



FTC#16 Applications for referred projects under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decision on:

Application 2020-013 – Kohimarama Comprehensive Care Retirement Village, Auckland

Date Submitted:	24 September 2020	Tracking #: 2020-B-07163	
Security Level	In-Confidence	MfE Priority:	Urgent

	Action sought:	Response by:
To Hon David Parker, Minister for the Environment	Decision	28 September 2020

Actions for Minister's Office Staff	Return the signed report 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. Kohimarama Comprehensive Care Retirement Village – Application Form and Additional Information Received 2. Stage 1 Briefing Note and Decision 3. Section 17 Treaty of Waitangi Report 4. Notice of Decision Letter to Ryman Healthcare Limited 5. Comments received from Ministers, Local Authority and Other Parties

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
Principal Author	Sara Clarke	s 9(2)(a)	
Responsible Manager	Sara Clarke	s 9(2)(a)	✓
Director	Liz Moncrieff	s 9(2)(a)	

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FTC#16: 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 from Ryman Healthcare Limited for the Kohimarama Comprehensive Care Retirement Village (refer to Appendix 1).
2. Having considered the information provided, officials recommend accepting this application and referring it to an expert consenting panel for fast-tracking.
3. This is the second briefing relating to this application. A copy of the first briefing (2020-B-07099) regarding this application is included in Appendix 2.
4. The application is to construct and operate a retirement village and associated activities including independent living apartments and hospital and specialist care facilities.
5. The project is proposed at 223 Kohimarama Road and 7 John Rymer Place, Auckland.
6. As the decision-maker you may now decide whether to accept all or part of a project for referral to an expert consenting panel (Section 24 of the Act) or decline the application (Section 23 of the Act).
7. If you decide to accept an application for referral, you must consider:
 - a. the application; and
 - b. the Treaty of Waitangi report (prepared under section 17); and
 - c. any comments received (under section 21); and
 - d. any further information requested¹ and provided on an application.
8. If you are satisfied that an application meets the referral criteria, you may refer all or part of the project and you may specify restrictions on the project, additional information that must be submitted to the expert consenting panel, any additional persons or groups from whom a panel must invite comments, and any alternative timeframes for the panel.
9. A summary of our analysis and advice for this application is provided in Table 1. To meet your obligations under section 24 of the Act, full details of the application, along with the Treaty of Waitangi report (Appendix 3) local authority and Ministers' comments and the further information provided by Ryman Healthcare Limited is provided in the appendices.

Legal issues/risks

s 9(2)(g)(i)

¹ Section 22

Next steps

12. 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 Act. We have attached a letter to the applicant based on our recommendations (Appendix 4).
13. To refer a 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 PCO without the need for a policy decision to be taken by Cabinet in the first instance². Final decisions on an OiC will still be taken to the Cabinet Legislation Committee, followed by Cabinet confirmation.
14. If you agree to refer this project, the next available Cabinet for authorising submission to the Executive Council of the referral order is on 27 October 2020.

² 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].

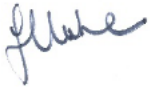
Recommendations

1. We recommend that you:

- a. **Note** that section 23 of the Act requires you to decline an application for referral unless you are satisfied that the project meets the referral criteria in section 18 of the COVID-19 Recovery (Fast-track Consenting) Act 2020.
- b. **Note** that before deciding to accept an application for referral you must consider:
- i. the application; and
 - ii. the Treaty of Waitangi report obtained under section 17; and
 - iii. any comments received; and
 - iv. any further information requested and provided.
- c. **Note** the following risk associated with the project:
- i. there is a risk/issue that the expert consenting panel may not decide to invite comments from those parties that have already been identified by Auckland Council's limited notification decision and are already involved in the process as notice has already been served.
- d. **Agree** that the Kohimarama Comprehensive Care Retirement Village meets the referral criteria in section 18 and the purpose of the Act in section 19.
- Yes/No
- e. **Agree** to refer all of the Kohimarama Comprehensive Care Retirement Village to an expert consenting panel.
- Yes/No
- f. **Agree** that the expert consenting panel be required to invite comments from:
- i. Auckland District Health Board; and
 - ii. those persons who have been notified in Auckland Council's limited notification decision.
- Yes/No
- g. **Agree** to the Ministry for the Environment issuing drafting instructions to the Parliamentary Counsel Office.
- Yes/No
- h. **Sign the attached (Appendix 4)** notice of decision to Ryman Healthcare Limited.
- Yes/No

- i. **Note** that the Ministry for the Environment is required to publish your decision, the reasons, and the section 17 Treaty of Waitangi report on the Ministry's website as required by section 25(3) of the Act.

Signature



Sara Clarke
Manager – Fast Track Consenting

Date: 24 September 2020

Hon David Parker
Minister for the Environment

Date

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Project name, applicant and location	Project description	Does the project meet the eligibility criteria (s18)?	Treaty of Waitangi s17 report	Summary of comments received	Does the project help achieve the purpose of the Act (s19)?	Section 24 Assessment
				<p>question the benefit of the process given progress to date on current resource consent applications (recently issued duty commissioner decision for limited notification and service of notice to one hundred persons). While the standard RMA process could continue, the project may advance faster to the market for construction and delivery under this Act. Auckland Council also identified potential issues in relation to neighbouring amenity and wastewater capacity, however they concluded overall that they do not have any significant concerns with the project.</p> <p>Other Parties</p> <p>The Ngāti Whātua Ōrākei Trust Board NWOTB (via Whai Māia the entity responsible for the social and cultural development of NWOTB):</p> <ul style="list-style-type: none"> • Confirmed their approval of the proposed project, on the basis that the applicant had appropriately considered Te Pou O Kāhu Pōkere, the Ngāti Whātua Ōrākei Iwi Management Plan (2018). • Made a number of suggestions for consent conditions consistent with the kaitiakitanga and guardianship roles in Tāmaki Makaurau of Ngāti Whātua Ōrākei, and their goal of ensuring all activities are environmentally restorative. <p>A full summary of comments received is provided in Appendix 5.</p>	<p>s 9(2)(g)(i)</p> <p>The expert consenting panel may also assess any adverse effects arising from the application and consider whether conditions could provide sufficient mitigation of these effects (having regard to the sustainable management purpose of the RMA and the purpose of the Act).</p>	

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Schedule of Appendices and Attachments

Appendix 1 – Kohimarama Comprehensive Care Retirement Village – Application Form and Additional Information Received

Appendix 2 – 2020-B-07099 FTC#5 – Application for referred project under the COVID-Recovery Act - Stage 1 decision on Kohimarama Comprehensive Care Retirement Village

Appendix 3 – Section 17 Treaty of Waitangi Report

Appendix 4 – Notice of Decision letter to Ryman Healthcare Limited

Appendix 5 – Comments received from Ministers and, Local Authority and Other Parties

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