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| Resource Management Act 1991 | CCC logo Black&White |
| **Report / Decision on a Resource Consent Application**(Sections 95A, 95B and 104 / 104B) |

*Applications where an existing or consented OPH unit/complex in the RS zone is to be converted for general use.*

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| **Application number:** | **RMA/+** |
| **Applicant:** | + |
| **Site address:**  | + |
| **Legal description:** | + |
| **Zone:** |  |
| **District Plan**: | Residential Suburban Zone |
| **Proposed Plan Change 14**:  | Medium Density Residential Zone |
| **Overlays and map notations:** |  |
| **District Plan**: | + |
| **Proposed Plan Change 14**:  | Sunlight Access Qualifying Matter, + |
| **Road classification:** | + |
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| **Activity status:**  | Discretionary |
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| **Description of application:**  | Conversion of + older persons’ housing units into a multi-unit residential complex |

# Proposed activity

The applicant proposes to convert + older persons' housing units (OPHs) into residential units able to be occupied by anyone.

The units were established / were consented via resource consent RMA/+ and are currently under construction. *State how far construction has progressed, if not fully constructed.* No new physical works are proposed.

*If the buildings have not yet been constructed, we either need to reconsent all the physical works/earthworks, or the applicant can confirm that they will build the development in accordance with the existing consent, with the new consent covering the conversion once they are built. This needs to be set out in the report.*

# Description of site and existing environment

The application site and surrounding environment are described in section + of the application. I adopt the applicant’s description, noting that ... *describe the extent to which construction has progressed*

# Activity status

**Christchurch District Plan**

The site is zoned Residential Suburban in the Christchurch District Plan.

The proposal requires resource consent for a discretionary activity under the following rules in the District Plan:

*If the development is not existing, or changes are proposed, include any other rules which will be triggered/re-triggered, e.g. earthworks, transport. Also check minimum unit size.*

| **Activity status rule** | **Standard not met** | **Reason** | **Matters of discretion**  | **Notification clause** |
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| 14.4.1.4 D6 | - | The converted units will become a multi-unit residential complex. These are a discretionary activity in the Residential Suburban Zone. | Unrestricted  | No clause |
| 7.4.2.3 RD1 | 7.4.3.4 Manoeuvring for parking areas and loading areas | On-site manoeuvring does not meet the requirements of Appendix 7.5.6 as Unit + requires more than one operation to enter garage. | 7.4.4.5 - Manoeuvring for parking areas and loading areas | Must not be limited or publicly notified |
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For completeness I note that:

* All construction-related activities, including earthworks, access, and landscaping are being undertaken under the existing resource consent. The applicant has advised that relevant conditions relating to physical works will be complied with.
* While not directly applicable due to the discretionary activity status, the converted units will meet the built form standards for residential units in the Residential Suburban zone, except for +. *Note – it’s the standards for res units not MURCs which are relevant here as MURCs are not provided for in the RS zone*
* An encumbrance limiting the occupancy of the units to older persons has / has not yet been registered on the title for the property. It will need to be discharged to enable unrestricted occupancy.

**Proposed Plan Change 14 Housing and Business Choice**

Proposed Plan Change 14 (PC14) was notified on 17 March 2023, and includes residential and commercial intensification provisions directed by the National Policy Statement on Urban Development 2020 (NPS-UD) and the Medium Density Residential Standards in [Schedule 3A](https://legislation.govt.nz/act/public/1991/0069/latest/LMS634505.html) of the RMA (as modified by the proposed sunlight access qualifying matter).

With regard to the MDRS, the site is identified as being within the Sunlight Access Qualifying Matter area. As a result, the rules do not have immediate legal effect given section 86BA(1)(c)(ii) and the operative district plan rules continue to apply. While the objectives and policies have legal effect from the date of notification, Policy 2 of the MDRS requires that the MDRS (including the objectives and policies) does not apply where a qualifying matter is relevant.

The Independent Hearings Panel’s recommendations were released on 30 July 2024. Decisions made to date are limited to Policy 3 NPS-UD areas (in and around commercial centres) and are not relevant to this application.

# Written approvals [Sections 95D, 95E(3)(a) and 104(3)(a)(ii)]

No written approvals have been provided with the application.

# NOTIFICATION ASSESSMENT

# Adverse effects on the environment and affected persons [Sections 95A, 95B, 95E(3) and 95D]

When assessing whether adverse effects on the **environment** will be, or are likely to be, more than minor, any effects on the owners and occupiers of the application site and adjacent properties must be disregarded (section 95D(a)). The assessment of **affected persons** under section 95E includes persons on adjacent properties as well as those within the wider environment.

As a discretionary activity, assessment of this proposal is unrestricted and all actual and potential effects must be considered. Guidance as to the effects that require consideration is contained in the relevant objectives and policies, and any associated matters of discretion or control.

*Policy context*

The objectives and policies in the District Plan set the context for assessing the effects of the application. I note that the MDRS objectives and policies introduced in PC14 do not apply in qualifying matter areas, and the other new/amended policies have yet to be confirmed via the plan change process, noting the IHP has made a recommendation on these which the Council either must accept or refer to the Minister. The Council decision is required by December 2025.

The relevant operative objectives and policies are contained within Chapter 14 – Residential:

* Objective 14.2.4 and Policies 14.2.4.1 and 14.2.4.4 collectively seek high quality residential neighbourhoods that have a high level of amenity and reflect the neighbourhood character and context.
* Policy 14.2.4.4 looks to ensure that low density areas are characterised by low scale and open environments with opportunities for landscaping with sunlight access and privacy maintained.
* Policy 14.2.1.8 seeks to provide a diverse range of housing options for older persons, and recognises that housing for older persons can require higher densities than typical residential development, in order to be affordable and, where required, to enable efficient provision of assisted living and care services.

*Consented environment*

The existing (consented) environment is important in that the built form can be legally established under the OPH consent.

In the context of this planning framework, I consider that potential effects relate to neighbourhood character and amenity associated with the changed demographic of occupants.

**Residential Character and Amenity**

Residential character and amenity effects have been assessed by the applicant in paragraphs + of the application. I generally agree with this assessment, and note the following:

* The built form of the development has been consented and will not change. The size and density of the units is therefore considered appropriate for the zone, albeit for older persons occupancy.
* The quality of on-site residential amenity, servicing and safety will be equally appropriate for a multi-unit residential complex as for older persons’ housing. The units meet the minimum size requirements for residential units. Suitable outdoor living spaces, service, storage and waste management spaces are available. or discuss any shortfall/issues separately below.
* The removal of the age limit is not considered to discernibly change the adverse effects of the consented activity. Although these are three-bedroom units, the potential change in the age or welfare status of occupants will not necessarily increase occupancy of each dwelling. As OPHs, only a single person within the household needs to be over 60[[1]](#footnote-2) or eligible for the supported living payment, so a range of occupants is already permitted in the consented units. There are several feasible scenarios whereby persons (or a person) over 60 shares a house with younger persons, including children, grandchildren, other dependents or caregivers etc. In addition, the age restriction does not apply for people eligible for a supported living payment who can still live with their partners and children.
* While the units are three-bedroom, their size and the extent of garaging and limited onsite parking will generally inform prospective occupiers of the suitability or otherwise of the site for larger households. With specific regard to traffic generation, I note that the older persons’ housing provisions in the District Plan do not restrict the number of vehicles owned by occupiers or the number of vehicle trips to and from the site.
* The proposed change of occupants will not alter the effects associated with the built form non-compliances triggered by the original application (i.e. …) for the reasons set out in that report.

**Transport**

Unit + requires more than one movement to enter the garage. The effects of this will be the same as those assessed under the existing resource consent. Having regard to the matters in clause 7.4.4.5 ‘Manoeuvring for parking areas and loading areas’, I consider any adverse effects of the change in occupants to be less than minor and restricted to future occupiers.

**Conclusion**

For the reasons set out above, I do not consider there will be any discernible difference in off-site amenity effects between the use of the units for older persons’ housing and unrestricted occupation. As such, I do not consider any person to be adversely affected by the proposal.

# Notification tests [Sections 95A and 95B]

Sections 95A and 95B set out the steps that must be followed to determine whether public notification or limited notification of an application is required.

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| **PUBLIC NOTIFICATION TESTS – Section 95A** |
| ***Step 1: Mandatory notification – section 95A(3)*** |
| * Has the applicant requested that the application be publicly notified?
 | **No** |
| * Is public notification required under s95C (following a request for further information or commissioning of report)?
 | **No** |
| * Is the application made jointly with an application to exchange reserve land?
 | **No** |
| ***Step 2: If not required by Step 1, notification is precluded if any of these apply – section 95A(5)*** |
| * Does a rule or NES preclude public notification for all aspects of the application?
 | **No** |
| * Is the application a controlled activity?
 | **No** |
| * Is the application a boundary activity?
 | **No** |
| ***Step 3: Notification required in certain circumstances if not precluded by Step 2 – section 95A(8)*** |
| * Does a rule or NES require public notification?
 | **No** |
| * Will the activity have, or is it likely to have, adverse effects on the environment that are more than minor (discussed above)?
 | **No** |
| ***Step 4: Relevant to all applications that don’t already require notification – section 95A(9)*** |
| * Do special circumstances exist that warrant the application being publicly notified?
 | **No** |

In accordance with the provisions of section 95A, the application **must not be publicly notified.**

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| **LIMITED NOTIFICATION TESTS – Section 95B** |
| ***Step 1: Certain affected groups/persons must be notified – sections 95B(2) and (3)*** |
| * Are there any affected protected customary rights groups or customary marine title groups?
 | **No** |
| * If the activity will be on, adjacent to, or might affect land subject to a statutory acknowledgement - is there an affected person in this regard?
 | **No** |
| ***Step 2: If not required by Step 1, notification is precluded if any of the following apply – section 95B(6)*** |
| * Does a rule or NES preclude limited notification for all aspects of the application?
 | **No** |
| * Is this a land use consent application for a controlled activity?
 | **No** |
| ***Step 3: Notification of other persons if not precluded by Step 2 – sections 95B(7) and (8)*** |
| * Are there any affected persons under s95E, i.e. persons on whom the effects are minor or more than minor, and who have not given written approval (discussed above)?
 | **No** |
| ***Step 4: Relevant to all applications – section 95B(10)*** |
| * Do special circumstances exist that warrant notification to any other persons not identified above?
 | **No** |

In accordance with the provisions of section 95B, the application **must not be limited notified**.

# Notification recommendation

That, for the reasons outlined above, the application be processed on a **non-notified** basis pursuant to sections 95A and 95B of the Resource Management Act 1991.

**Reported and recommended by:** Name, Position **Date:** +

# Notification decision

That the above recommendation be accepted for the reasons outlined in the report.

**Delegated officer:**

*Insert signature*

# SECTION 104 ASSESSMENT

# Actual and potential effects on the environment [Section 104(1)(a)]

The adverse effects on the environment are assessed in the preceding section 95 discussion, and that assessment is equally applicable here. Overall, I consider that the effects of the proposed activity on the environment, including the level of on-site amenity for occupants of the units, will be acceptable in the context of the planning framework.

# Relevant objectives, policies, rules and other provisions of the Plan [Section 104(1)(b)(vi)]

Regard must be had to the relevant objectives and policies in the District Plan.

Objective 3.3.7.a (part) and 14.2.3 and Policies 14.2.3.1-5 and 14.2.6.1 within PC14 are considered to have full legal effect as these originate from Clause 6 of [Schedule 3A](https://legislation.govt.nz/act/public/1991/0069/latest/LMS634505.html) of the Resource Management Act. As noted above, under MDRS Policy 2 (14.2.3.2) the MDRS does not apply where a qualifying matter is relevant, as in this case, so at this stage in the process I apply Policy 2 and set aside the other MDRS objectives and policies. In terms of the other objectives and policies in PC14, given the IHP recommendations on these are yet to be considered by the Council, I give little weight to these provisions.

The relevant objectives and policies in the District Plan are outlined in the preceding assessment of effects. They provide a more enabling framework for the establishment of housing suitable for the needs of older persons, while seeking to maintain the character and amenity of residential neighbourhoods.

Noting that the proposal does not alter the consented situation in terms of the built form, I consider it will maintain residential amenity, including sunlight access and privacy, for neighbouring sites and persons, and provides a good level of on-site amenity for future occupiers. With respect to the scale and intensity of use, for the reasons set out in the preceding assessment, I consider this to be comparable to that anticipated by the consented OPHs. As such, I consider the proposal will maintain the anticipated character of the surrounding residential environment.

In terms of the loss of units specifically approved for older persons’ housing (including cumulatively across the zone), the removal of the age restriction will not prevent the units being occupied by older persons. I note that Policy 14.2.1.8 seeks to provide for housing options, and not to protect, maintain or restrict the conversion of existing older persons’ housing.

Overall, I consider that the proposal is consistent with the objectives and policies of the District Plan.

# Relevant provisions of a National Environmental Standard, National Policy Statement, Regional Plan, Regional Policy Statement or Coastal Policy Statement [Section 104(1)(b)]

The District Plan gives effect to the relevant higher order documents referred to in s104(1)(b), including the Regional Policy Statement and Regional Plans, and the National Policy Statement on Urban Development (NPS-UD) which has largely been implemented via Plan Change 14. As such, there is no need to specifically address them in this report.

# Part 2 of the Resource Management Act [Section 104(1)]

Taking guidance from the most recent case law[[2]](#footnote-3), the District Plan is the mechanism by which the purpose and principles of the Act are given effect to in the Christchurch District. It was competently prepared through an independent hearing and decision-making process in a manner that appropriately reflects the provisions of sections 5-8 of the Act. Accordingly, no further assessment against Part 2 is considered necessary.

# Section 104(3)(d) notification consideration

Section 104(3)(d) states that consent must not be granted if an application should have been notified and was not. No matters have arisen in the assessment of this application which would indicate that the application ought to have been notified.

# Section 104 Recommendation

That, for the above reasons, the consent **be granted** pursuant to Sections 104, 104B, 108 and 108AA of the Resource Management Act 1991, subject to the following condition:

1. The development shall proceed in accordance with the information submitted with the application, including the stamped approved documents entered into Council records as RMA/2024/3516.

*Physical Works and Landscaping*

1. This resource consent does not authorise any physical works. All physical works, including construction, landscaping, and earthworks, are to be undertaken in accordance with the existing resource consent RMA/+ and the related building consent. *Delete or modify depending whether/to what extent development is already complete*
2. + *Add any other enduring conditions that should be retained, e.g. landscaping. If the development is not existing, include other conditions not yet complied with, e.g. earthworks.*

**Advice Notes:**

1. This resource consent will **lapse five years** **from the date it is issued** unless it is given effect to (i.e. the activity is established) before then.Application may be made under Section 125 of the Resource Management Act 1991 to extend the period for giving effect to the resource consent, and this must be submitted prior to the consent lapsing.
* All construction related activities, including earthworks and access, are being undertaken under the original resource consent for the OPH units (RMA/+).
* This resource consent has been processed under the Resource Management Act 1991 and relates to **planning matters only**. You will also need to comply with the requirements of the Building Act 2004 and any other legislative requirements (including but not limited to Environment Canterbury Regional Plans, health licence, liquor licence, archaeological authority, certificate of title restrictions such as covenants, consent notices, encumbrances, right of way or easement restrictions, landowner approval where required).

**Reported and recommended by:** Name, Position **Date:** +

# Section 104 Decision

That the above recommendation be accepted for the reasons outlined in the report.

þ I have viewed the application and plans.

þ I have read the report and accept the conclusions and recommendation.

**Delegated officer:**

*Insert signature*

1. “Older person” is defined in Chapter 2 as *“a person over the age of 60 years or a person who qualifies for a permanent supported living payment on health grounds. It includes the partner, spouse, dependants or caregiver of such a person, notwithstanding that the partner, spouse, dependents or caregiver may be under the age of 60 years”.* [↑](#footnote-ref-2)
2. *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316 [↑](#footnote-ref-3)