

FTC#43 Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decision on:

Application 2020-030 – New Dunedin Hospital - Whakatuputupu

Date Submitted:	25 February 2021	Tracking #: 2021-B-07585
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. New Dunedin Hospital - Whakatuputupu application and further information received on 15 Dec and 22 Dec 2020 2. Stage 1 Briefing Note and Decision 3. Statutory Framework for making decisions 4. Draft Notice of Decision Letter to Minister of Health and Ministry of Health 5. Section 17 Report 6. Comments received from Ministers, Local Authorities and Waka Kotahi New Zealand Transport Agency

Ministry for the Environment contacts

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FTC#43: 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 (FTCA) from the Minister of Health and the Ministry of Health for referral of a New Dunedin Hospital – Whakatuputupu (the Project). A copy of the application is included in Appendix 1.
2. We seek your decision on whether the Project should be referred to an expert consenting panel (a panel). This is the second briefing relating to this application. A copy of the first briefing (2020-B-07242) is included in Appendix 2.
3. The Project involves construction and operation of the New Dunedin Hospital – Whakatuputupu in central Dunedin over parts of three city blocks at:
 - 280 and 336 Cumberland Street (Cadbury Block)
 - 360 and 398 Cumberland Street and 168 Castle Street (Wilsons Block)
 - 69 and 81 Castle Street and 31 Anzac Avenue (Bow Lane Block)
 - Road reserves – State Highway 1, St Andrew Street, Castle Street
4. The Project scope includes works for which a resource consent is sought:
 - a. inpatient and outpatient buildings (Cadbury and Wilsons Blocks)
 - b. a helipad
 - c. vehicle access and car parking
 - d. air bridges (three) over St Andrew Street and Castle Street
 - e. site preparation works including earthworks disturbing potentially contaminated soils, building piling, retaining walls, construction dewatering, stormwater treatment, rain gardens and associated water takes and discharges
 - f. construction of three waters infrastructure
5. The Project scope also includes notice of requirement for a designation for the New Dunedin Hospital Ancillary Services Building¹ on the Bow Lane Block. The Applicant has indicated an intention to incorporate within the designation the details of the proposed Project work, so that an outline plan is not necessary (section 176A(2) of the Resource Management Act 1991 (RMA)).
6. The scale of the proposed hospital buildings is significantly taller than the Otago District Plan's 20 metre height standard. The Inpatients Building is 72,500m² and 58 metres in height, including the helipad (Cadbury Block) and the Outpatients Building is 12,970m² and 26 metres in height (Wilsons Block).
7. The analysis section of this briefing identifies the following four important matters for your consideration when determining whether to refer this Project:
 - a. the positive benefit of a new hospital to the region

¹ The Applicant can incorporate within the designation the details of the proposed public work, project or work, so that an outline plan is not necessary (section 176A(2) of the Resource Management Act 1991)

- b. the likely high level of public interest and inability for public input should you decide to refer the Project (section 23(5)(b) of the FTCA).
 - c. potential for adverse effects relating to building bulk, height and scale
 - d. climate change benefits and further information required
8. We recommend you accept the application for referral under section 24 of the FTCA and refer it to a panel for fast-tracking.
 9. We also recommend additional requirements of the applicant relating to provision of information to a panel, and directions to a panel regarding invitations to comment.

Statutory Framework Summary

10. The statutory framework for making your decision is set out in Appendix 3. You must apply this framework when you are deciding to accept all or part of the Project referral to a panel. You may accept referral of the Project if you are satisfied that it meets the referral criteria in section 18, including whether it will help to achieve the purpose of the FTCA.
11. 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.

Analysis

Issues and Risks

Positive benefits of a new hospital to the region

12. The New Dunedin Hospital Project is proposed to replace the current hospital buildings which are in poor condition and investigations have found uneconomic to refurbish. The Project intends to provide high-quality health services to benefit the well-being of communities in Dunedin City and the wider Otago and Southland regions.
13. The Project is being designed to achieve the New Zealand Green Building Council Green Star 5 environmental rating and as-built certification. If the rating is achieved, the applicant advises it will be the largest public-sector led development to realise that outcome.
14. The application states that the budget for the New Dunedin Hospital is expected to be between \$1.4 and 1.47 billion. Information submitted with the application by Sapere Research Group estimates that over the ten-year construction period the hospital is expected to add another \$424.9 million gross domestic product to Dunedin's economy and \$246 million in additional household income.
15. The application anticipates employment benefits of 827 FTE construction, engineering and design jobs (with a peak of 700 FTE jobs two years after construction commences), 87 indirect jobs resulting from construction spend in the wider economy and associated housing demand for 300 workers estimated to move into Dunedin to meet demand.
16. Accelerating the Project through the FTCA is likely to generate positive health and well-being and economic effects due to increased employment opportunities up to two years faster than would be achieved through standard consent processes. According to analysis undertaken by Sapere Research Group, accelerating the Project would enable the employment benefits to coincide with forecast above average periods of unemployment in 2023, in Dunedin and the wider Otago and Southland regions.

Potential for high level of public interest and desire for public participation

17. Developments of this scale and significance tend to receive a high level of public interest and

media coverage. There is a risk that referring the Project could be viewed negatively by wider community members who may expect to be involved in a consenting process due to the scale of the building and its location within Central Dunedin.

18. The application notes the current high level of public engagement for the New Dunedin Hospital including regular public forums over a two-year period. It also notes that consultation has been undertaken with mana whenua (led by Aukaha Limited), Waka Kotahi New Zealand Transport Agency (Waka Kotahi), University of Otago, Dunedin City Council, key hospital clinicians and a Local Advisory Group (established to facilitate views of local government, Otago University and other relevant stakeholders).
19. Under standard RMA processes public participation in the notice of requirement for designation of the proposed Ancillary Building on the Bow Lane Block, would be at the discretion of Dunedin City Council under standard RMA processes. Under the FTCA a panel must not notify (public or limited) a resource consent or notice of requirement application and comments are only required from parties listed in Clause 17, Schedule 6 of the FTCA (including the owners and occupiers of adjoining land). Therefore, use of the fast-track consenting process for the notice of requirement aspect of this application has the potential to limit public involvement. However, the risk of excluding the public is considered low as the Dunedin City Council has not raised any concerns regarding not seeking public comments on the notice of requirement process.

Potential for adverse effects relating to building bulk, height and scale

20. The Project comprises large scale buildings which have the potential for adverse effects. The proposed scale and height of the Inpatients Building (72,500m² floor area and 58 metres height) and Outpatients Buildings (12,970m² and 26 metres height) stated in the application are significantly taller than the 20 metre height standard for this zone.
21. An environmental effects summary submitted with the application advises that an assessment of the urban design effects of the Project has been undertaken by McIndoe Urban. In summary this assessment concludes that:
 - a. while the building bulk is exceptional for Dunedin, the buildings are located in an area characterised by large buildings (i.e. existing hospital and University of Otago) and the siting, bulk and articulation of built form will lessen the visual effects
 - b. the shading effects on Anzac Square and surrounding streets in mid-winter are likely to be more significant than for buildings within the permitted height
 - c. the two glass clad air bridges over St Andrew Street will have effect in changing views and perceived visual amenity along the street with significant effects offset through design, including the 'transparent' bridge construction
 - d. the air bridge over Castle Street between the Inpatient and Ancillary Building will have a moderate adverse visual effect
22. The environmental effects summary concludes that the design will avoid or mitigate most adverse urban design effects.
23. The environmental effects summary also refers to visual effects assessment undertaken by Boffa Miskell which assesses the hospital from different vantage points around Dunedin. It concludes that the potential adverse effects of building height, bulk and scale are successfully mitigated.
24. Other assessments conclude that the noise, transportation and flooding effects are anticipated to be acceptable, with the implementation of proposed construction design and management measures.

25. The effects identified in these assessments are anticipated to be finalised and submitted with any application lodged with the Environmental Protection Authority (EPA). 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. A panel will consider whether overall the Project meets the sustainable management purpose of the RMA.

Climate change benefits and further information required

26. s 9(2)(f)(ii), s 9(2)(g)(i)
27. The environmental effects summary notes that a flood assessment prepared by Jacobs acknowledges the low-lying land and proposes setting the ground floor levels above the 1 in 500 year (0.2% AEP event) including provision for climate change effects to 2090 to mitigate the flood risk.
28. Applications referred under the FTCA are assessed under Part 2 of the RMA and the purpose of the FTCA. Persons exercising functions and powers under the RMA are required to recognise and provide for management of significant risks from natural hazards as a matter of national importance (section 6(h)) and to have particular regard to the effects of climate change (section 7(i)). While this is not considered to be the most substantive issue in relation to this application, these issues should be considered in any application lodged due to the public use of the building and the anticipated high volume of people requiring access to the building.
29. If you decide to refer the Project, we recommend requesting further information regarding flood hazards and the need for a panel to assess flooding and climate change matters when assessing the application under Part 2 of the RMA. This recommendation could also respond to the Minister for Climate Change suggestion to request further information on these matters and how flood modelling aligns with the Ministry for the Environment's Coastal Hazards and Climate Change guidance.

Our Advice

30. Before making your decision, you must consider the application and any further information provided by Ministry of Health (in Appendix 1), the Section 17 report (in Appendix 5), local authority and Ministers' comments (in Appendix 6).
31. A summary of our analysis and advice for this application is provided in Table A. We consider the Project meets the referral criteria in section 18 and will help achieve the purpose of the FTCA as it has the potential to:
- a. have positive effects on the social and cultural well-being of current and future generations (section 19(b))
 - b. provide infrastructure to improve economic, employment and environmental outcomes, including the health and well-being of people and communities in the Otago-Southland region (section 19(d)(iv))
 - c. generate employment for up to 827 FTE construction and design jobs, indirect jobs and associated housing demand for new workers in the Otago and Southland region (section 19(d)(i))
 - d. provide short-term and longer-term economic benefits for people and industries affected by COVID-19 including the construction workforce and those living and

working in the region (section 19(a))

- e. progress faster by using the processes provided by the FTCA than would otherwise be the case (section 19(c)).

Further, we consider that any adverse effects arising from the application and mitigation measures are able to be tested through a panel having regard to Part 2 of the RMA and the purpose of the FTCA.

32. We recommend you accept the application under section 24 of the FTCA and that the Project be referred to a panel.
33. We consider that directions should also be made to require the applicant to provide the following information in an application submitted to a panel under section 24(2)(d) of the FTCA:
 - a. an integrated transport assessment, including modelling and analysis addressing effects and mitigation measures within the Project site and adjoining road network, over all phases of the Project, including construction and operation.
 - b. urban design, landscape, and shading assessment(s), including analysis addressing effects and mitigation measures within the Project site, the public/private interfaces and pedestrian areas (streetscapes and public reserves).
 - c. a construction noise assessment, including analysis addressing effects and mitigation measures.
 - d. a flood hazard assessment including modelling and analysis of the effects and mitigation of floodwater within the project site and displaced because of the Project, with particular consideration on how:
 - i. the climate change scenario used for modelling aligns with the Ministry for the Environment's '*Coastal Hazards and Climate Change Guidance*', December 2017, ME 1341
 - ii. the hospital would operate during flood events or flooding of the surrounding streets.
34. We recommend you direct the applicant to provide the above information for the following reasons:
 - a. inform a panel of actual and potential effects of the Project
 - b. support a panel to identify any other parties to invite comments.
35. We consider that directions should also be made to specify groups from whom a panel must invite comments on a consent application under section 24(2)(e) of the FTCA for the following reasons:
 - a. Aukaha Limited – The Section 17 report identified that Aukaha Limited represent 2 runanga and should be consulted. The applicant has confirmed that Aukaha Limited has previously provided input into this Project.
 - b. Waka Kotahi New Zealand Transport Agency – Waka Kotahi is required to be invited to comment on any referred application as they are a requiring authority with a designation on the Project site and adjoining. It is unclear whether this would limit the extent of their comments. Given their comments on the referred application raised concern regarding all phases of the Project, for the avoidance of doubt, it is recommended specifying Waka Kotahi as a party for which comments should be invited on the whole development.

Next Steps

36. After making your decision on the 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.
37. To refer the Project, you must recommend that a referral order be made by way of an Order in Council (OIC).
38. 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.²

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 an 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 COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) requires you to decline this application for referral unless you are satisfied that the Project meets the referral criteria in section 18 of the FTCA including that it would help to achieve the FTCA's purpose.
- b. **Note** that when assessing whether the Project would achieve the FTCA's purpose, you should consider under section 19 whether it would result in a public benefit (such as generating employment and economic benefits and also whether it could have significant adverse effects).
- c. **Note** that if you are satisfied that all or part of the Project meets the referral criteria in section 18 of the FTCA you may:
 - i. decline the application for any reason under section 23(2) of the FTCA
 - ii. refer all or part of the Project to an expert consenting panel
 - iii. refer the initial stages of the Project to a panel while deferring decisions about the Project's remaining stages.
- d. **Note** that 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 an expert consenting 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.
- e. **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 of the FTCA
 - iii. any comments received
 - iv. any further information requested and provided within the required timeframe.
- f. **Agree** that the New Dunedin Hospital – Whakatuputupu Project meets the referral criteria in section 18 of the FTCA.

Yes/No

- g. **Agree** the New Dunedin Hospital – Whakatuputupu Project will help achieve the purpose of the FTCA as it has the potential to:
 - i. have positive effects on the social and cultural well-being of current and future generations (section 19(b))
 - ii. provide infrastructure to improve economic, employment and environmental outcomes, including the health and well-being of people and communities in the Otago-Southland region (section 19(d)(iv))
 - iii. generate employment for up to 827 FTE construction and design jobs, indirect jobs and associated housing demand for new workers in the region (section 19(d)(i))

- iv. provide short-term and longer-term economic benefits for people and industries affected by COVID-19 including the construction workforce and those living and working in the region (section 19(a))
- v. progress faster by using the processes provided by the FTCA than would otherwise be the case (section 19(c)).

Yes/No

- h. **Agree** to refer all the New Dunedin Hospital – Whakatuputupu Project to a panel

Yes/No

- i. **Agree** that for the purposes of clause 9(6)(c) and clause 13(2) of Schedule 6 of the FTCA the applicants are required to include the following information, prepared by suitably qualified and experienced persons, in any consent application and notice of requirement lodged with the Environmental Protection Authority:

- i. An integrated transport assessment, including modelling and analysis addressing effects and mitigation measures within the Project site and adjoining road network, over all phases of the Project, including construction and operation.
- ii. Urban design, landscape and shading assessment(s), including analysis addressing effects and mitigation measures within the Project site, the public/private interfaces and pedestrian areas (streetscapes and public reserves).
- iii. A construction noise assessment, including analysis addressing effects and mitigation measures.
- iv. A flood hazard assessment including modelling and analysis of the effects and mitigation of floodwater within the project site and displaced because of the Project, with particular consideration on how:
 - the climate change scenario used for modelling aligns with the Ministry for the Environment's '*Coastal Hazards and Climate Change Guidance*', December 2017, ME 1341
 - the hospital would operate during flood events or flooding of the surrounding streets.

Yes/No

- j. **Agree** that an expert consenting panel be required to invite comments from the following additional persons or groups under section 24(2)(e) of the FTCA:

- i. Aukaha Limited
- ii. Waka Kotahi New Zealand Transport Agency

Yes/No

- k. **Agree** to the Ministry for the Environment issuing drafting instructions to the Parliamentary Counsel Office for an Order in Council to refer New Dunedin Hospital – Whakatuputupu Project to an expert consenting panel in accordance with your decisions recorded herein.

Yes/No

- l. **Sign the attached (Appendix 4)** notice of decision to Minister of Health and Ministry of Health.

Yes/No

- m. **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 25 February 2021

Hon David Parker
Minister for the Environment

Date

Released under the provision of
the Official Information Act 1982

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
		Project eligibility for referral (section 18(3a - d))	Section 17 report – summary of key findings			
<p>Project name New Dunedin Hospital Whakatuputupu</p> <p>Applicant Minister of Health and Ministry of Health</p> <p>Location 280 and 336 Cumberland Street (Cadbury Block) 360 and 398 Cumberland Street and 168 Castle Street (Wilsons Block) 69 and 81 Castle Street and 31 Anzac Avenue (Bow Lane Block) Road reserves – State Highway 1, St Andrew Street, Castle Street</p> <p>Background The applicant has resource consent granted to demolish the Cadbury Factory heritage facades, that includes retention of the historic Dairy and Machine House building and conditions including detailed building records, heritage conservation plan and maintenance plan.</p>	<p>Construction and operation of the New Dunedin Hospital - Whakatuputupu, including inpatient and outpatient buildings, a helipad, access, car parking and air bridges, site preparation works including earthworks on potentially contaminated soils, construction building piling, retaining walls, construction dewatering, stormwater treatment, rain gardens and associated water takes and discharges and notice of requirement for a designation for the purpose of New Dunedin Hospital Ancillary Services Building (Bow Lane Block).</p> <p>The Project works included in the resource consent application include:</p> <ul style="list-style-type: none"> an inpatient building up to 58 metres in height with a floor area of approximately 72,500m² and helipad providing acute specialist services, emergency intervention, diagnostic services, acute and elective surgery, medical and surgical inpatient care, paediatric and maternal inpatient care, and related clinical and non-clinical support services and helipad (Cadbury Block) an outpatient building up to 26 metres in height with a floor area of approximately 12,970m² comprising consultation and treatment spaces, day surgery facilities, and procedure and diagnostic services (Wilsons Block) a single level air-bridge and one three-level air-bridge over St Andrew Street connecting the inpatient and outpatient buildings a single level air-bridge over Castle Street connecting the Ancillary Building to the Inpatient Building 	<p>The project is eligible under section 18(3)(a-d) as:</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 the matters in section 17(3) including the relevant iwi authorities.</p> <p>The report also identifies Aukaha Limited as representing 2 runanga. The applicant has confirmed that they have previously provided input into this Project. We recommend that a panel be required to invite comments from Aukaha Limited.</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>We consider the Project will help to achieve the purpose of the FTCA as the Project will:</p> <ul style="list-style-type: none"> have positive effects on the social and cultural well-being of current and future generations (section 19(b)) provide infrastructure to improve economic, employment and environmental outcomes, including the health and well-being of people and communities in the Otago-Southland region (section 19(d)(iv)) generate employment for up to 827 FTE construction and design jobs, indirect jobs and associated housing demand for new workers in the region (section 19(d)(i)) provide short-term and longer-term economic benefits for people and industries affected by COVID-19 including the construction workforce and those living and working in the region (section 19(a)) progress faster by using the processes provided by the FTCA than would otherwise be the case (section 19(c)). <p>The Project has the potential for a range of adverse effects, including building bulk, visual and shading, transportation, construction noise and flooding related to natural hazards.</p> <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. A panel will consider whether overall the Project meets the sustainable management purpose of the RMA.</p>	<p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>[Redacted]</p> <p>The applicant has advised that archaeological authorities have been obtained for all works on the Wilsons Block and Bow Lane Block, and an authority for all works on the Cadbury Block has been lodged. We advise that if the project is referred, HNZ will also be invited by a panel for comment under clause 17(6)(p) Schedule 6 of the FTCA</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>[Redacted]</p> <p>In response to local authority comments, we advise:</p>

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
		Project eligibility for referral (section 18(3a - d))	Section 17 report – summary of key findings			
				<p>DCC raise the impacts for the Project on the road network and co-ordination with other major construction projects, but note they are issues being discussed at a city partnership level. DCC advise that potential reports required for application to a panel will depend on which rules are breached. Key reports and assessments likely to be required include assessment of relevant objectives and policies: construction noise assessment; urban design assessment; and transport assessment.</p> <p>Otago Regional Council (ORC) supports the use of the fast-track consent process given the overall scale and significance of the project. ORC advised that regional consents are required for range of earthworks including contamination remediation, building piling, retaining walls and on-site stormwater treatment and rain gardens. Regional consents may also be required for the construction of bores, discharge of stormwater, disturbance of contaminated sites, outdoor storage of bulk products, crushing and screening of bulk materials, and discharge to air from construction activities. ORC noted that many of these activities, if appropriately managed are permitted by rules in the Council's Regional Plans.</p> <p>Other entity requested to comment Waka Kotahi does not object to the Project being considered under the FTCA. Waka Kotahi considers itself a key stakeholder to the Project and note their interest in assessing the final application / notice of requirement to understand and advise on any potential adverse effects resulting from the Project from all phases of the Project including demolition, construction and operation.</p> <p>All responses received by parties invited to comment are attached at Appendix 6.</p>		

Schedule of Appendices and Attachments

Appendix 1 – New Dunedin Hospital - Whakatuputupu – Application form and Additional Information Received

Appendix 2 – 2020-B-07242 FTC#35 – New Dunedin Hospital - Whakatuputupu Application for referred project under the COVID-Recovery FTCA - Stage 1 decision on Application

Appendix 3 – Statutory Framework for making decisions

Appendix 4 – Draft Notice of Decision letter to Ministry of Health

Appendix 5 – Section 17 Report

Appendix 6 – Comments received from Ministers and Local Authorities

Released under the provision of
the Official Information Act 1982