

15 April 2025

Ministry for the Environment
Manatū Mō Te Taiao

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Fast-track Approvals Act 2024 - The Point Mission Bay - FTAA-2503-1030 - Response to request for further information dated 1 April 2025

- 1 We refer to the Ministry for the Environment's letter dated 1 April 2025 seeking further information from Ngāti Whātua Ōrākei Whai Rawa Limited and Generus Living Group (*Generus*) (together, *the Applicants*) in respect of the application for referral of The Point Mission Bay (*Referral Application*) under delegation from the Minister for Infrastructure (*RFI*).
- 2 The RFI sought further information in respect of six matters.
- 3 We have set out the RFI requests, and Applicants' response, with respect to each matter below.

Marginal strip

- 4 *Request:*
 1. Your application notes that the project site is subject to a possible reservation of a marginal strip under Part IVA of the Conservation Act 1987. Please provide additional comment on whether any marginal strip occupies the project site, and whether any Conservation Act (1987) approvals will be required for the project, including any effect this could have on your ability (as applicants) to undertake the work.
- 5 *Response:* The Part IVA Conservation Act 1987 statutory memorial is applied to all land disposed of by the Crown.¹ The two affected titles, NA43A/1137 and NA22C/1052, were transferred to Ngāti Whātua Ōrākei by the Crown on 2 July 2012 and 11 March 2013,

¹ As set out in section 3.6.1 of the Referral Application, page 62.

respectively. As the project site² does not include any land which abuts a body of water, there is no marginal strip occupying the project site. Accordingly, no Conservation Act approvals are required for The Point Mission Bay.

Interests in the land

6 *Request:*

2. The records of title for land on the project site are subject to several interests. Your application notes that no interests against the land titles will affect the ability to undertake work required for the project. Please provide additional information to explain how the ability to deliver the project will not be affected, including any consultation undertaken with those parties likely affected. In particular:

- The gas easement in D320989.1 registered in favour of United Networks Limited (now Vector Limited)
- The electricity easement in D597272.1 registered in favour of Vector Limited
- The electricity supply and cable access in 7170273.1 registered in favour of Vector Limited

(Easements)

- The encumbrance in 8519621.12 registered in favour of Covenant Trustee Services Limited as the statutory supervisor of the retirement village

(Encumbrance)

- The lease in D431725.1 registered in favour of Eastcliffe Retirement Care Orakei LP
- The lease in 5264622.1 registered in favour of Eastcliffe Retirement Care Orakei LP

(Leases)

- Your application notes that the Eastcliffe Retirement Village was established in 2000 as a result of a partnership with Ngāti Whātua Ōrākei Trust, who owned the land, and Protac Investments Limited who would construct, lease and operate the retirement village. Please provide additional information on whether any interest held by Protac Investments Limited will be affected by the project.

(Protac Investments Limited)

- 7 *Easements response:* The Point Mission Bay will be designed and constructed to accommodate all existing easements to the extent possible. Where relocation of services protected by these easements is required, as determined at detailed design, that

² Identified in section 2.2 of the Referral Application, page 6.

relocation will be undertaken in consultation with Vector Limited, at the Applicants' cost. The Point Mission Bay will therefore be able to be delivered either in a manner which accommodates the existing easements or through relocation of services by the Applicants, in consultation with Vector Limited, as required.

- 8 *Encumbrance response:* It is a requirement under section 38 of the Retirement Villages Act 2003 for a statutory supervisor to be appointed to provide independent oversight of retirement village operators. This encumbrance records that Covenant Trustee Services Limited (*Covenant*) has been appointed as the statutory supervisor of the existing retirement village, Eastcliffe on Ōrākei (*Existing Village*), in accordance with a Deed of Supervision.
- 9 The Existing Village is currently being sold by Eastcliffe Retirement Care Orakei LP to Generus (*the Transaction*). The Transaction is conditional on resource consent being granted for The Point Mission Bay. As part of the Transaction process, Generus has invited Covenant to continue to act as statutory supervisor.
- 10 Covenant has confirmed its support for Generus' involvement in principle, subject to receipt of various requested information and the satisfactory completion of its due diligence process as recorded in its letter to Generus dated 12 March 2025, which has been appended to this letter as **Appendix A**, titled: "Covenant Trustee Services Ltd Letter".
- 11 The Applicants will advise Covenant once resource consent has been granted for The Point Mission Bay and the Transaction becomes unconditional. The Applicant's expect Covenant's role as the statutory supervisor will be confirmed within seven working days of that information being provided. Once Covenant's role is confirmed, the Applicants do not require any further approvals from Covenant in order to deliver The Point Mission Bay Project.
- 12 *Leases response:* Eastcliffe Retirement Care Orakei LP is a related entity of Ngāti Whātua Ōrākei Trustee Limited, the registered land owner of the project site. As confirmed in section 1 and attachment 3 to the Referral Application, Ngāti Whātua Ōrākei has agreed to, and is jointly applying with Generus to enable, the development of The Point Mission Bay.
- 13 Eastcliffe Retirement Care Orakei LP is granting subleases to Generus to give effect to the contractual arrangements that are in place to facilitate the delivery of The Point Mission Bay. As all parties to the lease arrangements are either the Applicants, or a related entity of the Applicants, all interests created by the leases are only to those involved in the Referral Application, and therefore the leases will not affect the ability for the Applicants to undertake the work required to deliver The Point Mission Bay.

- 14 *Protac Investments Limited response:* The Existing Village was originally constructed and operated as a joint venture between the Ngāti Whātua Ōrākei Trust Board and Protac Investments Limited. Eastcliffe Retirement Care Orakei LP became the sole owner of the Existing Village in 2013. Protac Investments Limited no longer has any interest in the Existing Village and therefore has no interest that will be affected by The Point Mission Bay Project.

Reserve revocation

- 15 *Request:*

3. A description of whether the parallel application for revocation of the two reserve strips located on the project site under section 24 of the Reserves Act 1977 could affect the ability to undertake work required for the project.
4. Information on whether the project would be able to progress if the revocation application were declined by Auckland Council, and how.

- 16 *Response:* The Applicants lodged a reserve revocation application with Auckland Council on 18 December 2024 for the revocation of the reserve classification applied to two parcels of land (pedestrian walkways) within the project site in accordance with section 24 of the Reserves Act 1977.³ Two new pedestrian walkways are proposed through the project site (by way of easements), replacing the existing walkways, to ensure safe, well-designed connections between Te Arawa Street and Aotea Street with Takaparawhau / Michael Joseph Savage Memorial Park to be maintained in accordance with best urban design practice.

- 17 The reserve revocation process is progressing in accordance with Auckland Council's requirements. Most recently:

- (a) The Land Advisory Services Parks and Community Facilities, Auckland Council team (*Advisory Team*) provided initial feedback to the Applicants on 17 February 2025 and a meeting was held on 26 February 2025 to discuss the feedback received.
- (b) The Applicants provided supplementary material to the Advisory Team on 10 March 2025.
- (c) Further feedback from the Advisory Team was provided on 31 March 2025.

³ As set out in section 3.1.13 of the Referral Application, page 45.

- (d) The Advisory Team prepared and provided a draft Sale and Purchase Agreement for the sale of the reserves to Ngāti Whātua Ōrākei and granting of easements by Ngāti Whātua Ōrākei for the new walkway locations for review on 8 April 2025.
 - (e) The Applicants met with the Advisory Team on 11 April 2025 to review the Sale and Purchase Agreement.
- 18 By way of next steps, and in accordance with the requirements of the Reserves Act 1977:⁴
- (a) A meeting is scheduled for 29 April 2025 between the Applicants and specialist Auckland Council advisors to discuss design details for the two new pedestrian walkways.
 - (b) The Advisory Team will report to the Ōrākei Local Board workshop on 5 June 2025.
 - (c) The Advisory Team will present a business report to the Ōrākei Local Board for endorsement to proceed to the Policy and Planning Committee on 19 June 2025.
 - (d) The Advisory Team will present a business report to the Policy and Planning Committee business meeting on 24 July 2025 for endorsement to proceed with the reserve revocation. The Policy and Planning Committee will vote whether to formally progress the reserve revocation application to public notification. Public notification will be initiated shortly after the Policy and Planning Committee have voted to progress the reserve revocation application.
 - (e) The public notification period is one month. Any objections received will be taken to the Policy and Planning Committee to consider on Thursday 11 September 2025 and to make a resolution whether to proceed with the reserve revocation.⁵
 - (f) Once the Policy and Planning Committee has made its resolution to proceed with the reserve revocation, this will be provided, together with all relevant documents and any objections, to the Minister of Conservation to make the final decision on revocation.
 - (g) The Minister of Conservation is required to make a decision “as soon as practicable”. The Minister’s decision will then be published in the Gazette, and the reserve status revoked.

⁴ Section 24.

⁵ The Ngāti Whātua Ōrākei Reserves Board has already approved, in principle, the relocation of the pedestrian walkways at its business meeting on 3 March 2025, noting that the final decision is to be made by the Minister of Conservation.

- (h) On publication of the Gazette notice, depending on any terms specified, an Auckland Council disposal decision can be made under delegated authority and staff may confirm the Sale and Purchase Agreement unconditional.
- 19 On the basis of the above, the Applicants consider that the reserve revocation application will be granted in sufficient time to enable the work required for The Point Mission Bay Project.
- 20 In the unlikely event that the reserve revocation application is not approved, the Applicants will revise the footprint of the ground level of the buildings to accommodate the existing pedestrian walkways. The Point Mission Bay has been designed in a way such that only a minor modification of the masterplan would be required if the existing walkways cannot be relocated.
- 21 Accordingly, while the current design involving the relocation of the walkways is the preferred option, including from an urban design perspective, if the relocation was not able to proceed for any reason that would not affect the ability for the Applicants to design and undertake the work required to deliver The Point Mission Bay.

Joint management agreement

- 22 *Request:*
5. Your application notes that Ngāti Whātua Ōrākei is party to a Mana Whakahono ā Rohe or joint management agreement, and the letter at Attachment 6 states that Ngāti Whātua Ōrākei has entered into a joint management agreement with Auckland Council under section 36 of the RMA. We understand that Ngāti Whātua Ōrākei and Auckland Council jointly administer nearby land (Pourewa Creek and Whenua Rangatira) through the Ngāti Whātua Ōrākei Reserves Board for the purposes of the Reserves Act 1977, but we are not aware of a joint management agreement under the RMA. Please provide a copy of the joint management agreement to enable the Minister to satisfy his obligations under section 16 of the Act.
- 23 *Response:* Please refer to the correspondence from Ngāti Whātua Ōrākei appended to this letter as **Appendix B**, titled "Ngāti Whātua Ōrākei Letter". We understand that the arrangement that is in place between Ngāti Whātua Ōrākei and Auckland Council is to jointly administer nearby land (Pourewa Creek and Whenua Rangatira) through the Ngāti Whātua Ōrākei Reserves Board for the purposes of the Reserves Act 1977.

Approvals

24 *Request:*

6. Please clarify which approvals are proposed to be held by which applicant under section 13(4)(w) of the Act, or if these are proposed to be held jointly.

25 *Response:* All approvals sought for The Point Mission Bay are proposed to be held jointly by the Applicants.

26 The Applicants consider this letter provides a full response to the RFI.

27 Please do not hesitate to contact me if you have any queries with respect to the above or if I can be of further assistance.

Yours faithfully



Francelle Lupis
Partner

Appendix A

Appendix B