

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

Papakāinga Development - Kaitaia by He Korowai Trust

M-2 Minute of the Papakāinga Development - Kaitaia Expert Consenting Panel – 4 August 2021

Late Comment Received

1. On 30 July 2021, the Environmental Protection Authority (**EPA**) was contacted by Ms Felicity Foy (“**Ms Foy**”) regarding invitations to comment on the Papakāinga Development - Kaitaia (**the project**), under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (**the Act**).
2. Ms Foy advised that Marion Foy, who owns an adjacent property had not received an invitation to comment on the project. The EPA checked and confirmed that as an owner of an adjacent property, an invitation to comment had been sent.
3. Comments on the application were to be received by the EPA no later than 7 July 2021. Clause 18(7) of Schedule 6 of the Act states that there is no right for any person to seek a waiver to the time limited for written comments to be received by the EPA, however clause 18(6) of Schedule 6 provides for the Panel to consider a late comment, at their discretion.
4. As the EPA had been advised that an invitation to comment was not received by Marion Foy, the Panel agreed to afford a late comment to be received, provided it was received by the EPA no later than close of business on 2 August 2021, and if a comment was received, the Panel would exercise their discretion to consider the comment.
5. The Panel had also already issued their draft conditions, inviting comment on them from the applicant and all those who provided comment in accordance with clause 17(2) of the Schedule 6 of the Act in accordance with clause 36(1) of Schedule 6. As all persons who provided comment on the application must be invited to comment on the draft conditions, the draft conditions were provided to Ms Foy, and provided that a comment was received by the EPA no later than close of business on 2 August 2021, an opportunity to comment on the draft conditions was also offered to Marion Foy.
6. A comment on the application was received by the EPA, which included comments on draft conditions, by Ms Foy on behalf of Marion Foy on 2 August 2021.

Applicant’s Response

7. Clause 19 of Schedule 6 of the Act, provides an opportunity for the applicant to respond to comments received on the application, however this time-period had expired.
8. As the time-period for the applicant to provide a response to the late comment received had expired, the Panel now offers the applicant an opportunity to respond, provided this is received by the EPA [alongside their comments on draft conditions] no later than **5 August 2021**.
9. The late comment was sent to the applicant on 2 August 2021.

Potential Conflict of Interest

10. In the comment received from Ms Foy, she notes that she is a current Councillor with Far North District Council.
11. Panel Member David Clendon is also a current Councillor with Far North District Council.
12. Whilst it is not considered that there is an actual conflict of interest, it is accepted that there could be a perceived conflict of interest. As such the following actions have/will occur:
 - The comment from Ms Foy has not been and will not be provided to David Clendon.
 - Review and consideration of the comment from Ms Foy, any deliberation of the comment and/or any requested conditions, review of any response to the comment by the applicant and drafting any part of the decision and/or consent conditions in response to the comment (where relevant), will all be undertaken by the remaining Panel Members and myself as Panel Chair.
13. The actions above ensure that any perception of conflict of interest is managed as David Clendon will not receive the comment or take any part in any of the processes with respect to the comment.
14. This will also be recorded in the decision on the application.



Sarah Shaw

On behalf of the Papakāinga Development - Kaitaia Expert Consenting Panel