

BEFORE THE TASMAN DISTRICT COUNCIL

Under the Resource Management Act 1991

In the matter of Resource Consent Applications RM120928V2 (land use change of conditions), RM190790 (land use), RM190789 (subdivision), RM190791 (land disturbance), and RM191308 (water permit)

By The Integrity Care Group Limited
(Applicant)

And in respect of proposed changes to the existing retirement village (Olive Estate Lifestyle Village) at Lakehouse Crescent, and a proposed extension of onto a site at Hill Street, Richmond

EVIDENCE OF GARY RAE ON BEHALF OF THE APPLICANT

10 February 2021

INTRODUCTION

- 1 My name is Gary Rae. I am a director of my own planning practice, Gary Rae Consulting Limited.
- 2 I have worked in the planning and resource management field since 1984. I hold a Bachelor of Science degree in Geography, and a Diploma of Town Planning.
- 3 I am a full Member of the New Zealand Planning Institute. I was awarded a Best Practice Award by NZPI in 2012 for the Port Nelson Noise Project. I served on the Board of the NZPI from 2015 - 2018.
- 4 I am a practicing Hearings Commissioner, and hold a current Chairing Endorsement through the *Making Good Decisions* programme. I have acted as Commissioner on more than 70 occasions. My recent roles have included the Dunedin City Council 2GP District Plan Review hearings; Shelly Bay SHA Hearings Committee; Private Plan Change 13 for a 900-lot residential subdivision in Cromwell; and redevelopment of the Cadbury site for the new Dunedin hospital. I am a Commissioner for Selwyn District Council's Plan Review.
- 5 My career as a planner has involved roles in central government, local government and private practice, including planning and management positions with Wellington City Council, Christchurch City Council, Works Consultancy Services, and the former Transit New Zealand.
- 6 Since 2001, I have been based in the Nelson/Tasman region but have worked mainly in other regions. In recent years, my work in Nelson/Tasman has included:
 - 6.1 Preparation of a private plan change for the new Richmond North Commercial zone at Salisbury Road/Champion Road (which is currently being developed for a new supermarket);
 - 6.2 Commissioner roles for the National Cycle Trail across the Waimea Estuary; new commercial zone at Three Brothers Corner; sewer pipelines to Bells Island; multi-lot subdivision at Champion Road, multi-unit housing at Weka Street; and the Nelson Suter Art Gallery redevelopment.
7. I have been involved in the development of Olive Estate Lifestyle Village (**Olive Estate**) since its inception, and I prepared the original applications for resource

consent which were lodged in 2013. I presented planning evidence in support of those applications, which culminated in resource consent being granted in March 2014. Since then, I have prepared applications for minor variations to the consent.

CODE OF CONDUCT STATEMENT

8. I have read the Code of Conduct for Expert Witnesses issued as part of the Environment Court Practice Note. I agree to comply with the Code and am satisfied that the matters which I address in my evidence are within my field of expertise. I am not aware of any material facts that I have omitted which might alter or detract from the opinions I express in my evidence. I understand that I have an overriding duty to assist the hearing in an impartial manner and that I am not an advocate for the party which has engaged me.

MY INVOLVEMENT IN THIS PROPOSAL

9. The Integrity Care Group is now seeking consent for an extension of Olive Estate onto an adjoining site with frontage to Hill Street, Richmond, which will include a new Care Facility and additional villas and terrace houses. The proposal also involves changes to the existing development, including replacing the consented Care Facility with new villas and terrace houses.
10. I was retained by the Applicant to provide advice with regard to this proposal. In undertaking this commission, I have:
 - 10.1 Been a key member of Olive Estate's design team;
 - 10.2 Liaised with the planners and other staff at TDC;
 - 10.3 Attended and presented the proposal at a public meeting held at Olive Estate's Lake House on 19 September 2019;
 - 10.4 Prepared the applications for resource consent and the Assessment of Environmental Effects (**AEE**) dated 28 June 2019; and
 - 10.5 Reviewed the issues raised in submissions and the report of the Reporting Officer, and provided advice to the applicant team accordingly.
11. In carrying out these tasks I have visited the site on several occasions.

SCOPE AND STRUCTURE OF EVIDENCE

12. In preparing the Assessment of Effects on the Environment (**AEE**) I provided a comprehensive description of the application, site and environs; an assessment of the relevant rules, objectives and policies; and an assessment of effects on the environment based on the relevant assessment criteria in the Tasman Resource Management Plan (**TRMP**).
13. On my reading, the section 42A report of Ms Lancashire is in substantial agreement with much of that Assessment. Our main difference is around the way we have each assessed the reserves issue, and the weighting of that issue in our overall evaluations. I will assist the Commissioners by confirming areas where we are in agreement and some other areas where we are not totally aligned.
14. I will provide a brief summary of the proposal and the process that has resulted in changes to the design. I will summarise the key planning issues contained in the AEE, including the relevant objectives and policies of the TRMP and other statutory documents.

Specific matters addressed in this evidence are:

- 14.1 Description of the application (as notified);
- 14.2 Amendments to the application;
- 14.3 Key issues (as identified in the section 42A Report);
- 14.4 Other Matters;
- 14.5 Part 2 and overall evaluation; and
- 14.6 Recommended conditions.

THE PROPOSAL

Applications

15. The proposal entails a suite of resource consent applications, as follows:
 - 15.1 Land use consent – change of conditions of RM120928V1 for the existing village to allow for the relocation of the Care Facility and the construction of additional residential units and an amended site layout;
 - 15.2 Land use consent – to construct a compact density development comprising residential villas and apartments, and a community activity (care facility), on the Hill Street block¹;
 - 15.3 Subdivision consent – a boundary adjustment to provide for the care facility on Lot 6 and to amalgamate Lots 5, 7 and 8 with Lots 2 and 3 of the existing development, and to create a new Lot 9 to vest as road (extension of Fairrose Drive) including consent for subdivision under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health;
 - 15.4 Land disturbance consent – to undertake bulk earthworks in association with the construction of a compact density development and care facility including de-commissioning and filling a pond; and
 - 15.5 Water permit - for de-watering a pond.

Activity Status

16. The TRMP does not provide specifically for retirement villages. The application for land use consent was lodged for a 'community activity', as that was how the original application for Olive Estate had been assessed, and consented, by TDC in 2014.
17. The section 42A Report disagrees with that and considers the activity status needs to be assessed as both a 'community activity' and as a 'compact density

¹ The public notice also included a reference to the application being "*without the provision of the public reserve indicated in the TRMP*".

development (**CDD**). On a similar vein, the section 42A report states the assessment of relevant rules in the application does not address the correct activity descriptions (i.e. CDD). As a result, the author 'mostly agrees', but provides a different assessment to the applicant's assessment².

18. I now wish to dispel any doubts the Commissioners may have had, from reading the section 42A Report, that the applicant has not correctly assessed the relevant definitions, activity status, and relevant rules.
19. The section 42A Report has not mentioned the Request for Further Information (**RFI**) process, through which the applicant had provided a full assessment of all relevant definitions and rules. It was through that process the applicant had suggested this activity would be most appropriately defined as both a 'community activity' and a 'CDD'³.
20. The applicant had also provided, through that process, an assessment of the relevant rules including those for CDD. The section 42A Report does not appear to have included all of the relevant rules for CDD in its Table 2, and so I have attached my Table 2A at the end of my evidence (and incidentally that shows compliance with all performance standards rules except 17.1.3.3(g)(a) for height of fences).
21. From that there appears to be no disagreement between the Reporting Officer and I on either the way the activity is to be classified (i.e. as a community activity and CDD), or as to the activity status (applying the 'bundling principle' it is overall to be assessed as a discretionary activity). I note that the TRMP does provide for some components of this proposal as a controlled activity (land disturbance and water take), and a restricted discretionary activity (the Care Facility), and later in my evidence I have made some references to that where relevant.

Description of Proposal

22. The AEE describes the Site and Environs, in Section 2. Section 3 describes the Background (including the design philosophy, and the history of resource consents granted to date). Section 4 describes the proposed development and its components under separate sub-headings for the land use consents; the

² Section 42A Report, para 5.4

³ Response to RFI, letter dated 12 November 2019

subdivision consent; and the land disturbance consent. I do not duplicate that material in my evidence, and I consider the section 42A Report accurately summarises the various aspects of the proposal⁴. I am therefore happy to answer any questions of clarification that may arise at the hearing.

23. I will however emphasise the following points:

23.1 Olive Estate has been under development for a number of years, and despite being located in an area that was historically a rural area this site now sits squarely within the Residential Zone of the TRMP, in an area experiencing considerable new residential development.

23.2 Olive Estate is not a standard residential development, however at essence it provides a facility to house and care for a large number of those people in our community aged 55 years and above, and it does so by providing a wide range, and interesting mix, of housing types and designs.

23.3 Olive Estate is a fully integrated development, in terms of:

(a) The internal layout - it provides attractive and well-designed connections between buildings and activity areas including quiet streets and paths, pocket parks, a playground, landscaped areas, a large pond and village green; and it provides community and commercial precincts to support the residents of Olive Estate; and

(b) Connection and accessibility with the adjacent residential areas and communities - the existing small-scale community and commercial services, and a small playground, are also widely used by people from the wider neighbourhood. A through-road connection will be made between Hill Street to Wensley Road along an extension to Fairrose Drive consistent with the indicative road network in the TRMP. It includes parks and green open space corridors for walkway and cycleway linkages, including areas available for public use.

23.4 The proposed changes on the existing site can be seen as normal 'part and parcel' changes that can be expected to be made as a large-scale development proceeds over several years through the design and

⁴ Section 42A Report, Section 3

construction stages. The changes to the current site, and the expansion onto the Hill Street Block, will all continue the integrated and high-quality amenity theme of this development.

- 23.5 This current proposal has been carefully designed over several years by the same specialists who were in the design team for the original development. The final design has been guided by input from meetings and discussions with TDC officers; feedback from the Urban Design Panel; constructive input arising from a public meeting; and as a response to submissions from residents.

AMENDMENTS TO THE APPLICATION

24. A number of amendments have been made since the application was lodged, on 28 June 2019, and are all considered to be within scope. These changes were in direct response to:

- 24.1 A request for further information ('RFI') from TDC;
- 24.2 Feedback from adjacent residents following a public meeting; and
- 24.3 Matters raised in submissions.

Request for Further Information

25. Council issued an RFI on 6 August 2019 on a broad range of matters, including the activity status for the land use and subdivision; number of animals per household; the provision of reserves; several transportation aspects; compliance with building set-back and daylight admission rules; de-watering of the pond; how wastewater will be held back in storm events; noise levels from mechanical plant; and details of the stormwater system and secondary flow-paths.
26. The applicant's response of 12 November 2019 included reports from the transportation, stormwater and acoustics experts. As discussed above under 'Activity Status' I also provided an assessment concluding that the land use activity was best defined as a Community Activity and CDD, and a CDD subdivision. An assessment of the rules pertaining to those activities was also provided. As part of that process, an application was made for the de-watering of

the old irrigation pond in the north-eastern part of the site. A plan was included to show the proposed open space and parks, and the 'green corridor' linking Hill Street to Wensley Road through, in response to the TDC's request for public reserves.⁵

27. The RFI response also signalled to Council that some amendments were being made to the application as a result of the meeting held with adjacent residents (discussed in the next section).

Feedback from Residents' meetings

28. In June 2019 plans of the proposed development were presented to residents of Olive Estate. No concerns were raised at the design or layout of the development, and they were satisfied with the provision of open space and parks.⁶
29. A public meeting, attended by 24 residents of this neighbourhood (and their representatives), was held at Olive Estate on 19 September 2019. Some of the residents expressed support for the proposal. A number of concerns were raised including the heights of trees potentially affecting views; stormwater and drainage issues; traffic safety at Brenda Lawson Way and on Hill Street; light spill; and the height of the Care Facility building⁷.
30. in response a number of minor amendments were made to the application as lodged, and itemised in a letter to TDC dated 8 March 2020, including:
 - 30.1 Car parking – a total of 19 additional car parking spaces;
 - 30.2 Tree heights – a restriction on species of trees to be planted near the Care Facility that typically reach heights no greater than 8 metres to protect views;
 - 30.3 Street lighting – a volunteered condition for all lighting to comply with the rules in the TRMP; and

⁵ Attachment 3 of the applicant's response to the RFI

⁶ AEE, paragraph 9.17

⁷ Taken from the notes of the meeting

- 30.4 Overland flow paths - a conceptual plan was included to show overland flow paths.

Matters raised in Submissions

31. The applications were then publicly notified by TDC on 30 May 2020. Following the close of submissions (on 29 June 2020) the applicant requested the application be suspended, on 24 July 2020, in order for it to consider and respond as appropriate to concerns raised in submissions.
32. In a letter dated 18 September 2020, the applicant advised TDC of amendments to the proposed layout of the development, the most significant being the relocation of the vehicle servicing driveway alongside the Brenda Lawson Way properties adjacent to the Care Facility. The changes were all accepted as being within scope. Notably, no changes were made to the Care Facility building (i.e. its location, height, boundary setbacks, or design - other than some minor changes to the parking layout and entrance to the new service area now to be located in front of the Care Facility off Fairrose Drive). TDC then took the application off hold, and sent the new plans and a summary of the changes to the submitters.
33. Those changes were:
- 33.1 Removal of the proposed service vehicle access from Brenda Lawson Way – to remove the potential noise source from vehicles close to properties on Brenda Lawson Way, and to remove their traffic safety and other concerns from having a new access close to Hill Street⁸;
- 33.2 Landscaping changes adjacent to Brenda Lawson Way – the removal of the service access drive at the rear enabled the opportunity for the large set-back areas between the Care Facility and the Brenda Lawson Way properties to be planted in gardens and lawns to improve the amenity of that area;
- 33.3 New dedicated service access and driveway from Fairrose Drive – all servicing of the Care Facility building will now be directly from the

⁸ The proposed acoustic fence was, as a consequence, removed from the application

extension to Fairrose Drive via a dedicated access drive to the western-most building wing;

- 33.4 New parking layout and single entry/exit point to the Care Facility car park – the Care Facility car park has had to be redesigned to accommodate the changes outline above; and
- 33.5 Parallel car parking on Fairrose Drive – the street-side parking along Fairrose Drive will now provide parallel parking in response to comments made by Mr Ley, TDC’s engineering officer. As a consequence, the height of the retaining walls adjacent to the shared pathways can be reduced.

STATUTORY CONSIDERATIONS

34. The relevant statutory considerations are accurately set out in the section 42A Report⁹. I will comment on two aspects raised in that part of the report, in relation to ‘permitted baseline’ and ‘receiving environment’.

Permitted baseline

35. The section 42A Report deals with this in the following way:

“The TRMP anticipates and permits the effects associated with a compact density residential development in the Richmond South Development Area. However, the TRMP does not anticipate or permit the effects associated with the construction or use of the CFB in the Richmond South Area. Further it does not anticipate or permit the effects associated with this particular compact density development as there are several aspects to the development that do not comply with the permitted activity standards of the TRMP. For these reasons I have not considered the permitted baseline in my assessment of effects ...”¹⁰

36. Firstly, I consider the permitted baseline concept can be applied to aspects of the built development. In particular the only performance standards for Building Construction that are not met are for what I consider to be, for the most part,

⁹ Section 42A Report, paragraphs 7.1 – 7.18

¹⁰ Section 42A Report, para 7.20

quite minor aspects: i.e. setback of the building from an indicative road boundary (which is redundant as a through road is being provided); no more than one dwelling per site (of no consequence because this is for a lifestyle village on a very large site); outdoor living space for dwellings (limited relevance to a lifestyle village); steps in plan (achieved by providing a village environment and varied building designs); and maximum height (the Care Facility breaches the height limit in a way that has minimal effect on neighbours and enhances the design, as requested by the Urban Design Panel). The standards specific to CDD are all met except only for the fence height on Hill Street which is 1.2m high instead of 0.8m.

37. The general building standards that are all met include density; building coverage; site coverage; building envelopes; and building setbacks. Those particular standards are all designed to protect the amenity of adjoining properties, and it can therefore be said the proposed buildings go a long way towards achieving the outcomes sought by the TRMP. It can be compared favourably to other permitted development, such as for example other compact density developments (which can have up to 70 percent site coverage and 50 percent building coverage). The Care Facility building, were the 'crow's nest' height intrusion to be removed, would comply with all relevant performance standards.
38. Secondly, I consider the TRMP does anticipate the effects associated with a Care Facility in the Residential zone. I address the relevant objectives later in my evidence, but I will draw attention now to Policy 5.4.3.2 which is: *"To allow for health care, ...and other community activities, including in the residential areas ..."*. Consistent with that, a 'community activity', is a restricted discretionary activity, which in itself is a signal that this activity is indeed anticipated in the zone, together with a range of other non-residential activities such as churches, schools, medical centres. Those activities are of course subject to site-specific considerations through a consent process and cannot therefore be considered under the 'permitted baseline'. It is however important to recognise this activity is anticipated in the Residential zone, particularly when assessing the effects on residential character (as I will outline later in this evidence).

Receiving environment

39. The receiving environment includes both the existing Olive Estate as well as those stages which have not yet been built but have been consented under

RM120928V1. I agree with the section 42A report on that. The consented development includes a Care Facility in a different location to that which is now proposed. The section 42A Report has taken particular account of this, in several places, when evaluating the proposed Care Facility¹¹.

40. If the two buildings were to be compared, I would comment that the new proposal is considerably smaller, and much less bulky in design than the re-designed three-module Care Facility. However, Ms Nimmo's statement confirms that the consented Care Facility is now redundant and a smaller Care Facility building is required in the proposed location near Hill Street. It is therefore more appropriate in my view to consider the proposed Care Facility entirely on its merits.

KEY ISSUES

41. The AEE provides an assessment of effects for each of the types of consent that have been applied for, drawing on the relevant Assessment Criteria set out in the TRMP. It also includes an assessment of the relevant objectives and policies. I am happy to answer any questions arising from that.
42. I will now comment on the Key Issues raised in the section 42A Report, which are based on matters raised in submissions. I provide an evaluation of the relative importance of those issues in my discussion on Part 2.

Non-Provision of a Public Reserve

43. I note this issue has attracted the greatest number of submissions, but in my view the number of submissions need not be the correct gauge for determining the relative importance of an issue. Many of the submissions on the reserves issue have been made in a 'pro-forma' style, and most are from people who do not live near the site¹². The interest in this topic may have been partly due to the officers having included a reference in the public notice to alert readers to the fact that the application is made "*without the provision of the public reserve indicated in the TRMP*" and it may not have been apparent to all that substantial provision is being made for publicly available green open space, parks, and walkway connections through the site. Be that as it may, I do not consider this to be an issue that weighs against the proposal, for reasons which I will explain. I disagree

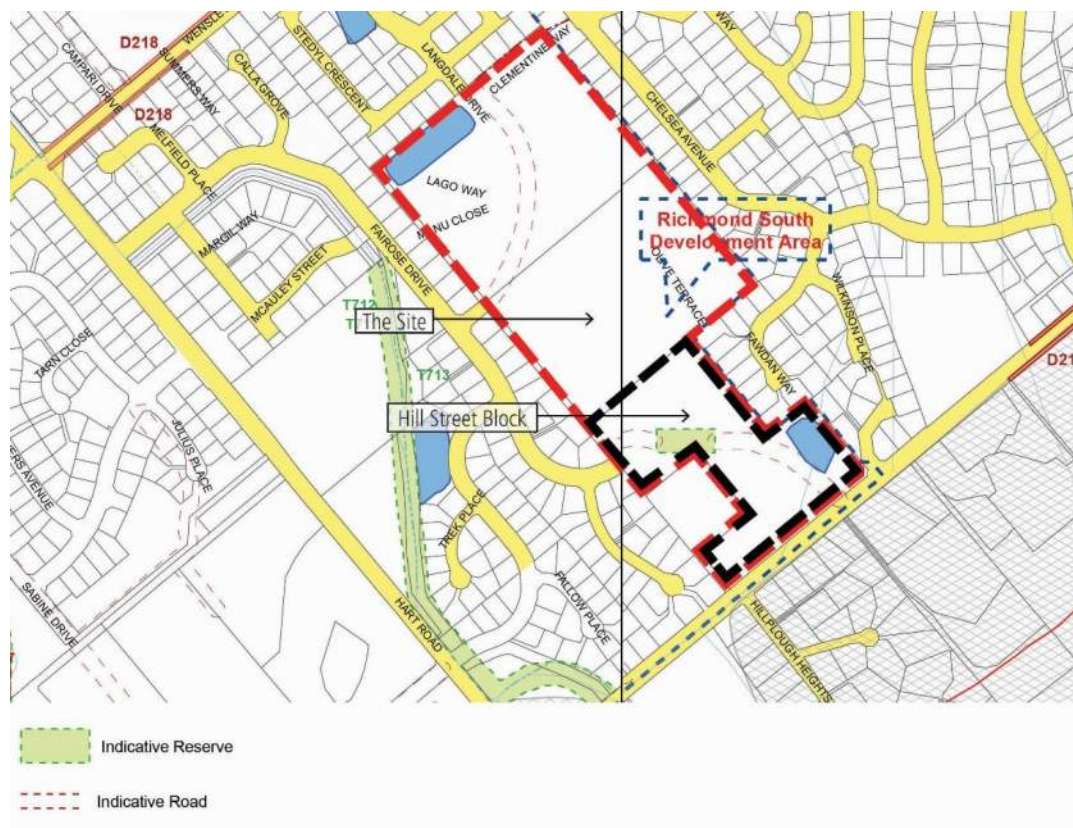
¹¹ Refer section 42A Report, paras 7.23, 9.5, and 9.16-9.17

¹² Section 42A Report, para 8.1. Ms Squire's report page 4

with the approach taken in the section 42A Report which has effectively made this the primary issue in its overall evaluation.

44. Reserves are addressed in AEE, in Section 6, under ‘Subdivision’, and I am happy to answer any questions on that. I now propose to provide some context around the reserves issue, and will make five main points from a planning point of view. Mr Ward, a community policy planner, has provided further expert evidence from his own experience in local government. Mr Porter’s evidence on urban design addresses the open green spaces, walkways and parks and is therefore also relevant to this issue.

45. Firstly, I wish to comment on the purpose of the Indicative Reserve. Planning Map 129 shows an ‘Indicative Reserve’, as a small elongated reserve connecting two cul-de-sac road ends, on the alignment of an Indicative Road (refer to Planning Map below). The rationale appears to be that a reserve in this location will connect the two ends of the road to provide a green space linkage along the indicative road at such time as those roads are formed. However, with the extension of Fairrose Road through to Hill Street as is proposed in this application, there appears to now be no need to provide a reserve specifically to create such a linkage in this precise location.



46. Secondly, I comment on whether the rules envisage a reserve being taken in a situation like this. Rule 16.3.3.3(a)(iv) for CDD subdivision requires that land subject to a notation on the planning maps as 'Indicative Reserve' is to be set aside in general alignment with that indicative reserve, and vested in Council as Local Purpose Reserve (walkway/recreation) and Local Purpose Reserve (drainage). I accept that this proposal includes a 'subdivision', but would make the point it is a boundary adjustment subdivision and does not create any additional allotments. This is not a standard residential subdivision, where (in contrast to Olive Estate) it is often the case very little provision will voluntarily be made by the developer for open green space and parks. I can understand Council's desire to set aside reserves for those subdivisions.
47. I am aware the applicant will be challenging, through legal submissions, whether TDC has the ability to take reserves for this particular type of development, i.e. for a boundary adjustment subdivision associated with a retirement village. Regardless of the legal position, from a planning point of view I do not consider it is necessary to vest the Indicative Reserve in this instance.
48. Thirdly, I comment on the need for a reserve in this locality for recreation purposes. The evidence of Mr Ward is that: *"There is no requirement on Council to provide additional reserve in this part of Richmond. It currently provides 16.8 ha per 1000 population, 11.8ha more than its level of service"*. He reached that conclusion from assessing Council's Levels of Service Report and its Activity Management Plan. This directly challenges the assertion in Ms Squire's evidence that there is a need for more land to be made available in this locality for open space and public recreational use and that it must be provided within Olive Estate.
49. Fourthly, there are good reasons for the applicant wishing to retain the ownership and management of the parks and green open spaces, in the particular circumstances of this proposal. Ms Nimmo has described in her statement the reasons why Olive Estate does not wish to provide reserves vested in Council within its development. There is a need by the operator of Olive Estate to retain control over the parks and open green spaces within its development. That is so the design, and the manner in which they are used by residents and others, is compatible and does not conflict with the primary purpose of this land as a quiet environment for retirement living and special care of the elderly.

49. Fifthly, I consider the objectives of the TRMP can be met without vesting of this indicative reserve. The relevant objectives and policies in Chapter 14 are:
- 49.1 Objective 14.1.2 which seeks an *“adequate area and distribution of reserves and open spaces to maintain and enhance recreation, conservation, access and amenity values”*.
 - 49.2 Policy 14.1.3.3 seeks *“to identify potential open space areas in advance of subdivision in order to provide for the open space needs of the future residents and workers in the area”*.
 - 49.3 Policy 14.1.3.4 seeks *“to provide for new open space areas that are convenient and accessible for users, including the provision of walking and cycling linkages in and around townships, ...”*; and
 - 49.4 Policy 14.1.3.9 seeks *“to encourage effective and efficient design and establishment of parks and reserves....”*.
50. The objective refers to the provision of “reserves and open spaces” collectively, as does Policy 14.1.3.9. The other two policies refer only to “open space areas” with no mention at all of reserves. From that I consider it will be possible to achieve the policy direction outlined above by means other than vesting land as reserves in every instance.
51. The policies also refer to the need to enhance “recreation, access and amenity values”, including “the provision of walking and cycling linkages”. I consider the proposal achieves all of those things. The evidence of Mr Porter describes the extent of open space being provided in this development (most notably it provides approximately 1.9 hectares of open space), which includes parks and walkway connections (of which some 2,500m² is to be made available for public use by easements in gross or a covenant). Mr Ward’s evidence details how these green open spaces and walkway connections are consistent with the outcomes for open space that the Council has agreed with its community.
52. Policy 14.1.3.9 also relates to the effective and efficient establishment of parks and reserves. Assessment Matter 10, for subdivisions, also includes a reference to cost-effectiveness.

(10) The extent to which the subdivision provides well-distributed small neighbourhood reserves that contribute to the legibility and character of the area, provide for a range of uses and activities, and are cost-effective to maintain¹³.

53. I understand that TDC will not be required to establish, or maintain, the parks and walkway linkages provided in this development. I also understand the applicant will agree to pay appropriate financial contributions on top of that. In that sense there is a substantial cost saving to the Council and the ratepayers, consistent with the above policy and assessment matter.
54. For all of the above reasons, I consider this proposal is consistent with the relevant objectives and policies in Chapter 14 of the TRMP relating to Reserves and Open Space.

Care Facility Building

55. The effects of the Care Facility building are assessed in Section 6 of the AEE. I will summarise the key aspects in this evidence.
56. The Hill Street block is a large green-fields site located in the Richmond South Development Area of the Residential Zone. I accept that the Care Facility will represent a significant change to the area. However, I also consider it would not be unrealistic for neighbours to expect either an extension to Olive Estate or another community activity to establish on this site, which has frontage and good access to the road network. There are many other examples throughout Richmond of community facilities, often with large buildings and car parks, located in residential areas on front sites such as this. These are 'part and parcel' of the residential fabric of any community. This is a clear conclusion reached from my assessment of the relevant objectives and policies in the TRMP.
57. In this case, particular attention has been paid to the design, scale and height of the Care Facility building, and landscaping and fencing to take account of its effects on residential character, as outlined in the evidence of Mr Weir and Mr Porter. In particular, the breaking of the building mass into three smaller interconnected buildings which substantially comply with the maximum height limit¹⁴, notwithstanding the recommendation of the Urban Design Panel which

¹³ Rule 16.3.3.3, Assessment Matter 10 'Open Space/Reserves'

¹⁴ One of the three building modules has a height exceedance for the staff room 'crow's nest'

was to increase the height. The relocation of the service access and driveway away from Brenda Lawson Way has enabled the traffic and parking effects to be internalised to a much greater degree. That has also allowed more open space and gardens to be provided alongside those neighbouring properties.

58. Ms Gavin, who prepared the Landscape and Visual Assessment report in the AEE, has provided evidence on the visual effects of the Care Facility building and its effects on adjacent residential properties in terms of shading, loss of outlook and privacy. I concur with her evidence, which concludes that there will initially be a low-moderate effect on landscape and amenity values which will lower over time to a low effect as plantings become established. Ms Gavin also concludes there are moderate positive visual amenity effects to the neighbourhood by providing nearby facilities to be used by the public, such as the pocket parks, walking/cycling tracks, mini orchards and an extensive amount of planting to create a park-like setting.
59. Noise effects are addressed in the evidence of Dr Trevathan. I concur with his conclusions to the effect that the development will, or is able to, comply with all relevant noise standards in the TRMP when measured from all properties other than one property for which affected party approval has been provided. He also recommends some additional measures including noise management and construction noise management plans, which I consider are appropriate.
60. The relevant objectives and policies in Chapters 5 and 6 of the TRMP are set out in the section 42A Report¹⁵. They generally seek to avoid, remedy, or mitigate adverse effects from the use and development of land on the use and enjoyment of other land and site amenity (Objective 5.1.2 and Policy 5.1.3.1). Policy 5.1.3.8 addresses particular aspects, such as effects of noise, building and structures, and vehicles. Other policies address privacy, adequate sunlight and daylight, outdoor living and amenity planting and landscaping. All of those effects have been assessed in the AEE, and in the evidence of Ms Gavin in particular.
61. I am in general agreement with the section 42A Report's assessment which, from my reading, is that the proposal is generally consistent with the above objectives and policies.
62. Objective 5.4.2 is for: "*Accommodation of a wide range of residential activities and accessible community facilities in urban areas*". Policy 5.4.3.1 is: "*To enable*

¹⁵ Section 42A Report, pages 44 - 58

a variety of housing types, recognising different population growth characteristics, age, family and financial circumstances and the physical mobility of, or care required by, residents". Policy 5.4.3.2 is: "To allow for health care, ...and other community activities, including in the residential areas, providing these do not compromise the character or amenity of the residential neighbourhood".

63. The section 42A Report assesses the proposal as consistent with these provisions, as a result of the mitigation measures and changes made to the application, including relocating the service access drive away from Brenda Lawson Way. It is also providing for a wide range of housing types with a high standard of design. I concur, and note the Care Facility will also provide for the care of dementia patients and other aged citizens requiring certain levels of care.
64. The section 42A Report concludes the proposal is only "partly consistent" with Policy 5.4.3.2. That is because whilst it provides a health care facility in this residential area the Care Facility building it will compromise the amenity values of the neighbourhood "*albeit to a moderate extent (given the mitigation proposed)*"¹⁶.
65. I consider that taking account of the substantial compliance with permitted activity standards, and the special measures the applicant's design team have gone to in order to make this building a good fit in this setting, the Care Facility does not compromise the residential character of the area. Taking account of Ms Gavin's evidence in particular, I consider the adverse effects on amenity values will be no more than minor.

Traffic and Access

66. Traffic, access and parking are addressed in the AEE, in section 6. Olive Estate promotes a low-speed traffic environment in which residents and visitors can walk, cycle or use mobility scooters in a safe manner. This is achieved by the roading hierarchy and by design and alignment of roads, road surfacing, calming measures and street trees. The design of the street network extends this theme, noting a through road extension of Fairose Drive is also proposed.
67. Mr Clark has provided traffic evidence on the proposal, including the servicing of the Care Facility, parking layouts, and traffic and pedestrian safety issues raised by submitters including at the proposed intersection on Hill Street. I concur with

¹⁶ Section 42A Report, page 54

his assessment, which is that “*overall the traffic related effects of the application can be managed and are less than minor*”¹⁷. Council’s Development Engineer, Mr Ley, is also satisfied that the development can be appropriately serviced and accessed by motorists and pedestrians without significant detriment to the efficiency and safety of the surrounding road network, subject to certain design engineering standards being met¹⁸. Mr Clark has commented on the recommended conditions, and has suggested some changes.

68. The section 42A Report concludes that, based on the traffic evidence, the relevant objectives and policies in Chapter 11 of the TRMP are met. In the AEE I assessed the proposal as being consistent with those provisions, and so I concur with Ms Lancashire on that¹⁹.

Ecology

69. The section 42A Report has identified ecology as an issue, as there have been some submissions on the proposed filling of the redundant irrigation pond and removal of green space on the site by earthworks. Some other submitters have supported the proposal because of its positive ecological effects, noting it incorporates a variety of open green spaces and open stormwater swales.
70. The application for de-watering the pond has been assessed for TDC by Ms Wolter. She has also assessed the proposed earthworks and concludes that subject to appropriate conditions of consent the adverse effects of the works will be no more than minor. Ms Wolter also considers the proposal is consistent with the relevant objectives and policies in Chapter of the TRMP.
71. This development provides a very large amount of open green space, relative to other residential developments. This, together with extensive planted areas, will off-set any loss of ecological values. I note also that the land disturbance, and the de-watering of the pond, are both provided for in the TRMP as a controlled activity. With the appropriate conditions recommended by the Council’s expert in this area the adverse effects will be minor or less than minor.

¹⁷ Mr Clark, para

¹⁸ Section 42A Report, para 10.11

¹⁹ AEE, Section 7, page 54

Positive Effects

72. The section 42A Report assesses the positive effects of the proposal as ‘high quality urban environment’ and ‘economic’²⁰. The author at first seems slightly underwhelmed, stating that the submitters “*contend*” this proposal will bring the first set of benefits, and that this development “*might also*” have economic benefits for the region. The report goes on to conclude that this development will “*to some extent*” help to support the economic, social and development opportunities in the region. The lack of a vested reserve appears to have weighed on the report writer when considering the positive effects²¹.
73. Notwithstanding this the section 42A Report reaches the conclusion, overall, that the positive urban environmental outcomes and economic benefits are in accordance with the objectives in Chapter 5 of the Tasman Regional Policy Statement (**TRPS**)²². My assessment of the TRPS in the AEE concurs with that²³.
74. The section 42A Report states that the NPS on Urban Development Capacity 2016 (**NPS-UDC**) is relevant to this proposal²⁴. However, that document has since been replaced by a new version, which took effect on 20 August 2020. It is a requirement of Section 104(1)(b) of the Act to have regard to any national policy statement when making a decision on a consent application, and I therefore consider that the consent authority must have regard to any relevant provisions of the current (August 2020) version of the NPS-UDC.
75. It is generally similar to the 2016 version, and from my reading it is clear there is still a thrust to provide for additional housing opportunities not only through district plan provisions but also by decision-makers.
76. I refer in particular to Objective 3, and Objective 6:

Objective 3:

Regional policy statements and district plans enable more people to live in, and more businesses and community services to be located in, areas of an urban environment in which one or more of the following apply:

- (a) the area is in or near a centre zone or other area with many employment opportunities*

²⁰ Section 42A Report, section 12, page 63

²¹ Section 42A Report, para 12.6

²² Section 42A Report, para 12.9, page 58

²³ AEE, Section 8, page 55

(b) the area is well-serviced by existing or planned public transport

(c) there is high demand for housing or for business land in the area, relative to other areas within the urban environment.

Objective 6:

Local authority decisions on urban development that affect urban environments are: ...

(c) responsive, particularly in relation to proposals that would supply significant development capacity.

77. This is underpinned by Policy 2 which requires local authorities to “... *at all times, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term*”.
78. This proposal will result in a further 37 residential dwellings on the existing site. On the new site there will be a further 47 residential dwellings, 20 serviced apartments, and a 70-bed care facility providing rest home, dementia and hospital long term aged residential care. It also provides a choice in housing types of varying designs and sizes (i.e. villas, terrace houses, apartments, serviced apartments), and it provides for the health care needs of people of a senior age.
79. I consider this is much-needed residential development in the context of the nation-wide shortage of housing, and in the context of the strong demand that clearly exists in the Nelson/Tasman region for modern well-designed housing.
80. I would also draw attention to Policy 6 as being particularly relevant to this application for Olive Estate, because it recognises that the important provision of additional housing may have some consequences on the amenity of an area:

Policy 6:

When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:

(b) the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:

(i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and

(ii) are not, of themselves, an adverse effect.

81. In conclusion, I consider the proposal has very significant positive economic and social effects. It is in accord with the NPS-UDC, and with the relevant provisions of the TRPS, and the Act.

OTHER MATTERS

82. The Section 42A Report expresses a concern at what is seen as a precedent effect occurring in the event that a reserve is not required to be vested for this development²⁵. Precedent in planning terms, if it exists at all, is akin to 'like being treated with like'. A grant of consent to the Olive Estate proposal does not create any situation which would apply to anything other than a similar development such as this. I note also that the Arvida lifestyle retirement village in Lower Queen Street does not have a public reserve, and to my knowledge neither do any other retirement villages and rest homes in Tasman District or Nelson City. That is logical and with good reason, and there should be no reason to treat Olive Estate any differently on a 'like for like' basis.
83. If the planner is also concerned that a precedent may affect other residential developments then I would comment that what is proposed at Olive Estate is quite different to any standard residential subdivision. I also consider that the Council's objectives are able to be met by an alternative mechanism for owning and managing the open green spaces, parks and walkways. This need not influence how another application is assessed, but in the event that a different development can similarly satisfy Council's objectives for open space and parks, then that would also be a good outcome.

²⁵ Section 42A Report, page 67

PART 2

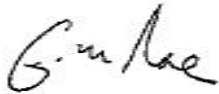
84. In terms of section 5, I consider the proposed development will:
- 84.1 Enhance the social and economic well-being of current and future residents of Olive Estate by providing for residential living, aged care and dementia/rest home/hospital care - in a setting with high amenity and with enhanced opportunities for social interaction;
 - 84.2 Provide economic benefits from this multi-faceted development, and generate increased employment opportunities in the Richmond community and beyond;
 - 84.3 Provide a substantial amount of new high-quality residential dwellings, of varying types and designs, in an area to address the housing needs of the community;
 - 84.4 Enhance the amenity of the site and local environment, by extending onto a vacant site a modern and comprehensive, integrated, development designed in accordance with good urban design, and having particular regard to its residential setting;
 - 84.5 Provide a facility with attractive and accessible open spaces and parks (existing village green, pond, playground, existing and proposed parklands connected by walkways, and a pocket park near Hill Street) including defined areas available for community use, enjoyment and interaction in this locality; and
 - 84.6 Mitigate any adverse effects on the environment through appropriate site layout; design of buildings; stormwater management; landscaping and planting measures.
85. In terms of section 7(b), the residential development of the residentially zoned Hill Street block, in the Richmond South Development Area, represents an efficient use of a large and valuable natural and physical resource.
86. In terms of section 7(c), the amenity values of this site will be considerably enhanced by the proposed development, with the use of good urban design, planting and landscaping measures. The completed development will provide an interesting and innovative opportunity for retirement and lifestyle living, with associated community facilities, in an integrated fashion.

CONCLUSIONS

87. My professional opinion is that the redevelopment proposed for Olive Estate will meet the needs of the residents who will live there, and will be an asset and make a positive contribution in the community in which it is located.
88. The design has evolved to take account of concerns of adjacent residents. Whilst it represents a change to the Hill Street block this can be seen in the context of an extension to the existing Olive Estate, continuing the same high-quality design and integrated development.
89. The Care Facility, as a community activity, is anticipated and encouraged by the TRMP to be located in a residential area. Special care has been taken with this proposal in its design to minimise effects on residential character and effects on the amenity of adjacent residents in this setting on Hill Street.
90. I do not agree with the Reporting Officer that the particular manner in which the parks and open green spaces are to be owned and managed is sufficient reason to refuse consent to this application without the applicant first agreeing to a vesting condition. To use a colloquial term this would effectively 'scuttle' the proposal. A Council-owned and managed reserve in this location would be incompatible with Olive Estate, and it would also require substantial re-design of the layout. A refusal of consent would also remove the opportunity for a substantial amount of extra well-designed housing and care facilities for aged people in our community, and would then be counter to the directive in the NPS-UDC.
91. In any event, the needs of the community for open green space, parks and walkways will be more than met, and in ways that will provide a much better outcome than from vesting a small area of indicative reserve.
92. Overall, I consider the proposal promotes the purpose of the Resource Management Act, and represents the sustainable management of natural and physical resources. Accordingly, I recommend that consent is granted.

CONDITIONS

93. The applicant's witnesses have made comments on the recommended conditions attached to the section 42A Report as covered in their respective statements.
94. Changes are also needed to ensure consistency with conditions of the original consents for the establishment of Olive Estate. For example, conditions 5 and 6 of RM130346 deal with service conduits, street furniture and planting within the Main Road (Langdale Drive). Similar conditions should be included with respect to Fairrose Drive.

A handwritten signature in black ink, appearing to read "Gary Rae". The signature is written in a cursive, slightly slanted style.

Gary Rae

10 February 2021

Table 2A, from the Applicant's response to RFI, letter dated 12 November 2019

Table 2A – Compact Density Development Rules		
Rule	Comment	Proposed Activity
17.1.3.3(a) Multiple Consents	The rule requires buildings to be located within the site as approved as part of compact density subdivision under rules 16.3.3.3, 16.3.3.4, or 16.3.3.7.	Complies – Olive Estate involves a subdivision, for boundary adjustment. This has been applied for at the same time as the land use consent, as directed by Rule 16.3.3.3(a).
17.1.3.3(b) Dwellings	More than one dwelling may be constructed on any site.	Complies – There will be multiple dwellings on the sites.
17.1.3.3(c) Site Coverage 17.1.3(ca)	Maximum site coverage is 70 percent. Maximum building coverage is 50%.	Complies – The proposed building coverage is approximately 31% and it follows that the total site coverage with buildings and other features will be less than 70%.
17.1.3.3(d) Stormwater	The stormwater generated from an individual site or development approved as part of any subdivision after 11 March 2006 in the Richmond South Development Area must comply with Rule 16.3.3.1(mc).	Complies - No changes are proposed to the existing stormwater system at Olive Estate (all stormwater will be managed on site through the detention pond, with the piped discharge to Hart Stream as per the existing resource consent (RM120928)). For the Hill Street block, this site has three stormwater outfall points which in combination allows reticulation to all parts of the land irrespective of contour (refer Infrastructure Report in <i>Annexure E</i>).
17.1.3.3(e) Internal boundaries	Buildings are to be set back 2 metres from the front boundary, and, and no more than 5 metres, except that: (i) all garages and carports are set back at least 5.5 metres from road front boundaries if the vehicle entrance of the garage or carport faces the road; (ii) there is no side boundary setback where there is vehicular access to the rear of the site from a legal road or approved access; (iii) where there is no vehicular access to the rear of the site, a side boundary setback of at least 1.5 metres on at least one side is provided, enabling access to the rear of the site; (iv) there is at least a 5-metre setback from the rear boundary.	Complies – The proposed development provides multiple dwellings on very large sites. Buildings are all set back by more than 2m from the front boundaries, and all garages are set back at least 5.5 metres from road front boundaries (the Applicant volunteers a condition to require this).
17.1.3.3(f) Building envelopes	Buildings must be contained within an envelope from a vertical line 6m above the boundary then at 45 degrees inwards (for 50% of the boundary length).	Complies – All buildings are sufficiently spaced from internal boundaries such that they fit within the building envelope for compact density development (the Applicant volunteers a condition to require this).

<p>17.1.3.3(g) External boundaries</p>	<p>Buildings must comply with building envelope and setback rules in 17.1.3.1 where adjoining land is not part of the development.</p>	<p>Complies – All buildings are sufficiently spaced from side and rear boundaries such that they will comply with the daylight admission lines (the Applicant volunteers a condition to require this).</p>
<p>17.1.3.3(ga) Fences</p>	<p>Any fence, wall or screen erected in the front yard shall be no higher than 0.8m.</p>	<p>Does not Comply – the proposed fence along the Hill Street frontage, in front of the Care Facility will be 1.2 metres high</p>
<p>17.1.3.3(h)-(l) Outdoor living space</p>	<p>Dwellings are required to have 20 square metres of outdoor living space at ground floor level, and apartments above ground floor are required to have balconies of 7 square metres and 1.5m minimum width. They must be more than 4m to internal boundaries. They must meet the Urban Design Guide.</p>	<p>Complies – All of the villas and terrace houses have outdoor living areas exceeding 20m² (plus shared use of community spaces and activities). For the apartment blocks the units each have balconies of the required minimum dimensions, plus shared use of community spaces and activities. All balconies are more than 4m from boundaries. All other requirements are met, and they meet the Urban Design Guide.</p>
<p>17.1.3.3(m) Stormwater</p>	<p>All stormwater is required to be discharged to a Council-maintained stormwater drainage network that has sufficient capacity; or it complies with Rule 36.4 of the TRMP.</p>	<p>Complies - No changes are proposed to the existing stormwater system at Olive Estate (all stormwater will be managed on site through the detention pond, with the piped discharge to Hart Stream as per the existing resource consent (RM120928)). For the Hill Street block, this site has three stormwater outfall points which in combination allows reticulation to all parts of the land irrespective of contour (refer Infrastructure Report in <i>Annexure E</i>).</p>