

Memorandum on Compliance

File	FTC 000020 - Dominion Road Mixed-use Development
To:	Sandra Balcombe, Manager, Land and Oceans Applications
Copy to:	
From:	Gen Hewett, Senior Advisor
Date:	11 May 2021
Subject:	Dominion Road Mixed-use Development: Assessment whether the application complies with clause 3(1) of Schedule 6 of the COVID-19 Recovery (Fast-track Consenting) Act 2020

Purpose

1. The purpose of this memo is to assist you in making your decision on whether the Dominion Road Mixed-use Development application, received by the Environmental Protection Authority (EPA) on 4 May 2021 lodged by Barker & Associates on behalf of Silk Road Management Limited, Pudong Housing Development Company Limited and Foodstuffs North Island Limited, complies with the requirements of clause 3(1) of Schedule 6 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the Act).

Conflict of interest

2. I confirm that I do not have any conflict of interest in this matter that would prevent me making this assessment.

The application

3. The Referral Order for Dominion Road Mixed-use Development was issued on 4 December 2020 pursuant to Section 26 of the Act.
4. The applicant applied for consents relating to Dominion Road Mixed-use Development on 4 May 2021.
5. The EPA must either provide the consent application to the expert consenting panel (if complete) or return it to the person who lodged it (if incomplete), as set out in paragraphs 13 – 17 below.

Project

6. As described in the Dominion Road Mixed-use Development referral order the scope of the project is to:

- a) demolish existing buildings and;
- b) to use land for, and construct a 6 storey (maximum) development for a supermarket, retail tenancies, offices and other commercial businesses, and residential units; and
- c) to subdivide land associated with the uses specified in (b).

Fast-track consenting application process

Legislative context

7. Clause 2(1), Schedule 6 of the Act states that a person authorised in accordance with section 15 may apply for a resource consent that would otherwise be required under section 88 of the Resource Management Act 1991 (RMA).
8. Clause 3(1), Schedule 6 of the Act states that *“within 5 working days of receiving a consent application or notice of requirement, the EPA must determine whether the application or notice—*
 - (a) relates solely to 1 or more of the listed projects or referred projects; and*
 - (b) does not breach clause 2(3)(c) or (4); and*
 - (c) contains all the information required under clauses 9 to 13.”*
9. Clause 3(2), Schedule 6 of the Act states that *“if the EPA is satisfied that a consent application or notice of requirement complies with the matters listed in subclause (1), the EPA must provide the application or notice to the panel appointed to determine that application or notice.”*
10. Clause 4(1), Schedule 6 of the Act states that *“if the EPA determines that a consent application or notice of requirement does not comply with the requirements of clause 3(1), it must return the application or notice immediately to the person who lodged it, with written reasons for the EPA’s determination”.*

Prerequisites for the application

11. There are a number of prerequisites for an application to be lodged as set out in this table.

Reference to clause in Schedule 6	Preliminary Matter	Comment	Accept/reject
Clause 2(1) or 2(2)	Application is made by authorised person or requiring authority	The application is made by Pudong Housing Development Company Limited, Foodstuffs North Island Limited and Silk Road Management Limited	Accept
Clause 2(3)(b)	Application is in approved form and manner	Yes	Accept

Clause 2(3)(c)	Application complies with any restrictions and obligations in either:		
	(i) Schedule 2; or	N/A – this is a referred project and Schedule 2 does not apply	N/A
	(ii) Schedule 3 and referral order	<p>Yes</p> <p>The application is by Pudong Housing Development Company Limited, Foodstuffs North Island Limited and Silk Road Management Limited, the authorised persons to apply for a resource consent relating to the project and specified in the referral order.</p> <p>The scope of the application is consistent with that specified in the referral order.</p> <p>The appropriate geographic location is consistent with that specified in the referral order.</p>	Accept
Clause 2(4)(a)	Applications must not relate to an activity that is classified as a prohibited activity in a:		
	(i) Relevant plan or proposed plan	The draft application has not identified any prohibited activities in a relevant plan or proposed plan	Accept
	(ii) RMA regulations (including any NES)	The draft application does not relate to an activity that is classified as a prohibited activity in any RMA regulations (including any NES)	Accept
Clause 2(4)(b)	Applications must not relate to an activity that is to occur within	The application does not relate to an activity that is to occur within a	Accept

	a customary marine title area unless agreed by the appropriate customary marine title group	customary marine title area.	
Clause 3(1)(a)	Relates solely to 1 or more of the listed projects or referred projects	The project is a referred project and is identified in Schedule 7 of the COVID-19 Recovery (Fast-track Consenting) Referral Projects Order 2020 (the referral order). The project is consistent with Schedule 7 of the referral order.	Accept

Conclusions on preliminary matters

12. The application can proceed to an assessment of whether the application contains all the information required under clauses 9 to 13 of Schedule 6 of the Act.

Assessment of compliance table

13. An assessment table against Clauses 9-12 of Schedule 6 of the Act is included in Appendix 1.
14. The information provided must be in sufficient detail to correspond to the scale and significance of the effects that the activity is anticipated to have on the environment, taking into account any proposal by a consent applicant or requiring authority to manage adverse effects through conditions, including requiring the preparation of a management plan (Clauses 13(3) and 14 of Schedule 6).
15. All information provided in the consent application is considered to be in sufficient detail.
16. The information in the application has been assessed on the basis that the scale of the activity is medium, and potentially low effects on the environment after taking into account mitigation measures and conditions.
17. My view is that the application does comply with clause 3(1) and can be provided to the Panel.

Appendix 1: Clauses 9-12

Resource consent and subdivision consent application for a mixed use development on Dominion Road for a supermarket, retail tenancies, offices and other commercial businesses and residential units.

Table 1: Checklist of completeness requirements in Clauses 9-12 of Schedule 6 of the Act

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
Clause 9			
Clause 9(1)(a)	A description of the proposed activity	Yes Section 6 of the AEE	Yes
Clause 9(1)(b)	A description and map of the site at which the activity is to occur	Yes Section 5 of the AEE	Yes
Clause 9(1)(c)	Confirmation that the consent application complies with clause 3(1)	Yes Section 3 of the AEE	Yes
Clause 9(1)(d)	The full name and address of: i. Each owner of the site and of land adjacent to the site	Yes Appendix 3 of the AEE	Yes It is noted that the address for 111 Grange Road is c/- other landowners addresses. The EPA has obtained owner information for this address.

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	ii. Each occupier of the site and of land adjacent to the site who, after reasonable enquiry, is able to be identified by the applicant	Appendix 3 of the AEE	Yes
	Were reasonable inquiries made?	Appendix 3 of the AEE	Yes
Clause 9(1)(e)	A description of any other activities that are part of the proposal to which the consent application relates	Appendix 26 of the AEE Section 6 of the AEE	Yes
Clause 9(1)(f)	A description of any other resource consents, notices of requirement for designations, or alterations to designations required for the proposal to which the consent application relates	The Resource Consent Application checklist provided with the Application form states there are no other resource consents required for the project.	Yes
Clause 9(1)(g)	An assessment of the activity against—	Section 12 of the AEE	Yes
	(i) Part 2 of the RMA		
	(ii) the purpose of this Act	Section 12 of the AEE	Yes
	(iii) the following matters (set out in section 19 of the Act - whether project helps to achieve purpose of Act):	Section 12 of the AEE	Yes
Section 19	(a) the project's economic benefits and costs for people or industries affected by COVID-19		
	(b) the project's effect on the social and cultural well-being of current and future generations	Section 12 of the AEE	Yes
	(c) whether the project would be likely to progress faster by using the processes provided by this Act than would otherwise be the case	Section 12 of the AEE	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
Section 19	(d) whether the project may result in a public benefit by, for example: generating employment; increasing housing supply; contributing to well-functioning urban environments; providing infrastructure in order to improve economic, employment, and environmental outcomes, and increase productivity; improving environmental outcomes for coastal or freshwater quality, air quality, or indigenous biodiversity; minimising waste; contributing to New Zealand's efforts to mitigate climate change; and transition more quickly to a low-emissions economy (in terms of reducing New Zealand's net emissions of greenhouse gases); promoting the protection of historic heritage; strengthening environmental, economic, and social resilience, in terms of managing the risks from natural hazards and the effects of climate change; or any other benefit(s) identified.	Section 12 of the AEE	Yes
Section 19	(e) whether there is potential for the project to have significant adverse environmental effects, including greenhouse gas emissions:	Section 12 of the AEE	Yes
	(f) any other matter that the Minister considers relevant.	Section 12 of the AEE	Yes
Clause 9(1)(h)	An assessment of the activity against --	Section 11 of the AEE	Yes
	(a) any relevant provisions in a national environmental standard, including:		
	i. Any relevant objectives, policies or rules	Section 11 of the AEE	Yes
	ii. Any requirement, condition, or permission in any rules	Section 11 of the AEE	Yes
iii. Any other requirements	Section 11 of the AEE	Yes	

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	(b) Any relevant provisions in any other regulations made under the RMA, including:	Section 11 of the AEE	Yes
	i. Any relevant objectives, policies or rules	Section 11 of the AEE	Yes
	ii. Any requirement, condition, or permission in any rules	Section 11 of the AEE	Yes
	iii. Any other requirements	Section 11 of the AEE	Yes
	(c) Any relevant provisions in any national policy statement, including:		
	i. Any relevant objectives, policies or rules	Section 11 of the AEE	Yes
	ii. Any requirement, condition, or permission in any rules	Section 11 of the AEE	Yes
	iii. Any other requirements	Section 11 of the AEE	Yes
	(d) Any relevant provisions in a New Zealand coastal policy statement, including:		
	i. Any relevant objectives, policies or rules	Section 11 of the AEE	Yes
	ii. Any requirement, condition, or permission in any rules	Section 11 of the AEE	Yes
	iii. Any other requirements	Section 11 of the AEE	Yes
	(e) Any relevant provisions in any regional policy statement or proposed regional policy statement, including:		
	i. Any relevant objectives, policies or rules	Section 11 of the AEE	Yes
	ii. Any requirement, condition, or permission in any rules	Section 11 of the AEE	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	iii. Any other requirements	Section 11 of the AEE	Yes
	(f) Any relevant provisions in a plan or proposed plan, including:		
	i. Any relevant objectives, policies or rules	Section 11 of the AEE	Yes
	ii. Any requirement, condition, or permission in any rules	Section 11 of the AEE	Yes
	iii. Any other requirements	Section 11 of the AEE	Yes
	(g) Any relevant provision in any planning document recognised by a relevant iwi authority and lodged with a local authority, including:		
	i. Any relevant objectives, policies or rules	Section 11 of the AEE	Yes
	ii. Any requirement, condition, or permission in any rules	Section 11 of the AEE	Yes
	iii. Any other requirements	Section 11 of the AEE	Yes
Clause 9(1)(i)	Information about any Treaty settlements that apply in the project area, including—	Section 9 of the AEE	Yes
	(i) the identification of the relevant provisions in those Treaty settlements		
	(ii) a summary of any redress provided by those settlements that affects natural and physical resources relevant to the project or project area	Section 9 of the AEE	Yes
Clause 9(1)(j)	The conditions that the applicant proposes for the resource consent	Section 13 of the AEE	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
		Appendix 5 of the AEE (Draft Land Use Conditions, Draft Subdivision Conditions)	
Clause 9(4)(a)	An assessment of the activity's effects on the environment that includes the following information (set out in clause 10 Schedule 6 of the Act): ¹	Sections 10 of the AEE	Yes
	(a) an assessment of the actual or potential effects on the environment		
	(b) if the activity includes the use of hazardous installations, an assessment of any risks to the environment that are likely to arise from such use	N/A The activity does not include the use of hazardous installations	N/A
	(c) if the activity includes the discharge of any contaminant, a description of— (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and (ii) any possible alternative methods of discharge, including discharge into any other receiving environment	Section 10.3 of the AEE	Yes
(d) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect of the activity	Section 10 of the AEE	Yes	

¹ The application does not need to include any additional information specified in a relevant regional policy statement or plan that that would be required in an assessment of environmental effects under Schedule 4 of the RMA.

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	(e) identification of persons who may be affected by the activity and any response to the views of any persons consulted, including the views of iwi or hapū that have been consulted in relation to the proposal	Section 8 of the AEE Appendix 23	Yes
	(f) if iwi or hapū elect not to respond when consulted on the proposal, any reasons that they have specified for that decision	Section 8, of the AEE Appendix 23 of the AEE Appendix 24 of the AEE	Yes
	(g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how the effects will be monitored and by whom, if the activity is approved	Sections 8,9 and 10, 13 of the AEE Appendix 5	Yes
	(h) an assessment of any effects of the activity on the exercise of a protected customary right	Section 9 of the AEE	Yes
Clause 9(4)(b)	An assessment of the activity's effects that also covers the following matters (set out in clause 11 of Schedule 6 of the Act):		Yes
	(a) any effect on the people in the neighbourhood and, if relevant, the wider community, including any social, economic, or cultural effects	Section 10 of the AEE	
	(b) any physical effect on the locality, including landscape and visual effects	Section 10 of the AEE	Yes
	(c) any effect on ecosystems, including effects on plants or animals and physical disturbance of habitats in the vicinity	Section 10 of the AEE	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	(d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations	Sections 8, 9 and 10 of the AEE	Yes
	(e) any discharge of contaminants into the environment and options for the treatment and disposal of contaminants	Section 10 of the AEE	Yes
	(f) the unreasonable emission of noise	Section 10 of the AEE	Yes
	(g) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.	Sections 8,9 and 10 of the AEE	Yes
Clause 9(5)	Is there a cultural impact assessment? If a cultural impact assessment is provided, is it prepared by or on behalf of the relevant iwi authority?;	Section 9 of the AEE Section 9 of the AEE sets out where cultural impact assessments have been provided and where iwi defer to another iwi Appendix 24	Yes
Clause 9(6)(a)	If a permitted activity is part of the proposal to which the consent application relates, a description that demonstrates that the activity complies with the requirements, conditions, and permissions for the permitted activity (so that a resource consent is not required for that activity under section 87A(1) of the RMA)	Appendix 26 of the AEE	Yes
Clause 9(6)(b)	If the activity is to occur in an area that is within the scope of a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai	The activity will not occur in an area that is within the scope of a planning	N/A

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	Moana) Act 2011, an assessment of the activity against any resource management matters set out in that planning document (for the purposes of clause 30(3))	document prepared by a customary marine title group.	
Clause 9(6)(c)	In the case of a referred project, all the additional information required by the relevant referral order.	The referral order requires: Transport Assessment (Provided as Appendix 16) Urban Design/Character assessment (Provided as Appendix 7) Flood Assessment (Provided as Appendix 15)	Yes
	Subdivision Consent		
Clause 12(1)(a)	The position of all new boundaries	Appendix 17	Yes
Clause 12(1)(b)	The areas of all new allotments, unless the subdivision involves a cross lease, company lease, or unit plan	Appendix 17	Yes
Clause 12(1)(c)	The locations and areas of new reserves to be created, including any esplanade reserves and esplanade strips	Appendix 17	Yes
Clause 12(1)(d)	The locations and areas of existing esplanade reserves, esplanade strips, and access strips	Appendix 17	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
Clause 12(1)(e)	The locations and areas of any part of the bed of a river or lake to be vested in a territorial authority under section 237A of the RMA	N/A The proposed subdivision or application does not include vesting any part of the bed of a river or lake with a territorial authority	N/A
Clause 12(1)(f)	The locations and areas of any land within the coastal marine area that is to become part of the common marine and coastal area under section 237A of the RMA	N/A The proposed subdivision or application site is not within the coastal marine area	N/A
Clause 12(1)(g)	The locations and areas of land to be set aside as new roads	Appendix 17	Yes

ENDS