

# Triage Report – Monitoring Incident

## 201900270 – Metlifecare Limited

### Key information

<b>Incident date</b>	30/09/2020
<b>Triage date</b>	6/10/2020
<b>Referral person</b>	[ s 9(2)(a) ]
<b>Suspected breach type</b>	Breach of a condition

### Details of asset and date consented

- On 1 July 2019, Metlifecare Limited (**Metlifecare**) and Metlifecare Oakridge Limited (**Metlifecare Oakridge**) (together the **Consent Holders**) were granted consent under the increased housing test to acquire approximately 2,650m<sup>2</sup> of freehold land located at 37B Cobham Road, Kerikeri, Far North District (the **Land**).

### Consent holder

- Metlifecare is a NZ incorporated publicly listed company (on both the NZX and the ASX) which owns, develops and operates retirement villages in NZ.
- Metlifecare Oakridge is a 100% owned Metlifecare subsidiary.
- When consent was granted, Metlifecare was almost 70% owned by New Zealanders, with the largest single shareholder being New Zealand Superannuation Fund Nominees Ltd with almost 20%.
- However, recently on 11 September 2020, Asia Pacific Village Group Limited (**APV**) was granted OIO consent to acquire 100% of the shares in Metlifecare (case 202000394), which APV plans to do via scheme of arrangement.

### Brief summary of information reviewed/inquiries made

- In May 2019, Metlifecare applied for OIO consent to acquire the Land adjacent to its existing owned and operated retirement village Oakridge Villas to expand the village by building [ s 9(2) ] independent living units on the Land.
- Consent was granted on 1 July 2019.
- Special condition 1 of the consent conditions required the Consent Holders construct at least [ s 9(2) ] independent living units in a long-term accommodation facility on the Land.
- Special condition 3 contained several milestones. Milestone 1 required the Consent Holders submit their resource consent for development by [ s 9(2)(b)(ii) ]

10. However, in their 2020 Annual Report dated 5 June 2020, the Consent Holders advised they have not submitted the resource consent, stating:
2. **Milestone 1 – submission of resource consent for development by [ s 9(2)(b)(ii) ]**  
 The Applicant has not been in a position to achieve this milestone for the following reasons:
    - (a) The applicant has not been able to conclude [ s 9(2)(b)(ii) ]
    - (b) Work is continuing, with alternative options being investigated but due to the disruption of the government mandated restrictions that have in place since the novel coronavirus pandemic, this workstream is currently on hold.
  3. **Milestone 2 – Commencement of Construction (within [ s 9(2)(b)(ii) ]**  
 This milestone will accordingly be deferred as noted above and will be dependent on the recommencement of Milestone 1.
  4. **Milestone 3 – Completion of Construction by [ s 9(2)(b)(ii) ]** This milestone will accordingly be deferred as noted above and will be dependent on the recommencement of Milestones 1 and 2.
11. The Consent Holders were asked for an update in relation to this and advised on 29 September 2020 that there are no further updates.

## Assessment

12. On the basis of the information currently available:

Question	Y/N	Basis for answer
Does there appear to have been a breach of a condition of consent?	Y	Special condition 3 requires the Consent Holders submit the resource consent by [ s 9(2)(b)(ii) ] however the Consent Holders have not done this.
Is the breach likely to impact on the delivery of key benefits/commitments?	Y	Delays construction of the living units.
Is the Incident within the limitation period?	TBC	
Is the investor complying with the other conditions of this consent?	Y	The Consent Holders haven't breached any of their other consent conditions.
Has the investor complied with their OIO obligations generally?	Y	Metlifecare is a frequent investor, and would not likely be granted consent for its other investments if it was not generally compliant.
Is there another regulatory or disciplinary body that has more appropriate jurisdiction or powers than the OIO to consider this?	N	The condition relates to our regime.

## Recommendation

13. Based on my review of the information, I recommend:

Recommendation	Tick	Basis for answer
The Incident progress to Assessment phase.	TBC	
No further action be taken and the Incident be closed	TBC	
An Enforcement Tool be deployed and then the Incident be closed	TBC	

[ s 9(2)(a) ]

Pedro Morgan/Sarah Scott  
Principal Advisor Enforcement

Agree:

Disagree:

Amend as marked:

See notes.

Date: 6/10/20.

[ s 9(2)(a) ]

Simon Pope  
Manager Enforcement

Agree:

Disagree:

Amend as marked:

Date: 6-10-20

**Notes for Assessment Team** [Screening Group to complete]

Questions	Notes
Assessment team member(s)	Davinia.
Date to report back to Screening Group (20 working days)	_____

Questions	Notes
Comments or guidance on areas to review	Compliance letter Require variation to be submitted by Xmas. Threatun disposal not rec'd.

To implementation

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