

Before the Independent Hearings Panel
Wellington City Council

under: the Resource Management Act 1991

in the matter of: Submissions and further submissions in relation to the
Wellington City Proposed District Plan

and: Wrap Up Hearing – ISPP Provisions

and: **Retirement Villages Association of New Zealand
Incorporated**

Submitter 346

and: **Ryman Healthcare Limited**

Submitter 350

Statement of Evidence of **Nicola Marie Williams** for behalf of
the Retirement Villages Association of New Zealand Incorporated
and Ryman Healthcare Limited

Dated: 5 September 2023

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**STATEMENT OF EVIDENCE OF NICOLA MARIE WILLIAMS ON BEHALF
OF THE RETIREMENT VILLAGES ASSOCIATION OF NEW ZEALAND
INCORPORATED AND RYMAN HEALTHCARE LIMITED**

INTRODUCTION

- 1 My full name is Nicola Marie Williams and I am an Associate with Mitchell Daysh Limited. Mitchell Daysh Limited is a specialist environmental consulting practice with offices in Auckland, Hamilton, Napier, Nelson and Dunedin.
- 2 I have previously provided evidence dated 12 June 2023 for Hearing Stream 4 – Centres. I confirm my experience as set out in paragraphs 2 – 6 of that evidence.
- 3 I also reconfirm that I have read and agree to comply with those parts of the Environment Court Practice Note that bear on my role as an expert witness, in accordance with paragraph 10 of that evidence.
- 4 I have prepared this statement of evidence at the request of the Retirement Villages Association of New Zealand Incorporated (*RVA*) and Ryman Healthcare Limited (*Ryman*).
- 5 In preparing this statement of evidence, I have reviewed:
 - 5.1 National Policy Statement on Urban Development 2020 (*NPSUD*);
 - 5.2 The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (*Enabling Housing Act*);
 - 5.3 Wellington Regional Policy Statement (*WRPS*);
 - 5.4 Proposed Wellington District Plan (*Proposed Plan*) and accompanying Section 32 Report;
 - 5.5 Submissions and further submissions on behalf of the RVA and Ryman;
 - 5.6 The Section 42A report, ISSP Wrap Up and Integration Hearing - Part 2: Design Guides and relevant appendices, dated 22 August 2023 (*section 42A report*);
 - 5.7 The statement of expert evidence of Dr Farzad Zamani on behalf of Wellington City Council (*Council*); and
 - 5.8 The legal submissions and evidence on behalf of the RVA and Ryman from Hearing Stream 1 (Strategic Direction), Hearing Stream 2 (Residential) and Hearing Stream 4 – Centres, and in particular the evidence of my colleague Dr Mitchell presented as part of Hearing Streams 1 and 2.

SCOPE OF EVIDENCE

- 6 This statement of evidence will:
- 6.1 Provide a recap on the evidence presented by Dr Mitchell in relation to the Residential Design Guide (*RDG*)
 - 6.2 Comment on the planning rationale for applying the *RDG* and the Centres and Mixed-Use Design Guide (*CMUDG*) (together, *Design Guides*) to retirement villages, having reflected on the conferencing work and related evidence of the urban design specialists;
 - 6.3 Assess the specific application of the Design Guides in relation to retirement villages; and
 - 6.4 Set out my conclusions.
- 7 My evidence focuses on the *RDG* and *CMUDG*, as addressed in the *RVA* and Ryman submissions.
- 8 A detailed introduction to Ryman and the *RVA* and their interest in the Proposed Plan has been provided in legal submissions and evidence presented in previous hearings.

PREVIOUS EVIDENCE ON DESIGN GUIDES

- 9 The submissions by the *RVA* and Ryman sought the deletion of the Design Guides across the residential and business zones.
- 10 As explained in the evidence of Dr Mitchell,¹ the planning regime proposed within the *RVA* and Ryman submissions was intended to manage the effects associated with the development of retirement villages in line with the objectives and policies of the *NPSUD* and *MDRS*. The directives in those provisions generally require a more enabling approach for intensification with less restriction on built form.
- 11 The applicability of the *RDG* was addressed in the Stream 2 - Residential evidence of Dr Mitchell. In summary, Dr Mitchell considered that application of the *RDG* as proposed by Council was inappropriate because of:²
- 11.1 The more permissive and enabling policy context and the material change in the assessment and relevance of density effects brought about by the Enabling Housing Act. The original *RDG* contained a long list of requirements, many of which would have been viewed as mandatory in a resource consent process. Some of those matters were not related to density effects

¹ See paragraphs 13 – 16, Statement of evidence of Dr Mitchell, dated 7 February 2023.

² See paragraph 13, Statement of evidence of Dr Mitchell, dated 16 March 2023.

and/or covered matters addressed in other parts of the Proposed Plan; and

- 11.2 The RDG did not provide for bespoke residential uses and activities, such as retirement villages, with unique functional and operational needs.
- 12 Dr Mitchell's evidence also considered that a direction to fulfil the 'intent' of the RDG would cause substantial debate in consenting processes, manifesting in extensive urban design assessment work, unnecessary further information requests, increased processing costs and delays.³
- 13 In response to questions from the Panel during Hearing 2, Dr Mitchell prepared supplementary evidence which addressed whether the retirement village policy and rules provide sufficient coverage to assess effects (such that the RDG should not apply to retirement villages). Dr Mitchell considered how to amend the proposed matters of discretion to ensure that all relevant effects can be appropriately managed. He recommended amendments to the matters of discretion to refer to additional built form standards and to refer to particular urban design matters covered in the MDRS policies. He concluded that this approach would provide certainty and ensure the effects of concern are appropriately managed.⁴
- 14 I concur with the evidence of Dr Mitchell in terms of the applicability of the RDG to a retirement village. I agree that the regime originally proposed by the RVA and Ryman will both enable retirement village development and encourage high quality built form in line with Policy 5 of the MDRS. That said, I acknowledge a new alternative planning approach that has arisen since Dr Mitchell's evidence is to incorporate the revised Design Guides, which I consider further below.

PLANNING RATIONALE FOR APPLYING DESIGN GUIDES TO RETIREMENT VILLAGES

- 15 The section 42A report recommends that the Design Guides should remain a statutory component of the Proposed Plan.⁵ I accept that there has been a great deal of work undertaken by the urban design experts to improve the Design Guides and there is now much greater alignment between those experts on the revised Design Guides. However, I do not consider the review process has addressed all of my concerns in relation to the applicability of the Design Guides to retirement villages.
- 16 I note that:

³ See paragraph 39, Statement of evidence of Dr Mitchell, dated 16 March 2023.

⁴ See paragraphs 9-13, Supplementary evidence of Dr Mitchell, dated 26 April 2023.

⁵ See paragraphs 28 – 34, Section 42A Report – Part 2: Design Guides, dated 22 August 2023.

- 16.1 The evidence presented by Mr Brown on behalf of Ryman and by Ms Owens and Mr Collyns on behalf of the RVA for Streams 1 and 2 highlights the unique characteristics of retirement villages and how they are different from typical residential developments. These unique characteristics mean it is difficult for retirement villages to be designed in a way that is consistent with the full suite of guidelines in the Design Guides.
- 16.2 The evidence of Ms Rebecca Skidmore for this hearing identifies particular elements of the Design Guides that she considers are not appropriate to be applied directly to retirement villages. In her opinion, the Design Guides should be applied to retirement villages only in relation to the way retirement villages interface with the surrounding public realm and adjacent properties (and not internal site design, function and amenity). Even in relation to the external interface, Ms Skidmore considers the Design Guides should not be strictly applied to retirement villages and some flexibility is required.
- 16.3 The evidence of Dr Mitchell (summarised above) addressed the issues with the proposed application of the Design Guides to retirement villages. In my opinion, there is still a significant element of subjectivity in the updated guidelines relating to the external design and layout of buildings. This subjectivity results in a lack of certainty when retirement village developers are designing new villages as to the likely requirements of the consenting process.
- 16.4 I acknowledge that multi-unit developments are more complex and it is appropriate for the Proposed Plan to contain controls beyond requiring compliance with the standards. However, I consider the proposed retirement village planning regime does allow decision-makers to consider all of the relevant effects. Therefore, I consider it is not appropriate to apply additional controls that provide broad discretion to consider the Design Guides.
- 17 In conclusion, I consider the section 42A report recommendations in relation to the application of the Design Guides to retirement villages are not appropriate as they:
- 17.1 Seek to restrict and control the built form in a manner that is inconsistent with the NPSUD and Enabling Housing Act and the functional and operational needs of retirement villages; and
- 17.2 Will result in unnecessary consenting complexity.
- Retirement Village policy**
- 18 The section 42A report writer notes that the updated Design Guides include an 'intent' section. The section 42A report writer therefore

considers the direction to 'fulfil the intent' should be retained in the policies of the Proposed Plan as the intent of the Design Guides is now clearly stated.

- 19 I acknowledge that Ms Skidmore agrees the Introduction sections in the Design Guides provide clarity as to how each of the Guides is to be applied. However, I do not agree with the section 42A report writer that the Design Guides should be referred to in the retirement village policy. As explained above, the general application of the full suite of guidance in the Design Guides to retirement village developments is not appropriate. Further, the amended retirement village specific policy MRZ-P7 included in the supplementary evidence of Dr Mitchell⁶ appropriately covers the full suite of relevant effects. I do not consider it is necessary for this policy to require that a retirement village development also 'fulfils the intent' of the relevant Design Guide. There are also several other policies which describe the expectations regarding quality urban design outcomes.

Retirement Village matters of discretion

- 20 In my opinion, the application of the Design Guides to retirement villages is more appropriately addressed in the relevant matters of discretion, where a more focused assessment can occur. In my view, this approach can achieve a better balance between enabling retirement village development and "encouraging" high quality built form, as required by policy 5 of the Enabling Housing Act. I also consider it would assist with certainty to specifically refer to the sections of the Design Guides that Ms Skidmore considers are potentially relevant (ie, those relevant to external interface matters rather than internal layout).
- 21 I recommend the following amendments to the matters of discretion for retirement villages to capture the relevant sections of the Design Guides in relation to the management of external effects while acknowledging that they should not be strictly applied to retirement villages (in red text):

4. For retirement villages:

i. In addition to paragraph 1, the extent and effect of non-compliance with any of the following standards as specified in the associated assessment criteria for any infringed standard (including any cumulative effects of all standard infringements):

a. MRZ-S6

b. MRZ-S7

c. MRZ-S8

⁶ See Appendix A - Statement of Supplementary Evidence of Dr Mitchell, dated 26 April 2023.

d. MRZ-S9

e. MRZ-S10

ii. The effects of the retirement village on the safety of adjacent streets or public open spaces;

iii. The extent to which articulation, modulation and materiality addresses adverse visual dominance effects associated with building length;

iv. The effects arising from the quality of the interface between the retirement village and adjacent streets or public open spaces;

v. When assessing the matters in 1(i) – (iv), and 3(i) – (iii), consider:

a. The need to provide for efficient use of larger sites; ~~and~~

b. The functional and operational needs of the retirement village; ~~and~~

c. ~~Subject to (v)(b), the following outcomes and design guidance contained in the Residential Design Guide (where relevant):~~

i. ~~Under the theme of 'Responding to the natural environment in an urban context': Design guidance G2, G3 and G4;~~

ii. ~~All of the design outcomes and design guidance listed under the theme of 'Effective public-private interface';~~

iii. ~~Under the theme of 'Well-functioning sites': Design guidance G15, G16, and G18;~~

iv. ~~Under the theme of 'High quality buildings': Design outcomes O12 and O14 and Design guidance G34, G35, G38, G39, G40;~~

vi. The matters in MDRZ P2, PP4, P7, P9, P10 and PX [New policies]; ~~and~~

vii. The positive effects of the construction, development and use of the retirement village.

For clarity, no other rules or matters of discretion relating to the effects of density apply to buildings for a retirement village (except in relation to natural hazards).

Centres and Mixed Use Design Guide

- 22 The section 42A report writer recommends that the submission of the RVA and Ryman in relation to the CMUDG be rejected based on Dr Zamani's evidence regarding the potential repurposing of a retirement

village to a multi-unit development.⁷ Dr Zamani states “*it cannot be guaranteed that retirement villages will retain the retirement village use*”. Dr Zamani considers that applying the Design Guide will ensure these developments are designed to provide a good standard of amenity and be adaptable for future uses.⁸

- 23 I consider that the comments of Dr Zamani highlight the misunderstanding of the nature of retirement villages. As explained by Ms Owens, retirement villages are registered under the Retirement Villages Act 2003 and cannot easily be converted to a typical residential multi-unit development.⁹ In addition, the evidence of Ms Owens, Mr Brown and Professor Kerse explained the functional and operational needs of retirement villages and the specific needs of the residents, which are different from a typical multi-unit development.¹⁰ In addition, I note that a retirement village would be subject to a range of resource consent conditions relating to the use and development of the site for retirement village purposes. This means that any conversion to another land use would most likely be required to seek a new consent (allowing for further assessment) or may be a permitted activity (and therefore appropriate without further assessment). I therefore disagree that the Design Guides needs to be applied to retirement villages because of potential future conversion to other uses.
- 24 As outlined in my evidence for Hearing Stream 4¹¹, the tailored matters of discretion allow for the scale, design and layout of the retirement village development. I consider these provisions provide a much clearer rule framework than provisions requiring assessment against the full suite of the CMUDG. In some instances, the CMUDG guidelines may have limited relevance to a retirement village for the reasons described above.
- 25 Having reviewed the amended CMUDG and the evidence of Ms Skidmore, I have set out my recommended amendments to the matters of discretion for retirement villages in the commercial and centre zones:
1. *The matters in LCZ-P6, LCZ-P7, LCZ-P8, LCZ-P9, LCZ-P10 and PX new policies;*
 2. *The extent and effect of non-compliance with LCZ-S1, LCZ-S2, LCZ-S3, LCZ-S4, LCZ-S5, LCZ-S6, LCZ-S7, LCZ-S8, LCZ-S9, LCZ-S10 and LCZ-S11 and LCZ-SX (Boundary setback from a rail corridor);*

⁷ Statement of evidence of Dr Zamani, paragraphs 39-40, dated 22 August 2023.

⁸ Statement of evidence of Dr Zamani, paragraph 40, dated 22 August 2023.

⁹ Statement of evidence of Dr Zamani, paragraph 40, dated 22 August 2023.

¹⁰ Statement of evidence of Ms Owens, paragraphs 27 – 35, dated 24 March 2023.

¹¹ Statement of evidence of Ms Owens, dated 24 March 2023, paragraphs 17 and 22. Statement of evidence of Mr Brown dated 24 March 2023, paragraphs 12, 14 and 22. Statement of evidence of Professor Kerse dated 16 March 2023, paragraphs 104 – 116.

3. *The extent and effect of any identifiable site constraints;*
4. *Construction impacts on the transport network;*
5. *The availability and connection to existing or planned three waters infrastructure; and*
6. *In relation to the effects of the retirement village on adjacent private properties, streets or public open spaces and subject to the functional and operational needs of the retirement village, the following outcomes and design guidance contained in the Commercial and Mixed Use Design Guide:*
 - i. Under the theme of 'Responding to the natural environment in an urban context': Design guidance G2, G3 and G4;*
 - ii. All of the design outcomes and design guidance listed under the theme of 'Effective public-private interface';*
 - iii. Under the theme of 'Well-functioning sites': Design guidance G17, G19 and G21; and*
 - iv. Under the theme of 'High quality buildings': Design outcomes O12, O14 and Design guidance G32, G33, G35, G36 and G37.*

CONCLUSION

- 26 For the reasons set out in this evidence, I recommend:
 - 26.1 The retirement village policy does not refer to the Design Guides; and
 - 26.2 The retirement village matters of discretion are amended as set out above to allow for consideration of the relevant Design Guides where relevant and appropriate.

Nicola Williams
5 September 2023