



FTC#37 Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decision on:

Application 2020-23 – Wooing Tree Estate

Date Submitted:	14 January 2021	Tracking #: 2020-B-07298	
Security Level	In-Confidence	MfE Priority:	Urgent

	Action sought:	Response by:
To Hon David Parker, Minister for the Environment	Decision	TBA

Actions for Minister's Office Staff	Return the signed briefing to MfE.
Number of appendices and attachments	<p>Titles of appendices and attachments (ie separate attached documents):</p> <ol style="list-style-type: none"> 1. Application for a project to be referred to an expert consenting panel and further information received 2. Stage 1 Briefing Note and Decision 3. Statutory Framework for making decisions 4. Draft Notice of Decision Letter to Tattico, on behalf of Wooing Tree Property Development LP 5. Section 17 Report 6. Comments received from Ministers, Local Authorities and Waka Kotahi NZ Transport Agency

Ministry for the Environment contacts

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FTC#37: Application for referred projects under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decision

Key Messages

1. This briefing relates to the application received under section 20 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the FTCA) from Wooing Tree Property Development LP for referral of the Wooing Tree Estate project (the Project).
2. The Project is located at 64 Shortcut Road, corner of State Highway 8B (SH8B) and State Highway 6, Cromwell, Otago, approximately 800 metres away from the Cromwell town centre.
3. The Project involves construction and operation of a staged residential subdivision of 276 lots, residential units, a hospitality/neighbourhood centre, cellar door facility for Wooing Tree Vineyard, travellers' accommodation, and associated works and infrastructure. A copy of the application is included in Appendix 1.
4. This briefing seeks your decision on whether the Project should be referred to an expert consenting panel (panel). This is the second briefing relating to this application. A copy of the first briefing (2020-B-07280) regarding this application is included in Appendix 2.
5. We recommend you accept the application for referral under section 24 of the FTCA and refer the Project to a panel for fast-tracking.

Statutory Framework Summary

6. The statutory framework for making your decision is set out in Appendix 3. You must apply this framework when you are deciding whether to accept all or part of a project for referral to a panel. You may refer all or part of a project if you are satisfied that it meets the referral criteria in section 18, including being satisfied that it will help to achieve the purpose of the FTCA.
7. Even if a project meets the referral criteria in section 18 of the FTCA, section 23(2) of the FTCA permits you to decline to refer a project for any other reason.

Analysis

Issues and Risks

Construction of a new roundabout and underpass

8. The application originally included the construction of a new roundabout and underpass on State Highway 8B. The applicant has subsequently removed these works from the application scope because they are located within Waka Kotahi NZ Transport Agency's (NZTA's) designation and will need to be authorised and undertaken by NZTA.
9. The roundabout and underpass are important because they facilitate better access to the site. The applicant has provided a transportation assessment of the Project that concludes that up to 192 residences could be served from the existing access from Shortcut Road. However, the construction of the new roundabout and underpass would be needed to serve the development of the additional lots. The traffic assessment anticipates that the 192 lots proposed as part of the Project can be developed in advance of the construction of the new

SH8B roundabout and underpass, but the construction works would be a precondition for the development of lots 193 to 276 (276 lots in total).

10. NZTA considers that, subject to finalised funding agreements being reached with the applicant, both the roundabout and the underpass are likely to be constructed and completed in 2021/2022. Taking into account this timeframe it is considered likely that the applicant will be able to develop lots 193 to 276 in a timely manner. However, it is noted that NZTA and the applicant have differing views regarding the funding of the roundabout and underpass. The applicant's view is that the roading work should be jointly funded by them and NZTA. NZTA's position is that the applicant should pay for the design and construction costs and that the roundabout and underpass should form part of this application.
11. NZTA is not a co-applicant on this Project and will not be an authorised person in any referral order. Any approvals it requires to construct the roundabout and underpass will have to be obtained outside the fast-tracking process. On balance, we consider that these issues present a low risk to the viability of the Project. In our view the purpose of the FTCA can be achieved, in particular employment creation and the Project can deliver economic benefits for people and industries affected by COVID-19 as well as public benefits such as increased housing supply, even if the construction of the new roundabout and underpass on SH8B occurs through standard RMA processes. However, the applicant will need to progress discussions with NZTA and may need to volunteer some suitable conditions on this issue in their application to the Environmental Protection Authority. A panel may consider it appropriate to include a condition precedent on any approval requiring the necessary road infrastructure works to occur prior to the development of lots 193-276.
12. The Project also includes formation works, associated with the construction of the new roundabout and underpass on SH8, on land owned by the applicant and outside NZTA's designation.

Consistency with the Central Otago District Plan and Cromwell Spatial Plan

13. Plan change 12 to the Central Otago District Plan (2018) approved a development on the site for 210 residential lots, and a neighbourhood centre with a 10000 square metre maximum floor area. The current proposal seeks a higher density residential development than that enabled by plan change 12.
14. Early in 2018 the Central Otago District Council (CODC) embarked on a masterplanning programme for Cromwell to address how and where to accommodate growth over the next 3 decades (to 'Cromwell 2050'). The Cromwell Community Board adopted Stage 1 of the Cromwell 'Eye to the Future' Masterplan (the Masterplan) in June 2019. Stage 1 is the Spatial Plan that provides a coordinated approach to growth management for Cromwell over the next 30 years.
15. CODC notes that the Cromwell community was highly engaged in the Cromwell Spatial Plan process and that the outcome of this proposal does not entirely align with the plan, particularly the proposed commercial activities. CODC would prefer to implement the Cromwell Spatial Plan in a systematic and planned manner by way of plan changes to the Central Otago District Plan, and is concerned that the fast-track process will potentially 'cut across' this.
16. When considering CODCs comments we note:
 - a. The Cromwell Spatial Plan supports an increase from low to medium/high housing density in this location and changes are yet to be made to the District Plan to implement this development strategy.
 - b. The Project site is within walking distance of the existing Cromwell township.
 - c. Fast-tracking could enable the Project to occur approximately 18 months sooner than if a plan change was needed first.

17. We also note that the National Policy Statement on Urban Development 2020 (NPS-UD) is not directly relevant as the population of Cromwell is less than 10,000. This means Cromwell is not categorised as an “urban environment” other than to the extent that planning decisions would impact on Queenstown (which is a Tier 2 urban environment in the NPS-UD). It is possible that increasing housing supply in Cromwell could ease housing pressures in Queenstown and create employment opportunities for people in Queenstown who have been economically impacted by COVID-19.

Our Advice

18. A summary of our analysis for this application is provided in Table A. Before making your decision, in addition to considering our analysis in Table A, you must consider the application and any further information provided by Wooing Tree Property Development LP (in Appendix 1), the section 17 report (in Appendix 5), local authorities’, Ministers’ and NZTA’s comments (in Appendix 6).
19. As our analysis demonstrates, we consider the Project meets the referral criteria in section 18 and has the potential to achieve the purpose of the FTCA.
20. We recommend you accept the application under section 24 of the FTCA and that the Project be referred to a panel.
21. We consider that a panel should be directed to invite comments from Waka Kotahi NZ Transport Agency on a consent application under section 24(2)(e) of the FTCA. The reasons for this are the applicant acknowledges that the Project will, in time, require the construction of a new roundabout and underpass on State Highway 8B. These works will need to be authorised and undertaken by Waka Kotahi NZ Transport Agency.

Next Steps

22. Once you make your decision on an application, you must give notice of this decision, and the reasons for it, to the applicant and the persons, entities and groups listed in section 25 of the FTCA. We have attached a letter to the applicant based on our recommendations (refer Appendix 4). The Ministry will work with your office to give notice to the persons invited to comment on your behalf.
23. To refer a project, you must recommend that a referral order be made by way of an Order in Council (OIC).
24. Cabinet has agreed that you can issue drafting instructions to PCO without the need for a policy decision to be taken by Cabinet in the first instance¹. Final decisions on an OIC will still be taken to the Cabinet Legislation Committee, followed by Cabinet confirmation.

¹ Following the first OIC, the Minister for the Environment (and Minister of Conservation for projects in the Coastal Marine Area) can issue drafting instructions directly to the Parliamentary Counsel Office. Cabinet has also agreed that a Regulatory Impact Assessment is not required for OIC relating to projects to be referred to a Panel [ENV-20-MIN-0033 and CAB-20-MIN-0353 refer].

Recommendations

1. We recommend that you:

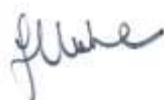
- a. **Note** that section 23(1) of the FTCA requires you to decline an application for referral unless you are satisfied that the project meets the referral criteria in section 18 of the FTCA.
- b. **Note** that if you are satisfied that all or part of a project meets the referral criteria in section 18 of the FTCA you may:
 - i. decline an application for any reason under section 23(2) of the FTCA
 - ii. refer all or part of a project to an expert consenting panel
 - iii. refer the initial stages of a project to the panel while deferring decisions about the project's remaining stages.
- c. **Note** that if you do refer all or part of a project you may:
 - i. specify restrictions that apply to the project
 - ii. specify the information that must be submitted to a panel
 - iii. specify the persons or groups from whom a panel must invite comments
 - iv. set specific timeframes for a panel to complete their process.
- d. **Note** that before deciding to accept an application for referral under section 24(1) of the FTCA you must consider:
 - i. the application
 - ii. the report obtained under section 17
 - iii. any comments received
 - iv. any further information requested and provided within the required timeframe.
- e. **Agree** that the Wooing Tree Estate Project meets the referral criteria in section 18 of the FTCA.

Yes/No
- f. **Agree** that the Wooing Tree Estate Project will help achieve the purpose of the FTCA as it has the potential to:
 - i. directly generate up to 650 FTE jobs from 2021 to 2026 (ie approximately 108 FTE jobs each year), including jobs resulting from the construction of residential units on 276 residential lots. The project will also create ongoing permanent jobs relating to commercial activities (section 19(d)(i))
 - ii. provide economic benefits to people living and working in Central Otago area and the viticulture and construction industries that have been affected by COVID-19 (section 19(a))
 - iii. increase housing supply in an area experiencing rapid growth and housing shortages (section 19(d)(ii))
 - iv. contribute to a well-functioning urban environment given its proximity to the Cromwell town centre and within an area identified in the Cromwell Spatial Plan as being suitable for residential intensification (section 19(d)(iii))
 - v. enable the project to progress faster by using the processes provided by the FTCA than would otherwise be the case (section 19(c)).

Yes/No

- g. **Agree** to refer all of the Wooing Tree Estate Project to an expert consenting panel.
Yes/No
- h. **Agree** that an expert consenting panel be required to invite comments from Waka Kotahi NZ Transport Agency under section 24(2)(e) of the FTCA.
Yes/No
- i. **Agree** to the Ministry for the Environment issuing drafting instructions to the Parliamentary Counsel Office for an Order in Council to refer the Wooing Tree Estate Project to an expert consenting panel in accordance with your decisions recorded herein.
Yes/No
- j. **Sign the attached (Appendix 4)** notice of decision to Tattico, on behalf of Wooing Tree Property Development LP.
Yes/No
- k. **Note** that the Ministry for the Environment is required to publish the decision, the reasons, and the section 17 report on the Ministry for the Environment's website as required by section 25(3) of the FTCA.

Signatures



Sara Clarke
Manager – Fast Track Consenting

Date: 14 January 2021

Hon David Parker
Minister for the Environment

Date:

Table A: Stage 2 - Project Summary Analysis

Project details	Project description	Does all or part of the Project meet the referral criteria in section 18?		Summary of comments received	Does the Project help achieve the purpose of the FTCA (section 19)?	Section 24 assessment
		Is the Project ineligible for referral? (section 18(3a - d))	Section 17 report – summary of key findings			
<p>Project name Wooing Tree Estate</p> <p>Applicant Wooing Tree Property Development LP</p> <p>Location 64 Shortcut Road, Corner SH8b and SH6, Cromwell, Otago</p> <p>Background A resource consent has previously been granted for stage 1 (33 lots) of the proposed subdivision. The applicant has lodged an application with CODC to increase the density for stage 1. However, they will withdraw the application if the Project is referred to a panel.</p>	<p>Construction and operation of a residential subdivision, residential units, a hospitality/neighbourhood centre, cellar door facility for Wooing Tree Vineyard, travellers' accommodation, and associated works and infrastructure in a staged development (around 6 years).</p> <p>The application includes:</p> <ul style="list-style-type: none"> • a subdivision to create 276 residential lots, 3 large lots that can be subdivided further later and 5 rural lots to create a buffer zone • construction of residential units • construction of a hospitality/neighbourhood centre • construction and the operation of a cellar door facility for Wooing Tree Vineyard • construction of travellers' accommodation • formation works (earthworks and other enabling works) required on the site (outside the NZTA designation) to enable NZTA infrastructure upgrades necessary for the Project including for the construction of the new roundabout and the underpass on State Highway 8B • internal roads and pedestrian/cycle access • open space and parks • earthworks • landscaping and associated infrastructure. 	<p>The Project is not ineligible under section 18(3)(a-d) as based on available information:</p> <ul style="list-style-type: none"> • it does not include any prohibited activities • it does not include land returned under a Treaty settlement • the works do not occur in a customary marine title area or protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011. 	<p>The section 17 report identifies Te Rūnanga o Ngāi Tahu (TRoNT) as the relevant iwi authority and Treaty settlement entity.</p> <p>No specific Treaty settlement redress is affected by the proposed project.</p> <p>Full report attached at Appendix 5.</p>	<p>Ministers s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>[Redacted]</p> <p>Local authorities</p>	<p>We consider the Project will help to achieve the purpose of the FTCA as it has the potential to:</p> <ul style="list-style-type: none"> • directly generate up to 650 FTE jobs from 2021 to 2026 (ie approximately 108 FTE jobs each year) which include the construction of 276 residential units. It is important to note that the application includes the construction of 46 residential units as they require land use consent. The construction of another 230 residential units is a permitted activity and does not need resource consents • provide economic benefits to people living and working in Central Otago area and the viticulture and construction industries that have been affected by COVID-19 (section 19(a)) • provide wider economic benefits through ongoing additional permanent jobs (section 19(d)(i)) • increase housing supply in an area experiencing rapid growth and housing shortages (section 19(d)(ii)) • contribute to a well-functioning urban environment given its proximity to the Cromwell town centre and within an area identified in the Cromwell Spatial Plan as being suitable for residential intensification (section 19(d)(iii)) • enable the project to progress faster by using the processes provided by this Act than would otherwise be the case (section 19(c)). <p>Any potential adverse effects arising from the application and mitigation measures can be tested through a panel having regard to Part 2 of the RMA and the purpose of the FTCA (section 4 and clause 31 Schedule 6).</p>	<p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>[Redacted]</p> <p>In response to CODC's comments, we advise:</p> <ul style="list-style-type: none"> • It is acknowledged that CODC has a desire to implement the Cromwell Spatial Plan in a systematic and planned manner by way of future plan changes. The merits of this Project will be assessed by a panel and they have the ability to have regard to the outcomes sought by the Cromwell Spatial Plan, should they consider it relevant and necessary, as an 'other matter' under clause 31(1)(d) Schedule 6, of the FTCA. • CODC's view that a longer project period would deliver more stable economic conditions is also acknowledged, however a key purpose of the FTCA is to urgently promote employment and the proposal is considered to achieve this. <p>In response to NZTA comments, we advise:</p> <ul style="list-style-type: none"> • There are some outstanding agreements to be finalised between the applicant and NZTA, and therefore staging/timing of the delivery of the construction of the roundabout and the underpass is not set. However, it is considered that the Project can provide sufficient certainty of investment in the initial stages to ensure that public benefits will be achieved. In addition, a panel can consider appropriate conditions relating to the staging of the application including a condition precedent requiring the necessary roading infrastructure to be constructed/upgraded before the

Released under the Official Information Act 1982

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				<p>Central Otago District Council (CODC) considers that it is not necessarily appropriate for the Project to be fast-tracked. They note that the Cromwell community were highly engaged in the Cromwell Spatial Plan process and that the fast-track process will potentially 'cut across' this and result in outcomes that are not entirely aligned with the Cromwell Spatial Plan, particularly the commercial activities proposed.</p> <p>Although the Council acknowledges that utilising this site for medium to high density residential area will help to accommodate the future population growth of the area, they note that they will be working to implement the Cromwell Spatial Plan in a systematic and planned manner by way of plan changes expected to be programmed for the 2021/2022 financial year onwards. The council notes that dust and noise complaints relating to Stage 1 of the applicants' development have been received and notes the Project could exacerbate dust issues. They also note that the compressed Project duration could result in less stable economic conditions than might otherwise be the case due to higher annual investment over the short term and a subsequent drop off in labour at project completion.</p> <p>Otago Regional Council (ORC) considers that there is no reason why this Project could not go through the standard RMA consent process within statutory timeframes and notes that they do not see any significant issues associated with the proposed development. ORC confirms that the applicant holds a consent for taking groundwater from bore G41/0246 and that there is no known compliance history for this site or the applicant generally. ORC notes that earthworks associated with roading, foundations for housing, and other infrastructure may trigger the requirement for consent under the Regional Plan: Water for Otago proposed Plan Change 8.</p> <p>Waka Kotahi NZ Transport Agency (NZTA) NZTA is neutral towards the proposed Project. They note that a significant period of time has been spent assessing the Project and reaching agreements for the development of the site which included a roundabout and underpass, and therefore these previous agreements, which are formalised in the Central Otago District Plan, should be carried over into any new proposal/process. NZTA expects that both the roundabout and the underpass should form part of the application and that the applicant should pay for the design and construction costs of both components. NZTA's preference is that they will construct both the roundabout and the underpass</p>		<p>balance 84 residential lots are developed.</p> <p>You did not seek comment from the relevant iwi authority.</p> <p>With respect to the considerations under section 24(2) of the Act, no reasons have been identified in the consultation/assessment process to:</p> <ul style="list-style-type: none"> • limit the scope of the project by referring it only in part • refer the application in stages • place any restrictions on the project • impose specific timeframes for a panel consideration. <p>We recommend that you direct a panel to invite comment from Waka Kotahi NZ Transport Agency (NZTA) under section 24(2)(e) of the FTCA.</p> <p>The applicant acknowledges that the Project will require the construction of a new roundabout and underpass on SH8B. The physical works will need to be authorised and undertaken by NZTA and will be approved and constructed outside the scope of the fast-tracking process. However, roading and other formation works required on the site (outside the NZTA designation) for the construction of the new roundabout and underpass are included as parts of this application.</p> <p>The Section 17 report notes the parties in addition to the relevant iwi authority who we consider a panel should invite to comment on consent applications.</p>

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Project details	Project description	Does all or part of the Project meet the referral criteria in section 18?		Summary of comments received	Does the Project help achieve the purpose of the FTCA (section 19)?	Section 24 assessment
		Is the Project ineligible for referral? (section 18(3a - d))	Section 17 report – summary of key findings			
				<p>after the completion of the construction of another roundabout at the SH6 / SH8B intersection located close to the Wooing Tree site. The construction of the SH 6/SH8B roundabout is expected to begin in March 2021 and NZTA considers that, subject to finalised agreements being reached, both the roundabout and the underpass projects are likely to be constructed and completed in 2021/2022. NZTA notes that if this Project is referred to a panel, NZTA would request comments from the applicant on the following:</p> <ul style="list-style-type: none"> • funding and timing of the construction of the roundabout and the underpass, • traffic effects on Shortcut Road, • connections from the proposed commercial area to SH8B, • the connection between Shortcut Road and the roundabout, • proximity of the shared space for pedestrians and cyclists to the roundabout and any resulting safety concerns, and • the width of internal roading to accommodate any future public transport eg buses. <p>All responses received by parties invited to comment are attached at Appendix 6.</p>		

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Schedule of Appendices and Attachments

Appendix 1 – Wooing Tree application and further information received

Appendix 2 – Stage 1 Briefing Note and Decision

Appendix 3 – Statutory Framework for making decisions

Appendix 4 – Draft Notice of Decision letter to Tattico, on behalf of Wooing Tree Property Development LP

Appendix 5 – Section 17 Report

Appendix 6 – Comments received from Ministers, Local Authorities and Waka Kotahi NZ Transport Agency

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