

SOUTH WAIRARAPA DISTRICT COUNCIL

20 NOVEMBER 2019

AGENDA ITEM B3

PRIVATE PLAN CHANGE REQUEST FOR REZONING LAND FROM RURAL TO RESIDENTIAL ZONING : THE ORCHARDS RETIREMENT VILLAGE 67 READING ST, 31 MARKET RD, GREYTOWN – INDEPENDENT HEARINGS COMMISSIONER RECOMMENDATION

Purpose of Report

To provide confirmation of the Independent Hearings Commissioner approval of the Private Plan Change for rezoning of land for The Orchards Retirement Village, Greytown. To seek confirmation of this as Council's decision on the Private Plan Change for The Orchards Retirement Village, at 67 Reading Street and 31 Market Road, Greytown.

Recommendations

Officers recommend that the Council:

- 1. Receive the Private Plan Change Request for Rezoning Land from Rural to Residential Zoning: The Orchards Retirement Village 67 Reading St, 31 Market Rd, Greytown – Independent Hearings Commissioner Recommendation Report.*
- 2. Receives the recommendation of the Independent Hearings Commissioner on the Plan Change for The Orchards Retirement Village, and*
- 3. Adopts the recommendation of the Independent Hearings Commissioner as a Council decision and direct officers to notify the decision in accordance with the First Schedule of the Resource Management Act 1991.*

1. Background

Under the operative Wairarapa Combined District Plan 2011 the subject land is zoned Rural (Primary Production). The subject land for the new retirement village was selected by the developer because of its locational and physical characteristics aligned to the purpose of developing a high amenity modern retirement village complex serving Greytown and the wider district.

The application made to Council included the application for resource consent for the staged development/establishment and the request for private plan change including master plan for layout, for rezoning the land from Rural (Primary Production) to Urban (Residential) for The Orchards Retirement Village, Greytown.

Mr Lindsay Daysh was commissioned to hear and consider the combined application for resource consent and private plan change request.

The application was notified on the 1 May 2019, and the closing date for submissions was 29 May 2019. At the close of the submission period 18 submissions were received and a further two submissions were received shortly after.

The hearing for The Orchards Retirement Village was held on the 29th and 30th August 2019 in Greytown. The Commissioner released his decision recommendation to the Council on the 2nd October 2019 (attached at Appendix 1).

Prior to reaching a decision the Commissioner requested mediation to resolve the applicants concerns over financial contributions. Mediation occurred and Council agreed to set aside the reserves contribution given the applicants intention to make the green space and amenity available to the public. This is consistent with the Commissioners recommendation and decision.

The Independent Hearings Commissioner granted approval for the resource consent application and has recommended approval for the private plan change request to rezone land from Rural (Primary Production) zone to (Urban) Residential for the proposed retirement village.

2. Discussion

2.1 Legal Implications

The process for District Plan Changes is set out in the First Schedule of the Resource Management Act 1991.

The Commissioner, Mr Daysh has delegated authority to make recommendations to Council in relation to this plan change. However, the decision on any plan change must be made by Council.

The decision Council is required to make today is set out in the RMA's clause 10 of the First Schedule.

This states:

- (1) *A local authority must give a decision on the provisions and matters raised in submissions, whether or not a hearing is held on the proposed policy statement or plan concerned.*
- (2) *The decision—*
 - (a) *must include the reasons for accepting or rejecting the submissions and, for that purpose, may address the submissions by grouping them according to—*
 - (i) *the provisions of the proposed statement or plan to which they relate; or*
 - (ii) *the matters to which they relate; and*

The Commissioners recommendations have assessed the application in its entirety along with the matters raised in submissions. These considerations are recorded in the attached report (Appendix 1).

The Independent Hearings Commissioners Report addresses all aspects of the RMA that are required to be considered as part of a private plan change request for rezoning.

Council must give its decision within two years of notifying the plan change.

2.2 *Options available to Council*

Once Council receives the Recommendation Report, Council must then decide whether or not to accept the recommendation in full or not.

If the recommendation is accepted it then becomes the Council's approved decision.

The Council cannot itself make a decision on the submissions that differs from the recommendations as Council has not heard the evidence at the hearing.

That means Council cannot accept some recommendations and not others. It is an all or nothing decision.

If the recommendation is not accepted then the Council has two options:

1. Refer the Recommendation Report back to the Commissioner for reconsideration;
2. Appoint a new commissioner to re-hear the submissions and make fresh recommendations.

3. Conclusion

Council officers recommend that Council adopts the recommendation of the Independent Hearings Commissioner as a Council decision and direct officers to notify the decision in accordance with the First Schedule of the Resource Management Act 1991.

4. Appendices

Appendix 1 - Independent Commissioners recommendation to Council

Contact Officer: Russell O'Leary/ Kendyll Harper, RM Planner

Reviewed By: Russell O'Leary, Group Manager Planning and Environment

Appendix 1 - Independent Commissioners Recommendation to Council

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF A request for a Private Plan Change to the Wairarapa Combined District Plan to rezone land at 67 Reading Street and 31 Market Road Greytown from Rural (Primary Production) Zone to Residential Zone including a Character Area overlay to specifically provide for the establishment and operation of a retirement village.

AND An application to South Wairarapa District Council by The Orchards Limited Partnership for land use consent for the establishment and operation of a 180-unit retirement village.

South Wairarapa District Council
Reference 190034

DECISION OF THE HEARING COMMISSIONER

SUMMARY

INTRODUCTION

This is a combined report on two processes under the Resource Management Act 1991 (the Act) relating to a proposal to develop a 13.82 hectare site on the edge of Greytown as a Retirement Village.

The first matter is for me to make a recommendation under the First Schedule of the Act to South Wairarapa District Council (the Council) on a private plan change to the Wairarapa Combined District Plan (the District Plan).

The second matter is for me to make a formal decision on the related resource consent application for the establishment of the retirement village. This resource consent decision is on the basis of the operative District Plan Rural zoning.

I have been delegated the authority from SWDC to hear the plan change, the consent application and the submissions received.

SUMMARY OF THE PLAN CHANGE

The Orchards Limited Partnership, lodged a request for a private plan change to the Wairarapa Combined District Plan with an accompanying resource consent to South Wairarapa District Council to enable the establishment of retirement village. The plan change includes the following components:

- To re-zone the land at 67 Reading Street and 31 Market Road, Greytown, commonly known as Murphy's Orchard, from Rural (Primary Production) Zone to Urban (Residential) Zone
- Provide a character area overlay specifically for the Orchards Retirement Village to enable the development and operation of a continuing care retirement village (up to 180 independent dwelling units), rest home, hospital, dementia care (up to 120 beds) and ancillary activities;
- Introduce a new policy in the Residential Zone to provide for the retirement village development within the Orchards Retirement Village Character Area;
- Introduce a new Controlled Activity Rule at 5.5.3 of the Plan to provide for the above development with proposed matters over which Council will retain control;
- Introduce a new Non-Complying Activity Rule at 5.5.6 of the Plan to address non-retirement village residential development within the Orchards Retirement Village Character Area;
- Introduce new subdivision standards at 20.1.2(a) of the Plan to provide for future subdivision within the Orchards Retirement Village Character Area as a Controlled Activity and associated assessment criteria;
- Introduce a new definition of Retirement Village;
- Introduce a new Appendix to the Plan to include the Orchards Retirement Village concept plan; and
- Other consequential amendments to give effect to the purpose and scope of the request.

SUMMARY OF THE RESOURCE

The proposal for a 180 unit retirement also requires resource consent from the Council for the following reasons that relate to the current rural zoning of the property in question:

CONSENTS REQUIRED

Consent is required under the operative plan for a number of permitted rule non-compliances with the operative Wairarapa Combined District Plan. These matters relate to:

- Minimum dwelling setbacks.
- Number of dwellings
- Signs
- Non-residential activities in a building greater than 25m² GFA relating to the use of a proposed retirement villa as a show home.
- Number of dwellings per Certificate of Title
- Temporary activities – duration of earthworks and construction programme.
- Various transportation aspects of the proposal.
- Measures to manage any land contamination.

Overall the proposal has been assessed as a **Discretionary Activity**.

SUMMARY OF THE HEARING

I held a hearing at the Greytown Town Centre over two days being the 29th and 30th of August 2019 with provision made for a final written right of reply from the applicant at the conclusion.

The hearing commenced with opening evidence presented by the applicant, and their architectural, landscape, transportation and planning representatives. I considered 20 submissions with six submitters attending to provide me with representations. The council Reporting Officer and Transportation Engineer provided additional comment on matters that were raised through the hearing. The hearing was adjourned for the applicant to follow up in writing their verbal reply at the hearing.

SUMMARY OF THE RECOMMENDATION AND DECISION

- The proposal will have positive effects due to the provision of retirement and aged care in South Wairarapa. It is clear that the proposal would provide for the social and economic wellbeing of the applicant, users of the facility and to the local community.
- The site is on the edge of Greytown and has considerable locational advantages. While the site contains very good soil and has been used for rural production purposes, the proximity to the town centre and the peri-urban nature of the rural zoned land in Market Road and Reading Street leads me to conclude that a rezoning is appropriate.
- The proposal also provides for much needed additional residential accommodation targeted to the ageing population. This aspect becomes more acute considering the demographic changes there are to the population as a whole.
- I consider that the design for the retirement village has been well developed. There has been a long process of identifying and working with the key features of the site primarily the existing trees that can feasibly retained and making best use of the water race that runs through the site.

- The existing trees on the site contribute to overall amenity and there was an undertaking that significant trees would be retained. In my view retaining trees where possible and appropriate will assist in providing internal amenity to retirement village users but also provide some amenity to those that have views towards the site.
- I consider that based on building setbacks from the boundaries proposed and the undertakings above that while the proximity effects to neighbouring occupiers may be noticeable, effects can be mitigated through fencing and planting. Overall proximity effects to adjoining neighbours are considered to be acceptable.
- I have a degree of comfort that apart from the care centre and possibly the communal facility the proposal will be single storey. This reflects much of the built development in the urban areas of Greytown.
- The same submitters that had concerns about proximity and landscape effects also shared a concern about the overall loss of rural amenity values. The rural values that exist currently will in my view be compromised to a varying extent through the implementation of the proposal but can be mitigated.
- The close proximity to Greytown Town Centre amenities will mean that village users will have some choices in terms of travel. Pedestrian, cycling and mobility scooter provision has been made over and above providing for motor vehicle access.
- The integration of the development with urban Greytown is of particular importance. I am satisfied that the applicant and Council have designed upgrades to Reading Street which will benefit not only the applicant but the school and other pedestrians. It is noted that the applicant offered to install a footpath adjoining Market Road to the access of the site.
- I consider that construction effects can be managed through the imposition of appropriate conditions of consent which are commonly used across development sites.
- The proposal will lead to the loss of productive land that for many years has been used for primary production. The proximity advantages of the site outweigh the loss of this land from productivity. It is also clear that for Greytown to expand outwards there will be the loss of land currently in production regardless of where it is.
- I am satisfied that stormwater design has been appropriately considered and there are conditions in place to ensure that stormwater neutrality can be achieved.
- Conditions relating to financial contributions payable including to Reading Street have been agreed between the applicant and Council.
- While the proposal in my view conflicts to an extent with the Objectives and Policies in relation to rural character and amenity the proposal is also a discretionary activity under the Act. The plan change provides a more permissive planning framework than the Rural Zone provisions.

- While a decision on the resource consent with the plan change would have been more straightforward on balance resource consent can be granted under the current plan particularly as it is my conclusion that adverse effects have been avoided, remedied or mitigated.
- I consider that the rezoning and the accompanying provisions are in accordance with the overall direction of higher order documents particularly in respect of the need to provide for housing supply well located to town centre amenities.
- I would be more comfortable approving the resource consent with the plan change in place however that would mean that the consent is delayed until after Council endorsed this recommendation. However due to the timing lag between the two processes I can approve the resource consent application as adverse effects can be avoided, remedied or mitigated and there is a suite of conditions that seek to control adverse effects.
- That still leave the plan change decision which, subject to Council approval and subject to appeal rights, should catch up with the applicants programme and result in a much more suitable set of urban residential plan provisions relating to the site into the future.
- I also consider that the plan change and the resource consent proposal can meet the sustainable management purpose of the Act.

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Appendix 1 – Persons who attended and presented evidence or submissions at the hearing

Appendix 2 - Recommended Changes to Wairarapa Combined District Plan

Appendix 3 - Conditions

1. Introduction

This is a combined report on two processes under the Resource Management Act 1991 (the Act or the RMA) relating to a proposal to develop a 13.82 hectare site on the edge of Greytown as a Retirement Village.

The first matter is to make a recommendation under the First Schedule of the Act to South Wairarapa District Council (the Council) on a private plan change to the Wairarapa Combined District Plan (the District Plan). This has been made by The Orchards Partnership Limited and entails rezoning land at 67 Reading Street and 31 Market Road, Greytown from a Rural (Primary Production) zoning to an Urban (Residential) zoning. The plan change also includes specific amendments to plan provisions and a concept plan relating to the land.

The second matter is for me to make a formal decision on the related resource consent application for the establishment of the retirement village. This resource consent decision is on the basis of the operative District Plan Rural zoning. The two processes in my view are intertwined. As the site is currently zoned Rural and in use for primary production activities, the development and operation of a retirement village at the residential densities envisaged would be more in alignment with an urban zoning and that is the purpose of the plan change.

I have been delegated the authority from SWDC to hear the plan change, the consent application and the submissions received. This report therefore makes a recommendation on the plan change which will need to be considered at a future Council meeting. I also make a decision on the resource application on behalf of the Council with the proviso that the plan change dictates the acceptable form of development. While I have approved the resource consent the plan change should be ideally in place prior to exercising the resource consent. I comment further on these interlinkages later in this report.

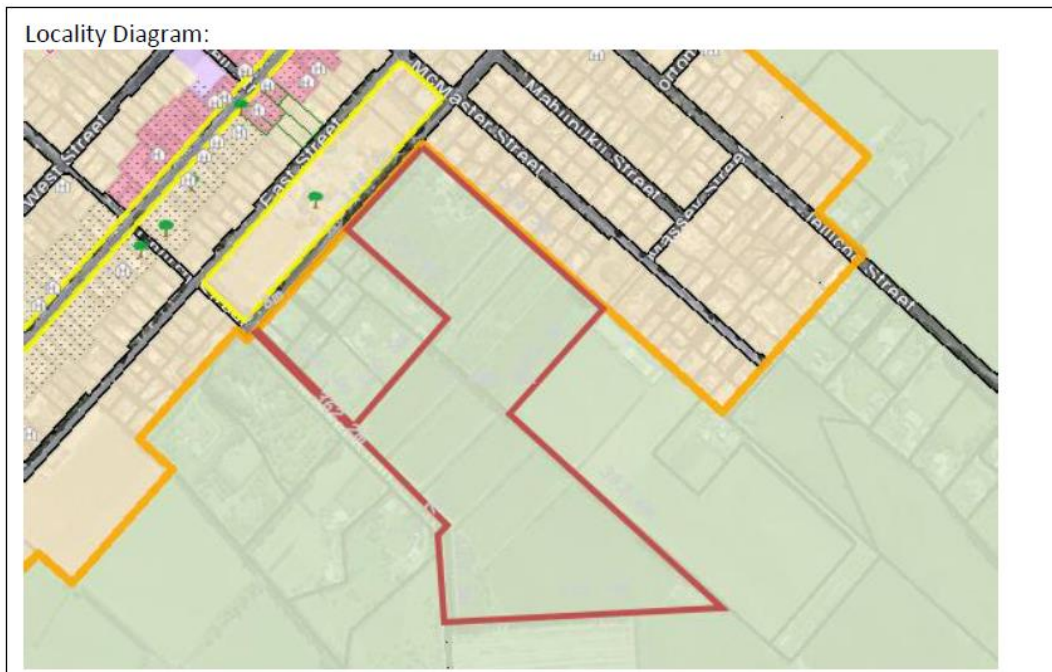
2. Summary of the Site and Proposal

2.1 The Site

The site is located on the eastern edge of Greytown some 150 metres at its closest point to Main Street/State Highway 2 (SH2). It comprises two distinct blocks of flat land (known as the North Orchard and South Crops), which have been in use for primary production and contains one dwelling and associated implement sheds. The combined site has two road accesses from Reading Street to the northwest and Market Road to the south west.

The Reading Street frontage is directly opposite Greytown School while to the north-west are residentially zoned properties in McMaster Street and a Rural zoned winery (Schubert Wines). To the south west, with access to Reading Street, are some 9 recently subdivided rural residential properties while Market Road itself is also the access to a small number of other rural residential properties.

The area of the proposal is shown in the locality diagram included in the officers report.



The aerial photograph¹ below shows the relationship between the site and its local context.



¹ Source Google Maps

2.2 The Proposal

The following is based on the proposal as described in the s42A report and is provided here for context. This outlines the contents of the private plan change and the resource consent application.

Plan Change

The Orchards Limited Partnership in accordance with the provisions² of the RMA, lodged a request for a private plan change to the Wairarapa Combined District Plan with Council (the local authority) on 6 March 2019. This plan change includes the following key components:

- The re-zoning of land at 67 Reading Street and 31 Market Road, Greytown, commonly known as Murphy's Orchard, from Rural (Primary Production) Zone to Urban (Residential) Zone with a character area overlay specifically for the Orchards Retirement Village. This would enable the development and operation of a continuing care retirement village (up to 180 independent dwelling units), rest home, hospital, dementia care (up to 120 beds) and ancillary activities;
- The introduction of a new policy in the Residential Zone to provide for the retirement village development within the Orchards Retirement Village Character Area;
- The inclusion of a new Controlled Activity Rule at 5.5.3 of the Plan to provide for the above development with proposed matters over which Council will retain control;
- The provision of a new Non-Complying Activity Rule at 5.5.6 of the Plan to address non-retirement village residential development within the Orchards Retirement Village Character Area;
- The introduction of new subdivision standards at 20.1.2(a) of the Plan to provide for future subdivision within the Orchards Retirement Village Character Area as a Controlled Activity and associated assessment criteria;
- The provision of a new definition of Retirement Village;
- The insertion of a new Appendix to the Plan to include the Orchards Retirement Village Concept Plan; and
- Other consequential amendments to give effect to the purpose and scope of the request.

Resource Consent

Submitted concurrently, the Orchards Limited Partnership also applied for land use resource consent, pursuant to section 88 of the RMA, to establish and operate the Orchards Retirement Village on the same site. In detail the form of the development included the following key features:

- Up to 180 independent dwelling units consisting of 4 design typologies built in 3 stages. It should be noted that the advanced care facilities (known as Stage 4) are not part of this resource consent application;
- Provision and use of 1 independent dwelling unit to operate as a show home;
- Earthworks – soil disturbance under the National Environmental Standard for Assessing and Managing Contaminants in Soil (NESCS);

² Clause 25, Part 2 of the First Schedule

- Roading network throughout the development; wastewater, potable water, and stormwater infrastructure; and
- Pedestrian paths, community garden spaces, construction of a bowling green and village green, retention of a significant number of orchard trees and comprehensive landscaping throughout the site.

2.3 Application Documentation

The proposal on which I am basing my recommendation and decision is included in the combined plan change and consent application and its associated plans and documents lodged with SWDC and the further information requested. For the record these documents comprised of the following:

Plan Change

- Request for a Private Plan Change – Orchards Limited Partnership 6 March 2019.
- Proposed Private Plan Change Request Section 32 Evaluation - Perception Planning 5 March 2019.

Resource Consent

- Resource Consent Application and Assessment of Effects for Land Use Consent to establish and operate the Orchards Retirement Village at 67 Reading Street and 31 Market Road Greytown - Perception Planning for The Orchards Ltd Partnership 6 March 2019.

The combined application contained 34 appendices including the plan change request, maps, detailed concept plans and specialist reports in support of both the plan change and the resource consent application.

2.4 District Plan Rules and Activity Status of the Proposal

As stated this is a combined report and I have been cognisant of the differences that there are between considering the two scenarios of the application for resource consent both with and without the plan change provisions being in place.

Without the plan change the proposal requires resource consent from the Council for the following reasons that relate to the current rural zoning of the property in question:

- **Rule 4.5.2(d) – Minimum dwelling setback** - Does not comply with external site 10m (front) and 25m (other) boundary setbacks.
- **Rule 4.5.2(e) - Number of dwellings** - to develop 180 independent residential units
- **Rule 4.5.2(h) - Signs** – The number and size of signs proposed do not meet this requirement.
- **Rule 4.5.5(c) – Non-residential activities in a building greater than 25m² Gross Floor Area (GFA)** – All non-residential activities that form part of the retirement village (excluding the hospital and rest home) and including the well-being centre. Use of proposed retirement villa as a show home.

- **Rule 4.5.5(e) – Non compliance with 4.5.2(e) number of dwellings per Certificate of Title and non-compliance with 4.5.2(h) signs** – Establishment of up to 180 independent residential units and establishment of signage to the village and within the village.
- **Rule 21.1.16 - Temporary activities** – The duration of earthworks is likely to exceed the permitted activity requirement.
- **Rule 21.4.14 – Non-compliance with permitted activity rule 21.1.25** – Various transportation aspects of the proposal identified Traffic Impact Assessment
- **Rule 21.6(a) – Non-compliance with the permitted activity standards for temporary activity rules 21.1.6** – Construction programme will exceed 12 months.

Overall the resource consent application has been assessed as a **Discretionary Activity** under the operative Wairarapa District Plan. There was no dispute from the applicant's planner (Mr P Percy) nor the s42A report writer (Ms Clark) on this.

2.4.1 Potential contamination matters

For completeness I was advised that a consent has already been granted by Council under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS ref # 180203). This consent is to change the use of the land from rural to residential and for soil disturbance associated with the remediation of two areas on the site. A further consent is required as a **Controlled Activity under the NESCS** as the proposal fails to meet the following permitted activity standards under s8(3) of the NESCS for soil disturbance:

- (c) the volume of disturbance of the soil of the piece of land must be no more than 25m³ per 500m²; and
- (f) the duration of the activity must be no longer than 2 months.

There was no discussion about potential contamination issues at the hearing.

3. Relevant RMA Provisions

3.1 Private Plan Changes

Useful guidance on the private plan change process is provided through the Quality Website³. In summary the RMA allows anyone to seek changes to district or regional plans through a request for a private plan change. Requests for private plan changes enable proposals to be tested through the RMA process, and allow applicants to initiate change without waiting for a plan review. Part II of the First Schedule of the RMA sets out procedural matters for local authorities to follow in dealing with requests for plan changes.

When deciding whether to adopt, accept, convert, or reject a private plan change, the council needs to consider the integrated effects of the change, how the private plan

³ <https://www.qualityplanning.org.nz/node/581>

change impacts on the operative plan's approach to sustainable management, what parties need to be notified of the private plan change and the cumulative effects of all private plan changes in the area. It also needs to assess the environmental effects of the proposal, including reverse sensitivity, and the infrastructure services available.

My recommendation on the plan change in section 12 of this report is based upon the provisions of the First Schedule and the evaluation under s32 including my assessment under s32AA (requirements for undertaking and publishing further evaluations).

3.2 Resource Consents

My discretion to grant or refuse the application is set out in section 104B of the RMA, which states:

Section 104B – Determination of applications for discretionary or non-complying activities

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority-

- (a) may grant or refuse the application; and*
- (b) if it grants the application, may impose conditions under section 108.*

3.3 Section 104 Considerations

Section 104 of the RMA sets out the matters to which I must have regard when considering the applications and submissions received.

S104 (1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to–

- a. The actual and potential effects on the environment of allowing the activity; and*
- ab. any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity;*
- b. The relevant provisions of:*
 - i. A national environmental standard*

The National Environmental Standard for Assessing and Managing Contaminants in Soil (NESC) is applicable;
 - ii. Other regulations (none applicable);*
 - iii. A national policy statement*

In this case the National Policy Statement for Urban Development Capacity 2016 is particularly applicable;
 - iv. The New Zealand Coastal Policy Statement 2010 (not applicable);*

- v. *A regional policy statement or proposed regional policy statement.*

The applicable document is the Regional Policy Statement for the Wellington Region 2013;

- vi. *A plan or proposed plan*

The operative Wairarapa Combined District Plan is the only document of relevance. It is understood that any resource consents required under the regional plans will be sought at a later date.

- c. *Any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

4. Notification and Submissions Received

Prior to my assessment of the plan change and the effects and consideration of the resource consent under the relevant planning instruments, it is important that I record matters of notification process and the content of the submissions received prior to the hearing commencing. This is largely replicated from the s42A report.

4.1 Public Notification

The applicant requested that the proposed plan change request and application for resource consent be publicly notified under section 95A(3)(a) of the RMA. In accordance with First Schedule provisions and section 95 of the RMA, the private plan change request and application for resource consent were publicly notified together on Wednesday 1 May 2019. Relevant documents were served on all adjoining landowners and interested parties. I was advised that public bodies, including all adjoining local authorities, were also served the documents in accordance with the First Schedule. The closing date for public submissions was 29 May 2019.

4.2 Submissions

At the close of the submission period 18 submissions were received with a further two submissions received out of time. Council officers were able to waive the time limits as both were received shortly after the closing period and there was no prejudice to any party. One submission was opposed to the application, two were in support of the application, 13 supported the proposal with amendments and three were neutral or not stated.

The New Zealand Transport Agency withdrew its submission prior to the hearing while counsel for Schubert Wines Ltd advised me that it had reached an agreement as to the plan change provisions that apply nearest to its property boundary with the applicant and on that basis did not wish to participate further. A summary of the submissions received is as follows:

Summary of Submissions:

	Submitter/ Further Submitter(F)	Address	Position
1	Rev. Harry S.L. Newton	St Luke's Church, Greytown	Support with amendments
2	Graeme & Helen Gray and F1	20 Market Road	Support with amendments
3	Robyn Dorothy Easter	28A McMaster Street, Greytown	Support with amendments
4	Dr Robert Francis Tuckett,	Chairman Board of Trustees for Arbor House Rest Home	Support
5	Marty Stevens & Cathryn Kerr and F5	26 Market Road, Greytown	Support with amendments
6	Sija Spaak and F3	81A Reading Street, Greytown	Not stated
7	New Zealand Transport Agency		Withdrawn
8	Leigh Hay, Chair Greytown Community Board		Support
9	Fire and Emergency New Zealand (FENZ)		Support with amendments
10	Terry & Michele Falleni and F2	30 Market Road, Greytown	Support with amendments
11	Gordon & Sue Dinnison and F4	73A Reading Street, Greytown	Support with amendments
12	Shaun & Vicky Westhead	103 East Street, Greytown	Support with amendments
13	Greytown School Board of Trustees		Support with amendments
14	Ministry of Education		Neutral
15	Scott & Elizabeth Norman and F7	81B Reading Street, Greytown	Support with amendments
16	Powerco		Neutral
17	Schubert Wines Limited and F6	42A McMaster Street, Greytown	Decline
18	Sarah Sowman		Support with amendments
19	Sam Wilkie		Support with amendments
20	Greater Wellington Regional Council (GWRC)		Support with amendments
F8	Shaun and Ann Stephens	83 Reading Street Greytown	Support submissions on construction traffic.

4.3 Key Issues Raised

The s42A report provided a brief summary of the key issues raised in the submissions. I have used this list as the basis of my assessment of the plan change and the overall assessment of effects associated with implementing the resource consent. This summary of issues is replicated as follows:

- Extent of the Plan Change Area – whether to include the south side of Market Road.
- Support for the rezoning – need for such a facility in the South Wairarapa
- Economic and Community effects
- Loss of Productive Land / Soil Quality
- Traffic and Roading Matters – effects of additional traffic on State Highway 2 (SH2), number of accesses off Reading Street, street and intersection upgrades, lack of the provision of on-site carparking, narrow internal road widths, pedestrian and cycle routes, and land use and transport integration
- Effects on Rural Character and Amenity – loss of privacy, increase in noise
- Reverse Sensitivity issues
- Building Setbacks
- Maximum Building Height
- Density
- Urban Design
- Risk of Standard Residential Development
- Retention of Trees
- Construction Effects – Noise, dust, length of construction and hours, and traffic
- Soil Disturbance / Earthworks within Contaminated Land
- Stormwater Management / Hydraulic Neutrality / Effects on Moroa Water Race
- Services Provision
- Controlled Activity Standards
- Subdivision Standards

The points made in the submissions and all evidence have been used to inform my analysis of the actual and potential effects of the proposal. Relevant evidence as to the applicability of any relevant national, regional and district plan policy matters and my overall conclusions are discussed in later sections of this decision.

4.4 Section 42A Report

Prior to the hearing, I received and reviewed the s42A report. The reporting officer Ms Clark recommended that the plan change shall proceed subject to the recommendations on submissions and further submissions included in the s42A report. Ms Clark recommended that resource consent should be approved subject to conditions. The report also provided me with an outline of the key issues in contention and a set of recommended conditions.

The officer's recommendation to approve both the resource consent and plan change was on the basis that the proposed development would be able to be compatible with the surrounding character, will appropriately mitigate any adverse effects on amenity of the

adjacent area while maintaining the operation and safety of the transportation network. Ms Clark concluded that the proposed activity would be able to acknowledge, respect and reinforce the form and scale of the surrounding area appropriate to the underlying zoning in the operative district plan. The proposal would represent efficient development of the site and provide a range of aged care units located on a site with nearby local services while avoiding adverse effects on the network infrastructure.

In her statement at the hearing and after considering all subsequent information from the applicant and submitters, Ms Clark confirmed her recommendation to approve the private plan change and the resource consent subject to conditions had not changed.

Ms Clark further recommended that the land use consent is granted as a controlled activity under Section 9(2) of the Resource Management (National Environment Standards for Assessing and Managing Contaminants in Soil to Protect Human Health (NESC)) Regulations 2011.

4.5 Extent of Plan Change Area

The s42A report also made the following comments on submissions relating to Plan Change Scope. The submissions by Graeme and Helen Gray, Marty Stevens and Cathryn Kerr, and Terry and Michele Falleni requested that the adjacent land to the Orchards development, on the south side of Market Road, be included in the area to be rezoned from rural to residential. This was opposed in further submissions by Schubert Wines Limited (F6) and Scott and Elizabeth Norman (F7)

I agree with Ms Clark that:

Including the south side of Market Road in the rezoning to urban residential is beyond the scope of the plan change request made by the applicant. Rezoning the land on the south side of Market Road was not the intention of the applicant as is not included within the site owned by the applicant and has not been addressed in the application or accompanying section 32 RMA analysis or included in the information notified.

4.6 The Hearing

The hearing took place over two days being the 29th and 30th of August 2019 with provision made for a final written right of reply from the applicant at the conclusion.

I record that I undertook visits to the site and the wider locality both before and during the hearing including to one submitters property (Ms Spaak).

The hearing commenced at the Greytown Town Centre and after opening, evidence was presented by the applicant and its' landscape architectural, landscape, civil infrastructure, transportation and planning representatives. On that day evidence was also presented by one submitter and other information from submitters unable to make the hearing was tabled.

Overall six submitters spoke to their submission being Mr and Mrs Gray, Mr and Mrs Norman, Ms Easter, Mr Dinnison, Mrs Watson on behalf of Greater Wellington Regional Council (GWRC), Ms Spaak and Mr Lienert.

Reverend Newton was unable to attend the hearing but confirmed that his concerns had been addressed and was now in full support of the proposal. Mr and Mrs Stephens were unable to attend the hearing due to family reasons. However, they confirmed that they were in full support of the proposal. Ms Cooper confirmed that the Greytown School Board of Trustees were also unable to attend the meeting but their original submission still stands.

Ms Sowman notified Council via phone that she no longer wished to be heard as she did not purchase the property at 38B McMaster Street. However, she still has interest in the wider area and did not withdraw her submission. As stated earlier, I received correspondence from counsel for Schubert Wines Ltd stating that they had reached an accommodation with the applicant primarily relating to height and setback distances to the submitters' property.

On the second day of the hearing, after five submitters provided evidence, the Council Reporting Officer, Transportation Engineer and Utilities Engineer provided additional comment on matters that were raised through the hearing particularly in relation to financial contributions. Mr P Percy, the applicants' planning adviser verbally outlined the applicants' position on a number of matters raised during the proceedings.

The hearing was then adjourned in order for the applicant to provide a written response to matters raised. That was received on 5 September 2019 and I closed the hearing on 9 September 2019.

5. Necessity for and Positive Effects of the Proposal

I turn first to the applicant's views of the necessity for and the positive effects of the proposal and in particular the outcomes sought by the plan change and the associated resource consent application. These are outlined in the Assessment of Environmental Effects (AEE) and supported in particular by the evidence of the applicant Mr C Percy, the evidence of Mr Newdick in terms of landscape design and summarised by Project Planner Mr P Percy.

In terms of the Act the definition of effect under the RMA includes positive effects. It was considered by the applicant that the proposed retirement village will assist in providing for the future residential requirements for the elderly. The proposal will also fill a significant shortage in terms of existing and projected retirement accommodation needs for the Wairarapa into the future.

It was outlined that the Applicant has carried out a programme of community engagement and Mr C Percy had responses from the community that there is a significant need for good retirement villages in the Wairarapa which has resulted in the proposal. Mr P Percy also considered the need in relation to the NPS UDC⁴.

It was further outlined by a number of participants that the proposal is well situated, being close to the school and shops. For mobility there are also walking opportunities to ensure that there is less dependence on cars with footpath access to Greytown Town Centre. The applicant was of the view that in many ways the proposal will assist in the elderly being able to remain as self-sufficient as possible.

Another positive aspect was that the development will not be gated and will integrate with the existing community as it borders existing development in eastern Greytown including the school. Mr C Percy stated that it was their intention to provide a fully integrated retirement village with a broad range of accommodation units with appropriate pricing to meet all needs.

Mr C Percy and Mr Newdick explained the positive attributes of the site for a high quality retirement village. This included making use of and enhancing natural features such as existing trees and vegetation where appropriate and protecting and enhancing the water race that runs through the property.

A number of submitters generally supported the proposal for these reasons stated by the applicant but they did have concerns as outlined below under the next section relating to Actual and Potential Adverse Effects. For example, Mr and Mrs Gray supported the development but had concerns with traffic and construction. Other positive comments were from Mr and Mrs Norman who are in support of the application as they agreed that retirement living was needed in the Wairarapa and the proposal will bring lots of jobs and skilled people into town. Ms Easter fully supported the application but felt the trees are

⁴ National Policy Statement for Urban Development Capacity 2016

very important as the landscape is why everyone lives in and is attracted to Greytown. Ms Spaak and Mr Lienert are not opposed to the village per se but were concerned with the loss of rural outlook from their property.

Findings

I received no contrary evidence to the applicant's view that the proposal will have positive effects due to the provision of retirement and aged care in South Wairarapa. It is clear that the proposal would provide for the social and economic wellbeing of the applicant, users of the facility and to the local community. It is also worth noting at this point that a number of submitters who provided evidence at the hearing also stated they had no real issue with the proposed retirement and aged care complex on the site. Many of the submitter concerns were about issues such as boundary setbacks, mitigation for loss of privacy, loss of rural outlook and construction effects.

I also recognise that the site is on the edge of Greytown and has considerable locational advantages. While it is acknowledged that the site contains very good soil and has been used for rural production purposes for orcharding and cropping, the proximity to the town centre and the peri-urban nature of the rural zoned land in Market Road and Reading Street leads me to conclude that a rezoning is appropriate. Land is a finite resource and appropriate development on the site would in my view provide an efficient use of the property particularly as the location is within a short distance from Greytown Town Centre.

The proposal also provides for additional residential accommodation targeted to the ageing population. It is well known that the Wairarapa along with the wider Wellington region is in need of additional housing supply. This aspect becomes more acute considering the demographic changes there are to the population as a whole meaning additional provision for aged care also needs to be considered.

The proposal is also able to utilise a reasonable number of the existing trees on the site and seeks to enhance the water race which are seen as significant positive attributes of the proposal. I also consider that the design reflected in the concept plan will produce a positive outcome for future residents in terms of mobility and amenity.

There are positive aspects to the proposed use on the site and to the overall development of the site. The positive aspects of the development are for the applicant, the future residents and the wider south Wairarapa community.

Therefore I consider that the necessity for the proposal in general terms has been well made and the site has considerable advantages for the establishment of a retirement facility with provision for all forms of care.

6. Actual and Potential Adverse Effects

The following is my assessment of the evidence and my findings on what I consider to be the actual and potential adverse environmental effects of the proposal. Setting aside any positive effects, I now focus on the matter of potentially adverse effects and available methods of avoiding, remedying or mitigating any adverse effects.

In my view, after considering the evidence presented in the hearing, the principal issues that were in contention and subject to submissions and evidence were in respect of:

- Landscape and Urban Design
- Retention of Trees
- Building Setbacks
- Maximum Building Height
- Effects on Rural Character and Amenity
- Traffic and Roading Matters
- Reverse Sensitivity issues
- Loss of Productive Land
- Construction Effects – Noise, dust, length of construction, hours of operation and construction traffic
- Stormwater Management / Hydraulic Neutrality / Effects on Moroa Water Race

These issues broadly reflect the key issues identified in the s42A report. I discuss these issues in the following sections of this decision.

6.1 Landscape and Urban Design

Mr Newdick, the landscape architect for the applicant provided evidence at the hearing. He stated that there is a strong existing features on the site and the master plan has been mainly landscape led to take advantage of these. Designgroup Stapleton Elliott (DGSE) had prepared the plans but they mainly worked on the building design, while Mr Newdick provided the landscaping design. Mr Newdick confirmed that there has been collaboration throughout the process. As part of the design process a landscape analysis was undertaken to ensure that all existing natural features were reflected in the character of the site. Both Mr Newdick and the applicant stated that trees are very much a unique characteristic of the site and will have instant impact from day one. The layout also ensures variation across the site. The aim is to provide some rural character, through the

nature of the landscape to be retained through attention to detailed landscape design. The intention is not to produce a suburban typology.

No fencing between houses is proposed but there will be shrub planting between. Each unit faces the stormwater area which will have planting and walkways/paths. He noted the community gardens and wetlands across the site.

Mr and Mrs Norman were concerned with their view from their living and outdoor living areas as they considered that there was a lack of visual screening along their boundary. They would like planting as a preference as it is more natural looking than a fence. Planting would fit both the developers' and the submitters' concept of open space and retention of the nature of the landscape to ensure the proposal is integrated with Greytown.

Mr Dinnison expressed that it was unfortunate that the plan is in the early stages and there are no precise detail of planting plans. Mr Dinnison was also concerned with the boundary planting adjoining his boundary. Photos provided of the boundary trees in the winter showed that the Poplars are a shelter belt and stop wind. The current trees provided total privacy in summer but in winter there is a view of more trees on the other side of the boundary showing different layers of planting. The Dinnisons boundary is the entire length of boundary 9 back towards the water race which is 220 metres. There has been no confirmation of which trees along the boundary will be retained.

Mr Dinnison proposed the introduction of a temporary screen (photo tabled). He considered the length of construction of the project and the removal of the trees will result in dust, wind and rubbish. The staging could be for 5 years and they would like screening from this over 5 years by replacing the trees. Temporary screening such as orchard screening (6m high permeable screen which reduced wind but provides shelter) is preferred. The new planting is key to Mr and Mrs Dinnison and this screen will protect the new plants and help them grow. They considered that a fence is not needed and is happy with plants only in the long term.

I made some inquiries about the parking of motorhomes during the hearing. Mr C Percy advised that motorhome parking is a real need in retirement villages. The motorhome parking area will stop the motorhomes from being parked within the village itself which would detract from the overall character. He also considered that this area can also be used as overflow parking and was of the view that it is also helpful to have a park here because it is next to the community garden.

Findings

I consider that the landscape design for the retirement village has been well developed. From the evidence of Mr Newdick there has been a long process of identifying and working with the key features of the site, primarily the existing trees that can feasibly retained and making best use of the water race that runs through the site. I am confident that transferring the design concept into built form can result in a high-quality development.

In relation to Mr Dinnisons concerns I refer to the setback issue later in this report. In respect of landscaping I note that the applicant has offered a screen to stop litter during construction. Consultation is to be undertaken with Mr and Mrs Dinnison as part of landscape planning along boundary 8 and 9 to facilitate consistent optimal landscaping design for both parties.

I also note the provision where practicable of small playgrounds or garden areas that will assist to break up the form of development and provide a valuable retirement village resource.

In respect of the existence of the carparking area for motorhomes this is at the rear or southern part of Market Road. Public views will be minimal and will be mitigated to the extent that it can by some screening behind retained planting of tall trees and fruit trees. I also was informed that there is a change in level which will screen the motor homes. Other locations were explored but it would be more noticeable from other external boundaries so this one was preferred.

Overall I consider the proposal to be well designed, site constraints have been recognised where feasible and that the proposal can assimilate within the subject site. I discuss any permanent effects beyond the boundary of the site under proximity effects and rural character and amenity below.

6.2 Retention of trees

There was some discussion at the hearing in respect of tree retention with the focus being on what is known as Murphy's Garden adjoining the McMaster Street boundary and in close proximity to the existing farm house on the property. Mr Newdick and Mr C Percy commented that the existing trees on the site are an asset but there needs to be some flexibility about which trees remain on site and which needed to be removed in order to facilitate development.

Mr C Percy commented on Murphy's Garden at the beginning of the hearing stating that the Murphy's had owned and grown the garden and it should remain as a memorial and reflection garden. Mr C Percy recognised that Ms Easter showed keen interest in Murphy's garden and the trees and it was being considered to expand the garden area which may result in the removal of one of the villas and the other will have a platform that can accommodate the trees. The protected tree schedule has been extended to include T19 & 20.

Ms Easter's submission was focused on the retention of all the trees on the significant tree register in Murphy's Garden. She sought the ongoing protection of what is known trees T1 to T20. Her view was that the 20 mature trees are worth saving as they are the most impressive cluster of trees on the site including Rimu and Totara. And these are the types of trees that Greytown people value and why she came here. She informed me that the water race runs through this area and there is lots of bird life and that all the Greytown residents enjoy this space.

Ms Easter also commented on what she believed were tree canopies and root systems where the true size is under represented on the masterplan in her view. Ms Easter was also concerned about buildings proximity to the root system of trees and the general uncertainty about future plans and for boundary planting.

In his right of reply Mr P Percy for the applicant made the following response to tree protection and maintenance matters relying on a specific report prepared for the applicant from Treecology Arborists.

The Treecology Report did not specify that the trees should be protected and retained, only that this should happen where possible. The report identified trees T12 to T20 as being more significant than the other identified trees, and it is for that reason that those trees have been identified for protection and retained. As discussed at the hearing, this is consistent with the Applicant's intention to retain 'Murphy's Garden' as an open space area for residents and the wider community. As discussed later in this statement, an additional condition is proposed to provide further certainty around the protection of T12 to T20.⁵

Findings

The existing trees on the site contribute to overall amenity and there was an undertaking by the applicant that significant trees would be retained. I have therefore carefully considered the conditions proposed by the applicant as there is a need to provide certainty. In my view retaining trees where possible and appropriate will assist in providing internal amenity to retirement village users but also provide some amenity to those that have views towards the site.

As part of the conditions the applicant has offered to submit detailed plans showing the location of each relevant villa in relation to the trees and roots which would be certified by an arborist. This would confirm that the excavations for foundations of villas or other hard surfaced areas will not affect the roots. I understand that testing could be involved as well as hand methods of digging rather than machines to protect the tree health.

During the hearing there was some discussion, including with Ms Easter, about improving certainty for the management of the identified trees to be retained in and around the proposed Murphy's Garden. Based on those discussions, further amendments to the conditions are proposed, including a requirement for building and foundation plans for buildings proposed within 3 metres of the canopy of Trees T12 to T20 to be certified by a qualified arborist to ensure that potential adverse effects on the trees will be minimised.

The applicant acknowledged the importance of the existing trees to neighbours and the wider community and the Applicant's intention is to retain as many mature trees as possible. While that may not always be possible for some of the trees, the conditions

⁵ Applicants right of reply P Percy para 4a.

proposed for the protection of trees T12 to T20 are considered to provide sufficient certainty that those trees will be retained and protected during construction. No further conditions are considered necessary to achieve this.

6.3 Building Setbacks and Proximity Effects

Mr P Percy on behalf of the applicant stated that the village will have a sense of rural character which is reflected in design. However, where the development adjoins a residential zone, the villa's design will reflect the adjoining residential development. The proposed 5m is larger than what can be established adjoining a permitted residential activity and therefore rural setbacks do not need to continue to apply.

The applicant considered that these setbacks are justified from a plan integrity point of view. What has been proposed is additional to the residential zone and provides additional privacy through planting. The larger setbacks provide for rural character which also reflects the sites previous use. The larger setbacks are justifiable as they also relate to noise and privacy which are also mitigated with planting and screening.

Ms Annan supported the proposed setbacks stating that open space is well distributed throughout the site and is key to provide for neighbours and occupants. She considered for example that taller trees will break up the rooftops of the villas. Staggered setbacks from use of different types of villa and boundary plantings was also considered to create a visual break up from the surrounding properties.

Mr and Mrs Normans' concerns relate to the small setback distances proposed between their property and the subject site. Their current aspect is to farm land and their outdoor living area faces the retirement village boundary. They considered that the inadequate setbacks and planting will constrain the activities they undertake on the site. They bought the property knowing it was rural and expected boundaries to also be setback 10 metres to reflect this. The Normans view was that no consideration has been given to the mitigation of the effects along the boundary by the applicant.

Mr Dinnison was also concerned about the boundary setbacks proposed along his adjoining boundary and would like 10m rather than a 7.5m setback. Mr Dinnison stated that there should be multi-layered planting within the 10m setback. The elevations show the planting being 1.8m in width which is not correct. Proposing that there should be planting on each side of 2.5 metres which would provide more privacy. The 10m would allow more room for planting. They are happy to contribute to planting on their side of the boundary.

Ms Spaak and Mr Lienert stated that the setbacks are not a specific issue for their site as the house is setback further from boundary 8. When I visited their property I was shown planting on their site that was under establishment. They understand it is an issue for the neighbours (Normans) so they supported the 10m setback.

Findings

The issue of the appropriate setbacks for development from the external boundaries was an important factor for some submitters who adjoined the site at the hearing. Aside from Schubert Wines that have reached an accommodation with the applicant, the concerns primarily related to boundaries 8 and 9. These boundaries being the site boundary with the Rural zoned residential properties that are all accessed from Reading Street and bounded by Market Road, the south western boundary of the North Orchard and the north western boundary of the South Crops area. Designgroup Stapleton Elliott (DGSE) plan 3.2 shows the proposed setbacks around the site with specific changes required as a result of the agreement reached with Schubert Wines and reflected in conditions 45 to 47 proposed by the applicant.

I have taken some reference from the permitted setbacks in the Rural Zone in the District Plan and also to the general residential setbacks that would apply noting the evidence of Mr P Percy. The proposal to provide 5 metre minimum setbacks does not provide for setbacks anticipated by a rural zoning which have a permitted activity minimum distance of 10 metres for the frontage and 25 metres elsewhere.

If the site had a residential zoning, minimum 5 metre setbacks would be greater than the minimum distance specified in the residential zone and there would be much alignment with the outcomes specified in the plan change itself. That is why I am very much more comfortable with the proposal based on the plan change as opposed to being assessed under the operative rural provisions, a factor I discuss later.

In terms of effects I was encouraged by the efforts of the applicant to discuss these detailed matters with property owners that directly adjoin the site prior to and during the hearing. A minimum 7.5 metre setback is proposed for the north western boundary of the southern block and the rear properties 73, 81A and 81B Reading Street. While these properties would have buildings within 7.5 metres of the boundary, they do benefit from the single storey nature of the retirement village in this location. Vegetative screening that is either there, growing or proposed as part of the landscaping plan is required to be maintained as a condition of consent.

In the applicants right of reply amended and additional conditions after discussions with submitters were appended. Many of these relate to minimising proximity effects during construction and I note that these conditions were offered by the applicant to address the following:

- a. The installation of a temporary noise attenuation bund or fence adjacent to the construction road/track that is proposed to run parallel with Boundary 8.
- b. Limits on noise-generating activities operating on Saturdays.
- c. Limiting the period when building construction will take place adjacent to Ms Spaak's property boundary (to reflect the peak season for the visitor accommodation business operated on the property).
- d. Installation of a temporary wind break fence along boundary 9 to assist with landscape planting establishment and to minimise the potential for wind-blown litter

to be blown into the Dinnison's property due to the prevailing North/North-east wind.

- e. A requirement for consultation with Mr and Mrs Dinnison as part of landscape planning along boundary 8 and 9 to facilitate consistent landscaping design on both properties.
- f. A requirement for boundary planting on boundaries 2, 3, 8 and 9 to be included in the detailed landscape planting and management plans.

I consider that based on setbacks proposed and the undertakings above that while the proximity effects to neighbouring occupiers may be noticeable, effects can be mitigated through fencing and planting. Overall I consider proximity effects to adjoining neighbours are acceptable.

6.4 Maximum Building Height

A number of concerns were raised around building height. Mr C Percy stated at the beginning of the hearing that the building height should not be restricted to one storey as they want the ability for the care facility and the communal facility to possibly be two storey and flexibility on the ability to build to two storeys is requested. The villas are planned to be single storey only as there is no demand for villas of two storeys.

Mr and Mrs Norman stated that the original plan was for single storey only which was supported. The change to two stories changes the effects as viewed from their property. Mr and Mrs Norman expressed that the same logic should apply to Schubert Wines where height has been restricted to one storey. They supported Councils' recommendation to be implemented for the height restriction of 6m. If higher, it should be away from the housing and at the rear of the site.

Mr Dinnison also stated that he was of the understanding that the height would be one storey as that was the information they were given – referred to the emails which were tabled. "All buildings across the site are now one level" it was notified as single storey. Since then it has been advised that there may be two storey buildings. They do not want to see houses from the boundary. The submitter supported the Councils' recommendation on the height limit being 6m. It was the view expressed by Ms Clark that single storey buildings are what the whole of Greytown think is necessary and had been agreed for this application.

Findings

I have a degree of comfort that apart from the care centre and possibly the communal facility that the proposal will be single storey. This reflects much of the built development in the urban areas of Greytown. It was also Ms Clark's understanding that all residential villa buildings on the site were being designed as single storey.

Taking into account the agreement with Schubert Wines it is my understanding that the future healthcare facility (proposed Stage 4) and the wellbeing centre could be two storey buildings. I also note Ms Clark's advice that the location of these buildings is well removed

from the boundaries of the other submitters concerned about building height and therefore the rationale for a fixed height limit is lessened.

Further I agree with Ms Clark that if any of the proposed residential units proposed were not in accordance with the plans included in the resource consent application, which are all shown in the elevations as being single story, the proposal wouldn't be in general accordance with the conditions and a s127 RMA Change of Conditions or new resource consent would be required, with one of the matters of control being "design, scale and appearance of buildings".

This appears to be an acceptable outcome from the applicant's perspective as it wasn't raised in their right of reply.

6.5 Effects on Rural Character and Amenity

Mr Newdick stated that retaining the trees will contribute to the proposal significantly. Parts of the orchard have been saved and shelterbelts have been retained where possible. Kerbs have not been proposed and will be drained by a swale similar to rural roads. Carparks have been located discreetly and surrounded by trees.

Ms Annan commented that the design characteristics provide for rural amenity and small town character. Although it is at the edge of the town, it is still close to the town centre so it will not be considered to be an ad hoc. The loss of rural character is appropriate as it will provide for rural amenity and responds to the surrounding town area. The distance and orientation of buildings are suitable as it provides positive amenity, other than the village being completely screened. Each neighbour has different views, and these are being accounted for. The setbacks and design contribute to the surrounding amenity of the existing properties, this includes the villa design.

Mr and Mrs Norman had concerns relating to the change from rural to residential character as they bought their property knowing it was rural and expected it to remain rural. This is the lifestyle they were after for themselves and their young family.

Ms Spaak and Mr Lienert bought their house and land at 81A Reading Street because of its rural setting. There is some orchard noise and they bought knowing this, they understand that they could be far worse off with effects from rural activities. Before buying the land, they enquired at Council and were told that the land would not be changed to residential in the foreseeable future. Based their decision on buying their land on the fact that it was rural zone and use. They understood that there is noise from rural properties – if it was to remain rural zoned, the degree of activity and noise would be lower than what is proposed.

Findings

The same submitters that had concerns about proximity and landscape effects also shared a concern about the overall loss of rural amenity values. The rural values that exist currently will in my view be compromised to a varying extent through the implementation of the proposal. The site would contain buildings of up to 26% of the site which is more

akin to low density residential development than having rural character. For those adjoining properties that have views over the existing site there will be the loss of the open and vegetated outlook that they currently enjoy.

However, amenity effects can be mitigated in terms of boundary planting and fencing and I noted that statements made at the hearing that apart from the care facility, which is not subject to this resource consent application, that the villas would be single storey in height. As stated before, the proposal includes a plan change that provides a development concept and in reality a rural zoning would no longer be appropriate for the site if resource consent was to be granted.

As stated elsewhere I was encouraged that the applicant had had direct discussions with a number of submitters but in particular Ms Spaak and Mr Lienert, Mr and Mrs Norman, and Mr and Mrs Dinnison. While there will be a change to existing levels of amenity this can be reasonably anticipated by the plan change and the accompanying concept plan.

6.6 Traffic and Rooding Matters

The primary evidence on traffic and transport matters was from Mr De Kock on behalf of the applicant. He commented that the location of the Orchards and the available pedestrian routes provides for active transport by mobility scooter, walking etc for future users of the retirement village. He also expressed caution about assuming significant traffic generation as car ownership rates drop off after 80 years old which is when people move towards the smaller villas and care homes. After the hearing I received an e-mail from Mr Wilkie questioning the traffic generation figures used by Mr De Kock.

State Highway 2 – NZTA Submission

In his evidence Mr De Kock stated that SH2 surveys had been completed and in his view there will not be a large impact to the highway due to the activity being a retirement village where all movements are primarily off peak and that the traffic is dispersed across the network. There are also different entry points with the roads being in a grid. This opinion has been accepted by NZTA and its' submission was withdrawn prior to the hearing commencing.

Road upgrades

A development of this scale means that consideration of upgrading of existing roads should be made. Mr De Kock stated that the streets are currently rural streets but the road should be considered residential rather than rural. He agrees with upgrading of Reading Street in accordance with the plan developed by the applicant and Council (included as Appendix 3 of s42A report). The road upgrades should include traffic calming which will also benefit the school and a footpath is important. He further stated that the proposed footpaths will link up with all other footpaths and pedestrian crossings on the surrounding streets making it well connected. Other features outlined by Mr De Kock included the formalisation of the pickup and drop off area for the school. There will be no

change to Church Street between Reading and East Street as it is close to the current standard.

Mr Roberts, the development engineer for the applicant, further commented that the first 250m of the Reading Street upgrade would include increasing the carriageway width, kerb and channel, provision of a 2.5m side footpath and school parking.

Mr Roberts further commented that the current width is suitable in Reading and Church Street which is a 2.5m proposed footpath, 5.5m for parking, 8.5m road and 3.3m grass berm which is more than sufficient area to upgrade the roading. The specifications were not fully finalised due to school upgrades and Council input.

Mr De Kock was of the view that Reading Street should have been upgraded already with footpaths added based on the residential numbers, amenity and the school. He noted that volumes are low at 400 per day which doesn't warrant the upgrade but the type of uses do. Currently the road edges are not defined and parking is not formalised.

Both Mr De Kock and Mr Roberts agreed that there are 81 pickups in peak hours associated with the school which suggests that it should be upgraded. School pickups occur on both sides of the school. The introduction of the intermediate school will create more demand on the road in terms of walking and cycling due to the age/independence of the children. The applicant also agreed to discuss detail and the timing with the School.

Internal road dimensions – Fire and Emergency New Zealand concerns

Mr De Kock informed me that the main street through the development is a 5.5 metre access road with parking on the edges of the road. Secondary roads are 3m wide with grass swales. This triggered the submission from NZ who requested 4m wide secondary roads. Mr De Kock stated that as long as there is no stopping on those routes and there are no kerbs but there will be swales. Therefore there will be a clearance available. A letter was provided from FENZ that stated that they are satisfied with a 3m road width as long as there is a 4m clearance. FENZ are satisfied with vehicle tracking. Mr De Kock commented that all roading dimensions within the development have been assessed for width and for turning manoeuvres.

Market Road

Mr and Mrs Gray's main concern as residents on Market Road is the increased use of the carriageway that was initially developed as a rural road and it was transferred to Council. Mr Gray did not agree that there will be no adverse effects on Market Road as it is very narrow and not wide enough for trucks to pass. Service vehicles, trucks and trailers through the development stage will have an effect on the road causing the road to break up. The road will need to be kerbed, channelled and widened as the road will break up. People use Church Street and Market Road for recreation such as dog walking and it is busier than a normal rural road. It was considered that there should be a footpath installed.

Mr and Mrs Norman agreed with Mr and Mrs Gray's submission stating that Market Road is a quiet road with dog walkers. There are currently only four properties accessed off Market Road and the construction traffic/continuous down this road is concerning. There was concern expressed that there is increased danger for the children. The Normans stated that a Construction Traffic Management Plan (CTMP) should not direct all construction traffic down Market Road and it should be spread across the alternative routes. The suggestion was to use Market Road during school and Reading Street after school and throughout holidays and weekends

At the hearing Ms Spaak and Mr Lienert supported their neighbours and do not want all construction traffic using Market Road. Reading Street can be used after school hours and school holidays. A bond was suggested by Ms Spaak and Mr Lienert as a process with teeth so that people abide by the rules/conditions.

Findings

It was generally agreed that the site has considerable locational advantages being in such close proximity to Greytown Town Centre amenities. This will mean that village users will have some choices in terms of travel. Pedestrian, cycling and mobility scooter provision has been made as well as providing for motor vehicle access.

In terms of the internal roading layout based on the evidence of Mr De Kock the design of the retirement village from a transport safety and efficiency perspective has been well thought through without compromising the fire safety concerns of FENZ. I have no reason to disagree with Mr De Kocks' traffic generation analysis as suggested by Mr Wilkie and in any event I consider that all forms of traffic can be accommodated.

The integration of the development with urban Greytown is of particular importance. I am satisfied that the applicant and Council have designed upgrades to Reading Street which will benefit not only the applicant but the school and other pedestrians. I note that there is a specific condition offered by the applicant in terms of on-going liaison with Greytown School in relation to the proposed upgrade of Reading Street.

Access to the site will also be gained from Reading Street and Market Road where there are four other properties that currently have access. I was informed that there is an isolation strip along the eastern boundary from Reading Street to the subject site. Concerns were raised about the increase in traffic particularly during construction. It is noted that the applicant offered to install a footpath adjoining Market Road to the access of the site. This is an appropriate measure in my view.

6.7 Reverse Sensitivity issues

Schubert Wines did not appear at the hearing as it had reached agreement with the applicant prior to the beginning of the hearing. Their submission was in relation to reverse sensitivity because of the wine operation as well as vehicle movements. It is understood that there had previously been complaints received mainly to do with noise.

The rooms of the unit near the Schubert Wines boundary are to be facing away from the boundary including acoustic treatment (corner unit). The rest of the boundary is the residential care facility and there may be a larger setback for this. The boundary was originally proposed to be 5m, through discussions it was decided to be setback 7.5m on boundary 3 as well as an acoustic timber fence along the area adjoining the unit. The applicant in reaching an agreement with Schubert Wines agreed a no complaints covenant for any future residents and an advice note. This is shown in condition 45.

The care facility is setback to mitigate the noise. Another point of agreement is that noise insulation will be installed in rooms facing this boundary. The reason for this treatment is due to noise reverse sensitivity rather than amenity.

Findings

As outlined, I have no problem in principle with the rezoning of the land to facilitate this development. The site has residential and rural residential development adjoining it, in addition to rural productive uses to the south and east being Schubert Wines. There were no submissions from any other productive rural land user.

In my view any reverse sensitivity matters have been addressed through the specific conditions offered by the applicant.

6.8 Loss of Productive Land

Mr P Percy stated that under part 2 (section 5) RMA using the land for an efficient purpose is required when the land is productive land with good soils. The discussion document on a proposed National Policy Statement for Highly Productive Land explains this.

He further stated that the development on good land needs to be justified and developments need to be efficient. Greytown is in the middle of high-class soils which makes it difficult to develop further without using the high-class soil land. The proximity to the urban environment also justifies the location and use of this land. In addition Mr Newdick stated that the orchard trees that remain after development will still produce fruit on the site.

Findings

There was little discussion on this matter at the hearing. The proposal will lead to the loss of productive land that for many years has been used for primary production. However I agree with Mr P Percy that the proximity advantages of the site outweigh the loss of this land from productivity. It is also clear that for Greytown to expand outwards there will be the loss of land currently in production regardless of where it is. I was also informed by Ms Clark that the loss of the Orchards site would only result in a minor loss of overall productive land in the area.

6.9 Construction Effects

Construction Traffic

Mr and Mrs Gray were concerned that the construction traffic associated with the development, for example trucks and trailers will have an effect on the road causing Market Road to break up. In their view the road will need to be kerbed, channelled and widened.

Mr and Mrs Norman had specific concerns that the CMP should not direct all construction traffic down Market Road and it should be spread across the alternative routes. Their suggestion was to use Market Road during school hours and Reading Street after school and throughout holidays and weekends.

Ms Spaak and Mr Lienert support the neighbours and do not want all construction traffic using Market Road with Reading Street being used after school hours and throughout school holidays.

Construction Hours

Mr and Mrs Norman are away from their property for four days of the week so there are no issues during the week. They consider that construction in the weekends will have an effect on the property and their way of life. Councils restriction on hours of 9-12 should be implemented in their view.

Ms Spaak and Mr Lienert stated that the main issue is living for years with construction noise as it is close to their property. There would also be vibration through pile drilling etc. The time of construction is usually longer than expected as it depends on workforce and economy which is outside the RMA. They outlined that the applicant has offered a number of things to mitigate the effects which may be able to address their concerns.

Ms Spaak and Mr Lienert also want mitigation measures to reduce the effects of construction over a long period of time. They have a high-end accommodation unit (A Yurt) through Airbnb which is 27m from the boundary. The accommodation has months of pre-booked bookings and the environment forms an important part of the accommodation business. They produced photos of the Yurt and I visited the site during the hearing. The business shouldn't be impacted on weekends by the construction noise. They support the construction of an earth bund which would be a visual barrier and reduce noise. This would only be in place over the construction period. The earth bund would be located off the construction road and adjoin the properties along boundary 8.

Mr P Percy stated that it may be possible for inside work only on Saturday morning until 10:30am and pile driving will only occur during weekdays– these options are being looked at by the applicant and negotiated with the submitters.

Findings

The production of the CMP and its' subsequent implementation will be key. This shall include procedures to minimise any disruption to some residents and other users to the greatest extent possible without compromising safety. In terms of disruption to residents it will be important that there is a clear line of communication between the contractor and the residents. I do not however consider that it is necessary to dictate to the contractor the locations and times where alternative accesses should be used.

In my view appropriate development needs to occur across New Zealand and there are standard processes through the CMP and other standards such as construction noise standards to address effects. These look at the best practicable options taken to reduce construction noise and traffic, and Construction Management Plans ensure the best practicable option has been taken. Even though the construction programme will be quite lengthy there will be portions of the site developed before moving on to the next area. Annoyance from construction traffic will in my view be transitory depending on where construction activity is happening.

While construction effects can at times be annoying, construction activities will occur during the day lessening potential adverse effects. Construction noise and construction traffic effects may still occur but are subject to control through conditions. I also consider that the hours of operation are what are expected with the construction of developments such as this including Saturday mornings. It is also noted the temporary bunds being offered by the applicant through conditions.

I therefore consider that construction effects can be managed through the imposition of appropriate conditions of consent which are commonly used across development sites. In particular this also includes erosion and sediment control measures to be put in place to ensure sediment does not affect the water race or downstream waterways.

In relation to Mr Gray's concerns if there is a breakup of the road and whether it could be attributed to the trucks through construction, I consider that such matters should be included in the Construction Management Plan. Additionally, as Market Road is now a Council asset remedial works can be requested.

6.10 Stormwater Management

The landscape architect for the applicant Mr Newdick, stated that the stormwater will be through stormwater neutrality design rather than putting it into a pipe. This design encourages passive irrigation for all the plants and no stormwater is expected to be taken off site. The stormwater area will be of an engineered design and will only look like a stream in extreme rainfall events. It is being designed so that the water will be less than 400mm in depth which does not require pool fencing. The depression by the trees will also act as a secondary overflow path.

Mr Newdick also confirmed that there would be no alteration to the water races, but there will be an alteration to the small pond at the base of the care building. This water feature will draw attention to the water race.

Mrs Watson on behalf of GWRC supported the proposal and suggested some amendments in relation to water sensitive urban design measures and conditions

In respect of consents required under the operative Regional Plans and the proposed Natural Resources Plan for the Wellington Region I was informed that consent may be required for earthworks, contaminated land and discharges to water. Mr P Percy confirmed that regional consents will be applied for at detail design stage. In relation to discharge of stormwater Mr P Percy outlined that if the design doesn't meet the permitted activity standards for stormwater, it would require a regional resource consent.

Findings

I am satisfied that stormwater design has been appropriately considered and there are conditions in place to ensure that stormwater neutrality can be achieved. It is noted that regional consents may be required once detailed design has been completed and a note to that effect has been included in the conditions of consent.

6.11 Other Matters for Consideration

A number of other issues were raised in submissions, but not focused on at the hearing. These are discussed in the subsections below.

6.11.1 Financial Contributions

Before the hearing, the applicant and Council had met to discuss financial contributions but an agreement could not be reached. I was advised that Council doesn't have a Policy on financial contributions which is unusual. Financial contributions are largely at Councils discretion under the District Plan.

There was some discussion around this matter at the hearing. Mr C Percy explained that with financial contributions at \$3.5 million across the site this will result in an increase in price of units affecting the future residents. I was advised that Ryman healthcare has received reductions in Auckland but was concerned that it may not be 'apples for apples' and would depend on the size of the development, the location and whether there may already be sufficient services in place

Mr C Percy was of the view that reserve contributions should be removed as there is large onsite amenity and there is less demand on reserves as residents are already catered for in respect of reserves. It is the Orchards responsibility to maintain these areas.

He also stated that roading contributions for the entire roading upgrade has been attributed on the developer. This is against the District Plan which requires a share to be paid.

At the start of the hearing the extent of financial contributions was very much a live issue between the applicant and the Council. At my strong encouragement a meeting was held between Council and the applicant and an agreement on contributions has been reached.

Findings

I am pleased that the Council and the applicant have reached an agreed position on financial contributions and this is reflected in the updated conditions. In my view there appears to be the right balance between private benefit for the applicant and public good for the remainder of the community.

In summary the following financial contributions have been agreed as outlined by Mr P Percy in the applicants right of reply:

- a. No financial contribution for reserves. This is to reflect the Applicant's position that the open/green space areas within the proposed development will remain open to the general public to enjoy, and that the outdoor amenity spaces and facilities within the development will cater for the majority of the demand that would otherwise have been created for Council reserves.
- b. The water infrastructure contribution remains unchanged from Ms Clark's s42A report (\$3,249.42 plus GST per new unit plus the full cost of installing the new water main to connect the development).
- c. The wastewater infrastructure contribution has been assessed on the basis that the proposed development will create demand for 11% of the upgraded sewer infrastructure capacity. This results in a contribution of \$6,649.88 plus GST per unit.
- d. The general infrastructure contribution for individual buildings with a value exceeding \$1,000,000 remains unchanged (subject to amendments to clarify the condition).
- e. Roding upgrade contributions for Reading and Church Streets are apportioned in three areas and relate to an updated road upgrade drawing. The full cost of upgrades to the road between the carriageway and the site boundary, including installation of a footpath to McMaster Street, is to be covered by the Applicant. The Applicant is responsible for 50% of the carriageway upgrade costs to Reading Street and Church Street. The Council will be responsible for the cost of upgrades on the school side of Reading and Church Streets around to the Reading/East Street intersection, including the upgrade of the parking area in front of Greytown School and construction of a footpath.
- f. Roding upgrade contributions for Market Road are the actual works to put in place temporary carriageway widening during the construction period, and to upgrade Market Road once construction is completed so that the sealed carriageway is 5.5 metres wide and a crushed lime footpath at least 1.5 metres wide is installed along the northern side of Market Road.

6.11.2 Contamination

There was no discussion as to potential contamination matters. I agree with Ms Clark that the detailed site investigation included in Appendix 24 of the application is adequate; the site will be appropriately managed by the Construction Environment Management Plan (CEMP).

7. Analysis of Statutory Instruments

The resource management planners who presented evidence to the hearing (Mr P Percy for the applicant and Ms Clark for SWDC), provided an analysis of the relevant planning instruments which both the plan change and the resource consent application is required to be assessed against. These were included in the AEE as notified and commented on by Ms Clark in her s42A report and Mr P Percy in his evidence.

I note that there was little discussion or contention about the contents of the planning instruments during the hearing. In my view the key matters relate to the necessity for the Project and management of adverse effects on the environment. I also have taken into account plan integrity.

7.1 Higher Order Planning Instruments

There are three higher order statutory documents of relevance being the National Policy Statement on Urban Development Capacity 2016, the National Environment Standards for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) 2011 and the Regional Policy Statement for the Wellington Region 2103.

7.1.1 National Policy Statement on Urban Development Capacity 2016 (NPS-UDC)

I was advised that the NPS-UDC requires local authorities to monitor and plan for housing in urban environments, to maximise wellbeing now and in the future. While South Wairarapa District is not identified as a high growth area and the existing site is zoned rural there is an obligation on Councils to consider feasible development capacity for housing.

With the plan change in place I consider that this application is generally consistent with the direction given in the NPS-UDC as housing, albeit for a certain sector of the population, is located in good proximity to existing urban areas in a location that is walkable to services such as the Greytown shopping centre. I consider that retirement living is a form of housing that is in demand, efficient and feasible in this location. It is also supported with development infrastructure that is primarily in place and can reduce motor vehicle dependence.

7.1.2 National Environment Standards for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS)

With respect to the NESCS I agree with Ms Clark that the detailed site investigation included in Appendix 24 of the application is adequate and that any issues can be

appropriately managed by the Construction Environment Management Plan (CEMP) which is to be provided as part of the proposed conditions of consent including transport and disposal of the soil removed.

7.1.3 Regional Policy Statement for the Wellington Region 2013

The Wellington Regional Policy Statement includes a relevant objective and related policies⁶ promoting higher density and mixed used development, a compact urban form and achieving urban design principles. I consider this application is consistent with these provisions.

7.2 Wairarapa Combined District Plan

I agree with Ms Clark that

Section 86B of the RMA states that a provision in a District Plan, in this case a plan change, only has legal effect once a decision on submissions is made and publicly notified. Therefore, the plan change proposed is not legal at this stage, and weight must be still be given to assessing the resource consent application against the existing provisions of the operative District Plan.

The applicant has provided an assessment against the relevant provisions in the District Plan in Appendix 30 of the Application. Both Ms Clark and Mr P Percy consider that with the detailed assessment on balance, the proposal would maintain the integrity of the District Plan.

While I accept that there are many positive aspects and that there are some supportive objectives and policies, I have some difficulty with the proposition that the proposal maintains rural character and amenity values. To me a retirement village of the scale and intensity proposed should have an urban zoning and after all part of the justification is to change the District Plan in the combined proposal to reflect the form of built development anticipated.

Turning to the Objectives in the Rural Area I comment as follows

Objective Rur1 – Protection of Rural Character & Amenity

To maintain and enhance the amenity values of the Rural Zone, including natural character, as appropriate to the predominant land use and consequential environmental quality of different rural character areas within the Wairarapa.

A retirement village of the scale proposed in this location would not in my view maintain or enhance the amenity values of the Rural Zone although I do recognise the peri urban location of the proposal bordering the eastern edge of Greytown. I also recognise that there are different forms of rural character but there is an expectation that open land

⁶ Objective 22, Policies 31, 54 and 55

uses would predominate with few buildings. A much less problematic resource consent decision can be made if the zoning was changed.

Objective Rur2 – Provision for Primary Production and Other Activities

To enable primary production and other land uses to function efficiently and effectively in the Rural Zone, while the adverse effects are avoided, remedied, or mitigated to the extent reasonably practicable.

This objective is not really applicable as it provides the framework for primary production and other rural activities.

4.3.7 Objective Rur3 – Interzone Management

To ensure the amenity values of adjoining zones are reasonably protected from the adverse effects of activities within the Rural Zone.

I consider that the proposal is consistent with this objective particularly in relation to the reasonable protection of rural production at Schubert Wines. I also recognise that the subject land is on the immediate edge of a settlement.

While the proposal in my view conflicts to an extent with the Objectives and Policies in relation to rural character and amenity the proposal is also a discretionary activity under the Act. The plan change provides a more permissive planning framework than the Rural Zone provisions.

While a decision on the resource consent assessed under the provisions of the plan change would have been more straightforward on balance resource consent can be granted under the current plan particularly as it is my conclusion that adverse effects have been avoided, remedied or mitigated.

8. Plan Change Assessment

The Quality Planning Website⁷ outlines the matters that Councils must consider in relation to plan change requests. I have used this as a guide for my assessment of the plan change.

Consider the cumulative effect on the surrounding area from the request.

The cumulative effects of rezoning the subject land have been considered. The sites location adjoining the eastern edge of Greytown and size lends itself to an urban (residential) zoning. While other rezonings may occur elsewhere they can be considered either on their merits or during the forthcoming District Plan review process. In addition it has been demonstrated that there is a lack of retirement care facilities in the Wairarapa

⁷ <https://www.qualityplanning.org.nz/node/589>

that need to be provided for. The s32 report was also comprehensive in considering wider effects upon the community.

Examine the proposed change's consistency with the operative plan's direction and framework

The District Plans Objectives for the Rural Area are quite different than those that relate to Residential. I consider that the rezoning and the accompanying provisions are in accordance with the overall plan direction particularly in respect of the need to provide for housing supply. I am also aware that there is a spatial planning exercise that will consider appropriate locations for further development. In my view rezoning the land to enable the retirement village is likely to be consistent with that direction.

Examine the proposed change's consistency with any relevant national environmental standards or policy statements, the regional policy statement, regional plans, the district plans or proposed plans of neighbouring authorities and regulations made under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

I see nothing in the Plan change that is at all contrary to the relevant policy statements and plans as I have explained above.

Determine whether the proposed change is consistent with regulations relating to taiapure or fisheries conservation or management, and planning documents recognised by iwi authorities.

Take into account any relevant planning document recognised by an iwi authority, and lodged with the council

Recognise and provide for the matters in a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011 to the extent that they relate to the relevant customary marine title area; and take into account the matters in the document to the extent that they relate to a part of the common marine and coastal area outside of the customary marine title area of the relevant group.

Not applicable as there are no relevant documents that have been brought to my attention

Assess whether the services required to support the change can be provided at a rate that the community can cope with economically and physically.

The site can be relatively easily be serviced with urban infrastructure considering its location some 150 metres from Main Street. The Council and the applicant have agreed a package of financial contribution measures to assist.

Consider if further information is required under s92 including other relevant reports, modification of the private plan change request with permission from the applicant

None required.

Take a broader view and assess all relevant matters including the potential for reverse sensitivity, impact on amenity, traffic impacts, ecological values, earthworks, runoff effects of the proposal.

These matters have all be considered in Section 6 above considering any adverse effects of the proposal.

Determine which parties, if any need to be notified of the proposed private plan change.

The Plan Change and the resource consent application were publicly notified. In addition the applicant has carried out consultation with the directly affected community.

Analysing the necessity, effectiveness and efficiency of, and alternatives to, the proposed change (s32).

The s32 report that accompanied the plan change request was comprehensive and considered the site and context, the receiving environment, site constraints and opportunities and the statutory and policy context. Under s32 a further requirement is to examine the appropriateness of objectives and examining the efficiency and effectiveness of proposed plan provisions. It also considered environmental effects.

I am satisfied that the s32 report is sufficiently robust to ensure that there has been a wide ranging assessment of the necessity, effectiveness and efficiency of, and alternatives to, the proposed change.

I have also considered whether I need to make a further evaluation under the s32AA requirements for undertaking and publishing further evaluations. I conclude that none is required. There are no significant changes to the proposal since the s32 evaluation report for the proposal was completed.

I also assess the private plan change under Part 2 of the Act at the conclusion of this report.

8.1 Effects on District Plan Integrity

I do wish to raise a matter that was discussed at the hearing. This is whether I can or should grant consent separately to me making a recommendation to Council. To me it is one of timing whereby the recommendation to approve the plan change needs to be considered by Council whereas the resource consent decision can be given effect to after the appeal period closes upon release of this report.

I requested Mr P Percy and Ms Clark to comment. In his right of reply Mr P Percy states:

Near the end of the hearing a question was posed by the Commissioner in relation to whether the decision on the resource consent applications could be made before a decision on the plan change application was made.

The preliminary response provided at the hearing was that, while the resource consent and plan change applications were lodged together, the intention was that the applications could be dealt with separately if necessary. This remains the applicant's position. The need for resource consent and the associated activity status (discretionary) for the application was based on an assessment against the operative plan rules. The AEE also included a comprehensive assessment of the activity against the operative plan objectives and policies.

On that basis, the decision on the resource consent can be made prior to the decision on the proposed plan change. That is consistent with the advice of Ms Clark in her post-hearing written statement.

As stated this is matter of timing and as I have referred to previously I would be more comfortable approving the resource consent with the plan change in place. However due to the timing lag between the two processes I must approve the resource consent application as adverse effects can in my view be avoided, remedied or mitigated and that there is a suite of conditions that seek to control adverse effects.

The plan change decision which, subject to Council approval and subject to appeal rights, should catch up with the applicants' programme and result in a much more suitable set of urban residential plan provisions relating to the site into the future.

9. Other Matters

There are no other s104(1)(c) matters that require consideration in order to determine this consent.

10. Part 2 Considerations, Overall Conclusion and Reasons

Plan Change

I must evaluate the plan change in terms of Part 2 of the Act. In doing so this involves.

Assessing whether the private plan change will meet the purpose of the RMA (s5)

There are four parts to s5(2)

S5(2) Enabling people and communities to provide for their social, economic and cultural wellbeing.

This is relevant to the application because in simple terms the proposal is about the applicant and the South Wairarapa community providing for its wellbeing by supplying a retirement village where it has been demonstrated that there is a high demand for such services. The location of the site on the eastern edge of Greytown also lends itself to urban development. I consider that the plan change meets the definition of sustainable management for reasons outlined in this decision.

S5(2)(a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations.

This is directly relevant and I have considered the context of the site for rural production purposes. Key features including trees and the water race can be retained while there will only be a minor loss in terms of overall productive soils in the locality. While different from what currently exists I consider that the proposal meets the needs of future generations of the Wairarapa particularly for the elderly.

S5(2)(b) Safeguarding the life supporting capacity of air, water, soil and ecosystems.

If Greytown is to expand beyond its current urban boundaries there will inevitably be a loss of high class soils but there is still a significant amount of productive land available in the Greytown area. There are no s5(2)(b) matters that are directly applicable to recommending the plan change go ahead.

S5(2)(c) Avoiding, remedying or mitigating adverse effects on the environment.

I discuss the concerns about the range of potential adverse effects raised by submitters earlier in this decision. In particular I have considered methods of avoiding, remedying or mitigating adverse effects.

Overall in relation to s5 matters and subject to the imposition and implementation of conditions of consent, I am satisfied that the adverse effects associated with the plan change can be adequately avoided, remedied or mitigated.

Considering matters of national importance under the RMA (s6)

There are no matters of national importance that are directly relevant to the plan change.

Having regard to matters listed at s7 of the RMA

The s7 matters have been outlined in the application and in evidence.

s7(b) The efficient use and development of natural and physical resources.

In my view utilising well located land on the periphery of Greytown for an activity provided for by the plan change is considered to be an efficient use of natural and physical resources.

s7(c) The maintenance and enhancement of amenity values – section 7(c).

In terms of amenity values this has been a key component throughout this report. For the reasons outlined above amenity values are maintained and enhanced to the extent possible with the plan change in place.

s7(f) Maintenance and enhancement of the quality of the environment.

The character of the environment will be changed with this activity from the Orchards property as we now know it to a different design concept with a different expectation as to character. I consider that this proposal, as manifested in the plan change, has gone through significant thinking and design evaluation. Based on the evidence and considering the location of the site I consider that the quality of the environment is maintained and enhanced through approval of the plan change.

s7(g) Any finite characteristics of natural and physical resources.

Land is a finite resource and the rezoning proposed takes into account a demonstrated need for retirement village accommodation. While there will be a loss of rural production on the land it is considered that this needs to be weighed against the provision for additional retirement living.

Taking into account the principles of the Treaty of Waitangi (s8)

There are no s8 matters (taking into account the principles of the Treaty of Waitangi) that have been brought to my attention that I have to take into account.

Resource Consent

In terms of whether the proposal represents the sustainable management purpose of the Act I have outlined above the principal matters and constituent parts of s104. Many of the same comments in relation to the plan change when considering Part 2 apply to the resource consent.

The usual practice in accordance with recent caselaw⁸, is that decision makers can refer to matters under Part 2 of the RMA when considering resource consent applications, when there is a 'gap' in the lower order planning document provisions. This includes section 5 purpose, section 6 matters of national importance, section 7 other matters and section 8 Treaty of Waitangi under the RMA. The reliance on specific sections under Part 2, for example section 7(c) the maintenance and enhancement of amenity values, will no longer be able to be considered unless the relevant district plan is invalid, has incomplete coverage or is uncertain.

My view is that the plan change provides the gap between what is anticipated for the site by the applicant against the expected level of a character and amenity for rural zoned land generally. The plan change will provide that certainty as the planning framework for the site.

With the operative district plan I have however been able to have sufficient comfort that the conditions and the measures to avoid remedy or mitigate effects mean that the proposal can also meet the sustainable management purpose of the Act.

⁸ R J Davidson Family Trust v Marlborough District Council [2018] CA97/2017 NZCA 316

11. Resource Consent Conditions

As my decision is to grant resource consent subject to conditions, the conditions are a fundamental part of avoiding, remedying or mitigating adverse effects on the environment and as such have been given due consideration. I thank both Mr P Percy and Ms Clark for the Council have worked hard to agree an appropriate set of conditions. I also appreciate that a number of submitters have also contributed to the precise set. Apart from renumbering the conditions agreed and including the Reading Street Upgrade Plan (Calibre Consulting 5.9.19) to the plan set these have been adopted and are based on Mr P Percy's right of reply version dated 5 September 2019.

12. Recommendation and Decision

In accordance with the authority delegated to me by South Wairarapa District Council:

1. I recommend to South Wairarapa District Council that it approve the request for a Private Plan Change to the Wairarapa Combined District Plan to re zone land at 67 Reading Street and 31 Market Road Greytown from Rural (Primary Production) Zone to Residential Zone including a Character Area overlay to specifically provide for the establishment and operation of a retirement village for the reasons outlined in this report.

AND

2. Pursuant to sections 104 and 104B of the Resource Management Act 1991, I grant resource consent to the application to South Wairarapa District Council by The Orchards Limited Partnership for land use consent for the establishment and operation of a 180-unit retirement village subject to the conditions set out in Appendix 3 (Council reference 190034).



Lindsay Daysh

Independent Commissioner

Decision dated **2 October 2019**

For the South Wairarapa District Council

Appendix 1

Persons who attended and presented evidence or submissions at the hearing

SWDC Advisors

- Honor Clark, Planning Consultant on behalf of SWDC
- Tim Langley, Roading Manager at SWDC
- Lawrence Stephenson, Assets and Operations Manager at SWDC
- Russell O’Leary, Group Manager Planning and Environment at SWDC

Applicant Advisors

- Mark Newdick, Director Local Landscape Architecture Collective Limited
- Rachael Annan, Landscape Planner at Perception Planning Limited
- Dereck Roberts, Engineer at Calibre
- Kobus De Kock, Traffic Engineer at Stantec New Zealand
- Phillip Percy, Director at Perception Planning Limited

Submitters

- Graeme and Helen Gray
- Elizabeth and Scott Norman
- Robbie Easter
- Gordon and Sue Dinnison
- Caroline Watson - Greater Wellington Regional Council
- Sija Spaak and Ashley Lienert

Appendix 2

**Recommended Changes to Wairarapa Combined
District Plan**

Appendix 3

Conditions

Approved Conditions

General

1. Except as amended by the conditions below, the development of Stages 1-3 be carried out in general accordance with the plans and documentation provided with the application, and in subsequent further information provided, including:
 - a. Design Statement and Plans by Designgroup Stapleton Elliott: The Orchards Greytown, Project No. T598, Sheets A1 – A16, 4.3-4.6, dated 05 March 2019 included in Appendix 18 to the application and as modified by revised drawing 4.5 dated 11 April 2019.
 - b. Assessment of adverse effects prepared by Perception Planning Ltd dated 6 March 2019.
 - c. Updated Murphy's Garden drawing SK190812 dated 12 August 2019
 - d. The further information provided on 12 April 2019 in response to the Council's s92 further information request.
 - e. Calibre Plan 711288 M02 B Reading Street Proposed Upgrade Layout dated 5/9/19.
2. Costs, pursuant to Section 36 of the Resource Management Act 1991, be paid by the consent holder.
3. The Orchards Retirement Village be registered under the Retirement Villages Act (2003).
4. Any management plans, reports or detailed designs required as condition of this consent may be provided for the entire development or for the relevant stage in accordance with the Staging Plan by Designgroup Stapleton Elliott: The Orchards Greytown, Project No. T598, Sheet A1.

Prior to commencing works on site

Construction

5. At least 10 days prior to any works commencing on site the Consent Holder shall prepare and submit to Council for review and approval a Construction Environment Management Plan (CEMP) to demonstrate how the Consent Holder shall control and/or mitigate any dust, silt run-off and sedimentation that may occur in accordance with *NZS 4404:2004 Land Development and Subdivision Infrastructure*.
6. The objective of the CEMP is to protect the environment from the potential and actual effects of earthworks and site preparation activities. Of particular importance is the control of dust from the earthworks, noting that the Moroa Water Race runs through the site means that proactive measures should be employed to protect water quality during construction activities.

7. Measures identified in the CEMP shall include but not be limited to:

- a) The name, contact details, experience and qualifications of the person/s nominated by the Consent Holder to supervise the implementation of, and adherence to, the CEMP.
- b) Identification of all potential dust emissions, including from any tree felling and stump grinding activities;
- c) Staging any earthworks in manageable amounts/areas to ensure practical dust mitigation is possible, supplemented by plans to demonstrate proposed staging and dust and silt migration mitigation
- d) Details outlining how the earthworks will proceed to address risks to human health (in respect to dust and stormwater control and in relation to site workers and adjoining landowners) as required by SWDC Consent Reference 180203.
- e) Wetting: Construction access roads (water cart)
Work areas (k-line)
- f) The method and timeframe for rehabilitating any temporary construction and batter areas
- g) Revegetation methodology
- h) Low speeds on construction site access roads.
- i) A construction noise management plan that addresses how noise will be managed to meet the noise levels specified in the Wairarapa Combined District Plan during site preparation works.

Alternative measures can be suggested by the Consent Holder or their contractor for consideration by Council.

8. All accepted measures outlined in the CEMP shall be implemented prior to the commencement of any earthworks and shall remain in place for the duration of the earthworks, until all exposed areas of earth are permanently stabilised. Council shall inspect these works prior to commencement of earthworks on site or if any changes are proposed after the initial inspection.
9. At least 10 working days prior to the commencement of construction works on the site, the Consent Holder shall prepare and submit to the Council a Construction Management Plan (CMP) for review and approval. The objectives of the CMP shall be to provide guidance on the environmental management of construction activities authorised by this consent so as to avoid, remedy or mitigate the adverse environmental effects associated with the construction works.
10. The CMP must include (but is not limited to) the following:
- a) The name, contact details, experience and qualifications of the person/s nominated by the Consent Holder to supervise the implementation of, and adherence to, the CMP.

- b) A staging plan, identifying the construction of each phase of the project and the anticipated timeframe and scheduling for the construction works, including dates and the days and hours of construction. Hours of construction shall be:
- 7.30am – 6.00pm Monday to Friday
 - 8.30am – 12.30pm Saturday
 - No construction work on Sundays or Public Holidays
- c) A construction noise management plan that addresses how noise will be managed to meet the noise levels specified in the Wairarapa Combined District Plan during construction.
- d) A plan identifying trees to be retained and a protection methodology in accordance with the guidance set out in Treecology's memo dated 05 March 2019,
11. Where a internal construction road/track is located within 50m of the boundaries of Lot 2 DP385926 (73A Reading Street), Lot 4 DP356827 (81A Reading Street) and Lot 3 DP356827 (81B Reading Street), within two weeks of construction beginning a temporary earth bund or a close-boarded/plywood fence with a height of at least 2 metres shall be placed between the internal construction road/track and each of the affected boundaries.
- The bund or fence shall be located as close as practicable to the construction road/track and shall remain in place for the length of each of the affected properties until construction begins on the residential units adjacent to the applicable property boundary. If a bund is used, it shall be sown and maintained in grass or other vegetative cover and kept free of weeds (being plants specified in the 'weeds list' on www.weedbusters.co.nz).
12. Heavy construction machinery, and percussive tools (including hammers and nail guns) used outside of closed-in buildings, shall not be operated within 100 metres of any site boundary before 9.00am on Saturdays.
13. Pile driving, or the establishment of the construction road/track and the associated bund or fence referred to in Condition 11, shall not take place on Saturdays.

Timing of building construction

14. Residential units adjacent to the boundary with Lot 4 DP356827 (81A Reading Street) shall be constructed, with the exception of preparing and forming foundations and works that occur within a closed-in building, within the period of 1 June to 30 September unless otherwise agreed in writing with the owner of Lot 4 DP356827 .

Note: For the purposes of conditions 12 and 14 a 'closed-in building' is a building that has roof and exterior wall cladding, windows and doors in place.

Protection of existing trees

15. The area known as 'Murphy's Garden' shall be in the location and generally comprise the area as shown as a dashed blue line on drawing [drawing reference and date], and shall incorporate trees T10 to T18 as shown on the updated tree location plan appended to the Murphy's Orchard Shelterbelts and Trees Report by Treecology Tree Consultancy dated 29 October 2018. Murphy's Garden may be extended to encompass a larger area at the Consent Holder's discretion, including the area shown within the dashed red line on Updated Murphy's Garden drawing SK190812 dated 12 August 2019.
16. Except as provided for in Condition 17, trees T19 and T20, as shown in Appendix 2 of the Murphy's Orchard Shelterbelts and Trees Report by Treecology Tree Consultancy dated 29 October 2018, and the trees incorporated into Murphy's Garden in accordance with Condition 15 above, shall be protected during construction and thereafter retained. Should these trees die or require removal due to tree health issues, they shall be replaced with trees of the same or comparable species within the first growing season following their removal.
17. Tree T13, as shown on [drawing reference], shall, where practicable, be retained. Where it is not practicable to retain the tree, it shall be relocated within the site, protected during construction and thereafter retained. Should the tree die or require removal due to tree health issues, it shall be replaced with a tree of the same or comparable species within the first growing season following its removal. The tree relocation shall be planned and overseen by a qualified arborist.
18. Trees T1 to T9, and T21, as shown ~~on~~ in Appendix 2 of the Murphy's Orchard Shelterbelts and Trees Report by Treecology Tree Consultancy dated 29 October 2018, shall be retained where practicable.
19. If a building is proposed to be located within 3 metres of the edge of the canopy of any of trees T12 to T20, as shown in Appendix 2 of the Murphy's Orchard Shelterbelts and Trees Report by Treecology Tree Consultancy dated 29 October 2018, the building shall be located and designed to minimise adverse effects on the tree(s). To demonstrate this, detailed plans of the building

and foundations shall be certified by a suitably qualified arborist and submitted to the Council with any building consent application.

Traffic and Construction Management

20. At least 5 working days prior to commencing work within any Council road reserves, the Consent Holder shall submit a Traffic Management Plan to the Roding Manager at Council, for acceptance. The Traffic Management Plan shall be prepared by a STMS, and Greytown School shall be consulted with in relation to the interaction of construction traffic with school-related traffic and activities. Where relevant the Traffic Management Plan shall:
- a. ~~shall~~ include reference to maintaining safe walking journeys for school children travelling between McMasters Street, Reading Street, Church Street, and Market Road and Greytown Primary School-; and
 - b. provide details of proposed transport routes, and look to disperse construction traffic through various routes-; and
 - c. specify the location of any construction vehicle crossings onto Reading Street, taking into account the interaction of construction traffic with traffic and other road users associated with Greytown School.

All contractors obligated to implement temporary traffic management plans shall employ a qualified STMS on site. The STMS shall implement the Traffic Management Plan. A copy of the approved plan shall be submitted to the Group Manager - Planning and Environment Council at Council prior to works commencing.

21. At least 5 working days prior to commencing any work onsite, the Consent Holder shall arrange an onsite meeting with a Resource Management Engineer at Council and the contractors responsible for the works to ensure that all parties involved are aware of what is required of them during the earthworks and construction process. All ~~prior-to commencement-of-works~~ conditions detailed in these Conditions above shall be demonstrated to be met.
22. Prior to commencing any work on the site, the Consent Holder shall install a construction vehicle crossing, which all construction traffic shall use to enter and exit the site. Any construction vehicle crossing onto Reading Street must be located in accordance with any specification in the Traffic Management Plan required by Condition 20 The minimum standard for this crossing shall be a minimum compacted depth of 150mm AP40 metal that extends 10m into the site. Should the construction crossing not prevent earthwork material from tracking onto the public roading network the Consent Holder shall install an appropriate wheel wash facility, in lieu of the gravel construction crossing, for all construction traffic use prior to exiting the site(s).

- 23. Prior to the commencement of works on site the Consent Holder shall prepare and lodge with Group Manager - Planning and Environment for acceptance the final Earthworks Plan, which includes existing and finished ground levels and cross sections.
- 24. All works are to be undertaken in accordance with the approved Environmental Management Plan (EMP) (Condition 5) and Construction Management Plan (CMP) (Condition 9).
- 25. Prior to commencement of construction, the Consent Holder shall undertake a pre-construction inspection of Market Road, Church Street (between Market Road and East Street) and Reading Street (between Church Street and McMaster Street) and document, including using photographs, the condition of the roads. A copy of the pre-construction inspection report shall be provided to the Council.
- 26. On completion of construction, the Consent Holder shall repair any damage caused to the roads as a result of construction traffic associated with the development to at least the same condition as recorded during the pre-construction inspection undertaken in accordance with Condition 20.

Upgrades to Reading Street and Church Street

- 27. The Consent holder shall prepare detailed design drawings for upgrades to Reading Street and Church Street, to be generally in accordance with Appendix 3 to s42A report, and submit these to the Council at least 20 working days prior to commencement of construction of residential units for Stage 1 of the development.
- 28. Prior to completing the detailed design drawings specified in Condition 27, the consent holder shall consult with the Board of Trustees of Greytown School and the Council in relation to the proposed design, and shall ensure that provision is made in the design for vehicle parking, pedestrian and cyclist movements and traffic flow associated with Greytown School and the consented development.
- 29. The Board of Trustees of Greytown School must be provided with an opportunity to submit a written statement to the consent holder as to the adequacy of the design, which shall be provided to the Council at the time the detailed design is submitted in accordance with Condition 27.

Note: The above conditions are intended to enable collaborative refinement of the road upgrades indicatively shown in Calibre Plan 711288 M02 B Reading Street Proposed Upgrade Layout dated 5/9/19. The intention is that Greytown School and the consent holder will be actively involved in the refinement

of the design, but recognising that it is the Council's responsibility, as roading authority, to decide on the final design of any upgrades.

30. Where the upgrades to Reading Street and Church Street are to be undertaken by the Consent Holder, the upgrade works shall be completed no later than 5 working days prior to completion and first occupancy of the first five residential units forming part of Stage 1.
31. Where the upgrades to Reading Street and Church Street are to be undertaken by a party other than the Consent Holder (such as the Council or its contractor), the Consent Holder shall advise the Council of the estimated completion and first occupancy date of the first five residential units in Stage 1 at least 2 months prior to that date.

Upgrades to Market Road

32. Prior to construction traffic using Market Road to access the site, the following works shall be undertaken on Market Road:
 - (a) The southern side of the sealed carriageway between the intersection with Reading Street and any construction site access shall be temporarily widened by 1 metre beyond the edge of the existing seal using crushed limestone. The temporary widening shall be maintained for the period that construction traffic uses Market Road.
33. Upon completion of the consented development, the Consent Holder shall undertake the following upgrades to Market Road:
 - (a) The sealed carriageway of Market Road from the eastern-most entrance to the site to the intersection with Reading Street shall be extended to 5.5 metres wide; and
 - (b) A footpath, at least 1.5 metres wide and surfaced in compacted crushed limestone, shall be constructed on the north side of Market Road between the eastern-most entrance to the site and Reading Street.

Engineering Design/Approvals

34. The consent holder shall submit construction plans and specifications ~~obtain written approval~~ for all the engineering works to the Council for certification that the works are generally in accordance with this resource consent no later than 2010 working days prior to any construction work commencing.
35. A suitably qualified person shall undertake the design and supervision of any works associated with the development **and** shall certify all of the work on completion.

36. A design certificate (Schedule 1A NZS 4404:2004) shall be completed by a suitably qualified design professional and submitted with construction plans.
37. A contractor's certificate (Schedule 1B NZS 4404:2004) shall be completed and supplied to Council certifying that all works required by Council have been completed in accord with the approved plans.
38. A certificate (Schedule 1C NZS 4404:2004) shall be completed and supplied to Council by an independent professional certifying that all works required by Council have been completed in accord with the approved plans.
39. The consent holder shall provide as-built-plans in accord with Schedule 1D of NZS 4404:2004 (electronic and two hard copies) on completion of the work.

Firefighting Water Supply

40. The provision of fire hydrants with adequate pressure and flow to service all buildings and lots in the development with a fire fighting water supply in accordance with the NZ Fire Service Code of Practice for Firefighting Water Supplies SNZ PAS 4509:2008 (or superseding standard). Any alternative solution must be approved in writing by the Area Manager for the Hutt-Wairarapa branch of the New Zealand Fire Service.
41. Any building constructed shall be provided with a firefighting water supply system and access to this system that complies with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008.
42. All internal roads shall be maintained with a 4 metre wide by 4 metre high corridor to maintain access for firefighting appliances at all times. This shall include road marking, signs and/or other measures to discourage the parking of vehicles in locations that would obstruct the corridor.

Reverse Sensitivity

43. The consent holder shall inform any residents of at least the first three independent living units from the intersection of Boundaries 2 and 3 that their unit is located near a working winery. Lawfully established activities associated with the winery activity, including but not limited to working machinery and vehicle movements, may generate noise, dust and odour that could be experienced in or around their unit.

44. Prior to completion of any independent living unit adjacent to Boundary 3, as shown on drawing 3.2 – Site Planning Controls in The Orchards Greytown Design Statement dated 5 March 2019, a timber fence shall be constructed on Boundary 3 for a length of 39m beginning from the intersection of Boundaries 2 and 3. The construction of the timber fence shall be a minimum of 1.8 metre high post fence with 20mm thick boards and 20mm thick battens. The boards shall be butted up against each other and the (min) 50 mm wide battens nailed over the joins to prevent airgaps from forming as the timber shrinks. There shall be no airgaps at the base of the fence. The consent holder may, with the prior written agreement from the owner of neighbouring property [Title WN 274645], construct the fence from different materials so long as it meets the same acoustic rating as the proposed timber fence detailed above.
45. The Consent Holder shall enter into the following covenant with the owners of Lot 1 DP 367619 (held in Record of Title WN 274645):

The Grantors (being the owners of Part Tahorahina Block (held in Record of Title WN 437963)) covenant with the Grantees (being the owners of Lot 1 DP 367619 (held in Record of Title WN 274645)) as follows:

- *The Grantors acknowledge that their land is immediately adjacent to the Grantee's land upon which winery activities occur, and that noise and odour are generated by the use of that land for winery activities, including but not limited to light and heavy vehicle movements, winemaking, bottling, warehousing and distribution of wine.*
- *The Grantors shall not lodge, or permit to be lodged on their behalf, with the South Wairarapa District Council, the Wellington Regional Council, or any other territorial or other authority having jurisdiction under the Resource Management Act 1991, any objection or complaint to the lawful use of the Grantees' land for winery activities.*
- *All winery activities undertaken on the Grantees' land are to be lawfully undertaken in accordance with the provisions of any relevant district or regional plan, resource consent, existing use rights, and/or any other approval required to undertake winery activities on the dominant land.*
- *Neither party is limited or constrained in any way by this covenant from their lawful right to make a submission, either in support or opposition, or give or withhold their written approval, in relation to any resource consent application, boundary activity, plan change application or other approval relating to the other party's land that is sought from the South Wairarapa District Council, the Wellington Regional Council, or any other territorial or other authority having jurisdiction under the Resource Management Act 1991.*

Shared Green Spaces

46. A landscape planting and management plan (with supporting specifications) in accordance with the Landscape Concept Plans dated March 2019 shall be prepared and submitted to the Group Manager - Planning and Environment at least 10 days prior to any works on the land being developed for certification prior to construction commencing for the following shared green spaces:

- a) Orchard Gardens
- b) Swale Parkland
- c) Murphy's Garden
- d) Southern Entry Walk
- e) Boundary planting along Boundaries 2, 3, 8 and 9 that is required by Condition 44

47. When preparing the landscape planting and management plan in accordance with Condition 46, the person preparing the plan shall consult with the owners of Lot 2 DP385926 (73A Reading Street) in relation to planting along the boundaries with that property.

48. The landscape planting and management plan shall contain:

- a) Reference to Landscape Concept Plans and other supporting material included in the resource consent application documentation
- b) Details of water sensitive urban design incorporated into the landscaping
- c) A plan of the planted area detailing the proposed plant species, plant sourcing, plant sizes at time of planting, plant locations, density of planting, and timing of planting.
- d) A programme of establishment and post establishment protection and maintenance (fertilising, weed removal/spraying, replacement of dead/poorly performing plants, watering to maintain soil moisture, length of maintenance programme.
- e) Identification of trees to be protected and tree protection measures in accordance with the methodology specified in the Treecology memo dated 05 March 2019.
- f) the extent, materiality and finished levels of paving;
- g) the location, materiality, height and design of fencing and retaining walls;
- h) the details of drainage, soil preparation, tree pits, staking, irrigation; ~~and~~
- i) the construction details of all hard landscape elements (paving, fencing, gates, lighting etc); ~~and~~
- j) ~~An~~ the details of irrigation systems

These plans shall be supported by specifications that describe in a written form the more specific technical landscape matters such as quality of materials.

49. All planting, including trees, shall be maintained in perpetuity thereafter to the satisfaction of the Group Manager - Planning and Environment. If any plant or tree should die or become diseased it shall be replaced within the next available planting season. This includes ensuring that all native shrubs and grasses proposed on the terrace edges and the knoll are irrigated and maintained to ensure survival and healthy growth.
50. All planting to occur along Boundaries 2, 3, 8 and 9 shall be undertaken within the first planting season after construction commences. Specimens to be planted shall be at least PB3 bag size.
51. All planting to occur along Boundaries 4, 5 and 6 shall be undertaken within the first planting season after construction commences on Stage 3 of the development.
52. Prior to construction on Stage 1 of the development beginning, a temporary fence shall be erected parallel with the north-eastern boundary of Lot 2 DP385926 (Boundary 9) between the proposed boundary planting and proposed residential units. The fence shall be at least 2 metres high and shall be clad with either windbreak (or similar) fabric or plywood, and each section of the fence shall be maintained in place until construction of the adjacent residential unit has been completed.

Buildings

53. Prior to the commencement of any construction works, plans shall be submitted and certified by the Group Manager - Planning and Environment of the Council which detail independent residential unit typologies in accordance with the following:
 - a. They are in general accordance with the architectural design objectives and materials listed within the DGSE Design Statement dated March 2019;
 - b. The building footprint for any individual independent dwelling unit shall be not less than 80m² and no more than 203m².
 - c. No dwelling shall be more than three bedrooms.
 - d. There shall be no encroachment of any dwellings into any of the areas shown in drawing 3.2 of The Orchards Greytown Design Statement by Designgroup Stapleton Elliot dated 5 March 2019 that are shown as boundary setbacks or shared green space areas, except where specified in Condition 40(g).
 - e. The overall building site coverage of the whole application site does not exceed 26%.

- f. The total number of independent residential units across the whole application site does not exceed 180 units.
- g. Any independent residential unit to be constructed adjacent to Boundary 3 where it intersects with Boundary 2 shall be:
 - i. a standalone unit; and
 - ii. designed and constructed so that any bedrooms and common living are orientated towards the north-west so that those rooms do not face Boundary 3; and
 - iii. set back from Boundary 3 by at least 7.5 metres.

Accidental Discovery Protocol

54. If the Consent Holder:

- a. does not have an archaeological authority from Heritage New Zealand Pouhere Taonga and discovers koiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the Consent Holder shall without delay:
 - iv. notify Council, Tangata whenua and Heritage New Zealand Pouhere Taonga and in the case of skeletal remains, the New Zealand Police.
 - v. stop work within the immediate vicinity of the discovery to allow a site inspection by the Heritage New Zealand Pouhere Taonga and the appropriate runanga and their advisors, who shall determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.

Any koiwi tangata discovered shall be handled and removed by tribal elders responsible for the tikanga (custom) appropriate to its removal or preservation. Site work shall recommence following consultation with Council, the Heritage New Zealand Pouhere Taonga, Tangata whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.

- b. discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the Consent Holder shall without delay:

- vi. stop work within the immediate vicinity of the discovery or disturbance and;
- vii. advise Council, the Heritage New Zealand Pouhere Taonga and in the case of Maori features or materials, the Tangata whenua and if required, shall make an application for an Archaeological Authority pursuant to the New Zealand Pouhere Taonga Act 2014 and;
- viii. arrange for a suitably qualified archaeologist to undertake a survey of the site.
- ix. Site work may only recommence following consultation with Council.

Signage

55. Details of the entrance signage including the final location, coloured elevation and materials plans shall be provided for approval of the Council's Group Manager - Planning and Environment. The entrance signs shall be restricted to:

- a. A maximum of three signs per frontage with the public road, with a total face area per sign of no more than 4m².
- 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 requirements 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, or be illuminated, flashing or moving.

Financial Contributions

56. The following infrastructure contributions shall be paid at the time of "Application for Connection Permits" are lodged with Council for the residential units:

- a. Water Supply contribution - \$3,249.42 plus GST per new unit
- b. Wastewater contribution - \$6,649.88 plus GST per new unit
- c. The full cost of the extension (approx. 100m) of the water main in Reading Street or alternatively the completion of the work.

- d. Additional Infrastructure contributions of 0.5% of the assessed value of any building that has a value in excess of \$1,000,000 (plus GST). The assessed value will be based on the estimated value of the building as stipulated on the associated building consent application.

57. The following roading contribution, or alternatively the completion of work, to complete the following components of upgrades to Reading Street and Church Street generally in accordance with the upgrade plan titled Reading Street Proposed Upgrade Layout, Revision B, dated 05/09/19 prepared by Calibre Group:

- (a) installation of a 2.0 metre wide footpath on the eastern side of Reading Street between the northern-most site entrance and McMaster Street;
- (b) 50% of the agreed cost of the upgrades to the Reading Street carriageway
- (c) 50% of the agreed cost of the upgrades to the Church Street carriageway
- (d) full cost of upgrades to the berm and area between the carriageway and the site boundary.

Note: the Consent Holder shall not be responsible for the cost of upgrading the parking area on the west side of Reading Street, the construction of a footpath on the western side of Reading Street south of the school entrance, or the construction of a footpath on the northern side of Church Street.

Review

58. Within ten working days of each anniversary of the date of this decision the Council may, in accordance with Sections 128 and 129 of the RMA), serve notice on the Consent Holder of its intention to review the conditions of this resource consent for any of the following purposes:

- a. To deal with any adverse effects on the environment that may arise from the exercise of the consent which were not foreseen at the time the application was considered and which it is appropriate to deal with at a later stage.
- b. To deal with any adverse effects on the environment which may arise from the exercise of the consent and which could not be properly assessed at the time the application was considered.
- c. To avoid, remedy and mitigate any adverse effects on the environment which may arise from the exercise of the consent and which have been caused by a change in circumstances or which may be more appropriately addressed as a result of a change in circumstances, such that the conditions of this resource consent are no longer appropriate in terms of the purpose of the RMA.

Notes:

1. This resource consent will lapse if not given effect to in accordance with Section 125 of the Resource Management Act 1991.
2. Any work on buildings and private drainage (including on site wastewater systems and remedial work) will require a building consent under the Building Act 2004. To assist the Building Consents Team, a numbered plan of all the proposed dwellings would be appreciated.
3. Permits are required from Council to connect to the water and sewer services. Please contact the Utilities Engineer at the Council to arrange for these permits.
4. Fire and Emergency NZ considers that the best way to achieve compliance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 is the installation of a sprinkler system that fully complies with the Fire Sprinkler Systems for Houses NZS 4517:2010.
5. To enable orderly and timely provision of electricity supply, the developer should contact Powerco.
6. Resource consent may be required from GWRC relating to earthworks, discharges to the water race and contaminated land and discharges.