

BEFORE A PANEL OF INDEPENDENT HEARINGS COMMISSIONERS

FTA-2502-1019

UNDER The Fast Track Approvals Act 2024 ("**FTAA**")

IN THE MATTER of an application by Kiwi Property Holdings No.2 Limited ("**the Applicant**") under section 42 FTAA for approvals relating to the Drury Metropolitan Centre – Consolidated Stages 1 and 2 Project

**MEMORANDUM OF COUNSEL FOR THE APPLICANT IN RESPONSE TO MINUTE 5 OF
THE PANEL**

15 SEPTEMBER 2025

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MAY IT PLEASE THE PANEL:

Introduction

1. This memorandum is filed on behalf of Kiwi Property Holdings No.2 Limited (“**Kiwi Property**”), the applicant for the Drury Metropolitan Centre – Consolidated Stages 1 and 2 Project (“**Project**”). It responds to the Expert Panel’s invitation in paragraph [5](vii) of Minute 5 (“**Minute**”) for parties to respond by 5 p.m. Monday 15 September:
 - (a) With any proposed additions to the agenda or questions arising from it; and
 - (b) Confirming the experts they propose should participate.
2. Kiwi Property’s response to that invitation follows.

Comments on Agendas

3. Both agendas have been circulated before receipt by the Panel of Kiwi Property’s responses to the Panel’s section 67 FTAA request for information. Kiwi Property considers it desirable that the agendas be revisited and revised prior to the conferencing but before the exchange of the experts’ summary statements:
 - (a) Having regard to Kiwi Property’s responses to the Panel’s section 67 FTAA request (due 19 September 2025).
 - (b) By the conferencing facilitator, Marlene Oliver (“**the Facilitator**”), in consultation with the Panel’s experts and the other expert participants.
4. In that regard:
 - (a) The schedule attached to the proposed **traffic agenda** records 11 issues along with Mr Leo Hills’ responses. Kiwi Property’s traffic experts consider that the issues identified in the schedule include the key outstanding matters and would form an appropriate agenda,

subject to any amendments in terms of the process addressed in paragraph 3 above.

- (b) The proposed **stormwater agenda** lists a large number of questions regarding Healthy Waters' position. While those questions will need to be addressed when drafting conditions of consent, Kiwi Property is concerned that an agenda in that form may result in lengthy discussion on matters of detail without necessarily identifying and addressing key points of difference between the parties. Revisiting the agenda as suggested in paragraph 3 above may enable the list of substantive issues to be refined.
5. Paragraph [5](vi) of the Minute states that the summary statements should take the form of a “will say” brief as outlined in the Environment Court Practice Note at paragraph 9.4 (f). Kiwi Property suggests that experts focus those statements on the remaining outstanding matters.

List of Experts to be called by Kiwi Property

6. The experts who are to attend the conferencing on behalf of Kiwi Property have been accurately listed in the agendas.

Comments on Timetable

7. Paragraph [3] of the Minute records that, “*the timetable proposed in Minute 4 is confirmed subject to any adjustments.*” That timetable is as follows:
- (a) *Panel to circulate conferencing agenda and confirm expert participants required by 5 p.m. Thursday 11 September. **Comment:** The traffic and stormwater / ecology agendas have been circulated. As noted above, Kiwi Property considers it desirable that they be revised prior to conferencing.*
 - (b) *Applicant to respond to s 67 request by 5 p.m. Friday 19 September. **Comment:** Kiwi Property is on track to comply with this requirement.*
 - (c) *Panel's experts to circulate summary statements to other experts and facilitator by 5 p.m. Wednesday 24 September [if required, noting paragraph [5](v) of the Minute]. **Comment:** Ideally, these statements*

will identify the issues that the Panel's experts consider remain of concern and that are germane to the Panel's substantive decision. Those matters might then form the basis of the revised agenda. Kiwi Property suggests that the summary statements:

- (i) Would most efficiently and appropriately be provided to the Facilitator and circulated by her to the other experts; but
 - (ii) In order to encourage free debate in conferencing, not be placed on the EPA website (consistent with the indication in Minute 4).
- (d) *Other experts to circulate summary statements to other experts and facilitator by Wednesday 1 October. **Comment:** Kiwi Property considers that, again, these summary statements:*
- (i) Would most efficiently and appropriately be provided to the Facilitator and circulated by her to the other experts; but
 - (ii) In order to encourage free debate in conferencing, not be placed on the EPA website.
- (e) *Caucusing to occur on Thursday 2nd and Friday 3rd October. **Comment:** Kiwi Property will organise a venue for the caucusing.*
- (f) *JWS to be circulated no later than 5 p.m. Monday 6th October. **Comment:** Noted.*
8. Kiwi Property considers it desirable that the revised agendas be settled prior to the summary statements that are to be provided by all experts. In that regard it proposes a new step in the timetable reading, "*Facilitator to circulate revised conferencing agendas to experts by 5 p.m. Monday 22 September.*"

DATED this 15th day of September 2025



Douglas Allan / Alex Devine
Counsel for Kiwi Property Holdings No. 2 Limited