

BEFORE INDEPENDENT HEARINGS PANEL AT CHRISTCHURCH

IN THE MATTER OF

further submissions in relation to the
Plan Change 14 to the Christchurch
District Plan

AND

IN THE MATTER OF

**KAURI LODGE REST HOME 2008
LIMITED (Submitter FS2059)**

STATEMENT OF EVIDENCE OF KIM MARIE SEATON ON BEHALF OF

KAURI LODGE REST HOME 2008 LIMITED

PLANNING

Dated: 20 September 2023

INTRODUCTION:

- 1 My full name is Kim Marie Seaton. I am a Principal Planner practicing with Novo Group Limited in Christchurch.
- 2 I hold the qualifications of a Bachelor of Arts and a Master of Regional and Resource Planning from the University of Otago.
- 3 I have 25 years of experience as a Resource Management Planner with particular experience in land use development planning as a consultant to property owners, investors, developers and community organisations, and through processing resource consents for district councils.

CODE OF CONDUCT

- 4 I have read and am familiar with the Environment Court's Code of Conduct for Expert Witnesses, contained in the Environment Court Practice Note 2023, and agree to comply with it. My qualifications as an expert are set out above. Other than where I state that I am relying on the advice of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

SCOPE OF MY EVIDENCE

- 5 In preparing the evidence I present now, I have reviewed and considered the following:
 - 5.1 The further submission by Kauri Lodge Rest Home 2008 Limited (Kauri Lodge);
 - 5.2 The Operative Christchurch District Plan;
 - 5.3 Plan Change 14 as it relates to the Kauri Lodge submission (PC14);
 - 5.4 The National Policy Statement on Urban Development;

- 5.5 The Environment Court decision, *Waikanae Land Company v Heritage New Zealand Pouhere Taonga* [2023] NZEnvC 056 (the Waikanae decision); and
 - 5.6 The section 42a reports prepared by Mr Kleynbos and Ms Oliver, and the Statement of Evidence of Ms Hoddinott.
- 6 I have also consulted with legal counsel, Ms Eveleigh, in respect of legal aspects of the submission, which will be further addressed in legal submissions.
- 7 This evidence therefore:
- 7.1 Compares existing and proposed rules and qualifying matters applying to the submitter's site, per the section 42a reports;
 - 7.2 Considers the PC14 provisions in the context of the Waikanae decision; and
 - 7.3 Makes observations in respect of the visual presence of Riccarton Bush from Riccarton Road.

SUMMARY OF EVIDENCE

- 8 Accounting for:
- 8.1 my consultation with Ms Eveleigh as to legal issues (to be addressed in legal submissions), particularly in respect of the Waikanae decision;
 - 8.2 the existing zoning and rules applying to those parts of the submitter's land holdings zoned Residential Medium Density (RMD) under the Operative District Plan, and those parts subject to the Accommodation and Community Facilities Overlay of the same Plan; and
 - 8.3 the proposed PC14 rules applying to retirement villages in the Medium Density Residential Zone (MRZ);

I consider that the proposed changes to rules that place greater restriction on residential development and retirement villages than at present, to be inappropriate.

THE KAURI LODGE SUBMISSION

- 9 The Kauri Lodge further submission focused on the following matters:
 - 9.1 Retaining the Accommodation and Community Facilities Overlay;
 - 9.2 Supporting greater density of development in the vicinity of commercial centres and Riccarton specifically;
 - 9.3 Deletion or reduction in the size of the Riccarton Bush Interface Area qualifying matter; and
 - 9.4 Deletion of the Airport Noise Influence Area qualifying matter as it affects the submitter's site.
- 10 My evidence will focus primarily on the Riccarton Bush Interface Area qualifying matter. I will also briefly consider the extension of the Airport Noise Contour.

THE EXISTING ENVIRONMENT

- 11 The Kauri Lodge Retirement Village currently covers the properties known as 144, 148-154 Riccarton Road, and 17 Kauri Street. 144 Riccarton Road and 17 Kauri Street are utilised for access and car parking only (i.e. have no built development on them currently). The total area of the Retirement Village site is 9,000m². The submitter and associated entities additionally own the following adjoining properties:
 - 11.1 156 Riccarton Road and 1/7 Kauri Street, both of which are utilised for staff accommodation; and
 - 11.2 146 Riccarton Road, and 7B, 9A, 11A and 19 Kauri Street, which contain a total of seven residential units that are currently tenanted.
- 12 The extent and location of the Retirement Village site and related landholdings is indicated in Figure 1 of **Attachment 1** to this evidence.

- 13 The majority of the Retirement Village site accommodates one to two storey buildings including a rest home for supported living, supporting facilities such as a hair salon, and independent living units. The site also incorporates on-site parking and landscaped areas. Access to the site is primarily from Riccarton Road, and also via the car park at 17 Kauri Street.
- 14 146 -154 Riccarton Road are currently zoned RMD, with the remainder of the landholdings zoned Residential Suburban (RS) in the Christchurch District Plan ('the Plan'). The properties to the east and west are also zoned RS currently. The zoning pattern over and in the vicinity of the submitter's site is illustrated in Figure 2 of **Attachment 1**.
- 15 The submitter's site immediately adjoins Riccarton Bush on the site's northern boundary. Parts of the site are currently covered by the Accommodation and Community Facilities Overlay, as indicated in Figure 3 of **Attachment 1**. The submitter's site is not currently subject to the Airport Noise Contour.

CURRENT AND PROPOSED PLANNING FRAMEWORKS

- 16 As noted above and indicated in Figure 2 of **Attachment 1**, the site is currently zoned either RMD or RS.
- 17 All of the site is proposed to be zoned MRZ under PC14, and would be subject to the following qualifying matters:
 - 17.1 Riccarton Bush Interface Area overlay (entire site);
 - 17.2 Water body Setback (parts of 154 and 148 Riccarton Road);
 - 17.3 Airport Noise Influence Area (19 Kauri Street).
- 18 The extent of the PC14 qualifying matter overlays affecting the site are illustrated in Figure 4 of **Attachment 1**. I understand from Ms Oliver's section 42a report that the entirety of the site is also now proposed to fall within the expanded 50dBA Ldn Air Noise Contour.

- 19 A comparison of the existing key planning rules in the Operative District Plan that affect built form, with those of PC14, are set out in **Tables 1** and **2** below¹.

Table 1: Medium Density vs PC14 (updated s42a version)

Existing Rule/Built Form Standard	Current RMD	PC14 (Section 42a version)
Minimum site area ²	200m ² for a vacant allotment, no minimum for with an existing or proposed building.	400m ²
Max. height	<p>Outside the Accommodation and Community Facilities Overlay³:</p> <ul style="list-style-type: none"> - 11m where no more than 3 storey <p>Inside the Accommodation and Community Facilities Overlay⁴:</p> <ul style="list-style-type: none"> - 11m, or 12m for that part of a building with a pitched roof of at least 22 degrees 	8m within the Riccarton Bush Interface Area (entirety of site) ⁵

¹ N.b. this list is not intended to be comprehensive.

² 8.6.1

³ 14.5.2.3.

⁴ 14.5.3.2.3.

⁵ 14.5.3.2.3.

Min. density ⁶	Nil	Within the Riccarton Bush Interface Area – 450m ² per residential unit, no more than 2 units per development site ⁷ . No exemption for retirement villages.
Max. site coverage ⁸	50%	35% ⁹
Min. building setbacks from boundaries ¹⁰	<p>Internal:</p> <p>Generally 1m¹¹</p> <p>Accessory buildings where total of all walls within 1m of the boundary does not exceed 10.1m – nil.</p> <p>Road:</p> <p>2m, or 4.5 or 5.5m where garage has a vehicle door facing the road. Garages to be setback 1.2m further than habitable space façade.</p>	<p>Internal¹²:</p> <p>3m</p> <p>Front:</p> <p>4.5m</p>
Retirement villages activity standard	Outside the Accommodation and	Outside the Accommodation and

⁶ 14.5.2.1.

⁷ 14.5.3.2.15.

⁸ 14.5.2.4.

⁹ 14.5.3.2.9.

¹⁰ 14.5.2.7 / 14.5.2.9.

¹¹ Differs, e.g. where a ground floor window of a habitable space on an adjoining site is located within 1m of the common internal boundary.

¹² 14.5.3.2.8

	<p>Community Facilities Overlay:</p> <ul style="list-style-type: none"> - Restricted Discretionary¹³. <p>Inside the Accommodation and Community Facilities Overlay:</p> <ul style="list-style-type: none"> - Permitted (subject to meeting listed built form standards)¹⁴. 	<p>Community Facilities Overlay:</p> <ul style="list-style-type: none"> - Rule 14.5.1.1 (c) refers to 14.4.1.1 or 14.12.1.1 s they would apply under operative controls as at 16 March 2023. <p>Inside the Accommodation and Community Facilities Overlay:</p> <ul style="list-style-type: none"> - Permitted (subject to meeting listed built form standards)¹⁵.
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Table 2: Residential Suburban Zone vs PC14 MRZ

Existing Rule/Built Form Standard	Current RSZ	PC14 MRZ (Section 42a version)
Minimum site area ¹⁶	<p>450m² (400m² with an existing or proposed building)</p> <p>No minimum for retirement village residential unit that is existing or proposed.</p>	400m ²

¹³ 14.5.1.3 RD2.

¹⁴ 14.5.3.1.1 P3.

¹⁵ 14.5.3.1.1 P3.

¹⁶ 8.6.1.

Max. height	<p>Outside Accommodation and Community Facilities Overlay - 8m¹⁷</p> <p>Inside Accommodation and Community Facilities Overlay – non-residential activities – 9m or 12m for a building with a pitched roof of at least 22 degrees¹⁸.</p>	8m within the Riccarton Bush Interface Area (entirety of site) ¹⁹
Min. density ²⁰	<p>1 residential unit per 450m² net</p> <p>Nil for retirement villages</p>	Within the Riccarton Bush Interface Area – 450m ² per residential unit, no more than 2 units per development site ²¹ .
Max. site coverage	<p>Outside Accommodation and Community Facilities Overlay²²:</p> <p>35% residential</p> <p>45% retirement village</p> <p>Inside Accommodation and Community Facilities Overlay²³:</p>	35% ²⁴

¹⁷ 14.4.2.3.

¹⁸ 14.4.3.2.2.

¹⁹ 14.5.3.2.3.

²⁰ 14.4.2.1.

²¹ 14.5.3.2.15.

²² 14.4.2.4.

²³ 14.4.3.2.3.

²⁴ 14.5.3.2.9.

	Non-residential activity 45%.	
Min. building setbacks from boundaries ²⁵	<p>Internal:</p> <p>Generally 1m</p> <p>Accessory buildings where total of all walls within 1m of the boundary does not exceed 10.1m – nil.</p> <p>Road:</p> <p>4.5m, or 5.5m where garage has a vehicle door facing the road.</p> <p>n.b. for non-residential activities in the Accommodation and Community Facilities Overlays, min. setback from road boundaries is 3m²⁶</p>	<p>Internal²⁷:</p> <p>3m</p> <p>Front:</p> <p>4.5m</p>
Retirement villages activity standard	Permitted, subject to building façade length standards. Otherwise Restricted Discretionary ²⁸ .	<p>Outside the Accommodation and Community Facilities Overlay:</p> <ul style="list-style-type: none"> - Rule 14.5.1.1 (c) refers to 14.4.1.1 or 14.12.1.1 s

²⁵ 14.4.2.7.

²⁶ 14.4.3.2.13.

²⁷ 14.5.3.2.8

²⁸ 14.4.1.1 P7 / 14.4.1.3 RD10.

		<p>they would apply under operative controls as at 16 March 2023.</p> <p>Inside the Accommodation and Community Facilities Overlay:</p> <p>Permitted (subject to meeting listed built form standards)²⁹.</p>
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- 20 Additional to the above, in accordance with the amended Airport Noise 50dBA Ldn noise contour that the section 42a report recommends be accepted³⁰, the entirety of the site is proposed to be within the 50dBA contour and will therefore be potentially subject to an additional qualifying matter.
- 21 Overall and as can be seen from Tables 1 and 2 above, the introduction of the Riccarton Bush Interface Area would result in a *notably lower maximum building height limit in the MRZ* than is currently the case. The minimum site area will increase, the minimum density will decrease, the permitted site coverage will decrease and the boundary setbacks will all increase as a result of the Riccarton Bush Interface Area, *all of which are less enabling than present*.
- 22 For those allotments that are being rezoned through PC14 from RSZ to MRZ, development will generally be the same or more enabled than at present, with the exception of internal boundary setbacks that will be more restrictive. However, for sites within the Accommodation and Community Facilities Overlay, *height limits for non-residential activities will become more restrictive as a result of the Riccarton Bush Interface Area*.

²⁹ 14.5.3.1.1 P3.

³⁰ E.g Sarah Oliver, p39.

- 23 This finding generally accords with comments by Mr Kleynbos in his section 42a report³¹, where he acknowledges that the proposed height limits of the Riccarton Bush Interface Area are more restrictive in respect of the MRZ than is currently the case. Mr Kleynbos does not acknowledge the additional restriction that also occurs for sites that were formerly zoned RSZ but within the Accommodation and Community Facilities Overlay, that I have noted for non-residential activities. Similarly, the Section 42a Report of Ms Hoddinott does not appear to recognise those existing MRZ zoning and Overlay provisions.

IMPLICATIONS OF THE WAIKANAЕ DECISION

- 24 Ms Eveleigh will provide legal submissions on behalf of Kauri Lodge to address the Waikanae decision. Having consulted with Ms Eveleigh, I understand that a qualifying matter may not make an existing District Plan provision less enabling than is currently the case. On that basis, the height limit, minimum site area, minimum density, permitted site coverage and the boundary setbacks provisions in respect of the current MRZ, and the height limit in respect of the Accommodation and Community Facilities Overlay (non-residential activities) and internal boundary setbacks in the RS, should remain per the Operative District Plan.
- 25 For the same reason, I do not consider it is appropriate to extend the Airport Noise Contour should it result in additional restrictions on existing development rights.

Retirement Village Provisions

- 26 In reviewing the proposed rule changes outlined in the updated PC14 Provisions (per section 42a report recommendations), I have identified an area of uncertainty or omission in the proposed MRZ rule package.
- 27 Rules 14.5.1.1(c), 14.5.1.2(d), 14.5.1.3(c), 14.5.1.4(b) and advice note 14.5.2(3) state that *'Any retirement village activity shall instead be considered under 14.4.1.1 or 14.12.1.1 as they would apply under operative controls as at 16 March 2023.'* Rule 14.4.1.1 applies to the RSZ, and Rule 14.12.1.1 applies to the Residential New Neighbourhood Zone. Neither of

³¹ Paragraph 7.1.23.

these rules are applicable to an existing RMD zone. The Kauri Lodge site (where zoned RMD currently) is therefore absent a retirement village rule. I consider that any retirement village rules applicable to the current Kauri Lodge MRZ, should not be less enabling than at present. Further, even for those parts of the Kauri Lodge site that are currently zoned RSZ and therefore presumably subject to Rule 14.4.1.1, it is likely to be difficult for the reader to need to refer to an earlier version of the District Plan for the applicable rule. In my view it is preferable for the applicable rule to be stipulated in the current version of the District Plan, for ease of reading.

Ms Hoddinott's Statement of Evidence

- 28 Whilst I do not have the separate landscape architecture evidence in support of the Kauri Lodge submission and I am not a landscape architect, I have read the Statement of Evidence of Ms Hoddinott and make the following observations.
- 29 In her evidence Ms Hoddinott discusses submissions that oppose the Riccarton Bush Interface Area qualifying matter, and in particular I noted paragraphs 67, 72 and 73 of the evidence where she discusses views of the Bush from Riccarton Road. She considers that maintaining increased intensification will severely compromise views of Riccarton Bush.
- 30 The concerns raised by other submitters in respect of views to Riccarton Bush from Riccarton Road mirror my own observations from Riccarton Road where it adjoins Kauri Lodge. Along much of the frontage, existing buildings block views of Riccarton Bush. On the Kauri Lodge Retirement Village Riccarton Road frontage (those parts that have been built up to two storeys), only long driveways afford glimpses of the Bush, views that would be fleeting at best for drivers/cyclists, and brief for passing pedestrians. There are no rules in the District Plan that specify where driveways must be located relative to views of Riccarton Bush nor that existing driveways must be retained. There is also nothing to prevent, in the existing RMD for example, an 11m tall building being located adjacent the road boundary and therefore blocking views of the Bush from Riccarton Road in their entirety, as is the case at 150 Riccarton Road where a two storey building is present. Existing views from the Kauri Lodge part of Riccarton Road at least, therefore appear to already be severely compromised.

- 31 I therefore question whether restricting building heights and density on the Riccarton Road frontage at least, is of sufficient value as to outweigh the benefits of increased housing density in close proximity to the Riccarton Key Activity Centre and the Riccarton Road public transport corridor.

Conclusion

- 32 Accounting for:

32.1 my consultation with Ms Eveleigh as to legal issues, particularly in respect of the Waikanae decision;

32.2 the existing zoning and rules applying to those parts of the submitter's land holdings zoned Residential Medium Density (RMD) under the Operative District Plan, and those parts subject to the Accommodation and Community Facilities Overlay of the same Plan; and

32.3 the proposed PC14 rules applying to retirement villages in the Medium Density Residential Zone (MRZ);

- 33 I consider that the proposed PC14 changes to rules that place greater restrictions on residential development and retirement villages than at present, to be inappropriate and should be rejected.

- 34 In **Attachment 2** to this evidence, I have endeavoured to amend the PC14 provisions, as set out in the section 42a reports, to remove the inappropriate restrictions that I have identified above, and to remove the cross references to retirement village rules of the Operative District Plan by reinstating existing rules. I have recommended adopting the permitted activity status of retirement villages that exists in the RS zone currently, subject to meeting built form standards where relevant. The current retirement village status is Restricted Discretionary under the RMD zone rules, however given the section 42a report by Mr Kleynbos indicates he is comfortable with permitted activity status for RMZ sites that were formerly zoned RS, I consider the same status could appropriately extend to other RMZ sites.

Kim Seaton

20 September 2023

ATTACHMENT 1: KAURI LODGE LAND HOLDINGS AND CURRENT ZONING

Figure 1: the properties that comprise the Retirement Village (red), and related landholdings (yellow).

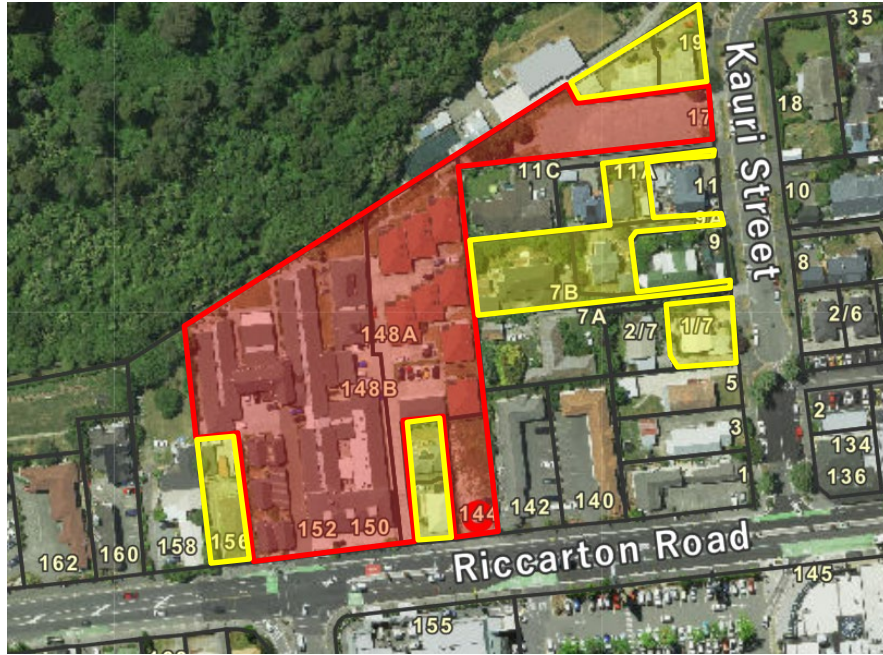


Figure 2: Current Christchurch District Plan zoning of sites (submitter's site outlined in red)

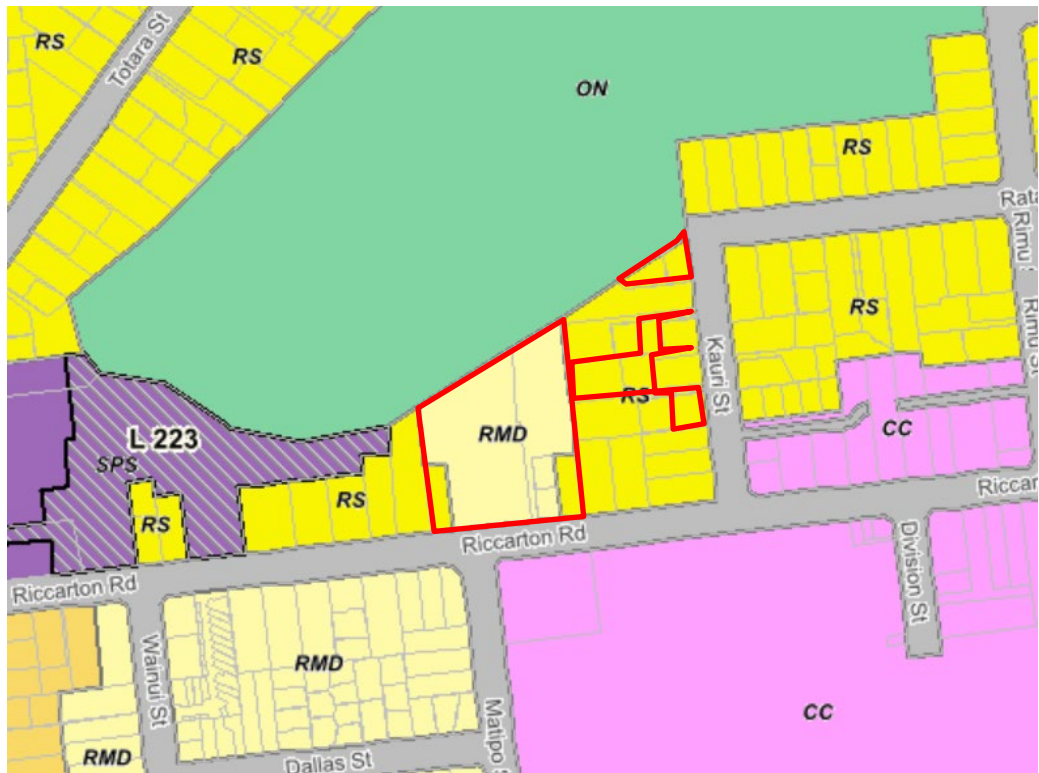
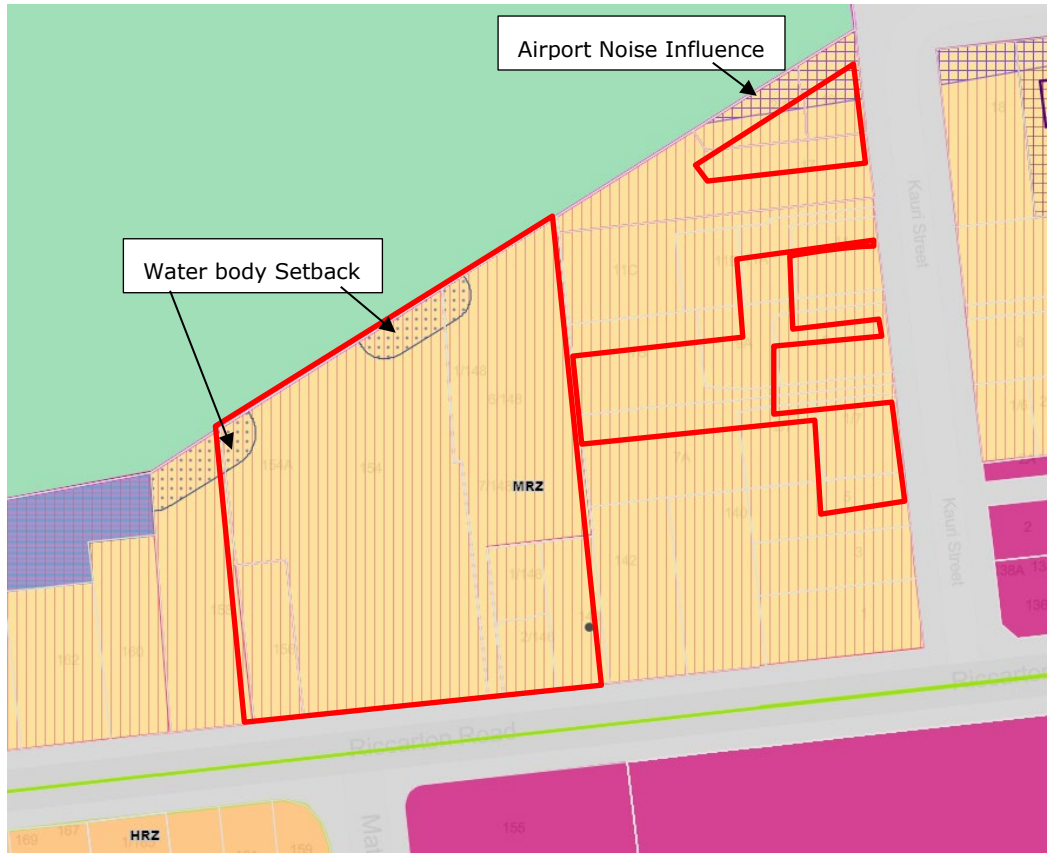


Figure 3: Extent of Accommodation and Community Facilities Overlay (submitter's site shaded pink, Overlay extent outlined in orange hatches)



Figure 4: Notified PC14 zoning/qualifying matters affecting the submitter's site (site outlined in red, vertical stripes are Riccarton Bush Interface Area)



ATTACHMENT 2: AMENDED WORDING

14.5 Rules – Medium Density Residential Zone

...

14.5.1.1 Permitted Activities

[Delete Clause (c)]

~~e. Any retirement village activity shall instead be considered under 14.4.1.1 or 14.12.1.1 as they would apply under operative controls as at 16 March 2023.~~

...

[insert permitted activity status for retirement villages. Reference to building façade length in the activity specific standards³² is unnecessary as Built Form Standard 14.5.2.19 Building length will apply]

Activity/area		Activity specific standards
<u>P6</u>	<u>Retirement villages</u>	<u>Nil</u>

14.5.1.2 Controlled Activities

[Delete Clause (d)]

~~d. Any retirement village activity shall instead be considered under 14.4.1.2 or 14.12.1.2 as they would apply under operative controls as at 16 March 2023.~~

...

14.5.1.3 Restricted Discretionary Activities

[Delete clause (c)]

~~e. Any retirement village activity shall instead be considered under 14.4.1.3 or 14.12.1.3 as they would apply under operative controls as at 16 March 2023.~~

14.5.1.4 Discretionary Activities

³² Operative rule 14.4.1.1 P7 retirement villages, applying in the RS Zone currently, includes an activity specific standard for building façade length.

[Delete clause (b)]

~~b. Any retirement village activity shall instead be considered under 14.4.1.3 or 14.12.1.3 as they would apply under operative controls as at 16 March 2023.~~

14.5.2 Built form standards

Advice Notes:

...

[Delete clause 3]

~~3. Any retirement village activity shall instead be considered under 14.4.2 or 14.12.2 as they would apply under operative controls as at 16 March 2023.~~

14.5.2.2 Landscaped area and tree canopy cover

...

~~d. Retirement villages are exempt from this rule, except in accordance with 14.12.2, in accordance with the advice note under 14.5.2 and associated controls.~~

14.5.2.4 Building coverage

[Reinstate clarification for retirement villages]

a. The maximum building coverage must not exceed 50% of the net site area.

b. For retirement villages, the building coverage shall be calculated over the net site area of the entire village, rather than over the net area of any part of the village.

14.5.2.5 Outdoor Living Space

[Reinstate exemption for retirement villages]

e. This rule does not apply to residential units in a retirement village.

14.5.2.8 Outlook space per unit

...

[the equivalent exemption to the Outdoor Living Space rule is inserted for retirement villages into this rule]

j. This rule does not apply to residential units in a retirement village.

14.5.2.11 Minimum unit size

...

[reinstate retirement village exemption]

b. This rule does not apply to residential units in a retirement village.

14.5.2.12 Ground floor habitable room

...

[reinstate retirement village exemption]

c. This rule does not apply to residential units in a retirement village.

14.5.2.13 Service, storage and waste management spaces

...

[insert retirement village exemption – the existing equivalent rule 14.4.2.12 does not apply to retirement villages]

c. This rule does not apply to residential units in a retirement village.

14.5.3.1 Area-specific activities

14.5.3.2.3 Building height

[Amend to exempt Kauri Lodge RMD zone sites]

a. This applies to:

...

vii. Riccarton Bush Interface Area, except Lot 2 DP 10241, Lots 1-4 DP 16509, and Lots 1,2,4 DP 12416.

Rule 14.5.3.2.8 Setbacks

....

[amend to exempt Kauri Lodge RMD zone sites and non-residential activities within the Accommodation and Community Facilities Overlay]

d. Within the Riccarton Bush Interface Area, minimum building setback from internal boundaries shall be:

i.	Front boundary	4.5 metres
ii.	Side boundaries	3 metres

Except that this rule shall not apply to Lot 2 DP 10241, Lots 1-4 DP 16509, and Lots 1,2,4 DP 12416, and non-residential activities within the Accommodation and Community Facilities Overlay.

Rule 14.5.3.2.9 Building coverage

[amend to exempt Kauri Lodge RMD zone sites and non-residential activities within the Accommodation and Community Facilities Overlay]

...

e. Within the Riccarton Bush Interface Area, the maximum building coverage must not exceed 35% of the net site area. Except that this rule shall not apply to Lot 2 DP 10241, Lots 1-4 DP 16509, and Lots 1,2,4 DP 12416, and non-residential activities within the Accommodation and Community Facilities Overlay.

14.5.3.2.15 Site density

[amend to exempt Kauri Lodge RMD zone sites and retirement villages³³]

...

b. Within the Riccarton Bush Interface Area:

- i. Each residential unit shall have a minimum net site area of 450m²; and
- ii. There shall be no more than 2 residential units per development site.

Except that this rule shall not apply to Lot 2 DP 10241, Lots 1-4 DP 16509, and Lots 1,2,4 DP 12416, and retirement villages.

³³ Per operative Rule 14.4.2.1 Site density, retirement villages in the RS Zone are not subject to a site density rule.

14.15 Rules – Matters of Control and Discretion

[delete rule 14.15.10 Retirement villages as it is no longer necessary with permitted activity status for retirement villages in the RMZ]