Before the Independent Hearings Panel
Waipā District Council

under:	the Resource Management Act 1991 (*RMA*)
in the matter of:	Submissions and further submissions in relation to Plan Change 26 to the Waipā District Plan
and:	**Retirement Villages Association of New Zealand Incorporated** *(Submitter 73)*
and:	**Ryman Healthcare Limited** *(Submitter 70)*

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

Dated: 24 August 2023

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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 and Environment Court hearings 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 2020 (*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 *NEIL Construction Limited v North Shore City Council.*[1] My evidence assisted in overturning the DC 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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[1] *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:

11.1 Relevant statutory and economic principles when setting DCs and financial contributions (*FCs*);

11.2 Waipā 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 9 (*PC26*);

11.3 My recommendation as to ratios to apply to ensure the FC Formula appropriately caters for the retirement sector;

11.4 An appropriate FC rate for the retirement sector for Residential Amenity and Te Ture Whaimana; and

11.5 Double-dipping potential.

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 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.

17 The amount of capital expenditure is aggregated and split between growth units (once components that cover repairs and improvements in levels of services for the 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.

18 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. 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.

WAIPĀ DISTRICT COUNCIL'S FINANCIAL CONTRIBUTIONS POLICIES

19 Council have updated their FC Policy as part of PC26 to "*improve Council's ability to address any adverse effects on infrastructure that may arise from unplanned and unbudgeted intensification of housing*".[2]

20 The purpose of the policy states that "*The general purpose of financial contributions are to recover from developers and/or applicants a contribution in the form of money, or land, or a combination of both money and land, which:*[3]

a) *Avoids, remedies or mitigates adverse effects of the proposed activity on the environment, or ensures positive*

[2] Proposed Plan Change 26 – Plan Change and Section 32 Report (August 2022), at [1.7].

[3] Proposed Plan Change 26: Section 18 - Financial Contributions, at 18.2.3.

effects on the environment to offset adverse effects, including, but not limited to, effects associated with

a. *Three waters connections, network improvements or capacity upgrades…*

b. *Transport network connections, improvements or capacity upgrades…*

c. *Parks/reserves/open space network enhancement/ improvement*

d. *Streetscape amenity improvements*

e. *Where the capital expenditure items identified in this rule are not otherwise funded via Council's Development Contributions Policy.*

AND:

f. To give effect to Te Ture Whaimana…."

21 In the context of FCs, Council's policy allows it to collect FCs from developers to fund (in part) the costs associated with giving effect to Te Ture Whaimana (the primary direction setting document for the Waikato River), including; riparian planting, wetland creation protection/restoration/enhancement, erosion control measures, ecological/biodiversity, public access improvements, weed control measures, sediment reduction measures, Waikato and Waipā River education, and restoration/protection/enhancement of waahi tapu and sites of significance.

22 The policy states that Council will ensure "*that the amount of financial contribution required reasonably reflects the costs of avoiding, remedying or mitigating the adverse effects, or the cost of ensuring positive effects on the environment to offset adverse effects*".[4] This is an important policy point as the alignment of FCs to the level of impact or additional demand a specific development generates results in charges being proportionate and equitable.

23 The retirement sector generally generates significantly lower levels of demand and impact on a per unit or dwelling basis than the equivalent number of residential housing units. Therefore, the amount of FC they are required to pay should reflect this lower level of demand.

24 It is important that the mechanism by which Council set FCs (the FC methodology and performance standards) has the ability to cater for

[4] At 18.4.2.7.

these lower levels of demand for this identifiable group within the community.

25 The Rule – Determination of the maximum amount of FC for Residential Amenity[5] - provides a mechanism or formula that allows for the specific attributes of retirement villages to be accounted for. Specifically, the formula contains a discount factor that would allow retirement villages to be charged financial contributions based on the actual load they generate or the effects they cause:

> *Financial contribution charge = (FC*n)*F, where F is defined as a discount factor to account for development specific attributes or the value of other contributions for the same purpose.*

26 The formula also provides a mechanism to discount if there is an overlap in the charging regimes between DCs and FCs. I note that the same mechanism also applies when calculating the Te Ture Whaimana FC.

27 What is not clear is whether there are any specific ratios that might apply to account for the retirement sectors' lower consumption rates. While the mechanism Council have developed to estimate FCs is appropriate, with no discount factors provided there is no certainty for developers. As it currently sits, there needs to be a case by case assessment for each development.

28 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.

29 The numbers in Figure 1 are expressed as a share of a standard household equivalent. 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.

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[5] At 18.5.2.3

Figure 1: Retirement Village Specific HUE Ratios, Waipā District FCs

FC Category	Independent Units	Assisted Living/ Care/ Memory Units
Residential Amenity - Parks, Reserves, Open Spaces, Public Amenity, Streetscape improvements and other social infrastructure	0.05	0.01
Traffic and Transport	0.27	0.24
Water/ Wastewater	0.40	0.37
Stormwater	*based on onsite offsetting/design*	
Te Ture Whaimana	*Zero FCs*	

30 This in turn drives the Traffic and Transport ratio, which is based on average daily movements to and from retirement villages. The residents themselves make few private trips out, and this is partially offset by greater movements of delivery vehicles and staff car movements. The 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).[6]

31 I note that in the Road Corridor Services section, the FC formula for estimating the maximum amount of FCs is tied to an estimation of the total additional travel generated by a development (in this case a retirement village). This is appropriate, as it means that the specific trip generation characteristics of retirement villages can be reflected in the assessment

32 Due to the nature and age of the residents and their living arrangements in retirement villages, their consumption of water and generation of wastewater is significantly lower, on a per capita basis, than residents in general. This is due to collectively smaller gardens than an equivalent number of individual houses, lower car ownership, and efficient commercial kitchens and laundries in retirement villages, as many of the residents do not cook their own meals or use their own washing machines.

33 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 1.2 – 1.3 residents per unit for independent living units and 1.0 for care suites compared with an

[6] Based on reviews of the Integrated Traffic Assessment submitted for a number of Retirement village fast track applications with the EPA. Most assessments draw on either the Australian RTA trip generation values for standard dwellings or Waka Kotahi Research Report NZ 453.

average of 2.6 for households), but also the lower levels of consumption per person (set at 80% of an average person).

34 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.

35 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.

36 In my experience, 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.

37 I recommend that the stormwater determination of maximum amount of FC formula 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 the area covered relative to the total area served by the stormwater infrastructure.

FINANCIAL CONTRIBUTION CHARGE – TE TURE WHAIMANA AND RESIDENTIAL AMENITY

38 PC26 adds provisions that would allow financial contributions to be required in relation to Te Ture Whaimana and Residential Amenity.

39 It is not clear in the proposed FCs chapter, what the **actual** FC charge is or should be to cover Te Ture Whaimana and Residential Amenity. The reason for this is outlined in the evidence of Mr Lawrence McIlrath for Council. Mr McIlrath states that:[7]

> "*FCs are used in an intensification context with several unknowns that limit the ability to identify and pre-plan specific projects to deal with growth pressures and specific requirements or responses. Consequently, it is difficult to define specific project catchments, budgets and scopes in anticipation of those pressures.*"

40 It seems to me that Council is unsure what specific additional projects or works are required to deal with the effects of growth,

[7] Statement of evidence of Mr L McIlrath (dated 4 August 2023), at [4.9].

and therefore Mr McIlrath has not been able to apply his calculations to actuals to generate accurate FC charges.

41 Instead, Council have indicated that the approximate budgets for Te Ture Whaimana and Residential Amenity are in the order of $450,000/annum and $350,000/annum respectively.

42 Those numbers and raw estimates of growth are applied to the formula to generate FC charges of;

42.1 Te Ture Whaimana - $1,500, and

42.2 Residential Amenity - $1,300 (noting that these are rounded figures).[8]

Te Ture Whaimana

43 The categories of expenditure or the purposes to which FCs collected to fund Te Ture Whaimana, include:

43.1 Riparian enhancement;

43.2 Wetland creation/protection/ restoration/ enhancement;

43.3 Erosion control measures;

43.4 Ecological /biodiversity;

43.5 Public Access improvements to the Waikato River, including tributaries;

43.6 Weed control measures;

43.7 Sediment reduction measures;

43.8 Waikato and Waipā Rivers / Te Ture Whaimana education; and

43.9 Restoration/ protection/ enhancement of waahi tapu and sites of significance.

44 The projects appear to be a mix of activities that help redress past impacts on the Waikato and Waipā rivers and projects that will help future proof the health of the rivers and the people connected to them.

45 It is not clear that the projects listed – or rather the categories of projects listed - relate to addressing the *additional* negative effects of new housing across Waipā District. If that is not the case, then

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[8] Statement of evidence of Mr L McIlrath (dated 4 August 2023), at [4.11].

the projects listed should be 100% funded by rates. This is especially the case given the portion of cost attributed to existing households (noting it is not clear what proportion that is) will be 100% funded by rates, while future households will have to pay those same rates as well as paying the FC charge.

46 This implies that the new households are expected to generate impacts that are disproportionately high compared with existing households (given they pay the same rates plus an additional FC charge).

47 In fact, it is likely that with the more stringent regulations that govern land development today in terms of how negative externalities are dealt with (such as discharges into the rivers), new development has a smaller impact (per dwelling) than existing dwellings do.

48 This is even more likely to be the case with comprehensively designed retirement villages due to the consenting process they pass through, with conditions generally applied to address stormwater discharges and other potential adverse environmental effects.

49 Unless Council are able to identify specific projects or categories of projects that address the adverse effects of growth specifically, I recommend that the Te Ture Whaimana FCs are removed and the costs covered entirely by rates.

Residential Amenity

50 The Section 42A report outlines the rationale behind the Residential Amenity FC. It states that because the DC policy only covers providing for parks in greenfield locations, that the FC is needed to improve streetscapes and provide urban parks.

51 This points to failings in Council's DC policy that they are attempting to patch through the FC charge. The issue is that this is likely to lead to new developments paying for parks required to meet their needs under the DC policy and paying again under the FC policy in a much less certain manner for a set of "urban parks" that are currently unplanned for, with limited information about how they will be used and by whom.

52 The issue is that the FC charge will not be based on a robust assessment of the need generated by growth and the park space provided to meet that need, so the causal nexus is not established. This makes it impossible to set a proportionate FC charge.

53 This is especially the case with the retirement sector as the demand they generate for "urban parks" is extremely low.

54 Most residents move into retirement villages in the later stages of life. I understand that the average age for residents moving into a comprehensive care village is in the early 80s with the average age for residents in care facilities being higher.

55 Retirement village residents are 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 likely to move out into the wider community to take advantage of streetscapes, parks, reserves, open spaces, sportsfields and other community infrastructure.

56 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 of residents' recreational needs are met internally.

57 Therefore, retirement villages should not be having to pay the same FC as other new dwellings while also having to fund the same or similar facilities privately. The FC of $1,300 to cover residential amenity must be reduced to reflect the actual load a retirement unit places on the network.

58 Based on the impacts per retirement village unit, as outlined in Figure 1 above, the amount that should be paid by a retirement village for residential amenity is a small fraction of the $1,300 / dwelling charge.

59 Assuming the $1,300 / dwelling charge reflects an accurate measure of the level of impact a new dwelling has in terms of residential amenity, an independent unit in a retirement village should be charged approximately 5% of $1,300 (or $65). For each care suite, memory/dementia unit or assisted living suite, the charge should be even lower.

60 Based on the actual load residents in these aged care units place on Residential Amenity, the charge should be 1% x $1,300 (or $13 per unit).

DOUBLE DIPPING POTENTIAL

61 Finally, the wording in the second paragraph of the introduction[9] indicates that FCs can be used either on their own, or to supplement DCs for the same purpose where the DCs are insufficient to fully

[9] Proposed Plan Change 26: Section 18 - Financial Contributions, at 18.2.2.

avoid remedy, mitigate or compensate for the adverse effects of the activity.

62 This raises the potential for Council to double dip and potentially charge developers twice to cover the same effect and to treat FCs as an additional opportunity to collect money on a second go around.

63 While the policy in a number of areas stipulates that this is not the case and will not happen, there is significant overlap in the DC and FC policies, and the wording allows for Council to be able to double dip. In my opinion, this is inappropriate.

CONCLUSIONS

64 Retirement villages create significantly less demand for reserves, community infrastructure, water, wastewater, stormwater and traffic than the average residential dwelling due to:

64.1 The demographic and mobility characteristics of retirement village residents;

64.2 The on-site recreational amenities and services provided by retirement operators;

64.3 Efficiencies in water consumption and therefore wastewater generation; and

64.4 Stormwater mitigation often provided by the larger comprehensively developed villages.

65 This lower load needs to be reflected through the use of appropriate scalars in the calculation equations in Council's FC methodology.

66 In terms of the charges proposed for Residential Amenity and Te Ture Whaimana, I recommend that they reflect retirement village characteristics such that:

66.1 The Residential Amenity charge is set at $65/independent unit and no more than $13 for a care unit/memory unit/assisted living suite; and

66.2 The Te Ture Whaimana FC charge is reconsidered in terms of the appropriateness of covering this cost via FCs (as opposed to rates), and only the portion of expenditure that specifically relates to any additional negative effects of new housing (over and above existing housing) results in a FC charge.

Gregory Michael Akehurst
24 August 2023