

**IN THE MATTER OF**

the Fast-track Approvals Act 2024

**AND**

**IN THE MATTER OF**

an application for approval by Ngāti Whātua Ōrākei Whai Rawa Limited and Generus Living Group Limited to construct five interconnected buildings and operate a retirement village known as 'The Point Mission Bay'

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**MEMORANDUM OF COUNSEL ON BEHALF OF NGĀTI WHĀTUA  
ŌRĀKEI WHAI RAWA LIMITED AND GENERUS LIVING GROUP  
LIMITED**

Dated: 27 January 2026

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**GREENWOOD ROCHE**  
LAWYERS  
Auckland  
Solicitor: F M Lupis



## **1 INTRODUCTION**

- 1.1 This memorandum is filed on behalf of Ngāti Whātua Ōrākei Whai Rawa Limited and Generus Living Group Limited (*the Applicants*) in response to Minute 1 issued by the Panel Convener on 16 January 2026.
- 1.2 Minute 1 records the Panel Convener's decision to schedule a conference to discuss the appointment of Panel members and the timing of the Panel's decision on the Applicants' substantive application (*the Application*) for resource consent to enable the construction and operation of a retirement village known as The Point Mission Bay (*the Project or the Point*).
- 1.3 This memorandum addresses the information requested in Minute 1, being:
  - (a) the Project and the key issues engaged by the Application;
  - (b) the affected parties;
  - (c) Mātauranga Māori and tikanga;
  - (d) appointment of Panel members;
  - (e) timing of the Panel's decision; and
  - (f) procedural requirements.

## **2 THE PROJECT**

- 2.1 The Project site adjoins Takaparawhau, located at the northern end of Kupe Street, Te Arawa Street, Rukutai Street and Aotea Street, Auckland (*the Site*).
- 2.2 The Project is described in detail at section 13 of the Assessment of Environmental Effects (*AEE*). In summary, it involves:
  - (a) The construction and operation of five interconnected buildings of between five and eight storeys, inclusive of a one to three level podium. The buildings will accommodate approximately 256 retirement units, associated staff and administrative functions, and a variety of communal/common amenity facilities for residents and

their visitors, and a combination of at-grade and basement carparking.

- (b) The retention and integration of the existing three storey aged care facility (Eastcliffe Retirement Village) located within the western portion of the Site.
- (c) The demolition of the existing Aotea Street retirement apartment blocks located at the eastern end of the Site (at the appropriate stage of construction).
- (d) The implementation and maintenance of comprehensive soft and hard landscaping.
- (e) The construction and maintenance of two public pedestrian walkways through the Site to provide access to Takaparawhau from Te Arawa Street and Aotea Street.

### **Approvals sought**

- 2.3 The Application seeks resource consents (that would otherwise be sought under the Resource Management Act 1991 (*RMA*)) to enable the construction and the operation of the Project under the Auckland Unitary Plan (*Unitary Plan*).
- 2.4 A detailed overview of the approvals sought is set out at section 15 of the AEE. In summary, resource consent is required under the Unitary Plan to authorise the following activities for the Project:
  - (a) Integrated Residential Development.
  - (b) New buildings.
  - (c) Comprehensive development signage.
  - (d) Non-compliance with construction noise and vibration and transport standards.
  - (e) Groundwater diversion and dewatering.
  - (f) Earthworks.
  - (g) Temporary activities exceeding 24 months.

2.5 Because Integrated Residential Development is not provided for in the Open Space – Informal Recreation zone (which applies to the existing Aotea Street public walkway), that aspect of the Project is a non-complying activity under the Unitary Plan. All other aspects of the Project require resource consent as a restricted discretionary activity. Consequently, the Project is classified overall as a non-complying activity under the Unitary Plan.<sup>1</sup> The particular restrictions on non-complying activities imposed under section 104D of the RMA do not however apply to the assessment of substantive applications under the Fast-track Approvals Act 2024 (FTAA).<sup>2</sup>

### **Comments sought**

2.6 Minute 1 invites feedback on three matters (which may have a bearing on Panel appointment) specifically those which have some evidentiary complexity, legal complexity, or factual complexity.

#### *Legal complexity*

2.7 The Applicants do not consider that the Application raises any legal complexities beyond those that would commonly be encountered in resource consent applications of this nature and scale. It does not give rise to any exceptional, difficult or novel legal issues that might be unfamiliar to experienced resource management practitioners.

#### *Evidential complexity*

2.8 Seventeen expert technical reports have informed the Application and have been lodged alongside the AEE.

2.9 In light of the Site's position within the wider landscape the Applicants have dedicated particular attention and resource towards addressing how the Project will be perceived and experienced within both the existing and future environment. Specifically, the Applicants have engaged Ms Rachel de Lambert and Mr Matt Riley to assess the landscape, visual and urban design effects of the Project, and Ms Rebecca Skidmore to undertake a peer review of that assessment. Each

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<sup>1</sup> *Protect Aotea v Auckland Council* [2021] NZEnvC 140 at [17]-[18] and [42].

<sup>2</sup> FTAA, ss 81(2), (3)(a); Schedule 5, cl 17.

of those experts are experienced and highly regarded in their respective fields.

- 2.10 Ms de Lambert and Mr Riley confirm that the scale and intensity of the Project will not be out of character with the established and evolving pattern of more intensive urban development.<sup>3</sup> For her part, Ms Skidmore confirms that, while prominent, the Project provides a respectful interface to Takaparawhau and will make a positive contribution to the evolving urban environment.<sup>4</sup>
- 2.11 The Applicants have also commissioned a design report from Moller Architects on behalf of Ngāti Whātua Ōrākei. Mr Moller confirms that the Project provides a high quality design response to the various site conditions and is sensitive to the existing and future scale of the development in the neighbourhood including in the immediate proximity of Takaparawhau and the Ōrākei Marae.<sup>5</sup>
- 2.12 In relation to the other potential environmental effects, the technical assessments conclude that the adverse effects of the Project on the relevant aspects of the environment, when evaluated in light of the proposed conditions of consent (including the provision of management plans, where applicable), are appropriately avoided, remedied or mitigated.<sup>6</sup>
- 2.13 The evidentiary material provided in support of the Application is consistent with what is typically provided for an application for development of this type and scale.
- 2.14 The Applicants do not consider the material to be unusually onerous in terms of volume, or in terms of complexity of the matters that it addresses. Between the Applicants and the Council, there are no evidentiary issues in contention that are not otherwise addressed through the proposed conditions of consent. In the event of any technical areas of disagreement being raised by any other party, the

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<sup>3</sup> Assessment of Environmental Effects, Attachment 12A: Urban Design and Landscape Visual Effects Assessment, section 9, page 40.

<sup>4</sup> Assessment of Environmental Effects, Attachment 21: Urban Design and Landscape Assessment Peer Review Report, page 10.

<sup>5</sup> Assessment of Environmental Effects, Attachment 32: Design Report – Moller Architects, page 4.

<sup>6</sup> Refer conclusions referenced in section 18 of the Assessment of Environmental Effects.

Applicants consider that standard procedural tools such as conferencing will assist in the resolution of those matters.

*Factual complexity*

- 2.15 At the time the substantive application was lodged, the Applicants were awaiting a decision on their application to revoke the reserve status of two parcels of land which traverse the Site and are used as public pedestrian walkways.<sup>7</sup> On 12 December 2025, the revocation of that reserve status was confirmed via notice in the Gazette.<sup>8</sup>
- 2.16 With that matter now resolved, the Applicants consider that there are no unique or particularly complex factual matters associated with the Application.

### **3 CONSULTATION AND ENGAGEMENT**

- 3.1 The Application identifies the parties who are considered to be affected by the Project and summarises the consultation that the Applicants have undertaken with those parties.<sup>9</sup>
- 3.2 Prior to lodgement of the Application, Watercare identified that upgrades to the wastewater and water supply network will be required to service the Project. The existing constraints on the network and the requirements for those upgrades have been considered and addressed in the Application and are subject to proposed conditions of consent.
- 3.3 The Applicants consider that any further matters can be appropriately resolved through engagement with Watercare and the Panel during the Application process. The Panel is entitled to set conditions to ensure that the infrastructure in the project area can be made adequate to support the Project,<sup>10</sup> and the Applicants' proposed condition 59 also addresses this matter.<sup>11</sup>

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<sup>7</sup> Refer Assessment of Environmental Effects, section 11.

<sup>8</sup> Revocation of the Reservation Over a Reserve and Specifying the Manner of Disposal" (12 December 2025) *New Zealand Gazette* 2025-In7198.

<sup>9</sup> Assessment of Environmental Effects at section 16.

<sup>10</sup> Fast-track Approvals Act 2024, s 84A as amended by the Fast-track Approvals Amendment Act 2025.

<sup>11</sup> Assessment of Environmental Effects, Attachment 23: Proposed Conditions of Consent.

- 3.4 The Applicants have agreed to minor changes to proposed conditions 21 - 23 requested by Auckland Council (following lodgement of the Application) which relate to the method of chemical treatment to be incorporated in the final Chemical Treatment Management Plan. Those changes will be incorporated into the revised set of resource consent conditions, to be provided to the Panel once appointed.
- 3.5 Based on the engagement that has occurred to date (noting that Auckland Council is still in the process of reviewing the Application), we understand there are currently no outstanding matters or issues with the Project that have not been resolved between the Applicants and the Council.

#### **4 MĀTAURANGA MĀORI AND TIKANGA**

- 4.1 Ngāti Whātua Ōrākei are ahi kā and are the only relevant iwi authority, hapū and Treaty settlement entity for the purpose of the Application. The Applicants have therefore not engaged with any other mana whenua groups as part of the Application.

#### **5 APPOINTMENT OF PANEL MEMBERS**

- 5.1 The Applicants consider that the appointment of three Panel members is appropriate for the Application and do not consider there are any factors that warrant the appointment of additional members. In respect of Panel composition, the Applicants consider that legal, urban planning and design and planning expertise would assist.

#### **6 TIMING OF PANEL DECISION**

- 6.1 A draft timeline proposed by the Applicants is set out in **Attachment A**.
- 6.2 As set out in that timeline, a decision timeframe of 45 working days following the receipt of comments is considered to be appropriate to enable the Panel sufficient time to make a robust decision.
- 6.3 The draft timeline proposed is made on the basis that:
- (a) The Council and the Applicants have fully engaged on the design of the Project and, based on the engagement to date, they are aligned on the proposed conditions of consent.

- (b) Although the Application includes significant expert assessment, it is not considered to be legally, evidentially or factually complex.
- (c) The Panel will have the power to request further information and reports in accordance with section 67 of the FTAA and the power to appoint a special and/or technical advisor in accordance with clause 10 of Schedule 3 to the FTAA if required. However, the Applicants consider it unlikely that the Panel will require any additional technical support, if the Panel composition includes relevant planning and urban planning/urban design expertise discussed above.
- (d) Appropriate conditions are already significantly advanced as between the Applicants and Council.

6.4 In respect of Panel commencement, the Applicants request that the Panel commence its work on 25 February 2026 (7 working days later than proposed by the Panel Convenor in Minute 1) in order to accommodate availability constraints from the Applicants' team over the Easter period.

## **7 PROCEDURAL REQUIREMENTS**

- 7.1 The Applicants are willing to engage directly with the Panel and other participants as necessary and where appropriate to efficiently advance the progress of the Application.
- 7.2 The Applicants do not consider that any form of hearing process is required for the Application given the relatively straightforward nature of the Application. The Applicants are however happy to participate in any conferencing, consultation, or other procedural events that the Panel considers would assist efficient processing of the Application.
- 7.3 At this stage, the draft timeline proposed in Attachment A does not account for any conferencing or other process, but the Applicants consider that sufficient time is available within the 45 working day period for conferencing to occur, if desirable.

## **8 CONCLUSION**

8.1 The Applicants thank the Panel Convener for the opportunity to attend the conference and to comment on relevant matters.

**DATED** this 27th day of January 2026



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F M Lupis

Counsel for Ngāti Whātua Ōrākei Whai Rawa Limited and Generus Living Group Limited

## Attachment A – Estimated timeframe for Panel decision

Task	Working days	Date
Panel commencement (s 50)	N/A	25 February 2026
Invite comment from relevant parties (s 53)	10 WD	11 March 2026
Comments close (ss 53 & 54)	20 WD	10 April 2026 <sup>12</sup>
Comments close for applicants (s 55)	5 WD	17 April 2026
<b><i>If draft decision is to approve</i></b>		
Draft conditions and decision to Ministers (s 72)	15 WD	11 May 2026 <sup>13</sup>
Response from Ministers (s 72)	10 WD	25 May 2026
Applicants response to Ministers comments (if any)	5 WD	2 June 2026 <sup>14</sup>
Draft conditions and decision to participants (s 70(1))	5 WD after drafts provided to Ministers	18 May 2026
Participants comments on draft conditions (s 70(2))	5 WD	25 May 2026
Applicants respond to comments (s 70(4))	5 WD	2 June 2026 <sup>15</sup>
Panel evaluation and decision release (s 79)	10 WD	16 June 2026 <sup>16</sup>
<b>Total</b>	45 WD (from the date of receiving comments under ss 53 & 54)	16 June 2026

<sup>12</sup> Accounting for Good Friday (3 April 2026) and Easter Monday (6 April 2026).

<sup>13</sup> Accounting for Anzac Day (observed 27 April 2026).

<sup>14</sup> Accounting for King's Birthday (1 June 2026).

<sup>15</sup> Accounting for King's Birthday (1 June 2026).

<sup>16</sup> Accounting for King's Birthday (1 June 2026).