

*under:* the Resource Management Act 1991

*in the matter of:* Submissions and further submissions in relation to Plan Change 2 to the Kāpiti Coast District Plan under the Resource Management Act 1991, Schedule 1 Subpart 6.

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

*Submitter 196*

*and:* **Ryman Healthcare Limited**

*Submitter 197*

Statement of Evidence of **Gregory Michael Akehurst** on behalf of the Retirement Villages Association of New Zealand Incorporated and Ryman Healthcare Limited

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Dated: 10 March 2023

**STATEMENT OF EVIDENCE OF GREGORY MICHAEL AKEHURST ON  
BEHALF OF THE RETIREMENT VILLAGES ASSOCIATION OF NEW  
ZEALAND AND RYMAN HEALTHCARE LIMITED**

**QUALIFICATIONS AND EXPERIENCE**

- 1 My full name is Gregory Michael Akehurst. I have a Bachelor of Arts, majoring in Geography and a Bachelor of Commerce, majoring in Economics from the University of Auckland. I am a founding Director of Market Economics Limited ("ME"), an independent research consultancy. I have more than 25 years of consulting and project experience, working for commercial and public sector clients.
- 2 I have developed models to assess community needs and assess allocation networks set up to meet those needs. I have previously given expert witness evidence in a number of local government hearings, the Environment Court and provided affidavits as an expert for the High Court in the area of development contributions (DCs).
- 3 My experience also includes developing models to assess the economic impact and particularly the labour requirements for major construction projects, including the Christchurch Earthquake rebuild, the Auckland construction and infrastructure sector, the Auckland Airport development and nationally for the construction sector overall. I have also carried out major studies of Auckland's residential and industrial land requirements for both private developers and Auckland Council including providing Auckland's Independent Hearings Panel with advice on business land requirements as part of the Proposed Auckland Unitary Plan process.
- 4 I drafted MBIE's guidance document for local councils needing to meet the National Policy Statement for Urban Development Capacity (NPS-UDC) requirements in respect of providing capacity for business land for economic growth. And have led a number of Housing and Business land assessments under both the NPS-UDC and National Policy Statement on Urban Development (NPS-UD) for high growth councils (Hamilton and Future Proof, Queenstown Lakes District, Tauranga City, Auckland City and others).
- 5 I have a significant amount of experience in assessing the mechanics and rationale behind DC (and financial contribution) policies. In particular I have assisted both private developers and local authorities in the drafting and review of DC policies, including the equitable allocation of funding between existing and growth households, and the definition and application of catchment-based funding structures. I have carried out this work for the legacy councils in Auckland: North Shore City, Waitakere City and Auckland City as well as assisting with work for Rodney District. I have

assessed DC policies in Taupō District for Genesis Energy, Christchurch City and in Tasman District.

- 6 I provided evidence on behalf of the Developers Group to the High Court in respect of the *Developers Group v North Shore City Council*.<sup>1</sup> My evidence assisted in overturning the DCs policy at the time, on the basis that the council had failed to adequately account for demand and the distribution of benefits between existing users and growth.
- 7 In 2015 I provided evidence on behalf of Mapua Joint Venture in their objection to a DC charge imposed by Tasman District Council, which I understand is the only reported decision under the DC objections process in the Local Government Act 2002 (*Act*).
- 8 I prepared evidence on behalf of Ryman Healthcare in their successful application to review the DC charge levied on the village developed at 75 Valley Road, Pukekohe. Ryman objected on the grounds that council had failed to properly take into account the characteristics of Ryman's comprehensive care retirement village and its occupants. I developed a number of surveys of resident's activities and used that to show low levels of demand on council infrastructure. This proved successful in reducing the levy charged.
- 9 Recently, I prepared analysis and presented to Auckland Council on behalf of Ryman Healthcare Limited (*Ryman*), the Retirement Villages Association of New Zealand Incorporated (*RVA*), Kiwi Development, Fulton Hogan, Oyster Capital, Drury Crossing Ltd and others on the Drury DCs amendments to the Auckland Unitary Plan. In this instance, Auckland Council's model failed to account for differences in consumption of infrastructure and other issues around land price inflation and impact on development viability. Council are now reviewing this model.

#### **CODE OF CONDUCT**

- 10 Although these proceedings are not before the Environment Court, I have read the Environment Court's Code of Conduct for Expert Witnesses, and I agree to comply with it as if these proceedings were before the Court. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

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<sup>1</sup> *NEIL Construction Limited v The North Shore City Council* (High Court, CIV-2005-404-4690, 21 March 2007).

## **SCOPE OF EVIDENCE**

- 11 My evidence addresses:
  - 11.1 Relevant statutory and economic principles;
  - 11.2 Kāpiti Coast District Council's (*Council*) proposed changes to the Financial Contributions (*FCs*) policy as a component of Proposed Plan Change 2 (*PC2*); and
  - 11.3 Discussion on the implementation issues associated with the *FCs*.

## **SUMMARY OF EVIDENCE**

- 12 Council has proposed changes to its *FCs* policy as part of *PC2*. The changes allow Council to collect *FCs* (in the form of land or money or both) such that it is able to avoid, remedy, mitigate or offset any adverse environmental effects that might arise as a by-product of development.
- 13 I understand that *RVA* and *Ryman* oppose (in part) the *FCs* provisions contained within *PC2*. Essentially, I understand the *RVA* and *Ryman*'s position to be that the methodology for charging *FCs* is unclear and should be clarified. It should also acknowledge that retirement village residents either create no demand or create substantially reduced demand on Council infrastructure compared with the average population in relation to reserves, recreation and community facilities, transport, water and wastewater. This reduced demand applies to both infrastructure installed in anticipation of demand, and infrastructure yet to be installed.
- 14 This is because (based on the *RVA* and *Ryman* evidence):
  - 14.1 For reserves, recreation and community facilities, retirement village residents are significantly older than the general retired population and the population as a whole. Many residents have reduced mobility and are frail. To ensure quality of life and access to appropriate amenities for this type of resident, retirement villages provide a wide range of social and recreational amenities within each village. The combination of these factors means very low demand for council recreation and community facilities and reserves. The demand is substantially lower than an average residential user. Independent residents may place some demand on community infrastructure but residents in care place little to no demand.
  - 14.2 These reduced activity levels are reflected in significantly reduced traffic volumes generated by the villages overall and

on a per retirement unit basis. Residents are making far fewer trips to access; parks, reserves, sportsfields and recreational facilities of any sort than the average person. In addition, they make far fewer trips to eat out, to shop, to attend concerts, cinemas and museums per head than the average resident. Traffic movements are generally off peak.

- 14.3 Finally, due to the nature and age of the residents their consumption of water and generation of wastewater is also significantly reduced on a per capita basis. Also due to commercial kitchens and laundries in retirement villages, many of the residents do not cook their own meals or use their own washing machines.
- 15 It is not clear to me from the PC2 documentation how usage or load differences, such as those present in retirement villages (on a per dwelling basis) would influence the amount of FCs Council will be seeking. The provisions do not specify a formula that might allow developers ahead of time to calculate the FCs owed ahead of development. Rather, the proposal will require individual assessments to be made each time to determine the extent to which the development generates adverse effects that cause Council to spend money to avoid, remedy, mitigate or off-set them. I do not support this approach, which is inefficient and unclear.
- 16 The PC2 provisions would allow for Council to collect FCs with respect to impacts on
- 16.1 open spaces and reserves;
  - 16.2 off-site infrastructure;
  - 16.3 significant heritage and ecological features; and
  - 16.4 riparian margins.
- 17 For each of these aspects, it is important that the PC2 provisions differentiate between households in general and retirement units on the basis of differences in usage patterns – not simply reductions based on a lower average occupancy. And, as noted, a clear methodology for determining contributions needs to be provided to set this out.
- 18 I note the RVA and Ryman have raised concerns about ‘double dipping’ between the DC and FC policies. I acknowledge the Council officer has stated this will not occur, as the FC provisions state that this outcome is not allowed. I still have concerns with this approach, as in practice, the distinction between what is covered by a DC policy and what is not may not be sufficiently clear. This is because Council infrastructure networks are interconnected. In that context,

I am concerned that overlaps between FCs and DCs will be inevitable, and charging of FCs will therefore lead to challenges relating to double dipping. I consider the preferred and more robust approach would be for Council to undertake a more holistic assessment of infrastructure needs and the distribution of costs to beneficiaries.

### **ECONOMIC PRINCIPLES RELEVANT TO FINANCIAL CONTRIBUTION CHARGES**

- 19 Councils are tasked with providing social and community infrastructure to meet the needs of their communities. Demand for facilities and other community infrastructure is a “derived demand”. This means that the demand is not for the facilities themselves. Rather, it is to carry out activities and to participate in events that are accommodated by the community infrastructure. For example, a requirement for a basketball court is due to demand by residents to play the game of basketball, a requirement for reserves is to engage in passive and active forms of recreation such as walking or exercising a dog or oneself.
- 20 Therefore, a council setting a FC policy regime needs to understand how the community engages in activities in order to determine the number, scale and location of facilities needed to meet community demands and usage.
- 21 In addition to the direct usage of infrastructure and reserves, residents benefit from the existence value of the infrastructure and there is a public good element to the benefits residents receive. While some account needs to be made of these additional benefits, they are small relative to the direct benefits received.
- 22 Once the demand profile is established, councils need to translate it into an amount of infrastructure required (by activity group). Then as the city grows, councils can understand and predict how that growth will translate into requirements for additional infrastructure.
- 23 I note that in Professor Ngaire Kerse’s evidence she outlines that the aged cohort in Kāpiti Coast District is expected to almost double between 2018 and 2048.<sup>2</sup> This high level of growth makes it particularly important for Council to understand the level of demand this growth places on Council infrastructure to ensure resources are allocated efficiently.
- 24 Once the need for additional infrastructure is established, councils will develop a programme of works and land purchases that should ensure that the provision of new assets generally matches growth in demand such that levels of service are maintained. It is

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<sup>2</sup> Statement of evidence of Dr Kerse, paragraph 7.

acknowledged that in reality development and growth patterns may differ from the underlying assumptions of a development or FCs policy – so flexibility is allowable.

- 25 The amount of capital expenditure (once components that cover repairs and improvements in levels of services for existing community are removed) is aggregated and split between growth units. This split should be undertaken in a manner that ensures the amount paid by growth units is commensurate with the demands they place on the system.
- 26 While it is not administratively possible to align exact usage with FC (or DC) charges, and because areas over time (say a 30 year horizon) tend to aggregate towards the average, an averaging process is often used in setting FC policies and is generally appropriate. However, it is important that a council stands back from this process and assesses whether the act of averaging everything results in significant inequity and unfairness. Councils need to be able to identify groups within the community that are disadvantaged by the process (if they exist) and that this disadvantaging may cause significant harm. If that is the case, Council needs to be able to adjust its funding policies or funding allocation to alleviate this inequality.

## **KĀPITI COAST DISTRICT COUNCIL'S FINANCIAL AND DEVELOPMENT CONTRIBUTIONS POLICIES**

### **General**

- 27 Council is instigating PC2 in order to incorporate aspects of central government's requirements to accommodate more residents in Kāpiti Coast District. Specifically, to incorporate the Medium Density Residential Standards (*MDRS*) into the Kāpiti Coast District Plan. This will allow up to 3, 3 storey dwellings to be constructed on most residential sites as a permitted activity.
- 28 PC2 also proposes "*making improvements to the District Plan's financial contributions provisions*". In my opinion, it is important that any improvements to the FCs policy include improvements in estimating demand for additional infrastructure, including demands from the retirement village sector.
- 29 The changes proposed as part of PC2 to the Operative Plan do not directly specify units of demand. In FC-Table x2, (Chapter 15.0) PC2 identifies the basis of each FC (water supply systems, stormwater disposal services, wastewater disposal services, transport infrastructure and access), and the reasons for requiring FCs as well as a list of wide discretions for consideration in determining the level or nature of the FC.

- 30 The Table does not contain a direct way of estimating what the FC might be that a development generates, except that it states that an FC can be charged on the basis of having to supply additional capacity *"to meet the additional generated demand"*. I have concerns with the approach, which will be inefficient to implement given the uncertainty involved. The regime may also provide a disincentive to development given the inability for developers to undertake accurate feasibility studies given the lack of a robust assessment methodology within the policy.
- 31 There is also no common basis for resolving disagreement as to demand for and payment of cost, towards Council infrastructure. In the absence of any specifics, a potential default for Council officers may be to go back to the DCs policy where additional demand is quantified as additional residential unit equivalents (RUEs).
- 32 Looking at that, the Kāpiti Coast District Council's Long Term Plan outlines the RUE measurement units. It states that each retirement unit is equivalent to 0.6 of an RUE, or the equivalent of 0.6 of a standard house.<sup>3</sup>
- 33 The Long Term Plan outlines the rationale and states; *"Each residential unit as part of a retirement accommodation complex will be assessed at 0.6 RUE, based on an average occupancy rate of 1.5 persons, compared to the district wide occupancy rate of 2.5 persons"* (emphasis added).<sup>4</sup> There is no allowance for the significantly lower demand each of those 1.5 (on average) persons has for Council infrastructure compared with the 2.5 persons in a standard dwelling. That said, I understand that occupancy of Ryman retirement villages is 1.3 for independent units and 1 for care units, which is even lower than these figures.
- 34 Thus, there is the potential for any FC charged to the retirement village sector to be based on these ratios. However, it is not clear and therefore it is difficult for developers to know how much will be levied for their development. This approach does not meet the rigour that I consider is necessary with respect to promoting DC and FC policies.
- 35 If the Council uses the provisions that govern DCs, then it will significantly overstate the load placed on infrastructure by the retirement sector developments. Based on my experience over the past 20 years, carrying out a number of DC and FC assessments and policy analysis, supported by a number of large sample activity surveys supported by nationwide activity research, people who

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<sup>3</sup> Kāpiti Coast District Council Long Term Plan 2021-41, Table 5, page 544.

<sup>4</sup> Paragraph 103, page 545.



reside within retirement villages place a significantly lower demand on Council infrastructure than the average district resident.

- 36 Care residents (those that require the highest levels of care within the retirement sector) are more akin to hospital patients, in that they usually reside in single person rooms and have very limited mobility and independence. Generally they make very little use of council provided community infrastructure.
- 37 By way of example, using Ryman data collected in Auckland, in total, for care residents, the usage ratio for council provided parks, reserves, sports fields, open-spaces and community facilities is less than 3% of the average person. For care residents, very little use was made of community facilities. Compared to the average person, the usage equates to approximately 2.7%.
- 38 The work also confirms that for independent living residents, compared to the average person, the usage equates to less than 5%.
- 39 It is clear from this research that the average Ryman retirement village resident receives significantly less benefit from provision of open space and reserves and other community facilities than the average resident does. This is due to both the age and other physical characteristics of residents in retirement villages, and also the facilities that are provided in retirement villages. Based on the evidence of Dr Kerse and Ms Maggie Owens relating to broader demographic and retirement village characteristics, I would expect to see similar patterns across the retirement sector as a whole.

### **TRANSPORT, WATER WASTEWATER AND STORMWATER**

- 40 Similar issues will potentially occur in assessing FCs for transport, water wastewater and storm water, given the lower demands of retirement villages in these areas.

#### **Transport**

- 41 Impacts in terms of traffic and transport tend to follow usage of council community infrastructure parks and open spaces. Residents in retirement villages make far less use of the roading network based both on their age and mobility constraints and also because of the amenities provided in the villages themselves.
- 42 There are often gyms, swimming pools, gardens and sometimes sports facilities such as bowling greens and meeting rooms for clubs and activities. All contribute to a significantly lower need to make use of the roading network.
- 43 In the Auckland analysis the per-household rate worked out at approximately 30% of the average Auckland household (HUE). If

through the FCs policy, Council charge based on 60% of a standard RUE, it will be overcharging by around 2 times based on the load placed on infrastructure.

### **Water, Wastewater and Stormwater**

- 44 Demand for water and therefore wastewater from residents in retirement villages is also significantly less on a per person basis than the general public. This is due to the use of commercial kitchens to provide food for a large number of units meaning the number of residents that operate kitchens is very low.
- 45 In addition, the villages have centralised laundry services which are significantly more efficient in terms of water use than the same number of individual households carrying out their own household laundry.
- 46 In terms of other water usage, lower numbers of cars per household (on average) and centralised repairs and maintenance of buildings and grounds means efficiencies in water use and significantly less water used per unit than in the district as a whole.
- 47 Relying on a standard 0.6 of an RUE will significantly overstate water use and wastewater generation resulting in higher development levies than are justifiable.
- 48 With respect to stormwater, it is very often the case that onsite treatment or calming of stormwater flows is associated with the comprehensive developments that Ryman and others in the retirement sector build. This may not be the case with general residential development of house and land package type developments.
- 49 It is important that the actual load retirement villages put on the stormwater disposal services is assessed and incorporated into the FC policy. Relying on the 0.6 of a RUE is likely to significantly overstate this load leading to disproportionate charges applied to the retirement sector.

### **DOUBLE DIPPING**

- 50 The RVA and Ryman have raised concerns about 'double dipping' between the DC and FC policies. While at 15.1 of PC2 it states that "*Council must not require a financial contribution if it has imposed a development contribution in relation to*
- *The same development*
  - *For the same purpose, and*

- *The same level and intensity of development, and the same level of effects”*

I have concerns with the approach. In practice, the distinction between what is covered by a DC policy and what is not, may not be sufficiently clear. This is because Council infrastructure networks are interconnected.

- 51 In that context, I am concerned that overlaps between FCs and DCs will be inevitable, and charging of FCs has the potential to lead to challenges relating to double dipping.
- 52 I consider the preferred and more robust approach would be for Council to undertake a more holistic assessment of infrastructure needs and the distribution of costs to beneficiaries. This would form part of a more robust assessment of needs and benefits that would underpin the DC and FC policy that fully recognised the unique characteristics of retirement villages and set levies accordingly (as described above).

## **CONCLUSIONS**

- 53 It is clear from the research carried out in Auckland and across the country retirement villages create significantly less demand for reserves, community infrastructure, water, wastewater and traffic than the average residential dwelling due to:
- 53.1 The demographic and mobility characteristics of retirement village residents;
  - 53.2 The onsite recreational amenities and services provided by Ryman;
  - 53.3 The resulting reduced load on the transport network; and
  - 53.4 Lower levels of water consumption and wastewater generation than the average person along with (usually) onsite stormwater mitigation provided by the larger comprehensively developed villages.
- 54 Kāpiti Coast District’s FCs amendments as part of PC2, could result in development levies that are far higher than the effects of the relevant development.
- 55 I recommend that a more nuanced policy is developed that:
- 55.1 Contains a more robust methodology for determining FCs, which is able to be readily quantified and interpreted and proportionately links demands and related benefits and does not overlap with DC charges; and

55.2 Appropriately differentiates the retirement village sector from more general residential development to reflect the lower level of demand placed on Council infrastructure.

**Gregory Michael Akehurst**  
**10 March 2023**