

IN THE MATTER of the Resource Management Act 1991 (**RMA**)

AND

IN THE MATTER **Plan Change 78 to the Auckland Unitary Plan – Operative in Part (AUP)**

MINUTE (13 AUGUST 2024) FROM THE HEARING PANEL

RESPONDING TO CORRESPONDENCE FROM THE RETIREMENT VILLAGES ASSOCIATION DATED 8 AUGUST 2024

1. The Panel has received a request from the Retirement Villages Association of New Zealand (RVA) that it delay the consideration of legal scope as it relates to retirement villages until the hearings on the Residential Zones.
2. The Panel is committed to completing the City Centre hearing and its deliberations, and its recommendation on the relevant PC78 topics needed to enable them to complete this task.
3. The RVA has made a submission that seeks the inclusion, in a number of zones including the City Centre zone, of an objective and supporting policies to recognise and enable the housing and care needs of the ageing population. The Council has provided evidence for the forthcoming City Centre hearing that opposes this submission as being out of scope.
4. The Panel is aware that a number of issues (including as to scope) relevant to the City Centre may also apply to other zonings or allocated topics, and of the potential for findings in its recommendations on the City Centre to have broader application. The Panel will endeavour to confine its recommendations on the City Centre to avoid or limit as much as reasonably practicable the predetermination of issues that affect other Topics yet to be heard.
5. If the RVA wishes to maintain its submission in relation to the City Centre zone, then the Panel is likely to address the challenge to scope as raised by the Council in the forthcoming hearing and resulting recommendations. The RVA will need to decide how to present its case.
6. Any enquiries regarding this Direction, or related matters, should be directed to the Senior Hearings Advisor, Mr Sam Otter by email at npsudhearings@aucklandcouncil.govt.nz.



Matthew Casey, KC - Chairperson
13 August 2024

Before the Independent Hearings Panel
Auckland City Council

under: the Resource Management Act 1991

in the matter of: Submissions and further submissions in relation to
Plan Change 78 to the Auckland Unitary Plan

and: **Retirement Villages Association of New Zealand
Incorporated** (*Submitter 947*)

Memorandum of counsel on behalf of the **Retirement Villages
Association of New Zealand Incorporated**

Dated: 8 August 2024

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MEMORANDUM OF COUNSEL ON BEHALF OF THE RETIREMENT VILLAGES ASSOCIATION OF NEW ZEALAND INCORPORATED

- 1 This memorandum of counsel is provided on behalf of the Retirement Villages Association of New Zealand Incorporated (*RVA*) in relation to Plan Change 78 to the Auckland Unitary Plan (*PC78*).
- 2 The planning evidence from Auckland Council on the Business Zone objectives and policies (prepared for the City Centres Outstanding Matters hearing) touches on whether the relief sought by the RVA is in scope.¹ The RVA have not submitted evidence for the City Centre Zones hearings, but maintain the position sought in their submissions. They intend to submit substantive evidence for later hearings, primarily in the Residential Zones hearing.²
- 3 The RVA respectfully request that the Panel delay consideration of legal scope as it relates to retirement villages until that time.³ We submit this delay is necessary for proper consideration of the scope issue and for efficiency (in avoiding the need for the RVA to lodge multiple responses on similar issues).
- 4 Both the legal and factual context is necessary to determine whether a submission is within scope. The Council Officer refers to the Panel's Interim Guidance on Scope in the planning evidence.⁴ The Panel explicitly stated the "*interim guidance is precisely that: interim and guidance only*" (original emphasis).⁵ The Panel went on to caution that the guidance "*may change as a result of further legal submissions and evidence (both expert and non-expert) throughout the entire hearing process*".⁶

Luke Hinchey
Counsel for the RVA
8 August 2024

¹ Auckland Council, Planning Evidence of Mr Nicholas Pollard – General Objectives and General Policies: Topics 016A-016H, 016K Business Zones, dated 16 July 2024, pages 40-41.

² PC78 Topic 015 – Residential Zones.

³ Noting the RVA similarly requested a delay in consideration of legal scope as it relates to retirement villages in December 2023 – see memorandum of counsel on behalf of Ryman and the RVA dated 19 December 2023.

⁴ Independent Hearings Panel, Interim Guidance on Matter of Statutory Interpretation and Issues Relating to the Scope of the Relief Sought by Some Submissions, dated 12 June 2023 (*Interim Guidance*).

⁵ Interim Guidance, at [5].

⁶ Ibid.