

File ref: FTC000029

21 June 2021

John Duthie
Tattico Ltd
PO Box 91562
Victoria Street
Auckland 1142

Private Bag 63002
Wellington 6140, New Zealand

Level 10, Grant Thornton House
215 Lambton Quay
Wellington 6011, New Zealand

epa.govt.nz
+64 4 916 2426

Dear John

Request for information from Wooing Tree Property Development LP in relation to the Wooing Tree Estate resource consent application under COVID-19 Recovery (Fast-track Consenting) Act 2020

The Wooing Tree Expert Consenting Panel has directed the EPA to request further information from you under clause 25 of Schedule 6 of the COVID-19 Recovery Act 2020 (the Act), relating to the Wooing Tree Estate resource consent application.

The EPA is seeking the information outlined in Appendix 1:

The EPA considers this information to be necessary and relevant to the Wooing Tree Estate resource consent application.

In accordance with clause 25 of Schedule 6 of the Act the applicant must

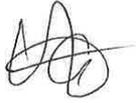
- a) Provide electronic copies of the information or report requested; or
- b) Advise the EPA, with reasons that you decline to provide the information or report requested.

Please provide the further information to the EPA by Monday 5 July 2021.

Please note, the information will be provided to the panel, the application and every person who provided comments on the application. The information will also be made available on the EPA website.

If you have any questions or further queries please don't hesitate to contact Gen Hewett, by email gen.hewett@epa.govt.nz or phone (04) 474 5523 or 027 839 3760.

Yours sincerely

A handwritten signature in black ink, appearing to be 'GH', with a horizontal line extending to the right.

Gen Hewett
Senior Advisor

Appendix 1: List of information requested

1. A complete and accurate summary of the proposal and consents being applied for¹ including:
 - a. The key elements of the proposal under each type of consent type – e.g. subdivision, land use, NES², discharge permits³, water permits⁴ etc
 - b. Information on staging; including an index plan illustrating the various stages and sub-stages (including the consented Stage 1A and 1B) and an inventory listing the proposed allotments (and individual lot sizes) proposed in each stage/sub stage⁵;
 - c. A description (schedule) of the proposed lots which the global reductions in bulk and location standards (i.e. side yard reductions and building coverage exceedances) are sought for; and
 - d. A schedule of the key plans/info that condition 1 (“*in accordance with*”) usually refers to.
2. Further information on potential reverse sensitivity effects on nearby established external activities in close proximity to the proposed development such as vineyard, orchards and state highway as a result of the proposal and reduced buffer distances (from that contained in the Operative District Plan (ODP)) to supplement the information on pages 31 and 41 of the AEE. This information shall address:
 - a. Information⁶ on day and night time noise levels over the application site for internal and external living environments and how those levels relate to the ODP noise standards and applicable WHO standards for acceptable noise levels.
 - b. Information⁷ on potential for air quality effects from nearby rural land uses, including dust, smoke, odour and spray drift over the application site, including consideration of any relevant industry standards⁸.

¹ The information set out in 1a. – 1d. would (in the event that consent is granted) be referenced in the Notice of Decision as part of the description of what is being consented.

² The application contends that no consent under the NES-SC is required despite potential soil contamination by the current horticultural activity over several years of viticulture. Specific rationale is required to corroborate that claim with reference to the Opus/WSP DSI report (Appendix H of the application) and the volumes of earthworks being proposed over the entire site.

³ The application contends that no stormwater discharge permits are required. Whilst this seems to be accurate in respect to operational phase stormwater given the connection to the CODC network (and reliance on the Council’s Global Consent from ORC for stormwater disposal), it is less clear whether construction phase stormwater is a permitted activity in the relevant ORC regional plans.

⁴ The application contends that no water permits are required. What existing/current on-site water supplies are proposed to be utilised and will they be sufficient for both the construction and operation phases? What RMA authorisations do those supplies rely on and what duration of consent applies for each authorisation.

⁵ There is some inconsistency in the AEE associated with the number of allotments proposed for each stage.

⁶ Such information could include – predicted and/or measured noise levels over the application site, inclusion of mapped noise contours to show the spatial extent of noise propagation from nearby activities and the receptor levels on the application site.

⁷ As above in terms of the spatial extent air quality effects from nearby rural land uses, including dust, smoke, odour and spray drift on the application site.

⁸ Such as NZS 8409:2004 – Management of Agrichemicals

- c. In terms of the “no complaints” covenant, what is the:
 - i. rationale for, and efficacy of, such a tool in terms of the *avoid remedy and mitigate* approach promoted by Part 2 of the RMA; and
 - ii. the effects basis for the limit of coverage of the “no complaints” covenant within the site.
 - d. Aside from any “no complaints” covenant and the noise attenuation condition proposed to apply for new residential buildings on certain areas of the site, what (if anything) is proposed to mitigate potential effects in respect to noise and the air quality effects (if any) from nearby rural land uses, including dust, smoke, odour and spray drift?
 - e. With respect to mitigation in respect to noise and potential air quality effects from nearby rural land uses, including dust, smoke, odour and spray drift, any changes or improvements to conditions to secure those outcomes, including if relevant:
 - i. The condition framework proposed to ensure an effective noise (and potentially air quality) buffer and “elevated contour”;
 - ii. Any redesign to subdivision layout or setbacks to achieve the required noise and air quality buffer distances; and
 - iii. Any other requirements for dwellings that should be addressed in conditions of consent.
3. Clarification as to the staging proposed. If staging is sought and flexibility is allowed for in the order of construction and boundary of stages, commentary as to the potential for changes in staging from that indicatively proposed to have additional or unanticipated effects and assessment of any such effects.
 4. The application states that *“this proposal does not seek consent for the detailed design of individual homes”* and acknowledges that *“the higher density sites may trigger resource consent when housing is proposed”* (presumably as a “comprehensive residential development” in the Residential Resource Area in the Wooing Tree Overlay Area). Notwithstanding these two statements in the application, it is noted that urban design guidelines are proposed to be *“implemented during the course of the development”* in order to provide for *“a diverse range of typologies”*. If these guidelines are not to be imposed through conditions of consent on the land use or subdivision consents, then comment is requested on what reliance can and/or should the Panel place on those guidelines to achieve the outcomes proposed in the application?
 5. Comment is requested on whether there should be covenants on the subdivision consent to secure:
 - a. consented yards (prohibit further reductions in yards)
 - b. maximum building coverage conditions (prohibit exceedance)
 - c. any other development rules applied through conditions of consent.
 6. The Panel has been provided with two versions of an infrastructure report prepared by Patterson Pitts Group, one dated March 2021 and the other dated April 2021. Please confirm which version should be relied upon.

7. The AEE/application states “this application is advanced on the basis that there is a commitment by the Wooing Tree Partnership to provision of the underpass at the time the roundabout is constructed”. Comment on how the commitment by the applicant to the provision is secured?
8. The traffic assessment at paragraphs 7.3.7 – 7.3.11 concludes initial pedestrian crossing provision could be made through refuges in the context of a speed limit between two roundabouts which “could reasonably be reduced to 60 km/h”. The roundabouts in question have not yet been constructed and the current speed limit is understood to be 80 km/h. Please comment on:
 - a. current measured speed on State Highway 8B in the vicinity of the proposed pedestrian crossing places
 - b. the suitability of refuges as a pedestrian crossing solution if the speed environment exceeds 60 km/h.
9. The traffic assessment identifies shortcomings with respect to turning areas and queueing space in car parking for the non-residential aspect of the development. Please provide details of the solution to those shortcomings along with revised plans.
10. Confirmation as to whether the National Policy Statement on Urban Development (NPS UD) is a relevant and applicable document pursuant to Schedule 6, clause 31(1)(c), and an explanation as to the reasoning underpinning the response.
11. A complete assessment pursuant to s104D(1)(b) of the RMA.
12. The Detailed Site Investigation Report prepared by Opus is dated November 2016. Please confirm nothing has changed or occurred since the date the report was finalised which would alter the conclusions reached.
13. The letter from Aukaha (attachment K) includes 3 recommendations. One refers to the Heritage New Zealand Pouhere Taonga Archaeological Discovery Protocol, another requests suitable, locally sourced native plants are included in any landscape planting to compliment the surrounding environment. Please comment on the following:
 - a. Whether proposed condition 61 corresponds to the Heritage New Zealand Pouhere Taonga Archaeological Discovery Protocol?
 - b. Whether locally sourced native plants should be required as a condition of consent (either directly or through inclusion of that requirement in a relevant report or planting plan)?

Other Matters

14. Section 14.15 of the planning analysis and AEE refers to section 19(f) “Any other matter that the Minister considers relevant”. It goes on to record that the Referral order does not specify any other matters the Minister considers relevant, despite the Minister being requested in the application for referral to give consideration to the Cromwell Spatial Framework Plan under this clause. The application/AEE suggests the Panel is free to (and should) consider the Framework Plan as a

matter that is relevant and reasonably necessary to determine the consent application pursuant to section 31(1)(d).

15. The Framework Plan is acknowledged as not being a statutory document under the Resource Management Act.
16. Please comment on the following:
 - a. whether a non-statutory strategic framework plan may be considered pursuant to section 31(1)(d)?
 - b. Whether the Minister's decision not to specify the Framework Plan as a relevant matter under section 19(f) has any implications for the Panel in the context of section 31(1)(d)
 - c. If the framework plan were to be considered, whether any issues as to weight arise in considering the framework plan? The Panel note in an RMA context that the weight accorded to a growth strategy can be affected by considerations such as whether the strategy has been prepared pursuant to provisions of the RMA, whether it is consistent with the district plan, whether it has been incorporated into the district plan in any way, whether the rigour of consultation was known, and whether it had been through a submission and hearing process. Are these considerations in an RMA context applicable in the context of the FTA?

1. NPSUD

17. Section 15.3 of the planning analysis and AEE states "There are no relevant National Policy Statements". The section goes on to refer to the NPSUD, the fact that Cromwell in 2018 had a population less than 10,000 people, and records consequently that the NPSUD "does not strictly apply in terms of requiring a growth management strategy".
18. Notwithstanding the above the analysis/AEE states the NPSUD does apply to "planning decisions by any local authority that effect an urban environment". An urban environment means an area of land "intended to be predominantly urban in character" and "is or is intended to be, part of a housing and labour market of at least 10,000 people". The analysis/AEE then asserts Cromwell is expected to grow to 10,000 people.
19. Please comment on the following:
 - a. the implication or effect of the terminology "intended to be" in the NPSUD provisions quoted above. Does that wording enable or require the Panel to apply the NPSUD in the context of Cromwell currently being a housing and labour market of less than 10,000 people but being expected to exceed 10,000 people in the future (exact timing of the crossing of the threshold being unknown).
 - b. Whether the anticipated timing of crossing of the 10,000 person threshold is relevant? (Potentially by reference to the definitions in the NPSUD of short-term, medium-term and long-term?).