

7 October 2022

Ministry for the Environment
Attn: Madeleine Berry
Via email: fasttrackconsenting@mfe.govt.nz

Tēnā koe Madeleine,

Re: COVID-19 Recovery (Fast-Track Consenting) Act 2020 – request for further information – Beachside Mission Bay Project (BRF-2176).

Thank you for your letter dated 29 September 2022. In order to assist in the assessment of our application for a project to be referred to an expert consenting panel pursuant to the COVID-19 Recovery (Fast-Track Consenting) Act 2020, this letter responds to the matters raised. We include the following information with this response:

- **Attachment 1:** Letter outlining financial capability from Urban Partners
- **Attachment 2:** Updated Economic Impact Assessment prepared by Property Economics

Response:

- (1) Under standard RMA consenting process, between 2018 and 2012 the previous application and appeal drew high public participation (approximately 35 submitters and 3 residents associations). Given the passage of time, please provide information including timing of or a copy of the decision of the High Court and further address why a non-public participation process is appropriate.

We are still awaiting a decision from the High Court on DHL's appeal against the Environment Court decline of consent to the previous application. The decision should be released before the end of the year.

DHL's position remains that, regardless of the High Court decision, it will continue to pursue the fast-track application as the grant of consent would enable development to occur soon. While the High Court appeal should provide clarity as to the standard of reasoning expected from the Environment Court, unless the matter is referred back for hearing before a differently constituted Environment Court it is unlikely to produce a substantively different result.

The reasons why a non-public participation process is appropriate for the fast-track application are as follows:

- (a) The previous application was publicly notified and resulted in opposition primarily because the proposal exceeded the relevant Local Centre zone height standards (16 m occupiable height; 18 m total height) by up to 10 m. Those height issues were focussed on by both the Council commissioners and the Environment Court in their decisions.
- (b) The fast-track application has intentionally been designed to comply with all bulk and location standards (including height) precisely to remove those matters from contention. As a

consequence, the range of matters over which Council has reserved its discretion and that may be taken into account when assessing the fast-track application is much narrower than was the case for the previous proposal.

- (c) Applications that comply with Unitary Plan bulk and location standards are typically addressed on a non-notified basis by Auckland Council. DHL considers that to be the appropriate course of action in this case as the fast-track proposal will not generate adverse effects on neighbours or the public generally. There is a risk, however, that the Council would choose to publicly notify even a compliant application on the DHL site at Mission Bay, because of local political factors (which it could determine are “*special circumstances*” under section 95A(9) RMA).
- (d) The fast-track process would enable the hearing panel to seek input on the fast-track proposal from parties to the current High Court proceedings and to take into account any concerns that those parties express. Any such feedback would, of course, be assessed in the context of the application’s compliance with the Unitary Plan bulk and location standards for the site and the reduced range of relevant matters under the Unitary Plan. The fast-track approach would avoid the delay that would arise were the proposal to be notified publicly and then subject to submissions and appeals.

(2) Supporting evidence demonstrating financial capability to fund and deliver the project.

As discussed within **Attachment 1**, Drive Holdings Limited has the financial capability to fund and deliver the Beachside Mission Bay project.

(3) Whether the project description and scope will require resource consent for subdivision.

No subdivision is proposed at this time.

(4) The number of direct full-time equivalent (FTE) jobs which will be created by the project, expressed as direct FTEs per year.

The Economic Impact Assessment prepared by Property Economics has been updated to express the direct FTE per year. The direct FTEs per year are included within Table 3 of **Attachment 2**.

(5) The time required to address FTCA requirements regarding engagement with relevant iwi authorities on the need (or otherwise) for cultural impact assessments.

Consultation with the fifteen mana whenua groups that may have an interest in this application has commenced. Consultation letters were sent out on the 30th September 2022, with responses requested by 21st October 2022. It is expected that by this time, we will have an understanding as to whether any cultural impact assessments will be required.

Yours sincerely | Nāku noa, nā

Barker & Associates Limited



Nicole Heron
Senior Planner

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