

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 4 OF
THE PANEL**

10 SEPTEMBER 2025

**ELLIS GOULD
LAWYERS
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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 request in Minute 4 (“**Minute**”) for input on the Panel’s proposal for expert conferencing, as outlined at paragraph [4](a) – (i) of the Minute.
2. Kiwi Property supports the proposal to arrange expert conferencing on stormwater and transportation matters, being the key areas where disagreement remains between Kiwi Property and the ‘Auckland Council Family’, and the subject matters on which the Panel has appointed expert advisors. Kiwi Property considers that this process may assist the Panel’s expert advisors in clarifying technical issues.
3. If issues remain unresolved following conferencing and the Panel considers it would be helpful to further narrow areas of disagreement, Kiwi Property considers that mediation and/or a settlement conference may provide an efficient and effective way of resolving outstanding matters and/or settling the terms and conditions of the consent, given that those methods involve persons with authority to make decisions on behalf of the relevant parties.
4. With reference to the Panel’s request for input on the proposal for expert caucusing, and the matters outlined at paragraph 4 of the Minute, Kiwi Property records that:
 - (a) Kiwi Property supports the proposal for the Panel’s technical advisors to participate in the relevant conferencing, and that that conferencing be limited to experts only. At this stage, and without seeing the Panel’s agenda, Kiwi Property suggests that the experts listed at **Schedule 1** attend the conferencing.
 - (b) Kiwi Property supports the proposal that conferencing be facilitated and considers this to be important in ensuring that conferencing is focused and as effective and efficient as possible.

- (c) Kiwi Property considers that conferencing is most effective when participants attend in person. In those circumstances, and given the relevant experts are understood to be based in Auckland, Kiwi Property suggests that, if possible, caucusing occurs in person with an online option available for those who need to attend remotely or who will only be required for a very limited time. Kiwi Property can arrange a venue of sufficient size to enable caucusing to occur in person.
- (d) Kiwi Property supports the proposal that the Panel and its technical advisors circulate a proposed agenda in advance.
- (e) Kiwi Property supports the proposal that the Panel's technical advisors circulate summaries of expert opinion in advance, and that the other participants prepare one in response.
- (f) Kiwi Property agrees that the Environment Court Practice Note 2023 should apply to conferencing. In that regard, it asks if the summaries of expert opinion referred to above are intended to be in the form of a "*will say*" brief as outlined in the Environment Court Practice Note at paragraph 9.4 (f).
- (g) Kiwi Property generally supports the timetable proposed at paragraph 4(i) of the Minute, but requests the following adjustments:
 - (i) Currently, paragraph 4(i)(i) records that the Panel will circulate the conferencing agenda and confirm the required expert participants by 5 p.m. Thursday 11 September. As the agenda may list issues which parties consider might be best addressed by other experts, Kiwi Property suggests that parties have the ability to identify additional or alternative participants following receipt of the agenda. Kiwi Property suggests that this be confirmed by Monday 15 September 2025.
 - (ii) Kiwi Property asks that the relevant conferencing dates (2 and 3 October 2025) be allocated as follows:

- Thursday 2 October 2025 - Stormwater caucusing to commence no earlier than 11.30 am, noting that the outstanding areas of disagreement on this topic are understood to be more confined than transport. A ½ day is therefore considered to be sufficient time.
 - Friday 3 October 2025 - Transport caucusing.
5. Kiwi Property can make a scribe available for caucusing. As outlined above, Kiwi Property can also organise a venue to enable in-person caucusing to occur.

DATED this 10th day of September 2025

A handwritten signature in blue ink, consisting of two distinct, stylized cursive marks.

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

Schedule 1 – Kiwi Property List of Experts for Conferencing

NB: This list is provided in advance of seeing the Panel’s agenda. As set out in para 4(g) of the memorandum, Kiwi Property seeks the ability to revisit this list once the Panel’s agenda is received.

Stormwater Conference

- Stormwater - Pranil Wadan and Bidara Pathridge, Woods.
- Planning - Nick Roberts and Mary Wong, B&A.
- Engineering - Colin Dryland, Woods*
- Ecology – Dr Rieke Behrens, T&T*

*on call if required

Transportation Conference

- Traffic - Daryl Hughes, Hughes Transportation and John Parlane, Parlane & Associates.
- Planning - Nick Roberts and Mary Wong, B&A.
- Engineering - Colin Dryland, Woods*

*on call if required