

Before the Hearings Commissioners at Wellington City Council

under: the Resource Management Act 1991

in the matter of: an application by Ryman Healthcare Limited for resource consent to construct, operate and maintain a comprehensive care retirement village at 26 Donald Street and 37 Campbell Street, Karori, Wellington

between: **Ryman Healthcare Limited**
Applicant

and: **Wellington City Council**
Consent Authority

Statement of evidence of **Richard Jonathon Turner** on behalf of Ryman Healthcare Limited

Dated: 29 August 2022

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**STATEMENT OF EVIDENCE OF RICHARD JONATHON TURNER
ON BEHALF OF RYMAN HEALTHCARE LIMITED**

INTRODUCTION

- 1 My full name is Richard Jonathon Turner.
- 2 I am a Director with Mitchell Daysh Limited, an environmental consulting practice with offices around New Zealand. Mitchell Daysh was formed through the merger between Environmental Management Services Limited and Mitchell Partnerships Limited in 2016.
- 3 I hold a Bachelor of Planning (Hons) from the University of Auckland, which I obtained in 2000.
- 4 I have practiced in the resource management planning field for 22 years. My experience includes a mix of in-house and consultancy resource management practice, with an emphasis on providing advice on regional and district planning processes, and the preparation of resource consent applications for a range of urban, coastal and infrastructure projects. I have led the consenting of several retirement villages across New Zealand on behalf of Ryman Healthcare Limited (*Ryman*), with the most recent examples being new villages in Auckland, Cambridge and Christchurch.
- 5 I am a full member of the New Zealand Planning Institute.
- 6 I have been engaged by Ryman to provide resource management and planning advice in respect of its resource consent application to construct and operate a comprehensive care retirement village (*Proposed Village*) at 26 Donald Street and 37 Campbell Street, Karori (*Site*), which was lodged with the Wellington City Council (*Council*) in September 2020. My firm was responsible for preparing the resource consent application and Assessment of Environmental Effects (*AEE*) for the Proposed Village.
- 7 In preparing this evidence I have read the evidence filed on behalf of Ryman, as well as the Council Officer's Report (*Officer's Report*) by Ms Laura Brownlie on behalf of the Council (along with the accompanying technical peer reviews), and the submissions received by the Council.
- 8 I have visited the Site and its surroundings on several occasions, most recently on 9 August 2022. I have viewed the neighbouring properties on Scapa Terrace from within the Site. I am also familiar with the relevant statutory planning documents that apply to the Site and the Proposed Village.

CODE OF CONDUCT

- 9 Although these proceedings are not before the Environment Court, I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note (2014) and I agree to comply with it as if these proceedings were before the Court. My qualifications as an expert are set out above. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

SCOPE OF EVIDENCE

- 10 In my evidence I will:
- 10.1 Discuss the statutory planning requirements that apply to the Proposed Village;
 - 10.2 Summarise the key potential environmental effects associated with the construction and operation of the Proposed Village in the context of the relevant statutory planning framework;
 - 10.3 Respond to the matters raised in submissions relevant to my expertise;
 - 10.4 Respond to the Officer's Report;
 - 10.5 Consider the Proposed Village against the requirements of sections 104D and 104 of the Resource Management Act 1991 (*RMA*), and against Part 2 of the Act;
 - 10.6 Discuss the recommended resource consent conditions; and
 - 10.7 Provide an overall conclusion.

SUMMARY OF EVIDENCE

- 11 Ryman proposes to establish and operate a comprehensive care retirement village at 26 Donald Street and 37 Campbell Street, Karori. The Proposed Village will provide a high quality, purpose built, secure, comprehensive care retirement village on a unique Site that is close to existing infrastructure and amenities.
- 12 The statutory planning framework that applies to residential development in existing suburbs such as Karori has changed significantly since the resource consent application was lodged in September 2020. There is now additional direction from the Government, via the National Policy Statement on Urban Development 2020 (*NPSUD*) and the Resource Management

(Enabling Housing Supply and Other Matters) Amendment Act 2021 (*Enabling Housing Act*), for residential intensification across existing residential neighbourhoods. The Site, and the surrounding area, has been identified for medium density residential development via the Proposed Wellington City District Plan (*Proposed Plan*) – elements of which have immediate legal effect or substantial weighting in the context of this resource consent application.

- 13 It is recognised that the Proposed Village will introduce change to the surrounding environment, and represents a notable change in land use and development for those residing immediately adjacent to the Site.
- 14 The Proposed Village will result in significant positive effects by providing a much-needed comprehensive care retirement village for a growing demographic in the community, and economic benefits through the creation of construction and operational jobs.
- 15 Based upon the assessments of the urban design and landscape experts on behalf of Ryman and Council, I consider that the Proposed Village will be able to suitably integrate with the expectations for residential environment set out in the relevant statutory planning documents. There are no exceedances of the yard or height-in-relation-to-boundary standards along sensitive boundaries to the Site (i.e. the Scapa Terrace boundary). Where there are exceedances of the built form standards (most notably from Buildings B01A and B01B), the relevant experts consider that any potential effects will be appropriate in the context of the character of the surrounding environment and are generally no more than minor.
- 16 Potential effects relating to traffic, infrastructure, heritage, wind, noise and construction activities have all been considered as part of the resource consent application, and there is a good degree of alignment between the various experts on behalf of Ryman and the Council with respect to the nature of these effects and how they can be suitably managed as part of the construction and operation of the Proposed Village. The proposed consent conditions attached to the Officer's Report also seek to respond to some of the relevant matters raised as part of the submission process.
- 17 I have considered the Proposed Village against the Wellington City District Plan (*Operative Plan*) and Proposed Plan, notwithstanding the respective status of each plan, and have concluded that the Proposed Village will not be contrary to the outcomes sought in the relevant objectives and policies. As such, it is my opinion, that there are no impediments to the granting of the resource consents that have been sought by Ryman under sections 104D or 104 of the RMA. Ms Brownlie reaches the same conclusion in the Officer's

Report, and I consider that there is broad alignment between her assessment and my conclusion in this evidence.¹

STATUTORY PLANNING REQUIREMENTS

Updated Planning Context

- 18 Since the resource consent application for the Proposed Village was lodged, the statutory planning framework that applies to the Site and residential development within established residential communities has changed by virtue of:
- 18.1 Amendments to the Operative Plan in May 2021 to remove all objectives, policies, rules and assessment criteria that have the effect of requiring a minimum number of carparks to be provided for any development – in accordance with Policy 11 and clause 3.38 of the NPSUD;
 - 18.2 The enactment of the Enabling Housing Act in December 2021;
 - 18.3 Further amendments to the NPSUD in 2022 to incorporate amendments made by section 77S(1) of the RMA - as inserted by the Enabling Housing Act; and
 - 18.4 The notification of the Proposed Plan in July 2022, which has resulted in the Site being zoned Medium Density Residential and subject to new density standards.
- 19 I discuss the implications of these changes to the statutory planning requirements in the following paragraphs.

National Policy Statement on Urban Development 2020

- 20 The AEE included an assessment of the NPSUD as it applied to the establishment of the Proposed Village in September 2020.
- 21 Since this time the NPSUD has been updated to, amongst other things, incorporate amendments to Policy 3 to enable building heights of at least six storeys around rapid transit stops and centres (clause (c)), and to refine the direction regarding building heights and densities to areas within and adjacent to neighbourhood centre zones, local centre zones and town centres (clause (d)).
- 22 Further, Policy 11 of the NPSUD required the Council to remove minimum car parking rate requirements (other than for accessible carparks) from the Operative Plan. This requirement is further detailed in Sub-Part 8 of the NPSUD, where it is noted that if a district plan contains "*objectives, policies, rules or assessment*

¹ Council Officer's Report, paragraph 640.

criteria that have the effect of requiring a minimum number of car parks to be provided for a particular development or activity, the district plan must be changed to remove that effect.” This change was introduced into the Operative Plan in May 2021.

- 23 I provide an assessment of the Proposed Village against the relevant objectives and policies of the NPSUD as part of my consideration of the resource consent application under section 104 of the RMA.

Operative Wellington City District Plan

- 24 As noted in the AEE, the Site is zoned Outer Residential Area in the Operative Plan and is also identified as part of the Karori Education Campus Precinct (reflecting its status as the former Teacher’s College). The surrounding residential properties are also zoned Outer Residential Area, while the Karori Pool (to the north) is zoned Open Space A.
- 25 The Outer Residential Area is described in the Operative Plan as containing the suburbs between the Inner Town Belt and the boundary of the Rural Areas.² The zone is anticipated to contain dwellings that are usually located on larger sections, and developments that are more spacious. Residential character varies in the area depending on the type of landform and the extent of vegetation.
- 26 The provisions in Chapter 4 of the Operative Plan that generally guide expectations for residential development in the Outer Residential Area focus on the following matters:
- 26.1 Enabling residential intensification provided that it does not detract from the character and amenity of the neighbourhood in which it is located;³
 - 26.2 Ensuring that new developments acknowledge and respect the character of the area in which they are located;⁴
 - 26.3 Managing adverse effects on residential amenity values by ensuring that the siting, scale and intensity of new residential development is compatible with surrounding development patterns; and⁵
 - 26.4 Managing the design and layout of new multi-unit developments to ensure that they provide high quality living

² Section 4.1 (Introduction) of the Operative Plan.

³ Policy 4.2.1.5 of the Operative Plan.

⁴ Policy 4.2.31 of the Operative Plan.

⁵ Policy 4.2.4.1 of the Operative Plan.

environments and avoid or mitigate any adverse effects on neighbouring properties.⁶

27 In the context of enabling residential intensification in the Outer Residential Area, the explanatory text to Policy 4.2.1.5 notes that the Council will encourage new multi-unit developments to locate on 'windfall' sites and undeveloped residentially zoned properties. Windfall sites are described as relatively large properties within an established residential area which have not been developed for residential purposes (and have often been used for commercial or community purposes). The explanatory text goes on to note that because of their size, these windfall properties can provide significant opportunities for residential intensification and because they have not been used for residential purposes their re-development generally does not lead to a loss of existing residential character.

28 It is my opinion that the Site constitutes an example of a windfall site described in the Operative Plan, which is also the opinion of Ms Skidmore and Mr Burns on behalf of Ryman and the relevant experts on behalf of the Council. In my view, this description of the Site remains consistent with the intensification expectations of the Proposed Plan, albeit the 'windfall site' concept is not used in the Proposed Plan. Rather, the focus is on ensuring that land within the Medium Density Residential Zone is used efficiently for residential development.⁷

29 In light of the direction provided by the NPSUD (which the Operative Plan does not currently give effect to), and the Proposed Plan rezoning the Site and the wider neighbourhood as Medium Density Residential (and introducing objectives and policies directly from the Enabling Housing Act), it is my assessment that the provisions in the Operative Plan that seek to:

29.1 Ensure development respects, or does not detract from, the character of the existing neighbourhood; or

29.2 Manage adverse effects on residential amenity by development being compatible with surrounding development patterns;

should be given limited weight in decision-making. In this regard, these provisions seek a residential amenity outcome for the environment that is incongruous with the directives for more intensive residential development and changes in residential

⁶ Policy 4.2.4.2 of the Operative Plan.

⁷ Objective MRZ-O2 of the Proposed Plan.

amenity set out in the NPSUD, as well as the objectives and policies in Schedule 3A of the Enabling Housing Act. My assessment aligns with the analysis of Ms Brownlie in the Officer's Report.⁸

- 30 I further consider the weighting to be applied to the provisions of the Operative Plan later in this evidence.
- 31 As I have noted already, the minimum parking requirements in Rule 5.6.1.3 of the Operative Plan were removed in 2021 in accordance with Policy 11 of the NPSUD. That said, Policy 4.2.12.4 of the Operative Plan retains direction to "*require appropriate parking...for activities in Residential Areas*", and Rule 5.3.7 (as it relates to multi-unit developments) retains discretion in respect of "*provision of parking and site access.*"
- 32 It is unclear to me how the retention of these provisions aligns with the directive of the NPSUD, and what constitutes 'appropriate' parking when there is no minimum requirement for carparks within a proposed development. If the reference is to the dimensions and design of carparks, then that is appropriate under the directives of the NPSUD - but in my opinion the total number of carparks provided on the Site should not be a matter for broader consideration as part of this resource consent application (irrespective of its activity status) in light of the clear direction set out in the NPSUD.
- 33 The Site is not subject to any other overlays or annotations in the Operative Plan.
- 34 A detailed analysis of the resource consents required for the Proposed Village in accordance with the Operative Plan is provided in **Appendix A** to my evidence, as well as in the Officer's Report by Ms Brownlie.⁹
- 35 Overall, I consider that resource consent is required for the following aspects of the Proposed Village under the Operative Plan:
- 35.1 A residential activity (as a use) that does not comply with the relevant site access standards;¹⁰
 - 35.2 The establishment of residential buildings that do not comply with the relevant building height standards;

⁸ Council Officer's Report, paragraph 637.

⁹ Council Officer's Report, paragraph 51 to 55.

¹⁰ Being the number of vehicle crossings (including one on to a collector road) and the width of the vehicle crossing on Donald Street.

- 35.3 The establishment of a multi-unit development;
 - 35.4 The establishment of buildings and structures within the Karori Education Campus;
 - 35.5 Signage that does not comply with the relevant standards regarding the number and size of signage;
 - 35.6 Site earthworks; and
 - 35.7 The remediation, use and development of contaminated or potentially contaminated land.
- 36 All of the resource consent requirements are restricted discretionary under the Operative Plan, with the exception of the establishment of residential buildings that do not comply with the relevant building standards in Rule 5.3.4. In this instance, residential buildings default to a non-complying activity status under Rule 5.5.
- 37 With respect to the building standards under Rule 5.3.4, at the time of lodgement of the resource consent application the Proposed Village exceeded the ground level open space (50 m²), total site coverage (42%) and maximum building height standards (8 m plus 20%) under Rule 5.3.4. It is my understanding that the Site is now subject to an outdoor living space standard of 20 m², maximum building height standard of 11 m (plus 20%) and a site coverage standard of 50% under Rule 5.3.4 – due to the built form standards for the Medium Density Residential Zone having immediate legal effect. Only the outdoor living space and building height standards are still exceeded by the Proposed Village.
- 38 I am aware that the AEE identified resource consent as being required for an exceedance of the noise limits in Rule 5.6.1.1, which apply to 'non-residential' activities occurring within a Residential Area. While Ms Siiri Wilkening has assessed the noise from rubbish trucks servicing the Proposed Village against Rule 5.6.1.1 in her evidence, it is my opinion that the rubbish trucks servicing the Site clearly form part of a residential activity / residential environment. This activity is related to the domestic purpose of the Proposed Village – as per the definition of a 'residential activity' in the Operative Plan. As such, I do not consider Rule 5.6.1.1 to be relevant to this resource consent application.
- 39 Resource consent was also previously required for an exceedance of the minimum carparking standards in Rule 5.6.1.3. As already discussed, these minimum standards have been removed from the Operative Plan – such that I consider resource consent is no longer triggered for this aspect of the Proposed Village. I also disagree with Ms Brownlie where she considers that the *"proposal needs to be assessed on the framework that existed at the time of the*

*application being submitted.*¹¹ It is artificial for the Council to seek to grant (or decline) resource consent for an activity that is no longer regulated by the Operative Plan. This matter is also addressed in legal submissions on behalf of Ryman.

- 40 Mr Leo Hills also comments in his evidence that the main access to the Proposed Village on Donald Street is proposed to be reduced to 7.5 m in width (from 9 m) in response to discussions with Mr Kong on behalf of the Council. This reduction in the vehicle access width does not, however, negate the need for resource consent under Rule 5.6.1.4 - which uses a threshold of 6 m for vehicle access widths.

Proposed Wellington District Plan

- 41 The Proposed Plan was notified by the Council in July 2022.
- 42 As well as generally updating the planning framework that applies within Wellington, the Proposed Plan seeks to give effect to the NPSUD and respond to the directives of the Enabling Housing Act. Against this context, the Site has been zoned Medium Density Residential, as is all of the existing residential development on Donald Street, Campbell Street and Scapa Terrace. Karori Pool is zoned Sport and Active Recreation, while Karori Normal Primary School is also zoned Medium Density Residential (but is also subject to a designation in favour of the Ministry for Education).
- 43 The Karori Shopping Centre, to the north of the Site, is zoned Local Centre – and subject to an 18 m height control in the Proposed Plan.
- 44 The Medium Density Residential Zone is described as comprising predominantly residential activities with a moderate concentration and bulk of buildings, such as detached, semi-detached and terraced housing, low-rise apartments and other compatible activities.¹² It is also noted that the efficient use of land within the Medium Density Residential Zone is important to meet the strategic objectives of maintaining a compact urban form and providing new housing to help address the needs of Wellington. Finally, the introduction notes that it is anticipated that the form, appearance and amenity of neighbourhoods within the Medium Density Residential Zone will change over time.
- 45 The objectives applicable to the Medium Density Residential Zone include those required in accordance with Schedule 3A of the Enabling Housing Act – and identify that the zone predominantly provides for residential activities and a variety of housing types

¹¹ Council Officer's Report, paragraph 427.

¹² Introduction to the Medium Density Residential Zone – Proposed Plan.

(including three storey buildings),¹³ the efficient use of land for residential development¹⁴ and ensuring healthy, safe, accessible and attractive environments.¹⁵

46 The policies for the Medium Density Residential Zone also include those from Schedule 3A of the Enabling Housing Act and follow the theme of providing for residential activities, including a variety of building typologies, while ensuring their scale and intensity is consistent with the amenity values anticipated for the zone. This includes providing for developments not meeting the permitted activity standards, while encouraging high quality development.¹⁶

47 The Proposed Plan includes a specific policy relating to the establishment of retirement villages in the Medium Density Residential Zone, being Policy MRZ – P7 (although this policy is not a directive from the Enabling Housing Act). It states:

Provide for retirement villages where it can be demonstrated that the development:

- (a) Fulfils the intent of the Residential Design Guide;*
- (b) Includes outdoor space that is sufficient to cater for the needs of the residents of the village;*
- (c) Provides an adequate and appropriately located area on site for the management, storage and collection of all waste, recycling and organic waste potentially generated by the development;*
- (d) Is adequately serviced by three waters infrastructure or can address any constraints on the site; and*
- (e) Is of an intensity, scale and design that is consistent with the amenity values anticipated for the Zone.*

48 While this policy is still subject to submissions and hearings, it, along with the classification of retirement villages as a restricted discretionary activity in the Proposed Plan (in terms of both the activity and buildings), seeks to acknowledge that retirement villages will be an expected part of the Medium Density Residential Zone.

49 The Medium Density Residential Zone adopts the medium density residential standards from the Enabling Housing Act for residential dwellings (as well as some additional standards), and allows for three residential units of up to three storeys on a site as a permitted activity. Multi-unit housing of four or more units, and retirement villages, are also anticipated through a restricted discretionary

¹³ MRZ-O1 of the Proposed Plan.

¹⁴ MRZ-O2 of the Proposed Plan.

¹⁵ MRZ-O3 of the Proposed Plan.

¹⁶ MRZ-P1, P2, P3 and P5 of the Proposed Plan.

resource consent process, and subject to standards and design guidance. With respect to the built form standards that apply to permitted residential development in the Medium Density Residential Zone, these differ from the Operative Plan in the following ways:

Standard	Operative Plan	Proposed Plan
Max number of residential units per site	2	3
Max building height	8 m, except that an additional 1 m can be added to the maximum height of any building with a roof slope of 15° or greater (rising to a central ridge).	11 m, except that 50% of a building's roof in elevation, measured vertically from the junction between wall and roof, may exceed this height by 1 m, where the entire roof slopes 15° or more.
Height in relation to boundary	Buildings must not project beyond a 45° recession plane measured from a point 2.5 m vertically above ground level along all boundaries.	Buildings must not project beyond a 60° recession plane measured from a point 4 m vertically above ground level along all boundaries.
Minimum setbacks	Front – 3 m ¹⁷ Side & Rear – N/A ¹⁸	Front – 1.5 m ¹⁹ Side & Rear – 1 m
Maximum building coverage	35% ²⁰	50% of the net site area

¹⁷ Or 10 m less half the width of the road, whichever is the lesser.

¹⁸ However, outdoor access to any open area to the rear of a building is to be provided with a minimum width of 1 m, and a minimum width of 1 m must be maintained between buildings where a residential building on an adjoining site is sited less than 1 m from the boundary.

¹⁹ This standard does not apply to site boundaries where there is an existing common wall between 2 buildings on adjacent sites or where a common wall is proposed.

²⁰ This may be increased to 40% if the extra site coverage comprises only uncovered decks over 1 m in height.

Outlook space	N/A	A principal living room must have an outlook space with a minimum dimension of 4 m in depth and 4 m in width. All other habitable rooms must have an outlook space with a minimum dimension of 1 m in depth and 1 m in width.
Minimum outdoor living space ²¹	50 m ² per unit (minimum dimension 4 m)	20 m ² per unit (minimum dimension 3 m)
Windows to street	N/A	Any residential unit facing the street must have a minimum of 20% of the street-facing façade in glazing. This can be in the form of windows or doors.
Minimum landscaped area	N/A	20% of a developed site with grass or plants, and can include the canopy of trees regardless of the ground treatment below them.
Minimum permeable surface	N/A	30% of net site area

50 Overall, the Medium Density Residential Zone provides for residential development as a permitted activity to have greater height and density than provided for via the Operative Plan. In my opinion, this provides the context for how residential development around the neighbourhood of the Site is expected to change over time.

51 I do note, however, that the Site and many of the surrounding properties on Scapa Terrace and Campbell Street are subject to the following Flood Hazard Overlays - Overland Flow Path, Stream

²¹ Or ground level open space.

Corridor and Ponding Area in the Proposed Plan. These are illustrated in Figure 1 below.

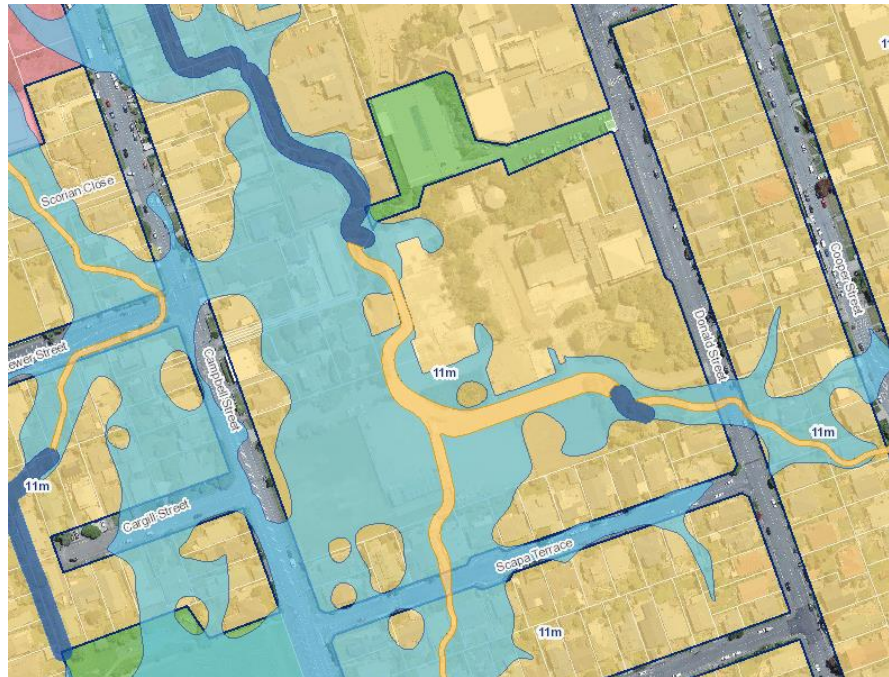


Figure 1: Flood Hazard Overlay (Proposed Plan)

52 In the above locations the establishment of a residential dwelling is a restricted discretionary activity under Rule NH-R11, where the finished floor levels is located above the 1% Flood Annual Exceedance Probability level (including an allowance for freeboard). Where the floor levels do not comply with this standard, the activity status is elevated to non-complying. The Flood Hazard Overlay does not negate the zoning of the above locations as Medium Density Residential – it simply introduces additional rules to guide the design of residential development in these locations.

53 I also do not consider that any of the rules in the Proposed Plan that have immediate legal effect change the consent requirements for the Proposed Village. That is, the Proposed Plan does not introduce additional consent triggers for the Proposed Village beyond those I have noted in paragraph 35 above.

54 I provide further comment on the implications of the Proposed Plan for the assessment of the Proposed Village in accordance with sections 104D and 104 of the RMA later in this evidence.

Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011

55 A land use consent is also required for a restricted discretionary activity for the disturbance of soil, and a change in land use, in

accordance with Regulation 10 of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 (*NES*).

- 56 The key matters of discretion available to decision-makers under the *NES* relate to the adequacy of the site investigations, the suitability of the land for the proposed use, the approach to the remediation of the Site and the site management plan, and the transport / disposal of material from the Site.

Other National Environmental Standards

- 57 I do not consider that any of the other national environmental standards under the RMA (e.g. the Resource Management (National Environmental Standards for Freshwater) Regulations 2020) are applicable to the consideration of this resource consent application. Ms Brownlie also does not identify any other standards as being relevant in this regard either.

Overall Activity Status and Bundling

- 58 Overall, I consider that the resource consent application for the construction and operation of the Proposed Village should be bundled and considered as a non-complying activity. This non-complying activity classification is agreed with Ms Brownlie.²²

ASSESSMENT OF ENVIRONMENTAL EFFECTS

The Existing Environment

- 59 An assessment of the actual and potential effects of an activity should be made having determined the relevant receiving environment. It is, therefore, important to understand the receiving environment within which an activity is proposed to locate and what activities would be permitted to occur on the Site, and adjoining sites, as of right.
- 60 With respect to potential consented activities which might form part of the existing environment, I do not understand there to be any unimplemented consents in the surrounding neighbourhood that have any impact on understanding the existing environment. I also agree with Ms Brownlie that the former buildings on the Site that have been demolished do not form part of the existing environment.²³
- 61 As I have already discussed, some of the rules in the Proposed Plan regarding residential development in the Medium Density Residential Zone now have legal effect, and the corresponding rules in the Operative Plan no longer have legal effect in accordance with section

²² Council Officer's Report, paragraph 55.

²³ Council Officer's Report, paragraph 76.

86BA of the RMA (particularly where there are no flood hazard overlays). As such, the typology and size of residential development that can be built in parts of the surrounding neighbourhood as a permitted activity has been substantially altered.

- 62 A description of the existing environment in, and around, the Site, is provided in the AEE. Likewise, the evidence on behalf of Ryman, the Officer's Report by Ms Brownlie and some of the submissions (particularly from submitters residing on Scapa Terrace) provide further detailed commentary with respect to the existing environment for the purposes of considering this resource consent application.
- 63 By way of summary, the Site is an irregular shape and varying in topography. It fronts both Donald Street and Campbell Street, with an access on to both roads. The Site is approximately 3.05 ha in size, and other than a selection of existing buildings located in the north-eastern corner of the Site, is vacant. The former tennis courts and playing fields on the Site are no longer utilised.
- 64 The Site formed part of the Faculty of Education from 1970 to 2016, after which it was purchased by Ryman. The layout of the former Teachers' College was developed with a cluster of buildings positioned in the north-eastern area of the Site, with garden and courtyard areas. Mr Pearson provides a full description of the collection of former and existing buildings, and their 'brutalist' architectural style in his evidence. He notes that the remaining buildings are listed as a Category 1 – Historic Place in the New Zealand Heritage List / Rārangī Kōrero. This classification is also noted in the submission by Heritage New Zealand Pouhere Taonga (HNZPT).²⁴ The remaining buildings are not, however, scheduled / listed in either the Operative Plan or Proposed Plan.
- 65 Ms Skidmore provides a contextual overview of the landscape character of the former Teachers' College in her evidence, describing the collection of modernist buildings as creating a 'distinctive landmark' in the established residential neighbourhood of Karori. In this regard, the former Malcolm Block was 10 stories and included a distinct antenna – which, as illustrated in the visual simulations, could be seen from large parts of the surrounding neighbourhood.
- 66 Ms Skidmore and Mr Burns both note the varied, relatively complex topography of the Site, with the distinctive areas comprising the northern flat edge along Donald Street, the central steeper escarpment and overland flow path valley, and the flat south-western area that includes former areas of open space as well as the

²⁴ Submission of Heritage New Zealand Pouhere Taonga.

building platforms previously occupied by the Panckhurst Block and the Malcolm Block. They also describe the different types of open space and vegetation within the Site, including a variety of vegetation and specimen trees located throughout it. This includes the Lopdell Gardens located in the northern part of the Site (and which extend into a small gully in the north-eastern corner of the Site), and an area of trees and vegetation in the south-eastern corner of the Site.

- 67 Ms Skidmore and Mr Burns also provide an overview of the character of the urban environment and landscape around the Site in their respective briefs of evidence. They both acknowledge that while the built character of the surrounding neighbourhood has a predominately residential focus, the area also contains a diverse mix of activities. In this regard, they note that in addition to the surrounding residential character typified by stand-alone single and two-storey dwellings located on Donald Street, Campbell Street and Scapa Terrace the wider environment contains a range of other activities of a different scale and form and include:
- 67.1 The shopping / community centre along Karori Road (approximately 270 m from the Site), which is proposed to have a height control of 18 m in the Proposed Plan;
 - 67.2 A number of pre-schools and schools, including Karori Kids immediately to the west of the Site, Karori Normal School immediately to the north of the Site and Samuel Marsden Collegiate School further to the east; and
 - 67.3 Open spaces and recreational facilities, including the Karori Pool immediately to the north of the Site, Ben Burn Park located to the south-west of the Site and the Karori Bowling Club to the north-west.
- 68 With respect to the dwellings on Scapa Terrace that border the Site, Mr Burns notes that these dwellings are predominantly single storey - although there are a couple of two storey dwellings. Mr Burns comments that the dwellings typically occupy much of their site and are generally constructed close to their boundaries. These properties tend to have relatively tall fences, although one or two in the centre of the road do have lower fencing along their boundaries. Views from private backyards towards the Site exist, although these vary between properties depending on their position relative to the Site and the ground level.
- 69 With respect to the Site's two road frontages, Mr Hills notes that Campbell Street is classified as a 'collector road' and Donald Street a 'local road' in the Operative Plan (with both roads being classified as 'local streets' in the Proposed Plan). Karori Road, which intersects both roads to the north, is classified as a 'principal road' in the Operative Plan and an 'urban connector' in the Proposed Plan.

The key traffic generating activities in the wider environment at present include Karori Normal School and Karori Pool to the north (via Donald Street) and Ben Burn Park to the south (via Campbell Street).

- 70 Mr Hills also notes that the Site is within walking distance to public transport services, with bus stops located on Karori Road and Verviers Street (an approximate 4 – 5-minute walk from the Site).
- 71 The Site is subject to a 1% Annual Exceedance Probability (*AEP*) flood hazard on the Greater Wellington Regional Council's GIS, and flood hazard overlays in the Proposed Plan (as noted in Figure 1 above).
- 72 Also, of relevance to understanding the existing environment is the changing demographics of the population of the Wellington Region - as discussed in the evidence of Mr Brown. In this regard, it is understood that there are currently estimated to be 323,700 people in New Zealand aged 75+ years. The age group is expected to rise to over 698,000 nationally within the next 20 years. In the Wellington region, the 75+ population is predicted to grow from 31,155 people in 2018 to 87,910 (high-growth projection) people in 2043. The Statement of Evidence of Mr Matthew Brown notes that this age group are the primary occupants for Ryman's retirement villages.
- Permitted Baseline**
- 73 Section 104(2) of the RMA specifies that when forming an opinion of the potential effects on the environment of allowing an activity, a consent authority may disregard an adverse effect of the activity on the environment if a national environment standard or the plan permits an activity.
- 74 Ms Brownlie has noted that the permitted fence height along the boundary of the Site is 2 m under the Operative Plan, and that any shading effects associated with such fencing can be disregarded from an assessment perspective.²⁵ I agree with this analysis and am aware that Ryman has provided the Council with further shading diagrams illustrating the shading generated by a 2 m high fence at representative times on the properties along Scapa Terrace for further context.
- 75 With respect to the incremental development of the Site utilising the permitted residential buildings and subdivision rules in the Proposed Plan (as noted by Ms Brownlie), I have not considered an alternative development scenario of this nature that could form part of a permitted baseline for the Site. The incremental nature of this type

²⁵ Council Officer's Report, paragraph 74.

of development, and the need to consider the potential for public through roads and other infrastructure, makes such a proposal highly speculative in the context of a permitted baseline assessment.

Relevant Planning Provisions

- 76 Notwithstanding my comments above regarding the permitted baseline, I do consider the relevant built form standards (as already noted in this evidence) to provide useful context when assessing the actual and potential effects of the Proposed Village. This consideration is not in the context of a permitted baseline (and, therefore, potentially disregarding potential effects on the environment under section 104 of the RMA), but as part of a general toolbox of measures to provide an understanding of the potential scale of adverse effects of a proposal and how these effects are described in the relevant planning documents.
- 77 As noted in the shading analysis of Mr Burns, he has considered a range of factors to build an understanding of the potential amenity effects of the Proposed Village. This has included, in part, consideration of the shading that might be created by the height, recession plane and yard standards in the statutory planning documents. As I understand his evidence, he has not relied on this consideration as a permitted baseline to discount effects and neither he, nor I, consider that a building with 100% site coverage could be established on the Site (as seems to be the concern of Ms Brownlie within considering the shading created by the built form standards²⁶). Rather, it is recognised that the relevant standards provide some understanding of the shading that could potentially occur across parts of the neighbourhood if development patterns on the Site followed the existing patterns of the neighbourhood and the statutory planning documents. In my opinion, this aspect of the analysis has not been prioritised or been determinative in the assessment process.

Actual and Potential Effects

- 78 An assessment of the actual and potential effects of the Proposed Village is provided in the AEE, as well as in the further information responses provided to the Council. The evidence of the witnesses on behalf of Ryman also provide a detailed summary of the potential effects of the Proposed Village. The Officer's Report, including the accompanying peer reviews, provide further analysis of the actual and potential effects associated with the Proposed Village.
- 79 Likewise, I acknowledge that the submissions on the resource consent application provide further understanding of the potential for adverse effects associated with the construction and operation of

²⁶ Council Officer's Report, paragraph 142.

the Proposed Village in the opinion of submitters, particularly as regards to their amenity.

80 Based upon my review of the assessments, evidence and submissions, I consider the key actual and potential effects of the Proposed Village that are most relevant to considering this resource consent application can be grouped into the following topics:

80.1 Residential amenity, landscape and urban design effects;

80.2 Heritage effects;

80.3 Transportation effects;

80.4 Wind effects;

80.5 Infrastructure effects; and

80.6 Construction effects.

81 I provide my summary and analysis of the potential effects of the Proposed Village in the context of the statutory planning framework and the expectations that it sets for the management of these actual and potential effects. My analysis does not seek to repeat the evidence provided by other witnesses – but rather to consider the key conclusions and, potential points of agreement / disagreement, as relevant to the statutory planning framework.

82 Potential adverse effects on 33 Campbell Street have not been considered given that written approval has been provided for this property.

Residential Amenity, Landscape and Urban Design Effects

83 The potential effects of the Proposed Village on the residential amenity of adjacent properties, as well as broader landscape and urban design effects on the environment was a matter raised in a number of submissions.²⁷

84 I have already identified the key objectives and policies in the Operative Plan and Proposed Plan regarding residential amenity matters, as well as the respective weighting that I consider should be applied to them in light of the direction set out in the NPSUD and Enabling Housing Act. With key context to the consideration of the potential residential amenity, landscape and urban design effects of

²⁷ Submission 15 (O’Hagan), 39 (McArdle) and 56 (Cooper).

the Proposed Village, it is my opinion that the key outcomes sought are:

- 84.1 A diversification of the housing stock that responds to the planned residential character, which includes three storey buildings;²⁸
 - 84.2 The efficient use of land for residential development / intensification;²⁹
 - 84.3 Multi-unit developments and retirement villages that are of an intensity, scale and design that is consistent with the amenity values or built character anticipated for the zone;³⁰ and
 - 84.4 The provision of high quality developments and reasonable levels of amenity.³¹
- 85 My analysis of these matters in the context of the statutory planning framework is provided below, noting that I consider potential wind effects under a separate heading in the paragraphs below.

Residential Amenity

- 86 Mr Burns considers the potential residential amenity effects of the Proposed Village in terms of dominance, privacy and residential character in detail in his evidence. Matters relating to dominance and privacy were a theme in some of the submissions in opposition to the resource consent application, particularly from those living on Donald Street, Campbell Street and Scapa Terrace.
- 87 In my opinion, the key conclusions from Mr Burns evidence are:
- 87.1 The Site is well-suited for residential intensification, being close to local amenities and of a large size. Accessways and entrances also maintain permeability and ensure positive connections to surrounding streets. Car parking is also visibly contained within the Site;
 - 87.2 The Proposed Village presents a coherent design language that is consistent across the Site, but also varies according to the context provided by the former buildings, the remaining heritage buildings and the different street and

²⁸ For example, Objective MRZ-O1 of the Proposed Plan.

²⁹ For example, Objective 4.2.1 of the Operative Plan and MRZ-O2 of the Proposed Plan.

³⁰ For example, Policies MRZ-P6 and MRZ-P7 of the Proposed Plan.

³¹ For example, Objective 4.2.4 of the Operative Plan and Policies MRZ-P5 and MRZ-P8 of the Proposed Plan.

housing typologies. Mr Burns considers that all street facing buildings create positive frontages with high levels of façade articulation, glazing, balconies, entrances and front yards – which assist in reinforcing the residential role of these streets;

- 87.3 All proposed buildings have legible entrances and are configured around courtyards, gardens, streets and accessways - offering a high level of amenity. Unit sizes exceed published standards, and most are provided with private open spaces;
- 87.4 Buildings at the boundaries of the Site comply with the relevant built form standards in the Operative Plan and Proposed Plan (subject to some minor exceptions). The buildings along the southern boundary of the Site also comply with the 11 m built form standard in the Proposed Plan, with the exception of some lift shafts;
- 87.5 Privacy effects on properties closest to the Site are considered to be acceptable due to the range of design techniques deployed for proposed buildings – including yard setbacks, height stepping, window position and type, fencing and plant screening. Privacy effects on all other properties are mitigated by public street separation, yard setback and planting; and
- 87.6 The Proposed Village establishes conditions that will deliver a suitably safe public realm as well as safe and secure on-site streets and spaces. I note that the development maximises potential for views to Campbell and Donald Streets and provides a high degree legibility for the two Donald Street entrances.
- 88 The peer review by Ms Sarah Duffell³² concludes that there is general agreement regarding the main urban design aspects of the Proposed Village and considers that Mr Burns urban design assessment can be adopted. In particular, Ms Duffell concludes that the Proposed Village will communicate a type of residential use that would not be unexpected within a suburban context and is unlikely to result in unreasonable loss of privacy to adjacent sites to the extent feared by submitters.
- 89 With respect to visual amenity effects, Ms Skidmore has considered users of the surrounding street network, open spaces, schools in the vicinity as well as residents of the surrounding properties. Ms Skidmore concludes that the magnitude of visual change will vary

³² Council Officer's Report, Appendix 2 – Urban Design – Sarah Duffell.

considerably for these various groups. In the context of the landmark qualities of the Site established by the former Teachers' College and the relevant planning provisions, Ms Skidmore found that the resulting effects varied from moderate adverse to positive – with 49 Campbell Street being the only property where moderate adverse effects would occur until the boundary planting becomes established (which will reduce adverse effects to low). However, when considered in the context of the planning framework established by the Proposed Plan, Ms Skidmore considers the potential adverse visual effects at this property to be considerably lower.

- 90 Whilst I acknowledge the matters raised in submissions regarding residential amenity, the conclusions of the experts on behalf of Ryman and the Council indicate that the Proposed Village will provide a high quality design for the Site, will respond to residential character and ensure reasonable levels of amenity – such that potential adverse effects will be minor and the proposal aligns with the key outcomes sought by the relevant statutory planning documents.

Shading

- 91 A number of submitters, particularly those along Scapa Terrace,³³ made comment on the potential for shading on their property - although there was little comment on what extent of shading they consider may be acceptable. However, and as noted by Ms Brownlie,³⁴ the building recession plane along the southern boundary of the Site complies with the Operative Plan and the explanation to Policy 4.2.4.1 states that "*the building recession standards are intended to protect people's access to a reasonable amount of direct sunlight.*"
- 92 Comprehensive shading diagrams have been produced by Ryman (as explained by Mr Bright) for the Proposed Village and Mr Burns has undertaken a detailed assessment of the potential shading generated on adjacent properties to the Site – irrespective of compliance with building recession plane standards. Ms Brownlie has undertaken a similar assessment as part of the Officer's Report. While the methodologies employed by Mr Burns and Ms Brownlie vary, they ultimately reach the same overall conclusion – that the potential shading effects on adjacent properties will be acceptable and no more than minor.
- 93 As previously noted, Ms Brownlie considers that she cannot use / compare / disregard the shading generated by the residential standards for height and building recession planes on the shading

³³ For example, Submission 38 (Curruthers) and 39 (McArdle).

³⁴ Council Officer's Report, paragraph 510.

diagrams. I reiterate that neither Mr Burns nor I are suggesting that a building with 100% site coverage could be established on the Site. Instead this shading analysis is intended to provide some broad understanding of the potential shading that could potentially occur.

- 94 In my case, in light of the conclusions reached by Mr Burns and Ms Brownlie, the potential shading effects are considered to be minor and will ensure the maintenance of reasonable amenity outcomes consistent with the statutory planning context.

Landscape Effects

- 95 With respect to potential landscape effects, Ms Skidmore is of the opinion that the built form of the Proposed Village responds to, and respects, the former Teachers' College site layout and draws on the north / south orientation axis. She considers that this provides considered and proportioned building frontages to Donald and Campbell Streets, tying the Proposed Village into the neighbourhood character – which I consider aligns with the residential character expectations in the Operative Plan.
- 96 Ms Skidmore does consider that the Proposed Village will result in an increased scale and density of buildings on the Site. However, she notes that the design of the various built elements will be residential in character. Extensive planting, with a range of ornamental trees, will further enhance this residential character in Ms Skidmore's opinion.
- 97 Ms Skidmore has considered the potential landscape effects of the Proposed Village from a range of viewpoints around the surrounding neighbourhood. While the likes of Buildings B01 and B01B will be readily apparent from some locations, Ms Skidmore is of the opinion that the Proposed Village will result in low adverse to positive visual effects overall.
- 98 Ms Angela McArthur has provided a peer review of the potential landscape effects of the Proposed Village.³⁵ I don't understand there to be any significant points of disagreement between Ms McArthur and Ms Skidmore with respect to the potential landscape effects of the Proposed Village, with the minor differences relating to some viewing audiences at the low to very low end of the effects scale. Ms McArthur confirms that, overall, she agrees with the findings and conclusions made in the landscape and visual assessment by Ms Skidmore.
- 99 In light of the assessments by Ms Skidmore and Ms McArthur, I consider that the Proposed Village will maintain the character of the

³⁵ Council Officer's Report, Appendix 3 – Landscape and Visual Effects – Angela McArthur.

neighbourhood (as set out in the Operative Plan) and will provide a high-quality development on the Site as per the expectations of the Proposed Plan. Consistent with Policy MRZ-P7 of the Proposed Plan, the Proposed Village is also considered to be of an intensity, scale and design that is consistent with the amenity anticipated for the Medium Density Residential Zone.

Heritage Effects

- 100 The submission by HNZPT³⁶ concurs with the assessment and recommendations of Ms Moira Smith from her peer review report prepared in September 2021³⁷ in terms of the scale of effects on the remaining buildings that formed part of the former Teacher’s College.
- 101 With respect to the planning context that applies to the consideration of potential heritage effects as part of the resource consent application for the Proposed Village, I consider that both the Operative Plan and Proposed Plan only seek to manage heritage buildings and sites that are listed in the respective plans. That is, the objectives and policies do not seek to apply to buildings or places with heritage values that are only listed on the New Zealand Heritage List / Rārangī Kōrero.
- 102 As such, the key direction from a heritage perspective is provided by the RPS – which seeks that historic heritage is identified and protected from inappropriate modification, use and development.³⁸ When considering an application for a resource consent, the RPS also directs³⁹ that in determining whether an activity is inappropriate particular regard shall be given to:
- 102.1 The degree to which historic heritage values will be lost, damaged or destroyed;
 - 102.2 The irreversibility of adverse effects on heritage values;
 - 102.3 The opportunities to remedy or mitigate any previous damage to heritage values;
 - 102.4 The degree to which previous changes that have heritage value in their own right are respected and retained;
 - 102.5 The probability of damage to immediate or adjacent heritage values;

³⁶ Submission 76.

³⁷ Council Officer’s Report, Appendix 5 – Heritage – Moira Smith.

³⁸ Objective 15 of the RPS.

³⁹ Policy 46 of the RPS.

- 102.6 The magnitude or scale of any effect on heritage values;
- 102.7 The degree to which unique or special materials and / or craftsmanship are retained;
- 102.8 Whether the activity will lead to cumulative adverse effects on historic heritage; and
- 102.9 Whether the relationships between distinct elements of an historic place, site or area will be maintained.
- 103 The potential heritage effects of the Proposed Village, and how these should be managed on Site, has been a matter of further discussion between Mr Pearson and Ms Smith over the past few months – some of which I have been a part of in terms of the potential consent conditions to ensure the achievement of agreed outcomes.
- 104 Mr Pearson and Ms Smith have agreed a range of mitigation measures to ensure that the proposed refurbishment works in the Oldershaw Music Block, Allen Ward VC Hall and Tennant Block retain key features (e.g. timber joinery) and that the design of the Donald Street entrance to the Proposed Village (between the Allen Ward VC Hall and the Tennant Block) is consistent with the original architecture of these buildings.
- 105 In addition, the proposed consent conditions attached to the Officer's Report include a suite of measures, including, as part of a Heritage Management Plan, detail of the methodology for the structural upgrade works to the Oldershaw Music Block, Allen Ward VC Hall and Tennant Block and the design of any external panels or surface treatments to these buildings.
- 106 Overall, Mr Pearson considers that any potential adverse heritage effects of the new buildings proposed as part of the Proposed Village will be appropriately mitigated. Mr Pearson also notes that the Proposed Village will also create a number of positive heritage benefits through the retention, seismic strengthening, refurbishment and reuse of the former buildings of the Teachers' College. Ms Smith agrees with this assessment and now considers the Proposed Village to provide acceptable heritage outcomes.
- 107 Given the assessments by Mr Pearson and Ms Smith, it is my opinion that the Proposed Village will clearly provide for the ongoing use and adaptive re-use of the remaining buildings that formed part of the former Teacher's College (including through the seismic strengthening that is proposed to the Oldershaw Music Block, Allen Ward VC Hall and Tennant Block). The proposed consent conditions also provide a framework to ensure that the key surface treatments to these buildings, and particular the entrance off Donald Street, are reflective of the original architecture and design of these buildings.

108 I agree with the conclusion of Ms Brownlie⁴⁰ that based on the expert advice, and the proposed consent conditions regarding the management of heritage on Site, any potential effects on heritage will be no more than minor.

Transportation Effects

109 Some submitters have raised concerns regarding the potential transportation effects associated with the Proposed Village.⁴¹ Matters raised include increased traffic on the surrounding road network, the lack of on-site parking and the consequential loss of street parking for residents, and the width of the site access on Donald Street (from the perspective of pedestrian safety).

110 Fire and Emergency New Zealand⁴² also raised concerns regarding the accessibility of emergency service vehicles throughout the Site to buildings and firefighting water supplies.

111 I address the management of potential construction traffic effects later in this evidence.

112 With respect to the overarching policy direction that applies to transportation matters, the Operative Plan and Proposed Plan seek the following outcomes:

112.1 The improvement of access for all people and the provision of a range of transport modes;⁴³

112.2 The avoidance, remediation or mitigation of the adverse effects of road traffic within Residential Areas, and ensuring high trip generating activities do not compromise the safety and effectiveness of the transport network;⁴⁴

112.3 Appropriate parking, loading and site access for activities in Residential Areas; and⁴⁵

112.4 Transport facilities and driveways are effective in meeting the operational needs and functional needs of the activity

⁴⁰ Council Officer's Report, paragraph 378.

⁴¹ Submission 50 (van Amelsfort) and 55 (Eyles).

⁴² Submission 51 (Fire and Emergency New Zealand).

⁴³ Policy 4.2.12.1 of the Operative Plan and Objective TR-O1 of the Proposed Plan.

⁴⁴ Policy 4.2.12.2 of the Operative Plan and Objective TR-O1 of the Proposed Plan.

⁴⁵ Policy 4.2.12.4 of the Operative Plan.

on the site, and safe and effective access for firefighting purposes is provided.⁴⁶

- 113 As previously discussed, the minimum parking requirements in Rule 5.6.1.3 of the Operative Plan were removed in 2021. That said, the likes of Policy 4.2.12.4 of the Operative Plan retain direction to require 'appropriate' parking in residential areas – which, in my opinion, seems akin to continuing to ensure that a minimum number of carparks is provided.
- 114 Having reviewed the evidence of Mr Hills and the peer review by Mr Soon Teck Kong,⁴⁷ I understand that they both consider the total number of carparks as part of the Proposed Village to be appropriate – and Mr Hills also notes that the ratios applied are consistent with those utilised for other retirement villages operated by Ryman across New Zealand. While the level of further management and monitoring of carparking within the Site is not fully agreed between Mr Hills and Mr Kong, it can be considered that appropriate car parking is being provided (irrespective of the relevance of Policy 4.2.12.4 of the Operative Plan). I do not consider that the retention of parking on the street for residents, which is matter raised by some submitters, is a reasonable expectation given the direction for higher density development across residential neighbourhoods and given such a matter cannot be enforced by the Council.
- 115 Mr Hills has also noted in his evidence that the width of the vehicle crossing on Donald Street has been reduced to 7.5 m, which is considered to address the concerns raised in the peer review of Mr Kong. This will further assist in ensuring pedestrian safety along Donald Street – which was a matter raised by submitters.
- 116 With respect to trip generation from the Proposed Village, Mr Hills considers that there will be minimal traffic and transportation effects on the surrounding road network. Mr Kong does not raise any concerns with respect to these conclusions.
- 117 With respect to internal manoeuvring and access within the Proposed Village for firefighting purposes, I note that while the Proposed Plan does seek to ensure safe and effective access for firefighting purposes it does not establish any minimum / permitted standards that are in addition to those that are applicable under the Building Act 2004. The application of the on-site circulation standards in the Proposed Plan are detailed further in the evidence of Mr Hills.

⁴⁶ Policy TR-P3 of the Proposed Plan.

⁴⁷ Council Officer's Report, Appendix 7 – Transport – Soon Teck Kong.

- 118 Furthermore, the Statement of Evidence of Mr Brady Cosgrove explains that details of fire access, including access for fire appliance, are typically covered during the building consent phase – with there also being a range of design solutions to address the requirements of the Building Act 2004 and the Building Code and the Fire and Emergency New Zealand (Fire Safety, Evacuation Procedures, and Evacuation Schemes) Regulations 2018.
- 119 In my opinion, the design detail and standards that Fire Emergency New Zealand is seeking to have confirmed by way of the resource consent process is a matter for the building consent process. Based on the relevant expert views and my review of the statutory plans, I am unable to find a resource management reason to apply additional consideration to ensuring adequate provision for firefighting requirements through the resource consent process. As noted by Mr Hills, the Proposed Village meets the relevant standards for transport facilities and driveways in the Proposed Plan – with the exception of the ramps (which have been designed to meet appropriate requirements and are not in areas where fire appliances need to traverse).
- 120 While I acknowledge that the health and safety of people and communities’ forms part of section 5 of the RMA, it is my experience that design matters relating to health and safety fall to be considered under a range of legislation in New Zealand – and the RMA is not a proxy for the consideration of such matters. That said, the evidence of Mr Cosgrove explains that there are a range of design options to ensure the safety of residents, staff and visitors,⁴⁸ and that the building consent process provides an appropriately robust mechanism) to consider matters of design detail regarding fire safety.
- 121 Overall, I consider that the outcomes sought by the relevant objectives and policies in the Operative Plan and Proposed Plan regarding the management of traffic and the transportation network can be achieved such that any potential effects will be no more than minor. Ms Brownlie reaches a similar conclusion in this regard.⁴⁹

Wind Effects

- 122 Some submitters have raised concerns regarding the potential for adverse wind effects as a result of the size and configuration of buildings on the Site.⁵⁰ These submitters are most located adjacent to the Site’s southern boundary (i.e. Scapa Terrace).

⁴⁸ Statement of Evidence of Mr Brady Cosgrove, paragraph 40.

⁴⁹ Council Officer’s Report, paragraph 444.

⁵⁰ Submission 16 (Tyler), 22 (Powell), 40 (Minson), 46 (Mattlin) and 49 (Gestro).

- 123 Further, the peer review of Mr Mike Donn⁵¹ on behalf of the Council identifies the potential for some adverse wind effects within the Site, and along Campbell and Donald Streets. That said, I am aware that further discussions have been had between Mr Neil Jamieson and Mr Donn in relation to wind mitigation matters since the preparation of Mr Donn's peer review.
- 124 Neither the Operative Plan or Proposed Plan include any specific provisions regarding the management of potential wind effects in the residential areas of Wellington (and such a matter does not fall under the national hazards chapter in the Proposed Plan either). Rather, the objectives and policies of potential relevance focus on:
- 124.1 Residential intensification not detracting from the amenity of the neighbourhood;⁵²
- 124.2 New residential developments recognise and provide for the health and safety of people;⁵³ and
- 124.3 The Medium Density Residential Zone providing healthy, safe and accessible living environments with attractive and safe streets.⁵⁴
- 125 The Operative Plan and Proposed Plans do include provisions regarding the management of wind effects in Centres and the Central Area of Wellington – and these have, in part, shaped the assessment undertaken by Mr Jamieson.
- 126 With respect to wind effects external to the Site, Ryman has clarified that Fence Type C is intended to be a solid, timber pale fence that is 1.8 in height (and which will have no gaps between the pales). I understand that with this clarification the wind experts agree that any potential wind effects along Scapa Terrace in a northerly wind will be appropriately mitigated (with the Proposed Village not having any wind effects during a southerly wind).
- 127 Further, I understand that the fencing strategy along the northern boundary of the Site – where it backs on to the pedestrian pathway between Donald Street and Campbell Street – is also agreed between Mr Donn and Mr Jamieson. With some of the planting in the Lopdell Gardens also providing further mitigation.
- 128 With respect to potential wind effects along Donald Street and Campbell Street for pedestrians, it is apparent that there is some

⁵¹ Council Officer's Report, Appendix 4 – Wind - Mike Donn.

⁵² Policy 4.2.1.5 of the Operative Plan.

⁵³ Policy 4.2.4.4 of the Operative Plan.

⁵⁴ Objective MRZ-O3 and Policy MRZ-P8 of the Proposed Plan.

degree of disagreement between Mr Donn and Mr Jamieson as to the materiality of any change in either northerly or southerly wind directions – with Mr Jamieson considering that, on balance, any changes will be similar to, or better than, what is currently experienced by pedestrians. That said, Ryman has advised it is willing to consider additional planting as wind mitigation along these frontages as part of the final landscaping plan that is provided to the Council for certification (as set out in the proposed consent conditions), subject to also balancing CPTED safety and resident amenity considerations.

129 In terms of internal spaces within the Proposed Village (including the pocket park), it is also my understanding that there is some disagreement between Mr Donn and Mr Jamieson on potential effects in these spaces. Noting that these spaces are not public (excluding the pocket park), it is in Ryman’s interests to show that all facets of the Proposed Village are safe for residents and visitors for the life of the village - whether that is wind hazards or the form of pathways through the village. That said, Ryman has advised it is also proposing to ensure that potential wind effects are considered as part of the final landscaping plan provided to Council – noting that there will be a need to balance the management of wind with other factors, including CPTED and appropriate landscaping.

130 Given the above, and the proposal to incorporate more wind mitigation in the final landscaping plan, I consider that potential amenity and safety effects associated with wind interacting with the Proposed Village can be appropriately managed to ensure that any adverse effects are no more than minor. This aligns with conclusion of Ms Brownlie in her section Officer’s Report.⁵⁵

Infrastructure Effects

131 The ability for the existing infrastructure in Karori to accommodate the demands generated by the Proposed Village was a matter raised in a variety of submissions, with the key points of focus being on stormwater / flood management and the capability of the wastewater network.⁵⁶

132 With respect to the expectations of the Operative Plan and Proposed Plan regarding infrastructure, it is noted that the Operative Plan provides limited guidance – with the most relevant provision being to ensure the sound design, development and servicing of subdivisions (noting that no subdivision is proposed by Ryman as part of its resource consent application). The Proposed Plan

⁵⁵ Council Officer’s Report, paragraph 324.

⁵⁶ Submission 55 (Eyles) and 65 (Responsible Development Karori).

provides more context which is summarised as follows (noting that the weight to be given to these provisions is limited):

- 132.1 The enablement of development where there is sufficient existing or planned infrastructure capacity and / or level of service (or an alternative means is available where existing capacity is insufficient);⁵⁷
 - 132.2 Water sensitive design methods are incorporated into new developments;⁵⁸
 - 132.3 Require new development to be designed to sustainably manage the volume and rate of discharge of stormwater to the receiving environment;⁵⁹ and
 - 132.4 Ensure the risk to people and property from flooding, both on the site and on adjacent properties, is not increased or is reduced.⁶⁰
- 133 The design of the three waters infrastructure for the Proposed Village was a matter of early engagement by Ryman with Wellington Water. As a result of this engagement, there is broad alignment between the Statement of Evidence of Mr Ajay Desai and Mr David Wilson⁶¹ with respect to the potential infrastructure effects of the Proposed Village.
- 134 The key conclusions of Mr Desai and Mr Wilson are as follows:
- 134.1 Flood modelling was carried out using the Wellington Water flood model for the Karori Stormwater Catchment. Based on the flood modelling, there is no flood risk to the Proposed Village and there are a range of benefits for the neighbours on Campbell Street, Donald Street and Scapa Terrace;
 - 134.2 There is sufficient capacity in the local wastewater network for the Proposed Village and on-site wastewater detention is not required;
 - 134.3 There is also sufficient capacity in the water supply network to accommodate the Proposed Village;

⁵⁷ For example, Objective THW-O2 of the Proposed Plan.

⁵⁸ For example, Policy THW-P2 of the Proposed Plan.

⁵⁹ For example, Policy THW-P5 of the Proposed Plan.

⁶⁰ For example, Policy NH-P6 of the Proposed Plan.

⁶¹ Council Officer's Report, Appendix 12 – Wellington Water Limited – David Wilson.

- 134.4 The Proposed Village is expected to generate low levels of stormwater contaminants and appropriate proprietary treatment devices can be installed to manage stormwater quality; and
- 134.5 There will be no adverse effects with more frequent smaller rainfall events and the use of reuse tanks for irrigation will also reduce any increases in runoff frequency for these smaller events.
- 135 While I consider that some amendments are required to the recommended consent conditions regarding infrastructure matters to refine and improve their clarity, I consider that the evidence of Mr Desai and the peer review of Mr Wilson provides certainty that the construction and operation of the Proposed Village can be supported by the infrastructure network. Importantly, adjacent property owners in the catchment will not be adversely affected by the connection of the Proposed Village to the infrastructure network.

Construction Effects

- 136 A number of submitters have raised concerns regarding the potential construction effects associated with the establishment of the Proposed Village. The key matters appear to relate to construction noise, construction traffic, and land stability at the boundary during the construction works.⁶²
- 137 In addition, the duration of construction works was identified as a matter of concern for some submitters, with requests for the construction period to be limited to approximately two years.
- 138 The Operative Plan has very few provisions specific to the management expectations for construction activities in Residential Areas. In this regard, there are no rules requiring resource consent for the exceedance of the construction noise standards in NZS6803:1999 Acoustics Construction Noise. Construction activities are, however, considered in more detail in the Proposed Plan.
- 139 The Operative Plan and Proposed Plan seek the following general outcomes with respect to the management of construction effects:
- 139.1 The control of adverse noise effects in Residential Areas, and the enablement of construction activities while ensuring that unreasonable noise and vibration effects are managed effectively;⁶³

⁶² Submission 57 (Leikis & Porter) and 54 (Brandon).

⁶³ For example, Policy 4.2.7.2 of the Operative Plan and Policy Noise-P2 of the Proposed Plan.

- 139.2 Ensuring that earthworks are designed to minimise the risk of instability and erosion, and protect the safety of people and property;⁶⁴
 - 139.3 Ensuring the transportation of construction material to, and from, a site is safe and minimises adverse effects on the transport network and the surrounding amenity;⁶⁵ and
 - 139.4 The avoidance or mitigation of the risk of adverse effects on human health and the environment as part of the remediation and re-use of contaminated land.⁶⁶
- 140 In their respective Statements of Evidence, Mr Desai, Ms Wilkening, Mr Hills, Mr Pierre Malan and Mr Paul Walker have all addressed the potential construction effects associated with the establishment of the Proposed Village, and have also responded to the matters raised in submissions. Further, in response to the query raised by Ms Brownlie in the Officer's Report, Mr Brown has clarified that the total construction period is 36 to 40 months – which includes site establishment and earthworks on the Site.
- 141 Of particular relevance to the management of construction effects in line with the expectations in the Operative Plan and the Proposed Plan are the following points:
- 141.1 Mr Hills has prepared a draft Construction Traffic Management Plan (*CTMP*) for construction activities at the Site – which would be certified by the Council prior to the commencement of works. The draft *CTMP* is based upon management measures at other retirement villages constructed by Ryman and nominates Donald Street as the appropriate access point for construction vehicles to enter / exit the Site (which reflects the feedback provided by the Council when demolition works on the Site were being undertaken);
 - 141.2 The proposed consent conditions relating to the draft *CTMP* propose to restrict the pick-up and drop off of machinery and the use of Donald Street by construction vehicles during the morning and afternoon peaks around Karori Normal Primary School (except where necessary for concrete pours);

⁶⁴ For example, Policies 29.2.1.3 and 29.2.1.4 of the Operative Plan, and Objective EW-O1 Policy EW-P3 of the Proposed Plan.

⁶⁵ For example, Policy 29.2.1.11 of the Operative Plan and Policy EW-P6 of the Proposed Plan.

⁶⁶ For example, Policy 31.2.1.4 of the Operative Plan and Policy CL-P3 of the Proposed Plan.

- 141.3 In addition, detail will be required in the CTMP that is certified by the Council as to how contractor car parking will be managed during the various stages of construction of the Proposed Village. As noted by Mr Hills, it is expected that contractor parking can be accommodated within the Site at the commencement of construction activities, but that off-site options can be required as the staging of construction advances;
- 141.4 With respect to construction noise, Ms Wilkening concludes that construction noise may exceed the construction noise standards for specific works required near the Site boundaries at the nearest receivers. She notes a number of alternative construction methodologies have been proposed in order to minimise any potential noise exceedances. A Construction Noise and Vibration Management Plan (CNVMP) is also proposed to manage construction noise effects – which again would need to be certified by the Council prior to the commencement of works on the Site. The CNVMP includes a requirement for the implementation of acoustic barriers within the Site in order to minimise construction noise effects;
- 141.5 Ms Wilkening also responds to the concern of submitters that high construction noise levels will occur for the entirety of the overall construction project (i.e. 36 to 40 months). She clarifies that the highest noise levels that she considers may occur are when activities are closest to any one receiver. Works tend to move around a construction site, particularly where the site is large as is the case for the Proposed Village – such that any high noise levels would be experienced for a matter of days or, at most, weeks (rather than for months at a time);
- 141.6 Ms Wilkening considers any potential vibration during construction can be managed to comply with DIN 4150-3:2016 'Vibrations in Buildings – Part 3: Effects on Structures', which is also the permitted vibration standard specified in the Proposed Plan. Compliance with this standard during construction forms part of the agreed consent conditions between Ryman and the Council;
- 141.7 Mr Desai considers that the potential for erosion and sediment run-off from the Site during construction activities will be minimised by way of adhering to the Greater Wellington Regional Council's "Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Wellington Region (February 2021)" and by way of a detailed Erosion and Sediment Control Plan for the Site. This approach is reflected in the consent conditions proposed by Ryman;

- 141.8 With respect to dust, Mr Desai considers that effective dust control on the Site can be achieved by limiting the area of exposure at any one time and using water (either from water tankers or a sprinkler / irrigation system) over the exposed areas of the Site. The Erosion and Sediment Control Plan, as required by the proposed consent conditions, also specifies the need for methodologies for the management of dust emissions to be detailed and certified by the Council;
- 141.9 Mr Malan notes that any significant cuts or excavations to be undertaken for the Proposed Village will be assessed and supported with suitably designed and constructed retaining walls. Likewise, he does not consider the isolated areas of fill that are required to level local depressions within the Site will affect land stability;
- 141.10 Given the distance from boundaries and potential foundation systems, Mr Malan also does not consider there will be any consequential settlement effects beyond the boundaries of the Site due to structural loading from the buildings. Notwithstanding this, I note that Ryman are proposing to offer pre and post-construction building condition surveys to monitor the potential for damage to neighbouring properties; and
- 141.11 Mr Walker has identified measures to be implemented, which are typical for developments around residential environments, to ensure that the remediation of contaminated land on the Site is managed in a manner that protects the environment and health of people. These measures are reflected in the consent conditions that are being proposed by Ryman.
- 142 The Officer's Report of Ms Brownlie, relying on the peer reviews of Mr Kong, Mr John Davies, Ms Stephanie Cherfane, Mr Ayoub Riman and Ms Suzanne Lowe, also concludes that the potential construction effects will be no more than minor.
- 143 Based upon the evidence on behalf of Ryman, the conclusions of the peer reviews attached to the Officer's Report, it is my opinion that the potential construction effects can be appropriately managed to minimise potential disruption to neighbours and the wider community. Importantly, and as noted by Ms Wilkening, the intensity of construction effects will vary across the Site as works advance. Neighbouring properties will not be exposed to construction effects for the duration of the project.
- 144 In light of this, I agree with the conclusion of Ms Brownlie that the potential construction effects will be no more than minor.

Summary of Environmental Effects

- 145 Based on the technical evidence on behalf of Ryman, and the technical reviews forming part of the Officer's Report, it is my opinion that the Proposed Village represents an appropriate development within the Outer Residential Zone / Medium Density Residential Zone, and will provide the intensification and diversification of the available housing stock in the community in response to the changing population demographics in Wellington.
- 146 I accept that the Proposed Village will bring considerable change to the existing neighbourhood, but there is an expectation for intensification on sites of this nature in the Operative Plan and Proposed Plan. Likewise, there will be changes in residential amenity for some immediate neighbours – but not to an extent that is considered to be inappropriate.
- 147 Overall, and consistent with the conclusion of Ms Brownlie in the Officer's Report, I agree that the potential adverse effects on the environment can be appropriately avoided, remedied or mitigated such that they will be no more than minor.

RESPONSE TO SUBMISSIONS

- 148 The Officer's Report by Ms Brownlie provides a comprehensive summary of the matters raised in submissions,⁶⁷ which have also been addressed in the evidence on behalf of Ryman.
- 149 I comment on the matters that fall within my expertise as follows, noting that a number of matters raised in submissions have already been considered in the context of the assessment of environmental effects by the relevant experts.

Zoning and Infrastructure Constraints

- 150 Responsible Development Karori⁶⁸ comments that as part of the Council's current review of the Operative Plan a decision has been made to retaining the existing zoning and height limits in Karori – because the infrastructure is not capable of supporting intensification.
- 151 This analysis of future zoning expectations for Karori by Responsible Development Karori appears to be out of date. The Council has rezoned Karori as part of the Medium Density Residential Zone in the Proposed Plan, and has not sought to exclude the suburb from intensification due to infrastructure as a qualifying matter.

⁶⁷ Council Officer's Report, paragraph 61.

⁶⁸ Submission 65 (Responsible Development Karori Inc).

152 Further, I note that Mr Wilson (on behalf of Wellington Water) has confirmed that there is sufficient infrastructure capacity to support the establishment of the Proposed Village.

Non-Complying Activity Status

153 Some submitters⁶⁹ have noted that the resource consent application fails both limbs of section 104D of the RMA – citing that the Proposed Village will have more than minor adverse effects on the environment and will be "*materially inconsistent*" with the objectives and policies of the Operative Plan.

154 Ms Brownlie and myself have both considered the requirements for a non-complying activity under section 104D of the RMA (with my analysis provided in the following paragraphs of this evidence). I am satisfied that the Proposed Village is able to pass both limbs of section 104D of the RMA. There is strong agreement between the various experts engaged by Ryman and the Council that the potential effects on the environment are no more than minor, and Ms Brownlie and I both agree that the Proposed Village will not be contrary to the objectives and policies of the Operative Plan and Proposed Plan.

155 I do, however, agree with Mr David King and Ms Anna McKinnon-King⁷⁰ where they note that no consideration is to be given to the positive benefits an activity may have when considering the potential effects of a proposal under section 104D(1)(a) of the RMA. I have adopted this approach in the analysis I have undertaken for the purposes of section 104D of the Act, but have acknowledged the positive effects as part of my analysis of section 104.

Heritage Matters

156 HNZPT⁷¹ considers that "*the project has already had major adverse effects on the heritage values of the Teachers' College. There has already been a significant loss of historic heritage through demolition, with most original buildings removed.*"

157 In my opinion, previous works on the Site do not form part of the proposal being considered as part of this resource consent application. In addition, the demolition of some of the former buildings on the Site was lawfully undertaken as a permitted activity under the Operative Plan.

⁶⁹ Submission 65 (Responsible Development Karori).

⁷⁰ Submission 75 (King and McKinnon-King).

⁷¹ Heritage New Zealand Pouhere Taonga.

Public Open Spaces

- 158 Some submitters have expressed concern at the loss of community facilities on the Site (since the closure of the Teachers College) and that the loss of the remaining open space will drive many people, particularly dog walkers, to Ben Burn Park.⁷²
- 159 The Site is zoned for residential purposes in the Operative Plan and Proposed Plan – it is not a park. I understand that Ryman have allowed dog walking to occur on part of its Site (along the Campbell Street frontage) since it purchased the property.
- 160 However, the provision of this temporary use of the Site by Ryman does not mean that there should be a continued expectation for public open space on the Site as part of this resource consent application. I do not agree that it is appropriate or necessary for Ryman to ‘compensate for’ the loss of green space.

RESPONSE TO COUNCIL OFFICER’S REPORT

- 161 I largely concur with the assessment of Ms Brownlie with respect to the extent of the actual and potential environmental effects of the Proposed Village on the environment, and have already addressed those few points of disagreement earlier in this evidence.
- 162 I provide further comment on the consent conditions recommended by Ms Brownlie later in this evidence.

SECTION 104D RMA ASSESSMENT

- 163 It is agreed between Ms Brownlie and I that the Proposed Village requires resource consent for a non-complying activity under the Operative Plan. As such, the activity must satisfy one of the two ‘gateway’ tests under section 104D of the RMA before it is able to be assessed pursuant to section 104 of the Act.
- 164 Section 104D of the RMA states:
- (1) *Despite any decision made for the purpose of notification in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—*
 - (a) *the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or*
 - (b) *the application is for an activity that will not be contrary to the objectives and policies of—*
 - (i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
 - (ii) *the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*

⁷² Submission 43 (Wallace) and 65 (King & McKinnon-King).

- (iii) *both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*
- (2) *To avoid doubt, section 104(2) applies to the determination of an application for a non-complying activity.*

165 I consider these two limbs of section 104D of the RMA as follows.

Minor Effects

166 I understand that an assessment under section 104D(1)(a) of the RMA is to be undertaken on a holistic basis, looking over the entire application and the range of effects on the environment – noting individual effects that by themselves might be more than minor (such as an effect from an individual viewpoint). I also understand that minor adverse effects can include those that are less than major, and those effects that are more than simply minute or slight.

167 Further, it is my understanding that an assessment of effects under section 104D(1)(a) of the Act must also take into account the ameliorating effect of any consent conditions that are proposed – that is, it is the residual effect after the imposition of consent conditions that needs to be analysed.

168 A detailed assessment of the actual and potential environmental effects associated with the construction and operation of the Proposed Village has been undertaken by a number of experienced practitioners on behalf of Ryman. The conclusions of these assessments have been reviewed by the Council, and subject to matters of clarification and the drafting of some consent conditions, there is a broad level of agreement between the respective experts in relation to these conclusions.

169 I draw the following key conclusions from the evidence and peer reviews for the purpose of considering the resource consent application under section 104D of the RMA:

169.1 Mr Burns has undertaken a detailed assessment of the Proposed Village in accordance with the Residential Design Guide. This assessment has been reviewed by Ms Duffel and Ms Brownlie, and there is high level of consensus amongst the experts that the potential effects on residential amenity will be no more than minor;

169.2 Further, both Mr Burns and Ms Brownlie conclude that the potential shading effects of the Proposed Village on the surrounding properties will be minor, and I note that there is also the potential for higher-density development afforded by the Proposed Plan (which will have additional implications for shading on adjacent properties in the Medium Density Residential Zone);

- 169.3 Visual change is not in itself an adverse effect, and the relevant experts also agree that the visual bulk and dominance effects as experienced by adjacent properties will be no more than minor (with the establishing of boundary planting). In addition, the proposed consent conditions provide for a range of landscape treatments within, and around the boundary, of the Site to integrate the Proposed Village into the landscape;
- 169.4 Potential wind effects have been assessed by Mr Jamieson and Mr Donn. While there is some disagreement as to the extent of change in wind effects on two street frontages and within an internal courtyard, both experts agree that there are a range of measures that can be implemented through the proposed consent conditions to potentially ameliorate such effects and the general scope of these conditions has been agreed;
- 169.5 The traffic generated by the Proposed Village typically occurs outside of peak times, and both Mr Hills and Mr Kong agree that the total number of carparks proposed on Site is acceptable. While there is disagreement regarding the scope of additional traffic monitoring that is required, and the scope of any travel plan requirements, this is not considered to affect the overall conclusions regarding the acceptability of traffic effects;
- 169.6 Operational noise effects are considered acceptable by Ms Wilkening and Mr Lindsay Hannah,⁷³ and any increased noise beyond the standards in the Operative Plan is unlikely to be perceptible (noting that I do not consider that the noise generated by rubbish trucks constitutes a non-residential activity that would require resource consent under the Operative Plan);
- 169.7 The remaining heritage buildings on the Site are not listed / scheduled in the Operative Plan or Proposed Plan, and could be demolished as a permitted activity irrespective of this proposal. That said, a suite of measures have been agreed between Mr Pearson and Ms Smith to manage potential effects on the heritage values of the former Teacher's College buildings;
- 169.8 Mr Desai and Mr Wilson have agreed that there is no increased flood risk to properties upstream or downstream of the Site;

⁷³ Council Officer's Report, Appendix 6 – Acoustics – Lindsay Hannah.

- 169.9 Mr Desai and Mr Wilson agree that the three waters infrastructure can support the operation of the Proposed Village; and
- 169.10 The potential construction effects will vary in intensity and location during the duration of the construction programme. As explained by Ms Wilkening, any high noise levels would be experienced for a matter of days or, at most, weeks at particular locations. Likewise, construction traffic will vary depending on the programme of construction works at any one time. In addition, a range of consent conditions and management measures (including via management plans) are proposed to limit or minimise potential constructed-related effects.
- 170 Given these conclusions, I consider that the overall effects on the environment from the construction and operation of the Proposed Village can be appropriately managed so that they are no more than minor. Further, I consider the proposed consent conditions will assist in further ensuring that adverse effects associated with the construction and operation of the Proposed Village are appropriately managed, so as to ensure that adverse effects are no more than minor.
- 171 In light of the above, I agree with the conclusion of Ms Brownlie that the first limb of section 104D of the RMA can be satisfied.

Objectives and Policies

- 172 When considering the objectives and policies of a relevant plan under section 104D(1)(b) of the RMA, it is my understanding that this assessment should also be undertaken on a holistic, overall basis. In this regard, the reference to 'not contrary to' in section 104D(1)(b) of the Act does not mean that the activity must comply with each and every objective and policy in the relevant plan. An activity will be contrary to the objectives and policies only if it is clearly 'opposed in nature' or 'repugnant' to the overall policy direction set out in the relevant plan.
- 173 With respect to the relevant plans for the purpose of section 104D(1)(b) of the RMA, I understand that consideration needs to be given to the Operative Plan and the Proposed Plan. I have therefore considered both plans in this evidence, notwithstanding that if resource consent was sought for the Proposed Village under the Proposed Plan the overall activity status would be discretionary (i.e. the gateway test under section 104D of the RMA would not apply).
- 174 I have undertaken an assessment of the relevant provisions in the Operative Plan and Proposed Plan, which is attached as **Appendix B** and **C** to this evidence. As I have previously noted, I consider the provisions in the Operative Plan that seek to ensure development respects, or does not detract from, the character or residential

amenity of the existing neighbourhood should be given limited weight. In this regard, these provisions seek a residential amenity outcome for the environment that is incongruous with the directives for more intensive residential development and expected changes in residential amenity, as set out in the NPSUD and the Enabling Housing Act (and adopted via the Proposed Plan). Ms Brownlie reaches a similar conclusion in this regard.⁷⁴

- 175 As I understand, the weight given to provisions in the Proposed Plan that deal with other matters will be dependent on a number of factors, such as whether they seek to give effect to other higher order planning instruments, and the infancy of the submission process for the plan. Given the conclusions I reach on the Proposed and Operative Plan provisions on these other topics are similar, I have not considered it necessary to consider weighting in greater detail. I note Ms Brownlie also makes no comment on the weighting of other provisions.
- 176 Notwithstanding the weighting of the residential development and amenity provisions, I have considered all the relevant provisions in the Operative Plan and make the following summary comments (again noting that a fulsome analysis is provided in Appendix B):
- 176.1 I agree with Ms Brownlie that the utilisation of an existing, vacant site in an established residential neighbourhood will mean that the proposal is consistent with Objective 4.2.1 and Policies 4.2.1.1 – which seek the consolidation of established urban areas and the efficient use of resources;
- 176.2 With respect to the likes of Objective 4.2.3 and Policies 4.2.3.1 and Policy 4.2.1.5, it is my opinion that these provisions seeks an outcome that runs counter to the directives of the NPSUD and the Enabling Housing Act. Notwithstanding this, I agree with the assessment of Ms Brownlie, Mr Burn and Ms Skidmore that the Site meets the definition of a ‘windfall’ site and such sites are anticipated to be used for residential intensification given the opportunities they afford. While there will be a change in visual outlook for adjacent residential properties given the previous use of the Site and its current vacant occupancy, Mr Burns and Ms Duffell consider that the Proposed Village will maintain a residential character and is an appropriate form of development in this location;
- 176.3 Ms Brownlie considers that the Proposed Village will not be inconsistent with Policy 4.2.3.5, which requires on-site, ground level open space to be provided to enhance visual

⁷⁴ Council Officer’s Report, paragraph 636.

amenity and assist with the integration of new developments into the existing residential environment. I agree with her assessment and note that there will be a number of formal and informal open space areas within the Proposed Village which will provide open space – noting also that the needs of elderly residents are often more tailored and the Proposed Village seeks to provide for these through a range of on-site amenities. In addition, the likes of the pocket park, building setbacks and landscaping on street frontages will also assist with integrating the Proposed Village into the surrounding neighbourhood;

- 176.4 The likes of Objective 4.2.4, and Policies 4.2.4.1 and 4.2.4.2 relate to ensuring that residential properties have reasonable levels of amenity. However, part of the focus of these provisions is on compatibility with surrounding development patterns which I consider runs counter to the direction from the NPSUD and Enabling Housing Act;
- 176.5 I do, however, agree with Ms Brownlie that there will be a change in the levels of amenity experienced by surrounding residential properties and that the focus of these provisions is on maintaining reasonable amenity levels (rather than preventing any reduction of amenity). In this context, I note that the explanation to Policy 4.2.4.1 refers to the building recession standards as being intended to protect people's access to a reasonable amount of direct sunlight. As discussed by Mr Burns, the Proposed Village will comply with the building recession standards along its boundary with Scapa Terrace and also provides a more generous building setback than articulated in the Operative Plan;
- 176.6 Further, the respective experts consider that any potential privacy effects for surrounding residents will be no more than minor – acknowledging that this was a concern noted by some submitters;
- 176.7 In light of the above, and recognising that the Proposed Village will introduce change to the neighbourhood, I consider that a reasonable level of amenity will be maintained in a manner that is aligned with the expectations of Objective 4.2.4, and Policies 4.2.4.1 and 4.2.4.2;
- 176.8 Noise from the Proposed Village will be appropriately controlled and not unreasonable in the context of the surrounding residential neighbourhood. As such, I consider that the Proposed Village will be consistent with the expectations of Policy 4.2.7.2;

- 176.9 Based upon the advice of Mr Desai and Mr Wilson, I consider that potential natural hazards on people, property and the wider environment will be appropriately avoided or mitigated. As such, I consider that the Proposed Village will be consistent with Objective 4.2.10 and its associated policies;⁷⁵
- 176.10 With respect to Objective 4.2.12 and its associated policies,⁷⁶ I agree with Mr Hills and Mr Kong that effects from parking, loading and site access can be appropriately managed such that the efficient and safe access for people and goods will be maintained;
- 176.11 As already discussed, I consider the obligation to 'require appropriate parking' in Policy 4.2.12.4 to be unclear in light of the direction set out in the NPSUD and consider the monitoring requirements recommended by Mr Kong and Mr Hills to be unnecessary. Irrespective of this, I agree with the experts that the number of carparks proposed is considered to be appropriate and consistent with ratios adopted for other retirement villages by Ryman;
- 176.12 Objective 4.2.14 and Policy 4.2.14.1 seek signage that is well-integrated and sensitive to the receiving the environment. The entrance signage that is proposed are considered to be modest in size, and integrated into the entrance landscaping to the village. While I do not agree with Ms Brownlie that final design details of the signage are required (and require certification by the Council), I agree with her that the outcomes sought by these two provisions will be achieved;
- 176.13 I agree with Ms Brownlie that the Proposed Village is consistent with Objective 4.2.15 and Policy 14.2.15.2. Mana whenua have been provided the opportunity to participate in this resource consent application and no issues have been raised;
- 176.14 I note that Ms Brownlie considers that an assessment of the Proposed Village against this objective and supporting policies in Chapter 20 (Heritage) provides policy assistance in considering the effects on historic heritage. In contrast, I do not consider the policies to have relevance to the Proposed Village as they relate to either listed buildings or heritage areas in the District Plan – not buildings just listed on the New Zealand Heritage List / Rārangi Kōrero. In this

⁷⁵ For example, Policies 4.2.10.1, 4.2.10.3 and 4.2.10.5 of the Operative Plan.

⁷⁶ For example, Policies 4.2.12.1, 4.2.12.2. and 4.2.12.4 of the Operative Plan.

regard, the explanation to Policy 20.2.1.1 states that *"the demolition, destruction or relocation of listed buildings or objects (in whole or in part) requires a resource consent"* – which is not applicable to the Allen Ward VC Hall, Oldershaw Music Block and Tennant Block;

- 176.15 Notwithstanding this, I do not consider the Proposed Village constitutes inappropriate development in accordance with Objective 20.2.1. In this regard, the proposal includes the strengthening of the heritage buildings and refurbishment of key features in accordance with an agreed set of consent conditions between Mr Pearson and Ms Smith;
- 176.16 With respect to Objective 29.2.1 and its associated policies,⁷⁷ I note that Mr Desai and Mr Davies agree that any adverse effects of the proposed earthworks (in terms of stability, erosion and dust and sediment) will be able to be avoided, remedied or mitigated via the proposed consent conditions. As such, I consider the Proposed Village is consistent with these provisions; and
- 176.17 In accordance with the assessment by Mr Walker, the contaminated material on the Site will be remediated and managed so it does not cause adverse effects on the surrounding environment and is safe for residential use – as per the direction set out in Objective 31.2.1 and Policy 31.2.1.4.
- 177 My key conclusions with respect to the Proposed Plan are as follows:
- 177.1 The Proposed Village will provide for variety in housing typology in the Medium Density Residential Zone, reflecting the housing needs of an aging demographic (as per Objective MRZ-O1 and Policies MRZ-P2 and P3). As noted by Ms Brownlie, the taller buildings on the Site would exceed a three story character, but the objective does not preclude taller buildings and these buildings are also not considered to result in adverse streetscape and character effects;
- 177.2 The Proposed Village will provide for the efficient use of land and provide healthy, safe and high quality living environments (both inside and outside the Site) in accordance with Objectives MRZ-O2 and O3 and Policy MRZ-P5;

⁷⁷ For example, Policies 29.2.1.3 and 29.2.14 of the Operative Plan.

177.3 With respect to the provision of attractive and safe streets,⁷⁸ the buildings with street frontage (e.g. particularly Buildings B02 and B07) will provide passive surveillance of the street. Landscape mitigation is also available to address any potential wind effects on Campbell Street and Donald Street, and the reduced width of the proposed vehicle access on Donald Street will further assist in providing for the safe transit of pedestrians (as explained in the evidence of Mr Hills);

177.4 I agree with Ms Brownlie that the Proposed Village is consistent with MRZ-P1, and that while parts of the proposal are of a greater scale than would usually be expected in the Medium Density Residential Zone, it will still be consistent with the amenity values anticipated for the zone;

177.5 With respect to Policy MRZ-P4, Ms Brownlie notes that parts of the Site are overlain with qualifying matters (i.e. flood hazards), such that the medium density residential standards cannot be applied to that part of the Site. I do not agree with that approach for the following reasons:

- (a) The Proposed Plan has not adopted Policy 2 of Schedule 3A of the Enabling Housing Act as is required (Schedule 3A states that a territorial authority must include the listed policies). Policy 2 states:

"Apply the MDRS across all relevant residential zones in the district plan except in circumstances where a qualifying matter is relevant (including matters of significance such as historic heritage and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga):"

- (b) In contrast, Policy MRZ-P4 states that:

"Apply the medium density residential standards across the Medium Density Residential Zone except in circumstances where a qualifying matter is relevant (including matters of significance such as historic heritage and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga)."

- (c) It is my assessment that Policy 2 of Schedule 3A of the Enabling Housing Act directs territorial authorities to apply the medium density residential standards

⁷⁸ For example, Objective MRZ-O3 and Policy MRZ-P11 of the Proposed Plan.

(meaning the requirements, conditions, and permissions set out in Schedule 3A) across all relevant residential zones, except that an area should not be rezoned as Medium Density Residential if it is subject to a qualifying matter;

- (d) In contrast, Policy MRZ-P4 suggests the medium density residential standards do not apply in parts of the Medium Density Residential Zone (where the flood hazard overlay exists for example). If that were supposed to be the case, there is no clarity provided in the Proposed Plan as to what standards should be applied in such circumstances instead. The rules regarding flood hazard overlays do not seek to constrain the appropriate built form standards of residential dwellings, rather they focus on ensuring appropriate floor levels are provided and flood hazards are managed; and
- (e) Accordingly, and in light of the entirety of the Site and the surrounding neighbourhood being rezoned as Medium Density Residential, I consider that the Proposed Village is consistent with Policy MRZ-P5.

177.6 With respect to Policy MRZ-P5, I agree with Ms Brownlie that the Proposed Village will provide for a high level of on-site amenity both through provision of varied housing typologies and amenity facilities, and will ensure appropriate levels of outdoor living space, sunlight and daylight orientation to all residential units;

177.7 Policy MRZ-P7 relates specifically to retirement villages in the Medium Density Residential Zone. Matters relating to outdoor space, waste management and amenity values have been discussed in detail in the evidence of the various experts and in my analysis. These conclusions are applicable to Policy MRZ-P7 also. Likewise, matters relating to three waters have been suitably considered by Mr Desai and Mr Wilson;

177.8 Policy MRZ-P7 also refers to the Residential Design Guide. I agree with Ms Brownlie that its content is subject to the submission and hearing process. Further, it appears to have been drafted without suitable consideration of the more permissive development expectations implemented via the Enabling Housing Act – such that I consider it should be afforded limited weight. That said, Mr Burns and Ms Skidmore have given consideration to the direction set out in the Residential Design Guide as part of their evidence - and confirm general consistency with it;

- 177.9 Policy MRZ-P10 seeks to encourage the retention of existing vegetation – but does not require it. I consider the Proposed Village to be consistent with this policy as some of the larger specimen trees will be maintained, particularly in the Lopdell Gardens and in the south-eastern corner of the Site. In addition, a Tree Management Plan will be prepared as part of the consent conditions to manage construction works around trees to be retained;
- 177.10 With respect to the objectives and policies regarding contaminated land,⁷⁹ the Proposed Plan also seeks that remediation of contaminated land contributes to the health and wellbeing of communities and increases development opportunity for new use and development. My comments with respect to the corresponding provisions in the Operative Plan are equally applicable to these provisions;
- 177.11 The natural hazards provisions relate to the Flood Hazard Overlay that applies to the Site. They principally seek that development within the overlays reduce or not increase the risk from natural hazards, and natural systems that reduce the risk of flood hazards are retained.⁸⁰ As noted by Ms Brownlie, Wellington Water Limited has advised that there is no flood risk within the Site and to properties upstream or downstream of the site for all scenarios modelled, and that there will be benefits for neighbouring properties. As such, it is considered that the Proposed Village is consistent with the relevant provisions;
- 177.12 I consider that the Proposed Village will be consistent with the objectives and policies concerning the management of earthworks⁸¹ for the same reasons as I have outlined in relation to the Operative Plan;
- 177.13 Operational and construction noise will be appropriately controlled and not unreasonable – such that I consider that the Proposed Village will be consistent with the outcomes sought by Objective NOISE-O1 and Policies Noise-P1 and P2;
- 177.14 I consider that the Proposed Village will be consistent with the objectives and policies concerning the management of

⁷⁹ For example, Objective CL-O2 and Policy CL-P3 of the Proposed Plan.

⁸⁰ For example, Objectives NH-O1 and O2 and Policies NH-P2, P7 and P8 of the Proposed Plan.

⁸¹ For example, Objective EW-O1 and Policies EW-P3, P4, P5 and P6 of the Proposed Plan.

transport⁸² for the same reasons as I have outlined in relation to the Operative Plan. With respect to the safe and effective access for fire-fighting purposes, I do not consider these matters need to be addressed at the resource consent stage given the evidence of Mr Cosgrove and Mr Hills in particular;

177.15 With respect to three waters, I understand that Ryman and Wellington Water have worked constructively to confirm design solutions for the management of three waters on the Site that do not have the potential for wider effects on the environment. These matters are confirmed by the proposed consent conditions, and as such I do not consider any of the objectives and policies regarding three waters in the Proposed Plan to be a potential constraint to the Proposed Village; and

177.16 While Ms Brownlie has assessed the provisions regarding historic heritage in the Proposed Plan, I consider them to be of limited relevance to the Proposed Village given that the policies seeks to manage 'built heritage' – which only relates to buildings that are scheduled in the Proposed Plan.

178 Overall, it is my analysis that the construction and operation of the Proposed Village will not be contrary to the objectives and policies of the Operative Plan or the Proposed Plan. As such, I consider that the proposal can pass through the second limb of section 104D(1)(b) of the RMA.

179 In light of the preceding analysis, I do not consider that section 104D of the RMA is an impediment to the granting of resource consents for the Proposed Village and the resource consent application can be further considered under section 104 of the Act.

SECTION 104 RMA ASSESSMENT

180 Section 104 of the RMA states:

- (1) *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—*
 - (a) *any actual and potential effects on the environment of allowing the activity; and*
 - (ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
 - (b) *any relevant provisions of—*
 - i. *a national environmental standard:*

⁸² For example, Objective T-O1 and Policies TR-P1 and RT-P3 of the Proposed Plan.

- ii. *other regulations;*
 - iii. *a national policy statement*
 - iv. *a New Zealand coastal policy statement;*
 - v. *a regional policy statement or proposed regional policy statement;*
 - vi. *a plan or proposed plan; and*
 - I any other matter the consent authority considers relevant and reasonably necessary to determine the application.*
- (2) *When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect.*

181 I consider the relevant matters under section 104 of the RMA as follows.

Actual and Potential Effects

182 The actual and potential effects of the Proposed Village on the environment have been given detailed consideration as part of the resource consent application. Further, the peer reviews that form part of the Officer's Report have also addressed the relevant matters to be given regard to when considering a resource consent application under sections 104D and 104 of the RMA.

183 My evidence has also provided analysis of the key potential effects of the Proposed Village on the environment, as well as the matters of disagreement between the various parties, in the context of the statutory planning framework that applies. I also provided comment on the measures that are proposed by Ryman in order to avoid, remedy or mitigate the actual and potential effects of the Proposed Village on the environment.

184 With respect to the positive effects of the Proposed Village, which can be considered under section 104(1)(a) of the RMA, these include:

- 184.1 The repurposing of a vacant site for residential intensification;
- 184.2 The provision of comprehensive living options for a growing demographic in the community (as explained in the evidence of Mr Brown);
- 184.3 Employment and economic benefits both through the construction and operational stages (as also described by Mr Brown);
- 184.4 The refurbishment and strengthening of the remaining heritage buildings on the Site, and their reuse;
- 184.5 The establishment of the pocket park on Donald Street; and

184.6 The flood storage solution will provide significant benefits along Donald Street and minor improvements along Campbell Street.

185 Overall, it is my opinion that the Proposed Village represents an appropriate use on a unique site within the Outer Residential Zone and the Medium Density Residential Zone. While it will bring change to the site of the former Teacher's College, there is an expectation for intensification of development on the Site in the Operative Plan and the Proposed Plan creates further expectations for higher density housing on the Site and the surrounding neighbourhood.

186 In addition, a suite of consent conditions are proposed by Ryman (largely based upon the condition set provided by Ms Brownlie) that seek to ensure that any potential adverse effects on the environment are no more than minor.

Other Offsetting or Compensatory Measures

187 Section 104(1)(ab) of the RMA requires a consent authority to have regard to any measure proposed or agreed by an applicant to ensure positive effects by offsetting or compensating for any adverse effects on the environment.

188 I agree with Ms Brownlie that no such measures apply, and none have been proposed by Ryman as the effects of the Proposed Village do not require it. That said, it is my opinion that the Proposed Village will provide a range of positive effects, as described above.

Relevant Planning Documents

189 The AEE considered the Proposed Village against the provisions of the NPSUD (as it was formulated at the time of lodgement of the resource consent application), the Operative Regional Policy Statement for the Wellington Region (*RPS*) and the Operative Plan.

190 Since lodgement of the resource consent application, Plan Change 1 to the RPS and the Proposed Plan have been notified.

191 I provide further comment on the relevant statutory planning documents as follows.

National Policy Statement on Urban Development 2022

192 The NPSUD was gazetted in July 2020, immediately prior to the lodgement of the resource consent application for the Proposed Village, and it replaced the NPSUD 2016. Subsequent to the lodgement of the resource consent application, the NPSUD has been further updated to incorporate amendments resulting from the Enabling Housing Act and amendments made by the Minister for the Environment under section 53(2) of the RMA.

193 In my opinion, the NPSUD is relevant to decision-making as the Operative Plan does not give effect to this policy statement, and the

provisions in the Proposed Plan that seek to give effect to it are still subject to submissions and potential hearings. Further, several of the provisions in the NPSUD are directed at decision-makers making 'planning decisions' – which includes decisions on any resource consent application.

- 194 I note that Ms Brownlie refers to both the NPSUD and its predecessor recognising the national significance of urban environments and the need to enable such environments to develop and change, and to provide sufficient development capacity to meet the needs of people and communities and future generations in urban environments.⁸³ Whilst I note that the National Policy Statement on Urban Development Capacity 2016 included a matter of national significance, the current version of the NPSUD does not include any such statement
- 195 The key objectives of the NPSUD of relevance to the Proposed Village can be summarised as seeking the following:
- 195.1 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;⁸⁴
 - 195.2 Improved housing affordability by way of supporting competitive land and development markets;⁸⁵
 - 195.3 Regional policy statements and district plans enable more people to live in, and more businesses and community services to be located in, areas of an urban environment that are near centres, well-serviced by public transport, and where there is high demand for housing;⁸⁶
 - 195.4 The development and change of urban environments, including their amenity values, over time in response to the diverse and changing needs of people, communities and future generations; and⁸⁷

⁸³ Council Officer's Report, paragraph 44.

⁸⁴ Objective 1 of the NPSUD.

⁸⁵ Objective 2 of the NPSUD.

⁸⁶ Objective 3 of the NPSUD.

⁸⁷ Objective 4 of the NPSUD.

- 195.5 Urban environments support reductions in greenhouse gas emissions and are resilient to the effects of climate change.⁸⁸
- 196 The policies in the NPSUD focus on planning decisions and the amendment of regional policy statements and district plans that provide for well-functioning urban environments that enable a diversity of housing stock, and significant increases in building height and density across city centre and metropolitan zones.
- 197 In my opinion, the Proposed Village is consistent with, and gives effect to, the development expectations set out in the NPSUD as it provides for the diversification of housing stock and increased residential development density within an established urban area of Wellington. The Proposed Village will also support the social wellbeing, and health and safety, of the elderly demographic.

Operative Regional Policy Statement for the Wellington Region

- 198 As noted in the AEE, the RPS provides an overview of the resource management issues in the Wellington Region, as well as the objectives, policies and methods to achieve integrated management of natural and physical resources. These methods include directions for provisions in district and regional plans.
- 199 The RPS is of relevance given that that it post-dates the Operative Plan.
- 200 Based upon the technical evidence, I consider that the following conclusions can be drawn with respect to the relevant objectives and policies of the RPS:
- 200.1 The Proposed Village recognises the existing historic heritage values of the Site, and seeks to retain and integrate associated features where possible;
- 200.2 The technical assessments have confirmed that the Proposed Village has been appropriately designed to minimise the risk of natural hazards to both users of the Proposed Village and the people and properties of Karori; and
- 200.3 The Proposed Village will positively contribute to Wellington's compact well designed and sustainable regional form by intensifying urban development in an existing urban area, providing a range of retirement living options and

⁸⁸ Objective 8 of the NPSUD.

being located within an area of existing infrastructure and services.

- 201 With respect to Plan Change 1 to the RPS, its focus is to implement and support the NPSUD and to start the implementation of the National Policy Statement for Freshwater Management 2020. The Greater Wellington Regional Council have also advised that they are addressing issues related to climate change, indigenous biodiversity and high natural character.
- 202 Plan Change 1 should be limited given its infancy in the submission process. That said, I do not consider that the Proposed Village is contrary to any of its proposed provisions.

Wellington City District Plan

- 203 As already discussed, my analysis of the relevant objectives and policies of the Operative Plan is provided in Appendix B to this evidence – and is summarised in the paragraphs above in the context of my assessment of the resource consent application under section 104D of the RMA.
- 204 Relying on my previous analysis, it is my conclusion that the actual and potential effects of the Proposed Village on the environment can be appropriately managed in a manner that is not contrary to the objectives and policies of the Operative Plan – and in most circumstances fits comfortably with the direction set out in the provisions.

Proposed Wellington District Plan

- 205 As with the Operative Plan, I have considered the relevant objectives and policies of the Proposed Plan in Appendix C and in relation to my analysis under section 104D of the RMA.
- 206 Overall, and as previously considered, it is my opinion that the construction and operation of the Proposed Village can be undertaken in a manner that is not contrary to the objectives and policies of the Proposed Plan – and again will sit comfortably with most provisions.

Other Matters

- 207 With respect to 'other matters' requiring consideration in accordance with section 104(1)(c) of the RMA, the Officer's Report by Ms Brownlie addresses matters raised in submissions that fall outside the scope of the resource consent process. I agree with her analysis on these submissions and do not have any further comments.
- 208 The AEE had considered the Wellington Urban Growth Plan 2014 – 2043 as an 'other matter', given that it sought to set the direction for the growth of Wellington over the next 25 years. However, given the passing of the Enabling Housing Act and the notification of

the Proposed Plan, I no longer consider this growth plan to have a high degree of relevance to the Proposed Village.

Part 2 Considerations

Section 5

- 209 I understand that a consent authority is not required to consider Part 2 of the RMA beyond its expression in the relevant statutory planning documents, unless those documents have not been prepared in a manner that appropriately reflects Part 2 (including if there is invalidity, incomplete coverage or uncertainty of meaning within the statutory planning documents). Where a statutory plan has been competently prepared under the RMA, reference to Part 2 of the Act will generally not add to the evaluative exercise that is required.
- 210 In this instance, and as already noted, the Operative Plan does not yet give effect to the NPSUD or the RPS, and the Proposed Plan is at an early stage of development. As such, and for completeness, I consider Part 2 of the RMA as follows.
- 211 The purpose of the RMA is to promote the sustainable management of natural and physical resources, which is defined as:

In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while-

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

- 212 In my opinion, the Proposed Village will enable people and communities (including future generations) to provide for their wellbeing through providing purpose-built accommodation options for the elderly. At the same time, I do not consider that the Proposed Village will compromise the expected social, economic and cultural wellbeing of the surrounding community – recognising that the likes of the Proposed Plan anticipate a change in housing intensification in the environment.
- 213 Furthermore, the construction and operation of the Proposed Village will continue to safeguard the life-supporting capacity of air, water, soil and ecosystems.
- 214 Finally, I note that a range of measures are proposed as part of the consent conditions for the construction and operation of the Proposed Village to assist in appropriately avoiding, remedying or

mitigating adverse effects on the environment. Many of these measures are reflective of Ryman's experience constructing a number of other retirement villages around New Zealand, including in existing residential communities.

Sections 6, 7 and 8

- 215 Section 6 of the RMA contains matters of national importance that are to be recognised and provided for, while section 7 details other matters to be given particular regard. In this instance, I consider that sections 6(f), 6(h) 7(b), 7(c) and 7(f) of the RMA are relevant to the Proposed Village.
- 216 Section 6(f) of the RMA seeks to ensure the protection of historic heritage from inappropriate development. This matter is considered in the evidence of Mr Pearson, and the peer review by Ms Smith on behalf of the Wellington Council, who both consider that the proposed works to the Allen Ward VC Hall, Tennant Block and the Oldershaw Music Block will appropriately maintain the heritage architecture of these features of the former Teacher's College. Further, the proposed works will provide for the seismic strengthening and adaptive re-use of these buildings into the future – such that the establishment of the Proposed Village should not be considered inappropriate development.
- 217 Mr Malan and Mr Desai have considered the management of the potential risks from natural hazards on the Site – being potential flooding from overland flow paths and earthquake-related risks (i.e. liquefaction) – in the design and proposed construction methodologies for the Proposed Village. The management approach is agreed with their counterparts on behalf of the Council, such that I consider that the Proposed Village suitably addresses section 6(h) of the RMA.
- 218 With respect to 7(b) of the RMA, the Proposed Village will enable the efficient use of natural resources (being land) via the development of an integrated residential development that provides a continuum of care for an elderly population.
- 219 In terms of the maintenance and enhancement of amenity values (section 7I of the RMA), this matter has been considered in detail in this evidence and in the landscape / visual and urban design evidence on behalf of Ryman and the Council. Potential effects on amenity values were also a key feature of many of the submissions.
- 220 The surrounding environment will change as a result of the Proposed Village. However, this change is not necessarily adverse and significant changes in the environment are expected in light of the direction provided by the NPSUD and the Enabling Housing Act. Mr Burns and Ms Duffell both agree that the Proposed Village will maintain a residential character and that the amenity effects at the interface with the boundaries of the Site – particularly along Scapa

Terrace – are acceptable. In this regard, the potential for three storey buildings along the boundary of the Site with Scapa Terrace is to be expected under the new statutory planning framework.

- 221 Furthermore, the proposed consent conditions include a suite of measures to manage the potential effects of construction of the Proposed Village on the amenity of the surrounding neighbourhood. These include compliance with relevant construction standards for the most part, and the implementation of range of management plans to document how key activities will be controlled to an acceptable level during key phases of construction.
- 222 Particular regard has also been given to the quality of the environment, as per section 7(f) of the RMA, in the design of the Proposed Village, particularly with respect to integrating the Allen Ward VC Hall, Tennant Block and the Oldershaw Music Block into the design of the Proposed Village. In addition, changes have been made to the landscaping design of the Proposed Village to reflect the comments of submitters with respect to the type of landscaping that was proposed along the boundaries of the Site.
- 223 Finally, I note that section 8 of the RMA requires all persons exercising functions and powers under the Act to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). I understand that Ryman engaged with mana whenua during the early phases of the design of the Proposed Village and further opportunities of their involvement in the consenting process have been afforded by the public notification process. As such, I am not aware of any matters relating to the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) that would preclude the Council granting the various resource consents required for the retirement village.

RECOMMENDED CONSENT CONDITIONS

- 224 I provided Ms Brownlie with a draft set of proposed consent conditions for the Proposed Village prior to the preparation of her Officer's Report. These were also provided to submitters for the pre-hearing meetings. These draft consent conditions reflected, amongst other things, discussions that had been had with Mr Pearson and Ms Smith regarding the potential management of heritage matters during the redevelopment of the Allen Ward VC Hall, Tennant Block and the Oldershaw Music Block.
- 225 Some aspects of these draft consent conditions have been incorporated into the recommended consent conditions attached to the Officer's Report of Ms Brownlie.
- 226 With respect to the recommended consent conditions attached to the Officer's Report of Ms Brownlie, I have a number of general comments with respect to the drafting of these conditions – as well

as specific comments based upon the analysis provided in the evidence on behalf of Ryman (and also having reviewed the peer review reports attached to the Officer's Report). My general comments on the consent conditions relate to the following matters:

- 226.1 Condition 1 requires the construction and operation of the Proposed Village to be undertaken in accordance with the information provided with the resource consent application, so later conditions specifically referring to works being undertaken in accordance with the findings and recommendations of the geotechnical assessment by Tonkin and Taylor (as one example) are unnecessary;
- 226.2 A number of conditions require drawings or further information to be supplied to the Council for certification, without direction as to what these drawings or information are to be certified for.⁸⁹ It is my understanding and experience that any certification process should be to ensure that the information that is provided accords with the resource consent conditions – not to provide Council staff with a secondary approval process for the resource consent;
- 226.3 A number of conditions require additional information to be provided to the Council for certification when adequate information for consenting purposes has already been provided by Ryman. For example, notwithstanding Ryman providing details of the dimensions of the proposed signage on Donald Street in the AEE and via the drawings in the resource consent pack of the signage in the context of the entrance landscaping, Condition 54 directs that Ryman provide 'final' signage details prior to the commencement of construction. The name of the Proposed Village is also not something that warrants management or oversight by the Council;
- 226.4 The same applies with respect to Condition 65, which seeks that the consent holder provide the final details of the building materials to be utilised for certification by the Council. The drawings submitted with the resource consent application provide sufficient detail for consenting purposes, and the building consent process will allow the Council to further consider the appropriateness of claddings / fittings in accordance with the obligations under the Building Act 2004; and

⁸⁹ For example, Condition 65.

- 226.5 Some conditions seem to provide explanatory text or internalised advisory notes regarding the intent of the conditions. In this regard, Condition 24 goes beyond describing the purpose and requirements of the staff travel plan – but also seeks to clarify that its purpose is about reducing emission and supporting the Council’s undefined climate change policies, and that the net results of the staff travel plan may be modest. This level of commentary is not, in my opinion, related to managing a specific adverse effect on the environment and should be deleted.
- 227 It is my intention is to provide an updated set of proposed consent conditions at the commencement of the hearing, following further discussion with Ms Brownlie regarding the content and drafting of the recommended consent conditions (and reviewing the suggested amendments made by Responsible Development Karori). Notwithstanding this, I provide the following overall comments on the recommended consent conditions attached to the Officer’s Report, partly in response to the comments provided by the experts on behalf of Ryman:
- 227.1 I consider it appropriate that the date and version number of the drawing set be provided in a table under condition 1 to be provide greater clarity (particularly over the life of construction) of the drawings that have been approved;
- 227.2 I consider it appropriate that the lapse period (being five years) be specified as a consent condition, rather than just as an advice note at the back of the condition set;
- 227.3 It is appropriate that the proposed consent conditions provide clarity that the management plans that are provided to the Council for certification may only seek to manage works related to a forthcoming stage of construction (rather than apply to the entire duration of construction activities);
- 227.4 Given the Construction Management Plan also requires the details of the staging of works on Site to be provided, Condition 2 is considered to be redundant;
- 227.5 Mr Malan has provided his comments that the need for pre-certification of earthworks, as detailed in Conditions 3 – 6, should be limited to specific areas (i.e. around Buildings B01A and B07) – not in areas where the slope instability risk is low. At present, I do not understand there to be a potential environmental effect that warrants the conservative approach recommended by the Council – such that a number of these conditions require refinement in my opinion;

- 227.6 It is appropriate that the purpose of the Erosion and Sediment Control Plan be clearly specified and that it be linked with complying with the Erosion and Sediment Control Guideline for Land Disturbing Activities in the Wellington Region (February 2021);
- 227.7 Mr Malan considers that the requirement for certification at the end of each stage of earthworks to be onerous given the limited amount of filling on the Site (Condition 15). He considers the approach set out in Mr Davies assessment (tying the construction review statement to the completion of earthworks to be more appropriate). Further, Mr Malan considers that Condition 16 should be removed, and the Council identify the need for any PS4 producer statements in individual building consent applications;
- 227.8 Mr Hills has recommended further refinements and detail to the requirements of the CTMP (Condition 19), based upon the draft CTMP attached to his evidence. I also consider that the requirement for the CTMP to detail "*measures to deal with any collateral damage to vehicles, property and public assets*" to be highly unusual. While I am aware of consent conditions requiring the remediation of any public assets that might be damaged during construction (i.e. pedestrian paths or curbing), third party vehicle or property damage are matters for insurance companies;
- 227.9 Mr Hills has recommended amendments to the requirements for a staff travel plan, so that the plan of the plan generally follows the "Workplace Travel Plan Guidelines" (NZ Transport Agency, August 2011). As I have said already, conditions 24 and 25 appear to provide explanatory text or internalised advisory notes – and make unreferenced obligations related to the Council's climate change policies;
- 227.10 Mr Hills also considers that requiring parking surveys, and the consent holder to actively contain any parking demand within the Site, to be inappropriate (Conditions 26 and 27). I agree with his comments in light of my analysis of the direction set out in the NPSUD;
- 227.11 Mr Walker has clarified that the further sampling for asbestos is not necessary and sufficient data has already been obtained to prepare a Contaminated Land Management Plan for certification by the Council. As such, Mr Walker recommends that Condition 31 be deleted;
- 227.12 Mr Wilkening has recommended that the construction noise hours (Condition 36), provide clarification that low noise creating activities (e.g. painting or site-safety meetings)

may occur outside of 7.30 am to 6 pm on Monday to Saturday. This reference is reasonably typical on construction-related consents in my experience;

- 227.13 Further, Ms Wilkening recommends removing the second paragraph of both Conditions 37 and 38 and replacing them with a new Condition 36A that addresses schedules to the CNVMP. She notes that schedules are routinely used for large projects across New Zealand. If a potential non-compliance is identified during the construction period, a schedule is produced to be certified by Council. The schedule is a 'mini' CNVMP for a specific activity that is predicted to exceed the noise limits;
- 227.14 Conditions 52 and 53 relate to the certification of a lighting plan by Council and for this to demonstrate compliance with AS/NZS Standards 1158.3.1:2005, 1680.2.1:2008 and 4282:2019. It is my understanding that the Operative Plan has no minimum lighting standards, and the Proposed Plan only refers to AS/NZS 4282:2019 in the context of outdoor lighting. As such, the basis for the inclusion of these conditions and the standards needs to be clarified by Ms Brownlie;
- 227.15 As previously noted, I do not agree that further design detail is required for the signage proposed along Donald Street (Condition 54). A condition can be added clarifying that this signage will not be illuminated and will only indicate the name of the Proposed Village if necessary;
- 227.16 I do not consider a further wind assessment is required (Condition 61) – as an assessment was provided with the resource consent application. Rather, in my opinion, the final landscaping plan for the Proposed Village should be prepared in conjunction with a suitably qualified wind engineer to ensure that potential wind effects are suitably minimised (recognising that the landscape plan will need to balance the management of wind effects with matters relating to CPTED and appropriate landscaping requirements). This requirement should include consideration of additional wind mitigation measures along the boundaries of the Site, and within key internal amenity spaces of the Proposed Village;
- 227.17 Mr Desai has recommended a suite of minor amendments to Conditions 66 to 90 to better clarify the design expectations for the management of three waters on the Site; and
- 227.18 Condition 91 requires the consent holder to register an easement for the secondary flow paths on the Site, despite Mr Wilson commenting in his peer review that he

understands that the Council cannot impose easement conditions on land use consents. This is my understanding also, so further clarification from Ms Brownlie on this matter is considered necessary in my opinion.

- 228 With respect to the comments on proposed consent conditions provided by Responsible Development Karori,⁹⁰ I accept that noise limits for Sundays and Public Holidays should be removed from the construction noise standards that apply. I will give further consideration to their comments on conditions in the set I provide at the hearing.

CONCLUSION

- 229 Ryman proposes to establish and operate a comprehensive care retirement at 26 Donald Street and 37 Campbell Street, Karori in order to provide a continuum of care village for the elderly of Wellington. This type of housing is in demand across Wellington.
- 230 In my opinion, the Proposed Village offers an opportunity to develop a high quality, purpose built and secure retirement village on a unique site within the well-established residential community of Karori. In this regard, the Site is unique in terms of its size within an existing residential community, relatively flat topography, and the distinct brutalist architecture of the existing buildings. In my opinion, the Site clearly meets the definition of a 'windfall' site in the Operative Plan and provides significant opportunities for residential intensification.
- 231 It is acknowledged that the Proposed Village represents a change in the existing residential environment, particularly for residents along Scapa Terrace. However, it is noted that the changes in residential character and amenity are considered appropriate by urban design and landscape experts on behalf of Ryman and the Council.
- 232 Further, I consider that potential environmental effects associated with the construction and operation of the Proposed Village can be appropriately managed by way of consent conditions. These consent conditions build upon the practical experience that Ryman has developed through the construction of a number of retirement villages across New Zealand, including in other established residential settings.
- 233 The Proposed Village will also result in significant positive effects by providing a much-needed retirement village within an established community within Wellington, and economic benefits through the construction expenditure and jobs involved in a project of this scale

⁹⁰ Circulated by the Hearings Administrator on 22 August 2022.

(as well as a range of operational roles once the Proposed Village is established).

- 234 I have also concluded that the Proposed Village will be consistent with the relevant objectives and policies of the Operative Plan and the Proposed Plan. It certainly cannot be said that the Proposed Village is contrary, or repugnant to, the objectives and policies of these two statutory planning documents.
- 235 Overall, it is my opinion there are no impediment to granting consent to the resource consent application by Ryman.

Richard Turner
29 August 2022

APPENDIX A

APPENDIX B

APPENDIX C