

COVID-19 Recovery (Fast-track Consenting) Act 2020

Dominion Road Mixed-use Development resource consent application (the application)

M-8 Minute of the Dominion Road Mixed-use Development Expert
Consenting Panel – 9 July 2021

Suspension of processing consent application and request for further information

1. On 7 July 2021, the applicants received notice that three reports commissioned by the Panel under Clause 25(1)(b) of Schedule 6 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 were available on the EPA website.
2. On 9 July 2021, legal counsel for the applicants made a written request to the EPA that the Dominion Road Expert Consenting Panel suspend processing of the consent application for the Dominion Road Mixed-use Development under Clause 23(1) of Schedule 6 of the Act. A copy of this request is available on the EPA website here: <https://www.epa.govt.nz/fast-track-consenting/referred-projects/dominion-road-mixed-use-development/correspondence-to-and-from-the-panel/>
3. The request helpfully confirms that the project remains viable if the Panel is minded to accept the recommendations set out in two of the three reports and requests that the processing of the application is suspended to enable the applicant to address the recommendations in the third report. A suspension period of five weeks is requested.
4. At its discretion, the Panel may, under Clause 23(4) suspend the processing of a consent application when a request is made under subclause (1) but if it does grant a suspension, must give the consent applicant written advice of the date on and after which the panel ceased to process the application.
5. The Panel has decided to grant the requested suspension commencing at midnight on Friday 9 July 2021 and all timeframes associated with the application will be put on hold until midnight on Friday 13 August 2021.
6. The Panel's reasons for granting the requested suspension include the following:
 - a. The Integrated Transport Assessment at Appendix 16 of the application concludes that the effects on road safety at the two intersections (as currently formed) are not acceptable.
 - b. The applicants proposed to implement "Scenario B" to mitigate the effects on road safety.
 - c. Many residential submitters were concerned with the safety effects of Scenario B.
 - d. Auckland Transport is opposed to the implementation of Scenario B.
 - e. The evidence of Mr Langwell in response to Auckland Transport's comments continues to pursue Scenario B as the preferred solution, but notes that signalling intersections remains

a potential measure that could be introduced and records an understanding that the applicants would welcome the opportunity to discuss further options.

- f. The independent technical advice the Panel has received from Harrison Grierson does not support Scenario B. Nor can the signalisation of the intersections (Scenario D) be supported based on the current traffic modelling. Instead, Harrison Grierson recommended further discussion and liaison between the applicants, Auckland Transport and the Auckland Forecasting Centre with a suggestion “this could be addressed by way of a condition” due to the timeframes associated with the Act’s process.
 - g. However, the Panel is of the tentative view that it should not address this issue by way of condition. Without mitigation, the traffic safety effects are not acceptable. It may be possible to mitigate those effects by signalising the intersections. However, that is not yet known. Therefore this is not a situation where the prior establishment of known mitigation can be listed as a condition precedent.¹ The issue here is whether the traffic safety effects can be appropriately avoided, remedied or mitigated. The Panel must determine this issue, and cannot delegate this decision to another person via a condition of consent.²
 - h. The suspension will allow the applicants time to undertake additional modelling work to demonstrate whether signalised intersections provide an acceptable solution. In the event they do, the Panel (if minded to grant consent) will be able to require, as a condition precedent to occupation or trading, the upgrade of the intersections to reflect the modelled scenario.
7. The Panel also requests further information from the applicants with a due date of 16 August 2021:
- a. Please confirm whether the site should include Lot 1 given the boundary adjustment with Lot 1 and the location of the proposed laneway and other aspects of the proposal development on (both the current and reconfigured) Lot 1 and whether the owner of Lot 1 has consented to the proposed development?
 - b. Please provide the vehicle tracking identified as required by Harrison Grierson.
 - c. Please comment on the alternative access arrangement shown in Figure 7 of the Harrison Grierson report.
 - d. Please respond to the concerns raised by Harrison Grierson regarding the lack of visibility splays at the vehicle crossings.



Bronwyn Carruthers
Chairperson
Dominion Road Mixed-use Development

¹ *Westfield (New Zealand) Limited v Hamilton City Council* [2004] NZRMA 556

² *Turner v Allison* [1971] NZLR 833