

Before the Independent Hearings Panel
Kāpiti Coast District Council

under: the Resource Management Act 1991

in the matter of: Submissions and further submissions in relation to
Proposed Plan Change 2 to the Kāpiti Coast District Plan

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

Submitter 196

and: **Ryman Healthcare Limited**

Submitter 197

Statement of Evidence of **Philip Hunter Mitchell** on behalf of
the Retirement Villages Associated of New Zealand Incorporated
and Ryman Healthcare Limited

Dated: 10 March 2023

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**STATEMENT OF EVIDENCE OF PHILIP HUNTER MITCHELL ON
BEHALF OF RETIREMENT VILLAGE ASSOCIATION OF NEW
ZEALAND INCORPORATED AND RYMAN HEALTHCARE
LIMITED**

INTRODUCTION

- 1 My full name is Philip Hunter Mitchell.
- 2 I hold the degrees of Bachelor of Engineering (Hons) and Doctor of Philosophy, both from the University of Canterbury. I am a Partner in the consulting practice Mitchell Daysh Limited and am based in the firm's Auckland office. Mitchell Daysh Limited was formed through a merger between Environmental Management Services Limited and Mitchell Partnerships Limited, which I established in July 1997. Previously, I was the Managing Director of Kingett Mitchell & Associates Limited, a firm I co-founded in 1987.
- 3 I am a past president of the Resource Management Law Association and a full member of the New Zealand Planning Institute. I was a recipient of the New Zealand Planning Institute's Distinguished Service Award in 2015.
- 4 I have been engaged in the field of resource and environmental management for more than 35 years and I have had a role in many significant planning and consenting projects throughout New Zealand during that time. My specialist areas of practice include providing resource management advice to the private and public sectors, facilitating public consultation processes, undertaking planning analyses, managing resource consent acquisition projects, and developing resource consent conditions.
- 5 I am an accredited Hearings Commissioner (with a Chair's endorsement) and have acted as a Hearings Commissioner on numerous occasions, many in the role of Hearing Chair. Most recently I was the Chair of the Independent Hearings Panel for the Waikato Proposed District Plan.
- 6 I was an appointed mediator / facilitator for the hearings on the Proposed Auckland Unitary Plan (PAUP). I was also appointed jointly by the Minister for Canterbury Earthquake Recovery and the Christchurch City Council as a Hearings Commissioner for the replacement of the Christchurch City District Plan (the district plan that is intended to facilitate the rebuilding of Christchurch). Retirement village planning provisions were a key topic in those processes resulting in bespoke provisions being inserted into both of these plans.

- 7 My work regularly takes me all over New Zealand and I have significant experience in resource management issues associated with retirement villages.
- 8 I have prepared this statement of evidence at the request of the Retirement Villages Association (*RVA*) and Ryman Healthcare Limited (*Ryman*).
- 9 In preparing this statement of evidence, I have reviewed:
- 9.1 The National Policy Statement on Urban Development 2020 (*NPS-UD*);
 - 9.2 The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (*Enabling Housing Act*);
 - 9.3 The Kāpiti Coast District Council District Plan (*District Plan*);
 - 9.4 Proposed Plan Change 2 (*PC2*) of the District Plan;
 - 9.5 The RVA and Ryman’s submissions and further submissions on PC2;
 - 9.6 The relevant sections of the section 32 evaluation of PC2;
 - 9.7 The relevant section 42A reports of PC2;
 - 9.8 The relevant supplementary statements of evidence prepared by / on behalf of the Kāpiti Coast District Council;
 - 9.9 The Wellington Regional Policy Statement (*WRPS*); and
 - 9.10 The evidence of Ms Maggie Owens, Mr Matthew Brown, Professor Ngaire Kerse and Mr Greg Akehurst for the RVA and Ryman.

EXPERT WITNESS CODE OF CONDUCT

- 10 I have read the Environment Court's Code of Conduct for Expert Witnesses contained within the Environment Court Practice Note 2023 and I agree to comply with it. My qualifications as an expert are set out above. I am satisfied that the matters which I address 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.

SCOPE OF EVIDENCE

- 11 My evidence will:

- 11.1 For context, provide an overview of the submissions made by the RVA and Ryman;
- 11.2 Comment on the overall planning framework that applies to PC2, including the requirements under section 32 of the Resource Management Act 1991 (*RMA*) and the relevant provisions of the NPS-UD, the Enabling Housing Act, the WRPS and the District Plan;
- 11.3 Comment on the specific planning matters raised in the submissions, and provide my response to the recommendations in the section 42A report; and
- 11.4 Set out my conclusions.

EXECUTIVE SUMMARY

- 12 In summary, the submissions by the RVA and Ryman seek to ensure that PC2 provides a planning regime that:
 - 12.1 Recognises and responds to the needs of an ageing population within the Kāpiti Coast District; and
 - 12.2 Adopts provisions that are fit for purpose for the functional and operational characteristics of retirement villages and their residents' housing and care needs.
- 13 The submitters are seeking a consistent regime for planning to house an older population across New Zealand (including all the 'Tier 1' councils), including in the Kāpiti Coast District. Consistency between councils will better enable common approaches to consent applications to be developed over time and increase efficiency.
- 14 By way of summary, key aspects of the submissions by the RVA and Ryman, and which I address in my evidence, are as follows:
 - 14.1 The proportion of New Zealanders moving into their retirement years is growing, including in the Kāpiti Coast District. Their accommodation and healthcare needs are therefore also growing. The demand for retirement villages is already outstripping supply and the population aged 75+ is forecasted to more than double up to 833,000 people nationally by 2048.¹ As identified below, the wider Wellington region is one of the fastest growing areas in the country. The ageing population in the Kāpiti Coast District and how the

¹ Jones Lang LaSalle, NZ Retirement Villages and Aged Care Whitepaper, June 2021, page 7.

planning framework responds to that is therefore considered to be a key issue in this hearing process.

14.2 More specifically, the RVA and Ryman consider, and I agree, that the notified planning regime does not adequately provide for retirement villages. Although retirement villages are a subset of multi-unit residential activity, and therefore generally fit under the Medium Density Residential Standards (MDRS) category of "four or more" residential units, the proposed provisions of the MDRS do not acknowledge or provide for the distinguishing features of retirement villages, or the different specialist units and amenities within them, particularly well. Therefore, the RVA and Ryman have used the MDRS as a "base case" for the relief they seek but have adapted it to ensure it accounts for the unique needs and features of retirement villages and their residents.

15 In case there is any doubt, retirement villages are fundamentally a residential activity, as confirmed in the definition of retirement villages in the National Planning Standards 2019, which states:

"a managed comprehensive residential complex or facilities used to provide residential accommodation for people who are retired and any spouses or partners of such people. It may also include any of the following for residents within the complex: recreation, leisure, supported residential care, welfare and medical facilities (inclusive of hospital care) and other non-residential activities".

16 However, retirement villages are not typical residential developments, and it is important that the specific needs of older people that reside in these villages are recognised and provided for via a bespoke and nuanced planning regime.²

17 The specific amendments that I consider necessary are to:

17.1 Insert a new definition:

'Retirement Unit' - means any unit within a retirement village that is used or designed to be used for a residential activity (whether or not it includes cooking, bathing, and toilet facilities). A retirement unit is not a residential unit.

17.2 Insert four new policies within the General Residential Zone section:

² See also the statements of evidence of Professor Kerse at paragraphs 101-116, Ms Owens at paragraphs 88-96 and Mr Brown at paragraphs 53-55.

[Insert Zone]- PX: Provision of housing for an ageing population

1. Provide for a diverse range of housing and care options that are suitable for the particular needs and characteristics of older persons in the [Insert Zone], such as retirement villages.
2. Recognise the functional and operational needs of retirement villages, including that they:
 - a. May require greater density than the planned urban built character to enable efficient provision of services.
 - b. Have unique layout and internal amenity needs to cater for the requirements of residents as they age.

[Insert Zone]-PX: Larger sites

Recognise the intensification opportunities provided by larger sites within the General Residential Zone by providing for more efficient use of those sites.

[Insert Zone]-PX: Role of density standards

Enable the density standards to be utilised as a baseline for the assessment of the effects of developments.

[Insert Zone]-PX: Changing communities

To provide for the diverse and changing residential needs of communities, recognise that the existing character and amenity of the residential zones will change over time to enable a variety of housing types with a mix of densities.

- 17.3 Insert three new policies within each of the Centres and Mixed Use zones – being the 'large sites', 'role of density standards' and 'changing communities' policies above;
- 17.4 Insert a permitted activity for the use of land for a retirement village; and
- 17.5 Insert a restricted discretionary activity rule for the construction of retirement village buildings in residential zones, with specific matters of discretion limited to managing the external effects of a village on the wider environment.

- 18 The RVA and Ryman also seek a number of amendments to the notification clauses, matters of discretion, and built form standards as set out in their original submissions.
- 19 While the section 42A report acknowledges several of the RVA and Ryman submission points in principle, including that improved policy support for 'housing for an ageing population' is warranted, the report recommends rejecting the majority of the RVA and Ryman's submission points. This is largely based on the erroneous premise that retirement villages are not exclusively residential activities, and the Report writers' opinion that PC2 and the District Plan already adequately provide for many of the provisions the submitters are seeking.
- 20 The analysis in the section 32 report for PC2 also contains very little detail on ageing population housing needs and requirements; the local retirement village context; or costs, benefits and the effects of retirement villages. The Report writers also misunderstand both the nature of retirement villages and the RVA's proposed planning regime, which is where the more significant differences between the Officers and the submitters arises. In that regard, the evidence of Professor Kerse has set out how the ageing population have particular residential needs that differ from the general population. As a consequence, Mr Brown and Ms Owens have also outlined the unique characteristics of retirement villages and how they are different from typical residential developments. For example, retirement villages need to provide a range of living options for residents (from independent living to rest home, dementia and hospital care), have different living space requirements from the general population (e.g. rely heavily on communal living spaces as opposed to outdoor living areas) and make limited use of public amenities because the villages provide most of the required amenities for residents on-site.

OVERVIEW OF THE SUBMISSIONS BY THE RVA AND RYMAN

- 21 As explained in the evidence of Ms Owens for the RVA, Mr Brown for Ryman and Professor Kerse, rapidly changing demographics are resulting in major pressures on social and health services for older New Zealanders, including the provision of housing. The evidence explains in detail the wider Wellington region's ageing population. Put simply, the population of people living in Kāpiti Coast District over the age of 65 is continuing to increase and is projected to continue to increase through to 2031 and beyond. As Ms Owens' and Professor Kerse's evidence notes, the 75+ age bracket is a particularly vulnerable demographic due to relative frailty and the increase of heightened care needs. The demand for retirement living and a range of care options, including dementia care and assisted living options, is growing.

- 22 In my experience, there are a number of challenges in finding suitable sites for the development of new retirement villages given the size of the sites that are typically required (which generally need to provide a range of living and care options, as well as on-site amenities), and the desire of prospective residents to remain close to their families and existing communities. Ms Owens and Mr Brown also note this issue in their evidence.³
- 23 A key overarching point raised in the submissions by the RVA and Ryman is that PC2 does not adequately address the needs of the retirement village sector in the Kāpiti Coast District. While both submissions acknowledge that there are some enabling provisions for them within PC2, there is a need to provide a more nuanced planning framework to enable the establishment of retirement villages, particularly in the Kāpiti Coast District's residential areas and in appropriate commercial areas. In this regard, the requested relief sought that PC2 acknowledges that retirement villages are residential activities and provides for a diversity of housing typologies in residential zones (including retirement villages). The requested relief also sought that PC2 does not create a presumption of traditional single storey, standalone dwellings (on moderately sized lots), but instead enables a range of residential developments of varying scales.
- 24 In my opinion, responding to the specific issues associated with an ageing population and the provision of suitable housing to meet the needs of the older residents, across both the residential and commercial zones of the Kāpiti Coast District, is critical. This outcome will also ensure the social, economic, and cultural wellbeing of people and communities in the wider Wellington region in accordance with Objective 1 of the Enabling Housing Act.⁴
- 25 In this regard, the requirements of the NPS-UD and the Enabling Housing Act have, in my opinion, fundamentally altered the expectations for development in and around the residential and commercial zones in Tier 1 local authorities such as the wider Wellington region. There are significantly greater expectations for bulk and density in residential zones, and an associated recognition of the consequential changes of neighbourhood character and private residential amenity. In other words, there is an expectation that any existing built form in residential communities will need to change to support the necessary increases in demand for housing.

³ See the statements of evidence of Ms Owens at paragraphs 84-87 and Mr Brown at paragraphs 65-69.

⁴ Schedule 3A, cl 6(1)(a), Objective 1, Enabling Housing Act.

THE PLANNING FRAMEWORK

National Policy Statement on Urban Development 2020 and the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021.

- 26 The NPS-UD directs local authorities to enable greater land supply for urban development. It also directs that planning is responsive to changes in demand, while also seeking to ensure that new development capacity enabled by local authorities is of a form and in locations that meet the diverse needs of communities and encourages well-functioning, liveable urban environments. It also requires local authorities to remove overly restrictive rules that affect urban development outcomes in cities.⁵
- 27 In my opinion, the section 42A report has given insufficient consideration to the following explicit directives of the NPS-UD:
- 27.1 Planning decisions ensure that urban environments provide for the needs of all demographics in the community, including by enabling a variety of dwelling types and price points;⁶
 - 27.2 Planning decisions improve housing affordability by supporting competitive land and development markets;⁷
 - 27.3 Policy Statements and District Plans within Tier 1 urban environments enable intensification in areas where there is a high demand for housing, and with building heights of up to 6 storeys in certain circumstances;⁸ and
 - 27.4 Urban environments, including their amenity values, will develop and change over time in response to the diverse and changing needs of people and communities, and future generations.⁹
- 28 The clear intent of the NPS-UD is to be enabling of both business and residential development in urban environments through the provision of opportunity, choice, variety and flexibility of land supply for housing, subject to maintaining an appropriate level of residential amenity.¹⁰ As I discuss later in my evidence, I consider PC2 needs to expressly recognise the diversity of housing stock that

⁵ Objectives 1, 3 and 6 and Policies 1, 2, 3 and 5 of the NPS-UD.

⁶ Objective 1 and Policy 1 of the NPS-UD.

⁷ Objective 2 of the NPS-UD.

⁸ Objective 3 and Policy 3 of the NPS-UD.

⁹ Objective 4 and Policy 6 of the NPS-UD.

¹⁰ Objective 3 and Policies 1 and 3 of the NPS-UD.

will be needed in residential and commercial areas of the Kāpiti Coast District in order to fulfil the intent of the NPS-UD.

- 29 The Enabling Housing Act directs¹¹ the incorporation of medium density residential standards for Tier 1 local authorities through Schedule 3A of the RMA. It also requires that a variety of housing types and sizes are provided for, which respond to housing needs and demand and the neighbourhood's planned urban built character (including 3-storey buildings).¹²
- 30 The Enabling Housing Act has also altered the scale / scope of residential development that can occur as a permitted activity in a medium density residential zone.¹³ These new provisions essentially narrow the consideration of density effects in relation to on-site amenity and effects on the surrounding environment (when compared to existing district plans).
- 31 From a planning perspective, the clear direction is that the built form of the Kāpiti Coast District will need to change in order to provide for the housing demands of a range of demographics. In my opinion, PC2 needs to be amended to clearly reflect this.

Wellington Regional Policy Statement

- 32 PC2 is required to give effect to the WRPS.
- 33 The section 42A report¹⁴ notes that Wellington Regional Council notified Plan Change 1 on 19 August 2022, with the purpose of implementing and supporting the NPS-UD and the National Policy Statement for Freshwater Management 2020 (*NPS-FM*).
- 34 The operative WRPS includes objectives and policies relating to maintaining and enhancing a compact, well designed and sustainable regional form,¹⁵ identifying that housing design and quality of housing developments can have a significant role in improving housing choice and affordability.
- 35 Plan Change 1 introduces new objectives and policies to the WRPS to enable urban development (including housing and infrastructure) to ensure housing intensification and improve housing affordability and housing choice. As outlined in the Plan Change 1 section 32 report, the outcome sought is to enable greater flexibility and choice

¹¹ Section 77G, Enabling Housing Act.

¹² Objective 4 and Policy 1 of the NPS-UD.

¹³ Schedule 3A, Enabling Housing Act.

¹⁴ Paragraphs 76 – 80, Section 42A Report: Plan Change 2 - Council Officers' Planning Evidence (24 February 2023).

¹⁵ Objective 22, WRPS.

in housing which will better meet people's needs and lifestyle preferences in line with the MDRS provisions.

36 The section 42A report states that Plan Change 1 is at an early stage of the Schedule 1 process, and that many of the submissions received challenge the provisions of the proposed WRPS / Plan Change 1. The Report writer therefore considers that the provisions of the proposed WRPS / Plan Change 1 should be given minimal weight until it has progressed further through the Schedule 1 process. I consider that key aspects of Plan Change 1, and the operative WRPS, are relevant to the development of planning provisions in the Kāpiti Coast District, including:

36.1 Providing a compact urban form including a range of housing;¹⁶ and

36.2 Addressing housing affordability, including enabling intensification.¹⁷

Kāpiti Coast District Plan

37 At the outset, I have two fundamental concerns with PC2 as notified.

38 Firstly, the NPS-UD directs, within Tier 1 urban environments, greater residential intensification in and around city centre zones, metropolitan centre zones and walkable catchments.¹⁸ However, instead of providing medium density and high density residential zones (as applied consistently by many other Councils across the country), PC2 only provides the General Residential Zone, which includes two precincts (*Residential Intensification Precinct A and B*) to provide for greater levels of residential intensification and to give effect to Policy 3 of the NPS-UD. I do not consider this approach adequately reflects the core intent of the NPS-UD.

39 Secondly, the District Plan does not provide for retirement villages or retirement accommodation¹⁹ as specific activities within the General Residential Zone.

40 I note that this approach is at odds with most other 'Tier 1' council plan changes, which have incorporated retirement village definitions and associated activities statuses. Retirement villages are therefore likely to be assessed under the heading of "supported living

¹⁶ Objective 22, Policy 31 and 55, WRPS.

¹⁷ Objective 22, Policy 31 & 55 and Policy UD 3 PC1, WRPS.

¹⁸ Policy 3 of the NPS-UD.

¹⁹ A subcategory of retirement village focussing on the residential component of retirement villages.

accommodation”,²⁰ which are a ‘permitted activity’ subject to achieving standards which require that “no more than 6 residents shall be accommodated at any time” and “no more than one residential unit shall be provided”.²¹

- 41 Supported living accommodation that does not meet these standards will be a discretionary activity. Given that most modern retirement villages are of a relatively large format, discretionary activity status will apply. Within the Centres and Mixed Use zones, neither retirement villages nor retirement accommodation are provided for as specific activities, with retirement villages considered based on the constituent ‘bundle’ of activities that they comprise. This approach has been carried through under PC2.
- 42 The approach adopted is in my view both inconsistent and uncertain. It is at odds with the enabling intent of the NPS-UD and the Enabling Housing Act. Experience in other district plans has been that consent processes are complex and can take undue time to process when faced with unclear planning regimes for retirement villages. On that basis, a more nuanced planning framework for retirement villages has been proposed as summarised below.

SPECIFIC PROVISION FOR RETIREMENT VILLAGES IN PC2

- 43 As detailed in the RVA and Ryman submissions, retirement villages are different from typical residential dwellings, and therefore do not necessarily fit in with the typical controls imposed on residential developments. In that regard, I agree with the RVA and Ryman submissions that the provision of a fit for purpose consenting process for retirement villages is required and that the process comprises:
- 43.1 Appropriate retirement village activity status;
 - 43.2 Identified matters of discretion; and
 - 43.3 Clear, targeted and appropriate development standards to guide the notification and planning assessment of these bespoke retirement village developments.
- 44 Whilst I acknowledge that there are some elements in common with medium density residential development, retirement villages are fundamentally different from typical medium density housing development for the following main reasons:

²⁰ Defined as: Accommodation where live-in health or pastoral care/support is provided on-site. This definition does not include visitor accommodation, boarding houses, shared and group accommodation or family homes where foster parents receive payment for children in their care.

²¹ Rule GRZ-R4.

- 44.1 Retirement villages provide most, if not all, of the required resident amenities on-site without the need for external community infrastructure and open spaces;
- 44.2 Retirement village buildings and layouts are carefully designed with resident needs in mind. In many modern retirement villages, there is often a central building that contains accommodation for people that need higher care and a range of communal village amenities. Access to that building for other village residents must be convenient, safe and sheltered from weather. This central building can often be bulkier and of a different height to surrounding residential activities to enable these functional and operational requirements;
- 44.3 Unit types vary from relatively typical independent townhouses or apartments, through to serviced care suites, hospital care beds and areas for people with dementia. The size and amenity requirements of these units vary substantially from more typical housing typologies;
- 44.4 Older residents have a lesser degree of interaction with the surrounding neighbourhood on a day-to-day basis compared to those of a conventional residential apartment or residential subdivision. This is because the majority of retirement village residents are generally far less mobile and therefore have significantly reduced traffic generation requirements and access to public transport infrastructure and parking;²²
- 44.5 Because of the frailty and vulnerability of older people, retirement villages need to be safe and secure. In practice, that means having restricted access and, as a general proposition, not having public roads running through the sites; and
- 44.6 Data collected over many years shows that retirement villages place lesser demand on the water, wastewater and transport networks, noting that these systems are always comprehensively designed on-site to cater for the required demand.
- 45 The above factors combine to mean that retirement villages are generally large format activities, which have a different look and feel to standard housing. Applying conventional planning approaches used for standard housing to retirement villages has, in my experience, led to substantial consenting issues.

²² See also the statements of evidence of Professor Kerse and Ms Owens.

- 46 I agree with the RVA and Ryman submissions that retirement villages should be recognised as their own bespoke activity within the residential umbrella of activities, and they should have an activity-specific policy and rule framework.
- 47 A fundamental problem throughout the section 42A report is the contention that while retirement units are acknowledged as being residential activities, retirement villages themselves are not. That approach appears to me to be a significant driver for the reasons the section 42A report has rejected many of the Ryman and RVA submissions, which request bespoke recognition of, and bespoke provisions for, retirement villages.
- 48 In my opinion, there is no doubt that retirement villages are a residential activity. Their own unique circumstances however, particularly in respect of the needs of an ageing population, require them to be distinguished from conventional housing developments. That has been accepted by most other Councils I have been involved with throughout New Zealand, and is clear from the definition of retirement villages in the National Planning Standards 2019, which states:
- “a managed comprehensive residential complex or facilities used to provide residential accommodation for people who are retired and any spouses or partners of such people. It may also include any of the following for residents within the complex: recreation, leisure, supported residential care, welfare and medical facilities (inclusive of hospital care) and other non-residential activities”.*
- 49 I note the reference in the definition to various ancillary facilities, with the important point being that these need to be “for the residents within the complex”. I am aware that the courts have confirmed that retirement villages are residential activities, including their ancillary activities. This caselaw will be addressed in legal submissions.
- 50 Furthermore, when assessing infrastructure and transport related provisions, it is critical that the unique nature of retirement villages, and the needs of the residents within them, are recognised and provided for.
- 51 I will now set out the specific recommendations I consider necessary.

PART 1 – INTRODUCTION AND GENERAL PROVISIONS – DEFINITIONS

RVA / Ryman Submissions

- 52 Ryman and the RVA filed submissions with respect to the definitions contained within Part 1 Introduction and General Provisions –

Definitions. In particular, the RVA and Ryman sought the insertion of a new definition of 'retirement units'. The proposed definition was developed as a subset of the "residential dwelling" definition in the MDRS. It is required in order to acknowledge the differences from typical residential units in terms of layout and amenity needs. Mr Brown and Ms Owens set out the features of retirement units that differ from typical dwellings, including that some units in retirement villages are designed for higher care and do not have the likes of kitchens.²³

Section 42A Report

53 The section 42A report notes that the District Plan provides definitions for a 'retirement village', 'retirement accommodation' and 'supported living accommodation', however only 'supported living accommodation' is provided for through the Plan. The 42A report writer rejects the request for the insertion of a new retirement unit definition stating "*I note that the definition of supported living accommodation includes live-in health or pastoral care/support but does not provide for other commercial or retail activities. If other commercial or retail activities were to be included in a retirement village in the General Residential Zone, then this would be a non-complying activity under rule GRZ-R25. This is because except for some small-scale commercial activities, the District Plan generally does not seek that commercial activities are established within the General Residential Zone*".²⁴

54 In summary, the reporting authors consider that the existing definitions and planning framework sufficiently provide for retirement villages and the inclusion of a new retirement unit definition would not be appropriate.

Response

55 I strongly disagree that a retirement unit definition is not required, as the bespoke and nuanced provisions that I consider are necessary to recognise the importance of retirement villages in addressing the needs of an ageing population require a bespoke definition to support them. If such a definition is not provided, I anticipate consenting complexities and debates as to what is a retirement village and what is separately a residential unit and therefore which suite of rules apply. As noted, provided any ancillary activities in a retirement village are "for the residents", they do not trigger a separate status as a commercial activity or a retail activity. For a retirement village with such facilities to be considered as a non-complying activity in a residential zone is entirely at odds with the enabling nature of the NPS-UD and the

²³ Statements of evidence of Ms Owens at paragraph 89 and Mr Brown at paragraph 54.

²⁴ Paragraph 335, Section 42A Report: Plan Change 2 - Council Officers' Planning Evidence (24 February 2023).

Enabling Housing Act. This status would send a strong planning signal that retirement villages are not expected in residential zones, which I understand from Mr Brown, would be a significant deterrent to investing in the Kāpiti Coast District. This is despite the District being a popular location for retirees.

- 56 Accordingly, I support the definition proposed by the RVA and Ryman:

'Retirement Unit' - means any unit within a retirement village that is used or designed to be used for a residential activity (whether or not it includes cooking, bathing, and toilet facilities). A retirement unit is not a residential unit.

PART 2 – DISTRICT-WIDE MATTERS – STRATEGIC OBJECTIVES AND POLICIES

RVA / Ryman Submissions

- 57 There are several submission points relating to the district-wide objectives²⁵ and the urban form and development policies.²⁶ In this regard, the objectives recognise that residential activities include a wide range of housing types that respond to housing needs and demands, recognise that residents should have access to a range of amenities and seek to enable higher residential densities. The submissions were generally supportive of the district-wide objectives and the urban form and development policies to the extent they reflect the MDRS.
- 58 Of note, the submissions sought amendments to Objective DO-03 and the various urban form and development policies to better respond to the NPS-UD. These amendments better recognise and provide for the unique characteristics of retirement village developments and their residents, and seek to recognise and provide for the intensification opportunities provided by larger sites.
- 59 The submissions also sought amendments to Policy UFD-P11 to adopt a zoning framework based on the Medium Density Residential Zone and High Density Residential Zone (to better align with the National Planning Standards and for implementing the Enabling Housing Act). This point is also revisited, and discussed further, in Part 3 of this evidence.
- 60 The submissions also sought to add a new policy to Policy UFD-P3 as follows:

"Role of density standards

²⁵ Objectives DO-03, DO-Ox1 - Ox3, DO-O11 - O12 and DO-O16.

²⁶ Policies UFD-Px, UFD-P1 - P4, UFD-P7 and UFD-P11.

Enable the density standards to be utilised as a baseline for the assessment of the effects of developments.”

61 The submission also sought amendments to district wide transport rule TR-R10 to provide a peak hour vehicle movement standard, and to amend the matters of discretion to include consideration of whether the development generates the same or less traffic than anticipated by the site zoning.

Section 42A Report

62 The Report writer considers that the submissions raised several good points regarding the level of policy recognition for ‘housing for an ageing population’ contained in the District Plan. However, the Report writers recommend that the amendments proposed to Objective DO-O3 be rejected, noting that DO-O3 is a high-level objective, and it would be inappropriate to single out a specific sector of the population.

63 In addition, whilst not explicitly addressed in the section 42A report, I note that the Report writer has made the following recommendations in relation to the submission points on the urban form and development policies:²⁷

63.1 Accept changes to UFD-P1 and UFD-P11;

63.2 Accept in part changes to UFD-Px, UFD-P2 and UFD-P3; and

63.3 Reject changes to UFD-Px, UFD-P4, UFD-P7 and UFD-P11.

64 With regard to the district wide transport rule TR-R10, the Report writer does not accept the proposed amendments and considers the rule (as drafted) is not contrary to or inconsistent with the requirements of Policy 3 of the NPS-UD or the Enabling Housing Act.

Response

65 I do not agree with the recommendations of the section 42A report in relation to Objective DO-O3.

66 As highlighted in the evidence of Ms Owens, Professor Kerse and Mr Brown, there is a growing concern about the housing needs of the ageing population (with demand for retirement accommodation and aged care continuing to grow, and often outstripping supply²⁸). Professor Kerse and Ms Owens in particular highlight the many social and physical constraints and needs of older people, which

²⁷ Refer to Appendix A for further details on the section 42A report recommendations.

²⁸ Statements of evidence of Ms Owens at paragraphs 11-12 and 58-59 and Mr Brown at paragraphs 10 and 36-39.

require specialist housing and care. As such, I consider that enabling the provision of housing for an ageing population should be a key feature of the District Plan – particularly in light of the requirements of the NPS-UD to provide for and enable housing for all populations.²⁹ There is a planning need to single out this demographic given the unique characteristics identified and the planning complexities and inefficiencies mentioned if the Plan does not provide appropriate guidance. I therefore consider that the proposed amended wording for Objective DO-O3 better aligns with the direction of the NPS-UD objectives and policies, and is appropriate to be included as part of PC2 as follows:

DO-O3 Development Management

To maintain a consolidated urban form within existing urban areas and a limited number of identified growth areas, and to provide for the development of new urban areas, and provide for the development of new urban areas where these can be efficiently serviced and integrated with existing townships, delivering:

...

5. *higher residential densities in locations that are close to centres and public open spaces, with good access to public transport;*
6. *residential development that recognises and enables the housing and care needs of the ageing population;*
7. *residential development that recognises the intensification opportunities provided by larger sites by providing for more efficient use of those sites;*
8. *management of development in areas of special character or amenity in a manner that has regard to those special values;*

...

- 67 I agree with the section 42A report writer where they recommend amending certain urban form and development policies proposed by the RVA and Ryman.³⁰ I consider the RVA and Ryman’s amended policies will provide greater consistency with Objective DO-O3 and improve policy interpretation.
- 68 However, I do not agree with the section 42A report writers’ where they recommend to accept in part, or reject, the remainder of the amended urban form and development policies³¹ proposed by the

²⁹ Objective 1 and Policy 1 of the NPS-UD.

³⁰ UFD-P1 and UFD-P11.

³¹ UFD-Px, UFD-P2, UFD-P3, UFD-P4, UFD-P7 and UFD-P11.

RVA and Ryman. I consider that these policies as notified in PC2 are inconsistent with the direction and requirements of the NPS-UD, and present a barrier to the level of intensification sought by the Enabling Housing Act. The policies also do not provide for the functional and operational requirements of retirement villages and do not specifically provide for retirement villages as a way to enable 'housing for older people'.

- 69 I therefore consider that all the proposed amendments to these urban form and development policies should be included in PC2.
- 70 I also consider that the proposed amendment to Rule TR-R10 is appropriate, and I agree with the RVA and Ryman that the regulation of trip generation should be based on peak hour movements, not daily movements, as peak hour movements are what affect capacity. As such, the proposed amendment to Rule TR-R10 should be included in PC2.
- 71 These amended urban and development policies and the amended Rule TR-R10 are provided in **Appendix A**.

PART 3 – AREA SPECIFIC MATTERS

- 72 By way of overview, the District Plan and PC2 are structured such that there are no specific objectives for the General Residential Zone or the Centres and Mixed Use zones. Instead, each zone identifies several 'primary' district-wide objectives that are to apply. As such, the discussion in relation to objectives above also applies to the General Residential Zone and the Centres and Mixed Use zones.

Policies

RVA / Ryman Submissions

- 73 The RVA and Ryman submissions sought amendments to various General Residential Zone policies³² to better align with the NPS-UD and the Enabling Housing Act, and better recognise and provide for the functional and operational needs of retirement villages. In particular, the RVA and Ryman sought changes to policy GRZ-Px6 and Rule GRZ-Rx2 to provide for higher-density housing within a High Density Residential Zone, as opposed to merely identifying precincts within the General Residential Zone.
- 74 The submissions also sought to insert four new policies³³ into the General Residential Zone as follows:

³² Policies GRZ-Px6, GRZ-P9 – P13 and GRZ-P16.

³³ In relation to Policy GRZ-P16, the RVA also offered an alternative to the requested new policy which sought to amend GRZ-P16 to align the principles with the MDRS.

[Insert Zone]- Provision of housing for an ageing population

1. Provide for a diverse range of housing and care options that are suitable for the particular needs and characteristics of older persons in the [Insert Zone], such as retirement villages.
2. Recognise the functional and operational needs of retirement villages, including that they:
 - a. May require greater density than the planned urban built character to enable efficient provision of services.
 - b. Have unique layout and internal amenity needs to cater for the requirements of residents as they age.

[Insert Zone]-PX Larger sites

Recognise the intensification opportunities provided by larger sites within the [Insert Zone] by providing for more efficient use of those sites.

[Insert Zone]-PX Role of density standards

Enable the density standards to be utilised as a baseline for the assessment of the effects of developments.

[Insert Zone]-PX Changing communities

To provide for the diverse and changing residential needs of communities, recognise that the existing character and amenity of the residential zones will change over time to enable a variety of housing types with a mix of densities.”

- 75 The RVA and Ryman also made a number of submission points seeking amendments to the notified policies³⁴ of the various Centres and Mixed Use zones – being the Local Centre Zone, Mixed Use Zone, Town Centre Zone and Metropolitan Centre Zone. These amendments sought to delete direction for amenity values to be ‘maintained and enhanced’, remove references to the Centres Design Guide and ensure greater consistency with Policy 3 of the NPS-UD.
- 76 The submissions also sought the insertion of three new policies within each of the Centres and Mixed Use zones – being the ‘large

³⁴ LCZ-P3, LCZ-P5 – P6, MUZ-P4, MUZ-P6 – P7, TCZ-P3, TCZ-P5 – P6, MCZ-P5 and MCZ-P7 – P8.

sites', 'role of density standards' and 'changing communities' policies above.

- 77 By way of summary, the submissions highlighted that because retirement villages are a critical and expected component of residential and mixed use commercial areas, it is important that they are expressly acknowledged in the policies, so the "planned urban built environment" is clearly understood at consent stage. Otherwise, officers and the community will default to expectations of typical residential activities, as has been the case in the past.

Section 42A Report

- 78 The Report writer recommends that the RVA and Ryman submission be rejected as there is no need for retirement village specific policies within the District Plan.

- 79 With respect to zoning, the section 42A report writer considers that retaining the General Residential Zone would incorporate the MDRS and give effect to Policy 3 of the NPS-UD in a more efficient manner than replacing the General Residential Zone with a Medium Density and High Density Residential Zone. The report writer also considers this approach is consistent with the National Planning Standards, and that departing from the operative District Plan zone framework is both unnecessary and inefficient.

- 80 The report writer recommends that the amendments to General Residential Zone policy GRZ-P16 are accepted in part to "provide improved recognition for the housing needs of older persons".³⁵

- 81 With regards to the Centres and Mixed Use zones, the section 42A report writer recommends that the amendments proposed by the RVA and Ryman in relation to the three new policies for the Centres and Mixed Use zones (and the amended district-wide objective DO-O3) be rejected, as the report writer considers:

81.1 Policy recognition to recognize and provide for the efficient use of 'larger sites' to be somewhat vague, and that 'larger sites' are likely to be more efficiently planned and developed regardless; and

81.2 Policy recognition to recognize and provide for 'changing communities' is unnecessary, as the notified policies adequately recognize and provide for this concept.

³⁵ Paragraph 358, Section 42A Report: Plan Change 2 - Council Officers' Planning Evidence (24 February 2023).

82 The section 42A report also recommends that the other proposed amendments to notified policies of the Centres and Mixed Use zones be rejected.

Response

83 I agree with the RVA and Ryman submission and consider that providing a Medium Density Residential Zone and High Density Residential Zone in PC2 would better align with the National Planning Standards and better implement the NPS-UD and Enabling Housing Act (with the focus on enabling greater housing intensification close to urban centres).

84 I do not agree with the recommendations of the section 42A report with respect to the proposed amendments to Policy GRZ-P16, as these changes do not sufficiently provide for the ageing population in the Kāpiti Coast District, and the wider Wellington region. I also agree with the RVA and Ryman's submission that the continued bundling of retirement villages under activities such as "supported living accommodation" does not sufficiently recognise or provide for the functional and operational requirements (or unique characteristics and features) of retirement villages.

85 In my view, the proposed new policies are more aligned to the NPS-UD and Enabling Housing Act as they recognise the functional and operational needs of retirement villages (through more enabling language such as 'provide for' and 'may require') and provide for a variety of housing types for all people.³⁶ Furthermore, the inclusion of this policy framework for retirement villages is particularly important given the growing need for specialist housing for the ageing population (as outlined in the evidence of Professor Kerse, Ms Owens and Mr Brown).

86 I also consider that the inclusion of the proposed policies in both the General Residential Zone and the Centres and Mixed Use Zones, including the 'larger sites' policy, would provide a much clearer and stronger policy framework (with greater vertical integration between plan provisions) for retirement villages in the District Plan. This will better enable the efficient use of the larger sites that the likes of Ryman and the RVA often need to utilise. It will also minimise complications at the consenting process (for example, in relation to standards prescribing the maximum number of dwellings permitted on a site - which are often infringed due to the larger retirement village sites when compared to typical residential development).

87 Likewise, I disagree with the section 42A report recommendations regarding the 'changing communities' policy and consider the addition of the policy in the Centres and Mixed Use zones would provide a useful and clear link to the NPS-UD requirements.

³⁶ Policy 1 of the NPS-UD.

Furthermore, I do not consider that the policies as notified adequately align with the directives of Policy 6 of the NPS-UD and Policy 5 of the Enabling Housing Act (particularly as the policies as notified still make reference to maintaining and enhancing amenity values), being:

87.1 That housing intensification may detract from amenity values and are not of themselves an adverse effect;³⁷ and

87.2 Provide for development not meeting permitted activity status, while encouraging high quality development.³⁸

**Activity Status, Notification and Matters of Discretion
RVA / Ryman Submission**

88 The submissions sought a number of amendments to the rules, notification clauses and matters for discretion within the General Residential Zone and all relevant centres and mixed use zones.

89 The key aspects of the submission points related to:

89.1 The establishment of a permitted activity for the use of land for a retirement village;

89.2 A restricted discretionary activity rule for the construction of retirement village buildings in residential zones, with specific matters of discretion limited to managing the external effects of a village on the wider environment.

89.3 A presumption of non-notification for retirement villages that meet the relevant building controls.

Section 42A Report

90 The section 42A report writer highlighted a number of reasons why it is not considered appropriate for retirement villages to be provided for as a permitted / restricted discretionary activity in the General Residential Zone, including:

90.1 It is not necessary as part of incorporating the MDRS as “retirement villages potentially involve a range of non-residential activities in addition to residential activities” and “retirement villages are not the same as residential units”;³⁹

³⁷ Policy 6 of the NPS-UD.

³⁸ Schedule 3A, cl 6(2)(e), Policy 5, Enabling Housing Act.

³⁹ Paragraph 339, Section 42A Report: Plan Change 2 - Council Officers’ Planning Evidence (24 February 2023).

- 90.2 It is not required under the direction of Policy 3 of the NPS-UD;⁴⁰
- 90.3 It would be contrary to policy GRZ-P16 which seeks to provide for older persons accommodation *"in a manner consistent with residential activities being recognised and provided for as the principal use of the zone"*;⁴¹
- 90.4 The inclusion of commercial activities within retirement villages could be contrary to the objectives and policies in the District Plan that seek to avoid detracting from the vitality of centre zones;⁴² and
- 90.5 The "nature and scale of effects associated with non-residential activities that would be enabled as part of a retirement village is uncertain and potentially open ended."⁴³
- 91 The section 42A report writer also highlighted a number of reasons why it is not considered appropriate for retirement villages to be provided for as a permitted / restricted discretionary activity in the Centres and Mixed Use Zones. These include that:
- 91.1 It is not required under the direction of Policy 3 of the NPS-UD;⁴⁴
- 91.2 The activity status of a retirement village should depend on the range of activities associated with it;⁴⁵
- 91.3 The *"residential activities as part of a retirement village could be established in such a way that is contrary to the objectives and policies of these zones"*;⁴⁶
- 91.4 *"The non-residential activities associated with retirement villages are for residents within the complex (rather than the community at large)"* and cannot be relied on to achieve the objectives for centres;⁴⁷

⁴⁰ Paragraph 340.

⁴¹ Paragraph 342.

⁴² Paragraph 342.

⁴³ Paragraph 343.

⁴⁴ Paragraph 344.

⁴⁵ Paragraph 345 and 346.

⁴⁶ Paragraph 346.

⁴⁷ Ibid.

91.5 The provision of retirement villages could result in large parts of these zones “being subsumed to the extent that they are unable to function effectively as centres”;⁴⁸ and

91.6 The nature and scale of effects on the purpose and function of these centres “is uncertain and potentially open ended.”⁴⁹

Response – General Residential Zone

92 As outlined previously, PC2 does not provide any activity status for retirement villages. I note that some rules for the General Residential Zone in PC2 already distinguish between land use activities (i.e. home businesses and visitor accommodation) and the buildings comprising that activity as permitted activities.⁵⁰ In contrast, retirement villages are likely to be assessed as “supported living accommodation”, which is a permitted activity subject to achieving the following two standards: “no more than 6 residents to be accommodated at any one time” and “no more than one residential unit to be provided”.⁵¹ Any supported living accommodation that does not meet these standards is a discretionary activity. In addition, the section 42A report writer notes that any retirement villages containing ‘commercial or retail activities’ would be a non-complying activity.⁵²

93 For the avoidance of doubt, retirement villages as defined in the National Planning Standards 2019 do not make provision for ‘commercial or retail activities’. Based on the scale of development associated with retirement villages and their functional and operational requirements (as discussed above), I consider that the incorporation of a retirement village within the definition of “supported living accommodation” is completely inappropriate and does not align with the direction of the NPS-UD to enable a range of living options.⁵³

94 I consider the approach taken in the section 42A report does not sufficiently enable residential intensification and is inconsistent with Policy 3 of the NPS-UD. I agree with the RVA and Ryman submissions that retirement villages should be provided for as a bespoke residential activity, and as a permitted activity (without unrealistic and unachievable standards). In addition, I agree with the insertion of a new activity for the construction of retirement village buildings as a “restricted discretionary” activity with specific and tailored matters for discretion that ensures the scale, design

⁴⁸ Paragraph 347.

⁴⁹ Paragraph 348.

⁵⁰ Rule GRZ-R10 and GRZ-R11.

⁵¹ Rule GRZ-R4.

⁵² Rule GRZ-R25.

⁵³ Objective 1 and Policy 1 of the NPS-UD.

and layout of the development can be appropriately managed. Overall, there is a distinction to be made between the effects of the physical structures on the one hand, and the use of them on the other.

- 95 In light of the above, and as highlighted in the evidence of Ms Owens and Mr Brown, PC2 should in my opinion provide for the land use component of a retirement village as a permitted activity, with consent applications focusing on the effects of the built form.
- 96 I also strongly disagree with the section 42A report writers' position that retirement villages involve a range of '*non-residential activities*' and should therefore not be provided for as permitted or restricted discretionary activities.⁵⁴ As outlined above, and when considering the activity as a whole, there is no doubt in my mind that retirement villages are residential activities as:
- 96.1 Retirement villages are explicitly defined in the National Planning Standards 2019 as residential activities (which may contain other ancillary amenities solely for the residents within the retirement village);
 - 96.2 Their primary purpose is to provide living and care options to the ageing population (many of which are vulnerable);
 - 96.3 They encompass a range of amenity activities for residents which:
 - a) often support the various living options available to residents, and;
 - b) contribute to a high-quality living environment which enables the older population to age in place well;
 - 96.4 They are residential activities, at a residential scale, comparable to what is enabled under the Enabling Housing Act and MDRS (typically comprised of townhouses or low-rise apartments). Whilst retirement villages may contain a larger central building (typically two to three storeys), any additional building height, bulk or shading effects on external properties is often mitigated by being more than sufficiently set back from adjoining property boundaries (due to the typical size of retirement village sites). I also note that the planning regime proposed by the RVA and Ryman does not seek more lenient density standards insofar as they relate to effects on the external environment; and

⁵⁴ As part of incorporating the MDRS or giving effect to the NPS-UD in the District Plan.

96.5 Objective 1 of the NPS-UD seeks that New Zealand has “*well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future*”. As retirement villages provide a high-quality living environment for older people (with a design and layout that has the safety and security concerns of residents in mind), the provision of retirement villages as a permitted activity will enable the ageing population in the Kāpiti Coast District to provide for their social and economic wellbeing and health and safety.

97 I also strongly disagree with the section 42A report writer that the provision of retirement villages as permitted or restricted discretionary activities within the General Residential Zone will have adverse effects on the vitality of the Centres. In my experience, retirement villages do not contain commercial activities, and the provision of any on-site amenities solely seek to provide a high-quality living environment to allow residents (many of which are vulnerable or have mobility constraints which may limit access to centre zones) to age in place well.

98 With respect to the matter of limited notification, ultimately, if a proposed development is able to comply with the built form standards that apply to its boundary interface there is no resource management reason for notifying neighbours of the application. This approach is inherent in the mandatory MDRS regime and also adopted in other district plans around New Zealand (including Christchurch and Auckland). As such, I consider PC2 should provide direction regarding the non-notification and limited notification of resource consent applications for retirement villages in the manner set out in the submissions by the RVA and Ryman.

99 Also, in order to simplify the plan process, and to better align with the directives of the NPS-UD and Enabling Housing Act, I consider it necessary to recognise and provide for retirement villages under their own activity status with tailored matters of discretion, with presumptions for notification specifically related to these activities and aligned with the MDRS regime. I support the amendments included within the RVA’s and Ryman’s submissions and am of the view that they should be adopted in this case.

Response – Centres and Mixed Use Zones

100 I disagree with the section 42A report writers’ conclusions with respect to the implications of Policy 3 of the NPS-UD on retirement villages. In my opinion, Policy 3 gives effect to Objective 3 of the NPS-UD, which (amongst other things) seeks to enable more people to live in areas in or near a centre zone. Furthermore, Policy 3(b) seeks to enable building heights and densities in metropolitan centre zones to reflect demand for housing in those locations.

- 101 In light of the above, and taking into account the growing demand for retirement accommodation and aged care as outlined in the submissions of Ms Owens, Professor Kerse and Mr Brown, retirement villages are clearly a residential activity and the activity status in the Centres and Mixed Use zone should be amended to reflect this.
- 102 I also disagree with the concerns of the section 42A report writer regarding the nature and scale of effects of retirement villages subsuming centres, and retirement villages not contributing to achieving the objectives of centres, and make the following comments.
- 103 I agree with the submissions of the RVA and Ryman that the Enabling Housing Act is not limited to residential zones. It is my understanding that councils are also required to ensure district plans provide for intensification within urban non-residential zones. In addition, Policy 3 of the NPS-UD seeks to enable residential intensification in centre zones and walkable catchments within all tier 1 urban environments. The NPS-UD therefore changes the way that centre and commercial zones are to provide for residential activities, by enabling housing for all people (including the ageing population) in both residential and centre / commercial zones to a far greater extent than previously provided for in the District Plan.
- 104 Given the directives of the NPS-UD, it can be reasonably expected that residential activity will occupy a larger proportion of centre and commercial zones compared to that experienced historically. However, the form and layout of retirement villages can vary substantially to fit the requirements of its location / context, including via a more compact built form, increased density and tailored amenities. In other words, the retirement villages in the Centres or Mixed Use zones are unlikely to contain the typical low-rise retirement village developments often provided in conventional "residential areas". Further, the ground floor restrictions that apply to residential activities would also apply to retirement villages, which will assist in managing the section 42A report concern.
- 105 In summary, I consider that the requirements of the Enabling Housing Act and the NPS-UD provide a clear directive for Councils to enable residential intensification in these zones and therefore provide a clear consenting pathway for retirement villages as residential activities.

Development Standards
RVA / Ryman Submission

- 106 The RVA and Ryman submitted on the various built form standards, to reflect the MDRS standards and to include consequential provisions for retirement villages with the inclusion of the 'retirement unit' definition.

Section 42A Report

- 107 The section 42A report writer does not provide specific comment on the built form standards for the General Residential Zone and the Centres and Mixed Use zone. As a consequence, the submissions on the built form standards have been rejected by the section 42A report writers.

Response

- 108 I agree with Ryman and the RVA that the standards should be amended, noting the relevant points raised throughout this statement of evidence.
- 109 Section 32AA analysis is included in **Appendix B**.

Financial Contributions

RVA / Ryman Submission

- 110 The RVA and Ryman sought to amend the financial contribution provisions to provide a retirement village specific regime, taking into account the lower demand profile of retirement villages compared to standard residential developments, and seek clarity to ensure the dual financial and development contributions regimes will not result in 'double dipping'.

Section 42A Report

- 111 The section 42A report writer has recommended that the changes sought by the RVA and Ryman are rejected as they:
- 111.1 Do not consider there to be an overlap between the development contributions and financial contributions regimes;
- 111.2 Do not consider there is a risk of development contributions and financial contributions being charged for the same purpose (or 'double dipping') as this is explicitly precluded by the Local Government Act 2002; and
- 111.3 Consider that any substantially lower demand profile associated with retirement villages would be captured as part of the matters to be considered when determining the level of financial contribution to be paid (table FC-Table x2 within PC2).

Response

- 112 I do not agree with the s42A report writer, as the imposition of financial contributions as part of PC2 does not provide certainty on the financial contributions that will be required to be paid. In addition, the RVA and Ryman seek to ensure the calculation methodology within PC2 takes into account the cost of works undertaken as part of any development.

- 113 The RVA and Ryman also seek the provision of a retirement village-specific regime that takes into account their substantially lower demand profile compared to standard residential developments.
- 114 Both the RVA and Ryman have been involved in the development contribution regime of local government under the Local Government Act 2002 for many years, and I consider that the potential for 'double dipping' has the very real potential to result in further arbitration, therefore adding further complexity to the consenting process for retirement villages. Mr Akehurst addresses these matters in further detail in his evidence.

CONCLUSION

- 115 As noted within this evidence, the submissions by the RVA and Ryman on PC2 are seeking to ensure that the District Plan provides a consistent and enabling regulatory framework for the establishment of retirement villages within the General Residential Area and the Centres and Mixed Use areas of the Kāpiti Coast District.
- 116 Overall, I agree with the submission by the RVA and Ryman that further amendments to PC2 are warranted in order to provide a planning framework that appropriately gives effect to the NPS-UD, responds to the retirement housing and care shortage, and is consistent with the approach adopted within neighbouring districts.

Phil Mitchell

10 March 2023

APPENDIX A – FURTHER COMMENTS ON COUNCIL’S S42A RECOMMENDATIONS

Sub Point #	Original Sub Point – RVA	Accept / Reject	Council Recommended Changes	Planning Commentary
197.12	Amend UFD-Px to refer to buildings of “at least” or “including” (as relevant) the relevant number of storeys (not “up to”).	Reject	[Policy as notified] ... <u>while recognising it may be appropriate to be less enabling of development to accommodate an identified qualifying matter avoiding inappropriate buildings, activities, heights and densities within qualifying matter areas.</u>	Disagree – the RVA / Ryman submission should be adopted in full.
197.13	Amend UFD-Px to refer to “managing” inappropriate buildings, activities, heights and densities (not “avoiding”).	Accept in part.	[Policy as notified] ... <u>while recognising it may be appropriate to be less enabling of development to accommodate an identified qualifying matter avoiding inappropriate buildings, activities, heights and densities within qualifying matter areas.</u>	Disagree – the RVA / Ryman submission should be adopted in full.
197.14	Amend UFD-P1 to acknowledge and provide for the development of new urban areas, and to ensure consistency with the MDRS.	Accept	New urban development for residential activities will only be located within existing urban areas, <u>and identified growth areas, and areas that can be efficiently serviced and integrated with existing urban</u>	Recommendation accepted.

			<p><u>areas</u>, and will be undertaken in a manner which:</p> <ol style="list-style-type: none"> 1. ... 2. ... 3. ... 4. ... 5. can be sustained within and makes efficient use of existing capacity of public services and strategic infrastructure (<u>including additional infrastructure</u>), <u>or is integrated with the planned capacity of public services and infrastructure and the likely availability of additional infrastructure; and</u> 6. ... <p><u>manages reverse sensitivity effects on existing lawfully established non-residential activities.</u></p>	
197.15	<p>Amend UFD-P2 to ensure consistency with the MDRS and to include specific reference to retirement villages in UFD-P2:</p> <p>UFD-P2 Housing Choice</p> <p>An increased mix of housing forms and types will be encouraged within parts of the District where increased variety and densities of housing are able to cater for changing demographics, while</p>	Accept in part	<p>UFD-P2 Housing Choice</p> <p>An increased mix of housing forms, and types, <u>sizes and tenures</u> will be encouraged within parts of the District where increased variety and densities of housing are able to cater for changing demographics, while maintaining <u>encouraging</u> high <u>quality development amenity values</u>. This will include provision for:</p>	Disagree – the RVA / Ryman submission should be adopted in full.

	<p>encouraging high <u>quality development amenity values</u>. This will include provision for:</p> <p>1. ...</p> <p>2. Housing for older persons;</p> <p><u>2A. Retirement villages;</u></p>		<ol style="list-style-type: none"> 1. smaller household sizes, <u>including 1 and 2 bedroom typologies and</u> residential units; 2. <u>housing for older persons the housing and care needs of the ageing population;</u> 3. supported living accommodation; 4. <u>papakāinga papakāinga;</u> 5. shared and group accommodation, <u>including community housing and multi-generational living;</u> 6. <u>transitional and emergency housing;</u> 7. 6. minor residential units; and 8. 7. a range of allotment sizes and land tenure arrangements to facilitate these typologies. <p>Section 32AA evaluation I consider this to be a more appropriate way to achieve the objectives of PC2 and the purpose of the RMA than the notified provision because the amendment is consistent with the wording of MDRS policy 5 (clause 6(2)(e) of Schedule 3A of the RMA).</p>	
197.16	<p>Amend UFD-P3 as follows to integrate recognition that the character and amenity of the District will change over time:</p> <p>UFD-P3 Managing Intensification</p>	Accept in part	<p>Residential intensification will give consideration to the <u>The effects of subdivision and development residential intensification on character and amenity values, will be assessed where these are provided</u></p>	Disagree – the RVA / Ryman submission should be adopted in full.

	<p>Residential intensification will give consideration to The effects of subdivision and development on character and amenity values <u>will be assessed</u> where these are provided for in the District Plan, <u>while recognising that the character and amenity of the District will change over time in response to the diverse and changing needs of people, communities and future generations.</u></p> <p>Add the following policy: <u>Role of density standards</u> <u>Enable the density standards to be utilised as a baseline for the assessment of the effects of developments.</u></p>		<p>for in the District Plan, <u>while recognising that character and amenity values may develop and change over time in response to the diverse and changing needs of people, communities and future generations.</u></p> <p>Section 32AA evaluation I consider this amendment is a more appropriate way to achieve the objectives of PC2, because it provides for improved interpretation of the policy, and better recognises Objective 4 of the NPS-UD.</p>	
197.17	<p>Amend UFD-P4 to refer to an area specific approach “generally” applying.</p> <p>Add a retirement village-specific policy as set out below.</p>	Reject	<p>The density of subdivision and development will be managed through an area-specific <u>provisions approach</u> to achieve an appropriate range of housing types, <u>density and built form</u> across the District., as set out below:</p> <ol style="list-style-type: none"> 1. the highest densities, including apartments as part of mixed use developments, will be located within and in immediate proximity to centres; 2. medium density housing will be limited to specific precinct areas within walking distance of centres 	Disagree – the RVA / Ryman submission should be adopted in full.

			<p>higher density development, including multi-storey apartments, will be provided for within a walkable catchment of the Metropolitan Centre Zone, train stations at Paekākāriki, Paraparaumu and Waikanae, and adjacent to the Town Centre Zone and Local Centre Zone;</p> <p>3. focused infill will be encouraged in specific areas where there is good access to shops and services a variety of densities will be provided for in the General Residential Zone;</p> <p>4. within the Neighbourhood Development Areas identified in the Ngārara Development Area Structure Plan in Appendix 7, the provision of affordable housing will be encouraged at appropriate locations with good access to shops and services; and</p> <p>5. traditional low density residential subdivision will be allowed within the general residential area;</p> <p>6. overall existing low densities will be maintained in special character areas identified in GRZP3;</p> <p>7. especially low densities will be applied in Low Density Housing Precinct areas (identified on the District Plan Maps) as transitions</p>	
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			<p>between rural and urban environments); and</p> <p>8. in areas where infrastructure constraints exist (such as water, wastewater or roading), densities will reflect those constraints <u>residential densities will be integrated with existing or planned infrastructure capacity.</u></p>	
197.18	Delete UFD-P7	Reject	N/A	Disagree – the RVA / Ryman submission should be adopted in full.
197.19	Amend UFD-P11 to clarify that it only applies to development within areas that have been identified in the plan as areas of significant/national importance or reserves.	Accept	<p>New subdivision, land use and development within reserves and areas <u>identified in the District Plan as having of</u> significant scenic, ecological, cultural, scientific and national importance will provide for the amenity values of these areas, including (but not limited to) values associated with:</p> <p>...</p>	Recommendation accepted.
197.21	Amend policy TR-P1 to achieve consistency with the MDRS.	Reject	N/A	Disagree – the RVA / Ryman submission should be adopted in full.
197.22	Amend TR-P2 as follows to acknowledge that not all measures listed in the policy are relevant / necessary for all developments: TR-P2 Sustainable Transport and Maximising Mode Choice	Reject	N/A	Disagree – the RVA / Ryman submission should be adopted in full.

	<p>Development and subdivision will be integrated with a transport system that <u>offers encourages</u> a wide range of travel mode choices, <u>which and the connections of</u> residents to essential community services, centres and social infrastructure, through <u>measures such as:</u></p> <p>...</p>			
197.23	<p>Amend TR-R10 to provide a peak hour vehicle movement standard.</p> <p>Amend TR-R10 so the matters of discretion require consideration of whether the development generates the same or less traffic than anticipated by the site zoning.</p> <p>Remove broad and unclear matters of discretion.</p>	Reject	N/A	Disagree – the RVA / Ryman submission should be adopted in full.
197.24	<p>Amend the financial contributions provisions to:</p> <ul style="list-style-type: none"> - Ensure the dual financial and development contributions regimes will not result in double dipping; - Provide certainty as to the financial contributions that will be required to be paid; - Ensure the calculation methodology takes into account cost of works undertaken as part of development; and 	Reject	N/A	Disagree – the RVA / Ryman submission should be adopted in full.

	<p>- Provide a retirement village-specific regime for retirement villages that takes into account their substantially lower demand profile compared to standard residential developments.</p>			
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APPENDIX B – SECTION 32AA EVALUATION

The s32AA evaluation is to be undertaken at a scale and degree that is commensurate with the anticipated effects of the amendments.

Having regard to Section 32AA, the following is noted:

<p>The specific provisions recommended to be amended are:</p> <ul style="list-style-type: none"> • Insert a new definition for 'retirement unit'; • Insert four new policies into the General Residential Zone (GRZ-PX Provision of housing for an ageing population, GRZ-PX Larger Sites, GRZ-PX Role of density standards and GRZ-PX Changing Communities); and • Insert three new policies within each of the Centres and Mixed Use zones (being the 'larger sites', 'role of density standards' and 'changing communities' policies). <p><u>'Retirement Unit'</u> - means any unit within a retirement village that is used or designed to be used for a residential activity (whether or not it includes cooking, bathing, and toilet facilities). A retirement unit is not a residential unit.</p> <p><u>[Insert Zone]- PX: Provision of housing for an ageing population</u></p> <p>2 <u>Provide for a diverse range of housing and care options that are suitable for the particular needs and characteristics of older persons in the [Insert Zone], such as retirement villages.</u></p>	<p>Effectiveness and Efficiency</p> <p>The recommended new definition, and policies within the General Residential Zone and Centres and Mixed Use zones, fill a critical gap in the policy regime of Proposed Plan Change 2 associated with actively providing support for the ageing population in the Kāpiti Coast District and the provision for retirement villages. It is considered that including a retirement unit definition and the four new policies appropriately recognises the acute needs for the ageing population and will more appropriately achieve the efficient use of land and patterns of development which are compatible with the role, function and predominant planned character of each particular zone.</p> <p>Costs/Benefits</p> <p>The recommended amendments enable retirement village development to occur within the General Residential Zone and Centres and Mixed Use zones in line with the direction of the NPS-UD and Enabling Housing Act. This will have benefit in encouraging residential redevelopment and intensification to support the outcomes expressed in both the PC2 and NPS-UD. It will encourage quality design outcomes for retirement villages. It will provide additional population within residential zones which will contribute to great economic support in the Kāpiti Coast District and provide employment.</p> <p>Risk of acting or not acting</p> <p>I consider that the appropriateness of adopting the relief sought must be considered in the context of the direction set out in the higher order policy documents, and in particular the NPS-UD and the Housing Enabling Act, which provide a significant step change in meeting the needs of communities, including providing a variety of homes for a range of households.</p> <p>The NPS-UD seeks to enable growth by requiring local authorities to provide development capacity to meet the demands of communities, address overly</p>
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<p>3 <u>Recognise the functional and operational needs of retirement villages, including that they:</u></p> <p>(b) <u>May require greater density than the planned urban built character to enable efficient provision of services.</u></p> <p>(c) <u>Have unique layout and internal amenity needs to cater for the requirements of residents as they age.</u></p> <p><u>[Insert Zone] – PX: Larger sites</u> <u>Recognise the intensification opportunities provided by larger sites within all residential zones by providing for more efficient use of those sites.</u></p> <p><u>[Insert Zone] – PX: Changing communities.</u> <u>To provide for the diverse and changing residential needs of communities, recognise that the existing character and amenity of the residential zones will change over time to enable a variety of housing types with a mix of densities.</u></p> <p><u>[Insert Zone] – PX: Role of density standards</u> <u>Enable the density standards to be utilised as a baseline for the assessment of the effects of developments.</u></p>	<p>restrictive rules, and encourage quality, liveable urban environments. It also aims to provide growth that is strategically planned and results in vibrant cities. In my opinion, the relief sought by the RVA and Ryman will be more in line with the outcomes expressed in the NPS-UD.</p> <p>The risk of not acting and Council not giving effect to the changes sought by the RVA and Ryman, is that intensification or redevelopment options are not taken up or are unnecessarily prevented from occurring.</p>
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