

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

New Dunedin Hospital – Whakatuputupu – Stage 1 enabling works resource consent application (the application)

M-4 Minute of the New Dunedin Hospital – Whakatuputupu Expert Consenting Panel – 30 November 2021

Withholding information under the Local Government Official Information and Meeting Act 1987

1. On 23 November 2021, the Panel directed the Environmental Protection Authority to request further information from the applicants under clause 25 of Schedule 6 of the COVID-19 Recovery Act 2020 (the Act) for a copy of the signed Memorandum of Understanding (MoU) between mana whenua and the Ministry of Health and Southern District Health Board setting out the framework of partnership for the New Dunedin hospital.
2. The applicants provided a copy of the signed MoU on 25 November 2021 and requested that the MoU is not made publicly available on the basis that such disclosure would cause serious offence to tikanga Maori.
3. Clause 10 of Schedule 5 of 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.
4. 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.
5. 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. The reasons for withholding information are set out in sections 6 and 7 of the LGOIMA.
6. Part 1 of the LGOIMA includes section 7(2)(ba) which enables the withholding of the information where that 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.
7. Part 1 of the LGOIMA includes section 7(2)(c)(ii) which enables the withholding of the information to protect information which is subject to an obligation in confidence or which any person has been or could be compelled to provide under the authority of any enactment, where making the available information would be likely otherwise to damage the public interest.

8. Having carefully considered the information provided by the applicants, the reasons given as to why it would consider disclosure would give serious offence to tikanga Maori and be damaging to the public interest, and the public interest in the information, the Panel has determined that good reasons exist for withholding the information.
9. The Panel directs the MoU described in paragraphs 1 and 2 of this Minute be withheld until further direction.



Judge Laurie Newhook
Chairperson
New Dunedin Hospital – Whakatuputupu Expert Consenting Panel