

FTC #87: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Stage 1 decisions

Application 2021-064 Browns Bay Road Apartments

Date Submitted:	7 October 2021	Tracking #: BRF-748	
Security Level	In-Confidence	MfE Priority:	Urgent

	Action sought:	Response by:
To Hon David Parker, Minister for the Environment	Decision on recommendations in Table A	TBA

Actions for Minister's Office Staff	Return the signed briefing to MfE
Number of attachments: 2	Titles of attachments: <ol style="list-style-type: none"> Letters from the Minister for the Environment to relevant Ministers of the Crown Copy of application and supporting information – to send with letters to Ministers/Associate Minister for the Environment (Urban Policy).

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
Principal Author	Helen Willis		
Manager	Stephanie Frame	s 9(2)(a)	✓
Director	Sara Clarke (Acting)	s 9(2)(a)	

FTC #87: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Stage 1 decision

Key Messages

1. We seek your initial decisions on an application for referral to an expert consenting panel (a panel) under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the FTCA) for the Browns Bay Road Apartments project (the Project), from Matvin Group Limited (Matvin).
2. The Project is to demolish two existing dwellings and establish a residential development and associated facilities, that includes:
 - a. four blocks up to six storeys (17 metres) high comprising approximately 51 one and two bedroom residential units
 - b. semi basement and deck parking
 - c. outdoor courtyard space and gardens
 - d. associated infrastructure including vehicle access modifications.
3. The Project is located at 201 and 203 Browns Bay Road, Auckland.
4. The Project will involve activities such as:
 - a. demolition of existing dwellings
 - b. vegetation removal
 - c. earthworks (including disturbance of contaminated land)
 - d. groundwater takes, diversion and dewatering
 - e. discharges of stormwater and contaminants to land
 - f. construction of four blocks of residential units and associated facilities
 - g. construction of associated infrastructure including parking areas, accessways, outdoor areas and three waters services
 - h. landscaping (including planting)
 - i. subdivision of land (including unit title subdivision)
 - j. any other activities that are –
 - i. associated with the activities described in 'a' to 'i'
 - ii. within the Project scope.
5. The Project will require land use and subdivision consents, and water permits under the Auckland Unitary Plan (AUP), and consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS).
6. The Project site is located in the Residential – Mixed Housing Urban Zone under the AUP. This zone seeks an urban built character of predominantly three storey buildings in a variety of forms surrounded by open space. The proposed buildings exceed zone standards relating to height (permitted 11 metres, proposed up to 17 metres) and the development exceeds the permitted density (three dwellings permitted per site, proposed approximately 51 dwellings), meaning it will require consent as a restricted discretionary activity.
7. We have undertaken an initial (Stage 1) analysis of the application, and this is presented along with our recommendations in Table A.

8. The Project meets all the eligibility criteria in section 18 of the FTCA, but more analysis is needed to confirm if it meets the purpose of the FTCA and to enable us to advise you on matters in section 23(5) which may influence your referral decision.
9. We recommend you progress consideration of the application to the next stage of analysis (Stage 2) and invite comments from Auckland Council and specific Ministers listed in section 21(6) of the FTCA.
10. We recommend that you invite comments from the Associate Minister for the Environment (Urban Policy) as an additional Minister under section 21(6)(n) of the FTCA.
11. We also recommend you request further information from the applicant and Auckland Council as detailed in Table A.

Statutory Framework Summary

12. You are the sole decision maker for referral of the Project as it will not occur in the coastal marine area.
13. You may decline the referral application before seeking comments from the relevant local authorities and any relevant Ministers:
 - a. if you are satisfied the Project does not meet the referral criteria in section 18 of the FTCA, (which include you being satisfied it meets the purpose of the FTCA) (see sections 18(2) and 23(1) of the FTCA)
 - b. for any other reason (see section 23(2) of the FTCA).
14. If you do not decline the referral application at this stage:
 - a. you must provide the application to, and invite comments from, the relevant local authorities and the relevant Ministers prescribed by section 21(6) of the FTCA
 - b. you may also provide the application to and invite comments from any other person.
15. You are also able to request further information from the applicant or any relevant local authority at any time before you decide to decline or accept the referral application (see section 22 of the FTCA).

Action Sought

16. Please indicate your decision on the recommendations in Table A.

Signature



Stephanie Frame
Manager – Fast Track Consenting

Table A: Stage 1 initial assessment of project eligibility – projects where the Minister for the Environment is the only decision maker

Project to progress

Project details	Project description	Project funding	Is Project eligible for referral? [section 18(3)]	Will the Project help to achieve the purpose of the FTCA? [section 18(2)]						Recommendations	Minister's decisions
				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood the Project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]	Any other relevant matters [section 19(f)]		
<p>Project name Browns Bay Road Apartments</p> <p>Applicant Matvin Group Limited c/- The Planning Collective</p> <p>Location 201 and 203 Browns Bay Road, Auckland</p>	<p>The Project is to demolish two existing dwellings and establish a residential development and associated facilities, that includes:</p> <ol style="list-style-type: none"> four blocks up to six storeys (17 metres) high comprising a total of approximately 51 one- and two-bedroom residential units semi basement and deck parking outdoor courtyard space and gardens associated infrastructure including vehicle access modifications. <p>The Project will involve activities such as:</p> <ol style="list-style-type: none"> demolition of existing dwellings vegetation removal earthworks (including bulk earthworks) and disturbance of contaminated soils groundwater takes, diversion and dewatering discharges of stormwater and contaminants to land landscaping (including planting) construction of four blocks and associated facilities construction of associated infrastructure including parking 	<p>The applicant states that funding has been secured for the Project.</p> <p>The application includes a developer memo describing previous projects developed by Matvin, advising that they have over 20 years of property development experience in New Zealand.</p> <p>We have no concerns about the ability of the applicant to fund the Project.</p>	<p>Based on available information at this stage, we consider the Project is eligible for referral because:</p> <ul style="list-style-type: none"> it does not include any prohibited activities it does not include land returned under a Treaty settlement it does 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 applicant estimates the Project will provide:</p> <ul style="list-style-type: none"> approximately 96 direct full-time equivalent (FTE) jobs in roading, construction, landscaping, planting, land surveying, administration/ support services and other related sectors over a two-year construction period contribution of approximately \$12.8 million to national GDP. 	<p>The applicant estimates that the Project will provide for the social and cultural wellbeing of current and future generations as it will:</p> <ul style="list-style-type: none"> provide additional affordable housing in an area with an identified need provide fully accessible units with elevators and 5 units with wheelchair access provide employment. 	<p>The applicant considers that the fast-track process will allow the Project to progress faster than under standard Resource Management Act (RMA) processes, as residential projects of a similar size have generally taken 12-18 months to gain (non-notified) consent through AC. The applicant did not provide a comparative timeframe for the Project to progress under the FTCA but notes that construction of the Project will commence as soon as the necessary approvals are obtained.</p>	<p>Based on the information provided we consider that the Project may result in the following public benefits:</p> <ul style="list-style-type: none"> generate approximately 96 FTE jobs over a two-year construction period increase housing supply contribute to a low-emissions economy by providing high density living within 50 metres of main public transport routes, and promoting electric vehicle use through provision of charging facilities. 	<p>The Project has the potential for adverse environmental effects including:</p> <ul style="list-style-type: none"> geotechnical hazards including land stability, ground settlement, and seismicity residential amenity traffic effects temporary construction effects disturbance of contaminated land. <p>The applicant has confirmed that technical experts have been engaged and have completed a range of high-level assessments.</p> <p>The applicant considers that the Project will not result in significant adverse environmental effects.</p>	<p>The Project site is subject to an Airspace Restriction Designation (ID 4311) which protects approach and departure paths from the Whenuapai Air Base for defence purposes. The designation sets a height limit of 108 metres at the Project site, which will be relevant for cranes during construction. The applicant notes that a condition of consent will be offered to ensure the height limit is complied with.</p> <p>The Project site is also subject to an existing water drainage right in favour of The East Coast Bays Borough Council. The applicant notes that the Project intends to investigate and extend this drainage to serve the development. We recommend you seek comments from Auckland Council on whether the Project is likely to affect rights under this easement.</p>	<ol style="list-style-type: none"> Note that section 23(3) of the FTCA permits you to decline the referral application without inviting comments from the relevant local authorities and any relevant Ministers. Note that you have not yet provided the application to, nor sought any comments on it from, relevant local authorities or relevant Ministers but that you are required to do so if you do not decline the application under section 23(3) of the FTCA. Note that section 21(3) of the FTCA permits you to forward an application to, and invite written comments from, any other person. Note that section 22 of the FTCA permits you to request further information from the applicant or relevant local authorities at any time before you decide whether to accept or decline an application. Agree to progress the Browns Bay Road Apartments project to our Stage 2 analysis. The Project warrants further analysis because it has potential to achieve the purpose of the FTCA but we need to consider some matters further before providing you with our final advice on the referral application. Agree to provide the application to, and invite comments from: <ul style="list-style-type: none"> the Ministers listed in section 21(6) of the FTCA the Associate Minister for the Environment (Urban Policy) Auckland Council Agree to seek further information from the applicant on: <ul style="list-style-type: none"> whether there are any additional consent triggers in the AUP or the NES-CS clarify the impacts of the Project design on the existing water drainage easement. 	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>

Project details	Project description	Project funding	Is Project eligible for referral? [section 18(3)]	Will the Project help to achieve the purpose of the FTCA? [section 18(2)]						Recommendations	Minister's decisions
				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood the Project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]	Any other relevant matters [section 19(f)]		
	areas, accessways, outdoor areas and three waters services i. subdivision of land (including unit title subdivision) j. any other activities that are – i. associated with the activities described in 'a' to 'i' ii. within the Project scope.									h. Agree to seek further information from Auckland Council to clarify the impacts of the Project design on the existing water drainage easement. i. Sign the attached letters to Ministers listed in section 21(6) of the FTCA and the Associate Minister for the Environment (Urban Development). j. Note that while awaiting these comments and further information, the Ministry for the Environment will, in consultation with the Office of Māori Crown Relations – Te Arawhiti, prepare a report for the purpose of section 17 of the FTCA.	Yes/No

Signed:

Hon David Parker
Minister for the Environment

Date