

**BEFORE AN INDEPENDENT HEARINGS PANEL
IN CHRISTCHURCH**

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

UNDER the Resource Management Act 1991 (the **RMA**)

AND

IN THE MATTER OF the hearing of submissions on Plan Change 14 (Housing and Business Choice) to the Christchurch District Plan

**STATEMENT OF REBUTTAL EVIDENCE OF DAVID ANTHONY HATTAM ON
BEHALF OF CHRISTCHURCH CITY COUNCIL**

RESIDENTIAL RULES

Dated: 9 October 2023

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EXECUTIVE SUMMARY

1. In this rebuttal evidence, further to urban design expert conferencing, I respond to three matters raised by submitters' witnesses:
 - (a) the issue of fencing controls raised by Jonathan Clease on behalf of Kāinga Ora;
 - (b) the location of commercial activities in the High Density Residential Zone as a permitted activity; and
 - (c) rules and assessment matters relating to retirement villages in the Medium Density Residential Zone.
2. Regarding fencing, the issue is the impact of the proposed rule on some site orientations where outdoor living space may be preferred next to the street.
3. I have considered the examples provided by Mr Clease that he was concerned would be disadvantaged by the proposed rule. However, I consider that the consenting path for these developments would be similar under the proposed rule than it is at present. I have provided diagrams to show how the rule works on the example sites.
4. The purpose of the rule is to ensure that developments contribute to safe and lively streets. It does this as part of a package of rules, by ensuring that part of each site is partly open to the street, and works in conjunction with rules on glazing and assessment matters requiring an engaging building frontage. I continue to support the proposed rule and consider this to be the most appropriate way, as part of a wider package of rules, to ensure that developments provide for a balance of privacy and street engagement.
5. With reference to the second matter, whilst I am supportive of some commercial activity in the residential zone, I consider that it should be limited in extent, that not all sites are suitable and that the proposed threshold (an apartment building) is not, in my opinion, appropriate.
6. I consider that an assessment of individual proposals is appropriate for small scale commercial or retail development in the high density residential zone, and that a more enabling pathway (such as a restricted discretionary consent) could be provided in the central city higher height precinct, provided this also manages the potential for cumulative effects from multiple developments.

7. Regarding the third matter, I consider that retirement villages are most appropriately managed with a restricted discretionary framework supported by rules. I do not agree with the submitters' alternative assessment matters, however I have recommended some amendments to the existing rule 14.15.9 in view of some of the points made.

INTRODUCTION

8. My name is **David Anthony Hattam**. I am employed by Christchurch City Council (**Council**) in the position of Senior Urban Designer.
9. I prepared a statement of primary evidence on behalf of the Council dated 11 August 2023. My primary evidence addressed Urban Design Issues in residential zones arising from the submissions and further submissions on Plan Change 14 to the Christchurch District Plan (the **District Plan; PC14**).
10. I have the qualifications and experience set out at paragraphs 23 to 28 of my primary evidence and repeat the confirmation given in my primary evidence that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023, and that my evidence has been prepared in compliance with that Code.

SCOPE OF REBUTTAL EVIDENCE

11. In this rebuttal evidence I respond to the following three issues:
 - (a) Fencing controls as raised by Jonathan Cleese on behalf of Kāinga Ora, in his statement on residential zones planning.
 - (b) The location of commercial activities in the High Density Residential Zone (**HRZ**) as a permitted activity, also raised in Mr Cleese' evidence.
 - (c) Rules and assessment matters relating to retirement villages in the Medium Density Residential Zone, in response to submission Richard Turner on behalf of the Retirement Villages Association of New Zealand and Ryman Healthcare.

FENCING

12. This statement concerns Mr Cleese's comments on the proposed fencing rule, starting from paragraph 4.64 in his statement, in which he proposes an alternative fencing rule for street frontage, similar to the current rule.
13. Fencing is an important component of a site frontage, which can disrupt the appearance of the site and level of street engagement provided. The need

for fencing is sometimes driven by site layout issues and it can be symptomatic of wider issues (the arrangement of space on the site, in particular the location of privacy sensitive outdoor space at the frontage).

14. The current rule allows for transparent fencing as a solution, but it does not resolve the cause. In the short term, such fencing does not provide a high level of street engagement, and may create situations where residents do not have a reasonable level of internal or external privacy. In the longer term, such fencing is often replaced, or screening is installed by residents to overcome this problem. The existing rule does not always achieve the aim of ensuring street engagement and passive surveillance while managing privacy.
15. The usual driver for locating outdoor living next to the street is solar access at certain street orientations (notably south of the street). Mr Cleese provides examples of developments that he considers would be disadvantaged by the rule because he considered that it would have made the establishment of outdoor living space more difficult because it could not be fenced. However, I consider that this is not the case for these examples, and note that in cases where it is, then part of the response could be to reconsider aspects of the site layout.
16. I have provided diagrams below to show how the rule would work on the example sites included within this evidence. I have also provided photographs to further clarify how the rule is intended to work and what it is intended to achieve.
17. The purpose of the rule is to ensure that developments contribute to safe and lively streets. It does this as part of a package of rules, by ensuring that part of each site is open to the street; and works in conjunction with rules on glazing and assessment matters requiring an engaging building frontage, and good site layout. This combination of rules will ensure that there are windows and doors visible from the street as part of a relatively open threshold, and the privacy of outdoor living areas facing the street. However it is preferable that these areas are separate (an outdoor living space should not double as a street threshold).
18. The 50% fencing rule works with the assessment matters and sets an expectation that some of the frontage is public and some is private.

19. These rules implement proposed Policy 14.2.5.3 which seeks that *"Residential developments of four or more residential units contribute to a high quality residential environment through site layout, building and landscape design to achieve: (...) engagement with the street and other spaces"*.
20. An example of how this is expected to work in practice is shown below.



Example of a north facing site layout with engaging public frontage and living space to the side.

21. Some of the shortcomings of the existing rule are illustrated by the photographs below:



Post occupancy screening behind transparent fencing



Privacy is compromised in both the indoor and outdoor space, encouraging screening (in the form of curtains).



This development has little street engagement despite transparency in fencing.

22. Mr Clease makes some good points on privacy and that outdoor living space with low fencing is not always suitable. I agree with this and consider that the issue is the location of outdoor living space next to the street (in a development with no other public frontage), rather than fencing per se. I consider that there should be an engaging frontage outside of any outdoor living space, so that there is no (or at least reduced) need to rely on transparent fencing to provide for street engagement.
23. Mr Clease states that it is sometimes necessary to establish sites with outdoor living facing the street. I do acknowledge that sometimes individual units within a development will have few alternatives to north facing outdoor living. However it is unusual for a whole development to have no alternative, and in these cases it is still preferable to provide for a public threshold to the

street, even if it is limited in size and supplemented by other measures (like fence transparency). Some mitigation is discussed below.

24. The best orientation for outdoor living space is to the north or west (where it will get afternoon sun). Smaller developments are often built with outdoor living space to the side and can almost always achieve one of these more favourable orientations. Larger developments may have some west facing units as part of the site plan.

Example – Riccarton Road

25. Mr Clease provided some examples in his discussion. The first is a Kāinga Ora development on Riccarton Road. As Mr Clease explains, this development has outdoor living space facing north to Riccarton Road, a busy collector road.
26. The site also has frontage facing Paeroa Street and the front door to the complex faces onto Shand Crescent. Overall there is 61m of fenced frontage and 36m of unfenced frontage (excluding accessways). This is shown on the marked up site plan below.



Riccarton Road Site Plan with fencing extent shown

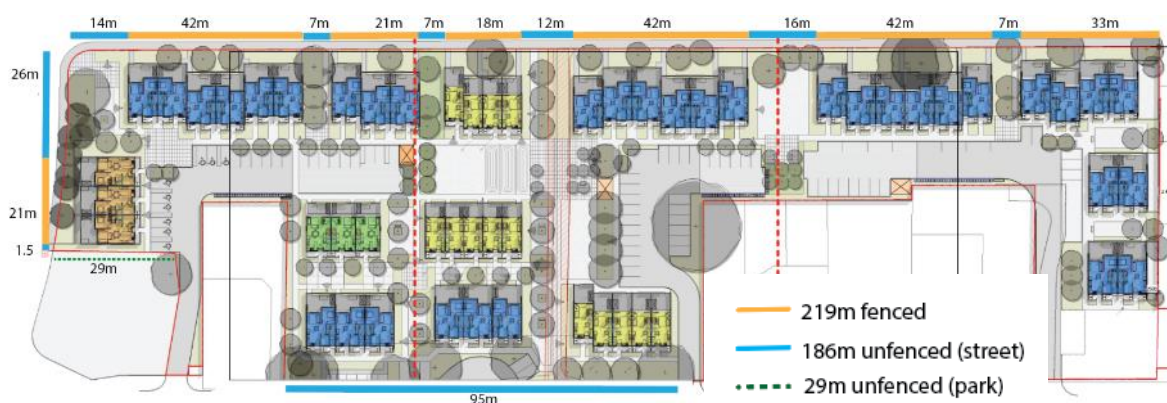
27. The site has 37% of the frontage unfenced. Although this does not meet the rule, the amount of unfenced frontage and the inclusion of a clear front

threshold to the main entrance would mean that it would meet at least some of the intent and achieve some of the outcomes sought.

28. The complex as consented has transparent fencing facing Riccarton Road. This is not ideal, because such spaces will be affected by noise and privacy will be compromised. In my view it would be preferable to increase the privacy of the outdoor living spaces (for instance by decreasing the transparency of fencing or including some solid sections). This is the intent of the revised rule, to reinforce the difference between private space and public space. Nonetheless, the scheme as presented is likely to be sufficiently compliant to be consented under the new rule.
29. Furthermore, it would be easy to increase the unfenced frontage to 45m (46%) by relocating one of the car park fences as noted in the diagram above (or by reducing its height). This would be an improvement in my opinion as it would certainly provide a more interesting frontage to Shand Crescent.
30. Finally, I do consider that for taller (3 storey+) apartment complexes with balconies facing the street, that this provides a lot of visual interest and street engagement even if a higher proportion of solid fencing is in use. It may be that assessment matters could consider this as a suitable mitigation.

Example 2 – Brougham Street

31. The second example is the development at Brougham Street. This is also a large development with more than one street frontage. It also has some frontage to a park at the south west corner.



Brougham Street site plan with fencing extent shown

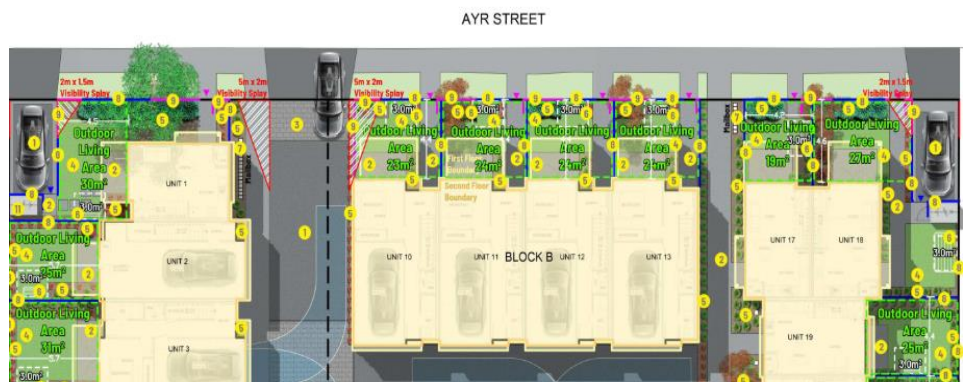
32. Of 405m of road frontage, this development has 219m fenced (being a total of 54%). Furthermore, it has a further 29m of park frontage which is

unfenced (and would reduce the ratio to 50.5% if counted). As part of a restricted discretionary activity, it is clear that the development would be consented under the proposed rule.

33. Although this development does have a lot of fencing to Brougham Street, I agree that it is appropriately managed due to the open sections and the high quality and amount of planting.
34. It is worth noting that it does not comply with the existing rule so would not be more challenging to consent than under the current plan.

Example 3 – Ayr Street

35. The examples provided by Mr Clease are both large social housing complexes with more than one street frontage so it is worth considering what happens with a single street frontage. In the example below, some balance is provided to the fenced units that back onto the street by including unit 1 (left) that faces sideways to the street, with favourable west facing outdoor orientation. I would anticipate some mitigation of the fencing for the remainder of the units would be installed, which could include some transparent fencing; and the units in this example also have prominent balconies facing the street. This development, which is currently under construction, provides a satisfactory balance of privacy and engagement overall, without relying on a high degree of transparency in the fencing.



Top: Extract plan view of Ayr Street showing variable orientation of street front units.

Above: Street interface including upper floor balconies

Other mitigation

36. Other solutions for south of the street are shown by the following solutions. These rely on the presence of a door facing the street to provide for engagement, sometimes alongside some transparency in fencing which should provide for visual interest (but can be quite limited to ensure privacy).
37. Doors being located outside of the outdoor living areas provide a clear sense of address. This street engagement is supplemented by transparent fencing in the example below (but would benefit from the threshold being a bit wider and including some planting).



38. The installation of transparent gates that line up with front doors (providing a sense of address without providing direct views into living rooms) is another solution that provides some engagement and allows for some privacy. It does not provide as high a degree of street engagement but it can be part of a good street interface, such as in the Ayr Street example.
39. Whilst I consider that these solutions can sometimes result in at least satisfactory outcomes they do not do so reliably, or necessarily achieve the good quality or high quality sought policy 14.2.5.3(i). Therefore, I consider the rule proposed in Plan Change 14 is the most appropriate provision.

COMMERCIAL ACTIVITY IN RESIDENTIAL ZONES

40. In paragraph 5.10 of his evidence, Mr Cleese discusses commercial activity in residential zones. He considers that in the HRZ, any apartment building should be able to accommodate 200m² of commercial activity as a permitted activity. Mr Kleynbos has sought to further respond to this point and requested urban design advice on the relief sought.

41. I agree with the principle that some commercial activity in the high-density residential zone can be appropriate. This may be an opportunity for local shops and facilities, with the archetypal use being a corner store.
42. Whilst I am supportive of some commercial activity in the residential zone, I consider that it should be limited in extent, that not all sites are suitable and that the proposed threshold (an apartment building) is not, in my opinion, appropriate. I consider a discretionary process would allow these matters to be considered.
43. The first point (on extent) is not purely an economic assessment of how it might affect centres. A widespread uptake of the opportunity would significantly affect how an area looks and functions, such that its residential character would be altered. Furthermore, the size of premises proposed is quite large – much more than a typical corner store, for instance.
44. Regarding the suitability of sites, I consider that corner sites are best suited to these commercial uses, because they are more visible and longer boundaries mean that the effects are more likely to be concentrated on the street rather than internally. Larger sites may be more suitable for the same reason.
45. Following a similar logic, sites without road frontage (e.g. reached via an accessway) are unlikely to be suitable because the effects will be concentrated on private boundaries and accessways not designed to contain them.
46. With reference to these rear sites, issues likely to result relate to CPTED as well as amenity considerations. For example, commercial activities are associated with increased rates of crime, and if the environment is not well designed for the intended use it can create more risks.
47. Whilst a high-density residential environment will have more activity than a low or medium density area, predominantly residential characteristics would be anticipated, including a high amenity environment and buildings that are visually attractive with prominent planting and an engaging residential built form.
48. A single commercial use in an area or on a street would be unlikely to undermine the attractiveness and residential qualities of an area, but it is not impossible that a co-location of uses could occur. A concentration of such uses would be a fundamental change which could result in a de-facto centre.

49. The threshold of an apartment complex also seems problematic. This could be fulfilled by a commercial use with a single apartment above, or a predominantly townhouse development with a single apartment. On a smaller site (of 500m²), the commercial tenancy could occupy almost the whole of the ground floor and appear as the dominant use (especially if residential was limited).
50. In areas where tall buildings are common, it is not unusual for occasional shops or restaurants to be established in residential areas, but it is rare for it to be widespread. The proposal within Mr Clease's evidence on behalf of Kāinga Ora is in effect a rezoning of the HRZ zone to a mixed-use zone.
51. With this in mind, I consider that the impacts of the proposed level of commercial activity could be quite transformative to the living environment, and not always consistent with a residential zone. It is therefore my opinion that enabling commercial uses as a discretionary activity within the HRZ would be a more appropriate approach.
52. The above notwithstanding, I do consider that some mixed-use could be appropriate within the central city higher height precinct. This area is intended to be a place where typical residential amenity (such as relatively quiet areas with good sun access) is given less priority over activity and vibrancy. Allowing some mixed use in this area would both support a range of activities in the city and provide a different choice of living environment to residential areas outside the central city.
53. However, I consider that the effects should be managed, including the extent of the activities so that any cumulative effects can be considered. I would support a restricted discretionary activity status in the central city, so that cumulative and amenity effects can be considered, and to ensure that only the most suitable sites are developed for the use.

RETIREMENT VILLAGES

54. This section considers the submission of Mr Richard Turner for the Retirement Villages Association and Ryman Healthcare.
55. Under the notified Draft of Plan Change 14, retirement villages are restricted discretionary activities in both the MRZ and HRZ zones.
56. In his Section 42A report Mr Kleynbos proposed that this be modified to a permitted activity status in the MRZ, subject to a set of bespoke built form standards based on the existing Residential Suburban Zone.

57. Retirement villages are similar to large residential complexes. They usually have additional facilities such as medical and recreational facilities, and are managed by a management company, which provides a high level of assurance that the buildings and grounds will be well maintained. Additional facilities are provided for the benefit of residents, with the sites primarily supporting a residential use.
58. In my experience, assessing a significant number of retirement village proposals, this form of development often includes large bulky buildings (often a central three storey complex) and quite large and consolidated areas of carparking and garaging. These developments often do not provide a particularly engaging frontage, although usually provide a high standard of landscaping, including boundary landscaping which will be reliably maintained.
59. Retirement villages require large sites and operators wish to maintain control of access. This often results in reduced levels of connectivity in a neighbourhood, as there are fewer road connections, particularly in greenfield development.
60. However, retirement villages are otherwise similar to residential development and generally compatible with it. Potential effects are likely to be similar, subject to the management of the additional effects identified, in particular through well considered site layout and design quality.
61. In view of the above, it is my opinion that the activity status and set of standards need to be similar to those for residential development. However, there are somewhat differing requirements and effects to recognise and manage. It is for these reasons that I consider the standards in 14.15.9 should continue to apply, rather than the Residential Design Principles listed under 14.15.1. This provides a similar level of design quality and certainty to the community for both forms of development within a residential environment.
62. In assessing applications, a mix of rules and assessment matters can be useful. The rules set a baseline for the amount of development that can occur and some basic requirements, whilst assessment matters allow consideration of more complex issues, including how different requirements interact with each other and the wider environment.

63. I have discussed the assessment matters in my primary evidence, where I conclude that the existing matters are appropriate. Having considered the evidence of Mr Turner, I agree that these assessment matters should be tailored to the anticipated environment rather than the existing and I accept that a highly active street interface (with frequent front doors) is not realistic.
64. In my opinion, minor changes to the existing assessment matters could address the issues identified. As a result I recommend the deletion of rule 14.15.10 i D (relating to pedestrian entrances); and iv (relating to the existing context). I also recommend the deletion of viii (relating to environmental efficiency) because this is beyond requirements for similar non-retirement village development).
65. The assessment matters would then be as below:

Whether the developments, while bringing change to existing environments, is appropriate to its context taking into account:

- i. engagement with, and contribution to, adjacent streets and public open spaces, with regard to:*
 - A. fencing and boundary treatments;*
 - B. sightlines;*
 - C. building orientation and setback;*
 - ~~D. configuration of pedestrian entrances;~~*
 - E. windows and internal living areas within buildings; and*
 - F. if on a corner site is designed to emphasise the corner;*
- ii. integration of access, parking areas and garages, where provided, in a way that is safe for pedestrians and cyclists, and that does not visually dominate the development, particularly when viewed from the street or other public spaces;*
- iii. retention or response to existing character buildings or established landscape features on the site, particularly mature trees, which contribute to the amenity of the area;*
- ~~iv. appropriate response to context with respect to subdivision patterns, visible scale of buildings, degree of openness, building materials and design styles;~~*

- v. *incorporation of Crime Prevention Through Environmental Design (CPTED) principles, including effective lighting, passive surveillance, management of common areas and clear demarcation of boundaries and legible entranceways;*
 - vi. *residential amenity for neighbours, in respect of outlook, privacy, noise, odour, light spill, and access to sunlight, through site design, building, outdoor living space and service/storage space location and orientation, internal layouts, landscaping and use of screening;*
 - vii. *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; and*
 - ~~viii. *where practicable, incorporation of environmental efficiency measures in the design, including passive solar design principles that provide for adequate levels of internal natural light and ventilation.*~~
 - ix. *Where the site is within the Akaroa Heritage Area, the matters set out in Rule 9.3.6.3.*
66. For completeness, I consider that the assessment matters and restricted discretionary status should also apply in the FUZ zone (which is where most retirement villages are built, because of the availability of sites).

David Anthony Hattam

9 October 2023