

## **Before the Gisborne District Council**

In the matter of           the Resource Management Act 1991

And

in the matter of           An application by NZHG Gisborne Limited to construct eight dwellings and create an eight-lot fee simple subdivision of the property at 99A Stanley Road, Gisborne and pursuant to Regulation 10 of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

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### **STATEMENT OF EVIDENCE OF PHILLIPA BEACHEN FOR NZHG GISBORNE LIMITED**

Dated 6 September 2024

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#### **INTRODUCTION**

- 1       My name is Phillipa Beachen. I am a Senior Planner at Strategy Planning Limited.
  
- 2       I have a Master of Urban Planning (Professional) degree and have 8 years professional planning experience. During this time I have worked for a private consultancy as a Planner and with Auckland Council as a Processing Planner. I am an Intermediate Member of the New Zealand Planning Institute.

#### **CODE OF CONDUCT**

- 3       I confirm that I have read and agree to comply with the 'Expert Witnesses Code of Conduct' contained in the Environment Court of New Zealand Practice Note 2023. My evidence has been prepared in compliance with that Code in the same way as if I was giving evidence in the Environment Court. In particular, unless I state otherwise, this evidence is within my sphere of expertise, and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

## **BACKGROUND AND ROLE**

- 4 The original planning application report, as well as responses to the s92 requests, were prepared by my colleague Matthew Morley. I reviewed this report and oversaw the application process.

## **PURPOSE AND SCOPE OF EVIDENCE**

- 5 In my evidence I will:
- 5.1 Provide an overview of the application;
  - 5.2 Respond to matters raised in the Section 42A Report; and
  - 5.3 Respond to matters raised by submitters;
  - 5.4 Provide my recommendation on the Application to the Commissioner, applying the applicable statutory provisions.

## **OVERVIEW OF THE APPLICATION**

- 6 The applicant seeks resource consent to construct eight residential units over the site at 99A Stanley Road, Gisborne (**the Site**). These eight dwellings will comprise:
- 6.1 Six two-storey, two-bedroom dwellings constructed in duplex typology;
  - 6.2 Two single-storey, three-bedroom duplex dwellings constructed in duplex typology.
- 7 The development is proposed to be accessed via a single vehicle crossing and will utilise the existing crossing along the northern boundary of the Site. This will be widened to have a width of 5.5m at the site boundary. A Jointly Owned Access Lot (**JOAL**) will provide access to all sites. The JOAL will have a legal width of 7.2m at the front of the site where it serves 8 sites. It will then taper off to a width of 5.7m with a 4m movement lane where it serves seven sites and narrows again toward the rear of the site where access to only two sites remains. Both the JOAL legal access width and width of the movement lane have been designed to comply with TRMP

requirements. A 1.2m wide pedestrian footpath will be contained within the legal width of the JOAL to provide delineated pedestrian access to all dwelling units within the Site.

- 8 Consent is also sought concurrently for a fee simple subdivision to create eight residential lots (one for each of the residential dwellings) and one JOAL which will held in equal shares by the owners of all lots.
- 9 A restricted discretionary resource consent is also required under Regulation 10 of the NES for Assessing and Managing Contaminants in Soil to Protect Human Health due to the presence of elevated levels of lead found in soil samples taken from ten test locations across the Site as part of a Detailed Site Investigation (**DSI**).
- 10 Various landscaping is proposed across the Site. The landscape design has incorporated a high level of landscaping within the front yard of Lot 1 to enhance streetscape amenity. This includes a mix of low-level undergrowth species and two ornamental pear trees. Beyond this, landscaping beds of varying widths and plant species are proposed down either side of the JOAL to soften hardscapes. Landscape beds are also proposed around the perimeter of individual living areas which each incorporate low-level planting, hedges and a fruiting citrus tree.
- 11 Fencing comprises of a combination of 50% visually permeable 1.2m high timber batten fencing for half of the front boundary with 1.5m high solid fencing that has an additional 300mm visually permeable upper section for the remaining half. This is also provided in front of carparks throughout the Site. Solid 1.8m high timber paling fencing will be installed along all intertenancy boundaries and around the perimeter of the Site where fencing needs to be replaced. All perimeter fencing will be undertaken at the applicant's cost. This will involve consultation with abutting landowners in accordance with the provisions of the Fencing Act 1978.

## **RESPONSE TO MATTERS RAISED IN THE SECTION 42A REPORT**

- 12 I have reviewed the Section 42A Report issued on 30<sup>th</sup> August 2024.

- 13 I agree with the general statements made by the Reporting Officer in Sections 1.3 and 1.4 of the Section 42A report describing the proposal and the site. I also agree with her overview of changes made to the plans as outlined in Paragraph 31 and the reasons for consent in Sections 2.1 – 2.4.
- 14 However, I note that following the receipt of the s42A report, the following changes have been made to the plans:
- 14.1 A raised kerb has been implemented along the edge of the pedestrian path to establish physical delineation between the vehicle movement lane and the pedestrian passage through the Site.
- 14.2 The hammerhead at the rear of the Site has been extended to the north to provide adequate space for a vehicle to perform a three-point turn when the carparks of Lots 6 and 7 are in use.
- 15 With respect to the remainder of the Section 42A Report, I consider the key matters of contention to be:
- 15.1 Compliance matters,
- 15.2 Onsite living outcomes and residential amenity,
- 15.3 Effects on adjacent sites,
- 15.4 Traffic effects,
- 15.5 National Policy Statement on Urban Development 2020, and
- 15.6 Consideration of the Objectives and Policies.
- 16 There are some matters on which the applicant's experts and Council officers agree. Specifically, they are that:
- 16.1 Construction noise will comply with the provisions of the Tairāwhiti Resource Management Plan ("TRMP") and the imposition of conditions and monitoring can ensure this is achieved (Paragraph 142). This is supported by the evidence

prepared by Jon Farren of Marshall Day Acoustics who confirms that construction noise will comply with the applicable noise limits.

- 16.2 The Reporting Officer has confirmed that water, wastewater and stormwater connection to Council's reticulated services has been accepted by the various Council departments, subject to specific conditions of consent (Paragraph 191). Additionally, Council has accepted the proposed stormwater servicing plan and provided the Rainsmart system is appropriately sized, they have confidence that the overall stormwater mitigation proposed will be adequate (Paragraph 196).
- 16.3 Consideration of natural hazards with respect to geotechnical matters has been accepted (Paragraph 202).
- 16.4 While the Officer originally considered that possible cultural effects could be arise to the nearby Statutory Acknowledgement for Rongowhakaata because of possible stormwater and contamination effects, she confirms in Paragraph 206 that 'Considering that stormwater matters have since been resolved, and contaminated land matters are likely able to be resolved, I do not consider there to be any effect on the Statutory Acknowledgements'.
- 16.5 Provided a suitable remedial plan can be determined and adopted, adverse effects in relation to contaminated soils are likely to have a less than minor effect on the environment and remediation of the Site will be a positive effect of the proposal for Gisborne (Paragraph 213). I refer to the evidence prepared by Jason Strong of EAM which confirms that remediation via excavation of contaminated soils to landfill is proposed. Once that remediation has been completed, the risk posed by the contaminants to human health for future residents will be removed, and the Site soils will be suitable for a residential land use scenario as specified in the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 ('**NESCS**').

17 As these matters are agreed I have not provided any further comment on them in this section of my evidence.

18 The matters of contention which remain will be assessed below.

### **Compliance Matters under the TRMP**

19 In Sections 5.2.1 – 5.2.7 of the s42A report, the Officer places significant emphasis on the infringements to the TRMP and as a result of that forms a view that the proposal is ‘significantly greater [in density] than what is permitted (and therefore anticipated by) the TRMP’ (Paragraph 273).

20 With respect to the infringements, I note:

20.1 With the exception of common boundaries between duplex units, recession plane distances are to the JOAL boundary only. The proposal complies with recession plane requirements at all intertenancy boundaries between units and to external boundaries.

20.2 Building coverage infringements are generated by Lots 7 and 8 only. Lots 1 – 6 all comply in terms of building coverage.

20.3 As I will explain below, buildings may be constructed within certain yards due to a proviso in the TRMP. Despite this, I note that the proposal otherwise complies with yard setbacks to all external boundaries and intertenancy boundaries (except for common walls). Dwellings are only located within prescribed yard setbacks as they relate to the JOAL.

21 It is important not to lose sight of the scale of infringements proposed. In my view, the Reporting Officer has placed undue emphasis on the fact that there are infringements and as a result her assessment and conclusions rely heavily on the existence of infringements rather than the actual effects of those infringements.

22 However, given the comprehensive design of the proposal, I consider it more useful instead to assess the application on its merits and consider the

effects of those infringements in context of the receiving environment and on the residential living environment created within the Site.

- 23 The implication of any infringements is particularly relevant given the age of the TRMP (the Gisborne Combined Regional Land and District Plan was notified in 1997 with the General Residential Zone becoming operative by 2006), and the more recent national direction provided in the National Policy Statement for Urban Development 2020 (**NPS UD**), which has guided development of the adopted Tairāwhiti Future Development Strategy 2024-2054 (**FDS**).
- 24 I believe that when considering the effects of the development, the Officer has overly discounted the direction provided in the NPS UD and has overstated the relevance of plan standards infringements, claiming cumulative effects because of multiple infringements rather than the effect(s) of infringements. I accept that the Plan has not yet been updated to give effect to the NPS UD. However, this does not mean that its direction is not relevant to the proposal.
- 25 Given that the application is for a Discretionary Activity, a decision maker's discretion is unrestricted. The guidance provided in a higher order policy document such as the NPS UD can be considered under section 104(1)(c) of the RMA. It should not simply be ignored, particularly when the District Plan is dated.
- 26 The purpose of the FDS adopted by Gisborne District Council (**GDC**) is to address urban development and intensification to meet projected growth of Gisborne over the next 30 years. The FDS identifies areas of Gisborne which are suitable to accommodate additional growth, particularly in the form of additional housing at a greater density. To enable this, the FDS has identified specific intensification areas where additional housing can be established in order to meet its housing targets within this timeframe.
- 27 The subject site is located within an intensification area identified by the FDS. A core focus of the FDS is to promote intensification within existing

urban areas in order to protect the versatile soils on the urban fringe. The FDS outlines:

‘It seeks to encourage and enable more housing to be created at a more affordable price through the replacement or adaptation of existing buildings or through more well managed development of underutilised land. Intensification can be achieved through the following development approaches ...:

- a) Infill
- b) Comprehensive Development
- c) Adaptive Reuse’

28 While the proposal still needs to be assessed under the current District Plan, it is for a comprehensive development within an area earmarked for intensification and so is consistent with GDC’s aspirations for growth and where it should be accommodated. In other words, the proposed development is consistent with the direction given in this higher order policy document.

29 Additionally, while we cannot predict how the FDS may change the TRMP, both the FDS and the wider TRMP review discussions signal that the existing District Plan needs to change in order to accommodate growth and provide for additional housing in the future. Although the District Plan has yet to be changed that is not a reason to disregard the directives of the NPS UD or the adopted FDS.

### Density

30 The Officer has placed substantial emphasis on the density of the proposal (i.e. whether it is medium or high density). With respect to density, I consider the following important to note:

30.1 Density in itself is not an adverse effect; it is how the built environment is managed which determines whether or not an application may cause adverse effects derived or associated with particular design elements.



- 30.2 I note that the density of dwellings alone is not an adequate indicator of adverse effects on neighbouring properties as the development's density is distributed across the Site. Each adjacent neighbour only interacts with a specific section or boundary of the Site.
- 30.3 There is no density control within the TRMP which restricts the number of dwellings that can be constructed on a site beyond the Minimum Site Area standard.
- 30.4 Finally, and further to the above, when assessing a comprehensive residential application such as the proposal, an infringement to minimum lot size does not automatically correlate to an exceedance in maximum density relative to the rules of the TRMP.
- 31 I therefore consider a permitted baseline relevant to consider in this case. While the Officer has introduced a permitted baseline within Paragraph 55 of the report, this is solely based on the area of the Site and does not consider the need for access, lot or onsite development configuration.
- 32 When considering a permitted baseline contemplated by the TRMP, the following matters and rules are relevant:
- 32.1 The District Plan does not limit the number of dwellings which can be constructed on a site within the General Residential Zone. Rule 1.6.1(2) allows for multiple residential units to be constructed on a site within the General Residential Zone provided that the development complies with minimum net site area, site coverage (35%), yard distances and service area requirements (minimum of 15m<sup>2</sup> per dwelling).
- 32.2 The density of dwellings is largely controlled via the Minimum Site Area standard within rule DD1.6.1(2) which provides minimum net site areas of:
- (a) 400m<sup>2</sup> per standalone dwelling unit,

- (b) 320m<sup>2</sup> per unit attached on one site to another dwelling unit, and
- (c) 250m<sup>2</sup> per unit attached on two sides to other dwelling units (including vertically).

32.3 Importantly, Rule DD1.6.1(2) provides for duplex dwellings (and dwellings connected on two sides) to be established within the General Residential Zone as a permitted activity provided the relevant minimum site areas are met.

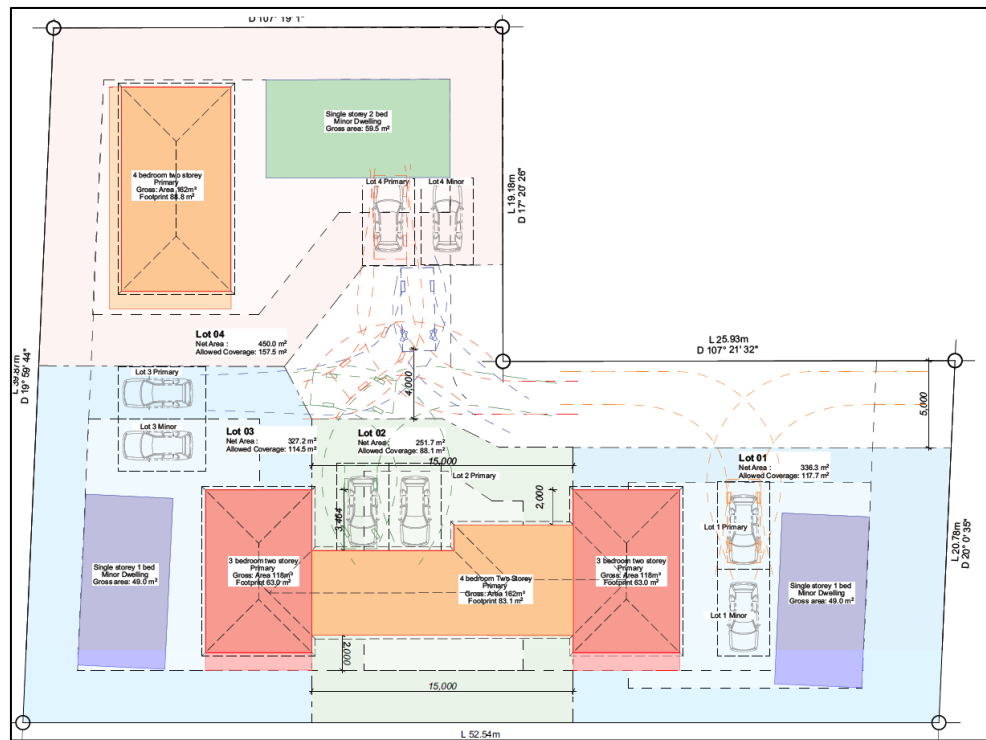
32.4 The above point is supported by the ‘Yard Distances’ standard which includes a proviso “that a building may be erected closer to or on any “Other yard” boundary or any yard boundary on a rear site if the written consent of the adjoining property owner is obtained and submitted to the consent authority at the time a building consent is sought, or prior to the commencement of the activity.”

32.5 There is no height limit within the General Residential Zone, as such. Provided a building complies with height in relation to boundary (the Recession Planes standard DD1.6.1.1D), there is no limit on the number of storeys for residential buildings which can be constructed on the Site.

32.6 Minor dwelling units (defined as a dwelling which comprises less than 60m<sup>2</sup> gross floor area) are a permitted activity pursuant to Rule DD1.6.1(3) provided they comply with site coverage and yard distances and are on the same certificate of title as the principal dwelling on the site. There is no rule which restricts the number of minor dwelling units across a site. One minor dwelling unit for each principal dwelling is permitted.

33 Taking the above into consideration, a permitted baseline has been developed within the architectural evidence of Sol Atkinson. A copy of this is reproduced in **Figure 1** below.

**Figure 1: Permitted Baseline Development Scenario**



- 34 This permitted baseline scenario provides for:
- 34.1 Two notional sites of at least 320m<sup>2</sup> which include one principal two storey, three-bedroom dwelling unit attached on one side to another dwelling unit. Additionally, both of these sites include a standalone, one-bedroom minor dwelling unit. I say ‘notional sites’ because this scenario contemplates a multi-unit development on the Site but not necessarily a subdivision. However, it is noted, should a subdivision occur in this scenario, it has been designed so that this would be a controlled activity (Rule C10.1.6(1)). Therefore, such a subdivision consent must be granted.
  - 34.2 One site of 251m<sup>2</sup> in area which includes a four-bedroom, two storey dwelling unit attached on two sides to other dwelling units, and
  - 34.3 One 450m<sup>2</sup> site which includes one principal two storey, four-bedroom dwelling unit and a standalone 2-bedroom minor dwelling unit.

- 34.4 All minor dwellings will be on the same certificate of title as the principal dwellings.
- 34.5 In total, four primary dwelling units are provided for with three minor dwelling units resulting in 7 dwelling units across the site and 18 bedrooms.
- 34.6 All of the sites comply with the required standards for yard distances and building coverage. Given the size of each site compliance with the 15m<sup>2</sup> service area will be achieved.
- 34.7 Eight parking spaces (at least) are able to be accommodated across the site.
- 35 This permitted baseline demonstrates that:
- 35.1 While the same number of dwelling units has not been demonstrated (in this scenario) as the proposed activity, it is only a difference of one dwelling. As such, the density of the proposal is only marginally greater than this permitted baseline.
- 35.2 While the number of dwellings will be one less, the plans demonstrate that the same occupancy rate could be achieved across the Site of 18 bedrooms.
- 35.3 Similar to 35.1 above, while the number of parking spaces will be two less than the proposed, the provision of two additional carparking spaces is seen as only a marginal increase compared to this compliant scenario. With respect to traffic, it is additionally noted that a vehicle crossing serving multiple households and traffic movements can be established within the same location as the proposed activity.
- 35.4 Two-storey, conjoint housing typologies are provided for by the provisions of the plan and can be established as a permitted activity. There are no controls over building design, appearance, configuration or the location of associated living or service spaces.

36 Therefore, while the s42A report contains an analysis of whether the density of development is medium or high density, in my view, the classification of the development in that way is irrelevant given that the above demonstrates that a comparable number of dwellings and occupancy level can be established as a permitted activity on the Site. It therefore comes down to assessing the proposal on its merits which in turn requires consideration of the actual effects.

#### Yard Distances and Recession Planes

37 As has been raised by the Officer in Paragraph 64 of the s42A report and mentioned in Paragraph 32.4 above, there is a proviso contained within Rule DD1.6.1(2) Yard Distances of the TRMP. I note an additional proviso in relation to height in relation to boundary contained within Rule DD1.6.1.1(B) Recession Planes. Both of these rules enable a relaxation of the relevant standard if written consent from the adjoining neighbour is obtained and provided to the consent authority. Specifically:

37.1 DD1.6.1.1(B) Recession Planes sets out:

#### **Recession Planes**

d) Buildings, parts of buildings, and structures (excluding chimneys, antennas and support structures, shall be contained within recession planes commencing 2.75m above each site boundary. The angles of the recession plane at each site boundary shall be determined using the recession plane indicator.

**provided that** a building or structure may be erected where it exceeds the boundary of the recession plane by not more than one metre if the written consent of the adjoining neighbour is obtained and submitted to the consent authority.

37.2 Similarly, DD1.6.1(2) Yard Distances notes:

#### **Yard Distances**

- a) Front sites: Front yard: 4.5m  
Other yards: 2m
- b) Rear sites: All yards: 3m
- c) ...

**provided that** a building may be erected closer to or on any “Other yard” boundary or any yard boundary on a rear site if the written consent of the adjoining property owner is obtained and submitted to the consent authority at the time a building consent is sought, or prior to the commencement of the activity. (Emphasis added)

38 Here the applicant owns the subject site and is able to provide written consent for each of the lots proposed to be developed within the Site. Therefore:

38.1 Any height in relation to boundary infringement which is less than 1m does not require resource consent, and

38.2 Given that the applicant will provide consent for each of the internal boundary infringements, the requirements for yard setbacks to all internal “other yard” boundaries on front sites and any internal boundary on a rear site do not apply.

39 These provisos are consistent with the Plan’s provisions enabling dwelling units to be attached on one side, or both sides, under the Minimum Site Area standard in Rules DD1.6.1(2).

40 I do not agree with the statement made by the Reporting Officer in Paragraph 66 in relation to the intent of this rule. I do not believe that Council can decide the extent to which this proviso is applied across a site or development given it determines a permitted activity, or on the basis of the number of times the proviso is applied. Council has no discretion over the way in which a permitted activity standard is applied. A similar statement is made in Paragraph 97 where the Officer considers that applying this proviso in the instance of the development is an ‘unreasonable use of the rule’. I do not agree that Council has the ability to decide what is reasonable use of the rule if the requirements to use it are met as a permitted activity.

41 The Officer also states at Paragraph 66 “At the time of Notification of the TRMP, high-density developments with multiple non-compliances of the General Standards or Activity Standards were not envisaged.”. However, Rule 1.6.1(2) Minimum Site Area of the TRMP permits units to be attached

on two sides to other dwelling units (including vertically). Irrespective of density, the TRMP does not restrict the number of units that can be established in this manner; as such, multiple dwellings constructed within the yard setback is provided for. The Officer's interpretation would compromise the ability for permitted conjoint units to be established pursuant to this rule. In this regard, the operative plan provisions indirectly facilitate 'density', whether this was intentional or otherwise.

42 The Officer additionally questions the application of this proviso, given the sequencing of development and the applicant's intention to sell these units to Kāinga Ora (Paragraph 68). I note:

42.1 There is only one owner of the existing subject site, and of the proposed individual lots as they go through the Building Consent and title creation process. As such, irrespective of the sequencing of development, the applicant is able to provide written consent as required by the proviso.

42.2 However, with reference made to the on-sale of the sites to Kāinga Ora, it is noted that Kāinga Ora has been engaged throughout the entire design process. Each iteration of the plans has been scrutinised by their internal Urban Design and Landscape teams and was signed off at each stage. As such, they are happy with the layout and proposed outcomes on the Site. To the extent that it is relevant, the written consent of the eventual owners of the 8 residential lots has already been given.

43 Regardless of whether or not the exclusion to yard distances is able to be applied to the proposal, the proviso indicates that there is some flexibility of yard distances provided for within the General Residential zone. Therefore, the development outcomes proposed are not materially different from the outcomes anticipated by the TRMP provisions, nor are they foreign within the surrounding locality. Specifically, the four dwellings at 495 – 501 Childers Road located immediately adjacent to the subject to the south have been constructed in a conjoint manner whereby the dwellings are within each yard setback.

44 As is evident within the development context plan prepared by Mr Atkinson, a number of other dwellings and accessory buildings within the immediate locality have been constructed within the prescribed yard setbacks. I consider that this existing environment sets a tone for what is reasonably expected within the locality.

45 Further, I do not agree with the statement made by the Reporting Officer in Paragraph 104 of the s42A report whereby she claims that an accessory structure located on a boundary does not have comparable effects to a dwelling. The Officer specifically states:

The existing environment includes a yard infringement of the accessory shed at the rear of the site. The shed incorporates a structural wall on the common boundary fence with 507a Childers Road. This structure is single-storied and being an accessory structure, does not create comparable residential effects anticipated by a dwelling.

While I acknowledge that privacy effects are less likely to be generated from an accessory building built within a yard, any building has the potential to generate adverse shading or bulk dominance effects depending on where it is constructed in relation to the receiving environment. Those effects are generated regardless of whether the accessory building has a residential use (such as a dwelling).

Does Compliance necessarily result in a better outcome?

46 In the s42A report, the Officer states that only a proposal compliant with recession planes to all boundaries, with number of units and with site coverage, would manage potential effects of overly tall and bulky (two-storey) buildings (see for example Paragraph 137).

47 While the TRMP establishes a permitted baseline within which effects have been determined to be acceptable, it does not necessarily follow that a compliant development is not visually dominant.

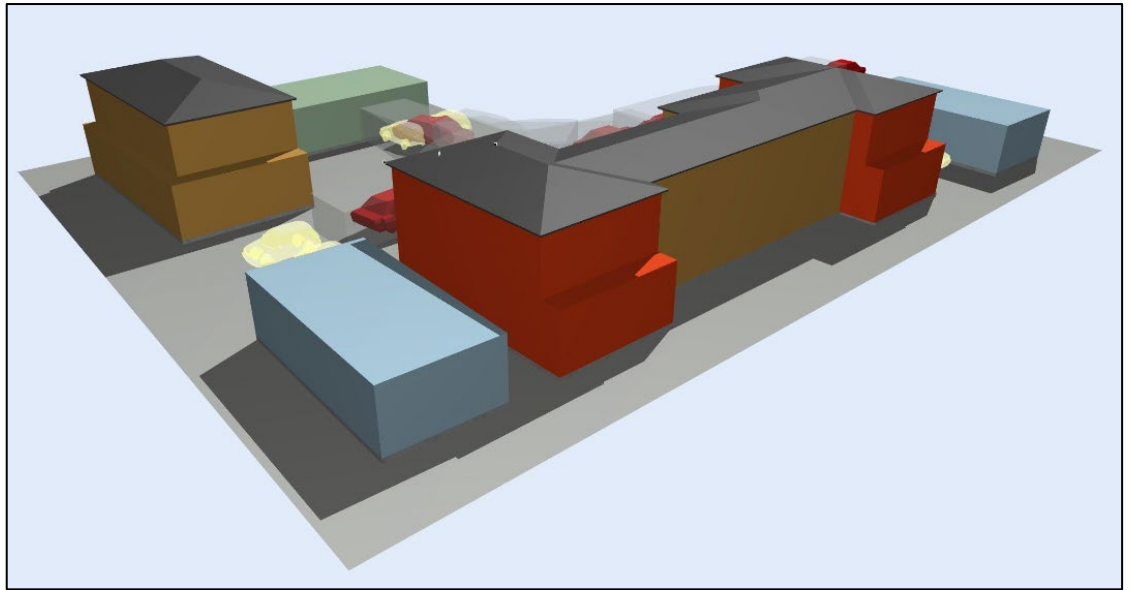
48 With reference to the parameters outlined for a permitted baseline in Paragraph 34 above, the TRMP does not limit the height of buildings, nor does it limit the number of buildings which can be constructed in a conjoint



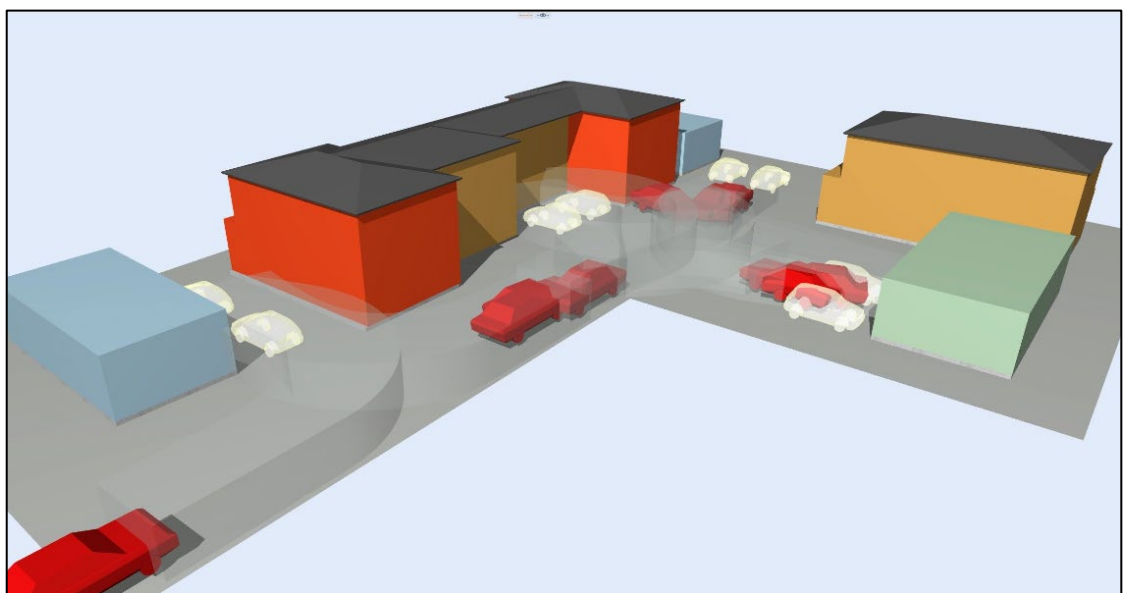
manner (with the exception that a 2m variance is required per 15m of building facade (DD1.6.1.1(C) Building Length)).

- 49 To demonstrate the bulk of such a building, Sol Atkinson has prepared a compliant bulk and location perspective based on the permitted baseline established. This demonstrates a building envelope on the Site compliant with bulk and location controls and are shown in **Figures 2** and **3** below.

**Figure 2:** Permitted Building Envelope



**Figure 3:** Permitted Building Envelope



- 50 In my view, a development such as the above, which achieves the compliant parameters the Officer outlines would manage potential effects, has the potential to generate worse adverse effects on the surrounding environment (and within the rear yards of its own site) due to the long and unrelieved building façade form offering little respite in terms of bulk dominance toward adjacent sites.
- 51 While the proposed development could have included conjoint units just to achieve greater consistency with District Plan standards, it instead proposes separate building forms which break up the bulk of development across the Site, allow sunlight to pass through and offset living areas across the Site. I therefore do not agree that the proposal generates greater effects in terms of its bulk and scale and appearance to adjacent parties when compared to a compliant development.

### **Onsite Living Outcomes and Residential Amenity**

- 52 The Officer has commented throughout the s42A report that infringements to minimum net site area and the bulk and location controls of the General Residential Zone mean the level of residential amenity on the proposed sites will be compromised. She also refers to the fact that the building envelopes between one another are ‘notably maximised to the applicable recession planes’ so as to infer potential effects (Paragraph 111). The permitted activity standards are just that, permitted. They allow maximisation within a permitted building envelope which has been determined to result in an acceptable level of effects within the residential environment. No adverse inference should be drawn simply because an applicant designs their development to take full advantage of the permitted activity standards.
- 53 I do not believe that internal infringements necessarily correlate to internal adverse effects. Specifically, when we consider the scale and location of these infringements across the Site.
- 54 However, as a result of infringements of the minimum net site area, yard distances and recession plane standards within the Site, the Officer has

expressed the view that privacy, provision of sunlight, protection from noise and opportunity for natural vegetation will be compromised. Consideration of onsite residential amenity effects and the site design elements which contribute to these will therefore be considered below.

### Lot Design and Layout

55 As outlined in the evidence of Sol Atkinson, the design of the Site has been through numerous iterations throughout the design process to determine the proposed lot design and layout. In the absence of design guidelines within the TRMP, inputs which contributed to this design were Kāinga Ora Design Requirements, reviews by the Kāinga Ora Urban Design and Landscape teams, the Hastings District Council Intensification Guidelines (adopted by GDC as a means for assessing urban design outcomes within the s92) and an Urban Design Review by Barker and Associates Limited. As a result, the outcomes achieved on site are a result of these various inputs which each have considered optimal urban design outcomes and positive onsite living environments.

56 Specifically, a significant emphasis has been placed on the appearance of the proposal from the streetscape. Low fencing is proposed where suitable to provide passive surveillance to the street from internal ground floor living areas, landscaping has been incorporated to add visual depth and soften hard edges and a pitched roof was introduced so that the front façade of the dwelling more positively addresses the street. While 1.8m high fencing remains in the southwest corner of the street frontage, this is to ensure privacy of the outdoor area on Lot 1 is achieved and visually buffer the service area behind the dwelling. However, a 300mm permeable upper is incorporated to retain some overlooking of the streetscape. Overall, the outcome is considered to provide a suitable balance between onsite privacy, passive surveillance to the streetscape and enhance streetscape amenity through the provision of landscaping and a dwelling which positively addresses the street.

57 It is noted that while the TRMP includes provisions for outdoor service areas, there are no definitive requirements for outdoor living areas. As such,

the Kāinga Ora requirements were adopted to ensure adequate open space provision for each lot. Mr Atkinson advised in his evidence that these are 25m<sup>2</sup> for two-bedroom dwellings and 35m<sup>2</sup> for three-bedroom dwellings. This is achieved by all lots across the proposed development through a combination of patio and lawn area.

58 Further to the above, the final iteration of the plans for Lots 1 – 6 have internalised their implement sheds within the footprint of the dwelling in order to avoid congestion within their open space areas. I note that the location of implement sheds can lead to awkward site layouts due to the requirement for sheds to be offset from boundaries for fire rating reasons. In this instance, this outcome was seen to be the best for the layout of these sites as it frees up space for open space and reduces residual shading within their own sites.

59 Overall, based on the inputs of various design reviews and guidelines utilised to establish the proposed lot sizes and designs, each lot is considered to achieve a well-functioning environment with adequate open space and service area for the scale of the dwellings proposed on each site, despite not meeting the minimum lot size area requirements of the TRMP.

### Privacy

60 Onsite privacy will be maintained through the implementation of intertenancy boundary fencing, window treatments and site orientation.

61 There are numerous statements within the s42A report that, due to dwellings not meeting the yard setback to the JOAL, the privacy of the JOAL users will be compromised due to overlooking. However, I refer to the HDC Design Guidelines (and CPTED Principles) which promote a strong visual connection to common and shared spaces to enhance passive surveillance whereby improving the safety of these spaces.

62 Further, in Paragraph 118, the Reporting Officer refers to the ‘infringed recession planes reduc[ing] privacy and amenity for users in the manner an individual access would. This would be most notably felt by residents of Units 7 and 8 (single-storied) ... caused by opposite Units 5 and 6 (double-

storied)'. I note that due to the presence of the JOAL, a separation distance of at least 8m is afforded between the closest facades of these opposite buildings. Noting this, the scenario presented is no different to a complying scenario of two dwellings constructed on adjacent sites whereby each dwelling is required to be setback from the common boundary by 3m. Further, the orientation of Lots 7 and 8 and the presence of the units themselves means that overlooking does not occur into their living spaces. I do not agree that the proximity of these dwellings to the JOAL will result in adverse privacy effects to other residents within the Site.

63 With respect to the outdoor living spaces of Lots 1 – 6, I note that all of the proposed dwellings comply with yard setbacks and recession planes along their common boundaries. While the Officer has noted that these dwellings have been 'notably maximised' within the permitted building envelope, the setback of any window on an adjacent façade is considered to be within a level anticipated by the Plan to maintain residential amenity values.

64 I also note that the layout and design of Units 1 – 6 results in effects which are no different to a scenario involving multiple conjoined dwellings able to look into each other's back yards.

65 Despite this, all second-floor windows along the eastern, western and southern facades have been raised to a height of 1.6m above the floor level to reduce the perception and opportunity of overlooking to adjacent outdoor living spaces and toward the dwellings themselves.

66 I therefore do not agree with the statement made in Paragraph 139 of the s42A report where the Officer says 'in my opinion the proposal (fencing, and some landscaping discussed above) does not adequately endeavour to mitigate the potential adverse effects from upper storey apartments on the privacy of the adjoining dwellings and their outdoor living spaces'. I believe that the considered design of the proposal results in a development where privacy will be achieved to the level anticipated within the General Residential Zone.

## Noise

- 67 The Officer makes several statements throughout the s42A report that the number of dwellings proposed on the Site will result in a negative outcome with respect to noise generation and aural privacy. Specifically, she claims that infringements to yard distances, in conjunction with recession plane and site size infringements create a decreased protection from noise across the Site (Paragraph 105). It is further stated in Paragraph 122 that ‘a dense development also affects residents due to increased noise’ and in Paragraph 138 she states with respect to landscape planting and fencing that ‘[she does] not concur that this offers mitigation on lack of acoustic privacy’.
- 68 Noise from human activity can occur as of right within the General Residential Zone and the generation of noise from persons across the Site will not be unreasonable in a residential environment.
- 69 Despite this, an assessment of the proposal in relation to noise is contained in the evidence of Jon Farren from Marshall Day Acoustics. Mr Farren has considered the Officer’s comments, particularly in relation to suggestions that there could be greater noise generated from the Site as a result of the number of units compared to the existing situation or a permitted baseline scenario. Mr Farren observes that outdoor areas that are directly adjacent are a common and anticipated feature of many residential environments and in his opinion, are unlikely to generate any significant adverse noise effects for future occupants.
- 70 I also note that this is not dissimilar to an outcome which would result from permitted conjoined dwellings. As such, it is considered that there are not specific mechanisms within the TRMP to separate outdoor living areas to protect aural amenity.

## Building Coverage and Open Space

- 71 With respect to infringements to building coverage, I note that only Lots 7 and 8 propose infringements to the maximum coverage permitted (39.6% and 39.9% respectively) and that building coverage complies on a site wide basis (32.6%).

- 72 While I agree with the importance of promoting open space, I disagree with the Reporting Officer that the intent of the building coverage standard is to limit impervious areas (not associated with buildings) and that the hard sealed parking and manoeuvring area offers no mitigation in terms of open space (Paragraph 128). The Plan contemplates this to some degree through the proviso which enables half of an access strip to be included in a site calculation when calculating building coverage.
- 73 It cannot be said that a paved yard or access is not an open space. It is open as it is not obstructed above ground level by buildings. I acknowledge that differing types of open space deliver different amenity, such as the comparison between a grassed lawn and a paved driveway. A paved outdoor court can also deliver amenity. Spaciousness provides for sunlight admission and the avoidance of building dominance.
- 74 With respect to building coverage the Reporting Officer states that ‘this exceedance on already sub-standard lot sizes, in conjunction with infringements on yards and recessions planes, indicates a dense development with lack of open space for each dwelling’ (Paragraph 125).
- 75 Initially, I reiterate that Lots 1 – 6 comply with building coverage. Secondly, I note that Lots 7 and 8 have an outdoor living area of 50.66m<sup>2</sup> and 62.95m<sup>2</sup> respectively which, in the absence of outdoor living area requirements within the TRMP, exceeds the KO standards by 15m<sup>2</sup> and 27m<sup>2</sup> respectively. Further, this space is dedicated solely for outdoor enjoyment of the residents noting that a separate, compliant service space is provided for both sites.
- 76 Finally, I note that in Section 5.2.8 of the s42A report the Officer outlines the numerous parks, reserves and school fields within proximity to the subject site. Of which, there are five fields, reserves or sports courts within a 500m walking distance from the site with one of the rugby fields located further along the same side of Stanley Road only 180m from the Site. The Officer discounts these amenities as mitigation for open space on the Site stating ‘the above distances and the image below shows the site location is

inappropriate for the effects of high-density are not mitigated by proximity to neighbourhood reserves or recreation areas.’

77 I do not agree with this sentiment. For someone of able body, these distances are perfectly reasonable to walk to in order to enjoy a larger area of open space.

#### Sunlight Access and Shading

78 With respect to sunlight access to outdoor living areas, the Reporting Officer states, ‘I cannot yet conclude that these outdoor service and outdoor living areas will offer sufficient privacy or sunlight, when considering the above effects of reduced site sizes, yards and breached recession planes, and the dwellings positioned against one another within the minimum building envelope available to them’.

79 However, at Paragraph 114 of her report, the Officer states ‘the TRMP relies upon its recession planes rules to address potential shading effects on adjacent properties, caused by dwelling height and/or boundary proximity... These recession planes protect access to daylight and privacy (amenity) by requiring taller structures to be progressively set back from boundaries’.

80 On this basis I note:

80.1 All dwelling units will comply with recession plane requirements along inter-tenancy boundaries (with the exception of common walls between duplexes). Specifically, dwellings comply with recession planes where they are adjacent to outdoor living areas.

80.2 For completeness, the proposal also complies with recession plane compliance to all external boundaries.

80.3 Infringements to recession planes are to the JOAL boundary only.

81 In my opinion, given the compliance achieved with recession planes between each Unit, the level of shading experienced on each adjacent site will be within the level anticipated by the Plan to maintain a permitted level



of amenity. This is supported by the statement made by the Officer included in Paragraph 79 above.

82 With respect to the outdoor living areas on Lots 1 – 6, I do not believe that there is an effect beyond the permitted baseline experienced within these areas. While it is acknowledged that the orientation of these sites does not optimise sunlight access to the outdoor living areas and service areas during winter months, sunlight admission to each dwelling will not be compromised as they each have north and east or west facades which provides for sunlight and warmth into the dwellings. Due to this orientation, there is no compromise to sunlight access within the dwellings at all times of the year.

83 With respect to Lots 7 and 8, both of these outdoor living areas are oriented to the north of a single-storey dwelling. There will be no shading effect experienced on these sites.

84 While the two-storey units infringe recession planes to the JOAL boundary, I consider the JOAL to demand a low level of amenity, that when considered with the level of shading which may be generated, adverse effects will be negligible. This is further supported by the fact that the JOAL is oriented north of these dwellings. Further, there is adequate separation from these dwellings to Lots 7 and 8, which, when coupled with site orientation, is considered to avoid or mitigate shading effects to a level which is less than minor.

85 I note that the level of infringement to the JOAL would be reduced if a hipped roof design was retained for Units 1 - 6. However, from an urban design and visual amenity perspective the pitched roof design is considered to be a better outcome for the Site given that the infringements to the JOAL are considered to be inconsequential.

86 I believe infringements to recession planes along common wall boundaries to be an effect anticipated by the TRMP through the minimum net site area provisions which provide for dwellings attached on one or two sides.

87 Noting the above, I consider that the level of sunlight achieved across the Site at all times of the year will be adequate to achieve the level of residential amenity sought by the TRMP on each proposed site.

### Landscaping

88 The Reporting Officer assesses landscaping in Section 5.2.7 of the s42A report. Initially, the Officer compares the extent of hard surfaces proposed within each site to the extent of landscaping proposed. I note that there are no specific requirements in the TRMP which require either minimum landscaping or maximum impervious area.

89 The Officer is of the view that the landscaping cannot assist to soften the impervious area and two-storeyed nature of the development.

90 In my opinion, the proposed landscaping enhances the amenity of the Site for the residents and to the surrounds. Landscaping is used where possible to soften hard edges and add visual interest to the Site. This is particularly evident within the JOAL where planting beds are used in front of dwellings and around the perimeter where the impervious surface meets boundary fencing. While the planting proposed within the JOAL does not include tree species which will grow to the same scale as the dwellings, I do not agree that the planting can be completely discounted in offering amenity for the residents and passersby. The proposed planting plan and schedule of species demonstrates that a variety of heights, textures and shades of colour will add depth and visual interest to these spaces. In my opinion, this does assist in softening the hardscapes across the Site.

91 Further, planting within each proposed lot improves the outlook from internal living spaces, avoiding areas where hard paving directly adjoins solid fencing. This will enhance the amenity of these sites.

92 With respect to the streetscape boundary, as previously noted above, I consider that the impermeable and varied fences, along with a variety of plant species and heights (including amenity tree species) do contribute to a positive streetscape environment, enhancing streetscape amenity.

## Conclusion

- 93 To conclude, while the proposed lots are smaller than the minimum required by the TRMP, each lot is large enough to accommodate an appropriately sized duplex residential dwelling with the provision of carparking spaces, adequate yards, outdoor living spaces and service spaces which comply with the General Residential Zone. The utilisation of the JOAL provides for shared manoeuvring and safe pedestrian passage through the Site.
- 94 Landscaping has been utilised along the street frontage, around the perimeters of the Site and JOAL which assists with softening hard edges and enhancing both streetscape and onsite amenity with a mix of undergrowth species, shrubs, hedges, fruiting trees and specimen trees.
- 95 The proposed development has been assessed under the Hastings Residential Intensification Guidelines. In the s92 request, GDC confirmed that it considered the Design Guide to be reflective of the Gisborne environment. The proposal was found to be consistent with the outcomes sought within the Guide, thereby achieving positive urban design outcomes on the Site.
- 96 While infringements to recession planes, yards and building coverages do occur, the scale and dispersion of these across the Site are considered to result in adverse effects which are less than minor. I do not agree that these warrant a cumulative effect.
- 97 I therefore consider the infringements to not be a fatal flaw to the development. Instead, when it is assessed on its merits, the development will result in a positive living environment for future inhabitants in line with the direction of the FDS and NPS UD.

## **Effects on Adjacent Sites**

### Privacy and shading

98 With respect to potential privacy and shading effects on adjacent sites, I agree with the following statements made by the Reporting Officer in Paragraphs 108, 114 and 134 respectively:

98.1 The layout of the proposed development has complied with the required recession planes and yard setbacks with external boundaries, thus achieving the permitted baseline for shading on adjacent properties.

98.2 The TRMP contains no maximum height limit for the General Residential zone. However, the TRMP relies upon its recession planes rules to address potential shading effects on adjacent properties, caused by dwelling height and/or boundary proximity. As well as shading effects, the recession plane rules also protect privacy. Together, these aspects contribute to amenity. These recession planes protect access to daylight and privacy (amenity) by requiring taller structures to be progressively set back from boundaries.

98.3 I am unable to calculate or identify a specific loss of privacy on neighbouring sites from the double-storied proposals, as the dwellings do comply with setbacks and recession planes with those shared boundaries, and therefore the TRMP permits some ability for double-storied windows to view into their properties.

99 The permitted activity standards were intended to address potential shading and privacy effects of development at the interface with adjacent sites. The proposal complies with those standards at all external boundaries and accordingly any shading and privacy effects on those adjacent sites will not occur to a degree greater than the plan deems to be acceptable. Effects associated with these building elements are therefore considered to be less than minor.

100 I do not agree with the Officer's comment in Paragraph 134 that privacy effects will be generated as a result of the 'sheer number of inhabitants, which is approximately twice a reasonable permitted baseline'. The permitted baseline provided above has confirmed that the same occupancy of the Site could be achieved by a permitted activity scenario. As such I do not believe that the number of people occupying the Site (overall) will contribute to privacy effects. I additionally note:

- 100.1 Units 1 – 6 are only comprised of two bedrooms. Therefore, the potential occupancy of each duplex (two dwellings) is comparable to a compliant standalone dwelling which could have 3 – 4 bedrooms.
- 100.2 While Lots 7 and 8 are both three-bedroom dwellings, these are single storey and therefore overlooking to adjacent sites is avoided.
- 100.3 Due to the size of the subject site, adjacent sites do not interact with the proposal as a whole. Instead, most adjacent sites will only interact with one or two of the proposed units. The layout and the dwellings themselves act as mitigation for the remainder of the Site. As such the level of ‘exposure’ between the residents of abutting sites and the new residents will be no greater than is likely to occur in any typical residential setting.
- 101 I therefore disagree that the number of residents will result in adverse privacy effects upon abutting sites.
- 102 The provisions of the TRMP encourage design flexibility and do not include specific height controls, which, when we consider the permitted baseline envelope introduced in Paragraph 34 above, provides the opportunity for buildings with significant bulk on residential sites. Therefore, having two storey dwelling units is not inconsistent with the outcomes anticipated by the TRMP or a basis for determining adverse effects on adjacent sites.
- 103 Further, design elements incorporated within the design to mitigate any potential privacy or overlooking effects so that they are less than minor include:
- 103.1 Locating main living areas on the ground floor so that main outlook areas are mitigated via boundary fencing.
- 103.2 Raising the height of second floor glazing facing adjacent sites to the south to 1.6m above floor level to reduce the potential for

overlooking. This is with the exception of windows in the stairwells.

103.3 Modulation has been introduced to increase the distance between the second storey façade and the southern boundary.

104 Noting the above, given that the General Residential Zone lacks a maximum height limit, the TRMP aims to control building height and scale through the use of recession planes. This rule is specifically intended to ensure reasonable sunlight access, to prevent overshadowing and avoid any inappropriate privacy or overlooking effects.

105 Given that the proposal complies with the required recession planes of the General Residential Zone it is my view that the degree and extent of effects on adjacent persons are consistent with those anticipated by the TRMP and therefore less than minor. Compliance with those recession planes ensures that residential amenity values are maintained.

#### Bulk Dominance and Density

106 While substantial emphasis has been made to derive the level of density proposed onsite, I note that the density of dwellings alone is not an adequate indicator of adverse effects on neighbouring properties as the development's density is distributed across the Site. Each adjacent neighbour would interact with only a specific section or boundary of the Site.

107 In Paragraph 106 of the s42A report, the Reporting Officer states 'I consider the recession planes and site coverage rules work in tandem (and with the site sizes and setbacks above) to set a standard expected for scale and bulk?.'

108 As I have noted previously, the only infringements to building coverage stem from Lots 7 and 8 which are single storey dwellings and therefore generate little bulk dominance toward adjacent sites, particularly due to compliance with yard distances and recession planes. Lots 1 – 6 comply with yard distances, recession planes and building coverage. Further, I

believe that the permitted baseline scenario outlined above demonstrates that site size and therefore density has limited influence on the eventual scale and bulk of built form on a site. Excess bulk could occur on any site, irrespective to the lot size.

109 Noting this, I remain of the view that through the compliance with bulk and location controls as it relates to the external interfaces of the Site, the scale and bulk of proposed development toward all boundaries of the Site is consistent with the level anticipated in the General Residential Zone and therefore any adverse effects to be less than minor.

### Noise

110 The Officer assesses the potential impacts of noise from the development within Section 5.2.5 of the s42A report. It is stated that ‘the intensity of development may result in a greater number of people resident, and a perceived increase in the frequency, intensity and duration of activities on the site than would otherwise be anticipated to occur.’

111 The acoustic evidence prepared by Jon Farren includes an assessment in relation to potential noise effects on adjacent sites. Mr Farren identified the three main noise generating activities of the proposal to be on-site vehicle movements, noise from mechanical plant (e.g. external heat pump units) and human activity. These are considered against the permitted limits for the General Residential Zone. Mr Farren concluded that:

111.1 In terms of vehicle movements, he has considered a worst-case scenario which includes all 10 vehicles provided for on the Site entering or existing at the same time during nighttime (being the most stringent noise limits). In this scenario, compliance is achieved to all boundaries with the exception of where the fence drops to 1.2m with the boundary of 99 Stanley Road to the north. However, Mr Farren has explained that in reality, this scenario is not expected to occur given that:

(a) it is unlikely all 10 vehicles will leave at once; and further,

(b) the dwelling is setback from the common boundary, so compliance with noise limits can be achieved at the dwelling.

111.2 Noise from heat pump units will comply with the most stringent night-time noise limits at the boundary of the Site, and

111.3 Noise from human activity across the Site is considered to be comparable to the existing situation or a permitted baseline on the basis that there are several mitigating factors across the Site (fences and proposed units) which will result in acoustical screening. Exposure to noise generating activities from human activities is therefore limited to those sites directly adjacent. Mr Farren has concluded that this is unlikely to result in noise effects that are significantly different to the existing situation.

112 I rely on the expert opinion of Mr Farren and consider any adverse noise effects will be avoided or mitigated.

### Conclusion

113 While the Officer has suggested that relying on compliance with bulk and location controls as they relate to the interface of the Site is a surface-level assessment, I argue that these are the key mechanisms of the TRMP to maintain amenity values toward adjacent sites. By complying with yard distances and recession planes, the development fits within the permitted building envelope anticipated within the Zone to effectively manage residential amenity effects toward adjacent sites. Therefore, through design, I am of the opinion that any adverse shading, privacy or bulk dominance to adjacent sites effects have been avoided or mitigated and less than minor. Further, as above, I rely on the opinion of Mr Farren that adverse noise effects will also be less than minor.

### **Traffic Effects**

114 Traffic matters are assessed by the Officer in Paragraphs 171 – 182 of the report. The main areas of contention with respect to these matters appear to be:



114.1 Interpretation of TRMP Standard C2.1.7.1(H2)(a) Sight Lines,

114.2 Carparking availability and potential effects generated,

114.3 Sightlines, and

114.4 Width of access.

115 I will address each of these in turn below.

Interpretation of TRMP Standard C2.1.7.1(H2) Sight Lines

116 The Officer provides her view on whether Standard C2.1.7.1(H2)(a) Sight Lines is applicable to the proposal in Paragraphs 172 and 173 of the s42A report. Standard C2.1.7.1(H2)(a) specifies:

All **new** vehicle crossing /accessways shall be designed, located and developed to ensure that the sight lines (illustrated in Figure C2.13) are established and maintained with no obstructions, whether temporary or permanent. Sight lines are to be in accordance with Figure C2.1.3 and Figure C2.4 specified below (emphasis added).

117 To confirm, the proposed development will utilise the existing vehicle crossing which serves the Site. It will therefore not be new. The Officer considers that because there will be an increase in the usage of the crossing as a result of the proposal, this standard is applicable. However, I do not agree with this. The standard clearly only applies to new crossings. There is no change proposed to the location of the crossing therefore the sightlines are already established. If the Plan intended to also capture upgrades to crossings it would have specified this. An example of this is provided in C2.1.7.1(H1)(b) where the standard outlines:

To meet the access needs of potential users, all new **or upgraded** roads required for subdivision or development shall comply with the following rules for minimum widths (emphasis added).

118 Noting the above, I do not agree that the intention of the standard was to also capture upgrades to crossings. Given that the crossing is already established, the proposal will not result in a change to the sightlines achieved from the Site which this standard is looking to achieve.

## Parking and Sightlines

119 As discussed by the Officer, the NPS UD removed minimum parking requirements from the District Plan which now provides the baseline. As explained in Sol Atkinson's evidence, in the absence of a minimum requirement for carparking within the TRMP, onsite parking provision was based on KO Design Requirements of one parking space per dwelling. Nevertheless, an additional parking space is provided for Lots 7 and 8 given they are both three-bedroom dwellings. As such, while the baseline requires no parking, the proposal provides for 10 car parking spaces across the Site.

120 Carparking effects have been considered in the evidence of Takudzwa Mapeta. In his evidence, Mr Mapeta concludes:

120.1 In his opinion, 10 parking spaces will provide sufficient parking for the proposed development. However, based on the preferred parking rate provided by GDC, the proposal results in an unmet parking demand of 2 – 3 vehicles. Mr Mapeta noted that the potential associated risk on the external road environment is no more than minor.

120.2 Kerbside parking is not unique to this development and it arises for most existing vehicle crossings on the street when other vehicles are parked on the roadside adjacent to vehicle crossings. I also note that this is an existing effect, and an effect that would occur within a permitted baseline scenario.

121 Council has concerns about the potential for kerb side parking to obstruct the visibility for vehicles exiting the site. Initially I note my comments in Paragraphs 116 - 118 above whereby I determine that this is an existing effect from the existing location of the vehicle crossing. Further, the on-street parking outside of the subject site is existing. As such, the potential obstruction of sightlines will not be a new effect.

122 I note that Mr Mapeta has made recommendations to improve the visibility of oncoming traffic, but these have not been accepted by Council because they are outside the boundary of the subject Site. Mr Mapeta has noted that

mitigation measures outside of the site boundary are commonly implemented to address traffic concerns. The Applicant remains willing to provide recessed parking on Stanley Road at its cost and will accept a condition of consent requiring it to do so.

#### Width of Access

123 The Officer assesses the width of the access in Paragraphs 184 – 186 of the s42A report and confirms that the proposed vehicle crossing and access comply with the relevant standards of the TRMP. Despite this, concerns from Council’s Development Engineer are included in Paragraph 185 which include the following:

123.1 The Applicant has used the minimum standards available to comply with the TRMP and Engineering Code of Practice, but it is unclear what standard of vehicle is used in the tracking curves provided, and what side clearance is provided for the vehicle swept paths.

123.2 The use of the minimum width standards and with no additional space for turning while manoeuvring into and out of parking spaces, results in vehicles driving over the footpath to pass waiting vehicles, which is a risk from vehicles to young persons and differently abled persons using the footpath.

124 Initially, I refer to the evidence of both Mr Mapeta and Mr Johan Ehlers (design engineer) which confirms that the access complies with the TRMP. Additionally, both Mr Mapeta and Mr Ehlers confirm that the width of the access within the first 7m of the Site is 5.5m wide and therefore of a width which allows for two vehicles to pass safely without the need to mount the pedestrian path.

125 I additionally note that a minimum standard is a standard which has been deemed suitable and safe for a specific use by Council. I do not believe that there should be any implication that the proposed design is potentially insufficient just because it has applied the minimum standard.

126 Mr Ehlers has addressed tracking curves in his evidence. He confirms that the 90th percentile vehicle has been used to demonstrate tracking. He has outlined that it is not possible to meet the 600mm side clearance recommended by Council in some instances. However, he has concluded that reduced clearances will not impact on the safety standards because vehicle speeds will be low.

127 As a result of the comments received from Council's Development Engineer it has been proposed to physically separate the path by raising the kerb so that vehicles cannot accidentally track onto the footpath while using the access. Mr Mapeta has confirmed that the risk of collisions involving pedestrians on the site is no more than minimal.

### **National Policy Statement on Urban Development 2020 (NPS UD)**

128 The Officer assesses the application in relation to the NPS UD in Section 6.2 of the s42A report. While the officer considers it premature to apply the Policies of the NPS UD (particularly Policy 6) given that a changes to the planned urban built form by way of a Plan Change have not occurred, I still believe that the national direction contained within the NPS UD carry significant weight in determining a decision on the proposal. This is further relevant due to the fact that GDC has adopted an FDS to give effect to this higher order document.

129 I consider Policy 1 of the NPS UD to be most relevant to this application which notes:

Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:

- (a) have or enable a variety of homes that:
  - i. meet the needs, in terms of type, price, and location, of different households; and
  - ii. enable Māori to express their cultural traditions and norms; and National Policy Statement on Urban Development 2020 – updated May 2022

- (b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and
- (c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport;

130 I consider that the proposal will be consistent with Policy 1 of the NPS UD. Specifically, the dwellings units will achieve positive urban design outcomes for occupants and adjoining landowners. The sites are also well positioned to enable future occupants access to community facilities such as schools and recreation opportunities. Further, given the Site's proximity to Childers Road, it is well located for direct access to commercial amenities within Gisborne.

131 The proposed subdivision and residential development will provide benefit to the wellbeing of the future owners and residents of the proposed sites. The configuration of the dwellings, and the scale of the development has been balanced to achieve a best fit for the Site, also having regard to the surrounds, and seeks to provide a balance between the provision of onsite amenity and density, thus resulting in a more efficient use of residential land.

132 Adopting a comprehensive design approach ensures the provision of onsite amenity and utility in an efficient and overall effective manner. This results in a higher density residential outcome whilst still delivering a high amenity residential living environment and ensuring that adverse effects are avoided and mitigated. The proposal will also cater to provide housing at a scale, and value within Gisborne.

133 In this regard the proposal is considered to be consistent with the higher-level directions signalled in the NPS UD.

### **Objectives and Policies**

134 The Officer assesses the proposal against the Objectives and Policies of the TRMP in Section 6.4 of the s42A report. I agree with the Officer that the proposal achieves the Design and Reticulation of Infrastructure policies at

C2.1.4.3; and the specific water, wastewater, stormwater and electricity and telecommunications Objectives and Policies of the TRMP.

135 Additionally, given that a feasible remediation plan for the contaminated soils has been provided, I believe that the proposal achieves the Objectives and Policies for Contaminated Land in C5.1.3 and C5.1.4 of the District Plan.

136 I disagree with the Officer's conclusion that the proposal does not achieve the intent of the General Residential Zone, that the policies of Works and Services in relation to traffic matters (C2.1.4.5) that are not met and consequently it does not meet the Objectives and Policies for subdivision.

137 It important to bear in mind the legal framework contemplated by s104 of the RMA. Given that the proposal is for a Discretionary Activity, a decision maker is required to "have regard to" the objectives and policies. The words "have regard to" indicate matters that are required to be considered by a decision maker within the various matters to be contemplated under s104, as opposed to requirements or standards that have to be fully met.

138 The Officer makes several statements within the s42A report that the development is inconsistent with particular objectives and policies which then inform her conclusion that (in her view) the proposal does not achieve the intent of the General Residential Zone. However, I do not interpret "must have regard to" as "must give effect to", or to be entirely consistent with. As such, my opinion is that the Reporting Officer has applied the incorrect test when assessing the application against the objectives and policies of the TRMP and consequently s104 of the RMA.

139 Noting this, I will undertake an assessment of the objectives and policies in relation to the General Residential Zone, traffic matters of the Works and Services objectives and policies and those which relate to subdivision below:

General Residential Zone

140 With respect to the assessment against the General Residential Zone, I agree with the statement made by the Officer that housing development must be at a density and located in a way which does not compromise neighbourhood amenity or infrastructure (Paragraph 229).

141 However, I believe that the Officer has taken too literal an approach in assessing the objectives and policies which relate to character and amenity. It is my opinion that the TRMP clearly either contemplates, facilitates or at least provides an opportunity for a range of building styles and typologies. Typologies of choice have resulted in the form of the surrounding locality achieved today. The TRMP provisions however provide scope for alternative forms of development, such as the proposal. Although this form has not been readily adopted, it has always been available. The Plan provisions provide scope for evolution of building form over time, in response to individual choice, or community need. It is a range of these factors, not evident in the past, which drive the form of this proposal and given that the form is within scope, it is difficult to conclude it is contrary to the intent of plan.

142 This is evident through the Residential Styles Objective DD1.3.1 which enables a diversity of residential styles based on the differing characteristics of areas within the district, and the varied housing needs of the community. There is no objective which requires development to protect the existing character or replicate the character or typology of development within the surrounding context.

143 Instead, the relevant Residential Styles Policy DD1.4.1 specifically provides for flexibility in site development and design in response to the needs of the community provided that:

- a) the development integrates the design of residential units and any subdivision of the site;
- b) the development presents a high standard of on-site and off-site amenity;
- c) the development avoids, remedies or mitigates any adverse effect on the amenity values of neighbouring sites;
- d) the development is designed with regard to the character of the area;

- e) the cumulative effects of such developments do not fundamentally change the character of the area;
- f) the development does not compromise the effectiveness of urban infrastructure services.

144 This is further carried through to the rules of the General Residential Zone. There are no rules which protect the single-storey nature of the surrounding area, nor are there rules which prevent specific dwelling styles or typologies being constructed. In fact, I note that the plan promotes conjoint dwellings via the minimum net site area rules.

145 Section 32 of the RMA requires the provisions of a Plan (i.e. the policies, rules and methods) to give effect to the objectives of a Plan. Therefore, the rule framework in place already takes into consideration the higher order framework of the objectives and policies which clearly contemplates some change to character over time. As such, while the typology of the development is not the norm within the receiving environment, I do not believe that this means it is inappropriate. The objectives and policies must have contemplated two storey, duplex dwellings as the rules specifically provide for it. The objectives and policies also recognise the need for housing diversity, and options to meet community need. Such needs can change over time.

146 With respect to matters set out in Policy DD1.4.1 above, the proposal has integrated the design of the proposed units and subdivision, and as such can be found to achieve (a). Further, assessments undertaken above have determined that a high standard of both on-site and off-site amenity can be achieved and further, will avoid remedy or mitigate amenity values on neighbouring sites - therefore meeting (b) and (c).

147 Matters (d) and (e) specifically address character, requiring development to be designed with regard to the character of the area and ensure that cumulative effects of development do not fundamentally change the character of the area respectively. I consider it relevant therefore to establish the key characteristics of the area and will do this below.



- 148 With respect to building typology, I acknowledge that the character of the surrounding area is predominantly single-storey dwellings. However, while duplex dwellings are not reflective of the predominant typology within the surrounding area, there is other built form within the immediate locality which is not dissimilar. Specifically, the site immediately to the south of the subject site at 495 – 501 Childers Road comprises a single storey development of four conjoined dwellings. Further, a two storey dwelling is located adjacent to the subject site at 97 Childers Road and dwellings of greater densities are present to the east of the Childers Road roundabout.
- 149 However, typology is not the only element that contributes to character. Architectural styles, materiality and roof forms, as well as fencing and landscaping all contribute to character and within the surrounding locality, each of these aspects presents variations which contribute to a mixed character. Character is also informed by uniformity in terms of setbacks to the street and boundaries. As demonstrated in the evidence of Sol Atkinson, this is also mixed with a number of dwellings being located within the prescribed yard setbacks of the TRMP. I also note that it is not uncommon for accessory buildings to be constructed up to common boundaries.
- 150 Therefore, while there is general consistency in terms of typology, a representation of these various elements within the surrounding locality provides for diversity to the residential character of the area. I consider this to be expected within an area described as general residential. That is, that there is no special character or heritage elements being preserved or to be retained. Instead, these areas can simply be described as generally residential in character.
- 151 The proposal is for a development which is residential in character, it has been designed for residential occupation and use, in response to a range of drivers to meet the changing housing needs of the community.
- 152 It will present as three two storey buildings (each split into a two-bedroom duplex), and one single storey building (split into a two-bedroom duplex) which therefore results in a mixed typology across the Site. The buildings

are proposed to be constructed out of high-quality materials with recessive colours and roof styles which are representative of the surrounding dwellings.

153 Noting this, when we consider matters (d) and (e) of Policy DD1.4.1 above, the design of the proposed dwellings can be considered to have regard to the character of the area. While the two-storey duplex dwelling units represent a typology which is uncommon within the area, I do not believe that these result in a fundamental change to, nor do they diminish, the character of the area.

154 I therefore consider that the proposal has been designed to have regard to the DD1.3.1 Residential Styles Objective and DD1.4.1 Residential Styles Policy.

155 Further to the considerations of amenity in Policy DD1.4.1 above, amenity values are also addressed specifically in Objective DD1.3.2 and the Policies within DD1.4.2.

156 The emphasis in Policy DD1.4.2(1) is on managing off site amenity effects by ensuring that:

- a) buildings and structures are located so as to avoid, remedy or mitigate any adverse effect on the adjoining properties;
- b) the scale of the development is appropriate for the site and the location of the site in the street, and will not cause a loss of residential amenity values for surrounding residents;
- c) the safety and amenity values of the neighbourhood are protected;
- d) the character and amenity of the residential environment shall be maintained or enhanced and conflicts with adjoining land users avoided, remedied or mitigated.

157 As set out above, pursuant to s32 of the RMA the rule framework of the residential zone gives effect to these higher order directives of a Plan. The permitted building envelope established clearly provides for a built environment which is of a scale considered appropriate within the environment and which avoids, remedies or mitigates adverse effects on the surrounding sites. This is identified by Regulation Method 1 which is to

develop rules which identify and protect the amenity values of the residential environment.

158 Given that the proposal has been designed specifically to achieve these parameters at the interface of the Site, I believe it has been designed to have regard to these matters and avoids, remedies or mitigates effects on adjacent properties. Finally, as set out above, the proposal will not diminish the character of the area and the high-quality design provides for an enhancement to the Site. As such, applying the appropriate test, the proposal has had regard to this matter in relation to character.

159 Onsite amenity values are considered in Policy DD1.4.2(5) which focus solely on preserving access to daylight and privacy by ensuring that:

- a) each dwelling-unit has a private outdoor area orientated to the sun;
- b) new buildings or structures are designed and located so as not to cause significant loss of daylight or privacy to adjoining sites.

160 With respect to (a), each of the dwelling units is provided with an outdoor area which receives sunlight at all times of the year and has been oriented either north, east or west of the dwelling in order to maximise sunlight admission. The solar studies submitted as a part of the evidence demonstrate this. Privacy of outdoor living areas has been achieved through adjacent dwellings complying with bulk and location controls; however, where there is the potential for overlooking, mitigation measures have been implemented to reduce this potential by raising window heights and the implementation of intertenancy fencing. I believe my evidence has already demonstrated that the loss of daylight or privacy to adjacent sites will be avoided. Noting this, the proposal is considered to have regard to Policy DD1.4.2(5).

161 I consider Policy DD1.4.2(7) to be of particular relevance in this instance. Policy DD1.4.2(7) seeks to enable innovative design which reflects the character of the surrounding area by ensuring that:

- a) the scale and design of additions, alterations and new buildings are compatible with the character and amenity, particularly visual amenity, of the site and the surrounding area;

- b) the location, form and scale of new buildings are compatible with that of buildings in the immediate vicinity of the site, and streetscape amenities can be maintained.

162 While the assessments made above determine that the proposal is compatible with the character of the area, I also consider it important to note within this context that just because the proposed development presents an outcome which is different, that does not make it inappropriate or not compatible.

163 Development of greater density and height has been provided for and contemplated by the TRMP since it became operative; however, past development has traditionally chosen a single level standalone dwelling typology. The housing shortfalls and need to accommodate population growth in an efficient and effective manner requires intensification and innovation. As such demand for higher density living in multi-level adjoined units is likely to become increasingly common to serve the needs of the community. Given that such development could be achieved as a permitted activity, it is difficult to conclude that this form of development is beyond the 'character' provided for by the zone provisions.

164 I do not see how an increase to density on the Site (which is within the permitted baseline) can be contrary to the objectives and policies which the rules and standards have been designed to give effect to. Under the permitted provisions of the TRMP, and in the face of housing shortages, we are likely to see the changes to housing typologies in this area over time. Of course, any initial changes enabled by the provisions may result in challenges in terms of perception, with some people considering these to be out of context. However, whilst building form and configuration may differ, these types of development will still be residential in nature and in the character of residential activity, despite having a different visual appearance to the traditional norms.

165 Noting this, I do not agree with the Reporting Officer that the proposed development will not achieve the intent of the of Gisborne's General Residential Zone. Instead, my opinion is that the proposal has been

designed to have regard to these objectives and policies as required under s104 of the RMA.

Infrastructure Works and Services

- 166 I agree with the Officer's overview in Paragraph 243 that the Works and Services Policies contained within C2.1.4.5 record Council's intent to ensure that property access occurs in a manner that does not adversely affect the wider functions of the road reserve, and to encourage roads and accessways to be designed according to their environment context and surrounding land uses.
- 167 However, I do not agree with the statement that due to the potential compromise on the sight lines, that the proposal cannot achieve Policy C2.1.4.5. The proposal does not introduce a new vehicle crossing, and the proposed access and parking arrangements onsite have been designed to comply with all relevant standards of the TRMP. I note that any vehicle crossing along this stretch of Stanley Road would result in the same level of effects due to Council's provision of on-street parking within the berm. Given that Council will not accept any changes to the road reserve, there is no ability to enhance the visibility of oncoming vehicle lanes within any site. Further, given that on-street parking is existing, and any person can utilise this resource at any time, there is no change to the potential visibility as a result of the proposal.
- 168 I also refer to the evidence of Mr Mapeta who states that 10 parking spaces will provide sufficient parking for the proposed development. Additionally, in his opinion, the potential associated risk arising from overflow parking on the external road environment is no more than minor. I rely upon the evidence of Mr Ehlers who confirms that the proposed access will operate to the requirements of figure C2.10 of the TRMP but with less than the recommended minimum clearance of 600mm. Reduced clearances will not impact on safety standards because vehicle speeds will be reduced.
- 169 Noting this, I am of the view that the proposal will in fact be consistent with the outcomes sought by Policy C2.1.4.5.

### Subdivision

- 170 The Reporting Officer concludes that in her view, given that the proposal does not achieve the intent of the General Residential Zone, ‘the subdivision is a pattern of land use which disregards many general standards of the TRMP and does not promote a high level of amenity value’. No conclusion is drawn with respect to the objectives and policies.
- 171 However, I consider that the proposal does have regard to both Objectives C10.1.3(1) and (2). These objectives seek to enable subdivision provided that any consequent adverse environmental effects can be avoided, remedied or mitigated, and for subdivision to be consistent with high quality urban environments.
- 172 The proposal is considered to be an efficient use of the Site and, as the applicant’s evidence demonstrates, can be undertaken in a way which adequately manages adverse effects. Additionally, the proposal will contribute to a high-quality urban environment which is a part of an integrated design and promotes a high level of amenity value within the General Residential Zone.
- 173 Noting this, I consider that the proposal is consistent with these objectives and policies.

### **RESPONSE TO MATTERS RAISED IN SUBMISSIONS**

- 174 Three submissions were received opposing the application from the owners/occupiers of the following properties:
- 174.1 509 Childers Road (Melanie Cheetham),
- 174.2 97 Stanley Road (Arun Ramachandrakurup), and
- 174.3 507A Childers Road (Ron More).
- 175 These submissions have been well summarised in Paragraph 48 of the Officer’s report and I agree with this summary.

- 176 A number of different matters have been raised in the submissions, however in my view, the common themes of these are:
- 176.1 Traffic matters, particularly traffic safety, traffic generation and parking overflow,
  - 176.2 Density and scale,
  - 176.3 Residential amenity matters including access to sunlight, privacy and noise,
  - 176.4 Building coverage and open space,
  - 176.5 Character and Architectural Style, and
  - 176.6 Fencing.
- 177 Concerns were raised by the submitters in relation to the eventual sale of the sites to Kainga Ora. I agree with the comments made by the Officer in Paragraph 52 that concerns about the effects of social housing are not effects on the environment and therefore cannot be considered when determining this application.
- 178 I will respond to the matters listed above in turn below.

### **Traffic**

- 179 With respect to traffic, submitters were concerned with:
- 179.1 Increased volume of traffic which would be generated by the proposal and the potential safety implications of this on the surrounding network,
  - 179.2 Adequacy of access,
  - 179.3 Carparking provision and effects of an overflow,
  - 179.4 Traffic safety including pedestrian safety,
  - 179.5 Proximity to Childers Road roundabout, and

179.6 Reverse manoeuvring.

180 I will largely refer to the evidence of Mr Mapeta and Mr Ehlers to address these matters below.

181 With respect to additional traffic volume, the 10 vehicle parking spaces proposed as part of the development on the Site can be compared to a permitted baseline of four sites. This comparison has been made by Mr Mapeta in his evidence. He concluded there is a difference of 0.15% in the average daily traffic between the proposed development and a permitted baseline. The difference between the two scenarios during peak hour traffic flow is similarly low. Further, Mr Mapeta has assessed the capacity of the Stanley Road traffic environment. Stanley Road has the capacity to absorb 761 vehicles per hour in the peak period. The peak flow for the proposed development has been calculated to be a maximum of 10 vehicles per hour. Mr Mapeta has confirmed that Stanley Road has sufficient capacity to absorb the additional traffic flow proposed by the development. I rely on his expert opinion.

182 Submitters were also concerned about the adequacy of the access and questioned whether or not it would be wide enough to support the proposed activity without causing queuing within the road reserve if more than one car is trying to use the access at the same time. As has been established previously within my evidence, the proposed access width has been designed to comply with TRMP standards, and the first 7m of the access is of a width which safely allows for two-way traffic. As such, there will be no requirement for a vehicle to reverse off the Site to allow for another vehicle to pass. This is confirmed in the evidence of Mr Ehlers.

183 In terms of carparking, I reiterate that while the NPS UD removed the minimum carparking requirements from the TRMP, which now provides the baseline, the proposal provides for one carpark per two-bedroom dwelling unit (Units 1 – 6) and two carparks per three-bedroom dwelling (Units 7 – 8). Carparking demand and supply has been assessed by Mr Mapeta who considers the 10 parking spaces provided on the Site will be adequate for the development proposed. However, if one applies Council's



preferred parking rates, a shortfall is realised of 2 – 3 parking spaces which will utilise on-street parking. Submitters have raised concerns in relation to reduced sightlines from on-street parking.

184 The difference between the pre-development and post-development scenarios is that the proposed development may generate a higher parking demand, which could result in one or two cars being parked on the roadside, particularly during off-peak periods on weekends and at night. Council has not accepted mitigation measures offered by the Applicant outside of the Site such as recessed parking. As I have noted above, any issues arising from vehicles parked in the kerb limiting sightlines is an existing effect, and, could occur for a development of any density on any site along this stretch of Stanley Road.

185 Submitters have raised concerns around pedestrian safety and increased risks to pedestrians because of the development. I note that the design of the proposal allows for all vehicles to exit the Site in a forward gear. Further, fencing adjacent to the entrance of the Site has been kept low (1.2m) and along the street frontage is 50% permeable to enhance sightlines of pedestrians using the footpath. With respect to pedestrians within the Site, as noted above, a raised kerb has been implemented to establish physical delineation between the vehicle movement lane and the pedestrian passage through the Site. As such, these specific design measures put in place provide for an environment which minimises conflicts between pedestrians and vehicles.

186 The proximity to and therefore safety of the vehicle crossing to the Childers Road roundabout has been assessed by Mr Mapeta. The Site is located approximately 35m from the roundabout. The roundabout is a traffic calming measure to reduce speeds and enable safe turning such that operating speeds of vehicles are reduced as they pass the Site. Given that the site is located on the western side of Stanley Road, there is no queuing experienced in the northbound lane which allows traffic to turn left freely out of the Site. Mr Mapeta recommends that this is the safest way for vehicles to leave the Site. However despite this, while queuing can occur

for vehicles travelling south, Mr Mapeta observed that this clears quickly enough so that accessways to properties are not blocked.

187 I note that the requirement for reverse manoeuvring to Stanley Road has been removed from the proposal. I believe the concern raised by Melanie Cheetham was in reference to previous iterations of the plans.

### **Density and Scale**

188 All three submitters raised concerns about the number of dwellings proposed on the Site, with concerns around the level of occupancy these could achieve and the scale of the two storey dwellings also raised.

189 I refer to the permitted baseline introduced in Paragraph 34 above which demonstrates that while only seven dwellings have been shown on the Site as a permitted activity, the same number of occupants could reside on the Site as the proposed activity.

190 To expand on this, there is no provision within the General Residential Zone (other than the minimum lot size) which limits the number of dwellings that can be constructed on a site. While the proposed units do not meet the minimum lot size required for their relevant typology, the number of dwellings proposed on the Site is broadly consistent with (only one less than) what could be achieved as a permitted activity.

191 However, I note that the density of dwellings alone is not an adequate indicator of adverse effects on neighbouring properties as the development's density is distributed across the Site. Each adjacent neighbour would interact with only a specific section or boundary of the Site. Further, density in itself is not an adverse effect. It is how the built environment is managed which determines whether adverse effects will be generated.

192 In this regard, the proposed dwellings have been designed to fully comply with the interface controls at all boundaries in order to minimise effects on adjacent sites. Noting this, actual or potential effects on the receiving environment (namely the adjacent properties) have been carefully

considered and are considered to be within the level of those anticipated by the TRMP.

### **Residential Amenity**

193 Submitters raised concerns in relation to residential amenity effects, specifically around shading, privacy and noise. I have assessed each of these potential effects extensively above. With respect to potential shading and privacy effects, compliance with the mechanisms employed by the TRMP to maintain residential amenity within the General Residential Zone ensures that admission to sunlight or privacy values will not be compromised on adjacent sites. Further, building modulation and window positioning assists in both cases to mitigate this further. It is my view that the degree and extent of effects on adjacent persons are consistent with those anticipated by the TRMP and are therefore less than minor.

194 With respect to noise, I refer to the evidence of Jon Farren. Mr Farren observes that while there may be a perception that a greater number of people residing on the Site will lead to additional noise, this will not be the case and human activity noise is unlikely to result in any greater noise effect compared to the permitted baseline. This is due to the dwellings and fences across the Site effectively acting as acoustic barriers. With respect to traffic, the exceedance to noise generated where the front boundary fence drops to 1.2m is minimal and likely not to ever eventuate. Mr Farren has advised that all mechanical plant is expected to comply with the applicable TRMP noise limits.

### **Building Coverage and Open Space**

195 Two submitters were concerned with the proposed infringement to building coverage and one submitter was concerned about the effect this would have on the availability of open space across the Site. I have undertaken an assessment in relation to building coverage and open space above. However, in summary I note that:

195.1 Only the dwelling units on Lots 7 and 8 result in infringements to building coverage. Both of these units are single storey therefore

potential effects in relation to bulk dominance from this infringement is avoided. Further, with respect to the open space on each of these lots, these have been oriented to the north and are directly accessible from the internal living space from each dwelling, optimising the area provided for each site.

195.2 Lots 1 – 6 all comply with building coverage and the proposal complies on a site wide basis.

195.3 There is no specified open space, or landscaping space, requirement under the TRMP. In their place, the Kāinga Ora guidelines were adopted and are met across all proposed sites.

195.4 Proximity to public recreation space within the surrounding locality is considered relevant when considering higher density living and in this case there are five fields, reserves or sports courts within a 500m walking distance from the Site with one of these being only 180m from the Site.

### **Character and Architectural Style**

196 The submissions raised concerns with the character of the proposal and also the architectural style, noting that the repetitive typology resulted in low visual amenity.

197 I have undertaken an assessment in relation to character above. In summary I note:

197.1 While the surrounding area is predominantly characterised by single storey dwellings, I am of the view that the District Plan contemplates that this existing character may change over time.

197.2 The Plan does not require that all new development replicate existing development within the surrounding area. Rather it provides for flexibility of building design provided that the development is designed with regard to the character of the area and the development avoids, remedies or mitigates any adverse

effects on the amenity values of neighbouring sites (Policy DD1.4.1).

- 197.3 Given that character is made up of more than just typology and form, the proposed dwellings have been designed with regard to the character of the area through the inclusion of similar materials and roof styles. However additionally, conjoined dwellings are already existing within the receiving environment and located adjacent to the subject site.
- 197.4 The addition of a well-designed residential development made of quality materials and design in an overall comprehensive manner will subtly alter but not detract from the character and amenity of the receiving environment. Further, the adoption of a duplex design of two-bedroom units presents in a manner which is not dissimilar to a larger single dwelling of 3 – 4 bedrooms in one residence.
- 197.5 The rules of the General Residential Zone contemplate a change in character over time given there is no rule which restricts maximum height and that multiple conjoined dwellings are permitted within the Zone. As such, the construction of two-storey duplex dwellings is anticipated through this rule framework.
- 197.6 I do not believe that the proposed development will diminish the residential character of the area.
- 198 With respect to concerns over the visual impact of the development, I note the following:
- 198.1 Following the receipt of the submissions and the Officer's notification report, pitched roofs have replaced the hip roofs originally proposed for Units 1 -6 which are considered to address the street and JOAL more positively. Further, changes to orientation of these roof forms avoids repetition when viewed from one perspective.

198.2 Variations in façade treatments are also been employed within the design to avoid repetition through changes in cladding, and colour treatments provide distinction between units and promotes visual interest when viewed from the surroundings.

## **Fencing**

199 Two submitters were concerned with the adequacy of proposed fencing and the possibility of having boundary fencing replaced.

200 There is no District Plan requirement for fencing, nor is there a maximum fencing height within the General Residential Zone. Despite this, the importance of fencing is acknowledged and applied throughout the proposal for the safeguarding of privacy on both the subject and adjacent sites.

201 The applicant looks to retain suitable boundary fencing across the Site. However, where this is unable to be achieved, the proposed plans demonstrate a 1.85m timber paling fence around the external boundary of the Site.

202 All fencing installation and ongoing maintenance will be undertaken in accordance with the Fencing Act 1978. The applicant will consult with all adjoining property owners in the hope of agreeing an appropriate fencing solution.

203 A 1.85m timber paling fence is considered to be an outcome entirely acceptable within a residential environment and any associated adverse effects of the fencing will be less than minor.

## **CONCLUSIONS AND RECOMMENDATIONS**

204 The proposal is considered to be a contemporary, integrated design outcome in response to community need to address a housing shortfall. When assessed on its merits, the proposal is considered to be a positive outcome for the Site and the community as it will offer a quality living environment which provides for a high level of amenity for residents.

- 205 Further, the considered design of the proposal will ensure that amenity effects on adjacent persons will be avoided or mitigated and is therefore able to manage cross boundary effects.
- 206 Potential acoustic effects have been demonstrated to be nominal and where there is a marginal infringement to TRMP standards, this is in a scenario which is unlikely to occur.
- 207 The proposed design allows for on-site parking, while on street parking is available and suitable to accommodate any additional demand. The access to the Site has been designed to adequately accommodate the proposed activity. As such traffic effects are effectively managed and less than minor.
- 208 Overall, the adverse environmental effects of the proposal on the environment, including those associated with the contamination of soil on the site, will be appropriately avoided, remedied or mitigated.
- 209 The proposal is considered to be aligned with the direction and policies of the NPS UD.
- 210 The proposal is considered to be consistent with the objectives and policies of the TRMP.
- 211 The proposal is consistent with Part 2 of the Resource Management Act 1991.
- 212 Overall, it is my view that consent to the proposal can be granted.



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Phillipa Beachen