

22 April 2026

AW Holdings 2021 (LP)
C/ Barker & Associates
by email

Attention: **Nick Roberts / Magdalena Regnault**

Dear Nick and Magdalena

Auckland Surf Park Community – Substantive Application for Fast-Track Consent – ‘Surf Park’ Stage 2

1. You have asked for advice regarding a substantive application by AW Holdings 2021 Limited (**AWHL**) for consent under the Fast Track Approvals Act 2024 (**FTAA**) relating to ‘Stage 2’ of the Auckland Surf Park Community Project (the **Project**).
2. A substantive application for consent for the Project was submitted to the Environmental Protection Authority (**EPA**) on 25 February 2026. That application was subsequently withdrawn on 1 April 2026, prior to a determination being made on the completeness check. The withdrawal related to queries raised by the EPA regarding the scope of the application as lodged.
3. The application has subsequently been revised in various ways and will shortly be re-lodged consequently. This advice addresses whether the revised application successfully addresses the issues raised by the EPA.

Issue

4. The Project has been accepted by the Minister for Infrastructure (the **Minister**) under section 21 of the FTAA, referred under section 26 with notice of the decision given under section 28.¹
5. Once a substantive application is lodged, the EPA is required to determine whether that application is complete and within scope in accordance with section 46 of the FTAA. Relevantly, inter alia, the application must relate “solely to a... referred project” (s46(2)(b)).
6. The issue arising in the EPA's view with respect to the Project as first lodged was the inclusion of a light industrial area. Indications from the EPA were that there was concern that a light industrial area was not identified expressly in the Minister’s decision on the referral. Further, that the location of the proposed light industrial area appeared to be different from the location for that activity identified on the plans lodged as part of the application for referral.²

Analysis

“Project”

7. The FTAA includes a definition of “project”. The definition is:

project—

- (a) means,—

- (i) in relation to a listed project, the project as described in Schedule 2:

- (ii) in relation to an unlisted project,—

- (A) the project as described in the referral application for the project or, if the referral application is yet to be lodged, as it will be described in the application; or

- (B) if the project has been referred, the project as described in the notice under section 28; and

- (b) includes any activity that is involved in, or that supports and is subsidiary to, a project referred to in paragraph (a).

¹ The Minister's decision on the application for referral is dated 24 June 2025.

² For the purposes of this letter, I leave to one side whether it is appropriate for the EPA to refer to the documentation lodged as part of the application for referral for some purposes but not others when undertaking a completeness check.

8. This advice relates to an unlisted project which has been referred. Therefore the definition provides that the project is “as described in the notice under section 28; **and**” [my emphasis] “includes any activity that is involved in, or that supports and is subsidiary to, a project...”.

9. Therefore, in undertaking its task of assessing whether an application is complete and within scope, the EPA must do more than consider the description in the Minister's notice to refer the project. The EPA must also take account of any activity that is included by virtue of being an activity that is involved in or that supports and is subsidiary to the project, as those activities will also be within scope.

10. In this case, the Minister's decision on the application for referral dated 24 June 2025 describes the referred project as follows:

The project is to construct and operate an artificial intelligence data centre, integrated residential development comprising approximately 500 residential units including visitor accommodation, a village centre, work-live precinct, subdivision and associated activities over 54 hectares of land at approximately 1350 Dairy Flat Highway, Dairy Flat. The applicant previously obtained resource consents for stage 1 of the project under the COVID-19 Recovery (Fast-track Consenting) Act 2020. A variation to the previous decision to increase scale of surf lagoon and solar farm, rationalise the layout of buildings and structures associated with the surf lagoon and increase the number of accommodation units adjacent to the surf lagoon to approximately 140 is also included as part of this application.

The project will require the proposed approvals:

a. new resource consents and variations to existing resource consents under the Resource Management Act 1991.

11. The description in the referral decision for the Project is, in some respects, relatively loose in that it is a summary. This referral decision, like others issued by the Minister for other projects, does not purport to definitively and in minute detail identify and set out all aspects of the Project. The referral decision does not attach a plan of the Project, nor does it, for example, expressly refer to earthworks or a range of other aspects of the proposal which will necessarily flow from undertaking the development.

12. The referral decision description does not expressly refer to “light industrial”. The description does include, inter alia, reference to a “village centre, work-live precinct, subdivision and associated activities”.

Revised proposal

13. As noted above, the withdrawn application for the Project included a light industrial activity. That proposed activity has been amended in the revised Project to better align with:

- (a) The application for referral as advanced and the overall activity proposed; and
- (b) The requirement that the proposed activity be “associated” with the overall activity proposed and/or be an activity that is included in the Project by virtue of being an activity that is “involved in or that supports and is subsidiary to” the Project.

14. Specifically, the description (relevantly) is now as follows:

The Surf Industry Precinct is intended to enable a range of surf-related manufacturing, fabrication, and product development activities, complementing the recreational, commercial, and visitor functions of the broader community.

The Precinct will include eight flexible workshop spaces designed to accommodate small to medium scale surf industry enterprises such as (but not limited to):

- *Board and fin shaping, laminating, finishing and repairs;*
- *Wetsuit and neoprene design and manufacturing;*
- *Surf hardware and accessory (leashes, traction pads, and board cover) production;*
- *Advanced material development;*
- *Surf brand headquarters;*
- *Surf photography and videography studios; and*
- *Digital design, modelling and prototyping.*

The co-location of the workshops within the wider community is intended to enable a direct relationship between product design, manufacturing, testing and the end use; reinforcing the integrated nature of the wider development.

*The Surf Industry Precinct is located along the Postman Road frontage as shown below in **Figure 25**. Typical elevations are shown below in **Figure 24**. In terms of materiality and façade*

design, indicative precedent imagery is included within the Surf Industry Precinct Architectural Plans prepared by Studio Pacific and included as **Appendix 21**.

Across the Precinct, the flexible workshop total GFA is 3,145m² including a GFA of 2,795m² for surf industry activities and a GFA of 350m² for ancillary office activities.

At the time of lodgement, the exact activities / tenant mix of the buildings are unknown. For this reason, consent is sought on the basis that tenancies will be a range of surf industry uses.

In addition to the above, a 2,200m² area adjoining Postman Road highway has been reserved within the Precinct for a future network utility substation. The substation does not form part of the proposal.



Figure 24: Typical light industry building elevations. Source: Studio Pacific Architecture.

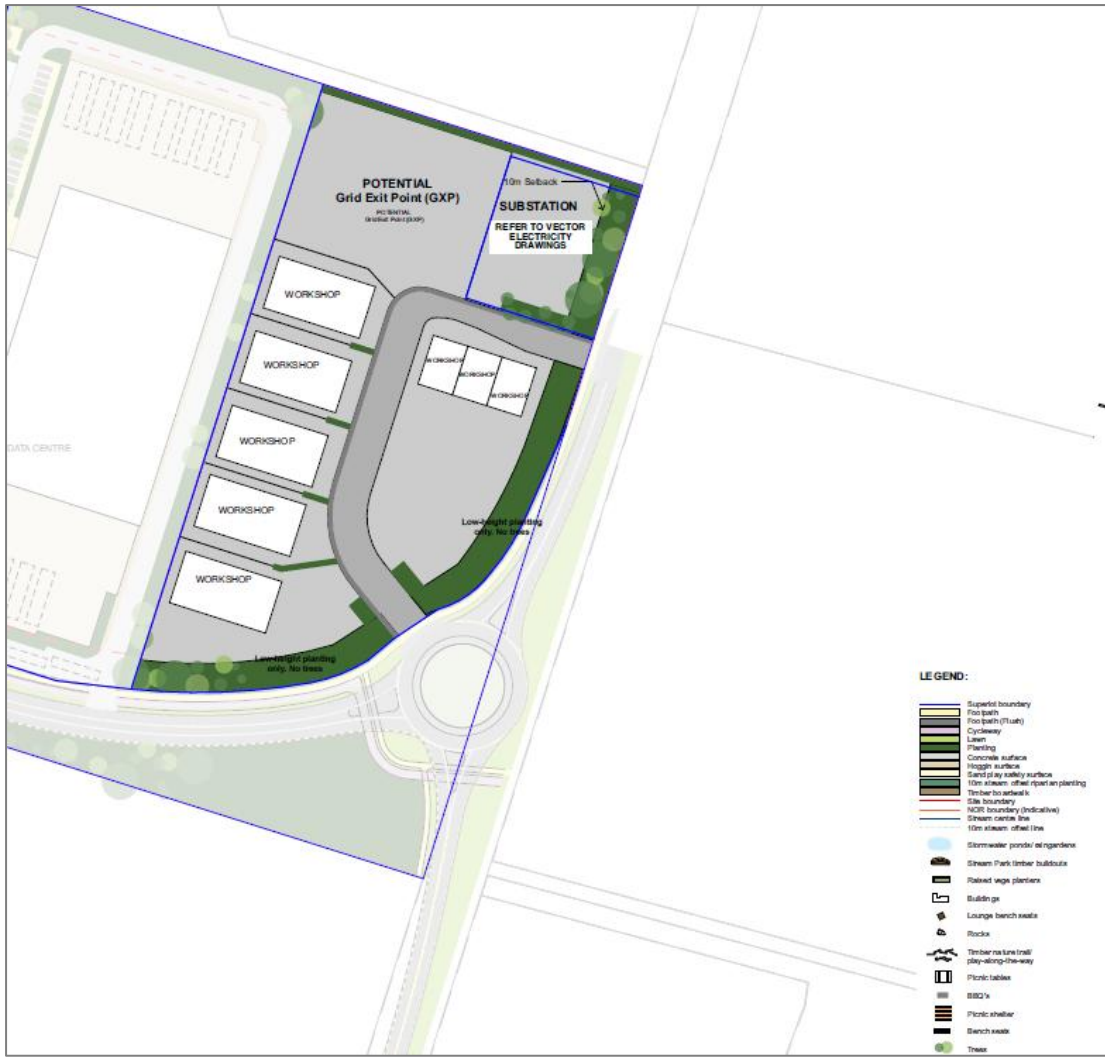


Figure 25: Surf Industry Precinct Masterplan. Source: Studio Pacific Architecture.

Surf Industry Precinct - Scope

15. The lawful basis for the Surf Industry Precinct (from the perspective of scope and application completeness) is:
 - (a) The activity is located within the identified site for the Project and aligns with uses proposed in the application for referral.
 - (b) With specific relevance to the description of the activities enabled within the Surf Industry Precinct, it is properly regarded as an “associated activity” as referred to in the Minister's decision on the application for referral. There is a clear linkage between provision for the establishment of surf industry and the surf lagoon forming part of

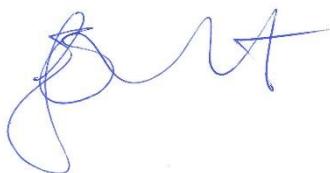
the project. There is no other reason why surf industry would establish in Dairy Flat in this location other than for the presence of the surf lagoon. Equally, there is a clear reason why the surf lagoon, which is being created as a surfing hub in Dairy Flat, would benefit from the close proximity of surf industries offering various services and products directly relevant to surfers both generally and with respect to those surfers' use of the surf lagoon at the site. For that reason I say surf industry is an "associated activity".

- (c) In addition, in the context of the definition of "project" in the FTAA, the Surf Industry Precinct is properly regarded as an activity that is "involved in" the Project for similar reasons to those identified in the sub-paragraph above.
- (d) I also say, in the context of the definition of "project" in the FTAA, the Surf Industry Precinct might also be properly regarded as an activity that "supports and is subsidiary to" the Project, for similar reasons to those identified in the sub-paragraphs above. The Surf Industry Precinct would not be established in this location without the presence of the surf lagoon, and as above it offers various services and products directly relevant to surfers both generally and with respect to those surfers' use of the surf lagoon at the site. It therefore fulfils a role that is supportive of and subsidiary to the surf lagoon and surfing activity enabled by that lagoon and the wave generating infrastructure.

Conclusion

- 16. For reasons set out above, in my opinion the revised application successfully addresses the issues raised by the EPA with respect to the initial lodgement. Specifically, the Surf Industry Precinct is lawful from the perspective of scope and application completeness.

Yours faithfully



Jeremy Brabant