

Before the Hearing 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*

Closing legal submissions on behalf of Ryman Healthcare Limited

---

Dated: 20 October 2022

---

Reference: Luke Hinchey (luke.hinchey@chapmantripp.com)  
Nicola de Wit (nicola.deWit@chapmantripp.com)

chapmantripp.com  
T +64 9 357 9000  
F +64 9 357 9099

PO Box 2206  
Auckland 1140  
New Zealand

Auckland  
Wellington  
Christchurch



## **CLOSING LEGAL SUBMISSIONS ON BEHALF OF RYMAN HEALTHCARE LIMITED**

### **INTRODUCTION**

- 1 Ryman Healthcare Limited (*Ryman*) seeks resource consent from Wellington City Council (*Council*) to establish a high quality, comprehensive care retirement village (*Proposed Village*) at 26 Donald Street and 37 Campbell Street, Karori, Wellington (*Site*).
- 2 The Proposed Village is one of the first major residential proposals to be considered in the context of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (*Enabling Housing Act*) and its Medium Density Residential Standards (*MDRS*) that give effect to the Government's National Policy Statement for Urban Development 2020 (*NPSUD*).
- 3 This policy and legislation recognises the need for more housing and less planning restriction in New Zealand's fastest growing cities and represents a 'paradigm shift'. It is a highly deliberate move away from planning regimes that sought to preserve 'status quo' amenity. The new regimes must enable and encourage intensification for most residential zones, while achieving a changed, but reasonable level of amenity. Many of the alleged amenity effect issues raised in this case by neighbours are - with respect to the submitters - now relics of the old system.
- 4 That said, the Proposed Village was carefully designed to achieve the Wellington City District Plan (*Operative Plan*) policy context. Although less enabling of intensification, the Operative Plan has always encouraged multi-unit developments to locate on 'windfall sites' such as this one. The Proposed Village fits comfortably with the general direction set out in the Operative Plan through deliberate design strategies, including by providing generous setbacks, and building forms which comply with height in relation to boundary (*HIRB*) controls, and which are thoughtfully stepped up in height on sensitive neighbouring boundaries. To the extent that there is any potential inconsistency with the Operative Plan, the relevant provisions are now out-of-date in light of the NPSUD and Enabling Housing Act. Greater weight should be given to the Proposed Plan.
- 5 The Proposed Village fits even more comfortably with the new policy direction that is reflected in the Wellington City Proposed District Plan (*Proposed Plan*), with substantial compliance with the new building form controls. The direction of the Proposed Plan, as directed by the Government through the NPSUD and Enabling Housing Act, focuses heavily on enabling residential intensification, encouraging change to occur and substantially deprioritising existing amenity expectations.

- 6 The Proposed Village will make a strong contribution to the wellbeing and health and safety of one of Wellington's most vulnerable demographics. It will provide a specialist continuum of care for elderly residents with a range of needs - from independent living in apartments, to assisted living, and rest-home, hospital and dementia care. The Proposed Village will allow these residents to remain living within their community (to 'age in place') - maintaining close links with family, friends and familiar amenities. It will also improve the quality of life of its future residents.<sup>1</sup> In addition, the Proposed Village will reduce pressure on public health services.
- 7 The Site is ideally suited for the Proposed Village. It is a large, residentially zoned brownfield site – a very rare resource in existing urban areas. The Proposed Village will therefore represent a highly efficient use and development of a scarce land resource.<sup>2</sup> The Site is located in close proximity to a range of local amenities, such as supermarkets, a library, cafes, a medical centre and other amenities that residents will continue to use and enjoy. It is easily accessible via pedestrian, road and public transport links.
- 8 The Site previously contained the former Teachers' College. The former college played an important community role, just as the Proposed Village will.<sup>3</sup> The large, tall, education buildings with their distinctive brutalist architecture, made the Site a 'landmark' within the Karori community, which the Proposed Village will continue.<sup>4</sup> The Proposed Village will ensure the history of the Site is carried forward by allowing the restoration and reuse of the Allen Ward VC Hall, the Tennant Block and the Oldershaw Octagonal Block, as well as the retention and restoration of the Lopdell Gardens (noting these features are not listed or otherwise protected in the Operative Plan or Proposed Plan).
- 9 The widespread support for the Proposed Village is evidenced in the many positive submissions lodged (about half of all submissions received). Two submitters appeared at the hearing to support the application. Mr Yew and Mrs Mei Ho have resided in Karori for 36 years. They emphasised the practical importance to them of 'ageing in place' - being able to remain in Karori, close to their family and friends, and where they can continue their current hobbies and other activities. Mrs Ho recounted her granddaughter's emphatic statement that she would not visit often if she had to travel to the Kāpiti Coast to see her grandparents.
- 10 Mr David and Mrs Gabrielle Marshall wished to provide a "human face" to the submitters in support of the application. They talked of

---

<sup>1</sup> Statement of Evidence of Mr Brown, paragraph 11.

<sup>2</sup> Consistent with *RMA*, s7(b).

<sup>3</sup> Statement of Evidence of Mr Brown, paragraph 48.

<sup>4</sup> Statement of Evidence of Ms Skidmore, paragraph 13.

their health issues. They explained that they put their name on the waiting list for the Proposed Village in 2017, and are still waiting to move in. They spoke of friends that have moved to other towns, or passed away, in that time. Mr Marshall said, "*we do not want to die before it is finished*". These statements put the pressing need for the Proposed Village in this community into stark context.

- 11 The written submission of the Karori Residents Association also reflects the broad community support for the Proposed Village. Some of the submitters that appeared at the hearing questioned the legitimacy of the Association's submission.<sup>5</sup> Beyond these broad assertions, there is no evidence to suggest the Association did not have authority to make the submission, nor one that is fully supportive of the application. The issue raised at the hearing appeared to be focussed on there being a minority of members that did not agree with that submission – unsurprisingly those closest to the Site. It is submitted that the Karori Residents Association submission can be taken into account by the Panel and should not be 'read down' in any way.
- 12 Against the context of the significant benefits of the Proposed Village, there are a limited number of adverse effects on neighbour amenity. Those effects have been assessed by qualified and independent experts as being minor or less in scale and, in any case, reasonable under both statutory plans. A small number of neighbouring residents voiced their concerns about the change to their status quo amenity resulting from the Proposed Village. That said, all of the opposing submitters that appeared at the hearing<sup>6</sup> acknowledged that they supported a retirement village on the Site in principle. Their concerns predominately related to the scale of the Proposed Village - residential character and amenity effects – as well as operational traffic and parking effects, and construction effects.
- 13 But as the Council planner Ms Laura Brownlie said, many of the submitters in opposition have benefited from "*borrowed amenity*".<sup>7</sup> Much of the Site has remained undeveloped for decades. However, the Site is residentially zoned. It is expected to be developed intensively (under both the Operative and Proposed Plans). Many of the submitters acknowledged this fact.
- 14 In developing the application, Ryman engaged extensively and collaboratively with Council officers. It adapted the design of the Proposed Village to address their feedback – and the feedback from neighbours – where it would improve and enhance the overall

---

<sup>5</sup> Mr Leikis – referring to the KRA not being an elected body, Mr King – referring to the bias of committee members.

<sup>6</sup> Mr Sprott, Mr Cooper, Responsible Development Karori, Mr Leikis, Mr Major, Mr and Mrs Ingham, Mr King.

<sup>7</sup> Council Officer's Report – Laura Brownlie, paragraph 151.

design outcomes.<sup>8</sup> This approach has led to overall support from the Council officer team. The Council planner concluded that the Proposed Village will have significant positive effects and its adverse environmental effects would be acceptable, that the Proposed Village is generally consistent with the Operative Plan and consistent with the Proposed Plan, and recommended the granting of consent.<sup>9</sup>

- 15 The technical experts have carefully considered the effects of the Proposed Village in light of the guidance provided in the Operative and Proposed Plans. Ryman's experts have explained how the Proposed Village has been carefully designed to appropriately manage potential amenity effects on neighbours. Ryman also has an excellent track record of delivering similar-scale projects in residential environments across New Zealand.
- 16 In terms of conditions, the independent experts for Ryman and the Council officers are almost entirely aligned, subject to some small differences of opinion. These conditions are informed by robust industry practices and guidelines, as well as the experience of the experts.
- 17 We submit that the Commissioners can be comfortable granting the necessary resource consent for the Proposed Village. The application meets the necessary statutory tests under the Resource Management Act 1991 (*RMA*). We also submit that there is no legal impediment - under the RMA or any other legislation - that would prevent the Commissioners from granting the resource consent.
- 18 These closing legal submissions address:
  - 18.1 The legal framework for decision-making;
  - 18.2 The planning provisions;
  - 18.3 The effects on the environment; and
  - 18.4 The decision-making options available to the Panel.

---

<sup>8</sup> The design changes included: removal of basement from B02-B06; façade design changes; brick colour and material changes; orientation of balconies to the east or west (B02-B06) and hedge planting along southern boundary of courtyards between B02-B06 to avoid overlooking; high level windows along southern façade of B02-B06; stepping down of B02 and B03 at northern boundary; stepping of B01B to reduce impact on skyline; courtyard on Donald Street with pedestrian access; pocket park for community use on Donald Street; and direct access to Campbell Street from B02 ground floor apartments.

<sup>9</sup> Council Officer's Report – Laura Brownlie, paragraphs 634-641. Additional Summary Statement dated 20 September 2022 - Laura Brownlie, paragraphs 56-61.

## LEGAL FRAMEWORK FOR DECISION MAKING

### Activity status

- 19 The Proposed Village is a non-complying activity.<sup>10</sup> Accordingly, the discretion of the Commissioners is not limited to any particular effects categories. The Panel may consider any relevant resource management matters. The weight to be given to those matters should, however, be assessed based on their scale and significance in the broader context and having regard to the directions of the relevant planning documents.

### Section 104D RMA

- 20 As the Proposed Village is a non-complying activity, the 'gateway tests' in s104D of the RMA apply. The Commissioners must be satisfied that *either*:
- 20.1 The adverse effects of the activity on the environment will be minor; *or*
- 20.2 The application is for an activity that is not contrary to the objectives and policies of both the relevant plan and the relevant proposed plan.
- 21 The following paragraphs address each limb of the s104D test in turn.

### ***The first gateway test – adverse effects are minor or less***

- 22 As noted in opening submissions, the Commissioners must consider the residual adverse effects of the Proposed Village that will arise *after* mitigation is applied. In this respect, Ryman has proposed a broad suite of conditions to manage the adverse effects of the Proposed Village, which are now '99% agreed' with the Council. It is noted that the Commissioners cannot however take into account the positive effects of the Proposed Village in applying the first gateway test.<sup>11</sup>
- 23 Some submitters sought clarification from the Panel as to the threshold between 'minor' and 'more than minor' and the Panel tested the various experts on their approach to this evaluation. The Courts have confirmed that it is inappropriate to apply a numerical analysis to the meaning of 'minor'. Whether an effect is 'minor' or not is a question of degree, and there is no "*bright line distinction*"

---

<sup>10</sup> Statement of Evidence of Mr Turner, paragraph 163. RMA, s88A.

<sup>11</sup> *Director-General of Conservation (Nelson-Marlborough Conservancy) v Marlborough District Council* [2010] NZEnvC 403, paragraph 703.

between 'minor' and 'more than minor'.<sup>12</sup> The "... *analysis of adverse effects is both a qualitative and quantitative exercise*".<sup>13</sup>

- 24 The Panel raised a separate question as to how the "minor" threshold is treated when there are a range of adverse effects on amenity. It is submitted, in this context, that the evaluation of effects for the purpose of the first gateway test is to be undertaken on a "*holistic basis, looking over the entire application*". It is not necessary for each individual effect of the Proposed Village to be minor. Rather, an overall assessment of effects is required, acknowledging that, "*ultimately the assessment will involve conclusions ... as to facts and the degree of effect*".<sup>14</sup> For example, in *SKP v Auckland Council*, the Environment Court identified that the "*great majority*" of visual effects would be minor. It concluded "*in the round*" that adverse effects (concerning natural character, landscape and visual amenity values) would be no more than minor.<sup>15</sup> Similarly, in *Canyon Vineyard Ltd v Central Otago District Council*, the High Court held that the proper test is whether the effects are more than minor "*taken as a whole*", and states that the inquiry is not limited to "*fractured assessments from various singular viewpoints*".<sup>16</sup>
- 25 In this case, amenity effects have been broken down into several subcategories (privacy, shading, visual dominance etc) for assessment purposes and considered in relation to individual properties. Through the hearing, some submitters sought to narrow the consideration of shading effects that will be experienced at one property at one particular time period (mid-winter) to support a view that those effects will be 'more than minor'.
- 26 It is acknowledged that there may be cases where an individual effect is so significant that it causes the 'more than minor' limb of the gateway test to be breached. However, it is submitted that it is inappropriate to break down effects into such narrow categories to identify a "*more than minor*" effect as was suggested by submitters. Amenity should be looked at in the round, as it is the overall experience of a property that gives rise to the amenity experienced by the occupant. For example, the witnesses for Ryman and Council assessed the shading effects on neighbours over the course of a year. As Mr Andrew Burns has pointed out, the shading effects are acceptable in that context.<sup>17</sup> Ms Sarah Duffell also explained at the

---

<sup>12</sup> *Queenstown Central Limited v Queenstown Lakes District Council* [2013] NZHC 815, paragraphs 92-96.

<sup>13</sup> *Queenstown Central Limited v Queenstown Lakes District Council* [2013] NZHC 815, paragraph 111.

<sup>14</sup> *SKP v Auckland Council* [2018] NZEnvC 081, paragraphs 47-49. We note that the higher court decisions do not consider this matter any further.

<sup>15</sup> *SKP v Auckland Council* [2018] NZEnvC 081, paragraph 227.

<sup>16</sup> *Canyon Vineyard Ltd v Central Otago District Council* [2022] NZHC 2458, paragraph 184.

<sup>17</sup> Statement of Evidence of Mr Burns, paragraph 28.

hearing that a more shady but less windy environment might offer similar amenity.

- 27 That said, it is respectfully submitted to be immaterial if the Panel reaches a different view on the application of a 'holistic approach' to the first gateway test. None of the experts for Ryman or Council have identified an effect of the Proposed Village that is more than minor (ie it is not the same as the SKP case, where the "great majority" of visual effects were minor or less. None of the submitters have raised information that credibly calls into question the experts' conclusions. Accordingly, it is open to the Commissioners to make a finding of fact on the amenity effects of the Proposed Village not being more than minor.

***The second gateway test – activity is not contrary to the objectives and policies***

- 28 No opposing lay-evidence or submissions credibly questioned the ability of the application to pass this test.
- 29 As noted in opening submissions, case law establishes that "not contrary to" means "clearly 'opposed in nature' or 'repugnant' to the overall policy direction".<sup>18</sup> The Chair noted during the hearing that this language can be unhelpful. In our submission, the key point is that this gateway test does not require the activity to be "supported" by the relevant plan provisions.<sup>19</sup> Case law acknowledges that non-complying activities will rarely, if ever, find direct support in a plan (albeit the expert planners do not raise any material inconsistencies here).<sup>20</sup>
- 30 It is also unnecessary for the activity to be 'not contrary to' each individual objective or policy. Rather, an overall assessment of the objectives and policies is required. As the High Court has stated, "[t]he ultimate issue is not whether the [proposal] was inconsistent with any particular objective or policy but whether it was contrary to the objectives and policies of the [plan]".<sup>21</sup>
- 31 It is acknowledged that an individual objective or policy may sometimes be so directive that a proposal that is contrary to that one provision can be determined to be contrary to the objectives and policies of the plan as a whole (which has arisen in cases where policies directing avoidance of effects on rare and threatened indigenous species are not met). However, that situation does not arise here. No objective or policy of such significance has been

---

<sup>18</sup> Statement of Evidence of Mr Turner, paragraph 172. *Royal Forest and Bird Protection Society of New Zealand Inc v New Zealand Transport Agency* [2021] NZHC 390, paragraph 24. *Outstanding Landscape Protection Society Inc v Hastings District Council* [2008] NZRMA 8, paragraph 15.

<sup>19</sup> *Outstanding Landscape Protection Society Inc v Hastings District Council* [2008] NZRMA 8, paragraph 15.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Royal Forest and Bird Protection Society of New Zealand Inc v New Zealand Transport Agency* [2021] NZHC 390, paragraph 43.



identified. Nor is the Proposed Village significantly inconsistent with any one objective or policy.<sup>22</sup>

**Response to submitter**

- 32 Mr David King addressed the s104D gateway test in his hearing presentation. He made a number of submissions setting out his views on the correct application of the test. With respect, it is submitted that his views are not consistent with the case law that the Panel is bound to apply, as set out above.
- 33 Mr King addressed the second limb of the gateway test directly. He referred to Section 1.6.3 of the Operative Plan and the objective to “*maintain and enhance the amenity values of the City*” and suggested the application is contrary to this direction. Section 1.6.3 identifies that the listed objectives are a summary of the objectives applying to each area of the City and are provided for information purposes only. Mr King did not provide any analysis of the specific objectives and policies applying to the Outer Residential Area. It is submitted that the more comprehensive approach undertaken by the expert planners, Mr Richard Turner and Ms Brownlie, in relation to the second limb of the gateway test should be preferred over the very limited analysis provided by Mr King.

**Application of the section 104D gateway tests**

- 34 The effects of the Proposed Village and the Operative and Proposed Plans are addressed later in these submissions. Based on that summary, which reflects the expert evidence presented on behalf of Ryman and the Council, it is submitted that the Proposed Village satisfies *both* of the gateway tests in s104D of the RMA.
- 35 In any case, if *either* of the gateway tests is met, the application can be considered on its merits under s104.

**Section 104 RMA**

- 36 The following sections of these legal submissions focus on the key matters in s104(1) of the RMA, being:
- 36.1 The relevant planning provisions – s104(1)(b); and
- 36.2 The actual and potential effects on the environment of allowing the activity – s104(1)(a).
- 37 Before moving on to those key matters, these submissions address some other relevant components of s104 of the RMA.

---

<sup>22</sup> Council Officer’s Report – Laura Brownlie, paragraph 612. Statement of Evidence of Mr Turner, paragraphs 204 and 206.

**Other matters – section 104(1)(c)**

- 38 The Chair noted during the hearing, in light of the question as to the legal effect of the MDRS, that the MDRS may be considered under the 'other matters' limb of s104(1)(c).
- 39 It is respectfully agreed that this approach is available to the Commissioners. However, as discussed in paragraphs 53-81 below, it is submitted that the MDRS can be given substantial weight under the banner of the relevant provisions of the Proposed Plan (s104(1)(b)). If the Panel agrees with that approach, it will not be necessary to consider the MDRS under s104(1)(c). If the Panel does not agree with that approach, it is submitted to be appropriate to consider the MDRS under s104(1)(c) given the mandatory status of the MDRS. As noted by Commissioner McMahon, the MDRS can only be considered under one of the limbs – s104(1)(b) or (c) – not both (ie, so it is not 'double counted').
- 40 Other than this topic, as set out in the evidence of Mr Turner and agreed by Ms Brownlie, there are no 'other matters' that are material to the Panel's decision on this application.<sup>23</sup>
- 41 One submitter referred to international law at the hearing and in particular the Convention on the Rights of Persons with Disabilities being potentially relevant.<sup>24</sup> The issues raised related to the requirements for consultation under that Convention and whether, in reaching a less than minor effects conclusion, the rights of disabled people should be taken into account.
- 42 It is submitted to be a key principle of international law that international instruments are not part of domestic law unless expressly incorporated.<sup>25</sup> The responsibility for integrating international law obligations into domestic law sits with Parliament.
- 43 The RMA specifically addresses consultation obligations and does not impose additional obligations to consult with representative organisations for persons with disabilities. It is not the role of a consent authority, when making a decision on a resource consent application under s104 of the RMA, to consider and incorporate international obligations. Accordingly, it is submitted that it is not necessary or appropriate for the Panel to consider international law in making its decision on the application.
- 44 In any event, we note that Ryman did consult extensively, including with neighbours, as described at paragraph 102 of these submissions. We also address how the effects conclusions should account for people with disabilities later.

---

<sup>23</sup> Statement of Evidence of Mr Turner, paragraphs 207-208.

<sup>24</sup> Mr Ingham.

<sup>25</sup> See *NZALPA v A-G* [1997] 3 NZLR 269 (CA), page 16.

**Permitted baseline – section 104(2)**

- 45 There was some discussion at the hearing in relation to the application of a permitted baseline to the assessment of the Proposed Village. The Commissioners have a discretion to consider a permitted baseline under s104(2) of the Act. In this regard:
- 45.1 Both Mr Turner and Ms Brownlie agree that a 2m high fence is a relevant permitted baseline that can inform the assessment of shading effects.<sup>26</sup> The Additional Shading Diagrams provide a comparison of this fence shading with the Proposed Village shading and, as Mr Burns supplementary evidence indicates, the shading from a permitted 2m high fence is material. It is noted that Mr Burns undertook his original assessment without consideration of this permitted baseline and concluded that shading effects would be acceptable. This permitted baseline simply strengthens his existing conclusions.
- 45.2 Ms Brownlie suggested that an 'incremental development' permitted baseline may be available.<sup>27</sup> Ryman has not sought to rely on such a baseline. As Mr Turner explained in his summary statement, resource consent requirements are likely to be triggered by such a development.<sup>28</sup> Ms Brownlie has not relied on the use of such a permitted baseline in her assessment.<sup>29</sup>
- 46 There was also some discussion at the hearing in relation to the effects of tree planting, particularly along the southern boundary – with submitters seemingly opposed to their neighbour planting trees on the boundary (or at least wanting to control what type of trees may be planted). It is accepted that all potential effects of the Proposed Village can be considered given it is a non-complying activity. However, it is noted that the establishment of trees is not controlled under either the Operative or the Proposed Plan. It is submitted that the opposition to the proposed tree planting on the southern boundary of the Site needs to be considered in this context. That is, the Plans are not seeking to manage the effects of tree planting. Trees are normal and anticipated in a residential area.

**Written approval**

- 47 In relation to s104(3)(a)(ii), it is noted that written approval has been provided by Ryman as the owner of the unoccupied dwelling at

---

<sup>26</sup> Statement of Evidence of Mr Turner, paragraphs 73-75. Council Officer's Report – Laura Brownlie, paragraphs 70-74.

<sup>27</sup> Council Officer's Report – Laura Brownlie, paragraph 71.

<sup>28</sup> Mr Turner Summary, paragraph 18.

<sup>29</sup> Additional Summary Statement – Laura Brownlie, paragraph 25.

33 Campbell Street. Accordingly, the Commissioners cannot consider any effects of the Proposed Village on it.<sup>30</sup>

**Part 2**

- 48 As noted in opening submissions, the planners provided a Part 2 assessment in their evidence given the planning context is in a state of flux.<sup>31</sup>
- 49 The hearing process has helped further articulate the key area where Part 2 could in principle assist with decision-making. That is, reconciling any difference in the policy approaches of the Operative and Proposed Plans in relation to amenity effects and intensification. However, rather than simply applying Part 2, it is submitted to be necessary to first seek to reconcile competing policy tensions (if there are any) using the direction contained in the NPSUD. It is not appropriate to resort to Part 2 to subvert a clear direction in a national policy statement.<sup>32</sup> This is important in that the NPSUD addresses matters of national significance that are relevant to achieving the purpose of the RMA.<sup>33</sup>
- 50 In this case, the NPSUD clearly favours more weight being placed on the relevant Proposed Plan provisions, which include the mandatory MDRS, given the 'paradigm shift' in the new planning regime.
- 51 In any event, it is submitted that the correct legal approach is not material to your overall decision. The application can be granted without resorting to Part 2 because it is generally consistent with the Operative and Proposed Plans. If the Panel considers it is appropriate to apply Part 2, the planners for Ryman and Council both agree the Proposed Village is consistent with Part 2 of the Act.<sup>34</sup>
- 52 It is noted that some submitters referred to Part 2 in their submissions, and to s7(c) in particular. For the reasons set out above, it is not necessary or appropriate to resort to Part 2 to allow direct consideration of s7(c). The NPSUD and the Operative and Proposed Plans "give substance" to s7(c) and "translate" the issues it addresses into more specific and focussed objectives and policies.<sup>35</sup>

---

<sup>30</sup> RMA, s104(3)(a)(ii).

<sup>31</sup> Opening Legal Submissions, paragraphs 24-26.

<sup>32</sup> *RJ Davidson Family Trust v Marlborough District Council* [2018] NZCA 316, paragraph 71.

<sup>33</sup> RMA, s45(1).

<sup>34</sup> Statement of Evidence of Mr Turner, paragraphs 209-223. Council Officer's Report – Laura Brownlie, paragraphs 619-633.

<sup>35</sup> *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 38, paragraphs 85 and 90.

## **PLANNING PROVISIONS**

- 53 This section of the closing submissions addresses:
- 53.1 The applicable planning framework;
  - 53.2 The legal position in relation to the MDRS in the Proposed Plan;
  - 53.3 The relevance of the planning context (objectives, policies, rules, standards) to assessment of effects and decision making; and
  - 53.4 The relevance of car parking to decision-making.

### **The applicable planning framework**

54 The activity status that applies to the application is preserved as at the time the application is lodged.<sup>36</sup> In all other respects, the planning framework that the Panel must consider is the framework that exists at the time of your decision.<sup>37</sup> Given this clear legal position, no 'rule of law' issue exists here, as was suggested by one submitter.

- 55 The applicable planning framework consists of the:<sup>38</sup>
- 55.1 NPSUD. The key objectives and policies of the NPSUD are set out at paragraph 29 of the opening legal submissions and paragraph 195 of the Statement of Evidence of Mr Turner;
  - 55.2 Operative Plan. The relevant provisions are addressed in detail in Appendices A and B of the Statement of Evidence of Mr Turner; and
  - 55.3 Proposed Plan. The key planning expectations are addressed at paragraphs 41 and 42 of the opening legal submissions and in detail in Appendix C of the Statement of Evidence of Mr Turner.

### **The legal relevance of the MDRS**

#### ***Introduction***

- 56 In opening legal submissions, we provided an overview of the Enabling Housing Act and the MDRS.<sup>39</sup>
- 57 As the MDRS have been incorporated into the Proposed Plan, the opening submissions addressed the weight to be given to the Proposed Plan provisions. We submitted that the Proposed Plan

---

<sup>36</sup> RMA, s88A.

<sup>37</sup> RMA, s88A(2).

<sup>38</sup> Statement of Evidence of Mr Turner, paragraph 18.

<sup>39</sup> Opening Legal Submissions, paragraphs 33-38 and 41.

provisions that are based on the MDRS should be given substantial weight because they are mandatory, they fall within the category of a 'significant shift in policy' and they are designed to give effect to the NPSUD.<sup>40</sup>

58 During the hearing, a number of questions arose as to the legal relevance of the MDRS, particularly given the existence of qualifying matters on the Site. It is understood that the key question raised by the Panel related to the legal effect of the MDRS density standards.

59 It is important to note at the outset that the MDRS include objectives, policies, rules, density standards and notification presumptions. We submit that the "legal effect" of MDRS rules and the relevance of planning provisions under s104(1)(b) more generally are separate legal matters. In this context, and as outlined further, in our submission, the question of the legal effect of MDRS rules is not material to the decision on this application. The MDRS provisions, looked at as a whole, strongly support the application.

60 Further, we submit that the potential consequences of the MDRS rules having legal effect relate only to the activity status of the application and the relevance of the permitted baseline:

60.1 In terms of activity status, the effect of s86BA of the RMA is that permitted development can 'get underway' under the new rules. However, in this case, it is accepted that the activity status is non-complying and that status is preserved by virtue of s88A.

60.2 In terms of the permitted baseline, it is accepted that there is no permitted baseline relevant to the overall application because the MDRS rules only permit three residential units per site.

Ryman therefore does not rely on the MDRS rules having legal effect.

61 It is submitted that there is no contest that the MDRS objectives and policies, as provisions of the Proposed Plan, are relevant considerations under s104D and s104 of the RMA. The other MDRS provisions (rules, density standards and notification presumptions) are also relevant planning provisions under s104(1)(b). It is submitted that the MDRS density standards are particularly relevant as they will assist the Panel to understand the meaning of the MDRS objectives and policies (for example, "*the neighbourhood's planned urban built character*") and how well the Proposed Village conforms to that character.

---

<sup>40</sup> Opening Legal Submissions, paragraph 52.

- 62 The following sections address these questions in more detail:
- 62.1 Do the MDRS rules have “legal effect”?
- 62.2 Do the MDRS density standards have “legal effect” or can they otherwise be given weight?
- 62.3 What weight can be given to the Proposed Plan provisions more generally (including the MDRS density standards)?
- 62.4 What is the effect of the qualifying matters on that weighting?

***Do the MDRS rules have “legal effect”?***

- 63 Section 86BA of the RMA addresses the legal effect of a “*rule that authorises as a permitted activity a residential unit in a relevant residential zone in accordance with the density standards ...*” Such rules have immediate legal effect and any inconsistent rules cease to have legal effect – provided the rule does not apply to “*a qualifying matter area*”.

- 64 The relevant permitted activity rule in this case is MRZ-R13. As noted, Ryman does not rely on this rule in relation to the activity status of the Proposed Village or for a permitted baseline. Accordingly, it is not relevant whether the rule has legal effect as a consequence of the Site including some qualifying matter areas.

- 65 Paragraphs 3-8 of Ms Brownlie’s reply statement also address this question and she concludes that the MDRS rule does not have legal effect in the parts of the Site subject to a qualifying matter. As set out above, we do not consider this conclusion is relevant to your decision-making.

***Do the MDRS density standards have “legal effect” or can they otherwise be given weight?***

- 66 There is no provision in the RMA giving the MDRS density standards immediate legal effect, as they are not of themselves rules that authorise a residential unit as a permitted activity.

- 67 Regardless, as noted it is submitted that the MDRS density standards are highly relevant to your decision-making under s104(1)(b) of the RMA (or potentially under s104(1)(c) as noted earlier). The MDRS density standards are also relevant to your decision-making under s104D of the RMA to the extent they inform the interpretation of Proposed Plan objectives and policies.

***What weight can be given to the Proposed Plan provisions more generally?***

- 68 The weight to be given to the Plans will become more important in the event of material conflict between the Operative and Proposed Plan provisions. Mr Turner and Ms Brownlie have only identified one

area of material conflict between the Plans in this case.<sup>41</sup> This conflict relates to Operative Plan provisions that seek to maintain existing residential character and amenity and the Proposed Plan provisions that seek greater change and intensification.

- 69 The weight to be given to the Operative Plan and Proposed Plan is relevant to both the test in s104D of the RMA (in relation to objectives and policies) and the test in s104 of the RMA (in relation to all provisions).
- 70 The general position is that the weight to be given to a proposed plan is considered on a case-by-case basis. Relevant factors include the extent to which it has proceeded through the planning process (and therefore the extent to which the provisions are subject to change) and whether there has been a significant shift in policy.<sup>42</sup>
- 71 This case is perhaps unusual compared to previous cases involving weighting in that the Proposed Plan contains a number of “mandatory” provisions that must be included due to the Enabling Housing Act – the MDRS. The MDRS cannot be modified through the planning process, because they are specified in legislation. It is submitted that the Proposed Plan provisions based on the MDRS fall within the category of a ‘significant shift in policy’ and are designed to give effect to the NPSUD. Overlaid with their mandatory nature, it is submitted that these provisions can and should be given substantial weight.
- 72 As noted above, Ms Brownlie agreed that greater weight should be given to the Proposed Plan provisions that anticipate residential intensification and change to the existing environment in the event of conflict with the Operative Plan provisions. Mr Turner took the same approach. It is submitted that such an approach is consistent with the legislative intention. The Enabling Housing Act was intended to “*bring forward and strengthen the NPS-UD by removing restrictive planning rules to rapidly accelerate the supply of housing*”.<sup>43</sup>

***What is the effect of the qualifying matters on that weighting?***

- 73 Following the discussion at the hearing, we have also considered whether the presence of a qualifying matter area on the Site could reduce the weight to be given to the Proposed Plan’s MDRS provisions. We conclude that the qualifying areas in this case do not alter the weight to be given to the MDRS provisions. This is because

---

<sup>41</sup> Statement of Evidence of Mr Turner, paragraph 29. Council Officer’s Report – Laura Brownlie, paragraphs 635-637.

<sup>42</sup> *Keystone Ridge Limited and Auckland City Council* (AP24/01 HC Auckland 3 April 2001), paragraph 16.

<sup>43</sup> Cabinet Legislation Committee – Minute of Decision, LEG-21-MIN-0154, 30 September 2021.



the effects that are to be managed by those provisions *have been* appropriately managed.

- 74 The qualifying matters that apply to the Site relate to the following overlays: Inundation Area, Overland Flowpath and Stream Corridor (as shown on the figure below in light blue, peach and dark blue respectively). It is noted that no built development is proposed by Ryman in the part of the Site subject to the Stream Corridor overlay.



- 75 The introduction to the Proposed Plan Medium Density Residential Zone states, “[t]here are parts of the Medium Density Residential Zone where the permitted development, height or density directed by the NPS-UD may be modified by qualifying matters. These include the following... Stream corridors and overland flow paths...”. The introduction does not identify inundation areas as qualifying matters that modify the relevant provisions.
- 76 This statement is reflected in the s32 report for the Proposed Plan, which says that the Proposed Plan modifies the MDRS rules/density standards in the Stream Corridor overlay (no further development from existing situation and Overland Flowpath overlay (one residential unit)). The s32 report also says that the modifications to the MDRS density standards relate to the number of unit standards, and not the building height and form standards.<sup>44</sup> No modifications to the MDRS density standards are discussed in relation to the Inundation Area overlay (light blue on the figure above).
- 77 Despite the introduction to the Medium Density Residential Zone and the discussion in the s32 report, the Proposed Plan does not modify the number of units standard (or any other MDRS density standards) in the Stream Corridor and Overland Flowpath overlays. Rule MRZ-R2 permits residential activities where, “No more than three residential units occupy the site, except in MRZ-PREC03 where there is no limit”. This rule could have specifically referred to the

<sup>44</sup> Section 32 Report – Part 2 – Natural and Coastal Hazards, page 64. Available [here](#).

Stream Corridor and Overland Flowpath overlays (similar to MRZ-PREC03) but it does not. Similarly, Rule MRZ-R13 permits the construction, addition or alteration of buildings and structures, where no more than three residential units occupy the site.

- 78 It is submitted that the Council has instead made the Proposed Plan “*less enabling*” of development in these qualifying matter areas (under ss77G(6) and 77I of the RMA) by imposing additional consent requirements in the Natural Hazards chapter of the Proposed Plan. For example, Rules NH-R11 and NH-R13 require restricted discretionary or discretionary consent to be obtained for hazard sensitive activities in the Inundation Area and Overland Flowpath overlays. In the Stream Corridor overlay, hazard sensitive activities are non-complying under NH-R15. These rules do not have immediate legal effect under either s86B or 86BA of the RMA.
- 79 The Natural Hazards rules do not preclude intensive development, but require hazard mitigation to be considered through a consenting process. As stated in the s32 Report in relation to the Overland Flowpath overlay: “*high density development should only be provided for where the risk can be adequately mitigated to an acceptable level either at the local scale through investing in flood management or at a site-specific scale through the imposition of minimum building floor levels, and ensuring development does not obstruct flows*”.
- 80 As a result, it is submitted that intensive development is anticipated in the Overland Flowpath and Inundation Area overlays, guided by the MDRS provisions, where it can be established that the hazard risks can be appropriately managed. The evidence of Mr Ajay Desai for Ryman (supported by Mr David Wilson for Wellington Water) confirms that the Proposed Village appropriately manages hazard risks such that intensive development is appropriate.
- 81 Accordingly, it is submitted that the presence of qualifying matters on the Site should not affect the weight the Panel gives to the MDRS provisions under s104(1)(b).

**Relevance of the planning context to assessment of effects**

- 82 As noted in opening legal submissions, the assessment of effects must be informed by the planning context and cannot be made in a vacuum.<sup>45</sup>
- 83 The existing environment is the relevant starting point for the effects assessments. Nevertheless, it would be an error to focus too closely on the effects of the Proposed Village on the existing

---

<sup>45</sup> *Tasti Products Ltd v Auckland Council* [2016] NZHC 1673, paragraphs 77-82 and 85.

environment without also considering the directions set out in the planning framework.<sup>46</sup>

- 84 In opening legal submissions, we noted the Operative Plan recognises the residential intensification opportunities presented by 'windfall sites' such as this Site. Some submitters considered the approach of Ryman and Council applied a "lower bar" for assessment of effects of proposals on windfall sites.<sup>47</sup> It is submitted that this characterisation of the approach is incorrect. Rather, the experts for Ryman and Council have been appropriately guided by the planning context when assessing effects. The planning context requires a different approach to be taken to different forms of residential intensification, including windfall sites.<sup>48</sup> Nevertheless, the Proposed Village design has achieved an outcome that maintains reasonable amenity for neighbours and has been assessed by the experts as resulting in effects that are minor or less.
- 85 As emphasised earlier, as well as the objectives and policies, the built form standards are submitted to be an important part of the planning context to guide what are reasonable residential amenity effects.
- 86 The Operative Plan mandates this approach. For example, Policy 4.2.4.1 is to, "*Manage adverse effects on residential amenity values by ensuring that the siting, scale and intensity of new residential development is compatible with surrounding development patterns*". The methods to achieve this policy include rules. The explanation to the policy states that, "*Rules set minimum standards for all dwelling houses and associated buildings. The building recession standards are intended to protect people's access to a reasonable amount of direct sunlight*".<sup>49</sup> The explanation requires assessment of, "*where standards for ...building recession planes ... are not met ... whether new building work will cause significant loss of sunlight ... to adjoining sites*". The Residential Design Guide (RDG) also acknowledges that the Operative Plan rules guide the assessment of sunlight access for neighbours.<sup>50</sup>
- 87 The Proposed Plan is less explicit about the role of the density standards. Nevertheless, there are a number of strong indicators that the density standards set acceptable amenity expectations, as follows:

---

<sup>46</sup> *Summerset Villages (St Johns) Ltd v Auckland Council* [2019] NZEnvC 173, paragraphs 31-32 and 66.

<sup>47</sup> Mr King.

<sup>48</sup> Policy 4.2.1.5.

<sup>49</sup> Policy 4.2.4.1 explanatory text.

<sup>50</sup> RDG, G2.5.

- 87.1 The density standards enable permitted activities;
- 87.2 Limited notification of an application for multi-unit development that complies with the density standards is precluded,<sup>51</sup> indicating that such an activity has acceptable effects on neighbours;
- 87.3 The amenity of neighbourhoods within the MRZ is anticipated to change over time to achieve the planned urban built character. The anticipated change is indicated by the density standards in particular; and
- 87.4 The supporting policies focus on 'providing for' developments not meeting permitted activity status, while encouraging high-quality developments. This direction means that even developments that don't comply with the density standards can nevertheless result in acceptable amenity outcomes where they are of a high quality.
- 88 Further, the legislative history indicates that the HIRB standards in the Proposed Plan are intended to manage shading impacts to appropriate levels. At the introduction of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill, the HIRB standard was a 60° recession plane measured from a point 6m vertically above ground level. Through the parliamentary process, the HIRB standard changed to a 60° recession plane measured from a point 4m vertically above ground level. This change was expressly intended to provide a better outcome in respect of shading effects, while still achieving intensification outcomes.<sup>52</sup> This legislative history provides a strong indication that compliance with the HIRB standard provides a reasonable level of amenity.
- 89 Further, a number of the submitters that appeared at the hearing acknowledged that development of the Site should be guided by the built form standards. For example, Mr King accepted that development of the Site to 8m in height was reasonably anticipated under the Operative Plan (and to 11m in height under the Proposed Plan).
- 90 In response to a question from Commissioner McMahon, Mr Andrew Cooper for Responsible Development Karori Inc (*RDK*) confirmed that he would prefer a MDRS-compliant development over the Proposed Village without modification. One of his reasons was a view that the Proposed Plan standards would ensure "more

---

<sup>51</sup> RMA, Schedule 3A, clause 5(2). This MDRS preclusion on notification does not appear to have been correctly translated into the Proposed Plan as MRZ-R14 (Construction of buildings or structures for multi-unit housing or a retirement village) only precludes public notification.

<sup>52</sup> (7 December 2021) 756 NZPD 6784 and 6795.

*distributed*” development, and preclude the “*wall effect*” he saw the Proposed Village as creating.<sup>53</sup>

- 91 With respect, that outcome could not be reasonably expected under the Proposed Plan. The boundary setback standard (MRZ-S4) in the Proposed Plan does not apply to “[*s*]ite boundaries where there is an existing common wall between 2 buildings on adjacent sites or where a common wall is proposed”. As a result, there is no barrier to a series of attached buildings being created by a MDRS-compliant development. In fact, the MDRS envisage terraced housing with no gaps (or potentially even a single east-west aligned apartment building). As Mr Burns explained during the presentation of his supplementary statement (and also acknowledged by Ms Duffell in response to a Commissioner question), a developer would be encouraged to locate building density to the south and open space to the north, meaning that a series of attached buildings could be reasonable along the southern boundary of the Site. By comparison, the approximately 18m gaps between the two and three level elements of Buildings B02-B05 are very substantial. And, in any case, as Mr Burns, Ms Rebecca Skidmore and Ms Duffell agreed, no individual property will perceive the full length of B02-B06, given the gaps in the buildings, articulation and modulation, planting and the relative perspectives from the individual properties.
- 92 Commissioner McMahon raised a question at the hearing regarding the “realism” of the Operative Plan and Proposed Plan lines on the shading diagrams. As explained in Mr Isaac Bright’s supplementary statements, these shading lines are based on the height and HIRB standards in the Operative Plan and Proposed Plan. Ryman has not modelled a ‘permitted development’ and therefore the lines do not account for the Site coverage, outdoor living space or other standards that will affect the overall layout of a development. While a development would be unlikely to result in *all* of the shading indicated by the lines, the lines provide an indication of the shading that could be experienced at any *one* point outside the boundary following development of the Site. They therefore provide an indication of the shading amenity that could be experienced by *any* neighbour as a result of development compliant with the MDRS density standards. And, as noted, many neighbours particularly along Scapa Terrace could experience similar shading given that attached terraced and apartment housing is encouraged by the MDRS policy and density standards.
- 93 In relation to shading, it is acknowledged that an assessment of shading “*solely based on a comparison with a speculative compliant development*” is not appropriate.<sup>54</sup> However, Mr Burns for Ryman has not taken this approach. He has considered a range of factors

---

<sup>53</sup> Mr Cooper.

<sup>54</sup> *Panuku Development Auckland Limited v Auckland Council* [2020] NZEnvC 24, paragraph 138.

in reaching his conclusions on shading effects.<sup>55</sup> These factors include the RDG for the design of new development<sup>56</sup> in the absence of any guideline as to the meaning of “*unreasonable shading*” in the guideline on shading of adjacent sites.<sup>57</sup>

### **Relevance of car parking policy to your decision**

- 94 As set out in our opening legal submissions, the NPSUD bars the use of minimum car parking requirements. The Proposed Village no longer triggers a consent requirement related to minimum car parking.<sup>58</sup> While the NPSUD does not expressly exclude the consideration of car parking in consenting processes, it sends a strong signal that car parking effects will carry less significance than they previously did.
- 95 This NPSUD provision is particularly relevant to the submitter concerns regarding the Site not having sufficient carparking (the merits of which are addressed later in these submissions).
- 96 During the hearing, there was some discussion as to the correct interpretation of Policy 4.2.12.4 of the Operative Plan in relation to car parking. We briefly address this point here.
- 97 Policy 4.2.12.4 is to, “[r]equire appropriate parking, loading and site access for activities in Residential Areas”. Previously, the minimum car parking standards informed the assessment of whether “appropriate” parking was provided. This interpretation is confirmed by the explanation, which lists, “*Matters to consider in assessing an application to vary the parking, loading and site access standards ... Whether the use will not generate the demand for the required parking ... Whether the required on-site (including visitor) parking can instead be easily accommodated on nearby streets without causing congestion or danger*”.
- 98 It is submitted that what is “appropriate” needs to now be considered in light of the absence of minimum car parking requirements. That is, “appropriate” no longer means accommodating all car parking demand within a site. A lesser level of car parking provision can now be considered “appropriate” and aligned with the NPSUD objective concerning urban environments that “*support reductions in greenhouse gas emissions*”.<sup>59</sup>

---

<sup>55</sup> See also paragraph 143 of these submissions.

<sup>56</sup> RDG, 2.5 and G4.3.

<sup>57</sup> RDG, G2.7. Compare the Auckland Unitary Plan H4.8.2(4) which sets out an objective standard for sunlight to neighbouring properties where a height in relation to boundary standard is infringed. Referred to by analogy as a broader indication of ‘reasonable’ sunlight in *Panuku Development Auckland Limited v Auckland Council* [2020] NZEnvC 24, paragraph 141.

<sup>58</sup> NPSUD, Policy 11 and 3.38; and see the Statement of Evidence of Mr Turner, paragraph 39.

<sup>59</sup> NPSUD, Objective 8.

- 99 In any event, it is submitted the interpretation of this policy is not material given Mr Leo Hills and Mr Soon Teck Kong agree that the Proposed Village will provide an appropriate number of car parks and loading spaces. They consider the Site accesses to be appropriate. And, they do not consider the traffic generation or traffic safety effects of the Proposed Village are more than minor.

### **EFFECTS ON THE ENVIRONMENT**

- 100 This section of the closing submissions addresses:

100.1 Matters that are not relevant effects on the environment;

100.2 The approach to evaluating competing evidence;

100.3 The approach to considering effects; and

100.4 Summary of the evidence on key effects categories.

#### **Matters that are not relevant effects on the environment Consultation**

- 101 Some submitters raised concerns about a perceived lack of consultation undertaken by Ryman for the Proposed Village.<sup>60</sup>
- 102 From a legal perspective, there is no requirement to consult on a resource consent application.<sup>61</sup> In any event, Ryman has consulted extensively. Ryman engaged with Council during the evolution of the Proposed Village. Material amendments were made to the Proposed Village in response to Council Officer feedback. Ryman also consulted with the community on this application, over a number of years, including through community drop-in days and individual meetings with neighbours, local businesses and community groups. Ryman also sought public notification of the Proposed Village application in response to community interest.<sup>62</sup> Ryman responded to the concerns raised by community members, including through the proposed community liaison group condition. Ryman has continued to engage with Council and submitters following the close of submissions.
- 103 Criticism of Ryman's consultation is therefore submitted to be unfounded. Nevertheless, the adequacy of consultation is not a matter the Commissioners may consider in any case.

---

<sup>60</sup> For example, Mr Ingham and Mr Sprott.

<sup>61</sup> RMA, s36A. Noting that resource consent applications should identify any consultation undertaken and any response to the views of any person consulted: RMA, schedule 4(6).

<sup>62</sup> Statement of Evidence of Mr Brown, paragraphs 53-54.

### ***Design of other Ryman villages***

- 104 RDK referred to other Ryman villages<sup>63</sup> and suggested the design of these villages established a 'precedent' that must inform the design of the Proposed Village.
- 105 As noted in the evidence of Mr Brown, the design of each Ryman village is bespoke and responds to the particular characteristics of the individual site and surrounding neighbourhood.<sup>64</sup> For example, RDK referred to the setbacks provided from the southern boundary of the Kohimarama Village site. However, RDK did not appear to appreciate that the steep topography of that site and its valley context was a key driver for those setbacks – a feature that does not apply to this relatively flat Site. This example demonstrates the danger in engaging in any comparison of village designs. It is submitted that the design of other Ryman villages does not create a 'precedent' and is irrelevant to the Panel's consideration of this application.

### ***Provision of community assets***

- 106 RDK criticised Ryman for not providing community assets as part of the Proposed Village. RDK suggested that Ryman needs to provide 'compensation' for the loss of community assets previously provided on the Site.
- 107 The loss of community assets does not result from this application. The loss occurred through the disestablishment of the Teachers' College and the sale of the Site into private ownership. Thus, the loss is not an effect of this application, and therefore cannot be considered by the Commissioners.
- 108 Further, as the Commissioners will be aware, there is no general obligation on applicants to provide community assets, particularly where the direct effects do not warrant such facilities. Community assets are the domain of Council rates and development contributions, which developers should only be required to contribute their fair share towards under those regimes. It is noted that Mr Cooper suggested the Proposed Plan requires 'city outcomes contributions'. The Proposed Plan does include policies relating to 'city outcomes contributions' however they do not apply in the Medium Density Residential Zone.<sup>65</sup>
- 109 Despite the lack of any obligation to provide community assets, Ryman is in fact offering two community assets as part of its Proposed Village. These assets are the pocket park on Donald Street and the transfer of the part of the northern walkway within the Site to Council. In response to a question from Commissioner McMahon, this transfer will be secured by a proposed new condition

---

<sup>63</sup> Bob Scott, Kohimarama, William Sanders and Murray Halberg.

<sup>64</sup> Statement of Evidence of Mr Brown, paragraph 82.

<sup>65</sup> See for example HRZ-P13, NCZ-P10, MCZ-P10 and CCZ-P11 of the Proposed Plan.



(Condition 64). It is submitted that these community assets are relevant positive effects of the application that can be taken into account by the Panel, but they are not offered as a means to compensate for effects in the sense provided for by 104(1)(ab).

***Views are not protected***

- 110 Mr Bruce Major raised concerns about the loss of views from the top floor of his property to Makara Peak. Although it is acknowledged that changes to outlook may result in an amenity effect, views are not protected by law and are not an entitlement.<sup>66</sup> The Site is a large piece of undeveloped residentially-zoned private land. With the rarity of such sites in Wellington, the reality is that it will be developed intensively.

**The approach to evaluating competing evidence**  
***Expert versus layperson input***

- 111 It is noted at the outset that there is almost complete alignment between the expert witnesses for Ryman and the Council as to the scale and appropriate management of effects, including effects on neighbours adjoining the Site and the wider environment.
- 112 We submit that the Commissioners can and should put considerably more weight on the opinions expressed by the experts who have presented evidence, as opposed to layperson's views expressed by submitters. Much caution should be exercised in accepting laypeople's views over an expert's view on environmental effects. This caution is particularly necessary where submitters have an inherent interest in the outcome (mainly in relation to amenity values in this case), whereas an independent expert does not.<sup>67</sup> Laypeople may also 'perceive' effects on them, which are in fact unlikely to eventuate. In comparison, the role of experts is to objectively assess future realities.
- 113 That is not to say that the submitters' views should be discounted (unless their perceptions of the Proposed Village are not supported by the facts). The information provided by lay people, including how they experience their properties, is relevant to the assessment of effects. Ryman has been highly cognisant of the potential effects on neighbours, including those who are submitters (as have the Council's experts). As noted, Ryman designed its Proposed Village to meet the outcomes sought by the Operative Plan, including meeting recession planes, providing generous setbacks and stepping up height on potentially more sensitive neighbouring boundaries.

---

<sup>66</sup> See for instance *Anderson v East Coast Bays City Council* (1981) 8 NZTPA 35 and *Ennor v Auckland Council* [2018] NZHC 2598, paragraph 40.

<sup>67</sup> In *Yaldhurst Quarries* ([2017] NZEnvC 165) the Environment Court noted at paragraph 117 that it is important to determine whether amenity values are reasonably held "because the residents' views on their existing amenity is subjective and influenced by personal feelings or opinions, including the strength of their attachment to this place".

Ryman has also offered conditions that comprehensively manage those effects.

- 114 Submitters' amenity expectations also need to be tested against the planned character for the Site, not against the status quo. Those expectations also need to be considered in light of the 'paradigm shift' that has resulted from the NPSUD and Enabling Housing Act. In this case, many submitters appeared to rely more heavily on the Operative Plan context rather than the Proposed Plan context, in support of their views of effects, which is now somewhat outdated.
- 115 The Commissioners heard from a range of highly qualified and reputable independent experts who appeared for Ryman, and also the experts who appeared for Council (whose statutory role is to objectively test and interrogate the application). Those experts have taken into account the information provided by submitters in their written submissions and at the hearing. The Commissioners themselves appropriately tested the experts' views during the course of the hearing (including using the information provided by submitters). The submitters have not identified any effects that have been 'missed' in the expert assessments. Accordingly, it is submitted that the Commissioners can comfortably rely on the expert evidence presented to them. Although it is technically open to the Commissioners to choose not to accept the experts' views, it is submitted that the expert evidence should be accepted in favour of any conflicting layperson evidence in this case.

### **Consideration of effects**

#### ***RMA not a 'no effects' statute***

- 116 At the outset, it is noted for completeness that the RMA is not a "no effects" statute. There is no requirement that all effects be addressed by way of mitigation, offset, or compensation. The High Court in *Royal Forest and Bird Protection Society of New Zealand Inc v Buller District Council* (No 2) stated:<sup>68</sup>

It is clear that Parliament did not intend the RMA to be a zero sum game, in the sense that all adverse effects which were unavoidable had to be mitigated or compensated.

- 117 In addition, while positive effects are not relevant to the s104D gateway test, positive effects are an important consideration under s104(1)(a) of the RMA. The Panel must consider the effects of the Proposed Village in the round in making its decision on the application.

#### ***Change versus effect***

- 118 In addition, 'change' is not of itself an adverse effect. As Ms Skidmore explains, there will be considerable change from the vacant Site to the Proposed Village. However, the extent of that

---

<sup>68</sup> *Royal Forest and Bird Protection Society of New Zealand Inc v Buller District Council* (No 2) [2013] NZHC 1346, [2013] NZRMA 293, paragraph 52.

change does not mean it is adverse. In many respects the change resulting from the Proposed Village will be positive. For example, the Site is currently empty and unused and its development for residential purposes will be positive. Most submitters acknowledged the retirement village use will be positive for this location, and did not object to the Proposed Village except for some matters of design.

- 119 The NPSUD also acknowledges that urban environments “*develop and change over time*” and that changes toward the planned urban built form in an area “*are not, of themselves, an adverse effect*”.<sup>69</sup>

***Relevance of sensitivities of the receiver of effects***

- 120 Two submitters suggested the effects of the Proposed Village on them will be greater than assessed by the relevant experts due to their physical or mental disabilities. Mr Tristram Ingham suggested a different approach is required in relation to the assessment of effects on him as a result of his disability. Mr King suggested it was implicit that if the effects of the Proposed Village on an ordinary person were minor, the effects on a disabled person would be more than minor, particularly as regards shading and privacy effects.

- 121 The Courts have been wary about addressing particular sensitivities of receivers. In *Re Meridian Energy* the Court held:<sup>70</sup>

“... consideration of noise effects must be based on normal physiological responses, and cannot seek to protect those whose sensitivities might be at the higher end of the scale”. We agree with this approach, because the RMA is not a “no effects” statute. The 5% of the population who are either hyper or hyposensitive to noise may attract an individual assessment and arrangements to avoid potential health effects, but any arrangements reached will need to be by agreement outside the requirements of the RMA.”

- 122 Although that decision concerned noise effects, noise is an element of overall amenity, similar to the elements of residential amenity of concern to Mr Ingham and Mr King. It is submitted that the principle is therefore equally applicable here.

- 123 The NPSUD, Operative Plan and Proposed Plan also do not provide policy support for the view expressed by the submitters. The planning documents adopt a ‘one size fits all’ approach to amenity. For example, Objective 4.2.4 is to ensure that all residential properties have access to “*reasonable*” levels of residential amenity. The reasonableness of something must be determined objectively (including by reference to the Plan rules as noted in the explanation to Objective 4.2.4). This aligns with the normal approach for

---

<sup>69</sup> NPSUD, Objective 4 and Policy 6.

<sup>70</sup> *Re Meridian Energy* [2013] NZEnvC 59, paragraphs 298-299, quoting in part *Motorimu Wind Farm Ltd v Palmerston North City Council* W067/08, 26 September 2008, paragraph 327.

assessing evidence on amenity values. As noted in opening submissions, it is important to determine “*whether the amenity values are reasonably held*” because “*residents’ views on their existing amenity is subjective and influenced by personal feelings or opinions, including the strength of their attachment to this place*”.<sup>71</sup>

124 In this respect, Ms Brownlie noted that as a planner she is guided by the District Plan provisions and expert assessments in determining effects on persons.<sup>72</sup>

125 It is also noted that the Enabling Housing Act substantially limits public participation where compliance with built form standards is achieved. Public participation was the method through which individual circumstances could previously be raised. The new legislative context does not support an approach that takes into account the particular sensitivities of receivers where built form standards are met.

126 As Mr Burns notes in his supplementary evidence, “*consideration of specific user needs is unusual and any assessment is made objectively given the difficulties of understanding individual needs*”.<sup>73</sup> This statement reflects the impracticality of accounting for every individual circumstance in an effects assessment.

127 In conclusion, while the sincere and genuine comments of the submitters and their circumstances are acknowledged, it is submitted that an objective approach needs to be applied to the assessment of effects on these, and all submitters.

128 In any event, the effects of the Proposed Village on the amenity of Mr Ingham and Mr King have been comprehensively addressed by Mr Burns. Mr Burns’ supplementary statement specifically responds to Mr King’s submission point that internal sunlight is of particular relevance to him.<sup>74</sup>

### **Summary of evidence on key effects categories**

129 This section of the closing submissions addresses the effects categories particularly relevant to the Commissioner’s decision:

129.1 Residential character and amenity effects;

129.2 Heritage effects;

129.3 Operational transport effects;

---

<sup>71</sup> *Yaldhurst Quarries Joint Action Group v Christchurch City Council* [2017] NZEnvC 165, paragraph 117 (upheld in *Harewood Gravels Company Ltd v Christchurch City Council* [2018] NZHC 3118, paragraph 226).

<sup>72</sup> Additional Summary Statement, paragraph 46.

<sup>73</sup> Supplementary Statement of Mr Burns, paragraph 12.

<sup>74</sup> Supplementary Statement of Mr Burns, paragraph 11.

- 129.4 Operational noise;
- 129.5 Infrastructure effects;
- 129.6 Wind effects;
- 129.7 Fire safety;
- 129.8 Construction effects – noise and vibration, traffic, earthworks and contamination; and
- 129.9 Benefits of the Proposed Village.

**Residential character and amenity effects**

***Approach to assessment***

- 130 One submitter<sup>75</sup> raised issues with the perceived failure of Ryman and Council experts to apply an objective methodology when assessing residential character and amenity effects.
- 131 Ms Skidmore and Mr Burns for Ryman set out their methodology for their assessments in detail both in their original reports and in their evidence. Ms Skidmore’s methodology aligns with the relevant industry guidelines. The effects assessed by Mr Burns are not subject to published industry guidelines. Accordingly, he identified the reasons for his methodology in detail and this was subject to scrutiny at the hearing. It is therefore submitted that the methodologies applied by Ms Skidmore and Mr Burns were robust and appropriate. Ms Angela McArthur and Ms Duffell for the Council agreed with the methodologies applied by Ryman’s experts.<sup>76</sup>
- 132 It is noted that Mr Burns and Ms Brownlie adopted different methodologies for assessing shading effects, but reached almost identical conclusions. Ms Brownlie also provided a detailed explanation of her methodology in her reply presentation.<sup>77</sup> As a result, the Commissioners can be more confident that, even if there were issues with the methodology applied by one of those experts (which it is submitted there is not), the conclusions are reliable.

***Landscape effects***

- 133 Ms Skidmore considers the Proposed Village will reinforce the distinctive character and landmark qualities of the Site.<sup>78</sup> She notes that the Proposed Village will result in an increased scale and density of buildings on the Site. But unlike the former collection of buildings, it will be residential in character.<sup>79</sup> Ms McArthur agrees

---

<sup>75</sup> Mr King.

<sup>76</sup> Council Officer’s Report, Appendix 2 – Urban Design – Ms Duffell, paragraph 3.2 and Appendix 1 sections 3.3 and 3.4. Council Officer’s Report, Appendix 3 – Landscape and Visual Effects – Ms McArthur, paragraph 36.

<sup>77</sup> Additional Summary Statement – Laura Brownlie, paragraphs 14-16.

<sup>78</sup> Statement of Evidence of Ms Skidmore, paragraph 17.

<sup>79</sup> Statement of Evidence of Ms Skidmore, paragraph 18.

the Proposed Village will be compatible with the surrounding neighbourhood character.<sup>80</sup>

**Visual effects**

134 Ms Skidmore identifies that the Proposed Village will be visible, and in some instances prominent, from the surrounding streets, other public spaces and surrounding properties. However, the residential character of the Proposed Village and various design features and landscaping means the visual effects will be low adverse to positive.<sup>81</sup> Ms McArthur agrees the Proposed Village will change outlooks, but notes this change is not necessarily negative.<sup>82</sup> She notes a number of design features that moderate visual effects<sup>83</sup> and agrees with Ms Skidmore's effects conclusions.<sup>84</sup>

135 Mr Burns undertook an assessment of visual dominance effects. He considers it is not appropriate for new development on the Site to 'match' the surrounding residential character but that a level of contrast is appropriate. He considers the approach of locating taller buildings in the central portion of the Site with smaller scale buildings along boundaries to be appropriate.<sup>85</sup> Ms Duffell agrees.<sup>86</sup>

**Privacy / overlooking**

136 Mr Burns assessed the privacy effects of the Proposed Village on all potentially affected properties. He considers potential privacy effects have been appropriately mitigated through a range of design techniques.<sup>87</sup> Ms Duffell agrees, particularly in light of the clarification that the southern windows on Buildings B02-B06 will have high sill levels.<sup>88</sup>

137 Mr Andrew Leikis suggested Ryman has made "no effort" to mitigate potential privacy effects. To the contrary, the Proposed Village includes a number of design features to minimise overlooking potential. These design features include:

137.1 A substantial setback from the boundary, in the order of 4-5m (noting the new rear yard MDRS density standard of 1m along the Scapa Terrace boundary would enable much closer buildings as a permitted activity);

---

<sup>80</sup> Ms McArthur Summary, paragraph 9.

<sup>81</sup> Statement of Evidence of Ms Skidmore, paragraphs 133, 137 and 138.

<sup>82</sup> Ms McArthur Summary, paragraph 9.

<sup>83</sup> Ms McArthur Summary, paragraph 12.

<sup>84</sup> Ms McArthur Summary, paragraphs 14 and 15.

<sup>85</sup> Statement of Evidence of Mr Burns, paragraph 23.

<sup>86</sup> Council Officer's Report, Appendix 2 – Urban Design – Sarah Duffell, paragraph 5.6.5 and pages 14-15.

<sup>87</sup> Statement of Evidence of Mr Burns, paragraph 27.

<sup>88</sup> Ms Duffell Summary, paragraph 15.

137.2 Considerable gaps between the buildings, in the order of 18m (noting the MDRS rules/density standards could permit a series of attached buildings along this boundary given the allowance for common walls);

137.3 An additional setback for the first floor terraces (noting these terraces are at one storey whereas the MDRS rules/density standards would permit up to three storeys in this location, without any control over balconies or roof terraces);

137.4 An additional setback for the second floor; and

137.5 The use of high, narrow windows on the southern facades of the first and second floors (noting there is no control over window treatments for the rear of sites under the MDRS density standards).

138 Mr King raised concerns about privacy / overlooking effects, including the “*feeling of being overlooked*”. It is noted that fears of submitters can only be given weight if they are reasonably based on real risk.<sup>89</sup> Mr Burns provided a full assessment of privacy effects on this submitter at paragraph 346 of his evidence. Further, it is submitted that reference to the render of the Proposed Village prepared for 24 Scapa Terrace demonstrates there is no real risk of material overlooking of Mr King’s property, including the indoor spaces he particularly values.<sup>90</sup>

### ***Shading / sunlight access***

#### *Shading diagrams*

139 Some submitters raised concerns about the accuracy of shading diagrams and lack of a peer review.<sup>91</sup>

140 As the Chair noted during the hearing, the methodology for preparing shading diagrams is a standard, well established practice. The methodology was tested by Council through the further information process. The evidence of Mr Bright explains the methodology.<sup>92</sup> It is submitted that there is no need for a peer review of the shading diagrams. The Commissioners can be confident in the accuracy of the shading diagrams.

141 The supplementary statement of Mr Bright (at **Appendix 2**) confirms the methodology for preparing the Operative Plan and Proposed Plan lines on the shading diagrams. Mr Bright also

---

<sup>89</sup> *Shirley Primary School v Christchurch City Council* [1999] NZRMA 66, paragraph 193: “fears can only be given weight if they are reasonably based on real risk”.

<sup>90</sup> Statement of Evidence of Mr Burns, Appendix F.

<sup>91</sup> Mr Sprott and Mr King.

<sup>92</sup> Statement of Evidence of Mr Bright, paragraphs 113-116.

confirmed at the hearing that the Additional Shading Diagrams use the latest aerial imagery on the Council website.

*Assessment of effects*

- 142 It is acknowledged that the Proposed Village will result in a change in shading, particularly on the Scapa Terrace residents that are located to the south of the Site. However, this change is largely because those properties have benefited from “*borrowed amenity*” as this part of the Site has remained undeveloped for decades. This amenity (and the associated potential for shading) will inevitably change given the residential intensification anticipated on the Site.
- 143 Mr Burns assesses potential shading effects by reference to a range of considerations: the RDG, the shade cast by existing retained buildings, the availability of sunlight across the full year, shade from permitted fencing and shade cast by Operative Plan and Proposed Plan heights and recession plane compliant envelopes. He also ‘ground truthed’ his assessments by considering how the adjacent properties are used (using desktop information and through Site visits), and updated his assessment in light of submissions received on the application.
- 144 Mr Burns concludes that the shading outcome is acceptable in all cases.<sup>93</sup> Once again, this conclusion does not detract from the degree of change that will be experienced by neighbours. It simply reflects the reasonableness of that change in light of all relevant factors.
- 145 Although she did not provide a full shading analysis, Ms Duffell also notes the potential shading effects have been moderated through the design of the Proposed Village along the southern boundary.<sup>94</sup>

**Conclusion**

- 146 The neighbouring residents’ amenity has benefited from the undeveloped nature of much of the Site. However, it is submitted that the submitters cannot reasonably expect that amenity to remain given the residential zoning of the Site and the intensification expectations under both the Operative and Proposed Plans. In light of the Proposed Plan, it is not unreasonable to suggest that the potential change in amenity expected is even greater than submitters will actually experience as a result of the Proposed Village.
- 147 It is also noted that all residential character and amenity conditions are agreed between Ryman and Council.

---

<sup>93</sup> Statement of Evidence of Mr Burns, paragraph 28.

<sup>94</sup> Council Officer’s Report, Appendix 2 – Urban Design – Sarah Duffell, paragraph 5.7.4.



### **Internal amenity**

- 148 Some submitters<sup>95</sup> raised concerns about the internal amenity of the Proposed Village for future residents, and some used particularly strong language.
- 149 With respect, Ryman has extensive experience in the industry and prides itself on providing its residents with the highest quality living experience. Mr Matthew Brown explained that the design of the Proposed Village is tailor-made for the future residents' comfort and to improve their quality of life. Ryman sets very high standards for its villages and is renowned for providing a high quality living environment for all of its residents.<sup>96</sup> Mr Burns considers a high level of on-site amenity will be achieved.<sup>97</sup> Ms Duffell agrees.<sup>98</sup> The Panel will have seen the very high level of on-site amenity offered by Ryman villages on their site visit to the Malvina Major village.
- 150 In response to Mr Cooper's observation that Ryman builds gated communities with little community interaction, Ryman contends that the opposite is true. Residents who move into Ryman villages bring their communities with them. The villages are not gated communities where interaction stops – they are places where community engagement thrives. Villages host thousands of community engagements each year, ranging from Lions, Rotary, U3A New Zealand and faith-based group meetings, through to presentations or engagements with organisations as diverse as the Department of Conservation, Alzheimers NZ, Dementia New Zealand, Neurological Foundation, Stroke New Zealand and Melanoma New Zealand. Residents also continue to give back to their communities through volunteering and other community initiatives. As one small example, Ryman's Residents Workshops (also known as 'resident's sheds')<sup>99</sup> have manufactured thousands of pest traps for the Department of Conservation and Predator free NZ and conservation groups around New Zealand.
- 151 It is therefore respectfully submitted that the submitters' concerns are misguided and unwarranted. The Commissioners can be satisfied that the Proposed Village will provide a high level of on-site amenity.

### **Heritage effects**

- 152 Mr David Pearson considers the reuse of the retained Teachers' College buildings to be a positive heritage aspect of the Proposed Village.<sup>100</sup> He considers that the design of the new buildings respect the retained Teachers' College buildings and will have only minor

---

<sup>95</sup> RDK, Mr King.

<sup>96</sup> Statement of Evidence of Mr Brown, paragraphs 12-13.

<sup>97</sup> Statement of Evidence of Mr Burns, paragraphs 31 and 33.

<sup>98</sup> Ms Duffell Summary, paragraph 13.

<sup>99</sup> For this village, labelled "residents workshop" on the drawings (B01A).

<sup>100</sup> Statement of Evidence of Mr Pearson, paragraph 16.

heritage impacts.<sup>101</sup> Ms Moira Smith, the Council's heritage expert, agrees with Mr Pearson, and the proposed conditions have been agreed between the experts.<sup>102</sup>

153 Heritage NZ also confirmed that, "*HNZPT agrees with Ms. Smith that the adverse effects on heritage have been addressed by the applicant and appropriately mitigated in the proposed conditions*" and noted some drafting comments, which have been updated into the conditions.<sup>103</sup>

154 No issues relating to heritage effects arose at the hearing.

#### **Operational transport effects**

155 Mr Hills considers the traffic that will be generated by the Proposed Village will have minimal effects on the surrounding road environment.<sup>104</sup> Council's transport expert agrees.<sup>105</sup>

156 Some submitters<sup>106</sup> raised concerns about traffic safety, but the experts for Ryman and Council do not consider the Proposed Village will give rise to traffic safety issues.<sup>107</sup> It is submitted that the expert engineer views on this effect category should be preferred, given the technical nature of these matters. The experts have also considered and responded to the submitter concerns.

157 The Proposed Village does not comply with the access width standard in the Operative Plan. Following discussions with Council's transport expert, Ryman has reduced the width of the Donald Street access to 7.5m. At the hearing, Mr Kong agreed this access width is appropriate along with the proposed traffic calming measures.

158 Mr Hills and Mr Kong agree the Proposed Village will provide an acceptable number of parking spaces for residents, staff and visitors.<sup>108</sup> Again, it is submitted that expert views should be preferred over layperson views on this matter.

159 There was one outstanding operational traffic issue at the hearing between Ryman and Council relating to a condition proposed by Mr Kong to provide for active management of on-site parking spaces

---

<sup>101</sup> Statement of Evidence of Mr Pearson, paragraphs 18-20.

<sup>102</sup> Statement of Evidence of Mr Pearson, paragraphs 23-24.

<sup>103</sup> Statement of Heritage New Zealand Pouhere Taonga on Application for Ryman Retirement Village in Karori – SR471670, dated 31 August 2022.

<sup>104</sup> Statement of Evidence of Mr Hills, paragraph 11.6.

<sup>105</sup> Council Officer's Report, Appendix 7 – Transport – Soon Teck Kong, paragraph 8.3-8.7.

<sup>106</sup> Mr Major.

<sup>107</sup> Statement of Evidence of Mr Hills, paragraphs 27, 107 and 125. Council Officer's Report, Appendix 7 – Transport – Soon Teck Kong.

<sup>108</sup> Statement of Evidence of Mr Hills, paragraph 11.7. Council Officer's Report, Appendix 7 – Transport – Soon Teck Kong, paragraph 9.6.

with ongoing Council involvement. The Council response on conditions<sup>109</sup> confirms that this condition is not being pursued by Council.

### **Operational noise effects**

- 160 Ms Siiri Wilkening has assessed the operational noise effects of the Proposed Village. All Site operations will comply with the Operative Plan noise limits.<sup>110</sup>
- 161 The Council's acoustic expert agrees that the operational noise effects of the Proposed Village will be similar in nature and scale to existing residential activities.<sup>111</sup>
- 162 At the hearing, Commissioner McMahon queried whether a condition restricting the hours of service vehicle movements was needed to manage noise impacts. Following the hearing, Ryman provided information to the Council regarding the typical number of service vehicle movements at its villages. Based on that information, Council has agreed that such a condition is not required.<sup>112</sup>

### **Infrastructure effects**

- 163 Mr Desai notes that the stormwater strategy for the Site was discussed and agreed with Wellington Water during the design of the Proposed Village.<sup>113</sup> Stormwater quality will be appropriately managed via propriety treatment devices to treat runoff from roads and uncovered carparks.<sup>114</sup> Stormwater runoff in smaller rain events will marginally increase baseflows to the Karori stream, with hydrological mitigation provided through the harvesting of roof runoff.<sup>115</sup> In larger rain events, a flood attenuation device will provide flood storage within the Site.<sup>116</sup> The Proposed Village will not increase flood risk to other properties and will decrease flood risk along Donald Street, Campbell Street and Scapa Terrace.<sup>117</sup> Wellington Water's expert, Mr Wilson, agrees.<sup>118</sup>

---

<sup>109</sup> Council response on conditions, dated 14 October 2022.

<sup>110</sup> Statement of Evidence of Ms Wilkening, paragraphs 15-17.

<sup>111</sup> Council Officer's Report, Appendix 6 – Acoustics – Lindsay Hannah, paragraph 25.

<sup>112</sup> Dated 14 October 2022.

<sup>113</sup> Statement of Evidence of Mr Desai, paragraph 47.

<sup>114</sup> Statement of Evidence of Mr Desai, paragraph 55.

<sup>115</sup> Statement of Evidence of Mr Desai, paragraphs 59-62.

<sup>116</sup> Statement of Evidence of Mr Desai, paragraph 51.

<sup>117</sup> Statement of Evidence of Mr Desai, paragraph 67.

<sup>118</sup> Council Officer's Report, Appendix 12 – Wellington Water Limited – David Wilson, paragraphs 22 and 31-32. The issues raised by the Mr Wilson were addressed in the Statement of Evidence of Mr Desai.

- 164 Mr Desai considers there is sufficient capacity in the local water and wastewater networks to accommodate the Proposed Village.<sup>119</sup> Mr Wilson agrees.<sup>120</sup>
- 165 Some submitters<sup>121</sup> raised issues about wastewater and water capacity at the hearing. Mr Wilson responded to these concerns and confirmed they are unwarranted. The Commissioners also put a number of questions to Mr Wilson to test his evidence. In particular, he confirmed in response to questions from the Commissioners that Wellington Water would be able to approve the connection of the Proposed Village to its wastewater network with the connection to be split between the local catchments.
- 166 It is submitted that given the technical nature of three waters infrastructure, the Panel can and should rely on the expert evidence of Mr Desai and Mr Wilson.
- 167 The infrastructure-related conditions are agreed between Ryman and Council.

### **Wind**

- 168 Mr Neil Jamieson considers the Proposed Village design includes some intelligent choices to avoid and mitigate wind effects. These design features include: the alignment of the buildings approximately parallel to prevailing wind directions, massing of lower height elements near the perimeter of the Site, setbacks from the Site boundaries, boundary fencing, landscaping and provision of enclosed or covered linkages.<sup>122</sup>
- 169 In terms of offsite wind conditions, Mr Jamieson does not consider there will be any safety issues or any noticeable change in the wind-related amenity of surrounding streets, footpaths and open spaces.<sup>123</sup> Similarly, neighbouring properties will not experience any noticeable adverse change, and some will experience improvements in wind conditions as a result of the shelter the Proposed Village will provide.<sup>124</sup> Mr Jamieson does not consider any additional mitigation of offsite wind effects to be required.<sup>125</sup>
- 170 In terms of on-site wind conditions, Mr Jamieson has not identified any safety issues. In relation to amenity, he considers the proposed buildings, fencing, landscaping and pedestrian treatments are appropriate to avoid or mitigate wind effects or to provide sheltered

---

<sup>119</sup> Statement of Evidence of Mr Desai, paragraphs 89-91 and 79-84.

<sup>120</sup> Council Officer's Report, Appendix 12 – Wellington Water Limited – David Wilson, paragraph 10.

<sup>121</sup> Mr Cooper in particular.

<sup>122</sup> Statement of Evidence of Mr Jamieson, paragraph 17.

<sup>123</sup> Statement of Evidence of Mr Jamieson, paragraph 18.

<sup>124</sup> Statement of Evidence of Mr Jamieson, paragraph 19.

<sup>125</sup> Statement of Evidence of Mr Jamieson, paragraph 20.

alternative routes.<sup>126</sup> He acknowledges that some localised areas of the Site will be windy at times and additional wind mitigation would best be considered at detailed design or early operational stages.<sup>127</sup>

171 Dr Mike Donn, the Council's wind expert, generally agrees that the wind effects of the Proposed Village can be reasonably mitigated.<sup>128</sup>

172 The key outstanding issue raised by Dr Donn in his summary presentation related to the placement and design of building entrances. He said, "*there was no evidence of an awareness of the importance of features like wind lobbies with associated wind screens to ensure the safe transition of the residents of the village past this potential wind hazard. Indeed on the plans I had, there seemed no room inside for these*".<sup>129</sup> There are however wind lobbies shown on the drawings (see, for example, RC21). This indicates that Dr Donn had not closely reviewed the documentation, which can inform the weight that can be given to his evidence.

173 Following the presentation of Dr Donn's evidence, Ryman pointed out the wind lobbies to Dr Donn. Following that, Dr Donn's concern was subsequently clarified to only relate to the suitable treatment of the access from Building B01B to the dementia garden.

174 In her reply, Ms Brownlie proposed an amendment to the landscape plan condition to address Dr Donn's outstanding concern. A 'Supplementary wind commentary' from Dr Donn was provided in support of this amendment with Council's response on conditions.<sup>130</sup>

175 The 'Supplementary wind commentary' provides theoretical commentary on wind patterns. The commentary is not applied to the Proposed Village, including its particular layout and operation. As explained in his statement of evidence, Mr Jamieson disagrees with Dr Donn on how windy the dementia garden area will be. The Proposed Village layout is not an isolated tall building or isolated staggered buildings, which are the scenarios addressed in Dr Donn's theoretical commentary on wind patterns. Instead, it is a "U-shaped" space, created by three buildings, and other buildings beyond. Combined with the topography and vegetation, Mr Jamieson considers the area will have limited exposure to northerly winds.<sup>131</sup> It is submitted that the Commissioners can, and should, prefer the evidence of Mr Jamieson given it has been applied to the

---

<sup>126</sup> Statement of Evidence of Mr Jamieson, paragraph 21.

<sup>127</sup> Statement of Evidence of Mr Jamieson, paragraphs 52-53.

<sup>128</sup> Council Officer's Report – Laura Brownlie, paragraph 336.

<sup>129</sup> Dr Donn Summary, paragraph 1.3.7.

<sup>130</sup> Dated 14 October 2022.

<sup>131</sup> It is noted that both experts agree the space will be well sheltered in southerly winds. Statement of Evidence of Mr Jamieson, paragraph 79.

particular characteristics of the Site and the operation of the Proposed Village.

- 176 The 'Supplementary wind commentary' also refers to various articles regarding safety issues relating to wind. The potential for wind to give rise to safety effects is not in debate. Rather the issue is whether unmanageable safety effects will arise. Based on the evidence of Mr Jamieson discussed above and the operation of the Proposed Village, Ryman does not consider they will.
- 177 In any event, as explained in the evidence of Mr Jamieson, Ryman is advancing the design of the dementia courtyard to further reduce wind in this location.<sup>132</sup> It will continue to investigate wind mitigation through the detailed design phase.
- 178 The key difference between Ryman and Council is whether an amendment to the landscape plan condition (Condition 61) to address this matter is appropriate. Ryman does not consider that it is.
- 179 Ryman is a highly skilled operator of retirement villages and well-placed to design for the safety needs of its residents. The design of dementia areas has particularly technical requirements to ensure residents have a safe and comfortable environment. For example, as Mr Brown explained at the hearing, wind shelters might create shadowing patterns that do not result in a suitable environment for the residents that will use this area. The area will also be managed and monitored at all times by qualified Ryman staff, who will be well-placed to determine the safety needs of the residents, including times when the weather (rain, wind, etc) means the garden is unsuitable for use.
- 180 For all of the above reasons, Ryman does not consider there is a role for Council in the design of the dementia garden and does not agree with the Council's proposed amendment to the landscape plan condition.

**Fire safety**

- 181 The submission of Fire and Emergency New Zealand (*FENZ*) raises matters relating to the fire safety design for the Proposed Village and in particular the adequacy of water supply and fire-fighting access to the Site. While FENZ has not withdrawn its submission, it did not appear at the hearing to speak to the concerns raised in its submission. It stated (by email) that it supported the conditions proposed in the Officer's Report, but did not provide any reasons to support that position. With respect, FENZ therefore has not taken up the opportunity to establish a resource management purpose for those conditions.

---

<sup>132</sup> Statement of Evidence of Mr Jamieson, paragraph 79.

*Adequacy of water supply*

- 182 Mr Desai has considered the firefighting water supply requirements for the Proposed Village. He considers compliance with the relevant standard will be achieved.<sup>133</sup> Mr Desai explains that adequate supply of water for firefighting has been proven and the Council experts agree.<sup>134</sup> Ryman has, in any case, offered a condition addressing water supply to be provided to the specification in the relevant New Zealand standard.

*Firefighting access*

- 183 Ryman considers fire safety access matters are regulated through the building consent process under the Building Act 2004. They are generally not matters that can or should be considered as part of a resource consent process.
- 184 Importantly here, the Building Act bars any requirement to achieve performance criteria that are additional to, or more restrictive than, the performance criteria prescribed in the Building Code (save as expressly stated in other legislation).<sup>135</sup> Case law also establishes that RMA processes should not be used to more stringently regulate matters that are already addressed under the Building Code where there is no additional resource management purpose for such regulation.<sup>136</sup> No evidence was presented at the hearing that suggests there is a resource management purpose to justify regulation greater than that required under the Building Act.
- 185 The original Council conditions were opposed by Ryman because they elevated the Designers' guide to firefighting operations: emergency vehicle access (*Designers' Guide*) to the status of a Code. There is no requirement in the Building Code, Acceptable Solution or otherwise to comply with the Designers' Guide identified in the FENZ submission.<sup>137</sup> The Designers' Guide itself acknowledges "[t]his guide does not replace any part of the Building Code or Standards or other mandatory building requirement."<sup>138</sup>
- 186 Ryman and Council have agreed amendments to the proposed conditions to remove references to the Designers' Guide.
- 187 It is noted that Ms Brownlie included an extract of "advice" from Council's Building Consent Manger in her reply statement. The genesis of the "advice" is unclear and the author did not appear at

---

<sup>133</sup> Statement of Evidence of Mr Desai, paragraph 92.

<sup>134</sup> Council Officer's Report, Appendix 12 – Wellington Water Limited – David Wilson, paragraph 56.

<sup>135</sup> Building Act 2004, s18.

<sup>136</sup> Eg, *Petone Planning Action Group Inc v Hutt City Council* EnvC Decision No W020/2008; affirmed by the High Court (CIV 2008-485-1112) in paragraphs 35-40.

<sup>137</sup> Statement of Evidence of Mr Cosgrove, paragraphs 41 and 45.

<sup>138</sup> Designers' guide to firefighting operations: Emergency vehicle access F5-02 GD, page 1.

the hearing. Accordingly, it is submitted that the Panel can give no or very limited weight to its contents. In any event, the “advice” acknowledges that Mr Brady Cosgrove’s evidence is correct. The “advice” also suggests that FENZ’s issue relates to its operational requirements differing from the Building Code requirements. If that is the case, it is submitted the proper forum to resolve the issue is the Building Code review, not individual resource consent processes.

- 188 The Commissioners raised a concern during the hearing about granting consent for the Proposed Village if the resource consent could be frustrated through an inability to obtain a building consent.
- 189 The evidence of Mr Cosgrove provided an overview of the Proposed Village fire safety design.<sup>139</sup> Mr Cosgrove considers the concept fire safety design presents a holistic solution for the Proposed Village which can adhere to the performance requirements of the ‘C’ clause of the NZ Building Code and will meet the fire safety needs of the residents, staff and visitors. He also considers access to the Site for aerial vehicles can be provided.<sup>140</sup>
- 190 In response to a question from Commissioner McMahon, Mr Cosgrove confirmed that, in his many years of experience, he has not had a project where an acceptable or alternative solution could not be identified and a building consent could not be obtained. He confirmed that there is nothing unusual about the Site or Proposed Village that would suggest a building consent could not be obtained.
- 191 It is submitted in any case that Ryman bears the risk of not obtaining a building consent (as is the case with complying with any other legislation that sits outside the RMA). Based on advice from Mr Cosgrove, Ryman is confident that the risk is negligible.

**Construction effects – noise and vibration, traffic, earthworks, contamination**

- 192 A degree of construction activity can be expected in any urban environment. The reality is that some form of development will inevitably be built on this vacant and highly desirable Site. As with any construction activity, there will be temporary effects that may generate some disruption for nearby residents.
- 193 As Mr Brown explains, Ryman has its own construction team. It comprehensively manages the construction process. It thus has full control and accountability for construction activities.<sup>141</sup> Ryman is also strongly incentivised to minimise its construction effects, given it operates its villages for the long term. It places a high value on positive and lasting relationships with the communities in which its

---

<sup>139</sup> Statement of Evidence of Mr Cosgrove, paragraph 53.

<sup>140</sup> Statement of Evidence of Mr Cosgrove, paragraph 56.

<sup>141</sup> Statement of Evidence of Mr Brown, paragraph 62.



villages are located.<sup>142</sup> It will continue to engage with the community through the construction process, including through a Site based project manager, regular newsletters and the community liaison group it has offered to facilitate.<sup>143</sup>

- 194 Mr Brown explains that the construction of the Proposed Village will be completed within 36 - 40 months.<sup>144</sup> Construction works will move around the Site during this period, so neighbours will not be exposed to construction effects for the total time.<sup>145</sup> Residents will also start occupying the Proposed Village while construction continues. Ryman will manage construction effects to ensure the amenity and quality of life of its residents. The benefit of this approach gets passed on to the community outside of the Site.<sup>146</sup>

*Noise and vibration*

- 195 Ms Wilkening considers that construction will generally comply with appropriate noise criteria, with any exceedances being slight and for a limited period.<sup>147</sup> The construction will also comply with the vibration criteria, provided vibratory rollers are not used within 8m of any dwelling.<sup>148</sup>
- 196 Ms Wilkening considers the construction noise and vibration effects can be appropriately managed through a Construction Noise and Vibration Management Plan (CNVMP), which is a standard and well known industry best practice tool. The 'best practicable option' will be implemented to ensure noise does not exceed a reasonable level.<sup>149</sup> The Council's acoustic expert agrees that noise effects can be managed via conditions that require the preparation and implementation of a CNVMP.<sup>150</sup>
- 197 The construction noise and vibration conditions are agreed between Ryman and Council.
- 198 The Commissioners asked Ryman and the Council to consider whether specific mitigation measures should be included in the CNVMP Condition and to comment on the relationship between the construction noise and vibration conditions. As noted in her supplementary statement, Ms Wilkening does not consider this

---

<sup>142</sup> Statement of Evidence of Mr Brown, paragraph 51.

<sup>143</sup> Statement of Evidence of Mr Brown, paragraph 71.

<sup>144</sup> Statement of Evidence of Mr Brown, paragraph 64.

<sup>145</sup> Statement of Evidence of Ms Wilkening, paragraph 12.

<sup>146</sup> Statement of Evidence of Mr Brown, paragraph 66.

<sup>147</sup> Statement of Evidence of Ms Wilkening, paragraph 11.

<sup>148</sup> Statement of Evidence of Ms Wilkening, paragraph 13.

<sup>149</sup> Statement of Evidence of Ms Wilkening, paragraphs 77-78.

<sup>150</sup> Council Officer's Report, Appendix 6 – Acoustics – Lindsay Hannah, paragraph 39.

specificity to be necessary or appropriate.<sup>151</sup> In addition, Ms Brownlie confirmed in her reply that Council does not consider it necessary to specify specific mitigation at this stage.<sup>152</sup>

- 199 It is submitted that, given the technical nature of noise and vibration assessment, the Panel can and should rely on the expert evidence of Ms Wilkening and Mr Lindsay Hannah/Mr Matthew Borich.

*Traffic*

- 200 The construction traffic for the Proposed Village will be managed through a Construction Traffic Management Plan. A draft plan has been prepared. This plan will be updated and certified by Council before construction commences. Mr Hills considers this approach will ensure construction activities are managed to achieve an appropriately low level of traffic effects.<sup>153</sup> Council's transport expert agrees.<sup>154</sup>

- 201 The construction traffic conditions are agreed between Ryman and Council.

*Earthworks*

- 202 The Proposed Village requires earthworks, but the extent of earthworks has been minimised through the provision of undercroft carparking for buildings B02-B06.

- 203 Mr Desai describes the proposed erosion and sediment control approach, which will comply with the relevant guidelines. Mr Desai considers an erosion and sediment control plan will ensure potential erosion and sedimentation effects from the earthworks are appropriately managed.<sup>155</sup> The potential for dust effects will be appropriately mitigated by limiting the area of earthworks exposed at any one time and using water over the exposed areas of the Site.<sup>156</sup> The Council's earthworks engineer agrees this approach is appropriate.<sup>157</sup>

- 204 The sediment and erosion control conditions are agreed between Ryman and Council.

- 205 Mr Pierre Malan addresses the potential for excavation and construction to cause ground deformation on neighbouring

---

<sup>151</sup> Supplementary Statement of Ms Wilkening, paragraphs 4-10.

<sup>152</sup> Additional Summary Statement – Laura Brownlie, paragraph 32.

<sup>153</sup> Statement of Evidence of Mr Hills, paragraphs 88-89.

<sup>154</sup> Council Officer's Report, Appendix 7 – Transport – Soon Teck Kong, paragraph 12.2.

<sup>155</sup> Statement of Evidence of Mr Desai, paragraphs 34-39.

<sup>156</sup> Statement of Evidence of Mr Desai, paragraphs 40-41.

<sup>157</sup> Council Officer's Report, Appendix 8 – Earthworks – John Davies, paragraphs 15 and 18.

properties. He does not identify any potential for adverse deformation effects.<sup>158</sup> The Council's geotechnical expert agrees the Proposed Village can be successfully constructed.<sup>159</sup> Ryman has also offered 'before and after surveys' to ensure it is responsible for repairs in the unlikely event damage was to occur. In response to submitter concerns, this Condition has also been updated to provide for interim surveys where reasonable.

206 The geotechnical conditions are agreed between Ryman and Council.

*Contamination*

207 Ground contamination investigations revealed the presence of asbestos at the Site. In order to manage potential contamination-related risks, standard industry good practice control measures will be set out in a Site Management Plan and implemented during earthworks and construction. Mr Paul Walker considers that the proposed controls will ensure potential contamination-related risks to human health and the environment will be low and suitably managed.<sup>160</sup> The Council's contamination expert agrees with this approach.<sup>161</sup>

208 The contamination conditions are agreed between Ryman and Council.

*Conclusion on construction effects*

209 Construction effects will be temporary, and will be appropriately managed through the implementation of good practice measures, and management plans secured through the proposed consent conditions.

**Benefits of the Proposed Village**

210 The Commissioners heard from a number of understandably concerned adjoining neighbours at the hearing. But it is important to highlight that around half of the submissions supported the application. It is, of course, not a 'numbers game', but it is essential to remember that there is strong community support for the Proposed Village. As already noted, Mr and Mrs Ho and Mr and Mrs Marshall provided a "human face" to the submitters in support at the hearing. The Karori Residents Association also gave its strong support to the Proposed Village.

211 The positive effects of the Proposed Village are substantial. The key positive effects relate to:

---

<sup>158</sup> Statement of Evidence of Mr Malan, paragraphs 54-55 and 57-60.

<sup>159</sup> Council Officer's Report, Appendix 10 – Geotechnical – Ayoub Riman, paragraph 12.

<sup>160</sup> Statement of Evidence of Mr Walker, paragraphs 12-18.

<sup>161</sup> Council Officer's Report, Appendix 11 – Contamination – Suzanne Lowe, section 5. Note there is a matter of detail outstanding as to whether further asbestos investigation is required as a condition of consent.

- 211.1 The wellbeing and health of the future residents. The Proposed Village will provide appropriate accommodation and care for its future residents, with a layout and environment designed to meet the specific physical and social needs of older people. As Mr Brown explained, there is a desperate need for a comprehensive care retirement village in this area and the Proposed Village will improve the quality of life of its residents;
- 211.2 The repurposing of a vacant, residentially zoned site for residential intensification, being an efficient use of a scarce physical resource;
- 211.3 The restoration and reuse of the Allen Ward VC Hall, the Tennant Block and the Oldershaw Octagonal Block, along with the preservation and restoration of the Lopdell Gardens. These works are not required under the planning provisions given the Site is not listed in the Operative or Proposed Plans. Ryman has chosen to preserve and restore these areas;
- 211.4 The establishment of a pocket park on Donald Street for the community's use;
- 211.5 The transfer of land to Council to ensure the northern walkway remains in public ownership (noting that a condition is offered by Ryman on an *Augier* basis to ensure this outcome);
- 211.6 The release of family homes back into the market as residents move into the Proposed Village, which will help address urgent housing needs in Wellington City (a 'Tier 1' area under the NPSUD) more broadly;
- 211.7 Reduced pressure on the public health system (and reduced 'bed blocking');
- 211.8 Flood reduction benefits along Donald Street, Campbell Street and Scapa Terrace; and
- 211.9 The provision of many jobs and other significant economic benefits during the construction and operation of the Proposed Village.
- 212 The substantial benefits of the Proposed Village also have to be seen in the context of the wider retirement living and care crisis. Mr Brown explained that there is already a shortage of purpose built, high quality homes for the elderly in Wellington. He also explained how that shortage is getting worse, with the Wellington City 75+ population to almost triple by 2048.<sup>162</sup> This evidence underlines the

---

<sup>162</sup> Statement of Evidence of Mr Brown, paragraph 28.

importance of using rare, large, and well located sites in an efficient manner.

- 213 Mr Brown also explained how Ryman chooses sites in established residential zones because of the importance of residents retaining their connections with their community (called 'ageing in place' in his evidence). Mr and Mrs Ho and Mr and Mrs Marshall emphasised the importance of having a retirement village in their local neighbourhood, Karori.
- 214 To conclude on the positive features of the proposal, Ryman wishes to emphasise that the Proposed Village is about people – the future residents of this village. Ryman is not a developer. It is a highly regarded operator of a critical community service. The Proposed Village will provide excellent accommodation and care for one of the most vulnerable demographics of the community. It will cater for those able to live independently, as well as those needing serviced apartments, or requiring all levels of care (rest home, hospital, and dementia). It will be tailor-made to improve the quality of life and wellbeing of older people. The video presented by Mr Brown at the hearing, as well as the presentations of Mr and Mrs Ho and Mr and Mrs Marshall, demonstrated just how important villages like this one are to the people that live there and their families.

## **DECISION MAKING - OPTIONS**

### **Relief sought by RDK**

#### ***Design changes***

- 215 The Commissioners asked Ryman to comment on the relief sought by RDK at the hearing, which consisted of:
- 215.1 A 10m setback from all boundaries;
- 215.2 More 'staggering' of the height of Buildings B02-B07; and
- 215.3 A reduction in the height of Buildings B01A and B01B (of at least one level).
- 216 RDK suggested these design modifications would not prevent the delivery of much needed retirement housing and care on the Site.
- 217 With respect, this comment was not well informed.
- 218 Ryman does not consider the design modifications sought by RDK are warranted to address the effects of the Proposed Village. The residential character and amenity effects are considered acceptable by Ryman and Council experts.
- 219 In relation to the setback sought by RDK, the Proposed Village already provides a "considerable" and "significant" setback from the southern boundary (4.2-5.5m) as Ms McArthur noted at the hearing. It is submitted that an increased setback of 10m is simply not

warranted, particularly in the context of it being '10 times' the Operative Plan and Proposed Plan setback standards. As Ms Duffell pointed out, any intensive development of the Site could be expected to minimise the setback on the southern boundary in order to maximise sunlight and space to the north.

- 220 In relation to the staggering of height sought by RDK, it is noted that the Proposed Village is fully compliant with the Operative Plan height and recession plane standards along the southern boundary. It is even more compliant with the Proposed Plan standards. Significant staggering has already occurred with the three storey elevations sitting behind the one and two storey elevations. There are also substantial gaps in the buildings where the one storey elevations are located. At the hearing, Ms McArthur also noted that further staggering of the height of Buildings B02-B06 is unlikely to alter landscape and visual effects, because Building B01 would be visible in any 'gaps' created.
- 221 In relation to the reduction in height of Building B01 sought by RDK, it is noted that these buildings are located a considerable distance from residential neighbours (particularly the RDK members located on Scapa Terrace). This relief would not improve the amenity outcomes of concern to RDK.
- 222 Thus, the 'benefit' of the design changes sought by RDK would be a very small (if any) reduction in visual and amenity effects for a very small number of properties. Against that, any reduction in the scale of the Proposed Village would result in a loss of much needed retirement accommodation and care. Major design and layout changes would be needed and loss of units would most likely occur.
- 223 It is speculative to comment any further on the functional and operational implications of the RDK relief. For example, if Buildings B02-B06 were shifted further from the southern boundary to provide a deeper setback, a fundamental redesign of the remainder of the Proposed Village layout (buildings, roads, parking etc) would be required. The removal of units from the independent apartments to provide a deeper setback would impact the independent apartment to care room ratio within the Village, again requiring a wider redesign of the Proposed Village. In any event, no such 'redesign' is before the Panel and therefore is not a matter that can be considered in your decision making.
- 224 With respect, the requests for changes by RDK are not justified – and it is not unreasonable to suggest that the neighbours of Scapa Terrace could be substantially worse off under a proposal that fully complied with the new MDRS density standards. A compliant scheme would not be able to be notified due to density effects once those rules take effect – even on a limited basis – which is another feature of the 'paradigm shift' under the new planning regime.

225 Mr Brown and Mr Turner also noted the need to deliver appropriate accommodation and care to an expanding older community, and the delivery of a village with a high level of internal amenity that people want to live in as highly important considerations. These benefits are strongly grounded in core RMA considerations: social wellbeing, the health and safety and amenity of people, the efficiency of using scarce resources and providing for current and future populations, which are also reflected in the NPSUD. It is submitted that the relief sought by RDK is inconsistent with these considerations and not warranted in any case.

**Conditions**

226 It is noted that RDK also provided comments on consent conditions dated 15 August 2022. Those comments were taken into account by Ryman in preparing the proposed conditions presented by Mr Turner at the hearing. Mr Turner also addressed some of the RDK comments during his presentation.

227 A number of amendments have been made to the conditions in response to the RDK comments where the Ryman and Council team considered amendments to be appropriate. For example, Condition 3 requires Ryman to invite RDK to participate in a community liaison group. Condition 5 addresses the stability of adjoining properties. Condition 6E was amended to require repair works to be completed within 6 months of the post-construction survey. Condition 58 addresses nuisance light spill effects.

228 In some cases, it was not considered practical to make the amendments sought by RDK. For example, Condition 6E requires post-construction surveys to be undertaken within 12 weeks of construction works being completed. RDK requested that this timeframe be reduced to 6 weeks. Mr Brown advised that this reduced timeframe is not workable given the number of actions occurring at that time and the number of surveys potentially required.

229 In some other cases, it was not considered reasonable to make the amendments sought by RDK. For example, RDK sought an amendment to Condition 38 (as now numbered) to restrict construction works to the hours of 9am - 3pm. As explained by Ms Wilkening, such restrictions would lead to an extension of the overall construction period<sup>163</sup>. And, these restricted hours are far more stringent than the NZ Standard. The RDK comments also sought a new condition prohibiting service vehicle deliveries between the hours of 10pm and 7am. As explained in the Council response on conditions<sup>164</sup>, Ryman provided Council with information on servicing vehicles following the hearing, which allowed Council to confirm it does not consider a condition restricting servicing hours to be necessary. By way of final example, RDK sought that Ryman be

---

<sup>163</sup> Statement of Evidence of Ms Wilkening, paragraph 115.

<sup>164</sup> Dated 14 October 2022.

required to direct its employees and service providers that no on-street parking is permitted. Such a requirement is not reasonable given on-street parking is available to be used by any member of the public and Ryman has limited control over the preferences of employees and service providers. That said, the Proposed Village contains sufficient parking for both and there should therefore be no reason to park outside the Site.

- 230 It is submitted that Ryman has given careful consideration to the RDK comments on conditions and made amendments to the conditions to respond to those comments where appropriate.

**Conditions**

- 231 The proposed consent conditions are agreed between Ryman and Council in almost all respects. The outstanding differences, which the Commissioners will need to make a determination on, relate to:

231.1 **On-site Parking Management Strategy:** Ryman is concerned that the insertion of the word "*minimum*" into Condition 31 (as proposed in Council's response on conditions<sup>165</sup>) might encourage Council to seek that Ryman provide a larger number of staff or visitor carparks in the future, on the basis such car parking is required to ensure the Strategy is "*effective*". Ryman considers the intent outlined in Council's response on conditions can be achieved through the alternative wording that it has proposed. The alternative wording provides clarity that Council does not have an oversight role in relation to this on-site operational matter and it is for Ryman to allocate additional staff or visitor parking if it chooses to do so.

231.2 **Lighting condition:** Ryman and Council have agreed that Condition 58 should refer to lighting within the pocket park. The outstanding difference is whether the condition should refer to low level bollard lighting or to lighting more generally. Ryman considers it is appropriate to refer to the type of lighting that it proposes to install in the pocket park in order to provide certainty as to the Council's certification role under the condition. Ryman opposes a reference to lighting more generally, as it could result in Council using its discretion to require other forms of lighting.

231.3 **Wind:** The Council seeks an amendment to the landscape plan condition (Condition 61) to refer to additional planting/screening to assist with mitigating wind effects within, "*the courtyard between Buildings B01A and B01B, including the location and type of wind mitigation landscaping (plantings, vertical screens or walls and details for shelter of the entranceway(s))*". For the reasons set out at paragraph 174 - 180 above, it is submitted that an amendment to the

---

<sup>165</sup> Dated 14 October 2022.



landscape plan condition to address this matter is not necessary.

231.4 **Northern Public Walkway:** Condition 64 is an *Augier* condition offered by Ryman to provide certainty that the benefit of the Northern Public Walkway remaining in public ownership will accrue. Council proposed amendments to this condition to provide for the vesting of the land as Recreation Reserve. Ryman has proposed more general language that allows the most appropriate process to be agreed between Ryman and Council at the time of the boundary adjustment subdivision.

232 Ryman's proposed conditions are provided at **Appendix 1**. The tracked version shows the amendments made since Mr Turner's presentation at the hearing, except for typographical fixes and updates to condition numbering. A clean version has also been provided.

#### **FURTHER INFORMATION**

233 A supplementary statement of evidence from Mr Bright is provided at **Appendix 2** to respond to a question from the Commissioners.

234 We also wish to advise that Figures 3 and 4 shown at pages 19-20 of Mr Desai's evidence are located at pages 88 and 90 of the Infrastructure Report attached to the Assessment of Environmental Effects to address a question from the Commissioners.

235 A clean set of resource consent drawings have also been lodged with these closing submissions. This set of drawings removes the 'revision clouds' that were shown on the set presented at the hearing. A correction has also been made to the contents sheet (RC02) to refer to Revision B of RC04. The contents sheet previously incorrectly referred to Revision C of RC04.

#### **CONCLUSION**

236 For all of the above reasons, and as described in the evidence presented by Ryman's witnesses, Ryman respectfully requests that the Commissioners grant consent to the Proposed Village.

**Luke Hinchey / Nicola de Wit**  
**Counsel for Ryman Healthcare Limited**  
**20 October 2022**

## **APPENDIX 1 - PROPOSED CONDITIONS**

## Consent Conditions – Ryman Karori (SR No. 471670)

### General

- The [Proposed Village proposal](#) must be established in accordance with the information provided with the Application Service Request No. 471670 and the following plans prepared for Ryman Healthcare Limited, Project Title ‘Comprehensive Care Retirement Village – Donald Street, Karori, Wellington’, Project Number 042, as noted below:

Plan Title	Drawing Number	Ref	V	Dated
Title Sheet	<a href="#">A0-000</a>	RC01		
Contents Page	A0-001	RC02	C	September 2022
Schedules	A0-002	RC03	<del>A</del> B	18 June 2021
Proposed Site Plan with Aerial	A0-021	RC04	<del>€</del> B	August 2022
Proposed Site Plan – Level 0	A0-030	RC05	B	August 2022
Proposed Site Plan – Level 1	A0-040	RC06	B	August 2022
Proposed Site Plan – Level 2	A0-050	RC07	B	August 2022
Proposed Site Plan – Level 3	A0-060	RC08	B	August 2022
Proposed Site Plan – Level 4	A0-070	RC09	B	August 2022
Proposed Site Plan – Level 5	A0-080	RC10	B	August 2022
Proposed Site Plan – Level 6	A0-090	RC11	B	August 2022
Proposed Site Fencing Plan	A0-110	RC12	B	August 2022
Proposed Site Elevations	A0-200	RC13	B	August 2022
Proposed Site Elevations	A0-205	RC14	B	August 2022
Proposed Site Sections	A0-300	RC15	B	August 2022
Proposed Site Sections	A0-301	RC16	B	August 2022
Proposed Site Sections B02-B06	A0-302	RC17	B	August 2022
Level 0 - Basement	A1-010	RC18	A	18 June 2021
Level 1 – Terrace	A1-020	RC19	A	18 June 2021
Level 2 – Terrace	A1-030	RC20	A	18 June 2021
Level 3 – Ground Floor Plan	A1-040	RC21	A	18 June 2021
Level 4 – First Floor Plan	A1-050	RC22	A	18 June 2021
Level 5 – Second Floor	A1-060	RC23	A	18 June 2021
Level 6 – Third Floor	A1-070	RC24	A	18 June 2021
Proposed Roof Plan	A1-080	RC25	A	18 June 2021
Proposed Village Centre Elevations	A2-010	RC26	A	18 June 2021
Proposed Village Centre Elevations	A2-020	RC27	A	18 June 2021
Proposed Village Centre Elevations	A2-030	RC28	A	18 June 2021
Proposed Village Centre Elevations	A2-040	RC29	A	18 June 2021
Proposed Village Centre Elevations	A2-050	RC30	A	18 June 2021
Ground Floor Plan – Apartments B02-B06	A1-010	RC31	B	<del>August</del> <a href="#">September</a> 2022
First Floor Plan – Apartments B02-B06	A1-020	RC32	A	18 June 2021
Second Floor Plan – Apartments B02-B06	A1-030	RC33	A	18 June 2021
Roof Plan – Apartments B02-B06	A1-040	RC34	A	18 June 2021

Elevations – Apartments B02-B06	A2-010	RC35	B	September 2022
Proposed Apartment Block B07 Floor Plans	A1-010	RC36	A	18 June 2021
Proposed Apartment Block B07 – Elevations	A2-030	RC37	A	18 June 2021
Proposed Waste/Recycling Shed	A1-010	RC38	A	18 June 2021

Plan Title	Author	Ref	Rev	Dated
Proposed Site Layout	Woods	042-RCT_401_Co-001	1	14/08/20
Final Contour Plan	Woods	042-RCT_401_Co-110	1	14/08/20
Depth (Cut/Fill) Contours Plan	Woods	042-RCT_401_Co-120	3	28/08/22

### **Staging**

- Any management plans or landscape design drawings required in accordance with the conditions of this resource consent may apply to works across the entire site, or may solely apply to part of the site or works depending on the programme / staging of works proposed by the consent holder.

Furthermore, nothing in these consent conditions shall preclude the staged occupation of the buildings authorised as part of this resource consent.

### **Community Liaison Group**

- The consent holder shall invite Responsible Development Karori by written offer to the current appointed chair (or other member where the chair is unknown) to participate in a community liaison group ("CLG"). Provided that the invitation is accepted within two weeks of a written offer being made by the consent holder, the CLG shall comprise representatives of the consent holder and Responsible Development Karori. Representatives from Karori Normal School, Donald Street Pre-School and Karori Kids shall also be invited to participate in the CLG.

The purpose of the CLG is to provide a forum for consultation on matters affecting the local community arising from the exercise of this resource consent.

The consent holder must convene the first meeting of the CLG within 90 days from the ~~date of issue~~ [commencement](#) of this consent or prior to the commencement of any works on site, whichever is the earlier. The CLG shall meet thereafter at intervals agreed by the members of the CLG in relation to major construction event timing or no greater than four months apart.

The consent holder shall meet the reasonable administrative costs of the CLG.

### **Management Plans**

- Any amendments to management plans, monitoring plans or detailed design drawings required by the conditions of this resource consent must be certified by the Council's

Compliance Monitoring Officer before the amendment is implemented, and in accordance with the requirements of the relevant conditions.

## **Earthworks and Geotechnical**

### Geotechnical

5. The consent holder shall ensure that all earthworks on the site do not lead to any uncontrolled instability or collapse affecting any neighbouring properties. In the event that such collapse or instability does occur, it shall immediately be rectified by the consent holder (subject to the permission of the affected [property landowner](#)).
6. The construction of any temporary works, foundations and earthworks adjacent to the northern wall of Building B01A and the eastern wall of Building B07 must be designed by a suitably qualified and experienced Chartered Geotechnical Engineer (“CPEng”) for both the final design and construction stage.
7. At least 20 working days prior to any work commencing on site, the following documentation must be submitted to the Council’s Compliance Monitoring Officer for certification in relation to any temporary works, foundations and earthworks adjacent to the northern wall of Building B01A and the eastern wall of Building B07, so as to ensure there is not uncontrolled instability or collapse affecting any neighbouring properties:
  - a. The maximum excavation heights on the earthwork’s plans. The information is to include sketches illustrating the excavation sequence and stages for works adjacent to the northern wall of Building B01A and the eastern wall of Building B07.
  - b. A ground movement monitoring plan prepared by a suitably qualified and experienced engineer to monitor induced ground displacements due to excavation and vibration in neighbouring properties prior, during, and after completion of works adjacent to the northern wall of Building B01A and the eastern wall of Building B07 (including acceptable deformation criteria).
  - c. The ground movement monitoring plan must also include a schedule for the monitoring results to be regularly checked against the temporary works design model to confirm acceptability against the deformation criteria in the ground movement monitoring plan. All instruments and survey points are to be monitored against proposed “Alert”, “Action”, “Alarm” (AAA) levels, specified by the engineer. The consent holder shall develop contingency plans to respond to [any](#) exceedance of “Action Values” and “Alarm Values”.
  - d. Roles and responsibilities of key site personnel to ensure adherence to the ground movement monitoring plan and excavation sequencing.
8. Work must not commence on site until the documents in condition 7 are certified by the Council’s Compliance Monitoring Officer, and the ground movement monitoring plan is to be implemented during the earthworks stage of the development and until such time [as](#) retaining works are completed.
9. The consent holder must provide a copy of the geotechnical monitoring and auditing documentation produced in relation to the ground movement monitoring plan [to the Council’s Compliance Monitoring Officer](#) at the completion of works adjacent to the northern wall of Building B01A and the eastern wall of Building B07 ~~to the Council’s Compliance Monitoring Officer.~~

### Pre and Post-Construction Building Survey

10. Where a pre-construction land, structure or building condition survey is required by condition 11, the consent holder shall request in writing the approval of the owners of the identified properties to undertake an initial condition and photographic survey. The consent holder shall send copies of each of the requests to the [Council's](#) Compliance Monitoring Officer.
11. The consent holder shall engage a suitably qualified and experienced person to undertake the survey of the properties within 20 metres of where earthworks will occur on the site, where the property owner has given their written approval to a survey being undertaken.
12. If the property owner does not respond within 20 working days of the request in condition 11 being made, the consent holder need not undertake a survey of that property.
13. The survey shall assess the current condition of land, structures and the exterior and interior of the buildings on the properties identified in condition 11. The methodology to be utilised by the consent holder shall be documented and provided to the [Council's](#) Compliance Monitoring Officer prior to the surveys being undertaken.
14. Within twelve weeks of the completion of all construction works on the site, or at any other time reasonably agreed between the property owner and the consent holder (including when the property owner wishes to sell their property), the consent holder shall undertake a survey of each property surveyed in accordance with condition 11 where the property owner has given their written approval (at the consent holder's cost). The purpose of these surveys is to assess any damage caused by the excavation and construction activities at the site. Provided the consent of any property owner is obtained, the consent holder shall be responsible for any repairs, reinstatement or other works to surveyed land, structures and buildings that can be reasonably attributed to construction activity.

The repairs, reinstatement or other works must be completed by the consent holder as soon as reasonably practicable, but no later than six months after the completion of the final assessment survey.

15. A copy of each property survey undertaken in accordance with conditions 13 and 14 shall be made available to the applicable property owner within 15 working days of the survey being completed.

### Construction Management Plan

16. A Construction Management Plan ("CMP") must be submitted to the Council's Compliance Monitoring Officer for certification at least 20 working days prior to any work commencing on site. The purpose of the CMP is to specify the overall construction management measures that will be implemented by the consent holder to ensure that the conditions of this resource consent will be complied with.

The CMP must include, but is not limited to, the following:

- a. Details of the staging of work across the site and the general construction timetable for the [Proposed Village](#) project.

- b. The details of the temporary wind mitigation fencing that is to be installed around the boundary of the site, until such time as the permanent wind mitigation detailed in the Landscape and Pavement Plan (condition 61) is implemented.
  - c. The various construction methods to be utilised on site.
  - d. Roles and responsibilities of key site personnel.
  - e. General site management measures.
  - f. A contact (mobile) telephone number(s) for the on-site manager, where contact can be made 24 hours a day / 7 days a week.
  - g. A communication and complaints procedure for adjoining property owners/occupiers and the public, including details on how complaints have been addressed.
  - h. The circumstances when the consent holder shall offer the wash down of the exterior of adjoining dwellings to the site (including Karori Kids) to remove any potential constructed-related dust.
17. No work may commence on site until the CMP is certified by the Council's Compliance Monitoring Officer. The construction activities must be carried out in accordance with the certified CMP.

#### Erosion and Sediment Control

18. An Erosion and Sediment Control Plan ("ESCP") prepared by a suitably qualified and experienced person must be submitted to the Council's Compliance Monitoring Officer for certification at least 20 working days prior to any work commencing on site. The purpose of the ESCP is to identify the erosion and sediment control measures that will be implemented on site during construction activities and how these will comply with the "Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Wellington Region (February 2021)."

The ESCP shall be based upon the draft plan prepared by Woods (Reference 042-RCT\_401\_Co-180, dated 11 August 2022) and must also include the following:

- a. An illustrated plan that records the key features of the ESCP.
- b. Measures to limit the area of earthworks exposed to the weather at any one time (sources of dust and sediment).
- c. Measures to ensure temporary excavations remain stable.
- d. [Measures to ensure the s](#)tabilisation of the site entrance(s) [in order](#) to minimise the tracking of earth by vehicles onto the adjoining roads.
- e. Detail of the use of diversion bunds/cut-off drains, as required, to minimise stormwater entering the site and discharging onto earthworks areas where it can pick up sediment and not discharged on to sloping ground.
- f. Details of how, throughout construction, all stormwater from roofs, paved and impermeable surfaces will be collected and piped to prevent it discharging onto earthworks areas where it can pick up sediment and not discharged on to sloping ground.
- g. The type and location of silt fences to control water-borne sediment.
- h. Methods for protecting stormwater sumps from the infiltration of water-borne sediment.
- i. Measures to ensure that the discharge of dust created by earthworks, construction and transport activities are suitably controlled to minimise dust hazard or nuisance.

- j. Covering of soil or other material that is stockpiled on the site or transported to, or from, the site, to prevent dust nuisance or erosion by rain and stormwater (creating water-borne sediment).
  - k. The methods for managing and monitoring the ESCP controls.
  - l. Nomination of a site person responsible for the implementation and administration of the ESCP.
19. No work may commence on site until the ESCP is certified by the Council's Compliance Monitoring Officer. The construction activities must be carried out in accordance with the certified ESCP.
  20. The erosion, dust and sediment control measures put in place must not be removed until the site is remediated to the satisfaction of the Council's Compliance Monitoring Officer. 'Remediated' means the ground surface of the areas of earthworks have been stabilised (no longer producing dust or water-borne sediment), and any problems with erosion, dust or sediment that occur during the work have been remedied.
  21. All sediment laden run-off must be managed and contained within the site. Any sediment that is deposited onto neighbouring properties or ~~at~~ the public road must be cleaned up immediately (with the landowner's permission on land that isn't public road). The deposited sediment must not be swept or washed into street channels or stormwater inlets or dumped on the side of the road.

Note:

*As a minimum, 100mm of clarity is required to allow run-off to be discharged offsite. If clarity is less than 100mm then the run-off is considered to be sediment laden and must be contained and/or treated on site.*

Producer Statements

22. A construction review statement must be supplied by a suitably experienced ~~Chartered Professional Engineer (CPEng)~~ to the Council's Compliance Monitoring Officer within one month of the completion of all earthworks for the Proposed Village. The document must:
  - a. Provide details of any changes to the earthworks sequencing that were necessary to address geotechnical or engineering problems encountered during the earthworks; and
  - b. A certification upon completion of land development and subdivision, Schedule 2A of NZS4404:2010.

Dust

23. Dust created by earthworks, transport and construction activities must be controlled to minimise nuisance and hazard. The controls must be implemented for the duration of the site works and continue until the site stops producing dust.

Grassing of Earthworks

24. All exposed areas of earthworks, unless otherwise built on, are to be stabilised within one month of completing each stage of the earthworks, unless otherwise agreed by the Council's Compliance Monitoring Officer.



## Traffic

### Construction Traffic Management

25. A Construction Traffic Management Plan (“CTMP”) must be submitted to the Council’s Compliance Monitoring Officer for certification at least 20 working days prior to any works commencing on the site. The purpose of the CTMP is to set out the measures to safely control traffic movements to, and from, the site during the construction activities.

The CTMP shall include the following detail:

- a. Construction dates and hours of operation relevant to the management of construction traffic, including any specific non-working hours to minimise traffic congestion.
  - b. ~~Detailing~~ that construction traffic movements to, and from, the site must not occur during school drop off (8.15am to 9.15am) and pick up (2.30pm to 3.30pm) times during school terms – except for during concrete pours ~~and during school holidays~~.
  - c. When it may be necessary for a traffic controller or site traffic management supervisor to be present at either site access for vehicles entering or exiting the site.
  - d. Truck route diagrams both internal to the site and external to the road network.
  - e. All heavy vehicle movements must be managed to minimise the safety impact on local facilities and amenities.
  - f. Temporary traffic management signage/details for pedestrians and drivers to safely manage the interaction of these road users with heavy construction traffic.
  - g. Details of site access/egress over the entire construction period are to be provided to ensure that pedestrian visibility splays are included with complying sight distances as per the Land Transport Safety Authority “Guidelines for Visibility at Driveways” (RTS6 document).
  - h. Where practicable, construction worker parking demands are to be provided off-street to minimise the use of public road.
26. No work may commence on site until the CTMP is certified by the Council’s Compliance Monitoring Officer. The construction activities must be carried out in accordance with the certified CTMP.

### Detailed Construction Plans

27. Prior to the first building consent being submitted [for the Proposed Village](#), the consent holder must prepare and submit to the Council’s Compliance Monitoring Officer for certification detailed construction plans of the internal road system serving the development that show:
- a. The internal road layout includes speed humps and pedestrian crossing platforms to ensure a slow speed environment of 10km/h;
  - b. ~~Thate~~ vehicle accesses have been designed with tracking paths, widths, pedestrian visibility splays, and traffic calming measures (speed humps at the back of footpath within the site) to ensure slow vehicle speed over the public footpath;
  - c. There is no visual obstruction higher than 1.0m within the pedestrian visibility splays, including signage and landscaping;
  - d. All covered parking areas, ramps, and loading areas comply with AS/NZS 2890.1:2004; and

- e. All internal vehicular and pedestrian paths are to be clearly marked and signed to minimise conflict.
28. The consent holder must undertake the works and build in accordance with the certified plans under condition 27 above.

Notes:

- 1. If there is any inconsistency between condition 1 and condition 27, condition 27 will prevail.
- 2. It is recommended that certification is obtained prior to or at time of building consent to avoid potential conflict and the need to change building consent plans.

Reinstatement of Redundant Vehicle Crossings

29. All redundant vehicle crossings must be reinstated by the consent holder with new footpath and kerb and channel at the consent holder's expense prior to the village commencing operation.

Long Term Parking and Parking Demand Management

30. The consent holder must prepare and implement a Staff Travel Plan for the Proposed Village. The purpose of the Staff Travel Plan is to encourage staff to use transport modes for commuting to, and from, the Proposed Village which do not involve the use of a private motor vehicle where practicable.

The Staff Travel Plan must generally follow the "Workplace Travel Plan Guidelines (NZ Transport Agency, August 2011)" and is to include detail on:

- a. Staff shifts.
- b. Changeover period.
- c. Staff number on-site at any given time during the weekday and weekend.
- d. Staff travel behaviour and mode choices.

The Staff Travel Plan must be completed by the consent holder and submitted to the Council's Compliance Monitoring Officer for certification after six months of occupation by the first residents, and then again 12 months after the Proposed Village is fully occupied, that it meets the purpose outlined above.

31. The consent holder shall prepare and implement an On-Site Parking Management Strategy to ensure residents, staff and visitors to the ~~p~~Proposed ~~v~~Village (including service deliveries) are directed to appropriate parking areas, including during shift change overs. The On-Site Parking Management Strategy shall identify:
- a. Permanent parking areas for staff and visitors (the Strategy must identify a minimum of 25 carparks for staff and 36 carparks for visitors with any additional staff or visitor carparks at Ryman's discretion).
  - b. Signs and markings that specify the intended use for staff and visitors.

A copy of the On-Site Parking Management Strategy ~~plan~~ shall be provided to the Council's Compliance Monitoring Officer upon request. The On-Site Parking Management

Strategy shall be updated by the consent holder as required to ensure it remains effective and to reflect any operational changes.

## **Contamination**

### Contaminated Land Management Plan

32. A Contaminated Land Management Plan (“CLMP”) must be ~~prepared~~**completed** by a suitably qualified and experienced practitioner (“SQEP”) and **submitted** to the Council’s Compliance Monitoring Officer for certification at least 20 working days prior to any earthworks commencing on the site.

The CLMP should include the following:

- a. Date and version control.
  - b. A summary of soil sampling results, including further soil sampling undertaken in relation to asbestos.
  - c. A summary of the proposed ~~redevelopment~~ works.
  - d. Roles and responsibilities and contact details for the parties involved, including the SQEP.
  - e. Health and safety and environmental management procedures for implementation during the works including but not limited to:
    - Personal protection and monitoring.
    - On site soil management practices including stockpile management and stormwater and sediment controls.
    - Off-site soil transport and disposal.
  - f. Asbestos in soil removal procedures in accordance with WorkSafe's "*Good Practice Guideline: Conducting Asbestos Surveys (September 2017)*" and "*Approved Code of Practice Management and Removal of Asbestos, {November 2016}*".
  - g. Contingency measures in the event of accidental/unexpected discovery including the discovery of asbestos and asbestos related controls.
  - h. Post development controls on the management of remaining contamination in soils.
33. No earthworks may commence on site until the CTMP is certified by the Council’s Compliance Monitoring Officer. The earthworks on the site must be carried out in accordance with the certified CLMP.

### Disposal of soil

34. All soil material with contaminant concentrations above background concentrations that is removed from the site must be disposed of at a licensed facility that holds a consent to accept the relevant level of contamination.

### Site Validation

35. A Site Validation Report must be prepared in general accordance with Ministry for the Environment’s “*Contaminated Land Management Guideline No.1*” and must be provided to the Council’s Compliance Monitoring Officer within 3 months of completion of earthworks on the site. The Site Validation Report should include the following:

- a. The location and dimensions of the excavations carried out, including a relevant site plan.
- b. Records of any unexpected contamination encountered during the works.
- c. Soil validation results, if applicable (i.e., if remediation is carried out or unexpected contamination is encountered).
- d. Copies of the disposal dockets for the material removed from the site and any clean fill imported onto the site.
- e. The requirements for ongoing monitoring and management (if any contamination is contained on-site).

## **Noise**

### Construction Noise and Vibration Management Plan

36. The consent holder must submit to the Council’s Compliance Monitoring Officer a Construction Noise and Vibration Management Plan (“CNVMP”) for certification at least 20 working days prior to any work commencing on site. The purpose of the CNVMP is to set out the ~~section 16~~ Best Practicable Option (“BPO”) ~~under~~ [in accordance with section 16](#) of the Resource Management Act 1991 for the management of noise and vibration effects associated with the construction activities on the site.

The CNVMP must be prepared by a suitably qualified and experienced acoustic and vibration expert. The CNVMP shall be drafted in accordance with Appendix E2 of NZS6803:1999 Acoustics – Construction [Noise](#).

The CNVMP must also:

- a. Identify and describe all specific activities that cannot comply with the upper recommended noise levels set in Table 2 of [NZ6803:1999 Acoustics – Construction Noise](#).
  - b. Identify and describe all specific activities that cannot comply with vibration limits in DIN 4150-3:1999 Structural Vibration – Part 3: Effects of Vibration on Structures.
  - c. Specify the predicted noise and vibration limits, and identify each separate affected property, for each activity (stage) that exceeds the recommended levels.
  - d. Specify the duration of the works exceeding the recommended noise and vibration levels.
  - e. Specify the physical and managerial noise mitigation methods that must be adopted to reduce noise to a reasonable level of noise and vibration in accordance with the BPO.
  - f. Mechanisms to review and amend the CNVMP in the event of a change of construction methodology or equipment.
37. No work may commence on site until the CNVMP is certified by the Council’s Compliance Monitoring Officer. The construction activities must be carried out in accordance with the certified CNVMP.

### Construction Noise Hours

38. The consent holder must ensure that construction activities only operate between the hours of 7.30am and 6.00pm Monday to Saturday (excluding public holidays). This restriction shall

not apply to low noise creating activities such as site set up, painting, electrical works or planting, which may occur outside of these hours on Monday to Saturday only.

#### Construction Noise Limits and Management

39. The consent holder must ensure that construction activities, except were identified in the CNVMP as predicted to exceed the levels in NZS6803:1999 Acoustics Construction Noise, shall be managed and controlled so that the noise received at any residential or commercial site does not exceed the limits set out in Table 2 and Table 3 of NZS6803:1999 Acoustics – Construction Noise when measured and assessed in accordance with that standard.

#### Construction Vibration and Management

40. The consent holder must ensure that construction activities, except were identified in the CNVMP as predicted to exceed the levels in DIN 4150-3:1999 “Structural Vibration – Part 3: Effects of vibration on structures’, shall be managed and controlled so that the vibration levels received at any site does not exceed the limits in DIN 4150- 3:1999 Structural Vibration – Part 3: Effects of Vibration on Structures.

#### Schedule to the Construction Noise and Vibration Management Plan

41. Schedule to the CNVMP:
- a Unless otherwise provided for in a CNVMP, a Schedule to the CNVMP (Schedule) shall be prepared by a suitably qualified and experienced person, in consultation with the owners and occupiers of sites subject to the Schedule, when:
    - Construction noise is either predicted or measured to exceed the noise standards in condition 39; or
    - Construction vibration is either predicted or measured to exceed the vibration standards in condition 40.
  
  - b The objective of the Schedule is to set out the BPO for the management of noise and/or vibration effects of the construction activity beyond those measures set out in the CNVMP. The Schedule shall include details such as:
    - Construction activity location, start and finish times;
    - The nearest neighbours to the construction activity;
    - The predicted noise and/or vibration level for all receivers where the levels are predicted or measured to exceed the applicable standards in conditions 39 and/or 40;
    - The proposed mitigation;
    - The proposed communication with neighbours; and
    - Location, times and types of monitoring.
  
  - c Except in unforeseen circumstances, the Schedule shall be submitted to the Council’s Compliance Monitoring for certification at least five working days in advance of the construction works that are covered by the scope of the Schedule and shall form part of the CNVMP.

### Fixed Plant Noise

42. All fixed plant must be specified, located, designed and operated so that noise emission levels when measured at or within the boundary of any site, other than the site from which the noise is generated do not exceed the following limits:
- a. Monday to Sunday 7am to 10pm 45 dB  $L_{Aeq(15\ min)}$
  - b. Monday to Sunday 10pm to 7am 40 dB  $L_{Aeq(15\ min)}$
  - c. Monday to Sunday 10pm to 7am 65 dB  $L_{AFmax}$

Fixed plant noise must be measured in accordance with NZS 6801:2008 Acoustics - Measurement of Environmental Sound and assessed in accordance with NZS 6802:2008 Acoustics - Environmental Noise.

#### Note:

Fixed plant means plant that is permanently or temporarily located and operated at any location and includes mechanical and building services equipment such as equipment that is required for ventilating, extracting, heating, cooling, conditioning, and exhaust either of buildings or commercial activities; associated with boilers or plant equipment, furnaces, incinerators or refuse equipment; electrical equipment, plumbing (including pumps), lift or escalator equipment; or similar plant, equipment, items, rooms or services

### Acoustic Design Certificate District Plan Compliance (Fixed Plant Noise)

43. Prior to the occupation of the buildings authorised by this resource consent (i.e. at the conclusion of any stage), the consent holder must submit to the Council's Compliance Monitoring Officer an Acoustic Design Certificate ("ADC") for fixed plant. This certificate must certify that suitable acoustic mitigation measures have been incorporated into the final design that are sufficient to ensure noise emitted from all fixed plant on the site authorised by this consent complies in all respects of the permitted noise standards set out under the condition 42 above. The ADC must be prepared by a suitably qualified and experienced acoustic expert.

#### Note:

The intent of this condition is to ensure final design and specifications of fixed plant is suitably designed, specified, located and operated to ensure noise emissions comply with the fixed plant operational noise limits.

### Wheel Squeal Noise Reduction

44. The undercroft car parking surfaces in Buildings B02 to B06 are to be appropriately treated/surfaced to reduce wheel squeal noise impact from the [Proposed Village development](#). Prior to first occupation of the Proposed Village, the consent holder must provide the Council's Compliance Monitoring Officer with details of the treatment measures that have been applied to the undercroft car parking surfaces in Buildings B02 to B06 to reduce wheel squeal noise.

## Building B02 Entrance

45. The entrance to the undercroft car parking from Campbell Street must not be fitted with an audible activation alarm and shall be regularly inspected / maintained in order to ensure that any noise from the operation of the access barrier is minimised.

## **Heritage**

### Heritage Management Plan

46. At least 20 working days prior to the commencement of construction works on the site, the consent holder shall submit a Heritage Management Plan to the [Council's](#) Compliance Monitoring Officer (in consultation with the Council's Heritage advisor) for certification that it is in general accordance with the recommendations and drawings for the retirement village set out in "Proposed Comprehensive Care Retirement Village, Technical Report – Heritage, 28 August 2020" by DPA Architects Limited, and address the following matters:
  - a. The methodology for the structural upgrade of the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall. This shall include a summary of the investigations of the existing buildings and outline the design and installation of any new structural elements.
  - b. Drawings in plan and elevation at 1:50 scale that indicate the removal of pre-cast concrete panels from the Allen Ward VC Hall and their potential re-use on the Tennant Block.
  - c. The design of any replacement pre-cast concrete panels and their proposed surface treatments.
  - d. Drawings in plan and elevation at 1:50 scale that indicate the proposed alterations to the external form, cladding and joinery of the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall.
  - e. Drawings of the replacement timber window joinery as referenced in condition 50, which shall include a window schedule at 1:20 scale and details of a typical window at 1:10 scale.
  - f. Drawings in plan and elevation at 1:50 scale of the Donald Street entrance, between the Allen Ward VC Hall and the Tennant Block, including the canopy (portico), entrance doors, and vertical timber louvres as referenced in condition 51.
  - g. The location of any mechanical plant in the vicinity of the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall in plan and elevation.
  - h. The methodology for the removal and storage of any heritage fabric from the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall.
  - i. The proposed colour scheme for the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall and Buildings B01A and B01B.

The Heritage Management Plan shall be prepared by a suitably qualified and experienced heritage architect.

47. No work may commence on the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall on site until the Heritage Management Plan is certified by the Council's Compliance Monitoring Officer. The repair and refurbishment works at the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall must be carried out in accordance with the certified Heritage Management Plan.

### Photographic Record

48. At least 20 working days prior to the commencement of construction works on the site, the consent holder shall submit a photographic record in a digital format showing the existing condition of the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall, along with the Courtyard and Lopdell Gardens, to the [Council's](#) Compliance Monitoring Officer (in consultation with the Council's Heritage advisor). The photographic record shall include:
- a. Views of the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall, along with the Courtyard and Lopdell Gardens, from different locations and perspectives within the site.
  - b. Views of the building elevations that will be subject to refurbishment as part of the establishment of the retirement village.
  - c. Views of any significant detailing on the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall, including fixings and fittings.
  - d. A key / legend showing the location of each photo and the direction photos were taken from.
  - e. A cover sheet with the site address, author and date of submission.
  - f. All photographs must be dated and labelled within the photographic record document with descriptive captions to indicate title, location, and treatment.
49. Prior to preparing the photographic record required in accordance with Condition 48, the consent holder shall consult with the [Council's](#) Compliance Monitoring Officer and the Council's Heritage Advisor over the locations from where the photographic record is to be taken within the site.

In addition to the photographic record, the consent holder shall submit all photographic images to the [Council's](#) Compliance Monitoring Officer (in consultation with Council's Heritage Advisor) in a digital format for approval. The filename of each photo must include the address, name of elevation / detail, and photography date.

### Joinery

50. The consent holder may retain or replace the existing timber window joinery as part of the refurbishment of the Oldershaw Music Block, Allen Ward VC Hall and Tennant Block authorised as part of this resource consent. Any new or replacement windows shall have painted timber frames and be consistent with the original fenestration pattern of the joinery in the Oldershaw Music Block, Allen Ward VC Hall and Tennant Block. The windows may be single glazed or include insulated glazed units.

### Donald Street Entrance

51. The consent holder shall ensure that the design of the entrance canopy, doors and vertical timber louvres at the Donald Street entrance, between the Allen Ward VC Hall and the Tennant Block, is consistent with the original architecture of this entrance.
52. The consent holder shall engage a suitably qualified and experienced heritage architect to oversee, on a monthly basis or at a frequency otherwise agreed with the [Council's](#) Compliance Monitoring Officer (in consultation with Council's Heritage Advisor), any remedial work to the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall. This includes the following:



- a. Repairs and remedial work to concrete surfaces, particularly where concrete is spalling due to rusting reinforcing.
  - b. Remedial work to any existing timber surfaces, including replacement of defective timber and applied finishes.
  - c. Work to remove any accretions to the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall to ensure remaining heritage fabric is protected from damage.
53. Prior to the commencement of construction works on the site, the consent holder's nominated heritage architect shall hold a site briefing with all lead contractors and supervising staff to communicate the significance of the Oldershaw Music Block, Allen Ward VC Hall and Tennant Block, the requirements of these consent conditions and the requirements of the Heritage Management Plan.

The consent holder shall provide the [Council's](#) Compliance Monitoring Officer and the Council's Heritage Advisor with at least five working days' notice of the site briefing so that they may also attend.

#### Heritage Information Plan

54. Prior to the implementation of any landscaping on the site, the consent holder shall provide a Heritage Information Plan to the [Council's](#) Compliance Monitoring Officer (in consultation with Council's Heritage Advisor) for certification that details how information on the heritage features of the site is to be incorporated within the landscaping.

The Heritage Information Plan shall provide detail on interpretative signage / boards for residents, staff and visitors at three prominent locations within the site, with information on:

- a. The history, architecture and social values of the former Teacher's College.
- b. Any significant people associated with the former Teacher's College.
- c. The significance of the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall, along with the Courtyard and Lopdell Gardens, as part of the former Teacher's College.

The Heritage Information Plan must be prepared by a suitably qualified and experienced heritage architect.

55. The consent holder must implement the Heritage Information Plan within six months of the completion of construction works on the site and maintain the interpretative signage / boards on an ongoing basis.

#### Accidental Discovery

56. In the event that an unidentified archaeological site is located during construction works on the site, the following protocols will apply:
- a. Work shall cease immediately within 10 m of the archaeological site.
  - b. The consent holder shall ensure that all machinery is shut down and the area secured.
  - c. The consent holder shall notify the Port Nicholson Block Settlement Trust, Te Runanga o Toa Rangatira Incorporated and the Heritage New Zealand Regional Archaeologist.
  - d. If the site is potentially of Māori origin, the consent holder shall notify the Heritage New Zealand Regional Archaeologist, and the Port Nicholson Block Settlement Trust

and Te Runanga o Toa Rangatira Incorporated, of the discovery and ensure site access to enable appropriate cultural procedures and tikanga to be undertaken, as long as all statutory requirements under legislation are met (e.g. Heritage New Zealand Pouhere Taonga Act 2014, Protected Objects Act 1975).

- e. If human remains (kōiwi tangata) are uncovered, the consent holder shall advise the Heritage New Zealand Regional Archaeologist, New Zealand Police, Port Nicholson Block Settlement Trust and Te Runanga o Toa Rangatira Incorporated and the above process under (d) shall apply. Remains are not to be moved until such time as the Port Nicholson Block Settlement Trust, Te Runanga o Toa Rangatira Incorporated and Heritage New Zealand have responded.
- f. Works affecting the archaeological site and any human remains (kōiwi tangata) shall not resume until the [Council's](#) Compliance Monitoring Officer gives written approval for work to continue.
- g. Where the relevant iwi authorities make a request to the consent holder, any information recorded that directly relates to the find such as a description of location and content, is to be provided to the iwi for their records as soon as practicable.

### **Signage and Lighting**

57. The entrance signage on the Donald Street frontage (as detailed on Drawing RC12) must only detail the name of the ~~Proposed Village~~ [Proposed Village](#) (and must not ~~be digitalised~~ [include any digital content](#)). ~~Any proposed illumination of the entrance signage must be provided to the Council's Compliance Monitoring Officer for certification.~~

[58. The design of any lighting of the entrance signage on the Donald Street frontage, low level bollard lighting within the pocket park, and the lighting of the pedestrian and vehicle entrances to the Proposed Village \(as detailed on Drawing RC04\) must be provided to Council's Compliance Monitoring Officer for certification that such lighting will not create nuisance light spill effects on adjoining residential properties. The lighting shall be installed in accordance with the certified design.](#)

### **Landscaping**

#### Tree Management Plan

59. The consent holder must submit to the Council's Compliance Monitoring Officer a Tree Management Plan for certification at least 20 working days prior to any work commencing on site. The purpose of the Tree Management Plan shall be to address the management of retained vegetation during and after construction works to ensure the useful life expectancy of that vegetation is maximised while enabling construction activities to proceed, and shall be prepared in accordance with the Final Arboriculturists Report, dated 26 May 2020, prepared by Tree Management Solutions.

The Tree Management Plan must identify and make a photographic record of the Retention Areas G1, G2, G3, G4 - including the Tree Protection Zone ~~(TPZ)~~ and the individual trees identified for protection. The Tree Management Plan must also provide details for the protection methodology proposed during construction works on site.

The Tree Management Plan must also include a tree protection methodology, and the works arborist must supervise all works within the root protection area as defined in AS 4970 - 2009 *Protection of Trees on Development Sites*.

60. No work may commence on site until the Tree Management Plan is certified by the Council’s Compliance Monitoring Officer. The construction activities must be carried out in accordance with the certified Tree Management Plan.

#### Landscape and Pavement Plan

61. The consent holder must submit to the Council’s Compliance Monitoring Officer a finalised Landscape and Pavement Plan for certification at least 20 working days prior to the any work commencing on site. The Landscape and Pavement Plan must be generally consistent with the following plans:

Plan Title	Author	Ref	Rev	Dated
Resource Consent - Indicative Landscape Plan	Sullivan + Wall	Lo-010_P	V	12/09/2022
Resource Consent Indicative Landscape Plan – Details Schedule	Sullivan + Wall	Lo-010PS	R	22/06/2022
Resource Consent Indicative Landscape Plan – Proposed Public Park	Sullivan + Wall	Lo-020PP	A	7/02/2020

and must provide as follows:

- a. The final landscape plan, detailed planting plans and specifications for:
  - The restoration of the Lopdell Gardens,
  - Other existing areas of planting that are to be retained,
  - All garden areas (including street frontages and the pocket park),
  - The Level 1 balconies on Buildings B02-B06 to reduce privacy effects on Scapa Terrace properties,
  - Appropriate density and species of planting along the southern boundary of the site that, where practicable, provides screening and minimises potential shading on the adjoining residential properties on Scapa Terrace, while also having regard to the amenity needs of the Proposed Village and engineering and operational constraints.
  - Planting for wind protection and walkways/pedestrian connections around the site (including as further specified below).
- b. All specimen trees proposed at the street edges (both Donald Street and Campbell Street) must have a minimum height of 2.5m – 3m at the time of planting.
- c. Additional planting/screening to assist with mitigating wind effects on the internal and external pedestrian wind environment (where practicable and taking account of matters related to Crime Prevention through Environmental Design, access, shading and amenity of the Proposed Village) for:
  - the pocket park alongside Donald Street,
  - the entrance courtyard on the Donald Street frontage,
  - the Level 1 balconies between Buildings B02 and B06,
  - ~~the courtyard between Buildings B01A and B01B, including the location and type of wind mitigation landscaping (plantings, vertical screens or walls)~~
- d. A planting schedule, detailing the specific planting species, the number of plants provided, locations, heights and plant grades.
- e. An annotated pavement plan and related specifications, detailing proposed site levels and the materiality and colour of all proposed hard surfacing;

- f. A management / maintenance programme.
- g. The existing memorial tree in the Pocket Park must be retained and maintained.
- h. The external boundary fencing shown as fence 'Type C' on Drawing RC12 must be a timber paling fence with no spacing between the palings, and which is 1.8 m in height (except where modification is required at ground level for stormwater management purposes).
- i. A staging plan illustrating how the landscaping and wind mitigation is to be implemented at each stage of the development.

The Landscape and Pavement Plan shall be accompanied by documentation from a suitably qualified and experienced wind engineer and landscape architect addressing the relevant points above.

- 62. The [Landscape and Pavement Plan](#) ~~landscape and pavement plan~~ certified under condition 61 must be implemented in the first planting seasons following completion of each stage identified in condition 61. All landscaping must be implemented and maintained thereafter by the consent holder.

### Material Details

- 63. Prior to submitting the first building consent for any of the buildings, the consent holder must submit plans showing the final details of the exterior envelope materials and colour palette to be used for the Proposed Village to the Council's Compliance Monitoring Officer for certification that it is in general accordance with the stamped drawing set listed in condition 1 of this resource consent.

### Northern Public Walkway

- 64. [Within 12 months of the commencement of this resource consent, the consent holder shall use all reasonable endeavours to obtain subdivision consent for a boundary adjustment to enable Council ownership of the public pathway on the northern boundary of the Proposed Village in the area indicatively shown on Drawing RCA99.](#)

#### Note:

[The consent holder has confirmed its commitment to working with the Council in good faith to facilitate the boundary adjustment along the northern boundary of the Proposed Village which, through Council ownership, will enable the continuation of a public pathway on the northern boundary of the Site. The intention is for the land to be provided to Council -at no cost. Any Council and consent holder costs associated with staff and professional services will lie where they fall. The Council will be responsible for all works and ongoing maintenance associated with the public pathway.](#)

### Infrastructure and Servicing

#### Engineering Standards

- 65. The consent holder must comply with the relevant requirements of the Wellington City Council Code of Practice for Land Development (either its current version or replacement document), unless otherwise modified by condition(s) of the consent or agreed in writing by the Wellington Water Land Development Team.

66. No construction must start prior to the following engineering plans in relation to water supply, stormwater or wastewater drainage being accepted in writing by the Wellington Water Land Development Team:
- a. Engineering plans and design certificate.
  - b. Specifications.
  - c. Relevant draft commissioning, operational and maintenance documentation.
67. The application for engineering plans must be accompanied by a Wastewater Management Report, prepared and certified by a Chartered Professional Engineer, which as a minimum includes: the identification of drainage catchment and drainage sub-catchment areas for the pre-development and post-development scenarios including a suitably scaled wastewater master plan showing the aforementioned catchment details including lawful point(s) of discharge, complying with the requirements of the Regional Standard for Water Services.
68. The application for engineering plans must be accompanied by a Stormwater Management Report, prepared and certified by a Chartered Professional Engineer, which as a minimum includes:
- a. Identification of drainage catchment and drainage sub-catchment areas for the pre-development and post-development scenarios including a suitably scaled stormwater master plan showing the aforementioned catchment details, including lawful point(s) of discharge complying with the requirements of the Regional Standard for Water Services.
  - b. An assessment of the peak discharges for all events up to 1% AEP including climate change for the pre-development and post-development scenarios (and to confirm the design is in accordance with the design requirements in condition 70).
  - c. Details of any proposed on-site detention / retention systems and associated outlet systems required to mitigate the impacts of the proposed development on downstream lands and existing upstream and downstream drainage systems.
  - d. Engineering design of all new drainage systems servicing the development and modifications (if any) to existing drainage systems required to adequately manage stormwater collection and discharge from the proposed development.
  - e. Identification of the area of land inundated (if any) as a consequence of the minor and major design storm events in the catchment for both the pre-development and post-development scenarios.
  - f. All land proposed as secondary flow paths must be identified. The design must demonstrate that all secondary flow paths proposed in the design can manage flows beyond the capacity of the primary stormwater system.
  - g. Details of all calculations, assumptions and data files (where applicable).

The consent holder must implement the Stormwater Management Report as part of the operation of the Proposed Village.

Notes:

Where drainage works are required, permits in addition to this resource consent will be required namely:

- Building consent for private drains, and
- Public drainage permit for all public drains.

Scheme and other indicative layout plans that were submitted as part of the application will be used by Council for information purposes only. These plans will not be used for granting approval under the condition above. Approvals will only be given on detailed engineering plans.

69. Secondary flow paths identified in the Stormwater Management Report (condition 68) must be kept free from obstructions such as buildings, structures and solid fences (except those specifically allowed for in the Stormwater Management Report) that might impede the flow of water across the land. The ground levels within the secondary flow paths must be maintained at the design levels.

#### Stormwater Quantity

70. The consent holder must ensure that the stormwater management system(s) is designed for the 1% AEP and 10% AEP 12 hour nested storm events, with allowance for climate change, (as per Wellington Water Ltd.'s Reference Guide for Design Storm Hydrology April 2019) and to achieve the following:
  - a. There is no increased flooding upstream or downstream along the overland flow paths/flood extents of the proposed site compared to base case in terms of flood levels and/or flood extents.
  - b. Flows to the stormwater network to not result in increased flooding downstream with manholes spilling more than base case in terms of flood levels and/or flood extents.
71. The stormwater management system must include not less than 45 m<sup>3</sup> of storage for rainwater harvesting from 1,200 m<sup>2</sup> of roof area for non-potable use (landscape irrigation).

#### Stormwater Quality

72. All runoff from the car parking accessways (i.e. manoeuvring, entries and exits) and uncovered carpark areas in the Proposed Village is required to be treated prior to discharge.
73. The stormwater treatment systems shall be proprietary treatment devices and:
  - a. Shall be designed in accordance with Wellington Water Limited's Water Sensitive Design for Stormwater: Treatment Device Design Guideline December 2019 Version 1.1.
  - b. Must achieve a greater than 75% TSS (total suspended solids) removal on a long-term average basis (e.g. Stormwater360 Stormfilter®)
74. Bare galvanised, zinc alum or unpainted metal (including copper) must not be used for exterior construction, including, but not limited to roofing, cladding, gutters and downpipes.
75. The consent holder must install stormwater educational plaques alongside each stormwater sump that is installed within the Proposed Village which promote awareness toward maintaining the water quality of the stormwater discharge. The educational plaques must be installed within two months of completion of works.

#### Public Wastewater and Stormwater Network

76. The site shall have separate and direct connections to the public stormwater and wastewater networks at locations accepted in writing by the Wellington Water Land Development Team.

77. Where development requires the public drainage network to be extended/altereD to serve the proposed development, all newly constructed sewer/stormwater mains to be vested in Council shall be approved by Wellington Water Land Development Team based on a video or closed circuit television (CCTV) inspection carried out by the consent holder in accordance with the New Zealand Pipe Inspection Manual. A pan tilt camera shall be used and lateral connections shall be inspected from inside the main.
78. As the proposed construction will not comply with the Regional Standard for Water Services requirement for building/working near public drains, the consent holder/property owner must provide pre and post CCTV footages and reports of the existing main to the Wellington Water Land Development Team.

Any new defects identified post-development must be repaired by the consent holder/property owner. All costs incurred for repairs post development will be at the expense of the consent holder.

79. Where building over public mains is proposed the ~~proposal~~ Proposed Village must address the following:
- a. Relaying with or without sleeving of the pipe at the consent holder's expense is generally required, as detailed in the Regional Specification for Water Services. Geotechnical investigation or confirmation of the soil type may be required at the discretion of Wellington Water.
  - b. Design of the works must:
    - Include consideration of seismic resilience of both the pipeline and building works.
    - Provide for a secondary flow path if needed and as far as practicable.
    - Maximise the ease with which the pipe can be maintained and replaced.
    - Take into account network structures such as chambers and manholes, maintenance access for machinery at a future date, and access to manholes.

Notes:

Any alteration or addition to the existing public drainage network is required to be carried out under a Public Drainage Permit (as distinct from a Building Consent) issued by the Wellington Water Land Development Team.

All public drainage work is required to be carried out by a suitably experienced Registered Drainlayer who is employed by a contractor who has an approved Health and Safety Plan and public liability insurance.

Water Supply

80. The consent holder must provide an appropriately sized metered water supply connection to the public main for potable and private fire hydrant supply. An engraved plastic tag reading "WATER SUPPLY MANIFOLD FOR (Street No)" is to be secured to the manifold clearly showing which property is served by the manifold. An RPZ-type backflow preventer is required if the connection is greater than 20mm DI.
81. The consent holder must provide for fire-fighting requirements in accordance with the NZ Fire Service Code of Practice for Firefighting Water Supplies NZS PAS 4509:2008.

82. The consent holder must provide all fire connections/sprinkler connections with a double check detector check backflow prevention containment device.

#### As Builts

83. At the conclusion of the engineering works, and prior to occupation or Code of Compliance (whichever comes first) the consent holder must submit as-built drawings that meet the requirements of Wellington Water Regional As-built Specification for Water Services, for water supply, wastewater, and stormwater drainage.
84. Once an as-built plan has been submitted and within one month of completion of the water supply and drainage works, the consent holder shall arrange for a final inspection with the Wellington Water drainage and water supply inspectors.

#### Note:

Where possible, all as-built plans shall be submitted in both hard copy (PDF) and electronically. Electronic copies are to be submitted in CAD format (.DWG file) drawn in the NZGD 2000 New Zealand Transverse Mercator' coordinate system.

#### Operation and Maintenance Manual

85. Prior to Engineering Approval, the consent holder must prepare a draft Operation and Maintenance Manual for all stormwater devices, setting out the principles for the general operation and maintenance for the stormwater system (treatment and detention). The draft Operation and Maintenance Manual must be submitted to the Wellington Water Land Development Team for approval. The Operation and Maintenance manual must include, but not be limited to:
- a. A detailed technical data sheet.
  - b. All the requirements as defined within the Water Sensitive Design for Stormwater: Treatment Device Design Guideline.
  - c. Details of who will hold responsibility for short-term and long-term maintenance of the stormwater devices.
  - d. A programme for regular maintenance and inspection of the stormwater system.
  - e. A programme for the collection and disposal of debris and sediment collected by the stormwater management device or practices.
  - f. A programme for post storm maintenance.
  - g. A programme for inspection and maintenance of outfall erosion.
  - h. General inspection checklists for all aspects of the stormwater system, including visual check of roadside sumps and outfalls.
  - i. A programme for inspection and maintenance of vegetation associated with the stormwater devices.
  - j. Recommended on-going control methodology to eradicate established pests and invasive weeds from both terrestrial and aquatic areas.
86. The consent holder must follow the required operation, maintenance and renewal of the system(s) set out in the Operation and Maintenance Manual to ensure it is in full working order at all times. Details of all inspections and maintenance for the stormwater management system for the preceding three years must be retained.
87. A maintenance report must be provided to the Council's [Compliance Monitoring Officer](#) on request. The maintenance report shall include the following information:



- a. Details of who is responsible for maintenance of the stormwater management system.
  - b. Details of any maintenance undertaken.
  - c. Details of any inspections completed.
88. The consent holder cannot increase stormwater discharge through an increase in non-permeable areas without Council approval as an increase in stormwater discharge may result in failure of the stormwater detention systems.
89. A covenant must be entered into with the Council that includes the requirements of conditions 86, 87, and 88. The covenant must be entered into within one month of the stormwater management system becoming operational.

The covenant must be submitted to, and certified by, the Council's Compliance Monitoring Officer who will execute the covenant on behalf of the Council once approved. This will be subject to payment of the Council's fee relating to the execution of legal documents.

90. The consent holder must register the covenant in accordance with section 109 of the Act on the Record of Title for the site within six months of the stormwater system becoming operational.

All legal expenses associated with preparing and registering the covenant will be met exclusively by the consent holder.

**Advice Notes:**

1. The land use consent must be given effect to within 5 years of the granting of this consent, or within such extended period of time as granted by the Council pursuant to section 125 of the Act.
2. Section 36 of the Act allows the Council to charge for all fair and reasonable costs associated with the assessment of your application. We will confirm in due course whether the time spent on the assessment of this application is covered by the initial fee paid. If the time exceeds the hours covered by the initial fee you will be sent an invoice for additional fees. If the application was assessed in less time you will be sent a refund. For more information on your fees contact [planning.admin@wcc.govt.nz](mailto:planning.admin@wcc.govt.nz).
3. Where appropriate, the Council may agree to reduce the required monitoring charges where the consent holder will carry out appropriate monitoring and reporting back to the Council.
4. This resource consent is not a consent to build. A building consent may be required under the Building Act 2004 prior to commencement of construction.
5. Out of courtesy, it is suggested that you advise your nearest neighbours of your intention to proceed with this land use consent, your proposed construction timetable and contact details should any issues arise during construction.
6. This resource consent does not authorise any works that also require consent from the Greater Wellington Regional Council. If necessary, separate resource consent(s) will need to be obtained prior to commencing work.

7. The consent holder must gain a corridor access approval from the Council before trucks and other heavy vehicles will be permitted on site. A CAR will also need to be obtained from Council for the storage of any materials, equipment, and machinery on the road corridor.
8. A vehicle access bylaw consent is required under Part 5, Section 18 of the Council's Consolidated Bylaw 2008 for the construction of a kerb crossing or driveway within legal road.
9. As far as practicable all construction activity related to the development must take place within the confines of the site. No buildings, vehicles, materials or debris associated with construction may be kept on Council land, including the road, without prior approval from the Council. Please note that landowner approval is required under a separate approval process and that this will need to be sought and approved prior to any works commencing.  
  
For more information on the traffic management process and what further separate land owner approvals may be required in relation to the logistics of working within the legal road either contact the Transport Asset Performance team or visit this link: <https://wellington.govt.nz/services/parking-and-roads/road-works/work-on-the-roads/permissions-and-approvals>
10. The methods set out in the Greater Wellington Regional Council guideline for erosion and sediment control for the Wellington Region should be followed when undertaking earthworks on the site: <https://www.gw.govt.nz/assets/Documents/2022/03/Erosion-and-Sediment-Control-Guide-for-Land-Disturbing-Activities-in-the-Wellington-Region.pdf>
11. It is the responsibility of the consent holder to identify any service mains or laterals that might be affected by any new buildings as proximity to these pipes will be considered at the building consent stage.
12. No buildings, vehicles, materials or debris associated with construction may be kept on Council land, including the road, without prior approval from the Council.
13. As landowner the Council requires damaged areas of legal road vegetation or berm to be reinstated by the consent holder within three months of completion of construction and this includes suitable remedy of compacted areas, including removal of any building debris, ripping of compacted soil and new topsoil if required to ensure grass strike or planting success. Grass is acceptable for reinstatement if the area was previously grassed; however, in appropriate circumstances it is preferable (and required if existing previously) that the berm is reinstated with Wellington native plant species planted at 900mm maximum spacing and mulched.
14. The Council has launched a pilot 'Creative Hoardings' programme, which has been designed to enliven building sites and celebrate creativity across the city. Creative hoardings present opportunities for artists and property developers to contribute to the revitalisation of the city and the consent holder is encouraged to use this programme during the construction phase. Local artists, Gabby O'Connor, Ariki Brightwell, Ruth Thomas-Edmond and Telly Tuita have been commissioned to design artworks for hoarding. Their work can be downloaded from the Creative Hoardings Library on the Council's website, printed and installed on hoarding. For more information visit the Council's website or contact the City Arts and Events Team, email: [arts@wcc.govt.nz](mailto:arts@wcc.govt.nz).

The BPO is defined as the best method for preventing or minimising the adverse noise or vibration effects on the environment having regard to (1) the sensitivity of the receiving environment to adverse noise or vibration effects, (2) the financial implications and (3) the current state of technical knowledge and the likelihood that the option can be successfully applied.

15. The development will be assessed for development contributions under the Council's Development Contributions Policy. If a development contribution is required it will be imposed under section 198 of the Local Government Act 2002. If you want to obtain an indication of the amount of the development contribution payable you can:
  - Access the development contributions policy at [www.Wellington.govt.nz](http://www.Wellington.govt.nz); or
  - Contact the Council's Development Contributions Officer.

## Consent Conditions – Ryman Karori (SR No. 471670)

### General

- The Proposed Village must be established in accordance with the information provided with the Application Service Request No. 471670 and the following plans prepared for Ryman Healthcare Limited, Project Title ‘Comprehensive Care Retirement Village – Donald Street, Karori, Wellington’, Project Number 042, as noted below:

Plan Title	Drawing Number	Ref	V	Dated
Title Sheet	A0-000	RC01		
Contents Page	A0-001	RC02	C	September 2022
Schedules	A0-002	RC03	A	18 June 2021
Proposed Site Plan with Aerial	A0-021	RC04	B	August 2022
Proposed Site Plan – Level 0	A0-030	RC05	B	August 2022
Proposed Site Plan – Level 1	A0-040	RC06	B	August 2022
Proposed Site Plan – Level 2	A0-050	RC07	B	August 2022
Proposed Site Plan – Level 3	A0-060	RC08	B	August 2022
Proposed Site Plan – Level 4	A0-070	RC09	B	August 2022
Proposed Site Plan – Level 5	A0-080	RC10	B	August 2022
Proposed Site Plan – Level 6	A0-090	RC11	B	August 2022
Proposed Site Fencing Plan	A0-110	RC12	B	August 2022
Proposed Site Elevations	A0-200	RC13	B	August 2022
Proposed Site Elevations	A0-205	RC14	B	August 2022
Proposed Site Sections	A0-300	RC15	B	August 2022
Proposed Site Sections	A0-301	RC16	B	August 2022
Proposed Site Sections B02-B06	A0-302	RC17	B	August 2022
Level 0 - Basement	A1-010	RC18	A	18 June 2021
Level 1 – Terrace	A1-020	RC19	A	18 June 2021
Level 2 – Terrace	A1-030	RC20	A	18 June 2021
Level 3 – Ground Floor Plan	A1-040	RC21	A	18 June 2021
Level 4 – First Floor Plan	A1-050	RC22	A	18 June 2021
Level 5 – Second Floor	A1-060	RC23	A	18 June 2021
Level 6 – Third Floor	A1-070	RC24	A	18 June 2021
Proposed Roof Plan	A1-080	RC25	A	18 June 2021
Proposed Village Centre Elevations	A2-010	RC26	A	18 June 2021
Proposed Village Centre Elevations	A2-020	RC27	A	18 June 2021
Proposed Village Centre Elevations	A2-030	RC28	A	18 June 2021
Proposed Village Centre Elevations	A2-040	RC29	A	18 June 2021
Proposed Village Centre Elevations	A2-050	RC30	A	18 June 2021
Ground Floor Plan – Apartments B02-B06	A1-010	RC31	B	September 2022
First Floor Plan – Apartments B02-B06	A1-020	RC32	A	18 June 2021
Second Floor Plan – Apartments B02-B06	A1-030	RC33	A	18 June 2021
Roof Plan – Apartments B02-B06	A1-040	RC34	A	18 June 2021

Elevations – Apartments B02-B06	A2-010	RC35	B	September 2022
Proposed Apartment Block B07 Floor Plans	A1-010	RC36	A	18 June 2021
Proposed Apartment Block B07 – Elevations	A2-030	RC37	A	18 June 2021
Proposed Waste/Recycling Shed	A1-010	RC38	A	18 June 2021

Plan Title	Author	Ref	Rev	Dated
Proposed Site Layout	Woods	042-RCT_401_Co-001	1	14/08/20
Final Contour Plan	Woods	042-RCT_401_Co-110	1	14/08/20
Depth (Cut/Fill) Contours Plan	Woods	042-RCT_401_Co-120	3	28/08/22

### **Staging**

- Any management plans or landscape design drawings required in accordance with the conditions of this resource consent may apply to works across the entire site, or may solely apply to part of the site or works depending on the programme / staging of works proposed by the consent holder.

Furthermore, nothing in these consent conditions shall preclude the staged occupation of the buildings authorised as part of this resource consent.

### **Community Liaison Group**

- The consent holder shall invite Responsible Development Karori by written offer to the current appointed chair (or other member where the chair is unknown) to participate in a community liaison group ("CLG"). Provided that the invitation is accepted within two weeks of a written offer being made by the consent holder, the CLG shall comprise representatives of the consent holder and Responsible Development Karori. Representatives from Karori Normal School, Donald Street Pre-School and Karori Kids shall also be invited to participate in the CLG.

The purpose of the CLG is to provide a forum for consultation on matters affecting the local community arising from the exercise of this resource consent.

The consent holder must convene the first meeting of the CLG within 90 days from the commencement of this consent or prior to the commencement of any works on site, whichever is the earlier. The CLG shall meet thereafter at intervals agreed by the members of the CLG in relation to major construction event timing or no greater than four months apart.

The consent holder shall meet the reasonable administrative costs of the CLG.

### **Management Plans**

- Any amendments to management plans, monitoring plans or detailed design drawings required by the conditions of this resource consent must be certified by the Council's

Compliance Monitoring Officer before the amendment is implemented, and in accordance with the requirements of the relevant conditions.

## **Earthworks and Geotechnical**

### Geotechnical

5. The consent holder shall ensure that all earthworks on the site do not lead to any uncontrolled instability or collapse affecting any neighbouring properties. In the event that such collapse or instability does occur, it shall immediately be rectified by the consent holder (subject to the permission of the affected property owner).
6. The construction of any temporary works, foundations and earthworks adjacent to the northern wall of Building B01A and the eastern wall of Building B07 must be designed by a suitably qualified and experienced Chartered Geotechnical Engineer (“CPEng”) for both the final design and construction stage.
7. At least 20 working days prior to any work commencing on site, the following documentation must be submitted to the Council’s Compliance Monitoring Officer for certification in relation to any temporary works, foundations and earthworks adjacent to the northern wall of Building B01A and the eastern wall of Building B07, so as to ensure there is not uncontrolled instability or collapse affecting any neighbouring properties:
  - a. The maximum excavation heights on the earthworks plans. The information is to include sketches illustrating the excavation sequence and stages for works adjacent to the northern wall of Building B01A and the eastern wall of Building B07.
  - b. A ground movement monitoring plan prepared by a suitably qualified and experienced engineer to monitor induced ground displacements due to excavation and vibration in neighbouring properties prior, during, and after completion of works adjacent to the northern wall of Building B01A and the eastern wall of Building B07 (including acceptable deformation criteria).
  - c. The ground movement monitoring plan must also include a schedule for the monitoring results to be regularly checked against the temporary works design model to confirm acceptability against the deformation criteria in the ground movement monitoring plan. All instruments and survey points are to be monitored against proposed “Alert”, “Action”, “Alarm” (AAA) levels, specified by the engineer. The consent holder shall develop contingency plans to respond to any exceedance of “Action Values” and “Alarm Values”.
  - d. Roles and responsibilities of key site personnel to ensure adherence to the ground movement monitoring plan and excavation sequencing.
8. Work must not commence on site until the documents in condition 7 are certified by the Council’s Compliance Monitoring Officer, and the ground movement monitoring plan is to be implemented during the earthworks stage of the development and until such time as retaining works are completed.
9. The consent holder must provide a copy of the geotechnical monitoring and auditing documentation produced in relation to the ground movement monitoring plan to the Council’s Compliance Monitoring Officer at the completion of works adjacent to the northern wall of Building B01A and the eastern wall of Building B07.

### Pre and Post-Construction Building Survey

10. Where a pre-construction land, structure or building condition survey is required by condition 11, the consent holder shall request in writing the approval of the owners of the identified properties to undertake an initial condition and photographic survey. The consent holder shall send copies of each of the requests to the Council's Compliance Monitoring Officer.
11. The consent holder shall engage a suitably qualified and experienced person to undertake the survey of the properties within 20 metres of where earthworks will occur on the site, where the property owner has given their written approval to a survey being undertaken.
12. If the property owner does not respond within 20 working days of the request in condition 11 being made, the consent holder need not undertake a survey of that property.
13. The survey shall assess the current condition of land, structures and the exterior and interior of the buildings on the properties identified in condition 11. The methodology to be utilised by the consent holder shall be documented and provided to the Council's Compliance Monitoring Officer prior to the surveys being undertaken.
14. Within twelve weeks of the completion of all construction works on the site, or at any other time reasonably agreed between the property owner and the consent holder (including when the property owner wishes to sell their property), the consent holder shall undertake a survey of each property surveyed in accordance with condition 11 where the property owner has given their written approval (at the consent holder's cost). The purpose of these surveys is to assess any damage caused by the excavation and construction activities at the site. Provided the consent of any property owner is obtained, the consent holder shall be responsible for any repairs, reinstatement or other works to surveyed land, structures and buildings that can be reasonably attributed to construction activity.

The repairs, reinstatement or other works must be completed by the consent holder as soon as reasonably practicable, but no later than six months after the completion of the final assessment survey.

15. A copy of each property survey undertaken in accordance with conditions 13 and 14 shall be made available to the applicable property owner within 15 working days of the survey being completed.

### Construction Management Plan

16. A Construction Management Plan ("CMP") must be submitted to the Council's Compliance Monitoring Officer for certification at least 20 working days prior to any work commencing on site. The purpose of the CMP is to specify the overall construction management measures that will be implemented by the consent holder to ensure that the conditions of this resource consent will be complied with.

The CMP must include, but is not limited to, the following:

- a. Details of the staging of work across the site and the general construction timetable for the Proposed Village.

- b. The details of the temporary wind mitigation fencing that is to be installed around the boundary of the site, until such time as the permanent wind mitigation detailed in the Landscape and Pavement Plan (condition 61) is implemented.
  - c. The various construction methods to be utilised on site.
  - d. Roles and responsibilities of key site personnel.
  - e. General site management measures.
  - f. A contact (mobile) telephone number(s) for the on-site manager, where contact can be made 24 hours a day / 7 days a week.
  - g. A communication and complaints procedure for adjoining property owners/occupiers and the public, including details on how complaints have been addressed.
  - h. The circumstances when the consent holder shall offer the wash down of the exterior of adjoining dwellings to the site (including Karori Kids) to remove any potential constructed-related dust.
17. No work may commence on site until the CMP is certified by the Council's Compliance Monitoring Officer. The construction activities must be carried out in accordance with the certified CMP.

#### Erosion and Sediment Control

18. An Erosion and Sediment Control Plan ("ESCP") prepared by a suitably qualified and experienced person must be submitted to the Council's Compliance Monitoring Officer for certification at least 20 working days prior to any work commencing on site. The purpose of the ESCP is to identify the erosion and sediment control measures that will be implemented on site during construction activities and how these will comply with the "*Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Wellington Region (February 2021)*."

The ESCP shall be based upon the draft plan prepared by Woods (Reference 042-RCT\_401\_Co-180, dated 11 August 2022) and must also include the following:

- a. An illustrated plan that records the key features of the ESCP.
- b. Measures to limit the area of earthworks exposed to the weather at any one time (sources of dust and sediment).
- c. Measures to ensure temporary excavations remain stable.
- d. Measures to ensure the stabilisation of the site entrance(s) in order to minimise the tracking of earth by vehicles onto the adjoining roads.
- e. Detail of the use of diversion bunds/cut-off drains, as required, to minimise stormwater entering the site and discharging onto earthworks areas where it can pick up sediment and not discharged on to sloping ground.
- f. Details of how, throughout construction, all stormwater from roofs, paved and impermeable surfaces will be collected and piped to prevent it discharging onto earthworks areas where it can pick up sediment and not discharged on to sloping ground.
- g. The type and location of silt fences to control water-borne sediment.
- h. Methods for protecting stormwater sumps from the infiltration of water-borne sediment.
- i. Measures to ensure that the discharge of dust created by earthworks, construction and transport activities are suitably controlled to minimise dust hazard or nuisance.



- j. Covering of soil or other material that is stockpiled on the site or transported to, or from, the site, to prevent dust nuisance or erosion by rain and stormwater (creating water-borne sediment).
  - k. The methods for managing and monitoring the ESCP controls.
  - l. Nomination of a site person responsible for the implementation and administration of the ESCP.
19. No work may commence on site until the ESCP is certified by the Council's Compliance Monitoring Officer. The construction activities must be carried out in accordance with the certified ESCP.
  20. The erosion, dust and sediment control measures put in place must not be removed until the site is remediated to the satisfaction of the Council's Compliance Monitoring Officer. 'Remediated' means the ground surface of the areas of earthworks have been stabilised (no longer producing dust or water-borne sediment), and any problems with erosion, dust or sediment that occur during the work have been remedied.
  21. All sediment laden run-off must be managed and contained within the site. Any sediment that is deposited onto neighbouring properties or a public road must be cleaned up immediately (with the landowner's permission on land that isn't public road). The deposited sediment must not be swept or washed into street channels or stormwater inlets or dumped on the side of the road.

Note:

*As a minimum, 100mm of clarity is required to allow run-off to be discharged offsite. If clarity is less than 100mm then the run-off is considered to be sediment laden and must be contained and/or treated on site.*

Producer Statements

22. A construction review statement must be supplied by a suitably experienced CPEng to the Council's Compliance Monitoring Officer within one month of the completion of all earthworks for the Proposed Village. The document must:
  - a. Provide details of any changes to the earthworks sequencing that were necessary to address geotechnical or engineering problems encountered during the earthworks; and
  - b. A certification upon completion of land development and subdivision, Schedule 2A of NZS4404:2010.

Dust

23. Dust created by earthworks, transport and construction activities must be controlled to minimise nuisance and hazard. The controls must be implemented for the duration of the site works and continue until the site stops producing dust.

Grassing of Earthworks

24. All exposed areas of earthworks, unless otherwise built on, are to be stabilised within one month of completing each stage of the earthworks, unless otherwise agreed by the Council's Compliance Monitoring Officer.

## Traffic

### Construction Traffic Management

25. A Construction Traffic Management Plan (“CTMP”) must be submitted to the Council’s Compliance Monitoring Officer for certification at least 20 working days prior to any works commencing on the site. The purpose of the CTMP is to set out the measures to safely control traffic movements to, and from, the site during the construction activities.

The CTMP shall include the following detail:

- a. Construction dates and hours of operation relevant to the management of construction traffic, including any specific non-working hours to minimise traffic congestion.
  - b. That construction traffic movements to, and from, the site must not occur during school drop off (8.15am to 9.15am) and pick up (2.30pm to 3.30pm) times during school terms – except for during concrete pours.
  - c. When it may be necessary for a traffic controller or site traffic management supervisor to be present at either site access for vehicles entering or exiting the site.
  - d. Truck route diagrams both internal to the site and external to the road network.
  - e. All heavy vehicle movements must be managed to minimise the safety impact on local facilities and amenities.
  - f. Temporary traffic management signage/details for pedestrians and drivers to safely manage the interaction of these road users with heavy construction traffic.
  - g. Details of site access/egress over the entire construction period are to be provided to ensure that pedestrian visibility splays are included with complying sight distances as per the Land Transport Safety Authority “Guidelines for Visibility at Driveways” (RTS6 document).
  - h. Where practicable, construction worker parking demands are to be provided off-street to minimise the use of public road.
26. No work may commence on site until the CTMP is certified by the Council’s Compliance Monitoring Officer. The construction activities must be carried out in accordance with the certified CTMP.

### Detailed Construction Plans

27. Prior to the first building consent being submitted for the Proposed Village, the consent holder must prepare and submit to the Council’s Compliance Monitoring Officer for certification detailed construction plans of the internal road system serving the development that show:
- a. The internal road layout includes speed humps and pedestrian crossing platforms to ensure a slow speed environment of 10km/h;
  - b. That vehicle accesses have been designed with tracking paths, widths, pedestrian visibility splays, and traffic calming measures (speed humps at the back of footpath within the site) to ensure slow vehicle speed over the public footpath;
  - c. There is no visual obstruction higher than 1.0m within the pedestrian visibility splays, including signage and landscaping;
  - d. All covered parking areas, ramps, and loading areas comply with AS/NZS 2890.1:2004; and

- e. All internal vehicular and pedestrian paths are to be clearly marked and signed to minimise conflict.
28. The consent holder must undertake the works and build in accordance with the certified plans under condition 27 above.

Notes:

- 1. *If there is any inconsistency between condition 1 and condition 27, condition 27 will prevail.*
- 2. *It is recommended that certification is obtained prior to or at time of building consent to avoid potential conflict and the need to change building consent plans.*

Reinstatement of Redundant Vehicle Crossings

29. All redundant vehicle crossings must be reinstated by the consent holder with new footpath and kerb and channel at the consent holder's expense prior to the village commencing operation.

Long Term Parking and Parking Demand Management

30. The consent holder must prepare and implement a Staff Travel Plan for the Proposed Village. The purpose of the Staff Travel Plan is to encourage staff to use transport modes for commuting to, and from, the Proposed Village which do not involve the use of a private motor vehicle where practicable.

The Staff Travel Plan must generally follow the “*Workplace Travel Plan Guidelines (NZ Transport Agency, August 2011)*” and is to include detail on:

- a. Staff shifts.
- b. Changeover period.
- c. Staff number on-site at any given time during the weekday and weekend.
- d. Staff travel behaviour and mode choices.

The Staff Travel Plan must be completed by the consent holder and submitted to the Council's Compliance Monitoring Officer for certification after six months of occupation by the first residents, and then again 12 months after the Proposed Village is fully occupied, that it meets the purpose outlined above.

31. The consent holder shall prepare and implement an On-Site Parking Management Strategy to ensure residents, staff and visitors to the Proposed Village (including service deliveries) are directed to appropriate parking areas, including during shift change overs. The On-Site Parking Management Strategy shall identify:
- a. Permanent parking areas for staff and visitors (the Strategy must identify a minimum of 25 carparks for staff and 36 carparks for visitors with any additional staff or visitor carparks at Ryman's discretion).
  - b. Signs and markings that specify the intended use for staff and visitors.

A copy of the On-Site Parking Management Strategy shall be provided to the Council's Compliance Monitoring Officer upon request. The On-Site Parking Management Strategy

shall be updated by the consent holder as required to ensure it remains effective and to reflect any operational changes.

## **Contamination**

### Contaminated Land Management Plan

32. A Contaminated Land Management Plan (“CLMP”) must be prepared by a suitably qualified and experienced practitioner (“SQEP”) and submitted to the Council’s Compliance Monitoring Officer for certification at least 20 working days prior to any earthworks commencing on the site.

The CLMP should include the following:

- a. Date and version control.
  - b. A summary of soil sampling results, including further soil sampling undertaken in relation to asbestos.
  - c. A summary of the proposed works.
  - d. Roles and responsibilities and contact details for the parties involved, including the SQEP.
  - e. Health and safety and environmental management procedures for implementation during the works including but not limited to:
    - Personal protection and monitoring.
    - On site soil management practices including stockpile management and stormwater and sediment controls.
    - Off-site soil transport and disposal.
  - f. Asbestos in soil removal procedures in accordance with WorkSafe’s *“Good Practice Guideline: Conducting Asbestos Surveys (September 2017)”* and *“Approved Code of Practice Management and Removal of Asbestos, {November 2016}”*.
  - g. Contingency measures in the event of accidental/unexpected discovery including the discovery of asbestos and asbestos related controls.
  - h. Post development controls on the management of remaining contamination in soils.
33. No earthworks may commence on site until the CTMP is certified by the Council’s Compliance Monitoring Officer. The earthworks on the site must be carried out in accordance with the certified CLMP.

### Disposal of soil

34. All soil material with contaminant concentrations above background concentrations that is removed from the site must be disposed of at a licensed facility that holds a consent to accept the relevant level of contamination.

### Site Validation

35. A Site Validation Report must be prepared in general accordance with Ministry for the Environment’s *“Contaminated Land Management Guideline No.1”* and must be provided to the Council’s Compliance Monitoring Officer within 3 months of completion of earthworks on the site. The Site Validation Report should include the following:

- a. The location and dimensions of the excavations carried out, including a relevant site plan.
- b. Records of any unexpected contamination encountered during the works.
- c. Soil validation results, if applicable (i.e., if remediation is carried out or unexpected contamination is encountered).
- d. Copies of the disposal dockets for the material removed from the site and any clean fill imported onto the site.
- e. The requirements for ongoing monitoring and management (if any contamination is contained on-site).

## **Noise**

### **Construction Noise and Vibration Management Plan**

36. The consent holder must submit to the Council's Compliance Monitoring Officer a Construction Noise and Vibration Management Plan ("CNVMP") for certification at least 20 working days prior to any work commencing on site. The purpose of the CNVMP is to set out the Best Practicable Option ("BPO") in accordance with section 16 of the Resource Management Act 1991 for the management of noise and vibration effects associated with the construction activities on the site.

The CNVMP must be prepared by a suitably qualified and experienced acoustic and vibration expert. The CNVMP shall be drafted in accordance with Appendix E2 of NZS6803:1999 Acoustics – Construction Noise.

The CNVMP must also:

- a. Identify and describe all specific activities that cannot comply with the upper recommended noise levels set in Table 2 of NZ6803:1999 Acoustics – Construction Noise.
  - b. Identify and describe all specific activities that cannot comply with vibration limits in DIN 4150-3:1999 Structural Vibration – Part 3: Effects of Vibration on Structures.
  - c. Specify the predicted noise and vibration limits, and identify each separate affected property, for each activity (stage) that exceeds the recommended levels.
  - d. Specify the duration of the works exceeding the recommended noise and vibration levels.
  - e. Specify the physical and managerial noise mitigation methods that must be adopted to reduce noise to a reasonable level of noise and vibration in accordance with the BPO.
  - f. Mechanisms to review and amend the CNVMP in the event of a change of construction methodology or equipment.
37. No work may commence on site until the CNVMP is certified by the Council's Compliance Monitoring Officer. The construction activities must be carried out in accordance with the certified CNVMP.

### **Construction Noise Hours**

38. The consent holder must ensure that construction activities only operate between the hours of 7.30am and 6.00pm Monday to Saturday (excluding public holidays). This restriction shall

not apply to low noise creating activities such as site set up, painting, electrical works or planting, which may occur outside of these hours on Monday to Saturday only.

#### Construction Noise Limits and Management

39. The consent holder must ensure that construction activities, except were identified in the CNVMP as predicted to exceed the levels in NZS6803:1999 Acoustics Construction Noise, shall be managed and controlled so that the noise received at any residential or commercial site does not exceed the limits set out in Table 2 and Table 3 of NZS6803:1999 Acoustics – Construction Noise when measured and assessed in accordance with that standard.

#### Construction Vibration and Management

40. The consent holder must ensure that construction activities, except were identified in the CNVMP as predicted to exceed the levels in DIN 4150-3:1999 “Structural Vibration – Part 3: Effects of vibration on structures’, shall be managed and controlled so that the vibration levels received at any site does not exceed the limits in DIN 4150- 3:1999 Structural Vibration – Part 3: Effects of Vibration on Structures.

#### Schedule to the Construction Noise and Vibration Management Plan

41. Schedule to the CNVMP:
- a Unless otherwise provided for in a CNVMP, a Schedule to the CNVMP (Schedule) shall be prepared by a suitably qualified and experienced person, in consultation with the owners and occupiers of sites subject to the Schedule, when:
    - Construction noise is either predicted or measured to exceed the noise standards in condition 39; or
    - Construction vibration is either predicted or measured to exceed the vibration standards in condition 40.
  
  - b The objective of the Schedule is to set out the BPO for the management of noise and/or vibration effects of the construction activity beyond those measures set out in the CNVMP. The Schedule shall include details such as:
    - Construction activity location, start and finish times;
    - The nearest neighbours to the construction activity;
    - The predicted noise and/or vibration level for all receivers where the levels are predicted or measured to exceed the applicable standards in conditions 39 and/or 40;
    - The proposed mitigation;
    - The proposed communication with neighbours; and
    - Location, times and types of monitoring.
  
  - c Except in unforeseen circumstances, the Schedule shall be submitted to the Council’s Compliance Monitoring for certification at least five working days in advance of the construction works that are covered by the scope of the Schedule and shall form part of the CNVMP.

### Fixed Plant Noise

42. All fixed plant must be specified, located, designed and operated so that noise emission levels when measured at or within the boundary of any site, other than the site from which the noise is generated do not exceed the following limits:
- a. Monday to Sunday 7am to 10pm 45 dB  $L_{Aeq(15\text{ min})}$
  - b. Monday to Sunday 10pm to 7am 40 dB  $L_{Aeq(15\text{ min})}$
  - c. Monday to Sunday 10pm to 7am 65 dB  $L_{AFmax}$

Fixed plant noise must be measured in accordance with NZS 6801:2008 Acoustics - Measurement of Environmental Sound and assessed in accordance with NZS 6802:2008 Acoustics - Environmental Noise.

#### Note:

Fixed plant means plant that is permanently or temporarily located and operated at any location and includes mechanical and building services equipment such as equipment that is required for ventilating, extracting, heating, cooling, conditioning, and exhaust either of buildings or commercial activities; associated with boilers or plant equipment, furnaces, incinerators or refuse equipment; electrical equipment, plumbing (including pumps), lift or escalator equipment; or similar plant, equipment, items, rooms or services

### Acoustic Design Certificate District Plan Compliance (Fixed Plant Noise)

43. Prior to the occupation of the buildings authorised by this resource consent (i.e. at the conclusion of any stage), the consent holder must submit to the Council's Compliance Monitoring Officer an Acoustic Design Certificate ("ADC") for fixed plant. This certificate must certify that suitable acoustic mitigation measures have been incorporated into the final design that are sufficient to ensure noise emitted from all fixed plant on the site authorised by this consent complies in all respects of the permitted noise standards set out under the condition 42 above. The ADC must be prepared by a suitably qualified and experienced acoustic expert.

#### Note:

The intent of this condition is to ensure final design and specifications of fixed plant is suitably designed, specified, located and operated to ensure noise emissions comply with the fixed plant operational noise limits.

### Wheel Squeal Noise Reduction

44. The undercroft car parking surfaces in Buildings B02 to B06 are to be appropriately treated/surfaced to reduce wheel squeal noise impact from the Proposed Village. Prior to first occupation of the Proposed Village, the consent holder must provide the Council's Compliance Monitoring Officer with details of the treatment measures that have been applied to the undercroft car parking surfaces in Buildings B02 to B06 to reduce wheel squeal noise.

### Building B02 Entrance

45. The entrance to the undercroft car parking from Campbell Street must not be fitted with an audible activation alarm and shall be regularly inspected / maintained in order to ensure that any noise from the operation of the access barrier is minimised.

### **Heritage**

#### Heritage Management Plan

46. At least 20 working days prior to the commencement of construction works on the site, the consent holder shall submit a Heritage Management Plan to the Council's Compliance Monitoring Officer (in consultation with the Council's Heritage advisor) for certification that it is in general accordance with the recommendations and drawings for the retirement village set out in "*Proposed Comprehensive Care Retirement Village, Technical Report – Heritage, 28 August 2020*" by DPA Architects Limited, and address the following matters:
  - a. The methodology for the structural upgrade of the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall. This shall include a summary of the investigations of the existing buildings and outline the design and installation of any new structural elements.
  - b. Drawings in plan and elevation at 1:50 scale that indicate the removal of pre-cast concrete panels from the Allen Ward VC Hall and their potential re-use on the Tennant Block.
  - c. The design of any replacement pre-cast concrete panels and their proposed surface treatments.
  - d. Drawings in plan and elevation at 1:50 scale that indicate the proposed alterations to the external form, cladding and joinery of the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall.
  - e. Drawings of the replacement timber window joinery as referenced in condition 50, which shall include a window schedule at 1:20 scale and details of a typical window at 1:10 scale.
  - f. Drawings in plan and elevation at 1:50 scale of the Donald Street entrance, between the Allen Ward VC Hall and the Tennant Block, including the canopy (portico), entrance doors, and vertical timber louvres as referenced in condition 51.
  - g. The location of any mechanical plant in the vicinity of the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall in plan and elevation.
  - h. The methodology for the removal and storage of any heritage fabric from the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall.
  - i. The proposed colour scheme for the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall and Buildings B01A and B01B.

The Heritage Management Plan shall be prepared by a suitably qualified and experienced heritage architect.

47. No work may commence on the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall on site until the Heritage Management Plan is certified by the Council's Compliance Monitoring Officer. The repair and refurbishment works at the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall must be carried out in accordance with the certified Heritage Management Plan.



### Photographic Record

48. At least 20 working days prior to the commencement of construction works on the site, the consent holder shall submit a photographic record in a digital format showing the existing condition of the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall, along with the Courtyard and Lopdell Gardens, to the Council's Compliance Monitoring Officer (in consultation with the Council's Heritage advisor). The photographic record shall include:
- a. Views of the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall, along with the Courtyard and Lopdell Gardens, from different locations and perspectives within the site.
  - b. Views of the building elevations that will be subject to refurbishment as part of the establishment of the retirement village.
  - c. Views of any significant detailing on the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall, including fixings and fittings.
  - d. A key / legend showing the location of each photo and the direction photos were taken from.
  - e. A cover sheet with the site address, author and date of submission.
  - f. All photographs must be dated and labelled within the photographic record document with descriptive captions to indicate title, location, and treatment.
49. Prior to preparing the photographic record required in accordance with Condition 48, the consent holder shall consult with the Council's Compliance Monitoring Officer and the Council's Heritage Advisor over the locations from where the photographic record is to be taken within the site.

In addition to the photographic record, the consent holder shall submit all photographic images to the Council's Compliance Monitoring Officer (in consultation with Council's Heritage Advisor) in a digital format for approval. The filename of each photo must include the address, name of elevation / detail, and photography date.

### Joinery

50. The consent holder may retain or replace the existing timber window joinery as part of the refurbishment of the Oldershaw Music Block, Allen Ward VC Hall and Tennant Block authorised as part of this resource consent. Any new or replacement windows shall have painted timber frames and be consistent with the original fenestration pattern of the joinery in the Oldershaw Music Block, Allen Ward VC Hall and Tennant Block. The windows may be single glazed or include insulated glazed units.

### Donald Street Entrance

51. The consent holder shall ensure that the design of the entrance canopy, doors and vertical timber louvres at the Donald Street entrance, between the Allen Ward VC Hall and the Tennant Block, is consistent with the original architecture of this entrance.
52. The consent holder shall engage a suitably qualified and experienced heritage architect to oversee, on a monthly basis or at a frequency otherwise agreed with the Council's Compliance Monitoring Officer (in consultation with Council's Heritage Advisor), any remedial work to the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall. This includes the following:

- a. Repairs and remedial work to concrete surfaces, particularly where concrete is spalling due to rusting reinforcing.
  - b. Remedial work to any existing timber surfaces, including replacement of defective timber and applied finishes.
  - c. Work to remove any accretions to the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall to ensure remaining heritage fabric is protected from damage.
53. Prior to the commencement of construction works on the site, the consent holder's nominated heritage architect shall hold a site briefing with all lead contractors and supervising staff to communicate the significance of the Oldershaw Music Block, Allen Ward VC Hall and Tennant Block, the requirements of these consent conditions and the requirements of the Heritage Management Plan.

The consent holder shall provide the Council's Compliance Monitoring Officer and the Council's Heritage Advisor with at least five working days' notice of the site briefing so that they may also attend.

#### Heritage Information Plan

54. Prior to the implementation of any landscaping on the site, the consent holder shall provide a Heritage Information Plan to the Council's Compliance Monitoring Officer (in consultation with Council's Heritage Advisor) for certification that details how information on the heritage features of the site is to be incorporated within the landscaping.

The Heritage Information Plan shall provide detail on interpretative signage / boards for residents, staff and visitors at three prominent locations within the site, with information on:

- a. The history, architecture and social values of the former Teacher's College.
- b. Any significant people associated with the former Teacher's College.
- c. The significance of the Oldershaw Music Block, Tennant Block and Allen Ward VC Hall, along with the Courtyard and Lopdell Gardens, as part of the former Teacher's College.

The Heritage Information Plan must be prepared by a suitably qualified and experienced heritage architect.

55. The consent holder must implement the Heritage Information Plan within six months of the completion of construction works on the site and maintain the interpretative signage / boards on an ongoing basis.

#### Accidental Discovery

56. In the event that an unidentified archaeological site is located during construction works on the site, the following protocols will apply:
- a. Work shall cease immediately within 10 m of the archaeological site.
  - b. The consent holder shall ensure that all machinery is shut down and the area secured.
  - c. The consent holder shall notify the Port Nicholson Block Settlement Trust, Te Runanga o Toa Rangatira Incorporated and the Heritage New Zealand Regional Archaeologist.
  - d. If the site is potentially of Māori origin, the consent holder shall notify the Heritage New Zealand Regional Archaeologist, and the Port Nicholson Block Settlement Trust

and Te Runanga o Toa Rangatira Incorporated, of the discovery and ensure site access to enable appropriate cultural procedures and tikanga to be undertaken, as long as all statutory requirements under legislation are met (e.g. Heritage New Zealand Pouhere Taonga Act 2014, Protected Objects Act 1975).

- e. If human remains (kōiwi tangata) are uncovered, the consent holder shall advise the Heritage New Zealand Regional Archaeologist, New Zealand Police, Port Nicholson Block Settlement Trust and Te Runanga o Toa Rangatira Incorporated and the above process under (d) shall apply. Remains are not to be moved until such time as the Port Nicholson Block Settlement Trust, Te Runanga o Toa Rangatira Incorporated and Heritage New Zealand have responded.
- f. Works affecting the archaeological site and any human remains (kōiwi tangata) shall not resume until the Council's Compliance Monitoring Officer gives written approval for work to continue.
- g. Where the relevant iwi authorities make a request to the consent holder, any information recorded that directly relates to the find such as a description of location and content, is to be provided to the iwi for their records as soon as practicable.

### **Signage and Lighting**

- 57. The entrance signage on the Donald Street frontage (as detailed on Drawing RC12) must only detail the name of the Proposed Village and must not include any digital content..
- 58. The design of any lighting of the entrance signage on the Donald Street frontage, low level bollard lighting within the pocket park, and the lighting of the pedestrian and vehicle entrances to the Proposed Village (as detailed on Drawing RCo4) must be provided to Council's Compliance Monitoring Officer for certification that such lighting will not create nuisance light spill effects on adjoining residential properties. The lighting shall be installed in accordance with the certified design.

### **Landscaping**

#### **Tree Management Plan**

- 59. The consent holder must submit to the Council's Compliance Monitoring Officer a Tree Management Plan for certification at least 20 working days prior to any work commencing on site. The purpose of the Tree Management Plan shall be to address the management of retained vegetation during and after construction works to ensure the useful life expectancy of that vegetation is maximised while enabling construction activities to proceed, and shall be prepared in accordance with the Final Arboriculturists Report, dated 26 May 2020, prepared by Tree Management Solutions.

The Tree Management Plan must identify and make a photographic record of the Retention Areas G1, G2, G3, G4 - including the Tree Protection Zone and the individual trees identified for protection. The Tree Management Plan must also provide details for the protection methodology proposed during construction works on site.

The Tree Management Plan must also include a tree protection methodology, and the works arborist must supervise all works within the root protection area as defined in AS 4970 - 2009 *Protection of Trees on Development Sites*.

60. No work may commence on site until the Tree Management Plan is certified by the Council's Compliance Monitoring Officer. The construction activities must be carried out in accordance with the certified Tree Management Plan.

#### Landscape and Pavement Plan

61. The consent holder must submit to the Council's Compliance Monitoring Officer a finalised Landscape and Pavement Plan for certification at least 20 working days prior to the any work commencing on site. The Landscape and Pavement Plan must be generally consistent with the following plans:

<b>Plan Title</b>	<b>Author</b>	<b>Ref</b>	<b>Rev</b>	<b>Dated</b>
Resource Consent - Indicative Landscape Plan	Sullivan + Wall	Lo-010_P	V	12/09/2022
Resource Consent Indicative Landscape Plan – Details Schedule	Sullivan + Wall	Lo-010PS	R	22/06/2022
Resource Consent Indicative Landscape Plan – Proposed Public Park	Sullivan + Wall	Lo-020PP	A	7/02/2020

and must provide as follows:

- a. The final landscape plan, detailed planting plans and specifications for:
  - The restoration of the Lopdell Gardens,
  - Other existing areas of planting that are to be retained,
  - All garden areas (including street frontages and the pocket park),
  - The Level 1 balconies on Buildings B02-B06 to reduce privacy effects on Scapa Terrace properties,
  - Appropriate density and species of planting along the southern boundary of the site that, where practicable, provides screening and minimises potential shading on the adjoining residential properties on Scapa Terrace, while also having regard to the amenity needs of the Proposed Village and engineering and operational constraints.
  - Planting for wind protection and walkways/pedestrian connections around the site (including as further specified below).
- b. All specimen trees proposed at the street edges (both Donald Street and Campbell Street) must have a minimum height of 2.5m – 3m at the time of planting.
- c. Additional planting/screening to assist with mitigating wind effects on the internal and external pedestrian wind environment (where practicable and taking account of matters related to Crime Prevention through Environmental Design, access, shading and amenity of the Proposed Village) for:
  - the pocket park alongside Donald Street,
  - the entrance courtyard on the Donald Street frontage,
  - the Level 1 balconies between Buildings B02 and B06,
- d. A planting schedule, detailing the specific planting species, the number of plants provided, locations, heights and plant grades.
- e. An annotated pavement plan and related specifications, detailing proposed site levels and the materiality and colour of all proposed hard surfacing;
- f. A management / maintenance programme.
- g. The existing memorial tree in the Pocket Park must be retained and maintained.

- h. The external boundary fencing shown as fence 'Type C' on Drawing RC12 must be a timber paling fence with no spacing between the palings, and which is 1.8 m in height (except where modification is required at ground level for stormwater management purposes).
- i. A staging plan illustrating how the landscaping and wind mitigation is to be implemented at each stage of the development.

The Landscape and Pavement Plan shall be accompanied by documentation from a suitably qualified and experienced wind engineer and landscape architect addressing the relevant points above.

- 62. The Landscape and Pavement Plan certified under condition 61 must be implemented in the first planting seasons following completion of each stage identified in condition 61. All landscaping must be implemented and maintained thereafter by the consent holder.

### **Material Details**

- 63. Prior to submitting the first building consent for any of the buildings, the consent holder must submit plans showing the final details of the exterior envelope materials and colour palette to be used for the Proposed Village to the Council's Compliance Monitoring Officer for certification that it is in general accordance with the stamped drawing set listed in condition 1 of this resource consent.

### **Northern Public Walkway**

- 64. Within 12 months of the commencement of this resource consent, the consent holder shall use all reasonable endeavours to obtain subdivision consent for a boundary adjustment to enable Council ownership of the public pathway on the northern boundary of the Proposed Village in the area indicatively shown on Drawing RCA99.

#### **Note:**

The consent holder has confirmed its commitment to working with the Council in good faith to facilitate the boundary adjustment along the northern boundary of the Proposed Village which, through Council ownership, will enable the continuation of a public pathway on the northern boundary of the Site. The intention is for the land to be provided to Council at no cost. Any Council and consent holder costs associated with staff and professional services will lie where they fall. The Council will be responsible for all works and ongoing maintenance associated with the public pathway.

### **Infrastructure and Servicing**

#### Engineering Standards

- 65. The consent holder must comply with the relevant requirements of the Wellington City Council Code of Practice for Land Development (either its current version or replacement document), unless otherwise modified by condition(s) of the consent or agreed in writing by the Wellington Water Land Development Team.
- 66. No construction must start prior to the following engineering plans in relation to water supply, stormwater or wastewater drainage being accepted in writing by the Wellington Water Land Development Team:

- a. Engineering plans and design certificate.
  - b. Specifications.
  - c. Relevant draft commissioning, operational and maintenance documentation.
67. The application for engineering plans must be accompanied by a Wastewater Management Report, prepared and certified by a Chartered Professional Engineer, which as a minimum includes: the identification of drainage catchment and drainage sub-catchment areas for the pre-development and post-development scenarios including a suitably scaled wastewater master plan showing the aforementioned catchment details including lawful point(s) of discharge, complying with the requirements of the Regional Standard for Water Services.
68. The application for engineering plans must be accompanied by a Stormwater Management Report, prepared and certified by a Chartered Professional Engineer, which as a minimum includes:
- a. Identification of drainage catchment and drainage sub-catchment areas for the pre-development and post-development scenarios including a suitably scaled stormwater master plan showing the aforementioned catchment details, including lawful point(s) of discharge complying with the requirements of the Regional Standard for Water Services.
  - b. An assessment of the peak discharges for all events up to 1% AEP including climate change for the pre-development and post-development scenarios (and to confirm the design is in accordance with the design requirements in condition 70).
  - c. Details of any proposed on-site detention / retention systems and associated outlet systems required to mitigate the impacts of the proposed development on downstream lands and existing upstream and downstream drainage systems.
  - d. Engineering design of all new drainage systems servicing the development and modifications (if any) to existing drainage systems required to adequately manage stormwater collection and discharge from the proposed development.
  - e. Identification of the area of land inundated (if any) as a consequence of the minor and major design storm events in the catchment for both the pre-development and post-development scenarios.
  - f. All land proposed as secondary flow paths must be identified. The design must demonstrate that all secondary flow paths proposed in the design can manage flows beyond the capacity of the primary stormwater system.
  - g. Details of all calculations, assumptions and data files (where applicable).

The consent holder must implement the Stormwater Management Report as part of the operation of the Proposed Village.

Notes:

Where drainage works are required, permits in addition to this resource consent will be required namely:

- Building consent for private drains, and
- Public drainage permit for all public drains.

Scheme and other indicative layout plans that were submitted as part of the application will be used by Council for information purposes only. These plans will not be used for granting approval under the condition above. Approvals will only be given on detailed engineering plans.

69. Secondary flow paths identified in the Stormwater Management Report (condition 68) must be kept free from obstructions such as buildings, structures and solid fences (except those specifically allowed for in the Stormwater Management Report) that might impede the flow of water across the land. The ground levels within the secondary flow paths must be maintained at the design levels.

#### Stormwater Quantity

70. The consent holder must ensure that the stormwater management system(s) is designed for the 1% AEP and 10% AEP 12 hour nested storm events, with allowance for climate change, (as per Wellington Water Ltd.'s Reference Guide for Design Storm Hydrology April 2019) and to achieve the following:
- a. There is no increased flooding upstream or downstream along the overland flow paths/flood extents of the proposed site compared to base case in terms of flood levels and/or flood extents.
  - b. Flows to the stormwater network to not result in increased flooding downstream with manholes spilling more than base case in terms of flood levels and/or flood extents.
71. The stormwater management system must include not less than 45 m<sup>3</sup> of storage for rainwater harvesting from 1,200 m<sup>2</sup> of roof area for non-potable use (landscape irrigation).

#### Stormwater Quality

72. All runoff from the car parking accessways (i.e. manoeuvring, entries and exits) and uncovered carpark areas in the Proposed Village is required to be treated prior to discharge.
73. The stormwater treatment systems shall be proprietary treatment devices and:
- a. Shall be designed in accordance with Wellington Water Limited's Water Sensitive Design for Stormwater: Treatment Device Design Guideline December 2019 Version 1.1.
  - b. Must achieve a greater than 75% TSS (total suspended solids) removal on a long-term average basis (e.g. Stormwater360 Stormfilter®)
74. Bare galvanised, zinc alum or unpainted metal (including copper) must not be used for exterior construction, including, but not limited to roofing, cladding, gutters and downpipes.
75. The consent holder must install stormwater educational plaques alongside each stormwater sump that is installed within the Proposed Village which promote awareness toward maintaining the water quality of the stormwater discharge. The educational plaques must be installed within two months of completion of works.

#### Public Wastewater and Stormwater Network

76. The site shall have separate and direct connections to the public stormwater and wastewater networks at locations accepted in writing by the Wellington Water Land Development Team.
77. Where development requires the public drainage network to be extended/alterd to serve the proposed development, all newly constructed sewer/stormwater mains to be vested in Council shall be approved by Wellington Water Land Development Team based on a video or closed circuit television (CCTV) inspection carried out by the consent holder in accordance

with the New Zealand Pipe Inspection Manual. A pan tilt camera shall be used and lateral connections shall be inspected from inside the main.

78. As the proposed construction will not comply with the Regional Standard for Water Services requirement for building/working near public drains, the consent holder/property owner must provide pre and post CCTV footages and reports of the existing main to the Wellington Water Land Development Team.

Any new defects identified post-development must be repaired by the consent holder/property owner. All costs incurred for repairs post development will be at the expense of the consent holder.

79. Where building over public mains is proposed the Proposed Village must address the following:
- a. Relaying with or without sleeving of the pipe at the consent holder's expense is generally required, as detailed in the Regional Specification for Water Services. Geotechnical investigation or confirmation of the soil type may be required at the discretion of Wellington Water.
  - b. Design of the works must:
    - Include consideration of seismic resilience of both the pipeline and building works.
    - Provide for a secondary flow path if needed and as far as practicable.
    - Maximise the ease with which the pipe can be maintained and replaced.
    - Take into account network structures such as chambers and manholes, maintenance access for machinery at a future date, and access to manholes.

Notes:

Any alteration or addition to the existing public drainage network is required to be carried out under a Public Drainage Permit (as distinct from a Building Consent) issued by the Wellington Water Land Development Team.

All public drainage work is required to be carried out by a suitably experienced Registered Drainlayer who is employed by a contractor who has an approved Health and Safety Plan and public liability insurance.

Water Supply

80. The consent holder must provide an appropriately sized metered water supply connection to the public main for potable and private fire hydrant supply. An engraved plastic tag reading "WATER SUPPLY MANIFOLD FOR (Street No)" is to be secured to the manifold clearly showing which property is served by the manifold. An RPZ-type backflow preventer is required if the connection is greater than 20mm DI.
81. The consent holder must provide for fire-fighting requirements in accordance with the NZ Fire Service Code of Practice for Firefighting Water Supplies NZS PAS 4509:2008.
82. The consent holder must provide all fire connections/sprinkler connections with a double check detector check backflow prevention containment device.



### As Builts

83. At the conclusion of the engineering works, and prior to occupation or Code of Compliance (whichever comes first) the consent holder must submit as-built drawings that meet the requirements of Wellington Water Regional As-built Specification for Water Services, for water supply, wastewater, and stormwater drainage.
84. Once an as-built plan has been submitted and within one month of completion of the water supply and drainage works, the consent holder shall arrange for a final inspection with the Wellington Water drainage and water supply inspectors.

#### Note:

Where possible, all as-built plans shall be submitted in both hard copy (PDF) and electronically. Electronic copies are to be submitted in CAD format (.DWG file) drawn in the NZGD 2000 New Zealand Transverse Mercator' coordinate system.

### Operation and Maintenance Manual

85. Prior to Engineering Approval, the consent holder must prepare a draft Operation and Maintenance Manual for all stormwater devices, setting out the principles for the general operation and maintenance for the stormwater system (treatment and detention). The draft Operation and Maintenance Manual must be submitted to the Wellington Water Land Development Team for approval. The Operation and Maintenance manual must include, but not be limited to:
  - a. A detailed technical data sheet.
  - b. All the requirements as defined within the Water Sensitive Design for Stormwater: Treatment Device Design Guideline.
  - c. Details of who will hold responsibility for short-term and long-term maintenance of the stormwater devices.
  - d. A programme for regular maintenance and inspection of the stormwater system.
  - e. A programme for the collection and disposal of debris and sediment collected by the stormwater management device or practices.
  - f. A programme for post storm maintenance.
  - g. A programme for inspection and maintenance of outfall erosion.
  - h. General inspection checklists for all aspects of the stormwater system, including visual check of roadside sumps and outfalls.
  - i. A programme for inspection and maintenance of vegetation associated with the stormwater devices.
  - j. Recommended on-going control methodology to eradicate established pests and invasive weeds from both terrestrial and aquatic areas.
86. The consent holder must follow the required operation, maintenance and renewal of the system(s) set out in the Operation and Maintenance Manual to ensure it is in full working order at all times. Details of all inspections and maintenance for the stormwater management system for the preceding three years must be retained.
87. A maintenance report must be provided to the Council's Compliance Monitoring Officer on request. The maintenance report shall include the following information:

- a. Details of who is responsible for maintenance of the stormwater management system.
  - b. Details of any maintenance undertaken.
  - c. Details of any inspections completed.
88. The consent holder cannot increase stormwater discharge through an increase in non-permeable areas without Council approval as an increase in stormwater discharge may result in failure of the stormwater detention systems.
89. A covenant must be entered into with the Council that includes the requirements of conditions 86, 87, and 88. The covenant must be entered into within one month of the stormwater management system becoming operational.

The covenant must be submitted to, and certified by, the Council's Compliance Monitoring Officer who will execute the covenant on behalf of the Council once approved. This will be subject to payment of the Council's fee relating to the execution of legal documents.

90. The consent holder must register the covenant in accordance with section 109 of the Act on the Record of Title for the site within six months of the stormwater system becoming operational.

All legal expenses associated with preparing and registering the covenant will be met exclusively by the consent holder.

**Advice Notes:**

1. The land use consent must be given effect to within 5 years of the granting of this consent, or within such extended period of time as granted by the Council pursuant to section 125 of the Act.
2. Section 36 of the Act allows the Council to charge for all fair and reasonable costs associated with the assessment of your application. We will confirm in due course whether the time spent on the assessment of this application is covered by the initial fee paid. If the time exceeds the hours covered by the initial fee you will be sent an invoice for additional fees. If the application was assessed in less time you will be sent a refund. For more information on your fees contact [planning.admin@wcc.govt.nz](mailto:planning.admin@wcc.govt.nz).
3. Where appropriate, the Council may agree to reduce the required monitoring charges where the consent holder will carry out appropriate monitoring and reporting back to the Council.
4. This resource consent is not a consent to build. A building consent may be required under the Building Act 2004 prior to commencement of construction.
5. Out of courtesy, it is suggested that you advise your nearest neighbours of your intention to proceed with this land use consent, your proposed construction timetable and contact details should any issues arise during construction.
6. This resource consent does not authorise any works that also require consent from the Greater Wellington Regional Council. If necessary, separate resource consent(s) will need to be obtained prior to commencing work.

7. The consent holder must gain a corridor access approval from the Council before trucks and other heavy vehicles will be permitted on site. A CAR will also need to be obtained from Council for the storage of any materials, equipment, and machinery on the road corridor.
8. A vehicle access bylaw consent is required under Part 5, Section 18 of the Council's Consolidated Bylaw 2008 for the construction of a kerb crossing or driveway within legal road.
9. As far as practicable all construction activity related to the development must take place within the confines of the site. No buildings, vehicles, materials or debris associated with construction may be kept on Council land, including the road, without prior approval from the Council. Please note that landowner approval is required under a separate approval process and that this will need to be sought and approved prior to any works commencing.  
  
For more information on the traffic management process and what further separate land owner approvals may be required in relation to the logistics of working within the legal road either contact the Transport Asset Performance team or visit this link: <https://wellington.govt.nz/services/parking-and-roads/road-works/work-on-the-roads/permissions-and-approvals>
10. The methods set out in the Greater Wellington Regional Council guideline for erosion and sediment control for the Wellington Region should be followed when undertaking earthworks on the site: <https://www.gw.govt.nz/assets/Documents/2022/03/Erosion-and-Sediment-Control-Guide-for-Land-Disturbing-Activities-in-the-Wellington-Region.pdf>
11. It is the responsibility of the consent holder to identify any service mains or laterals that might be affected by any new buildings as proximity to these pipes will be considered at the building consent stage.
12. No buildings, vehicles, materials or debris associated with construction may be kept on Council land, including the road, without prior approval from the Council.
13. As landowner the Council requires damaged areas of legal road vegetation or berm to be reinstated by the consent holder within three months of completion of construction and this includes suitable remedy of compacted areas, including removal of any building debris, ripping of compacted soil and new topsoil if required to ensure grass strike or planting success. Grass is acceptable for reinstatement if the area was previously grassed; however, in appropriate circumstances it is preferable (and required if existing previously) that the berm is reinstated with Wellington native plant species planted at 900mm maximum spacing and mulched.
14. The Council has launched a pilot 'Creative Hoardings' programme, which has been designed to enliven building sites and celebrate creativity across the city. Creative hoardings present opportunities for artists and property developers to contribute to the revitalisation of the city and the consent holder is encouraged to use this programme during the construction phase. Local artists, Gabby O'Connor, Ariki Brightwell, Ruth Thomas-Edmond and Telly Tuita have been commissioned to design artworks for hoarding. Their work can be downloaded from the Creative Hoardings Library on the Council's website, printed and installed on hoarding. For more information visit the Council's website or contact the City Arts and Events Team, email: [arts@wcc.govt.nz](mailto:arts@wcc.govt.nz).

The BPO is defined as the best method for preventing or minimising the adverse noise or vibration effects on the environment having regard to (1) the sensitivity of the receiving environment to adverse noise or vibration effects, (2) the financial implications and (3) the current state of technical knowledge and the likelihood that the option can be successfully applied.

15. The development will be assessed for development contributions under the Council's Development Contributions Policy. If a development contribution is required it will be imposed under section 198 of the Local Government Act 2002. If you want to obtain an indication of the amount of the development contribution payable you can:
  - Access the development contributions policy at [www.Wellington.govt.nz](http://www.Wellington.govt.nz); or
  - Contact the Council's Development Contributions Officer.

**APPENDIX 2 - SUPPLEMENTARY STATEMENT OF ISAAC BRIGHT**

*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*

Supplementary Statement of **Isaac Samuel Greig Bright** on behalf of Ryman Healthcare Limited

---

Dated: 12 October 2022

---

Reference: Luke Hinchey (luke.hinchey@chapmantripp.com)  
Nicola de Wit (nicola.dewit@chapmantripp.com)

chapmantripp.com  
T +64 9 357 9000  
F +64 9 357 9099

PO Box 2206  
Auckland 1140  
New Zealand

Auckland  
Wellington  
Christchurch



**SUPPLEMENTARY STATEMENT OF ISAAC SAMUEL GREIG  
BRIGHT ON BEHALF OF RYMAN HEALTHCARE LIMITED**

- 1 My full name is Isaac Samuel Greig Bright. My qualifications and experience are set out in my statement of evidence dated 29 August 2022.
- 2 The purpose of this supplementary statement of evidence is to respond to a question from the Commissioners regarding the methodology for preparing the following lines on the shading diagrams presented at the hearing on 20 September:
  - 2.1 Shading from buildings built to former 8m residential building standards. This shading line is the same as the 'Shading from buildings built to residential building standards' line on the original shading diagrams; and
  - 2.2 Shading from buildings built to 11m residential building standards.
- 3 **Methodology for preparing District Plan shading lines**

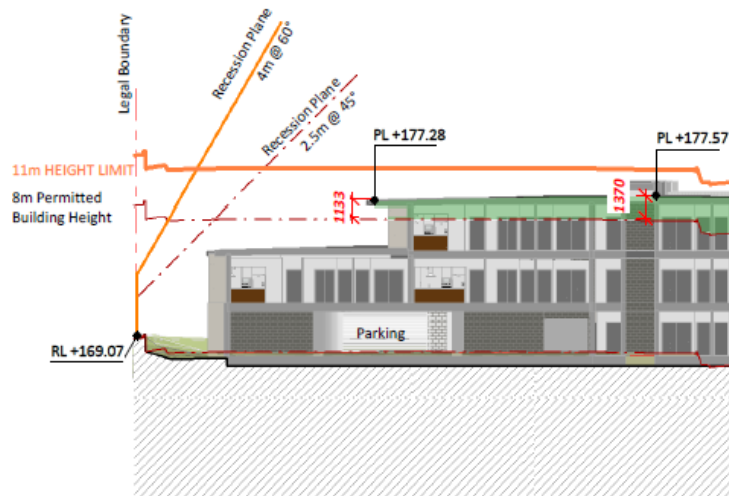
The inputs to the shading lines are:

  - 3.1 The Operative Plan and Proposed Plan height standards – being 8m and 11m respectively;<sup>1</sup>
  - 3.2 The Operative Plan and Proposed Plan height in relation to boundary (*HIRB*) standards – being 2.5m and 45° and 4m and 60° respectively.<sup>2</sup>
- 4 The height and HIRB standards relate to ground level (over the site or at the boundary), which creates some undulations in the shading lines.
- 5 The relevant inputs can be viewed on the following extract from Drawing RCT17 (red lines are the Operative Plan and orange lines are the Proposed Plan):

---

<sup>1</sup> 5.6.2.5 and MRZ-S2.

<sup>2</sup> 5.6.2.8 and MRZ-S3.



**4 B05 - RECESSION PLANE SECTION**  
 A1 sheet scale = 1 : 250  
 A3 sheet scale is twice scale shown above

- 6 The Operative Plan and Proposed Plan boundary setback standards<sup>3</sup> are not inputs to the shading lines, because those standards do not determine the location of the shading lines. That is, any shading caused by building bulk within 1m of the boundary would be subsumed by shading caused by building bulk more distant from the boundary. The determining factor for the shading lines is the intersection between, and envelope created by, the height and the HIRB standards.
- 7 The methodology for preparing the shading diagrams is covered in paragraphs 113-116 of my primary statement of evidence. The further shading diagrams presented by Mr Burns use the same methodology and represent shading from the 2m fence, Proposed Village buildings, Operative Plan height and HIRB standards and Proposed Plan height and HIRB standards.

**Isaac Samuel Greig Bright**  
**12 October 2022**

<sup>3</sup> 5.6.2.2.7. MRZ-S4.