

*under:* the Resource Management Act 1991

*in the matter of:* an application by Ryman Healthcare Limited for  
resource consent to establish and operate a  
comprehensive care retirement village and associated  
activities at 100-104 Park Terrace and 20 Dorset Street  
and 78 Park Terrace, Christchurch

*between:* **Ryman Healthcare Limited**  
*Applicant*

*and:* **Christchurch City Council**  
*Consent Authority*

Closing legal submissions on behalf of Ryman Healthcare Limited

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## **CLOSING LEGAL SUBMISSIONS ON BEHALF OF RYMAN HEALTHCARE LIMITED**

### **INTRODUCTION**

- 1 Ryman Healthcare Limited (*Ryman*) seeks resource consents from Christchurch City Council (*Council*) to establish a high quality, comprehensive care retirement village (*Proposed Village*) at 100-104 Park Terrace and 20 Dorset Street and 78 Park Terrace, Christchurch (*Sites*).
- 2 The Proposed Village will provide specialist continuum of care for elderly residents with a range of needs - from independent living in apartments, to assisted living, rest-home and hospital care, and care for residents with dementia. As Mr Moore explained at the hearing, there is a critical lack of retirement and aged care across New Zealand and in Christchurch specifically. The Proposed Village will become home to around 339 residents, and will vastly improve their wellbeing and health and safety. This proposal is about providing critical housing and care to benefit a vulnerable sector of the community indefinitely into the future. It will be the only retirement village in the City Centre of this quality, scale and offering comprehensive care.
- 3 The Proposed Village has been designed by leading architects, Warren and Mahoney, to make a strong contribution to the quality and amenity of its prominent City Centre location. The design will create a landmark and leave a positive legacy for the City. The Proposed Village will also provide for the retention and restoration of a Highly Significant heritage item and setting, being the Former Bishop's Chapel and Setting (*Chapel*).
- 4 The Sites are ideally suited for the Proposed Village. They have a history of intensive residential use, with the Terraces on the Park apartments and Bishopspark Retirement Village previously being located on the Sites. The Sites are now zoned Residential Central City Zone in the Christchurch District Plan (*District Plan*). This zone anticipates high density living, and encourages development to support the restoration and enhancement of a vibrant city centre. The area has already undergone significant change, and further change is expected and encouraged. In that context, the existing environment and existing amenity of urban dwellers are also expected to change. The status quo is not protected.
- 5 The Proposed Village will make a substantial contribution to the policy directions in the National Policy Statement on Urban Development 2020 (*NPSUD*). Christchurch is a 'Tier 1' urban environment under the NPSUD with the urban intensification requirements that come with that. The Proposed Village will make a significant contribution to the City Centre as a 'well-functioning urban environment' with a variety of homes to meet the needs of different households.



- 6 The widespread support for the Proposed Village is evidenced in the many positive submissions lodged (over two thirds of all submissions received). Ms Pickering and Mrs Perry “*put a face*” to the future residents of the Proposed Village. They explained the high level of amenity the Proposed Village will provide for future its residents and its desperate need. Mr Bremner, provided the voice of local business owners - all of whom he said want to see the city revitalised for the benefit of local businesses, which have struggled through the earthquake recovery and then Covid-19.
- 7 More broadly, the Proposed Village will contribute to revitalising the City Centre. Ryman is very proud to be a part of that.
- 8 A small number of local residents have vocalised their concerns about change to their status quo. Their views are no doubt genuine but, with respect, generally misguided. Their expectations that this Central City area should essentially be suburban in nature are unreasonable in light of the District Plan. High quality, high density development is needed and expected in this location.
- 9 That need certainly doesn’t mean ‘development at all costs’. The District Plan provides guidance on the level of effects that can be accommodated in this area. The technical experts have carefully considered the effects of the Proposed Village in light of that guidance. Ryman’s experts have explained how the Proposed Village has been carefully designed to appropriately manage potential amenity effects on neighbours. Ryman also has an excellent track record of delivering similar-scale projects in residential environments across New Zealand.
- 10 The independent experts for Ryman and the Council officers are almost entirely aligned in their support for the Proposed Village based on appropriate conditions. The conditions proposed by Ryman and Council are informed by robust industry practises and guidelines, as well as the experience of the experts. There is one minor disagreement between Ryman and Council on one condition, which we discuss later in these submissions. There is no other credible expert evidence before the Commissioners.
- 11 We submit that the Commissioners can be comfortable granting the necessary resource consents for the Proposed Village. There is no legal impediment - under the RMA or any other legislation - that would prevent the Commissioners from granting the resource consents.
- 12 These closing legal submissions address:
  - 12.1 The legal framework for decision-making;
  - 12.2 The planning provisions;
  - 12.3 The effects on the environment; and

12.4 The decision-making options available to you.

13 We also address Ryman's response to Minute 6.

14 While these closing submissions address a range of matters raised during the hearing, it is submitted that the key issues are in fact relatively narrow:

14.1 A small number of local residents have raised residential amenity and geotechnical concerns. These matters have been comprehensively addressed by Ryman's independent experts and Council's officers agree that the effects of the Proposed Village are acceptable such that consent can be granted. For the reasons we set out, there is no other credible expert evidence before the Commissioners; and

14.2 Ryman and Council are aligned on all conditions except for proposed condition 59(e)) relating to landscaping on the Salisbury Street boundary. The Commissioners will need to determine the appropriate condition in that regard.

## **LEGAL FRAMEWORK FOR DECISION MAKING**

### **Activity status and relevant matters of discretion**

15 Council and Ryman agree that the Proposed Village buildings are a restricted discretionary activity and no submitter has raised an alternative view.<sup>1</sup> The Commissioners' consideration of the application is therefore limited to the matters of discretion<sup>2</sup> identified in the District Plan and the applicable National Environmental Standard.<sup>3</sup> It is noted that this restriction applies to grounds to either *grant* or *decline* the application.<sup>4</sup>

16 For completeness, it is noted that Ryman's evidence provided some contextual information that does not directly relate to the matters of discretion, solely to ensure the Commissioners have a full and proper understanding of the Proposed Village. Nevertheless, it is important that the Commissioners' consideration is appropriately limited to the relevant matters of discretion. Commissioner Caldwell asked for clarification of the matters covered in evidence that Ryman submits are outside the matters of discretion. These matters are:<sup>5</sup>

16.1 Traffic generation and the amount of parking;

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<sup>1</sup> Council Officer's Report, paragraphs 24-26, 29.

<sup>2</sup> RMA, s104C.

<sup>3</sup> Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

<sup>4</sup> RMA, s87(3).

<sup>5</sup> The relevant matters of discretion and Ms Armstrong's response are addressed in the Council Officer's Report, paragraphs 54-255.

- 16.2 Heritage effects on the Dorset Street Flats<sup>6</sup>;
- 16.3 Civil servicing (eg three waters connections); and
- 16.4 Amenity effects on commercial properties<sup>7</sup>;
- 16.5 The Proposed Village's on-site amenity for its residents.<sup>8</sup>
- 17 Accordingly, concerns raised by submitters that fall under these headings are not relevant considerations for decision-making on this application.
- 18 As discussed in the opening legal submissions<sup>9</sup>, the matters of discretion do not directly encapsulate all of the positive effects of the Proposed Village, although many of them are still relevant. It is submitted that the key positive effects of the Proposed Village (such as its contribution to housing supply for an ageing Christchurch population, to the health, safety, quality and enjoyment of those living in the area and a vibrant City Centre) are relevant. These significant positive effects are some of the reasons the application is an appropriate response to its Residential Central City Zone context.<sup>10</sup> Recognising those positive effects when determining the planning regime for retirement villages in the District Plan, the Independent Hearings Panel reasoned that:<sup>11</sup>

[332] Dr Humphrey's evidence stressed the clear health and social evidence of people ageing in their own communities. We have also taken particular note of Dr Humphrey's evidence as to the importance of providing choice for ageing in place. That evidence was supported by the evidence of Mr de Roo. We find that ageing in place, whereby older persons have choices to downsize from their family homes yet remain within their familiar neighbourhoods, is important not only for the wellbeing of our older citizens but also for the communities of which they should continue to contribute to and be part of. In addition to providing choice, assisting affordability is also important. Those priorities are also generally reflected in the Statement of Expectations.

- 19 In any event, Ryman does not rely on any positive effects to 'balance out' any adverse effects of the Proposed Village. It is submitted that the Commissioners' decision can rely on the evidence presented that any adverse effects have been avoided or mitigated

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<sup>6</sup> Council agrees that heritage effects on the Flats are outside the matters of discretion: see Armstrong CCC Summary, paragraph 6. There is a disagreement as to whether heritage values are, however, relevant when assessing effects on the wider context: see Armstrong CCC Summary, paragraph 24.

<sup>7</sup> 14.15.9(vi) expressly refers to "residential amenity...".

<sup>8</sup> 14.15.9(vi) expressly refers to amenity "for neighbours".

<sup>9</sup> Opening legal submissions, paragraphs 55-57.

<sup>10</sup> District Plan, Rule 14.15.9(a).

<sup>11</sup> Decision 10, Residential (Part) (and Relevant Definitions and Associated Planning Maps), 10 December 2015.

to appropriately low levels. However, to the extent the Commissioners disagree and are concerned about negative effects, it is respectfully submitted that the significant positive effects can be given more weight in this case when exercising your discretion. We address this weighting in more detail later in these submissions.

- 20 It is also noted that the retirement village activity itself is permitted. This distinction arises because the District Plan separates activities and buildings. This practice is becoming more and more common around New Zealand. Accordingly, the District Plan actively provides for and encourages the retirement village activity in this location.

#### **Section 104 RMA**

- 21 The following sections of these legal submissions are structured according to the relevant matters in section 104(1) of the RMA, being:
- 21.1 The relevant planning provisions; and
- 21.2 The actual and potential effects on the environment of allowing the activity.
- 22 In terms of 'other matters' considered relevant and reasonably necessary to determining the application, Ms Armstrong and Dr Mitchell both agree that Proposed Village aligns with the Recovery Plans and Regeneration Plans.<sup>12</sup>
- 23 In relation to section 104(2), Ryman and the Council agree that no permitted baseline applies to this application.<sup>13</sup>
- 24 In relation to section 104(3)(a)(ii), it is noted that written approval has been provided by the owners and occupiers of 90 Park Terrace and The George Hotel. Accordingly, any adverse effects of the Proposed Village on those persons (to the extent there are any) cannot be considered by the Commissioners.
- 25 Ryman does not rely on Part 2 of the RMA to support its case (albeit Part 2 does in fact support its case). All parties appear to agree that Part 2 is of limited relevance given the Court of Appeal decision in *Davidson*.<sup>14</sup>

#### **PLANNING PROVISIONS**

#### **NATIONAL POLICY STATEMENT ON URBAN DEVELOPMENT**

- 26 National policy statements sit at the top of the planning hierarchy setting out matters of national significance that give substance to

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<sup>12</sup> Summary Mitchell, paragraphs 143-144.

<sup>13</sup> Council Officer's Report, paragraphs 52-53. SOE Mitchell, paragraphs 41-42.

<sup>14</sup> Council Officer's Report, paragraph 300. Summary Mitchell, paragraphs 145-146.

Part 2 of the RMA.<sup>15</sup> At this highest level, the NPSUD provides a special status for urban development, and in particular providing housing that meets the diverse and changing needs of communities.

- 27 The NPSUD is a mandatory consideration under section 104(1)(b)(iii) of the RMA. It is submitted that the NPSUD has particular relevance to evaluating the matters of discretion that apply to this application, as we will now explain.
- 28 The NPSUD's expectations for the urban environment are relevant to "*whether the developmen[t], while bringing change to existing environments, is appropriate to its context ...*". The NPSUD is a relevant part of the 'context', and therefore must be considered in determining whether the development is appropriate.
- 29 The new NPSUD took effect on 20 August 2020. As the District Plan precedes the NPSUD<sup>16</sup>, it cannot be assumed that the District Plan has implemented the national level directions, and the NPSUD may be given "*considerable weight*" by the Commissioners.<sup>17</sup>
- 30 The opening legal submissions set out particularly important objectives and policies of the NPSUD relevant to this application.<sup>18</sup>
- 31 Mr Cleary said a plan change is required to give effect to the NPSUD and submitted that little weight should be given to it.<sup>19</sup> With respect his assessment was narrowly focused on some policies and in any event not aligned with the case law on the matter. It is acknowledged that a plan change may be required for the District Plan to give effect to the NPSUD, including potential changes in the present zoning for the Sites. The outcome of such a process cannot be reliably assumed. However, legally the NPSUD is still a mandatory relevant consideration for resource consenting in the meantime.
- 32 As set out above, the fact the District Plan has not yet been changed to implement the NPSUD dramatically underlines the importance of considering the NPSUD. Many of the NPSUD objectives and policies are in effect now. This is not surprising given the NPSUD is a statement of the government's highest resource management priority to address the country's housing crisis in New Zealand and

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<sup>15</sup> *Environmental Defence Society Inc v New Zealand King Salmon Company Limited* [2014] NZSC 38.

<sup>16</sup> The previous national direction (National Policy Statement on Urban Development Capacity 2016) came into effect part way through the Christchurch Replacement District Plan process.

<sup>17</sup> *Bunnings Ltd v Queenstown Lakes District Council* [2019] NZEnvC 59, paragraph 191. *Infinity Investment Group Holdings Ltd v Canterbury Regional Council* [2017] NZEnvC 36, paragraph 32.

<sup>18</sup> NPSUD, objectives 1, 3, 4 and policies 1, 3 and 6.

<sup>19</sup> Submissions for Centro Roydvale Limited, paragraph 10.1-10.7.

in Christchurch as a Tier 1 urban area. The critical supply crisis the NPSUD is seeking to address needs to be remedied with urgency.

- 33 The objectives and policies include those that directly apply to “*planning decisions*” (which includes a decision on a resource consent).<sup>20</sup> It would be thus a legal error to ignore or to downplay the NPSUD, as Mr Cleary sought to do.
- 34 For the reasons set out in the opening legal submissions and in Dr Mitchell’s evidence, it is submitted that the relevant NPSUD objectives and policies should be given considerable weight by the Commissioners where relevant to the matters of discretion. In this regard, granting the consent for the Proposed Village will make a material contribution to achieving the objectives and policies of the NPSUD. For example it will:
- 34.1 Contribute to a well-functioning Christchurch City Centre urban environment that enables ageing Christchurch residents to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future (Objective 1). As Mr Moore explained, the Proposed Village will provide for a particularly vulnerable segment of the community, where wellbeing and health and safety are particularly important. A number of submitters in support of the application also explained how the Proposed Village will make an important contribution to their future wellbeing.<sup>21</sup>
- 34.2 Improve housing affordability by supporting competitive land and development markets and providing development capacity to meet expected demand for housing (Objective 2, Policy 2). The Proposed Village will substantially increase the supply of housing for older people in this location where supply is currently scarce.<sup>22</sup> It will also contribute to the release of hundreds of existing homes to be used more efficiently by other people.<sup>23</sup>
- 34.3 Enable more people to live in urban environments that are central, well-served by public transport and where there is high demand for housing (Objective 3). The Proposed Village will be the only modern comprehensive care village located in the City Centre, and will provide retirement living and care close to important amenities.<sup>24</sup>

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<sup>20</sup> NPSUD, 1.4 Interpretation. Objectives 2 and 5 and Policies 1 and 6 directly apply to planning decisions. In addition, Objectives 1 and 4 are not directly related to local authority decision-making or district or regional plans.

<sup>21</sup> For example, Mrs Perry and Ms Pickering.

<sup>22</sup> Summary Moore, paragraph 4.

<sup>23</sup> SOE Moore, paragraph 19.

<sup>24</sup> SOE Moore, paragraphs 48-50.

- 34.4 Enable a “*variety of homes*” that meet the needs of different households (Policy 1). As Mr Moore and Mr McGowan explained, the Proposed Village form and the variety of living options is comprehensive and driven by the needs of the future residents as they age.<sup>25</sup>
- 34.5 Enable Christchurch’s urban environment, including its amenity values, to develop and change over time in response to the diverse and changing needs of people, communities, and future generations (Objective 4). Mr Moore noted the ageing Christchurch population and the growing housing crisis for this cohort.<sup>26</sup> Ms Skidmore explained how this area has been through considerable built change, and is continuing to do so.<sup>27</sup> Ms Armstrong and Dr Mitchell explained the change in this location anticipated and encouraged by the planning context.<sup>28</sup>
- 35 The NPSUD clearly provides additional support for the Proposed Village, including its appropriateness for this City Centre context.
- 36 Ryman does not rely on the NPSUD in relation to its application. It is submitted that the application stands on its own merits, having been designed prior to the NPSUD coming into effect. Nevertheless, for the reasons outlined, it is respectfully submitted that significant weight should be given to the NPSUD when exercising your discretion.

## **DISTRICT PLAN**

- 37 The following legal submissions focus on matters arising in relation to the District Plan. The Regional Policy Statement has limited relevance to the application given the recently operative District Plan has given effect to it. The AEE does, however address the relevant objectives and policies of the Regional Policy Statement for completeness.<sup>29</sup>
- 38 The following sections of the legal submissions address:
- 38.1 The relevance of the built form standards to decision-making, and the weight to be given to the standards;
- 38.2 The assessment approach adopted by the witnesses in relation to the built form standards;

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<sup>25</sup> SOE Moore, paragraphs 36-46.

<sup>26</sup> SOE Moore, paragraphs 12, 29-33.

<sup>27</sup> SOE Skidmore, paragraphs 61 and 91.

<sup>28</sup> Council Officer’s Report, paragraphs 301. SOE Mitchell, paragraphs 59, 109.

<sup>29</sup> AEE, 7.3.3.2.

38.3 Interpretation of Rule 14.15.9, the retirement village-specific matter of discretion; and

38.4 Interpretation of Rule 14.15.27 – 30, the matters of discretion relating to exceedances of the built form standards.

39 Throughout this section we address the manner in which the District Plan resolves potential tensions between enabling change to environments while protecting an appropriate level of amenity for existing residents (referred to as the 'existing versus change' tension).

**The relevance of the built form standards to decision-making, and the weight to be given to the standards**

40 The relevance of the built form standards to decision-making was traversed in the opening legal submissions at paragraphs 35-44. In summary, it is submitted that there is no relevant permitted baseline. The existing environment is the relevant starting point for the effects assessments. This point is not in dispute.

41 In relation to the built form standard exceedances, the matters of discretion specifically limit the Commissioners' consideration of the application to those exceedances.<sup>30</sup> For this confined aspect of the application, the weight to be given to the built form standards is therefore clear. It is understood that this point is also not in dispute.

42 However, the assessments of effects must not be restricted to only the effects arising from built form standard exceedances. Resource consent is required for the new Proposed Village buildings as a whole (ie whether they comply with the standards or not).<sup>31</sup> For this aspect of the application, the weight to be given to the planning framework, including the built form standards, was a key issue at the hearing. The Commissioners asked a number of questions of the witnesses as to their assessment approach and the weight given to the built form standards.

43 Before traversing the key aspects of that evidence, it is noted that all parties appear to agree that the built form standards can be taken into consideration to some degree.<sup>32</sup> In that regard, Ryman submits that an assessment of effects cannot be made in a vacuum and must be informed by the District Plan context.<sup>33</sup> It would be an error to focus too closely on the effects of the Proposed Village on the existing environment without properly considering the planning

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<sup>30</sup> Rule 14.15.27-30.

<sup>31</sup> Rule 14.15.9.

<sup>32</sup> Submissions for Centro Roydvale Limited, paragraph 9.14.

<sup>33</sup> RMA, s104(1)(b). Assessment of effects cannot be conducted in a vacuum: *Tasti Products Ltd v Auckland Council* [2016] NZHC 1673, paragraphs 77-82, 85. *Summerset Villages (St Johns ) Limited v Auckland Council* [2019] NZEnvC 173, paragraph 18.



directions set out in the District Plan.<sup>34</sup> Those planning directions are relevant context, and a guide to appropriate assessments of effects. Accordingly, it is submitted that the built form standards are relevant considerations that must be considered by the Commissioners. It then becomes a matter of the weight to be given to them.

- 44 For this application, the District Plan framework requires significant weight to be placed on the change that is “anticipated” in the environment (as discussed further below). Policy 14.2.8.2 in particular is highly directive. This policy is a clear statement of the intention for the built form standards to guide the assessment of that change on amenity effects in the Central City Residential Zone. It is one of the key tools used in the District Plan to resolve the ‘existing versus change’ tension.

***Response to the legal submissions for Centro Roydvale Ltd in relation to the relevance of the built form standards***

- 45 Mr Cleary referred to *Neil Construction Limited v North Shore City Council*<sup>35</sup> as authority for the proposition that rules in a plan do not define the level of an impact on the environment.<sup>36</sup>
- 46 With respect, the decision is taken out of context and in any case, mischaracterises the approach of Ryman’s witnesses. This Planning Tribunal decision concerned a very different set of facts<sup>37</sup> and therefore has no relevance to this application. Further, as discussed later, Ryman’s witnesses do not treat the built form standards as the determiner of the level of impact. Rather they apply the standards as a guide to their assessment of amenity effects alongside a wide range of other factors. They do, however, rightly acknowledge that those standards have been designed to protect an appropriate level of amenity, and accord appropriate weight to the directions in the District Plan.
- 47 Mr Cleary also says that “*none of the assessment matters in Rule 14.15.9 presume that any baseline is to be adopted*”.<sup>38</sup> That submission is not in dispute, but is too bluntly put. Again, Mr Cleary

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<sup>34</sup> *Summerset Villages (St Johns) Ltd v Auckland Council* [2019] NZEnvC 173, paragraphs 18, 31-32 and 66.

<sup>35</sup> *Neil Construction Limited v North Shore City Council* (Planning Tribunal, W136/95)

<sup>36</sup> Submissions for Centro Roydvale Limited, paragraph 5.3-5.4.

<sup>37</sup> It was a non-complying application for a medical centre on a residentially-zoned site. The transitional and proposed plans provided for medical centres staffed by two practitioners and health care centres staffed by one practitioner as a controlled activity respectively. On that basis, the planner for the appellant suggested that the plan recognised the level at which the activity would have a minor effect. The statement of the Planning Tribunal quoted by Mr Cleary was made in the context of the non-complying gateway test, and confirmed that the decision-maker could determine as a matter of fact whether the ‘minor adverse effects’ gateway test was satisfied. The Tribunal found that the controlled activity threshold did not constrain their fact-finding role.

<sup>38</sup> Submissions for Centro Roydvale Limited, paragraph 5.8.

mischaracterises the approach Ryman’s witnesses have adopted. A decision-maker must consider the relevant objectives and policies of the District Plan in order to properly understand and apply the matters of discretion.<sup>39</sup> In this context, Rule 14.15.9 (the retirement village matters of discretion) applies to retirement villages in all zones. As a consequence, Rule 14.15.9 is relatively generically framed. As a result, it is particularly important that it is interpreted by reference to the objectives and policies relevant to the particular zone. As discussed above, and addressed further later in these submissions, it is the other provisions of the District Plan that confirm the built form standards are a relevant guide to assessment of effects (albeit they do not form a ‘baseline’).

- 48 Mr Cleary also suggests that Rule 14.15.9 enshrines ‘tests’ against which a proposal is to be considered.<sup>40</sup> The proposition is incorrect. The criteria in Rule 14.15.9 identify the matters over which a consent authority has discretion – they are relevant considerations.<sup>41</sup> The matters listed in (a)(i) to (viii) circumscribe the topics and issues to be considered, and should not be viewed as ‘tests’ expressed in absolute terms.<sup>42</sup>
- 49 Both of these points illustrate the importance of carefully evaluating all of the District Plan provisions relevant to decision-making. And, they illustrate an evident error in the submissions of Mr Cleary and the evidence of the submitter witnesses. Their positions suffer from being too narrowly focused on the matters of discretion.
- 50 Mr Cleary refers to the *Sydney St Substation Limited v Wellington City Council* decision.<sup>43</sup> He suggests there are parallels between this application and the one considered in the *Sydney St Substation* decision. He submits that the assessments of the Ryman witnesses are therefore flawed.<sup>44</sup>
- 51 It is acknowledged that the Proposed Village is subject to two different matters of discretion that are similar to the application considered by the High Court in *Sydney Street Substation*. However, the similarities end there.
- 52 Both the planning context and the effects assessment approach in *Sydney St Substation* are materially different from this application. The *Sydney St Substation* decision is steeped in the specific planning context applying to that application. And, the error found in that case flows from the particular assessment approach of the

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<sup>39</sup> For a recent statement of this principle and relevant case law see *Edens v Thames-Coromandel District Council* [2020] NZEnvC 13, paragraphs 118-126.

<sup>40</sup> Submissions for Centro Roydvale Limited, paragraph 6.5.

<sup>41</sup> RMA, s104C.

<sup>42</sup> Summary Mitchell, paragraph 59.

<sup>43</sup> *Sydney St Substation Limited v Wellington City Council* [2017] NZHC 2489.

<sup>44</sup> Submissions for Centro Roydvale Limited, paragraph 5.10-5.17.

planner. It is therefore highly specific to the facts of that case, and should not be applied to other applications without very careful consideration.

- 53 In the *Sydney St Substation* decision, the broader matters of discretion rule allowed considered of (a) design, external appearance and siting, and (b) placement of building mass.<sup>45</sup> Those matters were to be considered by reference to the Central Area Design Guide (CADG), which included specific and detailed design objectives. The High Court determined there was “*some form of legitimate expectation that its guidelines would be followed... absent some rational reason for departure*”,<sup>46</sup> The planning framework in the *Sydney St Substation* decision therefore provided detailed guidance as to the assessment of the matters of discretion. There are no such design guidelines applying to this application.
- 54 The planners’ assessment in the *Sydney St Substation* decision was prefaced by a statement setting out the influence of the ‘anticipated development model’ on the assessment.<sup>47</sup> The High Court said the planners’ focus on this ‘anticipated development model’ resulted in an overly-narrow assessment that did not properly consider the CADG.<sup>48</sup> For example, the planner rejected the opinion of the Council Heritage Advisor that the proposal would result in significant adverse heritage effects, despite the CADG containing very specific guidance on new buildings adjoining a heritage building.<sup>49</sup> Similarly, the planners’ assessment of a policy that required ‘design excellence’ for buildings that are tall ignored the fact the policy related to buildings that were ‘tall’ not only by reference to the height standard but also by reference to the surrounding neighbourhood.<sup>50</sup>
- 55 In contrast, Ryman’s experts have clearly acknowledged that the permitted baseline does not apply to this application. They have not constructed an ‘anticipated development model’. Ryman’s experts have started with the existing environment, and then applied the built form standards as a tool to guide assessment, while ensuring that any and all other relevant contextual factors are considered.<sup>51</sup>

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<sup>45</sup> *Sydney St Substation*, paragraph 16.

<sup>46</sup> *Sydney St Substation*, paragraph 77.

<sup>47</sup> *Sydney St Substation*, paragraph 53.

<sup>48</sup> *Sydney St Substation*, paragraph 73-76.

<sup>49</sup> *Sydney St Substation*, paragraph 48, 75, 78.

<sup>50</sup> *Sydney St Substation*, paragraph 80-81.

<sup>51</sup> Opening legal submissions, paragraphs 41-44.

- 56 The inconsistency in the submitter cases should also be highlighted. Mr Cleary acknowledged that built form standards do provide some guidance as to the appropriateness of the scale of buildings.<sup>52</sup>

**Council**

- 57 The Council agrees that *"the built form standards can be used as a guide to the built outcome that the objectives and policies are intending to enable, but this is subject to assessment of the specific context"*.<sup>53</sup>

**Submitters**

- 58 Although it does not affect the legal position, most opposing submitters sought that the Proposed Village be limited to an envelope that complies with the built form standards. This position reflects community acceptance of the built form standards and an understanding of their role in protecting an appropriate level of amenity.

**Conclusion**

- 59 In summary, none of the matters raised in Mr Cleary's legal submissions require a departure from the legal position presented in the opening legal submissions for Ryman in relation to the built form standards. That position is:<sup>54</sup>

...it is submitted that the built form standards are a highly relevant assessment tool, particularly in relation to the key issue of amenity effects on neighbours in this case. It is submitted that the level of effects resulting from compliance with the built form standards can be assumed to be *generally* appropriate in this location. However, there may be particular circumstances where the standards do not achieve that outcome (such as particular features of a neighbouring property and its interface with the Proposed Village). The assessment of effects may therefore use the built form standards as a tool to guide assessment, while ensuring any and all other relevant contextual factors are considered.

**The assessment approach of the witnesses in relation to the built form standards**

- 60 At the hearing, Ms Skidmore and Mr Burns explained their assessment methodology. It was clear that the built form standards were one of many considerations they considered – that is they were 'one tool in the toolbox' in grappling with the impact of built form on residential amenity.
- 61 Importantly, Ms Skidmore and Mr Burns acknowledged that the starting point for their assessments was the existing environment – the features of the Sites and neighbouring properties. They then

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<sup>52</sup> Legal submissions for Centro, paragraph 9.14.

<sup>53</sup> Council planning summary, paragraph 13.

<sup>54</sup> Opening legal submissions, paragraphs 41.

moved on to considering the District Plan and the guidance it provides. They then assessed the effects of the Proposed Village.

62 Because Ms Skidmore was involved throughout the design process, her assessment was iterative. Mr Burns' assessment was more linear as his involvement commenced at a later stage in a peer review role. Despite their different involvement, both Ms Skidmore and Mr Burns were aligned in their conclusions on the urban design-related effects of the Proposed Village.

63 Mr McGowan, Ms Skidmore and Mr Burns explained how the design team carefully considered every interface of the Proposed Village with its surrounds. This process involved taking a much more nuanced approach to the design of the Proposed Village than simple compliance with the built form standards. The design team considered a wide range of factors when determining the appropriate design for each location, including:

63.1 Bulk and scale;

63.2 The location of access ways and open spaces;

63.3 Setbacks;

63.4 Building orientation;

63.5 Building stepping;

63.6 Window orientation;

63.7 Use of louvres;

63.8 Articulation of the façades, fenestration, materials and colour;

63.9 Compatibility of uses; and

63.10 The relevant characteristics of neighbouring properties and their relationship with the Sites.

64 In that sense, they looked at residential amenity from a range of perspectives, not just focussing narrowly on one characteristic of the design (eg height) or one element of amenity (eg shading). As Ms Skidmore explained at the hearing, there are many ways to respond to an interface, whereas the built form standards only control height, recession planes and setbacks. It is therefore necessary to consider all matters in assessing potential effects.

65 By way of example, the design approach to the interface with 15 Salisbury Street (which can be viewed in plan S01.A0-076) is highly nuanced, noting:

- 65.1 In this location, Building B01 has been aligned with its shorter ends facing the boundary, with most of this neighbouring property directly adjacent to the break in the wings containing a landscaped courtyard (with its carport located adjacent to the eastern wing). The outlook from 15 Salisbury Street will primarily be toward that courtyard.
- 65.2 The building form includes three step backs away from the boundary, with a differentiated top level. This design reduces the vertical prominence of the building.<sup>55</sup>
- 65.3 The units within Building B01 face east and west, with windows to the south predominately serving service rooms.<sup>56</sup> The oblique views in relation to 15 Salisbury Street protects the privacy of the residents.
- 65.4 Shading of 15 Salisbury Street does occur at the equinox and mid-winter.<sup>57</sup> This outcome must be expected given this property is located on the southern boundary of the Site. However, as noted, the building has been generously stepped back to protect neighbouring amenity and prevent unreasonable overshadowing.<sup>58</sup> The shading effects are also generally consistent with expectations in this central city zone, with very slight recession plane and height plane breaches on this boundary.<sup>59</sup>
- 66 A further example is the design approach to the interface with 76 Park Terrace (which can be viewed in plan S02.A0-076):
- 66.1 In this location, Building B07 is setback, with landscaping and an accessway directly adjacent to this neighbouring property. Building B07 is stepped down to this boundary, with a darker colour applied to taller elements to increase their recessivity. The separation between the wings also provides an open interface.
- 66.2 The Building B07 units are primarily oriented to the west, away from this neighbouring property. Building B08 is well articulated, and a significant distance away from the living areas of this neighbouring property.
- 66.3 Again, shading at the equinox and winter is expected given this neighbouring property is located on the southern

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<sup>55</sup> SOE Skidmore, paragraphs 257-258. SOE Burns, paragraph 128.

<sup>56</sup> SOE Skidmore, paragraph 171. SOE Burns, paragraph 128.

<sup>57</sup> SOE Skidmore, paragraph 169. SOE Burns, paragraph 128.

<sup>58</sup> SOE Skidmore, paragraph 168-169. SOE Burns, paragraph 128.

<sup>59</sup> S01.A-070 (4), S01.A-071 (4).

boundary, but the buildings are setback and stepped to prevent unreasonable overshadowing.<sup>60</sup>

- 67 Because of that highly nuanced approach, each boundary interface has a design logic. The design enables the most efficient and practical use of the Sites while appropriately managing adverse effects. As Ms Skidmore explained at the hearing, the design team sought to avoid built form standard exceedances, except where that would compromise the design and functionality of the buildings to an inappropriate extent. The nuanced approach also led to 'under development' in some locations to better protect neighbour amenity. Ms Skidmore and Mr Burns both explained how a design driven by the built form standards (i.e. total compliance to achieve non-notification) would likely have resulted in adverse outcomes at some interfaces.
- 68 Ms Skidmore and Mr Burns also drew on their extensive expertise in analysing amenity effects. They referred to international guidance,<sup>61</sup> national guidance,<sup>62</sup> and local guidance. Unsurprisingly, they explained that they afforded most weight to the local guidance – the District Plan – given its specific application to this Proposal and anticipation of change. This approach can be contrasted with that of Ms Dray, who acknowledged at the hearing that she did not engage with the planning framework as a whole, but rather applied her own 'first principles' views to the matters of discretion.
- 69 For the exceedances of built form standards, efficiency and practicality considerations are expressly within the matters of discretion.<sup>63</sup> There is substantial evidence addressing efficiency and practicality considerations.<sup>64</sup> However, Ryman does not rely on efficiency and practicality considerations to justify the Proposed Village design. The design has carefully managed all relevant effects. The effects of the exceedances at issue are also low. This matter is address in further detail below.
- 70 It is hard to see how the above approach could be seen as unusual or incorrect in any way. Ryman's witnesses comprehensively assessed the Proposed Village's urban design and landscape and visual effects using the range of tools available. They did not seek to use the built form standards as quasi-permitted baseline. They did, however, appropriately heed the directions of the District Plan on the role of the built form standards on protecting an appropriate

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<sup>60</sup> SOE Skidmore, paragraphs 192-197. SOE Burns, paragraphs 89, 135, 145-151.

<sup>61</sup> At the hearing Mr Burns described international guidance relating to privacy and visual effects.

<sup>62</sup> SOE Skidmore, paragraph 20.

<sup>63</sup> Rules 14.15.27(c), 14.15.28(b), 14.15.29(b), 14.15.30(d).

<sup>64</sup> SOE Moore, paragraphs 34-35 (addressing retirement village typologies), 36-46 (addressing Ryman's village and residents). SOE McGowan, paragraph 55 (addressing building use requirements). AEE, section 1.3 (project rationale), 2.1 (layout and design of the Proposed Village).

level of amenity and the wider expectations of change in the Residential Central City Zone.

***Response to the legal submissions for Centro Roydvale Ltd in relation to the assessment approach of the witnesses***

- 71 Mr Cleary says the Ryman experts “sought to develop a *“plan anticipated environment” for the Sites as a benchmark against which the effects of their proposal should be evaluated*”.<sup>65</sup> With respect, this submission mischaracterises the evidence for Ryman. As noted, the Ryman witnesses did not create an ‘anticipated development model’ or a ‘hypothetical development proposal’ and compare the effects of the Proposed Village against the effects of that hypothetical.
- 72 By contrast, Mr Archer (planner for 18 Salisbury Street and 76 Park Terrace) did construct hypothetical scenarios against which he compared the Proposed Village. Mr Archer’s ‘almost permitted’ and ‘Park on the Terrace’ scenarios are clearly fanciful, and are not an accurate representation of the planning framework. Mr Cleary acknowledged that Mr Archer’s approach was flawed.<sup>66</sup> In light of his erroneous assessment approach, it is submitted that Mr Archer’s evidence can be afforded little-no weight. This criticism does not apply to the Ryman witnesses to any extent, as they provided an extensive assessment of the effects of the Proposed Village as described above.
- 73 Mr Cleary also argued that the ‘model’ relied on by Ryman’s experts is not realistic and fanciful, and should therefore not be accorded weight.<sup>67</sup> As set out above, the Ryman witnesses do not compare the Proposed Village against a hypothetical development “*presenting a series of blank walls along all adjoining boundaries*”.<sup>68</sup> The Ryman witnesses have engaged with the detailed design of the Proposed Village, considered its effects on the receiving environment, and used the planning context as a guide to whether those effects are acceptable. This assessment approach aligns with the requirements of the RMA and case law.
- 74 Mr Cleary sought to identify inconsistencies in the assessment approach of Ryman’s experts. He said “*there is no apparent rationale for not applying the same approach to the receiving environment*”.<sup>69</sup> This comment relates to 5 Salisbury Street, which is currently a vacant site.<sup>70</sup> It is submitted that the Ryman witnesses have adopted a consistent approach. In all cases, they have

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<sup>65</sup> Submissions for Centro Roydvale Limited, paragraph 4.7.

<sup>66</sup> Submissions for Centro Roydvale Limited, paragraph 4.9.

<sup>67</sup> Submissions for Centro Roydvale Limited, paragraph 6.3-6.5.

<sup>68</sup> Submissions for Centro Roydvale Limited, paragraph 6.5.

<sup>69</sup> Submissions for Centro Roydvale Limited, paragraph 6.6-6.8.

<sup>70</sup> As discussed later, any future residential development of this property will require resource consent.



assessed the effects of the Proposed Village on the existing receiving environment. They have not assessed the effects of a hypothetical proposal or a hypothetical receiving environment.

- 75 Mr Cleary also suggested the assessment approach of Ryman's experts, and specifically the use of the built form standards as an assessment tool, failed to factor in cumulative effects.<sup>71</sup> It is commonly understood that cumulative effects are difficult to manage through case-by-case assessment of proposals. The application of some form of standard is helpful and often necessary to ensure all proposals are tested equally. Therefore, the use of the built form standards as a guide for assessment does in fact assist to address cumulative effects. In this case, the prescription of standards that apply to development on all sites regardless of whether they are first in line, or last in line, objectively manages amenity for the zone to achieve an appropriate outcome.
- 76 Mr Cleary also said Ryman witnesses have been selective in identifying the District Plan rules that guide assessments of effects. He refers to the fact the Ryman witnesses have applied the built form standards as a guide, but not the earthworks standard (20 m<sup>3</sup>).<sup>72</sup>
- 77 It is submitted that these rules have clear and different roles when the District Plan framework is properly considered. The earthworks standard is simply a trigger for assessment – resource consent is required if it is exceeded. The built form standards are both a trigger for assessment (in relation to the additional matters of discretion applying to the exceedances) and a guide to assessment of amenity effects (as directed by Policy 14.2.8.2). There is no policy direction to suggest that the earthworks standard is a guide to the assessment of effects. In contrast, the objectives and policies recognise the need for earthworks to facilitate development, and the benefits of earthworks.<sup>73</sup>
- 78 In conclusion, none of the matters raised in Mr Cleary's legal submissions affect the validity of the assessment approach applied by Ryman's witnesses. It is submitted that the Commissioners can be comfortable accepting the evidence of Ryman's witnesses, and preferring it to the evidence of other witnesses in some cases (as discussed below).

#### **Interpretation of Rule 14.15.9**

- 79 Rule 14.15.9 is the matter of discretion applying to retirement village buildings. It requires decision makers to consider "*whether the developments, while bringing change to existing environments,*

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<sup>71</sup> Submissions for Centro Roydvale Limited, paragraph 6.9.

<sup>72</sup> Submissions for Centro Roydvale Limited, paragraph 6.10-6.12.

<sup>73</sup> Objective 8.2.4 and Policy 8.2.4.3.

*is appropriate to its context taking into account [a range of matters]”.*

- 80 There are two key elements to this matter of discretion:
- 80.1 An expectation of ‘change to existing environments’; and
- 80.2 Whether development is ‘appropriate to its context’.
- 81 The introduction directly asks you to engage with the potential ‘existing versus change’ tension, but you do not need to do that in a vacuum.

***What is the ‘existing environment’?***

*Legal position*

- 82 First, in making their decision, the Commissioners need to determine the relevant environment that the Proposed Village affects. There are two elements to that ‘environment’:
- 82.1 The current environment; and
- 82.2 The known future state of the environment.
- 83 The current environment is what exists right now. It is a straightforward factual analysis.
- 84 The environment as it will exist in the future requires an assessment of the ‘unbuilt features’ that are already expected to occur. The Court of Appeal decision in *Hawthorn*<sup>74</sup> is the leading authority on what activities should be assumed to be part of the future environment when assessing effects of an activity “*on the environment*”. The Court of Appeal in that case held that:<sup>75</sup>

The “environment” embraces the future state of the environment as it might be modified by the utilisation of rights to carry out a permitted activity under a district or regional plan or by the implementation of resource consents which have been granted at the time a particular application is considered, where it appears likely that those resource consents will be implemented.

- 85 The existing environment does not include the past environment (including the Terrace on the Park apartments and the Bishopspark retirement village).

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<sup>74</sup> *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424 (CA).

<sup>75</sup> *Queenstown Lakes District Council v Hawthorn Estate Ltd*, paragraph 84.

- 86 The existing environment also does not include speculative future development (including the future development of 5 Salisbury Street or the future of 76 Park Terrace in light of the fire it experienced<sup>76</sup>).

*Application*

- 87 The Ryman and Council witnesses have provided comprehensive and objective descriptions of the current environment relevant to their areas of expertise, and submitters have provided their appreciations of the current environment. For example, in relation to the character of the neighbourhood, the evidence establishes that this neighbourhood is varied<sup>77</sup>, has been through considerable change following extensive earthquake damage<sup>78</sup>, has a rich diversity of architectural eras and styles<sup>79</sup>, and includes an eclectic mixture of architecture and scale<sup>80</sup>.
- 88 You will no doubt have considered the surrounding neighbourhood as you undertook your site visit. You will have observed the ongoing change in this location, including the construction of the six level apartment building at 108 Park Terrace. This building is part of the existing environment (it was also processed on a non-notified basis), but as Mr Burns noted also points to the future character anticipated in this location.<sup>81</sup>
- 89 At paragraph 4.7 and elsewhere, Mr Clearly seeks to confuse what the Ryman experts have actually done by inappropriately conflating the factual exercise of defining the existing environment with the use of the permitted baseline as an evaluative tool. The Ryman experts have not attempted to define the existing environment by reference to a fanciful anticipated development on the Ryman site and then only assessed any effect over and above that. To do so would be a highly unusual and novel approach in the circumstances. The Ryman experts have separately defined the environment based on what exists now and what could exist as of right, as is appropriate under the Hawthorn case law. They have then assessed the effect of the Proposed Village on that environment, while also having appropriate regard to the District Plan.
- 90 The current environment also includes the current amenity experienced by neighbours. In relation to 15 Peterborough Street, Ms Skidmore noted the existing shading experienced by the lower

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<sup>76</sup> At the hearing, Commissioner Mountford commented on the uncertain future of this property in light of the fire. The assessment of effects on this property must assume it will be restored to its pre-fire condition

<sup>77</sup> SOE Skidmore, paragraph 53. SOE Burns, paragraph 54. Noting Ms Schroder agreed with Ms Skidmore's explanation of the site context: Council Officer's Report - Appendix 1, paragraph 25.

<sup>78</sup> SOE Skidmore, paragraph 53. SOE Burns, paragraph 54.

<sup>79</sup> SOE Skidmore, paragraph 53.

<sup>80</sup> Presentation by Mr Worthington.

<sup>81</sup> SOE Burns, paragraph 23.5.

level apartments as a result of vegetation.<sup>82</sup> Ms Schroder noted that most of this vegetation is within the Sites.<sup>83</sup> This existing vegetation, and the shade it produces, forms part of the existing environment. The change in amenity that 15 Peterborough Street will experience from the Proposed Village is thus lessened because their existing amenity is already defined by shading from this vegetation.

- 91 Similarly, 76 Park Terrace has a belt of established vegetation along its northern boundary. The existing vegetation could be removed by the property owners as a permitted activity, although that is somewhat fanciful given its clearly long existence. If those property owners valued that sunshine, they would have removed the trees long before now (particularly since the trees may have previously screened the 'Terrace on the Park' apartments, but the Peterborough Site has been empty for some time).
- 92 In making this point, Ryman is not relying on a third party to mitigate effects on a neighbour (eg trees on council land providing screening). Rather, it is simply to note, as has been accepted by the Environment Court, that shading from existing trees is obviously part of the existing environment and therefore relevant when assessing the effects of a new proposal.<sup>84</sup>
- 93 In addition to the current environment, the existing environment for the purposes of assessing the effects of the Proposed Village includes activities that are consented and are being or are likely to be implemented. This category includes the apartment building at 108 Park Terrace, the Stables building, and the Centro Hotel.

***What is the meaning of 'appropriate to its context'?***

- 94 The starting point is that 'appropriate to its context' does not mean 'appropriate to the existing environment'. If that interpretation was intended, the matter of discretion would have used that terminology. It would not have recorded that developments will bring change to existing environments. At this early point, Mr Cleary and the witnesses for his clients start to come unstuck. They take a very narrow view of context. They place too much weight on the existing environment, and take the view (unsupported by the District Plan) that the status quo should be preserved.<sup>85</sup>

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<sup>82</sup> SOE Skidmore, paragraph 188.

<sup>83</sup> Schroder summary, paragraph 48.

<sup>84</sup> For example, *Anzani Investments Ltd v North Shore City Council*, (NZEnvC, Auckland, 15/11/2001), paragraphs 27-28.

<sup>85</sup> Legal submissions for Centro Roydvale Ltd, paragraph 7.3. SOE Clay, paragraphs 26-28, 37-38. SOE Archer, paragraph 20.

*What is the context?*

95 Context is a wide concept. It can be defined as “*the circumstances that form the setting for an event, statement or idea, and in terms of which it can be fully understood*”.<sup>86</sup>

96 It is submitted that ‘context’ incorporates:

96.1 The existing environment;

96.2 The Proposed Village design and how it relates with, responds to, interfaces with, and affects the existing environment. Both positive and negative effects are included; and

96.3 The planning context and the expectations it establishes for this area. The planning context is a mandatory consideration under section 104(1)(c) and informs the assessment of effects under section 104(1)(a).<sup>87</sup>

97 It is necessary to evaluate all of these matters to determine whether an application is ‘appropriate to its context’.

98 The planning expectations for this area are particularly important. The matter of discretion for retirement villages (Rule 14.15.9) is understandably generally worded, as it applies to all restricted discretionary activity rules for retirement villages across all of the residential zones.<sup>88</sup> Because it has such wide application, this matter of discretion needs to be interpreted by reference to the objectives and policies applying to the location.<sup>89</sup>

99 Mr Cleary says that ‘context’ is necessarily limited to the current environment (or potentially the historic environment) based on what he says is ‘implicit’ in a reading of Rule 14.15.9.<sup>90</sup> With respect, there is nothing in the meaning of ‘appropriate response to context’ that requires a focus on the existing environment only. As discussed below, the planning context indicates that such a narrow reading of the matter of discretion is inconsistent with the supporting planning framework.

*What direction does the planning framework provide on the meaning of ‘appropriate to its context’?*

100 Chapter 14 – Residential of the District Plan includes general objectives and policies, as well as objectives and policies specific to

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<sup>86</sup> Oxford Languages.

<sup>87</sup> See footnote 33 above.

<sup>88</sup> Rule 14.4.1.3.RD10 (Residential Suburban Zone), Rule 14.5.1.3.RD2 (Residential Medium Density Zone), Rule 14.7.1.3.RD8 (Residential Hills Zone), Rule 14.8.1.3.RD14 (Residential Banks Peninsula Zone), Rule 14.9.1.3.RD5 (Residential Large Lot Zone), 14.10.1.3.RD4 (Residential Small Settlement Zone), Rule 14.12.1.3.RD3 (Residential New Neighbourhood Zone).

<sup>89</sup> See paragraph 46 above..

<sup>90</sup> Legal submissions for Centro Roydvale Ltd, paragraphs 7.2-7.5.

the Residential Central City Zone. The general provisions are relevant to the Proposed Village, but more weight should be given to the more specific and/or more directive provisions where necessary.<sup>91</sup>

- 101 The following paragraphs address the direction provided in the Chapter 14 objectives and policies that assist with the meaning of 'appropriate to its context' in Rule 14.15.9. It will be seen that the District Plan has a clear and deliberate strategy for resolving the 'existing versus change' tension:

101.1 *Objective 14.2.1 – Housing supply*: This objective provides high level support for an "increased supply of housing", including a "wide range of housing types" that "meet the diverse needs of the community". This supports the view that 'appropriate to context' is not limited to preserving the status quo, and instead must provide for diversity and change.

101.2 *Policy 14.2.1.1 – Housing distribution and density*: This policy is very directive. It requires residential development to be provided for in a manner that "ensures... high density residential development in the Central City". It seeks a net density of "at least 50 households per hectare".<sup>92</sup> It is submitted that the purpose of this density measure is to promote intensification and therefore an increase in the Central City population<sup>93</sup>, rather than restricting the building form in the neighbourhood. Notably, the Proposed Village will provide 172 and 157 units per hectare on the Bishopspark and Peterborough Sites respectively.<sup>94</sup> However, the population resulting from that density (339 residents<sup>95</sup>) is lower than the unit numbers would suggest.

101.3 Table 14.2.1.1a describes the Residential Central City Zone as "[p]roviding for a range of housing types, including attractive, high density living opportunities". Read with Policy 14.2.1.1, this description acknowledges that new development will be high density, but this new development will sit in an environment with a range of existing housing types. In this regard, Mr Cleary's interpretation of the policy, that it

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<sup>91</sup> *Appealing Wanaka Inc v Queenstown Lakes DC* [2015] NZEnvC 139, paragraph 89.

<sup>92</sup> As Ms Skidmore explained at the hearing, this policy reflects urban design 'first principles'. In order to generate more activity in the central city, a higher population is needed. Due to land scarcity, that population requires high intensity residential development, which should ideally be located close to good amenities.

<sup>93</sup> See Policy 14.2.1.3(a)(ii).

<sup>94</sup> Further Information Response – 17 November 2020, page 2.

<sup>95</sup> Further Information Response – 17 November 2020, page 2.

requires a range of development not just high density development, is incorrect.<sup>96</sup>

101.4 It is noted that the Residential Central City Zone description focuses on “*liveable city values*” and “*the potential for living, working and playing in close proximity to the commercial centre of the city*”. In comparison to other zones, the description does not refer to landscaping or gardens. This reflects the intention for this central city location – it is not intended to be a ‘peaceful and quiet’ village or suburban location, as some submitters suggested.<sup>97</sup>

101.5 *Policy 14.2.1.3 – Residential development in the Central City:* This policy sits under Objective 14.2.1 relating to housing supply. It recognises the need to provide flexibility for a range of housing types. Retirement village are critical to providing for a variety of housing types to meet the different needs of the community. This policy also provides for the increase in the residential population of the Central City, consistent with the intensification direction in Policy 14.2.1.1. Finally, it is noted that paragraph (c) refers to the protection of the amenity of inner city residential neighbourhoods. This protection is not absolute, and Policy 14.2.8.2 (discussed below) provides more direction as to the meaning of protection in this Central City context.

101.6 *Policy 14.2.1.8 - Provision of housing for an aging population:* This policy places particular emphasis on providing for housing that meets the needs of older persons throughout residential areas. It recognises that housing for older persons can require higher densities than typical residential development for efficient provision of assisted living and care. This policy direction for ‘higher density’ applies across all residential zones. In the Central City context, it underlines the importance of providing for high density residential development to meet the needs of this community.

101.7 *Objective 14.2.4 – High quality residential environments:* This objective envisions high quality residential neighbourhoods across Christchurch.

101.8 *Policy 14.2.4.1 – Neighbourhood character, amenity and safety:* This policy identifies that ‘high quality’ means design that “*reflect[s] the context, character, and scale of building anticipated in the neighbourhood*”. The word ‘anticipated’ can be defined as to “*regard as probable; expect or predict*”.<sup>98</sup> It is a forward-looking term – not a backward-looking term. It

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<sup>96</sup> Legal submissions for Centro, paragraph 9.4.

<sup>97</sup> L. Trustuum; M. Cottle; and D. Shand (ICON).

<sup>98</sup> Oxford Languages.

does not for instance mean “*what is there now*”, as Ms Clay stated in response to a question from the Commissioners on this policy. It also does not ‘lock in’ the predominant form of development since the earthquakes, as suggested by Mr Cleary.<sup>99</sup> It must be a term that can be objectively applied, rather than being subject to the views of particular persons (i.e. individual applicants, submitters, or Council officers) given the uncertainty that would result in. It is submitted that ‘anticipated’ in this policy must be read as ‘anticipated by the District Plan’. It is noted that paragraph (iii) of this policy covers a matter not relevant under the matters of discretion (on-site amenity).

101.9 *Objective 14.2.8 – Central City residential role, built form and amenity*: This policy is specific to the Residential Central City Zone, and therefore highly relevant to the application. Part (a) of the Objective sets out the intended outcome for the Residential Central City Zone, and reflects the Zone description discussed above.

101.10 Part (b) of the Objective is focused on built development, and in particular its ‘form’. It is to “*enable change to the existing environment, while...*”. This objective therefore positively directs change to the existing environment. This supports the view that ‘appropriate to context’ is not directed to preserving the status quo, and instead must provide for change.

101.11 The word ‘while’ means “*at the same time as*”.<sup>100</sup> The use of the word ‘while’ reflects the potential for tension between the requirement for change and the need to “*contribut[e] positively to the amenity and cultural values of the area, and to the health and safety, and quality and enjoyment, for those living within the area*” (as discussed at the hearing). However, this potential tension dissolves if close attention is paid to the wording of this Objective and the supporting policies.

101.12 The reference to “*contributing positively to the amenity and cultural values of the area, and to the health and safety, and quality and enjoyment, for those living within the area*” is not referring exclusively to the protection of the status quo or current amenity. Development itself can also contribute positively to the amenity and quality of an area through the positive benefits that development itself offers. This objective is focused on achieving positive outcomes from built development, and is not just about avoiding adverse effects. Further, the associated policies provide clear direction that

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<sup>99</sup> Legal submissions for Centro, paragraph 9.11.

<sup>100</sup> *King Salmon*, paragraph 24(c).



allows tensions in relation to existing amenity to be resolved, as discussed in the following paragraphs.

101.13 *Policy 14.2.8.1 – Building heights:* As Dr Mitchell explained in his summary statement, the District Plan provides for a reduced height of 11m in some areas of the Residential Central City Zone. This policy therefore is not relevant to the Sites. To the contrary, the District Plan provides for a special 20m height standard for the Peterborough Site and the 14m height standard applies to the Bishopspark Site. Even if this policy did apply, it would suggest that such building heights should be presumed to be “*compatible with the existing predominant character*”.

101.14 *Policy 14.2.8.2 – Amenity standards:* This policy is highly directive. It is submitted that it cannot be interpreted as a process policy (ie simply requiring minimum standards to be prescribed by someone) as both the policy and the standards were put in place through the same planning process. Instead, this policy identifies the purpose of minimum standards. It must therefore be interpreted as a clear statement of the intention for the built form standards to guide the assessment of amenity effects in the Central City Residential Zone.

101.15 Again, this policy does not provide for the maintenance of the status quo or current amenity. Rather, it directs the level of amenity and integration anticipated in the Residential Central City Zone, as the zone undergoes the expected change driven by the necessary high density residential development. In the context of the expected change in this zone, the standards are important to provide a level of certainty, rather than leaving these issues to be debated on a case-by-case basis. Mr Cleary acknowledged that this policy means the built form standards “*provid[e] some guidance as [to] the appropriateness of large scale buildings*”.<sup>101</sup>

101.16 The Residential Central City Zone provisions (Objective 14.2.8 and Policies 14.2.8.1-2) stem from the Christchurch Central Recovery Plan.<sup>102</sup> At that time, the development standards were described as being intended to:<sup>103</sup>

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<sup>101</sup> Legal submissions for Centro, paragraph 9.14.

<sup>102</sup> Stage 3 Section 32 Report - Chapter 13 – Central City (Notified 25 July 2015), section 2.2.1.

<sup>103</sup> Christchurch Central Recovery Plan – Residential Chapter – January 2015 ‘A Liveable City, pages 8 and 16.

- (a) *"benefit new residents and protect the amenity of those residents who have already made their home in the central city";*
- (b) *"allow residential developments to progress more quickly...";*
- (c) *"provide certainty for investors, developers, designers and home owners with a clear assurance of minimum standards of amenity, but without constraining flexibility to provide housing that varies in design, pricing and quality above this minimum standard".*

This background material assists in confirming the interpretation of the provisions set out above.

101.17 *Rule 14.6.1.3.RD4:* This rule specifies that retirement village buildings that meet the identified built form standards shall not be limited or publicly notified. The Independent Hearings Panel decision records that limited and public notification were excluded in the District Plan where effects are not likely to impact on immediate neighbours.<sup>104</sup> This statement confirms the expectation that the built form standards are intended to guide expected amenity in this zone. The Independent Hearings Panel also specifically considered whether or not it was appropriate to presume non-notification for applications for retirement buildings in the Residential Central City Zone where they comply with applicable built form standards. It found such a presumption was appropriate, as retirement villages should be treated, *"in a manner that is consistent with our approach to similar notification rules for other activities."*<sup>105</sup>

101.18 It is submitted that the District Plan itself clearly resolves any apparent 'tension' between intensification directives and amenity considerations within the planning framework. There is no expectation of maintaining the status quo or current amenity, and the District Plan provides clear direction as to the change that needs to occur in the Central City.

102 In summary, it is submitted that this planning context provides very clear direction concerning the meaning of 'appropriate to its context' in Rule 14.15.9. High quality, high density residential buildings that will meet the needs of the aging population and have been carefully designed to respond to its neighbourhood, such as the Proposed Village buildings, is development that is appropriate to its context.

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<sup>104</sup> Decision 10, paragraph 85. Decision 43, paragraph 270.

<sup>105</sup> Paragraph [270], Decision 43 Central City — Stages 2 and 3, 20 September 2016.

***What is the scope of the matters to be 'taken into account' in paragraphs (a)(i) to (viii) of Rule 14.15.9?***

***Relevance of heritage values outside the Sites***

- 103 The consideration of, "*retention or response to existing character buildings*" under (iii) is limited to those located on the Sites (ie the Chapel). It does not permit consideration of heritage values outside the Sites (ie the Dorset Street Flats).<sup>106</sup> Nevertheless, Ms Schroder and Ms Richmond for Council and some submitters<sup>107</sup> sought to rely on other matters in paragraphs (a)(i) to (viii) to justify consideration of the heritage-related impacts on the Dorset Street Flats. Ms Richmond, Council's Heritage Advisor, said that she "*considered heritage as an aspect of amenity effects*".<sup>108</sup> Ms Schroder said "*the heritage values of the Dorset Street flats... contribute to the character values and amenity of the neighbourhood*".<sup>109</sup>
- 104 There is no dispute that the Dorset Street Flats are part of the neighbourhood context at a general level. However, consideration of the specific "*response*" to character buildings outside the Site is not a matter of discretion. The approach of Council witnesses and submitters seeks to 'read in' that excluded matter into other matters. With respect, that approach seeks to extend the matters of discretion in a manner that is inconsistent with the restricted discretionary activity status of the activity.
- 105 In addition, the Flats are used for residential purposes. As explained by Ms Skidmore and Mr Burns<sup>110</sup>, the heritage values of a building do not alter how its residents experience residential amenity in terms of outlook, privacy or access to sunlight (the matters referred to in Rule 14.15.9(a)(vi)).
- 106 Accordingly, it is submitted that the heritage values of the Dorset Street Flats are not relevant to the assessment of the effects of the Proposed Village under any of the matters in paragraphs (a)(i) to (viii).

***Relevance of commercial amenity***

- 107 There was some discussion in the hearing about the sensitivity of commercial and hotel buildings, compared to residential neighbours.<sup>111</sup>

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<sup>106</sup> SOE Mitchell, paragraph 72. Council Officer's Report, paragraphs 101, 209.

<sup>107</sup> Including R. Pearson; C. Garlick; Dorset St Flats Owners Group; Dr J. Roper-Lindsay; and J. Roper-Lindsay.

<sup>108</sup> Summary – Richmond, paragraph 6.

<sup>109</sup> Summary – Schroder, paragraph 40.

<sup>110</sup> SOE Skidmore, paragraph 30. SOE Burns, paragraph 186(c).

<sup>111</sup> The District Plan definition of residential activity excludes guest accommodation. Objective 14.2.6 and Policy 14.2.6.7 indicate that guest accommodation is to be restricted in the residential zones. In the Residential Central City Zone, guest accommodation over 40m<sup>2</sup> but less than 201m<sup>2</sup> is a discretionary activity if at

- 108 As Ms Skidmore explained at the hearing, commercial users are generally focused on their work tasks, not enjoyment of their environment.<sup>112</sup> Further, the short-term habitation of hotel rooms reduces their sensitivity, and hotel guests have different amenity expectations.<sup>113</sup> It is a well-accepted urban design principle that residential uses are more sensitivity to amenity changes than commercial uses.<sup>114</sup>
- 109 In any event, it is noted that the matter in 14.15.9(a)(vi) is limited to residential amenity for neighbours. It does not extend to the amenity experienced by commercial uses.

**Application of Rules 14.15.27 - 30**

- 110 These matters of discretion are focused on the effects of the built form standard that is not met.<sup>115</sup> They include consideration of the extent to which the exceedance is necessary for efficiency, cost effectiveness, and practicality considerations, as well as protection of significant trees or natural features.
- 111 As was explained throughout the hearing by Ryman witnesses, the functional and operational requirements of the Proposed Village were critical drivers for its design. For example, Building B01 needs to be a large connected building because of the various amenities and care rooms it offers. This requirement results in a large building footprint, but the building remains of a residential scale through careful application of design features.<sup>116</sup> Further, the Proposed Village has a carefully balanced unit mix to provide a continuum of care for its future residents. Any change to the number of independent apartments, would affect the ability to provide the care rooms.<sup>117</sup>
- 112 Further, the design process necessarily involves trade-offs. Any one expert may prefer a particular outcome, but that may not be possible because of the flow-on impacts of that outcome.
- 113 For example, providing a truck turning area at the Dorset Street access would have required a large area of unused space with its

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least one employee resides permanently on the site (Rule 14.6.1.4.D2). Guest accommodation is otherwise a non-complying activity.

<sup>112</sup> Supplementary Skidmore and Burns, paragraph 20.

<sup>113</sup> SOE Skidmore, paragraph 255. Supplementary Skidmore and Burns, paragraph 22.

<sup>114</sup> SOE Skidmore, paragraphs 164 and 251.

<sup>115</sup> Rule 14.16.1.3.RD5: "*And as relevant to the built form standard that is not met...*"

<sup>116</sup> Summary Brown, paragraphs 6-8. SOE Moore, paragraphs 34-35 (addressing retirement village typologies), 36-46 (addressing Ryman's village and residents) and paragraph 80. SOE McGowan, paragraph 55 (addressing building use requirements). AEE, section 1.3 (project rationale), 2.1 (layout and design of the Proposed Village).

<sup>117</sup> Summary Brown, paragraphs 12, 16 and 19. SOE McGowan, paragraph 55. AEE, section 1.3 (project rationale), 2.1 (layout and design of the Proposed Village).

consequent inefficiencies, as well as impacts on the design and landscaping proposal.

- 114 A further example is Building B08, which provides a large 'cut out' to allow for the protection of the scheduled Common Lime Tree. Building B08 also exceeds the recession planes. This exceedance allows for 3 additional units to be provided<sup>118</sup> that may otherwise be able to be located in the 'cut out' area.
- 115 Ryman's responses to Minutes 5 and 6 address additional efficiency, cost effectiveness, and practicality considerations in relation to the particular building elements noted by the Commissioners. The responses address the implications of changing those elements to meet the relevant built form standards.
- 116 As noted earlier, Ryman has not relied on efficiency, cost effectiveness, and practicality considerations to justify the various breaches of the built form standards. The Proposed Village exceedances that trigger these matters of discretion are very limited across the Sites, and their effects are largely assessed as minimal by the appropriate experts. The breaches are also a consequence of the highly nuanced design approach and are submitted to be appropriate to their context.
- 117 However, to the extent considered necessary, it is submitted that the Commissioners can rely on the evidence and responses to the Minutes to justify these breaches based on efficiency, cost effectiveness, and practicality considerations. We address responses to Minute 6 further below.

## **EFFECTS ON THE ENVIRONMENT**

- 118 This section of the legal submissions addresses:
- 118.1 Matters that are not relevant effects on the environment;
- 118.2 The approach to evaluating expert evidence and submissions;  
and
- 118.3 Summarises the evidence on the key effects categories.

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<sup>118</sup> As set out in the Memorandum of Counsel dated 24 February 2021, Building B08 could be redesigned to fully comply with the recession planes adjacent to 15 Peterborough Street. This would require a central level to be removed. The top level would not be removed in order to keep the architectural language consistent and retain the top-level setback.

## **MATTERS THAT ARE NOT RELEVANT EFFECTS ON THE ENVIRONMENT**

### **Consultation**

- 119 Some submitters raise concerns about a perceived lack of consultation undertaken by Ryman for the Proposed Village.
- 120 From a legal perspective, there is no requirement to consult on a resource consent application.<sup>119</sup> In addition, consultation is not a relevant matter of discretion.<sup>120</sup>
- 121 In any event, Ryman has consulted extensively. Mr Moore's evidence provides a summary of key consultation activities.<sup>121</sup> Ryman engaged extensively with Council during the evolution of the Proposed Village. Material amendments were made to the proposal in response to Council officer and Urban Design Panel feedback. As noted, Heritage NZ has been consulted and supports the proposal to restore the Chapel.
- 122 Further, in response to community concerns, Ryman requested public notification of the application, ensuring all interested parties had an opportunity to make a submission on the Proposed Village. The matters raised in submissions were carefully considered by Ryman and its expert team. In some cases, amendments to the conditions were proposed to address submitter concerns.
- 123 Ryman also held four drop-in days, which were well attended, and met individually with some neighbours. Several neighbours provided written approval as a result (90 Park Terrace and The George Hotel). This engagement led to some further amendments to the Proposed Village, such as the removal of a proposal to relocate a large tree to the boundary with 15 Salisbury Street following a meeting with Mr and Mrs Bennett.
- 124 Ryman will continue to engage with neighbours through the construction process. For example, the Construction Noise and Vibration Management Plan (condition 19) will set out the process for Ryman to notify neighbours prior to construction activities commencing on site, and other procedures for maintaining contact with stakeholders.

### ***Response to the legal submissions for Centro Roydvale Ltd in relation to consultation***

- 125 Mr Cleary referred to the *Yaldhurst Quarries Joint Action Group v Christchurch City Council*<sup>122</sup> decision, and suggests the Ryman

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<sup>119</sup> RMA, s 36A. Noting that resource consent applications should identify any consultation undertaken and any response to the views of any person consulted: RMA, schedule 4(6).

<sup>120</sup> Rules 14.15.9, 14.15.27-30.

<sup>121</sup> SOE Moore, paragraphs 55-57.

<sup>122</sup> [2017] NZEnvC 165.

experts did not have sufficient information to assess amenity effects on neighbours due to a lack of consultation.

- 126 There are a number of factors that distinguish this application from the *Yaldhurst Quarries* proposal:

126.1 The *Yaldhurst Quarries* decision concerned the impact of a quarry on rural character.<sup>123</sup> The cumulative effects of extensive quarrying in the area were a particular concern.<sup>124</sup> In contrast, the Proposed Village is a residential activity in a residential zone. As Ms Skidmore explained, residential amenity is well understood by urban designers.

126.2 In *Yaldhurst Quarries* the District Plan did not identify the character attributes of the area.<sup>125</sup> The assessment process was difficult because the relevant provisions focused on subdivision and buildings, and didn't particularly assist with an assessment of a quarry.<sup>126</sup> In contrast, the District Plan relevant to the Proposed Village has very recently been through a fully public process. It contains clear guidance on residential amenity expectations in this zone.

126.3 Mr Cleary referred to a comment by the Environment Court regarding the need to inquire into residents' amenity values.<sup>127</sup> This statement related to an expert who was engaged to consider the differences between two expert views, rather than undertake her own assessment.<sup>128</sup> In light of this limitation, the Court treated her evidence "*with caution*".<sup>129</sup> The Court did not say that it is necessary to talk directly to or 'conference with' every potentially affected person to understand their amenity values.

- 127 On the other hand, the *Yaldhurst Quarries* decision (upheld by the High Court) is authority for the need for experts to:

127.1 "*identify the values of people and communities*" (and "*explain how they ascertained the values of people and communities*");

127.2 "*ascertain whether the District Plan identifies any valued attributes or characteristics for the relevant zone*";

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<sup>123</sup> *Yaldhurst Quarries*, paragraphs 120-124.

<sup>124</sup> *Yaldhurst Quarries*, paragraph 147.

<sup>125</sup> *Yaldhurst Quarries*, paragraph 126.

<sup>126</sup> *Yaldhurst Quarries*, paragraph 146.

<sup>127</sup> Centro legal submissions, paragraph 11.2.

<sup>128</sup> *Yaldhurst Quarries*, paragraph 151.

<sup>129</sup> *Yaldhurst Quarries*, paragraph 151.

127.3 “determine whether the amenity values are reasonably held” (noting that “residents’ views on their existing amenity is subjective”); and

127.4 assess the adverse effects “in light of the outcomes for the relevant resources and values under the District Plans”.<sup>130</sup>

128 On appeal, the High Court acknowledged the value of the opinions of submitters, but cautioned that they needed to be “objectively assessed against the ... District Plan and other expert evidence”.<sup>131</sup> It also confirmed that the *Yaldhurst Quarries* decision did not require ‘conferencing’ with neighbours.<sup>132</sup>

129 Ryman’s experts have met those requirements by:

129.1 Applying their significant experience in assessing amenity effects;

129.2 Closely considering the receiving environment;

129.3 Analysing the District Plan;

129.4 Considering feedback from the Council; and

129.5 Reviewing public submissions.

130 The Commissioners have also heard from a number of the submitters during the hearing and visited submitter properties. It is submitted that the Commissioners have more than sufficient information to make determinations on the amenity effects of the Proposed Village.

131 In contrast, some other witnesses (notably Ms Clay and Ms Dray) did not assess the adverse effect on amenity values “in light of the outcomes for the relevant resources and values under the District Plans”. It is submitted that the weight to be given to their evidence must be reduced in light of that oversight.

### **Conclusion**

132 Ryman considers that consultation on the Proposed Village has been inclusive and appropriate. Ryman has actively listened and has reacted genuinely and positively. It has adopted a pragmatic and solution-focused approach to managing issues identified by the Council officers, submitters and other stakeholders (eg Heritage NZ). Criticism of Ryman’s consultation is therefore submitted to be

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<sup>130</sup> *Yaldhurst Quarries*, paragraph 117.

<sup>131</sup> *Harewood Gravels Company Ltd v Christchurch City Council* [2018] NZHC 3118, paragraph 226.

<sup>132</sup> *Harewood Gravels*, paragraph 227.



unfounded. But the adequacy of consultation is not a matter the Commissioners may consider in any case.

**The Proposed Village is a residential activity**

- 133 Some submitters raised concerns with Ryman being a 'business' and suggested that the Proposed Village is therefore inappropriate in a residential area.<sup>133</sup> Some submitters said the Proposed Village is not residential, and more akin to a hospital or hotel.<sup>134</sup> Some submitters said the Proposed Village is more akin to a commercial building or should locate in a commercial zone.<sup>135</sup>
- 134 With respect, these submitters misunderstand the proposal.
- 135 Although retirement villages are regulated separately from 'residential activities' more generally<sup>136</sup>, the District Plan structure clearly acknowledges that retirement villages are residential activities. Retirement villages are specifically provided for in the Residential Central City Zone with the 'use' component being a permitted activity and the 'building' component of a retirement village being a restricted discretionary activity. In comparison, non-residential activities in the zone are generally non-complying.<sup>137</sup>
- 136 The fact that the Proposed Village will provide medical care and ancillary services, and will be operated as a commercial venture does not alter the fact the Proposed Village will provide living accommodation. The Proposed Village will be the permanent home of its future residents.<sup>138</sup> The fact that Ryman intends to grow its business as result of the proposal is irrelevant. In fact, Ryman can be contrasted to most residential property developers, as it operates its villages for the long term rather than having only a short term development interest.
- 137 The Council Legal Memo agrees that the Proposed Village is a residential activity.<sup>139</sup> Further, as set out in the evidence of Dr Mitchell, the definition of retirement village in the District Plan contemplates accessory non-residential and recreational services and facilities on-site. Consistent with that definition, the Proposed

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<sup>133</sup> For example, L Trustuum, D Turner.

<sup>134</sup> For example, D Cottle.

<sup>135</sup> For example, ICON and L Trustuum.

<sup>136</sup> Rule 14.6.1.1.P1 regulates a residential activity and Rule 14.6.1.1.P12 regulates an activity associated with a retirement village.

<sup>137</sup> Rule 14.6.1.5.

<sup>138</sup> See for example *Hawkesbury Avenue, Somme Street and Browns Road Residents Association Inc v Merivale Retirement Village Ltd*, AP 139/98 (Christchurch), 3 July 1998, Chisholm J, at page 21-22.

<sup>139</sup> Council Legal Memo, paragraphs 14-27.

Village will provide a range of amenities for the future residents, but these will not be available to the public.<sup>140</sup>

- 138 In any event, it is not necessary to determine whether the Proposed Village is a residential activity. As noted, the 'use' aspect of the Proposed Village is permitted. Resource consent is only required for the buildings associated with the Proposed Village. The evidence of Mr McGowan and Ms Skidmore addresses the characteristics of the Proposed Village design that ensure the buildings will have a residential character.

**Views are not protected**

- 139 Mr Glen Stapley appeared at the hearing for Centro Roydvale Limited (*Centro*). His primary concern about the Proposed Village was the 'loss' of views to Hagley Park and the Port Hills from the Hotel (currently under construction).<sup>141</sup>
- 140 As noted earlier, amenity effects on the hotel are not relevant considerations under Rule 14.15.9, given the discretions only applying to neighbouring "residential" amenity. Thus, the effect that Centro is concerned about would only be relevant to the extent that it results from an exceedance of the built form standards.
- 141 Mr Stapley suggested the scale of the Proposed Village could not reasonably have been expected by Centro.<sup>142</sup> In response to a question from Commissioner Mountfort regarding the company's due diligence process, Mr Stapley acknowledged that he knew the Site could be redeveloped but, "*wasn't interested in*" the District Plan standards, because he was advised that neighbours could object to any development proposal.
- 142 As the Commissioners are aware, a development proposal that complies with the built form standards cannot be limited or publicly notified.<sup>143</sup> Mr Stapley was therefore misadvised. In light of the 14 metre height standard applying to the Bishopspark Site, Centro should have reasonably anticipated development to that height level. The Proposed Village has very limited breaches of the recession planes on the boundary with the Hotel.<sup>144</sup>
- 143 In any event, views are not protected by law and are not an entitlement. The Site is a large piece of undeveloped private land. With the rarity of such sites in central Christchurch, the reality is that it will be developed. The District Plan anticipates and encourages high density development of the Site. Any views from

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<sup>140</sup> SOE Mitchell, paragraph 46.

<sup>141</sup> Stapley summary, paragraphs 13, 16, 19, 21, and relief seeking 2 storey maximum. See also SOE Clay, paragraph 45.

<sup>142</sup> Stapley summary, paragraph 32.

<sup>143</sup> 14.6.1.3.RD2 and RD4.

<sup>144</sup> SOE Burns, paragraph 120.

the Hotel would be lost in any event through complying development of the Site. If the Hotel considered there was a resource management reason to protect views from that property, the appropriate time to seek protection of views was at the recent District Plan making stage.

- 144 In conclusion, it is submitted that the submission for Centro can be given little weight in light of its focus on views.

#### **Effects on future development intentions**

- 145 The written statement filed on behalf of Lisa and Bruce Goodland notes that, although the property at 5 Salisbury Street is currently vacant, the owners intend to build a home on the property.<sup>145</sup> As set out in Dr Mitchell's summary statement, any residential development at 5 Salisbury Street will require a resource consent.<sup>146</sup> Future development of this property is therefore not part of the 'existing environment' for effects assessment.

- 146 Ryman's experts have correctly assessed the effects of the Proposed Village on this property as it exists now (ie vacant). Nevertheless, Ms Skidmore also addresses the potential effects on this property as if it had been developed in her summary statement. She concluded that there will not be inappropriate residential amenity effects.<sup>147</sup> At the hearing, Ms Skidmore confirmed that the design of Building B01 will not limit the future development of the property.

#### **Regional consents**

- 147 Ryman has applied for resource consents from the Canterbury Regional Council for earthworks, installation of a bore, a water permit for taking groundwater during construction, and a discharge permit to authorise the operation of an emergency generator.
- 148 Some submitters have sought that the hearing for the district consents be held jointly with, or delayed pending the outcome of, the application for regional consents.
- 149 The Commissioners have been tasked with determining the application before them, and have sufficient information to do that.<sup>148</sup> You can take particular comfort from the fact that Council has accepted Ryman's application for processing and all section 92 requests have been appropriately addressed. In that sense, the requirements of Section 88 and the rigours of Schedule 4 have been satisfied. It is therefore not necessary for the submitters' relief to be met.

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<sup>145</sup> Statement of L & B Goodland, 21 January 2021.

<sup>146</sup> Mitchell summary, paragraphs 73-74.

<sup>147</sup> Summary Skidmore, paragraph 26.

<sup>148</sup> Mr Malan's evidence includes some information about groundwater effects for information purposes only to respond to submitters.

## THE APPROACH TO EVALUATING EVIDENCE

### Expert versus layperson input

- 150 It is noted at the outset that there is a high level of alignment between the expert witnesses for Ryman and the Council as to the scale and appropriate management of effects, including effects on neighbours adjoining the Site and the wider environment.
- 151 We submit that the Commissioners can and should put considerably more weight on the opinions expressed by the experts who have presented evidence (with the exception of Ms Clay and Mr Archer, for the reasons discussed below), as opposed to layperson's views expressed by submitters. Much caution should be exercised in accepting laypeople's views over an expert's view on environmental effects. This caution is particularly necessary where submitters have an inherent interest in the outcome (mainly in relation to amenity values in this case), whereas an independent expert does not.<sup>149</sup> Lay people may also 'perceive' effects on them, which are in fact unlikely to eventuate. In comparison, the role of experts is to objectively assess future realities.<sup>150</sup>
- 152 That is not to say that the submitters' views should be discounted. As stated by the High Court in *Yaldhurst*, their opinions are relevant considerations. That is, unless their perceptions of the Proposed Village are not supported by the facts.
- 153 Ryman has been highly cognisant of the potential effects on neighbours, including those who are submitters (as have the Council's experts). Ryman has adopted design techniques and drafted conditions that comprehensively manage those effects. It has also proposed several new conditions to directly address submitter concerns, and those few matters of detail raised by the Council witnesses.
- 154 Of course, for the reasons noted, submitters' amenity expectations do need to be tested against the planned character for the Sites as indicated by its Residential Central City zoning, not against the status quo.
- 155 Some submitters' views are also coloured by their misunderstanding of the Proposed Village. At the hearing, some submitters in opposition voiced their fears about the scale and bulk of the Proposed Village, but could not necessarily express how that would

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<sup>149</sup> In *Yaldhurst Quarries* ([2017] NZEnvC 165) the Environment Court noted that it is important to determine whether amenity values are reasonably held "*because the residents' views on their existing amenity is subjective and influenced by personal feelings or opinions, including the strength of their attachment to this place*": paragraph 117.

<sup>150</sup> *Shirley Primary School v Christchurch City Council* [1999] NZRMA 66, "fears can only be given weight if they are reasonably based on real risk" (paragraph 193). Similarly, submitters concerns can only be given weight if they are based on factual evidence of effects.

be experienced as an amenity effect. As explained by the Ryman witnesses, it is necessary to appreciate all aspects of the design to properly evaluate the potential impacts of the Proposed Village. Further, the Proposed Village will never be viewed in its entirety. Although it has been designed in a comprehensive manner, with consistency in architecture, it will maintain the eclectic nature of the neighbourhood.

- 156 The Commissioners heard from a range of highly qualified and reputable independent experts who appeared for Ryman, and also the experts who appeared for Council (whose statutory role is to objectively test and interrogate the application). The Commissioners themselves appropriately tested the experts' views during the course of the hearing. Accordingly, it is submitted that the Commissioners can comfortably rely on the expert evidence presented to them. Although it is technically open to the Commissioners to choose not to accept the experts' views, it is submitted that the expert evidence should be accepted in favour of conflicting layperson evidence in this case.<sup>151</sup>

**Weight to be afforded to the evidence presented by Ms Clay and Mr Archer**

- 157 Ms Clay presented planning evidence for Centro and Mr Archer presented planning evidence for 18 Salisbury Street and 76 Park Terrace. Both witnesses agreed to comply with the Code of Conduct for Expert Witnesses. The Code requires expert witnesses to "*impartially assist the Court on matters within the expert's area of expertise*" and "*describe the ambit of the evidence given and state either that the evidence is within her or his area of expertise, or that the witness is relying on some other (identified) evidence*".<sup>152</sup> Despite that, both Ms Clay and Mr Archer provided evidence on matters well beyond the scope of planning evidence. Ms Clay addressed urban design and visual/landscape effects. Mr Archer addressed noise and geotechnical effects (acknowledging only that the latter was outside his expertise).
- 158 For example, Ms Clay professed a view that the scale of buildings, not other factors, has the most significant effects on adjoining properties. She disagreed with Ryman's landscape and urban design witnesses that commercial uses are less sensitive than residential uses.<sup>153</sup> Ms Clay also provided a table identifying the number of levels and footprints of buildings in the vicinity of the Site, without any other relevant factors relevant to amenity effects (such as what proportion of the site is built up, or any other relevant

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<sup>151</sup> *Shirley Primary School v Christchurch City Council* [1999] NZRMA 66, "fears can only be given weight if they are reasonably based on real risk" (paragraph 193). Similarly, submitters concerns can only be given weight if they are based on factual evidence of effects.

<sup>152</sup> Environment Court Practice Note 2014, 7.2 and 7.3(a)(iii).

<sup>153</sup> SOE Clay, paragraphs 30 and 52.

factors<sup>154</sup>). This evidence reflects Ms Clay's lack of expertise in the area of urban design and visual/landscape effects. In their rebuttal statement, Ms Skidmore and Mr Burns set out the flaws in Ms Clay's analysis, which further highlights the risks in straying beyond one's expertise.<sup>155</sup>

- 159 At the hearing, Ms Clay sought to justify her evidence based on the "*broad role of a planner*". However, Ms Clay did not focus her evidence on applying a 'planning lens' to the technical evidence. Rather she made unsubstantiated statements about those technical areas. For example, Ms Clay sought to rely on the matters of discretion to defend her position that the scale of a building is the most significant factor in determining amenity effects. However, there is nothing in the matters of discretion that elevate scale above other considerations. Scale is recognised as one factor among others. For example, rule 14.15.9(a)(iv) is "*appropriate response to context with respect to subdivision patterns, visible scale of buildings, degree of openness, building materials and design styles*".
- 160 Ms Clay also acknowledged that she had not considered the NPSUD in any detail, a document that clearly applies to the Proposed Village under section 104(1)(b) RMA.
- 161 Ms Clay's evidence also presented photomontage visualisations prepared by Glasson Huxtable Landscape Architects Limited, but the landscape architect did not appear at the hearing. In their rebuttal statement, Ms Skidmore and Mr Burns set out a number of issues with the visualisations.<sup>156</sup> Ms Clay did not engage with the more reliable and accurate visual simulations prepared by Ryman.
- 162 We have already addressed above the flaws in Mr Archer's evidence given its focus on comparing the Proposed Village to fanciful hypothetical scenarios. In addition, Mr Archer responded to the evidence of Ms Wilkening and was "*not convinced*" with her assessment of noise effects based on his viewing of videos of the piling system.<sup>157</sup> In her summary statement, Ms Wilkening addressed the errors in Mr Archer's evidence and confirmed her expert assessment.<sup>158</sup>
- 163 The Commissioners are not bound by the laws of evidence. Nevertheless, as the Environment Court has stated:<sup>159</sup>

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<sup>154</sup> Rebuttal Skidmore and Burns, paragraphs 15-17.

<sup>155</sup> Rebuttal Skidmore and Burns, paragraphs 7-12, 13-16 and 17-22.

<sup>156</sup> Rebuttal Skidmore and Burns, paragraphs 4-6.

<sup>157</sup> SOE Archer, paragraphs 86-87.

<sup>158</sup> Summary Wilkening, paragraphs 16-17.

<sup>159</sup> *Upper Clutha Environmental Society Inc v Queenstown Lakes District Council* [2019] NZEnvC 46.

*[23] It does not follow that the court should exercise generous license in allowing experts to offer opinions not based on their relevant specialist skill and knowledge. To do so risks elevating certain witnesses into a position of potential undue influence, with adverse due process consequences. That is reflected in the duties set out in the Code of Conduct.*

...

*[25] The Code sets out various duties of experts pertaining to their giving of evidence. Typically, substantial non-adherence to the Code would be a factor going to how much weight is given to expert evidence (rather than necessarily its admissibility).*

- 164 It is respectfully submitted that Ms Clay and Mr Archer have offered opinions outside their expertise, have provided evidence that is not well reasoned, have failed to consider mandatory matters and have applied assessment approaches inconsistent with case law. On that basis, it is submitted that the Commissioners must give little to no weight to their evidence.

## **SUMMARY OF EVIDENCE ON KEY EFFECTS CATEGORIES**

### **Structure of this section**

- 165 This section of the legal submissions is structured as follows:

165.1 Consideration of effects;

165.2 The effects categories relevant to the Commissioner's decision:

- (a) Residential amenity and urban design effects;
- (b) Geotechnical effects;
- (c) Construction management;
- (d) Noise effects;
- (e) Heritage effects;
- (f) Transport effects, including construction traffic;
- (g) Arboriculture effects;
- (h) Earthworks effects;
- (i) Contamination effects;

165.3 Benefits of the Proposed Village.

### **Consideration of effects**

- 166 At the outset, it is noted for completeness that the RMA is not a "no effects" statute. There is no requirement that all effects be

addressed by way of mitigation, offset, or compensation. The High Court in *Royal Forest and Bird Protection Society of New Zealand Inc v Buller District Council* (No 2) stated:<sup>160</sup>

It is clear that Parliament did not intend the RMA to be a zero sum game, in the sense that all adverse effects which were unavoidable had to be mitigated or compensated.

- 167 In addition, 'change' is not of itself an adverse effect. As Ms Skidmore explains, there will be considerable change from the vacant Sites to the Proposed Village. However, the extent of that change does not mean it is adverse. In many respects the change resulting from the Proposed Village will be positive. For example, the Peterborough Site is currently a carpark and is therefore detrimental to neighbourhood amenity. Its return to a residential use will be positive. Most submitters<sup>161</sup> acknowledged the retirement village use will be positive for this location, and did not object to the Proposed Village except for some matters of design.
- 168 Further, 'non-compliance with a standard' is not of itself an adverse effect. In our submission, it is standard practice and entirely sensible for development designers to use built form standards as a starting point for proposed building envelopes. As discussed earlier, the built form standards applying to the Sites provide a strong indication of the changes in amenity that are considered appropriate in the Residential Central City Zone. In any case, from a legal perspective, built form standards are not immutable limits. Rather, they are simply triggers for additional assessment. A breach of a standard should not, of itself, be assumed to create unreasonable adverse effects.<sup>162</sup>

### **Residential amenity and urban design effects**

- 169 Ryman has put significant effort into producing a high quality architectural design that suits the Sites' prominence and makes a positive contribution to this Central City neighbourhood.<sup>163</sup> The design process was led by Warren and Mahoney, guided by a range of design principles. As described by Mr McGowan and Ms Skidmore, the site layout, building forms and massing, building articulation and use of materials were carefully considered to provide an appropriate fit with the surrounding residential context.
- 170 The Proposed Village largely complies with the District Plan built form standards, with any exceedances having a design logic and generally minimal effect. There would be minimal to no change in the effects of the Proposed Village if the built form standards were

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<sup>160</sup> *Royal Forest and Bird Protection Society of New Zealand Inc v Buller District Council* (No 2) [2013] NZHC 1346, [2013] NZRMA 293 at [52].

<sup>161</sup> Including Craig Garlick, John and Judith Roper-Lindsay, Gordon and Christina Bennetts.

<sup>162</sup> See more detail in opening legal submissions at paragraphs 45-47.

<sup>163</sup> SOE Moore, paragraph 16.



completely complied with. In fact, the Proposed Village design will 'under-develop' the Sites in some places to appropriately manage effects. Nevertheless, as noted earlier, the application would be presumed to be not notified if it had fully complied with the standards.

***Areas of disagreement***

- 171 Between the experts in the field (Ms Skidmore, Mr Burns, Ms Schroder and Ms Dray), there is a high degree of alignment on the residential amenity and urban design effects of the Proposed Village. For the reasons set out earlier, it is submitted that the evidence of Ms Clay on residential amenity and urban design effects should not be given any material weight.
- 172 The key outstanding disagreement between the Ryman and the Council witnesses relating to landscape and urban design assessment concerns the Salisbury Street boundary of the Peterborough Site, and the Council witnesses' desire for 12m trees in this location.<sup>164</sup> Other outstanding areas of disagreement between the Ryman and the Council landscape and urban design witnesses are minor, and – when considered in the context of the applicable planning framework – do not affect the Council planner's recommendation or conditions. These areas of disagreement are:
- 172.1 The interface with the Dorset Street Flats;
- 172.2 The north and south facades of Building B02; and
- 172.3 Residential amenity effects on 15 Peterborough Street.
- 173 We address each of these points below among the other main submitter issue topics.
- 174 A key issue expressed by the Council witnesses in their evidence and at the hearing related to their preference for trees to appear 'wild' or 'natural' compared to the 'columnar' or 'managed' appearance proposed by Ryman's landscape designer. In response to questions posed by counsel via the chair, the Council witnesses confirmed that this preference was based on a 'first principles' assessment, rather than an assessment of adverse effects grounded in the relevant planning framework. With respect, this acknowledgement will limit the weight that can be given to the view expressed. In any case, it seems evident that such matters come down to personal preference. Mr Dixon also explained his view of how the columnar species will result in a visually satisfactory outcome, with 'little and often' pruning maintaining a pleasing shape, even in winter.
- 175 It is therefore submitted that the Commissioners can be confident that Ryman's landscaping design is appropriate. Nevertheless,

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<sup>164</sup> Agreed Applicant and Council Conditions, 12 February 2021, condition 59(e).

Ryman has agreed to a condition requiring certain trees to be allowed to grow to their natural height and form. This issue has therefore been addressed, and is no longer an area of disagreement between the witnesses.

- 176 A number of submitters also raised concerns about the residential amenity and urban design effects of the Proposed Village. Their concerns must be considered, and have been taken into account by all of the experts. However, for the reasons set out earlier and in the discussion to follow, it is submitted that the expert opinions should be preferred over the lay person opinions.

***Landscape assessment***

- 177 Ms Skidmore provides a comprehensive assessment of the landscape effects of the Proposed Village, consistent with the methodology in the NZ Institute of Landscape Architect's 'Landscape Assessment and Sustainable Management Best Practice Guide (10.1)'. She concludes that the Proposed Village responds well to its setting, and "*will make a positive contribution to the landscape character that is gradually re-establishing after the ... earthquakes*". She considers the cohesive landscaping and boundary treatments "*will provide a vegetated edge that contributes positively to the adjacent streetscapes*".<sup>165</sup>
- 178 Ms Dray's statement of evidence is described as an assessment of landscape and visual amenity. However the assessment methodology was not identified in her statement. With respect, her statement presents as something of a 'philosophical view' on the adequacy of the landscaping (tree planting) proposal, rather than an assessment of the landscape effects of the Proposed Village overall. At the hearing, Mr Burns noted Ms Dray's position seemed to stem from a 'worrying' view that all buildings need to be screened. In his view, high quality architecture in a central city location should not be hidden by planting. In response to a question posed by counsel for Ryman, Ms Dray confirmed that she had reviewed the matters of discretion, but had not considered the wider planning framework in undertaking her assessment. She described her evidence as being based on 'first principles', rather than being grounded in the District Plan. Ms Dray acknowledged later at the hearing that her views concerned a "*lost opportunity*" rather than being a response to identified adverse effects or planning provisions that required a response.
- 179 It is submitted that these concessions were well placed, but ultimately negate the weight that should be given to her views on this matter.
- 180 In saying that, the landscaping proposal is relevant under the applicable matters of discretion (for example, Rule 14.15.9(a)(i)). However, as discussed earlier, it is necessary to consider the

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<sup>165</sup> SOE Skidmore, paragraphs 222-223.

broader District Plan framework to determine what is 'appropriate to its context' in relation to that matter of discretion. Importantly, the Residential Central City Zone description focuses on "*liveable city values*" and "*the potential for living, working and playing in close proximity to the commercial centre of the city*". In comparison to other zones, the description does not refer to landscaping or gardens. It is an urban location, and the Ryman landscaping proposal reflects that fact.

181 At the hearing, Ms Dray emphasised the location of the Site adjacent to Hagley Park, and suggested that larger, more natural planting is necessary to address the context. Ms Schroder also took the view that large scale trees are important to "*provide a contextual element to the proposal*".<sup>166</sup>

182 It is noted that the 'context' paragraph of the matters of discretion is limited to the building layout and design, and does not extend to landscaping.<sup>167</sup> Further, as the Commissioners will no doubt have observed, although Hagley Park is an open space with large trees, it provides highly ordered, formal planting. The landscaping proposal for the Proposed Village is not dissimilar to that linear, ordered approach.

183 Ms Skidmore addresses the planting approach in her evidence and says:<sup>168</sup>

I consider it is the public realm, including Hagley Park and the Avon River corridor, that is the most suitable location in the neighbourhood to accommodate large-scale specimen trees. The tree planting in the residential environment should seek to complement, rather than replicate, the tree planting in the open space environment. Further, as set out in my evidence above, I do not consider tree planting is required to mitigate the landscape and visual effects of the Proposed Village (and planting could not mitigate the scale of the buildings proposed).

184 At the hearing, Ms Skidmore further explained that the planting proposal is about enhancement, rather than mitigating any adverse effects of the Proposed Village.

185 It is submitted that the District Plan framework supports Ms Skidmore's opinion, and not Ms Dray's. Large scale planting will inevitably lead to less intensive development and less efficient use of land. In the absence of planning direction requiring large scale planting, it is submitted that it would be highly inconsistent with the planning direction regarding Central City intensification to require such planting. Notably, the Commissioners questioned Ms Armstrong as to why she had adopted a different effect assessment to Ms Dray. Ms Armstrong appeared comfortable doing so as a

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<sup>166</sup> Summary Schroder, paragraph 36.

<sup>167</sup> Rule 15.15.9(a)(iv): *appropriate response to context with respect to subdivision patterns, visible scale of buildings, degree of openness, building materials and design styles.*

<sup>168</sup> SOE Skidmore, paragraph 321.

planner in light of the District Plan expectations, which Ms Dray's view had not fully accounted for.

- 186 In any event, Ryman has considered Ms Dray's comments on the landscaping proposal, and provided updated Landscape Plans that address almost all of Ms Dray's comments. The only outstanding issue is the trees to be provided on the Salisbury Street boundary.
- 187 As Mr Dixon explained, it is not possible for a 12m tree to establish in the space available on this boundary without maintenance pruning. Because the Council officers do not support maintenance pruning, Mr Dixon has substituted the narrower and smaller Prunus 'Amanogawa', which will be able to grow to its natural form and height in this location. Ms Dray acknowledged that this tree species will provide "*enhanced amenity*" at street level, but remained concerned about the amenity provided from further afield.<sup>169</sup> However, as Mr Dixon explained, the tree on the Park Terrace/Salisbury Street corner will reach 12-15m. Therefore, it is unclear what 'further afield' views are of concern to Ms Dray.
- 188 Ryman has carefully considered the landscaping design, and considers it will achieve a positive outcome for future residents and the wider neighbourhood. Through its ongoing consultation with Council, Ryman has sought to understand what trees are preferred by the Council officers. They have been unable to articulate their desired species. Ryman has demonstrated that it is happy to amend the planting plan where it is feasible to do so in the space available. Ryman therefore continues to oppose the Council's proposed amendment to proposed condition 59(e) as it is not achievable. This condition is discussed further in relation to decision-making options.

### ***Urban design and visual assessment***

#### ***Response to context***

- 189 All of the urban design experts acknowledge that the Proposed Village will bring change to this location, but agree this outcome is appropriate given the expectation of change in the Residential Central City zone. The Proposed Village also responds to the highly varied nature of the existing environment, which is currently in a state of transition.<sup>170</sup> Ms Skidmore considers the Proposed Village design is a highly nuanced response to its context.<sup>171</sup> Mr Burns considers the Proposed Village provides an appropriate response to the neighbourhood context, including by reference to the new buildings (such as the apartment at 108 Park Terrace) pointing to the future character anticipated for this location.<sup>172</sup>

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<sup>169</sup> Summary Dray, paragraph 15.

<sup>170</sup> SOE Skidmore, paragraphs 22-26. SOE Burns, paragraphs 23. Council Officer's Report, Appendix B – Urban Design Report, paragraphs 51, 55, 56, 57, 63-68, 97-106.

<sup>171</sup> SOE Skidmore, paragraphs 110, 125.

<sup>172</sup> SOE Burns, paragraph 23.5.

190 Ms Schroder suggests that the heritage values of the Dorset Street Flats contribute the Dorset Street context, and will be diminished by the visual impact of the northern elevation of Building B01.<sup>173</sup> As discussed earlier, it is submitted that Ms Schroder's approach to heritage values seeks to subvert the matters of discretion. Dr Roper-Lindsay also referred to the reference to 'context' in the Heritage New Zealand listing (2010) for the Flats.<sup>174</sup> However, as Mr Pearson explained, the heritage character of this area has been eroded since the earthquakes.<sup>175</sup> In any event, Ms Skidmore and Mr Burns have considered the Flats as part of the highly varied context surrounding the Site and are satisfied that the proposal does not impact this context adversely. We will return to the residential amenity effects on the Flats later in these submissions.

*Engagement with streets*

191 Ms Skidmore and Mr Burns consider the Proposed Village buildings will provide a suitable level of enclosure to the Park Terrace frontage, with good activation and engagement achieved through building layout and articulation and boundary treatments. In particular, the corner of the Peterborough Site will be emphasised. At the other boundaries, a positive street interface will be achieved.<sup>176</sup>

192 Ms Schroder generally agrees that the street interfaces are positive, but has outstanding concerns relating to the north and south facades of Building B02 and the Salisbury Street interface.<sup>177</sup>

192.1 On the Building B02 facades, Ms Skidmore and Mr Burns disagree with Ms Schroder's assessment.<sup>178</sup> At the hearing, Ms Schroder acknowledged that road users will adapt to this new interface and did not recommend any changes to these facades; and

192.2 On the Salisbury Street interface, Ms Schroder considers the response to the Salisbury Street is 'less effective' compared to Park Terrace.<sup>179</sup> Ms Skidmore and Mr Burns acknowledge her view on the Salisbury Street interface, but consider this interface is positive and reflects the street hierarchy.<sup>180</sup> In reaching her view, Ms Schroder notes that Salisbury Street

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<sup>173</sup> Summary Schroder, paragraph 40.

<sup>174</sup> Personal statement of Judith Roper-Lindsay.

<sup>175</sup> SOE Pearson, paragraph 71.

<sup>176</sup> SOE Skidmore, paragraphs 27-29. SOE Burns, paragraphs 24-29.

<sup>177</sup> Council Officer's Report, Appendix B – Urban Design Report, paragraphs 111-113.

<sup>178</sup> Summary Skidmore, paragraph 40. Summary Burns, paragraphs 18-19.

<sup>179</sup> Council Officer's Report, Appendix B – Urban Design Report, paragraphs 111-113.

<sup>180</sup> SOE Skidmore, paragraphs 28.2, 128-131, 219, 234-235, 324. SOE Burns, paragraphs 23.8, 28, 32, 79, 88-91, 177, 186(e).

*"has a lesser amenity derived from the extensive hardscape of the public space of the street".<sup>181</sup>* Her assessment of the Building B07 frontage therefore appears to be based on a view that the Proposed Village should improve that street. There is no such requirement in the District Plan. As Ms Skidmore and Mr Burns explain, Building B07 provides a high quality design and adequately activates and engages with Salisbury Street.<sup>182</sup>

193 On these areas of disagreement, it is submitted that the evidence of Ms Skidmore and Mr Burns should be preferred. The concerns raised by Ms Schroder relate to design preferences. She does not identify any adverse effects that would justify declining consent for the Proposed Village.

194 Finally, the Commissioners asked whether it would be feasible to further set back the northern façade of Building B03.<sup>183</sup> As set out in Ryman's response to that question, it is possible to move the building into the Site but that would have a number of efficiency and practicality implications.<sup>184</sup> Further, all of the relevant witnesses agree that Building B03 will create a positive street interface, so Ryman does not consider such a design change is necessary to address adverse effects.<sup>185</sup> Subsequent to that response, the Commissioners asked Ryman to provide details on the implications of shortening Building B03 at its northern end.<sup>186</sup> Those implications are set out below.

*Integration of access and parking*

195 The proposed basement will ensure vehicle access and parking does not dominate the development.<sup>187</sup> It is submitted that the provision of underground parking is a significant positive benefit of the Proposed Village.

*Visual quality and interest*

196 Ms Skidmore and Mr Burns consider the Proposed Village creates a high level of visual quality and interest. There are some limited aspects of the design that are identified as having a lower level of visual quality and interest (compared to the very high level achieved by the remainder of the design) but not such as to cause the experts any concerns. Ms Schroder agrees that the Proposed Village

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<sup>181</sup> Summary Schroder, paragraph 46.

<sup>182</sup> Summary Skidmore, paragraph 18.2. Summary Burns, paragraph 16.

<sup>183</sup> Minute 5.

<sup>184</sup> Memorandum of Counsel, dated 24 February 2021, paragraphs 3-6.

<sup>185</sup> SOE Skidmore, paragraph 121. SOE Burns, paragraph 75. SOE Schroder, paragraphs 74-75. Subsequent to the changes to the landscape proposal to address her concerns, Ms Schroder did not identify any outstanding issues relating to Building B03 at the hearing.

<sup>186</sup> Minute 6, paragraph 4.

<sup>187</sup> SOE Skidmore, paragraphs 215 and 220. SOE Burns, paragraph 35. Council Officer's Report, Appendix B – Urban Design Report, paragraph 127.

results in a good level of visual quality and interest, with a small number of exceptions that have been addressed above in relation to street engagement and below in relation to residential amenity.<sup>188</sup>

#### *Residential amenity*

197 Ms Skidmore describes how the design process included extensive consideration of the characteristics of surrounding properties to maintain a level of amenity suitable to this location. The potential amenity effects on surrounding properties were addressed through the location and massing of buildings, the orientation of buildings and units, separation from the neighbouring buildings, setbacks of facades, the location, size and treatment of windows and balconies, angling and articulation of the building facades, and variations in materials and colours. The proposed planting is not intended to mitigate any visual effects, but will provide enhancement by way of a “*soft visual foil*” between some of the proposed buildings and neighbouring properties.<sup>189</sup>

198 Ms Skidmore and Mr Burns have provided highly detailed assessments of the impact of the Proposed Village on neighbouring properties. They conclude that the effects on these properties will be acceptable, taking into account a wide range of factors.<sup>190</sup> In some limited cases, low/minor adverse shading and visual effects will be experienced, although these are not out of character with reasonable expectations in a Central City location. In most cases, overlooking, shading and visual effects will be very low to nil.

199 Ms Schroder generally agrees that adverse residential amenity effects will be low, but raises some concerns relating to impacts on Dorset Street Flats (including the Stables), 15 Peterborough Street and 76 Park Terrace. These areas of disagreement between the experts are discussed further below in response to the submissions from those property owners.

#### ***Response to submitters***

200 This section addresses the submissions of neighbours to the Site, with a focus on those submitters who appeared at the hearing in relation to residential amenity effects.

201 It is acknowledged that the residents who appeared at the hearing hold genuine views regarding their neighbourhood. However, their expectations of maintaining present amenity in this Central City area are with respect unreasonable in light of the District Plan. For example, Mrs Trustuum said she values ‘the quiet’ in this area, Mrs Cottle referred to the importance of ‘peace and tranquillity’ and Ms Shand described the area as a ‘quiet low rise streetscape’. Those expectations are contrary to the vision for this central city location.

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<sup>188</sup> Council Officer’s Report, Appendix B – Urban Design Report, paragraphs 89-96, 122-125.

<sup>189</sup> SOE Skidmore, paragraphs 30-32, 40.

<sup>190</sup> SOE Skidmore, paragraphs 30-32, 40. SOE Burns, paragraph 34.

It is simply not possible to satisfy those views of neighbours, while achieving the high quality, high density development needed in this location.

202 It is also important to emphasise the submitters in opposition are a small sample of the neighbourhood. There is widespread support for the Proposed Village, as expressed in the 92 submissions in support of the application.

203 At the hearing, Mrs Perry described the amenity and convenience that this Central City retirement village will offer for future residents, something that suburban villages do not offer. Ms Pickering made similar points about why this central city location is so desirable for future residents with so many amenities within a short walk or mobility scooter ride, as well as medical facilities, with no modern villages in a location like this one.

204 Mr Bremner presented a local business owners' opinion. He explained how central city businesses have been affected by the earthquakes and Covid-19, and the need to increase the population in the City Centre so that its vibrancy returns. He also highlighted the value of developing sites that have been sitting empty and a private developer investing in restoring an important heritage building.

205 These submitters highlighted the views of the large number of submitters in support of the application.

*2-16 and 4A Dorset Street (Dorset Street Flats)*

206 The effects of the Proposed Village on the Dorset Street Flats is an area of disagreement between the experts. Ms Schroder takes the view that the heritage values of the Flats will be diminished by the visual impact of Building B01.<sup>191</sup> However, as discussed earlier, the impacts on heritage values of the Flats is not a matter of discretion. Ms Skidmore confirms the Flats' heritage values are not relevant to an assessment of residential amenity effects.<sup>192</sup> It is therefore submitted that this area of disagreement does not relate to the matters of discretion the Commissioners are required to consider. That is, when removing the consideration of the heritage values of the Flats, there does not appear to be any disagreement between the experts.

207 Nevertheless, if the Commissioners determine that this area of disagreement should be considered more closely in relation to the matters of discretion, the following summary of the evidence still applies.

208 Ms Schroder points to an elevation at paragraph 28 of Mr McGowan's evidence to support her view that there will be an

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<sup>191</sup> Summary Schroder, paragraphs 40-41.

<sup>192</sup> Summary Skidmore, paragraph 20.



inappropriate juxtaposition between the Flats and Building B01.<sup>193</sup> This Dorset Street elevation presents Building B03, with the Flats and Building B01 shown in 'white out' only. It therefore does not convey the relationship between Building B01 and the Flats in any detail, nor does it show the design detail that has been applied to Building B01.<sup>194</sup> Ms Schroder does not refer to the range of features of the Flats or Building B01 that are relevant to an assessment of visual effects.

- 209 In this regard, Ms Skidmore and Mr Burns discuss the orientation, fenestration and setback of the Flats and the modulation, articulation and materiality of Building B01. Based on their full consideration of the characteristics of the Proposed Village and this property, Ms Skidmore and Mr Burns disagree with Ms Schroder's assessment of effects on the Flats.<sup>195</sup>
- 210 It is submitted the opinions of the Ryman witnesses should be preferred by the Commissioners. Those opinions are based on all of the relevant considerations, rather than Ms Schroder's selection of factors and her inappropriate reliance on an elevation as if it were a visual simulation.
- 211 The view of the Dorset Street Flats owners, that Building B01 will adversely affect their amenity values by presenting 'overbearing' and 'blank' walls, seems to be based on an elevation prepared by Young Architects.<sup>196</sup> As Mr Pearson explained, this view will never be seen. The elevation fails to convey the depth of the "U" shaped, stepped building form and the articulation and materiality of the facades.<sup>197</sup> The depth of the building form and articulation of the facades can be viewed on the isometric drawing *S01.A0-074*. The materiality can be viewed on the materiality sheet *Bishopspark Assessment Drawing, p9*. The relationships between the Flats and Building B01 can be viewed in Visual Simulation *Viewpoint 1-401*.
- 212 It is noted that some submitters criticised Ryman for not contacting the owners, noting there are no active letter boxes at the Flats and most of the owners do not live in Christchurch.<sup>198</sup> Ryman can hardly be criticised in this context. Ryman took all reasonable actions to invite local residents to the open days.

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<sup>193</sup> Summary Schroder, paragraphs 42-45.

<sup>194</sup> SOE Pearson, paragraphs 76-78.

<sup>195</sup> SOE Skidmore, paragraphs 151-153 and 247-249. SOE Burns, paragraphs 108-110 and 185.

<sup>196</sup> Submission of Dorset Street Flat Owners Group. Hearing presentations of Dr Roper-Lindsay, Mr Roper-Lindsay, Mr Garlick, Mr Turner.

<sup>197</sup> SOE Pearson, paragraphs 76-78.

<sup>198</sup> Personal submission of Judith Roper-Lindsay, paragraph 21. Also D Turner.

- 213 Some submitters also suggested the Ryman assessments suffered from a “*lack of understanding of the way residents use*” the Flats.<sup>199</sup> The owners referred to the use of the garden, rear access and laundry. However, the Ryman witnesses took into account the primary orientation of the Flats, without dismissing the rear of the property.<sup>200</sup> They explained the “*relatively benign*” design is appropriate at this common rear boundary of two properties, with the focus of the design being to minimise overlooking effects.<sup>201</sup>
- 214 Finally, the Commissioners asked whether it would be feasible to further set back the northern façade of Building B01.<sup>202</sup> As set out in Ryman’s response to that question, it is possible to move the building into the Site, but that would have a number of efficiency and practicality implications. Based on input from Ryman’s experts, a further set back would also not reduce the visual effects of the Proposed Village on the Flats to any material extent.<sup>203</sup> Subsequent to that response, the Commissioners asked Ryman to provide details on the implications of shortening Building B03 at its northern end.<sup>204</sup> Those implications are set out below.
- 215 In conclusion, it is submitted that potential amenity effects on the Flats have been appropriately avoided, remedied or mitigated, and are appropriate to this Central City context.
- 155 Victoria Street (Centro Hotel)*
- 216 As discussed earlier, the key concern of Mr Stapley was the ‘loss’ of views from the Hotel to Hagley Park and the Port Hills, which has limited relevance as noted earlier.
- 217 During his presentation, Mr Stapley tried to recast his submission as addressing outlook. As noted, under Rule 14.15.9, outlook is only a matter of discretion in relation to residential amenity, and therefore does not apply to the Hotel use. The effect would only be relevant if it arose from built form exceedances under Rules 14.15.27-30. Nevertheless, the effects of the Proposed Village on the Hotel’s outlook have been comprehensively addressed by Ms Skidmore and Mr Burns.
- 218 As discussed earlier, Ms Clay also overstated the sensitivity of the Hotel to change. The Hotel is less sensitive to change than residential uses as hotel users are highly transitory.<sup>205</sup> As suggested by the Commissioners at the hearing, hotel guests are likely to

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<sup>199</sup> Personal submission of Judith Roper-Lindsay, paragraph 22.

<sup>200</sup> SOE Skidmore, paragraph 147.

<sup>201</sup> SOE Burns, paragraph 179.

<sup>202</sup> Minute 5.

<sup>203</sup> Memorandum of Counsel, dated 24 February 2021, paragraphs 3-6.

<sup>204</sup> Minute 6, paragraph 4.

<sup>205</sup> Supplementary Skidmore and Burn, paragraph 22.

choose a hotel in this Central City location for its convenience, rather than a peaceful, quiet environment.

- 219 Ms Skidmore and Mr Burns refer to the setback of Building B03 (through the location of the accessway), the façade being punctuated by vertical windows to break up the horizontal emphasis of Building B03 (while not overlooking), and the upper level being differentiated through material and colour change. Ms Skidmore acknowledges the high level of visual change, but concludes that the adverse effects will be very low.<sup>206</sup> Mr Burns agrees that unacceptable visual dominance will be avoided.<sup>207</sup> Ms Schroder agrees that visual impacts on the Hotel will be low.<sup>208</sup> All of the experts in this area are therefore aligned as to the impacts on the Hotel.
- 220 Mr Stapley also relied on photomontage visualisations prepared by Glasson Huxtable Landscape Architects Limited. As set out earlier, the rebuttal evidence of Ms Skidmore and Mr Burns identifies a number of issues with the visualisations. In light of those issues, it is submitted they cannot be relied on by the Commissioners.
- 221 In conclusion, it is submitted that potential amenity effects on the Hotel have been appropriately avoided, remedied or mitigated, and are appropriate to this Central City context.

*6/17 Salisbury Street*

- 222 Mr Begg explained that he uses this property between shifts at the hospital, with his home being located out of the city. He was concerned about the shading effects of the Proposed Village.
- 223 Ms Skidmore explains that this property will experience shading during mid-winter given its location to the south of the Bishopspark Site. However, she notes that the outdoor living space is located to the west of the unit, and the northern wall of the unit has limited windows. The shading effects are also generally consistent with expectations in this Central City zone, with very slight recession plane and height plane breaches on this boundary.<sup>209</sup> In this context, Ms Skidmore, supported by Mr Burns, considers the extent of shading to be acceptable.<sup>210</sup>
- 224 In conclusion, it is submitted that potential amenity effects on 6/17 Salisbury Street have been appropriately avoided, remedied or mitigated, and are appropriate to this Central City context.

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<sup>206</sup> SOE Skidmore, paragraph 256.

<sup>207</sup> SOE Burns, paragraph 120.

<sup>208</sup> SOE Schroder, paragraph 87.

<sup>209</sup> S01.A-070 (4), S01.A-071 (4).

<sup>210</sup> SOE Skidmore, paragraphs 166-167. SOE Burns, paragraphs 124-125, 127.

*15 Salisbury Street*

- 225 The concerns of Mrs and Mr Bennett are acknowledged by Ryman, who has met with them one-on-one to discuss their concerns, and Ryman's experts, who have carefully considered the potential impacts on their amenity. As noted later in relation to geotechnical effects, Ryman has offered a design change to the basement on this boundary. Ryman has therefore worked to address some of the concerns of the Bennetts, albeit it appears they have been misinformed by their independent technical advisors as to the objective impacts of the Proposed Village on 15 Salisbury Street.
- 226 The design of the Proposed Village as it relates to 15 Salisbury Street has been carefully considered in order to minimise adverse effects as described above.
- 227 Ms Schroder agrees that adverse effects on 15 Salisbury Street will be appropriately low.<sup>211</sup> There is therefore no areas of disagreement between the experts as to residential amenity impacts on 15 Salisbury Street.
- 228 In conclusion, it is submitted that potential amenity effects on 15 Salisbury Street have been appropriately avoided, remedied or mitigated, and are appropriate to this Central City context.

*Flat 1, 13 Salisbury Street*

- 229 Mr and Mrs Cottle explained that their flat on Salisbury Street looks toward the Peterborough Site. Being located on the street, it is some distance from the boundary with the Bishopspark Site. Mr and Mrs Cottle were primarily concerned about the visual change that will result from Building B07.
- 230 Ms Skidmore notes that the wideness of Salisbury Street as well as the boundary planting will provide considerable separation between this property and Building B07. In addition, the separation between the two wings will be readily apparent, with the building mass creating a well ordered configuration.<sup>212</sup> Ms Schroder agrees that adverse effects on 13 Salisbury Street will be low.<sup>213</sup>
- 231 In conclusion, it is submitted that potential amenity effects on 1/13 Salisbury Street have been appropriately avoided, remedied or mitigated, and are appropriate to this Central City context.

*18 Salisbury Street*

- 232 Ms Waddy (4/18 Salisbury Street) and Mr Davies (5/18 Salisbury Street) appeared at the hearing. Ms Waddy was concerned about

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<sup>211</sup> SOE Schroder, paragraph 88.

<sup>212</sup> SOE Skidmore, paragraphs 288-289.

<sup>213</sup> SOE Schroder, paragraph 119.

the overlooking and shading impacts, and particularly evening shading. Mr Davies was concerned about shading of his courtyard.

- 233 Because these properties are located to the east of the Peterborough Site, and given the Residential Central City zoning, it is inevitable they will experience late afternoon shading when the Peterborough Site is built on. We discuss this point further in the response to Minute 6 below.
- 234 It is also necessary to consider the overall shading of the Proposed Village on the properties at 15 Peterborough Street and 1-8/18 Salisbury Street.<sup>214</sup> Importantly, these properties do not experience shading from the Proposed Village during the morning, midday and early afternoon periods. As set out in the evidence of Ms Skidmore and Mr Burns, the small extent of shading when considered overall across the day and year means these properties will retain a level of sunlight that is *more* than consistent with their central city location (recognising sunlight is only one component of overall amenity).<sup>215</sup> Reflecting the central city location, these properties have very small outdoor living areas and it is, with respect, *not* considered appropriate in this central city context for neighbours to expect direct sunlight across the entirety of the day.
- 235 At the hearing, submitters spoke to their current amenity, and desires for maintaining late afternoon sun. However, submitters' preferences need to be tested against the outcomes sought by the District Plan. For example, if afternoon sun was prioritised over midday sun, the District Plan would restrict development located to the west of neighbours to a greater extent than development to the north. It is submitted that there is no evidential basis to require the protection of late afternoon sunlight access where a property has significant sunlight access at other times of the day. It is noted that another submitter spoke to his preference to maintain morning sun.<sup>216</sup> These submissions reflect the reality that it simply is not possible to maintain current sunlight access in this central city location while achieving the development intensity contemplated by the District Plan. And, the District Plan does not expect existing amenity to be maintained in the Central City zone.
- 236 Although this District Plan does not identify 'priority' times of the day for sunlight access, some other district plans do. For example, an assessment criterion in the Auckland Unitary Plan suggests that four hours of sunlight over existing outdoor living spaces between 9am – 4pm at the Equinox is 'reasonable'.<sup>217</sup> On the other hand, the Wellington Residential Design Guide suggests that new dwellings

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<sup>214</sup> S02.A0-200-204.

<sup>215</sup> SOE Skidmore, paragraphs 182-188. SOE Burns, paragraphs 137-140.

<sup>216</sup> 76 Park Terrace.

<sup>217</sup> For example, Auckland Unitary Plan, H.5.8.2(5)(a). Referred to by analogy as a broader indication of 'reasonable' sunlight in *Panuku Development Auckland Limited v Auckland Council* [2020] NZEnvC 24, paragraphs 139-141.

should receive at least 4 hours of sunlight into a main living room at midwinter.<sup>218</sup> Ms Skidmore and Mr Burns also note that in their experience it is more commonly accepted that the middle of the day is an important time to be free from shade. These other district plans have no direct relevance to this application of course, but do indicate (along with the experience of the urban design witnesses) that early morning and late afternoon sun is not generally the key focus.

237 At the hearing, the Commissioners questioned Ms Schroder in relation to 18 Salisbury Street. She confirmed that she did not have any outstanding concerns relating to shading impacts on this property.

238 We also refer the Commissioners to the shading previously experienced by 18 Salisbury Street as a result of the Terraces on the Park apartments.<sup>219</sup> Although this shading is not part of the existing environment and should not be applied as a 'comparator', it does provide an indication of the amenity reasonably expected, and previously experienced, in this Central City location.

239 The Commissioners asked what would be required to ameliorate late afternoon shading effects at 18 Salisbury Street.<sup>220</sup> This query is addressed later in these submissions.

240 In conclusion, it is submitted that potential amenity effects on 18 Salisbury Street have been appropriately avoided, remedied or mitigated, and are appropriate to this Central City context.

#### *15 Peterborough Street*

241 The owner of 15 Peterborough Street lodged a submission, but did not appear at the hearing. Nevertheless, we address this property specifically given the residential amenity effects on this property are an area of disagreement between the experts.

242 The apartment building at 15 Peterborough Street is 7 storeys high, a level of intensity that reflects this Central City location. The four-level Building B08 interfaces with this property, complying with the height standard but projecting through the recession planes.<sup>221</sup>

243 Ms Schroder considers Building B08 will have moderate-high visual dominance and shading effects on this property:<sup>222</sup>

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<sup>218</sup> Wellington Residential Design Guide, G2.5.

<sup>219</sup> November 2020 Further Information Response, Appendix B.

<sup>220</sup> Minute 5.

<sup>221</sup> SOE Skidmore, paragraph 265.

<sup>222</sup> Summary Schroder, paragraph 49.

243.1 In relation to visual effects, Ms Schroder relies on the recession plane intrusion for her conclusion.<sup>223</sup> She later refers to a lack of visual interest on this façade, but concludes that the design response on the Peterborough Site is positive overall.<sup>224</sup> Ms Skidmore and Mr Burns acknowledged there will be moderate-high visual change at this property, but consider adverse effects will be low.<sup>225</sup> Ms Skidmore explains how the design of the building, with its simple façade treatment and articulation and differentiated roof form, reduce the visual effects of this four-level building. The proposed planting will also provide a vegetated visual foil to the building.<sup>226</sup> Mr Burns explains how compliance with the recession planes would not materially alter the visual outcome;<sup>227</sup>

243.2 In relation to shading effects, in her summary, Ms Schroder's concerns relate to the apartments at levels 3 and 4, however it is the lower level apartments that will experience the most shading.<sup>228</sup> As Ryman's witnesses explain, these apartments already experience shading from the existing dense planting on the Site, so Building B08 will not change their shading amenity to the extent the shading diagrams indicate.<sup>229</sup> Ms Schroder also does not engage with the extent of shading overall across the day and year. As set out in the evidence of Ms Skidmore and Mr Burns, the small extent of shading when considered overall across the day and year means this property will generally retain a reasonable level of amenity that is consistent with its central city location.<sup>230</sup> We address shading of this property further in the response to Minute 6 later in these submissions.

244 Based on the comprehensiveness and consistency of their assessments, it is therefore submitted that the opinions of Ryman's witnesses in relation to 15 Peterborough Street should be preferred to that of Ms Schroder.

245 At the hearing, Ms Schroder suggested the rationalising of planting on the boundary with 15 Peterborough Street would reduce the visual dominance effects on that property. Subsequent to the hearing, Mr Dixon has consolidated the planting on this boundary so that all of the planting is located directly on the boundary. The

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<sup>223</sup> SOE Schroder, paragraph 121.

<sup>224</sup> SOE Schroder, paragraph 123.

<sup>225</sup> SOE Skidmore, paragraph 267 and 269.

<sup>226</sup> SOE Skidmore, paragraphs 264-269.

<sup>227</sup> SOE Burns, paragraph 142.

<sup>228</sup> SOE Burns, paragraph 140.

<sup>229</sup> SOE Skidmore, paragraph 188. Summary Schroder, paragraph 48, photo.

<sup>230</sup> SOE Skidmore, paragraphs 186-188. SOE Burns, paragraphs 139-140.

Council officers have reviewed the amended planting layout, and have confirmed it assists to reduce visual effects on 15 Peterborough Street, but requested that a variety of tree species be provided along this boundary. Ryman requested that Council indicate preferred species, but no suggestions were provided. Mr Dixon has nevertheless amended the planting layout to meet this request, with species that will provide variety in colour and texture. **Appendix 1** contains the updated landscaping plan for the Peterborough Site.

- 246 In conclusion, it is submitted that potential amenity effects on 15 Peterborough Street have been appropriately avoided, remedied or mitigated, and are appropriate to this Central City context.

*76 Park Terrace*

- 247 Mr Worthington drew attention to the eclectic nature of the neighbourhood, with its mixture of architecture and people. His concerns related to the visual dominance, privacy and shading effects of the Proposed Village.
- 248 In contrast to another submitter's focus on afternoon shading, Mr Worthington was worried about morning shading, particularly in winter. These submissions reflect the reality that it simply is not possible to maintain current sunlight access in this central city location while achieving the development intensity contemplated by the District Plan. There is no 'golden time' for shading assessments. Properties to the west of a development (such as 76 Park Terrace) will be shaded in the morning and properties to the east of a development (such as 18 Salisbury Street) will be shaded in the afternoon. And, the District Plan does not expect existing amenity to be maintained in the Central City zone.
- 249 In her summary statement, Ms Schroder agreed that the change to the colour of the Building B07 stair core will reduce visual effects on the amenity at this property.<sup>231</sup> In light of the distance between the Proposed Village and this property, she did not consider there would be inappropriate overlooking impacts. She confirmed, in response to a question, that she had no outstanding amenity concerns relating to 76 Park Terrace.<sup>232</sup> There is therefore no areas of disagreement between the experts as to residential amenity impacts on 76 Park Terrace.
- 250 In conclusion, it is submitted that potential amenity effects on 76 Park Terrace have been appropriately avoided, remedied or mitigated, and are appropriate to this Central City context.

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<sup>231</sup> Summary Schroder, paragraph 29.

<sup>232</sup> Her reference to moderate to high visual and amenity effects on "*a limited number of properties*" (in paragraph 56 of her conclusion) was confirmed to relate to 15 Peterborough Street only.



### **Conclusion**

- 251 The Proposed Village design is high quality and will make a positive contribution to this Central City neighbourhood. The experts in this field are highly aligned. The remaining areas of disagreement predominately relate to design preferences, rather than adverse environmental effects. The District Plan does not require development to maintain current levels of neighbour amenity or to provide large scale tree planting, and such outcomes would compromise the planning direction regarding intensification. The Proposed Village has been carefully designed to address neighbour interfaces and provide a positive landscaping design. In conclusion, it is submitted that the Proposed Village is appropriate to its Central City context in relation to residential amenity and urban design effects.

### **Geotechnical effects**

- 252 Some submitters raised concerns about the potential for excavation and construction to cause instability of adjacent land.
- 253 Mr Malan (for Ryman), Ms McDonald (for Council) and Mr Aramowicz (for Mr and Mrs Bennett) presented expert evidence on instability effects. Expert caucusing occurred during the hearing to narrow the areas of disagreement between Mr Malan / Ms McDonald and Mr Aramowicz. As a result, the only remaining area of disagreement at the hearing related to the extent of deformation considered reasonable.<sup>233</sup>
- 254 At the hearing, Mr Malan presented a comprehensive assessment of the geotechnical risks to neighbouring properties. It was evident that Mr Malan knows every millimetre of the Sites and their adjoining neighbours below ground. Details of the 'site walk around' provided at the hearing are included in Mr Malan's supplementary evidence at **Appendix 2**. He explained the chosen methodology will result in an 'unusually stiff' wall, and that will minimise geotechnical risks. Ms McDonald confirmed the proposed methodology "*provides the best mechanism to ensure the installation provides for minimal settlement and therefore reduced the incidence of damage*".<sup>234</sup>

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<sup>233</sup> Joint Witness Statement - Geotechnical, paragraph 10.

<sup>234</sup> Summary McDonald, paragraph 6.

- 255 Mr Malan has undertaken modelling of the deformation effects arising from basement construction, which he describes as presenting the 'upper bound' based on his experience, with actual deformation likely to be lower. In all cases, the combination of the basement setback, plus the setback of dwellings on neighbouring properties, means there is no credible risk of damage to neighbouring dwellings. There are a small number of structures closer to the boundary, being a pool on 15 Salisbury Street and carports/garages on some other properties. At these locations, Mr Malan explained that there is low-very low probability of low consequence effects. Further, if unexpected damage does occur, Mr Malan considers it will be cosmetic and repairable. Ms McDonald agreed with Mr Malan's assessment of geotechnical risks.
- 256 In stark contrast, Mr Aramowicz's assessment was very high level. He provided very little technical reasoning to support his conclusions. His assessment was based on what appeared to be a personal and, in any case, incorrect, view that any risk of damage should be avoided 'at all costs' – even a low risk of cosmetic damage that could be readily repaired.<sup>235</sup>
- 257 Mr Aramowicz' conclusions were often based on assumptions related to other aspects of the proposal, including Ryman's offer of building surveys and the basement setback around the Chapel. Mr Malan explained why these assumptions are invalid.<sup>236</sup> Similarly, Mr Aramowicz suggested the modelling undertaken by Mr Malan was not reliable<sup>237</sup>, but didn't provide any specific comments on the methodology adopted. Finally, Mr Aramowicz alleged there remained a risk to the pool at 15 Salisbury Street in light of the new basement design, but then acknowledged in response to questioning that he didn't know the new distances between the pool and the basement.
- 258 It is respectfully submitted that Mr Aramowicz's reliance on invalid assumptions and unsubstantiated criticisms goes strongly to the credibility of his evidence.
- 259 Mr Aramowicz also relied on the natural hazards objectives and policies in the District Plan<sup>238</sup>, which are not the relevant provisions. The District Plan objectives and policies addressing land stability associated with earthworks recognise that earthworks are necessary for development, that *significant* land stability risks to people and property shall be avoided, and that *more than minor* nuisance risks shall be avoided. Dr Mitchell concluded that the District Plan does not apply a "*no risk*" approach to managing land stability.<sup>239</sup>

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<sup>235</sup> SOE Aramowicz, paragraph 44. Response to questions at the hearing.

<sup>236</sup> Supplementary Malan.

<sup>237</sup> He said there is a high risks things calculated on a computer won't happen.

<sup>238</sup> Objective 5.2.11 and Policy 5.2.2.2.1. SOE Aramowicz, paragraph 41.

<sup>239</sup> Summary Mitchell, paragraphs 79-80.

- 260 In any event, to provide additional certainty as to land stability effects, Ryman has proposed a condition requiring a monitoring and contingency framework to be included in the Construction Management Plan. The framework requires basement construction works to be conducted along a road or vacant boundary in the first instance, monitoring to identify deformation on the adjacent land, and, if necessary, consideration of recommendations to minimise the risk of damage to structures on adjacent properties.<sup>240</sup> This amendment is additional to the condition requiring Ryman to offer pre and post construction surveys to adjacent landowners.<sup>241</sup>
- 261 In his legal submissions, Mr Cleary suggested the pre and post construction survey condition offered by Ryman is invalid.<sup>242</sup> This submission is incorrect. While conditions cannot impose conditions that infringe third party rights, a condition requiring an offer of mitigation to be made is not invalid.<sup>243</sup>
- 262 In conclusion, it is submitted that the evidence of Mr Malan (supported by Ms McDonald) should be preferred to the evidence of Mr Aramowicz. The potential geotechnical effects of the Proposed Village will be appropriately avoided, remedied and mitigated.

#### **Construction management**

- 263 As a general comment, it is trite that a degree of construction activity can be expected in any urban environment. The reality is that some form of development will inevitably be built on these vacant Central City Sites. As with any construction activity, there will be temporary effects that may generate some disruption for nearby residents.
- 264 As Mr Moore explains, Ryman has its own construction team and directly employs key staff in addition to subcontracting specialists. It comprehensively manages the construction process. It thus has full control and accountability for construction activities. Prior to commencing construction, Ryman writes to all neighbours, introduces the construction team, and provides contact details for the project manager.
- 265 Ryman is also strongly incentivised to minimise its construction effects. Residents will start occupying the Proposed Village while construction continues.<sup>244</sup> Further, as Ryman operates its villages for the long term, it places a high value on positive and lasting

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<sup>240</sup> Condition 5.

<sup>241</sup> Conditions 20-27.

<sup>242</sup> Submissions on behalf of Centro Roydvale Limited & Ors, paragraph 8.4.

<sup>243</sup> *Redvale Lime Co Ltd v Rodney DC* (NZEnvC A006/06, 20 January 2006), paragraph 20.

<sup>244</sup> SOE Moore, paragraphs 65-67.

relationships with the communities in which its villages are located – some of whom may ultimately become its residents.<sup>245</sup>

- 266 Mr Moore explains that the construction of each Site will be completed within 24 - 36 months, with a total construction timeframe of approximately 40 - 48 months across both Sites. A number of neighbours raised concerns about the length of this construction period. However, construction of the Proposed Village will be carried out in stages, and works will move around both Sites during this period. The intensity of construction activity will also reduce as the buildings are established, and the focus moves to internal works.<sup>246</sup> As a result, neighbours will not be exposed to construction effects for the total construction period.

### **Noise and vibration effects**

- 267 Ms Wilkening considers that construction works will comply with appropriate vibration limits at all times.<sup>247</sup> As Ms Wilkening noted at the hearing, the vibration predictions include a 100% safety margin so the Commissioners can have comfort that the predicted levels will be complied with. The construction works will also comply with the District Plan noise limits almost all of the time. There is potential for brief exceedances where high noise works occur in locations where they cannot be shielded by barriers.<sup>248</sup>
- 268 It is noted that the predicted noise levels relate to the noisiest works – basement piling. For much of the construction period, noise levels will be lower. Submitters' concerns about the length of the construction period do not acknowledge that the noisiest works will not affect all receivers at all times, and noise levels will decrease as construction moves through the stages.
- 269 Ms Stout noted that Annex A to Ms Wilkening's evidence did not include 84 Park Terrace.<sup>249</sup> Ms Wilkening has confirmed that noise levels at this property will comply with the District Plan noise limits at all times. A corrected version of Annex A is attached as **Appendix 3**.
- 270 Ms Wilkening considers the construction noise and vibration effects can be appropriately managed through a Construction Noise and Vibration Management Plan, which is a standard and well known industry best practice tool. The "best practicable option" will be implemented to ensure noise does not exceed a reasonable level.<sup>250</sup> Ms Stout agrees that noise effects will be appropriately managed

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<sup>245</sup> SOE Moore, paragraph 64.

<sup>246</sup> SOE Wilkening, paragraphs 29-37.

<sup>247</sup> SOE Wilkening, paragraph 11.

<sup>248</sup> SOE Wilkening, paragraph 12.

<sup>249</sup> Summary Stout, paragraph 4.

<sup>250</sup> SOE Wilkening, paragraphs 71-72.

through the proposed conditions requiring a Construction Noise and Vibration Management Plan.<sup>251</sup>

- 271 Accordingly, the evidence before the Commissioners from the experts in the field is clear. The witnesses agree that the proposed conditions will appropriately manage construction noise and vibration effects. Mr Archer attempted to address construction noise effects in his evidence, but for the reasons already discussed, it is submitted that evidence should not be accorded material weight.
- 272 In his legal submissions, Mr Cleary alleged a number of shortcomings in Ms Wilkening's evidence.<sup>252</sup> However, all of the matters raised by Mr Cleary have been addressed in the evidence or are not relevant. Ms Wilkening addressed many of these issues in response to questions at the hearing. Ms Stout has confirmed that Ms Wilkening's evidence addresses all of the relevant matters of discretion.<sup>253</sup>
- 273 It is submitted the Commissioners have more than adequate information on the potential noise and vibration effects, and can be satisfied that proposed conditions 18 and 19 will appropriately manage those effects.

#### **Heritage effects**

- 274 As noted earlier, the matters of discretion limit the Commissioners' consideration to effects on heritage items and settings located within the Sites (ie the former Bishop's Chapel).
- 275 The application responds to the Chapel by providing for its retention, restoration and continued use. Potential effects on the Chapel, which is a Highly Significant heritage item and setting and a Category 1 Historic Place, have been addressed in the evidence of Mr Pearson and Ms Richmond. Both experts agree that the proposed works to the Chapel will have positive effects and any potential negative effects from the Proposed Village buildings on heritage values will be minor.<sup>254</sup> Heritage New Zealand also supports the proposal.<sup>255</sup>
- 276 At the hearing, Ms Richmond "*advocated*" for the retention of an oak and kowhai tree on the basis they have been on the Site for some time. As Mr Pearson noted at the hearing, the oak tree is some distance from the Chapel and the kowhai tree hasn't been located. There is no evidence of any particular link between these trees and the scheduled Chapel. The District Plan does not list these trees as

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<sup>251</sup> Summary Stout, paragraphs 7 and 9.

<sup>252</sup> Submissions on behalf of Centro Roydvale Limited & Ors, paragraphs 8.7-8.13.

<sup>253</sup> Summary Stout, paragraph 8.

<sup>254</sup> Summary Richmond, paragraph 11.

<sup>255</sup> SOE Mitchell, Appendix D.

having heritage values. In any event, the Proposed Village layout makes it impossible to retain these trees.

- 277 The substantial heritage benefits of the proposal do also need to be emphasised. The Chapel could not be earthquake strengthened, restored and protected for the future without the Proposed Village. The design also consciously ensures the Chapel will be more prominent than in the past, as the focal point of the Village. These positive heritage effects of the proposal far outweigh any speculative and relatively tangential matters related to unscheduled heritage items.

### **Transport effects**

#### **Construction**

- 278 The construction traffic for the Proposed Village will be managed through a Construction Traffic Management Plan. Mr Hills and Mr Culvert agree that this approach will ensure construction activities are managed to achieve an appropriately low level of traffic effects.<sup>256</sup> Ryman also accepted the condition proposed by Mr Culvert preventing Westwood Terrace from being used by construction traffic.<sup>257</sup>

#### **Operation**

- 279 As noted earlier, the matters of discretion limit the Commissioners' consideration of operational transport effects to the safety of accesses and parking areas for pedestrians and cyclists, and matters relating to the breach of standards (width of access points and vehicle loading provision) for the Peterborough Site. Traffic generation and parking numbers are not relevant considerations.
- 280 Some submitters raised concerns about the safety of pedestrians using Westwood Terrace. Because of the low volume of vehicles using the lane and low volume of pedestrian traffic forecast, Mr Hills does not consider any safety issues arise.<sup>258</sup> At the hearing Mr Calvert agreed with Mr Hills that the anticipated pedestrian movements can be accommodated in this shared environment without the need for any safety works.<sup>259</sup>
- 281 In addition, the legal status of Westwood Terrace is relevant.<sup>260</sup> Westwood Terrace is not a legal road and is not vested as road in Christchurch City Council. It creates a general right of way for all purposes and the instrument does not limit or exclude any specific

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<sup>256</sup> SOE Hills, paragraphs 91-93.

<sup>257</sup> Council Officer's Report, Appendix C – Traffic Report, pages 12-13.

<sup>258</sup> SOE Hills, paragraphs 52-56.

<sup>259</sup> Summary – CCC Calvert, paragraph 14.

<sup>260</sup> Westwood Terrace was formerly/is part of "Lot 23 of the Town Reserves of the City of Christchurch". It is an easement created in Conveyancing documents 6902 and 7712.

use.<sup>261</sup> The Bishopspark Site has the legal right to access the Right of Way, and the pedestrian use of Westwood Terrace is consistent with that legal right. While Ryman has a right to access Westwood Terrace, it does not own or control it and has no unilateral ability to undertake works to Westwood Terrace.

282 The only operational transport issue in dispute at the hearing was the safety of Dorset Street loading access. All of the transport experts acknowledged that a 'forwards in-forwards out' arrangement is preferable from a safety perspective, but is not possible as it would require a significant redesign of this Proposed Village. This issue was resolved through Ryman's offer of a condition requiring service vehicles to enter the site in a forwards direction, and reverse from the Site with the assistance of a spotter. In response to a question from the Commissioners, Mr Facey confirmed this arrangement would address the concerns addressed in his evidence. Ms Clay also confirmed the proposed condition met her clients' concerns.

283 The proposed Salisbury Street crossing was a topic of discussion at the hearing, but was not at issue between the technical experts. Both Mr Hills and Mr Calvert are comfortable that there are number of appropriate crossing designs available.<sup>262</sup> We address the conditions offered by Ryman (on an *Augier* basis) to provide for the crossing later in these submissions.

#### **Arboriculture effects**

284 Arboriculture effects have been addressed in the evidence of Mr Parker and Mr Thornton. A ground penetrating radar has confirmed the scheduled Common Lime Tree has insignificant root mass in the basement construction area. As a result, the potential impacts on the tree can be managed through standard arboricultural techniques. In addition, a condition requiring compensation planting in the unlikely event the tree dies within 10 years of construction works has been accepted by Ryman.

#### **Earthworks effects**

285 The evidence of Mr Desai addresses the proposed erosion and sediment control approach and approach to managing differences in height levels at the boundaries of the Sites. The proposed conditions will ensure these effects will be appropriately addressed.<sup>263</sup> The Commissioners released Mr Desai from attending the hearing on the

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<sup>261</sup> The Right of Way was created in 1863, and the land has never been brought under the Land Transfer Act and has no land transfer title. It "*assigns at all times to pass and pass with or without horses, carts and their carriages every description laden or laden or with or without any manner of cattle over a certain parcel of land...*".

<sup>262</sup> SOE Hills, paragraphs 57-59 and 104-106. Summary Hills, paragraph 9. SOE Calvert, section 4. Summary Calvert, paragraphs 10-11.

<sup>263</sup> SOE Desai, paragraphs 42-46, 47-49, 51-54. Council Officer's Report, Appendix D – Earthworks and Construction Report, pages 2-3.

basis that earthworks effects can be dealt with by standard techniques.<sup>264</sup>

### **Contamination effects**

- 286 The evidence of Mr Walker addresses the proposed controls that will ensure potential contamination-related risks to human health and the environment will be low and suitably managed.<sup>265</sup> The Commissioners released Mr Walker from attending the hearing on the basis that earthworks effects can be dealt with by standard techniques.<sup>266</sup>

### **Benefits of the Proposed Village**

- 287 The Commissioners heard from a number of understandably concerned adjoining neighbours at the hearing, but it is important to highlight that, of the 134 submissions on the application, 92 supported the application. It isn't a numbers game of course, but it is essential to remember that there is strong community support for the Proposed Village.
- 288 Mr Moore discussed the substantial benefits of the Proposed Village, and in particular the health and wellbeing benefits for its future residents. The Proposed Village will become home to around 339 residents vastly improving their amenity and wellbeing and health and safety.<sup>267</sup> The Proposed Village will provide critical housing and care to benefit the community indefinitely into the future, so in that your decision will leave a lasting positive legacy. This proposal will create a superior quality living environment that will positively affect the lives of thousands of Cantabrians into the future.
- 289 The Proposed Village will also have broader benefits. It will create employment opportunities both during construction and when the Proposed Village is operational. It will relieve pressure on the housing market by releasing family homes back onto the market. It will also relieve pressure on public healthcare infrastructure (hospitals) by reducing bed blocking.<sup>268</sup>
- 290 Mr McGowan introduced the high quality architectural design of the Proposed Village, and explained how it has been carefully developed to make a strong contribution to the quality and amenity of this prominent City Centre location. In his words, the design will "*deliver a compelling outcome that will be an asset to the city*".<sup>269</sup> The design process obviously requires a wide range of considerations to be worked through, with changes to address one concern sometimes

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<sup>264</sup> Minute 4 (22 January 2021).

<sup>265</sup> SOE Walker, paragraphs 12-15. Council Officer's Report, paragraph 254.

<sup>266</sup> Minute 4 (22 January 2021).

<sup>267</sup> SOE Moore, paragraphs 31-33, 36, 40-44.

<sup>268</sup> SOE Moore, paragraph 20.

<sup>269</sup> SOE McGowan, paragraph 97.



resulting in another. A 'perfect' outcome, that satisfies everyone, is never possible.

291 The application will enable the restoration and preservation of a Highly Significant<sup>270</sup> heritage item and setting, being the Former Bishop's Chapel and Setting, which will become the centrepiece of the Bishopspark Site. This is a significant positive benefit and a significant investment on Ryman's part, and something that is only possible because of the Proposed Village.

292 The Proposed Village will provide extensive planting – not to mitigate effects, but to enhance the amenity of the Sites and the interfaces with neighbouring properties. Ryman is able to offer this significant landscaping because of its comprehensive proposal (including underground parking). This aspect of the design is a strong contrast to other recent developments in the area that offer relatively little landscaping.

293 As already noted:

293.1 Ms Pickering "*put a face*" to the future residents of the Proposed Village. As a local to the neighbourhood, she explained why this central city location is so ideally suited for the Proposed Village, with a wide range of amenities within a short walk or mobility scooter ride, as well as medical facilities;

293.2 Mr Bremner provided a business owner's viewpoint. He emphasised the importance of development, such as the Proposed Village, to help to bring the soul and vibrancy back to the city centre. Without more people to support local businesses, the city will remain a ghost town; and

293.3 Interestingly, Ms Shand's submission also underlined the decline of this '*once thriving area*' that is now '*almost empty of permanent residents*'. The Proposed Village is part of the solution, and Ryman is enthusiastic to be a part of revitalising the city centre. Underutilisation of the Sites would not achieve the District Plan objective of a vibrant city centre<sup>271</sup>, as well as being an inefficient use of a rare land resource.<sup>272</sup>

294 The substantial benefits of the Proposed Village also have to be seen in the context of the wider retirement living and care crisis. Mr Moore explained that there is already a shortage of purpose built, high quality homes for the elderly in Christchurch. Existing villages are at capacity, spaces are filled immediately, and each new village is fully allocated before construction is complete. He also explained

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<sup>270</sup> District Plan, #1305 and #470.

<sup>271</sup> Objective 14.2.8(a).

<sup>272</sup> RMA, s7(b).

how that shortage is getting worse, with the 75+ population to double by 2043 and to continue growing<sup>273</sup> beyond that. This evidence underlines the importance of using these rare, large, central Sites in an efficient manner.

295 Mr Moore also explained how Ryman chooses sites in established residential zones because of the importance of residents retaining their connections with their community (called 'ageing in place' in his evidence). The importance of this concept was, as noted earlier, thoroughly endorsed by the Independent Hearings Panel during the most recent District Plan process. Some submitters mentioned their good relationship with the previous Bishopspark Village residents, and the contribution they made to the neighbourhood. The Proposed Village and its residents will similarly become an important and valued part of this community. Mr Moore explained how Ryman encourages interaction with the community, through school visits, council meetings, and other initiatives.

296 To conclude, we really want to emphasise that the Proposed Village is about people – the future residents of this village. Ryman is not a developer. It is a highly regarded operator of a critical community service. The Proposed Village will provide appropriate accommodation and care for one of the most vulnerable demographics of the community. It will cater for those able to live independently, as well as those needing serviced apartments, or requiring all levels of care (rest home, hospital, and dementia). It will be tailor made to improve the quality of life and wellbeing of elderly people. The video presented by Mr Moore demonstrated just how important villages like this one are to the people that live there and their families.

#### **RESPONSE TO MINUTE 6**

297 The Commissioners' Minute 6 asked Ryman to address:<sup>274</sup>

297.1 Cumulative shading effects on the neighbouring Salisbury Street and Peterborough Street properties;

297.2 Light spill;

297.3 The implications of shortening Building B01 and B03 to provide a setback of 4m from the respective northern boundaries; and

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<sup>273</sup> As Mr Moore explained in response to questioning, although the growth *rate* in the number of people aged 75+ will reduce beyond 2043, this demographic group will still continue to grow.

<sup>274</sup> Minute 6, dated 3 March 2021.

297.4 The scale reduction necessary to “*permit useful late afternoon sun*” at 18 Salisbury Street (outdoor living spaces) and 15 Peterborough Street (units).

298 The following paragraphs address each of those requests.

**Cumulative shading effects**

299 Warren and Mahoney modelled the existing buildings, and prepared cumulative shading diagrams for the Sites showing the shading from existing buildings and the shading that will result from the Proposed Village buildings at 22 June, 23 September, and 22 December. These shading diagrams are attached as **Appendix 4**.

300 Mr Burns and Ms Skidmore have subsequently reviewed the cumulative shading diagrams and considered their assessment of the shading effects on the adjoining Salisbury Street properties and 15 Peterborough Street in light of this information. Their joint supplementary statement is attached as **Appendix 5**. The table at Appendix 1 to that statement sets out a tabular assessment of the shading on the neighbouring properties across the times of the day, and seasons of the year.

301 Mr Burns and Ms Skidmore have confirmed the additional information does not change their assessment of amenity effects on the neighbouring properties in all cases, but one.<sup>275</sup> There are a small number of units on the ground and first floor of 15 Peterborough Street that will experience moderate shading effects.

302 It is acknowledged that the neighbouring properties already experience shading from existing buildings (or from themselves, in the case of 15 Peterborough Street) and in some cases that shading is substantial. That outcome is unsurprising given this central city location. However, the ‘quid pro quo’ of central city living is that substantial amenity is gained from other aspects of the location (such as access to public spaces, museums, cafes, restaurants). There cannot be, nor is there, the same expectation for sunlight in the central city as in the suburbs. The District Plan does not set any expectation of maintaining the ‘status quo’ outcome, and in fact encourages development to revitalise the city centre.

303 In relation to the shading effects on units 2, 5, and 17 at 15 Peterborough Street, you will recall that the matter of discretion allows you to consider the extent to which the recession plane intrusion “*is necessary to enable more efficient, cost effective and/or practical use of the remainder of the site, or the long term protection of significant trees or natural features on the site*”.<sup>276</sup> The efficient and practical use of the Peterborough Site is constrained by

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<sup>275</sup> Joint Supplementary Statement.

<sup>276</sup> Rule 14.15.28.

the need to protect the Common Lime Tree, as well as the narrow shape of the area where Building B08 is to be located.<sup>277</sup>

304 As explained in the response to Minute 5, it would be possible to redesign Building B08 to fully comply with the recession planes (by removing level 2 or 3). However, this redesign would result in the loss of three units<sup>278</sup> that are critically needed to provide accommodation to elderly persons. It is submitted that is not a necessary outcome in this case. The RMA is not a 'no effects' statute, and a moderate effect in one amenity category does not necessarily require a design amendment.

305 Nevertheless, we address this point further in relation to decision-making options below.

#### **Light spill**

306 Mr Evan Owens, an electrical engineer from Cosgroves, has prepared a letter addressing the potential for light spill from the Proposed Village. This letter is attached as **Appendix 6**. This letter confirms that the Proposed Village can comfortably comply with District Plan lighting standards. In this context, no conditions are considered necessary to manage potential light spill effects. However, if the Commissioners consider it necessary, it is open to you to impose a condition requiring the Proposed Village to comply with Rules 6.3.4.1(P1) and 6.3.5.1(P1).

#### **Shortening Buildings B01 and B03**

307 Ryman has considered the possibility of shortening Buildings B01 and B03 to provide a setback of 4m from the respective northern boundaries and the implications of that design change.

308 Ryman advises that it would be possible to achieve that outcome at Buildings B01 and B03 by slightly reducing the size of each of the units. But the design changes required would create suboptimal outcomes from an operational perspective. The efficiency and practicality implications of the design alteration would be:

308.1 In relation to Building B01, the changes to the apartments in the western wing and assisted living suites in the eastern wing would impact the ability to meet Ryman's highest standard;

308.2 In relation to Building B03, the loss of 3 two-bedroom apartments in favour of 3 one-bedroom apartments. In Ryman's experience, this design change would reduce the ability of the Proposed Village to adequately meet the needs of its future residents. Most residents require or desire two (or even three) bedrooms for a range of reasons, including allowance for office or activities space, different sleep

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<sup>277</sup> See S02.A0-030.

<sup>278</sup> SOE Burns, paragraphs 140 and 142.

requirements of couples, and the transition from larger homes;

308.3 This design changes would require further design work to ensure the new layout meets the bespoke functional and operational needs of a Ryman comprehensive care village, as well as health and safety and accessibility requirements; and

308.4 The design changes would also require input from all technical disciplines to ensure they are practical and efficient for the village as a whole.

309 More fundamentally though, Ryman considers based on input from its experts, that the design changes to Buildings B01 and B03 would not change the relationship between the Proposed Village on Dorset Street or the Dorset Street Flats to any material extent for the reasons set out at paragraph 5 of the memorandum of counsel dated 24 February 2021 responding to Minute 5.

310 We address this point further in relation to decision-making options later in these submissions.

**Sunlight at 18 Salisbury Street and 15 Peterborough Street**

311 In order to identify the scale reduction required to achieve “*useful afternoon sun*” at these properties. Warren and Mahoney have prepared shading diagrams for the following potential scale reduction scenarios:

311.1 A change to the top floor of the eastern wing of Building B07 to provide a smaller penthouse level. A drawing showing this design change is at **Appendix 7**;

311.2 A reduction of one floor – so that Building B07 (east wing) is 4 levels and Building B08 is 3 levels. Building B07 (west wing) remains 7 levels;

311.3 A reduction of two floors – so that Building B07 (east wing) is 3 levels and Building B08 is 2 levels. Building B07 (west wing) remains 7 levels; and

311.4 A reduction of three floors – so that Building B07 (east wing) is 2 levels, and removal of the penthouse from the western wing. Building B08 is 2 levels.

312 The ‘plan view’ shading diagrams cover the following times of the day and year:

312.1 22 December: 4pm, 5pm, 6pm, 7pm, and 8pm;

312.2 23 September: 4pm, 5pm, and 6pm; and

312.3 21 June: 4pm and 5pm.

- 313 In addition, '3D view' shading diagrams have been prepared for 15 Peterborough Street to provide information on the shading experienced at different levels of that 7 storey buildings.
- 314 The shading diagrams are attached as **Appendix 8 and 9**.
- 315 Ms Skidmore and Mr Burns have subsequently reviewed the shading diagrams for the scale reduction scenarios and considered whether any of these scenarios achieve "*useful afternoon sun*" at the 18 Salisbury Street and 15 Peterborough Street properties. Their joint supplementary statement is attached as **Appendix 5**.
- 316 Ms Skidmore and Mr Burns consider that none of the very substantial scale reductions scenarios will result in considerably more "*useful afternoon sun*" at these properties when compared to the Proposed Village. On the other hand, the scale reduction scenarios would have huge implications for the Proposed Village due to the reduction in apartment numbers. The scenarios would also have effects implications (including but not limited to urban design and visual and landscape effects) given the Proposed Village design has been carefully developed to address relevant effects.<sup>279</sup>

## DECISION MAKING

### Conditions

- 317 Appendix E to the evidence of Dr Mitchell provided Ryman's proposed conditions. Those conditions built on draft conditions provided by Ryman and recommended conditions provided by Council earlier in the process.<sup>280</sup>
- 318 The Commissioner's Minute 5 directed a process for circulation of conditions following the hearing. In accordance with that Minute, an updated version of the conditions identifying amendments made following the hearing, and any areas of disagreement between Ryman and Council, was prepared and circulated to submitters on 19 February 2021. Submitters were required to provide comments on that version of the conditions by 5 March 2021.
- 319 In response to those comments on the conditions, Ryman has proposed some further refinements. These amendments are described below. **Appendix 10** contains a table that responds to each of the comments from submitters. It is noted that a large proportion of the comments do not relate to conditions, and are instead a restatement of the submitter's position.

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<sup>279</sup> Joint supplementary statement.

<sup>280</sup> Final Further Information Response, 17 November 2020 – Appendix D-Draft Conditions.

- 320 A 'track change version' of the proposed conditions following the submitter comments is attached as **Appendix 11**. A final 'clean' version of the proposed conditions is attached as **Appendix 12**.

***Amendments following the hearing***

- 321 The following paragraphs address the key amendments to conditions made following the hearing (noting that some were addressed in Dr Mitchell's summary statement), and set out the reasons for those amendments:

321.1 Condition 3: an amendment to refer to 'staff' and 'activities' in response to a comment from Dr Roper-Lindsay.

321.2 Condition 5: an amendment to this condition requires the Construction Management Plan to include a monitoring and contingency framework to minimise ground movement on adjacent land arising from construction of basements. This condition was discussed in detail earlier in these submissions. In response to comments from submitters<sup>281</sup>, this condition was further amended to ensure the framework is prepared by an 'independent' geotechnical engineer.

321.3 Condition 16: an amendment to this condition clarifies that traffic management measures specified in the Construction Traffic Management Plan are to be installed prior to works commencing.

321.4 Condition 18: this new condition requires the construction of the Proposed Village to comply with the relevant noise standards as far as practicable. This condition is intended to ensure that the effects of the noise standard exceedances are limited to those assessed by Ms Wilkening with a degree of flexibility to reflect that the construction programme is not fixed.

321.5 Condition 19: an amendment to this condition clarifies that the purpose of the Construction Noise and Vibration Management Plan (CNVMP) is to adopt the best practicable option to minimise noise and vibration effects of construction works. This amendment aligns with Ms Wilkening's evidence regarding the role of the CNVMP. Amendments to (b) and (e) provide more specificity as to the contents of the CNVMP. In response to a comment from a submitter<sup>282</sup>, paragraph (b) has been amended to clarify the reference to 'occupied buildings' relates to any building occupied during any stage of the construction period.

321.6 Conditions 21, 22, 24 and 25: an amendment to this condition requires the pre-construction condition surveys to

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<sup>281</sup> Christina Bennett, Judith Roper-Lindsay.

<sup>282</sup> McKellow and Worthington.

consider land and structures, as well as buildings. In response to comments from submitters<sup>283</sup>, the following amendments have been made to these conditions:

- (a) A requirement to undertake a pre and post-construction survey of Westwood Terrace;
- (b) A requirement to make a further offer for a 'pre-construction survey' to 76 Park Terrace in the event repair works are not completed at the time the pre-construction survey is offered to property owners;<sup>284</sup>
- (c) A requirement for an 'independent' person to undertake the condition surveys; and
- (d) Some other minor amendments for clarity.

321.7 Condition 25: an amendment to this condition requires an interim survey to be conducted within 6 weeks of completion of construction works adjacent to a property (if the property owner approves). This condition responds to Mr Malan's evidence that the risk of damage (albeit extremely low, as discussed earlier) relates to the basement works stage. Any damage would therefore be apparent well before construction of the Proposed Village is complete.

321.8 Condition 26: this new condition requires a final survey to be conducted within 12 weeks of completion of all construction works (if the property owner approves). This condition responds to a concern from submitters that damage may not arise until some time after basement works have been completed. Together, conditions 25 and 26 provide a very high level of confidence for both Ryman and neighbouring property owners that, in the unlikely event any damage results from the Proposed Village construction, it will be identified and rectified.

321.9 Condition 46: this condition was proposed by Council in the Council Officer's Report and has been now accepted by Ryman. It requires compensation planting in the event the scheduled Common Lime Tree dies within 10 years of construction commencing on the Site.

321.10 Condition 54: this condition has been deleted as Mr Pearson and Ms Richardson confirmed at the hearing that it is no longer required.

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<sup>283</sup> Christina Bennett, Judith Roper-Lindsay, Georgina Waddy and McKellow and Worthington.

<sup>284</sup> McKellow and Worthington.



- 321.11 Condition 55: a typographical error has been corrected in response to a comment from Christchurch Civic Trust.
- 321.12 Condition 58: this condition has been deleted. It is no longer required because of the amendment to condition 59(a).
- 321.13 Condition 59: an amendment to this condition requires certification of the Planting Plan and Planting, Implementation and Maintenance Strategy by the Council. The addition of paragraph (e) addresses the landscaping concerns raised by Council relating to the height and form of tree species, except for the one matter not agreed.
- 321.14 Conditions 63-66: these new conditions ensure that a pedestrian crossing facility at Salisbury Street will be constructed prior to the occupation of Building B01. These conditions are offered by Ryman (on an *Augier* basis) based on the advice of Mr Hills. Both Mr Hills and Mr Calvert are satisfied that there are number of appropriate crossing designs available.<sup>285</sup> As the pedestrian crossing facility will be subject to a separate process, condition 63 provides a large degree of flexibility as to the final design. Based on that, and Ryman's experience around New Zealand with similar conditions requiring works that need separate Council approvals, Ryman is comfortable with the proposed condition.
- 321.15 Condition 67: this condition has been amended to reflect the discussion at the hearing. It now provides for service vehicles to enter the Site in a forward direction and exit in reverse with the assistance of a spotter to ensure the safety of road users.
- 321.16 Condition 68: this new condition reflects the evidence of Ms Wilkening, and ensures that noise from rubbish trucks is limited to daytime hours.
- 322 All other amendments to the conditions are minor wording clarifications, updates to cross-referencing, or ensure 'certification' is used throughout the conditions.
- Condition not agreed***
- 323 The only condition that is not agreed in full between Ryman and the Council (condition 59(e)) relates to landscaping on the Salisbury Street boundary:<sup>286</sup>

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<sup>285</sup> SOE Hills, paragraphs 57-59 and 104-106. Summary Hills, paragraph 9. SOE Calvert, section 4. Summary Calvert, paragraphs 10-11.

<sup>286</sup> Draft Conditions - Ryman and Council comments.

323.1 The Council considers the condition should refer to tree species that are capable of reaching a mature height of 12m.

323.2 Ryman considers the condition should refer to tree species that are capable of reaching a mature height of 7 m.

324 As set out earlier in these submissions, Mr Dixon considers it is not possible for a 12m tree to establish in the space available on this boundary without maintenance pruning. Because the Council officers do not support maintenance pruning, Mr Dixon has substituted the narrower and smaller Prunus 'Amanogawa', which will be able to grow to its natural form and height in this location. Despite requests from Ryman, Council has not proposed any tree species that are capable of satisfying its proposed condition.

325 There is accordingly no evidence before the Commissioners that the Council's proposed condition could be achieved. Accordingly, it is submitted that Council's proposed condition is invalid as it would frustrate the grant of consent.<sup>287</sup>

326 In light of that position, Ryman considers there are two decision-making options available to the Commissioners in relation to this condition. It could require:

326.1 A 7m tree species to be established with a requirement for that tree to be allowed to grow to its natural form and height – in accordance with Ryman's proposed conditions; or

326.2 As an alternative option, a 12m tree species to be established with allowance for maintenance pruning (ie delete the words "*which can be established in the available space and shall be allowed to grow to their natural height and form*") – in accordance with Ryman's original landscaping proposal.

### **Proposed Village design**

327 Since lodgement of the application, Ryman offered the following amendments to the Proposed Village design:

327.1 Amendments to the landscaping design to respond to the evidence of Ms Schroder and Ms Dray;

327.2 Amendments to the basement design adjacent to 15 Salisbury Street to respond to the submission of Mr and Mrs Bennett; and

327.3 Amendments to the landscaping design adjacent to 15 Peterborough Street to rationalise the planting.

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<sup>287</sup> *S & M Property Holdings Ltd v Wellington City Council* [2003] NZRMA 193, paragraph 62.

- 328 It is submitted that the objectives and policies of the District Plan and the purpose of the RMA (to the extent that it is relevant) are met by granting rather than refusing consent in this case. The case for approval is in fact highly compelling. The key effects raised by submitters have been addressed by the experts and through the redesign and further conditions offered by Ryman.
- 329 This proposal is certainly not about just about development rights or a proposal by a 'fly by night' developer. This application is also not just about amenity impacts on immediate neighbours. The material issues are much broader than that. Mr Moore and Dr Mitchell noted the need to deliver appropriate accommodation and care to an expanding elderly community, and the delivery of a village with a high level of internal amenity that people want to live in as highly important considerations. These benefits are strongly grounded in core RMA considerations: social wellbeing, the health and safety and amenity of people, the efficiency of using scarce resources and providing for current and future populations, which are also reflected in the NPSUD.
- 330 Any suggestion to reduce the scale of the Proposed Village would result in a loss of much needed retirement accommodation and care, while the 'benefit' of such changes would be a very small (if any) reduction in visual and amenity effects for a very small number of properties. These effects are in any case, considered generally acceptable by Ryman's and the Council's experts. In terms of conditions, additional construction management could for example, make the work less efficient, imposing a longer construction programme on the community overall with very limited benefits in terms of construction effects.
- 331 Nevertheless, Ryman accepts that the Commissioners have the scope to decide to make additional changes both to the design and to the conditions if minded to do so.
- 332 Taking into account the issues raised by the Commissioners through Minutes 5 and 6, Ryman considers there are two main options for consideration:
- 332.1 The Proposed Village design put forward by Ryman and supported by Ryman's experts and the Council officers' and experts; or
- 332.2 The Proposed Village design with one or more of the following potential design changes:
- (a) Amendments to the design of Building B07 and B08 to fully comply with the recession planes on the boundaries with 18 Salisbury Street and/or 15 Peterborough Street; and

- (b) Amendments to the design of Building B01 and/or Building B03 to provide a 4 metre setback from the northern boundary by either reducing the length of the building or moving it into the Site.

333 If the Commissioners' are minded to grant consent on the basis of one or more of the potential design changes, Ryman will provide drawings showing those design changes to be included in the consent conditions.

### **Approach to decision making**

334 At this point, we wish to respectfully remind the Commissioners of the importance of this decision – not just for Ryman, but also for the future residents of the Proposed Village and their families and for the revitalisation of Christchurch more broadly. The Commissioners will be aware that this process is a 'one stop shop'. There is no right of appeal to the Environment Court in relation to this application.<sup>288</sup>

335 In light of the decision-making options that we have just discussed or any other desired design change, we submit that it is open to you as Commissioners to make an interim decision or to issue a draft decision if you determine it is necessary to do so. Interim decisions are less common in this forum, compared to the Environment Court. However, the process is available to you if you determine that consent should be granted but you require further information on matters of design or conditions.<sup>289</sup> In this scenario, Ryman would be agreeable to a reasonable extension of your decision-making timeframe.<sup>290</sup>

### **CONCLUSION**

336 For all of the above reasons, and as described in the evidence presented by Ryman's witnesses, Ryman respectfully requests that the Commissioners grant consent to the Proposed Village.

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<sup>288</sup> At the time the application was lodged, s120 of the RMA precluded appeals against a decision that related to a residential activity, unless it was a non-complying activity.

<sup>289</sup> In accordance with s39 of the RMA, you have the power to "*establish a procedure that is appropriate and fair in the circumstances*". There are a number of Environment Court decisions concerning appeals of interim decisions by councils. Those decisions do not comment adversely on the legality of an interim decision. For example, see: *Royal Forest and Bird Protection Society Incorporated v Whakatane District Council* [2012] NZEnvC 038, *Rider v Manawatu-Wanganui Regional Council* (2009) 15 ELRNZ 13, and *Royal Forest and Bird Protection Society of New Zealand Incorporated v Canterbury Regional Council* [2013] NZEnvC 301. In addition the guidance document 'A Practice Guide for the Conduct of RMA Hearings at First Instance' (2011) prepared by leading Resource Management Commissioners addresses circumstances in which commissioners may wish to issue an interim decision.

<sup>290</sup> In accordance with s37A(4) and (5) of the RMA, the applicant may agree to an extension of the time limits in s115 of the RMA.

**Luke Hinchey / Nicola de Wit**  
**Counsel for Ryman Healthcare Limited**  
**30 March 2021**

## **APPENDIX 1 – UPDATED PETERBOROUGH SITE LANDSCAPING PLANS**



Resource Consent Planting & Tree Schedule					
ID	Qty	Latin Name	Common Name	Min. Height at Time of Planting	Maintained Height
Ace jef	12	Acer 'Jeffers Red'	Maple	2.0m	6.0m
Ace rub	2	Acer rubrum	American Red/Swamp Maple	2.0m	>15.0m (Approx. Mature Height)
Cam hed	81	Camellia 'Hedge Mix'	Camellia	0.9m	1.2m
Car bet f	2	Carpinus betulus 'Fastigiata'	Upright Hornbeam	2.0m	8.0m
Fag syl da	4	Fagus sylvatica 'Dawcyck Purple'	Upright Purple European Beech	2.0m	8.0-10.0m (Approx. Mature Height)
Lir tul	5	Liriodendron tulipifera	Tulip Tree	2.0m	8.0m
Lir tul Var	3	Liriodendron tulipifera 'Fastigiata'	Tulip Tree Upright	2.0m	8.0m
Pla ori	1	Platanus orientalis	Oriental Plane	2.0m	15.0m (Approx. Mature Height)
Pru ama	11	Prunus 'Amanogawa'	Upright Flowering Cherry	2.0m	7.0m (Approx. Mature Height)
Que rob f	1	Quercus robur 'Fastigiata'	Upright Oak	2.0m	15.0-18.0m (Approx. Mature Height)
Ulm car Var	11	Ulmus carpinifolia 'Variegata'	Variegated Elm	2.0m	8.0m

## **APPENDIX 2 – SUPPLEMENTARY EVIDENCE OF MR MALAN**



Before the Hearings Commissioners at Christchurch City Council

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*under:* the Resource Management Act 1991

*in the matter of:* an application by Ryman Healthcare Limited for resource consent to establish and operate a comprehensive care retirement village at 100-104 Park Terrace and 20 Dorset Street, and 78 Park Terrace, Christchurch

*between:* **Ryman Healthcare Limited**  
*Applicant*

*and:* **Christchurch City Council**  
*Consent Authority*

Supplementary statement of evidence of **Pierre John Malan** on behalf of Ryman Healthcare Limited

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Dated: 30 March 2021

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REFERENCE: Luke Hinchey (luke.hinchey@chapmantripp.com)  
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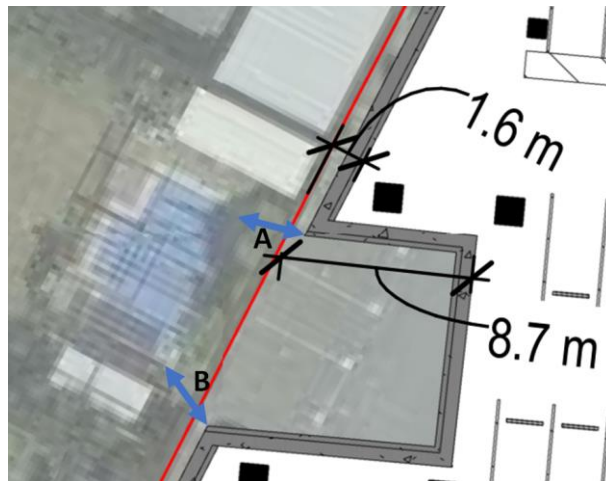
**SUPPLEMENTARY STATEMENT OF EVIDENCE OF PIERRE  
JOHN MALAN ON BEHALF OF RYMAN HEALTHCARE LIMITED**

- 1 My full name is Pierre John Malan. My qualifications and experience are set out in my statement of evidence dated 6 January 2021. I repeat the code of conduct statement contained in my statement of evidence.
- 2 The purpose of this supplementary statement is to record matters addressed during my presentation at the hearing on 28 January 2021, including my response to the evidence of Mr John Aramowicz and my responses to the questions asked by the Commissioners.
- 3 This supplementary statement addresses:
  - 3.1 Examples of the use of Continuous Flight Auger (CFA) piling around Christchurch;
  - 3.2 The inference made by Mr Aramowicz and some submitters at the hearing that the basement setback around the Bishops Chapel at the Bishopspark Site is indicative of the basement setback required from neighbouring boundaries;
  - 3.3 The suggestion made by Mr Aramowicz at the hearing that CFA pile installation will cause subsidence;
  - 3.4 Ryman's proposed amendment to the basement design adjacent to 15 Salisbury Street;
  - 3.5 The effect of the proposed basement on the performance of adjacent land during an earthquake; and
  - 3.6 A summary of the assessed deformation effects of the proposed basement construction on adjoining properties.
- 4 At the hearing, I provided some 'sketches' of the basement construction sequence to assist the Commissioners' understanding. **Appendix A** contains an overview of the basement construction sequence and associated diagrams.

**CFA piling - examples**
- 5 The Commissioners asked for examples of projects where CFA piling has been used in Christchurch. Tonkin & Taylor has been involved in CFA pile design and installation at the following sites over the last few years:
  - 5.1 30 Latimer Square, Rydges Hotel;
  - 5.2 Ao Tawhiti / 177 Saint Asaph;

- 5.3 165 Victoria Street;
  - 5.4 6 Fendall Lane;
  - 5.5 Naval Point (Lyttelton); and
  - 5.6 Christchurch Hospital accessway to VIE (Oxygen Tanks).
- 6 Monitoring and observations during these site builds did not identify any unexpected consequential effects or issues arising from the use of this technique at these sites. As noted at the hearing, the technique uses rotary drilling to form the hole, without impact or vibratory tools used to advance the hole.
- Chapel basement setback**
- 7 Mr Aramowicz and some submitters commented on the 4-5 m basement setback around the Chapel. They inferred that a similar basement setback is required from neighbouring boundaries.
- 8 This inference is incorrect. The original concept for the structural upgrade of the Chapel was to install base isolation, which required adequate space around the Chapel for those works to be carried out. The basement setback reflected that original expectation. While the Chapel upgrade methodology subsequently changed, the basement footprint did not.
- CFA piling - subsidence risk**
- 9 Mr Aramowicz raised a concern that the proposed CFA technique could cause movement in the ground surrounding the pile, by removal of soil during the withdrawal of the auger.
- 10 I do not consider this concern to be an issue. Mr Aramowicz appears to have presumed that the CFA would be an open flight auger (without the steel casing). The proposed CFA rig will use a 'double rotary' system that provides continuous support to the ground, either through a rotating outer steel casing (as the CFA rig advances), or by wet concrete (as it is withdrawn). This approach avoids over-excavation or displacement, and mitigates the potential for soil deformation around the pile.
- 11 I do not therefore anticipate consequential deformation around the pile due to the proposed CFA technique.
- Basement design – 15 Salisbury Street**
- 12 For the reasons set out in my summary statement, I do not consider the basement for the Peterborough Site requires a further setback adjacent to 15 Salisbury Street. Nevertheless, Ryman asked me to recommend an adjustment to the basement design in this location to provide additional peace of mind for the owners of that property. The plans at Appendix A to my summary statement identify that design refinement.

- 13 The adjustment to the basement design responds to the pool at 15 Salisbury Street, as the dwelling is well set back from the boundary. The relationship between the pool and the basement setback is shown on Figure 1 below. The basement setback includes the actual thickness of the basement wall, and the distances shown are from the boundary to the face of the basement.



**Figure 1 – setback of basement in relation to the pool at 15 Salisbury Street**

- 14 The basement wall can effectively only deform out of plane (i.e. directly into the basement at an angle perpendicular to the wall face). Where the basement walls change direction (i.e. the corners shown in Figure 1 above), deformations will be negligible as the geometry will provide a strong buttressing effect.
- 15 While not critical for assessing effects (due to the buttressing effects of the basement walls), Figure 1 shows the corners of the basement are set back around 3 m ('A' in Figure 1) to 3.5 m ('B' in Figure 1) from the pool. The basement faces around the pool area are either aligned at an angle to the pool, or set back from the pool, so the critical distances are those shown that are perpendicular to the wall face.
- 16 In my opinion, the geometry means that no basement wall faces can deform in a manner that will cause deformation at the pool.
- 17 Therefore, following this design refinement, I consider the deformation potential around the boundary adjacent to the setback area (and specifically the pool area) to be negligible. This is due to the geometry of the basement and pool, and specifically the buttressing effect of the corners and the setback of the basement walls.

**Basement – effect on earthquake performance**

- 18 Some submitters queried the impact of the basement on the performance of their land during an earthquake. I note this issue was not raised by Mr Aramowicz.

***Earthquake after basement is completed***

- 19 In context of TC3 land (land already assessed as being at high risk of consequential liquefaction effects), I do not consider the basement will materially change the seismic performance of adjoining land during an earthquake (i.e. there may be some beneficial or adverse effects due to the basement, but no consequential effect in terms of building performance and damage potential is expected).

- 20 The basement may provide a beneficial stiffening effect, as the basement slab and wall will prevent the surrounding land from moving. At the hearing I noted that the basement could modify the movement of liquefied soils in the event of liquefaction, as the soils will need to move around the basement in order to reach the surface. Having considered this question further following the hearing, I consider the presence of the clutch piles will prevent this movement from occurring as they extend more than 7 m below the basement, forming a barrier to movement of liquefied soils.

- 21 I note that a number of geotechnical researchers and academics have been undertaking research in central Christchurch CBD, particularly in relation to foundation and basement performance. None of the literature that I have reviewed identifies any material impact on land performance adjacent to sites with basements. If this effect were readily apparent, I would expect this to have been identified in the research undertaken and presented in the last 10 years.

***Earthquake during construction of basement***

- 22 Commissioner Mountfort asked whether my conclusion would be different if an earthquake occurred during construction of the basement.
- 23 There is some risk during the construction period, as the geometry is not as stable prior to the basement being completed. However, stability will be provided by the bund in front of the wall and then the temporary props. There is redundancy built into this design, and I consider it is likely those measures could handle a relatively large seismic event and subsequent liquefaction without collapse.
- 24 I also note this risk relates to the period of time between the completion of excavation and casting the final basement floor slab prop. The duration will depend on the construction techniques adopted. I expect this duration to be probably be in the order of 1-2 months. If a large earthquake occurred, I expect the consequence of this risk to be deformation rather than failure (i.e.

the wall will rotate or translate sideways, rather than snap or fail completely). With appropriate design, I do not consider there is any credible risk of brittle / catastrophic failure of the wall.

### **DEFORMATION RISK AT NEIGHBOURING PROPERTIES**

- 25 At the hearing, I provided a 'walk around' the Site's boundaries to explain my assessment of the deformation risk at the neighbouring properties. This section records my presentation and responses to questions from the Commissioners.

#### **Peterborough Site**

- 26 Commissioner Mountfort asked whether there is any difference between the Bishopspark and Peterborough Sites, and in particular, whether the existing piles on the Peterborough Site will have any impact.
- 27 The piling plan for the Peterborough Site has been considered, and the Proposed Village foundation design seeks to avoid the existing piles. The foundation can be imagined as a 'bed of nails' with a stiff raft on top of that. The 'nails' are not each carrying specific structural loads (i.e. from specific columns). Individual 'nails' can be moved to accommodate existing piles without impacting the foundation design.
- 28 It is possible that it may be necessary to remove or break down one or more of the existing piles. This work is feasible, but difficult, and therefore will be avoided wherever possible.

#### **Deformation risk – methodology**

- 29 As described in my statement of evidence, I used a retaining wall analysis programme (WALLAP) to estimate deformation of the wall face. This programme calculated that the wall will experience less than 20mm of displacement. I then used a semi-empirical method to estimate performance of the land behind the wall. The primary deformation is subsidence. The deformation decreases with distance from the wall (around 1mm per additional metre from the wall).
- 30 I have experience with a number of large retaining walls and estimating deformation. My experience includes Ryman sites at Lincoln Road and Hillsborough, Auckland, and Petone, Wellington as well as a range of other sites. Based on my experience, the actual deformation observed in the field is normally less, and often significantly less, than the calculated deformation.

#### **Deformation risk – overview**

- 31 As described in my statement of evidence, I consider there will generally be 20mm of deformation at the wall, resulting in less than 10mm of subsidence at locations outside of the Sites. My statement of evidence referred to an upper bound of 15mm

subsidence at locations with very adverse conditions. I consider this estimate is conservative. As noted, this deformation decreases with distance from the wall, such that 5m from the wall there will be less than 5mm of settlement. I consider this level of settlement is inconsequential (i.e. effectively no risk). A condition has been proposed to validate this risk assessment on a road or vacant boundary (condition 5).

- 32 I consider differential settlement of 5mm over 5m to have a low to very low probability of effects, and if they occur, to be limited to low consequential damage. If the deformation manifests, the effect will be difficult to see, and at the most would be expected to be very low level cosmetic effect. The basis for my assessment here is my experience and the information in paragraph 35 below.
- 33 On all boundaries with the Sites, neighbouring dwellings are set back, and I do not assess there to be material risk of impact on those dwellings. Accordingly, my evidence focusses on the various structures closer to the boundaries (mainly garages / carports).
- 34 I do not consider the expected differential settlements of 5mm over the typical length of a garage (5m-6m) to be readily observable, and I calculate these to manifest primarily as 'tilt' without causing consequential damage.
- 35 It is possible (but unlikely) this level of deformation could result in cosmetic effects. The estimated worst case deformation is also very low compared to other similar projects. To put this comment in context:
  - 35.1 The Building Code (that applies to all structures) considers that normal structures should contemplate deformation of 25mm over 6m in foundation design (1 in 240) causing structural damage<sup>1</sup>.
  - 35.2 The Canterbury Earthquake Recovery Authority (*CERA*) guidance for triggering repairs or rebuilds for dwellings affected by earthquake subsidence used a 1 in 200 ratio, or 10mm over 2m<sup>2</sup>.
  - 35.3 My experience with monitoring deformation has primarily been in Auckland, where Auckland Council typically consider

---

<sup>1</sup> Appendix B of MBIE (2014). "Acceptable Solutions and Verification Methods for New Zealand Building Code Clause B1 Structure", Amendment 12.

<sup>2</sup> Ministry of Business, Innovation and Employment Canterbury (2015). "Repairing and rebuilding houses affected by the Canterbury Earthquakes Part C: Technical Category 3" Version 3a.

10mm of structural deformation not to normally create a risk of consequential effects.

- 35.4 The other context for the Site is that the surrounding land is classified as TC3. All new buildings and repairs are designed to accommodate deformation. The minimum threshold for TC3 land is expecting more than 50mm settlement in a 25 year return period earthquake, and 100mm settlement in more severe earthquakes (500 year return period)<sup>3</sup>. A number of the dwellings around the Site (all the new buildings) therefore have a very high degree of resilience to deformation.
- 36 For all of these reasons, I do not expect any damage to structures on neighbouring properties as a result of the basement construction. There is a low to very low probability of low consequential effects. In the unlikely event that damage does occur, I expect it to be cosmetic and repairable. Conditions 20-27 will ensure any such damage is identified and repaired by Ryman.
- 37 I reiterate that my estimates of deformation provide an expected upper bound. Based on my experience, I consider it is reasonably likely that actual deformation will be half or two thirds of the estimated amount.

#### **Deformation risk – neighbouring properties**

- 38 The following table provides a summary of the deformation risk at each of the boundaries with adjacent properties. The risk profile assessment presented includes the following terms, which are defined as:
- 38.1 **Nil**: No credible risk of deformation.
- 38.2 **Negligible**: Deformation is expected to be inconsequential. No structural damage is anticipated, and it is unlikely there will be any aesthetic damage.
- 38.3 **Low**: A low risk of low consequence. Deformation is likely, but is not expected to be observable, and if it is observable, it is expected to be readily repairable.
- 39 The site plans in **Appendix B** show the setbacks between each of the boundaries and the centreline of the piles.

---

<sup>3</sup> Ministry of Business, Innovation and Employment Canterbury (2015). "Repairing and rebuilding houses affected by the Canterbury Earthquakes Part C: Technical Category 3" Version 3a.



Adjacent property	Basement setback	Adjacent property features and deformation	Risk assessment
<b><i>Bishopspark Site</i></b>			
17 Salisbury Street	1.6m	Dwelling has enhanced foundations on stone columns, and is set back more than 5m from the boundary.	Negligible
15 Salisbury Street	1.6m	Dwelling set back more than 10m from the boundary.	Nil
	1.6m	Carport outside 17 Salisbury Street. 5mm differential deformation over 5m.	Low
	1.6m – >8.7m (based on amended design)	Pool and surrounds.  Basement wall will be buttressed by setbacks.	Negligible
	1.6m – >8.7m	Jointly owned masonry wall on boundary.  Wall differential of up to 10mm expected as it transitions from setback area to be closer to the basement.	Low. Possibility of fine cracking on the wall. Simple to repair (repoint and repaint).
13 Salisbury Street	1.6m	Dwelling set back more than 10m from the boundary.	Nil
		4-Car Carport.  5mm differential deformation over 5m.	Low
5 Salisbury St	N/A	Vacant Lot.	Nil

84 Park Terrace	> 8.6m	Dwelling set back more than 10m from the boundary.	Nil
90 Park Terrace	N/A	N/A	Written approval provided
108 Park Terrace	3.7m - 4.7m	Multi-storey building founded on piles and set back 0.7m from the boundary.	Negligible
2A Dorset Street	2m	Dwelling set back 6.5m from the boundary and piled.  Garage joined to dwelling and piled.	Negligible
2-16 Dorset Street (Dorset Street Flats)	2m	The Flats are set back 7m-8m from the boundary and founded on a repaired foundation system.  (Heritage status and restoration works considered).	Negligible
4A Dorset Street (future Stables building)	2m	If the Stables built prior to the basement, the building will be founded on TC3 foundations.  5mm differential deformation over 5m.	Low
18 Dorset Street	2m	Dwelling is set back more than 7m from the boundary.	Negligible
		Carport.  5mm differential deformation over 5m.	Low

Victoria Street properties	5.4m – 9.3m	Commercial properties except 135 Victoria Street.	Negligible due to setback (and building design mitigates effects)
	1.5m	135 Victoria Street has car parking on the boundary.	Negligible (no structures present)
<b>Peterborough Site</b>			
Park Terrace and Salisbury Street	1.6m – 2.0m	No structures or major services within 5m of the basement.	Nil
76 Park Terrace	1.6m – 1.7m	No structures on northern or most of eastern boundary.	Nil
	1.6m	Garage with 0.75m setback from the boundary.  5mm differential deformation over 5m.	Low
15 Peterborough Street	2.2m	Piled multi-storey structure with basement.	Negligible
18 Salisbury Street	1.6m  Vehicle access ramps located adjacent to these properties can potentially be used to stiffen wall and reduce effects.	Dwellings set back 2.4m-3m with TC3 foundations (550mm thick TC3 slabs on gravel raft > 1.3m thick and designed to accommodate deflection.  If ramps don't reduce deformation, could expect 5mm over 5m.	Low

	<1m (Adjacent to boundary)	Carport set back adjacent to boundary.  5mm differential deformation over 5m.	Low
--	----------------------------------	---	-----

**Pierre Malan**  
**30 March 2021**

## **APPENDIX A – OVERVIEW OF BASEMENT CONSTRUCTION**

### **Proposed construction methodology, perimeter retaining wall, Ryman Park Terrace**

Following the meeting today (26/01/2021) between Pierre Malan, John Aramowicz and Yvonne McDonald, the following construction methodology was presented.

#### **Step 1: Drill and concrete CFA piles**

CFA (continuous flight auger) piles are proposed to be constructed by augering into the ground, and then withdrawing the auger and pumping concrete into the void behind the withdrawing auger. This is a low vibration construction method that leaves a circular concrete filled pile in the ground.

In this case the diameter of the pile is expected to be approximately 960 mm, and spaced at 1130 mm centres (i.e. with a 250 mm gap between pile holes).

#### **Step 2: Plunge clutch tubes into hole**

Once the holes are formed with wet concrete, the steel clutch tubes are proposed to be plunged or pushed into them. This process is similar to CFA piling, where steel cages are plunged into the wet concrete. In order to advance the pile, the clutch part of the piles have to cut approximately 125 mm of soil on either side of the hole.

The geometry is expected to comprise 813 mm diameter tubes, with a 10 mm wall thickness, and around 300 mm spacing between the tubes.

#### **Step 3: Cut bund and cast concrete slab**

The soil in front of the wall is proposed to be excavated, with a bund left in place. The metre thick concrete foundation slab is proposed to be then constructed at the toe of the bund.

#### **Step 4: Construct temporary prop for wall**

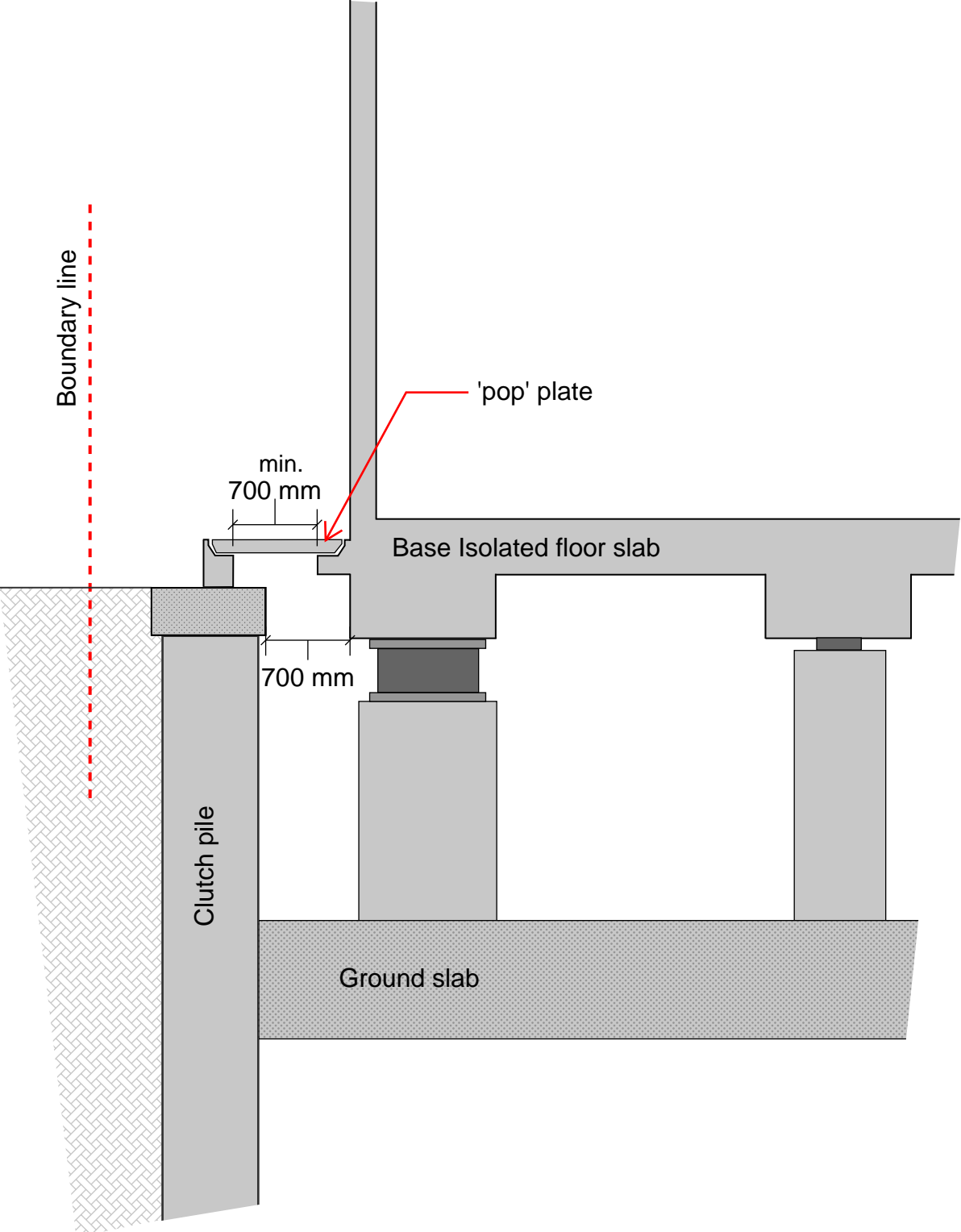
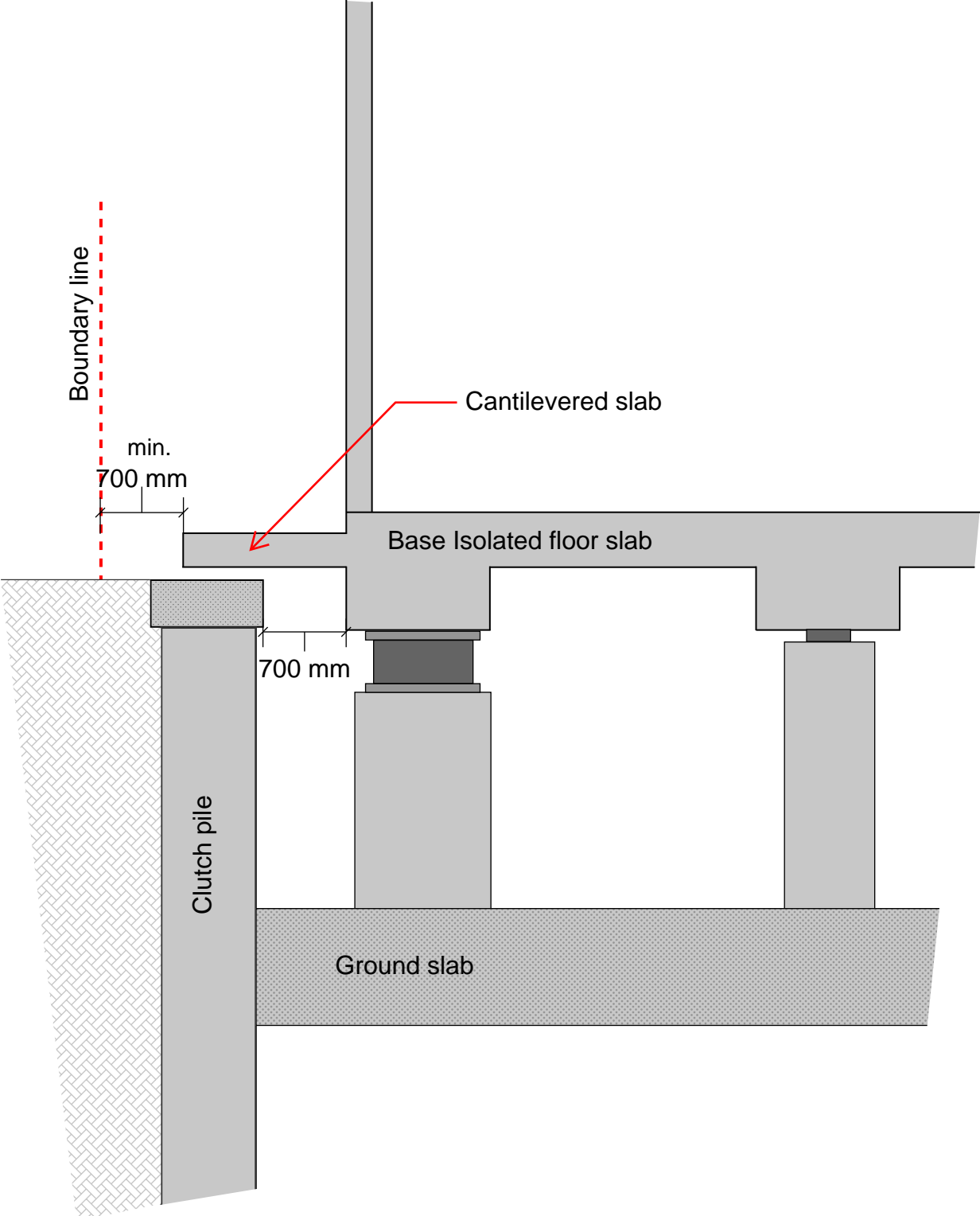
A prop is then proposed to be installed, typically from the slab to the wall (although possibly off other walls at times).

#### **Step 5: Cast slab to provide permanent base prop to wall**

Once the prop is in place, the remainder of the soil can be excavated, the clutch welded, and a concrete slab cast to act as a permanent base prop.

#### **Step 6: Remove temporary top prop**

The top prop can then be removed and the basement is in its final form.



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RYMAN HEALTHCARE

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**Project Title**  
PARK TERRACE  
SITES

**Drawing Title**  
INDICATIVE  
BOUNDARY EDGE  
CONDITIONS

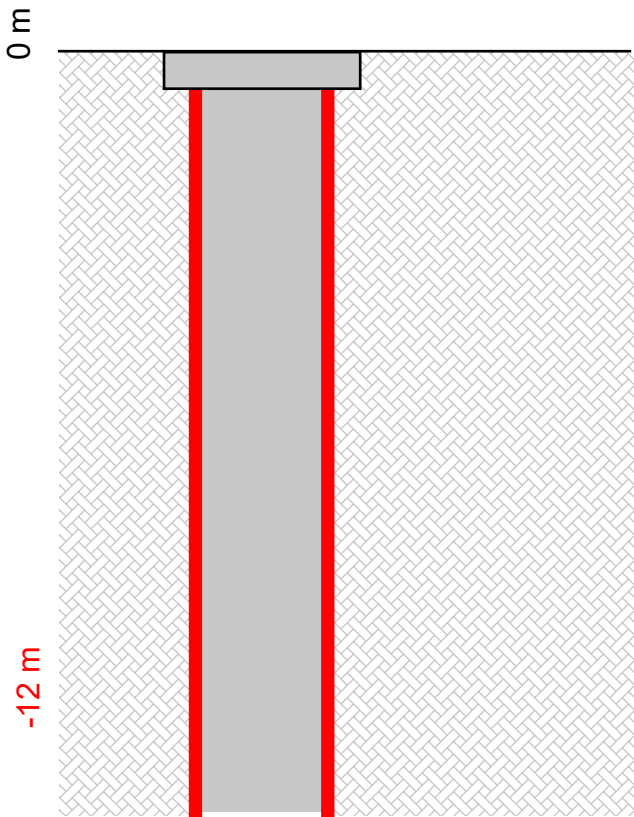
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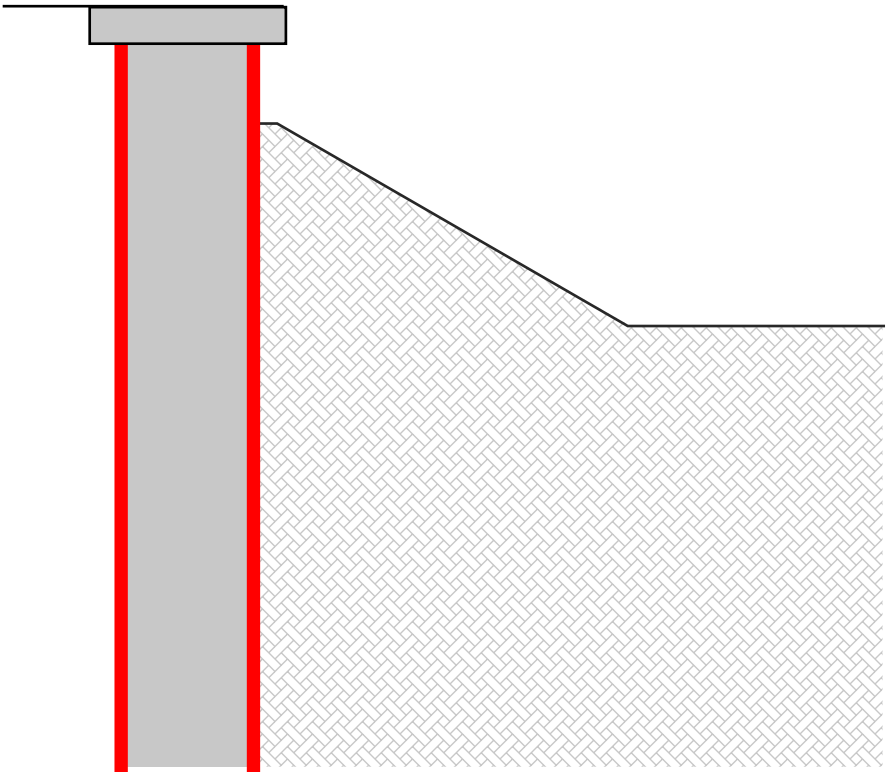
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**Revision**  
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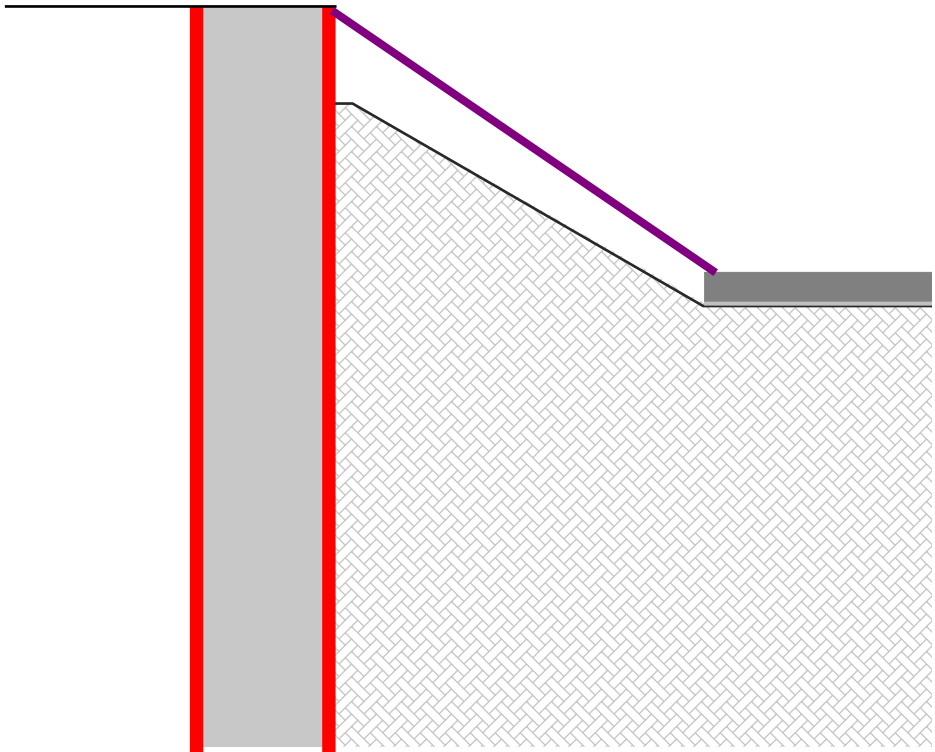
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2. FORM BERM



3. CONSTRUCT SLAB AND INSTALL PROPS



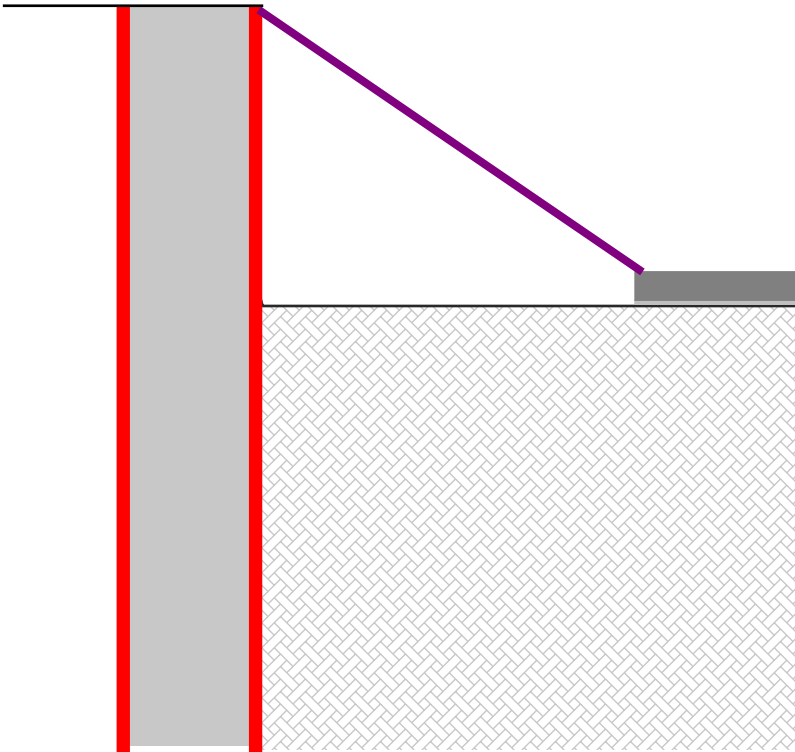
**Client**  
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Christchurch 8011  
New Zealand  
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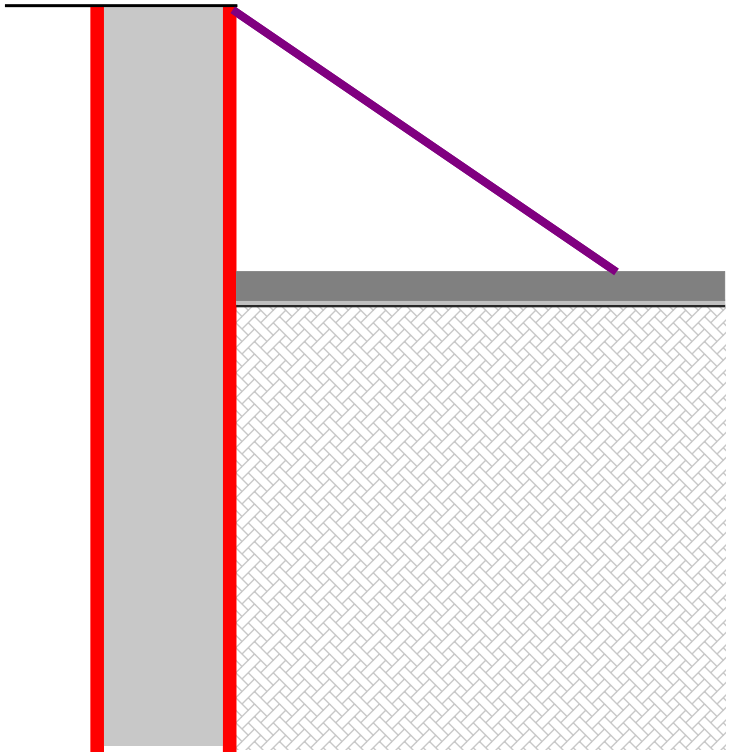
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**Project Title**  
—  
**PARK TERRACE  
SITES**

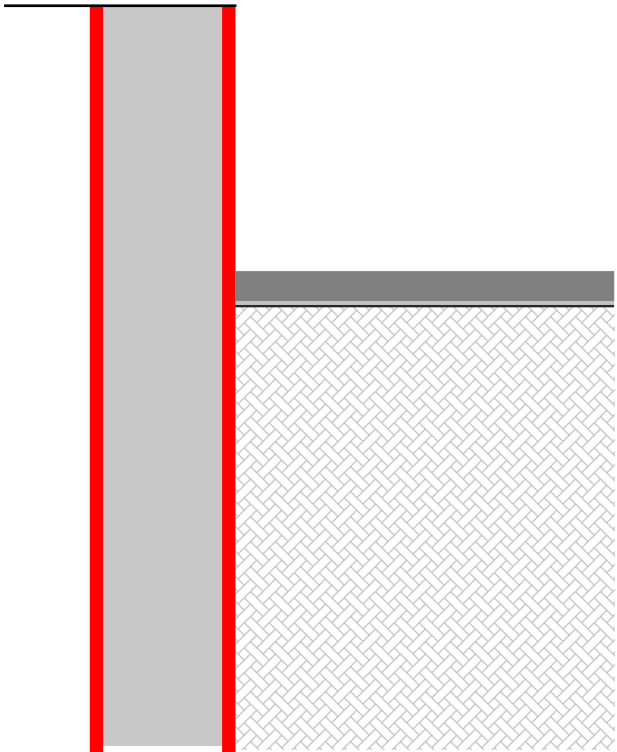
4. EXCAVATE BERM



5. CONSTRUCT REMAINDER OF SLAB



6. REMOVE PROPS



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**RETAINING  
SEQUENCE**

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**Drawing Details**  
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Job No	8899
Drawn	TDH
Checked	Checker

**Drawing No**  
—  
.A0-046

**Revision**





APPENDIX B - BASEMENT SETBACKS

NOTE:  
DIMENSIONS ARE FROM THE INSIDE FACE OF THE BOUNDARY WALL  
CENTRELINE OF THE CLUTCH PILES WILL BE AROUND 0.4m TOWARDS THE BOUNDARY FROM THE INSIDE FACE OF THE BASEMENT



1 PROPOSED SITE PLAN - BASEMENT TO BOUNDARY  
A1 sheet scale = 1 : 500  
A3 sheet scale is twice scale shown above

All dimension to be verified on site before producing shop drawings or commencing any work. Do not scale. The copyright of this drawing remains with Warren and Mahoney Architects Ltd.

Revisions

Notes

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Project Title  
PARK TERRACE  
SITE ONE  
BISHOPSPARK

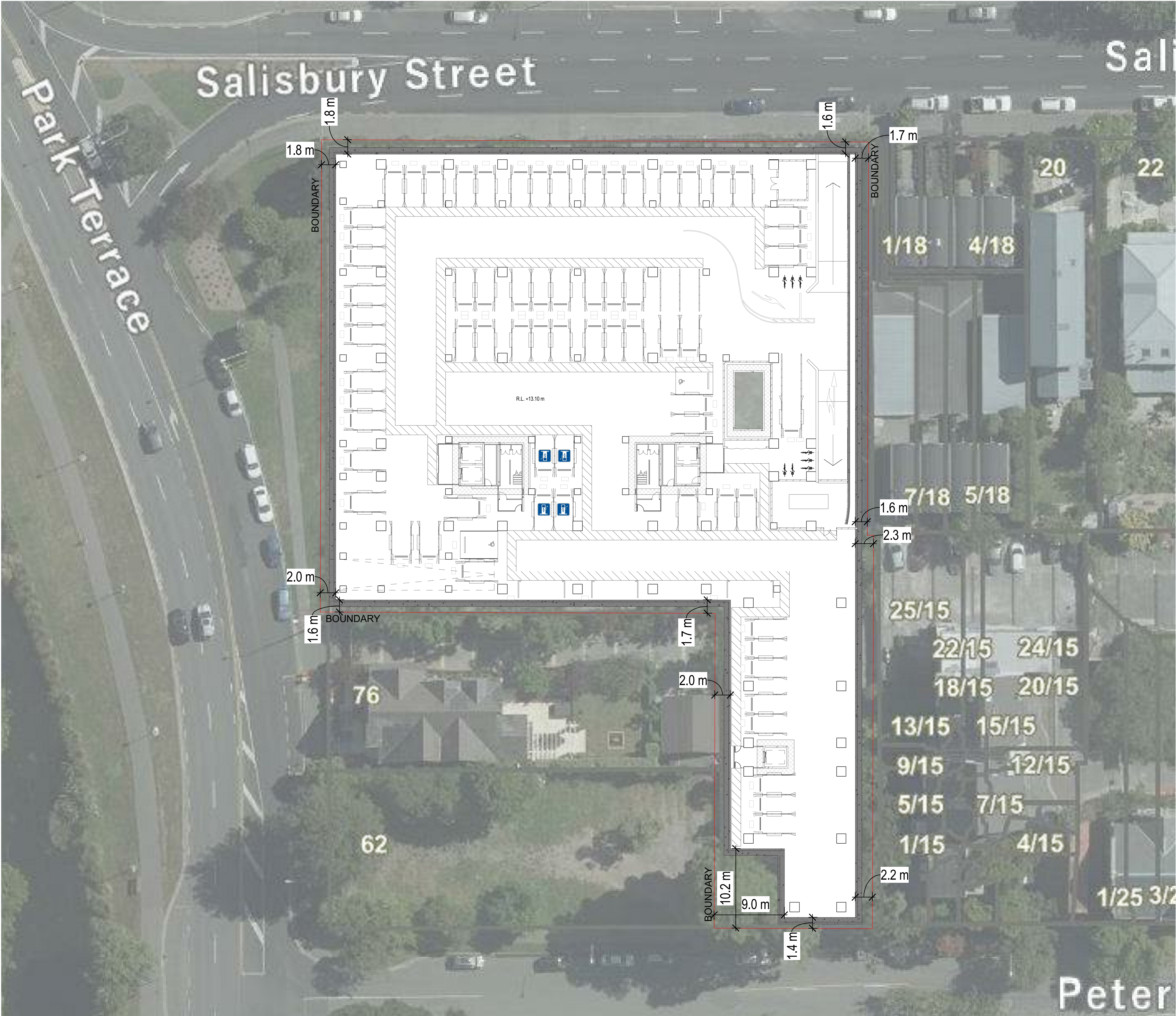
Drawing Title  
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BOUNDARY

Drawing Issue

Drawing Details	
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Date	
Job No	8917
Drawn	Author
Checked	Checker

Drawing No	Revision
A0-041	





1 PROPOSED SITE PLAN - BASEMENT TO BOUNDARY

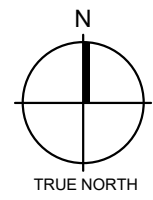
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Revisions

Notes

NOTE:  
DIMENSIONS ARE FROM THE INSIDE FACE  
OF THE BOUNDARY WALL  
CENTRELINE OF THE CLUTCH PILES WILL  
BE AROUND 0.4m TOWARDS THE  
BOUNDARY FROM THE INSIDE FACE OF  
THE BASEMENT



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Project Title  
PARK TERRACE  
SITE TWO  
PETERBOROUGH

Drawing Title  
BASEMENT TO  
BOUNDARY

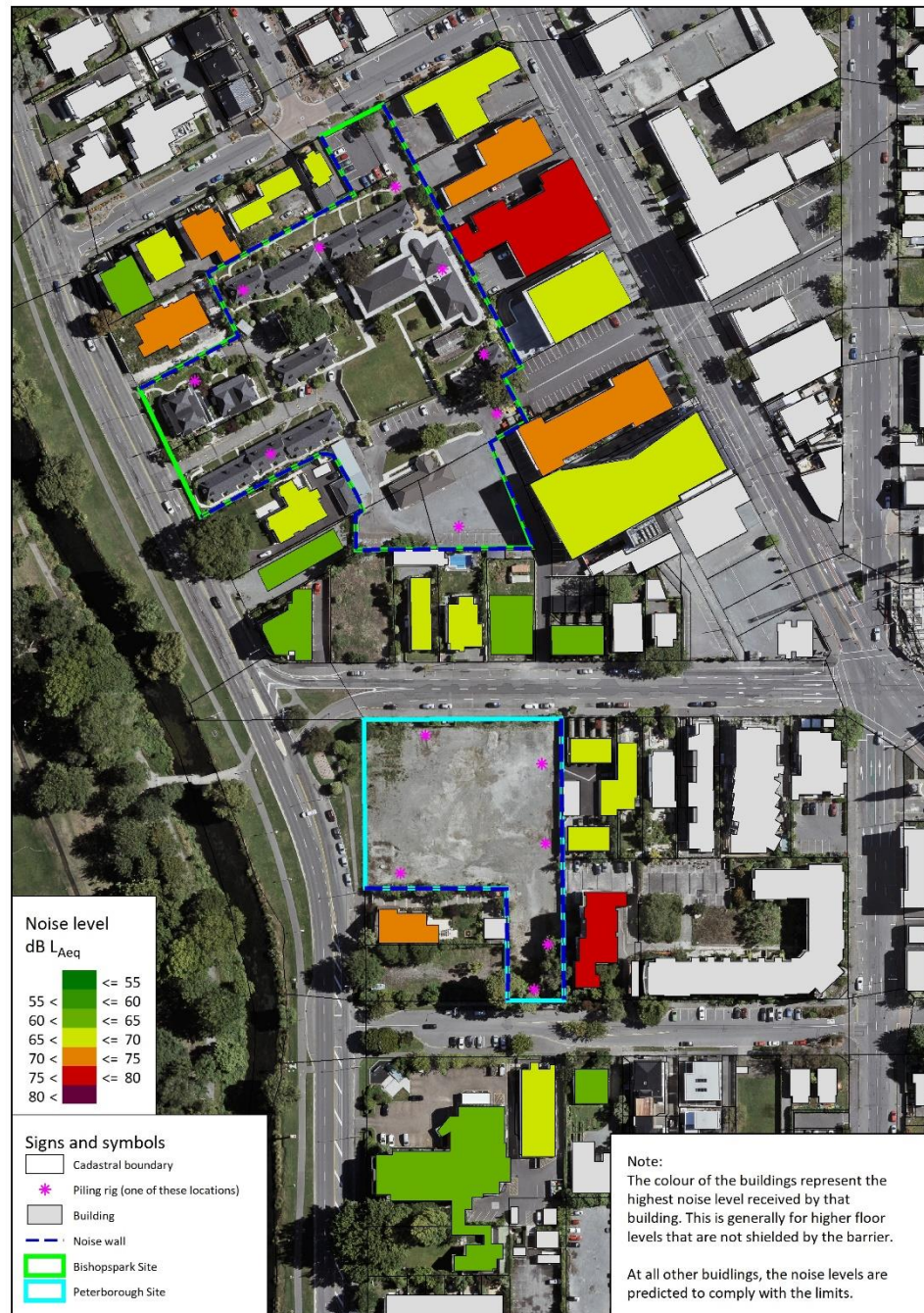
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Date  
Job No 8899  
Drawn Author  
Checked Checker

Drawing No Revision  
A0-041



## APPENDIX 3 – UPDATE TO SOE WILKENING - ANNEX A



## **APPENDIX 4 – CUMULATIVE SHADING DIAGRAMS**

## **APPENDIX 5 – JOINT SUPPLEMENTARY STATEMENT OF EVIDENCE**

## **APPENDIX 6 – LETTER FROM COSGROVES**

# MEMO

TO: Matthew Brown – Ryman Health Care

FROM: E. Owens

DATE: 25 March 2021

File Ref: CC19162

RE: Ryman Park Terrace Village – Spill Light

---

Dear Matthew,

Thank you for providing typical apartment layouts and luminaire schedule for us to assess the potential of unwanted spill light to neighbouring boundaries of the Park Terrace Village. We understand the lighting for the Park Terrace Village has not been completed, but the information you have provided is from similar villages and is well representative of the design intent for this Village. These documents are attached for reference.

Please note this assessment is based on a desktop assessment of the technical parameters of the exemplar luminaires and layouts only. We have not undertaken any detailed modelling or performance calculations at this time.

We note in each of the apartment layouts provided, the luminaires that are either adjacent to exterior windows or exterior luminaires are identified as either types L3 / RD1 for the interior spaces or L23 / EW2 for the external terrace / balcony area. The luminaire schedule provided only lists Types L3 and L23, so for the purposes of this assessment we have assumed Types RD1 and EW2 to be Types L3 and L23 respectively.

The Type L3 luminaires are a 9.5W, 900lm low glare down light with a 50 deg. beam angle. Providing luminaires of this type are installed in such a location that the 50 deg. cone of light does not protrude through the vertical plane of the window opening then these luminaires will not contribute directly to spill light at the neighbouring boundary. Based on the typical apartment layouts, we consider this outcome is achievable through design.

The Type L23 luminaires are a 13W, 985lm wall mounted exterior down light with a 36 deg. beam angle. Providing luminaires of this type are installed in such a location that the 36 deg. cone of light does not protrude past the vertical plane of the edge of the external terrace / balcony area then these luminaires will not contribute directly to spill light at the neighbouring boundary. Based on the typical apartment layouts, we consider this outcome is achievable through design.

It should be noted there will be reflected light from the internal and external surfaces and furnishings. However, the intensity of light reduces at an inverse square relationship to the distance travelled. That is for every meter of distance in any direction the intensity of light reduces by the square of that distance. Therefore, illumination levels will quickly reduce the further away from the building the light travels. As advised by your planners the Christchurch City District Plan requires vertical illuminance artificial outdoor lighting must not exceed 4 lux when measured or calculated 2 meters within the boundary of any adjacent site.

After considering the exemplar apartment layouts and luminaire types provided it is our opinion that through the application of good design principles and luminaire selections, the requirements of the District Plan can be met. More detailed assessment (technical spill light modelling and studies) can be conducted at the design phase to confirm compliance.

Please do not hesitate to contact us to discuss any matters arising from this advice.














Regards



Evan Owens  
Associate Electrical Engineer

**RYMAN HEALTHCARE**  
LINDA JONES  
RETIREMENT VILLAGE

**ELECTRICAL LEGEND**

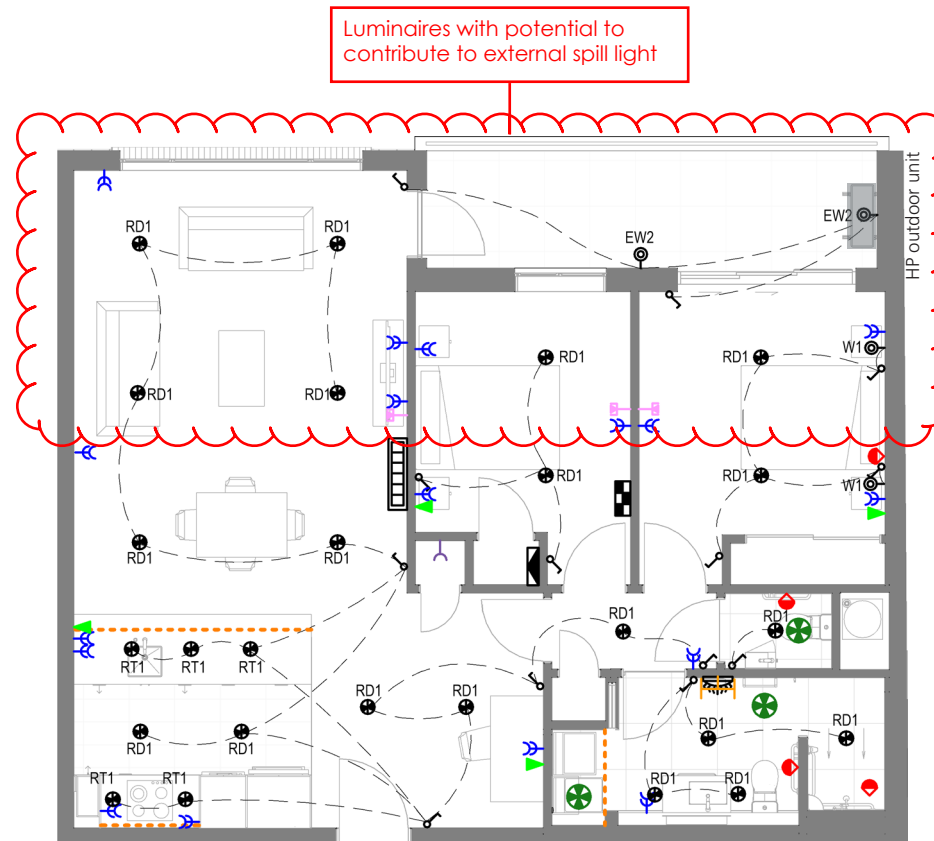
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-  Single Switch Socket
-  Double Switch Socket
-  Combined TV & Phone Socket
-  Telephone Socket
-  Light Switch
-  Heat pump
-  Wall Heater - Bathroom
-  Heated Towel Rail
-  Switch Board
-  Extract Fan
-  Proprietary Fibre Box
-  LED Strip Lighting

**LIGHTING FIXTURE LEGEND**

- EW2 Exterior Wall Mounted Light
- RD1 Recessed Down Light
- RT1 Recessed Down Light - Tilting
- W1 Bedside Light - Wall Mounted

All drawings are indicative and based on typical apartment layouts.  
Locations of electrical and lighting fixtures may vary slightly due to construction tolerances. Note drawing is not to scale.







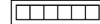






**TYPICAL ELECTRICAL APARTMENT  
TYPE 1B**





**RYMAN HEALTHCARE**  
LINDA JONES  
RETIREMENT VILLAGE

**ELECTRICAL LEGEND**

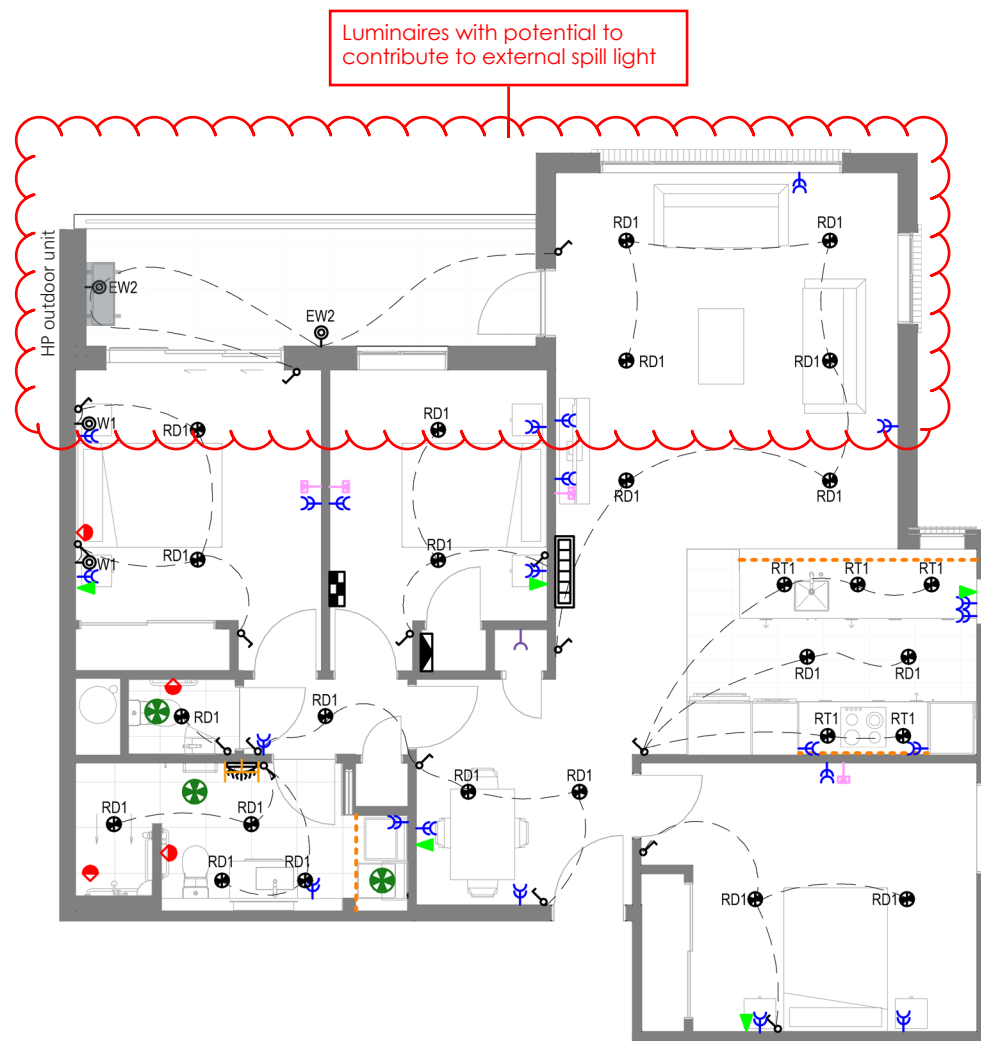
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-  Single Switch Socket
-  Double Switch Socket
-  Combined TV & Phone Socket
-  Telephone Socket
-  Light Switch
-  Heat pump
-  Wall Heater - Bathroom
-  Heated Towel Rail
-  Switch Board
-  Extract Fan
-  Proprietary Fibre Box
-  LED Strip Lighting

**LIGHTING FIXTURE LEGEND**

- EW2 Exterior Wall Mounted Light
- RD1 Recessed Down Light
- RT1 Recessed Down Light - Tilting
- W1 Bedside Light - Wall Mounted

All drawings are indicative and based on typical apartment layouts.  
Locations of electrical and lighting fixtures may vary slightly due to  
construction tolerances. Note drawing is not to scale.














**TYPICAL ELECTRICAL APARTMENT  
TYPE 3A**





**RYMAN HEALTHCARE**  
HOBSONVILLE  
RETIREMENT VILLAGE

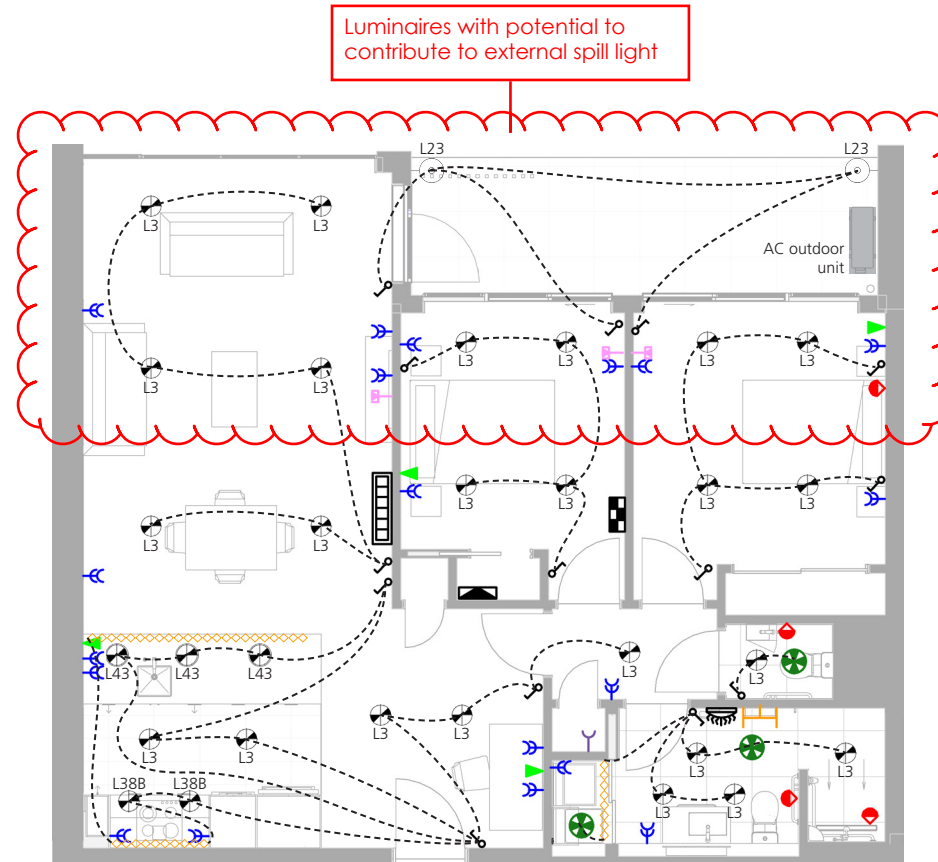
**ELECTRICAL LEGEND**

-  Emergency Call Alarm
-  Single Switch Socket
-  Double Switch Socket
-  Combined TV & Phone Socket
-  Telephone Socket
-  Light Switch
-  Heat pump
-  Wall Heater - Bathroom
-  Heated Towel Rail
-  Switch Board
-  Extract Fan
-  Proprietary Fibre Box
-  LED Strip Lighting

**LIGHTING FIXTURE LEGEND**

- L23 Exterior Wall Mounted Light
- L3 Recessed Down Light
- L38B Recessed Down Light - Bulkhead
- L43 Recessed Down Light - Tilting














**TYPICAL ELECTRICAL APARTMENT  
TYPE 1A**





**RYMAN HEALTHCARE**  
HOBSONVILLE  
RETIREMENT VILLAGE

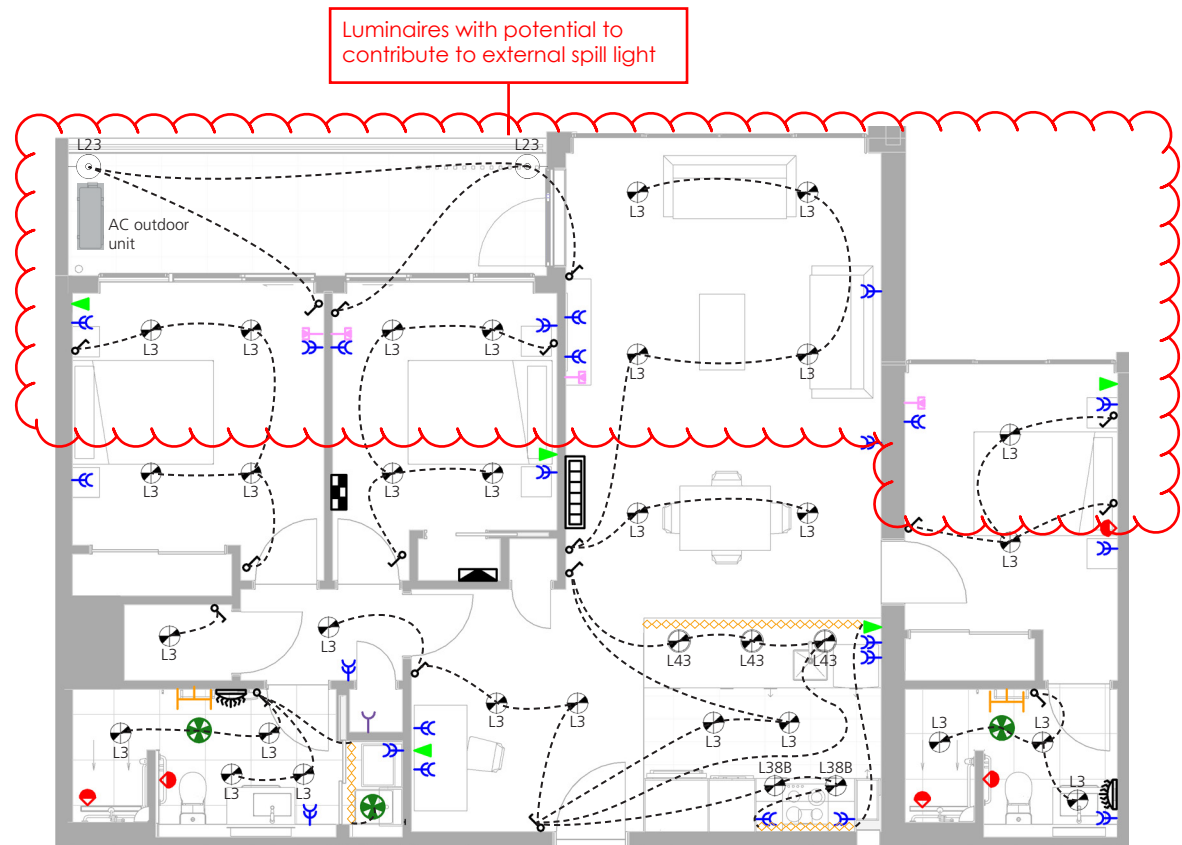
**ELECTRICAL LEGEND**

-  Emergency Call Alarm
-  Single Switch Socket
-  Double Switch Socket
-  Combined TV & Phone Socket
-  Telephone Socket
-  Light Switch
-  Heat pump
-  Wall Heater - Bathroom
-  Heated Towel Rail
-  Switch Board
-  Extract Fan
-  Proprietary Fibre Box
-  LED Strip Lighting

**LIGHTING FIXTURE LEGEND**

- L23 Exterior Wall Mounted Light
- L3 Recessed Down Light
- L38B Recessed Down Light - Bulkhead
- L43 Recessed Down Light - Tilting













**TYPICAL ELECTRICAL APARTMENT  
TYPE 2**





**RYMAN HEALTHCARE**  
HIGHTON  
RETIREMENT VILLAGE

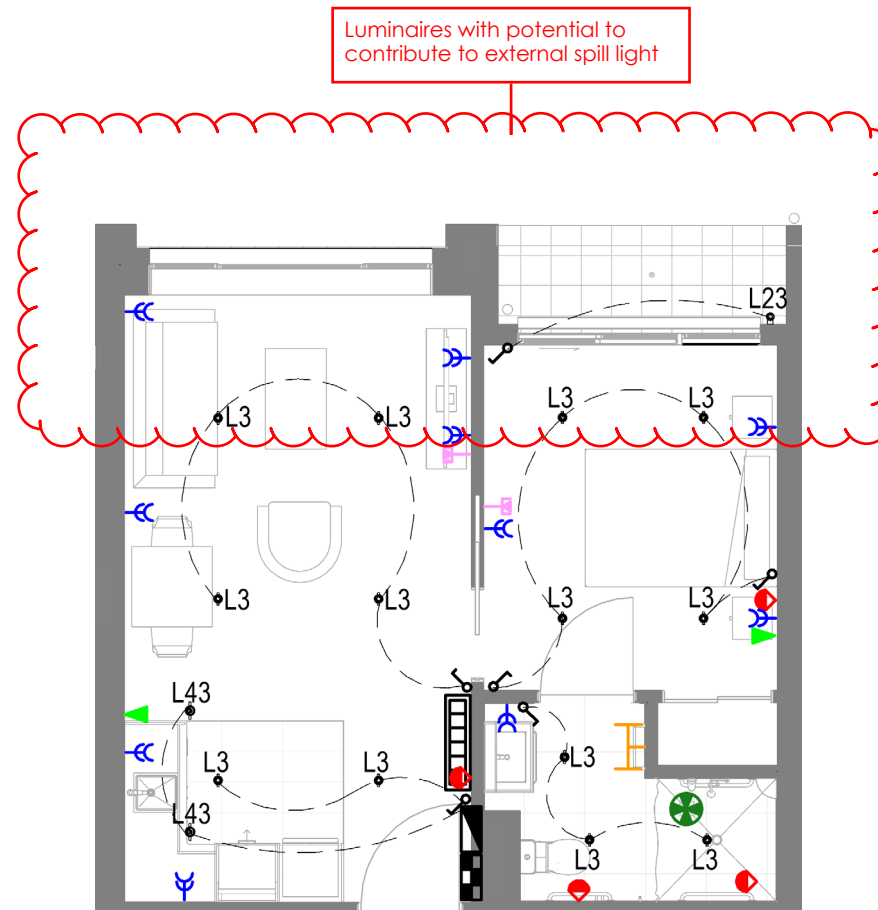
**ELECTRICAL LEGEND**

-  Emergency Call Alarm
-  Single Switch Socket
-  Double Switch Socket
-  Combined TV & Phone Socket
-  Telephone Socket
-  Light Switch
-  Internal AC Unit
-  Heated Towel Rail
-  Switch Board
-  Extract Fan
-  NBN Cabinet
-  LED Strip Lighting

**LIGHTING FIXTURE LEGEND**

- L43 Recessed LED Down Light - Tilting
- L3 Recessed LED Down Light
- L23 Exterior Wall Mounted Light

**TYPICAL ELECTRICAL SERVICED APARTMENT  
TYPE 2A**



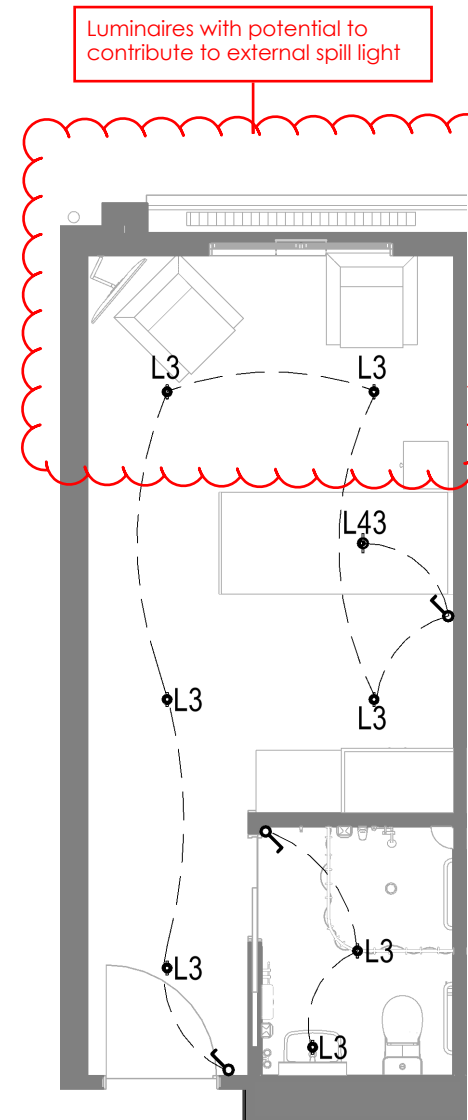


**RYMAN HEALTHCARE**  
HIGHTON  
RETIREMENT VILLAGE


**LIGHTING FIXTURE LEGEND**

L43	Recessed LED Down Light - Tilting
L3	Recessed LED Down Light


**TYPICAL ELECTRICAL CARE ROOM**




Recessed Lighting

FIXED DOWNLIGHT					
		<b>FIXED DOWNLIGHT</b>  Location: Generic lights for VC / and All TH, IA, ALS Area: Corridors, Foyer / Atrium / Public Spaces, pool rooms, lift lobbies Our most commonly used fixed recessed down light. Space at 3m centres in 2.45m ceiling height			
Supplier Code	Ryman Code	Supplier	Description		
R730 W3K	L3	Halcyon	Fixed Style Downlight.		
Dimensions (mm)	Cut Out (mm)	Colour Temp	IP Rating	CRI Rating	Watts
W93 x L93 x D101	72 - 82	3000K	54	90+	11
Additional Info:	DX Series TRIAC Dimmable Driver Included (pre-wired) IC-F / IC-4. White with White Reflector				
Product Link:	<a href="https://www.halcyonlights.co.nz/product/9.5w-x-low-glare-design-standard-series-8032.htm">https://www.halcyonlights.co.nz/product/9.5w-x-low-glare-design-standard-series-8032.htm</a>				


Recessed Lighting

BULKHEAD DOWNLIGHT					
		<b>BULKHEAD DOWNLIGHT</b>  Location: TH, IA Area: Kitchen NOTE: Only used if bulkhead is in MDF supplied by Aspire as part of the joinery			
Supplier Code	Ryman Code	Supplier	Description		
833.72.280	L38P	Hafele	Loox LED Round Downlight.		
Dimensions (mm)	Cut Out (mm)	Colour Temp	IP Rating	CRI Rating	Watts
W65 x L65 x D14	55	3000K			3.2
Additional Info:	Aspire's choice of bulkhead lighting. MDF. Brand Hafele, Supplied by: Aspire				
Product Link:	<a href="https://www.hafele.co.nz/en/product/downlight-round-hafele-loox-led-2020-zinc-alloy-12-v/0000008c000196f500020023/">https://www.hafele.co.nz/en/product/downlight-round-hafele-loox-led-2020-zinc-alloy-12-v/0000008c000196f500020023/</a>				

Recessed Lighting

TILT LIGHT					
		<b>TILT LIGHT</b>  Location: TH, IA, VC Salon + Beauty Area: All Pitched Ceilings. All tilt task lighting over kitchens etc These are to be replaced with the R750 W3K when stock of the R757 is gone.			
Supplier Code	Ryman Code	Supplier	Description		
R757 WW3UK	L42	Halcyon	Pitched Ceilings Tilt Light.		
Dimensions (mm)	Cut Out (mm)	Colour Temp	IP Rating	CRI Rating	Watts
D102 x L100	92	3000K	44	90+	12
Additional Info:	These are to be replaced with the R750 W3K when stock of the R757 is gone.				
Product Link:	<a href="https://www.halcyonlights.co.nz/product/12w-smart-tilt-darklight-design-series-4632.htm">https://www.halcyonlights.co.nz/product/12w-smart-tilt-darklight-design-series-4632.htm</a>				

Strip Lighting

LED STRIP LIGHT					
		<b>KITCHEN LED STRIP LIGHT</b>  Location: IA, TH Area: Kitchen Island & Wall Mount Cabinets			
Supplier Code	Ryman Code	Supplier	Description		
833.74.181	L20C	Hafele	Kitchen LED Strip Lighting.		
Dimensions (mm)	Cut Out (mm)	Colour Temp	IP Rating	CRI Rating	Watts
L1500 x W8	N/A	3000K	20	83+	6.9W per/m
Additional Info:	Hafele Aluminium Profile - Diffuser, Milky: 833.72.844 Brand: Hafele, Supplied by: Aspire				
Product Link:	<a href="https://www.hafele.co.nz/en/product/led-strip-light-hafele-loox-led-2041-12-v/00000070000203ca00030023/">https://www.hafele.co.nz/en/product/led-strip-light-hafele-loox-led-2041-12-v/00000070000203ca00030023/</a>				

Exterior Lighting



WALL LIGHT

FIXED EXTERIOR WALL LIGHT

Location: Exterior  
Area: TH, IA and ALS Patio's

Supplier Code	Ryman Code	Supplier	Description		
EX150 B3K	L23	Halcyon	Fixed Exterior Wall Light one way Up orDown.		
Dimensions (mm)	Cut Out (mm)	Colour Temp	IP Rating	CRI Rating	Watts
H155 x Dia80 x W116	N/A	3000K	65	90+	13
Additional Info:	LIGHT				
Product Link:	<a href="https://www.halcyonlights.co.nz/product/Surface-Mount-Spot-Single-X-Low-Glare-1360.htmx">https://www.halcyonlights.co.nz/product/Surface-Mount-Spot-Single-X-Low-Glare-1360.htmx</a>				

## **APPENDIX 7 – DAYLIGHT SAVINGS CORRECTION**



## **APPENDIX 8 – SCENARIO SHADING DIAGRAMS – PLAN VIEW**

## **APPENDIX 9 – SCENARIO SHADING DIAGRAMS – 3D VIEW**

**APPENDIX 10 – RESPONSE TO SUBMITTER COMMENTS ON  
CONDITIONS**

## SUMMARY OF COMMENTS ON PROPOSED CONSENT CONDITIONS

### PARK TERRACE

30 MARCH 2021

Name and Address	Summary of general comments and comments on specific conditions	Ryman response to comments
Christina Bennett - 15 Salisbury Street	Concerns about the lack of independent monitoring and assessment of the construction work, especially the excavations and Westwood Terrace. Unclear whether the results of the surveys will be transparent and available to the public.	<p>Condition 5 has been amended to make it explicit that monitoring and contingency framework, as part of the Construction Management Plan, shall be prepared by a suitably qualified and independent geotechnical engineer.</p> <p>In addition, Condition 22 has been amended to make it explicit that a suitably qualified, independent and experienced person will be engaged to undertake the pre and post-construction building condition surveys.</p> <p>Condition 22 has also been amended to require pre and post-construction surveys of the condition of Westwood Terrace.</p> <p>Further, Condition 27 has been amended to make it clear that the property surveys will be made available to the applicable property owners within 15 working days of the surveys being completed.</p>
	The draft conditions do not consider the potential subsidence and differential settlement with building the basement so close to neighbouring properties. If the basement wall requires moving, an amendment to the resource consent should be required.	<p>The potential for subsidence and differential settlement has been addressed in the evidence of Mr Malan on behalf of Ryman. The proposed consent conditions provide a framework that enables the methodology for the construction of basements to be monitored adjacent to a vacant boundary and to consider whether any further refinements to the construction methodology are necessary for construction purposes.</p> <p>This approach, alongside the pre and post-construction building surveys proposed by Ryman, is considered sufficiently precautionary.</p>

	<p><b>Condition 5:</b> An independent geotechnical engineer should assess and monitor the work undertaken during the trial and construction phase, including Westwood Terrace due to the substantial excavations.</p>	<p>Condition 5 has been amended to make it explicit that monitoring and contingency framework, as part of the Construction Management Plan, shall be prepared by a suitably qualified and independent geotechnical engineer.</p>
	<p><b>Conditions 24, 25 and 26:</b> Require specific surveys of events occurring such as earthquakes and groundwater issues, as subsidence may not result immediately and if anything does occur after this survey this is outside Ryman's responsibility. Specific surveys and independent monitoring should be available upfront to ensure the neighbouring properties are protected.</p>	<p>Condition 22 has been amended to make it explicit that a suitably qualified, independent and experienced person will be engaged to undertake the pre and post-construction building condition surveys.</p> <p>Conditions 25 and 26 also require follow up surveys after the completion of construction activities adjacent to individual properties, and following the completion of all construction activities on the site. This approach is considered to provide suitable contingency for any potential effects to manifest.</p> <p>Further, Condition 27 has been amended to make it clear that the property surveys will be made available to the applicable property owners within 15 working days of the surveys being completed.</p>
Christchurch Civic Trust	<p>CCT believes that there should be no new built structures within the existing heritage setting and that the distance of 5 m between the chapel and the nearest new building is too small.</p> <p>CCT endorses the tree heights detailed, as the tree height / form requirements are essential in providing some measure of effective amelioration of negative visual and amenity effects on the surrounding.</p> <p>CCT opposes any exceedance of the District Plan's height limits. CCT considers this to be a critical fault in the formula which Ryman is seeking to impose on this historically sensitive and important part of the inner residential city.</p>	<p>No changes made to the proposed conditions in response to this comment from the submitter. Most of these comments relate to the merits of the application as opposed to the proposed conditions of consent.</p> <p>With respect to the tree heights detailed in Condition 59, these are agreed between Ryman and the Council with the exception of the tree species along Salisbury Street – where Ryman has proposed planting tree species with a mature height of 7 m given the space that is available.</p>
	<p><b>Condition 55:</b> Line 3 should read 'buildings <u>within</u> the heritage setting'.</p>	<p>This amendment has been accepted in Condition 55.</p>
	<p><b>Condition 59:</b> CCT endorses all tree heights detailed – 15m for two large trees on Park Tce street frontage; 6m on Dorset St frontage; 8m on 2 to 18 Dorset St boundary; 8m on 13 to 17 Salisbury St boundary. CCT endorses 12 m on Salisbury Street frontage.</p>	<p>No changes made to the proposed conditions in response to this comment from the submitter.</p>

		The height of the tree species on Salisbury Street remains the only matter not agreed by Ryman and the Council, with Ryman proposing tree species with a mature height of 7 m.
	<b>Condition 61:</b> Include in the advice note that this requirement will need to be strictly monitored and enforced.	No changes made to the proposed conditions in response to this comment from the submitter. All consent conditions will be monitored and assessed for compliance by the Council.
	<b>Condition 63:</b> Need to include that Salisbury Street is to become two way when the requirements of “an accessible city” are implemented in 2028.	No changes made to the proposed conditions in response to this comment from the submitter. The consent holder will be required to provide an appropriate crossing facility that reflects the configuration of Salisbury Street at the time the crossing design is certified, given that there is no certainty that Salisbury Street will become two-way in 2028.
	<b>Advice Note Heritage iii):</b> very significant, given the date of first developments on the site from 1858. CCT hopes that all requirements of the developer will be scrupulously fulfilled.	No changes made to the proposed conditions in response to this comment from the submitter. However, it is acknowledged that an authority will be required from Heritage New Zealand for works on the Bishopspark Site.
Gordon Bennett - 15 Salisbury Street	<p>No justification as to whether the true impact of the geotechnical report was made evident. Concerns regarding the excavation of the basement within proximity to the existing structure which was made clear by Mr John Aramowicz of Eliot Sinclair.</p> <p>No consideration was given to the winter shading cumulative effect. Excessive high roof structure needs more clarification and amendment to ensure it does not shade 6/17, 5 to 23 Salisbury Street.</p> <p>Noted that the 4 – 6 m setback suggested by Elliot Sinclair, including a green buffer was met with a laugh by Ryman.</p>	No changes made to the proposed conditions in response to this comment from the submitter. These comments relate to the merits of the application as opposed to the proposed conditions of consent.
Glenda Pickering	Supports the application.	No changes made to the proposed conditions in response to this comment from the submitter.

<p>Georgina Waddy - 4/18 Salisbury Street</p>	<p>The draft conditions do not consider the potential subsidence and differential settlement with building the basement so close to neighbouring properties. Further information is required about monitoring of construction process and the underground basement. 18 Salisbury Street is of the largest concern.</p> <p>Interested to learn more about the pre-construction and post-construction surveys of the neighbouring properties, which need to be done independently to assess damage to land, structures, buildings on adjacent sites, and remediation / mitigation. Concern over the use of base isolators and the impact on neighbouring properties. Would propose an independent geotechnical review on this which would be of benefit for all concerned.</p> <p>Note they would be grateful for any compensation consideration during the construction plan to all neighbours affected and associated infrastructure.</p>	<p>Most of these comments relate to the merits of the application as opposed to the proposed conditions of consent.</p> <p>Notwithstanding the above, Condition 22 has been amended to make it explicit that a suitably qualified, independent and experienced person will be engaged to undertake the pre and post-construction building condition surveys.</p>
	<p><b>Condition 5:</b> Mainly general comments as discussed above. This in regard to understanding the basement construction process, monitoring of the construction process (particularly around the proposed underground carparks), the use of 'base isolators' and their effects on neighbouring properties. But would propose an independent geotechnical review of benefit for all concerned.</p>	<p>The potential for subsidence and differential settlement has been addressed in the evidence of Mr Malan on behalf of Ryman. The proposed consent conditions provide a framework that enables the methodology for the construction of basements to be monitored adjacent to a vacant boundary and to consider whether any further refinements to the construction methodology are necessary for construction purposes.</p> <p>This approach, alongside the pre and post-construction building surveys proposed by Ryman, is considered sufficiently precautionary.</p>
	<p><b>Condition 24, 25, and 26:</b> Request that an independent specialist carry out the surveys. The methodology should address issues likely to arise during the stages covered by Conditions 25 and 26 including a timeline for repairs, a process for addressing disputes, modifications to the process if an earthquake intervenes, or if construction methodology is changed and time limitation attributing to damage.</p>	<p>As noted above, Condition 22 has been amended to make it explicit that a suitably qualified, independent and experienced person will be engaged to undertake the pre and post-construction building condition surveys.</p> <p>Conditions 25 and 26 also requires follow up surveys after the completion of construction activities adjacent to individual properties, and following the completion of all construction activities on the site. This approach is considered to provide suitable contingency for any potential effects to manifest.</p>

<p>Judith Roper Lindsay - 36 Forestry Road, RD 7, Christchurch</p>	<p>As a general comment, it is expected that Canterbury Regional Council (“CRC”) will place conditions on the resource consents that they are currently considering. I think that the CCC conditions should recognise this in areas where there is an overlap of activities.</p>	<p>No changes made to the proposed conditions in response to this comment from the submitter. Ryman will be required to comply with the consent conditions from the Council and the Canterbury Regional Council, irrespective of any advice note on these conditions.</p>
	<p><b>Condition 3:</b> “permanent staff and residents” should be added.</p>	<p>Condition 3 has been amended to refer to all staff and contractors engaged to undertake works or activities being made aware of the conditions of the resource consent relevant to their work area (as well as the measures required for compliance with the conditions).</p> <p>Adding reference to staff is considered appropriate to ensure that they manage the village (including activities undertaken by residents) in a manner that complies with the consent conditions.</p>
	<p><b>Condition 5:</b> Confuses the purposes or processes involved in managing general construction activities and effects (through a standard CMP) and the process of testing a construction methodology and anticipating the potential longer-term operational effects of the basement carpark (which are very specific to this proposal). The monitoring and contingency framework and testing should be undertaken prior to writing the Construction Management Plan section relating to the basement.</p> <p>This monitoring and contingency/trial programme should be developed, and the work undertaken, by an independent suitably qualified Geotech engineer.</p> <p>The monitoring and contingency / trial programme should include long term changes in ground deformation and mitigation, effects on infrastructure, neighbouring properties, earthquake uncertainty, and pre and post construction surveys.</p> <p>Condition 5 should list the criteria by which the CCC Subdivision Engineer will “certify” the report and testing results provided by the above process.</p> <p>The advice note suggests that the CMP should encompass all construction management. The CRC consent conditions should be integrated with construction and possibly site management plans. This should be recognised in the Advice Note.</p>	<p>Condition 5 has been amended to make it explicit that monitoring and contingency framework, as part of the Construction Management Plan, shall be prepared by a suitably qualified and independent geotechnical engineer.</p> <p>Comments from J Roper-Lindsay on methodology go beyond the survey methodology, and include a disputes resolution process. We consider it is appropriate for the survey methodology to be determined by an appropriate expert, and in our view there is no need for it to be included in the conditions. We also consider there is no need for a dispute resolution process on the basis the risk of damage arising is very low, as set out in the evidence of Mr Malan.</p>
	<p><b>Condition 20:</b> Excluding the methodology trial, earthworks should not be carried out until all management plans have been approved.</p>	<p>No changes made to the proposed conditions in response to this submission.</p>



		Condition 20 provides for contaminated land remediated in advance of any building consents being granted as it does not involve the establishment of any retaining walls. The remediation of contaminated land will still occur in accordance with a Site Management Plan (as required by Condition 12).
	<b>Condition 21:</b> No mention of surveys being required. Suggest this is a recommendation of the methodology testing in Condition 5.	Condition 21 has been amended to clarify that where surveys are required in accordance with Condition 22 (due to properties being within 20 m of earthworks on site). Ryman will make a request to the owners of the relevant properties to undertake pre-construction surveys.
	<b>Condition 24:</b> Request that an independent specialist carry out the surveys. The methodology should address issues likely to arise during the stages covered by Conditions 25 and 26 including a timeline for repairs, a process for addressing disputes, modifications to the process if an earthquake intervenes, or if construction methodology is changed and time limitation attributing to damage.	<p>Condition 22 has been amended to make it explicit that a suitably qualified, independent and experienced person will be engaged to undertake the pre and post-construction building condition surveys.</p> <p>Conditions 25 and 26 also requires follow up surveys after the completion of construction activities adjacent to individual properties, and following the completion of all construction activities on the site. This approach is considered to provide suitable contingency for any potential effects to manifest.</p>
	<b>Condition 27:</b> Request every owner gets a copy of the survey.	This amendment has been accepted in Condition 27.
	<b>Advice Note iii:</b> The Dorset St Flats site is a listed Archaeological Site M35/555 and will be affected by works associated with this proposal. Accordingly, an authority from Heritage New Zealand is required. This should be added to the Advice note for clarity.	It is acknowledged that an authority will be required from Heritage New Zealand for works on the Bishopspark Site. However, an authority is not required simply because the Site is near the Dorset St Flats.
Joel Stratford 1-8 18 Salisbury Street	<b>Condition 5:</b> That precise ‘monitoring of construction works’ really needs to encompass the survey / monitoring of ground deformation and building movement to dwellings at 18 Salisbury throughout the course of construction, and not just limited to survey works pre and post construction.	<p>The potential for subsidence and differential settlement has been addressed in the evidence of Mr Malan on behalf of Ryman. The proposed consent conditions provide a framework that enables the methodology for the construction of basements to be monitored adjacent to a vacant boundary and to consider whether any further refinements to the construction methodology are necessary for construction purposes.</p> <p>This approach, alongside the pre and post-construction building surveys proposed by Ryman, is considered sufficiently precautionary.</p>

Lauren / Thomas McKellow and Lisa / Don Worthington	<p>Confirmation required on how these conditions will be enforced and contact details for any issues.</p> <p>Concerns regarding the loss of sunlight and privacy due to non-compliance with height and recession planes.</p>	<p>No changes made to the proposed conditions in response to this comment from the submitter. This conditions will be enforced by Council in the same manner as any other resource consent.</p> <p>Contact details for site staff during construction will be documented in the Construction Management Plan (as per Condition 5).</p>
	<p><b>Condition 19B:</b> Provide a definition of unoccupied and occupied. As the submitter's property may be unoccupied now due to the fire but intend to rebuild and will most likely finish before or during Ryman's construction. Clarification should cover whether the conditions will accommodate the change of property being unoccupied to occupied during construction.</p>	<p>This condition has been amended to refer to the identification of occupied buildings during any stage of the construction programme, such that if the submitters dwelling was reoccupied during the construction period they would be subject to the same noise management controls as any other occupied dwelling.</p>
	<p><b>Conditions 25 and 26:</b> Confirmation is also required about whether Ryman will be held liable for any damage caused by their excavations and construction after the pre-construction building survey, but before their completion. Given, the submitter will complete the rebuild following the pre-construction building survey.</p>	<p>Condition 21 has been amended to clarify that 76 Park Terrace will be offered a pre-condition survey in the event that repairs to the dwelling are completed while construction activities are occurring on the Peterborough Site.</p> <p>Ryman are also proposing a post-construction survey six weeks following the completion of construction works adjacent to any property, and a further survey within 12 weeks of the completion of all construction works on the site. The conditions also make it clear that Ryman will be responsible for any repairs, reinstatement or other works to surveyed land, structures and buildings that can be reasonably attributed to construction activities on the site.</p>
Lee Trustuum - 18 Peterborough Street	<p>Does not support the application.</p>	<p>No changes made to the proposed conditions in response to this submission.</p>

## **APPENDIX 11 – PROPOSED CONDITIONS TRACK CHANGE VERSION**

**RYMAN HEALTHCARE LIMITED**  
**PROPOSED COMPREHENSIVE CARE RETIREMENT VILLAGE – PARK TERRACE, CHRISTCHURCH**  
**PROPOSED CONSENT CONDITIONS**

**30 MARCH 2021**

**General**

1. The construction, operation and maintenance of a comprehensive care retirement village at 100 – 104 Park Terrace and 20 Dorset Street (Lot 1 DP 46511, Lot 1 DP 46369, Lot 2 DP 13073, Pt Res 23 Town of Christchurch and Pt Town Res 25 City of Christchurch), and 78 Park Terrace (Lot 1 DP 77997), shall be undertaken in accordance with the information and resource consent drawings submitted with the resource consent application dated 27 March 2020, including responses to requests for further information from the Christchurch City Council in accordance with section 92 of the Resource Management Act 1991. The approved resource consent drawings have been entered into Council records as RMA/2020/673 and RMA/2020/679 pages **X** to **X**.

2. All of the conditions of this resource consent apply to the construction, operation and maintenance of a comprehensive care retirement village at 100 – 104 Park Terrace and 20 Dorset Street, and 78 Park Terrace, unless the conditions specifically refer to them only applying to an individual site.

Notwithstanding the above, any management plans required under the conditions of this resource consent may apply to works at 100 – 104 Park Terrace and 20 Dorset Street, and 78 Park Terrace, or may solely apply to an individual site depending on the programme of works proposed by the consent holder.

3. The consent holder shall keep a copy of this consent, and all required management plans, on-site at all times and shall ensure that all staff and contractors engaged to undertake works or activities authorised by this resource consent are made aware of the conditions of this resource consent relevant to their work area and the measures required for compliance with the conditions.
4. Pursuant to section 125 of the Resource Management Act 1991, this resource consent lapses five years after the date it commences unless:
  - a. The resource consent is given effect to; or
  - b. The Council extends the period after which the resource consent lapses.

**Earthworks and Construction Management**

5. All construction activities on site shall be carried out in accordance with a Construction Management Plan (CMP). The CMP shall be based upon the draft Construction Management Plan submitted as part of the resource consent application and shall ensure that any potential effects arising from construction activities on the site are effectively managed.

The CMP shall also include a monitoring and contingency framework, prepared by a suitably qualified and independent geotechnical engineer, for the construction of basements adjacent to the boundaries of the site.

The purpose of the monitoring and contingency framework shall be to minimise the ground movement on adjacent land arising from the construction of basements at the site. The framework shall:

- a. Identify structures on adjacent properties / boundaries that will be located close to the construction of the basements;
- b. Establish a methodology for the monitoring of the performance of the basement construction along a road or vacant boundary in the first instance to determine deformation on adjacent land;
- c. Require the preparation of a report by a suitably qualified and independent geotechnical engineer to the Christchurch City Council outlining the results of the monitoring of the basement construction at the location identified in (b) above, and recording any recommendations to minimise risks of deformation from basement construction works causing damage to the structures recorded in (a).

The consent holder shall implement any recommendations in the report for further basement works.

No earthworks shall occur until the finalised CMP, with contact details of construction and supervision contacts included, has been submitted to the Council (via email to [rcmon@ccc.govt.nz](mailto:rcmon@ccc.govt.nz)), reviewed and certified by Christchurch City Council's Subdivision Engineer.

*Advice Note: Any other management plans required under this resource consent (e.g. Construction Traffic Management, Landscape Management, Contaminated Site Management) can be combined with the CMP to avoid conflict and duplication.*

The CMP shall also include a site specific Erosion and Sediment Control Plan (ESCP) covering all earthwork associated with the construction of the comprehensive care retirement village. The ESCP shall be prepared by a suitably qualified and experienced professional and shall include a design certificate- (on the Infrastructure Design Standard Part 3: Quality Assurance Appendix IV template <https://www.ccc.vt.nz/assets/Documents/Consents-and-Licences/construction-requirements/IDS/IDS-Part-03-Quality-Assurance-V3-September-2016.PDF>) supplied by that professional for certification by the Christchurch City Council at least 10 days prior to the works commencing. The best practice principles, techniques, inspections and monitoring for erosion and sediment control in the CMP ESCP shall be in accordance with Environment Canterbury's Erosion and Sediment Control Toolbox for Canterbury (<http://esc.canterbury.co.nz/>).

The CMP ESCP shall include, but is not limited to:

- a. A site description (i.e. topography, vegetation and soils);
- b. Details of proposed activities;
- c. A locality map;
- d. The identification of environmental risks including erosion, sediment and dust control, spills, wastewater overflows, dewatering, and excavation and disposal of material from contaminated sites;
- e. Drawings showing the site, type and location of sediment control measures, on-site catchment boundaries and off-site sources of runoff;
- f. A programme of works including a proposed timeframe and completion date;
- g. Storage of fuel and/or lubricants and any handling procedures;
- h. Emergency response and contingency management;
- i. Procedures for compliance with this resource consent and any permitted activities;
- j. Procedures for environmental monitoring and auditing, including frequency;
- k. Record of corrective actions or solutions implemented;

- l. Procedures for updating the CMP ~~ESCP~~;
- m. Procedures for training and supervising staff in relation to environmental issues; and
- n. Roles and responsibilities, including contact details of key personnel responsible for on-site environmental management and compliance and of the site manager.

*Advice Note: The Christchurch City Council Infrastructure Design Standard (Clause 3.8.2) contains further detail on Environmental Management Plans.*

- 6. The CMP ~~ESCP~~ shall be implemented on site throughout the construction of the comprehensive care retirement village. No earthworks shall commence on site until:
  - a. The contractor has received a copy of all resource consents and relevant permitted activity rules controlling this work;
  - b. The measures identified in the ~~CMP-ESCP~~ have been installed; and
  - c. An Engineering Completion Certificate (IDS – Part 3, Appendix VII), signed by an appropriately qualified and experienced engineer, is completed and presented to the Christchurch City Council. This certificate is to certify that the erosion and sediment control measures have been properly installed in accordance with the ~~CMP-ESCP~~.
- 7. The consent holder shall ensure any change in ground levels on the site due to activities authorised by this resource consent shall not cause a ponding or drainage nuisance to neighbouring properties.
- 8. The consent holder shall ensure any change in ground levels on the site due to activities authorised by this resource consent shall not affect the stability of the ground or fences on neighbouring properties.
- 9. The consent holder shall ensure that all open areas on the site shall be adequately stabilised as soon as practicable to limit sediment mobilisation.

*Advice Note: In accordance with the condition above earthworks on the site shall be progressively stabilised against erosion during all stages of the earthwork activity. Interim stabilisation measures may include the use of waterproof covers, geotextiles or aggregate cover that has obtained a density of more than 80% of a normal pasture sward.*

- 10. The consent holder shall ensure that any local roads, shared accesses, footpaths, landscaped areas or service structures that are damaged as part of the construction works authorised under this resource consent, are reinstated to their pre-construction standard and as specified in the Christchurch City Council's Construction Standard Specifications (and at the expense of the consent holder).

The consent holder shall, in consultation with the Christchurch City Council, undertake a baseline survey of the condition of all local roads, shared accesses, footpaths, landscaped areas or service structures to be used as part of the construction works, prior to the commencement of construction works authorised as part of this resource consent in order to provide a benchmark for the potential remedial works that may be required.

- 11. The consent holder shall ensure that footpaths, shared accesses and local roads to, and from, the site remain clean of debris and tracked material at all times. Footpaths and roads shall be regularly checked by the consent holder, and swept if any debris and tracked material is deposited as a result of the construction works.

## **Contaminated Material**

12. A Site Management Plan, prepared in accordance with the Framework Site Management Plan submitted as part of the resource consent application, shall be submitted to Christchurch City Council for certification at least 10 working days prior to any construction works commencing on the site.

The Site Management Plan shall include, but not be limited to, the following information:

- a. Pre-works testing;
  - b. General earthworks procedures for contaminated soils and material to manage potential exposure to workers and the public;
  - c. Dust controls for the management of contaminated soils and material;
  - d. Asbestos-specific health and safety controls for the site;
  - e. Unexpected contamination and contingency procedures; and
  - f. Monitoring procedures.
13. The Christchurch City Council is to be notified at least 5 working days in advance of construction works commencing on site. This may be by way of email to [rcmon@ccc.govt.nz](mailto:rcmon@ccc.govt.nz).
14. Any contaminated soils and materials removed from the site must either be (i) disposed of at a facility whose waste acceptance criteria permit the disposal, or (ii) encapsulated on site (e.g. beneath buildings, roads or landscaped areas).
15. Within three months of the completion of earthworks on the site, a Site Validation or Works Completion Report (as appropriate) shall be prepared and submitted to the Christchurch City Council. The report shall include as a minimum:
- a. Volumes of materials moved on site;
  - b. Details of any variations to the site works set out in the Site Management Plan;
  - c. Details of any discharges to the environment during the earthworks;
  - d. Details of any contingency measures employed during the earthworks;
  - e. Photographic evidence of the site works;
  - f. Evidence the objectives of the final site capping and / or remediation have been met with regard to high density residential land use; and
  - g. Evidence of the disposal of any soils off site to an authorised facility.

The report shall be written in accordance with the Ministry for the Environment Guidelines for Reporting on Contaminated Sites in New Zealand (Revised 2011). In the event that contaminated soils and materials are encapsulated on site in accordance with condition 14, the Site Validation or Works Completion Report shall also include a Long Term Management Plan that documents the ongoing management controls to be implemented by the consent holder.

#### **Construction Traffic**

16. All construction work shall be carried out in accordance with a Construction Traffic Management Plan ('CTMP') that seeks to minimise the local traffic effects of construction works. No works are to commence until such time as the CTMP has been certified by the Christchurch City Council and any necessary traffic management measures installed. The CTMP shall be prepared by an STMS accredited person and submitted through the web portal [www.myworksites.co.nz](http://www.myworksites.co.nz) (please refer to [www.tmpforchch.co.nz](http://www.tmpforchch.co.nz)).

The CTMP shall be based upon the draft Construction Traffic Management Plan submitted as part of the resource consent application, and shall be submitted to the Christchurch City Council for certification at least 10 working days prior to any construction works commencing on site. The CTMP shall be prepared by a suitably qualified and experienced person.

The CTMP shall include, but not be limited to:

- a. Construction dates and hours of operations;
- b. Truck route diagrams for the local road network;
- c. Contractor parking arrangements;
- d. Temporary traffic management signage; and
- e. Details of site access / egress over the construction period.

17. All loading and unloading of trucks with excavation or fill material shall be carried out within the site.

#### **Construction Noise and Vibration**

18. Construction noise at occupied buildings shall, as far as practicable, comply with the relevant construction noise limits in Tables 2 and 3 of *NZS 6803:1999 Acoustics – Construction Noise* in accordance with the Christchurch District Plan.
19. All construction work shall be carried out in accordance with a Construction Noise and Vibration Management Plan ('CNVMP') to minimise the noise and vibration effects of construction works in accordance with the best practicable option. The CNVMP shall be based upon the draft plan submitted as part of the resource consent application, and shall be submitted to the Christchurch City Council for certification at least 10 working days prior to any construction works commencing on site. The CNVMP shall be prepared by a suitably qualified and experienced person.

The CNVMP shall include, but not be limited to, the following information:

- a. Construction noise and vibration levels from key equipment to be utilised on site;
- b. Identification of the occupied buildings [during any stage of the construction programme](#) where there exists the potential for noise / vibration effects to exceed the relevant limits in the Christchurch District Plan;
- c. Description and duration of the works, anticipated equipment and the processes to be undertaken;
- d. Hours of operation, including specific times and days when construction activities causing noise / vibration would occur;
- e. Mitigation options where noise / vibration levels are predicted or demonstrated to approach or exceed the relevant limits in the Christchurch District Plan. Specific noise / vibration mitigation measures to be implemented shall include, but not necessarily be limited to acoustic screening along the boundaries of the site which has a minimum surface mass of 6.5 kg/m<sup>2</sup> and a minimum height of 2.4 m;
- f. The process for erecting temporary construction noise barriers where appropriate;
- g. Schedule and methods for monitoring and reporting on construction noise / vibration;
- h. Details of noise / vibration monitoring to be undertaken or in the event of any complaints received;
- i. Implementation of a complaint management system with contact numbers for key construction staff responsible for the implementation of the CNVMP and complaint investigation and including



- procedures for maintaining contact with stakeholders, notifying of proposed construction activities and handling of noise / vibration complaints;
- j. The process for notifying the owners and occupiers of adjacent buildings prior to construction activities commencing on the site; and
- k. Training procedures for construction personnel.

#### **Pre- and Post-Construction Structure and Building Condition Surveys**

20. Earthworks on site shall not commence, except those associated with the remediation of shallow contaminated material, until proof of an approved building consent covering all retaining walls shown on the plans approved as part of this resource consent is provided to the Christchurch City Council, Team Leader Compliance.
- ~~21.~~ Where a pre-construction land, structure or building condition survey is required by ~~condition 22~~ these consent conditions, the consent holder shall request in writing the approval of the owners of identified properties to undertake an initial condition and photographic survey. The consent holder shall also undertake a pre-construction survey of Westwood Terrace. The consent holder shall send copies of each of the requests to the Christchurch City Council, Team Leader Compliance via email to [rcmon@ccc.govt.nz](mailto:rcmon@ccc.govt.nz)  
  
In the event that the dwelling at 76 Park Terrace has not been repaired, or is still subject to repairs, at the time the pre-construction survey is offered to the property owners identified in Condition 22, the consent holder shall make a further offer to undertake a 'pre-construction survey' to the owners of this property at the completion of the repairs to their dwelling (in the event that construction activities at the Peterborough Site are ongoing at this time).
- ~~21, 22.~~ The consent holder shall engage a suitably qualified, independent and experienced person to undertake the survey of the properties within 20 metres of where earthworks will occur on the site, where the property owner has given their written approval to a survey being undertaken.
- ~~22, 23.~~ If the property owner does not respond within 20 working days of the request in condition 21 being made, the consent holder need not undertake a survey of that property.
- ~~23, 24.~~ The survey shall assess the current condition of land, structures and the exterior and interior of the buildings on the properties identified in condition 21 (any additional properties to be surveyed at the consent holder's discretion). The methodology to be utilised by the consent holder shall be documented and provided to the Christchurch City Council, Team Leader Compliance prior to the surveys being undertaken.
- ~~24, 25.~~ Within six weeks of the completion of construction works adjacent to a property surveyed in accordance with condition 24, the consent holder shall undertake an interim survey of the property where the property owner has given their written approval (at the consent holder's cost). The purpose of the interim surveys is to assess any damage caused by the excavation and construction activities at the site. Provided the consent of any property owner is obtained, the consent holder shall be responsible for any repairs, reinstatement or other works to surveyed land, structures and buildings that can be reasonably attributed to construction activity.
- ~~25, 26.~~ Within twelve weeks of the completion of all construction works on the site, the consent holder shall undertake a follow up survey of each property surveyed in accordance with conditions 24 and 25 where the property owner has given their written approval (at the consent holder's cost). The purpose of these surveys is to further

assess any damage caused by the excavation and construction activities at the site. Provided the consent of any property owner is obtained, the consent holder shall be responsible for any repairs, reinstatement or other works to surveyed land, structures and buildings that can be reasonably attributed to construction activity.

~~26,27.~~ A copy of each property survey undertaken in accordance with conditions 24, 25 and 26 shall be made available to ~~those applicable~~ property owners within 15 working days of the survey being completed ~~who participate in the survey.~~

#### **Significant Tree – 78 Park Terrace**

~~27,28.~~ The consent holder shall appoint a suitably qualified and experienced arborist to monitor and supervise the works within the dripline of the Common Lime Tree (ID Number 3300 / Christchurch District Plan Number T271) for the duration of the works at 78 Park Terrace.

~~28,29.~~ Prior to earthworks commencing at 78 Park Terrace, a meeting shall be held on site so that the protection measures for the Common Lime Tree can be discussed between the Council arborist, the appointed arborist and relevant contractors who will be working on the site in proximity to the tree. At the meeting, the following will be agreed:

- a. Areas for storing and / or stockpiling materials, spoil and equipment;
- b. Procedures for protection of roots within the dripline of the Common Lime Tree (e.g. exposure of roots and protection measures, severing methodology and backfilling of exposed areas); and
- c. Correct procedures when working around the Common Lime Tree.

~~29,30.~~ Temporary protective fencing is to be erected to isolate the Common Lime Tree before any construction works occur around, or adjacent to, the tree. The fencing shall be retained in place for the duration of the construction works, and shall not be removed or moved without the prior approval of the Council arborist. If the fencing is damaged, the site manager will be responsible for repairing it at the earliest opportunity.

~~30,31.~~ The protective fencing is to be positioned to maximise the tree protection area, whilst allowing a safe work area for the works to occur. The appointed arborist is to determine the exact position of the fencing in consultation with the project manager, but it should be set at the maximum possible practicable distance while still allowing the work to proceed.

~~31,32.~~ All soil excavation within the dripline area is to occur under the direction and supervision of the appointed Arborist.

~~32,33.~~ Excavation should take place carefully, and any roots will be identified and protected from damage, as the work occurs. This can involve a combination of manual excavation and probing. Any use of machinery will be at the discretion of the appointed Arborist.

~~33,34.~~ When soil is cleared around any tree roots, they are not to be left exposed for an extended time (no more than 1 hour), and they shall be protected from desiccation and damage by the use of damp Hessian or bidim, or good quality topsoil, as specified by the appointed Arborist. The appointed Arborist shall be responsible for this.

~~34,35.~~ If any roots encountered at the levels to be excavated have to be severed, this should be carried out to the satisfaction of the appointed Arborist. All root pruning is to be carried out by the appointed Arborist.

- ~~35~~~~36~~ Care should be taken to avoid damage to roots over 25mm diameter. Roots over 25mm in diameter at point of severance shall only be severed with the approval of the Council arborist.
- ~~36~~~~37~~ Following any excavations, backfilling shall take place at the earliest opportunity, and prior to backfilling, any protective material over the roots should be removed. The backfill material should be of sufficient quality to allow for the continued growth/health of the root system.
- ~~37~~~~38~~ To avoid damage to roots, reinstatement of soil shall not occur except carefully by hand whenever feasible.
- ~~38~~~~39~~ To avoid contact of raw concrete with root mass during the infill of the clutch piling, it is recommended that the top 2 metres of the piles be lined with a heavy grade PVC or similar impervious material.
- ~~39~~~~40~~ No heavy machinery is to be driven within the dripline of the Common Lime Tree, unless on existing hard surfaces, or on load bearing mats or sheets designed to spread loading forces.
- ~~40~~~~41~~ No materials or machinery / vehicles are to be stored / parked within the dripline of the Common Lime Tree during the construction work, including excavated soil, chemicals or building materials.
- ~~41~~~~42~~ Notice boards, cables and other services shall not be attached to any part of the Common Lime Tree.
- ~~42~~~~43~~ Postholes for the Peterborough Street road boundary fence posts are to be lined with plastic or similar impervious material to create a barrier between tree roots and raw concrete. Exploratory digging should be used to locate any major roots in the proposed posthole locations.
- ~~43~~~~44~~ Any pruning of the Common Lime Tree to enable clearance from heavy machinery used for the basement retention system, or due to canopy damage from the operation of the machinery, is to be carried out by the appointed arborist to the Australian Standard- AS 4373-2007 "*Pruning of Amenity Trees*", or British Standard BS 3998: 2010 "*Recommendations - Tree Work*". The maximum diameter of any live limb removed is up to 100 mm at the point of removal.
- ~~44~~~~45~~ The maximum diameter of any live limb removed is to be up to 100 mm at the point of removal.
- ~~45~~~~46~~ Should the Lime Tree die within 10 years of the development commencing on the site it shall be replaced with the same or similar species which is a minimum of 3.5m high at the time of planting and 5 further replacement trees on the site or in the local area on Council land (road or reserve), with the location and species to be confirmed by the Council arborist at the time.

## Heritage

- ~~46~~~~47~~ The applicant will advise the Heritage Team Leader, Christchurch City Council (or nominee) of the commencement of works at 100 – 104 Park Terrace and 20 Dorset Street at least 10 working days prior to works starting on site, to ensure that those conditions of consent that require prior certification are verified in writing.
- ~~47~~~~48~~ At least 10 working days prior to the commencement of works at 100 – 104 Park Terrace and 20 Dorset Street, the consent holder shall submit a Temporary Protection Plan ('TPP') for the repair of the former Bishops Chapel (Heritage ID: 1305) for certification by the Christchurch City Council. The TPP shall be

prepared by a suitably qualified and experienced person and shall be based upon the draft plan submitted as part of the resource consent application.

The TPP shall include, but not be limited to, the following information:

- a. A specific methodology for the removal and storage of exterior and interior heritage elements;
- b. Procedures for dust suppression from construction and works to the heritage building;
- c. Measures for fire protection;
- d. Measures for security; and
- e. A methodology for preparation of the exterior surface of the chapel if this is required (where any heritage fabric is remaining in situ).

*Advice Note: Significant care must be taken with any sand blasting that is required to the brick substrate to avoid damage to heritage fabric. Water blasting is not considered appropriate on the exterior surface of the chapel.*

~~48-49.~~ The measures in the TPP shall ensure that the former Bishops Chapel is repaired to the extent that it can be utilised as a non-denominational prayer centre and meeting room as part of the comprehensive care retirement village on the site.

~~49-50.~~ Prior to commencement of works, the consent holder's heritage professional shall hold a site briefing of all lead contractors and supervising staff to communicate the significance of the building, the consent conditions and the requirements of the TPP. The consent holder shall notify the Heritage Team Leader, Christchurch City Council of the date and time of the meeting at least three working days before the meeting.

~~50-51.~~ The consent holder shall provide written confirmation to the Heritage Team Leader, Christchurch City Council stating that the initial setup of the TPP has been implemented and inspected on site (including methodologies for removal and storage of heritage fabric) by a suitably qualified and experienced person before any other works commence. Following the initial implementation of the TPP, the consent holder's heritage professional shall regularly monitor the TPP to ensure that appropriate measures are being taken by the contractors at each stage of construction and advise contractors if any additional protection is required.

~~51-52.~~ A copy of the conditions of this consent, the amended TPP, and a full copy of the approved consent application and plans, are to be kept on site at all times, form part of the induction process, and are to be made available to and adhered to by all contractors and subcontractors undertaking work in connection with this consent.

~~52-53.~~ All works to the former Bishops Chapel, and within the heritage setting of the former Bishops Chapel (Heritage ID: 470), shall be undertaken by suitably qualified tradespeople, and overseen by a suitably qualified CPEng structural engineer and heritage professional appointed by the consent holder.

~~53-54.~~ No building works within the heritage setting of the former Bishops Chapel must proceed beyond the foundation stage until a registered surveyor or licensed cadastral surveyor, engaged by the consent holder, has provided written certification to the Heritage Team Leader, Christchurch City Council that the works completed have been completed in accordance with the approved plans.

~~54-55.~~ A registered surveyor or licensed cadastral surveyor, engaged by the consent holder, must provide written certification to the Heritage Team Leader, Christchurch City Council that the heights of the buildings with [in](#)

the heritage setting of the former Bishops Chapel, as completed have been completed in accordance with the approved plans.

~~55,56.~~ A digital photographic record of the works to the heritage building and heritage setting is to be undertaken by the consent holder's heritage professional, before, during, and after the completion of the works. The photographic record of the works in the heritage setting shall include affected views to and from the heritage item. The record must be lodged with the Heritage Team Leader, Christchurch City Council for their records within three months of the completion of the work.

~~56,57.~~ New or introduced materials, works or reconstructed elements shall be recorded, and date marked to indicate the time of their installation. The form and location of the visible dating of the new entry / pergola structure is to be agreed with the Heritage Team Leader, Christchurch City Council prior to its installation.

~~57,58.~~ Heat pump units, if proposed to be attached to exterior heritage fabric, must comply with the permitted activity standard in Rule 9.3.4.1.1 P13 of the Christchurch District Plan requiring the design and/or supervision of a Heritage Professional. If this standard is not met, their proposed appearance, location and fixing details are to be submitted by email for certification to the Heritage Team Leader, Christchurch City Council (or nominee) prior to their installation.

#### Landscaping

~~58,59.~~ Prior to the relevant buildings in any stage passing their final building inspection, the consent holder shall provide the Christchurch City Council with a detailed Planting Plan and a Planting, Implementation and Maintenance Strategy for the site prepared by the consent holder's Landscape Architect for certification by the Head of Resource Consents, Christchurch City Council (or nominee). The Planting Plan and a Planting, Implementation and Maintenance Strategy shall include:

- a. The final landscape plan and specifications based on the landscape plan prepared by Design Squared and labelled X;
- b. Planting schedules, detailing the specific planting species, the number of plants / trees to be provided, locations and height/Pb sizes;
- c. Annotated sections with key dimensions to illustrate that adequate widths and depths are provided for tree pits / planter boxes;
- d. A management / maintenance programme;
- e. Provision for trees species along street frontages to be established in the available space and allowed to reach their natural height and form as follows:

##### Bishopspark Site

- Two large tree species capable of reaching 15 metres at maturity along the Park Terrace frontage shall be allowed to grow to their natural height and form. This is in addition to the trees to be provided either side of the driveway.
- The Dorset Street frontage shall be planted with a tree species with a mature height of 6 metres which can be established in the available space and able to reach their natural height and form.
- The boundary shared with 2 to 18 Dorset Street shall be planted with tree species that are capable of reaching a mature height of 8 metres and shall be allowed to grow to their natural height and form.
- The boundary shared with 13 to 17 Salisbury Street shall be planted with medium sized tree species that are capable of reaching a mature height of 8 metres and shall be allowed to grow to their

natural height and form.

#### Peterborough Site

- The tree on the Park Terrace / Salisbury Street corner, and the tree to be planted either side of the Park Terrace access shall be allowed to grow to their natural height and form.
- The Salisbury Street frontage shall be planted with tree species that are capable of reaching a mature height of 12.7 metres which can be established in the available space and shall be allowed to grow to their natural height and form.

**Commented [AL1]:** Council considers that these trees need to be capable of reaching a mature height of 12 metres.

~~59.60.~~ The proposed landscaping shall be established on site for each stage of building works within the first planting season (extending from 1 April to 30 September) following the final, passed building inspection for each relevant stage of building works.

~~60.61.~~ Should any of the trees to be planted along the street frontage boundaries of the site not survive, the consent holder shall procure and plant replacement specimens at a minimum height of 4.5 m.

*Advice Note: This condition shall continue to apply for the duration that the comprehensive care retirement village exists on the site. It is intended to ensure that any trees that perish along the street frontage of the site are replaced with specimens that are appropriately sized in order to retain the amenity of the site and the surrounding streetscape.*

#### Traffic

~~61.62.~~ Westwood Terrace shall not be used as an access for construction activities.

~~62.63.~~ The consent holder shall design a pedestrian crossing facility, which may include a kerb build, kerb realignment at the Salisbury Street / Park Terrace intersection, or other alternative design option, to improve the safety of pedestrians crossing Salisbury Street in the vicinity of Westwood Terrace.

~~63.64.~~ The consent holder shall arrange for an independent road safety audit of the detailed design of the access points to the site from Park Terrace and Dorset Street, as well as the design of the pedestrian crossing facility on Salisbury Street. The audit shall be undertaken in accordance with the 'Road Safety Audit Procedures for Projects Guidelines, May 2013'.

~~64.65.~~ A copy of the road safety audit shall be provided to the Christchurch City Council. Any audit recommendations and design changes arising from the detailed design road safety audit shall be agreed with the Christchurch City Council prior to construction being undertaken.

~~65.66.~~ The pedestrian crossing facility on Salisbury Street, required by condition ~~63.2~~, shall be constructed prior to the occupation of Building B01 at 100 – 104 Park Terrace and 20 Dorset Street.

~~66.67.~~ Service vehicles accessing the site via Dorset Street shall enter the site in forward gear and exit in reverse. The consent holder shall also utilise a suitably qualified spotter to manage the exiting of service vehicles onto Dorset Street to ensure the safety of road users. These requirements shall be detailed in all contract arrangements with service providers to the site and shall be reflected in signage at this access.

~~67-68.~~ Rubbish trucks shall only access the site during the period between 7am and 7pm and shall avoid the use of tonal reversing alarms.

#### **Stormwater**

~~68-69.~~ Prior to undertaking any site works, the applicant shall obtain written confirmation from the Christchurch City Council that the construction and operational phase stormwater discharges have been accepted under the Christchurch City Council's stormwater network discharge consent or confirm that separate resource consents from Environment Canterbury have been obtained.

#### **Water Supply**

~~69-70.~~ Prior to the occupation of residential units on the site sufficient water supply and access to water supplies for fire-fighting shall be made available to all residential units via Council's urban fully reticulated system and in accordance with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice (SNZ PAS:4509:2008).

#### **Noise**

~~70-71.~~ The consent holder shall provide the Christchurch City Council with a design report (prior to construction) and a design certificate (prior to occupation) prepared by a suitably qualified acoustics specialist stating the design proposed for each building is capable of meeting the applicable noise standard in Rule 6.1.7.2.1 of the District Plan.

#### **Advice notes:**

i) *Monitoring*

The Council will require payment of its administrative charges in relation to monitoring of conditions, as authorised by the provisions of section 36 of the Resource Management Act 1991. The current monitoring charges are:

- (a) A monitoring programme administration fee of \$102.00 to cover the cost of setting up the monitoring programme; and
- (b) A monitoring fee of \$175.50 for the first monitoring inspection to ensure compliance with the conditions of this consent; and
- (c) Time charged at an hourly rate if more than one inspection, or additional monitoring activities (including those relating to non-compliance with conditions), are required.

The monitoring programme administration fee and inspection fees will be charged to the applicant with the consent processing costs. Any additional monitoring time will be invoiced to the consent holder when the monitoring is carried out, at the hourly rate specified in the applicable Annual Plan Schedule of Fees and Charges.

- ii) 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. Please contact a Building Consent Officer (ph: 941 8999) for advice on the building consent process.
- iii) This site may be an archaeological site as defined and protected under the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. Archaeological sites are defined in the HNZPTA as any place in New Zealand where there is physical evidence of pre-1900 occupation, regardless whether the site is known or not,

recorded in the NZAA Site Recording Scheme or not, or listed with Heritage New Zealand or the local council. Authority from Heritage New Zealand is required for any work that affects or may affect an archaeological site. **Please contact the Heritage New Zealand regional archaeologist on 03 363 1880 or [archaeologistcw@heritage.org.nz](mailto:archaeologistcw@heritage.org.nz) before commencing work on the land.**

#### *Heritage*

- iv) Information being submitted in relation to conditions of this consent is to be sent by email to: [rcmon@ccc.govt.nz](mailto:rcmon@ccc.govt.nz). The current nominated Council Heritage Advisor for this consent is Suzanne Richmond, 941 5383 or [suzanne.richmond@ccc.govt.nz](mailto:suzanne.richmond@ccc.govt.nz). The alternative contact is Gareth Wright, 941 8026 or [gareth.wright@ccc.govt.nz](mailto:gareth.wright@ccc.govt.nz).
- v) The applicant should not commence or should cease work on a given area if the works proposed in that area change from those in the approved consent documentation. Any variation must be discussed with the Christchurch City Council's Heritage Team Leader (or nominee), who in consultation with the Council's Resource Consents Unit will determine an appropriate consenting response. Five working days should be allowed for this process. Failure to discuss changes with the Council's Heritage Team may constitute a breach of the conditions of this consent. Amended plans and information showing these changes, may be required to be submitted to the Heritage Team Leader, Christchurch City Council (or nominee) for certification prior to work on that area commencing or resuming.
- vi) The intention of the photographic record condition is to maintain a record of the works with a focus on the areas of the heritage item and heritage setting undergoing change rather than individual elements. The same camera positions should be used for all photo sets before, during and after the works to enable comparison. Photographs should be of printable quality, at least 1440 pixels by 960 pixels for a 4"x 6" print at a minimum resolution of 240 PPI. They should be labelled with the position on site or in relation to the site, date and photographer's name, and submitted with a plan showing photograph locations. Photos should be submitted electronically, either by email (noting that Council's email data transfer limit is 20MB per email), or via a file transfer website such as [wettransfer.com](http://wettransfer.com) or [dropbox.com](http://dropbox.com) to [rcmon@ccc.govt.nz](mailto:rcmon@ccc.govt.nz).
- vii) Date stamping or marking is important to clearly distinguish replicated or introduced old features and new areas of fabric from heritage fabric so changes to the heritage item can be readily understood in the future. The dating of new or introduced fabric may be undertaken by a number of permanent means. It is recommended that a builder's pencil or small steel plate with the date is used on masonry or timber. A permanent marker pen may be used on steel elements, but not masonry or timber as the marking may deteriorate. Marking should generally be in unobtrusive locations where elements are proposed for reinstatement. Dates may be prominent in some cases when used for commemorative purposes such as over the entrance to acknowledge major works to a building or a new wing. **In the case of the entry/ pergola to the chapel, the new structure should be dated in a visible location to acknowledge the date of the works to the chapel alongside the chapel's construction date, for example: "1927 20[XX]"**.
- viii) All works should be carried out with regard to the conservation principles contained within the ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value (ICOMOS New Zealand Charter 2010).
- ix) All works to be undertaken on the repair and replacement of heritage fabric should be undertaken by tradespeople experienced in working with such fabric.



## **APPENDIX 12 – PROPOSED CONDITIONS CLEAN VERSION**

**RYMAN HEALTHCARE LIMITED**  
**PROPOSED COMPREHENSIVE CARE RETIREMENT VILLAGE – PARK TERRACE, CHRISTCHURCH**  
**PROPOSED CONSENT CONDITIONS**

**29 MARCH 2021**

**General**

1. The construction, operation and maintenance of a comprehensive care retirement village at 100 – 104 Park Terrace and 20 Dorset Street (Lot 1 DP 46511, Lot 1 DP 46369, Lot 2 DP 13073, Pt Res 23 Town of Christchurch and Pt Town Res 25 City of Christchurch), and 78 Park Terrace (Lot 1 DP 77997), shall be undertaken in accordance with the information and resource consent drawings submitted with the resource consent application dated 27 March 2020, including responses to requests for further information from the Christchurch City Council in accordance with section 92 of the Resource Management Act 1991. The approved resource consent drawings have been entered into Council records as RMA/2020/673 and RMA/2020/679 pages **X** to **X**.

2. All of the conditions of this resource consent apply to the construction, operation and maintenance of a comprehensive care retirement village at 100 – 104 Park Terrace and 20 Dorset Street, and 78 Park Terrace, unless the conditions specifically refer to them only applying to an individual site.

Notwithstanding the above, any management plans required under the conditions of this resource consent may apply to works at 100 – 104 Park Terrace and 20 Dorset Street, and 78 Park Terrace, or may solely apply to an individual site depending on the programme of works proposed by the consent holder.

3. The consent holder shall keep a copy of this consent, and all required management plans, on-site at all times and shall ensure that all staff and contractors engaged to undertake works or activities authorised by this resource consent are made aware of the conditions of this resource consent relevant to their work area and the measures required for compliance with the conditions.
4. Pursuant to section 125 of the Resource Management Act 1991, this resource consent lapses five years after the date it commences unless:
  - a. The resource consent is given effect to; or
  - b. The Council extends the period after which the resource consent lapses.

**Earthworks and Construction Management**

5. All construction activities on site shall be carried out in accordance with a Construction Management Plan (CMP). The CMP shall be based upon the draft Construction Management Plan submitted as part of the resource consent application and shall ensure that any potential effects arising from construction activities on the site are effectively managed.

The CMP shall also include a monitoring and contingency framework, prepared by a suitably qualified and independent geotechnical engineer, for the construction of basements adjacent to the boundaries of the site.

The purpose of the monitoring and contingency framework shall be to minimise the ground movement on adjacent land arising from the construction of basements at the site. The framework shall:

- a. Identify structures on adjacent properties / boundaries that will be located close to the construction of the basements;
- b. Establish a methodology for the monitoring of the performance of the basement construction along a road or vacant boundary in the first instance to determine deformation on adjacent land;
- c. Require the preparation of a report by a suitably qualified and independent geotechnical engineer to the Christchurch City Council outlining the results of the monitoring of the basement construction at the location identified in (b) above, and recording any recommendations to minimise risks of deformation from basement construction works causing damage to the structures recorded in (a).

The consent holder shall implement any recommendations in the report for further basement works.

No earthworks shall occur until the finalised CMP, with contact details of construction and supervision contacts included, has been submitted to the Council (via email to [rcmon@ccc.govt.nz](mailto:rcmon@ccc.govt.nz)), reviewed and certified by Christchurch City Council's Subdivision Engineer.

*Advice Note: Any other management plans required under this resource consent (e.g. Construction Traffic Management, Landscape Management, Contaminated Site Management) can be combined with the CMP to avoid conflict and duplication.*

The CMP shall also include a site specific Erosion and Sediment Control Plan (ESCP) covering all earthwork associated with the construction of the comprehensive care retirement village. The ESCP shall be prepared by a suitably qualified and experienced professional and shall include a design certificate (on the Infrastructure Design Standard Part 3: Quality Assurance Appendix IV template <https://www.ccc.vt.nz/assets/Documents/Consents-and-Licences/construction-requirements/IDS/IDS-Part-03-Quality-Assurance-V3-September-2016.PDF>) supplied by that professional for certification by the Christchurch City Council at least 10 days prior to the works commencing. The best practice principles, techniques, inspections and monitoring for erosion and sediment control in the ESCP shall be in accordance with Environment Canterbury's Erosion and Sediment Control Toolbox for Canterbury (<http://escscanterbury.co.nz/>).

The CMP shall include, but is not limited to:

- a. A site description (i.e. topography, vegetation and soils);
- b. Details of proposed activities;
- c. A locality map;
- d. The identification of environmental risks including erosion, sediment and dust control, spills, wastewater overflows, dewatering, and excavation and disposal of material from contaminated sites;
- e. Drawings showing the site, type and location of sediment control measures, on-site catchment boundaries and off-site sources of runoff;
- f. A programme of works including a proposed timeframe and completion date;
- g. Storage of fuel and/or lubricants and any handling procedures;
- h. Emergency response and contingency management;
- i. Procedures for compliance with this resource consent and any permitted activities;
- j. Procedures for environmental monitoring and auditing, including frequency;
- k. Record of corrective actions or solutions implemented;

- l. Procedures for updating the CMP ;
- m. Procedures for training and supervising staff in relation to environmental issues; and
- n. Roles and responsibilities, including contact details of key personnel responsible for on-site environmental management and compliance and of the site manager.

*Advice Note: The Christchurch City Council Infrastructure Design Standard (Clause 3.8.2) contains further detail on Environmental Management Plans.*

- 6. The CMP shall be implemented on site throughout the construction of the comprehensive care retirement village. No earthworks shall commence on site until:
  - a. The contractor has received a copy of all resource consents and relevant permitted activity rules controlling this work;
  - b. The measures identified in the ESCP have been installed; and
  - c. An Engineering Completion Certificate (IDS – Part 3, Appendix VII), signed by an appropriately qualified and experienced engineer, is completed and presented to the Christchurch City Council. This certificate is to certify that the erosion and sediment control measures have been properly installed in accordance with the ESCP.
- 7. The consent holder shall ensure any change in ground levels on the site due to activities authorised by this resource consent shall not cause a ponding or drainage nuisance to neighbouring properties.
- 8. The consent holder shall ensure any change in ground levels on the site due to activities authorised by this resource consent shall not affect the stability of the ground or fences on neighbouring properties.
- 9. The consent holder shall ensure that all open areas on the site shall be adequately stabilised as soon as practicable to limit sediment mobilisation.

*Advice Note: In accordance with the condition above earthworks on the site shall be progressively stabilised against erosion during all stages of the earthwork activity. Interim stabilisation measures may include the use of waterproof covers, geotextiles or aggregate cover that has obtained a density of more than 80% of a normal pasture sward.*

- 10. The consent holder shall ensure that any local roads, shared accesses, footpaths, landscaped areas or service structures that are damaged as part of the construction works authorised under this resource consent, are reinstated to their pre-construction standard and as specified in the Christchurch City Council's Construction Standard Specifications (and at the expense of the consent holder).

The consent holder shall, in consultation with the Christchurch City Council, undertake a baseline survey of the condition of all local roads, shared accesses, footpaths, landscaped areas or service structures to be used as part of the construction works, prior to the commencement of construction works authorised as part of this resource consent in order to provide a benchmark for the potential remedial works that may be required.

- 11. The consent holder shall ensure that footpaths, shared accesses and local roads to, and from, the site remain clean of debris and tracked material at all times. Footpaths and roads shall be regularly checked by the consent holder, and swept if any debris and tracked material is deposited as a result of the construction works.

## **Contaminated Material**

12. A Site Management Plan, prepared in accordance with the Framework Site Management Plan submitted as part of the resource consent application, shall be submitted to Christchurch City Council for certification at least 10 working days prior to any construction works commencing on the site.

The Site Management Plan shall include, but not be limited to, the following information:

- a. Pre-works testing;
  - b. General earthworks procedures for contaminated soils and material to manage potential exposure to workers and the public;
  - c. Dust controls for the management of contaminated soils and material;
  - d. Asbestos-specific health and safety controls for the site;
  - e. Unexpected contamination and contingency procedures; and
  - f. Monitoring procedures.
13. The Christchurch City Council is to be notified at least 5 working days in advance of construction works commencing on site. This may be by way of email to [rcmon@ccc.govt.nz](mailto:rcmon@ccc.govt.nz).
14. Any contaminated soils and materials removed from the site must either be (i) disposed of at a facility whose waste acceptance criteria permit the disposal, or (ii) encapsulated on site (e.g. beneath buildings, roads or landscaped areas).
15. Within three months of the completion of earthworks on the site, a Site Validation or Works Completion Report (as appropriate) shall be prepared and submitted to the Christchurch City Council. The report shall include as a minimum:
- a. Volumes of materials moved on site;
  - b. Details of any variations to the site works set out in the Site Management Plan;
  - c. Details of any discharges to the environment during the earthworks;
  - d. Details of any contingency measures employed during the earthworks;
  - e. Photographic evidence of the site works;
  - f. Evidence the objectives of the final site capping and / or remediation have been met with regard to high density residential land use; and
  - g. Evidence of the disposal of any soils off site to an authorised facility.

The report shall be written in accordance with the Ministry for the Environment Guidelines for Reporting on Contaminated Sites in New Zealand (Revised 2011). In the event that contaminated soils and materials are encapsulated on site in accordance with condition 14, the Site Validation or Works Completion Report shall also include a Long Term Management Plan that documents the ongoing management controls to be implemented by the consent holder.

### **Construction Traffic**

16. All construction work shall be carried out in accordance with a Construction Traffic Management Plan ('CTMP') that seeks to minimise the local traffic effects of construction works. No works are to commence until such time as the CTMP has been certified by the Christchurch City Council and any necessary traffic management measures installed. The CTMP shall be prepared by an STMS accredited person and submitted through the web portal [www.myworksites.co.nz](http://www.myworksites.co.nz) (please refer to [www.tmpforchch.co.nz](http://www.tmpforchch.co.nz)).

The CTMP shall be based upon the draft Construction Traffic Management Plan submitted as part of the resource consent application, and shall be submitted to the Christchurch City Council for certification at least 10 working days prior to any construction works commencing on site. The CTMP shall be prepared by a suitably qualified and experienced person.

The CTMP shall include, but not be limited to:

- a. Construction dates and hours of operations;
- b. Truck route diagrams for the local road network;
- c. Contractor parking arrangements;
- d. Temporary traffic management signage; and
- e. Details of site access / egress over the construction period.

17. All loading and unloading of trucks with excavation or fill material shall be carried out within the site.

### **Construction Noise and Vibration**

18. Construction noise at occupied buildings shall, as far as practicable, comply with the relevant construction noise limits in Tables 2 and 3 of *NZS 6803:1999 Acoustics – Construction Noise* in accordance with the Christchurch District Plan.
19. All construction work shall be carried out in accordance with a Construction Noise and Vibration Management Plan ('CNVMP') to minimise the noise and vibration effects of construction works in accordance with the best practicable option. The CNVMP shall be based upon the draft plan submitted as part of the resource consent application, and shall be submitted to the Christchurch City Council for certification at least 10 working days prior to any construction works commencing on site. The CNVMP shall be prepared by a suitably qualified and experienced person.

The CNVMP shall include, but not be limited to, the following information:

- a. Construction noise and vibration levels from key equipment to be utilised on site;
- b. Identification of the occupied buildings during any stage of the construction programme where there exists the potential for noise / vibration effects to exceed the relevant limits in the Christchurch District Plan;
- c. Description and duration of the works, anticipated equipment and the processes to be undertaken;
- d. Hours of operation, including specific times and days when construction activities causing noise / vibration would occur;
- e. Mitigation options where noise / vibration levels are predicted or demonstrated to approach or exceed the relevant limits in the Christchurch District Plan. Specific noise / vibration mitigation measures to be implemented shall include, but not necessarily be limited to acoustic screening along the boundaries of the site which has a minimum surface mass of 6.5 kg/m<sup>2</sup> and a minimum height of 2.4 m;
- f. The process for erecting temporary construction noise barriers where appropriate;
- g. Schedule and methods for monitoring and reporting on construction noise / vibration;
- h. Details of noise / vibration monitoring to be undertaken or in the event of any complaints received;
- i. Implementation of a complaint management system with contact numbers for key construction staff responsible for the implementation of the CNVMP and complaint investigation and including

- procedures for maintaining contact with stakeholders, notifying of proposed construction activities and handling of noise / vibration complaints;
- j. The process for notifying the owners and occupiers of adjacent buildings prior to construction activities commencing on the site; and
- k. Training procedures for construction personnel.

#### **Pre- and Post-Construction Structure and Building Condition Surveys**

20. Earthworks on site shall not commence, except those associated with the remediation of shallow contaminated material, until proof of an approved building consent covering all retaining walls shown on the plans approved as part of this resource consent is provided to the Christchurch City Council, Team Leader Compliance.
21. Where a pre-construction land, structure or building condition survey is required by condition 22, the consent holder shall request in writing the approval of the owners of identified properties to undertake an initial condition and photographic survey. The consent holder shall also undertake a pre-construction survey of Westwood Terrace. The consent holder shall send copies of each of the requests to the Christchurch City Council, Team Leader Compliance via email to [rcmon@ccc.govt.nz](mailto:rcmon@ccc.govt.nz)

In the event that the dwelling at 76 Park Terrace has not been repaired, or is still subject to repairs, at the time the pre-construction survey is offered to the property owners identified in Condition 22, the consent holder shall make a further offer to undertake a 'pre-construction survey' to the owners of this property at the completion of the repairs to their dwelling (in the event that construction activities at the Peterborough Site are ongoing at this time).

22. The consent holder shall engage a suitably qualified, independent and experienced person to undertake the survey of the properties within 20 metres of where earthworks will occur on the site, where the property owner has given their written approval to a survey being undertaken.
23. If the property owner does not respond within 20 working days of the request in condition 21 being made, the consent holder need not undertake a survey of that property.
24. The survey shall assess the current condition of land, structures and the exterior and interior of the buildings on the properties identified in condition 21 (any additional properties to be surveyed at the consent holder's discretion). The methodology to be utilised by the consent holder shall be documented and provided to the Christchurch City Council, Team Leader Compliance prior to the surveys being undertaken.
25. Within six weeks of the completion of construction works adjacent to a property surveyed in accordance with condition 24, the consent holder shall undertake an interim survey of the property where the property owner has given their written approval (at the consent holder's cost). The purpose of the interim surveys is to assess any damage caused by the excavation and construction activities at the site. Provided the consent of any property owner is obtained, the consent holder shall be responsible for any repairs, reinstatement or other works to surveyed land, structures and buildings that can be reasonably attributed to construction activity.
26. Within twelve weeks of the completion of all construction works on the site, the consent holder shall undertake a follow up survey of each property surveyed in accordance with conditions 24 and 25 where the property owner has given their written approval (at the consent holder's cost). The purpose of these surveys is to further assess any damage caused by the excavation and construction activities at the site. Provided the consent of

any property owner is obtained, the consent holder shall be responsible for any repairs, reinstatement or other works to surveyed land, structures and buildings that can be reasonably attributed to construction activity.

27. A copy of each property survey undertaken in accordance with conditions 24, 25 and 26 shall be made available to the applicable property owner within 15 working days of the survey being completed.

#### **Significant Tree – 78 Park Terrace**

28. The consent holder shall appoint a suitably qualified and experienced arborist to monitor and supervise the works within the dripline of the Common Lime Tree (ID Number 3300 / Christchurch District Plan Number T271) for the duration of the works at 78 Park Terrace.
29. Prior to earthworks commencing at 78 Park Terrace, a meeting shall be held on site so that the protection measures for the Common Lime Tree can be discussed between the Council arborist, the appointed arborist and relevant contractors who will be working on the site in proximity to the tree. At the meeting, the following will be agreed:
  - a. Areas for storing and / or stockpiling materials, spoil and equipment;
  - b. Procedures for protection of roots within the dripline of the Common Lime Tree (e.g. exposure of roots and protection measures, severing methodology and backfilling of exposed areas); and
  - c. Correct procedures when working around the Common Lime Tree.
30. Temporary protective fencing is to be erected to isolate the Common Lime Tree before any construction works occur around, or adjacent to, the tree. The fencing shall be retained in place for the duration of the construction works, and shall not be removed or moved without the prior approval of the Council arborist. If the fencing is damaged, the site manager will be responsible for repairing it at the earliest opportunity.
31. The protective fencing is to be positioned to maximise the tree protection area, whilst allowing a safe work area for the works to occur. The appointed arborist is to determine the exact position of the fencing in consultation with the project manager, but it should be set at the maximum possible practicable distance while still allowing the work to proceed.
32. All soil excavation within the dripline area is to occur under the direction and supervision of the appointed Arborist.
33. Excavation should take place carefully, and any roots will be identified and protected from damage, as the work occurs. This can involve a combination of manual excavation and probing. Any use of machinery will be at the discretion of the appointed Arborist.
34. When soil is cleared around any tree roots, they are not to be left exposed for an extended time (no more than 1 hour), and they shall be protected from desiccation and damage by the use of damp Hessian or bidim, or good quality topsoil, as specified by the appointed Arborist. The appointed Arborist shall be responsible for this.
35. If any roots encountered at the levels to be excavated have to be severed, this should be carried out to the satisfaction of the appointed Arborist. All root pruning is to be carried out by the appointed Arborist.



36. Care should be taken to avoid damage to roots over 25mm diameter. Roots over 25mm in diameter at point of severance shall only be severed with the approval of the Council arborist.
37. Following any excavations, backfilling shall take place at the earliest opportunity, and prior to backfilling, any protective material over the roots should be removed. The backfill material should be of sufficient quality to allow for the continued growth/health of the root system.
38. To avoid damage to roots, reinstatement of soil shall not occur except carefully by hand whenever feasible.
39. To avoid contact of raw concrete with root mass during the infill of the clutch piling, it is recommended that the top 2 metres of the piles be lined with a heavy grade PVC or similar impervious material.
40. No heavy machinery is to be driven within the dripline of the Common Lime Tree, unless on existing hard surfaces, or on load bearing mats or sheets designed to spread loading forces.
41. No materials or machinery / vehicles are to be stored / parked within the dripline of the Common Lime Tree during the construction work, including excavated soil, chemicals or building materials.
42. Notice boards, cables and other services shall not be attached to any part of the Common Lime Tree.
43. Postholes for the Peterborough Street road boundary fence posts are to be lined with plastic or similar impervious material to create a barrier between tree roots and raw concrete. Exploratory digging should be used to locate any major roots in the proposed posthole locations.
44. Any pruning of the Common Lime Tree to enable clearance from heavy machinery used for the basement retention system, or due to canopy damage from the operation of the machinery, is to be carried out by the appointed arborist to the Australian Standard- AS 4373-2007 "*Pruning of Amenity Trees*", or British Standard BS 3998: 2010 "*Recommendations - Tree Work*". The maximum diameter of any live limb removed is up to 100 mm at the point of removal.
45. The maximum diameter of any live limb removed is to be up to 100 mm at the point of removal.
46. Should the Lime Tree die within 10 years of the development commencing on the site it shall be replaced with the same or similar species which is a minimum of 3.5m high at the time of planting and 5 further replacement trees on the site or in the local area on Council land (road or reserve), with the location and species to be confirmed by the Council arborist at the time.

## **Heritage**

47. The applicant will advise the Heritage Team Leader, Christchurch City Council (or nominee) of the commencement of works at 100 – 104 Park Terrace and 20 Dorset Street at least 10 working days prior to works starting on site, to ensure that those conditions of consent that require prior certification are verified in writing.
48. At least 10 working days prior to the commencement of works at 100 – 104 Park Terrace and 20 Dorset Street, the consent holder shall submit a Temporary Protection Plan ('TPP') for the repair of the former Bishops Chapel (Heritage ID: 1305) for certification by the Christchurch City Council. The TPP shall be

prepared by a suitably qualified and experienced person and shall be based upon the draft plan submitted as part of the resource consent application.

The TPP shall include, but not be limited to, the following information:

- a. A specific methodology for the removal and storage of exterior and interior heritage elements;
- b. Procedures for dust suppression from construction and works to the heritage building;
- c. Measures for fire protection;
- d. Measures for security; and
- e. A methodology for preparation of the exterior surface of the chapel if this is required (where any heritage fabric is remaining in situ).

*Advice Note: Significant care must be taken with any sand blasting that is required to the brick substrate to avoid damage to heritage fabric. Water blasting is not considered appropriate on the exterior surface of the chapel.*

49. The measures in the TPP shall ensure that the former Bishops Chapel is repaired to the extent that it can be utilised as a non-denominational prayer centre and meeting room as part of the comprehensive care retirement village on the site.
50. Prior to commencement of works, the consent holder's heritage professional shall hold a site briefing of all lead contractors and supervising staff to communicate the significance of the building, the consent conditions and the requirements of the TPP. The consent holder shall notify the Heritage Team Leader, Christchurch City Council of the date and time of the meeting at least three working days before the meeting.
51. The consent holder shall provide written confirmation to the Heritage Team Leader, Christchurch City Council stating that the initial setup of the TPP has been implemented and inspected on site (including methodologies for removal and storage of heritage fabric) by a suitably qualified and experienced person before any other works commence. Following the initial implementation of the TPP, the consent holder's heritage professional shall regularly monitor the TPP to ensure that appropriate measures are being taken by the contractors at each stage of construction and advise contractors if any additional protection is required.
52. A copy of the conditions of this consent, the amended TPP, and a full copy of the approved consent application and plans, are to be kept on site at all times, form part of the induction process, and are to be made available to and adhered to by all contractors and subcontractors undertaking work in connection with this consent.
53. All works to the former Bishops Chapel, and within the heritage setting of the former Bishops Chapel (Heritage ID: 470), shall be undertaken by suitably qualified tradespeople, and overseen by a suitably qualified CPEng structural engineer and heritage professional appointed by the consent holder.
54. No building works within the heritage setting of the former Bishops Chapel must proceed beyond the foundation stage until a registered surveyor or licensed cadastral surveyor, engaged by the consent holder, has provided written certification to the Heritage Team Leader, Christchurch City Council that the works completed have been completed in accordance with the approved plans.
55. A registered surveyor or licensed cadastral surveyor, engaged by the consent holder, must provide written certification to the Heritage Team Leader, Christchurch City Council that the heights of the buildings within

the heritage setting of the former Bishops Chapel, as completed have been completed in accordance with the approved plans.

56. A digital photographic record of the works to the heritage building and heritage setting is to be undertaken by the consent holder's heritage professional, before, during, and after the completion of the works. The photographic record of the works in the heritage setting shall include affected views to and from the heritage item. The record must be lodged with the Heritage Team Leader, Christchurch City Council for their records within three months of the completion of the work.
57. New or introduced materials, works or reconstructed elements shall be recorded, and date marked to indicate the time of their installation. The form and location of the visible dating of the new entry / pergola structure is to be agreed with the Heritage Team Leader, Christchurch City Council prior to its installation.
58. Heat pump units, if proposed to be attached to exterior heritage fabric, must comply with the permitted activity standard in Rule 9.3.4.1.1 P13 of the Christchurch District Plan requiring the design and/or supervision of a Heritage Professional. If this standard is not met, their proposed appearance, location and fixing details are to be submitted by email for certification to the Heritage Team Leader, Christchurch City Council (or nominee) prior to their installation.

## **Landscaping**

59. Prior to the relevant buildings in any stage passing their final building inspection, the consent holder shall provide the Christchurch City Council with a detailed Planting Plan and a Planting, Implementation and Maintenance Strategy for the site prepared by the consent holder's Landscape Architect for certification by the Head of Resource Consents, Christchurch City Council (or nominee). The Planting Plan and a Planting, Implementation and Maintenance Strategy shall include:
  - a. The final landscape plan and specifications based on the landscape plan prepared by Design Squared and labelled **X**;
  - b. Planting schedules, detailing the specific planting species, the number of plants / trees to be provided, locations and height/Pb sizes;
  - c. Annotated sections with key dimensions to illustrate that adequate widths and depths are provided for tree pits / planter boxes;
  - d. A management / maintenance programme;
  - e. Provision for trees species along street frontages to be established in the available space and allowed to reach their natural height and form as follows:

### **Bishopspark Site**

- Two large tree species capable of reaching 15 metres at maturity along the Park Terrace frontage shall be allowed to grow to their natural height and form. This is in addition to the trees to be provided either side of the driveway.
- The Dorset Street frontage shall be planted with a tree species with a mature height of 6 metres which can be established in the available space and able to reach their natural height and form.
- The boundary shared with 2 to 18 Dorset Street shall be planted with tree species that are capable of reaching a mature height of 8 metres and shall be allowed to grow to their natural height and form.
- The boundary shared with 13 to 17 Salisbury Street shall be planted with medium sized tree species that are capable of reaching a mature height of 8 metres and shall be allowed to grow to their

natural height and form.

Peterborough Site

- The tree on the Park Terrace / Salisbury Street corner, and the tree to be planted either side of the Park Terrace access shall be allowed to grow to their natural height and form.
- The Salisbury Street frontage shall be planted with tree species that are capable of reaching a mature height of 7 metres which can be established in the available space and shall be allowed to grow to their natural height and form.

60. The proposed landscaping shall be established on site for each stage of building works within the first planting season (extending from 1 April to 30 September) following the final, passed building inspection for each relevant stage of building works.
61. Should any of the trees to be planted along the street frontage boundaries of the site not survive, the consent holder shall procure and plant replacement specimens at a minimum height of 4.5 m.

*Advice Note: This condition shall continue to apply for the duration that the comprehensive care retirement village exists on the site. It is intended to ensure that any trees that perish along the street frontage of the site are replaced with specimens that are appropriately sized in order to retain the amenity of the site and the surrounding streetscape.*

**Traffic**

62. Westwood Terrace shall not to be used as an access for construction activities.
63. The consent holder shall design a pedestrian crossing facility, which may include a kerb build, kerb realignment at the Salisbury Street / Park Terrace intersection, or other alternative design option, to improve the safety of pedestrians crossing Salisbury Street in the vicinity of Westwood Terrace.
64. The consent holder shall arrange for an independent road safety audit of the detailed design of the access points to the site from Park Terrace and Dorset Street, as well as the design of the pedestrian crossing facility on Salisbury Street. The audit shall be undertaken in accordance with the 'Road Safety Audit Procedures for Projects Guidelines, May 2013'.
65. A copy of the road safety audit shall be provided to the Christchurch City Council. Any audit recommendations and design changes arising from the detailed design road safety audit shall be agreed with the Christchurch City Council prior to construction being undertaken.
66. The pedestrian crossing facility on Salisbury Street, required by condition 63, shall be constructed prior to the occupation of Building B01 at 100 – 104 Park Terrace and 20 Dorset Street.
67. Service vehicles accessing the site via Dorset Street shall enter the site in forward gear and exit in reverse. The consent holder shall also utilise a suitably qualified spotter to manage the exiting of service vehicles onto Dorset Street to ensure the safety of road users. These requirements shall be detailed in all contract arrangements with service providers to the site and shall be reflected in signage at this access.

68. Rubbish trucks shall only access the site during the period between 7am and 7pm and shall avoid the use of tonal reversing alarms.

### **Stormwater**

69. Prior to undertaking any site works, the applicant shall obtain written confirmation from the Christchurch City Council that the construction and operational phase stormwater discharges have been accepted under the Christchurch City Council's stormwater network discharge consent or confirm that separate resource consents from Environment Canterbury have been obtained.

### **Water Supply**

70. Prior to the occupation of residential units on the site sufficient water supply and access to water supplies for fire-fighting shall be made available to all residential units via Council's urban fully reticulated system and in accordance with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice (SNZ PAS:4509:2008).

### **Noise**

71. The consent holder shall provide the Christchurch City Council with a design report (prior to construction) and a design certificate (prior to occupation) prepared by a suitably qualified acoustics specialist stating the design proposed for each building is capable of meeting the applicable noise standard in Rule 6.1.7.2.1 of the District Plan.

### **Advice notes:**

#### *i) Monitoring*

The Council will require payment of its administrative charges in relation to monitoring of conditions, as authorised by the provisions of section 36 of the Resource Management Act 1991. The current monitoring charges are:

- (a) A monitoring programme administration fee of \$102.00 to cover the cost of setting up the monitoring programme; and
- (b) A monitoring fee of \$175.50 for the first monitoring inspection to ensure compliance with the conditions of this consent; and
- (c) Time charged at an hourly rate if more than one inspection, or additional monitoring activities (including those relating to non-compliance with conditions), are required.

The monitoring programme administration fee and inspection fees will be charged to the applicant with the consent processing costs. Any additional monitoring time will be invoiced to the consent holder when the monitoring is carried out, at the hourly rate specified in the applicable Annual Plan Schedule of Fees and Charges.

- ii) 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. Please contact a Building Consent Officer (ph: 941 8999) for advice on the building consent process.
- iii) This site may be an archaeological site as defined and protected under the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. Archaeological sites are defined in the HNZPTA as any place in New Zealand where there is physical evidence of pre-1900 occupation, regardless whether the site is known or not,

recorded in the NZAA Site Recording Scheme or not, or listed with Heritage New Zealand or the local council. Authority from Heritage New Zealand is required for any work that affects or may affect an archaeological site. **Please contact the Heritage New Zealand regional archaeologist on 03 363 1880 or [archaeologistcw@heritage.org.nz](mailto:archaeologistcw@heritage.org.nz) before commencing work on the land.**

#### *Heritage*

- iv) Information being submitted in relation to conditions of this consent is to be sent by email to: [rcmon@ccc.govt.nz](mailto:rcmon@ccc.govt.nz). The current nominated Council Heritage Advisor for this consent is Suzanne Richmond, 941 5383 or [suzanne.richmond@ccc.govt.nz](mailto:suzanne.richmond@ccc.govt.nz). The alternative contact is Gareth Wright, 941 8026 or [gareth.wright@ccc.govt.nz](mailto:gareth.wright@ccc.govt.nz).
- v) The applicant should not commence or should cease work on a given area if the works proposed in that area change from those in the approved consent documentation. Any variation must be discussed with the Christchurch City Council's Heritage Team Leader (or nominee), who in consultation with the Council's Resource Consents Unit will determine an appropriate consenting response. Five working days should be allowed for this process. Failure to discuss changes with the Council's Heritage Team may constitute a breach of the conditions of this consent. Amended plans and information showing these changes, may be required to be submitted to the Heritage Team Leader, Christchurch City Council (or nominee) for certification prior to work on that area commencing or resuming.
- vi) The intention of the photographic record condition is to maintain a record of the works with a focus on the areas of the heritage item and heritage setting undergoing change rather than individual elements. The same camera positions should be used for all photo sets before, during and after the works to enable comparison. Photographs should be of printable quality, at least 1440 pixels by 960 pixels for a 4"x 6" print at a minimum resolution of 240 PPI. They should be labelled with the position on site or in relation to the site, date and photographer's name, and submitted with a plan showing photograph locations. Photos should be submitted electronically, either by email (noting that Council's email data transfer limit is 20MB per email), or via a file transfer website such as [wettransfer.com](http://wettransfer.com) or [dropbox.com](http://dropbox.com) to [rcmon@ccc.govt.nz](mailto:rcmon@ccc.govt.nz).
- vii) Date stamping or marking is important to clearly distinguish replicated or introduced old features and new areas of fabric from heritage fabric so changes to the heritage item can be readily understood in the future. The dating of new or introduced fabric may be undertaken by a number of permanent means. It is recommended that a builder's pencil or small steel plate with the date is used on masonry or timber. A permanent marker pen may be used on steel elements, but not masonry or timber as the marking may deteriorate. Marking should generally be in unobtrusive locations where elements are proposed for reinstatement. Dates may be prominent in some cases when used for commemorative purposes such as over the entrance to acknowledge major works to a building or a new wing. **In the case of the entry/pergola to the chapel, the new structure should be dated in a visible location to acknowledge the date of the works to the chapel alongside the chapel's construction date, for example: "1927 20[XX]"**.
- viii) All works should be carried out with regard to the conservation principles contained within the ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value (ICOMOS New Zealand Charter 2010).
- ix) All works to be undertaken on the repair and replacement of heritage fabric should be undertaken by tradespeople experienced in working with such fabric.