

Memorandum on Compliance

File	FTC 000041
To:	Sandra Balcombe, Manager Land and Oceans Applications
From:	Alex Erceg, Senior Advisor
Date:	6 October 2021
Subject:	Drury Central and Paerata Stations: 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 Drury Central and Paerata Stations consent application and notice of requirement (**the project**), received by the Environmental Protection Authority (**EPA**) on 29 September 2021 lodged by Kiwirail Holdings Limited (**Kiwirail**) 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 and notice of requirement

3. A project referred to a panel by a referral order is eligible to be considered by an expert consenting panel.
4. On 3 September 2021, Schedule 25 was included in the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020 (**the referral order**) for the Drury Central and Paerata Stations.
5. Kiwirail lodged an application for consents and notices of requirement relating to the project on 29 September 2021.
6. The EPA must either provide the application for resource consents and notices of requirement] to the expert consenting panel (if complete) or return it to the person who lodged it (if incomplete), as set out in paragraphs 15-18 below.

Project

7. The project is to develop new railway stations and associated transport interchange facilities at 2 separate sites in South Auckland and associated works.

Fast-track consenting application process

Legislative context

8. Clause 2(1) of 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**).
9. Clause 2(2) of Schedule 6 of the Act states that a requiring authority authorised in accordance with section 15 may, in respect of a listed project or referred project, as the case may require, lodge—
 - a. a notice of requirement for a designation;
 - b. a notice of requirement to alter a designation.
10. Clause 3(1) of 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.”*
11. Clause 3(2) of 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.”*
12. Clause 4(1) of 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 and notice of requirement

13. 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		Accept
Clause 2(3)(b)	Application is in approved form and manner		Accept

Clause 2(3)(c)	Application complies with any restrictions and obligations in either:		
	(i) Schedule 2; or		N/A
	(ii) Schedule 3 and referral order		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	I have not identified any prohibited activities relevant to the proposal under the Auckland Unitary Plan.	Accept
	(ii) RMA regulations (including any NES)	I have not identified any prohibited activities relevant to the proposal under any RMA regulations, including the relevant National Environmental Standards.	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		N/A
Clause 3(1)(a)	Relates solely to 1 or more of the listed projects or referred projects		Accept

Conclusions on preliminary matters

14. 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

15. An assessment table against Clauses 9-13 of Schedule 6 of the Act is included in Appendix 1.
16. 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 of the Act).

17. The information in the application has been assessed on the basis that the scale of the activity is large and could have potentially minor to moderate effects on the environment after taking into account mitigation measures and conditions.
18. My view is that the application **complies** with clause 3(1) of Schedule 6 of the Act and can be provided to the Panel.

Appendix 1: Clauses 9-13

Application for resource consents and notices of requirements for two Trainstations; one in Drury Central and one in Paerata in Auckland.

Table 1: Checklist of completeness requirements in Clauses 9-13of 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			
Clause 9(1)(a)	A description of the proposed activity	Yes Section 1.2 Section 6.2 Section 13.2	Yes
Clause 9(1)(b)	A description and map of the site at which the activity is to occur	Yes Section 7 Section 13.2	Yes
Clause 9(1)(c)	Confirmation that the consent application complies with clause 3(1).	Yes Section 3.2.2	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
	ii. Each occupier of the site and of land adjacent to the site who, after reasonable inquiry, is able to be identified by the applicant Were reasonable inquiries made?	Appendix H	
Clause 9(1)(e)	A description of any other activities that are part of the proposal to which the consent application relates	Yes Section 3.4 ¹	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	N/A – Application discusses future works as part of the wider of the project, but all necessary approvals associated with this part of the wider project, of which the application (and Order in Council) relate are sought.	N/A
Clause 9(1)(g)	An assessment of the activity against— (i) Part 2 of the RMA	Yes Sections 3.3.3 and 20.1	Yes

¹ Discusses activities that relate to and/or require approvals under other legislation.

Section 19	<p>(ii) the purpose of this Act</p> <p>(iii) the following matters (set out in section 19 of the Act - whether project helps to achieve purpose of Act):</p> <p>(a) the project's economic benefits and costs for people or industries affected by COVID-19</p> <p>(b) the project's effect on the social and cultural well-being of current and future generations</p> <p>(c) whether the project would be likely to progress faster by using the processes provided by this Act than would otherwise be the case</p> <p>(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.</p> <p>(e) whether there is potential for the project to have significant adverse environmental effects, including greenhouse gas emissions:</p> <p>(f) [for referred projects only] any other matter that the Minister considers relevant.</p>	<p>Yes</p> <p>Sections 3.3.4 and 20.2</p>	<p>Yes</p>
Clause 9(1)(h)	An assessment of the activity against --	Yes	See below

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	(a) any relevant provisions in a national environmental standard, including:	Assessed against the: Resource Management (National Environmental Standard for Freshwater) Regulations 2020 (NESFW) Resource Management (National Environmental Standard for assessing and managing contaminants in soil to protect human health) Regulations 2011 (NESCS)	
	i. Any relevant objectives, policies or rules	Yes Sections 3.1.3, 9, 16 and 20.4 Appendix D	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Sections 9 and 16 Appendix D	Yes
	iii. Any other requirements	N/A	N/A
	(b) Any relevant provisions in any other regulations made under the RMA, including:	N/A	N/A

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	iv. Any relevant objectives, policies or rules	N/A	N/A
	v. Any requirement, condition, or permission in any rules	N/A	N/A
	vi. Any other requirements	N/A	N/A
	(c) Any relevant provisions in any national policy statement, including:	<p>Yes</p> <p>Assessed against:</p> <p>National Policy Statement for Freshwater (NPSFW)</p> <p>National Policy Statement for Urban Development (NPSUD)</p>	See below
	vii. Any relevant objectives, policies or rules	<p>Yes</p> <p>Section 20.4</p> <p>Appendix B</p>	Yes
	viii. Any requirement, condition, or permission in any rules	N/A	N/A
	ix. Any other requirements	N/A	N/A
	(d) Any relevant provisions in a New Zealand coastal policy statement, including:	N/A	N/A
	x. Any relevant objectives, policies or rules	N/A	N/A

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	xi. Any requirement, condition, or permission in any rules	N/A	N/A
	xii. Any other requirements	N/A	N/A
	(e) Any relevant provisions in any regional policy statement or proposed regional policy statement, including:	Yes Assessed against Auckland Regional Policy Statement	See below
	xiii. Any relevant objectives, policies or rules	Yes Section 20.4 Appendix B	Yes
	xiv. Any requirement, condition, or permission in any rules	N/A	N/A
	xv. Any other requirements	N/A	N/A
	(f) Any relevant provisions in a plan or proposed plan, including:	Yes Assessed against Auckland Unitary Plan	See below
	xvi. Any relevant objectives, policies or rules	Yes Sections 3.1.3, 9, 16 and 20.4 Appendix B and Appendix D	Yes
	xvii. Any requirement, condition, or permission in any 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
		Sections 9 and 16 Appendix B and Appendix D	
	viii. Any other requirements	N/A	N/A
	(g) Any relevant provision in any planning document recognised by a relevant iwi authority and lodged with a local authority, including:	Yes Assessed against: Ngaati Whaanaunga Environmental Management Plan Waikato-Tainui Environmental Plan	Yes
	xix. Any relevant objectives, policies or rules	Yes Section 20.4.2.1	Yes ²
	xx. Any requirement, condition, or permission in any rules	N/A	N/A
	xxi. Any other requirements	N/A	N/A
Clause 9(1)(i)	Information about any Treaty settlements that apply in the project area, including—	Yes	Yes

² I accept that all reasonable attempts have been made to access the Iwi Management Plans from all relevant iwi authorities, but due to Auckland Council not providing them, them not being available on any websites and iwi having not responded to requests for copies, not all management plans from all iwi authorities have been able to be assessed against. As such, I consider this clause to be satisfied. Refer to Table 5-3 in Section 5.3.1.1 for details.

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) the identification of the relevant provisions in those Treaty settlements	Section 20.3	
	(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 20.3	Yes
Clause 9(1)(j)	The conditions that the applicant proposes for the resource consent	Yes Appendix C	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): ³	Yes Section 10 and Section 17 Aided by various appendices	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	N/A	N/A
	(c) if the activity includes the discharge of any contaminant, a description of—	Yes	Yes
	(i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and	Sections 10.10 (in particular Section 10.10.4) and 17.10 (in particular 17.10.4)	
	(ii) any possible alternative methods of discharge, including discharge into any other receiving environment		

³ 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
	(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	Yes Sections 10 and 17 Aided by various appendices and proposed conditions of consent and NOR	Yes
	(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	Yes Section 5 Social impact assessment	Yes
	(f) if iwi or hapū elect not to respond when consulted on the proposal, any reasons that they have specified for that decision	Yes Section 5	Yes
	(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	Yes Sections 10 and 17 Aided by Appendix C - Proposed conditions of consent and NOR	Yes
	(h) an assessment of any effects of the activity on the exercise of a protected customary right	N/A	N/A
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 Throughout Section 10 (namely sections 10.2, 10.3)	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
	(a) any effect on the people in the neighbourhood and, if relevant, the wider community, including any social, economic, or cultural effects	and 10.7) and Sections 17 (namely sections 17.2, 17.3 and 17.7)	
	(b) any physical effect on the locality, including landscape and visual effects	Yes Sections 10.4 and 17.4 Assessment of landscape and visual effects	Yes
	(c) any effect on ecosystems, including effects on plants or animals and physical disturbance of habitats in the vicinity	Yes Sections 10.8 and 17.8 Ecological assessment of effects	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 10.6, 10.7, 17.6 and 17.7 Assessment of Effects on Historic Heritage	Yes
	(e) any discharge of contaminants into the environment and options for the treatment and disposal of contaminants	Yes Sections 10.10 (in particular Section 10.10.4) and 17.10	Yes
	(f) the unreasonable emission of noise	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
		Sections 10.13 and 17.13 Assessment of Construction Noise and Vibration Effects, and Assessment of Operational Noise Effects.	
	(g) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.	N/A	N/A
Clause 9(5)	Is there a cultural impact assessment? If a cultural impact assessment is provided, was it prepared by or on behalf of the relevant iwi authority?; OR If a cultural impact assessment is not provided, a statement of reasons given by the relevant iwi authority for not providing that assessment	Yes Assessments prepared by: Ngāti Tamaoho Ngaati Whaanaunga Ngāti Te Ata Waiohua	Yes Yes
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	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
	permissions for the permitted activity (so that a resource consent is not required for that activity under section 87A(1) of the RMA)	Appendix D	
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))	N/A	N/A
Clause 9(6)(c)	In the case of a referred project, all the additional information required by the relevant referral order ⁴ .		
	An assessment of the historic heritage values of the project sites and the impact of the development on those values	Yes Assessment of Effects on Historic Heritage	Yes
	A report that describes any consultation undertaken with iwi authorities or other Māori groups representing tangata whenua in relation to the project, and the extent and outcomes of that consultation	Yes Section 5	Yes
	The methodology and assumptions used in the application to calculate savings and reductions in greenhouse gas emissions	Yes Sections 10.1 and 17.1	Yes
	An analysis of the potential greenhouse gas emissions generated by the project over time, including—	Included in the Assessment of Transport Effects	

⁴ Clause 6 of Schedule 25 of the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020

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>(i) the impact of greenhouse gas emissions under different future growth and land use scenarios; and</p> <p>(ii) the opportunities to further enhance connection to other modes and systems of transport; and</p> <p>(iii) the impact of delayed electrification of the rail network in the project area</p>		
	<p>The methodology or assumptions used to determine the potential economic benefits of the project, including carbon impacts and climate benefits, if any</p>	<p>Yes</p> <p>Sections 10.2, 17.2 and 20.2</p> <p>The Assessment of Transport Effects</p>	<p>Yes</p>
	<p>If climate impacts or benefits are identified in the economic analysis, information on the estimated carbon prices or the discount rates applied</p>	<p>Ye</p> <p>The Assessment of Transport Effects s</p>	<p>Yes</p>
	<p>A Preliminary Site Investigation Report done in accordance with the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011, showing how compliance with the NES will be achieved</p>	<p>Yes</p> <p>Sections 10.12 and 17.12</p> <p>Contaminated Land Preliminary Site Investigation</p>	<p>Yes</p>
	<p>a flood-hazard assessment for the Drury Central site, including modelling to identify—</p> <p>(i) impacts of the upstream catchment; and</p>	<p>Yes</p> <p>Section 10.10</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
	(ii) if attenuation is necessary (including calculations and sizing).	Assessment of Stormwater Effects	
Clause 12			
Clause 12(2)(a)	The location of the area to be reclaimed	Yes Figure 7.2 Section 7.3.4 and Figure 14.3, Section 14.3.4	Yes
Clause 12(2)(b)	If practicable, the position of all new boundaries	Yes Volume 3	Yes
Clause 12(2)(c)	Any part of the reclaimed area to be set aside as an esplanade reserve or esplanade strip	N/A – no part of the reclaimed area is to be set aside for such purposes	N/A
Clause 13			
Clause 13(1)(a)	A description of the site to which the notice of requirement applies	Yes As identified further above in table	Yes As identified further above in table
Clause 13(1)(b)	Information on the effects of the proposed project or work on the environment, together with a description of how any adverse effects will be mitigated; and a description of how any adverse effects will be mitigated	Yes As identified further above in table	Yes As identified further above in table

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 13(1)(c)	Confirmation that the notice of requirement complied with clause 3(1)	Yes As identified further above in table	Yes As identified further above in table
Clause 13(1)(d)	An assessment of the project or work against:		
	i. Part 2 of the RMA and the purpose of this Act	Yes As identified further above in table	Yes As identified further above in table
	ii. Any relevant provisions in any:		
	- National policy statement	Yes As identified further above in table	Yes As identified further above in table
	- New Zealand coastal policy statement	N/A	N/A
	- Regional policy statement or proposed regional policy statement	Yes As identified further above in table	Yes As identified further above in table
	- Plan or proposed plan	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
		As identified further above in table	As identified further above in table
	- Planning document recognised by a relevant iwi authority and lodged with a local authority	Yes As identified further above in table	Yes As identified further above in table
Clause 13(1)(f)	The full name and address of: (i) each owner of the land to which the notice of requirement relates and of the land adjacent to that land (ii) each person who, after reasonable inquiry, is known by the requiring authority to be an occupier of the land to which the notice relates and of the land adjacent to that land Were reasonable inquiries made?	Yes Appendix H	Yes
Clause 13(1)(g)	An assessment of whether the project or work and the designation sought are reasonably necessary for achieving the objectives of the requiring authority	Yes Section 20.6	Yes
Clause 13(1)(h)	Any consideration of alternative sites, routes, or methods of undertaking the project or work	Yes Section 4.3 Appendix A	Yes
Clause 13(1)(i)	A list of the resource consents needed for the project or work and whether these have been applied for	Applied for as part of this 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
Clause 13(1)(j)	A description of any consultation undertaken with parties likely to be affected by the project or work and the designation	Yes As identified further above in table	Yes As identified further above in table
Clause 13(1)(k) and (l)	Is there a cultural impact assessment?	Yes As identified further above in table	Yes As identified further above in table
	If a cultural impact assessment is provided, is it prepared by or on behalf of the relevant iwi authority? OR If a cultural impact assessment is not provided, a statement of reasons given by the relevant iwi authority for not providing that assessment	Yes As identified further above in table	Yes As identified further above in table
Clause 13(1)(m)	Any conditions that the requiring authority proposes for the designation	Yes Appendix H	Yes Appendix H
Clause 13(2))	In the case of a referred project, a notice of requirement must also include all the additional information required by the relevant referral order.	Yes As identified further above in table	Yes As identified further above in table

ENDS