BEFORE INDEPENDENT HEARING COMMISSIONERS AT CHRISTCHURCH

TE MAHERE Ā-ROHE I TŪTOHUA MŌ TE TĀONE O ŌTAUTAHI

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

of the hearing of submissions and further submissions on Plan Change 14 (Housing and Business Choice) to the Operative Christchurch District Plan

STATEMENT OF EVIDENCE OF CLARE ELIZABETH DALE PLANNING WINTON LAND LIMITED/ SUBMITTER 556

Dated: 20 September 2023

EXECUTIVE SUMMARY

- My name is Clare Elizabeth Dale, and I am a Senior Planner at Novo Group. I have been engaged by Winton Land Limited ('Winton') to provide evidence in support of its primary and further submissions on Plan Change 14 Housing and Business Choice (PC14). Winton's submissions primarily relate to the building height provisions in the High Density Residential Zone (HRZ).
- 2. Following the release of the Council Section 42A Reports, Winton have no further comments on the proposed change to building height rule 14.2.6.1 that increases permitted building height in the HRZ from 14m to 22m. However, Winton continue to seek further changes to the other parts of the height rule related to upper floor setbacks and communal outdoor living space. Winton consider that these elements of the rule create unnecessary duplication of other provisions in the HRZ and seek to preserve existing levels of residential amenity where the National Policy Statement on Urban Development 2020 (NPS-UD) focuses on the identification and promotion of the future character/amenity of urban environments and planned built form.
- 3. Winton also seek the retention of the existing retirement village provisions in the HRZ.

INTRODUCTION

- 4. My full name is Clare Elizabeth Dale. I am a Senior Planner practising with Novo Group Limited in Christchurch. Novo Group is a resource management planning and traffic engineering consulting company that provides resource management related advice to local authorities and private clients.
- I hold the qualifications of a Bachelor of Resource Studies (Policy and Planning Stream) from Lincoln University, attained in 2002. I am associate member of the New Zealand Planning Institute.
- 6. I have over 20 years of experience as a resource management planner, predominantly working at Christchurch City Council in a range

of planning roles (consenting, policy and heritage), and as a consultant since 2021.

7. My time at Christchurch City Council included several years with a focus on the Central City rebuild and high and medium density residential development including in a decision-making role. Recent experience includes submitting on and preparing evidence for Intensive Planning Instrument ('IPI') and Medium Density Residential Standards ('MDRS') hearings. I have also prepared evidence for, and appeared in, resource management consent and plan hearings, Environment Court mediations, and Environment Court hearings.

Code of Conduct

- 8. Although this is a Council hearing, I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2023. I have complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving evidence.
- 9. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

Scope of Evidence

- 10. My evidence is presented on behalf of Winton and covers submissions and further submissions in relation to the HRZ, the RGA zone, retirement village provisions and building height limits proposed in PC14 and amended in the S42A reports.
- 11. In preparing my evidence I have reviewed:
 - a) The Section 42A Report prepared by Sarah Oliver dated 11 August: Strategic Overview, Strategic Directions Chapter 3, Qualifying Matters relating to Strategic and City Infrastructure and Coastal Hazards.
 - b) The Section 42A Report prepared by Ike Kleynbos dated 11 August: *Residential Chapter, Qualifying Matter: Riccarton Bush*

Interface Area, Qualifying Matter: Sunlight Access, Qualifying Matter: Low Public Transport Accessibility.

- c) The Section 42A Report prepared by Hermione Blair dated11 August: Rule Framework for Residential Activities -Implenetability.
- d) The evidence prepared by David Hattam dated 11 August: *Urban Design Residential Zones.*
- e) The evidence prepared by Timothy Heath dated 11 August: *Property Economics.*
- f) The following Section 32 Reports: Part 1 Overview and High-Level District Issues and Part 3 Residential (including Appendix 3 Urban Design, Appendix 4 Economic Feasibility, Appendix 5 High Density Residential Feasibility Assessment and Appendix 9 Economic assessment – Christchurch city residential zones and intensification precincts.
- g) The Operative Christchurch District Plan;
- h) The PC14 text amendments as they relate to Winton's Avon Loop site.
- i) The National Policy Statement on Urban Development 2020 (NPS- UD).
- 12. I note that the relevant statutory documents have been identified and outlined within the Section 42A Reports and I agree with the identification of those matters.

Background – Winton

- 13. Winton is a publicly listed developer with many large-scale projects currently in progress in New Zealand and Australia. Winton specialises in developing integrated and fully master-planned communities and has a portfolio of circa 7,500 residential lots, dwellings, apartment units and retirement village units. Winton is in the process of consenting and developing a long term, later living, division of its property development business known as "Northbrook" including developing 'Northbrook Avon Loop' as its first Christchurch site.
- While Winton made submissions on the High-Density Residential Zone (HRZ) generally, Winton's interest / submission on PC14 relates to the 1.47ha site at 356 Oxford Terrace in the Avon Loop ('the site'). The

site has frontages to Oxford Terrace (west), Willow Street (north), Bangor Street (east) and Hurley Street (south) and includes a contiguous area making up the whole city block. The Ōtākaro Avon River Corridor (OARC) wraps around the north, east and west aspects of the site. See **Appendix 1** attached for the site's location.

- 15. The site is largely zoned Residential Guest Accommodation (RGA) in the Operative District Plan in recognition of its former hotel use, with a portion in the northeast corner zoned Residential Central City (RCC). Under PC14 the majority of the site is proposed to remain RGA (or RVA / Residential Visitor Accommodation) with the northwest corner changing to the HRZ. When the RGA/RVA zoned portion of the site is not used for 'visitor accommodation' activities, the RCC¹ or HRZ² zone standards apply instead.
- 16. Retirement villages³ are 'residential activities⁴' and are specifically provided for in the District Plan residential zones via policy '14.2.1.8 Provision of housing for an aging population' as a higher density form of residential activity. Activities associated with retirement villages are a permitted activity in the RCC zone (14.6.1.1 P12) and proposed new RHZ (14.6.2.2 P10), with new buildings for retirement villages requiring

³ Retirement village means any land, building or site that:

(b) satisfies either of the following:

(c) includes not less than two residential units; and

(d) may include any or all of the following facilities or services for residents on the site:

(i) a care home within a retirement village;(ii) a hospital within a retirement village;

(iii) nursing, medical care, welfare, accessory non-residential and/or recreation facilities and/or services.

⁴**Residential activity** means the use of land and/or buildings for the purpose of living accommodation. It includes: (a) a residential unit, boarding house, student hostel or a family flat (including accessory buildings);

(b) emergency and refuge accommodation;

(d) house-sitting and direct home exchanges where a tariff is not charged;

(e) rented accommodation and serviced apartments not covered by clause (g) and where individual bookings are for a minimum of 28 consecutive days (except in the Specific Purpose (Golf Resort) Zone); and

(f) sheltered housing; but

excludes:

¹ (14.11.1.1 P2 and Appendix14.16.11 Group C Sites GA13).

² (14.11.1.1 P2 and Appendix14.16.11Group B Sites GA13).

⁽a) is used for accommodation predominantly for persons in their retirement, or persons in their retirement and their spouses or partners; and

⁽i) it is registered as a retirement village under the Retirement Villages Act 2003 or will be so registered prior to it being occupied by any resident; or

⁽ii) it is a rest home within the meaning of s58(4) of the Health and Disability Services (Safety) Act 2001; and (c) includes not less than two residential units; and

⁽c) use of a residential unit as a holiday home where a payment in money, goods or services is not exchanged;

⁽g) guest visitor accommodation including hotels, resorts, motels, motor and tourist lodges, backpackers, hostels, farmstays, camping grounds, hosted visitor accommodation in a residential unit and unhosted visitor accommodation; (h) the use of land and/or buildings for custodial and/or supervised living accommodation where the residents are detained on the site; and

⁽i) accommodation associated with a fire station.

⁽Plan Change 4 Council Decision subject to appeal)

assessment as a restricted discretionary activity (14.6.1.1. RD4 or RD5) to ensure good urban design outcomes.

- 17. Since submissions on PC14 were lodged, Winton have obtained resource consent RMA/2022/3443 for the development of a comprehensive high density retirement village complex (Northbrook Avon Loop). The development was assessed as a residential activity under the retirement village rules and consists of five multi-storey buildings which all exceed the currently permitted 14m height limit (max height of 24.3m). The village includes 168 licence to occupy units (LTO's), 14 serviced apartments, 5 respite rooms (serviced apartments), 32 high care units, resident amenity facilities, wellness facilities and multi-level car parking. Refer to Appendix 2 for site plan and rendered drawings.
- 18. Winton are currently considering potential changes to the Northbrook Avon Loop Design and have an interest in ensuring that the permitted height limit in the HRZ is commensurate with its consented six storey (24.3m) building heights.

WINTON SUBMISSIONS AND FURTHER SUBMISSION POINTS

- 19. Winton's submission and further submission points on PC14 were primarily building height related, however also covered a range of matters related to the objectives and policies, the HRZ activity and built form standards (including retirement village provisions), wind effects, tree canopy cover financial contributions, non-residential activities and non-notification clauses.
- 20. While all of those submissions points still stand, Winton have narrowed the scope of the evidence to focus on the primary issue of building height and their refined position on this following the release of the Section 42A Reports (**'S42A'**). Therefore, my evidence only covers permitted building height rules in the RGA and HRZ zones and the retirement village provisions.

RESPONSE TO S42A REPORT

21. The evidence below is structured firstly around the points of agreement with the Council S42A Reports and secondly addressing Winton's remaining concerns about the HRZ rule 14.6.2.1 Building height.

Points of Agreement

- 22. Winton have no further comment on the amended objective and policy framework⁵ for the HRZ as a number of their submission points have been accepted or accepted in part in the S42A Reports. In my view, the amended provisions now respond appropriately to and clearly implement Policy 3 of the NPS-UD by enabling or providing for building heights of at least 6 stories. The provisions set the framework for a permitted activity pathway for 6 storey buildings within a 1.2km walkable catchment of the City Centre Zone.
- 23. The proposed height limit increase to 22m (or any increase on that) as a permitted activity within rule 14.2.6.1 in HRZ is also now accepted by Winton. As are the proposed changes in the RGA zone rule 14.11.2.3 Maximum building height and Appendix 14.16.11. These now apply a 22m permitted height limit to the Avon Loop site (Group B site). Winton have no further comment on the new 22m permitted height on the basis it equates to a density of 200hh/ha in the HRZ as per the Council S42A reports⁶. In my opinion the permitted 22m building height now proposed in the S42A Reports, better reflects Policy 3 and is in keeping with the urban environment / planned built form anticipated by the NPS-UD. In addition to the permitted height limit, Winton acknowledge the 'positively geared' restricted discretionary pathway for buildings over 22m in height.
- 24. Winton's submission sought the retention of operative retirement village provisions in the RCC (now HRZ) zone including:
 - 14.6.1.1 P10 Activity associated with a retirement village.

⁵ Policy 14.2.3.6 Framework for relevant residential zones, Policy 14.2.3.7 Management of increased building heights, Objective 14.2.7 High Density Residential Zone, Policy 14.2.7.1 Provide for High density urban form, Policy 14.2.7.1 high density location and 14.2.7.6 Policy High Density Residential Development.

⁶ Tim Heath – Property Economics, Sarah Oliver – Strategic Overview and Ike Kleynbos – Residential Chapter.

- 14.6.1.3 RD4 Any new building, or alteration to an existing building for a retirement village that meets the specified built form standards.
- 14.6.1.3 RD5 Any new building, or alteration to an existing building for a retirement village that does not meet one or more of the specified built form standards.
- The associated matters of discretion for RD4 and RD5 in; Retirement Villages 14.15.10, Building height in the High Density Residential zone within the Central City – Rule 14.15.30, Daylight recession planes High Density Residential zone within the Central City – Rule 14.15.31, Street scene and access ways in the High Density Residential zone within the Central City – Rule 14.15.32, Minimum building setbacks from internal boundaries in the High Density Residential Zone within the Central City – Rule 14.15.33 and Water supply for firefighting – Rule 14.15.8.
- 25. I note that the Council proposed no changes to these retirement village provisions in the notified version of PC14 or in the S42A amended text other than consequential rule number updates. Winton has no further comment regarding the retention of the operative provisions, with the new building height rule applying. However, I note that this differs from the approach taken by the reporting officers to the retirement village provisions in the Residential Medium Density Zone (MRZ) where initially further intensification was proposed and the reporting officers have now changed their view on this⁷, reverting to the operative provisions. Winton intends to follow any evidence that develops through the hearing on retirement village provisions.

Rule 14.6.2.1 Building Height

26. While the 22m permitted height limit in part a.i. of rule 14.6.2.1 as redrafted in the S42A text amendments is considered more appropriate by Winton the other parts of rule 14.6.2.1⁸ that require setback of upper

i. 22 metres; or

⁷ Ike Kleynbos – Paragraph 6.1.33

⁸ 14.6.2.1 Building height – S42A text drafting

a. Other than where b.v. applies, buildings must not exceed the following height above ground level:

ii. 39 metres within the Central City Residential Precinct.

floors and the provision of communal outdoor living spaces that have been added since notification (moved from RD7 into 14.6.2.1) are not supported. As per its submission on RD7 Winton seeks that these parts of the rule are deleted. I support the submission point for the reasons outlined below.

- 27. Mr. Klyenbos covers the proposed setbacks for upper building levels at paragraph 9.1.84 86 of his S42A Report. He recommends making some changes to the wording initially notified in RD7 and now proposed to be included in 14.6.2.1 in response to submissions that sought to address very narrow central city streets and greater variation in street facades. The S42A Report does not respond to Winton's request to delete the upper floor setbacks. The amended text provided removes any upper floor setbacks from internal boundaries, however, still requires that parts of buildings above 14m be setback 4m from road boundaries. Further, for buildings between 19 22m in height, those parts of the building above 19m shall be setback 2m from the highest part of each façade or the roof shall have a pitch 45° measured from the external wall of the building.
- 28. Mr. Hattam also covers the increased upper floor setback at paragraphs165 166 of his Urban Design Evidence. He notes that the combination

B. A ground level communal outdoor living space shall be provided at a ratio of 50m2 per 10 residential units. The number of units shall be rounded to the nearest 10, in accordance with the Swedish rounding system. This ratio shall be calculated on the number of residential units on the 4th floor of the building and any subsequent floors above, with the maximum required area being 20% of the site area. Any communal outdoor living space shall have a minimum dimension of no less than 8 metres.

- A. That part of the building above 19 metres shall be set back a minimum of 2 metres from the highest part of each façade (including balustrades or similar architectural features) at or below 19 metres; or
- B. the roof shall have a pitch of less than 45 degrees measured from the external walls of the building (excluding eaves and gutters to a maximum combined width of 650mm per wall);
- iii. For any building between 36-39 metres within the Central City Residential Precinct:
 - A. That part of the building above 36 metres in height above ground level shall be set back between 2 and 5 metres from the highest part of each façade (including balustrades or similar architectural features) at or below 36 metres in height above ground level; or
 - B. the roof shall have a pitch of less than 45 degrees measured from the external walls of the building (excluding eaves and gutters to a maximum combined width of 650mm per wall);

c. Other than where d. applies, residential units shall not be less than be a minimum of 7 metres in height above ground level or two storeys (not including mezzanine floors), whichever is lesser, when developing three or more residential units.d. Buildings for residential activity within the Industrial Interface Qualifying Matter Area must not exceed 7 metres in height above ground level or two storeys, whichever is the lesser.

b. The following standards also apply:

i. For any building exceeding 14 metres in height above ground level:

A. any part of the building above 14 metres is set back at least 4 metres from the road boundary.

ii. For any building between 19-22 metres height above ground level (except in the Central City Residential Precinct):

of narrow streets and tall buildings in HRZ areas with a height to width ratio of more than 1:1 may create enclosure and reduce sunlight / shade the opposite side of the street. To address this, he proposes that buildings above the MDRS 12m height limit (different to Mr. Klynebos's 14m) be setback 4m from the road boundary. However, at paragraph 232 (F) he adds that the setback should only apply to 'narrow' streets of less than 16m in width. I note Mr Kleynbos's evidence does not give reconcile why he has adopted some but not all of Mr. Hattam's Urban Design recommendations.

- 29. There is not any detailed analysis by the Council of why the proposed upper floor setback of 4m is required in order to give effect to the NPS-UD Policy 3 or the proposed high-density Objectives and Policies. I consider that the 4m setback is not necessary as it creates duplication of other provisions (rules and matters of discretion) and is too prescriptive. In my opinion the effects that the rule is intended to cover can already be considered under 14.6.1.3 RD2 and its relevant matters of discretion in 14.15.1 Residential design principals for developments of more than four residential units and in matter of discretion 14.15.10 Retirement villages (as was the case in RMA/2022/3443). For example, these existing matters of discretion required consideration of built form and appearance including:
 - Whether the development is designed to manage the visual bulk of the buildings and provide visual interest.
 - Achieves visual interest and a sense of human scale through the use of varied rooflines, building articulation, architectural detailing, glazing and variation of materials.
 - Where buildings are higher than 12 metres from ground level: the massing of the top of the building is moderated through upper floor setbacks and roof-form and any rooftop plant and servicing is integrated into the roof-form.
 - Appropriate response to context with respect to subdivision patterns, visible scale of buildings, degree of openness, building materials and design styles.

- Creation of visual quality and interest through the separation of buildings, variety in building form, distribution of walls and openings, and in the use of architectural detailing, glazing, materials, and colour.
- 30. In my view the existing and proposed matters of discretion enable adequate consideration of building bulk and visual interest at upper levels of tall buildings without the need for new or additional rules that prescribe design outcomes.
- 31. The S32 Report and S42A response to the submissions in opposition to increased height limits, seem to protect existing levels of residential amenity experienced in the RCC/HRZ by introducing additional rules over above those specified in the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (the Housing Supply Act). However, in my view this fails to appropriately take into account that the Resource Management Act 1991 and the NPS-UD are not 'no effects' legislation and that anticipated 6 storey buildings which are to be enabled will cause shading/ access to sunlight effects.
- 32. I note Policy 6 of the NPS-UD acknowledges that the planned urban built form under the NPS-UD may result in significant changes and that intensification in accordance with the NPS-UD will result in a reduction in existing amenity values for some. The NPS-UD focuses on the identification and promotion of the future character/amenity of urban environments, rather than protection and preservation of existing amenity (Objectives 1 and 4). The proposed rule package does not need to maintain status quo in terms of shading/sunlight access and visual effects.
- 33. The S42A text amendments also propose to introduce a 'communal outdoor living space' requirement into the building height rule at 14.6.2.1 b. i. B. In summary the rule requires buildings between 14-20m in height to provide a communal outdoor living area at a ratio of 50m² per 10 units at fourth floor level and above, to a limit of 20% of the site area, with the number of units rounded to the nearest ten. The communal space also requires a minimum dimension of 8m. I cannot find where Winton's submission seeking this provision be deleted is addressed in the S42A reports (under either RD7 or 14.6.2.1). Nor, in my view is it entirely

apparent from the earlier S32 Reports why this part of the rule is necessary to address the effects of increased building height. I assume that it is in part to achieve separation between tall buildings. There is a brief mention in the Urban Design S32 Report that communal spaces *"are especially beneficial for larger sites and for taller buildings where a high portion of residents will not have access to their own ground floor space"*, but no analysis of whether this provision is the most efficient and effective within the height rule.

- 34. In my view, the requirement for communal outdoor living space within the 'building height' rule is illogical and results in unnecessary duplication within the HRZ when 'Outdoor Living Space' is separately addressed in its own rule 14.6.2.10 which also covers provision of communal spaces as well as in the residential deign principle matters of discretion in 14.15.1 f. ii. D. Further, if there is concern about buildings exceeding 14m high being located too close together, then I note that this is covered in rule 14.2.6.5 Building separation which requires buildings on the same site be separated by 12m. Again, this appears to be unnecessary duplication within the proposed height rule. For these reasons I consider that this part of the height rule is not efficient and can be deleted.
- 35. Mr Kleynbos (paragraph 9.1.101) has also recommended additional matters of discretion in relation to the upper floor setbacks and communal outdoor living space parts of the rule, presumably in response to Ms Blair's S42A Report. Specifically, paragraphs 101 102 where she has highlighted a problem with the consenting pathway for this new rule. For the reasons above, I also recommend the subsequent deletion of matters of discretion in Impacts on neighbouring properties 14.15.3(c)x.

SUMMARY OF PROPOSED WORDING CHANGES SOUGHT

36. The proposed text changes that continue to be sought by Winton are shown in red text below follows:

14.6.2.1 Building height (S42A text drafting)

a. Other than where b.v. applies, buildings must not exceed the following height above ground level:
i. 22 metres; or
ii. 39 metres within the Central City Residential Precinct.

b. The following standards also apply:

i.For any building exceeding 14 metres in height above ground level:

A. any part of the building above 14 metres is set back at least 4 metres from the road boundary.

B. A ground level communal outdoor living space shall be provided at a ratio of 50m2 per 10 residential units. The number of units shall be rounded to the nearest 10, in accordance with the Swedish rounding system. This ratio shall be calculated on the number of residential units on the 4th floor of the building and any subsequent floors above, with the maximum required area being 20% of the site area. Any communal outdoor living space shall have a minimum dimension of no less than 8 metres.

ii.For any building between 19-22 metres height above ground level (except in the Central City Residential Precinct):

A. That part of the building above 19 metres shall be set back a minimum of 2 metres from the highest part of each façade (including balustrades or similar architectural features) at or below 19 metres; or

B. the roof shall have a pitch of less than 45 degrees measured from the external walls of the building (excluding eaves and gutters to a maximum combined width of 650mm per wall);

iii.For any building between 36-39 metres within the Central City Residential Precinct:

A. That part of the building above 36 metres in height above ground level shall be set back between 2 and 5 metres from the highest part of each façade (including balustrades or similar architectural features) at or below 36 metres in height above ground level; or

B. the roof shall have a pitch of less than 45 degrees measured from the external walls of the building (excluding eaves and gutters to a maximum combined width of 650mm per wall);

c. Other than where d. applies, residential units shall not be less than be a minimum of 7 metres in height above ground level or two storeys (not including mezzanine floors), whichever is lesser, when developing three or more residential units.

CONCLUSION

37. I consider that the amendments sought by Winton, as outlined in this evidence and summarised in paragraph 36 above, will be efficient and effective in achieving the purpose of the RMA, the other relevant statutory documents including the NPS-UD and the relevant objectives and policies of the District Plan/ PC14. In my opinion, the proposed changes set out in the Winton submissions and evidence will better align the District Plan with the NPS-UD and the purpose, principles and provisions of the RMA as amended by the Amendment Act.

38. The national direction contained within the NPS-UD requires the Council to provide for well-functioning urban environments which are capable of absorbing change over time. The NPS-UD promotes future character and anticipated built form over protecting existing 'residential amenity. In my view, the amendments sought by Winton, which I have assessed in my evidence will strike an appropriate balance between managing adverse effects of increased building height and enabling opportunities and change to provide for well-functioning urban environments.

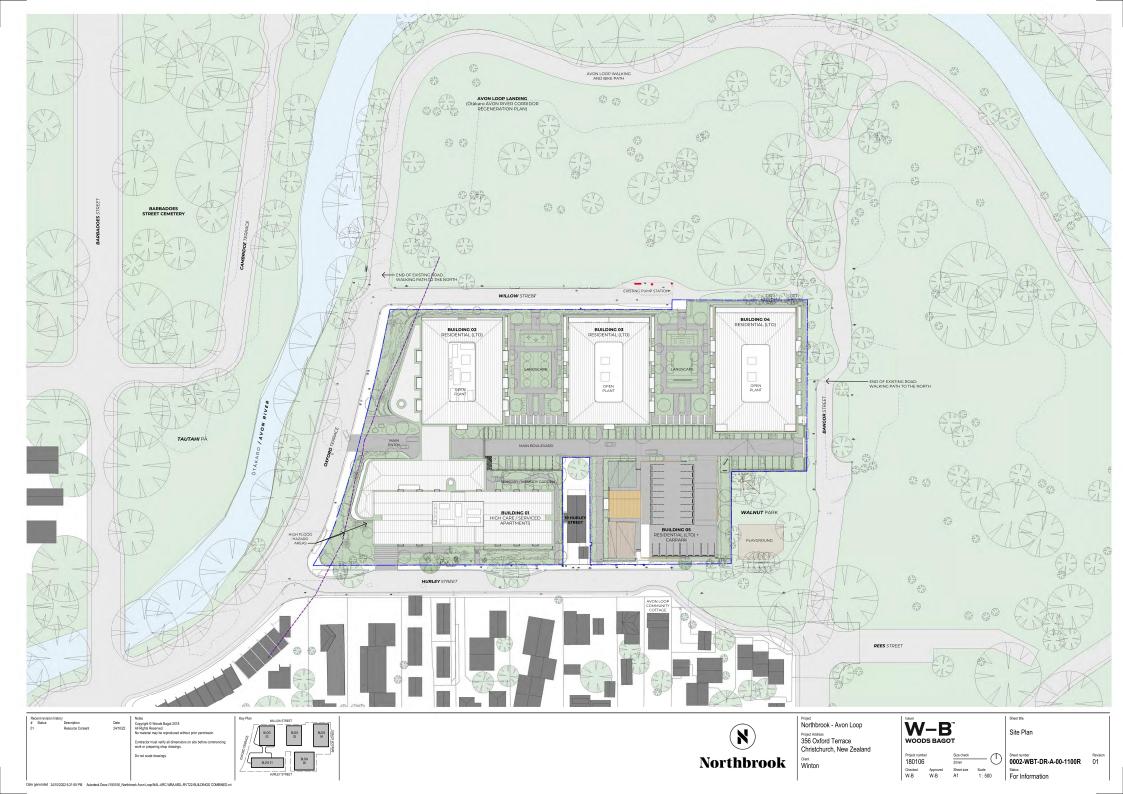
Clare Dale

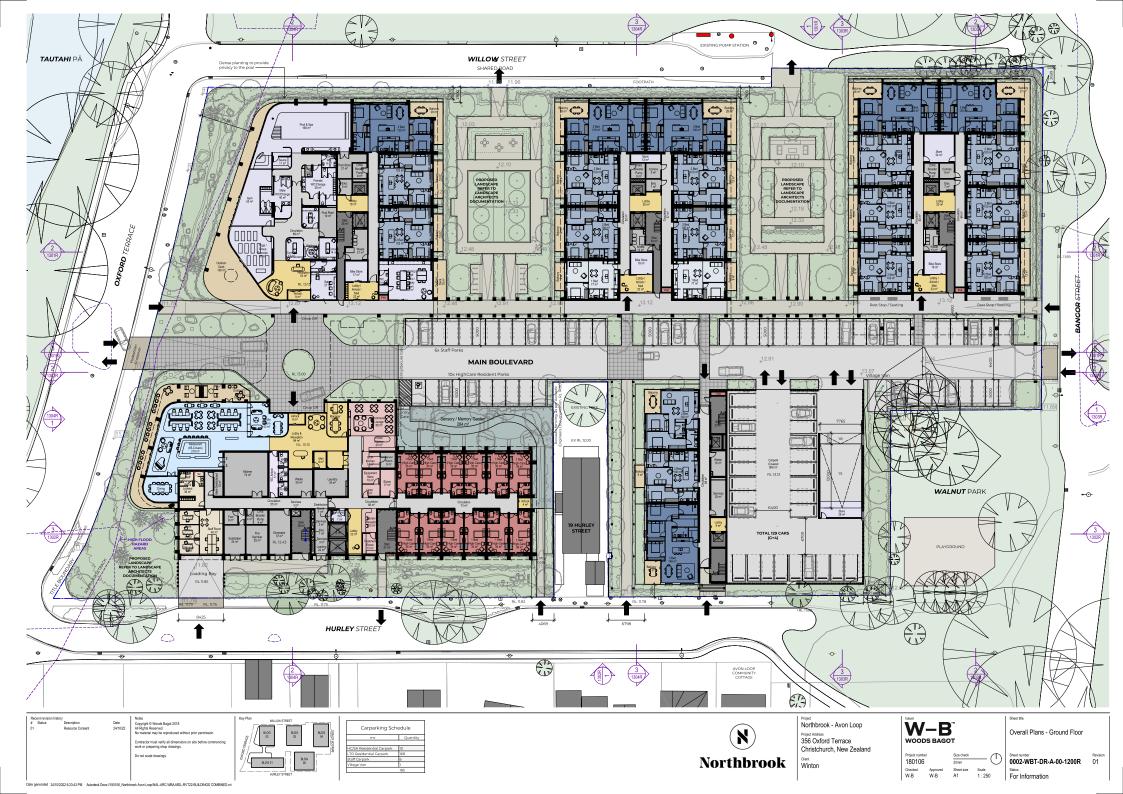
20 September 2023



Appendix 1: Site Location 356 Oxford Terrace (Source: Canterbury Maps)

Appendix 2: Approved Resource Consent Site Plan RMA/2022/3443, Visualisations and Photomontages.





03.03 Masterplan

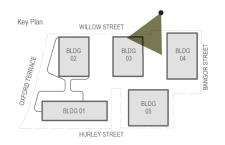
Axo View



04 Architectural Design

04.02 Visualisation

Willow Streetscape



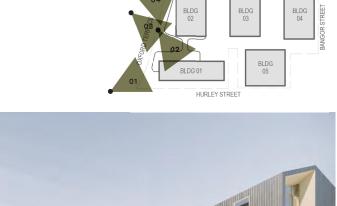


04.02 Visualisation

Oxford Streetscape







Key Plan

WILLOW STREET





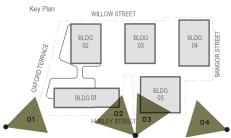
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04.02 Visualisation

Hurley Streetscape







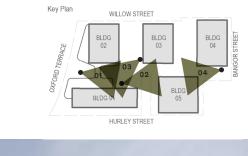


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04.02 Visualisation

The Boulevard







02





04 Architectural Design

04.02 Visualisation

Communal Courtyards / Balconies

