

Before the Independent Hearings Panel
Hutt City Council

under: the Resource Management Act 1991

in the matter of: Submissions and further submissions in relation to Plan
Change 56 to the City of Lower Hutt District Plan

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

Submitter 211

and: **Ryman Healthcare Limited**

Submitter 204

Supplementary statement of evidence of **Gregory Michael
Akehurst** on behalf of the Retirement Villages Association of New
Zealand Incorporated and Ryman Healthcare Limited

Dated: 9 June 2023

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

INTRODUCTION

- 1 My full name is Gregory Michael Akehurst. My qualifications and experience are outlined in my statement of evidence in chief (*EIC*) dated 29 March 2023.
- 2 In this supplementary statement I outline some of the background evidence relied upon in my *EIC* to respond to a question from the Commissioners. I also summarise some of my recent survey work to assist the Commissioners' understanding of the current load retirement villages are placing on infrastructure relative to residential developments of a more standard format.

CODE OF CONDUCT

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

SCOPE OF EVIDENCE

- 4 My evidence provides a summary of:
 - 4.1 Information collected to support a Local Government Act 2002 objection by Ryman Healthcare Limited (*Ryman*) in relation to development contributions levied by Auckland Council on Ryman's Possum Bourne Retirement Village, along with the Commissioners' decision;
 - 4.2 National survey information on water, wastewater, traffic generation and use of council community facilities, parks and reserves by a range of retirement villages; and
 - 4.3 Other research I rely on.

- 5 **Appendix A** sets out a summary of responses to the national retirement village infrastructure demand survey.
- 6 **Appendix B** sets out the decision of Ryman’s objection to Auckland Council’s development contributions notice for its retirement village development in Pukekohe.
- 7 **Appendix C** includes a summary presentation of the independent surveys commissioned by Ryman across a number of villages (Gravitas and Research First) prepared by Carl Davidson, Director of Research First (the independent expert that gave evidence for Ryman at the Pukekohe hearing).

RYMAN’S PUKEKOHE VILLAGE DEVELOPMENT CONTRIBUTIONS

- 8 In 2016, Ryman was issued with a development contributions notice in relation to the Possum Bourne Retirement Village at 5 Lisle Farm Drive Pukekohe by the Auckland Council.
- 9 Ryman objected to this notice. It claimed that Council had failed to take into account the characteristics of a “comprehensive care retirement village” and its occupants that, on their own or cumulatively with those of other developments, would substantially reduce the impacts of the development on requirements for infrastructure and community facilities. I presented evidence as an independent expert for Ryman in the objection process.
- 10 The objection was heard by a panel of commissioners in April 2018 and they found:¹

“.. that the survey results (together with the evidence of Mr Mitchell) supports the case for Ryman’s that those residents who occupy the retirement units at the Village are more similar to aged care room residents than the general population and most likely in other retirement villages. We also accept that the survey results show that Ryman’s residents are much less active and mobile than the average Aucklander. We also accept that, as compared to the average Aucklander, the demand placed on reserves by the Village residents will be far less. Finally, we accept that the survey information establishes that the Village residents demand on reserves is far less than that assumed in the DCP. In the DCP Council has accepted that the demand on reserves by aged care rooms is zero.”

“We therefore find that, in terms of the DCP and this Objection ground, we are not only entitled, but must, determine whether the frequency of

¹ At paragraphs 78 and 79.

use of reserves by Village residents has meet the threshold of establishing substantially reduced demand.”

- 11 The Commissioners turned their attention to establishing whether the features of the villages ‘substantially reduce’ demand for reserves and community facilities. They agreed with Ryman’s submission that in the case context, “a 50% threshold is appropriate for demonstrating a ‘substantial reduction’.”² This threshold was relevant because an Auckland Council commissioned report prepared for the 2012 Development Contribution Policy (DCP) process (prepared by Urbanism Plus) stated that a 50% variation is ‘extremely significant’ in terms of equitably attributing demand between development types in the Auckland context.³

- 12 Having established the 50% variation as an appropriate threshold, the Commissioners stated:⁴

We accept the evidence of Ryman that the Village creates demand for reserves that is well below 10%. We therefore find that this clearly meets the threshold of ‘substantial reduction’. The question therefore is, how does this reduction translate in terms of the calculation of the development contribution owed?

- 13 The evidence relied upon to reach that conclusion draws from two independent surveys commissioned by Ryman across a number of villages (Gravitas and Research First), which was summarised in my Evidence in Chief for the Pukekohe hearing and supplementary statement as well as reproduced in the decision at **Appendix B**. The tables are replicated below (Tables 1 and 2).

- 14 I compared the data collected to wider Auckland population survey data collected by Gravitas for Auckland Council in 1999 and 2004. This work involved a very large sample across different ages and demographic structures in order to provide Auckland Council’s Parks and Recreational Facilities department robust information on the manner in which residents engaged in activities for which they provided facilities for. In other words, questions were asked about the frequency with which people went swimming, or walking the dog in the park, or played organised sport or attended meetings, night classes or club gatherings (among other activities). Council used the information to assist asset management plans for future facilities and to understand the nature of the users of Council facilities.

² At paragraph 85.

³ “Residential Activity Demand and Attribution, Auckland Council Development Contributions Policy 2012”, March 2012, Ian Munro Urbanism Plus.

⁴ At paragraph 87.

- 15 Because this work contained demographic information, it allowed me to make comparisons with the more recent studies such that retirement village residents could be compared not only with retired residents overall, but also with the population overall in terms of frequency of use.

Table 1 - Pukekohe Village HUEs for reserves recalculated

Independent Residents	Council Assumptions / HUE	Ryman Independent Units	Ryman % of Council HUE
Population	2.6	1.3	50.0%
Reserve use per person - survey based	5.0	0.17	3.3%
Total Reserve use per HUE (or Unit per week)	13.1	0.2	1.6%
Pukekohe Village Population (Independent Units)	Rate/Ratio or Charge		
No. of Independent Units	253		
Residents per Unit	1.3		
Total Independent Population	329		
Reserve Use per week per person (Survey)	0.17		
Total Reserve Uses/week for Village	54.6		
Council Reserve visits per HUE	13.1		
Implied Independent HUEs for Pukekohe Village	4.2		

Table 2 - Pukekohe Village HUEs for community facilities recalculated

Independent Residents	Council Assumptions / HUE	Ryman Independent Units	Ryman % of Council HUE
Population	2.6	1.30	50.0%
Community Facility use per person - survey based	4.5	0.19	4.2%
Total Facility use per HUE (or Unit per week)	11.6	0.24	2.1%
Pukekohe Village Population (Independent Units)	Rate/Ratio or Charge		
No. of Independent Units	253		
Residents per Unit	1.3		
Total Independent Population	329		
Facility Use per week per person (Survey)	0.19		
Total Com. Facility Uses/week for Village	61.0		
Council Com. Facility visits per HUE	11.6		
Implied Independent HUEs for Pukekohe Village	5.3		

- 16 A summary of the survey work carried out that underpins the tables above and the Commissioners' decision is **attached** to this supplementary statement (**Appendix B and C**).

Overall findings and outcome

- 17 In relation to reserves and community facilities, the decision states:⁵

We therefore find that ground (a) has been established and the total contribution for open space acquisition, community service facilities and local and regional recreation facilities should be reduced in accordance with the relief sought by Ryman.

- 18 The decision reduced the number of additional household unit equivalents generated by the retirement village development down from 126.5 to 4.2 (3%) for reserves and open space and down from 207.3 to 5.3 (2.5%) for community facilities (see tables above).
- 19 Based on the data collected from that process and my understanding of the average age of Ryman's village residents across the country (see below), I consider that Ryman retirement villages are likely to display similarly low use of community facilities and reserves in other districts.

WIDER RELEVANCE TO RETIREMENT VILLAGES

- 20 I acknowledged at the Hutt City IPI hearing that the retirement village survey work undertaken (outlined above) was specific to Ryman villages. However, I consider that other retirement villages with residents mostly in their 70s and older are likely to have similarly low demands on council services. This is because there is a strong correlation between the age of people, their mobility levels and the activities they choose to undertake.
- 21 In support of that view, I note that the activity levels of Ryman's residents and their use of council services was relatively consistent across all of the four Ryman villages surveyed for the Pukekohe objection.⁶ Each of those villages had varying housing styles ranging from single level town houses, through to apartment style living. The villages were also located in different settings, from established urban areas through to more urban fringe areas. The villages ranged from very new ones to more established villages. Access to community facilities varied in terms of location and types (parks, libraries, reserves etc).

⁵ At paragraph 90.

⁶ The Ryman villages surveyed were located in Howick (Bruce McClaren), Orewa (Evelyn Page), St Heliers (Grace Joel) and the subject site in Pukekohe (Possum Bourne).

- 22 I also compared the findings from Ryman’s surveys to other more general data and academic research to help corroborate the results. This research confirms that people engage in physical activities much less frequently as they age, with a more significant drop off in the 75+ onwards group. For example, Sport New Zealand research (which is not specific to retirement village residents) confirms that activity levels taper off as people age. In particular:⁷
- 22.1 people aged 75+ participate in active recreation less often than people in all other age groups;
 - 22.2 people aged 75+ participate in fewer types of active recreation than people in all other age groups; and
 - 22.3 the main barriers that prevent people aged 75+ from participating in active recreation more often or trying a new type of active recreation are poor health/disability/injury, lack of motivation, cost, lack of time, and lack of confidence.
- 23 Professor Ngaire Kerse’s, Mr Matthew Brown’s and Mr John Collyns’ evidence in the present IPI process also confirms that trend.
- 24 Professor Kerse’s research shows that as part of the decision process to move into a retirement village, residents take into account the “*availability of amenities in the village, vs around the village*”. In the 2021 Retirement Villages Residents Vulnerability Survey most residents found “*their wants and needs were met (80%)*”.
- 25 Professor Kerse’s analysis also referenced a 2019 study of Auckland and Waitemata Health DHB residents (Broad et al, 2019). This study showed “*that the health of village residents was poorer than community dwelling older people but better than aged residential care residents*”. These results confirm evidence provided by Mr Collyns from the Retirement Villages Association of New Zealand Incorporated (RVA) who points out that it is often a health related event that is the trigger for a person to move into a retirement village.
- 26 I note that this factor naturally leads to lower levels of activity overall when compared to the aged population in the wider community (let alone the general population) – confirming the need to strike a lower development or financial contributions rate for retirement units.
- 27 I also note that throughout the Enabling Housing Act processes I have undertaken further research on the demand profile of

⁷ *Sport and Active Recreation in the Lives of Auckland Adults: Results from the 2013/14 Active New Zealand Survey*, pages 22-23, 30-31, 50-53.

retirement villages on council services. This research has been necessary to support my evidence presented to Tier 1 councils with respect to changes to financial contribution regimes. While this research is more general and less targeted at individual residents (through necessity) the trends identified have so far aligned with the findings set out above.

National retirement village survey underway

- 28 A full stratified sample survey of retirement villages across New Zealand has not been carried out by the retirement industry. I am also not aware of any Tier 1 council having undertaken that work, although understand Auckland Council is preparing to undertake demand surveys to support its development contributions policy shortly. Tauranga City Council has also commenced a more detailed review of retirement village demand for its development contribution policy. I note my view that demand assessments to establish the use and future need for council infrastructure should be undertaken by local authorities through the Local Government Act assessment processes.
- 29 That said, for the purposes of the present process, a questionnaire has been sent out to a group of representative retirement village operators⁸ in order to understand whether there are material differences between the earlier information that was Auckland centric and a wider national view.
- 30 It must be stressed that the survey is only partially completed with responses back from some of the operators albeit some of the larger ones.⁹ I have also collected some specific information from particular operators as noted.
- 31 The evidence is relatively clear that the characteristics uncovered in the Auckland surveys in 2017 and 2018 are broadly reflected in the information provided by the respondents.
- 32 I have provided some summary findings from the survey to date, in **Appendix A**. This covers 5 villages located as follows: 2 in Auckland South, 2 in Tauranga, 1 in Paraparaumu. This information shows the age of residents (similar to the Ryman's Auckland profiles), the average range of facilities provided at the 5 surveyed, the rarity of their engagement with council infrastructure and the minimal traffic generated.

⁸ Selected by Mr John Collyns, Executive Director of the RVA.

⁹ To date, responses have been received from: Summerset, covering their entire operation, MetlifeCare covering three villages in Kapiti Coast, Tauranga and Auckland, Radius Care for the Althorp Village in Tauranga, and Acacia Cove Village in Manurewa, Auckland.

33 I note that the information to date has not been complete with respect to water and wastewater – but that will hopefully improve as the surveys progress.

Residents’ age-profile

34 Mr Collyns for the RVA also recently provided me with a comprehensive data set on the RVA’s member villages and their residents. The data comprises of a full list of RVA affiliated rest homes and their make up (number of beds by type and the total number of residents along with the average age of residents). Each village is coded by the local authority where it resides allowing territorial authority summaries to be generated. I am still working through this information, but note some key findings so far are as follows:

34.1 the average age of retirement residents in RVA member villages nationally is 82.17;

34.2 the average age of retirement residents in RVA member villages in Hutt City villages is 83.1;

34.3 currently in Hutt City 13.1% of the 75+ population resides in an RVA member village;

34.4 the 75+ population nationally is growing at 3.9 times the total population – but 5 times the under 75 year old population; and

34.5 in Hutt City the 75+ population is growing at around 2.9% annually (2018 – 2022). This is more than 3 times the total population growth and almost 4 times the rate of growth of the under 75 population.

35 The Summerset Group have also provided information that sits outside the survey framework highlighting the age of their residents. This is taken from over 6,600 retirement units and care beds that they manage.

Average age of entry	2020	2021	2022
Villas	78.7	79.2	79.8
Apartments	78.8	79.1	79.9
Serviced and Memory Care	85.4	85.7	85.1
Care Suites		87.5	84

36 While the averages are only for the past 3 years, they are relatively stable. What the table highlights is that the age of residents is significantly higher than the average New Zealander. For villas and

apartments, where residents would be more active, the average age of entry is very close to 80 years old. For serviced, memory and care suites the average age of entry is over 85 (across the 3 years).

- 37 Given the average tenure within the retirement village is approximately 7 years, the average age within the village is significantly higher than the average entry age.
- 38 This is also significantly higher than the average age for an over 65 person in New Zealand, meaning that the levels of activity all retirement village residents engage in is significantly lower than the average retired person in New Zealand (being 65+).
- 39 I do not have recorded activity levels for the over 6,600 residents Summerset have in their care, but my discussions with their management indicate that they believe the figures would be very similar to the Ryman Auckland survey findings.
- 40 These statistics can also be compared to Ryman's national averages, which show retirement unit residents at 82.1 years and the average age of aged care residents at 86.7 years.¹⁰
- 41 I have also reviewed the New Zealand Retirement Villages and Aged Care Report prepared by Jones Lang LaSalle (July 2022).¹¹ This report is based on New Zealand retirement village and aged care databases that include around 75% of predicted retirement village residents. The report also uses population forecasts from the 2018-2048 projections by Statistics New Zealand. The results provide an overview of the New Zealand retirement village industry for the year ending 31 December 2021. The report states that:
- 41.1 the key target population for retirement villages is those who are 75+;¹² and
- 41.2 the average age of new occupants of retirement villages is around 75 years of age.
- 42 This information generally aligns with the national information that Mr Collyns provided from the RVA's records.
- Transport**
- 43 Much of the above analysis supports a general hypothesis that retirement village residents will generate different transport

¹⁰ Statement of Evidence of Mr Matthew Brown dated 31 March 2023, paragraph 11.

¹¹ JLL's 2021 NZRVD identified 425 villages, with 37,489 units, which is based on an estimated 1.3 residents per unit, resulting in an estimated 48,736 residents currently in retirement villages (page 4).

¹² Ibid, page 8.

demands to other residential activities. And, traffic movements to and from retirement villages will also be relatively lower than the general population.

- 44 Through my survey work, Summerset has provided traffic information carried out by Stantec in support of their resource consent applications for the Halfmoon Bay and Wigram Villages. This information shows that trip generation is approximately 3 vehicle movements per day for villas and cottages and around 2.6 movements per day for care units.
- 45 Similar Ryman survey information from traffic counts taken at two villages in Auckland¹³ show between 2.4 and 2.7 trips per day per unit.
- 46 It is worth noting that there is a wide range with some villages reporting vehicle movements as low as 0.79 movements (in total) per day per unit.
- 47 This information can be compared against assumed national traffic generation rates. I am aware that the New Zealand Transport Agency Research Report 453 specifies:¹⁴
- 47.1 a rate of 2.6 trips per independent retirement unit and 2.4 trips per day per care unit; and
- 47.2 10.9 trips per unit for a suburban dwelling.
- 48 Further, the New South Wales (NSW) Roads and Traffic Authority Guide to Traffic Generating Developments (RTA) specifies 1-2 trips per dwelling per day for “[h]ousing for aged and disabled persons”.
- 49 While the average number of movements per unit is important information in assessing the transport impact of retirement village developments, of greater importance is the timing of traffic generation. Retirement village traffic generation is typically off peak, meaning less load on the roading network at critical times. I note that asset planning will tend to predict needs based on peak hours, as that is when capacity is affected meaning that retirement village transport impacts are further reduced.

¹³ Two operational Ryman retirement villages were surveyed in Orewa and Howick by Commute Transport Consultants. The survey was undertaken with an automatic tube count over two weeks (14 February to 27 February 2017). (See Commute Transportation Assessment Report for Ryman Healthcare Retirement Village, Kohimarama consent application dated 12 February 2021, available at <https://epa.govt.nz/assets/Uploads/Documents/Fast-track-consenting/Kohimarama/Application-documents/Appendix-I-Transportation-Assessment-Report-Commute-Transportation-2021.pdf>).

¹⁴ Page 98, at <https://www.nzta.govt.nz/assets/resources/research/reports/453/docs/453.pdf>

50 Findings from the Ryman survey of the Orewa and Howick villages in Auckland (referenced above) indicated that only between 6-7% of total trips occurred during the commuting peak time – and the majority of those were from workers rather than residents. The peak period was typically found to be 1-2pm in the afternoon, outside the critical commuter peak period.

51 I note that I have confirmed the above Ryman information and the more general research papers with independent traffic engineer, Mr Leo Hills of Commute.

Water and wastewater

52 Water and wastewater require a slightly different approach. For this work I have requested through the questionnaire of village operators, the amount of water used per unit per day and the amount of wastewater generated. At the moment, I have received some information and it also shows a wide range. In terms of water use, the data received has a range from 138 to 300 litres per resident per day. The wastewater generated ranges from 176 to 269 litres per resident per day.

53 The data collected includes allowance for all core functions of the retirement villages, such as kitchens, common rooms, staff usage and plant watering.

54 Ryman has provided me with resource consent reporting from one of its villages. This confirms usage in the order of 200 litres per day per person for water and 160 litres per day for wastewater.¹⁵ I understand they use these figures nationally in consent processes and the figures are accepted by councils. Separately, a representative for another large operator, Metlifecare, has confirmed they apply 215 litres per person per day for water usage.

55 As noted, the information provided to date has not been complete with respect to water and wastewater. There are issues with some respondents providing consented maximums as in what they are allowed to use or produce rather than what they actually use and other respondents have provided metered actuals.

56 That said, the data collected so far broadly aligns with previous information collected by the industry in the context of development contribution policy processes. The data shows that domestic water requirements are approximately 200 litres, per resident, per day. Retirement villages also have a more even demand graph than that

¹⁵ Source: Ryman Healthcare Infrastructure Report for 223 Kohimarama Road Auckland consent application dated 11 February 2021 (Sections 4.4 and 5.3). Available at <https://epa.govt.nz/assets/Uploads/Documents/Fast-track-consenting/Kohimarama/Application-documents/Appendix-L-TEKTUS-infrastructure-plan.pdf>

of typical residential demands, with peak demand periods later in the morning and earlier in the evening.

CONCLUSION

- 57 Based on the above information and my original statement, I am comfortable and confident that the levels of demand generated by retirement villages for council funded infrastructure are significantly reduced from an equivalent standard housing development of the same scale.
- 58 This demand is not recognised within the Council's financial contributions policies which need to reflect this difference in order to fairly and proportionately allocate costs.

Gregory Michael Akehurst
9 June 2023

**APPENDIX A - RETIREMENT VILLAGE ASSOCIATION
INFRASTRUCTURE DEMAND SURVEY**

SUMMARY OF RESPONSES TO DATE			
General Questions			
Question	Response		
Village Name and address			
Contact details of respondent			
Village size /shape	No. Units	Average occupancy	Average occupant age
Independent Villas / Apartments	936	9.645	82.81
Independent Apartments	93	10	80
Care Rooms (eg, serviced apartments, rest home care, hospital beds, dementia beds, other)	60	0	93.27
Other unit type (if any)	49	0	0
Number of staff			
Full time	188		
Part time	19		
Traffic			
Question	Response		
Daily number of vehicle movements (VPD) - 1 vpd being from <u>or</u> to the village (if possible, split by vehicle class and ensure staff and visitors are accounted for).	Average		
Heavy Commercial Vehicle vpd/unit	0.010		
Light Commercial Vehicle vpd/unit	0.048		
Bus or passenger van vpd/unit	0.019		
Passenger car vpd/unit	0.714		

Water and Wastewater			
Question	Response l/resident/ day		
Volume of potable water used (litres/resident/day) (include allowance for all core functions such as kitchens, common rooms, staff usage and plant watering of using council water supply).	insufficient data		
Volume of wastewater generated (litres/resident/day) (include allowance for all core functions such as kitchens, common rooms, staff usage and plant watering)	insufficient data		
Community Facilities, Open Spaces and Reserves			
Question	Response		
Does your village provide any of the following....			
Community meeting rooms/club spaces	yes		
Exercise facilities – gym, swimming pool	yes		
Consultation rooms – Dr’s, Physio’s etc	yes		
Library	yes		
Bowling green	yes		
Gardens for visiting, seating etc	yes		
Does your village host presentations for residents – talks, shows, etc in-house?	yes		
If yes, how frequently?	weekly		
Does the mobile library visit?	n/a		
If so, how frequently?	no		
How often do residents leave the village to?	Average frequency (times per month)		
Visit a council gym or pool?	rarely		
Visit the council library?	rarely		
Visit a beach or council reserve	some at weekends		
Visit a sports ground to participate in sport or to watch?	rarely		
Visit a community hall or meeting room (participate in a club, or meeting)	several - monthly		
Attend a performance (concert, theatre etc)	a few - monthly		

**APPENDIX B - DECISION ON OBJECTION, PUKEKOHE VILLAGE,
AUGUST 2018**

IN THE MATTER

of the Local Government
Act 2002 (**Act**)

AND

IN THE MATTER

of a development
contribution objection
under Section 199C of the
Act

BETWEEN

Ryman Healthcare Limited

Objector

AND

Auckland Council

Respondent

A DECISION BY DEVELOPMENT CONTRIBUTIONS COMMISSIONERS

Helen Atkins (Chair)
Greg Shaw
Darrell Statham

All development contributions commissioners appointed under s199F of the Local Government Act 2002.

HELD at: Auckland

On: 21, 22 & 23 May 2018

DECISION ON OBJECTION

Decision issued: 10 August 2018

APPOINTMENTS

The Development Contribution Commissioners appointed to hear this objection have been duly appointed by the Minister of Local Government under s199F of the Local Government Act 2002 (**LGA**).

INTRODUCTION

1. Ryman Healthcare Limited (**Ryman**) are the owners and operators of the Possum Bourne Retirement Village (**Village**) at 75 Valley Road, Pukekohe. The Village has been fully operational for over a year. On 25 May 2016 Ryman's were issued with a Development Contribution Notice (**DC Notice**) from the Auckland Council (**Council**) which was assessed in relation to Ryman's application for a land use consent to construct, operate and maintain the Village¹.
2. Ryman requested a reconsideration of the DC Notice on 14 July 2016². The Council issued a letter on 23 June 2016 setting out its reconsideration of the DC Notice³. The Council did not change its original assessment. Ryman gave notice of its objection to the DC Notice on 14 July 2016 (**Objection**)⁴. The objection gave three specific statutory grounds namely, that Council:
 - (a) failed to properly take into account characteristics of a "comprehensive care retirement village" and its occupants that, on their own or cumulatively with those of other developments, would substantially reduce the impacts of the development on requirements for infrastructure and community facilities in the Council's district or parts of that district (section 199D(a) LGA); and/or
 - (b) has required development contributions for infrastructure and community facilities not required by, or related to, a comprehensive care retirement village, whether on its own or cumulatively with other developments (section 199D(b) LGA);
 - (c) has required a development contribution in breach of section 200 of the LGA (section 199D(c) LGA);
 - (d) has incorrectly applied its Development Contribution Policy (**DCP**) to the development (section 199D(d) LGA).

¹ LUC/2014/47421

² Felipe Panteli EIC Annexure D

³ Felipe Panteli EIC Annexure E

⁴ Felipe Panteli EIC Annexure A – note the date is the same as the reconsideration because Ryman's lodged the Objection to meet statutory timeframes

3. In summary in relation to each ground the following arguments, supported by evidence, were made:

Ground (a) – Substantially reduced demand

4. The Opening (and Closing) Submissions for Ryman conclude⁵ that in relation to this ground the Village has a number of unique features that mean the Village creates substantially reduced demand for community facilities (which in this context means all those activities for which contribution has been sought except transport) compared to the DCP demand assumptions. As a result, it is argued, the requirements for community facilities are similarly reduced. The evidence in support of this argument is from Mr Mitchell, Mr Akehurst and Mr Davidson. The differences in the demand (in household unit equivalent (**HUE**)) is set out in the tables below in paragraphs [10] and [11].

Grounds (b) – No causal connection

5. Ryman argues that there is no causal connection between the demand created by the Village and the requirement for community facilities. This argument is in two parts, namely:

(a) The Village's demand is significantly smaller than the demand assumed in the DCP (that is the same argument as for ground (a)); and/or

(b) It is not possible to identify any new assets, additional assets, assets of increased capacity, or any programme of works⁶ (**projects**) in Schedule 7 of the DCP that are required by or related to the Village. Further, they argue that it is not possible for Council to demonstrate this requirement.

6. The Opening Submissions⁷ and evidence (Mr Davidson and Mr Akehurst) argues that, on average, Retirement Unit residents in all of Ryman's villages use Council facilities far less than the average Aucklanders (between 4 and 8% of the demand). Ryman, therefore, argue that Council facilities are not required by, or related to those residents. In addition, Ryman argues that even if demand were to be determined to be that assumed in the DCP there is no causal link between that demand and the projects listed in Schedule 7.

Ground (c) – double dipping

7. This ground specifically relates to the provision of a local recreation reserve provided by Ryman at no cost as part of the subdivision process. Council has

⁵ Opening Legal Submissions, paragraph [104]

⁶ See s201A LGA

⁷ Ibid, paragraph [105]

not offset the value of the reserve in setting the development contributions for the development⁸.

Ground (d) – incorrect application of the DCP

8. This ground is made if the Council incorrectly applied its DCP. Ryman submits that this ground is made out due to the lack of a causal connection (ie the same issue raised in ground (b)).

Summary of key differences in contribution amounts

9. The Objection relates to development contributions for open space, stormwater, and community facilities (broken down into community service facilities, local recreation facilities, and regional recreation facilities). The Objection in relation to transport and public transport was not pursued⁹.
10. The Council required the following development contributions¹⁰:

Development contribution	Area of funding	Additional Household Unit Equivalents (HUEs)	Contribution payable excl. GST
Open Space Land Acquisition	Auckland Wide	126.50000	\$867,537.00
Stormwater	Urban Auckland	167.39962	\$679,307.66
Transport	Mainland (includes Auckland wide)	116.30000	\$409,376.00
Public Transport	Auckland wide	116.30000	\$168,518.70
Community Service Facilities	South (includes Auckland wide)	207.30000	\$102,406.20
Local Recreation Facilities	South	126.50000	\$120,048.50
Regional Recreation Facilities	Auckland Wide	126.50000	\$15,939.00
TOTAL			\$2,363,133.06

⁸ Ibid, paragraph [111]

⁹ Ibid, paragraph [57]

¹⁰ Felipe Panteli EIC, Annexure C

11. Ryman sought the following changes in its relief¹¹:

Activity	Area	HUEs	\$/HUE	D.C. Amount
Open Space Land Acquisition	Auckland Wide	3.2	\$6,858	\$21,686.36
Stormwater	Urban Auckland	0	\$4,058	0
Transport	Mainland	116.3	\$2,109	\$243,167.70
Transport	Auckland Wide	116.3	\$1,411	\$162,688.30
Public	Auckland Wide	116.3	\$1,449	\$167,069.70
Community Service Facilities	South	4.3	\$273	\$1,164.04
Community Service Facilities	Auckland Wide	5.3	\$221	\$942.32.80
Local Recreation Facilities	South	4.3	\$949	\$4,046.43.70
Regional Recreation	Auckland Wide	4.3	\$126	\$537.25
TOTAL Development Contributions			\$17,454	\$601,302.10

PRELIMINARY MATTERS

12. While there was a considerable amount of time leading up to the hearing, and there were numerous directions issued, by the time of the hearing there were no substantive preliminary matters raised that the Commissioners needed to determine prior to the hearing commencing. However, a preliminary issue arose in relation to a request from the Commissioners for additional information from the Council at the adjournment of the hearing.
13. The Commissioners had agreed at an early stage to allow for cross examination. During the course of the hearing, largely during cross examination of Council witnesses by Counsel for Ryman, a number of questions were asked. We were informed that the purpose of this line of questioning was to demonstrate that there were no projects (particularly in the stormwater area) listed in Schedule 7 of the DCP that the development contributions sought would be used for. In response Council witnesses referred to a number of documents and projects that were not, on their face, directly referred to in evidence. As a result of this the Commissioners directed the following:

The Council is to provide information of the growth related stormwater projects within the catchment that they will be using the Ryman's

¹¹ Ryman's Closing Submissions Appendix 1

development contribution towards. Mr Iszard referred to the 3 channel projects listed in Table 15 of the CMP, for example. Are these projects growth related in part or whole and are there any other projects. In addition we need to understand:

- the proportional allocation for each project of the growth component versus the existing capacity component;
- the contribution that Ryman's will be making as a proportion of the overall cost of the project.

Mr Hinchey also asked if the same information could be provided in relation to the local reserves that the development contribution will be contributing to. The Commissioners agreed to add this to the information request.¹²

14. The directions also gave leave to Ryman to call further evidence in response should it wish to do so. Ryman took the opportunity to do so and provided a supplementary statement of evidence from Ms Paice.
15. In the hearing and in Closing Submissions Ryman objected to this request on the basis that the Council had '*ample opportunity to provide that information over the course of the two year period since the objection notice was lodged*' and had failed to do so. In addition, Ryman submits that the information that was provided in accordance with the direction, which took the form of statements from Ms Parkinson and Mr Iszard¹³, was not limited to fact finding but rather included opinion evidence and additional stormwater modelling evidence.
16. We discuss the evidence of the parties in more detail below, but suffice to say here that, we agree with Ryman in that the Council did have ample opportunity to provide the information in advance of the hearing. The reason we requested it was because we were having difficulty following the supposed linkages between the DCP and aspects of the Council evidence presented during the hearing and especially during cross examination.
17. The Commissioners determine that for the reasons set out in this decision that we do not need to decline to consider the further statements and there is no procedural unfairness to Ryman's who were provided with, and took up, the opportunity to respond to the additional statements¹⁴.

PROCEDURAL DIRECTIONS AND PROCESS

18. Timetabling and procedural directions were issued by the Commissioners and adhered to by the parties. As noted we allowed cross examination of the parties. The request to cross examination was made by Ryman's and Council

¹² Minute to the parties via email dated 30 May 2018

¹³ See footer 10

¹⁴ See Dale Paice's supplementary statement and the Closing submissions for Ryman's

did not object on the basis that it was given the same opportunity. We required advance notice of the cross examination questions and the parties provided this in accordance with this direction.

19. The Commissioners undertook a detailed site visit of the Village and surrounds on Sunday 20 May 2018.
20. The hearing was held on 21, 22, and 23 May 2018 at the Auckland Town Hall. The hearing was adjourned on 23 May with the further information (referred to above) in the form of evidence from Council being received on 31 May¹⁵. Further evidence in response to the Council evidence was received from Ryman's on 12 June¹⁶ and Ryman's closing (reply) legal submissions were received on 19 June 2018. The Commissioners took some time to consider the evidence and submissions. On being satisfied no further information was required the hearing was closed on 3 July 2018.
21. Due to the extensive evidence received and the multiple issues under consideration the Commissioners regret that they have not been able to issue the decision in the 15 working day period.

ISSUES IN CONTENTION

22. Despite the extensive evidence produced, in conclusion we agree with the Counsel for Ryman that the case is 'relatively simple':

Ryman's Pukekohe Village has several features that either lead to no impact of substantially reduced impact on requirements for Reserves and for stormwater. It has also provided some community facilities, in particular stormwater infrastructure and a local recreation reserve. Ryman considers it should therefore have DCs for the entire Pukekohe Village assessed based on its actual net demand for Reserves and stormwater to ensure it is charged fairly, equitably and proportionately¹⁷.

23. Council appears to agree in that what it calls the 'core of the issue' is straight forward. Its submission is that:

The specific grounds of the objection are broadly based on the alleged failure of the Council to properly distinguish the Objector's development as a "comprehensive care retirement village" from what it terms a "lifestyle retirement village".¹⁸

24. The Council goes onto say that the DCP does not distinguish between "comprehensive care" and "lifestyle" retirement villages providing instead for

¹⁵ Bobbi Parkinson and Mark Iszard - Response to Commissioner Questions evidence

¹⁶ Dale Paice supplementary evidence

¹⁷ Ryman Opening Submissions paragraph [3]

¹⁸ Council Opening Submissions paragraph [10]

development contributions payable on a “retirement unit” or an “aged care room” basis. In short, the Council submit that if we were to consider the Village as a new category of development we are, in effect, allowing a challenge to the DCP which is contrary to the statutory framework set out in the LGA.

SUMMARY OF EVIDENCE

25. Evidence was pre-circulated in accordance with our timetabling orders and pre-read by the parties and by us. The hearing of the evidence focused on evidence summaries and updates and cross examination of the witnesses and questions from us.

26. The parties were represented by Counsel:

For the Objector:

- Luke Hinchey and Nicola de Witt;

For the Council:

- Melinda Dickey and Linda O'Reilly.

27. By way of summary we received evidence from the following witnesses:

For the Objector:

- Andrew Mitchell, (evidence in chief, rebuttal and a summary statement). Mr Mitchell is the Group Development Manager for Ryman;
- Greg Akehurst (evidence in chief, rebuttal and a summary statement). Mr Akehurst is a Director of Market Economics Ltd an independent research consultancy;
- Dale Paice (evidence in chief, rebuttal, a summary statement and supplementary statement). Ms Paice is a Technical Director in Civil Engineering at Beca Ltd;
- Carl Davidson (rebuttal and a summary statement). Mr Davidson is a Director and Shareholder of Research First Ltd, a research and insights company;
- Phil Mitchell (rebuttal and a summary statement). Dr Mitchell is a Director of Mitchell Daysh Ltd, an environmental consultancy.

For the Council:

- Bobbi Parkinson (evidence in chief, rebuttal, a summary statement and a response to questions statement). Ms Parkinson is a Principal Policy Advisor, Financial Policy at Council;
- Felipe Panteli (evidence in chief, rebuttal and a summary statement). Mr Pantelli is a Senior Policy Advisor in the Financial Policy Team at Council;

- Mark Iszard (evidence in chief, rebuttal, a summary statement and a response to questions statement). Mr Iszard is a stormwater engineer holding the position of Manager for Asset Management and Development for the Healthy Waters Department at Council.

28. In addition, for Council, we heard from Opus (Mr Scott Wilkinson and Ms Hansol Lee). The Opus team had been commissioned by Council to undertake stormwater modelling. Prior to the hearing the Commissioners had asked questions about Opus' involvement and these were addressed in a memorandum on behalf of Council dated 17 May 2018. The Opus team members came to the hearing to answer questions from Ryman and from us.
29. All of the material presented by the parties is held on file by the Council and was electronically recorded. The Commissioners took notes of the verbal presentations and any answers to our questions. For the sake of brevity we do not repeat that material in this decision. We do however refer to relevant matters raised in the material in subsequent parts of this decision where these matters go directly to the issues we have to determine.

THE COUNCIL'S DEVELOPMENT CONTRIBUTIONS POLICY

30. The DCP which is the subject of the Objection is the 2014 Policy. Since 2014 the Policy was amended in 2015 (primarily to take into account amendments to the LGA in 2014). We were informed that a new DCP would take effect from 1 July 2018.
31. Ryman was openly critical of the DCP but acknowledged that the Policy cannot be challenged in the objection process¹⁹. Ryman has categorised its objection as:
- Because of the highly unique features of Ryman's comprehensive care retirement villages, recognising the further exceptions for Retirement Units would have little effect on the DC Policy more generally. It would not create a precedent or undermine the DC Policy general application.²⁰
32. Council's position was that, to the extent Ryman was asking to be assessed on a different basis than that set out in the DCP (ie comprehensive care) then this is a challenge to the DCP and is not permitted by the statutory regime²¹.
33. We discuss the scope of our enquiry in the next section of this decision. We also discuss our recommendations in relation to the DCP near the end of this decision.

¹⁹ Ryman Opening Submissions paragraph [11.1]

²⁰ Ibid paragraph [123]

²¹ Council Opening Submissions paragraphs [11] and [89]

SCOPE OF OUR ENQUIRY

34. In closing Ryman summarises its case as follows:
- 5 ... the case for Ryman remains relatively simple. Ryman's Pukekohe Village has several features that either lead to:
 - 5.1 No requirement for; or
 - 5.2 Substantially reduced impact on:
 - requirements for Reserves and for stormwater.
 - 6 Ryman has also provided, at its cost, substantial community facilities, in particular stormwater infrastructure and a local recreation reserve.
 - 7 Ryman therefore considers the DCs for the Pukekohe Village should be assessed based on its actual net demand for Reserves and stormwater. Appropriate reductions should then be provided for the public assets it has vested. This process will ensure Ryman is charged fairly, equitably and proportionately.²²
35. As noted above to the extent that Ryman is seeking to be treated differently from other retirement villages the Council was concerned that this is a challenge to the DCP and as such is not permitted through the objection process.
36. We interpreted Council's concern to be that Ryman is asking us to use an alternative category to calculate development contributions, namely a comprehensive care category rather than the categories in the DCP, which allow for an assessment based on how many retirement units and how many aged care units a retirement village has. The DCP provides for a lower occupancy rate of retirement units and aged care rooms as compared to standard residential dwellings. The DCP does not account for the demographic characteristics of retirement unit and aged care room residents nor does it account for on-site facilities provided by retirement village operators. Ryman considers that these additional matters are critical in determining why the Village is an exception to the DCP.
37. The scope of our enquiry into this Objection is dictated to us in the legislation. Section 199D provides that an objection under section 199C may be made only on the ground that a territorial authority has:
- (a) failed to properly take into account features of the objector's development that, on their own or cumulatively with those of other developments, would substantially reduce the impact of the

²² Closing submissions paragraphs [5] - [7]

development on requirements for community facilities in the territorial authority's district or parts of that district; or

- (b) required a development contribution for community facilities not required by, or related to, the objector's development, whether on its own or cumulatively with other developments; or
 - (c) required a development contribution in breach of section 200; or
 - (d) incorrectly applied its development contributions policy to the objector's development.
38. The Objection cites all four grounds and Counsel for Ryman noted that this was a deliberate 'belt and braces' approach. The grounds are disjunctive and we discuss this further below.
39. Section 199C(3) is clear that the right of objection does not apply to challenges to the content of a development contributions policy prepared in accordance with section 102. In essence the right of challenge to a Policy is via the High Court in judicial review.
40. Section 199J relates to our consideration and provides:
- When considering a development contribution objection and any evidence provided in relation to that objection, development contributions commissioners must give due consideration to the following:
 - (a) the grounds on which the development contribution objection was made:
 - (b) the purpose and principles of development contributions under sections 197AA and 197AB:
 - (c) the provisions of the development contributions policy under which the development contribution that is the subject of the objection was, or is, required:
 - (d) the cumulative effects of the objector's development in combination with the other developments in a district or parts of a district, on the requirement to provide the community facilities that the development contribution is to be used for or toward:
 - (e) any other relevant factor associated with the relationship between the objector's development and the development contribution to which the objection relates.
41. At face value s199J appears to impart significant scope on our enquiry and considerations. However, this is tempered by the caveat in s199C(3) that we cannot allow challenges to the content of the DCP.
42. In this regard, the case for Council is that Ryman is using its Objection to challenge the DCP because Ryman is asking the Commissioners to impose a different unit of demand for its retirement units from the units of demand for

retirement villages in the DCP. In addition, Council are concerned that Ryman is also challenging the content of Schedule 7 in that it says that Schedule is deficient in terms of the detail and nature of the projects listed.

43. The DCP sets out the following Unit of demand factors for Retirement Units (as defined) and Aged Care Units (as defined)²³:

Development type	Activities	Units of Demand
Retirement unit	Transport and Public Transport.	0.3 HUE per unit
	Stormwater	1.0 HUE per unit 292m2 ISA
	All others	0.5 HUE per unit
Aged care room	Community service facilities	0.4 HUE
	Transport and Public Transport.	0.2 HUE per unit
	Stormwater	1.0 HUE per 292m2 IDSA
	All others	0.0 HUE per unit

44. Ryman's case is that the units for demand for both its Retirement Units and Aged Care Rooms is significantly less than that set out in the DCP because of the nature of the on-site facilities provided and the nature of the residents that reside in the Village. Ryman's case is that the features of its Village are such that it has a much lower demand on community facilities and infrastructure when compared to what the DC Policy has assumed²⁴. Council in response says "*the question is ultimately whether a substantial new development of 455 new residential units creates so little demand for community facilities that it ought to pay next to nothing by way of development contributions.*"²⁵ Council goes on to add that the principal matters at issue in this regard are, is there a fundamental difference in the demand factors as between Ryman's evidence and the DCP and, if there is, what recognition can the Commissioners give to that in the context of s199C(3). In short, is giving recognition to the different demand factors allowing a challenge to the content of the DCP?
45. In relation to Schedule 7 Ryman is saying that there is no causal link between the demand created by the Village and projects that are needed to address that demand as set out in Schedule 7. In simple terms what Ryman is actually saying is that there is no causal link because there are no identifiable projects in Schedule 7 that clearly relate to the Village. In response Ms Parkinson's Responses to Commissioners' provides evidence that attempts to link the Schedule 7 information to the development contributions Ryman has been assessed to pay. We discuss this evidence further below.

²³ DCP, Schedule 2 and Ryman's Opening Submissions paragraph [55]

²⁴ Ryman Opening Submissions, paragraph [74]

²⁵ Council Opening Submissions (updated) paragraph [11]

Findings on the scope of our inquiry

46. We find that the Objection does not challenge the DCP such that it falls foul of the caveat in s199C(3). This is because the crux of the issues between the parties is a factually based consideration.
47. First, in relation to demand difference the question we have been asked is are we entitled to consider the specific features of the Village that substantially reduce the demand or impact the Village has on requirements for community facilities. In our view this is exactly the enquiry we are expected to make in terms of s199D(a). We therefore agree with the statements of Ryman's Counsel, that if we have no jurisdiction to consider the Village's demand differences from those assumed in the DCP then it is difficult to see that any objection citing s199D(a) being valid. This cannot have been the intention of Parliament when it passed the amendments to the legislation introducing the objection regime.²⁶
48. Secondly, in relation to Schedule 7 again the question is firmly set in terms of the statutory grounds of objection in that we are being asked to determine, whether Council has required development contributions for community facilities not required by, or related to, the Village. This is a factual analysis involving two distinct considerations, namely, the demand features of the Village and a review of Schedule 7.
49. For completeness, we do not read the Council's case as alleging that grounds (c) and (d) involve a challenge to the DCP, given they are based on the facts of the particular circumstances of the Village Development.
50. We have concluded that our analysis of the Objection is a factual one involving the following enquiry:
- (a) Does the Village have features that substantially reduce the demand for community facilities and infrastructure?
 - (b) Is the demand (if any) created by the Village that directly relates to community facilities (which for these purposes includes infrastructure) such that Council has indicated it needs to fund from development contributions?
 - (c) Has the Council double dipped in relation to the local reserve and stormwater infrastructure?
51. We note for completeness that it is our view that the fact that Ryman could have challenged the DCP (and do not do so formally) is not in itself an argument that this Objection is a challenge to the DCP. This Objection is limited to one of the many villages that Ryman operates in the Auckland

²⁶ Ryman Closing Submissions, paragraph [287]

region. If Ryman considers that the same approach needs to be taken in relation to other villages then it will need to argue these either on a case-by-case basis or seek to challenge the DCP by way of judicial review.

52. Before we consider the Objection grounds and evidence in more detail we refer further to the broader statutory framework.

STATUTORY FRAMEWORK AND RELATED LEGAL CONSIDERATIONS

53. While we have addressed the scope of our enquiry in the preceding section there is further comment required regarding the broader statutory framework and its relevance to our enquiry.

54. Both parties provided extensive legal submissions on the statutory framework. The crux of the argument over the relevance of the broader statutory framework, as set out in s199J, is set out in Council's Opening Submissions (Updated) which state:

Whereas section 199J introduces quite wide-ranging considerations when hearing or considering an objection, the objection itself remains subject to the limitation in section 199C that precludes a challenge to the content of a development contribution policy.²⁷

55. This does somewhat beg the question as to what is the relevance of the matters set out in s199J. Section 199J essentially references back to other parts of the development contributions framework in the LGA. Ryman's position is that the seven development contribution principles in s197AB, together with the purpose of development contributions in s197AA are:

...important when interpreting all of the provisions relating to DCs, including the objection grounds. The principles must be given due consideration in this objection. The principles also inform the application of the facts in this case."²⁸

56. In furtherance of their argument Ryman's refer to a number of key themes (this was done in the Opening and Closing Submissions) as follows²⁹:

- (a) The need for a **causal connection** between the development demand (including cumulative effects) and the need for new assets or assets of increased capacity which the Council will need to fund;
- (b) That a development contribution regime can only be used to **recover costs** of specific growth projects – it cannot be used as a general pool of public money;

²⁷ Council's Opening Submissions (Updated), paragraph [36]

²⁸ Ryman's Closing Submissions, paragraph [32]

²⁹ Ibid, paragraphs [34] – [49]

- (c) That while the regime **allows for grouping** of certain developments by geographic area or categories of land use (s197AB(g)) this must be done in a manner that balances practical and administrative efficiencies with considerations of fairness and equity;
 - (d) That the DCP should be **clear, transparent and predictable** – principle set out in s197AB(e));
 - (e) That development contributions can only be used if the effects of developments is to **require new or additional assets or assets of increased capacity** (s199AB(a));
 - (f) A development contribution cannot be required if it has already been required via a different mechanism (such as under the Resource Management Act 1991 or the Building Act 2004). This is the so called **principle against ‘double dipping’**;
 - (g) That development contributions **can only be used for the assets listed in the schedule of assets** (s198(2) and s201A(1)).
57. To the extent relevant, case law was referred to by both parties³⁰. In addition, Ryman referred to the seven DC Objection cases issued to date, noting appropriately that none have similar facts but do provide some comparisons³¹.
58. In terms of whether Council agreed to the relevance of these themes Council does not couch its response in relation to each specific theme raised. Rather Council looked at matters in the round and argued as follows:
- (a) Council does not deny a causal connection must be established³². Rather Council states that this does not mean every development must be tested to determine whether it generates a need for every asset or project comprised in the activity or group of activities for which contributions are required.³³
 - (b) Activities and assets can be grouped. Development contributions for individual developments need not be directly linked to every separate new asset, additional asset, asset of increased capacity, or programme of works for which development contributions are to be used.³⁴ To the extent that the groupings provided in the DCP are too

³⁰ Beaumont Trading Company Limited v Auckland Council [2016] NZCA 223 (Council Opening Submissions at paragraph [19]; Ryman Opening Submissions at paragraph [28]); NEIL Construction Limited v North Shore City Council [2008] NZRMA 275 (Ryman Opening Submissions, paragraph [48]; Council Opening Submissions, paragraph [61])

³¹ Ryman Opening Submissions, paragraph [47]

³² Council Opening Submissions (Updated), paragraph [69]

³³ Ibid, paragraph [62]

³⁴ Ibid, paragraphs [63] – [69]

broad the proper challenge is to the DCP “*except in situations where the demand factor is so clearly erroneous that it would be inconsistent with considerations of fairness and equity*” which is not the case here.³⁵

- (c) It is for the Objector to establish a genuine exception not for the Council to prove the validity of the DCP. In this regard, the crux of the Council case is that Ryman's independent living units prima facie:

...come within the definition of a 'retirement unit' set out in Schedule 2 of the DCP and discussed in paragraph 23 of Mr Panteli's EIC. The provisions of the DCP are outside the scope of this Objection. This argument to the effect that the DCP is lacking because it does not in the DCP take into account unique demand factors of a retirement unit is precluded by section 199C(3) of the Act.³⁶

59. We detail our findings on the facts and evidence in relation to these matters under the specific ground headings in the next section of this decision. Suffice to say here that there is no dispute between the parties that the matters raised by Ryman, and referred to as themes, correctly summarise the principles applying to the development contributions regime. We have interpreted Council's response as stating that the Commissioners cannot utilise any perceived or real shortcoming in the DCP as justification for upholding the Objection. Council, states it is for the Objector to establish that the grounds of the Objection are made out and it is not for the Council to determine the validity of the DCP.³⁷

Summary of findings on scope

60. As we have noted, in the scope section above, we accept the submission of Ryman that this Objection is not a challenge to the DCP. Rather, the Objection and the supporting material constitutes Ryman's case that its Village is a genuine exception to the DCP. We now turn to consider each of the grounds with reference to the evidence of the parties.

GROUNDINGS OF OBJECTION

61. The Objection grounds refer to reserves (meaning everything except stormwater) and stormwater infrastructure. Ground (a), (c) and (d) are primarily focussed on the contributions for reserves whereas ground (b) is primarily relevant to the stormwater contribution.

³⁵ Ibid, paragraph [76]

³⁶ Ibid, paragraph [69]

³⁷ Ibid, paragraph [37]

62. As noted above, when we use the term 'Council facilities' we are referring to all the activities that trigger development contributions that are subject to the Objection. In this case those activities are referred to in the DC Notice as Open Space Land Acquisition, Stormwater, Community Service Facilities (South an Auckland Wide), Local Recreation Facilities and Regional Recreation Facilities.
63. In terms of difference between the contributions imposed by Council and those sought by Ryman's the tables are set out in paragraphs [10] and [11] above. The specific details that undermine the Ryman's table are set out in Appendix 1 of Mr Akehurst's rebuttal, which is replicated as Attachment A to this decision.
64. For ease of reference we break the consideration down into the same activity components that the Objector uses, namely, reserves and stormwater.

Reserves : Objection under s199D(a)

65. For ease of reference the objection ground under s199D(a) is repeated here as follows:

Council failed to properly take into account characteristics of a "comprehensive care retirement village" and its occupants that, on their own or cumulatively with those of other developments, would substantially reduce the impacts of the development on requirements for infrastructure and community facilities in the Council's district or parts of that district.

The correct comparison – other retirement villages or the average Auckland household?

66. Prior to considering the detail of this ground we need to comment on the debate between the parties as to whether Ryman needs to show that the Village was significantly different to other existing retirement villages.
67. Ryman's evidence³⁸ compares the average Aucklanders' use of reserves compared to the Village residents' use. Ryman has done this because, it says, the DCP assumes (albeit implicitly) that elderly residents living in retirement units create the same demand for reserves as the average Auckland household (on a per capita basis)³⁹. Ryman accepts that the DCP takes into account the lower occupancy rate of retirement units compared to standard residential dwellings (of about half). However, Ryman argues that the DCP does not take into account other features of the Village which it, Ryman argue, establish their case in terms of s199D(a).

³⁸ Greg Akehurst EIC

³⁹ Ryman Closing Submissions, paragraph [108]

68. Council was critical of the comparison that Ryman was making. Instead Council considered that Ryman ought to compare the Village with other retirement villages. The essence of the Council argument is that if Ryman had made this comparison then it would be obvious that Ryman is not unique such that the features listed do not demonstrate a case for a reduction⁴⁰.
69. We agree with Ryman that Council's comparison is correct because the correct comparison is with the DCP which looks at the average Auckland household. In any event Ryman does provide evidence (Mr Mitchell) on how its villages and this Village differ from those provided by other operators. In addition, Council's witness, Mr Panteli, accepted in cross examination that he is not a retirement village industry expert and he is not familiar with any of Ryman's retirement villages. Therefore, we have no expert evidence before us that responds to the evidence of Ryman that its retirement villages in general, and specifically, this Village, are different from those offered by other retirement village providers/operators.
70. In summary, the Commissioners agree that the correct comparison is between the Village and the average Auckland household not between the Village and other retirement villages. We note that Council was critical of the survey information provided by Ryman and we discuss the results and paucity of the survey information below.

The features of the Village

71. We agree with Ryman that identifying the features of the development is a factual enquiry. It is these features that will provide the reasons why the Village has a different demand on reserves than what is provided for in the DCP. Ryman has identified 4 key features of the Village relevant to the development contribution sought as: stable occupancy rate and use; demographics and frailty of residents; on-site amenities and activity programmes; and the recreation reserve.
72. With regard to the stable occupancy rate Mr Mitchell told us that this is about 1.3 as compared to 2.6 for a standard dwelling.⁴¹ Council did not dispute this. Council raised a concern with the potential for the use to change from a retirement village to some other use. Notwithstanding the evidence from Ryman that change of use while they owned the Village will never occur⁴², throughout the hearing Council accepted (both during cross examination and confirmation from Counsel) that any change of use would trigger a change to the resource consent which would then trigger a reassessment of the development contributions.

⁴⁰ Pantelli EIC, paragraph [46]

⁴¹ Andrew Mitchell Rebuttal, paragraph [20]

⁴² Andrew Mitchell, EIC and Summary Statement

73. In terms of the demographics and fragility of the residents of the Village we heard that the average age of residents of the retirement units is 82.1 years and the aged care units 86.7 years. We also heard that Ryman provides approximately 50:50 as between retirement units and aged care units. Ryman focuses on residents who have specific needs such as deteriorating health, mobility, memory issues and companionship needs.
74. With regard to on-site amenities and programmes we only have evidence from Ryman that sets out what these amenities and programmes are. Ryman accepted that it does not attempt to directly replicate Council facilities and therefore it accepted that some use of Council facilities will take place. The case for Ryman was that due to the amenities and programmes on site there is a very low demand on reserves and this is established by the survey information referred to in the evidence of Mr Akehurst and Mr Davidson.

The survey

75. Turning to consider the survey information. The Council's evidence (Mr Panteli), legal submissions and cross examination questions of Ryman's experts (Mr Mitchell, Mr Akehurst and Mr Davidson) was critical of the survey methodology. The experts for Ryman, in particular, Mr Davidson, were adamant that the survey methodology was robust and represented industry best practice.
76. We agree with the observation of Counsel for Ryman in Closing Submissions⁴³ that during the course of the hearing Mr Panteli focused more on how the survey data was used rather than on criticisms of the methodology. In any event, in the absence of expert evidence to contradict the evidence of Mr Davidson regarding the survey methodology, we are not in any position to conclude that the methodology was anything but robust and in accordance with industry best practice.
77. With regards to the way in which the survey information was interpreted and used, Council was concerned that Ryman's interpretation under estimated the use of Council facilities by Village residents. Further, Council argued that even if the use was as low as the survey suggested then the frequency of use by the residents is irrelevant because it does not mean Council is not required to provide those facilities to the community as a whole⁴⁴.
78. As we have stated previously, in the absence of any alternative expert opinion or survey we are left to determine the Objection based on the information before us. We accept that the survey results (together with the evidence of Mr Mitchell) supports the case for Ryman's that those residents who occupy the retirement units at the Village are more similar to aged care

⁴³ Paragraph [150]

⁴⁴ Council Opening Submissions, paragraph [55]

room residents than the general population and most likely in other retirement villages. We also accept that the survey results show that Ryman's residents are much less active and mobile than the average Aucklanders. We also accept that, as compared to the average Aucklanders, the demand placed on reserves by the Village residents will be far less. Finally, we accept that the survey information establishes that the Village residents demand on reserves is far less than that assumed in the DCP. In the DCP Council has accepted that the demand on reserves by aged care rooms is zero.

79. We therefore find that, in terms of the DCP and this Objection ground, we are not only entitled, but must, determine whether the frequency of use of reserves by Village residents has met the threshold of establishing substantially reduced demand.

Indirect benefits

80. In relation to indirect benefits Council is concerned that Ryman's case understates the indirect benefits that Village residents derive from reserves. Such indirect benefits occur by the mere existence of facilities in the absence of actual use by Village residents.
81. A few examples were discussed such as residents visiting a park or beach without actually getting out to walk there, or the mere knowledge of there being parks or beaches that can be visited by them, their relatives, friends and the wider community.
82. The parties did not disagree that indirect benefit is an important consideration and that development contributions for an indirect benefit are valid. The case for Ryman is that such indirect benefits are relatively small and proportionate to direct usage⁴⁵. Mr Akehurst's evidence is that the indirect benefit has been accounted for in his calculations in exactly the same way it is accounted for in the DCP. Mr Panteli appeared to agree with Mr Akehurst during questioning and we are not in any position to take the matter of indirect benefit any further.

Do the Village features substantially reduce demand?

83. The question we now need to turn to and answer is: are there features of the Village that, on their own, or cumulatively with those of other developments, substantially reduce the impact of the Village on requirements for reserves? The key consideration here is what does substantial reduction mean?
84. We find that Ryman has made the case that there are features of the Village, in particular the demographic (age and stage) characteristics of the residents that reduces the demand on reserves. This reduction in demand is supported by the survey information provided by Ryman. Whether this reduction in

⁴⁵ Ryman Closing Submissions, paragraph [158]

demand occurs due to the provision of on-site facilities is difficult to establish but it seems at least, in part, likely to be a factor. The question for us is – is the reduction in demand 'substantial'?

85. Ryman submits that a 50% threshold is appropriate for demonstrating a 'substantial reduction'⁴⁶. In submitting this Ryman refers to the Urbanism Plus report⁴⁷, which is a Council commissioned report prepared for the 2012 DCP process. In that report it states a 50% variation is 'extremely significant' in terms of 'equitably attributing demand' between development types⁴⁸. This 50% reduction is translated into policy in the DCP, including the differentiation between retirement units and aged care rooms. In addition, as Ryman correctly points out, during cross examination, both Mr Panteli and Ms Parkinson accepted that a 50% difference is substantial.
86. We find that a variation of 50% or more would meet the statutory requirement of 'substantial'.
87. We accept the evidence of Ryman that the Village creates demand for reserves that is well below 10%. We therefore find that this clearly meets the threshold of 'substantial reduction'. The question therefore is, how does this reduction translate in terms of the calculation of the development contribution owed?

Revised development contribution for Reserves

88. In his evidence in chief Mr Akehurst analyses the survey results and provides us with his opinion on how the results translate into demand (or HUE's) in terms of the DCP⁴⁹. Mr Akehurst then updates his assessment in his rebuttal evidence as a result of the additional survey undertaken by Research First⁵⁰ which was completed after the evidence in chief timetable. Mr Akehurst uses the survey results to calculate the total amount of HUE's for the Village and his calculations are provided in Attachment A. The calculations are, that:
- (a) the HUE for open space acquisition is 4.2;
 - (b) the HUE for community service facilities and local and regional recreation facilities is 5.3; and
 - (c) the stormwater HUE is zero (referred to further below).

⁴⁶ Ryman Closing Submissions, paragraph [160]

⁴⁷ Bobbi Parkinson EIC, Annexure A

⁴⁸ Ibid section 3.1.15

⁴⁹ EIC, paragraph [131]

⁵⁰ Note when Mr Akehurst produced his EIC the only survey information available was that undertaken by Gravitas

89. At the hearing Council indicated that as a result of a miscalculation there is a historical credit that needs to be applied which would bring the Ryman's HUE's down to 3.2 and 4.3 respectively.
90. We therefore find that ground (a) has been established and the total contribution for open space acquisition, community service facilities and local and regional recreation facilities should be reduced in accordance with the relief sought by Ryman. We note that in reviewing the calculations in the table in paragraph [11] above that there appears to be a few minor errors presumably related to the way the dollar amounts have been rounded. We set out our calculation of the DC amount below under the heading "Decision".
91. As noted by Ryman (and accepted by Council) the Objection grounds are disjunctive⁵¹. Having made a case for the reserves activities under ground (a) means that Ryman does not need to establish a case under all the grounds cited. For completeness, however, the Commissioners consider it important to set out its findings in relation to the other three grounds.

Reserves : Objection under s199D(b)

92. We agree with the Objector that this ground applies if the Council has required a development contribution for reserves that are not required by or related to the Village – on its own or cumulatively⁵².
93. Ryman noted that whether reserves will not be required by or related to the Village is a factual consideration requiring us to determine whether:
- (a) The projects (as defined above, paragraph 5(b)) are listed in Schedule 7 of the DCP; or
 - (b) If the projects are listed in Schedule 7 whether there is a causal connection between the Village and those matters.
94. Ryman's evidence is that for over two years they have been seeking information from Council about how any of the projects listed in Schedule 7 are required by, or related to, the Village. Likewise, the Commissioners had extreme difficulty in linking the facilities or projects in Schedule 7 identified by the Council as being related to the Village. In fact the Commissioners could not make this linkage. For this reason the Commissioners sought clarification from the Council post the hearing. Unfortunately the information provided did not provide the clarity the Commissioners were hoping for. We make recommendations in relation to the DCP in that section below.

⁵¹ Ryman Closing Submissions, paragraph [62]

⁵² Ibid, paragraph [86]

95. The projects listed in Schedule 7 and hi-lighted by Ms Parkinson in Response to Commissioner Questions⁵³ are extremely broadly worded. For example, an item listed under the head Community Service Facilities simply says, "Halls access". Likewise in the Stormwater activity there are items such as, "Stormwater asset renewals holding account" and "Stormwater flood alleviation". We accept that there are a few more specific items listed such as Local Recreation Facilities – Playground (Loughbourne Pukekohe) and under Stormwater PC14 "Waiarohia Ponds". However, in general, we find that it is extremely difficult, at best, to identify any projects listed in Schedule 7 that clearly relate to, or are required by, the Village. In the absence of these being clearly identity it is equally difficult to establish a causal connection.
96. In its relief Ryman is not maintaining that if ground (b) is established then no contribution is payable, although that is one logical conclusion. Instead what Ryman submits is, "*were any such works identified, its residents would create very little demand for them.*" We therefore conclude that as there are some projects that are specified and arguably may relate to, and/or be required as a result of, the Village that the relief Ryman is seeking is appropriate and ought to be granted on the basis that ground (a) has been clearly established.

Reserves : Objection under s199D(c)

97. Ground (c) is the double dipping ground. In this case has Council double dipped in relation to requiring the vesting of the local reserve under the resource consent process and also required local reserve development contributions.
98. The subdivision consent for the development required the vesting of nearly 5,000m² (4,994 m²) of land for recreation reserve. Council raised a technical argument that because the reserve was required by the subdivision consent and the DC Objection relates to the land use consent then we have no jurisdiction to consider this. We do not agree because the objection ground refers to s200 LGA which in turn states:
- (1) A territorial authority must not require a development contribution for a reserve, network infrastructure, or community infrastructure if, and to the extent that—
- (a) it has, under section 108(2)(a) of the Resource Management Act 1991, imposed a condition on a resource consent in relation to the same development for the same purpose; or
99. Thus, to the extent the Council is seeking a contribution for the same reserve that has already been provided as a result of a condition on the resource consent then the ground is established. We do not consider that the condition

⁵³ Appendix A

has to be on the same resource consent that triggered the DCN. As long as there is a resource consent condition requiring the reserve that is sufficient.

100. The Commissioners are in some difficulty when considering this ground as it applies to the reserve. The DCP is unclear about the status of this reserve and it does not appear to be listed in the items in Schedule 7. It is therefore difficult to say that the vesting of the reserve for free represents double dipping in terms of the development contributions sought.

101. Council's argument is that:

... even if the provision of the subdivision lot could be said to address the need for neighbourhood reserve land in relation to the development, it does not appreciably address the need for neighbourhood reserve land on a wider scale."⁵⁴

102. As noted we are having difficulty with making a determination on this ground given the limitation of information about the reserves requirements in the DCP. In any event, as we have found that ground (a) has been established then we are of the view that providing an ultimate finding on this ground is not necessary. We say this because ground (a) states that the Village residents do not use reserves at the same level as the average Aucklanders. Therefore, if we accept the Council's argument of no double dipping that does not mean a reduction in the DC's for reserves is inappropriate. On the contrary we have found that a reduction is appropriate.

Reserves : Objection under s199D(d)

103. This ground relates to the way in which the Council has applied its DCP. We have no evidence to suggest that Council has incorrectly applied its DCP to the development. In fact the criticism of Ryman's is Council did apply the DCP when it should have considered the particular features of the Village that would have resulted in a special case being made for a departure from the policy.

104. We therefore find that this objection ground has not been established.

Stormwater – general findings

105. We note in relation to stormwater that there was extensive evidence on a range of matters. In our view the issue in the context of a DC objection is relatively simple. Therefore, before turning to consider the grounds as they

⁵⁴ Council Opening Submissions (Updated), paragraph [66]

apply to stormwater there are some factual determinations we need to make in relation to the following:

- (a) What did the resource consent condition require in terms of stormwater mitigation?
- (b) Was the on-site stormwater system built in accordance with the resource consent conditions?
- (c) What is the relevance of the post consent modelling undertaken by Opus for the Council?
- (d) What stormwater projects are listed in Schedule 7 and how are they required by or related to the Village?

Resource consent requirements and compliance

106. Dr Mitchell provided evidence about what was required in relation to stormwater mitigation. In short, Council required hydraulic neutrality by maintaining similar or lower peak discharge flow rates from post-development at the site, when compared to pre-development flows⁵⁵. The conclusion in the decision report for the subdivision consent is that the proposed stormwater system would achieve hydraulic neutrality. This was then followed through into conditions of consent⁵⁶.
107. There were variations made to the subdivision consent that marginally reduced the maximum impervious area and resulted in changes to the condition relating to the stormwater infrastructure⁵⁷. Nothing changed in relation to the requirement for the development to achieve hydraulic neutrality.
108. After some discussion we received confirmation that engineering design approval had been issued for the stormwater works and those works have now vested in Council⁵⁸.
109. We find, therefore, that the stormwater condition of consent required hydraulic neutrality and in issuing engineering approval and allowing the ponds to vest Council has explicitly accepted that the conditions of consent have been complied with. Further, we find that as a result the on-site stormwater system is deemed to achieve hydraulic neutrality. We comment on the relationship and communication between the resource consenting arm of Council and the development contribution assessment arm in our section on "Recommendations" below.

⁵⁵ Rebuttal evidence, paragraph [47]

⁵⁶ Ibid, paragraph [48]

⁵⁷ Ibid, paragraph [53] and [54]

⁵⁸ Certificate of Title information provided during the course of the hearing

Relevance of modelling

110. Ryman's is highly critical of the modelling commissioned by Council on the basis that its findings cannot be applied retrospectively. Additionally, it says, in any event the modelling does not support the proposition that the on-site stormwater system does not achieve hydraulic neutrality.
111. We agree that using the modelling to now say the on-site stormwater system does not achieve hydraulic neutrality is extremely fraught. We say this because there is absolutely nothing Ryman can do retrospectively given the system is built, approved, and is no longer owned by them. We find that the modelling is not relevant to our consideration. In any event we agree with Ryman's that the modelling does not show that hydraulic neutrality is not achieved. As noted by Ms Paice the "*Opus 2017 Study does not show that the infrastructure constructed by Ryman is inadequate to match pre-development flows.*"⁵⁹
112. We find that the modelling is not relevant to our consideration and further even if it were relevant it is not conclusive evidence of the fact that hydraulic neutrality has not been achieved.
113. We now consider if there are any stormwater projects that are required by or related to the Village. To do this we must consider Schedule 7.

Schedule 7

114. Ryman have raised the same issue in relation to Schedule 7 for stormwater as they did for the other activities. In relation to stormwater the lack of projects was particularly problematic because even if we were to find that the Village generated some demand for off-site stormwater projects (in the sense that the stormwater on site does actually leave the site and enter the wider stormwater network) we were unable to find what projects within the catchment of the wider network the development contributions for stormwater were going to fund.
115. We agree with Ryman that Schedule 7 must list each new asset, additional asset, asset of increased capacity or programme of works for which the DC are intended to be used for. We note that in other parts of the region the DCP does provide specific information but such specifics are lacking for this part of the region and particularly in relation to the catchment in which the Village sits. During the presentation of his evidence Mr Iszard referred us to projects in the Catchment Management Plan (**CMP**). Our difficulty with this is that these projects are neither listed nor referenced in Schedule 7. The costs of these projects noted in the CMP are not broken down such that there is an existing

⁵⁹ Dale Paice Rebuttal, paragraph [16]

level of service component and a growth component. As such, we have no way of attributing these projects to this development.

116. We do not consider that these omissions in Schedule 7 are a challenge to the DCP. Rather, we consider, in the context of this Objection, all those omissions do is establish the case for Ryman, namely, that Council cannot convincingly point to any stormwater projects in Schedule 7 that are required by or related to the Village. Therefore, the DCP simply does not have projects in this catchment that it can convincingly point to where the development contributions Ryman are being asked to pay will be used to fund.

Stormwater – findings on specific grounds of objection

117. In relation to s199D(a) the argument is that the provisions of an on-site stormwater system that is hydraulic neutral is a feature that substantially reduces demand on the Council's infrastructure. On face value and in the absence of any cogent evidence to the contrary (ie there being no projects etc in Schedule 7) we find that this ground is established for the reasons outlined above.
118. In relation to s199D(b) this is the most relevant ground for the stormwater works. Council was unable to convincingly point to any projects that were required as a direct result of the Village. Therefore it cannot be said that there are any stormwater projects that are required by or related to the Village.
119. In relation to s199D(c), as noted by Ryman's in Closing:
252. In a hypothetical world, Council would have completed the CMP, identified the land on which strategic infrastructure would be located, and designated and obtained those pieces of land. It would have then built the infrastructure and charged DCs to recoup the costs. That has not happened in this catchment.
253. What has happened is that Ryman provided a stormwater system at the Pukekohe Village designed to achieve "*hydraulic neutrality*" in accordance with the CMP and other relevant planning documents. The stormwater system put in place by Ryman has meant that Council has not been required to undertake or fund those works itself. The wetlands have now vested in Council and are a community asset. Accordingly, Ryman has provided the same assets that DCs would otherwise need to provide for. Council has double dipped by failing to provide a discount or payment for the stormwater system provided by Ryman.
120. We agree with Ryman's assessment and conclude that on the face of it Council appears to be double dipping with regards to the stormwater infrastructure.
121. In relation to the incorrect application of the DCP (s199D(d)) for the reasons set out above we do not find that Council incorrectly applied its policy.

RECOMMENDATIONS

122. Ryman's have encouraged us to make observations about the DCP⁶⁰. We consider it appropriate that we do so.

Observations about the DCP

123. We accept that the 2014 DCP like its predecessor was still grappling with the administrative difficulties of amalgamating the various Auckland local authorities. However, as time moves on from the date of amalgamation in 2009 it can reasonably be expected that the DCP will be improved. This is to ensure that the linkages between the demand created by a development and the projects (in that term's widest sense) that a development contribution is taken and ultimately used for are clear.
124. In the context of this particular development we had extreme difficulties locating the projects (particularly in relation to stormwater) that the development contribution that Ryman was being asked to pay would be used for.
125. In the context of a regime where transparency is key and the principles of equity and fairness are prevalent this is troubling. In addition, the requirement to refund contributions that are not used⁶¹ means Council must clearly identify what contributions have been collected for what community facilities.
126. The Commissioners recommend that the Council reviews Schedule 7 to ensure that it clearly identifies, with sufficient detail, all the community facilities that development contributions are contributing to.
127. In relation to the grouping of activities and whether the Council needs to consider amending the DCP to specifically provide for Ryman we do not recommend this. This is because such a provision would have to be specific to Ryman and this would be inappropriate in the context of a widely applying policy. Rather, we consider the better way of addressing the Ryman context is for the parties to enter into a development agreement that explicitly recognises the different demand profile of Ryman's villages.

Council communication and consistency

128. Ryman were highly critical of Council's lack of engagement on this issue. We do not consider that we need to comment on this matter suffice to say that this type of situation is exactly why Parliament included the development agreement provision in the regime.

⁶⁰ Ryman Closing Submissions, paragraph [280]

⁶¹ s209 LGA

129. In terms of Council consistency as between the resource consent regime and the development contributions regime we consider that in this case some communication between the relevant teams would have been helpful.
130. In accepting the stormwater infrastructure for vesting Council did so on the basis that the CMP requirements (which in turn are the broader regional consenting requirements) were met. This, coupled with the lack of any other stormwater projects in the catchment that the Ryman development contribution would fund, means the Commissioners had no choice but to uphold the Objection. A conversation between the teams may have alerted Council to the issues such that, at least, the stormwater development contribution may have been resolved earlier in the process.

DECISION

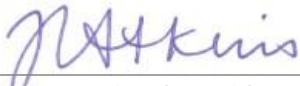
131. It is the decision of the Commissioners that:
- (a) In relation to the objection ground under s199D(a) this is established.
 - (b) In relation to the objection ground under s199D(b) this is established.
 - (c) In relation to the objection ground under s199D(c) no finding is made.
 - (d) In relation to the objection ground under s199D(d) this is not established.
132. In relation to the relief as noted above in paragraph [90] our calculations are slightly different from those set out in the Closing Submissions. We have calculated the amounts by multiplying the HUE's by the dollar amount per HUE. To the extent it is necessary leave is given to the parties to respond on this point if there is a concern with regard to our calculations that may require the issuing of an erratum to this decision.

Activity	Area	HUEs	\$/HUE	D.C. Amount
Open Space Land Acquisition	Auckland Wide	3.2	\$6,858	\$21,945.60
Stormwater	Urban Auckland	0	\$4,058	0
Transport	Mainland	116.3	\$2,109	\$245,276.70
Transport	Auckland Wide	116.3	\$1,411	\$164,099.30

Public transport	Auckland Wide	116.3	\$1,449	\$168,518.70
Community Service Facilities	South	4.3	\$273	\$1,173.90
Community Service Facilities	Auckland Wide	5.3	\$221	\$1,171.30
Local Recreation Facilities	South	4.3	\$949	\$4,080.70
Regional Recreation Facilities	Auckland Wide	4.3	\$126	\$541.80
TOTAL Development Contributions			\$17,454	\$606,808.00

133. We thank the parties for their attendance and contributions.

DATED this 10th day of August 2018



Helen Atkins (Chair)



Greg Shaw



Darrell Statham

APPENDIX 1 – REVISED ANALYSIS TABLES, BASED ON RESEARCH FIRST SURVEYS

Pukekohe Village HUEs for Reserves recalculated

Independent Residents	Council Assumptions / HUE	Ryman Independent Units	Ryman % of Council HUE
Population	2.6	1.3	50.0%
Reserve use per person - survey based	5.0	0.17	3.3%
Total Reserve use per HUE (or Unit per week)	13.1	0.2	1.6%
Pukekohe Village Population (Independent Units)	Rate/Ratio or Charge		
No. of Independent Units	253		
Residents per Unit	1.3		
Total Independent Population	329		
Reserve Use per week per person (Survey)	0.17		
Total Reserve Uses/week for Village	54.6		
Council Reserve visits per HUE	13.1		
Implied Independent HUEs for Pukekohe Village	4.2		

Pukekohe Village HUEs for Community Facilities recalculated

Independent Residents	Council Assumptions / HUE	Ryman Independent Units	Ryman % of Council HUE
Population	2.6	1.30	50.0%
Community Facility use per person - survey based	4.5	0.19	4.2%
Total Facility use per HUE (or Unit per week)	11.6	0.24	2.1%
Pukekohe Village Population (Independent Units)	Rate/Ratio or Charge		
No. of Independent Units	253		
Residents per Unit	1.3		
Total Independent Population	329		
Facility Use per week per person (Survey)	0.19		
Total Com. Facility Uses/week for Village	61.0		
Council Com. Facility visits per HUE	11.6		
Implied Independent HUEs for Pukekohe Village	5.3		

**APPENDIX C – SUMMARY OF INDEPENDENT SURVEYS
COMMISSIONED BY RYMAN (GRAVITAS AND RESEARCH
FIRST)**

The Surveys of Ryman Residents

Carl Davidson, Research First



The Surveys of Ryman Residents

Number of Residents Surveyed



Gravitas: April 2017

Ryman Village	Independent Living	Care Living	Total
Bruce McLaren	102	52	154
Evelyn Page	110	53	163
Total	212	105	317

The Surveys of Ryman Residents

Number of Residents Surveyed



Gravitas: April 2017

Ryman Village	Independent Living	Care Living	Total
Bruce McLaren	102	52	154
Evelyn Page	110	53	163
Total	212	105	317

Research First: August 2017

Ryman Village	Independent Living	Care Living	Total
Bruce McLaren	171	49	220
Grace Joel	79	41	120
Possum Bourne	208	31	239
Total	458	121	579

The Surveys of Ryman Residents

Number of Residents Surveyed



Combined Datasets

Ryman Village	Independent Living	Care Living	Total
Bruce McLaren	273	101	374
Evelyn Page	110	53	163
Grace Joel	79	41	120
Possum Bourne	208	31	239
Total	670	226	896

The Surveys of Ryman Residents

Proportion of Village Population Surveyed: Independent Living Residents



Independent living: Proportion of Village Population (N)

Village	Independent Pop	Number Surveyed	% Surveyed
Bruce McLaren	250	171	68%*
Grace Joel	90	79	88%
Possum Bourne	329	208	63%
Evelyn Page	322	110	34%**

*Lower bound. Assumes perfect overlap between RFL and GS surveys

**Gravitas only

The Surveys of Ryman Residents

Days of Data Collection: Independent Living Residents



Distribution across the week (Combined)

Days of data	N	Person Days
0	3	0
1	292	292
2	174	348
3	74	222
4	23	92
5	9	45
6	5	30
7	90	630
Total	670	1659

The Surveys of Ryman Residents

Data Collected: Independent Living Residents



670 residents surveyed

1659 days of data collection

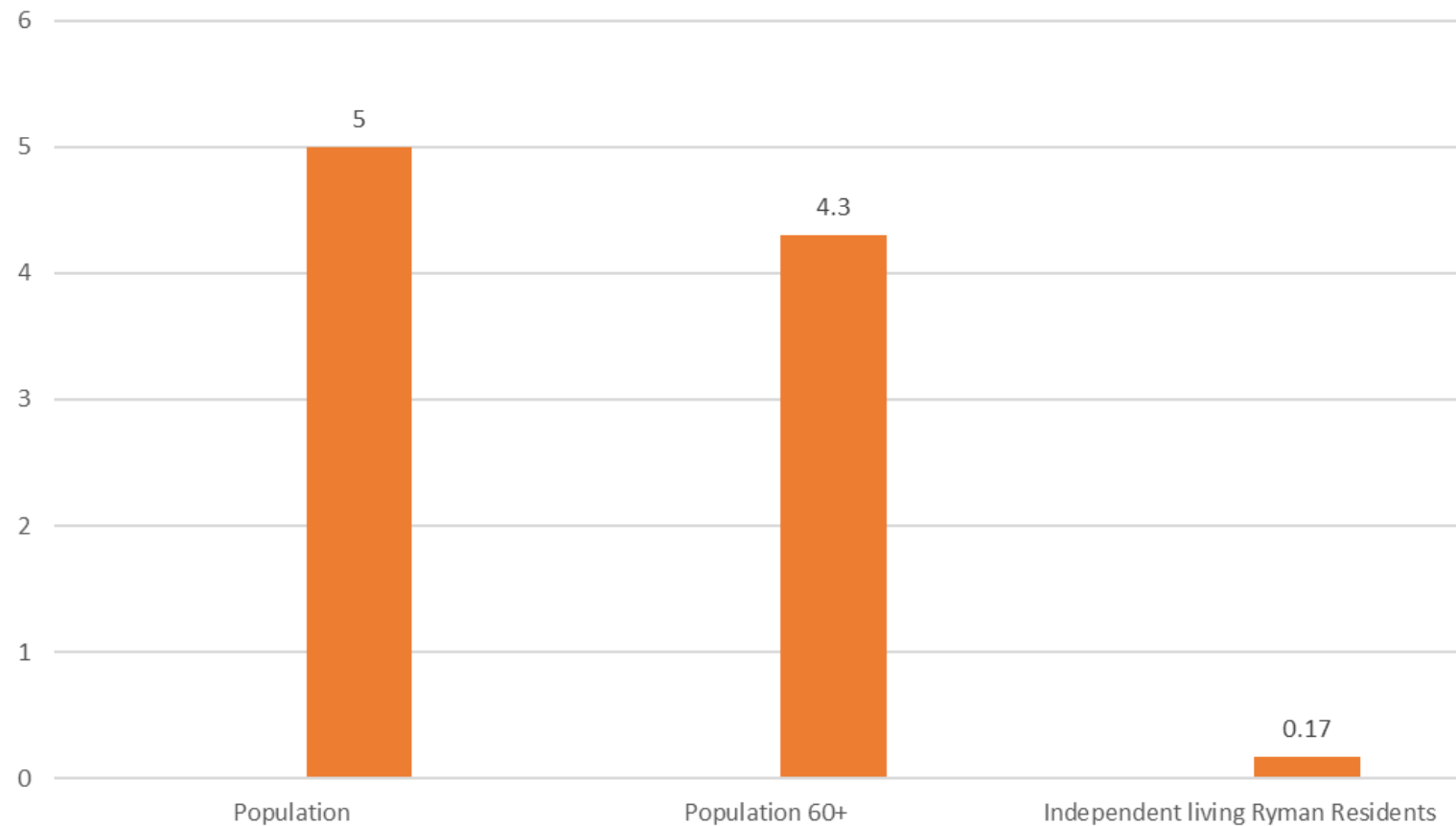
4049 activities collected

The Surveys of Ryman Residents

Comparison of Activity Levels



Weekly Use of Council Reserves



The Surveys of Ryman Residents

Comparison of Activity Levels

