



## FTC#169 Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions:

### Application 2022-092 The Yards Project

Date submitted:	2 November 2022	Tracking #: BRF-2257	
Security level	In-Confidence	MfE priority:	Urgent

	<b>Action sought:</b>	<b>Response by:</b>
To Hon David Parker, Minister for the Environment	Decisions on recommendations	To be advised

Actions for Minister's Office staff	<p><b>Return</b> the signed briefing to MfE.</p> <p><b>Send</b> the attached notice of decisions letter (if signed).</p>
Number of appendices: 7	<p>Appendices:</p> <ol style="list-style-type: none"> <li>The Yards Project application and further information received (Databox link)</li> <li>Stage 1 Briefing Note and decisions (Databox link)</li> <li>Statutory framework for making decisions (Databox link)</li> <li>Draft Notice of Decisions letter to The Cardrona Cattle Company Limited</li> <li>Section 17 Report (Databox link)</li> <li>Comments received from Ministers, Queenstown Lakes District Council, Otago Regional Council, Transpower New Zealand Limited and Waka Kotahi New Zealand Transport Agency (Databox link)</li> <li>Further information received post-consultation (Databox link).</li> </ol>

### Ministry for the Environment contacts

Position	Name	Cell phone	1 <sup>st</sup> contact
Principal Author	Max Gander-Cooper		
Acting Manager	Madeleine Berry	s 9(2)(a)	✓
Director	Caroline Hart	s 9(2)(a)	

## FTC#169: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions

### Key messages

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1. This briefing seeks your final decisions on the application received under section 20 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) from The Cardrona Cattle Company Limited to refer The Yards Project (project) to an expert consenting panel (panel). A copy of the application is in Appendix 1.
2. This is the second briefing on this application. The first (Stage 1) briefing (BRF-1867) with your initial decisions annotated is in Appendix 2.
3. The project is to subdivide a 37.3-hectare site at 186 Victoria Flats Road, Gibbston, Otago, to create approximately 59 lots and to develop those lots for a range of rural industrial, industrial and service activities. The project will include:
  - a. construction and operation of a storage facility involving approximately 338 storage units and associated facilities
  - b. construction and operation of a resource recovery park including recycling centre, demolition yard and building materials recycling and resales yard
  - c. construction of buildings with a ground floor area of up to 600 square metres per lot and a maximum height of 8 metres, on approximately 50 of the lots, and associated operation of rural industrial, industrial and service activities
  - d. construction of supporting infrastructure including roads, vehicle accessways and three-waters services.
4. We note that the construction and operation of the resource recovery park and buildings (referred to in b and c above) are intended to be undertaken by parties other than the applicant.
5. The project will involve activities such as:
  - a. subdividing land
  - b. removing vegetation
  - c. carrying out earthworks (including disturbing contaminated soils)
  - d. diverting and discharging stormwater (which may contain contaminants) onto land
  - e. taking, diverting and discharging groundwater associated with construction onto land
  - f. taking groundwater for potable and commercial water supply
  - g. discharging treated wastewater onto land
  - h. constructing and operating rural industrial, industrial and service activity buildings and ancillary structures
  - i. constructing or installing infrastructure or structures associated with the development, including roads, vehicle accessways and three-waters services
  - j. carrying out any other activities that are:
    - i. associated with the activities that are described in a to i; and
    - ii. within the project scope as described in paragraph 3.

6. The project will require subdivision and land use consents under the Proposed Queenstown Lakes District Plan (PQLDP) and Operative Queenstown Lakes District Plan (OQLDP), discharge and water permits under the Regional Plan: Water for Otago, and resource consents under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F) and Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soils to Protect Human Health) Regulations 2011 (NES-CS).
7. The project site is zoned Rural and Gibbston Character zone under the OQLDP and PQLDP, and the project has overall non-complying activity status because it involves undertaking industrial activities in these zones. Accordingly, a panel would be required to consider whether any resource consent application for the project meets at least one of the 'gateway tests' in section 104D of the Resource Management Act 1991 (RMA). The applicant considers that the project can pass both these 'gateway tests'.
8. The purpose of the Rural zone is to enable farming activities and provide for appropriate other activities that rely on rural resources while protecting, maintaining and enhancing landscape values, ecosystem services, nature conservation values, the soil and water resource and rural amenity. The purpose of the Gibbston Character zone is to provide primarily for viticulture and commercial activities with an affiliation to viticulture within the confined space of the Gibbston Valley.
9. Queenstown Lakes District Council (QLDC) and Waka Kotahi New Zealand Transport Agency (Waka Kotahi) both opposed project referral and considered it would be more appropriate for the project to go through a plan change process under the RMA. QLDC noted specific concerns relating to inconsistency with the purpose of the Rural and Gibbston Character zones, and effects on productive land, landscape values, and State Highway 6. Transpower New Zealand Limited (Transpower) did not oppose project referral but raised concerns that the applicant had not sufficiently assessed the project against the National Policy Statement on Electricity Transmission 2008 (NPS-ET).
10. We note that the zoning of the project site under the PQLDP is subject to a live appeal<sup>1</sup> from the applicant to the Environment Court, and QLDC are currently processing a resource consent application<sup>2</sup> for the storage facility component of this project. We do not consider that the referral application should be declined by reason of either of these matters, as addressed below in paragraphs 46 to 49.
11. We consider the reasons to refer or decline the project are finely balanced, however we consider the project meets the purpose of the FTCA and the concerns raised by QLDC, Waka Kotahi and Transpower can be determined by a panel. We consider there is a risk to the applicant that a panel may not approve the consent applications given the project could be determined to be inconsistent with the relevant local policy framework and the National Policy Statement for Highly Productive Land 2022 (NPS-HPL). These matters are discussed in the issues and risks section below (from paragraph 36).
12. We recommend you accept the referral application under section 24 of the FTCA and refer the project to a panel for fast-track consenting. We seek your decision on this recommendation and on recommendations for directions to the applicant and a panel, and notification of your decisions.

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<sup>1</sup> ENV-2021-CHC-034

<sup>2</sup> RM220327

## Assessment against statutory framework

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13. The statutory framework for your decision-making is set out in Appendix 3. You must apply this framework when you are deciding whether or not to accept the application and when deciding on any further requirements or directions associated with project referral.
14. Before accepting the application, you must consider the application and any further information provided by the applicant (in Appendix 1), the Section 17 Report (in Appendix 5) and comments from Ministers, QLDC, Otago Regional Council (ORC), Transpower and Waka Kotahi (in Appendix 6). Following that, you may accept the application if you are satisfied that it meets the referral criteria in section 18 of the FTCA. We provide our advice on these matters below.
15. We have also considered if there are any reasons for declining the project, including the criteria in section 23(5) of the FTCA, and provide our advice on these matters to assist your decision-making.

### Further information provided by applicant

16. In response to a request under section 22 of the FTCA the applicant provided further information on the number of jobs to be created and the land included within the project site. We also received further information from the applicant regarding the nature of businesses which may establish on the lots to be created under the project, the status of an existing resource consent application lodged with QLDC and the status of an appeal on the PQLDP. We have taken this information into account in our analysis and advice.

### Section 17 report

17. The Section 17 Report indicates that Te Rūnanga o Ngāi Tahu is the sole iwi authority and Treaty settlement entity relevant to the project area.
18. The Section 17 Report outlines redress provided under the Ngāi Tahu Treaty settlement including acknowledgements and apologies relating to recognition of rangatiratanga which have implications for engagement and participation of Ngāi Tahu in resource management decision-making.
19. The Ngāi Tahu settlement does not create any co-governance or co-management processes that would affect decision-making under the RMA for the project.

### Comments received

20. Comments were received from s 9(2)(f)(ii), s 9(2)(g)(i) QLDC, ORC, Transpower and Waka Kotahi. The key points of relevance to your decision are summarised in Table A.
21. s 9(2)(f)(ii), s 9(2)(g)(i)

s 9(2)(f)(ii), s 9(2)(g)(i)

22. s 9(2)(f)(ii), s 9(2)(g)(i)

23. s 9(2)(f)(ii), s 9(2)(g)(i)

24. s 9(2)(f)(ii), s 9(2)(g)(i)

25. QLDC opposed project referral and considered it would be more appropriate for the project to be considered under a plan change process under the RMA to enable key strategic planning questions to be considered. QLDC considered the intensity of development proposed is incompatible with the Rural and Gibbston Character zones and that the project meets the definition of urban development and should not occur outside the 'Urban Growth Boundary' identified under the OQLDP and PQLDP. QLDC also noted that there is sufficient industrial capacity zoned in the PQLDP to meet short-medium term demand, and the project site is not identified in the Queenstown Lakes Spatial Plan 2021 (QLSP) for industrial land use.
26. QLDC also raised concerns that the project may have adverse effects on State Highway 6, and on landscape values as part of the wider site (not proposed for development) is located within an area recognised as an Outstanding Natural Landscape (ONL) in the OQLDP and PQLDP. QLDC also noted that the land in the project site is suitable for viticulture, and the loss of this productive land may be a significant issue.
27. ORC neither supported nor opposed project referral, but considered the project could be assessed under a standard consenting process under the RMA. ORC noted that if the project is referred you should require the applicant to provide assessments which address the location of discharges relative to surface water bodies and the effect on those water bodies, stormwater management, the requirements of the NES-F, effects on the ONL and any reverse sensitivity effects on the nearby landfill. We consider these reports are generally covered by the requirements of clause 9 Schedule 6 of the FTCA but recommend you require the applicant to submit to a panel certain specific information, as detailed in Table A, to assist with consideration of the application by a panel.
28. Waka Kotahi opposed project referral and considered the project should go through a plan change process under the RMA. Waka Kotahi raised concerns that the project lacks certainty of integration with the wider transport network, has no viable public transport options and will require people to travel by private vehicles which is inconsistent with the Government Emissions Reduction Plan<sup>3</sup>. Waka Kotahi requested that if the project is referred, you require the applicant to provide an integrated transport assessment with their resource consent applications to a panel, and direct a panel to invite comment from them.

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<sup>3</sup> Te hau mārohi ki anamata Towards a productive, sustainable and inclusive economy. AOTEAROA NEW ZEALAND'S FIRST EMISSIONS REDUCTION PLAN

29. Transpower did not oppose project referral and noted that the project site is traversed by the Cromwell to Frankton A electricity transmission line, which is the sole National Grid line to Queenstown and provides the bulk of the electricity supply to the district. Transpower noted there is potential for significant adverse effects from the project if development around the transmission line is not appropriately designed, constructed and undertaken. Transpower also noted that the NPS-ET is relevant to the project, has not been considered by the applicant, and the project has the potential to be inconsistent with the NPS-ET. Transpower considered these issues could be addressed through appropriate resource consent conditions.

### **Section 18 referral criteria**

30. You may accept the application for project referral if you are satisfied that the project does not include ineligible activities (section 18(3)) and will help to achieve the purpose of the FTCA (section 18(2)).

31. The project does not include any ineligible activities, as explained in Table A.

32. The matters that you may consider when deciding if a project will help achieve the purpose of the FTCA are in Section 19 of the FTCA. Our assessment of these matters is summarised in Table A. We consider the project will help achieve the purpose of the FTCA, and thus meet the requirements of section 18(2), as it has the potential to:

- a. generate employment by creating approximately 103 full-time equivalent (FTE) jobs related to land development and construction of the storage facility and enable 241 FTE jobs over an 18-month construction period and enable approximately 451 ongoing FTE jobs
- b. enable waste minimisation through resource recovery and diversion of waste from landfill
- c. progress faster than would otherwise be the case under standard RMA process, provided that the applicant lodges their applications for resource consent in a timely manner following project referral.

33. We consider any actual and potential effects arising from the project, together with any measures to avoid, remedy, mitigate, offset or compensate for adverse effects, could be tested by a panel against Part 2 of the RMA and the purpose of the FTCA.

### **Issues and risks**

34. Even if the project meets the referral criteria in section 18 of the FTCA, section 23(2) of the FTCA permits you to decline to refer the project for any other reason.

#### *Section 23 FTCA matters*

35. Section 23(5) of the FTCA provides further guidance on reasons to decline an application, and our analysis of these matters is summarised in Table A. Note that you may accept an application even if one or more of those reasons apply.

36. We have considered whether it would be more appropriate for the project to be considered under standard RMA consenting process, particularly given the wider community may expect the project to be preceded by a plan change, the existing resource consent application referred to in paragraph 22, and the concerns raised by QLDC. The referral application seeks to undertake subdivision for, and establish and operate, industrial and service activities which QLDC considered does not align with the purpose of the relevant zones and is inappropriate to be located outside of the Urban Growth Boundary identified in the OQLDP and PQLDP.

37. The applicant states that there is a shortage of industrial land in the Queenstown Lakes

District, however QLDC considers that the PQLDP provides for sufficient industrial land to meet demand in the short-medium term. We note that the QLSP also identifies areas which will be used to deliver long-term business development capacity needs, and the project site is not in these areas.

38. It therefore appears there is little strategic support for the proposed activities to occur on the project site and the activity may be inconsistent with the purpose of the relevant zones. Given the lack of strategic support for the project in the relevant plans it may be more appropriate for the project to be considered under the processes available under the RMA to enable public participation. However, we have not undertaken a detailed analysis of the project against the relevant policy frameworks as that is better conducted as part of a merits-based assessment that will be completed by a panel with the benefit of appropriate information provided with a resource consent application. With regard to public participation, if you decide to refer the project, a panel must invite comments from adjacent landowners and occupiers under clauses 17(6)(g) and 17(6)(h) Schedule 6 of the FTCA, and can invite comments from any person they consider appropriate (clause 17(8) Schedule 6 of the FTCA) so may consult as widely as they consider appropriate.
39. We agree with QLDC and Waka Kotahi that the project would benefit from a plan change process where broader consideration of strategic planning matters may occur. However, the FTCA does not preclude referral of the project for this reason.
40. The project has non-complying activity status under the OQLDP and PQLDP, meaning that (under clause 32 Schedule 6 of the FTCA) a panel would be required to consider whether any resource consent application for the project meets at least one of the two 'gateway tests' in section 104D of the RMA. The applicant considers the project can pass both gateway tests and no parties invited to comment have identified section 104D as a barrier to the project obtaining consent. We consider this matter, along with how the project aligns with the policy framework in the OQLDP and PQLDP can be appropriately determined by a panel and therefore we do not consider that you should decline the referral application on this basis.
41. Transpower identified that the applicant has not provided information on how the project aligns with the NPS-ET. The Cromwell to Frankton A Line traverses the project site and the applicant has not proposed any measures to manage reverse sensitivity effects or to ensure access to the line for maintenance, upgrading and development, which may fail to give effect to the NPS-ET. Transpower considered this issue can be addressed through appropriate consent conditions, and we agree with Transpower's assessment.
42. The NPS-HPL came into force on 17 October 2022. As the referral application was lodged in June 2022, the applicant has not provided an assessment of the project against the NPS-HPL. However, if you decide to refer the project the applicant needs to undertake such an assessment and a panel must have regard to any relevant provisions of the NPS-HPL when considering a consent application for the project.
43. The majority of the land area proposed for development is identified as Land Use Capability Class 3 and therefore is likely to meet the definition of 'highly productive land'<sup>4</sup> under the

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<sup>4</sup> Until a regional policy statement contains maps of highly productive land, each territorial authority and consent authority must apply the NPS-HPL as if references to 'highly productive land' were references to land that, at the commencement date: (a) is (i) zoned general rural or rural production; and (ii) LUC 1,2, or 3 land; but (b) is not: (i) identified for future urban development; or (ii) subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.

Under the NPS-HPL, 'identified for future urban development' means: (a) identified in a published Future Urban Development Strategy as land suitable for commencing urban development over the next 10 years; or (b) identified: (i) in a strategic planning document as an area suitable for commencing urban development in the next 10 years; and (ii) at a level of detail that makes the boundaries of the area identifiable in practice.

NPS-HPL. However, we are not in a position to provide advice on whether the project is consistent with the NPS-HPL as we have not completed a detailed analysis. We consider that the project's consistency with the NPS-HPL is a matter that is more appropriately determined by a panel and the referral application should not be declined for this reason.

44. On this basis, if you decide to refer the project, we recommend you require the applicant to submit to a panel an assessment of the productive capacity of the land, as set out in the recommendations below. We also note that a consent application is required to include an assessment of the activity against any relevant provisions of a national policy statement (clause 9(1)(h), Schedule 6 of the FTCA).

*Other matters*

45. We have identified issues further to the matters identified above and our analysis of these is in Table A.
46. The applicant has applied to QLDC for a resource consent to construct and operate a storage facility over part of the project site (which is also part of this project), which was publicly notified and received five submissions, one in opposition and four seeking amendments. A hearing for this application is expected to occur on 28 October 2022. QLDC has prepared a report under section 42A of the RMA recommending that the application is granted. The s 9(2)(f)(ii), s 9(2)(g)(i) [REDACTED] we consider that it could be appropriate to refer the project while excluding the component which is subject to a QLDC application, as the balance of the project would still achieve the purpose of the FTCA by creating and enabling employment more quickly that would be the case under the RMA. We note that if the component subject to the QLDC application is excluded, the balance of the project will create 19 jobs in land development and enable 241 jobs associated with construction of the resource recovery yards.
47. However, the FTCA expressly anticipates a resource consent application for the same, or substantially the same, activity may be processed under the RMA process at the same time as an application for referral will be processed. If you decide to refer the project and QLDC has not determined the resource consent application by the time the applicant lodges a resource consent application for the project with the EPA, the applicant must withdraw the resource consent application. Alternatively, you may also refer the project while excluding the component of the project subject to RM220327.
48. If the project is referred we recommend that you require a panel to invite comments from the parties who submitted on RM220327. A panel can also invite comments from any other parties it considers relevant.
49. The applicant submitted on the PQLDP seeking that land including the project site is zoned industrial. QLDC refused the request to rezone the site and the applicant has appealed this decision to the Environment Court. A hearing on this appeal is not expected until April 2023, with decisions anticipated potentially in July 2023 or later. Three parties have joined the appeal, two in support and one in opposition. Referring the project will not affect the ongoing Environment Court process.
50. We note that one of your reasons for declining the Northbrook Arrowtown Retirement Village Project was because the site was part of an area subject to a rezoning proposal before the Environment Court, and there was significant public interest in the outcome of the appeal. In relation to The Yards appeal, only three parties have joined, and two are in support. This indicates that there is likely to be less public interest in the outcome of this appeal than there was in the outcome of the Northbrook Arrowtown appeal. There is no certainty as to the outcome of the appeal and delivery of the project is not reliant on the outcome of the appeal. Therefore we do not consider that the referral application should be declined or delayed while the separate appeal process is being determined.

51. We note comments from QLDC and Waka Kotahi that indicate the project is out-of-sequence with respect to planned urban development in the Queenstown Lakes District. We consider that proceeding via a resource consent process in advance of re-zoning is generally not regarded as good planning practice because it raises risk of poorly integrated development. However, the FTCA does not preclude referral of the project for this reason and the project provides an opportunity to generate employment and enable industrial use of land in an area which the applicant indicates has a high demand for light/rural industrial land. Therefore, we do not consider that you should decline the referral application on the basis that it does not have a plan change underway to re-zone the project site.

## Conclusions

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52. We do not consider you should decline the referral application in whole or in part on the basis of the risks and issues identified above, provided the applicant provides appropriate information (including the information we recommend you specify) to a panel. You could accept the application under section 24 of the FTCA and refer the project to a panel. We note there is a risk to the applicant that a panel may not approve the consent applications given the project could be determined to be inconsistent with the relevant local policy framework and the NPS-HPL noted above. We consider these matters can be appropriately determined by a panel and therefore we do not consider that you should decline the referral application on this basis.

53. If you decide to refer the project, we consider you should specify under section 24(2)(d) of the FTCA (as requested in comments) that the applicant must submit the following information to a panel with their consent applications, in addition to the requirements of clause 9 of Schedule 6 of the FTCA:

- a. an assessment of the effects of the proposed development on the visual quality and amenity of the local landscape
- b. an assessment of the effects of any discharge arising from the project and the resulting development on surface water bodies, and any measures to mitigate those adverse effects
- c. an integrated transport assessment
- d. a transport infrastructure assessment
- e. a stormwater assessment
- f. an assessment of the effects of the project on historic heritage
- g. an assessment of the transport-related greenhouse gas emissions arising from the project.
- h. a land productivity assessment

54. The above information will inform a panel's assessment of the project's effects and whether to invite comments from any additional persons or groups. This does not preclude a panel from requiring the applicant to provide any additional information on any application lodged with the EPA under the FTCA.

55. If you decide to refer the project, we consider you should specify under section 24(2)(e) of the FTCA that a panel must invite comments on consent applications for the project from the following parties:

- a. Waka Kotahi New Zealand Transport Agency
- b. Aukaha (1997) Limited

- c. Te Ao Mārama Incorporated
- d. the submitters on resource consent application RM220327 by The Cardrona Cattle Company Limited
- e. Transpower New Zealand Limited.

## Next steps

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- 56. If you decide to refer the project, you must give notice of your decisions on the referral application, and the reasons for them, to the applicant, anyone invited to comment under section 21, and the persons, entities and groups listed in section 25(2) of the FTCA. We consider you should also give the notice of decisions together with a copy of the application to Aukaha (1997) Limited, Te Ao Mārama Incorporated and the submitters on resource consent application RM220327.
- 57. If you decide to decline project referral, you must give the notice of your decisions, and the reasons for them, to the applicant and anyone invited to comment under section 21.
- 58. We have attached a notice of decisions letter to the applicant based on our recommendations (refer Appendix 4). We will provide you with an amended letter if required. Once you have signed the letter we will assist your office to copy it to all relevant parties.
- 59. To refer the project, you must recommend that a referral order be made by way of an Order in Council (OIC). Cabinet has agreed that you can issue drafting instructions to the Parliamentary Counsel Office without the need for a policy decision to be taken by Cabinet in the first instance.<sup>5</sup>
- 60. As required by section 25(3) of the FTCA, you must ensure that your decisions on the referral application, the reasons and the Section 17 report are published on the Ministry for the Environment's website. We will undertake this task on your behalf in accordance with your direction.
- 61. Our recommendations for your decisions follow.

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<sup>5</sup> 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 an OIC relating to projects to be referred to a panel [ENV-20-MIN-0033 and CAB-20-MIN-0353 refer].

## Recommendations

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62. We recommend that you:

- a. **Note** section 23(1) of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) requires you to decline the referral application from The Cardrona Cattle Company Limited unless you are satisfied that The Yards Project (project) meets the referral criteria in section 18 of the FTCA including that it would help to achieve the FTCA's purpose.
- b. **Note** when assessing whether the project would achieve the FTCA's purpose, you may consider a number of matters under section 19, including the project's economic benefits and costs, and effects on social or cultural well-being; whether it may result in a public benefit (such as generating employment or increasing housing supply); and whether it could have significant adverse effects.
- c. **Note** before deciding to accept the application for project referral under section 24(1) of the FTCA you must consider:
  - i. the application
  - ii. the report obtained under section 17 of the FTCA
  - iii. any comments and further information sought and provided within the required timeframe.
- d. **Note** if you are satisfied that all or part of the project meets the referral criteria in section 18 of the FTCA you may:
  - i. refer all or part of the project to an expert consenting panel (panel)
  - ii. refer the initial stages of the project to a panel while deferring decisions about the project's remaining stages
  - iii. still decline the referral application for any reason under section 23(2) of the FTCA.
- e. **Note** if you do refer all or part of the 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.
- f. **Note** Queenstown Lakes District Council and Waka Kotahi New Zealand Transport Agency opposed project referral.
- g. **Agree** the project meets the referral criteria in section 18(3) of the FTCA.

Yes/No
- h. **Agree** the project will help achieve the purpose of the FTCA (and therefore meets the referral criteria in section 18(2) of the FTCA) as it has the potential to:
  - i. generate employment by creating approximately 103 full-time equivalent (FTE) jobs related to land development and construction of the storage facility and enable 241 full-time equivalent jobs over an 18-month construction period and enable approximately 451 ongoing full-time equivalent jobs
  - ii. enable waste minimisation through resource recovery and diversion of waste

from landfill

- iii. progress faster than would otherwise be the case under standard Resource Management Act 1991 (RMA) process, provided that the applicant lodges their applications for resource consent in a timely manner following project referral.

Yes/No

- i. **Agree to refer** all of the project to a panel.

Yes/No

- j. **Agree** to specify under section 24(2)(d) of the FTCA that the applicant must submit the following additional information that the applicant must submit with any resource consent application lodged with the Environmental Protection Authority:

- i. an assessment of the effects of the proposed development on the visual quality and amenity of the local landscape
- ii. an assessment of the effects of any discharge arising from the project and the resulting development on surface water bodies, and any measures to mitigate those adverse effects
- iii. an integrated transport assessment
- iv. a transport infrastructure assessment that:
  - 1. identifies the existing condition and capacity of State Highway 6 to service traffic associated both the project while it is carried out and the resulting development
  - 2. identifies any upgrades to State Highway 6 that are required to service that traffic
  - 3. identifies any funding required to carry out those upgrades (including who will provide that funding)
  - 4. contains information on any discussions held, and any agreements made between the applicant and QLDC or Waka Kotahi (or both) about transport infrastructure (including discussions and agreements about the matters referred to in subparagraphs (i) to (iii))
- v. the following information relating to stormwater management:
  - 1. a stormwater assessment
  - 2. a draft stormwater management plan
  - 3. information on any discussions held, and any agreements made, between the authorised person and Queenstown Lakes District Council about stormwater management
- vi. a heritage assessment that assesses how adverse effects on historic heritage that may result from the proposed development will be avoided, remedied, or mitigated
- vii. an assessment of the transport-related greenhouse gas emissions arising from the project
- viii. an assessment of the productive capacity of the land within the project site.

Yes/No

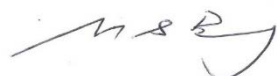
- k. **Agree** to specify under section 24(2)(e) of the FTCA that a panel must invite comments from the following persons or groups in addition to those specified in clause 17 of Schedule 6 of the FTCA:
- i. Waka Kotahi New Zealand Transport Agency
  - ii. Aukaha (1997) Limited
  - iii. Te Ao Mārama Incorporated
  - iv. the submitters on resource consent application RM220327 by The Cardrona Cattle Company Limited
  - v. Transpower New Zealand Limited
- Yes/No
- l. **Agree** to copy the application and notice of decisions to the following parties additional to those specified in section 25 of the FTCA:
- i. Aukaha (1997) Limited
  - ii. Te Ao Mārama Incorporated
  - iii. the submitters on resource consent application RM220327 by The Cardrona Cattle Company Limited
- Yes/No
- m. **Agree** to the Ministry for the Environment issuing drafting instructions to the Parliamentary Counsel Office for an Order in Council to refer the project to a panel in accordance with your decisions recorded herein.
- Yes/No
- n. **Sign** the notice of decisions letter to the applicant (attached in Appendix 4).
- Yes/No

- o. **Require** the Ministry for the Environment to publish your decisions, reasons and the Section 17 report on the Ministry for the Environment's website.

Yes/No

## Signatures

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Madeleine Berry  
**Acting Manager – Fast-track Consenting**

Hon David Parker  
**Minister for the Environment**

**Date:**

**Table A: Stage 2 - Project summary and section 24 FTCA assessment for projects where the Minister for the Environment is the sole decision maker**

Project details	Project description	Does all or part of the project meet the referral criteria in section 18?		Summary of comments received <i>(Note: for analysis and/or recommended responses to these comments refer to column 7)</i>	Section 23 assessment – potential reasons for declining	Referral conclusions & recommendations
		Project eligibility for referral (section 18(3)(a)–(d))	Section 18(2) - does the project help achieve the purpose of the FTCA (as per section 19)?			
<p><b>Name</b> The Yards Project</p> <p><b>Applicant</b> The Cardrona Cattle Company Limited</p> <p><b>Location</b> 186 Victoria Flats Road, Gibbston, Otago</p>	<p>The project is to subdivide a 37.3-hectare site at 186 Victoria Flats Road, Gibbston, Otago, to create approximately 59 lots and to develop those lots for a range of rural industrial, industrial and service activities. The project will include:</p> <p>a. construction and operation of a storage facility involving approximately 338 storage units and associated facilities</p> <p>b. construction and operation of a resource recovery park including recycling centre, demolition yard and building materials recycling and resales yard</p> <p>c. construction of buildings with a ground floor area of up to 600 square metres per lot and a maximum height of 8 metres, on approximately 50 of the lots, and associated operation of rural industrial, industrial and service activities</p> <p>d. construction of supporting infrastructure including roads,</p>	<p>The project is eligible for referral under section 18(3)(a)–(d) as:</p> <ul style="list-style-type: none"> <li>it does not include any prohibited activities</li> <li>it does not include activities on land returned under a Treaty settlement</li> <li>it does not include activities in a customary marine title area under the Marine and Coastal Area (Takutai Moana) Act 2011</li> <li>it does not include activities in protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011 that would have a more than minor adverse effect on the exercise of the protected customary right.</li> </ul>	<p><b>Economic benefits for people or industries affected by COVID-19 (19(a))</b></p> <p>Based on the information provided by the applicant we consider that the project may result in the following economic benefits:</p> <ul style="list-style-type: none"> <li>create 103 full-time equivalent (FTE) jobs related to land development and construction of the storage facility</li> <li>enable 241 FTE jobs in the construction sector over an 18-month construction period and enable approximately 451 ongoing FTE jobs once the rural industrial, industrial and service activities are operational</li> <li>contribute \$2.4 million to local GDP through land development, and potentially contribute \$114.9 million to GDP through construction and ongoing operation.</li> </ul> <p><b>Economic costs for people or industries affected by COVID-19 (19(a))</b></p> <p>N/A</p> <p><b>Effect on the social and cultural well-being of current and future generations (19(b))</b></p> <p>Based on the information provided by the applicant, we consider the project has potential for positive effects on the social wellbeing of future generations as it will:</p> <ul style="list-style-type: none"> <li>generate employment</li> <li>provide flow-on economic benefits</li> </ul> <p><b>Is the project likely to progress faster by using this Act? (19(c))</b></p> <p>A resource consent application for the storage facility lodged with</p>	<p><b>Ministers</b></p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p><b>Local authorities</b></p>	<p><b>Section 23(5) matters:</b></p> <p><b>Insufficient information (23(5)(a))</b></p> <p>The applicant has provided sufficient information for you to determine whether the project meets the criteria in section 18 of the FTCA.</p> <p><b>More appropriate to go through standard RMA process (23(5)(b))</b></p> <p>We have considered whether it would be more appropriate for the project to be considered under standard RMA consenting process, particularly given the wider community may expect the project to be preceded by a plan change, which allows for full public consultation, the storage facility component of the project was subject to a resource consent application that was publicly notified, and the concerns raised by QLDC. The referral application seeks to undertake subdivision and industrial/commercial activities which QLDC considers do not align with the purpose of the relevant zones or meet the definition of urban development in the PQLDP. While the applicant states that there is a shortage of industrial land in the Queenstown Lakes District, QLDC considered that the PQLDP provides for sufficient industrial land to meet demand in the short-medium term. The QLSP also identifies areas which will be used to deliver long-term business development capacity needs, and the project site has not been identified for this purpose.</p> <p>It therefore appears that there is no strategic support for the proposed activities to occur on the project site and the activity may be contrary to the purpose of the relevant zones. Given the lack of strategic support for the project in the relevant plans it may be more appropriate for the project to be considered under the processes available under the RMA to enable public participation, however we consider that consistency with the local policy framework could be resolved by a panel with the benefit of appropriate information provided with a resource consent application.</p>	<p><b>In response to key comments:</b></p> <ul style="list-style-type: none"> <li>we agree that the applicant should be required to provide a historic heritage assessment with a resource consent application to panel</li> <li>we do not agree that you should require a panel to invite comments from mana whenua as the FTCA already requires this</li> <li>we do not agree that the area of the project site which is subject to the existing resource consent application with QLDC should be excluded from the referral because the applicant has indicated that they will withdraw this application if the project is referred. In addition, a panel can invite comments from submitters on the existing resource consent application</li> <li>we agree that the applicant should provide a greenhouse gas emissions assessment with a resource consent application to a panel</li> <li>we agree that the applicant should be required to provide an assessment against the NPS-ET with a resource consent application to a panel</li> <li>we acknowledge QLDC's concerns that the project should be considered under standard RMA processes, but consider that the issues raised can be resolved by a panel with the benefit of appropriate information.</li> </ul> <p>Although our assessment has noted the project may be inconsistent with the OQLDP and PQLDP and the NPS-ET, you could accept the application under section 24 of the FTCA and refer all of the project to a panel for the following reasons:</p> <ul style="list-style-type: none"> <li>the project may generate employment by creating approximately 325 full-time equivalent (FTE) jobs over an</li> </ul>

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	<p>vehicle accessways and three-waters services.</p> <p>The project will involve activities such as:</p> <p>a. subdividing land</p> <p>b. removing vegetation</p> <p>c. carrying out earthworks (including disturbing contaminated soils)</p> <p>d. diverting and discharging stormwater (which may contain contaminants) onto land</p> <p>e. taking, diverting and discharging groundwater associated with construction onto land</p> <p>f. taking groundwater for potable and commercial water supply</p> <p>g. discharging treated wastewater onto land</p> <p>h. taking groundwater for potable water supply</p> <p>i. constructing and operating rural industrial, industrial and service activity buildings and ancillary structures</p> <p>j. constructing or installing infrastructure or structures associated with the development,</p>		<p>QLDC was publicly notified and five submissions were received: one in opposition and four seeking changes to the application. The applicant advises that they have resolved the issues with the submitters seeking changes and anticipate reaching a solution with the submitter in opposition, although we note this has yet to be resolved. A hearing for this application has been set down for October 2022.</p> <p>The applicant considers that local authorities would likely also process resource consents for the other components of the project under standard Resource Management Act 1991 (RMA) processes on a notified basis and this would likely take 12-18 months to reach a substantive decision and potentially longer if the decision were appealed. We consider that this assessment is reasonable, and the project is therefore likely to progress 12-18 months faster through the FTCA process than would be the case under standard RMA process.</p> <p><b>Will the project result in a public benefit? (19(d))</b></p> <p>Based on the information provided by the applicant we consider that the project may result in the following public benefits:</p> <ul style="list-style-type: none"> <li>generating employment</li> <li>enabling waste minimisation through resource recovery and diversion of waste from landfill</li> </ul> <p><b>Potential to have significant adverse environmental effects, including greenhouse-gas emissions (19(e))</b></p> <p>The applicant advises that the project has potential for adverse environmental effects arising from:</p>	<p>QLDC opposed project referral because it is for a project that satisfies the definition of Urban Development and is not well supported by the PQLDP's higher order strategic objectives and policies.</p> <p>QLDC considers that the proposal comprises Urban Development on account of its overall scale and intensity which will be distinct from rural development, and considers that this is a significant issue because the PQLDP does not envisage Urban Development outside of Urban Growth Boundaries or within the rural environment.</p> <p>QLDC acknowledged challenges associated with the availability and price of land for residential and business purposes within the District, but consider that the PQLDP currently meets the requirements of the National Policy Statement on Urban Development 2020 in regard to providing business development capacity. In particular, there is sufficient industrial development capacity zoned by the PQLDP to meet demand over the short and medium term. The project site was not identified in the PQLSP for an industrial purpose (among others) and is located in a relatively remote location, particularly in comparison to the District's other centres of urban development.</p> <p>QLDC also noted the following matters:</p> <ul style="list-style-type: none"> <li>there is the potential for reverse sensitivity effects on the nearby landfill</li> <li>there are potentially significant effects on the nearby State Highway 6</li> <li>all rural zones in the District are identified as Outstanding Natural Landscapes, and the applicant will need to consider effects on landscape values</li> <li>the Rural and Gibbston Character zones are considered suitable for farming and viticulture respectively and the applicant will need to consider the effects of the loss of potentially productive land</li> <li>applicant will need to consider the effects of discharge from composting and wastewater disposal on the Kawerau River</li> </ul> <p>With regard to other RMA processes, QLDC noted the applicant made a submission to apply an urban industrial zone to the land through Stage 3 of the PQLDP review. This submission was rejected. The applicant is appealing this decision. The relief sought by the appeal is zoning which would enable development similar to the 'larger lot' component of this fast-track application. An evidence exchange timetable would see evidence exchanged during October –December 2022, and a hearing in early</p>	<p>The project has non-complying activity status under the OQLDP and PQLDP, meaning that (under clause 32 Schedule 6 of the FTCA) a panel would be required to consider whether any resource consent application for the project meets at least one of the two 'gateway tests' in section 104D of the RMA. The applicant considers the project can pass both gateway tests and no parties invited to comment have identified section 104D as a barrier to the project obtaining consent. We consider these matters can be appropriately determined by a panel and therefore we do not consider that you should decline the referral application on this basis.</p> <p><b>Inconsistency with a national policy statement (23(5)(c))</b></p> <p>Transpower identified that the applicant has not provided information on how the project aligns with the NPSET. The Cromwell to Frankton A Line traverses the project site and the applicant has not proposed any measures to manage reverse sensitivity effects or to ensure access to the line for maintenance, upgrading and development, which may fail to give effect to the NPSET. Transpower consider that this issue can be address through appropriate consent conditions. We note that clause 9 of Schedule 6 of the FTCA requires the applicant to provide an assessment against all relevant national policy statements.</p> <p>The National Policy Statement on Highly Productive Land 2022 (NPS-HPL) was recently approved by the Governor-General on 12 September 2022 and came into force on 17 October 2022. The applicant has not provided an assessment of the project against the NPS-HPL. However, if you decide to refer the project the applicant needs to undertake such an assessment and a panel must have regard to any relevant provisions of the NPS-HPL when considering a consent application for the project.</p> <p>The site includes land identified as Land Use Capability Class 3 and therefore is likely to meet the definition of 'highly productive land' under the NPS-HPL.</p>	<p>18-month construction period and approximately 451 ongoing FTE jobs</p> <ul style="list-style-type: none"> <li>the project may enable waste minimisation through resource recovery and diversion of waste from landfill</li> <li>the project may progress faster than would otherwise be the case under standard Resource Management Act 1991 (RMA) process, provided that the applicant lodges their applications for resource consent in a timely manner following project referral</li> </ul> <p>We recommend you require the applicant to provide the following information with their resource consent applications to a panel:</p> <ol style="list-style-type: none"> <li>an assessment of the effects of the proposed development on the visual quality and amenity of the local landscape</li> <li>an assessment of the effects of any discharge arising from the project and the resulting development on surface water bodies, and any measures to mitigate those adverse effects</li> <li>an integrated transport assessment</li> <li>a transport infrastructure assessment that: <ol style="list-style-type: none"> <li>identifies the existing condition and capacity of State Highway 6 to service traffic associated both the project while it is carried out and the resulting development</li> <li>identifies any upgrades to State Highway 6 that are required to service that traffic</li> <li>identifies any funding required to carry out those upgrades (including who will provide that funding)</li> <li>contains information on any discussions held, and any agreements made between the</li> </ol> </li> </ol>

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	<p>including roads, vehicle accessways and three-waters services</p> <p>k. carrying out any other activities that are:</p> <p>i. associated with the activities that are described in a to j; and</p> <p>ii. within the project scope as described in paragraph 3.</p> <p>The project will require subdivision and land use consents under the Proposed Queenstown Lakes District Plan (PQLDP) and Operative Queenstown Lakes District Plan (OQLDP), discharge and water permits under the Regional Plan: Water for Otago, and resource consents under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F) and Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soils to Protect Human Health) Regulations 2011 (NES-CS).</p> <p>We note that the construction and operation of the</p>		<ul style="list-style-type: none"> <li>• traffic</li> <li>• reverse sensitivity effects arising from the proximity of the project to the nearby landfill</li> <li>• noise</li> <li>• temporary construction activities</li> <li>• industrial activities</li> </ul> <p>and may include adverse effects on:</p> <ul style="list-style-type: none"> <li>• landscape and natural character values</li> <li>• the National Grid corridor</li> </ul> <p>The applicants have provided some preliminary technical assessments in support of their view that the project will not have any significant adverse effects.</p> <p>We note that you do not require a full Assessment of Environment Effects and supporting evidence to make a referral decision and a panel can consider this and any appropriate mitigation, offsetting, or compensation to manage adverse effects of the development.</p> <p><b>Other relevant matters (19(f))</b> N/A</p>	<p>2023. The applicant is also currently pursuing a version of the 'storage facility' component of the fast-track application by way of resource consent RM220327. This was a publicly notified application and a hearing is in the process of being scheduled for October 2022.</p> <p>ORC saw no reason why the project should not proceed through the standard RMA consenting process, and identified several reports which would normally be required for an application of this type in this location.</p> <p><b>Other parties</b></p> <p>Transpower New Zealand Limited (Transpower) did not oppose project referral but noted that the Cromwell to Frankton A line (the line) traverses the southern portion of the site, as shown on the map at Appendix A. This line is the sole National Grid line to Queenstown, and provides the bulk of the electricity that the district relies upon. Transpower notes that the National Policy Statement on Electricity Transmission 2008 (NPS-ET) is relevant to the project, particularly policy 10, but that the applicant has not identified the NPS-ET as being relevant to the project. Transpower raised particular concerns that:</p> <ul style="list-style-type: none"> <li>• the lot layout indicates that buildings could be built directly under the line – the area and dimensions of a number of lots may be inadequate to facilitate the intended use and avoid buildings directly under or too close to the line</li> <li>• access to the Grid could be prevented, when access for emergency works is required at all times, and access for maintenance at all reasonable times</li> <li>• the intended use of the site for activities would likely involve mobile plant, excavators, forklifts and HIABs, when there is no indication about how these activities would occur safely around the line</li> <li>• planting appears to be proposed close to the line, yet there is no indication that species will be chosen or located taking the line into account. Vegetation grown too close to the conductors or National Grid lines, can cause fire risk, and/or risk of falling into the line.</li> </ul> <p>Transpower noted that they consider the project's potential significant adverse effects, and potential to be inconsistent with the NPS-ET, could be resolved through the imposition of conditions on any consent granted once further information is available about what is intended.</p> <p>Waka Kotahi NZ Transport Agency (Waka Kotahi) opposed project referral because:</p>	<p>However, we are not in a position to provide advice on whether the project is consistent with the NPS-HPL as we have not completed a detailed analysis. We consider that the project's consistency with the NPS-HPL is a matter that is more appropriately determined by a panel and the referral application should not be declined for this reason. We note that clause 9 of Schedule 6 of the FTCA requires the applicant to provide an assessment against all relevant national policy statements.</p> <p><b>Inconsistent with a Treaty settlement (23(5)(d))</b></p> <p>The project is not inconsistent with Treaty Settlement redress.</p> <p><b>Involves land needed for Treaty settlements (23(5)(e))</b></p> <p>The project is located on private land which is not available for Treaty settlement purposes.</p> <p><b>Applicant has poor regulatory compliance (23(5)(f))</b></p> <p>The applicant does not appear to have a poor history of environmental regulatory compliance.</p> <p><b>Insufficient time for the project to be referred and considered before FTCA repealed (23(5)(g))</b></p> <p>There is sufficient time for the project to be referred and considered before the repeal of the FTCA.</p> <p><b>Other issues and risks:</b></p> <p>The applicant has applied to QLDC for a resource consent to construct and operate a storage facility over part of the project site, which was publicly notified and received five submissions, one in opposition and four seeking amendments. A hearing for this application is expected to occur in October 2022. The applicant has indicated that if this referral application is accepted they will withdraw the existing application with QLDC.</p> <p>However, the FTCA expressly anticipates a resource consent application for the</p>	<p>applicant and QLDC or Waka Kotahi (or both) about transport infrastructure (including discussions and agreements about the matters referred to in subparagraphs (i) to (iii))</p> <p>v. the following information relating to stormwater management:</p> <ol style="list-style-type: none"> <li>1. a stormwater assessment</li> <li>2. a draft stormwater management plan</li> <li>3. information on any discussions held, and any agreements made, between the authorised person and Queenstown Lakes District Council about stormwater management</li> </ol> <p>vi. a heritage assessment that assesses how adverse effects on historic heritage that may result from the proposed development will be avoided, remedied, or mitigated</p> <p>vii. an assessment of the transport-related greenhouse gas emissions arising from the project</p> <p>viii. an assessment of the productive capacity of the land within the project site.</p> <p>We recommend you direct a panel to invite comments on any resource consent applications for the project from:</p> <ul style="list-style-type: none"> <li>• Waka Kotahi New Zealand Transport Agency</li> <li>• Aukaha (1997) Limited</li> <li>• Te Ao Mārama Incorporated</li> <li>• the submitters on resource consent application RM220327</li> <li>• Transpower New Zealand Limited</li> </ul> <p>We recommend you provide a copy of the application and the notice of decision to the following parties in addition to those specified in section 25 of the FTCA:</p> <ul style="list-style-type: none"> <li>• Aukaha (1997) Limited</li> </ul>

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	resource recovery park and buildings are intended to be undertaken by parties other than the applicant.			<ul style="list-style-type: none"> <li>the scale and location of the proposal is considered an ad hoc development out of context in the Rural zone</li> <li>the site is remote from Queenstown and Cromwell; if consented it could potentially create a precedent in the area for other industrial activities. There has been no plan change approved to rezone the land and therefore the proposal lacks certainty for future internal transport networks and for the integration with the wider transport network. If approved, it would be an unanticipated development and potentially a poor planning outcome for the area</li> <li>being a remote site with no current viable public transport options, it will generally require people to travel to access the site and for any amenities and services by private vehicles. This is not consistent with the recently released Government Emissions Reduction Plan which is seeking to reduce total kilometres travelled. It could also be inconsistent with the changes to the RMA proposed to align the RMA with the Climate Change Response (Zero Carbon) Amendment Act 2019. The amendments, which will come into effect on 30 November 2022, allow consideration of greenhouse gas emissions in plan making and consenting decisions to align with national direction on climate change management and adaption plans.</li> </ul> <p>All responses received by parties invited to comment are attached in <b>Appendix 6</b>.</p>	<p>same, or substantially the same, activity may be processed under the RMA process at the same time as an application for referral will be processed. If the consent application is granted before you make a decision on the referral application, the applicant will still be able to apply to the EPA for resource consents for the remainder of the project. If you decide to refer the project and QLDC has not determined the resource consent application by the time the applicant lodges a resource consent application for the project with the EPA, the applicant must withdraw the resource consent application.</p> <p>If the project is referred we recommend that you require a panel to invite comments from the parties who submitted on RM220327. A panel can also invite comments from any other parties it considers relevant.</p> <p>The applicant submitted on the PQLDP seeking that land including the project site is identified as an industrial zone. QLDC refused the request to rezone the site and the applicant has appealed this decision to the Environment Court. A hearing on this appeal is not expected until April 2023, with decisions in July 2023 or later. Three parties have joined this appeal, two in support and one in opposition. Referring the project will not affect the ongoing Environment Court process.</p> <p>There is very little certainty as to the outcome of the appeal, therefore we do not consider that the referral application should be declined or delayed while the separate plan change process is being determined.</p> <p>We note comments from QLDC and Waka Kotahi that the project is out-of-sequence with respect to planned urban development in the Queenstown Lakes District. We consider that proceeding via a resource consent process in advance of re-zoning is generally not regarded as good planning practice because it raises risk of poorly integrated development. However, the FTCA does not preclude consideration of the project for this reason and the project provides an opportunity to generate employment and enable industrial use of land in an area which the</p>	<ul style="list-style-type: none"> <li>Te Ao Mārama Incorporated</li> <li>the submitters on resource consent application RM220327</li> </ul>

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					applicant indicates has a high demand for light/rural industrial land. Therefore, we do not consider that you should decline the referral application on the basis that it does not have a plan change in place to re-zone the project site.	