

Before Hearing Commissioners at Wellington City Council

under: the Resource Management Act 1991 (*RMA*)

in the matter of: an application by Ryman Healthcare Limited (*Ryman*)
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

Memorandum of Counsel on behalf of Ryman Healthcare Limited

Dated: 5 September 2022

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MEMORANDUM OF COUNSEL ON BEHALF OF RYMAN HEALTHCARE LIMITED

Introduction

- 1 This memorandum responds to Minute 5 of the Independent Hearing Panel dated 29 August 2022. It provides an update on Ryman's understanding of the status of each of the relevant effects categories. Our intent is to inform any procedural directions the Commissioners may wish to make, particularly in relation to expert conferencing and which experts need to appear at the hearing.

Update on status of relevant effects categories

- 2 The following paragraphs provide an update on the status of each of the relevant effects categories (as per the Ryman expert evidence filed on 29 August):
 - 2.1 *Urban design*: There are no material differences between the Ryman and Council experts as to effects or conditions.
 - 2.2 *Landscape/visual*: There are no material differences between the Ryman and Council experts as to effects. There are some matters of detail in relation to one condition addressing landscaping requirements that are outstanding.
 - 2.3 *Heritage*: There are no material differences between the Ryman and Council experts as to effects and the conditions are agreed. We note that the Heritage New Zealand submission supported the Council expert's views.
 - 2.4 *Wind*: There are some limited differences between the Ryman and Council experts as to the wind effects at particular locations on the Site and conditions to mitigate those effects.
 - 2.5 *Fire engineering*: Ryman's evidence on this matter responds to the Fire and Emergency New Zealand submission. Ryman's experts consider fire safety matters are usually addressed through the building consent process, but in any event the fire safety design for the Proposed Village will be able to meet the needs of residents, staff and visitors. There are some differences between Ryman and Council experts as to whether resource consent conditions are necessary to specify the relevant fire safety standards to be complied with.
 - 2.6 *Traffic*: There are no material differences between the Ryman and Council experts as to effects. There are some matters on conditions that are outstanding, primarily relating to parking allocation within the Site and ongoing management of parking.

- 2.7 *Infrastructure:* There are no material differences between the Ryman and Council experts as to effects. There are some matters of detail on various conditions that are outstanding.
- 2.8 *Noise and vibration:* There are no material differences between the Ryman and Council experts as to effects. The intent of the conditions is agreed. Ryman's expert has proposed some refinements to clarify the intention and some processes.
- 2.9 *Geotechnical:* There are no material differences between the Ryman and Council experts as to effects. There are some matters on conditions that are outstanding, primarily relating to the degree of the controls and Council oversight needed in light of the effects assessed.
- 2.10 *Ground contamination:* There are no material differences between the Ryman and Council experts as to effects. There is one condition relating to further sampling for asbestos in soils that is outstanding.
- 2.11 *Planning:* The evidence of Mr Turner provided comments on the recommended consent conditions attached to the Officer's Report. Ryman intends to meet with Council to discuss the content and drafting of conditions of consent prior to the hearing. Mr Turner will then prepare an updated set of proposed conditions to present at the commencement of the hearing.
- 3 In addition to the above, Ryman intends to provide updated sets of drawings at the commencement of the hearing. Since the latest sets of drawings were prepared in June 2021, the following key changes have been made to the drawings:
- 3.1 Drawings *RC04-RC11 Proposed Site Plans:* removal of the central island at the main entrance on Donald Street and reduction of the entrance width. Removal of the pedestrian path to the walkway along the northern boundary. The gate had been previously removed, but the pathway leading to the boundary was still shown.
- 3.2 Drawing *RC12 Fencing Plan:* clarification that fence type C is a timber paling fence with no gaps between pales to respond to Council wind evidence. Clarification that fencing (fence type B) is located at the back of the pocket park fronting Donald Street, not the street frontage. Removal of the central island at the main entrance on Donald Street.
- 3.3 Drawings *RC13-RC17 Site Elevations and Site Sections:* update to show the Proposed Plan 11m height standard.

- 3.4 *Drawing RC31 Ground Floor Plan Apartments B02-B06:* change to the vehicle access gradient to Building B02 as set out in the evidence of Mr Leo Hills (paragraph 46).
- 3.5 *Drawing RCA08 Proposed Impervious Area:* amendment to confirm site coverage in response to Council officer query.
- 3.6 *Drawing RCA11 Proposed Building Heights Plan:* update to the key to clarify Building B01B is 6 levels above basement, not 7 levels.
- 3.7 *Drawings RCA14-RCA17 Site Cross Sections:* update to show the Proposed Plan height and height in relation to boundary standards.
- 3.8 *Drawing RCA98a Landscaping Plan:* change in plant species along the southern boundary to respond to submissions. Change to require plant species along the Donald and Campbell Street to be sourced at mature sizing of 4m to respond to Council wind evidence. This updated plan is also attached to the evidence of Mr Isaac Bright.
- 3.9 *New drawing RCA101 Proposed Building Heights 3D:* to show the Proposed Plan 11m height standard.

Expert conferencing

- 4 Minute 5 requests an update from Ryman in relation to the need for expert conferencing in relation to traffic or wind effects. The discussions between Ryman and Council on those topics were helpful and narrowed the differences between these experts. Ryman does not consider expert conferencing on these topics is required, but will do so if the Commissioners consider this would assist.

Expert evidence

- 5 In Minute 5, the Panel has excused the geotechnical and contamination expert witnesses from appearing at the hearing. Ryman's geotechnical and contamination expert witnesses will be available 'on call' if any questions arise.
- 6 Counsel respectfully requests that the Panel confirm if any other of the Ryman experts do not need to appear, in light of the status update provided at paragraph 2 above.
- 7 It is noted that submitter expert evidence may be lodged on later today, which may change the status update provided above. In addition, there are some effects categories that are particularly relevant to the matters raised by submitters (urban design, landscape/visual, traffic, infrastructure and noise/vibration).

Conclusion

- 8 Counsel invites the Commissioners to provide guidance on procedural matters by further minute if considered necessary in light of the above.

Luke Hinchey / Nicola de Wit
Counsel for Ryman Healthcare Limited
5 September 2022