

Memorandum on Compliance

File	FTC 000029 Wooing Tree Estate
To:	Sandra Balcombe, Manager Land and Oceans Applications
Copy to:	
From:	Gen Hewett, Senior Advisor
Date:	14 May 2021
Subject:	Wooing Tree Estate: 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 Wooing Tree Estate application, received by the Environmental Protection Authority (EPA) on 7 May 2021 lodged by Tattico on behalf of Wooing Tree Property Development LP, 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. On 26 January 2021 the Minister for the Environment decided to refer the Wooing Tree Estate to an expert consenting panel under Section 24 of the Act.
4. On 1 March 2021, the Minister recommended that a referral order, Wooing Tree Estate be made to give effect to the above decision, pursuant to Section 26 of the Act.
5. The applicant applied for consents relating to the Wooing Tree Estate on 7 May 2021.
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 14 – 17 below.

Project

7. As described in the Wooing Tree Estate referral order the scope of the project is :

- a) To subdivide land and construct a staged subdivision of up to 284 lots, including up to 276 residential lots; and
- b) To construct approximately 46 residential units; and
- c) To construct the associated infrastructure for the subdivision, including roading, parking, pedestrian and cycling connections, three waters services, and the development of open space; and
- d) To construct and operate a hospitality and neighbourhood centre, a cellar door facility for Wooing Tree Vineyard, and accommodation for travellers, and to provide the associated infrastructure.

The application is for a subdivision of the land into 300 residential sites and 3 business superlots and the creation of 18 lots for the purpose of vested roads and park land. The number of lots to be created is slightly greater than what the referral order specifies, however the application is considered to be consistent with the reasons for referral as specified in the referral order. The application complies with all other aspects of the referral order.

Fast-track consenting application process

Legislative context

8. 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).
9. 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.”*
10. 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.”*
11. 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

12. 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	The application is made by Wooing Tree Property Development LP.	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 Wooing Tree Property Development LP, the authorised person to apply for a resource consent relating to the project and specified in the referral order.</p> <p>The scope of the application is within that specified in the referral order.</p> <p>The appropriate 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 draft application has not identified any prohibited activities in a	Accept

		relevant plan or proposed plan.	
	(ii) RMA regulations (including any NES)	The draft application does not relate in 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 13 of the COVID-19 Recovery (Fast-track Consenting) Referral Projects Order 2020 (the referral order). The project is consistent with Schedule 13 of the referral order.	Accept

Conclusions on preliminary matters

13. 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

14. An assessment table against Clauses 9-12, Schedule 6 of the Act is included in Appendix 1.
15. 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).
16. The information in the application has been assessed on the basis that the scale of the activity is medium, and potentially low effects on the environment after taking into account mitigation measures and conditions.
17. My view is that the application does comply with clause 3(1) and can be provided to the Panel.

Appendix 1: Clauses 9-12

Resource consent application and subdivision for the Wooing Tree Estate

Table 1: Checklist of completeness requirements in Clauses 9-12 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			
Clause 9(1)(a)	A description of the proposed activity	Yes Section 2 of the AEE	Yes
Clause 9(1)(b)	A description and map of the site at which the activity is to occur	Yes Section 4 of the AEE	Yes
Clause 9(1)(c)	Confirmation that the consent application complies with clause 3(1)	Yes Section 5 of the AEE	Yes
Clause 9(1)(d)	The full name and address of:	Yes	Yes
	<ul style="list-style-type: none"> i. Each owner of the site and of land adjacent to the site 	Appendix 2 of the AEE	
	<ul style="list-style-type: none"> 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 Appendix 2 of the AEE	Yes It is noted that some occupier information is missing. The EPA will use the street

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
			addresses for any occupiers identified.
	Were reasonable inquiries made?	Yes Appendix 2 of the AEE	Yes
Clause 9(1)(e)	A description of any other activities that are part of the proposal to which the consent application relates	Yes Sections 9.4 and 9.5 of the AEE	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 Sections 9.4 and 9.5 of the AEE	Yes
Clause 9(1)(g)	An assessment of the activity against— (i) Part 2 of the RMA	Yes Section 13 of the AEE	Yes
	(ii) the purpose of this Act	Yes Section 14 of the AEE	Yes
Section 19	(iii) the following matters (set out in section 19 of the Act - whether project helps to achieve purpose of Act): (a) the project's economic benefits and costs for people or industries affected by COVID-19	Yes Section 14 of the AEE	Yes
	(b) the project's effect on the social and cultural well-being of current and future generations	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 14 of the AEE	
	(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 14 of the AEE	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 14 of the AEE	Yes
	(e) whether there is potential for the project to have significant adverse environmental effects, including greenhouse gas emissions:	Yes Section 14 of the AEE	Yes
	(f) any other matter that the Minister considers relevant.	N/A The referral order did not specify any other matters	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
Clause 9(1)(h)	An assessment of the activity against --	Yes	Yes
	(a) any relevant provisions in a national environmental standard, including:	Section 15 of the AEE	
	i. Any relevant objectives, policies or rules	Yes Section 15 of the AEE	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 15 of the AEE	Yes
	iii. Any other requirements	Yes Section 15 of the AEE	Yes
	(b) Any relevant provisions in any other regulations made under the RMA, including:		
	i. Any relevant objectives, policies or rules	Yes Section 15 of the AEE	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 15 of the AEE	Yes
	iii. Any other requirements	Yes Section 15 of the AEE	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 15 of the AEE	
	i. Any relevant objectives, policies or rules	Yes Section 15 of the AEE	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 15 of the AEE	Yes
	iii. Any other requirements	Yes Section 15 of the AEE	Yes
	(d) Any relevant provisions in a New Zealand coastal policy statement, including:	N/A The New Zealand Coastal Policy Statement is not relevant to this application	N/A
	i. Any relevant objectives, policies or rules	N/A	N/A
	ii. Any requirement, condition, or permission in any rules	N/A	N/A
	iii. Any other requirements	N/A	N/A
	(e) Any relevant provisions in any regional policy statement or proposed regional policy statement, including:	Yes Section 15 of the AEE	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 15 of the AEE	
	ii. Any requirement, condition, or permission in any rules	Yes Section 15 of the AEE refers to the rules in the Regional Plans	Yes
	iii. Any other requirements	Yes Section 15 of the AEE	Yes
	(f) Any relevant provisions in a plan or proposed plan, including:		
	i. Any relevant objectives, policies or rules	Yes Section 15 and Section 16 of the AEE	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 15 and Section 16 of the AEE	Yes
	iii. Any other requirements	Yes Section 15 and Section 16 of the AEE	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 17 of the AEE	Yes
	i. Any relevant objectives, policies or rules	Yes Section 17 of the AEE	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 17 of the AEE	Yes
	iii. Any other requirements	Yes Section 17 of the AEE	Yes
Clause 9(1)(i)	Information about any Treaty settlements that apply in the project area, including—	Yes	Yes
	(i) the identification of the relevant provisions in those Treaty settlements	Section 17 of the AEE notes there are no treaty settlements that impact the site	
	(ii) a summary of any redress provided by those settlements that affects natural and physical resources relevant to the project or project area	N/A	N/A
Clause 9(1)(j)	The conditions that the applicant proposes for the resource consent	Yes Section 20 of the AEE	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	Yes
	(a) an assessment of the actual or potential effects on the environment	Section 10 of the AEE	
	(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 5.3 of the AEE states that the proposal does not involve hazardous installations	Yes
	(c) if the activity includes the discharge of any contaminant, a description of— (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and (ii) any possible alternative methods of discharge, including discharge into any other receiving environment	Yes Section 5.3 of the AEE Section 10 of the AEE	Yes
	(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 Section 11 of the AEE	Yes
(e) identification of persons who may be affected by the activity and any response to the views of any persons	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
	consulted, including the views of iwi or hapū that have been consulted in relation to the proposal	Section 19 of the AEE	
	(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	N/A
	(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 21 of the AEE	Yes
	(h) an assessment of any effects of the activity on the exercise of a protected customary right	Yes Section 5 and Section 10 of the AEE states that there are no protected customary rights relevant to this land.	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 10 of the AEE	
	(b) any physical effect on the locality, including landscape and visual effects	Yes Section 10 of the AEE	Yes
	(c) any effect on ecosystems, including effects on plants or animals and physical disturbance of habitats in the vicinity	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 10 of the AEE	
	(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 of the AEE	Yes
	(e) any discharge of contaminants into the environment and options for the treatment and disposal of contaminants	Yes Section 10.10 of the AEE (Stormwater effects)	Yes
	(f) the unreasonable emission of noise	Yes Section 10.23 of the AEE	Yes
	(g) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.	Yes Section 10.27 of the AEE	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>Yes</p> <p>Aukaha preliminary statement</p> <p>The preliminary statement concludes that a cultural impact assessment is not required and that rūnanga concerns will be mitigated by adhering to the conditions requested.</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
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 9.4 of the AEE	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))	N/A The activity does not occur in an area that is within the scope of planning document prepared by a customary marine title group	N/A
Clause 9(6)(c)	In the case of a referred project, all the additional information required by the relevant referral order.	N/A The referral order does not specify any additional information required.	N/A
Clause 12	Information required in applications for subdivision or reclamation		
Clause 12(1)(a)	The position of all new boundaries	Yes C1 Subdivision Scheme plan E2 Engineering plans	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 12(1)(b)	The areas of all new allotments, unless the subdivision involves a cross lease, company lease, or unit plan	Yes C1 Subdivision Scheme plan E2 Engineering plans	Yes
Clause 12(1)(c)	The locations and areas of new reserves to be created, including any esplanade reserves and esplanade strips	Yes C1 Subdivision Scheme plan E2 Engineering plans	Yes
Clause 12(1)(d)	The locations and areas of existing esplanade reserves, esplanade strips, and access strips	Yes C1 Subdivision Scheme plan E2 Engineering plans	Yes
Clause 12(1)(e)	The locations and areas of any part of the bed of a river or lake to be vested in a territorial authority under section 237A of the RMA	N/A There are no waterbodies as part of this application	N/A
Clause 12(1)(f)	The locations and areas of any land within the coastal marine area that is to become part of the common marine and coastal area under section 237A of the RMA	N/A The site is not within the coastal environment	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
Clause 12(1)(g)	The locations and areas of land to be set aside as new roads	Yes C1 Subdivision Scheme plan E2 Engineering plans E3 Engineering Road Cross-sections	Yes

ENDS