

Memorandum on Compliance

File	FTC 000019
To:	Sandra Balcombe, Manager Land and Oceans Applications
Copy to:	
From:	Alex Erceg, Senior Advisor
Date:	17 March 2021
Subject:	Northbrook Wanaka Retirement Village: 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 Northbrook Wanaka Retirement Village application, received by the Environmental Protection Authority (EPA) on 12 March 2021, lodged by Brown & Company Planning Group, on behalf of Winton Property Limited, 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 1 October 2020, the Minister for the Environment decided to refer Northbrook Wanaka Retirement Village to an expert consenting panel under section 24 of the Act.
4. On 9 October 2020, Schedule 3 was inserted into the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020 (the “referral order”), by clause 4 of the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order 2020, in order to give effect to the above decision, pursuant to section 26 of the Act.
5. 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 13-16 below.

Project

6. The scope of the project is to construct and operate a retirement village and associated facilities, to undertake ancillary works required and to subdivide land.

Fast-track consenting application process

Legislative context

7. 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).
8. 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.”*
9. 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.”*
10. 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

11. 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	Winton Property Limited is the authorised person under Clause 2 of Schedule 3 of the referral order. Application lodged by Winton Property Limited	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	N/A
	(ii) Schedule 3 and referral order	<p>Yes</p> <p>Schedule 3 of referral order.</p> <p>The Legal Descriptions in the application differ from those in the referral order, due to a change in the legal description since the release of the referral order.</p> <p>The application provides sufficient evidence of this change (in Section 3.2 and Appendix Z), to sufficiently demonstrate that the block of land that the project is to occur on, is the same as the one 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	No proposed activities are classed as prohibited	Accept
	(ii) RMA regulations (including any NES)	No proposed activities are classed as prohibited	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	Activity not to occur in the marine and coastal area.	Accept
Clause 3(1)(a)	Relates solely to 1 or more of the listed	The project is a referred project and is identified in	Accept

	projects or referred projects	Schedule 3 of the referral order	
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Conclusions on preliminary matters

12. 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

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

Appendix 1: Clauses [9-11] / [12]

Resource Consent application for the Northbrook Wanaka Retirement Village

Table 1: Checklist of completeness requirements in Clauses [9-11] / [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 1 – A description of the proposed activity Provides a description of all the various activities associated with the project, and directs to the corresponding appendices.	Yes
Clause 9(1)(b)	A description and map of the site at which the activity is to occur	Yes Section 2 – A description and map of the site at which the activity is to occur.	Yes
Clause 9(1)(c)	Confirmation that the consent application complies with clause 3(1)	Yes Section 3 Section 3.2 also details why the legal description differs	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
		from that in the referral order, with further evidence supplied in Appendix Z	
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 4.1 – The full name and address of each owner of the site and of land adjacent to the site	Yes
	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 4.2 - The full name and address of each occupier of the site and of the land adjacent to the site who, after reasonable inquiry, is able to be identified by the consent applicant	Yes
	Were reasonable inquiries made?	Yes	Yes
Clause 9(1)(e)	A description of any other activities that are part of the proposal to which the consent application relates	N/A Section 5 confirms no other activities relate.	N/A
Clause 9(1)(f)	A description of any other resource consents, notices of requirement for designations, or alterations to designations	N/A Section 6 confirms all relevant resource consents	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
	required for the proposal to which the consent application relates	are being applied for and there are no other consents or notices of requirements required.	
Clause 9(1)(g)	An assessment of the activity against— (i) Part 2 of the RMA	Yes Section 7.1 Part 2 of the RMA	Yes
Section 19	(ii) the purpose of this Act	Yes Section 7.2 Purpose of this Act Appendix Q and Appendix R aide this assessment	Yes
	(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 7.2 Purpose of this Act	Yes
		As above	Yes
	(b) the project's effect on the social and cultural well-being of current and future generations	As above	Yes
	(c) whether the project would be likely to progress faster by using the processes provided by this Act than would otherwise be the case	As above	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) 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.	As above	Yes
	(e) whether there is potential for the project to have significant adverse environmental effects, including greenhouse gas emissions:	As above	Yes
	(f) [for referred projects only] any other matter that the Minister considers relevant.	Yes Section 16, has addressed potential access to the landlocked Sticky Forest ¹	Yes
Clause 9(1)(h)	An assessment of the activity against -- (a) any relevant provisions in a national environmental standard, including:	N/A	N/A

¹ Although, the direction is to the panel and not the applicant to consider this issue.

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 8.1 A national environmental standard Identifies that there are no relevant environmental standards	
	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
	(b) Any relevant provisions in any other regulations made under the RMA, including:	N/A Section 8.2 identifies that are no other relevant regulations	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
	(c) Any relevant provisions in any national policy statement, including:	Yes Section 8.3 identifies that the National Policy Statement for Urban Development is relevant but primarily sets requirements for local authorities.	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
		Assesses that there are no relevant National Policy Statements	
	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
	(d) Any relevant provisions in a New Zealand coastal policy statement, including:	N/A Section 8.4 states not relevant.	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 8.5 and Appendix T	Yes
	i. Any relevant objectives, policies or rules	Yes Appendix T	Yes
	ii. Any requirement, condition, or permission in any rules	N/A	N/A
	iii. Any other requirements	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
	(f) Any relevant provisions in a plan or proposed plan, including:	Yes Section 8.6 and Appendix T	Yes
	i. Any relevant objectives, policies or rules	Yes Section 8.6 and Appendix T	Yes
	ii. Any requirement, condition, or permission in any rules	Yes Section 8.6	Yes
	iii. 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 Section 8.7	Yes
	i. Any relevant objectives, policies or rules	As above	As above
	ii. Any requirement, condition, or permission in any rules	As above	As above
	iii. Any other requirements	N/A	N/A
Clause 9(1)(i)	Information about any Treaty settlements that apply in the project area, including— (i) the identification of the relevant provisions in those Treaty settlements	Yes Section 9.1 identifies that site is not subject to any relevant treaty settlements, but acknowledges that it is	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
		adjacent to “Sticky Forest ² ”, is identified in the Ngāi Tahu Claims Settlement Act	
	(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 Attachment U	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 12	Yes
	(a) an assessment of the actual or potential effects on the environment	Aided by various technical reports appended to 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/N/A Section 12.1.9 – Identifies that the proposal does not include hazardous installations	N/A
	(c) if the activity includes the discharge of any contaminant, a description of—	Yes/N/A	N/A

² Sticky Forest is identified as South Island Landless Natives Act (SILNA) Land.

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
	(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	Section 12.1.9 – Identifies the proposal does not include any discharges of contaminants	
	(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 12.1.9 and Appendix K Aided by proposed conditions of consent (Appendix U)	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 12.1.9 and Appendix W	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/N/A Appendix W has response from Aukaha on behalf of the relevant Papatipu Runanga	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 12.1.9 and Appendix K	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
	(h) an assessment of any effects of the activity on the exercise of a protected customary right	Yes/N/A Section 12.1.9 identifies no protected customary rights will be affected	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 Section 12	Yes
	(a) any effect on the people in the neighbourhood and, if relevant, the wider community, including any social, economic, or cultural effects		
	(b) any physical effect on the locality, including landscape and visual effects	Yes Sections 12.1.3, 12.1.4, 12.1.9 and 12.2 Appendix I	Yes
	(c) any effect on ecosystems, including effects on plants or animals and physical disturbance of habitats in the vicinity	Yes Section 12.2 Identifies that will be no effects on ecosystems and less than minor effects arising from removal of a stand of kanuka	Yes
	(d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or	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
	cultural value, or other special value, for present or future generations	Section 12.2	
	(e) any discharge of contaminants into the environment and options for the treatment and disposal of contaminants	N/A	N/A
	(f) the unreasonable emission of noise	Yes Section 12.2 and Appendix P	Yes
	(g) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.	Yes/N/A Section 12.2 identifies that the proposal does not give rise to natural hazards and does not involve hazardous installations	N/A
Clause 9(5)	Is there a cultural impact assessment? 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 Appendix W sets out a statement of reasons for why one is not provided.	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 permissions for the permitted activity (so that a resource	Yes Section 14.1 and Appendix H	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
	consent is not required for that activity under section 87A(1) of the RMA)		
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/N/A Section 12.2 – identifies site is not in the marine and coastal area.	N/A
Clause 9(6)(c)	In the case of a referred project, all the additional information required by the relevant referral order. [List the additional information here]	N/A	N/A The referral order did not seek any additional information
Clause 12(1)(a)	The position of all new boundaries	Yes Section 15.1 and Appendix D	Yes
Clause 12(1)(b)	The areas of all new allotments, unless the subdivision involves a cross lease, company lease, or unit plan	Yes Section 15.1 and Appendix D	Yes
Clause 12(1)(c)	The locations and areas of new reserves to be created, including any esplanade reserves and esplanade strips	Yes/N/A Section 15.1 identifies no new reserves or esplanades	N/A
Clause 12(1)(d)	The locations and areas of existing esplanade reserves, esplanade strips, and access strips	Yes/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
		Section 15.1 identifies no existing reserves or esplanades	
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	Yes/N/A Section 15.1 identifies no works within the bed of a lake or river	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	Yes/N/A Section 15.1 identifies no works within the coastal marine area	N/A
Clause 12(1)(g)	The locations and areas of land to be set aside as new roads	Yes Section 15.1 identifies there will be new roads, but these will remain in private ownership and will not be vested to Council Appendix F shows locations of new roads	Yes

ENDS