

Memorandum on Compliance

File	FTC000030
To:	Sandra Balcombe, Manager Land and Oceans Applications
Copy to:	
From:	Gen Hewett, Senior Advisor
Date:	20 August 2021
Subject:	New Dunedin Hospital - Whakatuputupu: Assessment whether the application complies with clause 3(1) of Schedule 6 of the COVID-19 Recovery (Fast-track Consenting) Act 2020

Purpose

1. The purpose of this memo is to assist you in making your decision on whether the New Dunedin Hospital - Whakatuputupu enabling works application, received by the Environmental Protection Authority (**EPA**) on 13 August 2021 lodged by the Ministry of Health and the Minister of Health, complies with the requirements of clause 3(1) of Schedule 6 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (**the Act**).

Conflict of interest

2. I confirm that I do not have any conflict of interest in this matter that would prevent me making this assessment.

The application

3. A project referred to a panel by a referral order is eligible to be considered by an expert consenting panel. On 2 April 2021, Schedule 15, New Dunedin Hospital – Whakatuputupu was included in the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020 (**the referral order**).
4. The applicants applied for consents for Stage 1 enabling works relating to New Dunedin Hospital – Whakatuputupu on 13 August 2021.
5. The EPA must either provide the consent application to the expert consenting panel (if complete) or return it to the person who lodged it (if incomplete), as set out in paragraphs 16 – 19 below.

Project

6. The project is to construct and operate a hospital. This includes an inpatient building (approximately 58m high and with a floor area of approximately 72,500m²) for the provision of acute specialist services, emergency intervention, diagnostic services, acute and elective surgery, medical and surgical inpatient care, paediatric and maternal inpatient care, and relation clinical and non clinical support services. The project includes up to 2 helipads. An outpatient building (approximately 26m high and with a floor area of approximately 12,970m²) that comprises consultation and treatment spaces, day surgery facilities and facilities for procedure and diagnostic services and an ancillary services building.
7. A single level air bridge and a three level air bridge is included to connect the inpatient building with the outpatient building and a single level air bridge to connect the ancillary services building with the inpatient building.
8. The applicants have divided the project up into two stages referred to as the enabling works and the above ground works. In pre-lodgement correspondence with the EPA, the applicant has advised that staging the consents in this way allows for additional time to finalise the design of the buildings without compromising the overall timeframes.
9. This resource consent application is for the enabling works. Subject to the consent being granted the enabling works are anticipated to commence in January 2022.
10. A further resource consent application and notice of requirement will be lodged for the above ground works (built form works) under the COVID-19 Recovery (Fast-track Consenting) Act 2020. The stage 2 resource consent application and notice of requirement is anticipated to be lodged in late October 2021 with a target commencement date of May 2022.
11. It is understood that consents for the remaining operational matters (such as air discharges from plant, signage, hazardous substance storage etc) for the hospital will be applied for under the Resource Management Act 1991 outside of the fast track consenting process.

Fast-track consenting application process

Legislative context

12. Clause 2(1), Schedule 6 of the Act states that a person authorised in accordance with section 15 may apply for a resource consent that would otherwise be required under section 88 of the Resource Management Act 1991 (**RMA**).
13. Clause 3(1), Schedule 6 of the Act states that “*within 5 working days of receiving a consent application or notice of requirement, the EPA must determine whether the application or notice—*
 - (a) *relates solely to 1 or more of the listed projects or referred projects; and*
 - (b) *does not breach clause 2(3)(c) or (4); and*
 - (c) *contains all the information required under clauses 9 to 13.*”
14. Clause 3(2), Schedule 6 of the Act states that “*if the EPA is satisfied that a consent application or notice of requirement complies with the matters listed in subclause (1), the EPA must provide the application or notice to the panel appointed to determine that application or notice.*”

15. Clause 4(1), Schedule 6 of the Act states that “if the EPA determines that a consent application or notice of requirement does not comply with the requirements of clause 3(1), it must return the application or notice immediately to the person who lodged it, with written reasons for the EPA’s determination”.

Prerequisites for the application

16. There are a number of prerequisites for an application to be lodged as set out in this table.

Reference to clause in Schedule 6	Preliminary Matter	Comment	Accept/reject
Clause 2(1) or 2(2)	Application is made by authorised person or requiring authority	Yes	Accept
Clause 2(3)(b)	Application is in approved form and manner	Yes	Accept
Clause 2(3)(c)	Application complies with any restrictions and obligations in either:		
	(i) Schedule 2; or	N/A -- this is a referred project and Schedule 2 does not apply	N/A
	(ii) Schedule 3 and referral order (noting the information requirements in the referral order are addressed below)	<p>Yes</p> <p>The application is by the Ministry of Health and the Minister of Health, the authorised persons to apply for a resource consent relating to the project and specified in the referral order.</p> <p>The scope of the application is consistent with that specified in the referral order.</p> <p>The approximate geographic location is consistent with that specified in the referral order.</p>	Accept
Clause 2(4)(a)	Applications must not relate to an activity that is classified as a prohibited activity in a:		

	(i) Relevant plan or proposed plan	The application has not identified any prohibited activities in a relevant plan or proposed plan	Accept
	(ii) RMA regulations (including any NES)	The application does not relate to an activity that is classified as a prohibited activity in any RMA regulations (including any NES)	Accept
Clause 2(4)(b)	Applications must not relate to an activity that is to occur within a customary marine title area unless agreed by the appropriate customary marine title group	The application does not relate to an activity that is to occur within a customary marine title area.	Accept
Clause 3(1)(a)	Relates solely to 1 or more of the listed projects or referred projects	The project is a referred project and is identified in Schedule 15 of the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020 (the referral order). The project is consistent with Schedule 15 of the referral order.	Accept

Conclusions on preliminary matters

17. The application can proceed to an assessment of whether the application contains all the information required under clauses 9 to 13 of Schedule 6 of the Act.

Assessment of compliance table

18. An assessment table against Clauses 9-11, Schedule 6 of the Act is included in Appendix 1.

19. The information provided must be in sufficient detail to correspond to the scale and significance of the effects that the activity is anticipated to have on the environment, taking into account any proposal by a consent applicant or requiring authority to manage adverse effects through conditions, including requiring the preparation of a management plan (Clauses 13(3) and 14 of Schedule 6).

20. The information in the application has been assessed on the basis that the scale of the activity is medium-high, and potentially medium effects on the environment after taking into account mitigation measures and conditions.
21. My view is that the application does comply with clause 3(1) and can be provided to the Panel.

Appendix 1: Clauses 9-11

Resource consents for land use, water permit and discharge permit associated with the enabling works for the new Dunedin Hospital including excavation and removal of existing building slabs and foundations, earthworks for excavation of the Inpatient Building sub-floor area, the removal and/or encapsulation of contaminated soils (where present), and the movement of fill from the Inpatient to Outpatient site, dewatering of excavation areas, installation of piles for the new buildings and link bridges, including pile driving/boring, and associated pile driving analyser testing of piles, excavation and construction of the pile caps, ground beams and upstand foundation walls (where applicable), trenching for installation of civil services on all sites, and within legal roads.

Land use consents, and discharge and water permits are required to authorise these activities under the relevant district and regional plans, and under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.

Table 1: Checklist of completeness requirements in Clauses 9-11 of Schedule 6 of the Act

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
Clause 9 Information required in consent applications			
Clause 9(1)(a)	A description of the proposed activity	Yes Section 2 of the application	Yes
Clause 9(1)(b)	A description and map of the site at which the activity is to occur	Yes Section 3 of the application	Yes
Clause 9(1)(c)	Confirmation that the consent application complies with clause 3(1)	Yes Section 5 of the application	Yes
Clause 9(1)(d)	The full name and address of: i. Each owner of the site and of land adjacent to the site	Yes	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
		Section 6 of the application Attachment 17, 18 and 19	
	ii. Each occupier of the site and of land adjacent to the site who, after reasonable enquiry, is able to be identified by the applicant	Yes Section 6 of the application Attachment 17, 18 and 19	Yes
	Were reasonable inquiries made?	Yes	Yes
Clause 9(1)(e)	A description of any other activities that are part of the proposal to which the consent application relates	Yes Section 10 of the application	Yes
Clause 9(1)(f)	A description of any other resource consents, notices of requirement for designations, or alterations to designations required for the proposal to which the consent application relates	Yes Section 11 of the application	Yes
Clause 9(1)(g)	An assessment of the activity against—	Yes	Yes
	(i) Part 2 of the RMA	Section 12 of the application	
	(ii) the purpose of this Act	Yes Section 13 of the application	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
Section 19	(iii) the following matters (set out in section 19 of the Act - whether project helps to achieve purpose of Act):	Yes	Yes
	(a) the project's economic benefits and costs for people or industries affected by COVID-19	Section 13 of the application	
	(b) the project's effect on the social and cultural well-being of current and future generations	Yes Section 13 of the application	Yes
	(c) whether the project would be likely to progress faster by using the processes provided by this Act than would otherwise be the case	Yes Section 13 of the application	Yes
	(d) whether the project may result in a public benefit by, for example: generating employment; increasing housing supply; contributing to well-functioning urban environments; providing infrastructure in order to improve economic, employment, and environmental outcomes, and increase productivity; improving environmental outcomes for coastal or freshwater quality, air quality, or indigenous biodiversity; minimising waste; contributing to New Zealand's efforts to mitigate climate change; and transition more quickly to a low-emissions economy (in terms of reducing New Zealand's net emissions of greenhouse gases); promoting the protection of historic heritage; strengthening environmental, economic, and social resilience, in terms of managing the risks from natural hazards and the effects of climate change; or any other benefit(s) identified.	Yes Section 13 of the application	Yes
	(e) whether there is potential for the project to have significant adverse environmental effects, including greenhouse gas emissions:	Yes Section 13 of the application	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
		and sections 24-38 of the application	
	(f) any other matter that the Minister considers relevant.	N/A	N/A
Clause 9(1)(h)	An assessment of the activity against --	Yes	Yes
	(a) any relevant provisions in a national environmental standard, including:	Section 14 of the application	
	i. Any relevant objectives, policies or rules	Yes Section 14 of the application	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 14 of the application	Yes
	iii. Any other requirements	Yes Section 14 of the application	Yes
	(b) Any relevant provisions in any other regulations made under the RMA, including:	Yes Section 15 of the application	Yes
	i. Any relevant objectives, policies or rules	Yes Section 15 of the application	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 15 of the application	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	iii. Any other requirements	Yes Section 15 of the application	Yes
	(c) Any relevant provisions in any national policy statement, including:		
	i. Any relevant objectives, policies or rules	Yes Section 16 of the application Attachment 27 of the application	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 16 of the application	Yes
	iii. Any other requirements	Yes Section 16 of the application	Yes
	(d) Any relevant provisions in a New Zealand coastal policy statement, including:	Yes Section 17 of the application	Yes
	i. Any relevant objectives, policies or rules	Yes	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
		Section 17 of the application	
	ii. Any requirement, condition, or permission in any rules	Yes Section 17 of the application	Yes
	iii. Any other requirements	Yes Section 17 of the application	Yes
	(e) Any relevant provisions in any regional policy statement or proposed regional policy statement, including:	Yes Section 18 of the application	Yes
	i. Any relevant objectives, policies or rules	Yes Section 18 of the application Attachment 27 of the application	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 18 of the application	Yes
	iii. Any other requirements	Yes Section 18 of the application	Yes
	(f) Any relevant provisions in a plan or proposed plan, including:	Yes Section 19 of the application	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	i. Any relevant objectives, policies or rules	Yes Section 19 of the application Attachment 27 of the application	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 19 of the application	Yes
	iii. Any other requirements	Yes Section 19 of the application	Yes
	(g) Any relevant provision in any planning document recognised by a relevant iwi authority and lodged with a local authority, including:	Yes Section 20 of the application	Yes
	i. Any relevant objectives, policies or rules	Yes Section 20 of the application	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 20 of the application	Yes
	iii. Any other requirements	Yes Section 20 of the application	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
Clause 9(1)(i)	Information about any Treaty settlements that apply in the project area, including—	Yes Section 22 of the application	Yes
	(i) the identification of the relevant provisions in those Treaty settlements		
	(ii) a summary of any redress provided by those settlements that affects natural and physical resources relevant to the project or project area	Yes Section 22 of the application	Yes
Clause 9(1)(j)	The conditions that the applicant proposes for the resource consent	Yes Section 23 of the application Attachment 15 of the application	Yes
Clause 9(4)(a)	An assessment of the activity's effects on the environment that includes the following information (set out in clause 10 Schedule 6 of the Act): ¹	Yes Section 24 of the application	Yes
	(a) an assessment of the actual or potential effects on the environment		
	(b) if the activity includes the use of hazardous installations, an assessment of any risks to the environment that are likely to arise from such use	Yes Section 25 of the application	Yes

¹ The application does not need to include any additional information specified in a relevant regional policy statement or plan that that would be required in an assessment of environmental effects under Schedule 4 of the RMA.

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	<p>(c) if the activity includes the discharge of any contaminant, a description of—</p> <p>(i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and</p> <p>(ii) any possible alternative methods of discharge, including discharge into any other receiving environment</p>	<p>Yes</p> <p>Section 24 and 26 of the application</p>	<p>Yes</p>
	<p>(d) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect of the activity</p>	<p>Yes</p> <p>Section 27 of the application</p> <p>Attachment 15 of the application</p>	<p>Yes</p>
	<p>(e) identification of persons who may be affected by the activity and any response to the views of any persons consulted, including the views of iwi or hapū that have been consulted in relation to the proposal</p>	<p>Yes</p> <p>Section 28 of the application</p>	<p>Yes</p>
	<p>(f) if iwi or hapū elect not to respond when consulted on the proposal, any reasons that they have specified for that decision</p>	<p>Yes</p> <p>Section 28 of the application</p>	<p>Yes</p>
	<p>(g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how the effects will be monitored and by whom, if the activity is approved</p>	<p>Yes</p> <p>Section 29 of the application</p> <p>Attachment 15 of the application</p>	<p>Yes</p>

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	(h) an assessment of any effects of the activity on the exercise of a protected customary right	Yes Section 30 of the application	Yes
Clause 9(4)(b)	An assessment of the activity's effects that also covers the following matters (set out in clause 11 of Schedule 6 of the Act):	Yes	Yes
	(a) any effect on the people in the neighbourhood and, if relevant, the wider community, including any social, economic, or cultural effects	Section 31 of the application Section 24 of the application	
	(b) any physical effect on the locality, including landscape and visual effects	Yes Section 32 of the application Section 24 of the application	Yes
	(c) any effect on ecosystems, including effects on plants or animals and physical disturbance of habitats in the vicinity	Yes Section 33 of the application	Yes
	(d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations	Yes Section 34 of the application	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	(e) any discharge of contaminants into the environment and options for the treatment and disposal of contaminants	Yes Section 35 of the application Section 24 of the application	Yes
	(f) the unreasonable emission of noise	Yes Section 36 of the application Section 24 of the application	Yes
	(g) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.	Yes Section 37 of the application Section 24 of the application	Yes
Clause 9(5)	<p>Is there a cultural impact assessment?</p> <p>If a cultural impact assessment is provided, is it prepared by or on behalf of the relevant iwi authority?;</p> <p>OR</p> <p>If a cultural impact assessment is not provided, a statement of reasons given by the relevant iwi authority for not providing that assessment</p>	<p>Section 39 of the application</p> <p>Attachment 24</p>	<p>Yes</p> <p>Attachment 24 of the application is a letter from Te Runanga o Ngai Tahu confirming the view of mana whenua via Aukaha that a further cultural impact assessment is not required for the enabling works resource consent application and providing reasons why..</p>

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
Clause 9(6)(a)	If a permitted activity is part of the proposal to which the consent application relates, a description that demonstrates that the activity complies with the requirements, conditions, and permissions for the permitted activity (so that a resource consent is not required for that activity under section 87A(1) of the RMA)	Yes Section 40 of the application	Yes
Clause 9(6)(b)	If the activity is to occur in an area that is within the scope of a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, an assessment of the activity against any resource management matters set out in that planning document (for the purposes of clause 30(3))	Yes Section 41 of the application	Yes
Clause 9(6)(c)	<p>In the case of a referred project, all the additional information required by the relevant referral order.</p> <ul style="list-style-type: none"> • An integrated transport assessment, including modelling and analysis of effects and mitigation measures within the project site and adjoining road network and over all phases of the project including construction and operation. • Urban design, landscape and shading assessments, including analysis of effects and mitigation measures within the project site, at the public/private interfaces, and in pedestrian areas (streetscapes and public reserves); and • A construction noise assessment, including analysis of effects and mitigation measures and 	Yes Section 42 of the application Attachment 4,5 and 6 of the application	Yes It is noted in the application that it states that the enabling works do not generate any effects associated with urban design, landscape and shading assessments, part from the foundation walls which are assessed in section 24 of the Application. Comprehensive assessments will be provided as part of the Stage Two above ground works application.

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	<ul style="list-style-type: none"> <li data-bbox="568 341 1173 464">A flood-hazard assessment, including modelling and analysis of the effects and mitigation of floodwater within the project site and displaced because of the project with particular consideration of – <p data-bbox="613 501 1173 592">How the climate change scenario used for modelling aligns with <i>Coastal Hazards and Climate Change: Guidance for Local Government</i>.</p> <p data-bbox="613 628 1189 687">How the hospital would operate during flood events or flooding of the surrounding streets.</p>		

ENDS