In Confidence

Office of the Minister for the Environment

Chair, Cabinet

COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 10) 2022

Proposal

- This paper seeks authorisation for submission to the Executive Council of the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 10) 2022 (the Amendment Order).
- The Amendment Order amends the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020 to include as a project referred to an expert consenting panel (panel):
 - 2.1 Hughes Developments Limited's Faringdon Oval Project (Schedule 54).

Executive Summary

- The COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) is one of the Government's temporary actions to support New Zealand's economic recovery from COVID-19. The FTCA enables any person to apply to me, as Minister for the Environment, to fast-track certain approvals required under the Resource Management Act 1991 (RMA) for their project.
- Projects that I accept are referred to a panel by an amendment to the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020, subject to Cabinet's agreement. This allows an applicant to lodge resource consent applications and/or notices of requirement for a designation with the Environmental Protection Authority (EPA) for consideration by a panel.
- Before granting RMA approvals a panel must conduct a merit-based assessment of the project's actual and potential effects and test these against the requirements of both Part 2 of the RMA and the purpose of the FTCA.
- I received an application from Hughes Developments Limited to fast-track the Faringdon Oval Project. This is a medium-density residential development in Rolleston, Canterbury.
- I sought written comments on the application from the relevant local authorities and relevant Ministers prescribed by the FTCA including the Associate Minister for the Environment with responsibility for urban policy matters (urban policy).
- I considered all comments received and the report prepared under section 17 of the FTCA. I also requested and considered further information from the applicant.

- I have accepted the Faringdon Oval Project for referral as I am satisfied it meets the eligibility criteria specified in section 18 of the FTCA. It will help achieve the FTCA's purpose by generating employment and increasing housing supply.
- I consider the project will likely progress faster using the FTCA processes than if consents were sought through standard RMA processes, and any actual and potential effects on the environment, together with any measures to mitigate, offset or compensate for adverse effects, can be considered and determined by a panel subject to Part 2 of the RMA and the purpose of the FTCA.
- I now seek authorisation for submission of the Amendment Order to the Executive Council. The Amendment Order enables Hughes Developments Limited to apply via the EPA to a panel for the relevant approvals needed under the RMA for the project, in accordance with the process in the FTCA.

Background

- The FTCA is one of the Government's temporary actions to support New Zealand's economic recovery from COVID-19, by promoting employment and supporting ongoing investment. Access to the FTCA provisions remains in place until the FTCA is repealed in July 2023.
- The FTCA enables any person to apply to me, in my role as Minister for the Environment, to access the fast-track consenting process for their project. If I accept an application, the project is referred by Order in Council specifically, via an amendment that adds the project as a new schedule to the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020 subject to Cabinet's agreement. This allows an applicant to lodge a resource consent application or notice of requirement for a designation with the EPA for consideration and decision by a panel.
- Panels are appointed by Panel Convener Judge Laurie Newhook and are constituted according to the specific representation, skills and knowledge required for the project under consideration. Before a panel grants any RMA approvals for the project it must, among other things, consider comments from invited parties on the applications for these approvals, assess the project's actual and potential effects, and test these effects against the requirements of Part 2 of the RMA and the purpose of the FTCA. As part of this process the panel may seek further information from a range of parties, including those invited to comment.
- I receive weekly updates on the projects accessing the fast-track provisions and their progress. To ensure robust oversight of the wider performance of the process, the Ministry for the Environment has commissioned an independent survey and review of FTCA implementation in the context of the FTCA's overall purpose. This will feed into a Ministry report to Treasury on FTCA implementation later in 2022.
- As of 8 June 2022, 89 applications have been made under the FTCA to refer projects to a panel, of which:
 - 16.1 53 projects have been referred and Orders in Council gazetted. Details are in Appendix one. In summary, for these projects:
 - 16.1.1 18 have been granted RMA approvals by a panel
 - 16.1.2 1 has had applications for RMA approvals declined by a panel

- 16.1.3 14 are under active panel consideration
- 16.1.4 17 have yet to lodge RMA applications
- 16.1.5 3 have subsequently decided not to seek RMA approvals through the panel process.
- 16.2 2 projects have been accepted for referral and are awaiting Orders in Council. This includes the project that is the subject of this paper
- 16.3 6 referral applications are being processed and are yet to receive referral decisions
- 16.4 19 referral applications have been declined for a range of reasons including not meeting the purpose of the FTCA and it being more appropriate for them to go through the standard RMA consenting process
- 16.5 9 referral applications have been withdrawn by the applicants.
- I am not required to make referral decisions on projects listed in Schedule 2 of the FTCA. Authorised persons or entities for these projects may lodge their applications for RMA approvals with the EPA at any time while the relevant FTCA provisions are in force. An update on the listed projects is in Appendix two.

Project for referral: Hughes Developments Limited's Faringdon Oval Project

- Hughes Developments Limited applied to use the fast-track consenting process for the Faringdon Oval Project. The project is to subdivide a 69.3-hectare site bounded by Dunns Crossing Road, Goulds Road and Rangatira Street, Rolleston to create approximately 1044 lots for residential use and lots for commercial use and open space, to construct residential units, commercial buildings and supporting infrastructure (including roads and three-waters services) to service all of the lots, and to undertake wetland restoration and planting.
- The project requires land use and subdivision consents under the Selwyn District Plan, land use, water and discharge permits under the Canterbury Land and Water Regional Plan and resource consents under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 and the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.
- Consents sought for the project will allow for third parties to construct residential units and commercial buildings on lots that will not be developed directly by the applicant.
- I sought written comments on the referral application from the relevant local authorities (Selwyn District Council and Canterbury Regional Council) and from relevant Ministers as determined by section 21(6) of the FTCA including the Associate Minister for the Environment (urban policy).
- To better understand the project's job creation potential and investment certainty, the likelihood of on-site wetlands, and the effects of encumbrances on the project titles, and to obtain a more detailed scheme plan, I sought further information under section 22 of the FTCA from the applicant.

Overview of comments

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

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

 26 s 9(2)(f)(ii), s 9(2)(g)(i)
- Selwyn District Council supported project referral as it aligns with a number of planning documents and directions managing growth in Selwyn District and Greater Christchurch. The council noted fast-tracking the project would reduce opportunities for public participation and requested that if the project is referred I direct a panel to hold a hearing. The FTCA does not allow me to make this direction to a panel.
- Canterbury Regional Council supported project referral as it will enable the development of approximately 1,050 additional homes in Rolleston, in a location which is consistent with the preferred urban form determined through sub-regional growth strategies and the Canterbury Regional Policy Statement. The council noted the project involves discharge of stormwater into land and this may not be consistent with Te Mana o Te Wai. I note that a panel must take into account any relevant national policy direction as part of its consideration of the consent applications before it, and can appropriately determine such matters with the benefit of a full assessment of effects.
- 29 Selwyn District Council and Canterbury Regional Council made requests for directions to the applicant that I have considered.

Decision

- In making my decision, and in accordance with section 24 of the FTCA, I considered the application and further information received, all comments and requests for directions to the applicant provided in response to my invitation, and the eligibility criteria in section 18 of the FTCA. I also considered the report prepared under section 17 of the FTCA.
- I have decided to accept Hughes Developments Limited's application for referral of the project to a panel. I am satisfied the project meets the eligibility criteria in sections 18(2) and 18(3) of the FTCA. I consider it will help achieve the FTCA purpose by:

- 31.1 generating employment by providing approximately 2680 direct full-time equivalent (FTE) jobs and 1360 indirect FTE jobs over an 8-year period
- 31.2 increasing housing supply by constructing 300 residential units and enabling construction of approximately 744 residential units
- 31.3 progressing faster than would otherwise be the case under standard RMA processes.
- To address matters raised by the 9(2)(f)(ii), 9(2)(g)(i)
 - Selwyn District Council and Canterbury Regional Council, I have decided to specify the applicant must provide a transport infrastructure assessment, a three-waters infrastructure assessment and a landscape and urban design assessment with their resource consent applications to a panel. The full details of this information requirement are in Appendix three.
- The FTCA requires a panel to invite comments from the relevant local authorities, relevant iwi authorities and Treaty settlement entities, specific Ministers, owners and occupiers of adjacent land, specific non-governmental organisations and other groups listed in the FTCA¹. In addition to these requirements and to address matters raised, I have decided to specify a panel must seek comment on Hughes Developments Limited's resource consent applications from the Associate Minister for the Environment (urban policy), as listed in Appendix three.
- I consider any actual and potential effects on the environment, together with any measures to mitigate, offset or compensate for adverse effects, can be appropriately tested by a panel against Part 2 of the RMA and the purpose of the FTCA. The additional material listed in Appendix three that must be submitted to a panel will assist with this.
- 35 I consider there are no reasons to decide under section 24(2) of the FTCA to:
 - 35.1 limit the scope of the project by referring it only in part
 - 35.2 refer the project in stages
 - 35.3 place any restrictions on the project
 - 35.4 impose specific timeframes for panel consideration.

Timing and 28-day rule

Cabinet has agreed to waive the 28-day rule for Orders in Council relating to projects to be referred to a panel². Therefore, the Amendment Order will come into force the day after publication in the New Zealand Gazette. Hughes Developments Limited may then lodge resource consent applications with the EPA, for consideration by a panel.

Compliance

- The Amendment Order complies with:
 - 37.1 the principles of the Treaty of Waitangi

¹ Clause 17(6) of Schedule 6, FTCA.

² ENV-20-MIN-0033 and CAB-20-MIN-0353 refer

- 37.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993
- 37.3 the principles and guidelines set out in the Privacy Act 2020
- 37.4 relevant international standards and obligations
- 37.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

I do not consider that there are grounds for the Regulations Review Committee to draw this Order in Council to the attention of the House of Representatives under Standing Order 319.

Certification by Parliamentary Counsel Office

39 The Amendment Order has been certified by the Parliamentary Counsel Office as being in order for submission.

Impact Analysis

Regulatory Impact Assessment

The Regulatory Impact Assessment (RIA) requirements for this proposal have been waived. Cabinet has agreed that a RIA is not required for Orders in Council relating to projects to be referred to a panel³.

Climate Implications of Policy Assessment

The Climate Implications of Policy Assessment (CIPA) team at the Ministry for the Environment has been consulted and confirms that the CIPA requirements⁴ do not apply to the project.

Publicity

- The Amendment Order will be available on the New Zealand Legislation website following its notification in the New Zealand Gazette.
- To meet my obligations under section 25 of the FTCA, I have directed the Ministry for the Environment to make my decision to refer the project to a panel for consideration, the reasons for this decision, and the report obtained under section 17 of the FTCA available to the public on the Ministry for the Environment's website.

Proactive release

I intend to proactively release this paper on the Ministry for the Environment's website subject to redaction as appropriate under the Official Information Act 1982.

6

³ ENV-20-MIN-0033 and CAB-20-MIN-0353 refer

⁴ CO (20) 3 refers

Consultation

The Ministry for the Environment sought comment on this paper from Te Tūāpapa Kura Kāinga Ministry of Housing and Urban Development, Ministry for Culture and Heritage, Te Puni Kōkiri, Ministry of Education, Department of Corrections, Land Information New Zealand, Treasury, Ministry of Transport, Ministry of Business, Innovation and Employment, Ministry for Primary Industries, Department of Prime Minister and Cabinet, Ministry of Health, Ministry of Defence, Department of Internal Affairs, Department of Conservation and The Office for Māori Crown Relations – Te Arawhiti.

Recommendations

I recommend that Cabinet:

- note that I have decided under section 24 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 to accept the application for referral of Hughes Developments Limited's Faringdon Oval Project to a panel.
- 2 **note** that the Faringdon Oval Project meets the eligibility criteria in section 18(3) of the COVID-19 Recovery (Fast-track Consenting) Act 2020, and will help achieve the Act's purpose, as required by section 18(2) of the Act, by:
 - 2.1 generating employment by providing approximately 2680 direct full-time equivalent (FTE) jobs and 1360 indirect FTE jobs over an 8-year period
 - 2.2 increasing housing supply by constructing 300 residential units and enabling the construction of approximately 744 residential units
 - 2.3 progressing faster using the Act's processes than would otherwise be the case under standard Resource Management Act 1991 processes
- note that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 10) 2022 requires Hughes Developments Limited to provide to an expert consenting panel a transport infrastructure assessment, a three waters infrastructure assessment and a landscape and urban design assessment, which I specified under section 24(2) of the FTCA and outlined in my notice of decision on the referral application for the project (see Appendix three)
- 4 note that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 10) 2022 requires an expert consenting panel appointed to consider Hughes Developments Limited's Faringdon Oval Project to seek comments from the Associate Minister for the Environment with responsibility for urban policy matters, as listed in Appendix three
- 5 **authorise** submission of the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 10) 2022 to the Executive Council
- 6 note that on 27 July 2020, Cabinet agreed to waive the standard 28-day rule relating to Orders in Council made under the COVID-19 Recovery (Fast-track Consenting) Act 2020 [CAB-20-MIN-0353 refers]. Consequently, the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 10) 2022 will come into force the day after publication in the New Zealand Gazette.

Authorised for lodgement

Hon David Parker

Minister for the Environment

Appendix one – Referred projects under the COVID-19 Recovery (Fast-track Consenting) Act 2020

Referred projects with Orders in Council gazetted				
Project - Location	Applicant	EPA Status		
Clutha Upper Waitaki Lines Project - Works and Workers' Village - Clutha Upper Waitaki	Transpower New Zealand Limited	Not progressing through FTC		
Northbrook Wanaka Retirement Village - Wanaka	Winton Property Limited	Consented by Panel (4 August 2021)		
Kohimarama Comprehensive Care Retirement Village - Kohimarama, Auckland	Ryman Healthcare Limited	Consented by Panel (12 May 2021)		
Molesworth Street Office Development - Thorndon, Wellington	Prime Property Group Limited	Consented by Panel (12 November 2021)		
The Vines Affordable Subdivision - Richmond, Tasman	Jason and Angela Mudgway	Declined by Panel (17 September 2021)		
Dominion Road Mixed-use Development - Mount Eden, Auckland	Pudong Housing Development Company Limited, Foodstuffs North Island Limited, and Silk Road Management Limited	Consented by Panel (29 September 2021)		
Ohinewai Foam Factory - Ohinewai, Waikato	Ambury Properties Limited	Consented by Panel (24 August 2021)		
Eastern Porirua Regeneration Project - Infrastructure Works - Porirua	Kāinga Ora-Homes and Communities' and Porirua City Council	Under consideration by Panel		
Silverlight Studios - Wanaka	Silverlight Studios Limited	Consented by Panel (8 December 2021)		
Brennan winery, restaurant, education, and event complex - Gibbston Valley, Otago	Otago Viticulture and Oenology Limited's (trading as Brennan Wines)	Not progressing through FTC		
Nola Estate - Glen Eden, Auckland	CPM 2019 Limited	Consented by Panel (1 October 2021)		
Wooing Tree Estate – Cromwell	Wooing Tree Property Development LP	Consented by Panel (29 September 2021)		
Kapuni Green Hydrogen - Kapuni, Taranaki	Hiringa Energy Limited's and Ballance Agri- Nutrients Limited	Consented by Panel (1 December 2021)		
New Dunedin Hospital – Whakatuputupu – Dunedin Package 1 – enabling works	The Minister of Health's and the Ministry of Health	Consented by Panel (23 December 2021)		
New Dunedin Hospital – Whakatuputupu – Dunedin Package 2 - buildings	The Minister of Health's and the Ministry of Health	Under consideration by Panel		
Faringdon South West and South East Development - Rolleston	Hughes Developments Limited's	Consented by Panel (27 August 2021)		

Summerset Retirement Village - Waikanae - Waikanae	Summerset Villages (Waikanae) Limited	Consented by Panel (23 September 2021)
Beachlands Housing Development - Beachlands, Auckland	Neil Construction Limited and Fletcher Residential Limited	Consented by Panel (23 May 2022)
Kōpū Marine Precinct - Kōpū, Thames	Thames-Coromandel District Council	Consented by Panel (9 March 2022)
Whakatāne Commercial Boat Harbour project - Whakatāne	Whakatāne District Council, Te Rāhui Lands Trust, Te Rūnanga o Ngāti Awa, Ngāti Awa Group Holdings Limited, Te Rāhui Lands General Partner Limited, Te Rāhui Herenga Waka Whakatane Limited, and Provincial Growth Fund Limited	Under consideration by Panel
Karaka North Village - Karaka, Auckland	Capella Group Limited and Karaka North Village Limited	Under consideration by Panel
Ōmāhu Residential Development - Remuera, Auckland	Urban Resort Limited and Icon Co Pty (NZ) Limited	Consented by Panel (14 February 2022)
George St Mixed Use Development - Newmarket, Auckland	Newmarket Holdings Development Limited Partnership	Lodgement expected mid 2022
Otawere Water Storage Reservoir - Northland	Te Tai Tokerau Water Trust	Under consideration by Panel
Drury Central & Paerata Stations - Auckland	KiwiRail Holdings Limited	Consented by Panel (3 February 2022)
Rangitane Maritime Development - Kerikeri	Far North District Council & Far North Holdings Limited	Not progressing through FTC
Brickfields, Scott Road Development - Hobsonville, Auckland	Aedifice Development Limited	Consented by Panel (24 March 2022)
Melia Place - Whangaparāoa, Auckland	Melia Development Limited	Under consideration by Panel
Tauranga Innovative Courthouse - Tauranga	The Minister of Justice and the Ministry of Justice	Lodgement expected mid 2022
Oruku Landing - Whangārei, Northland	Northland Development Corporation Limited	Lodgement expected mid/late 2022
Riverbend Residential Development - Napier	Tawanui Developments Limited, K3 Properties Limited & Mana Ahuriri Holdings Limited	Lodgement expected late 2022
Silverlight Studios Accommodation - Wanaka, Otago	Silverlight Studios Limited	Consented by Panel (18 February 2022)
Drury Centre Precinct - Auckland	Kiwi Property Holdings No 2	Under consideration by Panel
Waihoehoe Precinct - Auckland	Oyster Capital Limited	Under consideration by Panel
Drury East Stage 1 Precinct – Auckland	Fulton Hogan Land Development	Under consideration by Panel

Flints Park, Ladies Mile – Te Pūtahi, Queenstown	Glenpanel Development Limited	Lodgement expected mid 2022
Federal Street Residences, Auckland	P0012 Auckland NZ Pty Limited	Under consideration by Panel
Bellgrove Development, Rangiora	Bellgrove Rangiora Limited	Under consideration by Panel
Lakeview-Taumata	QT Lakeview Developments Limited	Under consideration by Panel
Summerset Retirement Village, Half Moon Bay, Auckland	Summerset Villages (Halfmoon Bay) Limited	Lodgement expected mid 2022
Browns Bay Road Apartments, Auckland	Matvin Group Limited	Lodgement expected mid 2022
Te Tauoma Stage 1B, St Johns, Auckland	Shundi Tamaki Village Limited	Lodgement expected mid 2022
Kaiwharawhara Wellington Ferry Terminal Redevelopment	KiwiRail Holdings Limited	Under consideration by Panel
The Rotokauri North project, Hamilton	Rotokauri North Holdings Limited	Under consideration by Panel
Tauhei Farm Solar Project, Te Aroha	Harmony Energy New Zealand Limited	Lodgement expected mid 2022
The Hill, Ellerslie, Auckland	Auckland Thoroughbred Racing Incorporated & Fletcher Residential Limited	Lodgement expected mid 2022
Ariki Tahi Sugarloaf Wharf Upgrade, Waikato	Ariki Tahi Sugarloaf Wharf Limited	Under consideration by Panel
Hananui Aquaculture Project, Foveaux Straight	Ngāi Tahu Seafood Resources Limited	Lodgement expected mid/late 2022
Flints Park West, Ladies Mile – Te Pūtahi, Queenstown	Glenpanel Development Limited	Lodgement expected late 2022
Waimarie Street, St Helliers, Auckland	Sanctum Projects Limited	Lodgement expected late 2022
Te Rere Hau Wind Farm Repowering, Manawatu	NZ Windfarms Limited	Lodgement expected late 2022
Bontanic Riverhead, Auckland	Matvin Group Limited	Lodgement expected late 2022
Whenuapai Business Park, Auckland	Neil Construction Limited	Lodgement expected mid 2022
Whenuapai Green, Auckland	Neil Construction Limited & Maraetai Land Development Limited	Lodgement expected late 2022

Appendix two – Status of projects listed in Schedule 2 of the COVID-19 Recovery (Fast-track Consenting) Act 2020

Listed Project	Status
Matawii Water Storage Reservoir Kaikohe	Consents have been approved.
Papakāinga Development – Rāpaki, Christchurch	Consents have been approved.
Te Ara Tupua – Ngā Ūranga to Pito-one shared path	Consents have been approved.
Waitohi Picton Ferry Precinct Redevelopment	Consents have been approved.
Queenstown Arterials Project	Consents have been approved.
Papakāinga Development - Kaitaia	Consents have been approved.
Papakura to Pukekōhe rail electrification	Package 1 - consents have been approved.
	Package 2 – minor consents - unlikely to proceed under fast-track at this stage.
Papakura to Drury South State Highway 1 improvements	Package 1 - consents have been approved. Package 2 – lodgement anticipated in 2022.
Unitec Residential Development	Lodgement timeframe unknown.
Papakāinga Development – Waitara, Taranaki	Lodgement timeframe unknown.
Northern Pathway – Westhaven to Akoranga shared path	Unlikely to proceed under fast-track at this stage.
Te Pā Tāhuna Residential Development	Unlikely to proceed under fast-track at this stage.
Papakāinga Development - Point Chevalier, Auckland	Unlikely to proceed under fast-track at this stage.
Papakāinga development – Whaingaroa, Raglan	Unlikely to proceed under fast-track at this stage.
Papakāinga Development - Chatham Islands	Unlikely to proceed under fast-track at this stage.
Wellington Metro Upgrade Programme	Unlikely to proceed under fast-track at this stage.
Britomart Station eastern end upgrade	Unlikely to proceed under fast-track at this stage.

Appendix three – Additional requirements specified by the Minister for the Environment under section 24(2) of the FTCA for Hughes Developments Limited's Faringdon Oval Project

Hughes Developments Limited is required to provide with their resource consent applications to an expert consenting panel:

- 1. a detailed transport infrastructure assessment, including:
 - a. the capacity of the local road network to service the project
 - b. any upgrades that are required to the local road network to service the project
 - c. any funding required to carry out those upgrades (including how they will be funded), information about discussions held and any agreements made with Selwyn District Council and Canterbury Regional Council
 - d. how the project will support the uptake of public transport and active modes of transport (such as cycling and walking)

2. an assessment of:

- a. the existing condition and capacity of the relevant infrastructure for three waters services; and
- b. any upgrades to that infrastructure that are required in connection with the subdivision and housing development; and
- c. any funding required to carry out those upgrades (including how they will be funded)
- d. information about discussions held and any agreements made with Selwyn District Council and Canterbury Regional Council
- 3. a landscape and urban design assessment, including:
 - a. an assessment of the provision and distribution of proposed open space against the Selwyn District Council's Open Spaces Strategy 2015 (and to take consideration of open space provision in adjacent developments).

An expert consenting panel appointed to consider Hughes Developments Limited's resource consent applications for the Faringdon Oval Project must seek comments from the following additional persons/organisations:

1. the Associate Minister for the Environment with responsibility for the National Policy Statement on Urban Development 2020 and urban policy matters.