

Before the Independent Hearings Panel  
Western Bay of Plenty District Council

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

*in the matter of:* Submissions and further submissions in relation to  
Proposed Plan Change 92 to the Western Bay of Plenty  
District Plan

*and:* **Retirement Villages Association of New Zealand  
Incorporated**  
(*Submitter 34*)

*and:* **Ryman Healthcare Limited**  
(*Submitter 35*)

Statement of Evidence of **Gregory Michael Akehurst** on behalf  
of the Retirement Villages Association of New Zealand  
Incorporated and Ryman Healthcare Limited

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

**QUALIFICATIONS AND EXPERIENCE**

- 1 My full name is Gregory Michael Akehurst. I have a Bachelor of Arts, majoring in Geography and a Bachelor of Commerce, majoring in Economics from the University of Auckland. I am a founding Director of Market Economics Limited ("ME"), an independent research consultancy. I have more than 25 years of consulting and project experience, working for commercial and public sector clients.
- 2 I have developed models to assess community needs and assess allocation networks set up to meet those needs. I have previously given expert witness evidence in a number of local government hearings, the Environment Court and provided affidavits as an expert for the High Court in the area of development contributions (DCs).
- 3 My experience also includes developing models to assess the economic impact and particularly the labour requirements for major construction projects, including the Christchurch Earthquake rebuild, the Auckland construction and infrastructure sector, the Auckland Airport development and nationally for the construction sector overall. I have also carried out major studies of Auckland's residential and industrial land requirements for both private developers and Auckland Council including providing Auckland's Independent Hearings Panel with advice on business land requirements as part of the Proposed Auckland Unitary Plan process.
- 4 I drafted MBIE's guidance document for local councils needing to meet the National Policy Statement for Urban Development Capacity (NPS-UDC) requirements in respect of providing capacity for business land for economic growth. And I have led a number of Housing and Business land assessments under both the NPS-UDC and National Policy Statement on Urban Development (NPS-UD) for high growth councils (Hamilton and Future Proof, Queenstown Lakes District, Tauranga City, Auckland City and others).
- 5 I have a significant amount of experience in assessing the mechanics and rationale behind DC (and financial contribution) policies. In particular I have assisted both private developers and local authorities in the drafting and review of DC policies, including the equitable allocation of funding between existing and growth households, and the definition and application of catchment-based funding structures. I have carried out this work for the legacy councils in Auckland: North Shore City, Waitakere City and Auckland City as well as assisting with work for Rodney District. I have

assessed DC policies in Taupō District for Genesis Energy, Christchurch City and in Tasman District.

- 6 I provided evidence on behalf of the Developers Group to the High Court in respect of the *NEIL Construction Limited v North Shore City Council*.<sup>1</sup> My evidence assisted in overturning the DCs policy at the time, on the basis that the Council had failed to adequately account for demand and the distribution of benefits between existing users and growth.
- 7 In 2015, I provided evidence on behalf of Mapua Joint Venture in their objection to a DC charge imposed by Tasman District Council, which I understand is the only reported decision under the DC objections process in the Local Government Act 2002 (*Act*).
- 8 I prepared evidence on behalf of Ryman Healthcare in its successful application to review the DC charge levied on the village developed at 75 Valley Road, Pukekohe. Ryman objected on the grounds that council had failed to properly take into account the demand characteristics of Ryman's comprehensive care retirement village and its occupants when setting DC charges. I developed a number of surveys of resident activities and used that to show low levels of demand on council infrastructure. This evidence proved successful in reducing the levy charged.
- 9 Recently, I prepared analysis and presented to Auckland Council on behalf of Ryman Healthcare Limited (*Ryman*), the Retirement Villages Association of New Zealand Incorporated (*RVA*), Kiwi Development, Fulton Hogan, Oyster Capital, Drury Crossing Ltd and others on the Drury DCs amendments to the Auckland Unitary Plan. In this instance, Auckland Council's model failed to account for differences in consumption of infrastructure and other issues around land price inflation and impact on development viability.

#### **CODE OF CONDUCT**

- 10 Although these proceedings are not before the Environment Court, I have read the Environment Court's Code of Conduct for Expert Witnesses, and I agree to comply with it as if these proceedings were before the Court. My qualifications as an expert are set out 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.

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<sup>1</sup> *NEIL Construction Limited v The North Shore City Council* (High Court, CIV-2005-404-4690, 21 March 2007).

## **SCOPE OF EVIDENCE**

- 11 My evidence addresses:
  - a. Relevant statutory and economic principles when setting DCs and Financial Contributions (*FCs*);
  - b. Western Bay of Plenty District Council's (*Council*) proposed amendments to the *FCs* policy as a component of its Intensification Planning Instrument (*IPI*) to change the District Plan (*District Plan*) through Plan Change 92 (*PC92*). This includes Comments as applicable on the Council Officer's section 42A Report (Section 11 - Financial Contributions Author: Tony Clow); and
  - c. My recommendation as to ratios to apply to ensure the *FC* Formula appropriately responds to the lower effect of the retirement sector on council services and infrastructure;

## **ECONOMIC PRINCIPLES RELEVANT TO FINANCIAL CONTRIBUTION CHARGES**

- 12 Councils are tasked with providing social and community infrastructure to meet the needs of their communities. Demand for facilities and other community infrastructure is a "derived demand". This means that the demand is not for the facilities themselves. Rather, it is to carry out activities and to participate in events that are accommodated by the community infrastructure. For example, a requirement for a basketball court is due to demand by residents to play the game of basketball, and a requirement for reserves is to engage in passive and active forms of recreation such as walking or exercising a dog or oneself.
- 13 Therefore, a council setting a *FC* policy regime needs to understand how the community engages in activities in order to determine the number, scale and location of facilities needed to meet community demands and usage. This includes parks and reserves and the assessment should identify demand from key segments of the community – such as the retirement community.
- 14 In addition to the direct usage of infrastructure and reserves, residents benefit from the existence value of the infrastructure and there is a public good element to the benefits residents receive. While some account needs to be made of these additional benefits, they are small relative to the direct benefits received.
- 15 Once the demand profile is established, councils need to translate it into an amount of infrastructure required (by activity group). Then as the city grows, councils can understand and predict how that growth will translate into requirements for additional infrastructure.

- 16 Often usage of infrastructure is linked. This is especially the case for the retirement village sector. Lower levels of usage of infrastructure such as parks, open spaces, sports fields, libraries, Recreation centres and pools – as well as lower levels of shopping by retirement village residents is linked to lower levels of transport demand and traffic generation.
- 17 Once the need for additional infrastructure is established, councils will develop a programme of works and land purchases that should ensure that the provision of new assets generally matches growth in demand such that levels of service are maintained. It is acknowledged that in reality development and growth patterns may differ from the underlying assumptions of a development or FCs policy – so flexibility is allowable.
- 18 The amount of capital expenditure is aggregated and split between growth units (once components that cover repairs and improvements in levels of services for existing community are removed). This split should be undertaken in a manner that ensures the amount paid by growth units is commensurate with the demands they place on the system.
- 19 While it is not administratively possible to align exact usage with FC (or DC) charges, and because areas over time (say a 30 year horizon) tend to aggregate towards the average, an averaging process is often used in setting FC policies and is generally appropriate.
- 20 However, it is important that a council stands back from this process and assesses whether the act of averaging everything results in significant inequity and unfairness. Councils need to be able to identify groups within the community that are disadvantaged by the process (if they exist) and that this disadvantaging may cause significant harm. If that is the case, councils need to be able to adjust their funding policies or funding allocation to alleviate this inequality.
- 21 For the retirement village sector the most appropriate way to achieve this is through the use of ratios that reflect the proportionate load they place on infrastructure relative to the standard demand metric Council adopts. In WBOP's case a ratio would get applied to the relevant Household Equivalent ('HHE').

#### **WESTERN BAY OF PLENTY DISTRICT COUNCIL'S FINANCIAL CONTRIBUTIONS POLICIES**

- 22 WBOP District Council (WBOP DC) have updated their FC Policy as part of PC92 to provide a separate approach for Omokoroa and Waihi Beach. I understand that this is to ensure that the higher densities now expected in these areas are able to be charged

accordingly. To this end WBOP DC have proposed to charge an equivalent number of HHEs per hectare.

- 23 I note that WBOP do not have a development contributions policy – relying instead on FCs to capture all their growth funding. It is especially important in this case to ensure that the rigour and discipline that is usually applied under most DC policies to ensure that charges are sheeted home to those that benefit from the investment in infrastructure is also present under the FC policy.
- 24 The wording in the RMA that sets the parameters for establishing FCs as a charging mechanism are less clear than than the DC policy framework under the LGA.
- 25 However, in my view, the fundamental principles are the same and must be adhered to. That is, that those that generate the need for council to spend money on capital infrastructure or who receive the benefits from that investment must carry the cost in proportion to the share of load they generate or the share of benefits they receive. Or in RMA terms the mitigation (ie any charges imposed) should be proportionate to for the effects of a development on Council infrastructure and services.
- 26 PC92 proposes to charge financial contributions at the time of building consent rather than at resource consent to capture development that will occur under the MDRS (which does not require resource consent to add additional dwellings (up to 3, 3 storey dwellings) on a residential section zoned for MDRS.
- 27 In order to encourage development to occur in these areas at higher densities, the Plan offers a discounting regime to ensure that the infrastructure investment is fully utilised. For example, growth in the Waihi Beach, Katikati, Omokoroa and Te Puke urban areas is expected at 12 dwellings per ha. However, the infrastructure has been designed to cater to higher densities.
- 28 The proposed new rules for Omokoroa and Te Puke MDRS zones (11.5.5) as notified in PC92 proposed that FCs be charged per hectare of developable area (including for retirement villages (s42A report, pages 1-2). The charges were fixed based on the number of HHEs per ha and covered fees for ecological protection, recreation and leisure, transportation, water supply, wastewater and stormwater.
- 29 These charges range from 15 HHEs/ha for Omokoroa Stage 3A to 20 HHEs/ha for Omokoroa Stage 3B, outside of Stage 3 and Te Puke, up to 30 HHEs/ha for Omokoroa Stage 3C.
- 30 The charges were not proposed to be not reduced if a development achieves less density than these levels. If development densities

achieved are higher, the developer receives a discount based on the number of additional units bottoming out at 0.5 HHE for the additional units.

- 31 As noted, PC92 originally proposed that retirement villages within Omokoroa and Te Puke should also be subject to this same regime. However, following submissions from the Omokoroa Country Club, the Retirement Village Association and Ryman Healthcare, and discussions with Council officers this proposal has been amended.
- 32 Instead, the Council Officer has recommended that the approach in the operative plan apply (s42A report, page 13). Retirement Villages are proposed to be charged 0.5 HHE "*due to lower occupancy rates*". These changes are included in the notified version of PC92 as renumbered Rule 11.5.7 – Retirement Villages.

### **RETIREMENT SECTOR INFRASTRUCTURE LOAD**

- 33 There is a fundamental issue with the position adopted by the Council officers. It assumes that on a per person basis, retirement village residents utilise Council provided infrastructure at the exact same rates as the rest of the community.
- 34 In my view, this is not the case.
- 35 Most retirement villages are made up of two or three categories of residents (discussed in more detail in Mr Brown and Mr Collyns' evidence), the two main ones being:
- 35.1 Independent Living Residents – these may contain couples or singles, where people have decided to move into a retirement village following a health related event or an inability to operate fully independently at home.
- 35.2 Assisted Living or Memory suite residents. These are people who are often significantly older, they require high levels of daily care and are more akin to hospital beds than residential dwellings. They are single occupancy rooms.
- 36 Most residents move into retirement villages in the later stages of life. I understand that the average age for residents in the independent living units is in the early 80s. The average age for residents in care facilities is higher – often in the late 80s.<sup>2</sup>
- 37 Retirement village residents are much more frail and less mobile than the general public, and often more so than the general 65+ population due to the fact that it is often a health event that causes older people to move into a village. This means they are far less

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<sup>2</sup> See Mr Collyns' evidence.

likely to move out into the wider community to take advantage of streetscapes, parks, reserves, open spaces, sportsfields and other community recreational and leisure infrastructure.

- 38 In addition, retirement villages offer a high level of amenity to ensure the lives of residents are rich and rewarding, in spite of limited mobility. The provision of pools, gardens, meeting spaces, libraries, gyms and resident cafes are common. Most resident's recreational needs are met internally.
- 39 Therefore, retirement villages should not be having to pay the same FCs as other new dwellings (on a per person basis) while also having to fund the same or similar facilities privately. A FC based solely on levels of occupancy (0.5 HHE) significantly overcharges the retirement village sector relative to the load they place on Council infrastructure.
- 40 I note at this point, that charging 0.5 HHE based on an assumption that 1.3 is half of 2.7 is inaccurate. This in itself leads to an overcharge (it should be 0.48 not 0.5).
- 41 Based on my research and analysis of the load patterns generated at other villages around New Zealand, I recommend the ratios in **Figure 1** below as appropriate to ensure FCs charged to retirement villages closely match the impact they place on infrastructure.
- 42 The numbers in Figure 1 are expressed as a share of a standard household equivalent (HHE). For example, the evidence shows that independent units (or the residents within them in combination), use public open space, parks, reserves and other community infrastructure at a rate equivalent to 5% of a standard household.

**Figure 1: Retirement Village Specific HHE Ratios, WBOP District FCs**

FC Category	Independent Units	Assisted Living/ Care/ Memory Units
<b>Recreation and Leisure</b> ; including for Parks, Reserves, Open Spaces, Public Amenity, & other social infrastructure	0.05	0.01
Traffic and Transport	0.27	0.24
Water/ Wastewater	0.40	0.30
Stormwater	<i>based on onsite offsetting/design</i>	

- 43 By charging as though retirement units represent 50% of a standard household overcharges them by a factor of 10. In addition, the research I have carried out showed almost no engagement from residents in care beds with Council provided infrastructure at all.



Again, charging these units as though they represent 50% of a standard household vastly overcharges them.

- 44 These low levels of usage, in turn drive the traffic and transport demand. I have calculated the HHE ratio, based on average daily movements to and from retirement villages. The residents themselves make very few private trips out, but this is partially offset by greater movements of delivery vehicles and staff car movements. My research shows that on average, independent units in retirement villages generate approximately 27% as many trips as an average dwelling (2.6 trips per day versus between 9 and 10) while the assisted living units generate 24% (2.4 trips per day).<sup>3</sup>
- 45 The WBOP FC proposed provisions do not allow any differentiation based on lower levels of transport demand generated by the retirement village sector. That will lead to overcharging of up to double what it should be (based on the villages demand characteristics).
- 46 Finally, with respect to water and wastewater, the nature and age of the residents and their living arrangements in Retirement Villages, means that their consumption of water and generation of wastewater is significantly lower, on a per capita basis, than residents in general.
- 47 This is due to a number of characteristics of the villages including; collectively smaller gardens than an equivalent number of individual houses, lower car ownership, and efficient commercial kitchens and laundries in retirement villages. Many of the residents do not cook their own meals or use their own washing machines.
- 48 Therefore, the ratio applied to retirement village units must take into account not only the lower levels of occupation compared with an average dwelling (on average 1.3 residents per unit for independent living units and 1.0 for care suites compared with an average of 2.7 for households), but also the lower levels of consumption per person (set at 80% of an average person).
- 49 The generation of stormwater ratios need to take into account a range of factors including overall design (amount of impervious surface area per retirement unit compared to an average dwelling) as well as any onsite mitigation measures retirement villages put in place to address stormwater issues.

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<sup>3</sup> Based on reviews of the Integrated Traffic Assessments submitted for a number of retirement village fast track applications with the EPA, and surveys of village operators. Most assessments draw on actual survey work and either the Australian RTA trip generation values for standard dwellings or Waka Kotahi Research Report NZ 453.

- 50 These may be in the form of ponds or swales to mitigate speed of flow and allow slow release, such that the rate at which the catchment 'empties' following rain events is unchanged in a 'before and after' development sense.
- 51 In my opinion, integrated, well planned retirement village developments often achieve high levels of control over stormwater through design and on-site mitigation measures that need to result in a reduction.
- 52 I recommend that the determination of stormwater financial contributions is adjusted by the addition of a factor to reflect the mitigation measures and actual impact generated by retirement villages, rather than simply basing the FC charge on 0.5 of a HHE. Noting that this is the same as a minor dwelling, which may not be developed in the same integrated manner as a unit in a retirement village is.

### **SUMMARY**

- 53 The key issue I identify with PC92 is that the FC charges will not be based on a robust assessment of the need generated by growth, and the infrastructure provided to meet that need. This means that the causal nexus is not established. The averaging process adopted by WBOP in setting their FC policy is administratively efficient, but it is very important that they step back from the averaging and identify the areas where it has resulted in significant disparities. As it currently stands, the proposed FC policy in PC92 is not equitable and not proportionate, it leads to FC charges for the Retirement Village sector that are out of kilter with the level of demand or effect this sector places on community infrastructure.

### **CONCLUSIONS**

- 54 Retirement villages create significantly less demand for reserves, community infrastructure, water, wastewater, stormwater and traffic than the average residential dwelling due to:
- a. The demographic and mobility characteristics of retirement village residents;
  - b. The on-site recreational amenities and services provided by retirement operators;
  - c. Efficiencies in water consumption and therefore wastewater generation; and
  - d. Stormwater mitigation often provided by the larger comprehensively developed villages.

- 55 This lower load needs to be reflected through the use of appropriate HHE scalars in the calculation of WBOP District's FC charges.
- 56 In terms of the charges proposed I recommend that they reflect retirement villages characteristics such that:
- a. The Recreation and Leisure charge is set at 0.05 HHE/ Independent unit and no more than 0.01 HHE for a Care unit/ or memory unit/ or assisted living suite; and
  - b. For Transport the FC charges are based on 0.27 HHE /Independent Unit and 0.24/Care unit
  - c. For Water and Wastewater, 0.4 HHE / Independent unit and 0.3/Care unit.
  - d. For Stormwater: a ratio needs to be established based on the mitigation measures put in place compared to a similar residential development area.

**Gregory Michael Akehurst**  
**25 August 2023**