

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

Papakura to Drury South State Highway 1 Improvements- Stage 1B1 resource consent applications and notices of requirement (the application)

M-3 Minute of the Papakura to Drury South State Highway 1 Improvements Expert Consenting Panel – 27 September 2021

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

1. As outlined in Minute 1, on 3 September 2021, the Panel invited comments on the resource consent application and notices of requirement under clause 17 of Schedule 6 of the Act and provided a link to the application documents on the EPA website.
2. On 13 September 2021, legal counsel for Waka Kotahi wrote to the Panel advising of an issue arising in relation to the cultural impact assessment and cultural values assessments provided as part of the application.
3. Whilst the documents were provided to Waka Kotahi by Ngāti Tamaoho, Ngaati Whanaunga and Ngaati te Ata Waiohua to form part of the application, the iwi did not intend for them to be made public and published on the EPA website.
4. On 16 September 2021, the Panel wrote to Waka Kotahi expressing a view that its preference would be that the documents are included as part of the application and available for viewing on the EPA website, particularly during the invitations to comment period. The Panel noted that this cannot occur if the iwi do not give consent.
5. The Panel invited Waka Kotahi to discuss the treatment of the documents with the iwi to seek its consent for the documents to be made available to those persons invited to comment on the application or whether such disclosure would cause serious offence to tikanga Maori and, if so to provide reasons for that.
6. Waka Kotahi provided a letter dated 23 September 2021 confirming the iwi view that they do not want their CIA/CVA information released to those invited to comment on the application and confirming the disclosure of the documents would cause serious offence to tikanga Maori.
7. 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.
8. 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.

9. 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.
10. 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.
11. Having carefully considered the information provided by Waka Kotahi, the reasons given as to why Iwi consider disclosure would give serious offence to tikanga Maori, and the public interest in the information, the Panel has determined that good reasons exist for withholding the information.
12. The Panel directs the Iwi documents identified in paragraphs 2 and 3 of this Minute be withheld for the duration of the proceedings.



Michael Savage
Chairperson
Papakura to Drury South State Highway 1 Improvements Expert Consenting Panel