

1 July 2021

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EPA

Via email: [Alexander.Erceg@epa.govt.nz](mailto:Alexander.Erceg@epa.govt.nz)

Dear Elliot,

**RE: REQUEST FOR INFORMATION FROM WINTON PROPERTY LIMITED IN RELATION TO NORTHBROOK WANAKA RETIREMENT VILLAGE UNDER COVID-19 RECOVERY (FAST-TRACK CONSENTING) ACT 2020**

The following information is provided in response to your request for further information dated 18 June 2021. Each point is in bold below, and we respond to each and attach supporting information.

- 1. The proposal is for a non-complying activity overall. The application does not include an assessment against Section 104D of the Resource Management Act 1991 (RMA). Provide an appropriate assessment in terms of the section 104D 'gateway' tests.**

Pursuant to section 104D of the Resource Management Act if a proposal is a non-complying activity then it must pass at least one of the tests of either section 104D(1)(a) or section 104D(1)(b) before an application can be assessed to make a decision under section 104B of the Act. If the application fails both tests of section 104D then the application must be declined.

*Section 104D(1)(a) – Adverse effects on the environment will be minor*

Section 104D(1)(a) of the Act requires that the Council is satisfied that the adverse effects of the activity on the environment will be minor. The effects of the proposal are assessed in Part 12 of the application document. As summarised in Part 12.1.9 of that document, the proposal does not give rise to adverse effects that are more than minor and therefore the test of s104D(1)(a) is satisfied.

*Section 104D(1)(b) – Proposal will not be contrary to the objectives and policies of the District Plan*

Section 104D(1)(a) of the Act requires that the Council is satisfied that the activity will not be contrary to the objectives and policies of the planning instruments. The relevant objectives and policies for the proposal are assessed in Attachment T of the application document.

The proposal is not contrary to the relevant objectives and policies of the Operative District Plan (ODP) and the Proposed District Plan (PDP), with the exception of Policies 1.5 and 1.7 of the Northlake Special Zone (NSZ) in relation to larger residential lots sizes in Activity Area C1 – C3 (Policy 1.5) and the provision of a retirement village and associated activities within Activity Area C2 (Policy 1.7) (but is otherwise consistent with the policy to the extent that it provides for retirement village units within Activity Area D1). Policy 1.7 is addressed further under Point 3 below. On Policy 1.5, the land holding will still comprise a large lot of 3.05ha, although it will contain multiple units for the retirement village.

Overall, the proposal is, in the round, consistent with the objectives and policies of the Plans.

Accordingly, the proposal passes both of the gateway tests in section 104D of the Act.

2. **Pages 11 and 12 of Attachment T to the application provide assessment of Northlake Special Zone (NSZ) objectives and policies, several of which deal with density (e.g. Objective 1, Policy 1.2, and Policy 1.6). The assessment appears to draw on a general New Zealand understanding of what medium density means. For instance, in relation to Objective 1, it is stated:**

*“The proposal is for retirement living development at a rate 37 units per hectare in Activity Area C2 and 24 units per hectare in Activity Area D1. This sort of density is generally regarded (in New Zealand) as medium density...”*

The Panel would be assisted by further discussion of whether a broader New Zealand approach to the concept of medium density is an appropriate comparison in the context of the specific density provisions applying in the NSZ. Those provisions (see rule 12.34.4.2iii), appear to reflect a particular understanding of what is meant by medium density, low density, and larger lot residential development. For instance, medium density residential activities are enabled within Activity Area D1 at a density of 15 units per hectare.

A historical perspective is necessary to address this point.

The NSZ was created by Private Plan Change 45 (PPC45). PPC45 was publicly notified on 24 July 2013 and finally determined by Environment Court Decision 17 November 2015. At that time the Wanaka Low Density Residential (**LDR**) zone provisions provided for a minimum lot size of 700m<sup>2</sup> (bare land subdivision) [ODP Rule 15.2.6.3(i)]. At the time, it was generally understood that the LDR provisions enabled a residential density of around 10 residential units per hectare (being a gross measurement including land taken for roads, reserves, etc). The ‘rule of thumb’ calculation was 1ha = 10,000m<sup>2</sup> - 30% (for roads and reserves) = 7,000m<sup>2</sup> ÷ 700 = 10 lots.

The NSZ provided for an increased density of 15 units per hectare within Activity Area D1. That density may have been called ‘Medium Density’ simply because it was about 50% more dense than standard LDR subdivision. Alternatively that may have resulted from the fact that the ODP contained some Medium Density Residential (**MDR**) Sub-Zones which, under certain circumstances, enabled two residential units to be erected on a single existing site with an area between 625m<sup>2</sup> and 900m<sup>2</sup> [ODP Rule 7.5.5.3(iii)].

The NSZ also provided for less dense development at 4.5 dwelling units per ha within Activity Area C. That was probably called ‘Large Lot Subdivision’ simply because the resulting lots would be about double the size anticipated under standard LDR subdivision.

The current PDP process has now resulted in previous LDR areas being zoned Low Density Suburban Residential (**LDSR**) where the minimum net site area is 450m<sup>2</sup> per residential unit as a permitted activity [PDP Rule 7.4.3] which can be reduced down to net site area of 300m<sup>2</sup> per residential unit as a restricted discretionary activity [PDP Rule 7.4.8] – net site area below 300m<sup>2</sup> per residential unit is non-complying [PDP Rule 7.5.11].

The PDP process has also created a new MDR zone which allows one residential unit per 250m<sup>2</sup>, and provides for restricted discretionary activity consent for more dense development [PDP Rule 8.5.5].

Therefore the PDP process has resulted in a significant change to what is understood to be LDR development and MDR development under the District Plan. In particular, given that the PDP MDR zone allows site density of one residential unit per 250m<sup>2</sup> as a permitted activity, and any development more dense than that as a restricted discretionary activity, it could reasonably be said that the density of the retirement village quoted above (24-37 units per hectare) is broadly

equivalent to PDP MDR density which in turn now appears to reflect what is generally regarded in New Zealand as medium density.

The following query relating to Policy 1.7 of the NSZ specifically requests “any further information or background documentation relating to Plan Change 53 or prior Schedule 1 processes ...” in order to answer that query. As it happens that background documentation, while not providing any assistance in relation to Policy 1.7, does provide some background information relating to the density provisions of the NSZ. **Attachment A** contains excerpts from the Section 32A Reports for PC45 (which created the NSZ) and PC53 together with some excerpts from the Section 42A Report for PC53.

### 3. Policy 1.7 of the NSZ is:

***To provide for small scale neighbourhood retail activities including one small supermarket to serve the needs of the local community within Activity Area D1 and to avoid visitor accommodation, commercial, retail and community activities and retirement villages within Activity Areas other than within Activity Area D1.***

While noting the commentary in Attachment T to the application that there is “*no other particular justification in the Zone provisions, or in the Zone purpose statement, as to why the Zone does not anticipate retirement villages – a predominantly residential activity – in the parts of the Zone that otherwise anticipate residential activities*”, it would be helpful to understand whether there is any further information or background documentation relating to Plan Change 53 or prior Schedule 1 processes, which might shed light on the genesis of the ‘avoidance’ aspect of policy 1.7.

As stated above, the PC45 and PC53 background documentation excerpts contained in Attachment B do not shed any light on the genesis of the ‘avoidance’ aspect of Policy 1.7.

Enquiries of the planning counsel involved in PC45 and PC53 (who happens to be Warwick Goldsmith, Counsel for the Applicant in this case) and the planning consultant involved for the Requestor NIL in PC45 and PC53 also have not shed any light (by way of recollection) in relation to this issue.

One might query how Policy 1.7 achieves the relevant Objective 1 which reads “A range of medium to low density and larger lot residential development in close proximity to the wider Wanaka amenities” given that the only part of Policy 1.7 relevant to that Objective 1 is the reference to retirement villages.

It does however appear clear that a retirement village was, at the time, considered to be a medium density residential development because, when one reads Objective 1, Policy 1.6 and Policy 1.7, a retirement village must be a medium density development. It is acknowledged that that interpretation is not necessarily consistent with the above assessment of what was understood to be ‘medium density’ under the District Plan when the NSZ was created.

One point which might assist consideration of this issue is the fact that the word “avoid” has taken on greater significance since the *King Salmon* Supreme Court decision. When PC45 created the NSZ the ‘overall broad judgment’ approach applied, along with the case law relating to the second s104D ‘gateway test’ and the general understanding that that ‘gateway test’ is applied on the basis of achievement of the objectives and policies of the relevant plan as a whole. If Policy 1.7 was being drafted post *King Salmon*, more attention would undoubtedly be directed to the appropriateness of use of the word ‘avoid’.

It might also be relevant to this issue to note that a retirement village is now a discretionary activity under both the PDP LDSR zone [PDP Rule 7.4.11] and the PDP MDR zone [PDP Rule 8.4.14].

### 4. The “*concept: massing narrative*” drawings at page 20 of the Architectural Design Statement at Attachment G to the application suggest that options analysis has generally

**focused on locating larger buildings such as the care pod to the west of the development site.**

**Was any consideration given to locating taller buildings within Activity Area D1 where slightly higher height is anticipated?**

Locating taller buildings in the D1 zoned blocks to the east was assessed and rejected for the following reasons:

- a. The two super-lots adjoin existing residential sections of circa 300m<sup>2</sup>.
- b. These adjoining lots are now titled and are privately owned with the first houses being constructed.
- c. It was considered that retirement villas of a similar scale to the adjacent lots (which will contain a mixture of 1 and 2 storey standalone homes) was a more appropriate neighbouring activity, than a larger building housing elder care / communal facilities.
- d. Further, any potential adverse effects of the care pod building are avoided, or adequately mitigated, due to:
  - The location at the rear of the site and the setback from Outlet Road;
  - The rising and undulating landform which encloses the built form;
  - The location of the units between the care pod building and Outlet Road;
  - The high stature native beech trees proposed near the site boundary and other native trees between Outlet Road and the care pod building.

In summary, the site layout, with the taller building located where the topography can best absorb the additional single storey above the zone height limit is a better overall design and landscape outcome than locating the taller building in Activity Area D1.

5. **The Landscape and Urban Design Report at Attachment L to the application provides a hypothetical subdivision scheme for Activity Area C2 (AA-C2) at page 14. The scheme depicts 15 lots. The Panel understands that the 4.5 dwelling per hectare density applying to AA-C2 (+ or – 15%) applies over the whole of AA-C2. It appears that part of AA-C2 has already been developed.**

**Confirm that the hypothetical scheme presented at page 14 accounts for existing development within AA-C2.**

- The C2 area on the northern side of Outlet Road is being constructed as a stormwater pond.
- Prior to Plan Change 53 (PC53), there was a strip of C2 that extended along the south side of Outlet Road between what is now Lindis Road and Mt Burke Street. PC53 rezoned this area D1
- PC53 did not however cover the eastern strip of C2 originally approved by PC45 east of Mt Burke Street.
- This strip is one residential section deep, and has been approved (RM160509) to be subdivided down into lots of circa 300-400m<sup>2</sup> – typical of the density found across AA-D1. It is now fully built out.
- The subdivision layout on Page 14 of Attachment I to the application is a hypothetical layout illustrating what the plan provides for in AA-C2.

6. **The Landscape and Urban Design Report at Attachment L to the application states at paragraph 4.4 that “A walkway and cycle link is to be constructed within Activity Area E2 [sic – it is assumed this should be E1] immediately south of the proposed development”.**

**The circulation plan at Attachment S shows a 2m wide pedestrian / cycle connection in this location, whereas a 3m wide link is shown along Lindis Road.**

**Provide an explanation as to why a narrower pedestrian / cycle path is shown to the south of the site.**

- The 3m path along Lindis Road is part of a North / South link, linking the village centre, the 1.4ha central reserve at the core of Stage 15, with Outlet Road, and toward the lake / outlet.
- This is the only path of this width in the Northlake development.
- All other paths have been approved and created as 2m wide paths.
- The 2m wide path shown as part of this proposal is consistent with the wider walking / cycling network across the development.

**7. The architectural drawings at Attachment F to the application include ground floor plans only.**

**Provide 1st and 2nd floor drawings for the proposed development.**

Please refer to the updated Architectural Plans (at [Attachment B](#)).

**8. Provide a high resolution photograph of the site and its surrounding context taken from that part of the summit of Mount Iron (or Little Mount Iron) that provides the closest and clearest view of the site and which is from a publicly accessible place. The photograph should be at an appropriate focal length approximating the field of view of the human eye and include a version of the photograph with the site boundaries overlaid.**

Please refer to the photomontage ([Attachment C](#)).

The supplied image location was determined to be the most suitable as it is near the summit of Mt Iron, is publicly accessible and offers a clear view of the site.

The supplied image offers a best practice representation of the human field of view. Part 5.5 of the New Zealand Institute of Landscape Architects Best Practice Guide for Visual Simulation states that it is generally accepted the human field of view is 124° horizontal, 55° vertical. The supplied image is a photomerge panoramic taken with a 50mm lens, which represents an approximate 60° vertical field of view. The horizontal field of view is composed of 6, overlapped photographs and represents an approximately 120° field of view. The 'curves' of the panoramic image were slightly edited in Photoshop to improve colour, tone and depth of field.

Using 3D modelling software, the site and image location were superimposed onto the photograph. The boundaries of the site were extracted and the visible parts of the site boundaries were overlaid on the panoramic image.

**9. Provide a cross section through the worst-case point between Units (3-6) and/or (7-10) down and through Outlet Road. It is understood that at this point, where the road drops away, modifications to the landform are proposed that include installation of a retaining wall. No details of this, any associated landscaping, and any associated works within the road reserve are as yet understood. This should include the existing levels on this section as well as the proposed finished levels.**

Please refer to the updated Earthworks Plans ([Attachment D](#)).

**10. The Panel understands that the Outlet Road retaining wall / batter and fence is intended to be a continuation of what already exists to the south-east.**

**Confirm the extent to which the Outlet Road retaining wall / batter and fence has been consented by way of previous bulk earthworks or other resource consents, and what is intended to be authorised as part of this current proposal.**

- The existing retaining wall on Outlet Road to the east of the Lindis Road intersection has been consented by QLDC (RM190887)
- The earthworks required for a future retaining wall west of Lindis Road have been consented by QLDC (RM2000167)
- There is no consent in place for a future retaining wall along the C2 boundary west of Lindis Road.
- This wall has yet to be designed, but will be a continuation of the existing wall, to present a consistent edge to the Northlake development as viewed from Outlet Road.

Yours sincerely,  
Morgan Shepherd



**Brown & Company Planning Group**

20038-NorthbrookRV-RF11Jul21

**Attachments**

- A. Excerpt from s32A evaluation from PC45 and PC53
- B. Updated Architectural Plans
- C. Photomontage
- D. Updated Earthworks Plans