

## FTC#97: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions:

### Application 2021-064 Browns Bay Road Apartments

Date Submitted:	2 December 2021	Tracking #: BRF-887
Security Level	In-Confidence	MfE Priority: Urgent

	Action sought:	Response by:
To Hon David Parker, Minister for the Environment	Decisions on recommendations	TBA

Actions for Minister's Office Staff	Return the signed briefing to MfE.
Number of appendices: 6	<p>Appendices:</p> <ol style="list-style-type: none"> <li>1. Browns Bay Road Apartments application documents and further information received</li> <li>2. Stage 1 Briefing Note and decisions</li> <li>3. Statutory framework for making decisions</li> <li>4. Draft Notice of Decisions letter to Matvin Group Limited</li> <li>5. Section 17 Report</li> <li>6. Comments received from Ministers and Auckland Council</li> </ol>

### Ministry for the Environment contacts

Position	Name	Cell phone	1 <sup>st</sup> contact
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## FTC#97: Application for referred projects under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions

### 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 Matvin Group Limited for referral of the Browns Bay Road Apartments project (the Project) to an expert consenting panel (a panel). A copy of the application is in Appendix 1.
2. This is the second briefing relating to this application. The first (Stage 1) briefing (BRF-748) with your initial decisions annotated is in Appendix 2.
3. The Project is located at 201 and 203 Browns Bay Road, Auckland. It is to establish a residential development that includes:
  - a. four apartment blocks up to six storeys (approximately 17 metres) high comprising approximately 51 one- and two-bedroom residential units
  - b. basement and deck parking
  - c. outdoor courtyard space and gardens
  - d. associated infrastructure including roads, vehicle access and three-waters services.
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 residential buildings and associated facilities
  - g. construction of transport infrastructure, accessways, outdoor areas and three waters services
  - h. landscaping and planting
  - i. unit title subdivision
  - j. any other activities that are –
    - i. associated with the activities described in 'a' to 'i'; and
    - ii. within the scope of the Project as described in paragraph 3.
5. The Project will require land use and subdivision consents, water and discharge 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 zoned Residential – Mixed Housing Urban under the AUP. The Project requires consents for restricted discretionary activities including building height and development density greater than permitted zone standards.
7. 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 our recommendations on directions to the applicant and a panel, and notification of your decisions.

## Assessment against Statutory Framework

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8. 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.
9. 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 and Auckland Council (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.
10. 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.
11. However, before you make that decision you must consider the application (in Appendix 1), the Section 17 Report (in Appendix 5), and comments from local authorities and Ministers (in Appendix 6). We discuss these matters and provide our advice below.

## Further information provided by applicant

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12. In response to your request under section 22 of the FTCA the applicant provided further information on the following:
  - a. whether the Project will require any additional resource consents for the construction phase under the AUP and/or the NES-CS
  - b. clarification that the Project design will not negatively affect the existing water drainage right currently registered against the record of title for 201 Browns Bay Road.
13. We have taken this information into account in our analysis and advice.

## Section 17 Report

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14. The Section 17 Report indicates that there are 17 iwi authorities, 8 Treaty settlements and 12 Treaty settlement entities relevant to the Project area.
15. No specific cultural or commercial redress provided under the settlements would be affected by the proposed Project, and the relevant Treaty settlements do not create any new co-governance or co-management processes that would affect decision-making under the Resource Management Act 1991 (RMA) for this project.

## Comments received

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16. Comments were received from s 9(2)(f)(ii), s 9(2)(g)(i) and Auckland Council. The key points of relevance to your decision are summarised in Table A.

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

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

## Section 18 referral criteria

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19. 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)).
20. We confirm that the Project does not include ineligible activities, and therefore satisfies the requirements of section 18(3) of the FTCA, as explained in Table A.
21. 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 confirm that the Project will help to achieve the purpose of the FTCA, and thus satisfy the requirements of section 18(2) as it has the potential to:
  - a. generate employment by providing approximately 96 full-time equivalent jobs over a two-year construction period
  - b. increase housing supply through provision of approximately 51 residential units
  - c. contribute to a well-functioning urban environment and social well-being by providing a variety of housing typologies with good accessibility to job opportunities and public transport
  - d. progress faster than would otherwise be the case under standard Resource Management Act 1991 processes, provided that the applicant lodges their applications for resource consent in a timely manner following Project referral.
22. We consider that 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

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23. 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*

24. Section 23(5) of the FTCA provides further guidance on reasons to decline an application, and a summary of our analysis of these matters is in Table A. Note that you may accept an application even if one or more of those reasons apply.
25. The key issues relate to the proposed height and bulk of the development, with the proposed buildings being up to 17 metres high (6 metres above permitted standard) and with approximately 51 residential units proposed (with 3 permitted under the permitted standard provided other standards are complied with). The Project has an overall activity status of restricted discretionary and any adverse effects resulting from the Project's height and density, as well as the Project's ability to achieve sustainable management outcomes, are matters that can be considered by a panel in a merits-based assessment.

## Conclusions

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26. We do not consider there are any reasons for you to decline to refer the Project. You could accept the application under section 24 of the FTCA and all of the Project could be referred to a panel.
27. If you decide to refer the Project, we consider that you should specify under section 24(2)(d) of the FTCA (as requested in comments) that the applicant must provide the following information, additional to the requirements of clause 9 of Schedule 6 of the FTCA, in an application submitted to a panel:
  - a. a three-waters infrastructure capacity assessment as detailed in Table A
  - b. a construction management plan
  - c. an integrated transport assessment.
28. If you decide to refer the Project, we consider that you should specify under section 24(2)(e) of the FTCA that a panel must invite comments on a consent application from the following groups and for the following reasons:
  - a. Auckland Transport, as Browns Bay Road is an Arterial Road with a vehicle access restriction
  - b. Watercare, as the Project may adversely affect wastewater system capacity and any solutions will require collaboration with Watercare
  - c. the Healthy Waters department of Auckland Council, as the Project may adversely affect stormwater system capacity and will require design authorisation from Healthy Waters
  - d. Ngāti Kōheriki Claims Committee, as this is the representative body for Ngāti Kōheriki, whose area of interest includes the Project site.
29. If you decide to refer the Project, the application and notice of decisions should be copied to Ngāti Kōheriki Claims Committee.
30. Our recommendations for your decisions follow.

## Next Steps

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31. You must give notice of your decisions on the referral application, and the reasons for them, to the applicant and the persons, entities and groups listed in section 25 of the FTCA.
32. We have attached a notice of decisions letter to the applicant based on these requirements and our recommendations (refer Appendix 4). We will assist your office to give copies to all relevant parties.
33. To refer the Project, you must recommend that a referral order be made by way of an Order in Council (OiC).
34. 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>1</sup>

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<sup>1</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

### 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 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 also whether it could have significant adverse effects.
- c. **Note** that 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** 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. refer all or part of the Project to an expert consenting panel (a 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** 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 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. **Agree** that the Project meets the referral criteria in section 18(3) of the FTCA.

Yes/No

- g. **Agree** that 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 providing approximately 96 full-time equivalent (FTE) jobs over a two-year construction period
  - ii. increase housing supply through provision of approximately 51 residential units
  - iii. contribute to a well-functioning urban environment and social well-being by providing a variety of housing typologies with good accessibility to job opportunities and public transport
  - iv. progress faster than would otherwise be the case under standard Resource Management Act 1991 processes, provided that the applicant lodges their applications for resource consent in a timely manner following Project referral.

Yes/No

- h. **Agree** to refer all of the Project to a panel.

Yes/No

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

- i. an assessment of –
  - 1. the existing condition and capacity of the relevant infrastructure for three waters services; and
  - 2. any upgrades to that infrastructure that are required to service the development
- ii. a draft construction management plan that addresses construction traffic, dust, noise, site stability, and erosion and sediment control
- iii. a stormwater assessment and a draft stormwater management plan along with information about discussions held and any agreements made with Auckland Council's Healthy Waters department regarding management of stormwater
- iv. an integrated transport assessment, including modelling and engineering drawings and analysis for the construction and operation phases of the Project, and an assessment of effects on the transport network including the Browns Bay/East Coast Road intersection
- v. a preliminary site investigation or detailed site investigation report, prepared in accordance with the requirements of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

Yes/No

- j. **Agree** to specify under section 24(2)(e) of the FTCA that a panel must invite comments from the following additional persons or groups:

- i. Auckland Transport
- ii. Watercare Services Limited
- iii. Healthy Waters department of Auckland Council
- iv. Ngāti Koheriki Claims Committee.

Yes/No

- k. **Agree** to copy the application and notice of decisions to Ngāti Koheriki Claims Committee.

Yes/No

- l. **Agree** to the Ministry for the Environment issuing drafting instructions to the Parliamentary **Counsel** Office for an Order in Council to refer Browns Bay Road Project to a panel in accordance with your decisions recorded herein.

Yes/No

- m. **Sign the attached (Appendix 4)** notice of decisions to Matvin Group Limited.

Yes/No

- n. **Note** that to ensure compliance with section 25(3) of the FTCA, you must ensure that

the decisions, the reasons, and the Section 17 Report are published on the Ministry for the Environment's website. We will work with your office to complete this task.

### Signatures



Stephanie Frame  
**Manager – Fast-track Consenting**

**Date**

Hon David Parker  
**Minister for the Environment**

**Date**

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the Official Information Act 1982

Table A: Stage 2 - Project Summary and Section 24 Assessment

Project details	Project description	Does all or part of the Project meet the referral criteria in section 18?		Summary of comments received	Section 23 assessment – potential reasons for declining	Referral conclusions & recommendations
		Project eligibility for referral (section 18(3a - d))	Section 18(2) - Does the Project help achieve the purpose of the FTCA (as per section 19)?			
<b>Project name</b> Browns Bay Road Apartments  <b>Applicant</b> Matvin Group Limited  c/- The Planning Collective  <b>Location</b> 201 and 203 Browns Bay Road, Auckland	The Project is to establish a residential development that includes:  a. four apartment blocks up to six storeys (approximately 17 metres) high comprising approximately 51 one- and two-bedroom residential units b. basement and deck parking c. outdoor courtyard space and gardens d. associated infrastructure including roads, vehicle access and three-waters services.  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	The Project is eligible under section 18(3)(a-d) as:  <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 or a protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011.</li> </ul>	<b>Economic benefits for people or industries affected by COVID-19 (19(a))</b>  The applicant estimates that the Project will provide:  <ul style="list-style-type: none"> <li>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</li> <li>a contribution of approximately \$12.8 million to national GDP.</li> </ul> <b>Economic costs for people or industries affected by COVID-19 (19(a))</b>  <ul style="list-style-type: none"> <li>N/A.</li> </ul> <b>Effect on the social and cultural well-being of current and future generations (19(b))</b>  The applicant considers that the Project will provide for the social and cultural wellbeing of current and future generations as it will:  <ul style="list-style-type: none"> <li>provide additional housing in an area with an identified need</li> <li>provide fully accessible units with elevators and 5 units with wheelchair access</li> <li>provide employment.</li> </ul> <b>Is the Project likely to progress faster by using this Act? (19(c))</b>  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 Auckland Council. 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.  <b>Will the Project result in a public benefit? (19(d))</b>	s 9(2)(f)(ii), s 9(2)(g)(i)	<b>Section 23(5) matters:</b>  <b>Insufficient information (23(5)(a))</b>  The applicant has provided sufficient information for you to determine whether the Project meets the criteria in section 18 of the FTCA.  <b>More appropriate to go through standard RMA process (23(5)(b))</b>  We do not consider it would be more appropriate for all or part of the Project to proceed through the standard consenting process under the RMA.  <b>Inconsistency with a national policy statement (23(5)(c))</b>  We do not consider the Project is inconsistent with any relevant national policy statements.  <b>Inconsistent with a Treaty settlement (23(5)(d))</b>  The Project does not directly affect any Treaty settlement redress.  <b>Involves land needed for Treaty settlements (23(5)(e))</b>  The Project site does not include any land needed for Treaty settlement purposes.  <b>Applicant has poor regulatory compliance (23(5)(f))</b>  Auckland Council noted that there is no history of enforcement action, nor any significant outstanding compliance concerns against the applicant company or its directors.  <b>Insufficient time for the Project to be referred and considered before FTCA repealed (23(5)(g))</b>  There is sufficient time for the application to be referred and considered before the FTCA is repealed.  <b>Other issues &amp; risks:</b>	s 9(2)(f)(ii), s 9(2)(g)(i)  We accept Auckland Transport's request for the applicant to be required to submit to a panel an integrated transport assessment.  We note Healthy Waters comment that the applicant should engage early with Auckland Council's Healthy Waters department to develop a suitable stormwater management plan that can meet requirements under the Network Discharge Consent (DIS60069613) and consider that the applicant should provide documentation evidencing that this engagement has been undertaken to ensure any design amendments will not affect Project delivery.  We note Watercare's comment that additional analysis is required to understand the capacity of the wastewater line and consider that the applicant should provide a three waters infrastructure assessment which addresses the capacity of the existing infrastructure to service the development and any upgrades which will be required.  There are no reasons to decline to refer the Project. We recommend that you accept the application under section 24 of the FTCA and refer all of the Project to a panel.  We recommend that you provide your notice of decisions to Ngāti Kōheriki Claims Committee.

Project details	Project description	Does all or part of the Project meet the referral criteria in section 18?		Summary of comments received	Section 23 assessment – potential reasons for declining	Referral conclusions & recommendations
		Project eligibility for referral (section 18(3a - d))	Section 18(2) - Does the Project help achieve the purpose of the FTCA (as per section 19)?			
	<p>f. contaminants to land</p> <p>g. construction of four residential buildings and associated facilities</p> <p>h. construction of transport infrastructure, accessways, outdoor areas and three waters services</p> <p>i. landscaping and planting</p> <p>j. unit title subdivision</p> <p>k. any other activities that are –</p> <p>i. associated with the activities described in 'a' to 'i'</p> <p>ii. within the Project scope.</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"> <li>• generation of approximately 96 FTE jobs over a two-year construction period</li> <li>• increasing housing supply</li> <li>• contributing 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.</li> </ul> <p><b>Potential to have significant adverse environmental effects, including greenhouse gas emissions (19(e))</b></p> <p>The Project has the potential for adverse environmental effects including:</p> <ul style="list-style-type: none"> <li>• geotechnical hazards including land stability, ground settlement, and seismicity</li> <li>• residential amenity</li> <li>• traffic effects</li> <li>• temporary construction effects</li> <li>• disturbance of contaminated land.</li> </ul> <p>The applicant has confirmed that technical experts have been engaged and have completed a range of high-level assessments. The applicant considers that the Project will not result in significant adverse environmental effects.</p> <p>We note that you do not require a full assessment of environmental effects and supporting evidence to make a referral decision, and that a panel will consider the significance of effects should the Project be referred.</p> <p><b>Other relevant matters (19(f))</b></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>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p><b>Local authority</b></p> <p>Auckland Council considered that there is no particular reason making it more appropriate for the Project to proceed under standard RMA consenting processes, but noted the Local Board prefers it go through standard RMA consenting processes as they believe it would enable a fairer and better environmental outcome.</p> <p>Auckland Council noted the Project will add additional housing supply and choice in the Auckland region but considered that there are issues around potential infrastructure capacity constraints, the development exceeding height controls and planned building form in the AUP, and the development potentially being inconsistent with AUP policies providing for a planned character of predominantly 3 storey buildings. The Council noted several reports which would normally be required for an application of this nature in this area, including on: landscape, urban design, adverse environmental effects, transport, geotechnical effects, water and wastewater infrastructure, iwi consultation, arboricultural, shading, lighting, and various management plans. We consider that these are generally covered by the requirements of clause 9 Schedule 6 of the FTCA but have taken this list into account in our referral conclusions and recommendations.</p> <p>Auckland Council's response included comments from their Council-controlled organisations Auckland Transport, Healthy Waters and Watercare Services Limited (Watercare).</p> <p>Auckland Transport requested that if the Project is referred, the applicant be required to provide an integrated transport assessment which includes assessment of the following key areas:</p> <ul style="list-style-type: none"> <li>• the proposed vehicle crossings, including engineering drawings and an assessment of effects on the transport network, given Browns Bay Road is an Arterial Road with a vehicle access restriction under the AUP</li> <li>• pedestrian amenity, including provision for footpaths</li> <li>• cycle storage facilities in accordance with the AUP requirements</li> </ul>	<p>The proposed buildings exceed zone standards relating to height (permitted 11 metres, proposed up to 17 metres) and the development exceeds the permitted density (approximately 51 residential units proposed, with 3 permitted) under the AUP. Comments from Auckland Council raised concern about the development potentially being inconsistent with AUP policies providing for a planned character of predominantly 3 storey buildings. However, we note that Auckland Council did not oppose Project referral. We also note that the Project has potential social, economic and housing benefits, and its job-creation potential will help to achieve the FTCA's purpose. Additionally, the Project has an overall activity status of restricted discretionary and any adverse effects resulting from the height and bulk of the Project, as well as the Project's ability to achieve sustainable management outcomes is a matter that can be considered by a panel in a merits-based assessment. We do not consider that you should decline to refer the Project on the basis that it would be more appropriate for the Project to go through standard consenting process under the RMA (section 23(5)(b)).</p> <p>Comments from Healthy Waters raised potential issues with capacity constraints and the Project's development concept meeting performance requirements for the stormwater network under Auckland Council's Network Discharge Consent. We do not consider this is a reason to decline Project referral under section 23(5)(b) provided the applicants can work with Auckland Council's Healthy Waters department in developing a stormwater management plan prior to lodging a resource consent application to a panel.</p> <p>The record of title provided with the application documents shows that the Project site is subject to a stormwater drainage right in favour of the East Coast Bays Borough Council (now Auckland Council). In response to our request for further information, the applicants advised that, after consulting with a surveyor and civil engineer, it is their understanding that this easement relates to historic stormwater overland</p>	<p>We also recommend you make the following directions to a panel:</p> <ul style="list-style-type: none"> <li>• invite comments from Ngāti Kōheriki Claims Committee, the Healthy Waters department of Auckland Council, Watercare and Auckland Transport</li> </ul> <p>We also recommend that you require the applicant to submit the following information with any consent application lodged with the Environmental Protection Authority:</p> <ul style="list-style-type: none"> <li>• an assessment of – <ul style="list-style-type: none"> <li>i. the existing condition and capacity of the relevant infrastructure for three waters services; and</li> <li>ii. any upgrades to that infrastructure that are required to service the development</li> </ul> </li> <li>• a draft construction management plan that addresses construction traffic, dust, noise, site stability, and erosion and sediment control</li> <li>• a stormwater assessment and a draft stormwater management plan along with information about discussions held and any agreements made with Auckland Council's Healthy Waters department regarding management of stormwater</li> <li>• an integrated transport assessment, including modelling and engineering drawings and analysis for the construction and operation phases of the Project, and an assessment of effects on the transport network including the Browns Bay/East Coast Road intersection</li> <li>• a preliminary site investigation or detailed site investigation report, prepared in accordance with the requirements of the Resource Management (National Environmental Standard for</li> </ul>

Project details	Project description	Does all or part of the Project meet the referral criteria in section 18?		Summary of comments received	Section 23 assessment – potential reasons for declining	Referral conclusions & recommendations
		Project eligibility for referral (section 18(3a - d))	Section 18(2) - Does the Project help achieve the purpose of the FTCA (as per section 19)?			
				<ul style="list-style-type: none"> <li>• queuing analysis and tracking, and loading/servicing for waste trucks</li> <li>• trip generation, including an assessment of effects for any other reason for consent under the AUP.</li> </ul> <p>Healthy Waters noted that they will be required to authorise a stormwater management plan, as the development is proposing to connect to the public stormwater network as well as vest new infrastructure with Auckland Council. Healthy Waters noted that to achieve this authorisation, it is likely that the development concept will need to be amended to provide the necessary space and management areas to achieve performance requirements under Auckland Council's Network Discharge Consent. To manage risks associated with this authorisation, Healthy Waters noted that the applicant should engage early with Auckland Council Healthy Waters department as the holder of this consent to develop a suitable stormwater management plan for the site and provisional approval which would allow the applicant to enter any hearings with this provisional approval already in place.</p> <p>Watercare noted that there are potential capacity constraints in the wastewater line which requires further investigation, and more detailed information is required to determine the extent of the potential upgrades associated with the proposed development.</p> <p>All responses received by parties invited to comment are attached at Appendix 6.</p>	<p>flow which is now directed to the public network through the kerb and channel on Browns Bay Road. The applicant further advised that there are no habitable buildings proposed over the easement area and, as such if this easement did still exist, it could be accommodated and retained as part of the proposed development. We consider that the applicant can adequately address any existing easements rights during their consultation with Auckland Council's Healthy Waters department, and do not consider that you should decline Project referral on this basis. We also note that a panel can address the appropriateness of the Project design and any technical matters, and that a panel's assessment will be informed by comments received from Auckland Council.</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p>	Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

Released under the Official Information Act 1982

## **Schedule of Appendices and Attachments**

Appendix 1 – Browns Bay Road Apartments – Application form and additional information received

Appendix 2 – BRF-748 FTC#87 – Application for referred project under the COVID-Recovery FTCA - Stage 1 decisions on Browns Bay Road Apartments project

Appendix 3 – Statutory framework for making decisions

Appendix 4 – Draft Notice of Decisions letter to Matvin Group Limited

Appendix 5 – Section 17 Report

Appendix 6 – Comments received from Ministers and Auckland Council

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the Official Information Act 1982