

WELLINGTON CITY COUNCIL

SR 471670

**RESOURCE CONSENT: PROPOSAL TO ESTABLISH A COMPREHENSIVE
CARE RETIREMENT VILLAGE, 26 DONALD STREET AND 37 CAMPBELL
STREET, KARORI**

MINUTE 1 OF INDEPENDENT HEARING PANEL

Introduction

1. This Minute is being sent to you because you are either the applicant, or a submitter to the above application.
2. Pursuant to section 34A of the Resource Management Act 1991 (“**RMA**”) we have been appointed by Wellington City Council (“**WCC**”) to hear and make a decision on an application by Ryman Healthcare Ltd (“**the applicant**”) to WCC for land use consent to construct, operate and maintain a comprehensive care retirement village at 26 Donald Street and 37 Campbell Street, Karori.
3. The general function of this Minute is to set out some preliminary matters in preparation for the hearing, which will be held on **13, 14, 16, 19 and, if necessary, 20 September, 2022**. Please note that all parties will be formally advised directly by the WCC Hearing Administrator of the hearing dates in due course.
4. In the meantime, our objective at this preliminary stage is to establish some procedures to facilitate a smooth and effective pre-hearing and hearing process for all parties. This requires some actions from all the parties in readiness for the formal proceedings.
5. In this respect, this minute covers the following four matters:
 - (a) pre-hearing discussions/conferencing;
 - (b) circulation of evidence;
 - (c) hearing process and presentations; and
 - (d) site and locality visits.
6. It is likely that we will issue additional minutes with further requests and instructions, before, during and/or after the hearing.

Pre-hearing discussions and conferencing

7. With most hearings of this nature, all parties (applicant, submitters and council officers) are encouraged to engage in constructive discussions where practicable before the hearing commences so as to minimise the range of issues in contention. This may occur through pre-hearing engagement such as meetings, expert witness conferencing, or other informal exchanges – and all are welcome.
8. Without wanting to prejudge any issues prior to the hearing, it is apparent from our preliminary review of submissions that have been lodged that the following matters

may be worthy of discussion between the parties prior to the hearing commencement:

- (a) Scale, bulk and location of buildings and related character, overshadowing / shading, outlook, privacy and wind effects;
 - (b) Impacts on natural waterways;
 - (c) Planting and landscaping treatment;
 - (d) Loss of green space and recreation facilities;
 - (e) Noise, vibration, dust and traffic impacts during construction, and construction duration;
 - (f) On-going noise and lighting nuisance effects;
 - (g) On-going parking demand and traffic impacts;
 - (h) Access for emergency services; and
 - (i) Infrastructure capacity.
9. We are not formally directing the undertaking of, or participation in, formal pre-hearing engagement, discussions or expert conferencing at this stage. We do, however, encourage pre-hearing liaison and extend that encouragement to any of the parties prior to the commencement of the hearing. This may include general liaison amongst the parties:
- (a) to discuss any procedural or substantive matters (including those referred to in paragraph 8 above);
 - (b) for submitters to gain a better understanding of what the proposal entails and what the effects and implications may be; and
 - (c) for WCC (as consent authority) to better understand what the submitters' concerns are and how they might be accommodated by the Applicant.
10. In order to facilitate this, we would suggest that, prior to the hearing, the applicant endeavours to meet with submitters to discuss issues raised in submissions and resolve any issues where practicable¹.
11. There is the possibility that some parties may seek to engage experts, where some of the substantive matters referred to in paragraph 8 are concerned. If so, then expert witness conferencing on these matters and the subsequent preparation of joint witness statements confirming the experts' respective areas of agreement and disagreement may prove to be of benefit; and a later stage we may decide to direct this.
12. The discussions and/or pre-hearing engagement referred to in paragraph 9 above are likely to assist in informing the focus and scope of any such expert conferencing, and so such engagement should be considered a priority by the applicant and WCC. To provide time for any subsequent expert conference(s) and pre-circulation of evidence to occur prior to the hearing, we suggest that discussions and/or pre-hearing engagements are facilitated and concluded **by 16 August 2022 at the latest**. All submitters should be invited to participate in any such discussions and/or pre-hearing engagement. We recommend that the Applicant take the lead on this and report back to us via the Hearing Administrator at that time.

¹ These engagements may be of an informal nature, and/or through formal pre-hearing meetings coordinated by WCC pursuant to s99 of the RMA.

13. In the event that discussions and pre-hearing engagement does confirm that expert conferencing would be of benefit, then we will issue specific directions to that effect. These would include directions:
- (a) obliging the applicant, WCC and any submitters intending to call expert witnesses at the hearing to advise the WCC Hearing Administrator by a specific date, including the name and area of expertise of each witness they intend to call;
 - (b) asking those parties to indicate at the same time whether they will make their respective expert(s) available for conferencing with other experts, and if not, the reasons why;
 - (c) obliging WCC to advise the applicant of the list of experts to be called by parties at the hearing as soon as practicable and no later than a specific date, and to confirm whether those experts are available for conferencing;
 - (d) obliging the applicant to assume responsibility for co-ordinating any conferencing between its experts and those for submitters and the WCC; and
 - (e) requiring any conferencing that is undertaken to be completed no later than a specific date so that the witness statements can feed into the pre-hearing timetable for circulation of evidence.
14. We will remain in contact with the WCC Hearing Administrator to facilitate any pre-hearing processes as required and will keep all parties informed through additional minutes as necessary.

Circulation of evidence before hearing

15. Pursuant to sections 41B and 42A of the RMA we direct that evidence be pre-circulated in accordance with the following timeframes as set out in the Act:
- (a) the section 42A Report and any expert evidence called by WCC will be made available a minimum of 15 working days prior to the start of the hearing (i.e., by 5pm on Monday **22 August 2022**);
 - (b) the applicant's expert evidence will be made available at least 10 working days before the start of the hearing (i.e., by 5pm on Monday **29 August 2022**); and
 - (c) any expert evidence called by submitters must be made available at least 5 working days before the start of the hearing (i.e., by 5pm on Monday **5 September 2022**).
16. Confirmed dates for the above listed pre-circulations will be made available on the relevant WCC [webpage](#). Further detail to this end will be clarified to all parties in due course.
17. To be clear, submitters do not need to pre-circulate any non-expert presentation material they wish to speak to at the hearing. The above circulation requirements only apply to any expert evidence submitters wish to call. For any questions of clarification about professional expertise and the code of conduct for expert witnesses, please contact the WCC Hearing Administrator in the first instance.

18. Any legal submissions by counsel for the parties can be made at the hearing and are not subject to pre-circulation.

Hearing process and presentations

19. We anticipate that a hearing of this nature will be a new experience for many submitters involved, so we will take a brief moment here to provide some information about the hearing for context.
20. For starters, we encourage all submitters to refer to the useful guides about the hearings available from the Ministry for the Environment website. The link below, in particular, provides a useful source of information:

<https://environment.govt.nz/publications/appearing-at-a-hearing-about-a-proposed-plan-or-resource-consent/>

21. Consistent with this guide, our preference is for proceedings to be relatively informal. However, a degree of formality is inherent in hearings of this nature, and we will speak to that at the outset of the hearing when it commences.
22. More substantively, the hearing enables us to hear the issues raised in submissions in greater detail, and to be able to ask questions to improve our understanding of those issues.
23. As a rule of thumb, parties should target presentations of 15-30 minutes or so. This is less a rigid requirement than it is a rough indication, and all parties appearing will be given sufficient time to present their views.
24. We will shortly request an indication from all parties as to the amount of time they require for their presentation so that the WCC Hearing Administrator can make the necessary arrangements.

Site and locality visits

25. We are familiar with the site and general locality.
26. We expect that we will need to undertake more detailed site and locality visits both before and after the hearing. In that respect, if any party has a desire for us to visit particular sites/localities they should advise the WCC Hearing Administrator.

Next steps

27. As summarised above we now suggest that the applicant endeavours to meet with submitters and Council to discuss issues raised in submissions and resolve any issues, where practical, **by 16 August , 2022** at the latest and update the Hearing Administrator on that date as to progress. Certainly, the prospect of parties fielding expert evidence should be a matter for discussion during this engagement. We will then issue any directions, as required, relating to expert conferencing and the pre-circulation of evidence.

28. We also request that any party wishing us to visit a particular site or locality advise the WCC Hearing Administrator by **16 August, 2022**.

29. The WCC Hearing Administrator can be reached at Krystle.Leen@wcc.govt.nz or by ringing 021 193 4081.

DATED this 21st day of July 2022



Helen Atkins
Chair – Independent Hearings Panel

For and on behalf of:
Commissioner Angela Jones
Commissioner DJ McMahon