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Request for information from Karaka North Village Limited in relation to Karaka North Village application under COVID-19 Recovery (Fast-track Consenting) Act 2020

The Karaka North Village Expert Consenting Panel (the Panel) has directed the Environmental Protection Authority (EPA) to request further information from you under clause 25 of Schedule 6 of the COVID-19 Recovery Act 2020 (the Act), relating to the Karaka North Village consent application.

The Panel attaches a second request for information. This is to be read in addition to the first request for information, but if there are any inconsistencies, the applicant is welcome to seek clarification from the Panel about what is required. The Panel considers it would be best for the applicant to respond to this second request for information at the same time as the responding to the first request for information. The Panel will continue to process what parts of the application it can while waiting for this further information.

The Panel has now spent a considerable amount of time reviewing the application documents. Part of the problem for the Panel is the lack of any roadmap of the legal and/or planning issues that need to be confronted in assessing the application. Therefore, as the review continued some fundamental issues arose that require clarification. The Panel has had several discussions about the correct process for assessing the applications and questions about this form the bulk of this second request for information. The Panel apologises in advance for the length of this second RFI, but it requires the assistance of the applicant on some key issues.

Had the applicant not sought the application be suspended (which has now been approved), the Panel would have arranged a hearing to discuss these matters. That could still occur, and the Panel sees some benefit in sending this further request for information out in advance.

The Panel should signal that it presently has serious reservations about whether this application is suitable for the fast track process, given how far this proposal departs from the Objectives and Policies and Standards of the Karaka North Precinct and the Precinct Map. The Panel should also signal that the Conditions do not appear to be consistent with the usual Auckland Council conditions and it would appreciate it if the Applicant could review this as well.

The applicant should be aware that Panel members had arranged their commitments around the statutory timeframes original date of the submission of the application to ensure a timely decision could be made. The suspension of the application will now require the Panel members to reorganize themselves around their other commitments in July/August which could impact on the timing of any decision. As well if other resource consents are required, the invitations for comments may have to be re-sent and the time periods adjusted accordingly. The Panel would therefore very much appreciate it if the applicant could provide an indication about when the further information is likely to be provided for the Panel to consider and see what arrangements could be made to keep any delays to a minimum.

At the direction of the Panel, The EPA is seeking the following information:

First Issue

The application is submitted with a “variation to the masterplan approved in February 2021”.

The Panel needs to understand properly what is proposed.

For example, condition 1 of the February 2021 Consent requires that the development occur in accordance with the 2020 master plan then submitted.

The Panel therefore sees two pathways to vary the 2020 masterplan:

- a) Either an application under 127 RMA is required to amended condition 1 of the February 2021 Consent; or
- b) If that process is being avoided by agreeing to surrender the February 2021 Consent, then isn't it the case that this new masterplan is not a variation of an approved masterplan, but, in the absence of any other consent, won't it be the original masterplan to support an application for the consent that will be implemented? As above if the February 2021 Consent is not surrendered until after this application is approved, then isn't a s127 RMA application required.

If b) is the position, and the February 2021 consent is to be surrendered, then does the applicant agree it cannot form part of the existing environment for assessment purposes.

The Panel asks the applicant to clarify its position in relation to the above.

Second Issue

If the new masterplan is approved, how are changes to the masterplan to be treated in the future?

The Panel's initial view is that a condition similar to condition 1 of the February 2021 Consent would be required if this consent is approved i.e. that the development must proceed in accordance with the masterplan, so that any change would require a s127 RMA application.

Could the applicant advise whether it agrees with this? If not, can the applicant advise how future changes to the masterplan would be assessed, by whom and on what basis?

Third Issue

The masterplan submitted with this application has intensive development in both the rural character area (**RCA**) and the rural amenity area (**RAA**). The Panel understands this requires a discretionary consent – Activity table (A4). Does the applicant agree? If so, can the applicant confirm that currently, no such consent has been applied for. If the applicant does not agree, could the applicant explain its reasons.

Fourth Issue

Following on from the third issue, if a discretionary activity consent is required, the Panel notes that as a discretionary activity, an assessment must be undertaken of the relevant Precinct Objectives and Policies. The Panel notes this is required anyway because of the non-complying status overall, but in relation to this (RCA/RAA) issue the Panel notes in particular:

- a) Objective I417.2 which requires ... retention of rural character and amenity;
- b) Policy I417.3(2) – avoid more intensive housing in the RCA/RAA;
- c) Policy I417.3(3) – enable development in accordance with its precinct plan; and
- d) Policy I417.3(10) – require development to establish a distinctive rural village.

The Panel has reviewed appendix 13 submitted with the application, and section 3 in particular, but cannot find any assessment against the above provisions, or in the Positive Planning report (**PPR**). In particular the requirement to avoid intensive development in the RCA/RAA.

Can the applicant provide any legal and/or planning analysis that would enable the Panel to approve a development that appears to be contrary to these Objectives and/or Policies, or any advice that would otherwise enable approval to the masterplan's proposed layout.

Fifth Issue

Following on from the fourth issue, if the new masterplan is approved, the result is the reduction and/or abandonment of both the RCA and the RAAs as set out in the Precinct Plan.

The Panel considers the Precinct Plan is akin to a standard in the Precinct Plan and that any breach of that standard would require a restricted discretionary consent per Rule C1.9 (as no other status is given to it). Does the applicant agree? If not, could the applicant provide reasons why not.

If the applicant does agree, then as with the fourth issue, for the restricted discretionary assessment, the Panel considers the same assessment against the Precinct Objectives and Policies would be required. Can the applicant advise whether it agrees with this, and if not why not.

Sixth Issue

Following on from the fourth and fifth issues, the Panel would assess the reduced RCA as an effect to be considered as part of the discretionary activity assessment for altering the Precinct plan. The same applies for the buildings within the RAA.

But how does the applicant propose the alternative RAA is to be treated? Is it proposed (for example) as offset or compensation, or is some other support given to it? The Panel understands it suits the proposed intensity of development to have a different RAA, but the starting point is the Precinct Plan. So, what assessment pathway is required for a different area be approved?

Seventh issue

The masterplan (and subdivision/land use applications) propose a significant breach of standard I417.6.2. The Panel considers that a restricted discretionary activity consent is required for this breach. Can the applicant advise whether it agrees? If so can the applicant confirm whether such consent has been applied for? If the applicant does not agree, can it advise why not.

If the applicant agrees, then once again, the Panel considers that an assessment against the above Precinct Objectives and Policies is required and asks the applicant to specifically advise how doubling of the yield is not contrary to them. The Panel understands the alleged economic imperative for the change, but that is not a matter raised in the Objectives or Policies or in any of the assessment criteria for the Precinct. The Panel needs to understand how such an intensive development establishes a distinctive rural village which encourages a distribution of density that is reminiscent of historical New Zealand rural villages.

Eighth Issue

Can the applicant provide more detail around the staging/ delivery of the village center facilities/services and the Community venue.

In the Panel's assessment so far:

For the second stage where 316 residential dwellings are to be constructed there will be a need for local facilities/services, but the economic report at Appendix 42 does not address any cost/benefits in relation to these facilities and availability. Can the applicant advise whether these facilities/services/venue will be available for the first 316 dwelling occupiers? If not, could the applicant advise why not, and when they would be available;

- a) The applicant's conditions presently do not incorporate operating hours for the café/restaurant/tavern or any other of the specified activities (apart from functions/events at the Community Venue being until 1am the next day but with no commencement times stated etc)? Can the applicant provide these details and provide an assessment of effects addressing the operational/functional effects where these activities are proximate to residential activities?
- b) Can the applicant clarify whether the specified range/nature and scale of activities to be established within the Village Centre are intended to be specifically 'locked in' through a condition of consent (plans and other documents) such that any change in use in the future may potentially require a variation of consent or fresh application? If so, could the applicant provide an appropriate condition.

Ninth Issue

The Panel notes that while discretionary consent is being sought for temporary activities such uses (pop up retail/markets etc) that breach the permitted activity thresholds/standards no assessment of such effects has been provided and no conditions to control such use have been provided.

While the Panel notes that p250 of the PPR suggests that management plans can be prepared 'later on' once the detail of such activities are known, the Panel needs to clearly understand what controls such management plans will be required to meet.

Tenth Issue

Proposed condition 204 states that no buildings can be occupied until potable water and wastewater services are available. The Panel seeks clarification on how the staged development will occur in respect of these services. For example, does the design of the wastewater treatment plant and the potable water treatment system allow for incremental provision of those services (in terms of wastewater plant efficiency and though volumes for example) and if so how? The Panel cannot see any provision/description of a staged approach to construction of either the wastewater or potable water treatment plans? The Panel also notes that it is anticipated that the wastewater plant will take around 67 weeks to construct. Accordingly, a program of works (sequencing) in relation to build time for 316 dwellings would be a helpful clarification.

Eleventh Issue

Can the applicant provide more details around the treatment of the open space areas? For example, at page 5 of the PPR states:

One of these benefits is the significant amount of open space amenity with the majority of the open space being communally owned by the Karaka Village Residents' Society whilst still being freely available to members of the public, rather than being privately owned and controlled".

The Panel however notes that subdivision condition 172 expressly states that only Lot 10001 will vest in the Council as a recreation reserve and that will only occur if the Council purchases the land?

The Panel therefore asks the applicant to reconcile the statement in the above passage in the PPR with condition 172, and whether "non-vested" areas will be available for public use.

The Panel also seeks clarification about what happens if the Council don't purchase Lot 10001. The Panel notes for example that Council Parks department did not wish to accept any other vested reserve areas. The Panel expects this will be answered by the question above, but the Panel would be concerned if a village of up to 850 dwellings had no public open space.

Twelfth Issue

Can the applicant advise what is proposed in terms of infrastructure for EV charging.

The Panel notes there is consideration of future transport options and modes of travel in the application documents and provision for the AUPOP minimum cycle parks in the Village Centre/Community Venue but given current trends the Panel considers this is a matter that requires investigation.

Thirteenth Issue

Can the applicant confirm it is the intention that the Stream Restoration Management Plan and a Coastal Management Plan are to be submitted to the Council for certification (refer also proposed conditions 14 onwards regarding a suite of management plans to be submitted and certified. Currently there does not appear any conditions requiring that. If that is the intention, can the applicant provide draft conditions.

The Panel also notes that the bulk earthworks consent which has been partly implemented is included the same conditions regarding various management plans. Can the applicant please clarify how implementation of the NLMP (Appendix 54), the Coastal Management Plan (Appendix 51), the Stream Restoration Management Plan (Appendix 52) and any other management plans associated with implementing the bulk earthworks consent have been certified and implemented to understand how any conditions for such management plans would work in practice for the current proposals?

Fourteenth issue

The Panel notes that p146 of the PPR states:

*An internal review process via the Karaka North Design Review Panel (developer representatives included) will assess whether **any application meets the Master Plan and the design guidelines** to ensure that a rural village outcome eventuates. The Panel will review the drawings and provide a sign-off certificate to be lodged with the resource consent application. For controlled activity consent applications, the Panel consists of developer representatives and its architectural and landscape architect consultants and in the case of discretionary activity consent applications, a Council representative from the Urban Design team will also be invited to attend the Panel review process.*

Can the applicant confirm how the consenting process for future dwellings and the Residents Association internal Design Panel process will work? For example, what if there are disputes? The Panel cannot see any reference to this in the proposed conditions. Is it intended that a consent notice be imposed on the titles for Lots 400-920 to ensure that the future dwellings thereon align with all design elements of the proposal?

Fifteenth Issue

The Panel would like clarification of the staging proposals overall, whether in the master plan or elsewhere, just so the Panel can properly understand what part of the development is proposed to occur when.

Supply of Information

In accordance with clause 25 of Schedule 6 of the Act Karaka North Village Limited must:

- i. Provide electronic copies of the information or report requested; or
- ii. Advise the EPA, with reasons that you decline to provide the information or report requested.

If the information requested is not received, the panel must proceed as if the request for further information has been declined.

Please note, the information will be provided to the panel, the applicant and every person who provided comments on the application/notice of requirement. The information will also be made available on the EPA website.

If you have any questions, please contact Mary McConnell, Project Lead, on 021 721 623 or mary.mcconnell@epa.govt.nz

Nāku noā, na



Alan Webb

Chair, Karaka North Village Expert Consenting Panel