

Before the Hearing Commissioners at Christchurch City Council

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

Opening legal submissions on behalf of Ryman Healthcare Limited

Dated: 25 January 2021

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OPENING LEGAL SUBMISSIONS ON BEHALF OF RYMAN HEALTHCARE LIMITED

Overview of Ryman's case

- 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 Ryman is New Zealand's leading provider of retirement living. Ryman currently has 44 retirement villages in operation or under development across New Zealand. It provides homes for over 10,000 elderly residents. Ryman was established in Christchurch, and its head office is still located here. It has seven villages in operation in the Canterbury region. Two more are underway. Ryman is very much part of the fabric of this region. As such, Ryman is committed to providing the elderly residents of Christchurch with modern and top-quality accommodation, care and amenities.
- 3 The Proposed Village is needed now. Its benefits are substantial:
 - 3.1 The Proposed Village will make a strong contribution to the wellbeing and health and safety of one of the most vulnerable demographics of Christchurch people. The Proposed Village will provide a 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. The Proposed Village will allow these residents to remain living within their community, instead of being pushed to the periphery of the city.¹
 - 3.2 As will be explained by Mr Moore, there is a critical lack of retirement and aged care in New Zealand and in Christchurch. There were 25,803 people in Christchurch aged 75+ in 2018. By 2043, that number will more than double to 60,620. Purpose built, high quality homes for the elderly in Christchurch are desperately needed. Ryman already has a list of over 350 people who wish to live in the Proposed Village, without having undertaken any official marketing.
 - 3.3 Christchurch is one of only five 'Tier 1' urban environments under the National Policy Statement on Urban Development 2020 (*NPSUD*). This policy statement makes new housing and intensification in the city the government's highest priority. The Proposed Village will make a substantial contribution towards the projected demand for housing in

¹ See, for example, the evidence of Dora Langsbury referring to the benefits of this location for current city centre dwellers.

Christchurch. It will provide new accommodation. It will also free up a substantial stock of existing houses for other individuals and families in need of homes.

- 3.4 The Sites are ideally suited for the Proposed Village. They have a history of intensive residential use. Prior to the earthquakes, part of the Sites were occupied by a high density residential use, with the tallest of the buildings being approximately 31m high. The other part of the Sites contained a retirement village. The Sites are now zoned Residential Central City Zone in the Christchurch District Plan (*District Plan*). The wider area is being rebuilt and transitioning. As such, this zone anticipates high density living and development, such as the Proposed Village, to support the restoration and enhancement of a vibrant city centre. Change to the existing environment is expected. The retirement village use is specifically supported and encouraged as a permitted activity under the District Plan.
- 3.5 The Sites will provide fantastic park and city views and convenient access to amenities for residents, some of whom will have mobility constraints. The Sites are in close proximity to local shops, medical facilities, parks and community facilities, which will greatly assist residents to maintain community interaction and social connections.²
- 3.6 Large residentially zoned sites are rare in the existing urban area of central Christchurch. Ryman has been actively looking for a site in this location for a number of years. The Sites are the only ones available in this part of Christchurch that Ryman, as a retirement care expert, considers to be appropriate to provide the best quality of life for its residents. The Proposed Village will therefore represent a highly efficient use of a scarce land resource.
- 3.7 The Proposed Village has been designed by leading architects, Warren and Mahoney. Their high quality design will ensure the Village makes a strong contribution to the quality and amenity of this prominent City Centre location. The design will create a landmark and leave a positive legacy for the city.
- 3.8 The Proposed Village will allow a Highly Significant³ heritage item and setting, being the Former Bishop's Chapel and Setting (*Chapel*), to be retained and restored. The Chapel is the only remaining component of the Bishopspark Main Building and Chapel, a Category 1 Historic Place under the Heritage New Zealand Act. The Main Building was demolished following earthquake damage. The Chapel was also heavily damaged and is currently unsafe for use. The Chapel will be

² Ms Langsbury's evidence also addresses this benefit.

³ District Plan, #1305 and #470.

carefully restored to its original state. It will become a significant centrepiece for the amenity of the Proposed Village.

- 3.9 The Proposed Village will provide a significant economic benefit to the community and the local workforce during construction, as well as providing employment once it is operational. Both construction and operational activities of which will add to the restoration and vibrancy of the City Centre.
- 4 The Proposed Village application is the culmination of many years of work by the Ryman team, its designers and experts. Ryman has engaged extensively and collaboratively with Council officers. It has adapted its design to address their feedback and that from the Christchurch Urban Design Panel, where it will improve and enhance the overall design outcomes. This approach has led to substantive support from the Council officer team. There are now only matters of relatively minor detail that have not yet been resolved. Ryman continues to seek to narrow points of difference. Further modifications include new landscaping proposals and amendments to conditions to address the residual matters raised in the Council Officer's Report and submitter evidence.
- 5 Ryman also consulted extensively with Heritage New Zealand Pouhere Taonga (*Heritage NZ*) regarding the retention and restoration of the Chapel, which Heritage NZ supports. It has no residual concerns in relation to the application that are material.⁴
- 6 Although Ryman's and the Councils' experts considered limited notification to be the appropriate pathway for the application, Ryman nevertheless requested full public notification. It made this decision in response to requests for notification from members of the public at a pre-hearing public meeting. Consultation with the community has also been undertaken, as I will return to later.
- 7 The widespread support for the Proposed Village is evidenced in the many positive submissions lodged (over two thirds of all submissions received).
- 8 In terms of those submissions that have expressed concerns, Ryman has carefully considered the issues raised. Ryman has amended its application to address key issues as follows:
 - 8.1 Pre and post-construction building surveys will be offered to the owners of properties adjoining the Sites to ensure any damage (which is unlikely) is appropriately documented and remedied;

⁴ SOE Mitchell, Appendix D.

- 8.2 Ryman has also adjusted its basement design at the boundary of 15 Salisbury Street to address Mr and Mrs Bennett's concerns, as will be discussed by Mr Malan;
 - 8.3 A draft construction management plan and construction traffic management plan has been provided prior to the hearing. These documents will give neighbours surety about the construction staging and potential periods of disruptions. The proposed conditions require the final management plans to be submitted to Council for certification based on these drafts, adding a further check and balance;
 - 8.4 Amendments to conditions are proposed that further strengthen and clarify the controls required during construction;
 - 8.5 A condition will prevent construction traffic from using Westwood Terrace, to minimise disruption to other properties that use the Terrace for their access; and
 - 8.6 The lift shaft/stair core area of Building B07 will be treated with a darker and more recessive colour to further enhance the Proposed Village's fit into the surrounding environment.
- 9 The Proposed Village is consistent with the outcomes sought in the objectives and policies of the District Plan. It is located in a Central City area identified for change and for medium to high density residential development. It will support the restoration and enhancement of a vibrant City Centre. The village will bring about positive change and enhanced amenity, through its high architectural quality.⁵ The Proposed Village will also contribute to providing a diverse range of housing options suitable for older persons, with a density that enables efficient provision of care and amenities.⁶
- 10 Overall, the application is a restricted discretionary activity. The discretion of the Commissioners is therefore limited to certain matters. The key categories arising from those matters of discretion that are in contention relate to:
- 10.1 Residential amenity and urban design;
 - 10.2 Construction effects management (noise, vibration, traffic etc);
 - 10.3 Heritage effects, associated with works to, and in the setting of, the Chapel;

⁵ District Plan, Objective 14.2.8

⁶ District Plan, Policy 14.2.1.8.

- 10.4 Transportation effects; and
- 10.5 Arboricultural effects, associated with works in the vicinity of the Common Lime Tree (T271), which is recognised as a Significant Tree in the District Plan.
- 11 The effects arising under these categories have been comprehensively assessed by Ryman's expert team. In most cases, the effects are assessed as being positive, negligible or less than minor. In all other cases, these effects are assessed as being appropriate when viewed against the existing environment and the planning expectations for the area.
- 12 Ryman proposes to manage any residual effects through a comprehensive suite of conditions. These conditions are informed by robust industry practises and guidelines, as well as the experience of Ryman's and the Council's experts. Ryman has an excellent track record of delivering similar-scale projects in residential environments across New Zealand.
- 13 The Officer's Report concludes that the environmental effects of the Proposed Village are acceptable, and that the Proposed Village is not contrary to the objectives and policies of the District Plan. The Council officers recommend granting consent for the Proposed Village subject to proposed conditions.⁷
- 14 We submit that the Commissioners can be comfortable granting the necessary resource consents for the Proposed Village. The application meets the necessary statutory tests under the Resource Management Act 1991 (*RMA*). We also submit that there is no legal impediment - under the RMA or any other legislation - that would prevent the Commissioners from granting the resource consents.
- 15 Ryman will call the following witnesses in support of the Proposed Village:
- 15.1 **Mr Jeremy Moore**, Ryman's Chief Development Officer. Mr Moore will set out Ryman's philosophy and why Ryman wishes to use the Sites for a retirement village. He will also outline the consultation and public open days undertaken by Ryman, which have helped better inform submitters and other locals and address concerns about the Proposed Village.
- 15.2 **Mr Richard McGowan**, Architect and Principal at Warren and Mahoney New Zealand Ltd. Mr McGowan will speak to key plans to provide an overview of the design and layout of the Proposed Village and will explain the design philosophy.
- 15.3 **Ms Rebecca Skidmore**, Urban Designer and Landscape Architect. Ms Skidmore will address the urban design-related

⁷ Council Officer's Report, paragraphs 301-304.

amenity effects and landscape and visual effects of the Proposed Village.

- 15.4 **Mr Sean Dixon**, Landscape Architect at Design Squared Landscape Architects Limited. Mr Dixon will address the landscaping proposed for the Proposed Village.
 - 15.5 **Mr Alan Parker**, arborist and Director at APConsulting. Mr Parker will address arboriculture matters associated with the Proposed Village, particularly focusing on the scheduled Common Lime Tree on the Peterborough Site.
 - 15.6 **Mr Andrew Burns**, Director at McIndoe Urban. Mr Burns has carried out a peer review of Ms Skidmore's urban design assessment. He will also address the urban design-related amenity effects of the Proposed Village.
 - 15.7 **Mr David Pearson**, Principal of Dave Pearson Architects. Mr Pearson will address historic heritage, particularly focusing on the restoration of the former Bishop's Chapel and its fit within the new retirement village setting.
 - 15.8 **Mr Pierre Malan**, Senior Geotechnical Engineer at Tonkin & Taylor Limited. Mr Malan will address the geotechnical aspects of the Proposed Village, in particular submitter concerns about potential property damage.
 - 15.9 **Mr Leo Hills**, Traffic Engineer and Director at Commute Transportation Consultants Ltd. Mr Hills will address the traffic and transportation effects of the Proposed Village.
 - 15.10 **Ms Siiri Wilkening**, Acoustic Engineer at Marshall Day Acoustics. Ms Wilkening will address noise and vibration effects arising from construction and operation of the Proposed Village.
 - 15.11 **Dr Phil Mitchell**, Consultant Planner and Partner at Mitchell Daysh Ltd. Dr Mitchell will provide his assessment of the Proposed Village against the provisions of the RMA and will discuss the proposed conditions.
- 16 In accordance with Minute 4, Ryman is not calling Mr Ajay Desai (civil design) and Mr Paul Walker (contaminated land). Both experts are available to respond in writing to any questions should they arise.

Submission structure

- 17 These submissions address the following topics:
- 17.1 Preliminary administrative matters;
 - 17.2 Preliminary legal matters;

17.3 A summary of the key effects on the environment for consideration and the main areas of contention;

17.4 Our conclusions.

Preliminary administrative matters

Resource Consent Drawings

18 To assist the Commissioners, Ryman has prepared a consolidated set of the Proposed Village drawings (*Hearing Drawings*). The Hearing Drawings consolidate the application drawings, with the updates and additions made since the application was lodged. You have been provided with hard copies. Ryman's witnesses will refer to the drawings throughout the hearing.

19 Following the lodgement of Ryman's evidence, the following changes have been made to the drawings:

19.1 As set out in the evidence of Mr Moore, Ryman has proposed a darker and more recessive colour for the lift shaft/stair core area of Building B07.⁸ Both Ms Skidmore and Mr Burns support this change. They consider it will further reduce the visual dominance effects of this part of Building B07 on the neighbour at 76 Park Terrace to an appropriate level.⁹

19.2 As set out in the evidence of Mr Dixon, Ryman has proposed a number of changes to the landscaping proposal to address various matters raised in the Officer's Report. To reflect the changes, Ryman has lodged a full updated set of the Landscape Plans.¹⁰ Ms Skidmore has reviewed the proposed landscaping changes, and considers the changes are suitable.¹¹ Mr Burns agrees that tree planting is not required to mitigate the landscape and visual effects of the Proposed Village.¹² Based on discussions between Ryman's expert and the Council, it is understood that there are only three points of contention regarding the landscape proposal.

19.3 As will be explained by Mr Malan, Ryman has amended the basement design to provide complete assurance that the works will not result in any adverse settlement effects on Mr and Mrs Bennett's property at 15 Salisbury Street.

Late evidence

20 Statements of evidence from Ms Clay and Mr Archer were lodged on 22 January 2021. Given the limited time to consider these statements and in accordance with the Commissioner's Minute 3,

⁸ The amendment to the design is shown in new drawing B07.A2-013.

⁹ SOE Skidmore, paragraphs 277 and 331. SOE Burns, paragraphs 89, 147, 186(i).

¹⁰ Peterborough Site: SK100-SK111. Bishopspark Site: SK100-SK109.

¹¹ SOE Skidmore, paragraphs 323, 326, 339.

¹² SOE Burns, paragraph 186(b).

Ryman's witnesses will not respond to the evidence of Ms Clay and Mr Archer in their summary presentations. Instead, if it suits the Commissioners, Ryman will produce written rebuttal statements and will recall its witnesses to respond to Ms Clay and Mr Archer following their appearances scheduled for Wednesday.

Conditions

- 21 Ryman provided draft conditions as part of its response to Council's third further information request.¹³ The Council Officer's Report proposed some amendments to those draft conditions. Appendix E to the evidence of Dr Mitchell recommends some further changes to the Council's version of the conditions. Ryman intends to lodge a final clean version of its proposed conditions with its closing statement. Dr Mitchell will discuss the updates and key matters in contention during his evidence.

Park Terrace roadworks

- 22 The Proposed Village application outlined proposed road widening works and a right turn bay on Park Terrace. Following discussions between Ryman's traffic consultants and the Council, these works were withdrawn from the application.¹⁴ The removal of these works from the application also addresses concerns raised by some submitters regarding the works.¹⁵

Preliminary legal matters

Affected party approvals

- 23 The owners of the George Hotel at 12 Peterborough Street and 50 Park Terrace, and the owner of the property at 90 Park Terrace have provided their written approval to the Proposal. Accordingly, the Commissioners cannot consider any effects of the Proposal on those persons.¹⁶

Activity status

- 24 The Proposed Village is a restricted discretionary activity.¹⁷ The Commissioners consideration of the application is therefore limited to the matters of discretion identified in the District Plan and any applicable National Environmental Standard.¹⁸ It is noted that this restriction applies to *both* grounds to *grant or decline* the application.¹⁹

¹³ Final Further Information Response, 17 November 2020 – Appendix D-Draft Conditions.

¹⁴ As recorded in section 7 of the Memorandum to Louisa Armstrong provided as part of the Further Information Response Final – 18 May 2020.

¹⁵ Including B. & M. Logan; ICON; M. Pascuzzi; P. Wells; and Christchurch Civic Trust.

¹⁶ RMA, s104(3)(a)(ii).

¹⁷ Council Officer's Report, paragraphs 24-26, 29.

¹⁸ Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

¹⁹ RMA, s87(3).

- 25 The relevant matters of discretion are set out in the evidence of Dr Mitchell.²⁰ The key effects categories related to those matters are:²¹
- 25.1 Residential amenity and urban design effects. These effects have been addressed in the evidence of Ms Skidmore and Mr Burns. The evidence of Mr Moore, Mr McGowan and Mr Dixon also provides important context relating to the Proposed Village layout, design and landscaping;
 - 25.2 Construction effects. These effects have been addressed in the evidence of Mr Hills, Mr Desai, Ms Wilkening, Mr Malan and Mr Walker. The evidence of Mr Moore also provides important context relating to construction of the Proposed Village;
 - 25.3 Heritage effects. These effects have been addressed in the evidence of Mr Pearson;
 - 25.4 Transportation effects. These effects have been addressed in the evidence of Mr Hills;
 - 25.5 Arboricultural effects. These effects have been addressed in the evidence of Mr Parker.
- 26 It is noted that Ryman’s evidence also provides some contextual information that does not directly relate to the matters of discretion. For example, the evidence of Mr Desai provides a brief overview of the civil services design. Mr Hills addresses traffic generation. This information has been provided to ensure the Commissioners have a full and proper understanding the Proposed Village and to ensure a full response is provided to matters raised by submitters. Nevertheless, it is important that the Commissioners’ consideration is appropriately limited to the relevant matters of discretion.

National Policy Statement on Urban Development

- 27 Since the application was lodged, the National Policy Statement on Urban Development Capacity 2016 has been replaced by the NPSUD. The new NPS took effect on 20 August 2020. As the District Plan precedes the NPSUD, the NPSUD may be given “*considerable weight*” by the Commissioners.²² It is submitted to be appropriate to do so in this case for the following reasons.

²⁰ SOE Mitchell, paragraph 27 and Appendix B.

²¹ SOE Mitchell, paragraph 52.

²² *Infinity Investment Group Holdings Ltd v Canterbury Regional Council* [2017] NZEnvC 36, paragraph 32.

28 The key objectives and policies of the NPSUD, which resource consent decision-makers must have regard to²³, are summarised in Dr Mitchell's evidence.²⁴ The NPSUD underlines the importance of:²⁵

28.1 Well-functioning urban environments that:

- (a) Enable all people and communities to provide for their wellbeing and their health and safety. As Mr Moore will explain, the Proposed Village will provide for a particularly vulnerable segment of the community, where wellbeing and health and safety are particularly important;
- (b) Enable a "*variety of homes*" that meet the needs of different households. As Mr Moore and Mr McGowan will explain, the Proposed Village form and the variety of living options is comprehensive and driven by the needs of the future residents as they age;

28.2 Enabling "*more people*" to live in areas that are in or near a centre zone, well-serviced by public transport, and where there is high demand for housing. All of these characteristics apply to the Sites. In 'tier 1 urban environments' such as Christchurch, plans are expected to enable high density urban forms in these locations to maximise the benefits of intensification;

28.3 Urban environments, including their amenity values, developing and changing over time in response to the needs of people, communities and future generations. The NPSUD records a well-understood principle in resource management practice, that change is not of itself an adverse effect. Plans may provide for change that alters the present amenity of some and improves the amenity of other people and communities. Although the District Plan has not yet been amended to give effect to the NPSUD, the Residential Central City zone provisions applying to the Sites recognise the need for change in this area. The NPSUD underlines that existing planning direction. The expectation of change is particularly important when considering the potential residential amenity effects of the Proposed Village and its scale and character in the wider context.

29 It is submitted that the NPSUD has particular relevance to the matters of discretion that apply to the application. In particular, the NPSUD's expectations for the urban environment are relevant to

²³ RMA, s104(1)(b)(iii).

²⁴ SOE Mitchell, paragraphs 132-133.

²⁵ NPSUD, objectives 1, 3, 4 and policies 1, 3 and 6.

“whether the development[t], while bringing change to existing environments, is appropriate to its context ...”.

30 Dr Mitchell’s evidence addresses the new NPSUD. He concludes that the Proposed Village is consistent with and gives effect to the urban development expectations of the NPSUD.²⁶

31 It is submitted that granting the consent for the Proposed Village will make a material contribution to achieving the objectives and policies of the NPSUD. The NPSUD clearly does provide additional support for the Proposed Village. In saying that, Ryman does not rely on the NPSUD in relation to its application. The application stands on its own merits, having been designed prior to the NPSUD.

District Plan

32 The District Plan is the result of a recent and full plan review process. The new plan was progressively notified in 2014 and 2015. An extensive submission and hearing process followed. The decisions of the Independent Hearings Panel were issued between 2015 and 2017. This planning process determined the activity status classifications and built form standards considered appropriate for the Residential Central City Zone, which now apply to the Sites.

33 The relevant District Plan objectives, policies and rules are unchanged from those assessed in the application. Dr Mitchell’s evidence provides a detailed assessment of the relevant District Plan provisions.²⁷

Permitted baseline

34 The RMA allows decision-makers to disregard an adverse effect of an activity on the environment, if the plan permits an activity with that effect (a ‘permitted baseline’). Ms Armstrong and Dr Mitchell agree there is no permitted baseline applicable to the Proposed Village application. For completeness, it is noted, however, that the retirement village activity itself is permitted.

Relevance of built form standards

35 The Council Officer’s Report appends a legal memorandum addressing the Council’s approach to the ‘anticipated built form development’ in the Notification Report (*Council Legal Memo*).²⁸ The Council Legal Memo concludes 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 ... compliance with those standards may not be appropriate in all contexts*”. The Council Legal Memo also concludes

²⁶ SOE Mitchell, paragraphs 132-136.

²⁷ SOE Mitchell, paragraphs 140-142 and Appendix C.

²⁸ Council Officer’s Report, Appendix L. The ‘anticipated built form development’ is described as “*the maximum building bulk anticipated under the built form standards*”: Notification Report, page 10.

that built form standards should not be used as a kind of permitted baseline for assessment of effects.²⁹

- 36 Ryman agrees with that summation. As there is no relevant permitted baseline, it goes without saying that the existing environment is the relevant reference point for the effects assessments.
- 37 However, the matters of discretion relevant to this application add some complexity:
- 37.1 In relation to the built form standards exceedances, the matters of discretion specifically limit the Commissioner's consideration to the exceedances. For example, rule 14.15.27 refers to the "increased height" of a proposal. The consideration of the proposal in this context is intentionally more limited.
- 37.2 In relation to the new Proposed Village buildings as a whole, the matters of discretion are broader.
- 38 And, the assessment of the effects relevant to the matters of discretion cannot be made in a vacuum. That assessment must also be informed by the District Plan context.³⁰ It would be an error to focus too closely on the effects of the proposal on the existing environment without also considering the directions set out in the District Plan.³¹ Both aspects - what activities are there now and what the district plan is seeking to enable - are relevant to the question of what is appropriate to the proposal's context. It becomes a matter of weight as to how well the Proposed Village fits within those contexts. It is submitted to be open to the Commissioners to place more weight on one over the other.
- 39 With that in mind, and acknowledging that other provisions are also relevant, we submit that particular emphasis can be placed on the following aspects of the District Plan context in this case (underlining added):
- 39.1 Policy 14.2.4.1 - Neighbourhood character, amenity and safety - seeks to, "*Facilitate the contribution of individual developments to high quality residential environments in all residential areas ... through design: "reflecting the context, character, and scale of building anticipated in the neighbourhood."*

²⁹ Council Legal Memo, paragraphs 69 and 70.

³⁰ *Tasti Products Ltd v Auckland Council* [2016] NZHC 1673, paragraphs 77-82, 85.

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

- 39.2 Objective 14.2.8(b) envisages built development in the Residential Central City Zone that enables change to the existing environment.
- 39.3 Policy 14.2.8.2 explicitly states that, in the Central City Residential zone, minimum standards have been prescribed to “*protect amenity values for residents*”.
- 39.4 Rule 14.6.1.RD4(b) precludes limited or public notification of new retirement village buildings that meet the relevant built form standards. The Plan therefore generally anticipates that the effects arising from a building meeting all of the built form standards are acceptable such as to not require public input.
- 39.5 Rule 14.15.9(a) requires consideration of “*whether the developments, while bringing change to existing environments, is appropriate to its context taking into account...*”. The retirement village-specific matter of discretion therefore anticipates change, and directs an assessment of appropriateness, based on context. The planning provisions and the related expectations of change are therefore highly relevant context.
- 39.6 Rule 14.15.9(a)(vi) requires an assessment of residential amenity for neighbours, including outlook, privacy and access to sunlight. As the built form standards have been prescribed to protect residential amenity values, they must provide strong guidance for an assessment of appropriateness.
- 40 We also acknowledge, as Mr Pizzey does, that compliance with the standards may not always lead to acceptable effects given the wider discretions in play.³²
- 41 In light of this planning context, 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.
- 42 This approach is reflected in the assessments undertaken by the Ryman expert team. Ryman through its design, has carefully considered the interfaces between the Sites and neighbours. In

³² Council Officer’s Report, Appendix L – Legal Advice, paragraphs 35-38 and 69-70.

most cases, the built form standards have been comfortably met. In some limited areas of the Sites, the built form standards have been breached where that will enhance the design and make the village more efficient, while mitigating any effects on neighbours to appropriately low levels.³³

43 In that sense, Ryman has put significant effort into producing a high quality design with significant architectural merit that integrates with and enhances the surrounding environment. The limited breaches of the standards are part of a more nuanced approach to allocating height and bulk across the Sites, including to minimise adverse effects on neighbours. As Ms Skidmore notes, this designed process means the Proposed Village will result in better amenity outcomes than might be achieved through strict compliance with the built form standards.³⁴

44 The assessments of both Ms Skidmore and Mr Burns have been guided by the District Plan framework for the Sites, including the built form standards. Ms Skidmore considers there is a reasonable expectation of considerable change in the neighbourhood. She states that the built form standards "*provide a relevant guide as to the degree of change, and therefore the scale of development, that can generally be readily and appropriately accommodated by the environment*".³⁵ Mr Burns agrees that the built form standards are "*a useful tool for benchmarking the order and nature of urban design effects*".³⁶ Both Ms Skidmore and Mr Burns acknowledge that there is no permitted baseline applying to the application, and consider the full range of factors relevant to assessing urban design, visual and landscape effects (as relevant to their briefs). In many cases, they both place more weight on the expected change in the environment envisaged by the District Plan than on preserving the status quo. In our submission, that is the appropriate approach and it should therefore be adopted by the Commissioners.

Breaches of built form standards

45 Some submitters raise concerns about the Proposed Village's breach of the District Plan built form standards, particularly the height and daylight recession plane standards. Some submitters have taken issue with the Proposed Village being higher than the 20m height standard for 78 Park Terrace that Ryman supported as part of the Christchurch Replacement District Plan process.³⁷

46 In our experience, it is standard practice and entirely sensible for development designers to use built form standards as a starting

³³ S01.A0-070, S01.A0-071, S02.A0-070, S02.A0-071.

³⁴ SOE Skidmore, paragraph 311.

³⁵ SOE Skidmore, paragraphs 84-85.

³⁶ SOE Burns, paragraph 47.

³⁷ As recorded in *Decision 43-Central City – States 2 and 3* of the Independent Hearing Panel for the Christchurch Replacement District Plan, at [256-270].

point for proposed building envelopes. As noted, built form standards are a clear indication that a plan considers effects of activities within those standards to be generally acceptable. In this case, the built form standards applying to the Sites are also the result of a very recent District Plan review. They accordingly provide a strong indication of the activities that are anticipated by the community, and effects that are considered appropriate in the Residential Central City Zone. It is also unrealistic to expect a large undeveloped site in a highly desirable residential location not to be developed efficiently.

- 47 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.

Relevance of Part 2 RMA

- 48 As noted above, the application is a restricted discretionary activity. Accordingly, Part 2 of the RMA may only be considered to the extent it relates to the matters of discretion.

- 49 The Commissioners will also be aware of the Court of Appeal decision – *Davidson v Marlborough District Council* – which addresses the consideration of Part 2 in the context of resource consent applications. The Court of Appeal stated that, where a plan has been competently prepared having regard to Part 2 of the RMA, the decision maker should simply implement the plan provisions, as reference to part 2 would “likely not add anything”.³⁸

- 50 As discussed earlier, the District Plan is the result of a recent and full plan review process. It is generally agreed by Ms Armstrong and Dr Mitchell that the District Plan was competently prepared and appropriately reflects the Regional Policy Statement and Part 2 of the RMA.³⁹ The exception is that the new NPSUD has not been given effect to yet. As noted above, the Proposed Village is very much consistent with the NPSUD.

- 51 The Proposed Village aligns well with the relevant planning documents that give substance to Part 2. Accordingly, it is submitted that the application can be granted without resort to Part 2. In any event, Dr Mitchell has briefly considered Part 2 of the RMA in his evidence, and concludes that the Proposed Village is consistent with the purpose and relevant principles.⁴⁰

Effects on the Environment

- 52 As discussed earlier, the Proposed Village is a restricted discretionary activity. The Commissioner’s discretion is limited to

³⁸ *Davidson v Marlborough District Council* [2018] NZCA 316, paragraphs 74-75.

³⁹ Council Officer’s Report, paragraph 300. SOE Mitchell, paragraph 145.

⁴⁰ SOE Mitchell, paragraphs 145-155.

specific matters. The effects for the Commissioners to consider and assess are matters for expert opinion rather than legal submission. They are addressed in the evidence prepared on behalf of Ryman, which is largely supported by the Council's expert evidence.

53 There is, of course, a need to focus on the effects on the environment arising from the Proposed Village, rather than on the magnitude of the 'numbers' (for example, height, length, number of storeys, etc) or the fact that you can see it. The numbers and views of the Proposed Village are not, on their own, effects. As Ms Skidmore will point out, it is the effects or consequences of those numbers and views that must be assessed.

54 In particular, a 'change' resulting from the use of the Sites should not be construed as an adverse effect in itself.⁴¹ For example, a high visual change can in fact have a positive visual effect. Change on the Sites is planned and necessary to accommodate an aging community and to assist with rejuvenating the Christchurch City Centre. It would be unreasonable to expect the Sites not to be developed efficiently in that context.

Positive effects

55 The positive effects of the Proposal are substantial, as outlined earlier in these submissions and in Mr Moore's evidence.

56 It is accepted that the matters of discretion do not directly encapsulate all of the positive effects of the Proposed Village such as some of the direct economic benefits associated with employment.⁴² Nevertheless, it is submitted that the key positive effects of the Proposed Village (such as its contribution to housing supply, to the health, safety, quality and enjoyment of those living in the area and a vibrant City Centre) are relevant. These positive effects are some of the reasons the application is an appropriate response to its Residential Central City Zone context.⁴³

57 In any event, Ryman does not rely on any positive effects to 'balance out' any adverse effects of the Proposed Village. All of the potential adverse effects of the Proposed Village have been fully addressed by the Ryman expert team on their merits and have been avoided or mitigated to appropriately low levels.

Residential amenity and urban design effects

58 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.⁴⁴ The

⁴¹ The NPSUD also indicates that change is not of itself an adverse effect: Policy 6(b)(ii).

⁴² Council Officer's Report, paragraph 54.

⁴³ District Plan, Rule 14.15.9(a).

⁴⁴ SOE Moore, paragraph 16.

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. The Proposed Village largely complies with the District Plan built form standards, with any exceedances having a design logic and minimal effect.

- 59 The Proposed Village evolved into the scheme presented in the resource consent application in response to:
- 59.1 The functional and operational needs of the Proposed Village;
 - 59.2 Advice from Ryman’s expert team on the impacts of the design on neighbouring properties and the broader environment;
 - 59.3 The Urban Design Panel process;
 - 59.4 Liaison with, and feedback received from, Council staff and advisors; and
 - 59.5 The evolution of the landscaping design.⁴⁵
- 60 The key areas of disagreement relating to residential amenity and urban design effects are:
- 60.1 Some submitters raise concerns about the ‘character’ of the Proposed Village, the scale and bulk of the buildings and the potential for the buildings to affect the amenity of neighbouring properties.
 - 60.2 The Council Officer’s Report raises concerns about some aspects of the design of the Proposed Village, and in particular the tree planting proposed on the boundaries.
- Landscape assessment*
- 61 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*”.⁴⁶

⁴⁵ SOE McGowan, paragraphs 75-77.

⁴⁶ SOE Skidmore, paragraphs 222-223.

- 62 Ms Dray's statement is stated to be an assessment of landscape and visual amenity, however the assessment methodology is not identified in her statement. Her statement presents as a view on the landscaping (tree planting) proposal, rather than an assessment of the landscape effects of the Proposed Village overall.
- 63 The landscaping proposal is relevant under the applicable matters of discretion (for example, Rule 14.15.9(a)(i)). However, the whole of the Proposed Village must be considered when assessing those matters of discretion. The tree planting cannot be considered separately from the buildings that require consent.
- 64 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.

Urban design and visual assessment

- 65 Ms Skidmore and Mr Burns have provided comprehensive assessments of the urban design-related effects of the Proposed Village.
- 66 Ms Skidmore and Mr Burns acknowledge that the Proposed Village will bring change to this location. However, the District Plan anticipates change in the Residential Central City zone. The existing environment is already highly varied and, as Dr Mitchell will state, the area is in a state of transition. Both Ms Skidmore and Mr Burns consider the Proposed Village will provide an appropriate response to this neighbourhood context.⁴⁷ Ms Skidmore considers the Proposed Village design is a highly nuanced response to its context.⁴⁸ Ms Schroder agrees the Proposed Village is generally compatible with the Central City residential location, although she considers larger scale trees are required to integrate the proposal with the neighbourhood.⁴⁹ Ms Skidmore does not agree that planting is necessary to mitigate the effects of the Proposed Village.⁵⁰ Nevertheless, Ryman has amended the Landscape Plans to respond to the officer's concerns and has proposed some further refinements to conditions that will be addressed in evidence.
- 67 Ms Skidmore and Mr Burns consider the Proposed Village building 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 is also

⁴⁷ SOE Skidmore, paragraphs 22-26. SOE Burns, paragraphs 23.

⁴⁸ SOE Skidmore, paragraphs 110, 125.

⁴⁹ Council Officer's Report, Appendix B – Urban Design Report, paragraphs 51, 55, 56, 57, 63-68, 97-106.

⁵⁰ SOE Skidmore, paragraph 43.

achieved.⁵¹ Importantly, the proposed basement will ensure vehicle access and parking does not dominate the development.⁵² Ms Schroder generally agrees that the street interfaces are positive, subject to her comments on the tree planting.⁵³ She considers the response to the Salisbury Street is 'less effective'.⁵⁴ Ms Skidmore and Mr Burns acknowledge her view on the Salisbury Street interface, but consider this interface is positive and reflects the street hierarchy.⁵⁵

- 68 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 generally agrees that the Proposed Village results in a good level of visual quality and interest, with a small number of exceptions.⁵⁶ Ms Skidmore and Mr Burns disagree with some of those exceptions, and consider the others maintain an acceptable level of visual quality and interest.
- 69 Ms Skidmore describes how the design process included extensive consideration of the characteristics of surrounding properties to maintain a suitable level of amenity. 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 a "soft visual foil" between some of the proposed buildings and neighbouring properties.⁵⁷
- 70 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.⁵⁸ In some limited cases, low/minor adverse shading and visual effects will be experienced, although these are not out of character with

⁵¹ SOE Skidmore, paragraphs 27-29. SOE Burns, paragraphs 24-29.

⁵² SOE Skidmore, paragraphs 215 and 220. SOE Burns, paragraph 35. Council Officer's Report, Appendix B – Urban Design Report, paragraph 127.

⁵³ Council Officer's Report, Appendix B – Urban Design Report, paragraphs 58-59, 71-75, 107-115.

⁵⁴ Council Officer's Report, Appendix B – Urban Design Report, paragraphs 111-113.

⁵⁵ SOE Skidmore, paragraphs 28.2, 128-131, 219, 234-235, 324. SOE Burns, paragraphs 23.8, 28, 32, 79, 88-91, 177, 186(e).

⁵⁶ Council Officer's Report, Appendix B – Urban Design Report, paragraphs 89-96, 122-125.

⁵⁷ SOE Skidmore, paragraphs 30-32, 40.

⁵⁸ SOE Skidmore, paragraphs 30-32, 40. SOE Burns, paragraph 34.

reasonable expectations in a Central City location. In most cases, overlooking, shading and visual effects will be very low to nil.

- 71 Ms Schroder considers residential amenity effects on properties neighbouring the Bishopspark Site will be low with the exception of 4A Dorset Street.⁵⁹ Ms Skidmore and Mr Burns disagree with Ms Schroder's assessment of effects on 4A Dorset Street, based on various characteristics of the Proposed Village and this property.⁶⁰
- 72 In relation to properties neighbouring the Peterborough Site, Ms Schroder raises concerns about effects on 76 Park Terrace and 15 Peterborough Street.⁶¹ Ms Skidmore and Mr Burns acknowledge that the Proposed Village will have effects on these properties, but assess them as being minor or less than minor.⁶² In relation to 76 Park Terrace, Ryman has proposed a change to the colour of the Building B07 stair core to further reduce effects on the amenity at this property.⁶³

Heritage effects

- 73 The Bishopspark Site contains the Chapel, which is a Highly Significant heritage item and setting and a Category 1 Historic Place. The application responds to the Chapel by providing for its retention, restoration and continued use.
- 74 Mr Pearson considers that, overall, the Chapel's heritage values will be enhanced as a result of the proposed work. The positive outcomes of the proposed works to the Chapel will more than compensate for any potentially negative impacts. Any potential negative effects from the Proposed Village buildings on heritage values will be minor.
- 75 Mr Pearson's assessment is supported by the Council's Heritage Advisor, Ms Richmond.⁶⁴ Heritage New Zealand's submission also supports the retention of the Chapel, and Ryman's draft conditions resolved the minor concerns raised in their submission.⁶⁵
- 76 Some submitters have raised concerns about the impact of the Proposed Village on the heritage values of the Chapel. Both Mr

⁵⁹ Council Officer's Report, Appendix B – Urban Design Report, paragraphs 76-88.

⁶⁰ SOE Skidmore, paragraphs 151-153 and 247-249. SOE Burns, paragraphs 108-110 and 185.

⁶¹ Council Officer's Report, Appendix B – Urban Design Report, paragraphs 116-121.

⁶² SOE Skidmore, paragraphs 192-197, 273-280 and 329-331 (for 76 Park Terrace) and 186-188, 264-269 and 332-333 (for 15 Peterborough Street). SOE Burns, paragraphs 139-142, 145-151 and 186.

⁶³ SOE Moore, paragraph 58.

⁶⁴ Council Officer's Report, Appendix E – Heritage Report.

⁶⁵ SOE Mitchell, Appendix D.

Pearson and Ms Richmond agree that the effects on the Chapel will be positive overall.

- 77 Some submitters also raise concerns about the impact of the Proposed Village on the heritage values of the Dorset Street Flats adjacent to the Bishopspark Site. There is no relevant matter of discretion relating to effects on heritage values outside the Sites, so, with respect, these effects are outside the jurisdiction of the Commissioners.⁶⁶ Nevertheless, for completeness, Mr Pearson has responded to the submission point, and concludes the heritage values of the Flats will not be adversely affected by the Proposed Village.⁶⁷

Operational transportation effects

- 78 The Proposed Village complies with most of the District Plan transport permitted activity rules, except for the width of access points and vehicle loading provision for the Peterborough Site. Mr Hills considers the Peterborough Site access points are appropriate given their one-way operation. He also considers the Peterborough Site loading provision is acceptable given the limited frequency of use and the sufficient queuing space.⁶⁸ Mr Calvert agrees with Mr Hills' assessment of these matters.⁶⁹
- 79 Mr Hills has assessed the safety of the accessways and parking areas. He concludes that the design is safe for all users. A condition requires works to Salisbury Street to provide for pedestrians moving between the Sites.
- 80 A condition requiring loading vehicles to reverse into the Dorset Street access has also been accepted by Ryman, to partly address the issue raised by Mr Calvert.⁷⁰ The evidence of Mr Facey primarily focuses on this accessway, although much of his concerns relate to the earlier proposal that allowed trucks to reverse out of the Site. Mr Hills has considered the matters raised by Mr Facey and Mr Calvert. He concludes that the proposed access arrangement is appropriate and will be safe for all road and pavement users, given the nature and frequency of its intended use.
- 81 Mr Facey also raises a range of other internal village design matters. Mr Hills considers these matters do not impact the external traffic environment including the Centro Hotel. He has nevertheless reviewed these matters and considers the design is appropriate.⁷¹

⁶⁶ SOE Mitchell, paragraph 72. Council Officer's Report, paragraph 209.

⁶⁷ SOE Pearson, paragraphs 72-80.

⁶⁸ SOE Hills, paragraph 12.1.

⁶⁹ Council Officer's Report, Appendix C – Traffic Report, pages 3 and 6.

⁷⁰ SOE Hills, paragraphs 33-35, 44-46, 52-53, 57-59, 76-79. Council Officer's Report, Appendix C – Traffic Report, page 7.

⁷¹ Summary Hills, paragraphs 16 and 25-37.

- 82 Some submitters raise concerns about the amount of parking that will be provided on the Sites. The parking provision complies with the District Plan requirements. Mr Hills also considers the proposed parking will meet the requirements of the users of the Sites.⁷²
- 83 Some submitters raise concerns about the amount of traffic that will be generated by the Proposed Village. There is no relevant matter of discretion relating to effects of traffic generation, so with respect these effects are outside the jurisdiction of the Commissioners.⁷³ Nevertheless, for completeness, Mr Hills has assessed the effects of the traffic generated by the Proposed Village. He concludes that the Proposed Village will have a minimal effect on the safe and efficient operation of the surrounding road network. It will create less traffic than a medium density residential development on the Sites.⁷⁴
- 84 Some submitters raise concerns about the operational use of Westwood Terrace. As noted in the Council Officer's Report, this is a private lane that is not subject to District Plan requirements.⁷⁵ In light of the low volume of vehicles and pedestrians using this lane, Mr Hills considers it is safe for use.⁷⁶ Mr Calvert recommended that Ryman reconsider the layout of the lane to ensure pedestrian safety. However, that recommendation was based on estimated pedestrian numbers that have since been corrected.⁷⁷ Accordingly, Ryman does not consider any changes to the layout of the lane are needed.

Construction effects – noise and vibration, traffic, earthworks, contamination

- 85 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.
- 86 As Mr Moore explains, Ryman has its own construction team. It comprehensively manages the construction process. It thus has full control and accountability for construction activities. Ryman is also strongly incentivised to minimise its construction effects, given it operates its villages for the long term. It places a high value on positive and lasting relationships with the communities in which its villages are located – some of whom may ultimately become its residents.⁷⁸

⁷² SOE Hills, paragraphs 76-79.

⁷³ SOE Mitchell, paragraph 94. Council Officer's Report, paragraph 213, 235.

⁷⁴ SOE Hills, paragraphs 70-75.

⁷⁵ Council Officer's Report, paragraph 225.

⁷⁶ SOE Hills, paragraphs 52-56.

⁷⁷ Council Officers' Report, paragraph 225. SOE Hills, paragraph 54.

⁷⁸ SOE Moore, paragraph 64.

- 87 A draft construction management plan was prepared by Ryman to help local residents understand the construction sequencing and activities. This plan will be updated prior to construction commencing to ensure all construction effects are appropriately managed, with appropriate oversight from the Council.⁷⁹
- 88 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. Construction works will move around both Sites during this period. The intensity of construction activity will reduce as the buildings are established.⁸⁰ The construction of the Proposed Village will be carried out in stages. The Peterborough Site will be completed first. This staged approach will ensure the neighbours of each Site are not exposed to construction effects for the total time. Residents will also start occupying the Proposed Village while construction continues. Ryman will obviously manage construction effects to ensure the amenity and quality of life of its residents. The benefit of this approach gets passed on to the community outside of the Sites.⁸¹

Noise and vibration

- 89 Ms Wilkening considers that construction will comply with appropriate vibration limits at all times.⁸² The construction 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.⁸³
- 90 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.⁸⁴ The Council officers agree that noise effects can be managed via conditions that are supported by a Construction Noise and Vibration Management Plan.⁸⁵

Traffic

- 91 The construction traffic for the Proposed Village will be managed through a Construction Traffic Management Plan. A draft plan has been prepared. This plan will be updated and certified by Council before construction commences. Mr Hills considers this approach will

⁷⁹ Proposed conditions 5, 16, 18.

⁸⁰ SOE Wilkening, paragraphs 29-37.

⁸¹ SOE Moore, paragraphs 65-67.

⁸² SOE Wilkening, paragraph 11.

⁸³ SOE Wilkening, paragraph 12.

⁸⁴ SOE Wilkening, paragraphs 71-72.

⁸⁵ Council Officer's Report, Appendix G – Environmental Health Report, page 1.
Council Officer's Report, Appendix D – Earthworks and Construction Report, page 2.

ensure construction activities are managed to achieve an appropriately low level of traffic effects. He notes that, in his experience, this approach is used effectively by Ryman and most other large construction projects around New Zealand.⁸⁶

- 92 Mr Culvert agrees that construction traffic can be managed through a Construction Traffic Management Plan. Ryman has also accepted the condition proposed by Mr Culvert preventing Westwood Terrace from being used by construction traffic.⁸⁷

Earthworks

- 93 The Proposed Village requires large earthworks, particularly to accommodate basement carparking.
- 94 Mr Desai describes the proposed erosion and sediment control approach, which includes silt fences, stormwater inlet protection, stabilised construction entrances/exits, retention of stormwater within excavations and temporary dewatering and treatment. Mr Desai considers an erosion and sediment control plan will ensure potential erosion and sedimentation effects from the earthworks are appropriately mitigated.⁸⁸ As explained by Mr Desai, most of the excavated material will be wet and will not produce dust. Good practice measures will also be implemented to control the potential for dust nuisance.⁸⁹ Ms McDonald agrees these effects are appropriately addressed through a management plan approach.⁹⁰
- 95 Mr Desai also addresses the height levels at the boundaries of the Sites. There are some small differences in height with neighbouring properties. Landscape walls/raised planter beds and drainage sumps will be installed as needed to ensure there are no effects on neighbouring properties.⁹¹ Ms McDonald has proposed conditions to address potential cross-boundary issues, which Ryman has accepted.⁹²
- 96 Mr Malan addresses the potential for excavation and construction to cause instability of adjacent land. He has carried out deformation assessments for the Site boundaries. In his professional opinion, neighbouring dwellings are set back such a distance that they will not be affected by deformation.

⁸⁶ SOE Hills, paragraphs 91-93.

⁸⁷ Council Officer's Report, Appendix C – Traffic Report, pages 12-13.

⁸⁸ SOE Desai, paragraphs 42-46.

⁸⁹ SOE Desai, paragraphs 47-49.

⁹⁰ Council Officer's Report, Appendix D – Earthworks and Construction Report, pages 2-3.

⁹¹ SOE Desai, paragraphs 51-54.

⁹² Council Officer's Report, Appendix D – Earthworks and Construction Report, page

97 There are some structures located closer to the boundaries (such as boundary walls and garages). The risk of deformation causing damage to these structures is assessed by Mr Malan to be low to very low probability and of low consequence. In the unlikely event that damage does occur he says it would be cosmetic and repairable. These low risks will be addressed by conditions requiring Ryman to offer pre and post construction condition surveys of nearby structures. Ryman will 'make good' any damage that is attributable to excavation and construction activities.⁹³ Mr Malan's position is supported by Ms McDonald.⁹⁴ Mr Moore is confident damage will not occur based on Ryman's extensive past experience.⁹⁵

98 Ryman has also proposed a minor redesign to shift the basement further away from the boundary of 15 Salisbury Street. This change is to address submitter concerns as outlined in the evidence of Mr Aramowicz. Although Mr Malan does not consider this redesign was necessary, Ryman has offered the change to give Mr and Mrs Bennett peace of mind.

Contamination

99 Ground contamination investigations revealed the presence of asbestos and other contaminants at the Sites, albeit the levels were generally below human health risk-based assessment criteria. In order to manage potential contamination-related risks, standard industry good practice control measures will be set out in a Site Management Plan and implemented during earthworks and construction. Mr Walker considers that the proposed controls will ensure potential contamination-related risks to human health and the environment will be low and suitably managed.⁹⁶ Mr Walker's position is supported by the Council officers.⁹⁷

Conclusion on construction effects

100 Construction effects will be temporary, and will be appropriately managed through the implementation of good practice measures, secured through the proposed consent conditions.

Arboricultural effects

101 Mr Parker's evidence addresses potential impacts on the scheduled Common Lime Tree on the Peterborough Site. He concludes the tree can be protected during construction through the application of standard arboricultural methods.

102 A ground penetrating radar has confirmed that the root mass in the basement construction area is insignificant. Accordingly, Mr Parker

⁹³ SOE Malan, paragraphs 43-46.

⁹⁴ Council Officer's Report, Appendix D – Earthworks and Construction Report, page

⁹⁵ Summary Moore, paragraph 22.

⁹⁶ SOE Walker, paragraphs 12-15.

⁹⁷ Council Officer's Report, paragraph 254.

considers the concerns raised by Council's arborist, Mr Thornton, will not eventuate.⁹⁸ We understand that Mr Thornton has confirmed the basement works will have less impact on the tree than anticipated in his evidence.

- 103 In any case, a suite of conditions have been agreed between the arborists to secure the protection of the tree. This suite includes a condition requiring compensation planting if the tree dies within 10 years of works commencing.

Other matters of discretion

- 104 The Council Officer's Report raises the removal of several existing trees from the Sites. As Mr Moore will explain, it is not possible to retain all existing trees/vegetation when undertaking a large scale comprehensive development. The Proposed Village retains the protected Common Lime Tree and provides for extensive new landscaping that goes far beyond replacing the trees to be removed resulting in a net gain. Overall, it is submitted this is an appropriate response to the Site features, particularly in the context of the expectations of the Residential Central City zoning.
- 105 Dr Mitchell and the Council Officer's Report agree that the Proposed Village has incorporated appropriate environmental efficiency measures in the design.⁹⁹

Conclusion

- 106 Ryman's proposed comprehensive care retirement village will establish an important physical resource that is a necessary part of community life – the provision of residential accommodation and comprehensive care for the elderly. There is a desperate need for the Proposed Village in inner city Christchurch.
- 107 As discussed by Mr Moore, the Sites are ideally suited for a comprehensive care retirement village. The Sites are zoned for high density residential living. They are easily accessible to pedestrian and public transport links. They are close to local amenities and Hagley Park. The Sites are of a sufficient size to be able to operate efficiently, provide a range of living environments and incorporate internal amenity. The Proposed Village will provide significant positive benefits for its future residents, their families and the wider community.
- 108 In our submission, Ryman has achieved a design outcome that appropriately responds to the existing environment and planning context. The Proposed Village will result in minor adverse effects at most, which are primarily confined to the construction period. Both Ms Armstrong and Dr Phil Mitchell conclude that the adverse effects

⁹⁸ SOE Parker, paragraphs 16-19, 22.

⁹⁹ Council Officer's Report, paragraph 172. SOE Mitchell, paragraph 69.

of the Proposal are acceptable, and can be appropriately managed through consent conditions.

- 109 The Proposed Village is consistent with the objectives and policies of the District Plan. Accordingly, it represents the use, development, and protection of natural and physical resources, in a manner which enables people and communities to provide for their social and cultural wellbeing, and for their health and safety. Wellbeing and health and safety considerations are particularly important given the vulnerable demographic that the Proposed Village will serve.
- 110 For all of the above reasons, and as described in the evidence to follow, Ryman respectfully requests that the Commissioners grant consent to the Proposed Village.

Luke Hinchey / Nicola de Wit
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25 January 2021