

13 December 2021

Chair  
Expert Consenting Panel for the Drury East Stage 1 Precinct Project Application

Via email: C/- Environmental Protection Authority

Tēnā koe

1. The Applicant attaches Cultural Impact Assessments (**CIAs**) prepared by Ngāti Tamoho, Ngāti Te Ata, Ngāti Whanaunga and Ngāi Tai Ki Tamaki. The authors of these CIAs have requested that these documents not be made publicly available. The reason for that request is that withholding the information is necessary to avoid serious offence to tikanga Maori. The jurisdiction for the Expert Consenting Panel (**Panel**) to make such a decision is set out below.
2. Clause 10 of Schedule 5 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (**the Act**) states that a Panel must regulate its own procedure as it thinks appropriate, without procedural formality, and in a manner that best promotes the just and timely determination of an application.
3. Clause 16 of Schedule 5 of the Act specifies that Part 1 of the Local Government Official Information and Meetings Act 1987(**LGOIMA**) applies, with any necessary modifications, as if a Panel were a board of inquiry given authority to conduct a hearing under section 149J of the Resource Management Act 1991.
4. With reference to Part 1 of the LGOIMA, this means that in general, information held by the Panel is to be made available unless there is good reason for withholding it<sup>1</sup>. The reasons for withholding information are set out in sections 6 and 7 of the LGOIMA. In the context of material received by a Panel as part of a hearing, clause 21(10) of Schedule 6 of the FTCA provides:

*(10) A panel may, in its discretion, make an order that prohibits or restricts the publication or other means of communication of information supplied to the panel or obtained by it in the course of a hearing.*

5. Subclause 21(10) specifically relates to information received in the course of a hearing. Any information held or received by a Panel other than in the course of a hearing (including for proceedings where no hearing is held) is also subject to the provisions of Part 1 of the LGOIMA by virtue of clause 16 of Schedule 5.

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<sup>1</sup> Section 5 of the LGOIMA

6. Clause 21(11) of Schedule 6 makes clear that sections 6 and 7 apply to the exercise of a discretion under clause 21(10):

*(11) Subclause (10) applies whether or not the information is material to determining a consent application or notice of requirement if there would be good reason to withhold the information under section 6 or 7 of the Local Government Official Information and Meetings Act 1987.*

7. The Panel, in exercising its discretion under cl 21(10), must consider whether there are grounds for withholding the information under sections 6 or 7 of the LGOIMA.
8. Part 1 of the LGOIMA includes section 7(2)(ba), which provides that in the case of an application for resource consent good reason for withholding information exists where withholding the information is necessary to avoid serious offence to tikanga Maori, or to avoid the disclosure of the location of waahi tapu, and this is not outweighed by the public interest in making that information available.
9. The Applicant says that s7(2)(ba) of LGOIMA is engaged. The authors of the CIAs say that withholding the information is necessary to avoid serious offence to tikanga Maori. On that basis good reasons exist for withholding the redacted information which are not outweighed by the public interest.
10. The EPA is requested to publish a redacted version of the CIAs prepared by Ngāti Tamoho, Ngāti Te Ata, Ngāti Whanaunga and Ngāi Tai Ki Tamaki on the EPA website. For clarity, Te Akitai Waiohua have confirmed that they provide permission for their full CIA to be published on the EPA website (provided as **Attachment 1**). A summary of the key issues and recommendations raised in the CIAs by Ngati Tamaoho, Ngati Te Ata, Ngati Whanaunga and Ngai Tai ki Tamaki, and the Project's response, has also been provided as part of the application.

Yours sincerely | Nāku noa, nā

**Barker & Associates Limited**



**Nick Roberts**

Director

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**Pamela Santos**

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**From:** Jeff Lee [REDACTED]  
**Sent:** Friday, 10 December 2021 3:29 pm  
**To:** Nick Roberts  
**Cc:** Andrew; Gregory.Dewe@fultonhogan.com; David Schwartzfeger; Cosette Saville; Pamela Santos; Cassandra Ng; Mary Wong; Gen.Hewett@epa.govt.nz; [REDACTED]; [REDACTED]; Nigel Denny  
**Subject:** Re: Drury East Fast Tracks Te Akitai Waiohua - CIA summary tables

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Kia ora Nick,  
Thank you for your email.  
Te Aakitai Waiohua confirms the following .

- Full CIA content attached to respective applications can also be uploaded fully onto the EPA website.
- Further dialogue is sought as it relates to the project teams responses that have noted in the summaries .
- Can you steer me in the right direction around where to locate the applicable content within the bill RE : CIA disclosure

Ngaa Mihi Nui

Jeff Lee

Kia ora Jeff,

As discussed, please find attached three summary tables we have prepared in response to your CIA. Can you please review these and advise if you are happy for us to submit these to the EPA by next Wednesday?

To confirm we proposed that the EPA and the Panel will have the full CIAs. These tables will be attached to the application for upload onto the EPA website (in place of the CIAs due to their confidential nature).

Ngā mihi | Kind regards

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**NICK ROBERTS**  
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Urban & Environmental

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