

**BEFORE AN EXPERT CONSENTING PANEL**

**UNDER** the COVID-19 Recovery (Fast-track Consenting) Act 2020  
**IN THE MATTER** of an application by Silk Road Management Limited,  
Pudong Housing Development Company Limited and  
Foodstuffs North Island Limited in relation to the Dominion  
Road Mixed-use Development

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**MEMORANDUM OF COUNSEL RESPONDING TO REQUEST FOR  
INFORMATION DATED 24 AUGUST 2021**

**25 August 2021**

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**ELLIS GOULD  
LAWYERS  
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## MEMORANDUM OF COUNSEL ON BEHALF OF THE APPLICANT

### May it please the Panel:

1. The purpose of this memorandum is to respond to the request for information in the EPA's letter dated 24 August 2021 ("**Request**"), which attaches Mr Munro's further urban design review of the applicant's proposal, also dated 24 August 2021.
2. The Request seeks the following information on behalf of the Panel:
  - a. *Whether the applicants are prepared to share the revised design plans that led to the identification of the issues raised in the 9 July 2021 memorandum and/or any additional plans that investigate the options to achieve a feasible "step" in Building D;*
  - b. *Whether the applicants consider there may be merit in their architects discussing this matter directly with Mr Munro and, if so, their availability to do so on Thursday 26 August or Friday 27 August.*
  - c. *Whether the operational constraints on the Lot 1 Retail Units proposed by Mr Munro are known to be acceptable to the owners and occupiers of those lots.*
  - d. *Whether the applicants would be amenable to a condition of consent that requires such approval to be obtained and maintained in order for the laneway to be accessible to the public.*
3. The applicant responds as follows:
  - (a) The applicant is prepared to share revised design information with Mr Munro, to illustrate the issues raised in its 9 July 2021 memorandum and how the applicant has responded to the concerns raised by Mr Munro. The applicant had not provided this material earlier, as the work undertaken remained of a preliminary/investigative nature, and not refined and coordinated with the applicant's broader design team. The applicant does, however, see value in sharing this material with Mr Munro, in the context of his concerns regarding the height and massing of building D, and to facilitate the discussions referred to in (b) below.
  - (b) The applicant considers that direct discussions between its consultants and Mr Munro would be a helpful and efficient way of enabling comprehensive and appropriate consideration of the concerns raised by Mr Munro and the issues identified by the applicant. The applicant respectfully suggests that the discussions occur primarily as between Mr Munro and Ms de Lambert (the applicant's urban design advisor) with input from the applicants'

architects and if necessary Mr Brown (applicant's special character advisor, by phone). The applicant's consultant team would be available to meet on **Thursday 26 August 2021 at 4:30pm**, if that is workable for Mr Munro. That would allow any follow up discussions to occur on Friday 27 August 2021, prior to any report back to the Expert Consenting Panel. Were that time not suitable for Mr Munro, the applicant respectfully suggests that Ms de Lambert and Mr Munro engage directly to find a suitable time for discussions.

- (c) Neither the applicant nor the Lot 1 owners have suggested that any tenancy/owner might seek to provide their primary retail frontage to the laneway. The laneway frontage is proposed to continue to provide an important access and servicing role, but with the opportunity to also provide a secondary and supplementary retail entrance integrated with the broader development – consistent with Mr Munro's discussion in para 17. In terms of the specific operational constraints identified by Mr Munro in his paragraph 18, these are unlikely to be acceptable to the Lot 1 owners if adopted in full. The applicant would welcome the opportunity to discuss this issue with Mr Munro as part of the direct discussions referred to in (b) above. With better clarification of the applicant's design and operational intent, some or all of Mr Munro's concerns may be addressed such that these operational constraints can be waived or alternative constraints developed.
- (d) Subject to further discussions with Mr Munro in relation to the specific operational constraints that he recommends be incorporated into any condition, and confirmation that Mr Munro remains of the view that such a condition is in fact required, the applicant is amenable to a condition as outlined in the Panel's request (d). Subject to the outcome of those discussions, the applicant can provide recommended wording for any such condition.

4. In light of the above, the applicant respectfully requests that the Expert Consenting Panel make the following directions:

- (a) That Mr Munro and the applicants' consultants (architects, urban design and special character experts) meet at a convenient time during 26 and 27 August 2021 (**Thursday 26 August 2021 at 4:30pm** suggested by the applicant in the first instance) to discuss:

- (i) Height and massing of Building D, and in particular the construction/layout issues referred to in paragraph's 16-19 of the applicant's memorandum dated 13 August 2021; and
  - (ii) Scope of necessary and acceptable operational constraints on Lot 1 owners in the event the laneway is made publicly accessible during daytime hours.
- (b) That the applicant report back to the Expert Consent Panel, via the EPA, on or before 5pm Wednesday 1 September 2021 to confirm the outcome of those discussions, and with the following information:
- (i) Plans / elevations showing Building D, and the agreed (if possible) acceptable height and massing of that building, or otherwise identifying any remaining areas of disagreement as between Mr Munro and the applicant's consulting team that need to be resolved by the Panel; and
  - (ii) If required, the recommended text for a condition addressing item (d) of the Panel's Request, and incorporating any changes to the operational constraints identified in Mr Munro's paragraph 18 as a result of direct discussions between Mr Munro and the applicant's consultant team.



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**Douglas Allan / Daniel Sadlier**

Counsel for Silk Road Management Limited, Pudong  
Housing Development Company Incorporated and  
Foodstuffs North Island Limited