

**BEFORE THE FAST-TRACK APPROVALS
EXPERT PANEL**

FTAA-2512-1158

UNDER the Fast-track Approvals Act 2024 ("**FTAA**")

AND

IN THE MATTER of an application for approvals by Precinct Properties
New Zealand Limited ("**Applicant**" or "**Precinct**") in
relation to the proposed Downtown Carpark Site
Development ("**Application**")

MEMORANDUM OF COUNSEL

23 JULY 2026

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MAY IT PLEASE THE PANEL:**Introduction**

1. This memorandum of counsel is filed on behalf of Precinct in relation to the Application.
2. On 8 July 2026, the Expert Panel ("**Panel**") released Minute 8 inviting comments from Precinct and the parties who provided comments on the Application on the draft decision and conditions of consent ("**Draft Decision**" and "**Draft Conditions**").
3. Subject to some minor matters addressed below, Precinct agrees with the Draft Conditions and the reasoning provided by the Panel in the Draft Decision.
4. On 16 July 2026, Precinct received comments on the Draft Conditions and Draft Decision from Auckland Council, Ngāti Whātua Ōrākei, Millennium & Copthorne Hotels New Zealand Limited ("**MCK**"), and Auckland Transport. This memorandum, and its attachments, responds to these comments in accordance with section 70(4) of the FTAA.
5. Precinct continues to maintain its position on the Draft Conditions and, as above, for the most part continues to agree with and support the Panel's Draft Decision. That said, reflecting on the Draft Decision, Draft Conditions and comments of the other parties, Precinct has amended its position on a small number of Draft Conditions. Precinct also has some additional comments on matters of detail to ensure the workability of the proposed Consent Conditions. These matters are addressed in the attachments to this memorandum, being:
 - (a) **Attachment A:** Planning comments from Barker & Associates;
 - (b) **Attachment B:** Draft resource consent conditions showing Precinct's preferred conditions in tracked changes with comments;
 - (c) **Attachment C:** Draft archaeological authority conditions showing Precinct's preferred conditions in tracked changes;
 - (d) **Attachment D:** Clean resource consent conditions showing Precinct's preferred conditions; and
 - (e) **Attachment E:** Clean archaeological authority conditions showing Precinct's preferred conditions

6. Additionally, Precinct wishes to make brief comments on three other specific matters which are addressed below, being:
- (a) the approach taken to noise schedules;
 - (b) the proposed archaeological authority conditions; and
 - (c) the progress of a side agreement with MCK.

Noise Schedules

7. Precinct acknowledges the Panel's preference for a "three-tier" approach to schedules for construction noise and vibration exceedances. Precinct agrees with the approach taken in the Draft Conditions in principle. However, Precinct considers some minor tweaks to the drafting of the relevant conditions are required to ensure this process is clear and workable. Specific drafting changes are included in track in **Attachment B** and in clean in **Attachment D**.

Archaeological Conditions

8. As the Panel is aware, Ngāti Whātua Ōrākei is Precinct's project partner. Ngāti Whātua Ōrākei provided comments on the Draft Decision and Draft Conditions on 16 July 2026.
9. Ngāti Whātua Ōrākei's position is clear that the proposed archaeological authority conditions¹ are not appropriate and cannot be supported by Ngāti Whātua Ōrākei. On that basis, and given its relationship with Ngāti Whātua Ōrākei as its project partner and Precinct's acknowledgment of Ngāti Whātua Ōrākei's position that it is tangata whenua in relation to the project site and who exercise ahi kā, Precinct supports Ngāti Whātua Ōrākei's position on the proposed archaeological authority conditions. The archaeological authority conditions now sought by Precinct (**Attachments C and E**) therefore remove the references to other iwi, as sought by Ngāti Whātua Ōrākei.

Side Agreement with MCK

10. MCK's comments on the Draft Conditions note that there are a range of matters (including party-to-party engagement with MCK, and structural design relating to the interface with MCK's site) which are being considered for inclusion in a side agreement between Precinct and MCK. Precinct confirms that the parties are well progressed in negotiating this agreement, but it has not yet been entered into as at the date of this response. Precinct is hopeful that a mutually

¹ Draft archaeological authority conditions 5, 6 and 11.

beneficial side agreement, dealing with party-to-party matters that are not appropriate for conditions of consent, can soon be concluded.

11. Notwithstanding these separate contractual or direct party-to-party discussions with MCK which are ongoing, from a consenting perspective, Precinct maintains its position that the matters raised by MCK that remain under direct discussion between the parties are not appropriate to seek to impose as consent conditions. Imposing these essentially private and contractual matters as consent conditions would then require Auckland Council as consent authority to monitor and enforce these conditions, which is neither necessary from a resource management perspective nor an appropriate use of ratepayer funds. For these reasons, Precinct supports the Panel's Draft Conditions and Draft Decision with respect to these matters.²

DATED: 23 July 2026



Simon Pilkinton | Lydia McLeay
Counsel for Precinct Properties New Zealand Limited

² Draft Decision at [437] and [445].

Attachments
(provided separately)