



THE GROVE

O R E W A

**DISCLOSURE STATEMENT**

**THE GROVE OREWA**

**25 October 2019**

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**THE GROVE OREWA**  
**DISCLOSURE STATEMENT**

**Pursuant to the Retirement Villages Act 2003 and the Retirement Villages  
(General) Regulations 2006**

This Disclosure Statement sets out details about the Village, The Grove Orewa, the Operator, Aegis Orewa Limited, and the rights and obligations a Resident has relating to a Residential Unit at the Village.

Specific details and information relating to a particular Resident's personal interest in the Village can be found in the Schedule attached to this Disclosure Statement.

Capitalised terms used in this Disclosure Statement are explained in the Glossary on page 26.

**DETAILS OF VILLAGE AND OPERATOR**

Date of Disclosure Statement:	25 October 2019
Date of Registration:	Lodged for registration on 29 October 2019
Village's Street Address	8 Milton Road, Orewa 0931
Village's Registered Office and Address for Service and Street Address:	C/- Armstrong & Associates, 5 Akaroa Street Parnell Auckland 1052
Operator's Registered Office and Street Address:	C/- Foley Hughes Level 1, 20 Beaumont Street Freemans Bay Auckland
Operator's Agent:	Alexander Foster Director
Operator's and the Operator's Agent's Contact Details:	Mobile: 027 726 143 Telephone: 09 523 5271 Email: sandy.foster@aegisprojects.co.nz

## **IMPORTANT INFORMATION FOR INTENDING RESIDENTS**

Decisions about retirement villages are very important. They have long-term personal and financial consequences.

You should read this disclosure statement carefully.

This disclosure statement draws your attention to some of the important matters you should consider before deciding to enter a retirement village.

Ask questions.

You must obtain advice from a lawyer independent of the Operator of the village before you sign an occupation right agreement (i.e., a document which confers on any person the right to occupy a residential unit within the village and specifies any terms or conditions to which that right is subject).

It is common for there to be misunderstandings by residents and their families about:

- the kind of legal interest that the resident has in the village;
- what happens if the resident or their family wants to exit an occupation right agreement;
- the fees and charges that apply to entering, moving between units within, and leaving the village;
- the ongoing fees and charges.

It is important that you and your family understand what is involved in entering into an occupation right agreement to join a retirement village.

Although in most cases you will have 15 working days to cancel an occupation right agreement after signing it, you should consider the issues carefully before you sign any application form or agreement.

## **INFORMATION ABOUT AVOIDING OCCUPATION RIGHT AGREEMENT**

Section 31 of the *Retirement Villages Act 2003* gives you the right to avoid an agreement that you enter into for the right to occupy a residential unit in a retirement village, but only if you enter into the agreement in the circumstances described in a row of the table below and the circumstances involve:

- (a) a significant detriment to you; or
- (b) a material (not merely technical or minor) breach of the Act; or
- (c) deliberate misconduct by the operator of the village.

You can use the right only by giving written notice to the operator of the village, and the statutory supervisor (if there is one) of the village, within the period described in the relevant row of the table.

<b>Circumstances</b>	<b>Period</b>
The village was not registered, but was required to be	3 years after you entered into the agreement or 6 months after you knew, or ought to have known, the circumstances existed when you entered into the agreement, whichever ends first
The registration of the village was suspended and the operator had been notified of the suspension	3 years after you entered into the agreement or 6 months after you knew, or ought to have known, the circumstances existed when you entered into the agreement, whichever ends first
The agreement did not contain, in clear and unambiguous form, the material it was required by the Act to contain	1 year after you entered into the agreement or 6 months after you knew, or ought to have known, the circumstances existed when you entered into the agreement, whichever ends first
You did not receive independent legal advice before entering into the agreement	1 year after you entered into the agreement or 6 months after you knew, or ought to have known, the circumstances existed when you entered into the agreement, whichever ends first
Before entering into the agreement, you did not receive a disclosure statement that complied with the Act, the residents' code of rights, the code of practice or a statement when the code would come into force, and a copy of the agreement	1 year after you entered into the agreement or 6 months after you knew, or ought to have known, the circumstances existed when you entered into the agreement, whichever ends first

You should seek legal advice before using the right.

If you use the right, you are entitled to a refund of some amounts you paid for the right to occupy the unit and for services or facilities that were not provided, interest on those amounts, and your actual and reasonable costs associated with using the right (such as legal expenses and removal costs).

The operator may dispute your use of the right, refer the dispute to a disputes panel under the *Retirement Villages Act 2003*, and refuse to pay the refund while the dispute is unresolved.

### **COOLING-OFF PERIOD**

A resident also has certain rights during their cooling-off period. Please see paragraph 10 below for further details. Following is a copy of Section 28 of the Retirement Villages Act 2003:

- (1) An occupation right agreement must contain a provision allowing a resident (other than a person who is a resident solely because paragraph (c) of the definition of resident applies to that person) to cancel the agreement,—
  - (a) without having to give any reason, by notice given not later than 15 working days after the agreement is signed by the resident; and
  - (b) if the agreement relates to a residential unit to be built or completed at a later date and the residential unit is not finished to the point of practical completion within 6 months after the proposed date for completion of the unit, by notice given at any time after the expiry of that 6-month period.
- (2) Notice of cancellation—
  - (a) must be in writing and in a form that indicates (irrespective of the exact words used) the intention of the resident to cancel the agreement; and
  - (b) may be given by the resident or any person authorised in writing by the resident to act on his or her behalf.
- (3) The notice may be given to—
  - (a) the operator; or
  - (b) the real estate agent or other person who dealt with the resident on behalf of the operator when the resident acquired an occupation right, unless the operator has notified the resident that the person has ceased to act on behalf of the operator; or
  - (c) any person who the operator has notified the resident is a person authorised to receive communications on behalf of the operator.
- (4) The operator is entitled to reasonable compensation for services provided to the resident under the occupation right agreement and for damage to a residential unit or any facilities in the retirement village for which the resident is responsible before the cancellation takes effect.

- (5) Despite subsection (1), an occupation right agreement may contain a cancellation provision of the kind referred to in subsection (1) that is more favourable to the resident than the provision referred to in subsection (1), but, if the agreement fails to contain any provision of the kind referred to in subsection (1) or contains a provision that is less favourable to the resident than that provision, the agreement is deemed to contain the provision referred to in subsection (1).

## Definitions

The definitions below are taken from the *Retirement Villages Act 2003* and relate to terms used in Section 28 (above):

**facilities**, in relation to a retirement village, means facilities of a shared or communal kind provided in the retirement village for the benefit of residents of the retirement village and includes recreational facilities and amenities

**occupation right agreement** means any written agreement or other document or combination of documents that—

- (a) confers on any person the right to occupy a residential unit within a retirement village; and
- (b) specifies any terms or conditions to which that right is subject.

**operator**, in relation to a retirement village, means any person who is 1 or more of the following:

- (a) a person who is, or will be, liable to fulfil all or any of the obligations under occupation right agreements to residents of the village;
- (b) a holder of a security interest who is exercising effective management or control of the retirement village;
- (c) a receiver of the property comprising the retirement village, or the liquidator of the person to whom either of paragraph (a) or paragraph (b) applies.

**resident** means any of the following:

- (a) a person who enters into an occupation right agreement with the operator of a retirement village;
- (b) a person who, under an occupation right agreement, is, for the time being, entitled to occupy a residential unit within a retirement village, whether or not the agreement is made with that person or some other person;
- (c) if the occupation right agreement so provides or with the consent of the operator of the retirement village, the spouse, civil union partner, or de facto partner of the person referred to in paragraph (b) who is occupying the residential unit with that person, or after that person's death or departure from the retirement village.

**residential unit or unit** means a building, or part of a building, that is a house, flat, townhouse, unit, serviced unit or apartment (whether or not it has cooking facilities), villa, or similar dwelling erected, or currently used, primarily and principally as a unit of accommodation; and includes any land, improvements, or appurtenances belonging to the unit or usually enjoyed with it.

**services** means services provided at a retirement village of one or more of the following kinds:

- (a) gardening, repair or maintenance services;
- (b) nursing or medical services;
- (c) the provision of meals;
- (d) shops and other services for the provision of goods;
- (e) laundry services (not being the provision of facilities for residents to carry out their own laundry);
- (f) services (for example, hairdressing services) for the personal care of residents;
- (g) transport services;
- (h) services for recreation or entertainment;
- (i) security services;
- (j) other services for the care or benefit of residents.

## **OWNERSHIP, MANAGEMENT AND SUPERVISION**

### **1. OWNERSHIP STRUCTURE AND OCCUPANCY RIGHTS**

#### **1.1. Legal Nature of Operator**

The Operator, Aegis Orewa Limited is a company registered under the Companies Act 1993 under number 5876254.

#### **1.2. Details of Operator**

The directors of the Operator are Alexander Simpson Foster and Robert Davis.

#### **1.3. Operator's Interest in the Village**

The Operator owns registered leasehold interests in the Village land, which are registered as Identifiers 728485 and 821809 (North Auckland Land Registration District). The Lessor is STC Orewa Limited and Orewa Village Limited as partners of the Palm Grove Partnership.

#### **1.4. Charges over or Interests in the Operator's Interest**

The Operator's interest in the Village land is subject to mortgages in favour of the Statutory Supervisor, Covenant Trustee Services Limited. The mortgages are to secure the Operator's obligations to Residents, including the obligation to pay the Exit Payment in accordance with the terms of the Residents' Occupation Right Agreements. There is no maximum sum secured by the mortgage.

The Operator has also granted a general security agreement in favour of the Statutory Supervisor to secure the Operator's obligations to the Residents.

The Lessor's underlying freehold interest in the Village land is subject to a first ranking encumbrance in favour of the Statutory Supervisor. The encumbrance in favour of the Statutory Supervisor secures the Lessor's covenants in favour of the Statutory Supervisor that protect Residents' rights of occupancy in the event that the leases of the Village land are terminated.

The Lessor has obtained a loan facility from Bank of New Zealand (BNZ) for the sum of \$18,100,000. The Operator has provided a guarantee to BNZ in respect of this loan facility, limited to a maximum amount equal to the net assets of the Operator plus the value of assets and proceeds no longer held by the Operator due to its breach or non-observance of the leases or failure to pay proceeds from the sale of occupation right agreements to the Lessor. It is intended that this loan facility will be repaid as Occupation Right Agreements are issued for each new Residential Unit. The Operator has granted a second ranking general security agreement in favour of Bank of New Zealand in respect of this guarantee.

## 1.5. Nature of Resident's Interest and Occupancy Rights

A Resident has no interest in the Village land.

Residents at the Village are offered a contractual licence to occupy their Residential Unit that does not grant the Resident any interest in the land relating to that Residential Unit. That occupation licence constitutes an Occupation Right Agreement and is secured by the mortgages in favour of the Statutory Supervisor described in clause 1.4 above.

## 2. RESIDENT'S RIGHTS

### 2.1. Rights the Resident has

A Resident has the following rights:

<b>Right</b>	<b>Details, conditions and limitations</b>
To have a member of the Resident's family (including a de facto partner of the Resident) stay with the Resident in the Residential Unit	A Resident may have friends, relatives or other persons stay in the Residential Unit for periods not exceeding one month. The Operator's prior consent is required if the person stays for a longer period. The Operator may revoke this consent if the Operator considers that the arrangement may interfere with other Residents' quiet enjoyment of the Village.
To have a person stay with the Resident in the Residential Unit as a companion or carer for the Resident	
To keep a pet in the Residential Unit	Only with the Operator's prior consent. Such consent can be withdrawn at any time.

### 2.2. Rights the Resident does not have

A Resident does not have the following rights:

- To sell or market the Residential Unit. Please see paragraph 2.5 below for further information on selling and marketing the Residential Unit.
- To mortgage or otherwise borrow against the Resident's interest in the Residential Unit.
- To grant a security interest in the termination proceeds.
- To have a person board with the Resident in the Residential Unit.

- To have a person stay in the Residential Unit to mind it for the Resident whilst the Resident is away.
- To let the Residential Unit to another person.

### **2.3. Rules**

A Resident must comply with the Operator's rules for the Village. A copy of the rules is attached to the Resident's Occupation Right Agreement but those rules may be changed by the Operator from time to time. If the Operator wishes to change the rules it will consult with the Residents and notify them of any changes before requiring Residents to comply with them.

### **2.4. Limits on living in or using the Residential Unit**

#### ***Temporary Residential Units***

If the Resident's Occupation Right Agreement relates to a Residential Unit constructed prior to 2016 the Operator may need the Residential Unit so that it can undertake further development at the Village. In this situation the Operator will transfer the Resident to a new permanent Residential Unit at no cost to the Resident. Further details are set out in the Occupation Right Agreement and paragraph 7.4 of this Disclosure Statement.

#### ***Alterations***

A Resident may not make any alterations or additions to the Residential Unit or modify the Operator's Chattels, or fit aerials or other appurtenances without the Operator's prior consent.

However, if the Resident has a disability they are entitled to alter their Residential Unit if it does not meet their needs. If a Resident wishes to make such alterations they must give the Operator written notice and consult with the Operator. The Operator will undertake such alterations at the Resident's cost and may require the Residential Unit to be reinstated to its original condition on termination (at the Resident's cost).

#### ***Personal Use and Occupation***

The Residential Unit must only be used for the Resident's personal use and occupation, subject to any rights to have people stay in the Residential Unit as described in paragraph 2.1 above.

#### ***Nuisance or Annoyance***

A Resident must not do anything or allow anything to be done (within the Resident's control) which is or could be a nuisance or annoyance to or cause distress to other Residents or to the Operator.

#### ***Damage***

A Resident must not do anything which damages the Residential Unit or vitiates or avoids the Operator's insurance.

**No Smoking**

A Resident must not smoke in the Residential Unit or in any buildings at the Village and must ensure that the Resident's guests do the same.

**2.5. Marketing of the Residential Unit**

The Operator controls the sale and marketing of the Residential Unit when a Resident's Occupation Right Agreement terminates. Following termination, the Operator will take all reasonable steps to obtain a new Resident for the Residential Unit. The Resident does not have any control over the selling and marketing process but is entitled to introduce a new Resident.

A new Resident must be suitable for the Village (in the Operator's opinion) and must be prepared to enter into an Occupation Right Agreement on the Operator's then standard terms and conditions and for the best price reasonably obtainable.

The Operator will consult with the Resident about when the Residential Unit goes on the market and the general nature of the marketing plan. The Operator will keep the Resident informed of the marketing progress on a monthly basis.

If a new Occupation Right Agreement is not entered into within three months of termination, the Operator will let the Resident know in writing and will then provide monthly written reports on the process, stating the steps the Operator has taken and the progress that has been made.

If a new Occupation Right Agreement is not entered into within six months of termination, the Operator will obtain a valuation (at its cost) of the Residential Unit by an independent registered valuer with experience in valuing retirement village units, to establish a suitable price for marketing the Residential Unit. The Operator will market the Residential Unit at this price. If the Resident does not agree with the valuation, they have the right to obtain a second valuation performed by an independent registered valuer, at the Resident's cost. If a second valuation is obtained, the Operator will consider it when setting the price.

If a new Occupation Right Agreement is not entered into within nine months of the Residential Unit becoming available for re-occupation, the Resident may be able to give a Dispute Notice.

A Resident is required to pay an administration fee of 1.5% of the Entry Payment and Car Park Payment (if applicable) being a contribution towards the costs incurred by the Operator in the selling and marketing process.

The Operator may agree in writing to buy a Resident's interest in the Residential Unit. Settlement of such agreement will be within 20 Working Days of the agreement and will be at a price determined in accordance with the Resident's Occupation Right Agreement or such lower price as agreed by the Operator and the Resident.

## **2.6. Circumstances in which a Resident is entitled to a Refund**

A Resident is entitled to a refund of their Entry Payment and Car Park Payment (if applicable) if they exercise their rights pursuant to the Cooling-off Period. Please see paragraph 10 below for further details.

A Resident will also be entitled to a refund of their Entry Payment and Car Park Payment (if applicable), if they avoid their Occupation Right Agreement under section 31(1) of the Retirement Villages Act 2003.

If an intending Resident has paid a deposit upon applying for an Occupation Right Agreement but that application does not proceed and no Occupation Right Agreement has been entered into, the Resident is entitled to a refund of that deposit together with any interest earned on that deposit.

## **3. MANAGEMENT ARRANGEMENTS FOR THE VILLAGE**

### **3.1. Details of Manager**

The Operator is the Manager. The Manager's agent is Alexander Foster:

C/- Armstrong & Associates Limited  
5 Akaroa Street  
Parnell, Auckland  
Telephone: 09 523 5271.

### **3.2. Key Management Personnel and Staff at the Village**

Jo Robertson, village and sales manager.

### **3.3. Times when the Manager is at the Village**

The village manager is at the village for 40 hours per week from Monday to Friday between 8.30am and 5.00pm,

### **3.4. Times when the Manager has Staff at the Village**

As above

### **3.5. Other Times the Manager can be Contacted**

The Village Manager can be contacted during usual business hours but at any time in an emergency. There is an emergency call service in operation and it is preferred that this service be used by Residents rather than calling the Village Manager.

### **3.6. Contact Details of Manager and Staff at Village**

Jo Robertson:  
Email: jo.robertson@thegroveorewa.co.nz  
Mobile: 021 0414 111

### **3.7. Experience and Core Duties of Manager**

The experience of the Manager's agent in managing the day to day operations of retirement villages extends over more than ten years. The Village Manager (Jo Robertson) has also worked in retirement village sales for many years. The Manager's core duties are to manage the day to day operation of the Village.

### **3.8. Legal Relationship Between Manager and Operator**

The Manager is the Operator.

### **3.9. Residents' Committee**

A Residents' committee has been established at the Village. The Operator is not bound to incur any expenditure by any decision of the Residents' committee. Subject to the Operator's need to operate the Village without undue interference and to provide services for the benefit of all Residents, the committee enables Residents to express their views collectively and engage with management regarding the operation of the Village.

## **4. STATUTORY SUPERVISOR**

Under the Retirement Villages Act 2003, the Operator of a retirement village must appoint a statutory supervisor for the village unless the Registrar of Retirement Villages grants the Operator an exemption.

The core duties of a statutory supervisor are to:

- provide a stakeholder facility for intending Residents and Residents who pay deposits or progress payments in respect of occupation right agreements or uncompleted Residential Units or facilities at the retirement village; and
- monitor the financial position of the retirement village; and
- report annually to the Registrar and Residents on the performance of its duties and the exercise of its powers; and
- perform any other duties that are imposed by the Act or any other Act, any regulations made under the Act, and any documents of appointment.

### **4.1. Details of Statutory Supervisor**

Covenant Trustee Services Limited:  
 Level 6, 191 Queen Street, Auckland  
 Telephone: 09 302 0638  
 Facsimile: 09 302 1037  
 Email: [team@covenant.co.nz](mailto:team@covenant.co.nz)

## **STATE OF VILLAGE, SERVICES, CHARGES AND ACCOUNTS**

### **5. STATE OF THE VILLAGE**

#### **5.1. Details of Village**

Initial construction of the Village was completed in 1987 and is predominantly of a brick and tile construction. The Village and its facilities, paths, driveways, grounds, lighting, and heating arrangements are in a well maintained and sound condition and standard of maintenance.

#### **5.2. Completion of Village**

As at the date of this Disclosure Statement, the Village is not yet complete.

STC Orewa Limited and Orewa Village Limited as partners of the Palm Grove Partnership own land adjacent to the original Village spread over two records of title. The Lessor intends to construct a total of 69 new apartments, basement car parking spaces and common areas with facilities and amenities on this new land, over three stages. The new units will be a mix of one bedroom, two bedroom and three bedroom apartments. The Operator has taken a registered leasehold interest over this adjacent land, and this land now forms part of the Village.

It is intended that the Lessor's construction on the adjacent land will take place over three stages, with the development plan for each stage being as follows:

- (a) Stage one: building 27 apartments, with a basement car park, and a floor for common amenities;
- (b) Stage two: building 15 apartments with a basement car park; and
- (c) Stage three: building 27 apartments with a basement car park.

It is currently planned that the common amenities will offer a lounge, a café and bar, a spa pool, a gymnasium, a cinema, a library, a pool table, an activities area, a consulting room, as well as a reception, administration and support area.

Depending upon demand, the Lessor may commence the stage three at the same time as stage two or before the stage two is completed.

Construction of stage one commenced in June 2018 and is expected to be completed in November 2019. The expected final completion date for the development is December 2023.

It is intended that two existing units, Units 10 and 11, and the existing common room will be demolished once Stage 1 is completed as part of the Stage 2 development. Residents who are required to move will be fully consulted, and the cost of their move will be borne by the Operator.

It is possible that the Operator in consultation with the Lessor may consider further developing the Village following the completion of the works described above and this may require demolition of further existing units.

The effect of any further development on existing Residents may be that they suffer some inconvenience from traffic, dust and noise associated with construction. The Operator will work with the Lessor to minimise any adverse effect on existing Residents. The development will not have any effect on the periodic charges payable by existing Residents.

### **5.3. Residential Units at the Village**

As at the date of this Disclosure Statement, there are 14 completed Residential Units, all being villas. Ten villas are occupied and four are vacant.

See paragraph 5.2 above for potential development plans.

### **5.4. Disposals in the last 12 months**

No Residential Units were disposed of in the twelve months prior to the date of this Disclosure Statement.

References to disposals in this clause do not include Residential Units which are currently on the market and have not yet settled as inclusion of the disposal times for these Residential Units may significantly alter the average time to dispose of units.

## **6. SERVICES AND FACILITIES AT THE VILLAGE**

### **6.1. Services Offered at the Village**

The following services are offered at the Village:

<b>Service</b>	<b>Details, including frequency and charges</b>
Gardening	Gardening of the common areas of the Village is carried out by the Operator as required. The costs of this service are included in the Village Outgoings Payment.
Lawn mowing	Lawn mowing of the common areas of the Village is carried out by the Operator as required. The costs of this service are included in the Village Outgoings Payment.
Repair and maintenance	Repairs and maintenance of the common areas of the Village and the Residential Units is carried out by the Operator as required. Some of the costs of this service are included in the Village Outgoings Payment. Some costs are invoiced to residents as set out in clause 8.2 below.

<b>Service</b>	<b>Details, including frequency and charges</b>
Transport services	The Operator maintains a minibus for regular shopping trips and other outings. The cost is included in the Village Outgoings Payment.
Recreation and entertainment services	The Operator in conjunction with the Residents' committee arranges recreational and entertainment services. Some services may be free but a fee may be payable for other services as and when the service is used.
Emergency Call Service	The emergency call services are maintained by the Operator through a contract with a professional emergency core service provider. The cost is included in the Village Outgoings Payment.

## **6.2. Services Not Offered at the Village**

The following services are not offered at the Village:

- (a) Nursing and medical services;
- (b) Provision of meals;
- (c) Shops and other services for the provision of goods;
- (d) Laundry services;
- (e) Hairdressing and other personal care services.

## **6.3. Facilities Offered at the Village**

The following facilities are offered at the Village:

<b>Facilities</b>	<b>Details, including limits on availability and charges</b>
Dining Facilities	Kitchen and dining facilities are provided for special functions. A fee may be payable.
BBQ area	Garden courtyard BBQ area and seating
Lounge or television room	This is available for all Residents at no charge.
Library	The library is available for all Residents at no charge.

#### **6.4. Facilities Not Offered at the Village**

The following facilities are not offered at the Village: laundry, gymnasium, spa pool, health clinic, swimming pool, tennis court, petanque court and bowling green.

#### **6.5. Planned Services and Facilities**

The Operator plans to make further services and facilities available as part of the expansion of the village referred to under clause 5.2.

### **7. CHARGES AND TRANSFER RIGHTS**

#### **7.1. Entry Payment**

To secure an interest in a Residential Unit, the Resident must pay the Operator an Entry Payment which is shown in the Schedule attached to this Disclosure Statement. If a car park is required and is not included as part of the Residential Unit the Resident will also pay a Car Park Payment for the Car Park. A deposit is payable when a Resident applies for the Residential Unit with the balance of the Entry Payment and Car Park Payment (if applicable) payable on settlement of the Occupation Right Agreement. The amount of the deposit is agreed between the Operator and the Resident on application.

The Entry Payment and the Car Park Payment (if applicable) depend on the Residential Unit and the Car Park the Resident is interested in and are set by the Operator and reflect the market price of an Occupation Right Agreement for that Residential Unit and Car Park (in the Operator's opinion). In some circumstances the Operator may be willing to negotiate this amount with the Resident but it is not obliged to do so.

The Entry Payment and the Car Park Payment (if applicable) are refundable if the Resident exercises their rights under the Cooling-off Period (see paragraph 10 below for further details), or if the Resident avoids the Occupation Right Agreement (see paragraph 2.6 above).

#### **7.2. Exit Payment**

After the Occupation Right Agreement is terminated, the Operator pays to the Resident the Exit Payment, which is an amount equal to the Entry Payment and the Car Park Exit Payment (if applicable and not paid earlier), subject to the following deductions:

- (a) A Village Contribution, which the Resident must pay to the Operator, to a maximum being an amount equal to 25% of the Entry Payment.

The Village Contribution accrues to the Operator on a daily basis at a rate equal to 1/48<sup>th</sup> of the Maximum Village Contribution per month. The Village Contribution is calculated from the Commencement Date (or such other date agreed by the Operator and the Resident as set out in the Occupation Right Agreement) until the earlier of the expiry of 4 years from

the Commencement Date (or other agreed date) or the Exit Payment Date.

The Village Contribution is set by the Operator when the Resident applies for an Occupation Right Agreement and represents a contribution towards the provision of communal Village facilities and buildings;

- (b) A Car Park Contribution (if applicable and not paid earlier) which the Resident must pay to the Operator. The maximum Car Park Contribution is an amount equal to 25% of the Car Park Payment. The Car Park Contribution is calculated in the same manner as the Village Contribution;
- (c) The outstanding balance of any payments due to the Operator under the Occupation Right Agreement;
- (d) An administration fee of 1.5% of the Entry Payment and Car Park Payment. This fee is set by the Operator at the commencement of the Occupation Right Agreement;
- (e) Any actual costs of cleaning the Residential Unit. These costs are set by the Operator in its sole discretion upon inspection of the Residential Unit when the Resident leaves it; and
- (f) Any actual costs of reinstating or repairing any damage over and above fair wear and tear if the Resident causes it or allows it to be caused to the Residential Unit. These costs are set by the Operator in its sole discretion upon inspection of the Residential Unit when the Resident leaves it.

The Car Park may be surrendered earlier than the Termination Date of the Occupation Right Agreement by the Resident giving at least one month's written notice of the intention to terminate, and in that circumstance the Operator will pay the Resident on the date that is ten Working Days after the expiry of the termination notice the Car Park Exit Payment, being an amount equal to the Car Park Payment minus the Car Park Contribution and any Operator's reasonable legal costs and / or statutory supervisor's costs associated with the surrender of the Car Park.

Where the Occupation Right Agreement is terminated upon damage or destruction of the Residential Unit and paragraph 14.3 applies, the above payments will be adjusted as set out in that paragraph.

***Exit Payment Date***

The Operator is obliged to pay the Resident the Exit Payment minus the deductions listed above not later than five Working Days after the Operator receives full settlement of a new Resident's Entry Payment for the Residential Unit.

However, in some circumstances the payment will be made on a different date, as set out in the Occupation Right Agreement.

### **7.3. Transfer Payments**

If a Resident wishes to transfer to another Residential Unit in the Village, the Operator will endeavour to accommodate a transfer, subject to availability, the Operator being satisfied that the alternate Residential Unit is suitable for the Resident and the Operator finding a new Resident to enter an Occupation Right Agreement for the old Residential Unit. Before a Resident may transfer, the Operator may require at its option:

- (a) A new Resident to enter an Occupation Right Agreement in respect of the Residential Unit that the Resident is vacating and to make full payment for that Occupation Right Agreement to the Operator; and
- (b) Receipt by the Operator of an acknowledgement of termination of the Occupation Right Agreement signed by the exiting Resident (who will receive the Exit Payment less the deductions set out in the Occupation Right Agreement); and
- (c) The exiting Resident signing an Occupation Right Agreement for the new Residential Unit and paying an Entry Payment at the then current market rate.

A Resident will be responsible for:

- (a) All costs associated with physically moving to a new residential unit; and
- (b) Payment of his or her legal costs associated with the transfer.

### **7.4. Operator's Right to Require Residents to Relocate**

The Operator is intending to redevelop the Village and these plans may affect Residents granted an Occupation Right Agreement of a Residential Unit built prior to 2016. If the Operator's plans require a Resident's Residential Unit the Operator will require the Resident to transfer to a different Residential Unit.

The Operator will consult with the Resident prior to transferring the Resident to their new permanent Residential Unit.

The transfer will be at no additional cost to the Resident, and there will be no changes to the terms of the Resident's Occupation Right Agreement as a result of the transfer. The Operator, at its cost, will assist in the removal and transfer of the Resident's belongings. The new permanent Residential Unit will be at least the same quality and size as the Resident's temporary Unit.

Further details are included in the Resident's Occupation Right Agreement.

### **7.5. Periodic Charges**

When a Resident enters into an Occupation Right Agreement for a Residential Unit, they are liable to pay the periodic charges detailed below. Specific amounts of these charges (where applicable to a particular Resident in relation

to the Residential Unit they are interested in) are shown in the Schedule attached to this Disclosure Statement, as at the date shown in that Schedule.

### ***Village Outgoings Payment***

The Village Outgoings Payment contributes to the cost of the Village Outgoings that the Operator incurs in the operation of the Village. The Resident's Occupation Right Agreement sets out details of those Village Outgoings. The Village Outgoings Payment is payable from the Commencement Date in advance on the first day of each month.

The Village Outgoings Payment is fixed for the term of the Occupation Right Agreement. The amount of the Village Outgoings Payment will be determined by the Operator and advised to each intending Resident, and once fixed, will not be increased during the term of the Occupation Right Agreement for that Resident. The Operator may set different Village Outgoings Payments for different Residents.

The Village Outgoings Payment ceases to be payable by the Resident;

- (a) on the Exit Payment Date; or
- (b) six months after the Termination Date, the Exit Payment Date has not occurred by such date; or
- (c) from such later date that the Resident stops living in the Residential Unit and removes their belongings; or
- (d) from the date that the Resident vacates the Residential Unit, if the Residential Unit is damaged and destroyed and is unable to be repaired or reinstated.

Out of the Village Outgoings Payments it receives, the Operator may retain a reasonable management fee.

### ***Additional Services Costs***

If a Resident requests the Operator to provide any additional services not included in the Care Services or the Village Outgoings, the Resident will pay the actual cost of providing such service. The Operator will invoice such costs to the Resident at the end of the month and they are payable no later than the 20<sup>th</sup> of the following month.

The Operator retains the Additional Services Costs it receives to cover its costs of providing the Additional Services.

### ***Other Costs***

A Resident is liable to pay their utility costs relating to the Residential Unit.

If any periodic charge is not paid within five Working Days of the due date, the Operator is entitled to charge default interest on the outstanding amount at a rate of 5% per annum above the 90 day bank bill rate charged to the Operator by its bankers, until the amount is paid in full.

As at the date of this disclosure statement, the Operator does not anticipate introducing any new periodic charges or changing the existing periodic charges, except as discussed above.

In some circumstances a Resident may be liable to pay the Operator's insurance excess as detailed in paragraph 14 below.

## **7.6. Amounts Payable for Maintenance, Rates and Insurance**

Amounts payable for maintenance, rates and buildings insurance are included in the Village Outgoings Payment detailed above.

## **7.7. Maintenance or Sinking Fund**

The Village has a sinking fund that is being wound up, and Residents are not required to contribute to the fund. Any contributions made by a Resident to the fund are not refunded to the Resident when their Occupation Right Agreement is terminated.

The balance of the fund as at 24 September 2019 was \$12,849.20.

The fund can be applied for repairs, maintenance, renovations and replacements to the Village of a substantial but infrequent or irregularly occurring nature but will not be used for refurbishing a Residential Unit vacated because the Occupation Right Agreement for the Residential Unit has been terminated.

The Operator will report on how it proposes to pay for the maintenance and periodic upgrading of the Village property to the Residents' Annual General Meeting. If such proposal will have a material impact on the Residents' occupancy or their ability to pay for services and facilities, the Operator must consult with the Residents in writing.

## **8. MAINTENANCE AND REFURBISHMENT**

### **8.1. Operator's Maintenance Responsibilities**

The Operator is responsible for maintaining the common areas and buildings of the Village (including each Residential Unit) and keeping them in good order and condition.

The Operator endeavours to ensure that the Village meets Residents' current needs by maintaining the Village in good order and condition. The Operator cannot ensure that the Village meets Residents' changing needs.

As construction of parts of the Village was completed prior to 2001, these areas of the Village (including the Residential Units, facilities, grounds and common areas) may not meet all of the requirements of the national standards identified in NZS 4121:2001 (Design for Access and Mobility: Buildings and Associated Facilities).

## **8.2. Resident's Maintenance Responsibilities**

The Resident is responsible for keeping the Residential Unit and its surrounds, together with the Operator's Chattels, in a proper, tidy, clean and sanitary condition and (where appropriate) working order and condition.

The Resident is responsible for replacing (at their cost with equivalent items) all mirrors, lightshades, light bulbs, power elements, plumbing fittings, window security stays and electrical fittings in the Residential Unit as when they wear out or are broken or become unserviceable.

The Resident is also responsible for paying the following Operator's costs, upon invoice:

- (a) Costs of remedying any breach by the Resident of their maintenance responsibilities; and
- (b) Costs of repairing any damage to the Residential Unit or the Operator's Chattels caused by the Resident or their guests;
- (c) Costs of all repairs and maintenance carried out by the Operator to the interior of their Residential Unit and the Operator's Chattels during the term of the Occupation Right Agreement.

## **9. FINANCIAL ACCOUNTS**

### **9.1. Accounts Required by Legislation**

The Retirement Villages Act 2003 requires the Operator to prepare and register audited financial statements of the Operator, but not of the Village. These financial statements are prepared by Armstrong & Associates Limited and audited by PKF Goldsmith Fox.

### **9.2. Other Accounts**

The Statutory Supervisor does not require the Operator to prepare unaudited financial statements relating to the Village.

### **9.3. Availability of Accounts**

The audited financial statements of the Operator are available by searching the Village's file on the Companies Office website at [www.companiesoffice.govt.nz](http://www.companiesoffice.govt.nz) under "Search Other Registers". They are an attachment to the annual return. They are also available to all Residents and intending Residents upon request made to the Operator's staff or agents.

## **OCCUPATION RIGHT AGREEMENTS, TERMINATIONS, DEDUCTIONS AND ESTIMATED FINANCIAL RETURNS**

### **10. COOLING-OFF PERIOD AND CANCELLATION OF OCCUPATION RIGHT AGREEMENT**

#### **10.1. Section 28 of Retirement Villages Act 2003**

The full text of section 28 of the Retirement Villages Act 2003 is found on page 4 of this Disclosure Statement.

#### **10.2. Cancellation Provisions in Occupation Right Agreement**

The cancellation provisions in the Occupation Right Agreement offered to Residents for Residential Units in the Village are the same as those described in section 28(1) of the Retirement Villages Act 2003 and are not of the kind described in section 28(5) of the Retirement Villages Act 2003.

Accordingly, a Resident has fifteen working days from the date they sign the Occupation Right Agreement in which to give written notice to cancel the Occupation Right Agreement without giving a reason.

### **11. VARYING OCCUPATION RIGHT AGREEMENT**

The Operator and the Resident may only vary the Occupation Right Agreement by mutual agreement.

### **12. TERMINATION OF OCCUPATION RIGHT AGREEMENT**

#### **12.1. Effect of Termination on Persons Living in Residential Unit with Resident**

Any persons living or staying with the Resident must vacate the Residential Unit by the date of termination of the Occupation Right Agreement.

#### **12.2. Charges Payable after Termination**

The Resident is liable to pay the Village Contribution and other deductions after termination, as detailed in paragraph 7.2 above.

The periodic charges that will continue to be payable after termination will be any Additional Services Costs (only if the Resident remains living in the Residential Unit after termination), and the Village Outgoings Payment. Each of these charges is further detailed in paragraph 7.4 above.

#### **12.3. Capital Gain and Capital Loss**

##### ***Capital Gain***

A Resident is not entitled to any capital gain when a new Resident enters into an Occupation Right Agreement for the Residential Unit.

**Capital Loss**

A Resident is not liable for any capital loss when a new Resident enters into an Occupation Right Agreement for the Residential Unit.

**13. ESTIMATED FINANCIAL RETURN ON DISPOSAL OF RESIDENTIAL UNIT**

The estimated financial return for a particular Resident in relation to the Residential Unit they are interested in is set out in the Schedule attached to this Disclosure Statement.

**14. RESPONSIBILITIES FOR INSURANCE****14.1. Operator's Insurance Responsibilities**

The Operator is responsible for maintaining a comprehensive insurance policy for loss or damage or destruction caused by fire, accident or natural disaster for the Village (including the Residential Units), for its full replacement value. Such insurance must be to the Statutory Supervisor's satisfaction.

The Operator holds the following insurance policies:

- Comprehensive full replacement insurance in respect of all retirement village property, capital improvements and additional fittings provided by Residents up to the amount set out in the current insurance valuation of the property;
- Business interruption insurance;
- Employers' liability insurance;
- Directors and officers insurance;
- Motor vehicle insurance;
- Public and general liability insurance; and
- Statutory liability insurance.

All policies are subject to excesses.

**14.2. Resident's Insurance Responsibilities**

The Operator does not insure the Resident's personal belongings. The Resident is strongly recommended to (but is not required to) insure their personal belongings for loss and damage under an appropriate policy. The Resident is required to insure any vehicle they keep at the Village under an appropriate policy. Regardless of whether the Resident holds such insurance, the Operator is not responsible for any loss or damage to the Resident's belongings or vehicle.

If the Operator suffers any loss or damage as a result of the Resident's, or their visitors', carelessness or negligence, the Resident must upon demand:

- (a) reimburse the Operator for any insurance policy excess, where such loss or damage is covered by the Operator's insurance. As at the date of this Disclosure Statement the excess is \$500.00.
- (b) compensate and reimburse the Operator in full, where such loss or damage is not covered by the Operator's insurance.

### **14.3. Damage or destruction of the Residential Unit**

The following provisions apply if the Residential Unit is damaged or destroyed by fire, accident, natural disaster or any other risks ("Damage Event").

- (a) If the Residential Unit becomes uninhabitable following a Damage Event which is not as a result of any of the Resident's, or their visitors', acts or omissions, the accrual of the Village Contribution and Car Park Contribution (if applicable) will be suspended from the date of the Damage Event (unless the Operator is providing temporary accommodation to the Resident, in which case the amortisation shall continue) until the Residential Unit or its replacement is ready for occupation by the Resident following repair or replacement.
- (b) If the Residential Unit becomes uninhabitable following a Damage Event which is not as a result of any of the Resident's, or their visitors', acts or omissions, the Village Outgoings Payment will each be suspended from the date of the Damage Event until the Residential Unit or its replacement is ready for occupation by the Resident following repair or replacement. If the Operator is providing temporary accommodation to the Resident, the Resident will pay the actual cost of personal services and outgoings relating to that temporary accommodation.
- (c) If, following a Damage Event, the Operator decides it is not practicable to repair or replace the Residential Unit the Occupation Right Agreement is automatically terminated (unless paragraph (d) below applies), and the Operator will pay the Resident the Exit Payment and Car Park Exit Payment without deducting any Village Contribution or Car Park Contribution, but the Operator will be entitled to deduct any amounts due to the Operator (see paragraph 7.2).
- (d) If, following a decision not to repair or replace the Residential Unit as set out in paragraph (c) above, the Operator offers the Resident an option to transfer to another Residential Unit (either pre-existing or yet to be constructed) in the Village or in another retirement village owned by the Operator which is in reasonable proximity to the Village and the Resident does not accept such offer, the usual Exit Payment provisions and deductions as set out in paragraph 7.2 will apply.

## **15. EFFECT OF MARRIAGE OR CIVIL UNION ON OCCUPATION RIGHT AGREEMENT**

The Occupation Right Agreement is a personal licence to the Resident to occupy the Residential Unit. As such, if the Resident marries or enters into a civil union, there is no change to the Occupation Right Agreement and it remains in the name of the original Resident.

If the Resident would like their spouse or partner to become a Resident of the Residential Unit pursuant to an Occupation Right Agreement, the Operator will require the original Occupation Right Agreement to be terminated and replaced with a new Occupation Right Agreement. The Operator may choose not to charge the usual termination amounts but reserves its right to charge an administration fee and recover its legal or consulting costs in relation to such arrangement.

## **16. DOCUMENTS AVAILABLE TO RESIDENTS AND INTENDING RESIDENTS**

Copies of the following documents are available to Residents or intending Residents upon request. Requests can be made to the Operator or the Operator's staff or agents.

- (a) Audited financial statements of the Operator;
- (b) Sample of the Occupation Right Agreement, including the rules relating to the Village; and
- (c) Deed of Supervision now between the Operator and the Statutory Supervisor dated 25 October 2007, as amended from time to time.

## GLOSSARY

Following is a list of terms that are used throughout this Disclosure Statement, with an explanation of their meanings. Terms not explained here have the same meaning as in the Occupation Right Agreement.

<b>Term</b>	<b>Meaning</b>
<i>Cooling-off Period</i>	The period in which a Resident is entitled to cancel the Occupation Right Agreement and receive a full refund. See paragraph 10 for further details.
<i>Occupation Right Agreement</i>	The document which sets out a Resident's right to occupy a Residential Unit at the Village. It also specifies the terms and conditions of to which that occupation right is subject. In relation to this Village, the Occupation Right Agreement is in the form of an occupation licence.
<i>Operator</i>	Aegis Orewa Limited being the entity liable to fulfil the obligations under the Occupation Right Agreements to Residents.
<i>Operator's Chattels</i>	Those chattels identified as such in the Resident's Occupation Right Agreement or otherwise identified as such to the Resident.
<i>Resident</i>	A person or persons who have entered into an Occupation Right Agreement in respect of a Residential Unit at the Village.
<i>Residential Unit</i>	A unit at the Village which is used for the accommodation of a Resident and includes any appurtenances or improvements usually enjoyed with the Residential Unit.
<i>Statutory Supervisor</i>	Covenant Trustee Services Limited. Further details of the Statutory Supervisor's role are provided at paragraph 4 above.
<i>Village</i>	The retirement village known as The Grove Orewa, including the Residential Units and all communal areas and facilities used by the Residents.

## SCHEDULE

### Specific Information for a Particular Resident

The information in this Schedule is prepared solely for the intending Resident named below as at [date].

**Resident's Name:** [ ]  
and [ ]

**Residential Unit Number:** Unit [ ]

**Entry Payment:** \$[ ]

**Maximum Village Contribution:** \$[ ]

**Car Park Number**

**Car Park Payment (if applicable):** \$[ ]

**Maximum Car Park Contribution (if applicable)** \$[ ]

**Village Outgoings Payment:** \$[ ] per month

Examples of the estimated financial return that the above named Resident, or the estate of the Resident, could expect to receive on the disposal of their vacant Residential Unit is set out below:

<b>Term</b>	<b>Entry Payment</b>	<b>Car Park Payment</b>	<b>Estimated Village Contribution and Car Park Contribution (if applicable)</b>	<b>Administration Fee</b>	<b>Estimated Financial Return</b>
Two years	\$[ ]	\$[ ]	12.5% of Entry Payment and the Car Park Payment	1.5% of Entry Payment and Car Park Payment	\$[ ]
Five years	\$[ ]	\$[ ]	25% of Entry Payment and the Car Park Payment	1.5% of Entry Payment and Car Park Payment	\$[ ]
Ten years	\$[ ]	\$[ ]	25% of Entry Payment and the Car Park Payment	1.5% of Entry Payment and Car Park Payment	\$[ ]

The above information is provided on the assumptions that:

- (a) the Resident's Entry Payment and Car Park Payment (if applicable) are as set out above;
- (b) the Village Contribution and Car Park Contribution are calculated in accordance with the Occupation Right Agreement and there has been no Damage Event (as detailed in paragraph 14.3);
- (c) the Car Park is not surrendered earlier than the Termination Date and you have not received your Car Park Exit Payment; and
- (d) no deductions from the Exit Payment (as detailed in paragraph 7.2 above and as calculated in accordance with the Occupation Right Agreement) are required to be made.

The method of calculating the above information is in accordance with the details set out in paragraph 7.2 above and in accordance with the Occupation Right Agreement.