges being the vehicle speeds, vehicle flows and the layout of the vehicle turning provisions at the intersection which mean that pedestrians and cyclists cannot wait safely in the middle of the road.

1.22 In my view, provision should be included to allow for the exploration of a safe crossing location as part of any resource consent application. Mr Georgeson has indicated that this could occur in the vicinity of the Fourth Street intersection. I agree that this has possibilities for pedestrians but for cyclists to access this crossing point, the widening of the existing 1.4m wide footpath along the western side of SH2 to at least a shared path width of 2.5m would be needed.

## **Urban versus Rural Road Environment**

1.23 There has been much discussion on the rural/ urban nature of SH2 between the 50km/h speed zone and the 'Arvida Corner'. I consider it to be a section of transition from rural road to urban road. Given the topography to the east of the highway and the existing screened development of Cashmere Oaks, I consider it unlikely that the section between Cashmere Oaks Drive and the 50km/h speed zone will never look more urban in terms of adjacent land use. As such, any increase in the urban feel of the road to support reduced vehicle speeds to an urban speed environment (70km/h or less) is likely to require interventions within the road corridor, such as kerb and channel and landscaping, similar to treatments used when sections of state highways are revoked to local road status.

1.24 The degree to which the area can be described as a 'well-functioning urban environment' has also been discussed. With regard to transport this is defined as requiring 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. I make the following observations:

- 1.24.1 The existing 100km/h speed zone and possible future 80km/h speed zone on SH2 do not contribute to an urban environment.
- 1.24.2 The Cashmere Oaks area is heavily reliant on private vehicle access to all destinations.
- 1.24.3 There are activities within cycling distance but there is not an existing safe commuter cyclist route. It appears that there will soon be a link for recreational or cautious cyclists via Miro Street.
- 1.24.4 There is not existing access to public transport so the need for good active transport connectivity is important.

## **Summerset Rangiora**

1.25 With regard to traffic matters I consider that the similarities are limited given that it does not rely on a connection onto a State Highway and that presumably South Belt has a 50km/h speed limit.

## **Arvida Retirement Village**

1.26 I understand that the Arvida development is considerably smaller, having some 55 units and therefore lower associated traffic volumes than the Summerset scenario. With regard to traffic safety the predominant turns will be right in and left out. The right turn in is only opposed by oncoming traffic flows unlike the right turn out from Cashmere Oaks Drive which is opposed by traffic flows in both directions on SH2.



## **2.0 UPDATE TO MY REVIEW ATTACHED TO OFFICERS REPORT**

2.1 In my review dated 9 December 2022, that was attached to the Officers Report, I recommended that the plan change should not be approved due to potential road safety effects. At point 16 on the final page of my review I identified the following matters that I considered needed to be addressed:

2.1.1 Inclusion of a Structure Plan in the District Plan that identifies infrastructure interventions on SH2 which addresses the safety concerns raised by Waka Kotahi.

2.1.2 Inclusion of provisions for traffic effects to be assessed at the resource consent stage with regard to:

2.1.2.1 The safe performance of the SH2 intersection, including cyclists and pedestrians accessing the shared path on the opposite side of SH2.

2.1.2.2 The ability for buses to be able to turn either at the end of any extension to Cashmere Oaks Drive or within the subdivision at a location which ensures convenient access to a potential future bus route.

2.1.2.3 Whether parking provision or management is needed along Cashmere Oaks Drive to ensure two-way traffic flow is enabled at all times.

2.2 As a result of the matters that have been discussed during the hearing, I update my comments as follows:

2.2.1 The request continues to not include a Structure Plan or any confirmed road infrastructure interventions at the SH2 intersection with Cashmere Oaks Drive.

2.2.2 I would expect the Integrated Transport Assessment required through the proposed provisions should result in the assessment of the matters included in 2.1.2.2 and 2.1.2.3 above. In the event that this assessment was not included in a future resource consent application, the Council can request further information to be provided.

2.3 As such, I remain concerned about the lack of inclusion of a Structure Plan or any confirmed road infrastructure interventions at the SH2 intersection with Cashmere Oaks Drive.

## **3.0 FUNDAMENTAL TRANSPORTATION IMPEDIMENTS**

3.1 The Panel has asked that any fundamental impediments to the requested rezoning be identified. With regard to transport matters, I consider the key matter is safe access to SH2 for all road users. I consider that there are likely to be treatments that can deliver safe access to SH2 for all road users, but these have not been identified and provided for by the Requestor to date.

3.2 In the absence of treatments to deliver safe access to SH2 for all users within the proposed plan change provisions, I consider that there needs be certainty that Waka Kotahi and Council as Road Controlling Authorities (RCAs) can have meaningful input into the need

for and nature of roading infrastructure to mitigate adverse traffic safety effects of the development on SH2 during a subsequent resource consent process given:

- 3.2.1 Lack of agreement to date on the need for or nature of any mitigation with no mitigation committed to via a Structure Plan or other mechanism.
- 3.2.2 Options for mitigation have not been tested in terms of physical viability, that is whether there is sufficient land within the road corridor for a particular treatment.
- 3.2.3 The costs of any mitigation options have not been estimated and as such it is not possible to determine to what extent financial contributions might be able to provide for any mitigation. This is further complicated by the matter that Council would collect the financial contribution and yet SH2 is Waka Kotahi's asset.
- 3.2.4 Uncertainty regarding the future speed environment on this section of SH2 with 100km/h being the current speed limit. The speed environment at the time of a resource consent application will inform the appropriateness and scale of mitigation at the SH2 intersection with Cashmere Oaks Drive.
- 3.2.5 Uncertainty regarding ongoing traffic growth on SH2 with recent data suggesting as high as 5% per annum compared with 2% per annum assumed in the analysis.
- 3.2.6 Possible changes to the intensity of the retirement village or residential activity which would in turn affect traffic flows and the scale of any associated effects.

3.3 I do not consider that consultation with the RCAs, on its own, is sufficient to ensure that potential adverse traffic effects on SH2 will be properly mitigated.

3.4 In summary, if the plan change is to be approved, I consider that the following transport matters should be provided for through the proposed plan change provisions:

- 3.4.1 An 85<sup>th</sup> percentile vehicle speed of no more than 50km/h for SH2 traffic in both directions through the intersection with Cashmere Oaks Drive. This will likely involve treatments on the approaches to the intersection as well at the intersection. I note that Ms St Amand has indicated that the Requestor should be responsible for any intersection intervention and that Waka Kotahi would then provide the supporting infrastructure on the approaches to the intersection, such that the 50km/h speed limit could be moved to the north of the intersection.
- 3.4.2 The introduction of a crossing point for pedestrians and cyclists on SH2 to allow access to the existing footpath on the western side of SH2 and also to allow southbound cyclists to safely join the southbound traffic flow on SH2.

- 3.4.3 The widening of the existing 1.4m wide footpath along the Cashmere Oaks frontage to a shared path width of 2.5m between Cashmere Oaks Drive and the future crossing point described in the point above. This will need to include access to the shared path for cyclists exiting Cashmere Oaks Drive.
  - 3.4.4 The ability for both Waka Kotahi and Council as the RCAs to be able to make a meaningful contribution to the design of any treatments within the road reserve. Waka Kotahi as the RCA of SH2 and Council as the RCA for Cashmere Oaks Drive.
- 3.5 The first three of the above points (3.4.1 to 3.4.3) could be shown on a Structure Plan. Interventions that reduce SH2 operational vehicle speeds to around 50km/h through the intersection will provide for the following:
- 3.5.1 Facilitates Waka Kotahi being able to consider moving the 50km/h speed limit to the north of the Cashmere Oaks Drive intersection.
  - 3.5.2 Will reduce the risk of death and serious injury crashes from side impact crashes which is the key crash type that needs to be addressed.
  - 3.5.3 Will result in a speed environment that is more consistent with an urban environment providing a more consistent urban driving experience between the site and towards Masterton town centre.
  - 3.5.4 Increases the options for the location of a pedestrian and cyclist crossing point of SH2.
  - 3.5.5 Removes the need for a deceleration lane for the left turn into Cashmere Oaks Drive.

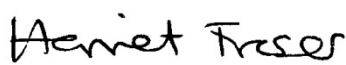
#### **4.0 JOINT STATEMENT OF PLANNING EXPERTS**

- 4.1 I note Ms Barr's view that the most appropriate provisions for the site would be to include a Structure Plan and for the activity to be restricted discretionary. I agree with this. As included in this statement, I consider that a Structure Plan should include a number of infrastructure interventions to ensure safe access to and from SH2 for all road users.
- 4.2 With regard to the matters of discretion listed by Ms Barr under point 8 on page 6 of the planners' statement, I suggest that 8.(vi) a. reads 'the reasonable provision of access to PT services' given that the provision of facilities such as bus stops would be undertaken by the Regional Council. I suggest that 8.(vi) b. reads 'existing transport corridors, including SH2, and within the site'.

#### **5.0 CONCLUDING STATEMENT**

- 5.1 In the event that the matters included in paragraph 3.4 above can be provided for in the plan change provisions along with the matters of restricted discretion set out by Ms Barr, I would change my view to being able to support the plan change request from a transportation perspective.

Harriet Fraser  
4 April 2023

  
Harriet Fraser

## **Appendix 4 – Summary Statement of Angela McArthur**

**RE: WELHOM DEVELOPMENTS LIMITED PRIVATE PLAN CHANGE HEARING**

**SUMMARY STATEMENT OF ANGELA MCARTHUR ON BEHALF OF MASTERTON DISTRICT  
COUNCIL**

**LANDSCAPE AND VISUAL EFFECTS EVIDENCE**

**1.0 SUMMARY OF KEY CONCLUSIONS AND RECOMMENDATIONS**

- 1.1 My name is Angela Mary McArthur. I am a landscape architect and a registered member of Tuia Pito Ora New Zealand Institute of Landscape Architects. My qualifications and experience remain as set out in my peer review of the Landscape Assessment provided by the Applicant (5 December 2022).
- 1.2 In my peer review list of recommendations (5 December 2022) paragraph 43, I recommended the 1.5-2m wide planted buffer treatment be applied to all site boundaries. This is incorrect and recommend this planting treatment for the east and southern boundaries, in addition to the north boundary as proposed by Mr Bentley, the Landscape Architect for the Applicant. I have discussed this recommendation in my peer review assessment (paragraph 27).
- 1.3 Mr Bentley and I are generally in agreement with the scale of adverse landscape and visual effects and the changes in landscape character due to rezoning the site from Rural to Residential.

**2.0 MATTERS OF AGREEMENT**

*Summary of landscape character effects*

- 2.1 I agree with Mr Bentley that rezoning the land from Rural to Residential will lead to a complete change in landscape character for the site. The open rural nature will be changed to urban in form resulting in a small loss of productive rural land in the area. The land is flat and borders the residential zone to the south. Initially adverse effects on landscape character will be moderate.
- 2.2 The Plan Change seeks provision for higher density and building height within a restricted area of the site as shown in the Outline Development Plan (ODP). The location of the higher building area is set back at least 180m from the boundary with Cashmere Oaks Subdivision. In my view this is adequate separation distance to manage potential visual dominance effects beyond the site parameters.
- 2.3 The Applicant proposes a planted buffer along the northern boundary as part of the Plan Change. Comprehensive landscaping and a masterplan will be required as part of the resource consent process to manage the change in landscape character within the retirement village area of the ODP.
- 2.4 While Mr Bentley disagrees, I recommended that a planted buffer treatment be included along the east and south boundaries as well to filter views of future development within the site. Planting of native trees and shrubs up to 3-4m tall inside these boundaries will

provide a vegetated character for existing residents within view of the site. The planting is not designed to maintain rural character but to reduce or soften the change in landscape character within the site for residents adjacent, many currently having open view over the site. Cashmere Oaks Subdivision has a character quite unlike a contemporary retirement village in building density and height. At this stage, if the Plan Change is approved it is uncertain the density of future housing within the general Residential Zone at the eastern side of the site.

*Summary of visual amenity effects*

- 2.5 Existing residents located close to the southern boundary will be more sensitive to change. Visibility and visual effects of future development within the site will also depend on distance, foreground and wider landscape context, orientation, elevation, and the perceptions of the viewer which may vary.
- 2.6 Submitters (03, 06, 07), residents from Cashmere Oaks Subdivision, had concerns relating to the greater density proposed under the retirement village model and general residential zoning. There will be loss of rural character outlooks for residents with views over the site. In my view the landscape character of the retirement village and general subdivision area and views from Cashmere Oaks Subdivision will be enhanced by the planted buffer along the southern boundary.
- 2.7 I agree with Mr Bentley that for residents located to the south within Cashmere Oaks Subdivision adverse visual effects will be low to very low depending on the distance and nature of the view (open, partial or glimpse).
- 2.8 For users of State Highway 2 (SH2) and residents to the east and north, views into the site are distant and generally filtered by established trees. I agree with Mr Bentley that for road users travelling on SH2 and local residents to the east and north of the site adverse visual effects will be low to very low.

### **3.0 OUTSTANDING ISSUES**

- 3.1 The issues of disagreement relate to the planted buffer which I recommend for the south and east boundaries in addition to the north boundary as proposed. I accept that some type of planting, most likely low shrubs inside the boundary and specimen trees between buildings will be planted for retirement village housing close to the southern boundary. However, there is no certainty that any planting will be required as part of future subdivision within the eastern side of the site.
- 3.2 I do not see that boundary planting if maintained, will lead to a CPTED problem as Mr Bentley stated in his summary of evidence. Retirement villages commonly have planted boundary borders for privacy and shelter for occupants and neighbours, and for integration of buildings.

3.3 The eastern boundary borders rural lifestyle blocks. While there are no houses close to this boundary in my view the change in landscape character needs to be managed better to ensure privacy and filter views for these neighbours who may be using their land for rural lifestyle activities such as grazing and riding horses.

#### **4.0 CONCLUDING STATEMENT**

4.1 In conclusion, I am supportive of the Plan Change in terms of landscape and visual effects including provision for a retirement village with higher density as shown in the proposed Outline Development Plan. This is provided that further provisions shown in the Council Officer's Section 42A Report for proposed Appendix 16 (Amendments 1 - 6) are adopted into the Masterton District Plan (with the amendment that additional planted buffer treatment be applied inside the east and south boundaries as part of the resource consent for future subdivision and retirement village development within the site and is shown on the ODP - Appendix 16).

Angela McArthur  
**Landscape Architect**  
**Eco-Landscapes & Design Ltd**  
10 March 2023