

Before the Independent Hearings Panel

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

in the matter of: The Joint Opening Hearing in relation to Plan Change 12 to the Hamilton City Plan, Plan Change 26 to the Waipā District Plan and Variation 3 to the Waikato District Plan

and: **Ryman Healthcare Limited**

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

Statement of Evidence of **John Clifford Kyle** on behalf of Ryman Healthcare Limited and the Retirement Villages Association of New Zealand Incorporated (Planning)

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**STATEMENT OF EVIDENCE OF JOHN CLIFFORD KYLE ON BEHALF OF
RETIREMENT VILLAGES ASSOCIATION OF NEW ZEALAND
INCORPORATED AND RYMAN HEALTHCARE LIMITED**

INTRODUCTION

- 1 My full name is John Clifford Kyle.
- 2 I hold an honours degree in Regional Planning from Massey University, which I obtained in 1987. I am a founding Director in the consulting practice Mitchell Daysh Limited and am based in the firm's Dunedin office.
- 3 I have been engaged in the field of resource and environmental management for more than 35 years. My experience includes a wide range of resource management work, in respect of regional and district plans, designations, resource consents, environmental management, and environmental effects assessment. This includes extensive experience with large-scale, and often nationally significant projects involving inputs from a multidisciplinary team. My work regularly takes me all over New Zealand and I have significant experience in resource management issues associated with retirement villages. I appeared on behalf of both Ryman and the RVA in the Auckland Unitary Plan and Christchurch Replacement District Plan, where retirement village planning provisions was a key topic and resulting in bespoke provisions being inserted in both Plans.
- 4 I have prepared this statement of evidence at the request of the Retirement Village Association (RVA) and Ryman Healthcare Limited (Ryman).
- 5 In preparing this evidence I have reviewed the:
 - 5.1 Submissions and further submissions on behalf of the RVA and Ryman;¹
 - 5.2 Section 42A report – Themes and Issues Report, dated 15 December 2022 (*Section 42A Report*);
 - 5.3 National Policy Statement on Urban Development 2020 (*NPSUD*); and

¹ Ryman Submitter ID's: Waikato – Submitter 108; Waipā – Submitter 70; and Hamilton – Submitter 294.

RVA Submitter ID's: Waikato – Submitter 107; Waipā – Submitter 73; and Hamilton – Submitter 330.

5.4 The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act (*Enabling Housing Act*).

6 I am familiar with the Intensification Planning Instruments (*IPI*) for each local authority to which these proceedings relate which comprise PC12 for Hamilton City Council, PC26 for Waipā District Council and Variation 3 for Waikato District Council (*Councils, Districts*), and which collectively I refer to as the "District Plans".

EXPERT WITNESS CODE OF CONDUCT

7 I have read the Environment Court's Code of Conduct for Expert Witnesses and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed 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

8 My evidence will:

8.1 Provide a high-level overview of the submissions by the RVA and Ryman and the need, from a planning perspective, to provide for a range of accommodation and care options for the ageing populations in the Waikato, Waipā, and Hamilton districts;

8.2 Comment on the five key themes that have been identified within Council's Section 42A Report and highlight the matters relevant and any matters relative to the submissions of the RVA and Ryman;

8.3 Address the matters of relevance for the specific themes and issues raised for each Council which will be addressed at the substantive hearings; and

8.4 Set out my conclusions.

9 My evidence should be read alongside the RVA and Ryman's original submissions made to each of the local authorities.

EXECUTIVE SUMMARY/OVERVIEW

10 The submissions by the RVA and Ryman seek to ensure that the District Plans provide a consistent and enabling regulatory framework, which responds to the needs of an ageing population, within the Waikato, Waipā and Hamilton City districts.

- 11 To assist the Panel, key aspects of the submissions by the RVA and Ryman, and which I address in my evidence, are as follows:
- 11.1 The proportion of New Zealanders moving into their retirement years is growing, including in these three Tier 1 Districts. Their accommodation and healthcare needs are therefore also growing. However, demand for retirement villages is outstripping supply. The population aged 75+ is forecasted to more than double up to 833,000 people nationally by 2048.² As identified below, these three Districts are some of the fastest growing districts in the country. The ageing population in the Waikato region and how the planning framework responds to that is therefore considered to be a key issue in this hearing process.
- 11.2 The submitters seek to ensure that the Council planning regimes are consistent with the requirements and expectations of the NPSUD and the Enabling Housing Act and its medium density residential standards (*MDRS*). They consider there are many aspects of the notified plan regimes that go beyond those requirements and expectations leading to overregulation or insufficiently clear regulation. Thus, conformity with national direction and the Enabling Housing Act is also considered to be a key issue in this hearing process.
- 11.3 Turning to specifics, the RVA and Ryman consider that the notified planning regimes do not adequately provide for retirement villages - and that that is a key issue identified in their submissions. Retirement villages are a specialist subset of multi-unit residential activity and therefore generally fit under the *MDRS* category of "four or more" residential units. However, the *MDRS*, with their focus on typical "residential units", do not provide for retirement villages and the different specialist units and amenities in them particularly well. The RVA and Ryman have thus used the *MDRS* as a base for the relief they seek and adapted them to ensure they appropriately account for the unique needs and features of retirement villages and their residents.
- 12 Additionally, I note that the RVA and Ryman are seeking the same or very similar relief in all other Tier 1 councils' District Plans with a view to achieving much greater national consistency. Therefore, consistency is also a key issue. It is important given the

² Jones Lang LaSalle, NZ Retirement Villages and Aged Care Whitepaper, June 2021, page 7.

management of retirement villages across New Zealand is currently widely inconsistent, leading to delays and uncertainty in the consent process.

- 13 Ultimately, the provisions sought by the RVA and Ryman provide a comprehensive planning response – both for the ageing population and the industry that will deliver much of what is needed to house and care for that the ageing population.

OVERVIEW OF THE RVA AND RYMAN

- 14 For the purposes of the evidence that follows, and to further assist the Panel, I note my understanding that the RVA is a voluntary industry organisation that represents the interests of the owners, developers and managers of registered retirement villages throughout New Zealand. The key role of this group is to represent the interests of retirement village owners, developers and managers to government, to develop operating standards for the day-to-day management of retirement villages and protect their resident's wellbeing. I also understand that the RVA's submission has wide support from its members.
- 15 As the RVA and Ryman note, New Zealand has an increasing ageing population and demand for retirement villages is outstripping supply. The population of residents across the Waikato region over the age of 65 is continuing to increase and is projected to continue to increase through to 2031 and beyond. Moreover, the Hamilton, Waikato and Waipā Districts are some of the fastest growing districts in the country.³ In Hamilton for example, there are currently 14 retirement villages (3 of which are currently expanding) which are home to around 2,136 residents. Given the growth in the 75+ demographic⁴ it is estimated in the RVA and Ryman submissions that a number of new villages will be needed.
- 16 Based on this information and statistics provided within the RVA's and Ryman's submissions, it is evident from a planning perspective that there is a need for district planning frameworks across the Waikato region to enable the important residential activities provided by retirement villages. In my experience, a key barrier to meeting the increasing demand for retirement living is the timeframes associated with consenting these types of developments.

³ Statistics New Zealand, Subnational Population Estimates at 30 June 2021 (provisional).

⁴ Statistics New Zealand, Population Projections.

- 17 Given all the above, PC 12, Variation 3 and PC 26 represent key opportunities to expedite the consenting of retirement living proposals, in a way that draws on the requirements of the NPS-UD and the Enabling Housing Act.
- 18 The RVA's and Ryman's submissions indicate that many of New Zealand's older residents are currently living in unsuitable accommodation, which in this context, can mean a couple or a single person living in a large house that is expensive and difficult to maintain and heat properly, has barriers to mobility such as stairs, has poor accessibility, or cannot be easily maintained. Unsuitable accommodation could also include housing that is of such a distance from key services and amenities that it limits their access to their community and care needs.
- 19 In this context, it is important to note that retirement villages have a different new-build pattern than the rest of the country's new build housing stock which is largely made up of three or more bedroom dwellings with a median floor area of 180m² in 2019.⁵ In my opinion, it is important that the District Plans provide for the diverse range of retirement accommodation and aged care facilities required to meet the needs of the country's growing elderly population along with bespoke amenities that are provided to meet their specific needs.
- 20 In my opinion, a key issue with many existing district plans is that they do not explicitly recognise that retirement villages are a bespoke residential activity. This has led to confusion when submitters argue that retirement villages are not "residential" activities and should not be located in residential areas, or that they are too high or intense for the relevant zone. Councils have also sought to impose design requirements for typical housing models on retirement villages, without appreciating the different functional, layout and operational needs of retirement villages and their residents.

COMMON AND SPECIFIC THEMES FOR THE THREE LOCAL AUTHORITIES

- 21 The following sections of my evidence focus on the five key themes identified by the Section 42A Report, which are:
- 21.1 Fundamental Opposition to, or Support for Intensification;
- 21.2 Application of NPS-UD Policy 3;

⁵ Statistics New Zealand, 12 February 2020.

21.3 Identification of Qualifying Matters;

21.4 Transport / Carparking; and

21.5 Out of Scope Matters.

- 22 In addition to the above key themes, it is noted within the Section 42A Report that each Council has identified a number of key themes specific to each Council. These issues range from financial contributions through to infrastructure capacity and three waters requirements. The Section 42A Report notes that submissions associated with these Council-specific themes will be heard at the later substantive hearings for each relevant authority where separate Section 42A Reports will be produced prior to these hearings, to cover these themes and issues in more depth.
- 23 Therefore, these issues will be more thoroughly assessed and evaluated in my evidence at the substantive hearings for each Council. In the meantime, I have made general comments in paragraphs 35 and 36 of this evidence in relation to some of these relevant themes.

THEME 1: FUNDAMENTAL OPPOSITION TO OR SUPPORT FOR INTENSIFICATION

- 24 The Section 42A Report states that the key factor for the IHP to consider in their decision making on this issue is in relation to the powers provided to them under Section 77I of the Resource Management Act 1991 (*RMA*). Section 77I provides scope to amend the MDRS for building heights and densities to be less enabling of development only to the extent necessary to accommodate one or more of the qualifying matters listed in Section 77I.
- 25 I agree that the application of Section 77I is a key factor, however, an additional nuance in the RVA's and Ryman's submissions is whether the plans are sufficiently enabling of intensification. Their submissions are particularly focussed on whether intensification for the particular needs of the ageing population has been appropriately provided for and enabled.
- 26 In my opinion, Objective 1 of the NPS-UD specifically recognises the need for well-functioning urban environments that enable all people and communities to provide for their social, economic and cultural wellbeing, health and safety. Policy 1 also refers to well-functioning urban environments which means enabling a "variety of homes" to meet the "needs... of different households". The Panel will therefore need to consider the extent to which these and other NPS-UD policies require District Plans to specifically respond to the need to provide suitable and diverse housing choices and options for the

ageing population as part of the intensification of urban environments.

THEME 2: APPLICATION OF NPS-UD POLICY 3

- 27 The Section 42A Report notes that the majority of submissions relating to NPS-UD Policy 3 query whether the respective Councils have interpreted and applied the requirements of Policy 3 appropriately. It states that the IHP will need to “*consider the methodology and assessments used by each local authority to determine the various underpinning components of the NPS-UD Policy 3 with regards to housing, business demand, calculation of walkable catchments among other parameters*”. With particular regard to clause (d), the Section 42A Report notes the IHP needs to examine the evidence from the local authorities and submitters with regard to the levels of commercial activity and community services in centres, and whether the building heights and densities proposed are commensurate with demand.
- 28 The RVA’s and Ryman’s submissions on this matter raise the question as to whether the intensification approach used by the Councils has sufficiently recognised the need for older people to ‘age in place’. Traditional intensification models seek to locate density close to town centres and transport corridors. In my opinion, this spatial approach does not always lend itself well to the broader need to provide for the health and social wellbeing of older people who benefit significantly from having access to housing and care options in their existing communities, close to existing family and social connections. Retirement village residents may have mobility constraints and are mostly no longer working. Hence their need to access amenities via public transport or on foot or employment centres, is much lower than applies to others. In my opinion a key issue for the IHP to consider is how enabling intensification necessary for retirement villages should be provided for both in centres under policy 3(d) and in other locations within the community.

THEME 3: IDENTIFICATION OF QUALIFYING MATTERS

- 29 The Section 42A Report notes that a number of submitters have raised varying issues with regard to how qualifying matters have been addressed.
- 30 The RVA and Ryman did not generally submit against qualifying matters, although they do raise some discrete points on the way that they apply. These matters will be addressed in more detail at subsequent hearings. At a general level, given the general legislative direction to enable more housing, the merits of any qualifying matter and whether it is proportionate and justified will need to be carefully considered.

THEME 4: TRANSPORT / CARPARKING

- 31 I understand a number of submitters are concerned about the transportation impacts of intensification including increased demand for on-street car parking and increased traffic flows on local transportation networks.
- 32 As the Section 42A Report identifies, the NPS-UD removed the requirement for any minimum parking standards. There is no ability to include such standards throughout the IPI process. However, an alternative raised within the key factors for the IHP to consider is whether measures such as Travel Demand Management reports should be explored.
- 33 In considering this matter, it is my opinion that a nuanced approach is necessary. The travel demands of a retirement village are very different to those created by a high density residential development for example. A suitably proportionate approach is necessary which properly accounts for the effects of retirement villages, given their residents have much lower car use than typical housing.

THEME 5: OUT OF SCOPE MATTERS

- 34 As will be explained by counsel, the RVA and Ryman consider that their submissions do not fall within the out-of-scope theme, but rather are relevant to giving effect to the NPS-UD and the requirements of the Enabling Housing Act. From a planning perspective, I agree and I anticipate that evidence before each territorial authority at subsequent hearings will outline details of the specific policy and rule framework proposed that will be needed to give effect to the directive in the NPS-UD policies and Enabling Housing Act. Specific provisions in this regard relate to giving effect to policy 3 and enabling a variety of homes to meet the needs of different households which includes the needs of older persons.

TERRITORIAL AUTHORITY SPECIFIC THEMES

- 35 As discussed above, the specific themes and issues raised in submissions relating to each Council will be addressed at a later date.
- 36 In addition to the more general points above, which will be relevant in all Districts, the RVA and Ryman have an interest in a number of the specific themes of each Council. These themes include but not limited to for example, financial contributions and infrastructure capacity, which are of particular interest along with a number of other matters. My understanding is that Ryman and the RVA will seek that any financial contributions regimes and any infrastructure rules recognise that retirement villages have a substantially different demand on council infrastructure than standard residential

developments and can often internalise their effects through onsite solutions.

CONCLUSION

- 37 New Zealand's ageing population is increasing and the demand for retirement villages is outstripping supply. This is particularly evident in the demand being experienced by members of the RVA and by Ryman.
- 38 The submissions by the RVA and Ryman seek to ensure that the District Plans provide a responsive and fit for purpose regulatory framework for retirement villages within the Waikato, Waipā and Hamilton City Districts. These features in the planning framework are considered to be important given the increasing demand for retirement living options throughout these wider regions, and the specific site, location and design requirements that are necessary for any new comprehensive care retirement village.

John Kyle

1 February 2023