

# COVID 19 Recovery (Fast-track Consenting) Act 2020

## Wooing Tree Estate resource consent application

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M-14 Minute of the Wooing Tree Estate Expert Consenting Panel – 24 September 2021

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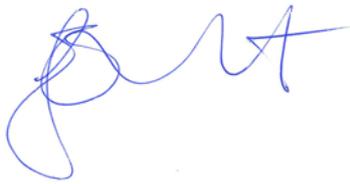
### Withholding information under the Local Government Official Information and Meetings Act 1987

1. On 28 July 2021, Wooing Tree Property Development LP (**the applicant**) responded to comments received from invited parties on the Wooing Tree Estate (**the project**).
2. Part B of the applicant's response included a corporate statement by Sean Haynes. This statement was marked 'confidential' and the applicant provided the EPA a redacted version. A very small quantum of text was redacted.
3. On 29 July 2021, the EPA asked the applicant to provide reasons why the applicant believed the redacted information was confidential and how release of the information would be likely to unreasonably prejudice its commercial position.
4. The applicant responded by email dated 30 July 2021 and provided reasons for their view.
5. Clause 10 of Schedule 5 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (**the Act**) states that a panel must regulate its own procedure as it thinks appropriate, without procedural formality, and in a manner that best promotes the just and timely determination of an application.
6. Clause 16 of Schedule 5 of the Act specifies that Part 1 of the Local Government Official Information and Meetings Act 1987(**LGOIMA**) applies, with any necessary modifications, as if a panel were a board of inquiry given authority to conduct a hearing under section 149J of the Resource Management Act 1991.
7. With reference to Part 1 of the LGOIMA, this means that in general, information held by the panel is to be made available unless there is good reason for withholding it.<sup>1</sup> The reasons for withholding information are set out in sections 6 and 7 of the LGOIMA. In the context of material received by a panel as part of a hearing, clause 21(10) of Schedule 6 of the FTCA provides:  
*(10) A panel may, in its discretion, make an order that prohibits or restricts the publication or other means of communication of information supplied to the panel or obtained by it in the course of a hearing.*
8. Subclause 21(10) specifically relates to information received in the course of a hearing. Any information held or received by a panel other than in the course of a hearing (including for proceedings where no hearing is held) is also subject to the provisions of Part 1 of the LGOIMA by virtue of clause 16 of Schedule 5.

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<sup>1</sup> Section 5 of the LGOIMA.

9. Clause 21(11) of Schedule 6 makes clear that sections 6 and 7 apply to the exercise of a discretion under clause 21(10):  
*(11) Subclause (10) applies whether or not the information is material to determining a consent application or notice of requirement if there would be good reason to withhold the information under section 6 or 7 of the Local Government Official Information and Meetings Act 1987.*
10. The Panel, in exercising its discretion under cl 21(10), must consider whether there are grounds for withholding the information under sections 6 or 7 of the LGOIMA.
11. Part 1 of the LGOIMA includes section 7(2)(b)(ii), which provides that good reason exists for withholding information where making the information available would be likely unreasonably to prejudice the commercial position of the person who supplied or is the subject of the information<sup>2</sup>, and this is not outweighed by the public interest in making that information available.
12. The Panel convened on 5 August 2021 to consider the request from the applicant.
13. Having carefully considered the reasons provided by the applicant, the information they wish to be withheld and the public interest in the information, the Panel has determined that good reasons exist for withholding the redacted information (on the basis making the information available would be likely unreasonably to prejudice the commercial position of the applicant) which are not outweighed by the public interest.
14. The EPA is to publish a redacted version of the corporate statement on the EPA website.



Jeremy Brabant  
Chairperson

Wooring Tree Estate Expert Consenting Panel

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<sup>2</sup> s 7(1) and (2)(b)(ii) LGOIMA