

IN THE MATTER of the Resource Management Act 1991 (**RMA**)

AND

IN THE MATTER of **Private Plan Change 44** – 33-37 George Street, 13-15 Morgan Street and 10 Clayton Street, Newmarket to the Auckland Unitary Plan

HEARING DIRECTION #4 FROM THE HEARING PANEL

1. Pursuant to section 34A of the RMA, Auckland Council (the Council) has appointed a Hearing Panel consisting of three independent hearing commissioners – David Wren (Chairperson), Trevor Mackie and Sheena Tepania. The Hearing Panel’s function is to hear the application and submissions and make a decision on the Plan Change proposal, including any changes to it that are within scope of the notified Plan Change.
2. Plan Change 44, in summary, aims to introduce a new precinct at 33-37 George Street, 13-15 Morgan Street and 10 Clayton Street, Newmarket that:
 - (a) enables mixed use development
 - (b) introduces building height up to 65 metres above ground level
 - (c) provides a publicly accessible plaza, pedestrian connections and vehicular and pedestrian access to and from George, Morgan and Clayton Streets
 - (d) removes the 27 metre Height Variation Control.
3. Hearing dates were confirmed to commence on Tuesday 28 September 2021 and timeframes for the filing of evidence were set.
4. On 13 July 2021 the Applicant advised they wished to vacate the hearing dates stating:

‘Following the recommendations within Auckland Council’s hearing report, the applicant is exploring their options further and have requested a temporary suspension of processing of the private plan change’.
5. The Hearing Panel agreed to the postponement of the hearing and directed that the Applicant report back to the Senior Hearings Adviser, Ms Ager, by 12 midday Wednesday 13 October 2021 informing the Hearing Panel if they wish to reschedule a new hearing date or withdraw the Plan Change request.
6. The Applicant reported back to the Hearing Panel on 13 October 2021 as directed. The Applicant advised that the Minister for the Environment has consented to Newmarket Holdings Development Limited Partnerships’ application under section 20 of the COVID-

- 19 Recovery (Fast-track Consenting) Act 2020 (FTCA) seeking referral of the project to an expert consenting panel for consideration and that referral has been confirmed by Order in Council.
7. The project, being the George Street Mixed Use Development, is a mixed use development on the site subject to PC44, generally consistent with the provisions proposed in PC44. The resource consent application is currently being prepared and the intention is that it be lodged with the EPA this year.
 8. The Applicant has also asked that PC44 be adjourned pending the outcome of the FTCA process. The Applicant has advised that once a decision has been released on the George Street Mixed Use Development under the FTCA, the Applicant in conjunction with Council will be able to decide whether to continue to pursue PC44 and, if so, in what form (e.g. to ensure that the Unitary Plan provisions accurately reflect any consented development).
 9. The Hearing Panel have considered this request. We are concerned that we have an obligation to hear and make a decision on PC44 before **25 June 2022**. We consider that in order to meet this deadline the hearing would have to be scheduled for March 2022. The Council is able to apply to the Minister for the Environment for an extension of this time under clause 10A(1) of Schedule 1 of the RMA. It has indicated that it would be willing to apply for a 6-month extension until 25 December 2022.
 10. Accordingly, I make the following directions.
 - (a) The Council is to immediately make an application to the Minister for the Environment to extend the time period for making a decision on PC44 to **25 December 2022** under under clause 10A(1) of Schedule 1 of the RMA.
 - (b) If the application set out in 10(a) above is approved the Applicant is to report back to the Senior Hearings Adviser, Ms Ager, once it receives a decision on the project under the FTCA or otherwise no later than **12 midday Thursday 31 March 2022** informing the Hearing Panel if they wish to reschedule a new hearing date or withdraw the Plan Change request.
 - (c) If the application set out in 10(a) above is not approved, then a new evidence exchange programme will be advised so that a hearing can be held in March 2022, unless the Applicant withdraws the Plan Change request.
 11. Any enquiries regarding these Directions or related matters should be directed to the Council's Senior Hearings Advisor, Ms Ager, by email at laura.ager@aucklandcouncil.govt.nz.

A handwritten signature in blue ink, consisting of a stylized 'D' and 'W' followed by a horizontal line extending to the right.

David Wren, Chairperson
26 October 2021

From: [Douglas Allan](#)
To: [Laura Ager](#)
Cc: [Evita Key](#)
Subject: PC44 - George St - Response to Chair Direction #3
Date: Wednesday, 13 October 2021 8:31:06 am
Attachments: [PC44 George St - Direction #3 -Postpone hearing.pdf](#)

Dear Ms Ager,

We act for the applicant for Plan Change 44 (Newmarket) and write with regard to Hearing Direction #3, dated 14 July 2021, which required the Applicant to report back to you by 12 midday Wednesday 13 October 2021 informing the hearing panel if the Applicant wishes to reschedule a new hearing date or withdraw the Plan Change request.

We advise as follows:

1. The Minister for the Environment has consented to Newmarket Holdings Development Limited Partnership's application under section 20 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 ("FTCA") seeking referral of the "George Street Mixed Use Development" project to an expert consenting panel for consideration under the FTCA. That referral has been confirmed by Order in Council.
2. In summary, the George Street Mixed Use Development is a mixed use development on the site subject to PC44, generally consistent with the provisions proposed in PC44. The resource consent application is currently being prepared and the intention is that it be lodged with the EPA this year. Council will be able to comment on the application pursuant to the FTCA. The Minister's approval requires the adjudicating panel to invite comments on any application from Ngati Koheriki Claims Committee, Watercare and the 56 submitters to PC44.
3. The Applicant asks that PC44 be adjourned pending the outcome of the FTCA process in terms of the George Street Mixed Use Development, for the following reasons:
 - a. The FTCA fast track process will in practice produce a decision regarding the proposal far sooner than would pursuing the PC44 council hearing and any appeal, followed by a separate resource consent process for a specific development.
 - b. The FTCA process will enable consideration of a particular set of plans and hence a more focussed assessment of potential effects on the environment.
 - c. The FTCA process will provide all submitters on PC44 with an opportunity to make comments on the resource consent application. FTCA applications that have been processed to date have variously included expert conferencing and consultation regarding conditions. This could also occur in the context of the George Street Mixed Use Development if the adjudicating panel considered that necessary.
 - d. Adjourning the PC44 hearing will enable all parties (Applicant, Council and submitters) to focus attention on the FTCA process rather than having to provide evidence / comments simultaneously on two separate but obliquely related processes.
 - e. Once a decision has been released on the George Street Mixed Use Development under FTCA, the Applicant in conjunction with Council will be able to decide whether to continue to pursue PC44 and, if so, in what form (e.g.: to ensure that the Unitary Plan provisions accurately reflect any consented development).
4. Information regarding the status and processing of the George Street Mixed Use Development can be accessed here:

<https://environment.govt.nz/what-government-is-doing/areas-of-work/fast-track-consenting/george-st-mixed-use-development/>

Please place this email before the commissioners and circulate it to the submitters. We would be able to attend a (audio-visual) procedural conference to discuss this matter if the commissioners consider that necessary.

Regards,
Douglas Allan

Douglas Allan PARTNER

phone. +64 9 307 2172 Cell +64 021 680 562 email. dallan@ellisgould.co.nz

Level 17, Vero Centre, 48 Shortland Street, Auckland 1140
PO Box 1509, Auckland, New Zealand
DX CP 22003

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