

Before Hearing Commissioners at Wellington City Council

under: the Resource Management Act 1991 (*RMA*)

in the matter of: an application by Ryman Healthcare Limited (*Ryman*)
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

Memorandum of Counsel on behalf of Ryman Healthcare Limited

Dated: 28 July 2022

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MEMORANDUM OF COUNSEL ON BEHALF OF RYMAN HEALTHCARE LIMITED

Introduction

- 1 This memorandum responds to Minute 1 of the Independent Hearing Panel dated 21 July 2022 as it relates to pre-hearing discussions and conferencing. Ryman seeks further directions on aspects of the matters addressed in Minute 1.
- 2 Overall, Ryman Healthcare Limited (*Ryman*) is willing to take up the Commissioners' encouragement for Ryman, Wellington City Council (*Council*) and submitters to engage in pre-hearing discussions and (potentially) expert conferencing. That said, it wishes to flag some potential constraints in terms of achieving material further alignment in the timeframes and given some of the background. We highlight some of that background for the Commissioners' further understanding.

Steps already taken

- 3 Ryman has undertaken extensive engagement with Council and also with members of the public (including many submitters) prior to and after lodgement of the application. It has continued that engagement since the closing of the submission period as follows:
 - 3.1 Discussions with Council's hearing administrator in relation to procedural matters for the hearing;
 - 3.2 Engagement with Council officers in relation to planning (including conditions) and various expert subject areas, which is ongoing;
 - 3.3 An offer to Scapa Terrace submitters that adjoin the site for Ryman's landscape/visual and urban design experts to visit their properties to better understand their submissions. This offer was taken up by two residents, so it is unclear if residents will wish to engage with Ryman further;
 - 3.4 Meetings with Fire and Emergency New Zealand in relation to its submission on access for emergency services, which are ongoing.

Proposed next steps

- 4 In line with its approach to date and in response to Minute 1, Ryman will seek to further engage with submitters and Council prior to the hearing as follows:
 - 4.1 *Submitters:* Ryman intends to contact all submitters to offer in person meetings during the week of 8 August (dates and times to be confirmed). These meetings will be attended by Ryman representatives, Ryman's planner and legal counsel

and the Council reporting officer. If any submitter intends to bring an independent expert, Ryman will arrange for its own relevant expert to attend as well, provided it is given reasonable notice of that intention.

- 4.2 Ryman intends to provide its draft consent conditions to submitters prior to these meetings so that submitters can provide feedback on conditions that may address their submission points.
- 4.3 *Council:* Given the extensive engagement that has already occurred, Ryman intends to continue discussions with Council on an 'as needed' basis. Ryman has asked the Council reporting officer to identify whether expert conferencing on any topic would be considered useful.

Potential issues for discussion

- 5 Ryman also wishes to comment on one of the potential issues listed in paragraph 8 of Minute 1 regarding impacts on natural waterways. Neither the Council or Ryman's team have identified an ecological effect on natural waterways. Accordingly, Ryman was not planning to address these submission points by way of expert ecological evidence. If submitters wish to call expert ecological evidence on this matter, Ryman would consider calling its own expert ecological evidence, but would need advance notice of that intention.

Time for witness conferencing and directions sought

- 6 Given the limited time available prior to the hearing, Ryman considers any expert conferencing will likely need to occur concurrent to (and not following) discussions with submitters.
- 7 However, Ryman is not currently aware of whether any submitters intend to call expert evidence. Ryman therefore respectfully requests that the Commissioners issue a direction requiring submitters to advise whether any expert evidence is to be called by 5 August 2022 so that expert conferencing can be scheduled, and Ryman can also consider calling expert ecology or other evidence as necessary.

Luke Hinchey / Nicola de Wit
Counsel for Ryman Healthcare Limited
28 July 2022