

King, Janice

From: Tasha Burton <tasha.burton@mccawlewis.co.nz> on behalf of Aidan Warren <Aidan.Warren@mccawlewis.co.nz>
Sent: Wednesday, 29 August 2018 1:56 p.m.
To: King, Janice
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Subject: Panuku Development Ltd - Direct referral ENV 2018 AKL 000078

Tēnā koe Janice

We refer to the Judge's directions to identify issues and the relief sought by Mana Whenua in opposition.

The key issues include that:

1. For the reasons set out below, Mana Whenua opposing say the development proposed by Panuku does not meet the gateway test in section 104D, the Part 2 requirements of the RMA or of related provisions in the Auckland Unitary Plan.
2. The Assessment of Environmental Effects misrepresents the actual Panuku consultation, as Panuku has not undertaken timely, effective or meaningful engagement with Mana Whenua opposing and thereby failed to meet the requirements of section 8 of the RMA and of related provisions in the Auckland Unitary Plan.
3. Overall:
 - a. Mana Whenua in opposition have not been able to adequately participate in the consent process;
 - b. The role of Mana Whenua in opposition as kaitiaki has not been adequately recognised or provided for;
 - c. The cumulative cultural effects have not been adequately acknowledged or addressed;
 - d. The relationship between Mana Whenua in opposition and their ancestral relationship with their land, water and other taonga have not been adequately assessed or provided for;
 - e. The customary rights of Mana Whenua in opposition have not been recognised, protected or provided for; and
 - f. The principles of Treaty of Waitangi have not been taken into account nor the adequate protection of their extant Treaty claims and Takutai Moana claims.
4. Relief sought by the Mana Whenua in opposition include:
 - a. Amendments and additional conditions as per the Mitchell Daysh evidence filed yesterday, summarised below, failing which the decline of consents:

- i. Replacing the Auckland Council Mana Whenua Kaitiaki Forum with a newly established forum (“New Forum”), designed specifically to work with Panuku to prepare the engagement plan and to assist in fulfilling the requirements of that plan (“Engagement Plan”);
 - ii. Requiring Panuku to fulfil the requirements of and operate in accordance with the Engagement Plan;
 - iii. Defining how the New Forum will be constituted and which Mana Whenua iwi and/or hapū qualify as Mana Whenua for the purpose of the consent;
 - iv. Including provision for Panuku to resource the New Forum;
 - v. Minimising adverse effects on the mauri and mana of the Waitematā and tapu areas and practices;
 - vi. Incorporating procedures for manaakitanga, staff inductions and other cultural ceremonies;
- b. Inclusion of specific conditions that provide for:
- i. Consent review where a Marine and Coastal Area (Takutai Moana) Act 2011 Application is successful;
 - ii. Consent review where Mana Whenua and the Crown reach an agreement in respect of Treaty negotiations associated with the Waitematā and Manukau Harbours, as provided for in the Ngā Mana Whenua o Tāmaki Makaurau Collective Deed; and
 - iii. A cultural centre that acknowledges and provides for the relationship between Mana Whenua and Waitematā.

I hope this clarifies matters further.

Counsel is happy to provide any further clarification required and appreciates the Court’s indulgences.

Ngā mihi

Aidan Warren

Director

Forwarded by:

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