

Fast-track Approvals Act 2024

MINUTE 8 OF THE EXPERT PANEL

Update on the Application
Drury Metropolitan Centre [FTAA-2502-1019]

(23 September 2025)

Technical advice (legal)

- [1] The Panel has received memoranda from the Applicant (dated 18 September 2025) and Auckland Council (19 September) in response to Minute-6 in respect of legal matters arising from the application. The memoranda respond in particular to the matter of the scope of the application, with respect to the parameters of the proposal as specified in Schedule 2 of the FTAA and the decision of the High Court in *Ngāti Kuku Hapu Trust v The Environmental Protection Agency* regarding the Fast-track application at the Port of Tauranga (**the Port decision**).
- [2] The Panel understands the respective position of the parties to be as follows:
- (a) That the Applicant considers that no question as to scope arises because the application can be distinguished from the Port decision and “*the form of wording used in the Drury Centre project description is open ended as to the upper level of development for which consent may be sought in the fast-track application*”, such that “*the specified floor areas for commercial, retail and community activities are minima, not*

targets or maxima".¹

- (b) As a secondary position, it proposes that in the event that the Panel determined that it does not have jurisdiction to grant consent for the activity areas, then it would be prepared to modify the proposal, with revised suggested areas as follows:
 - (i) That the "*commercial*" component be reduced from the 33,048m² proposed to the 10,000m² (per Schedule 2);
 - (ii) That the "*retail*" component be reduced from the 63,547m² proposed to 61,600m² (being an uplift of 10% over the 56,000m² specified in Schedule 2);
 - (iii) That the "*community*" component be reduced from the 10,216m² proposed to 3,200m² (being an uplift of 60% over the 2,000m² specified in Schedule 2); and
 - (iv) A total floorspace of 74,800m², being an uplift of 10% over the total of 68,000m² specified in Schedule 2.
- (c) The Council view is that the Port decision demonstrates that "*the Court will scrutinise the actual scope very carefully*", and that "*the use of the words 'approximately' and 'including' cannot save exceedances of the magnitude at issue...*".² It concludes that "[t]he Application exceeds the scope of the Schedule 2 listing substantially, and should be modified to align with the Schedule 2 parameters".³

[3] The Panel requests that the Applicant provide a response to the Council

¹ Applicant memorandum, at [21]

² AC memorandum, at [17]

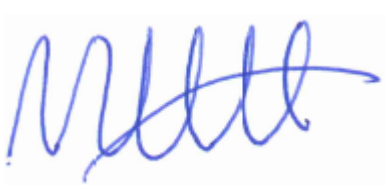
³ AC memorandum, at [18]

memorandum to assist the Panel in forming its view on this issue. In particular, if the Panel were to find in line with the Council's interpretation of the Port decision approach, the Panel queries:

- (a) Whether the approximate floorspace 'uplifts' should be based on an overall total (as set out in the Applicant's memorandum), or in terms of the three individual floorspace categories specified in Schedule 2; and
- (b) The procedure and timeframes the Applicant would envisage being required in terms of formalising amendments to its proposal (and in particular with respect to plans).

[4] In view of the significance of the potential changes to the application that would arise from a possible reduction in floorspace (and implications for upcoming expert conferencing), the Panel requests the Applicant's response by 5pm, 26th September 2025.

[5] The Panel would also be assisted by a response from the Applicant to the Council memorandum with respect to its comments regarding 'receiving environment matters' and 'condition precedent'.



Mary Hill (Chair)

On behalf of the Drury Metropolitan Centre Expert Panel