

8 September 2021

Gen Hewett
Senior Advisor
Environmental Protection Authority
Wellington

Dear Gen

Wooring Tree – Request for information – Conditions of consent

Thank you for your help with Wooring Tree.

I refer to your letter and the Panel Minute of 6 September.

I have set out below the information requested. I attach an updated version 11 of the conditions of consent. The new or altered text is in **red writing or strikeout**. Then relocated conditions (but same text) is in **blue writing and strike out**. This is **attachment A**.

Below I have responded to the questions outlined in the Panel minute (and using the same numbers for ease of reference). There are a number of attachments which I cross reference in this letter:

1. Reports and plans forming part of the application (Conditions 1-2)

I have updated condition 1 and 2 to reflect the current set of plans. I have included all the updated plans listed in your letter. The Baxter Design Buffer treatment plan is found within the set of Urban design response plans. The only difference is to update the plan title.

I have updated the cross referencing of these against the plans elsewhere in the document.

The replacement plans by Baxter Design and FDA are referenced in this letter.

2. Determination of subdivision versus land use conditions (Conditions 46-84A)

As requested I have set out the conditions 46 – 84A distinguishing those that are largely subdivision related and those that are largely land use related. I have grouped the conditions together accordingly. Relocated conditions are shown in **blue text** and retain their previous numbering as requested by the Panel.

There are cross overs. In those cases I have used an **advice note** to outline that the condition also applies to all work associated with this consent. I have placed the advice notes at the end of the conditions. Alternatively the Panel could place the relevant advice notes at the end of the subdivision / landuse section respectively.

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In the use of advice notes I have taken the view that the conditions apply regardless of how they appear and under what sub-heading within the consent.

There are two ways of distinguishing the subdivision and land use consent conditions. The first way is to group all conditions that come into effect at the time of subdivision, and are fundamental to achieving the subdivision process. By contrast the land use conditions are then the conditions that apply after subdivision is complete and titles issue. This is the approach I have taken.

The second approach is to distinguish the class of activity between subdivision and land use regardless of when it occurs. In that case conditions 3 – 46 plus 66A, 77 and 84A (as these relate to consent notices to be placed on titles), would relate to subdivision. Conditions 46 – 66 and 66B-76 and 78- 81 N (recognising the request to integrate conditions 81O -82with other conditions) would relate to land use.

The reason I prefer the first option is the people working under the consent will not necessarily appreciate the distinction between subdivision and land use. In carrying out the subdivision task their focus will be on the subdivision section. This is the basis on which I have ordered the conditions below and in Attachment A.

Land Use Conditions

In my view, the following conditions are related primarily to land use consent:

- Land contamination (Conditions 46-46E).
- Noise attenuation (Conditions 47-47E).
- Hospitality centre (Conditions 61-65, and 66B).
- Residential sites on land zoned business (Conditions 66-67A).
- Residential sites (Conditions 67-70A).
- Residential sites on land zoned rural (Condition 70).
- Signage (Conditions 71-76).

A few of these conditions also relate to subdivision activity. Therefore at the end of the subdivision section I have set out advice notes containing cross-references to the subdivision component of these land use conditions.

These proposed advice notes are as follows:

Advice notes to apply following the land use consent conditions

- (a) Accidental discovery protocols at Conditions 61 and 61A apply to any development of sites within Wooing Tree.*
- (b) Conditions 81F and 81H in the subdivision section deal with the ongoing management and accountability of the Residents Society for the buffer to State Highway 8B and State Highway 6 and the associated bund.*

Subdivision Conditions

The following conditions, in my view, would better be located within the subdivision section of the consent. This is primarily because the works or actions required by these conditions need to happen at the time of subdivision, even though the class of activity is a land use.

These conditions would be located after condition 44. In the draft conditions at Attachment A I have placed these conditions in that location, but as requested by the Panel I have kept the original condition numbers and sub headings.

- Northern boundary (Conditions 48-52).
- Construction noise and traffic management (Conditions 53-60).
- Accidental discovery (Conditions 61-61A).

- Consent notice Lots 603 and 604 (Condition 66A).
- Traffic layout and safety audit, road connection roundabout to Blondie Drive (Condition 66D).
- Lots 806, 807 and 808 building restrictions (Condition 77).
- Wooing Tree (Condition 78).
- Reverse sensitivity (Condition 79).
- State Highway landscape buffer and bund (Conditions 81A-81H).
- Northern landscape buffer (Conditions 81I-81N).
- Design Guidelines (Condition 84A).

Some of these conditions also relate to landuse activity. Therefore at the end of the landuse section I have set out below cross-references to the landuse component of these subdivision conditions.

Advice Notes to apply following the Subdivision consent conditions

- (a) Land use conditions 46-46E refer to land contamination matters. Should the testing required under those conditions identify that contaminants are present in soils, or should unexpected discovery of potential source of contaminants be triggered, then these land use conditions would apply concurrent with the subdivision works.*
- (b) Condition 52 in the subdivision section sets out the ongoing requirements of landscaping use and management of the northern buffer land. These obligations are ongoing.*
- (c) Conditions 59 and 60 of the subdivision consent apply to all construction activity. It prevents any direct access off State Highway 8B or State Highway 6. Construction traffic must use Shortcut Road or the Barry Avenue roundabout when operational. This applies to all landuse construction work as well as subdivision.*

3. Landscape plans

The relevant conditions of consent have been relabelled in accordance with the suggestion within the Panel Minute. These are set out in **Attachment A**. Furthermore I have relabelled the two relevant Baxter Design Plans. These plans give a conceptual depiction of what the final detailed plans will require. This is **Attachment B**.

I have redrafted the conditions relating to the northern buffer to make clearer the distinction between those conditions that apply to the vested park land and those that apply to the lot 802 which remains in private ownership.

Condition 81P has been amalgamated with Condition 15.

4. Drawing certification (Conditions 42D-42E and 80-82)

As requested, Conditions 42D-42E and 80-82 have been rationalised into a one set of conditions. They are incorporated within the new 42D and 42E which is now expanded to 42D -42F. This is set out in **Attachment A**.

5. Remediation Plan (Condition 46A)

The final Remediation Action Plan (RAP) is attached. It is the same plan as previously submitted.

The previous document is labelled “final for client review” in the document history section. The client had no questions and did not seek any clarifications. This is the final report. WSP have amended the document so that this is clear. It is still Revision O and of the same date. They have simply amended the document history to record it as the final. I attach that document as **Attachment C**.

This RAP applies across the entire site (all stages of the subdivision).

As stated in the land contamination report by WSP and in the application, it was initially thought that this land would not trigger NES or any land contamination consenting issues. That conclusion followed field work by WSP. It was only

following work on the adjacent Waka Kotahi designated land when some vine supporting posts were pulled out of the ground, that a small amount of contaminant immediately around the base of the post was identified. Out of an abundance of caution, this application has therefore been amended to include any consents required for land contamination matter.

This RAP is consistent with plans typically used elsewhere in the Central Otago area and in other parts of New Zealand.

I have amended the conditions of consent so that if the validation field work does identify contamination levels above the NES or Regional Plan standards, or there is unexpected discovery of contaminants in the soil, then a process of stopping work, gaining any necessary consents, and updating the RAP occurs. Approval of the RAP is required from the Otago Regional Council. This is set out in **Attachment A**.

WSP believes the RAP is fit for purpose based on the results of the field work to date. If that proves different or if the unexpected discovery protocols kick in, then as stated, there is process for the Otago Regional Council to review the existing or updated RAP and approve it.

6. Construction Traffic Management Plan (Conditions 53-60)

The conditions make it clear that:

- The consent holder is accountable for producing the Construction Management Plan and the Construction Traffic Management Plan using technical experts.
- The conditions already have both those plans referred to and the requirement to amend the plans to take account of any requirements of the CODC. I have changed this from "take account of" to "include" the requirements of CODC.

If the CODC does not respond (an unlikely scenario) then the Construction Management Plan and the Construction Traffic Management Plan would be implemented in the form prepared by the Consent Holder

I have added a condition(condition 57A) prescribing the general contents of a Construction Traffic Management Plan. This is set out in **Attachment A**

7. Hospitality Centre (Conditions 61 and 62)

Conditions 61 and 62 have been amended as per the Panels request. Amended plans have been prepared.

The changes are:

- The plan set and the conditions no longer refer to the hospitality centre. Rather, it refers to the "cellar door" and to the "café/shop". This is set out in **Attachment A**.
- The height of the cellar door and café / shop are shown on the plans at both ridge line and gutterline for both buildings.

This application seeks approval for the 'cellar door' and 'café/ shop' subdivided sites and buildings.

Consent is only sought for subdivided vacant lots for the travellers accommodation and pre-school building sites.

In terms of the approval of the Cellar Door and Café / Shop, the plans set as updated shows:

- The full site plan for each site including the location and footprint of each of the two buildings.
- The conditions of consent cap the gross floor area of each of the two buildings (recognising that in the cellar door building there is a mezzanine floor for the administrative purposes and staff facilities).
- The height of the buildings have been marked on the plans. This is set at both the ridgeline and "gutter line". (Plans A-901 and A-102)
- There is a perspective of both the cellar door and café / shop. This gives reasonable detail of the elevational treatment of all 4 faces of the Cellar Door building and the typical end and side elevation of the café/ shop.

- The site plan shows the car parks and vehicle entrances associated with the cellar door and café/ shop.
- The Landscape Plan identifies the location of landscaping and general plant species that will form the landscaping.
- The material palette identifies the building material to be used in the construction and the general look and feel of the building.

These plans by FDA are set out at **Attachment D**

Consequently, CODC, in exercising their discretion to certify that the final design meets the requirements of the conditions, is doing so in the context that the conditions of consent (and the documents that are referred to by those conditions) specify:

- The function of the building.
- The location of the building.
- The height and external shape of the building.
- The materials to be used in the construction, picking from an approved palette.
- The areas to be landscaped and type of plants to be used.

The perspectives and concepts included in the plans also show the intended look and feel of the buildings.

CODC is effectively approving the final detail design elements within a context of a consent that approves building location, footprint, gross floor area, height, parking, landscaping and materiality and look and feel of the building. In my opinion this proposed discretion is appropriate.

This is occurring in a context where the buildings are some very considerable distance from the nearest neighbours. They have a high profile because it fronts the State Highway, but it is well removed from individual properties. The dominant issue in facing the State Highway is the function, location and height of the building and its external appearance when viewed from the road. All these matters are shown in the drawings forming part of the application.

8. Signage (Condition 71)

The condition has been amended to include the correct plan references. Updated drawings have been provided.

There are two types of permanent signage.

The first is signage for the Cellar Door and café / shop. These appear on three of the FDA plans. The site plan shows the location and size of the Totem pole. There is a specific signage plan for the Cellar Door. The café/ shop sign is shown on the elevations.

The second is the “Wooing Tree” naming sign at the entrance to Wooing Tree estate at Short Cut Road and the Round-about. There is no change to this signage from the at in the Baxter Plans previously provided.

The updated plan is shown at **Attachment E**. The condition is shown at **Attachment A**.

9. Temporary signage (Condition 76)

Updated copies of the Veros plan is provided at **Attachment F**.

10. Underpass (Condition 810)

This condition has been incorporated in the earlier conditions on the underpass. This is shown at **Attachment A**

Happy to answer any questions.

Yours faithfully

J. Duthie

John Duthie
Tattico