

Before Hearing Commissioners at Christchurch City Council

under: the Resource Management Act 1991 (*RMA*)

in the matter of: an application by Ryman Healthcare Limited (*Ryman*)
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

Memorandum of Counsel on behalf of Ryman Healthcare Limited

Dated: 24 February 2021

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**MEMORANDUM OF COUNSEL ON BEHALF OF RYMAN HEALTHCARE
LIMITED**

- 1 This memorandum of counsel responds to Part D of Minute 5, in which the Commissioners asked the following questions:
 - a) *Would it be feasible to set back the northern facades of Buildings B01 and B03 to a distance of 4.0 metres from the respective northern boundaries and what would be the implications for the applicant in doing so?*
 - b) *What would be required to ameliorate late afternoon shading effects at 18 and 15 Peterborough St caused by buildings B07 and B08? What would be the implications for the applicant in doing so?*

Question (a) – Building B01 and B03

- 2 Buildings B01 and B03 are currently setback from the northern boundaries as follows:
 - 2.1 Building B01 ground floor is setback 3.2m from the northern boundary. The top floor is already setback more than 4m from this boundary;
 - 2.2 Building B03 is setback 2.1m from the northern boundary.
- 3 Ryman advises that it may be possible to move the whole northern wing of Building B01 further into the Site to provide a 4m setback. It may also be possible to move Building B03 further into the Site to provide a 4m setback.
- 4 However, the efficiency and practicality implications of this design change for the Proposed Village would be:
 - 4.1 This design change would reduce the size of the courtyard and encroach into the space of the Chapel hindering the space provided for on-site amenities;
 - 4.2 Additionally, moving Building B03 further into the Site would require a redesign of the internal layout of the building and result in more 1 bedroom apartments (rather than the 2 bedroom apartments preferred by the majority of residents);
 - 4.3 Moving Building B01's northern wing into the Site would create traffic and foyer circulation inefficiencies by limiting these spaces to less than what Ryman would typically allow for;
 - 4.4 Further, these design changes would need input from all technical disciplines to ensure they are practical and efficient.

- 5 In addition to these material efficiency and practicality implications, Ryman also considers, based on input from its experts, that the design change would not change the relationship between the Proposed Village on Dorset Street or the Dorset Street Flats to any material extent:
- 5.1 Building B01 would be only slightly more distant from the viewer. As Ms Skidmore describes, Building B01 does not present a single building form along the northern boundary, rather shorter end walls are separated by a communal courtyard.¹ As Mr Burns adds, the benign face of Building B01 is appropriate to its location to the rear of neighbouring properties where privacy is anticipated. Further, Building B01 will provide a visually subdued backdrop to the established dwellings on Dorset Street.² It is noted the depth, articulation and materiality of Building B01 cannot be seen on the elevation presented by the Dorset Street Flat Owners and Dr Judith Roper-Lindsay. These features can be viewed in the isometric view³, visual simulation⁴ and materiality sheet⁵.
- 5.2 Similarly, Building B03 would be only slightly further setback from the road. As described in the evidence of Ms Skidmore, Building B03 creates a positive street interface with its narrow width, large areas of glazing and balconies, and the differentiated upper level.⁶ Mr Burns agrees that Building B03 will present an attractive outcome that will sit comfortably in the street context.⁷ As Mr Dixon explains, the proposed trees on this boundary (*Prunus Amanogawa*) will be allowed to grow to their natural height and form, and will contribute to the visual amenity of the street.⁸ Ms Schroder also agrees that Building B03 will create a positive street interface.⁹
- 6 Overall, Ryman does not consider the design changes are necessary and they would have implications for the design and efficient use of the Village. Nevertheless, if the Commissioners

¹ SOE Skidmore, paragraph 148.

² SOE Burns, paragraph 179.

³ S01.A0-074.

⁴ Viewpoint 1-401.

⁵ Hearing Assessment Drawings - Bishopspark, page 12 (Building B01, Materiality, May 2020).

⁶ SOE Skidmore, paragraph 121.

⁷ SOE Burns, paragraph 75.

⁸ SOE Dixon, paragraph 63. Ms Dray confirmed she was comfortable with the change in tree species proposed: Summary Dray, paragraph 19.

⁹ 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.

advise that they wish to consider one or both of the design changes, Ryman will present drawings with its closing submissions.

Question (b) – Building B07 and B08

7 Buildings B07 and B08 in relation to the neighbouring properties at 15 Peterborough Street and 18 Salisbury Street are as follows:

7.1 Building B07 is significantly lower than the 20m height standard on the boundary with 18 Salisbury Street (5 levels). It has very small (parapet areas only) recession plane breaches;¹⁰ and

7.2 Building B08 complies with the 20m height standard, but does project through the recession plane on the boundary with 15 Peterborough Street.¹¹ Building B08 is a four storey building, and therefore relatively smaller than the six storey apartment building at 15 Peterborough Street.

8 Question (b) relates to late afternoon shading on 15 Peterborough Street and 18 Salisbury Street. 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. It is not possible to materially ameliorate late afternoon shading on 15 Peterborough Street and 18 Salisbury Street without a fundamental redesign of the Proposed Village and loss of a significant number of apartments for future residents.

9 However, it may be possible for the design of Buildings B07 and B08 to be amended to fully comply with the recession planes adjacent to 15 Peterborough Street and 18 Salisbury Street. These design changes may result in a loss of 5 apartments, and have some efficiency and practicality implications:

9.1 Building B07 would require a redesign of the top level and/or a change to the eastern façade to achieve compliance with the recession planes. Ryman advises this design change is expected to result in the loss of two apartments; and

9.2 Building B08 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. Ryman advises this design change is expected to result in the loss of three apartments.

¹⁰ S02.A0-080, Section C.

¹¹ S02.A0-080, Section D.

- 10 On the other hand, given the small extent of these breaches, these design changes would not alter the shading of the Proposed Village to any material extent.
- 11 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.¹² 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).¹³ 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.
- 12 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. 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.
- 13 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.
- 14 We also refer the Commissioners to the shading previously experienced by 18 Salisbury Street as a result of the Terraces on the Park apartments.¹⁴ 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

¹² S02.A0-200-204.

¹³ SOE Skidmore, paragraphs 182-188. SOE Burns, paragraphs 137-140.

¹⁴ November 2020 Further Information Response, Appendix B.

reasonably expected, and previously experienced, in this central city location.

- 15 In conclusion, it is not possible to materially ameliorate late afternoon shading on 15 Peterborough Street and 18 Salisbury Street. A design change that results in full compliance with the recession planes adjacent to 15 Peterborough Street and/or 18 Salisbury Street is possible, but would reduce the number of apartments and would not change shading to any material extent. Nevertheless, if the Commissioners advise that they wish to consider one or both of these design changes, Ryman will present drawings with its closing submissions.

Next steps

- 16 In accordance with Minute 5, Ryman provided an updated set of conditions to Council on 12 February 2021. Council subsequently inserted its comments, with areas of disagreement limited to Condition 59(e). The proposed conditions were circulated to submitters on 19 February 2021, with comments due by 5pm 5 March 2021.
- 17 Ryman understands the Commissioners have also undertaken a site visit. Ryman respectfully requests that the Commissioners advise whether there are any matters arising from the site visit to be addressed in closing submissions.
- 18 If there are no further matters arising, Ryman respectfully requests an indication of dates available for the presentation of closing submissions. To assist, we can confirm that Ryman's team would be available on 9 or 10 March 2021.

Luke Hinchey / Nicola de Wit
Counsel for Ryman Healthcare Limited
24 February 2021