

26 April 2022

Ministry for the Environment
Fast Track Consenting
C-/ Helen Willis

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Dear Helen

RESPONSE TO CHRISTCHURCH CITY COUNCIL COMMENTS TO MINISTRY FOR THE ENVIRONMENT ON WHISPER CREEK RESOURCE CONSENT FAST TRACK APPLICATION

- 1 As you are aware, we act for LMM Investments 2012 Limited (*LMM*), being the applicant to the application to fast track the Whisper Creek Residential Subdivision.
- 2 On Monday 4 April 2022, the Christchurch City Council (*CCC*) provided us with a copy of the comments it had provided the Ministry for the Environment (*MfE*) regarding the application (the *CCC Response*). Since that time, *LMM*'s technical experts have also had further discussions with *CCC*'s Senior Stormwater Planning Engineer and other technical staff.
- 3 On Wednesday 20 April 2022, the Canterbury Regional Council (*ECan*) also provided us with a copy of their comments to *MfE* regarding the application (the *ECan Response*). We have had a number of discussions with *ECan* staff and that dialogue will continue as this matter proceeds.
- 4 This letter takes the opportunity to respond briefly to some of the comments made in the *CCC* and *ECan* Responses in a manner that we hope will assist *MfE* staff in finalising their report to the Minister.

The most appropriate process

- 5 The *CCC Response* expresses a view that the project would be more appropriate for the existing RMA process rather than the fast track process. This is at odds with the *CCC* noting the previous difficulties *LMM* has had with previous applications at the site and the high volume of submissions received, which creates a significant risk of appeal and consequent delays.
- 6 The *CCC* also does not address the current backlog it has in getting applications processed and heard. We are experiencing significant delays of months in other matters even getting to the point of notification decisions, let alone hearings.
- 7 With respect to *CCC*, the reasons they give are exactly the reason why this application should be fast tracked rather than being bogged down by *CCC* processes.



CCC has publicly notified each application for the site on the basis it does not also include a golf resort (despite the proposed level of development being permitted without a golf resort provided the entire boundary is planted and the location of the residential activity is consistent with the development plan).

- 8 We note that the ECan Response provided a “no comment” response to the question of whether the fast track process was the most appropriate for this development which indicates they realise the appropriateness of an alternative process.

Flood risk and minimum floor levels

- 9 The CCC Response provided information on flood risk for the site and information around the minimum floor levels that could be required. It is not clear why CCC consider this is relevant to MfE’s decision making at this stage.
- 10 The applicant’s engineers have subsequently had discussions with CCC stormwater planning engineers to ensure both parties have the same understanding of the minimum floor levels that might be required.
- 11 We have confirmed with LMM and its engineers that it is comfortable that it can meet the minimum floor levels proposed by CCC without any impact on the viability of the development. This is therefore not a matter that would prevent the Minister from putting the application on the fast track.
- 12 The ECan Response also considers flood risk and recommends a precautionary approach be taken to location and design of the potential development. Those comments are taken on board and will be addressed at the resource consent application stage.

The take and use of groundwater

- 13 The ECan Response goes into some depth about the process required for consenting any take and use of groundwater. The Applicant and its engineers had discussions with ECan to ensure they have all of the information available to them to assess the activity status of any groundwater activities.
- 14 The Applicant’s engineers are comfortable that groundwater is not likely to be intercepted in the creation of the proposed wetlands or stormwater basins so an application for take and use of groundwater will not be required. ECan reserves its position on this point at present.
- 15 Regardless, we understand that it is accepted by both the Applicant and ECan that if a consent is required for the take and use of groundwater there is a consenting pathway available to authorise this activity from either the proposed wetlands and stormwater basin. In other words, none of the proposed activities would amount to a prohibited activity which might prevent the Minister from putting this application on the fast track.

Additional clarification, assessment, and detail sought

- 16 The ECan Response considers that additional clarification, assessment, and detail will need to be provided, particularly with regard to discharge of stormwater and the extent of the existing wetlands.



- 17 This is accepted by LMM, who will of course provide full details about the proposed development at the resource consent stage of the application. This information is not required for the Minister to be able to make his decision at this stage in the process.

Urban development outside of Map A of the Regional Policy Statement

- 18 The CCC Response notes that:

18.1 The project does not lie within the area identified for growth and is contrary to the Canterbury Regional Policy Statement (CRPS) Map A which anticipates locations for urban development of the Greater Christchurch Area.

18.2 The development is outside of the land identified for future growth and infrastructure, and therefore does not align with the current growth strategy.

18.3 Residential development without a golf course was not anticipated by the policies of the District Plan.

- 19 The ECan Response simply notes the proposed site falls outside of Map A but does not raise that as a barrier to fast track or consent being granted.

- 20 MfE will be familiar with the provisions of the CRPS and how these interplay with the National Policy Statement on Urban Development 2020 (NPS-UD), given the applications to fast track that have been made to date in the Canterbury region.

- 21 We note that we have already successfully argued on a number of occasions, for a variety of clients, that the CRPS does not prevent the grant of an application which adds significantly to development capacity and contributes to a well-functioning urban environment, as this application will.

- 22 In any case, we don't understand CCC or ECan's comments to be saying that the CRPS prevents the grant of consent of this resource consent application. They are simply pointing out that they consider the development is unanticipated in current planning documents. We do not agree that the development is unanticipated. This application has special characteristics which distinguish it from others seeking to rezone rural land outside Map A to residential (i.e. true greenfield developments). This application involves a resource consent application where the site is already zoned Specific Purpose (Golf Resort) Zone, and already allows and therefore anticipates residential development (albeit in connection to a recreation activity). We therefore are of the view that urban development at this site is anticipated expressly in the District Plan. The development is also adjacent to an existing urban village.

- 23 The CCC Response also notes that the Specific Purpose (Golf Resort) Zone enables up to 150 units within the Whisper Creek Hold Resort without a requirement for the golf course to precede this. But goes onto state that policy 13.9.2.1.2 of the District Plan seeks to:



"[Ensure] that the scale and nature of the resort hotel, residential and commercial development associated with golf resorts is complementary and subsidiary to the primary function of the resorts."

- 24 We note that the proposed development is not in association with a golf resort and that therefore arguably this policy would not apply to the application. In any case, we consider policy arguments of this kind, as well as arguments related to the appropriateness of development outside current growth strategy locations is a matter for the expert consenting panel to consider and does not prevent the Minister from putting this application on the fast track.

Yours sincerely

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Partner / Senior Solicitor

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