



MEMORANDUM

To: Vermont Street Partners No.4 Limited
From: Berry Simons
Date: 9 July 2026
Subject: **BROOKVALE GREEN FAST-TRACK APPLICATION – RESERVE ACT ISSUE**

1. INTRODUCTION

- 1.1 Vermont Street Partners No.4 Limited ("the Applicant" or "VSP") is in the process of seeking approval under the Fast-track Approvals Act 2024 ("FTAA") to subdivide and develop land at 174 and 176 Brookvale Road.
- 1.2 As part of that it seeks to develop and use part of adjacent reserve land¹ identified as Lots 3 and 4 DP481968² to form a road (in part) to access its development via Brookvale Road.
- 1.3 The reserve is owned and administered by Hastings District Council ("HDC").
- 1.4 We understand that:
- (a) The use of the reserve land was considered as part of the referral application, with the integration works to be looked at in greater detail as part of the substantive application, which is now occurring.
 - (b) This work includes:
 - (i) Construction of part of the proposed public road corridor (Road 3 in part) along with an associated footpath connection, including associated batter tie-ins, retaining wall, landform modification and development servicing within the road corridor;
 - (ii) Reinstatement works, including earthworks and recontouring across the full Reserve land extent to integrate the Reserve land with the road corridor; and
 - (iii) The removal of all existing vegetation, including predominantly mature exotic gum trees and scrub undergrowth, and their replacement with indigenous planting and landscape reinstatement across the full reserve land area (excluding the road corridor area).
 - (c) VSP will be solely responsible for financing and completing this work, and will be responsible for ongoing monitoring and maintenance of the works

¹ Classified as Local Purpose (Amenity) Reserve.
² RT 677142.

until they are completed and the planting and landscaping is established;
and

- (d) Once complete all work will be handed over to HDC at no cost.
 - (e) The HDC supports the work proposed and the use of the reserve land for road access.³ Specifically, following engagement between VSP and HDC, it has requested that the Road 3 access be widened into the reserve land and that broader reserve integration works be undertaken to achieve an improved roading, access, landscape and reserve interface outcome reflecting the changing rural-urban buffer function of the reserve.
 - (f) The HDC officers have recommended that the reserve status be changed from Local Purpose (Amenity) Reserve to Local Purpose (Road) Reserve, on the basis that:
 - (i) This is the most appropriate long-term outcome for the reserve land; and
 - (ii) The reserve's original purpose (to provide a buffer between residential and rural land, including for reverse sensitivity reasons, and a delineated boundary) would become redundant should the surrounding land be developed for residential use.
 - (g) HDC considers it premature to seek a formal Council decision on a reserve purpose change at this stage, that it is taking legal advice, and the officers have not formed a position on the timing or process for any future Council consideration.
- 1.5 To undertake the proposed works within the Reserve, VSP has sought legal advice on the appropriate statutory approvals required under the Reserves Act 1977 ("RA77").
- 1.6 Accordingly, it has requested we advise on the relevant statutory mechanisms and the recommended process it should follow to enable this to occur, given its development approval is being progressed under the FTAA.
- 1.7 Overall, and in light of the HDC position above, we **recommend** that VSP seek approval under the FTAA for a concession, being both a permit (to undertake works in the reserve) and a right of way easement (to enable the use of the road⁴ to the extent it is located in the reserve⁵).⁶
- 1.8 We address this further below.
2. **RELEVANT APPROVALS – RELATIONSHIP BETWEEN FTAA AND RA77**
- 2.1 The RA77, among other things, relates to public reserves and makes provision for their acquisition, control, management, maintenance, preservation, development and use.

3 By reference to the HDC memorandum dated 29 June 2026 and the email correspondence between Anna Sanders and Joanne Sunde at 9.31pm on 7 July 2026. We understand all advice from the Council has been provided on a preliminary and non-binding basis.

4 We understand this will include a footpath and associated conveyance of services, including three waters.

5 Approximately 275m².

6 Both falling within the definition of "concession" per clause 1(b), Schedule 6 of the FTAA, by reference to the definition of "Reserves Act approval" at (b).

- 2.2 Works in a reserve such as those requested by HDC and proposed by VSP here, normally require authorisation by HDC.⁷ It has a broad power to grant authorisations to enable such works,⁸ this includes the power to grant rights of way and other easements.⁹
- 2.3 However, the FTAA empowers the Panel to grant these approvals instead of HDC and confirms that any such approval displaces the need to utilise the RA77 process to obtain the approval. Specifically, it:
- (a) Confirms the FTAA process applies instead of the process for obtaining an approval under the RA77;¹⁰ and
 - (b) States a substantive application may seek an approval for a Reserves Act approval.¹¹
- 2.4 Consequently, VSP is entitled to apply for a Reserve Act approval, (here, a permit and a right of way easement), to undertake works in the reserve and to enable the use of the constructed road, as part of its substantive application. More specifically:
- (a) A permit is required to authorise the physical works to be undertaken in the reserve, including earthworks, recontouring, vegetation removal, planting, servicing and road construction; and
 - (b) A right of way easement is required because a small part of the formed road (Road 3) and associated access to the development via that road will sit within the reserve and will require legal regularisation.
- 2.5 For the avoidance of doubt, we see no basis for seeking a lease or a licence over the reserve land. This is because we understand that VSP does not seek any form of property interest or occupation right over the land, beyond that which can be conferred via a right of way easement.

3. **APPROVAL PROCESS**

- 3.1 The approval process, and the relevant considerations for the Panel, are set out in Part 1, Schedule 6 of the FTAA.
- 3.2 We do not traverse these matters for the purpose of this memorandum as the process is prescribed in detail in Schedule 6 but highlight that:
- (a) Clause 3 sets out the relevant information requirements. Here, this will include a requirement that the local authority has provided written agreement for the activity to be undertaken on the reserve.¹²
 - (b) Clause 7 sets out the criteria that the Panel must consider when assessing the concession application (including any conditions).

7 Section 94, RA77. Noting the Council is the administering body; see s 40, RA77.

8 Section 61, RA77.

9 Section 48, RA77. Note the broad power at section 48(1)(f) in respect of the granting of right of way easements, including for access, water supply, drainage, or for any other purpose connected with any such land not forming part of the reserve.

10 Section 40(1)(a), FTAA.

11 Refer section 42(4)(e) and clause 1, Schedule 6, FTAA. This includes a lease, licence, permit or easement in respect of a reserve other than a Crown administered reserve per (b).

12 Clause 3(1)(m), Schedule 6, FTAA.

- (i) The clause 7(1)(a) considerations are mandatory, noting the Panel must give greatest weight to the purpose of the FTAA.
 - (ii) The clause 7(1)(b)(ii) considerations are discretionary, here, being consideration of any relevant reserve management plan.
 - (iii) While under clause 7(3)(b) the Panel must decline the application if HDC does not provide written agreement for activity to be undertaken on the reserve, although that agreement cannot be unreasonably withheld.¹³
 - (c) Clause 8 empowers the Panel to impose relevant conditions.
 - (d) If granted:
 - (i) HDC must give effect to the concession within 30 working days of the decision.¹⁴
 - (ii) The concession is treated as granted under the RA77.¹⁵
 - (iii) The concession conditions are enforceable.¹⁶
- 3.3 Given the direct relevance HDC's approval takes in both preparing the application material, and the Panel's determination of the application, we recommend its previous support for the proposal is reconfirmed with it as a priority.
4. **CHANGE IN PURPOSE OR REVOCATION OF RESERVE STATUS?**
- 4.1 We refer to the HDC officer's indicative support for a change in reserve status to Local Purpose (Road) Road reserve. Here, we consider that a change in reserve status would assist and enable the construction and use of the road as proposed,¹⁷ or alternatively, that the revocation of the land's reserve status could facilitate this.
- 4.2 However, we highlight that:
- (a) Any change in status, or revocation of reserve status, must occur in accordance with the process set out in the RA77;¹⁸ and
 - (b) These powers have not been carried through into the FTAA.
- 4.3 While we consider the change in purpose of the reserve, or alternatively, the revocation of the lands reserve status, has significant merit¹⁹ and would assist VSP to complete and undertake its development, VSP cannot include such a request in its substantive application,²⁰ nor is the Panel empowered to consider or determine such a request under the FTAA.

13 Refer clause 7(4)(a) and (b). By taking into account the purpose of the FTAA and any relevant matters under the RA77.

14 Clause 11, Schedule 6, FTAA.

15 Clause 17, Schedule 6, FTAA.

16 Clause 19, Schedule 6, FTAA.

17 Noting section 111 of the RA77 enables road reserve to be dedicated as road via resolution of the Council.

18 Refer sections 24, 24A and 25 of the RA77.

19 Including for the reasons provided by the Council officers.

20 Given the confines of section 42 of the FTAA.

- 4.4 Practically, this means that the only way VSP can enable the reserve works as part of its substantive application is to seek a concession from the Panel in accordance with Part 1, Schedule 6 of the FTAA.

5. **RECOMMENDATION – CONCESSION APPLICATION**

- 5.1 We **recommend** that VSP:

- (a) Prepare a concession application for a Reserves Act approval in accordance with Part 1, Schedule 6 of the FTAA, and that the concession be sought for both:
 - (i) A permit – to carry out the necessary physical works in the reserve.
 - (ii) A right of way easement – to enable the future use of the road in the reserve to access the development.
- (b) Draft concession conditions be prepared to address:
 - (i) The approved concession area(s) and the relevant plans;
 - (ii) The activities authorised within the Reserve land;
 - (iii) Any relevant construction and access requirements; and
 - (iv) The future monitoring and maintenance of the works, including financial contributions to the same, until such a time as all works are handed over to HDC.

- 5.2 There is no ability to seek a change to the purpose of the reserve or revoke the reserve status as part of the substantive application.

- 5.3 We are happy to provide further details and/or clarification in respect of any aspect of this memorandum if required.