

**BEFORE THE INDEPENDENT PANEL  
OF KAPITI COAST DISTRICT COUNCIL**

**IN THE MATTER** of the Resource Management Act 1991 ("**RMA**")

**AND**

**IN THE MATTER** of Private Plan Change 4 ("**PC4**") to the Kāpiti Coast  
District Plan ("**Plan**") - 65 and 73 Ratanui Road,  
Otaihanga

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**CLOSING SUBMISSIONS ON BEHALF OF WELHOM DEVELOPMENTS LIMITED**

**4 MARCH 2025**

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## 1. INTRODUCTION

- 1.1 These closing submissions are filed on behalf of Welhom Developments Limited, a subsidiary of Summerset Group Holdings Limited (together known as "**Summerset**"). Summerset is the Applicant for PC4 ("**Plan Change**"), which was lodged in December 2024, and seeks to rezone the site at 65 and 73 Ratanui Road, Paraparaumu ("**Site**") from Rural Lifestyle Zone to General Residential Zone and provide for the establishment of a retirement village.
- 1.2 These submissions address the key matters arising during the hearing.
- 1.3 Summerset reiterates the comments made orally at the end of the second day of the hearing:
- (a) Summerset acknowledges and appreciates the efforts of the Council team and in particular the reporting planner, Ms Sweetman, for the constructive approach taken throughout the processing of the Plan Change request.
  - (b) Summerset appreciates the effort made by submitters to take time out of their day to attend the hearing, and acknowledges that change can be challenging, particularly given that there is not a specific development proposal with specific mitigation to consider.

## 2. UPDATED PROVISIONS

- 2.1 Following helpful suggestions from the Hearing Panel and Ms Sweetman, Mr McDonnell has updated the Development Chapter to refine the provisions and ensure their practical workability. A copy of the updated provisions is **attached** as **Appendix A**. These amendments primarily respond to the matters raised during the hearing process and reflect a collaborative approach to achieving an appropriate planning framework for the Site.
- 2.2 Prior to the hearing, Summerset took on the advice from Ms Sweetman and has amended the provisions to prevent the unintended consequence that buildings not complying with height and bulk standards in GRZ-R33 would be considered as controlled activities. As drafted, the provisions now provide for restricted discretionary activity status in this situation.

- 2.3 At the suggestion of Commissioner Wratt, Mr McDonnell has combined Policies DEV3-P1 and DEV3-P2 into a single consolidated policy. This amendment eliminates unnecessary repetition and improves the clarity and coherence of the policy framework. Additionally, the following amendments have been made to Policy 1:
- (a) The phrase "generally consistent with" has been updated to "undertaken in general accordance with", as both Mr McDonnell and Ms Sweetman determined this is the best terminology for plan consistency while allowing appropriate flexibility.
  - (b) Two subsections have been added which provide for site servicing, including access to adjacent sites and provision of water supply, wastewater and stormwater drainage systems, and underground power and telecommunications, to address the potential for a retirement village development to occur without the need for a corresponding subdivision consent.
- 2.4 In response to Kapiti Coast District Council ("**Council**") and submitter concerns raised at the hearing, the boundary treatment provisions in Policy 1 have been significantly restructured and amended. It became clear through the hearing that the desire for additional certainty by all parties at the plan change stage was becoming increasingly fraught in terms of the drafting of policy 1.
- 2.5 Policy 1 as now proposed recognises that further assessment will be required at resource consent stage of boundary treatment around the entire perimeter of the Site.<sup>1</sup> This provides greater flexibility for consideration of the particular development proposal and sensitivity at that time of each interface. It also expressly requires consideration of the scale of development in proximity to the interface. This was designed to address the relationship between the extent of screening compared to the height of development, which was raised at various times during the hearing.
- 2.6 As a result of the reframing of this policy, the issue during the hearing as to whether filtering of views would be from other "sites" or "dwellings" or "curtilages" becomes moot.
- 2.7 The Structure Plan has also been correspondingly updated to remove specific mapping of boundary treatment areas reflecting that boundary treatment consideration will now extend around the entire perimeter.

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Policy DEV3-P1(6)(c).

### 3. KEY OUTSTANDING ISSUES WITH COUNCIL

3.1 At the start of the hearing, three key areas of disagreement remained between Somerset and Council:

- (a) Boundary treatment at the Site.
- (b) Activity status of the retirement villages at the Site.
- (c) Treatment of the northern dunes.

3.2 By the conclusion of the hearing, Somerset and Council were able to reach agreement on the issue of boundary treatment. Therefore, the two discrete issues remaining are the activity status of retirement villages in the Plan Change Site and treatment of the northern dunes.

#### *Boundary treatment*

3.3 Somerset's experts and Ms Sweetman agree that requiring a minimum 5m buffer is not appropriate. As discussed in Somerset's opening legal submissions, detailed design (including buffer widths) is best determined at resource consent stage,<sup>2</sup> where the specific characteristics of the development and its interfaces with neighbouring properties can be properly assessed and addressed through conditions of consent.

3.4 Somerset has taken on board the concern that the more prescriptive approach included in the plan provisions at the outset of the hearing had the potential for unders and overs in terms of mitigation.

3.5 Somerset has taken on board the feedback. Its solution is to move away from prescribed interface treatment. Instead, the boundary treatment at all boundaries will be determined at resource consent stage – ceding certainty (at the plan change stage) in favour of retaining the flexibility to design treatments that respond to actual site conditions, neighbour preferences, and the scale of development at each interface. Somerset is confident that the provisions and Structure Plan, as drafted, will ensure appropriate boundary treatments are implemented and that meaningful engagement with neighbours can occur to determine their preferred treatment options.

3.6 A further issue that arose during the hearing was compliance with the Medium Density Residential Standards ("MDRS"). The MDRS generally supports development of three homes of up to three storeys on each residential site (the

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<sup>2</sup> Legal submissions at [4.8].

"3 by 3 rule"), without the need for resource consent. The MDRS density standards are incorporated into the Kāpiti Coast District Plan and impose a minimum setback of 1-1.5m.

- 3.7 The Council can only make the MDRS density standards less enabling to the extent necessary to accommodate one or more qualifying matters ("QMs") listed in section 771 of the RMA. Section 771 establishes an exhaustive list of qualifying matters, and any departure from the MDRS must be justified by reference to one of these specified matters. There has been no suggestion that there is a relevant matter of national importance here, nor does it fit within any of the other discrete matters in section 771. Therefore, setting a minimum buffer width of 5m (or anything greater than 1.5m) in a standard is inconsistent with the MDRS. In our submission, requiring a similar fixed minimum boundary setback through a directive policy would equally fall foul of the MDRS provisions of the RMA.
- 3.8 In any event, Ms Gardiner's evidence is clear the intent of the Landscape and Visual Effects Assessment is to deliver targeted mitigation where visual sensitivity is greater, specifically at boundaries where neighbouring properties have direct views into the Site.<sup>3</sup> A blanket 5m buffer would not deliver meaningful landscape outcomes and could create an artificial edge that is inconsistent with the evolving character of the wider area.<sup>4</sup> Ms Sweetman acknowledged that after reviewing the expert evidence she would not support a 5m buffer around the Site.<sup>5</sup>
- 3.9 During the hearing, Commissioner Coombs raised the possibility of including a provision requiring the tallest buildings to be located towards the centre of the Site (either by policy direction or through a specific standard). Summerset's villages generally adopt this built form, and Summerset's current concept is for primarily single-level buildings with a central maximum two-storey building. Through the hearing, it was clear this suggestion was aimed to manage the height of the buildings in regard to the interface and its sensitivity. Summerset's proposed reframing of policy 1 addresses that issue in the context of the appropriate interface treatment. This also avoids any of the potential issues associated with the MDRS.
- 3.10 Overall, in our submission, the Panel can be satisfied that the reframing of policy 1 as agreed between Ms Sweetman and Mr McDonnell is entirely

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<sup>3</sup> Evidence of Alex Gardiner at [6.12].

<sup>4</sup> Evidence of Alex Gardiner at [6.12].

<sup>5</sup> Section 42A Addendum Report at [44].

appropriate, provides consideration of appropriate treatment at all interfaces, and navigates the legal restrictions associated with the MDRS provisions.

#### *Activity Status*

- 3.11 The appropriate activity status of retirement villages on the Site remains outstanding. Summerset maintains that controlled activity status is appropriate in the context of the development, while Council contends that restricted discretionary activity status should apply.
- 3.12 Summerset maintains that controlled activity status is entirely appropriate:
- (a) As outlined in opening submissions, it is well established that where the RMA's purpose and objectives of a plan can be met by a less restrictive regime, then that regime should be adopted.<sup>6</sup> As set out in our primary legal submissions, controlled activity status for a retirement village is appropriate here, where a comprehensive plan change process has already carefully considered and established the fundamental appropriateness of the land use for this location.<sup>7</sup>
  - (b) At the hearing, Ms Sweetman confirmed she did not have concerns regarding Council's ability to decline a resource consent application for a compliant retirement village. In our submission, that is a critical concession.
  - (c) Similarly, there is no suggestion by Council that notification is a material issue here.
  - (d) Rather, Ms Sweetman's concerns relate to the ability for Summerset and Council to "negotiate" and assess issues at the consent stage. With respect, this is not a principled basis for requiring restricted discretionary activity status. If Council's primary motivation for seeking restricted discretionary status is to maintain leverage over Summerset at resource consent stage, this is contrary to the purpose and principles of the RMA. The RMA does not contemplate that the threat of decline be used as a negotiating tool.
  - (e) Ms Sweetman also states in her comment in the attached provisions that the use of "generally" is a good indicator that there will be more assessment undertaken at consent stage, which in her mind makes

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<sup>6</sup> Legal submissions at [4.5](c).

<sup>7</sup> Legal submissions at [4.5](a).

controlled activity status inappropriate. Again, with respect, we disagree. Controlled activity status does not obviate the need for assessment. Rather, controlled activity status is about appropriately robust and detailed consideration of appropriate conditions of consent. That seems to be the very issue Ms Sweetman is concerned about.

- (f) Council maintains the view set out in the Section 42A Report that restricted discretionary activity status is appropriate as there are a number of matters which require discretion at the resource consent stage to a degree that is not appropriate for a controlled activity.<sup>8</sup> However, in our submission the level of detail required in a matter of control or matter of discretion are equivalent. The difference is whether decline is appropriately retained as a possibility. Ms Sweetman has accepted that it is not.
- (g) Mr Heath gave evidence at the hearing that development of the Site as a retirement village would generate greater economic benefits than contemplated by a typical residential development. This includes greater provision of housing than typical residential subdivision, substantial construction-phase employment and ongoing operational employment. Additionally, retirement villages provide essential housing supply to an ageing population, enabling older New Zealanders to age in place within their communities with appropriate care and support. At the hearing, Ms Sweetman acknowledged the difference in economic benefits between retirement villages and residential developments is relevant to determining activity status. It is Summerset's submission that the greater economic benefits associated with a retirement village compared to residential use weigh in favour of a more enabling activity status. A more enabling activity status appropriately recognises these benefits.
- (h) Controlled activity status is also consistent with the approach taken elsewhere. Notably, through Private Plan Change 29 to the Waimakariri District Plan, the Council determined that where the fundamental appropriateness of a retirement village at a particular location has been established through a comprehensive plan change process, controlled activity status is the appropriate regime for the

subsequent resource consent. A copy of that plan change decision is **attached as Appendix B**.

- (i) It is also relevant that any retirement village on the Site would inevitably require other restricted discretionary consents, including for traffic generation and earthworks. In that sense, the Council already has "leverage" in that it has the ability to consider broader effects such as those from earthworks, natural hazards and transport and has discretion to decline those consents where those effects will not be appropriately addressed.

3.13 In summary, for all of the above reasons, controlled activity status for retirement villages within the Ratanui Development Area is entirely appropriate in our submission.

*Treatment of the northern dunes*

3.14 The final discrete point of difference relates to the treatment of the northern dunes. This manifests in a subtle drafting aspect of policy 1(6)(d).

3.15 Mr McDonnell seeks the following wording (which reflects the notified wording):

development platforms that are sensitively and effectively integrated into the existing terrain along the edges of the Site, particularly at the northern and eastern edges (retaining walls will be minimised in favour of natural batters, where practicable); and

3.16 Ms Sweetman seeks that the policy should instead read:

development platforms that are sensitively and effectively integrated into the existing terrain along the edges of the Site, particularly at the northern and eastern edges (retaining walls will be minimised in favour of natural batters and consideration will be given to retaining and enhancing natural landforms, where practicable); and

3.17 In our submission, Mr McDonnell's drafting should be preferred for the reasons outlined in his evidence and the evidence of Ms Gardiner. In addition:

- (a) Council's urban design expert, Ms Popova, provided an opaque rationale for mandatory retention of the dunes.
- (b) Council's landscape expert, Ms McArthur, seemed to place weight on how she considered a retirement village operator would orient their site, and what a resident of a retirement village would be after.

With respect, the evidence of a vastly experienced retirement village operator should be preferred.

- (c) Council's ecology expert, Dr Dijkgraaf, gave evidence that the northern dunes have low ecological value. Dr Dijkgraaf acknowledged that her preference for retention was a "personal preference". With respect, personal preference is not a rational or principled basis for imposing prescriptive requirements in a district plan.
- (d) That collective evidence was not adopted by the Council's own reporting planner, Ms Sweetman. The Section 42A Report and evidence of Mr McDonnell are clear that the natural character of the dunes does not warrant protection from a planning perspective.<sup>9</sup>
- (e) To the extent that removal of the northern dunes could affect the stability of neighbouring properties, this is a matter that would require permission from the affected neighbour from a property law perspective.
- (f) Any mandatory setback from the northern boundary would also fall foul of the MDRS provisions, for the reasons outlined above.

3.18 It is therefore our submission that the notified wording in relation to the northern dunes should be preferred.

#### **4. OTHER ISSUES**

4.1 A number of other issues were raised during the hearing that we respond to briefly below.

##### *Interpretation of the RPS*

4.2 There were questions during the hearing of the planners for the Council and Summerset in relation to Policy UD-4 of the Wellington Regional Policy Statement ("**RPS**"). Summerset maintains its position that the Plan Change falls within the second priority of Policy UD-4, being planned greenfield urban development beyond existing urban zones – having been identified in Kāpiti's Growth Strategy.<sup>10</sup>

<sup>9</sup> Section 42A Report at [253] and Evidence of Torrey McDonnell at [7.55]-[7.60].

<sup>10</sup> Summersets legal submission at [3.11]-[3.13].

- 4.3 As set out in Summerset's legal submission, even if the plan change is not properly considered "sequenced and planned" development under Policy UD-4(b), it still meets the requirements of Policy UD-4(c).<sup>11</sup> Therefore, this discrete interpretative difference between Summerset and Council has no bearing on the Plan Change application and in our submission the Panel is not required to make a finding on this point.

#### *Transport*

- 4.4 During their presentation, the Foos raised concerns as to the speed limit on Ratanui Road. As set out in Mr Georgeson's evidence, this is a matter for the Council as the Road Controlling Authority. Mr Shields indicated there was no current proposal to change the speed limit along Ratanui Road. However, Summerset would support a more consistent 50km/h speed limit along Ratanui Road.
- 4.5 A number of submitters also raised concerns that the transport assessment did not consider the cumulative impacts of the nearby consented Mansell development. Mr Georgeson expressly and thoroughly addresses the impact of the Mansell development on transport issues throughout his evidence.<sup>12</sup> Both Mr Georgeson and Mr Shields conclude that the Plan Change is acceptable from a transportation engineering perspective.<sup>13</sup>
- 4.6 It is therefore our submission that there are no fundamental transport issues associated with the Plan Change and any matters can be addressed at resource consent stage.

#### *Civil engineering*

- 4.7 In regard to stormwater, Summerset is committed to meeting stormwater standards, including hydraulic neutrality. Mr Alexander and Ms Parsons (81 Ratanui Road) raised the issue of stormwater infrastructure crossing the boundary with 81 Ratanui Road and how to solve that issue. Summerset reiterates that it is committed to engaging with Mr Alexander and Ms Parsons to ensure this can be appropriately resolved.
- 4.8 During the hearing Mr Robinson gave evidence that the wastewater assessment undertaken for the Plan Change Site did not take into account the

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<sup>11</sup> Summerset's legal submissions at [3.14].

<sup>12</sup> Evidence of Mark Georgeson at [4.10], [4.11], [5.2], [5.7], [5.8], [5.9], [5.10], [5.12], [5.13], [6.2], and [6.17].

<sup>13</sup> Evidence of Mr Georgeson at [8.1] and Evidence of Colin Shields at [68]-[69].

cumulative impact of flows from the nearby consented Mansell development. Following further correspondence between Mr Robinson and Mr Thomson, attached at "**Appendix C**", both experts confirm that this does not change their conclusions that the impact of development on wastewater will be no more than minor and risk of overflow is low.

- 4.9 It is therefore our submission that there are no fundamental civil engineering issues associated with the Plan Change and any matters can be addressed at resource consent stage.

*Reverse sensitivity*

- 4.10 At the hearing, a number of submitters raised issues regarding reverse sensitivity effects on their properties.
- 4.11 In regard to reverse sensitivity, Ms Sweetman in her Section 42A Report states that the Plan Change provisions coupled with the existing district plan provisions (eg noise and odour) will minimise any reverse sensitivity and other effects on the surrounding area.<sup>14</sup> At the hearing Ms Sweetman explained that other reverse sensitivity concerns are already regulated through legislation – such as the Arms Act 1983 regulating the use of firearms on private property. Somerset agrees.
- 4.12 It is therefore our submission that the district plan and Plan Change provisions, as well other regulatory means, will appropriately manage any potential reverse sensitivity effects.

*Construction effects*

- 4.13 A number of submitters raised concerns regarding potential construction related effects (eg noise, vibration, dust and erosion and sediment control) on neighbouring properties.
- 4.14 Mr Thomson explained in his evidence that there are a number of provisions within the district plan, as well as other regulations, which Somerset must comply with during the construction phase.<sup>15</sup> In our submission, all construction related effects can be appropriately dealt with through existing provisions and at resource consent stage.

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<sup>14</sup> Section 42A Report at [330]-[331].

<sup>15</sup> Evidence of Mark Thomson at [5.36]-[5.40].

*Wetland classification*

- 4.15 The only area of disagreement between Council and Summerset's ecologist is the degree of naturalness of the wetlands two and 17 on the Plan Change Site.
- 4.16 Mr Keesing maintains, based on discussions with the landowner, that these are modified wetlands. Dr Dijkgraaf considers them to be of greater naturalness – though accepting they are not high value features, and also highly deferential to whatever the view of Greater Wellington Regional Council might be. However, both experts agree that treatment of the wetlands is best determined at resource consent stage.
- 4.17 It is therefore our submission that the classification of the wetlands and appropriate offsetting is a matter best determined at resource consent stage.

**5. CONCLUSION**

- 5.1 For the reasons set out in these submissions, Summerset submits the Plan Change should be approved with the provisions as **attached**. The comprehensive plan change process has established that rezoning the Site from Rural Lifestyle Zone to General Residential Zone, with specific provision for a retirement village, is most appropriate to achieve the purpose of the RMA, and the objectives of the District Plan.
- 5.2 In relation to the outstanding matters of disagreement with Council, controlled activity status for retirement villages is the appropriate activity status, reflecting that the fundamental appropriateness of this land use has been determined through this plan change process. The proposed provisions appropriately address the treatment of the northern dunes, without the need for prescriptive retention requirements. All other matters raised by submitters can be appropriately addressed through existing district plan provisions and at resource consent stage.
- 5.3 The Plan Change will enable the delivery of quality retirement living options for the Kāpiti Coast community, generating significant economic and social benefits consistent with the RMA's purpose.

5.4 We respectfully request that the Plan Change be approved based on the provisions **attached** to these submissions at **Appendix A**.

**DATED** 4 March 2026

**Daniel Minhinnick / Anna Riddle**  
Counsel for Welhom Developments Limited