

# Fast-track Approvals Act 2024

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## MINUTE 14 OF THE EXPERT PANEL

Pound Road Industrial Development [FTAA-2505-1057]

11 February 2026

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- [1] On 5 February 2026 the parties interested in the transportation matters addressed in Minutes 11 and 12 participated in a Panel conference to explore those matters (**Conference**). This minute addresses matters arising from that conference, namely:
- a. Summary of some key matters arising from the Conference;
  - b. The Applicant's request for a suspension;
  - c. Directions following the Conference; and
  - d. Timing for release of draft conditions.

### Key matters arising from Conference

- [2] While the Panel does not propose to publish minutes or a record of the Conference per se, we thought it would be helpful to record some of the key matters that arose. This record will then feed into some of the matters we wish to hear from the parties on.
- [3] Christchurch City Council (**CCC**), NZ Transport Agency (**NZTA**), KiwiRail (together, **Transport Agencies**) and the Applicant all attended the Conference. The Panel were supported by EPA and the special planning

advisor.

- [4] After introducing the purpose of the Conference as being to explore the outstanding transportation issues, including clarifying the position of the Transport Agencies, the Panel was advised by the Applicant that agreement had been reached with KiwiRail on the issues of concern to it.<sup>1</sup> The Panel were advised the Applicant would work with KiwiRail on the drafting of conditions in light of this agreement to put to the Panel for consideration.<sup>2</sup> KiwiRail were otherwise excused and did not participate any further.
- [5] It was then agreed that the most productive use of the Conference was to focus on the Pound Road / Waterloo Road and Pound Road / SH1 intersection upgrades (**Upgrades**).
- [6] The Applicant advised that it had not reached any agreement on the timing and cost sharing for the Upgrades with NZTA. Thus, it was necessary to explore these issues. Some key outcomes were:
- a. All parties agreed:
    - i. The intersections are closely positioned, meaning there are interactions between the operation of the two intersections and level crossing (for instance, queueing lengths) such that the Upgrades need to be considered holistically.
    - ii. Stage 1 of the Proposal could proceed to completion<sup>3</sup> without the Upgrades in place.
    - iii. By around 2038, when all stages of the Proposal are projected to be completed, the Upgrades should “ideally”<sup>4</sup> be in place.

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<sup>1</sup> See Minute 11 at [24].

<sup>2</sup> We are not proposing to make any directions and will leave to the parties to progress and put before the Panel at their earliest convenience.

<sup>3</sup> That is, subdivision, construction and use of any buildings enabled by the approvals.

<sup>4</sup> This qualification was on account of the Applicant’s observation (accepted by the parties as we

- iv. We record our understanding from earlier information that the Applicant's proposed design of the Upgrades is agreed to be appropriate (should any conditions be imposed).
- b. The Applicant confirmed it is willing to contribute to the cost of the upgrades in proportion to the peak traffic volume arising from its Proposal through the intersections.
- c. NZTA confirmed:
  - i. There is no funding programmed for the Pound Road / SH1 intersection upgrade.
  - ii. The Applicant should mitigate the impacts of the Proposal and be required to undertake the Upgrades at its cost.
  - iii. At this time, NZTA has no ability to accept a financial contribution (through a development agreement) to hold pending the Upgrades being undertaken.
- d. CCC advised that it likewise had no funding available to undertake the Upgrades.
- e. The Panel noted that a "condition precedent" may be one method of limiting significant adverse transportation impacts. i.e. a condition whereby the Proposal could not proceed past a certain point or date until the Upgrades were constructed. Thus, where we use this term below, this is what we are referring to.
- f. The Applicant's transportation engineer indicated that from around the end of Stage 1 (2030 / 2031), the effects from the development on the two intersections are likely to lead to intersection performance

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understand it) that there are other parts of the network already performing sub-optimally and that there is currently no timeline for any upgrade of the two intersections or level crossing.

beginning to degrade noticeably. i.e. with reference to Table 1 of the Novo Group memorandum of 26 January 2026, when the Proposal contributes 6% of the peak traffic volume through the two intersections.

- g. Additionally, the Applicant's transportation engineer will be directed to provide further explanation on how he determined the traffic effects' significance.<sup>5</sup>
- h. The Applicant's transportation engineer has not identified viable partial or interim solutions available at this time. However, the Applicant will consider the matter further.
- i. Neither NZTA nor CCC were assisted by legal advisors who could comment on the newly enacted s 84A<sup>6</sup> (or any other legal matters). However, when asked, the Applicant indicated it had no concerns if those parties were allowed the opportunity to respond later.
- j. The Applicant took us through draft legal submissions on the Panel's powers to impose conditions, given ss 84 and 84A and the purpose of the FTAA. We will direct the Applicant to finalise those submissions for the Panel's consideration and to also consider and let us have its view on what the significance of the verb 'ensure' is in s 84A(1).
- k. Significantly, if we understood the Applicant correctly, it submitted we only have power to impose conditions that address significant adverse impacts. It is important the Panel be clear if that was what the Applicant was saying, so we will direct further submissions and clarification on the limitations on the Panel to impose conditions.
- l. The Applicant identified two evidential matters that it considered

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<sup>5</sup> Refer e.g. paragraph [114] ITA at Appendix 10 to the AEE.

<sup>6</sup> See Minute 11 and 12.

would assist the Panel:

- i. Confirmation from the Applicant that the development must be progressed past Stage 1 to be commercially viable – Mr Christie advised that the development became viable at Stage 3 if it makes an approximately 20% contribution to the cost of the Upgrades. i.e. that any condition precedent requiring the Upgrades to be completed before stages after Stage 1 are undertaken would result in the development not proceeding. We take it that the position may be similar if the Applicant was required to fund the full cost of the Upgrades.
- ii. Economic evidence that the significant regional benefits would be compromised if a condition precedent requires the Upgrades i.e. see (6)(k)(i).

### **Suspension**

[7] The Panel received a suspension request commencing on 5 February 2026.

[8] The request is granted.

[9] The Panel records the Applicant has consented to the Panel continuing to work on the application during the period of suspension.

### **Directions**

[10] We **direct**:

- a. The Applicant is to finalise any legal submissions on ss 83 and 84A and the purpose of the FTAA and file them at their first convenience.
- b. The Applicant is requested to include answers to the following questions:
  - i. What is the significance/meaning of the verb ‘ensure’ in s

84A(1)?

- ii. Subject to the requirement that conditions must not be any more onerous than necessary (s 83), and be in accordance with s84A, is the Panel limited to imposing conditions offered by the Applicant and:
  - 1. Only conditions that address adverse impacts that are of sufficient significance to be disproportionate to the regional/national benefits; or
  - 2. Only conditions that address any adverse impacts that are assessed to be significant; or
  - 3. Any conditions that address any adverse impacts, regardless of their significance?
- c. NZTA and CCC may file legal submissions responding to the Applicant. We encourage those parties to work on any submissions during the suspension of the Application and file them as soon as possible but no later than three working days of the Applicant's submissions being posted on the EPA website or one working day after processing of the Application is resumed, whichever is greater.
- d. The Applicant is to file further evidence on:
  - i. The commercial viability of the development if a condition precedent is imposed linking post-Stage 1 development to the Upgrades;
  - ii. The commercial viability of the development stages, in the case where the Applicant contributes a proportion of the cost of the Upgrades;
  - iii. Economic evidence on the impact a condition precedent

relating to the Upgrades will have on the delivery of the significant regional benefits; and

The Applicant is further directed to advise the EPA when it expects to be able to file that evidence.

- e. Any party that wishes to respond to the evidence described in the preceding paragraph should do so within three working days of the evidence being posted on the EPA website or one working day after processing of the Application is resumed, whichever is greater.
- f. Any (material) corrections to this minute or requests for further directions can be brought to the attention of the Panel by further memoranda should any party wish to do so.

#### **Timing for release of draft conditions**

[11] The Panel had a helpful discussion with the Applicant about timing for the release of the decision. The Applicant (and NZTA and CCC) recognised the tight timeframes the Panel is operating under to comply with its statutory obligations, for which we are grateful.

[12] We have been deliberately open about some of the timing in our directions above. Given the Applicant's agreement for the Panel continuing to work during the period of suspension, the Panel encourages the parties to file the directed submissions and evidence as soon as possible to facilitate the Panel's consideration of that material.

[13] To assist the Applicant, we can indicate that delivery of the economic evidence before 25 February would assist the Panel.

  
Chris Thomsen

**Pound Road Industrial Development Expert Panel Chair**