

Memorandum on Compliance

File	FTC000030
To:	Terry Calmeyer, Manager Land and Oceans Applications (Acting)
Copy to:	
From:	Gen Hewett, Senior Advisor
Date:	22 April 2022
Subject:	New Dunedin Hospital – Whakatuputupu: Stage 2 Outpatient Building: 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: Stage 2 Outpatient Building application, received by the Environmental Protection Authority (**EPA**) on 13 April 2022 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. On 23 December 2021 consents were granted by an Expert Consenting Panel for Stage 1 enabling works relating to New Dunedin Hospital – Whakatuputupu.
5. The applicants have now applied for resource consent for Stage 2 - Outpatient building.
6. 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 15 – 20 below.

Project

7. The project is to construct and operate a hospital. This includes an inpatient building (approximately 58 m high and with a floor area of approximately 72,500 m²) 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 12,970 m²) that comprises consultation and treatment spaces, day surgery facilities and facilities for procedure and diagnostic services and an ancillary services building.
8. A single level air bridge and a three level air bridge are 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.
9. The applicants have divided the project up into various stages. As outlined above consent has been granted for the enabling works (Stage 1). This application is for the construction and operation of the Outpatient building and associated parking, services and open space (Stage 2). The airbridges which may connect the Outpatient building to the Inpatient building are not included as part of the application for the Outpatient building.
10. It is understood that a further consent application will be applied for under this Act for the Inpatient building and a notice of requirement will be lodged for the Logistics Centre. Consent applications for the storage and use of hazardous substances, exterior signage, discharge consent for combustion contaminants to air and land use consent for rooftop telecommunications equipment will be applied for under the Resource Management Act 1991 outside of the fast track consenting process.

Legislative context

11. 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**).
12. 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.*”
13. 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.*”
14. 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

15. 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	<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 are 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

16. 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

17. An assessment table against Clauses 9-12, Schedule 6 of the Act is included in Appendix 1.
18. 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).
19. The information in the application has been assessed on the basis that the scale of the activity is low-medium, and potentially low effects on the environment after taking into account mitigation measures and conditions.
20. 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 consent application for the establishment of a new building as part of the New Dunedin Hospital development and for non-compliance with some of the applicable performance standards. Land use consent for the proposed earthworks around the Outpatient building. Land use consent for the parking, loading and access features of the outpatients building. Land use consent for hospital activity that will be carried out at the site on completion of the building and its associated features.

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 application		
Clause 9(1)(a)	A description of the proposed activity	Yes Section 2	Yes
Clause 9(1)(b)	A description and map of the site at which the activity is to occur	Yes Section 3 and 4	Yes
Clause 9(1)(c)	Confirmation that the consent application complies with clause 3(1)	Yes Section 5	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 Section 8 ad 9 Attachment 15 and 16	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 enquiry, is able to be identified by the applicant	Yes Section 8 and 9	Yes
	Were reasonable inquiries made?	Yes Section 8 and 9	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	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	Yes
Clause 9(1)(g)	An assessment of the activity against—	Yes	Yes
	(i) Part 2 of the RMA	Section 12	
	(ii) the purpose of this Act	Yes Section 13	Yes

	<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>Section 13</p>	<p>Yes</p>
<p>Clause 9(1)(h)</p>	<p>An assessment of the activity against --</p>	<p>Yes</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
	(a) any relevant provisions in a national environmental standard, including:	Section 14	
	i. Any relevant objectives, policies or rules	Yes Section 14	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 14	Yes
	iii. Any other requirements	Yes Section 14	Yes
	(b) Any relevant provisions in any other regulations made under the RMA, including:	Yes Section 15	Yes
	i. Any relevant objectives, policies or rules	Yes Section 15	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 15	Yes
	iii. Any other requirements	Yes Section 15	Yes
	(c) Any relevant provisions in any national policy statement, including:	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 16	
	i. Any relevant objectives, policies or rules	Yes Section 16	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 16	Yes
	iii. Any other requirements	Yes Section 16	Yes
	(d) Any relevant provisions in a New Zealand coastal policy statement, including:	Yes Section 17	Yes
	i. Any relevant objectives, policies or rules	Yes Section 17	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 17	Yes
	iii. Any other requirements	Yes Section 17	Yes
	(e) Any relevant provisions in any regional policy statement or proposed regional policy statement, including:	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 18	
	i. Any relevant objectives, policies or rules	Yes Section 18	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 18	Yes
	iii. Any other requirements	Yes Section 18	Yes
	(f) Any relevant provisions in a plan or proposed plan, including:	Yes Section 19	Yes
	i. Any relevant objectives, policies or rules	Yes Section 19	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 19	Yes
	iii. Any other requirements	Yes Section 19	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
	(g) Any relevant provision in any planning document recognised by a relevant iwi authority and lodged with a local authority, including:	Yes Section 20	Yes
	i. Any relevant objectives, policies or rules	Yes Section 20	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 20	Yes
	iii. Any other requirements	Yes Section 20	Yes
Clause 9(1)(i)	Information about any Treaty settlements that apply in the project area, including—	Yes Section 22	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	Yes
Clause 9(1)(j)	The conditions that the applicant proposes for the resource consent	Yes Section 23 Attachment 17	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(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
	(a) an assessment of the actual or potential effects on the environment	Section 24	
	(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	Section 25	Yes
	(c) if the activity includes the discharge of any contaminant, a description of—		Yes
	(i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and	Section 26	
	(ii) any possible alternative methods of discharge, including discharge into any other receiving environment		
(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	Section 27	Yes	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	Section 28	Yes	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
	(f) if iwi or hapū elect not to respond when consulted on the proposal, any reasons that they have specified for that decision	N/A Te Rūnanga o Ngāi Tahu and Aukaha have provided letters in response to consultation as provided for in Attachment 22 and 23.	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 Section 29	Yes
	(h) an assessment of any effects of the activity on the exercise of a protected customary right	Yes Section 30	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): (a) any effect on the people in the neighbourhood and, if relevant, the wider community, including any social, economic, or cultural effects	Yes Section 31	Yes
	(b) any physical effect on the locality, including landscape and visual effects	Yes Section 32	Yes
	(c) any effect on ecosystems, including effects on plants or animals and physical disturbance of habitats in the vicinity	Yes Section 33	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
	(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	Yes
	(e) any discharge of contaminants into the environment and options for the treatment and disposal of contaminants	Yes Section 35	Yes
	(f) the unreasonable emission of noise	Yes Section 36	Yes
	(g) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.	Yes Section 37	Yes
Clause 9(5)(a)	A cultural impact assessment, provided by or on behalf of the relevant iwi authority	Yes Section 39 A CIA has been provided for the New Dunedin Hospital referred project by Aukaha on behalf of Te Rūnanga o Ngāi Tahu	Yes
Clause 9(5)(b)	If a cultural impact assessment is not provided, a statement of reasons given by the relevant iwi authority for not providing that assessment	Yes Section 39 and Attachment 22 provide confirmation from Te Rūnanga o Ngāi Tahu that a further CIA is not	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
		required specifically for the Stage 2 Outpatient building works application.	
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	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 40 confirms none of the activities will occur in an area within the scope of a planning document prepared by a customary marine title group.	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, 	<p>Yes</p> <p>Section 42</p> <p>Attachment 6 – Integrated Transport Assessment</p> <p>Attachment 3 - Urban Design (including design, landscaping and shading)</p> <p>Attachment 12 Landscape Report</p>	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
	<p>and in pedestrian areas (streetscapes and public reserves); and</p> <ul style="list-style-type: none"> • A construction noise assessment, including analysis of effects and mitigation measures and • 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>How the climate change scenario used for modelling aligns with <i>Coastal Hazards and Climate Change: Guidance for Local Government</i>.</p> <p>How the hospital would operate during flood events or flooding of the surrounding streets.</p>	<p>Attachment 28 Shading Study</p> <p>Attachment 9 – Noise Assessment (Construction and operational noise)</p> <p>Attachment 8 – Flood Hazard Assessment</p>	

ENDS