

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)

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

Dated: 29 March 2023

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

Introduction

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

- 8 I have prepared this statement of evidence at the request of the Retirement Villages Association (*RVA*) and Ryman Healthcare Limited (*Ryman*).
- 9 In preparing this statement of evidence, I have reviewed:
- 9.1 The National Policy Statement on Urban Development 2020 (*NPS-UD*);
 - 9.2 The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (*Enabling Housing Act*);
 - 9.3 The City of Lower Hutt District Plan (*District Plan*);
 - 9.4 Proposed Plan Change 56 (*PC56*) of the District Plan;
 - 9.5 The *RVA* and *Ryman*'s submissions and further submissions on *PC56*;
 - 9.6 The relevant sections of the section 32 evaluation of *PC56*;
 - 9.7 The section 42A reports of *PC56*;
 - 9.8 The relevant supplementary statements of evidence prepared on behalf of the Hutt City Council (*Council*);
 - 9.9 The Wellington Regional Policy Statement (*WRPS*); and
 - 9.10 The evidence of Ms Maggie Owens, Mr Matthew Brown, Professor Ngaire Kerse and Mr Greg Akehurst for the *RVA* and *Ryman*.

EXPERT WITNESS CODE OF CONDUCT

- 10 I have read the Environment Court's Code of Conduct for Expert Witnesses contained within the Environment Court Practice Note 2023 and I agree to comply with it. My qualifications as an expert are set out above. I am satisfied that the matters which I address in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

SCOPE OF EVIDENCE

- 11 My evidence will:
- 11.1 For context, provide an overview of the submissions made by the *RVA* and *Ryman*;
 - 11.2 Comment on the overall planning framework that applies to *PC56*, including the requirements under section 32 of the Resource Management Act 1991 (*RMA*) and the relevant

provisions of the NPS-UD, the Enabling Housing Act, the WRPS and the District Plan;

11.3 Comment on the specific planning matters raised in the submissions, and provide my response to the recommendations in the section 42A report; and

11.4 Set out my conclusions.

EXECUTIVE SUMMARY

12 In summary, the submissions by the RVA and Ryman seek to ensure that PC56 provides a planning regime that:

12.1 Recognises and responds to the needs of an ageing population within Hutt City; and

12.2 Adopts provisions that are fit for purpose for the functional and operational characteristics of retirement villages and their residents' housing care needs but which integrate with and rely on the other provisions of the Plan rather than fully 'standing alone'.

13 The submitters are seeking a consistent regime for planning to house an elderly population across New Zealand (including all the 'Tier 1' councils), including in Hutt City. Consistency between councils will better enable common approaches to consent applications to be developed over time and increase efficiency.

14 By way of summary, key aspects of the submissions by the RVA and Ryman, and which I address in my evidence, are as follows:

14.1 The proportion of New Zealanders moving into their retirement years is growing, including in Hutt City. Their accommodation and healthcare needs are therefore also growing. The demand for retirement villages is already outstripping supply and the population aged 75+ is forecasted to more than double up to 833,000 people nationally by 2048.¹ As identified below, the wider Wellington region is one of the fastest growing areas in the country. The ageing population in Hutt City and how the planning framework responds to that is therefore considered to be a key issue in this hearing process.

14.2 More specifically, the RVA and Ryman consider, and I agree, that the notified planning regime does not adequately provide for retirement villages. Although retirement villages are a subset of multi-unit residential activity, and therefore generally fit under the Medium Density Residential Standards

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

(MDRS) category of “four or more” residential units, the proposed provisions of the MDRS do not acknowledge or provide for the distinguishing features of retirement villages or the different specialist units and amenities within them, particularly well. Therefore, the RVA and Ryman have used the MDRS as a “base case” for the relief they seek but have adapted it to ensure it accounts for the unique needs and features of retirement villages and their residents.

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

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

- 16 However, retirement villages are not typical residential developments, and it is important that the specific needs of elderly people that reside in these villages are recognised and provided for via a bespoke and nuanced planning regime.²
- 17 Further, I consider it appropriate that the objectives and policies of PC56 provide specific direction as to the different housing typologies that may be necessary to support different demographics – which includes retirement villages and an understanding of their functional and operational needs. These provisions would sit alongside and be read together with other objectives and policies which seek to manage effects.
- 18 Likewise, I consider that the land use component of a retirement village (the activity of retirement living) should be provided for as a permitted activity in the same manner as other residential activities in PC56 (e.g. home occupations, visitor accommodation, and childcare facilities).³ This approach would avoid potential debate about whether retirement villages are an appropriate land use in residential areas of the City. The construction of retirement village buildings should however, be assessed as a restricted discretionary activity consistent with other multi-unit residential proposals.
- 19 The specific amendments that I consider necessary (noting that these provisions are in some cases specific to retirement villages but also have general application) are to:

² See also the statement of evidence of Dr Kerse, for example at [9].

³ Rules 4F 4.1.2 and 4G 4.1.2, Rules 4F 4.1.3 and 4G 4.1.3, and Rules 4F 4.1.4 and 4G 4.1.4 respectively, District Plan.

19.1 Amend the District Plan's existing 'retirement village' definition to the definition included in the National Planning Standards 2019;⁴

19.2 Insert a new 'retirement unit' definition;

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

19.3 Insert four new policies within each of the Medium Density Residential Activity Area (MDRAA) and High Density Residential Activity Area (HDRAA) sections:

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

Provide for a diverse range of housing and care options that are suitable for the particular needs and characteristics of older persons in the [Insert Zone], such as retirement villages.

Recognise the functional and operational needs of retirement villages, including that they:

- May require greater density than the planned urban built character to enable efficient provision of services.
- Have unique layout and internal amenity needs to cater for the requirements of residents as they age.

[Insert Zone]-PX: Larger sites

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

[Insert Zone]-PX: Role of density standards

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

[Insert Zone]-PX: Changing communities

To provide for the diverse and changing residential needs of communities, recognise that the existing character and

⁴ RVA Submission, pages 26-27.

amenity of the residential zones will change over time to enable a variety of housing types with a mix of densities.

- 19.4 Include a new 'ageing population' objective within the *MDRAA and HDRAA*:

RESZ-OX Ageing population

Recognise and enable the housing and care needs of the ageing population.

- 19.5 Insert three new policies within both the Central Commercial Activity Area (*CCAA*) and Petone Commercial Activity Area (*PCAA*) (collectively referred to as the *Commercial Areas*) and the Suburban Mixed Use Activity Area (*SMAA*) – being the 'larger sites', 'role of density standards' and 'changing communities' policies;
- 19.6 Insert a permitted activity for the use of land for a retirement village; and
- 19.7 Insert a restricted discretionary activity rule for the construction of retirement village buildings in the *MDRAA*, *HDRAA* and *PCAA*, with specific matters of discretion limited to managing the external effects of a village on the wider environment as follows:⁵

1. The effects arising from exceeding any of the following standards: Rule 4F 4.2.1, Rule 4F 4.2.2, Rule 4F 4.2.3, Rule 4F 4.2.4, Rule 4F 4.2.6, Rule 4F 4.2.11, Rule 4F 4.2.12 and Rule 4F 4.2.13;

2. The effects of the retirement village on the safety of adjacent streets or public open spaces;

3. The extent to which articulation, modulation and materiality addresses adverse visual dominance effects associated with building length;

4. The effects arising from the quality of the interface between the retirement village and adjacent streets or public open spaces;

5. When assessing the matters in 1 – 4, consider:

a. The need to provide for efficient use of larger sites; and

b. The functional and operational needs of the retirement village.

⁵ RVA Submission, pages 39 and 40.

6. The positive effects of the construction, development and use of the retirement village.

For clarity, no other rules or matters of discretion relating to the effects of density apply to buildings for a retirement village.

- 20 The RVA and Ryman also seek a number of amendments to the notification clauses, matters of discretion (including the removal of any reference to the Medium Density Design Guide when in relation to retirement villages), and built form standards as set out in their original submissions.
- 21 While the section 42A report acknowledges several of the RVA and Ryman submission points in principle, including suggesting amendments to objectives to make their intended outcomes clearer, the report recommends rejecting the majority of the RVA and Ryman's submission points. This is largely based on the erroneous premise that the submissions are legally out of scope (which Ryman and the RVA will address separately in legal submissions) and that the inclusion of the proposed new rule framework specific to retirement villages would require other comparable activities to have their own suite of provisions, resulting in unnecessary complexity and length to the District Plan.
- 22 The analysis in the section 32 report for PC56 contains very little detail on the housing needs and requirements of the ageing population; the local retirement village context; or costs, benefits and the effects of retirement villages. I reiterate that the demand for retirement village accommodation is outstripping supply in many areas of the country, including Hutt City. Responding to the issues associated with the ageing population and provision of suitable housing and care for this demographic is critical to ensuring the wellbeing of people and communities in Hutt City in accordance with Objective 1 of the Enabling Housing Act. In that respect, I consider the section 32 report is misaligned with the NPS-UD, particularly Objective 1, which includes a clear directive for more density in a way that provides for a mix of housing opportunities for all ages and stages.
- 23 The Reporting Officers also seem to misunderstand both the nature of retirement villages and the RVA's proposed planning regime. In that regard, the evidence of Dr Kerse has set out how older people have particular residential needs that differ from the general population. Mr Brown and Ms Owens have also outlined the unique characteristics of retirement villages and how they are different from typical residential developments.
- 24 Overall, the submissions by the RVA and Ryman are seeking to ensure that PC56 provides a consistent and enabling regulatory framework for the establishment of retirement villages within Hutt City, through acknowledgement that retirement villages are a

legitimate residential use that can be developed in an appropriate manner within suitable residential, commercial and mixed-use zones.

OVERVIEW OF SUBMISSIONS BY THE RVA AND RYMAN

- 25 As explained in the evidence of Ms Owens for the RVA, Mr Brown for Ryman and Dr Kerse, rapidly changing demographics are resulting in major pressures on social and health services for older New Zealanders, including the provision of housing. The evidence explains in detail the wider Wellington region's ageing population. Put simply, the population of people living in Hutt City over the age of 65 is continuing to increase and is projected to continue to increase through to 2031 and beyond. As Ms Owens' and Dr Kerse's evidence notes, the 75+ age bracket is a particularly vulnerable demographic due to relative frailty and the increase of heightened care needs. The demand for retirement living and a range of care options, including dementia care and assisted living options, is growing.
- 26 In my experience, there are a number of challenges in finding suitable sites for the development of new retirement villages given the size of the sites that are typically required (which generally need to provide a range of living and care options, as well as on-site amenities), and the desire of prospective residents to remain close to their families and existing communities. Ms Owens and Mr Brown also note this issue in their evidence.
- 27 A key overarching point raised in the submissions by the RVA and Ryman is that PC56 does not adequately address the needs of the retirement village sector in Hutt City. Both submissions seek that the Plan provides a more nuanced planning framework to enable the establishment of retirement villages, particularly in Hutt City's residential areas and in appropriate commercial and mixed use areas. In this regard, the requested relief sought acknowledgement that retirement villages are residential activities which contribute to a diversity of housing typologies in residential areas (this is consistent with Objective 1 of the NPS-UD, as set out further below). The submission also sought that PC56 enables a range of residential developments of varying scales.
- 28 In my opinion, responding to the specific issues associated with an ageing population and the provision of suitable housing to meet the needs of elderly residents is critical. Suitable provision for this specific type of housing needs to be made within residential, commercial and mixed use areas within Hutt City. This outcome will also ensure the social, economic, and cultural wellbeing of people and communities in the wider Wellington region in accordance with Objective 1 of the Enabling Housing Act.⁶

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

- 29 The requirements of the NPS-UD and the Enabling Housing Act have, in my opinion, fundamentally altered the expectations for development in and around the residential and commercial zones, particularly in Tier 1 local authorities and the wider Wellington region. There are significantly greater expectations for bulk and density in residential zones, and an associated recognition of the consequential changes of neighbourhood character and private residential amenity. I explain this further below.

THE PLANNING FRAMEWORK

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

- 30 The NPS-UD directs local authorities to enable greater land supply for urban development. It also directs that planning is responsive to changes in demand, while also seeking to ensure that new development capacity enabled by local authorities is of a form and in locations that meet the diverse needs of communities and encourages well-functioning, livable urban environments. It also requires local authorities to remove overly restrictive rules that affect urban development outcomes in cities.⁷
- 31 In my opinion, the section 42A report has given insufficient consideration to the following explicit directives of the NPS-UD when assessing the merits of the submissions by the RVA and Ryman:
- 31.1 Planning decisions ensure that urban environments provide for the needs of all demographics in the community, including by enabling a variety of dwelling types and price points;⁸
 - 31.2 Planning decisions improve housing affordability by supporting competitive land and development markets;⁹
 - 31.3 Policy Statements and District Plans within Tier 1 urban environments enable intensification in areas where there is a high demand for housing, and with building heights of up to 6 storeys in certain circumstances;¹⁰ and
 - 31.4 Urban environments, including their amenity values, will develop and change over time in response to the diverse and changing needs of people and communities, and future generations.¹¹

⁷ Objectives 1, 3 and 6 and Policies 1, 2, 3 and 5 of the NPS-UD.

⁸ Objective 1 and Policy 1 of the NPS-UD.

⁹ Objective 2 of the NPS-UD.

¹⁰ Objective 3 and Policy 3 of the NPS-UD.

¹¹ Objective 4 and Policy 6 of the NPS-UD.

- 32 The clear intent of the NPS-UD is to be enabling of both business and residential development in urban environments through the provision of opportunity, choice, variety and flexibility of land supply for housing, subject to maintaining an appropriate level of residential amenity.¹² As I discuss later in my evidence, I consider PC56 needs to expressly recognise the diversity of housing stock that will be needed in residential, commercial and mixed use areas of Hutt City in order to fulfil the intent of the NPS-UD.
- 33 The Enabling Housing Act directs¹³ the incorporation of medium density residential standards for Tier 1 local authorities through Schedule 3A of the RMA. It also requires that a variety of housing types and sizes are provided for, which respond to housing needs and demand and the neighbourhood's planned urban built character (including 3-storey buildings).¹⁴
- 34 The Enabling Housing Act has also altered the scale / scope of residential development that can occur as a permitted activity in a medium density residential zone.¹⁵ These new provisions essentially narrow the consideration of density effects in relation to on-site amenity and effects on the surrounding environment (when compared to existing district plans).
- 35 From a planning perspective, the clear direction is that the built form of Hutt City will need to change in order to provide for the housing demands of a range of demographics. In my opinion, PC56 needs to be amended to clearly reflect this and in particular to have proper regard to the specific evolving housing needs of our ageing population.

Wellington Regional Policy Statement

- 36 PC56 is required to give effect to the WRPS.
- 37 The section 42A report¹⁶ notes that Wellington Regional Council notified Plan Change 1 (PC1) on 19 August 2022, with the purpose of implementing and supporting the NPS-UD and the National Policy Statement for Freshwater Management 2020.
- 38 The operative WRPS includes objectives and policies relating to maintaining and enhancing a compact, well designed and sustainable regional form¹⁷, identifying that housing design and

¹² Objective 3 and Policies 1 and 3 of the NPS-UD.

¹³ Section 77G, Enabling Housing Act.

¹⁴ Objective 4 and Policy 1 of the NPS-UD.

¹⁵ Schedule 3A, Enabling Housing Act.

¹⁶ Paragraphs 75 – 80, Section 42A Report: Plan Change 56 - Council Officers' Planning Evidence (7 March 2023).

¹⁷ Objective 22, WRPS.

quality of housing developments can have a significant role in improving housing choice and affordability.

- 39 PC1 introduces new objectives and policies to the WRPS to enable urban development (including housing and infrastructure) to ensure housing intensification and improve housing affordability and housing choice. As outlined in the PC1 section 32 report, the outcome sought is to enable greater flexibility and choice in housing which will better meet people's needs and lifestyle preferences in line with the MDRS provisions. This clearly aligns with the NPS-UD.
- 40 In assessing the merits of submissions on PC56, the Reporting Officers state that PC1 is at an early stage of the Schedule 1 process, and that many of the submissions received challenge the provisions of the proposed WRPS / PC1. The Reporting Officers therefore consider that the provisions of the proposed WRPS / PC1 should be given minimal weight until it has progressed further through the Schedule 1 process. Given that the key aspects of PC1 are aligned with the requirements of the NPS-UD it is my view that some considerable guidance can in fact be taken from it, including its provision for:

40.1 A compact urban form including a range of housing;¹⁸ and

40.2 Addressing housing affordability, including the enabling of intensification.¹⁹

City of Lower Hutt District Plan

- 41 The Operative District Plan provides for retirement villages as a 'restricted discretionary' activity in relevant residential zones.²⁰ This planning approach has been carried through into PC56. Although the term 'retirement village' is defined in the District Plan, this definition differs from that contained within the National Planning Standards 2019 and is at odds with the definitions contained in district plans for most other 'Tier 1' urban environments.
- 42 Retirement village development has evolved considerably in recent years. The directives within the NPS-UD now require an even greater focus on residential intensification. In my opinion, the existing approach adopted within the District Plan with respect to retirement villages will not properly achieve the requirements of the NPS-UD and the Enabling Housing Act. Instead, I hold the view that a more nuanced planning framework for retirement villages is necessary, as summarised below.

¹⁸ Objective 22, Policy 31 and 55, WRPS.

¹⁹ Objective 22, Policy 31 & 55 and Policy UD 3 PC1, WRPS.

²⁰ Rule 4F 4.1.7 and Rule 4G 4.1.7, District Plan.

SPECIFIC PROVISION FOR RETIREMENT VILLAGES IN PC56

- 43 As detailed in the RVA and Ryman submissions, retirement villages are different from typical residential dwellings and therefore do not necessarily fit in with the typical controls imposed on residential developments. In that regard, I agree with the RVA and Ryman submissions that the provision of fit for purpose District Plan provisions for retirement villages is required which should include:
- 43.1 A definition for retirement villages which is aligned with the National Planning Standards;
 - 43.2 Appropriate retirement village activity status within zones where such activities are likely to occur;
 - 43.3 Identified matters of discretion; and
 - 43.4 Clear, targeted and appropriate development standards to guide the notification and planning assessment of retirement village developments.
- 44 While I acknowledge that there are some elements in common with medium density residential development, retirement villages are fundamentally different from typical medium density housing developments for the following main reasons:
- 44.1 Retirement villages provide most, if not all, of the required resident amenities on-site without the need for external community infrastructure and open spaces;
 - 44.2 Retirement village buildings and layouts are carefully designed with resident needs in mind. In many modern retirement villages, there is often a central building that contains accommodation for people that need higher levels of care and a range of communal village amenities. Access to that building for other village residents must be convenient, safe and sheltered from the weather. This central building can often be bulkier and of a different height to surrounding residential activities which reflects these specific functional and operational requirements;
 - 44.3 Unit types vary from relatively typical independent townhouses or apartments, through to serviced care suites, hospital care beds and areas for people with dementia. The size and amenity requirements of these units vary substantially from more typical housing typologies;
 - 44.4 Older residents have a lesser degree of interaction with the surrounding neighbourhood on a day-to-day basis compared to those of a conventional residential apartment or residential subdivision. This is because the majority of retirement village residents are generally far less mobile and therefore have

significantly reduced traffic generation requirements and access to public transport infrastructure and parking;²¹

- 44.5 Because of the frailty and vulnerability of elderly people, retirement villages need to be safe and secure. In practice, that means having restricted access and, as a general proposition, not having public roads running through the sites; and
- 44.6 Data collected over many years shows that retirement villages place lesser demand on the water, wastewater and transport networks than typical housing, noting that these systems are always comprehensively designed on-site to cater for the required demand. Use of council facilities such as parks and libraries by residents is also very low.
- 45 The above factors mean that retirement villages are generally large format activities, which have a different look and feel to standard housing. Applying conventional planning approaches used for standard housing to retirement villages has, in my experience, led to substantial consenting issues.
- 46 I agree with the RVA and Ryman submissions that retirement villages should be recognised as their own bespoke activity within the residential umbrella of activities, and they should have an activity-specific policy and rule framework (noting that the regime does not fully 'standalone'. Objectives and policies which guide the assessment of effects from built form would still be relevant).
- 47 I note that within the section 42A report there is a broad contention that the submissions by the RVA and Ryman are out of scope²² and that introducing a new rule framework specific to retirement villages would add unnecessary length²³ to the Plan chapters. To me, that approach appears to be a significant driver for why the section 42A report has recommended the rejection of many of the Ryman and RVA submissions.
- 48 While legal submissions will respond to the question of scope, from a planning perspective, I consider that the specific policy and rule framework proposed is needed to give effect to the directive in the NPS-UD policies and Enabling Housing Act. The length of the Plan is not the issue. The key point is to ensure that the provisions are efficient and effective. This cannot be achieved by applying a 'one-size-fits-all' approach to all residential activities. This approach will lead to uncertainty and delays during consenting. It is important

²¹ See the statements of evidence of Dr Kerse and Ms Owens.

²² Section 5.2 and Paragraph 214 - Council Officers' Section 42A Report.

²³ Paragraphs 452 and 515 - Council Officers' Section 42A Report.

that the Plan clearly articulates the needs of the community and the different expectations for retirement villages.

- 49 In my opinion, there is no doubt that retirement villages are a residential activity, and in that respect, I consider that the RVA and Ryman submissions are entirely within the scope of PC56. Retirement villages as a residential activity have been accepted by most other councils I have been involved with throughout New Zealand. Furthermore, it is clear to me, from the definition of retirement villages contained in the National Planning Standards 2019 that they are a residential activity:

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

- 50 I note the reference in the definition to various ancillary or complementary facilities and amenities, the important point being that these need to be "for the residents within the complex".²⁴
- 51 In my opinion PC56 provides an opportunity for the Council to address matters to better enable all people and the community to provide for their social, economic and cultural wellbeing and in particular the health and safety of older people.²⁵ Moreover, it provides the opportunity to improve housing affordability,²⁶ including for older people. Suitably targeted Plan provisions will assist to enable older people to continue to reside in the communities they helped to build, close to family and established social contacts.
- 52 I will now set out the specific recommendations I consider necessary to give appropriate effect to the NPS-UD.

CHAPTER 1.10 – AREA WIDE ISSUES

- 53 By way of overview, the District Plan and PC56 are structured such that broad strategic objectives and policies in relation to urban form are provided in Chapter 1.10, with a more detailed framework provided in the area specific chapters.

RVA / Ryman Submissions

- 54 The RVA and Ryman filed several submission points relating to area wide issues, specifically those provisions relating to the urban

²⁴ RVA submission at [69], and the statement of evidence of Dr Kerse at [36] and [99].

²⁵ NPS-UD, Objective 1.

²⁶ Objective 2.

environment, amenity values, and residential and commercial activity.²⁷ Most of these submissions were generally supportive of the objective and policy framework to the extent they reflect the NPS-UD and MDRS. Those submissions not in support generally sought to provide greater clarity to the District Plan and to ensure closer alignment with the NPS-UD. This includes a submission by the RVA and Ryman which sought to amend Policy 1.10.3.1(a) to acknowledge the built form standards in the HDRAA should be more enabling than the MDRS.

- 55 Additionally, the RVA sought to include a new objective under each of the residential activity and commercial activity sections that better recognises and provides for the unique characteristics of retirement village developments and their residents:

"Ageing population

Recognise and enable the housing and care needs of the ageing population."

- 56 Chapter 1.10 of the District Plan (which has also been carried over into PC56) contains an explanation and reasons section relevant to the listed objectives and policies. The RVA and Ryman suggested the explanation and reasons sections be deleted as it has no clear role and increases interpretation uncertainties where it is inconsistent with operative provisions. The RVA and Ryman consider that, instead, this information should be integrated into the operative provisions.

Section 42A Report

- 57 The Reporting Officers have recommended accepting the proposed amendment to Policy 1.10.3.1(a) to acknowledge the built form standards in the HDRAA and recommended a potential rewording of the policy to reflect this.
- 58 The Reporting Officers did not agree with the RVA's suggested new objective and policy amendments and considered those changes would be better suited to area specific chapters.²⁸

Response

- 59 I do not agree with the Reporting Officer's recommendation to reject the suggested new objective under the residential activity and commercial activity sections of Chapter 1.10. The proposed addition provides clear strategic direction to better recognise the growing need to provide for the housing and care needs of the ageing population. This need is highlighted in the evidence of Ms Owens, Dr Kerse and Mr Brown. From this evidence it is clear that demand for retirement accommodation and aged care is often outstripping supply. In addition, there are many social and physical constraints

²⁷ Sections 10.1A, 10.2, 10.3 and 10.4 of the District Plan respectively.

²⁸ Paragraph 365 – Council Officers' Section 42A Report.

and needs that are unique to older people, which require the provision of specialist housing and care.

- 60 The provision for housing an ageing population should be a key feature of the District Plan, particularly in light of the requirements of the NPS-UD to provide for and enable housing for all populations. As a result, I hold the opinion that the suggested objective should be included within Chapter 1.10 of the Plan as has been requested by the RVA and Ryman.

CHAPTER 3 – DEFINITIONS

RVA / Ryman Submissions

- 61 As identified earlier, the RVA and Ryman sought to amend the existing District Plan definition for 'retirement village' so that it aligns with the definition contained within the National Planning Standards, and sought the insertion of a new definition of 'retirement unit'. The proposed 'retirement unit' definition was developed as a subset of the "residential dwelling" definition in the MDRS. It is required to support or be consequential on the MDRS and acknowledges the differences from typical residential units in terms of layout and amenity needs. It ensures efficient implementation of the MDRS for retirement villages is achieved by resolving potential interpretation issues on whether retirement villages fit within the MDRS, which I address further below. Mr Brown and Ms Owens set out the features of retirement units that differ from typical dwellings, including that some units in retirement villages are designed for higher care and do not have the likes of kitchens.

Section 42A Report

- 62 The Reporting Officers have recommended the rejection of the inclusion of these definitions, stating "*These definitions are not part of PC56 as notified, therefore these submission points are outside the scope of the plan change.*"²⁹

Response

- 63 I am somewhat perplexed by this view. At a general level, it is common for submissions on plan changes to suggest the insertion of new matters. The fact that the provision was not included in the notified version of the plan change does not mean that the matter is out of scope. As stated above, the National Planning Standards include a definition of retirement village. This definition has found its way into most other 'Tier 1' Council Plans. PC56 provides the Council with an excellent opportunity to bring the Hutt City Plan into alignment with the National Planning Standards in this respect.
- 64 In addition, I consider that the unique characteristics of a retirement unit need to be recognised through a separate definition. If such a definition is not provided, I anticipate consenting complexities will

²⁹ Paragraph 214 – Council Officers' Section 42A Report.

arise because 'retirement units' will likely fall into the definition of 'residential unit' which will result in standard residential unit performance standards being applied at the time a retirement village is assessed for consenting purposes. My experience in other jurisdictions has shown that this leads to considerable consenting complexity and inefficiency as planning staff attempt to shoehorn standard residential standards into a retirement village proposal, many of which are not at all suited to the needs of the residents that will ultimately reside in the village.

- 65 Nor do I agree with the Reporting Officers that this matter can be deferred to the future district plan review. PC56 is the appropriate time for the Council to provide for residential intensification for the City's older residents and in doing so, the inclusion of the requested definitions will meet the Councils obligations under the NPS-UD, particularly Objective 1.
- 66 Accordingly, I support the inclusion of the 'retirement unit' definition³⁰ and the National Planning Standards 'retirement village' definition³¹ as proposed by the RVA and Ryman.

OBJECTIVES AND POLICIES - CHAPTERS 4 AND 5 – RESIDENTIAL AND COMMERCIAL AREAS

Introductory Statements

RVA / Ryman Submissions

- 67 The RVA and Ryman submission sought changes to the introductory text for the Residential Chapter, and zone statements for the MDRAA and HDRAA in order to provide specific reference to retirement villages in order to signal that they are compatible and appropriate activities in those areas.

Section 42A Report

- 68 The Reporting Officers have recommended that these submission points be rejected stating that "*it is not recommended that specific reference to retirement villages be added to [each] section. For consistency and fairness, this would require the Plan to list all other potentially compatible and appropriate activities, which adds unnecessary length to the section and increases the risk that a particular activity may be erroneously missed.*"³²

Response

- 69 I do not agree with the Reporting Officers reasoning on this matter. The NPS-UD and Enabling Housing Act makes it very clear that there is a need to provide for a variety of housing types for all people within the community and, as stated above, the length of the Plan is not the issue. The provision of retirement villages to meet the needs

³⁰ RVA submission, page 27.

³¹ Ibid.

³² Paragraphs 402 and 452 – Council Officers' Section 42A Report.

of New Zealand's ageing population is particularly important for the reasons outlined in the evidence of Dr Kerse, Ms Owens and Mr Brown (particularly the growing need for specialist housing for the ageing population). In my opinion, the relevant introductory provisions can and should be sufficiently nuanced to recognise the importance of the specific housing needs for this important part of the community as applying a 'one-size-fits-all' approach to all residential activities will lead to uncertainty and delays during consenting.

Objectives and Policies

RVA / Ryman Submissions

- 70 The RVA and Ryman submissions sought amendments to various objectives and policies for the MDRAA, HDRAA, commercial areas and the mixed use area to better recognise and provide for the functional and operational needs of retirement villages. In particular, the RVA and Ryman sought changes to:
- 70.1 Objective 4F 2.3A so that planned urban character within these areas can provide for development at a density higher than that required under the MDRS; and
 - 70.2 Objective 5E 2.4 and Policy 4G 3.3 to recognise that the character and amenity of neighbourhoods may change to cater for the diverse and changing needs of the community as directed by Policy 6 of the NPS-UD.
- 71 The submission by the RVA and Ryman also sought to explicitly exclude retirement villages from policies relating to outdoor living space and amenity³³ given the unique layout and amenity needs of retirement villages that are different to that of typical residential activities (such as individual homes). The RVA and Ryman also requested deletion of Policy 4G 3.13 relating to stormwater provision as this is in addition to policies under the MDRS, and amendment to Policy 4G 3.14 which seeks that developments be hydraulically neutral in all cases.
- 72 The submissions also sought to:
- 72.1 Insert four new policies into the MDRAA and HDRAA - being the 'Provision of housing for an ageing population', 'Larger sites', 'Role of density standards', and 'changing communities' policies;³⁴
 - 72.2 Include a new 'ageing population' objective³⁵ within the MDRAA and HDRAA; and

³³ Policy 4F 3.2C, 4F 3.2D, 4G 2.4, 4G 3.1, 4G 3.6 and 4G 3.7.

³⁴ RVA submission, pages 36, 36, 32, and 35, respectively.

³⁵ Page 33.

72.3 Insert three new policies within each of the commercial areas and the mixed use area – being the 'large sites', 'role of density standards' and 'changing communities' policies.

Section 42A Report

- 73 The Reporting Officers have recommended the rejection of the inclusion of retirement village specific policies within the District Plan for the reasons noted above.
- 74 The Reporting Officers have also recommended rejecting the specific exclusion of retirement villages from policies relating to outdoor living space and amenity on the basis these matters are still relevant and important for inhabitants of retirement villages.³⁶ A similar recommendation has been made to the proposed stormwater related policy amendments on the basis that the policy is deliberately intended to strengthen policy support for stormwater neutrality for projects that require resource consent.³⁷
- 75 The Reporting Officers also stated that "*amending the objective [4F 2.3A] to enable high density runs counter to the intent and outcomes of the zone as a medium density area*" and recommended rejecting the requested RVA and Ryman amendment.³⁸ The Reporting Officers considered the objectives and policies as currently drafted appropriately cover the matters relating to 6 storey development and amenity, indicating that the suggested RVA and Ryman submission in relation to Objective 5E 2.4 and Policy 4G 3.3 would make the intent of the policy less clear.³⁹

Response

- 76 I agree with the RVA and Ryman submissions and consider that as currently drafted, the objectives and policies within PC56 do not provide adequate flexibility and enablement of retirement villages, nor do they recognise or address the unique features of these housing types.
- 77 As stated earlier, it is important in my view that the changes proposed under PC56 align with the NPS-UD and Enabling Housing Act. The inclusion of specific policies to provide for a diverse range of housing and care options that are suitable for the particular needs and characteristics of older persons and recognise that retirement villages have different functional and operational needs than conventional housing types better enables the achievement of key objectives within the NPS-UD.

³⁶ Paragraphs 415, 416, 428, 432, 435 and 436 – Council Officers' Section 42A Report.

³⁷ Paragraphs 442 and 443 – Council Officers' Section 42A Report.

³⁸ Paragraph 409 – Council Officers' Section 42A Report.

³⁹ Paragraph 434 – Council Officers' Section 42A Report.

- 78 In my view, the proposed new policies appropriately recognise the functional and operational needs of retirement villages (through more enabling language such as 'provide for' and 'may require') and provide for a variety of housing types for all people.⁴⁰
- 79 I also consider that the inclusion of the proposed policies in the MDRAA, HDRAA, commercial areas and the mixed use area, including the 'larger sites' policy, would provide a much clearer and stronger policy framework (with greater vertical integration between plan provisions) for retirement villages in the District Plan. This will better enable the efficient use of the larger sites that the likes of Ryman and other members of the RVA often need to utilise. It will also assist to reduce complications at the consenting process (for example, in relation to standards prescribing the maximum number of dwellings permitted on a site, which are often infringed due to the larger retirement village sites when compared to typical residential development).
- 80 Likewise, I disagree with the section 42A report recommendations regarding the 'changing communities' policy and consider the addition of the policy in the MDRAA, HDRAA, commercial areas and the mixed use area would provide a useful and clear link to the NPS-UD requirements. Furthermore, I do not consider that the policies as notified adequately align with the directives of Policy 6 of the NPS-UD and Policy 5 of the Enabling Housing Act (particularly as the policies as notified still make reference to maintaining and enhancing amenity values), being:
- 80.1 That housing intensification may detract from amenity values and are not of themselves an adverse effect;⁴¹ and
- 80.2 Provide for development not meeting permitted activity status, while encouraging high quality development.⁴²
- 81 In summary, the objectives and policies that have been proposed by the RVA and Ryman do not seek to exempt retirement villages from the remaining objectives and policy frameworks. Instead, they are designed to provide specific provision in addition to other policies, for the enablement of retirement villages, to support the rules and standards to be clearly applied. The regime overall adopts a clearer, more proportionate, and less restrictive approach than the Council version to enable the better delivery of a specialist housing type for a part of the population that has pressing and sizable development capacity needs. This aligns with the NPS-UD and Enabling Housing Act.

⁴⁰ Policy 1 of the NPS-UD.

⁴¹ Policy 6 of the NPS-UD.

⁴² Schedule 3A, cl 6(2)(e), Policy 5, Enabling Housing Act.

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

- 82 The submissions sought a number of amendments to the rules, notification clauses and matters for discretion within the MDRAA, HDRAA, commercial areas and the mixed use area.
- 83 The key aspects of the submission points related to:
- 83.1 The establishment of a permitted activity for the use of land for a retirement village;
 - 83.2 A restricted discretionary activity rule for the construction of retirement village buildings in residential zones;
 - 83.3 The inclusion of specific matters of discretion limited to managing the external effects of a village on the wider environment.⁴³ This includes removal of references to the Medium Density Design Guide in relation to retirement villages in the MDRAA and HDRAA that infringe relevant development standards; and
 - 83.4 A presumption of non-notification for retirement villages that meet the relevant building controls.

Section 42A Report

- 84 The section 42A Reporting Officers recommended rejection of a specific rule framework for retirement villages, including the permitted activity status for retirement villages as a land use and restricted discretionary activity status related to their construction. The Reporting Officers state that *"it is not recommended that specific provision be made for retirement villages in these chapters. For consistency and fairness, this would require the Plan to list all other potentially comparable activities with their own suite of provisions, which adds unnecessary length to the section and increases the risk that a particular activity may be erroneously missed. In addition, as the approach from the Operative District Plan has been carried over for retirement village activities, amendments to the approach are considered out of scope. The submission points relating to this matter are therefore recommended to be rejected."*⁴⁴
- 85 The Reporting Officers were supportive of precluding public and limited notification requirements where the effects are unlikely to result in any effects beyond the boundary of the site, with many of these preclusions being included in PC56 from the MDRS standards.
- 86 As set out throughout the section 42A report, the Reporting Officers consider the design guide is better addressed as part of the full

⁴³ RVA submission, pages 39 and 40.

⁴⁴ Paragraph 452 – Council Officers' Section 42A Report.

District Plan review, where revisions to rule structure and content can be looked at as a whole for consistency across the Plan.⁴⁵

Response – MDRAA and HDRAA

- 87 PC56 already provides some rules for the MDRAA and HDRAA that distinguish between land use activities (i.e. home occupations, visitor accommodation, and childcare facilities), and the buildings comprising that activity.⁴⁶ PC56 currently provides for retirement villages (as a land use) as a restricted discretionary activity,⁴⁷ with the construction of these defaulted to a restricted discretionary activity⁴⁸ given most will involve the construction of “four or more residential units”.
- 88 Noting the above, I disagree with the Reporting Officers⁴⁹ concerns regarding the inclusion of activity specific rules and performance standards relating to retirement villages in the MDRAA and HDRAA provisions. As I have set out above, PC56 already includes some activity specific provisions, and therefore, specific provisioning for retirement villages is not inconsistent with that approach.
- 89 I agree with the RVA and Ryman submissions that retirement villages should be provided for as a bespoke residential activity and as a permitted activity (without unrealistic and unachievable standards). In addition, I agree with the insertion of a new activity for the construction of retirement village buildings as a “restricted discretionary” activity with specific and tailored matters for discretion that ensures that effects associated with the scale, design and layout of the development can be appropriately managed.
- 90 In my opinion, the Plan should view the act of residing in a retirement village as an expected, conventional residential “living” arrangement within the MDRAA and HDRAA. I accept however that there is a distinction to be made between the residential use of retirement villages and the effects of the physical structures associated with constructing them. For this reason I support restricted discretionary activity status for the construction related activities.
- 91 By adopting this approach, consent applications would then focus on the effects of the built form through the restricted discretionary activity status for the construction of these buildings. The matters of discretion set out in the submission are, in my assessment,

⁴⁵ Paragraphs 154 - 157 – Council Officers’ Section 42A Report.

⁴⁶ Rules 4F 4.1.2 and 4G 4.1.2, Rules 4F 4.1.3 and 4G 4.1.3, and Rules 4F 4.1.4 and 4G 4.1.4 respectively, District Plan.

⁴⁷ Rule 4F 4.1.7 and Rule 4G 4.1.7, District Plan.

⁴⁸ Rule 4F 4.2.1AA

⁴⁹ Paragraph 402 and 406 – Council Officers’ Section 42A Report.

suitable for appropriately managing the potential effects of retirement village development on the wider environment.

- 92 In my view there is no effects-based reason to support the default application of a more restrictive activity classification for the land use activity of retirement villages. I consider that retirement villages are an appropriate and necessary activity within residential areas.
- 93 The evidence of Ms Owens and Mr Brown clearly indicates why retirement villages are different to that of typical residential development, and therefore, do not necessarily fit in with the typical controls imposed on residential developments. Given this, I also agree with the RVA and Ryman submission that the Medium Density Design Guide currently included in the matters of discretion for retirement villages for PC56 are not appropriate for retirement village development. These guidelines have been prepared in relation to more typical residential development and are at odds with many of the MDRS provisions, as indicated in **Appendix A**. I therefore agree that reference to these guidelines in relation to retirement villages should be deleted from PC56.
- 94 In order to simplify the plan process with respect to retirement village development, and to better align with the directives of the NPS-UD and Enabling Housing Act, I consider it necessary to recognise and provide for retirement villages under their own activity status with tailored matters of discretion, with presumptions for notification specifically related to these activities and aligned with the MDRS regime. I support the amendments included within the RVA's and Ryman's submissions.

Response – Commercial Activity Areas and Mixed Use Area

- 95 The Reporting Officers also recommended rejecting the inclusion of a permitted activity rule within the commercial areas and the mixed use area, and on that basis, rejected the RVA and Ryman submission on this matter.
- 96 I agree with the submissions of the RVA and Ryman that the Enabling Housing Act is not limited to residential zones. It is my understanding that councils are also required to ensure district plans provide for intensification within urban non-residential zones. More particularly, Policy 3 of the NPS-UD seeks to enable residential intensification in centre zones and walkable catchments within all Tier 1 urban environments. The NPS-UD therefore changes the way that centre and commercial zones are to provide for residential activities, by enabling housing for all people (including the ageing population) in both residential and centre / commercial zones to a far greater extent than previously provided for in the District Plan.
- 97 Given the directives of the NPS-UD, it can be reasonably expected that residential activity will occupy a larger proportion of centre and commercial zones compared to that experienced historically. I

consider the RVA and Ryman proposed amendments provide a clear consenting pathway for retirement villages as residential activities with the proposed matters of discretion, which in my opinion is suitable for appropriately managing the potential effects of retirement village development on the wider environment. In that respect, the suggested RVA and Ryman provisions are, in my opinion, more aligned with the Enabling Housing Act and the NPS-UD directives.

Development Standards
RVA / Ryman Submissions

- 98 The RVA and Ryman submitted on various development standards for the MDRAA and HDRAA as notified. The RVA and Ryman were generally in support of the notified standards where they reflect the MDRS,⁵⁰ and sought to delete those standards which were not reflective of the MDRS.⁵¹ The RVA and Ryman submission considered that the notified matters of discretion relating to these development standards are not appropriate for retirement villages, in particular, because Council will be principally guided by its Medium Density Design Guide which relates to typical residential development and include guidance which is inconsistent with the MDRS (refer **Appendix A**). In that respect, the RVA and Ryman sought that the retirement village specific matters of discretion (as outlined in paragraph 83 of this statement of evidence) apply instead. The RVA and Ryman also sought to include consequential provisions for retirement villages as a result of the inclusion of the 'retirement unit' definition.

Section 42A Report

- 99 The Reporting Officers have recommended rejecting these amendments on the basis that the Operative District Plan provisions have been carried over for retirement village activities and as such, the amendments sought are considered out of scope.⁵²

Response

- 100 As I have set out earlier in this evidence, the evidence by Mr Brown and Ms Owens highlights the unique characteristics of retirement villages and how they are different from typical residential developments. This consequently requires a different set of development standards to that of typical residential development. I therefore consider the amendments by the RVA and Ryman

⁵⁰ Rule 4F 4.2.1AA and 4G 4.2.1 (number of residential units per site), Rule 4F 4.2.1 and 4G 4.2.2 (building coverage), Rule 4F 4.2.2 and 4G 4.2.3 (building height), Rule 4F 4.2.3 and 4G 4.2.4 (height in relation to boundary), Rule 4F 4.2.4 and 4G 4.2.5 (setbacks), Rule 4F 4.2.6 and 4G 4.2.8 (outdoor living space), Rule 4F 4.2.11 and 4G 4.2.13 (outlook space), Rule 4F 4.2.12 and 4G 4.2.14 (windows to street), and Rule 4F 4.2.13 and 4G 4.2.15 (landscaped area), District Plan.

⁵¹ Rule 4F 4.2.5 and Rule 4G 4.2.7 (permeable surface standards), Rule 4F 4.2.8 and 4G 4.2.10 (screening and storage), Rule 4F 4.2.10 and 4G 4.2.12 (stormwater retention), District Plan.

⁵² Paragraph 470 – Council Officers' Section 42A Report.

appropriately recognise that retirement villages have different functional and operational needs than conventional housing types, better enables the achievement of key objectives within the NPS-UD and should therefore be adopted in this case.

- 101 I agree with the Ryman and RVA submission that the design guides are not fit for purpose for retirement villages as they seek to restrict and control the built form including the location of garages, accesses on large sites and limiting design to fit within the local context, which are more suited to typical residential developments. Further, in my view, a better balance between enabling retirement village development and “encouraging” high quality built form as required by policy 5 of the Enabling Housing Act, is more likely to be achieved with the regime proposed by the RVA and Ryman.
- 102 Section 32AA analysis is included in **Appendix B**.

CHAPTER 12 – FINANCIAL CONTRIBUTIONS

RVA / Ryman Submissions

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

Section 42A Report

- 104 The section 42A report writer has recommended that the changes sought by the RVA and Ryman are rejected as they:
- 104.1 Do not consider there is ‘double dipping’ or overlap between the development contributions and financial contribution regimes;
- 104.2 The costs of works undertaken as part of development would be considered under the various rules for financial contributions; and
- 104.3 The financial contributions rules do not have different rules or requirements for different types of residential activity. There can be a variety of different types of retirement villages, and therefore distinguishing the demand on public infrastructure and assets would be challenging.⁵³
- 105 The Reporting Officers indicated that the RVA and Ryman may wish to provide further evidence at the hearing regarding their recommended amendments to the financial contribution approach for retirement villages.

⁵³ Paragraph 904 and 905 – Council Officers’ Section 42A Report.

Response

- 106 I do not agree with the section 42A report writer, as the imposition of financial contributions as part of PC56 does not provide certainty on the financial contributions that will be required to be paid. In addition, the RVA and Ryman seek to ensure the calculation methodology within PC56 takes into account the cost of works undertaken as part of any development.
- 107 The RVA and Ryman also seek the provision of a retirement village-specific regime that takes into account their substantially lower demand profile compared to standard residential developments. As explained in more detail by Mr Akehurst, there are compelling reasons for a different approach to calculating financial contributions for retirement villages because:
- 107.1 Many of the retirement village residents are significantly older than the general retired population and are mobility impaired. To ensure quality of life and access to appropriate amenities for this type of resident, retirement villages provide a wide range of social and recreational amenities within each village. The combination of these factors means very low demand for council recreation and community facilities and reserves. The demand is substantially lower than an average residential user. Independent residents may place some demand on community infrastructure but residents in care place little to no demand.
- 107.2 These reduced activity levels are reflected in significantly reduced traffic volumes generated by the villages overall and on a per retirement unit basis. Residents are making far fewer trips to access; parks, reserves, sports fields and recreational facilities of any sort than the average person. In addition, they make far fewer trips to eat out, shop and attend concerts, cinemas and museums than the average person. Traffic movements are generally off peak.
- 107.3 Finally, due to the nature and age of the residents, their consumption of water and generation of wastewater is also significantly reduced on a per capita basis. Due to commercial kitchens and laundries in retirement villages, many of the residents do not cook their own meals or use their own washing machines.
- 108 Lastly, both the RVA and Ryman have been involved in the development contribution regime of local government under the Local Government Act 2002 for many years and I have provided independent advice in those processes. Based on my experiences I consider that the potential for 'double dipping' has the very real potential to result in further arbitration, therefore adding further complexity to the consenting process for retirement villages.

- 109 For the reasons set out above, I agree with the RVA and Ryman submissions and consider the financial contribution provisions of the District Plan should be amended to provide a retirement village specific regime.

CHAPTER 14 – GENERAL RULES - WIND

- 110 By way of overview, PC56 includes a new section to Chapter 14 General rules of the District Plan - 14M Wind.

RVA / Ryman Submissions

- 111 The RVA and Ryman submissions sought to amend Objective 14M 1.1 so provisions relating to pedestrian comfort in key commercial centre locations are removed and the objective only covers issues of safety. This specifically involved deleting subclause (b) and (c) relating to 'providing comfortable wind conditions for pedestrians' and 'protecting the wind environment from gradual degradation' and amendment to subclause (a) so that the requirement to improve existing unsafe wind conditions should only apply where 'practicable'. Amendments were also sought to Rule 14M 1.1 to align the height thresholds with the height standards in each zone and amend the matters of discretion in 14M 2.1.2 to limit them to the wind safety effects of the building height exceedance, and not the effects of the historic development.⁵⁴

Section 42A Report

- 112 The section 42A report writer considered that PC56 as proposed sets an appropriate split in standard between comfort and safety, and that it is always appropriate to protect people's health and safety, with this being a requirement of section 5 of the RMA.⁵⁵ The Reporting Officers also indicated that protecting pedestrian comfort is an existing and reasonable amenity goal, and that identification of the locations where this should apply may require further investigation with any subsequent amendments at the full district plan review stage.⁵⁶ In addition, the Reporting Officers indicated that, based on technical advice received in relation to PC56, buildings less than 12 metres in height can produce dangerous wind speeds.⁵⁷ The Reporting Officer did not comment on the matters of discretion.
- 113 On the basis that safety, comfort and amenity is an existing and reasonable expectation in Hutt City, the Reporting Officers recommended to retain the wind chapter of the District plan as notified.⁵⁸

⁵⁴ RVA submission, pages 92 and 93.

⁵⁵ Paragraph 954 – Council Officers' Section 42A Report.

⁵⁶ Paragraph 957 – Council Officers' Section 42A Report.

⁵⁷ Paragraph 961 – Council Officers' Section 42A Report.

⁵⁸ Paragraph 965 – Council Officers' Section 42A Report.

Response

- 114 I disagree with the Reporting Officers and consider the currently drafted provisions in the wind chapter would unnecessarily restrict development through requiring superfluous assessment which would not necessarily lead to improved safety and amenity outcomes for Hutt City. I therefore consider that the amendments suggested by the RVA and Ryman would streamline the resource consenting process, in alignment with the NPS-UD and MDRS, without comprising the RMA requirements, specifically, protecting people's health and safety.⁵⁹

CONCLUSION

- 115 Hutt City's ageing population is increasing the demand for medium to high density housing options. This is particularly evident in the demand being experienced by Ryman for its retirement village developments (as well as other members of the RVA).
- 116 As noted within this evidence, the submissions by the RVA and Ryman on PC56 are seeking to ensure that the District Plan provides a consistent and enabling regulatory framework for the establishment of retirement villages within the MDRAA, HDRAA and the commercial and mixed use activity areas of Hutt City.
- 117 In my opinion, the relevant residential areas (MDRAA and HDRAA), commercial areas and mixed use area, require amendments to acknowledge that retirement villages are a legitimate residential use that need to locate in such areas in order to ensure that the elderly population stay connected to their existing communities and social infrastructure. The rule framework proposed by the RVA and Ryman acknowledges that retirement villages are an appropriate and legitimate use of residentially and commercially zoned land, by including retirement villages (that is of the same or similar scale as other forms of residential development) as permitted activities with the construction of the villages being managed through a restricted discretionary activity. This framework would provide a consistent approach throughout the country to ensure efficient, clear and appropriately focused assessments of effects and consenting of retirement villages.
- 118 Overall, I agree with the submission by the RVA and Ryman that further amendments to PC56 are warranted in order to provide a planning framework that appropriately gives effect to the NPS-UD, responds to the retirement housing and care shortage, and is consistent with the approach adopted within neighbouring districts.

Dr Philip Mitchell

29 March 2023

⁵⁹ RVA submission, pages 92 and 93.

APPENDIX A

Examples of overly restrictive provisions/guidance in light of the permissive and enabling NPS-UD and Enabling House Act context and/or which are not applicable in the context of a retirement village development	
Medium Density Residential Design Guide	Comments
<p>3.1 – Building Height</p> <p>Design Opportunities:</p> <p>Shading may be reduced by setbacks or modulation of the top storey.</p> <p>Adding roof details like gables, dormer windows, balconies or parapets create visual interest and can make roof space useable without a great increase in height or effects on privacy or shading.</p> <p>Mitigate effects on amenity of the adjoining residential areas, the streetscape and adjoining public space by modulating the building frontage.</p> <p>Reduce privacy effects on adjoining properties by using high windows or placing any accessways between the building and neighbours to increase the physical distance between buildings.</p> <p>If on a corner site, additional height may be looked upon favourably if it emphasizes the corner and creates a landmark / focal point.</p> <p>Accessways can provide a buffer to adjoining properties.</p>	<p>The guidance is overly prescriptive, inconsistent with, and imposes greater restrictions than the MDRS. It includes diagrams to demonstrate how the guidance can be achieved, which when read in combination, could be open to interpretation by parties.</p> <p>The MDRS does not include provisions relating to visual interest (gables building frontage, window design etc).</p>
<p>3.2 Recession Planes and Setbacks (Distance from Boundary)</p> <p>Design Opportunities:</p> <p>Look at ways to minimise shading effects on neighbouring properties by modulating the built form or setting back buildings from the boundary.</p>	<p>The guidance is overly prescriptive and inconsistent with the MDRS. The guidance may not be suitable in the retirement village context, which requires multiple structures in a single development. Many modern retirement villages also often have a central building</p>

<p>Minimise effects on amenity of the adjoining residential areas, the streetscape and adjoining public space by varying the built form and avoiding long, linear walls.</p> <p>No recession plane to road boundaries provides the opportunity to build higher up to the street edge.</p> <p>Design and locate verandahs, balconies and windows to avoid overlooking adjacent outdoor living areas of existing residential developments.</p>	<p>that contains accommodation for people that need higher care and a range of communal village amenities.</p> <p>This central building can often be bulkier and of a different height to surrounding residential activities to enable these functional and operational requirements.</p>
<p>3.3 Indoor and Outdoor Living Spaces</p> <p>Provide outdoor living spaces that are directly accessible from an indoor living area to which they relate and ideally face north, west or east to receive direct sunlight.</p> <p>Design Opportunities:</p> <p>Direct access is provided from living areas to the north facing outdoor living space.</p> <p>If not located on the ground floor, the outdoor living space is provided as a balcony or roof terrace.</p> <p>Privacy between units should be maintained with screening. Balconies should be set back to prevent views into adjoining dwellings.</p> <p>A mix of hard and soft landscape materials provides variety.</p> <p>Tree and landscape planting should be incorporated into the landscape design and set back to prevent views back into adjoining dwellings.</p> <p>Open style fencing is provided where a yard opens out onto a reserve or a communal open space.</p>	<p>The guidance is overly prescriptive and inconsistent with the MDRS. The guidance may not be suitable in the retirement village context. Retirement villages provide most, if not all, of the required resident amenities on-site without the need for external community infrastructure and open spaces.</p>
<p>3.4 Open Space Design and Boundary Treatments</p> <p>Connect well to open space to provide high levels of amenity.</p> <p>Design Opportunities:</p>	<p>The guidance is overly prescriptive and inconsistent with the MDRS. The guidance may not be suitable in the retirement village context, which provides specialised outdoor living spaces within the complex</p>

<p>Open style fencing should surround a public/communal open space to provide security to residents while maintaining natural surveillance over the space.</p> <p>Solid fencing can be appropriate where privacy is required for outdoor living areas and to screen views into dwellings.</p> <p>Centrally located communal outdoor space with a high level of natural surveillance from adjoining properties provides excellent amenity.</p> <p>Lockable gates improve connectivity, encouraging properties to access the reserve/open space directly.</p> <p>A mix of hard and soft landscape materials provides amenity while minimising large areas of hardstand.</p>	<p>which are especially for residents', designed with safety in mind.</p>
<p>3.5 Entrances, Carparking and Garages</p> <p>Strong relationships with the street. Reduce the visual dominance of vehicle parking and garaging.</p> <p>Design Opportunities:</p> <p>Front entrance doors located in front of the garage door are easier for pedestrians and visitors to find.</p> <p>Decorative paving and saw cuts to break up large expanses of concrete or asphalt and guide pedestrian movements.</p> <p>Tree and landscape planting should be provided.</p> <p>The use of natural material such as timber and finer grain detailing assist with providing visual interest and reduce monotony.</p> <p>Service bins should be screened from sight, either by location or a 1.2m high fence.</p> <p>Multiple, wide vehicle crossings in close proximity to each other should be avoided as they reduce the potential for on-street parking or street trees.</p>	<p>The guidance is overly prescriptive and inconsistent with the MDRS. The guidance may not be suitable in the retirement village context, which provides designated parking spaces for residents' within the complex. Additionally, many residents' do not require private motor vehicles or carparking given their age and wellbeing will not allow it.</p>

<p>3.6 On Site Stormwater Management</p> <p>Design Opportunities:</p> <p>Living roofs to capture rainfall - 80/150kg/m² substrate based green roof.</p> <p>Capture of rainfall from hard surfaces into rainwater storage tanks on the roof or on the ground.</p> <p>Rain gardens.</p> <p>Hanging gardens on the front edge of balconies - runoff from hard surfaces directed into the beds before continuing down to the discharge point.</p> <p>Swale (planter) running along the property boundary.</p> <p>Permeable pavers for the driveway and carpark area (400m²) (the paver has a flowrate of no less than 30l/s/m²).</p>	<p>Retirement villages have lower stormwater requirements (per capita) compared to single residential developments, with stormwater attenuation developed on a case by case basis. The guidance provided is overly prescriptive.</p>
<p>3.7 End/side Wall Treatment</p> <p>Avoid large blank walls which give the appearance of an unfinished development.</p> <p>Design Opportunities:</p> <p>Windows in the end wall provide natural surveillance over the adjoining space.</p> <p>Doors leading out into the side yard allow the space to be a usable outdoor living area.</p> <p>A pergola provides visual interest and modulation as well as shade and shelter.</p> <p>A material change assists with reducing the visual mass of an end wall.</p> <p>The outside space provides additional amenity to residents and adds value to the house.</p>	<p>The guidance is overly prescriptive and inconsistent with the MDRS. The guidance may not be suitable in the retirement village context.</p>

<p>3.9 Bike Parking, Storage and Service Areas</p> <p>Bike parking, storage and service areas should be readily accessible, functional and screened.</p>	<p>The guidance is overly prescriptive and not suitable for the unique retirement village context, where not all residents will cycle or use active mobility due to the frequency of mobility constraints.</p>
<p>3.11 Landscaping</p> <p>Landscape materials (surfacing, letterboxes, seats, fencing) and planting, developed as part of low impact design solutions outlined earlier, should be low maintenance but of a quality and style which enhance the amenity of a development. They should be designed to integrate with the building development and site layout so that the site is used efficiently. Retaining existing vegetation, especially large trees, can give a development a sense of establishment and character.</p> <p>The appearance of extensive paved or hardstand areas can be improved by adding detailing, material changes or different finish treatments such as honing or decorative saw cuts. Detailing can also be used to delineate car parking areas to avoid painted white lines.</p> <p>Planting can be used to delineate property boundaries, giving a softer, more aesthetically pleasing appearance than a solid timber fence. Open fencing should be used where fencing is required but privacy is not an issue.</p> <p>Suitably sized trees should be incorporated, including large trees where possible. Trees provide significant amenity and privacy.</p>	<p>The guidance is overly prescriptive and inconsistent with the MDRS.</p>

APPENDIX B

Section 32AA Evaluation

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

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

<p>The specific provisions recommended to be amended are:</p> <ul style="list-style-type: none">• Amend the existing 'retirement village' definition to the definition included in the National Planning Standards 2019;• Insert a new definition for 'retirement unit';• Insert four new policies into each of the Medium Density Residential Activity Area and High Density Residential Activity Area (MDR-PX Provision of housing for an ageing population, RES-PX Larger Sites, MRZ-PX Role of density standards and RESZ-PX Changing Communities); and• Insert three new policies within each of the Central Commercial Activity Area, Petone Commercial Activity Area, and the Suburban Mixed Use Activity Area (being the 'larger sites', 'role of density standards' and 'changing communities' policies). <p><u>'Retirement Village' - a managed comprehensive residential complex or facilities used to provide residential accommodation for people who are retired and any spouses or partners of such people. It may also include any of the following for residents within the complex: recreation, leisure, supported residential care, welfare</u></p>	<p>Effectiveness and Efficiency</p> <p>The recommended new definition, and policies within the Residential, Commercial, and Mixed Use zones, fill a critical gap in the policy regime of Proposed Plan Change 56 associated with actively providing support for the ageing population in Lower Hutt City and the provision for retirement villages. It is considered that including a retirement unit definition and the four new policies appropriately recognises the acute needs for the ageing population and will more appropriately achieve the efficient use of land and patterns of development which are compatible with the role, function and predominant planned character of each particular zone.</p> <p>Costs/Benefits</p> <p>The recommended amendments enable retirement village development to occur within the Medium and High Density Residential Activity Areas, and each of the Central Commercial Activity Area, Petone Commercial Activity Area, and the Suburban Mixed Use Activity Area, in line with the direction of the NPS-UD and Enabling Housing Act. This will have benefit in encouraging residential redevelopment and intensification to support the outcomes expressed in both the PC56 and NPS-UD. It will encourage quality design outcomes for retirement villages. It will provide addition population within residential zones which will contribute to great economic support in Lower Hutt City and provide employment.</p> <p>Risk of acting or not acting</p> <p>I consider that the appropriateness of adopting the relief sought must be considered in the context of the direction set out in the higher order policy documents, and in particular the NPS-UD and the Housing Enabling Act, which provide a significant step change in meeting the needs of</p>
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and medical facilities (inclusive of hospital care) and other non-residential activities.

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

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

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

[Insert Zone] – PX: Larger sites

Recognise the intensification opportunities provided by larger sites within all residential zones by providing for more efficient use of those sites.

[Insert Zone] – PX: Changing communities.

To provide for the diverse and changing residential needs of communities, recognise that the existing character and

communities, including providing a variety of homes for a range of households.

The NPS-UD seeks to enable growth by requiring local authorities to provide development capacity to meet the demands of communities, address overly restrictive rules, and encourage quality, liveable urban environments. It also aims to provide growth that is strategically planned and results in vibrant cities. In my opinion, the relief sought by the RVA and Ryman will be more in line with the outcomes expressed in the NPS-UD.

The risk of not acting and council not giving effect to the changes sought by the RVA and Ryman, is that intensification or redevelopment options are not taken up or are unnecessarily prevented from occurring.

amenity of the residential zones will change over time to enable a variety of housing types with a mix of densities.

[Insert Zone] – PX: Role of density standards

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