

under: the Resource Management Act 1991

in the matter of: an application by Ryman Healthcare Limited for resource consent to construct, operate and maintain a comprehensive care retirement village at 26 Donald Street and 37 Campbell Street, Karori, Wellington

between: **Ryman Healthcare Limited**
Applicant

and: **Wellington City Council**
Consent Authority

Summary Statement of Richard Turner on behalf of Ryman Healthcare Limited

Dated: 14 September 2022

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SUMMARY STATEMENT OF RICHARD TURNER ON BEHALF OF RYMAN HEALTHCARE LIMITED

- 1 My full name is Richard Jonathon Turner.
- 2 My qualifications and experience are set out in my statement of evidence dated 29 August 2022.

Corrections

- 3 At paragraph 37 of my evidence, I stated in the last sentence that only the outdoor living space and building height standards are still exceeded by the Proposed Village – when referring to the implications of inserting the medium density residential standards into Rule 5.3.4. This sentence is incorrect should be amended as follows:

Only the outdoor living space (5.6.2.3), ~~and~~ building height (5.6.2.5) and alterations and additions to buildings with an existing non-compliance (5.6.2.9) standards are still exceeded by the Proposed Village

- 4 Standard 5.6.2.9 does not have a comparable control under the Proposed Wellington City Plan (*Proposed Plan*), such that I accept that it should still be considered under Rule 5.3.4 of the Operative Wellington District Plan (*Operative Plan*). It is the exceedance of these three standards which lead to the Proposed Village being classified as a non-complying activity under Rule 5.5.

Paragraph 52 – Flood Hazard Overlay and MDRS

- 5 The Commissioners also requested yesterday that I further consider paragraph 52 of my statement of evidence. I have reviewed this paragraph overnight and still consider it to be correct. The entirety of the Site is zoned Medium Density Residential under the Proposed Plan. The Proposed Plan does not seek to impose any alternative, or lesser, zoning over all or part of the Site due to flooding matters. The Proposed Plan does not amend the medium density residential standards that apply to the Site. Rather, additional resource consents requirements are triggered¹ when sensitive activities (such as residential units or retirement villages) are established in the flood hazard overlays.

- 6 I have no other corrections to record with respect to my statement of evidence.

Updated Planning Framework

- 7 As has already been discussed, a notable feature of this resource consent application is the changes to the statutory planning

¹ Rule NH-R11 of the Proposed Plan.

framework that have occurred since it was lodged in September 2020.

- 8 The changes to the statutory planning framework are set out at paragraph 18 of my statement of evidence, and principally relate to outcomes directed by the National Policy Statement on Urban Development 2020 (*NPSUD*), the introduction of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (Enabling Housing Act), and the notification of the Proposed Wellington District Plan (*Proposed Plan*) - with submissions on the Proposed Plan only closing on Monday.
- 9 I discuss the implications of these changes from paragraph 20 of my statement of evidence. The key points I make are as follows:
 - 9.1 Policy 11 of the NPSUD required the Wellington City Council (*Council*) to remove minimum car parking requirements (other than for accessible carparks) from the Operative Plan and also 'strongly encouraged' the Council to manage car parking effects via comprehensive parking management plans. Rule 5.6.1.3 was accordingly removed from the Operative Plan. As such, I do not consider that resource consent is still required for the Proposed Village for car parking under Rule 5.6.1.3 – noting that Ms Brownlie adopts a different opinion in this regard;
 - 9.2 Those objectives and policies in the Operative Plan which seek to (i) ensure development respects (or does not detract from) the character of the existing neighbourhood, or (ii) manage adverse effects on residential amenity by requiring development to be compatible with surrounding development patterns, should be given limited weight in decision-making. Those provisions seek residential character and amenity outcomes that are incongruous with the directives in the NPSUD and the provisions in Schedule 3A of the RMA;
 - 9.3 The Site, along with the surrounding residential properties on Donald Street, Campbell Street and Scapa Terrace are zoned Medium Density Residential under the Proposed Plan – notwithstanding any overlays; and
 - 9.4 The Medium Density Residential Zone introduces more permissive height, height-in-relation-to-boundary and site coverage standards. The changes in standards are illustrated at paragraph 49 of my statement of evidence. Of particular note is that the built form standard for building height increases from 8 to 11 m, and the height-in-relation-to-boundary standard increases from 2.5 m @ 45 degrees to 4 m @ 60 degrees, as a result of the Proposed Plan.

Resource Consent Requirements and Activity Status

- 10 The resource consent triggers for the Proposed Village under the Operative Plan relate to the establishment of buildings and associated 'use' activities – including earthworks, site remediation and signage.
- 11 With respect to the identified rule triggers, I do not consider that rubbish trucks servicing the Proposed Village constitute a 'non-residential' activity for the purpose of the noise limits under Rule 5.6.1.1.
- 12 In terms of the built form standards for the Medium Density Residential Zone in the Proposed Plan, it is my understanding that these standards replace the corresponding standards in the Operative Plan when considering proposals under Rule 5.3.4.² As such, and as explained as part of my corrections, the Proposed Village now only exceeds the outdoor living space, building height and alterations and additions to buildings with an existing non-compliance standards that apply to the Site under Rule 5.3.4 – with the extent of exceedance of the building height standard now largely limited to Buildings B01A and B01B. The Proposed Village is also able to comply with the revised site coverage standard of 50%.
- 13 It is agreed between Ms Brownlie and myself that the overall status of the Proposed Village is non-complying. This status is retained despite the Proposed Plan. None of the rules in the Proposed Plan which have immediate legal effect introduce any additional consenting requirements.
- 14 In light of the non-complying activity status, the Proposed Village is to be considered in accordance with section 104D and 104 of the Resource Management Act 1991 (*RMA*). I summarise my assessment of the resource consent application against these sections of the RMA as follows.
- 15 With respect to the question from Commissioners regarding resource consents from the Greater Wellington Regional Council, applications have been made for earthworks, dewatering, a bore, the taking of groundwater and stormwater management. These applications were made (at the time) under the Regional Freshwater Plan and Proposed Natural Resources Plan. The status of these applications is discretionary.

² Being the construction of residential buildings which would be permitted, controlled or discretionary (restricted) activities but which do not comply with one or more of the standards outlined in section 5.6.2 (Buildings and Structures).

Environmental Effects

- 16 With respect to the first limb of section 104D of the RMA, my understanding of the requirements for an assessment of 'not more than minor adverse effects' is set out in paragraphs 166 to 167 of my statement of evidence. I note that an overall assessment of the environmental effects of a proposal is required (including the ameliorating effects of any proposed consent conditions).
- 17 I do not propose to repeat the summaries of the various environmental assessments as part of my presentation today – noting that I summarise the key conclusions with respect to effects of the Proposed Village from paragraph 169 of my statement of evidence. That said, the high degree of alignment between the experts on behalf of Ryman and the Council reflects the considerable time spent by the Ryman team prior to, and following lodgement of its application, to respond to the concerns of the Council's experts – which has included design changes to the various buildings.
- 18 I also confirm that I do not consider it appropriate to seek to apply a permitted baseline to potential residential development on the Site (fencing aside) – for the purpose of disregarding potential effects on the environment. In this regard, I consider the potential for incremental residential development to be speculative and consider that consent requirements relating to earthworks and the remediation of contaminated land would likely frustrate any such baseline.
- 19 The key points from the evidence and presentations to date are:
- 19.1 Mr Burns and Ms Brownlie have both undertaken a granular assessment of the potential shading effects of the Proposed Village on neighbouring properties. They both conclude that the potential shading effects are no more than minor, notwithstanding their different assessment methodologies. While there has been discussion with Commissioners about whether Ryman might prepare shading diagrams for the period between mid-winter and the equinox is necessary, it is my observation that the shading diagrams produced for this application are of a detail as corresponds with the scale and significance of the effects that the Proposed Village may have on the environment. Further, I consider the assessment of shading should be considered in the context of the explanatory text to Policy 4.2.4.1 of the Operative Plan, which notes that the building recession standards are intended to protect people's access to a reasonable amount of direct sunlight. The Proposed Village complies with the building recession standards in the Operative Plan along its Scapa Terrace boundary (and also with those that apply under the Proposed Plan);

- 19.2 Related to the above, I do not consider that Mr Burns has sought to apply a permitted baseline to his shading assessment. In this regard, he is not seeking to disregard potential effects generated by the relevant built form standards – these are provided as context as to what the relevant plans potentially anticipate as one aspect of his assessment methodology. I consider that approach to be appropriate in light of the direction in the plans, including the explanatory text to Policy 4.2.4.1;
- 19.3 The amenity afforded to the residents of the Proposed Village is related to their particular needs. Applying the Residential Design Guide to care units is not necessarily appropriate, as such specific residential uses were not the focus of the Residential Design Guide. Residents gain amenity from the Village as a whole, not just their unit;
- 19.4 Ms Skidmore has provided a robust and transparent methodology for her assessment of the potential visual and landscape effects of the Proposed Village. Both Ms Skidmore and Ms McArthur agree that the visual bulk and dominance effects as experienced by adjacent properties will be no more than minor, with the proposed landscape treatments also supporting the integration of the Proposed Village into the surrounding landscape;
- 19.5 The traffic generated by the Proposed Village typically occurs outside of peak times, and both Mr Hills and Mr Kong agree that the total number of carparks proposed on the Site is acceptable. While there is disagreement regarding the scope of additional traffic monitoring that should be undertaken by Ryman, I do not consider this to affect the overall conclusions regarding the acceptability of traffic effects; and
- 19.6 The potential construction effects will vary in intensity and location during the duration of the construction programme. As explained by Ms Wilkening, higher noise levels would only be experienced for a matter of days or, at most, weeks at particular locations. Likewise, construction traffic will vary depending on the programme of construction works at any one time. A range of industry good practice consent conditions and management measures are proposed in this regard to limit or minimise potential constructed-related effects.
- 20 Given the respective conclusions from the technical experts, my evidence concludes (at paragraph 170) that the overall effects on the environment from the construction and operation of the Proposed Village can be appropriately managed, including through the proposed consent conditions, so that they are no more than

minor. In this regard, while there will be some adverse effects that are noticeable, none of the experts consider these effects to major or cause significant adverse effects. I consider the effects of the Proposed Village will not be 'more than minor' and therefore the first gateway test is satisfied.

- 21 Ms Brownlie reaches the same conclusion with regard to the status of the potential effects of the Proposed Village.

Relevant Plans

- 22 With respect to the relevant plans for the purpose of section 104D(1)(b) of the RMA, consideration needs to be given to the Operative Plan and the Proposed Plan – notwithstanding that no resource consents are required under the Proposed Plan (and they would be restricted discretionary activities if applicable).
- 23 The relevant provisions in the Operative Plan and Proposed Plan are assessed in Appendix B and C to my statement of evidence, and summarised in detail from paragraph 176 of my statement of evidence. I am happy to discuss the specifics of my assessment with the Commissioners, but I highlight the following key points:
- 23.1 The Site meets the description of a 'windfall' site under Policy 4.2.5.1 and is anticipated to be used for residential intensification. While there will be a change in visual outlook for adjacent residential properties, both Mr Burns, Ms Skidmore and Ms Duffell consider that the Proposed Village will maintain a residential character and is an appropriate form of development in this location;
- 23.2 With respect to the provisions that relate to ensuring that residential properties have reasonable levels of amenity,³ there will be change in the surrounding environment but the respective experts on behalf of Ryman and the Council do conclude that a reasonable level of amenity will be achieved;
- 23.3 With respect to Objective 4.2.12 and its associated policies, the respective experts agree that parking, loading and site access effects can be appropriately managed. While I consider the obligation to 'require appropriate parking' in Policy 4.2.12.4 is unclear in the context of the directives of the NPSUD, Mr Hills and Mr Kong have agreed that an appropriate number of carparks is being provided in the Proposed Village;
- 23.4 There are no specific objectives and policies regarding the management of heritage values on the Site as the former Teachers' College buildings are not listed in the Plans; and

³ For example, Objective 4.2.4, and Policies 4.2.4.1 and 4.2.4.2.

23.5 Finally, I consider the construction of the Proposed Village will be consistent with the objective and policy expectations with respect to earthworks, sediment management and the remediation of contaminated land.

24 With respect to the Proposed Plan, I note:

24.1 The Proposed Village will provide variety in housing typology in the Medium Density Residential Zone, reflecting the housing needs of an aging demographic (as per Objective MRZ-O1 and Policies MRZ-P2 and P3);

24.2 Ms Brownlie and I agree that the Proposed Village will be consistent with MRZ-P1, and that while parts of the proposal are of a greater scale than would usually be expected in the Medium Density Residential Zone, it will still be consistent with the amenity values anticipated for the zone. That said, the buildings on the Site most proximate to residential boundaries (the Scapa Terrace, Campbell and Donald Street boundaries are in my view consistent with the planned urban character for the Medium Density Residential Zone;

24.3 With respect to Policy MRZ-P4, this matters was discussed yesterday. It is my assessment that the Proposed Plan has not adopted the wording of Policy 2 of Schedule 3A of the RMA as required – which makes the application of the policy problematic. However, based on the entirety of the Site and the surrounding neighbourhood being rezoned as Medium Density Residential, I consider that the Proposed Village is consistent with Policy MRZ-P4;

24.4 The matters set out under Policy MRZ-P7, as they relate to retirement villages in the Medium Density Residential Zone, have been appropriately considered in the technical evidence – particularly that of Mr Burns;

24.5 In terms of the natural hazard provisions in the Proposed Plan, Mr Desai (supported by Mr Wilson) has advised that there is no flood risk within the Site and to properties upstream or downstream of the Site for all scenarios modelled, and that there will be benefits for neighbouring properties. As such, it is considered that the Proposed Village is consistent with the relevant provisions; and

24.6 Ryman and Wellington Water have worked constructively to confirm design solutions for the management of three waters on the Site. As such, I do not consider any of the objectives and policies regarding three waters in the Proposed Plan to be a potential constraint to the Proposed Village;

24.7 Mr Cosgrove and Mr Hills consider that safe and effective access for firefighting purposes can be provided to the Proposed Village (as per Policy TR-P3 of the Proposed Plan). I have not identified any resource management reason for regulating fire safety matters more specifically via the resource consent for the Proposed Village;

24.8 Overall, it is my conclusion that the construction and operation of the Proposed Village will not be contrary to the objectives and policies of either the Operative Plan or Proposed Plan. That is, the Proposed Village will not be opposed in nature, different, opposite to the relevant objectives and policies. This conclusion is also agreed with Ms Brownlie, and I also note that the Proposed Plan very much supports an intensification of residential development on a Site of this nature.

25 In light of the analysis I have undertaken, I consider that the Proposed Village can pass either test of section 104D of the RMA and the resource consent application can be further considered under section 104 of the Act.

Section 104 of the RMA

26 I consider the other matters under section 104 of the RMA from paragraph 180 of my statement of evidence. This includes consideration of the positive effects that will result from the establishment of the Proposed Village – as discussed by Mr Brown.

27 With respect to the NPSUD and the Greater Wellington Regional Policy Statement (*RPS*), I provide analysis of the relevant objectives and policies in these higher-order planning documents from paragraph 189 of my statement of evidence. I consider that the Proposed Village is consistent with both of these statutory plans for the purposes of section 104(1)(b) of the RMA.

28 I have, for completeness, considered the Proposed Village against Part 2 of the RMA – particularly given the Operative Plan does not give effect to the NPSUD, RPS or the Enabling Housing Act. My assessment is that the establishment of the Proposed Village can be undertaken in a manner that promotes the sustainable management of natural and physical resources. In this regard, historic heritage values, natural hazards and residential amenity values in, and around, the Site will be appropriately managed during construction and operation of the Proposed Village in accordance with the direction set out in sections 6 and 7 of the RMA.

Conditions

29 While the proposed consent conditions are to be discussed in more detail with the Council on Thursday, I did make a number of

comments in my evidence on the appropriateness of the draft set of consent conditions attached to the section 42A report.

- 30 The overarching nature of these comments, which have driven the amendments I have recommended to date, largely reflect some of the comments provided by the Commissioners yesterday and relate to the following:
- 30.1 A number of conditions require drawings or further information to be supplied to the Council for certification - without direction as to what these drawings or further information are to be certified for. The certification process should not be utilised as a secondary opportunity to control and assess the potential effects of the Proposed Village;
 - 30.2 The conditions relating to the provision of management plans require clarity as to their purpose, and the detail to be provided within them;
 - 30.3 Some conditions require additional information to be provided to the Council for certification, when it is considered that adequate information for consenting purposes has already been provided by Ryman (e.g. signage);
 - 30.4 Some conditions provide explanatory text or internalised advisory notes regarding the intent of the conditions which are clearly not related to managing a specific adverse effect on the environment (i.e. those relating to long term parking and parking demand management); and
 - 30.5 There is a need to ensure that each condition serves a resource management purpose, and is not seeking to regulate activities that should be addressed as part of engineering approvals or building consents. The submission by Fire and Emergency New Zealand has not, in my opinion, articulated what resource management purpose is served by seeking to regulate fire safety matters via the resource consent conditions for the Proposed Village.
- 31 As was discussed yesterday, I intend to provide an updated set of draft consent conditions on Friday morning - following the further discussions scheduled with Ms Brownlie and the Council for Thursday. I will discuss any remaining points of disagreement on the drafting of the consent conditions between Ms Brownlie and myself at this time.

Conclusion

- 32 The Site is unique in terms of its size within an existing residential community, topography, and the distinct brutalist architecture of the

existing buildings. In my opinion, the Site provides significant opportunities for residential intensification.

- 33 That said, I acknowledge that the Proposed Village represents a change in the existing residential environment, particularly for residents along Scapa Terrace. However, it is noted that the changes in residential character and amenity are considered appropriate by the urban design and landscape experts on behalf of Ryman and the Council.
- 34 My evidence concludes that the Proposed Village will not be contrary to the objectives and policies of the Operative Plan or the Proposed Plan. Likewise, the various technical assessments assist in confirming that any potential adverse effects will be no more than minor.
- 35 Overall, it is my opinion that the resource consent application by Ryman is able to be granted.

Richard Turner
14 September 2022